

ZONING BOARD OF ADJUSTMENT, PANEL B  
WEDNESDAY, FEBRUARY 21, 2018  
AGENDA

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BRIEFING	5ES 1500 MARILLA STREET DALLAS CITY HALL	11:00 A.M.
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PUBLIC HEARING	COUNCIL CHAMBERS 1500 MARILLA STREET DALLAS CITY HALL	1:00 P.M.
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**Neva Dean, Assistant Director**  
**Steve Long, Board Administrator/Chief Planner**  
**Jennifer Munoz, Senior Planner**

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**MISCELLANEOUS ITEM**

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Approval of the January 17, 2018 Board of Adjustment Panel B Public Hearing Minutes	M1
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**UNCONTESTED CASES**

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<b>BDA178-026(JM)</b> 10932 Barbarosa Drive <b>REQUEST:</b> Application of Joe Cortez for a special exception to the single family use regulations	1
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**HOLDOVER CASE**

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<b>BDA178-009(SL)</b> 1917 Greenville Avenue <b>REQUEST:</b> Application of Robert Baldwin of Baldwin and Associates for a special exception to the Modified Delta Overlay District No. 1 regulations	2
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**REGULAR CASES**

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<b>BDA178-014(SL)</b> 5838 Monticello Avenue <b>REQUEST:</b> Application of V. C. Seth, represented by Karl A. Crawley, to appeal the decision of an administrative official	3
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<b>BDA178-015(SL)</b>	5838 Monticello Avenue <b>REQUEST:</b> Application of V. C. Seth, represented by Karl A. Crawley, for a variance to the front yard setback regulations	4
<b>BDA178-020(SL)</b>	13907 Noel Road <b>REQUEST:</b> Application of Robert Reeves and Associates, represented by Robert Reeves, for variances to the front and side yard setback regulations, and off-street loading regulations, and a special exception to the off-street parking regulations	5
<b>BDA178-023(JM)</b>	6207 Yorkshire Drive <b>REQUEST:</b> Application of Robert Liberi for special exceptions to the fence standards regulations	6

## EXECUTIVE SESSION NOTICE

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

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

**FILE NUMBER:** BDA178-026(JM)

**BUILDING OFFICIAL'S REPORT:** Application of Joe Cortez for a special exception to the single family use regulations at 10932 Barbarosa Drive. This property is more fully described as Lot 9, Block 4/5372, and is zoned R 7.5(A), which limits the number of dwelling units to one. The applicant proposes to construct and/or maintain an additional dwelling unit, which will require a special exception to the single family use regulations.

**LOCATION:** 10932 Barbarosa Drive

**APPLICANT:** Joe Cortez

**REQUEST:**

A request for a special exception to the single family use development standard regulations is made to maintain an existing 1-story additional "dwelling unit" structure on a site developed with a 1-story main single family home/dwelling unit structure.

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

The board may grant a special exception to the single family use development standards 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.

**STAFF RECOMMENDATION:**

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.

## **BACKGROUND INFORMATION:**

### **Zoning:**

<u>Site:</u>	R-7.5(A) (Single family district 7,500 square feet)
<u>North:</u>	R-7.5(A) (Single family district 7,500 square feet)
<u>South:</u>	R-7.5(A) (Single family district 7,500 square feet)
<u>East:</u>	R-7.5(A) (Single family district 7,500 square feet)
<u>West:</u>	R-7.5(A) (Single family district 7,500 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 single family use development standard regulations focuses on maintaining an existing 1-story additional “dwelling unit” structure on a site developed with a 1-story main single family home/dwelling unit structure.
- The site is zoned R-7.5(A) where the Dallas Development Code permits one dwelling unit per lot.
- The single family use regulations of the Dallas Development Code state 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 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 floor plan of what appears to be the “one story frame” denoted on the 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 “one story frame” 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 I wish to construct the dwelling for my elder family member”.
- According to DCAD records, the “main improvement” for property addressed at 10932 Barbarosa Drive is a structure built in 1949 with 776 square feet of total/living area with the following “additional improvements”: a 480 square-foot detached garage. However, according to the site plan submitted, the main structure contains 997 square feet and the “one story frame” has 715 square feet. Additionally, a covered wooden deck and car port structure exist, as indicated on the site plan.
- 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 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.

## **Timeline:**

December 14, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

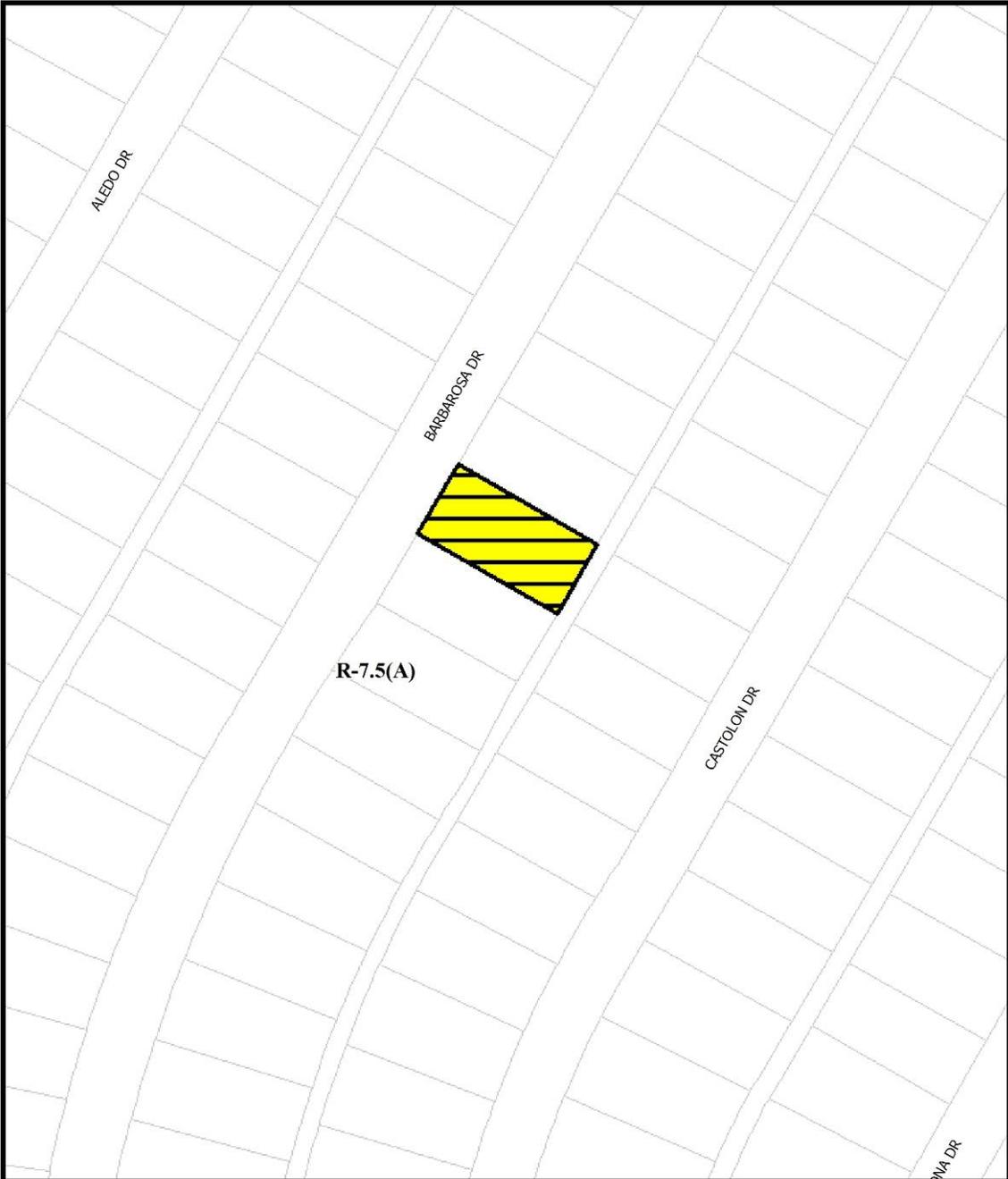
January 5, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

