

ZONING BOARD OF ADJUSTMENT, PANEL C  
**THURSDAY**, FEBRUARY 19, 2015  
AGENDA

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

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

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**MISCELLANEOUS ITEM**

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Approval of the December 15, 2014 Board of Adjustment Panel C Public Hearing Minutes M1

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**UNCONTESTED CASES**

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<b>BDA 145-017</b>	8950 E. R. L. Thornton Freeway <b>REQUEST:</b> Application of Chris Pope, represented by David Greer of Bannister Engineering, for a special exception to the landscape regulations	1
<b>BDA 145-021</b>	4606 Walnut Hill Lane <b>REQUEST:</b> Application of Jimmy Baugh, represented by Robert Reeves of Robert Reeves and Associates, for a special exception to the fence height regulations	2
<b>BDA 145-023</b>	5837 Belmont Avenue <b>REQUEST:</b> Application of Patrick Ongena for a special exception to the side yard setback regulations for a carport	3

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**HOLDOVER CASE**

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<b>BDA 134-060</b>	200 Rock Island Street (AKA 300 Rock Island Street) <b>REQUEST:</b> Application of Robert Baldwin to enlarge a nonconforming use	4
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## EXECUTIVE SESSION NOTICE

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

1. seeking the advice of its attorney about pending or contemplated litigation, settlement offers, or any matter in which the duty of the attorney to the Commission/Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act. [Tex. Govt. Code §551.071]
2. deliberating the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.072]
3. deliberating a negotiated contract for a prospective gift or donation to the city if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.073]
4. deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing. [Tex. Govt. Code §551.074]
5. deliberating the deployment, or specific occasions for implementation, of security personnel or devices.. [Tex. Govt. Code §551.076]
6. discussing or deliberating commercial or financial information that the city has received from a business prospect that the city seeks to have locate, stay, or expand in or near the city and with which the city is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect. [Tex. Govt. Code §551.086]

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

**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel C December 15, 2014 public hearing minutes.

**FILE NUMBER:** BDA 145-017

**BUILDING OFFICIAL'S REPORT:** Application of Chris Pope represented by David Greer for a special exception to the landscaping regulations at 8950 E.R.L. Thornton Freeway. This property is more fully described as Lot 6B, Block A/8475, and is zoned RR, which requires mandatory landscaping. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 8950 E R. L. Thornton Freeway

**APPLICANT:** Chris Pope, Panda Restaurant Group  
Represented by David Greer, Bannister Engineering

**REQUEST:**

A request for a special exception to the landscape regulations is made to complete and maintain a restaurant with drive-thru (Panda Express) on a newly platted property, and not fully meet the landscape regulations.

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REGULATIONS:**

The board may grant a special exception to the landscape 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:

- Compliance with the submitted alternate landscape plan is required.

Rationale:

- The City’s Chief Arborist recommends approval of the applicant’s request because he feels the applicant has demonstrated how strict compliance with the requirements of Article X would unreasonably burden the use of the property, and he has favorably demonstrated the special exception would not negatively affect neighboring property. The Chief Arborist has also concluded that the applicant has given reasonable effort to comply with the intent of the standard ordinance provisions while working with the site constraints of the property.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: RR (Regional Retail District) with a D-1 Liquor Control Overlay
- North: RR (Regional Retail District) and LI (Light Industrial District)
- South: RR (Regional Retail District) with a D-1 Liquor Control Overlay
- East: RR (Regional Retail District) with a D-1 Liquor Control Overlay
- West: RR (Regional Retail District) with a D-1 Liquor Control Overlay

**Land Use:**

The subject site is currently under development. To the north is E R. L. Thornton Freeway. The area to the east is developed with retail and personal service uses; the area to the south is developed with a retail use, more specifically a general merchandise or food store greater than 100,000 square feet or more; and the area to the west is developed with retail and personal service uses.

**Zoning/BDA History:**

1. Z123-278, Interstate 30 and St. Francis Avenue (the subject site) On September 25, 2013, the city council granted Specific Use Permit 2048 for the sale of alcoholic beverages in conjunction with a general merchandise or food store 100,000 square feet or more for a two-year period.

**GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on completing and maintaining a restaurant with drive-thru (Panda Express) on newly platted property, and not fully meeting the landscape regulations. More specifically, according to the City of Dallas Chief Arborist, the submitted alternate landscape plan does not fully comply with requirements for mandatory street trees.
- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or

increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.

- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment A). The memo states how this request is triggered by new construction on newly platted property.
- The Chief Arborist's memo lists one landscape deficiency:
  1. According to Article X regulations, the street frontage requires "one large tree for each 50 feet of frontage, with a minimum of 2 trees being provided. These trees must be located within 30 feet of the projected street curb."
  2. Regarding this application, no trees are provided along the 12' street frontage along E R. L. Thornton Freeway. However, the applicant is mitigating this effect by providing for more than the required number of site trees. The site requires a total of 7 site tree but proposes to provide 10 on the property.
- The Chief Arborist's memo lists the following factors for consideration:
  1. The newly platted property was sectioned from a larger developed and landscaped property. If the property had foregone the platting process, the new project would not have triggered Article X landscape review, because the floor area would not have increased by more than 35 percent, or by more than 10,000 square feet, whichever was less. The number of stories in a building on the lot would have not increased, either.
  2. The site's configuration near E R. L. Thornton Freeway and restrictive underground local utilities limit available safe, ground-level planting areas within 30' of the projected street curb.
  3. The plan complies with all other Article X requirements.
- The City of Dallas Chief Arborist recommends approval of the alternate landscape plan because the applicant has identified where strict compliance with the requirements of Article X would unreasonably burden the use of the property, and has favorably demonstrated the special exception would not negatively affect neighboring property. The City's Chief Arborist also believes the applicant has given reasonable effort to comply with the intent of the standard ordinance provisions while working with the site restrictions placed on the property.
- The applicant has the burden of proof in establishing the following:
  - Strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property; and the special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted alternate landscape plan as a condition to the request, the site would be provided exception from full compliance with the mandatory street trees as required per Article X: The Landscape Regulations.

**Timeline:**

January 14, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

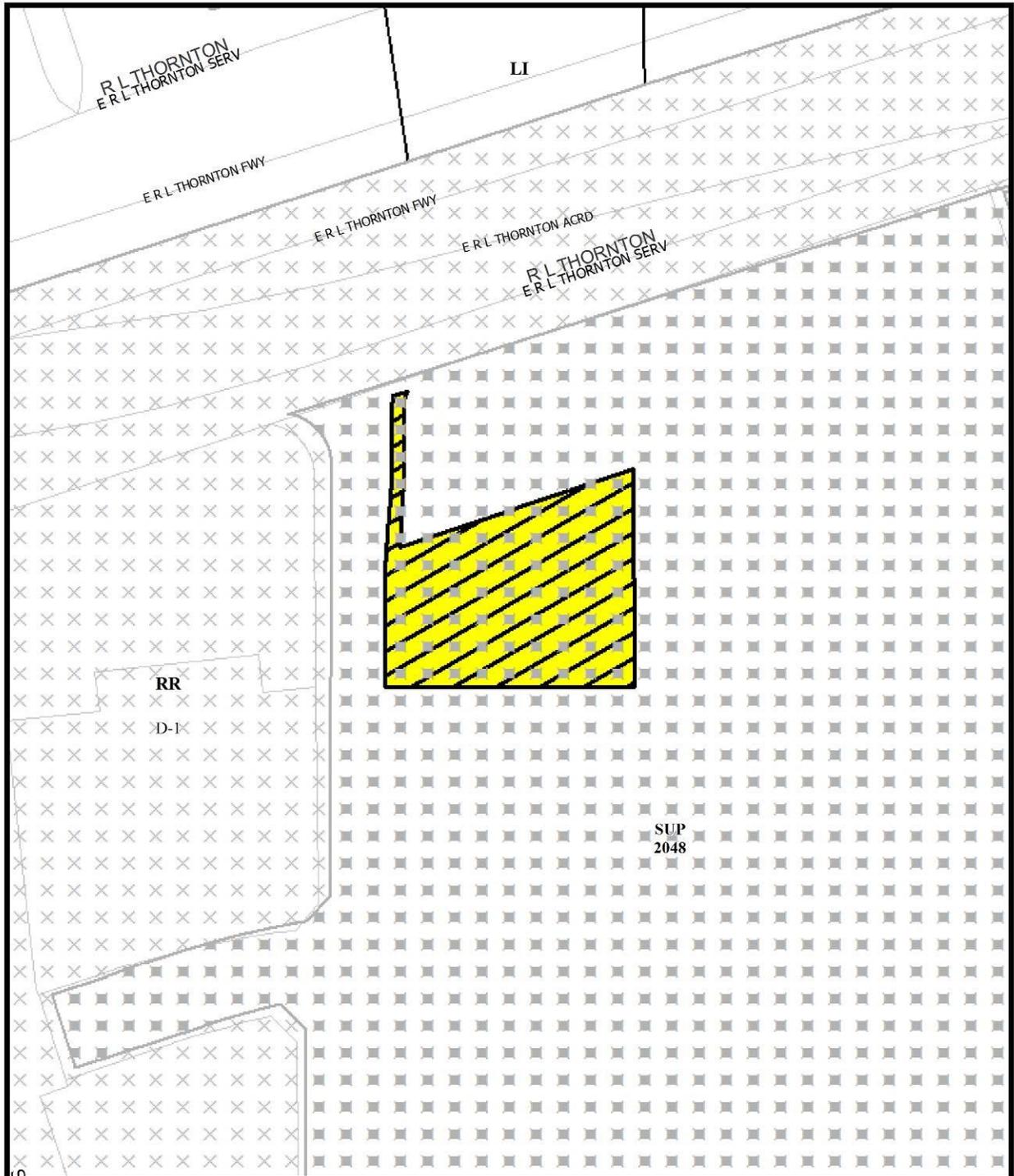
January 20, 2015: The Board Planner contacted the applicant and emailed the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 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."

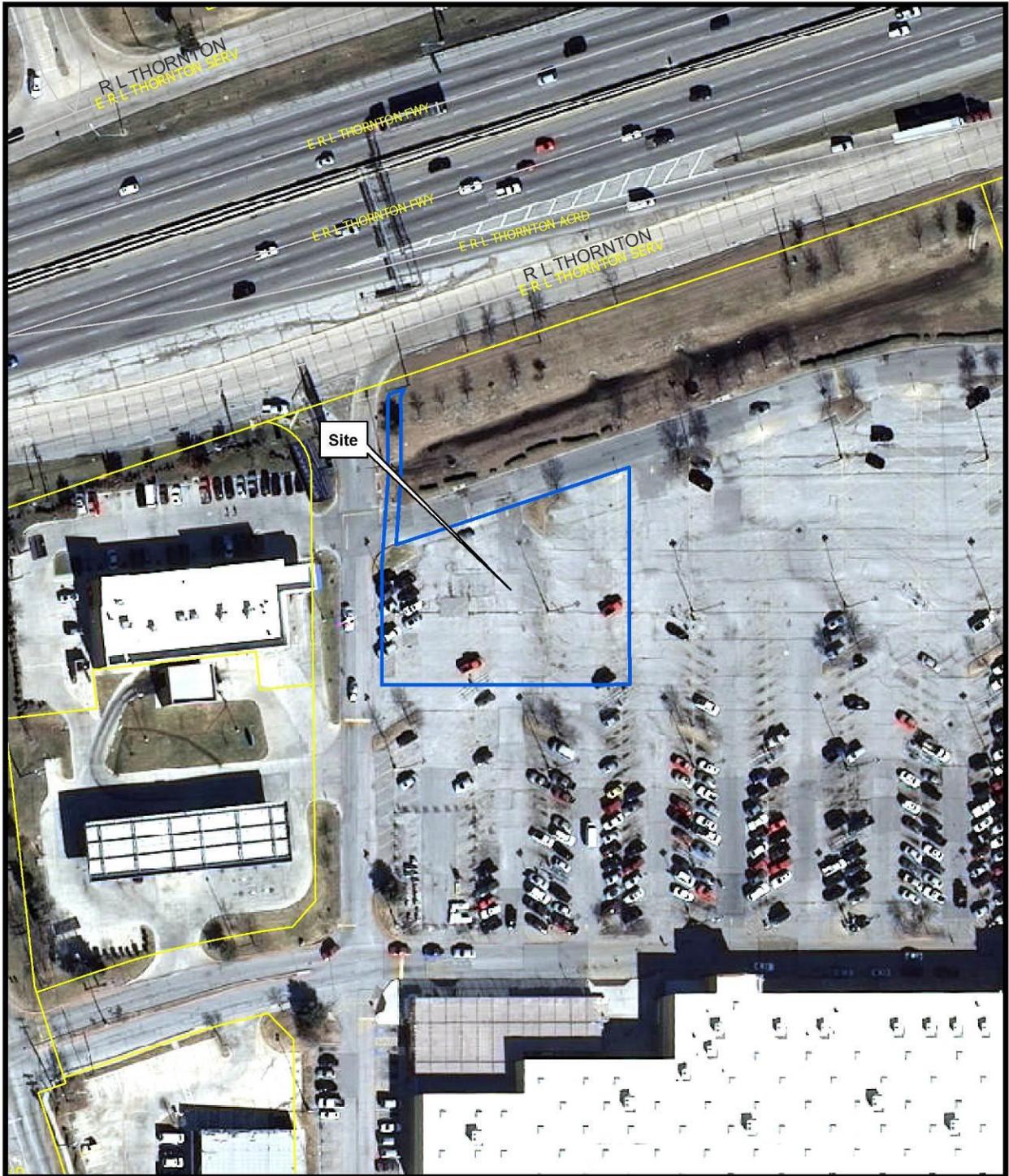
February 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

February 6, 2015: The City of Dallas Chief Arborist submitted a memo regarding the request (see Attachment A).

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



 1:1,200	<h1>ZONING MAP</h1>	Case no: <u>BDA145-017</u> Date: <u>1/23/2015</u>
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 1:1,200	<h1>AERIAL MAP</h1>	Case no: <u>BDA145-017</u> Date: <u>1/23/2015</u>
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# Memorandum



DATE February 6, 2015

TO

Danielle Jimenez, Planner  
Steve Long, Board of Adjustment Administrator

SUBJECT # BDA 145 · 017 8950 E R L Thornton Freeway

The applicant is requesting a special exception to the landscape requirements of Article X. Specifically, the request is to except mandatory street tree requirements of Section 51A-10.125(b)(4).

### Trigger

New construction on a new platted property.

### Deficiencies

The alternate landscape plan does not provide for the minimum of two street trees required for new construction.

### Factors

Article X ordinance requires one “large tree for each 50 feet of frontage, with a minimum of two trees being provided. These trees must be located within 30 feet of the projected street curb (51A-10.125(b)(4)).”

The new project will be constructed on a replatted property sectioned from a larger developed and landscaped property. The new property configuration near the street, combined with site restrictions imposed by underground local utilities, restrict the safe placement of trees on the narrow width of the property within 30 feet of the projected street curb.

If the project was constructed on the original property before plat division, the project, as part of the greater property, would not require Article X landscape review.

The plan will comply with all other requirements of Article X.

### Recommendation

The chief arborist recommends approval of the alternate landscape plan because strict compliance with the ordinance will unreasonably burden the use of the property, and the special exception will not adversely affect neighboring property.

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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-017

Date: 12-08-2014

Data Relative to Subject Property:

Location address: 8950 E. RL Thorton Frwy Zoning District: RR

Lot No.: 6B Block No.: A/8475 Acreage: 0.6222 Census Tract: 0122.07

Street Frontage (in Feet): 1) 12' 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_ SEA

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Wal-Mart Real Estate

Applicant: Chris Pope - Panda Restaurant Group, Inc Telephone: 626-372-8151

Mailing Address: 1683 Walnut Grove Ave, Rosemead, CA Zip Code: 91770

E-mail Address: chris.pope@pandarg.com

Represented by: Bannister Engineering - DAVID GREER Telephone: 817-842-2094

Mailing Address: 1696 Country Club Drive, Mansfield, TX Zip Code: 76012

E-mail Address: david@bannister-engineering.com

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

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:  
Granting the alternate landscape plan will not adversely affect the adjacent property owner. The subject property frontage is only 12' wide. Furthermore, there are existing overhead utility lines, an existing sewer main, and existing underground telephone lines which would conflict with the 2 required street trees. The alternate landscape plan proposes 3 additional trees to be located within the site, in addition to the 13 existing trees which are currently located between the street and the site.

