

ZONING BOARD OF ADJUSTMENT, PANEL B
WEDNESDAY, FEBRUARY 20, 2019
AGENDA

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

Neva Dean, Assistant Director
Steve Long, Board Administrator/Chief Planner
Oscar Aguilera, Senior Planner

MISCELLANEOUS ITEMS

	Approval of the January 16, 2019 Board of Adjustment Panel B Public Hearing Minutes	M1
BDA178-127(OA)	10747 Lennox Lane REQUEST: To waive the two-year limitation on a final decision of Board of Adjustment Panel B on November 14, 2018 regarding an application of Kelly Saxton, represented by Jason Osterberger, for a special exception to the fence standards regulations	M2

UNCONTESTED CASE

BDA189-017(OA)	10015 Old Seagoville Road REQUEST: Application of Humberto Hernandez, represented by Josefina Plata, for special exceptions to the fence standards and visual obstruction regulations	1
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REGULAR CASES

BDA189-020(OA)	4136 Cole Avenue REQUEST: Application of Eric Rodriguez for variances to the lot coverage, rear yard and side yard setback regulations	2
BDA189-021(OA)	5842 Live Oak Street REQUEST: Application of Rob Baldwin, represented by Rob Baldwin of Baldwin and Associates, for special exceptions to the off-street and landscape regulations	3
BDA189-023(OA)	12920 Preston Road REQUEST: Application of Samina Jamal for a special exception to the landscape regulations, and for a variance to the off-street parking regulations	4

EXECUTIVE SESSION NOTICE

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

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

MISCELLANEOUS ITEM NO. 2

FILE NUMBER: BDA178-127(OA)

REQUEST: To waive the two-year limitation on a final decision reached by Board of Adjustment Panel B on November 14, 2018 - a request for a special exception to the fence standards regulations related to fence height of 2 feet.

LOCATION: 10747 Lennox Lane

APPLICANT: Kelly Saxton
Represented by Jason Osterberger of Jason Osterberger Designs

STANDARD FOR WAIVING THE TWO YEAR TIME LIMITATION ON A FINAL DECISION REACHED BY THE BOARD:

The Dallas Development Code states that the board may waive the two year time limitation on a final decision reached by the board if there are changed circumstances regarding the property sufficient to warrant a new hearing.

GENERAL FACTS/TIMELINE:

November 14, 2018: The Board of Adjustment Panel B granted a request for a special exception to the fence standards regulations of 2' imposing the submitted site plan and elevation as a condition to this request. The case report stated that the request was made to made to construct and maintain 6' high cast stone fences higher than 4' in height in the site's Lennox Lane and Catina Lane front yards setbacks on a site being developed with a single family home. (See Attachment A for information related to this application).

January 29, 2019: The applicant's representative submitted a letter to the Board Administrator requesting that the Board waive the two-year limitation on the request for a special exception to the fence standards regulations of 2' granted by Board of Adjustment Panel B in November of 2018 (see Attachment B). This miscellaneous item request to waive the two-year limitation was made in order for the applicant to file a new application for a front yard variance on the property. Note that The Dallas Development Code states the following with regard to board action:

- Except as provided below, after a final decision is reached by the board, no further request on the same or related issues may be considered for that property for two years from the date of the final decision.
- If the board renders a final decision of denial without prejudice, the two-year limitation is waived.
- The applicant may apply for a waiver of the two-year limitation in the following manner:
 - The applicant shall submit his request in writing to the director. The director shall inform the applicant of the date on which the board will consider the request and shall advise the applicant of his right to appear before the board.
 - The board may waive the two-year time limitation if there are changed circumstances regarding the property sufficient to warrant a new hearing. A simple majority vote by the board is required to grant the waiver. If a rehearing is granted, the applicant shall follow the process outlined in the code.

January 29, 2019: The Board Administrator emailed the applicant's representative information regarding his miscellaneous item request (see Attachment C).

M2
Attach A
PS1

**BOARD OF ADJUSTMENT
CITY OF DALLAS, TEXAS**

WEDNESDAY, NOVEMBER 14, 2018

FILE NUMBER: BDA178-127(OA)

BUILDING OFFICIAL'S REPORT: Application of Kelly Saxton, represented by Jason Osterberger Designs, for a special exception to the fence standards regulations at 10747 Lennox Lane. This property is more fully described as Lot 3B, Block B/5534, and is zoned R-1(AC), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain a 6-foot high fence in a required front yard, which will require a 2-foot special exception to the fence standards regulations.

LOCATION: 10747 Lennox Lane

APPLICANT: Kelly Saxton
Represented by Jason Osterberger Designs

REQUESTS:

Requests for special exceptions to the fence standards regulations related to fence height of 2' are made to construct and maintain 6' high cast stone fences higher than 4' in height in the site's Lennox Lane and Catina Lane front yard setbacks on a site being developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the fence standards 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 standards 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:

A2
M2
H2

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing ~~10/15~~ NOV 14, 2018

Appeal was Granted OR Denied

Remarks Granted - Must
Comply with Submitted
Site Plan & Elevation
is required.

Scott Hand
Chairman

Building Official's Report

I hereby certify that Kelly Saxton
represented by JASON OSTERBERGER
did submit a request for a special exception to the fence height regulations
at 10747 Lennox Lane

BDA178-127. Application of Kelly Saxton represented by JASON OSTERBERGER for a special exception to the fence height regulations at 10747 Lennox Lane. This property is more fully described as Lot 3B, Block B/5534, and is zoned R-1(AC), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 6 foot high fence in a required front yard, which will require a 2 foot special exception to the fence regulations.

BOARD OF ADJUSTMENT DECISION FILED
IN THE OFFICE OF THE BOARD OF ADJUSTMENT
THIS THE 14 DAY OF
NOVEMBER, 20 18

[Signature]
ADMINISTRATOR

Sincerely,

Philip Sikes
Philip Sikes, Building Official



City of Dallas

m2
Attachment A B
A3

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-127

Data Relative to Subject Property:

Date: 9-12-18

Location address: 10747 Lennox LN Zoning District: R-2 AC

Lot No.: 3B Block No.: B/5534 Acreage: 1.196 Census Tract: 76.01

Street Frontage (in Feet): 1) 245.50 2) 177 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Kelly Saxton + Vicky Saxton

Applicant: KELLY SAXTON Telephone: 214-293-4696

Mailing Address: 4447 Alta Vista Ln Dallas TX Zip Code: 75229

E-mail Address: Kellys@thesaxtongroup.com

Represented by: Jason Osterberger Designs Telephone: 972-304-8700

Mailing Address: P.O. Box 2381 Zip Code: 75019

E-mail Address: Jasonosterbergerdesigns.com

Affirm that an appeal has been made, for a Variance _____, or Special Exception , of 2' feet
to the required 4' High and provide a 6' total
high fence.

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

We are staying with the character of the
neighborhood with like height and like materials.
We are matching materials to the house. The fence
will provide security and privacy for the homeowner.

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 _____

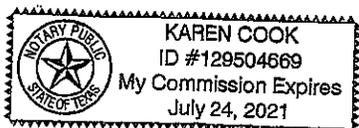
(Affiant/Applicant's name printed)

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: Kelly Saxton
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 29 day of August, 2018

Karen Cook





m2
Attachment A
pg 4

November 15, 2018

Jason Osterberger Designs
P.O. Box 2381
Dallas, TX 75019

Re: BDA178-127(OA), Property at 10747 Lennox Lane

Dear Mr. Osterberger Designs:

The Board of Adjustment Panel B, at its public hearing held on Wednesday, November 14, 2018 granted your request for a special exception to the fence standards regulations, subject to the following condition:

- Compliance with the submitted site plan and elevation is required.

Contact Building Inspection at 320 E. Jefferson, Room 118 to file an application for a building permit or certificate of occupancy within 180 days from the date of the favorable action of the board.

Should you have any further questions regarding the Board's action, please contact me at (214) 671-5099.

A handwritten signature in black ink, appearing to read 'Oscar Aguilera'.

Oscar Aguilera, Senior Planner
Board of Adjustment
Sustainable Development and Construction

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



MZ
Attach B

JASON OSTERBERGER DESIGNS

p.o. box 2381 coppell, texas 75019
jason@jasonosterbergerdesigns.com
o 972.304.8700

January 29, 2019

Re. Mr. and Mrs. Kelly Saxton
10747 Lennox Lane
Dallas, TX. 75229

Special Exception BDA178-127 (OA) approved on November 14, 2018

Dear Steve Long:

We kindly request to be placed on the Miscellaneous Docket for a 2-year Waiver for the property at 10747 Lennox Lane, Dallas Texas 75229.

The Board of Adjustment Panel B granted a special exception to the fence standards regulations for a fence to be erected at a 6' height on both the Lennox and Cantina frontages. This was BDA178-127 (OA). It was approved on November 14, 2018.

In the process of the new build of their home, the homeowners have realized the exposure of their garage facing Cantina. They are now requesting a fence be erected to enclose the garage area of the home. We would need to extend the approved special exception fence location to include the garage and driveway area. There are a couple reasons why this request is being made. My homeowner has expressed her safety concern of being exposed. The couple also has small grandchildren and would like to provide them a safe place to ride their tricycles and other pavement type activities within a secure location. Lastly, they are interested in adopting a new dog and fearful with out a fence the dog could leave the garage area and head to the street.

Thank you for your consideration for the 2-year Waiver.

Best regards,

Jason Osterberger
Jason Osterberger Designs

Long, Steve

M2
Attac
P91

From: Long, Steve
Sent: Tuesday, January 29, 2019 12:42 PM
To: 'Jason Osterberger'
Cc: Pham, Theresa Y; Aguilera, Oscar E; Trammell, Charles
Subject: RE: BDA1781127(OA), Property at 10747 Lennox Lane - 2 year limitation waiver miscellaneous item request
Attachments: 10747 Lennox Waiver Request.pdf; 2 year waiver.pdf; Info related to BDA178-127.pdf; Panel B February hearing date and deadlines.doc; documentary evidence.pdf

Dear Mr. Osterberger,

Here is information regarding your miscellaneous item request for a waiver of the two year limitation to the board of adjustment regarding the application referenced above that you represented for Kelly Saxton:

1. Your letter of request of the waiver of the two-year limitation - which will be emailed to you and the board members about a week ahead of your February 20th Board of Adjustment Panel B public hearing.
2. The provisions/standard from the Dallas Development Code allowing the board to waive the two year time limitation on a final decision reached on an application on the same matter (other than a decision of denial without prejudice) (51A-4.703(e)(3)) - which in your case, is a waiver of the two year time limitation in place on a request for a special exception to the fence standards regulations (BDA178-127) granted by Board of Adjustment Panel B (with certain conditions) on November 14, 2018.
3. Materials related to BDA178-127.
4. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board. (Please be advised that you will not receive a written notice of this hearing in the mail - your attendance (or someone who can speak on your behalf) at your February 20th public hearing to be held at 1:00 p.m. in Dallas City Hall is strongly encouraged).
5. The board's rule pertaining to documentary evidence.

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

Thank you,

Steve



Steve Long
Chief Planner
 City of Dallas | www.dallascityhall.com
 Current Planning Division
 Sustainable Development and Construction
 1500 Marilla Street, 5BN
 Dallas, TX 75201
 O: 214-670-4666
steve.long@dallascityhall.com



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

From: Jason Osterberger <jason@jasonosterbergerdesigns.com>

Sent: Tuesday, January 29, 2019 11:24 AM

To: Long, Steve <steve.long@dallascityhall.com>; Aguilera, Oscar E <oscar.aguilera@dallascityhall.com>; Trammell, Charles <charles.trammell@dallascityhall.com>

Cc: Jason Osterberger <jason@jasonosterbergerdesigns.com>

Subject: BDA1781127(OA) - 2 year waiver request

Dear Mr. Long

I am attaching our letter of intent to kindly request to be placed on the Miscellaneous Docket for a 2-year Waiver for the property at 10747 Lennox Lane, Dallas Texas 75229.

In the process of the new build of my clients home, the homeowners have realized the exposure of their garage facing Cantina is more than they anticipated. They are now requesting to extend the approved special exception fence location to include the garage and driveway area. There are a couple reasons why this request is being made. My homeowner has expressed her safety concern of being exposed. The couple also has small grandchildren and would like to provide them a safe place to ride their tricycles and other pavement type activities within a secure location. Lastly, they are interested in adopting a new dog and fearful with out a fence the dog could leave the garage area and head to the street.

Thank you for your consideration.

You are awesome,

Jason Osterberger | Jason Osterberger Designs

P.O. Box 2381 | Coppell, Texas 75019

Office: 972.304.8700 | Cell: 214.458.7668

[Website](#) | [Houzz](#) | [Facebook](#) | [Instagram](#)

M2
Attach A
PS1

**BOARD OF ADJUSTMENT
CITY OF DALLAS, TEXAS**

WEDNESDAY, NOVEMBER 14, 2018

FILE NUMBER: BDA178-127(OA)

BUILDING OFFICIAL'S REPORT: Application of Kelly Saxton, represented by Jason Osterberger Designs, for a special exception to the fence standards regulations at 10747 Lennox Lane. This property is more fully described as Lot 3B, Block B/5534, and is zoned R-1(AC), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain a 6-foot high fence in a required front yard, which will require a 2-foot special exception to the fence standards regulations.

LOCATION: 10747 Lennox Lane

APPLICANT: Kelly Saxton
Represented by Jason Osterberger Designs

REQUESTS:

Requests for special exceptions to the fence standards regulations related to fence height of 2' are made to construct and maintain 6' high cast stone fences higher than 4' in height in the site's Lennox Lane and Catina Lane front yard setbacks on a site being developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the fence standards 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 standards 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:

A2
M2
H2

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing ~~10/15~~ NOV 14, 2018

Appeal was Granted OR Denied

Remarks Granted - Must
Comply with Submitted
Site Plan & Elevation
is required.

Scott Ford
Chairman

Building Official's Report

I hereby certify that Kelly Saxton
represented by JASON OSTERBERGER
did submit a request for a special exception to the fence height regulations
at 10747 Lennox Lane

BDA178-127. Application of Kelly Saxton represented by JASON OSTERBERGER for a special exception to the fence height regulations at 10747 Lennox Lane. This property is more fully described as Lot 3B, Block B/5534, and is zoned R-1(AC), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 6 foot high fence in a required front yard, which will require a 2 foot special exception to the fence regulations.

BOARD OF ADJUSTMENT DECISION FILED
IN THE OFFICE OF THE BOARD OF ADJUSTMENT
THIS THE 14 DAY OF
NOVEMBER, 20 18

[Signature]
ADMINISTRATOR

Sincerely,

Philip Sikes
Philip Sikes, Building Official



City of Dallas

m2
Attachment A B
A3

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-127

Data Relative to Subject Property:

Date: 9-12-18

Location address: 10747 Lennox LN Zoning District: R-2 AC

Lot No.: 3B Block No.: B/5534 Acreage: 1.196 Census Tract: 76.01

Street Frontage (in Feet): 1) 245.50 2) 177 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Kelly Saxton + Vicky Saxton

Applicant: KELLY SAXTON Telephone: 214-293-4696

Mailing Address: 4447 Alta Vista Ln Dallas TX Zip Code: 75229

E-mail Address: Kellys@thesaxtongroup.com

Represented by: Jason Osterberger Designs Telephone: 972-304-8700

Mailing Address: P.O. Box 2381 Zip Code: 75019

E-mail Address: Jasonosterbergerdesigns.com

Affirm that an appeal has been made, for a Variance _____, or Special Exception , of 2 feet
to the required 4' High and provide a 6' total
high fence.

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

We are staying with the character of the
neighborhood with like height and like materials.
We are matching materials to the house. The fence
will provide security and privacy for the homeowner.

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 _____

(Affiant/Applicant's name printed)

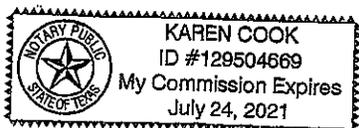
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: Kelly Saxton
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 29 day of August, 2018

Karen Cook

Notary Public in and for Dallas County, Texas Panel B





m2
Attachment A
pg 4

November 15, 2018

Jason Osterberger Designs
P.O. Box 2381
Dallas, TX 75019

Re: BDA178-127(OA), Property at 10747 Lennox Lane

Dear Mr. Osterberger Designs:

The Board of Adjustment Panel B, at its public hearing held on Wednesday, November 14, 2018 granted your request for a special exception to the fence standards regulations, subject to the following condition:

- Compliance with the submitted site plan and elevation is required.

Contact Building Inspection at 320 E. Jefferson, Room 118 to file an application for a building permit or certificate of occupancy within 180 days from the date of the favorable action of the board.

Should you have any further questions regarding the Board's action, please contact me at (214) 671-5099.

A handwritten signature in black ink, appearing to read 'Oscar Aguilera'.

Oscar Aguilera, Senior Planner
Board of Adjustment
Sustainable Development and Construction

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



MZ
Attach B

JASON OSTERBERGER DESIGNS

p.o. box 2381 coppell, texas 75019
jason@jasonosterbergerdesigns.com
o 972.304.8700

January 29, 2019

Re. Mr. and Mrs. Kelly Saxton
10747 Lennox Lane
Dallas, TX. 75229

Special Exception BDA178-127 (OA) approved on November 14, 2018

Dear Steve Long:

We kindly request to be placed on the Miscellaneous Docket for a 2-year Waiver for the property at 10747 Lennox Lane, Dallas Texas 75229.

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In the process of the new build of their home, the homeowners have realized the exposure of their garage facing Cantina. They are now requesting a fence be erected to enclose the garage area of the home. We would need to extend the approved special exception fence location to include the garage and driveway area. There are a couple reasons why this request is being made. My homeowner has expressed her safety concern of being exposed. The couple also has small grandchildren and would like to provide them a safe place to ride their tricycles and other pavement type activities within a secure location. Lastly, they are interested in adopting a new dog and fearful with out a fence the dog could leave the garage area and head to the street.

Thank you for your consideration for the 2-year Waiver.

Best regards,

Jason Osterberger
Jason Osterberger Designs

Long, Steve

M2
Attac
P91

From: Long, Steve
Sent: Tuesday, January 29, 2019 12:42 PM
To: 'Jason Osterberger'
Cc: Pham, Theresa Y; Aguilera, Oscar E; Trammell, Charles
Subject: RE: BDA1781127(OA), Property at 10747 Lennox Lane - 2 year limitation waiver miscellaneous item request
Attachments: 10747 Lennox Waiver Request.pdf; 2 year waiver.pdf; Info related to BDA178-127.pdf; Panel B February hearing date and deadlines.doc; documentary evidence.pdf

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1. Your letter of request of the waiver of the two-year limitation - which will be emailed to you and the board members about a week ahead of your February 20th Board of Adjustment Panel B public hearing.
2. The provisions/standard from the Dallas Development Code allowing the board to waive the two year time limitation on a final decision reached on an application on the same matter (other than a decision of denial without prejudice) (51A-4.703(e)(3)) - which in your case, is a waiver of the two year time limitation in place on a request for a special exception to the fence standards regulations (BDA178-127) granted by Board of Adjustment Panel B (with certain conditions) on November 14, 2018.
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4. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board. (Please be advised that you will not receive a written notice of this hearing in the mail - your attendance (or someone who can speak on your behalf) at your February 20th public hearing to be held at 1:00 p.m. in Dallas City Hall is strongly encouraged).
5. The board's rule pertaining to documentary evidence.

