

ZONING BOARD OF ADJUSTMENT, PANEL B  
WEDNESDAY, SEPTEMBER 17, 2014  
AGENDA

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BRIEFING	L1FN CONFERENCE CENTER AUDITORIUM 1500 MARILLA STREET	11:30 A.M.
PUBLIC HEARING	L1FN CONFERENCE CENTER AUDITORIUM 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 August 20, 2014 Board of Adjustment Panel B Public Hearing Minutes	M1
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**UNCONTESTED CASES**

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<b>BDA 134-080</b>	702 N. Buckner Boulevard <b>REQUEST:</b> Application of Scottie Breault, represented by Michael R. Coker, for a special exception to the off-street parking regulations	1
<b>BDA 134-090</b>	2610 Forest Lane <b>REQUEST:</b> Application of Jim Hardin for a special exception to the landscape regulations	2

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**REGULAR CASE**

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<b>BDA 134-085D</b>	5035 Royal Lane <b>REQUEST:</b> Mashari Nassar, represented by Enoch Correa, for special exceptions to the fence height and visual obstruction regulations	3
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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]

**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel B August 20, 2014 public hearing minutes.

**FILE NUMBER:** BDA 134-080

**BUILDING OFFICIAL'S REPORT:** Application of Scottie Breault, represented by Michael R. Coker, for a special exception to the off-street parking regulations at 702 N. Buckner Boulevard. This property is more fully described as Lot 1, Block 5391, and is zoned CR, which requires parking to be provided. The applicant proposes to construct and maintain a structure for restaurant without drive-in or drive-through service, general merchandise or food store 3500 square feet or less, personal service, and office uses, and provide 367 of the required 471 parking spaces, which will require a 104 space special exception to the off-street parking regulations.

**LOCATION:** 702 N. Buckner Boulevard

**APPLICANT:** Scottie Breault  
Represented by Michael R. Coker

**REQUEST:**

A request for a special exception to the off-street parking regulations of 104 spaces is made in to lease and maintain square footage/space within an existing community retail center (Lake Highlands Village) with approximately 65,000 square feet of leasable area with a certain mix of uses (restaurant without drive-in or drive through service, general merchandise or food store 3,500 square feet or less, personal service, and office), and provide 367 (or 78 percent) of the 471 required off-street parking spaces.

**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:**

Approval, subject to the following condition:

- The special exception of 104 spaces shall automatically and immediately terminate if and when the mix of restaurant without drive-in or drive through service, general merchandise or food store 3,500 square feet or less, personal service, and office

uses that would normally need no more than 471 required parking spaces is changed or discontinued.

**Rationale:**

- The Sustainable Development and Construction Department Project Engineer has indicated that he has no objections to the applicant's request.
- The applicant's representative has substantiated how the parking demand generated by the mix of restaurant without drive-in or drive through service, general merchandise or food store 3,500 square feet or less, personal service, and office uses 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 applicant's representative has conducted parking counts where the highest count was 145 parked spaces in the approximately 65,000 square foot center that is currently approximately 27,000 square feet unleased.

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

The subject site is developed with an existing community retail center (Lake Highlands Village) with approximately 65,000 square feet of leasable area. The areas to the north, south, east, and west are developed with single family uses.

**Zoning/BDA History:**

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

**GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on leasing and maintaining square footage/space within an existing community retail center (Lake Highlands Village) with approximately 65,000 square feet of leasable area with a certain mix of uses (restaurant without drive-in or drive-through service, general merchandise or food store 3500 square feet or less, personal service, and office), and provide 367 (or 78 percent) of the 471 required off-street parking spaces.
- The Dallas Development Code requires the following off-street parking requirement:
  - Office use: 1 space per 333 square feet of floor area.

- Restaurant without drive-in service use: as a main use: 1 space per 100 square feet of floor area; as a limited or accessory use: 1 space per 200 square feet of floor area
- General merchandise or food store 3,500 square feet or less: 1 space for 200 square feet of floor area.
- Personal service use: 1 space per 200 square feet of floor area.
- The applicant proposes to provide 367 (or 78 percent) of the required 471 off-street parking spaces in conjunction with the site being leased/maintained with a combination of the uses mentioned above, more specifically, according to the applicant's representative, leasing current vacant space and increasing available restaurant square footage by 10,000 square feet.
- The applicant's representative has conducted parking counts where the highest count was 145 in the approximately 65,000 square foot center that is currently approximately 27,000 square feet unleased.
- The Sustainable Development Department Project Engineer has indicated that he has no objections to the applicant's request.
- The applicant has the burden of proof in establishing the following:
  - The parking demand generated by the existing/proposed restaurant without drive-in or drive through service, general merchandise or food store 3,500 square feet or less, personal service, and office uses on the site does not warrant the number of off-street parking spaces required, and
  - The special exception of 104 spaces (or a 22 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 104 spaces shall automatically and immediately terminate if and when the restaurant without drive-in or drive through service, general merchandise or food store 3,500 square feet or less, personal service, and office uses are changed or discontinued, the applicant would be allowed to lease/maintain the site with these specific uses with the specified square footages, and provide 367 of the 471 code required off-street parking spaces.

**Timeline:**

- June 27, 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.
- August 14, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- August 15, 2014: 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 August 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis;

and the September 5<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;

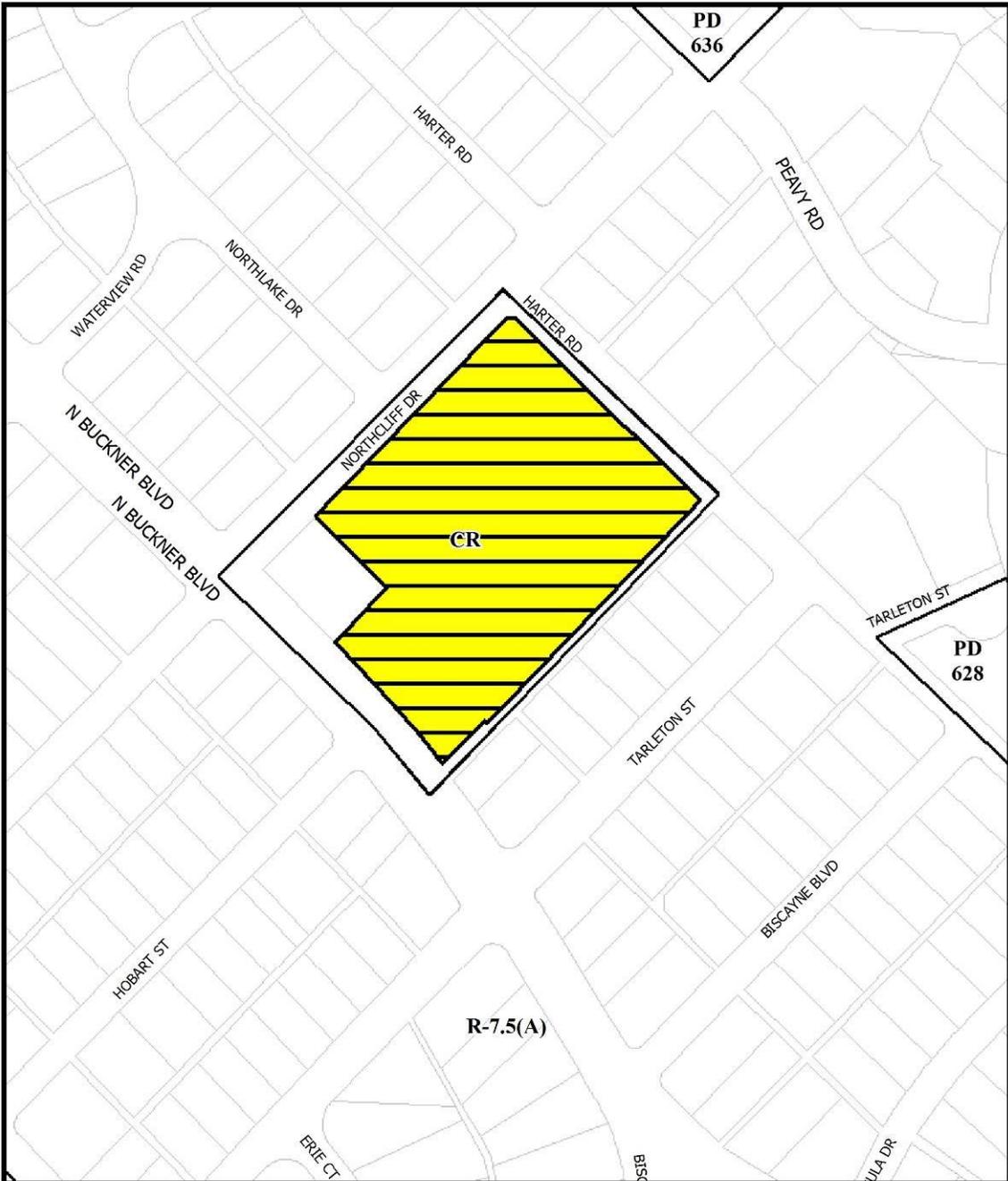
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

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

September 3, 2014: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

September 3, 2014: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded a revised Building Official's report to the Board Administrator on this application (see Attachment B).

September 3, 2014: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."



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# ZONING MAP

Case no: BDA134-080

Date: 8/20/2014



1:2,400

## AERIAL MAP

Case no: BDA134-080

Date: 8/20/2014

**Long, Steve**

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**From:** Michael Coker <mrcoker@cokercompany.com>  
**Sent:** Wednesday, September 03, 2014 2:51 PM  
**To:** Hatefi, Alireza  
**Cc:** Long, Steve; Duerksen, Todd  
**Subject:** Parking counts for BDA 134-080; 702 N. Buckner  
**Attachments:** Buckner Parking Counts..pdf

PS1

Mr. Hatefi, attached are the parking counts performed on the dates shown on an hourly basis from 8 am to 10 pm each date. The highest parking count that we got was 145 on Saturday, April 12, 2014. The biggest parking generator is Gold's Gym which occupies 28,000 square feet of the shopping center. On Saturday and Sunday the Gym closes at 7PM so, parking counts drop off pretty dramatically. We have approximately 27,000 square feet of the center currently unoccupied. The unoccupied spaces can be any of the uses allowed in the zoning district, but we are looking to increase the available restaurant square footage by 10,000 square feet.

We have a Dallas Area Rapid Transit stop right in front of the center on both northbound and southbound Buckner Boulevard.

Let me know if there is anything else that you may need regarding this request.

Michael R. Coker, AICP/CBO  
Michael R. Coker Company, Inc.  
3111 Canton Street  
Suite 140  
Dallas, Texas 75226  
214.821.6105 x 16 [p]  
214.821.6125 [f]  
[mrcoker@cokercompany.com](mailto:mrcoker@cokercompany.com)  
[www.cokercompany.com](http://www.cokercompany.com)

BDA 134-080  
Attach A  
Pg 2

Parking Counts for 702 N Buckner

Provided parking spaces = 367

hours 3.21.14- Friday 4.8.14-Tuesday 4.12.14-Saturday 4.20.14-Sunday 4.24.14-Thursday

8:00 AM	115	66	121	88	114
9:00 AM	117	75	155	92	107
10:00 AM	95	90	135	52	85
11:00 AM	65	45	99	28	33
12:00 PM	100	78	125	77	80
1:00 PM	104	97	121	92	102
2:00 PM	99	95	113	80	110
3:00 PM	93	76	86	84	93
4:00 PM	60	77	111	109	66
5:00 PM	105	102	131	118	100
6:00 PM	111	110	145	122	111
7:00 PM	125	123	100	113	120
8:00 PM	88	99	56	42	122
9:00 PM	87	54	44	28	89
10:00 PM	56	22	16	24	77

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 SCOTTIE BREault represented by Michael R Coker did submit a request for a special exception to the parking regulations at 702 N. Buckner Blvd.