**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

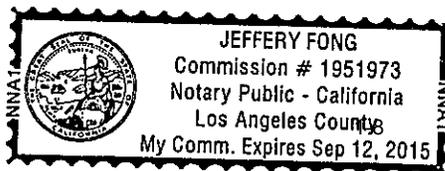
Before me the undersigned on this day personally appeared CHRIS POPE  
(Affiant/Applicant's name printed)

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 16th day of December, 2014

(Rev. 08-01-11)



Notary Public in and for Dallas County, Texas  
Los Angeles, CA

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

Date of Hearing \_\_\_\_\_

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

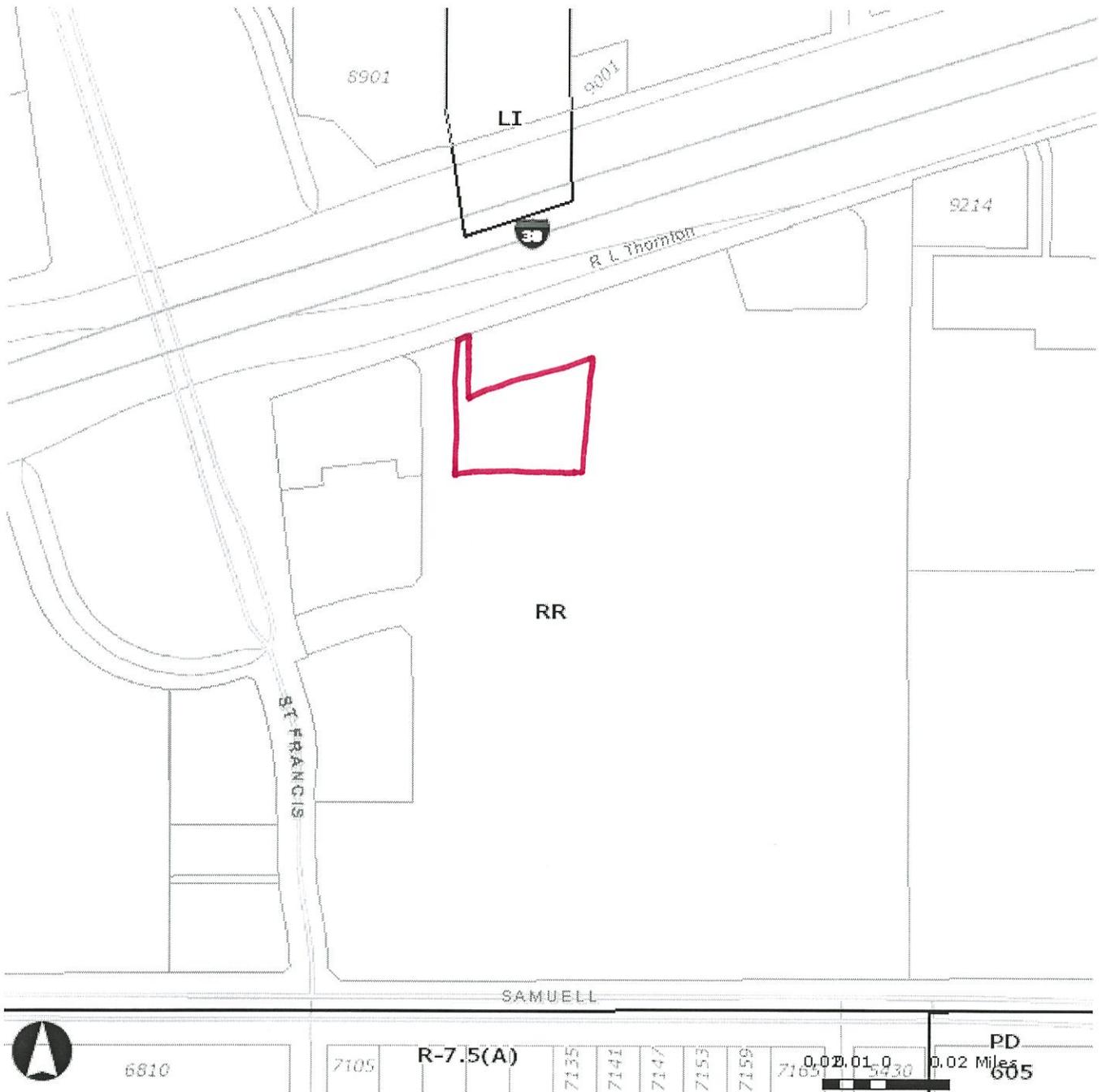
**Building Official's Report**

I hereby certify that Chris Pope  
represented by David Greer  
did submit a request for a special exception to the landscaping regulations  
at 8950 E. R. L. Thornton Freeway

BDA145-017. Application of Chris Pope represented by David Greer for a special exception to the landscaping regulations at 8950 E. R. L. Thornton Freeway. This property is more fully described as Lot 6B, Block A/8475, and is zoned RR, which requires mandatory landscaping. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscaping regulations.

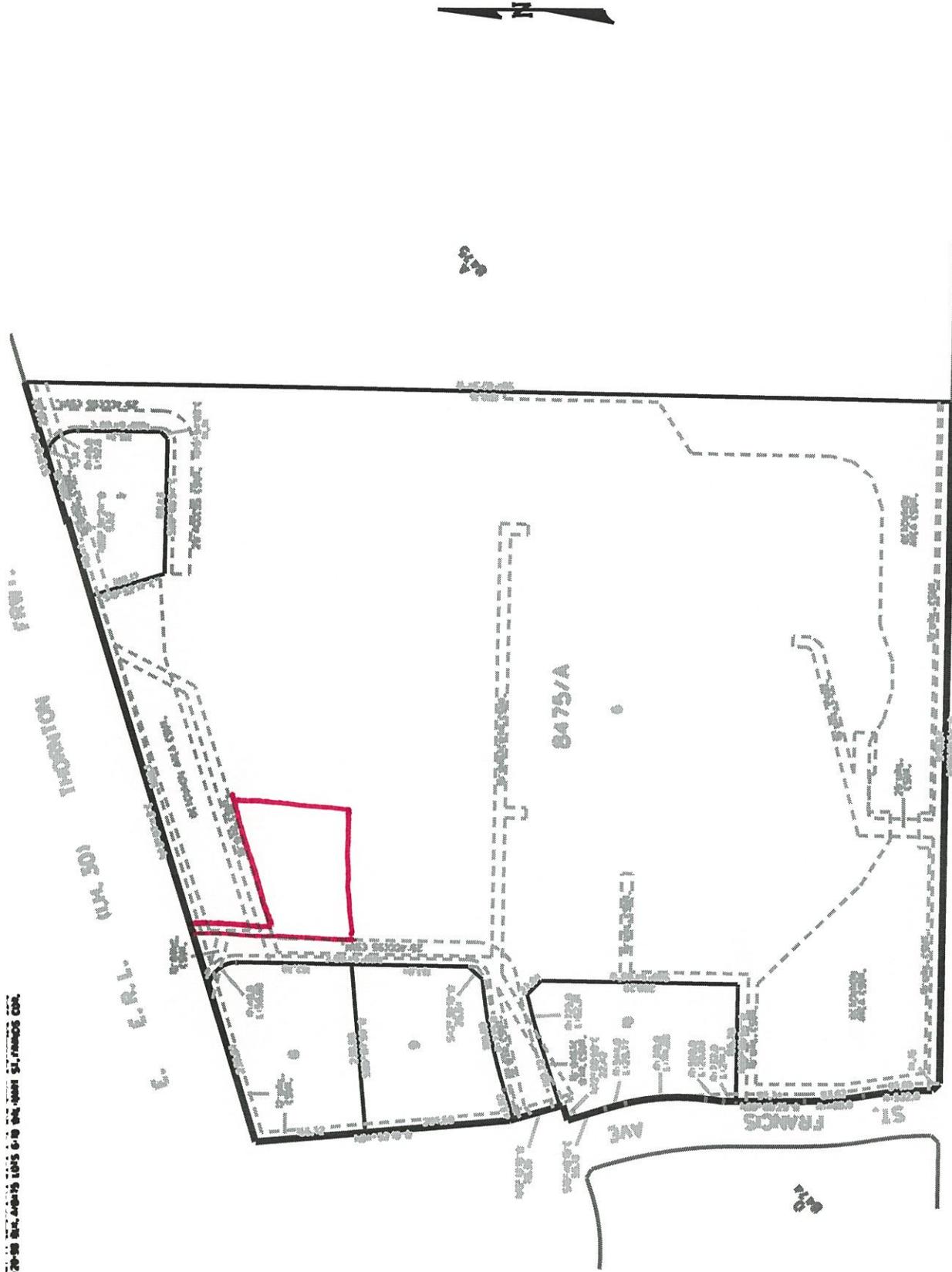
Sincerely,

  
Larry Holmes, Building Official



D.G

PLAT 20-88 BLDG. HEIGHTS 1015 6-19 44' WIDE ST. FRANCIS CHUR.

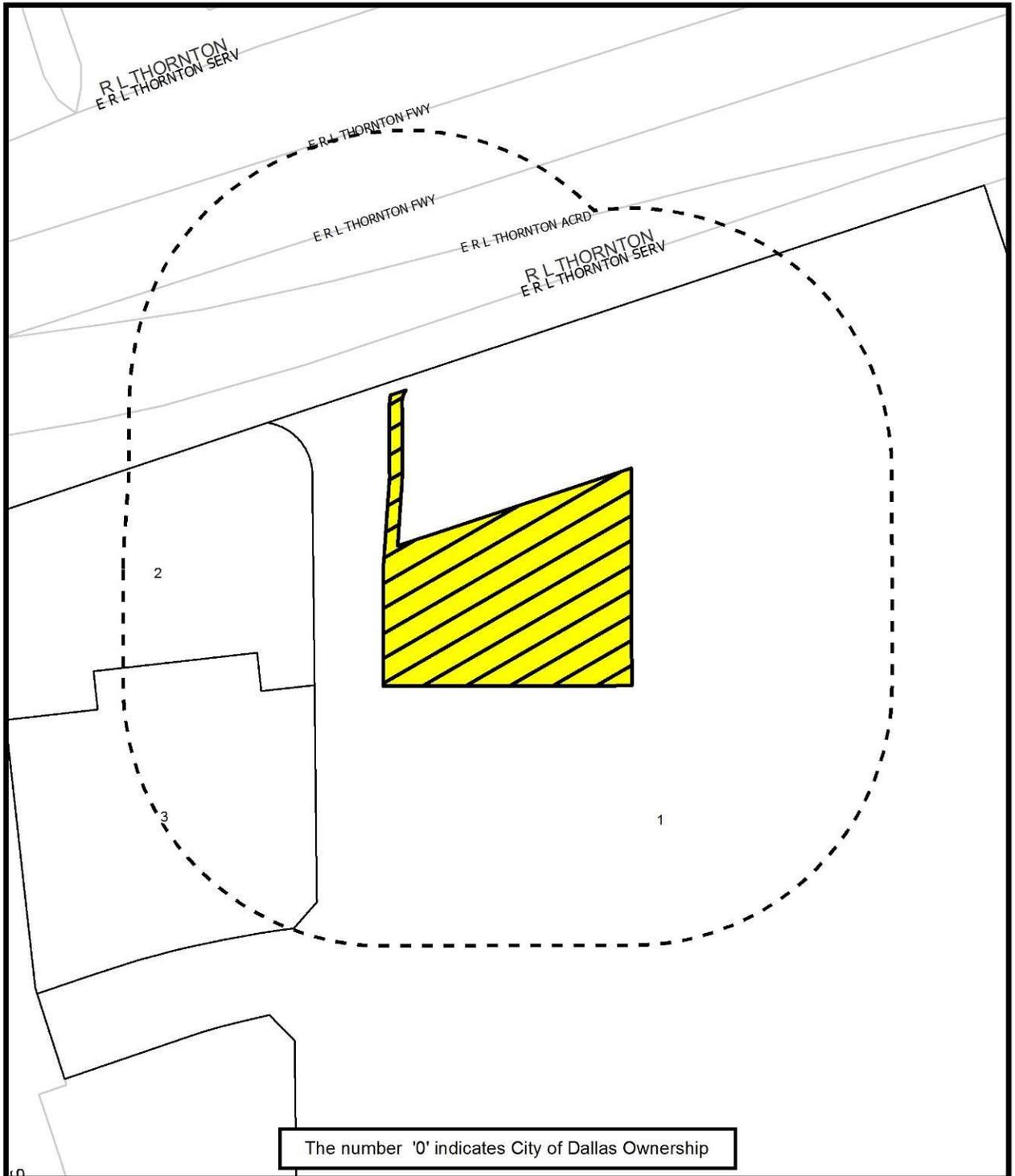


BLVD. 2

SAMUELL

D.G





 1:1,200	<h2>NOTIFICATION</h2> <table border="1"> <tr> <td>200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td>3</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	3	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u>BDA145-017</u> Date: <u>1/23/2015</u>
200'	AREA OF NOTIFICATION					
3	NUMBER OF PROPERTY OWNERS NOTIFIED					

01/23/2015

# *Notification List of Property Owners*

*BDA145-017*

## *3 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	9100 R L THORNTON FWY	WAL MART REAL EST BUS TR
2	8930 R L THORNTON FWY	8930 RL THORNTON LLC &
3	3936 ST FRANCIS AVE	WAL MART REAL EST BUS TR

**FILE NUMBER:** BDA 145-021

**BUILDING OFFICIAL'S REPORT:** Application of Jimmy Baugh, represented by Robert Reeves of Robert Reeves and Associates, for a special exception to the fence height regulations at 4606 Walnut Hill Lane. This property is more fully described as part of Lot 23, Block 5543, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain an 8 foot 6 inch high fence, which will require a 4 foot 6 inch special exception to the fence height regulations.

**LOCATION:** 4606 Walnut Hill Lane

**APPLICANT:** Jimmy Baugh  
Represented by Robert Reeves of Robert Reeves and Associates

**REQUEST:**

A request for a special exception to the fence height regulations of 4' 6" is made to construct and maintain a 7' high "wall faced with Lueders limestone" with 7' 6" high columns, and an approximately 6' – 7' high gate flanked with 8' 6" high entry columns on a site developed with a single family home.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:**

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-1ac (A) (Single family district 1 acre)  
North: R-1ac (A) (Single family district 1 acre)  
South: R-1ac (A) (Single family district 1 acre)  
East: R-1ac (A) (Single family district 1 acre)  
West: R-1ac (A) (Single family district 1 acre)

## **Land Use:**

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

## **Zoning/BDA History:**

1. BDA 990-271, property at 9963 Rockbrook Lane (two lots east of the subject site)

On May 15, 2000, the Board of Adjustment Panel C granted requests for special exceptions to the single family use and fence height regulations of 2' and imposed the following conditions: to the single family use special exception: compliance with the submitted site plan is required; and applicant must submit a valid deed restriction prohibiting the additional dwelling unit of the site from being used as a rental accommodation; and to fence height special exception: 1) In conjunction with retaining the 6 foot high brick/masonry wall, a tree survey or a landscape plan documenting the trees to be retained adjacent to the existing wall must be submitted, and 2) a landscape plan documenting the retention of ivy vines on the existing wall must be submitted.

The case report stated the requests were made to maintain an existing 6' high brick wall along Walnut Hill Lane and construct/maintain an extension of this wall an additional 90 feet westward along Walnut Hill Lane, and to construct/maintain a pool house/dwelling unit structure on the site.

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

- This request focuses on constructing and maintaining a 7' high "wall faced with Lueders limestone" with 7' 6" high columns, and an approximately 6' – 7' high gate flanked with 8' 6" high entry columns on a site developed with a single family home.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant has submitted a site plan and elevations of the proposal in the front yard setback indicating that it reaches a maximum height of 8' 6".

- The following additional information was gleaned from the submitted site plan:
  - The fence proposal is represented as being approximately 150’ in length parallel to the street including a recessed entryway feature.
  - The fence proposal is represented as being located approximately 3’ from the front property line or about 11’ from the pavement line.
  - The gate proposal is represented as being located approximately 17’ from the front property line or about 25’ from the pavement line.
  - A “landscaped area” noted on the street side of the wall, and notations of “Yaupon Holly” bushes on the interior side of the wall adjacent to the proposed fence.
- The following additional landscape-related information was gleaned from the submitted elevations:
  - “3 gal boxwood,” “3 gal. miscanthus grass,” “Nellie R. Stevens Holly,” and “Tree Form Yaupon Holly.”
- The fence proposal is located on the site where three lots would have direct/indirect frontage to it – one of which (the lot northeast of the site) has an approximately 6’ high wood fence with no recorded BDA history.
- The Board Administrator conducted a field visit of the site and surrounding area and noted two other visible fences above 4 feet high which appeared to be located in a front yard setback – an approximately 5’ high solid brick fence located immediately east of the subject site with no recorded BDA history, and an approximately 6’ high solid masonry fence located two lots to the east of the subject site. The Board of Adjustment granted a fence height special exception on this adjacent property (BDA 990-271) in 2000 (see the “Zoning/BDA History” section of this case report for additional details).
- As of February 9, 2015, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4’ 6” will not adversely affect neighboring property.
- Granting this special exception of 4’ 6” with a condition imposed that the applicant complies with the submitted site plan and elevations would require the proposal exceeding 4’ in height in the front yard setback to be constructed and maintained in the location and of the heights and materials as shown on these documents.

**Timeline:**

December 5, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 14, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

January 14, 2015: The Board Administrator contacted the applicant and emailed the following information:

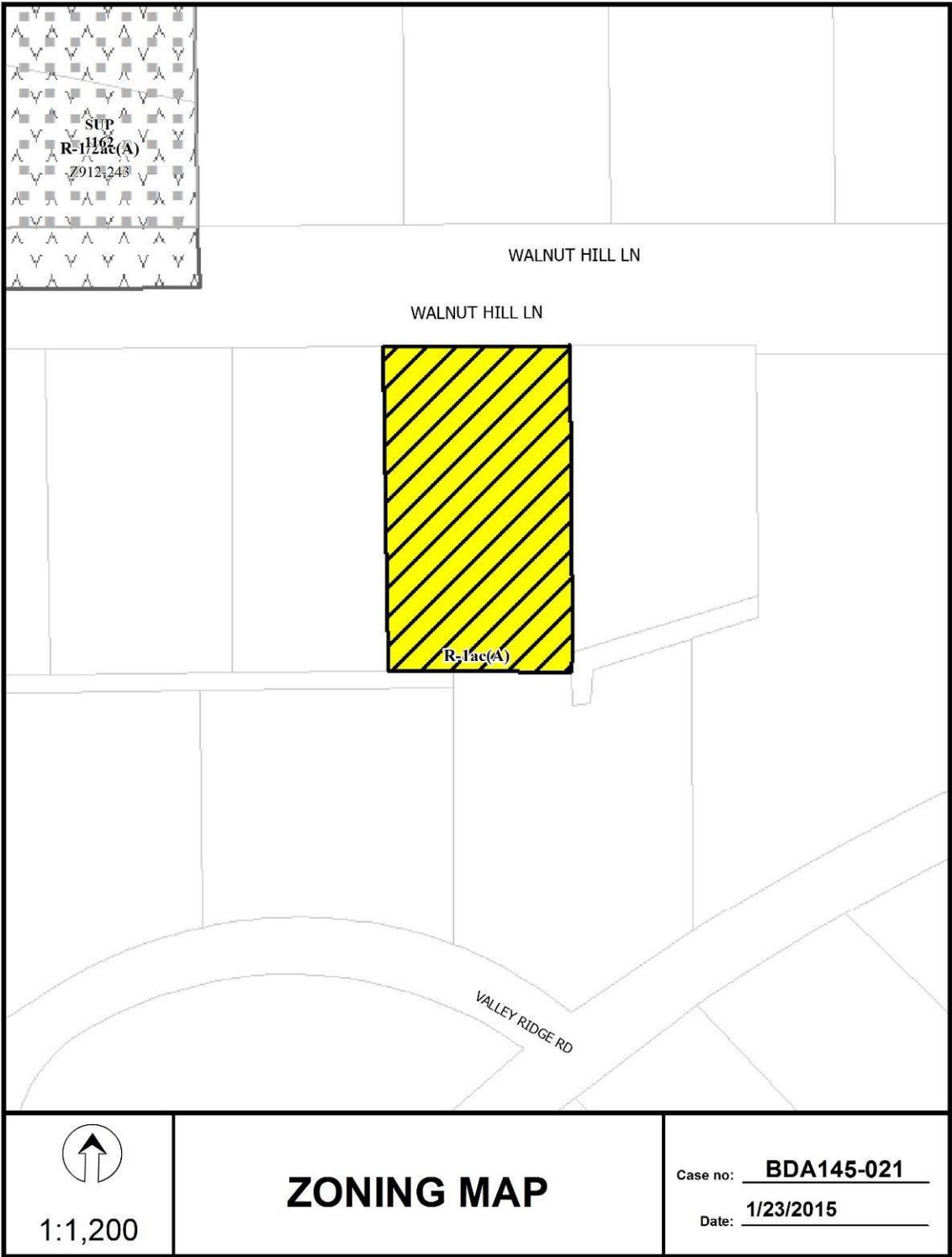
- an attachment that provided the public hearing date and panel that will consider the application; the January 28<sup>th</sup> deadline to

