

ZONING BOARD OF ADJUSTMENT, PANEL B
WEDNESDAY, MARCH 23, 2016
AGENDA

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

Donna Moorman, Chief Planner
Steve Long, Board Administrator

MISCELLANEOUS ITEM

Approval of the February 17, 2016 Board of Adjustment Panel B Public Hearing Minutes	M1
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UNCONTESTED CASES

BDA156-021(SL)	5024 Bowser Avenue REQUEST: Application of Steven Wood for a special exception to the landscape regulations	1
BDA156-024(SL)	4019 Frankford Road REQUEST: Application of Scott Morrison, represented by Travis Pierce of KSA Engineers, for a special exception to the landscape regulations	2

HOLDOVER CASE

BDA156-012(SL)	6127 Yorkshire Drive REQUEST: Application of David Diamond, represented by John Alexander, for a special exception to the single family use regulations	3
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REGUALR CASE

BDA156-026(SL)

1132 Ballard Avenue

REQUEST: Application of Barry Brewer for a
variance to the side yard setback regulations

4

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]

FILE NUMBER: BDA156-021(SL)

BUILDING OFFICIAL'S REPORT: Application of Steven Wood for a special exception to the landscape regulations at 5024 Bowser Avenue. This property is more fully described as Lot 6 & Lot 7, Block 3/2458, and is zoned PD-193 (LC), which requires mandatory landscaping. The applicant proposes to increase nonpermeable coverage and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 5024 Bowser Avenue

APPLICANT: Steven Wood

REQUEST:

A request for a special exception to the landscape regulations is made to maintain nonpermeable coverage added to a lot currently developed with a vehicle display, sales, or service use, and not fully provide required landscaping.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS IN OAK LAWN:

Section 51P-193-126(a)(4) of the Dallas City Code specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted revised alternate landscape plan is required.

Rationale:

- Staff concurs with the Chief Arborist and recommends approval of this request with the condition imposed above because this special exception will not compromise the spirit and intent of the of the landscape requirements of PD 193.

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 vehicle display, sales, or service use. The areas to the north and east are developed with multifamily use; and the areas to the south and west are developed with retail uses.

Zoning/BDA History:

1. BDA156-017, Property at 5021 Bowser Avenue (the property south of the subject site) On February 17, 2016, the Board of Adjustment Panel B granted a request for a special exception to the landscape regulations and imposed the following conditions: 1. Compliance with the submitted revised alternate landscape plan is required; and 2. The landscape plant material specifications must conform to the minimum tree and screening requirements of Section 51P-193.126. The case report stated that the request was made in conjunction with maintaining nonpermeable coverage added to a lot currently developed with a vehicle display, sales, or service use, and not fully provide required landscaping.

GENERAL FACTS/ STAFF ANALYSIS:

- This request focuses on maintaining nonpermeable coverage added to a lot currently developed with a vehicle display, sales, or service use, and not fully provide required landscaping. More specifically, according to the City of Dallas Chief Arborist, the features shown on the submitted revised alternate landscape plan would not conform to PD 193 landscape regulation standards related to the sidewalk location.
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.

- The City of Dallas Chief Arborist states in a memo (see Attachment A) that the request in this case is triggered by new construction of a parking lot with increased impervious surface on the property.
- The Chief Arborist notes that the submitted revised alternate landscape site plan is deficient in that the sidewalk is not placed between 5 to 12 feet from back of curb.
- The Chief Arborist listed several factors for consideration:
 1. Under landscape sidewalk requirements, a sidewalk for a non-residential district is required to be a minimum of 6 feet in width and placed between 5 and 12 feet from the back of the street curb. The sidewalk along Bowser is set 7' 3" from back of curb on the west side of the driveway at Bowser, and 13' 6" from back of curb along the east side of the driveway entry. The sidewalk adjusts for a short distance along Mahanna to avoid a utility pole. The sidewalk is a minimum of 6 feet in width except at the utility pole, where it is reduced to 4 feet.
 2. Street trees along Mahanna and Bowser are set back from the tree planting zone as allowed under ordinance when the owner is unable to plant in the parkway by permit. The required trees along Mahanna are placed in the required front yard to avoid underground utilities under the standard tree planting zone, and the location of the tree along Bowser is amended for restricted space for utilities and a visibility triangle at the driveway. A required detention drainage further restricts planting east of the driveway along Bowser. The required number of eight street trees are represented.
 3. The sidewalk along Mahanna discontinues at the end of the property which is adjacent to a public utility.
 4. The proposed landscape plan complies with all other landscape requirements for the placement and number of plant materials.
- The Chief Arborist recommends approval of the proposed landscape plan because the plan does not compromise the spirit and intent of this ordinance.
- The applicant has the burden of proof in establishing the following:
 - The special exception (where an alternate landscape plan has been submitted that is deficient in meeting the sidewalk location requirements of the PD 193 landscape regulations) will not compromise the spirit and intent of Section 51P 193-126: "Landscape, streetscape, screening, and fencing standards".
- If the Board were to grant this request and impose the submitted alternate landscape plan as a condition, the site would be granted exception from full compliance to the sidewalk location requirements of the PD 193 landscape regulations.

Timeline:

- January 7, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- February 9, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

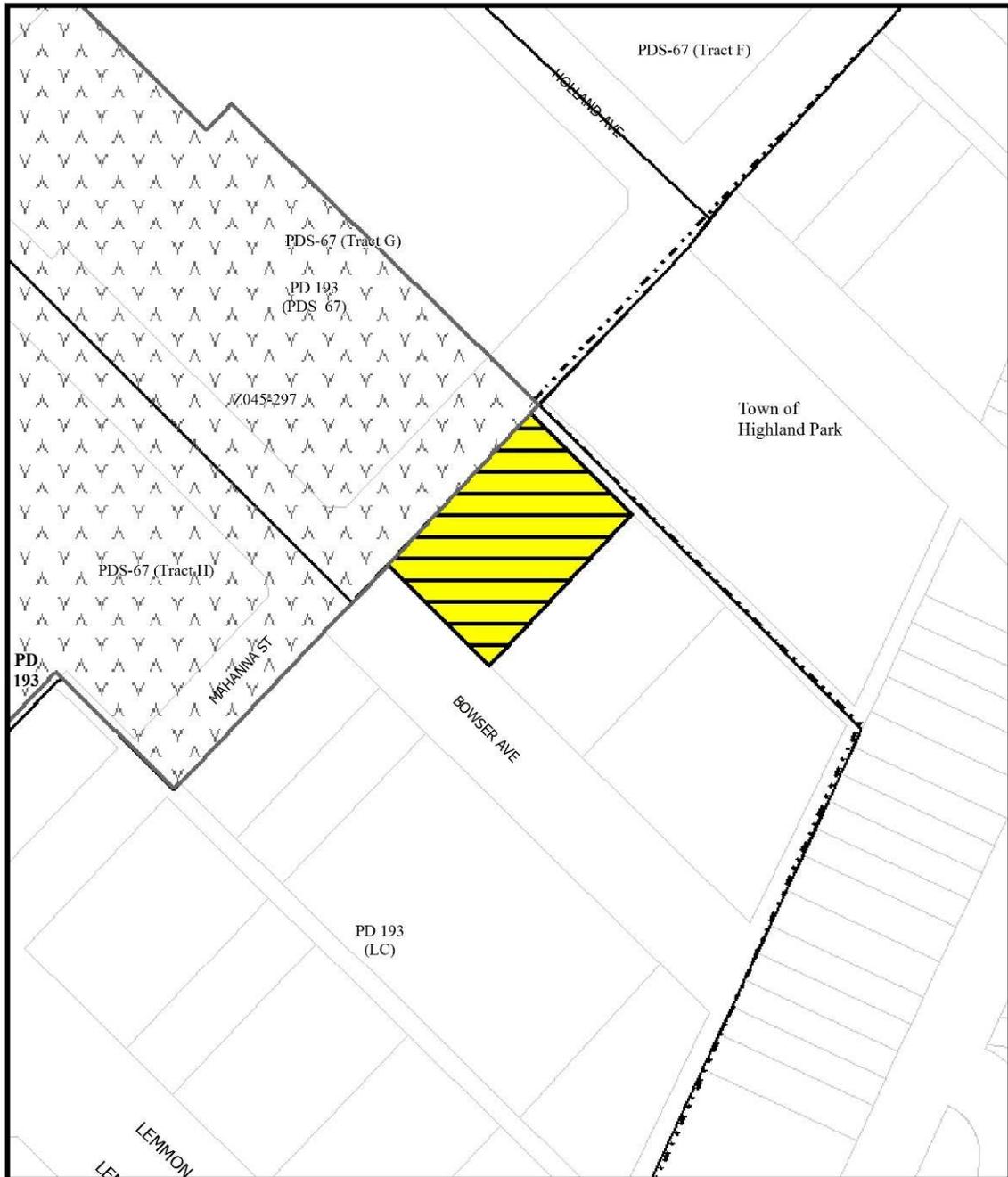
February 9, 2016: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the March 2nd deadline to submit additional evidence for staff to factor into their analysis; and the March 11th 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."

March 8, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Interim Building Official, the Sustainable Development and Construction Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, and the Assistant City Attorneys to the Board.

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

March 14, 2016: The City of Dallas Chief Arborist submitted a memo regarding the request (see Attachment A).

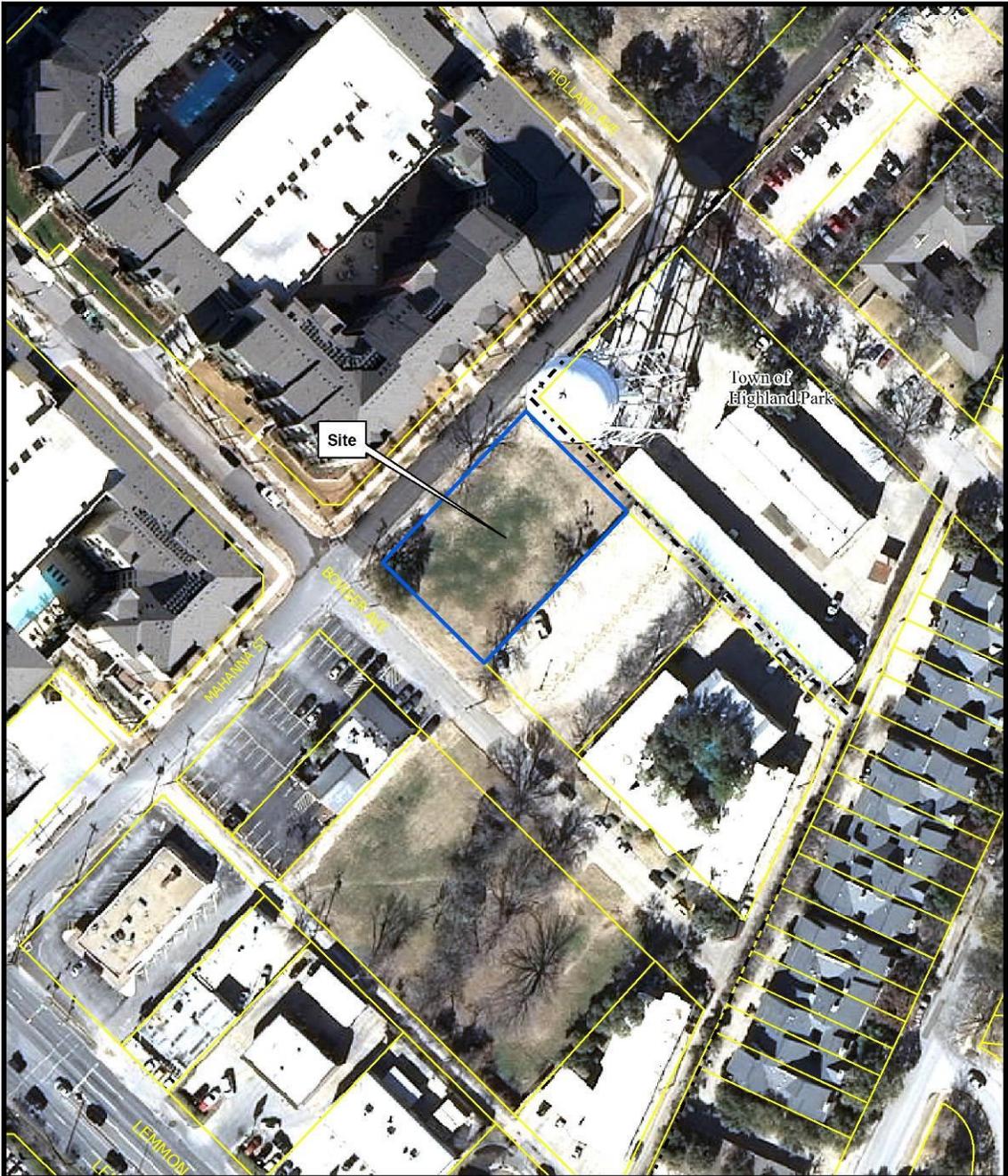


1:1,200

ZONING MAP

Case no: BDA156-021

Date: 2/17/2016



 1:1,200	<h1>AERIAL MAP</h1>	Case no: <u>BDA156-021</u> Date: <u>2/17/2016</u>
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Memorandum



CITY OF DALLAS

DATE March 14, 2016

TO

Steve Long, Board of Adjustment Administrator

SUBJECT # BDA 156 - 021

5024 Bowser

The applicant is requesting a special exception to the landscape requirements of PD 193 (LC).

Trigger

New construction of a parking lot with impervious surface increase on a property in an LC district in PD 193.

Deficiencies

The landscape design does not provide the correct placement of a required sidewalk in accordance with PD 193, Part 1, Section 51P-193.126(b)(4).

Factors

Under landscape sidewalk requirements, a sidewalk for a non-residential district is required to be a minimum of 6 feet in width and placed between 5 and 12 feet from the back of the street curb. The sidewalk along Bowser is set from back of curb 7' 3" on the west side of the driveway at Bowser, and 13' 6" from back of curb along the east side of the driveway entry. The sidewalk adjusts for a short distance along Mahanna to avoid a utility pole. The sidewalk is a minimum of 6 feet in width except at the utility pole, where it is reduced to 4 feet.

