

ZONING BOARD OF ADJUSTMENT, PANEL B
WEDNESDAY, AUGUST 22, 2018
AGENDA

BRIEFING	L1FN AUDITORIUM 1500 MARILLA STREET DALLAS CITY HALL	11:00 A.M.
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PUBLIC HEARING	L1FN AUDITORIUM 1500 MARILLA STREET DALLAS CITY HALL	1:00 P.M.
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Neva Dean, Assistant Director
Steve Long, Board Administrator/Chief Planner
Oscar Aguilera, Senior Planner

MISCELLANEOUS ITEM

Approval of the June 20, 2018 Board of Adjustment Panel B Public Hearing Minutes	M1
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UNCONTESTED CASES

BDA178-077(OA) 955 Spiceberry Court REQUEST: Application of Rosalba Requena Urias for a special exception to the fence standards regulations	1
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BDA178-078(OA) 5946 McCommas Boulevard REQUEST: Application of Lauren Harner for special exceptions to the visual obstruction regulations	2
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HOLDOVER CASE

BDA178-048(OA) 11021 Royalshire Drive REQUEST: Application of Eric Messer for a variance to the front yard setback regulations	3
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REGULAR CASES

BDA178-069(SL)	1520 Olympia Drive REQUEST: Application of Winfield Moore, represented by Chris Bowers, to appeal the decision of the administrative official	4
BDA178-086(OA)	5505 Chatham Hill Road REQUEST: Application of James Y. Robb, represented by Santos Martinez of Masterplan for a variance to the front yard setback regulations, a special exception to single family use regulations, and special exceptions to the fence standards regulations	5

FILE NUMBER: BDA178-077(OA)

BUILDING OFFICIAL'S REPORT: Application of Rosalba Requena Urias for a special exception to the fence standards regulations at 955 Spiceberry Court. This property is more fully described as Lot 39, Block C/6682, and is zoned R-5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence standards regulations.

LOCATION: 955 Spiceberry Court

APPLICANT: Rosalba Requena Urias

REQUESTS:

A request for a special exception to the fence standards regulations related to height of 4' is made to maintain a 6' 7" - 8' high fence in the required front yard on a site developed with a single family home. The existing fence consist of two segments, a 6' 7" high wrought iron/ board-on-board wood fence segment parallel to Spiceberry Court and an 8' high corrugated metal fence segment perpendicular to Spiceberry Court.

(Note that this application does not include any request to remedy the existing prohibited fence material (corrugated metal) and the existing fence panels with surface area that are less than 50 percent open located less than 5' from the front lot lines.)

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-5 (A) (Single family district 5,000 square feet)
North: R-5 (A) (Single family district 5,000 square feet)
South: R-5 (A) (Single family district 5,000 square feet)

East: R-5 (A) (Single family district 5,000 square feet)
West: R-5 (A) (Single family district 5,000 square feet)

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- This request for a special exception to the fence height of 4' focuses on maintaining a 6' 7" - 8' high fence in the required front yard on a site developed with a single family home. The existing fence consist of two segments, a 6' 7" high wrought iron/board-on-board wood fence segment parallel to Spiceberry Court and an 8' high corrugated metal fence segment perpendicular to Spiceberry Court.
- This application does not include any request to remedy the existing prohibited fence material (corrugated metal) and the existing fence panels with surface area that are less than 50 percent open located less than 5' from the front lot lines.
- The applicant claims that the she purchased the home in October 2015 with the existing fence
- The applicant request is to the fence standards regulations related to height only.
- On July 26, 2018, the applicant submitted documentation alleging that the documents demonstrate the prohibited fence material and fence panels with surface area that are less than 50 percent open located less than 5' from the front lot lines are legally nonconforming (See attachment A).
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The property is located in an R-5(A) zoning district which requires a minimum front yard setback of 20 feet.
- The applicant had submitted a site plan and elevation that shows the proposal in the front yard setback reaching a maximum height of 8'.
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 74' in length parallel to the Spiceberry Court, and 20' perpendicular to Spiceberry Court on the north side of the site in this front yard setback.
 - The proposal is represented as being located approximately on the Spiceberry Court front property line. (The distance between the fence and the pavement line is approximately 10').
- The Sustainable Development and Construction Department Senior Planner conducted a field visit of the site and surrounding area and noted two solid wood

fences that appeared to be above 6' in height located at Laneyvale Avenue at Spiceberry Lane. Note that these properties have no recorded BDA history.

- As of August 12th, no letters in opposition have been submitted, and a petition with 5 signatures have been submitted in support.
- The applicant has the burden of proof in establishing that the special exception to the fence standards regulations related to fence height of 4' will not adversely affect neighboring property.
- Granting this special exception with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal to be maintained in the location and of the heights as shown on these documents.
- Granting this request for a special exception to the fence standards regulations related to height in the required front yard would provide no relief to remedy the existing prohibited fence material (corrugated metal) and the existing fence panels with surface area that are less than 50 percent open located less than 5' from the front lot lines.

Timeline:

April 19, 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.

July 10, 2018: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

July 11, 2018: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

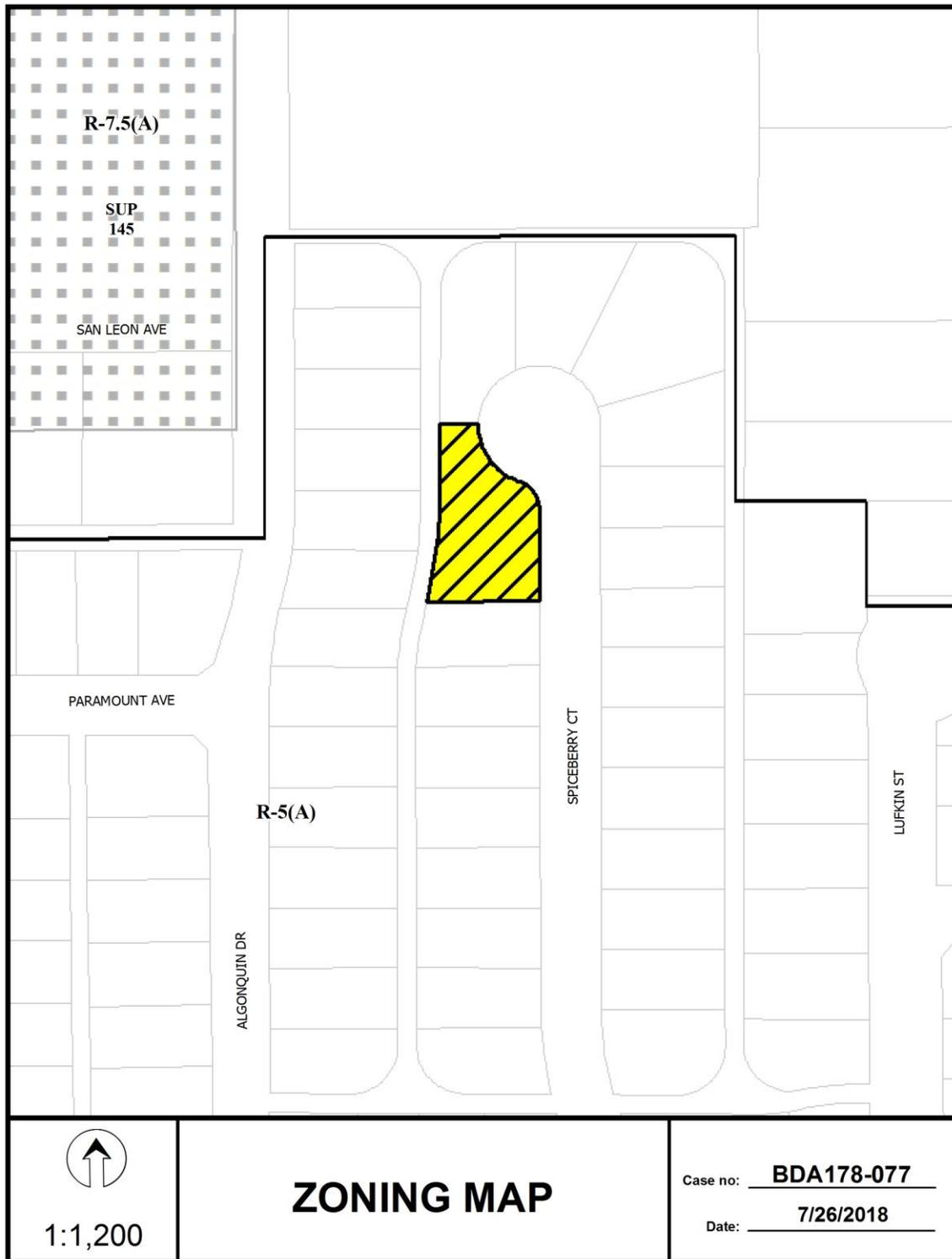
- an attachment that provided the public hearing date and panel that will consider the application; the August 1st deadline to submit additional evidence for staff to factor into their analysis; and the August 10th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- 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.

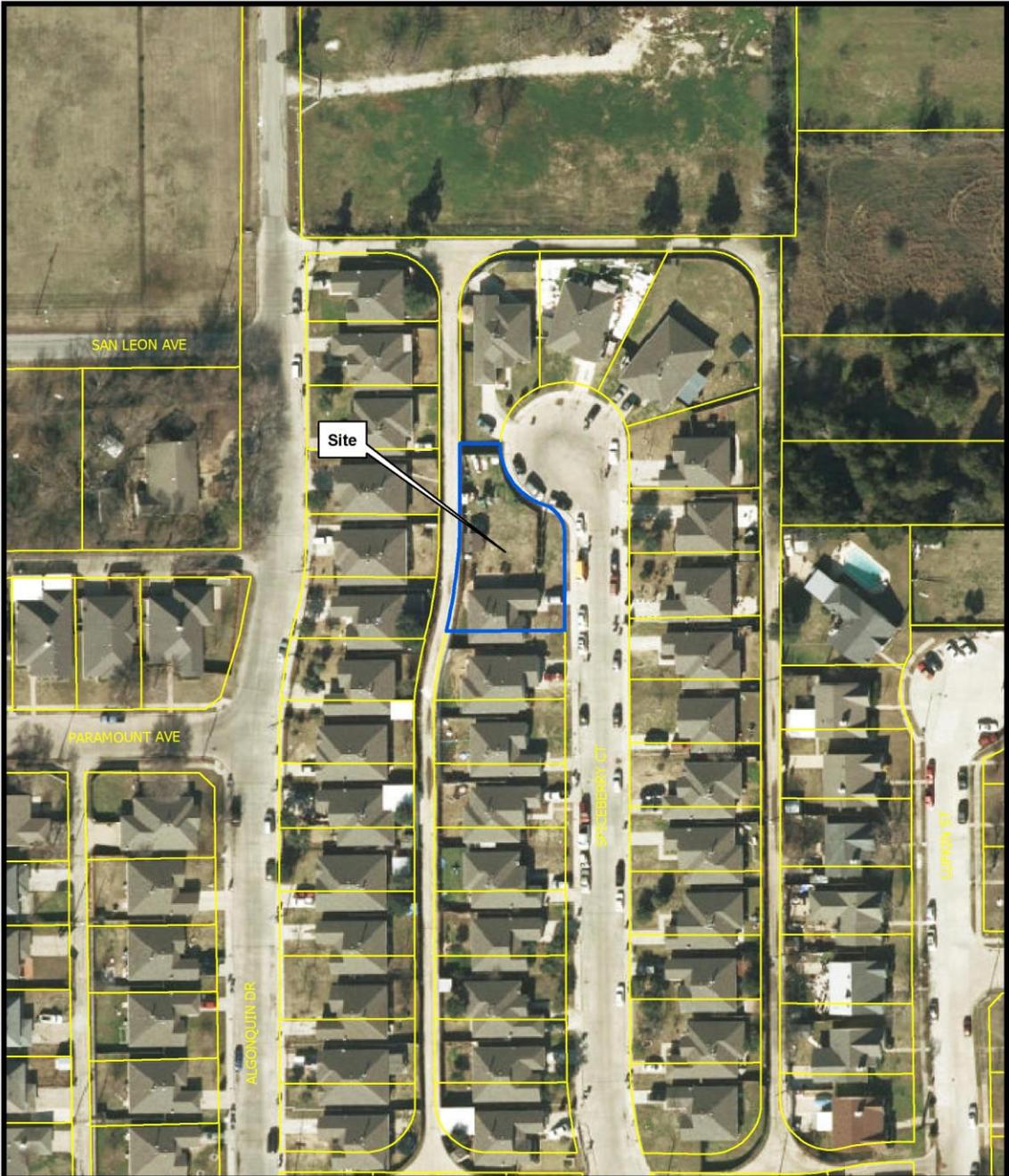
July 26, 2018: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

August 7, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the

Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Chief Arborist, 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: BDA178-077

Date: 7/26/2018



Permit # 1510161054 (pg. 1/4)

City of Dallas

Issue Date: 10/16/2015

Sustainable Construction and Development | Building Inspection Division | 214/948-4480 | www.dallascityhall.com

Address:

955 SPICEBERRY CT 75217

Land Use Description:

SINGLE FAMILY DWELLING

Work Description:

REPLACING SIDE AND REAR FENCE WITH 8' OF METAL SHEET

Value Of Work:

\$2,000.00

Owner Or Tenant:

YVETTE RIVERA
355 SPICEBERRY CT
DALLAS, TX 75217

Applicant:

YVETTE RIVERA

Contractor:

YVETTE RIVERA

Business Address:

355 SPICEBERRY CT DALLAS, TX 75217

Telephone:

Fax:

Lot: 39	Block: C/668	Zoning: R-5(A)	PDD:	SUP:
Historic Dist:	Consrv Dist:	Pro Park:	Req Park:	Park Agrmt: N
Dwlg Units:	Stories:	New Area:	Lot Area: 0	Total Area:
Type Const:	Sprinkler:	Occ Code:	Occ Load:	
Inches Of Removed Trees:				

ALL WORK SUBJECT TO FIELD INSPECTOR APPROVAL

This document is issued on the basis of information furnished in the application and is subject to the provisions of all governing ordinances, which must be complied with, whether or not herein specified.

We the undersigned allow our neighbor, the residents residing on 955 Spiceberry Court Dallas, TX 752617, to keep or place a fencing of their choosing. We do not have any inconvenience in them having a fence around their yard.

Printed Name	Signature	Address	Comments	Date
Efrain montano	<i>Efrain Montano</i>	963 Spiceberry Ct		07-17-18
Leonardo Vallejo	<i>Leonardo V.</i>	967 Spiceberry Ct	—	07-17-18
Camilo gonzales	<i>Camilo Gonzalez</i>	964 Spiceberry Ct		07-18-18
Maria Elena Luna	<i>Maria Elena Luna</i>	947 Spiceberry Ct		07-18-18
Nicolas Galvan	<i>Nicolas Galvan</i>	955 Spiceberry		

BDA178-077 ATTACH A
 CPS 3/14

Job	Type	Status	Created	Issued	Completed
114001385-001 20180323 - 0147	Customer Log-In	Complete	Mar 23, 2018 Time Registered: 01:32:13 pm	mmmm dd, yyyy Time Served: 02:14:32 pm	Mar 23, 2018 Registration Type: Permit Center
113102614-001 20180216 - 0186	Customer Log-In	Complete	Feb 16, 2018 Time Registered: 03:11:40 pm	mmmm dd, yyyy Time Served: 04:26:41 pm	Feb 16, 2018 Registration Type: Technical Services
113101585-001 20180216 - 0182	Customer Log-In	Complete	Feb 16, 2018 Time Registered: 02:48:21 pm	mmmm dd, yyyy Time Served: 02:53:23 pm	Feb 16, 2018 Registration Type: Permit Center
113100886-001 20180216 - 0173	Customer Log-In	Complete	Feb 16, 2018 Time Registered: 02:30:09 pm	mmmm dd, yyyy Time Served: 02:49:58 pm	Feb 16, 2018 Registration Type: Permit Center
112872151-001 20180207 - 0191	Customer Log-In	Complete	Feb 07, 2018 Time Registered: 03:38:58 pm	mmmm dd, yyyy Time Served: 03:59:28 pm	Feb 07, 2018 Registration Type: Permit Center
112653198-001 20180130 - 0014	Customer Log-In	Complete	Jan 30, 2018 Time Registered: 08:23:31 am	mmmm dd, yyyy Time Served: 08:45:34 am	Jan 30, 2018 Registration Type: Permit Center
112295978-001 20180116 - 0132	Customer Log-In	Complete	Jan 16, 2018 Time Registered: 12:32:12 pm	mmmm dd, yyyy Time Served: 01:43:23 pm	Jan 16, 2018 Registration Type: Permit Center



Date: March 13, 2018

BDA 178-077 ATTACH A
(pg 4/74)

Customer / Contractor Name: Rosalba Urias
Street Address: 955 Spiceberry Court
City / State / Zip: Dallas, Texas 75217

Re: Wood Fence Encroachment: 955 Spiceberry Court, City of Dallas, Texas 75217 / Lot 39, Block C/6682, Heritage Square IV Phase 3, City of Dallas, Dallas County, Texas, Recorded in Volume 87249, Page 3549, Plat Records Dallas County, Texas. PT # 2018 - 0640.

Dear Ms. Urias:

Oncor has received your request regarding the encroachment of an existing "wood fence" at the above referenced location. A portion of this existing "wood fence" is encroaching within the (10) foot platted Utility Easement. At no time should any electrical source such as (transformer, hand-hole or pedestal, etc.) be fenced in or encroached upon.

At this time, Oncor does not have any existing facilities located within the above mentioned platted utility easement. It is not the intent of this letter to waive any rights granted to Oncor in said easement except to permit this encroachment set out hereinabove. Also, this letter is not intended to release the builder of this encroachment, or the present owner, or future owners of the property from any liability arising out of the location of this encroachment in the easement.

Oncor shall continue to have unrestricted access to, on and across the easement. It is understood by owner, that when the electrical facilities in the easement area need repaired, replaced or upgraded, it will be owner's responsibility to remove any obstruction that interferes with Oncor's ability to perform the necessary work. Oncor maintains the right to utilize the entire easement for its needs, and will not be responsible for any damages.

Owner acknowledges and understands that Oncor maintains overhead and/or underground electrical facilities within the platted easement. State law requires contacting Dig Tess by calling 811 for underground equipment to be located at least two (2) days before you dig. Dig Tess does not mark a precise location but is usually within four (4) feet of the actual location. Owner agrees to exercise extreme caution with respect to such electrical facilities.

Please sign below with an original signature confirming that you understand and agree to the requirements and return to the address listed below. Please retain a copy of this letter for your files.

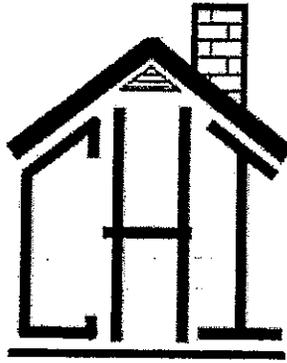
If you have any questions or need additional information, please contact the Oncor office at (214) 330-2934.

Sincerely,


Jim Thomas
Senior Right-of-Way Agent

(Property Owner)

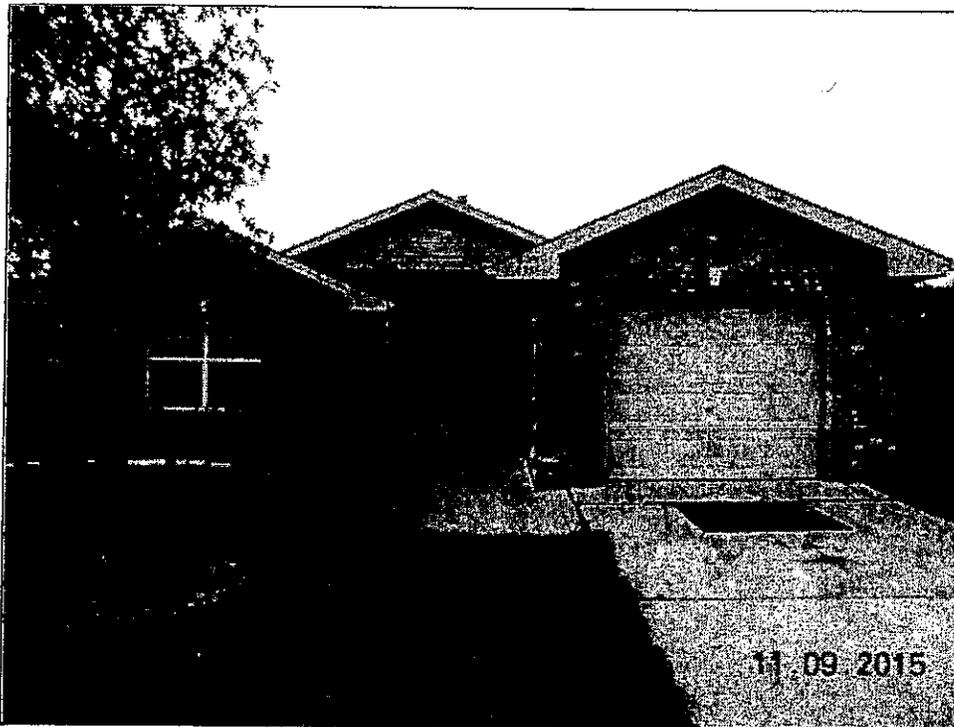
(Date)



Inspection Report

Mr. Wilberth Urias

Property Address:
955 Spiceberry Court
Dallas TX 75217



Front of Home

Cisneros Home Inspection

Mario G. Cisneros Jr, TREC # 5828
3412 Lilac Lane
Rowlett, TX 75089
(214) 566-3635

PROPERTY INSPECTION REPORT

(PS 6/74)

Prepared For: Mr. Wilberth Urias

(Name of Client)

Concerning: 955 Spiceberry Court, Dallas, TX 75217

(Address or Other Identification of Inspected Property)

By: Mario G. Cisneros Jr, TREC # 5828 / Cisneros Home Inspection 11/9/2015

(Name and License Number of Inspector)

(Date)

(Name, License Number of Sponsoring Inspector)

PURPOSE, LIMITATIONS AND INSPECTOR / CLIENT RESPONSIBILITIES

This property inspection report may include an inspection agreement (contract), addenda, and other information related to property conditions. If any item or comment is unclear, you should ask the inspector to clarify the findings. It is important that you carefully read ALL of this information.

This inspection is subject to the rules ("Rules") of the Texas Real Estate Commission ("TREC"), which can be found at www.trec.texas.gov.

The TREC Standards of Practice (Sections 535.227-535.233 of the Rules) are the minimum standard for inspections by TREC Licensed inspectors. An inspection addresses only those components and conditions that are present, visible, and accessible at the time of the inspection. While there may be other parts, components or systems present, only those items specifically noted as being inspected were inspected. The inspector is NOT required to turn on decommissioned equipment, systems, utility services or apply an open flame or light a pilot to operate any appliance. The inspector is NOT required to climb over obstacles, move furnishings or stored items. The inspection report may address issues that are code-based or may refer to a particular code; however, this is NOT a code compliance inspection and does NOT verify compliance with manufacturer's installation instructions. The inspection does NOT imply insurability or warrantability of the structure or its components. Although some safety issues may be addressed in this report, this inspection is NOT a safety/code inspection, and the inspector is NOT required to identify all potential hazards.

In this report, the inspector shall indicate, by checking the appropriate boxes on the form, whether each item was inspected, not inspected, not present or deficient and explain the findings in the corresponding section in the body of the report form. The inspector must check the Deficient (D) box if a condition exists that adversely and materially affects the performance of a system or component or constitutes a hazard to life, limb or property as specified by the TREC Standards of Practice. General deficiencies include inoperability, material distress, water penetration, damage, deterioration, missing components, and unsuitable installation. Comments may be provided by the inspector whether or not an item is deemed deficient. The inspector is not required to prioritize or emphasize the importance of one deficiency over another.

Some items reported may be considered life-safety upgrades to the property. For more information, refer to Texas Real Estate Consumer Notice Concerning Recognized Hazards or Deficiencies below.

THIS PROPERTY INSPECTION IS NOT A TECHNICALLY EXHAUSTIVE INSPECTION OF THE STRUCTURE, SYSTEMS OR COMPONENTS. The inspection may not reveal all deficiencies. A real estate inspection helps to reduce some of the risk involved in purchasing a home, but it cannot eliminate these risks, nor can the inspection anticipate future events or changes in performance due to changes in use or occupancy. It is recommended that you obtain as much information as is available about this property, including any seller's disclosures, previous inspection reports, engineering reports, building/remodeling permits, and reports performed for or by relocation companies, municipal inspection departments, lenders, insurers, and appraisers.

You should also attempt to determine whether repairs, renovation, remodeling, additions, or other such activities have taken place at this property. It is not the inspector's responsibility to confirm that information obtained from these sources is complete or accurate or that this inspection is consistent with the opinions expressed in previous or future reports.

ITEMS IDENTIFIED IN THE REPORT DO NOT OBLIGATE ANY PARTY TO MAKE REPAIRS OR TAKE OTHER ACTIONS, NOR IS THE PURCHASER REQUIRED TO REQUEST THAT THE SELLER TAKE ANY ACTION. When a deficiency is reported, it is the client's responsibility to obtain further evaluations and/or cost estimates from qualified service professionals. Any such follow-up should take place prior to the expiration of any time limitations such as option periods.

Evaluations by qualified tradesmen may lead to the discovery of additional deficiencies which may involve additional repair costs. Failure to address deficiencies or comments noted in this report may lead to further damage of the structure or systems and add to the original repair costs. The inspector is not required to provide follow-up services to verify that proper repairs have been made.

Property conditions change with time and use. For example, mechanical devices can fail at any time, plumbing gaskets and seals may crack if the appliance or plumbing fixture is not used often, roof leaks can occur at any time regardless of the apparent condition of the roof, and the performance of the structure and the systems may change due to changes in use or occupancy, effects of weather, etc. These changes or repairs made to the structure after the inspection may render information contained herein obsolete or invalid. This report is provided for the specific benefit of the client named above and is based on observations at the time of the inspection. If you did not hire the inspector yourself, reliance on this report may provide incomplete or outdated information. Repairs, professional opinions or additional inspection reports may affect the meaning of the information in this report. It is recommended that you hire a licensed inspector to perform an inspection to meet your specific needs and to provide you with current information concerning this property.

TEXAS REAL ESTATE CONSUMER NOTICE CONCERNING HAZARDS OR DEFICIENCIES

Each year, Texans sustain property damage and are injured by accidents in the home. While some accidents may not be avoidable, many other accidents, injuries, and deaths may be avoided through the identification and repair of certain hazardous conditions. Examples of such hazards include:

- malfunctioning, improperly installed, or missing ground fault circuit protection (GFCI) devices for electrical receptacles in garages, bathrooms, kitchens, and exterior areas;
- malfunctioning arc fault protection (AFCI) devices;
- ordinary glass in locations where modern construction techniques call for safety glass;
- malfunctioning or lack of fire safety features such as smoke alarms, fire-rated doors in certain locations, and functional emergency escape and rescue openings in bedrooms;
- malfunctioning carbon monoxide alarms;
- excessive spacing between balusters on stairways and porches;
- improperly installed appliances;
- improperly installed or defective safety devices;
- lack of electrical bonding and grounding; and
- lack of bonding on gas piping, including corrugated stainless steel tubing (CSST).

To ensure that consumers are informed of hazards such as these, the Texas Real Estate Commission (TREC) has adopted Standards of Practice requiring licensed inspectors to report these conditions as "Deficient" when performing an inspection for a buyer or seller, if they can be reasonably determined.

These conditions may not have violated building codes or common practices at the time of the construction of the home, or they may have been "grandfathered" because they were present prior to the adoption of codes prohibiting such conditions. While the TREC Standards of Practice do not require inspectors to perform a code compliance inspection, TREC considers the potential for injury or property loss from the hazards addressed in the Standards of Practice to be significant enough to warrant this notice.

Contract forms developed by TREC for use by its real estate licensees also inform the buyer of the right to have the home inspected and can provide an option clause permitting the buyer to terminate the contract within a specified time. Neither the Standards of Practice nor the TREC contract forms require a seller to remedy conditions revealed by an inspection. The decision to correct a hazard or any deficiency identified in an inspection report is left to the parties to the contract for the sale or purchase of the home.

Report Identification: 955 Spiceberry Court

INFORMATION INCLUDED UNDER "ADDITIONAL INFORMATION PROVIDED BY INSPECTOR", OR PROVIDED AS AN ATTACHMENT WITH THE STANDARD FORM, IS NOT REQUIRED BY THE COMMISSION AND MAY CONTAIN CONTRACTUAL TERMS BETWEEN THE INSPECTOR AND YOU, AS THE CLIENT. THE COMMISSION DOES NOT REGULATE CONTRACTUAL TERMS BETWEEN PARTIES. IF YOU DO NOT UNDERSTAND THE EFFECT OF ANY CONTRACTUAL TERM CONTAINED IN THIS SECTION OR ANY ATTACHMENTS, CONSULT AN ATTORNEY.

ADDITIONAL INFORMATION PROVIDED BY INSPECTOR:

In Attendance:
Customer

Type of building:
Single Family (1 story)

Home Faces:
East

Temperature:
Over 65 (F) = 18 (C)

Weather:
Cloudy

Ground/Soil surface condition:
Damp

Rain in last 3 days:
Yes

TEXAS OFFICIAL WOOD DESTROYING INSECT REPORT (Pg 9/4) Page 1 of 2

955 Spiceberry Ct. Inspected Address

Dallas City

75217 Zip Code

SCOPE OF INSPECTION

- A. This inspection covers only the multi-family structure, primary dwelling or place of business. Sheds, detached garages, lean-tos, fences, guest houses or any other structure will not be included in this inspection report unless specifically noted in Section 5 of this report.
B. This inspection is limited to those parts of the structure(s) that are visible and accessible at the time of the inspection.
C. Due to the characteristics and behavior of various wood destroying insects, it may not always be possible to determine the presence of infestation without delimiting or removing parts of the structure being inspected.
D. If visible evidence of active or previous infestation of listed wood destroying insects is reported, it should be assumed that some degree of damage is present.
E. If visible evidence is reported, it does not imply that damage should be repaired or replaced.
F. THIS IS NOT A STRUCTURAL DAMAGE REPORT OR A WARRANTY AS TO THE ABSENCE OF WOOD DESTROYING INSECTS.
G. If termite treatment (including pesticides, baits or other methods) has been recommended, the treating company must provide a diagram of the structure(s) inspected and proposed for treatment, label of pesticides to be used and complete details of warranty (if any).
H. There are a variety of termite control options offered by pest control companies.
I. There are some specific guidelines as to when it is appropriate for corrective treatment to be recommended.
J. If treatment is recommended based solely on the presence of conducive conditions, a preventive treatment or correction of conducive conditions may be recommended.

1A. Sergeants Termite & Pest Name of Inspection Company 1B. #0570141 SPCS Business License Number

1C. 6901 Thunderbird Drive Address of Inspection Company Arlington City TX 76002 State 6817 928-2526 Zip Telephone No.

1D. Mario Cisneros Jr Name of Inspector (Please Print) 1E. Certified Applicator [X] (check one) Technician []

2. Case Number (NA/FHA/Other) 3. 11-9-15 Inspection Date

4A. Wilberth Urias Name of Person Purchasing Inspection Seller [] Agent [] Buyer [X] Management Co. [] Other []

4B. Owner/Seller

4C. REPORT FORWARDED TO: Title Company or Mortgagee [] Purchaser of Service [] Seller [] Agent [] Buyer [X] (Under the Structural Pest Control regulations only the purchaser of the service is required to receive a copy)

The structure(s) listed below were inspected in accordance with the official inspection procedures adopted by the Texas Department of Agriculture Structural Pest Control Service. This report is made subject to the conditions listed under the Scope of Inspection. A diagram must be attached including all structures inspected.

5. Structural Only List structure(s) inspected that may include residence, detached garages and other structures on the property. (Refer to Part A, Scope of Inspection)

6A. Were any areas of the property obstructed or inaccessible? Yes [X] No [] (Refer to Part B & C, Scope of Inspection) If "Yes" specify in 6B.

6B. The obstructed or inaccessible areas include but are not limited to the following: Attic [], Insulated area of attic [X], Plumbing Areas [X], Planter box abutting structure [], Deck [], Sub Floors [], Stab Joints [X], Craw Space [], Soil Grade Too High [], Heavy Foliage [], Eaves [], Weepholes [], Other [] Specify: /

7A. Conditions conducive to wood destroying insect infestation: Yes [] No [X] (Refer to Part J, Scope of Inspection) If "Yes" specify in 7B.

7B. Conducive Conditions include but are not limited to: Debris under or around structure (K) [], Wood to Ground Contact (G) [], Formboards left in place (I) [], Excessive Moisture (J) [], Planter box abutting structure (O) [], Footing too low or soil line too high (L) [], Wood Rot (M) [], Heavy Foliage (N) [], Insufficient ventilation (T) [], Wood Pile in Contact with Structure (C) [], Wooden Fence in Contact with the Structure (R) [], Other (P) [] Specify: /

Table with 4 columns: Insect Type, Active Infestation, Previous Infestation, Previous Treatment. Rows include Subterranean Termites, Drywood Termites, Formosan Termites, Carpenter Ants, and Other Wood Destroying Insects.

8F. Explanation of signs of previous treatment (including pesticides, baits, existing treatment stickers or other methods) identified: NONE

8G. Visible evidence of: NONE has been observed in the following areas:

If there is visible evidence of active or previous infestation, it must be noted. The type of insect(s) must be listed in the first blank and all identified infested areas of the property inspected must be noted in the second blank. (Refer to Part D, E & F, Scope of Inspection)

Licensed and Regulated by the Texas Department of Agriculture, Structural Pest Control Service, PO Box 12847, Austin, Texas 78741-2847 (512) 305-8250

SPCS/T-4 (Rev. 09/01/07) Buyer's Initials

I. STRUCTURAL SYSTEMS

- (3) Currently at the time of the inspection, there were NO visible water stains within the attic roof decking and NO visible water stains within the interior ceiling of the home. No repairs are needed or foreseen at this time.
- (4) Currently at the time of the inspection, the rest of the attic area appeared to be in serviceable condition and has the appropriate amount of insulation. No repairs are needed or foreseen at this time.

E. Walls (Interior & Exterior)

Deficient

- (1) Currently at the time of the inspection, there is a vertical mortar crack under the front SE corner, two vertical mortar crack above the front door frame, a mortar crack to the SE garage corner, mortar crack around the decorative stone above the garage, a mortar crack to the top right side of the garage door frame, a mortar crack to the top of the NE expansion wall joint and wall caulking is needed around the garage door frame, see picture's. While this damage is cosmetic, it needs to be repaired. A qualified person should repair or replace as needed.
- (2) Currently at the time of the inspection, all other exterior and interior walls are within standards. No other repairs are needed or foreseen at this time.

G. Doors (Interior & Exterior)

Deficient

- (1) Currently at the time of the inspection, the weather stripping to the right of the back door frame has damage, the laundry closet door will not lock, the master bathroom door panel's have open gap's and have past panel repairs, the front and back door knob's have damage, the front door hit on the top left side and the interior garage door is missing the lock and door knob, see picture's.
- (2) Currently at the time of the inspection, all other exterior and interior door's are within standards. No other repairs are needed or foreseen at this time.

II. ELECTRICAL SYSTEMS

B. Branch Circuits, Connected Devices, and Fixtures

Deficient

- (1) Currently at the time of the inspection, the front SE bedroom ceiling fan is missing the light globe, see picture.
- (2) Currently at the time of the inspection, all other wall receptacles and switches are working well and within standards. No other repairs are needed or foreseen at this time.

IV. PLUMBING SYSTEM

A. Plumbing Supply, Distribution Systems and Fixtures

Deficient

- (1) Currently at the time of the inspection, the hall bathroom bathtub has a bottom body chip (this item may experience additional problems if not repaired) and the master bathroom bathtub is missing the shower diverter pull knob and the drain stopper, see picture's.
- (2) Currently at the time of the inspection, all water faucet's are working well and within standards. No repairs are foreseen at this time. Please be advised that this inspector "DOES NOT" conduct a "Water Leak Isolation" test on the water supply system components "under the home". Please be advised that you have the option to obtain a professional plumbing company to provide you with a more in depth evaluation of the plumbing water supply system under the home.

V. APPLIANCES

A. Dishwashers

Deficient

Currently at the time of the inspection, the unit is NOT working. I recommend repair as necessary.

V. APPLIANCES

C. Range Hood and Exhaust Systems

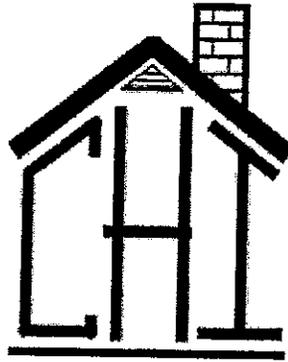
Deficient

Currently at the time of the inspection, the unit is working well, however the air filter needs to be replaced, see picture. I recommended repair as necessary.

Home inspectors are not required to report on the following: Life expectancy of any component or system; The causes of the need for a repair; The methods, materials, and costs of corrections; The suitability of the property for any specialized use; Compliance or non-compliance with codes, ordinances, statutes, regulatory requirements or restrictions; The market value of the property or its marketability; The advisability or inadvisability of purchase of the property; Any component or system that was not observed; The presence or absence of pests such as wood damaging organisms, rodents, or insects; or Cosmetic items, underground items, or items not permanently installed. Home inspectors are not required to: Offer warranties or guarantees of any kind; Calculate the strength, adequacy, or efficiency of any system or component; Enter any area or perform any procedure that may damage the property or its components or be dangerous to the home inspector or other persons; Operate any system or component that is shut down or otherwise inoperable; Operate any system or component that does not respond to normal operating controls; Disturb insulation, move personal items, panels, furniture, equipment, plant life, soil, snow, ice, or debris that obstructs access or visibility; Determine the presence or absence of any suspected adverse environmental condition or hazardous substance, including but not limited to mold, toxins, carcinogens, noise, contaminants in the building or in soil, water, and air; Determine the effectiveness of any system installed to control or remove suspected hazardous substances; Predict future condition, including but not limited to failure of components; Since this report is provided for the specific benefit of the customer(s), secondary readers of this information should hire a licensed inspector to perform an inspection to meet their specific needs and to obtain current information concerning this property.

Prepared Using HomeGauge <http://www.HomeGauge.com>: Licensed To Mario G. Cisneros Jr, TREC # 5828

General Summary



Cisneros Home Inspection

3412 Lilac Lane
Rowlett, TX 75089
(214) 566-3635

Customer
Mr. Wilberth Urias

Address
955 Spiceberry Court
Dallas TX 75217

The following items or discoveries indicate that these systems or components **do not function as intended** or **adversely affects the habitability of the dwelling**; or **warrants further investigation by a specialist**, or **requires subsequent observation**. This summary shall not contain recommendations for routine upkeep of a system or component to keep it in proper functioning condition or recommendations to upgrade or enhance the function or efficiency of the home. This Summary is not the entire report. The complete report may include additional information of concern to the customer. It is recommended that the customer read the complete report.

I. STRUCTURAL SYSTEMS

C. Roof Covering Materials

Deficient

(1) Currently at the time of the inspection, there are two damaged roof shingle's to South side, one damaged shingle to the North side and four damaged shingles over the East end of the home, see picture's. A qualified person should repair or replace as needed.

(2) Currently at the time of the inspection, the rest of the main roof covering appears to be in serviceable condition and presents "normal" wear for the "age" of the roof. Currently at the time of the inspection, there were NO visible water stains within the attic roof decking. No repairs are needed or foreseen at this time.

D. Roof Structures and Attics

Deficient

(1) Currently at the time of the inspection, the chimney flue stack within the attic needs to have a 2" clearance away from the attic insulation, see picture.

(2) Currently at the time of the inspection, the home is equipped with (2X6) rafters. Currently at the time of the inspection, all rafter's are secured against the top ridge, hip and valley ridge boards. No repairs are needed or foreseen at this time.

BDA178-077 ATTACH A
CPS 13/4

Torres-Holyoak, Olga

From: Torres-Holyoak, Olga
Sent: Monday, April 02, 2018 11:46 AM
To: 'wurias@att.net'
Subject: FW: 955 Spiceberry Court

\$610
Special exception
to the fence
height.

Por favor vean la copia abajo.



Olga Torres-Holyoak
Senior Planner
City of Dallas | DallasCityNews.net
Sustainable
Development and Construction
Department
O: 214-948-4097 |
olga.torresholyoak@dallascityhall.com



From: Torres-Holyoak, Olga
Sent: Monday, April 02, 2018 11:25 AM
To: Hernandez, Elizabeth R. <e.hernandez@dallascityhall.com>
Cc: Wimer, Megan <megan.wimer@dallascityhall.com>; Kay, Kiesha <kiesha.kay@dallascityhall.com>
Subject: 955 Spiceberry Court

Good morning Ms. Hernandez, I am consulting Mr. and Mrs. Wilberth Urias, whom own a property on 955 Spiceberry Court.

The customer has been cited twice for the height of the fence and materials. I consulted with Ms. Megan Wimer, ABO and she determined that the fence material is legally nonconforming. The height, however, needs to be brought into compliance.

Land openness are

The customer has been in our office several times since January to try to resolve the issue. However, due to language barriers and time limitations, no specific solution had been reached. The customer will be applying for a special exception to the height of the fence on the front yard setback.

