

ZONING BOARD OF ADJUSTMENT, PANEL A  
TUESDAY, OCTOBER 17, 2017  
AGENDA

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BRIEFING	ROOM 5ES 1500 MARILLA STREET DALLAS CITY HALL	11:00 A.M.
PUBLIC HEARING	COUNCIL CHAMBERS 1500 MARILLA STREET DALLAS CITY HALL	1:00 P.M.

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

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**MISCELLANEOUS ITEMS**

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Approval of the September 19, 2017 Panel A Public Hearing Minutes	M1
Consideration and approval of Panel A's 2018 Public Hearing Calendar	M2

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**UNCONTESTED CASES**

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<b>BDA167-107(SL)</b>	9301 Sandyland Boulevard <b>REQUEST:</b> Application of Jeff Bosse for a special exception to the tree preservation regulations	1
<b>BDA167-115(SL)</b>	1919 McKinney Avenue <b>REQUEST:</b> Application of Tom Persch, represented by Michael Kendall of Kendall Landscape Architecture, for a special exception to the landscape regulations	2

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### HOLDOVER CASE

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**BDA167-072(SL)** 7103 Mumford Court 3  
**REQUEST:** Application of Grant Schmidt for a variance to the off-street parking regulations

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### REGULAR CASES

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**BDA167-108(SL)** 6347 Lupton Drive 4  
**REQUEST:** Application of Robert Baldwin for special exceptions to the visual obstruction regulations

**BDA167-109(SL)** 4931 W. Lovers Lane 5  
**REQUEST:** Application of Brady K. Wood for a special exception to the off-street parking regulations and a variance to the side yard setback regulations

## EXECUTIVE SESSION NOTICE

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

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

**FILE NUMBER:** BDA167-107(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Jeff Bosse for a special exception to the tree preservation regulations at 9301 Sandyland Boulevard. This property is more fully described as Lots 1-14, Block 4/8495, Lots 15-28, Block 5/8495, and Lots 53-59, Block 1/8495, and is zoned R-10(A), which requires mandatory landscaping and tree mitigation. The applicant proposes to construct and maintain a residential subdivision and provide an alternate tree mitigation plan, which will require a special exception to the tree preservation regulations.

**LOCATION:** 9301 Sandyland Boulevard

**APPLICANT:** Jeff Bosse

**REQUEST:**

A request for a special exception to the tree preservation regulations is made as it relates to removing trees on the property being developed as a single family subdivision, and to not fully meet tree preservation regulations, more specifically, to seek a reduction of the overall tree replacement, and an extension of time to complete amended mitigation requirements through the completion of Phase IV of the subdivision.

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

The board may grant a special exception to the 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 conditions:

1. Compliance with an alternate tree replacement plan submitted to and approved by the Chief Arborist prior to the October 17<sup>th</sup> public hearing is required.
2. All required tree mitigation in Phase III and Phase IV must be finished with the completion of final residential lot in Phase IV prior to the final certificate of completion, or within four years of Board approval, whichever is greater.

Rationale:

- The Chief Arborist recommends approval of the request 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: R-10(A) (Single family residential 10,000 square feet)  
North: R-10(A) (Single family residential 10,000 square feet)  
South: R-10(A) (Single family residential 10,000 square feet)  
East: R-10(A) (Single family residential 10,000 square feet)  
West: R-10(A) (Single family residential 10,000 square feet)

### **Land Use:**

The subject site is being developed as a single family subdivision. The areas to the north, east, and south are developed with single family uses, and the area to the west is under development.

### **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:**

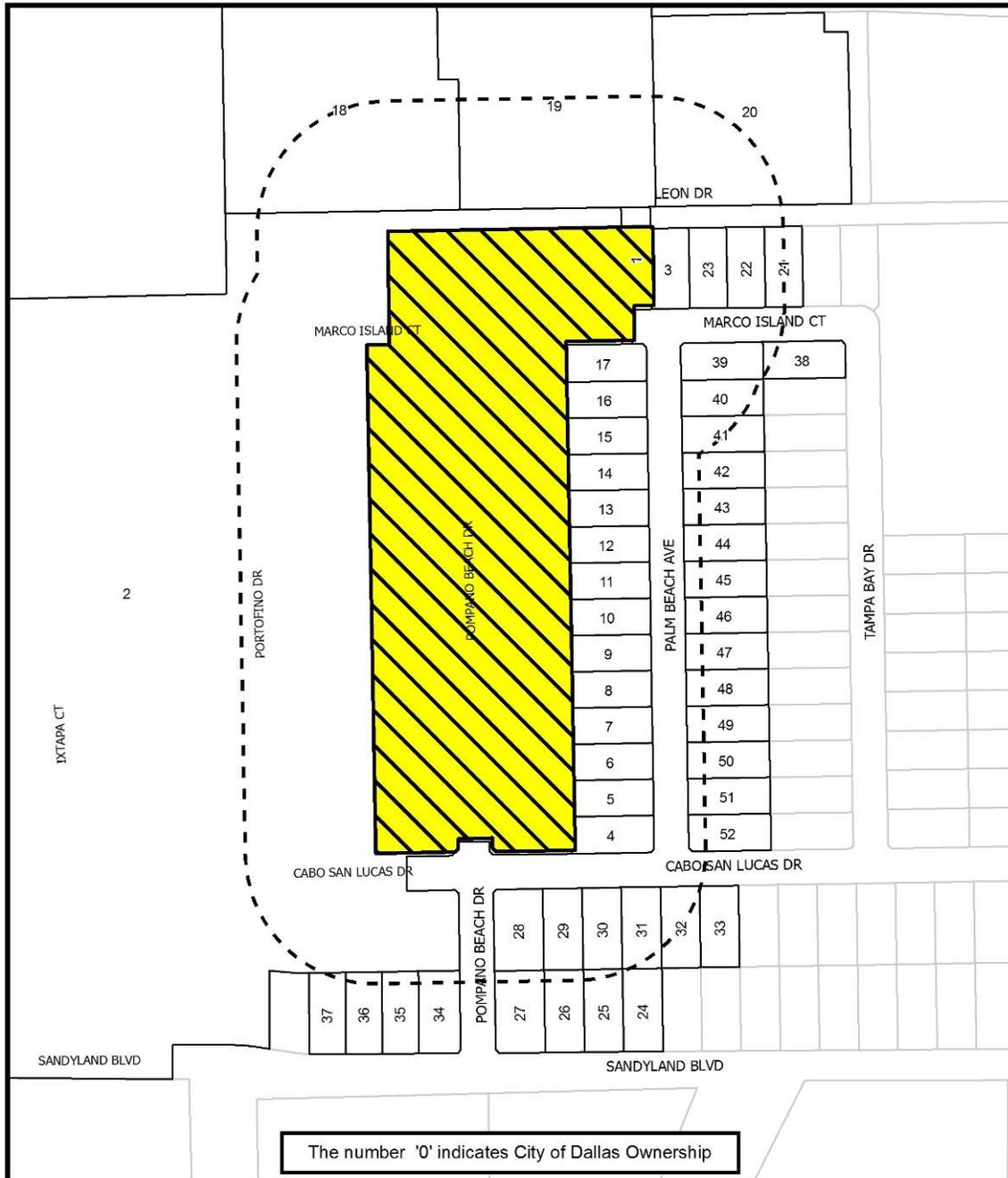
- This request for a special exception to the tree preservation regulations focuses on removing trees on the property being developed as a single family subdivision, and seeking a reduction of the overall tree replacement, and an extension of time to complete amended mitigation requirements through the completion of Phase IV of the subdivision.

- 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 City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment C).
- The Chief Arborist's memo states the following with regard to "request":
  - The applicant is requesting a special exception to the tree preservation regulations of Article X. Specifically, the request would be to consider factors of development and Article X regulations, and 1) to seek a reduction of the overall tree replacement for this phase of construction (10.134(1)); and 2) request an extension of time to complete their amended mitigation requirements (10.134(5)) through the completion of Phase IV of the subdivision.
- The Chief Arborist's memo states the following with regard to "provision":
  - The applicant is developing Phase III of the Sandyland Subdivision which has a mitigation requirement of 1,090 inches. In the 7-acre phase, four specific individual lots held 999 inches of the protected trees. The owner plans to plant 315 inches of new trees in the individual lots which meet or exceed landscape requirements, and would retain 126 inches of trees within the phase. In addition, the owner plans to install about 360 inches of trees in the future Phase IV, adjacent to Phase III, which is currently under review. No protected tree removal is required in Phase IV. The applicant is also asking for consideration of their history in fully completing mitigation in Phases I and II.
- The Chief Arborist's memo states the following with regard to "deficiencies":
  - The applicant proposes to plant 315 inches of 3" trees which meet Article X landscape requirements.
  - 1090" – 315" = 775" (Phase III landscaping)]

- 775" – 360" = 415" (Phase IV landscaping) – needs time extension for completion.
- 415 inches, or 38% of tree mitigation, is still due. The applicant requests this amount be waived.
- The Chief Arborist's memo states the following with regard to "factors":
  - Trees which are within the platted areas of public street development are not subject to permit or replacement.
  - The nearly 5,000 inches of protected trees to the east, in phases I and II, were mitigated by planting trees on individual lots (10.134), and alternative methods of compliance (10.135), including the provision of a conservation easement, and planting trees on City parks.
  - A four lot segment of the new Phase III held a significant concentration of 999 protected inches of trees (of 1,090") within a relatively small area of the overall development. Contiguous trees in the residential lots to the east of Phase III were previously removed for the development and engineering of the lots, and the construction of homes. The existing plat design, which includes phases III and IV, is a continuation of a westward-expanding and approved subdivision design form where previous tree removal has been mitigated. The applicant has indicated that the engineering of development around the 4 lot area restricted the ability of the site to be retained for conservation purposes within the center of the pre-designed platted subdivision.
- The Chief Arborist's memo states the following with regard to "recommendation":
  - Based on the central location of protected trees in the engineered subdivision, and the mitigation progression of the overall subdivision through previous phases, the chief arborist recommends approval of the alternate tree replacement plan of waiver and extension for Phase III, because strict compliance with the requirements of this article will unreasonably burden the use of the property, and the special exception will not adversely affect neighboring property.
  - As a condition, all required tree mitigation in Phase III and Phase IV must be finished with the completion of final residential lot in Phase IV prior to the final certificate of completion, or within four years of Board approval, whichever is greater
- 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 conditions to the request, the site would be provided exception from the overall tree replacement, and time in which to mitigate removed trees on the subject site.

## **Timeline:**

- August 2, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- September 12, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- September 12, 2017: 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 September 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the October 6<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.”
- October 3, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- No review comment sheets were submitted in conjunction with this application.
- October 6, 2017: The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment A).

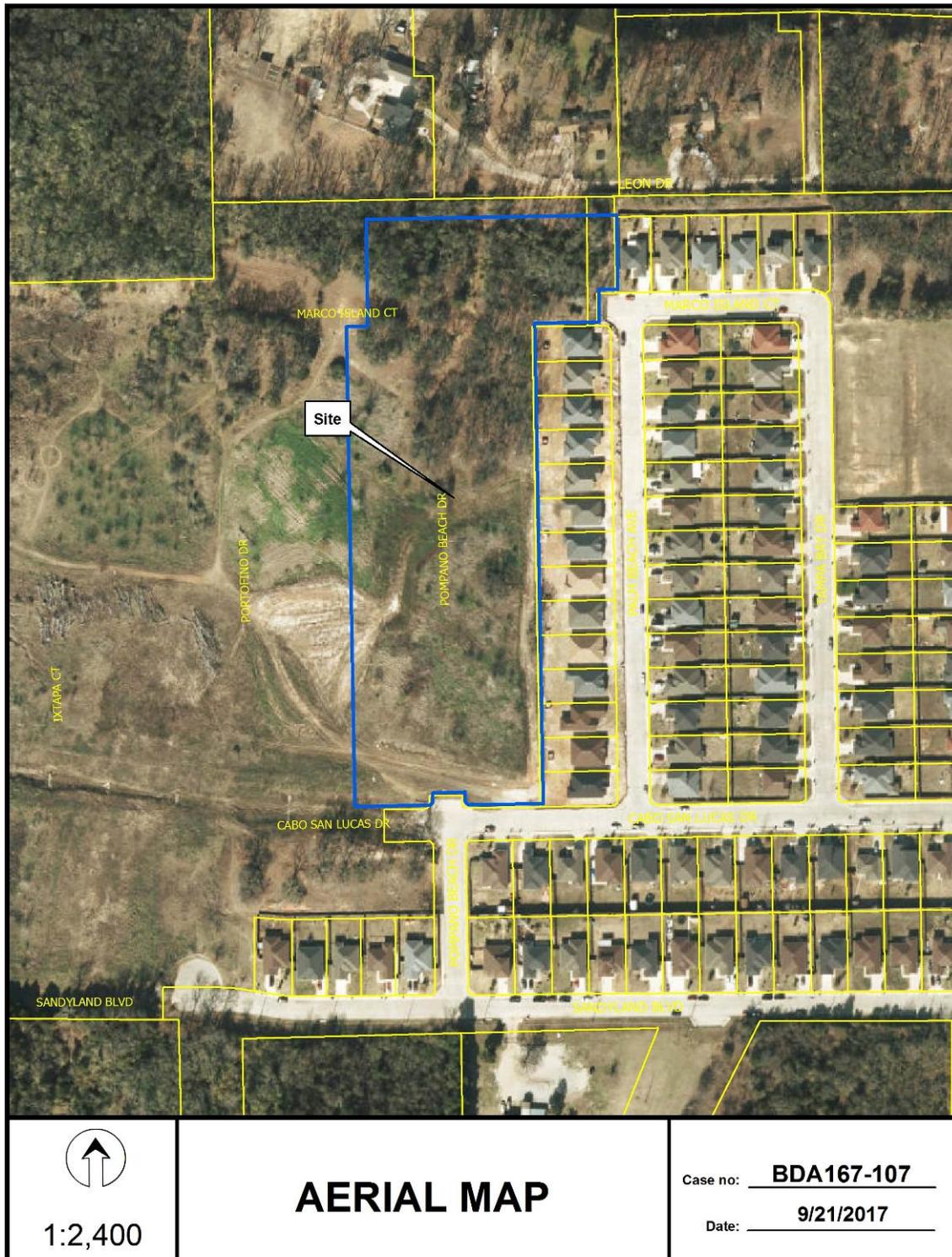


1:2,400

# NOTIFICATION

**200'** AREA OF NOTIFICATION  
**52** NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA167-107**  
 Date: **9/21/2017**



1:2,400

# AERIAL MAP

Case no: **BDA167-107**

Date: **9/21/2017**

# Memorandum



Date October 6, 2017  
To Steve Long, Board Administrator  
Subject BDA #167-107 9301 Sandyland Blvd

## Request

The applicant is requesting a special exception to the tree preservation regulations of Article X. Specifically, the request would be to consider factors of development and Article X regulations, and 1) to seek a reduction of the overall tree replacement for this phase of construction (10.134(1)); and 2) request an extension of time to complete their amended mitigation requirements (10.134(5)) through the completion of Phase IV of the subdivision.

## Provision

The applicant is developing Phase III of the Sandyland Subdivision which has a mitigation requirement of 1,090 inches. In the 7-acre phase, four specific individual lots held 999 inches of the protected trees. The owner plans to plant 315 inches of new trees in the individual lots which meet or exceed landscape requirements, and would retain 126 inches of trees within the phase. In addition, the owner plans to install about 360 inches of trees in the future Phase IV, adjacent to Phase III, which is currently under review. No protected tree removal is required in Phase IV. The applicant is also asking for consideration of their history in fully completing mitigation in Phases I and II.

## Deficiencies

The applicant proposes to plant 315 inches of 3" trees which meet Article X landscape requirements.

1090" – 315" = 775" (Phase III landscaping)

775" – 360" = 415" (Phase IV landscaping) – needs time extension for completion.

415 inches, or 38% of tree mitigation, is still due. The applicant requests this amount be waived.

## Factors

- Trees which are within the platted areas of public street development are not subject to permit or replacement.
- The nearly 5,000 inches of protected trees to the east, in phases I and II, were mitigated by planting trees on individual lots (10.134), and alternative methods of compliance (10.135), including the provision of a conservation easement, and planting trees on City parks.
- A four lot segment of the new Phase III held a significant concentration of 999 protected inches of trees (of 1,090") within a relatively small area of the overall development. Contiguous trees in the residential lots to the east of Phase III were previously removed for

the development and engineering of the lots, and the construction of homes. The existing plat design, which includes phases III and IV, is a continuation of a westward-expanding and approved subdivision design form where previous tree removal has been mitigated. The applicant has indicated that the engineering of development around the 4 lot area restricted the ability of the site to be retained for conservation purposes within the center of the pre-designed platted subdivision.

**Recommendation**

Based on the central location of protected trees in the engineered subdivision, and the mitigation progression of the overall subdivision through previous phases, the chief arborist recommends approval of the alternate tree replacement plan of waiver and extension for Phase III, because strict compliance with the requirements of this article will unreasonably burden the use of the property, and the special exception will not adversely affect neighboring property.

As a condition, all required tree mitigation in Phase III and Phase IV must be finished with the completion of final residential lot in Phase IV prior to the final certificate of completion, or within four years of Board approval, whichever is greater.

Philip Erwin  
Chief Arborist  
Building Inspection



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-107

Data Relative to Subject Property:

Date: 8/2/2017

Location address: 9301 Sandyland Blvd Zoning District: R10 (A)

Lot No.: Tract Block No.: 1/8495, 4/8495 Acreage: 7.326 Census Tract: 116.02  
5/8495

Street Frontage (in Feet): 1) 179' 2) 53' 3) 406.14' 4) 242' 5)   
Cabo San Lucas Marco Island CT Leon Dr

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Bosco Investments, Ltd

Applicant: Jeff Bosse Telephone: (214) 478-1933

Mailing Address: P.O. Box 4738, Dallas, TX Zip Code: 75208

E-mail Address: Bigdaddy493@aol.com

Represented by: Jeff Bosse Telephone:

Mailing Address: P.O. Box 4738, Dallas, TX Zip Code: 75208

E-mail Address: Bigdaddy493@aol.com

Affirm that an appeal has been made for a Variance   , or Special Exception X, of An Alternate Landscape plan for Tree Mitigation

Tree mitigation Article 10 Landscape Ordinance

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 for a special exception to the tree mitigation ordinance on our subdivision. As we have 4 lots that are extensively populated with almost all the tree mitigation associated with this project.

Please see Attached Letter and Exhibits

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 Jeff Bosse - Manager  
(Affiant/Applicant's name printed)

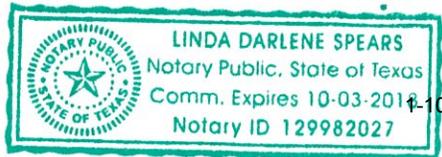
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

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

Subscribed and sworn to before me this 2nd day of August, 2017

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

(Rev. 08-01-11)





# City of Dallas

## Internal Development Research Site

### Legend

### Locate Property

Search by:

GIS Account #

Locate

OR

Street address.

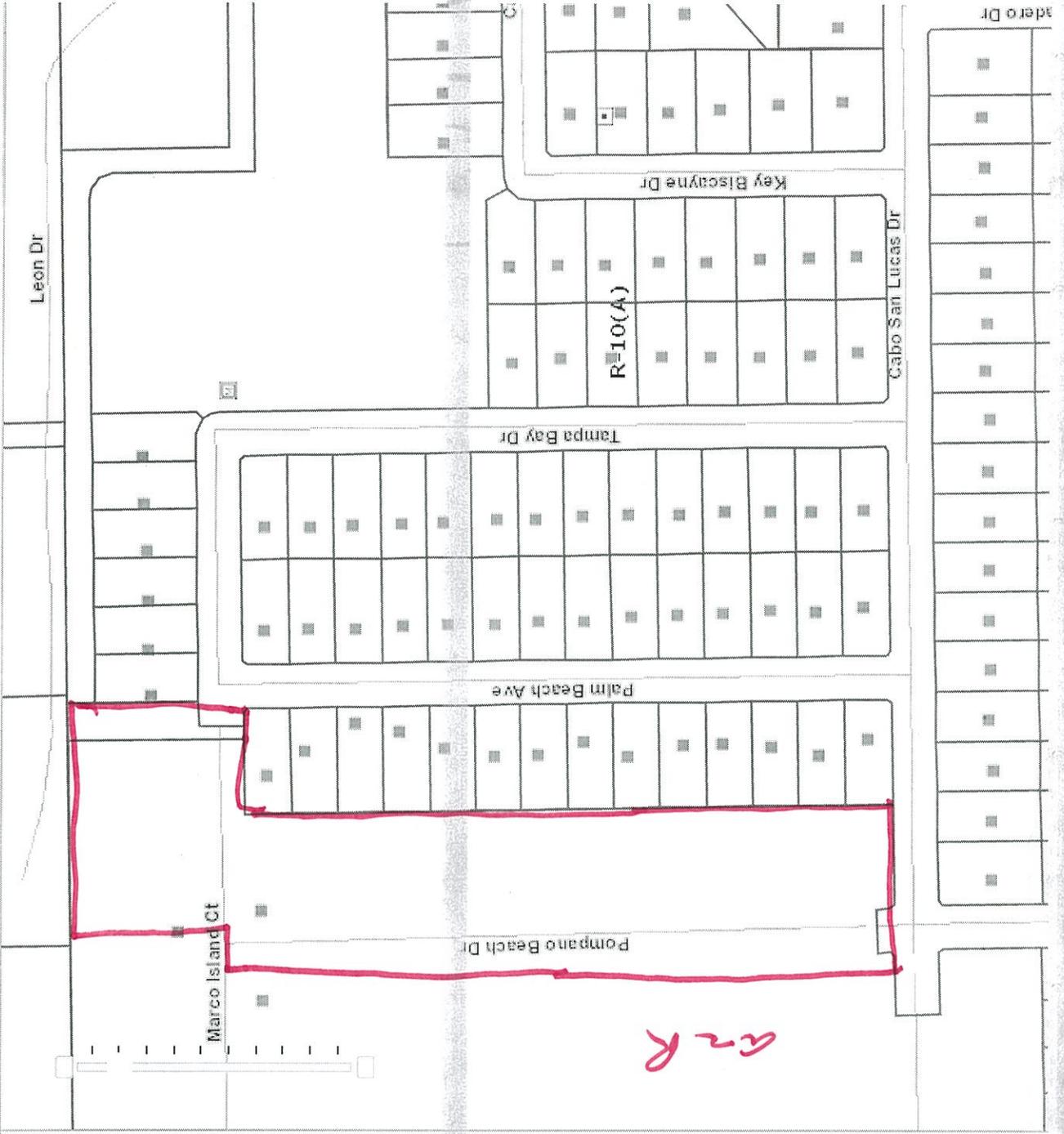
Locate

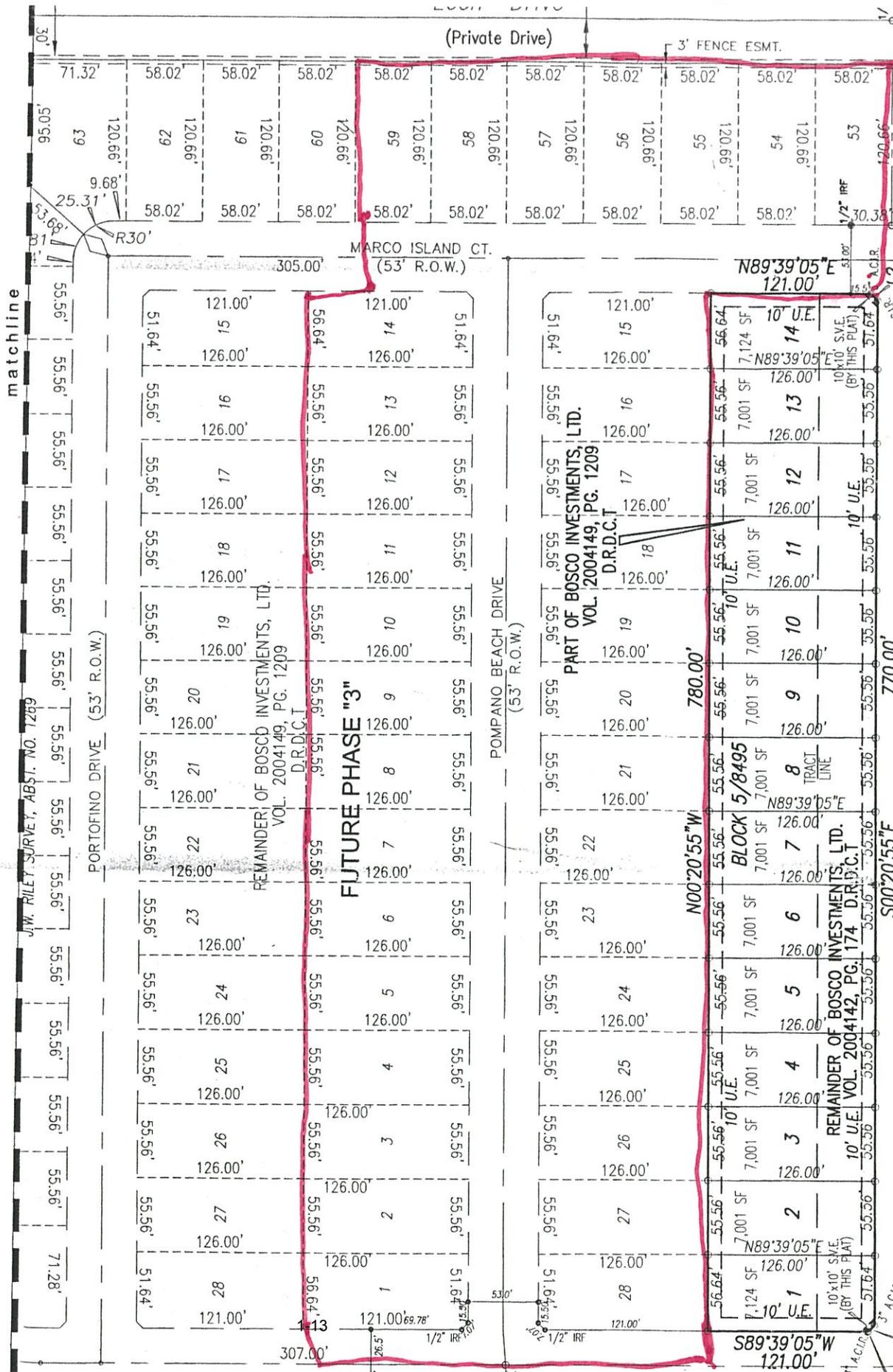
OR

Parcel address.

Use street type for better re

Locate



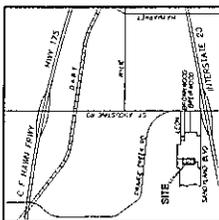


Handwritten red initials 'P.W.' in the upper right corner.