January 9, 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 January 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

February 6, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Development Code Amendment Chief Planner, the Sustainable Development and Construction Department Senior Planners, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

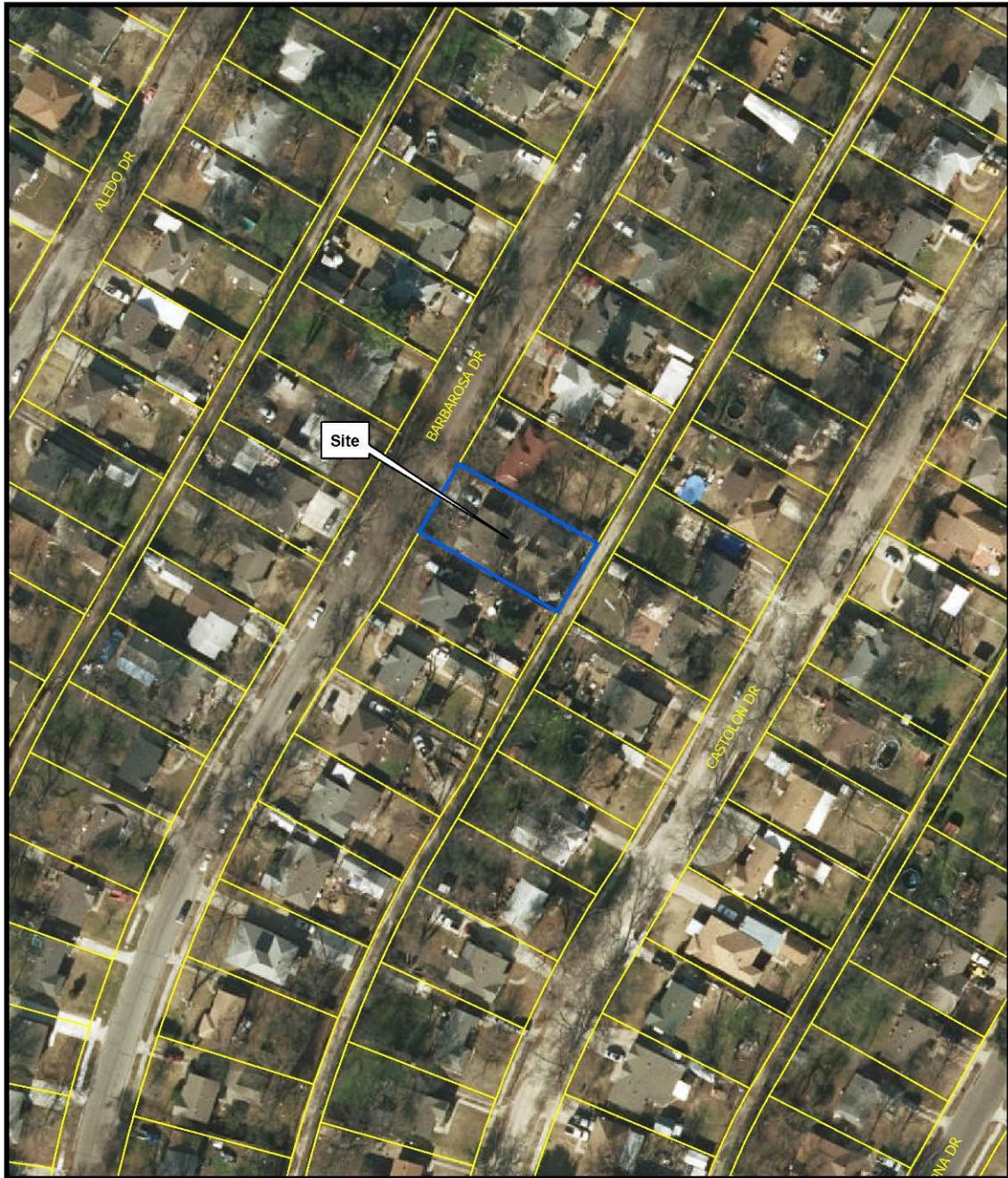


1:1,200

# ZONING MAP

Case no: BDA178-026

Date: 1/10/2018



1:1,200

# AERIAL MAP

Case no: BDA178-026

Date: 1/10/2018



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-026

Data Relative to Subject Property:

Date: 12-15-17

Location address: 10932 BARBAROSA DR DALLAS TX Zoning District: R7-5

Lot No.: 9 Block No.: 4/5372 Acreage: 0.17 Census Tract: \_\_\_\_\_

Street Frontage (in Feet): 1) 60 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): FRANCISCO MUNIZ

Applicant: JOE CORTEZ Telephone: 972-679-2744

Mailing Address: 3168 SPYGLASS DR. GRAND PRAIRIE, TX Zip Code: 75052

E-mail Address: JOE.CORTEZ@TRUENORTHDATA.ORG

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

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

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

Affirm that an appeal has been made for a Variance , or Special Exception , of 466 S.F.  
TO THE FLOOR AREA RATIO FOR AN ACCESSORY STRUCTURE AND  
A SPECIAL EXCEPTION FOR AN ADDITIONAL DWELLING UNIT

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

A DESIRE TO COMMENSURATE ADDITIONAL FLOOR AREA WITHIN CURRENT  
ZONE THAT DOSE NOT CONFLICT WITH PUBLIC INTEREST & WOULD BE 17%<sup>00</sup>  
BELOW THE 45% MAX LOT COVERAGE AND ALLOWING AN ADDITIONAL DWELLING  
UNIT DOES NOT ADVERSELY AFFECT NEIGHBORING AN ADJUTIV PARCELS BECAUSE  
I WISH TO CONSTRUCT THIS DWELLING FOR MY ELDER FAMILY MEMBER

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.

