

ZONING BOARD OF ADJUSTMENT, PANEL A  
TUESDAY, JUNE 23, 2015  
AGENDA

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BRIEFING	6ES, 1500 MARILLA STREET DALLAS CITY HALL	11:00 A.M
PUBLIC HEARING	6ES 1500 MARILLA STREET DALLAS CITY HALL	1:00 P.M.

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**Donna Moorman, Chief Planner**  
**Steve Long, Board Administrator**

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**MISCELLANEOUS ITEM**

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Approval of the May 19, 2015 Board of Adjustment Panel A Public Hearing Minutes	M1
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**UNCONTESTED CASES**

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<b>BDA 145-070</b>	10221 E. Lake Highlands Drive <b>REQUEST:</b> Application of Erin Michael Lawler, represented by Billy Rousseau, for a variance to the height regulations	1
<b>BDA 145-077</b>	4786 Mountain Creek Parkway <b>REQUEST:</b> Application of Reid Dunbar, represented by Jon Napper, for special exceptions to the landscape and tree preservation regulations	2
<b>BDA 145-078</b>	4895 Mountain Creek Parkway <b>REQUEST:</b> Application of Lisa Brinser for a special exception to the landscape regulations	3

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**REGULAR CASE**

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<b>BDA 145-064</b>	2822 McKinney Avenue <b>REQUEST:</b> Application of Alaric "Al" Mack, represented by Pamela Craig, for a variance to the front yard setback regulations	4
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## EXECUTIVE SESSION NOTICE

The Commission/Board may hold a closed executive session regarding any item on this agenda when:

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 Commission/Board 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 §551.086]

**(Rev. 6-24-02)**

**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel A May 19, 2015 public hearing minutes.

**FILE NUMBER:** BDA 145-070

**BUILDING OFFICIAL'S REPORT:** Application of Erin Michael Lawler, represented by Billy Rousseau, for a variance to the height regulations at 10221 E. Lake Highlands Drive. This property is more fully described as Lot 10, Block D/7458, and is zoned R-7.5(A), which limits the height of an accessory structure to not exceed the height of the main building. The applicant proposes to construct and maintain an accessory structure with a building height higher than the main building, which will require a 6 foot 6 inch variance to the height regulations.

**LOCATION:** 10221 E. Lake Highlands Drive

**APPLICANT:** Erin Michael Lawler  
Represented by Billy Rousseau

**REQUEST:**

A request for a variance to the height regulations of 6' 6" is made to construct and maintain a two-story studio/carport accessory structure which is proposed to exceed the height of the main building/single family use structure on the subject site.

**STANDARD FOR A VARIANCE:**

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, 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.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan, elevation, and revised section is required

Rationale:

- The subject site is unique and different from most lots in the R-7.5(A) zoning district in that it is somewhat sloped, irregular in shape, and approximately 1,800 square feet smaller in area than most lots in the same zoning district with 7,500 square feet.

**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 one-story single family home structure. The area to the north is undeveloped; the area to the east is developed with a church; and the areas to the 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:**

- This request focuses on constructing and maintaining a two-story studio/carport accessory structure (with an approximately 900 square foot building footprint) which is proposed to exceed the height of the main building/single family use structure on the subject site.
- The Dallas Development Code states that the height of an accessory structure may not exceed the height of the main building.
- A revised section/elevation has been submitted that represents the height of the existing house/main building to be approximately 12.5' in height and the proposed accessory structure to be approximately 18.5' in height.

- According to DCAD records, the “main improvement” for property addressed at 10221 Lake Highlands Drive is a structure built in 2011 with 2,123 square feet of living area and 2,773 square feet of total area with “additional improvements” of a 650 square foot enclosed garage.
- The subject site is somewhat sloped, triangular in shape, and according to the submitted application is 0.13 acres (or approximately 5,700 square feet) in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the height 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-7.5(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-7.5(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan, elevation, and revised section as a condition, the height of the structures on the site would be limited to what is shown on these documents.

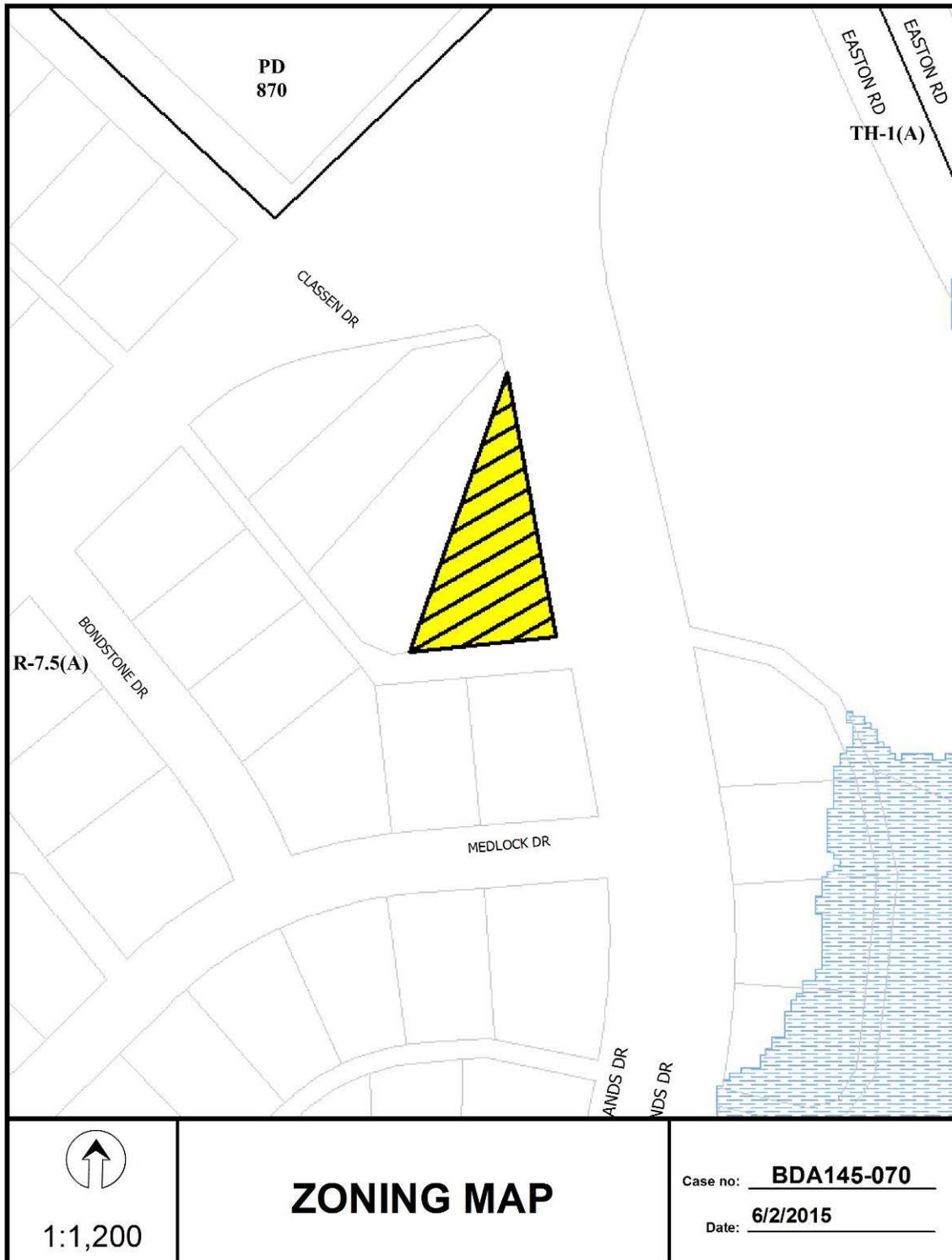
**Timeline:**

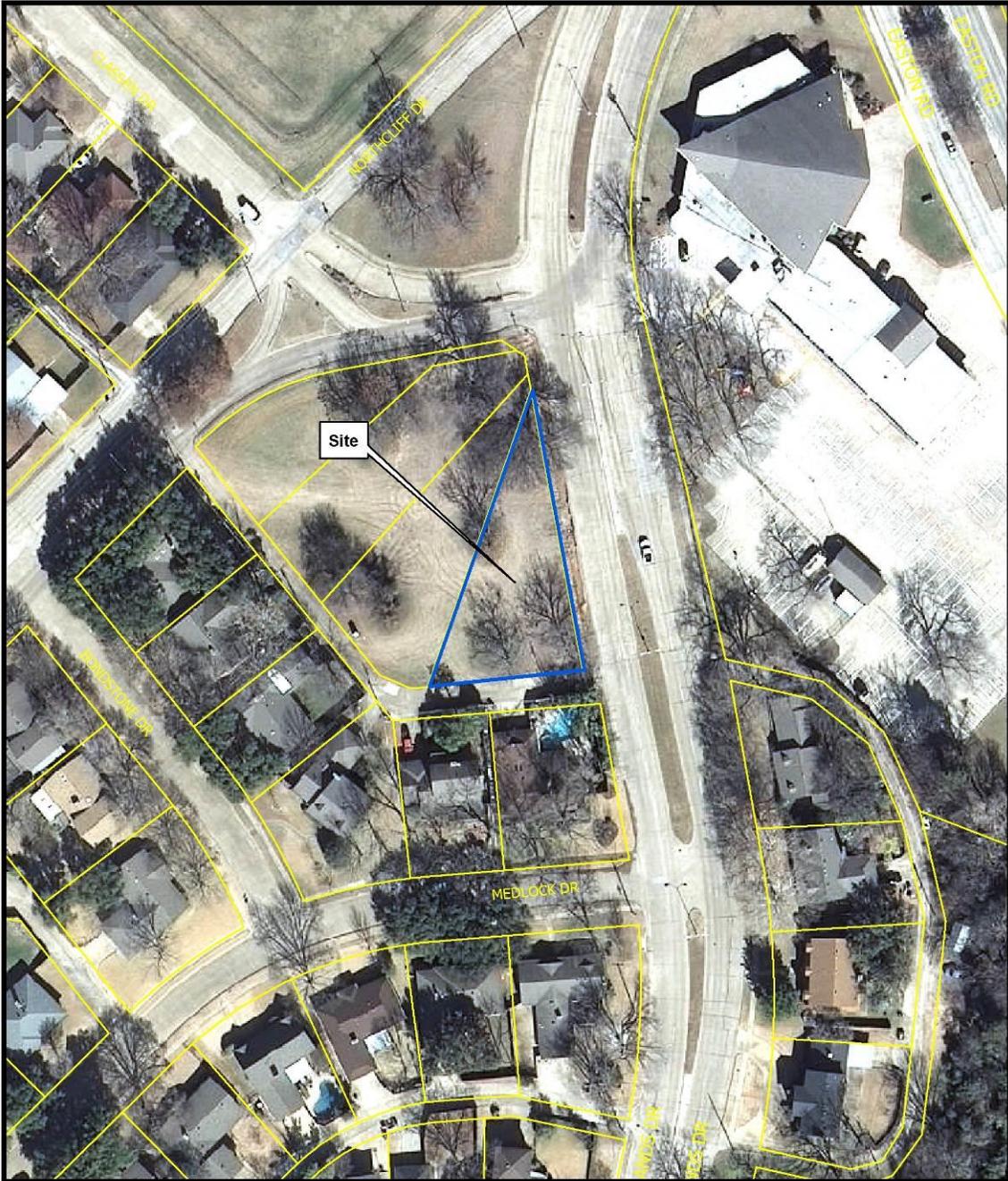
- April 22, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 12, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- May 13, 2015: The Board Administrator 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 June 3<sup>rd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 12<sup>th</sup> 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 2, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application, and the Building Inspection Senior Plans Examiners/Development Code Specialist forwarded a revised Building Official's report to the Board Administrator (see Attachment A).

June 9, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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





1:1,200

# AERIAL MAP

Case no: BDA145-070

Date: 6/2/2015

**Long, Steve**

BDA 145-070  
Attach A  
Pg 1

**From:** Billy Rousseau <billy@rjadallas.com>  
**Sent:** Tuesday, June 02, 2015 7:02 PM  
**To:** Duerksen, Todd  
**Cc:** Long, Steve  
**Subject:** RE: 10221 E. Lake Highlands Drive - Variance Appeal  
**Attachments:** 15\_0602\_DIAGRAM 1.pdf; variance letter 15\_0602 1.pdf

Mr. Duerksen,

My apologies for any inconvenience, but could you please make one final change to the Building Official's Report regarding our Variance Appeal. Can you please revised our requested variance to six feet six inches. Please see attached revised diagram and variance letter from the architect.

Thanks very much for your help,

***Billy Rousseau***  
***RJA Construction, LLC***  
***972.804.5540***  
***billy@rjadallas.com***

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**From:** Duerksen, Todd [<mailto:todd.duerksen@dallascityhall.com>]  
**Sent:** Tuesday, June 02, 2015 2:12 PM  
**To:** Billy Rousseau  
**Cc:** Long, Steve  
**Subject:** RE: 10221 E. Lake Highlands Drive - Variance Appeal

I will revise the Building Official's Report to reflect a 5' height variance appeal request and I will let you decide if you want to submit a revised height comparison drawing.

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**From:** Billy Rousseau [<mailto:billy@rjadallas.com>]  
**Sent:** Tuesday, June 02, 2015 2:03 PM  
**To:** Duerksen, Todd  
**Cc:** Long, Steve  
**Subject:** RE: 10221 E. Lake Highlands Drive - Variance Appeal

Mr. Duerksen,

Yes sir that is correct.

***Billy Rousseau***  
***RJA Construction, LLC***  
***Cell: 972.804.5540***  
***billy@rjadallas.com***

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**From:** Duerksen, Todd [<mailto:todd.duerksen@dallascityhall.com>]  
**Sent:** Tuesday, June 02, 2015 1:51 PM  
**To:** Billy Rousseau

**Cc:** Long, Steve  
**Subject:** RE: 10221 E. Lake Highlands Drive - Variance Appeal

BDA 145-070  
Attach A  
Pg. 2

Does the attached revised drawing correctly illustrate what you are trying to convey to the board with regard to the difference in structure heights and that the accessory structure exceeds the main structure height by 5 feet?

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**From:** Billy Rousseau [<mailto:billy@rjadallas.com>]  
**Sent:** Tuesday, June 02, 2015 1:06 PM  
**To:** Duerksen, Todd  
**Cc:** Long, Steve  
**Subject:** 10221 E. Lake Highlands Drive - Variance Appeal

Mr. Duerksen,

I am writing to ask for your help. Can you please update the Building Official Report regarding our upcoming Variance Appeal. We would like to update the variance requested from three feet to five feet.

Please see attached drawing indicating increasing our requested variance to five feet and a letter from the Architect regarding the request.

Please let me know if this email is sufficient for this request and if there is any additional information you need to make this update.

Thanks very much for your help!

***Billy Rousseau***  
***RJA Construction, LLC***  
***Cell: 972.804.5540***  
***[billy@rjadallas.com](mailto:billy@rjadallas.com)***

**Long, Steve**

BDA 145-070  
Attach A  
Pg 3

**From:** Billy Rousseau <billy@rjadallas.com>  
**Sent:** Tuesday, June 02, 2015 12:37 PM  
**To:** Long, Steve  
**Subject:** RE: BDA 145-070, Property at 10221 E. Lake Highlands Drive  
**Attachments:** 15\_0602\_DIAGRAM.pdf; variance letter 15\_0602.pdf

Mr. Long,

Can you please add the following additional points to our appeal hearing:

- Please see attached drawing indicating **increasing our requested variance to 5 feet** and a letter from the Architect regarding the request.
- Please note that existing lot size is 1,800 square feet smaller than average R7.5a zoning.
- Please note the storm drainage easement at the front of the lot.
- Please note the triangular shape of the existing lot.
- Please note the slope of the existing lot.
- Please also note that we will bring construction drawings of the existing house to the hearing to show that adding a second story is not economically feasible due to the existing construction of the house.

Thanks very much for all your help and insights with this appeal process!

***Billy Rousseau***  
***RJA Construction, LLC***  
***Cell: 972.804.5540***  
***[billy@rjadallas.com](mailto:billy@rjadallas.com)***

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**From:** Long, Steve [<mailto:steve.long@dallascityhall.com>]  
**Sent:** Wednesday, May 13, 2015 11:03 AM  
**To:** Billy Rousseau  
**Subject:** FW: BDA 145-070, Property at 10221 E. Lake Highlands Drive

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**From:** Long, Steve  
**Sent:** Wednesday, May 13, 2015 11:00 AM  
**To:** 'billy@rjadallasc.com'  
**Cc:** Duerksen, Todd  
**Subject:** BDA 145-070, Property at 10221 E. Lake Highlands Drive

Dear Mr. Rosseau,

Here is information regarding the application to the board of adjustment referenced above that you are representing for Erin Michael Lawler:

1. Your application materials - all of which will be emailed to you, city staff, and the board of adjustment members in a docket about a week ahead of your tentatively scheduled June 23<sup>rd</sup> Board of Adjustment Panel A public hearing.

2. The provision from the Dallas Development Code allowing the board to grant a variance for height regulations (51A-3.102(d)(10)).
3. The provision from the Dallas Development Code pertaining to single family use and residential provisions to accessory structures (51A-4.209(b)(6)(vii)).
4. A document that provides deadlines for submittal of additional information to staff/the board.
5. The board's rule pertaining to documentary evidence.