**SANDYLAND ESTATES PHASE 3  
TREE MITIGATION LISTING**

		POMPANO BEACH			POMPANO BEACH			POMPANO BEACH			POMPANO BEACH			POMPANO BEACH		
BLK 5/8495	LOT 15														LOT 18	
TAG#	TYPE	CAL INCH	TAG#	TYPE	CAL INCH	TAG#	TYPE	CAL INCH	TAG#	TYPE	CAL INCH	TAG#	TYPE	CAL INCH		
2159	OAK	22	2073	OAK	14	2056	OAK	12	2049	OAK	24					
2160	ELM	12	2075	OAK	18	2057	OAK	10	2050	OAK	13					
2227	ELM	10	2076	OAK	8	2086	OAK	8	2051	OAK	10					
2235	OAK	10	2077	OAK	23	2087	OAK	12	2052	OAK	12					
2236	ELM	10	2078	ELM	8	2100	OAK	12	2081	OAK	33					
2237	ELM	12	2079	OAK	10	2101	OAK	11	2083	OAK	20					
2238	OAK	10	2080	OAK	13	2102	OAK	14	2084	OAK	11					
2239	OAK	14	2224	ELM	10	2103	OAK	12	2090	OAK	12					
2240	OAK	23	2226	OAK	20	2105	OAK	8	2091	OAK	11					
2243	ELM	9	2228	OAK	9	2106	OAK	12	2092	OAK	11					
2244	OAK	43	2230	OAK	24	2107	OAK	22	2093	ELM	13					
2245	OAK	20	2231	OAK	24	2108	ELM	8	2094	OAK	19					
2246	OAK	20	2232	OAK	14	2109	OAK	18	2095	OAK	36					
			2233	OAK	12	2110	OAK	14	2097	ELM	9					
			2234	OAK	12	2111	OAK	18	2098	OAK	11					
TOTALS		215			219				2115	ELM	27					
<b>SUMMARY</b>									2116	ELM	42					
LOT 15		215														
LOT 16		219						251								
LOT 17		251													314	
LOT 18		314														
TOTAL		999														

# EXHIBIT "A"



LOCESON M&D  
NLS  
MPS017141X

## LEGEND

- 1/2" INCH IRON ROD SET WITH RED PLASTIC CAP MARKED "KUGLER & MARTIN SURVY UNLESS NOTED OTHERWISE"
- 4" DIA. 1/2" IRON ROD SET WITH RED PLASTIC CAP MARKED "SANDYLAND CONTRACT NO. 8 / PLOT NO. 112"
- SPOT ELEVATION (EACHMENT)
- UTILITY EASEMENT
- UTILITY EASEMENT
- INSTRUMENT NUMBER
- R.O.W.
- RIGHT-OF-WAY
- SQUARE FOOT
- BARBER FREE RAMP
- DEED RECORDS DALLAS COUNTY TEXAS
- DEED RECORDS DALLAS COUNTY TEXAS
- 1/2" INCH IRON ROD WITH ALUMINUM CAP MARKED "SANDYLAND ESTATES PHASE 2 PLOT 112" SET
- 1/2" INCH IRON ROD
- WATER METEOR
- WATER METEOR
- SEWER INLET
- WASTEWATER IN

LINE	LENGTH	AREA
1	1.00	1.00
2	1.00	1.00
3	1.00	1.00
4	1.00	1.00
5	1.00	1.00
6	1.00	1.00
7	1.00	1.00
8	1.00	1.00
9	1.00	1.00
10	1.00	1.00
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91	1.00	1.00
92	1.00	1.00
93	1.00	1.00
94	1.00	1.00
95	1.00	1.00
96	1.00	1.00
97	1.00	1.00
98	1.00	1.00
99	1.00	1.00
100	1.00	1.00

TOTAL SF = 305,710 SF  
TOTAL AC = 7.018 AC

## STREET ADDRESS & SITE PLAN

OF  
SANDYLAND ESTATES, PHASE 3  
COMMUNITY UNIT DEVELOPMENT  
LOTS 53-59, BLOCK 18495  
LOTS 1-14, BLOCK 48495  
LOTS 15-28, BLOCK 58495

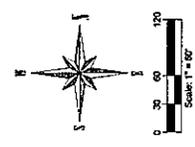
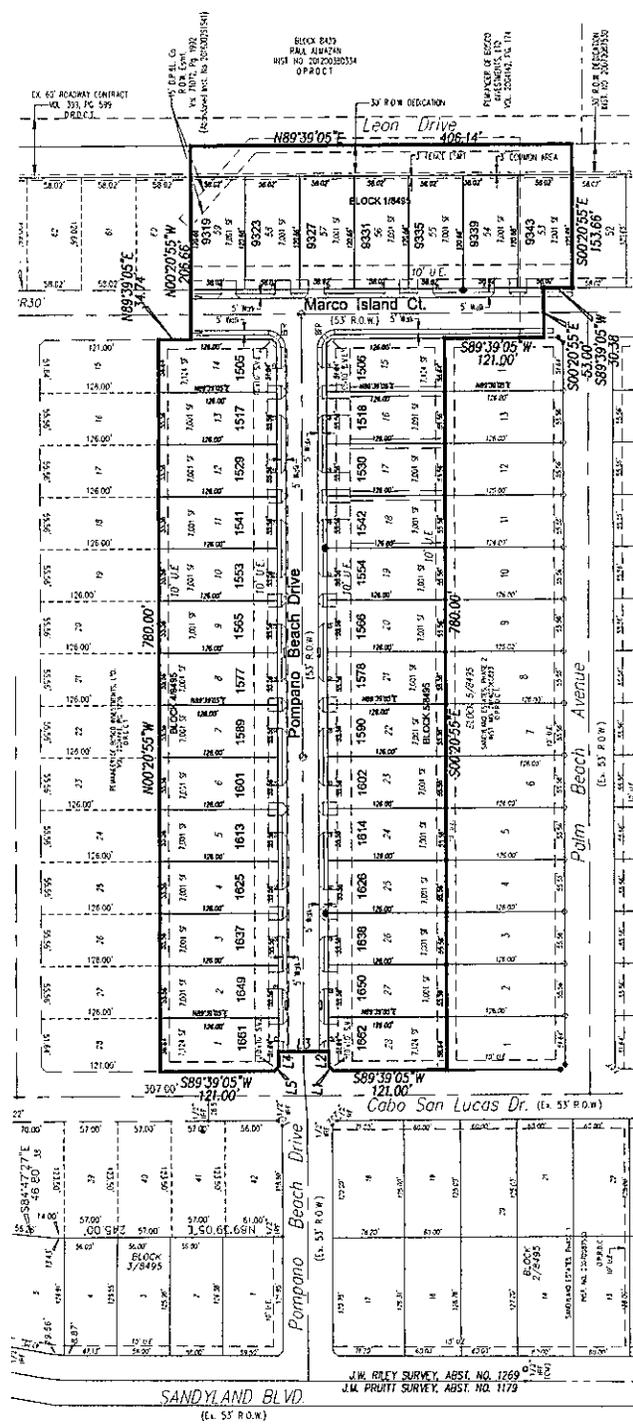
BEING A 7.018 ACRE TRACT OUT OF  
AND THE J.W. RILEY SURVEY, ABSTRACT NO. 1269  
IN THE CITY OF DALLAS, BLOCK 8495  
DALLAS COUNTY, TEXAS

CITY PLAN FILE #S056-363C

Owner:  
BOSCO INVESTMENTS, LTD.  
P.O. BOX 4738  
Dallas, Texas 75208

Engineer:  
CRANNELL, CRANNELL & MARTIN ENGINEERING  
2370 Justin Road, Suite 205  
Highland Park, Texas 75077  
(817) 691-6633

JUNE 2007 5046-T = 60 SHEET 1 OF 1



BASED UPON THE NORTH LINE OF SANDYLAND BLVD.  
AS SHOWN ON THE J.W. RILEY SURVEY, ABSTRACT NO. 1269,  
DALLAS COUNTY, TEXAS.

# BOSCO INVESTMENTS, LTD

June 29, 2017

City of Dallas  
Board of Adjustment  
1500 Marilla St.  
5BN  
Dallas, TX 75201

RE: Application /Appeal (9301 Sandyland Blvd)

To whom it may concern,

We are asking for a special exception to the tree preservation ordinance on four (4) lots, due the unreasonable burden that they have put on the subdivision. These four (4) lots are very unusual, as they are extensively populated with almost all of the tree mitigation associated with this project. (See Attached)

The four (4) adjacent lots have a total of 999 inches of tree mitigation. The total tree mitigation for entire site of 35 lots is 1090 inches. We looked at saving these trees and even doing a pocket park, but due to that the trees are either in pad sites or due to grading and drainage plans, the trees will not survive.

We will be planting 315 inches of new trees plus we were able to save an additional 126 Caliper inches of existing trees in phase III.

Our phase II, which is completed and is adjacent to phase III, will not be adversely effected to the tree removal of these four (4) lots in phase 3. We had to remove trees in phase I as well.

We have submitted phase IV plans to the City of Dallas, they are currently under review. We will be planting an estimated 360 inches of trees in that phase.

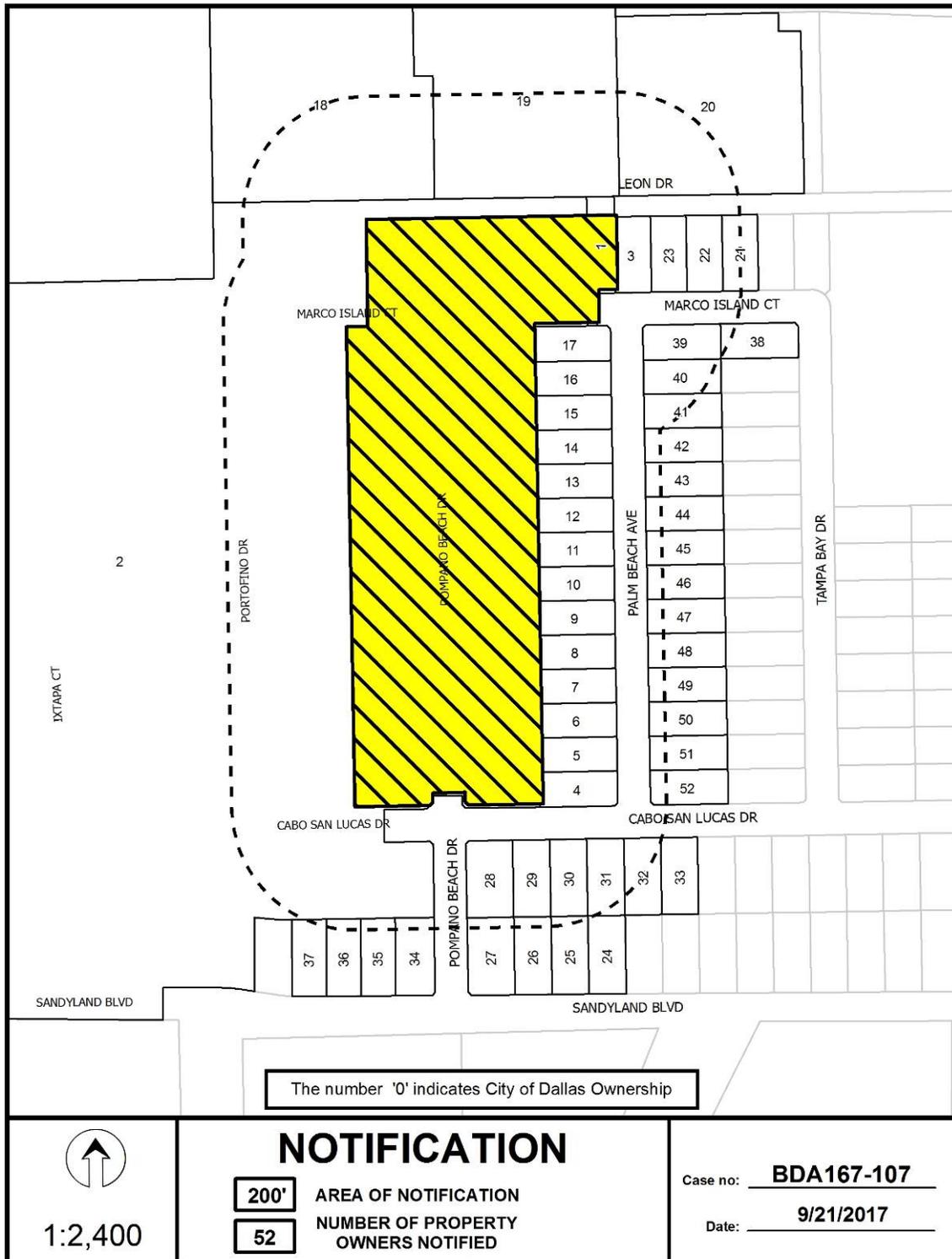
We had great success in our previous phases I and II. We removed and mitigated 3,096 inches in phase I and 1,877 inches in phase II. We did this through ordinance and worked with the City of Dallas Parks Department and the City of Dallas Arborist, as we donated and replanted trees in city parks. We also dedicated a conservation easement and open spaces throughout our site to fulfill our tree mitigation requirement. All requirements on Phase I & Phase 2 have been completed.

We kindly ask that you consider our request for this special exception to the tree preservation ordinance under our unique circumstances. All of our tree mitigation is on four (4) adjacent lots and thus putting an unreasonable burden on the subdivision.

Best Regards,



Jeff Bosse  
Manager



1:2,400

# NOTIFICATION

**200'** AREA OF NOTIFICATION  
**52** NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA167-107**  
 Date: **9/21/2017**

## *Notification List of Property Owners*

### *BDA167-107*

#### *52 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	9401 SANDYLAND BLVD	BOSCO INVEST LTD PS
2	9301 SANDYLAND BLVD	BOSCO INVESTMENTS LTD
3	9347 MARCO ISLAND CT	SOTO MARGARITO J &
4	1655 PALM BEACH AVE	LICEA JOSE MIGUEL COPADO &
5	1651 PALM BEACH AVE	FAJARDODIAZ JANNETH
6	1647 PALM BEACH AVE	ALVAREZVALENZUELA EDGAR J L &
7	1643 PALM BEACH AVE	FLORESCANALES CARLOS &
8	1639 PALM BEACH AVE	MARTINEZCARDONA ROBERTO &
9	1635 PALM BEACH AVE	SALAS RODOLFO HERNANDEZ
10	1631 PALM BEACH AVE	QUEZADAMARTINEZ CARMEN J
11	1627 PALM BEACH AVE	COOPER REAL ESTATE COMPANY LP
12	1623 PALM BEACH AVE	ORTIZ HILDA VILLANUEVA &
13	1619 PALM BEACH AVE	MEDRANO JOSE & MARIA G
14	1615 PALM BEACH AVE	RAMIREZ LINO &
15	1611 PALM BEACH AVE	ROCHA JUAN & SYLVIA
16	1607 PALM BEACH AVE	ZELAYAMERLOS JOSE I &
17	1603 PALM BEACH AVE	VIERA JUAN J &
18	9301 LEON DR	ALMAZAN RAUL
19	9315 LEON DR	JUAREZ JOSE
20	9321 LEON DR	CARRILLO JESUS & JULIA
21	9359 MARCO ISLAND CT	CARMONA ABRIL
22	9355 MARCO ISLAND CT	OVALLE GREGORIA &
23	9351 MARCO ISLAND CT	AVILA ELOISA
24	9345 SANDYLAND BLVD	MENDIOLA ALBERTO & ARACELI AVILA
25	9341 SANDYLAND BLVD	PINEDA JUAN
26	9337 SANDYLAND BLVD	GUTIERREZ MARIA A

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	9331 SANDYLAND BLVD	CHACON HECTOR A & SILDAIN DELGADO
28	9304 CABO SAN LUCAS DR	HERNANDEZ-RUIZ DANIEL &
29	9308 CABO SAN LUCAS DR	MARTINEZ MAGDALENA
30	9312 CABO SAN LUCAS DR	RUIZ ALAN
31	9316 CABO SAN LUCAS DR	OLMOS ALONSO
32	9320 CABO SAN LUCAS DR	GANDARA JUAN A &
33	9324 CABO SAN LUCAS DR	MENDOZA MARIO & VERONICA
34	9323 SANDYLAND BLVD	BARAHONA WALTER
35	9319 SANDYLAND BLVD	LUJAN JOSE G
36	9315 SANDYLAND BLVD	DICKERSON EARL R & SHEILA
37	9311 SANDYLAND BLVD	CAZARES OBED U A &
38	1603 TAMPA BAY DR	GURROLA GREGORIO
39	1602 PALM BEACH AVE	MATA JUAN CARLOS
40	1606 PALM BEACH AVE	SOLIS MIGUEL &
41	1610 PALM BEACH AVE	MUNIZ HENRRY & MARIA V MORALES
42	1614 PALM BEACH AVE	LARARAMIREZ BLANCA ROSA &
43	1618 PALM BEACH AVE	CHU DELMY &
44	1622 PALM BEACH AVE	XINGLONG WON LLC
45	1626 PALM BEACH AVE	RODRIGUEZ NOE & ERICA
46	1630 PALM BEACH AVE	ORTA MARIA
47	1634 PALM BEACH AVE	CECENAS MADEL ROCIO
48	1638 PALM BEACH AVE	HIDROGO MAXIMILIANO
49	1642 PALM BEACH AVE	OVALLE EMMANUEL &
50	1646 PALM BEACH AVE	ERMINA REAL ESTATE LLC
51	1650 PALM BEACH AVE	VASQUEZ JOSE BARRIOS &
52	1654 PALM BEACH AVE	PADILLA MARCO ANTONIO

**FILE NUMBER:** BDA167-115(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Tom Persch, represented by Michael Kendall of Kendall Landscape Architecture, for a special exception to the landscape regulations at 1919 McKinney Avenue. This property is more fully described as Lot 1A, Block A/358, and is zoned PD-193 (HC), which requires mandatory landscaping. The applicant proposes to construct and/or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 1919 McKinney Avenue

**APPLICANT:** Tom Persch  
Represented by Michael Kendall of Kendall Landscape Architecture

**REQUEST:**

A request for a special exception to the landscape regulations is made to obtain a building permit for a surface parking lot on site developed with an office structure/use - a structure that according to DCAD was built in the 1920's prior to the landscape ordinance adopted in the mid 80's, and to not fully provide required landscaping on the subject site, more specifically to not provide street trees, sidewalks, and screening of off-street parking along Cedar Springs Road, and sections of St. Paul and McKinney Avenue.

**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:

- The City of Dallas Chief Arborist recommends approval of the applicant's request because the special exception will not compromise the spirit and intent of the PD 193 landscape regulations.
- In making this conclusion, staff considered that the following facts:
  - The property was developed prior to initiation of PD 193.

- The revised landscape plan consolidates all landscaping areas on one drawing.
- The applicant has provided for two new red oak trees in proximity to an existing sweetgum tree along McKinney Avenue.

**BACKGROUND INFORMATION:**

Site: PD 193 (HC) (Planned Development, Heavy Commercial)  
North: PD 193 (PDS 50) (Planned Development, Planned Development)  
South: PD 193 (PDS 24) (Planned Development, Planned Development)  
East: PD 193 (PDS 66) (Planned Development, Planned Development)  
West: PD 193 (HC) (Planned Development, Heavy Commercial)

**Land Use:**

The subject site is developed with an office structure/use (HKS). The areas to the north, east, south, and west are developed with a mix of land uses.

**Zoning/BDA History:**

<p>1. BDA134-086, Property at 1919 McKinney Avenue (the subject site)</p>	<p>On September 16, 2014, the Board of Adjustment Panel A granted a special exception to the landscape regulations and imposed the submitted alternate landscape plan as a condition.  The case report stated the request was made to construct and maintain a surface parking lot on site developed with an office structure/use (HKS) - a structure that according to the application was developed prior to the landscape ordinance adopted in the mid 80's.</p>
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<p>2. BDA 967-300, Property at 1907 McKinney Avenue (a portion of the subject site)</p>	<p>On October 28, 1997, the Board of Adjustment Panel A was informed that the originally submitted request for a special exception to the landscape regulations was removed from the docket since it had been determined by staff that the request originally heard on September 23, 1997 was not required.</p>
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**GENERAL FACTS/ STAFF ANALYSIS:**

- This request for a special exception to the landscape regulations focuses on obtaining a building permit for a surface parking lot on site developed with an office

structure/use - a structure that according to DCAD was built in the 1920's prior to the landscape ordinance adopted in the mid 80's, and not fully provide required landscaping on the subject site, and not fully providing required landscaping on the subject site, more specifically, not providing street trees, sidewalks, and screening of off-street parking along Cedar Springs Road, and sections of St. Paul and McKinney Avenue.

- The applicant's representative had originally stated that this was a reapplication of a BDA approval in 2014 in which a building permit was not secured within the required 180 days; that the plan for the parking lot was identical; and that the only plan revision was several trees within the courtyard have died and were removed. However, on October 6, 2017, the applicant's representative submitted a revised alternate landscape plan to staff (see Attachment B).
- Note that the Board of Adjustment Panel B granted a request for a special exception to the landscape regulations on the subject site in September of 2014: BDA134-086, and imposed the submitted alternate landscape plan as a condition to this request. The case report stated the request was made to construct and maintain a surface parking lot on a site developed with an office structure/use.
- The Dallas Development Code states the applicant shall file a building permit or certificate of occupancy within 180 days from the date of the favorable action of the board; and that if the applicant fails to file an application within the time period, the request is automatically denied without prejudice.
- The applicant's representative further states that Lot 2 is a sub-lot of Lot 1A. Lot 2 will be developed as a parking lot; that all landscape requirements for Lot 2 can be met on Lot 2; the balance of Lot 1A is existing; and that they are requesting a landscape exception to requirements along the existing portions of St. Paul and Cedar Spring Road where these edges were developed prior to the landscape ordinance and the sidewalk area is too narrow to physically accommodate the required landscaping.
- 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 submitted a memo regarding the applicant's request (see Attachment C).
- The Chief Arborist's memo states the following with regard to "request":
  - The applicant is requesting a special exception to the landscape regulations of PD 193 (HC). The revised landscape plan is amended to demonstrate the specific landscape conditions for the parking lot at McKinney and St. Paul. The property had not obtained a building permit within 180 days of the previous Board hearing.
- The Chief Arborist's memo states the following with regard to "provision":
  - The new parking lot is a portion of the single property. PD 193 requires that the landscape regulations apply to the full property when it is applicable. The plan

calls for compliant landscape conditions in the area of the parking lot and two landscape tree additions on McKinney. The courtyard on Cedar Springs is amended from the previously approved plan.

- The Chief Arborist’s memo states the following with regard to “deficiencies”:
  - Properties with PD 193 (HC) conditions require street trees, sidewalks, and screening of off-street parking. Existing building and parkway conditions restrict application of required conditions along Cedar Springs Road, and sections of St. Paul and McKinney Avenue. The previously approved plan indicated three new red oaks along McKinney Avenue and the new plan has two red oaks.
- The Chief Arborist’s memo states the following with regard to “factors”:
  - The property was developed prior to initiation of PD 193.
  - The revised landscape plan consolidates all landscaping areas on one drawing.
  - The applicant has provided for two new red oak trees in proximity to an existing sweetgum tree along McKinney Avenue.
- The City of Dallas Chief Arborist recommends approval of the revised alternate landscape plan because the special exception will not compromise the spirit and intent of the PD 193 landscape regulations.
- The applicant has the burden of proof in establishing the following:
  - The special exception (where a revised alternate landscape plan has been submitted that is deficient in meeting the street trees, sidewalks, and screening of off-street parking requirements of the PD 193 landscape requirements) 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 revised alternate landscape plan as a condition, the site would be granted exception from full compliance to street trees, sidewalks, and screening of off-street parking requirements of the PD 193 landscape requirements of the Oak Lawn PD 193 landscape ordinance.

**Timeline:**

August 15, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

September 12, 2017: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case”.

September 12, 2017: 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 September 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis;

and the October 6<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.

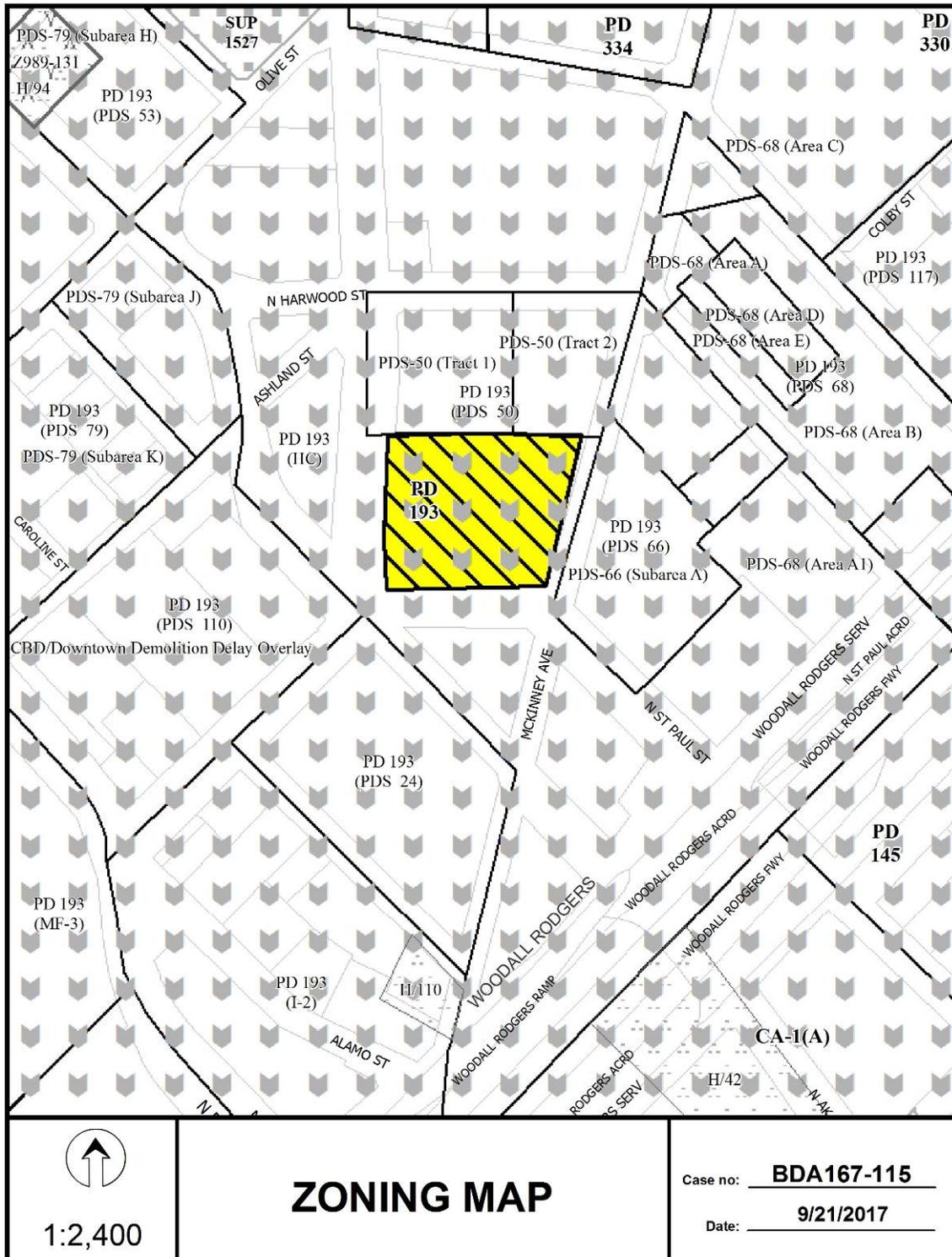
September 27, 2017: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

October 3, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

October 6, 2017: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment B).

October 6, 2017: The City of Dallas Chief Arborist submitted a memo regarding this application (see Attachment C).





1:2,400

# AERIAL MAP

Case no: BDA167-115

Date: 9/21/2017

**Long, Steve**

---

**From:** mike@kendall7.com  
**Sent:** Wednesday, September 27, 2017 9:31 AM  
**To:** Long, Steve  
**Subject:** 1919 McKinney

Steve,

Following is our proposed revised language for 1919 McKinney:

Current application description:

**Lot 2 is a sub-lot of Lot 1A. Lot 2 will be developed as a parking lot. All landscape requirements for Lot 2 can be met on Lot 2. The balance of Lot 1A is existing. We are requesting a landscape exception to requirements along the existing portions of St. Paul and Cedar Spring Road. These edges were developed prior to the landscape ordinance and the sidewalk area is too narrow to physically accommodate the required landscaping.**

Proposed application description:

**This is a reapplication of a BDA approval in 2014 in which a building permit was not secured within the required 180 days. The plan for the parking lot is identical. The only plan revision is several trees within the courtyard have died and were removed.**

**Lot 2 is a sub-lot of Lot 1A. Lot 2 will be developed as a parking lot. All landscape requirements for Lot 2 can be met on Lot 2. The balance of Lot 1A is existing. We are requesting a landscape exception to requirements along the existing portions of St. Paul and Cedar Spring Road. These edges were developed prior to the landscape ordinance and the sidewalk area is too narrow to physically accommodate the required landscaping.**

Thank you,

Michael S. Kendall  
KENDALL + Landscape Architecture  
Phone: 214-739-3226 cell 214-536-9719  
www.kendall7.com



BDA 167-115  
Attach C

# Memorandum



CITY OF DALLAS

Date October 6, 2017  
To Steve Long, Board Administrator  
Subject BDA #167-115 1919 McKinney Avenue

## Request

The applicant is requesting a special exception to the landscape regulations of PD 193 (HC). The revised landscape plan is amended to demonstrate the specific landscape conditions for the parking lot at McKinney and St. Paul. The property had not obtained a building permit within 180 days of the previous Board hearing.

## Provision

The new parking lot is a portion of the single property. PD 193 requires that the landscape regulations apply to the full property when it is applicable. The plan calls for compliant landscape conditions in the area of the parking lot and two landscape tree additions on McKinney. The courtyard on Cedar Springs is amended from the previously approved plan.

## Deficiencies

Properties with PD 193 (HC) conditions require street trees, sidewalks, and screening of off-street parking. Existing building and parkway conditions restrict application of required conditions along Cedar Springs Road, and sections of St. Paul and McKinney Avenue. The previously approved plan indicated three new red oaks along McKinney Avenue and the new plan has two red oaks.

## Factors

- The property was developed prior to initiation of PD 193.
- The revised landscape plan consolidates all landscaping areas on one drawing.
- The applicant has provided for two new red oak trees in proximity to an existing sweetgum tree along McKinney Avenue.

## Recommendation

The chief arborist recommends approval of the revised alternate landscape plan because the special exception will not compromise the spirit and intent of the ordinance.

Philip Erwin  
Chief Arborist  
Building Inspection



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-115

Data Relative to Subject Property:

Date: 15 August 2017

Location address: 1919 McKinney Avenue Dallas, Texas Zoning District: PD 193 (HC)

Lot No.: 1A, 2 Block No.: A/358 Acreage: 1.6042 Census Tract: ~~98020~~, Pg. 64 19.00

Street Frontage (in Feet): 1) 249 2) 282 3) 245 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment:

Owner of Property (per Warranty Deed): HKS Building, L.P.

Applicant: Thomas Persch Telephone: 214-747-7021

Mailing Address: 1919 McKinney, Suite 2009, Dallas, Texas Zip Code: 75201

E-mail Address: tpersch@ecomtrading.com

Represented by: Michael Kendall, Kendall Landscape Architecture Telephone: 214-739-3226

Mailing Address: 8150 North Central Expressway, Suite M2025 Dallas, Texas Zip Code: 75206

E-mail Address: mike@kendall7.com

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

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: Lot 2 is a sub-lot of Lot 1A. Lot 2 will be developed as a parking lot. All landscape requirements for Lot 2 can be met on Lot 2. The balance of Lot 1A is existing. We are requesting a landscape exception to requirements along the existing portions of St. Paul and Cedar Spring Road. These edges were developed prior to the landscape ordinance and the sidewalk area is too narrow to physically accommodate the required landscaping.