BDA134-080. Application of Scottie Breault represented by Michael R. Coker for a special exception to the parking regulations at 702 N. Buckner Blvd. This property is more fully described as Lot 1, Block 5391, and is zoned CR, which requires parking to be provided. The applicant proposes to construct and maintain a nonresidential structure for restaurant without drive-in or drive-through service uses, general merchandise or food store 3500 square feet or less uses, personal service uses, and office uses, and provide 367 of the required 471 parking spaces, which will require a 104 space special exception (a 22% reduction) to the parking regulation.

Sincerely,

Larry V. Holmes, Building Official



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-080

Date: 06-27-14

Data Relative to Subject Property:

Location address: 702 N. Buckner Blvd. Zoning District: CR

Lot No.: 1 Block No.: 5391 Acreage: 4.905 acs. Census Tract: 0129.00

Street Frontage (in Feet): 1) Buckner: 247.88 2) Harter: 397.11 3) Northcliff: 420.16 4) 5) 306

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Freedom LHV LLC

Applicant: Scottie Breault Telephone: 972-620-3131

Mailing Address: 1505 LBJ Freeway, Suite 180 Zip Code: 75234

E-mail Address: sbreault@nexbankrealtysadvisors.com

Represented by: Michael R. Coker Telephone: 214-821-6105

Mailing Address: 3111 Canton Street, Ste. 140 Zip Code: 75226

E-mail Address: mrcoker@cokercompany.com

Affirm that an appeal has been made for a Variance, or Special Exception X, of 104 spaces, a request of a 22% reduction of the required parking of 471 spaces.

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: A parking demand study performed concluded that the uses do not warrant the required parking generated by the Dallas Development Code. A total of 471 spaces are required and 367 spaces are provided. The reduction of 104 spaces constitutes a 22% reduction in the required parking.

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 Scottie Breault (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 23 day of June, 2014

(Rev. 08-01-11)



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

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

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

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

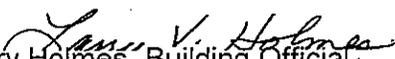
Chairman

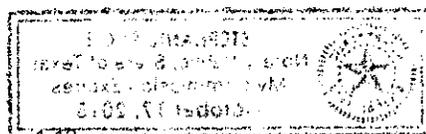
**Building Official's Report**

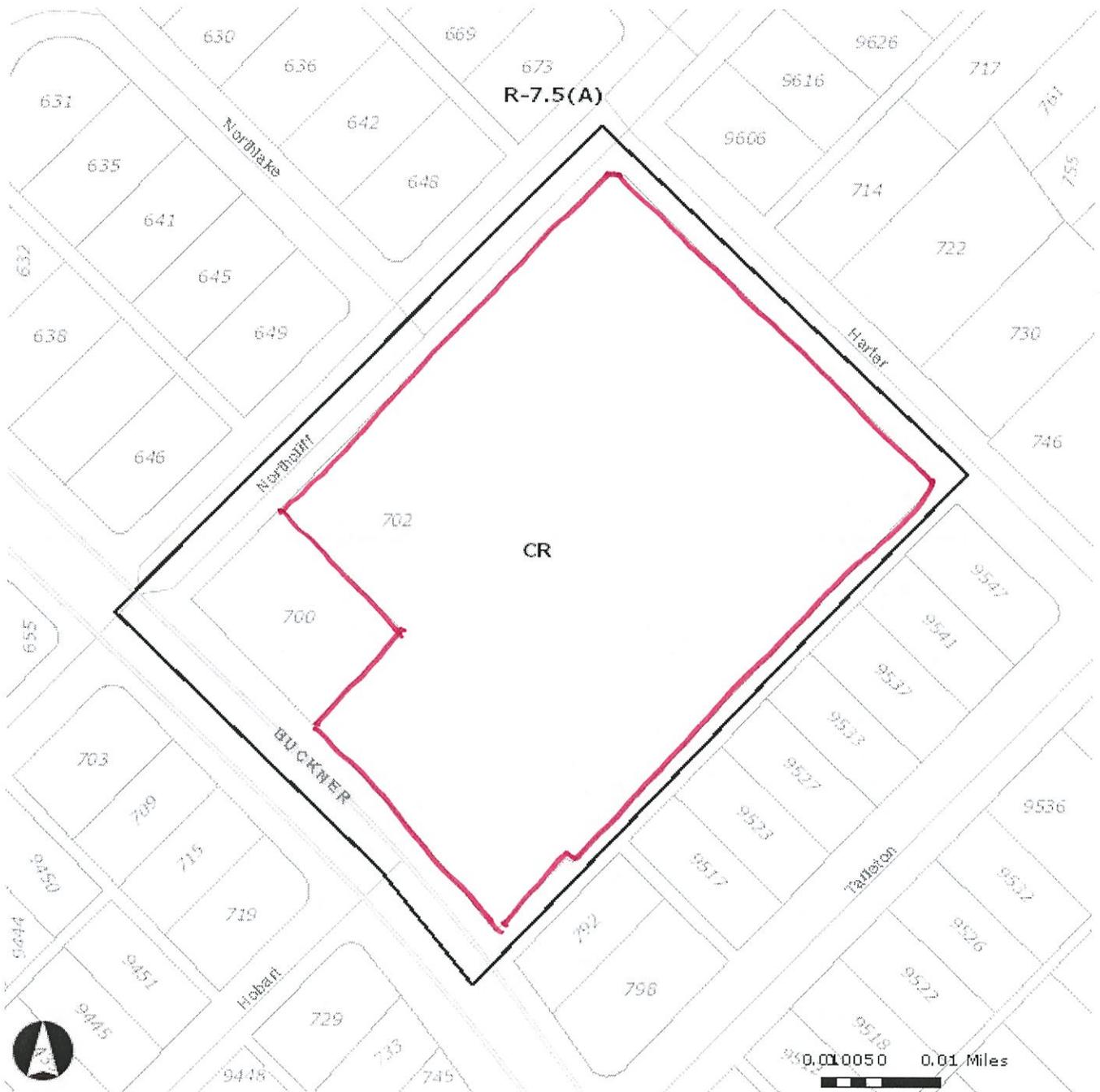
I hereby certify that SCOTTIE BREault  
represented by Michael R Coker  
did submit a request for a special exception to the parking regulations  
at 702 N. Buckner Blvd.

BDA134-080. Application of Scottie Breault represented by Michael R. Coker for a special exception to the parking regulations at 702 N. Buckner Blvd. This property is more fully described as Lot 1, Block 5391, and is zoned CR, which requires parking to be provided. The applicant proposes to construct and maintain a nonresidential structure for restaurant without drive-in or drive-through service uses, general merchandise or food store 3500 square feet or less uses, and office uses, and provide 367 of the required 471 parking spaces, which will require a 104 space special exception (a 22% reduction) to the parking regulation.

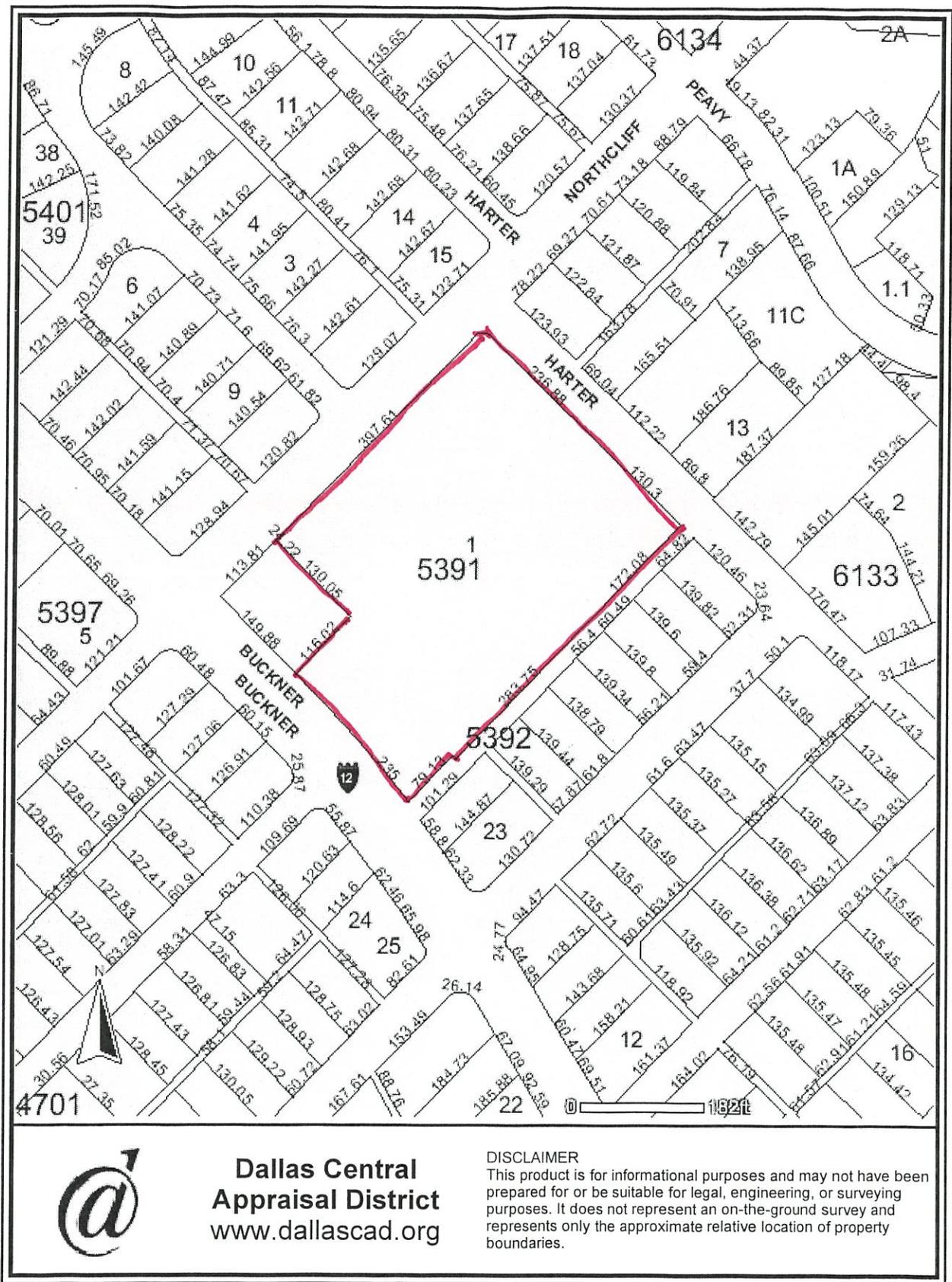
Sincerely,

  
Larry Holmes, Building Official





C



## **Lake Highlands Village Parking Analysis**

Total Building Square Footage = 65,061 (includes all buildings on site)

Total Office Square Footage = 8,250

Office Parking = 1 space per 333 s.f.

Total Office Parking Required = 25 spaces

Total Retail/Personal Service Square Footage = 56,977

Retail Parking = 1 space per 200 s.f.

Total Retail Parking Required = 285 spaces

Total Restaurant Square Footage = 16,100

Restaurant Parking = 1 space per 100 s.f.