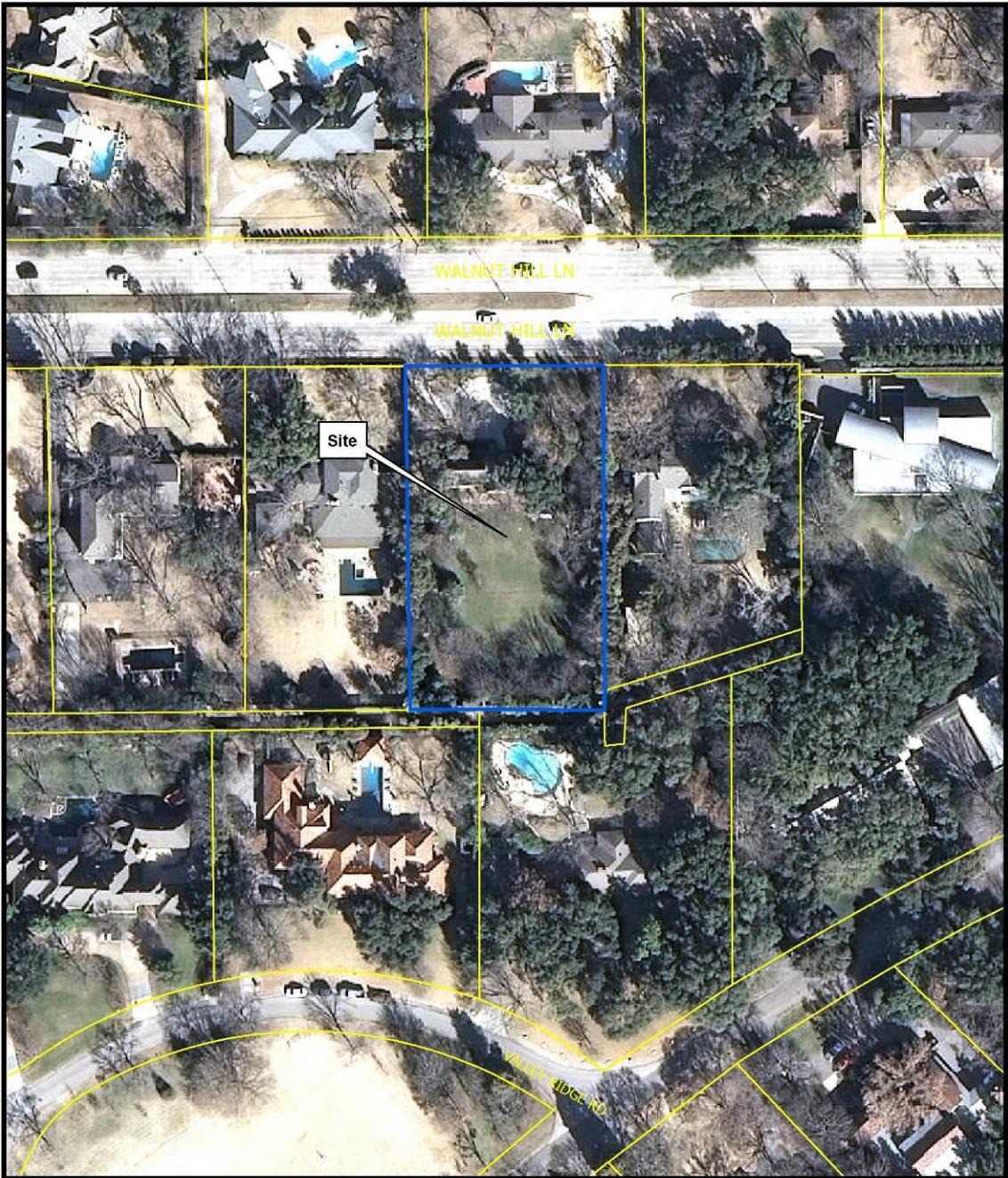
submit additional evidence for staff to factor into their analysis; and the February 6<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;

- 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."

February 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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





1:1,200

# AERIAL MAP

Case no: BDA145-021

Date: 1/23/2015



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-021

Data Relative to Subject Property:

Date: 12/5/14

Location address: 4606 Walnut Hill Lane Zoning District: R-1ac (A) Single Family

Lot No.: 23 Block No.: 5543 Acreage: .92 Census Tract: 206.00

Street Frontage (in Feet): 1) 150' - Walnut Hill Ln. 2) 3) 4)

NE2A

To the Honorable Board of Adjustment:

Owner of Property (per Warranty Deed): Kathie Peng & Jimmy Baugh

Applicant: Jimmy Baugh Telephone: 703-945-5002

Mailing Address: 4606 Walnut Hill Ln, Dallas, TX Zip Code: 75229

E-mail Address: KathiePeng@gmail.com

Represented by: Robert Reeves & Associates, Inc. Telephone: (214) 749-0530

Mailing Address: 900 Jackson St., Suite 160, Dallas, Texas Zip Code: 75202

E-mail Address: .rob.reeves@sbcglobal.net

Affirm that a request has been made for a Variance, or Special Exception X, to Chapter 51A 4.602 (a) (1) fence height standard when located in the required front yard pursuant to Chapter 51A 4.602 (a) (6). The applicant wants to construct a new stone wall with landscaping and three stone columns at 8' 6"; one ornamental iron gate at 7' 6"; stone wall at 7' 0"; remaining stone columns at 7' 6" of 4'-6"

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

Increase the front yard fence height above 4 feet with a stone wall with landscaping in order to provide security, sound barrier, and protection from vehicular intrusions along a very busy Walnut Hill 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 X Jimmy Baugh (Affiant/Applicant's signature) Jimmy Baugh 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: X Jimmy Baugh (Affiant/Applicant's signature)

Subscribed and sworn to before me this 9th day of Dec.

406 E Hwy 243 Canton TX 75103



Notary Public in and for Dallas County, Texas

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

Date of Hearing \_\_\_\_\_

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

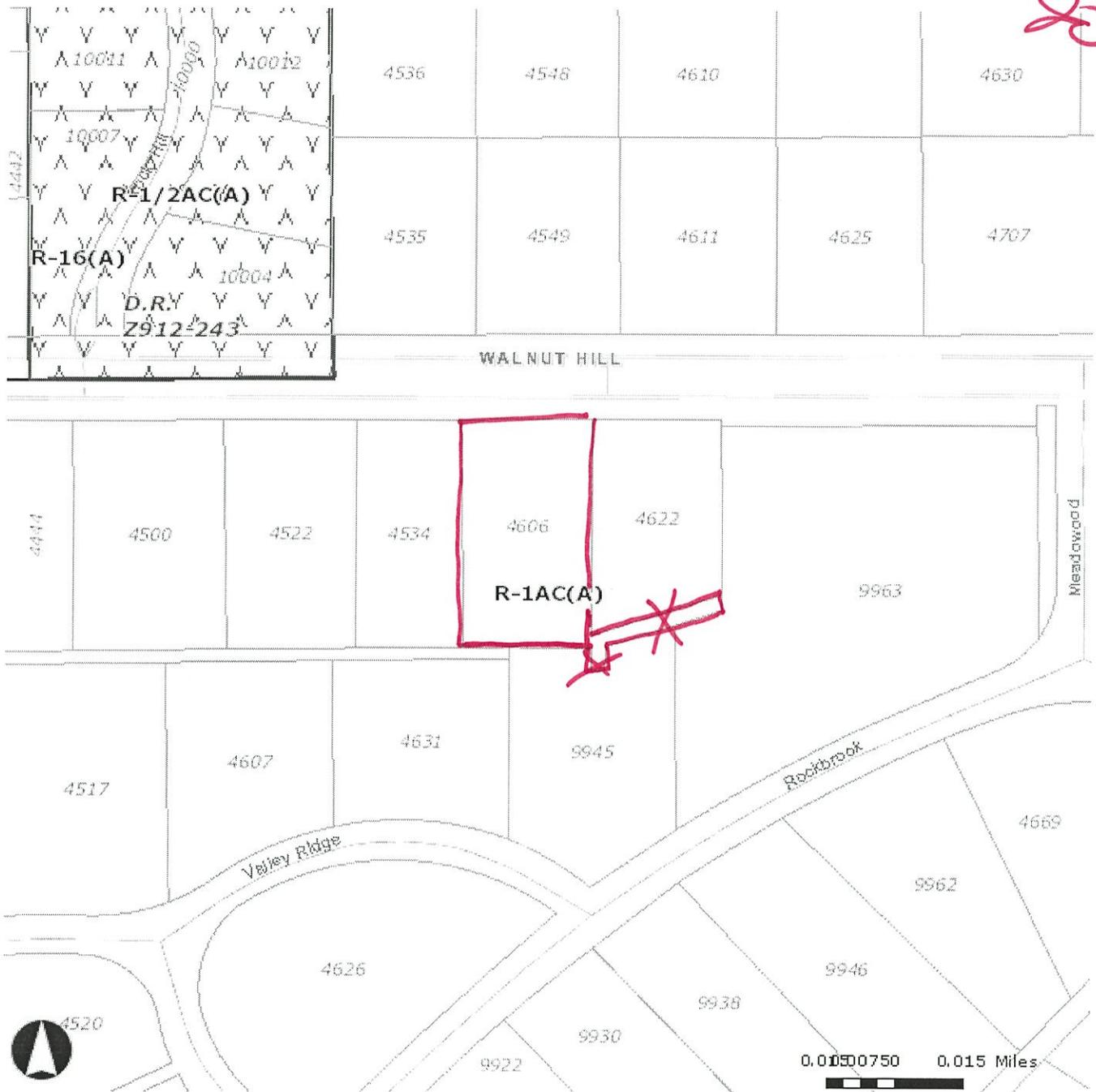
**Building Official's Report**

I hereby certify that Jimmy Baugh  
represented by Robert Reeves  
did submit a request for a special exception to the fence height regulations  
at 4606 Walnut Hill Lane

BDA145-021. Application of Jimmy Baugh represented by Robert Reeves for a special exception to the fence height regulations at 4606 Walnut Hill Lane. This property is more fully described as part of Lot 23, Block 5543, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot 6 inch high fence in a required front yard, which will require a 4 foot 6 inch special exception to the fence regulation.