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

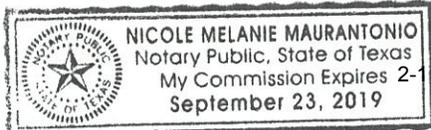
Affidavit

Before me the undersigned on this day personally appeared Thomas Persch (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 15 day of August, 2017

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





# City of Dallas

## Internal Development Research Site

Legend

Locate Property

Search by:

GIS Account #

Locate

OR

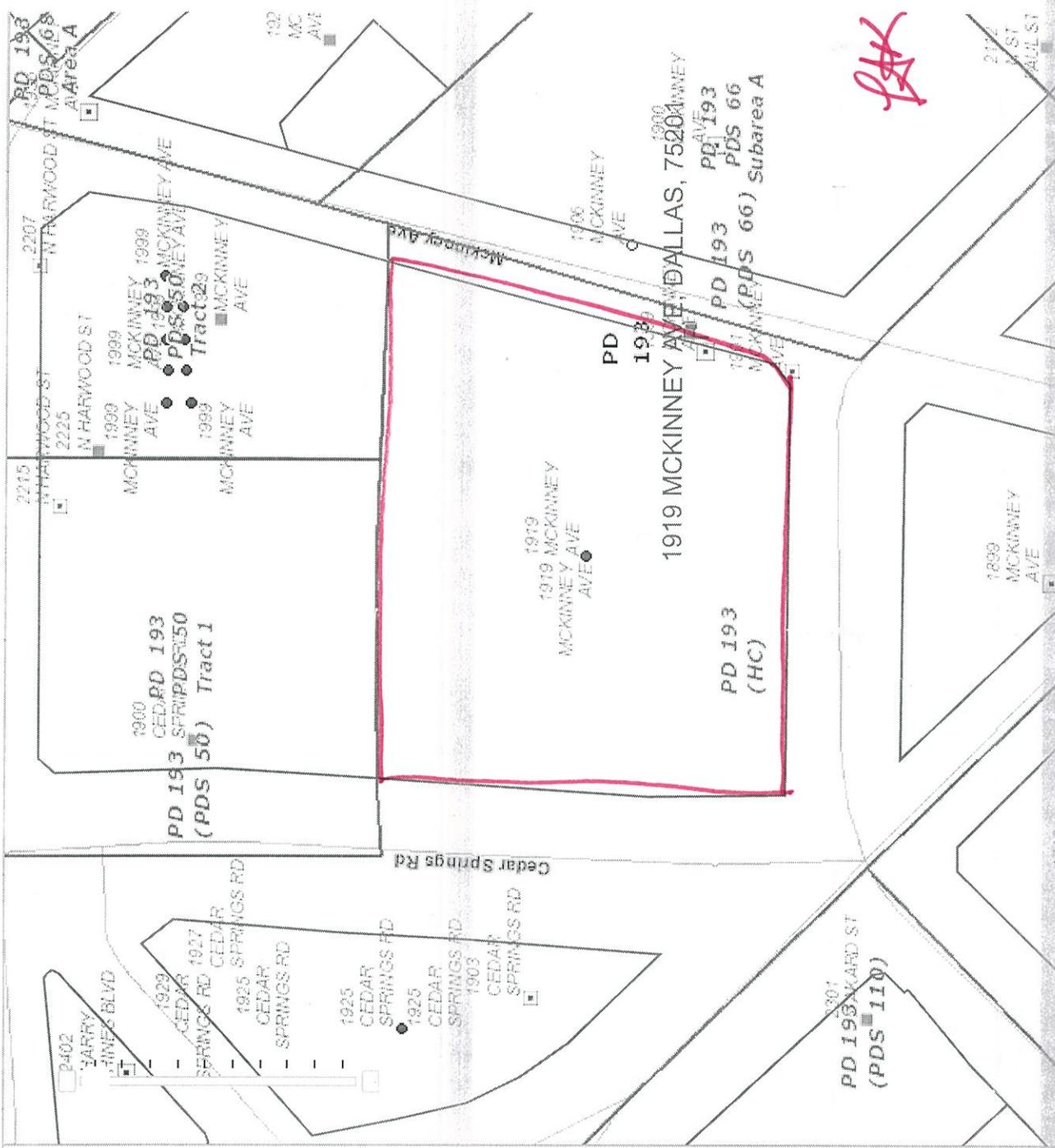
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1919 mckinney

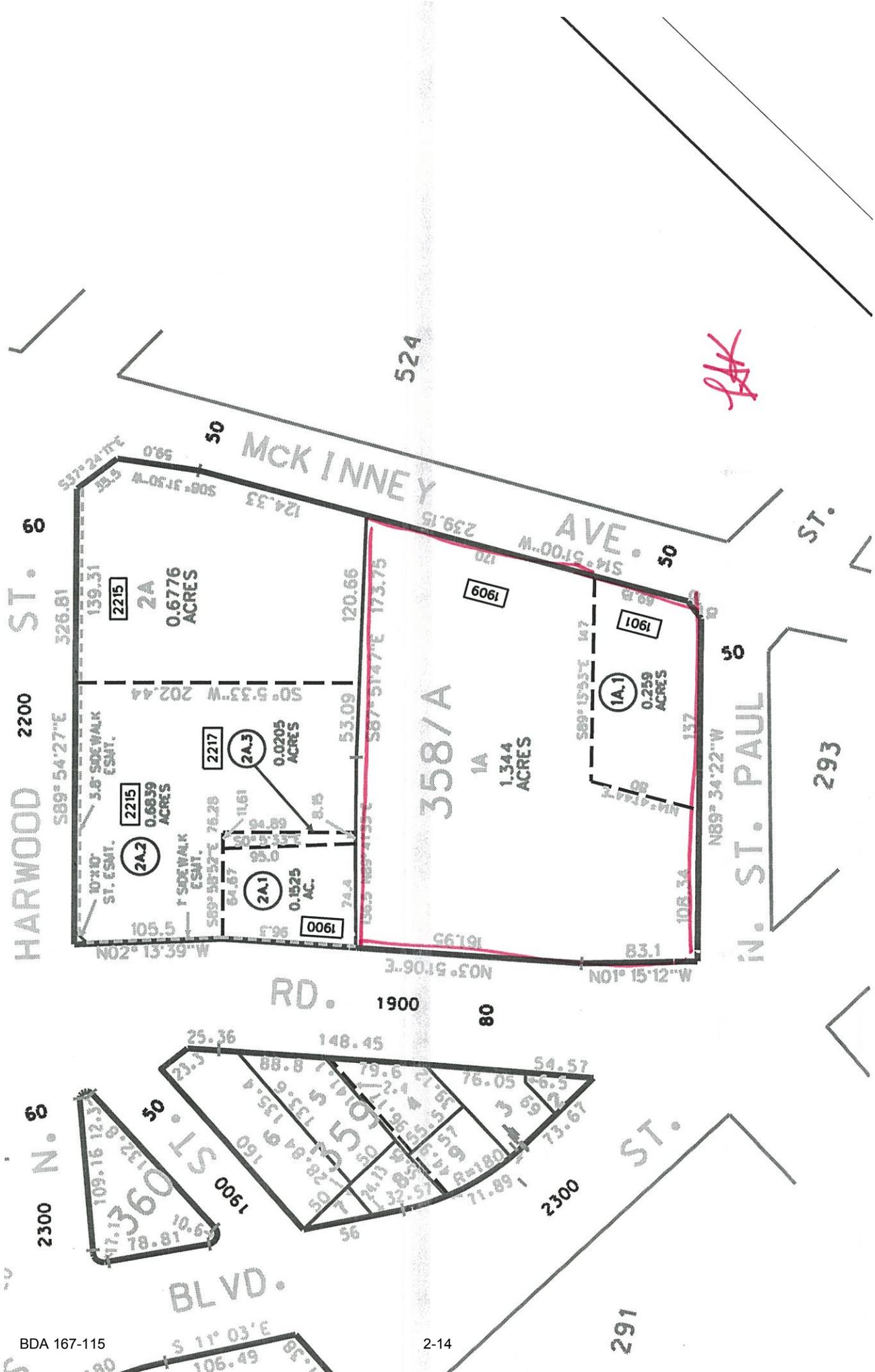
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OR

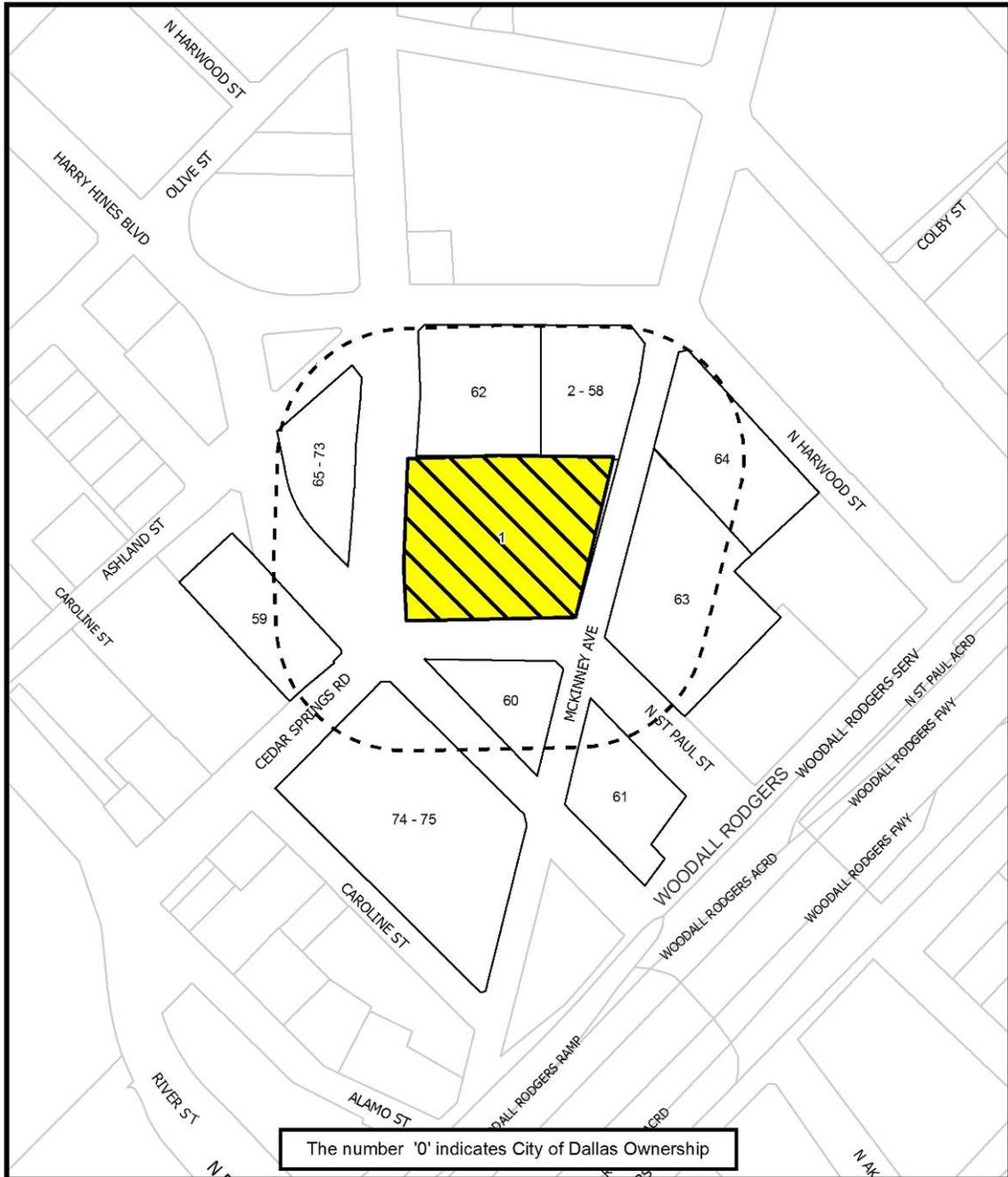
Parcel address.  
Use street type for better re

Locate









The number '0' indicates City of Dallas Ownership

 1:2,400	<h2>NOTIFICATION</h2>	Case no: <b>BDA167-115</b>			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">75</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	75	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
75	NUMBER OF PROPERTY OWNERS NOTIFIED				

# *Notification List of Property Owners*

## *BDA167-115*

### *75 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1919 MCKINNEY AVE	HKS BUILDINGS LP
2	1999 MCKINNEY AVE	SIROIS RICHARD N & MARY
3	1999 MCKINNEY AVE	MOORE F DAVID
4	1999 MCKINNEY AVE	ARROYO DEANNE ALYSSA
5	1999 MCKINNEY AVE	HARTL PAUL A
6	1999 MCKINNEY AVE	SMITH WALTER G &
7	1999 MCKINNEY AVE	KALIL STEPHEN A &
8	1999 MCKINNEY AVE	GARRETT MICHAEL L &
9	1999 MCKINNEY AVE	FOX JAMES P & KATHLEEN K
10	1999 MCKINNEY AVE	JAIN ANISH K &
11	1999 MCKINNEY AVE	PALMER RICHARD W & BETH G
12	1999 MCKINNEY AVE	BELMER REBECCA SADLER
13	1999 MCKINNEY AVE	CURTIS AUDREY A THE LIVING TRUST
14	1999 MCKINNEY AVE	STONE JANE
15	1999 MCKINNEY AVE	HUTCHINSON WILLIAM L & SUZANNE S
16	1999 MCKINNEY AVE	SHARP THOMAS L
17	1999 MCKINNEY AVE	DEANE BELINDA
18	1999 MCKINNEY AVE	BUGG ROBERT C
19	1999 MCKINNEY AVE	MCELWAIN CLARK W &
20	1999 MCKINNEY AVE	MEDINA MICHAEL A
21	1999 MCKINNEY AVE	STEHNEY JEFFREY ALLEN & JOYCE KAY
22	1999 MCKINNEY AVE	TILLERY BRYCE
23	1999 MCKINNEY AVE	STUVE OLAF &
24	1999 MCKINNEY AVE	LASSITER ANNA
25	1999 MCKINNEY AVE	DUFOUR FRANK & KRISTIN LEE
26	1999 MCKINNEY AVE	HOUSE JAMES A &

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	1999 MCKINNEY AVE	HALBERT LINDSEY &
28	1999 MCKINNEY AVE	BARTLETT CHARLES M & MELISSA S
29	1999 MCKINNEY AVE	STRONG BRENDA L
30	1999 MCKINNEY AVE	MOORE LARRY H & DORRINE B
31	1999 MCKINNEY AVE	SCHUBERT FRANK B &
32	1999 MCKINNEY AVE	DOWLING MAUREEN F
33	1999 MCKINNEY AVE	PRAGADA JESSICA E & ROBERT V
34	1999 MCKINNEY AVE	CASSIDY THOMAS P & ARLEEN D
35	1999 MCKINNEY AVE	1999 LISA K HAINES TRUST
36	1999 MCKINNEY AVE	HODGE CHARLES
37	1999 MCKINNEY AVE	ROY JOHN PARKER
38	1999 MCKINNEY AVE	BRINK RICHARD R &
39	1999 MCKINNEY AVE	OBERING MIHOKO K
40	1999 MCKINNEY AVE	BRADFORD TED R
41	1999 MCKINNEY AVE	WOMACK STEVEN W
42	1999 MCKINNEY AVE	SAINT AARON W
43	1999 MCKINNEY AVE	MALONE MICHAEL W
44	1999 MCKINNEY AVE	EDMISTON ANGIE L
45	1999 MCKINNEY AVE	CRAMM HOPE & GENE
46	1999 MCKINNEY AVE	ABINGTON TOM E & GLYNDA C
47	1999 MCKINNEY AVE	MILLER JAMES H & ROSANNE T
48	1999 MCKINNEY AVE	NAIK SURAJ
49	1999 MCKINNEY AVE	WINTER F DAVID JR & RENEE
50	1999 MCKINNEY AVE	WILKINS SARA
51	1999 MCKINNEY AVE	FRENCH ROBERT P & MARSHA B
52	1999 MCKINNEY AVE	WUNDERLICK JOHN ROBERT
53	1999 MCKINNEY AVE	MCLAREN JEFFREY
54	1999 MCKINNEY AVE	GRINDSTAFF CHARLES C &
55	1999 MCKINNEY AVE	ASHMORE GLEN A
56	1999 MCKINNEY AVE	EISENSTEIN ABRAM &
57	1999 MCKINNEY AVE	ACKERMAN JOHN & SUNNY

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
58	1999 MCKINNEY AVE	LEDBETTER FINLEY & JONI
59	2301 N AKARD ST	UNION UPTOWN DALLAS LLC THE
60	1899 MCKINNEY AVE	WC 1899 MCKINNEY AVE LLC
61	1845 WOODALL RODGERS FWY	TRITON 1845 WR REALCO LLC
62	1900 CEDAR SPRINGS RD	1900 CS A LLC
63	1900 MCKINNEY AVE	MCP 1900 MCKINNEY LLC
64	1920 MCKINNEY AVE	1900 MCKINNEY HARWOOD LLC
65	1925 CEDAR SPRINGS RD	ROLLIN PROPERTIES LP
66	1925 CEDAR SPRINGS RD	1933 CEDAR SPRINGS LLC
67	1925 CEDAR SPRINGS RD	ROMANO PHILIP J
68	1925 CEDAR SPRINGS RD	THREE BRIDS PROPERTY LP
69	1925 CEDAR SPRINGS RD	ADLER PROPERTY COMPANIES LLP
70	1925 CEDAR SPRINGS RD	DAWSON WILLIAM B &
71	1925 CEDAR SPRINGS RD	SMITH THOMAS L
72	1925 CEDAR SPRINGS RD	REEDER JAMES B
73	1925 CEDAR SPRINGS RD	BALDRIDGE JERALD TR ETAL
74	1717 MCKINNEY AVE	GAEDEKE HOLDINGS XIV LTD
75	1700 CEDAR SPRINGS RD	LG CEDAR SPRINGS LP

**FILE NUMBER:** BDA167-072(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Grant Schmidt for a variance to the off-street parking regulations at 7103 Mumford Court. This property is more fully described as Lot 45, Block 10/8758, and is zoned R-7.5(A), which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure for a church use, and provide 0 of the required 27 off-street parking spaces, which will require a 27 space variance to the off-street parking regulations.

**LOCATION:** 7103 Mumford Court

**APPLICANT:** Grant Schmidt

**REQUEST:**

A request for a variance to the off-street parking regulations of 27 spaces is made to obtain a Certificate of Occupancy/maintain an existing approximately 3,000 square foot church use (Congregation Toras Chaim), and provide 0 of the 27 required off-street parking spaces.

**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.

**ORIGINAL STAFF RECOMMENDATION (June 20, 2017):**

Denial

Rationale:

- Staff had concluded that the applicant had not substantiated how granting this variance to the off-street parking regulations of 27 spaces was not contrary to public

interest (the Sustainable Development Department Assistant Director of Engineering has submitted a review comment sheet marked “Recommends that this be denied”), had not substantiated how the variance to the off-street parking regulations 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 R-7.5(A) zoning district, and had not substantiated how granting this variance to the off-street parking regulation is not needed to relieve a self-created hardship.

- While staff had recognized that the subject site has two front yard setbacks atypical of most lots zoned R-7.5(A), staff concluded this unique feature does not preclude the applicant from developing the flat, rectangular in shape, approximately 12,500 square foot subject site (where lots are typically 7,500 square feet in area) in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning.

**UPDATED STAFF RECOMMENDATION (August 15, 2017):**

Denial

Rationale:

- Staff had concluded after factoring the new information submitted by the applicant at the June 20<sup>th</sup> public hearing that the applicant had not substantiated how granting this variance to the off-street parking regulations of 27 spaces was not contrary to public interest (the Sustainable Development Department Assistant Director of Engineering has submitted a review comment sheet marked “Recommends that this be denied”), had not substantiated how the variance to the off-street parking regulations 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 R-7.5(A) zoning district, and had not substantiated how granting this variance to the off-street parking regulation is not needed to relieve a self-created hardship.
- While staff recognized that the subject site had two front yard setbacks atypical of most lots zoned R-7.5(A), staff concluded this unique feature does not preclude the applicant from developing the flat, rectangular in shape, approximately 12,500 square foot subject site (where lots are typically 7,500 square feet in area) in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning.

**UPDATED STAFF RECOMMENDATION (October 17, 2017):**

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the October 3<sup>rd</sup> staff review team meeting that the applicant had not substantiated how

granting this variance to the off-street parking regulations of 27 spaces was not contrary to public interest (the Sustainable Development Department Assistant Director of Engineering has submitted a review comment sheet marked "Recommends that this be denied"), had not substantiated how the variance to the off-street parking regulations 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 R-7.5(A) zoning district, and had not substantiated how granting this variance to the off-street parking regulation is not needed to relieve a self-created hardship.

- While staff recognized from the information submitted by the applicant at the time of the October staff review team meeting that the subject site has two front yard setbacks atypical of most lots zoned R-7.5(A), staff concluded this unique feature does not preclude the applicant from developing the flat, rectangular-shaped, approximately 12,500 square foot subject site (where lots are typically 7,500 square feet in area) in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-7.5(A) (Single family residential 7,500 square feet)  
North: PD 173 (Planned Development)  
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 an existing approximately 3,000 square foot church use (Congregation Toras Chaim). The areas to the north, south, east, and west are developed with single family residential uses.

**Zoning/BDA History:**

- |  |   |
|--|---|
| 1. Miscellaneous Item 2, BDA167-072, Property at 7103 Mumford Court (the subject site) | On June 20, 2017, the Board of Adjustment Panel A denied a request to reimburse filing fee made in conjunction with this application. |
|--|---|

**GENERAL FACTS/STAFF ANALYSIS:**

- This request for a variance to the off-street parking regulations of 27 spaces focuses on obtaining a Certificate of Occupancy/maintaining an existing approximately 3,000

square foot church use (Congregation Toras Chaim), and providing 0 of the 27 required off-street parking spaces.

- The site is zoned R-7.5(A) and is bounded by three streets: Frankford Road on the north, Mumford Court on the south, and Meandering Way on the west. The site has two 25' front yard setbacks since the code states that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets.
- The Dallas Development Code requires the following off-street parking requirement for "church" use:
  - One space per 333 square feet in floor area if a church has less than 5,000 square feet of floor area and is located in a shopping center with more than 20,000 square feet in floor area, otherwise one space for each four fixed seats in the sanctuary or auditorium. If fixed benches or pews are provided, each 18 inches of length of the fixed bench or pew constitutes one fixed seat for purposes of this paragraph. If portions of seating areas in the sanctuary or auditorium are not equipped with fixed seats, benches, or pews, the parking requirement for those portions is one space for each 28 square feet of floor area.
  - Definitions. For purposes of this subsection, "remote parking" means required off-street parking provided on a lot not occupied by the main use. "Shared parking" means the use of the same off-street parking stall to satisfy the off-street parking requirements for two or more uses.
  - Reconciliation with Divisions 51A-4.300 et seq. Except as otherwise expressly provided in this subsection, the off-street parking regulations in Divisions 51A-4.300 et seq. apply to this use. In the event of a conflict between this subsection and Divisions 51A-4.300 et seq., this subsection controls.
  - Remote and shared parking. A church may use remote and/or shared parking to satisfy up to 50 percent of its off-street parking requirement, provided that the remote and/or shared parking is on a lot that is:
    - (aa) dedicated to parking use by an instrument filed with the building official and approved by the city attorney's office;
    - (bb) located in a non-residential district; and
    - (cc) located within 600 feet (including streets and alleys) of the lot occupied by the church. The distance measured is the shortest distance between the lots.
  - Distance extension with shuttle service. A remote parking lot for a church may be located up to one and one-half miles (including streets and alleys) from the lot occupied by the church if a shuttle service is provided to transport persons between the church and the remote parking lot. The shuttle service route must be approved by the traffic engineer.
  - Remote parking agreement. An agreement authorizing a church to use remote parking may be based on a lease of the remote parking spaces if:
    - (aa) the lease is for a minimum term of three years; and
    - (bb) the agreement provides that both the owner of the lot occupied by the church and the owner of the remote lot shall notify the city of Dallas in writing if there is a breach of any provision of the lease, or if the lease is modified or terminated.

- The Building Inspection Senior Plans Examiner/Development Code Specialist stated that a plan review of the seating areas in the sanctuary or auditorium that are not equipped with fixed seats, benches, or pews, was conducted on the property whereby it was determined with the parking requirement for those portions being 1 space for each 28 square feet of floor area that 27 off-street parking spaces were required for the use on the subject site.
- The applicant submitted a document that states among other things that no parking analysis or traffic study has been provided because church members generally do not drive to worship.
- The applicant must seek this parking reduction request as a variance since the maximum reduction authorized by this code for a special exception to off-street parking regulations is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A).
- According to Collin CAD records, the “total improvement main area” for property addressed at 7103 Mumford Court is a “residential” improvement with 3,572 square feet constructed in 1986.
- The subject site is flat, rectangular in shape, and (according to the application) is 0.29 acres (or approximately 12,500 square feet) in area. The site is zoned R-7.5(A) where most lots in this zoning district are 7,500 square feet in area.
- The site has two front yard setbacks and two side yard setbacks. Most lots in this zoning district have one front yard setback, one rear yard setback, and two side yard setbacks.
- On June 9, 2017, the Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked “Recommends that this be denied” commenting “Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces.”
- The Board of Adjustment Panel A conducted a public hearing on this application on June 20, 2017. The applicant submitted additional written documentation to the Board at this public hearing which in this case was a paper copy of the applicant’s power point show presented to the board at this hearing (see Attachment B). The Board delayed action on this application until their next public hearing to be held on August 15, 2017.
- On July 28, 2017, the applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application and at the June 20<sup>th</sup> public hearing (see Attachment C). The new documentation included a letter that stated among other things: 1) “we respectfully request a continuance beyond the August meeting, so that we may obtain the proper permits, discuss and respond to the City’s forthcoming proposals, recommendations, or suggestions, and determine whether the variance application is still necessary”; and 2) “we would like to submit a new request for reimbursement of the filing fee given the procedural issue/technical error that arose at the June hearing.” (Included in Attachment C is the Board Administrator’s August 1<sup>st</sup> response to the applicant on these two issues).
- On August 2, 2017, the Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked “Recommends that this be

denied” commenting “Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces.”

- The Board of Adjustment Panel A conducted a public hearing on this application on August 15, 2017. The Board delayed action on this application until their next public hearing to be held on October 17, 2017.
- While the applicant had not submitted any additional information on this application between the August hearing and the October 3<sup>rd</sup> staff review team meeting, he did submit additional information on October 6, 2017 (see Attachment D). This information was not factored into the staff recommendation since it was submitted after the October 3<sup>rd</sup> staff review team meeting. however, staff intends to provide an updated assessment of the information provided by the applicant at the October 17<sup>th</sup> public hearing.
- On October 5, 2017, the Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked “Recommends that this be denied” commenting “Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces.”
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the off-street parking 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 this request for a variance to the off-street parking regulations of 27 spaces, the applicant would be meeting one aspect of obtaining a Certificate of Occupancy for a church use on the subject site.

### **Timeline:**

February 24, 2017: 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 9, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

May 9, 2017: 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 May 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 9<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.”

May 31, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

June 6, 2017: 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 Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

June 9, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked “Recommends that this be denied” commenting “Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces”.

June 20, 2017: The Board of Adjustment Panel A conducted a public hearing on this application. The applicant submitted additional written documentation to the Board at the public hearing which in this case was a paper copy of the applicant’s power point show presented to the board at this hearing (see Attachment B). The Board delayed action on this application until their next public hearing to be held on August 15, 2017.

June 22, 2017: The Board Administrator wrote the applicant a letter of the board’s action; the July 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 4<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials.

July 28 & August 1, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application and at the June 20<sup>th</sup> public hearing (see Attachment C). The new documentation included a letter that stated

among other things: 1) “we respectfully request a continuance beyond the August meeting, so that we may obtain the proper permits, discuss and respond to the City’s forthcoming proposals, recommendations, or suggestions, and determine whether the variance application is still necessary”; and 2) “we would like to submit a new request for reimbursement of the filing fee given the procedural issue/technical error that arose at the June hearing.” (Attachment C includes the Board Administrator’s response to the applicant on these two issues).

- August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- August 2, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked “Recommends that this be denied” commenting “Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces.”
- August 15, 2017: 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 October 17, 2017.
- August 22, 2017: The Board Administrator wrote the applicant a letter of the board’s action; the September 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the October 6<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials.
- October 5, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked “Recommends that this be denied” commenting “Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces.”
- October 6, 2017: The applicant submitted additional documentation to staff (see Attachment D). Note that this information was not factored into the staff recommendation since it was submitted after the October 3<sup>rd</sup> staff review team meeting, however, staff intends to provide an

updated assessment of the information provided by the applicant at the October 17<sup>th</sup> public hearing.

**BOARD OF ADJUSTMENT ACTION: JUNE 20, 2017**

APPEARING IN FAVOR: Grant Schmidt, 2501 N Harwood St., Dallas, TX  
Chulsey Youman, 1000 Plano Pkwy, Plano, TX

APPEARING IN OPPOSITION: David Schneider, 7035 Mumford, Dallas, TX  
Robert Colmery, 7123 Mumford, Dallas, TX  
Kevin Arligton, 7003 Mumford, Dallas, TX

**MOTION #1: Schulte**

I move that the Board of Adjustment suspend its rules and accept the evidence that is being presented today.

**SECONDED: Agnich**

AYES: 4 – Schulte, Gibson, Nelson, Agnich

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

**2:51 P.M.: Executive Session Begins**

**3:08 P.M.: Executive Sessions Ends**

**MOTION #2: Agnich**

I move that the Board of Adjustment, in request No. **BDA 167-072(SL)**, hold this matter under advisement until **August 15, 2017**.

**SECONDED: Nelson**

AYES: 4 – Schulte, Gibson, Nelson, Agnich

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

**BOARD OF ADJUSTMENT ACTION: AUGUST 15, 2017**

APPEARING IN FAVOR: Grant Schmidt, 2501 N. Harwood, Dallas, TX

APPEARING IN OPPOSITION: No one

APPEALRING FOR THE CITY: Kristen Monkhouse, 1500 Marilla St., Dallas, TX

**MOTION #1: Schulte**

I move that the Board of Adjustment, in request No. **BDA 167-072**, hold this matter under advisement until **September 19, 2017**.

**SECONDED:** No one

\*Motion Failed for lack of a second.