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

Thank you,

Steve



Steve Long
Chief Planner
 City of Dallas | www.dallascityhall.com
 Current Planning Division
 Sustainable Development and Construction
 1500 Marilla Street, 5BN
 Dallas, TX 75201
 O: 214-670-4666
steve.long@dallascityhall.com



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From: Jason Osterberger <jason@jasonosterbergerdesigns.com>

Sent: Tuesday, January 29, 2019 11:24 AM

To: Long, Steve <steve.long@dallascityhall.com>; Aguilera, Oscar E <oscar.aguilera@dallascityhall.com>; Trammell, Charles <charles.trammell@dallascityhall.com>

Cc: Jason Osterberger <jason@jasonosterbergerdesigns.com>

Subject: BDA1781127(OA) - 2 year waiver request

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In the process of the new build of my clients home, the homeowners have realized the exposure of their garage facing Cantina is more than they anticipated. They are now requesting to extend the approved special exception fence location to include the garage and driveway area. There are a couple reasons why this request is being made. My homeowner has expressed her safety concern of being exposed. The couple also has small grandchildren and would like to provide them a safe place to ride their tricycles and other pavement type activities within a secure location. Lastly, they are interested in adopting a new dog and fearful with out a fence the dog could leave the garage area and head to the street.

Thank you for your consideration.

You are awesome,

Jason Osterberger | Jason Osterberger Designs

P.O. Box 2381 | Coppell, Texas 75019

Office: 972.304.8700 | Cell: 214.458.7668

[Website](#) | [Houzz](#) | [Facebook](#) | [Instagram](#)

FILE NUMBER: BDA189-017(OA)

BUILDING OFFICIAL'S REPORT: Application of Humberto Hernandez, represented by Josefina Plata, for special exceptions to the fence standards and visual obstruction regulations at 10015 Old Seagoville Road. This property is more fully described as Lot 52A, block 7885, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet, prohibits the use of certain materials for a fence and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and/or maintain a 9 foot high fence in a required front yard, which will require a 5 foot special exception to the fence standards regulations, to construct and/or maintain a fence of a prohibited material, which will require a special exception to the fence standards regulations, and to locate and maintain items in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

LOCATION: 10015 Old Seagoville Road.

APPLICANT: Humberto Hernandez
Represented by Josefina Plata

REQUESTS:

The following requests for special exceptions to the fence standards regulations have been made on a site that is developed with a single-family home:

1. a special exception to the fence standards regulations related to fence height of 5' is made to maintain a fence higher than 4' in height in the site's 25' Old Segoville Road front yard setback– a 5' 6" high combination wrought iron picket/metal panel fence with 5' 6" high stone columns and a 9' high metal entry gate with 4' 8" to 8' high stone columns;
2. a special exception to the fence standards regulations related to fence height of 5' is made to maintain a fence higher than 4' in height in the site's September Lane 25' front yard setback (September Lane) – a 5' 6" high combination wrought iron picket/metal panel fence with 5' 6" high stone columns and a 9' high metal entry gate with 4' 8" to 8' high stone columns;
3. A request for a special exception to the fence standards regulations related to prohibited fence materials is made to maintain a fence of a prohibited fence material (metal panels) – in this case, the aforementioned metal fence panels along both Seagoville Road and September Lane;
4. Special exceptions to the visual obstruction regulations are made to maintain portions of a 5' 6" high combination wrought iron picket/metal panel fence with 4' 8" to 8' high stone columns and portions of a 9' high metal swing gate in the two 20' visibility triangles on both sides of the driveway into the site from Old Seagoville Road; and

5. Special exceptions to the visual obstruction regulations are made to maintain portions of a 5' 6" high combination wrought iron picket/metal panel fence with 4' 8" to 8' high stone columns and portions of a 9' high metal swing gate in the two 20' visibility triangles on both sides of the driveway into the site from September Lane.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS REGULATIONS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the fence standards regulations 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:

Section 51A-4.602(d)(3) of the Dallas Development Code states that 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 standards regulations):

No staff recommendations are made on these or any requests for a special exception to the fence standards since the basis for this type of appeals are when in the opinion of the board, the special exceptions will not adversely affect neighboring property.

STAFF RECOMMENDATION (visual obstruction special exceptions):

Approval, subject to the following condition:

- Compliance with the submitted site plan/elevation is required.

Rationale:

- The Sustainable Development Department Senior Engineer has no objections to the requests.
- Staff concluded that the requests for special exceptions to the visual obstruction regulations should be granted (with the suggested conditions imposed) because the items located in the visibility triangles do not constitute a traffic hazard.

Zoning:

Site: R-7.5(A) (Single family residential 7,500 square feet)
North: R-7.5(A) (Single family residential 7,500 square feet)
South: PD 956 (Single family residential 7,500 square feet)
East: R-7.5(A) (Single family residential 7,500 square feet)
West: R-7.5(A) (Single family residential 7,500 square feet)

Land Use:

The subject site is developed with a single-family home structure. The areas to the north, east, and south are developed with single-family uses; and the area to the south is developed with a public park use.

Zoning/BDA History:

There have 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 (fence standards regulations):

- The requests for special exceptions to the fence standards regulations on a site developed with a single-family home focus on:
 - 1) maintaining a 5' 6" high combination wrought iron picket/metal panel fence with 5' 6" high stone columns and a 9' high metal entry gate with 4' 8" to 8' high stone columns located in the site's Old Seagoville Road front yard setback;
 - 2) maintaining a 5' 6" high combination wrought iron picket/metal panel fence with 5' 6" high stone columns and a 9' high metal entry gate with 4' 8" to 8' high stone columns located in one of the site's September Lane front yard setback; and
 - 3) maintaining the existing fences made of a prohibited fence material (sheet metal).
- The property is located in an R-7.5(A) zoning district which requires a minimum front yard setback of 25 feet.
- Given the single family zoning and location of the corner lot subject site, it has two required front yard setbacks. The site has a 25' front yard setback along Old Seagoville Road, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district, and a 25' required front yard setback along September Lane, the longer of the two frontages which is typically regarded as a side yard on this R-7.5(A) zoned property (a 9' high fence could be erected by right). However, the site has a required front yard setback along September Lane in order to maintain the continuity of the established front yard setback established by the lots developed with single family homes north of the site that front/are oriented westward towards September Lane.
- Section 51A-4.602(a) (2) of 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.
- Section 51A-4.602(a)(9) of the Dallas Development Code states that except as provided in this subsection, the following fence materials are prohibited:
 - Sheet metal;
 - Corrugated metal;
 - Fiberglass panels;
 - Plywood;
 - Plastic materials other than preformed fence pickets and fence panels with a minimum thickness of seven-eighths of an inch;
 - Barbed wire and razor ribbon (concertina wire) in residential districts other than an A(A) Agricultural District; and

- Barbed wire razor ribbon (concertina wire) in nonresidential districts unless the barbed wire or razor ribbon (concertina wire) is six feet or more above grade and does not project beyond the property line.
- The applicant submitted a site plan/elevation of the proposal in the front yard setbacks with notations indicating that the proposal reaches a maximum height of 9’.
- The following additional information was gleaned from the submitted site plan/elevation:
 - Along Old Seagoville Road: the proposal is represented as being approximately 120’ in length parallel to the street, approximately 25’ perpendicular to the street on the east side of the site and between 0’ -35’ on the west side in this required front yard as the fence approaches the intersection with September Lane.
 - Along September Lane: the proposal is represented as being approximately 200’ in length, parallel to the street approximately 25’ perpendicular to the street on the north side of the site, and between 0’ - 35’ on the south side in this required front yard as the fence approaches the intersection with Old Seagoville Road.
- The submitted site plan represents a site that is approximately 23,700 square feet in area where approximately 300 linear feet of prohibited fence material (sheet metal fence) is located on this property.
- The Sustainable Development and Construction Department Senior Planner conducted a field visit of the site and surrounding area along Old Seagoville Road and September Lane, approximately 500’ north, south, west, and east of the subject site, and noted a number of other fences to the north and west of the subject site that appeared to be above 4’ in height and in a front yard setback. None of these existing fences have recorded BDA history. In addition, Staff did not observe any other sheet metal fences within the area.
- As of February 8, 2019, 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 exceptions to the fence standards related to height of 9’ and prohibited materials on Old Seagoville Road and September Lane will not adversely affect neighboring property.
- Granting these special exceptions to the fence standards regulations related to height of up to 5’ and related to prohibited materials in certain areas on the site with a condition imposed that the applicant complies with the submitted site plan/elevation document, would require the proposal exceeding 4’ in height in the front yard setbacks and of prohibited materials as shown on this document.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exceptions):

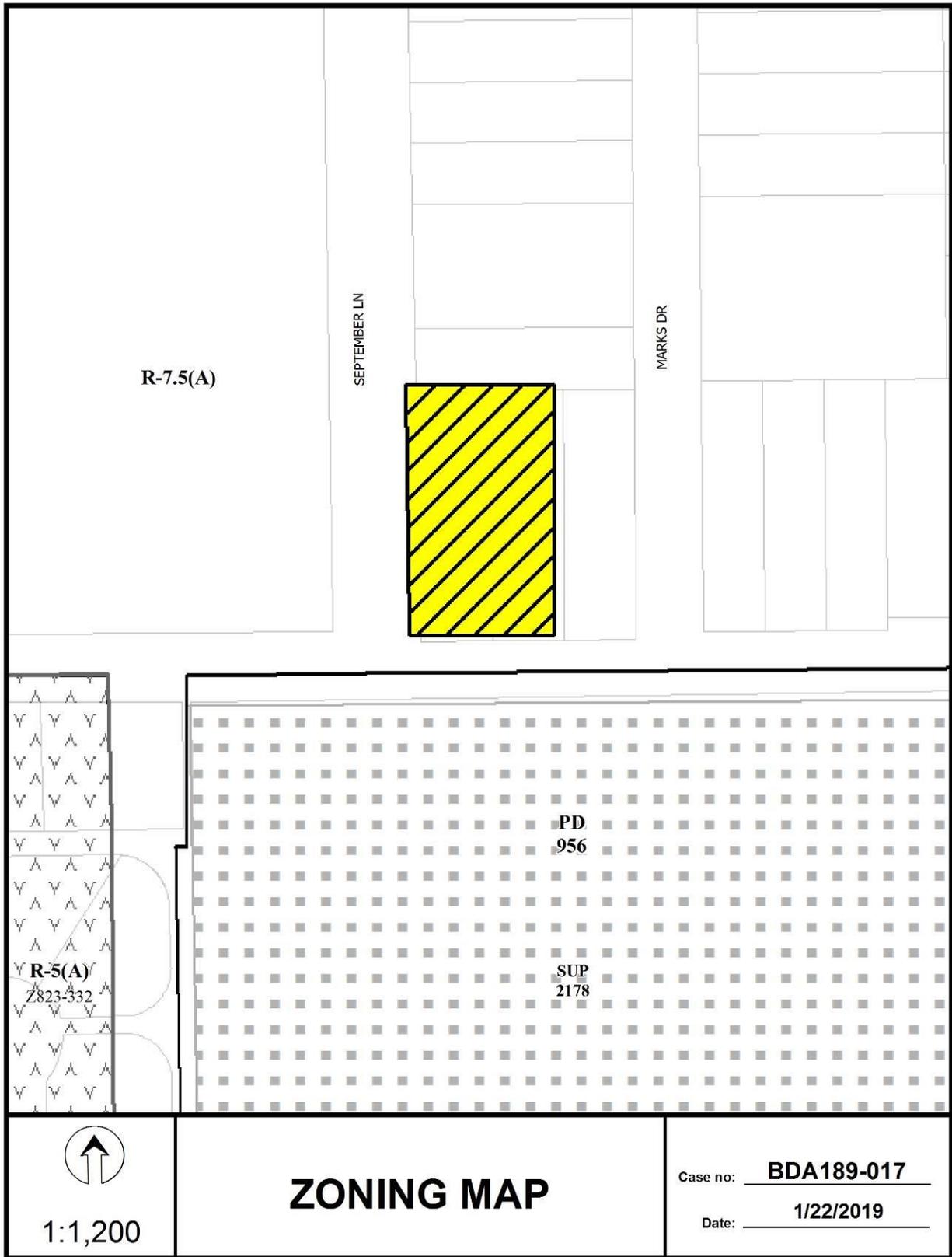
- These requests for special exceptions to the visual obstruction regulations focus on maintaining portions of a 5’ 6” high combination wrought iron picket/metal panel fence with 4’ 8” to 8’ high stone columns and portions of a 9’ high metal entry gate with in the two 20 foot visibility triangles on both sides of the driveway into the site from Old Seagoville Road; and maintaining portions of a 5’ 6” high combination wrought iron picket/metal panel fence with 4’ 8” to 8’ high stone columns and portions of a 9’ high metal entry gate with in the two 20 foot visibility triangles on both sides of the driveway into the site from September Lane.

- Section 51A-4.602(d) of 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 property is located in a R-7.5(A) zoning district which requires, the portion of a lot with a triangular area formed by connecting together the point of intersection of the edge of a driveway or alley and the adjacent street curb line (or, if there is no street curb, what would be the normal street curb line) and points on the driveway or alley edge end the street curb line 20 feet from the intersection.
- A site plan/elevation have been submitted indicating portions of an existing 5' 6" high combination wrought iron picket/metal panel fence with 4' 8" to 8' high stone columns and portions of a 9' high metal entry gate located in the two 20 foot visibility triangles on both sides of the driveway into the site from Old Seagoville Road; and portions of an existing 5' 6" high combination wrought iron picket/metal panel fence with 4' 8" to 8' high stone columns and portions of a 9' high metal entry gate within the two 20 foot visibility triangles on both sides of the driveway into the site from September Lane.
- The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked "Has no objections".
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulation to maintain portions of a 5' 6" high combination wrought iron picket/metal panel fence with 4' 8" to 8' high stone columns and portions of a 9' high metal entry gate in the two 20 foot visibility triangles on both sides of the driveway into the site from Old Seagoville Road; and to maintain portions of a 5' 6" high combination wrought iron picket/metal panel fence with 4' 8" to 8' high stone columns and portions of a 9' high metal entry gate in the two 20 foot visibility triangles on both sides of the driveway into the site from September Lane, do not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan/elevation would limit the items located in the 20' drive approach visibility triangles into the site from Old Seagoville Road, and the 20' drive approach visibility triangles into the site from September Lane to that what is shown on this document.

Timeline:

November 20, 2018: 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 8, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- January 9, 2019: The Board Administrator emailed the applicant's representative the following information:
- a copy of the application materials including the Building Official's report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the January 30th deadline to submit additional evidence for staff to factor into their analysis; and the February 8th 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 5, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.
- February 6, 2019: The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked "Has no objections".



ZONING MAP

Case no: **BDA189-017**

Date: **1/22/2019**

1:1,200





City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 189-017

Data Relative to Subject Property:

Date: 11-20-18

Location address: 10015 Old Scaggville Rd. Dallas TX 75217 Zoning District: R-7.5 (A)

Lot No.: 52153 Block No.: 7885 Acreage: 0.55 Census Tract: 117.01

Street Frontage (in Feet): 1) 108' 2) 204' 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Humberto Hernandez

Applicant: Humberto Hernandez Telephone: (214) 243-6181

Mailing Address: 3009 crystal dr. Bach Springs Zip Code: 75180

E-mail Address: ahvarez050306@gmail.com

Represented by: Josafina Plata Telephone: (214) 293-1872

Mailing Address: 3009 Crystal dr. Bach Springs Zip Code: 75180

E-mail Address: Josafina86 Plata@gmail.com

Affirm that an appeal has been made for a Variance, or Special Exception, of To the fence standards regulations, 5' to the required front yard fence height + provide a fence height of 9' and prohibited materials and 20x20 visibility 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:

The fence is of like material + height as other fences in the neighborhood.

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.

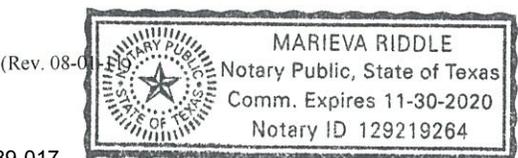
Affidavit

Before me the undersigned on this day personally appeared Humberto Hernandez (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: Humberto Hernandez (Affiant/Applicant's signature)

Subscribed and sworn to before me this 20th day of November 2018



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 HUBERTO HERNANDEZ

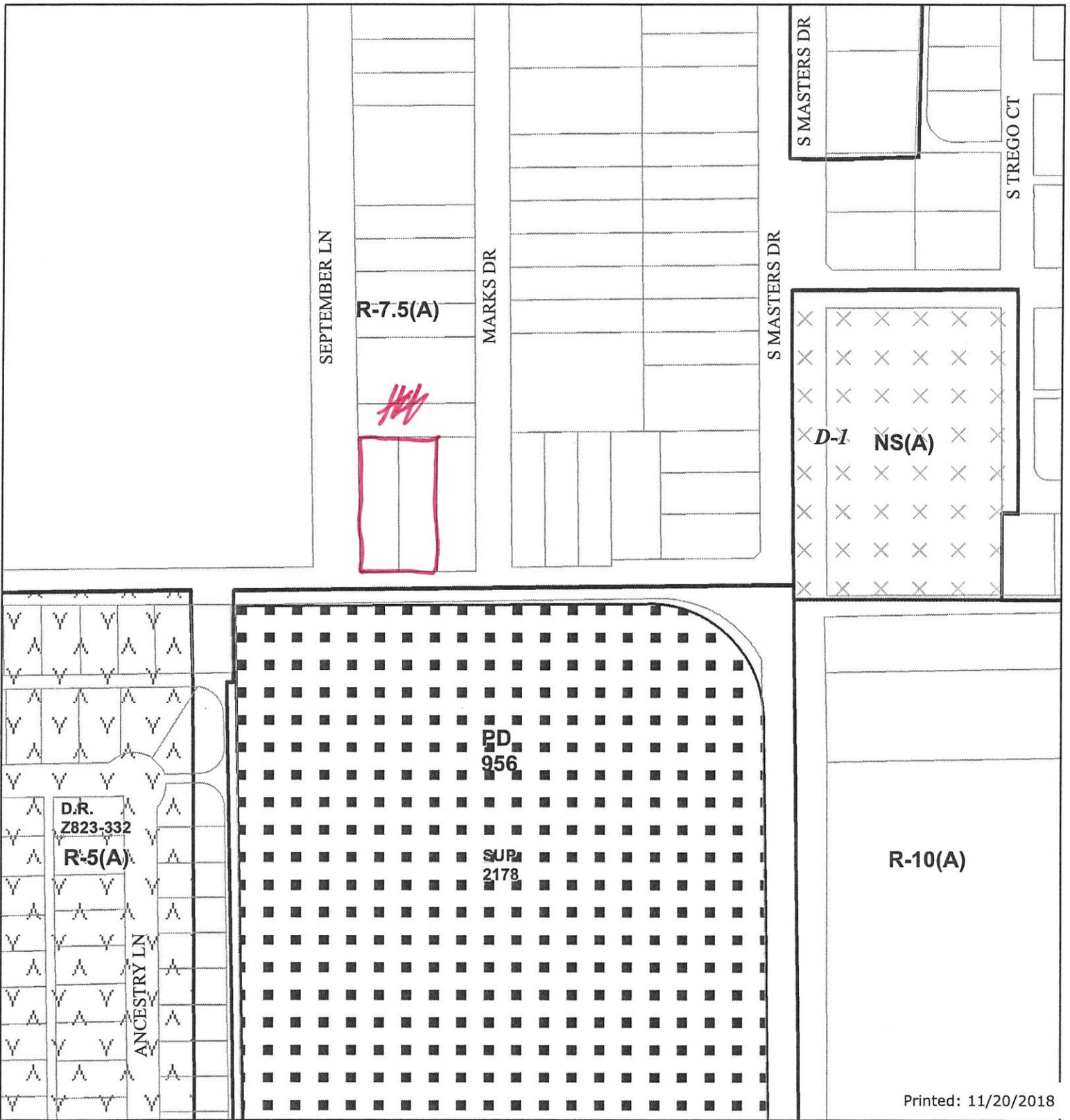
did submit a request for a special exception to the fence height regulations, and for a special exception to the fence standards regulations, and for a special exception to the visibility obstruction regulations

at 10015 Old Seagoville Road

BDA189-017. Application of HUBERTO HERNANDEZ for a special exception to the fence height regulations, and for a special exception to the fence standards regulations, and for a special exception to the visibility obstruction regulations at 10015 Old SEAGOVILLE RD. This property is more fully described as Lot 52A, Block 7885, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and prohibits the use of certain materials for a fence and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and maintain a 9 foot high fence in a required front yard, which will require a 5 foot special exception to the fence regulations, and to construct a fence using a prohibited material, which will require a special exception to the fence regulations, and to construct a single family residential fence in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