Is there a way that the second citation be voided, nulled or dismissed? Is there a way to stop the citations while they are in this process of applying to the BDA?

Please let us know if you have any questions about this issue.

Cordially,

Olga

Torres-Holyoak, Olga

BDA178-077 ATTACH A
(Pg 14/14)

From: Torres-Holyoak, Olga
Sent: Monday, April 02, 2018 11:14 AM
To: Wimer, Megan
Subject: Please comment

Abril 2, 2018

Elizabeth Hernandez
Supervisor
Code Compliance

Good morning Ms. Hernandez, I am consulting Mr. and Mrs. Wilberth Urias, whom own a property on 955 Spiceberry Court.

The customer has been cited twice for the height of the fence. The Building Inspection Zoning Division determined that the fence material is legally nonconforming.

The customer has been in our office several times to solve the issue. However, due to language barriers and time limitations, no specific solution had been reached. The customer will be applying for a special exception to the height of the fence on the front yard setback.



Olga Torres-Holyoak
Senior Planner
City of Dallas | DallasCityNews.net
Sustainable
Development and Construction
Department
O: 214-948-4097 |
olga.torresholyoak@dallascityhall.com





City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-077

Data Relative to Subject Property:

Date: 4-19-18

Location address: 955 Spiceberry Ct Zoning District: R5-(A)

Lot No.: 39 Block No.: C/6682 Acreage: 0.22 Census Tract: 118.

Street Frontage (in Feet): 1) 171. 2) 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Wilberth and Rosalba Urias

Applicant: ~~Wilberth~~ Rosalba Urias Telephone: 2142402136

Mailing Address: 955 Spiceberry Ct Zip Code: 75217

E-mail Address: rosalbaurias@att.net

Represented by: Telephone:

Mailing Address: Zip Code:

E-mail Address:

Affirm that an appeal has been made for a Variance, or Special Exception of 14 feet in the front yard setback and 4 feet on the north side yard, And provide A total fence Height of 8'

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 purchased the home with the existing fence. The fence was built in October 2015. We would like to keep the fence to the existing height for safety reason.

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.

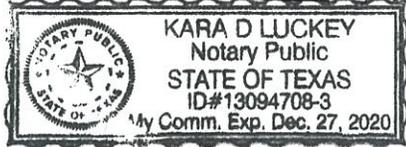
Affidavit

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

Subscribed and sworn to before me this 19 day of April, 2018



Kara D. Luckey 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

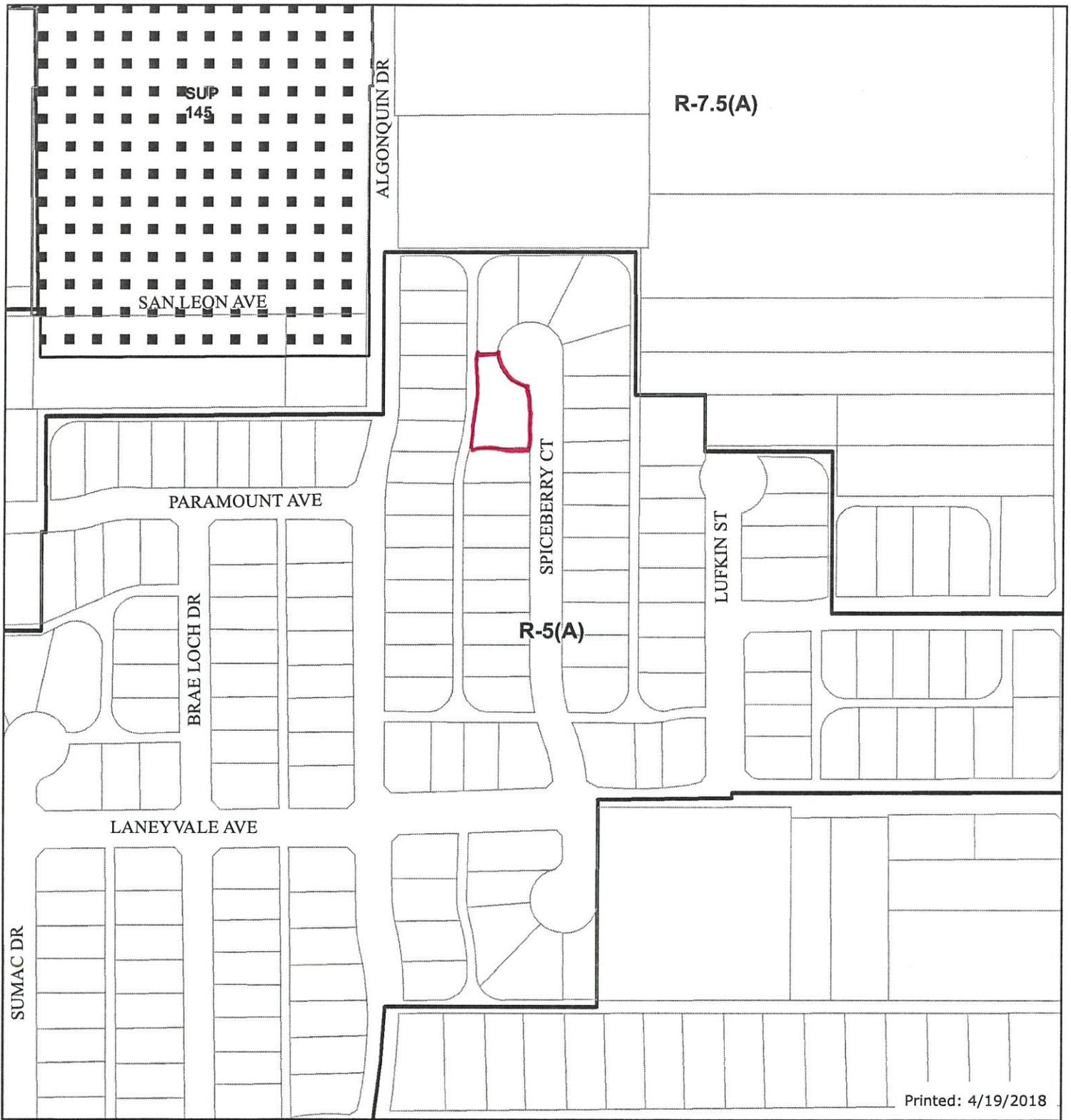
I hereby certify that ROSALBA REQUENA URIAS

did submit a request for a special exception to the fence height regulations
at 955 Spiceberry Court

BDA178-077. Application of ROSALBA REQUENA URIAS for a special exception to the fence height regulations at 955 SPICEBERRY CT. This property is more fully described as Lot 39, Block C/6682, and is zoned R-5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulations.

Sincerely,

Philip Sikes
Philip Sikes, Building Official



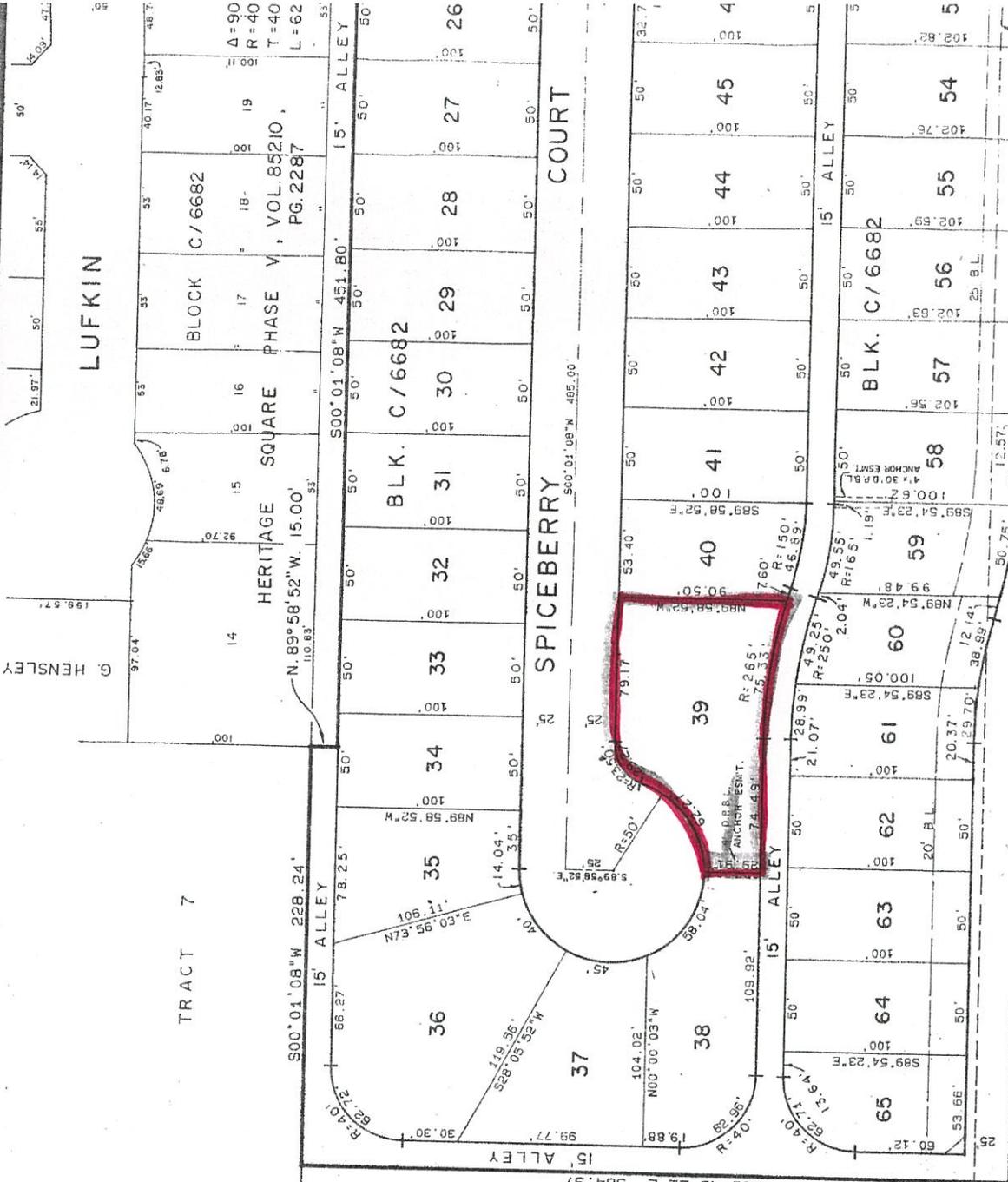
Printed: 4/19/2018

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 | SPSD 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)

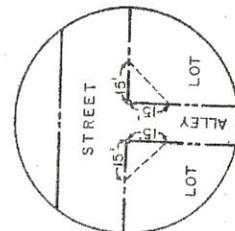




NO.	DELTA	RADIUS	LENGTH	TAN
C1	0° 21' 00"	1637.02'	10.00'	5.00'
C2	20° 37' 40"	250.00'	90.01'	45.50'
C3	15° 24' 32"	400.00'	67.23'	33.62'
C4	15° 20' 18"	400.00'	107.08'	53.86'
C5	15° 25' 58"	230.00'	61.95'	31.16'
C6	3° 51' 27"	400.00'	26.93'	13.47'
C7	11° 28' 51"	400.00'	80.15'	40.21'
C8	23° 49' 27"	230.00'	95.84'	48.52'
C9	23° 48' 41"	230.00'	95.45'	48.42'
C10	3° 12' 27"	1000.00'	26.00'	12.98'
C11	2° 27' 45"	1000.00'	42.83'	21.42'
C12	1° 25' 48"	1000.00'	24.96'	12.48'
C13	2° 27' 06"	1000.00'	42.79'	21.40'
C14	1° 25' 57"	1000.00'	25.00'	12.50'

DALVIEW ACRES
VOL. 4, PG. 97
BLOCK 1 / 6682

TRACT 12



TYPICAL 15' x 15'
VISIBILITY EASEMENT AT ALL
ALLEY-STREET INTERSECTIONS
NOT TO SCALE



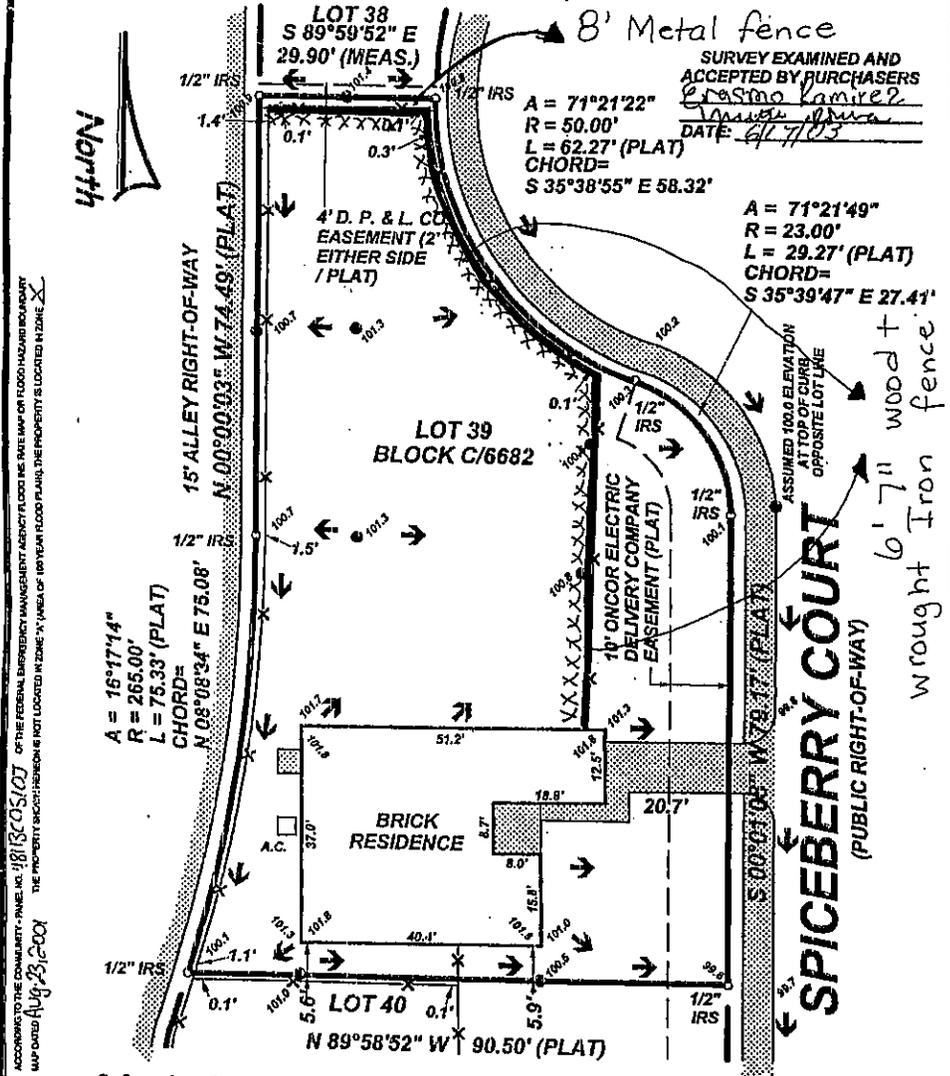
DALVIEW ACRES - VOL. 4, PG. 97

X = fence

SURVEY PLAT

This is to certify that I have, this date, made a careful and accurate survey, on the ground, of property located at 955 Spiceberry Court: Being Lot 39, Block C/6682, of HERITAGE SQUARE IV, PHASE 3, an Addition to the City of DALLAS, Dallas County, Texas, according to the PLAT thereof recorded in Volume 87236, Page 4554, of the Map Records of Dallas County, Texas, when taken with Certificate of Correction recorded in Volume 87249, Page 3549, Deed Records, Dallas County, Texas.

This survey was performed exclusively for the parties in connection with the G. F. Number shown hereon and is licensed for a single use. This survey remains the property of the Surveyor. Unauthorized reuse is not permitted without the expressed written permission of the Surveyor. This survey is an original work protected by United States Copyright law and International treaties. All rights reserved. Do not make illegal copies.



ACCORDING TO THE COMMUNITY PLAN NO. 4818305107 OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP OR FLOOD HAZARD BOUNDARY MAP DATED AUGUST 23, 2004 THE PROPERTY SHOWN HEREON IS NOT LOCATED IN SOME "X" AREA OF 100-YEAR FLOOD PLAIN; THE PROPERTY IS LOCATED IN SOME "X"

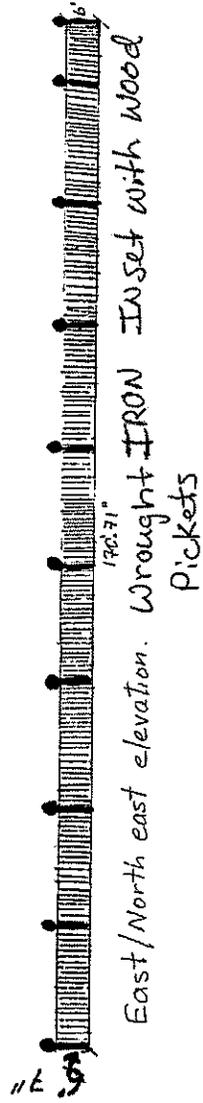
To **Safeco Land** Title Company in connection with the transaction described in GF No. **BU03-273937**

The plat shown hereon is a correct and accurate representation of the property, lines and dimensions are as indicated; location and type of buildings are as shown; and EXCEPT AS SHOWN, all improvements are located within the boundaries the distances indicated, and EXCEPT AS SHOWN there are no visible and apparent easements, encroachments or protrusions on the ground.

SCALE 1"=20'
 DATE 10-03-03
 JOB NO. 03-1641
 DRAWN BY 002


A&W SURVEYORS, INC.
 P.O. BOX 870029
 MESQUITE, TX 75187 (972) 681-4975

Scott Phillip Anderson Registered Professional Land Surveyor No. 4988

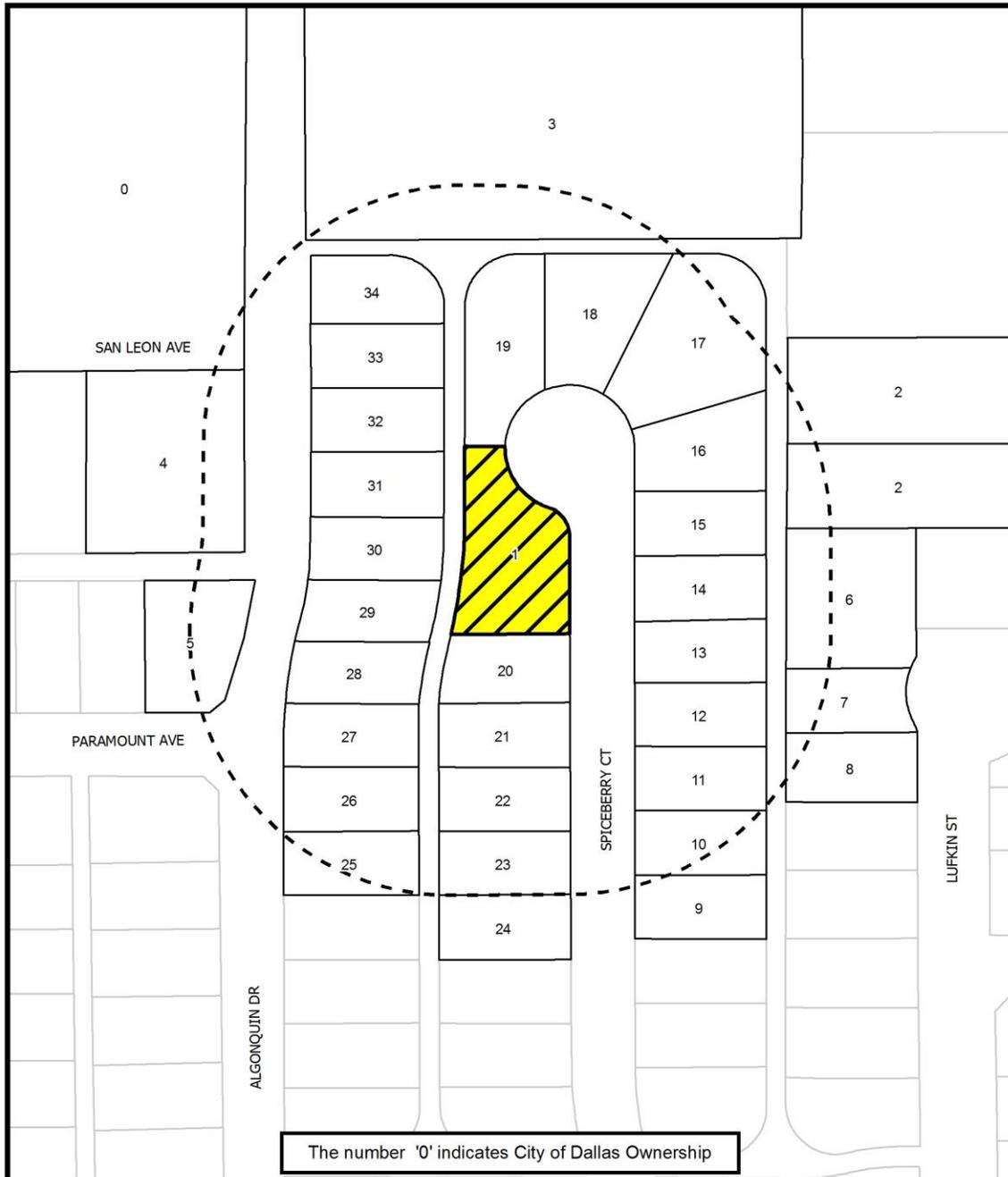


Scale 1" = 20'



North Elevation

955' Spikeberry Ct.
Elevations



 1:1,200	NOTIFICATION		Case no: <u>BDA178-077</u>
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">34</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: <u>7/26/2018</u>	

Notification List of Property Owners

BDA178-077

34 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	955 SPICEBERRY CT	URIAS WILBERTH & ROSALBA
2	1013 N MASTERS DR	ROGERS BART WAYNE
3	1102 ALGONQUIN DR	ESPINOZA IGNACIO
4	1013 ALGONQUIN DR	PEREZ JOSE LUIS RODRIGUEZ &
5	9851 PARAMOUNT AVE	PRICE ASHLEE
6	939 LUFKIN DR	WILLIAMS LEON EST OF
7	935 LUFKIN ST	MACIAS MARTIN D &
8	931 LUFKIN DR	MACIAS MARTIN & MARTHA E
9	936 SPICEBERRY CT	GAMEZ MARISSA
10	940 SPICEBERRY CT	PALOMINO MERCED L
11	944 SPICEBERRY CT	RAMIREZ MARIA
12	948 SPICEBERRY CT	ESPINOZA NURIA M
13	952 SPICEBERRY CT	GALVAN JUANA MENDEZ &
14	956 SPICEBERRY CT	GALINDO LETICIA
15	960 SPICEBERRY CT	RAMIREZ JOSE L JR
16	964 SPICEBERRY CT	SAUCEDO RUBEN &
17	968 SPICEBERRY CT	FLORES RODRIGO
18	967 SPICEBERRY CT	JUAREZ LEONARDO VALLEJO &
19	963 SPICEBERRY CT	MONTERROZA EFRAIN
20	951 SPICEBERRY CT	AGUILAR GILBERTO &
21	947 SPICEBERRY CT	LOYA YVETTE N
22	943 SPICEBERRY CT	AGUSTIN MORALES RUDY ELICEO &
23	939 SPICEBERRY CT	GOMEZ CARLOS CABRERA &
24	935 SPICEBERRY CT	PENATE MIGUEL D &
25	950 ALGONQUIN DR	CHAIRES RAMON
26	954 ALGONQUIN DR	MONTES JOSE A

07/26/2018

Label #	Address	Owner
27	958 ALGONQUIN DR	OROZCO HECTOR & GUILLERMINA VEGA
28	1004 ALGONQUIN DR	GALDAMEZ DANIEL & GLORIA
29	1008 ALGONQUIN DR	PALEMONTE TOMAS & FLORA
30	1012 ALGONQUIN DR	GARCIA NOE G
31	1016 ALGONQUIN DR	WASHINGTON LATASHA L
32	1020 ALGONQUIN DR	DELCID HERIBERTO A &
33	1024 ALGONQUIN DR	PAZ ADELA GABARRETTE
34	1028 ALGONQUIN DR	RAMIREZ MARIO & MAUGRA A

FILE NUMBER: BDA178-078(OA)

BUILDING OFFICIAL'S REPORT: Application of Lauren Harner for special exceptions to the visual obstruction regulations at 5946 McCommas Boulevard. This property is more fully described as Lot 3, Block A/2873, and is zoned CD 11, which requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 5946 McCommas Boulevard

APPLICANT: Lauren Harner

REQUESTS:

A request for a special exception to the visual obstruction regulations are made to replace, construct and maintain portions of an 8' high solid wood fence and maintain portions of a wrought iron gate in the two 20' visibility triangles on both sides of the driveway into the site from Concho Street on a site developed with a single family home.

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:

Approval, subject to the following condition:

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

Rationale:

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

BACKGROUND INFORMATION:

Zoning:

Site: CD 11 (Conservation District)

North: CD 11 (Conservation District)
South: CD 11 (Conservation District)
East: CD 11 (Conservation District)
West: CD 11 (Conservation District)

Land Use:

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

Zoning/BDA History:

1. BDA178-044, Property at 5947 Morningside Avenue (the lot south to the subject site)
On April 16, 2018, the Board of Adjustment Panel C granted requests for a special exceptions to the visual obstruction regulations to maintain a 6’ 2” high solid wood fence with a 6’ high swing wood gate in the two 20’ visibility triangles on both sides of the driveway into the site from Concho Street, and in the 20’ visibility triangle at where the alley meets Concho Street and imposed the following condition: Compliance with submitted revised site plan elevation would limit the items to be maintained in the 20’ drive approach visibility triangles into the site from Concho Street and in the 20’ visibility triangle where the alley meets Concho Street, to that what is shown on these documents – a 6’ 2” high solid wood fence and a 6’ high wood swing gate.

GENERAL FACTS/STAFF ANALYSIS:

- This request for a special exception to the visual obstruction regulations focus on replacing, constructing, and maintaining portions of an 8’ high solid wood fence and maintaining portions of a wrought iron gate in the two 20’ visibility triangles on both sides of the driveway into the site from Concho Street on a site developed with a single family home.
- 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 Conservation District 11 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 and an elevation have been submitted indicating portions of “the 8’ high solid wood fence and portions of a wrought iron gate” located in the two 20’ visibility triangles on both sides of the driveway into the site from Concho Street.
- On July 23, 2018, the applicant submitted a revised elevation (attachment A) for the 8’ high solid wood fence and the wrought iron gate in the two 20’ visibility triangles on both sides of the driveway into the site from Concho Street.
- The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked “Engineering staff reviewed the request and has no objection to any of the obstructions shown on the plan within the visibility triangles”.
- The applicant has the burden of proof in establishing how granting the request for special exceptions, to the visual obstruction regulations, to replace, construct and maintain portions of an 8’ high solid wood fence and wrought iron gate in the two 20’ visibility triangles on both sides of the driveway into the site from Concho Street do not constitute a traffic hazard.
- Granting these request with a condition imposed that the applicant complies with the submitted site plan and revised elevation would limit the items located in the 20’ drive approach visibility triangles into the site from Concho Street to that what is shown on these documents – Portions of an 8’ high solid wood fence and portions of a wrought iron gate.

Timeline:

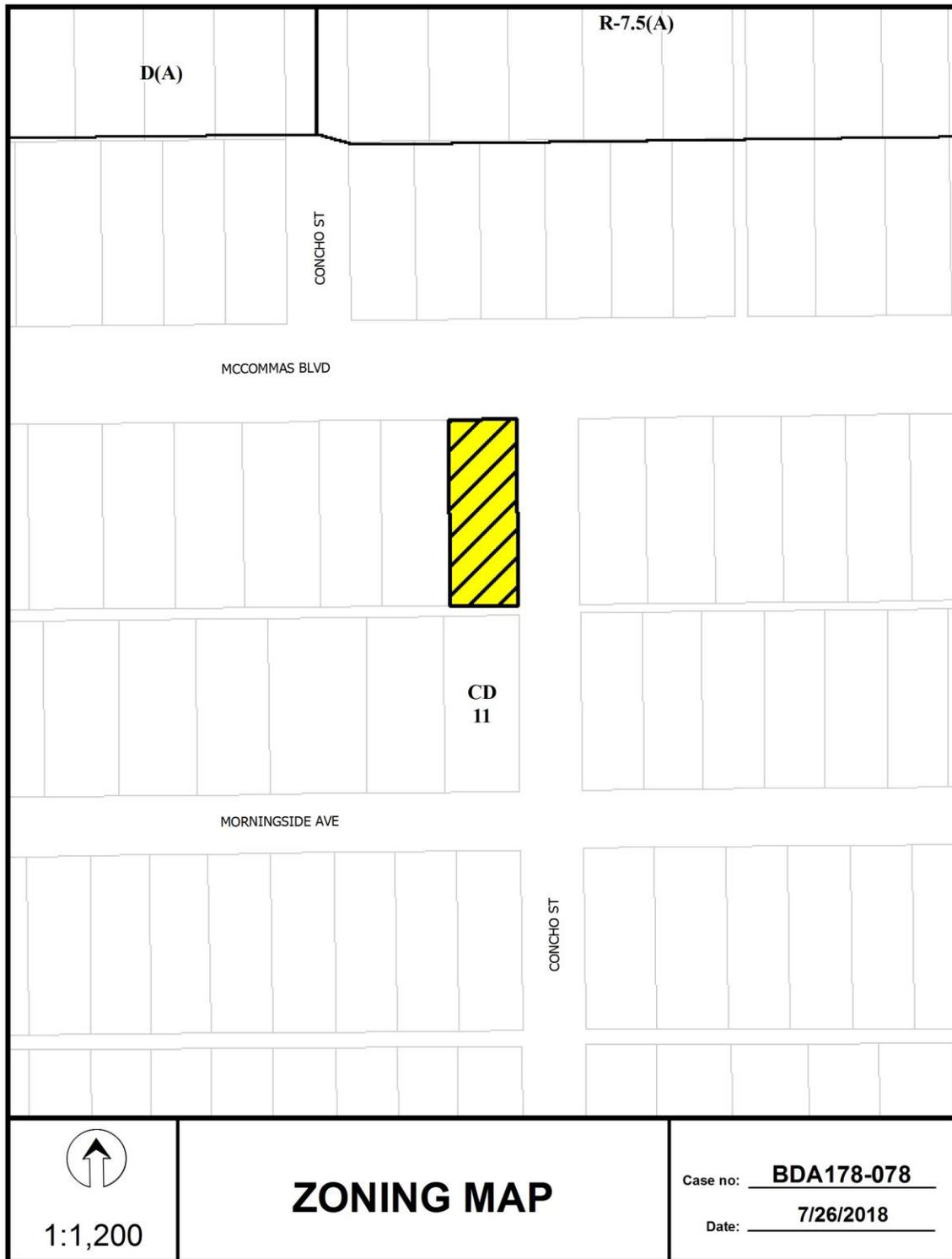
- April 24, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- July 10, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- July 11, 2018: The Board Administrator emailed the applicant/owner the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the August 1st deadline to submit additional evidence for staff to factor into their analysis; and the August 10th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standards that the board will use in their decision to approve or deny the requests; and

- The Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

July 23, 2018: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachments A).

August 7, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Chief Arborist, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

August 9, 2018: The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked "Engineering staff reviewed the request and has no objection to any of the obstructions shown on the plan within the visibility triangles".

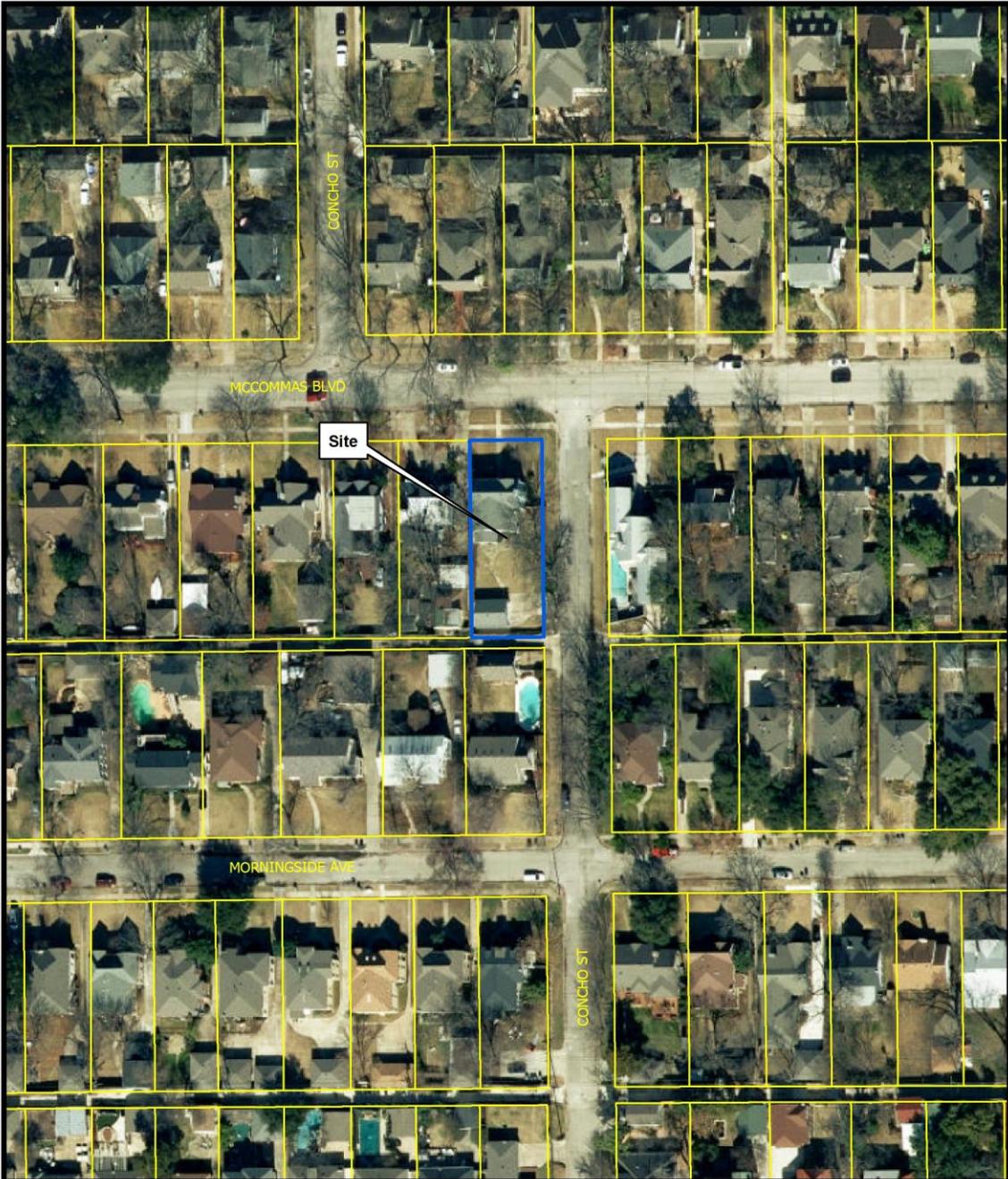


1:1,200

ZONING MAP

Case no: BDA178-078

Date: 7/26/2018



1:1,200

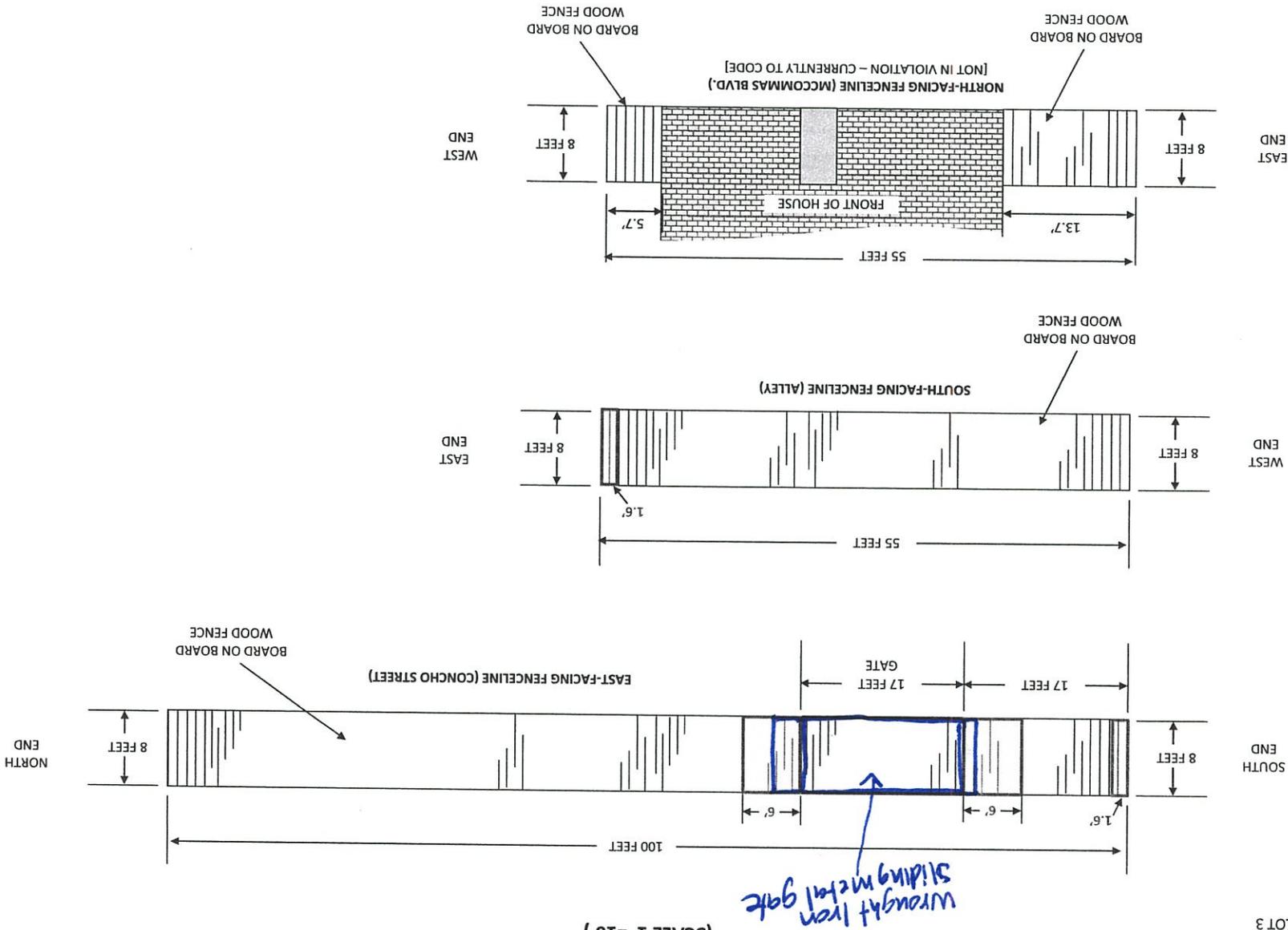
AERIAL MAP

Case no: BDA178-078

Date: 7/26/2018

5946 MCCOMMAS BLVD.
 DALLAS, TEXAS 75206
 LAUREN HARNER & DAVID HARNER
 BLOCK A/2873 LOT 3

FENCELINE ELEVATION DRAWINGS (SCALE 1"=10')
 BDA178-078 ATTACH A





City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-078

Data Relative to Subject Property:

Date: 4-24-18

Location address: 5946 McCommas Blvd Zoning District: CD 11

Lot No.: 3 Block No.: A/2873 Acreage: .190 Census Tract: 2.02

Street Frontage (in Feet): 1) 55' 2) 151' 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): David William Harner and Lauren Elizabeth Harner

Applicant: Lauren Harner Telephone: 972-740-4580

Mailing Address: 5946 McCommas Blvd. Zip Code: 75206

E-mail Address: Lauren@Harnermail.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 Fence Visibility triangle for driveway

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:

Build a new fence in same footprint as existing fence.