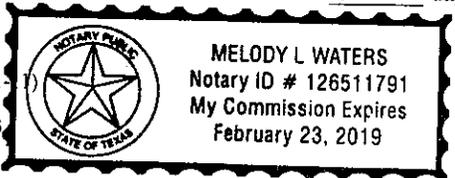
Affidavit

Before me the undersigned on this day personally appeared JOSE A. CORTEZ  
(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 15th day of December, 2017



Melody Waters  
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 Joe Cortez

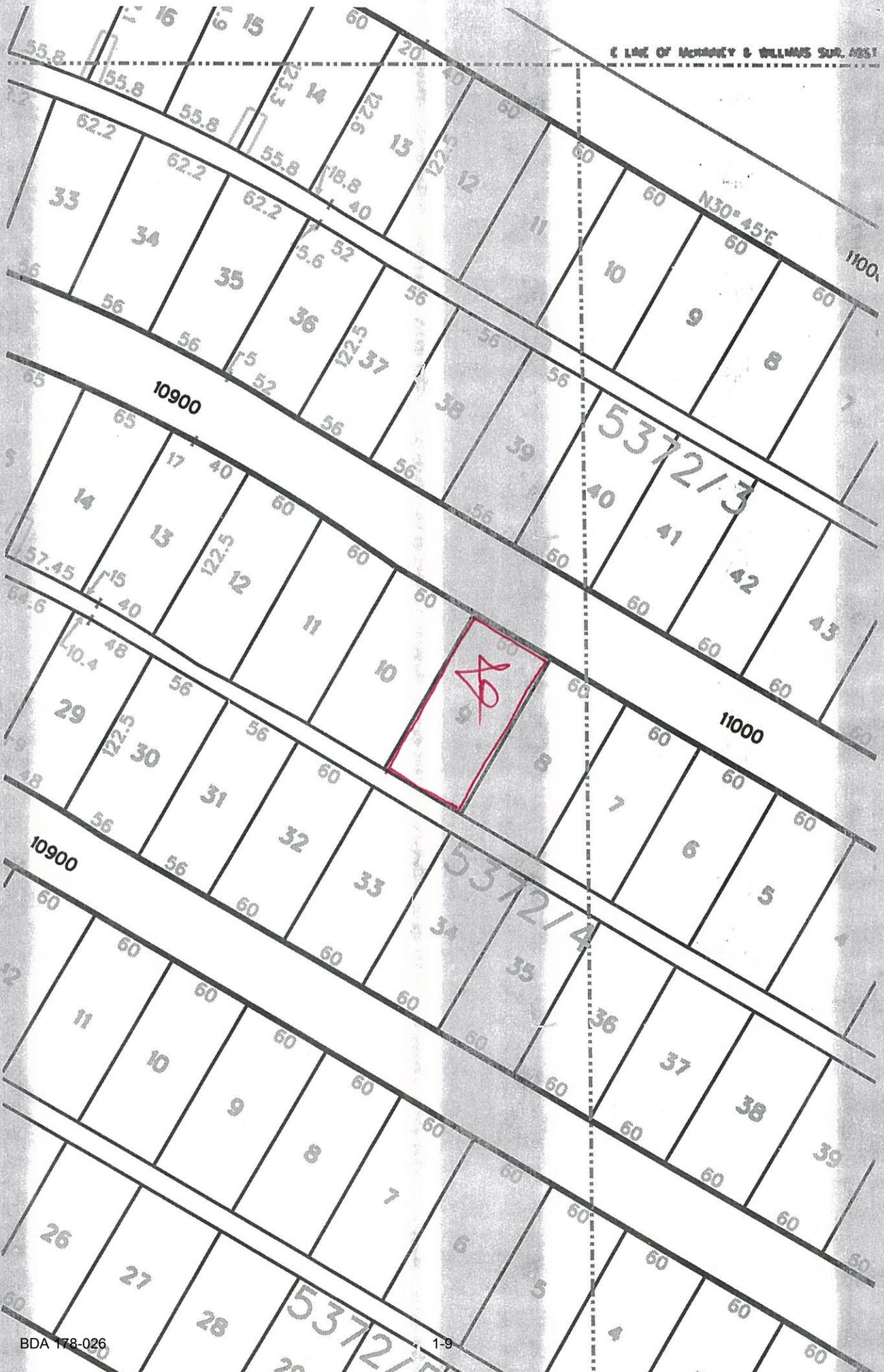
did submit a request for a variance to the floor area ratio regulations, and for a special exception to the single family regulations

at 10932 Barbarosa Drive

BDA178-026. Application of Joe Cortez for a variance to the floor area ratio regulations and for a special exception to the single family regulations at 10932 Barbarosa Dr. This property is more fully described as Lot 9, Block 4/5372, and is zoned R 7.5(A), in which an accessory structure may not exceed 25% of the floor area of the main structure and limits the number of dwelling units to one. The applicant proposes to construct a single family residential accessory structure with 715 square feet of floor area (71.5% of the 997 square foot floor area of the main structure), which will require a 466 square foot variance to the floor area ratio regulations, and to construct an additional dwelling unit, which will require a special exception to the single family zoning use regulations.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official



# City of Dallas

Internal Development Research Site

Legend

Locate Property

Search by:

GIS Account #

Locate

OR

Street address.

