

ZONING BOARD OF ADJUSTMENT, PANEL C
MONDAY, JUNE 17, 2019
AGENDA

BRIEFING	L1FN AUDITORIUM 1500 MARILLA STREET DALLAS CITY HALL	11:00 A.M.
PUBLIC HEARING	L1FN AUDITORIUM 1500 MARILLA STREET DALLAS CITY HALL	1:00 P.M.

Neva Dean, Assistant Director
Steve Long, Board Administrator/ Chief Planner

MISCELLANEOUS ITEM

Approval of the May 20, 2019 Board of Adjustment Panel C Public Hearing Minutes	M1
--	----

UNCONTESTED CASES

BDA189-064(SL)	6002 Rose Grove Court REQUEST: Application of Karl A. Crawley for a special exception to the side yard setback regulations for a carport	1
BDA189-065(SL)	1725 Sunview Drive REQUEST: Application of Alfredo Ruiz for a special exception to the fence standards regulations	2
BDA189-070(SL)	218 W. Tenth Street REQUEST: Application of David W. Spence for a special exception to restore a nonconforming use	3
BDA189-071(SL)	8522 Stults Road REQUEST: Application of Tom Peter Hippman for a variance to the front yard setback regulations, and for a special exception to the fence standards regulations	4

REGULAR CASE

BDA189-076(SL)

931 Salmon Drive

5

REQUEST: Application of Jason Reimer, represented by Christa McCall, to appeal the decision of the administrative official

EXECUTIVE SESSION NOTICE

A closed executive session may be held if the discussion of any of the above agenda items concerns one of the following:

1. seeking the advice of its attorney about pending or contemplated litigation, settlement offers, or any matter in which the duty of the attorney to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act. [Tex. Govt. Code §551.071]
2. deliberating the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.072]
3. deliberating a negotiated contract for a prospective gift or donation to the city if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.073]
4. deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing. [Tex. Govt. Code §551.074]
5. deliberating the deployment, or specific occasions for implementation, of security personnel or devices. [Tex. Govt. Code §551.076]
6. discussing or deliberating commercial or financial information that the city has received from a business prospect that the city seeks to have locate, stay or expand in or near the city and with which the city is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect. [Tex Govt. Code §551.087]
7. deliberating security assessments or deployments relating to information resources technology, network security information, or the deployment or specific occasions for implementations of security personnel, critical infrastructure, or security devices. [Tex. Govt. Code §551.089]

FILE NUMBER: BDA189-064(SL)

BUILDING OFFICIAL'S REPORT: Application of Karl A. Crawley for a special exception to the side yard setback regulations for a carport at 6002 Rose Grove Court. This property is more fully described as Lot 21, Block A/8207, and is zoned R-1ac(A), which requires a side yard setback of 10 feet. The applicant proposes to construct and/or maintain a carport, and provide a 1 foot side yard setback, which will require a 9 foot special exception to the side yard setback regulations for a carport.

LOCATION: 6002 Rose Grove Court

APPLICANT: Karl A. Crawley of Masterplan

REQUEST:

A request for a special exception to the side yard setback regulations of 9' is made to maintain a carport located 1' from the site's eastern side property line or 9' into this 10' required side yard setback on a site developed with a single-family home structure/use.

STANDARD FOR A SPECIAL EXCEPTION TO ALLOW A CARPORT IN THE SIDE YARD:

The Board of Adjustment may grant a special exception to the minimum side yard requirements to allow a carport for a single-family or duplex use when, in the opinion of the Board, the carport will not have a detrimental impact on surrounding properties. In determining whether to grant a special exception, the Board shall consider the following:

- (1) Whether the requested special exception is compatible with the character of the neighborhood.
- (2) Whether the value of surrounding properties will be adversely affected.
- (3) The suitability of the size and location of the carport.
- (4) The materials to be used in the construction of the carport.

(Storage of items other than motor vehicles is prohibited in a carport for which a special exception is granted in this section of the Code).

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the side yard setback regulations since the basis for this type of appeal is, when in the opinion of the board, the carport will not have a detrimental impact on surrounding properties.

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac(A) (Single-family district 1 acre)

North: R-1ac(A) (Single-family district 1 acre)

South: R-1ac(A) (Single-family district 1 acre)

East: R-1ac(A) (Single-family district 1 acre)

West: R-1ac(A) (Single-family district 1 acre)

Land Use:

The subject site is developed with a single-family home. The area to the north, east, west, and south are developed with single-family uses.

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

GENERAL FACTS/STAFF ANALYSIS:

- The request for a special exception focuses on maintaining an approximately 325 square foot carport that is located 1' from the site's eastern side property line or 9' into this 10' side yard setback on a site developed with a single-family home structure/use.
- The subject site is zoned R-1ac(A) which requires a 10' side yard setback.
- The applicant has submitted a revised site plan and a revised elevation.
- The submitted revised site plan represents the following:
 - The carport is approximately 18' in length and approximately 18' in width (approximately 325 square feet in total area) of which approximately half is located in the 10' side yard setback.
- The submitted revised elevation represent the following:
 - Approximately 8' in height; 18' in width. (No materials are denoted).
- On May 28, 2019, the Board Administrator/Chief Planner emailed the applicant the following:
 - When the board grants these types of requests for carports in setbacks, they typically impose the applicant's submitted site plan and elevations as conditions to the request, and that with this in mind, it is in his best interest to make sure that the features shown on submittals comply with building code prior to the board of adjustment public hearing on this application since the board of adjustment will not be able to consider any exception to full compliance with the building code.
- The Senior Planner conducted a field visit of the area and noted no other carports.
- As of June 7, 2019, no letters had been submitted in support of or in opposition to this application.
- The applicant has the burden of proof in establishing the following:

- that granting this special exception to the side yard setback regulations of 9' will not have a detrimental impact on surrounding properties.
- Granting this request and imposing the following conditions would require the carport to be maintained in the location and of the heights and materials as shown on these documents:
 1. Compliance with the submitted revised site plan and revised elevation is required.
 2. The carport structure must remain open at all times.
 3. No lot-to-lot drainage is permitted in conjunction with this carport special exception.
 4. All applicable building permits must be obtained.
 5. No item (other than a motor vehicle) may be stored in the carport.
- If the Board were to grant this request and impose the submitted revised site plan and revised elevation as a condition to the request, the structure in the side setback would be limited to that what is shown on this document – a carport located 1' away from the site's eastern side property line or 9' into this required 10' side yard setback. Note that granting this request will not provide any exception to the applicant being required to fully meet all applicable building codes.

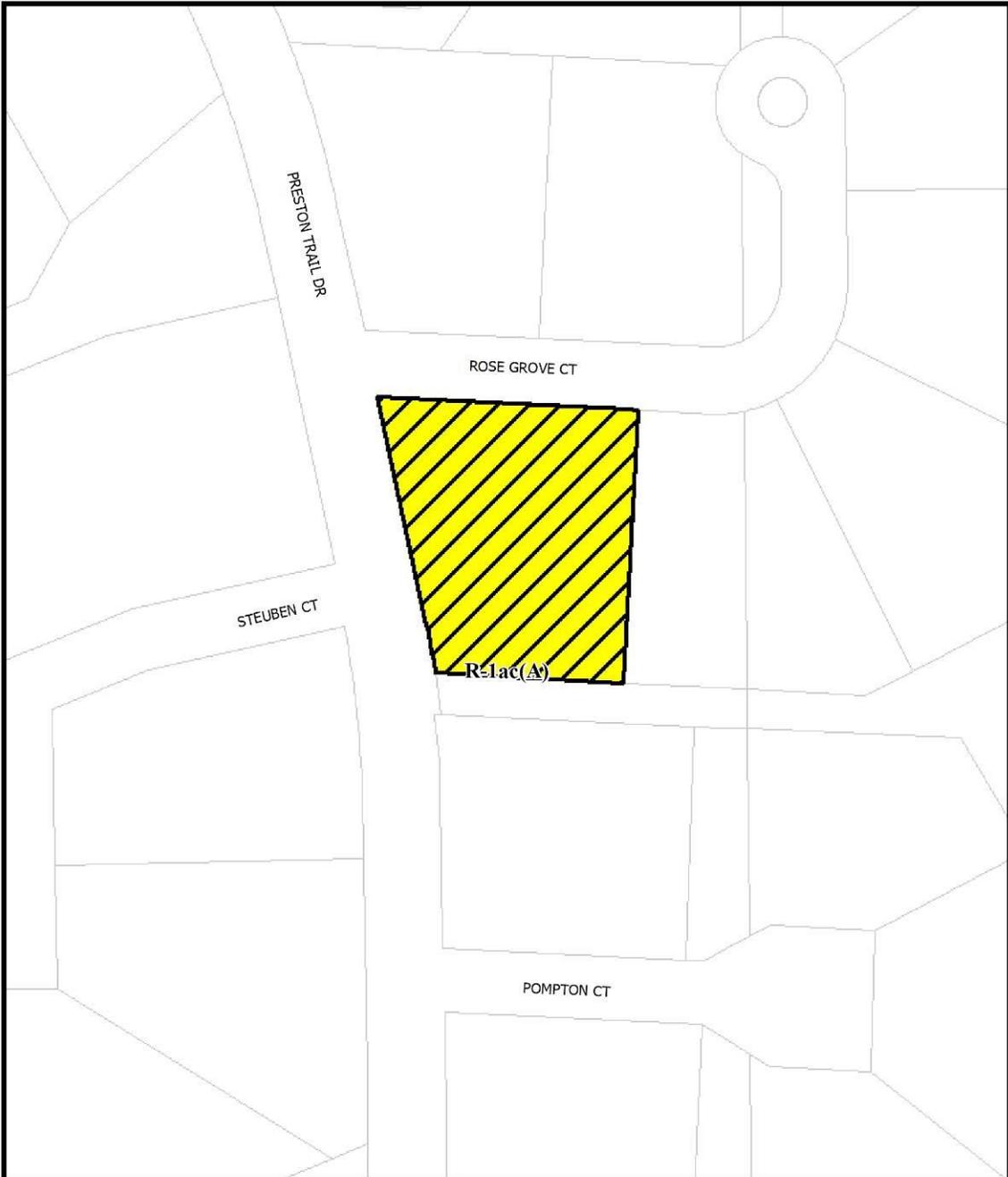
Timeline:

- March 27, 2019: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 13, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- May 14, 2019: The Board of Adjustment Senior Planner emailed the applicant the following information:
 - a copy of the application materials including the Building Official's report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the May 29th deadline to submit additional evidence for staff to factor into their analysis; and the June 7th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- May 17, 2019: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded a revised Building Official's report to staff (see Attachment A).
- May 17, 2019: The applicant submitted additional information to staff (see Attachment B).

June 4, 2019:

The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Sustainable Development and Construction Department Conservation District Chief Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, and the Assistant City Attorney to the Board.

No review comment sheets were submitted in conjunction with this application.

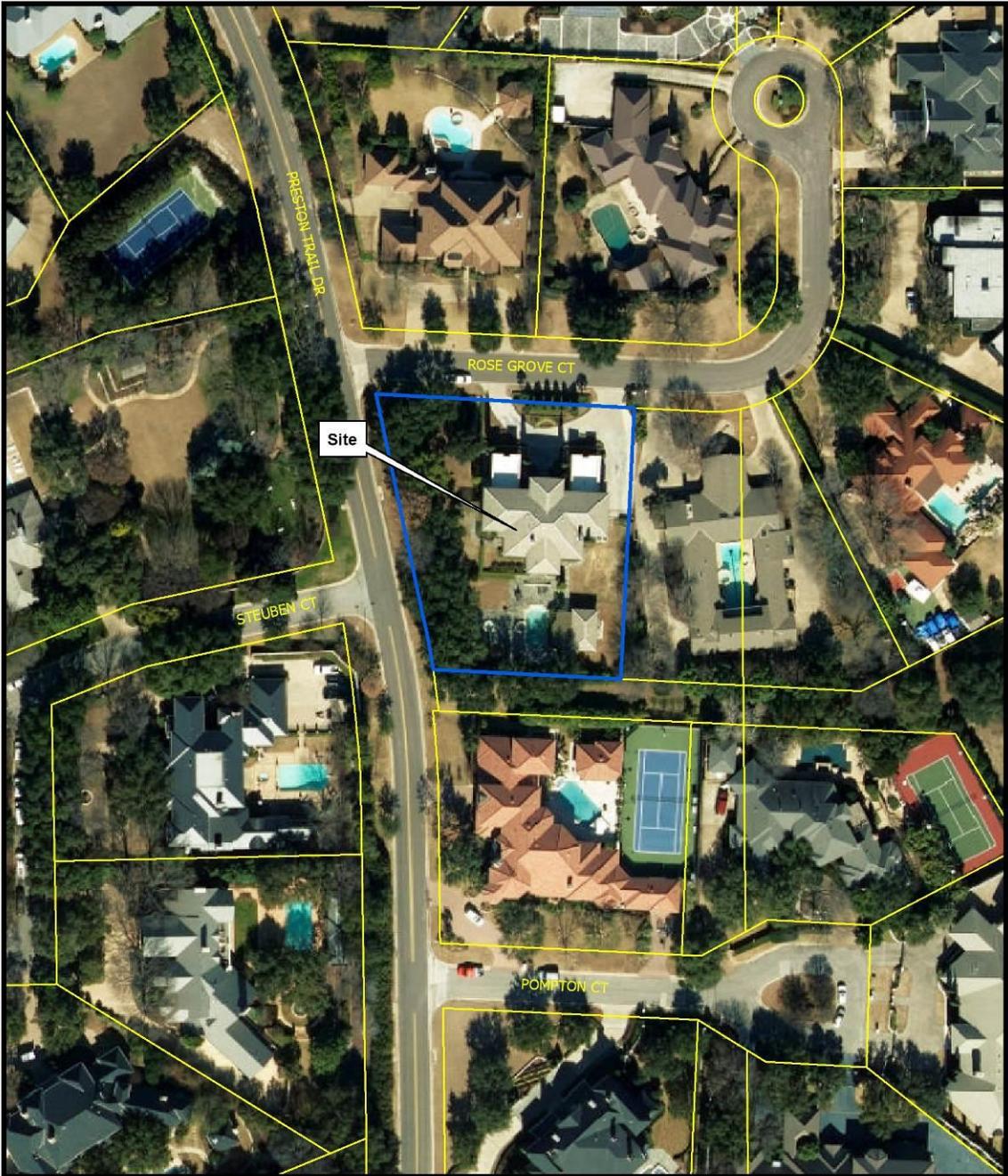


1:1,200

ZONING MAP

Case no: BDA189-064

Date: 5/15/2019



1:1,200

AERIAL MAP

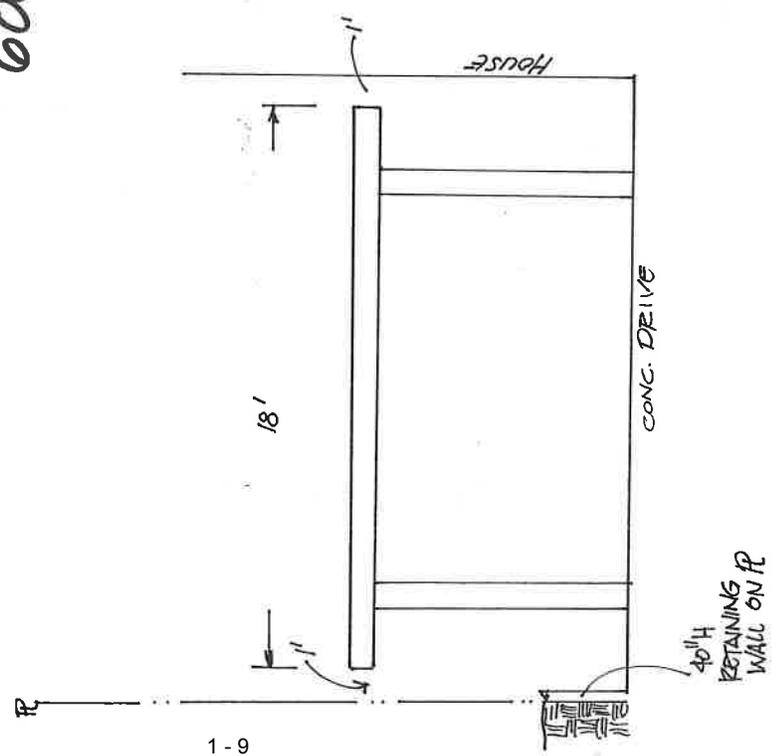
Case no: BDA189-064

Date: 5/15/2019

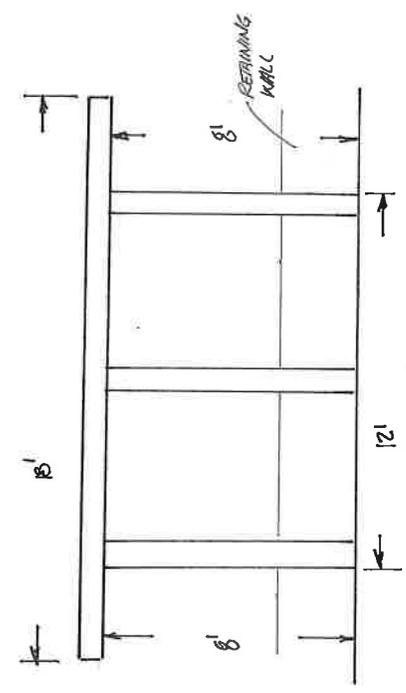
CARPORT ELEVATIONS

6002 ROSE GROVE CT.

1-9



FRONT ELEVATION



SIDE ELEVATION (NEIGHBOR IN BACKGROUND)

1/4" = 1'-0"



APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 189-064

Date: 3-27-19

Data Relative to Subject Property:

Location address: 6002 Rose Grove Court Zoning District: R-1ac.(A)

Lot No.: 21 Block No.: A/8207 Acreage: 0.85 ac Census Tract: 136.11

Street Frontage (in Feet): 1) 200' 2) 177.30' 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Paul S Cheng

Applicant: Karl Crawley/Masterplan Telephone: 214 761 9197

Mailing Address: 900 Jackson St., Ste. 640 Dallas TX Zip Code: 75202

E-mail Address: karl@masterplantexas.com

Represented by: Karl A Crawley Telephone: 214 761 9197

Mailing Address: 900 Jackson St., Ste 640 Dallas TX Zip Code: 75202

E-mail Address: karl@masterplantexas.com

Affirm that an appeal has been made for a Variance, or Special Exception X, of to the side yard setback of 7 feet to allow a carport with a 3 foot setback

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: Special exception of the side yard setback in order to allow a carport/pergola with a 3 foot setback.

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

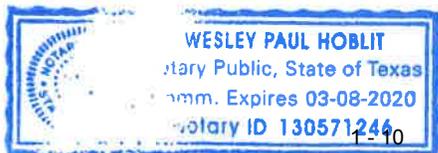
Before me the undersigned on this day personally appeared Karl A Crawley (Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: [Signature] (Affiant/Applicant's signature)

Subscribed and sworn to before me this 26th day of March, 2019

(Rev. 08-01-11)



Notary Public in and for Dallas County, Texas

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

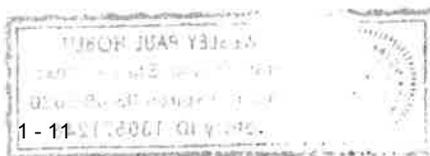
I hereby certify that Karl A. Crawley

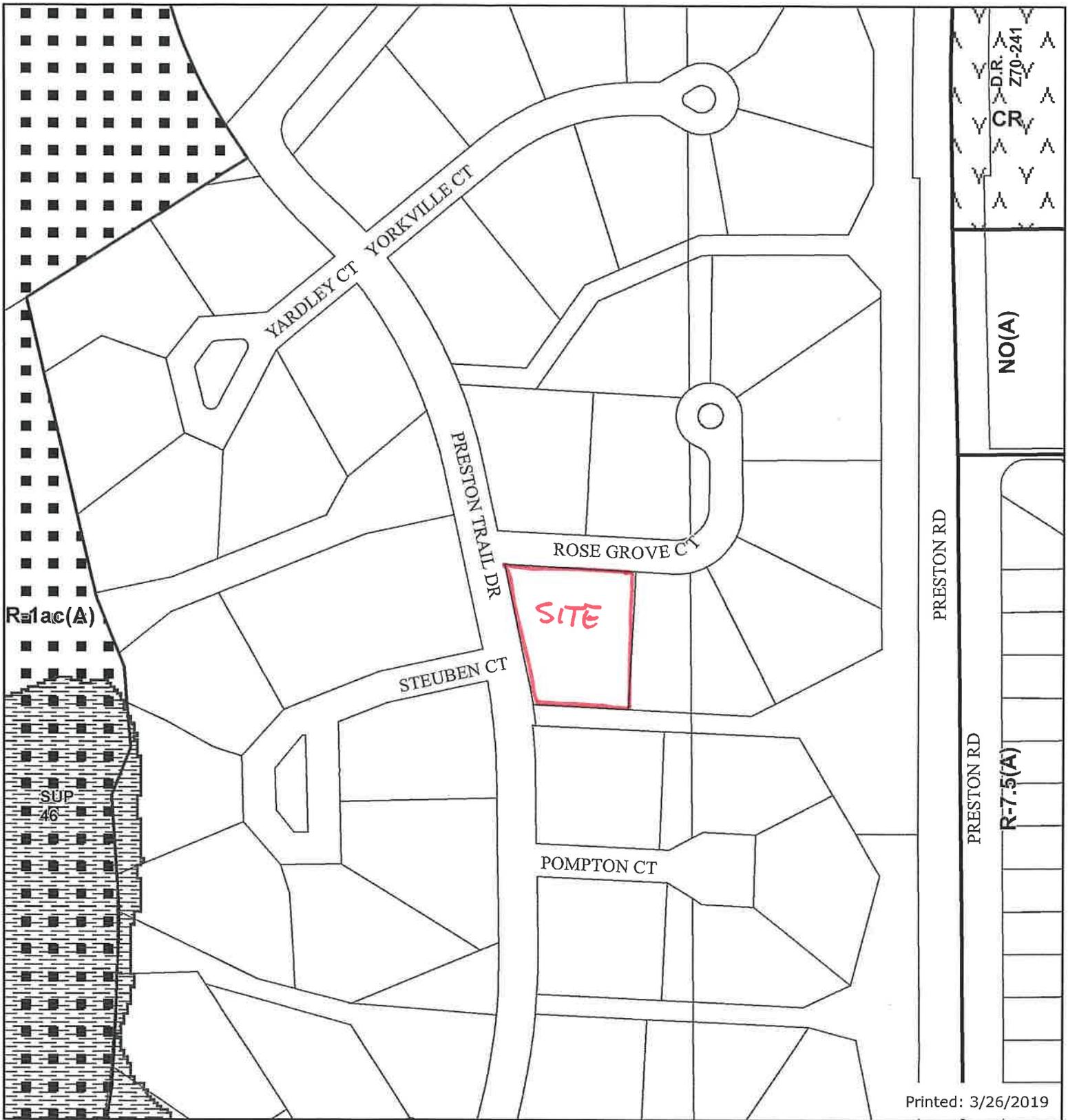
did submit a request for a special exception to the side yard setback regulations
at 6002 Rose Grove Court

BDA189-064. Application of Karl A. Crawley for a special exception to the side yard setback regulations at 6002 ROSE GROVE CT. This property is more fully described as Lot 21, Block A/8207, and is zoned R-1ac(A), which requires a side yard setback of 10 feet. The applicant proposes to construct a single family residential accessory structure and provide a 3 foot side yard setback, which will require a 7 foot special exception to the side yard setback regulations.