BDA 145-070  
Attach A  
Pg 4

Please carefully review the attached application materials to make sure they are complete, and the Building Official's Report/second page of your application (page 2 of 9 in the application materials attached). Please contact Todd Duerksen at 214/948-4475 no later than noon, Wednesday, June 3<sup>rd</sup> with regard to any amendment that you feel is necessary to address the issue at hand, specifically if for any reason you feel that the statement in his report stating that the applicant proposes to construct and/or maintain a structure higher than the main structure which will require a 3 foot variance is incorrect. (Note that the discovery of any additional appeal needed other than the height variance request will result in postponement of the appeal until the panel's next regularly scheduled public hearing).

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

Thank you,

Steve

PS: If there is anything you want to submit to the board on this application beyond what has been included in the attached application materials, please feel free to email it to [steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com) or forward it to me at the following address:

Steve Long, Board of Adjustment Administrator  
City of Dallas Sustainable Development and Construction  
1500 Marilla Street, Room 5BN  
Dallas, Texas 75201

Board of Adjustment  
Dallas, Texas

Re: Roof form compliance between accessory structure & existing residence

Dear Sir / Madam

The existing contemporary residence located at 10221 E. Lakehighlands Dr. Dallas TX 75218 exhibits a contemporary roof form profile. A portion of the existing roof is monolithic sloping to the East at a 2/12 pitch with a standing seam roofing system while the remainder of the existing residence exhibits a "flat plane" roof with a .25/12 slope with a TPO membrane roof.

The proposed accessory structure will exhibit the same "flat plane" profile as the existing residence with a modified bitumen roofing system sloped to drain at .25/12 with the same fascia detailing as is exhibited on the existing structure.

Our client is seeking a 78" (6'-6") height variance from the top of the existing mid-point of the current main residence roof system for the accessory structure as designed. The site will be excavated to allow for the accessory structure to recess into the ground on a more level plane with the back of the property.

see supplemental exhibits photos herein for existing roof form condition

Front



Alley access



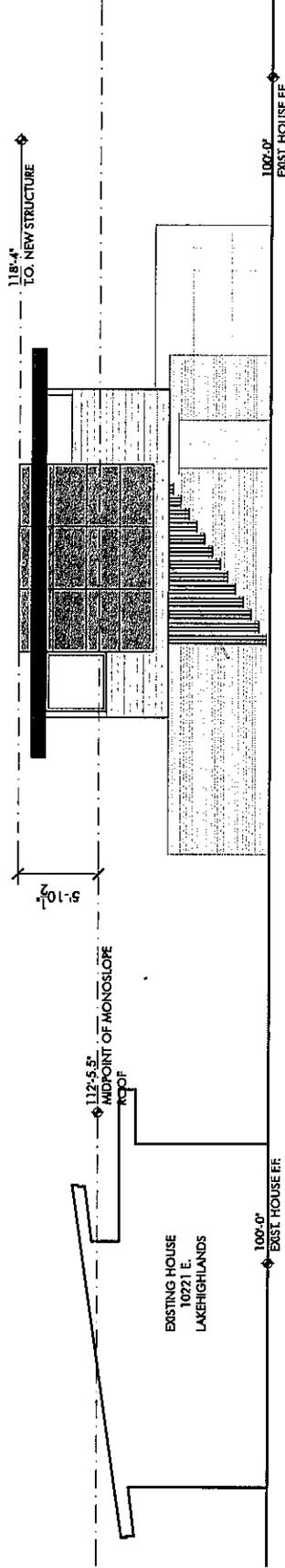
Sincerely,

Dan Finnell, architect / owner  
06/2/15



BDA  
**LAWLER RESIDENCE**  
10721 E. LAKEHIGHLANDS  
HEIGHT EXHIBIT - 06.2.15

S K - 1  
SCALE 1/8" = 1'-0"



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 Erin Michael Lawler  
represented by BILLY ROUSSEAU  
did submit a request for a variance to the building height regulation  
at 10221 E. Lake Highlands Drive

BDA145-070. Application of Erin Michael Lawler represented by Billy Rousseau for a variance to the building height regulation at 10221 Lake Highlands Drive. This property is more fully described as Lot 10, Block D/7458, and is zoned R-7.5(A), which limits the maximum building height of an accessory structure to not exceed the height of the main structure. The applicant proposes to construct a single family residential accessory structure with a building height higher than the main structure, which will require a 6 foot 6 inch variance to the maximum building height regulation.

Sincerely,

  
Larry Holmes, Building Official



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-070

Data Relative to Subject Property:

Date: 4/22/15

Location address: 10221 Lake Highlands Dr. Zoning District: R-7.5(A)

Lot No.: 10 Block No.: D/7485 Acreage: .13 Census Tract: 129.00

Street Frontage (in Feet): 1) 138.75 2) 3) 4) 5)

To the Honorable Board of Adjustment :

526

Owner of Property (per Warranty Deed): Erin Michael Lawler

Applicant: Erin Michael Lawler Telephone: 214.886.4431

Mailing Address: 10221 E. Lake Highlands Dr. Zip Code: 75218

E-mail Address: erinlawler@sbcglobal.net

Represented by: Billy Rousseau Telephone: 972.804.5540

Mailing Address: P.O. Box 60632, Dallas, TX Zip Code: 75360

E-mail Address: billy@rjadallas.com

Affirm that an appeal has been made for a Variance X, or Special Exception, of 3' in height for a Single Family accessory

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 variance is being applied for due to the shape of the lot, therefore limiting the proposed layout of the new structure. A portion of the property is covered by a drainage easement which prevents development of an accessory structure. Development is further prevented by the triangle shape of the property.

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 Erin Michael Lawler (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

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



Subscribed and sworn to before me this 22 day of April, 2015

Jennifer R. Sharpe 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 Erin Michael Lawler  
represented by BILLY-ROUSSEAU  
did submit a request for a variance to the building height regulation  
at 10221 E. Lake Highlands Drive

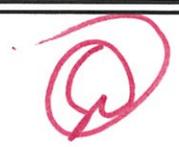
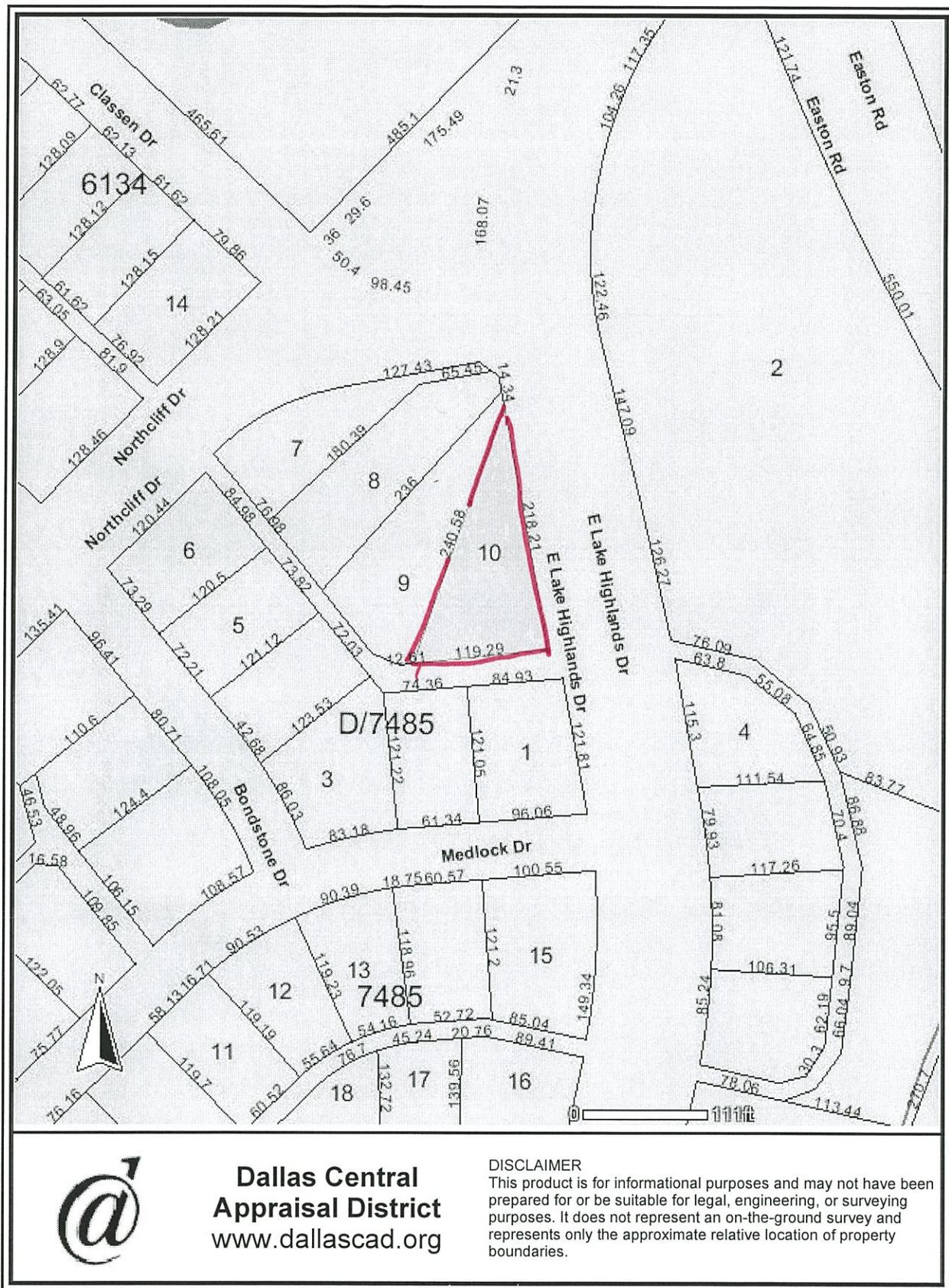
BDA145-070. Application of Erin Michael Lawler represented by Billy Rousseau for a variance to the building height regulation at 10221 Lake Highlands Drive. This property is more fully described as Lot 10, Block D/7458, and is zoned R-7.5(A), which limits the maximum building height of an accessory structure to not exceed the height of the main structure. The applicant proposes to construct a single family residential accessory structure with a building height higher than the main structure, which will require a 3 foot variance to the maximum building height regulation.

Sincerely,

  
Larry Holmes, Building Official







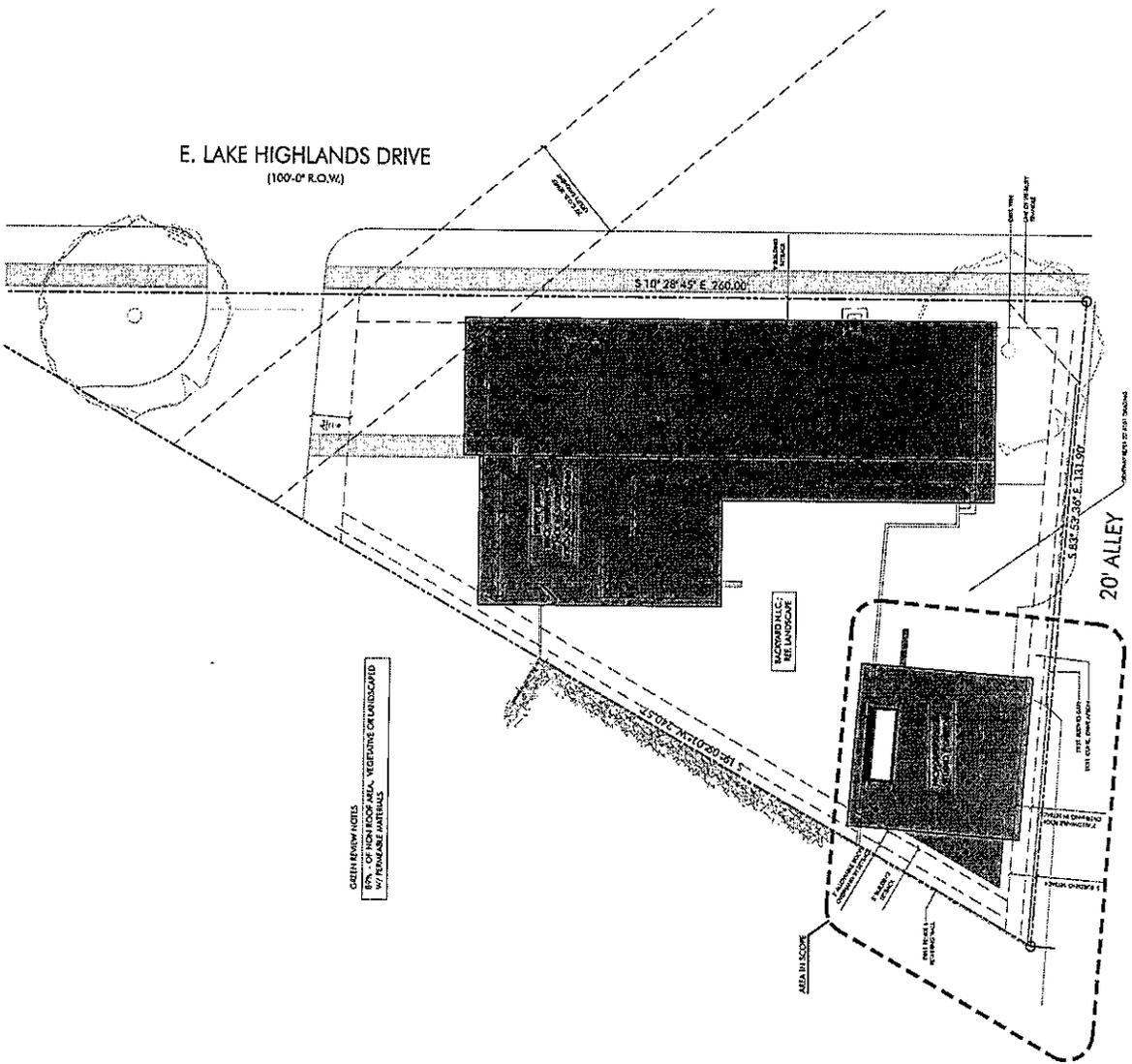


REVISIONS	DATE	BY

S L A T E

A100

01 SITE PLAN  
 02/11/15





REVISIONS

ISSUE	DATE
1	03.25.21

FLOOR PLAN

A201

RENOVATION GRAPHIC LEGEND

	EXISTING WALL
	NEW EXTERIOR WALL
	EXISTING WINDOW
	NEW WINDOW
	EXISTING DOOR
	NEW DOOR

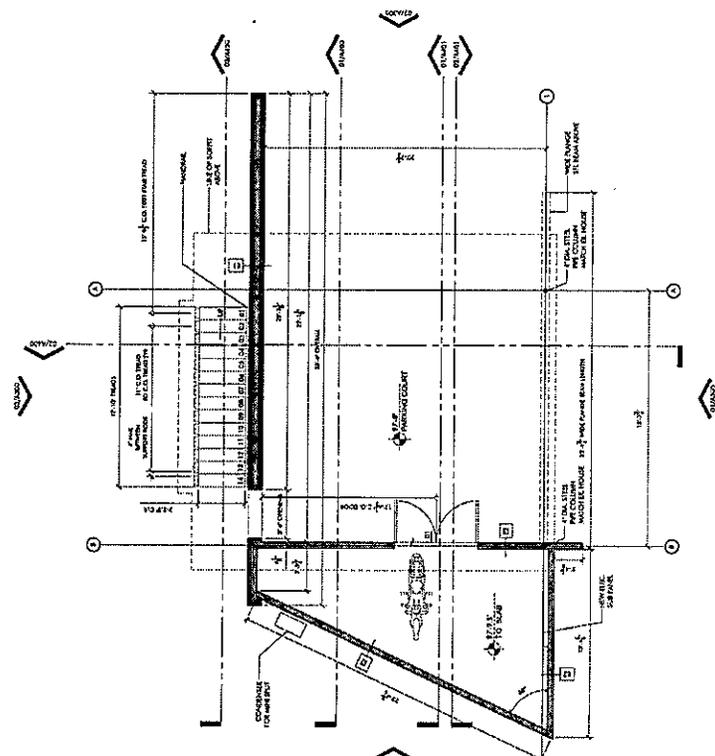
RENOVATION GENERAL NOTES & FINISH NOTES

THE INFORMATION CONTAINED IN THIS SECTION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. THE INFORMATION CONTAINED IN THIS SECTION IS SUBJECT TO THE FOLLOWING CONDITIONS:
  - a. THE INFORMATION CONTAINED IN THIS SECTION IS SUBJECT TO THE FOLLOWING CONDITIONS:
  - b. THE INFORMATION CONTAINED IN THIS SECTION IS SUBJECT TO THE FOLLOWING CONDITIONS:
  - c. THE INFORMATION CONTAINED IN THIS SECTION IS SUBJECT TO THE FOLLOWING CONDITIONS:
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  - a. THE INFORMATION CONTAINED IN THIS SECTION IS SUBJECT TO THE FOLLOWING CONDITIONS:
  - b. THE INFORMATION CONTAINED IN THIS SECTION IS SUBJECT TO THE FOLLOWING CONDITIONS:
  - c. THE INFORMATION CONTAINED IN THIS SECTION IS SUBJECT TO THE FOLLOWING CONDITIONS:

PARTITIONS/WALL ASSEMBLIES

TYPE	THICKNESS	FINISH	COMPOSITION	OTHER
1	1/2"	1/2"	1/2" GYPSUM BOARD	1/2" GYPSUM BOARD
2	1/2"	1/2"	1/2" GYPSUM BOARD	1/2" GYPSUM BOARD
3	1/2"	1/2"	1/2" GYPSUM BOARD	1/2" GYPSUM BOARD
4	1/2"	1/2"	1/2" GYPSUM BOARD	1/2" GYPSUM BOARD
5	1/2"	1/2"	1/2" GYPSUM BOARD	1/2" GYPSUM BOARD
6	1/2"	1/2"	1/2" GYPSUM BOARD	1/2" GYPSUM BOARD
7	1/2"	1/2"	1/2" GYPSUM BOARD	1/2" GYPSUM BOARD
8	1/2"	1/2"	1/2" GYPSUM BOARD	1/2" GYPSUM BOARD
9	1/2"	1/2"	1/2" GYPSUM BOARD	1/2" GYPSUM BOARD
10	1/2"	1/2"	1/2" GYPSUM BOARD	1/2" GYPSUM BOARD



01 FLOOR PLAN - LEVEL 1  
DATE: 03/25/21



REVISIONS

NO.	DATE	DESCRIPTION
1	03.21.15	

FLOOR PLAN  
LEVEL 2  
A202

RENOVATION GRAPHIC LEGEND

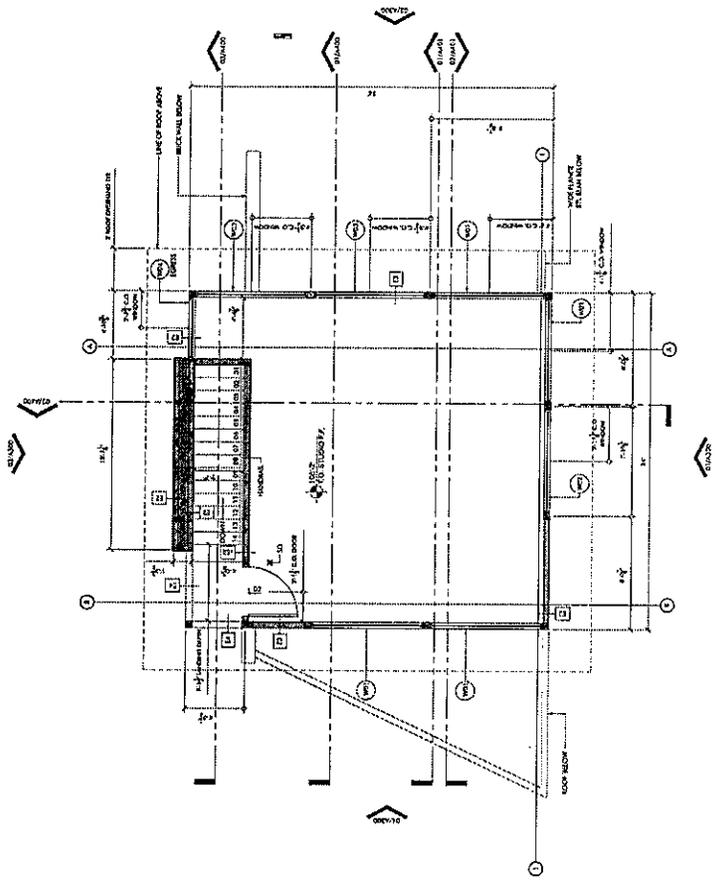
	EXISTING WALL
	NEW EXTERIOR WALL
	EXISTING WINDOW
	NEW WINDOW
	EXISTING DOOR
	NEW DOOR

RENOVATION GENERAL NOTES & FINISH NOTES

THE INFORMATION CONTAINED IN THIS SECTION IS INTENDED TO GIVE THE USER A CLEAR UNDERSTANDING OF THE SCOPE OF WORK AND THE QUALITY OF THE WORK TO BE PERFORMED. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND REGULATIONS FROM THE LOCAL, STATE AND FEDERAL AUTHORITIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE AND BONDING. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY UTILITIES AND SERVICES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY MATERIALS AND SUPPLIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY LABORERS AND SUBCONTRACTORS. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY EQUIPMENT AND TOOLS. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY TRANSPORTATION AND TRAVEL. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY ACCOMMODATION AND MEALS. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY STORAGE AND WAREHOUSING. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE AND BONDING. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND REGULATIONS FROM THE LOCAL, STATE AND FEDERAL AUTHORITIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY UTILITIES AND SERVICES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY MATERIALS AND SUPPLIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY LABORERS AND SUBCONTRACTORS. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY EQUIPMENT AND TOOLS. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY TRANSPORTATION AND TRAVEL. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY ACCOMMODATION AND MEALS. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY STORAGE AND WAREHOUSING.

PARTITIONS/WALL ASSEMBLIES

ITEM	DESCRIPTION	CONSTRUCTION	FINISH
B2	1" LATHER REINFORCED GYPSUM BOARD ON 2" STUDS	1" LATHER REINFORCED GYPSUM BOARD ON 2" STUDS	1" LATHER REINFORCED GYPSUM BOARD ON 2" STUDS



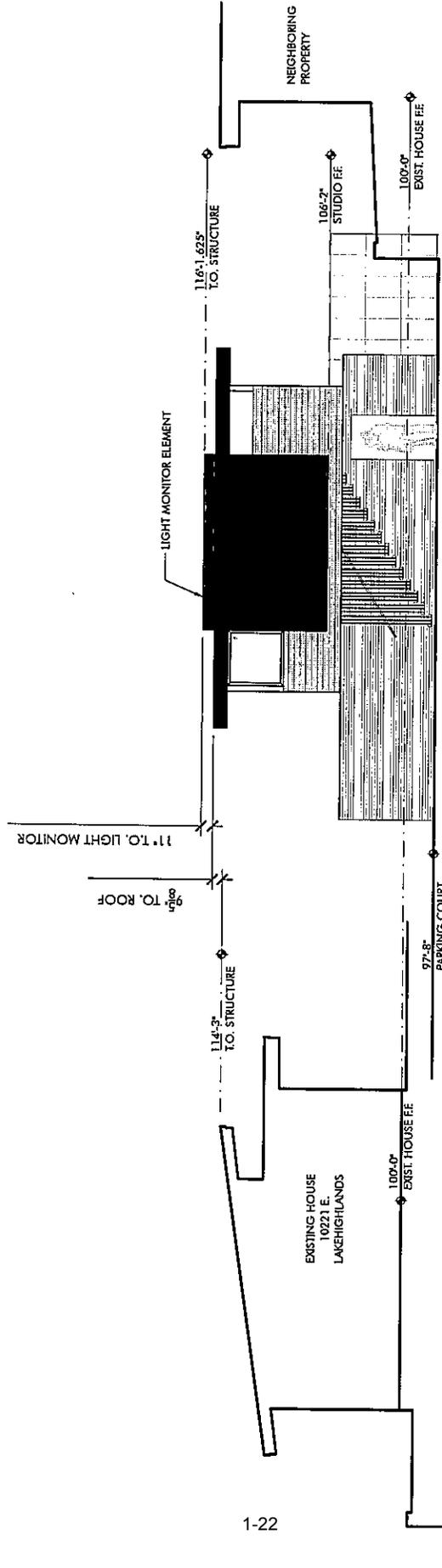
01 FLOOR PLAN - LEVEL 2  
DATE: 03.21.15



BD  
100

LAWLER RESIDENCE  
10221 E. LAKEHIGHLANDS  
HEIGHT EXHIBIT - 05.14.15

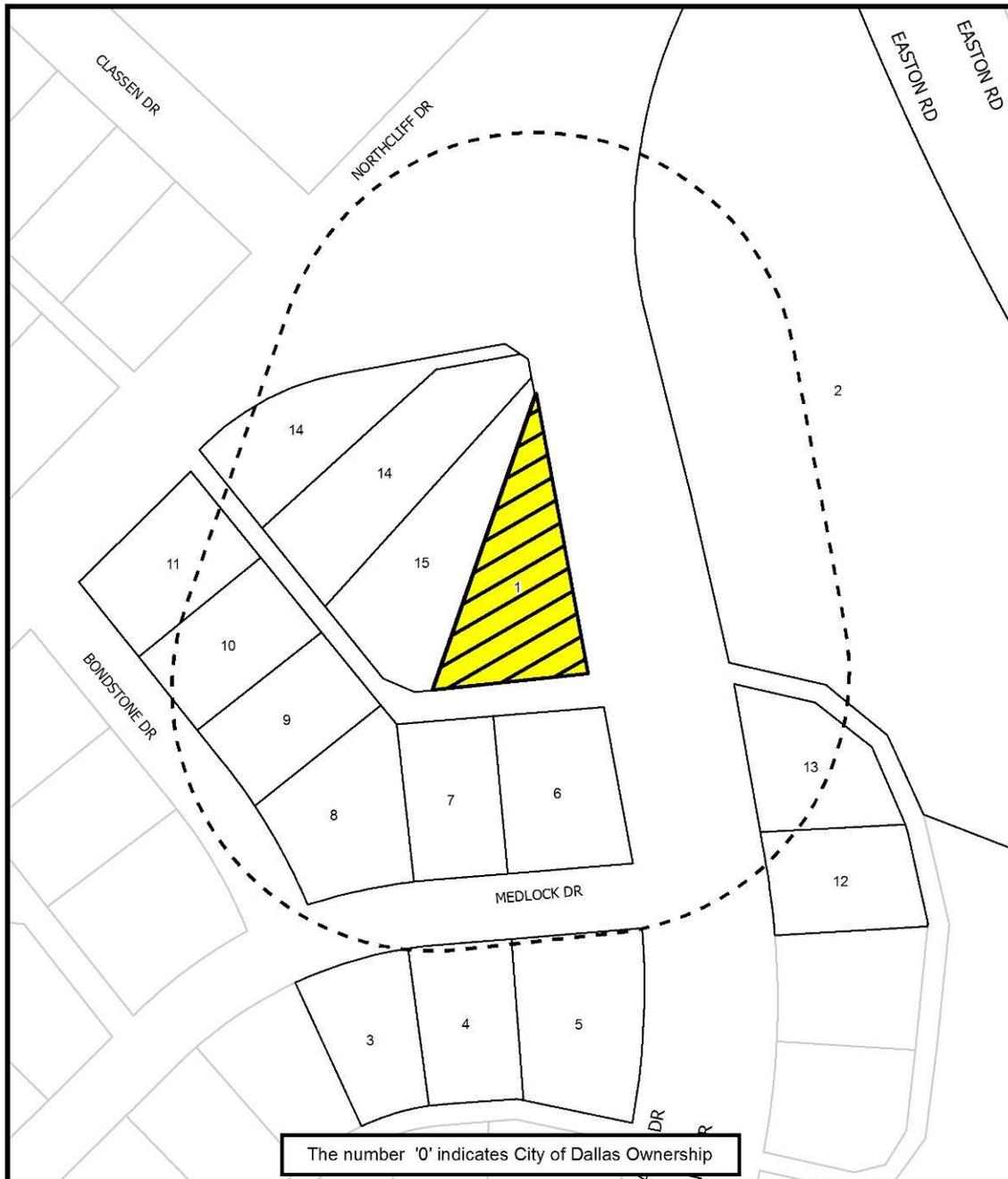
S K - 1  
SCALE 1/8" = 1'-0"



1-22

PROPERTY EXHIBIT AS REQUESTED

**EST 11**  
ARCHITECTURE



 1:1,200	<b>NOTIFICATION</b>		Case no: <b>BDA145-070</b>
	<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: <b>6/2/2015</b>

## *Notification List of Property Owners*

***BDA145-070***

***15 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	10221 LAKE HIGHLANDS DR	LAWLER ERIN MICHAEL
2	721 EASTON RD	REDEEMER BIBLE CHURCH OF
3	10206 MEDLOCK DR	BAYLESS JEAN G
4	10210 MEDLOCK DR	ALDRIDGE DONNA &
5	10216 MEDLOCK DR	CARTER CHELO Z &
6	10215 MEDLOCK DR	ARVIN ROBERT A & PATRICIA
7	10209 MEDLOCK DR	HAMILTON PAUL &
8	724 BONDSTONE DR	SMITH EUGENE K &
9	718 BONDSTONE DR	QUILL BARBARA L
10	712 BONDSTONE DR	DEVILLE KEITH HAYES JR
11	706 BONDSTONE DR	LANCASTER MENDI LAUDT
12	10210 LAKE HIGHLANDS DR	BOYD EMMETT G
13	10220 LAKE HIGHLANDS DR	FIELDING JOHN C
14	10249 LAKE HIGHLANDS DR	SJOUKEN MARTIN & ANNA
15	10241 LAKE HIGHLANDS DR	RUSCHAAPT ROSS

**FILE NUMBER:** BDA 145-077

**BUILDING OFFICIAL'S REPORT:** Application of Reid Dunbar, represented by Jon Napper, for special exceptions to the landscape and tree preservation regulations 4786 Mountain Creek Parkway. This property is more fully described as Lot 7, Block 211/6113, and is zoned PD-521 (Subdistrict B), which requires mandatory landscaping and tree mitigation. The applicant proposes to construct and maintain a structure and provide an alternate landscape and tree mitigation plan, which will require special exceptions to the landscape and tree preservation regulations.

**LOCATION:** 4786 Mountain Creek Parkway

**APPLICANT:** Reid Dunbar  
Represented by Jon Napper

**REQUESTS:**

The following requests have been made to develop an undeveloped site:

1. A special exception to the tree preservations regulations is made as it relates to seeking exception from the required number of replacement trees and the time period in which to mitigate for replacement trees removed on the subject site ; and
2. A special exception to the landscape regulations is made as it relates to seeking exception from the required number of site trees on the subject site.

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE AND TREE PRESERVATION REGULATIONS:**

The board may grant a special exception to the landscape and tree preservation regulations of this article upon making a special finding from the evidence presented that:

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property;
- (2) the special exception will not adversely affect neighboring property; and
- (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

In determining whether to grant a special exception, the Board shall consider the following factors:

- the extent to which there is residential adjacency;
- the topography of the site;
- the extent to which landscaping exists for which no credit is given under this article;
- and

- the extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

**STAFF RECOMMENDATION (landscape and tree special exceptions)**

Approval of both requests, subject to the following condition:

- Compliance with the submitted May 19<sup>th</sup> 2015 “Special Exception Request” for: 1) tree mitigation, and 2) site trees (with site trees provided as tabulated to be placed on each “site area” on the property) is required.

Rationale:

- The Chief Arborist recommends approval of both requests because in his opinion, strict compliance with the requirements of the code will unreasonably burden the use of the property, and the special exception will not adversely affect neighboring property.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 521 (Planned Development)  
North: PD 521 (Planned Development)  
South: PD 521 (Planned Development)  
East: PD 521 (Planned Development)  
West: PD 521 (Planned Development)

**Land Use:**

The subject site is undeveloped. The areas to the north, east, and south are undeveloped, and the area to the west is developed as an office/warehouse use.

**Zoning/BDA History:**

- |  |  |
|--|--|
| <ol style="list-style-type: none"> <li>1. BDA 145-078, Property located at 4895 Mountain Creek Parkway (two lots southwest of the subject site)</li> </ol> | <p>On June 23, 2015, the Board of Adjustment Panel A will consider a request for a special exception to the tree preservation regulations.</p> |
|--|--|

2. BDA 001-227, Property located at 4320 Mountain Creek Parkway (the subject site and a larger area surrounding the subject site)

On August 14, 2001, the Board of Adjustment Panel A granted a request for a special exception to the tree preservation regulations and imposed the following conditions: 1) protected trees can be removed from the site prior to the issuance of building permits upon the issuance of tree removal permits; 2) the mitigation time period in which to fully mitigate all protected trees removed on the site is extended to August 22, 2009 (or 8 years from the date of the Board's favorable action); 3) compliance with the submitted "Mountain Creek Business Park Tree Mitigation Plan" is required; and 4) sites identified as industrial sites are required to provide one tree for each 6,000 square feet of lot area. A minimum of 80 acres of the developable lots on the site must be planted at one tree per 4,000 square feet of lot area.

The case report stated that this request was made in conjunction with the site preparation for a master plan development that comprises about 450 acres.

**GENERAL FACTS/STAFF ANALYSIS (tree preservation):**

- This request focuses on developing the subject site and seeking exception from the tree preservation regulations related to providing the required number of replacement trees and the time period in which to mitigate for replacement trees removed on the subject site. More specifically, the applicant is requesting relief from the tree preservation regulations by providing replacement inches of about 62 percent of protected trees removed on the site, and by completing this amount of mitigation within 36 months from board action or completion of each building for construction (whichever is sooner) rather than 18 months.
- The Dallas Development Code requires full compliance with the Tree Preservation Regulations with new construction or with increasing non-permeable coverage by more than 2,000 square feet.
- The Dallas Development Code states that the Tree Preservation, Removal, and Replacement division of Article X applies to all property in the city except for: 1) lots smaller than two acres in size that contain single-family or duplex uses; and 2) lots in a planned development district with landscaping and tree preservation regulations that vary appreciably from those in the article, as determined by the building official.