**MOTION #2: Agnich**

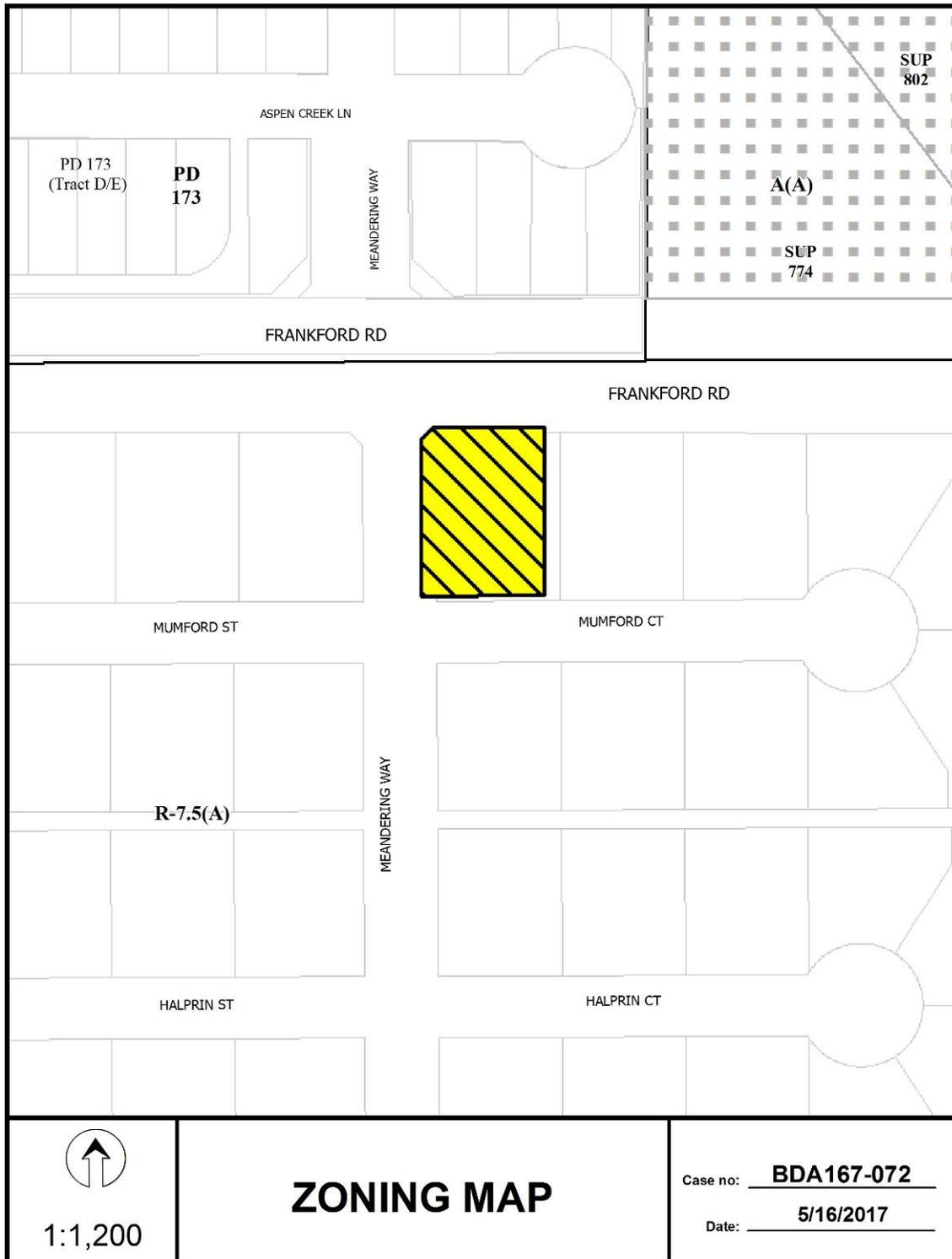
I move that the Board of Adjustment, in request No. **BDA 167-072**, hold this matter under advisement until **October 17, 2017**.

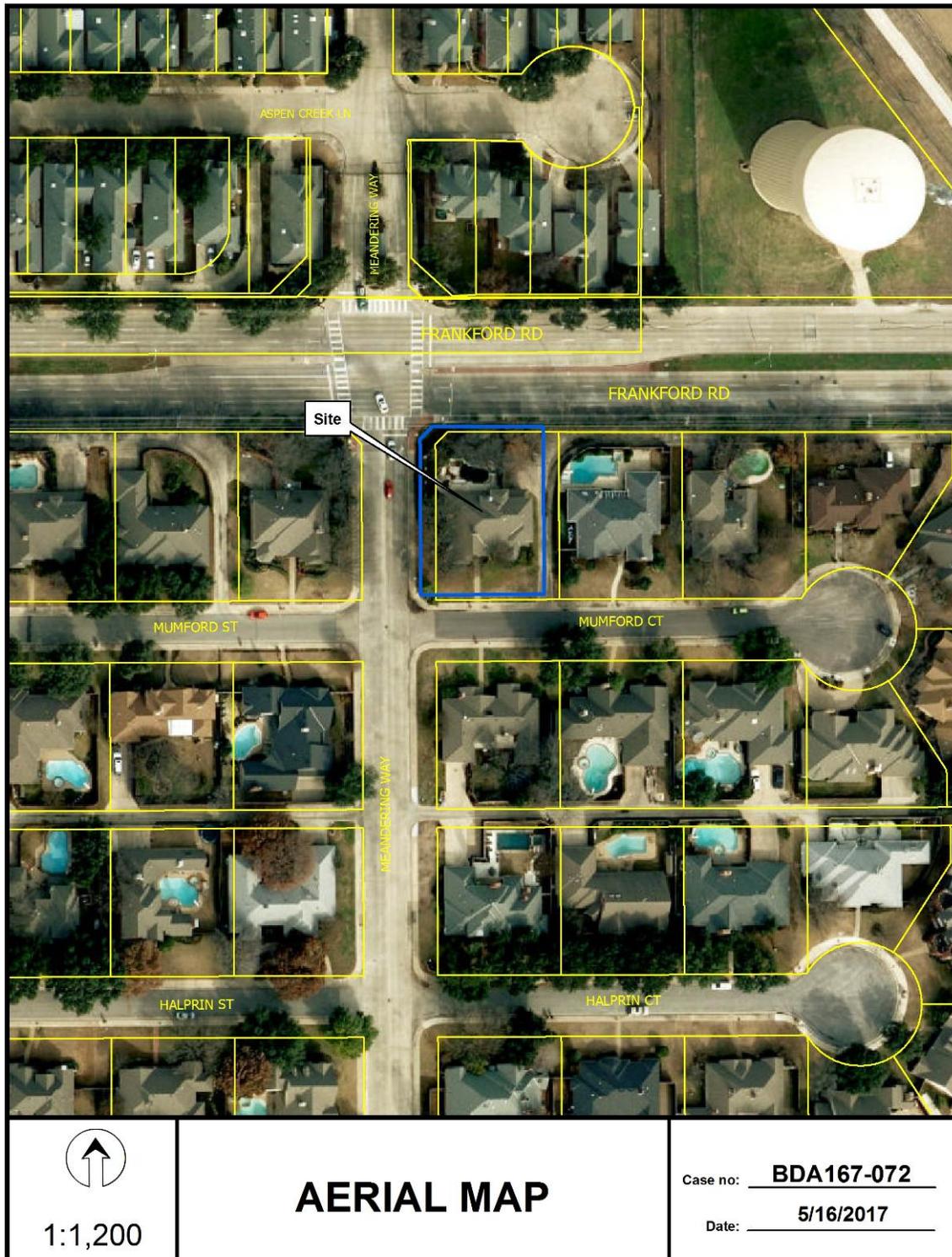
**SECONDED:** **Sibley**

**AYES:** 5 – Schulte, Agnich, Sibley, Lewis, Sahuc

**NAYS:** 0 -

**MOTION PASSED:** 5 – 0 (unanimously)





1:1,200

# AERIAL MAP

Case no: BDA167-072

Date: 5/16/2017

**Long, Steve**

**From:** Schmidt, Grant K. <GSchmidt@winston.com>  
**Sent:** Wednesday, May 31, 2017 11:47 AM  
**To:** Long, Steve  
**Cc:** Duerksen, Todd; Law, Trena; Denman, Lloyd; Gilbert, Andrew; Monkhouse, Kristen; Walker, Chad B.; Justin Butterfield; Chelsey Youman  
**Subject:** RE: BDA167-072, Property at 7103 Mumford Court  
**Attachments:** 2017-05-31 CTC Letter to Board of Adjustment.pdf; 2017-02-24 Ltr fr GS to City Hall.pdf

Steve –

Attached is a letter on behalf of Congregation Toras Chaim, Rabbi Rich, Mark Gothelf, and Judith Gothelf for the Board's consideration at the staff meeting. (I also attached the February 24 letter for reference).

Thank you for your consideration. Please let us know if we can provide any additional information.

Grant

**Grant K. Schmidt**

Winston & Strawn LLP

D: +1 214-453-6469

M: +1 214-507-5042

winston.com

WINSTON  
& STRAWN  
LLP

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**From:** Long, Steve [mailto:steve.long@dallascityhall.com]  
**Sent:** Tuesday, May 09, 2017 10:09 AM  
**To:** Schmidt, Grant K. <GSchmidt@winston.com>  
**Cc:** Duerksen, Todd <todd.duerksen@dallascityhall.com>; Law, Trena <trena.law@dallascityhall.com>; Denman, Lloyd <lloyd.denman@dallascityhall.com>  
**Subject:** BDA167-072, Property at 7103 Mumford Court

Dear Mr. Schmidt,

Here is information regarding your application to the board of adjustment referenced above:

1. The submitted application materials - all of which will be emailed to you, city staff, and the board members in a docket report about a week ahead of your tentatively scheduled June 20<sup>th</sup> Board of Adjustment Panel A public hearing.
2. The provision from the Dallas Development Code allowing the board to grant a variance to the off-street parking regulations (51A-3.102(d)(10)).
3. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board.
4. 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 10 in these attached materials). Contact Todd Duerksen at 214/948-4475 or at [todd.duerksen@dallascityhall.com](mailto:todd.duerksen@dallascityhall.com) no later than 1 p.m., Wednesday, May 31<sup>st</sup> with regard to any information you feel is missing from your submittal or with regard to any amendment that you feel is necessary to address the issue at hand, specifically if for any reason you feel that the statement in his Building Official's report stating that the applicant proposes to construct/maintain a structure for a church use and provide 0 of the required 27 off-street parking spaces which will require a 27 space variance to the off-street parking regulations, or any other part of this report is incorrect. (Note that the discovery of any additional appeal needed beyond your requested off-street parking variance will result in postponement of the appeal until the panel's next regularly scheduled public hearing).

You may want to contact Lloyd Denman, City of Dallas Sustainable Development Department Assistant Director Engineering at 214/948-4354 or at [Lloyd.Denman@DallasCityHall.com](mailto:Lloyd.Denman@DallasCityHall.com) to determine if there is any additional information that may be needed from you in making a favorable recommendation to the board on your request.

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 that you want to submit to the board beyond what you have included in your attached application materials, please feel free to email it to [steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com) or mail it to me at the following address by the deadlines attached in this email:

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

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The contents of this message may be privileged and confidential. If this message has been received in error, please delete it without reading it. Your receipt of this message is not intended to waive any applicable privilege. Please do not disseminate this message without the permission of the author. Any tax advice contained in this email was not intended to be used, and cannot be used, by you (or any other taxpayer) to avoid penalties under applicable tax laws and regulations.

May 31, 2017

Steve Long  
Administrator – Board of Adjustment  
City Hall  
1500 Marilla St., 5BN  
Dallas, TX 75201

**Re:** Board of Adjustment – Congregation Toras Chaim – Parking Variance

Dear Steve:

On behalf of Congregation Toras Chaim (“CTC”), Rabbi Rich, Mark Gothelf, and Judith Gothelf, I respectfully write this letter to the Board so that a few additional points may be considered at the staff team meeting. For your reference, I am also incorporating and attaching the letter that I sent to the Board on February 24, 2017 (which was included in the application). First, I want to briefly respond to the concerns raised by the letters submitted by individuals, particularly as they relate to the public interest impact of granting a variance. Second, I want to clarify the number of required parking spaces and the number of available spaces.

### **Letters Received from Individuals**

As the Board is aware, several individuals have submitted letters for consideration. The letters present several arguments that do not comport with the reality of CTC’s situation and do not bear on the variance standard. Additionally, these individuals only represent a small subset of the neighbors living near CTC (in fact, only *one* of the authors lives on Mumford Court).

CTC is a small Orthodox Jewish congregation. To say that CTC poses any type of safety concern flies in the face of reality. The only alleged safety concern set forth by some of the individuals relates to parking; however, members of CTC are prohibited from driving on the Sabbath and must therefore *walk* to worship. During the week, some members arrive in the morning or evening to worship (similar to, for example, a nanny, babysitter, friend, or family member stopping by to visit, or numerous bible study or small groups that meet throughout the City each week).

It is important to note that the Highlands of McKamy Homeowners Association (the authors of some of the letters) previously brought a lawsuit against Congregation Toras Chaim alleging the same concerns cited in their letters. When asked to offer examples of the alleged safety concerns, neighbors cited, for example: (1) the barking of their two Labrador retrievers when the dogs see members of CTC and therefore the waking up of the neighbor’s twin seventeen year olds; (2) “a young lady trying to push a baby carriage across the street that I had to stop and let her go;” and (3) a blind man who was crossing the street to

worship. The Court dismissed this lawsuit, finding that the Texas Religious Freedom Restoration Act and the Religious Land use and Institutionalized Persons Act protected CTC from the HOA's deed restrictions. CTC poses no safety concerns to its neighborhood and community.

If one were to drive down Mumford Court, CTC (7103 Mumford Court), it appears to be an attractive, nicely landscaped, and well-maintained residence, like any other on the street. Despite its limited resources, CTC congregants spend substantial resources and time to maintain the exterior appearance of the residence in a way that will benefit the overall appearance of the neighborhood and home values. If, however, the variance is denied, CTC might be forced to pursue a parking lot and screening arrangement so that it can meet the off-street parking requirements. This outcome would harm, rather than help, the appearance of the neighborhood and attendant home values.

There is no evidence that CTC's presence in the neighborhood has negatively impacted home values. In fact, there are several neighbors who often seek to locate closer to places of worship so that they can have a place to walk to on the Sabbath.

As the Board well knows, the standard that it must consider is whether the variance "is 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." CTC is faced with three front yards (as well as a HOA brick wall on one side of the property). This layout is restrictive in that it would be essentially impossible to achieve the requisite parking spaces without tearing down a portion of the property and constructing a parking lot. It is in the public interest for CTC to be provided a variance, so that no significant or intrusive steps must be taken.

### **The Number of Required Off Street Parking and Available Off Street Parking**

We also seek to provide additional context for the number of off street parking space reductions sought in the application. Although the current application seeks a 27 parking spot reduction, we have reason to believe that the number will be lowered to 13 given that CTC is making the proper adjustments to the square footage of its worship space.

Additionally, CTC has land immediately off of the alley where it can park two to three vehicles. These three spots do not count towards the 13 required spaces due to a screening requirement as explained by the City of Dallas. CTC, however, can still use these spaces for a maintenance truck, a visitor, etc.

In conclusion, my client, CTC, simply wishes to maintain its place of worship without having to make significant changes to its property that are not feasible financially and which would harm the neighborhood, not help it.

CTC brings this application so that it may achieve, through the proper channels, full compliance with the City's requirements and expectations of each property. While some individuals may not like the idea of CTC worshipping at 7103 Mumford Court, there is no doubt that CTC poses no safety risks to its surrounding community members, and, instead, seeks to only benefit the community and neighborhood.

WINSTON  
& STRAWN  
LLP

BDA 167-072

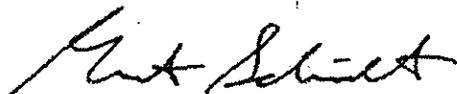
Attach A P S

May 31, 2017

Page 3

I look forward to meeting with you on June 20. Please let me know if we can provide any additional information.

Respectfully,

A handwritten signature in black ink, appearing to read "Grant Schmidt". The signature is written in a cursive, slightly slanted style.

Grant Schmidt

**FISH.**  
FISH & RICHARDSON

BDA 167-072  
Attach A pg 6

Fish & Richardson P.C.  
1717 Main Street  
Suite 5000  
Dallas, TX 75201  
214 747 5070 main  
214 747 2091 fax

February 24, 2017

**Grant K. Schmidt**  
Associate  
gschmidt@fr.com  
214 760 6128 direct

Steve Long  
Administrator – Board of Adjustment  
City Hall  
1500 Marilla St., 5BN  
Dallas, TX 75201

Todd Duerksen  
320 E. Jefferson Blvd., Room 105  
Dallas, TX 75203

Re: *City of Dallas v. Mark B. Gothelf, Judith D. Gothelf and Congregation Toras Chaim, Inc. dba Congregation Toras Chaim*

Dear Mr. Long and Mr. Duerksen:

I represent Congregation Toras Chaim ("CTC") in the above-referenced action brought by the City of Dallas (the "City"). CTC is a small Orthodox Jewish congregation that meets at 7103 Mumford Court, Dallas, TX 75252 (the "Property"), where about twenty-five neighborhood congregants walk to gather for worship on Saturdays, and a smaller number of congregants gather throughout the week. CTC is pursuing a variance regarding parking requirements for the Property. In particular, CTC intends to seek a variance on all 27 required off street parking spaces. This is a cover letter for the variance application. This packet includes (a) 2 Application forms; (b) 2 Affidavit forms; (c) 1 Warranty Deed; (d) a copy of the certified subdivision plot; (e) 1 lien statement; (f) 4 copies of the site plan; (g) 4 copies of the elevation drawings; (h) 4 copies of the floor plan; (i) a check for \$3630.00 in this application (\$900 + (27 x \$100) + (3 x \$10)); and (j) a smaller copy of each drawing as requested.

Regarding the parking analysis and/or traffic study, CTC does not have any parking analysis or traffic study to offer because CTC members generally do not drive to worship. Orthodox Jews are prohibited from driving on the Sabbath; these families therefore must live within walking distance of a synagogue to attend prayer services on the Sabbath. Therefore, CTC would be unable to provide a parking analysis or traffic study. This is consistent with CTC's request to reduce the 27 parking space requirement.

CTC is pursuing a variance because the area, shape, and slope prevents CTC from developing the land in a manner commensurate with the development upon other parcels of land in the district with the same zoning classification. Second, there are essentially three front yards given the location of CTC's property. Third, there are two brick walls owned by the Homeowners' Association on two

fr.com



February 24, 2017

sides of the property. Furthermore, CTC has been instructed by the City that no car could enter the back of the home due to the alley screening issues. For these reasons, CTC requires a reduction in the required off street parking requirements (27 spaces). The implementation of this variance would not be contrary to the public interest (in fact, it would be consistent with the public interest) and would otherwise result in an unnecessary hardship for CTC. This variance is not being pursued to relieve a self-created or personal hardship.

CTC intends to seek a fee reimbursement as the filing fee has resulted in a substantial financial hardship for CTC. CTC is a non-profit religious organization. CTC generates no profit, and any money that CTC spends must come from donations or fundraising efforts. Furthermore, the application fee constitutes a significant percentage of CTC's monthly operating expenses, and it already struggles to meet those obligations, often failing to pay the salary of its one full-time employee, Rabbi Rich.

Please contact me if you have any questions or if I may provide any additional information regarding the variance application.

Respectfully,

Grant K. Schmidt

- cc: Andrew Gilbert, Assistant City Attorney
- Justin Butterfield, First Liberty
- Chad Walker, Fish & Richardson

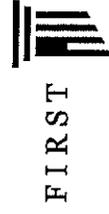
# City of Dallas Board of Adjustment

June 20, 2017

## 7103 Mumford Court

### Off-Street Parking

WINSTON  
& STRAWN



BDA-167-072

Attach B

pg 1



# Background

# Congregation Toras Chaim

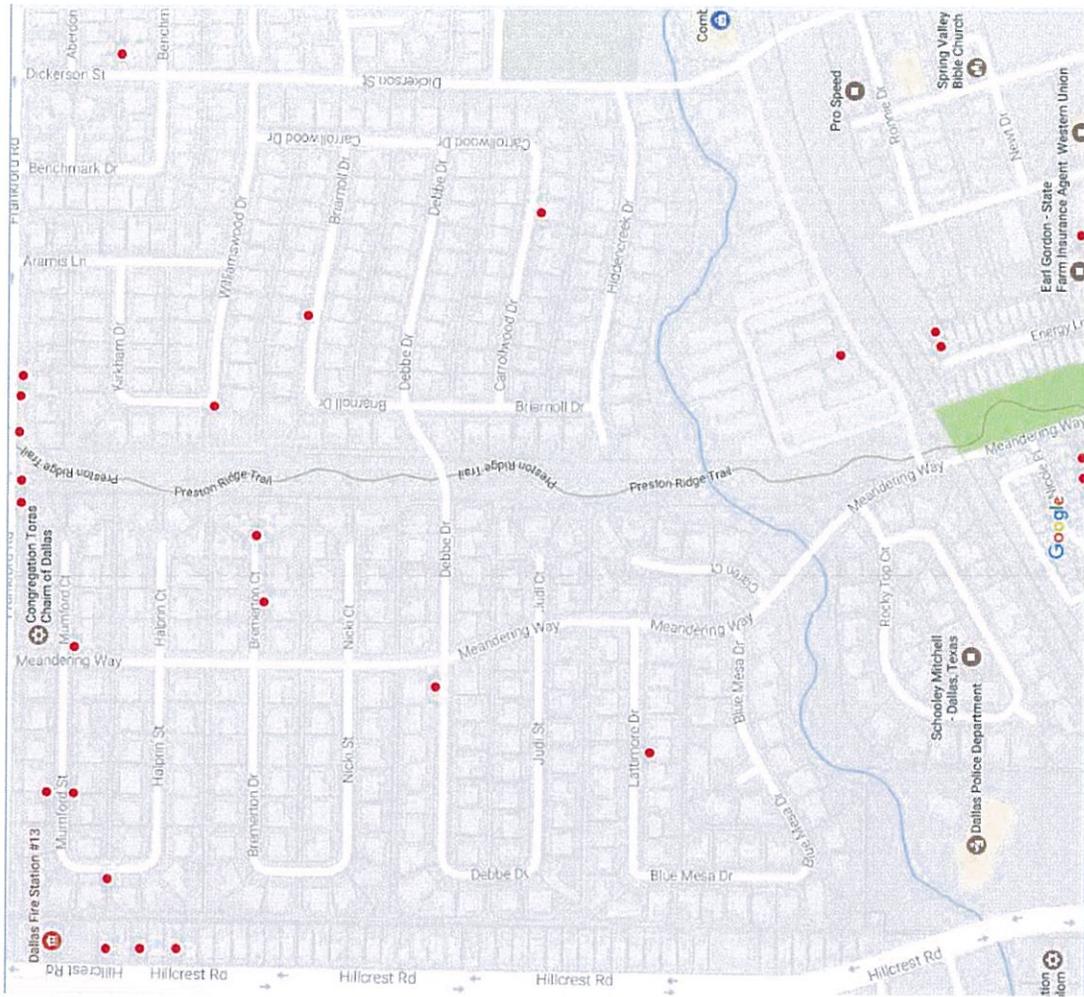
- **2007** – CTC, a small community of Orthodox Jews, is founded.
  - Led by Rabbi Yaakov Rich
- **2013** – CTC is located at 7103 Mumford Court
- **Overall mission:** provide access to prayer and scripture study.

# Congregation Toras Chaim

- 25 total members
- Sabbath (Saturday)
  - Orthodox Jews are not allowed to drive on the Sabbath.
  - All members must therefore (1) live within close proximity to their place of worship and (2) walk to their place of worship on Saturdays.
  - The number of members will always be small for this reason.
- Prayer meetings during the week
  - Often 5-10 people
  - Since all members live within walking distance, most walk or bike to CTC for these meetings.

# Letters Submitted to BOA





BDA167-072 Attach B Pg. 9



# Current Litigation

## Current Litigation

- **March 2015** – City of Dallas files a petition in state court against CTC.
  - City acknowledged that religious uses may operate in **all** zoning districts (including residential zones) as a matter of right.
  - Certificate of Occupancy needed.
- CTC and City of Dallas have worked closely for over two years to reach a mutually beneficial solution.

# Requirements for Certificate of Occupancy

- **Handicap Accessibility**
  - All requirements are met.
- **Fire Safety**
  - Completing final steps – all requirements will be met.
- **Parking**
  - This is the last remaining requirement – and we worked with the City to ultimately reach *this* (parking variance) proposal

## Parking – Number of Required Spaces

- Based on current square footage of worship space, **27 off-street parking spaces** are required.
- Based on a joint plan with the City, CTC anticipates that the required number will be lowered to **13 off-street parking spaces**.

# Solutions

## Parking – Shared Parking Agreement

- For months, at the City's suggestion, CTC worked diligently with the City and a nearby school to enter into a Shared Parking Agreement
- The distance between CTC and the school ended up being too far.



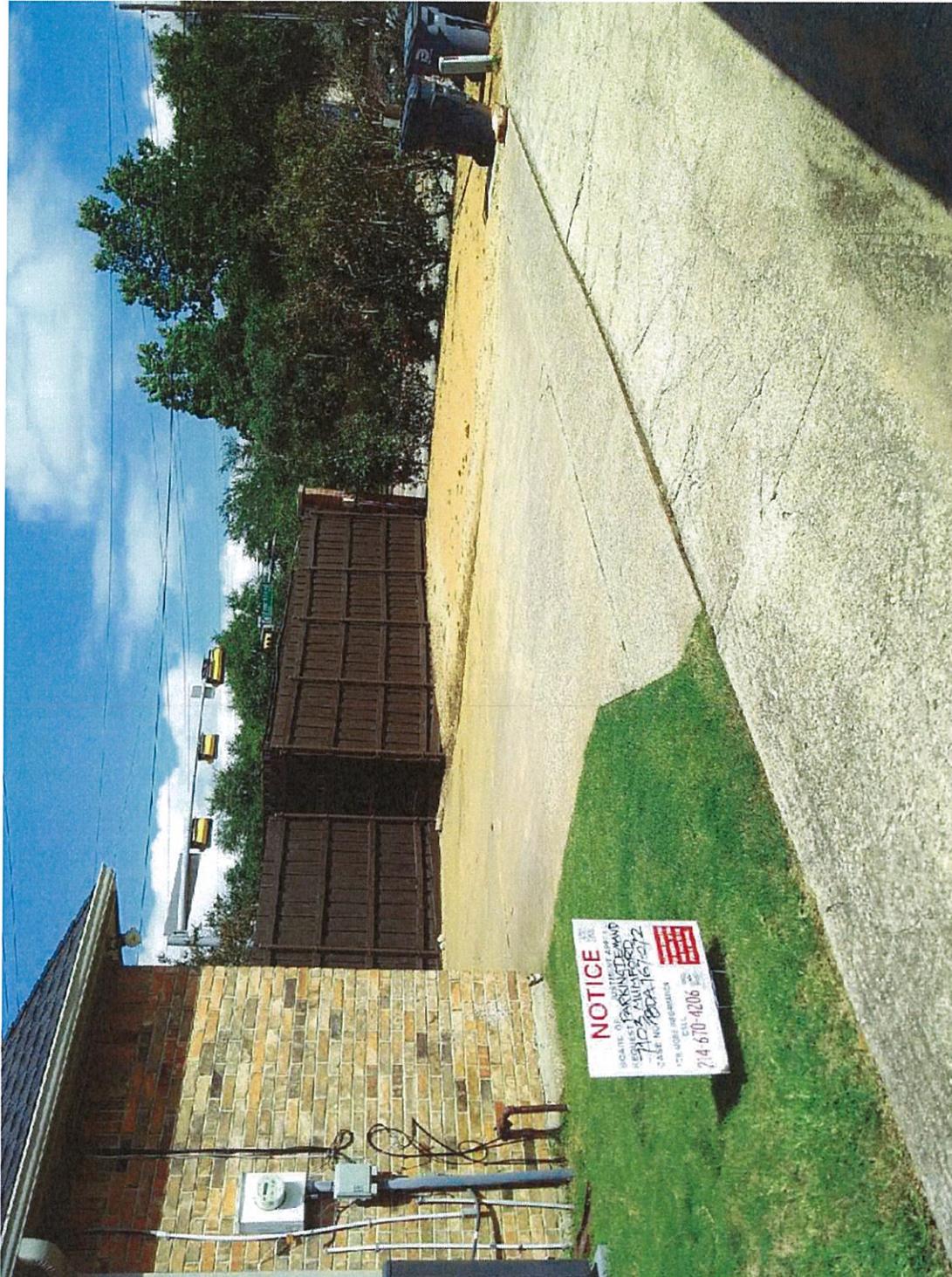
## Parking Lot

- CTC considered structuring a parking lot in the front and/or backyard; however:
  - (1) Seek to retain the consistent look and feel of the property (and benefit home values in neighborhood);
  - (2) Expensive;
  - (3) Area, shape, and slope create significant difficulty; and
  - (4) The only entrance to the backyard is through the alley, which is prevented by screening requirement.

# Screening Issue







## Screening Requirement

- Using backyard or any portion in the back is challenging/impossible due to the screening requirement:
  - The owner of off-street parking must provide screening to separate the parking area from a contiguous residential lot if the parking area serves a nonresidential use.
  - The screening wall or fence may not contain any openings or gates for vehicular access.
  - Therefore, according to the City, the rear parking could not be accessed from the alley.



# Screening Requirement

- Reasons we did not seek a screening variance:
  - 1) Worked with City and decided that one variance was simpler (advised to seek full relief)
  - 2) Even with screening variance, would still need variance on required spaces (would lower requirement from 27 to 25)
  - 3) Two spaces in back may still be used without screening variance – but they can't count towards total required spaces.
  - 4) CTC's understanding that some individuals would rather CTC not park on side of alley

# Variance Factors

# Standard for Variance Application

• The Board has the power to grant variances related to off-street parking as long as:

- **FACTOR #1:** The variance is “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.”
- **FACTOR #2:** The variance is “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
- **FACTOR #3:** The variance is “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.”