Total Restaurant Parking Required = 161 spaces

**Total Required Parking = 471 spaces**

**Total Provided Parking = 367 spaces**

**Total Special Exception Request = 104 spaces (22% reduction)**

STATE OF TEXAS  
COUNTY OF DALLAS

Being all or part of the Record of the Report of the Law Enforcement Village an  
incorporated in Dallas, Dallas County, Texas and being more particularly  
described as follows:

Beginning at 172' on the north side of the road which is 1/2 mile east of the  
intersection of the southeast R.O.W. of Northcliff Drive (80' R.O.W.) with the southwest  
R.O.W. of Harter Road (55' R.O.W.),

Thence South 44°59'40" East along the southwest R.O.W. of Harter Road a distance of  
425.20 feet to a 5/8" iron rod found for corner, said point being on the northwest line of  
a 25 foot alley.

Thence South 45°29'00" West along the northwest line of said 25 foot alley a distance  
of 47.19 feet to a 1/2" iron rod found for corner.

Thence North 44°31'00" West a distance of 5.00 feet to a 1/2" iron rod found for  
corner.

Thence South 45°29'00" West continuing along the northwest line of a now 30 foot  
alley a distance of 64.46 feet to an "X" found in concrete for corner, said point being in  
the northwest R.O.W. of Northcliff Boulevard (100' R.O.W.).

Thence northwesterly along the northwest R.O.W. of Northcliff Boulevard in a  
curve to the left with radius of 2,172.30 feet, central angle of 89°52'27" an arc distance  
of 1,000.00 feet to a 1/2" iron rod found for corner, said point being on the northwest line of  
said 30 foot alley covered in asphalt (Oil Corporation by deed recorded in Volume 72037,  
Page 6827, Deed Records, Dallas County, Texas).

Thence North 45°21'52" East along the southeast line of said 30 foot alley a distance of  
118.30 feet to an "X" found in concrete for corner, said point being the east corner of  
said 30 foot alley.

Thence North 44°14'25" West along the north-south line of said 30 foot alley a distance of  
427.20 feet to a 1/2" iron rod found for corner, said point being the west corner of  
said 30 foot alley.

Thence South 89°27'50" East along said corner clip a distance of 14.19 feet to the  
Point of Beginning, and containing 1.0, 875 square feet or 4.93 acres of land.

SURVEYOR'S CERTIFICATION:

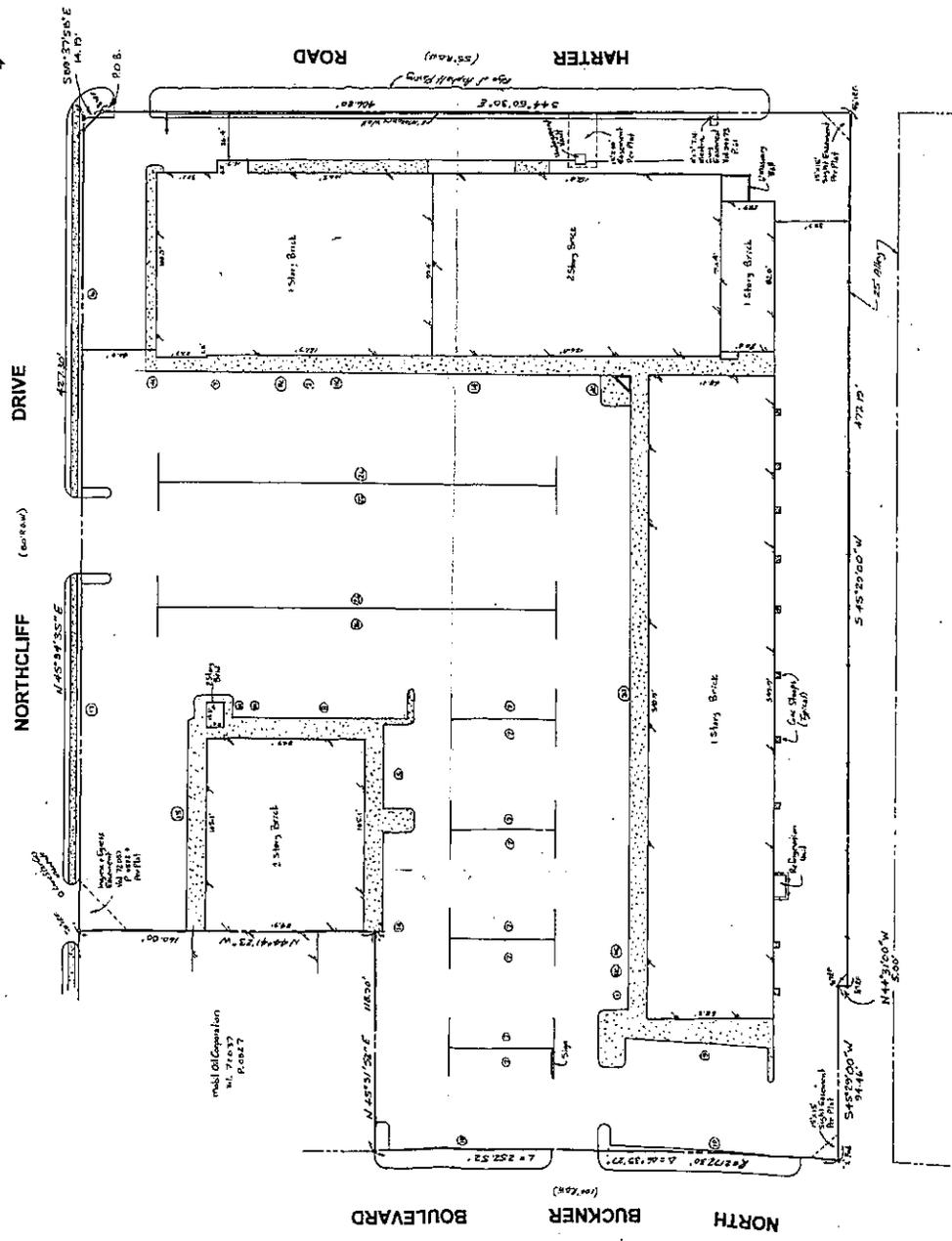
TO: Lake Highlands Center, Ltd., Sherrill Bank, its successors or assigns and  
Land America Communities

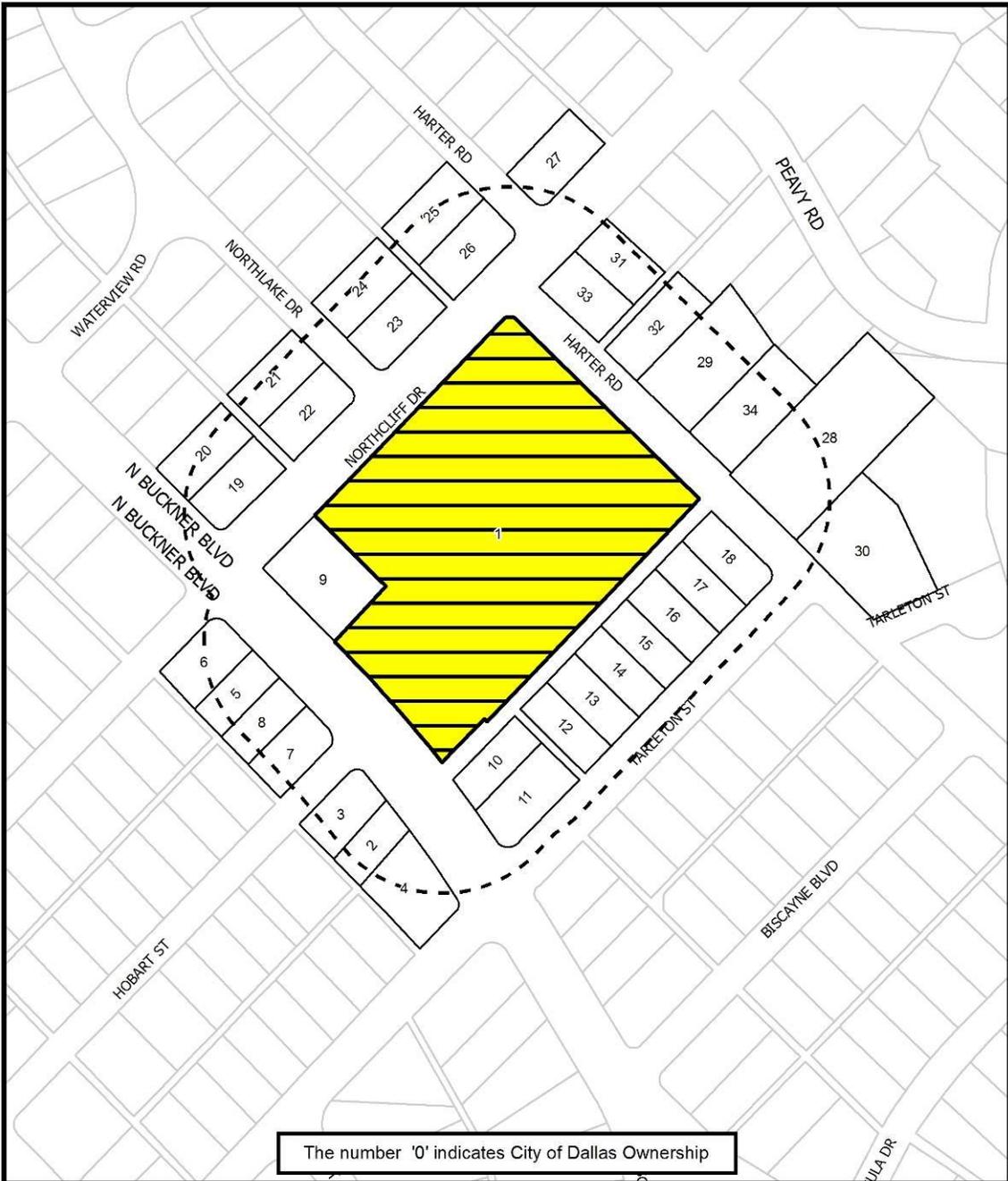
The undersigned does hereby certify that a survey was this day made on the property  
the property legally described herein prepared by the undersigned and in conformity  
there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts,  
or other irregularities of any kind. The said property has been surveyed in accordance  
with the laws of the State of Texas. The said survey was made in accordance with the  
public roadway and that the plat herein is a true, correct and accurate representation  
of the same. The undersigned does hereby certify that the survey was made in accordance  
with the laws of the State of Texas and that the undersigned does hereby certify  
shown on this plat of survey and described herein and certifies that the quality of land  
shown here is correct. This Survey meets the requirements for a Category 1 A,  
Cadastral Survey as defined in the Surveyors and Professional Surveyors Act  
of Practice for Land Surveying in Texas.