Sincerely,

Philip Sikes
Philip Sikes, Building Official



Printed: 11/20/2018

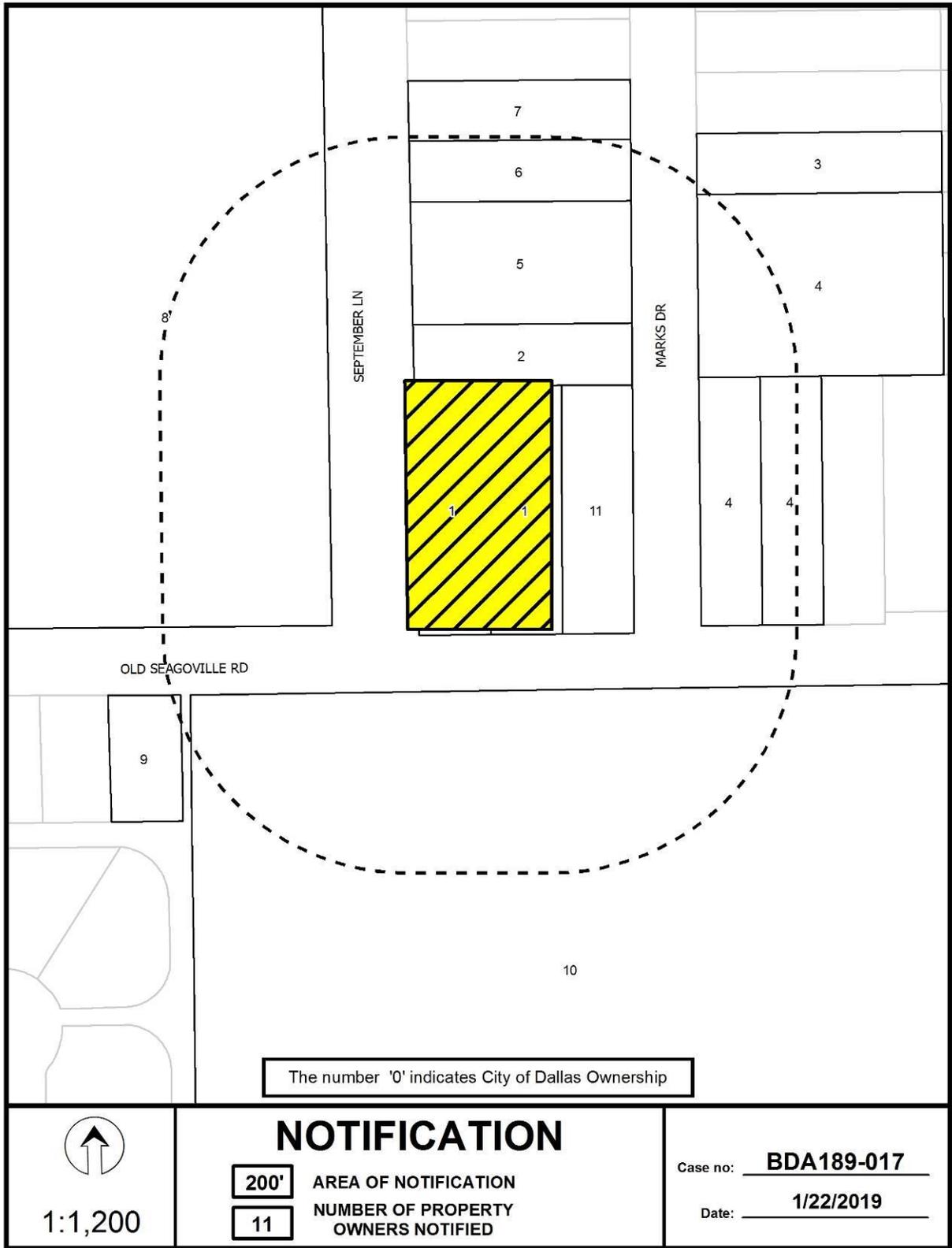
Legend

- | | | | |
|----------------------|--------------------------------|-----------------------|-----------------------------------|
| City Limits | railroad | Dry Overlay | CD Subdistricts |
| School | Certified Parcels | D | PD Subdistricts |
| Floodplain | Base Zoning | D-1 | PDS Subdistricts |
| 100 Year Flood Zone | PD193 Oak Lawn | CP | NSO Subdistricts |
| Mill's Creek | Dallas Environmental Corridors | SP | NSO_Overlay |
| Peak's Branch | SPSP Overlay | MD Overlay | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions | Historic Subdistricts | Parking Management Overlay 1 - 11 |
| Parks | SUP | Historic Overlay | Shop Front Overlay |
| | | Height Map Overlay | |

BDA189-017

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





Notification List of Property Owners

BDA189-017

11 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	10019 OLD SEAGOVILLE RD	HERNANDEZ HUMBERTO
2	231 MARKS DR	KAKRADA DELALI & GRACE
3	220 MARKS DR	CALLES CRISTOBAL D
4	232 MARKS DR	EVANS CONNIE JUNE
5	227 MARKS DR	DELAROSA PAULA MARGARITA
6	219 MARKS DR	GONZALES RAMONA
7	215 MARKS DR	ZAVALA JOAQUIN & ELVA S
8	9813 OLD SEAGOVILLE RD	Dallas ISD
9	9942 SEAGOVILLE RD	MORENO JOSE &
10	445 S MASTERS DR	A+ CHARTER SCHOOLS
11	10031 SEAGOVILLE RD	GORROSTIETA ADAN & MARISELA

FILE NUMBER: BDA189-020(OA)

BUILDING OFFICIAL'S REPORT: Application of Eric Rodriguez for variances to the lot coverage, rear yard setback, and side yard setback regulations at 4136 Cole Avenue. This property is more fully described as Lot 9, Block 1519, and is zoned PD-193 MF (2), which requires a 60% maximum lot coverage, a rear yard setback of 10 feet, and a side yard setback of 10 feet. The applicant proposes to construct and/or maintain structures with 1,942 square feet of floor area, which will require a 2,291 square foot variance to the maximum lot coverage regulations, to construct and/or maintain structures and provide a 1 foot rear yard setback, which will require a 9 foot variance to the rear yard setback regulations, and to construct and/or maintain structures and provide a 1 foot side yard setback, which will require a 9 foot variance to the side yard setback regulations..

LOCATION: 4136 Cole Avenue

APPLICANT: Eric Rodriguez

REQUESTS:

The following requests have been made on a site that is developed with a six-unit multifamily structure:

1. A request for a variance to the rear yard setback regulations of up to 9' is made to maintain two carport structures as close as 1' from the rear property line or up to 9' into the required 10' rear yard setback;
2. Requests for variances to the side yard setback regulations of 9' are made to maintain:
 - a) an existing carport, and patio cover structures 1' from the north side property line or 9' into this north 10' side yard setback; and
 - b) an existing carport and canopy structures 1' from the south side property line or 9' into this required 10' side yard setback.
3. A request for a variance to the lot coverage regulations of 2,291 square feet or approximately 24 percent is made to maintain the two carport structures, patio cover and canopy additions to an existing multi-family structure which would exceed the maximum 60 percent lot coverage on the subject site.

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION (rear yard, side yard, and lot coverage variances):

Denial

Rationale:

- Staff concluded that the applicant had not substantiated how the variances are necessary to permit development of this rectangular-shaped, flat, and approximately 9,400 square foot subject site in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same PD 193 (MF-2) zoning district.
- The applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with setback and lot coverage regulations. The site is currently developed with a multifamily structure that appears to have originally complied with setback and lot coverage requirements. The variances in this application appear to be made only to remedy illegal additions to the original structure.

BACKGROUND INFORMATION:

Zoning:

- Site: PD 193 (MF-2) (Planned Development District)
- North: PD 193 (GR) (Planned Development District)
- South: PD 193 (MF-2) (Planned Development District)
- East: PD 193 (PDS 17) (Planned Development District)
- West: PD 193 (MF-2) (Planned Development District)

Land Use:

The subject site is developed with a six-unit multifamily structure. The area to the north is developed with retail uses; the areas to the south, east, and west are developed with multifamily 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 (rear yard variance):

- This request focuses on maintaining two carport structures as close as 1' from the rear property line or 9' into the required 10' rear yard setback.
- Structures on lots zoned PD 193 (MF-2) are required to provide a minimum rear yard setback of 10'.
- A site plan has been submitted denoting a carport structure on the rear north side of the lot located 1' from the site's rear property line or 9' into the 10' rear yard setback and a second carport on the rear south side of the lot located 8' from the from the site's rear property line or 2' into the 10' rear yard setback.
- DCAD records indicate the following improvements for property located at 4136 Cole Avenue: "main improvement: a structure with 6,000 square feet of living area built in 1960" and no "additional improvements.
- The subject site is rectangular in shape, flat, and according to the application, is 0.215 acres (or approximately 9,400 square feet) in area.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the rear yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD193 (MF-2) zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD193 (MF-2) zoning classification.
- If the Board were to grant this rear yard setback variance request and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document which is a carport structure on the rear north side of the lot located 1' from the site's rear property line or 9' into the 10' rear yard setback, and a second carport on the rear south side of the lot located 8' from the from the site's rear property line or 2' into the 10' rear yard setback.

GENERAL FACTS/STAFF ANALYSIS (side yard variance):

- The requests focus on maintaining:
 - 1) an existing carport, and patio cover structures 1' from the north side property line or 9' into this north 10' side yard setback; and
 - 2) an existing carport and canopy structures 1' from the south side property line or 9' into this required 10' side yard setback.

- Structures on lots zoned PD193 (MF-2) are required to provide a minimum side yard setback of 10’.
- A site plan has been submitted denoting an existing carport, and patio cover structures 1’ from the north side property line and an existing carport and canopy structures 1’ from the south side property line.
- It appears from the submitted site plan that approximately 100 percent of the existing canopy and patio cover, approximately 1,000 square foot structures footprint, are located in these 10’ side yard setbacks and approximately 80 percent of the existing carports, approximately 900 square foot structures footprint, are located in these 10’ side yard setbacks.
- DCAD records indicate the following improvements for property located at 4136 Cole Avenue: “main improvement: a structure with 6,000 square feet of living area built in 1960” and no “additional improvements.
- The subject site is rectangular in shape, flat, and according to the application, is 0.215 acres (or approximately 9,400 square feet) in area.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the side yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD193 (MF-2) zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD193 (MF-2) zoning classification.
- If the Board were to grant this side yard setback variance request and impose the submitted site plan as a condition, the structures in the side yard setbacks would be limited to what is shown on this document which are a carport, and a patio cover structures 1’ from the north side property line or 9’ into this north 10’ side yard setback and a carport, and a canopy structures 1’ from the south side property line or 9’ into this south 10’ side yard setback.

GENERAL FACTS/STAFF ANALYSIS (lot coverage variance):

- The request focuses on maintaining two carport structures, patio cover, and canopy additions to an existing multi-family structure and exceeding the maximum 60 percent lot coverage by 2,291 square feet or approximately 24 percent on the subject site.
- PD 193 provides the following:
 - Lot coverage. Maximum lot coverage is 60 percent for residential structures.

- DCAD records indicate the following improvements for property located at 4136 Cole Avenue: “main improvement: a structure with 6,000 square feet of living area built in 1960” and no “additional improvements.
- The subject site is rectangular in shape, flat, and according to the application, is 0.215 acres (or approximately 9,400 square feet) in area
- The application states that a variance is made to maintain the existing structures on the lot which will exceed the 60 percent maximum lot coverage in PD 193 district by 2, 291 square feet of 84 percent.
- The submitted site plan makes the following notations:
 - Existing 6 unit two story brick and frame multifamily slab: 5,985 square feet
 - Covered Patio: 900 square feet
 - Carports: 906 square feet
 - Canopy: 136
 - Total area coverage: 7,927 square feet
 - Area of lot: 9,394 square feet
 - Lot coverage: 84 percent
 - Maximum lot coverage: 60 percent
 - Surplus lot coverage: 24 percent
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the lot coverage regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD193 (MF-2) zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD193 (MF-2) zoning classification.
- If the Board were to grant the lot coverage variance request and impose the submitted site plan as a condition, the building footprints of the structures on the site would be limited to what is shown on this document.

Timeline:

November 29, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

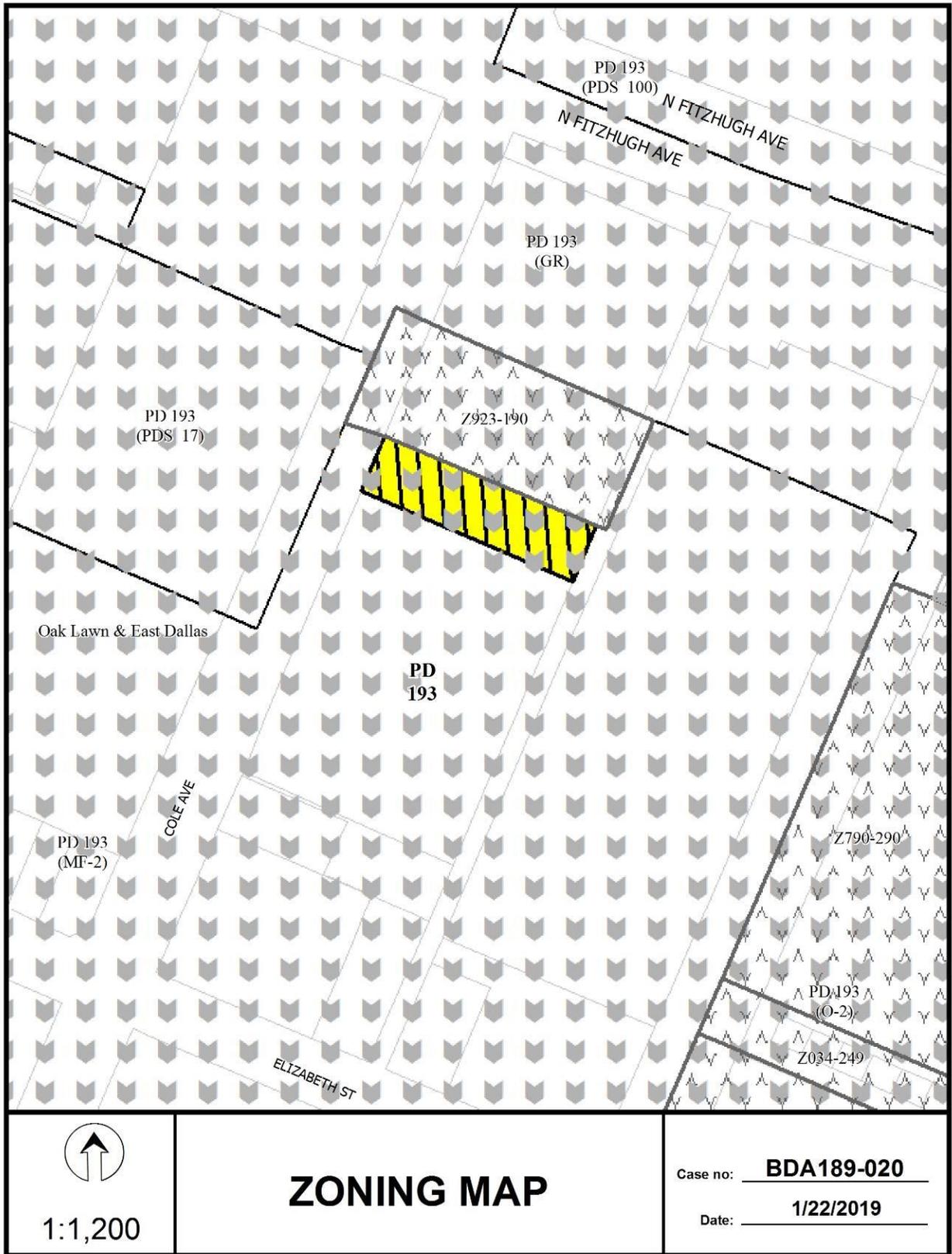
January 8, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

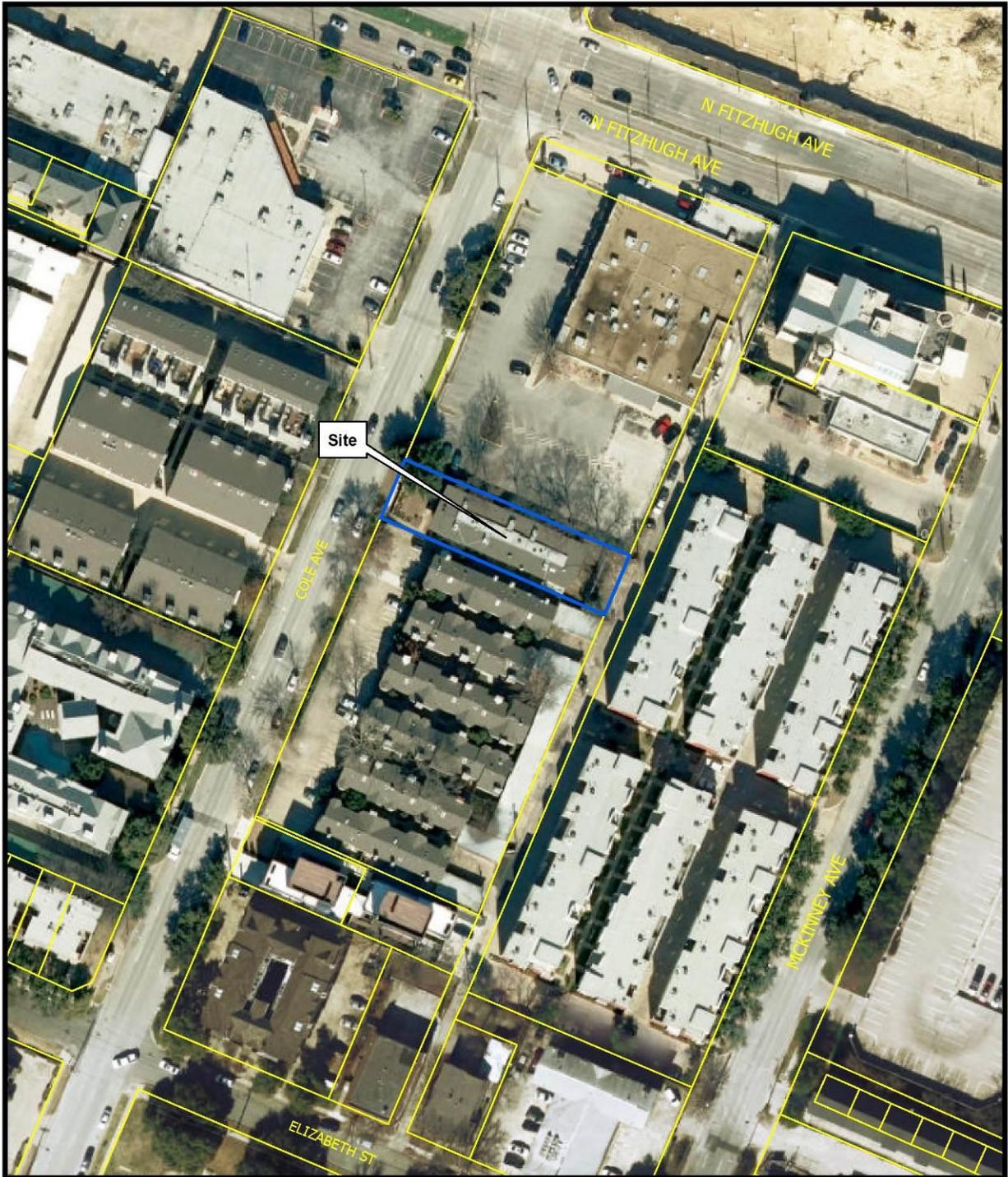
January 9, 2018: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the January 30th deadline to submit additional evidence for staff to factor into their analysis; and the February 8th 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 5, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

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






1:1,200

AERIAL MAP

Case no: **BDA189-020**
Date: **1/22/2019**



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 189-020

Date: 11-29-18

Relative to Subject Property:

Location address: 4136 COLE AVE. Zoning District: PD193 MF(2) Lot Lot No.: 9 Block No.: 1 / 1519 Acreage: .215 Census Tract: 7.01 Street Frontage (in Feet): 1) 50' 2) 187.89' 3) 50' 4) 187.89' 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Viceroy Livning LLC. / Peter McCullough

Applicant: Eric Rodriguez Telephone: 214-641-6048

Mailing Address: 422 S. Cockrell Hill Rd. Dallas Zip Code: 75211

E-mail Address: e.rodriguez@dicamniconsulting.com

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance , or Special Exception _____ , of _____ Lot coverage / side yard set back/ rear yard set back

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

Proposed covered patio (side) protrudes 9' over (10') B.L. with an offset of 1' to equal 10'. Proposed side covered parking protrudes 9' over (10') B.L. with an offset of 1' to equal 10'. Rear Covered parking protrudes 8' over (10') B.L. with an offset of 1' to equal 10'. Proposed construction will exceed the zoning lot coverage maximum by 10% (60% zoning coverage, allowed, proposed construction 70%). Due the size of the lot we do not have enough square footage of lot to conform with the zoning requirements compared to the average sizes of properties in the same zoning to conform with the requirements.