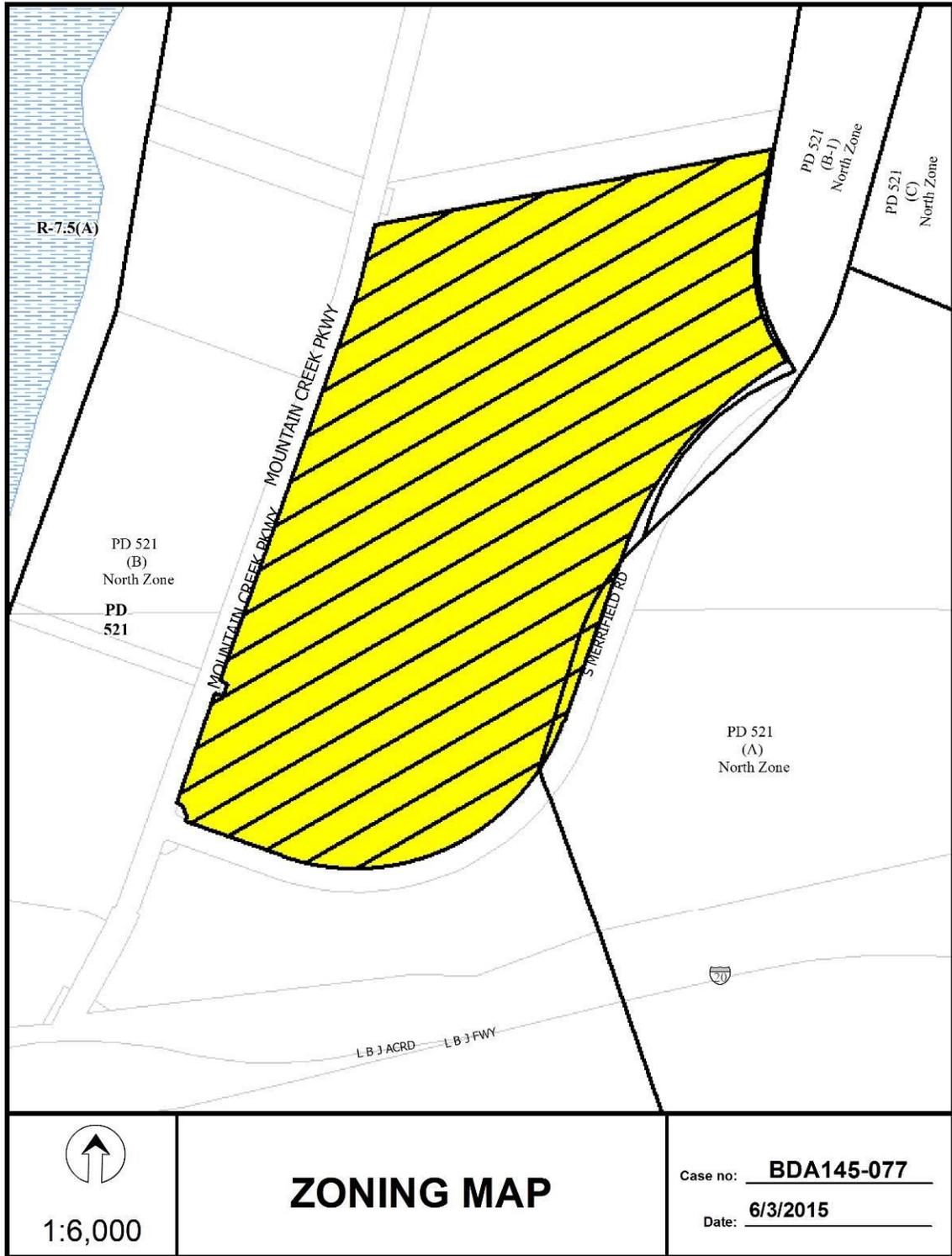
- The Tree Preservation Regulations of the Dallas Development Code states that if a tree removal application is approved, one or more healthy replacement trees must be planted in accordance with among other things quantity - the total caliper of replacement trees must equal or exceed the total caliper of protected trees removed or seriously injured.
- The Tree Preservation Regulations of the Dallas Development Code states that a property owner can comply with tree preservation regulations by mitigating the removed trees if the building official determines that, due to inhospitable soil conditions or inadequate space, it would be impracticable or imprudent for the responsible party to plant a replacement tree on the lot where the protected tree was removed or seriously injured, in any of the alternative methods provided for in Article X: donating trees to the Park Department, planting replacement trees on other property within one mile of the tree removal property, making payment into the Reforestation Fund, and/or granting a conservation easement area.
- The applicant has submitted an alternate tree mitigation/landscape plan in conjunction with this application.
- The City of Dallas Chief Arborist submitted a memo regarding this request to the Board Administrator (see Attachment A). The memo stated among other things how the request is triggered by new construction.
- The City of Dallas Chief Arborist's memo that is included in this case report provides specific details regarding this request.
- The Chief Arborist recommends approval of this request. The Arborist concludes that strict compliance with the requirements of the code will unreasonably burden the use of the property, and the special exception will not adversely affect neighboring property.
- The Chief Arborist notes that the enhanced street frontage landscape conditions applied on this property under PD 521 and the historically restricted encroachment of mesquite to a fraction of the property area supports reducing the mitigation burden on the property to the amount of site tree landscaping to be applied between the two building projects. Also, the business park continues to develop with more opportunities to plant trees on old pasture areas. The extension of 36 months, or the completion of building permits, whichever is sooner, is reasonable and supportable.
- The Chief Arborists recommends the following condition be imposed to this request: Compliance with the submitted May 19<sup>th</sup> 2015 "Special Exception Request" for 1) tree mitigation, and for 2) site trees (with site trees provided as tabulated to be placed on each "site area" on the property) is required.
- The applicant has the burden of proof in establishing the following:
  1. Strict compliance with the requirements of the Tree Preservation Regulations of the Dallas Development Code will unreasonably burden the use of the property.
  2. The special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the staff suggested condition to the request, the site would be provided exception from the required number of replacement trees and the time period in which to mitigate for replacement trees removed on the subject site.

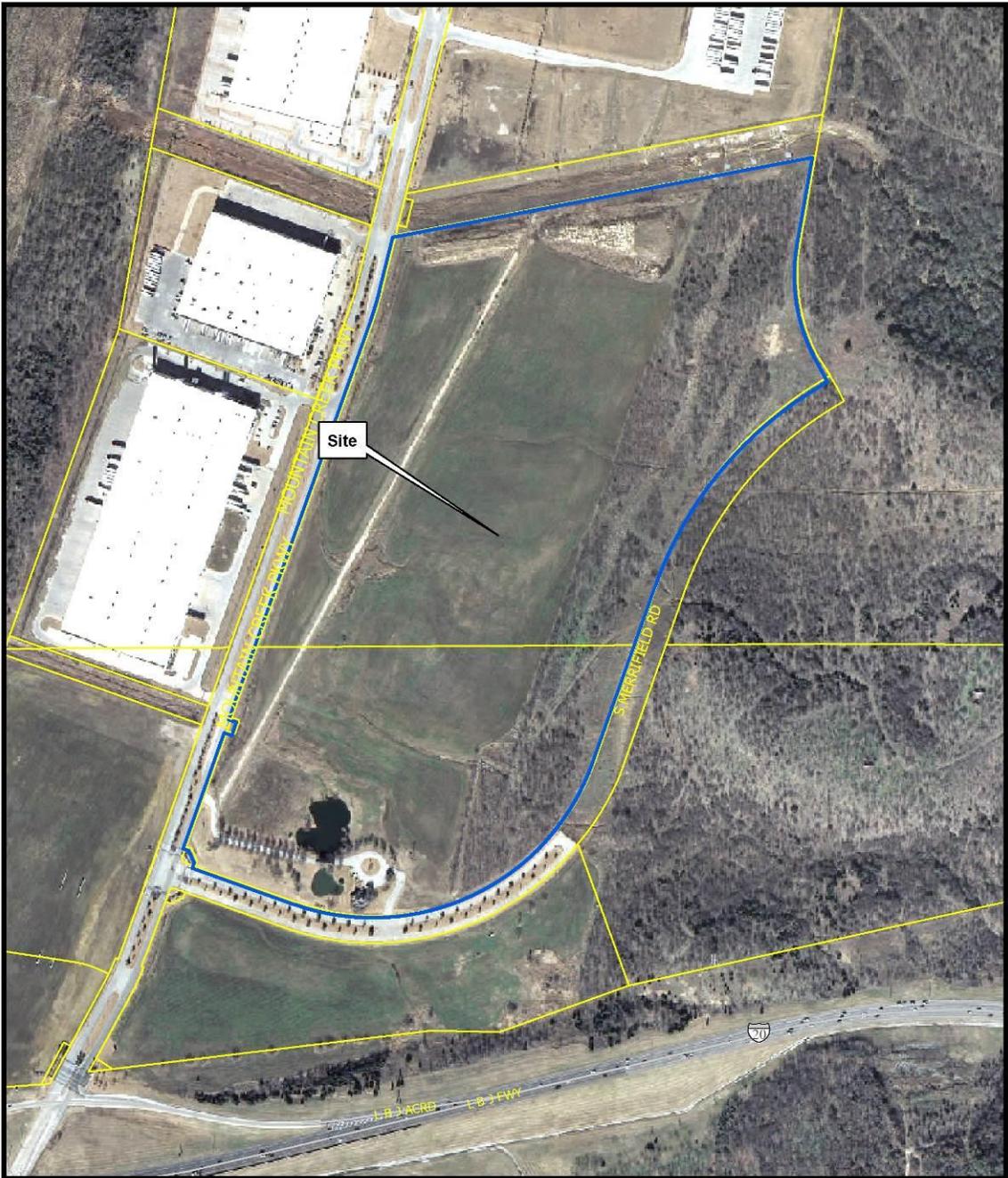
## **GENERAL FACTS/STAFF ANALYSIS (landscape):**

- This request focuses on developing the subject site and seeking exception from the landscape regulations related to providing the required number of site trees on the subject site. More specifically, the applicant is requesting relief from the landscape regulations by providing 872 of the required 1,024 site trees.
- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- The applicant has submitted an alternate tree mitigation/landscape plan in conjunction with this application.
- The City of Dallas Chief Arborist submitted a memo regarding this request to the Board Administrator (see Attachment A). The memo stated among other things how the request is triggered by new construction.
- The City of Dallas Chief Arborist's memo that is included in this case report provides specific details regarding this request.
- The Chief Arborist recommends approval of this request. The Arborist concludes that strict compliance with the requirements of the code will unreasonably burden the use of the property, and the special exception will not adversely affect neighboring property.
- The Chief Arborist notes that the enhanced street frontage landscape conditions applied on this property under PD 521 and the historically restricted encroachment of mesquite to a fraction of the property area supports reducing the mitigation burden on the property to the amount of site tree landscaping to be applied between the two building projects. Also, the business park continues to develop with more opportunities to plant trees on old pasture areas. The extension of 36 months, or the completion of building permits, whichever is sooner, is reasonable and supportable.
- The Chief Arborist recommends the following condition be imposed to this request: Compliance with the submitted May 19<sup>th</sup> 2015 "Special Exception Request" for 1) tree mitigation, and for 2) site trees (with site trees provided as tabulated to be placed on each "site area" on the property) is required.
- The applicant has the burden of proof in establishing the following:
  1. Strict compliance with the requirements of the Tree Preservation Regulations of the Dallas Development Code will unreasonably burden the use of the property.
  2. The special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the staff suggested condition to the request, the site would be provided exception from the required number of site trees on the subject site.

## **Timeline:**

- April 24, 2015: 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 21, 2015: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.
- May 21, 2015: The Board Administrator 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 June 3<sup>rd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 12<sup>th</sup> 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 requests; and
  - the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”
- June 9, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.
- June 15, 2015: The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment A).





1:6,000

# AERIAL MAP

Case no: BDA145-077

Date: 6/2/2015

# Memorandum



CITY OF DALLAS

DATE June 15, 2015

TO

Steve Long, Board of Adjustment Administrator

SUBJECT # BDA 145 - 077

4786 Mountain Creek Parkway

The applicant is requesting a special exception to the tree mitigation regulations , and a special exception to the landscape regulations, of Article X. Specifically, the request is for a reduction of the total amount of mitigation, and an extension of the timing required to complete mitigation. In addition, a request is made for the reduction of the number of site trees on the property which deviates from the requirements of Section 51A-10.125(b)(3).

### Trigger

New construction.

### Deficiencies

Tree Mitigation: The proposed tree mitigation plan does not fully comply with Sections 51A-10.134 and 51A-10.135 of the Dallas Development Code for the replacement of protected trees removed with a permit.

According to the summary, a total of 5,978 inches from 389 protected trees are to be removed from the 94 acre development comprised of two building projects. A cumulative total of 2,242 inches of approved tree species are to be planted by landscape installation on the property on two projects, leaving a deficiency of 3,736 inches (62%) to be replaced. The applicant seeks to eliminate the mesquite trees from the mitigation calculation and to require only 1,011 inches of mitigation based on the other species of trees in the population.

A tree removal permit was issued in conjunction with a grading permit on November 3, 2014. The applicant requests a time extension to 36 months from board action, or completion of each building permit for construction, whichever is sooner, to complete all mitigation. Article X provides no longer than 18 months for mitigation completion.

Landscape: The applicant requests to plant site trees at a stated ratio of 1 tree per 6,000 square feet (684 trees) of cumulative lot area, which is the equivalent of an industrial use in an IM or IR district under Article X. The true amount of trees to be planted, as specified by the applicant's tabulations, suggests this ratio is actually 1 tree per 4,696 square feet of lot area (872 trees) of 94 acres. Office/warehouse uses require trees at 1 tree per 4000 square feet (1,024 trees). This would be a deficiency of 152 trees.

Factors

Planned Development 521, Subdistrict B, is classified as a 'business zoning district.'

In 2001, this 94-acre site area was a portion of a larger Board of Adjustment case (#BDA 001-227) for an area covering roughly 460 acres. In this case, the Board approved a significant mitigation reduction based on:

Reducing mitigation for mesquite trees below 14" in diameter, and with an amount of 11,171 inches of protected trees to be planted within the 460-acre development area.

Providing enhanced hardscape and landscaping elements in the public ROW (met with PD 521 and business park standards).

Forming an 8-acre 'creek preserve' (exists, and protected 5,468" of protected trees at time of plan).

Completion of mitigation by the end of 8 years (conditions expired in August 2009 before the completion of the business park).

Compliance with a 'Mountain Creek Business Park Tree Mitigation Plan'.

Sites identified as 'industrial sites' required to provide one tree for each 6,000 square feet of lot area, and office/retail sites at one tree for each 4,000 square feet of lot area.

Planned Development 521, and Mountain Creek Business Park, require additional landscape standards to produce enhanced buffers and berms to soften the impact of business uses from the street. The development area continues to expand with highly landscaped streets.

Historical aerial imagery indicates in the time up to before grading, the land under this request was primarily open, managed pasture, except for the far eastern portion of the property which was comprised mostly of mesquite trees. A portion of the old Merrifield Road alignment also ran through the property. The large amount of mesquite trees shown for mitigation populated the far eastern section of the property.

The mesquite are rapid colonizers to open range areas. I estimate more than 70% of the 94-acre land area was without the tree coverage prior to construction, based on the evidence of continued agriculture management of the bulk of the property since well before the 2001 board case. This area had remained mostly undisturbed from construction development since the 2001 action. It is also a possibility some of the mesquite calculations are over-stated on the surveys based on the difficulty for surveyors to accurately measure multi-stem trees in the field. An accurate 100% field assessment would likely (though cannot now be confirmed) establish the actual mitigation to a lesser number of protected inches.

Protected tree summary (94-acres):

Protected Trees	389 trees	5,978 inches
(Oak, elm, etc.)	85 trees	1,011 inches
(Mesquite only)	304 trees	4,967 inches

BD 145-077  
Attach A pg 3

Submitted proposal for planting on two building sites at proposed minimum of '1 tree per 6,000 square feet':

872 trees, or equiv. to 1 tree per 4,696 sf of site trees for 94 acs.  
(684 site trees required at 1:6000sf; 1,024 trees at 1:4000sf)

2,242 inches to be planted on site.

The applicant seeks an extension of the timing of tree mitigation to 36 months from board action, or with the completion of the building permits for construction, whichever comes first. The tree removal permit is currently extended beyond six months, and one building permit for construction is underway. Both building projects on the property are expected to be completed before the end of the maximum time period.

All other forms of mitigation under Article X are available to the applicant. The current timing of another project without tree mitigation requirements, within one mile of this site, would allow for an additional 252 inches of tree replacement in the area.

#### Recommendation

The chief arborist recommends approval of both the tree mitigation, and the landscape, special exception requests, because strict compliance with the requirements of the code will unreasonably burden the use of the property, and the special exception will not adversely affect neighboring property.

The enhanced street frontage landscape conditions applied on this property under PD 521, and the historically restricted encroachment of mesquite to a fraction of the property area, support reducing the mitigation burden on the property to the amount of site tree landscaping to be applied between the two building projects. Also, the business park continues to develop with more opportunities to plant trees on old pasture areas. The time extension of 36 months, or the completion of building permits, whichever is sooner, is reasonable and supportable.

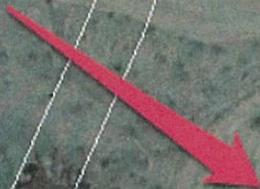
As a condition of approval for each request, I recommend compliance with the submitted May 19, 2015 'Special Exception Request' for 1) tree mitigation, and for 2) site trees, with site trees provided as tabulated to be placed on each 'site area' on the property.