David G. Cook  
Professional Land Surveyor  
Number 257  
June 23, 2006

<b>PLAT OF SURVEY</b>	
<b>LAKE HIGHLANDS CENTER</b>	
Scale: 1" = 30'	Block: 6227A3
Surveyor: DAVID G. COOK	Commission Expires: 12/31/2006
Number: 257	Date: June 23, 2006





 1:2,400	<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>34</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	<b>200'</b>	AREA OF NOTIFICATION	<b>34</b>	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <b>BDA134-080</b> Date: <b>8/20/2014</b>
<b>200'</b>	AREA OF NOTIFICATION					
<b>34</b>	NUMBER OF PROPERTY OWNERS NOTIFIED					

# *Notification List of Property Owners*

**BDA134-080**

## *34 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	702 BUCKNER BLVD	FREEDOM LHV LLC
2	733 BUCKNER BLVD	AMERICAN RELIGIOUS TOWN
3	729 BUCKNER BLVD	AMERICAN RELIGIOUS TOWN
4	745 BUCKNER BLVD	AMERICAN RELIGIOUS TOWN
5	709 BUCKNER BLVD	MONTERROSA BRENDA ELIZABETH &
6	703 BUCKNER BLVD	LOCK KENNETH A
7	719 BUCKNER BLVD	HARKNESS DAVID V JR
8	715 BUCKNER BLVD	GARZA RICARDO
9	700 BUCKNER BLVD	WHITE ROCK LAKE PROPERTY
10	792 BUCKNER BLVD	KORKAMES JANICE M
11	798 BUCKNER BLVD	CLEM MICHAEL F
12	9517 TARLETON ST	ARMANOV'S GEORGE J & SUSAN L
13	9523 TARLETON ST	MCINTOSH MICHAEL JOSEPH
14	9527 TARLETON ST	KELLY KATHERINE JILL
15	9533 TARLETON ST	CAIRD EMILY B
16	9537 TARLETON ST	MCNALLY CATHERINE
17	9541 TARLETON ST	ISACCO SHANE P &
18	9547 TARLETON ST	Taxpayer at
19	646 BUCKNER BLVD	KF NORTH BUCKNER LLC
20	642 BUCKNER BLVD	ISOM RODDY D
21	645 NORTHLAKE DR	GRIGGS JOYCE J
22	649 NORTHLAKE DR	GAMMON DEBORAH NAN
23	648 NORTHLAKE DR	WERTZ JON D
24	642 NORTHLAKE DR	JENKINS LISA L
25	669 HARTE RD	TZHONE STEPHEN L
26	673 HARTE RD	LONGORIO PHILIP & KATHEY

08/20/2014

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	674 HARTER RD	KUTYLA MAX & EVA
28	746 HARTER RD	HARTNETT KATHERINE M
29	722 HARTER RD	HARTGROVE CAROLYN J
30	800 HARTER RD	TIGUE MOLLY
31	9616 NORTHCLIFF DR	STEEGER CORRINE L
32	714 HARTER RD	RIBA GEORGE J &
33	9606 NORTHCLIFF DR	ROLLE LARRY
34	730 HARTER RD	SCIPLE GLORIA LANE

**FILE NUMBER:** BDA 134-090

**BUILDING OFFICIAL'S REPORT:** Application of Jim Hardin for a special exception to the landscape regulations at 2610 Forest Lane. This property is more fully described as Lot 1A, Block 1/6593, and is zoned IR, which requires mandatory landscaping. The applicant proposes to construct and maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 2610 Forest Lane

**APPLICANT:** Jim Hardin

**REQUEST:**

A request for a special exception to the landscape regulations is made to complete and maintain a vehicle display, sales, or service structure/use (Toyota of Dallas), 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 condition:

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

Rationale:

- The City’s Chief Arborist recommends approval of the applicant’s request in that strict compliance with the landscape regulations, specifically, in this case, the street tree requirements along the I-635 frontage of the subject site, will unreasonably burden the use of the property.
- The special exception will not adversely affect neighboring property in that the applicant’s plan provides for the required number of street trees along the I-635 frontage of the subject site, just not all in the required location within 30 feet of this street curb.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: IR (SUP 97) (Industrial/research, Specific Use Permit for airport)  
North: MU-2 (Mixed use)  
South: IR (SUP 97) (Industrial/research, Specific Use Permit for airport)  
East: IR (SUP 97) (Industrial/research, Specific Use Permit for airport)  
West: IR (SUP 97) (Industrial/research, Specific Use Permit for airport)

**Land Use:**

The site is currently under development. The area to the north is developed with the LBJ Freeway; and the areas to the east, south, and west are developed with a mix of commercial/retail/office uses.

**Zoning/BDA History:**

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

**GENERAL FACTS/STAFF ANALYSIS:**

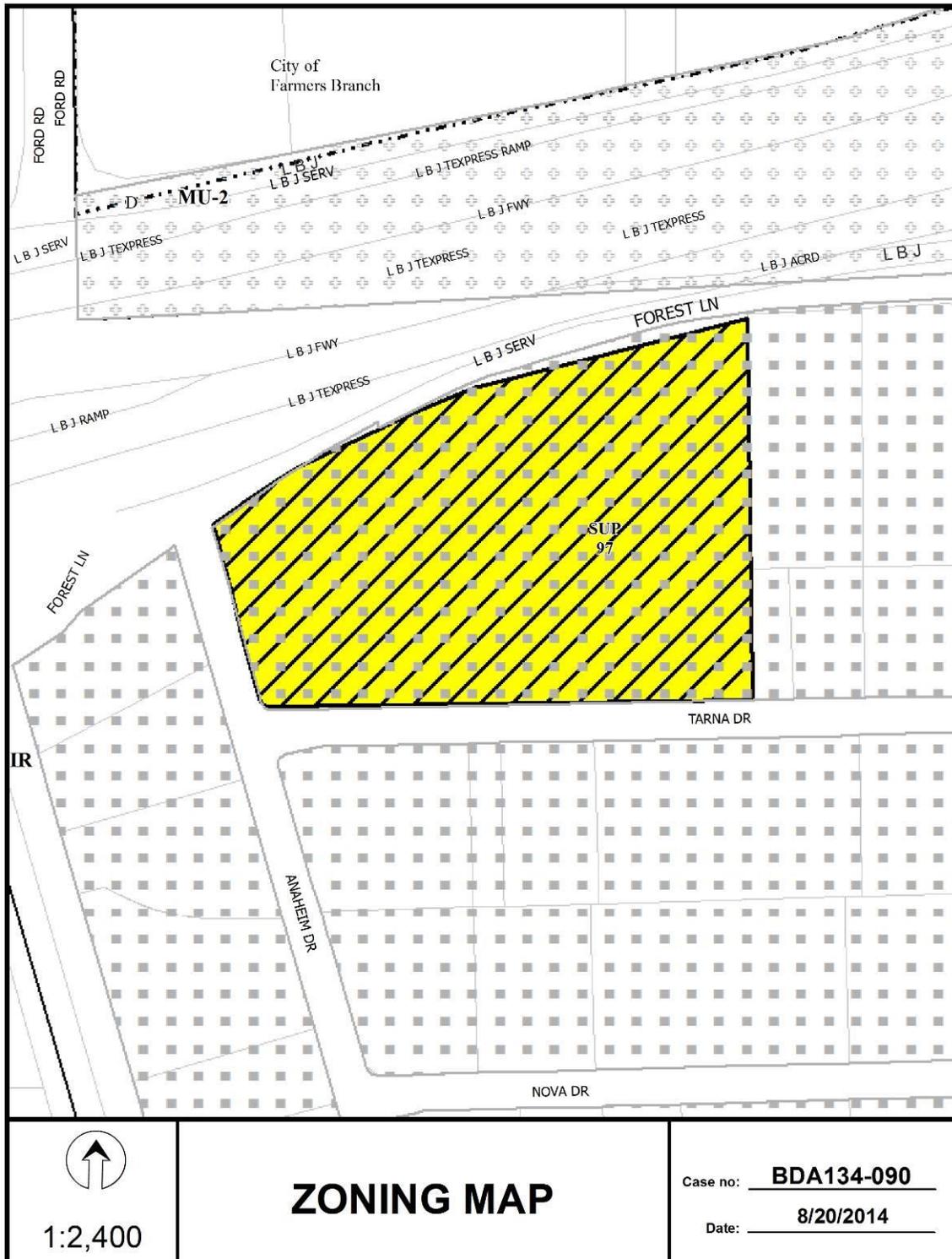
- This request focuses on constructing and maintaining a vehicle display, sales, or service structure/use (Toyota of Dallas), and not fully meeting the landscape regulations. More specifically, according to the City of Dallas Chief Arborist, the site is deficient in providing the required number of street trees within 30 feet of the street curb. The Chief Arborist states that the plan provides for 18 large trees for the Interstate 635 street frontage but where 13 are provided at a distance greater than 30’ from the street curb.

- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment B). The memo states how this request is triggered by the new construction of a vehicle sales facility.
- The Chief Arborist's memo lists the following factors for consideration:
  1. The new facility is being built along I-635 frontage and adjacent to bridge structures. The trees are set back from the bridge columns. Street trees on all other frontages are in compliance with the Landscape Regulations.
  2. The plan provides for the minimum required number of street trees.
  3. Under the parking lot tree provisions, the plan provides for a large canopy trees within 120 feet of each required parking space per ordinance. A 2012 ordinance addition for parking lot trees now states "*no parking space in excess of required parking* may be located more than 100 feet from the trunk of a large canopy trees, and the tree must be located in a landscape area of a minimum of 120 square feet." The landscape plan shows extensive areas for vehicle parking without tree canopy coverage.
  4. Under City of Dallas zoning regulations, it is reasoned a vehicle display, sales, and service use provides vehicle display and sales areas on the property. Although the area may have the appearance of a parking lot with striping and maneuvering space on an expansive paved surface, and it is used to store motor vehicles, this designated lot area is not considered to be a parking lot by the use. Areas identified as parking spaces on the plan that are not a part of the "required parking" are considered a part of the use and not as a "parking space" in excess of required parking." The expansive areas of pavement identified on the plan for vehicle display and sales are not required to provide additional tree planting locations within the lot.
  5. The previous use of the property was also for vehicle display, sales, and service.
  6. Screening of off-street parking is provided for the required parking spaces near I-635, and a 6' tall screen is provided for most of the frontage along Tarna Drive. The screening of off-street parking standard states "an applicant may provide screening for all parking lots on the building site...from all adjacent public streets." Under the same reasoning for vehicle display, sales, and service use, the vehicle display sales area is not deemed a parking lot for screening although the area has the appearance and similar function to a parking lot. Therefore the screening provided for the required parking along the I-635 frontage is deemed in compliance with the design standard provisions.
- The City of Dallas Chief Arborist recommends approval of the proposed alternate revised landscape plan because street compliance with the requirements of the street tree requirements will unreasonably burden the use of the property.

- The applicant has the burden of proof in establishing the following:
  - Strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property; and the special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted revised alternate landscape plan as a condition to the request, the site would be provided exception from fully complying with providing the required number of street trees within 30 feet of the I-635 street curb.

**Timeline:**

- July 16, 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.
- August 14, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- August 15, 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 August 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 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; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- August 28, 2014: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).
- September 2, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.
- September 8, 2014: The City of Dallas Chief Arborist submitted a memo regarding the request (see Attachment B).





 1:2,400	<h1>AERIAL MAP</h1>	Case no: <u>BDA134-090</u> Date: <u>8/20/2014</u>
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August 25, 2014

**MEMORANDUM**

Re: **TOYOTA OF DALLAS**  
**Dallas, Texas**  
To: Jim Hardin / Jacobs & Associates Architects  
From: Marlo Paris / David C. Baldwin, Inc.

The following revisions (Revision 11) have been made from the previously issued plans dated 7/15/14:

**Sheet L1.1:**

- Landscape Requirements Chart Updated to reflect removal of Bald Cypress along Tarna Drive
- Plant Count Modified for Dwarf Burford Holly along I-635 Service Road Street Frontage
- Plant Count Modified on Bald Cypress along Anaheim Drive
- CM2 changed to CM
- Bald Cypress Removed on east end of Tarna Drive Street Frontage due to proximity to existing Live Oak.