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 Eric Rodriguez (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 27 day of November, 2018

[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 ERIC RODRIGUEZ

did submit a request variance to the maximum allowed lot coverage of 60%, and for a variance to the rear yard setback regulations, and for a variance to the side yard setback regulations

at 4136 Cole Avenue

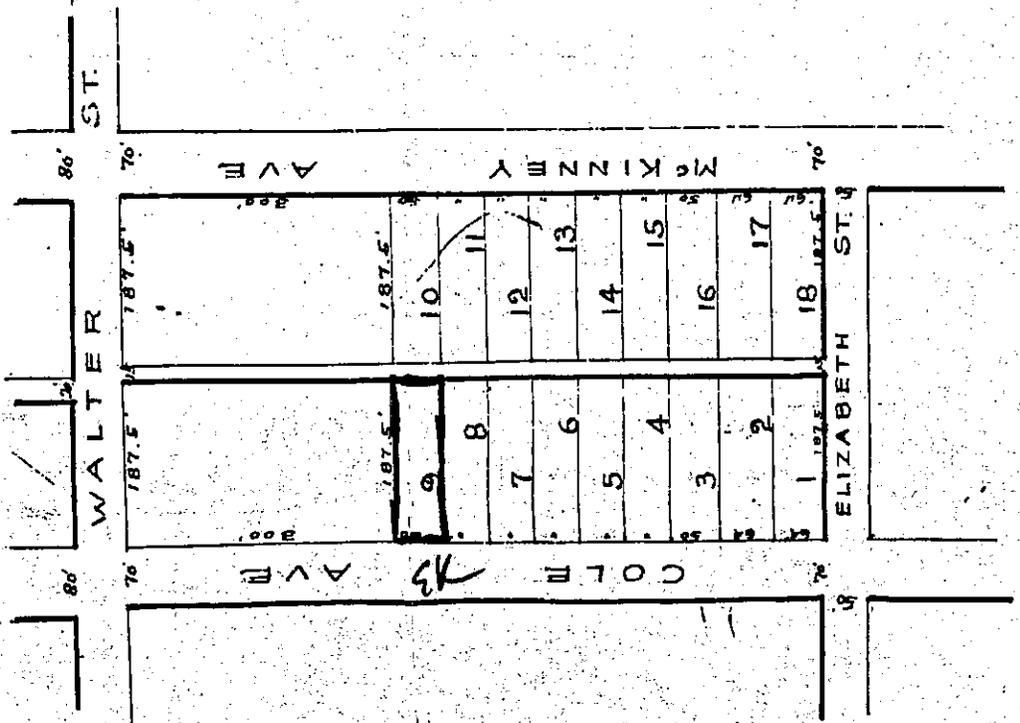
BDA189-020. Application of ERIC RODRIGUEZ for a variance to the maximum allowed lot coverage of 60%, and for a variance to the rear yard setback regulations, and for a variance to the side yard setback regulations at 4136 COLE AVE. This property is more fully described as Lot 9, Block 1519, and is zoned PD-193 MF(2), which requires 60% maximum lot coverage and requires a rear yard setback of 10 feet and requires a side yard setback of 10 feet. The applicant proposes to construct and or maintain a multi-family residential carport structures with 1942 square feet of floor area, which will require a 2291 square foot variance to the maximum allowed lot coverage of 60%, and to construct a multi-family residential carport structure and provide a 1 foot rear yard setback, which will require a 9 foot variance to the rear yard setback regulations, and to construct a multi-family residential covered carport structure and provide a 1 foot side yard setback, which will require a 9 foot variance to the side yard setback regulations.

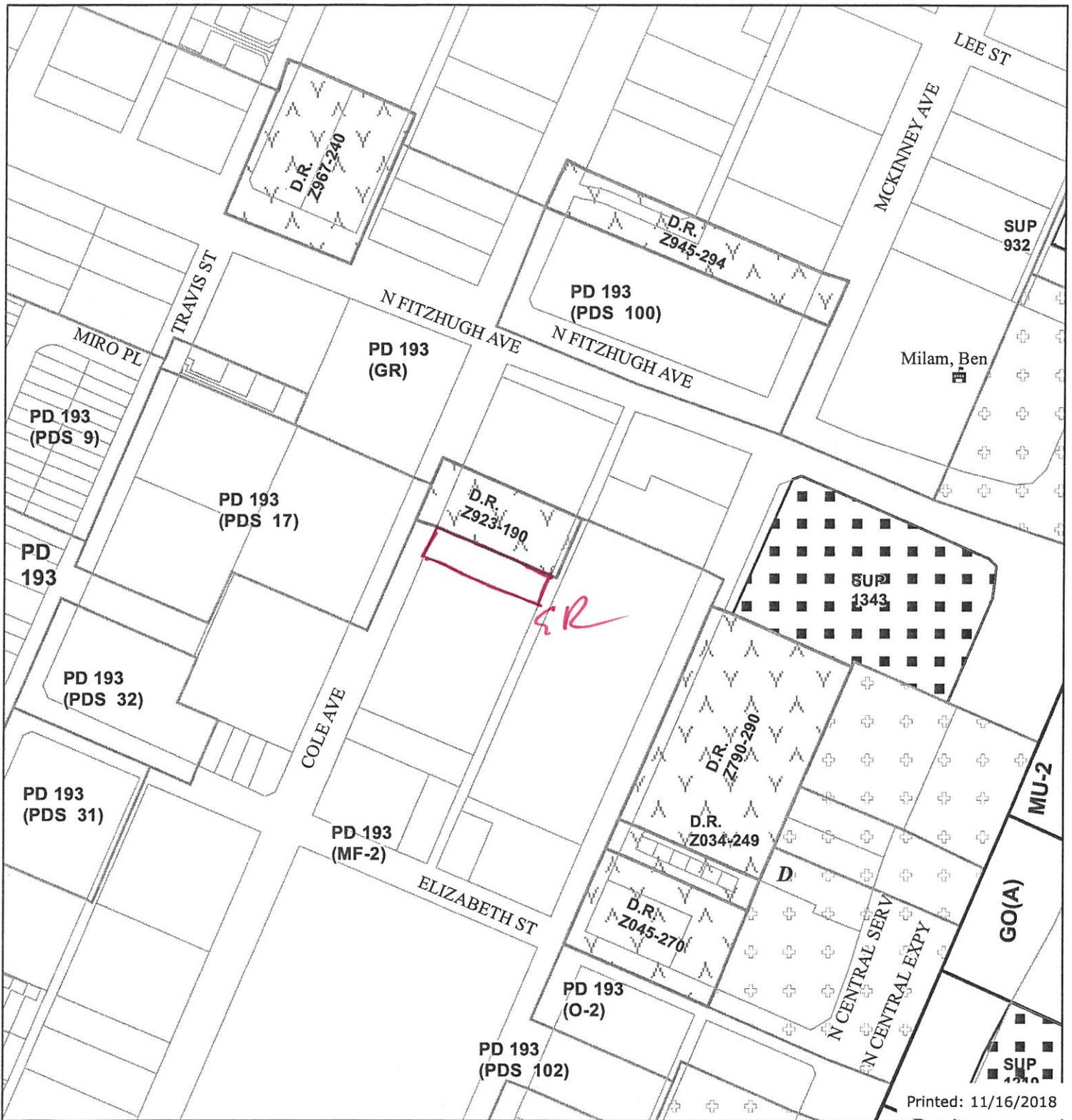
Sincerely,

Philip Sikes
Philip Sikes, Building Official



ADDITION.



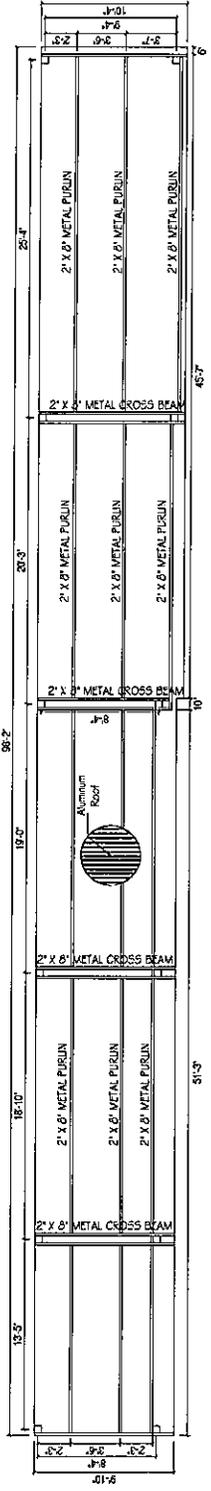
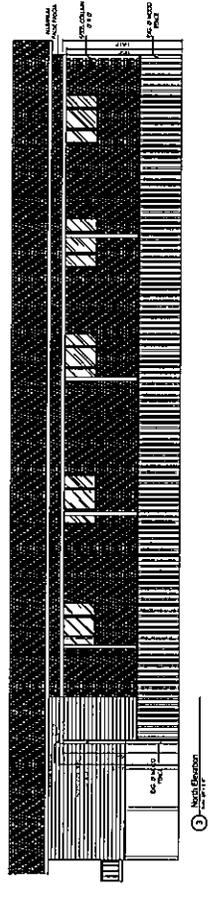
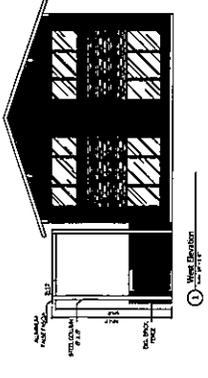
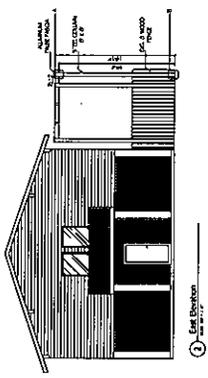
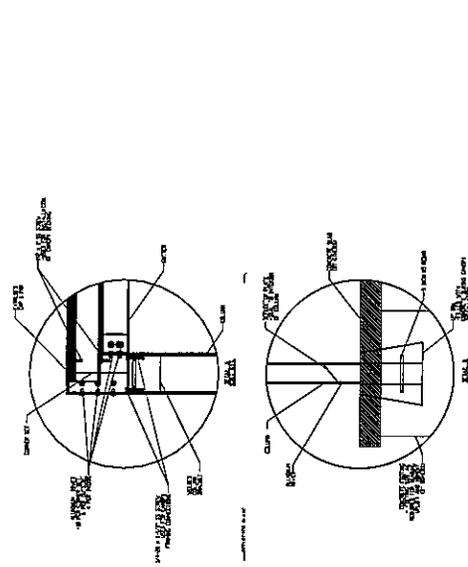


Legend

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

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

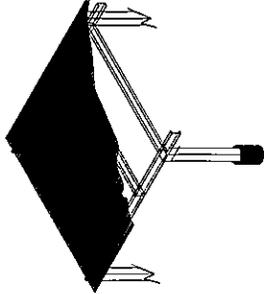




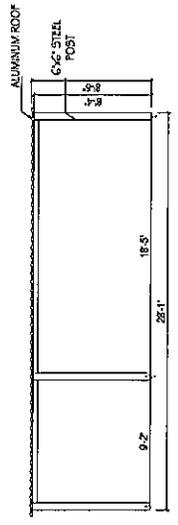
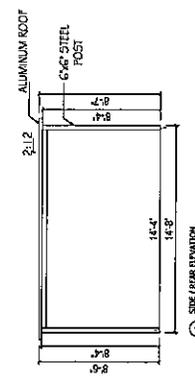
1. BLANK CELL (DOB IN 0.1)

GENERAL NOTES

1. ALL DIMENSIONS ARE IN FEET AND INCHES UNLESS OTHERWISE SPECIFIED.
2. ALL MATERIALS SHALL BE AS SHOWN IN THE SPECIFICATIONS AND SHALL BE APPROVED BY THE ARCHITECT.
3. ALL CONNECTIONS SHALL BE AS SHOWN IN THE DETAILS AND SHALL BE APPROVED BY THE ARCHITECT.
4. ALL MATERIALS SHALL BE AS SHOWN IN THE SPECIFICATIONS AND SHALL BE APPROVED BY THE ARCHITECT.



2. BLANK CELL (DOB IN 0.1)



BOARD OF ADJUSTMENTS

Legal Description:

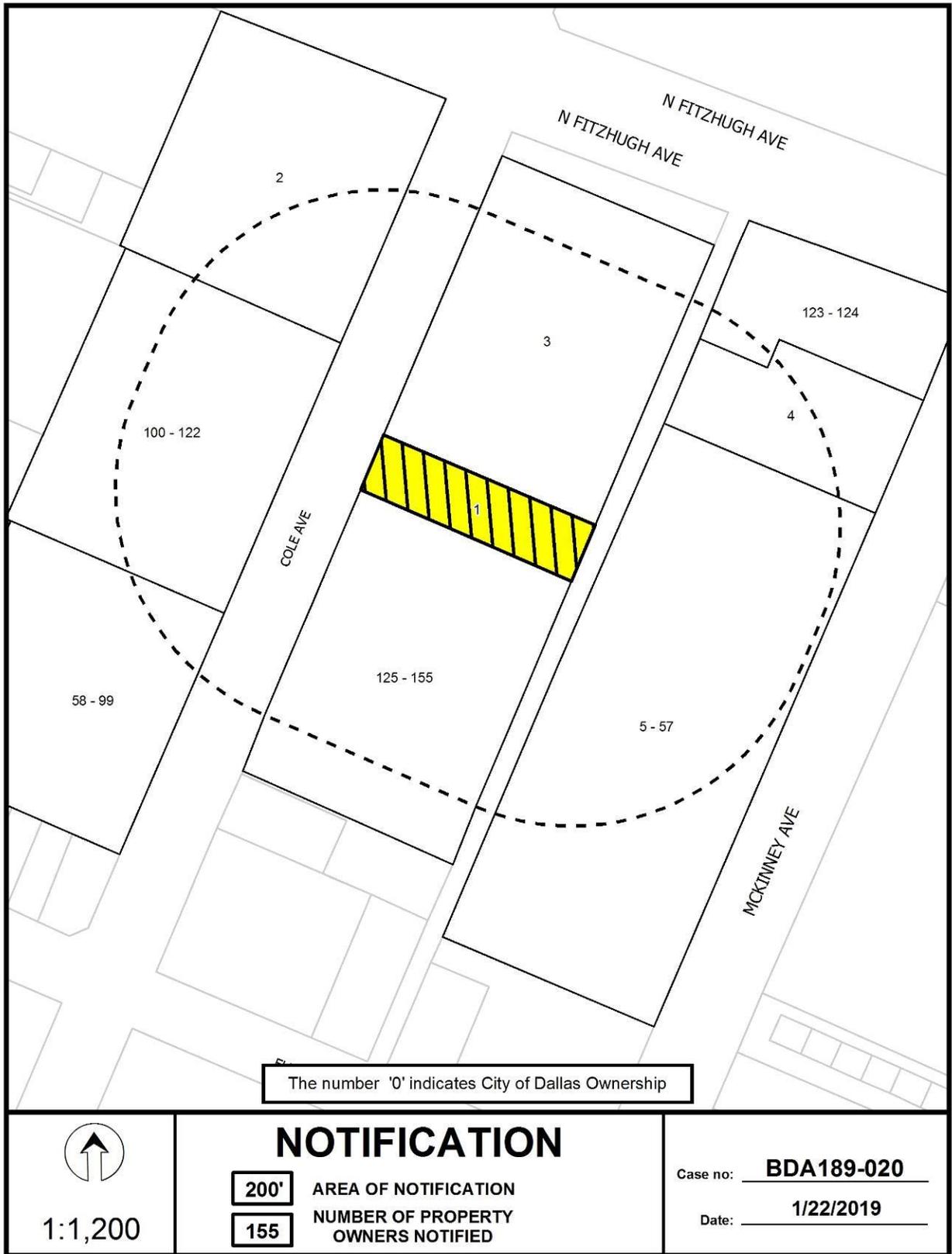
4126 Cole Ave.
 Dallas, TX. 75204
 BLK 1/ 1519 Lot 9
 PD 193 MF-2(A)
 Lot coverage 60%

MF-2(A) Properties				
Legal Description	Bldg Sq.ft.	Lot Sq.ft.	Lot Coverage %	Comments
1820 N. Garrett Ave.	19,600	26,877	73	
1910 N. Garrett Ave.	7,600	27,625	28	
1925 Moser Ave.	65,620	107,100	61	
2020 N. Garrett Ave.	12,096	17,850	68	
2116 N. Garrett Ave.	40,062	59,500	67	
2103 Moser Ave.	53,054	42,430	100	
2022 Moser Ave.	21,092	17,000	100	
2316 N. Garrett Ave	20,956	31,184	67	
4132 Cole Ave.	11,595	46,875	25	
Totals	251,675	376,441	589	
Average Totals	27,964	41,827	66%	
Legal Description	Bldg. Sq.ft.	Lot Sq.ft.	Lot Coverage %	
4136 Cole Ave	5,985	9,350	64	Exg. Coverage without improvements
Improvement				
Covered Patio (North Side)	900	-	-	
Covered Parking (Rear/ North Side)	493	-	-	
Covered Parking (Rear/ South Side)	413	-	-	
Canopy	136	-	-	
Totals	7,927	9,350	85%	

BOA NOTES:

In accordance with the zoning requirements for PD193 MF-2(A), we are not able to meet the standard requirements due to our **lot not being average** compared to lots in same zoning districts. The chart above shows the average lot dimensions are significantly greater than our lot.

Due the size of our property, we already working with a hardship to conform with the zoning requirements PD193 MF-2(A). We plead with the board to grant the land improvements due to the deficient buildable area.