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 Lauren Harner
(Affiant/Applicant's name printed)

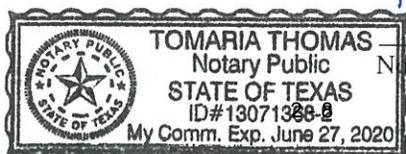
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: Lauren Harner
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 24 day of April, 2018

(Rev. 08-01-11)

BDA178-078



Notary Public in and for Dallas County, Texas

Panel B

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 LAUREN HARNER

did submit a request for a special exception to the visibility obstruction regulations
at 5946 Mccommas Blvd

BDA178-078. Application of LAUREN HARNER for a special exception to the visibility obstruction regulations at 5946 MCCOMMAS BLVD. This property is more fully described as Lot 3, Block A/2873, and is zoned CD-11, which requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct a single family residential fence structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

Sincerely,

Philip Sikes
Philip Sikes, Building Official



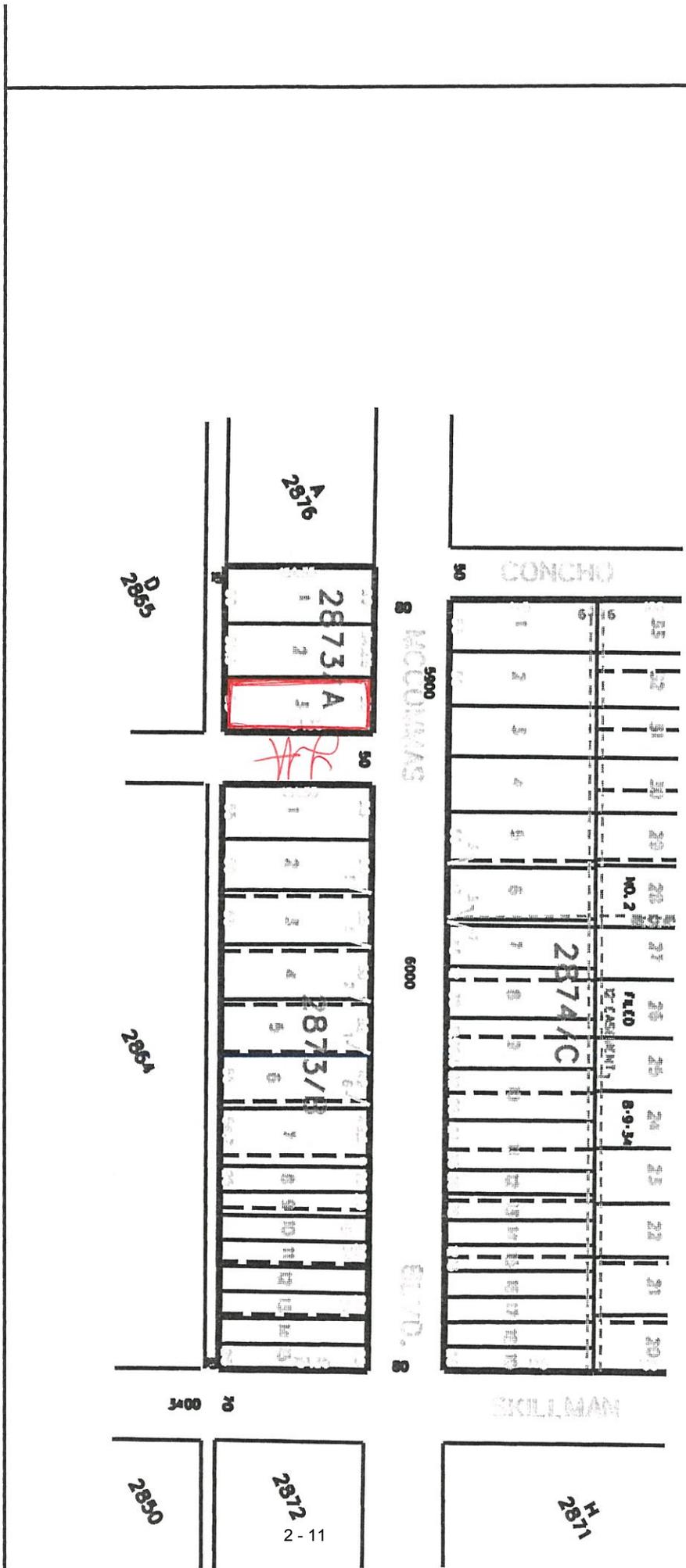
Printed: 4/24/2018

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 | SPSD 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)

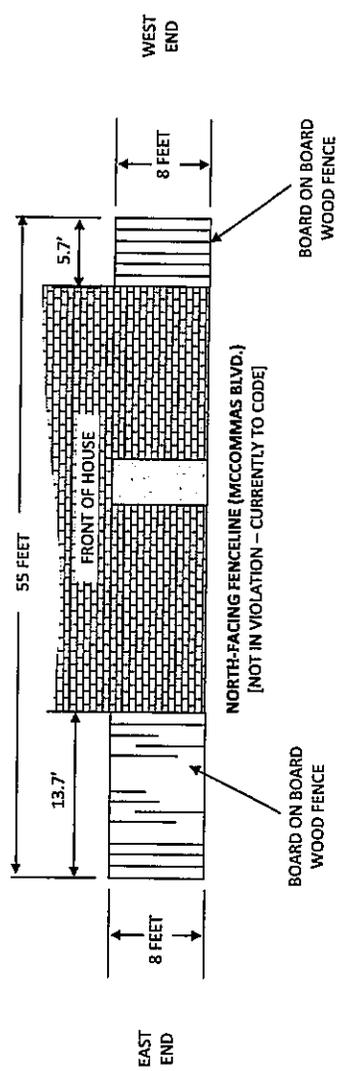
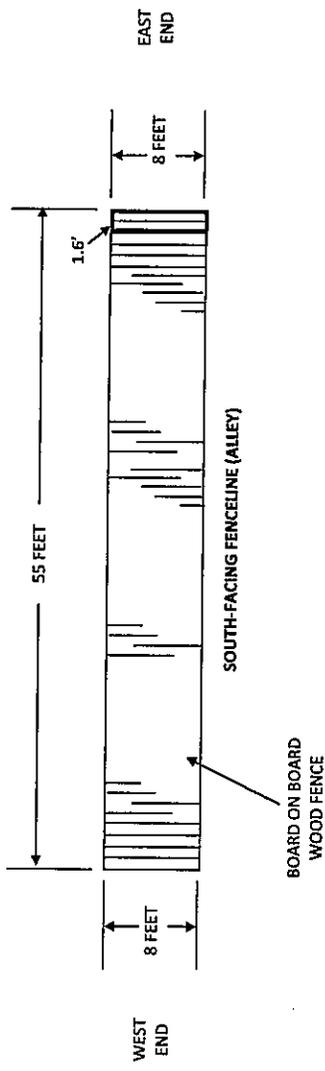
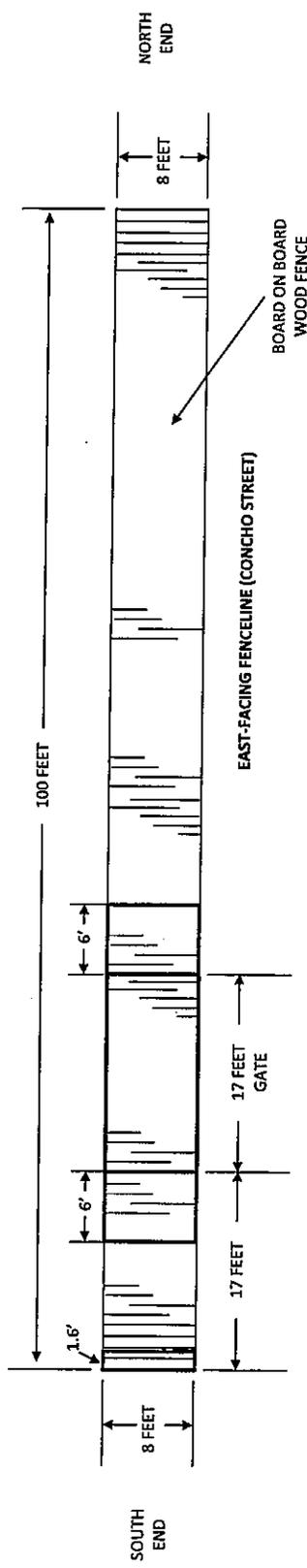


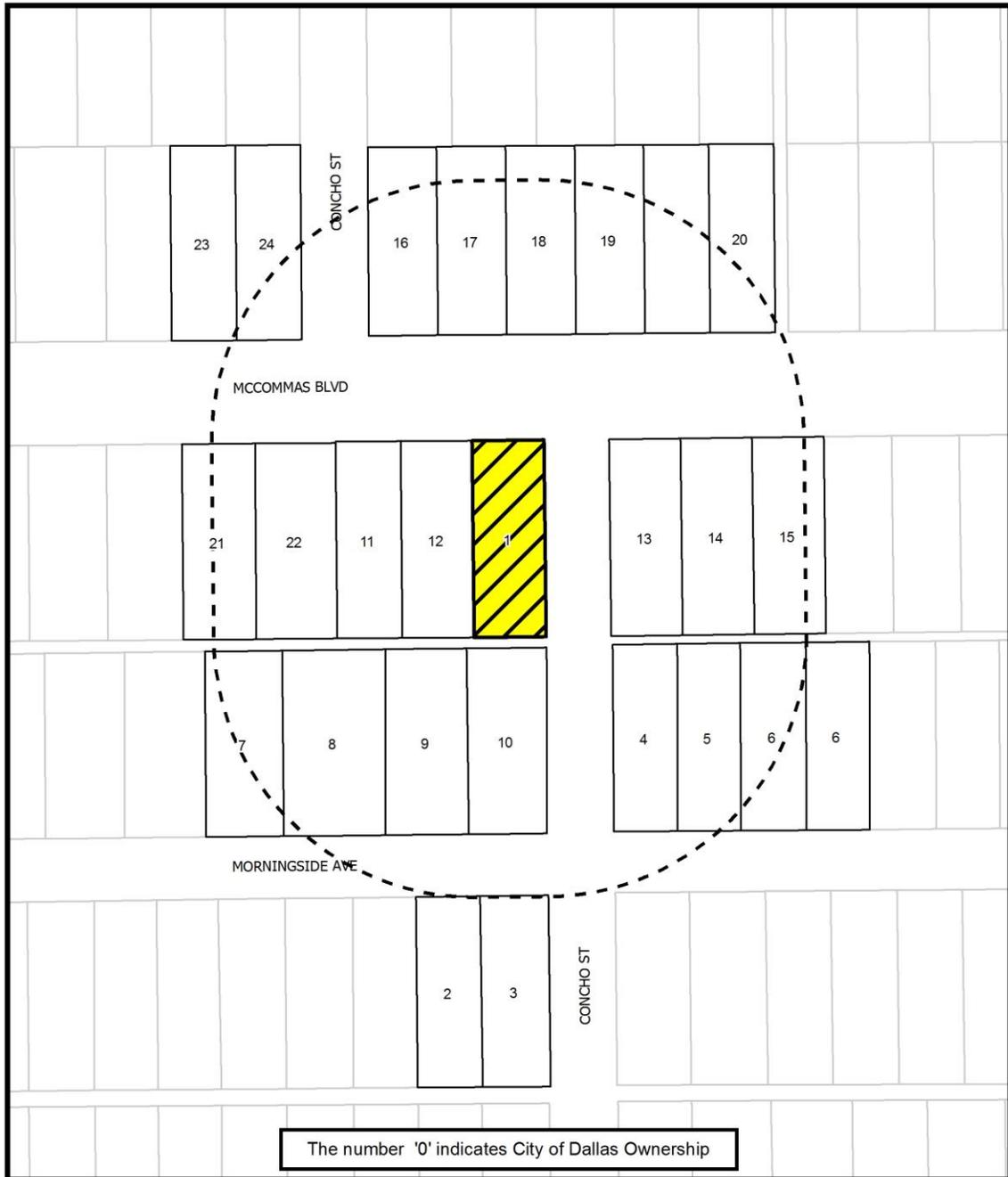


5946 MCCOMMAS BLVD.
 DALLAS, TEXAS 75206
 AUREN HARNER & DAVID HARNER
 BLOCK A/2873 LOT 3

BDA178-078

**FENCELINE ELEVATION DRAWINGS
 (SCALE 1"=10')**





 1:1,200	NOTIFICATION		Case no: BDA178-078
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">24</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 7/26/2018	

Notification List of Property Owners

BDA178-078

24 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5946 MCCOMMAS BLVD	LAU TONY T & YINBO XU
2	5940 MORNINGSIDE AVE	BEAZLEY LAURA
3	5944 MORNINGSIDE AVE	ROBERTSON TAYLOR &
4	6001 MORNINGSIDE AVE	COWAN J STEPHEN JR
5	6007 MORNINGSIDE AVE	CLEMENTS RICHARD L
6	6011 MORNINGSIDE AVE	OHLAND BILL M
7	5929 MORNINGSIDE AVE	BROUILLETTE MARY A
8	5935 MORNINGSIDE AVE	HICKS PAUL JASON
9	5941 MORNINGSIDE AVE	OHLAND BILL
10	5947 MORNINGSIDE AVE	HANSEN KIMBERLY &
11	5938 MCCOMMAS BLVD	GIEBLER KEVIN & SUE ANN
12	5942 MCCOMMAS BLVD	MORGAN NEAL & LINDSEY
13	6000 MCCOMMAS BLVD	CARNES KEVIN &
14	6006 MCCOMMAS BLVD	THOMAS NANCY A
15	6010 MCCOMMAS BLVD	MUNRO ROBERT D &
16	6003 MCCOMMAS BLVD	GRAFT JORDAN & BRITTANY
17	6007 MCCOMMAS BLVD	WEIR JAY CRAIG ET AL
18	6011 MCCOMMAS BLVD	RESENDEZ GILBERT
19	6015 MCCOMMAS BLVD	FOSTER MICHAEL
20	6023 MCCOMMAS BLVD	MITCHELL JAMES RICHARD &
21	5930 MCCOMMAS BLVD	ZINN MICHAEL WILLIAM
22	5934 MCCOMMAS BLVD	HOOFARD RONALD LEE &
23	5927 MCCOMMAS BLVD	VILLARREAL JOHN W &
24	5931 MCCOMMAS BLVD	MYERS CHARLES C & STACY E

FILE NUMBER: BDA178-048(OA)

BUILDING OFFICIAL'S REPORT: Application of Eric Messer for a variance to the front yard setback regulations at 11021 Royalshire Drive. This property is more fully described as Lot 4, Block 3/5500 and is zoned R-16(A), which requires a front yard setback of 35 feet. The applicant proposes to construct and/or maintain a structure and provide a 10 foot front yard setback, which will require a 25 foot variance to the front yard setback regulations.

LOCATION: 11021 Royalshire Drive

APPLICANT: Eric Messer

REQUEST:

A request for a variance to the front yard setback regulations of 25' is made to construct and maintain a two-story single family home structure with a total "slab area" of approximately 5,800 square feet or with a total "home size" of approximately 6,100 square feet, part of which is to be located 10' from one of the site's two front property lines (Rex Drive) or 25' into this 35' front yard setback on a site that is undeveloped.

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:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots in the R-16(A) zoning district in that it is restrictive in area due to having two, 35' front yard setbacks when most lots in this zoning district have one 35' front yard setback. The 95' wide subject site has 50' of developable width available once a 35' front yard setback is accounted for on the north and a 10' side yard setback is accounted for on the south. If the lot were more typical to others in the zoning district with only one front yard setback, the 95' wide site would have 75' of developable width.
- Staff concluded that the applicant has shown by submitting a document indicating among other things that that the total home size of the proposed home on the subject site at approximately 6,100 square feet is commensurate to 31 other homes in the same R-16(A) zoning district that have average home size of approximately 6,400 square feet.

BACKGROUND INFORMATION:

Zoning:

- Site: R-16(A) (Single family district 16000 square-feet)
- North: R-16(A) (Single family district 16000 square-feet)
- South: R-16(A) (Single family district 16000 square-feet)
- East: R-16(A) (Single family district 16000 square-feet)
- West: R-16(A) (Single family district 16000 square-feet)

Land Use:

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

Zoning/BDA History:

1. BDA 167-076, Property at 6143 Roylton Drive (Property located one block south of subject site)

On August 14, 2017, the Board of Adjustment Panel C denied requests for variances to the front yard setback regulations made to construct and maintain a single family structure in the front yard setbacks on one of the site's two front property lines (Azalea Drive).

The case report stated the request was made to construct and maintain a single family structure, part of which would be located 14' from the site's front property line) or 21' into the 35' front yard setback along Azalea Lane.

GENERAL FACTS /STAFF ANALYSIS:

- This request for variance to the front yard setback requirement of 25' focuses on constructing and maintaining a two-story single family home structure with a total "slab area" of approximately 5,800 square feet or with a total "home size" of approximately 6,100 square feet, part of which is to be located 10' from one of the site's two front property lines (Rex Drive) or 25' into this 35' front yard setback on a site that is undeveloped.
- The property is located in an R-16(A) zoning district which requires a minimum front yard setback of 35 feet.
- The subject site is located at the southwest corner of Royalshire Drive and Rex Drive. Regardless of how the structure is proposed to be oriented to front Royalshire Drive, the subject site has a 35' front yard setback along both street frontages. The site has a 35' front yard setback along Royalshire Drive, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in this zoning district. The site also has a 35' front yard setback along Rex Drive, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where a 10' side yard setback is required. However, the site's Rex Drive frontage that would function as a side yard on the property is treated as a front yard setback nonetheless, to maintain the continuity of the established front yard setback established by the lots to the west that front/are oriented northward towards Rex Drive.
- The submitted site plan indicates the proposed structure is located 10' from the Rex Driver's front property line or 25' into this 35' front yard setback.
- According to DCAD records, there are "no main improvement" or "no additional improvements for property addressed at 11021 Royalshire Drive.
- The subject site is flat, rectangular in shape (approximately 160' x 95'), and according to the submitted application is 0.348 acres (or approximately 15,200 square feet) in area. The site is zoned R-16(A) where lots are typically 16,000 square feet in area.
- Most lots in the R-16(A) zoning district have one 35' front yard setback, two 10' side yard setbacks, and one 10' rear yard setback; this site has two 35' front yard setbacks and two 10' side yard setbacks.
- The site plan represents that approximately 1/3 of the structure is located in the 35' Rex Drive front yard setback.
- The 95' wide subject site has 50' of developable width available once a 35' front yard setback is accounted for on the north and a 10' side yard setback is accounted for on the south. If the lot were more typical to others in the zoning district with only one front yard setback, the 95' wide site would have 75' of developable width.
- No variance would be necessary if the Rex Drive frontage were a side yard since the site plan represents that the proposed home is 10' from the Rex Drive property line and the side yard setback for properties zoned R-16(A) is 10'.
- The applicant has submitted a document indicating among other things that that the total home size of the proposed home on the subject site is approximately 6100 square feet, and the average of 31 other properties in the same zoning is approximately 6,400 square feet.

- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front 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 R-16(A) zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-16(A) zoning classification.
- If the Board were to grant the 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 in this case is a structure that would be located 10' from the site's Rex Drive front property line (or 25' into this 35' front yard setback).

Timeline:

February 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.

April 11, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

April 12, 2018: The Sustainable Development and Construction Department Senior Planner emailed the applicant's representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the May 2nd deadline to submit additional evidence for staff to factor into their analysis; and the May 11th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

April 25, 2018: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

May 1, 2018: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B).

May 8, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

May 23, 2018: The public hearing in which this application was scheduled was canceled to due lack of quorum of members. This application was rescheduled to be heard by Panel B on June 20, 2018. The Board Administrator emailed the applicant of this cancellation and of this rescheduling.

June 5, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Sustainable Development and Construction Director the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Chief Arborist, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Sustainable Development and Construction Department Authorized Hearing/Code Amendment Senior Planner, and the Assistant City Attorney to the Board.

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

June 20, 2018: The Board of Adjustment Panel C conducted a public hearing on this application, and delayed action on this application until the next public hearing to be held on August 22, 2018.

June 20, 2018: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment C).

June 21, 2018: The Board Administrator wrote the applicant a letter of the board's action; the August 1st deadline to submit additional evidence for staff to factor into their analysis; and the August 10th deadline to submit additional evidence to be incorporated into the Board's docket materials.

August 7, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Chief Arborist, 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.

BOARD OF ADJUSTMENT ACTION: JUNE 20, 2018

APPEARING IN FAVOR: Eric Messer, 6312 Widgeon Dr., Plano, TX

APPEARING IN OPPOSITION: Aimee Fagan, 6206 Rex Dr., Dallas, TX
David Weltman, 6126 Rex Dr., Dallas, TX

MOTION: Hounsel

I move that the Board of Adjustment, in Appeal No. BDA 178-048, hold this matter under advisement until August 22, 2018.

APPEARING IN FAVOR: Eric Messer, 6312 Widgeon Dr., Plano, TX

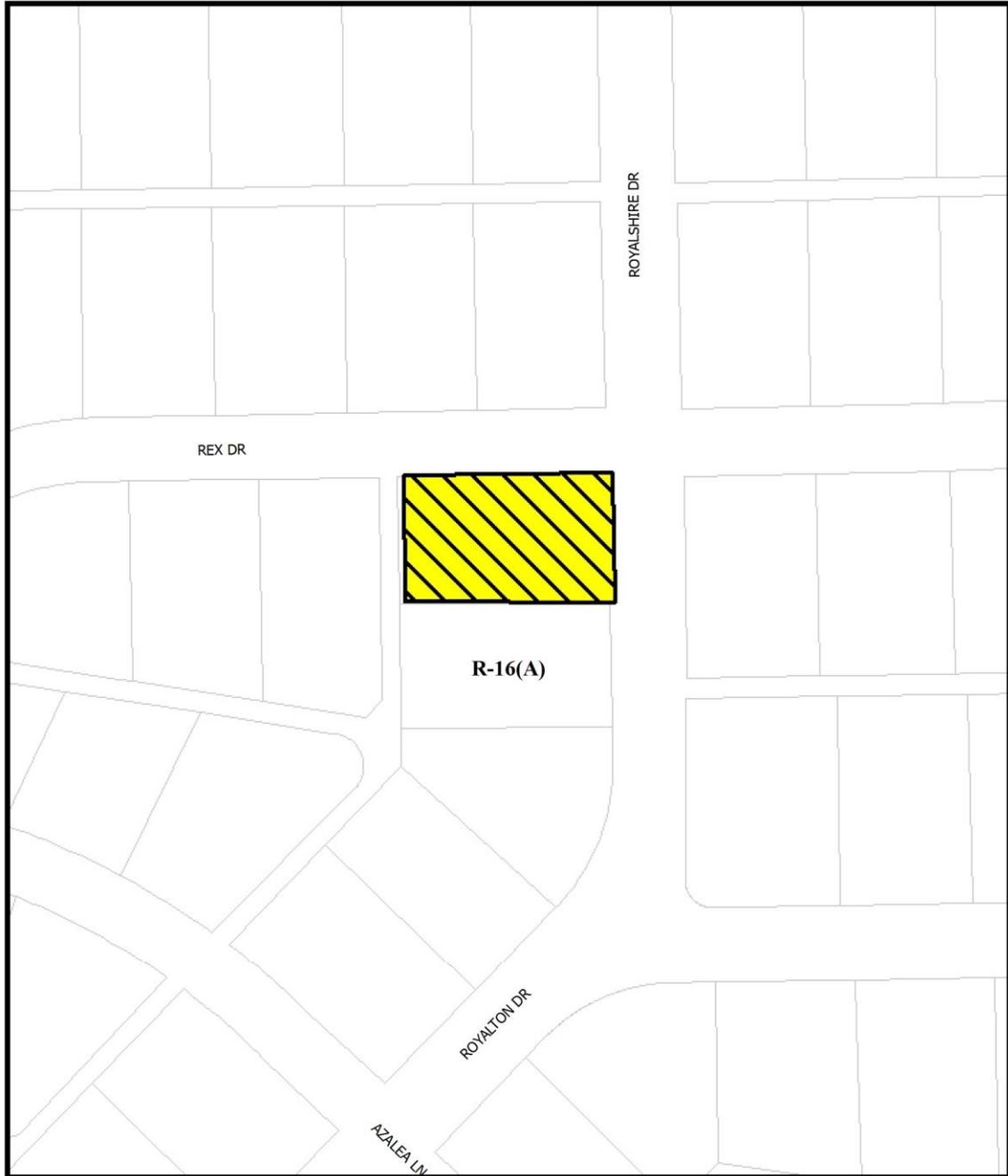
APPEARING IN OPPOSITION: Aimee Fagan, 6206 Rex Dr., Dallas, TX
David Weltman, 6126 Rex Dr., Dallas, TX

SECOND: Torres

AYES: 3 - Hounsel, Torres, Sahuc

NAYS: 1 - Beikman

MOTION PASSED: 3 – 1



1:1,200

ZONING MAP

Case no: BDA178-048

Date: 4/17/2018



1:1,200

AERIAL MAP

Case no: BDA178-048

Date: 4/17/2018

BDA178-048 ATTACH A
(Pg 1/3)

LIST OF PROPERTIES ZONED R-16(A)

	Subject Address	SqFt Total	Lot Size	Location	Zoned	Lot Coverage*
	11021 Royalshire	6114	0.363	Corner	R-16(A)	0.39
	Comparable Address					
1	6553 Rex	6,553	0.363	Corner	R-16(A)	0.41
2	6214 Rex	7,385	0.367		R-16(A)	0.46
3	11015 Royalshire	6,722	0.358		R-16(A)	0.43
4	6132 Rex	6,749	0.372		R-16(A)	0.42
5	6139 Royal Crest	6,228	0.35	Corner	R-16(A)	0.4
6	6223 Rex	6,097	0.367		R-16(A)	0.38
7	6001 Rex	6,001	0.363		R-16(A)	0.38
8	6636 Willow	6,083	0.367		R-16(A)	0.38
9	5724 Del Roy	6,124	0.367	Corner	R-16(A)	0.39
10	5806 Boca Raton	6,177	0.374	Corner	R-16(A)	0.39
11	6222 Royal Crest	6,132	0.362		R-16(A)	0.43
12	11429 Parkchester	6,198	0.366		R-16(A)	0.39
13	5831 Burgundy	6,204	0.367		R-16(A)	0.39
14	12114 Prestonridge	6,226	0.370		R-16(A)	0.39
15	11429 Parkchester	6,198	0.367		R-16(A)	0.39
16	6465 Waggoner	6,500	0.360		R-16(A)	0.41
17	6823 Orchid	6,472	0.378		R-16(A)	0.39
18	6466 Tulip	6,142	0.379		R-16(A)	0.37
19	6806 Brookshire	6,408	0.367		R-16(A)	0.4
20	5812 Norway	6,601	0.363		R-16(A)	0.42
21	5918 Williamstown	6,225	0.374		R-16(A)	0.38
22	5717 Preston Haven	6,473	0.368		R-16(A)	0.4
23	6215 Rex	7,309	0.368		R-16(A)	0.46
24	6207 Rex	6,553	0.362	Corner	R-16(A)	0.42
25	6458 Orchid Lane	6,358	0.371		R-16(A)	0.39
26	6506 Pemberton Drive	6,863	0.372	Corner	R-16(A)	0.42

To: The Board of Adjustment

I am providing you with information that I hope will help the board better understand the need for a variance and show that the home to be built at 11021 Royalshire is commensurate to other properties zoned R-16(A) and will add value to the neighborhood. I have attached a list of 31 properties that are comparable in lot size and home square footage.

11021 Royalshire will be 6114 square feet with a 3-car garage. The lot is .363 acres. The house will not be out of character with the neighborhood and is not contrary to the public interest. 11021 Royalshire is commensurate with other properties zoned R-16(A) as shown on the attached list. The current setbacks treat this lot differently from other lots zoned R-16(A).

The building guidelines as set in place for R-16(A) will be followed for the home and are proportionate and match the setbacks for homes zoned R-16(A). The home is designed to be comparable to other homes in the area. There is a functioning ally that will act as a buffer to the home to the rear of 11021 Royalshire.

11021 Royalshire is a corner lot and zoned with two front yards and two side yards. The front yard facing Royalshire is a 35-foot setback and the front yard facing Rex is a 35-foot set back. The current setbacks for 11021 Royalshire greatly reduce the building area and if the variance is not granted, the lot will be treated differently from other lots that have homes recently constructed or are currently being constructed. When the lot was purchased, these restrictions were not disclosed, and the restrictions caused by the current setbacks are not self-created. The current setbacks create a hardship and do not allow for a home to be built that will meet current market values based on land values for the area and that will be equivalent to other homes zoned R-16(A).

I am asking that the board adjust the set-backs for 11012 Royalshire. I am asking that 11021 Royalshire be treated similar to lots in the same zoning. This will include the front yard facing Royalshire will have a 35 foot set-back, the front yard facing Rex will have a 10 foot set back and the two side yards each with 10 foot set-backs. The setbacks I am asking to be adjusted are not out of character for other lots zoned R-16(A)

Thank you for your time and feel free to contact me with any questions. I look forward to seeing you again soon.

Eric Messer
972-741-6887
eric@ericmesser.com

To: The Board of Adjustments,

I had an opportunity to read Mr. Weitman's email and the information he provided regarding some litigation I am involved in.

First, I do not see how this information has any bearing on my request for a variance at 11021 Royalshire. I am not looking to get involved in any type of litigation. Just the opposite. I am following all the guidelines and procedures set forth by the city of Dallas and Dallas County to ensure that the lot I have purchased is treated fairly and with the same consideration as other lots zoned R-16(A).

I am not sure what Mr. Weitman is implying, but I would like to take this opportunity to clarify his incomplete assessment of the situation. First let me state that I have been a certified home inspector in Texas, I have been a real estate agent since 2008 and a licensed real estate broker in the state of Texas since 2011. I have owned rental properties (some were section 8 housing) and renovated dozens of homes and built over 10 new homes. I have even had the pleasure of working with this board in the past. If one will take the time to look at my past business dealings, the records will show that I have never been involved in any type of litigation until recently. I will be glad to provide the board with a list of people and companies that I have conducted business with, who will vouch for my integrity and character

The circumstances are easily explained. I will provide a brief explanation.

The law suit with the Burns: I owned a lot at 5303 Miller which I sold to the Burns. The Burns hired New Summit Homes (NSH) to build them a house. I had nothing to do with the construction of the home, I only sold the land. I never worked for NSH, I was an investor and I used NSH to build homes for me. The Burns were not satisfied with the quality of work and when NSH refused to comply with their request to repair and remedy their claims, the Burns sued all parties involved. I am working with my attorney to be removed from the suite.

This now gets more interesting. As one of 30 plus investors who invested in NSH, we found ourselves involved in a Ponzi scheme where the owners of NSH stole between 12-15 million dollars. I am a victim of the scheme of which a few branches of the Federal Government are investigating. The purpose of my law suites in Tarrant County are to protect myself from fraudulent claims perpetrated by NSH.

I will be as transparent as the board sees fit and will provide as much information needed to further clarify.

As I mentioned previously, I do not see how any of this pertains to my request for a variance for 11021 Royalshire. I have already submitted information that shows that the current set-backs create a hardship and show the home to be built at 11021 Royalshire is commensurate to other properties zoned R-16(A) and will add value to the neighborhood.

I have built and renovated dozens of homes in the Dallas area. The goal has always been the same, provide the new home owner with quality home and to enhance the neighborhood.

Thank you for taking the time to read this.

Eric Messer

Aguilera, Oscar E

BDA 178-048 ATTACH C

From: Eric Messer <eric@ericmesser.com>
Sent: Wednesday, June 20, 2018 9:00 PM
To: Aguilera, Oscar E
Subject: 11021 Royalshire meeting

Oscar,

First let me apologize for my sudden request to delay the meeting until August, I know it was last minute. I hope I did not cause the board too much trouble.

My real estate agent gave me some information that I need to verify. I did not have all the information at the time of the meeting, but it was given to me today while we were waiting for my presentation. Considering the amount of opposition to the variance, I did not want to waist the boards time if some of the information submitted needs to be changed in order for the board to make a fair and accurate decision that meets the standards of the City of Dallas..

Please allow me a few days to verify and I will contact you with my options. I will be in touch with Charles Trammell as well.

Thank you, and please pass on my sincerest appologies to the entire board.

Eric Messer.
eric@ericmesser.com
972-741-6887



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-048

Data Relative to Subject Property:

Date: 2/20/18

Location address: 11021 ROYALSHIRE Zoning District: R-16(A)

Lot No.: 4 Block No.: 3/5500-1/2 Acreage: .363 Census Tract: 133.00

Street Frontage (in Feet): 1) 161 2) 160 3) 160 4) 97 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): MESSER HOLDINGS SERIES LLC

Applicant: ERIC MESSER Telephone: 972 741 6087

Mailing Address: 6312 WIDGEON DR, PLANO TX Zip Code: 75024

E-mail Address: ERIC@ERICMESSER.COM

Represented by: ERIC MESSER Telephone: 972 741 6087

Mailing Address: 6312 WIDGEON DR, PLANO TX Zip Code: 75024

E-mail Address: ERIC@ERICMESSER.COM

Affirm that an appeal has been made for a Variance X, or Special Exception _____, of 25' TO THE FRONT YARD SET BACK TO CURRENT SET BACK ON REX DRIVE CREATING NEW FRONT YARD SET BACK OF 10' WITH A 1 FOOT ROOF EAVE OVERHANG

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 CURRENT FRONT YARD SETBACK FACING REX IS CAUSING A HARDSHIP THE RESTRICTIONS CAUSED BY THE CURRENT SET BACKS ARE NOT SELF-CREATED AND DO NOT ALLOW FOR A HOME TO BE BUILT THAT MEETS CURRENT VALUES BASED ON LAND VALUES FOR THE AREA

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 MESSER (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 20th day of February, 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

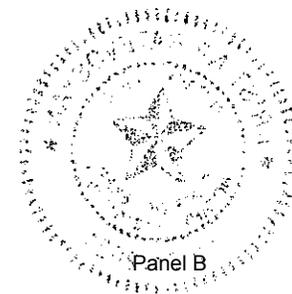
I hereby certify that ERIC MESSER

did submit a request for a variance to the front yard setback regulations
at 11021 Royalshire Drive

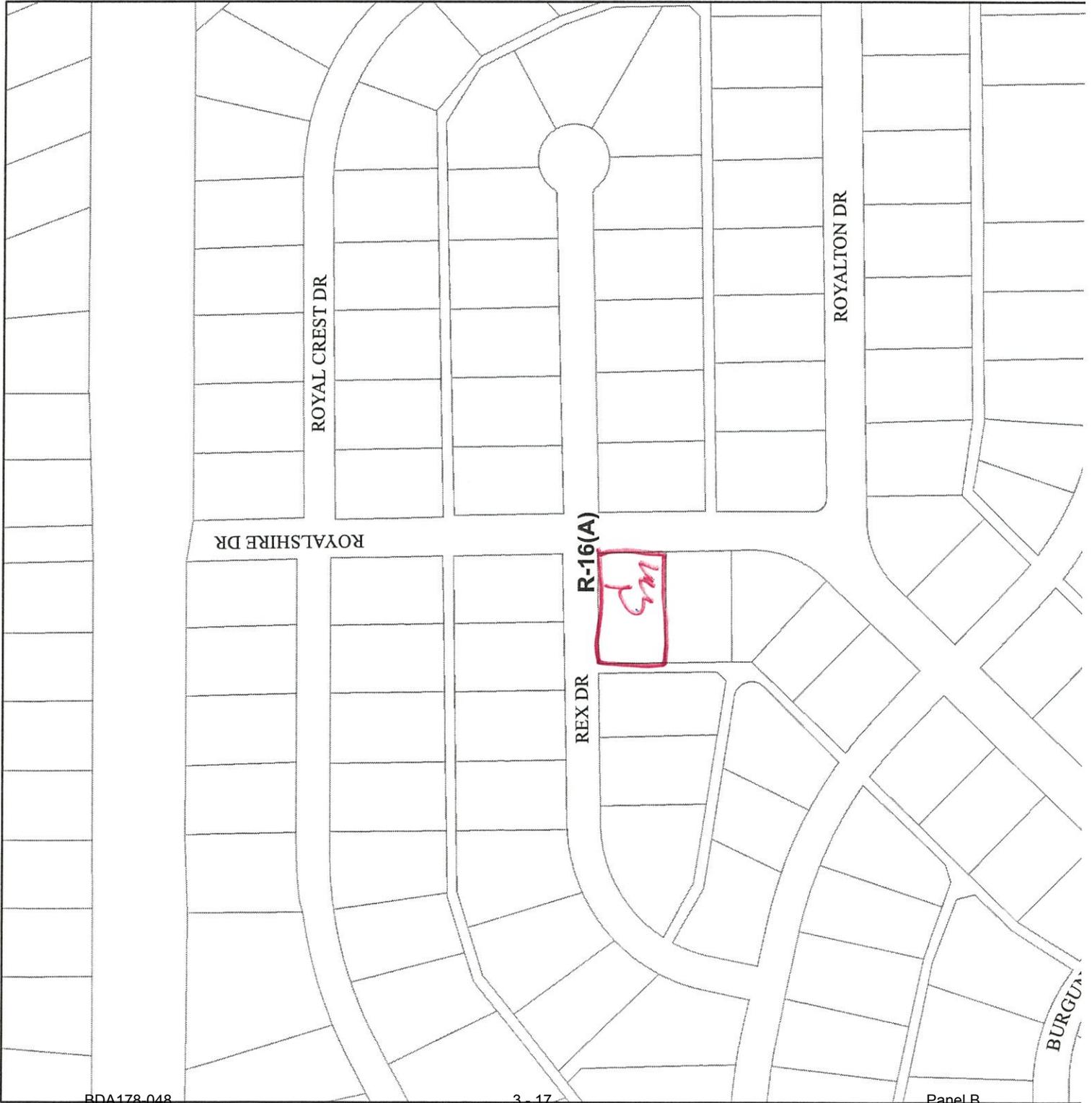
BDA178-048. Application of Eric Messer for a variance to the front yard setback regulations at 11021 ROYALSHIRE DR. This property is more fully described as Lot 4, Block 3/5500 and is zoned R-16(A), which requires a front yard setback of 35 feet. The applicant proposes to construct a single family residential structure and provide a 10 foot front yard setback measured at the foundation (with a 1 foot roof eave), which will require 25 foot variance to the front yard setback regulation.

Sincerely,

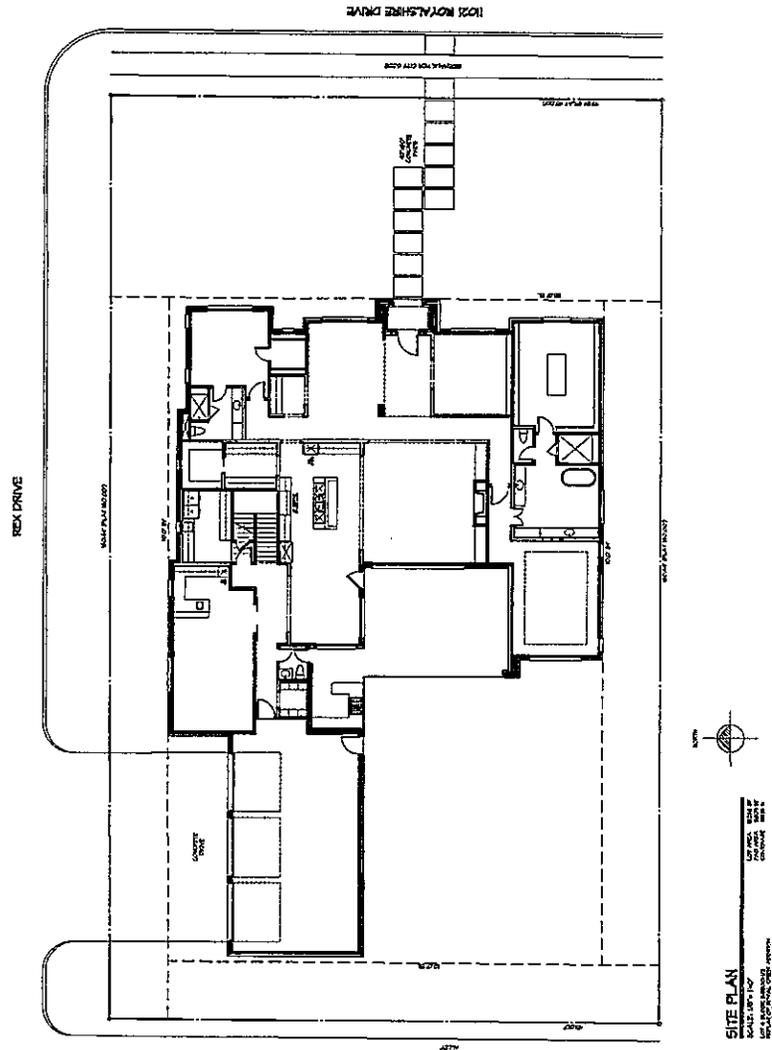
Philip Sikes
Philip Sikes, Building Official



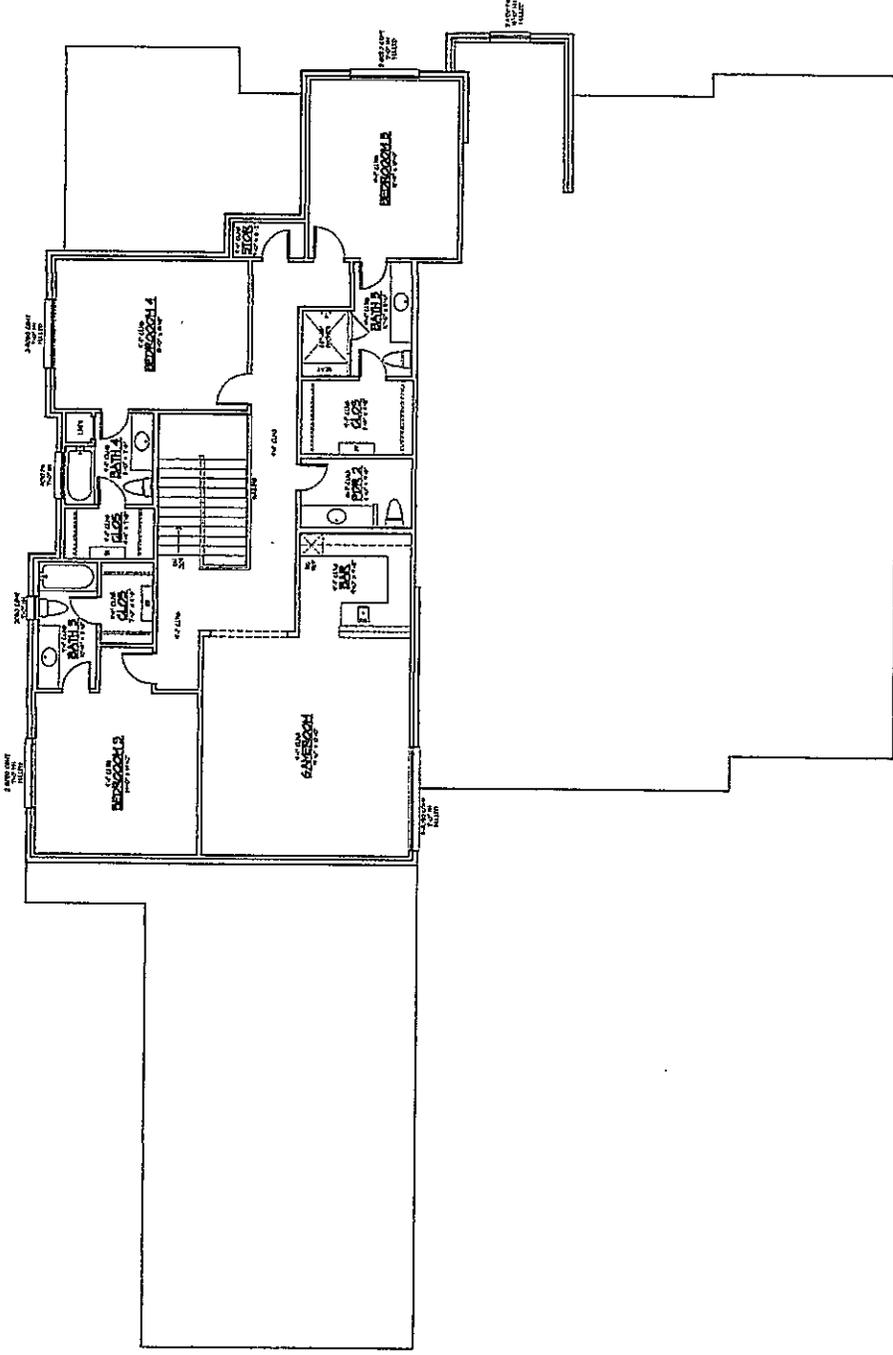




REVIEW SET: NOT FOR CONSTRUCTION



REVIEW SET, NOT FOR CONSTRUCTION



UPPER LEVEL FLOOR PLAN
 SCALE: 1/4" = 1'-0"
 1. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 2. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 3. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 4. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 5. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 6. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 7. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 8. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 9. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
 10. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.