10932 Barbarosa

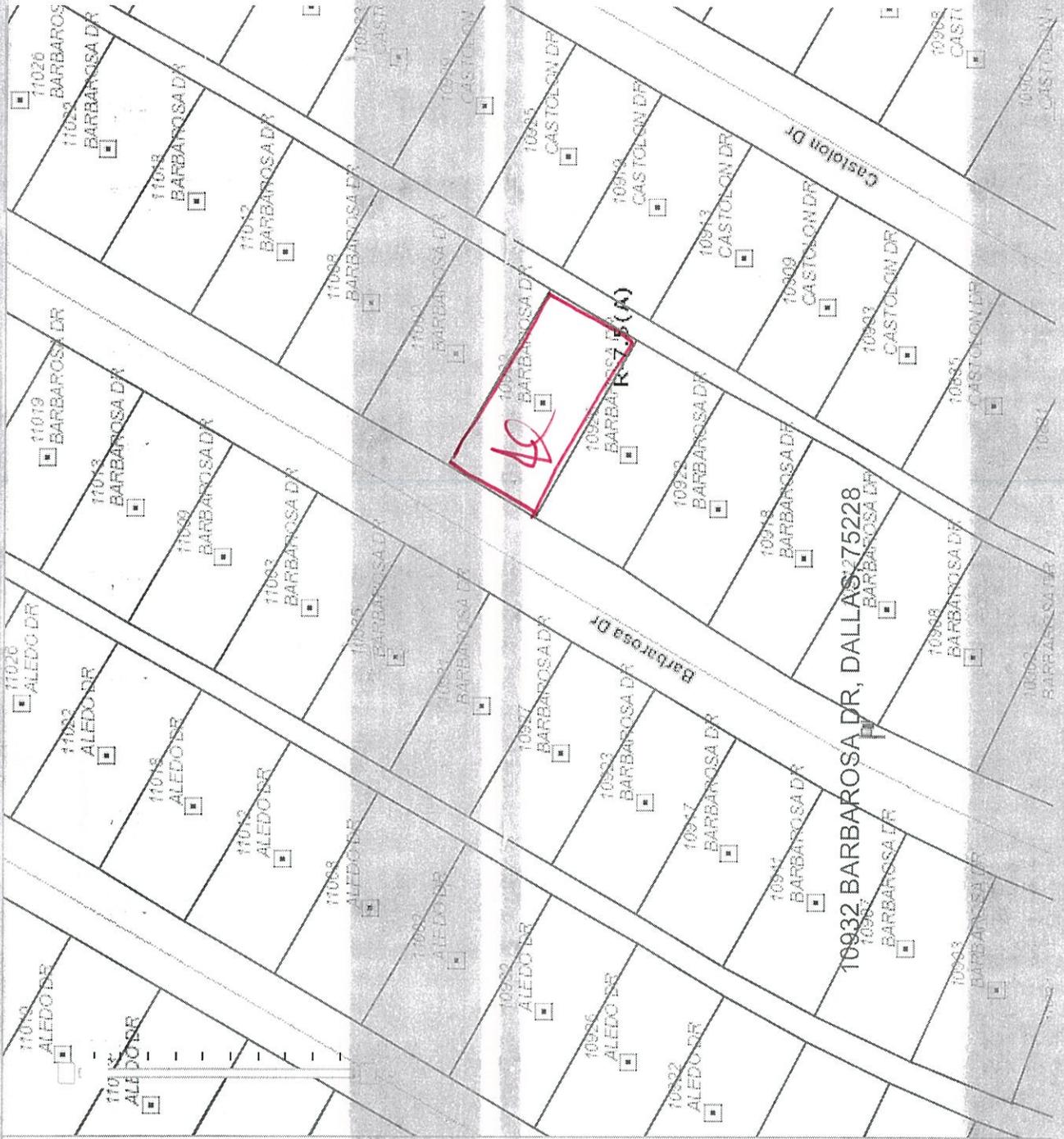
Locate

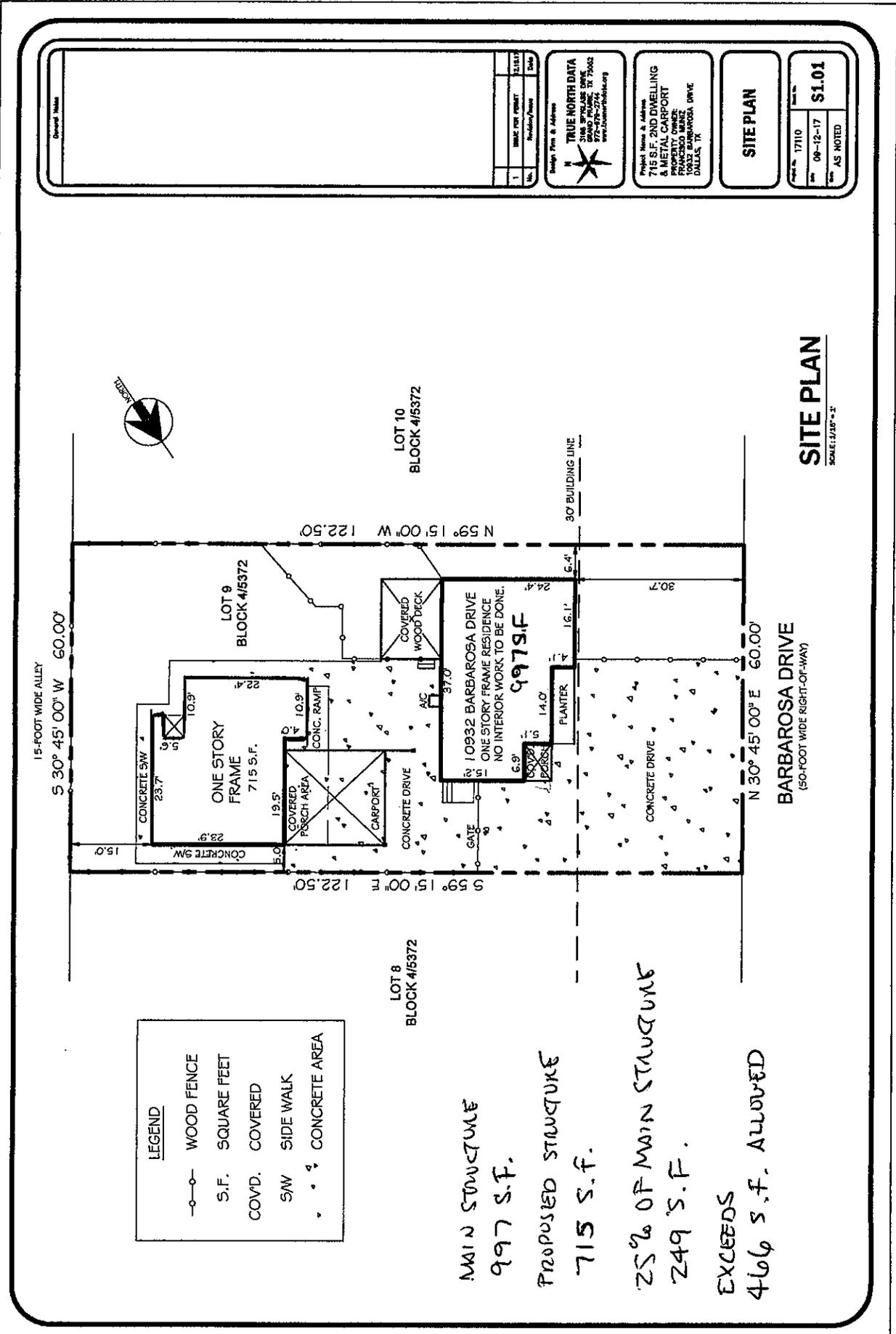
OR

Parcel address.

Use street type for better re

Locate





MAIN STRUCTURE  
997 S.F.

PROPOSED STRUCTURE  
715 S.F.

25% OF MAIN STRUCTURE  
249 S.F.