Philip Erwin, ISA certified arborist #TX-1284(A)  
Chief Arborist

01

Mountain Creek Pkwy

Old Roadway



Tree Stand



Merrifield Rd





**Old Roadway**

**Mountain Creek Pkwy**

**Tree Stand**



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145/077

Data Relative to Subject Property: 4786 Date: 4.24/15

Location address: ~~1200/4209~~ MI. CREEK PARK Zoning District: PD 521(B)

Lot No.: 7 Block No.: 211/613 Acreage: 94.072 Census Tract: 165.21

Street Frontage (in Feet): 1) 2,530 2) 3,640 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_ SW 14A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Prologis LP

Applicant: Reis Dunbar Telephone: 972-984-9208

Mailing Address: 2501 N. HARWOOD ST. DALLAS TX Zip Code: 75201

E-mail Address: RDUNBAR@PROLOGIS.COM

Represented by: Jon Napper Telephone: 214-370-4100

Mailing Address: 300 N. AKARD #3108 DALLAS TX Zip Code: 75201

E-mail Address: JNAPPER@COURTMANAGER.COM

Affirm that an appeal has been made for a Variance , or Special Exception , of Alternate landscape plan & tree mitigation

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:

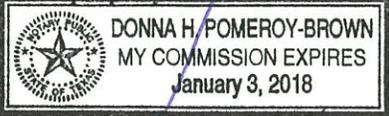
CONSISTENT WITH BOA 001-227  
APPROVED IN 2001-2009

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 Reis Dunbar  
(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 24 day of April, 2015

(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

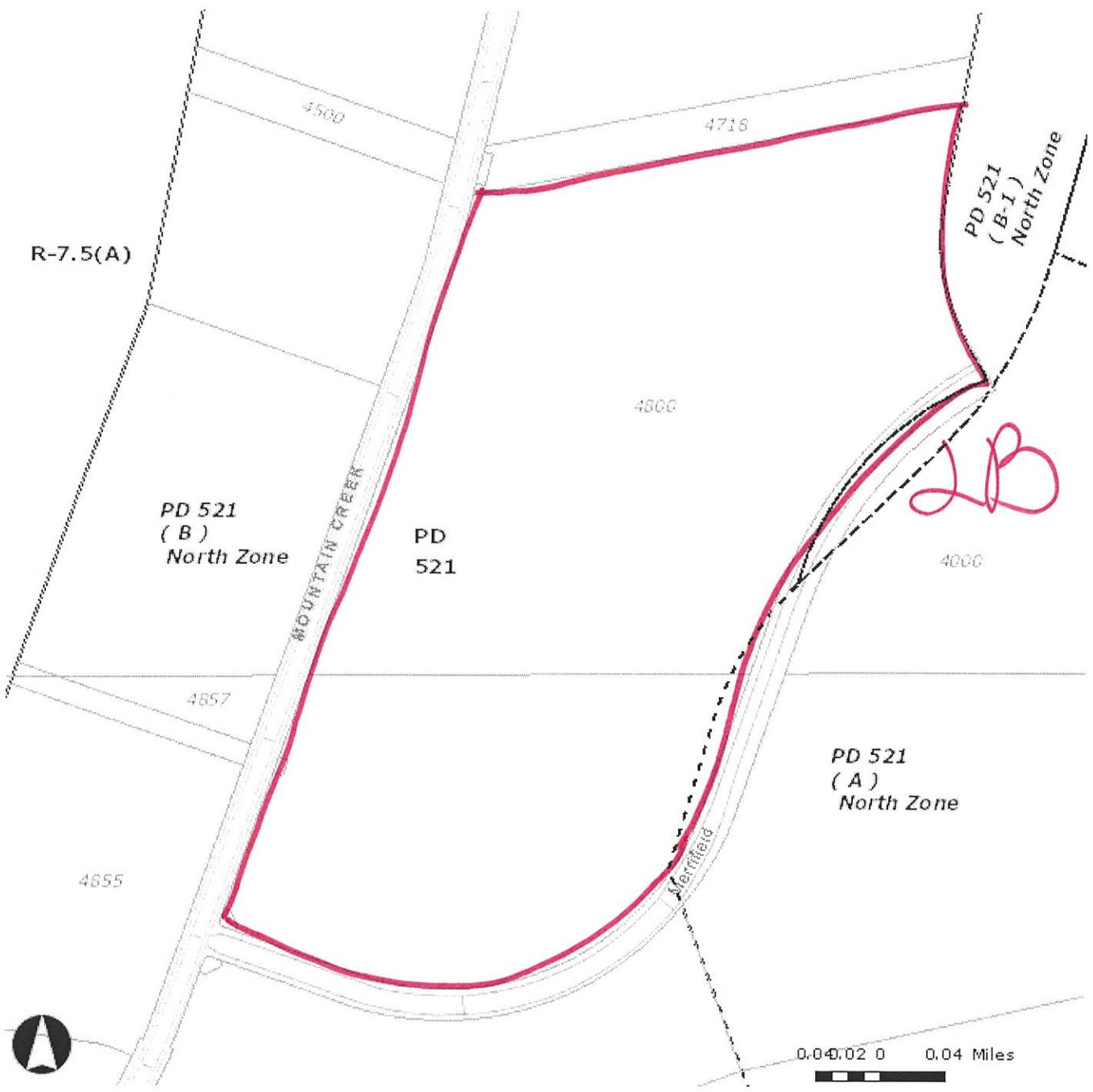
**Building Official's Report**

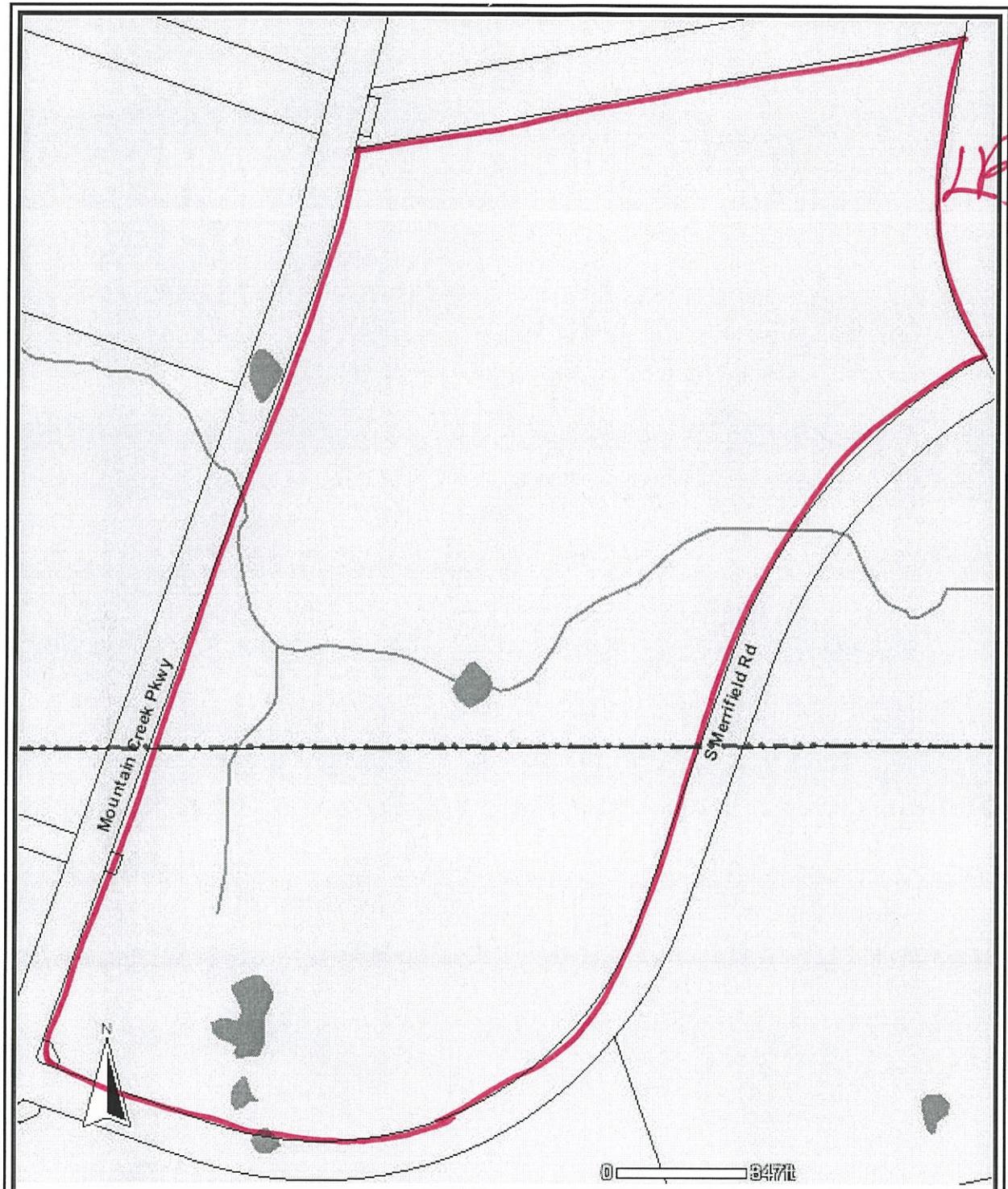
I hereby certify that Reid Dunbar  
represented by Jon Napper  
did submit a request for a special exception to the landscaping regulations  
at 4786 Mountain Creek Parkway

BDA145-077. Application of Reid Dunbar represented by Jon Napper for a special exceptions to the landscaping regulations 4786 Mountain Creek Parkway. This property is more fully described as Lot 7, Block 211/6113, and is zoned PD-521 (Subdistrict B), which requires mandatory landscaping. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan for tree mitigation and an alternate landscape plan for site trees, which will require a special exception to the landscape and tr preservation regulations.

Sincerely,

  
Larry Holmes, Building Official





**Dallas Central Appraisal District**  
www.dallascad.org

**DISCLAIMER**

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.



May 19, 2015

**Mr. Todd Duerksen**  
Senior Plans Examiner - Zoning Code Consultant  
City of Dallas  
320 E. Jefferson Blvd., Rm. 105  
Dallas, Texas 75203

Re: **Prologis**  
**Lot 7 Block, 211/6113**  
Special Exception Request

Dear Mr. Duerksen:

We are requesting a special exception request with these provisions:

1. Tree Mitigation
  - a. Reduction shall be based on the exclusion of Mesquite trees from required mitigation total. Mitigation shall be provided for all other protected trees.
  - b. Replacement trees on other properties in the city within one mile of the site shall count towards mitigation requirements.
  - c. Mitigation planting shall be completed 36 months from board action or completion of building permit, whichever comes first.

Summary of trees to be removed:

Type	Trees	Inches
Protected	389	5,978
Oak, Elm, Locust, Cottonwood	85	1,011
Mesquite	304	4,967
Non-Protected	143	
<b>Total Required Mitigation</b>		<b>1,011 caliper inches</b>

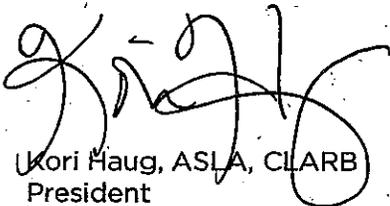
2. Site Trees
  - a. One (1) tree having a caliper of at least two inches shall be provided for each 6,000 s.f. of lot area in lieu of 4,000 s.f. of lot area.

Site Area	Required	Provided	Inches
Ulta 1,683,608 s.f.	(281) trees, 2" cal.	(237) trees, 3" cal. (89) trees, 2" cal.	711 178
Kimberly Clark 2,414,159 s.f.	(403) trees, 2" cal.	(261) trees, 3" cal. (285) trees, 2" cal.	783 570
<b>Total</b>	<b>(684) trees</b>	<b>(872) trees</b>	<b>2,242 caliper inches</b>

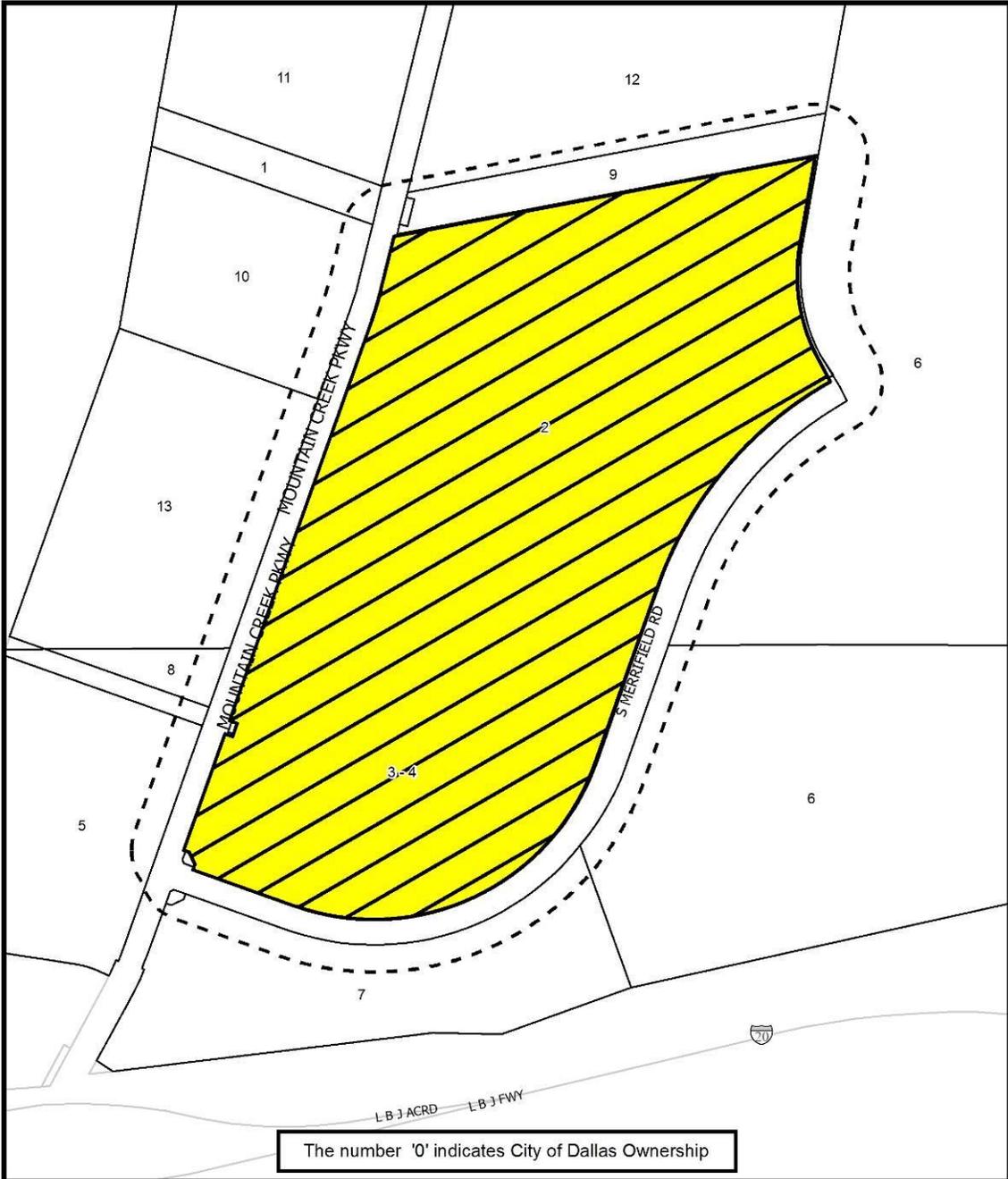
The site exceeds the street tree requirements as follows:

	Street Trees Required	Provided	Landscape Buffer Provided
Ulta	(29) trees, 3" cal.	(29) trees, 3" cal.	(57) trees, 3" cal. (86) ornamental trees, 2" cal.
Kimberly Clark	(93) trees, 3" cal.	(123) trees, 3" cal.	(187) trees, 3" cal. (279) ornamental trees, 2" cal.
<b>Total</b>	<b>(122) trees</b>	<b>(152) trees</b>	<b>(609) trees</b>

Sincerely,



Kori Haug, ASLA, CLARB  
President  
Belle Firma, Inc.



 1:6,000	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;"><b>200'</b></td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;"><b>13</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	<b>200'</b>	AREA OF NOTIFICATION	<b>13</b>	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u><b>BDA145-077</b></u> Date: <u><b>6/2/2015</b></u>
<b>200'</b>	AREA OF NOTIFICATION					
<b>13</b>	NUMBER OF PROPERTY OWNERS NOTIFIED					

## *Notification List of Property Owners*

***BDA145-077***

***13 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	4800 MOUNTAIN CREEK PKWY	MOUNTAIN CREEK BUSINESS
2	4800 MOUNTAIN CREEK PKWY	PROLOGIS LLC
3	4800 MOUNTAIN CREEK PKWY	PROLOGIS LLC
4	4800 MOUNTAIN CREEK PKWY	PROLOGIS LP
5	4855 MOUNTAIN CREEK PKWY	CUMMINS SOUTHERN PLAINS INC
6	4000 MOUNTAIN CREEK PKWY	COURTLAND FARMS LLC
7	4800 MOUNTAIN CREEK PKWY	MT CREEK INVESTMENTS LTD
8	4857 MOUNTAIN CREEK PKWY	MOUNTAIN CREEK
9	4718 MOUNTAIN CREEK PKWY	MOUNTAIN CREEK BUSINESS
10	4721 MOUNTAIN CREEK PKWY	MOUNTAIN CREEK DISTRIBUTION CENTER LP
11	4715 MOUNTAIN CREEK PKWY	MOUNTAIN CREEK PARTNERS LLC
12	4718 MOUNTAIN CREEK PKWY	NESTLE WATERS NORTH
13	4851 MOUNTAIN CREEK PKWY	MOUNTAIN CREEK

**FILE NUMBER:** BDA 145-078

**BUILDING OFFICIAL'S REPORT:** Application of Lisa Brinser for a special exception to the landscape regulations at 4895 Mountain Creek Parkway. This property is more fully described as Lot 9, Block 211/6113, and is zoned PD-521 (Subdistrict B), which requires mandatory landscaping. The applicant proposes to construct and maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 4895 Mountain Creek Parkway

**APPLICANT:** Lisa Brinser

**REQUEST:**

A special exception to the tree preservation regulations is made to develop the site with a "proposed building" and not fully meet the landscape regulations.