The number '0' indicates City of Dallas Ownership



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
155 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA189-020**

Date: **1/22/2019**

Notification List of Property Owners

BDA189-020

155 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4136 COLE AVE	VICEROY LIVING LLC
2	3209 N FITZHUGH AVE	LAWS STREET LP
3	4152 COLE AVE	4152 COLE AVE PTNR LTD
4	4151 MCKINNEY AVE	4151 MCKINNEY JV
5	4121 MCKINNEY AVE	ARTZEROUNIAN DAVID E
6	4121 MCKINNEY AVE	BROWN MARCUS D
7	4121 MCKINNEY AVE	GRIFFIN AMANDA L
8	4121 MCKINNEY AVE	SEIDEL DOUGLAS P &
9	4121 MCKINNEY AVE	MAINETTI FRANCESCO
10	4121 MCKINNEY AVE	PATEL MUKESH
11	4121 MCKINNEY AVE	LOGSDON ANTHONY
12	4121 MCKINNEY AVE	SONS TRACY
13	4121 MCKINNEY AVE	TUMMONDS JEFFREY KENNETH &
14	4121 MCKINNEY AVE	HILLYER FRANCES
15	4121 MCKINNEY AVE	CEARLOCK WILLIAM TODD &
16	4121 MCKINNEY AVE	KNETSCH WILLIAM LEE
17	4121 MCKINNEY AVE	CLARSON KATHY L & RICHARD P
18	4121 MCKINNEY AVE	MAN JASON S & LIANGPING JIA
19	4121 MCKINNEY AVE	PAYNE MARTIN A
20	4121 MCKINNEY AVE	FARRELL CLINTON
21	4121 MCKINNEY AVE	KUSTIAWATI DEWI &
22	4121 MCKINNEY AVE	DONAHUE CRAIG
23	4121 MCKINNEY AVE	KWONG THEODORE DRUCE
24	4121 MCKINNEY AVE	WEGNER RICHARD
25	4121 MCKINNEY AVE	LATIMER CHRISTOPHER
26	4121 MCKINNEY AVE	MOSIER MATTHEW B

Label #	Address	Owner
27	4121 MCKINNEY AVE	OUYANG JAENNETTE &
28	4121 MCKINNEY AVE	SEDLIN DAVID
29	4121 MCKINNEY AVE	ALLEN KATHERINE
30	4121 MCKINNEY AVE	TO DUONG HAI &
31	4121 MCKINNEY AVE	DOUGLAS BRITTON
32	4121 MCKINNEY AVE	TIPTON LAUREN RENEE
33	4121 MCKINNEY AVE	CHUNG TAEJIN &
34	4121 MCKINNEY AVE	CARSON DAWN
35	4121 MCKINNEY AVE	CHURCH JULIE A
36	4121 MCKINNEY AVE	LEARY MICHAEL &
37	4121 MCKINNEY AVE	SUESSMANN KRISTEN MARY
38	4121 MCKINNEY AVE	DINH HOANG MINH
39	4121 MCKINNEY AVE	ELLIS RICHARD E JR
40	4121 MCKINNEY AVE	CHASANOFF STUART J
41	4121 MCKINNEY AVE	DANG NGUYEN &
42	4121 MCKINNEY AVE	SHI KEVIN Y
43	4121 MCKINNEY AVE	TORRI CHRISTINA
44	4121 MCKINNEY AVE	PECOT KENNETH W & KRISTIN L
45	4121 MCKINNEY AVE	JANKE SCOTT & CATHY
46	4121 MCKINNEY AVE	WELDON PETER J JR TR
47	4121 MCKINNEY AVE	HLAVACEK LIESL K & LUCAS
48	4121 MCKINNEY AVE	SHU HARRY H &
49	4121 MCKINNEY AVE	MORALES LUIS TAVERAS &
50	4121 MCKINNEY AVE	SHAW AMANDA N
51	4121 MCKINNEY AVE	GRANETO DONALD
52	4121 MCKINNEY AVE	NELSON JONATHAN P
53	4121 MCKINNEY AVE	RIVERA SARA & FRANK JAMES
54	4121 MCKINNEY AVE	CARNEVALI ALVIZUA RICARDO J &
55	4121 MCKINNEY AVE	COMROE NATALIE & CHAD
56	4121 MCKINNEY AVE	JOHNSON R DAVID & BETH ANN
57	4121 MCKINNEY AVE	HUTTO GREGORY

Label #	Address	Owner
58	4111 COLE AVE	BARON RICK
59	4111 COLE AVE	ECKLUND ALEXANDER COLE &
60	4111 COLE AVE	LESTER JOHN F & HAYLEY M
61	4111 COLE AVE	MISUTKA VICTORIA
62	4111 COLE AVE	MAH JEFFERY L
63	4111 COLE AVE	BOUKATHER BRITTANI
64	4111 COLE AVE	VANDECAR ELIZABETH J
65	4111 COLE AVE	CHANDLER JACQUELYN
66	4111 COLE AVE	R CASE PROPERTIES LLC
67	4111 COLE AVE	MORRIS STUART
68	4111 COLE AVE	LIPTON BRADLEY H
69	4111 COLE AVE	OSZUSTOWICZ SUSAN E
70	4111 COLE AVE	LAW HUAYZONG&
71	4111 COLE AVE	SHUTTLESWORTH SHELLEY D
72	4111 COLE AVE	RODRIGUEZ EDUARDO
73	4111 COLE AVE	DOWDALL ROBERT LINDSAY
74	4111 COLE AVE	TRAN THIENKY OLIVER
75	4111 COLE AVE	BEKKER VLAD
76	4111 COLE AVE	POTTS JOSEPH B & TERRY CLARK
77	4111 COLE AVE	KASAT RAJEEV
78	4111 COLE AVE	DOUGOUD BENOIT
79	4111 COLE AVE	JACKSON TANYA IVEY
80	4111 COLE AVE	HOLLOWAY JOHN CRAIG & JANE MARIE
81	4111 COLE AVE	YARBROUGH JEFFREY C &
82	4111 COLE AVE	CASON GARY &
83	4111 COLE AVE	HYDE ANDREW WARREN
84	4111 COLE AVE	MCCLURE JAMES M
85	4111 COLE AVE	BONDARENKO KOSTYANTYN V
86	4111 COLE AVE	YELAVARTHY AKESH
87	4111 COLE AVE	BRAND BENJAMIN DAVID
88	4111 COLE AVE	SHOOK JASON DONOVAN

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
89	4111 COLE AVE	THOMPSON HERLINDA V
90	4111 COLE AVE	HOPKINS CHERYL A
91	4111 COLE AVE	CLARK ROBERT JON JR
92	4111 COLE AVE	JOHNSON CODY
93	4111 COLE AVE	HANCOCK DON R & FORREST
94	4111 COLE AVE	JOSEPH JOEL
95	4111 COLE AVE	CULLEN JOHN M & CONSTANCE L
96	4111 COLE AVE	BELLGARCIA DANIEL H
97	4111 COLE AVE	RODRIGUEZ ELIZABETH
98	4111 COLE AVE	ASCARI NICOLETTA
99	4111 COLE AVE	GARRETT HEATHER
100	4125 COLE AVE	CULPEPPER JON LE
101	4125 COLE AVE	NUVIEW IRA INC
102	4125 COLE AVE	KAPPEL KANDACE
103	4125 COLE AVE	BURKE RACHEL MARIE
104	4125 COLE AVE	KOGER RITA ANNE GRIFFIN
105	4125 COLE AVE	KILBANE BRYAN C
106	4125 COLE AVE	ARMSTRONG JOHN
107	4125 COLE AVE	LOEHR CHRISTOPHER
108	4125 COLE AVE	PARKER CHRISTINE
109	4125 COLE AVE	SONS TRACY
110	4125 COLE AVE	PACE MONICA
111	4125 COLE AVE	LAZAR LAUREN
112	4125 COLE AVE	CHANG JOHNNY
113	4125 COLE AVE	LEPAGE JONATHAN
114	4125 COLE AVE	SCHAFFER JUDITH A
115	4125 COLE AVE	OSPINA ESNEYDER
116	4125 COLE AVE	HEFFERNAN JOSEPH R
117	4125 COLE AVE	ZIAKS STUART E &
118	4125 COLE AVE	MOFFAT LARA
119	4125 COLE AVE	METTMAN AMY K

Label #	Address	Owner
120	4125 COLE AVE	AUSTIN JOSEPH M &
121	4125 COLE AVE	MCLEOD NEILL III
122	4125 COLE AVE	GAGEN DONALD D
123	4161 MCKINNEY AVE	4161 MCKINNEY AVE LLC
124	4161 MCKINNEY AVE	DIEB J STEPHEN
125	4132 COLE AVE	4132 COLE LLC
126	4132 COLE AVE	LALLI ERMINIO
127	4132 COLE AVE	STONE MAREY E
128	4132 COLE AVE	GRUNSKA GEOFFREY S
129	4132 COLE AVE	ROBISON HEATHER MARIE &
130	4132 COLE AVE	STRAGE KATYA &
131	4132 COLE AVE	DAVIS TOBY D
132	4132 COLE AVE	PLATT JOEY
133	4132 COLE AVE	PARSELL JOYCE
134	4132 COLE AVE	DOYLE ALEXANDER G & MOLLY HUBBERT
135	4124 COLE AVE	COLLIER KEVIN MERLE
136	4124 COLE AVE	SHOCKNEY CARL WARREN TR
137	4124 COLE AVE	MAMMEN GIBSON G & JOCELYN
138	4124 COLE AVE	WINTERS LEONARD MAURICE
139	4124 COLE AVE	JANZEN KINSEY
140	4124 COLE AVE	JIN YINGQIN E
141	4124 COLE AVE	CHRISTIAN GREEG L
142	4124 COLE AVE	SIMPSON SUSAN S
143	4124 COLE AVE	FRANCESCONI ELIZABETH
144	4124 COLE AVE	ERICKSON KIMBERLY E
145	4124 COLE AVE	SORENSEN MARK E
146	4116 COLE AVE	BOGARD REVOCABLE LIVING
147	4116 COLE AVE	MUNGER DELLA M & ASHWIN
148	4116 COLE AVE	JEM LIVING TRUST THE
149	4116 COLE AVE	TANNENBAUM CHARLES & ERIC
150	4116 COLE AVE	LEON PROPERTIES

01/22/2019

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
151	4116 COLE AVE	GASTON KELSEY
152	4116 COLE AVE	ZHANG WENHAN &
153	4116 COLE AVE	SALVAGGIO JOHN & MARTHA
154	4116 COLE AVE	GRUNOW PAULA D
155	4116 COLE AVE	4116 COLE LLC

FILE NUMBER: BDA189-021(OA)

BUILDING OFFICIAL’S REPORT: Application of Robert Baldwin, represented by Rob Baldwin and Associates, for special exceptions to the off-street parking and landscape regulations at 5842 Live Oak Street. This property is more fully described as Lot 14 and 15, Block 1/2144, and is zoned CR, which requires off-street parking and mandatory landscaping to be provided. The applicant proposes to construct and/or maintain a structure for an office and general merchandise or food store 3500 square feet or less uses, and provide 18 of the required 22 off-street parking spaces, which will require a 4 space special exception to the off-street parking regulations, and to construct and/or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 5842 Live Oak Street

APPLICANT: Robert Baldwin
Represented by Rob Baldwin and Associates

REQUESTS:

The following requests have been made on a site that is developed with a vacant car wash structure/use:

1. A request for a special exception to the off-street parking regulations of 4 spaces is made to demolish the existing site’s structure and to construct and maintain an approximately 6,000 square foot structure with “office” and “general merchandise or food store 3,500 square feet or less” uses, and provide 18 of the required 22 off-street parking spaces; and
2. A request for a special exception to the landscape regulations to demolish the existing site’s structure and to the new structure, and to not fully meet the landscape regulations, more specifically, what appears to be the required street buffer zone, possibly the perimeter landscape residential buffer zone, and landscape design option requirements.

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

Section 51A-4.311 of the Dallas Development Code states the following:

- 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.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS:

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 (special exception to the off-street parking regulations):

Approval, subject to the following condition:

- The special exception of 4 spaces shall automatically and immediately terminate if and when the “office” and “general merchandise or food store 3,500 square feet or less” uses are changed or discontinued.

Rationale:

- The Sustainable Development and Construction Department Project Engineer indicated that he has no objections to the applicant’s request.
- The applicant has substantiated how the proposed “office” and “general merchandise or food store 3,500 square feet or less” uses do 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.

STAFF RECOMMENDATION (special exception to the landscape regulations):

Pending

Rationale:

- The City of Dallas Chief Arborist cannot provide a final recommendation given the time in which the revised alternate landscape plan was submitted. While the Chief Arborist has commented how he felt the original alternate plan was acceptable for support due to minor deficiencies based on spatial limitations, he was unable to

address how these changed site factors may have been altered with the new parking configuration on a revised landscape plan. The Chief Arborist has indicated that he intends to provide final conclusions regarding the revised landscape plan at the February 20th public hearing.

BACKGROUND INFORMATION:

Zoning:

Site: CR (Community retail)
North: LO-2 (Limited office)
South: CR (Community retail)
East: PD 63 (Planned Development)
West: CR (Community retail)

Land Use:

The site is currently developed with a vacant car wash structure/use. The areas to the north, south, and west are developed with office and retail uses, and the area to the east is developed with single family uses.

Zoning/BDA History:

1. BDA156-084, Property at 5842 Live Oak Street (the subject site) On August 26, 2015, Board of Adjustment Panel B approved a request for a special exception to the landscape regulations to construct and maintain an approximately 3,500 square foot structure (medical office use) on a site developed with a vacant car wash structure/use, and not fully meet the landscape regulations.

GENERAL FACTS/STAFF ANALYSIS (special exception to the off-street parking regulations):

- This request for a special exception to the off-street parking regulations of 4 spaces focuses on constructing and maintaining 6,000 square foot structure with “office” and “general merchandise or food store 3,500 square feet or less” uses on a site developed with a vacant car wash structure/use, and providing 18 (or 78 percent) of the 22 off-street parking spaces required by code.
- Chapter 51A-4.207 (5) (C) requires the following off-street parking requirement:
 - Office: one space per 100 square feet of floor area; with a minimum of four spaces.
- Chapter 51A-4.210 (13) (C) requires the following off-street parking requirement:
 - General merchandise or food store: one space per 200 square feet of floor area.

- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “Has no objections”.
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the proposed “office” and “general merchandise or food store 3,500 square feet or less” uses do not warrant the number of off-street parking spaces required, and
 - The special exception of 4 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 4 spaces shall automatically and immediately terminate if and when the “office” and “general merchandise or food store 3,500 square feet or less” uses are changed or discontinued, the applicant could construct and maintain structure on the site, and provide 18 (or 78 percent) of the 22 required off-street parking spaces.

GENERAL FACTS/ STAFF ANALYSIS (special exception to the landscape regulations):

- This request for a special exception to the landscape regulations focuses on replacing the existing structure on the site with a new “office” and “general merchandise or food store 3,500 square feet or less” structure , not fully meeting the landscape regulations, more specifically, what appears to be the required street buffer zone, possibly the perimeter landscape residential buffer zone, and landscape design option requirements.
- 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 Chief Arborist’s memo states the following with regard to “request”:
 - The applicant is requesting a special exception to the landscaping regulations of the 2018 Article X ordinance in the Dallas Development Code. The revised alternative landscape plan is for a property with new development requiring landscape improvements.
- The Chief Arborist’s memo states the following with regard to “provision”:
 - A revised landscape plan and revised site plan were being prepared at the time of this memo to address recommended changes for the parking lot configuration. I have not been able to review the final documents to provide final comment on any deficiencies to Article X. In reviewing the original alternate landscape plan, the majority of landscaping requirements had been met and some changes to parking may have helped to bring the landscaping into compliance.
- The Chief Arborist’s memo states the following with regard to “deficiencies”:
 - The alternative landscape plan submitted with the application was deficient in compliance with the street buffer zone for one parking space location. It was undetermined if the residential buffer zone (for the residential adjacency) would

be compliant with the 10 feet average requirement or not. Listed design options were not correctly assessed (no urban streetscape condition applied), but some possible point options were not listed. Only 10 points were required and not 15 as stated on the landscape plan.

- The Chief Arborist's memo states the following with regard to "recommendation":
 - The chief arborist cannot provide a final recommendation for the revised alternate landscape plan since it had not been presented by time for submittal of the memo to the Board administrator. The original alternate plan was acceptable for support due to minor deficiencies based on spatial limitations, but I cannot address how these changed site factors may have been altered with the new parking configuration. I can provide final conclusions with the hearing.
- 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 approval would provide exception to what appears to be the required street buffer zone, possibly the perimeter landscape residential buffer zone, and landscape design option requirements.

TIMELINE:

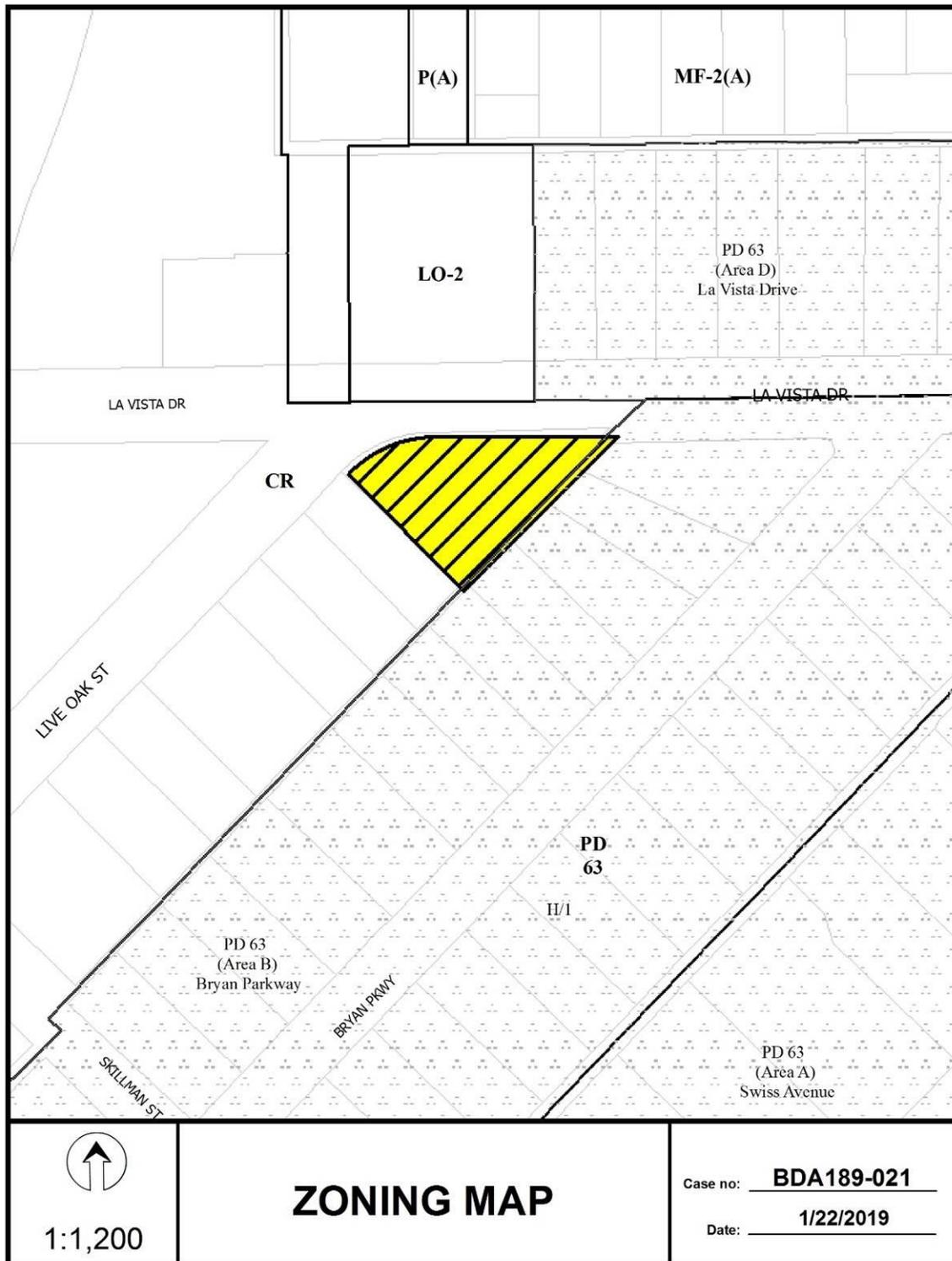
December 4, 2018: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 8, 2019: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case".