EXCEEDS  
466 S.F. ALLOWED

**SITE PLAN**  
SCALE: 1/8" = 1'

**SITE PLAN**

Project Name & Address  
715 S.F. 2ND DWELLING  
& METAL CARPORT  
FRANCISCO MINE  
10932 BARBAROSA DRIVE  
DALLAS, TX

Sheet No. 17110  
Date 09-12-17  
Scale AS NOTED

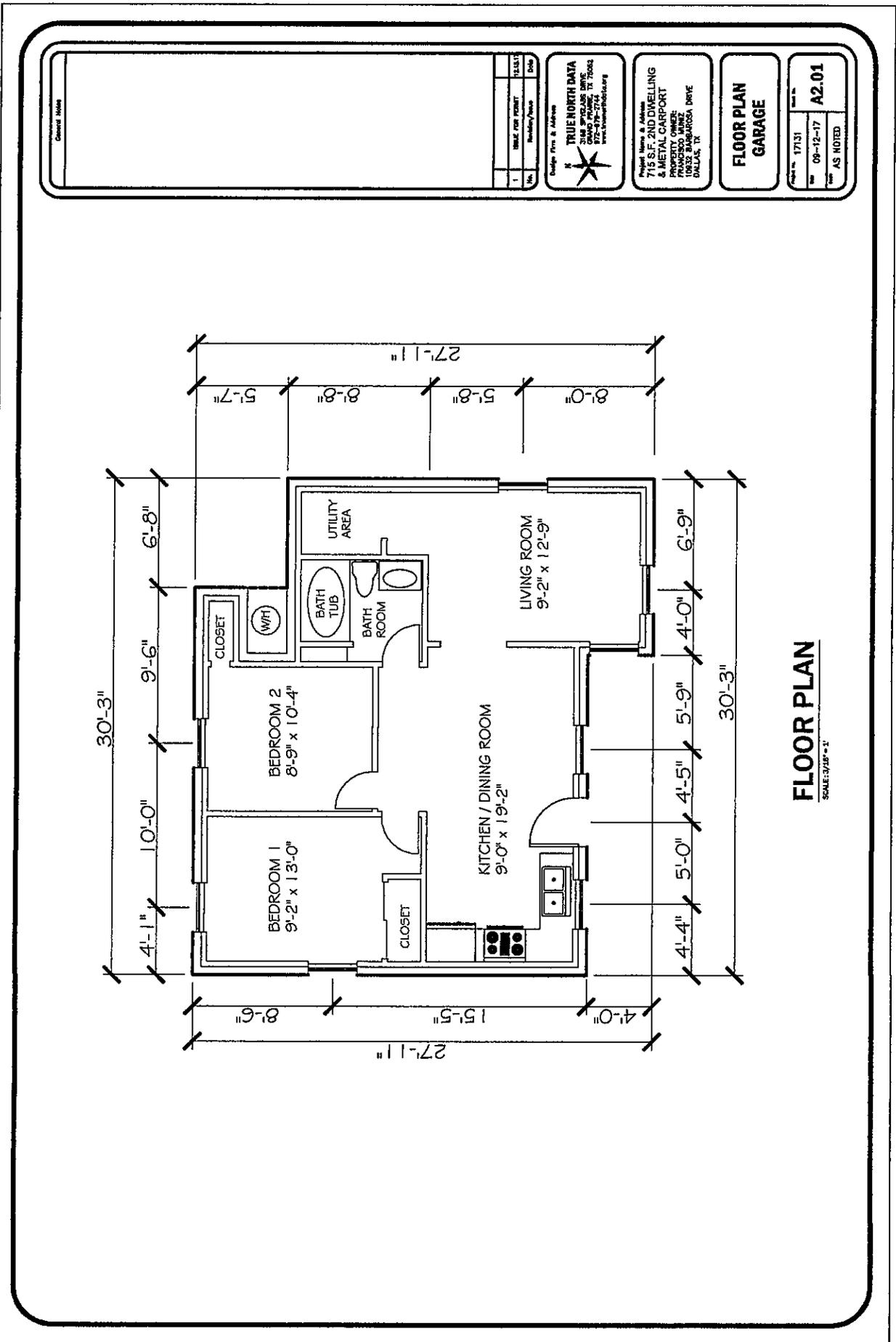
**TRUE NORTH DATA**

Survey Station  
777-876-2724  
www.trueorthdata.com

No.	DATE FOR PERMIT	REVISION/ISSUE	SCALE
1			1/8" = 1'

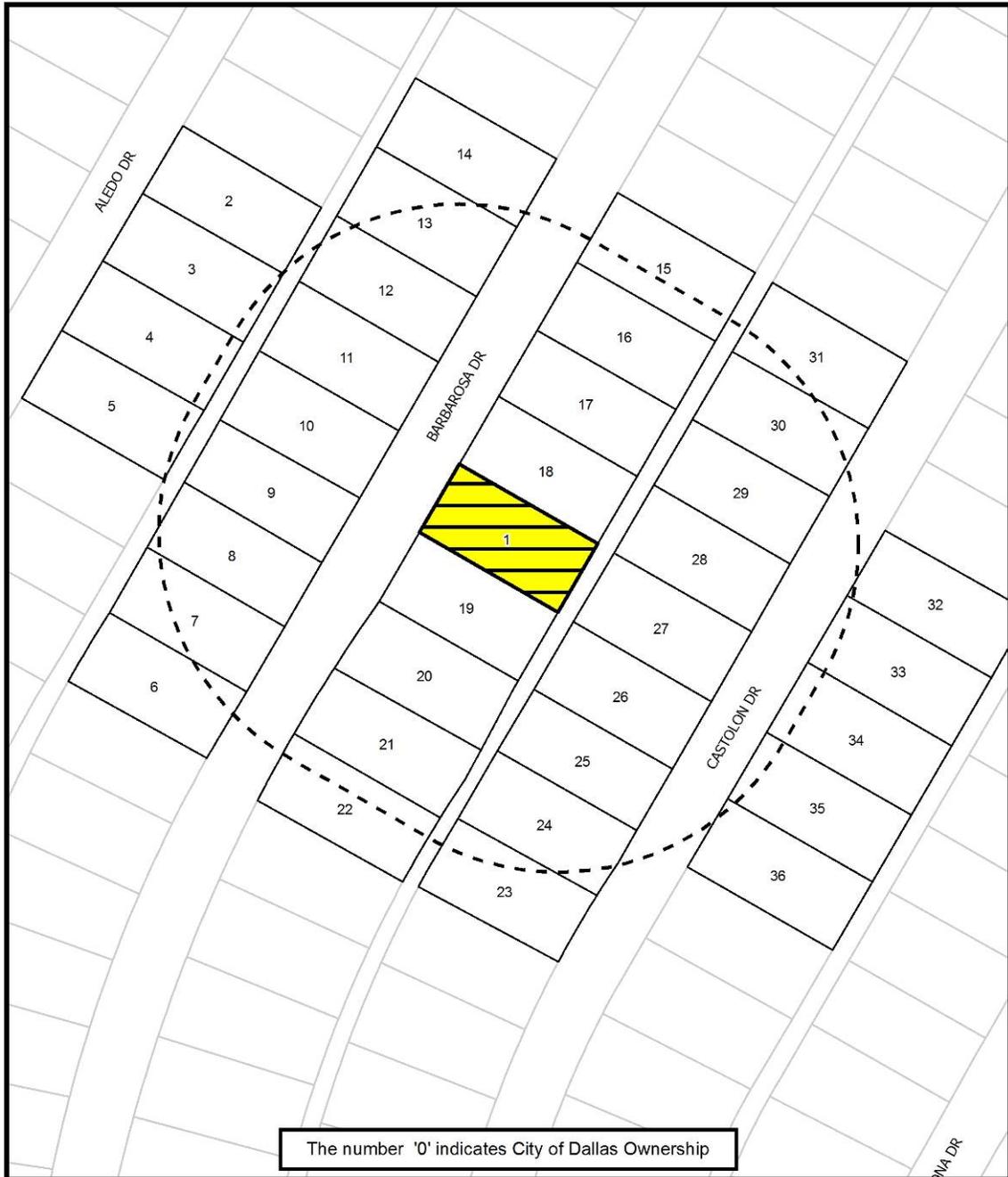
Client Name





**FLOOR PLAN**  
 SCALE: 3/32" = 1'





 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;"><b>200'</b></td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;"><b>36</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	<b>200'</b>	AREA OF NOTIFICATION	<b>36</b>	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <b>BDA178-026</b> Date: <b>1/10/2018</b>
<b>200'</b>	AREA OF NOTIFICATION					
<b>36</b>	NUMBER OF PROPERTY OWNERS NOTIFIED					

# *Notification List of Property Owners*

***BDA178-020***

***29 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	13939 NOEL RD	HPT CW PROPERTIES TRUST
2	13907 NOEL RD	HODGSON CURTIS D &
3	13780 NOEL RD	U S POSTAL SERVICE
4	13741 NOEL RD	IPERS GALLERIA NORTH TOWER I &
5	13741 NOEL RD	GALLERIA HORIZONTAL ASSET LLC
6	13910 DALLAS PKWY	BED BATH & BEYOND INC
7	13900 NOEL RD	CORREA HERMINIA
8	13900 NOEL RD	EVANS AMY
9	13900 NOEL RD	ZHONG XIN
10	13900 NOEL RD	SABETI ARMIN & WENDY
11	13900 NOEL RD	GUERRA KARINA
12	13900 NOEL RD	NGUYEN TUONG V
13	13900 NOEL RD	MALIK IMAD
14	13900 NOEL RD	HOSEY KEVIN E
15	13900 NOEL RD	HARRIS MEGHAN A
16	13900 NOEL RD	HILL CHRISTOPHER M
17	13900 NOEL RD	BERGEN JACQUELINE A &
18	13900 NOEL RD	BOROWSKI OTYLIA
19	13900 NOEL RD	BALOUCHE FAHIM
20	13900 NOEL RD	HAGHI BEHZAD & YVETTE
21	13900 NOEL RD	NGO MAI T
22	13900 NOEL RD	ROBINSON MARIA C
23	13900 NOEL RD	BELLA FLUCHAIRE LLC
24	13900 NOEL RD	VILLERE MICHAEL PIERRE
25	13900 NOEL RD	WATSON ROBERT
26	13900 NOEL RD	WYLIE CINDY L