Sincerely,

Philip Sikes
Philip Sikes, Building Official





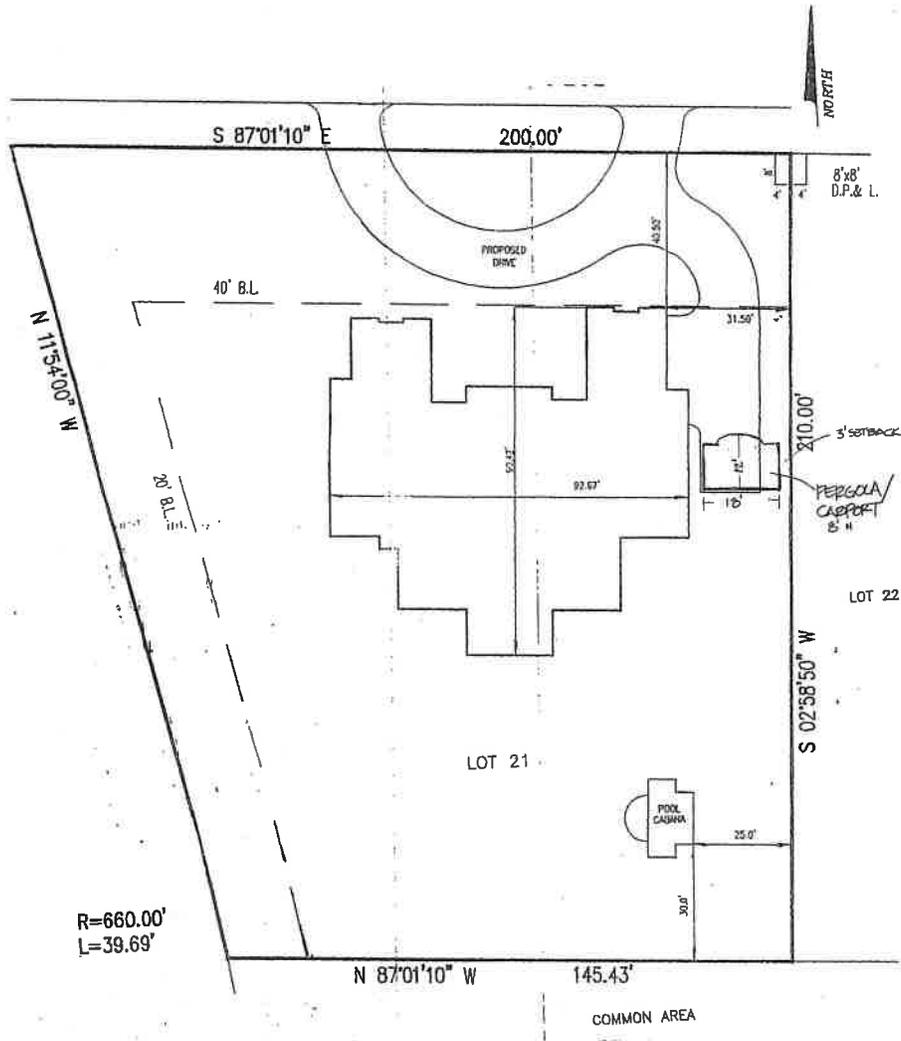
Printed: 3/26/2019

Legend

- | | | | |
|----------------------|--------------------------------|-----------------------|--|
| City Limits | railroad | Dry Overlay | CD Subdistricts |
| School | Certified Parcels | D | PD Subdistricts |
| Floodplain | Base Zoning | D-1 | PDS Subdistricts |
| 100 Year Flood Zone | PD193 Oak Lawn | CP | NSO Subdistricts |
| Mill's Creek | Dallas Environmental Corridors | SP | NSO Overlay |
| Peak's Branch | SPSP Overlay | MD Overlay | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions | Historic Subdistricts | Parking Management Overlay 1-12 Shop Front Overlay |
| Parks | SUP | Historic Overlay | |
| | | Height Map Overlay | |

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102)





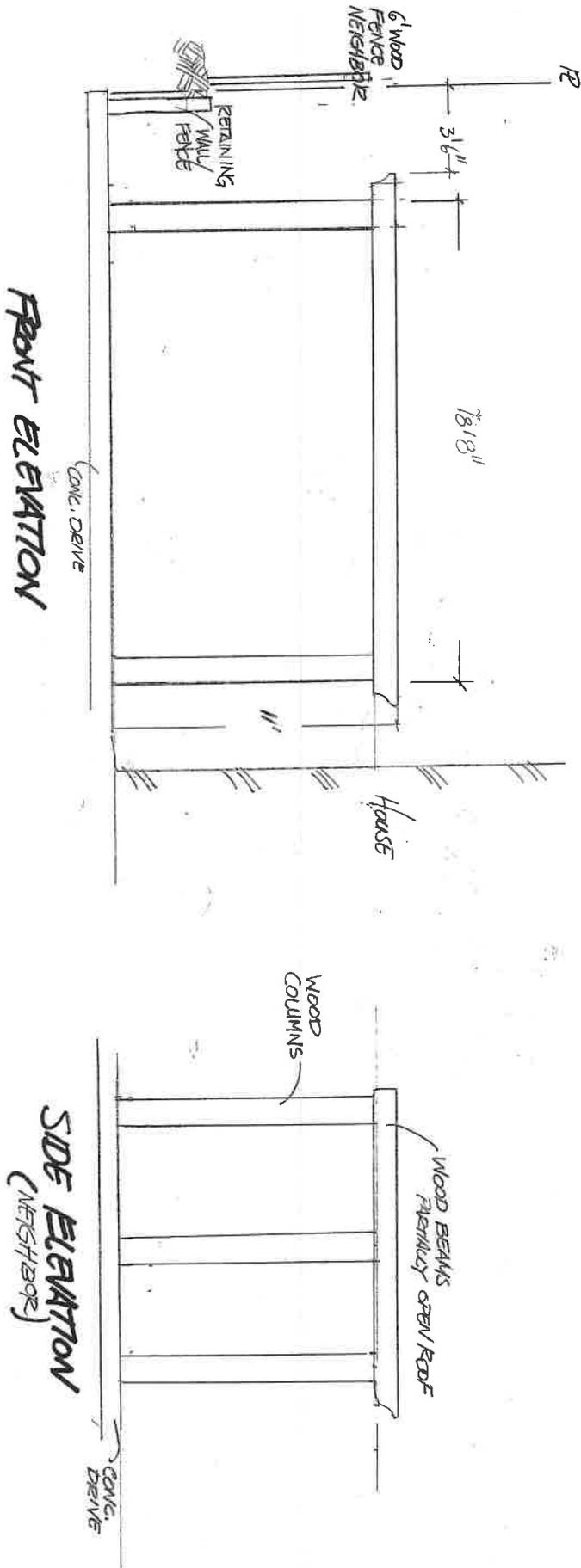
SITE PLAN 6002 ROSE GROVE COURT

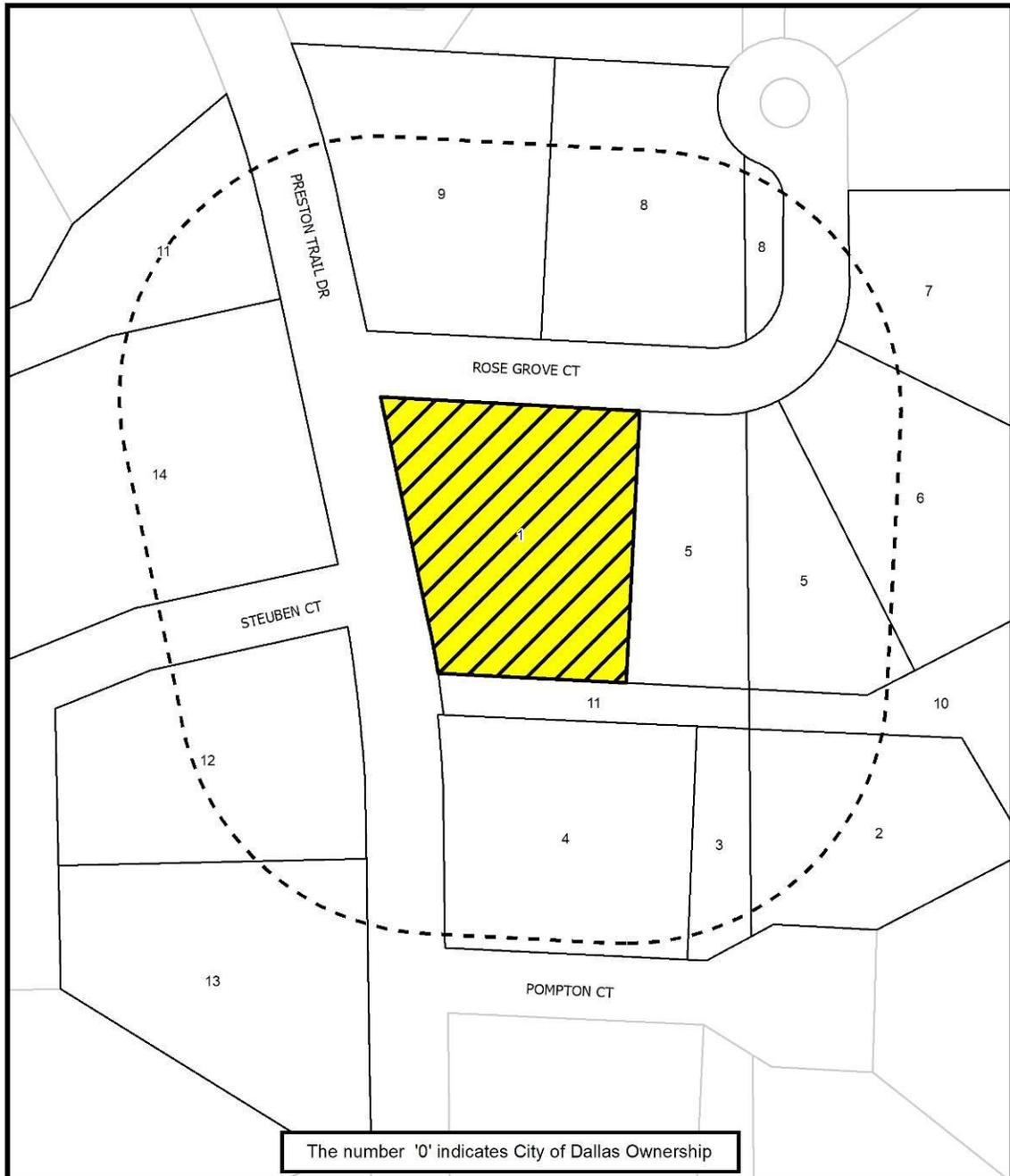
Scale: 1" = 20'

CARPENTRY ELEVATIONS

6002 RASE GROVE CT.

1/4" = 1'





 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">14</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	14	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: BDA189-064 Date: 5/15/2019
200'	AREA OF NOTIFICATION					
14	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA189-064

14 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	6002 ROSE GROVE CT	CHENG PAUL S
2	6005 POMPTON CT	HOFFMAN MICHAEL D & ROXANA B QUALIFIED
3	6005 POMPTON CT	HOFFMAN MICHAEL D & ROXANA B QUALIFIED
4	6001 POMPTON CT	HALL KELLY
5	6006 ROSE GROVE CT	YOCOM GALE II
6	6010 ROSE GROVE CT	MARTIN MICHEL E & VENECIA I
7	6014 ROSE GROVE CT	DEVER WILLIAM C
8	6005 ROSE GROVE CT	DRAYER JAMES F & CHERYL D
9	6001 ROSE GROVE CT	KAKISH HUMAN B & RIMA K
10	16900 PRESTON TRAIL DR	PRESTON TRAILS ASSOC
11	16900 PRESTON TRAIL DR	PRESTON TRAILS ASSOC
12	5916 STEUBEN CT	MORGAN ROBERT E
13	5912 STEUBEN CT	CHALK POINT FAMILY TR
14	5905 STEUBEN CT	LIGHTNER IDA M

FILE NUMBER: BDA189-065(SL)

BUILDING OFFICIAL'S REPORT: Application of Alfredo Ruiz for a special exception to the fence standards regulations at 1725 Sunview Drive. This property is more fully described as PT Lot 20, Block 8826, and is zoned R-7.5(A), which prohibits the use of certain materials for a fence. The applicant proposes to construct and/or maintain a fence of a prohibited material, which will require a special exception to the fence standards regulations.

LOCATION: 1725 Sunview Drive

APPLICANT: Alfredo R. Ruiz

REQUEST:

A request for a special exception to the fence standards regulations is made to maintain a fence of a prohibited fence material (sheet metal) on a site developed with a single-family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS REGULATIONS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the fence standards regulations when, in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the fence standards since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring property.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single family residential 7,500 square feet)
North: R-7.5(A) (Single family residential 7,500 square feet)
South: R-7.5(A) (Single family residential 7,500 square feet)
East: R-7.5(A) (Single family residential 7,500 square feet)
West: R-7.5(A) (Single family residential 7,500 square feet)

Land Use:

The subject site is developed with a single-family home. The areas to the north, east, south, and west are developed with single-family uses.

Zoning/BDA History:

1. BDA189-026, Property at 1725 Sunview (the subject site)

On March 18, 2019, the Board of Adjustment Panel C denied a request for a special exception to the fence standards regulations made to maintain a fence of a prohibited fence material (sheet metal) on a site developed with a single-family home without prejudice.

GENERAL FACTS/STAFF ANALYSIS:

- The request for a special exception to the fence standards regulations related to fence materials focuses on maintaining a fence of a prohibited fence material (sheet metal) on a site developed with a single-family home.
- Section 51A-4.602(a)(9) of the Dallas Development Code states that except as provided in this subsection, the following fence materials are prohibited:
 - Sheet metal;
 - Corrugated metal;
 - Fiberglass panels;
 - Plywood;
 - Plastic materials other than preformed fence pickets and fence panels with a minimum thickness of seven-eighths of an inch;
 - Barbed wire and razor ribbon (concertina wire) in residential districts other than an A(A) Agricultural District; and
 - Barbed wire razor ribbon (concertina wire) in nonresidential districts unless the barbed wire or razor ribbon (concertina wire) is six feet or more above grade and does not project beyond the property line.
- The applicant has submitted a site plan and elevation that represents the location of the existing sheet metal fence on the property. (The applicant has informed the Board of Adjustment Senior Planner that this request is the same request that was considered by the Board of Adjustment Panel C on March 18, 2019, and denied without prejudice).
- The submitted elevation represents an 8' high sheet metal fence.
- The submitted site plan represents a site that is approximately 54,000 square feet in area where approximately 480 linear feet of prohibited fence material (sheet metal fence) is located on this property.
- The Sustainable Development and Construction Department Senior Planner conducted a field visit of the site and the surrounding area. Three other fences that appear to be of prohibited material were noted to the south and east of the subject site. These existing fences have no recorded BDA history.

- As of June 7, 2019, a petition with 7 signatures has been submitted in support of the request, and no letters have been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence standards regulations related to a prohibited fence material (sheet metal) will not adversely affect neighboring property.
- If the Board were to grant the special exception and impose the submitted site plan and elevation as a condition, the fence of prohibited material on the property would be limited to what is shown on these documents.

Timeline:

March 25, 2019: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

May 13, 2019: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case”.

May 14, 2019: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

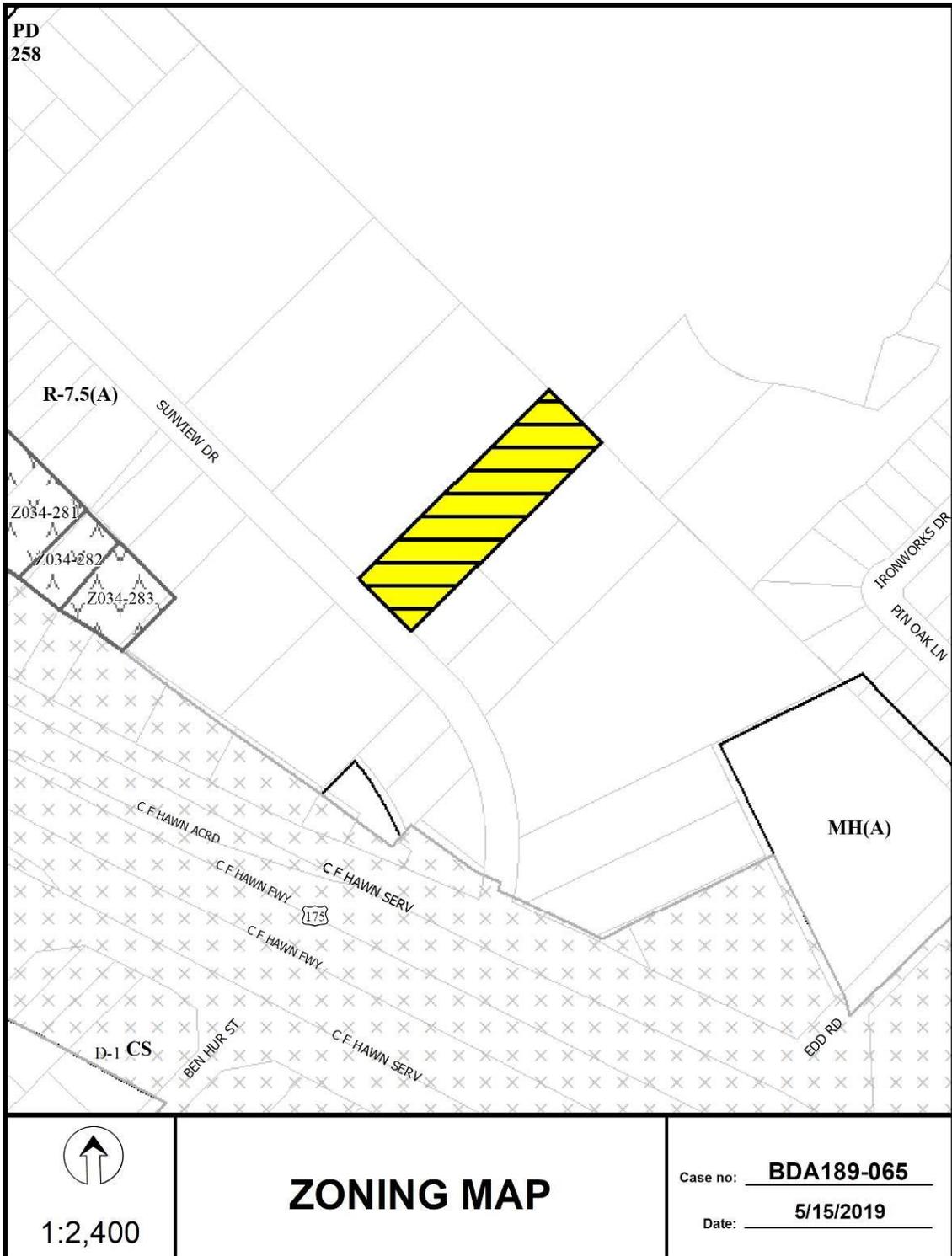
- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the May 28th deadline to submit additional evidence for staff to factor into their analysis; and the June 7th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

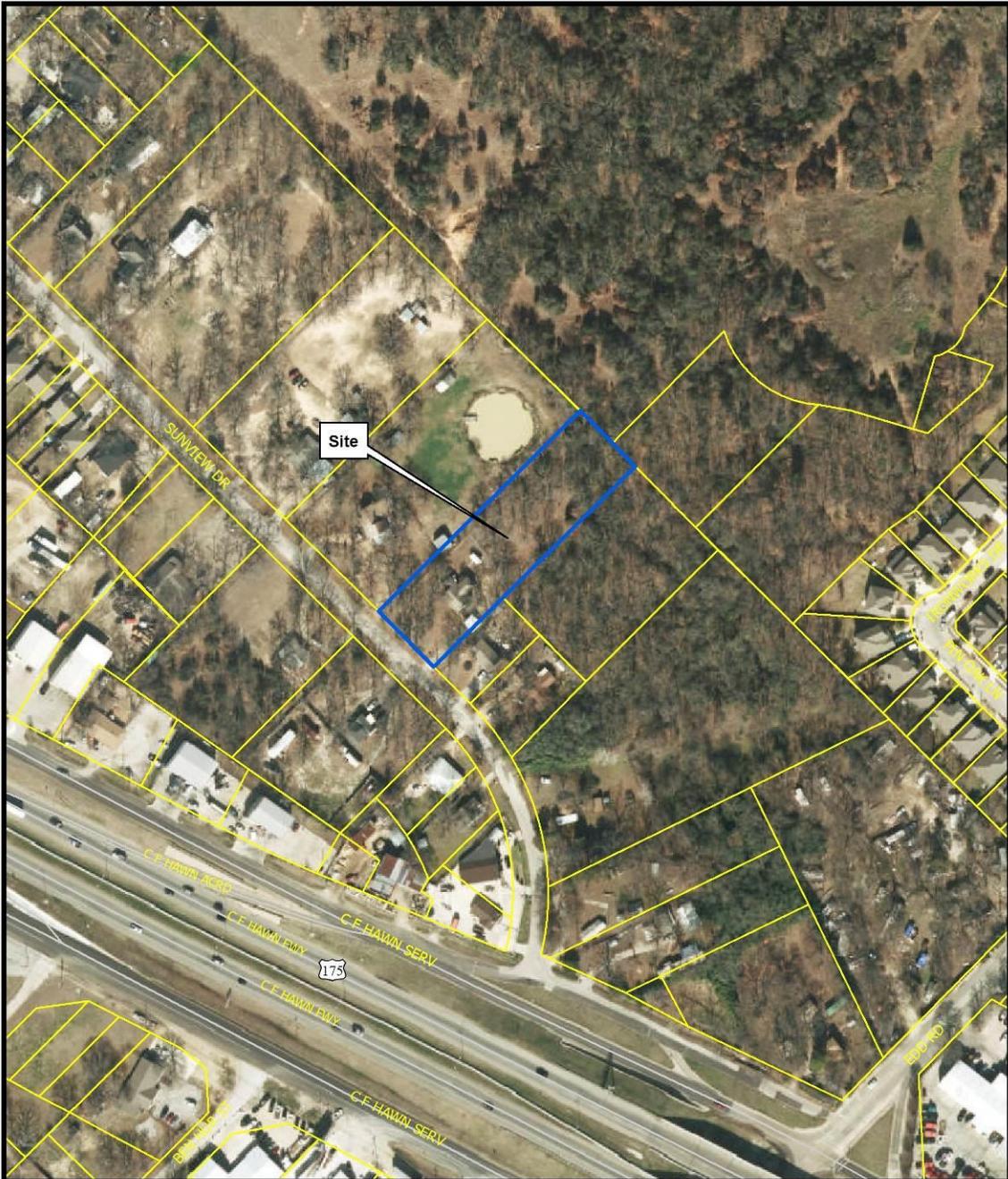
May 29, 2019: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A). (Note that while the applicant’s letter refers to pictures, the only attachments in the applicant’s email was a letter and a petition that is labeled “Attachment A”).