## Factor #1

- **“not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship”**
- Variance is not contrary to public interest as this issue operates at the core of what it means to live under the Constitution in the United States.
  - We should all be able to practice our faith in our private homes.
  - Many individuals in this neighborhood rely on this location for worship.
- Impact must be weighed:
  - **If variance is denied:** we are putting in jeopardy the ability for a group of individuals to worship freely with their families. We are also risking the addition of a parking lot that would significantly impact neighborhood.
  - **If variance is granted:** potential for continuance of (at most) 3-4 cars on street at certain times during week.
- Literal enforcement would result in unnecessary hardship for CTC
  - Never in public interest to violate religious liberty rights
    - *Opulent Life Church v. City of Holly Springs Miss.*, 697 F.3d 279 (5th Cir. 2012).



## Factor #2

- “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”
- More clearly stated: is the land so unique that you cannot develop/use it for a proper purpose?
  - Two front yards
  - HOA brick walls on both sides
  - Offset
  - Alley / Screening issue
  - Limited square footage

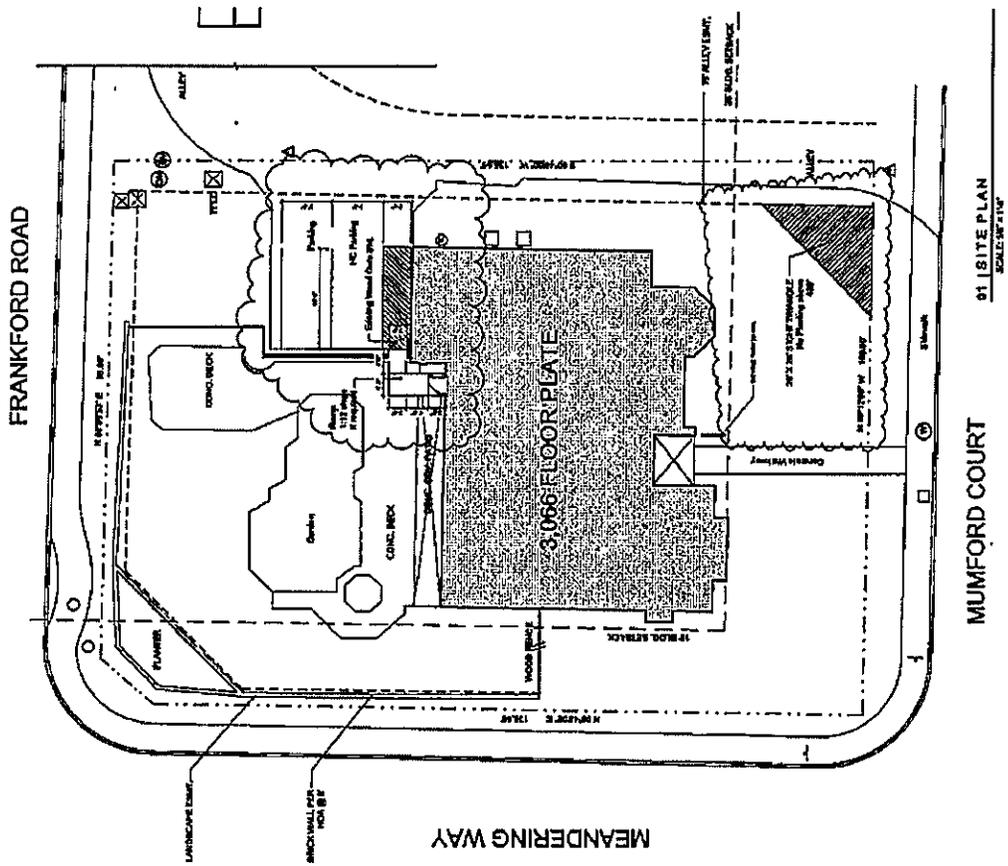












01 SITE PLAN  
SCALE: 1/8" = 1'-0"

## Factor #3

- “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”
- This variance would not relieve a “self-created or personal hardship”
  - The need to worship is never a self-created hardship (religious use proper as a matter of right).
  - Case where owner wanted to build a tennis court on a pie shaped residential lot.
    - Owner bought the house knowing that he wanted tennis court and knowing that lot was pie shaped.
    - Court held that a variance was proper.
  - A self-created hardship requires an affirmative action by the landowner that brings an otherwise conforming property into non-conformity.
- The variance would not be for financial reasons only.

# Alternative Solutions

## Request for Variance

- We request that the BOA grant full relief from the 27 off-street parking space requirement.
- Alternatively, we request that the BOA grant a variance on the screening requirement (so that CTC may fulfill at least 2 required spaces) as well as a variance on the 25 remaining spaces.

# Reimbursement of Filing Fee



Thank You

**Long, Steve**

---

**From:** Long, Steve  
**Sent:** Tuesday, August 01, 2017 9:24 AM  
**To:** 'Schmidt, Grant K.'  
**Cc:** Duerksen, Todd; Denman, Lloyd; Gilbert, Andrew; Monkhouse, Kristen; Moorman, Donna; Williams, Kanesia; Burgess, Casey; Dean, Neva  
**Subject:** RE: BDA167-072, Property at 7103 Mumford Court  
**Attachments:** 2017-07-28 Letter to Board of Adjustment - final.pdf; action letter.pdf; fee exemptions and refunds.pdf; documentary evidence.pdf; Panel A hearing date and deadlines.doc

Dear Mr. Schmidt,

As you know, the Board of Adjustment denied your request for a reimbursement of the filing fee and delayed action on your request for a variance to the off-street parking regulations at their June 20<sup>th</sup> public hearing until their next public hearing scheduled for August 15<sup>th</sup>. Attached is the decision letter that I sent you shortly after the June hearing that provided deadlines for the submittal of any additional information you want staff and/or the Board to consider beyond what is already in your board of adjustment application file for the parking variance.

Please be advised of the following in response to our conversation last week and your attached letter that you emailed me on Friday with regard to your request for a continuance on your off-street parking variance request beyond the August 15<sup>th</sup> public hearing:

While your July 28<sup>th</sup> letter will be forwarded to staff and the Board in a docket approximately a week prior to the August 15<sup>th</sup> public hearing, the application will be called at this hearing where testimony will be heard by you and anyone else wishing to speak to your request, and where the Board will have the option to delay/continue the request for variance, grant the request for variance, or deny the request for variance. As we discussed last week, it is important for you to understand that there is no provision in the Dallas Development Code for staff to administratively postpone a Board of Adjustment application, and with this in mind, it would be beneficial for you or someone on your behalf to attend the August 15<sup>th</sup> public hearing to provide testimony, answer any questions the Board members may have, and rebut anyone who may appear to oppose your variance request.

Please be advised that in response to your attached letter with regard to a new request for reimbursement of the filing fee that would involve amending your application from you being the applicant to some other party (CTC), an amendment can be made to your application with Todd Duerksen in Building Inspection no later than the end of the day tomorrow, (4:00 p.m., Wednesday), August 2<sup>nd</sup>.

If you amend your application with Todd Duerksen in this time frame, you must let me know in writing no later than 1:00 p.m., Friday, August 4<sup>th</sup> that you request a reimbursement of the filing fee on behalf of a new applicant, and submit anything to the code standard attached with regard to reimbursement of the filing fee. (Attached once again is the deadline for submittal of new information and the board's rule on documentary evidence).

Please write or call me at 214/670-4666 if I can assist you in any other way on this application.

Thank you,

Steve



**Steve Long**  
 Board of Adjustment Administrator  
 City of Dallas | [www.dallascityhall.com](http://www.dallascityhall.com)  
 Current Planning Division  
 Sustainable Development and Construction  
 1500 Marilla Street, 5BN  
 Dallas, TX 75201  
 O: 214-670-4666  
[steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com)



BDA167-072  
 Attach C  
 P32

*\*\*OPEN RECORDS NOTICE: This email and responses may be subject to the Texas Open Records Act and may be disclosed to the public upon request. Please respond accordingly.\*\**

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**From:** Schmidt, Grant K. [<mailto:GSchmidt@winston.com>]  
**Sent:** Friday, July 28, 2017 11:48 AM  
**To:** Long, Steve <[steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com)>  
**Cc:** Duerksen, Todd <[todd.duerksen@dallascityhall.com](mailto:todd.duerksen@dallascityhall.com)>; Law, Trena <[trena.law@dallascityhall.com](mailto:trena.law@dallascityhall.com)>; Denman, Lloyd <[lloyd.denman@dallascityhall.com](mailto:lloyd.denman@dallascityhall.com)>; Gilbert, Andrew <[andrew.gilbert@dallascityhall.com](mailto:andrew.gilbert@dallascityhall.com)>; Monkhouse, Kristen <[kristen.monkhouse@dallascityhall.com](mailto:kristen.monkhouse@dallascityhall.com)>; Walker, Chad B. <[CBWalker@winston.com](mailto:CBWalker@winston.com)>; 'Justin Butterfield' <[jbutterfield@firstliberty.org](mailto:jbutterfield@firstliberty.org)>; 'Chelsey Youman' <[cyouman@firstliberty.org](mailto:cyouman@firstliberty.org)>  
**Subject:** BDA167-072, Property at 7103 Mumford Court

Steve –

Attached is a letter on behalf of Congregation Toras Chaim for the Board’s consideration at the staff meeting.

Thank you for your consideration. Please let us know if we can provide any additional information.

Grant

**Grant K. Schmidt**

Winston & Strawn LLP  
 D: +1 214-453-6469  
 M: +1 214-507-5042  
[winston.com](http://winston.com)




---

**From:** Long, Steve [<mailto:steve.long@dallascityhall.com>]  
**Sent:** Tuesday, May 09, 2017 10:09 AM  
**To:** Schmidt, Grant K. <[GSchmidt@winston.com](mailto:GSchmidt@winston.com)>  
**Cc:** Duerksen, Todd <[todd.duerksen@dallascityhall.com](mailto:todd.duerksen@dallascityhall.com)>; Law, Trena <[trena.law@dallascityhall.com](mailto:trena.law@dallascityhall.com)>; Denman, Lloyd

<lloyd.denman@dallascityhall.com>

Subject: BDA167-072, Property at 7103 Mumford Court

BDA 167-072

Attach C

pg 3

Dear Mr. Schmidt,

Here is information regarding your application to the board of adjustment referenced above:

1. The submitted application materials - all of which will be emailed to you, city staff, and the board members in a docket report about a week ahead of your tentatively scheduled June 20<sup>th</sup> Board of Adjustment Panel A public hearing.
2. The provision from the Dallas Development Code allowing the board to grant a variance to the off-street parking regulations (51A-3.102(d)(10)).
3. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board.
4. 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 10 in these attached materials). Contact Todd Duerksen at 214/948-4475 or at [todd.duerksen@dallascityhall.com](mailto:todd.duerksen@dallascityhall.com) no later than 1 p.m., Wednesday, May 31<sup>st</sup> with regard to any information you feel is missing from your submittal or with regard to any amendment that you feel is necessary to address the issue at hand, specifically if for any reason you feel that the statement in his Building Official's report stating that the applicant proposes to construct/maintain a structure for a church use and provide 0 of the required 27 off-street parking spaces which will require a 27 space variance to the off-street parking regulations, or any other part of this report is incorrect. (Note that the discovery of any additional appeal needed beyond your requested off-street parking variance will result in postponement of the appeal until the panel's next regularly scheduled public hearing).

You may want to contact Lloyd Denman, City of Dallas Sustainable Development Department Assistant Director Engineering at 214/948-4354 or at [Lloyd.Denman@DallasCityHall.com](mailto:Lloyd.Denman@DallasCityHall.com) to determine if there is any additional information that may be needed from you in making a favorable recommendation to the board on your request.

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 that you want to submit to the board beyond what you have included in your attached application materials, please feel free to email it to [steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com) or mail it to me at the following address by the deadlines attached in this email:

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

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The contents of this message may be privileged and confidential. If this message has been received in error, please delete it without reading it. Your receipt of this message is not intended to waive any applicable privilege. Please do not disseminate this message without the permission of the author. Any tax advice contained in this email was not intended to be used, and cannot be used, by you (or any other taxpayer) to avoid penalties under applicable tax laws and regulations.



North America Europe Asia

BDA167-072  
Attention C PS 4

2501 N. Harwood Street  
17th Floor  
Dallas, TX 75201  
T +1 214 453 6500  
F +1 214 453 6400

**GRANT SCHMIDT**  
Associate  
214-453-6469  
gschmidt@winston.com

July 28, 2017

Steve Long  
Administrator – Board of Adjustment  
City Hall  
1500 Marilla St., 5BN  
Dallas, TX 75201

**Re: Board of Adjustment – Congregation Toras Chaim – Parking Variance**

Dear Steve:

On behalf of Congregation Toras Chaim (“CTC”), Rabbi Rich, Mark Gothelf, and Judith Gothelf, I respectfully write this letter to the Board so that it may be considered at the upcoming staff team meeting. As the Board is aware, based on the suggestion of the Board at its most recent hearing on June 20, 2017, CTC requested a continuance. CTC requested a continuance as the Board suggested that it might have identified a solution that would avoid the need for a variance.

During the week of July 12, I spoke with Assistant City Attorneys Andrew Gilbert and Kristen Monkhouse. Mr. Gilbert and Ms. Monkhouse suggested that CTC first submit permitting applications because those applications would ultimately impact the number of required spaces and would impact the recommendation and suggestions of the City. Mr. Gilbert and Ms. Monkhouse also suggested that I reach out to the Board to request an additional continuance – as the permitting applications will not be processed by August 14 (the date of the upcoming Board of Adjustment hearing).

Given that CTC is working closely with the City to avoid any potential conflict (and to resolve the variance issue), we respectfully request a further continuance beyond the August meeting, so that we may obtain the proper permits, discuss and respond to the City’s forthcoming proposals, recommendations, or suggestions, and determine whether the variance application is still necessary.

Please let us know if the staff and Board would be amenable to placing CTC on the September docket (rather than the August docket). By that time, we should have a much clearer understanding about what the City intends to propose as a potential solution to the requirements.

Additionally, we would like to submit a new request for reimbursement of the filing fee given the procedural issue / technical error that arose at the June hearing. It is my understanding that the problem can be cured by ensuring CTC is accurately listed as the applicant for the variance. Please let me know the best way to procedurally re-submit that request.

WINSTON  
& STRAWN  
LLP

July 28, 2017  
Page 2

Thanks very much for your time and consideration of this request for an additional continuance, and as always, please do not hesitate to contact me if we can provide any additional helpful information.

Respectfully,



Grant Schmidt

Cc: Andrew Gilbert  
Kristen Monkhouse



North America Europe Asia

BDA 167-072

Attach C PS 6

2501 N. Harwood Street  
17th Floor  
Dallas, TX 75201  
T +1 214 453 6500  
F +1 214 453 6400

**GRANT SCHMIDT**  
Associate  
214-453-6469  
gschmidt@winston.com

July 28, 2017

Steve Long  
Administrator – Board of Adjustment  
City Hall  
1500 Marilla St., 5BN  
Dallas, TX 75201

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WINSTON  
& STRAWN  
LLP

July 28, 2017  
Page 2

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Respectfully,



Grant Schmidt

Cc: Andrew Gilbert  
Kristen Monkhouse



BDA167-072  
Attach C B B

June 22, 2017

Grant Schmidt  
1717 Main Street, Suite 5000  
Dallas, TX 75201

Re: BDA167-072(SL), Property at 7103 Mumford Court

Dear Mr. Schmidt:

The Board of Adjustment Panel A, at its public hearing held on Tuesday, June 20, 2017 took the following actions:

1. denied your request for a reimbursement of the filing fee submitted in conjunction with your request for a variance to the off-street parking regulations; and
2. held your request for a variance to the off-street parking regulations under advisement until August 15, 2017.

Please be aware of the 1:00 p.m., July 26<sup>th</sup> deadline to submit any additional information for staff review, and 1:00 p.m., August 4<sup>th</sup> deadline to submit any additional information that you want incorporated into the board's docket.

Should you have any further questions regarding the Board's action, please contact me at (214) 670-4666.

A handwritten signature in black ink, appearing to read 'Steve Long'.

Steve Long, Board Administrator  
Board of Adjustment  
Sustainable Development and Construction

c: Ben Collins, Code Enforcement, 3112 Canton, Room 100  
Todd Duerksen, Bldg. Inspection, 320 E. Jefferson #105

22004; 22026; 22206; 22392; 22738; 22920; 24051; 24542; 24843; 25047; 25048; 25384; 26001; 26161; 26529; 26530; 26536; 26730; 26920; 27069)

**SEC. 51A-1.105.1. FEE EXEMPTIONS AND REFUNDS.**

(a) No fee is required for applications filed under this chapter by the U.S. Government, the State of Texas, the county of Dallas, the city of Dallas, or a political subdivision of the state if the property that is the subject of the application is devoted exclusively to governmental use.

(b) No fee is required for applications made to the board of adjustment pursuant to Section 51A-1.107, requesting a special exception to a regulation in this chapter based on a handicap.

(c) Whenever affordable housing units are provided as a part of a project in accordance with Division 51A-4.900, the director shall authorize a refund of a percentage of the total zoning and platting application fees paid for the project equal to the percentage of standard affordable housing units provided in the project. (Ord. Nos. 20037; 21176; 21183; 21663)

**SEC. 51A-1.106. NOTIFICATION SIGNS REQUIRED TO BE OBTAINED AND POSTED.**

(a) Signs required to be obtained from the city. An applicant is responsible for obtaining the required number of notification signs and posting them on the property that is the subject of the application. Notification signs must be obtained from the director or the building official. An application will not be processed until the fee for the signs has been paid. For purposes of this section, an applicant is one who makes a request:

- (1) for a change in a zoning classification or boundary;
- (2) to the board of adjustment;
- (3) for a certificate of appropriateness for a sign that is to be located in a special provision sign district and is either a detached sign or an

attached sign that has more than 100 square feet of effective area; or

(4) to the landmark commission for a certificate for demolition or removal.

(b) Number of signs required. A minimum of one notification sign is required for every 500 feet or less of street frontage, with one additional notification sign required for each additional 500 feet or less of street frontage. For tracts without street frontage, a minimum of one notification sign is required for every five acres or less, with one additional notification sign required for each additional five acres or less. A maximum of five notification signs are required.

(c) Posting of signs. Except as provided in Subsection 51A-1.106(d), the applicant shall post the required number of notification signs on the property within 14 days after an application is filed. The signs must be legible and remain posted until a final decision is made on the application. For tracts with street frontage, signs must be evenly spaced over the length of every street frontage, posted at a prominent location adjacent to a public street, and be easily visible from the street. For tracts without street frontage, signs must be evenly posted in prominent locations most visible to the public.

(d) Failure to comply. If the city plan commission, landmark commission, or board of adjustment determines that the applicant has failed to comply with the provisions of this section, it shall take no action on the application other than to postpone the public hearing for at least four weeks or deny the applicant's request, with or without prejudice. If the hearing is postponed, the required notification signs must be posted within 24 hours after the case is postponed and comply with all other requirements of this section.

(e) Illegal removal of signs. A person commits an offense if he intentionally or knowingly removes a notification sign that has been posted pursuant to this section. It is a defense to prosecution under this subsection that the sign was no longer required to be posted pursuant to this section at the time of its removal.

(f) Posting of signs by the director. When the city council or city plan commission authorizes a hearing on a change in zoning district classification or

lack of appearance at the first call at its discretion. If no one appears the second time, the case must be denied.

- (h) If, after a public hearing on a request, the presiding officer duly calls for, but does not receive a motion, the request is deemed denied with prejudice.
- (i) A public hearing must be conducted for compliance proceedings on a nonconforming use. Prior to the hearing, the presiding officer may direct that a subpoena duces tecum and interrogatories be served on the owner(s) and/or operators of the use requesting that certain information and documents be produced to the board administrator within a reasonable time. The owner(s) and/or operators may supply the board administrator with any additional information or documents that are necessary for the panel to make its decision. At the hearing, the panel shall review the information and documents and set a date by which the nonconforming use must come into compliance with the current zoning regulations.
- (j) The board administrator may place cases which are recommended for approval without opposition on an uncontested docket. When the board administrator calls the uncontested docket, he shall state the case number, the applicant, the location, the nature of the case and the staff recommendation, and shall ask if there is any opposition. A case on the uncontested docket must be considered individually as a regular docket item if there is any opposition or a panel member so requests. Any cases remaining on the uncontested docket shall be approved as a group without the need for testimony from the applicants.
- (k) Documentary evidence.
  - (1) All typewritten documentary evidence including reduced-size copies of conceptual plans, development plans, landscape plans, and site plans must conform to the standard 8.5 x 11-inch letter-sized pages on a size 12 font or larger. Each page must be serially numbered and double-spaced.
  - (2) All printed and typewritten documentary evidence in excess of five pages tendered by a party shall not be considered by the board unless such documentary evidence is submitted to the

board administrator no later than 10 days prior to the scheduled hearing date at which the matter is to be considered. Upon oral request made by the party at the scheduled hearing, a panel of the board may, for good cause, suspend the operation of this rule and consider the excluded evidence or postpone the hearing on the application to a date certain to allow the panel sufficient time to consider the tendered evidence prior to the next scheduled hearing date.

- (3) For purposes of this subsection, DOCUMENTARY EVIDENCE means anything printed or written on paper and relied upon to record or prove something, but signed petitions shall not be considered documentary evidence.
- (4) For purposes of this subsection, PARTY means the applicant or any person or entity that appears in favor of or against the request.

Section 11. Executive Sessions.

- (a) The board or a panel may remove itself from an open meeting by moving to go into an executive session. Only matters authorized under the Texas Open Meetings Act to be discussed in executive session may be addressed in the executive session. All communication in an executive session is privileged information. The privilege can only be waived by a member by formal waiver. Members are cautioned that discussing the privileged communication with a member of the public, the media, or any other person not privy to the executive session may damage the privilege. The board or a panel shall not hold an executive session except when discussing complaints about or evaluations of individual staff members, or seeking the advice of its attorney on the following matters:
  - (1) Pending or contemplated litigation.
  - (2) Settlement offers.
  - (3) Risk or liability of the board, a panel or individual members thereof for taking an action.

BDA 167-072  
Attach C  
Pg 12

Board of Adjustment Panel:  
Public hearing date/time:  
Deadline to submit information for staff team meeting:  
Deadline to submit information for board's docket:

Panel A  
1 p.m., Tuesday, August 15<sup>th</sup>  
1 p.m., Wednesday, July 26<sup>th</sup>  
1 p.m., Friday, August 4<sup>th</sup>



North America Europe Asia

BDA167-072  
Atch D Pg 1

2501 N. Harwood Street  
17th Floor  
Dallas, TX 75201  
T +1 214 453 6500  
F +1 214 453 6400

**GRANT SCHMIDT**  
Associate  
214-453-6469  
gschmidt@winston.com

October 6, 2017

Steve Long  
Administrator – Board of Adjustment  
City Hall  
1500 Marilla St., 5BN  
Dallas, TX 75201

Re: Board of Adjustment – Congregation Toras Chaim – Parking Variance (BDA167-072 – Property at 7103 Mumford Court)

Dear Steve:

On behalf of Congregation Toras Chaim (“CTC”), Rabbi Rich, Mark Gothelf, and Judith Gothelf, I respectfully write this letter to the Board so that it may be considered prior to the upcoming hearing. This letter serves as a brief update of our progress after the August BOA hearing. As the Board is aware, CTC submitted its application for a building permit so that it could determine the precise number of required parking spaces (and so it could ensure compliance with other City of Dallas code provisions). CTC recently received feedback from city officials David Session and Ann Hamilton that the permit application should be approved shortly and that the number of required spaces is twelve (12).

Based on the suggestion of the Board and the City Attorney’s Office, CTC has continued to pursue a remote shared parking agreement. CTC has worked closely with the Torah Day School (“TDS”) over the last year to pursue an agreement. Since the walking distance between TDS and CTC is beyond 600 feet (but less than the codified maximum), the remote shared parking agreement with CTC can satisfy fifty percent (50%) of CTC’s required spaces. In other words, the remote shared parking agreement with TDS can cover 6 of CTC’s required 12 spaces. We have been in contact with the attorney for TDS, and we will continue to collaborate with TDS in anticipation of the execution of a remote shared parking agreement. If successful, that will leave 6 remaining required spaces.

Ideally, CTC would be able to meet the requirement for the remaining 6 spaces (or at least, a portion of the requirement – such as 2 to 4 spaces) through the spaces available in the back part of CTC’s property; however, numerous city officials told CTC that none of the available spaces in the back of CTC’s property will formally count towards the required remaining 6 spaces since the spaces are accessed by an alley. It is our understanding that CTC members can of course *use* that space on its property; however, that space will simply not officially count towards the required spaces. Relatedly, we understand the perspective of Lloyd Denman (Sustainable Development and Construction Department Assistant Director of Engineering) when he says: “Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces” in the Review Comment Sheet. However, it is quite literally *impossible* for CTC to actually provide those spaces given the screening restrictions on alley accessibility.

CTC stands behind the merits of its original variance application and believes that it has fully met the standard set forth by the Board of Adjustment for achieving a variance on the parking requirement.<sup>1</sup> However, based on the feedback provided by the BOA at recent hearings, CTC understands the position of the Board and is doing everything in its power to develop alternative solutions to alleviate the Board's concerns. As it stands now, while CTC believes that the current variance application should be granted, CTC is prepared to execute the remote shared parking agreement for 6 spaces and asks that the Board grant a variance for only 6 spaces (as opposed to 27).

CTC understands that the BOA may ask CTC to re-submit a new variance application; however, it is CTC's position that this would be a significant waste of resources. The re-submitted plans and the asserted arguments would be the exact same – the only difference is that the application would request a smaller variance (6 spaces) as opposed to 27 spaces. CTC believes that requiring a new application would be (1) wasteful of the Board's limited time and resources; (2) wasteful of the neighbors' time as they would have to come back to City Hall for yet another hearing to express their opinions; and (3) wasteful to CTC as CTC has already paid over \$3,000 for this current variance application to be processed and heard and would have to come up with another significant amount of money for a new variance to be heard. For these reasons, CTC believes that the Board should and can grant a variance of only 6 spaces at the upcoming hearing. We are confident that this variance would address the Board's expressed concerns at the recent hearings. Additionally, with this arrangement, it is our position that the facts weigh even more heavily towards granting a variance considering the factors set forth by the BOA.

CTC respects the position of the local neighborhood and has been in communication with the local HOA president. CTC is working diligently to protect its rights (specifically pursuant to the Religious Land Use and Institutionalized Persons Act ("RLUIPA") and the Texas Religious Freedom Restoration Act ("TRFRA")) while also cooperatively living in community with a neighborhood that it cares about deeply. It is for this reason that CTC has exerted significant effort, working with the City and independently developing a plan for achieving this goal. While CTC believes it is entitled to a full variance, CTC believes that the remote shared parking agreement and the six space variance will (1) ensure protection of its religious liberty to peacefully and quietly worship, (2) ensure full compliance with the City's code and requirements, and (3) ensure that the neighborhood's concerns are properly addressed.

---

<sup>1</sup> As outlined in prior hearings, CTC is confident that it meets all three factors: (1) the variance is not contrary to the public interest when, owed to special conditions, a literal enforcement would result in unnecessary hardship; (2) the variance is 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 (3) the variance is not granted to relieve a self-created or personal hardship, nor for financial reasons only.

The variance in this instance is not contrary to public interest as this issue (the right to worship) operates at the core of what it means to live under the Constitution of the United States. A literal enforcement would result in unnecessary hardship for CTC, and it is never in the public interest to violate religious liberty rights. *Opulent Life Church v. City of Holly Springs Miss.*, 697 F.3d 279 (5th Cir. 2012). Additionally, the land is unquestionably unique (as discussed above) so that the land cannot be developed or used for a proper purpose – which, in this instance, is a religious purpose. Finally, the need to worship is never a self-created hardship – religious use is proper as a matter of right.

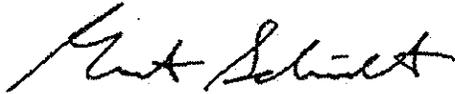
BDA167-072  
Attach D pg 3

WINSTON  
& STRAWN  
LLP

October 6, 2017  
Page 3

Thank you very much for your time and consideration of this additional information, and as always, please do not hesitate to contact me if we can provide any additional helpful information.

Respectfully,



Grant Schmidt

Cc: Andrew Gilbert  
Kristen Monkhouse



A

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-072

Data Relative to Subject Property:

Date: 2/24/17

Location address: 7103 Mumford Ct., Dallas, TX 75252 Zoning District: R-7.5(A)

Lot No.: 45 Block No.: 8788<sup>10</sup>/8758 Acreage: .29 Census Tract: 317.19

Street Frontage (in Feet): 1) 100 2) 126 3) 90 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Mark Gotthelf + Judith Gotthelf

Applicant: ~~Congregation Texas Chalm~~ Telephone: ~~472-835-6016~~

Mailing Address: ~~7103 Mumford Ct., Dallas, TX~~ Zip Code: ~~75252~~

E-mail Address: ~~fabbi@brasccham.dallas.org~~

Represented by: Grant Schmidt Telephone: 214-507-5042

Mailing Address: 1717 Main St., Suite 1000 Zip Code: 75201

E-mail Address: ~~grantschmidt12@gmail.com~~ gschmidt@winston.com

Affirm that an appeal has been made for a Variance , or Special Exception , of a reduction in required off street parking spaces (27)

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 restrictive area, shape, + slope prevents Mark Gotthelf (and Congregation Texas Chalm) from developing the land in a manner commensurate with the development upon other parcels of land in the district with the same zoning classification. There are essentially three front yards (with a brick wall subboundary 2 sides) and no car could enter back due to alley screening.

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.