01/10/2018

<b>Label #</b>	<b>Address</b>	<b>Owner</b>
27	13900 NOEL RD	WINSLOW WARREN A III
28	13900 NOEL RD	SU KORBAN C & NINTHALA
29	13900 NOEL RD	COLLI JULIANA M

**FILE NUMBER:** BDA178-009(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Robert Baldwin of Baldwin and Associates for a special exception to the Modified Delta Overlay District No. 1 regulations at 1917 Greenville Avenue. This property is more fully described as part of Lots 19 & 20, Block C/1983, and is zoned PD 842 (MD 1), which states that the right to nonconforming delta parking credits are lost if the use is vacant for twelve months or more. The applicant proposes to carry forward nonconforming parking spaces under the delta theory lost because of a use that was discontinued or vacant for 12 months or more, which will require a special exception to the Modified Delta Overlay District No. 1 regulations.

**LOCATION:** 1917 Greenville Avenue

**APPLICANT:** Robert Baldwin of Baldwin and Associates

**REQUEST:**

A request for a special exception to the Modified Delta Overlay District No. 1 regulations to carry forward nonconforming parking spaces under the delta theory that were terminated since the use on part of the site was discontinued or remained vacant for 12 months or more is made in order for the applicant to obtain a Certificate of Occupancy for an office use in the vacant structure/storefront on the subject site.

**STANDARD FOR SPECIAL EXCEPTION TO THE MODIFIED DELTA OVERLAY DISTRICT No. 1 REGULATIONS TO CARRY FORWARD NONCONFORMING PARKING AND LOADING SPACES UNDER THE DELTA THEORY WHEN A USE IS DISCONTINUED OR REMAINS VACANT FOR 12 MONTHS OR MORE:**

The Modified Delta Overlay District No. 1 states that the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:

1. A decline in the rental rates for the area which has affected the rental market.
2. An unusual increase in the vacancy rates for the area which has affected the rental market.
3. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

**ORIGINAL STAFF RECOMMENDATION (January 17, 2018):**

Denial

Rationale:

- Staff had concluded that the applicant had not demonstrated that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance which shall include but not be limited to the following:
  1. A decline in the rental rates for the area which has affected the rental market.
  2. An unusual increase in the vacancy rates for the area which has affected the rental market.
  3. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

**REVISED STAFF RECOMMENDATION (February 21, 2018):**

Denial without prejudice

Rationale:

- Staff has determined since the January 17<sup>th</sup> public hearing there are no longer any delta credits to restore on the property.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 842, MD-1 (Planned Development, Modified Delta Overlay)  
North: PD 842, MD-1 (Planned Development, Modified Delta Overlay)  
South: PD 842, MD-1 (Planned Development, Modified Delta Overlay)  
East: PD 842, MD-1 (Planned Development, Modified Delta Overlay)  
West: PD 842, MD-1 (Planned Development, Modified Delta Overlay)

**Land Use:**

The subject site is developed with a vacant one-story commercial structure. The areas to the north, south, and east are developed with commercial/retail uses; and the area to the west is developed with a surface parking lot.

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

1. BDA145-011, Property at 1909 Greenville Avenue (approximately two storefronts south of the subject site)

On January 20, 2015, the Board of Adjustment Panel A granted a request for a special exception to the Modified Delta Overlay District No. 1 regulations.

The case report stated the request was made to carry forward nonconforming parking spaces under the delta theory that were terminated since the use on part of the site was discontinued or remained vacant for 12 months or more.

2. BDA156-010, Property at 1904 Greenville Avenue (property southeast of the subject site)

On March 22, 2016, the Board of Adjustment Panel A granted a request for a special exception to the Modified Delta Overlay District No. 1 regulations to carry forward nonconforming parking spaces under the delta theory that were terminated since the use on part of the site was discontinued or remained vacant for 12 months or more is made in order for the applicant to obtain a Certificate of Occupancy for a retail use on a site that was developed with a vacant structure.

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

- This request focused on carrying forward nonconforming parking spaces under the delta theory terminated because a part of the structure/use on the site was discontinued or remained vacant for 12 months or more made in order for the applicant to obtain a Certificate of Occupancy for an office use in the vacane structure/storefront on the site.
- The subject site is zoned PD 842, Modified Delta Overlay District 1.
- Section 51A-4.704(b)(4) of the Dallas Development Code provides the following with regard to “nonconformity as to parking or loading”:
  - Increased requirements. A person shall not change a use that is nonconforming as to parking or loading to another use requiring more off-street parking or loading unless the additional off-street parking and loading spaces are provided.
  - Delta theory. In calculating required off-street parking or loading, the number of nonconforming parking or loading spaces may be carried forward when the use is converted or expanded. Nonconforming rights as to parking or loading are defined in the following manner: required parking or loading spaces for existing use minus the number of existing parking or loading spaces for existing use equals nonconforming rights as to parking or loading.

- Decreased requirements. When a use is converted to a new use having less parking or loading requirement, the rights to any portion of the nonconforming parking or loading that are not needed to meet the new requirements are lost.
- In 1987, the City Council created “Modified Delta Overlay Districts” in those areas where it has determined that a continued operation of the delta theory is not justified because there is no longer a need to encourage redevelopment and adaptive reuse of existing structures, or a continued application of the delta theory will create traffic congestion and public safety problems and would not be in the public interest.
- In a modified delta overlay district, the city council may limit the number of percentage of nonconforming parking or loading spaces that may be carried forward by a use under the delta theory. An ordinance establishing a modified delta overlay district may not increase the number of nonconforming parking or loading spaces that may be carried forward under the delta theory when a use is converted or expanded.
- An ordinance establishing a modified delta overlay district must provide that when a use located in the district is converted to a new use having less parking or loading requirements, the rights to any portion of the nonconforming parking or loading not needed to meet the new requirements are lost.
- An ordinance establishing a modified delta overlay district may provide that rights under the delta theory terminate when a use for which the delta theory has been applied is discontinued.
- In 1987, the City Council established Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:
  - That no nonconforming parking spaces may be carried forward by a use under the delta theory when a use in this district is expanded.
- In 1995, the City Council amended Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:
  - The right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:
    1. A decline in the rental rates for the area which has affected the rental market.
    2. An unusual increase in the vacancy rates for the area which has affected the rental market.
    3. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.
- According to DCAD, the property at 1917 Greenville Avenue is developed with a “free standing retail store” with 3,540 square feet built in 1929.
- Staff determined after the January 17<sup>th</sup> public hearing that there are no longer any delta credits to restore on the property/subject site.

## **Timeline:**

- November 14, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- December 1, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- December 4, 2017: The Board Administrator emailed the applicant’s representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the December 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the January 5<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- January 2, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for January public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialists, the Sustainable Development and Construction Project Engineer, and the Assistant City Attorney to the Board.
- No review comment sheets were submitted in conjunction with this application.
- January 17, 2018: The Board of Adjustment Panel B conducted a public hearing on this application, and delayed action on this application until their next public hearing to be held on February 21, 2018.
- January 19, 2018: The Board Administrator wrote the applicant a letter of the board’s action; the January 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials.