January 9, 2019: The Board Senior Planner emailed the applicant's representative the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the January 30th deadline to submit additional evidence for staff to factor into their analysis; and the February 8th 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 5, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.
- February 6, 2019: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections".
- February 8, 2018: The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment A).



Memorandum



Date February 8, 2019
To Oscar Aguilera, Board Administrator
Subject BDA #189-021 5842 Live Oak Street Arborist report

Request

The applicant is requesting a special exception to the landscaping regulations of the 2018 Article X ordinance in the Dallas Development Code. The revised alternative landscape plan is for a property with new development requiring landscape improvements.

Provision

- A revised landscape plan and revised site plan were being prepared at the time of this memo to address recommended changes for the parking lot configuration. I have not been able to review the final documents to provide final comment on any deficiencies to Article X. In reviewing the original alternate landscape plan, the majority of landscaping requirements had been met and some changes to parking may have helped to bring the landscaping into compliance.

Deficiency

- The alternative landscape plan submitted with the application was deficient in compliance with the street buffer zone for one parking space location. It was undetermined if the residential buffer zone (for the residential adjacency) would be compliant with the 10 feet average requirement or not. Listed design options were not correctly assessed (no urban streetscape condition applied), but some possible point options were not listed. Only 10 points were required and not 15 as stated on the landscape plan.

Recommendation

The chief arborist cannot provide a final recommendation for the revised alternate landscape plan since it had not been presented by time for submittal of the memo to the Board administrator. The original alternate plan was acceptable for support due to minor deficiencies based on spatial limitations, but I cannot address how these changed site factors may have been altered with the new parking configuration. I can provide final conclusions with the hearing.

Philip Erwin
Chief Arborist
Building Inspection



1:1,200

AERIAL MAP

Case no: BDA189-021

Date: 1/22/2019



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 189-021

Data Relative to Subject Property:

Date: December 4, 2018

Location address: 5842 Live Oak Street Zoning District: CR

Lot No.: 14 & 15 Block No.: 1/2144 Acreage: 0.329 acres Census Tract: 11.02

Street Frontage (in Feet): 1) 35 ft 2) 198.9 ft 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): TET Investments, LLC

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

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

E-mail Address: rob@baldwinplanning.com

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

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

E-mail Address: rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance, or Special Exception X, of a landscape special exception and four parking space special exception

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: The proposed redevelopment of the site to an office building will trigger Article X. The landscape plan shows a reduced residential buffer of 5 feet along the alley. The reduced landscape buffer is necessary to provide parking and circulation on the property, which is somewhat triangular in shape. A solid screening fence will be provided along the alley to buffer the commercial property from the single family uses across the alley.

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.

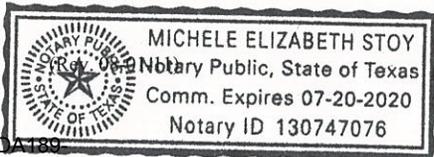
Affidavit

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 4 day of December, 2018



[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 ROBERT BALDWIN

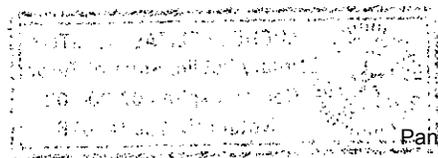
did submit a request for a special exception to the parking regulations, and for a special exception to the landscaping regulations

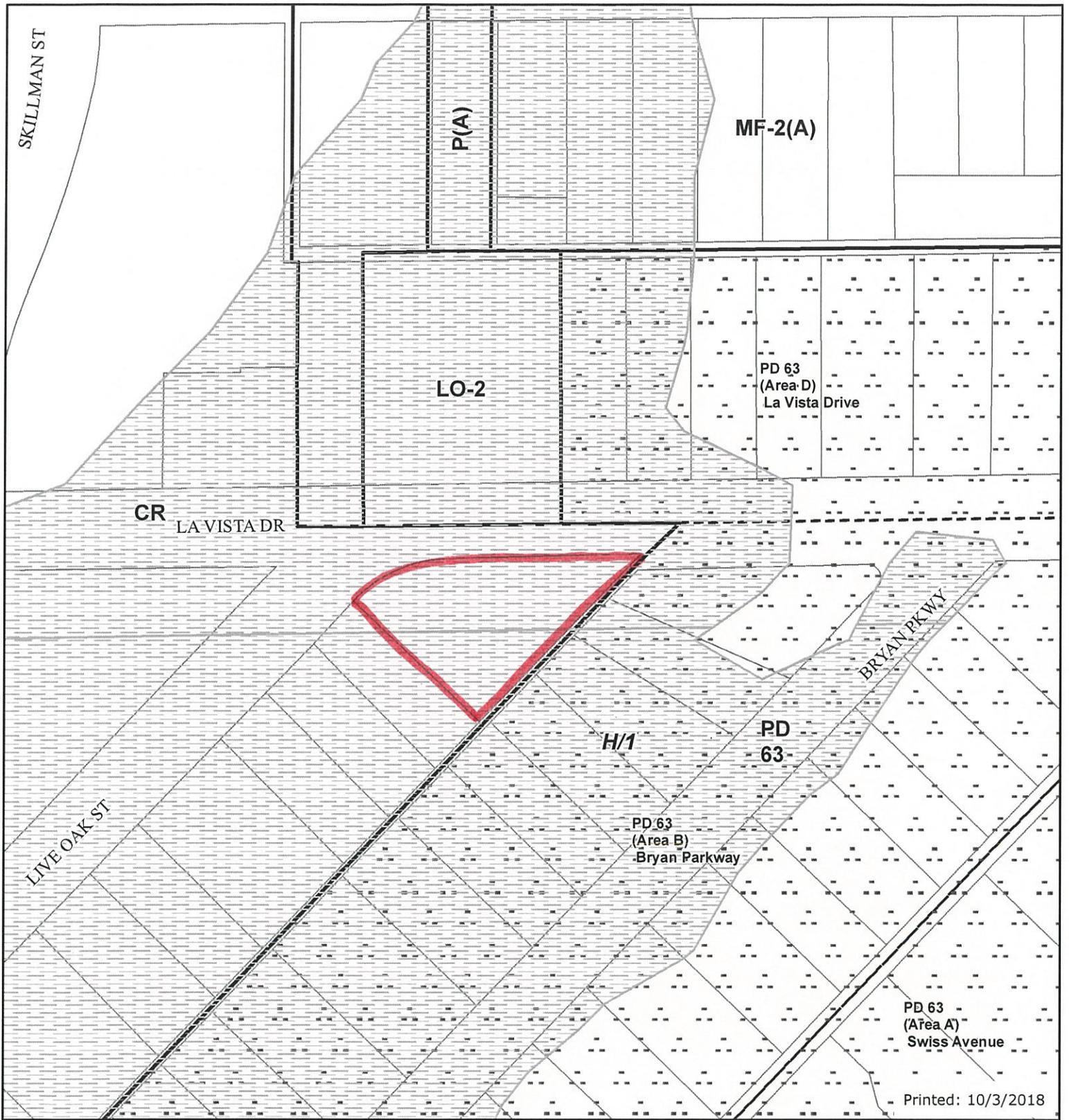
at 5842 Live Oak Street

BDA189-021. Application of ROBERT BALDWIN for a special exception to the parking regulations, and for a special exception to the landscaping regulations at 5842 LIVE OAK ST. This property is more fully described as Lot 14 and 15, Block 1/2144, and is zoned CR, which requires mandatory landscaping and requires parking to be provided. The applicant proposes to construct a nonresidential structure for a office, a general merchandise or food store 3500 square feet or less use, and provide 18 of the required 22 parking spaces, which will require a 4 space special exception (22% reduction) to the parking regulation, and to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

Sincerely,

Philip Sikes
Philip Sikes, Building Official





Printed: 10/3/2018

Legend

- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits | railroad | Dry Overlay | CD Subdistricts |
| School | Certified Parcels | D | PD Subdistricts |
| Floodplain | Base Zoning | D-1 | PDS Subdistricts |
| 100 Year Flood Zone | PD193 Oak Lawn | CP | NSO Subdistricts |
| Mill's Creek | Dallas Environmental Corridors | SP | NSO_Overlay |
| Peak's Branch | SPSP Overlay | MD Overlay | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions | Historic Subdistricts | Parking Management Overlay |
| Parks | SUP | Historic Overlay | 3rd Street Overlay |
| | | Height Map Overlay | |

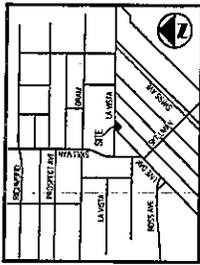
This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering,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



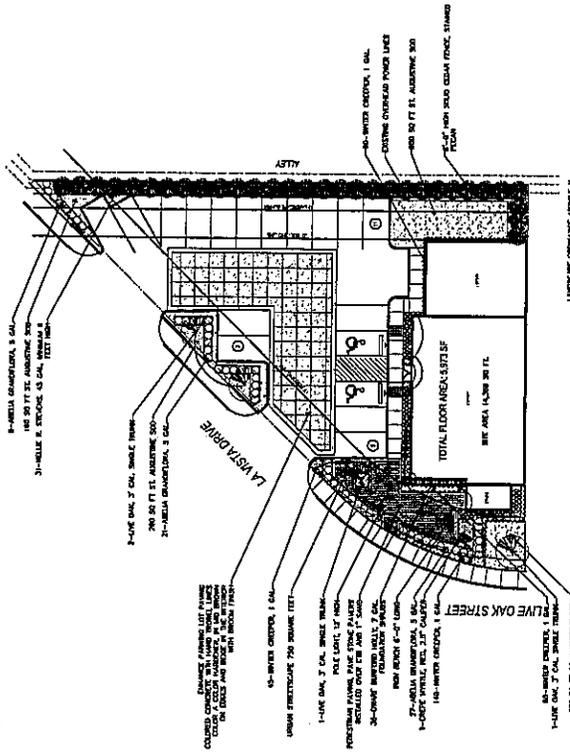
BDA189

Panel B

1:1,200



VICINITY MAP
NOT TO SCALE



LANDSCAPE CONTRACT ARTICLE 7
POINTS REQUIRED 15
PLANTING FACES - 1, ESTIMATED BEYOND
PERFORMA UNDER - 1, BRUSH STRUCTURE
PACKAGES - 3, BRUSH STRUCTURE
TOTAL POINTS 18
S.E. TREES REQUIRED 4 LARGE TREES

THE STATE ARCHITECTURE BOARD
REGISTERED PROFESSIONAL ARCHITECTS
NO. 17111 ON 10/20/20



KRG Civil Engineers, Inc.
1218 CAMINO LAGO
IRVING, TEXAS 75039
landscapes@krginc.com
krginc.com

LANDSCAPE ARCHITECT
T. H. PROFFER, LICENSED
1218 CAMINO LAGO
IRVING, TEXAS 75039
landscapes@krginc.com

CLIENT
MR. TOMMY KENTON
14101 WINDY HOLLOW DRIVE
MCKINNEY, TEXAS 75069
MR. TOMAS BELANSH
(972) 235-8897 PHONE
trenton@torcity.com

PROJECT INFORMATION
0.329 ACRE TRACT
5842 LIVE OAK
DALLAS, TEXAS 75214

REV	DATE	BY	DATE	DESCRIPTION	SCALE	NOTES
01	10-10-18	AS SHOWN				

CAUTION: THESE PLANS ARE LOCATED IN THE PUBLIC RECORDS OF THE COUNTY OF DALLAS, TEXAS. ANY CHANGES TO THESE PLANS MUST BE MADE IN ACCORDANCE WITH THE TEXAS DEPARTMENT OF TRANSPORTATION SAFETY SYSTEM (TSS) REQUIREMENTS. THESE PLANS ARE NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF KRG CIVIL ENGINEERS, INC.

LANDSCAPE PLAN
OFFICE BUILDING
5842 LIVE OAK
0.329 ACRE TRACT
DALLAS COUNTY, TEXAS

SHEET NO.
L1.01

5842 Live Oak Street

Parking required

Total floor area

5973 sf

Office	1:333	2000 sf	6.01
Retail	1:200	1973 sf	9.87
Office	1:333	2000 sf	6.01

21.88

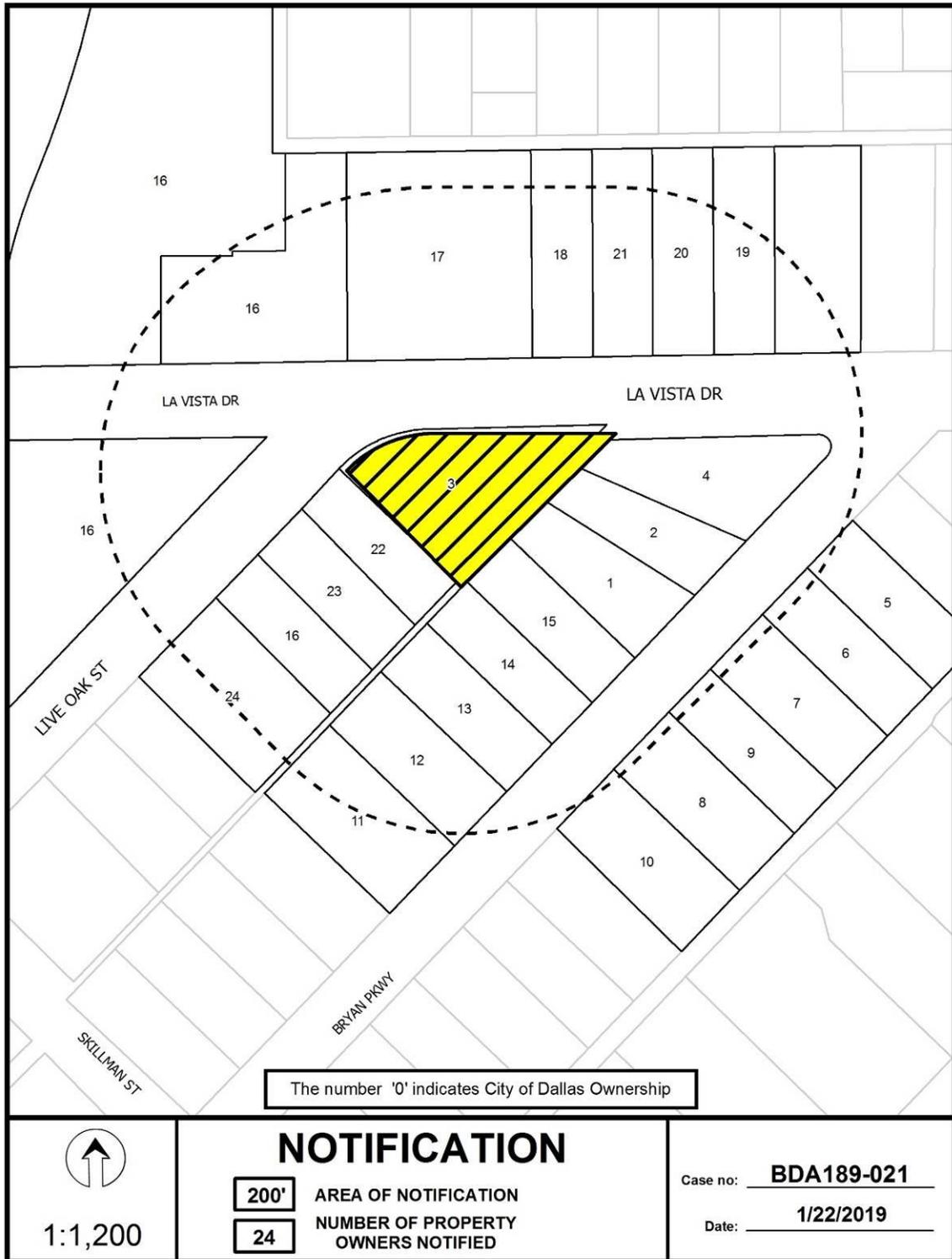
Parking provided

18

Deficiency

4

22%



Notification List of Property Owners

BDA189-021

24 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	6321 BRYAN PKWY	WELLS JOHN & WANDELL
2	6325 BRYAN PKWY	LYNCH JOHN J
3	5842 LIVE OAK ST	CELESTRIA X FLP
4	6333 BRYAN PKWY	ADAMS JON A
5	6330 BRYAN PKWY	DREW NOAH SCOTT &
6	6326 BRYAN PKWY	POWELL JOHN W
7	6322 BRYAN PKWY	BARBIER ANTHONY J II &
8	6312 BRYAN PKWY	ROGERS KEVIN L &
9	6318 BRYAN PKWY	AXILROD TIMOTHY H & CHRISTINA S
10	6308 BRYAN PKWY	GUNNISON KYLE
11	6221 BRYAN PKWY	MORRIS ROBERT & PATRICIA
12	6227 BRYAN PKWY	HAMPTON GLENN G & MARINA
13	6303 BRYAN PKWY	DAVIS BRYAN MATTHEW &
14	6311 BRYAN PKWY	BERTRAND PIERRE
15	6317 BRYAN PKWY	SOMMERS GREGORY ALAN &
16	6115 LA VISTA DR	SUN LIFE ASSURANCE COMPANY
17	6131 LA VISTA DR	SUN LIFE ASSURANCE COMPANY
18	6135 LA VISTA DR	BELL CASSANDRA M
19	6147 LA VISTA DR	COVEY ADRIAN & OLIVIA ROBERTS
20	6143 LA VISTA DR	ALLVISTA LTD
21	6139 LA VISTA DR	TURNER MARK A
22	5838 LIVE OAK ST	LIVE OAK 5838 LLC
23	5832 LIVE OAK ST	SCHOOL OF METAPHYSICS
24	5818 LIVE OAK ST	MERIDITH JANET TR &

FILE NUMBER: BDA189-023(OA)

BUILDING OFFICIAL'S REPORT: Application of Samina Jamal for a special exception to the landscape regulations, and for a variance to the off-street parking regulations at 12920 Preston Road. This property is more fully described as Lot 1, Block A/7442, and is zoned RR, which requires mandatory landscaping and requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations, and to construct and/or maintain a structure for a general merchandise or food store 3500 square feet or less and motor vehicle fueling station uses, and provide 8 of the required 11 off-street parking spaces, which will require a 3 space variance to the off-street parking regulations.

LOCATION: 12920 Preston Road

APPLICANT: Samina Jamal

REQUESTS:

The following requests have been made on a site that is developed with a general merchandise or food store/motor vehicle fueling station structure/use:

1. A request for a variance to the off-street parking regulations of 3 spaces is made to replace the existing one-story (according to DCAD) approximately 1,000 square foot "general merchandise building" constructed in 1984 with a new 1-story, approximately 1,750 square foot building for a general merchandise or food store 3,500 square feet or less and a motor vehicle fueling station uses, and provide 8 (or 73 percent) of the 11 required off-street parking spaces on the subject site.
2. A request for a special exception to the landscape regulations is made in conjunction the replacing the existing structure on the site with a larger structure, and not fully meeting the landscape regulations, more specifically, the street buffer zone, street tree, and design option requirements.

STANDARD FOR A VARIANCE (Variance to the off-street parking regulations):

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

- (A) not contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;

- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- (C) not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS:

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

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

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

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

STAFF RECOMMENDATION (Variance to the off-street parking regulations):

Denial

Rationale:

- While staff recognized that the site was slightly irregular in shape, staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting, that the applicant had not substantiated how the variance to the off-street parking regulations of 3 spaces is necessary to permit development of this flat, approximately 12,800 square foot site in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same RR zoning. The site is currently developed with a structure/use that complies with code, and that it appears that the hardship in this case is self-created in that the parking variance is only made to replace an existing structure/use that complies with off-street parking regulations with a larger one that cannot.
- In addition, staff concluded from the information submitted by the applicant at the time of the February 5th staff review team meeting that granting the variance appeared to be contrary to public interest since the Sustainable Development Department Senior Engineer submitted a review comment sheet marked

“Recommends denial” with the following comments: “Average of parking supply data (provided by applicant) exceeds request. National average parking demand for convenience stores exceeds request. The proposed parking layout conflicts with access to underground fuel storage.”