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE AND TREE PRESERVATION REGULATIONS:**

The board may grant a special exception to the landscape and tree preservation regulations of this article upon making a special finding from the evidence presented that:

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property;
- (2) the special exception will not adversely affect neighboring property; and
- (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

In determining whether to grant a special exception, the Board shall consider the following factors:

- the extent to which there is residential adjacency;
- the topography of the site;
- the extent to which landscaping exists for which no credit is given under this article; and
- the extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted landscape plan is required.

Rationale:

- The Chief Arborist recommends approval of the alternate landscape plan because the requirements of the code will unreasonably burden the use of the property, and the special exception will not adversely affect neighboring property.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 521 (Planned Development)  
North: PD 521 (Planned Development)  
South: PD 521 (Planned Development)  
East: PD 521 (Planned Development)  
West: PD 521 (Planned Development)

**Land Use:**

The subject site is undeveloped. The area to the north is developed with an office/warehouse use; the areas to the east and west are undeveloped, and the area immediately south is I-20.

**Zoning/BDA History:**

1. BDA 145-077, Property located at 4786 Mountain Creek Parkway (two lots northeast of the subject site)

On June 23, 2015, the Board of Adjustment Panel A will consider requests for a special exceptions to the landscape and tree preservation regulations.

2. BDA 001-227, Property located at 4320 Mountain Creek Parkway (the subject site and a larger area surrounding the subject site)

On August 14, 2001, the Board of Adjustment Panel A granted a request for a special exception to the tree preservation regulations and imposed the following conditions: 1) protected trees can be removed from the site prior to the issuance of building permits upon the issuance of tree removal permits; 2) the mitigation time period in which to fully mitigate all protected trees removed on the site is extended to August 22, 2009 (or 8 years from the date of the Board's favorable action); 3) compliance with the submitted "Mountain Creek Business Park Tree Mitigation Plan" is required; and 4) sites identified as industrial sites are required to provide one tree for each 6,000 square feet of lot area. A minimum of 80 acres of the developable lots on the site must be planted at one tree per 4,000 square feet of lot area.

The case report stated that this request was made in conjunction with the site preparation for a master plan development that comprises about 450 acres.

#### **GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on developing the site with a "proposed building" and not fully meeting the landscape regulations, more specifically providing only 95 of the required 117 site trees, and not providing the required 10 street trees within 30 feet of the street curb.
- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment A). The memo states how this request is triggered by a new construction.

- The Chief Arborist’s memo lists the following factors for consideration:
  1. Planned Development 521, Subdistrict B, is classified as a “business zoning district.”
  2. Article X requires 1 tree per 4,000 square feet of lot area for office/warehouse uses. The applicant has requested to plant a minimum of 1 tree per 6,000 square feet (78 trees) which is the equivalent standard for industrial uses in IM and IR districts. The alternate landscape plan presents 62 trees at 3” caliper, and 33 ornamental trees at 2” caliper for a total of 95 trees, or equivalent to 1 tree per 4,923 square feet of lot area.
  3. A 28’ right-of-way dedication and existing utilities restrict the planting of trees in proximity to the curb along the most southern frontage of Mountain Creek Parkway. The applicant requests to provide the required 10 large trees within 50 feet of the curb instead of the mandated 30 foot distance – this would allow for more even distribution of the trees along the entire street frontage.
  4. PD 521 requires additional buffer planting requirements for business district uses beyond the minimum Article X requirements that includes a minimum 35’ buffer area along the perimeter with 20 large trees and 30 ornamental trees.
- The City of Dallas Chief Arborist recommends approval of the submitted alternate landscape because in his opinion the exception will not adversely affect neighboring property, and strict compliance with the landscape requirements would unreasonably burden the use of the property.
- The applicant has the burden of proof in establishing the following:
  - Strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property; and the special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted alternate landscape plan as a condition to the request, the site would be provided exception from full compliance with the required number of site trees and the required location of street trees on the subject site.

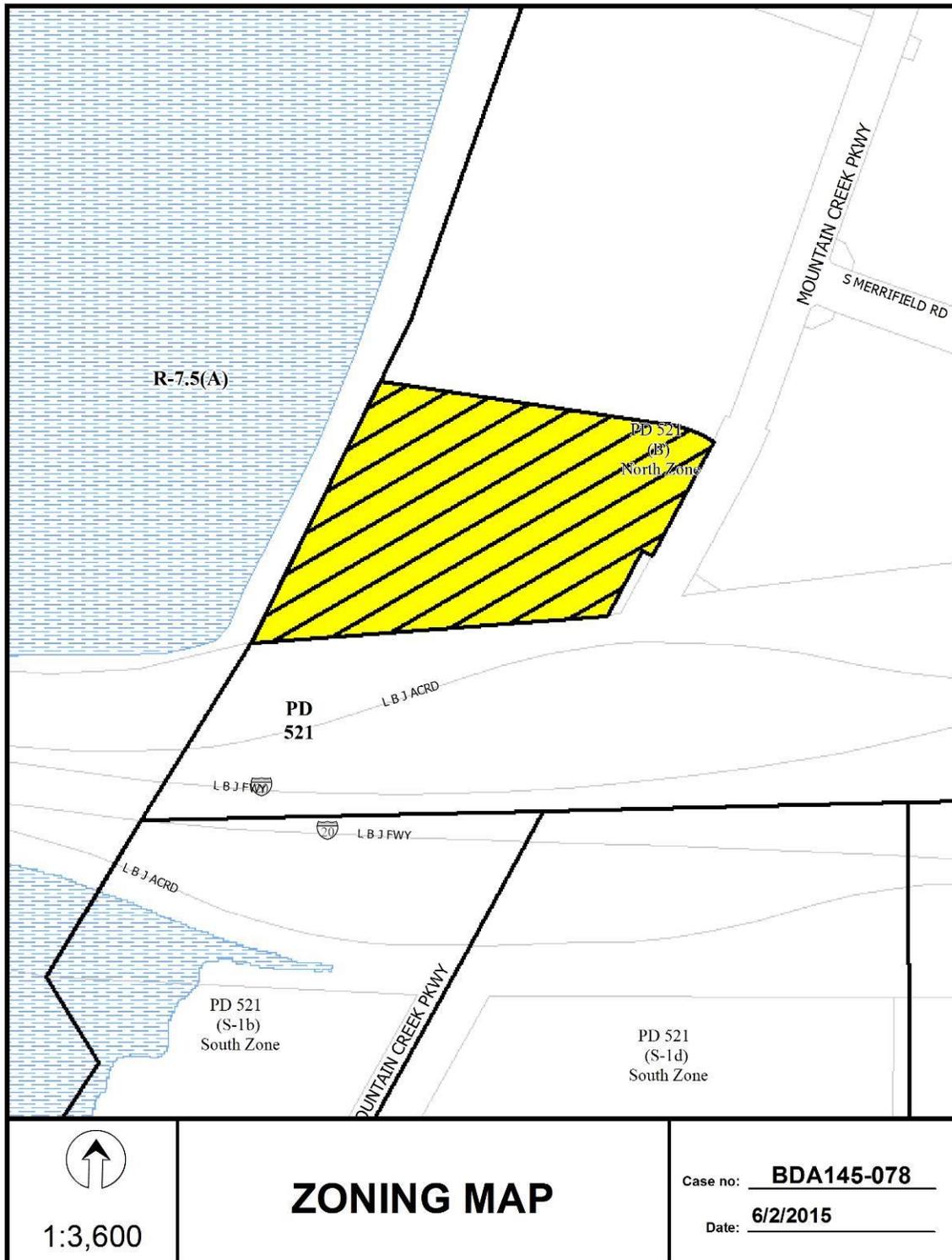
**Timeline:**

- May 4, 2015: 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 21, 2015: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.
- May 21, 2015: The Board Administrator 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 June 3<sup>rd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 12<sup>th</sup> 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 requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

June 9, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

June 15, 2015: The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment A).



  
 1:3,600

# ZONING MAP

Case no: BDA145-078  
 Date: 6/2/2015



1:3,600

# AERIAL MAP

Case no: BDA145-078

Date: 6/2/2015

BDA-145-078  
Attach A  
P21

# Memorandum



CITY OF DALLAS

DATE June 15, 2015  
TO Steve Long, Board of Adjustment Administrator  
SUBJECT # BDA 145 · 078 4895 Mountain Creek Parkway

The applicant is requesting a special exception to the landscape requirements of Article X. Specifically, the request is for a reduction of site trees on the property, and to allow street trees to be planted within 50 feet from back of curb, instead of 30 feet.

### Trigger

New construction.

### Deficiencies

The proposed alternate landscape plan has a total of 95 site trees for 10.7 acres. Article X requires 1 tree per 4,000 square feet for office/warehouse uses, or 117 trees.

The alternate landscape plan does not provide for the required 10 street trees within 30 feet of the street curb.

### Factors

Planned Development 521, Subdistrict B, is classified as a 'business zoning district.'

Article X requires 1 tree per 4,000 square feet of lot area for office/warehouse uses. The applicant has requested to plant a minimum of 1 tree per 6,000 square feet (78 trees), which is the equivalent of the standard for industrial uses in IM and IR districts. The alternate landscape plan presents 62 trees at 3" caliper, and 33 ornamental trees at 2" caliper, for a total of 95 trees. This equates to 1 tree per 4,923 square feet of lot area.

A 28' right-of-way dedication and existing utilities restrict the planting of trees in proximity to the curb along the most southern frontage of Mountain Creek Parkway. The applicant requests to provide the required 10 large trees within 50 feet of the curb instead of the Article X mandated 30 feet distance. This would allow for more even distribution of the trees along the entire street frontage.

PD 521 requires additional buffer planting requirements for business district uses beyond the minimum Article X requirements. This will include a minimum 35' buffer area along the perimeter with 20 large trees and 30 ornamental trees.

### Recommendation

The chief arborist recommends approval of the alternate landscape plan because strict compliance with the requirements of the code will unreasonably burden the use of the property, and the special exception will not adversely affect neighboring property. This recommendation is based on compliance with the submitted alternate landscape plan.

Philip Erwin, ISA certified arborist #TX-1284(A)  
Chief Arborist



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-078

Date: 5/4/15

Data Relative to Subject Property:

Location address: 4595 McCreek Pkwy Zoning District: PD 521(B)

Lot No.: 9 Block No.: 211/613 Acreage: 10.74 Census Tract: Tract 165.21

Street Frontage (in Feet): 1) 866.01 2) 267.48 3) - 4) - 5) - SW14A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): TC McCreek Development Partners LP

Applicant: Lisa Brinser Telephone: 214-370-6100

Mailing Address: 300 N Akard #3108 Zip Code: 75201

E-mail Address: lbrinser@courlanddev.com

Represented by: Lisa Brinser / Jan Napper Telephone: 214-370-6100

Mailing Address: 300 N Akard #3108 Zip Code: 75201

E-mail Address: lbrinser@courlanddev.com

Affirm that an appeal has been made for a Variance   , or Special Exception   , of Site Tree requirements of 1/6000 for warehouse

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:

request is consistent w/ BDA 001-227 approved 2001-2009. Enhanced buffer; landscaping is also required for street frontage.

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 Lisa Brinser  
(Affiant/Applicant's name printed)

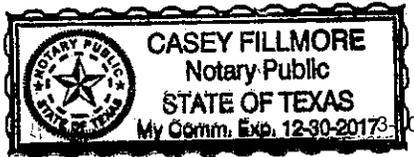
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

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

Subscribed and sworn to before me this 6 day of May, 2015

(Rev. 08-01-11)

BDA 145-078



Casey Fillmore  
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

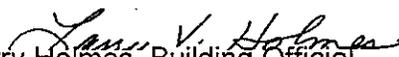
**Building Official's Report**

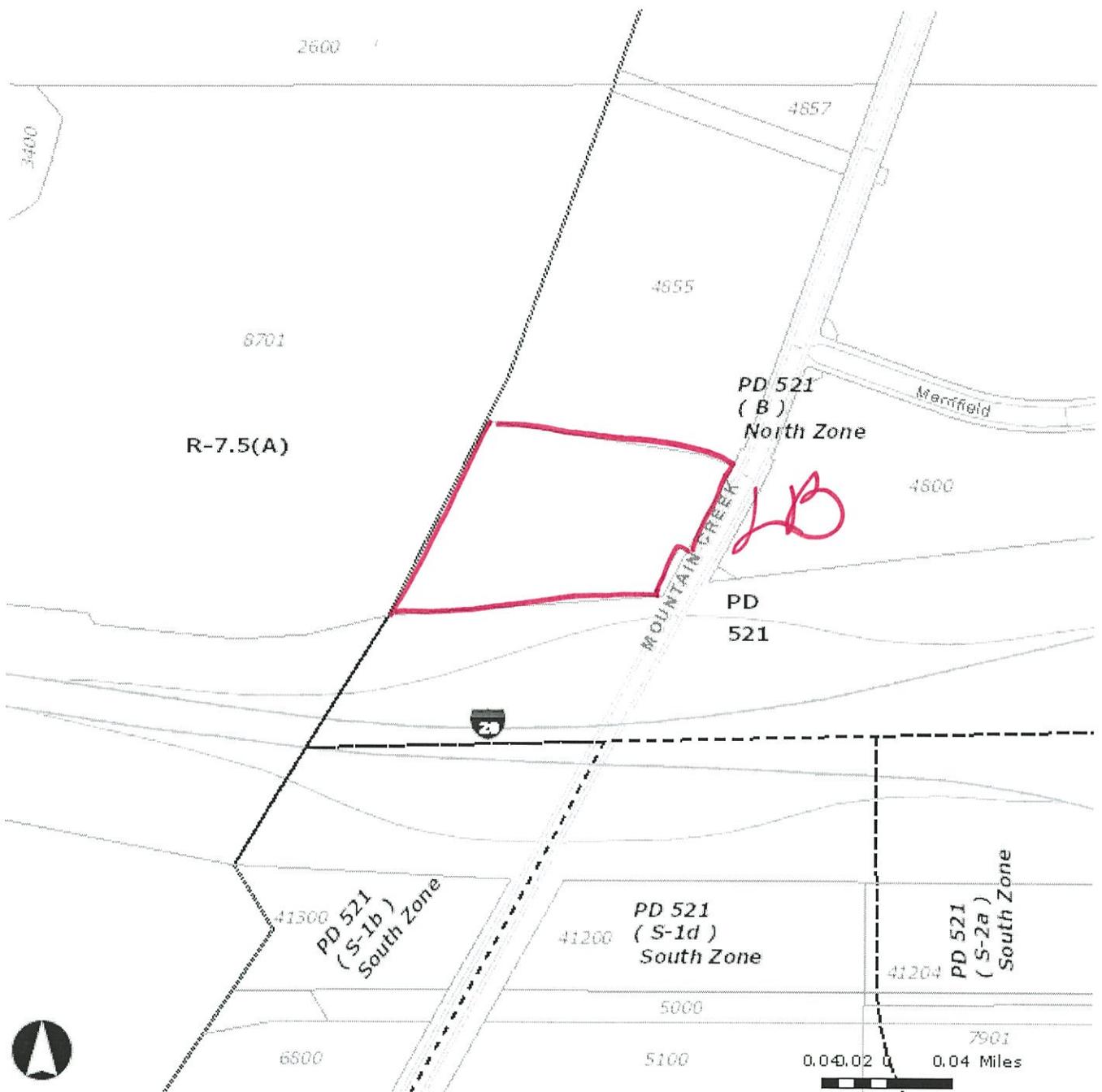
I hereby certify that Lisa Brinser

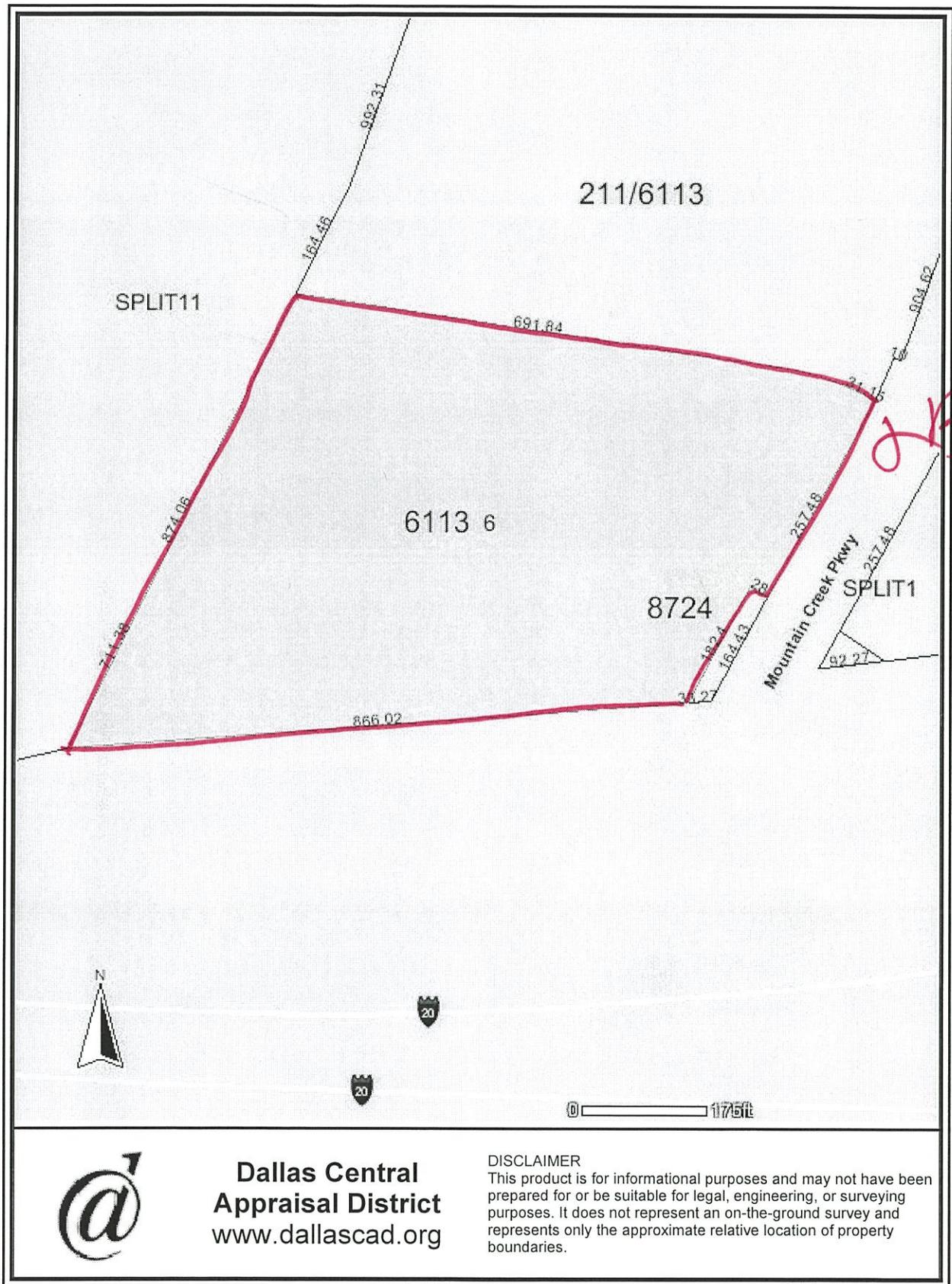
did submit a request for a special exception to the landscaping regulations  
at 4895 Mountain Creek Parkway