Street trees along Mahanna and Bowser are set back from the tree planting zone as allowed under ordinance for when the owner is unable to plant in the parkway by permit. The required trees along Mahanna are placed in the required front yard to avoid underground utility under the standard tree planting zone, and the tree along Bowser is amended for restricted space for utilities and a visibility triangle at the driveway. A required detention drainage restricts further planting east of the driveway along Bowser. The required number of eight street trees are presented.

The sidewalk along Mahanna discontinues at the end of the property which is adjacent to a public utility.

The proposed landscape plan complies with all other landscape requirements for the placement and number of plant materials.

BDA 156-021
Attach A, pg 2

Recommendation

The chief arborist recommends approval of the proposed landscape plan because the plan does not compromise the spirit and intent of this section.

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



B

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-021

Data Relative to Subject Property:

Date: 7 Jan, 2016

Location address: 5024 Bowser Zoning District: PD 193(LC)

Lot No.: 657 Block No.: 3/2458 Acreage: .4058 Census Tract: 6.01

Street Frontage (in Feet): 1) 95 2) 160 3) 4) 5) gw 22

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Bowser One LLC

Applicant: Steven Wood Telephone: (817) 682-2218

Mailing Address: P.O. Box 3293, Forney, TX 75124 Zip Code: 75126

E-mail Address: Steven@tx.permit.com

Represented by: Telephone:

Mailing Address: Zip Code:

E-mail Address:

Affirm that an appeal has been made for a Variance, or Special Exception X, of Landscape Sidewalk Location

PD 193 Landscape Regulations

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:

Requesting a landscape special exception for placement of sidewalks in PD 193

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.

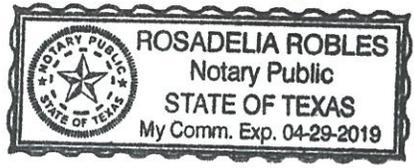
Affidavit

Before me the undersigned on this day personally appeared Steven Wood (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 7 day of January 16



Rosadelia Robles 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 Steven Wood

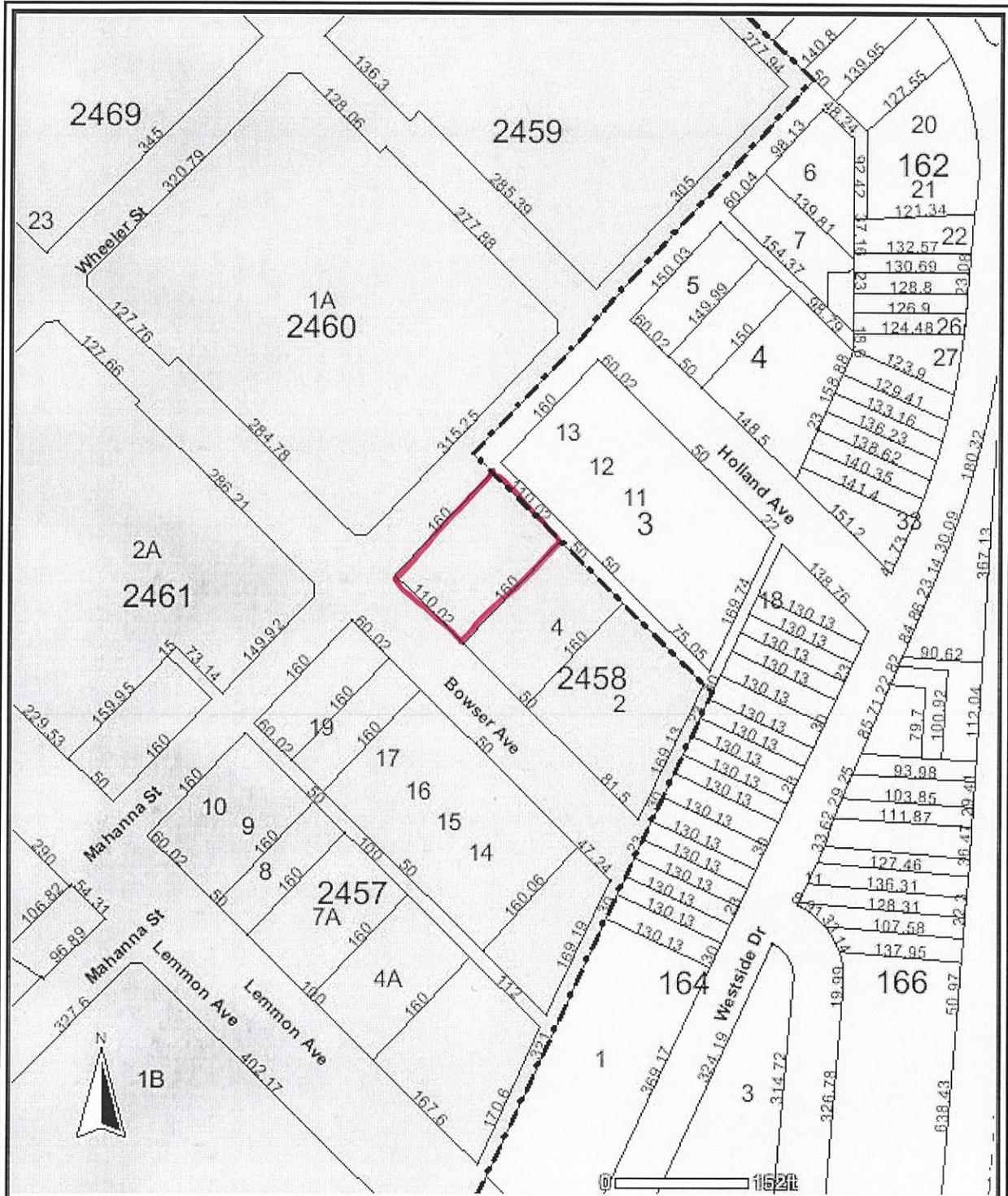
did submit a request for a special exception to the landscaping regulations
at 5024 Bowser Avenue

BDA156-021. Application of Steven Wood for a special exception to the landscaping regulations at 5024 Bowser Avenue. This property is more fully described as Lot 6 & Lot 7 Block 3/2458, and is zoned PD-193 (LC), 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 regulations.

Sincerely,

Philip Sikes
Philip Sikes, 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.

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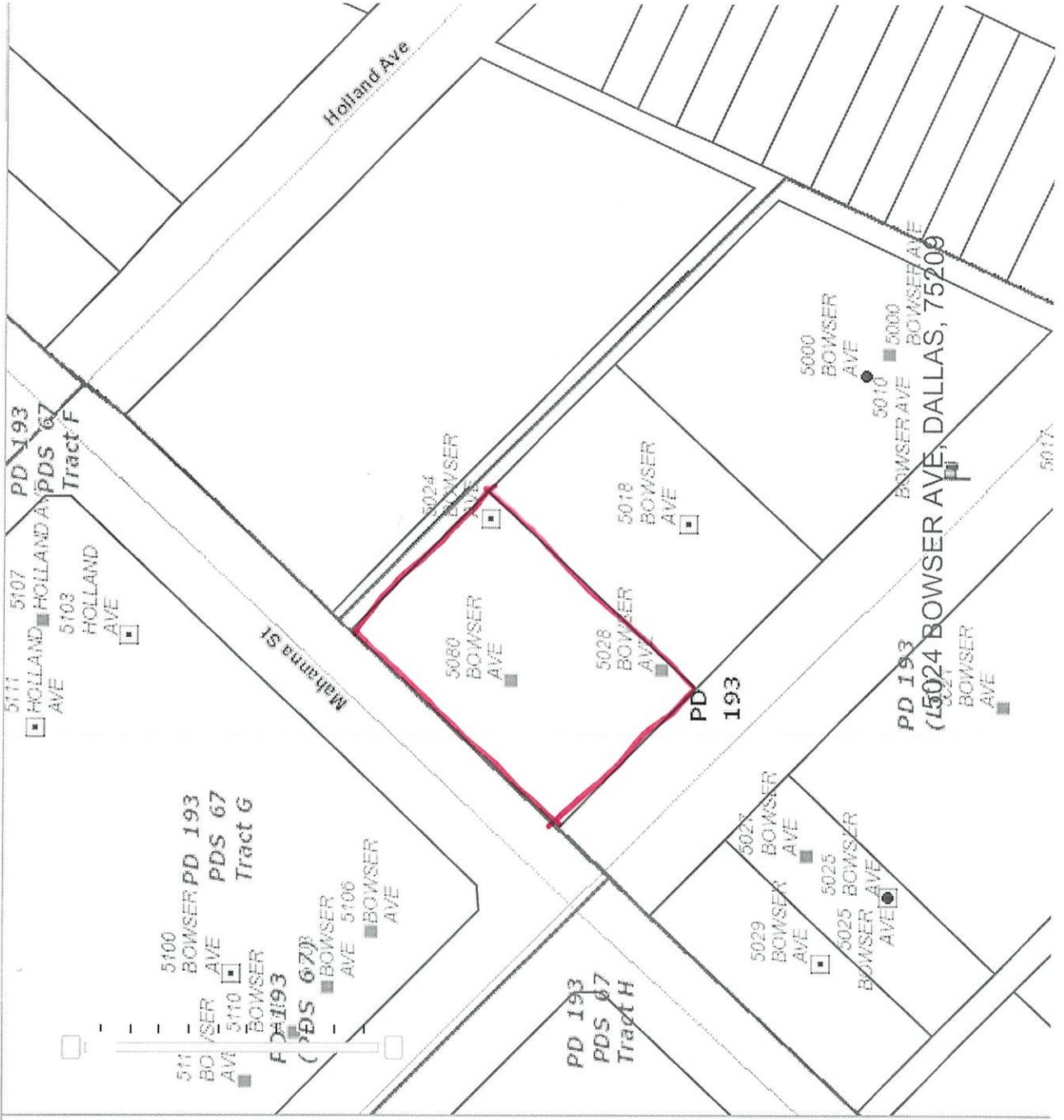
City of Dallas

Internal Development Research Site

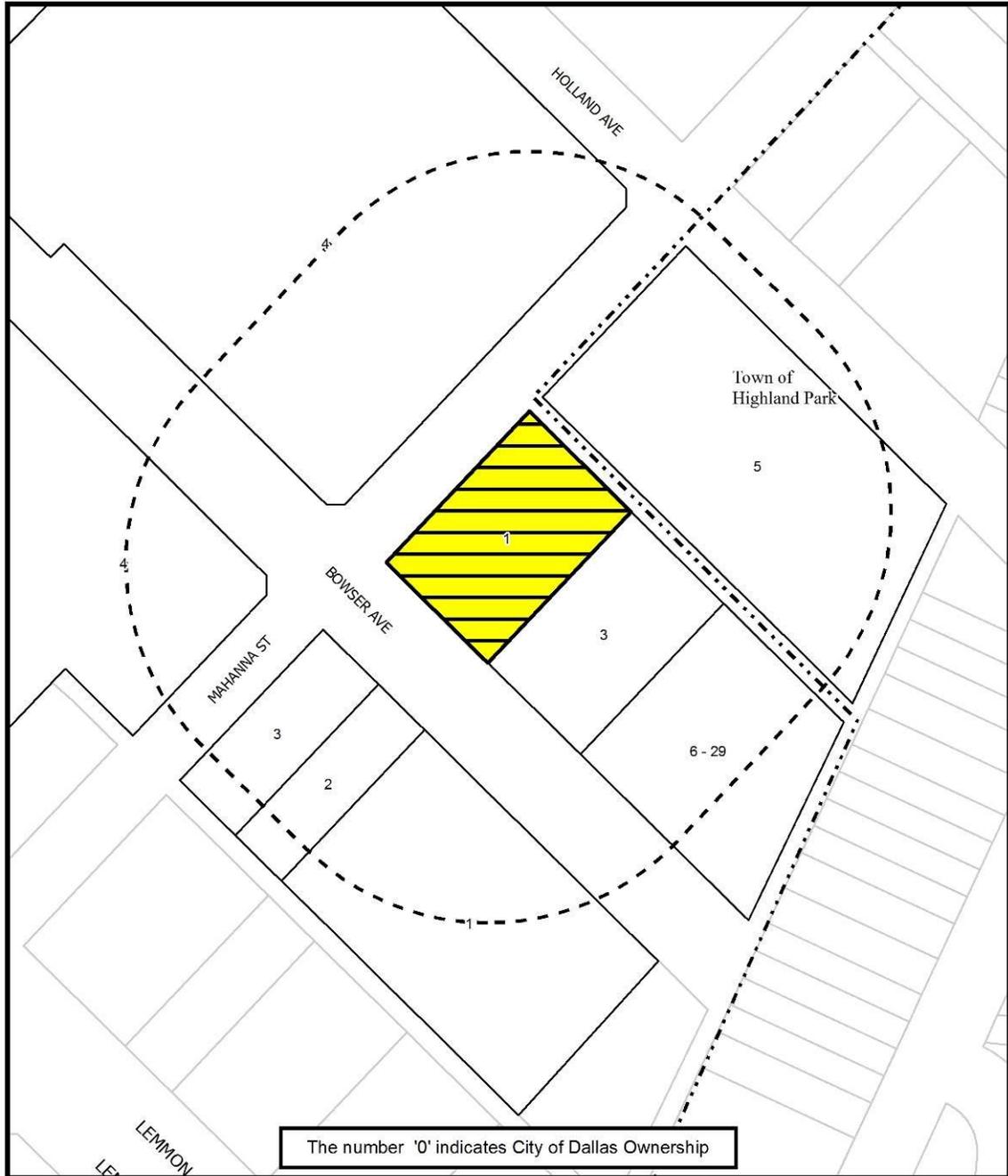
Legend

BDA 156-021

1-12



500 117



The number '0' indicates City of Dallas Ownership

 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="width: 15%; text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">29</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	29	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: BDA156-021 Date: 2/17/2016
200'	AREA OF NOTIFICATION					
29	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA156-021