STAFF RECOMMENDATION (special exception to the landscape regulations):

Approval, subject to the following condition:

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

Rationale for approval:

- The City of Dallas Chief Arborist supports the request and recommends approval on the basis that strict compliance with the full requirements of 51A-10.100 and 51A-10.120 will unreasonably burden the continued use of the commercial property under renovation and with the continued established use, and that the exception would not adversely affect neighboring properties.

BACKGROUND INFORMATION:

Zoning:

Site: RR (Regional retail)
North: RR (Regional retail)
South: RR (Regional retail)
East: RR (Regional retail)
West: RR (Regional retail)

Land Use:

The site is currently developed with a general merchandise or food store/motor vehicle fueling station structure/use. The areas to the north, south, east, and west are developed with a mix of office, and retail uses.

Zoning/BDA History:

1. BDA93-183, Property at 12829 Preston Road (the property located two lots southwest from the subject site)

On December 14, 1993, the Board of Adjustment approved a request for a special exception to the off-street parking regulations to allow the applicant to lease approximately 4,300 square foot structure (restaurant use) on a site developed with a shopping center and grant a 10 percent or 43 space reduction on this site.

2. BDA93-189, Property at 12829 Preston Road (The property three lots southwest from the subject site)

On December 14, 1993, the Board of Adjustment approved a request for a special exception to the off-street parking regulations to allow the applicant to lease approximately 4,800 square foot structure (restaurant use) on a site developed with a shopping center and grant a 10 percent or 40 space reduction on this site.

GENERAL FACTS/STAFF ANALYSIS (Variance to the off-street parking regulations):

- This request for a variance to the off-street parking regulations of 3 spaces (or a 27 percent reduction of the off-street parking spaces required) focuses on replacing an existing one-story (according to DCAD) approximately 1,000 square foot “general merchandise building” constructed in 1984 with a new 1-story, approximately 1,750 square foot building for a general merchandise or food store 3,500 square feet or less and a motor vehicle fueling station, and providing 8 (or 73 percent) of the 11 required off-street parking spaces on the subject site.
- The Dallas Development Code requires the following off-street parking requirements:
 - General merchandise or food store 3,500 square feet or less use: 1 space per 200 square feet.
 - Motor vehicle fueling station use: 2 spaces.
- A site plan has been submitted with this application that denotes a 1,750 square foot building for a “general merchandise or food store 3,500 square feet or less” and a “motor vehicle fueling station” uses. This plan denotes that 11 off-street spaces are required and that 8 off-street parking spaces will be provided.
- The applicant must seek this parking reduction request as a variance since the maximum reduction authorized by this code for a special exception to off-street parking regulations is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A).
- According to DCAD, the “improvements” for property addressed at 12920 Preston Road is a “commercial building” built in 1984 with 994 square feet.
- The subject site is flat, slightly irregular in shape, and (according to the application) is 0.293 acres (or approximately 12,800 square feet) in area. The site is zoned RR.
- On February 6, 2019, the Sustainable Development Department Senior Engineer submitted a review comment sheet marked “Recommends denial” with the following comments: “The average parking supply data (provided by applicant) exceeds the request. National average parking demand for convenience stores exceeds the request. The proposed parking layout conflicts with access to underground fuel storage”.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the off-street parking regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of

this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.

- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same RR zoning classification.
- If the Board were to grant the variance, it would not be to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same RR zoning classification.
- If the Board were to grant this request, and impose the submitted site plan as a condition, the applicant could replace the existing structure with a larger one with the same uses, and provide only 8 (or 73 percent) of the 11 required off-street parking spaces on the subject site.

GENERAL FACTS/ STAFF ANALYSIS (special exception to the landscape regulations):

- This request for a special exception to the landscape regulations focuses on replacing the existing structure on the site with a larger one, and not fully meeting the landscape regulations, more specifically, not fully meeting the street buffer zone, street tree, and design option requirements.
- 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).
- While the applicant submitted an original landscape plan in conjunction with this request, the City of Dallas Chief Arborist submitted a memo that pertains to a revised landscape plan submitted by the applicant later in the process (see Attachment B).
- The Chief Arborist's memo states the following with regard to "request":
 - The applicant is requesting a special exception to the landscaping regulations of the 2018 Article X ordinance in the Dallas Development Code. The revised alternative landscape plan is for a property under renovation with a new structure and existing street frontage conditions controlled by TXDoT.
- The Chief Arborist's memo states the following with regard to "provision":
 - The western and northern portion of the property was significantly reduced for right turn lane provisions with highway improvements. A landscape area with grass lawn which existed until 2012 was removed. The site is currently paved to the new constructed sidewalk with a large portion being owned by TXDoT.

- An ONCOR transmission tower is positioned at the southwest corner of the property. This aspect restricts planting large trees in the area of influence of the lines due to utility company policies. City ordinance would authorize a reduction to small trees. Large evergreen shrubs are provided alongside the dumpster screen and the southern view.
- The required three site trees are provided (10" sweetgum for 2 trees, and new cedar elm).
- Parking lot requirements are not applicable due to limited parking spaces (< 20).
- The Chief Arborist's memo states the following with regard to "deficiencies":
 - The street buffer zone is applied only at the southwest and northeast corners.
 - Street trees are not provided.
 - Design options: 10 points required. The plan provides 3 pts. for color of pavement and 1 point for additional large shrubs in the front yard. Screening of parking is limited to two locations.
- The Chief Arborist's memo states the following with regard to "recommendation":
 - The chief arborist recommends approval of the revised alternate landscape plan provided on February 6, 2019, on the basis that strict compliance with the full requirements of 51A-10.100 and 51A-10.120 will unreasonably burden the continued use of the commercial property under renovation and with the continued established use. The exception would not adversely affect neighboring properties.
- The applicant has the burden of proof in establishing the following:
 - Strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property and the special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted revised alternate landscape plan as a condition to the request, the approval would provide exception to not fully meeting the landscape regulations – landscape requirements only triggered to be provided on the site because of the applicant's proposal to enlarge the existing structure on it.

TIMELINE:

December 18, 2018: 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 8, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

January 9, 2019: The Board Senior Planner emailed the applicant's representative the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the January 30th deadline to submit additional evidence for staff to factor into their analysis;

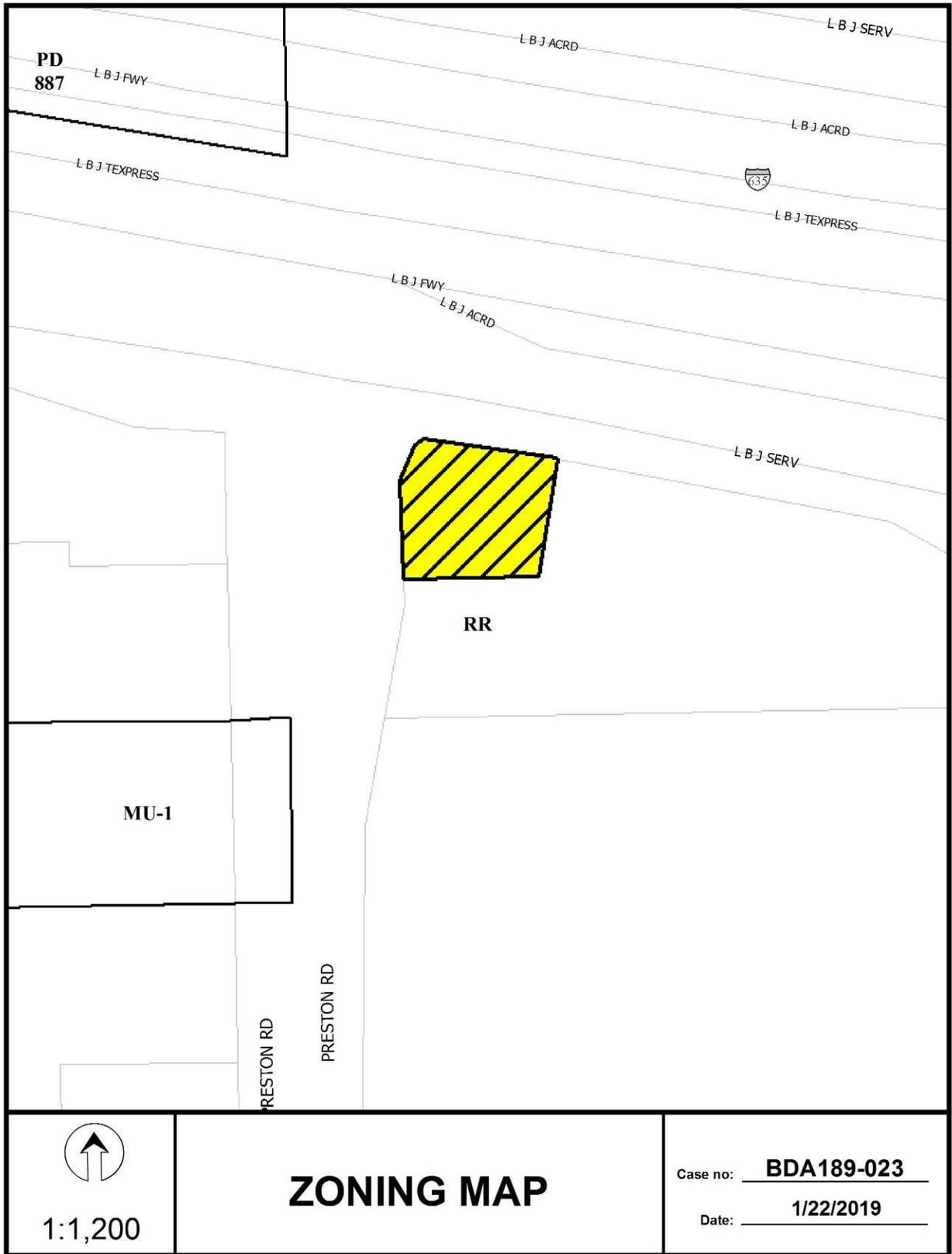
- and the February 8th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

February 5, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

February 6, 2019: The Sustainable Development Department Senior Engineer submitted a review comment sheet marked "Recommends denial" with the following comments: "The average parking supply data (provided by applicant) exceeds the request. National average parking demand for convenience stores exceeds the request. The proposed parking layout conflicts with access to underground fuel storage".

February 7, 2019: The City of Dallas Chief Arborist submitted a memo regarding the applicant's revised landscape plan (see Attachment B).

February 8, 2019: The applicant submitted additional information to the Sustainable Development and Construction Department Board of Adjustment Senior Planner beyond what was submitted with the original application (see Attachment C and D). Note that the document labeled "Attachment C" was not factored into the staff recommendation since it was submitted after the February 5th staff review team meeting, however the document labeled "Attachment D" (a revised landscape plan) was factored into the staff recommendation because the applicant had been submitted it to the Chief Arborist at a time that allowed him to consider and comment on it.

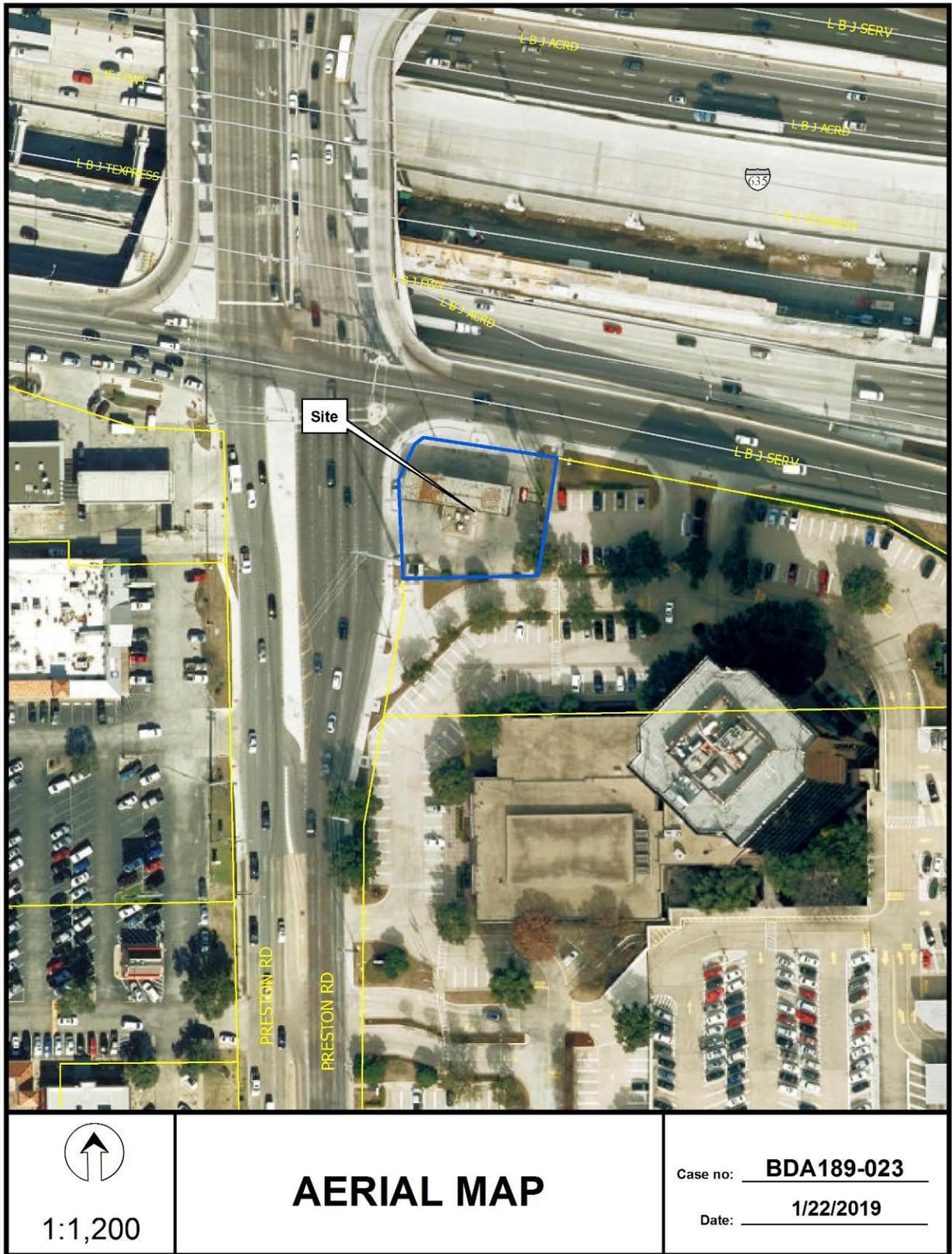


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ZONING MAP

Case no: **BDA189-023**

Date: **1/22/2019**



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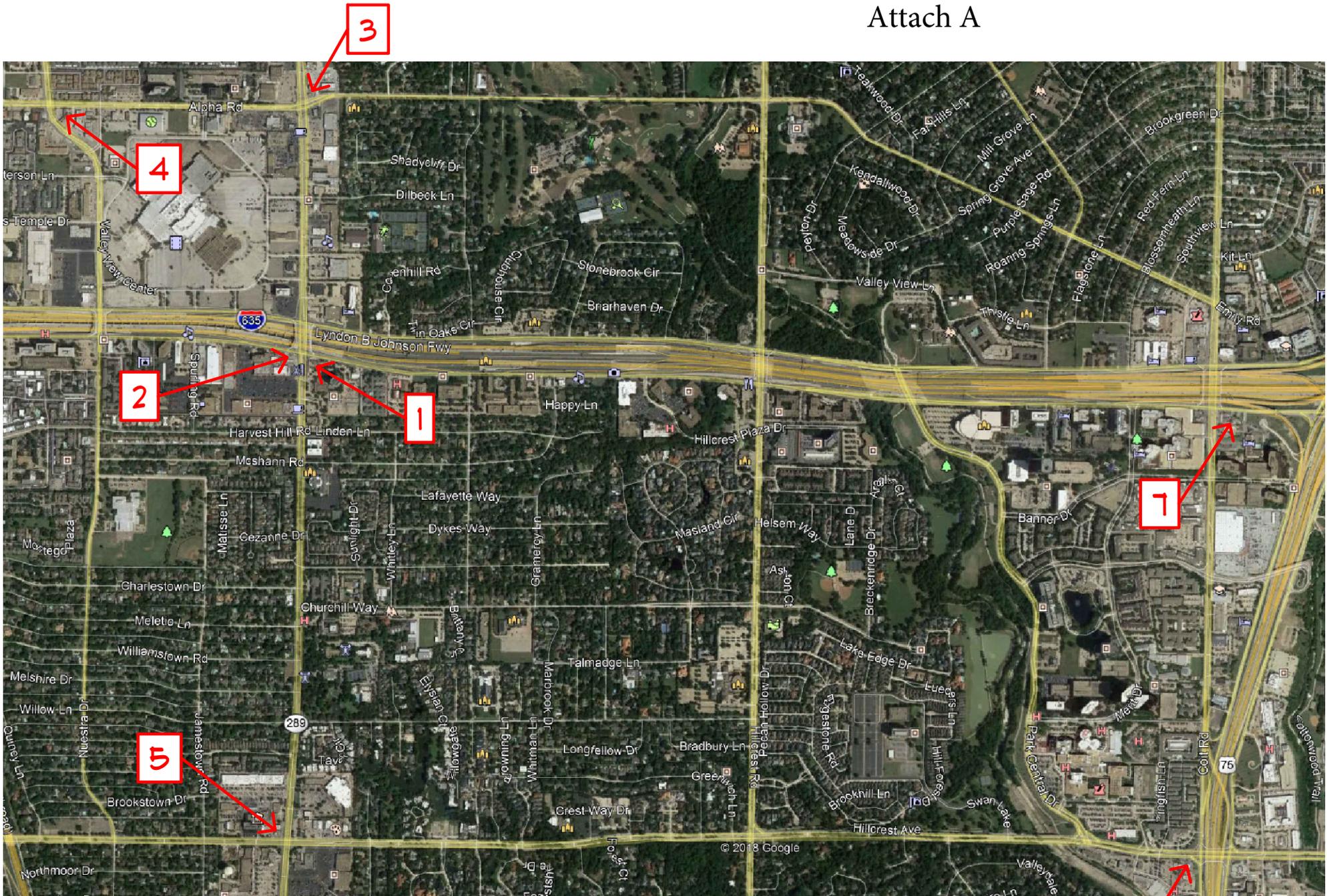
AERIAL MAP

Case no: **BDA189-023**

Date: **1/22/2019**

SITE COMPARISON CHART

	STATION	LOCATION	ZONING	LOT S.F. (approx)	BLDG S.F. (approx)	PUMPS	PARKING
	1**	Texaco	SE Cor Preston/635	RR	12,761 s.f.	2,091 s.f.	4 9
	2	Shell	SW Cor Preston/635	RR	26,644 s.f.	2,479.s.f	14 16
	3	7-11	NE Cor Preston/Alpha	RR	14,407 s.f.	2,772 s.f.	4 13
	4	Valero	SE Cor Alpha/Motley	PD-887	37,940 s.f.	3,573 s.f.	10 21
	5	7-11	NW Cor Preston/Forest	CR	16,364 s.f.	2,585 s.f.	4 15
	6	Chevron/7-11	SW Cor Coit/Forest	MU-1	17,002 s.f.	3,022 s.f.	8 12
	7	Exxon	SE Cor Coit/635	MU-3	25,060 s.f.	3,742 s.f.	16 19
	** this is the site for which we are seeking a parking variance.						