BDA145-078. Application of Lisa Brinser for a special exception to the landscaping regulations at 4895 Mountain Creek Parkway. This property is more fully described as Lot 9, Block 211/6113, and is zoned PD-521 (Subdistrict B), which requires mandatory landscaping. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulation

Sincerely,

  
Larry Holmes, Building Official

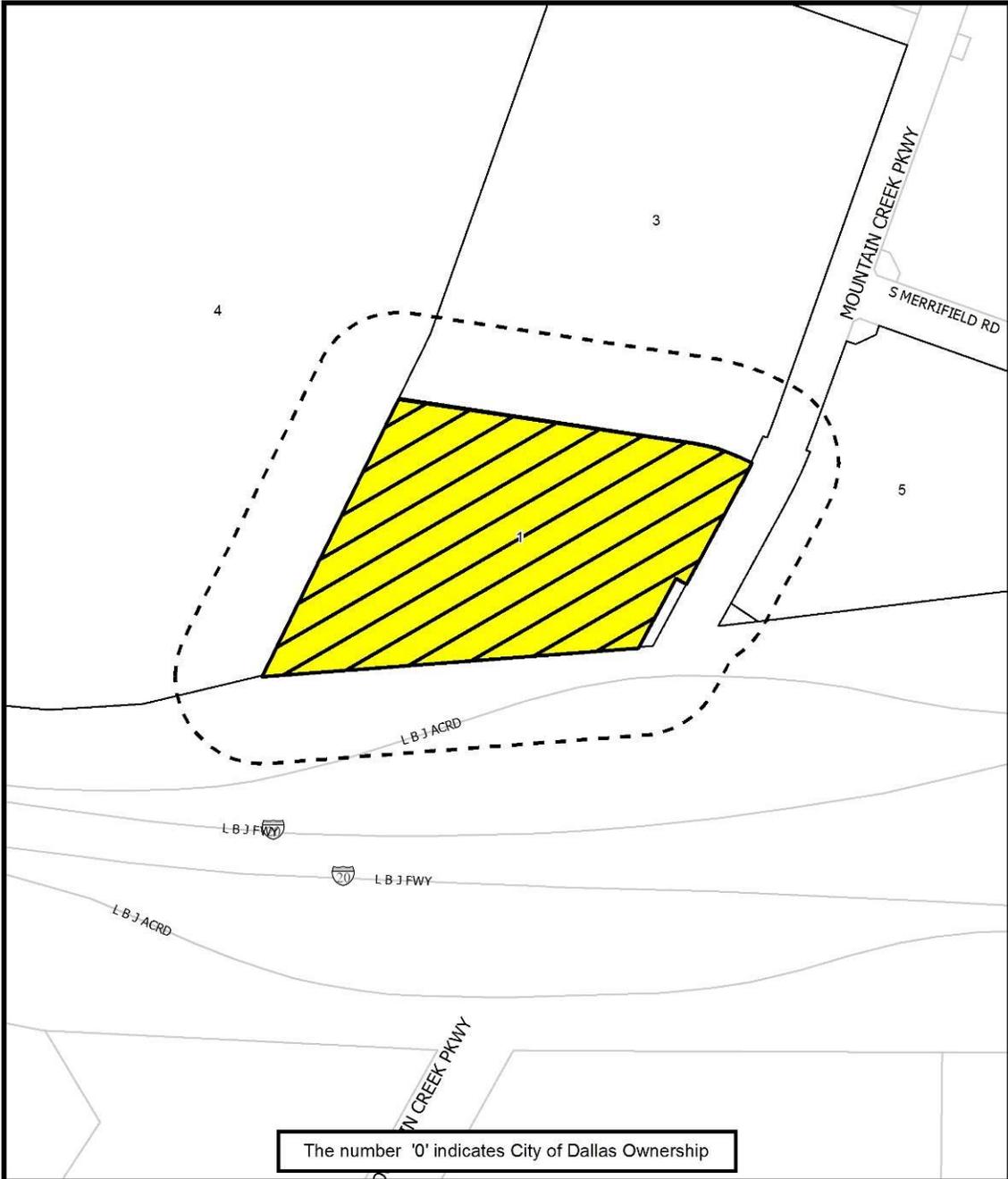




**Dallas Central  
Appraisal District**  
www.dallascad.org

**DISCLAIMER**  
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.





 1:3,600	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;"><b>200'</b></td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;"><b>5</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	<b>200'</b>	AREA OF NOTIFICATION	<b>5</b>	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u><b>BDA145-078</b></u> Date: <u><b>6/2/2015</b></u>
<b>200'</b>	AREA OF NOTIFICATION					
<b>5</b>	NUMBER OF PROPERTY OWNERS NOTIFIED					

06/02/2015

## ***Notification List of Property Owners***

***BDA145-078***

### ***5 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	4800 MOUNTAIN CREEK PKWY	MT CREEK INVESTMENTS LTD
2	4800 MOUNTAIN CREEK PKWY	MOUNTAIN CREEK BUSINESS
3	4855 MOUNTAIN CREEK PKWY	CUMMINS SOUTHERN PLAINS INC
4	8701 CAMP WISDOM RD	EXTEX LAPORTE LP
5	4800 MOUNTAIN CREEK PKWY	MT CREEK INVESTMENTS LTD

**FILE NUMBER:** BDA 145-064

**BUILDING OFFICIAL'S REPORT:** Application of Alaric "Al" Mack, represented by Pamela Craig, for a variance to the front yard setback regulations at 2822 McKinney Avenue. This property is more fully described as Lot 4, Block 577, and is zoned PD-193 (LC), which requires a front yard setback of 10 feet. The applicant proposes to construct and/or maintain a structure and provide a 0 foot front yard setback, which will require a 10 foot variance to the front yard setback regulations.

**LOCATION:** 2822 McKinney Avenue

**APPLICANT:** Alaric "Al" Mack  
Represented by Pamela Craig

**REQUEST:**

A request for a variance to the front yard setback regulations of 10' is made to maintain two wood deck structures (one covered, one uncovered), portions of which are located as close as on the site's McKinney Avenue front property line or as much as 10' into this required 10' front yard setback on a site developed with a restaurant/bar use (McKinney Avenue Tavern).

**STANDARD FOR A VARIANCE:**

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, 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.

**STAFF RECOMMENDATION:**

Denial

Rationale:

- Staff concluded that there was no property hardship to the site that warranted a front yard variance in this case made to maintain deck structures on a site already developed with a restaurant/bar use. Even though this site is somewhat irregular in shape and has two front yard setbacks, these characteristics do not create hardship or preclude the applicant from developing it in a manner commensurate with other developments found in the same PD No. 193 (LC) zoning district. The subject site is developed with a restaurant/bar use structure where the physical characteristics of the subject site do not warrant a variance for added deck structures in the front yard setback.
- The applicant had not substantiated how the physical features of the flat, somewhat irregularly-shaped, 0.3 acre site with two front yard setbacks constrain it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 193 (LC) zoning classification while simultaneously complying with code provisions including front yard setback regulations.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 193 (LC) (Planned Development District, Light Commercial)  
North: PD 193 (LC) (Planned Development District, Light Commercial)  
South: PD 193 (LC) (Planned Development District, Light Commercial)  
East: PD 193 (LC) (Planned Development District, Light Commercial)  
West: PD 193 (LC) (Planned Development District, Light Commercial)

**Land Use:**

The subject site is developed with a restaurant/bar use (McKinney Avenue Tavern). The areas to the north, south, east, and west are developed with a mix of retail, office, and residential uses.

**Zoning/BDA History:**

1. BDA 078-050, Property located at 2811 McKinney Avenue (the property to the west of the subject site)

On May 21, 2008, the Board of Adjustment Panel B granted requests for a variance to the front yard setback regulations of 8' and a special exception to the landscape regulations. The Board imposed the following condition to the variance: Compliance with the submitted revised site plan is required. The Board imposed the

following conditions to the landscape special exception: 1) Existing planting areas and tree selections must be maintained in their current locations as specified on the submitted landscape plan. 2) Any future plant changes must conform to the general location and plant type specifications designated on the submitted landscape plan and must be approved by the Building Official. Any large tree that is removed must be replaced with another tree at a minimum of 3.5" caliper and be of the same species, except that, due to potential overhead utility conflicts, any tree that is removed along the Howell Street and McKinney Avenue tree planting zones must be replaced with a small tree species allowed in PD 193 unless an alternate selection is specified by the Tax Increment Finance District and approved by the Building Official. 3) All existing plant materials at the date of the hearing must be maintained under the general maintenance requirements of PD 193. All outside garbage dumpsters must be screened per PD 193 specifications. 4) All conditions for tree preservation under Article X apply to this Property. 5) When any additional work on the lot is performed that increases the existing building height, floor area, or nonpermeable coverage of the lot, the landscape requirements of PD 193 must be applied to the property.

The case report stated that the requests were made in conjunction with constructing and maintaining, according to the application, an "open awning" (or according to the submitted site plan, a "covered patio") that would attach to an existing retail use (Christi's Restaurant) in the site's 10' McKinney Avenue front yard setback; and increasing the nonpermeable coverage of the lot which in this case was an approximately 700 square foot canopy that would attach to a multi-story mixed use structure that was constructed in the mid 80's.