29 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5021 BOWSER AVE	BOWSER ONE LLC
2	5025 BOWSER AVE	OTHER DOOR INC THE
3	5029 BOWSER AVE	OTHER DOOR INC THE
4	5100 BOWSER AVE	GS CITYVILLE LP
5	5005 HOLLAND AVE	HIGHLAND PARK TOWN OF
6	5000 BOWSER AVE	MORGAN BRYAN E
7	5000 BOWSER AVE	WEISFELD HERSCHEL A
8	5000 BOWSER AVE	VANGOOL ALFRED &
9	5000 BOWSER AVE	LLAMAS SILVIA
10	5000 BOWSER AVE	TAYLOR KENT L
11	5000 BOWSER AVE	TUVENG JASON
12	5000 BOWSER AVE	WIGNALL PAUL G
13	5000 BOWSER AVE	ROBERTS FABIAN
14	5000 BOWSER AVE	PUTNAM JAMES PERLEY JR
15	5000 BOWSER AVE	NASTASI RAY
16	5000 BOWSER AVE	NGUYEN HAI
17	5010 BOWSER AVE	IPENEMA INVESTMENTS LTF
18	5010 BOWSER AVE	IBANEZ CARLOS
19	5010 BOWSER AVE	GRAVEMAN ANTHONY T
20	5010 BOWSER AVE	FORMBY LUCILLE M
21	5010 BOWSER AVE	GARCIA ROSA G TR &
22	5010 BOWSER AVE	MOSHINSKI KEVIN C
23	5010 BOWSER AVE	PATTERSON STEVE
24	5010 BOWSER AVE	FOOTE JERROD NATHAN
25	5010 BOWSER AVE	CASTILLO ALEJANDRO & MARIA
26	5010 BOWSER AVE	GOOL ALFRED V

02/17/2016

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	5000 BOWSER AVE	MONTES LYDIA &
28	5000 BOWSER AVE	HARBORTH DANNY G &
29	5000 BOWSER AVE	JONES JERRY GLENN

FILE NUMBER: BDA156-024(SL)

BUILDING OFFICIAL'S REPORT: Application of Scott Morrison, represented by Travis Pierce of KSA Engineers, for a special exception to the landscape regulations at 4019 Frankford Road. This property is more fully described as Lot 52D, Block 3/8740, and is zoned CR, 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: 4019 Frankford Road

APPLICANT: Scott Morrison
Represented by Travis Pierce of KSA Engineers

REQUEST:

A special exception to the landscape regulations is made to construct and maintain an auto service center use/structure on a site currently undeveloped, 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 alternate landscape plan is required.

Rationale:

- Staff concurs with the Chief Arborist and recommends approval of the proposed landscape plan because strict compliance with the street tree requirements for this building site will unreasonably burden the use of the property, and the plan does not adversely affect neighboring properties.

BACKGROUND INFORMATION:

Zoning:

Site: CR (Community retail)
North: CR (Community retail)
South: CR (Community retail)
East: CR (Community retail)
West: CR (Community retail)

Land Use:

The subject site is undeveloped. The areas to the north, south, and west are developed with retail uses; and the area to the west is developed with a child care facility use.

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 developing the site with an auto service center use/structure and not fully meeting the landscape regulations, more specifically not providing the required number of street 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 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 of commercial development.

- With regard to how the proposal is deficient to the landscape regulations, the Chief Arborist stated that street tree requirements of Article X call for one large tree per 50 feet of frontage, with a minimum of two street trees, to be planted within 30 feet of the street curb. The proposed landscape plan calls for no street trees.
- The Chief Arborist’s memo lists the following factors for consideration:
 1. The property is a portion of a previously platted development site which has frontage only along Frankford Road through a shared access easement set into its property.
 2. The applied design with the adjacent previously developed lots restricts the ability of this lot to adjust for suitable planting areas for large street trees without significant compromises being made by the adjacent properties to amend platted boundary lines to accommodate the additional plantings for this property.
 3. The proposed plan has no other Article X deficiencies. No trees are required for tree mitigation purposes.
- The City of Dallas Chief Arborist recommends approval of the proposed landscape plan because strict compliance with the street tree requirements for this building site will unreasonably burden the use of the property, and the plan does not adversely affect neighboring properties.
- 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 landscape plan as a condition to the request, the site would be provided exception from full compliance with the required number of street trees on the subject site.

Timeline:

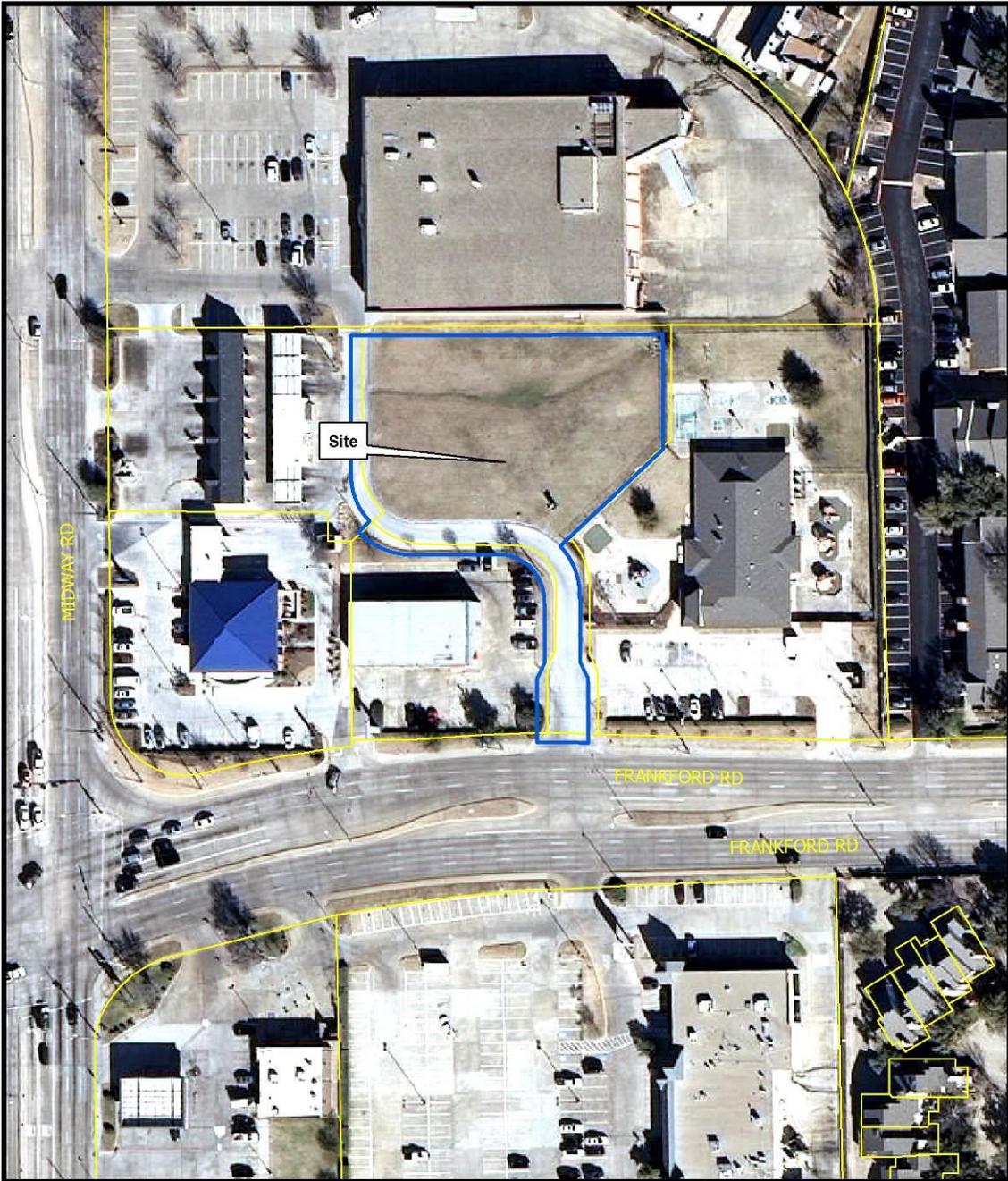
- January 21, 2016: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- February 9, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- February 9, 2016: The Board Administrator emailed the applicant’s representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the March 2nd deadline to submit additional evidence for staff to factor into their analysis; and the March 11th 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.”

March 8, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Interim Building Official, the Sustainable Development and Construction Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, and the Assistant City Attorneys to the Board.

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

March 14, 2016: The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment A).





1:1,200

AERIAL MAP

Case no: BDA156-024

Date: 2/17/2016

BDA156-024
Attach A

Memorandum



CITY OF DALLAS

DATE March 14, 2016
TO Steve Long, Board of Adjustment Administrator
SUBJECT # BDA 156 · 024 4019 Frankford Road

The applicant is requesting a special exception to the landscape requirements of Article X.

Trigger

New construction commercial development in a CR district.

Deficiencies

The street tree requirements of Article X, Section 51A-10.125(b)(4) call for one large tree per fifty feet of frontage, with a minimum of two street trees, to be planted within 30 feet of the street curb. The proposed landscape plan calls for no street trees.

Factors

The property is a portion of a previously platted development site which has frontage only along Frankford Road through a shared access easement set into its property.

The applied design with the adjacent previously developed lots restricts the ability of this lot to adjust for suitable planting areas for large street trees without significant compromises being made by the adjacent properties to amend platted boundary lines to accommodate the additional plantings for this property.

The proposed plan has no other Article X deficiencies. No trees are required for tree mitigation purposes.

Recommendation

The chief arborist recommends approval of the proposed landscape plan because strict compliance with the street tree requirements for this building site will unreasonably burden the use of the property, and the plan does not adversely affect neighboring properties.

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



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-024

Data Relative to Subject Property:

Date: 1-21-16

Location address: 4019 Frankford Road Zoning District: CR-~~Auto Service Center~~

Lot No.: 52D Block No.: 3/18740 Acreage: 0.940 Census Tract: 317.11

Street Frontage (in Feet): 1) 30.59 2) _____ 3) _____ 4) _____ 5) NEIR

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Zell Three Inc., a Delaware corporation

Applicant: Scott Morrison Telephone: 972.572.2489

Mailing Address: 1190 Explorer Street Duncanville, Texas Zip Code: 75137

E-mail Address: smorrison@citygaragedfw.com

Represented by: Travis Pierce - KSA Engineers Telephone: 903.520.7964

Mailing Address: 8875 Synergy Drive McKinney, Texas Zip Code: 75070

E-mail Address: tpierce@ksa.eng.com

Affirm that an appeal has been made for a Variance __, or Special Exception X, of the Street Tree Mandatory Provisions in Article X.

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: Due to the geometry of the property and the existing site conditions, modifications of the Frankford Road drive approach would be required in order to create an unpaved area for street trees to be planted. These modifications would impact the adjacent property owners along with existing utilities. Therefore, the alternate landscape plan is provided for approval by the Board of Adjustments.

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

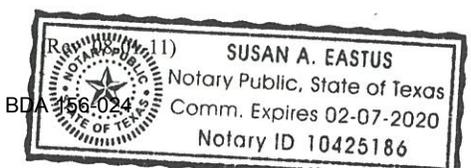
Before me the undersigned on this day personally appeared Scott Morrison (Affiant/Applicant's name printed)