June 4, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist,

the Sustainable Development and Construction Department Conservation District Chief Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, and the Assistant City Attorney to the Board.

No review comment sheets were submitted in conjunction with this application.





1:2,400

AERIAL MAP

Case no: BDA189-065

Date: 5/15/2019

Fence Statement

First off, I'd like to begin by apologizing to the jury, whom denied my first case because of the appearance of it. I took it upon myself to paint the fence a single color as I know this was the biggest dilemma the jury had the first time around.

My neighborhood, as I know you guys may have seen in pictures, is on the outskirts of town making it a rural area, and because of this there are several other houses in the area that have the same type of material fences. Attached to my email there were several houses that presented the same kind of fence material but in a less appealing manner, and for me, as a resident in the area, it has yet to present any issues.

My first priority, as a Man and as a Father is the protection of my family. I have a 6-year-old daughter who loves to go outside and play. And though she is usually under the supervision of my wife and I, there are occasions when I have to go out of town because of my job, and she is left under the sole supervision of my wife, which presents several issues. My property is roughly a couple of acres and because of this it is bounded by several unrestricted, open and dangerous areas, such as a trailer park which is not in the best of conditions (as seen in the pictures attached), a huge forest area, and in my neighbor's property a small body of water.

When I initially bought the house, there was a fence in place which surrounded the property. A small portion of the fence was corrugated sheet metal while just about all of the rest was made of metal normal fencing material. After a couple of months with the property I noticed several portions of the back fence were being torn down and several of my possessions were being carried away as if they were going to be stolen. The most cost efficient and easiest option was rebuilding the fence, but it would have been again easy for intruders to come into the property, which was why I invested into making the safest fence I could for my family. When I began building my fence, I first consulted each and every one of my surrounding neighbors and got their approval, which is evident with their signatures attached as a file as well.

It is for these reasons that I come in front of the jury, a second time, to ask for the approval of my variance.

-Alfredo Ruiz





City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 189-065

Date: 3-25-2019

Data Relative to Subject Property:

Location address: 1725 Sunview Dr. Zoning District: R-7.5(A)

Lot No.: 20 Block No.: 8826 Acreage: 1.24 Census Tract: 171.01

Street Frontage (in Feet): 1) 120 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Alfredo R. Ruiz + Alma Ruiz

Applicant: Alfredo R. Ruiz Telephone: 214-325-6031

Mailing Address: 1725 Sunview Dr. Dallas, TX. Zip Code: 75253

E-mail Address: amaruiz73@gmail.com

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance __, or Special Exception , of Ribbed steel panel fence on private property

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:

Fences of likewise height and likewise material in many houses around our property present no obstructions to our neighborhood nor community.

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

Before me the undersigned on this day personally appeared Alfredo R. Ruiz (Affiant/Applicant's name printed)

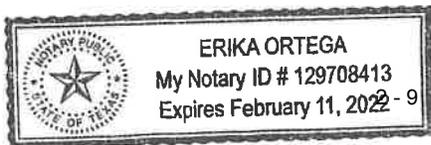
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: Alfredo Ruiz (Affiant/Applicant's signature)

Subscribed and sworn to before me this 25 day of March, 2019

Erika Ortega
Notary Public in and for Dallas County, Texas

(Rev. 08-01-11)



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that ALFREDO RUIZ

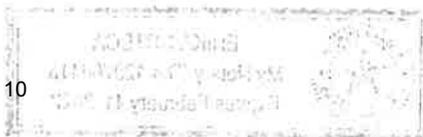
did submit a request for a special exception to the fence standards regulations

at 1725 Sunview Drive

BDA189-026. Application of ALFREDO RUIZ for a special exception to the fence standards regulations at 1725 SUNVIEW DR. This property is more fully described as PT Lot 20, Block 8826, and is zoned R-7.5(A), which prohibits the use of certain materials for a fence. The applicant proposes to construct a fence using a prohibited material, which will require a special exception to the fence regulations.

Sincerely,

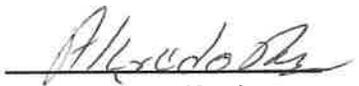
Philip Sikes
Philip Sikes, Building Official



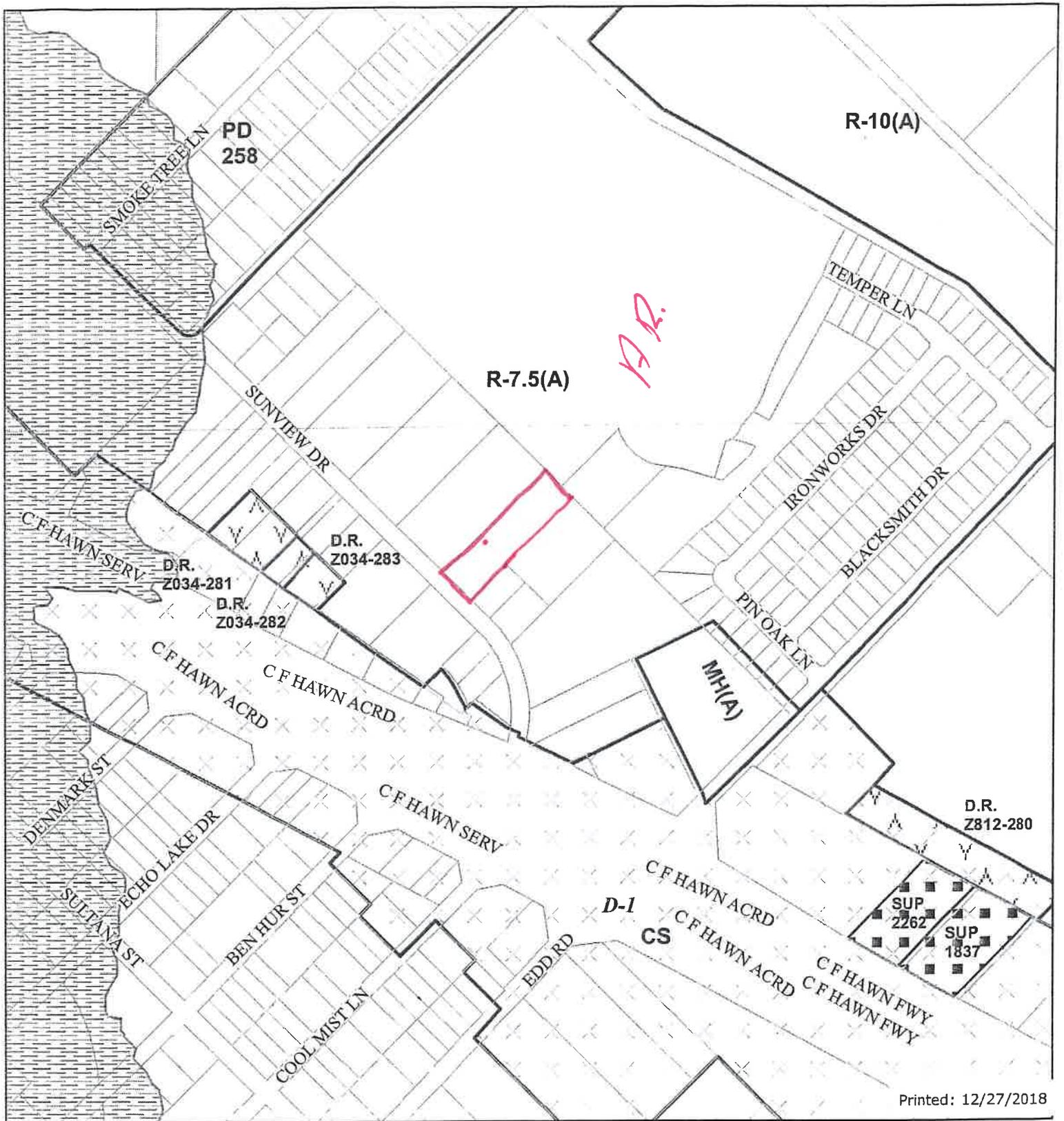
To whom it may concern,

My name is Alfredo Ruiz, the owner of the property located on 1725 Sunview Dr. also recognized as Lot 20. The purpose of this letter is to provide some background on the fence built on the property that is in question. The fence was built one year ago out of Ribbed Sheet metal and of 8 feet tall for security and safety purposes. A couple of months after the property was purchased I began to see some of my resources like scaffolding equipment, wood and other things being stolen off of the property. I noticed that there was a trail running along the back end of my property. The fence that was there at the time was a barbed-wire fence, that was actually cut in a couple of spots where I assumed the perpetrators passed through in order to reach the trail, thus, I believed that a sheet metal fence would be more effective in preventing trespassers as it wouldn't be so easily cut down. A second reason I had for building the fence the way I did is that I noticed our neighbor also had a small pond on their property in their backyard located on 1711 Sunview Dr. The fence bordering our two properties was just a wire fence here, and so I worried that the worn-out fence would not be suffice to guarantee the safety of my family, as I have a small child that could've very easily crossed that fence. Also, that same next-door neighbor owns a large German Shepherd mix dog, which I have caught in my property several times as well as once inside the actual house. The height of the sheet metal fence I built also prevented their dog from crossing over. It is for these reasons that I constructed my fence out of the material and the height that I did.

Sincerely,


Alfredo Ruiz





Printed: 12/27/2018

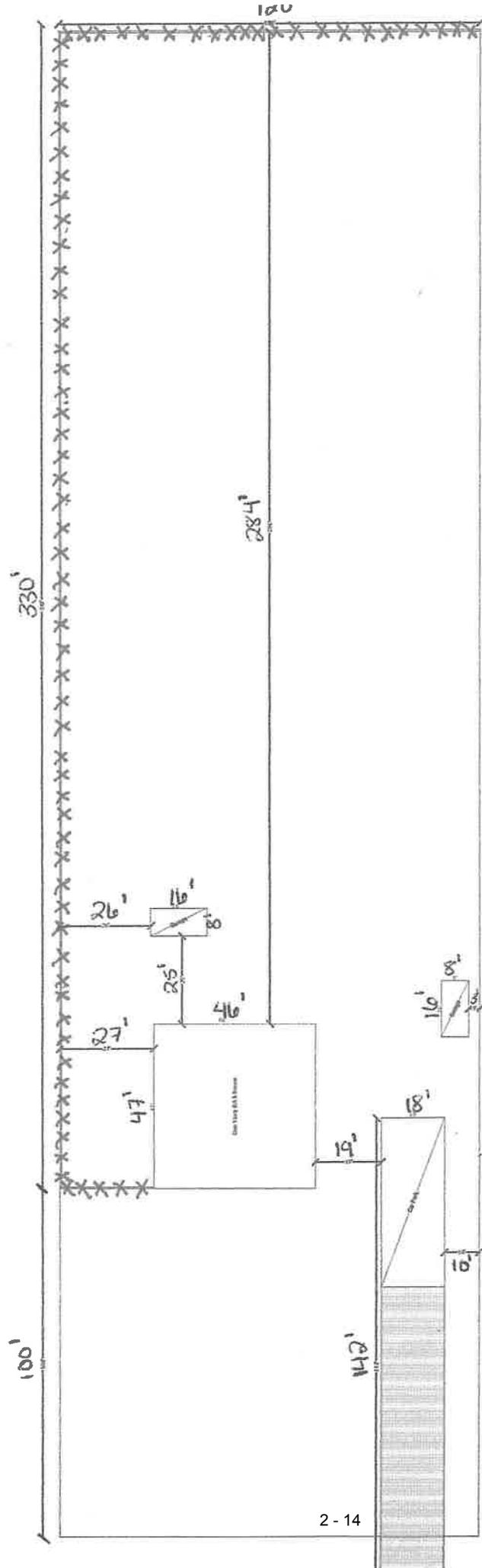
Legend

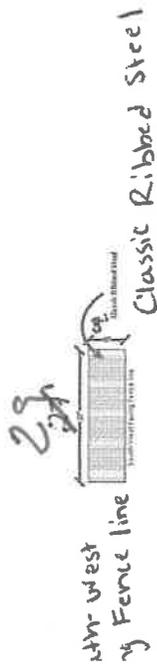
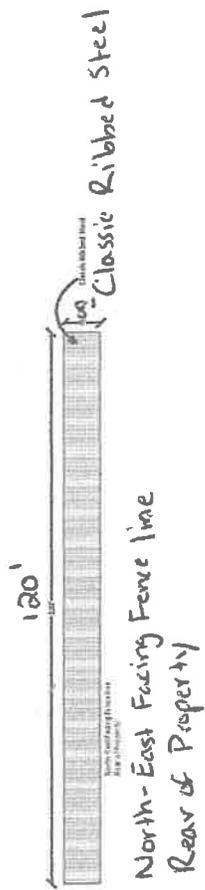
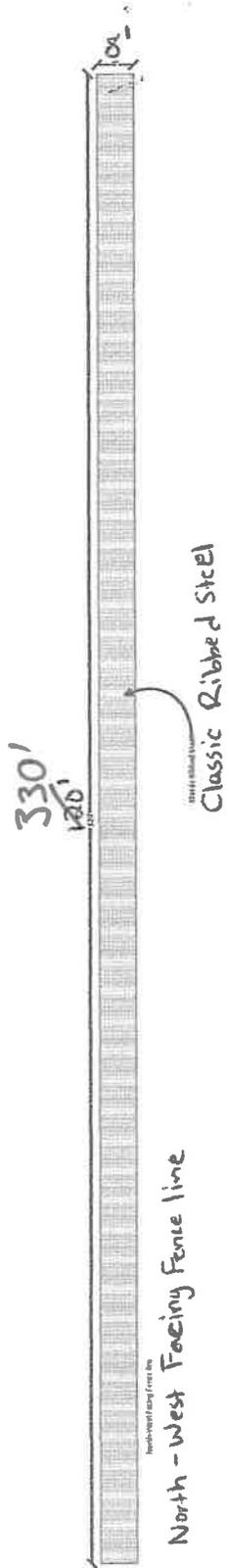
- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits | railroad | Dry Overlay | CD Subdistricts |
| School | Certified Parcels | D | PD Subdistricts |
| Floodplain | Base Zoning | D-1 | PDS Subdistricts |
| 100 Year Flood Zone | PD193 Oak Lawn | CP | NSO Subdistricts |
| Mill's Creek | Dallas Environmental Corridors | SP | NSO_Overlay |
| Peak's Branch | SPSPD Overlay | MD Overlay | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions | Historic Subdistricts | Parking Management Overlay |
| Parks | SUP | Historic Overlay | Shop Front Overlay |
| | | Height Map Overlay | |

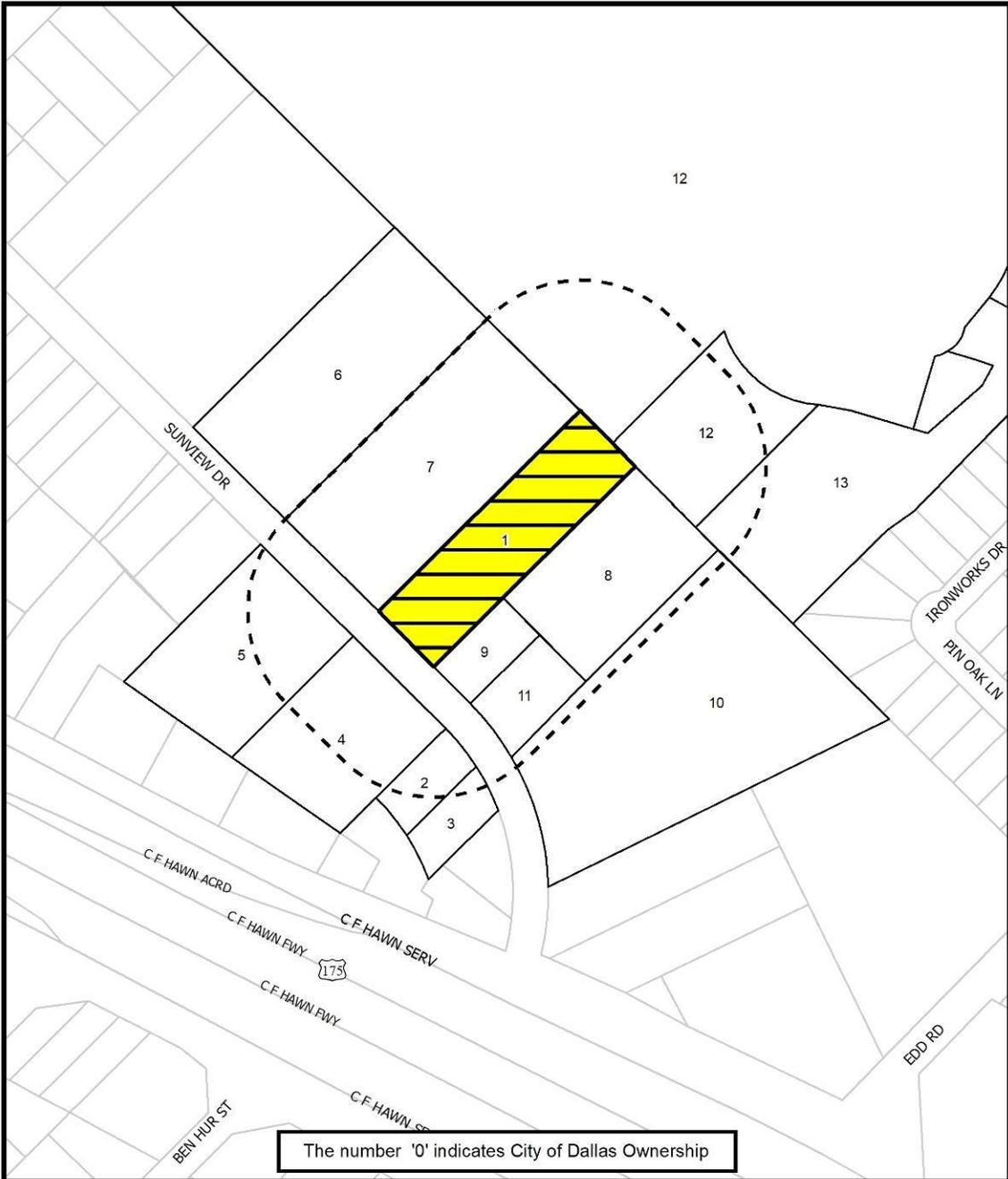
This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102)



X Metal Sence
8' Tall







The number '0' indicates City of Dallas Ownership

 1:2,400	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">13</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	13	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: BDA189-065 Date: 5/15/2019
200'	AREA OF NOTIFICATION					
13	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA189-065

13 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1725 SUNVIEW DR	RUIZ ALFREDO R & ALMA
2	1814 SUNVIEW DR	SPEER CAROL A
3	1822 SUNVIEW DR	LOPEZ JOSE
4	1722 SUNVIEW DR	AVILA LUISANNA
5	1710 SUNVIEW DR	EVANS CLARENCE S
6	1625 SUNVIEW DR	BELTRAN MIGUEL &
7	1711 SUNVIEW DR	FERGUSON DIANNE MARIE
8	1725 SUNVIEW DR	RUIZ JORGE ALFREDO
9	1733 SUNVIEW DR	RUIZ JORGE ALFREDO
10	1821 SUNVIEW DR	GRIGAR MARY L
11	1815 SUNVIEW DR	SAMPLPES CAL JR
12	1737 EDD RD	GRH DEVELOPMENT SERVICES LLC
13	33 IRONWORKS DR	WRIGHT FARMS HOA INC

FILE NUMBER: BDA189-070(SL)

BUILDING OFFICIAL'S REPORT: Application of David W. Spence for a special exception to restore a nonconforming use at 218 W. Tenth Street. This property is more fully described as Lot 15A, block 41/3161, and is zoned PD 830 (Subdistrict 3), which limits the legal uses in a zoning district. The applicant proposes to restore a nonconforming medical clinic or ambulatory surgical center use, which will require a special exception to the nonconforming use regulation.

LOCATION: 218 W. Tenth Street

APPLICANT: David W. Spence
Represented by David W. Spence

REQUEST:

A request for a special exception to restore/reinstate nonconforming use rights for a medical clinic or ambulatory surgical center use on the subject site that was discontinued for a period of six months or more is made to obtain a Certificate of Occupancy (CO) for this use.

STANDARD FOR A SPECIAL EXCEPTION TO OPERATE A NONCONFORMING USE IF THAT USE IS DISCONTINUED FOR SIX MONTHS OR MORE: Section 51A-4.704(a)(2) of the Dallas Development Code states that the right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more, and that the board of adjustment may grant a special exception to this provision only if the owner can show that there was a clear intent not to abandon the use even though the use was discontinued for six months or more.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to operate a nonconforming use if that use is discontinued for six months or more since the basis for this type of appeal is based on whether the board determines that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

BACKGROUND INFORMATION:

Zoning:

Site: PD 830 (Subdistrict 3) (Planned Development)
North: PD 830 (Subdistrict 3) (Planned Development)
South: PD 316 (Subarea 4) (Planned Development)
East: PD 830 (Subdistrict 3) (Planned Development)
West: PD 830 (Subdistrict 3) (Planned Development)

Land Use:

The subject site is developed with a vacant structure. The areas to the north, east, and west are developed with what appears to be office or medical clinic uses, and the area to the south is developed with retail uses.