Memorandum



CITY OF DALLAS

Date February 7, 2019
To Oscar Aguilera, Board Administrator
Subject BDA #189-023 12920 Preston Road Arborist report

Request

The applicant is requesting a special exception to the landscaping regulations of the 2018 Article X ordinance in the Dallas Development Code. The revised alternative landscape plan is for a property under renovation with a new structure and existing street frontage conditions controlled by TXDoT.

Provision

- The western and northern portion of the property was significantly reduced for right turn lane provisions with highway improvements. A landscape area with grass lawn which existed until 2012 was removed. The site is currently paved to the new constructed sidewalk with a large portion being owned by TXDoT.
- An ONCOR transmission tower is positioned at the southwest corner of the property. This aspect restricts planting large trees in the area of influence of the lines due to utility company policies. City ordinance would authorize a reduction to small trees. Large evergreen shrubs are provided alongside the dumpster screen and the southern view.
- The required three site trees are provided (10" sweetgum for 2 trees, and new cedar elm).
- Parking lot requirements are not applicable due to limited parking spaces (< 20).

Deficiency

- The street buffer zone is applied only at the southwest and northeast corners.
- Street trees are not provided.
- Design options: 10 points required. The plan provides 3 pts. for color of pavement and 1 point for additional large shrubs in the front yard. Screening of parking is limited to two locations.

Recommendation

The chief arborist recommends approval of the revised alternate landscape plan provided on February 6, 2019 on the basis that strict compliance with the full requirements of 51A-10.100 and 51A-10.120 will unreasonably burden the continued use of the commercial property under renovation and with the continued established use. The exception would not adversely affect neighboring properties.

Philip Erwin
Chief Arborist
Building Inspection

**VARIANCE REQUEST
12920 Preston Road, Dallas, TX**

On behalf of the property owner at 12920 Preston Road, we are requesting a variance for the following:

- 1) an alternative landscape plan
- 2) to be allowed 9 parking spaces instead of 11.

BACKGROUND OF PROPERTY:

Twice this property has been reduced in size due to the taking of street right of way along the west property line next to Preston Road. In 2004, TXDOT began acquiring land to widen Preston Road by 14.22'. The final document was recorded June 24, 2008, with Dallas County reducing this property by the 14.22' as shown on the revised site plan.

In 2007, TXDOT again requested an additional 23.74' of land along the west property line for another expansion to Preston Road, and this was recorded with Dallas County September 27, 2010.

As a result of right of way taken from this property, approximately 38' was lost along the west boundary line. This is an extreme loss for this site, reducing the land area from .404 acres down to .293 acres.

ITEM #1: ALTERNATE LANDSCAPE PLAN

After the improvements to Preston Road were completed this property had no landscape area on the north and west from the street curb inward to the pumps. The only green space was along the east and south property lines. We have proposed additional screening shrubs, ground cover and a large canopy tree for the site to enhance the available landscape area.

ITEM #2: REDUCED PARKING REQUIREMENT

In order to compete with other similar businesses this property needs to be updated with the proposed new building and additional pumps. The attached *Site Comparison Chart* shows how other RR zoned properties all have more pumps, parking and building s.f. - things this property cannot provide since so much land was taken by TXDOT.

The parking requirement for the proposed building is 1 space per 200 s.f. of building for a total of 11 required spaces. As shown on the proposed site plan we only have room for 9 parking spaces and are requesting a variance for the other 2 spaces.

Respectfully Submitted,



Norman Patten, NCARB

SITE COMPARISON CHART 2-7-19

	STATION	LOCATION	ZONING	LOT S.F. (approx)	BLDG S.F. (approx)	PUMPS	PARKING
**1	Texaco	SE Cor Preston/635	RR	12,761 s.f.	2,091 s.f.	4	9
2	Shell	SW Cor Preston/635	RR	26,644 s.f.	2,479.s.f	14	16
3	7-11	NE Cor Preston/ Alpha	RR	14,407 s.f.	2,772 s.f.	4	13
4	Exxon	NE Cor Jim Miller/I-30	RR	38,633 s.f.	3,634 s.f.	20	16
5	Valero	SE Cor Samuel/ Dolphin	RR	19,907 s.f.	5,036 s.f.	4	25
6	Conoco	SE Cor Beaman/ Samuel	RR	14,248 s.f.	3,808 s.f.	8	15
7	Valero	NW Cor Westmoreland/ Ft. Worth Ave.	RR	27,595 s.f.	3,124 s.f.	8	12
** This is the site for which we are seeking a parking variance.							



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 189-023

Data Relative to Subject Property:

Date: 12-18-18

Location address: 12920 Preston RD DALLAS, TX Zoning District: RR

Lot No.: 1 Block No.: A/7442 Acreage: .293 Census Tract: 132.00

Street Frontage (in Feet): 1) 125' 2) 169' 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment

Owner of Property (per Warranty Deed): CMDA, INC / VANEET DUGGAL

Applicant: Samina Jamal Telephone: 817-966-5936

Mailing Address: 13601 Preston RD ES10 DALLAS TX Zip Code: 75240

E-mail Address: Samina@SquareFootConstruction.com

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance , or Special Exception ^{8 cot} of Variance of 3 parking spaces, 11 Required parking (2015 SF) & on the shows on site plan. I need 2 parking variance, AND Special Exception of 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:

I Believe the alternate LandScape should be granted. Due to not having enough space to provide. All Article 10 requirements on 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

Samina Jamal

(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:

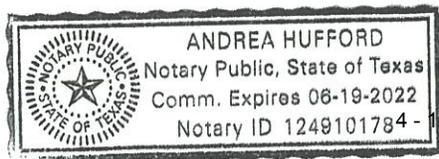
Samina Jamal

(Affiant/Applicant's signature)

Subscribed and sworn to before me this 17 day of December 2018

Andrea Hufford
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 Samina Jamal

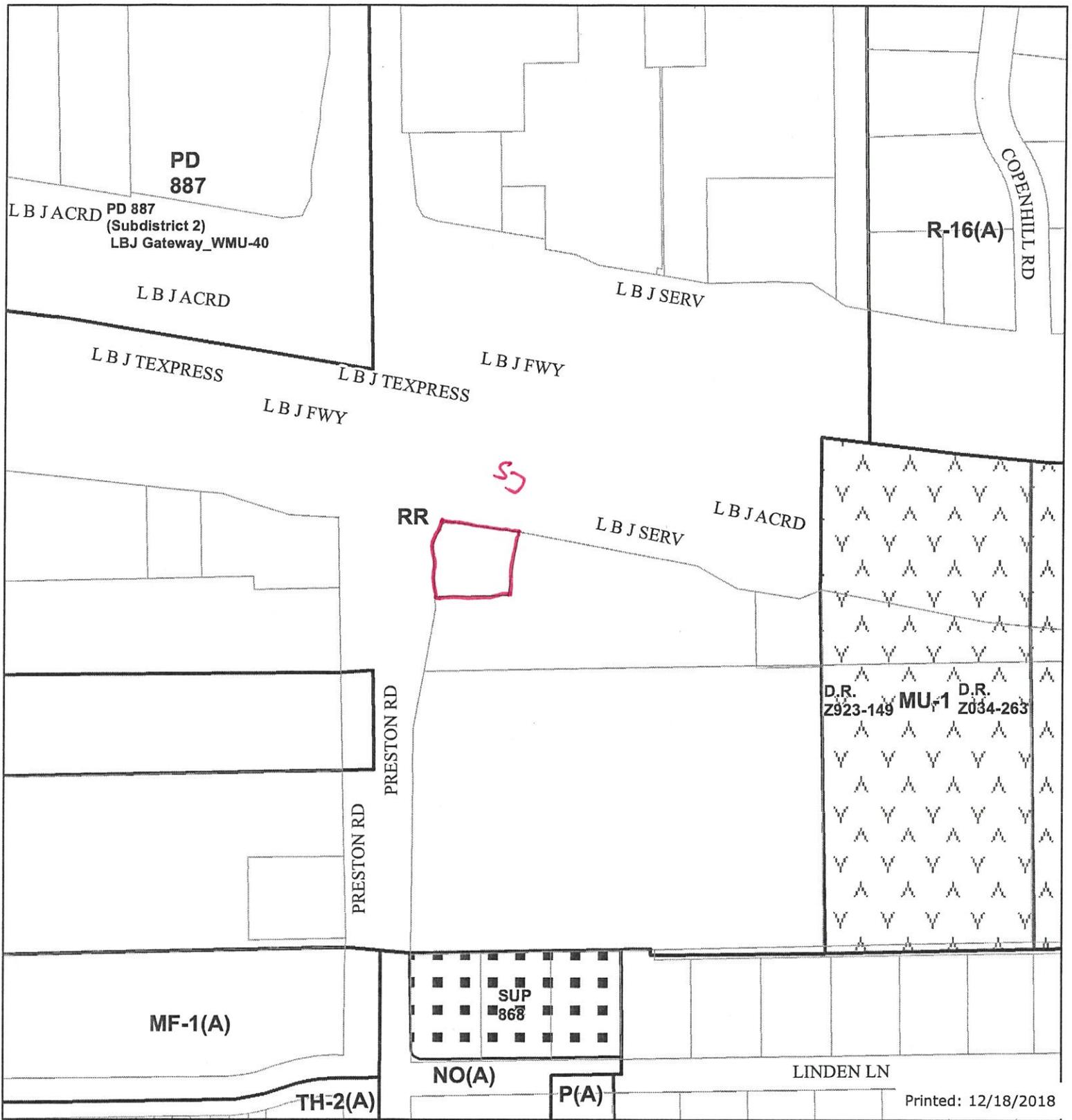
did submit a request for a special exception to the landscaping regulations, and for a variance to the parking regulations

at 12920 Preston Road

BDA189-023. Application of Samina Jamal for a special exception to the landscaping regulations, and for a variance to the parking regulations at 12920 PRESTON RD. This property is more fully described as Lot 1, Block A/7442, and is zoned RR, which requires mandatory landscaping and requires parking to be provided. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations, and to construct a nonresidential structure for a general merchandise or food store less than 3500 sqft, and motor vehicle fueling station, and provide 8 of the required 11 parking spaces, which will require a 3 space variance (27% reduction) to the parking regulation.

Sincerely,

Philip Sikes
Philip Sikes, Building Official



Printed: 12/18/2018

Legend

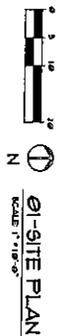
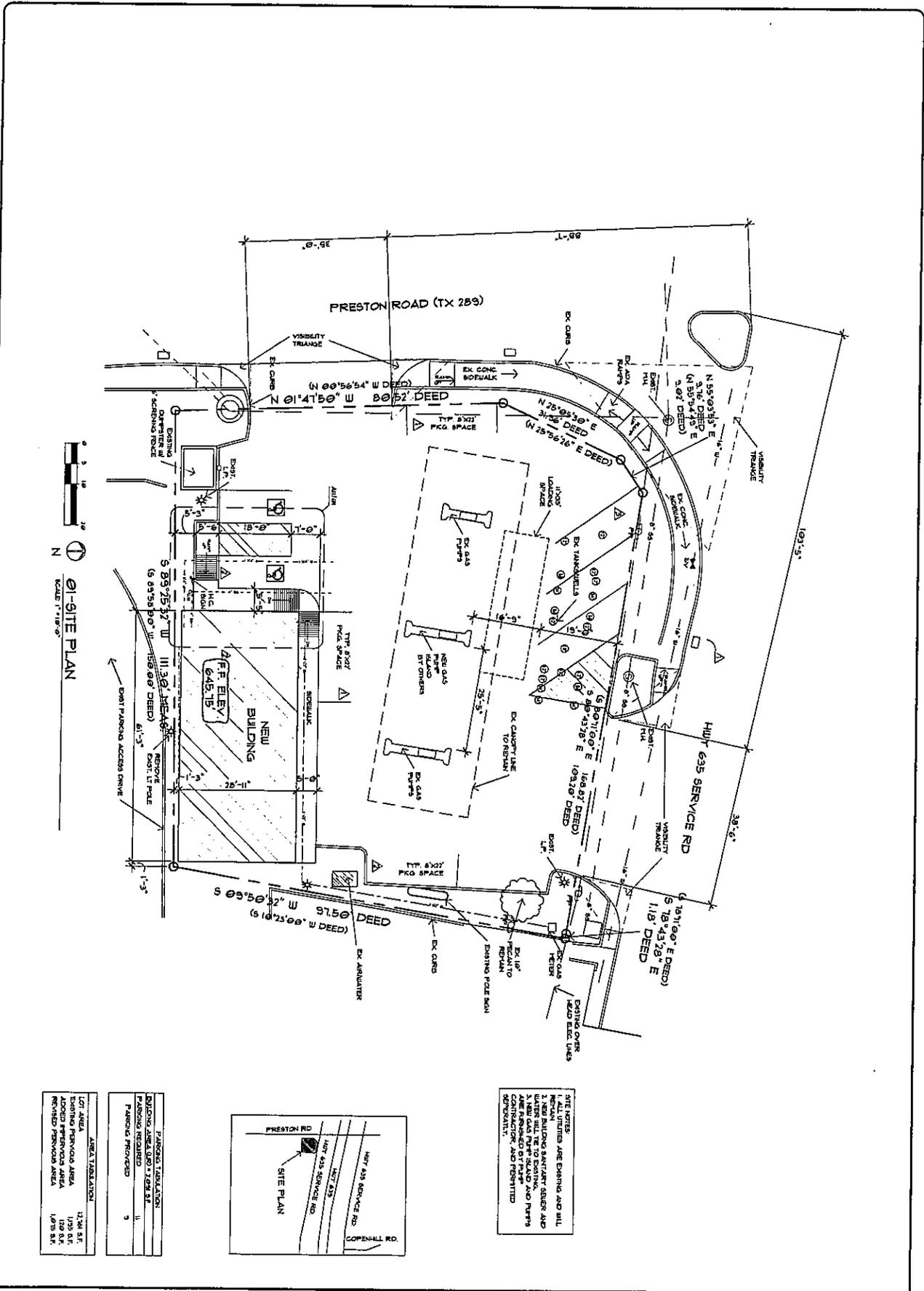
- City Limits
- School
- Floodplain
- 100 Year Flood Zone
- Mill's Creek
- Peak's Branch
- X Protected by Levee
- Parks
- railroad
- Certified Parcels
- Base Zoning
- PD193 Oak Lawn
- Dallas Environmental Corridors
- SPSD Overlay
- Deed Restrictions
- SUP
- Dry Overlay
- D
- D-1
- CP
- SP
- MD Overlay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

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



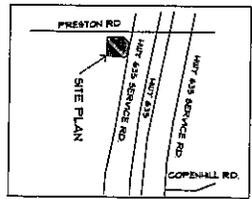
Panel B

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AREA TABULATION	
LOT AREA	1234 S.F.
IMPROVEMENT AREA	1234 S.F.
ADDED IMPROVEMENT AREA	1234 S.F.
REMOVED IMPROVEMENT AREA	1234 S.F.

PLANNING TABULATION	
BUILDING AREA (SQ. FT.)	11
PARKING REQUIRED	11
PARKING PROVIDED	11



SITE NOTES
 1. ALL NOTES ARE EXISTING AND WILL REMAIN UNLESS NOTED OTHERWISE.
 2. ALL BUILDING SANITARY SEWER AND WATER LINES SHALL BE 18\"/>

SHEET NO. **A2**

DATE **5-16-11**

JOB NO. **11724**

NP NORMAN PATTEN & ASSOC.
 ARCHITECTURE & PLANNING

413 CEDAR ST. @ MAIN - CEDAR HILL, TX 75104 - 972/ 293-2929
 npatten@flash.net

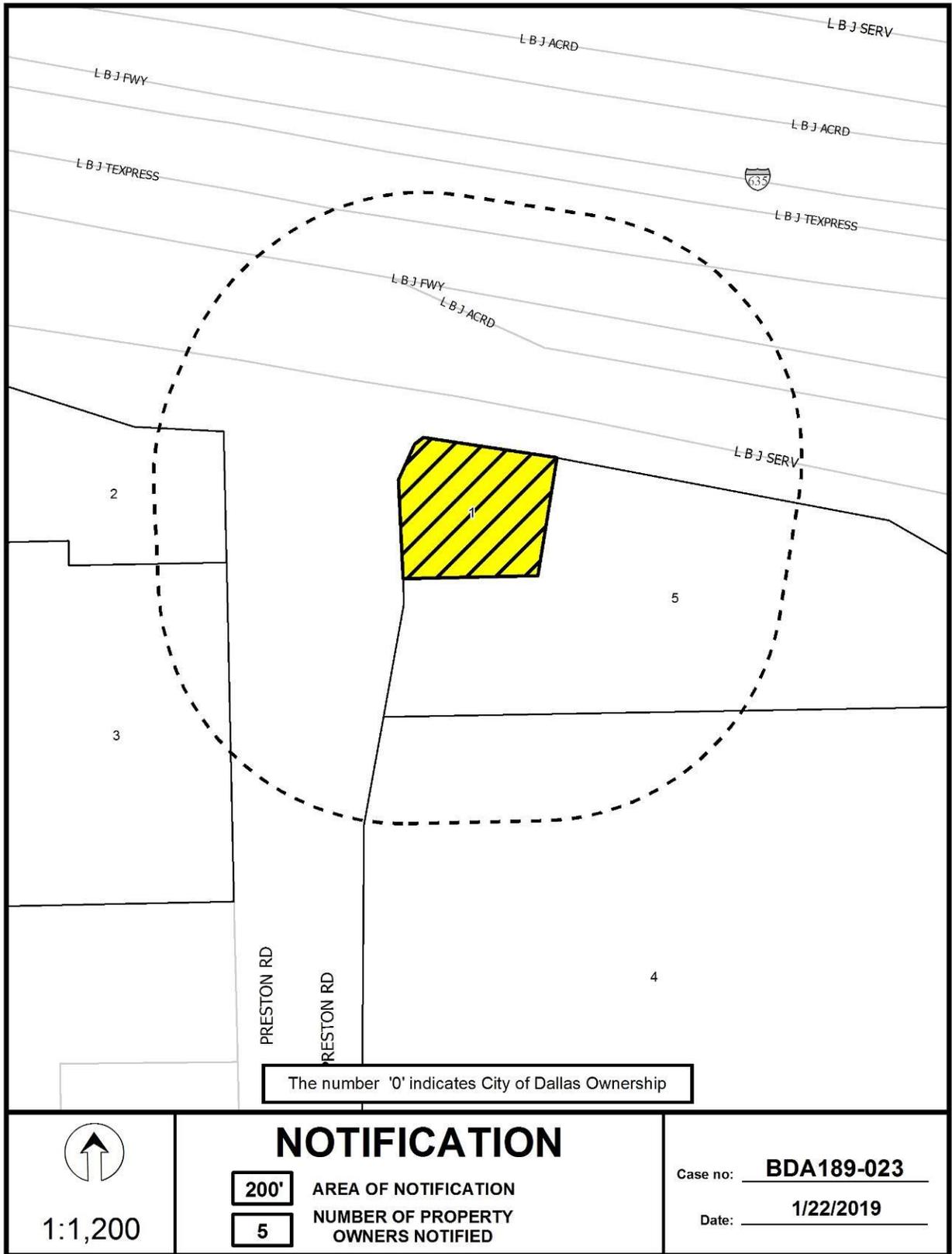
A REMODEL TO PRESTON TEXACO

12520 PRESTON ROAD
 DALLAS, TEXAS



REVISIONS:

12-13-10	△
11-23-10	△
1-26-11	△



Notification List of Property Owners

BDA189-023

5 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	12920 PRESTON RD	CMDA INC
2	12969 PRESTON RD	FLATT JEFFREY LYNN &
3	12835 PRESTON RD	PV 635 PRESTON LTD
4	12900 PRESTON RD	NORTH DALLAS BANK & TR
5	12900 PRESTON RD	NORTH DALLAS BANK & TR