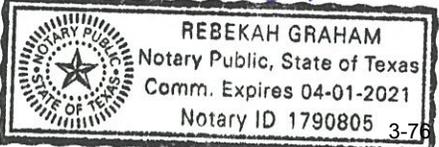
Affidavit

Before me the undersigned on this day personally appeared Grant Schmidt (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)

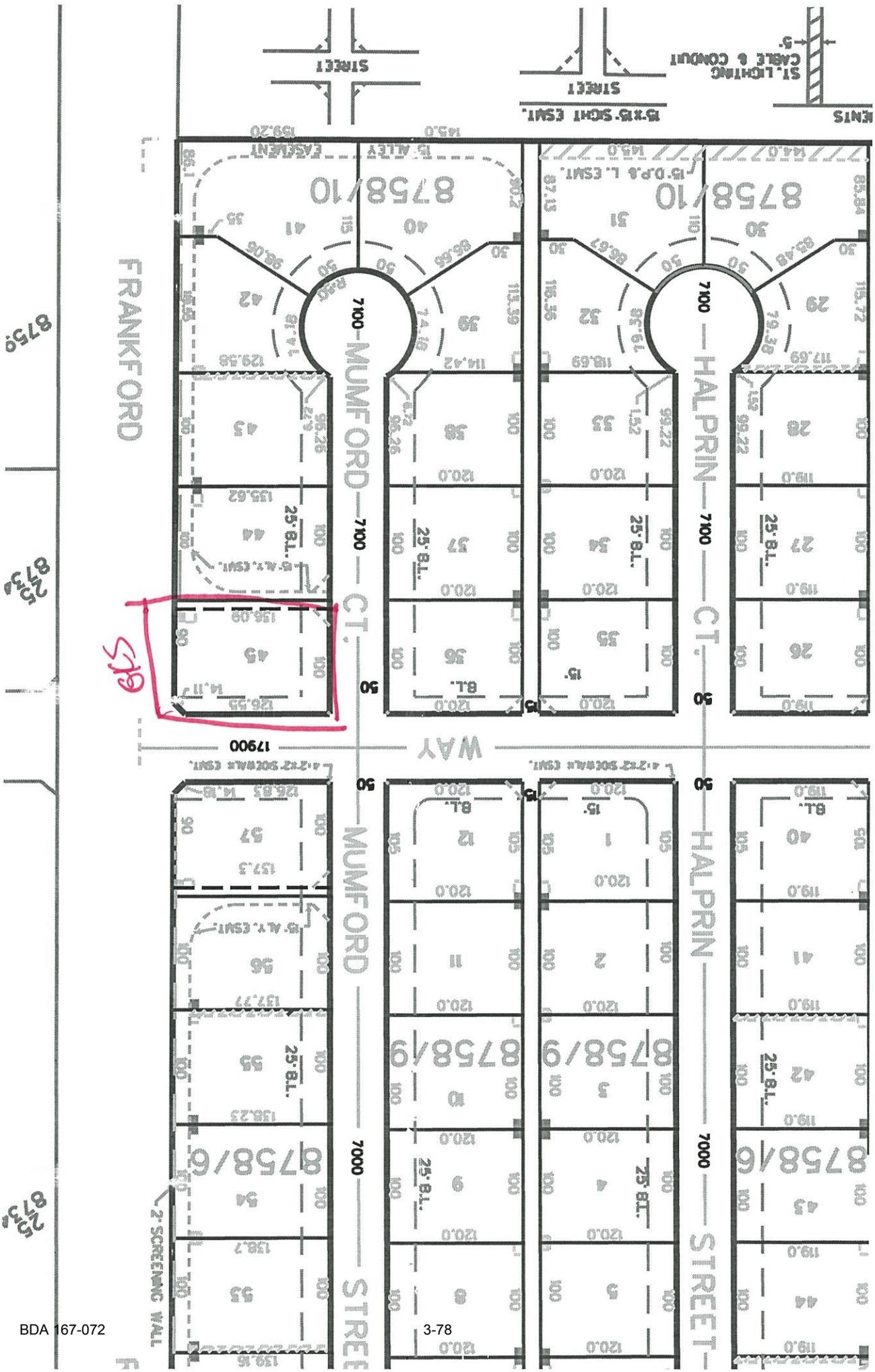
Subscribed and sworn to before me this 24<sup>th</sup> day of February, 2017



Rebekah Graham  
Notary Public in and for Dallas County, Texas

(Rev. 08-01-11)





# City of Dallas

## Internal Development Research Site

### Legend

Locate Property

Search by:

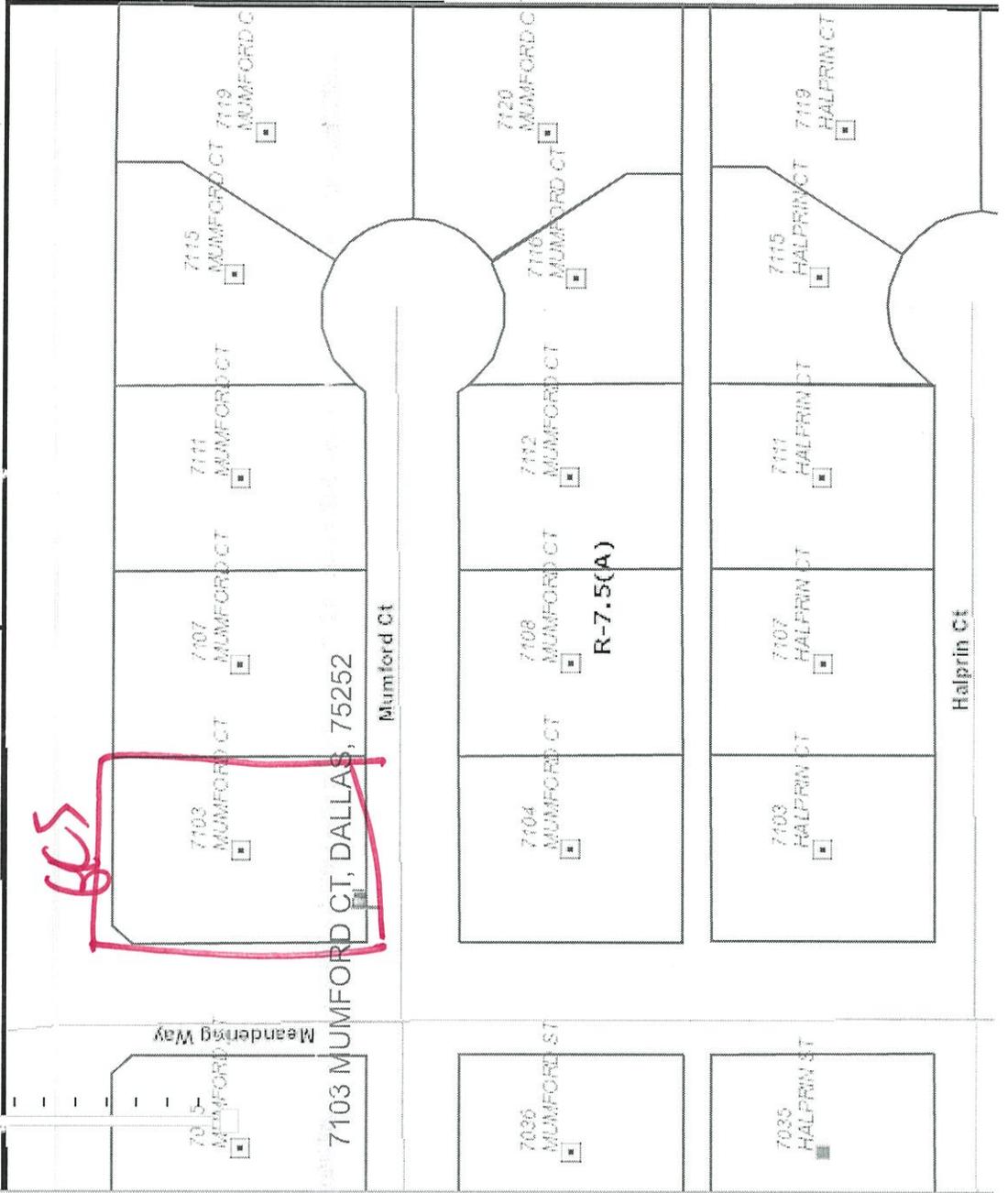
GIS Account #

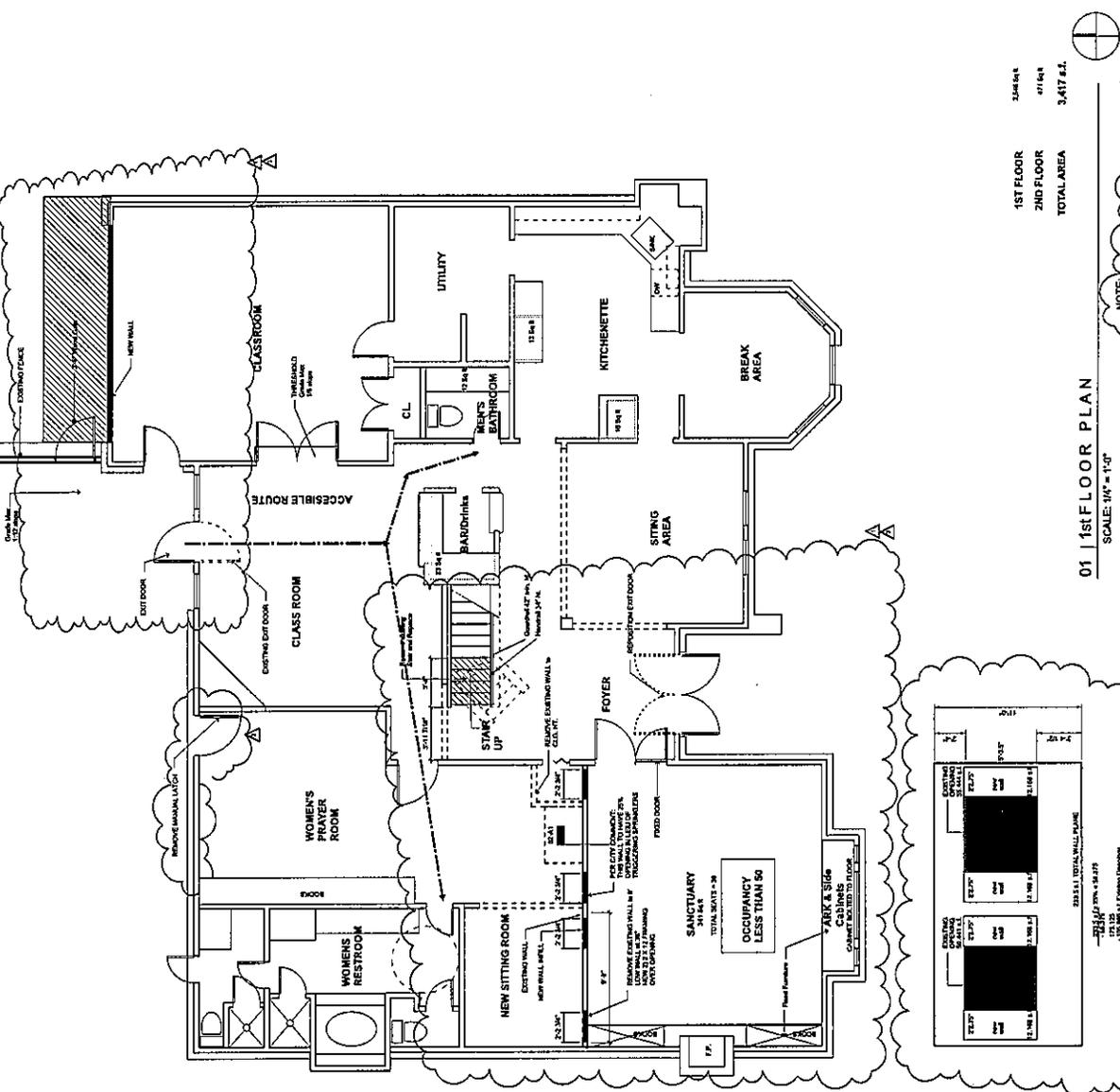
OR

Street address.  
7103 mumford

OR

Parcel address.  
Use street type for better re

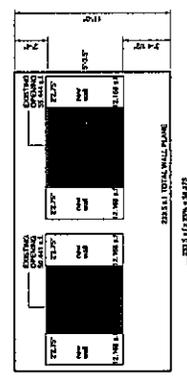




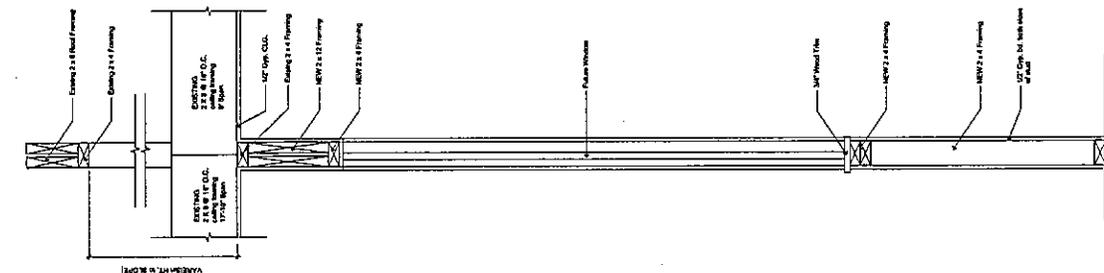
1ST FLOOR	3264 sq ft
2ND FLOOR	4718 sq ft
TOTAL AREA	3417 sq ft

- NOTE:
1. CODE COMPLIANT EXIT LIGHTING AT EACH EXIT DOORS
  2. HANDRAILS AT STAIRS REQUIRED ON ONE SIDE.
  3. ALL EXIT DOORS TO OPENING TO THE OUTSIDE

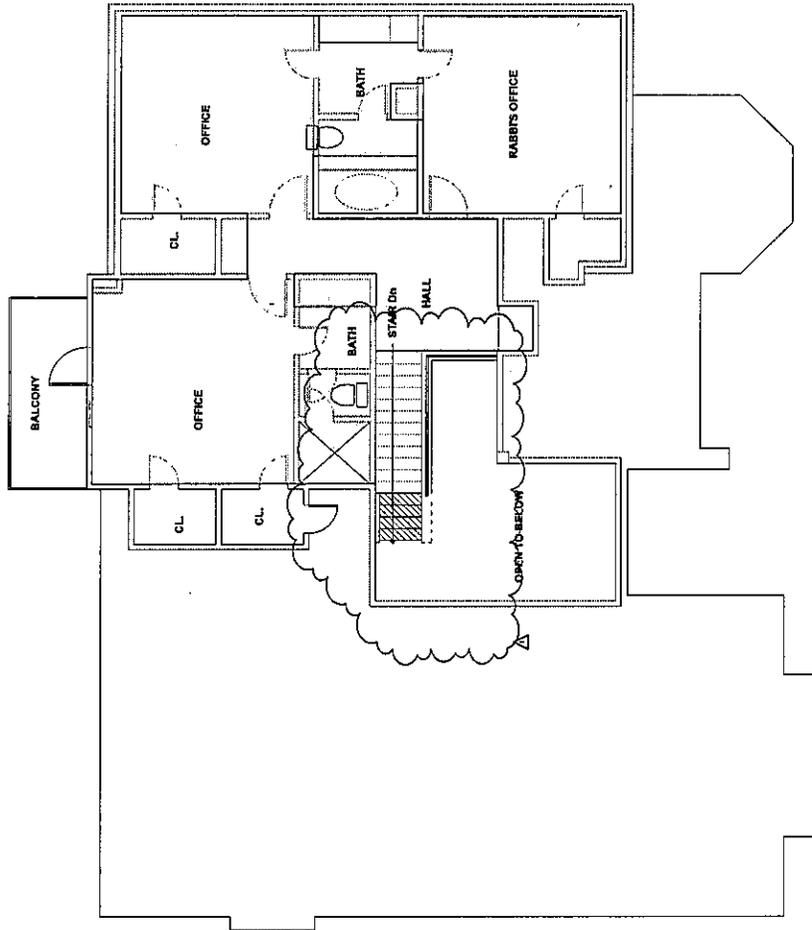
01 | 1ST FLOOR PLAN  
SCALE: 1/4" = 1'-0"



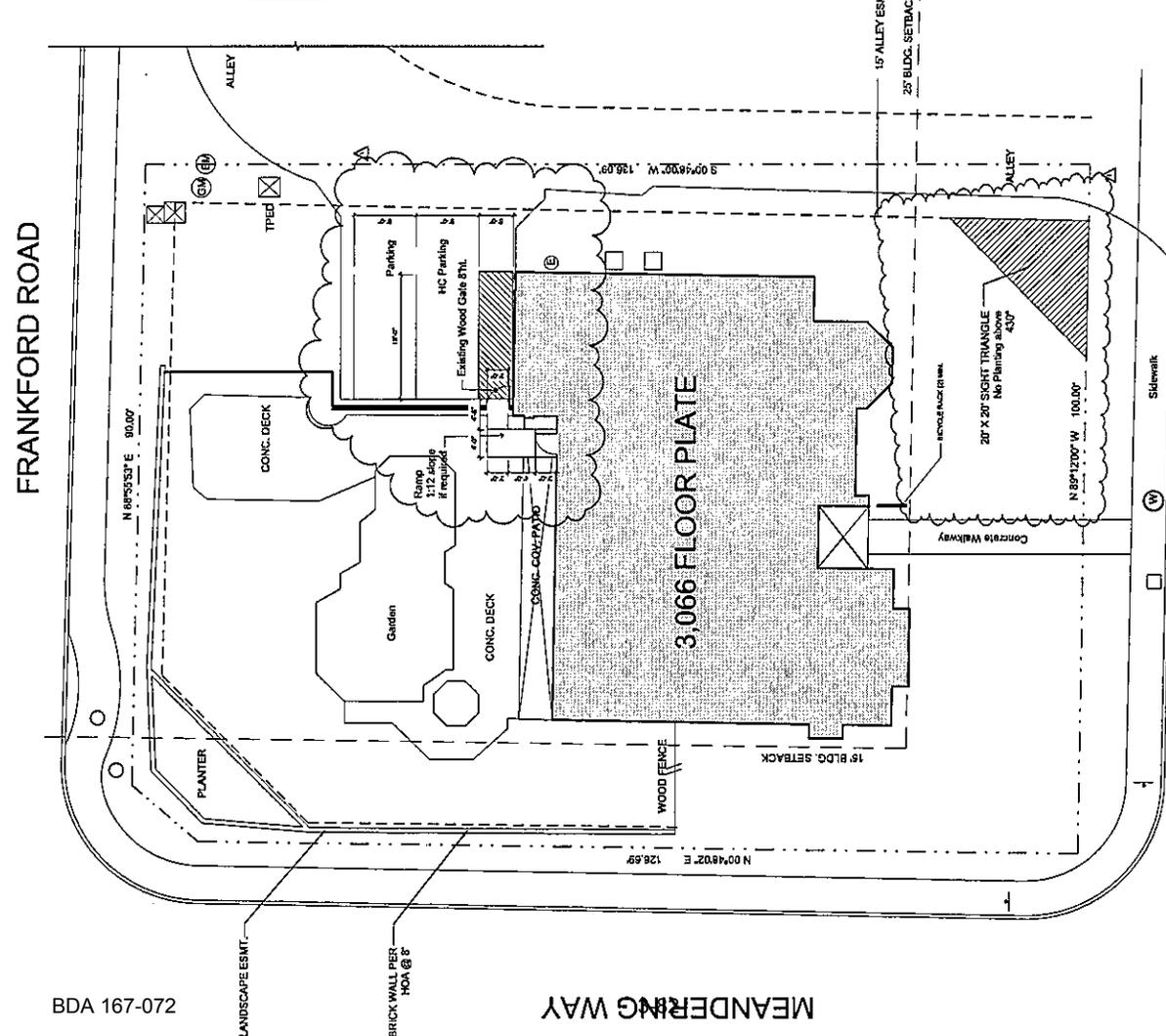
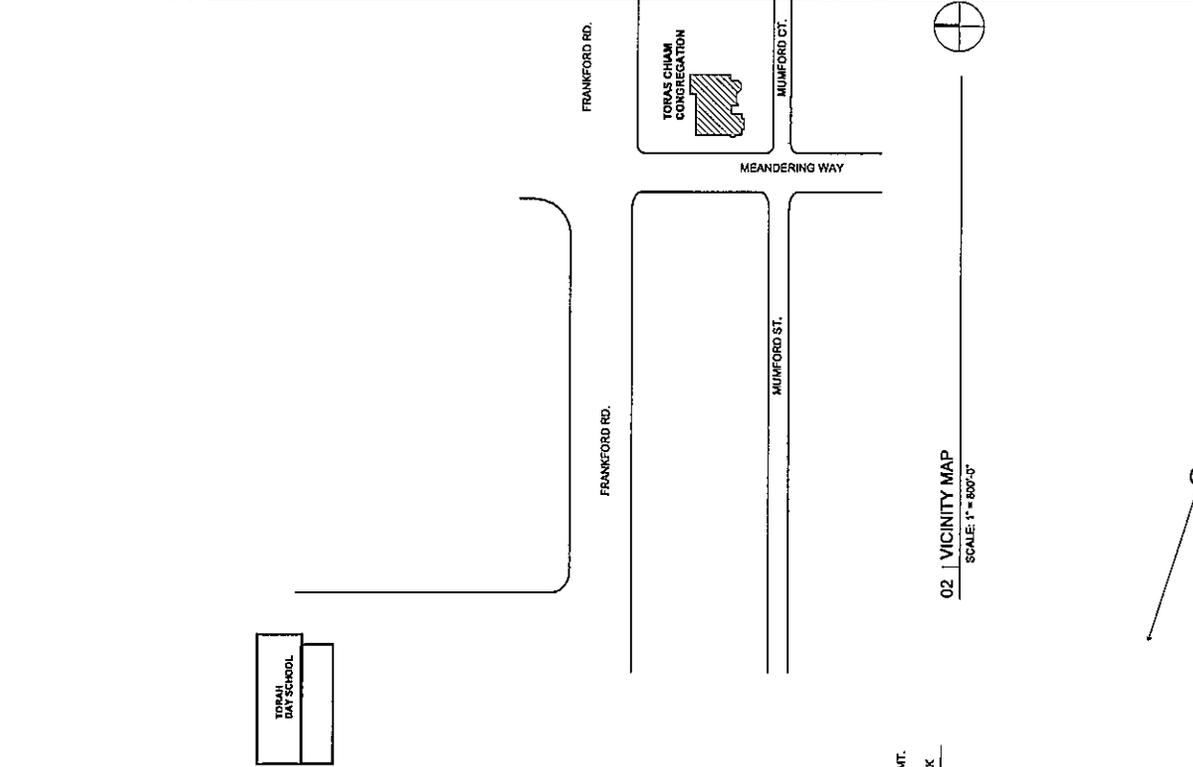
02 | WALL SCREEN RATIO  
SCALE: 1/4" = 1'-0"



02 | WALL DETAIL  
SCALE: 1 1/2" = 1'-0"



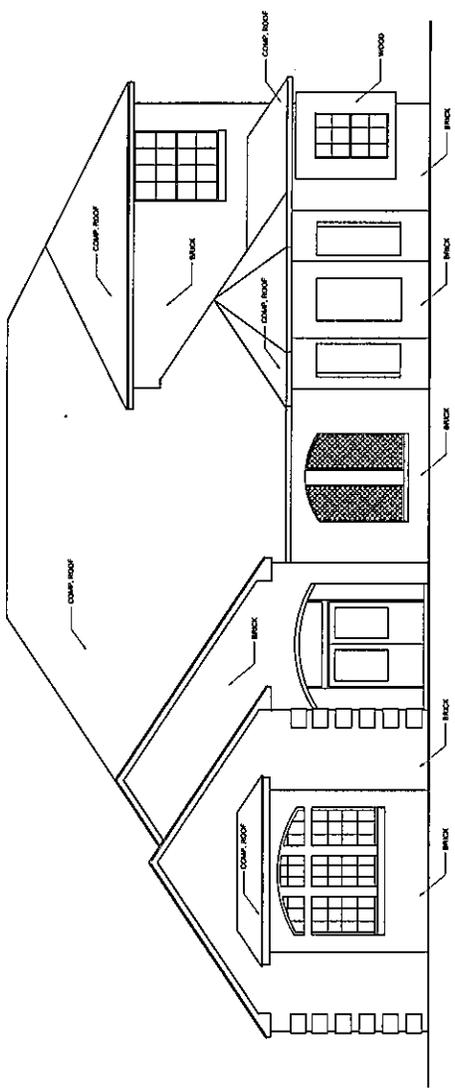
01 | 2nd FLOOR PLAN  
SCALE: 1/4" = 1'-0"  
OCCUPANCY 5



**ARCHITECT**  
 Gregory Magnus Architects  
 10000 North Loop West, Suite 1000  
 Houston, Texas 77036  
 Tel: 281.486.9725  
 gma@gregmagnus.com

**OWNER**  
 October 18, 2018  
 June 22, 2018  
 November 28, 2018  
 February 14, 2019

**REVISIONS**



**01 | FRONT ELEVATION**  
 SCALE: 1/4" = 1'-0"

Fish & Richardson P.C.  
1717 Main Street  
Suite 5000  
Dallas, TX 75201  
214 747 5070 main  
214 747 2091 fax

February 24, 2017

Steve Long  
Administrator – Board of Adjustment  
City Hall  
1500 Marilla St., 5BN  
Dallas, TX 75201

**Grant K. Schmidt**  
Associate  
gschmidt@fr.com  
214 760 6128 direct

Todd Duerksen  
320 E. Jefferson Blvd., Room 105  
Dallas, TX 75203

Re: *City of Dallas v. Mark B. Gothelf, Judith D. Gothelf and Congregation Toras Chaim, Inc. dba Congregation Toras Chaim*

Dear Mr. Long and Mr. Duerksen:

I represent Congregation Toras Chaim (“CTC”) in the above-referenced action brought by the City of Dallas (the “City”). CTC is a small Orthodox Jewish congregation that meets at 7103 Mumford Court, Dallas, TX 75252 (the “Property”), where about twenty-five neighborhood congregants walk to gather for worship on Saturdays, and a smaller number of congregants gather throughout the week. CTC is pursuing a variance regarding parking requirements for the Property. In particular, CTC intends to seek a variance on all 27 required off street parking spaces. This is a cover letter for the variance application. This packet includes (a) 2 Application forms; (b) 2 Affidavit forms; (c) 1 Warranty Deed; (d) a copy of the certified subdivision plot; (e) 1 lien statement; (f) 4 copies of the site plan; (g) 4 copies of the elevation drawings; (h) 4 copies of the floor plan; (i) a check for \$3630.00 in this application (\$900 + (27 x \$100) + (3 x \$10)); and (j) a smaller copy of each drawing as requested.

Regarding the parking analysis and/or traffic study, CTC does not have any parking analysis or traffic study to offer because CTC members generally do not drive to worship. Orthodox Jews are prohibited from driving on the Sabbath; these families therefore must live within walking distance of a synagogue to attend prayer services on the Sabbath. Therefore, CTC would be unable to provide a parking analysis or traffic study. This is consistent with CTC’s request to reduce the 27 parking space requirement.

CTC is pursuing a variance because the area, shape, and slope prevents CTC from developing the land in a manner commensurate with the development upon other parcels of land in the district with the same zoning classification. Second, there are essentially three front yards given the location of CTC’s property. Third, there are two brick walls owned by the Homeowners’ Association on two

February 24, 2017

sides of the property. Furthermore, CTC has been instructed by the City that no car could enter the back of the home due to the alley screening issues. For these reasons, CTC requires a reduction in the required off street parking requirements (27 spaces). The implementation of this variance would not be contrary to the public interest (in fact, it would be consistent with the public interest) and would otherwise result in an unnecessary hardship for CTC. This variance is not being pursued to relieve a self-created or personal hardship.

CTC intends to seek a fee reimbursement as the filing fee has resulted in a substantial financial hardship for CTC. CTC is a non-profit religious organization. CTC generates no profit, and any money that CTC spends must come from donations or fundraising efforts. Furthermore, the application fee constitutes a significant percentage of CTC's monthly operating expenses, and it already struggles to meet those obligations, often failing to pay the salary of its one full-time employee, Rabbi Rich.

Please contact me if you have any questions or if I may provide any additional information regarding the variance application.