Zoning/BDA History:

1. BDA156-048, property at 218 W. Tenth Street (the subject site)

On May 16, 2016, the Board of Adjustment Panel C granted a request for a special exception to restore/reinstate nonconforming use rights for a medical clinic or ambulatory surgical center use on the subject site that was discontinued for a period of six months or more is made to obtain a Certificate of Occupancy (CO) for this use.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on restoring/reinstating nonconforming use rights for a medical clinic or ambulatory surgical center use that has been discontinued for six months or more in order for the applicant to obtain a Certificate of Occupancy (CO) for this use.
- While the Board of Adjustment Panel C granted a similar request on this site in 2016, the applicant must refile a new application since a building permit or certificate of occupancy was not made within 180 days from the favorable action in this case - May 16, 2016.
- The Dallas Development Code defines “nonconforming use” as “a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time”.
- The nonconforming use regulations state it is the declared purpose of the nonconforming use section of the code that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having

due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

- The nonconforming use regulations also state that the right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more, and that the board of adjustment may grant a special exception to operate a nonconforming use that has been discontinued for six months or more if the owner can show that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.
- The subject site is zoned PD 830 (Subdistrict 3) – a zoning district that does not permit a medical clinic or ambulatory surgical center use at this location.
- A document has been included in the case file that states the medical clinic or ambulatory surgical center use at 218. W. 10th Street has been identified by Building Inspection to be a nonconforming use.
- Building Inspection has stated that these types of special exception requests originate from when an owner/officer related to the property applies for a CO and Building Inspection sees that the use is a nonconforming use. Before a CO can be issued, the City requires the owner/officer related to the property to submit affidavits stating that the use was not abandoned for any period in excess of 6 months since the issuance of the last valid CO. The owners/officers must submit documents and records indicating continuous uninterrupted use of the nonconforming use, which in this case, they could not.
- If the Board were to grant this request, the nonconforming medical clinic or ambulatory surgical center use on the site would be subject to the possibility of an application that could be brought to the Board of Adjustment requesting that the board establish a compliance date as is the case with any other nonconforming use in the city.
- The applicant could achieve conforming use status for the medical clinic or ambulatory surgical center use on the site with a change in zoning from the City Council.
- The owner could develop the site with any use that is permitted by right in the site's existing PD 830 (Subdistrict 3) zoning classification.
- The applicant has the burden of proof in establishing the following related to the special exception request:
 - There was a clear intent not to abandon the nonconforming medical clinic or ambulatory surgical center use on the subject site even though the use was discontinued for six months or more.
- Granting this request would reinstate/restore the nonconforming medical clinic or ambulatory surgical center use rights that were lost when the use was abandoned for a period of six months or more.
- If restored/reinstated, the nonconforming use would be subject to compliance with use regulations of the Dallas Development Code by the Board of Adjustment as any other nonconforming use in the city. (The applicant has been advised by staff of Section 51A-4.704 which is the provision in the Dallas Development Code pertaining to “Nonconforming Uses and Structures”).

Timeline:

April 18, 2019: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

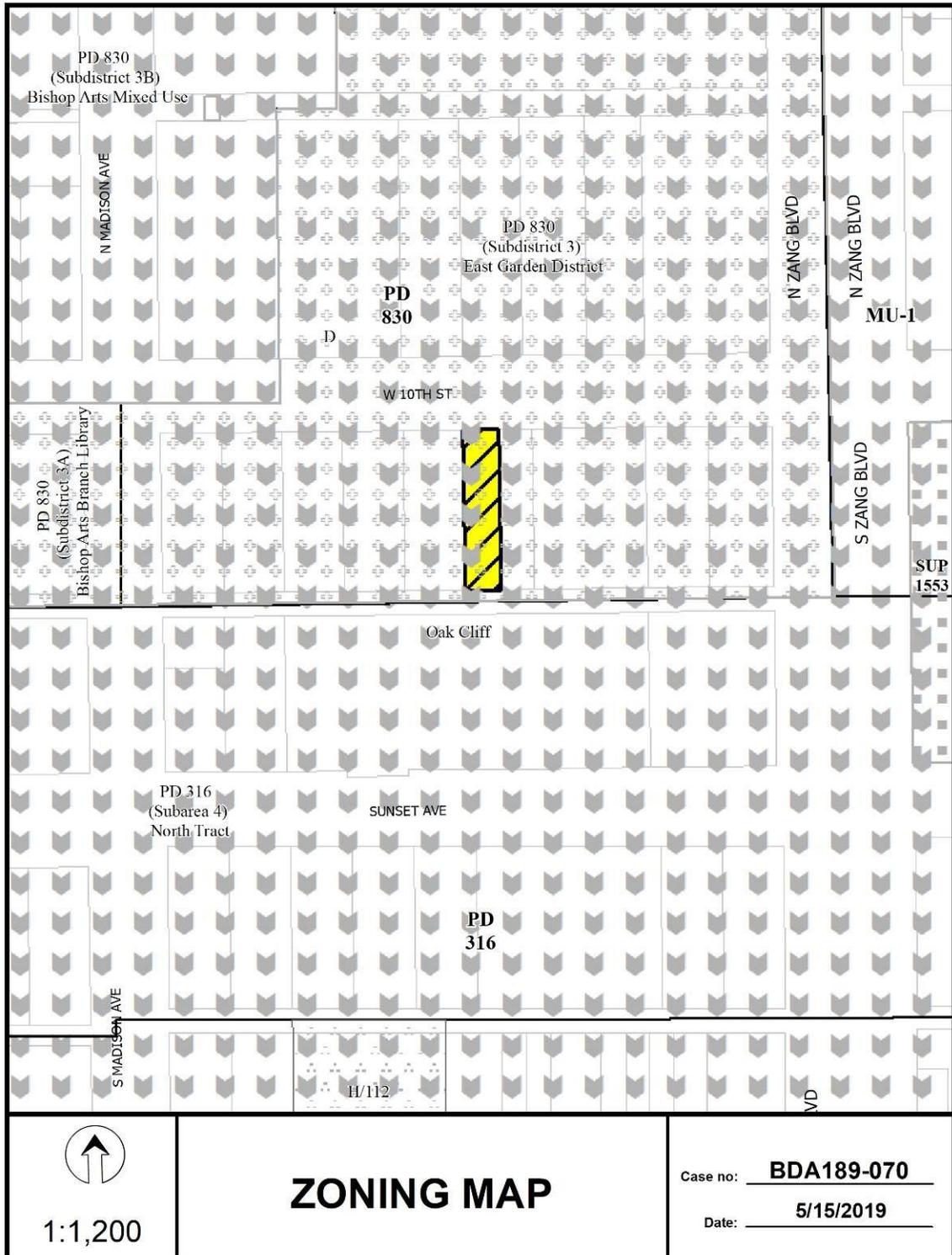
May 13, 2019: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case".

May 13, 2019: The Board Administrator/Chief Planner emailed the applicant emailed the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the May 29th deadline to submit additional evidence for staff to factor into their analysis; and the June 7th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the section from the Dallas Development Code pertaining to nonconforming uses and structures; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

June 4, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Sustainable Development and Construction Department Conservation District Chief Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, and the Assistant City Attorney to the Board.

No review comment sheets were submitted in conjunction with this application.





1:1,200

AERIAL MAP

Case no: BDA189-070

Date: 5/15/2019



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 189-070

Data Relative to Subject Property:

Date: 4-18-19

Location address: 218 W. 10th ST. Zoning District: PD 830, SP. +3

Lot No.: 15A Block No.: 41/3101 Acreage: .17 Census Tract: 47

Street Frontage (in Feet): 1) 55' 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): GOOD SPACE, INC.

Applicant: DAVID W. SPENCE Telephone: 214.942.0690

Mailing Address: 408 W. 8TH ST., #103 DALLAS Zip Code: 75208

E-mail Address: INFO@GOODSPACE.COM

Represented by: DAVID W. SPENCE Telephone: 214.942.0690

Mailing Address: 408 W. 8TH ST., #103 DALLAS Zip Code: 75208

E-mail Address: INFO@GOODSPACE.COM

Affirm that an appeal has been made for a Variance __, or Special Exception X, of to restore non-conforming rights to operate a medical office.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:

- 1) permits for improvements to the clinic building and marketing efforts to medical users show clear intent not to abandon the non-conforming use.
- 2) subject property is surrounded by other non-conforming medical uses, which will not be adversely affected.

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

Before me the undersigned on this day personally appeared David W. Spence (Affiant/Applicant's name printed)

who on his/her oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.



Respectfully submitted: [Signature] (Affiant/Applicant's signature)

Subscribed and sworn to before me this 17th day of APRIL, 2019

[Signature] Sls-Mathis
Notary Public in and for Dallas County, Texas

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that DAVID SPENCE

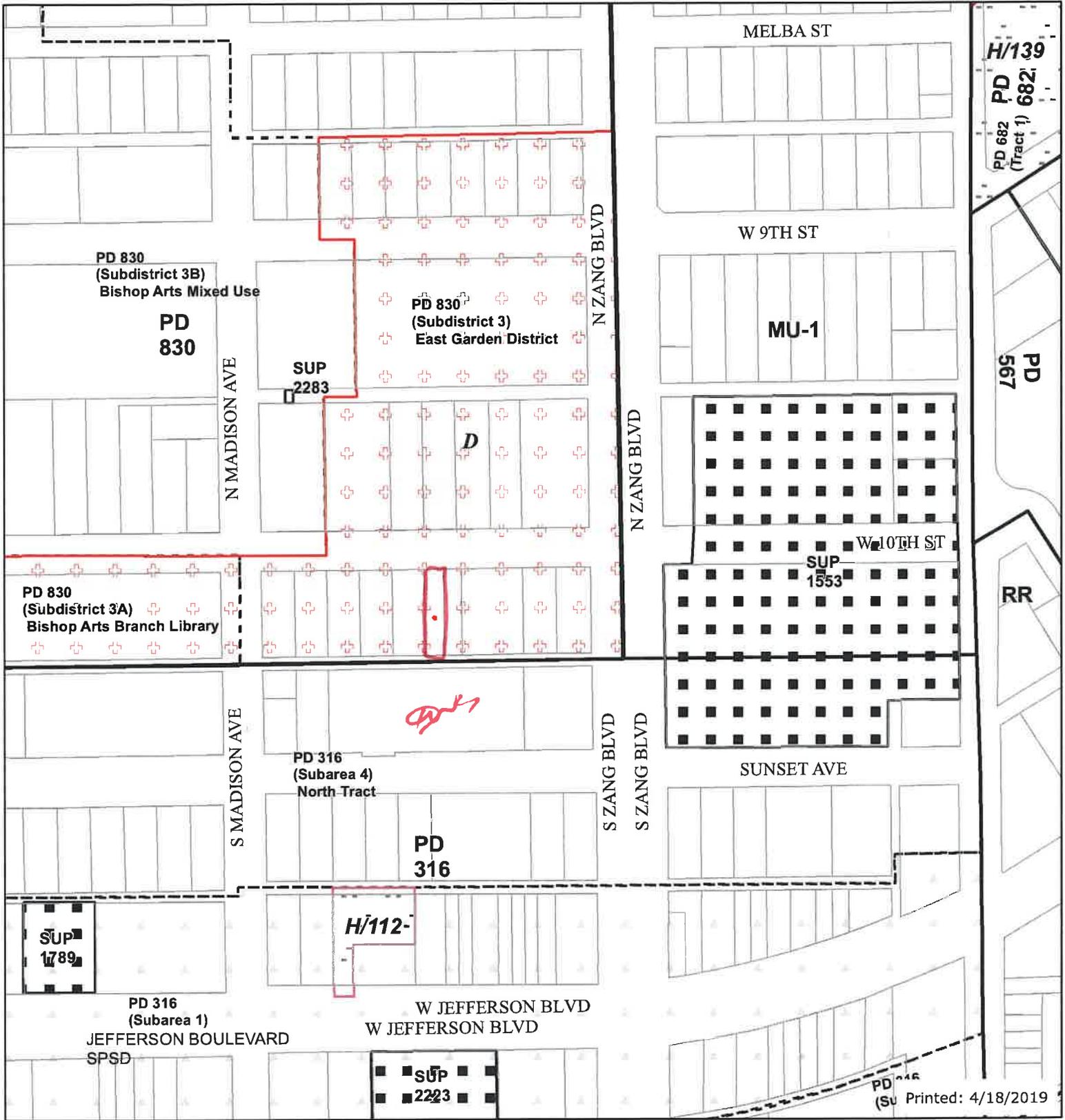
did submit a request to restore a nonconforming use
at 218 W. 10th Street

BDA189-070. Application of DAVID SPENCE to restore a nonconforming use at 218 W 10TH ST. This property is more fully described as Lot 15A, Block 41/3161, and is zoned PD-830 (Subdistrict 3), which limits the legal uses in a zoning district. The applicant proposes to restore a nonconforming medical office use, which will require a special exception to the nonconforming use regulation.

Sincerely,

Philip Sikes
Philip Sikes, Building Official



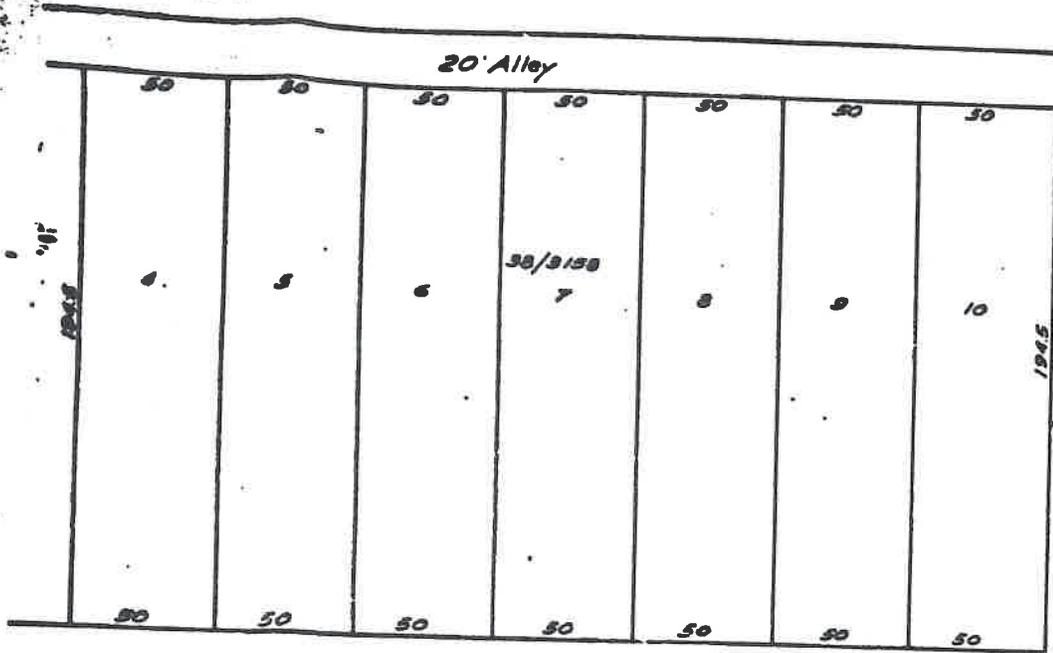


Legend

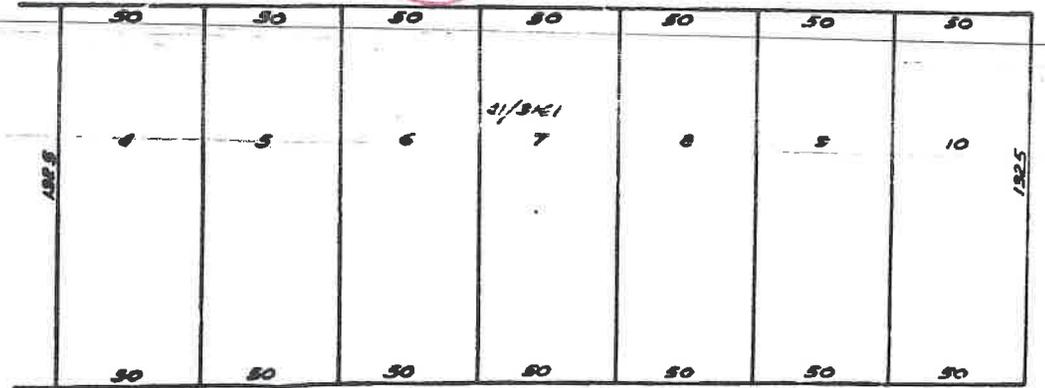
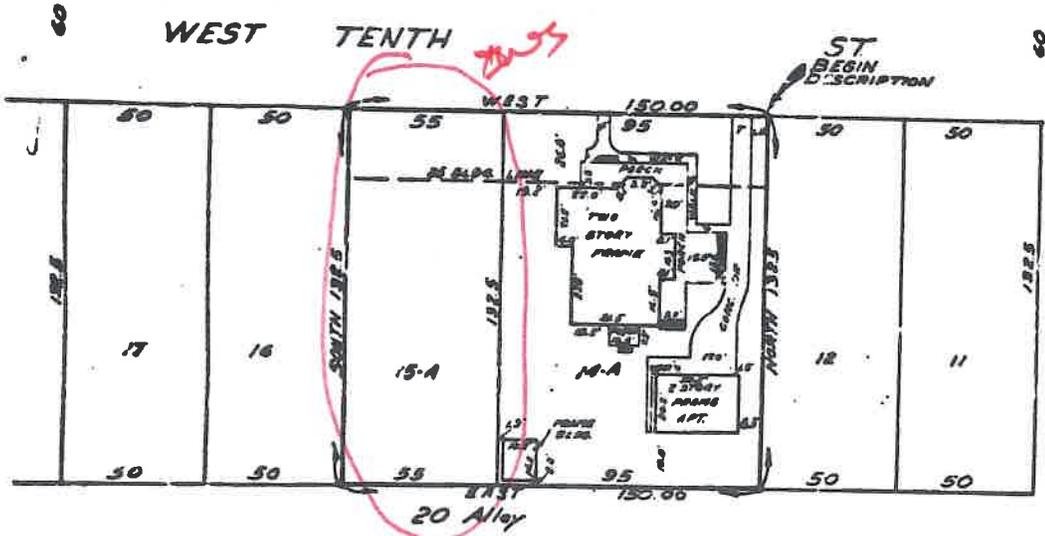
- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits | railroad | Dry Overlay | CD Subdistricts |
| School | Certified Parcels | D | PD Subdistricts |
| Floodplain | Base Zoning | D-1 | PDS Subdistricts |
| 100 Year Flood Zone | PD193 Oak Lawn | CP | NSO Subdistricts |
| Mill's Creek | Dallas Environmental Corridors | SP | NSO_Overlay |
| Peak's Branch | SPSD Overlay | MD Overlay | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions | Historic Subdistricts | Parking Management Overlay |
| Parks | SUP | Historic Overlay | 8th Street Front Overlay |
| | | Height Map Overlay | |

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102)





110
BLVD.



ZANG

RECEIVED
FEB 19
City Plan

SUNSET ST.

Vol 48 Page 117

Board of Adjustment

**Appeal to establish a compliance date for a nonconforming use.
Sec. 51A-4.704(a)(1)(A)**

or

Appeal to restore a nonconforming use. Sec. 51A-4.704(a)(2)

SEC. 51A-4.704. NONCONFORMING USES AND STRUCTURES.

(a) Compliance regulations for nonconforming uses. It is the declared purpose of this subsection that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

(1) Amortization of nonconforming uses.

(A) Request to establish compliance date. The city council may request that the board of adjustment consider establishing a compliance date for a nonconforming use. In addition, any person who resides or owns real property in the city may request that the board consider establishing a compliance date for a nonconforming use. Upon receiving such a request, the board shall hold a public hearing to determine whether continued operation of the nonconforming use will have an adverse effect on nearby properties. If, based on the evidence presented at the public hearing, the board determines that continued operation of the use will have an adverse effect on nearby properties, it shall proceed to establish a compliance date for the nonconforming use; otherwise, it shall not.

(2) The right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more. The board may grant a special exception to this provision only if the owner can show that there was a clear intent not to abandon the use even though the use was discontinued for six months or more.

Property address: 218 W. 10th St.

1. The nonconforming use being appealed/restored: MEDICAL CLINIC
(The land use as stated on the Certificate of Occupancy. Attach a copy of the C.O.)

2. Reason the use is classified as nonconforming: WHEN PD 830 CREATED IN 2010, THIS BLOCK OF MED. BLDGS ZONED ONLY RESIDENTIAL.
(Was there a change in the zoning or in the use requirements?)

3. Current zoning of the property on which the use is located: PD 830, SUBDIST #3

4. Date the nonconforming use was discontinued: APPROX. DEC. 2016

5. Date that the nonconforming use became nonconforming: AUG. 10, 2010
(Date the property zoning or use requirements changed.)

6. Previous zoning of the property on which the use is located: L0-1
(Applies if a zoning district change caused the use to become nonconforming.)

(Rev. 04/04/14)

QUS

April 18, 2019

Charles Trammell
Dallas Board of Adjustment
320 E. Jefferson Blvd., Room 105
Dallas, TX 75203
HAND-DELIVERED

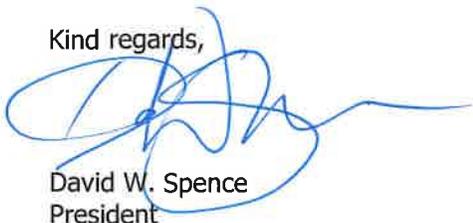
Dear Mr. Trammell,

Please accept the enclosed application from Good Space, Inc. (of which I am sole owner), to the Board of Adjustment to restore non-conforming rights to operate a medical office at 218 W. 8th St. in Dallas. In addition to the application form and attachments, I offer this timeline:

- 1962 Building constructed as a dental office, with a specialized floor plan of small consulting rooms surrounding a service core. The same floor plan remains today. No subsequent record of anything but dental or medical uses of the property.
- Nov. 2008 Oak Cliff Dental Center pulls the most recent C.O. (#0705021112; copy enclosed), when the parcel was zoned LO-1.
- Aug. 2010 Entire 200 block of W. 10th St., consisting mostly of mid-20th-century small medical office buildings, is rezoned as Subdistrict 3 of PD 830, which disallows almost all non-residential uses, including medical clinic. All owners on the block later report to David Spence of Good Space (applicant) that they were unaware of the zoning change when it happened.
- Oct. 2010 Oak Cliff Dental Center purchases the property, becoming owner/occupant.
- June 2015 ODCD operators sell property to investors DDB Properties, and presumably cease clinic operations.
- Late 2015 Presumably, nonconforming rights to medical/dental clinic lost.
- Qtr I, 2016 DDB completes electrical and other upgrades consistent with medical use.
- May 2016 BDA 156-048 restores nonconforming rights to the property (report attached).
- Late 2016 DDB neglects to pull C.O. for medical/dental use; nonconforming rights lost again.
- 2016-2017 Broker Charlie Perdue markets property for sale or lease to medical user, but lost nonconforming rights hamper his efforts.
- June 2016 Good Space, Inc., purchases property in deal brokered by Perdue. Perdue continues to market property to medical users, without success.
- April 2019 Good Space applies to BOA to restore nonconforming rights, with plans to lease property to medical user. Aside from improper zoning, the building is maintained and "lease-ready."