Sincerely,

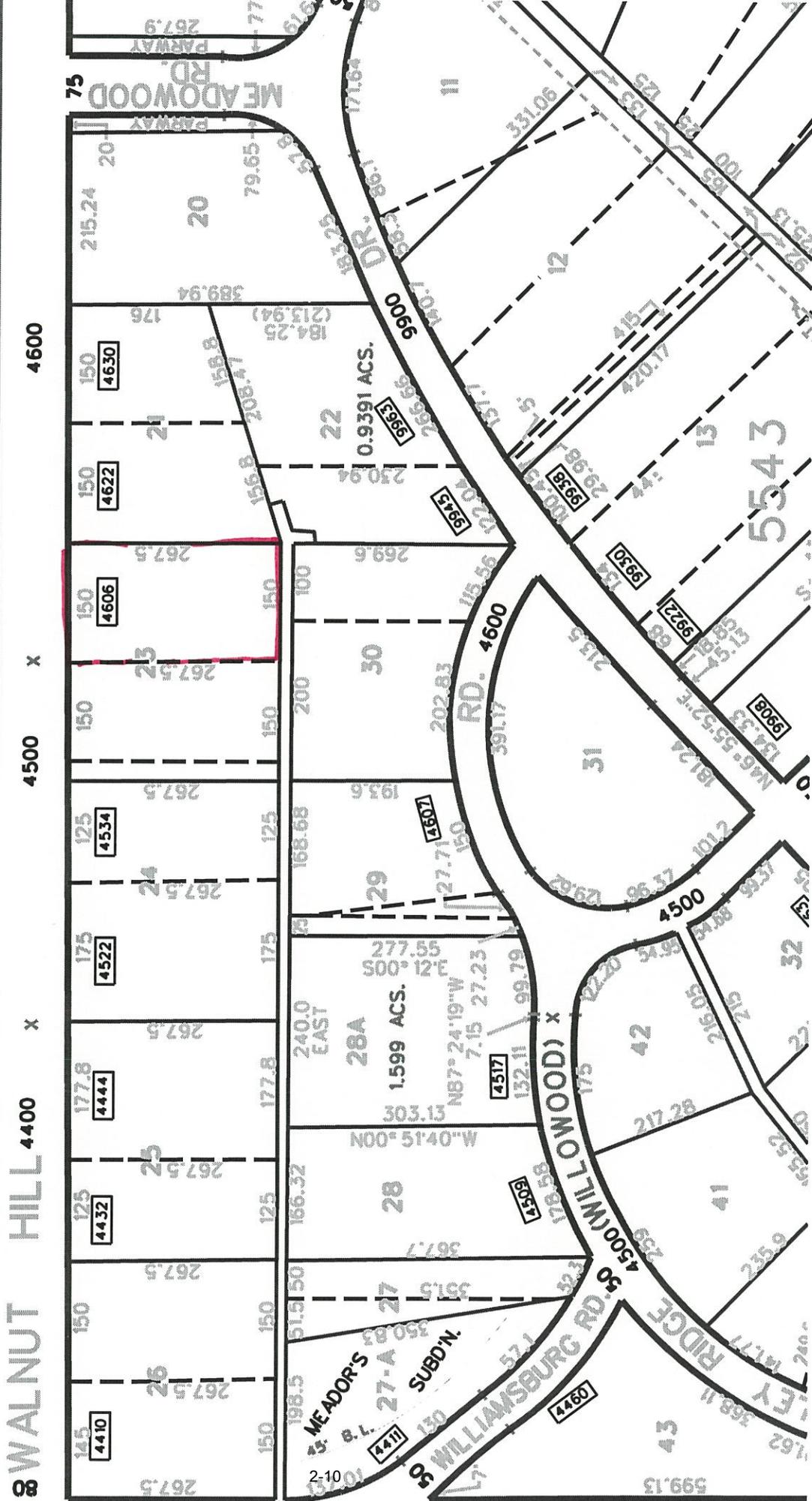
  
Larry Holmes, Building Official

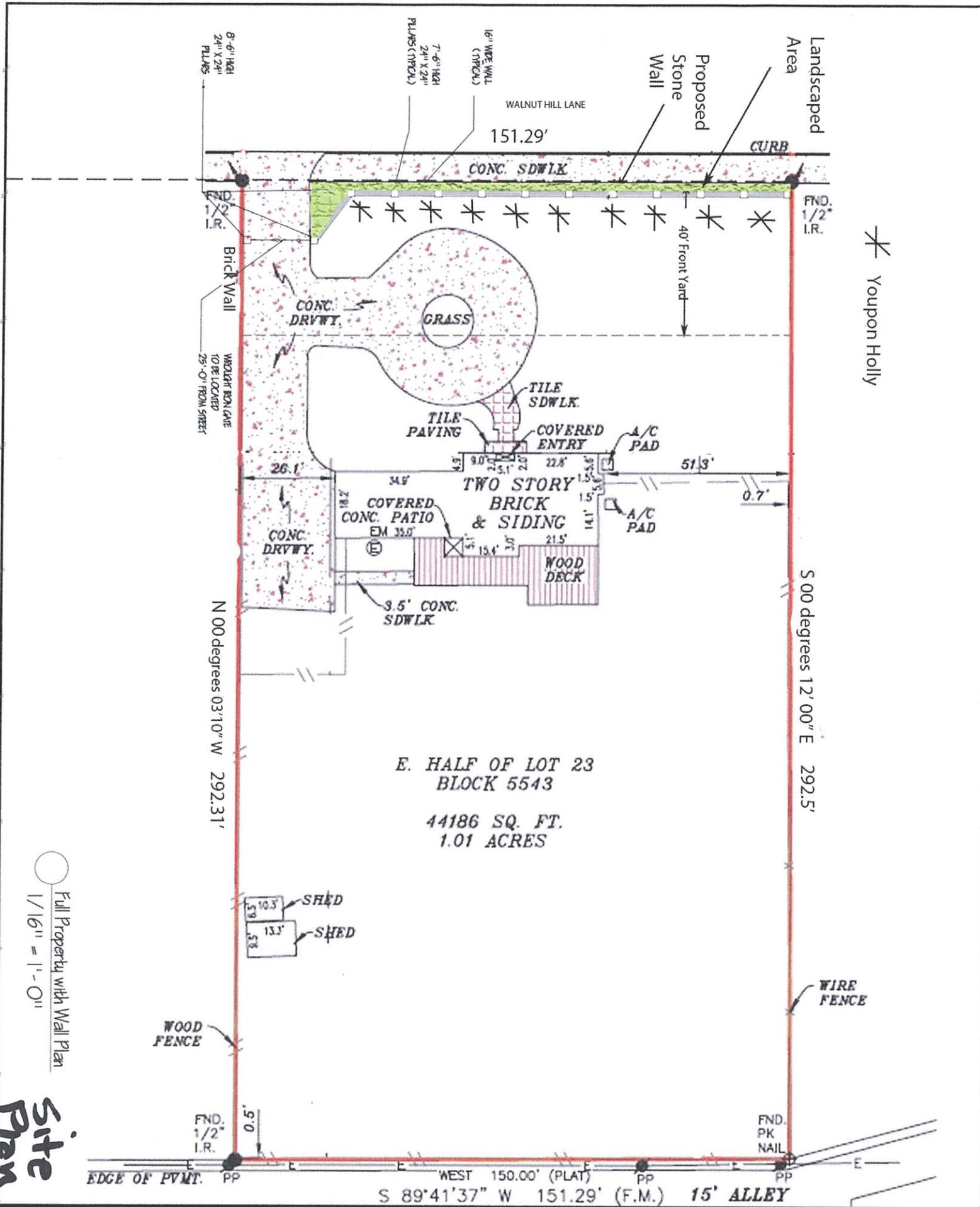


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5531

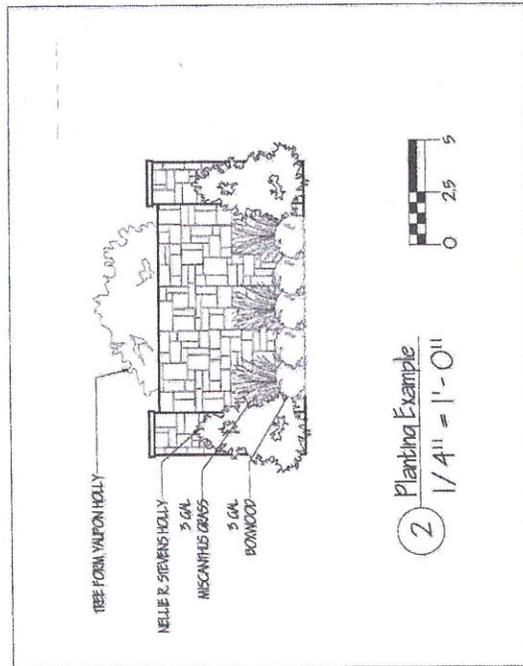
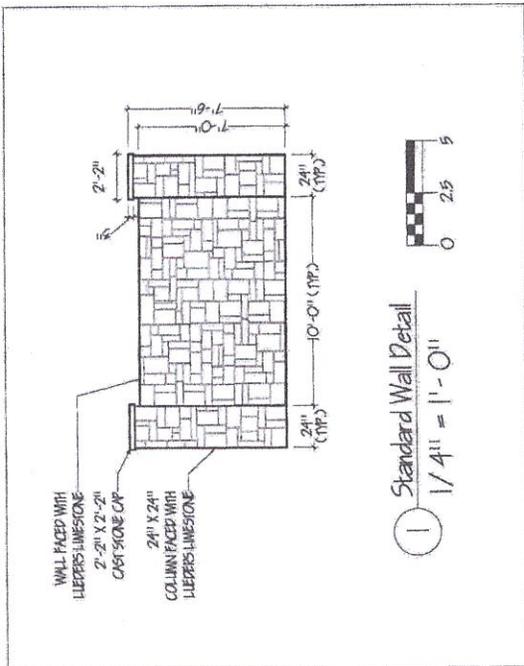
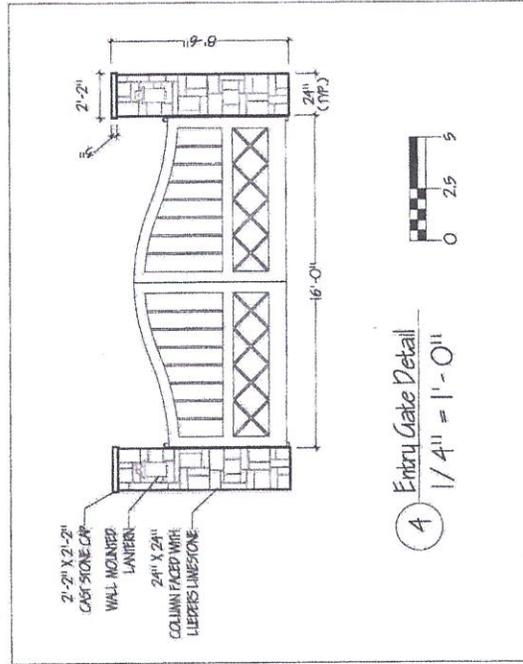
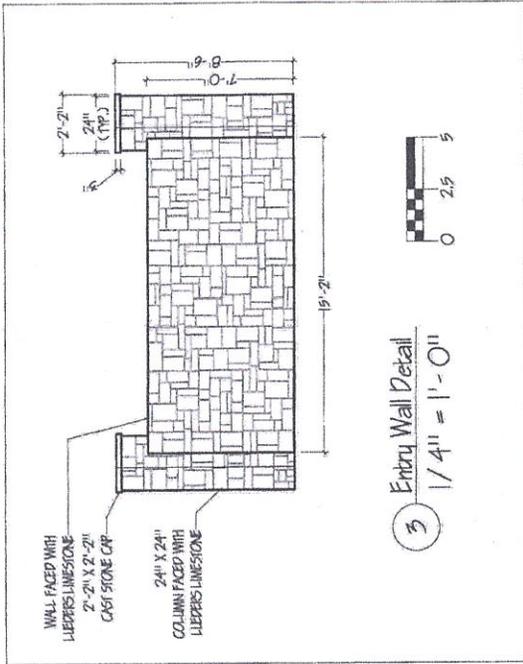




E. HALF OF LOT 23  
 BLOCK 5543  
 44186 SQ. FT.  
 1.01 ACRES

Full Property with Wall Plan  
 1/16" = 1'-0"

Site Plan  
 S1



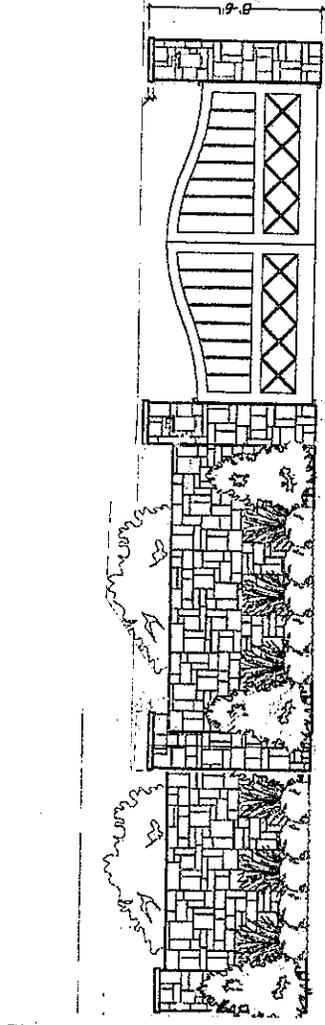
Residence  
 4606 Walnut Hill Lane  
 Dallas, Texas 75229

DATE: 12.7.2014 / HDG

# Verdant Grounds

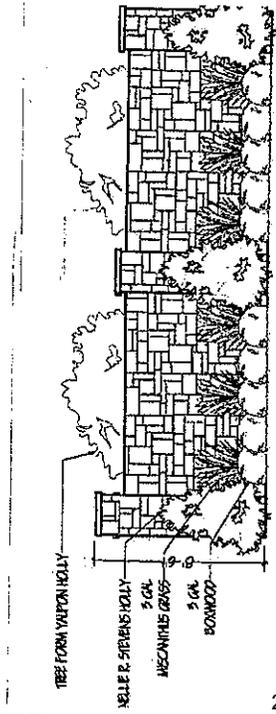
214.763.0492  
 P.O. Box 726661  
 Dallas, TX 75272  
 Sheet 1 of 2

E 21



## FRONT ELEVATION

WALNUT HILL LANE



TREE FORM WALTON HOLLY

WALLE P. SIBBANS HOLLY

5' GN

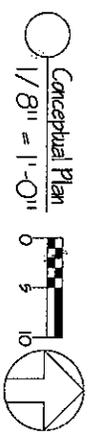
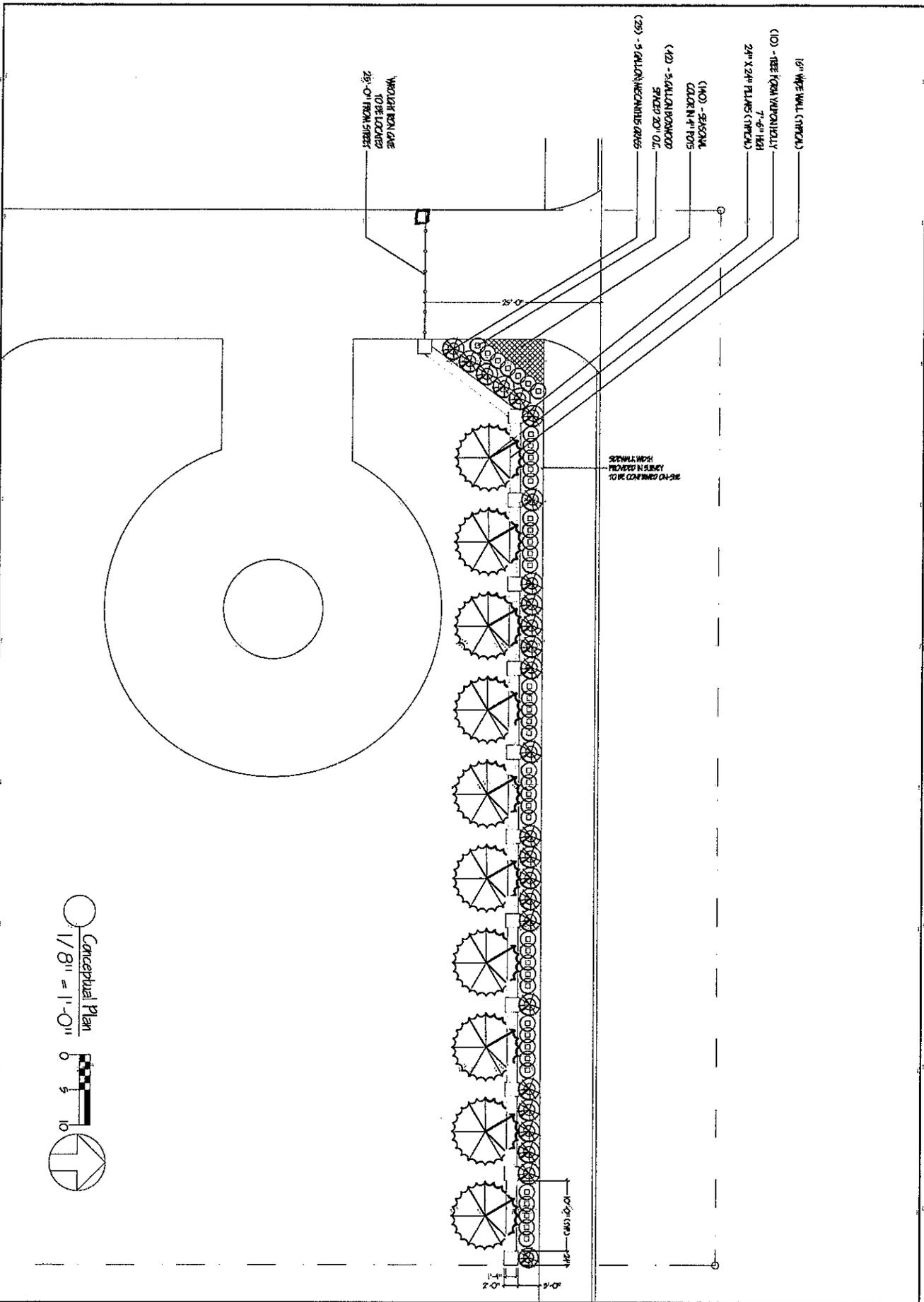
WICKHAM'S GRASS

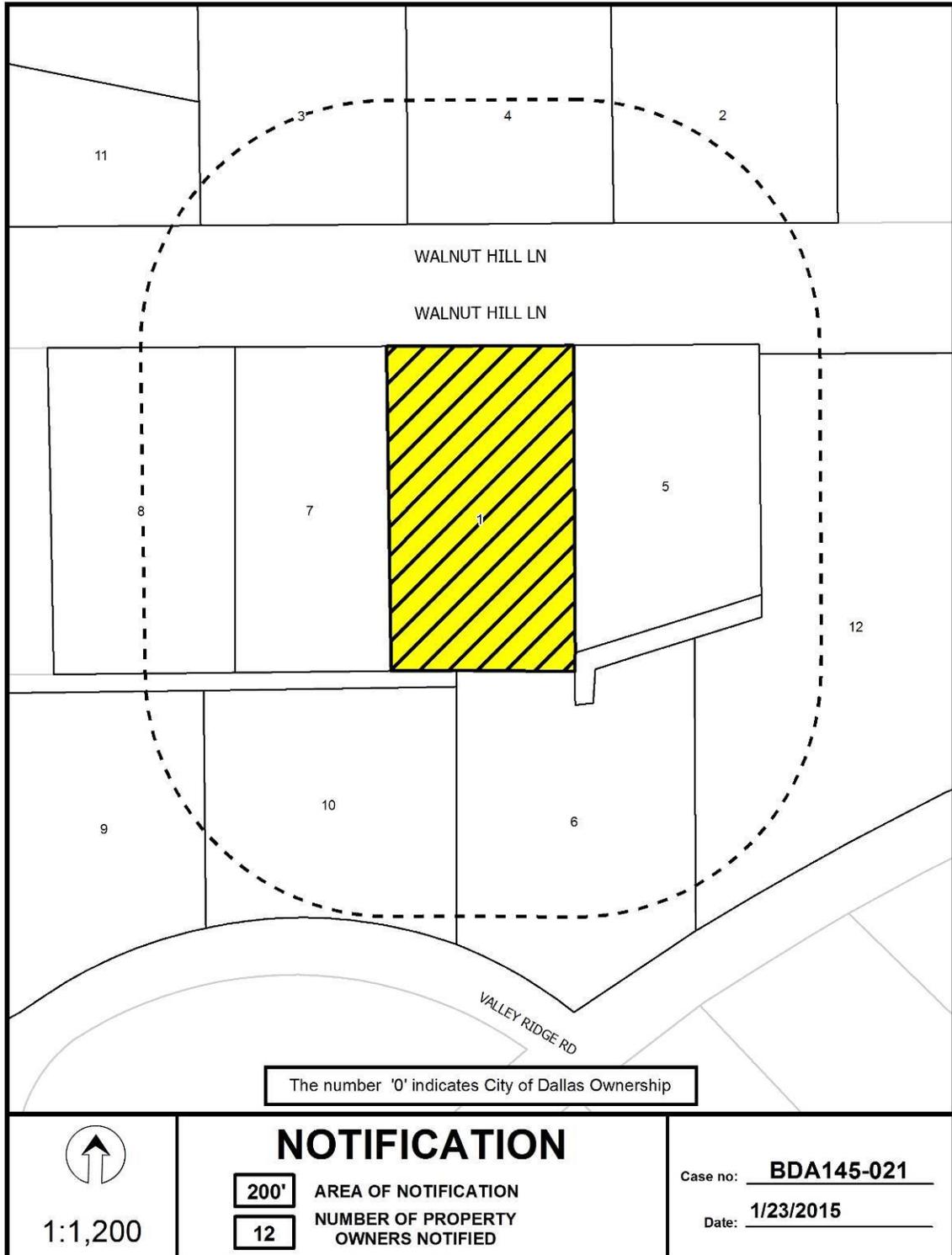
5' GN

BOXWOOD

2 Planting Example  
 1/4" = 1'-0"







## *Notification List of Property Owners*

### *BDA145-021*

#### *12 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4606 WALNUT HILL LN	TODD CHRISTOPHER N
2	4611 WALNUT HILL LN	JFN REAL ESTATE LTD
3	4535 WALNUT HILL LN	ADAMS SUSAN E &
4	4549 WALNUT HILL LN	BLAKELELOCK DAVID &
5	4622 WALNUT HILL LN	SCHWARTZ MICHAEL W
6	9945 ROCKBROOK DR	FULBRIGHT MARILYN P
7	4534 WALNUT HILL LN	LENGYEL CRAIG S &
8	4522 WALNUT HILL LN	BALADY LOUIS J & REV TR
9	4607 VALLEY RIDGE RD	ALLEN CARL & ANNE
10	4631 VALLEY RIDGE RD	OLIVER KIRK R & MARY C
11	10004 ROCK HILL LN	SEGALL KATHERINE H & ADAM M
12	9963 ROCKBROOK DR	HOFFMAN MARGUERITE

**FILE NUMBER:** BDA 145-023

**BUILDING OFFICIAL'S REPORT:** Application of Patrick Ongena represented by Jeff Baron for a special exception to the side yard setback regulations at 5837 Belmont Avenue. This property is more fully described as Lot 15, Block 15/1891, and is zoned CD12, which requires a side yard setback of 10 feet. The applicant proposes to construct and maintain a carport and provide a 0 foot side yard setback, which will require a 10 foot special exception to the side yard setback regulation.

**LOCATION:** 5837 Belmont Avenue

**APPLICANT:** Patrick Ongena  
Represented by Jeff Baron, Jeff Baron Homes

**REQUEST:**

A request for a special exception to the side yard setback regulations of 10' is made to complete and maintain two carports, parts of which are to remain located in the site's eastern 10' side yard setback on a site developed with a single family home structure/use.

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

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

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

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

**STAFF RECOMMENDATION:**

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

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: CD 12 (Belmont Addition Conservation District)  
North: CD 12 (Belmont Addition Conservation District)  
South: CD 12 (Belmont Addition Conservation District)  
East: CD 12 (Belmont Addition Conservation District)  
West: CD 12 (Belmont Addition Conservation District)

### **Land Use:**

The subject site is developed with a single family home. The area 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:**

- This request focuses on completing and maintaining two carports. The carport towards the north of the subject site is approximately 130 square feet (13' x 10'). The carport towards the south of the subject site is approximately 170 square feet (17' x 10'). Parts of both carports are located in the eastern 10' side yard setback on a site developed with a single-family home structure/use.
- In the Belmont Addition Conservation District (CD 12), the minimum side yard for main structures is five feet on one side and ten feet on the other side.
- The site has a 10' side yard setback on the eastern perimeter of the property because the western perimeter of the property has a 5' setback.
- The applicant has submitted a site plan, two elevations, and one floor plan indicating the location of the carports on the site's eastern side property line.
- The site plan, elevations, and floor plan have been reviewed by the Sustainable Development and Construction Conservation District Senior Planner and have been approved with conditions (Porte cochere contingent upon approval by the Board of Adjustment).
- The following information was gleaned from the submitted site plan:
  - The carport towards the north of the subject site is represented to be 13' in length and 10' in width (approximately 130 square feet in total area), of which approximately 91 square feet (or approximately 70 percent) would remain in the eastern side yard setback. It is represented to extend 7' into the required 10' side yard setback, being 3' from the property line to accommodate the carport eave/roof overhang.

- The carport towards the south of the subject site is represented to be 17' in length and 10' in width (approximately 170 square feet in total area), of which approximately 119 square feet (or approximately 70 percent) would remain in the eastern side yard setback. It is represented to extend 7' into the required 10' side yard setback, being 3' from the property line to accommodate the carport eave/roof overhang.
- The following information was gleaned from the submitted elevation:
  - The carports are represented to be a maximum height of approximately 14' with brick columns and composite shingle roofs.
- The subject site is approximately 200' x 50' (or 10,000 square feet) in area.
- According to DCAD records, the "main improvement" for property addressed at 5837 Belmont Avenue is a structure built in 2014 with 2,643 square feet of living/total area; and with the following additional improvements: a 503 square foot detached garage, a 270 square foot porte cochere, and a 270 square foot porte cochere.
- The current planner conducted a field visit of the area east and west of the subject site and noted one other carport that appeared to be located in a side yard setback, a carport that has no BDA history.
- On November 21, 2014, one petition with nine signatures in support of the request was submitted with the application.
- As of February 06, 2015, no letters had been submitted in support of the request, and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing the following:
  - that granting this special exception to the side yard setback regulations of 5' will not have a detrimental impact on surrounding properties.
- Granting this request and imposing the following conditions would require the carport to be modified/maintained in the location and of the heights and materials as shown on these documents:
  1. Compliance with the submitted site plan and elevation is required.
  2. The carport structure must remain open at all times.
  3. No lot-to-lot drainage is permitted in conjunction with this carport special exception.
  4. All applicable building permits must be obtained.
  5. No item (other than a motor vehicle) may be stored in the carport.