January 19, 2018: The Sustainable Development and Construction Building Inspection Chief Planner emailed the Board of Adjustment Chief Planner/Board Administrator information about this request (see Attachment A). The Chief Planner stated that staff had confirmed that this property lost their delta credits; therefore, there were no longer any deltas left to restore. The note on the last CO from 2010 stated that all of the parking required for the Alcoholic Beverage Establishment land use was obtained via 4 parking spaces on site and a remote parking agreement. This parking agreement was terminated with notes stating that the parking agreement was terminated due to discontinuation of use, a new CO and parking agreement will be required to occupy 1917 Greenville.

February 6, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Development Code Amendment Chief Planner, the Sustainable Development and Construction Department Senior Planners, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

**BOARD OF ADJUSTMENT ACTION    JANUARY 17, 2018**

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

APPEARING IN OPPOSITION:    No one

MOTION:    **Shouse**

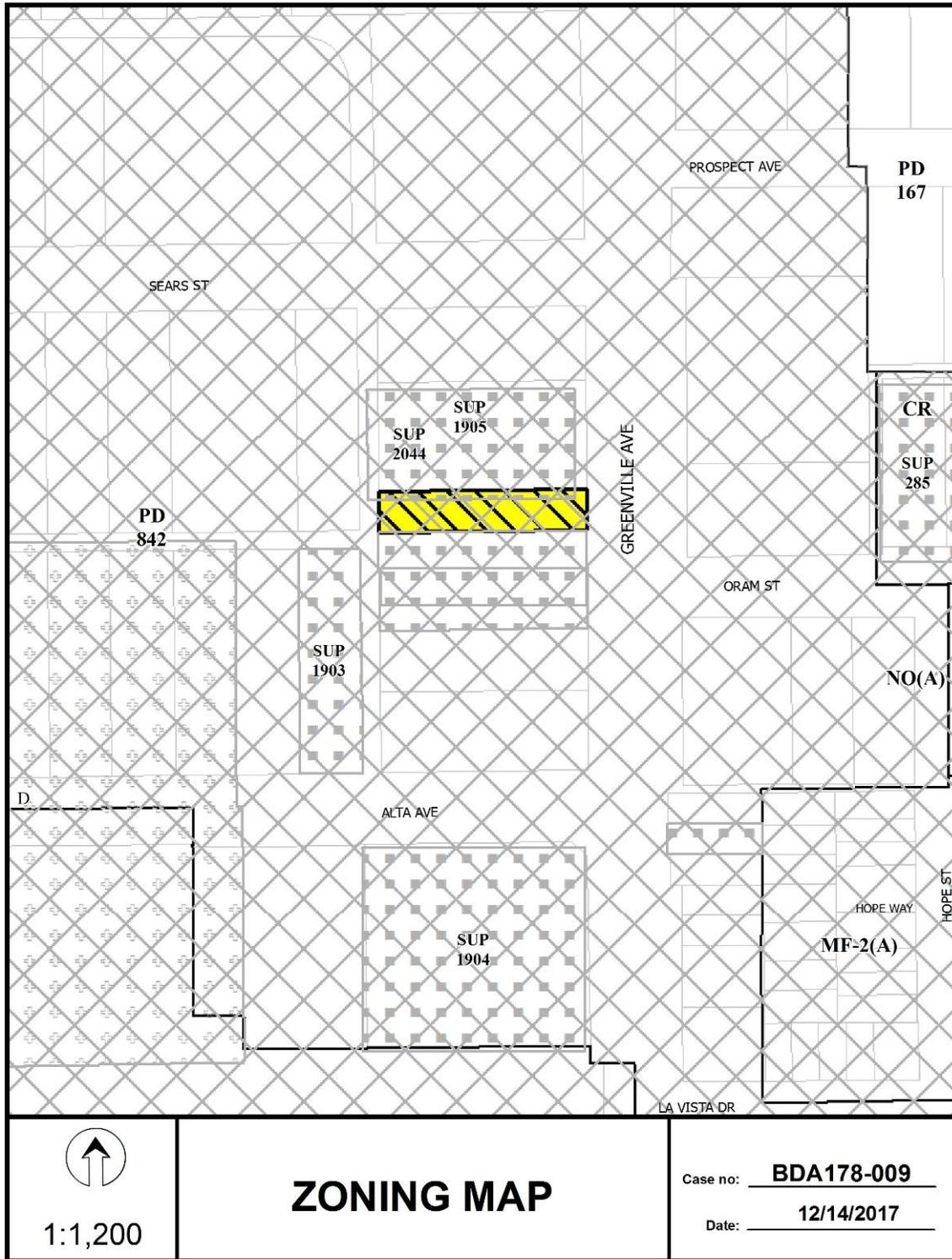
I move that the Board of Adjustment in Appeal No. **BDA 178-009** hold this matter under advisement until **February 22, 2018**.

SECONDED:    **Bartos**

AYES: 5 – Hounsel, Beikman, Shouse, Bartos, Brooks

NAYS: 0

MOTION PASSED 5 – 0 (unanimously)



  
 1:1,200

# ZONING MAP

Case no: BDA178-009  
 Date: 12/14/2017



1:1,200

# AERIAL MAP

Case no: BDA178-009

Date: 12/14/2017

BDA 178-009  
Attach A

**Long, Steve**

---

**From:** Kay, Kiesha  
**Sent:** Friday, January 19, 2018 1:26 PM  
**To:** Long, Steve  
**Cc:** Trammell, Charles  
**Subject:** BDA 178-009

Steve,

We have confirmed that this property lost their delta credits; therefore, there are no longer any deltas left to restore. The note on the last CO from 2010 states that all of the parking required for the Alcoholic Beverage Establishment land use was obtained via 4 parking spaces on site and a remote parking agreement. This parking agreement was terminated with notes stating that the parking agreement was terminated due to discontinuation of use, a new CO and parking agreement will be required to occupy 1917 Greenville.

Please let me know what will happen to this BDA case. The plans examiner is contacting the applicant of the building permits now to notify them of this, they are not the same applicant as the board case.

Please let me know if you have any questions.

Thank you,



**Kiesha Kay**  
*Chief Planner*  
City of Dallas | [www.dallascityhall.com](http://www.dallascityhall.com)  
Sustainable Development and Construction  
320 E. Jefferson Boulevard, Room 118  
Dallas, TX 75203  
O: 214-948-4476  
[kiesha.kay@dallascityhall.com](mailto:kiesha.kay@dallascityhall.com)



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



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-009

Data Relative to Subject Property:

Date: November 14, 2017

Location address: 1917 Greenville Ave Zoning District: PD 842

Lot No.: Pt. 19/20 Block No.: C/1983 Acreage: 0.13 acres Census Tract: 10.02

Street Frontage (in Feet): 1) 30 ft 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): SEB Group, LLC

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

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

E-mail Address: rob@baldwinplanning.com

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

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

E-mail Address: rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance \_\_, or Special Exception X, of MD-1 Overlay to reinstate delta credits

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 property was previously used as a bar. The previous owner was unable to find a tenant that did not require an SUP to operate. The current owner is seeking to use the property for an office use.