Aside from questions of owner's intent and the effect on neighboring properties, I ask that BOA staff and members consider the historic-preservation angle of this application: This is an excellent example of a mid-century-modern professional building in very good physical condition, but absent nonconforming rights to put it to the specialized use for which it was designed 57 years ago, the building has no viable use and its existence is threatened.

Kind regards,



David W. Spence
President

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing

May 16, 2016

Appeal was--Granted OR Denied

Remarks

Granted

[Handwritten Signature]
Chairman

Building Official's Report

I hereby certify that David E. Capps
represented by Audra Buckley
did submit a request to restore a nonconforming use
at 218 W. 10th Street

BDA156-048. Application of David E. Capps represented by Audra Buckley to restore a nonconforming use at 218 W. 10TH Street. This property is more fully described as Lot 15A, Block 41/3161, and is zoned PD-830 (Subdistrict 3), which limits the legal uses in the zoning district. The applicant proposes to restore a nonconforming medical clinic or ambulatory surgical center use, which will require a special exception to the nonconforming use regulation.

BOARD OF ADJUSTMENT DECISION FILED
IN THE OFFICE OF THE BOARD OF ADJUSTMENT
THIS THE _____ DAY OF _____

16
May, 20 14

[Handwritten Signature]
ADMINISTRATOR

Sincerely,

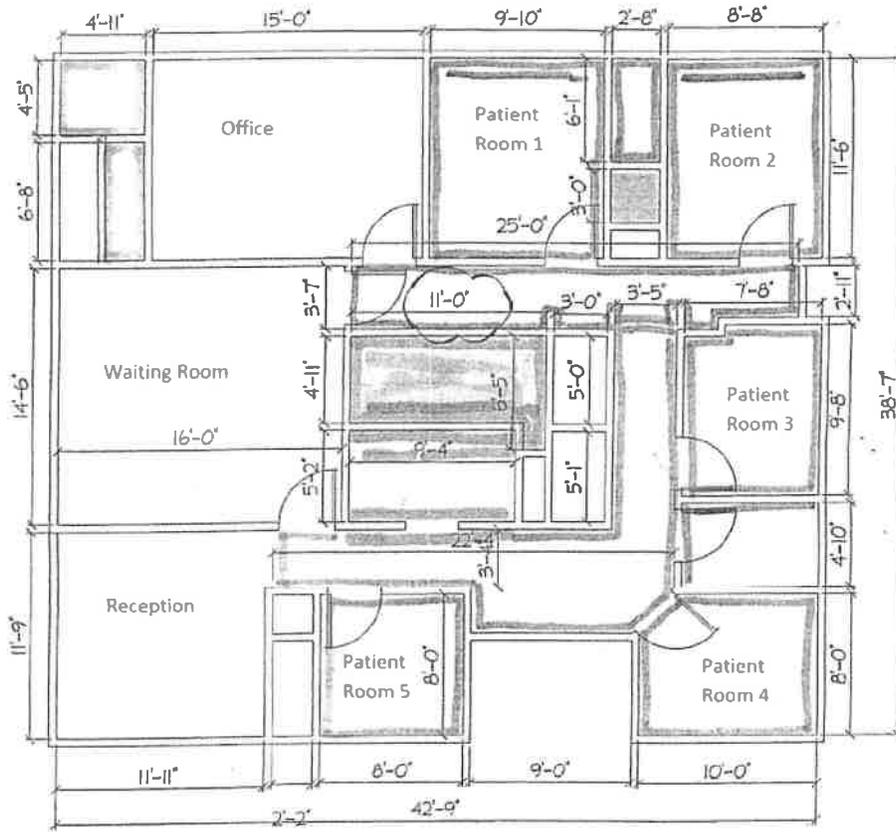
Philip Sikes
Philip Sikes, Building Official

FLOOR PLAN

218 W. 8th St., Dallas

Application to BOA to restore Nonconforming Rights

1" = 10'



North ▲



Certificate of Occupancy - 0705021112

- Details**
- Holds**
- Documents**
- Zoning Info**

Property

Street Address

[View](#) 218 W 10TH ST

Status: CO Issued Application Date: May 02, 2007
 Issue Date: May 2, 2007
 Completed Date: Nov 10, 2008

Applicant: ANGELA L. JONES

Owner Category:
 PRIVATE
 Land Use Description: MEDICAL CLINIC OR AMBULATORY SURGICAL CENTER
 Temporary Address:

Project

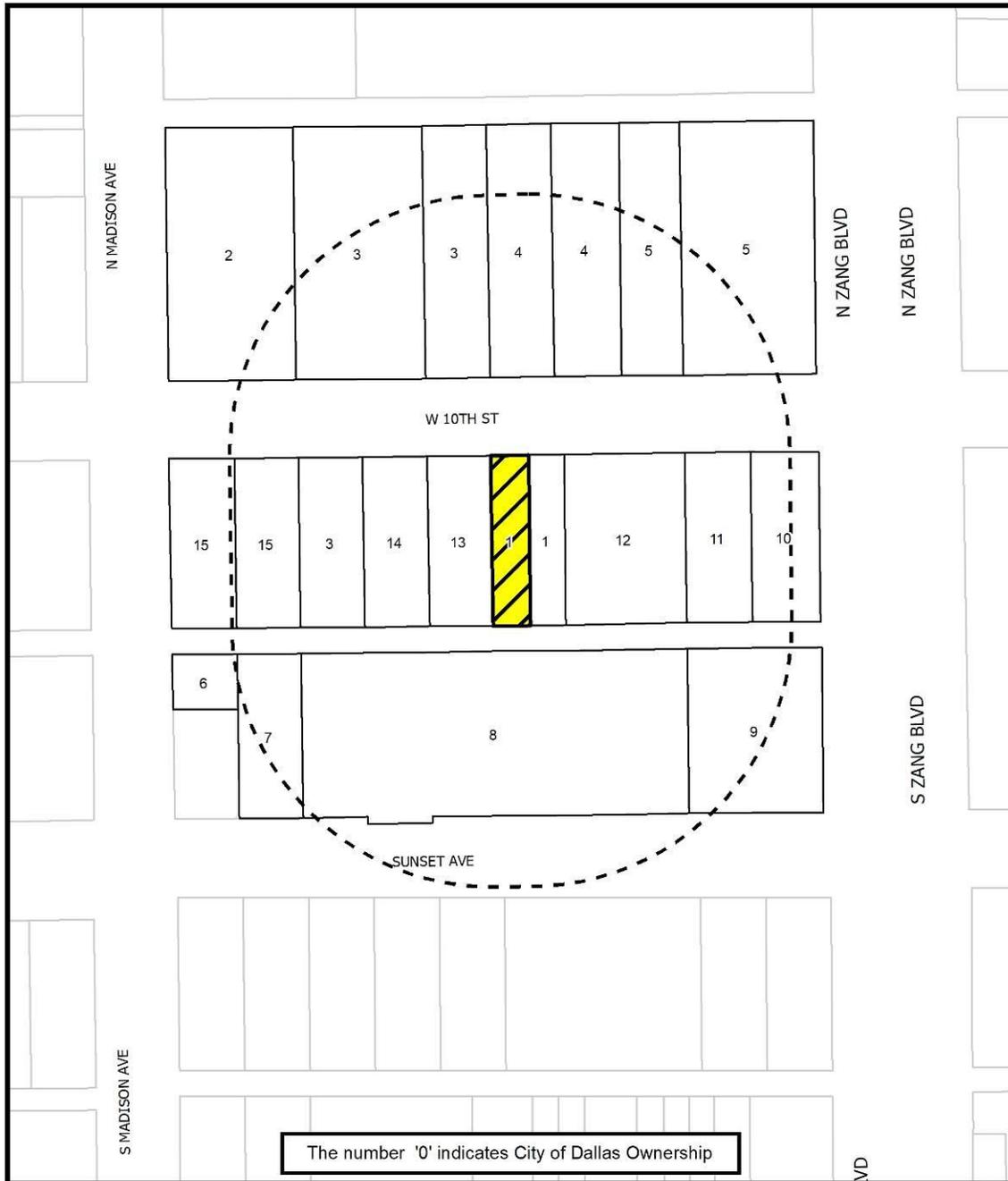
Doing business as: OAK CLIFF DENTAL CENTER
 Certificate Type: CO
 Health Permit Number:
 Use of Property: MEDICAL CLINIC (DENTAL OFFICE)

Occupancy: B	Selling Alcohol:	Dwelling Units:
Constr. Type: UNK	Dance Floor:	Stories:
Sq Footage:		Occupancy Load:
		Sprinkler: None
		Required Parking:
		Proposed Parking:

Development Services Building Inspection Division || 320 E. Jefferson Dallas, Texas 75203 || 214/948-4480

[Save Changes](#)

[Main Menu](#)



 1:1,200	NOTIFICATION		Case no: BDA189-070
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">15</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 5/15/2019	

Notification List of Property Owners

BDA189-070

15 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	218 W 10TH ST	GOOD SPACE INC
2	233 W 10TH ST	UG MELBA LLC
3	227 W 10TH ST	CMWOC PROPERTIES I LLC
4	219 W 10TH ST	EXXIR TREEHAUS LLC
5	209 W 10TH ST	EXC VENTURES LLC
6	112 S MADISON AVE	SALA JASON BRANDON
7	233 SUNSET AVE	DERASAUGH MARGARET SUE
8	219 SUNSET AVE	BABAJOON3M PROPERTIES LLC
9	205 SUNSET AVE	PUERTO SERGIO
10	202 W 10TH ST	DUTTON ALLAN M D
11	206 W 10TH ST	MERCADO FRANCISCA M
12	210 W 10TH ST	FIVE NINE SEVEN LP
13	220 W 10TH ST	PERALTA CHIROPRACTIC INC
14	224 W 10TH ST	CMWOC PROPERTIES II LLC
15	232 W 10TH ST	PEREZ ARMINDA

FILE NUMBER: BDA189-071(SL)

BUILDING OFFICIAL'S REPORT: Application of Tom Peter Hippman for a variance to the front yard setback regulations, and for a special exception to the fence standards regulations at 8522 Stults Road. This property is more fully described as Lot 21, Block1/7514, and is zoned R-10(A), which requires a front yard setback of 30 feet, and limits the height of a fence in the front yard to 4 feet and. The applicant proposes to construct and/or maintain a structure and provide a 21 foot 2 inch front yard setback, which will require a 8 foot 10 inch variance to the front yard setback regulations, and to construct and/or maintain an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence standards regulations.

LOCATION: 8522 Stults Road

APPLICANT: Tom Peter Hippman

REQUESTS:

The following requests have been made on a site that is currently undeveloped:

1. A request for a variance to the front yard setback regulations of 8' 10" is made to construct and maintain a one-story, approximately 2,100 square foot single family home and swimming pool structures, part of which are to be located as close as 21' 2" from one of the site's two front property lines (Pinewood Drive) or 8' 10" into this 30' front yard setback; and
2. A request for a special exception to the fence standards regulations related to height of 4' is made to construct and maintain an 8' high solid wood fence to be located in one of the site's two front yard setbacks (Pinewood Drive).

STANDARD FOR A VARIANCE:

Section 51(A)-3.102(d)(10) of the Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, lot coverage, floor area for structures accessory to single family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and

(C) not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS REGULATIONS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the fence standards regulations when, in the opinion of the board, the special exception will not adversely affect neighboring property.

STAFF RECOMMENDATION (variance):

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots in the R-10(A) zoning district in that it is restrictive in area due to having two, 30’ front yard setbacks when most lots in this zoning district have one 30’ front yard setback. The 78’ wide subject site has 38’ of developable width available once a 30’ front yard setback is accounted for on the west and a 6’ side yard setback is accounted for on the east. If the lot were more typical to others in the zoning district with only one front yard setback, the 78’ wide site would have 62’ of developable width.
- Staff concluded that the applicant has shown by submitting a document indicating among other things that that the square footage of the proposed home on the subject site at approximately 2,100 square feet is commensurate to 15 other homes in the same R-10(A) zoning district that average approximately 2,300 square feet.

STAFF RECOMMENDATION (fence special exception):

No staff recommendation is made on this or any request for a special exception to the fence standards regulations since the basis for this type of appeal is when in the opinion of the board, the special exception will not adversely affect neighboring property.

BACKGROUND INFORMATION:

Zoning:

- Site: R-10(A) (Single family district 10,000 square feet)
- North: R-10(A) (Single family district 10,000 square feet)
- South: R-10(A) (Single family district 10,000 square feet)
- East: R-10(A) (Single family district 10,000 square feet)
- West: R-10(A) (Single family district 10,000 square feet)

Land Use:

The subject site is undeveloped. The areas to the north, east, south and west are developed with single family uses.

Zoning/BDA History:

There has not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

GENERAL FACTS /STAFF ANALYSIS (variance):

- This request for variance to the front yard setback regulations of 8' 10" focuses on constructing and maintain a one-story, approximately 2,100 square foot single family home and swimming pool structures, part of which are to be located as close as 21' 2" from one of the site's two front property lines (Pinewood Drive) or 8' 10" into this 30' front yard setback on an undeveloped site.
- The property is located in an R-10(A) zoning district which requires a minimum front yard setback of 30 feet.
- The subject site is located at the southeast corner of Stults Road and Pinewood Drive. Regardless of how the structure is proposed to be oriented, the subject site has 30' front yard setbacks along both street frontages. The site has a 30' front yard setback along Stults Road, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in this zoning district. The site also has a 30' front yard setback along Pinewood Drive, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where a 6' side yard setback is required. However, the site's Pinewood Drive frontage is treated as a front yard setback nonetheless, to maintain the continuity of the established front yard setback established by the one lot to the south that fronts/is oriented west towards Pinewood Drive.
- The submitted site plan indicates that one of the proposed structures in the 30' Pinewood Drive front yard setback (swimming pool) is located as close as 22' 2" from this front property line or 8' 10" into this 30' front yard setback.
- According to DCAD records there are no improvements listed for property addressed at 8522 Stults Road.
- The subject site is flat, rectangular in shape, and approximately 12,000 square feet in area. The site is zoned R-10(A) where lots are typically 10,000 square feet in area.
- The site plan represents that approximately 50 square feet of the single family home structure and the majority of the swimming pool structure are located in the 30' Pinewood Drive front yard setback.
- The approximately 74' wide subject site has 38' of developable width available once a 30' front yard setback is accounted for on the west and a 6' side yard setback is accounted for on the east. If the lot were more typical to others in the zoning district with only one front yard setback, the 74' wide site would have 62' of developable width.

- No variance would be necessary if the Pinewood Drive frontage were a side yard since the site plan represents that the structures are over 20' from the front property line and the side yard setback for properties zoned R-10(A) is 6'.
- The applicant has submitted a document indicating that square footage of the proposed home on the subject site is approximately 2,100 square feet and the average of square footage of 15 other homes in R-10(A) is approximately 2,300 square feet.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-10(A) zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-10(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structures in the front yard setback would be limited to what is shown on this document– which in this case are single family home and swimming pool structures that would be located as close as 21' 2" from the site's Pinewood Drive front property line (or as much as 8' 10" into this 30' front yard setback).

GENERAL FACTS/STAFF ANALYSIS (fence special excpetion):

- This request for a special exception to the fence standards regulations related to height of 4' focuses on constructing and maintaining an 8' high solid wood fence in the Pinewood Drive front yard setback on an undeveloped site.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The subject site is zoned R-10(A) which requires a 30' front yard setback.
- The submitted site plan and elevation show the proposed fence that would exceed 4' in height is an 8' high solid wood fence and is only proposed to be located in the site's Pinewood Drive front yard setback.
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 84' in length parallel to Pinewood Drive, and 25' perpendicular to this street on the north and south sides of the site in this front yard setback.
 - The proposal is represented as being located approximately 6' from the front property line, and approximately 17' from the pavement line.

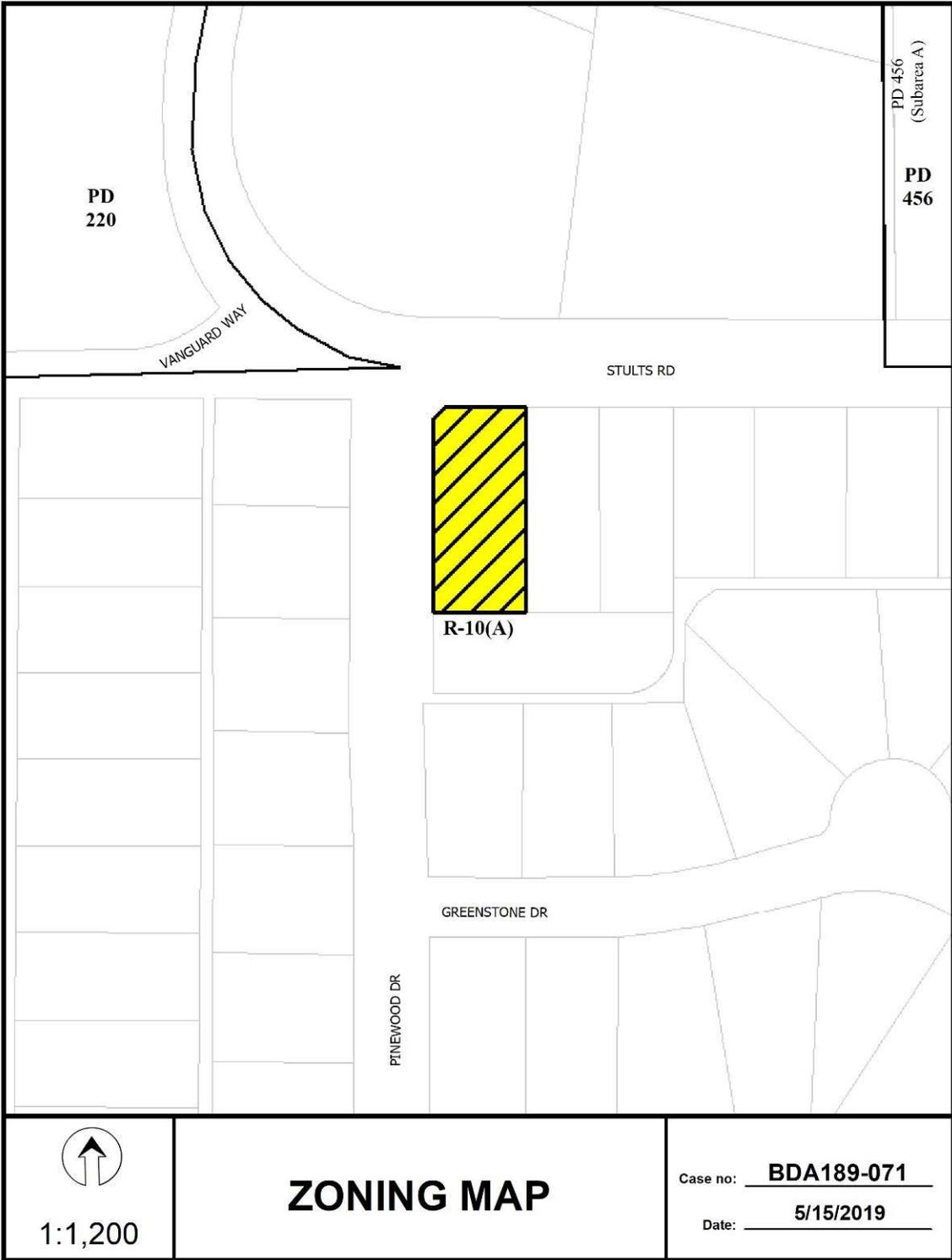
- The Sustainable Development and Construction Department Board of Adjustment Senior Planner conducted a field visit of the site and surrounding area and noted no other fences that appeared to be above 4' in height located in front yard setback.
- As of June 7, 2019, no letters had been submitted in support or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach 8' in height) will not adversely affect neighboring property.
- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height to be constructed and maintained in the location and of the heights and materials as shown on these documents.

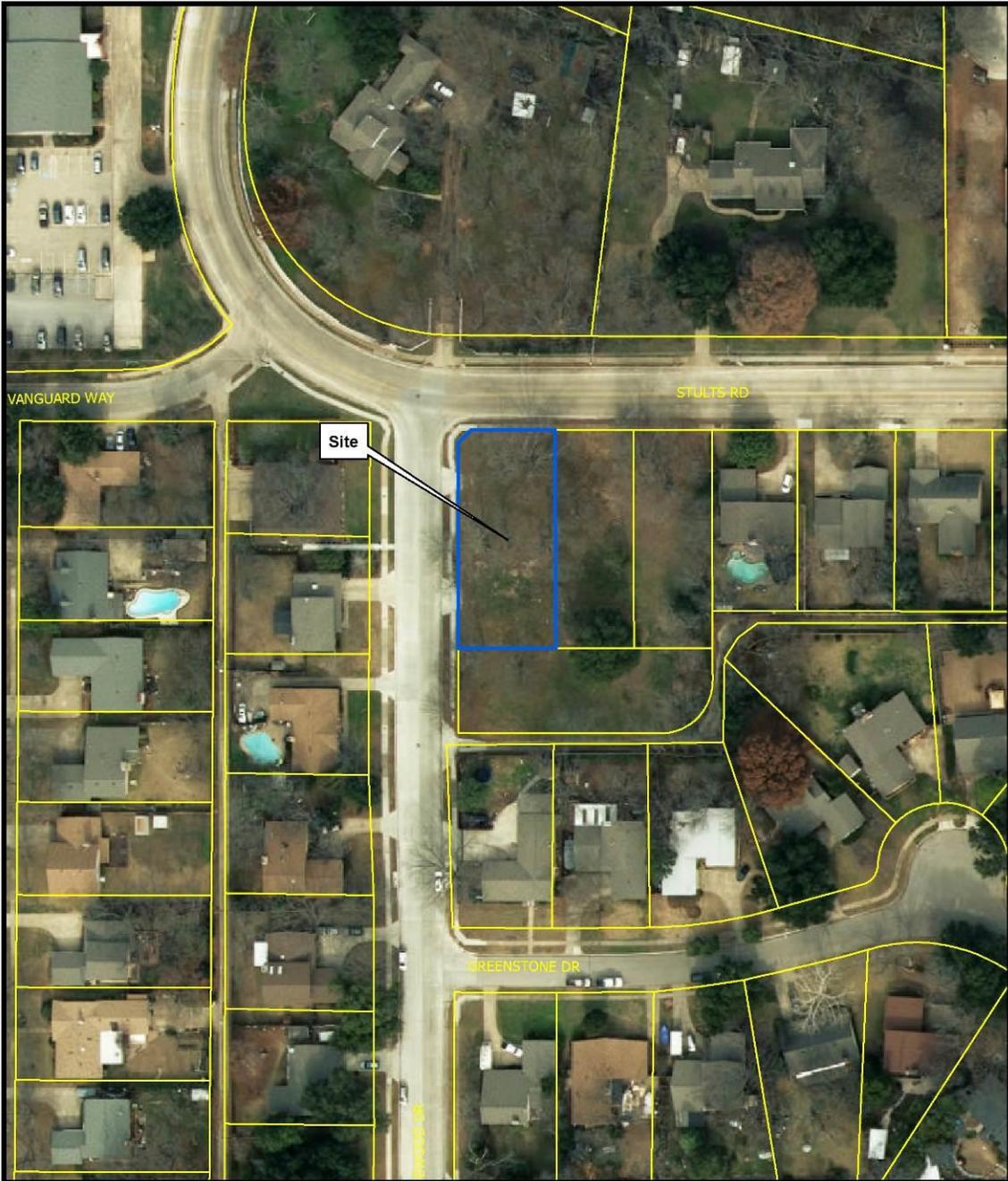
Timeline:

- April 18, 2019: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 13, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- May 14, 2019: The Sustainable Development and Construction Department Board of Adjustment Senior Planner emailed the applicant's representative the following information:
- a copy of the application materials including the Building Official's report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the May 29th deadline to submit additional evidence for staff to factor into their analysis; and the June 7th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- June 4, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Sustainable Development and Construction Department Conservation District Chief Planner, the Building Inspection Senior

Plans Examiner/Development Code Specialist, and the Assistant City Attorney to the Board.