To: The Board of Adjustment

I am providing you with information that I hope will help you and your board better understand the need for a variance and show that the home to be built at 11021 Royalshire is commensurate to other properties zoned R-16(A). I have attached a list of properties that I believe are comparable in lot size and home square footage.

The home to be constructed at 11021 Royalshire will be 6114 square feet with a 3-car garage. The lot is .363 acres. The comparables are all within a couple of hundred feet in square footage and similar lot size. 11021 Royalshire is a corner lot and some of the properties used to compare are also corner lots.

11021 Royalshire is a corner lot and zoned with two front yards and two side yards. The front yard facing Royalshire is a 35-foot setback and the front yard facing Rex is a 35-foot set back. It is the front yard facing Rex that is causing the hardship. The restrictions caused by the current setbacks are not self-created and do not allow for a home to be built that will meet current market values based on land values for the area.

The home will not be contrary to the public interest and as mentioned above is commensurate with other properties zoned R-16(A) as shown on the attached list.

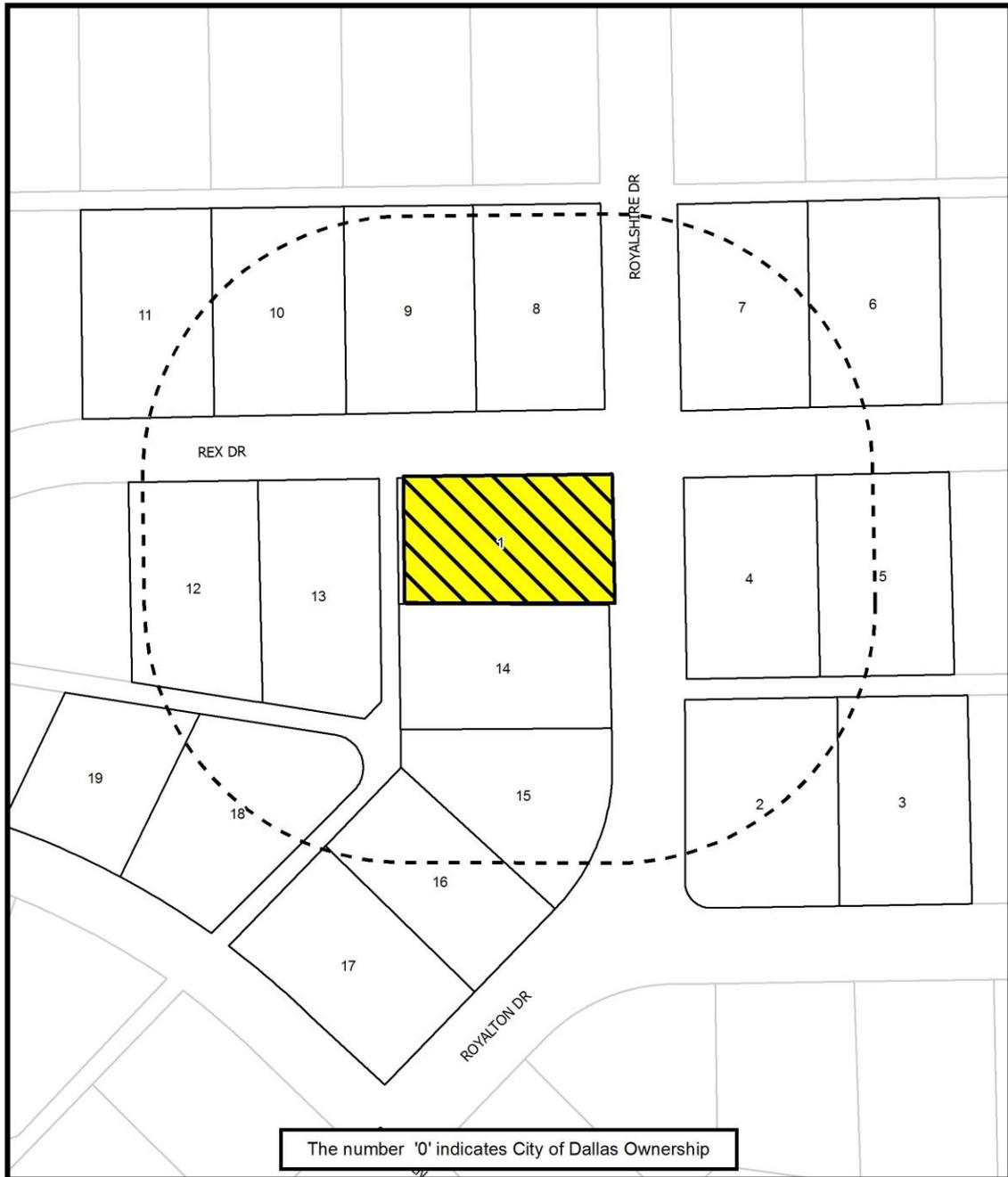
I am asking that the board adjust the set-backs for 11012 Royalshire. This will include the front yard facing Royalshire will have a 35 foot set-back, the front yard facing Rex will have a 10 foot set back and the two side yards each with 10 foot set-backs.

Thank you for your time and feel free to contact me with any questions. I look forward to seeing you again soon.

Eric Messer
972-741-6887
eric@ericmesser.com

LIST OF PROPERTIES ZONED R-16(A)

Subject Address	SqFt Total	Lot Size Area	Lot Location	Zoned
11021 Royalshire	6114	0.363	Corner	R-16(A)
Comparable Address SqFt Total Lot Size Area Lot Location Zoned				
1 5592 Rex	5,592	0.363	Corner	R-16(A)
2 6553 Rex	6,553	0.363	Corner	R-16(A)
3 6163 Rex	4,626	0.357	Corner	R-16(A)
4 6214 Rex	7,385	0.367		R-16(A)
5 11015 Royalshire	6,492	0.358		R-16(A)
6 6142 Rex	5,336	0.375		R-16(A)
7 6132 Rex	6,749	0.372		R-16(A)
8 6247 Rex	5,362	0.372		R-16(A)
9 6139 Royal Crest	6,228	0.35	Corner	R-16(A)
10 6114 Royal Crest	5,831	0.384		R-16(A)
11 6223 Rex	6,097	0.367		R-16(A)
12 6001 Rex	6,001	0.363		R-16(A)
13 6636 Willow	6,083	0.367		R-16(A)
14 6238 Royal Crest	5,701	0.367		R-16(A)
15 6222 Royal Crest	6,132	0.362		R-16(A)
16 11429 Parkchester	6,198	0.366		R-16(A)
Average	6,023	0.365		R-16(A)



 1:1,200	NOTIFICATION		Case no: BDA178-048
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">19</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 4/17/2018	

Notification List of Property Owners

BDA178-048

19 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	11021 ROYALSHIRE DR	MESSER HOLDINGS SERIES LLC
2	11000 ROYALSHIRE DR	BAUER KATHERINE
3	6215 ROYALTON DR	JONES JEANNE KAY
4	6206 REX DR	FAGAN HUGH & AIMEE
5	6214 REX DR	METZ MATTHEW L & MARY A
6	6215 REX DR	WEST MIKE & TERRI
7	6207 REX DR	BONN JOHN E & ROBIN M
8	6163 REX DR	JAYARAMAN VIDYASAGAR &
9	6155 REX DR	GRAY STEVEN DIRK & DEBORAH K
10	6147 REX DR	REIHSEN GERALD J &
11	6139 REX DR	DETIENNE MARY L
12	6132 REX DR	STOLER ROBERT C
13	6142 REX DR	COBEN CHAD E & AMBER M
14	11015 ROYALSHIRE DR	DUNN JOSHUA JETT
15	6155 ROYALTON DR	WEINSTEIN GREG M
16	6151 ROYALTON DR	GOLDSMITH REGINALD M &
17	6143 ROYALTON DR	LOMAT INVESTMENTS INC
18	6069 AZALEA LN	WEINREB KAREN S
19	6063 AZALEA LN	HEXT GREGORY & KIMBERLY

FILE NUMBER: BDA178-069(SL)

BUILDING OFFICIAL'S REPORT: Application of Winfield Moore, represented by Chris Bowers, to appeal the decision of the administrative official at 1520 Olympia Drive. This property is more fully described as Lot 27, Block 8/3826, and is zoned CD 13, which the building official is required to revoke a permit if he or she determines that the permit was issued in error. The applicant proposes to appeal the decision of an administrative official in the revocation of a building permit.

LOCATION: 1520 Olympia Drive

APPLICANT: Winfield Moore
Represented by Chris Bowers

REQUEST:

A request is made to “appeal the decision of the Building Official to revoke permit number 1706271135” on a site developed with a single family home.

STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:

Dallas Development Code Sections 51A-3.102(d)(1) and 51A-4.703(a)(2) state that any aggrieved person may appeal a decision of an administrative official when that decision concerns issues within the jurisdiction of the Board of Adjustment.

The Board of Adjustment may hear and decide an appeal that alleges error in a decision made by an administrative official. Tex. Local Gov't Code Section 211.009(a)(1).

Administrative official means that person within a city department having the final decision-making authority within the department relative to the zoning enforcement issue. Dallas Development Code Section 51A-4.703(a)(2).

BACKGROUND INFORMATION:

Zoning:

Site: CD 13 (Conservation District)
North: CD 13 (Conservation District)
South: CD 13 (Conservation District)
East: CD 13 (Conservation District)
West: CD 13 (Conservation District)

Land Use:

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

Zoning/BDA History:

While there has not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site, note that the Board of Adjustment Panel C granted a request for a variance to the front yard setback regulations of 11 feet, 3 inches on the subject site on March 19, 2018 where the board imposed the submitted revised site plan as a condition (BDA178-030). The case report stated that the request was made to construct and maintain a “ventless firebox” and “planter/retaining wall” structures on a property developed with a single family home, which, according to the submitted revised site plan, would be located as close as 20’ 3” from the front property line or as much as 11’ 3” into the 31’ 6” front yard setback.

GENERAL FACTS/STAFF ANALYSIS:

- The board shall have all the powers of the administrative official on the action appealed. The board may in whole or in part affirm, reverse, or amend the decision of the official.

Timeline:

March 28, 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.

July 10, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

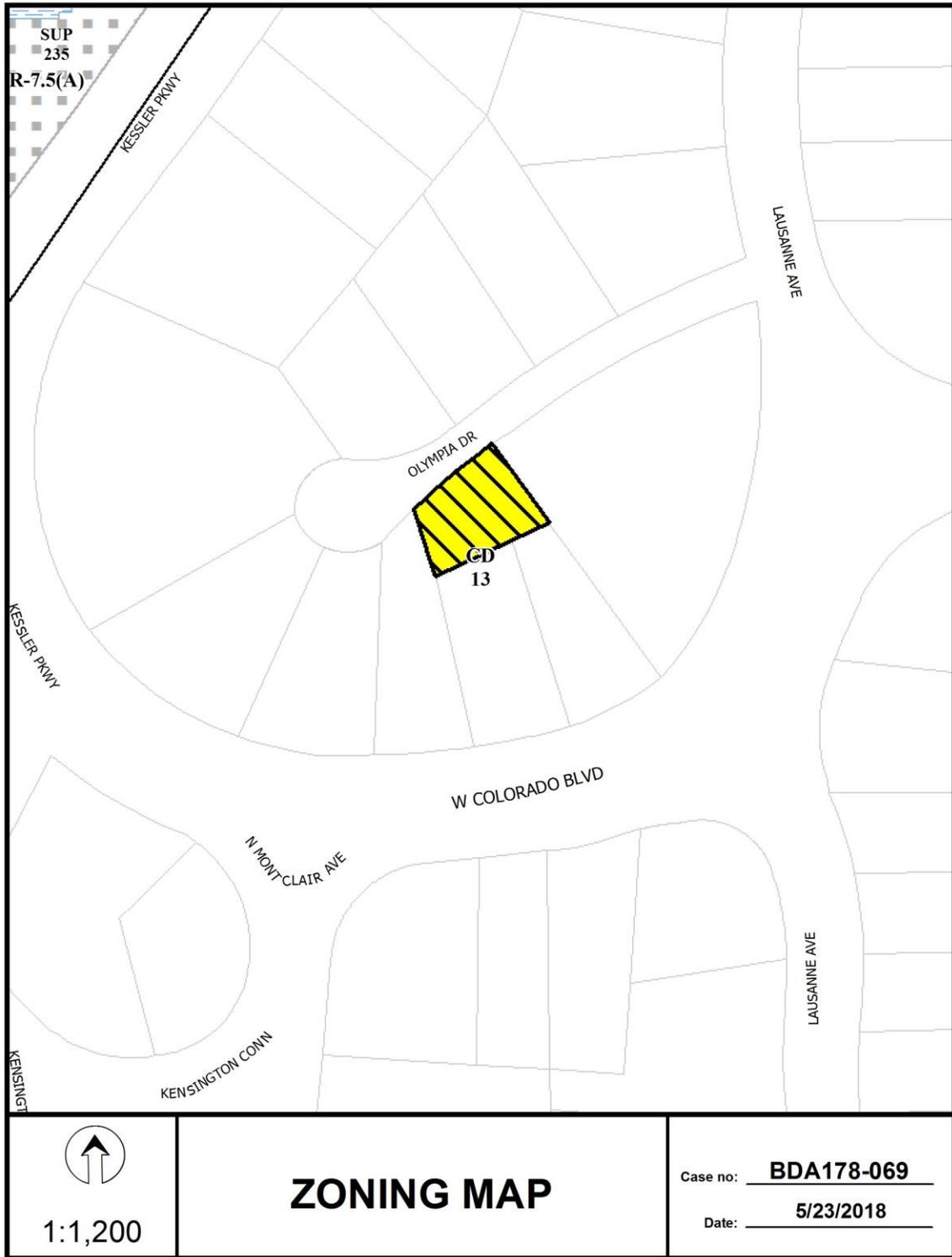
July 10, 2018: The Board Administrator emailed the applicant’s representative the following information:

- an attachment that provided the appeal date and panel that will consider the appeal; the August 1st deadline to submit additional evidence for staff to factor into their analysis (with a notation that staff does not form a recommendation on this type of appeal); and the August 10th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the outline of procedure for appeals from decisions of the building official to the board of adjustment; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

August 7, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Chief Arborist, 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 appeal.

August 9, 2018: The assistant city attorney assisting the administrative official submitted documentation on this appeal to the Board Administrator (see Attachment A).





1:1,200

AERIAL MAP

Case no: BDA178-069

Date: 5/23/2018



BDA 178-069
Attach A
p 1

August 9, 2018

Via Email to BDA Secretary

Board of Adjustment, Panel B
1500 Marilla St., 5BN
Dallas, Texas 75201

Re: BDA 178-069. Building Official's Brief in the Appeal of the Revocation of a Building Permit at 1520 Olympia.

Dear Board Members:

Below is City Staff's brief in response to Winfield Moore and Dale Miner's (the "Appellants") appeal of the revocation of Building Permit No. 1706271135 pertaining to a renovation project at 1520 Olympia, Dallas, Texas 75208 (the "Property").

I. BACKGROUND

In 2005 the City of Dallas (the "City") passed an ordinance for the Kessler Park area of the City that sets out various yard, lot and space requirements for three Subareas. Dallas, Tex., Ordinance 25984 (May 25, 2015)(the "Kessler Park CD"). Many of the houses built in the Kessler Park CD were built before 2005 so they do not conform to the requirements in the Kessler Park CD. *Id.*, apps. C, D, & E. The Dallas Development Code recognizes that these houses are allowed to remain nonconforming and describes a nonconforming structure as "a structure which does not conform to the regulations (other than the use regulations) of this chapter, but which was lawfully constructed under the regulations in force at the time of construction." Dallas, Tex. Code §51A-2.102(89).

The house on the Property was first built in 1927 and is considered by the Kessler Park CD to be in the "Tudor" style. Dallas, Tex., Ordinance 25984, apps. C at 26. The Property is in Subarea 1 of the Kessler Park CD. *Id.* The house is nonconforming as to the requirements of the Kessler Park CD in several ways, but specifically pertaining to this appeal, it encroaches into the five-foot side yard setback. *Id.* at (3)(u)(2).

The Applicants purchased the Property in 2007. Exhibit A. In 2016 the Applicants applied for a Conservation District Work Certificate for a renovation project and on June 6, 2017 received approval, with conditions. Exhibit B. The project added to the structure in the setback, thus increasing the encroachment as well as the degree of nonconformity. Work commenced on the project. In the Fall of 2017, a neighbor of the Applicants notified City Staff of possible violations of the Dallas Development Code. After inspection of the exterior of the structure and the relevant City Ordinances, the City issued a Stop Work Order on December 6, 2017 because the project

violated provisions of the Kessler Park CD. On March 19, 2018 the City's Building Official sent notice to the Appellants that he had revoked Building Permit No. 1706271135. Exhibit C.

II. DISCUSSION AND ARGUMENT

A renovated structure can retain its nonconforming rights "if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations." Dallas, Tex., Code §51A-4.704(c). There are three issues raised here by Appellants. First, whether the height looming regulation in the Kessler Park CD is a yard, lot, and space regulation. Second, whether it is permissible to add structure space in the setback regulation in the Kessler Park CD as long as it is in the original footprint of the structure. Finally, whether the renovation project made the house more nonconforming as to the yard, lot, and space regulations.

a. The Height Looming Regulation is a yard, lot, and space regulation.

One way that the renovation project violates the Kessler Park CD concerns its violation of the height looming regulation. Dallas, Tex., Ordinance 25984 (3)(1). The height looming regulation prevents added structural space that is within "three times its distance from the side property line." *Id.* Specifically, the added balcony and other structural additions are located within two feet from the side lot line. *Id.* Due to the structure's location on the lot and within the setback, the height looming regulation does not allow the additions to exceed six feet from grade in height as measured from the finish floor of the foundation to the peak of the roof. *Id.*

Appellants argue that the additions to the structure are not a violation of a "yard, lot, and space" ordinance because the height looming ordinance is not "one of the regulations listed in Division 51A-4.400." Exhibit D. Appellants add that this interpretation conforms with the rules of statutory construction. *Id.*

However, a close reading of the Dallas Development Code and the Kessler Park CD indicates that the legislative intent behind the height looming provision in the Kessler Park CD is that it is a yard, lot, and space regulation. The height looming provision is a type of setback restriction as its specific purpose is to allow houses to grow over time, but be setback from neighboring houses. Dallas, Tex., Ordinance 25984, app. K. The Kessler Park CD notes the following related to the height looming ordinance:

It allows our houses to grow and change over time that keeps our housing stock vital to needs of different generations and changing lifestyles. **The anti-looming side yard setback** makes houses move away from their neighbors, as they get taller to protect privacy and sunlight.

Id., app. F, at 41 (emphasis added). There is no dispute that setback regulations are yard, lot, and space regulations. Exhibit E.

The Dallas Development Code incorporates side yard setback regulations contained in district regulations. §51A-4.402(e). The Kessler Park CD is a special purpose district regulation.

§51A-4.101(8)(A). Therefore, the height looming regulations in Subarea 1 of the Kessler Park CD limit the Appellants' ability to "erect, alter, convert, or maintain structure . . ." like any other setback regulation in the Dallas Development Code. §51A-4.402(e).

In addition, the height looming regulations in the Kessler Park CD are also height regulations, which is a yard, lot, and space regulation. §51A-4.408. Residential proximity slope and height looming limitations are very similar regulations. *Compare* Dallas, Tex., Ordinance 25984 (3)(1) *with* §51A-4.412. A residential proximity slope is considered a height limitation because the yard, lot, and space charts contained in §51A-4.410 refer to them and note "[f]or more specific yard, lot, and space information, consult the district regulations and . . . 51A-4.412." §51A-4.410.

If a residential proximity slope is a yard, lot and space regulation, so is a height looming limitation. The height standards contained in district regulations are incorporated in §51A-4.408(b). The Kessler Park CD is a type of district regulation as it is special purpose district. §51A-4.101(8)(A). Therefore, the height and height looming regulations from Subarea 1 of the Kessler Park CD are height standards contemplated in §51A-4.408(b). Dallas, Tex., Ordinance 25984 (3)(k)&(l).

b. The Renovation Project Violates the Side Yard Setback.

The second provision the renovation violates is the side yard setback. Dallas, Tex., Ordinance 25984 (3)(u)(2). The added structural space encroaches on the five-foot side yard setback. *Id.* Before the renovation project, the house was in violation of side yard setback, but the project makes the structure more nonconforming as to the side yard setback regulation in the Kessler Park CD. There is no dispute that the side yard setback is a yard, lot, and space regulation so Appellants argue that it is permissible to add structure space as long as it is in the original footprint of the structure. Exhibit E. To make this argument, Appellants rely on several out-of-state cases that are not binding on courts in Texas. *Id.* This argument is counter to the interpretation of the Dallas Development Code.

First, minimum side yard regulations in the Dallas Development Code require a space that is "open and unobstructed" and free of "projections." § 51A-4.402(a)(1). Side yard setback regulations are not meant to be a one-dimensional regulation as argued by Appellants when they argue that "the addition does not increase the home's nonconformity with the side yard setback regulation." Exhibit E. The yard, lot, and space regulations in the Kessler Park CD "must be read together with the yard, lot, and space regulations in Division 51A-4.400" and are lot and space regulations too. Dallas, Tex., Ordinance 25984 (3)(a)(2).

The renovation work increases the nonconformity because they are "architectural features" that "project more than 12 inches into the required side yard," a condition that the code specifically excludes. §51A-4.402(a)(1). Architectural features that project in height above the setback are specifically excluded, such as a fireplace that projects more than two feet into the setback, a roof eave that projects more than three feet into the setback, and a balcony. *Id.* A balcony was one of the planned features of the Appellants' project. Therefore, the Dallas Development Code's side yard regulations restrict not only horizontal violations of the setback but vertical ones too.

Appellants cite *Nettleton v. Zoning Bd. of Adjustment of the City of Pittsburgh*, 828 A.2d 1033 (Pa. 2003) for the proposition that if the proposed construction does not increase the footprint of the existing building then there is no increase in the degree of nonconformity. *Id.* at 1039. However, the *Nettleton* court was very clear that this proposition is valid only when there are no regulations of the “upward extension of the building.” *Id.* at 1037. The zoning ordinances at issue in *Nettleton* did not have height restrictions as they do in this case. *Id.* at 1038. Instead, the party protesting the construction was relying on the argument that the building adversely affected the public welfare, an argument the City is not relying on here. *Id.* In fact, the *Nettleton* court emphasized that the decision was limited because the particular zoning ordinances in effect in that matter did not “control the vertical extent of the horizontal encroachments.” *Id.* at 1039. The construction project in question is regulated by the set back and height looming regulations as both contemplate restrictions on vertical encroachments.

Second, a broad reading of the Kessler Park CD setback regulations show that they restrict adding structure space above the setback even if the project is in the original footprint of the structure. As mentioned above there are three Subareas that comprise the Kessler Park CD. All three Subareas have side yard setback regulations. Subarea 2 indicates why the side yard setback regulation in Subarea 1, excludes the renovation project. In Subarea 2, “[v]ertical or horizontal additions to original houses may maintain or continue the existing side yard setback.” Dallas, Tex., Ordinance 25984 (4)(v)(2)(C).¹ This same language is not contained in Subarea 1, where the Appellants’ house is located. This indicates that their renovation project cannot have a vertical addition to the original house even if it maintains or continues in the existing side yard setback. If the authors wanted to allow vertical additions in the setback in Subarea 1 then they could have written in the language from Subarea 2. Appellants renovation is a clear violation of the setback regulations in the Kessler Park CD.

c. The Renovation Project Made the Structure More Nonconforming.

It follows then that a non-conforming structure may be enlarged without making the structure more nonconforming. If a structure is located partially within a setback that was established after the structure was constructed, that entire structure is considered to be nonconforming; however, the portion of the structure within the setback is its actual degree of nonconformity. Therefore, the nonconforming structure may be enlarged outside of the portion of the structure that does not conform to the regulations (its degree of nonconformity) as this does not increase its degree of nonconformity. This only enlarges the portion of the structure that was not located within the setback.

The Appellants’ renovation is not a permissible enlargement of their nonconforming rights. The height looming ordinance is a yard, lot, and space regulation that specifically excludes the

¹ Dallas, Tex., Ordinance 25984 (4)(v)(2)(C) provides an example that “if an original house has a four-foot side yard setback, a second-story addition or rear addition may also have a four-foot side yard setback.”

BDA178-069
ATTN: A
PS 5

renovation. The Dallas Development Code clearly does not allow an enlargement of a setback violation.

III. CONCLUSION

The Building Official's decision to revoke Building Permit No. 1706271135 was proper and the City requests the Board of Adjustment affirm the Building Official's decision.

Very truly yours,

Justin H. Roy
Assistant City Attorney
214-670-1005
justin.roy@dallascityhall.com

Cc: Chris Bowers
Counsel for Appellants

Via Email

BDA 178 069



Home | Find Property | Contact Us

ATTN: A
PS 4

Residential Account #0000291829000000

Location Owner Legal Desc Value Main Improvement Additional Improvements Land Exemptions
Estimated Taxes History

Property Location (Current 2018)

Address: 1520 OLYMPIA DR
Neighborhood: 4DSP02
Mapsc0: 44-W (DALLAS)

DCAD Property Map

2018 Current Appraisal Notice

uFile Online Protest

Electronic Documents (ENS)

File Homestead Exemption Online



Print Homestead Exemption Form



Print/Mail Account Protest Form

Owner (Current 2018)

MOORE WINFIELD &
MINER DALE
1520 OLYMPIA DR
DALLAS, TEXAS 752082732

Multi-Owner (Current 2018)

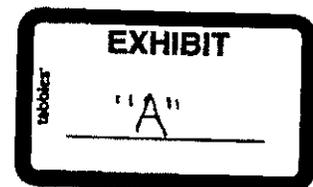
Owner Name	Ownership %
MINER DALE	50%
MOORE WINFIELD &	50%

Legal Desc (Current 2018)

- 1: KESSLER PARK
 - 2: BLK 8/3826 LT 27
 - 3:
 - 4: INT20070144085 DD04182007 CO-DC
 - 5: 3826 008 02700 2003826 008
- Deed Transfer Date: 4/23/2007

Value

2018 Proposed Values	
Improvement:	\$400,150
Land:	+ \$108,810
Market Value:	= \$508,960
Revaluation Year:	2018
Previous Revaluation Year:	2017



Main Improvement (Current 2018)

Building Class	09	Construction Type	FRAME	# Baths (Full/Half)	
----------------	----	-------------------	-------	---------------------	--

BDA 178-069 Attach A

PS 7

					3/0
Year Built	1927	Foundation	PIER AND BEAM	# Kitchens	1
Effective Year Built	1980	Roof Type	GABLE	# Bedrooms	4
Actual Age	91 years	Roof Material	SLATE	# Wet Bars	1
Desirability	VERY GOOD	Fence Type	IRON	# Fireplaces	2
Living Area	2,791 sqft	Ext. Wall Material	BRICK VENEER	Sprinkler (Y/N)	N
Total Area	2,791 sqft	Basement	NONE	Deck (Y/N)	Y
% Complete	100%	Heating	CENTRAL FULL	Spa (Y/N)	N
# Stories	ONE AND ONE HALF STORIES	Air Condition	CENTRAL FULL	Pool (Y/N)	N
Depreciation	30%			Sauna (Y/N)	N

BOA 178-069
A40 4
PS 8

Additional Improvements (Current 2018)

#	Improvement Type	Construction	Floor	Exterior Wall	Area (sqft)
1	DETACHED GARAGE		UNASSIGNED	FRAME	400
2	OUTBUILDING		UNASSIGNED	FIBERBOARD	230
3	STORAGE SPACE		UNASSIGNED	FIBERBOARD	8

Land (2018 Proposed Values)

#	State Code	Zoning	Frontage (ft)	Depth (ft)	Area	Pricing Method	Unit Price	Market Adjustment	Adjusted Price	Ag Land
1	SINGLE FAMILY RESIDENCES	SINGLE FAMILY DISTRICT 7,500 S	0	0	6,045,000 SQUARE FEET	STANDARD	\$18.00	0%	\$108,810	N

* All Exemption information reflects 2018 Proposed Values. *

Exemptions (2018 Proposed Values)

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS CO COMMUNITY COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
HOMESTEAD EXEMPTION	\$101,792	\$75,896	\$101,792	\$101,792	\$101,792	\$0
Taxable Value	\$407,168	\$433,064	\$407,168	\$407,168	\$407,168	\$0

Exemption Details

Estimated Taxes (2018 Proposed Values)

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS CO COMMUNITY COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
Tax Rate per \$100	\$0.7804	\$1.282085	\$0.2531	\$0.124238	\$0.2794	N/A
Taxable Value	\$407,168	\$433,064	\$407,168	\$407,168	\$407,168	\$0
Estimated Taxes	\$3,177.54	\$5,552.25	\$1,030.54	\$505.86	\$1,137.63	N/A
Tax Ceiling	N/A	N/A	N/A	N/A	N/A	N/A
Total Estimated Taxes:						\$11,403.81

DO NOT PAY TAXES BASED ON THESE ESTIMATED TAXES. You will receive an **official tax bill** from the appropriate agency when they are prepared. Please note that if there is an Over65 or Disabled Person **Tax Ceiling** displayed above, **it is NOT reflected** in the Total Estimated Taxes calculation provided. Taxes are collected by the agency sending you the **official tax bill**. To see a listing of agencies that collect taxes for your property. [Click Here](#)

The estimated taxes are provided as a courtesy and should not be relied upon in making financial or other decisions. The Dallas Central Appraisal District (DCAD) does not control the tax rate nor the amount of the taxes, as that is the responsibility of each Taxing Jurisdiction. Questions about your taxes should be directed to the appropriate taxing jurisdiction. We cannot assist you in these matters. These tax estimates are calculated by using the most current certified taxable value multiplied by the most current tax rate. **It does not take into account other special or unique tax scenarios, like a tax ceiling, etc..** If you wish to calculate taxes yourself, you may use the Tax Calculator to assist you.

History

History

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BDA 178-069
Attach A
13 9

BDA178-069
Attach A
P510

Conservation District Work Certificate



Kessler Park Conservation District

City of Dallas

Date Applied: 12/12/16

Date Reviewed: 06/06/17

Address: 1520 OLYMPIA DR

Applicant: Wood, Steven
P.O. Box 3293
Forney, TX 75126
(817) 682-7218
steven@txpermit.com

Architectural Style: Tudor

Proposed Work: Other - requires permit

1. RENOVATE THE 2ND LEVEL FLOOR PLAN WITHIN THE EXISTING FOOTPRINT OF THE HOUSE.
2. ADDITION OF 239.3 SQ FEET FOR OFFICE WITH BALCONY.

Permit is required: YES

Work is Approved with Conditions

1. Remodel & Addition on 2nd Level. Exterior material is stucco with wood half-timbering. Stucco Paint color: BEHR #1850 Ultra White. Wood Trim color: BEHR #PPU5-01 Espresso Beans. Per #25984(3)(c)(2) Remodels or additions to contributing houses that are visible from the front street or a side street must be clad with materials that are the same architectural style as the cladding of the contributing house.
2. Floor Area Ratio = $2919.65 / 6,045 = 0.48$
3. 2nd Level Bathroom window: Anderson 400 Series -double-hung wood with aluminum cladding, color Dark Bronze. Skylights (2): Velux Integra Remote Controlled Operable Fresh Air Skylight.
4. Unenclosed Spiral Staircase: Not In Contract due to encroachment into the rear yard setback.
5. New roof tile: Slate Select, Standard Blend, Mix: 50% Charcoal, 35% Green and 15% Taupe to match the existing roof. Existing roof slate tiles to remain.
6. No additional work is approved.

Philip Sikes

Philip Sikes, Building Official

The application was reviewed for compliance with the development standards and

This certificate shall be posted at job site

Page 1 of 2

CVH:RTR



Conservation District Work Certificate



Kessler Park Conservation District

City of Dallas

The applicant has been determined to be in compliance with the design requirements for this Conservation District Ordinance.

This certificate applies only to the work identified on this document. Additional work will have to be reviewed separately.

This certificate shall be posted at job site

BDA, 78-069

Attachment A

PS12



City of Dallas

March 19, 2018

CERTIFIED MAIL NO. 7015 1730 0001 1058 9718

Mr. Dale Miner and Mr. Winfield Moore
1520 Olympia Drive
Dallas, TX 75208

Mr. Danny Sipes
PO Box 3293
Forney, TX 75126

RE: Revocation of Building Permit No. 1706271135 ("permit") issued for work at 1520 Olympia Drive ("the Property")

Dear Mr. Miner and Mr. Moore/Mr. Sipes:

The Property is located within Conservation District No. 13 ("Kessler Park Conservation District"), Subarea 1. The Kessler Park Conservation District was established in 2005.

The house, constructed in 1927, is considered nonconforming with respect to front and side yard setbacks. Specifically, the house is approximately two feet, eight inches from the eastern property line, which is considered a side yard. According to Section 3(u)(2) of the Kessler Park Conservation District Ordinance, the required side yard setback in Subarea 1 of the conservation district is five feet. The addition enlarges the building within the nonconforming setback, causing it to become more nonconforming. Pursuant to Section 51A-4.704(c)(1) of the Dallas Development Code, a person may renovate, remodel, repair, rebuild, or enlarge a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations.

In accordance with Section (3)(l) of the Kessler Park Conservation District Ordinance, the height of any portion of a structure may not exceed three times its distance from the side property line. The referenced addition was constructed at the same height as the original structure which is 19 feet, six inches measured from the finished floor of the first floor to the highest point on the roof ridge. However, to achieve this height and comply with the height looming provision, the structure would need to be located six feet, six inches from the property line.

The proposed addition does not comply with Section 51A-4.704(c)(1) of the Dallas Development Code or Sections (3)(l) or 3(u)(2) of the Kessler Park Conservation District Ordinance. Therefore, Building Permit No. 1706271135 was issued in error. The building official is required to revoke a permit if he or she determines that the permit was issued in error.¹ Accordingly, **Building Permit No. 1706271135 is hereby revoked.** A person shall not continue to work under a permit that has been revoked.²

¹ Section 302.6.1 of Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas Development Code.

² Section 302.6.4 of Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas Development Code.



BDA178 - 069

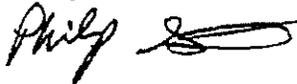
Attn: A

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March 19, 2018
Revocation of Building Permit No. 1706271135
Page Two

This decision is final unless appealed to the Board of Adjustment within fifteen days after the date of this letter.³ If you have any questions, please contact William Hersch, Chief Planner in Building Inspection at 214-948-4458.

Sincerely,



Philip Sikes, CBO
Building Official
Sustainable Development and Construction
Building Inspection Division

cc: David Cossum, Director, Sustainable Development and Construction
Kris Sweckard, Director, Code Compliance
Megan Wimer, AICP, Assistant Building Official
Tammy Palomino, Senior Executive Assistant City Attorney
Melissa Miles, Executive Assistant City Attorney
Casey Burgess, Executive Assistant City Attorney
Bill Hersch, Chief Planner
Chris Bowers, Miklos Law, PLLC

³ Section 51A-4.703(a)(2) of the Dallas Development Code.

BDA178-069
Attachment A
Pg 14

MIKLOS LAW, PLLC
ATTORNEYS & COUNSELORS

ROBERT MIKLOS
PARTNER

J. PRABHA CINCLAIR
PARTNER

DUANE BRIGNAC
ASSOCIATE

RYAN HAFNER
ASSOCIATE

CHRIS BOWERS
OF COUNSEL

January 24, 2018

Philip Sikes
Chief Building Official
Department of Sustainable Development & Construction
City of Dallas
320 E. Jefferson Blvd. – Room 115
Dallas, Texas 75203

Re: The construction of an addition to the home at 1520 Olympia Drive, Dallas, Texas 75208
(the "Property")

Dear Phil:

Our firm represents Winfield Moore and Dale Miner, who own the Property. The purpose of this letter is to explain why you (or your staff) correctly granted a conservation district work certificate and a building permit to Mr. Moore and Mr. Miner to construct the addition and why a recent pronouncement by a couple of members of your staff that the permit was issued in error is incorrect.

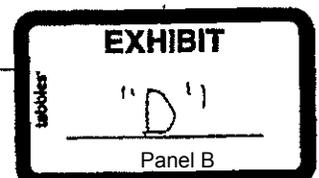
This letter will first describe the facts as we understand them. Then it will explain why you correctly authorized the work.

As you know, the Property is in Subarea 1 of Conservation District No. 13, commonly known as the "Kessler Park Conservation District." Ordinance No. 25984 established that district in 2005.

According to that ordinance, Mr. Moore's and Mr. Miner's home was constructed in 1927. See Dallas, Tex. Ordinance No. 25984 (May 25, 2005) at Ex. B, p. 26. The ordinance made the home a nonconforming structure with respect to the front yard setback and the side yard setback and possibly in other ways as well. (See Exhibit A, which shows the front yard and side yard setbacks.)

Mr. Moore and Mr. Miner have been working to renovate and add onto the second floor of their home since 2016. On December 16, 2016, Steven Wood applied on their behalf for a conservation

1800 Valley View Lane | Suite 360 | Farmers Branch, Texas 75234



Letter to Philip Sikes
January 24, 2018
Page 2

district work certificate. The description of the work specifically stated that Mr. Moore and Mr. Miner proposed to “renovate the 2nd level floor plan within the existing footprint of the house.” (See Exhibit B, page 1.)

After several reviews by city staff over six months (far longer than the maximum 30-day review period promised by Section 51A-4.505(i)(2)(A) of the City Code), you (or your staff) approved the proposed work on June 6, 2017. (*Id.*) Your signature is on the approval. (*Id.*) Your approval noted that the floor area ratio is 0.48 and disapproved the unenclosed spiral staircase because it encroached into the rear yard setback. (*Id.*) Thus, you (or your staff) reviewed the proposed work for compliance with the development standards for Subarea 1 of the district. On the same date, City staff stamped “approved with conditions” on every page of the detailed architectural drawings submitted for review by Mr. Moore and Mr. Miner. (See Exhibit C.)

On June 27, 2017, Danny Sipes (a long-time former and senior City building inspector) applied on behalf of Mr. Moore and Mr. Miner for two master permits for the project: one for the addition and one for the renovation. (See Exhibit D.) Building Inspection issued the permits the next day. (*Id.*)

Mr. Moore and Mr. Miner’s contractors then began renovating and adding onto their home in accordance with the approved permits at substantial expense to Mr. Moore and Mr. Miner. By the end of November, their contractors had largely finished the work. Therefore, it came as a complete surprise to them to have a city inspector come to the Property on or about December 6, 2017, and give them a “stop work” order.

Since that date, they have learned that an anonymous person complained on or about November 13, 2017, that: (1) the work violated applicable setbacks, (2) the work was more extensive than and not in accordance with the work authorized by the permits, and (3) the work violated the City Code. We understand, however, that city inspectors have confirmed that all work performed in fact complies with the certificate and permits issued by the City.