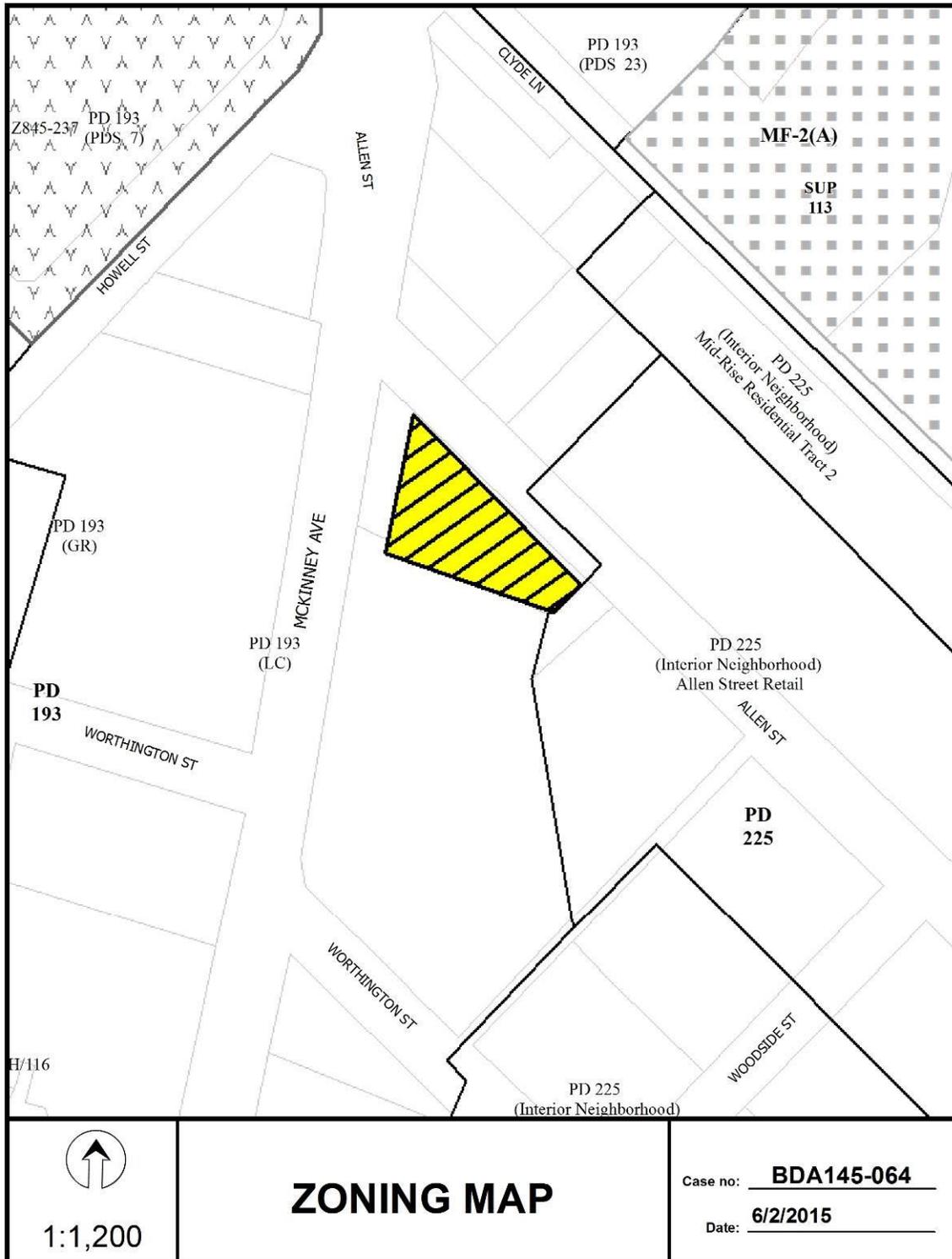
## **GENERAL FACTS/STAFF ANALYSIS:**

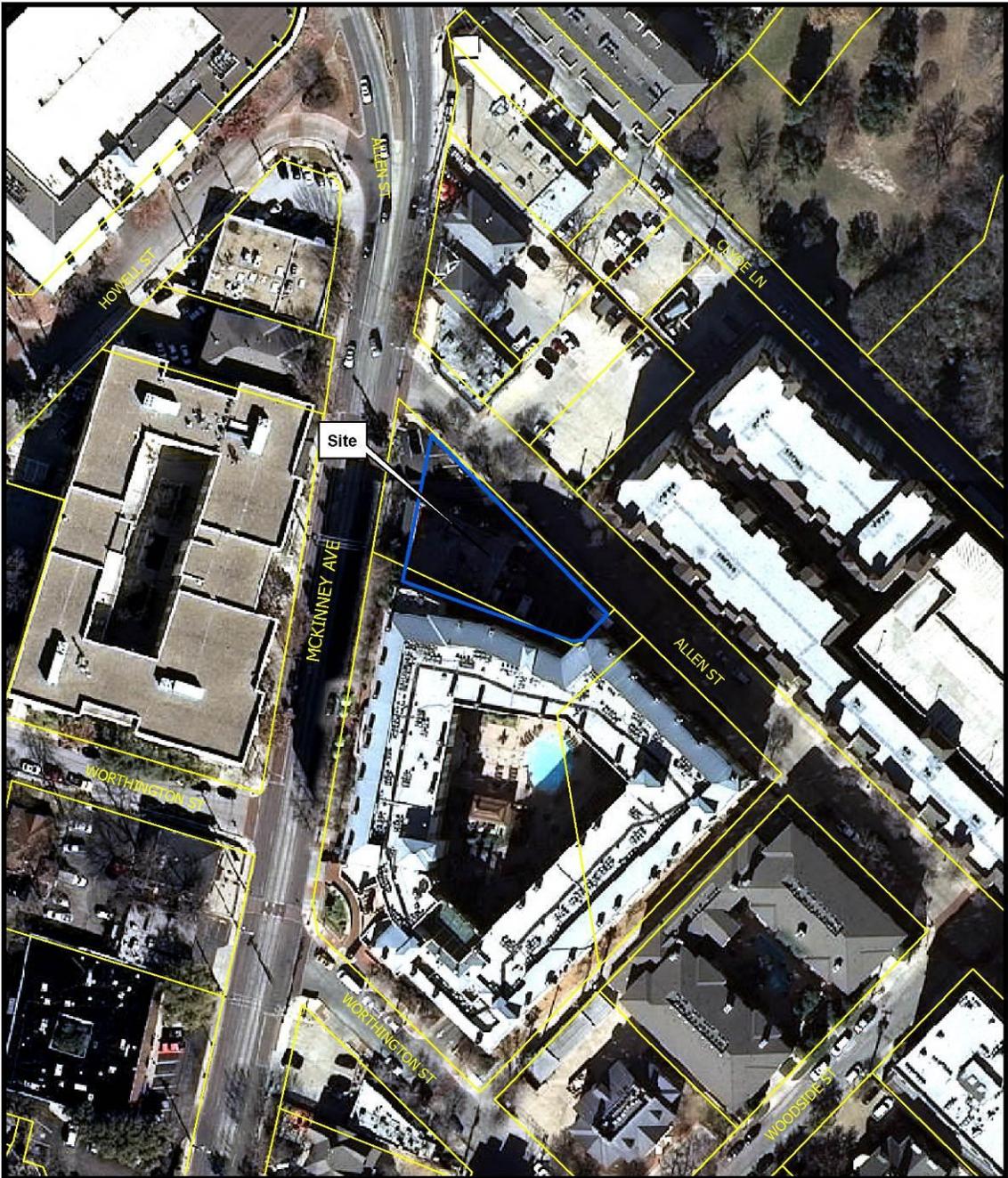
- This request focuses on maintaining two wood deck structures (one covered, one uncovered), portions of which are located as close as on the site's McKinney Avenue front property line or as much as 10' into this required 10' front yard setback on a site developed with a restaurant/bar use (McKinney Avenue Tavern).
- The minimum front yard setback for "other permitted structures" (which would include deck structures) on lots zoned PD No. 193 (LC Subdistrict) is 10'.
- A site plan has been submitted denoting that the two deck structures are located as close as on the site's McKinney Avenue front property line or as much as 10' into this required 10' front yard setback.
- Note that while the site also has a front yard setback on Allen Street, no part of this application is made to maintain or construct/maintain a structure in the Allen Street front yard setback.
- An elevation/section has been submitted of the deck structures. One of the deck structures denoted as "not covered" on the site plan is represented on the elevation to be 10" high. The other deck structure denoted as "deck/cov'd canopy" on the site plan is represented to 10" high with an approximately 10' high canvas awning with awning supports.
- The site plan represents that the "not covered" deck structure is approximately 450 square feet in area of which about ½ is located in the McKinney Avenue front yard setback. The site plan represents that the "cov'd canopy" deck structure is approximately 200 square feet in area of which about ½ is located in the McKinney Avenue front yard setback.
- According to DCAD records, the "improvements" at 2822 McKinney Avenue is a "cocktail lounge" that is 4,136 square feet in area built in 1925.
- The subject site is flat, irregular in shape, and is according to the application, 0.3 acres (or approximately 13,000 square feet) in area. The site is zoned PD 193 (LC). The site has two, 10' front yard setbacks which is typical of any lot that with two street frontages that is not zoned single family, duplex, or agricultural.
- 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 PD 193 (LC) 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 PD 193 (LC) zoning classification.

- If the Board were to grant the variance request and impose the submitted site plan and elevation as a condition, the structures in the front yard setback would be limited to what is shown on these documents– which are two wood deck structures (one covered, one uncovered), portions of which are located as close as on the site’s McKinney Avenue from the front property line or as much as 10’ into this required 10’ front yard setback.
- Note that if the Board were to grant the applicant’s request for a variance to the front yard setback regulations, and impose the submitted site plan and elevation as a condition, no relief would be provided to any existing/proposed noncompliance on the subject site to any code provision (including but not limited to landscape and visual obstruction regulations) other than to front yard setbacks.

**Timeline:**

- April 1, 2015: 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 12, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- May 13, 2015: The Board Administrator 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 June 3<sup>rd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 12<sup>th</sup> 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 9, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.
- No review comment sheets with comments were submitted in conjunction with this application.





1:1,200

# AERIAL MAP

Case no: BDA145-064

Date: 6/2/2015



City of Dallas

A

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-064

Data Relative to Subject Property:

Date: 4-1-15

Location address: 2822 McKinney Avenue

Zoning District: PD193(LC)

Lot No.: Lot 4 Block No.: 577 Acreage: 0.3024

Census Tract: 17.04

Street Frontage (in Feet): 1) 112.34 2) 205.68 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_ 5827

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): MM WhiteWing Holdings L.P

Applicant: Alaric "Al" Mack

Telephone: 214-770-4772

Mailing Address: 2822 McKinney Ave

Zip Code: 75204

E-mail Address: bigalmack19@gmail.com

Represented by: Pamela Craig

Telephone: 972-215-8851

Mailing Address: 1202 Misty Meadow Dr

Zip Code: 76065

E-mail Address: ableoftexas@gmail.com

Affirm that an appeal has been made for a Variance , or Special Exception \_\_\_\_\_, of a structure within 15 ft of property line to front yard set back

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 lot on which the property business is located is an odd shape and restricts outdoor use by patrons and is not an obstruction to traffic or sidewalk use structure is not higher than 48"

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 Alaric Mack  
(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 March, 2015



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 \_\_\_\_\_

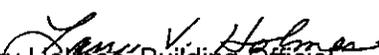
Chairman

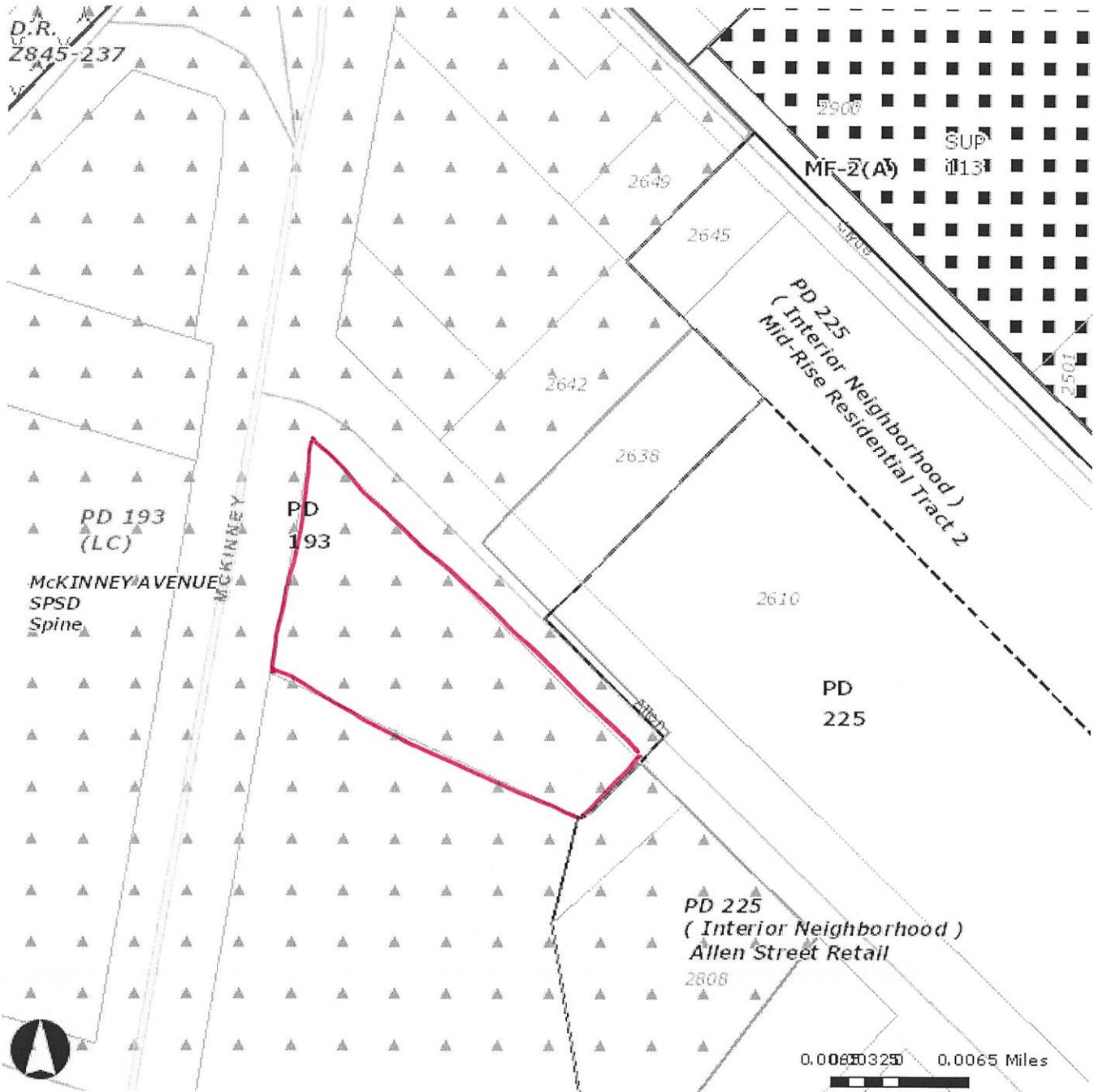
**Building Official's Report**

I hereby certify that ALARIC D MACK  
represented by PAMELA CRAIG  
did submit a request for a variance to the front yard setback regulations  
at 2822 McKinney Avenue

BDA145-064. Application of Alaric Mack represented by Pamela Craig for a variance to the front yard setback regulations at 2822 McKinney Avenue. This property is more fully described as Lot 4, Block 577, and is zoned PD-193 (LC), which requires a front yard setback of 10 feet. The applicant proposes to construct and maintain a nonresidential structure and provide a 0 foot front yard setback, which will require a 10 foot variance to the front yard setback regulation.

Sincerely,

  
Larry Holmes, Building Official





BDA 845-064



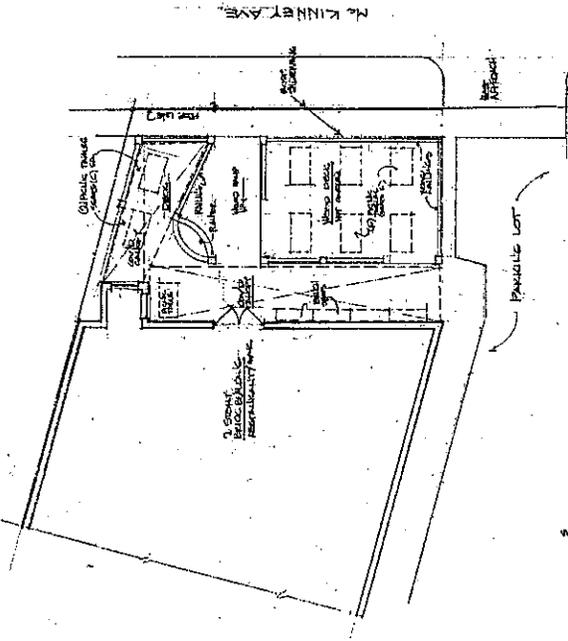


CHARLES D. BOBO  
 ARCHITECT  
 5656 CLIFF HAVEN DR.  
 DALLAS TEXAS 75236  
 214 244-4073



OUTDOOR PATIO  
 1234 N. KINNEY AVE.  
 DALLAS TEXAS  
 Mc KINNEY AVENUE TRAFFIC

4-11-78  
 DATE OF PLAN  
 1  
 1



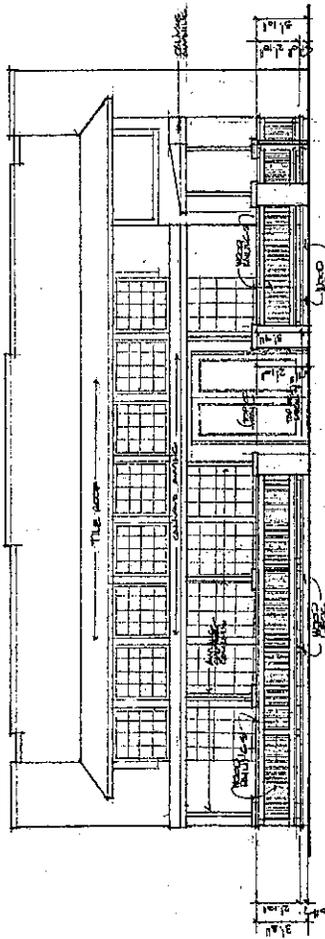
**SITE PLAN**  
 1234 N. KINNEY AVE.

1234 N. KINNEY AVE.  
 BLOCK 101  
 NEIGHBORHOOD: HEATHERWOOD  
 CITY OF DALLAS  
 DALLAS, TEXAS

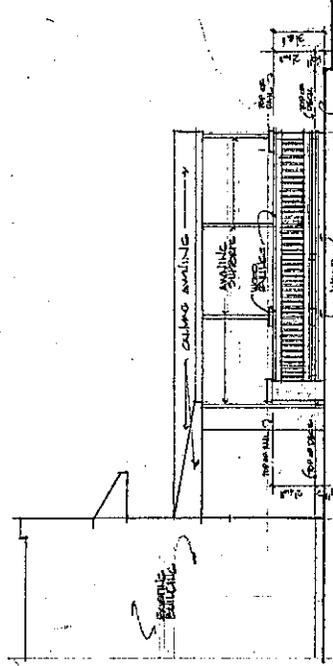


**DETAILS**

PERMITS	210 S.F.
CONCRETE AREA	210 S.F.
TOTAL PATIO	210 S.F.
DETAILS	210 S.F.
TOTAL AREA	210 S.F.



McKINNERT AVE. ELEVATION  
SCALE: 1/8" = 1'-0"



ALLEN STREET ELEVATION  
SCALE: 1/8" = 1'-0"



CHARLES D. BOBO  
ARCHITECT  
5056 CLIFF HAVEN DR.  
DALLAS, TEXAS 75236  
214 244-4073

OUTDOOR PATIO  
1822 McKinnert Ave. TAYBURN  
DALLAS, TEXAS

REVISIONS	
DATE	
BY	
DESCRIPTION	
A2	
OF 2	



 1:1,200	<b>NOTIFICATION</b>		Case no: <b>BDA145-064</b>
	<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;">38</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: <b>6/2/2015</b>	

## *Notification List of Property Owners*

***BDA145-064***

### *38 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	2822 MCKINNEY AVE	MM WHITEWING HOLDINGS LP
2	2808 MCKINNEY AVE	POST APARTMENT HOMES LP
3	2642 ALLEN ST	EDGEWATER DEVELOPMENT LP
4	2610 ALLEN ST	2610 ALLEN ST LTD PS
5	2912 MCKINNEY AVE	EDGEWATER DEVELOPMENT LP
6	2900 MCKINNEY AVE	DUPLER BERTHA TR
7	2811 MCKINNEY AVE	2811 MCKINNEY LL LLC
8	2821 MCKINNEY AVE	MCKINNEY NEW VENTURES LLC
9	2909 MCKINNEY AVE	MCKINNEY NEW VENTURES LLC
10	2908 MCKINNEY AVE	DUPLER LAWRENCE R
11	2885 WOODSIDE ST	BLAKELEY JULIE
12	2885 WOODSIDE ST	SORRELS BARRY J & BRENDA
13	2885 WOODSIDE ST	ZEWALLOS DINA MARIA
14	2885 WOODSIDE ST	EIDEM JAMI M
15	2885 WOODSIDE ST	REYES FERNANDO & NORMA
16	2885 WOODSIDE ST	SRISINROONGRUANG RATTAPOL
17	2885 WOODSIDE ST	FILES THOMAS
18	2885 WOODSIDE ST	LINN ALEXANDER S
19	2885 WOODSIDE ST	DO TUAN & THUY LAM
20	2885 WOODSIDE ST	MANCINI MARY & DAVID
21	2885 WOODSIDE ST	ELLIS TIMOTHY W & PAULA J
22	2885 WOODSIDE ST	LATTNER DOUGLAS J &
23	2885 WOODSIDE ST	WASTI AJLA TASLEEM
24	2885 WOODSIDE ST	LITTLETON RICHARD J III
25	2885 WOODSIDE ST	HIERSCHE JERRY L & CATHERINE S
26	2885 WOODSIDE ST	LARDO NICHOLAS GRANT

06/02/2015

<b>Label #</b>	<b>Address</b>	<b>Owner</b>
27	2885 WOODSIDE ST	JACKSON TONY JARED
28	2885 WOODSIDE ST	ALLISON LODOWICK B
29	2885 WOODSIDE ST	MANCUSO DALE &
30	2885 WOODSIDE ST	JONES ANGELA
31	2885 WOODSIDE ST	FOSTER BRADLEY
32	2885 WOODSIDE ST	DUDLEY RICHARD C
33	2885 WOODSIDE ST	ONG ADRIAN
34	2885 WOODSIDE ST	BENNETT KELLY GEAN
35	2885 WOODSIDE ST	MCRAE PATRICK C
36	2885 WOODSIDE ST	HOLYFIELD AMANDA B TR
37	2885 WOODSIDE ST	JKL RENTALS LTD
38	2885 WOODSIDE ST	HERNANDEZ ASDRUBAL F &