**Timeline:**

November 21, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

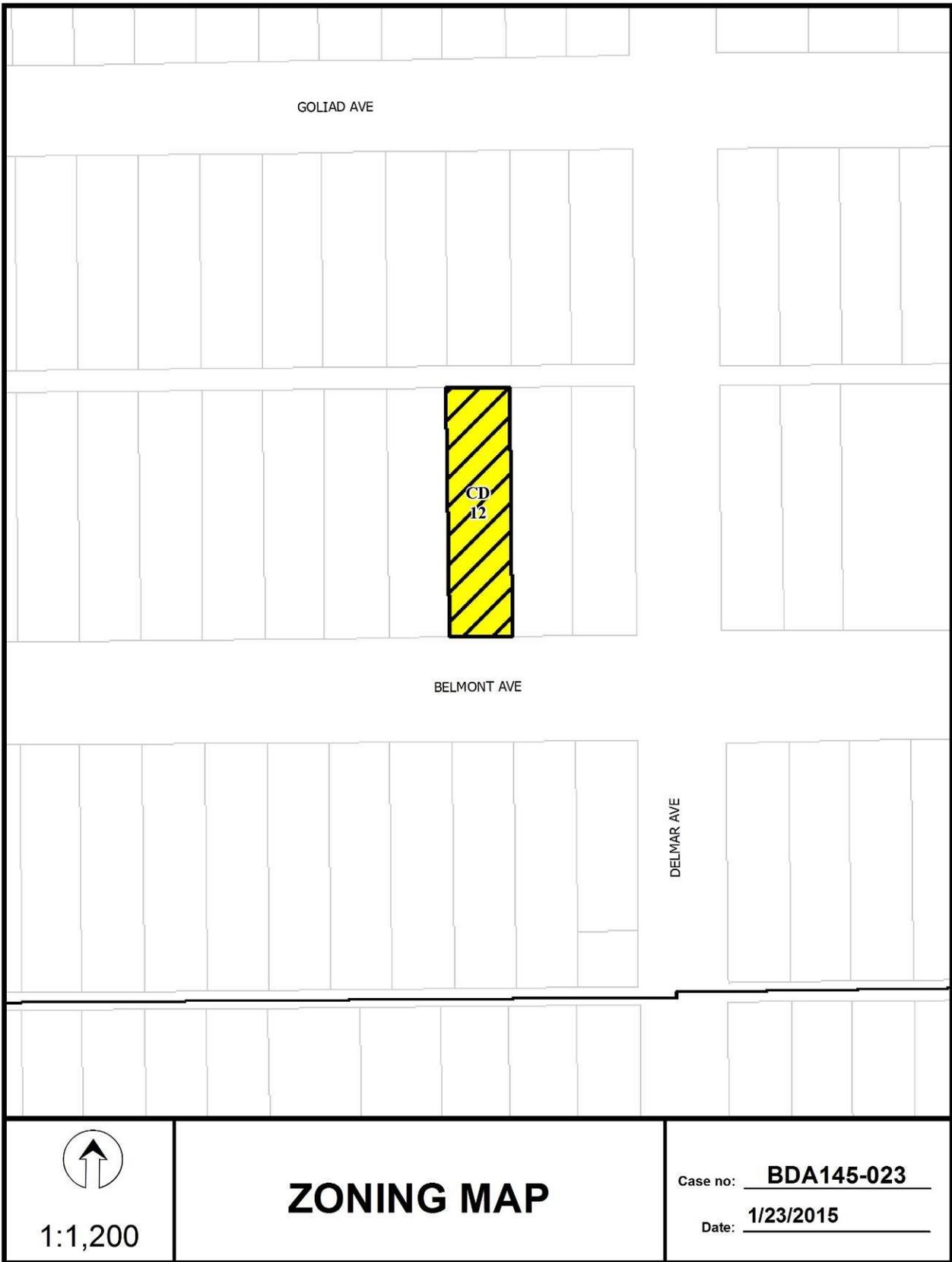
January 14, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

January 20, 2015: The Board Administrator contacted the applicant and emailed the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 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."

February 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

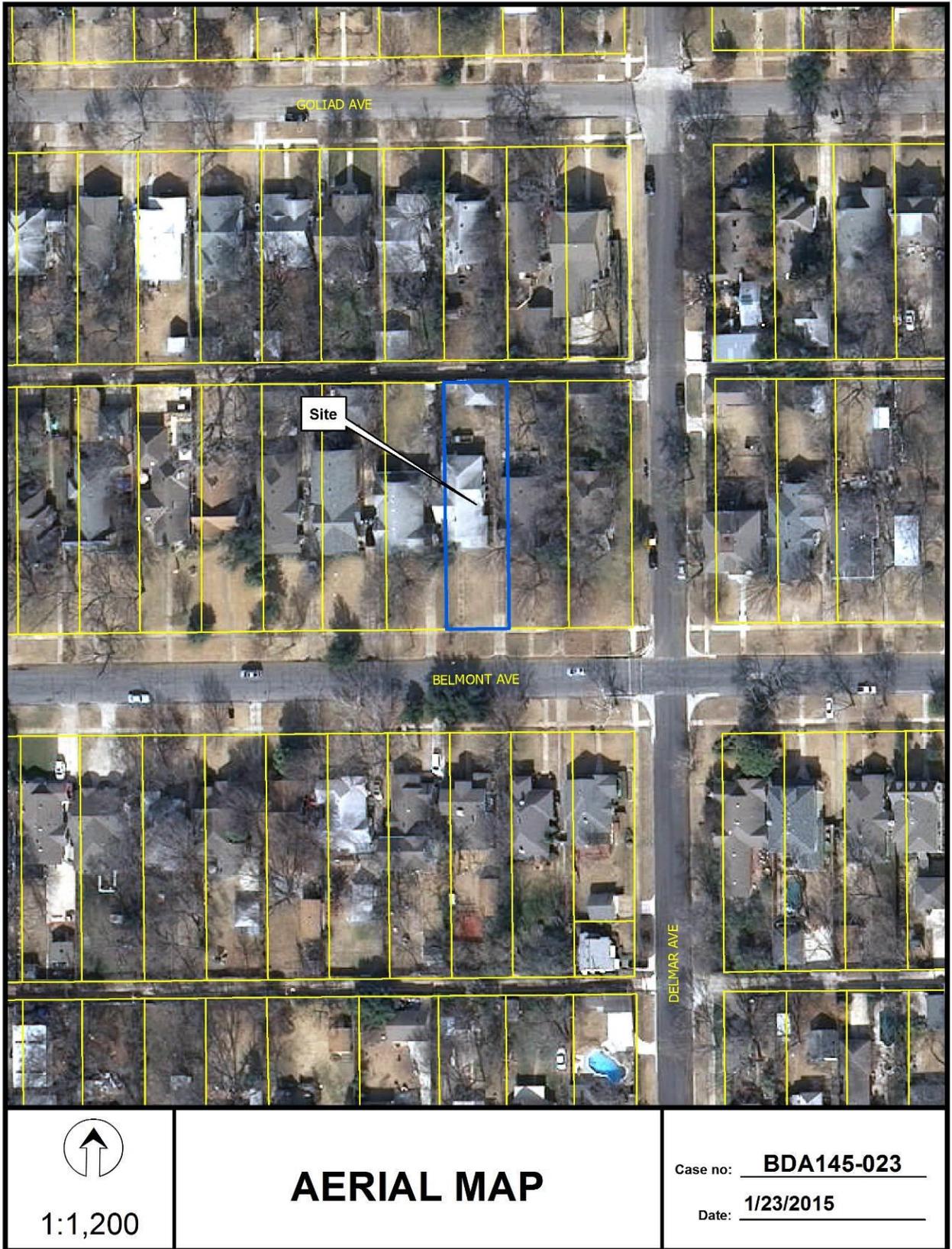


1:1,200

# ZONING MAP

Case no: BDA145-023

Date: 1/23/2015





City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-023

Data Relative to Subject Property:

Date: 11/21/14

Location address: 5837 Belmont Ave, 75206 Zoning District: C-D-12

Lot No.: 15 Block No.: 15/1891 Acreage: .239 Census Tract: 11.01

Street Frontage (in Feet): 1) 50 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_ 5824

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Patrick T + Judith A Ongena

Applicant: Patrick Ongena Telephone: 817-875-4647

Mailing Address: 5920 E. University, #1118, 75206 Zip Code: 75206

E-mail Address: patao2927@aol.com

Represented by: \_\_\_\_\_ Telephone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Affirm that an appeal has been made for a Variance \_\_\_\_\_, or Special Exception X, of 10' side yard setbacks to allow for (2) carports to extend to the property line. Architectural restrictions to be the same as Vickery Place CD. 8(C)

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:

Neighborhood is enhanced by architectural feature as seen in 4 of the 14 original prairie style homes in the Belmont CD. No adverse effects to neighbors.

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 Patrick T. Ongena  
(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: Patrick T. Ongena  
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 21 day of November, 2014

Leigh Hahn  
Notary Public in and for Dallas County, Texas

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

Date of Hearing \_\_\_\_\_

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

**Building Official's Report**

I hereby certify that Patrick Ongena

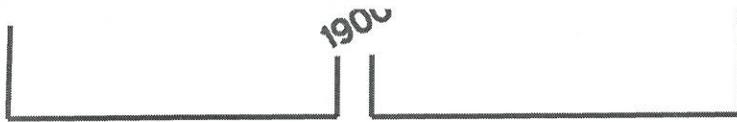
did submit a request for a special exception to the side yard setback regulations  
at 5837 Belmont Avenue

BDA145-023. Application of Patrick Ongena for a special exception to the side yard setback regulations at 5837 Belmont Avenue. This property is more fully described as Lot 15, Block 15/1891, and is zoned CD12, which requires a side yard setback of 10 feet. The applicant proposes to construct and maintain a carport for a single family residential dwelling in a side yard and provide a 0 foot setback, which will require a 10 foot special exception to the side yard setback regulation.

Sincerely,

  
Larry Holmes, Building Official



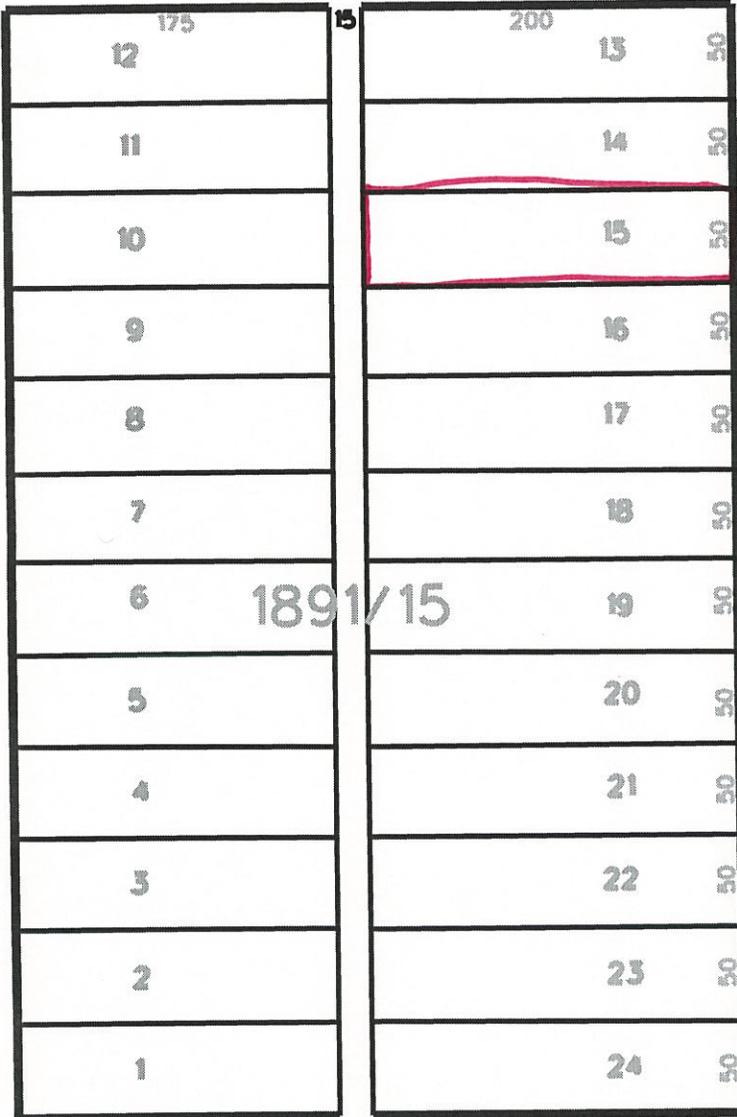


2300

ST. 70

70

AVE. 70



5800

AVE. 80

LH

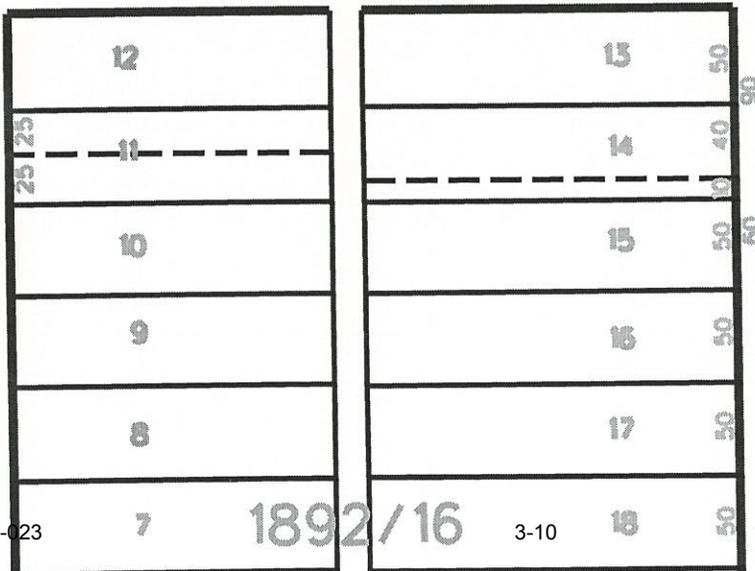


5800

1902

2300

ST. 8



BDA 145-023

Q

3-10

5700

1901

We are building a home at 5837 Belmont. During the design process we identified 4 of the original 13 Prairie style homes in the conservation district that contained Porte-Cocheres. This was an important aesthetic and functional element for us to incorporate into the design of our home. Through the permitting process it was brought to our attention that the Belmont Conservation District allowed for Porte Cocheres, but did not specify modified setbacks, which are necessary for their construction.

We are applying for a special exception in order to allow the porte cochere to be built within the setback and suggesting that we be held to the same clause found in the neighboring Conservation District, Vickery Place. This states:

(8)(e) Porte cocheres.

1. A one-story porte cochere may be built to the side property line.
2. A porte cochere with a second story must be set back a minimum of five feet from the property line.
3. Porte cocheres visible from the front or side street and not located in the rear yard must be the same architectural style as the main building.
4. Porte cochere columns must match front porch columns.

We've attached a rendering of the home, and would appreciate your support by signing the below petition.

Thanks,  
Patrick and Judy Ongena



Name	Address	Phone #
Kelly Boyington	5838 Belmont Ave	214-403-2369
MICHAEL SULLIVAN	5834 BELMONT AVE	214 733 2100
James Welker	5838 Belmont Ave	214 518 3724
Tim Paullett	5833 Belmont Ave	214 727 7630
Jeff Boen	5946 Palo Pinto	214 266-5835
Paige Buell	5942 Palo Pinto	214 317 1876

We are building a home at 5837 Belmont. During the design process we identified 4 of the original 13 Prairie style homes in the conservation district that contained Porte-Cocheres. This was an important aesthetic and functional element for us to incorporate into the design of our home. Through the permitting process it was brought to our attention that the Belmont Conservation District allowed for Porte Cocheres, but did not specify modified setbacks, which are necessary for their construction.

We are applying for a special exception in order to allow the porte cochere to be built within the setback and suggesting that we be held to the same clause found in the neighboring Conservation District, Vickery Place. This states:

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4. Porte cochere columns must match front porch columns.

We've attached a rendering of the home, and would appreciate your support by signing the below petition.