**Sheet L1.2:**

- Plant quantities updated
- Caliper requirements for Chinese Pistache modified



**Jacobs & Associates**  
 Architects, Planners, Engineers  
 2007 Main Street, Suite 100  
 Dallas, Texas 75201  
 Phone: 214-761-1000



BDA134-090  
 Attach A P32



**TOYOTA OF DALLAS**  
 2800 FOREST LANE  
 DALLAS, TEXAS 75284

DATE: 05/01/2011  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 PROJECT: [Name]  
 SHEET: [Name]

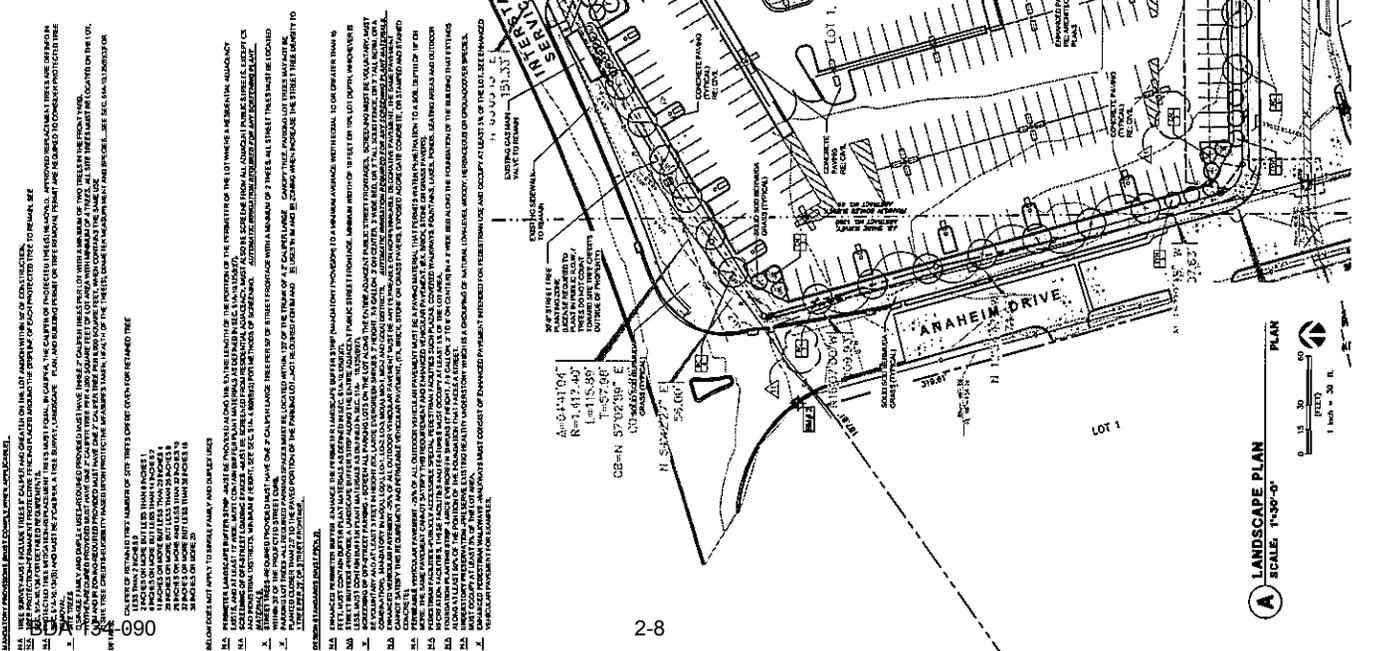
L1.1

**LEGEND**

- EXISTING TREE TO REMAIN
- PROPOSED TREE PROTECTION
- EXISTING TREE TO BE REMOVED
- PROPOSED TREE PROTECTION

**LANDSCAPE REQUIREMENTS**

LANDSCAPE REQUIREMENT	REQUIREMENT
1. TOTAL LOT AREA (SQUARE FEET)	10,000
2. TOTAL LOT AREA (SQUARE FEET) - EXCEPTED	8,000
3. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE	2,000
4. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (MINIMUM)	1,000
5. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (MAXIMUM)	3,000
6. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (TYPICAL)	2,000
7. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (TYPICAL)	2,000
8. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (TYPICAL)	2,000
9. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (TYPICAL)	2,000
10. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (TYPICAL)	2,000
11. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (TYPICAL)	2,000
12. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (TYPICAL)	2,000
13. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (TYPICAL)	2,000
14. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (TYPICAL)	2,000
15. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (TYPICAL)	2,000
16. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (TYPICAL)	2,000
17. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (TYPICAL)	2,000
18. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (TYPICAL)	2,000
19. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (TYPICAL)	2,000
20. TOTAL LOT AREA (SQUARE FEET) - AVAILABLE (TYPICAL)	2,000



**LANDSCAPE PLAN**  
 SCALE: 1"=30'-0"

1" = 30'-0"

1" = 30'-0"

1" = 30'-0"



BDA 134-090  
Attach B  
Pg 1

# Memorandum



CITY OF DALLAS

DATE September 8, 2014  
TO Steve Long, Board of Adjustment Administrator  
SUBJECT # BDA 134 · 090 2610 Forest Lane

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

### Trigger

New construction of vehicle sales facility.

### Deficiencies

The proposed landscape plan is deficient the required number of street trees within 30 feet of the street curb (51A-10.125(b)(4)). The plan provides for 18 large trees for the Interstate 635 street frontage, but 13 of the trees are provided greater than 30 feet from the curb.

### Factors

The new facility is built along I-635 frontage and adjacent to bridge structures. The trees are set back from the bridge columns. Street trees on all other frontages are in compliance with ordinance.

The plan provides for the minimum required number of site trees per ordinance. Two existing large live oaks are to remain along Tarna Drive.

Under the parking lot tree provisions, the plan provides for a large canopy tree within 120 feet of each required parking space per ordinance. A 2012 ordinance addition to section 51A-10.125(b)(5) for parking lot trees also now states 'no parking space in excess of required parking may be located more than 100 feet from the trunk of a large canopy tree, and the tree must be located in a landscape area of a minimum of 120 square feet.' The landscape plan shows extensive areas for vehicle parking without tree canopy coverage.

Under City of Dallas zoning regulations, it is reasoned a vehicle display, sales, and service use provides vehicle display and sales areas on the property. Although the area may have the appearance of a parking lot with striping and maneuvering space on an expansive paved surface, and it is used to store motor vehicles, this designated lot area is not considered a parking lot by the use. Areas identified as parking spaces on the plan, that are not a part of the 'required parking', are considered a part of vehicle storage for sales and not as a 'parking space in excess

BDA 134-090  
ATTEN B Pg 2

of required parking.' The expansive areas of pavement identified on the plan for vehicle display and sales are not required to provide additional tree planting locations within the lot.

The previous use of the property was also for vehicle display, sales, and service.

Screening of off-street parking is provided for the required parking spaces near I-635, and a 6' tall screen wall is provided for most of the frontage along Tarna Drive. The screening of off-street parking design standard (51A-10.126(c)) states 'an applicant may provide screening for all parking lots on the building site,...., from all adjacent public streets.' Under the same reasoning for vehicle display, sales, and service use, the vehicle sales area is not deemed a parking lot for screening, although the area has the appearance and similar function to a parking lot. Therefore, the screening provided for the required parking along I-635 frontage is deemed in compliance with the design standard provisions.

#### Recommendation

The chief arborist recommends approval of the proposed landscape plan because strict compliance with the requirements of the street tree requirements will unreasonably burden the use of the property.

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



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-090

Date: July 16, 2014

Data Relative to Subject Property:

Location address: 2610 Forest Lane Zoning District: I.R.

Lot No. 1A Block No.: 1/6593 Acreage: 9.601 Census Tract: 96.10

Street Frontage (in Feet): 1) 937.13' 2) ~~619.60'~~ 3) 781.99' 4) ~~2432''~~ 5) 292.12'

To the Honorable Board of Adjustment :

NW1

Owner of Property (per Warranty Deed): 2610 Forest Lane, L.P.

Applicant: Jim Hardin Telephone: 972-331-5699

Mailing Address: 3737 Mapleshade Lane, Plano, TX Zip Code: 75075

E-mail Address: jhardin@jacobsonline.com

Represented by: Jim Hardin Telephone: 972-331-5699

Mailing Address: 3737 Mapleshade Lane, Plano, TX Zip Code: 75075

E-mail Address: jhardin@jacobsonline.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:

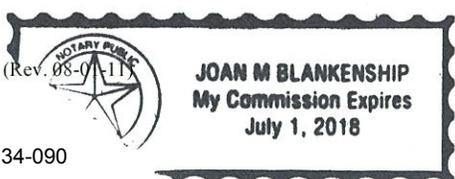
- 1.A variance is being requested for screening the parking lot due to the nature of the business. Visibility of the product is important to the client and screening them limits the visibility. The vehicles not screened are vehicles that will be in a fixed position and will not be headlights nuisances. Only customer parking spaces will be screened from public view.
- 2.A variance is being requested for parking lot trees due to the nature of the business. While trees are needed and appreciated in a typical parking lot, trees in car lots bring a series of nuisances (i.e. debris, bird droppings). Only customer spaces have been shown with the required tree coverage.
- 3.A variance is being requested for the placement of the street frontage trees along the I-635 Service Road. The front yard adjacent to the I-635 Service Road is wide and planting street trees 30' from the curb, per code, means that our trees are outside of our property line, in areas of heavy underground utilities, & conflict with a I-635 overpass. Also, Street trees planted outside of the property do not count towards the Site Tree Credit. Planting the trees n our property allow us to take credit for the trees, space out the trees in a consistent pattern, and help limit the conflicts with the overpass and underground utilities.