But a couple of members of your staff have recently told Mr. Moore and Mr. Miner that the addition to the house violated the “height looming” provision in Ordinance No. 25984. That provision states:

The height of any portion of a structure may not exceed three times its distance from the side property line. For example, that portion of a structure set back six feet from the side yard line may not exceed 18 feet in height...

Dallas, Tex. Ordinance No. 25984 (May 25, 2005) at Ex. C, § 3(1). Those members further told Mr. Moore and Mr. Miner that their only options were to remove most or all of the addition or obtain a variance for it.

Letter to Philip Sikes
January 24, 2018
Page 3

These staff members are wrong because they apparently did not consider Mr. Moore's and Mr. Miner's nonconforming rights under Section 51A-4.704 of the City Code. As explained above, their home is a nonconforming structure with respect to the front and side yard setbacks and possibly in other ways. Neither Section 51A-4.505, "Conservation Districts," of the City Code, nor Ordinance No. 25984 have any regulations concerning nonconforming structures. Instead, the City's regulations for nonconforming structures are located in Section 51A-4.704, "Nonconforming Uses and Structures," of the City Code. Subsection (c) provides:

(c) Nonconforming structures.

- (1) Except as provided in Subsection (c)(2), a person may renovate, remodel, repair, rebuild, or *enlarge* a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations.
- (2) The right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.

Dallas City Code § 51A-4.704(c) (emphasis added). Accordingly, Mr. Moore and Mr. Miner may "enlarge" their nonconforming structure as long as the work does not cause the structure to become more nonconforming as to the "yard, lot, and space regulations." *Id.*

Section 51A-2.102, "Definitions," of the Dallas City Code does not define the term "yard, lot, and space regulations." (For that matter, Ordinance No. 25984 also does not define the term.) Instead, Division 51A-4.400, "Yard, Lot, and Space Regulations," of the City Code must be examined to determine what are "yard, lot, and space regulations."

Division 51A-4.400 contains the City's zoning regulations concerning minimum front yards, side yards, and rear yards, minimum lot areas, widths, and depths for residential use, maximum lot coverage, maximum building height, maximum floor area ratio, shared access development, and residential proximity slope. *See* Dallas City Code Division 51A-4.400. Accordingly, those regulations are "yard, lot, and space regulations." Importantly, Division 51A-4.400 does not contain a "height looming" regulation.

Here, Ordinance No. 25984 provides a maximum building height regulation and a "height looming" regulation. *See* Dallas, Tex. Ordinance No. 25984 (May 25, 2005) at Ex. C, § 3(k) & (3)(l). However, the "height looming" regulation in Ordinance No. 25984 is not a "yard, lot, and space regulation" because it is not one of the regulations listed in Division 51A-4.400.

This interpretation is consistent with at least two principles of statutory construction: the negative-implication canon (which courts sometimes refer to as "expressio unius est exclusio alterius") and the omitted-case canon (which courts sometimes refer to as "casus omissus pro omisso habendus est"). *See, e.g., Nashville Milk Co. v. Carnation Co.*, 355 U.S. 373, 376 (1958) (applying the doctrine of "expressio unius est exclusio alterius" to a federal law); *Dallas Merchant's and Concessionaire's Ass'n v. City of Dallas*, 852 S.W.2d 489, 493 n.7 (Tex. 1993) (applying the doctrine of "expressio unius est exclusio alterius" to a Dallas ordinance); *Ebert v. Poston*, 266 U.S.

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Attach A
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Letter to Philip Sikes
January 24, 2018
Page 4

548, 554 (1925) (Brandeis, J.) (applying the “casus omissus” doctrine to a federal law); *Estes v. Terrell*, 92 S.W. 407, 408-09 (Tex. 1906) (applying the “casus omissus” doctrine to a state law).

Here, the addition built in accordance with the City certificate and permits is within the original footprint of Mr. Moore’s and Mr. Miner’s home. Their addition did not change the nonconforming side yard setback because their home is already 2.8’ from the side property line. Accordingly, Section 51A-4.704(c) allows Mr. Moore and Mr. Miner to enlarge their nonconforming home in accordance with the certificate and permits granted by you (or your staff) because the addition did not make their home more nonconforming as to the City’s “yard, lot, and space regulations.”

For these reasons, we request that you confirm that the “height looming” regulation in Ordinance No. 25984 does not apply to the addition constructed to the home of Mr. Moore and Mr. Miner because the addition did not make the home more nonconforming as to the City’s yard, lot, and space regulations. Such a confirmation means that you (or your staff) correctly issued the certificate and the permits for this project.

We greatly appreciate your review of this situation and look forward to your response.

Sincerely,



Christopher D. Bowers

c: Winfield Moore
Dale Miner
Justin Roy, Assistant City Attorney
Megan Wimer, AICP, Chief Planner
Bill Hersch, Senior Conservation District Planner

Attachments

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Actual A
Pg 18

MIKLOS LAW, PLLC
ATTORNEYS & COUNSELORS

ROBERT MIKLOS
PARTNER

J. PRABHA CINCLAIR
PARTNER

DUANE BRIGNAC
ASSOCIATE

RYAN HAFNER
ASSOCIATE

CHRIS BOWERS
OF COUNSEL

January 29, 2018

Philip Sikes
Chief Building Official
Department of Sustainable Development & Construction
City of Dallas
320 E. Jefferson Blvd. – Room 115
Dallas, Texas 75203

Re: Whether a variance to the side yard setback regulation is needed for the construction of an addition to the home at 1520 Olympia Drive, Dallas, Texas 75208 (the "Property") when the addition is within the existing building's footprint

Dear Phil:

As you know, our firm represents Winfield Moore and Dale Miner, who own the Property. Your staff was kind to meet with us on January 24, 2018, to discuss the zoning issues concerning a recent addition to the home on the Property as well as some proposed work on the Property.

During that meeting, William Hersch, a Senior Conservation District Planner on your staff, stated that the addition (for which you or your office granted both a conservation district work certificate and a building permit) would need a variance from the side yard setback regulation because the addition supposedly violated that setback.

I was surprised to hear Mr. Hersch's statement for two reasons: (1) the City Code allows nonconforming structures to be enlarged if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations, which include the side yard setback regulation; and (2) the addition does not increase the home's nonconformity with the side yard setback regulation.

Specifically, the City's regulations for nonconforming structures are located in Section 51A-4.704, "Nonconforming Uses and Structures," of the City Code. Subsection (c) provides:

1800 Valley View Lane | Suite 360 | Farmers Branch, Texas 75234



Letter to Philip Sikes

January 29, 2018

Page 2

(c) Nonconforming structures.

(1) Except as provided in Subsection (c)(2), a person may renovate, remodel, repair, rebuild, or *enlarge* a nonconforming structure *if* the work does not cause the structure to become *more nonconforming* as to the yard, lot, and space regulations.

(2) The right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.

Dallas City Code § 51A-4.704(c) (emphasis added). Accordingly, Mr. Moore and Mr. Miner may "enlarge" their nonconforming home as long as the work does not cause the structure to become more nonconforming as to the side yard setback line. *Id.*

As I explained in my letter to you dated January 24, 2018, the home is a nonconforming structure because it apparently was built in 1927 and the City Council adopted the Kessler Park Conservation District ordinance in 2005. That ordinance requires a minimum five-foot side yard setback for structures in Subarea 1 of the Kessler Park Conservation District. *See* Dallas, Tex. Ordinance No. 25984 (May 25, 2005) at Ex. B, p. 11. The home was already approximately 2.8' feet from the side property line at its closest point and the addition did not change that because it was built entirely within the home's existing footprint.

I have looked to see if any Texas appellate court has examined this issue and I was not able to find such a case. When there is no Texas case on a zoning issue, it is appropriate to examine cases from other states because the Texas Zoning Enabling Act (now codified in Chapter 211 of the Texas Local Government) and the zoning enabling acts of almost all other states are "a virtual adoption of a standard zoning statute recommended sponsored by the Federal Department of Commerce" in 1926. *Bd. of Adjustment v. Stovall*, 216 S.W.2d 171, 172 (Tex. 1949); *see also* John Mixon et al., *Tex. Mun. Zoning Law* §§ 1.000-1.100 (3d ed. updated through Sept. 2016). Chapter 211 is still very similar to the original federally-sponsored statute. *Compare* Tex. Loc. Gov't Code ch. 211 with 9 Patrick J. Rohan, *Zoning & Land Use Controls* § 53B.01; *see also* Mixon, at § 1.000. Accordingly, the Texas Supreme Court and other Texas courts have relied at times on decisions from other states when examining zoning issues. *See, e.g., Stovall*, 216 S.W.2d at 174; *City of San Angelo v. Boehme Bakery*, 190 S.W.2d 67, 70 (Tex. 1945).

Here, quite a few appellate courts in other states have examined this issue and have issued opinions that support our position. Perhaps the *Nettleton* case provides the most thorough analysis. *See Nettleton v. Zoning Bd. of Adjustment of the City of Pittsburgh*, 828 A.2d 1033 (Pa. 2003). In that case, the Property was improved with a commercial one-story building 17 feet in height. *Id.* at 1034. The building occupied virtually the entire lot and thereby violated all of the yard and setback regulations applicable to new construction in the zoning district. *Id.* at 1034-35.

The city's zoning administrator granted the owners a permit needed to expand the existing building vertically to a height of three stories or forty feet. *Id.* at 1035. Two neighbors appealed to the board of adjustment and argued that the owners were required to obtain a variance for the proposed vertical addition and that the construction, if approved, would have the detrimental effect on the

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Attachment A
B21

The town's zoning enforcement officer issued the permit. *Id.* at 481. Some of the abutting property owners appealed that decision to the town's zoning board of appeals, which unanimously upheld the decision to issue the permit. *Id.* at 482. The abutting owners appealed that decision to a trial court, which reversed the board. *Id.* at 483.

The property owners appealed, asserting that the trial court improperly interpreted the town's zoning regulations as prohibiting a property owner from vertically expanding into the airspace over an existing side setback nonconformity. *Id.* When framing the issue, the court of appeals stated that a fair and common-sense approach must be used when interpreting the zoning regulation:

A fair interpretation of § 50D thus expressly anticipates the permissive expansion of an improvement having a nonconforming characteristic as long as the nonconforming characteristic is not expanded and the expansion is otherwise in conformity with the regulations. Any other reading would defeat the common sense approach that must be used in construing regulations. The relevant question, therefore, becomes whether the Sapias' proposed addition constitutes an expansion of a nonconforming characteristic of an improvement under the regulations.

Id. at 485.

The court of appeals then found that “[t]he preexisting footprint, which includes the deck, creates its own legal nonconforming setback.” *Id.* at 485-86. Because the second-story addition did not encroach any further into the setback area, the court found that the trial court improperly substituted its opinion for that of the board, reversed that court, and held that the vertical addition was a permissible enlargement of the structure. *Id.* at 486-87; *see also Vivian v. Zoning Bd. of Appeals of Clinton*, 823 A.2d 374, 380-82 (Conn. Ct. App. 2003) (holding that a second story addition that did not increase the size of the nonconforming footprint of the building did not violate setback requirements as “the nonconformity itself has a vertical component that adheres to the footprint of the building because common sense tells us that a building is not flat”); *Lloyd v. Zoning Bd. of Review for Newport*, 62 A.3d 1078, 1088-89 (R.I. 2013) (holding that a two-story addition to a dimensionally nonconforming structure did not “increase or intensify” the nonconformity associated with lot building coverage).

Moreover, other courts generally have concluded that, absent language expressly prohibiting any enlargement of a nonconforming structure, enclosures of nonconforming structures are permissible if they do not increase the footprint or height of the building. *See, e.g., Raymond v. Zoning Bd. of Appeals*, 820 A.2d 275, 288-89 (Conn. App. 2003) (permanent deck enclosure); *Town of Seabrook v. D'Agata*, 362 A.2d 182, 183 (N.H. 1976) (carport enclosure); *Clark v. Richardson*, 211 S.E.2d 530, 531 (N.C. App. 1975) (porch enclosure); *Donaghy v. Bd. of Adjustment*, 55 P.3d 707, 713 (Wyo. 2002) (patio enclosure).

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Attach A
PS 22

Letter to Philip Sikes
January 29, 2018
Page 5

Accordingly, Section 51A-4.704(c) of the Dallas City Code allows Mr. Moore and Mr. Miner to enlarge their nonconforming home in accordance with the certificate and permits granted by you (or your staff) because the addition did not make their home more nonconforming as to the City's side yard setback regulation.

For these reasons, we request that you confirm that the side yard setback regulation in Ordinance No. 25984 does not apply to the addition constructed to the home of Mr. Moore and Mr. Miner because the addition did not make the home more nonconforming as to that setback. Such a confirmation means that you (or your staff) correctly issued the conservation district work certificate and the building permit for this project.

We greatly appreciate your review of this situation and look forward to your response.

Sincerely,



Christopher D. Bowers

c: Winfield Moore
Dale Miner
Justin Roy, Assistant City Attorney
Megan Wimer, AICP, Chief Planner
Bill Hersch, Senior Conservation District Planner



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-069

Data Relative to Subject Property:

Date: 3-28-18

Location address: 1520 Olympia Drive Zoning District: CD 13 (Subarea 1)

Lot No.: 27 Block No.: 8/3826 Acreage: .1387 Census Tract: 44.00

Street Frontage (in Feet): 1) 87.2 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Winfield Moore Dale mmer

Applicant: Winfield Moore Telephone: 214.642.1733

Mailing Address: 1520 Olympia Drive Dallas Zip Code: 75208

E-mail Address: winfield.moore@yahoo.com

Represented by: Chris Bowers Telephone: 214.202.9265

Mailing Address: 1800 Valley View Ln Ste. 360 Farmers Branch Zip Code: 75234

E-mail Address: chris@mekloslegal.com

Affirm that an appeal has been made for a Variance, or Special Exception, of the decision of the Building Official to revoke permit number 1706271135.

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 reasons the Board should grant the appeal are articulated in two letters from Christopher D. Bowers to Phillip Sikes, Building Official (see attached).

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 Winfield Moore (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 27th day of March, 2018

(Rev. 08-01-11)



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

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

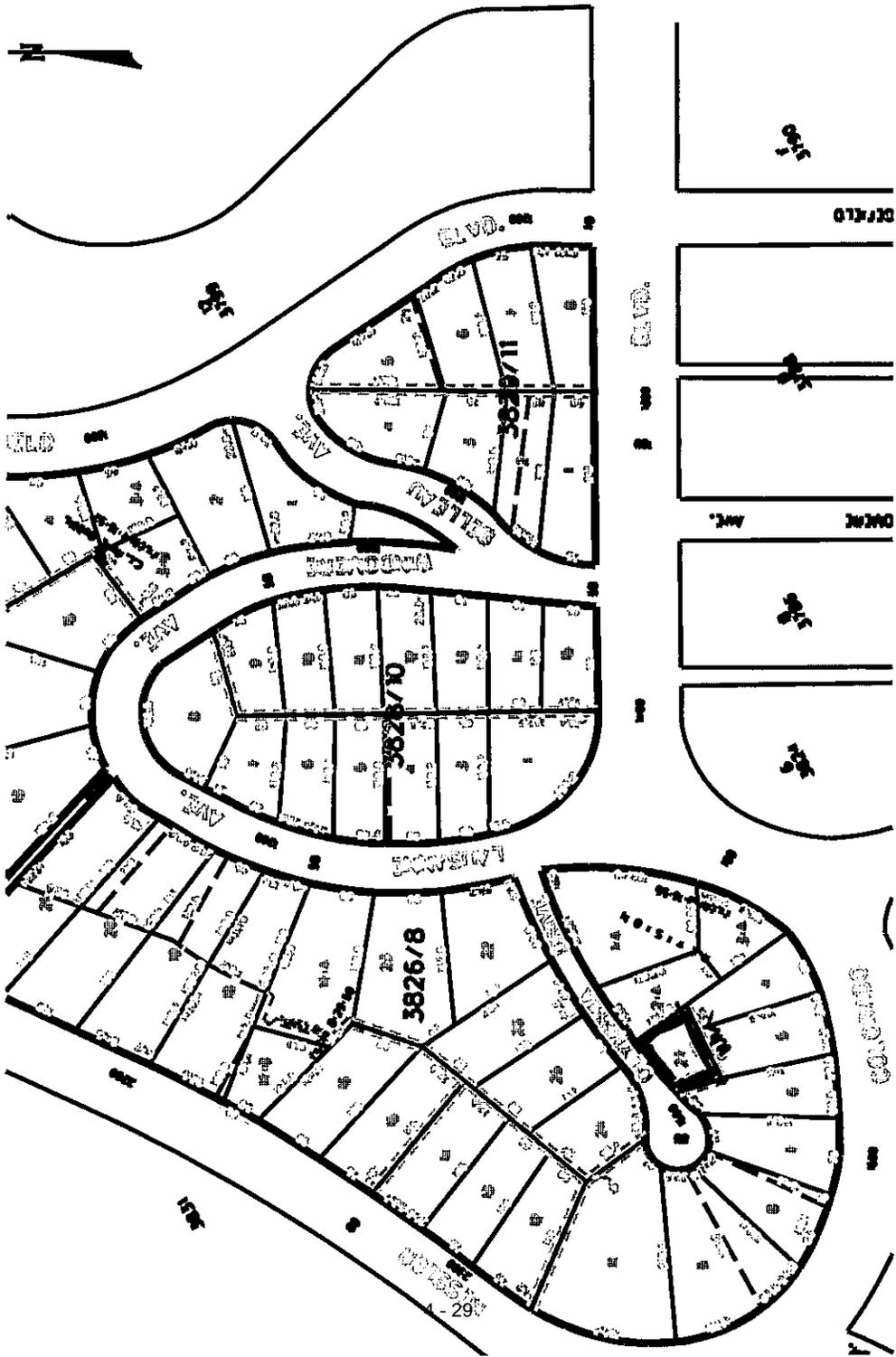
Building Official's Report

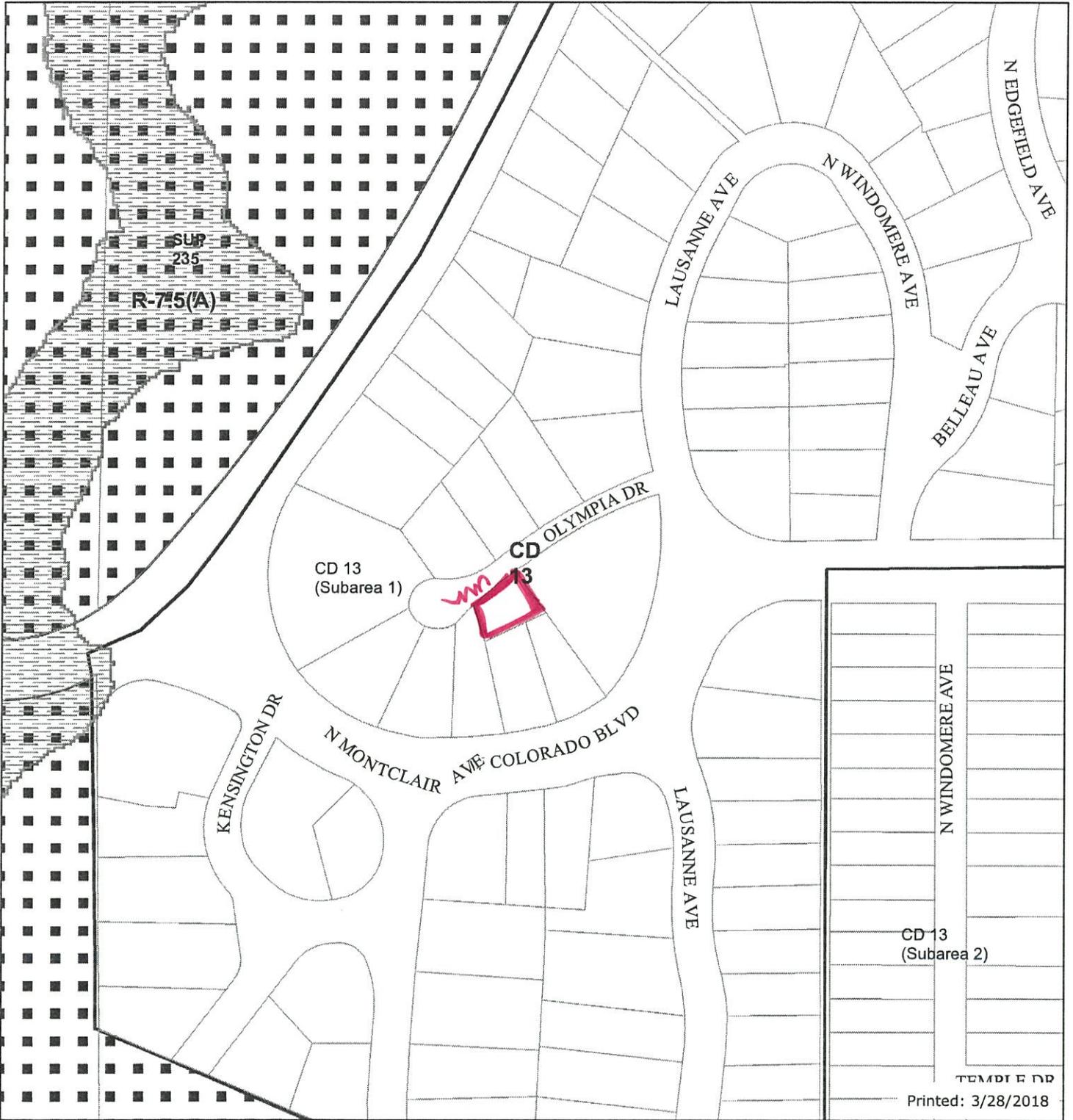
I hereby certify that Winfeild Moore
represented by Chris Bowers
did submit a request to appeal the decision of the administrative official
at 1520 Olympia Drive

BDA178-069. Application of Winfeild Moore represented by Chris Bowers to appeal the decision of the administrative official at 1520 OLYMPIA DR. This property is more fully described as Lot 27, Block 8/3826, and is zoned CD-13, which The building official is required to revoke a permit if he or she determines that the permit was issued in error. The applicant proposes to appeal the decision of an administrative official in the revocation of a building permit.

Sincerely,

Philip Sikes
Philip Sikes, Building Official





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 | SPSD 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)





City of Dallas

March 19, 2018

CERTIFIED MAIL NO. 7015 1730 0001 1058 9718

Mr. Dale Miner and Mr. Winfield Moore
1520 Olympia Drive
Dallas, TX 75208

Mr. Danny Sipes
PO Box 3293
Forney, TX 75126

RE: Revocation of Building Permit No. 1706271135 ("permit") issued for work at 1520 Olympia Drive ("the Property")

Dear Mr. Miner and Mr. Moore/Mr. Sipes:

The Property is located within Conservation District No. 13 ("Kessler Park Conservation District"), Subarea 1. The Kessler Park Conservation District was established in 2005.

The house, constructed in 1927, is considered nonconforming with respect to front and side yard setbacks. Specifically, the house is approximately two feet, eight inches from the eastern property line, which is considered a side yard. According to Section 3(u)(2) of the Kessler Park Conservation District Ordinance, the required side yard setback in Subarea 1 of the conservation district is five feet. The addition enlarges the building within the nonconforming setback, causing it to become more nonconforming. Pursuant to Section 51A-4.704(c)(1) of the Dallas Development Code, a person may renovate, remodel, repair, rebuild, or enlarge a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations.

In accordance with Section (3)(l) of the Kessler Park Conservation District Ordinance, the height of any portion of a structure may not exceed three times its distance from the side property line. The referenced addition was constructed at the same height as the original structure which is 19 feet, six inches measured from the finished floor of the first floor to the highest point on the roof ridge. However, to achieve this height and comply with the height looming provision, the structure would need to be located six feet, six inches from the property line.

The proposed addition does not comply with Section 51A-4.704(c)(1) of the Dallas Development Code or Sections (3)(l) or 3(u)(2) of the Kessler Park Conservation District Ordinance. Therefore, Building Permit No. 1706271135 was issued in error. The building official is required to revoke a permit if he or she determines that the permit was issued in error.¹ Accordingly, **Building Permit No. 1706271135 is hereby revoked.** A person shall not continue to work under a permit that has been revoked.²

¹ Section 302.6.1 of Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas City Code.

² Section 302.6.4 of Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas City Code.

March 19, 2018
Revocation of Building Permit No. 1706271135
Page Two

This decision is final unless appealed to the Board of Adjustment within fifteen days after the date of this letter.³ If you have any questions, please contact William Hersch, Chief Planner in Building Inspection at 214-948-4458.

Sincerely,



Philip Sikes, CBO
Building Official
Sustainable Development and Construction
Building Inspection Division

cc: David Cossum, Director, Sustainable Development and Construction
Kris Sweckard, Director, Code Compliance
Megan Wimer, AICP, Assistant Building Official
Tammy Palomino, Senior Executive Assistant City Attorney
Melissa Miles, Executive Assistant City Attorney
Casey Burgess, Executive Assistant City Attorney
Bill Hersch, Chief Planner
Chris Bowers, Miklos Law, PLLC

³ Section 51A-4.703(a)(2) of the Dallas Development Code.

MIKLOS LAW, PLLC
ATTORNEYS & COUNSELORS

ROBERT MIKLOS
PARTNER

J. PRABHA CINCLAIR
PARTNER

DUANE BRIGNAC
ASSOCIATE

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ASSOCIATE

CHRIS BOWERS
OF COUNSEL

January 24, 2018

Philip Sikes
Chief Building Official
Department of Sustainable Development & Construction
City of Dallas
320 E. Jefferson Blvd. – Room 115
Dallas, Texas 75203

Re: The construction of an addition to the home at 1520 Olympia Drive, Dallas, Texas 75208
(the "Property")

Dear Phil:

Our firm represents Winfield Moore and Dale Miner, who own the Property. The purpose of this letter is to explain why you (or your staff) correctly granted a conservation district work certificate and a building permit to Mr. Moore and Mr. Miner to construct the addition and why a recent pronouncement by a couple of members of your staff that the permit was issued in error is incorrect.

This letter will first describe the facts as we understand them. Then it will explain why you correctly authorized the work.

As you know, the Property is in Subarea 1 of Conservation District No. 13, commonly known as the "Kessler Park Conservation District." Ordinance No. 25984 established that district in 2005.

According to that ordinance, Mr. Moore's and Mr. Miner's home was constructed in 1927. *See* Dallas, Tex. Ordinance No. 25984 (May 25, 2005) at Ex. B, p. 26. The ordinance made the home a nonconforming structure with respect to the front yard setback and the side yard setback and possibly in other ways as well. (See Exhibit A, which shows the front yard and side yard setbacks.)

Mr. Moore and Mr. Miner have been working to renovate and add onto the second floor of their home since 2016. On December 16, 2016, Steven Wood applied on their behalf for a conservation

Letter to Philip Sikes

January 24, 2018

Page 2

district work certificate. The description of the work specifically stated that Mr. Moore and Mr. Miner proposed to “renovate the 2nd level floor plan within the existing footprint of the house.” (See Exhibit B, page 1.)

After several reviews by city staff over six months (far longer than the maximum 30-day review period promised by Section 51A-4.505(i)(2)(A) of the City Code), you (or your staff) approved the proposed work on June 6, 2017. (*Id.*) Your signature is on the approval. (*Id.*) Your approval noted that the floor area ratio is 0.48 and disapproved the unenclosed spiral staircase because it encroached into the rear yard setback. (*Id.*) Thus, you (or your staff) reviewed the proposed work for compliance with the development standards for Subarea 1 of the district. On the same date, City staff stamped “approved with conditions” on every page of the detailed architectural drawings submitted for review by Mr. Moore and Mr. Miner. (See Exhibit C.)

On June 27, 2017, Danny Sipes (a long-time former and senior City building inspector) applied on behalf of Mr. Moore and Mr. Miner for two master permits for the project: one for the addition and one for the renovation. (See Exhibit D.) Building Inspection issued the permits the next day. (*Id.*)

Mr. Moore and Mr. Miner’s contractors then began renovating and adding onto their home in accordance with the approved permits at substantial expense to Mr. Moore and Mr. Miner. By the end of November, their contractors had largely finished the work. Therefore, it came as a complete surprise to them to have a city inspector come to the Property on or about December 6, 2017, and give them a “stop work” order.

Since that date, they have learned that an anonymous person complained on or about November 13, 2017, that: (1) the work violated applicable setbacks, (2) the work was more extensive than and not in accordance with the work authorized by the permits, and (3) the work violated the City Code. We understand, however, that city inspectors have confirmed that all work performed in fact complies with the certificate and permits issued by the City.

But a couple of members of your staff have recently told Mr. Moore and Mr. Miner that the addition to the house violated the “height looming” provision in Ordinance No. 25984. That provision states:

The height of any portion of a structure may not exceed three times its distance from the side property line. For example, that portion of a structure set back six feet from the side yard line may not exceed 18 feet in height....

Dallas, Tex. Ordinance No. 25984 (May 25, 2005) at Ex. C, § 3(l). Those members further told Mr. Moore and Mr. Miner that their only options were to remove most or all of the addition or obtain a variance for it.

These staff members are wrong because they apparently did not consider Mr. Moore's and Mr. Miner's nonconforming rights under Section 51A-4.704 of the City Code. As explained above, their home is a nonconforming structure with respect to the front and side yard setbacks and possibly in other ways. Neither Section 51A-4.505, "Conservation Districts," of the City Code, nor Ordinance No. 25984 have any regulations concerning nonconforming structures. Instead, the City's regulations for nonconforming structures are located in Section 51A-4.704, "Nonconforming Uses and Structures," of the City Code. Subsection (c) provides:

(c) Nonconforming structures.

(1) Except as provided in Subsection (c)(2), a person may renovate, remodel, repair, rebuild, or *enlarge* a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations.

(2) The right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.

Dallas City Code § 51A-4.704(c) (emphasis added). Accordingly, Mr. Moore and Mr. Miner may "enlarge" their nonconforming structure as long as the work does not cause the structure to become more nonconforming as to the "yard, lot, and space regulations." *Id.*

Section 51A-2.102, "Definitions," of the Dallas City Code does not define the term "yard, lot, and space regulations." (For that matter, Ordinance No. 25984 also does not define the term.) Instead, Division 51A-4.400, "Yard, Lot, and Space Regulations," of the City Code must be examined to determine what are "yard, lot, and space regulations."

Division 51A-4.400 contains the City's zoning regulations concerning minimum front yards, side yards, and rear yards, minimum lot areas, widths, and depths for residential use, maximum lot coverage, maximum building height, maximum floor area ratio, shared access development, and residential proximity slope. See Dallas City Code Division 51A-4.400. Accordingly, those regulations are "yard, lot, and space regulations." Importantly, Division 51A-4.400 does not contain a "height looming" regulation.

Here, Ordinance No. 25984 provides a maximum building height regulation and a "height looming" regulation. See Dallas, Tex. Ordinance No. 25984 (May 25, 2005) at Ex. C, § 3(k) & (3)(l). However, the "height looming" regulation in Ordinance No. 25984 is not a "yard, lot, and space regulation" because it is not one of the regulations listed in Division 51A-4.400.

This interpretation is consistent with at least two principles of statutory construction: the negative-implication canon (which courts sometimes refer to as "expressio unius est exclusio alterius") and the omitted-case canon (which courts sometimes refer to as "casus omissus pro omisso habendus est"). See, e.g., *Nashville Milk Co. v. Carnation Co.*, 355 U.S. 373, 376 (1958) (applying the doctrine of "expressio unius est exclusio alterius" to a federal law); *Dallas Merchant's and Concessionaire's Ass'n v. City of Dallas*, 852 S.W.2d 489, 493 n.7 (Tex. 1993) (applying the doctrine of "expressio unius est exclusio alterius" to a Dallas ordinance); *Ebert v. Poston*, 266 U.S.

Letter to Philip Sikes

January 24, 2018

Page 4

548, 554 (1925) (Brandeis, J.) (applying the "casus ommissus" doctrine to a federal law); *Estes v. Terrell*, 92 S.W. 407, 408-09 (Tex. 1906) (applying the "casus ommissus" doctrine to a state law).

Here, the addition built in accordance with the City certificate and permits is within the original footprint of Mr. Moore's and Mr. Miner's home. Their addition did not change the nonconforming side yard setback because their home is already 2.8' from the side property line. Accordingly, Section 51A-4.704(c) allows Mr. Moore and Mr. Miner to enlarge their nonconforming home in accordance with the certificate and permits granted by you (or your staff) because the addition did not make their home more nonconforming as to the City's "yard, lot, and space regulations."

For these reasons, we request that you confirm that the "height looming" regulation in Ordinance No. 25984 does not apply to the addition constructed to the home of Mr. Moore and Mr. Miner because the addition did not make the home more nonconforming as to the City's yard, lot, and space regulations. Such a confirmation means that you (or your staff) correctly issued the certificate and the permits for this project.

We greatly appreciate your review of this situation and look forward to your response.

Sincerely,



Christopher D. Bowers

c: Winfield Moore
Dale Miner
Justin Roy, Assistant City Attorney
Megan Wimer, AICP, Chief Planner
Bill Hersch, Senior Conservation District Planner

Attachments

Conservation District Work Certificate



Kessler Park Conservation District

City of Dallas

Date Applied: 12/12/16

Date Reviewed: 06/06/17

Address: 1520 OLYMPIA DR

Applicant: Wood, Steven
P.O. Box 3293
Forney, TX 75126
(817) 682-7218
steven@txpermit.com

Architectural Style: Tudor

Proposed Work: Other - requires permit

1. RENOVATE THE 2ND LEVEL FLOOR PLAN WITHIN THE EXISTING FOOTPRINT OF THE HOUSE.
2. ADDITION OF 239.3 SQ FEET FOR OFFICE WITH BALCONY.

Permit is required: YES

Work is Approved with Conditions

1. Remodel & Addition on 2nd Level. Exterior material is stucco with wood half-timbering. Stucco Paint color: BEHR #1850 Ultra White. Wood Trim color: BEHR #PPU5-01 Espresso Beans. Per #25984(3)(c)(2) Remodels or additions to contributing houses that are visible from the front street or a side street must be clad with materials that are the same architectural style as the cladding of the contributing house.
2. Floor Area Ratio = $2919.65 / 6,045 = 0.48$
3. 2nd Level Bathroom window: Anderson 400 Series -double-hung wood with aluminum cladding, color Dark Bronze. Skylights (2): Velux Integra Remote Controlled Operable Fresh Air Skylight.
4. Unenclosed Spiral Staircase: Not In Contract due to encroachment into the rear yard setback.
5. New roof tile: Slate Select, Standard Blend, Mix: 50% Charcoal, 35% Green and 15% Taupe to match the existing roof. Existing roof slate tiles to remain.
6. No additional work is approved.

Philip Sikes, Building Official

The application was reviewed for compliance with the development standards and

This certificate shall be posted at job site

Conservation District Work Certificate



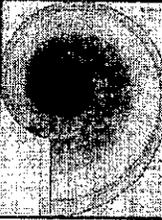
Kessler Park Conservation District

City of Dallas

design requirements for this Conservation District Ordinance.

This certificate applies only to the work identified on this document. Additional work will have to be reviewed separately.

This certificate shall be posted at job site



Andrew Shell, AIA
Interior and Residential Design
517 Abel Drive, Suite 100
Dallas, Texas 75221-1463
ashell@shellarchitect.com
www.shellarchitect.com



Residential Renovation/Alteration for:
**Mr. Dale Miner &
Mr. Winfield Moore**
1520 Olympia
Dallas, Texas 75208
Kresler Park Neighborhood

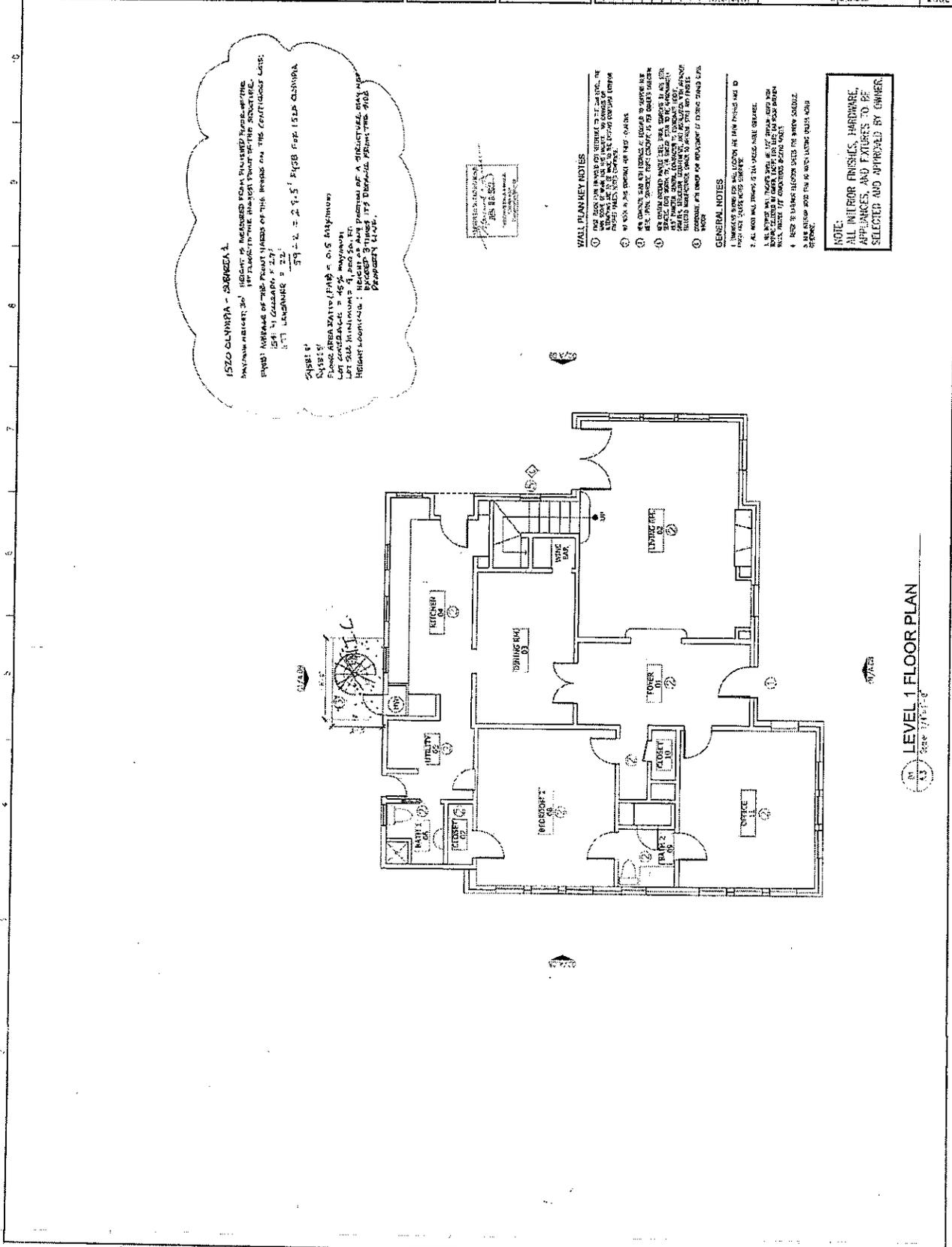
PERMIT ISSUE

NO.	DATE	DESCRIPTION
1	04/27/17	ISSUED FOR PERMIT
2	05/10/17	ISSUED FOR PERMIT
3	05/10/17	ISSUED FOR PERMIT
4	05/10/17	ISSUED FOR PERMIT
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LEVEL 1 FLOOR PLAN

Scale: 1/8" = 1'-0"
Sheet: A-3

NO CHANGE OR ALTERATION SHALL BE MADE TO THIS PERMIT WITHOUT THE WRITTEN APPROVAL OF THE ISSUING OFFICE.