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 19th day of JANUARY, 2016

Susan A. Eastus
Notary Public in and for Dallas County, Texas

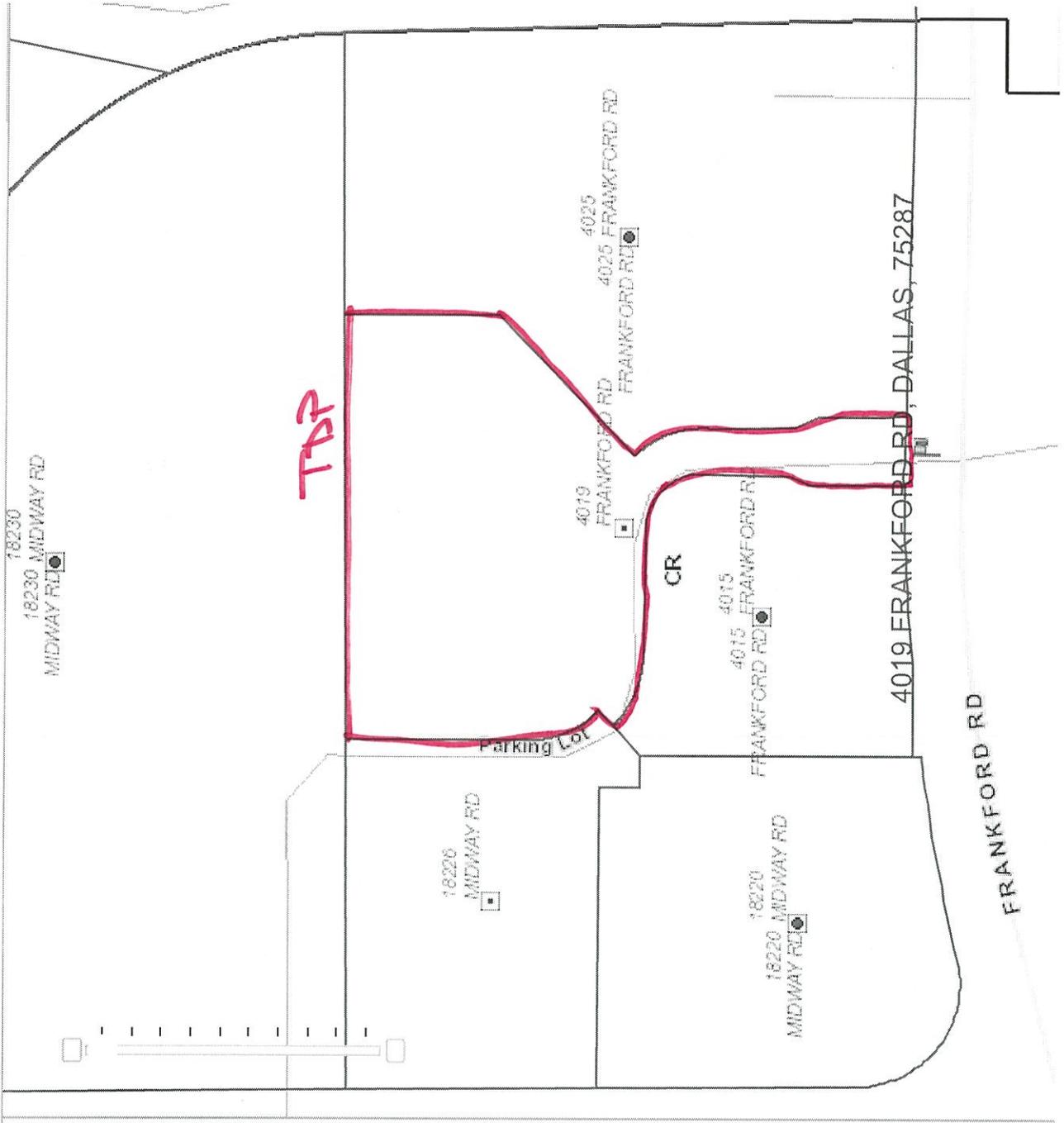


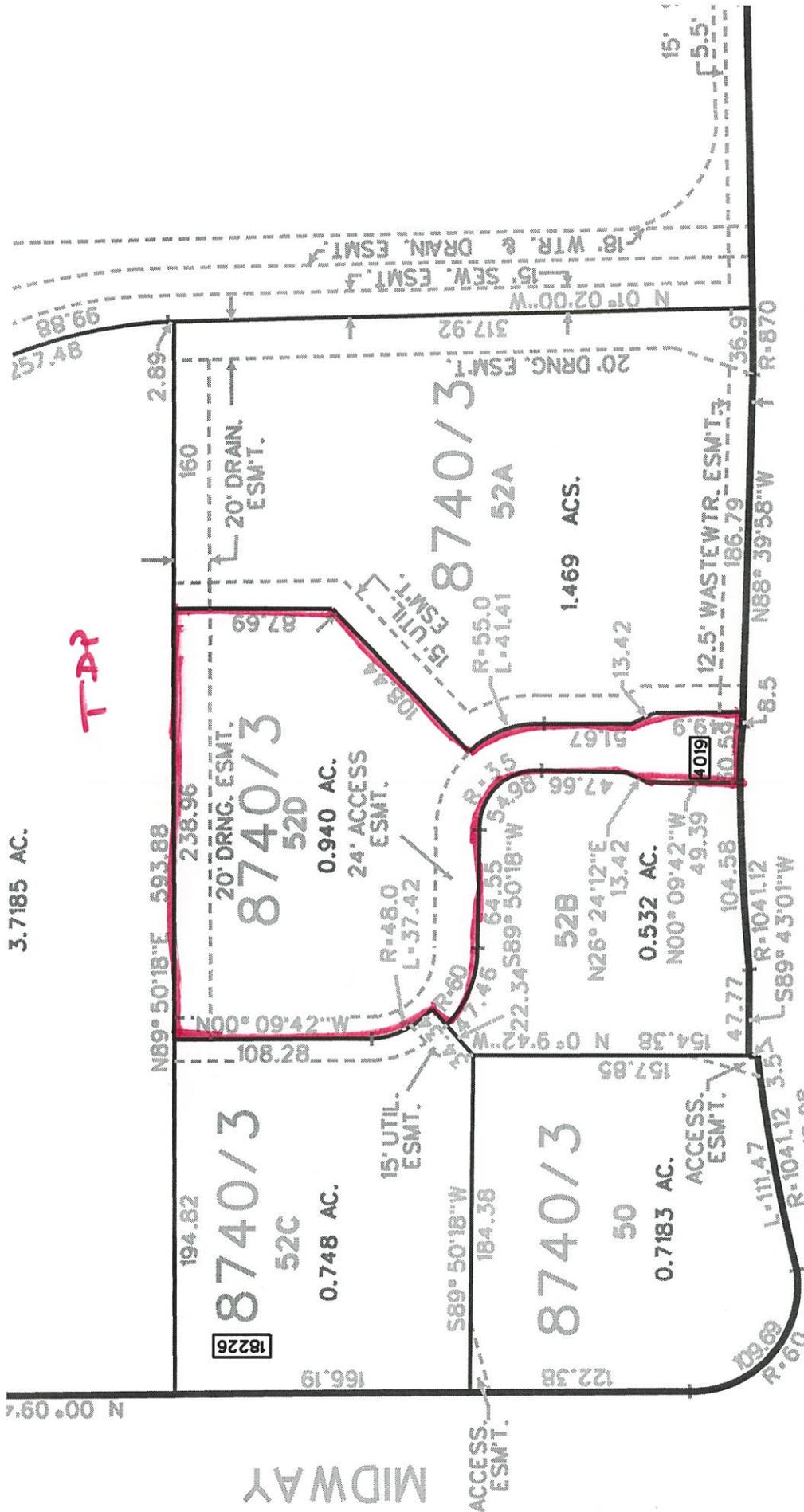
City of Dallas

Internal Development Research Site

Legend

Locate Property





3.7185 AC.

TRP

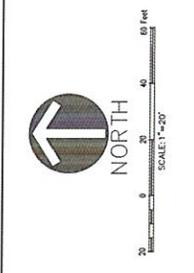
FRANKFORD

4000

100



DATE: 10/27/15
PROJECT: CITY GARAGE
SCALE: 1"=20'



City of Dallas
Landscape City Garage

Final Landscape Plan will meet all requirements of City of Dallas Development Code, 51A-10.006. All landscape will be installed within 90 days of the date of final approval. All plant material must be spaced within plant space and will be selected for approved plant lists, 51A-10.012(1).

PLANT LIST

PLANT LIST	QUANTITY	SIZE	MIN. HT.	SPACE	REMARKS
(M) MONTEREY OAK Quercus parvifolia	3	10"	10'	12'	Single trunk
(R) RED OAK Quercus shumardii	3	10"	10'	12'	Single trunk
(L) LACINIAE ELM Ulmus parvifolia	3	10"	10'	12'	Single trunk
(O) OLYMPIAN BIRCH Betula pumila	3	10"	10'	12'	Single trunk
(DB) DWARF BURFORD HOLLY Ilex cornuta 'Nana'	3	5"	3'	3'	Full
BETUNGA 500	3	5"	3'	3'	Full

LEGEND

- (M) MONTEREY OAK
- (R) RED OAK
- (L) LACINIAE ELM
- (O) OLYMPIAN BIRCH
- (DB) DWARF BURFORD HOLLY
- BETUNGA 500

DETAILED NOTES:

1) Minimum of 20% of the planted areas developed must be planted with native species.

2) All trees and shrubs must be installed within 90 days of the date of final approval.

3) All trees and shrubs must be spaced within plant space and will be selected for approved plant lists, 51A-10.012(1).

4) All trees and shrubs must be installed within 90 days of the date of final approval.

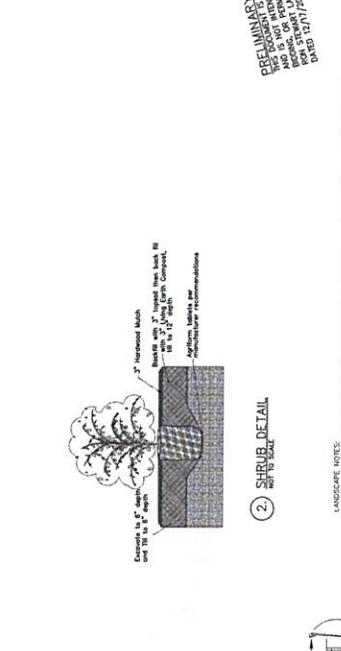
5) All trees and shrubs must be spaced within plant space and will be selected for approved plant lists, 51A-10.012(1).

6) All trees and shrubs must be installed within 90 days of the date of final approval.

7) All trees and shrubs must be spaced within plant space and will be selected for approved plant lists, 51A-10.012(1).

PLANT LIST

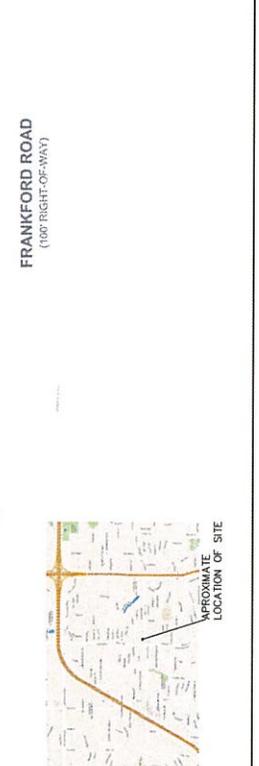
PLANT LIST	QUANTITY	SIZE	MIN. HT.	SPACE	REMARKS
(M) MONTEREY OAK	3	10"	10'	12'	Single trunk
(R) RED OAK	3	10"	10'	12'	Single trunk
(L) LACINIAE ELM	3	10"	10'	12'	Single trunk
(O) OLYMPIAN BIRCH	3	10"	10'	12'	Single trunk
(DB) DWARF BURFORD HOLLY	3	5"	3'	3'	Full
BETUNGA 500	3	5"	3'	3'	Full



LANDSCAPE NOTES:

- Contractor shall stake out tree locations and bed configuration for approval by owner prior to installation.
- It is the responsibility of the contractor to select the species representative of any condition found on site which prohibits installation of any other species.
- All trees and shrubs must be installed within 90 days of the date of final approval.
- Tree trunk and permanent trees will be spaced in the city's right of way staff approval only. Must be include any utility markings.
- Minimum clear head clearance height of one foot above the finished ground surface must be maintained for all trees and shrubs.
- All trees and shrubs must be installed within 90 days of the date of final approval.
- All trees and shrubs must be spaced within plant space and will be selected for approved plant lists, 51A-10.012(1).
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- All trees and shrubs must be spaced within plant space and will be selected for approved plant lists, 51A-10.012(1).

Street Tree Mandatory Provision in Article X - Special Exception



Notification List of Property Owners

BDA156-024

9 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4015 FRANKFORD RD	ZELL THREE INC
2	4019 FRANKFORD RD	FRANKFORD INVESTMENTS LLC
3	18226 MIDWAY RD	GLEAGROUP INC
4	4055 FRANKFORD RD	BROWN WALKER'S MARK LLC
5	18240 MIDWAY RD	DOMASKY ALISSA KRISTINE
6	18110 MIDWAY RD	FRANKFORD CENTER LTD
7	18230 MIDWAY RD	GOODWILL INDUSTRIES DALLAS INC
8	4025 FRANKFORD RD	KC PROPCO HOLDING I LLC
9	18220 MIDWAY RD	MAGNIN TERRY MACK REVOCABLE TRUST

FILE NUMBER: BDA156-012(SL)

BUILDING OFFICIAL'S REPORT: Application of David Diamond, represented by John Alexander, for a special exception to the single family use regulations at 6127 Yorkshire Drive. This property is more fully described as Lot 16, Block 5/6378, and is zoned R-16(A), which limits the number of dwelling units to one. The applicant proposes to construct and maintain an additional dwelling unit, which will require a special exception to the single family zoning use regulations.

LOCATION: 6127 Yorkshire Drive

APPLICANT: David Diamond
Represented by John Alexander

REQUEST:

A request for a special exception to the single family use development standard regulations is made to construct and maintain a two-story cabana/additional "dwelling unit" structure on a site being developed with a two-story main single family home/dwelling unit structure.

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE FAMILY USE DEVELOPMENT STANDARDS REGULATIONS TO AUTHORIZE AN ADDITIONAL DWELLING UNIT:

The board may grant a special exception to the single family use development standards regulations of the Dallas Development Code to authorize an additional dwelling unit on a lot when, in the opinion of the board, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties.

In granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent use of the additional dwelling unit as rental accommodations.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to authorize an additional dwelling unit since the basis for this type of appeal is when in the opinion of the board, the additional dwelling unit will not: 1) be used as rental accommodations; or 2) adversely affect neighboring properties.

BACKGROUND INFORMATION:

Zoning:

Site: R-16(A) (Single family district 16,000 square feet)
North: R-16(A) (Single family district 16,000 square feet)
South: R-16(A) (Single family district 16,000 square feet)
East: R-16(A) (Single family district 16,000 square feet)
West: R-16(A) (Single family district 16,000 square feet)

Land Use:

The subject site is being developed with a single family home. The areas to the north, south, east, 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 cabana/additional “dwelling unit” structure on a site being developed with a two-story main single family home/dwelling unit structure.
- The site is zoned R-1ac (A) where the Dallas Development Code permits one dwelling unit per lot.
- The single family use regulations of the Dallas Development Code state that only one dwelling unit may be located on a lot, and that the board of adjustment may grant a special exception to this provision and authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: 1) be contrary to the public interest; or 2) adversely affect neighboring properties.
- The Dallas Development Code defines “single family” use as “one dwelling unit located on a lot;” and a “dwelling unit” as “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.”
- The Dallas Development Code defines “kitchen” as “any room or area used for cooking or preparing food and containing one or more ovens, stoves, hot plates, or microwave ovens; one or more refrigerators; and one or more sinks. This definition does not include outdoor cooking facilities.”
- The Dallas Development Code defines “bathroom” as “any room used for personal hygiene and containing a shower or bathtub, or containing a toilet and sink.”