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

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

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

Subscribed and sworn to before me this 16<sup>th</sup> day of July, 2014



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

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

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

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

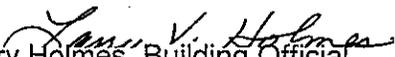
**Building Official's Report**

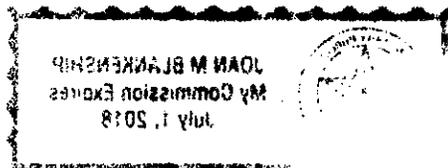
I hereby certify that JIM HARDIN

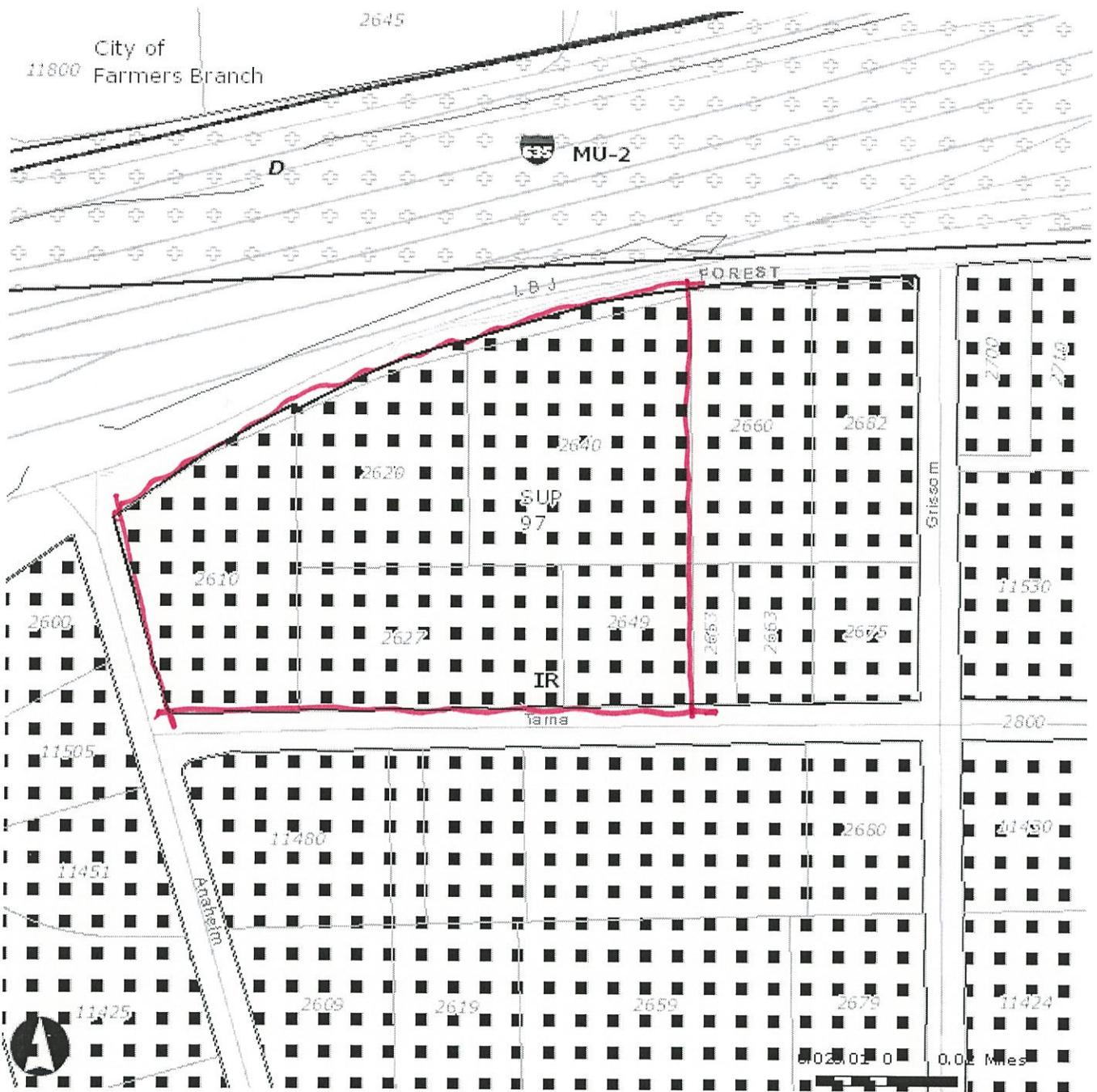
did submit a request for a special exception to the landscaping regulations  
at 2610 Forest Lane

BDA134-090. Application of Jim Hardin for a special exception to the landscaping regulations at 2610 Forest Lane. This property is more fully described as Lot 1A, Block 1/6593, and is zoned IR, which requires mandatory landscaping. The applicant proposes to construct and maintain a nonresidential structure and provide an alternate landscape plan which will require a special exception to the landscape regulations.

Sincerely,

  
Larry Holmes, Building Official

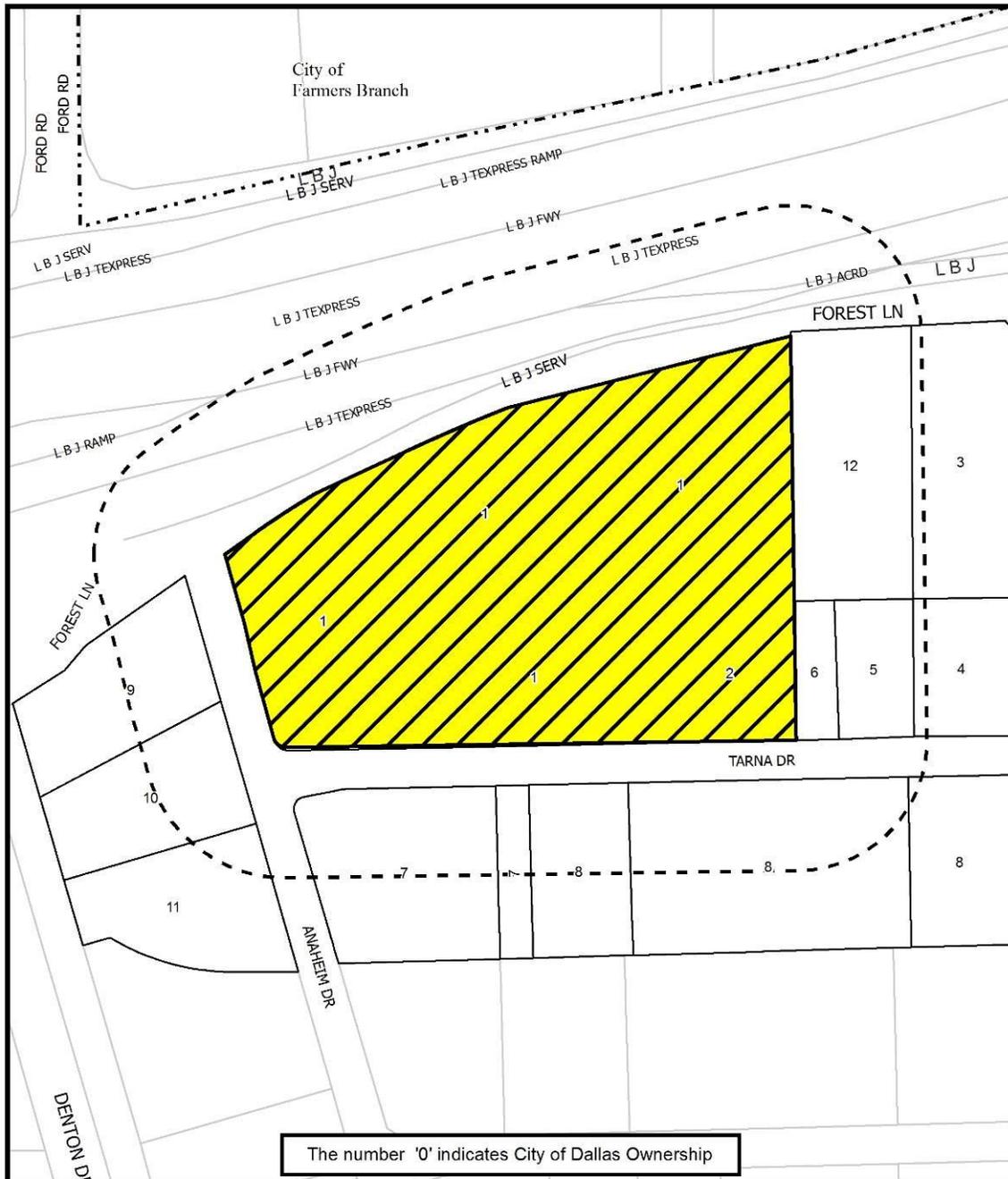




CRH







 1:2,400	<h2>NOTIFICATION</h2>	Case no: <b>BDA134-090</b>			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">12</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	12	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
12	NUMBER OF PROPERTY OWNERS NOTIFIED				

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

### ***BDA134-090***

#### ***12 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	2610 FOREST LN	2610 FOREST LANE LTD PS
2	2649 TARNA DR	2610 FOREST LN LTD PS
3	2682 FOREST LN	YOUNG PAUL ASSOC II LP
4	2675 TARNA DR	FOREST LANE PPTIES LTD
5	2663 TARNA DR	ATAIE SHON & ANITA M
6	2653 TARNA DR	KEYLAND INV
7	11480 ANAHEIM DR	2610 FOREST LN LIMITED PARTNERSHIP
8	2620 TARNA DR	EVANS LOYD E JR & BARBARA JOY
9	2600 FOREST LN	CHU YONG
10	11505 ANAHEIM DR	JSAA ENTERPRISES INC
11	11451 ANAHEIM DR	2610 FOREST LANE LTD
12	2660 FOREST LN	AUM SRIRAM LLC

**FILE NUMBER:** BDA 134-085D

**BUILDING OFFICIAL'S REPORT:** Application of Mashari Nassar, represented by Enoch Correa, for a special exception to the fence height regulations and a special exception to the visibility obstruction regulations at 5035 Royal Lane. This property is more fully described as Lot 43, Block 5502, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and maintain 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 height regulation, and to construct and maintain a single family residential fence and landscape materials in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

**LOCATION:** 5035 Royal Lane

**APPLICANT:** Mashari Nassar  
Represented by Enoch Correa

**REQUESTS:**

The following requests have been made on a site that is developed with a single family home/use:

1. A request for a special exception to the fence height regulations of 4' 6" is made to maintain a 6' 6" high open metal picket fence with 7' 6" high brick columns and two 7' 7" high open metal picket vehicular gates with 7' 6" high brick columns parallel and perpendicular to Royal Lane.
2. Requests for special exceptions to the visual obstruction regulations are made to maintain portions of the aforementioned fence and columns and landscape materials in four 20' visibility triangles, located on both sides of the two driveways into the site from Royal Lane.

**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.

**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 (FENCE HEIGHT):**

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.

**STAFF RECOMMENDATION (VISUAL OBSTRUCTION):**

Approval, subject to the following conditions:

- Subject to removing the vegetation from the visibility triangle.

Rationale:

- The Sustainable Development and Construction Department Senior Engineer has indicated that he has no objections to these requests if the staff-suggested conditions referenced above are imposed.
- The applicant has substantiated how the location of the open metal picket fence and columns in four 20' visibility triangles, located on both sides of the two driveways into the site from Royal Lane, as denoted on his submitted revised site plan, does not constitute a traffic hazard.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: R-1ac(A) (Single family district 1 acre)
- North: R-1ac(A) (Single family district 1 acre) and R-1/2ac(A) (Single family district one-half 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:**

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. BDA 134-025, Property at 10814 Crooked Creek Drive (lot abutting the subject site to the west)</li> </ol> | <p>On March 17, 2014, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of 5' and imposed the submitted site plan and partial elevation as a condition to this request. The case report stated that the request was made in conjunction with constructing and maintaining a board-on-board cedar fence ranging from 7'-9' in</p> |
|---|--|

height in one of the site's two required yards (Royal Lane) on a site developed with a single family home.

2. BDA 012-198, Property at 5000 Royal Lane (the lot immediately south of the subject site)

On June 25, 2002, the Board of Adjustment Panel A granted a request for a special exception to the front yard fence regulations of 8 feet, a special exception to the side yard fence regulations of 3 feet, and a special exception to the single family dwelling regulations for an additional kitchen/dwelling unit, and imposed the submitted site plans, revised floor plans, and building elevation as conditions to the requests. The case report states that the requests were made to construct a wall in the front and side yard setbacks of 12 feet and construct a servants' quarters on property developed with a single family home.

#### **GENERAL FACTS/STAFF ANALYSIS (FENCE HEIGHT):**

- This request focuses on maintaining a 6' 6" high open metal picket fence with 7' 6" high brick columns, parallel and perpendicular to the street, and two 7' 7" high open metal picket vehicular gates with 7' 6" high brick columns, perpendicular to the street, in the required front yard on a site developed with a single family home/use.
- 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 revised site plan and an elevation of the proposal in the required front yard that reaches a maximum height of 7' 7".
- The following additional information was gleaned from the submitted site plan:
  - The proposal is represented as being approximately 189' in length parallel to Royal Lane, and approximately 21' in length perpendicular to the street on the east and west sides of the site in the required front yard.
  - The proposal is represented as being located approximately 1' from the property line or about 10' from the pavement line.
- The Current Planner 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— fences with recorded BDA history.
- No home fronts the proposal.
- As of September 8<sup>th</sup>, 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 revised site plan and elevation would require the proposal exceeding 4' in height in the front yard setback to be maintained in the location and of the heights and materials as shown on these documents.