1520 OLYMPIA - SURVEY 1.
HEIGHTS MEASURED FROM FINISHED FLOOR TO THE
TOP OF THE ROOF AT THE HIGHEST POINT OF THE STRUCTURE.
FINISH GRADE OF THE FRONT YARDS OF THE PROPERTY ON THE CERTIFICATE LOTS:
1541 N. GAZDARA = 22'
1543 LAURENS = 22'
1545 - 2 = 29.5' (108' EAP. 1520 OLYMPIA)

Notes:
1. FINISH GRADE OF THE FRONT YARDS OF THE PROPERTY ON THE CERTIFICATE LOTS:
1541 N. GAZDARA = 22'
1543 LAURENS = 22'
1545 - 2 = 29.5' (108' EAP. 1520 OLYMPIA)

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1541 N. GAZDARA = 22'
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- WALL PLANKEY NOTES**
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- GENERAL NOTES**
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LEVEL 1 FLOOR PLAN
Scale: 1/8" = 1'-0"



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ashell@andshell.com
www.andshell.com



Residential Engineers/Drafters for
Mr. Dale Minter & Mr. Whitfield Moore
1520 Olympia
Dallas, Texas 75208
Kepler Park Neighborhood

PERMIT ISSUE

LEVEL 2 FLOOR PLAN

A.5

ITEM NO.	DESCRIPTION	DATE
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WALL PLAN KEY NOTES

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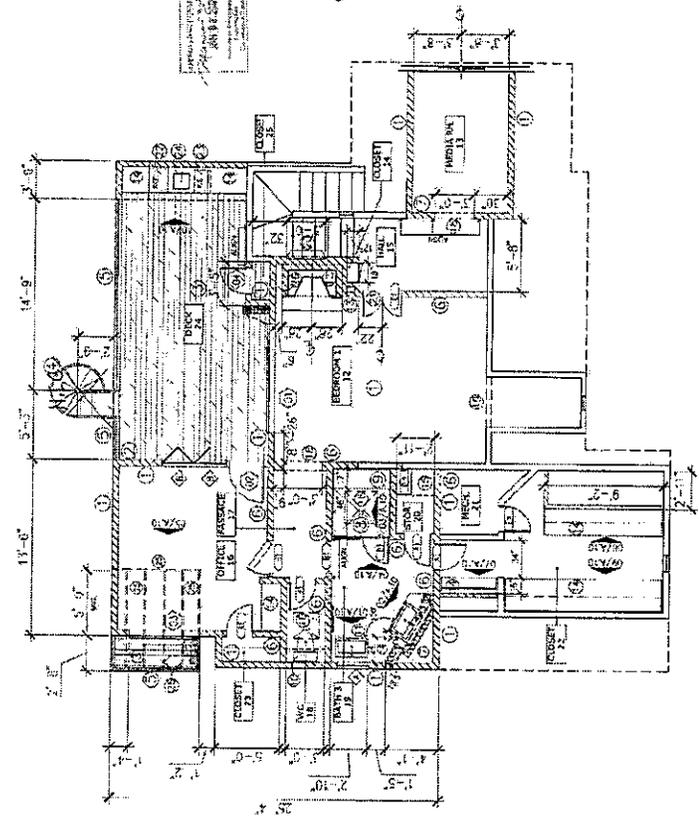
GENERAL NOTES

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WATER EFFICIENCY REQUIREMENTS:

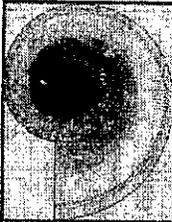
SEE SECTION A.1 FOR THE FOLLOWING WATER EFFICIENCY REQUIREMENTS:

1. ALL TOILETS SHALL BE 1.6 GPF FLUSH VALVES.
2. ALL SINKS SHALL BE 1.0 GPF FLUSH VALVES.
3. ALL SHOWER STALLS SHALL BE 2.0 GPF MINUTE WATER CONSUMPTION.
4. ALL FLOOR SINKS SHALL BE 1.0 GPF FLUSH VALVES.
5. ALL URINALS SHALL BE 0.5 GPF FLUSH VALVES.
6. ALL WATER FIXTURES SHALL BE Labeled with a WaterSense label.
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NOTE:
ALL MATERIALS, FINISHES, AND FIXTURES TO BE SELECTED AND APPROVED BY OWNER.

LEVEL 2 FLOOR PLAN



Andrew Shell, AIA
 Inletter and Residential Design
 517 Boyd Drive Suite 100
 Dallas, Texas 75203
 Phone: 214-343-1433
 Fax: 214-343-1433
 ashell@shellarchitect.com
 www.shellarchitect.com



Mr. Dale Miner & Mr. Winfield Moore
 Residential Renovation/Addition Inc.
 1520 Olympia
 Dallas, Texas 75203
 Kessler Park Neighborhood

PERMIT ISSUE

CEILING AND POWER PLANS

A.6

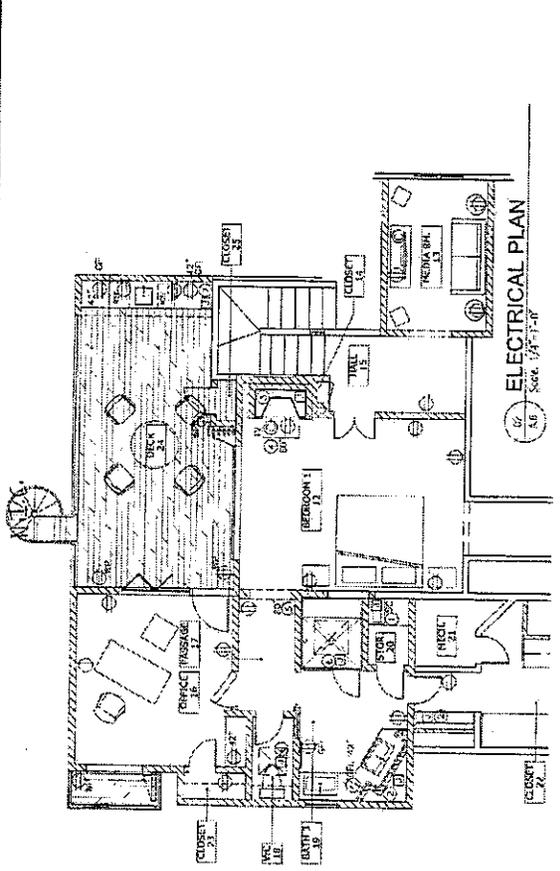
- POWER/DATA PLAN LEGEND**
- 1. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 2. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 3. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
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 - 5. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
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 - 13. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 14. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 15. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 16. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 17. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 18. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 19. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 20. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
- POWER/DATA PLAN KEY NOTES**
- 1. ALL POWER AND DATA SHALL BE INSTALLED IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE (NEC) AND THE NATIONAL FIRE ALARMS CODE (NFPA 70).
 - 2. ALL POWER AND DATA SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
 - 3. ALL POWER AND DATA SHALL BE INSTALLED IN ACCORDANCE WITH THE LOCAL ELECTRICAL CODES.
 - 4. ALL POWER AND DATA SHALL BE INSTALLED IN ACCORDANCE WITH THE LOCAL FIRE DEPARTMENT REQUIREMENTS.
 - 5. ALL POWER AND DATA SHALL BE INSTALLED IN ACCORDANCE WITH THE LOCAL HEALTH DEPARTMENT REQUIREMENTS.
 - 6. ALL POWER AND DATA SHALL BE INSTALLED IN ACCORDANCE WITH THE LOCAL ENVIRONMENTAL REQUIREMENTS.
 - 7. ALL POWER AND DATA SHALL BE INSTALLED IN ACCORDANCE WITH THE LOCAL PLUMBING REQUIREMENTS.
 - 8. ALL POWER AND DATA SHALL BE INSTALLED IN ACCORDANCE WITH THE LOCAL MECHANICAL REQUIREMENTS.
 - 9. ALL POWER AND DATA SHALL BE INSTALLED IN ACCORDANCE WITH THE LOCAL GAS REQUIREMENTS.
 - 10. ALL POWER AND DATA SHALL BE INSTALLED IN ACCORDANCE WITH THE LOCAL COMMUNITY DEVELOPMENT REQUIREMENTS.

ENERGY EFFICIENCY REQUIREMENTS

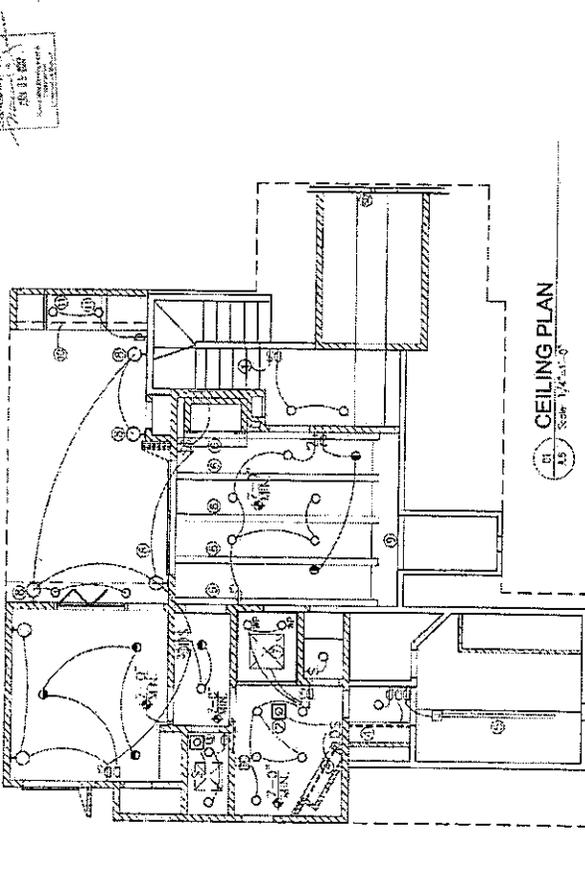
WITH THE PERFORMANCE REQUIREMENTS OF ENERGY STAR FOR THE HOME, THE HOMEOWNER SHALL BE RESPONSIBLE FOR OBTAINING AN ENERGY STAR CERTIFICATION FOR THE HOME. THE HOMEOWNER SHALL BE RESPONSIBLE FOR OBTAINING AN ENERGY STAR CERTIFICATION FOR THE HOME.

- CEILING PLAN LEGEND**
- 1. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 2. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 3. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 4. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 5. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 6. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 7. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 8. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 9. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 10. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 11. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
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 - 17. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 18. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 19. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES
 - 20. HATCH FOR 20' DIA. OR 18" x 18" OR 12" x 12" SQUARE LIGHT FIXTURES

- CEILING PLAN KEY NOTES**
- 1. ALL CEILING LIGHT FIXTURES SHALL BE INSTALLED IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE (NEC) AND THE NATIONAL FIRE ALARMS CODE (NFPA 70).
 - 2. ALL CEILING LIGHT FIXTURES SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
 - 3. ALL CEILING LIGHT FIXTURES SHALL BE INSTALLED IN ACCORDANCE WITH THE LOCAL ELECTRICAL CODES.
 - 4. ALL CEILING LIGHT FIXTURES SHALL BE INSTALLED IN ACCORDANCE WITH THE LOCAL FIRE DEPARTMENT REQUIREMENTS.
 - 5. ALL CEILING LIGHT FIXTURES SHALL BE INSTALLED IN ACCORDANCE WITH THE LOCAL HEALTH DEPARTMENT REQUIREMENTS.
 - 6. ALL CEILING LIGHT FIXTURES SHALL BE INSTALLED IN ACCORDANCE WITH THE LOCAL ENVIRONMENTAL REQUIREMENTS.
 - 7. ALL CEILING LIGHT FIXTURES SHALL BE INSTALLED IN ACCORDANCE WITH THE LOCAL PLUMBING REQUIREMENTS.
 - 8. ALL CEILING LIGHT FIXTURES SHALL BE INSTALLED IN ACCORDANCE WITH THE LOCAL MECHANICAL REQUIREMENTS.
 - 9. ALL CEILING LIGHT FIXTURES SHALL BE INSTALLED IN ACCORDANCE WITH THE LOCAL GAS REQUIREMENTS.
 - 10. ALL CEILING LIGHT FIXTURES SHALL BE INSTALLED IN ACCORDANCE WITH THE LOCAL COMMUNITY DEVELOPMENT REQUIREMENTS.



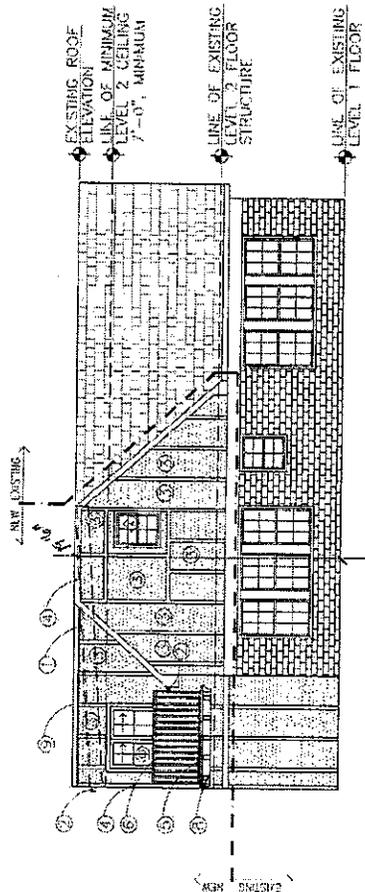
ELECTRICAL PLAN
 Scale: 1/4" = 1'-0"



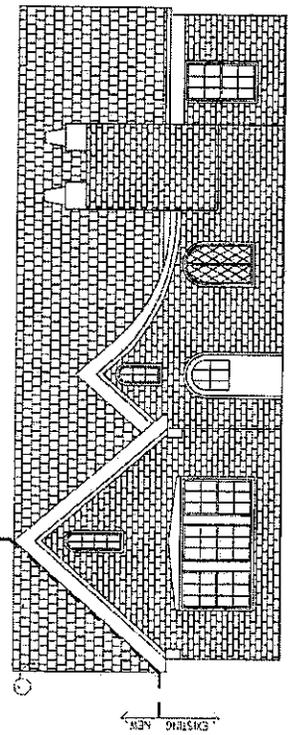
CEILING PLAN
 Scale: 1/4" = 1'-0"

WINDOW SCHEDULE

MARK	HEIGHT	WIDTH	DESCRIPTION
7	3'-0"	2'-4"	AMERSON 400 DOUBLE-HUNG WINDOW WITH 1/2" WASH, FIRCH FRAME, DARK BRONZE EXTERIOR FINISH, WOOD GRAIN INTERIOR FINISH, PANORAMIC PATIORS WINDOW ALIGH HEAD WITH TOP OF ADJACENT FLOOR, SANDWICH WINDOW, ALUMINUM WITH STAINLESS BRONZE EXTERIOR FINISH, WOOD GRAIN INTERIOR FINISH, REFER TO FLOOR PLAN.
6	4'-0"	5'-0"	BRONZE EXTERIOR FINISH, WOOD GRAIN INTERIOR FINISH, REFER TO FLOOR PLAN.
C	V.L.T.	V.L.T.	INSTALL NEW CUMBER PROVIDED REPLACEMENT SLEARED G-255 WINDOW.



NORTHWEST ELEVATION
Scale: 1/8" = 1'-0"



SOUTHWEST ELEVATION
Scale: 1/8" = 1'-0"

WINDOW DESIGN PERFORMANCE CRITERIA

THE GENERAL CONTRACTOR SHALL PROVIDE WINDOWS MEETING THE CRITERIA LISTED BELOW. THE GENERAL CONTRACTOR SHALL COORDINATE SUBMITTED WINDOW SCHEDULES WITH THE ARCHITECT'S WINDOW SCHEDULE. SUBSTITUTED WINDOW TYPES ARE SUBJECT TO OWNER APPROVAL. ANY CHANGES TO ALL AND HEAD-HEIGHTS ARE SUBJECT TO OWNER APPROVAL.

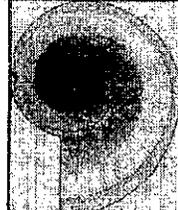
- WINDOWS SHALL BE ENERGY STAR RATED (REGISTRATION OR ENERGY STAR COMPLIANT COMMERCIAL) THERMALLY BREAKING OR ENERGY STAR COMPLIANT COMMERCIAL THERMALLY BREAKING ALUMINUM OR VINYL WINDOWS.
- INTERNAL DRAMA SHALL BE PROVIDED AS NECESSARY. INTERIOR WOOD FINISHES SHALL BE DURABLE. PAINT SHALL HAVE AN U-V VALUE EQUAL TO OR LESS THAN 5 FOR THE SOUTH-CENTRAL REGION.
- WINDOWS SHALL HAVE A SOLAR HEAT GAIN COEFFICIENT (SHGC) EQUAL TO OR LESS THAN 0.45 FOR THE SOUTH-CENTRAL REGION.
- ALL WINDOW TYPES SHALL BE AS CLOSELY AS POSSIBLE TO THE HIGHEST U-VALUE AND TO MATCH, AS CLOSELY AS POSSIBLE, THE HIGHEST SHGC INDICATED IN THE WINDOW SCHEDULE SPECIFIED FROM THE MANUFACTURER'S WEBSITE.

ELEVATION KEY NOTES

1. REFER TO THE WINDOW SCHEDULE FOR WINDOW TYPES AND SIZES.
2. REFER TO THE WINDOW SCHEDULE FOR WINDOW TYPES AND SIZES.
3. REFER TO THE WINDOW SCHEDULE FOR WINDOW TYPES AND SIZES.
4. REFER TO THE WINDOW SCHEDULE FOR WINDOW TYPES AND SIZES.
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8. REFER TO THE WINDOW SCHEDULE FOR WINDOW TYPES AND SIZES.
9. REFER TO THE WINDOW SCHEDULE FOR WINDOW TYPES AND SIZES.
10. REFER TO THE WINDOW SCHEDULE FOR WINDOW TYPES AND SIZES.

EXTERIOR STUCCO AND WOOD TRIM FINISH SPECIFICATION

1. REFER TO THE WINDOW SCHEDULE FOR WINDOW TYPES AND SIZES.
2. REFER TO THE WINDOW SCHEDULE FOR WINDOW TYPES AND SIZES.
3. REFER TO THE WINDOW SCHEDULE FOR WINDOW TYPES AND SIZES.



Andrew Shell, AIA
Interior and Residential Design
517 Hood Drive, Suite 120
Dallas, Texas 75226
Phone: (214) 414-1431
ashell@andshell.com
www.andshell.com



Residential Reevaluation/Action for
Mr. Dale Miner & Mr. Winfield Moore
1520 Oymia
Dallas, Texas 75208
K48846 Park Neighborhood

PERMIT ISSUE

EXTERIOR ELEVATIONS

DATE: 10/10/18
DRAWN BY: [Name]
CHECKED BY: [Name]
SCALE: AS SHOWN
PROJECT NO.: [Number]
SHEET NO.: [Number]

A.8

ALL DIMENSIONS AND CONDITIONS ARE TO BE SHOWN UNLESS OTHERWISE NOTED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL JURISDICTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL JURISDICTION.



Andrew Shell, AIA
 Interior and Residential Design
 517 Lake Drive, Suite 100
 Dallas, Texas 75231-1400
 ashell@shellarchitect.com
 www.shellarchitect.com



Residential Renovation/Adoption for
Mr. Dale Miner & Mr. Winfield Moore
 1528 Olympia
 Dallas, Texas 75208
 Kessler Park Neighborhood

PERMIT ISSUE

NO.	DATE	DESCRIPTION	BY	CHK.
1	10/11/17	ISSUED FOR PERMIT	AS	AS
2	10/11/17	ISSUED FOR PERMIT	AS	AS
3	10/11/17	ISSUED FOR PERMIT	AS	AS
4	10/11/17	ISSUED FOR PERMIT	AS	AS
5	10/11/17	ISSUED FOR PERMIT	AS	AS
6	10/11/17	ISSUED FOR PERMIT	AS	AS
7	10/11/17	ISSUED FOR PERMIT	AS	AS
8	10/11/17	ISSUED FOR PERMIT	AS	AS
9	10/11/17	ISSUED FOR PERMIT	AS	AS
10	10/11/17	ISSUED FOR PERMIT	AS	AS

EXTERIOR ELEVATIONS 2

Sheet No. **A.9**

DATE: 10/11/17
 DRAWN BY: AS
 CHECKED BY: AS
 PROJECT NO.: 17-001
 SHEET NO.: A.9
 TOTAL SHEETS: 10

WINDOW SCHEDULE

MASK	HEIGHT	WIDTH	DESCRIPTION	CONTACT
A	4'-0"	2'-4"	EXTERIOR AND INTERIOR - HERRING BONE, FRAMED, DARK BROWN, EXTERIOR FINISH: WOOD CLAD INTERIOR FINISH: ALUMINUM CLAD	800-328-4261
B	4'-0"	3'-0"	EXTERIOR AND INTERIOR - HERRING BONE, FRAMED, DARK BROWN, EXTERIOR FINISH: WOOD CLAD INTERIOR FINISH: ALUMINUM CLAD	760-723-1000
C	4'-0"	4'-0"	EXTERIOR AND INTERIOR - HERRING BONE, FRAMED, DARK BROWN, EXTERIOR FINISH: WOOD CLAD INTERIOR FINISH: ALUMINUM CLAD	ORTELIN

WINDOW DESIGN PERFORMANCE CRITERIA

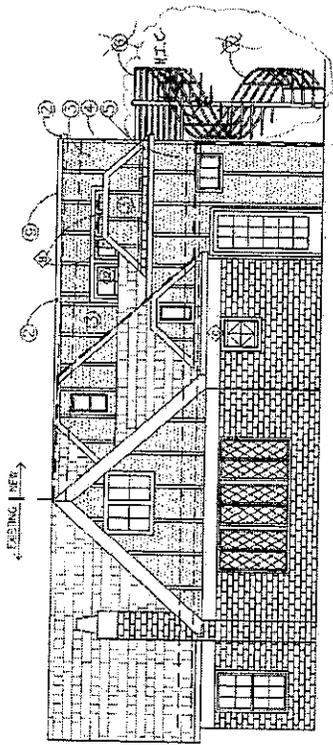
THE GENERAL CONTRACTOR SHALL PROVIDE WINDOWS MEETING THE CRITERIA LISTED BELOW. THE GENERAL CONTRACTOR SHALL COORDINATE SUBSTITUTED WINDOW SIZES WITH THE WALL PLANS AND EXTERIOR ELEVATIONS. SUBSTITUTED WINDOW SIZES ARE SUBJECT TO OWNER APPROVAL. ANY CHANGES TO SILL AND HEAD HEIGHTS ARE SUBJECT TO OWNER APPROVAL.

- WINDOWS SHALL BE ENERGY STAR RATED RESIDENTIAL OR ENERGY STAR RATED COMMERCIAL WINDOWS WITH U-VALUE EQUAL TO OR LESS THAN .25 FOR THE SOUTH CENTRAL REGION.
- WINDOWS SHALL HAVE A SOLAR HEAT GAIN COEFFICIENT (SHGC) EQUAL TO OR LESS THAN .45 FOR THE SOUTH CENTRAL REGION.
- WINDOWS SHALL BE ENERGY STAR RATED RESIDENTIAL OR ENERGY STAR RATED COMMERCIAL WINDOWS WITH U-VALUE EQUAL TO OR LESS THAN .25 FOR THE SOUTH CENTRAL REGION.
- WINDOWS SHALL HAVE A SOLAR HEAT GAIN COEFFICIENT (SHGC) EQUAL TO OR LESS THAN .45 FOR THE SOUTH CENTRAL REGION.
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- WINDOWS SHALL HAVE A SOLAR HEAT GAIN COEFFICIENT (SHGC) EQUAL TO OR LESS THAN .45 FOR THE SOUTH CENTRAL REGION.

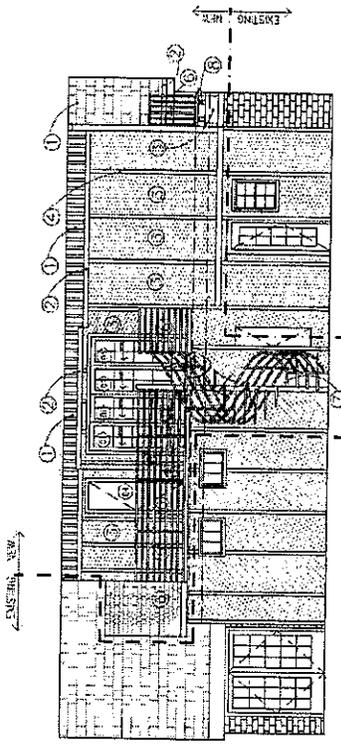
- ELEVATION KEY NOTES**
1. WINDOW SIZES TO BE SHOWN ON THIS ELEVATION SHALL BE THE SAME AS SHOWN ON THE WALL PLANS UNLESS OTHERWISE NOTED.
 2. WINDOW SIZES TO BE SHOWN ON THIS ELEVATION SHALL BE THE SAME AS SHOWN ON THE WALL PLANS UNLESS OTHERWISE NOTED.
 3. WINDOW SIZES TO BE SHOWN ON THIS ELEVATION SHALL BE THE SAME AS SHOWN ON THE WALL PLANS UNLESS OTHERWISE NOTED.
 4. WINDOW SIZES TO BE SHOWN ON THIS ELEVATION SHALL BE THE SAME AS SHOWN ON THE WALL PLANS UNLESS OTHERWISE NOTED.
 5. WINDOW SIZES TO BE SHOWN ON THIS ELEVATION SHALL BE THE SAME AS SHOWN ON THE WALL PLANS UNLESS OTHERWISE NOTED.
 6. WINDOW SIZES TO BE SHOWN ON THIS ELEVATION SHALL BE THE SAME AS SHOWN ON THE WALL PLANS UNLESS OTHERWISE NOTED.
 7. WINDOW SIZES TO BE SHOWN ON THIS ELEVATION SHALL BE THE SAME AS SHOWN ON THE WALL PLANS UNLESS OTHERWISE NOTED.
 8. WINDOW SIZES TO BE SHOWN ON THIS ELEVATION SHALL BE THE SAME AS SHOWN ON THE WALL PLANS UNLESS OTHERWISE NOTED.
 9. WINDOW SIZES TO BE SHOWN ON THIS ELEVATION SHALL BE THE SAME AS SHOWN ON THE WALL PLANS UNLESS OTHERWISE NOTED.
 10. WINDOW SIZES TO BE SHOWN ON THIS ELEVATION SHALL BE THE SAME AS SHOWN ON THE WALL PLANS UNLESS OTHERWISE NOTED.

EXTERIOR STUCCO AND WOOD TRIM FINISH SPECIFICATION

STUCCO SHALL BE APPLIED TO ALL EXTERIOR WALLS. WOOD TRIM SHALL BE APPLIED TO ALL INTERIOR AND EXTERIOR WINDOW AND DOOR SILLINGS AND HEADINGS.



NORTHWEST ELEVATION
 Scale: 1/8" = 1'-0"



SOUTHEAST ELEVATION
 Scale: 1/8" = 1'-0"



Andrew Shell, AIA
 Interior and Residential Design
 517 Reed Drive, Suite 100
 Houston, Texas 77057-1403
 Phone: 281.253.2222
 www.shellarchitect.com



Residential Renovation/Alteration for:
Mr. Dale Miner & Mr. Winfield Moore
 1531 Olympia
 Dallas, Texas 75208
 Pecan Park Neighborhood
 Date: 04/11

PERMIT ISSUE

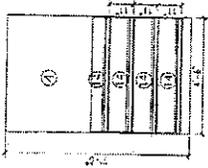
NO.	REVISION	DATE
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19	REVISED PER PERMIT	04/11
20	REVISED PER PERMIT	04/11

INTERIOR ELEVATIONS

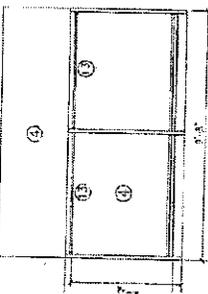
Sheet No. **A.10**
 Date: 04/11
 Scale: 1/8" = 1'-0"

A.10 PERMIT TO CONSTRUCT USE AS EXHIBIT NO. 10 TO THE PERMIT TO CONSTRUCT FOR THE INTERIOR RENOVATION OF THE PROJECT. THIS SHEET IS TO BE USED IN CONJUNCTION WITH THE PERMIT TO CONSTRUCT AND IS NOT TO BE USED AS A CONTRACT DOCUMENT. THE CONTRACT DOCUMENT SHALL BE THE PERMIT TO CONSTRUCT AND THE CONTRACT DOCUMENTS.

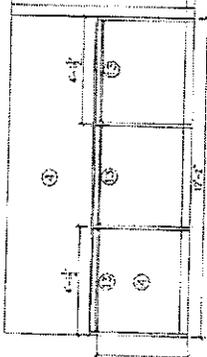
19
9
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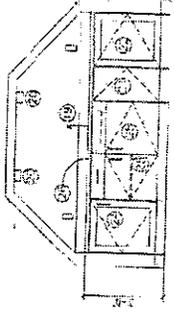
CLOSET EAST ELEVATION
 Scale: 1/8" = 1'-0"



CLOSET WEST ELEVATION
 Scale: 1/8" = 1'-0"



CLOSET EAST ELEVATION
 Scale: 1/8" = 1'-0"

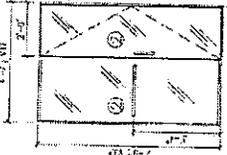


OUTDOOR BAR ELEVATION
 Scale: 1/8" = 1'-0"

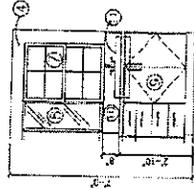
NOTE:
 ALL CABINETS, COUNTERS, SPASHES, AND HARDWARE TO BE REPEATED BY OWNER PRIOR TO DREYER, OWNER TO SELECT ALL CLOSET STAYS AND ALL FINISHES.

ELEVATION KEY NOTES

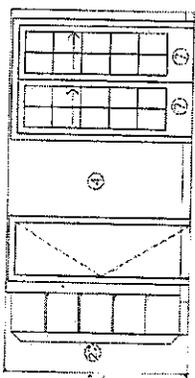
1. FINISH TO MATCH
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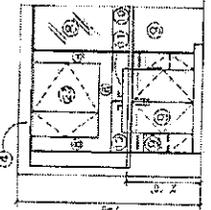
BATH WEST SHOWER ELEVATION
 Scale: 1/8" = 1'-0"



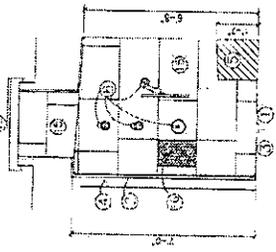
BATH EAST LAVATORY ELEVATION
 Scale: 1/8" = 1'-0"



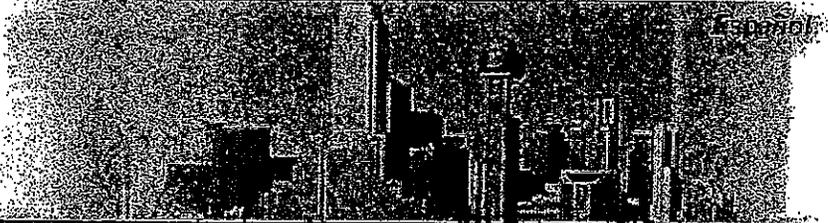
STUDY EAST ELEVATION
 Scale: 1/8" = 1'-0"



BATH NORTH CABINET ELEVATION
 Scale: 1/8" = 1'-0"



SOUTH SHOWER ELEVATION
 Scale: 1/8" = 1'-0"



[Dallas Home](#) [Building Inspection Home](#) [Offices](#) [Records](#) [Newsletter](#) [Government](#)

Master Permit - 1706271135

[Details](#) [Trades](#) [Documents](#) [Zoning Info](#)

Property

Street Address

[View](#) 1520 OLYMPIA DR

Status: Permit Issued

Application Date: Jun 27, 2017

Issue Date: Jun 28, 2017

Completed Date:

Applicant

DANNY SIPES

Contractor

A PLUS GENERAL CONTRACTORS
1136 LAVENDER RD
LANCASTER, TX 75146
(972) 816-1895

Fee Web Contractor:

Owner Category: PRIVATE

Work Description: 1112-ADDITION TO SFD

Land Use Description: SINGLE FAMILY DWELLING

Project

Doing business as:

Activity: (G) Addition

Occupancy: R3

Constr. Type: VB

Selling Alcohol:

Dance Floor:

Dwelling Units:

Stories:

Bedrooms:

Bathrooms:

New: 239

New: \$20,554.00

Sprinkler: None

Remodel:

Remodel:

Required Parking: 2

Total: 239

Job Value: \$20,554.00

Proposed Parking: 2

CA Not Required:

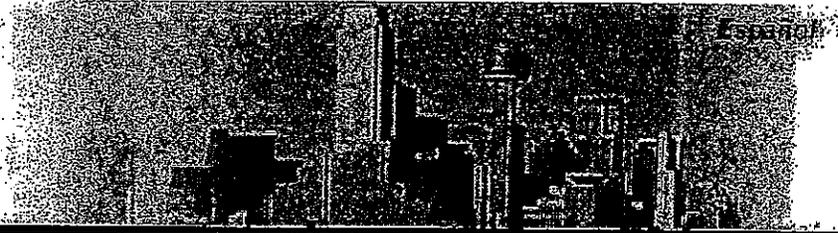
Subdivision not Required:

APPROVED BY MARGARET F.

Sustainable Construction and Development | Building Inspection Division | 214/948-4480|www.dallascityhall.com

[Main Menu](#)

EXHIBIT D

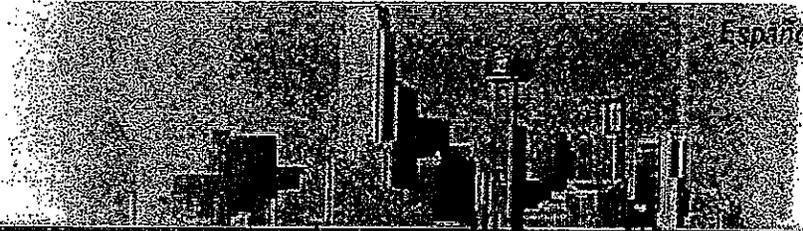


Dallas Home Building Inspection Home Offices Records Newsletter Government
Master Permit - 1706271135

Details Trades Documents Zoning Info

Type	Withdrawn	Removed	Finalized	Work Description	Contractor
Building	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1112-ADDITION TO SFD	A PLUS GENERAL CONTRACTORS
Customer Service	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Electrical	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3009-ELECTRICAL REMODEL	KELLEY ELECTRIC, INC.
Energy Code	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1036-Energy Code Certification	
Green	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1035-Green certifications	
Mechanical	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4001-INSTALL NEW HVAC	BILL CODY & SONS PLUMBING
Plumbing	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2002-INSTALL NEW PLUMBING	BILL CODY & SONS PLUMBING
Zoning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1010-Zoning	

Main Menu



Dallas Home Building Inspection Home Offices Records Newsletter Government

Master Permit - 1706271140

Details Trades Documents Zoning Info

Property

Street Address

View 1520 OLYMPIA DR

Status: Permit Issued

Application Date: Jun 27, 2017

Issue Date: Jun 28, 2017

Completed Date:

Applicant

DANNY SIPES

Contractor

A PLUS GENERAL CONTRACTORS
1136 LAVENDER RD
LANCASTER, TX 75146
(972) 816-1895

Owner Category: PRIVATE

Fee Web Contractor:

Work Description: REMODEL

Land Use Description: SINGLE FAMILY DWELLING

Project

Doing business as:

Activity: (B) Renovation

Occupancy: R3

Selling Alcohol: []

Dwelling Units:

Constr. Type: VB

Dance Floor: []

Stories:

Bedrooms:

Sq Ft

Cost

Bathrooms:

New:

New:

Sprinkler: None

Remodel: 1,000

Remodel: \$30,000.00

Required Parking: 2

Total: 1,000

Job Value: \$30,000.00

Proposed Parking: 2

CA Not Required: [x]

Subdivision not Required: []

APPROVED BY MARGARET F.

Sustainable Construction and Development | Building Inspection Division | 214/948-4480|www.dallascityhall.com

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[Dallas Home](#) [Building Inspection Home](#) [Offices](#) [Records](#) [Newsletter](#) [Government](#)

Master Permit - 1706271140

Details Trades Documents Zoning Info

Type	Withdrawn	Removed	Finalized	Work Description	Contractor
Building	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	REMODEL	A PLUS GENERAL CONTRACTORS
Customer Service	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
Electrical	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3002-INSTALL ELECTRICAL FOR NEW CONSTRUCTION OR ADDITION	KELLEY ELECTRIC, INC.
Mechanical	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4002-REPLACE OR MODIFY EXISTING HVAC	BILL CODY & SONS PLUMBING
Plumbing	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2001-REMODEL EXISTING PLUMBING	BILL CODY & SONS PLUMBING
Zoning	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1010-Zoning	

[Main Menu](#)

MIKLOS LAW, PLLC
ATTORNEYS & COUNSELORS

ROBERT MIKLOS
PARTNER

J. PRABHA CINCLAIR
PARTNER

DUANE BRIGNAC
ASSOCIATE

RYAN HAFNER
ASSOCIATE

CHRIS BOWERS
OF COUNSEL

January 29, 2018

Philip Sikes
Chief Building Official
Department of Sustainable Development & Construction
City of Dallas
320 E. Jefferson Blvd. – Room 115
Dallas, Texas 75203

Re: Whether a variance to the side yard setback regulation is needed for the construction of an addition to the home at 1520 Olympia Drive, Dallas, Texas 75208 (the “Property”) when the addition is within the existing building’s footprint

Dear Phil:

As you know, our firm represents Winfield Moore and Dale Miner, who own the Property. Your staff was kind to meet with us on January 24, 2018, to discuss the zoning issues concerning a recent addition to the home on the Property as well as some proposed work on the Property.

During that meeting, William Hersch, a Senior Conservation District Planner on your staff, stated that the addition (for which you or your office granted both a conservation district work certificate and a building permit) would need a variance from the side yard setback regulation because the addition supposedly violated that setback.

I was surprised to hear Mr. Hersch’s statement for two reasons: (1) the City Code allows nonconforming structures to be enlarged if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations, which include the side yard setback regulation; and (2) the addition does not increase the home’s nonconformity with the side yard setback regulation.

Specifically, the City’s regulations for nonconforming structures are located in Section 51A-4.704, “Nonconforming Uses and Structures,” of the City Code. Subsection (c) provides:

Letter to Philip Sikes

January 29, 2018

Page 2

(c) Nonconforming structures.

- (1) Except as provided in Subsection (c)(2), a person may renovate, remodel, repair, rebuild, or *enlarge* a nonconforming structure *if* the work does not cause the structure to become *more nonconforming* as to the yard, lot, and space regulations.
- (2) The right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.

Dallas City Code § 51A-4.704(c) (emphasis added). Accordingly, Mr. Moore and Mr. Miner may “enlarge” their nonconforming home as long as the work does not cause the structure to become more nonconforming as to the side yard setback line. *Id.*

As I explained in my letter to you dated January 24, 2018, the home is a nonconforming structure because it apparently was built in 1927 and the City Council adopted the Kessler Park Conservation District ordinance in 2005. That ordinance requires a minimum five-foot side yard setback for structures in Subarea 1 of the Kessler Park Conservation District. *See* Dallas, Tex. Ordinance No. 25984 (May 25, 2005) at Ex. B, p. 11. The home was already approximately 2.8’ feet from the side property line at its closest point and the addition did not change that because it was built entirely within the home’s existing footprint.

I have looked to see if any Texas appellate court has examined this issue and I was not able to find such a case. When there is no Texas case on a zoning issue, it is appropriate to examine cases from other states because the Texas Zoning Enabling Act (now codified in Chapter 211 of the Texas Local Government) and the zoning enabling acts of almost all other states are “a virtual adoption of a standard zoning statute recommended sponsored by the Federal Department of Commerce” in 1926. *Bd. of Adjustment v. Stovall*, 216 S.W.2d 171, 172 (Tex. 1949); *see also* John Mixon et al., *Tex. Mun. Zoning Law* §§ 1.000-1.100 (3d ed. updated through Sept. 2016). Chapter 211 is still very similar to the original federally-sponsored statute. *Compare* Tex. Loc. Gov’t Code ch. 211 with 9 Patrick J. Rohan, *Zoning & Land Use Controls* § 53B.01; *see also* Mixon, at § 1.000. Accordingly, the Texas Supreme Court and other Texas courts have relied at times on decisions from other states when examining zoning issues. *See, e.g., Stovall*, 216 S.W.2d at 174; *City of San Angelo v. Boehme Bakery*, 190 S.W.2d 67, 70 (Tex. 1945).

Here, quite a few appellate courts in other states have examined this issue and have issued opinions that support our position. Perhaps the *Nettleton* case provides the most thorough analysis. *See Nettleton v. Zoning Bd. of Adjustment of the City of Pittsburgh*, 828 A.2d 1033 (Pa. 2003). In that case, the Property was improved with a commercial one-story building 17 feet in height. *Id.* at 1034. The building occupied virtually the entire lot and thereby violated all of the yard and setback regulations applicable to new construction in the zoning district. *Id.* at 1034-35.

The city's zoning administrator granted the owners a permit needed to expand the existing building vertically to a height of three stories or forty feet. *Id.* at 1035. Two neighbors appealed to the board of adjustment and argued that the owners were required to obtain a variance for the proposed vertical addition and that the construction, if approved, would have the detrimental effect on the

Letter to Philip Sikes

January 29, 2018

Page 3

neighborhood and their properties of depriving them of air and sunlight. *Id.* After a public hearing, the board upheld the action of the zoning administrator, finding that: (1) the existing building was nonconforming and had no front, rear, or side yard setbacks; and (2) the proposed vertical addition would comply with the applicable maximum building height regulations and would not increase the existing yard or setback nonconformities. *Id.*

The neighbors appealed to a trial court, which affirmed the board. They then appealed to an appellate court, which reversed the decisions of the trial court and the zoning board. *Id.* On appeal, the Pennsylvania Supreme Court first examined the Pittsburgh Zoning Code, which is strikingly similar to the Dallas provision:

A nonconforming structure may be *enlarged*, expanded or extended, in compliance with all applicable regulations of this Code, *unless the enlargement, expansion or extension has the effect of increasing the degree of nonconformity or making a use or structure nonconforming in any other respect*, subject to any applicable requirements of Section 922.02 (having to do with required permits).

Id. at 1036 (citing Pittsburgh Zoning Code § 921.03.D.1) (emphasis added).

The Pennsylvania Supreme Court then reversed the appellate court, holding:

The vertical addition here proposed would have no effect on the existing building's footprint and, therefore, would not increase the encroachment of the building within the required front or side yard setback. Since the proposal would not have the effect of increasing the degree of nonconformity, the zoning authorities correctly determined that the addition was permitted by right pursuant to Code § 921.03.D.1.

Id. at 1039.