- The Dallas Development Code defines “bedroom” as “any room in a dwelling unit other than a kitchen, dining room, living room, bathroom, or closet. Additional dining rooms and living rooms, and all dens, game rooms, sun rooms, and other similar rooms are considered bedrooms.”
- The submitted site plan denotes the location of two building footprints, the larger of the two denoted as “two story stone and brick” and the smaller of the two denoted as “two story cabana 25% of main house”. The latter structure has been deemed by Building Inspection, given what is denoted on a submitted site plan as an additional dwelling unit - that is per Code definition: “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.”
- The site plan represents the sizes and locations of the two building footprints relative to the entire lot.
- This request appears to center on the function of what is proposed to be inside the smaller structure on the site – the “two story cabana” structure. The applicant has written the following: “the cabana plan for 6127 Yorkshire complies with all requirements by the city of Dallas with the exception of the wall that reflects a refrigerator, stove, dishwasher which comprises a kitchen..... It complies with all other City of Dallas building specifications....size, height, percent of main dwelling and any other requirements have been met...”
- DCAD records indicate “main improvement” for the property at 6127 Yorkshire Drive to be a structure with 6,741 square feet of living area/total area built in 2015, and the “additional improvements” to be the following: a 323 square foot attached garage, a 528 square foot attached garage, and a 390 square foot outdoor living area.
- The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions, if approved) and will not adversely affect neighboring properties.
- If the Board were to approve this request, the Board may choose to impose a condition that the applicant comply with the site plan if they feel it is necessary to ensure that the special exception will not adversely affect neighboring properties. But granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e. development on the site must meet all required code requirements).
- As of March 11, 2016, no additional information had been submitted to staff from what was presented prior to and at the February 17th public hearing.
- The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

Timeline:

December 15, 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.

- January 6, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- January 6, 2016: The Board Administrator contacted the applicant and emailed him the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the January 27th deadline to submit additional evidence for staff to factor into their analysis; and the February 5th 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.”
- January 25, 2016: The applicant’s representative submitted additional information to staff beyond what was submitted with the original application (see Attachment A).
- February 2, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Sustainable Development and Construction Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Project Engineers, and the Assistant City Attorneys to the Board.
- No review comment sheets with comments were submitted in conjunction with this application.
- February 17, 2016: The Board of Adjustment Panel A conducted a public hearing on this application. The Board delayed action on this application until their next public hearing to be held on March 22, 2016.
- February 22, 2016: The Board Administrator wrote the applicant a letter that provided the board’s action; and the March 2nd deadline to submit additional evidence for staff to factor into their analysis; and the March 11th deadline to submit additional evidence to be incorporated into the Board’s docket materials.
- March 8, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Interim Building Official, the Sustainable Development and Construction Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans

Examiners/Development Code Specialist, the City of Dallas Chief Arborist, and the Assistant City Attorneys to the Board.

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

BOARD OF ADJUSTMENT ACTION: FEBRUARY 17, 2016

APPEARING IN FAVOR: Rob Baldwin, 3904 Elm St., Suite B, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Cannon

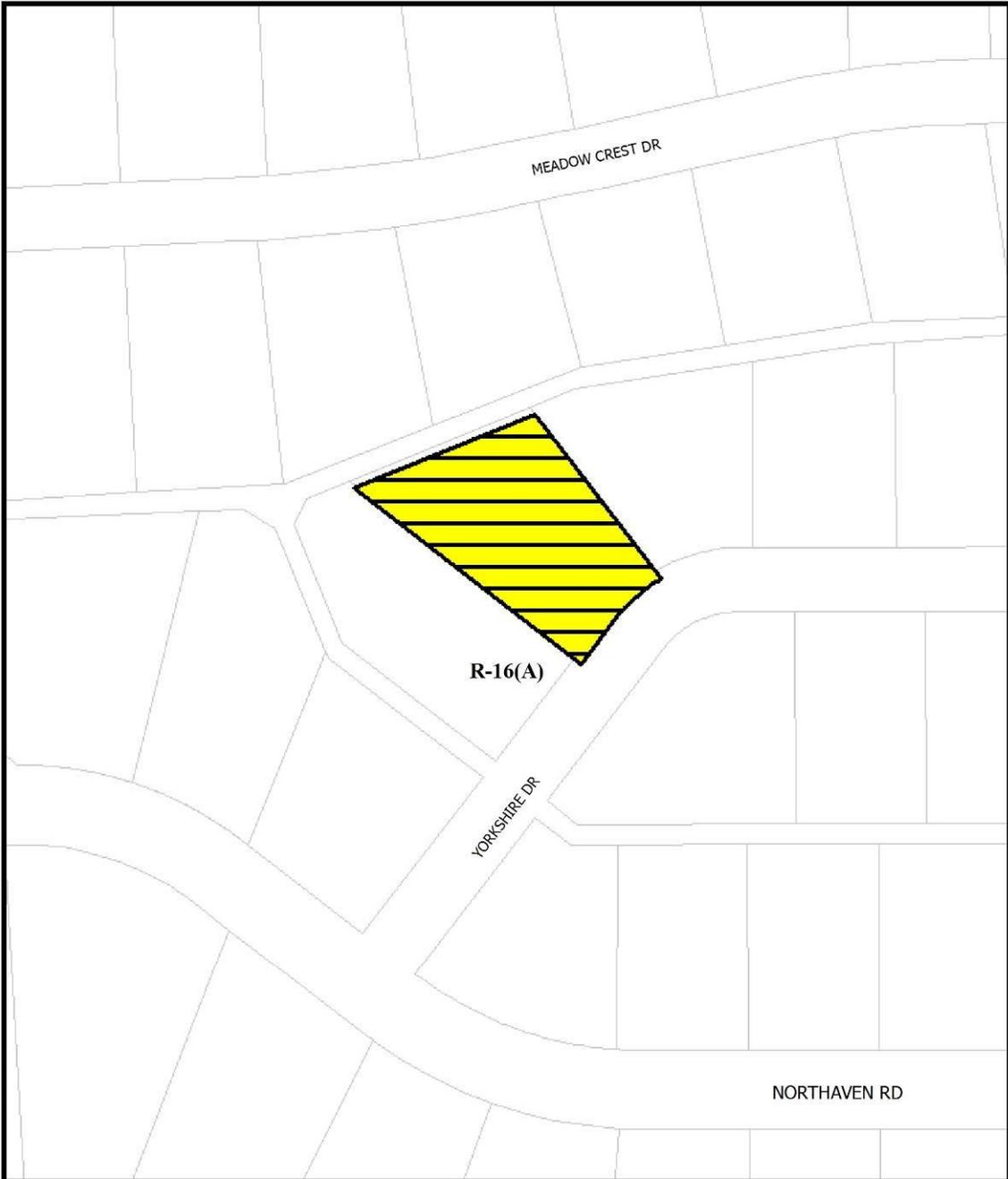
I move that the Board of Adjustment, in request No. **BDA 156-012**, hold this matter under advisement until **March 23, 2016**.

SECONDED: Bartos

AYES: 5—Hounsel, Brannon, Winslow, Cannon, Bartos

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

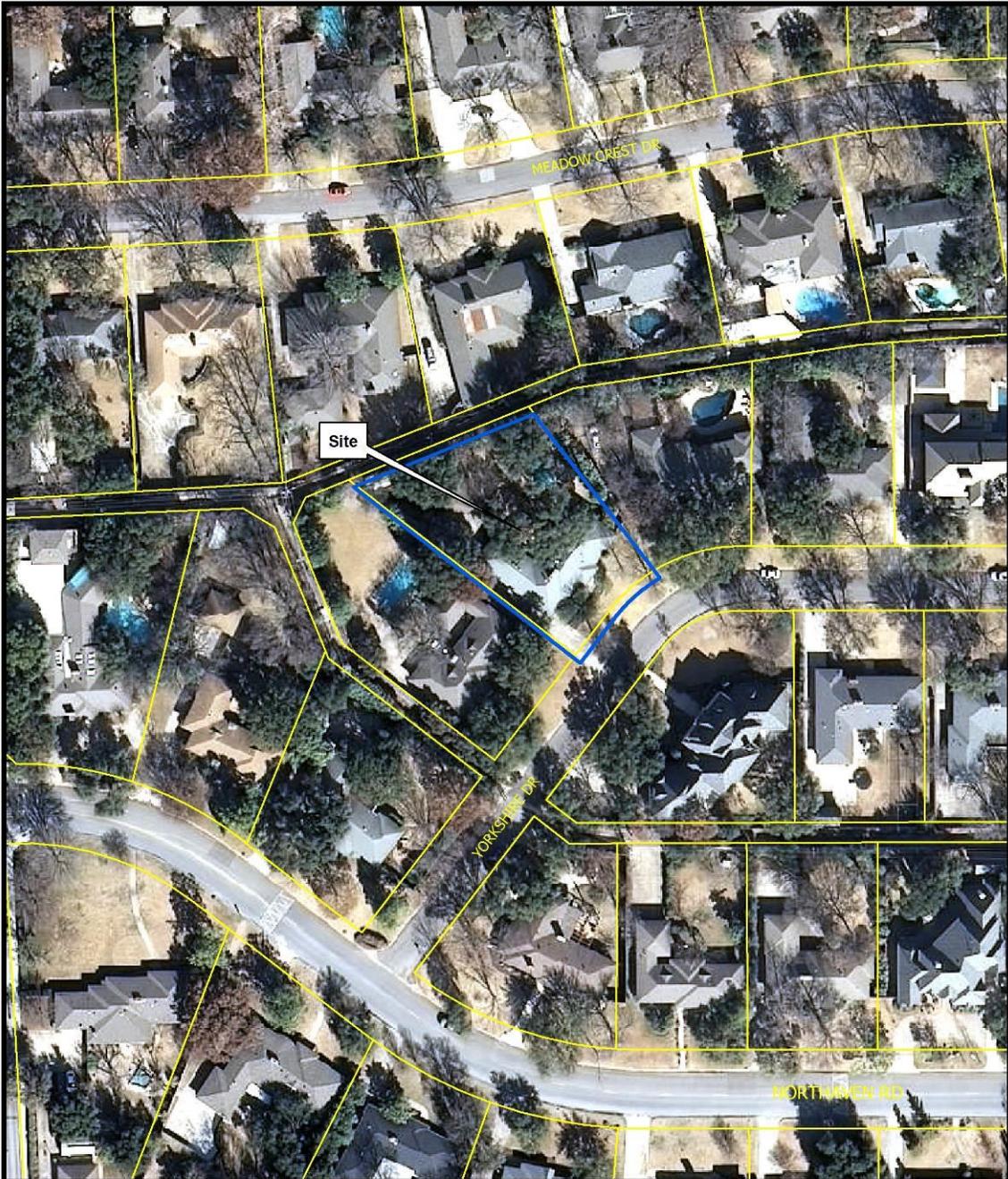


1:1,200

ZONING MAP

Case no: BDA156-012

Date: 1/20/2016



1:1,200

AERIAL MAP

Case no: BDA156-012

Date: 1/20/2016

BDA156-012
A Hesh A
PS1

Long, Steve

From: Long, Steve
Sent: Tuesday, January 26, 2016 6:03 AM
To: 'John L Alexander'
Cc: Moorman, Donna; Duerksen, Todd; Morrison, Laura
Subject: RE: BDA156-012, Property at 6127 Yorkshire Drive

Thank you, Mr. Alexander.

I will print this email and add it to your file.

Steve

From: John L Alexander [<mailto:jla918@att.net>]
Sent: Monday, January 25, 2016 3:27 PM
To: Long, Steve
Subject: RE: BDA156-012, Property at 6127 Yorkshire Drive

Hello Steve,

As we discussed earlier the Cabana plan for 6127 Yorkshire complies with all requirements by the city of Dallas with the exception of the wall that reflects a refrigerator, stove, dishwasher which comprises a kitchen..... It complies with all other City of Dallas building specifications....size, height, percent of main dwelling and any other requirements have been met...

Thank you,

Larry Alexander
Archway Homes
214-507-7864

From: Long, Steve [<mailto:steve.long@dallascityhall.com>]
Sent: Monday, January 25, 2016 8:47 AM
To: jla918@att.net
Subject: FW: BDA156-012, Property at 6127 Yorkshire Drive

Dear Mr. Alexander,

Once again, I am wondering if you are able to represent to the board that if your special exception request were denied, that the "two story cabana" as shown on your submitted site plan could be modified and maintained with merely modifications to the function/use inside it (or to the floor plan) since the structure as it is represented on your submitted site plan complies with all other applicable zoning code development standards other than the single family use provisions in Chapter 51A since no application has been made for variance or special exception to any other zoning code provision.

Can you make this representation to the board?

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

BDA 156-012
Attach A
PS 2

Thank you,

Steve

From: Long, Steve
Sent: Wednesday, January 06, 2016 12:47 PM
To: 'jla918@att.net'
Cc: Duerksen, Todd
Subject: BDA156-012, Property at 6127 Yorkshire Drive

Dear Mr. Alexander,

Here is information regarding the application to the board of adjustment at the address referenced above that you are representing for David Diamond most of which we just discussed on the phone:

1. The submitted application materials- all of which will be emailed to you, city staff, and the board of adjustment members in a docket report about a week ahead of your tentatively scheduled February 17th Board of Adjustment Panel B public hearing.
2. The single family use provisions from the Dallas Development Code that provides: a) the regulation from which you are seeking special exception from (51A-4.209(6)(A)); b) the standard as to how the board is able to grant a special exception to this regulations (51A-4.209(6)(E)(v)); and c) the accessory structure provisions (51A-4.209(6)(vii)).
3. A sample deed restriction template that you would be required to submit after your public hearing once and if your request is granted by the board.
4. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board.
5. The board's rule pertaining to documentary evidence.

Please carefully review the attached application materials to make sure they are complete, and within these materials, the Building Official's Report/second page of the application (page 2 of 5 in these attached materials). Please contact Todd Duerksen at 214/948-4475 no later than noon, Wednesday, January 27th with regard to any amendment that you feel is necessary to address the issue at hand. (Note that the discovery of any additional appeal needed beyond the requested single family use development standards special exception will result in postponement of the appeal until the panel's next regularly scheduled public hearing).