Respectfully,



Grant K. Schmidt

cc: Andrew Gilbert, Assistant City Attorney

Justin Butterfield, First Liberty

Chad Walker, Fish & Richardson



CITY OF DALLAS

AFFIDAVIT

Appeal number: BDA 167-072

I, Judith Gothelf, Owner of the subject property  
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 7103 Mumford Court, Dallas, TX 75252  
(Address of property as stated on application)

Authorize: Grant Schmidt  
(Applicant's name as stated on application)

To pursue an appeal to the City of Dallas Zoning Board of Adjustment for the following request(s)

- Variance (specify below)
- Special Exception (specify below)
- Other Appeal (specify below)

Specify: A variance to reduce the number of required off street parking

Judith Gothelf  
Print name of property owner or registered agent

Judith A Gothelf  
Signature of property owner or registered agent

Date 3/21/17

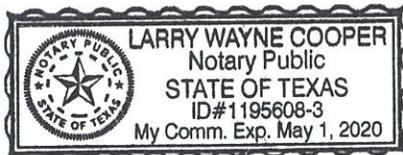
Before me, the undersigned, on this day personally appeared Judith Gothelf

Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 21th day of March, 2017

Larry Cooper  
Notary Public for Dallas County, Texas

Commission expires on 05-01-2020





AFFIDAVIT

Appeal number: BDA 167-072

I, Mark Gothelf, Owner of the subject property  
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 7103 Mumford Court, Dallas, TX 75252  
(Address of property as stated on application)

Authorize: Grant Schmidt  
(Applicant's name as stated on application)

To pursue an appeal to the City of Dallas Zoning Board of Adjustment for the following request(s)

- Variance (specify below)
- Special Exception (specify below)
- Other Appeal (specify below)

Specify: A variance to reduce the number of required off street parking spaces

Mark Gothelf  
Print name of property owner or registered agent

Mark B Gothelf  
Signature of property owner or registered agent

Date 2/23/17

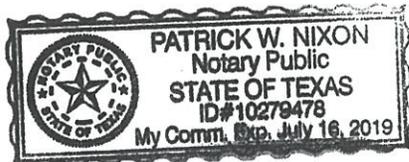
Before me, the undersigned, on this day personally appeared MARK B Gothelf

Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 23 day of FEBRUARY, 2017

Patrick Nixon  
Notary Public for Dallas County, Texas

Commission expires on 7-16-2019





## *Notification List of Property Owners*

### *BDA167-072*

#### *20 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	7103 MUMFORD CT	GOTHELF MARK B &
2	7031 MUMFORD ST	MCKENZIE MICHELLE L LEVESQUE & STEVEN N
3	7035 MUMFORD ST	SCHNEIDER DAVID R &
4	7035 HALPRIN ST	JOHNSON JAMES W ETUX
5	7032 MUMFORD ST	DAVID NATALIE E & JOSEPH D
6	7036 MUMFORD ST	NGUYEN VU DANG
7	7107 HALPRIN CT	BEISWANGER JOHN P
8	7103 HALPRIN CT	YANCEY BARRY & MARYBETH
9	7104 MUMFORD CT	RINGELHEIM ABRAHAM & MINNA
10	7108 MUMFORD CT	COLMERY ROBERT D JR ETUX
11	7112 MUMFORD CT	COATES DAWN E
12	7111 MUMFORD CT	NEELY JANETTE & JOHN
13	7107 MUMFORD CT	FORD DALVIN WAYNE SR &
14	FRANKFORD RD	CHURCHILL GLEN LP
15		HIGHLAND CREEK MANOR
16	7048 ASPEN CREEK LN	SHERMAN HILARY & SHERMAN GALE ALLEN LIVING TRUST
17	7124 ASPEN CREEK LN	STONE HOLLY NANETTE
18	7118 ASPEN CREEK LN	SCHIRATO JUDITH A
19	7112 ASPEN CREEK LN	RUBY RED RESOURCES LP
20	7106 ASPEN CREEK LN	WATERS KAYLA M

**FILE NUMBER:** BDA167-108(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Robert Baldwin for special exceptions to the visual obstruction regulations at 6347 Lupton Drive. This property is more fully described as Lot 13, Block D/5481, and is zoned R-10(A), which requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

**LOCATION:** 6347 Lupton Drive

**APPLICANT:** Robert Baldwin

**REQUESTS:**

Requests for special exceptions to the visual obstruction regulations are made on a site being developed with a single family home:

1. to construct, locate, and maintain 4' high stone columns in the two, 20' visibility triangles on both sides of the driveway into the site from Lupton Avenue;
2. to construct, locate, and maintain a 4' high wrought iron fence/gate in the two, 20' visibility triangles on both sides of the driveway into the site from Edgemere Road.

**STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:**

The Board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

**STAFF RECOMMENDATION:**

Denial

Rationale:

- The Sustainable Development Department Assistant Director of Engineering recommends that these requests be denied.
- Staff concluded that requests for special exceptions to the visual obstruction regulations should be denied because the applicant had not substantiated how the items proposed to be located in the visibility triangles do not constitute a traffic hazard.

**Zoning:**

Site: R-10(A) (Single family residential 10,000 square feet)  
North: R-10(A) (Single family residential 10,000 square feet)  
South: R-10(A) (Single family residential 10,000 square feet)  
East: R-7.5(A) (Single family residential 7,500 square feet)  
West: R-10(A) (Single family residential 10,000 square feet)

**Land Use:**

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

**Zoning/BDA History:**

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

**GENERAL FACTS/STAFF ANALYSIS:**

- These requests for special exceptions to the visual obstruction regulations focus on constructing, locating, and maintaining 4’ high stone columns in the two, 20’ visibility triangles on both sides of the driveway into the site from Lupton Avenue; and a 4’ high wrought iron fence/gate in the two, 20’ visibility triangles on both sides of the driveway into the site from Edgemere Road on a site being developed with a single family home.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
  - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
  - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- A site plan/elevation have been submitted indicating portions of 4’ tall stone columns in the two, 20’ visibility triangles on both sides of the driveway into the site from Lupton Avenue; and portions of a 4’ high wrought iron fence/gate in the two, 20’ visibility triangles on both sides of the driveway into the site from Edgemere Road.
- The Sustainable Development Department Assistant Director of Engineering has submitted a review comment sheet marked “Recommends that this be denied” with the following comment: “The gates are too close to the street (both Lupton and Edgmere) so that waiting traffic will obstruct the flow of traffic” and photographs taken of the subject site (see Attachment A).

- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to construct, locate, and maintain 4' tall stone columns in the two, 20' visibility triangles on both sides of the driveway into the site from Lupton Avenue; and a 4' high wrought iron fence/gate in the two, 20' visibility triangles on both sides of the driveway into the site from Edgemere Road do not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan/elevation would limit the items located in these 20' drive approach visibility triangles to that what is shown on this document – 4' high solid stone columns in the Lupton Drive driveway visibility triangles and a 4' high wrought iron fence and gate in the Edgemere Road driveway visibility triangles.

**Timeline:**

July 28, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

September 12, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

September 12, 2017: The Board Administrator emailed the applicant following information:

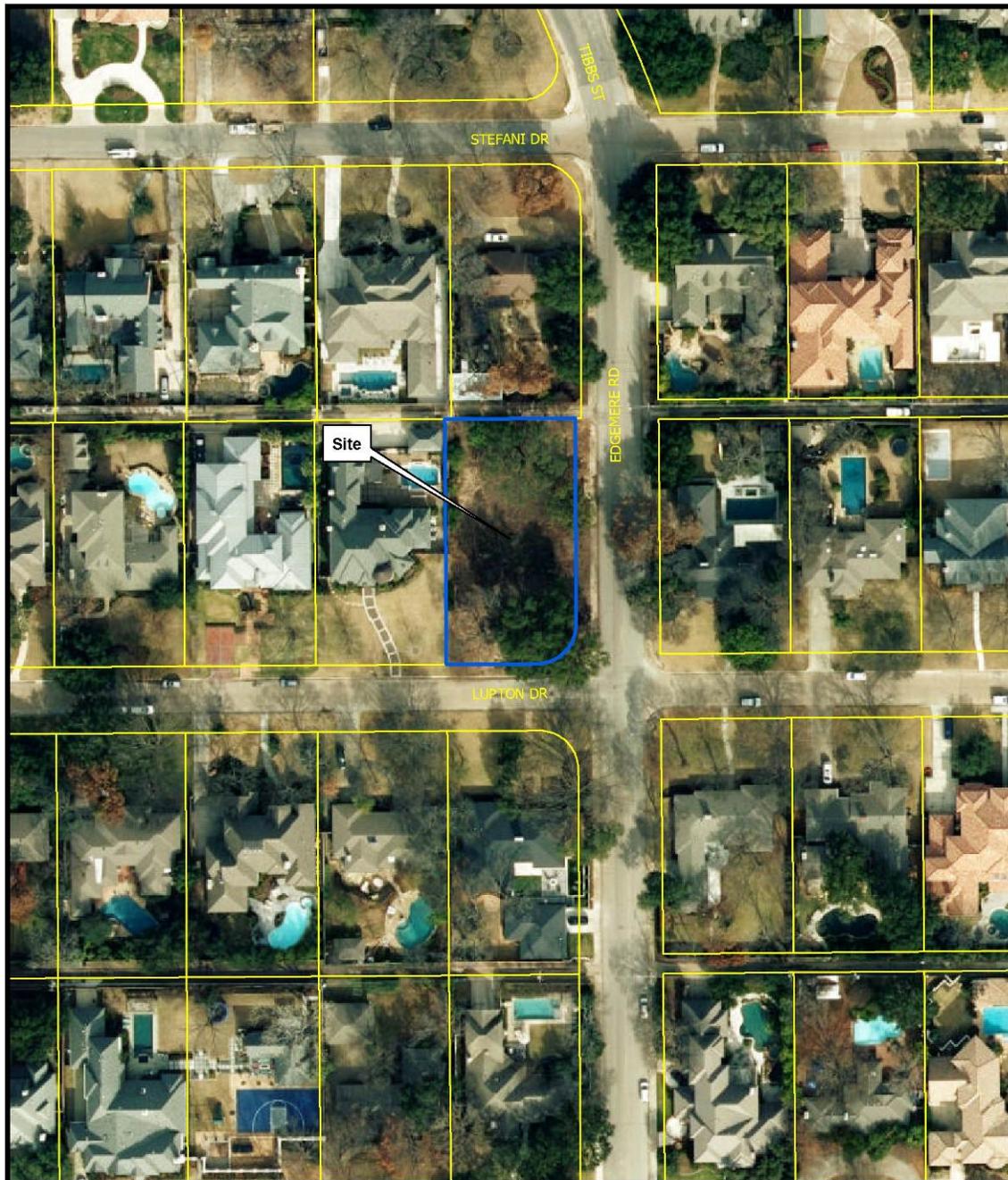
- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the September 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the October 6<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.”

October 3, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

October 5, 2017: The Sustainable Development Department Assistant Director of Engineering has submitted a review comment sheet marked “Recommends that this be denied” with the following comment:

“The gates are too close to the street (both Lupton and Edgemere) so that waiting traffic will obstruct the flow of traffic” and photographs taken of the subject site (see Attachment A).





1:1,200

# AERIAL MAP

Case no: BDA167-108

Date: 9/21/2017

BDA 167-108  
Attachment A  
Pg 1

REVIEW COMMENT SHEET  
BOARD OF ADJUSTMENT  
HEARING OF OCTOBER 17, 2017 (A)

- |   |   |
|---|---|
| <input type="checkbox"/> Has no objections  | <input type="checkbox"/> BDA 167-107(SL)            |
| <input type="checkbox"/> Has no objections if certain conditions are met (see comments below or attached) | <input checked="" type="checkbox"/> BDA 167-108(SL) |
| <input checked="" type="checkbox"/> Recommends that this be denied (see comments below or attached)       | <input type="checkbox"/> BDA 167-109(SL)            |
| <input type="checkbox"/> No comments  | <input type="checkbox"/> BDA 167-115(SL)            |

COMMENTS:

The gates are too  
close to the street  
(both Lupton & Edgemere)  
so that waiting  
vehicles will obstruct  
the flow of traffic.

*Royce Wernman*  
Name/Title/Department  
Assistant Director

10-5-17  
Date

Please respond to each case and provide comments that justify or elaborate on your response. Dockets distributed to the Board will indicate those who have attended the review team meeting and who have responded in writing with comments.

\*Holdover case

BDA167-108  
Attach A  
Pg 2



BDA167-108  
Attach A  
p93





City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-108

Data Relative to Subject Property:

Date: July 28, 2017

Location address: 6347 Lupton Drive Zoning District: R-10(A)

Lot No.: 13 Block No.: D/5481 Acreage: 0.425 acres Census Tract: 77.00

Street Frontage (in Feet): 1) 100 ft 2) 157.5 ft 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Michael S. Glazer and Kimberly Glazer

Applicant: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Represented by: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance \_\_, or Special Exception X, of visibility obstruction

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 proposed fencing will have columns and motorized gates at driveways, which are located within the 20-foot visibility triangles. The fence panels will be located on the property line. Lupton and Edgemere are local, residential streets with low traffic volumes, therefore the columns and gates will not create a traffic hazard.

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

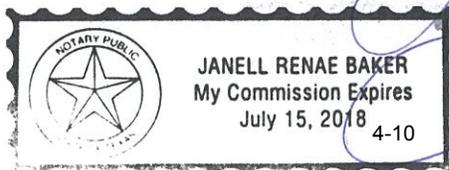
Before me the undersigned on this day personally appeared Robert Baldwin
(Affiant/Applicant's name printed)

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 28 day of July, 2017

(Rev. 08-01-11)



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





12  
Jackson Heights No. 4 Printed: 7/21/2017

### Legend

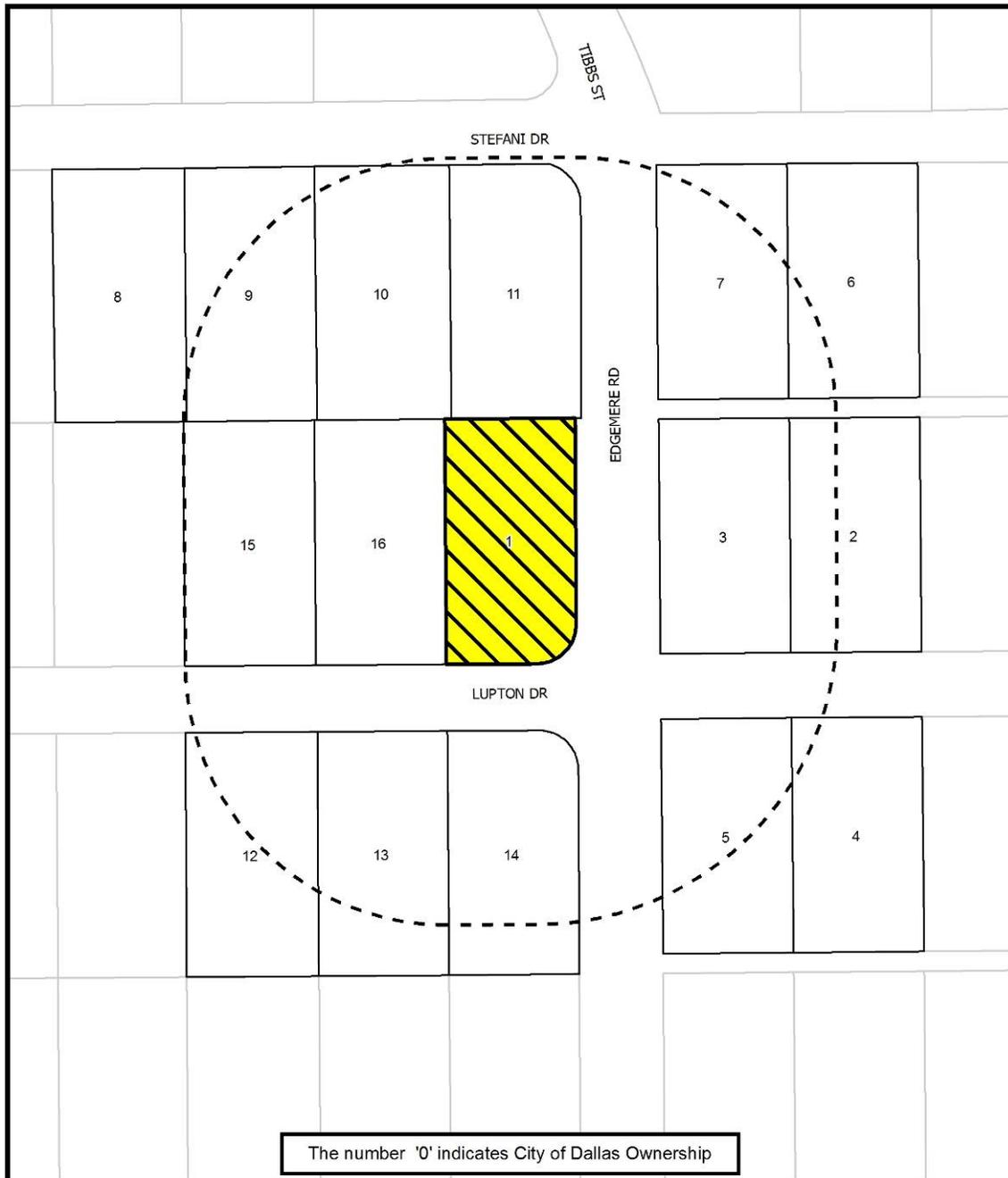
- |                      |                                |                       |                            |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits          | railroad                       | Dry Overlay           | CD Subdistricts            |
| School               | Certified Parcels              | D                     | PD Subdistricts            |
| Floodplain           | Base Zoning                    | D-1                   | PDS Subdistricts           |
| 100 Year Flood Zone  | PD193 Oak Lawn                 | CP                    | NSO Subdistricts           |
| Mill's Creek         | Dallas Environmental Corridors | SP                    | NSO_Overlay                |
| Peak's Branch        | SPSP Overlay                   | MD Overlay            | Escarpment Overlay         |
| X Protected by Levee | Deed Restrictions              | Historic Subdistricts | Parking Management Overlay |
| Parks                | BDA 167408 SUP                 | Historic Overlay      | 4-12 Front Overlay         |
|                      |                                | Height Map Overlay    |                            |

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









The number '0' indicates City of Dallas Ownership

 1:1,200	<h2>NOTIFICATION</h2>	Case no: <b>BDA167-108</b>
	<div style="display: flex; justify-content: space-between;"> <div style="border: 1px solid black; padding: 2px;">200'</div> <div>AREA OF NOTIFICATION</div> </div> <div style="display: flex; justify-content: space-between;"> <div style="border: 1px solid black; padding: 2px;">16</div> <div>NUMBER OF PROPERTY OWNERS NOTIFIED</div> </div>	Date: <b>9/21/2017</b>

## *Notification List of Property Owners*

### *BDA167-108*

#### *16 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	6347 LUPTON DR	GLAZER MICHAEL S & KIMBERLY
2	6415 LUPTON DR	BLANKENSHIP TOM & CONSTAN
3	6407 LUPTON DR	LANE SCOTT L & CANDACE J
4	6414 LUPTON DR	PEARSON FAMILY TRUST
5	6406 LUPTON DR	HUCKLEBRIDGE JOHN
6	6414 STEFANI DR	SCHEINBERG ROBERT &
7	6406 STEFANI DR	SPANGLER CHRISTOPHER LEIGH &
8	6322 STEFANI DR	ELROD DAVID W
9	6330 STEFANI DR	SWATZELL PHIL & MICHELLE
10	6338 STEFANI DR	MORKEN CECELIA & MITCHELL
11	6346 STEFANI DR	USELTON JAMES G &
12	6330 LUPTON DR	HANRAHAN KATHARINE R &
13	6338 LUPTON DR	KENNEDY JAMES & MEREDITH VESLEDAHL
14	6346 LUPTON DR	KEITH TIMOTHY B & SUSAN P
15	6331 LUPTON DR	BLACK ALBERT W &
16	6339 LUPTON DR	ARUMUGHAM AKILAN & SHANNON AMONETTE

**FILE NUMBER:** BDA167-109(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Brady K. Wood for a special exception to the off-street parking regulations and a variance to the side yard setback regulations at 4931 W. Lovers Lane. This property is more fully described as Lots 1 & 2, Block 1/5001, and is zoned PD-326 (Area B), which requires off-street parking to be provided, and requires a 5 foot side yard setback. The applicant proposes to construct and/or maintain a structure for a restaurant without drive-in or drive-through service use and provide 29 of the required 31 parking spaces, which will require a 2 space special exception to the off-street parking regulations, and to construct and/or maintain a structure and provide a 0 foot side yard setback, which will require a 5 foot variance to the side yard setback regulations.

**LOCATION:** 4931 W. Lovers Lane

**APPLICANT:** Brady K. Wood

**REQUESTS:**

The following requests are made on a site that is developed with a 3,100 square foot restaurant use/ structure (Jose):

1. A variance to the side yard setback regulations of 5' is made to maintain a dumpster structure near the site's northern side property line or 5' into this 5' required side yard setback.
2. A special exception to the off-street parking regulations of 2 spaces is made to retain a Certificate of Occupancy for the structure/use (whereby two off-street parking spaces were recently eliminated to provide an ingress/egress way into the site from Briarwood Lane), and provide 29 (or 94 percent) of the 31 required off-street parking spaces on the subject site.

**STANDARD FOR A VARIANCE:**

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

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

developed in a manner commensurate with the development upon other parcels of land with the same zoning; and

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

**STANDARD FOR A SPECIAL EXCEPTION TO THE OFF-STREET PARKING REGULATIONS:**

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 75 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). For the office use, the maximum reduction authorized by this section is 35 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). Applicants may seek a special exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.
- 2) In determining whether to grant a special exception, the board shall consider the following factors:
  - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
  - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
  - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
  - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
  - (E) The availability of public transit and the likelihood of its use.
  - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:

- (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
  - (B) Impose restrictions on access to or from the subject property; or
  - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
- (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
  - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

**STAFF RECOMMENDATION (variance):**

Denial

- Staff concluded that while granting this variance would not appear to be contrary to public interest in that the only structure requested to be in a setback is an approximately 30 square foot dumpster structure located within an enclosed/fenced area; the request should be denied because the applicant had not substantiated how any feature of the flat, rectangular-shaped site precluded it from being developed in a manner commensurate with the development upon other parcels of land with the same PD 326 (Area B) zoning district.

**STAFF RECOMMENDATION (special exception):**

Approval, subject to the following condition:

- The special exception of 2 spaces shall automatically and immediately terminate if and when the restaurant use is changed or discontinued.

Rationale:

- The Sustainable Development Department Assistant Director of Engineering indicated that he has no objections to the applicant's request.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 326 (Area B) (Planned Development)  
North: R-7.5(A) (Single family district 7,500 square feet)

South: PD 771 (Planned Development)  
East: CR (Community Retail)  
West: PD 326 (Area A) (Planned Development)

**Land Use:**

The subject site is developed with a restaurant use/structure (Jose). The area to the north is developed with single family uses, the area to the east is developed with office and retail uses, the area to the south is developed as church, and the area to the west is undeveloped.

**Zoning/BDA History:**

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

**GENERAL FACTS /STAFF ANALYSIS (variance):**

- The request for a variance to the side yard setback regulations of 5' focusing on maintaining an approximately 30 square foot dumpster structure near the site's northern side property line or 5' into this 5' required side yard setback on a site developed as a restaurant use/structure (Jose).
- The subject site is zoned PD 326 (Area B)(Neighborhood Service/Single Family Area) which requires a minimum 15' front yard setback and a minimum 5' side and rear yard setback for other permitted structures other than single family structures.
- The subject site is located at the northwest corner of W. Lovers Lane and Briarwood Lane). The site has 15' front yard setbacks on both street frontages, and 5' side yard setbacks on the west and north.
- The originally submitted site plan denoted a dumpster structure located approximately 1' from the site's side property line on the north (or approximately 4' into this 5' side yard setback), and an "existing building" located approximately 2' from the site's side property line on the west (or approximately 3' into this 5' side yard setback).
- While DCAD records state the "improvement" for property addressed at 4931 W. Lovers Lane is structure built in 2016 with 3,100 square feet, the applicant has stated that the structure was constructed in the early 80's, and that because of this and the fact that the zoning prior to the creation of PD 326 in 1989 appears to have been NS (Neighborhood Service) which required a side yard setback of 0 feet, the "existing building" noted on the site plan is a nonconforming structure.
- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.
- The code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.

- The code states that a person may renovate, remodel, repair, rebuild, or enlarge a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations.
- The applicant has chosen to seek variance for the dumpster structure located in the 5' northern side yard setback, and not for variance for the existing structure located in the 5' western side yard setback.
- A revised site plan was submitted to staff on October 3, 2017 (see Attachment A). The applicant represented that "the new plan is very close to the same but we adjusted some parking space widths to comply with current standards".
- The site is flat, rectangular in shape (approximately 138' x 114'), and according to the application is 0.37 acres (or approximately 16,000 square feet) in area. The site has two 15' front yard setbacks and two 5' side yard setbacks which is typical of any lot with two street frontages not zoned single family, duplex, or agricultural district.
- The applicant has the burden of proof in establishing the following:
  - 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.
  - The variance to side yard setback regulations 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 326 (Area B) zoning classification.
  - The variance to the side yard setback regulations 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 326 (Area B) zoning classification.
- If the Board were to grant the request, and impose the submitted revised 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 the approximately 30 square foot dumpster structure located in the site's 5' required side yard setback on the north.
- Granting this request and imposing the submitted revised site plan as a condition will not provide relief for the existing nonconforming structure in the site's side yard setback on the west since the applicant chose to not include this in his application/request for side yard variance.

**GENERAL FACTS/STAFF ANALYSIS (special exception):**

- This request for a special exception to the off-street parking regulations of 2 spaces focuses on retaining a Certificate of Occupancy for the existing 3,100 square foot restaurant use/structure and providing 29 (or 94 percent) of the 31 required off-street parking spaces on the subject site.
- The Dallas Development Code requires the following off-street parking requirement:
  - Restaurant use: As a main use, 1 space per 100 square feet of floor area.

- The Sustainable Development Department Assistant Director of Engineering has submitted a review comment sheet marked “Has no objections”.
- The applicant has the burden of proof in establishing the following:
  - The parking demand generated by the “restaurant” use on the site does not warrant the number of off-street parking spaces required, and
  - The special exception of 2 spaces (or 6 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 2 spaces shall automatically and immediately terminate if and when the restaurant use is changed or discontinued, the applicant could retain the Certificate of Occupancy for the existing 3,100 square foot restaurant use/structure, and provide 29 (or 94 percent) of the 31 required off-street parking spaces.

**Timeline:**

August 1, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

September 12, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

September 12, 2017: The Board Administrator emailed the applicant the following information:

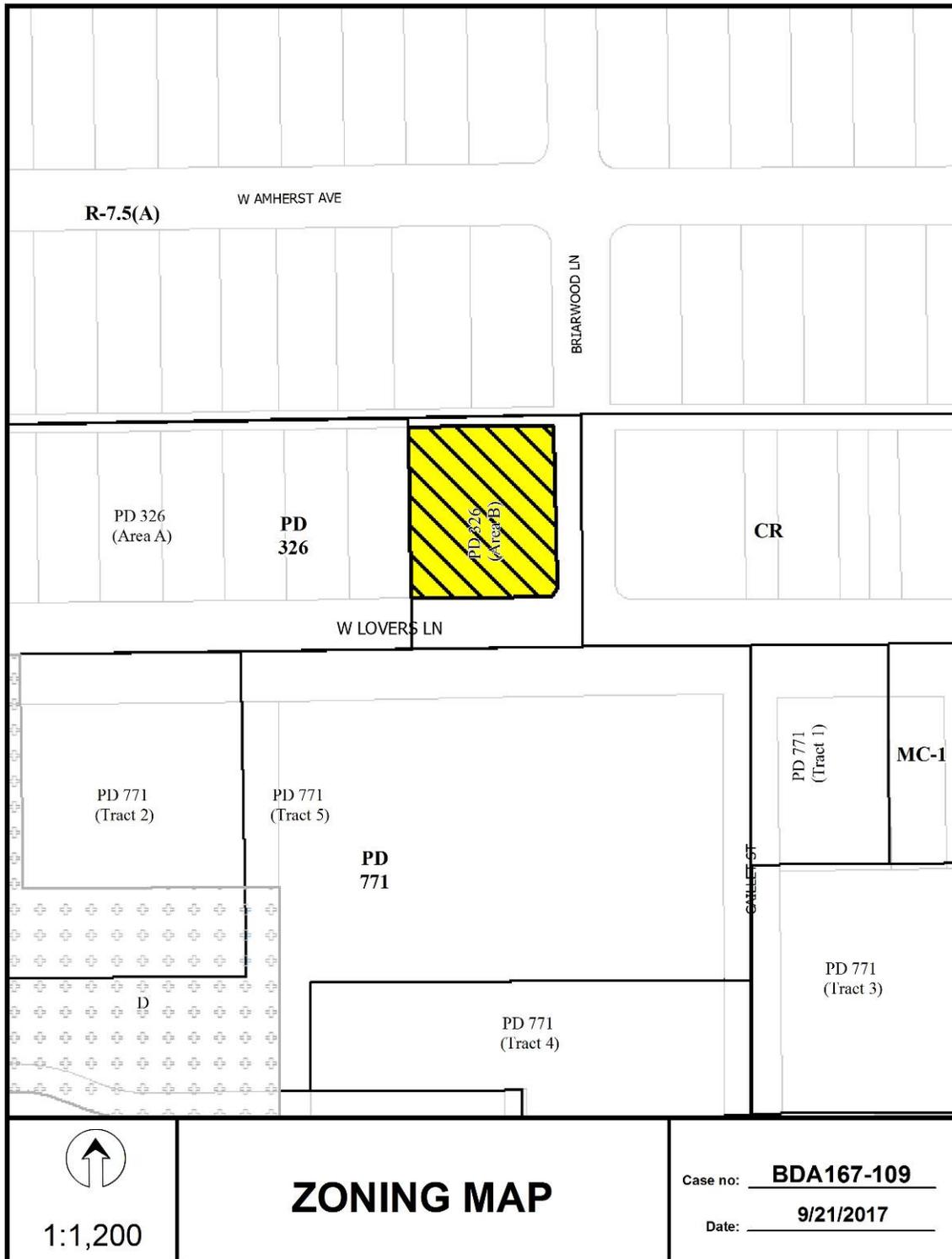
- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the September 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the October 6<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the definition of nonconforming structure and the provision from the Dallas Development Code related to nonconforming structures (51A-4.704(c));
- 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.”

October 3, 2017: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

October 3, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner/Board

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

October 5, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Has no objections".





1:1,200

# AERIAL MAP

Case no: BDA167-109

Date: 9/21/2017

**Long, Steve**

---

**From:** Brady Wood <brady@woodhouseus.com>  
**Sent:** Monday, October 02, 2017 2:35 PM  
**To:** Duerksen, Todd  
**Cc:** Long, Steve; Hannah Wood  
**Subject:** 4931 W. Lovers Lane  
**Attachments:** BOA submittal\_PARKING PLAN\_29\_100217\_REV01.pdf

Attach A  
PS1

Todd,

This is what we plan to submit to BOA. 31 spaces were required and we have reduced by 2 as in the original application. (Reminder that one space was waived due to bicycle parking.)

Thank you for the help resolving the sizes and calculations.

Steve, please let me know if you need anything else. Thank you.

—Brady

Brady K. Wood  
214-769-9663

On 10/2/17, 2:23 PM, "Lance Raney" <[lance@droeseraney.com](mailto:lance@droeseraney.com)> wrote:

BKW-

Find attached for your use.