No review comment sheets were submitted in conjunction with this application.





1:1,200

AERIAL MAP

Case no: BDA189-071

Date: 5/15/2019



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 189-071

Data Relative to Subject Property:

Date: 4/18/19

Location address: 8522 STUBBS ROAD Zoning District: R-10(A)

Lot No.: 21 Block No.: 1/7514 Acreage: .28 Census Tract: 78.05

Street Frontage (in Feet): 1) 74.28' 2) 167.31' 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): THOMAS PETER HIPPMAN AND TAMI LIND CARLUZZARO

Applicant: THOMAS PETER HIPPMAN Telephone: (972) 415-2508

Mailing Address: 8213 MEADOW ROAD, APT. 1213, DALLAS, TX Zip Code: 75231

E-mail Address: tom.hippman@crtkl.com

Represented by: SELF Telephone: (972) 415-2508

Mailing Address: 8213 MEADOW ROAD APT. 1213 DALLAS, TX Zip Code: 75231

E-mail Address: tom.hippman@crtkl.com

Affirm that an appeal has been made for a Variance , or Special Exception , of 8'-9 1/4" to the required 30' FYSB + Provide a 21'-2 3/4" FYSB + A 4' Special exception to the required 4' Front Yard Fence Regulation and provide a total fence Height of 8'

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:
My development is commensurate to other developments in the neighborhood. My fence is of similar materials and in similar location to other fences within the neighborhood. The property is encumbered by (2) 30' Front yard setbacks.

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

Before me the undersigned on this day personally appeared Thomas Peter Hippman
(Affiant/Applicant's name printed)

who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: Thomas P. Hippman
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 18 day of April, 2019

(Rev. 08-01-11) 4-9

Lucina Casas
Notary Public in and for Dallas County, Texas

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks

Chairman

Building Official's Report

I hereby certify that TOM HIPPMAN

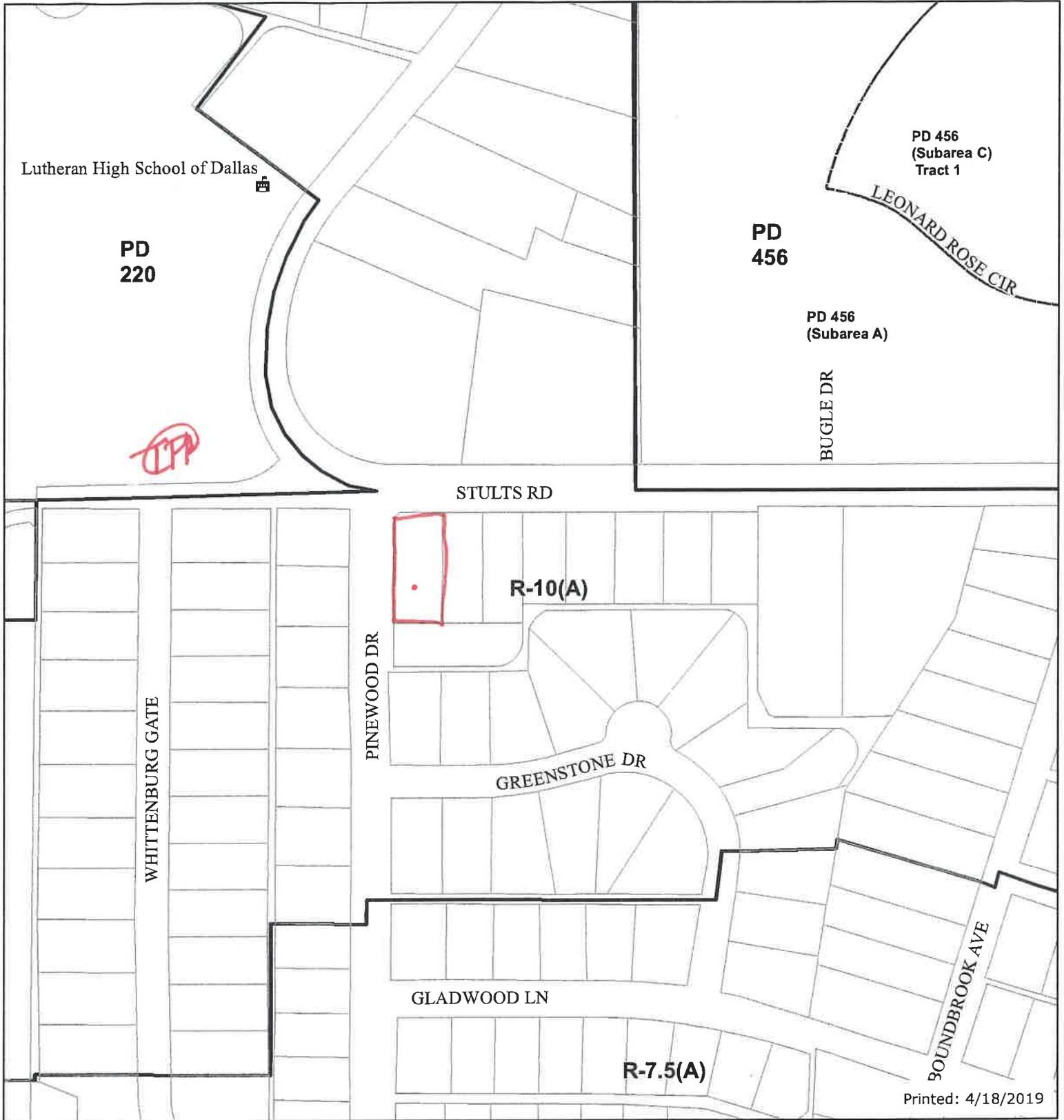
did submit a request for a variance to the front yard setback regulations, and for a special exception to the fence height regulations

at 8522 Stults Road

BDA189-071. Application of TOM HIPPMAN for a variance to the front yard setback regulations, and for a special exception to the fence height regulations at 8522 STULTS RD. This property is more fully described as Lot 21, Block1/7514, and is zoned R-10(A), which limits the height of a fence in the front yard to 4 feet and requires a front yard setback of 30 feet. The applicant proposes to construct a single family residential structure and provide a 21 foot 2.75 inch front yard setback, which will require a 8 foot 9.25 inch variance to the front yard setback regulations, and to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulations.

Sincerely,

Philip Sikes
Philip Sikes, Building Official



Printed: 4/18/2019

Legend

- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits | railroad | Dry Overlay | CD Subdistricts |
| School | Certified Parcels | D | PD Subdistricts |
| Floodplain | Base Zoning | D-1 | PDS Subdistricts |
| 100 Year Flood Zone | PD193 Oak Lawn | CP | NSO Subdistricts |
| Mill's Creek | Dallas Environmental Corridors | SP | NSO_Overlay |
| Peak's Branch | SPSP Overlay | MD Overlay | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions | Historic Subdistricts | Parking Management Overlay |
| Parks | SUP | Historic Overlay | Shop Front Overlay |
| | | Height Map Overlay | 4 - 11 |

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102)





Lot No.	Area (Ac.)	Owner	Notes
7514	1.5700	Sherry A. Fife	SUSPENDED
7514/1	1.5700	Sherry A. Fife	
7514/A	1.5700	Sherry A. Fife	SUSPENDED



New Leaf Construction
 718 N. Buckner Blvd.
 Suite 324
 Dallas, TX 75218

Hippman/Cannizzaro Residence
 8522 Stulis Rd. Dallas
 TX 75243

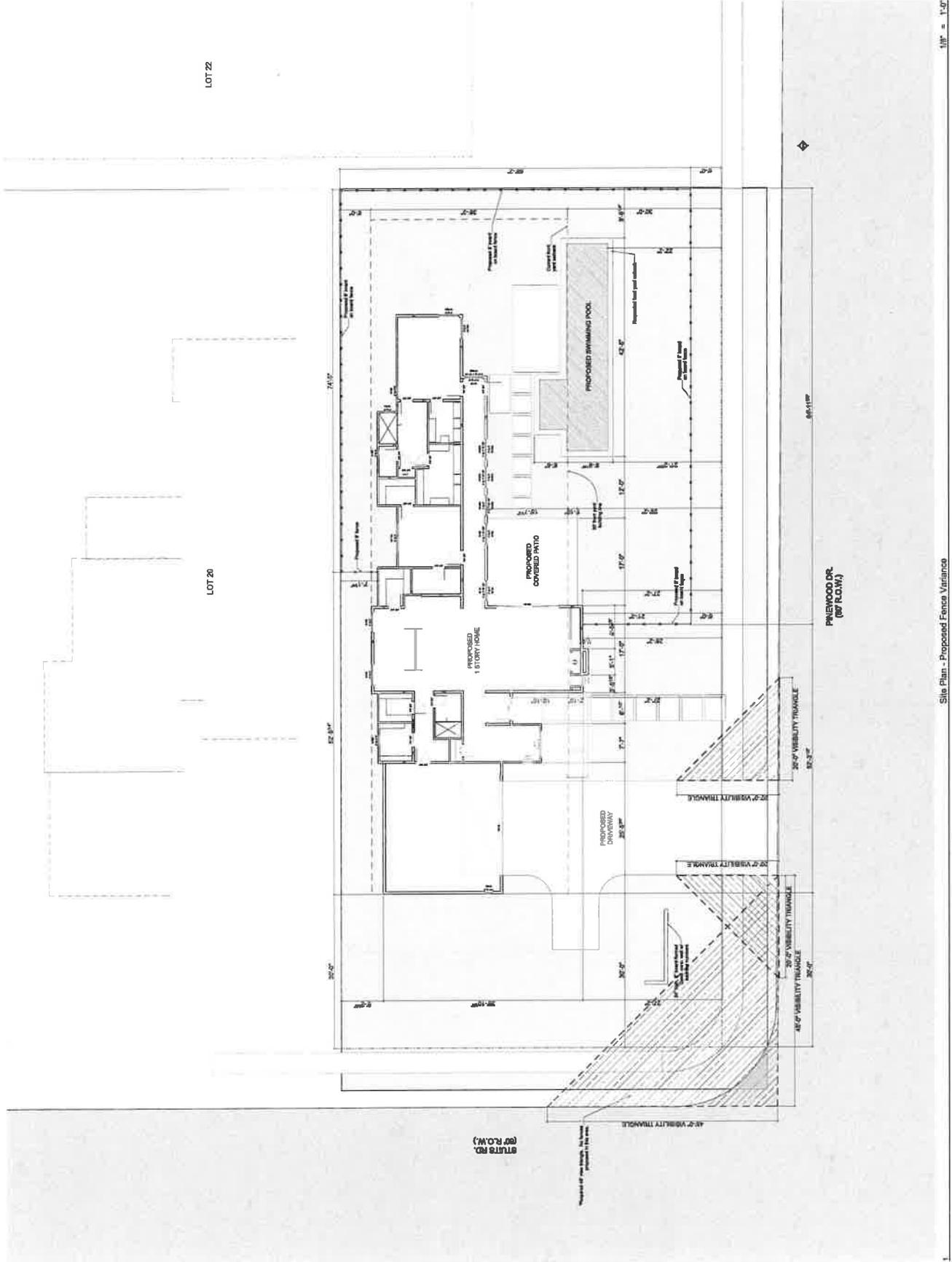
Tom Hippman/
 Tami Cannizzaro

PROJECT: 8522 Stulis Rd.
 DRAWN BY: AT/RSB
 COPYRIGHT: N/A

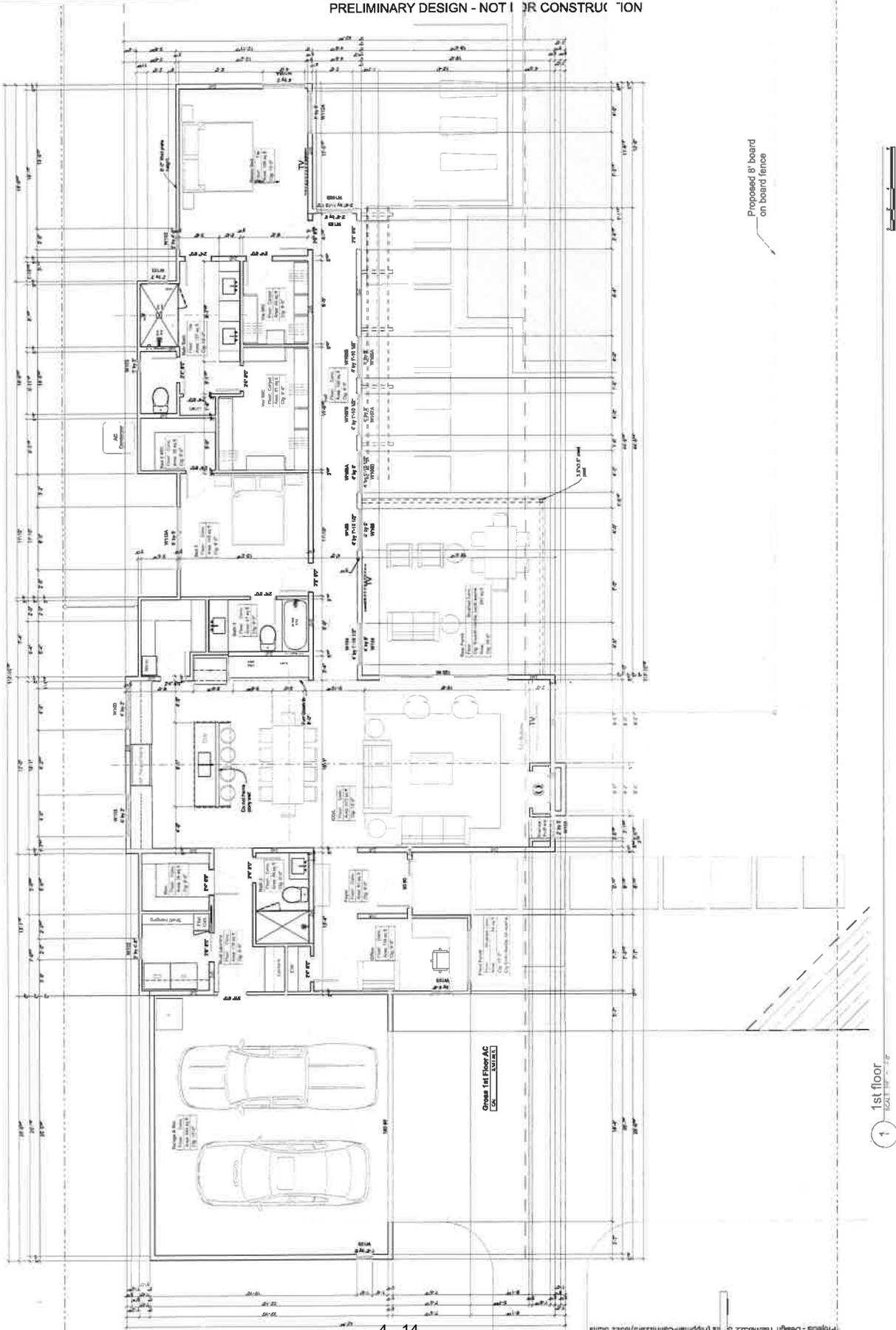
SHEET TITLE
Proposed Fence Site Plan

A-15
 SHEET 16 OF 125

PRELIMINARY DESIGN - NOT FOR CONSTRUCTION



PRELIMINARY DESIGN - NOT FOR CONSTRUCTION

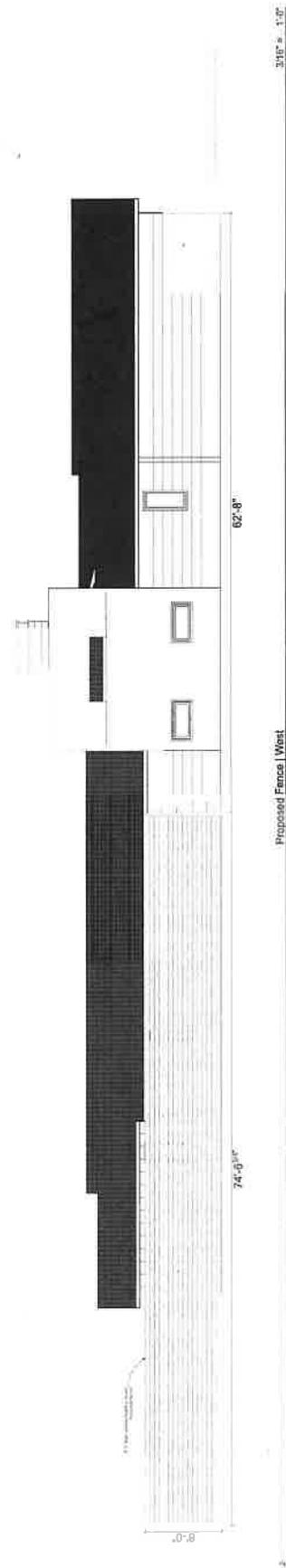
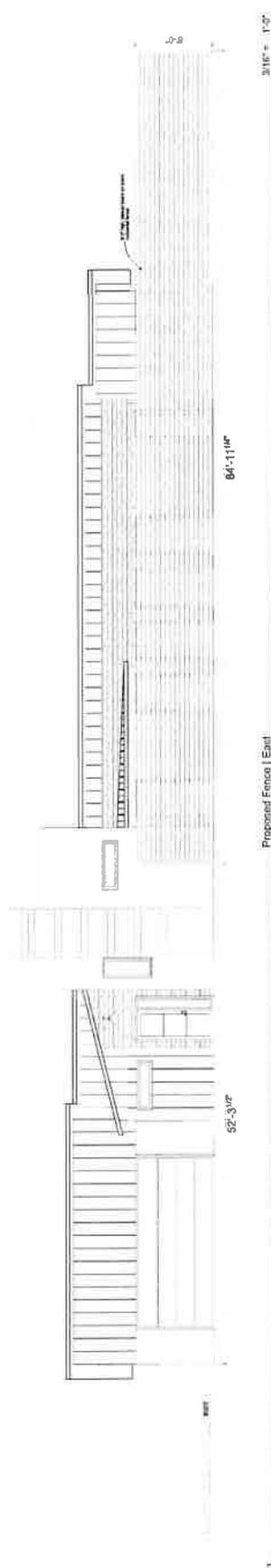
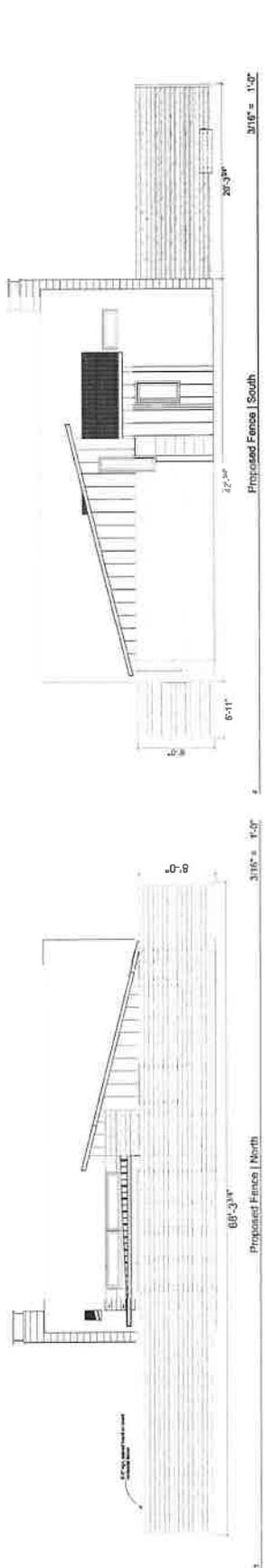


PROJECT:	8522 Stults Rd.
DATE:	4/18/18
DRAWN BY:	WMD
COPYRIGHT:	WMD

SHEET TITLE
Proposed Fence Elevations

A-16
 SHEET 18 OF 125

PRELIMINARY DESIGN - NOT FOR CONSTRUCTION



House Size Comparison Near our Lot - 4/17/19

DCAD Loc			Square Footage		
			House	lot	
1	9433 Pinewood	Corner of Pinewood/Stults	2136	9583	3b/2.5
2	9425 Pinewood	Greg/Judy	2164	10045	4b/3
3	9417 Pinewood		1756	10124	3b/2
22	9418 Pinewood	Michael/Kathryn	3463	12358	3b/3
4	9411 Pinewood		2096	10282	3b/2
5	9405 Pinewood		2246	10146	4b/2
6	9321 Pinewood		2265	10026	3b/2
7	9315 Pinewood		2343	10081	4b/2
4	8358 Stults		2291	10403	4b/3.5
20	8526 Stults	Next Door	2881	10019	4b/3
12	8435 Greenstone	around corner	2459	13815	4b/2
3	8418 Greenstone		2251	12512	3b/2
7	8411 Greenstone		2251	10375	3b/2
8	8417 Greenstone		2212	10879	4b/2
9	8423 Greenstone		2105	12715	3b/2

TOTAL 34919 163,363
 AVERAGE 2327.93 10890.86

Our lot is 12464.26

Our structure is 2141



 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="0"> <tr> <td style="border: 1px solid black; padding: 2px;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="border: 1px solid black; padding: 2px;">21</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	21	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u>BDA189-071</u> Date: <u>5/15/2019</u>
200'	AREA OF NOTIFICATION					
21	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA189-071

21 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	8522 STULTS RD	HIPPMAN THOMAS PETER &
2	8533 STULTS RD	TURNER PAUL E &
3	8499 STULTS RD	BAKER JAY KEITH &
4	9430 WHITTENBURG GATE AVE	EVERETT RUBY
5	9426 WHITTENBURG GATE AVE	HARRISON IKE A JR
6	9422 WHITTENBURG GATE AVE	WANG CYNTHIA
7	9418 WHITTENBURG GATE AVE	TU PAU LY & LIN
8	8538 STULTS RD	BROWN DAVID
9	8534 STULTS RD	JOHNSON JOHN P ETAL
10	8405 GREENSTONE DR	HERNANDEZ BENITO
11	8411 GREENSTONE DR	CAUDELL DENNIS L
12	8417 GREENSTONE DR	MARTINEZ JOSEPH F
13	8423 GREENSTONE DR	DOHEARTY REAL ESTATE LLC
14	8427 GREENSTONE DR	REYNA MARIO & MARY I
15	9417 PINWOOD DR	GAUTT JIMMIE E
16	9411 PINWOOD DR	JAMES DEANE A &
17	9405 PINWOOD DR	HUANG POWEN PHILIP
18	8494 STULTS RD	LUTHERAN SECONDARY ASSOC
19	8530 STULTS RD	OSHMAN LINDA
20	8526 STULTS RD	BHATIA GITA &
21	9418 PINWOOD DR	TORRES KATHRYN &

FILE NUMBER: BDA189-076(SL)

BUILDING OFFICIAL'S REPORT: Application of Jason Reimer, represented by Christa McCall, to appeal the decision of the administrative official at 931 Salmon Drive. This property is more fully described as Lot 08, Block 8/3841, and is zoned CD 13, which requires compliance with conservation district fence standards. The applicant proposes to appeal the decision of an administrative official.