Lastly, would you be able to represent to the board that if your special exception request were denied, that the "two story cabana" as shown on your submitted site plan could be modified and maintained with merely modifications to the function/use inside it (or to the floor plan) since the structure as it is represented on your submitted site plan complies with all other applicable zoning code development standards other than the single family use provisions in Chapter 51A since no application has been made for any other zoning code provision?

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

Thank you,

Steve

PS: If there is anything that you want to submit to the board on this application beyond what you have included in your application materials, please feel free to email it to steve.long@dallascityhall.com or mail 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

BDA 156-012
Attach A
Pg 3



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-012

Data Relative to Subject Property:

Date: 12/15/2015

Location address: 6127 Yorkshire Dr. Zoning District: R-16(A)

Lot No.: 16 Block No.: 5/6378 Acreage: .65 Census Tract: 133.00

Street Frontage (in Feet): 1) 89.3 2) _____ 3) _____ 4) _____ 5) _____ NE35

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): David Diamond & Suzanne Diamond

Applicant: David Diamond & Suzanne Diamond Telephone: 775-313-5430

Mailing Address: 6127 Yorkshire Dallas, texas Zip Code: 75230

E-mail Address: davidjdiamond@yahoo.com

Represented by: John L Alexander Telephone: 214-507-7864

Mailing Address: 4115 Bretton Bay Lane Dallas, Texas Zip Code: 75287

E-mail Address: jla918@att.net

Affirm that an appeal has been made for a Variance __, or Special Exception X, of a kitchen in a pool cabana which constitutes a second dwelling.

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:

This addition will not have any adverse affect on neighboring property. It is simply a structure for the children to use as opposed to coming in and out of the main house with their friends.

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

Affidavit

Before me the undersigned on this day personally appeared David Diamond & Suzanne Diamond (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 14th day of DECEMBER 2015

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



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that David Diamond
represented by JOHN ALEXANDER
did submit a request for a special exception to the single family regulations
at 6127 Yorkshire Drive

BDA156-012. Application of David Diamond represented by John Alexander for a special exception to the single family regulations at 6127 Yorkshire Drive. This property is more fully described as Lot 16, Block 5/6378, and is zoned R-16(A), which limits the number of dwelling units to one. The applicant proposes to construct an additional dwelling unit, which will require a special exception to the single family zoning use regulations.

Sincerely,


Larry Holmes, Building Official

City of Dallas

Internal Development Research Site

Legend

Locate Property





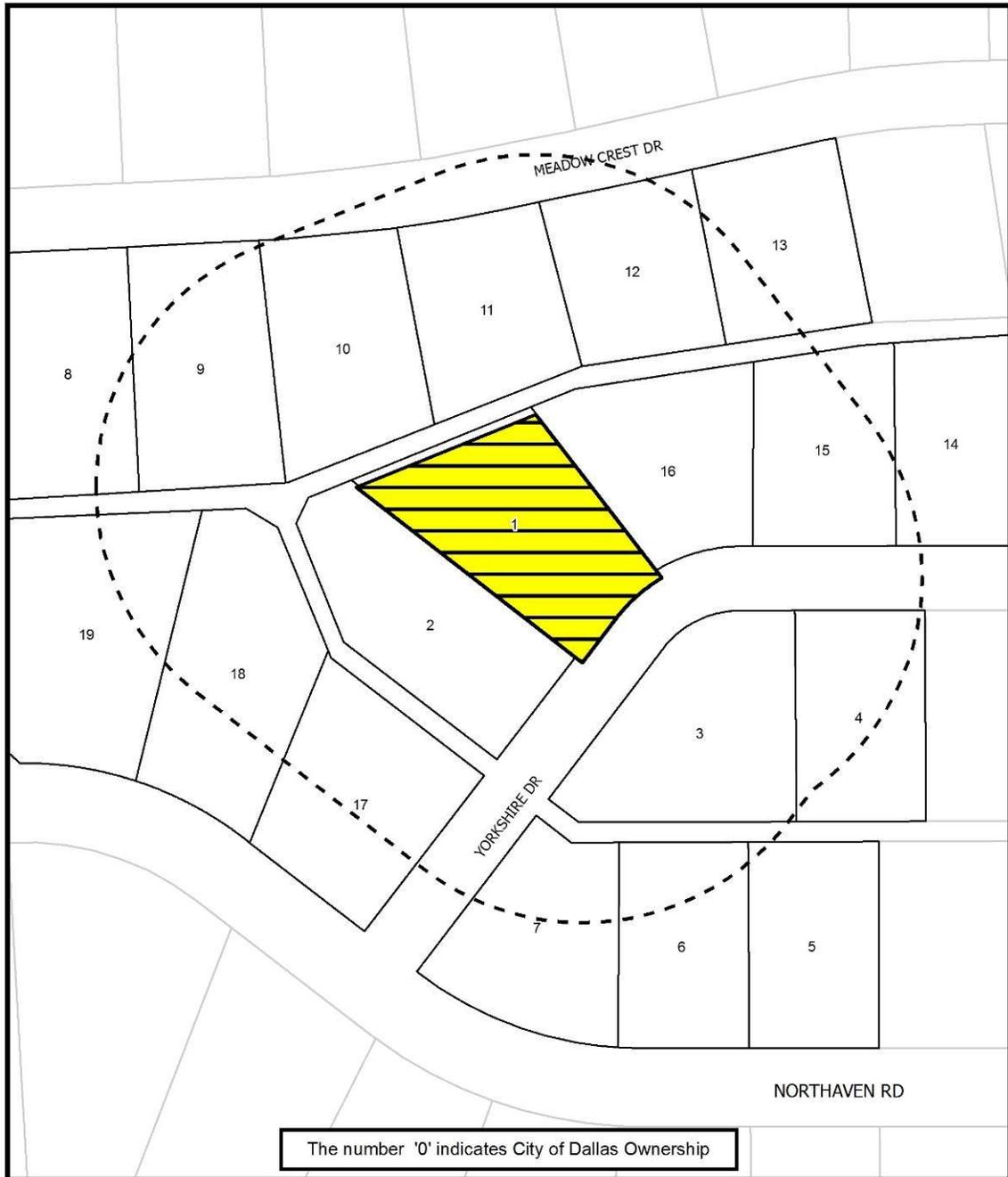
11300

ABST. 1090

ABST. 1485

ABST. 1336

11200



 1:1,200	NOTIFICATION		Case no: BDA156-012
	<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;">19</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 1/20/2016	

Notification List of Property Owners

BDA156-012

19 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	6127 YORKSHIRE DR	DIAMOND DAVID & SUZANNE
2	6119 YORKSHIRE DR	FETT ROBERT A & BARBARA H
3	6130 YORKSHIRE DR	ABDO DANNY W &
4	6138 YORKSHIRE DR	BRYANS MARK A
5	6131 NORTHAVEN RD	FEINBERG PAULA MARIA
6	6123 NORTHAVEN RD	FIELDING DONALD B
7	6111 NORTHAVEN RD	BESSERA ROBERT & SOPHIA GONZALEZ
8	6006 MEADOW CREST DR	BOVARD JAMES W
9	6014 MEADOW CREST DR	JAYSON LOUISE LIVING TR
10	6022 MEADOW CREST DR	COLOCOUSIS JOHN S &
11	6030 MEADOW CREST DR	HOCKING MARGARET &
12	6040 MEADOW CREST DR	WALLINGFORD JOHN R III & BRENDA T LIVING TRUST
13	6106 MEADOW CREST DR	SINGHAL ANURADHA V
14	6149 YORKSHIRE DR	LUCE KENNETH W & NANCY P
15	6141 YORKSHIRE DR	PETERSON JOHN D & AUDREY L
16	6133 YORKSHIRE DR	BARNES GREGORY SCOTT & LORI S GOLDEN
17	6021 NORTHAVEN RD	SOLOMON GARY B & LISA B
18	6015 NORTHAVEN RD	DOUGHTY KYLE EDWARD & AMANDA C
19	6007 NORTHAVEN RD	GRIFFIN JACK D

FILE NUMBER: BDA156-026(SL)

BUILDING OFFICIAL'S REPORT: Application of Barry Brewer for a variance to the side yard setback regulations at 1132 Ballard Avenue. This property is more fully described as Lot 8, Block 17/3339, and is zoned PD-468 (Subdistrict A, Tract 1) RTN, which requires a 10 foot side yard setback. The applicant proposes to construct and maintain a structure and provide a 5 foot side yard setback, which will require a 5 foot variance to the side yard setback regulations.

LOCATION: 1132 Ballard Avenue

APPLICANT: Barry Brewer

REQUEST:

A request for a variance to the side yard setback regulations of 5' is made to complete and maintain a two-story "manor house"/two-unit structure that is located 5' from the site's southern side property line or 5' into the site's 10' southern side yard setback.

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, lot coverage, floor area for structures accessory to single family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- (C) not granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STAFF RECOMMENDATION:

Denial

Rationale:

- Staff concluded that the applicant has not substantiated how the variance was 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 it cannot be developed in a manner commensurate with the development upon other parcels of land with the same PD 468 (Subdistrict A, Tract 1) RTN zoning. (The applicant had not provided any information that established how the proposed two-story, “manor house”/two-unit structure with an approximately 2,700 square foot building footprint (or with approximately 4,000 square foot of total living area) was commensurate with the development upon other parcels of land in the same zoning district).
- While the site is relatively flat, approximately 7,800 square feet in area with three mature trees, and somewhat irregular in shape (163’ on the north, 151’ on the south; and 50’ on the east and west), the applicant had not documented how any of these features created hardship to warrant the requested side yard variance, or why the side yard setback could not be provided on the subject site in developing it with a residential manor house/residential use due to the lot’s restrictive area, shape, or slope.

BACKGROUND INFORMATION:

Zoning:

Site: PD 468 (Subdistrict A, Tract 1) RTN (Planned Development)
North: PD 468 (Subdistrict D, Tract 5) WMU-5 (Planned Development)
South: PD 468 (Subdistrict A, Tract 1) RTN (Planned Development)
East: PD 468 (Subdistrict D, Tract 5) WMU-5 (Planned Development)
West: PD 468 (Subdistrict A, Tract 1) RTN (Planned Development)

Land Use:

The subject site is under development. The area to the north is a surface parking lot, the area to the east is developed with retail uses; the area to the south is developed with what appears to be a single family use; and the area to the west is developed as a school (James S. Hogg Elementary School).

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, “manor house”/two-unit structure with an approximately 2,700 square foot building footprint (or with approximately 4,000 square foot of total living area) in the site’s 10’ southern side yard setback.

- The subject site is zoned PD 468 (Subdistrict A, Tract 1) RTN. PD 468 was created in 1997 and revised in March of 2015. Prior to the creation of PD 468, the property had been zoned MF-2(A) – a district that requires a 5’ side yard setback for duplex structures and a 10’ side yard setback for multifamily structures).
- PD 468 states that district regulations of Subdistrict A must comply with the RTN regulations and development standards in Article X111: Form Districts.
- Article XIII: Form Districts provides for “Residential Transition (RTN)” district. This district “provides single-family and duplex living intended to serve as a land use transition between more intense WMU or WR districts and established single-family neighborhoods.” It states that “This RTN district is intended to accommodate a limited set of development types with up to two dwelling units per lot.”
- PD 468 (Subdistrict A, Tract 1) RTN requires different side yard setbacks based on the type of development proposed on a property and whether the property is adjacent to an “abutting single-family district”, an “abutting multifamily, nonresidential district,” or an “abutting alley”.
- The Building Official has determined that the two-unit structure proposed on the subject site is categorized in the development types listed in Article XIII as a “manor house.” Article XIII defines a manor house as a development type with two to five attached dwelling units consolidated in a single structure. (Article XIII defines a townhouse as a development type with three or more attached dwelling units consolidated in a single structure).
- Structures on lots zoned PD 468 (Subdistrict A, Tract 1) RTN are required to provide a minimum side yard setback of 10’ if adjacent to an “abutting single-family district” and 5’ if adjacent to an “abutting multifamily, nonresidential district”.
- The submitted site plan indicates that the proposed structure is located 5’ from the side property line on the south – property to the south is zoned PD 468 (Subdistrict A, Tract 1) RTN or “abutting a single-family district” where a 10 side yard setback is required, hence a variance of 5’ is requested for the structure that is 5’ into this required 10’ side yard setback.
- The submitted site plan indicates that proposed structure is located 16’ from the side property line on the north - property to the north zoned PD 468 (Subdistrict D, Tract 5) WMU-5, “abutting multifamily, nonresidential district” where a 5’ side yard setback is required, hence no variance is requested into this required 5’ side yard setback.
- The subject site is relatively flat, somewhat irregular in shape (163’ on the north, 151’ on the south; and 50’ on the east and west), and approximately 7,800 square feet in area. The subject site is zoned PD 468 (Subdistrict A, Tract 1) RTN.
- The site plan denotes the location of three, “100 year old, 8’ round Live Oak trees” on the property.
- According to DCAD records, there are “no improvements” at 1132 Ballard Avenue.
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the proposed structure to be located in the site’s 10’ side yard setback is approximately 540 square feet in area or approximately 20 percent of the approximately 2,700 square foot building footprint.
- The applicant has the burden of proof in establishing the following:
 1. That granting the variance to the side 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.

2. 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 468 (Subdistrict A, Tract 1) RTN zoning classification.
 3. 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 468 (Subdistrict A, Tract 1) RTN zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the side yard setback would be limited to what is shown on this document which in this case is a structure located 5' from the site's southern side property line (or 5' into this 10' side yard setback).