Thanks,

Patrick and Judy Ongena



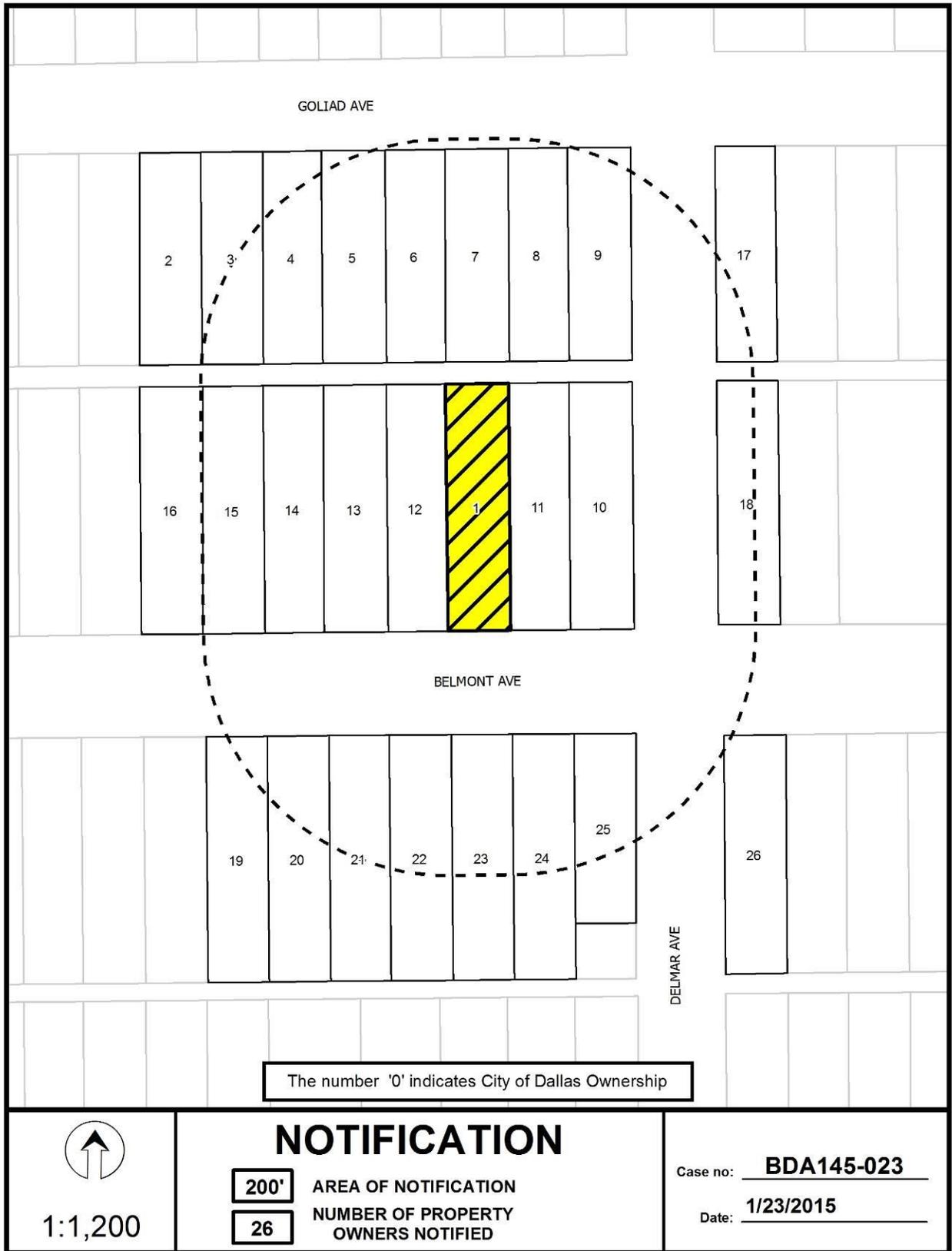
Name	Address	Phone #
Milissa Foshee	5841 Belmont Ave Dallas TX 75206	214-244-9191
DAVID Winbury	5947 Galiaad Ave Dallas TX 7524	469-600-3303
RALPH GARRETT	5939 GALIAD AVE, Dallas	214-826-0288











## *Notification List of Property Owners*

### *BDA145-023*

#### *26 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5837 BELMONT AVE	ONGENA PATRICK T & JUDITH A
2	5816 GOLIAD AVE	SABEDRA GLORIA
3	5820 GOLIAD AVE	EDES MELVIN & KATHY
4	5824 GOLIAD AVE	HAMBURGER KENNETH
5	5828 GOLIAD AVE	HOLMES JESSE C
6	5832 GOLIAD AVE	BALCH BLANE &
7	5836 GOLIAD AVE	ZARAFONETIS NICHOLAS G
8	5840 GOLIAD AVE	PACIC JIMMY A & ELLEN A
9	5846 GOLIAD AVE	BAILEY APRIL ALEXANDER
10	5845 BELMONT AVE	CORCORAN THOMAS JOE III & KRISTINA
11	5841 BELMONT AVE	FOSHEE MILISSA
12	5833 BELMONT AVE	PAULETTI TIMOTHY P
13	5829 BELMONT AVE	DRESCHER CLIFFORD T
14	5825 BELMONT AVE	BURR LEAH D
15	5823 BELMONT AVE	DARGAN PRESTON
16	5819 BELMONT AVE	CREEL ROBERT J
17	5902 GOLIAD AVE	COOPER JAMES
18	5901 BELMONT AVE	PERKINS WENDI K
19	5822 BELMONT AVE	JAHN ALFREDO
20	5826 BELMONT AVE	PARSONS MATTHEW CHARLES & LAVANYA HARI
21	5830 BELMONT AVE	BEECHERL HELEN WARREN
22	5834 BELMONT AVE	SULLIVAN MICHAEL P & JENNIFER G
23	5838 BELMONT AVE	VOELKER JAMES H
24	5840 BELMONT AVE	MEEHAN KATHERINE A
25	5844 BELMONT AVE	TATUM STACEY L &
26	5902 BELMONT AVE	WALKER ANDREW STEPHEN

**FILE NUMBER:** BDA 134-060

**BUILDING OFFICIAL'S REPORT:** Application of Robert Baldwin to enlarge a nonconforming use at 200 Rock Island Street (AKA 300 Rock Island Street). This property is more fully described as part of Lot 22, Block 65/415, and is zoned PD 784 (Mixmaster Riverfront), which limits the legal uses in a zoning district. The applicant proposes to enlarge a nonconforming tower/antenna for cellular communication use, which will require a request to enlarge a nonconforming use.

**LOCATION:** 200 Rock Island Street (AKA 300 Rock Island Street)

**APPLICANT:** Robert Baldwin

**REQUEST:**

A request is made to enlarge a nonconforming "tower/antenna for cellular communication" use by increasing the height of the existing monopole tower from 80' to 150'.

**STANDARD FOR ENLARGING A NONCONFORMING USE:**

The board may allow the enlargement of a nonconforming use when, in the opinion of the Board, the enlargement: 1) does not prolong the life of the nonconforming use; 2) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and 3) will not have an adverse effect on the surrounding area.

**STAFF RECOMMENDATION:**

No staff recommendation is made on a request to enlarge a nonconforming use since the basis for this type of appeal is based on when, in the opinion of the Board, the enlargement: 1) does not prolong the life of the nonconforming use; 2) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and 3) will not have an adverse effect on the surrounding area.

## **BACKGROUND INFORMATION:**

### **Zoning:**

<u>Site:</u>	PD 784 (Mixmaster Riverfront) (Planned Development)
<u>North:</u>	PD 784 (Mixmaster Riverfront) (Planned Development)
<u>South:</u>	PD 784 (Mixmaster Riverfront) (Planned Development)
<u>East:</u>	PD 784 (Mixmaster Riverfront) (Planned Development)
<u>West:</u>	PD 784 (Mixmaster Riverfront) (Planned Development)

### **Land Use:**

The subject site is developed as nonconforming “tower/antenna for cellular communication” use. The areas to the north and west are undeveloped, the area to the east is developed with vacant retail use; and the area to the south is developed with commercial use.

### **Zoning/BDA History:**

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

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

- This request focuses on enlarging a nonconforming “tower/antenna for cellular communication” use by increasing the height of the existing monopole tower from 80’ to 150’.
- The subject site is zoned PD 784 (Mixmaster Riverfront).
- A “tower/antenna for cellular communication” use is not permitted in PD 784 (Mixmaster Riverfront).
- A “tower/antenna for cellular communication” use could only become a *conforming* use on this property if/once it has been rezoned to a district that allows this use by the City Council through a public hearing process.
- The Dallas Development Code defines a nonconforming use as “a use that does not conform to the use regulations of this chapter, but was lawfully established under regulations in force at the beginning of operation and has been in regular use since that time.”
- The Dallas Development Code states that enlargement of a nonconforming use means any enlargement of the physical aspects of a nonconforming use, including any increase in height, floor area, number of dwelling units, or the area in which the nonconforming use operates.
- A document entitled “Appeal for a special exception to enlarge a nonconforming use” is included in the case file that lists the following:
  - Property address: 200 Rock Island Street (AKA 300 Rock Island Street)
  - Nonconforming use being appealed: tower/antenna for cellular communication
  - Reason the use is considered as nonconforming: change in zoning to PD 784

- Current zoning on the property on which the use is located: PD 784 (Mixmaster Riverfront)
- Previous zoning of the property on which the use is located: IM
- Date that the nonconforming use became nonconforming: 09-24-08
- A copy of a Certificate of Occupancy is included in the case file for a “radio, television, or microwave tower (CO #9205111008) issued on August 7, 1992.
- The applicant has been informed of the Dallas Development Code provisions pertaining to “Nonconforming Uses and Structures,” and how nonconforming uses can be brought to the Board of Adjustment for amortization where if the board determines that continued operation of the use will have an adverse effect on nearby properties, it shall proceed to establish a compliance date for that nonconforming use - a compliance date that is provided under a plan whereby the owner’s actual investment in the use before the time that the use became nonconforming can be amortized within a definite time period.
- The applicant has submitted a site plan and a “compound elevations” document. The site plan makes representation of the “existing 80’ monopole tower” in the same location as the “modified 150’ monopole tower” on the site. The submitted elevation makes a representation of the 150’ high monopole tower inside and outside fence from Rock Island Street.
- The applicant has stated that the zoning prior to the current PD 784 zoning was IM Industrial Manufacturing; and that if the property was still zoned IM, he would have been eligible to request an SUP (Specific Use Permit) for the proposed 150’ monopole since the maximum height limit in the IM zoning district was 110’. The applicant also states that prior to 1992 and the creation of the tower/antenna for cellular communication use, the cell tower would have been allowed to be constructed at any legal height due to the classification as a Utility and Public Service use within 51A-4.212.
- The applicant has the burden of proof to establish that the enlargement of the non-conforming use:
  1. does not prolong the life of the nonconforming use;
  2. would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and
  3. will not have an adverse effect on the surrounding area.
- If the Board were to grant this request, they can consider imposing as a condition any or all of the applicant’s submittals (site plan, elevation). If the Board were to grant the request and impose any or all of these submittals as conditions, the enlargement of the nonconforming use would be limited to what is shown on any such document.

## **Timeline:**

October 23, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

November 12, 2014: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

November 12, 2014: 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 November 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the December 5<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;
- the section from the Dallas Development Code pertaining to nonconforming uses and structures; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

November 25, 2014: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

December 2, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for December public hearing. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

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

December 15, 2014: The Board of Adjustment Panel C held a public hearing on this application. The Board delayed action on this application until their next public hearing to be held on February 19, 2015.

December 17, 2014: The Board Administrator sent a letter to the applicant that noted the decision of the panel, and the February 6<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials.

February 3, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

February 6, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application and beyond what was submitted at the December 15<sup>th</sup> public hearing (see Attachment B).

**BOARD OF ADJUSTMENT ACTION: DECEMBER 15, 2014**

APPEARING IN FAVOR: Rob Baldwin, 3904 Elm Street, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Beikman**

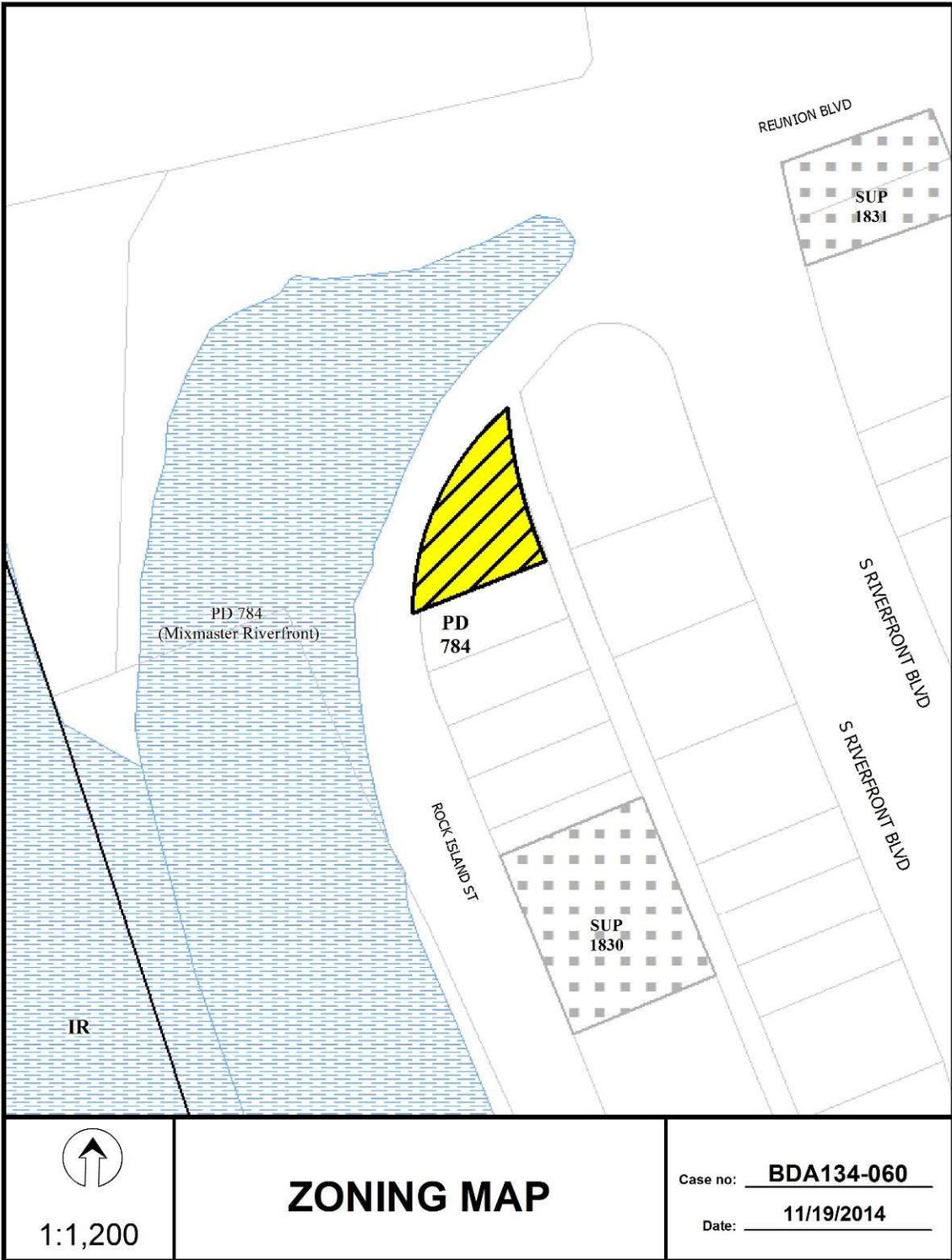
I move that the Board of Adjustment in Appeal No. **BDA 134-060**, hold this matter under advisement until **February 19, 2015**.

SECONDED: **Schulte**

AYES: 5 – Richardson, Carreon, Coulter, Schulte, Beikman

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)





1:1,200

# AERIAL MAP

Case no: BDA134-060

Date: 11/19/2014

BDA 134-060

Attach A

PS 1

Baldwin  
Associates

November 25, 2014

Steve Long, Board Administrator  
Board of Adjustment  
City of Dallas  
1500 Marilla 5BN  
Dallas, TX 75201

RE. Request before the City of Dallas Board of Adjustment  
BDA134-060 200 Rock Island

Dear Mr. Long and Honorable Board Members:

This firm is representing NCWPCS in their request to enlarge a nonconforming cell tower at the above referenced location. The property has had a monopole tower for cellular communication since 1992 and was actually permitted as a radio/tv/microwave tower, which was the land use classification prior to "tower for cellular communication." The zoning in 1992 was an IM Industrial Manufacturing District. However, on September 24, 2008 the zoning was changed to PDD No. 784, the Trinity River Corridor Special Purpose District, and the Downtown Form District. The zoning requires towers for cellular communication to be mounted towers, which makes the monopole tower on the Property a nonconforming use.

We are requesting approval to enlarge this nonconforming use. We need to add additional height and carrier capacity to this location to serve the I-35 / I-30 Mixmaster area. A monopole tower was removed at 603 S. Riverfront Boulevard due to a City taking to allow for a driveway for the reconstruction of the Able Pump Station. We are proposing to co-locate the service from that cell tower to this Property, but it requires an expansion of the tower. Our design is to essentially cap the existing tower with an additional tower to get the necessary height and equipment in place to increase service. This cell tower is of significant importance due to its Mixmaster service area.

The Board's test to enlarge a nonconforming use requires the Board to find the proposal will not prolong the life of the nonconforming use; that it would have been permitted under the IM zoning when the monopole tower was first constructed; and will not have an adverse effect on the surrounding area.

The request to enlarge the cell tower will not prolong the existence of a monopole tower on the Property. The existing monopole tower is currently operating and is capable of operating in its current capacity, and it would have done so had not the City acquired 603 S. Riverfront Boulevard.

The IM Industrial Manufacturing District has a maximum height of 110, but the tower/antenna for cellular communication is allowed to exceed the maximum height of the district by SUP.<sup>1</sup> If the Property's zoning was still an IM Industrial Manufacturing District, we would have been eligible to request an SUP for the proposed 150' monopole tower. In 1992, prior to the creation of the tower/antenna for cellular communication use, the cell tower would have been allowed to be constructed as any legal height due to the classification as a Utility and Public Service use within 51A-4.212<sup>2</sup>.

The proposed expansion of the monopole cell tower will not adversely impact surrounding properties. The cell tower is providing an important public service to the area. The availability of cell tower capacity is a necessary utility that serves the Mixmaster area. The only noticeable difference on the Property will be the additional height of the monopole tower and an ice bridge (basically a conduit covering that protects the wires and cables that connect the tower to the existing equipment platform). The remainder of the site will be as it is today. The proposal to expand the capacity of the monopole cell tower complies with the City's objective to co-locate cell towers whenever possible.

We believe the Board members will find that the request to enlarge the cell tower meets the test from the Dallas Development Code and that the request is in the public's best interest.

Thank you for your assistance with this matter. If you have any questions or need any additional information, please do not hesitate to call me.

Very truly yours,



Robert B. Baldwin, AICP

---

<sup>1</sup> 51A-4.212(10.1)(B)(iii) "Monopole cellular towers: By right in commercial, industrial, and central area districts with RAR required in commercial and industrial districts. By right in LO(A), MO(A), GO(A), mixed use, and multiple commercial districts if the height of the tower does not exceed the maximum height for structures in that district as provided in the district regulations (Divisions 51A-4.100 et seq.) with RAR required in the same districts; otherwise by SUP only."

<sup>2</sup> 51A-4.408(a)(1) "Structures for utility and public service uses and institutional uses may be erected to any height consistent with the Federal Aviation Administration air space limitations, residential proximity slope height restrictions, and the building code." There are exceptions to this paragraph, however, they refer primarily to RPS and the Property has no residential zoning districts within 450 feet. The requested height does not conflict with the exceptions.