LOCATION: 931 Salmon Drive

APPLICANT: Jason Reimer
Represented by Christa McCall

REQUEST:

A request is made to appeal the decision of the administrative official, more specifically, the Building Official's April 23, 2019 denial of a permit at 931 Salmon Drive.

STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:

Dallas Development Code Sections 51A-3.102(d)(1) and 51A-4.703(a)(2) state that any aggrieved person may appeal a decision of an administrative official when that decision concerns issues within the jurisdiction of the Board of Adjustment.

The Board of Adjustment may hear and decide an appeal that alleges error in a decision made by an administrative official. Tex. Local Gov't Code Section 211.009(a)(1).

Administrative official means that person within a city department having the final decision-making authority within the department relative to the zoning enforcement issue. Dallas Development Code Section 51A-4.703(a)(2).

BACKGROUND INFORMATION:

Zoning:

Site: CD 13 (Subarea 2) (Conservation District)
North: CD 13 (Subarea 1) (Conservation District)
South: CD 13 (Subarea 2) (Conservation District)
East: CD 13 (Subarea 2) (Conservation District)
West: CD 13 (Subarea 2) (Conservation District)

Land Use:

The subject site is developed with a single family use/structure. The areas to the north, south, east and west are developed with single family uses.

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

GENERAL FACTS/STAFF ANALYSIS:

- The board shall have all the powers of the administrative official on the action appealed. The board may in whole or in part affirm, reverse, or amend the decision of the official.

Timeline:

April 16, 2019: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

May 13, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

May 13, 2019: The Board Administrator/Chief Planner emailed the applicant’s representative the following information:

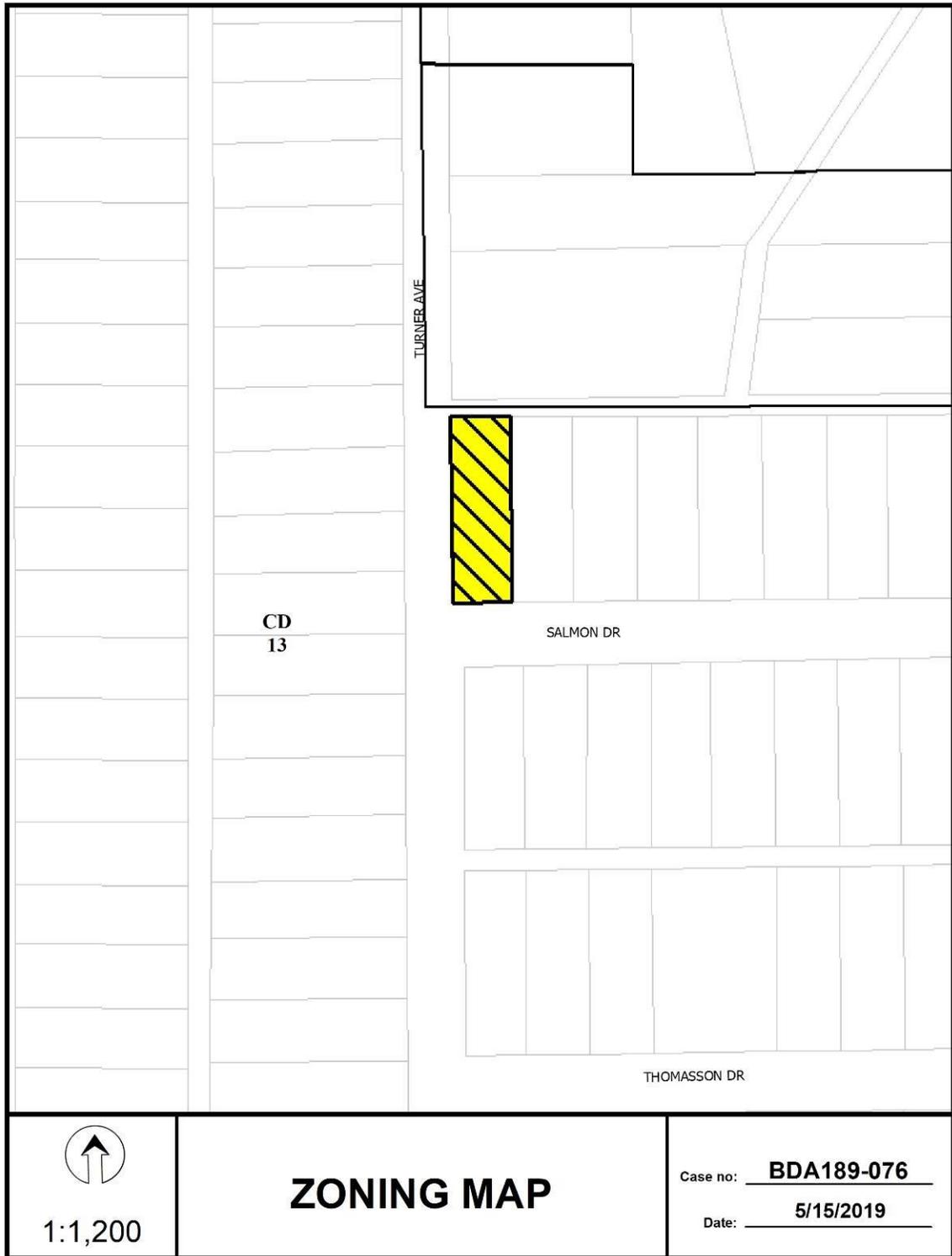
- an attachment that provided the appeal date and panel that will consider the appeal; the May 29th deadline to submit additional evidence for staff to factor into their analysis (with a notation that staff does not form a recommendation on this type of appeal); and the June 7th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the outline of procedure for appeals from decisions of the building official to the board of adjustment; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

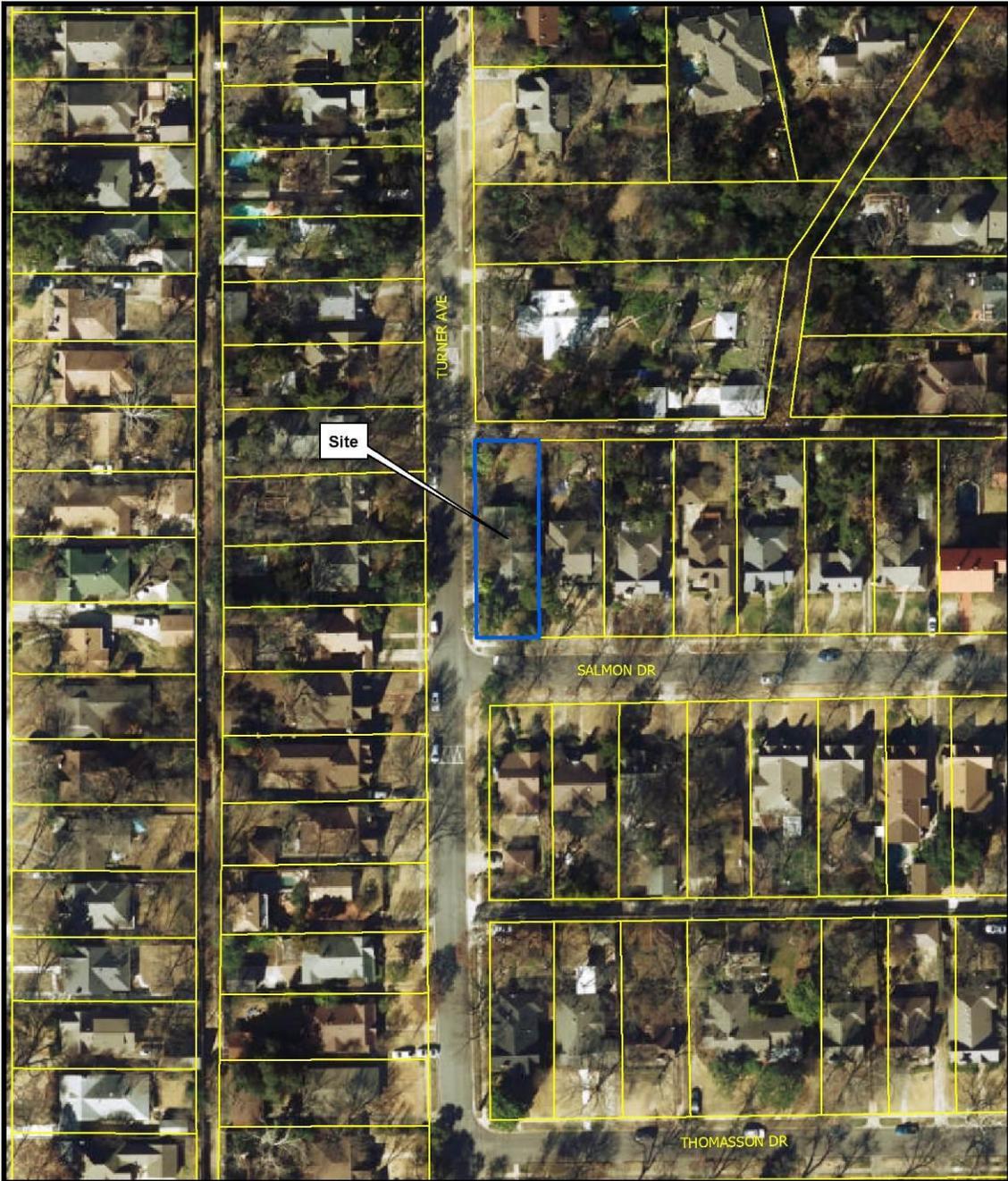
June 4, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Sustainable Development and Construction Department Conservation District Chief Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, and the Assistant City Attorney to the Board.

No review comment sheets were submitted in conjunction with this application.

June 7, 2019: The applicant's representative submitted additional documentation on this appeal to the Board Administrator (see Attachment A).

June 7, 2019: The assistant city attorney assisting the administrative official submitted documentation on this appeal to the Board Administrator (see Attachment B).





1:1,200

AERIAL MAP

Case no: BDA189-076

Date: 5/15/2019

BDA189-076
Attach A
Pg 1

Long, Steve

From: christa mccall <christa@paperkites-studio.com>
Sent: Friday, June 07, 2019 11:53 AM
To: Long, Steve
Cc: Aguilera, Oscar E; Trammell, Charles; Hersch, William; Kay, Kiesha; Wimer, Megan; Sikes, Phil; JMPR; K Dale
Subject: Re: BDA189-076, Property at 931 Salmon Drive
Attachments: salmon support.pdf; 931 salmon photos.pdf

Hello everyone,

We have a few images and letters of support we would like to add if possible. I sent these to Steve but got an auto reply that he is out of the office. Can someone let me know these are received under the deadline stated below. ? Please see attached.

Thank you,
Christa.

On Tue, May 14, 2019 at 10:47 AM Long, Steve <steve.long@dallascityhall.com> wrote:

Dear Ms. McCall,

Here is information regarding the appeal to the board of adjustment referenced above that you are representing for Jason Reimer:

1. The application and submitted materials - all of which will be emailed to you, city staff, and the board of adjustment members in a docket report about a week ahead of your tentatively scheduled June 17th Board of Adjustment Panel C hearing.
2. The provision from the Dallas Development Code that allows the board to consider appeals of an administrative official (Section 51A-4.703(a)(2)).
3. The outline of procedure for appeals from decisions of an administrative official by the board of adjustment.
4. A document that lists dates including your hearing date and other deadlines for submittal of additional information to staff/the board. (**Please note that staff does not form a recommendation on this type of appeal**).
5. The board's rule pertaining to documentary evidence.

Please carefully review the attached application materials to make sure they are complete, and within these materials, the Building Official's Report/second page of the application (page 2 of 6 in these attached materials). Please contact Charles Trammel at 214/948-4618 or charles.trammell@dallascityhall.com no later than 1 p.m., Wednesday, May 29th with regard to anything you feel is missing from what you originally submitted, or with regard to any amendment that you feel is necessary to address the issue at hand, specifically if for any reason you feel that any statement in the Building Official's report is incorrect.

Please write or call me at 214/670-4666 if you have any questions/concerns, or if I can be of any additional assistance to you on this appeal.

Thank you,

Steve

PS: If there is anything that you want to submit to the board for me to include in their docket beyond what has been included in the attached materials, please feel free to email it to steve.long@dallascityhall.com or mail it to me at the following address no later than 1 p.m., Friday, June 7th:

BDA 189-076
Attach A
PS Z

From: Lawrence Tabony

Subject: Fence

Date: February 28, 2019 at 10:08:47 AM CST

The fence at your house was built for Peggy Loft numerous years before Ann and I moved here in January 2000. Since, the side portion had broken up and partially fallen into your neighbors yard and the front portion looked to have been held up by the ivy, which now looks bad. Your fence is a replacement for the original in appearance and location. I understand someone in the city has questioned your replacement fence according to the conservation districts requirements. This is a replacement fence. This is not a new fence, which the requirements address.

Lawrence Tabony, AIA
926 Salmon Drive
214.941.9109

From: Billy Allen

Subject: Re: 931 Salmon Fence / Conservation Dist. / Please help !

Date: February 27, 2019 at 6:59:33 AM CST

To: Jason Reimer

Jason,

We are in support of this and your efforts, and are in complete agreement that the work you and Kristen have been doing to the fence has only been to reinforce, protect and preserve the integrity of the fence that was already in place decades before you both purchased your home (931 Salmon Drive).

My wife (Leigh) and I have lived next door to your home for almost 15 years at (927 Salmon Drive). We moved into our home in the Fall of 2004 when the fence in question was already getting noticeably older. Over the years we have noticed the fence has been shifting, leaning towards our home and looking unstable.

Leigh and I have also noticed over the time Jason and Kristen have lived next door to us that they have done everything possible to keep other parts of their home with the integrity of the neighborhood as well. The construction being done has only been to safely secure and preserve the fence in a better and safe condition therefore enhancing our neighborhood.

Respectfully,

BDA189-076
Attach A
Pg 3

Billy Allen
927 Salmon Drive
Dallas, TX 75208
214.663.8577

On Feb 26, 2019, at 10:10 AM, Scott Sura wrote:

Thanks Jason.

We have lived here for many years and the fence has always been there.

If anything, your repaired fence makes the neighborhood more inviting. S-sqrd.

SCOTT SURA | Executive Producer

O 214.623.1332 | M 214.869.9652 | 3801 Adler Dr, Ste 150 | Dallas, TX | 75211 |
freeman.com

From: Fran Cox

Date: April 4, 2019 at 1:23:42 PM CDT

"Arg. I'm on your team. I gladly sold my house in Winnetka Heights due to the absurdity of things...

Fran Cox

912.452.4131 Ext 210 Office

214.727.8889 Cell

simianline@gmail.com

<http://www.linkedin.com/in/coxfran>

<http://www.imdb.com/name/nm2874961/>

BDA189-076



BDA169-076



BDA-189-076



BDA189-076



BDA169-076 (5)



BDA-181-076



BDA189-076



BDA-189-076





BDA189-076

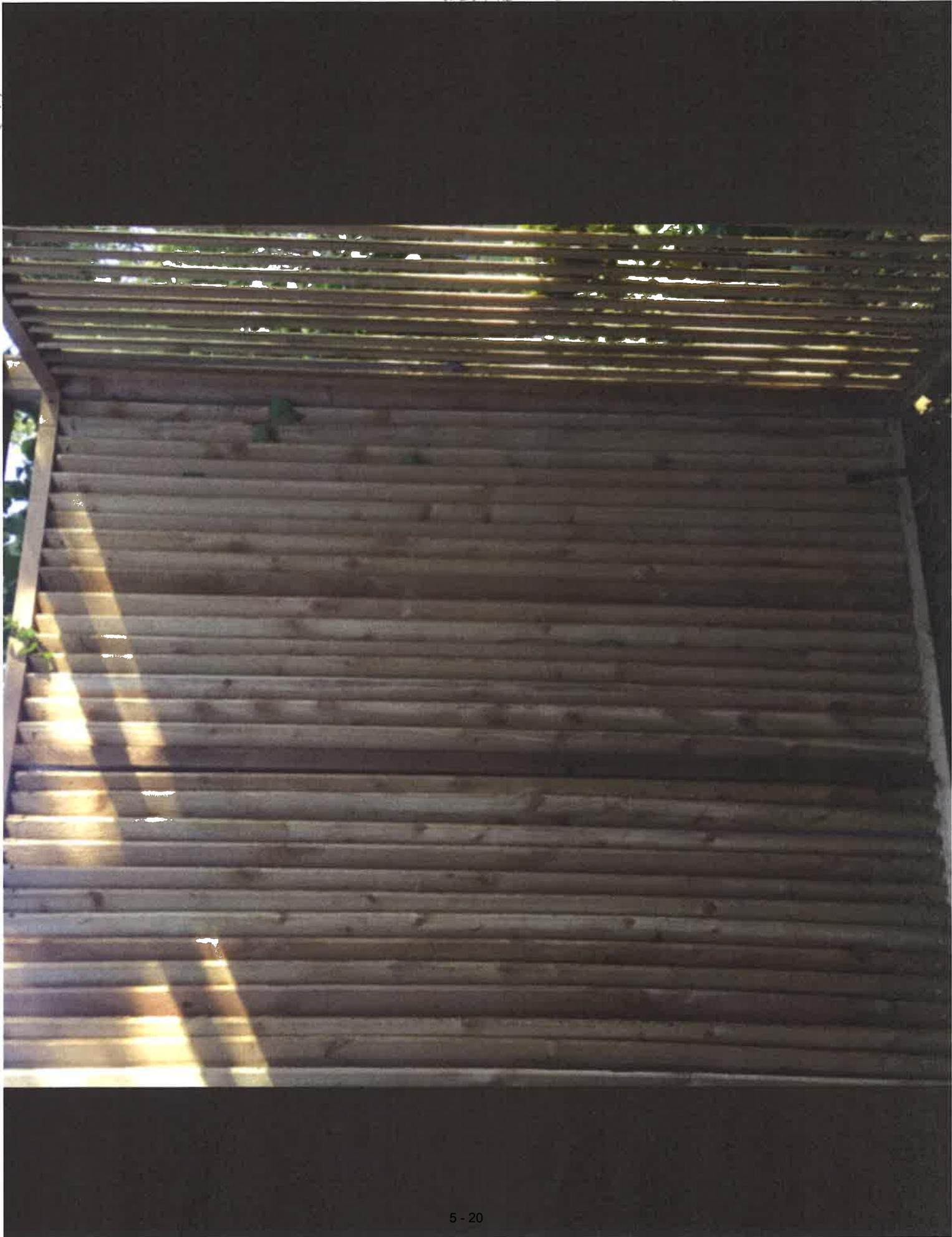
BDA189-076



BDA-189-076



BDA-189-076



(13)

BDA189-076



BDA 189-076
Attach B
p 51



June 7, 2019

Via Email to BDA Secretary

Board of Adjustment, Panel C
1500 Marilla St., 5BN
Dallas, Texas 75201

Re: BDA 189-076. Building Official's Brief in the Appeal of the Building Official's Decision to Deny a Conservation District Work Request related to a Fence at 931 Salmon Dr.

Dear Board Members:

Below is City Staff's brief in response to Jason Reimer's (the "Applicant") appeal of the denial of a Conservation District Work Request for an already built fence at 931 Salmon, Dallas, Texas 75208 (the "Property").

I. BACKGROUND

In 2005 the City of Dallas (the "City"), at the request of the neighborhood, passed a conservation district ordinance for the Kessler Park area of the City that sets out various zoning requirements for three Subareas. Dallas, Tex., Ordinance 25984 (May 25, 2015) (the "Kessler Park CD"). Many of the structures built in the Kessler Park CD were built before 2005 so they do not conform to the requirements in the Kessler Park CD. *Id.*, apps. C, D, & E. The Dallas Development Code recognizes that these structures are allowed to remain nonconforming and describes a nonconforming structure as "a structure which does not conform to the regulations (other than the use regulations) of this chapter, but which was lawfully constructed under the regulations in force at the time of construction." Dallas, Tex. Code §51A-2.102(89).

The house on the Property was first built in 1939 and is in Subarea 2 of the Kessler Park CD. Kessler Park CD, apps. C at 30. A portion of the house's fence was nonconforming as to the requirements of the Kessler Park CD because a portion was built in the front yard where a fence is not allowed and along the side yard where a 30-foot set back is required. *Id.* at (4)(g)(1) & (2). No proof of a fence permit or Conservation District approval was found for the original fence, but it did appear to predate the establishment of the ordinance.