Kind regards,

Lance E. Raney  
Principal

DROESE RANEY ARCHITECTURE, INC.  
2120 Sylvan Avenue  
Dallas Texas 75208

t 214) 987.1902 f 214) 987.1908  
[droeseraney.com](http://droeseraney.com)

**DRA**  
**CHOSE HANEY ARCHITECTURE**  
 1324 West Adams  
 Brea, CA 92620, USA

LOTS 162, BLOCK 1

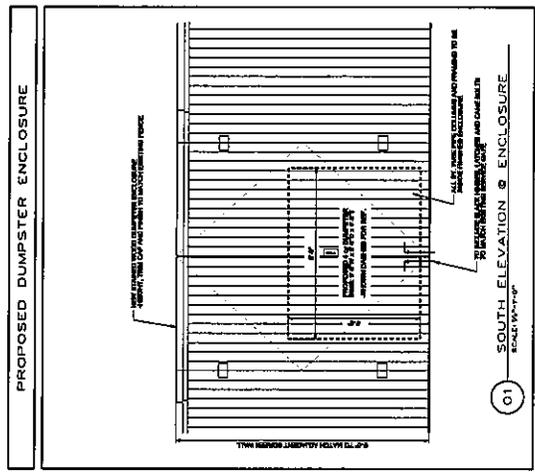
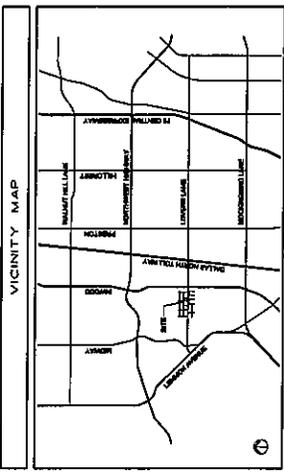


APPROVED FOR THE CITY OF BREA  
 11/15/17

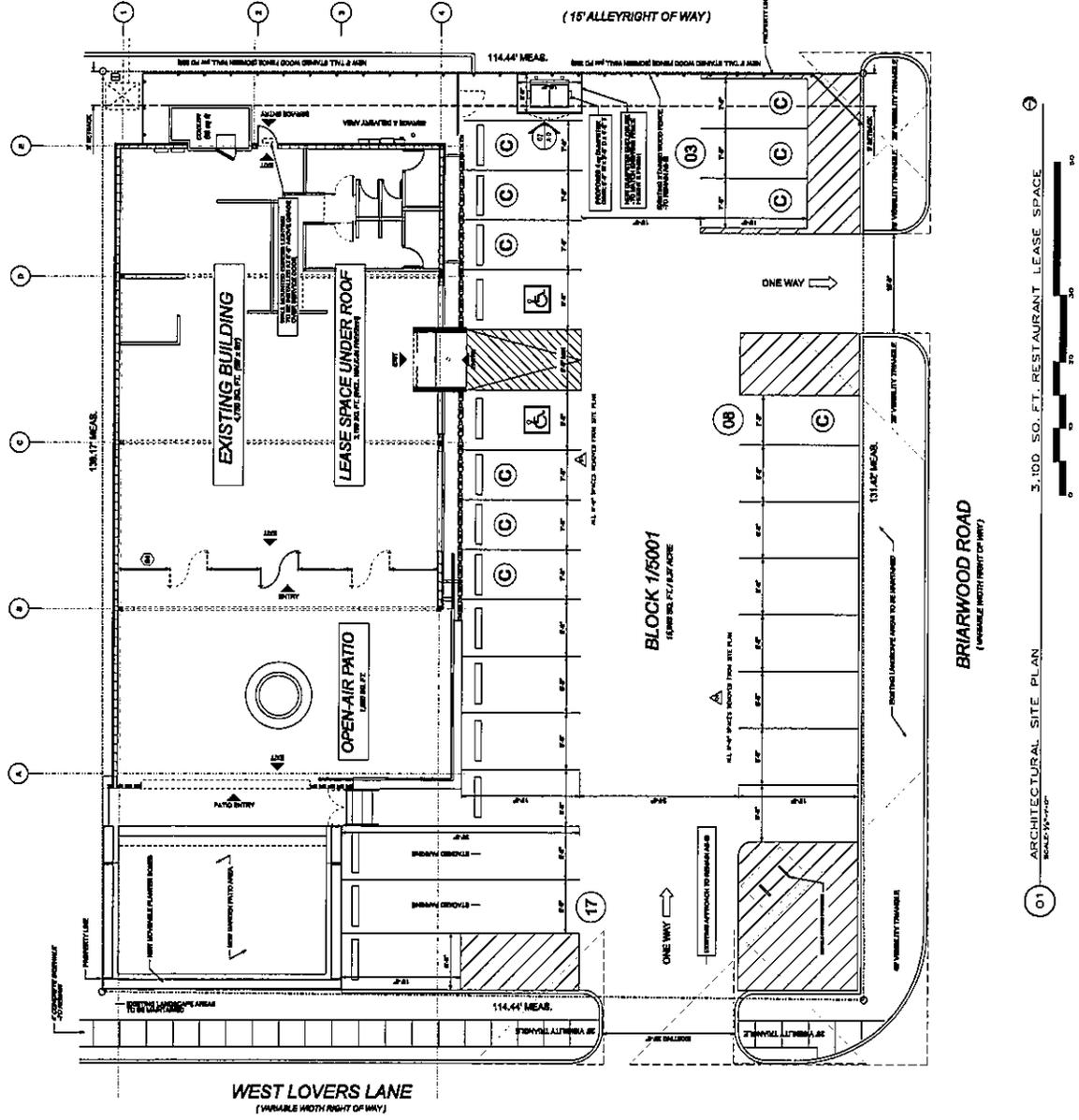
PROJECT NUMBER	167-109
PROJECT NAME	WEST LOVERS LANE RESTAURANT IMPROVEMENTS
OWNER	WEST LOVERS LANE RESTAURANT
SCALE	AS SHOWN
CAD FILE	167-109-01.dwg
DATE	11/15/17

ARCHITECTURAL SITE PLAN  
 PROPOSED PARKING

A-0



SITE DESCRIPTION	
PROJECT NUMBER	167-109
PROJECT NAME	WEST LOVERS LANE RESTAURANT IMPROVEMENTS
OWNER	WEST LOVERS LANE RESTAURANT
SCALE	AS SHOWN
CAD FILE	167-109-01.dwg
DATE	11/15/17
ARCHITECT	CHOSE HANEY ARCHITECTURE
PROJECT NUMBER	167-109
PROJECT NAME	WEST LOVERS LANE RESTAURANT IMPROVEMENTS
OWNER	WEST LOVERS LANE RESTAURANT
SCALE	AS SHOWN
CAD FILE	167-109-01.dwg
DATE	11/15/17
ARCHITECT	CHOSE HANEY ARCHITECTURE



BDA  
 167-  
 109  
 Attach A  
 P52



City of Dallas

A

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-109

Date: 8/1/2017

Data Relative to Subject Property:

Location address: 4931 W. LOVERS LN. DALLAS TX 75209 Zoning District: PD 320 area B

Lot No.: 1E12 Block No.: 1/5001 Acreage: .37 Census Tract: 73.02

Street Frontage (in Feet): 1) 115.01 2) 139.20 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): 4931 W. LOVERS LN. LLC

Applicant: BRADY K WOOD Telephone: 214-769-9663

Mailing Address: 5121 SOUTH BROOK DR, DALLAS, TX Zip Code: 75209

E-mail Address: BRADY@WOODHOUSEUS.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 variance of a five (5)ft set back to the five (5)ft side yard set back to put an enclosed structure on the set back. PARKING SPECIAL EXCEPTION: for the reduction of two (2) parking space from the thirtyone (31) required parking spaces for a restaurant without a drive thru service lane.

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:

variance: necessary for the property development as the property is a restrictive area in that the property does not have a rear yard. the property has two (2) front yards and two (2) side yards. this variance will not be contrary to the public interest. Parking special exception: A reduction of two (2) space will not cause an adverse effect as there is ample parking on and around the site, including public street parking on lovers lane.

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.

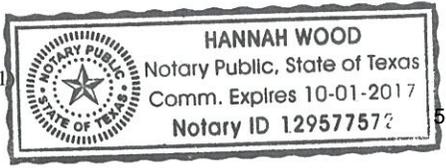
Affidavit

Before me the undersigned on this day personally appeared BRADY K. 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: (Affiant/Applicant's signature)

Subscribed and sworn to before me this 1 day of AUGUST, 2017



Hannah Wood Notary Public in and for Dallas County, Texas



# City of Dallas

## Internal Development Research Site

### Legend

### Locate Property

Search by:

GIS Account #

Locate

OR

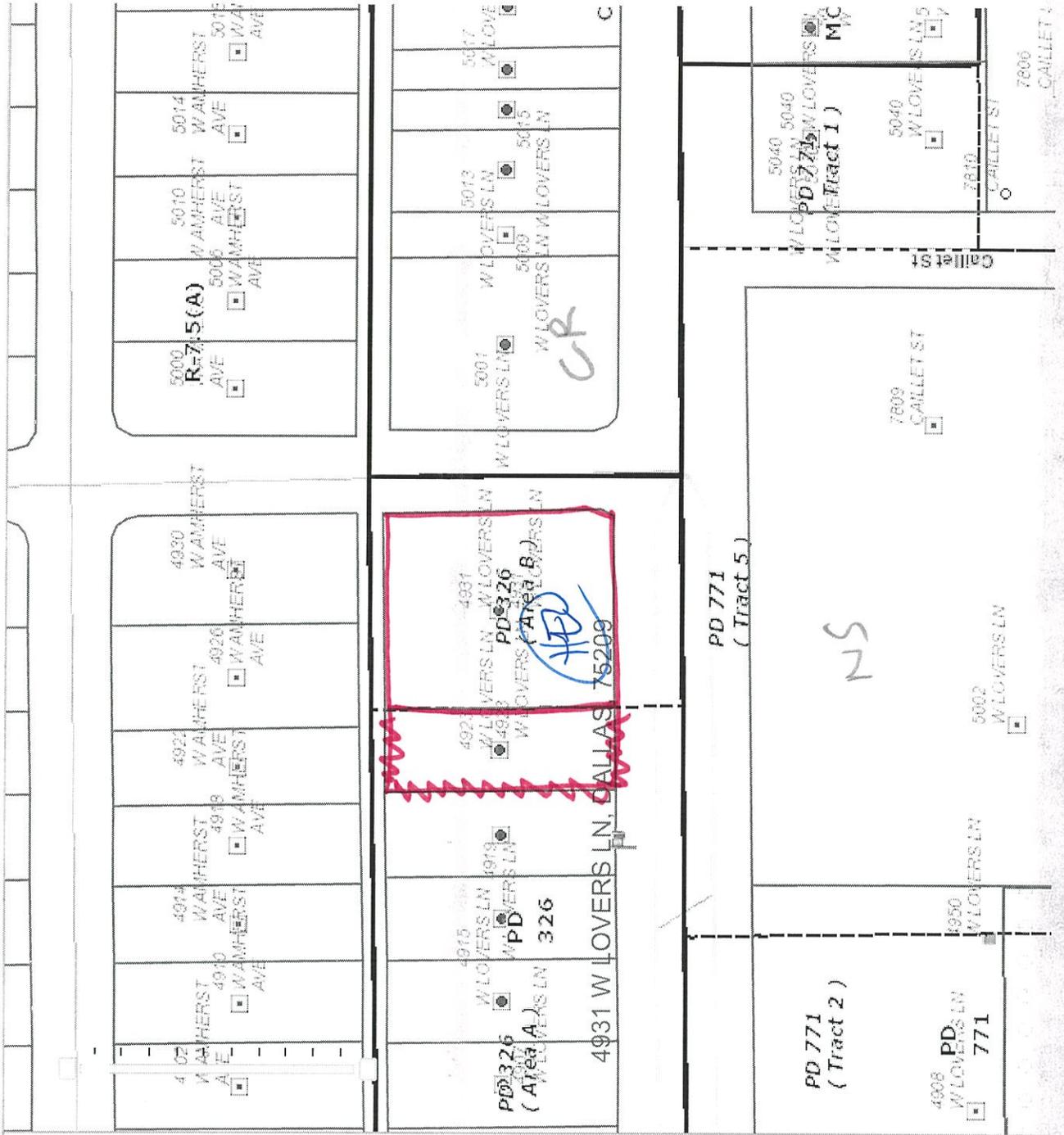
Street address.  
4931. Iovers

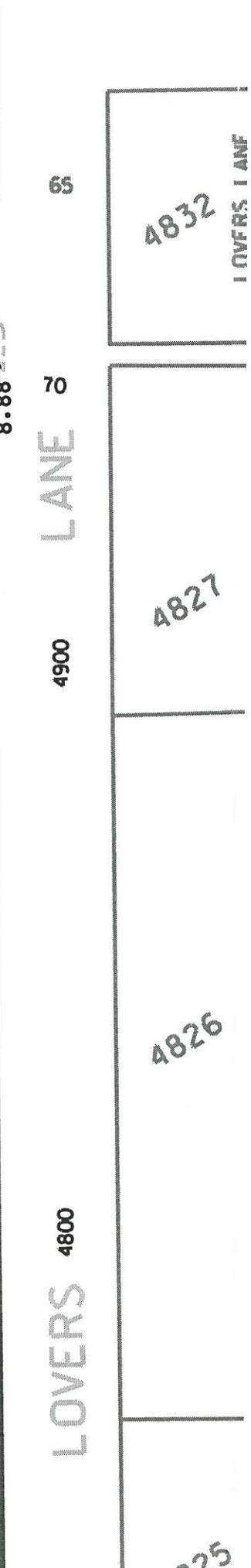
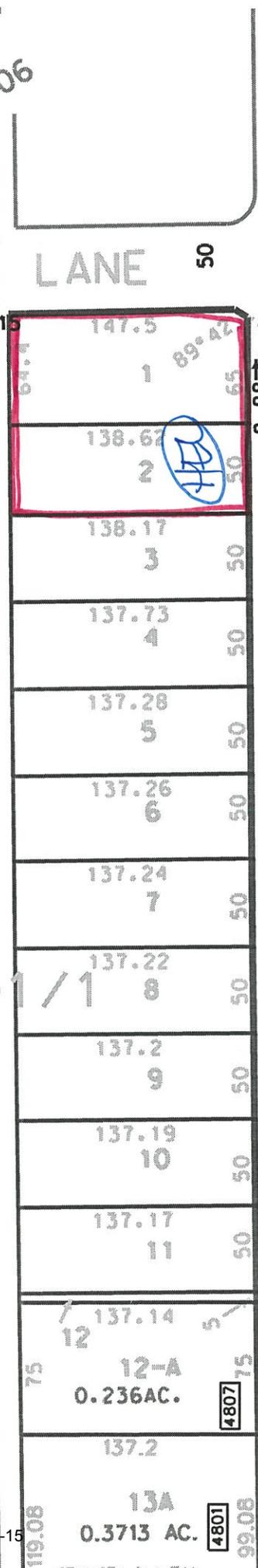
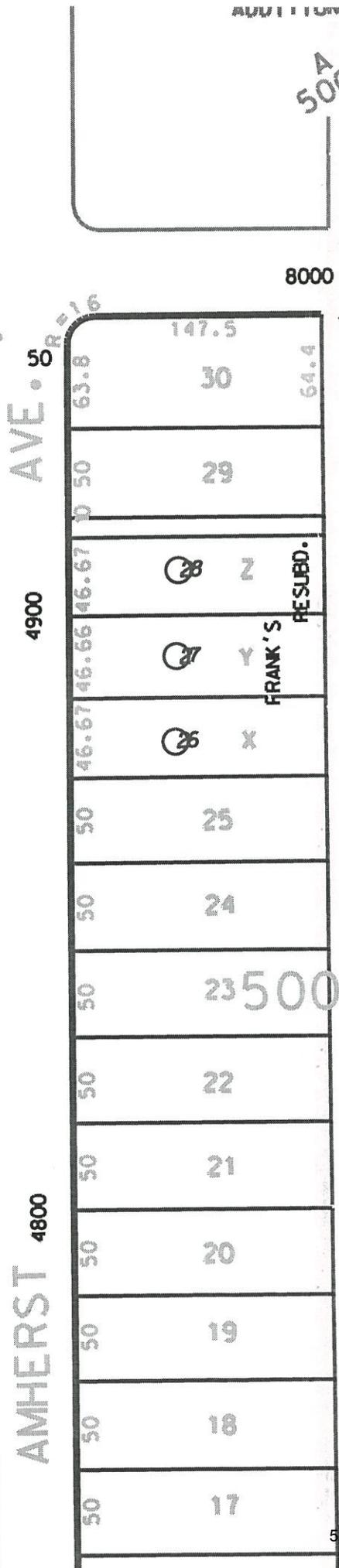
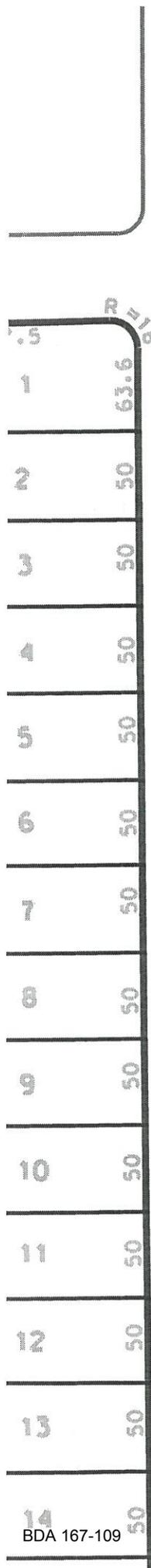
Locate

OR

Parcel address.  
Use street type for better re

Locate





ADDITION

A  
5006

8000 LANE 50

65

4832

LOVERS LANE

70

4827

LANE

4900

AMHERST AVE. 50

4900

4800

AMHERST

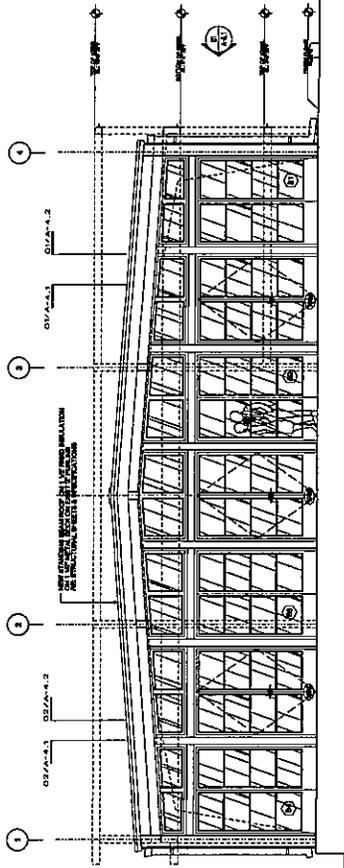
4800

LOVERS



**DRA**  
 DRUDGE PARKY ARCHITECTURE  
 1200 Park Avenue  
 Dallas, Texas 75201 USA

Subject to Field  
 Inspector's Approval



02 BASE BUILDING ELEVATION - SOUTH  
 SCALE: 1/8"=1'-0"

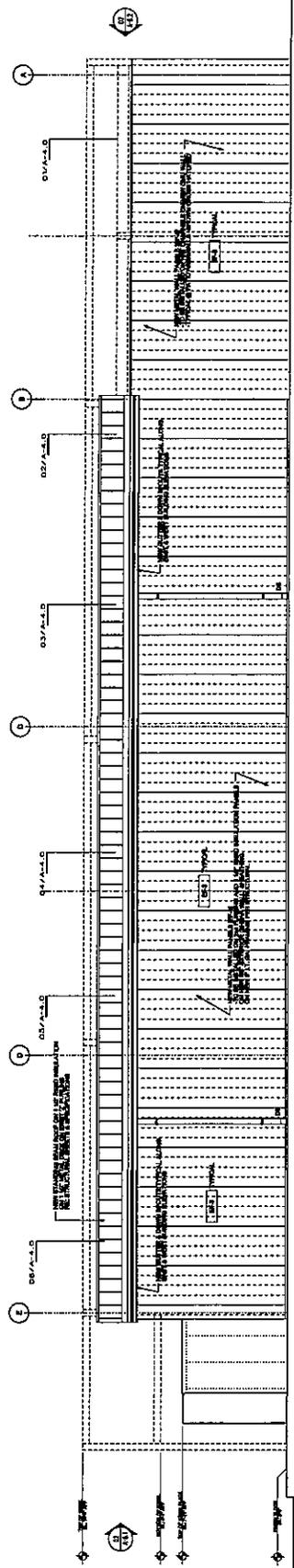
**USE**  
 RESTAURANT IMPROVEMENTS  
 401 N. GUYVON LANE  
 DALLAS, TEXAS 75244



PROJECT NO.	DRA
PROJECT ADDRESS	USE
PROJECT NUMBER	071
DRAWN BY	CAF
SCALE	AS SHOWN
DATE	08/11/14
COMPILED BY	PROJECT SET
SITE	04.01.14

EXTERIOR ELEVATION  
 STRUCTURAL STEEL FRAME  
 SHEET NUMBER

**A-6.2**



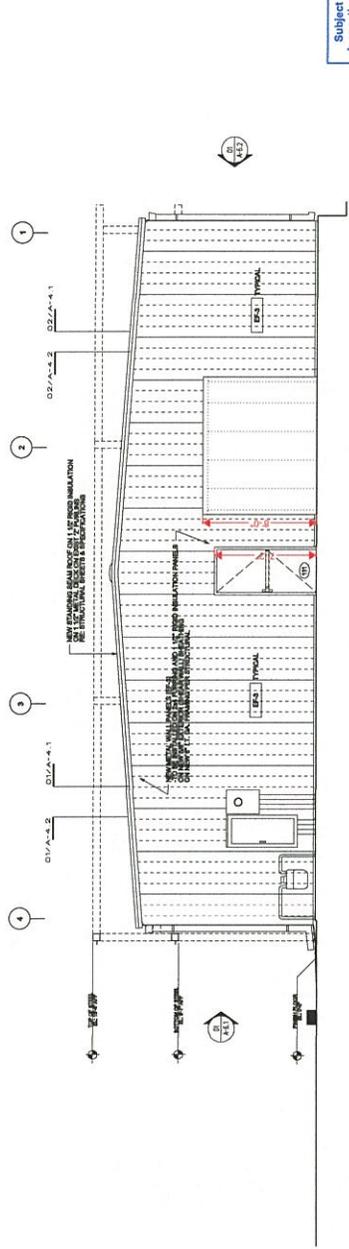
01 BASE BUILDING ELEVATION - WEST  
 SCALE: 1/8"=1'-0"

**DRA**  
 DRODGE PANEY ARCHITECTURE  
 3225 Spivey Avenue  
 Dallas, Texas 75238 USA

Subject to Field  
 Inspection's Approval

**APPROVED**  
 RESIDENTIAL ADJACENCY  
 REVIEW- DAUNTE  
 RUSHTON (10/13/16)

02 BASE BUILDING ELEVATION - NORTH  
 SCALE: 1/4"=1'-0"



**URS**  
 RESTAURANT IMPROVEMENTS  
 4815 METCALLE AVENUE  
 DALLAS, TEXAS 75246

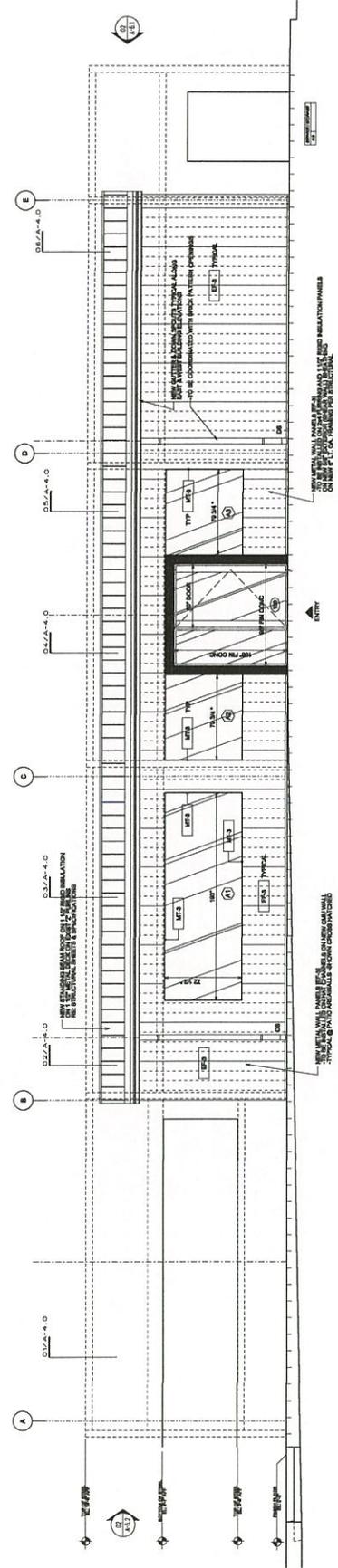


DESIGNER	DRA
PROJECT MANAGER	LR
PROJECT MANAGER	DPH
DRAWN BY	STAFF
SCALE	AS NOTED
COMPUTER FILE	PRINT SET
DATE	08.05.16

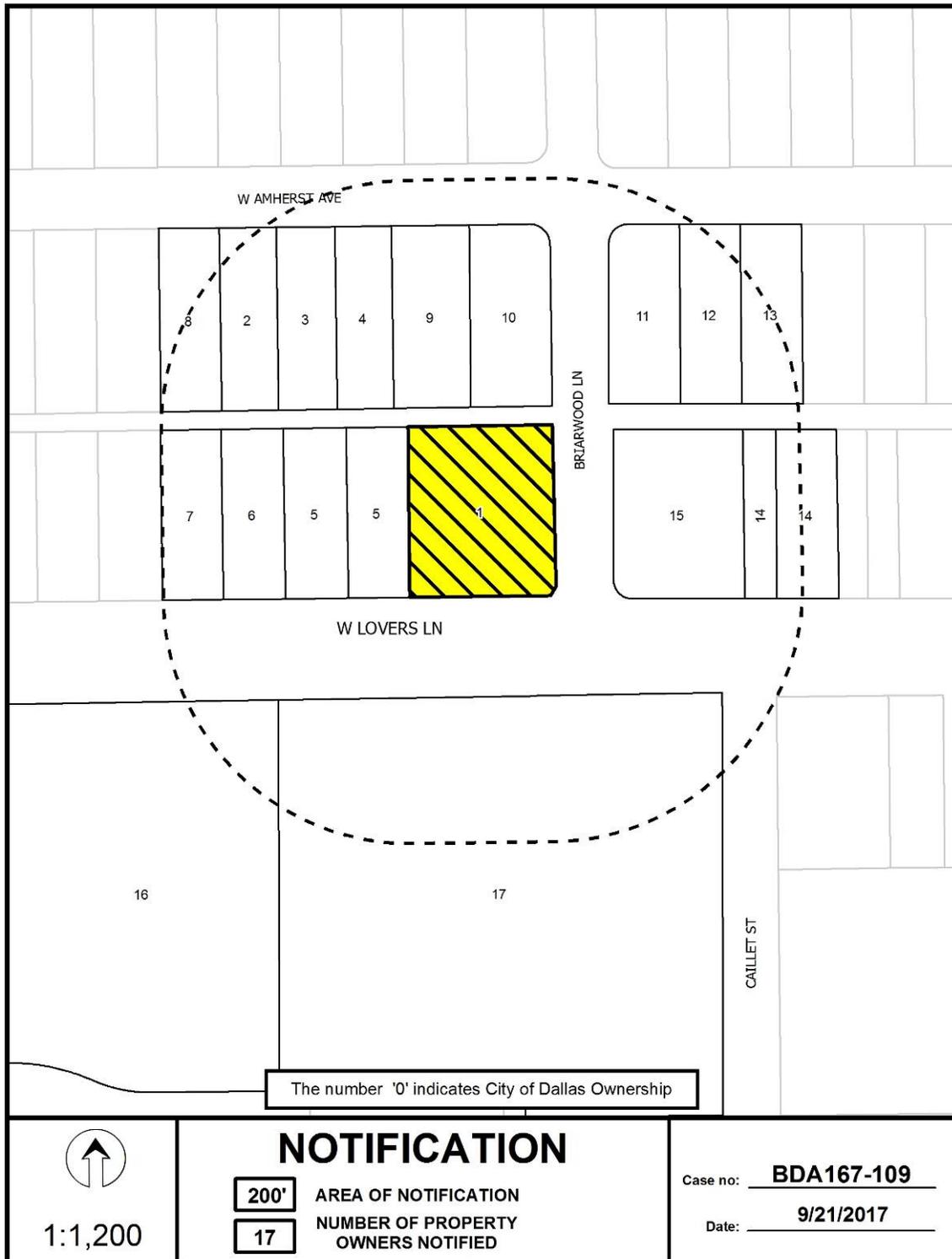
EXTERIOR ELEVATIONS  
 BASE BUILDING  
 SHEET NUMBER

**A-6.1**

01 BASE BUILDING ELEVATION - EAST  
 SCALE: 1/4"=1'-0"



01 BASE BUILDING ELEVATION - EAST  
 SCALE: 1/4"=1'-0"



## *Notification List of Property Owners*

### *BDA167-109*

#### *17 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4931 W LOVERS LN	4931 W LOVERS LANE LLC
2	4914 W AMHERST AVE	SIMMONS JAMES M & REBECCA
3	4918 W AMHERST AVE	MICHELSON BLAKE A
4	4922 W AMHERST AVE	CHAVEZ CARISSA N
5	4919 W LOVERS LN	4919 WEST LOVERS LANE LLC
6	4915 W LOVERS LN	PORTTEUS GROUP LLC
7	4911 W LOVERS LN	TITUS AMY S FAMILY TRUST
8	4910 W AMHERST AVE	RYMER JAMES JORDAN
9	4926 W AMHERST AVE	RENNA MELINDA RAMOS
10	4930 W AMHERST AVE	LIEU LIVING TRUST THE
11	5000 W AMHERST AVE	JONES LAUREL
12	5006 W AMHERST AVE	MENDOZA MARIA DEL ROSARIO
13	5010 W AMHERST AVE	BRANAM DAWN M
14	5013 W LOVERS LN	5013 LOVERS LANE LLC
15	5001 W LOVERS LN	LOVERS LANE MARKET LLC
16	4950 W LOVERS LN	PROVIDENCE CHRISTIAN
17	5002 W LOVERS LN	PROVIDENCE CHRISTIAN