**GENERAL FACTS/STAFF ANALYSIS (VISUAL OBSTRUCTION):**

- This request focuses on maintaining portions of the open metal picket fence, columns, and landscape materials on both sides of the two driveways into the site from Royal Lane.
- 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).
- The applicant has submitted a revised site plan denoting the items to be maintained in the four 20' visibility triangles, located on both sides of the two driveways into the site from Royal Lane.
- The Sustainable Development and Construction Department Senior Engineer submitted a revised review comment sheet marked "Has no objections if certain conditions are met" with the following additional comment: "Subject to removing the vegetation from the visibility triangle."
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain portions of an open metal picket fence, columns, and landscape materials on both sides of the two driveways into the site from Royal Lane does not constitute a traffic hazard.
- Granting these requests with the staff-suggested conditions imposed would require the items as described above to be limited to and maintained in the locations, height and materials as shown on these documents.

**Timeline:**

June 10, 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.

August 14, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

August 20, 2014: The Current Planner emailed the following information to the applicant:

- an attachment that provided the public hearing date and panel that will consider the application; the August 29<sup>th</sup> deadline to

- submit additional evidence for staff to factor into their analysis; and the September 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 requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

August 21, 2014: The applicant contacted the Current Planner and the Building Inspection Senior Plans Examiner/Development Code Specialist to explain that the representative has misstated the fence height special exception on the appeal application as being 6' when only 4' 2½" was needed, which caused the Senior Plans Examiner/Development Code Specialist to revise his Building Official's Report.

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

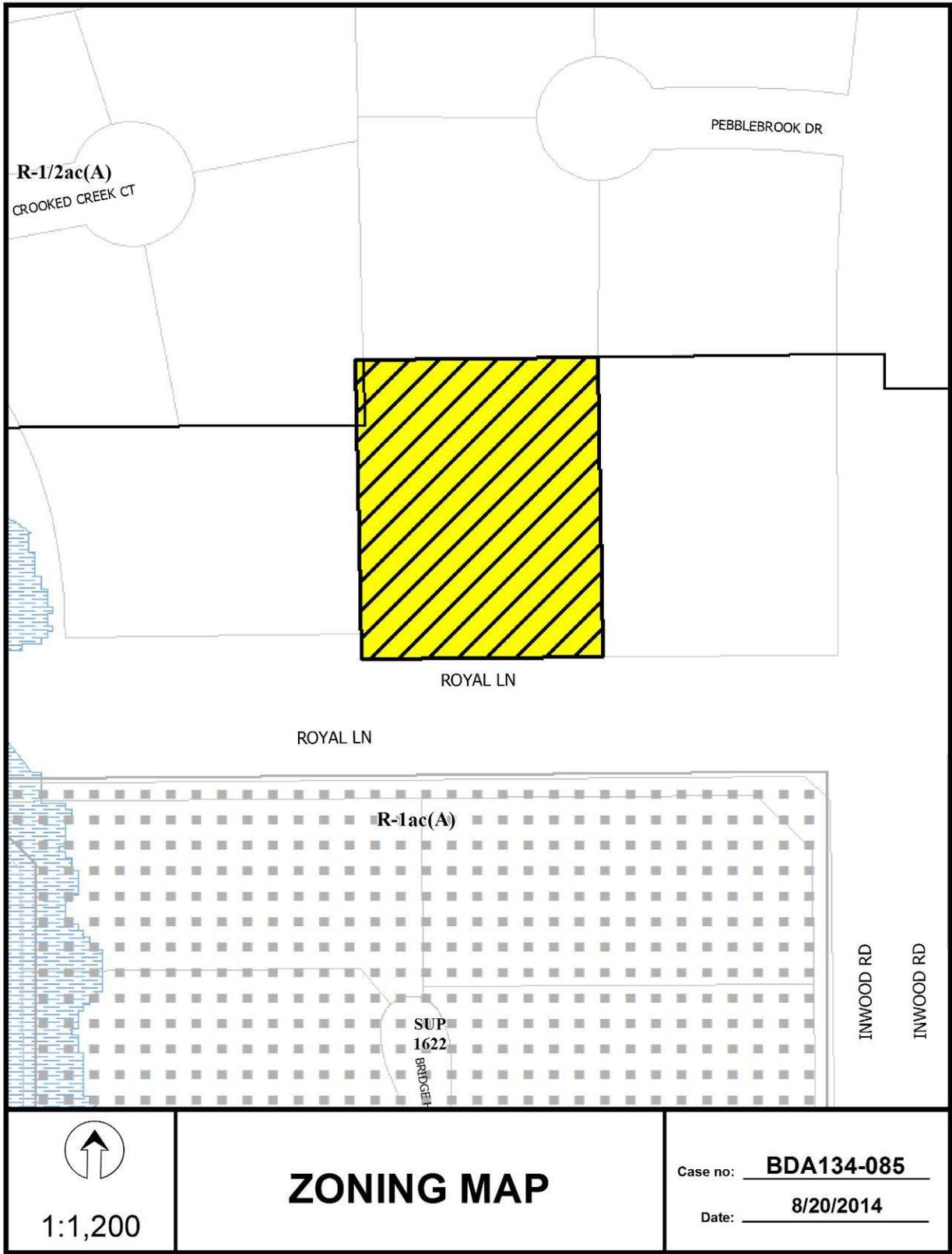
September 2, 2014: The applicant submitted a revised site plan that highlighted landscape materials in the visibility triangles.

September 3, 2014: The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following additional comment: "Subject to removing all the vegetation from visibility triangle at north drive."

September 3, 2014: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded a revised Building Official's report to the Board Administrator and Current Planner on this application (see Attachment A).

September 4, 2014: The Current Planner emailed the following information to the applicant and representative:

- a revised Building Official's report; and
- a review comment sheet from the Senior Engineer; and
- a site plan with annotations from the Senior Engineer that advises which landscape materials are to be removed should the Board grant the special exception to the visibility obstruction regulations with the imposed condition.





1:1,200

# AERIAL MAP

Case no: **BDA134-085**

Date: **8/20/2014**



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-085

Data Relative to Subject Property:

Date: June 10, 2014

Location address: 5035 Royal Ln. Dallas, TX 75229 Zoning District: R-LAC(A)

Lot No.: 43 Block No.: 5502 Acreage: 0.997 Census Tract: 135.00

Street Frontage (in Feet): 1) \_\_\_\_\_ 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) NE2A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): MASHARI and Linde NASSAR

Applicant: MASHARI NASSAR Telephone: 469-323-7032

Mailing Address: 5035 Royal Ln. Dallas, TX Zip Code: 75229

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

Represented by: Enoch Correa Telephone: 469-767-4965

Mailing Address: 2649 Brenner Dr. Zip Code: 75220

E-mail Address: econstructiontx@yahoo.com

Affirm that an appeal has been made for a Variance, or Special Exception , of 6ft to the height to fence in a front yard. And visibility triangles obstruction at driveways

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:

It will not have an adverse effect on the neighbors due to matching fences of neighbors. Also will add value to property. Security and screening from Royal Ln.

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 MASHARI NASSAR (Affiant/Applicant's name printed)

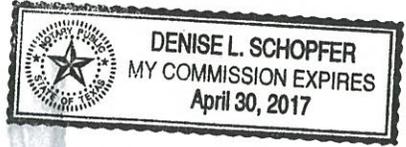
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: Mashari Nassar (Affiant/Applicant's signature)

Subscribed and sworn to before me this 10th day of June, 2014

Denise Schopper Notary Public in and for Dallas County, Texas

(Rev. 08-01-11)



MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

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

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

**Building Official's Report**

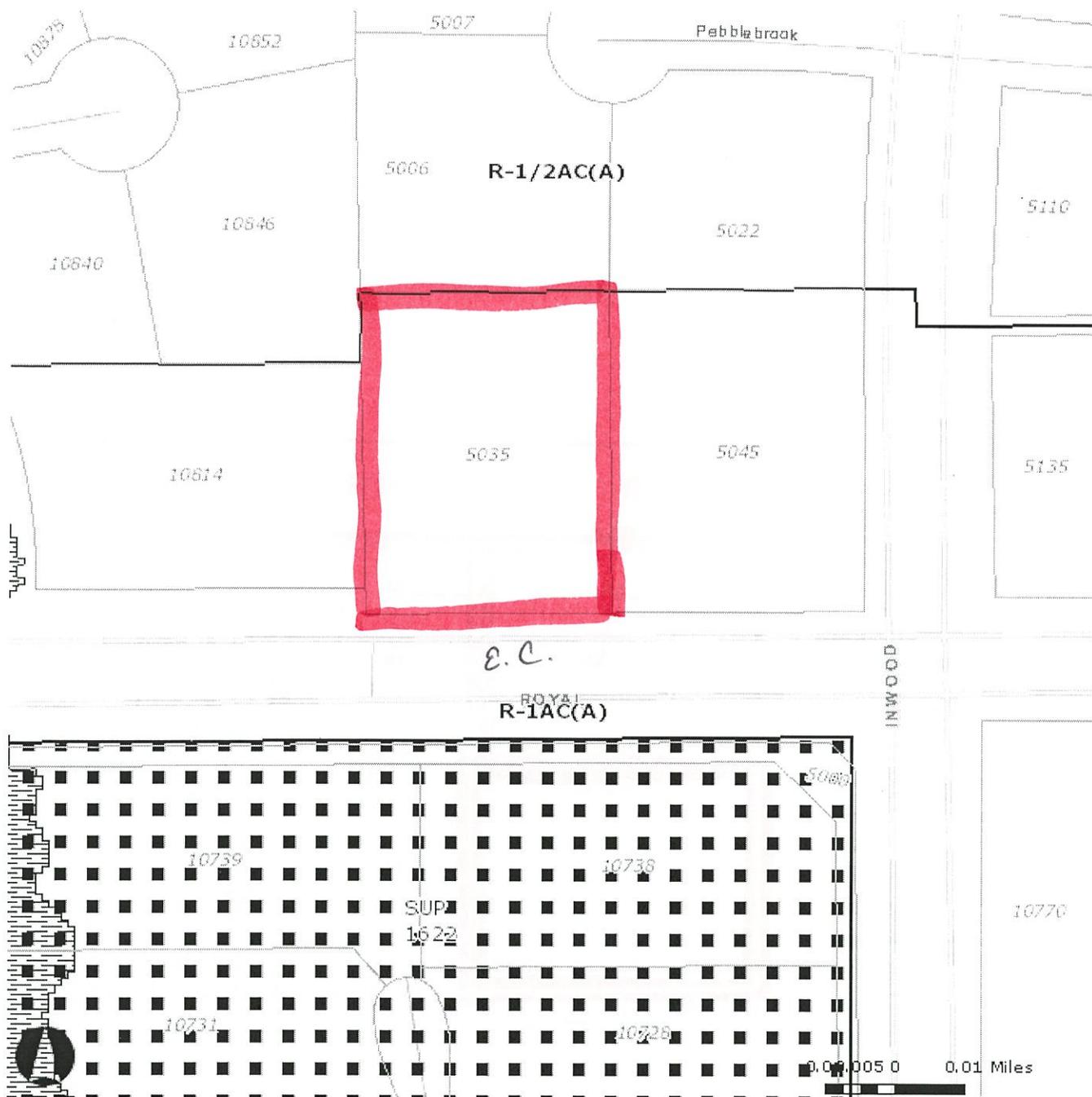
I hereby certify that Mashari Nassar  
represented by Enoch Correa  
did submit a request for a special exception to the fence height regulations, and for a special  
exception to the visibility obstruction regulations  
at 5035 Royal Lane

BDA134-085. Application of Mashari Nassar represented by Enoch Correa for a special exception to the fence height regulations and a special exception to the visibility obstruction regulations at 5035 Royal Lane. This property is more fully described as Lot 43, Block 5502, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and maintain a 10 foot high fence in a required front yard, which will require a 6 foot special exception to the fence regulation, and to construct and maintain a single family residential fence in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