Similarly, the Connecticut court of appeals has analyzed a town ordinance that allowed nonconforming structures to be enlarged in compliance with the zoning regulations. *See Doyen v. Zoning Bd. of Appeals of Essex*, 789 A.2d 478 (Conn. Ct. App. 2002), *cert. denied*, 793 A.2d 1088 (Conn. 2002). There, the zoning ordinance provided: “[N]o improvement having a nonconforming characteristic, *shall be enlarged, extended, or expanded except in conformity with these Regulations.*” *Id.* at 482 n.2 (emphasis added).

The property owner owned a house that was a nonconforming structure because part of the foundation and the deck attached to the house extended into the 25-foot side setback area required by the town’s zoning regulations. *Id.* at 481. The owner submitted an application to build an addition atop a roofed deck that would not exceed the “existing structural footprint” of their house or the town’s maximum height regulation. *Id.* at 481-82.

The town's zoning enforcement officer issued the permit. *Id.* at 481. Some of the abutting property owners appealed that decision to the town's zoning board of appeals, which unanimously upheld the decision to issue the permit. *Id.* at 482. The abutting owners appealed that decision to a trial court, which reversed the board. *Id.* at 483.

The property owners appealed, asserting that the trial court improperly interpreted the town's zoning regulations as prohibiting a property owner from vertically expanding into the airspace over an existing side setback nonconformity. *Id.* When framing the issue, the court of appeals stated that a fair and common-sense approach must be used when interpreting the zoning regulation:

A fair interpretation of § 50D thus expressly anticipates the permissive expansion of an improvement having a nonconforming characteristic as long as the nonconforming characteristic is not expanded and the expansion is otherwise in conformity with the regulations. Any other reading would defeat the common sense approach that must be used in construing regulations. The relevant question, therefore, becomes whether the Sapias' proposed addition constitutes an expansion of a nonconforming characteristic of an improvement under the regulations.

Id. at 485.

The court of appeals then found that “[t]he preexisting footprint, which includes the deck, creates its own legal nonconforming setback.” *Id.* at 485-86. Because the second-story addition did not encroach any further into the setback area, the court found that the trial court improperly substituted its opinion for that of the board, reversed that court, and held that the vertical addition was a permissible enlargement of the structure. *Id.* at 486-87; *see also Vivian v. Zoning Bd. of Appeals of Clinton*, 823 A.2d 374, 380-82 (Conn. Ct. App. 2003) (holding that a second story addition that did not increase the size of the nonconforming footprint of the building did not violate setback requirements as “the nonconformity itself has a vertical component that adheres to the footprint of the building because common sense tells us that a building is not flat”); *Lloyd v. Zoning Bd. of Review for Newport*, 62 A.3d 1078, 1088-89 (R.I. 2013) (holding that a two-story addition to a dimensionally nonconforming structure did not “increase or intensify” the nonconformity associated with lot building coverage).

Moreover, other courts generally have concluded that, absent language expressly prohibiting *any* enlargement of a nonconforming structure, enclosures of nonconforming structures are permissible if they do not increase the footprint or height of the building. *See, e.g., Raymond v. Zoning Bd. of Appeals*, 820 A.2d 275, 288-89 (Conn. App. 2003) (permanent deck enclosure); *Town of Seabrook v. D'Agata*, 362 A.2d 182, 183 (N.H. 1976) (carport enclosure); *Clark v. Richardson*, 211 S.E.2d 530, 531 (N.C. App. 1975) (porch enclosure); *Donaghy v. Bd. of Adjustment*, 55 P.3d 707, 713 (Wyo. 2002) (patio enclosure).

Letter to Philip Sikes
January 29, 2018
Page 5

Accordingly, Section 51A-4.704(c) of the Dallas City Code allows Mr. Moore and Mr. Miner to enlarge their nonconforming home in accordance with the certificate and permits granted by you (or your staff) because the addition did not make their home more nonconforming as to the City's side yard setback regulation.

For these reasons, we request that you confirm that the side yard setback regulation in Ordinance No. 25984 does not apply to the addition constructed to the home of Mr. Moore and Mr. Miner because the addition did not make the home more nonconforming as to that setback. Such a confirmation means that you (or your staff) correctly issued the conservation district work certificate and the building permit for this project.

We greatly appreciate your review of this situation and look forward to your response.

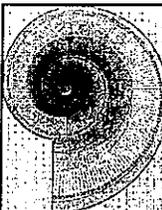
Sincerely,



Christopher D. Bowers

c: Winfield Moore
Dale Miner
Justin Roy, Assistant City Attorney
Megan Wimer, AICP, Chief Planner
Bill Hersch, Senior Conservation District Planner

7



Andrew Shell, AIA
 Interior and Residential Design
 517 Hood Drive, Suite 100
 Dallas, Texas 75226
 Phone: 214-766-4033
 ashell@shellarchitect.com
 www.shellarchitect.com

Residential Renovation/Addition for:
Mr. Dale Miner & Mr. Winfield Moore
 1520 Olympia
 Dallas, Texas 75228
 Kessler Park Neighborhood

PERMIT ISSUE

NO.	DATE	DESCRIPTION
1	11/17/17	ISSUED FOR PERMIT
2	11/17/17	ISSUED FOR PERMIT
3	11/17/17	ISSUED FOR PERMIT
4	11/17/17	ISSUED FOR PERMIT
5	11/17/17	ISSUED FOR PERMIT
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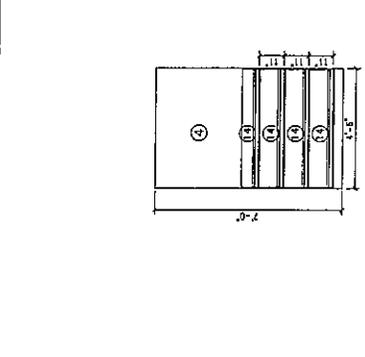
INTERIOR ELEVATIONS

Sheet No. **A.10**

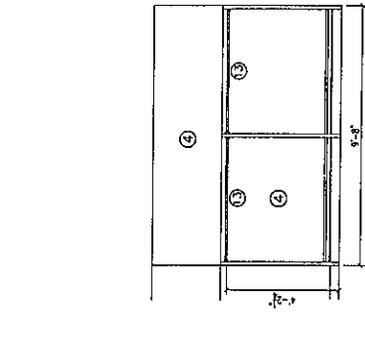
DATE: 11/17/17
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 CHECKED BY: AS
 SCALE: AS SHOWN

CONSTRUCTION OF MATERIALS, FINISHES, AND HARDWARE TO BE APPROVED BY OWNER PRIOR TO ORDERING. OWNER TO SELECT ALL CABINET STYLES AND ALL FINISHES.

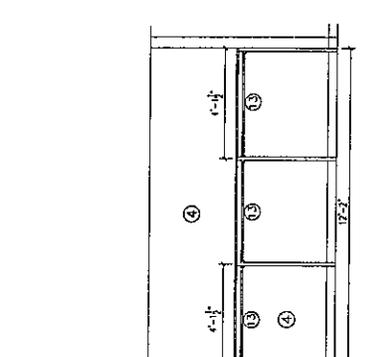
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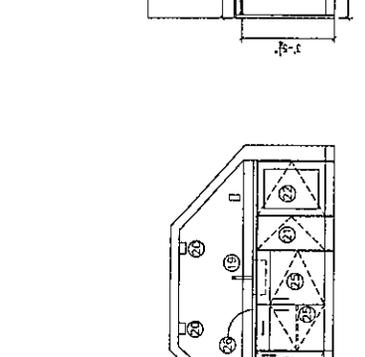
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 Scale: 1/2"=1'-0"



08 CLOSET EAST ELEVATION
 Scale: 1/2"=1'-0"



09 CLOSET EAST ELEVATION
 Scale: 1/2"=1'-0"



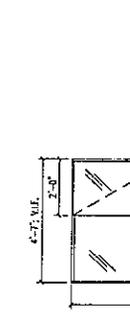
10 CLOSET WEST ELEVATION
 Scale: 1/2"=1'-0"



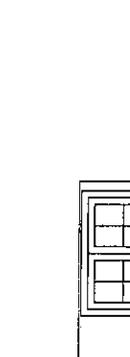
11 OUTDOOR BAR ELEVATION
 Scale: 1/2"=1'-0"

NOTE:
 ALL CABINETS, COUNTERS, SPLASHES, AND HARDWARE TO BE APPROVED BY OWNER PRIOR TO ORDERING. OWNER TO SELECT ALL CABINET STYLES AND ALL FINISHES.

- ELEVATION KEY NOTES**
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12 BATH WEST SHOWER ELEVATION
 Scale: 1/2"=1'-0"



13 STUDY EAST ELEVATION
 Scale: 1/2"=1'-0"



14 BATH NORTH CABINET ELEVATION
 Scale: 1/2"=1'-0"

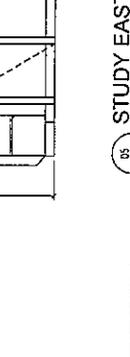


15 BATH EAST LAVATORY ELEVATION
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 Scale: 1/2"=1'-0"

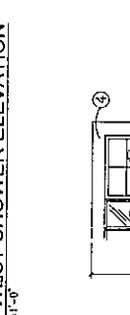


16 SOUTH SHOWER ELEVATION
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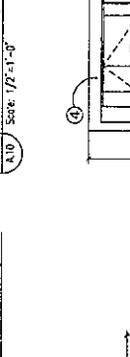


17 BATH NORTH CABINET ELEVATION
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NOT USED
 Scale: 1/2"=1'-0"

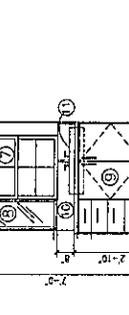


18 BATH WEST SHOWER ELEVATION
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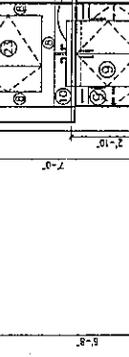


19 BATH EAST LAVATORY ELEVATION
 Scale: 1/2"=1'-0"

NOT USED
 Scale: 1/2"=1'-0"



20 BATH NORTH CABINET ELEVATION
 Scale: 1/2"=1'-0"



21 BATH EAST LAVATORY ELEVATION
 Scale: 1/2"=1'-0"



CITY OF DALLAS

AFFIDAVIT

Appeal number: BDA 178-069

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

at: 1520 Olympia Drive, Dallas TX 75208
(Address of property as stated on application)

Authorize: Winfield Moore
(Applicant's name as stated on application)

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

 Variance (specify below)

 Special Exception (specify below)

 X Other Appeal (specify below)

Specify: The decision of building official to Revoke
Permit number 1706271135

Dale Miner
Print name of property owner or registered agent

[Signature]
Signature of property owner or registered agent

Date 3/27/18

Before me, the undersigned, on this day personally appeared Dale Miner

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

Subscribed and sworn to before me this 27th day of March, 2018



[Signature]
Notary Public for Dallas County, Texas
Commission expires on 10/14/2019



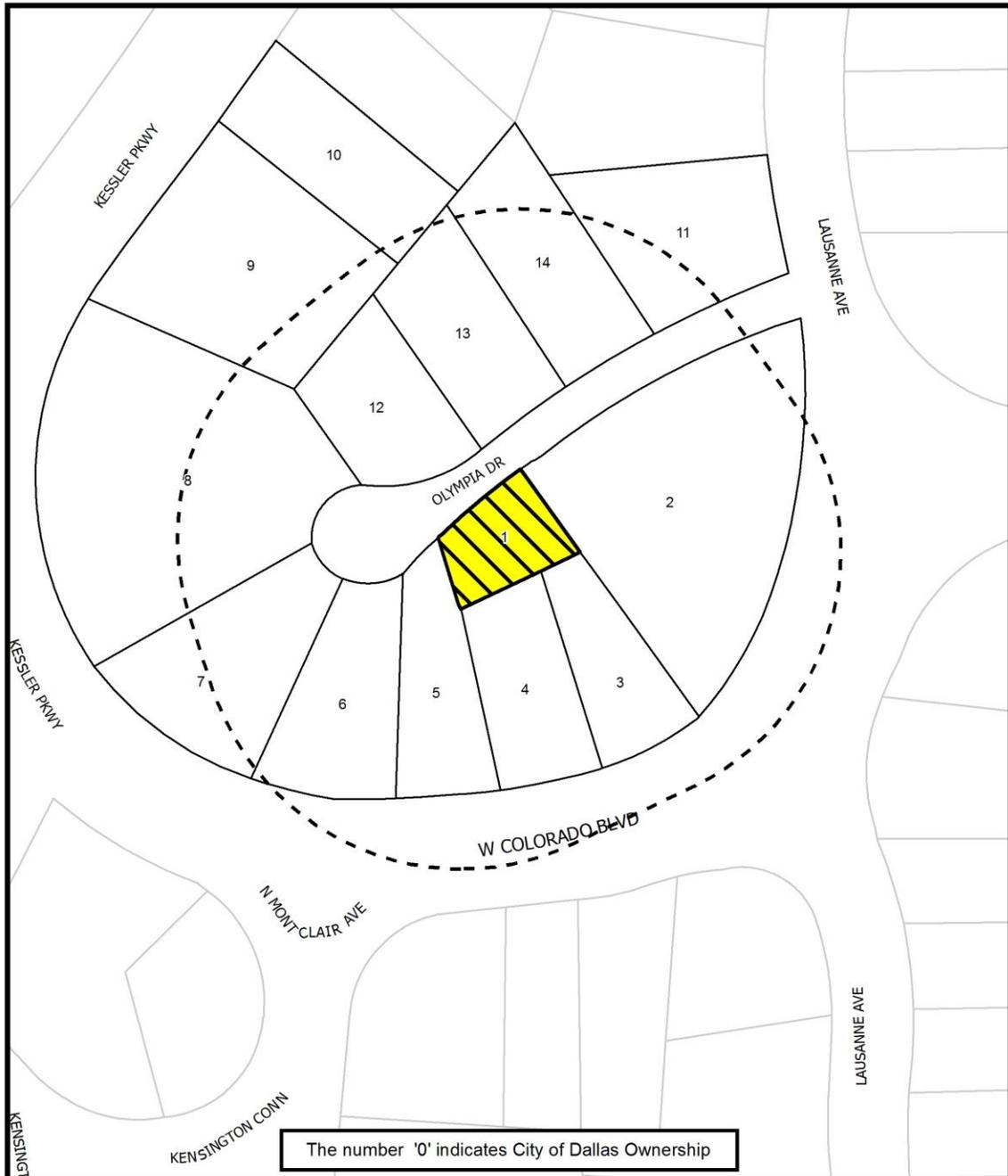
CITY OF DALLAS

Outline of Procedure for Appeals from Decisions of an Administrative Official

An appeal of an administrative official's decision may have very structured procedures that resemble a court hearing, or it may have more informal procedures that resemble a typical case brought before the Board of Adjustment. The parties can decide how they want to present their case. This document accounts for both scenarios. Please note that although there are time limits listed in this outline, the presiding officer reserves the right to alter these time limitations to promote fairness and efficiency.

- I. Explanation of the procedures by the presiding officer
- II. Swearing in of all persons who will testify in the case
- III. Applicant's case: 20 minute limit
 - a. This may resemble a typical Board case where the applicant merely presents his argument to the Board. It may also resemble a court hearing where the applicant gives an opening statement, calls witnesses, and offers evidence.
 - b. If the applicant calls a witness, the administrative official is able to cross examine the witness.
 - c. The applicant may conduct a redirect of his witness.
 - d. The applicant may submit documents to the Board Secretary as long as they comply with the documentary evidence rules set forth in the Board's Rules of Procedures.
 - e. The Board may ask questions at any time. Board member questions will not count towards the time limitation.
- IV. The Administrative Official's case: 20 minute limit
 - a. This may resemble a typical Board case where the administrative official presents his argument to the Board. It may also resemble a court hearing where the administrative official gives an opening statement, calls witnesses, and offers evidence.

- b. If the administrative official calls a witness, the applicant is able to cross examine the witness.
 - c. The administrative official may conduct a redirect of his witness.
 - d. The administrative official may submit documents to the Board Secretary as long as they comply with the documentary evidence rules set forth in the Board's Rules of Procedures.
 - e. The Board may ask questions at any time. Board member questions will not count towards the time limitation.
- V. Rebuttal by the applicant (optional): 3 minutes
- VI. Closing Statements
- a. Applicant's closing statement (optional): 3 minutes
 - b. The administrative official's closing statement (optional): 3 minutes
- VII. Move and second to either affirm, reverse, or amend the administrative official's decision.
- VIII. Open discussion of the case by Board members
- IX. Voting: Four concurring votes are required to reverse or amend the administrative official's decision.




 1:1,200

NOTIFICATION

200'	AREA OF NOTIFICATION
14	NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA178-069**

Date: **5/23/2018**

Notification List of Property Owners

BDA178-069

14 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1520 OLYMPIA DR	MOORE WINFIELD &
2	1177 LAUSANNE AVE	SPANN MICHAEL G &
3	1527 W COLORADO BLVD	SALINAS SANTIAGO
4	1533 W COLORADO BLVD	SCHWEGMANN CHRISTOPHER J & SHELBI L
5	1541 W COLORADO BLVD	SMITH CYNTHIA CARPENTER
6	1545 W COLORADO BLVD	ANDERSON MARK & BETH
7	1553 W COLORADO BLVD	LINIADO MARK E & AMY
8	1525 OLYMPIA DR	GOSSARD WAYNE H
9	2322 KESSLER PKWY	ROACH PAUL ALTON & RHONDA ELAINE HARRIS
10	2316 KESSLER PKWY	MELNICK SUSAN L &
11	1203 LAUSANNE AVE	LEE GEORGE T JR & NATALIE
12	1523 OLYMPIA DR	CHARHON DEVIN DAVID &
13	1517 OLYMPIA DR	STUNDINS KARL A
14	1511 OLYMPIA DR	DUGGER SCOTT O & RHONDA

FILE NUMBER: BDA178-086(OA)

BUILDING OFFICIAL'S REPORT: Application of James Y. Robb, represented by Santos Martinez of Masterplan, for a variance to the front yard setback regulations, a special exception to single family use regulations, and special exceptions to the fence standards regulations at 5505 Chatham Hill Road. This property is more fully described as Lot 22, Block 7/5597, and is zoned R-1ac(A), which requires a front yard setback of 40 feet, limits the number of dwelling units to one, limits the height of a fence in the front yard to 4 feet, and requires a fence panel with a surface area that is less than 50 percent open may not be located less than 5 feet from the front lot line. The applicant proposes to construct and/or maintain a structure and provide a 11 foot 3 inch front yard setback, which will require a 28 foot 9 inch variance to the front yard setback regulations, to construct and/or maintain an additional dwelling unit, which will require a special exception to the single family use regulations, and 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, and to construct and/or maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line, which will require a special exception to the fence standards regulations.

LOCATION: 5505 Chatham Hill Road

APPLICANT: James Y. Robb
Represented by Santos Martinez of Masterplan

REQUESTS:

The following requests have been made on a site that is undeveloped:

1. A request for a variance to the front yard setback regulations of 28' 9" is made to construct and maintain a one-story additional dwelling unit structure with a total "additional dwelling size" of approximately 5880 square feet, part of which is to be located 11' 3" from one of the site's two front property lines (Hollow Way Road) or 28' 9" into this 40' front yard setback;
2. A request for a special exception to the single family use regulations is made to construct and maintain a 1-story "additional dwelling unit" structure;
3. A request for a special exception to the fence standards related to fence height of 5' is made to construct and maintain fences higher than 4' in height in the one of the site's two 40' front yard setbacks (Hathaway Street) – a 7' to 8' solid masonry fence with sliding gates and a 7' high chain-link fence;
4. A request for a special exception to the fence standards related to fence height of 5' is made to construct and maintain fences higher than 4' in height in the other 40' front yard setback (Hollow Way Road) – a 6' 6" to 9' solid masonry fence with sliding gates and a 7' high chain-link fence; and
5. Requests for special exceptions are made to construct and maintain fence panels with surface areas that are less than 50 percent open:

- a) related to a 7' to 8' solid masonry fence with sliding gates located on the Hathaway Street front lot line (or less than 5' from this front lot line); and
- b) related to a 6' 6" to 9' solid masonry fence with sliding gates) located on the Hollow Way Road front lot line (or less than 5' from this front lot line).

STANDARD FOR A VARIANCE:

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

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

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

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

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

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 (variance):

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the August 7th staff review team meeting that while staff recognized that the site is irregular in shape, of a restrictive area due to its two front yard setbacks and with a storm easement that splits the property into unequal parts, and with slope that ranges from eight percent to 33 percent across sections of the property, the applicant had not substantiated how the variance is necessary to permit development of the subject site that differs from other parcels of land that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-1ac(A) zoning district.

STAFF RECOMMENDATION (additional dwelling unit):

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

STAFF RECOMMENDATION (fence standards):

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:

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

Zoning/BDA History:

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. BDA167-012, Property located at 5506 Deloache Avenue (three lots to the north of the site) | <p>On February 22, 2017, the Board of Adjustment Panel B granted a request for a special exceptions to the fence height regulations of 4' and to the fence materials to maintain fence panels with surface areas that are less than 50 percent open located on the</p> |
|---|--|

front lot line (or less than 5' from this front lot line). The Board of Adjustment imposed the submitted revised site plan, landscape plan, and elevation as a condition.

The case report stated that the request was made in conjunction with constructing and maintaining a 7' 6" high open wrought iron fence and gate with 8' high stone columns and in the Hollow Way Road front yard setback, a 7' 6" high open wrought iron fence and gate with 8' high stone columns, and a 7' 6" high board-on-board wood fence with 8' high stone columns in the front yard setback.

2. BDA156-053, Property located at 9362 Hollow Way Road (two lots to the north of the site)

On May 18, 2016, the Board of Adjustment Panel B granted a request for special exception to the fence height regulations of 6', and imposed the submitted site plan/elevation as a condition.

The case report stated that the request was made mostly a 6' – 6' 6" high "decorative wrought iron" fence with 8' high masonry columns parallel to the street; two entry features: on the north side, an 8' – 8' 6" high "secondary" entry gate with 8' high columns; on the south side, a 10' high "main" entry gate with 10' high columns flanked by two approximately 10' long, 8' high solid masonry wing walls; and a 6' high solid masonry fence with a 7' high stone column perpendicular to the street on the south side of the site in the 40' front yard setback, and a 7' 9" high solid masonry fence with an 8' stone column perpendicular to the street on the north side of the site in the 40' front yard setback.

3. BDA95-131, Property located at 5505 Deloache Avenue (one block north of the subject site)

On November 14, 1995, the Board of Adjustment granted requests for special exceptions to the fence height and visual obstruction regulations, and imposed the following condition to the request: Compliance with a revised site/landscape plan and elevation to be submitted to staff by the applicant to comply with the spirit and intent of the foregoing portion of this motion (a maximum height of 6' for the fence, 6.5' for the columns, and 8' for the entrance gate/columns) is required.

GENERAL FACTS/STAFF ANALYSIS (variance):

- This request for variance to the front yard setback regulations of up to 28' 9" focuses on constructing and maintaining a one-story additional dwelling unit structure with a total "additional dwelling size" of approximately 5880 square feet, part of which is to be located 11' 3" from one of the site's two front property lines (Hollow Way Road) or 28' 9" into this 40' front yard setback.
- The property is located in an R-1ac (A) zoning district which requires a minimum front yard setback of 40 feet.
- The subject site has two 40' front yard setbacks (one on the east along Hathaway Street, the other on the west along Hollow Way Road) since the code states that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets.
- On July 18, 2018, the applicant submitted a revised site plan and revised elevation (Attachment B) representing the revised location for the proposed additional dwelling unit structure in the site's front yard setback on Hollow Way Road.
- The submitted revised site plan indicates that portion of the proposed one-story additional dwelling unit structure is located 11' 3" from the Hollow Way Road's front property line or 28' 9" into this 40' front yard setback.
- The subject site is sloped, irregular in shape, and according to the applicant's representative, is 3.43 acres (or approximately 149,410 square feet) in area. The site is zoned A-1ac (A) where lots typically are one acre or 43,560 square feet in area. The site has a storm drainage easement that splits the property into unequal parts.
- The revised site plan indicates that there are over 70 mature trees that represent over 1,000 calipers inches on the property.
- The applicant submitted a document indicating that that the total home size of the proposed main structure on the subject site is approximately 12,200 square feet, and the average of 15 other properties in the same zoning is approximately 10,200 square feet.
- According to DCAD records, there are "no main improvement" or "no additional improvements for property addressed at 5505 Chatham Hill Road.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front 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 R-1ac (A) zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing

this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-1ac(A) zoning classification.

- If the Board were to grant the variance request, and impose the submitted revised site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which in this case an additional dwelling unit structure located 11’ 3” from the site’s Hollow Way Road front property line or 28’ 9” into this 40’ front yard setback.

GENERAL FACTS/STAFF ANALYSIS (additional dwelling unit special exception):

- This request for a special exception to the single family use regulations focuses on constructing and maintaining an existing 1-story additional “dwelling unit” structure on a site that is undeveloped.
- The site is zoned R-1ac (A) where the Dallas Development Code permits one dwelling unit per lot.
- The single family use regulations of the Dallas Development Code states that only one dwelling unit may be located on a lot, and that the board of adjustment may grant a special exception to this provision and authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: 1) be contrary to the public interest; or 2) adversely affect neighboring properties.
- The Dallas Development Code defines “single family” use as “one dwelling unit located on a lot;” and a “dwelling unit” as “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.”
- The Dallas Development Code defines “kitchen” as “any room or area used for cooking or preparing food and containing one or more ovens, stoves, hot plates, or microwave ovens; one or more refrigerators; and one or more sinks. This definition does not include outdoor cooking facilities.”
- The Dallas Development Code defines “bathroom” as “any room used for personal hygiene and containing a shower or bathtub, or containing a toilet and sink.”
- The Dallas Development Code defines “bedroom” as “any room in a dwelling unit other than a kitchen, dining room, living room, bathroom, or closet. Additional dining rooms and living rooms, and all dens, game rooms, sun rooms, and other similar rooms are considered bedrooms.”
- The submitted revised site plan denotes the locations of two building footprints, the larger of the two with what appears to be the existing single family main structure and the smaller of the two denoted as “one story frame”.
- The submitted revised floor plan of what appears to be the “one story frame” denoted on the revised site plan, shows a number of rooms/features that Building Inspection has determined, makes it an additional dwelling unit - that is per Code definition: “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.”
- This request centers on the function of what is proposed to be inside the smaller structure on the site – the “living quarters” structure, specifically its collection of rooms/features shown on the floor plan.

- The application states a request has been made for: Additional dwelling unit does not adversely affect neighboring parties because this guess house is intended to entertain guests by the pool and provide a separate area for family members.
- According to DCAD records, there are “no main improvement” or “no additional improvements for property addressed at 5505 Chatham Hill Road.
- The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions, if approved) and will not adversely affect neighboring properties.
- If the Board were to approve this request, the Board may choose to impose a condition that the applicant comply with the revised site plan if they feel it is necessary to ensure that the special exception will not adversely affect neighboring properties. But granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e. development on the site must meet all required code requirements).
- The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.
- If the Board were to grant this request, Building Inspection would view the structure denoted on the submitted revised site plan as “one story frame” as an additional “dwelling unit”.
- If the Board were to deny this request, Building Inspection would view the structure denoted on the submitted revised site plan as “one story frame” as an “accessory structure” whereby the applicant will be required to comply with the accessory structure code provisions set forth in Section 51A-4.209(6) – provisions including but not limited to how the floor area of any individual accessory structure on a lot, excluding floor area used for parking, may not exceed 25 percent the floor area of the main building.

GENERAL FACTS/STAFF ANALYSIS (fence standards special exceptions):

- The requests for special exceptions to the fence standards regulations related to height and fence panel materials/location from a front lot line focus on:
 - 1) constructing and maintaining fences higher than 4’ in height in the one of the site’s two 40’ front yard setbacks (Hathaway Street) – a 7’ to 8’ solid masonry fence with sliding gates and a 7’ high chain-link fence.
 - 2) constructing and maintaining fences higher than 4’ in height in the one of the site’s two 40’ front yard setbacks (Hollow Way Road) – a 6’ 6” to 9’ solid masonry fence with sliding gates and a 7’ high chain-link fence.
 - 3) constructing and maintaining the aforementioned fences in these front yard setbacks with the aforementioned proposed fences with panels with surface areas that are less than 50 percent open:
 - a) related to a 7’ to 8’ solid masonry fence with sliding gates located on the Hathaway Street front lot line (or less than 5’ from this front lot line); and
 - b) related to a 6’ 6” to 9’ solid masonry fence with sliding gates) located on the Hollow Way Road front lot line (or less than 5’ from this front lot line).

- The property is located in an R-1ac (A) zoning district which requires a minimum front yard setback of 40 feet.
- 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.
- The Dallas Development Code states that in single family districts, a fence panel with a surface area that is less than 50 percent open may not be located less than 5' from the front lot line.
- On July 18, 2018, the applicant submitted a revised site plan and elevation (attachment B) representing the revised location for the proposed fences in the front yard setbacks.
- The submitted revised site plan and revised elevation denotes a 7' to 8' solid masonry fence with sliding gates and a 7' high chain-link fence in the Hathaway Street front yard setback and on this front lot line.
- The submitted revised site plan and revised elevation denotes a 6' 6" to 9' solid masonry fence with sliding gates and a 7' high chain-link fence in the Hollow Way Road front yard setback and on this front lot line.
- The following additional information was gleaned from the submitted revised site plan:
 - Along Hathaway Street: the proposal is represented as being approximately 392' (the fence consist of 312' of chain-link and 80' solid masonry material) in length parallel to the street and approximately 40' perpendicular to the street on the north and south side of the site on this required front yard; located approximately at the property front property line or approximately 20' from the pavement line.
 - Along Hollow Way Road: the proposal is represented as being approximately 511' (the fence consist of 306' of chain-link and 206' solid masonry material) in length parallel to the street and approximately 40' perpendicular to the street on the north and south side of the site on this required front yard; located approximately at the front property line or approximately 20' from the pavement line.
- The applicant has submitted revised site plan and revised elevation documents of the proposal:
 - a) along Hathaway Street with a fence panel having a surface area that is less than 50 percent open and located less than 5' from this front lot line – a 7' to 8' solid masonry fence approximately 80' in length located on this front lot line; and
 - b) along Hollow Way Road with a fence panel having a surface area that is less than 50 percent open and located less than 5' from this front lot line – a 6' 6" to 9' high solid masonry fence approximately 140' in length located on this front lot line.
- The Board of Adjustment Senior Planner conducted a field visit of the site and surrounding area and noted several other fences that appeared to be above 4' in height along Hollow Way Road and Deloache Avenue located in front yard setback some of which have recorded BDA history (see the Zoning/BDA History section of this case report for details).
- As of August 10, 2018, 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 4' and to location and materials on Hathaway Street and Hollow Way Road will not adversely affect neighboring property.
- Granting these special exceptions to the fence standards related to height of up to 4' and to location and materials in certain areas on the site with a condition imposed that the applicant complies with the submitted revised site plan and revised elevation site plan and revised elevation documents, would require the proposal exceeding 4' in height in the front yard setbacks and in some areas solid fence panels on the front lot line to be maintained in the locations and of the heights and materials as shown on these documents.

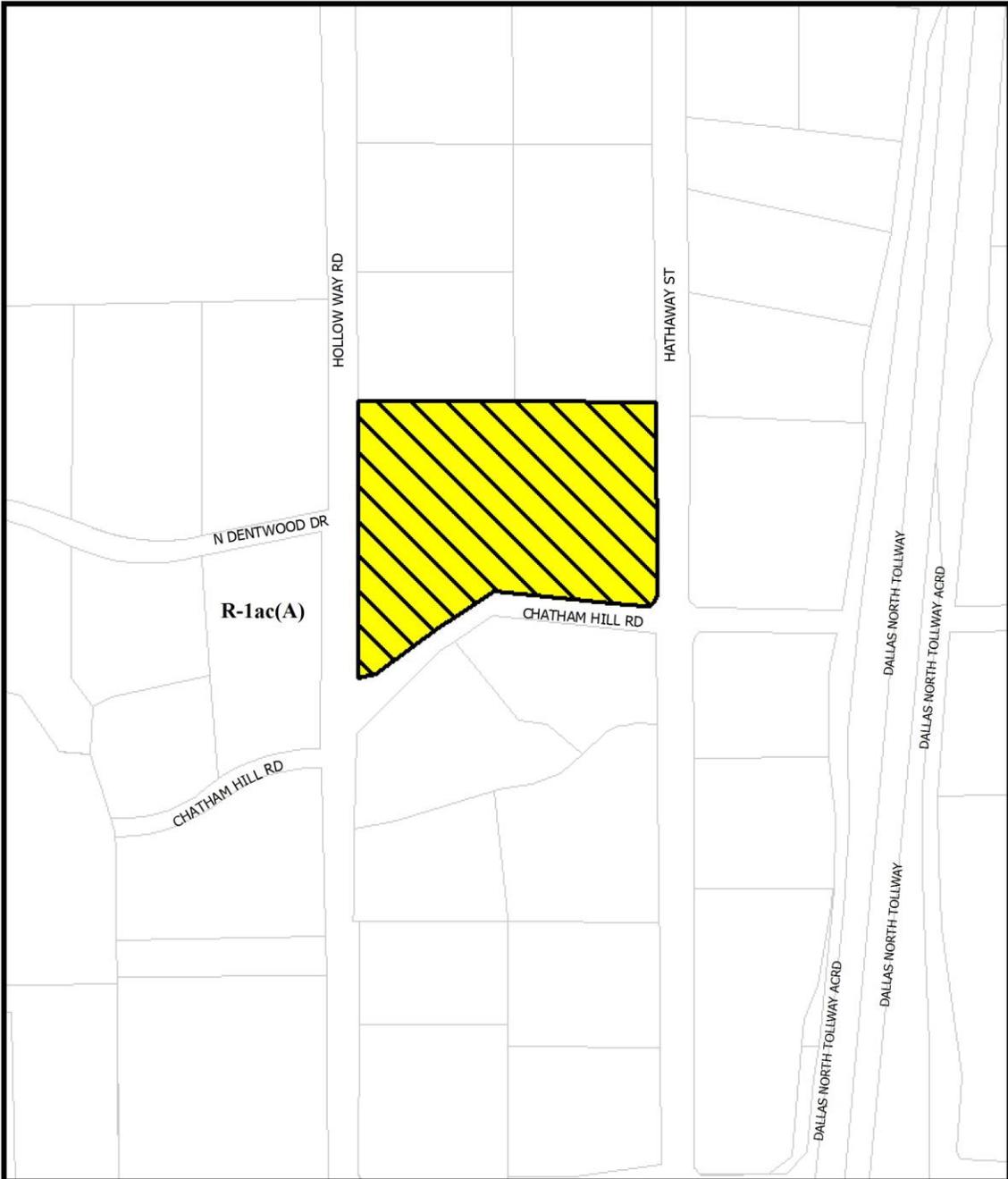
Timeline:

- May 14, 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.
- July 10, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- July 11, 2018: The Board 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 August 1st deadline to submit additional evidence for staff to factor into their analysis; and the August 10th 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."
- July 18, 2018: The Building Inspection Senior Plans Examiners/Development Code Specialist forwarded a revised Building Official's report on this application to the Board Administrator (see Attachment A).
- July 18, 2018: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B).
- July 26, 2018: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachments C).
- August 1, 2018: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachments D).

August 7, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Chief Arborist, 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.

August 10, 2018: The applicant's representative submitted additional documentation to staff (see Attachment E). Note that this information was not factored into the staff recommendation since it was submitted after the August 7th staff review team meeting.

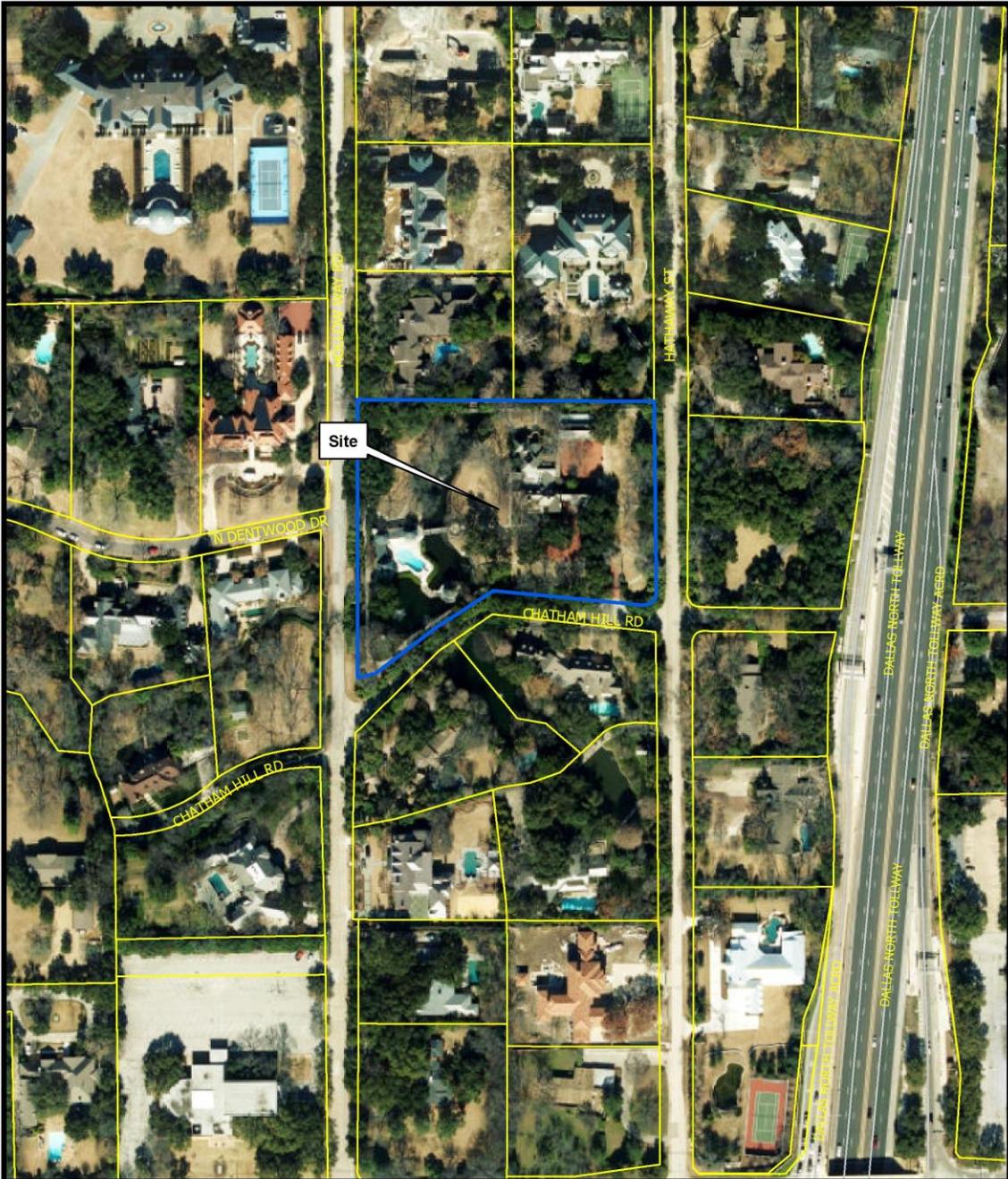


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ZONING MAP

Case no: BDA178-086

Date: 7/26/2018



1:2,400

AERIAL MAP

Case no: BDA178-086

Date: 7/26/2018

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 James Y Robb represented by SANTOS MARTINEZ did submit a request

for a variance to the front yard setback regulations, and for a special exception to the single family regulations, and for a special exception to the fence height regulations, and for a special exception to the fence standards regulations

at 5505 Chatham Hill Road

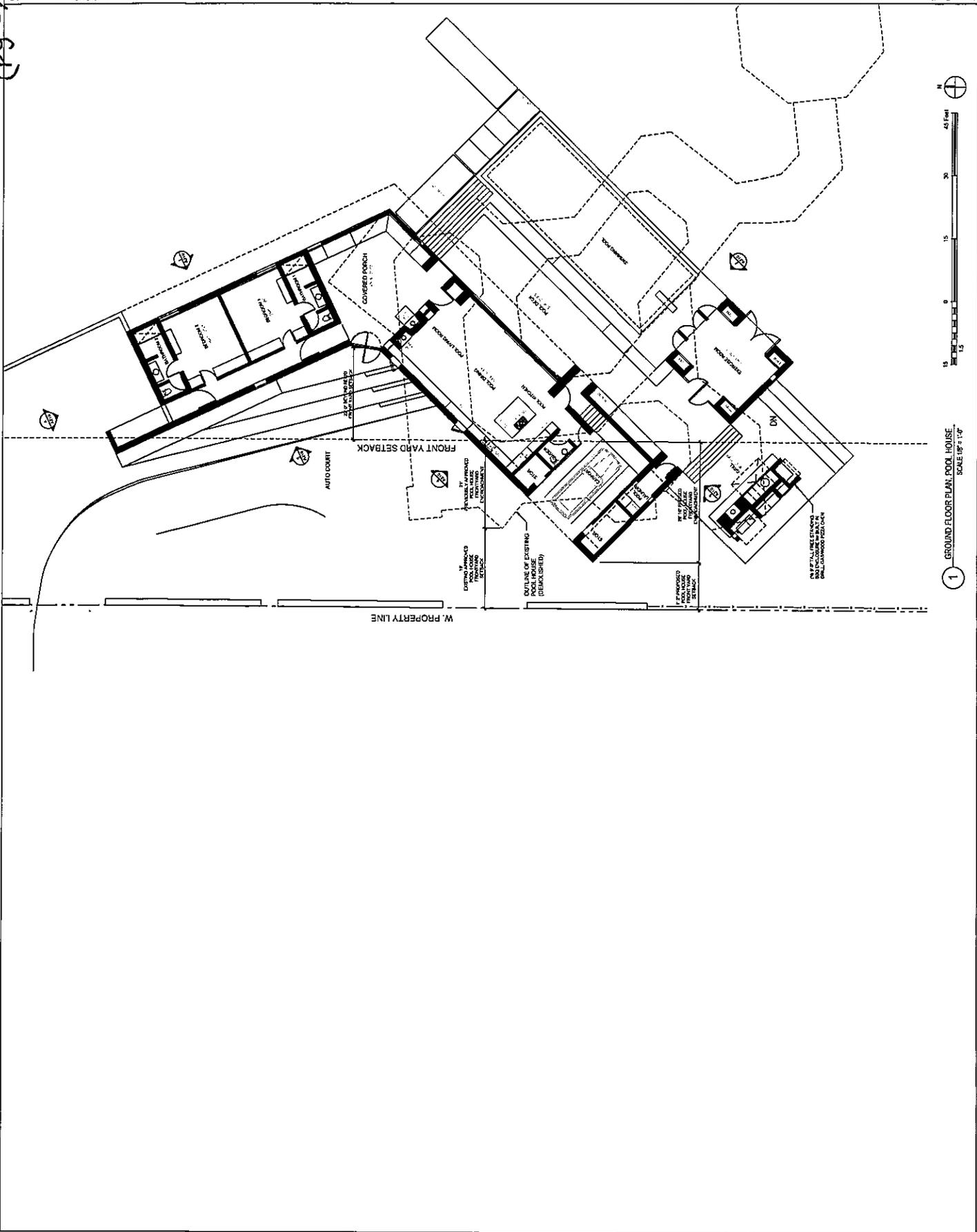
BDA178-086. Application of James Y Robb represented by SANTOS MARTINEZ for a variance to the front yard setback regulations, and for a special exception to the single family regulations, and for a special exception to the fence height regulations, and for a special exception to the fence standards regulations at 5505 CHATHAM HILL RD. This property is more fully described as Lot 22, Block 7/5597, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and limits the number of dwelling unit to one and requires a fence panel with a surface area that is less than 50 percent open may not be located less than 5 feet from the front lot line and requires a front yard setback of 40 feet. The applicant proposes to construct a single family residential structure and provide a 11 foot 3 inch front yard setback, which will require a 28 foot 9 inch variance to the front yard setback regulations, and to construct an additional dwelling unit, which will require a special exception to the single family zoning use regulations, and to construct a 4 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 in a required front yard with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line, which will require a special exception to the fence regulations.