## Long, Steve

---

**From:** Janell Baker <janell@baldwinplanning.com>  
**Sent:** Friday, February 06, 2015 11:58 AM  
**To:** Long, Steve  
**Cc:** 'Robert Baldwin'  
**Subject:** BDA134-060 revised site plan and elevations  
**Attachments:** BU8561087 Industrial.pdf

BDA 134-060  
Attach B  
Pg 1

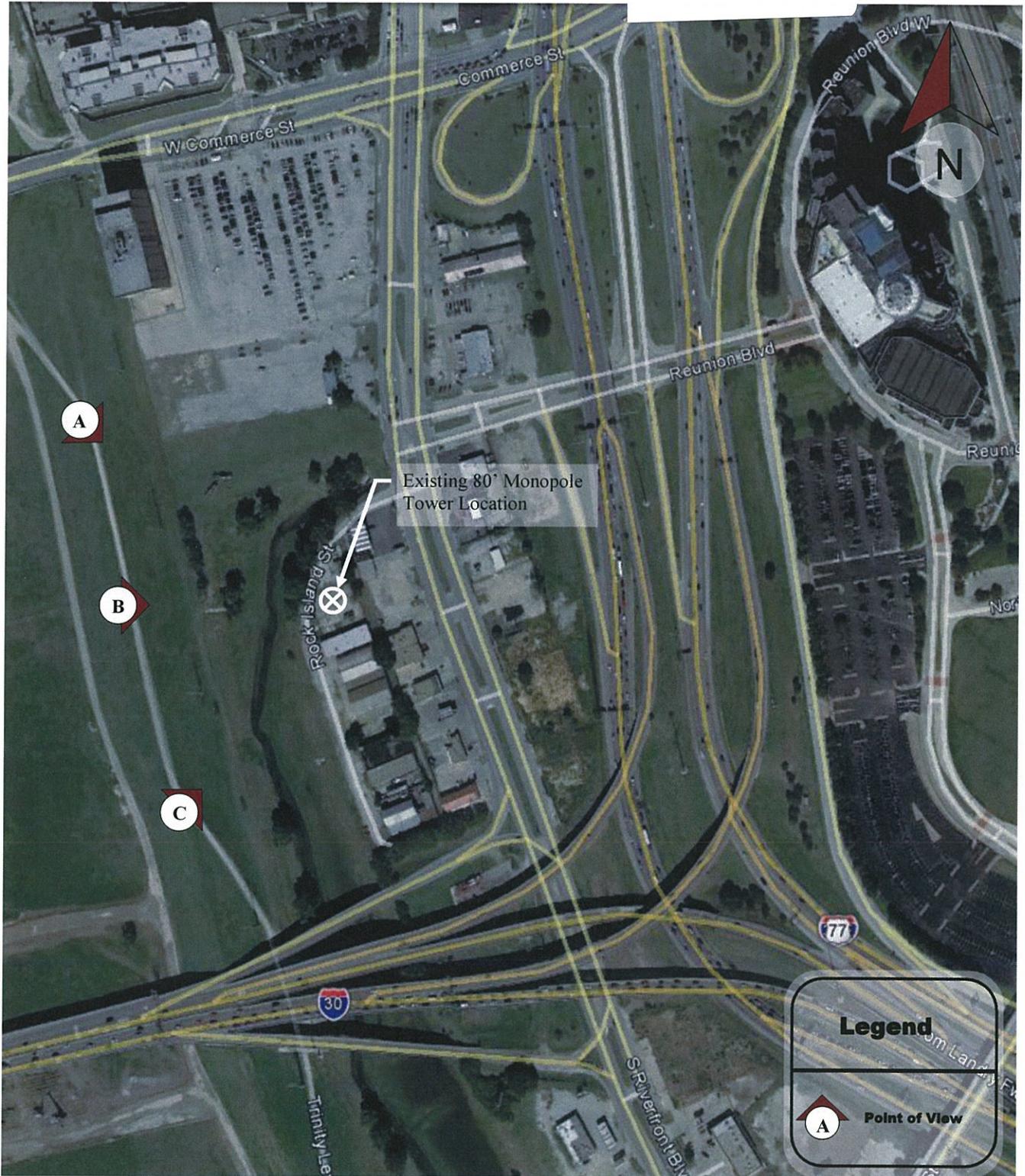
Hi Steve,

Attached please find revised site plan and elevations for the Board of Adjustment case at 200 Rock Island. Please note that the PDF includes two sets of site plans and elevations to include a stealth option if the Board prefers the stealth prism tower over the monopole tower. We will bring you hard copies of the plans. There are also photo simulations of each type of tower included in the PDF from three perspective points.

Thanks







(This Photo Simulation is for Illustrative purposes only)



CROWN CASTLE  
14-20-0023  
BU856107  
INDUSTRIAL

BDA 134-060

DATE  
PRINTED  
02/06/2015

1



Existing View to the Southeast



Extended 150' Monopole Tower

(This Photo Simulation is for Illustrative purposes only)



1820 Watson Lane East  
New Braunfels, Texas 78130  
www.enertechresources.com

CROWN CASTLE  
14-20-0023  
BU856107  
INDUSTRIAL

BDA 134-060

DATE  
PRINTED

02/06/2015

**A**



Existing View to the East



Extended 150' Monopole Tower

(This Photo Simulation is for Illustrative purposes only)



CROWN CASTLE  
14-20-0023  
BU856107  
INDUSTRIAL  
BDA 134-060

DATE  
PRINTED  
02/06/2015

**B**



Existing View to the Northeast



Extended 150' Monopole Tower

(This Photo Simulation is for Illustrative purposes only)



1820 Watson Lane East  
New Braunfels, Texas 78130  
www.enertechresources.com

CROWN CASTLE  
14-20-0023  
BU856107  
INDUSTRIAL

BDA 134-060

DATE  
PRINTED

02/06/2015

**C**





Date & Time: Mon Jan 26 11:42:54 CST 2015

Position: +032.77472° / -096.81587°

Altitude: 422ft

Azimuth/Bearing: 216° S36W 3840mils (True)

Elevation Angle: +01.9°

Horizon Angle: -01.5°

Zoom: 2X

StealthConcealment.com  
800.755.0689  
422ft Altitude  
+032.77472° Longitude  
-096.81587° Latitude  
2015

BDA 134-060  
Attach B  
Pg 10



BDA 134-060



**STEALTH**  
FIRST IN CONCEALMENT™

800.755.0689

[stealthconcealment.com](http://stealthconcealment.com)

**Industrial Dallas - SOUTH**  
**CC15-00178H-00**

Simulation is an approximate representation  
of our proposed concealment solution.  
Actual concealment(s) may vary.

©2015 STEALTH CONCEALMENT SOLUTIONS, INC. ALL RIGHTS RESERVED.

Date & Time: Mon Jan 26 11:46:26 CST 2015

Position: +032.77365° / -096.81565°

Altitude: 417ft

Azimuth/Bearing: 131° S49E 2329mils (True)

Elevation Angle: +02.3°

Horizon Angle: -02.5°

Zoom: 1X

Date & Time: Mon Jan 26 11:46:26 CST 2015  
Position: +032.77365° / -096.81565°  
Altitude: 417ft  
Azimuth/Bearing: 131° S49E 2329mils (True)  
Elevation Angle: +02.3°  
Horizon Angle: -02.5°  
Zoom: 1X



BDA 134-060  
Attach B  
Pg 11



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FIRST IN CONCEALMENT<sup>™</sup>

800.755.0689

[stealthconcealment.com](http://stealthconcealment.com)

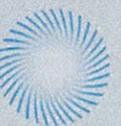
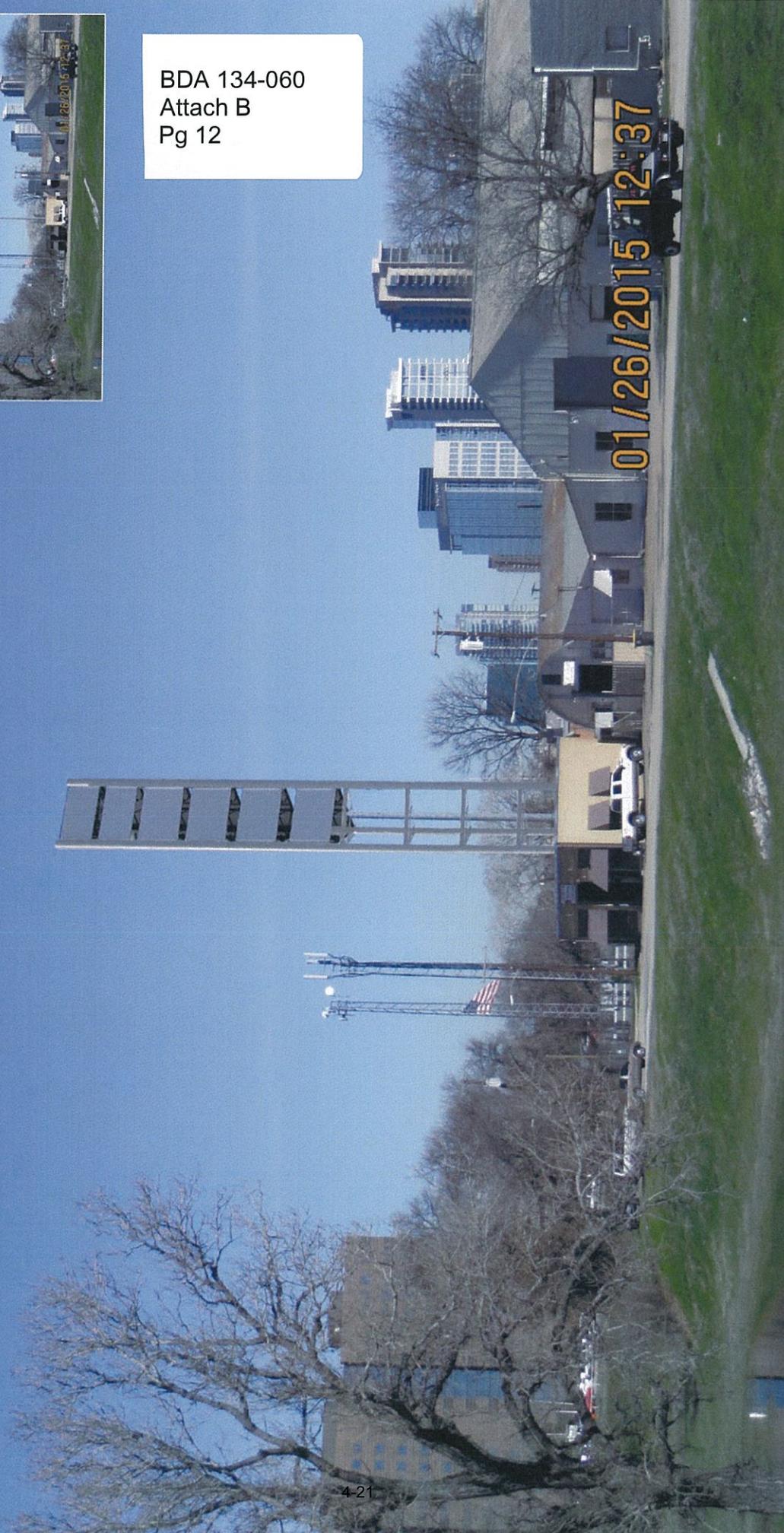
**Industrial Dallas - EAST**  
**CC15-00178H-00**

Simulation is an approximate representation  
of our proposed concealment solution.  
Actual concealment(s) may vary.

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BDA 134-060  
Attach B  
Pg 12



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[stealthconcealment.com](http://stealthconcealment.com)

Industrial Dallas - NORTH  
CC15-00178H-00

Simulation is an approximate representation  
of our proposed concealment solution.  
Actual concealment(s) may vary.

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City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-060

Data Relative to Subject Property:

Date: 10-23-14

Location address: 200 Rock Island Zoning District: PD 784

Lot No.: pt 22 Block No.: 65/415 Acreage: .1334 Census Tract: 100.00

Street Frontage (in Feet): 1) 170 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_ *SE 28*

To the Honorable Board of Adjustment:

Owner of Property (per Warranty Deed): NCWPCS MPL 28 -Year Sites Tower Holdings LLC

Applicant: Robert Baldwin Telephone: 214-824-7949

Mailing Address: 3909 Elm St #B Zip Code: 75226

E-mail Address: Rob@baldwinplanning.com

Represented by: Robert Baldwin Telephone: \_\_\_\_\_

Mailing Address: 3904 Elm St #B Zip Code: 75226

E-mail Address: Rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance \_\_, or Special Exception X \_\_, to allow the expansion of a non-conforming use.

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: Where there is no height limit in this zoning district, cell towers are no longer allowed. This tower will be sleeved with a taller tower that will allowed increased service. Additionally the expansion of this tower will replace the service that is being lost due to of another cell tower that is being removed due to the I-30 Horseshoe project.

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.

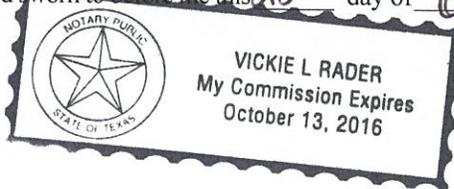
Affidavit

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 23rd day of October, 2014

(Rev 08-01-11)  Notary Public in and for Dallas County, Texas  
Vickie L. Rader

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

Date of Hearing \_\_\_\_\_

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

**Building Official's Report**

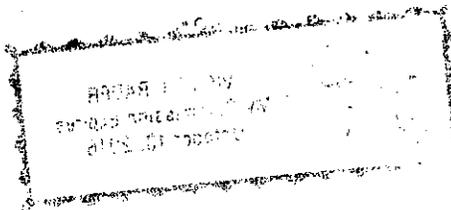
I hereby certify that Robert Baldwin

did submit a request for a special exception to enlarge a nonconforming use  
at 200 Rock Island Street

BDA134-060. Application of Robert Baldwin for a special exception to enlarge a nonconforming use at 200 Rock Island Street (aka: 300 Rock Island Street). This property more fully described as part of Lot 22, Block 65/415, and is zoned PD 784 (Mixmaster Riverfront), which limits the legal uses in a zoning district. The applicant proposes to enlarge a nonconforming tower/antenna for cellular communication use, which will require a special exception to the nonconforming use regulation.

Sincerely,

  
Larry Holmes, Building Official





PD 784  
( Mixmaster Riverfront )

PD  
784

SUP  
1831

0.0065 Miles



Appeal #BDA 134-060  
Property address: 200 Rock Island Street

The use in the above appeal, tower/antenna for cellular communication has been identified by Building Inspection to be a nonconforming use.

***Appeal for a special exception to enlarge a nonconforming use per Sec. 51A-4.704(b)(5)***

**Section 51A-4.704. Nonconforming uses and structures.**

**(b) Changes to nonconforming uses.**

**(5) Enlargement of a nonconforming use.**

(A) In this subsection, enlargement of a nonconforming use means any enlargement of the physical aspects of a nonconforming use, including any increase in height, floor area, number of dwelling units, or the area in which the nonconforming use operates.

(B) The board may allow the enlargement of a nonconforming use when, in the opinion of the board, the enlargement:

- (i) does not prolong the life of the nonconforming use;
- (ii) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and
- (iii) will not have an adverse effect on the surrounding area.

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

***or***

***Appeal to reinstate a nonconforming use per Sec. 51A-4.704(a)(2)***

**SECTION 51A-4.704. NONCONFORMING USES AND STRUCTURES.**

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

**(1) Amortization of nonconforming uses.**

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

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



City of Dallas

**Zoning Board of Adjustment**

**Appeal for a special exception to enlarge a nonconforming use.**

Sec. 51A-4.704. Nonconforming uses and structures.

(b) Changes to nonconforming uses.

(5) Enlargement of a nonconforming use.

(A) In this subsection, enlargement of a nonconforming use means any enlargement of the physical aspects of a nonconforming use, including any increase in height, floor area, number of dwelling units, or the area in which the nonconforming use operates.

(B) The board may allow the enlargement of a nonconforming use when, in the opinion of the board, the enlargement:

- (i) does not prolong the life of the nonconforming use;
- (ii) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and
- (iii) will not have an adverse effect on the surrounding area.

Property address: 200 Rock Island Street, BDA134-060  
(AKA: 300 Rock Island St.)

1. The nonconforming use being appealed: tower/antenna for cellular communication  
(The land use as stated on the current valid Certificate of Occupancy. Copy of C.O. attached)

2. Reason the use is classified as nonconforming: change in zoning to PD 784

(Was there a change in zoning or in the use requirements.)

3. Current zoning of the property on which the use is located: PD 784 (mixmaster riverfront)

4. Previous zoning of the property on which the use is located: IM  
(Applies if a zoning district change caused the use to become nonconforming.)

5. Date that the nonconforming use became nonconforming: 09-24-08 (PD 784)  
(Date the property zoning or use requirements changed.)

(Rev. 04/04/14)





City of Dallas

# Certificate of Occupancy

Issued: 08/07/1992

75207

300 ROCK ISLAND ST

METRO CELL CELLULAR TELEPHONE

000000

(4759) RADIO, TELEVISION OR MICROWAVE TOWER

Occupied Portion:

C.O.#: 9205111008

Lot:	Block:	Zoning:	IM	PDD:	0	SUP:
Historic Dist:	Consrv Dist:	Pro Park:	0	Req Park:	0	Park Agrmt:
Dwlg Units:	Stories:	Occ Code:	B2	Lot Area:	0	Total Area:
Type Const:	Sprinkler:	Occ Load:		Alcohol:	N	Dance Floor:

Remarks: 407-6100

*Larry V. Holmes*

Larry Holmes, Building Official

This certificate shall be displayed on the above premise at all times.