Timeline:

January 19, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 9, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

January 6, 2016: The Board Administrator contacted the applicant and emailed him the following information:

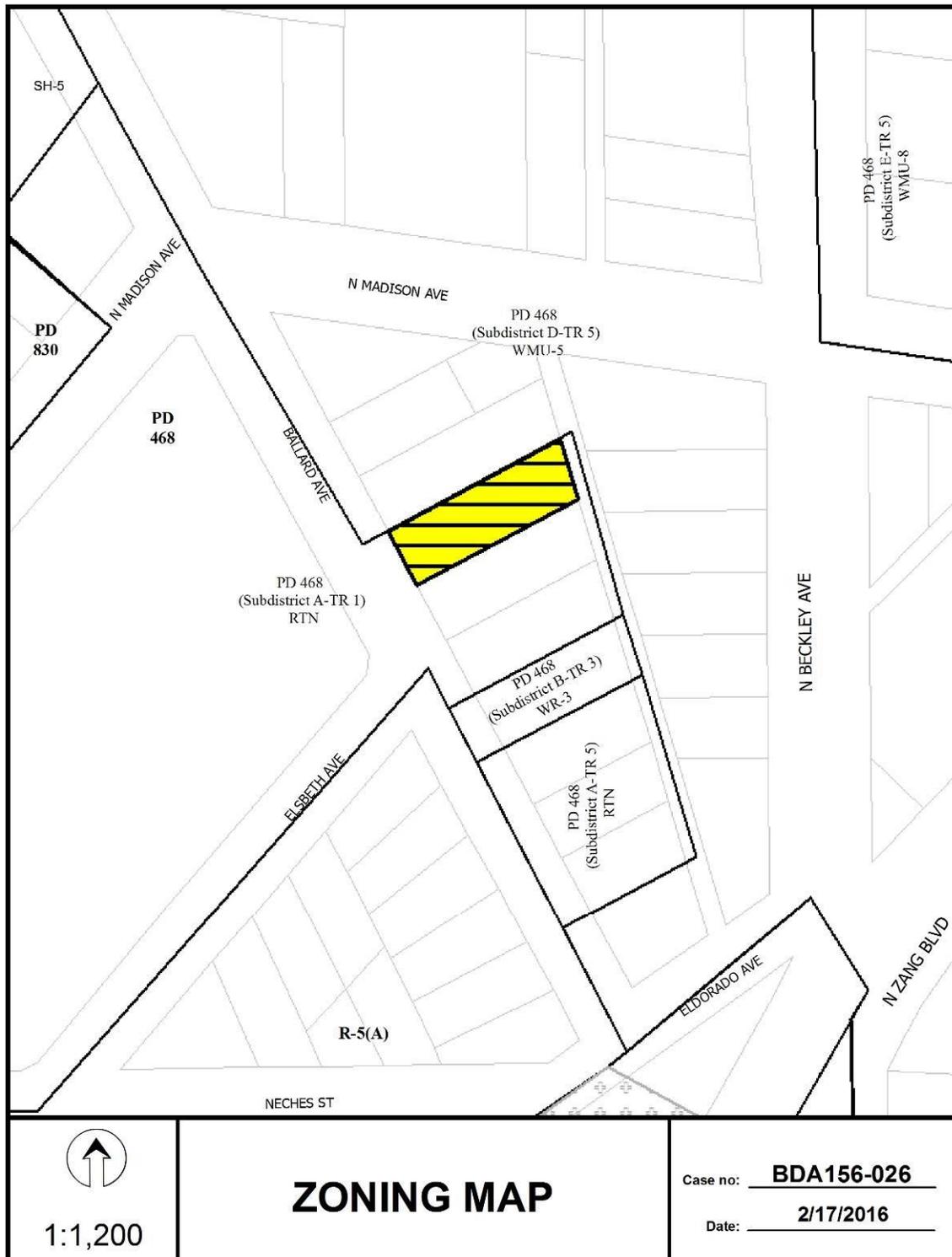
- an attachment that provided the public hearing date and panel that will consider the application; the January 27th deadline to submit additional evidence for staff to factor into their analysis; and the February 5th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- 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."

February 29, 2016: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

March 8, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Interim Building Official, the Sustainable Development and Construction Building Inspection Chief Planner,

the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, and the Assistant City Attorneys to the Board.

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



1:1,200

ZONING MAP

Case no: BDA156-026
 Date: 2/17/2016



1:1,200

AERIAL MAP

Case no: BDA156-026

Date: 2/17/2016

Long, Steve

BDA156-026

Attach A

Pg 1

From: Barry BREWER <bgbgb1966@yahoo.com>
Sent: Monday, February 29, 2016 8:57 AM
To: Long, Steve
Subject: 1132 BALLARD
Attachments: 1132 BALLARD TIMELINE.docx; Scan0006.pdf

GOOD MORNING MR, STEVE LONG. IF YOU WOULD PLS ADD THESE 2 PAGES TO THE FILE.
THANK YOU SO MUCH FOR YOUR ASSISTANCE IN THIS MATTER.

BARRY BREWER

1132 BALLARD

TIMELINE:

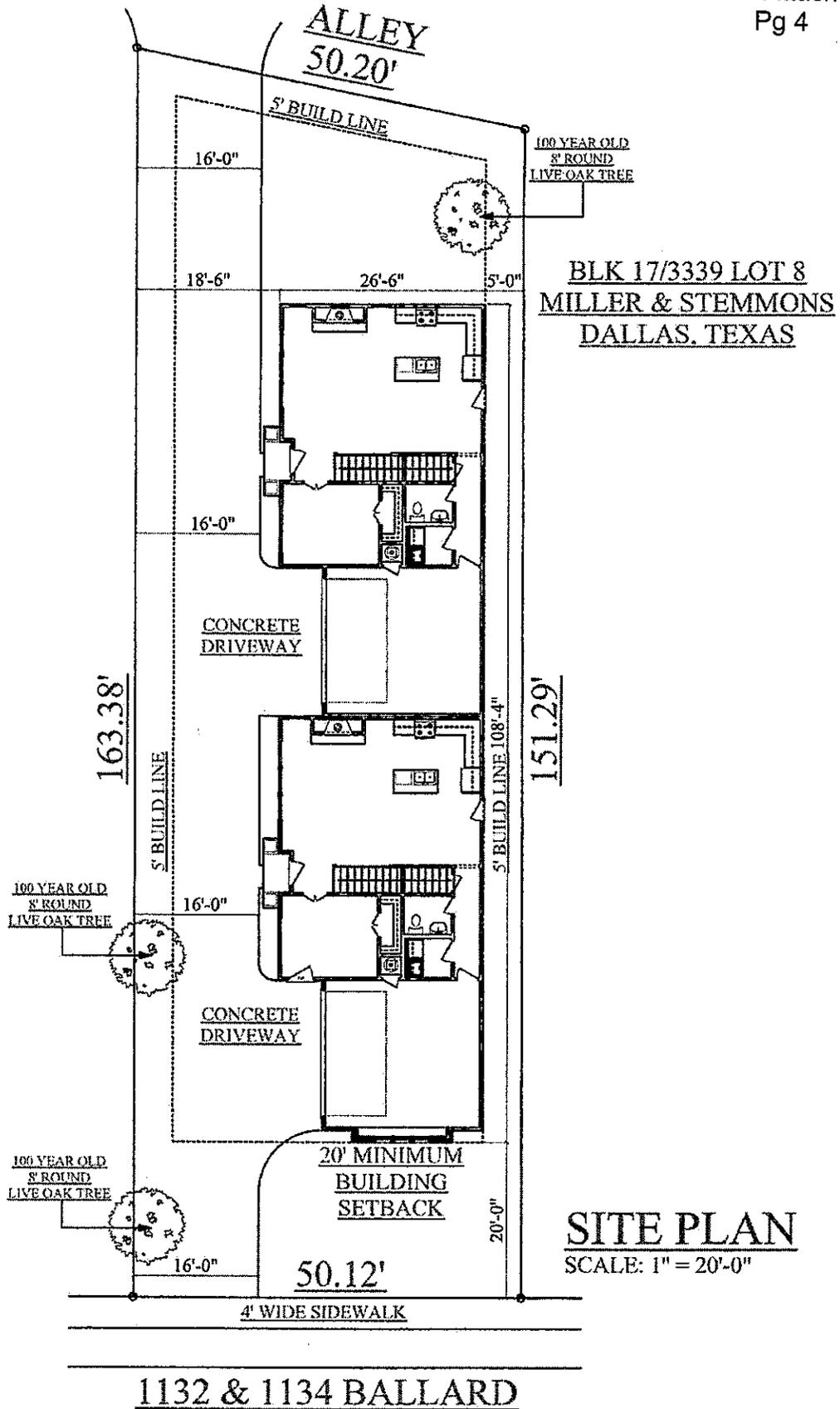
- ON 6-23-2015, THE PROPERTY AT 1132 BALLARD WAS LISTED FOR SALE ON MLS FOR 159,999.00.
- ON 6-24-2015, I BARRY BREWER PART OWNER OF 1132 BALLARD WENT TO THE CITY OF DALLAS LOCATED AT 320 E. JEFFERSON RD AND SPOKE WITH DONNA GARZA IN ROOM 105 ZONING DEPARTMENT AND WAS SHOWN FROM THE CITY OF DALLAS CITY CODES BOOK THAT THE SIDE YARD SET BACKS WERE 5 FT ON EACH SIDE.
- ON 6-24-2015, I BARRY BREWER WENT ONLINE TO THE CITY OF DALLAS WEBSITE TO FURTHER INVESTIGATE THE ZONING IN PD 468 SUBDISTRICT A-TR. THE ZONING MAPS SHOWED THE SIDE YARD SET BACKS TO BE 5 FT ON EACH SIDE.
- ON 6-25-2015, I BARRY BREWER, ALONG WITH MY PARTNER AUBREY QUARLES (CEO OF MCCASKELL AFFILIATES) PLACED A CONTRACT TO PURCHASE 1132 BALLARD FOR \$155,000.00.
- ON 8-5-2015, WE PURCHASED AND CLOSED ON THE HOME AT 1132 BALLARD.
- ON OR ABOUT 9-2-2015, WE SUBMITTED AN APPLICATION TO THE CITY OF DALLAS FOR A DEMO PERMIT AND WAS GRANTED THE SAME DAY.
- ON 9-15-2015, THE HOME AT 1132 BALLARD WAS DEMO AT THE COST OF \$8,500.00.
- ON 12-4-2015, I BARRY BREWER SUBMITTED A SET OF PLANS FOR NEW CONSTRUCTION OF A 2 UNIT MANOR HOUSE.
- ON 12-4-2015, CITY OF DALLAS PLAN EXAMINER HOPPY THETFORD REVIEWED & APPROVED THE PLANS AND PERMITS WERE ISSUED.
- ON 12-5-2015, THE PROJECT WAS STARTED AND THE FOUNDATION AND PLUMBING COMMENCED.
- ON 12-18-2015, THE PLUMBING INSPECTION PASTED AND A GREEN TAG WAS ISSUED.
- ON 12-28-2015, THE FOUNDATION WAS INSPECTED AND A GREEN TAG WAS ISSUED.
- ON OR ABOUT 12-29-2015, THE FOUNDATION WAS POURED AT THE COST OF \$34,968.00.
- ON OR ABOUT 1-5-2015, NOTICE WAS GIVEN THAT THE SIDE YARD SET BACK WAS NOT 5 FT, BUT 10 FT AND STOP WORK ORDER WAS ISSUED.

ADDITIONAL CONSIDERATIONS:

1. A REVISION OF THE ORDINANCE PD 468 SUBDISTRICT A-TR WAS COMMENCE ON 5-13-2015 AND WAS NOT UPDATED TO ALL THE CITY ZONING SITES AND THE TIME PERMITS WERE ISSUED.
2. THE NEW CONSTRUCTION HOME WAS SET 5 FT OFF THE RIGHT SOUTH SIDE OF THE PROPERTY TO AVOID AND SAVE THE 7 FT. TRUNK BASE 100 YEAR OLD OAK TREES THAT ARE POSITIONED ON THE FRONT LEFT NORTH SIDE OF THE HOME. ACCORDING TO THE LANDSCAPE AND TREE PRESERVATION REGULATIONS DIVISION 51A-10 THOSE TREES ARE PROTECTED AND CANNOT BE DISTURBED.
3. THE TREE PRESERVATION WILL NOT ALLOW US TO MOVE THE HOMES OVER TO BE WITHIN 5 FT OF THE NORTH PROPERTY LINE DO TO TREE'S LOCATIONS. ALSO, THE LOT SIZE IS 50 FT IN WIDTH AND

WITH SIDE ENTRY FOR PARKING WILL NOT ALLOW THIS PROJECT TO WORK IF VARIANCE IS NOT GRANTED.

FINALLY, WE WOULD ALSO LIKE THE COMMITTEE TO CONSIDER THE FINANCIAL HARDSHIP THAT WOULD OCCUR IF THIS VARIANCE IS NOT APPROVED. MY PARTNER AND I HAVE SPENT OVER \$210,000.00 ON THIS PROJECT TO DATE. THIS IS A BANK LOAN AND THE BANK WILL NOT REDO NOR RECONSTRUCT THE LOAN.





B

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-026

Data Relative to Subject Property:

Date: 1-19-16

Location address: 1132 Ballard Ave. Zoning District: PD468 (Subdistrict A)

Lot No.: 8 Block No.: 17/3339 Acreage: .18 Census Tract: 42.01 TR 7)

Street Frontage (in Feet): 1) 51 2) 3) 4) 5) SW19 RTN

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): McCLASKELL Affiliates LLC

Applicant: Barry Brewer Telephone: (214) 708-2802

Mailing Address: 135 Brook Bend Dr Wylie TX Zip Code: 75165 TX 7

E-mail Address: bjbrewer@yahoo.com

Represented by: Telephone:

Mailing Address: Zip Code:

E-mail Address:

Affirm that an appeal has been made for a Variance or Special Exception of Five Feet side 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:

We are asking the Board to grant us a variance for a 5 foot side yard set back. Our original plans were reviewed and approved by the City of Dallas and permits were issued with a five foot side yard set back.