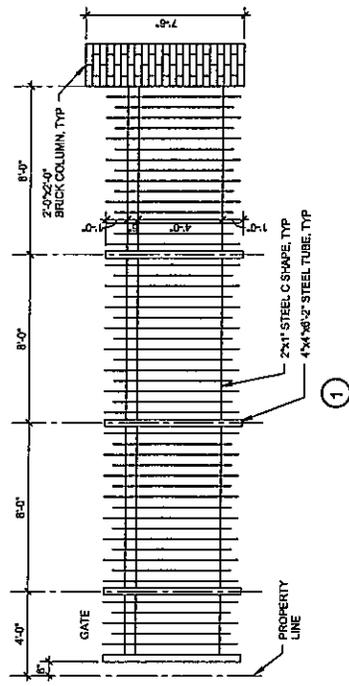
Sincerely,

  
Larry Holmes, Building Official

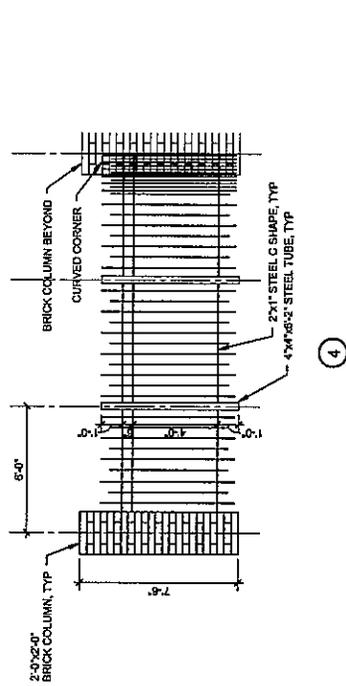




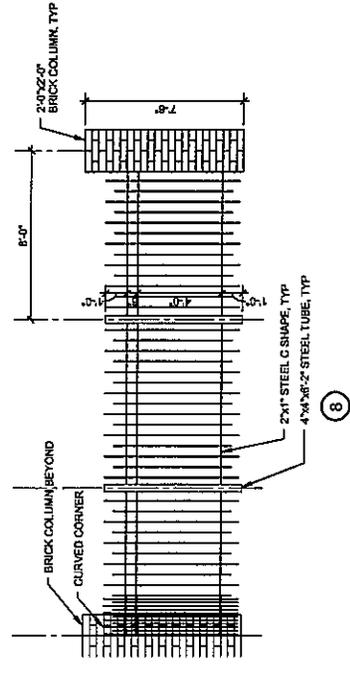




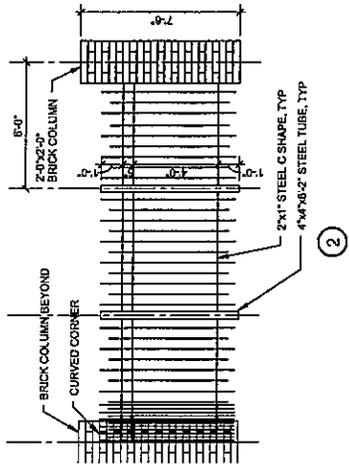
1 FENCE AT 1  
1/4" = 1'-0"



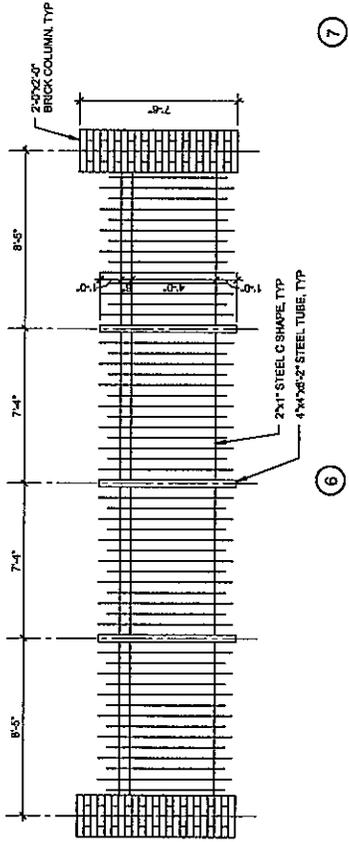
4 FENCE AT 4  
1/4" = 1'-0"



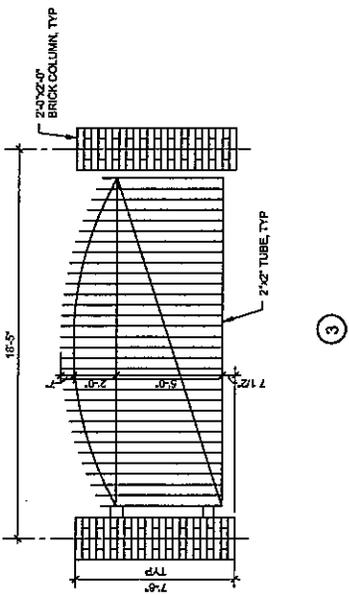
8 FENCE AT 8  
1/4" = 1'-0"



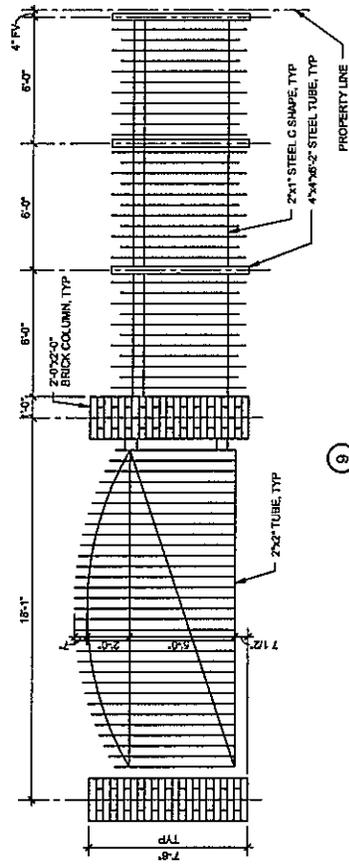
2 FENCE AT 2  
1/4" = 1'-0"



7 FENCE AT 7  
1/4" = 1'-0"

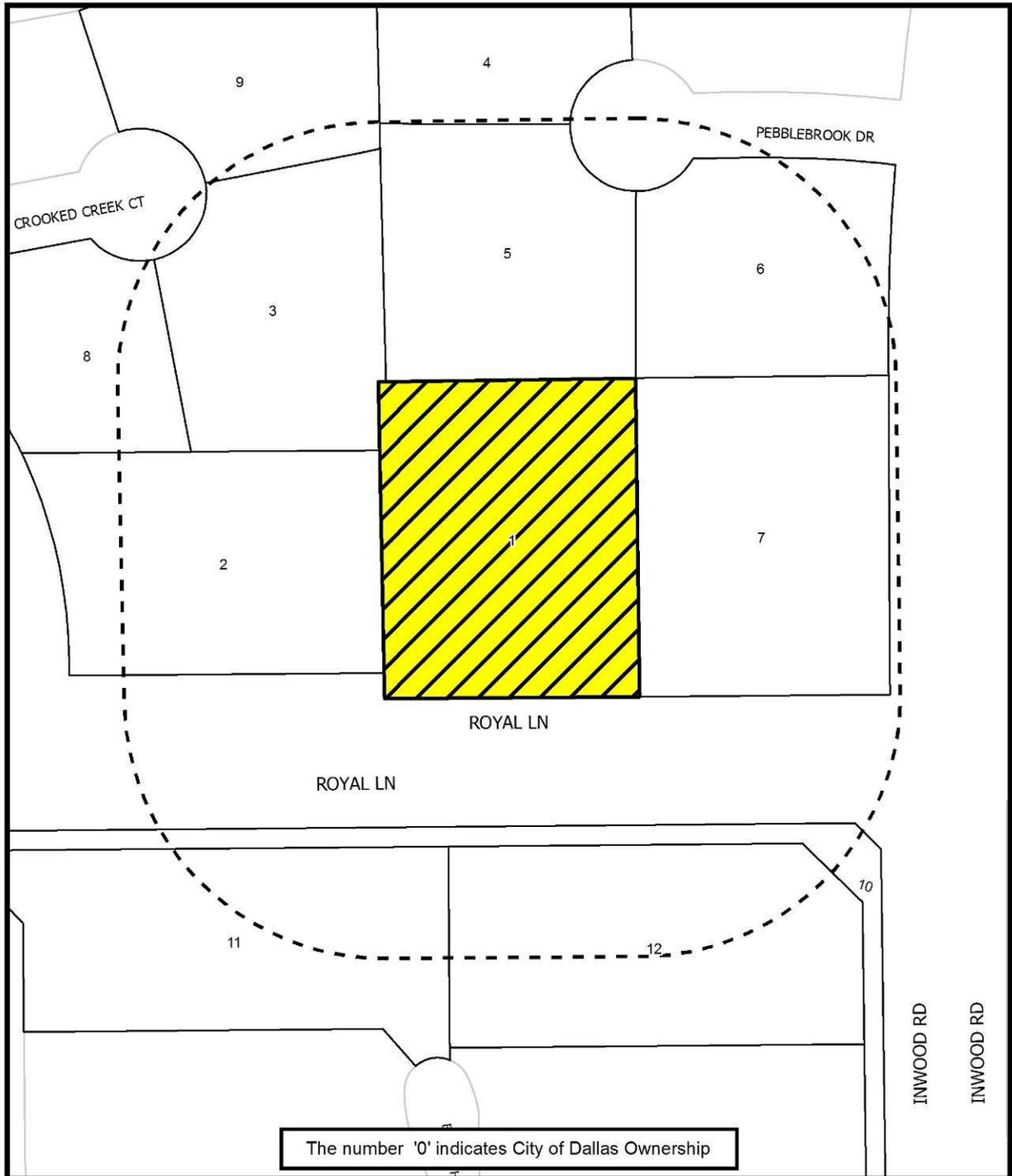


3 FENCE AT 3  
1/4" = 1'-0"



9 FENCE AT 9  
1/4" = 1'-0"

5 6 7 FENCE AT 5, 6 AND 7  
1/4" = 1'-0"



 1:1,200	<h2>NOTIFICATION</h2> <table border="1"> <tr> <td style="padding: 2px;"><b>200'</b></td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="padding: 2px;"><b>12</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	<b>200'</b>	AREA OF NOTIFICATION	<b>12</b>	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <b>BDA134-085</b> Date: <b>8/20/2014</b>
<b>200'</b>	AREA OF NOTIFICATION					
<b>12</b>	NUMBER OF PROPERTY OWNERS NOTIFIED					

## *Notification List of Property Owners*

***BDA134-085***

### *12 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5035 ROYAL LN	NASSAR MASHARI & LINDE
2	10814 CROOKED CREEK DR	TUBBS WINFRED &
3	10846 CROOKED CREEK CT	MITCHELL ROBERT H
4	5007 PEBBLEBROOK DR	ANDERSON DAVID J &
5	5006 PEBBLEBROOK DR	BERNSTIEN BRUCE E & PATRICIA S
6	5022 PEBBLEBROOK DR	COLEMAN RONALD M
7	5045 ROYAL LN	DENUR AMNON &
8	10840 CROOKED CREEK CT	NABULSI SARI & NEFOUS
9	10852 CROOKED CREEK CT	JANECEK RICHARD L &
10	5000 ROYAL LN	CREEKS OF PRESTON HOLLOW HOMEOWNERS ASSOCIATION
11	10739 BRIDGE HOLLOW CT	CALAIS INVESTMENTS I LTD
12	10738 BRIDGE HOLLOW CT	CRESCENT ESTATES CUSTOM HOMES LP