Sincerely,

Philip Sikes, Building Official

BDA 178-086 ATTACH B (pg 2/5)

<p>MARWAH ALSAYED INC ARCHITECTURAL INTERIORS • TERRAZZO</p> <p>1111 West Loop West, Suite 1000 Dallas, Texas 75208 Tel: 214.750.1111</p>		<p>PROJECT NAME CHATHAM HILL RESIDENCE</p>	<p>PROJECT ADDRESS 505 CHATHAM HILL ROAD DALLAS, TX 75202</p>	<p>DATE 08/15/2018</p> <p>SCALE AS SHOWN</p> <p>BY ALSAYED</p> <p>CHECKED BY ALSAYED</p> <p>DATE 08/15/2018</p>	<p>SHEET TITLE GROUND FLOOR PLAN, POOL HOUSE</p>	<p>SHEET NUMBER A114</p>
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BDA178-086 ATTACH B

(PS 4/5)

MARWAN ALSAYED INC
ARCHITECTS

1118 W. CAMPBELL ROAD
DALLAS, TEXAS 75241
PHONE: (214) 343-1111
FAX: (214) 343-1112
WWW.MARWANALSAYED.COM

DATE: 04/15/15

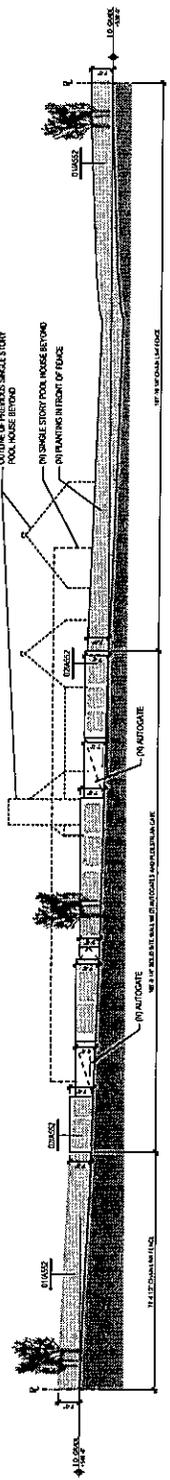
PROJECT NAME
CHATHAM HILL
RESIDENCE

PROJECT NUMBER
5405 CHATHAM HILL ROAD
DALLAS, TX 75220

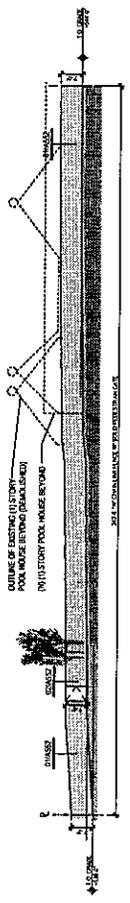
NO.	DATE	BY	DESCRIPTION
1	04/15/15	MS	ISSUED FOR PERMITS
2			
3			
4			
5			

SHEET TITLE
SITE WALL
ELEVATIONS

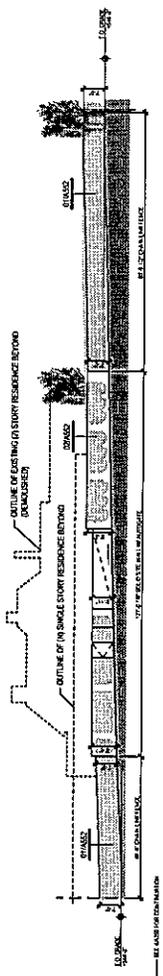
PROJECT NUMBER
5405 CHATHAM HILL ROAD
DALLAS, TX 75220



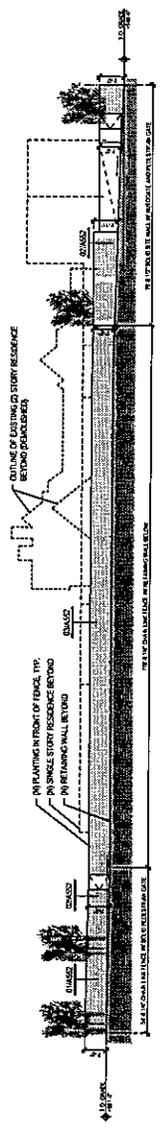
5 HOLLOW WAY ROAD FENCE ELEVATION



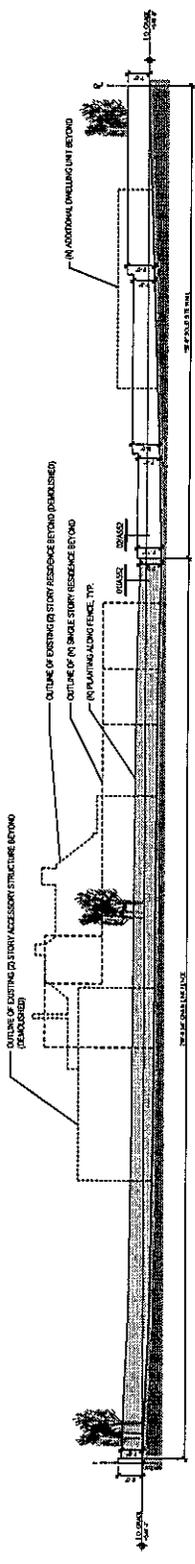
4 CHATHAM HILL ROAD FENCE ELEVATION (CONT.)



3 CHATHAM HILL ROAD FENCE ELEVATION



2 HATHAWAY STREET FENCE ELEVATION



1 NORTH FENCE ELEVATION



Masterplan

Land Use Consultants

BDA178-086 ATTACH C
(Pg 1/2)

July 25, 2018

Mr. Oscar Aguilera
Senior Planner
City of Dallas
1500 Marilla, 5BN
Dallas, TX 75201

RE: BDA 178-086; 5505 Chatham Hill

Mr. Aguilera:

The property owner seeks to construct a new home and guest house at the address listed above. They also seek to install new fences along the perimeter of this lot. These plans require relief from provisions of the development code in order to construct a single-family residence that is comparable to the surrounding properties.

The site was originally developed over thirty years ago. There are over seventy (70) mature trees that represent over 1,000 caliper inches on the property. The proposed layout and design of the new home and guest house enables the property owner to save most of these trees and utilize the existing canopies throughout the site. The design and development of the property has been thoughtful of this existing condition.

The property is unlike others within this zoning district in that it has a storm drainage area that splits the property into unequal parts. This creates natural hardships that limit the development of the property. This storm drainage area creates significant slopes that range from 8% to 33% percent across sections of the property. Along the western side of the storm drainage ditch, there is a ten (10) foot change in grade from the property line sloping down to the drainage ditch. Along the eastern side, there is a fifteen (15) foot change in grade sloping down to the drainage ditch. This is compounded by the irregular shape of the lot with the curve along the southern property line.

In addition to irregularity of the lot shape, slope, and existing tree canopies, the property is classified as maintaining two forty (40) feet front yard setbacks. These are emanating from Holloway Road and Hathaway Street. It should be noted that the original guest house that was constructed in 1983 was permitted only by a variance to the required front yard setback.

The property owner is set to remove the previous guest house structure, pool, and pergola that also encroached into the storm drainage ditch. The new guest house will have a proposed front yard setback of 11' 2" from the western property line. Our site plan indicates the location of the new structure and delineates the covered patio and actual guest quarter areas. A detailed floor plan shows that this structure will have bedrooms, baths, as well as an indoor and outdoor kitchen area. Due to the nature of the property, it is better to have these amenities in a structure on the west side of the storm drainage ditch than having guests shuttle across the pedestrian bridge back

to the main house. This allows the property owner to entertain guests (as did the previous owner) by the pool. It also provides a separate area for family or guests to stay. This guest house is not intended to be utilized as a separate single-family residence. It will not be made available for rental occupancy.

The property owner seeks to install a new perimeter fence along the property line. The new fence is similar to existing fence lines along Holloway Road and Hathaway Street. However, due to the required forty (40) foot front yard setback, it cannot be placed in a similar location as the other fences. Likewise, if the fence was to be installed at the required setback line it would go through portions of the guest house, drive way, and garage.

The property owner seeks to install a seven (7) foot chain link fence along Holloway Road and Hathaway Street at the property line. There are portions of the fence that will be solid when they are in proximity to the main house or guest house. However, with these solid segments in these areas, the majority of these fence lines will be open chain link. Along Holloway Road, the overall openness of this new fence will be 62%. The overall openness of the new fence along Hathaway Street is 72%. The property owner seeks relief for the remaining portions of the fence to provide privacy along those portions of the property with solid panels. The owner will still maintain landscaping along these fence lines to enhance screening and existing conditions.

Although most of these new fences will be seven feet in height, there is a portion of a new fence that will be nine (9) feet tall. This portion is along the northern property line, but within the required front yard, at the northwest corner of the lot.

The exhibits that accompanied this application demonstrate the differences between the previous development and the one proposed. The site plan shows where the previous structures were located in relation to the proposed structures. The site wall elevations demonstrate the differences in the height of the previous structures and what is proposed. The proposed construction does not match the previous height of the former home or guest house.

We believe this application satisfies the standard for approval of a variance request to the required front yard setback. The topography, irregular shape, storm drain ditch, and mature canopy trees are elements that are not self created hardships. The placement of two required front yards on this property is also something that was not created by the property owner. This limits the amount of developable area within the lot.

The property owner has successfully contacted ten (10) of the thirteen (13) property owners within the notification area since May 15, 2018. They have discussed and reviewed the application with these neighbors, some of these conversation occurred on the property. These ten neighbors have indicated support for the fence and guest house portions of this request. The property owner seeks to maintain the existing landscaping elements along the property lines. They may place additional trees or landscaping in areas where some of their neighbors recommended during these conversations. We have asked that they contact your office to acknowledge support for this request.

Please let me know if you may have any questions regarding these items.

Sincerely,



Santos T. Martinez
Authorized representative

Address	Main	Stories
9300 Hathaway	5063	1.5
5446 Dentwood	5145	1.5
9340 Hathaway	5597	1.5
9239 Hathaway	6449	2
5500 Chatham Hill	7302	2
5538 Chatham Hill	7599	2
9330 Hollow Way	9021	2
9245 Hollow Way	9773	1.5
9339 Hathaway	10806	2
9236 Hollow Way	10843	2.5
5526 DeLoache	11159	2
5506 DeLoache	11690	2
5445 Dentwood	13663	2
9362 Hollow Way	14853	2
5424 DeLoache	23676	2



BDA178-086 ATTACH E
p 9 1/6

August 10, 2018

Mr. Oscar Aguilera
Senior Planner
City of Dallas
1500 Marilla, 5BN
Dallas, TX 75201

RE: BDA 178-086; 5505 Chatham Hill

Mr. Aguilera:

The property owner seeks to construct a new home and guest house at the address listed above. They also seek to install new fences along the perimeter of this lot. These plans require relief from provisions of the development code in order to construct a guest house that is comparable to the surrounding properties.

This request seeks relief from the required front yard setback for an accessory structure on the western portion of the property. This is similar to an accessory structure that was approved by the Board of Adjustments in 1983 due to the impact of two front yard setbacks on the property. This accessory structure is proposed to be next to a new pool and outdoor dining area. This structure will have an indoor kitchen and space that would constitute a second dwelling unit. We will demonstrate that the placement of this structure is limited due to the existing property hardships that are not self created.

The property owner seeks to install fences greater than four feet in a required front yard. However, since the property has two front yards, we seek relief prior to the installation of new fences that line up with existing fence lines along this block. Segments of this fence will be solid as to provide privacy and therefore we need to seek approval from the Board to construct these elements.

The property is over two acres in size. Therefore, the removal of any protected tree will require mitigation compliance with the development code. There are over seventy (70) mature trees that represent over 1,000 caliper inches on the property. These trees and their canopies limit the placement of any structure on the property. It would also require substantial mitigation standards if they were to be removed. The property owner seeks to maintain the existing canopies and not remove these trees.

The City of Dallas storm locator map shows that the property is divided in unequal parts by an open storm drainage ditch (Exhibit A). This storm drain collects water from the east and channels it west. However, you will notice on the storm locator map that when this storm drain flows through other properties, it is along a property line or in the rear portion of the lot. On this property, it starts in the middle of the northern property line and moves southwesterly.

It does not evenly split the property or impact just a small portion within a required setback. It moves through the lot and its slopes impact where structures can be placed on the property. We have instructed engineers to prepare a flood way map. We have attached a copy of their findings to demonstrate the limits of the 100 year floodplain (Exhibit B). This requires a minimum finish floor elevation that would not be required on other properties to develop a new home or accessory structure. This is a hardship that is unique to this lot because the other properties along this drainage ditch are not split in an unequal manner.

The slope along the storm drainage ditch is a significant hardship in the development of the property. However, once this area is coupled with the restrictive areas of the required setbacks it greatly reduces the amount of buildable area on the property. Exhibit C identifies the required setbacks in red. The slope areas greater than 8% in purple, and the drainage ditch in blue. These areas alone represent 1.75 acres of land. Our 3.4 acre lot is reduced to just 1.64 acres of developable area. This is a loss of over 50% of the original lot size. This area can be further reduced again when you factor the protected trees throughout the lot.

In reviewing lots in the immediate area, and lots that are greater than two acres in the area, this request for an accessory structure and new single family house is comparable to those in this zoning district. The property owner seeks to construct a one story home and accessory structure. Both will have open air covered porches. Although we factored the covered porches into our floor area, it should be noted that the range of homes in this zoning district and area is 4,197 to 28,996 square feet. The size of guest houses on these same properties range from 278 to 6,318 square feet. The range of cabanas in this area range from 250 to 7,188 square feet.

The proposed development of this property does not exceed these ranges and is closer to the average size than the larger size homes and structures. The proposed new home has a total coverage of 12,582 square feet. However, this includes covered porches. Without the covered porches, the actual livable space is 8,862 square feet. The guest house and pool area has an area of 5,449 square feet that includes covered porches. However, the total livable space is only 2,341 square feet. We believe it is unfair to penalize a property owner for wanting to construct a new home with covered porches and say the home is larger than others in the zoning district. Again, these structures do not exceed the range in size of any home, guest house, or even cabanas. Our lot coverage for these new structures is only 12% out of the allowable 40% for the zoning district. We believe these plans are comparable to the zoning district and satisfy the standards for consideration for approval.

The property owner seeks to install a new perimeter fence along the property line. The new fence is similar to existing fence lines along Holloway Road and Hathaway Street. However, due to the required forty (40) foot front yard setback, it cannot be placed in a similar location as the other fences. Likewise, if the fence was to be installed at the required setback line it would go through portions of the guest house, drive way, and garage.

The property owner seeks to install a seven (7) foot chain link fence along Holloway Road and Hathaway Street at the property line. There are portions of the fence that will be solid when they are in proximity to the main house or guest house. However, with these solid segments in these areas, the majority of these fence lines will be open chain link. Along Holloway Road, the overall openness of this new fence will be 62%. The overall openness of the new fence along Hathaway Street is 72%. The property owner seeks relief for the remaining portions of the fence to provide privacy along those portions of the property with solid panels. The owner will still maintain landscaping along these fence lines to enhance screening and existing conditions.

Although most of these new fences will be seven feet in height, there is a portion of a new fence that will be nine (9) feet tall. This portion is along the northern property line, but within the required front yard, at the northwest corner of the lot.

The exhibits that accompanied this application demonstrate the differences between the previous development and the one proposed. The site plan shows where the previous structures were located in relation to the proposed structures. The site wall elevations demonstrate the differences in the height of the previous structures and what is proposed. The proposed construction does not match the previous height of the former home or guest house. These new structures will be one story which is less than the average 1.5 stories of the homes in the immediate area.

The physical hardships on this property are not self created by the owner. The reduction of developable area by over 50% of the lot size is not limited to one factor but several. The existence of two required forty feet front yards, an irregular shaped lot, significant slope, a drainage ditch, and over seventy (70) protected trees with over 1,000 caliper inches. These are factors that were not created by this property owner. The proposed construction of a guest house and accessory structure is comparable to those in the same zoning district. The property owner has taken considerable time to create a plan that allows a new home and guest house to be constructed within the limits of the developable areas. However, these plans still require some relief from the development code.

The property owner seeks the installation of new chain link fences within a required front yard. In speaking with their neighbors, it was agreed upon to utilize chain link with landscaping for the majority of this fence line. There are segments that will be solid but only in the areas within proximity to the guest house and new home. Our conversations with surrounding neighbors have been utilized in the placement and design of these fences.

We respectfully seek approval for all items listed in our application.

Please let me know if you may have any questions regarding these items.

Sincerely,



Santos T. Martinez

Authorized representative

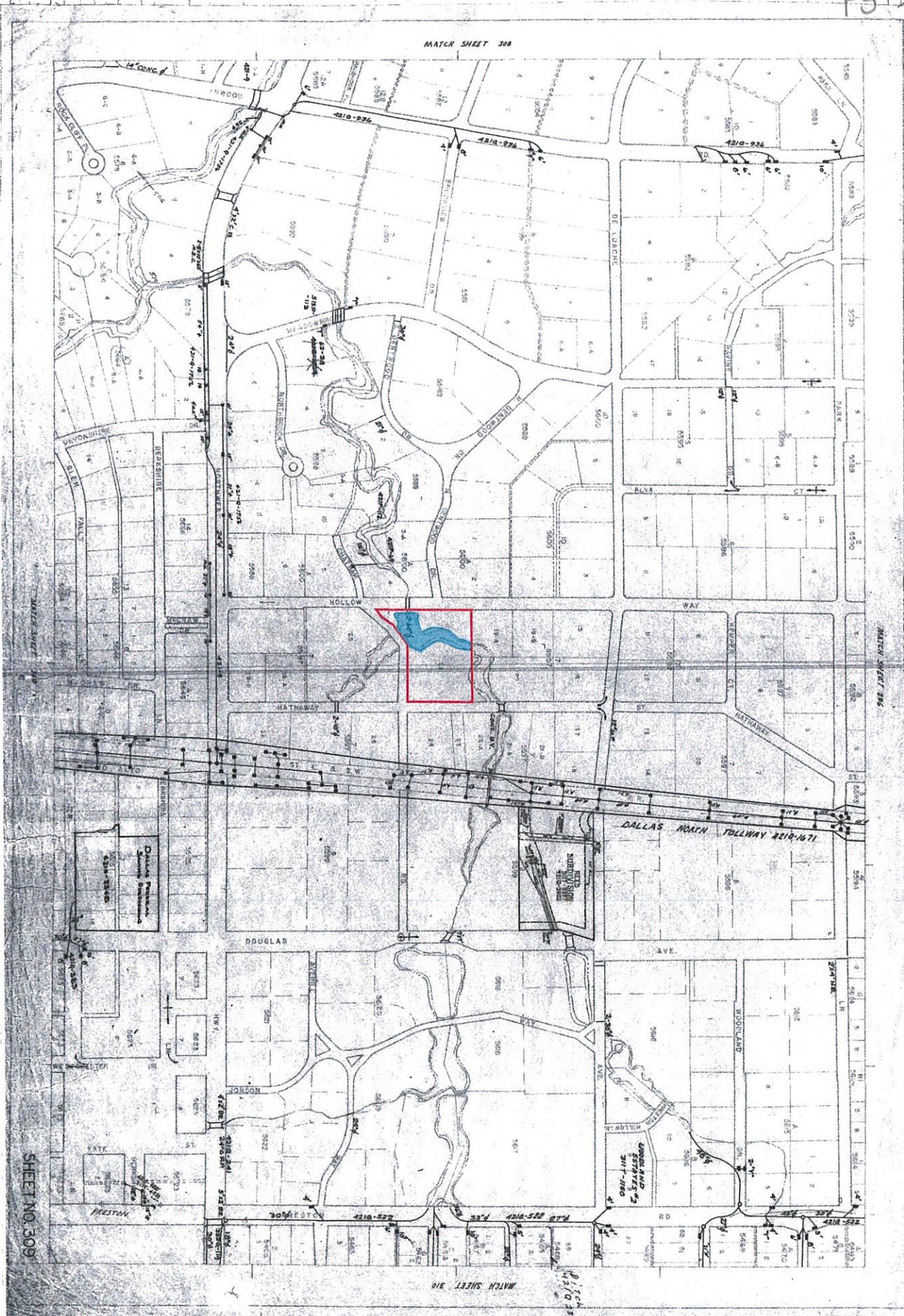
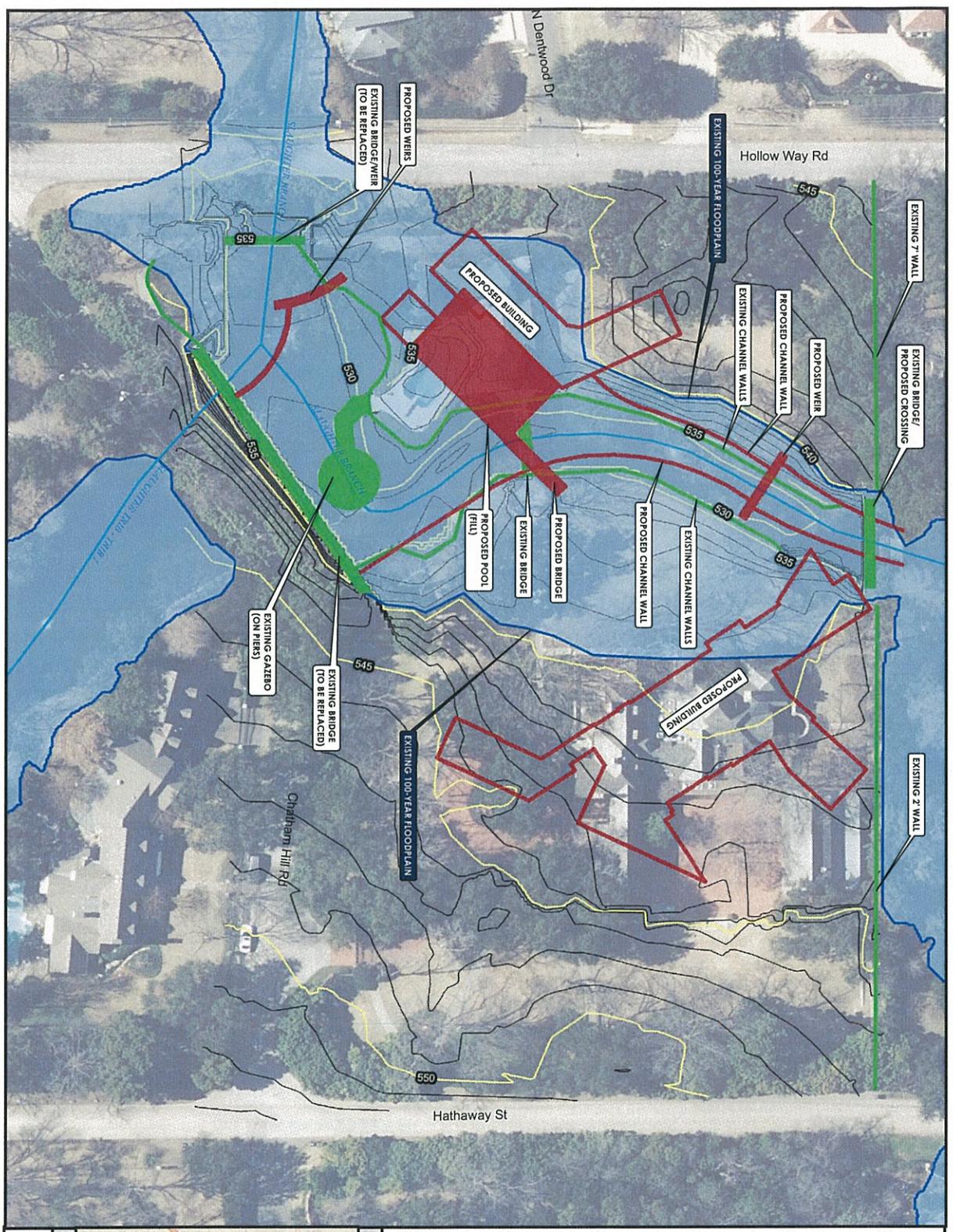


EXHIBIT A

SHEET NO. 309

BDA178-086 ATTACH 5
(pg 5/6)

EXHIBIT B



FLOODPLAIN WORK MAP
EXISTING CONDITIONS
CHATHAM HILL ROAD RESIDENCE

KEY TO FEATURES

- STREAMS
- EXISTING 100-YEAR MAJOR CONTOURS
- MINOR CONTOURS

NOTES
AERIAL IMAGERY IS TAKEN FROM ARCGIS ONLINE

DATUM
NAD 1983 Texas State Plane North Central Zone FIPS 4202

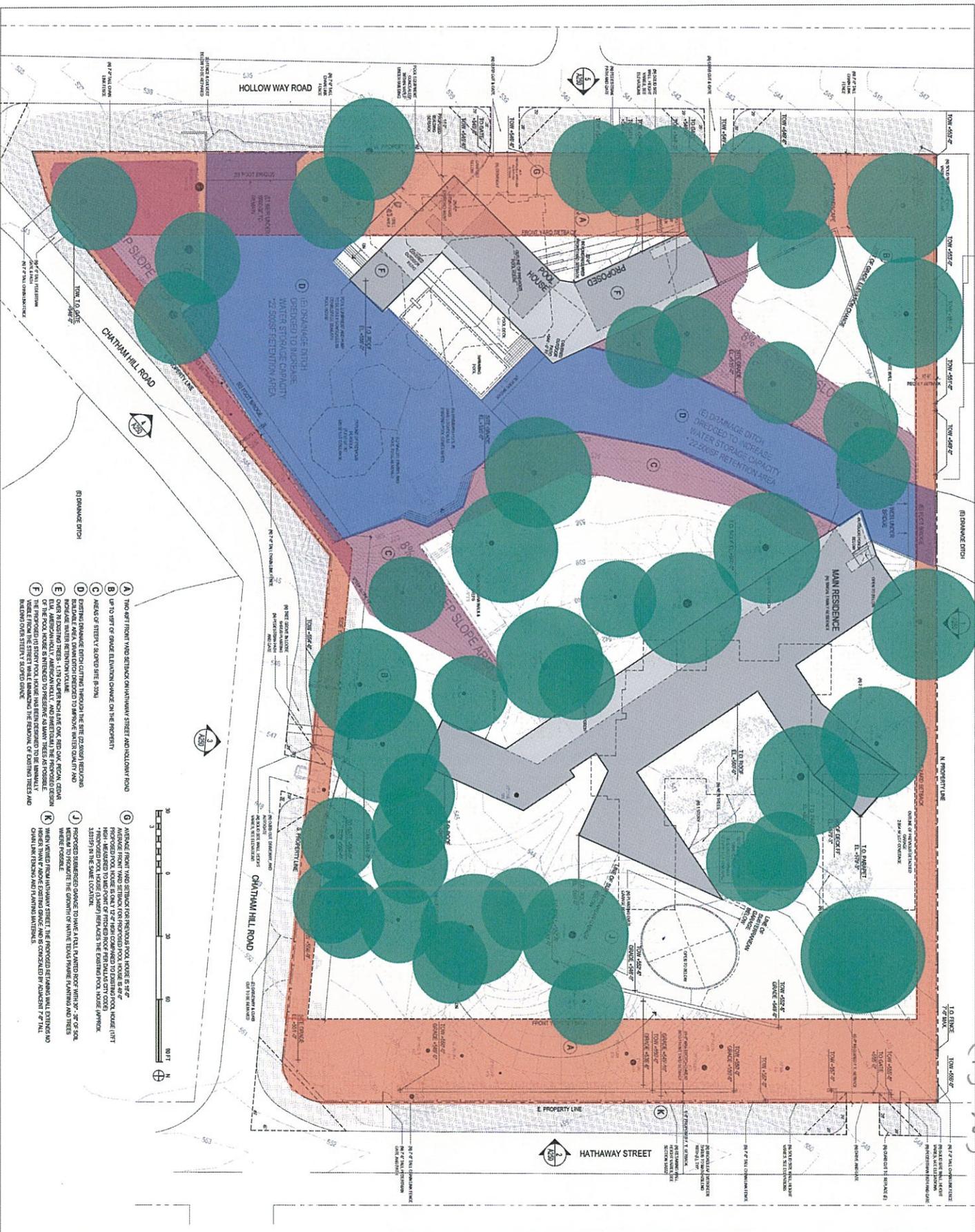
VICINITY MAP

1 inch = 50 feet

0 25 50 feet

July 30, 2018
MAP 1 OF 1
Pacheco Koch

EXHIBIT C
 BD A178-086
 ATTACH B
 CP 6/6



- A. TWO FT FRONT YARD SETBACK ON HATHAWAY STREET AND HOLLOW WAY
- B. UP TO SIX FT GRADE ELEVATION CHANGE ON THE PROPERTY
- C. MEAS OF STEEP SLOPED SITE 8% OR MORE
- D. EXISTING DRAINAGE INFRASTRUCTURE TO BE MAINTAINED OR REPLACED WITH EQUIVALENT OR BETTER QUALITY AND MATERIALS. ALL DRAINAGE INFRASTRUCTURE SHALL BE INSTALLED TO THE STREET OR TO THE DRAINAGE DITCH.
- E. THE POOL HOUSE IS TO BE CONSTRUCTED AS A PERMANENT STRUCTURE. THE POOL HOUSE SHALL BE CONSTRUCTED WITH A MINIMUM OF 10% OVERLAP WITH THE EXISTING POOL HOUSE. THE POOL HOUSE SHALL BE CONSTRUCTED WITH A MINIMUM OF 10% OVERLAP WITH THE EXISTING POOL HOUSE.
- F. THE POOL HOUSE IS TO BE CONSTRUCTED WITH A MINIMUM OF 10% OVERLAP WITH THE EXISTING POOL HOUSE.
- G. THE POOL HOUSE IS TO BE CONSTRUCTED WITH A MINIMUM OF 10% OVERLAP WITH THE EXISTING POOL HOUSE.
- H. THE POOL HOUSE IS TO BE CONSTRUCTED WITH A MINIMUM OF 10% OVERLAP WITH THE EXISTING POOL HOUSE.
- I. THE POOL HOUSE IS TO BE CONSTRUCTED WITH A MINIMUM OF 10% OVERLAP WITH THE EXISTING POOL HOUSE.
- J. THE POOL HOUSE IS TO BE CONSTRUCTED WITH A MINIMUM OF 10% OVERLAP WITH THE EXISTING POOL HOUSE.
- K. THE POOL HOUSE IS TO BE CONSTRUCTED WITH A MINIMUM OF 10% OVERLAP WITH THE EXISTING POOL HOUSE.
- L. THE POOL HOUSE IS TO BE CONSTRUCTED WITH A MINIMUM OF 10% OVERLAP WITH THE EXISTING POOL HOUSE.
- M. THE POOL HOUSE IS TO BE CONSTRUCTED WITH A MINIMUM OF 10% OVERLAP WITH THE EXISTING POOL HOUSE.
- N. THE POOL HOUSE IS TO BE CONSTRUCTED WITH A MINIMUM OF 10% OVERLAP WITH THE EXISTING POOL HOUSE.



MARKMAN ALIAYED INC
 1101 West Main Street, Suite 100, Tallahassee, FL 32301
 Phone: (904) 833-1101
 Fax: (904) 833-1102
 Email: info@markmanaliayed.com

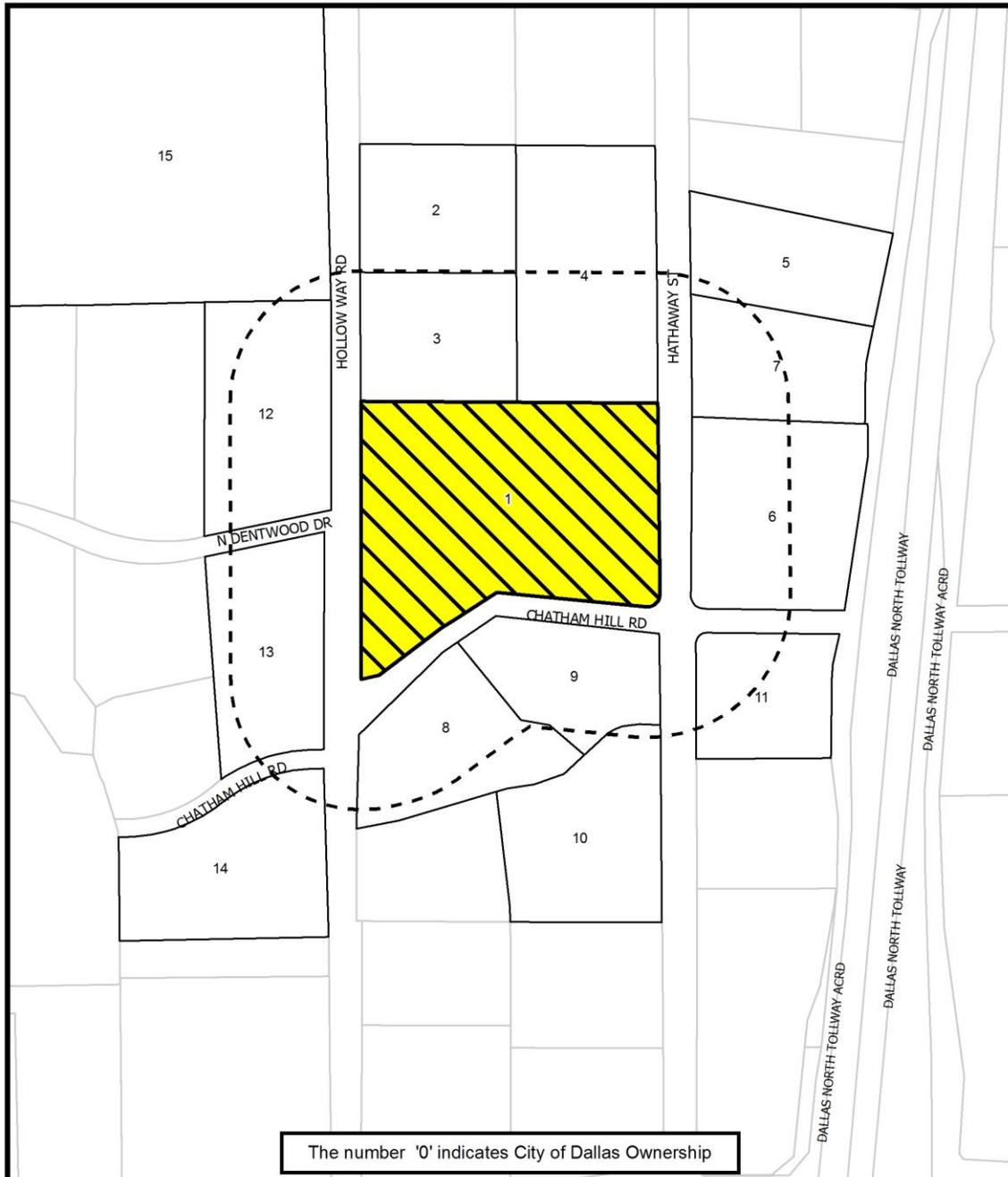
GENERAL ZONING
 A100
 RESIDENTIAL SINGLE-FAMILY
 1.5% MAXIMUM GRADE
 10% MAXIMUM GRADE
 15% MAXIMUM GRADE
 20% MAXIMUM GRADE
 25% MAXIMUM GRADE
 30% MAXIMUM GRADE
 35% MAXIMUM GRADE
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 90% MAXIMUM GRADE
 95% MAXIMUM GRADE
 100% MAXIMUM GRADE

LOT COVERAGE:
 10% MINIMUM
 15% MINIMUM
 20% MINIMUM
 25% MINIMUM
 30% MINIMUM
 35% MINIMUM
 40% MINIMUM
 45% MINIMUM
 50% MINIMUM
 55% MINIMUM
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 65% MINIMUM
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 85% MINIMUM
 90% MINIMUM
 95% MINIMUM
 100% MINIMUM

HEIGHT CALCULATIONS:
 MAXIMUM HEIGHT: 35 FT
 MAXIMUM HEIGHT: 40 FT
 MAXIMUM HEIGHT: 45 FT
 MAXIMUM HEIGHT: 50 FT
 MAXIMUM HEIGHT: 55 FT
 MAXIMUM HEIGHT: 60 FT
 MAXIMUM HEIGHT: 65 FT
 MAXIMUM HEIGHT: 70 FT
 MAXIMUM HEIGHT: 75 FT
 MAXIMUM HEIGHT: 80 FT
 MAXIMUM HEIGHT: 85 FT
 MAXIMUM HEIGHT: 90 FT
 MAXIMUM HEIGHT: 95 FT
 MAXIMUM HEIGHT: 100 FT

LEGEND:
 SHADING: 10% MAXIMUM GRADE
 SHADING: 15% MAXIMUM GRADE
 SHADING: 20% MAXIMUM GRADE
 SHADING: 25% MAXIMUM GRADE
 SHADING: 30% MAXIMUM GRADE
 SHADING: 35% MAXIMUM GRADE
 SHADING: 40% MAXIMUM GRADE
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 SHADING: 75% MAXIMUM GRADE
 SHADING: 80% MAXIMUM GRADE
 SHADING: 85% MAXIMUM GRADE
 SHADING: 90% MAXIMUM GRADE
 SHADING: 95% MAXIMUM GRADE
 SHADING: 100% MAXIMUM GRADE

PROJECT NAME: CHATHAM HILL RESIDENCE
OWNER: CHATHAM HILL RESIDENCE
DATE: 06/06/2018
SCALE: 1" = 10'



The number '0' indicates City of Dallas Ownership

 1:2,400	NOTIFICATION		Case no: BDA178-086
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">15</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 7/26/2018	

Notification List of Property Owners

BDA178-086

15 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5505 CHATHAM HILL RD	BR TRUST THE
2	9362 HOLLOW WAY RD	AFZALIPOUR ARASH
3	9330 HOLLOW WAY RD	SNYDER ROBERT L
4	9339 HATHAWAY ST	ROUSE THOMAS M & SANDRA K
5	9346 HATHAWAY ST	MCCABE MURRAY J & ELIZABETH C
6	9300 HATHAWAY ST	MCGOWEN TAMARA F & JAMES P
7	9340 HATHAWAY ST	SOLOMON RATNA
8	5500 CHATHAM HILL RD	SEALE JOHN HENRY & KATHERINE DYLL
9	5538 CHATHAM HILL RD	CHAND M RIZWAN
10	9239 HATHAWAY ST	DUNNING THOMAS MAYBORN &
11	9266 HATHAWAY ST	SCHAFFER MARTIN J &
12	5445 N DENTWOOD DR	MULLEN MICHEL L &
13	5446 N DENTWOOD DR	CARRY DONALD J &
14	9245 HOLLOW WAY RD	LANGE BENJAMIN & TRACY
15	5424 DELOACHE AVE	CUBAN MARK