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 Barry Brewer (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 19th day of January 2016

[Signature] 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 Barry Brewer

did submit a request for a variance to the side yard setback regulations
at 1132 Ballard Avenue

BDA156-026. Application of Barry Brewer for a variance to the side yard setback regulations at 1132 Ballard Avenue. This property is more fully described as Lot 8, Block 17/3339, and is zoned PD-468 (Subdistrict A, Tract 1) RTN, which requires a 10 foot side yard setback. The applicant proposes to construct a multifamily residential structure and provide a 5 foot side yard setback, which will require a 5 foot variance to the side yard setback regulation.

Sincerely,

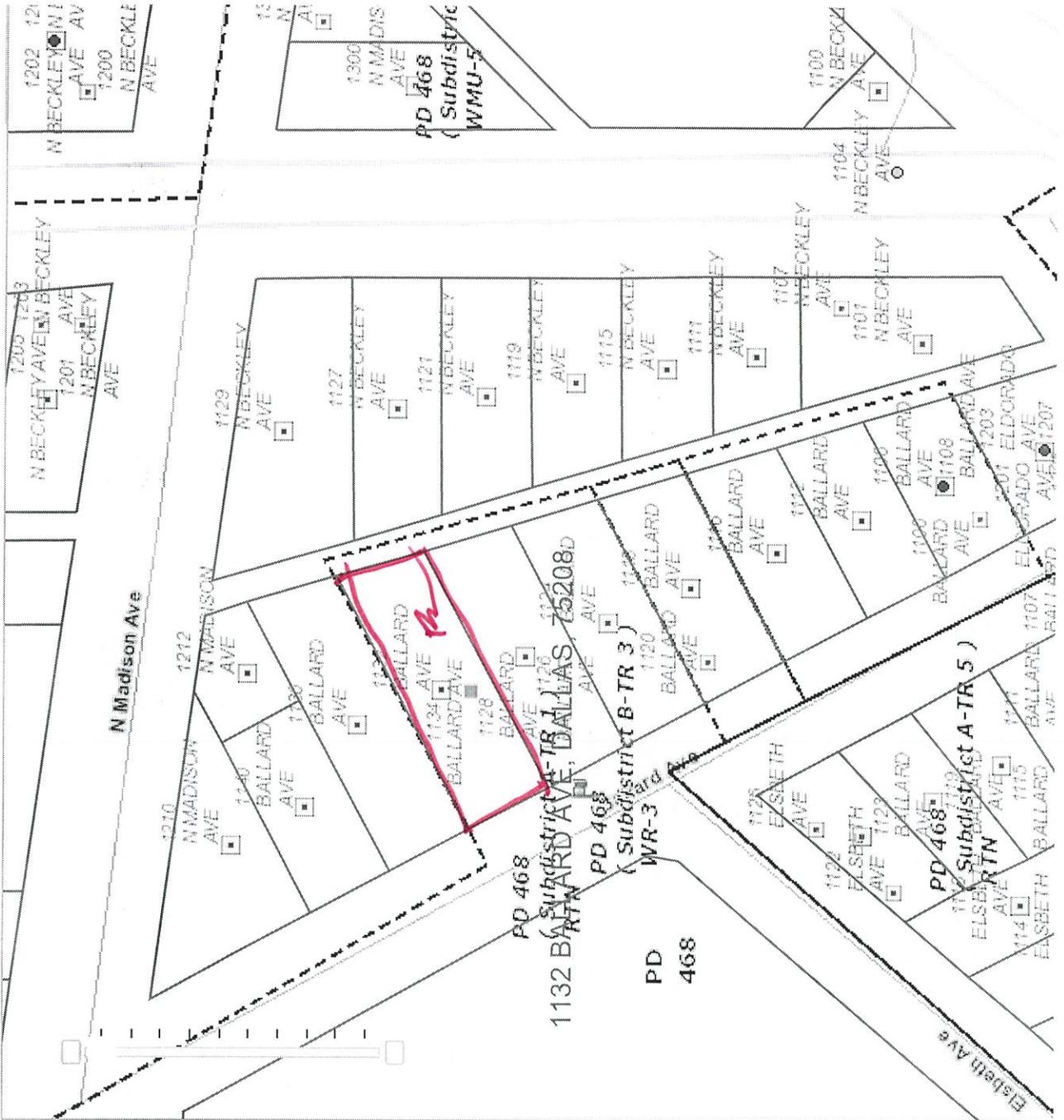

Philip Sikes, Building Official

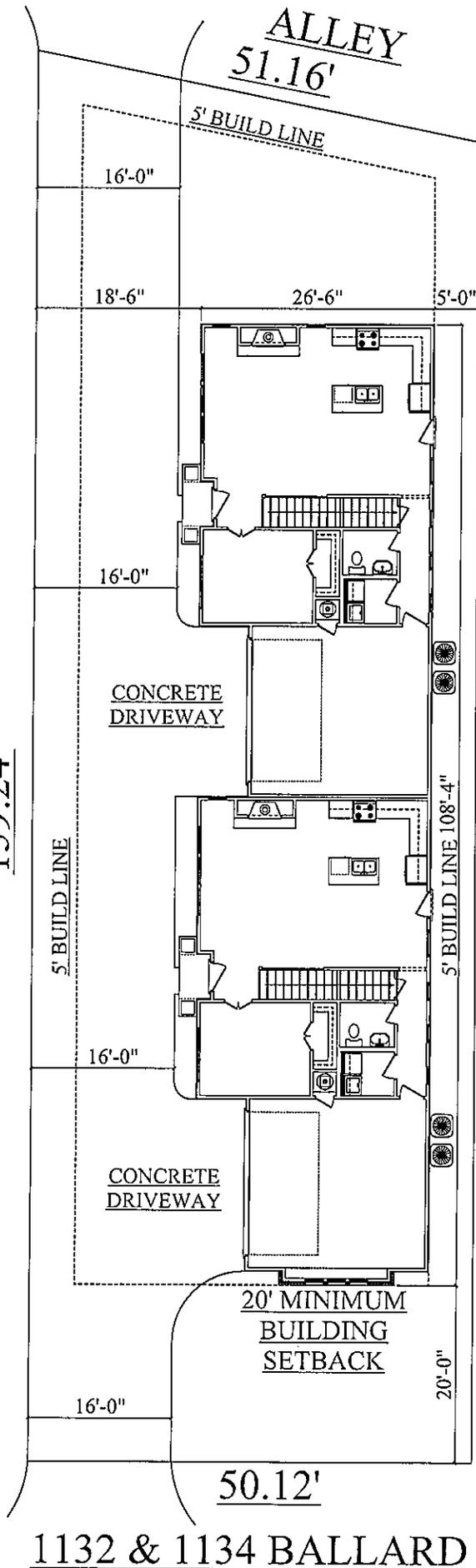
City of Dallas

Internal Development Research Site

Legend

Locate Property

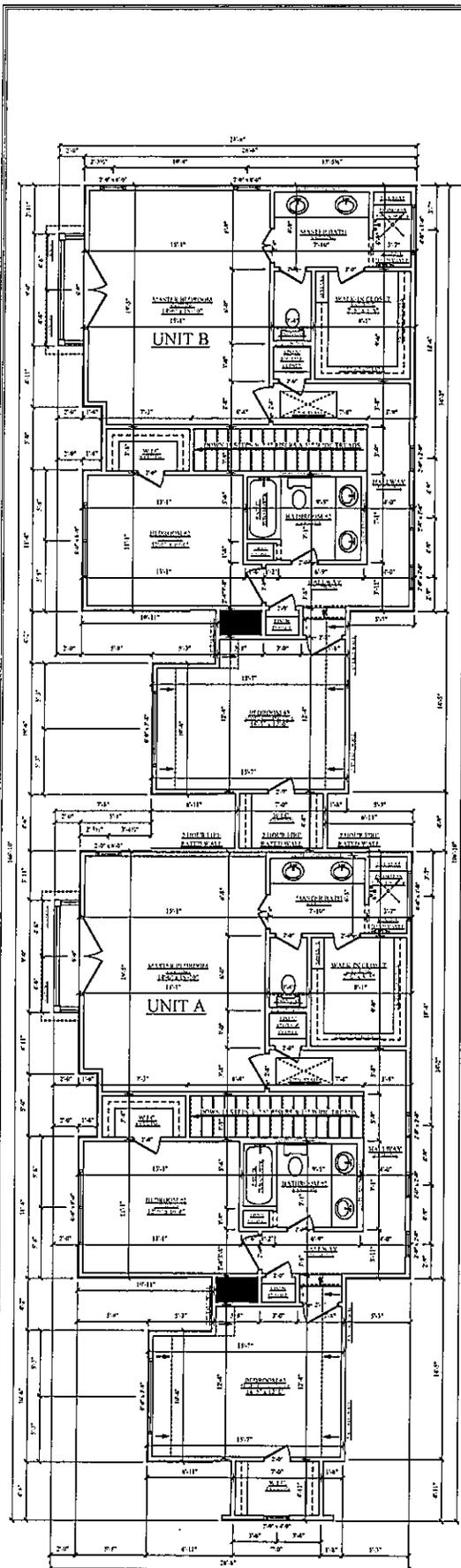




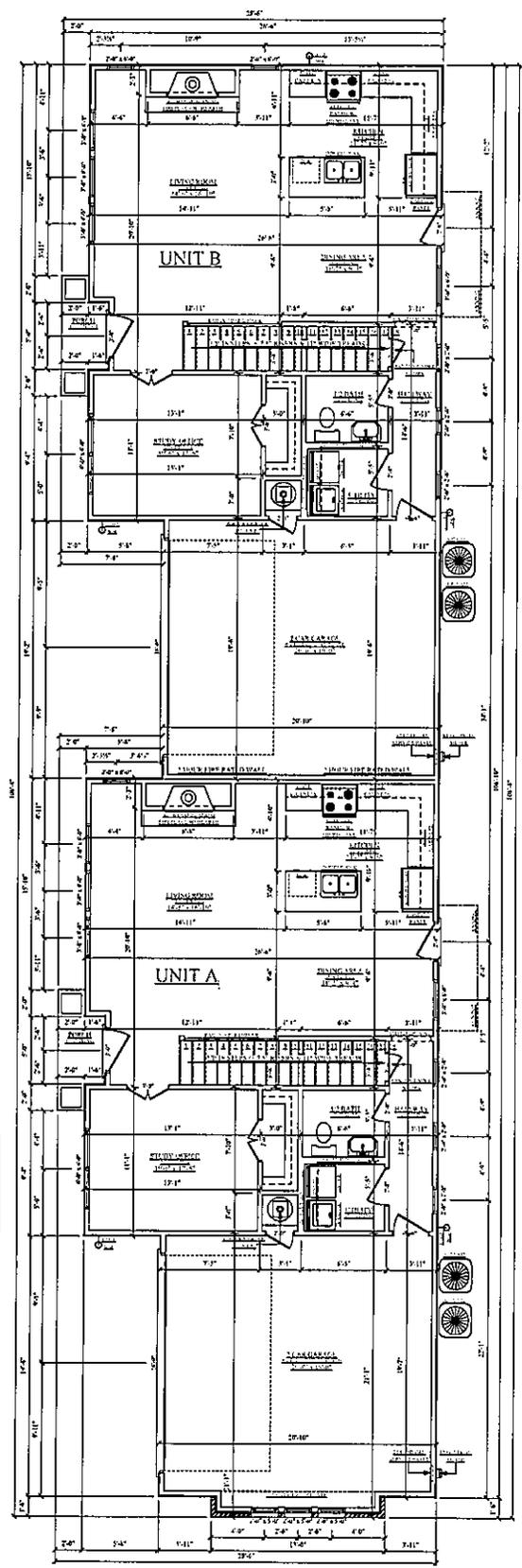
BLK 17/3339 LOT 8
MILLER & STEMMONS
DALLAS, TEXAS

SITE PLAN
 SCALE: 1" = 10'-0"

1132 & 1134 BALLARD



UPPER FLOOR PLAN
SCALE: 1/4" = 1'-0"



LOWER FLOOR PLAN
SCALE: 1/4" = 1'-0"

UNIT A	
AREA TOTALS	
LOWER AREA	885
UPPER AREA	1,078
TOTAL LIVING AREA 1,963	
2 CAR GARAGE 435	
COVERED PORCH 26	
UNIT B	
AREA TOTALS	
LOWER AREA	885
UPPER AREA	1,078
TOTAL LIVING AREA 1,963	
2 CAR GARAGE 412	
COVERED PORCH 26	
TOTAL FOUNDATION 2,669	
TOTAL UNDER ROOF 4,825	

CITY WIDE DEVELOPMENT
BDA 156-026

DC TEXAS DESIGNS
115 PARK PLACE BLVD. SUITE 500
WAXAHACHIE, TEXAS 75165
PHONE # 972-351-4513 or 972-921-7306

LOT 8 BLOCK 17/3339
1132 BALLARD STREET
MILLER & STEMMONS
DALLAS, TEXAS

DATE:
DECEMBER 3, 2015



 1:1,200	NOTIFICATION		Case no: BDA156-026
	<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;">14</div> NUMBER OF PROPERTY OWNERS NOTIFIED		Date: 2/17/2016

Notification List of Property Owners

BDA156-026

14 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1132 BALLARD AVE	MCFADDEN SHARON A &
2	1116 BALLARD AVE	GRIFFIN CLINT
3	1118 BALLARD AVE	BECKLEY PROPERTIES LTD
4	1124 BALLARD AVE	WALDEN PAUL &
5	1126 BALLARD AVE	COLECIO JUAN ANTONIO &
6	1136 BALLARD AVE	METHODIST HOSPITALS OF DALLAS
7	1212 N MADISON AVE	MOJICA MARIA
8	1129 N BECKLEY AVE	GREENHOUSE CLYDE
9	1127 N BECKLEY AVE	MTX NOOR REAL ESTATE LLC
10	1115 N BECKLEY AVE	BECKLEY PPTIES LTD
11	1211 N BECKLEY AVE	BECKLEY PLACE PARTNERS LP
12	1123 BALLARD AVE	WALDEN LAWRENCE PAUL &
13	1119 BALLARD AVE	CASTILLO GONZALO
14	1144 N MADISON AVE	Dallas ISD