CBI 2 9205111008 BLDG INSPECTION CERTIFICATE OF OCCUPANCY Password  
Status B Type CO (CO/PE) Trace #: 9205111008

300 - ROCK ISLAND ST 75207

Land use 4759 Description: RADIO/TV/MICROWAVE TOWER

Act A Own A Occ B2 Block 650 415 / Lot 22 Base zone IM Pedest  
Pdd# Sup# Deed Restr Fld Pl Dry Hist Escarp Airpt  
Type const Req park Pro park Lot area Sprktr  
Bdrms Bths DwI units Stories BDA Pkg agrmt Early release  
RAR DIR Postage LL Review

Remarks 407-6100

Issue Permit N Print Invoice N

New square feet . Total sq/ feet

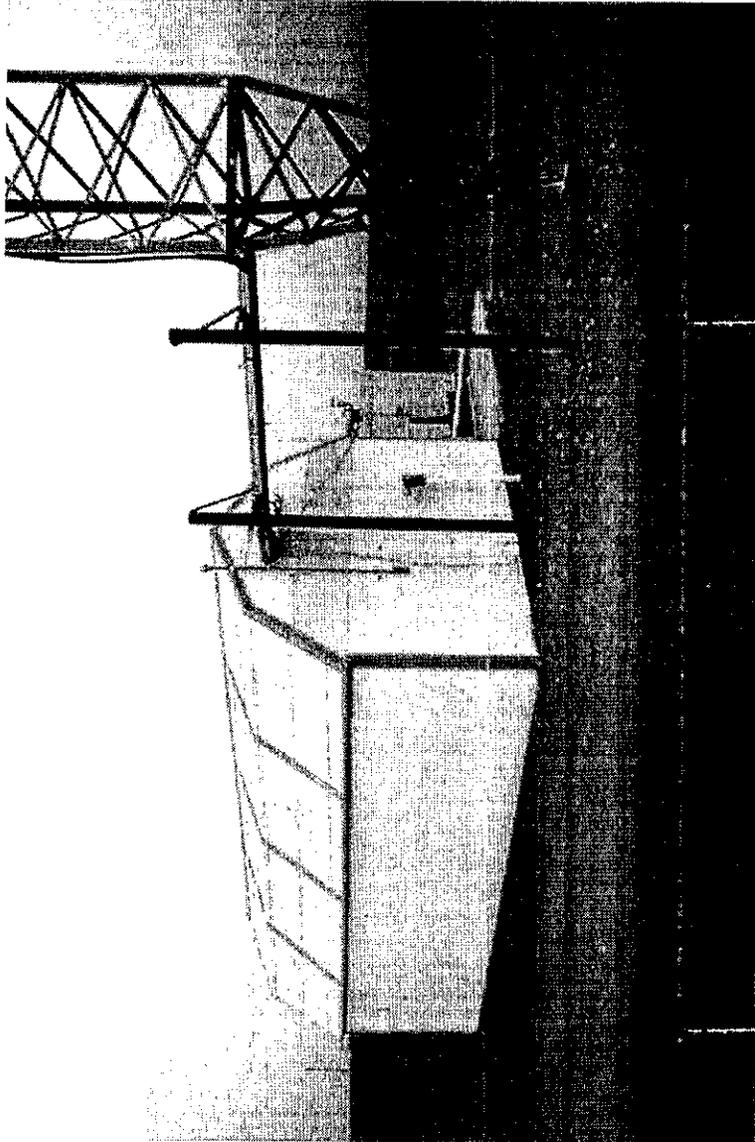
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Payment . . . . . Receipt number Bal Due :  
Charge N SSN# . . . . . Charge # Double Fee N Exempt N Debit

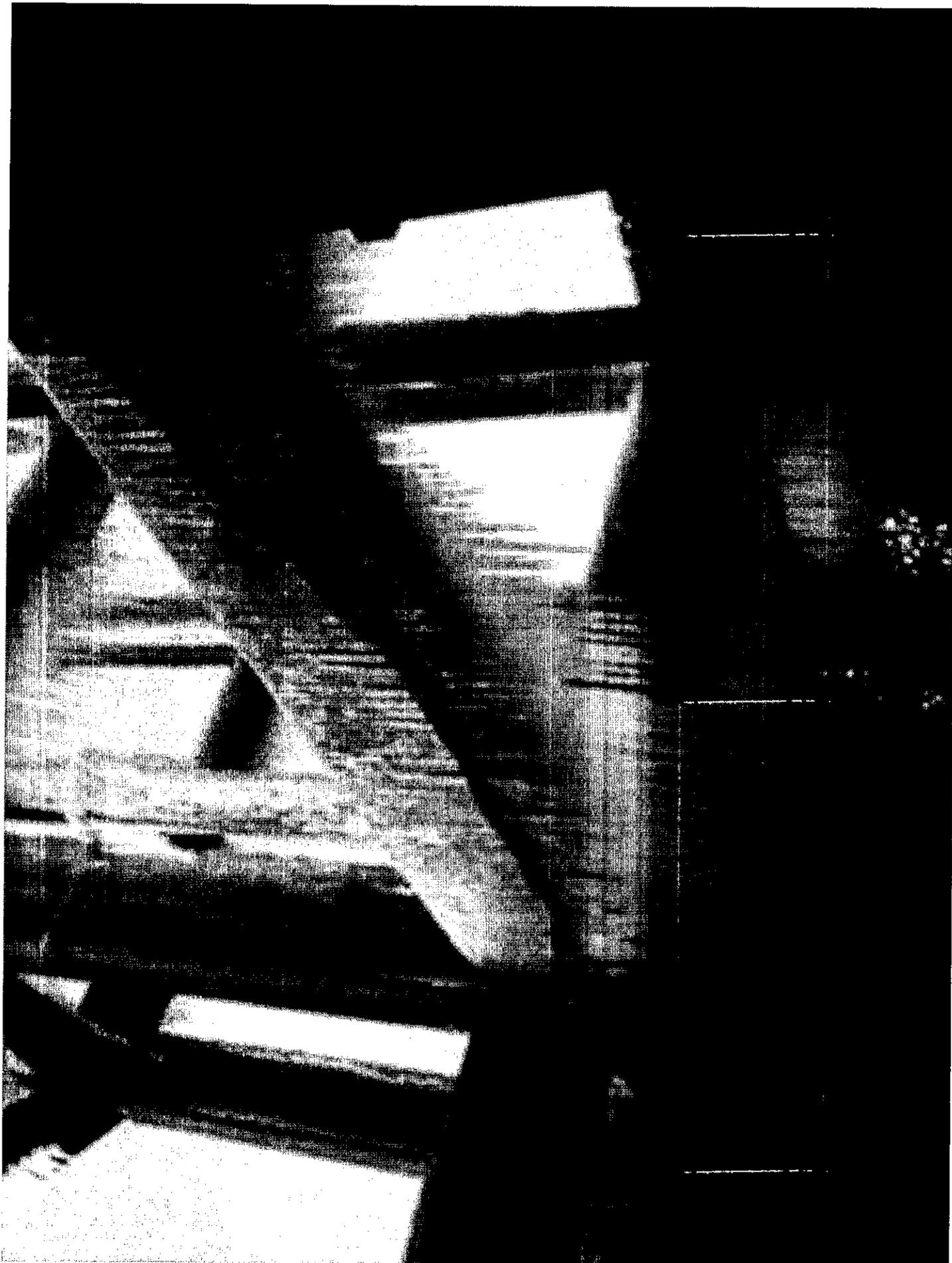
Enter=Process F1=Help F2=CONTR F3=BICOPY F4=BI F5=BIT F6=IID  
F7=Prev F8=Next F9=BIADR F10=BTREV F11=Print F12=Return

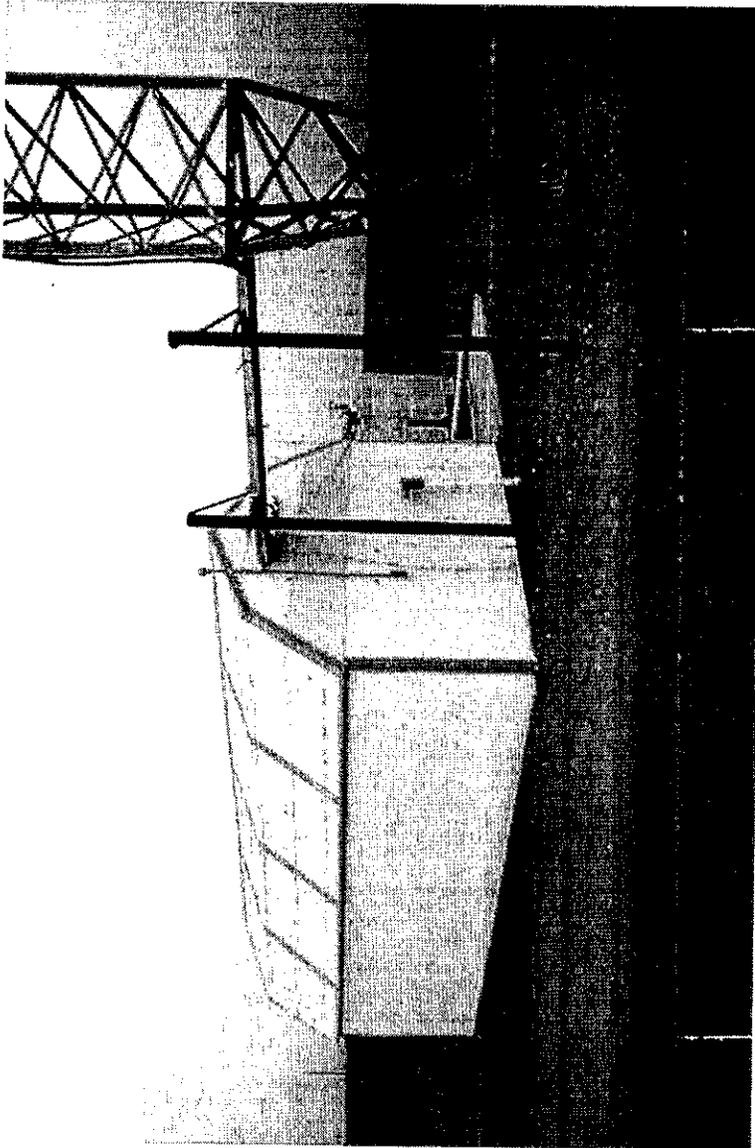
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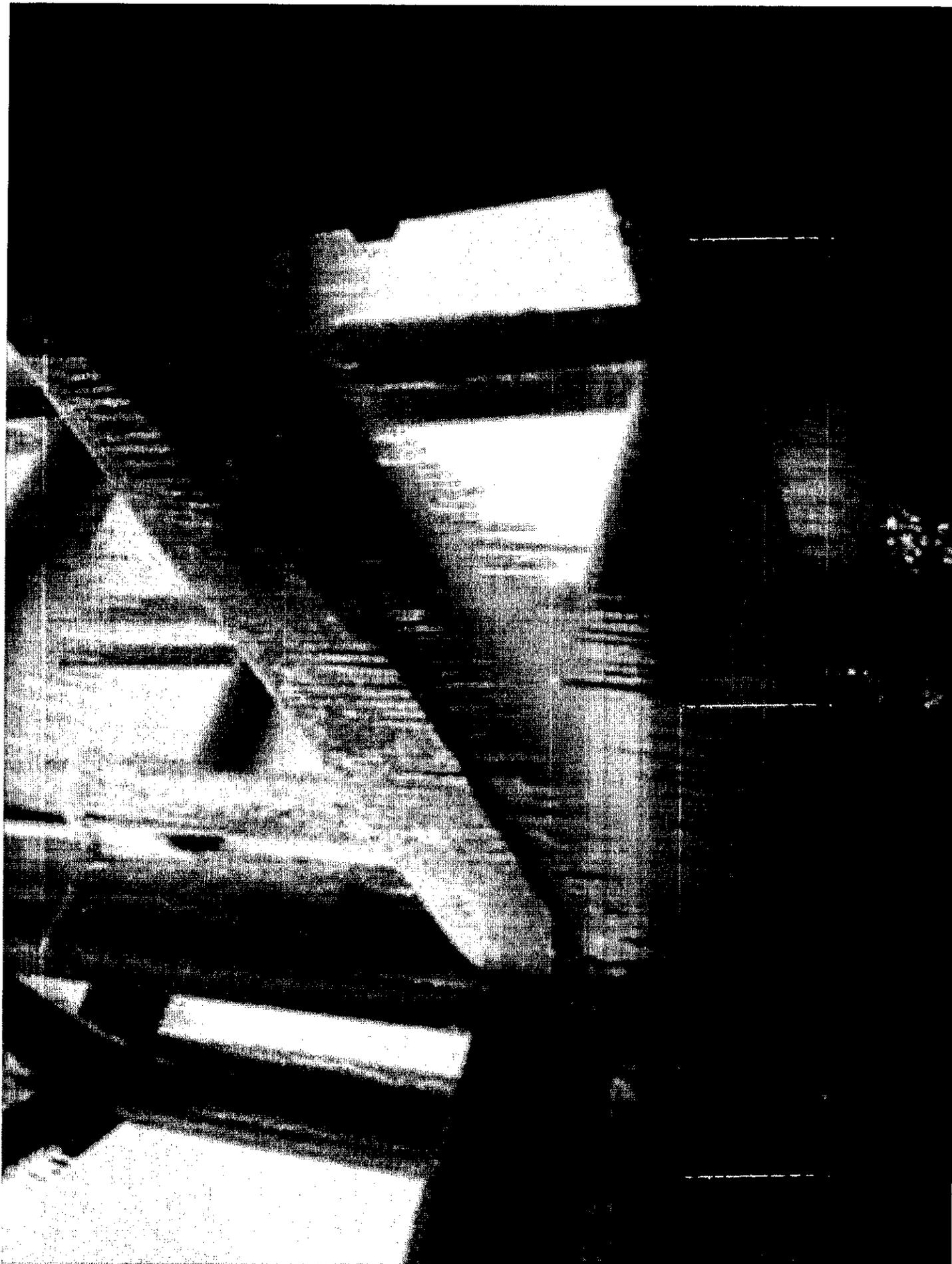














AFFIDAVIT

BDA Case # 134-060

I, NCWPCS MPL 28 YR SITE TWR HOLDINGS LLC, Owner of the subject property  
at: 200 Rock Island

Authorize (applicant) Robert Baldwin with Baldwin Associates

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

Variance (please specify)

Special Exception (please specify) Expand a nonconforming use

Other {please specify}

Matthew D. Seal  
Director of Real Estate

4/24/14

Print name of property owner

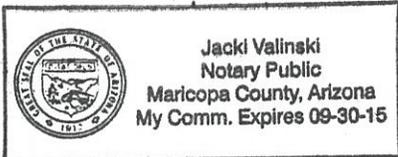
Signature of property owner

Date

Before me the undersigned on the day of personally appeared Matthew D. Seal

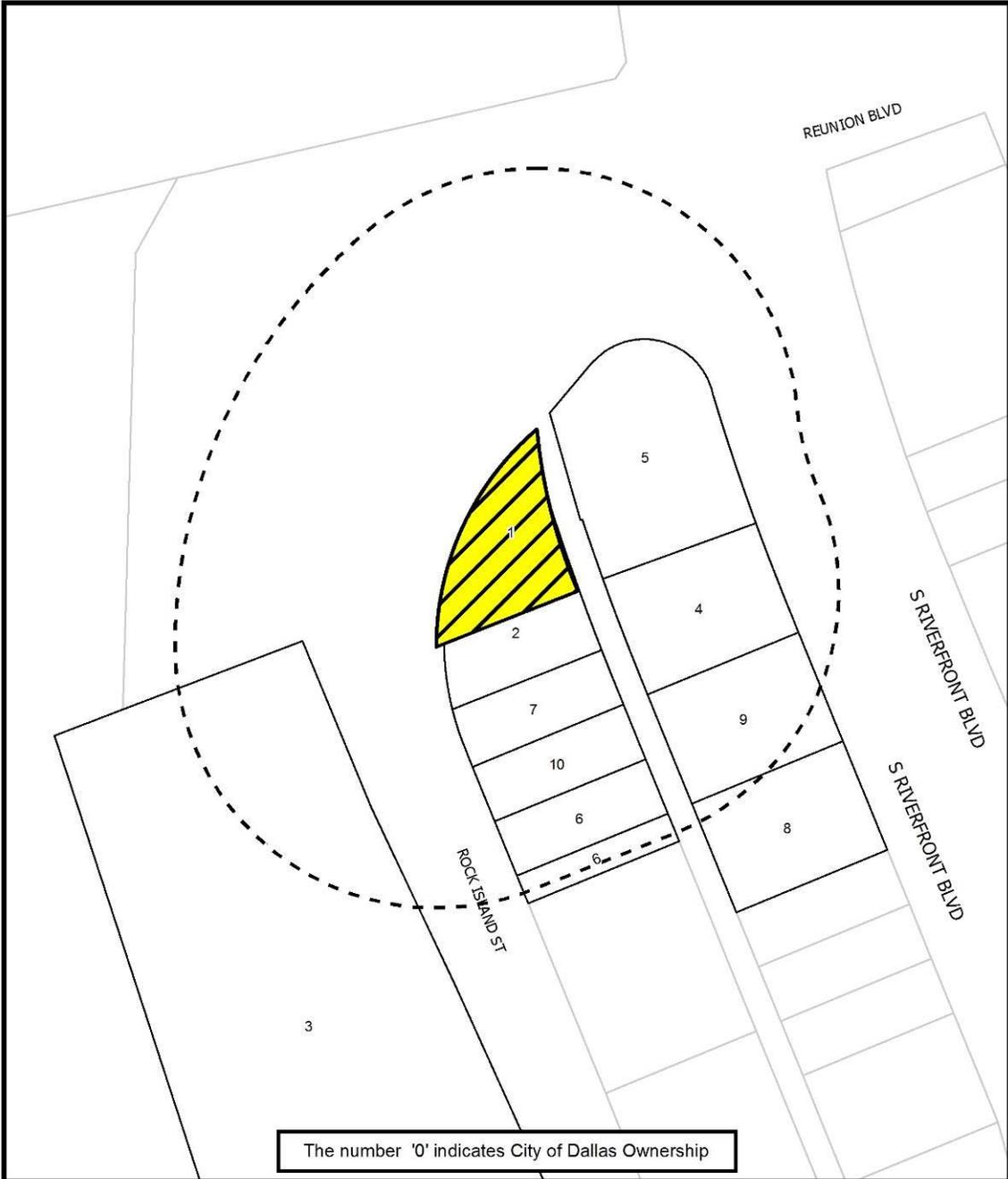
Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 24<sup>th</sup> day of April, 2014



Notary Public on and for  
Maricopa Arizona  
~~Dallas County, Texas~~

Commission expires on 9/30/15



The number '0' indicates City of Dallas Ownership

 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;"><b>200'</b></td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;"><b>10</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	<b>200'</b>	AREA OF NOTIFICATION	<b>10</b>	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <b>BDA134-060</b> Date: <b>11/19/2014</b>
<b>200'</b>	AREA OF NOTIFICATION					
<b>10</b>	NUMBER OF PROPERTY OWNERS NOTIFIED					

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

### ***BDA134-060***

#### ***10 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	200 ROCK ISLAND ST	NCWPCS MPL 28 YR SITE TWR HOLDINGS LLC
2	304 ROCK ISLAND ST	THOMPSON RUSSELL W
3	417 ROCK ISLAND ST	CITY & COUNTY LEVEE
4	317 RIVERFRONT BLVD	JIFFY PROPERTIES LP
5	311 RIVERFRONT BLVD	JIFFY PPTIES LP
6	314 ROCK ISLAND ST	HARGETT ELECTRIC COMPANY LP
7	306 ROCK ISLAND ST	WILLIAM , LYN , CASH & ELLA LLC
8	331 RIVERFRONT BLVD	CHPD LP
9	323 RIVERFRONT BLVD	LAMS FAMILY LTD
10	310 ROCK ISLAND ST	WILLIAM , LYN , CASH & ELLA LLC