On January 26, 2019, Ana Ipina, the Senior Zoning Inspector for historic/conservation districts, noted that a large portion of the Property's fence had new wood. Two days later, on January 28, 2019 she issued a notice of violation ("NOV") to the owners of the Property. (Exhibit A). The NOV requested that the owners of the Property submit a CD work application. *Id.*

BDA 189-076
Attach B
PS 2

Board of Adjustment, Panel C
June 7, 2019
Page 2

Below are true and correct copies of before and after pictures of the Property indicating new portions of a fence had been erected on the Property.

Before:



After:



The new portions of the fence's wood are fresh and new in appearance. They do not appear to have been stained. (Exhibits B-F).

After the issuance of the NOV, in February and March of 2019 Applicant had numerous discussions, including a March 11, 2019 meeting at the Applicant's home, with city staff as well as Councilmember Scott Griggs and his staff. At that time, the fence was measured at 8 feet 4 inches in height, which also violates the height provision of the ordinance. Dallas, Tex., Code §52-301.2.1(6.). On April 1, 2019, the Applicant filed for a conservation district work approval, but the request was denied on April 23, 2019. (Exhibits I & J). Applicant filed his appeal to the Board on April 23, 2019. (Exhibits K).

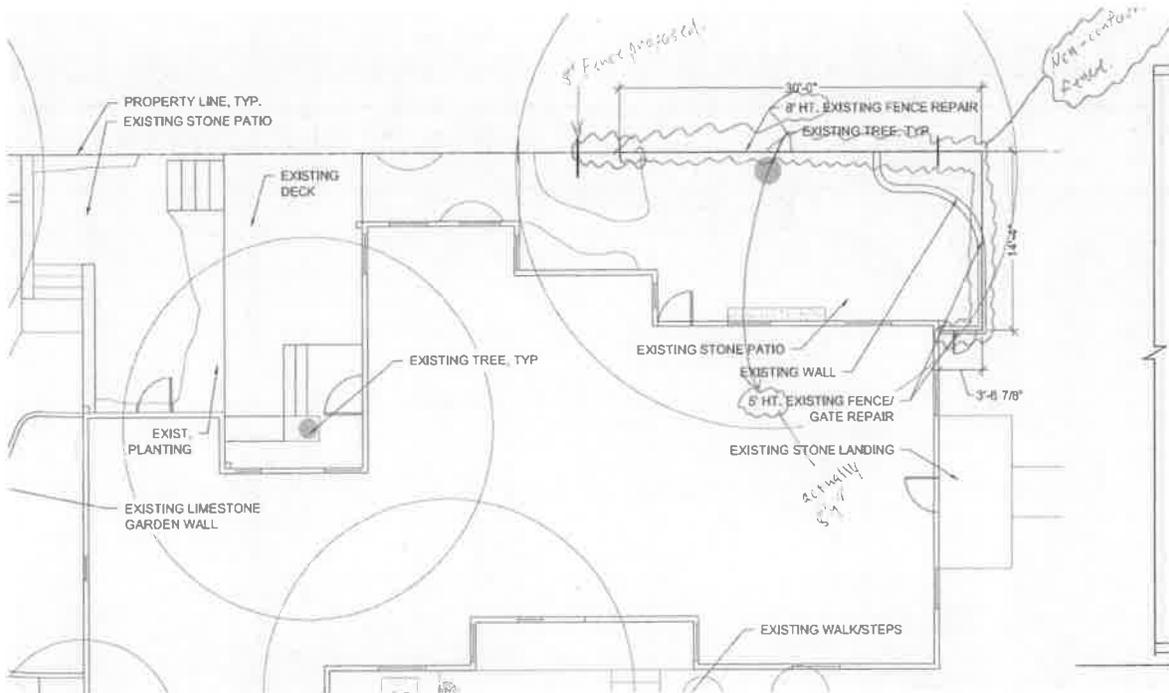
II. BURDEN OF PROOF

"The applicant has the burden of proof to establish the necessary facts to warrant favorable action of the board." Dallas, Tex., Code §51A-4.703(d)(1).

III. DISCUSSION AND ARGUMENT

The fence at issue here can retain its nonconforming rights if the work done is a "repair", but not "if the structure is destroyed by the intentional act of the owner . . ." Dallas, Tex., Code §51A-4.704(b) & (c). Applicant asserts in his application for appeal that as minor fence maintenance was being done "each fence panel began to collapse." (Exhibits H & K). This failure, Applicant claims, necessitated the repair of a majority of the front area of the fence. *Id.*

However, the evidence indicates that an entire 50-foot section was replaced in the nonconforming area of the front yard and side yard setback. (Exhibits B - F). The Kessler CD does not allow fences in the front yard and a portion of the replaced fence at issue is in the front yard. Kessler CD (4)(g)(1). Also, "[f]ences in an interior side yard must be set back at least 30 feet from the plane of the front façade . . ." *Id.* at (4)(g)(2). A portion of the replaced fence is within this required 30-foot setback. The following is a depiction extracted from the site plan submitted by the Applicant with their application for conservation district work approval:



(Exhibit G) (with added notes in red from Chief Planner William Hersch). The City has no proof that the fence removal was done due to the condition of the fence, and no contact was made with the CD planners to come up with a repair protocol that would allow the fence to remain in its nonconforming location and height. City considers this to be a full replacement of the nonconforming fence, not a repair.

In addition, the Applicant was required to get a permit for the fence work as 50 feet of new wood was erected. Any fence over 6 feet is required to get a permit. Dallas, Tex., Code §52-301.2.1(6.) (allowing a defense to prosecution for failure to consult the City for work being done if the fence is under six feet in height); *see also* §52-301.2.8(1) (providing a defense to prosecution for failure to consult the City for the demolition of a fence). If the fence permit would have been sought, the permit staff would have forwarded their application to the Conservation District staff for their approval. The Applicants lost their nonconforming rights when the fifty-foot portion of this fence was replaced.

IV. CONCLUSION

The Building Official's decision to deny the Conservation District Work Request was correct and the City requests that the Board of Adjustment affirm the Building Official's decision.

Very truly yours,

/s/ Justin H. Roy

JUSTIN H. ROY
Assistant City Attorney

214-670-1005
justin.roy@dallascityhall.com

APPENDIX

Below is the City Staff's exhibit list. These exhibits are incorporated into the City Staff's brief for the record.

- Exhibit A January 28, 2019 Notice of Violation
- Exhibit B Photo taken on January 28, 2019
- Exhibit C Photo taken on February 4, 2019
- Exhibit D Photo taken on February 4, 2019
- Exhibit E Photo taken on February 4, 2019
- Exhibit F Photo taken on February 4, 2019
- Exhibit G Preliminary Site Plan – April 1, 2019 – Paper Kites Studio
- Exhibit H April 2, 2019 Email Between Jason Reimer and Mark Doty
- Exhibit I Conservation District Work Review Form – April 1, 2019
- Exhibit J Conservation District Denial – April 23, 2019
- Exhibit K Application/Appeal to the Board of Adjustment – April 17, 2019

BDA 189-074
Att # 13
P 5



City of Dallas

INSPECTOR'S NOTICE OF VIOLATION

Sustainable Development and Construction Department
Building Inspection

Violation Type(s)

- Building
- Electrical
- Plumbing
- Mechanical
- Zoning
- Other

Kessler Park CD #13

SR/Permit Number N/A Date: 1/26/19 - violation found

Address of Violation 931 Salmon Dr. Occupied

Location of Violation installed fence - front yard Vacant

Undetermined

Owner/Agent/Person in Control of Property: Per Deed

Name Kristen Butler & Jason Reimer Phone Number _____

Address 931 Salmon Dr. Phone Number _____

Dallas TX 75208 ID _____

Your are hereby notified (print legibly) Conservation Districts require application be submitted for any exterior work, changes, additions. Currently the installed fence is/was not approved. Please complete CD application and submit to either Margaret Fiskell or Trevor Brown.

The provisions of this notice remain in effect until released in writing by the Building Official.

Please comply within 30 days or citations may be issued. Notice Issued On-site

Served by: Notice sent by Regular Mail
Badge # 11110

Inspector Name Ana Irima Phone # 214 948 4696 Date 1/28/19

Owner/Agent/Person in Control of Property:

I hereby acknowledge receipt of the above notice.

Signature _____ Date _____

Name (Please Print) _____

BDA189-016

Attch B

P90



BDAT89-076

Atton B

P57

931



BDA189-076
A-Hou B
PS B

BDA189-076
Atlas B

PS T



BDA189-076
Action B

PS 10



EXHIBIT F

BDA189-076
ATTACH B
PS 12

From: Jason Reimer <jasonmreimer@gmail.com>
Sent: Tuesday, April 02, 2019 11:36 AM
To: Doty, Mark <mark.doty@dallascityhall.com>
Subject: TX Theater / Jason Reimer / 931 Salmon OCTX

Hello Mark — My partner Barak mentioned I might contact you because an entirely absurd situation I've become ensnared in with the city.

I live in the Kessler Highlands area of Kessler Park, one of the oldest areas of Oak Cliff in a house that was built in 1939. Much of the exterior of the house was done decades before we got there but the wooden fence that protected our house visually from the house that towers above it next to us was falling apart and we knew we'd have to fix it. It took two years to get the right people that would be able to recreate the exact fence as it was, and make it more sturdy. Once we started fixing the fence, the other posts that held the rest of it up also became compromised so section by section we had to repair the majority of the front area.

Someone from the code office came to my house - didn't knock on the door, I was home at the time - put a pink slip in our door and left.

This one act has dragged us into a nightmare with the city of Dallas. The person who visited our house saw "new wood", and without any query at all deemed it was new construction. It is not required to get a permit for repairing your fence, which is exactly what we were doing. The fence line had fallen onto my neighbors house and we'd been trying to get it fixed for many months. It's not just a "fence" - it was specially designed for vines and foliage, therefore we had to find a specialist to help. That itself took 2 years.

Now after a simple disagreement about perspective, they're demanding that we destroy the fence line that's been there for decades and is a large reason of why we bought this house to begin with. This fence is clearly grandfathered in, considering it predated the conservation district existing and WAS permitted for its construction. Though we've had several meetings with the code enforcement people and its head, Bill Hersch, no amount of documentation to support these things has been looked at and he's extremely vague on his point of view.

It seems to be shockingly ironic that someone that reignited an entire section of Dallas by restoring an old building that no one wanted to use, who also happens to live in an older house is being asked to destroy a fence live by the conservation district itself.

I'm not entirely sure how to unravel the absurdity of the situation I find myself in, as we took extreme precaution to try and repair something to the specifications of its historic value, both for aesthetic and respectful reasons for the neighborhood we chose to live in.

I would greatly appreciate your attention in this matter, since it is bizarre in nature and prohibitive to citizens who might want to live in a neighborhood such as ours. Thanks for your time.

Jason
940.391.5899

Jason Reimer
[Talented Friends • TX Theatre](#)
[OCFFest • TX Fine Arts](#)

**DEPARTMENT OF SUSTAINABLE DEVELOPMENT & CONSTRUCTION
CONSERVATION DISTRICT WORK REVIEW FORM**

Please provide the following information. If you have any questions or need additional information, please contact City of Dallas Building Inspection at 214-948-4480.

Submit this form and two copies of each applicable site plan, elevations, and specification sheets to the Permit Center, Room ~~118~~ ^{#105} 320 E. Jefferson, Dallas TX 75203. Please print.

Date: 4/1/2019 Conservation District: Kessike Park No. 13
 Property Address: 931 SALMON DRIVE
 Applicant Name: CHRISTA McCALL Phone #: 314-795-0758
 Applicant Address: 105 S. CORINTH ST. RD. Fax#: _____
 e-mail: christa@paperkites-studio.com
 Architecture Style (if applicable): COLONIAL REVIVAL
 Description of Proposed Work: FENCE REPAIR FOR FALLEN FENCE.

The proposed work was reviewed for compliance with the development standards and design requirements for this Conservation District Ordinance.

The proposed work is:

- Approved as submitted -- meets development and design standards.
- Approved with the following conditions / comments: _____

Denied. Application does not meet the following requirements: See C.S.

REVIEWED BY: [Signature]

DATE RECEIVED: 4/23/19 DATE REVIEWED: 4/23/19

BUILDING PERMIT REQUIRED: Yes No EXHIBIT I

Property Address: 931 Salmon

CD# 13, Sub 2

BDA189-076
A H...
PS 14

CONSERVATION DISTRICT WORK REVIEW FORM

Continuation Sheet

Approved with the following conditions/comments:

1. Pursuant to Section 51A-4.704(c)(1), A person may renovate, remodel, repair, rebuild, or enlarge a nonconforming structure if the work does not cause the work to become more nonconforming as to the yard, lot, and space regulations; however, per Section 51A-4.704(c)(2), the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.
2. Per Ord. 25984(4)(g)(2), "Fences in an interior side yard must be set back at least 30 feet from the plane of the front facade, or at the rear corner of the house if the side facade of the house is less than 30' long."
3. The fence at 931 Salmon Drive along the east side was nonconforming as to the fence requirements listed in the ordinance. On January 29, 2019, it was discovered that the entirety of the nonconforming fence had been replaced in the same location in a nonconforming height and location. The City has no proof that this fence removal was done due to the condition of the fence, and no contact was made with the CD planners to come up with a repair protocol that would allow the fence to remain in its nonconforming location and height. The City considers this to be a full replacement of the nonconforming fence, not a repair.

Conservation District Denial



BDA189-076
Attach B
PS 16

Kessler Park Conservation District

City of Dallas

Date Applied: 04/01/19

Date Reviewed: 04/23/19

Address: 931 SALMON DR

Applicant: MCCALL, CHRISTA
105 S CORINTH STRD
DALLAS, TX 75203
(341) 795-0758

Architectural Style: Other: Minimal Traditional

Proposed Work: Other - requires permit
FENCE REPAIR FOR FALLEN FENCE

Permit is required: YES

Work is Denied

Pursuant to Section 51A-4.704(c)(1), A person may renovate, remodel, repair, rebuild, or enlarge a nonconforming structure if the work does not cause the work to become more nonconforming as to the yard, lot, and space regulations; however, per Section 51A-4.704(c)(2), the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.

Per Ord. 25984(4)(g)(2), "Fences in an interior side yard must be set back at least 30 feet from the plane of the front facade, or at the rear corner of the house if the side facade of the house is less than 30' long."

The fence at 931 Salmon Drive along the east side was nonconforming as to the fence requirements listed in the ordinance. On January 29, 2019, it was discovered that the entirety of the nonconforming fence had been replaced in the same location in a nonconforming height and location. The City has no proof that this fence removal was done due to the condition of the fence, and no contact was made with the CD planners to come up with a repair protocol that would allow the fence to remain in its nonconforming location and height. The City considers this to be a full replacement of the nonconforming fence, not a repair.

Philip Sikes, Building Official

The application was reviewed for compliance with the development standards and design requirements for this Conservation District Ordinance.

DENIED

BDA189-076
A.H.G.B.

PS 17

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied _____

Remarks _____

Chairman

Building Official's Report

I hereby certify that JASON REIMER
represented by CHRISTA MCCALL
did submit a request to appeal the decision of the administrative official
at 931 Salmon Drive

BDA189-076. Application of JASON REIMER represented by CHRISTA MCCALL to appeal the decision of the administrative official at 931 SALMON DR. This property is more fully described as Lot 08, Block 8/3841, and is zoned CD-13, which requires compliance with conservation district fence standards. The applicant proposes to appeal the decision of an administrative official.

Sincerely,

Philip Sikes
Philip Sikes, Building Official

BDA 189-076
Att. h B -
Pg 18



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 189-076

Data Relative to Subject Property:

Date: 4/16/2019

Location address: 931 Salmon Drive Zoning District: SF

Lot No.: 8 Block No.: 8/3841 Acreage: .17 Census Tract: 44

Street Frontage (in Feet): 1) 50' 2) 150' 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Kristen Butler & Jason Reimer

Applicant: Jason Reimer Telephone: _____

Mailing Address: 931 Salmon Drive Zip Code: 75208

E-mail Address: jason.mreimer@gmail.com

Represented by: CHRISTA McALL Telephone: 314-795-0758

Mailing Address: P.O. Box 4114 Zip Code: 75208

E-mail Address: christa@paperkites-studio.com

Affirm that an appeal has been made for a Variance _____ or Special Exception _____ of Appeal
A.O. Decision

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:

The fence was in process of collapse + was undergoing minor maintenance. As maintenance was being done, each fence panel began to collapse. The fence repair is the same design as was permitted decades ago + grandfathered into the conserv. district. This repair has received wide community support.

Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

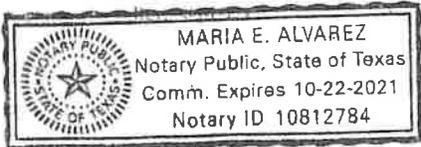
Before me the undersigned on this day personally appeared Jason Reimer
(Affiant/Applicant's name printed)

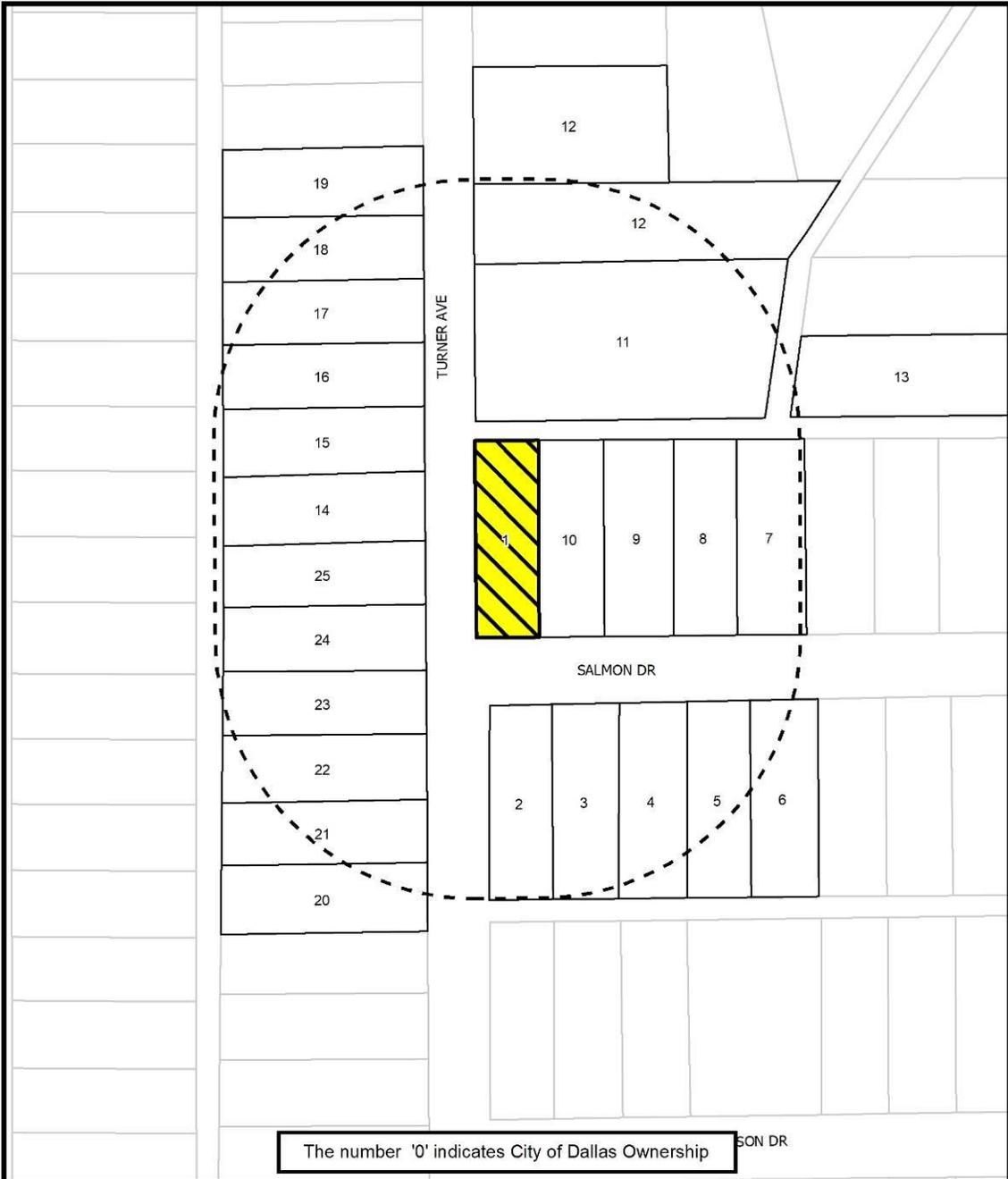
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: [Signature]
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 16 day of April 2019
17th

[Signature]
Notary Public in and for Dallas County, Texas





 1:1,200	<h2>NOTIFICATION</h2> <table border="1"> <tr> <td>200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td>25</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	25	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u>BDA189-076</u> Date: <u>5/15/2019</u>
200'	AREA OF NOTIFICATION					
25	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA189-076

25 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	931 SALMON DR	BUTLER KRISTEN &
2	930 SALMON DR	MARSHALL THOMAS R
3	926 SALMON DR	TABONY LAWRENCE &
4	922 SALMON DR	HERNANDEZ CARLOS JR
5	918 SALMON DR	SAHMEL STANLEY RAY
6	914 SALMON DR	SPINAZZOLA CATHERINE ANN
7	915 SALMON DR	SLACK DAVID
8	919 SALMON DR	GARZA JONATHAN W & CAROLINE
9	923 SALMON DR	TAYLOR DOROTHY E TR &
10	927 SALMON DR	ALLEN WILLIAM J IV & LEIGH
11	1116 TURNER AVE	CONNORS JOHN PETER III
12	1120 TURNER AVE	YOUNG PATRICK G
13	1211 N TYLER ST	VEGA MARIA G &
14	1101 TURNER AVE	HENSLEE JIMMIE J
15	1107 TURNER AVE	GORDON THOMAS & ELIZABETH
16	1111 TURNER AVE	WALLER SUSAN M
17	1115 TURNER AVE	GONZALEZ YVETTE
18	1117 TURNER AVE	SLOAN EMILY K
19	1123 TURNER AVE	RHODES JOHN B JR
20	1035 TURNER AVE	WALKER CHARLES M &
21	1039 TURNER AVE	PLESS LAURA W ESTATE OF
22	1043 TURNER AVE	SCALES AMY C & JEFFREY L
23	1049 TURNER AVE	DOENGES WILLIAM G & JACQUELYN N
24	1051 TURNER AVE	CAUBLE CHRISTOPHER M & SARAH E
25	1055 TURNER AVE	TRIOLA MICHAEL