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

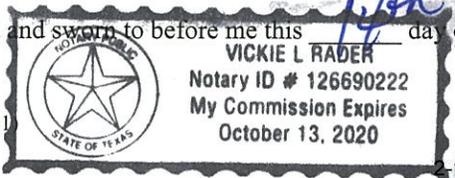
Affidavit

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

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

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

Subscribed and sworn to before me this 14th day of November, 2017



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

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

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

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

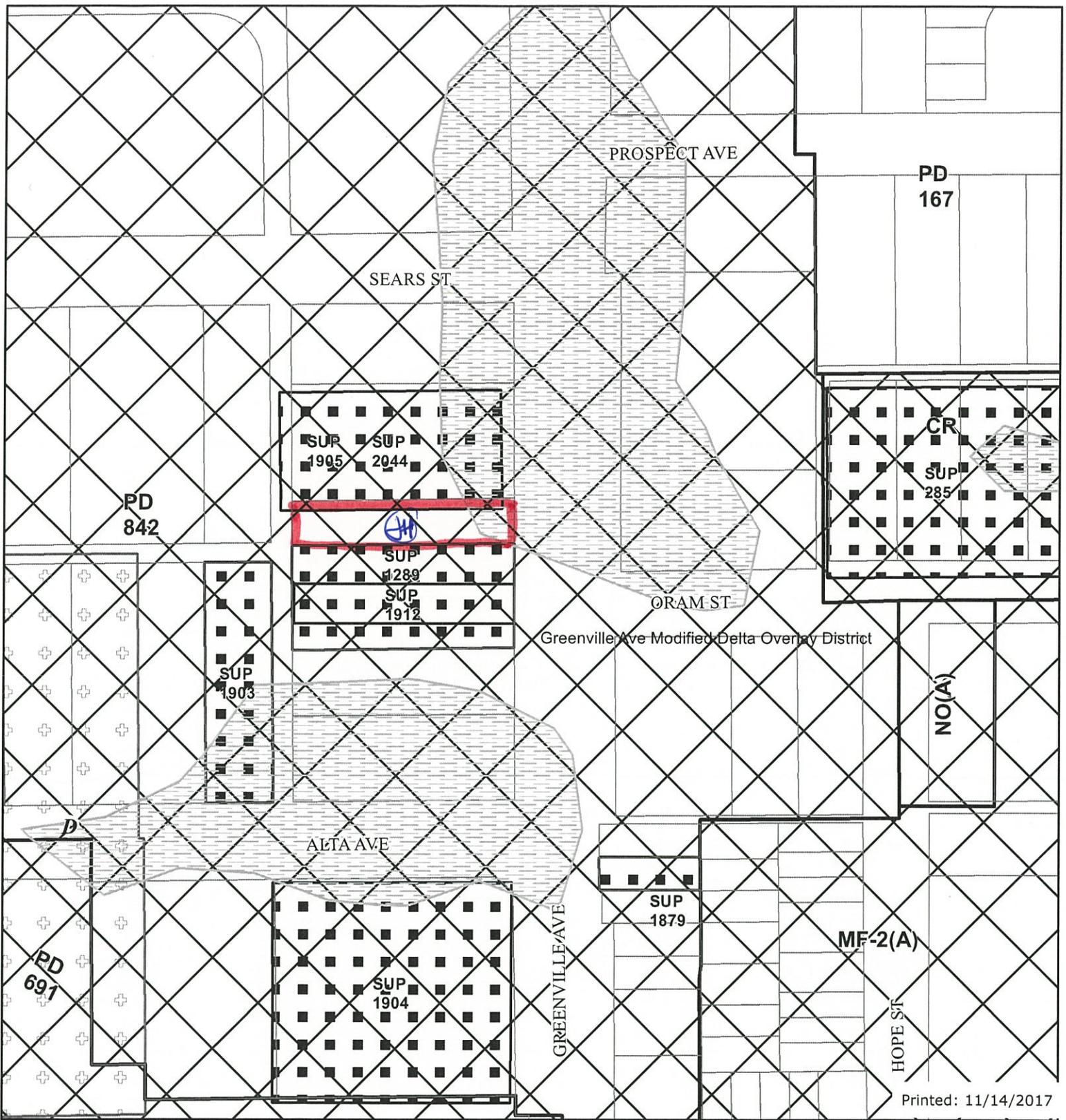
**Building Official's Report**

I hereby certify that Robert Baldwin  
did submit a request 1917 Greenville Avenue  
at

BDA178-009. Application of Robert Baldwin to restore delta parking credits at 1917 Greenville Avenue. This property is more fully described as part of Lots 19 & 20, Block C/1983, and is zoned PD-842 (MD-1), which states that the right to nonconforming delta parking credits are lost if the use is vacant for twelve months or more. The board may grant a special exception to this provision only if the owner can demonstrate there was not an intent to abandon the use. The applicant proposes to restore the lost delta parking credits, which will require a special exception to the Modified Delta Overlay-1 regulation.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official



Printed: 11/14/2017

### Legend

- |                      |                                |                       |                            |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits          | railroad                       | Dry Overlay           | CD Subdistricts            |
| School               | Certified Parcels              | D                     | PD Subdistricts            |
| Floodplain           | Base Zoning                    | D-1                   | PDS Subdistricts           |
| 100 Year Flood Zone  | PD193 Oak Lawn                 | CP                    | NSO Subdistricts           |
| Mill's Creek         | Dallas Environmental Corridors | SP                    | NSO_Overlay                |
| Peak's Branch        | SPSP Overlay                   | MD Overlay            | Escarpment Overlay         |
| X Protected by Levee | Deed Restrictions              | Historic Subdistricts | Parking Management Overlay |
| Parks                | BDA 178-009 SUP                | Historic Overlay      | 2-12                       |
|                      |                                | Height Map Overlay    | Shop Front Overlay         |

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



ROSS AVENUE  
 101.5 AC. 35  
 150.1165 AC. 35  
 0.0712 AC. 35  
 62 AC. 35

ANNEX NO. 2  
 50 50 50 50 50 50 50 50 50 50

ST. 50  
 168.35  
 65

1984/2  
 LEWINGSTON PLACE  
 150 2 4 6 8 10 12 14 16 150  
 50 50 50 50 50 50 50 50 50 50

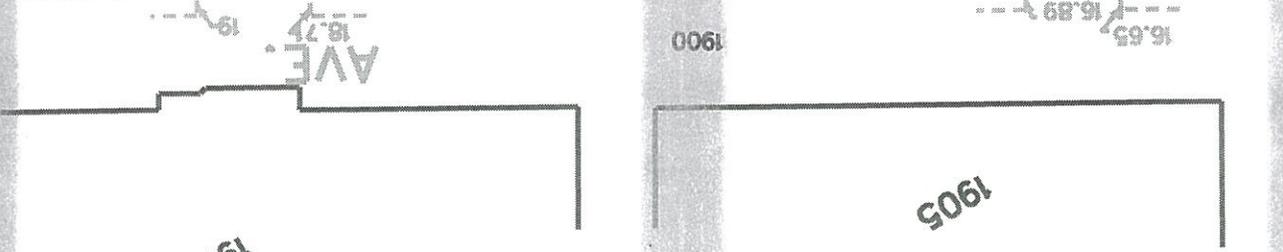
1983/C  
 179.5 1 2 3 4 5 6 7 8  
 50 50 50 50 50 50 50 50 50 50

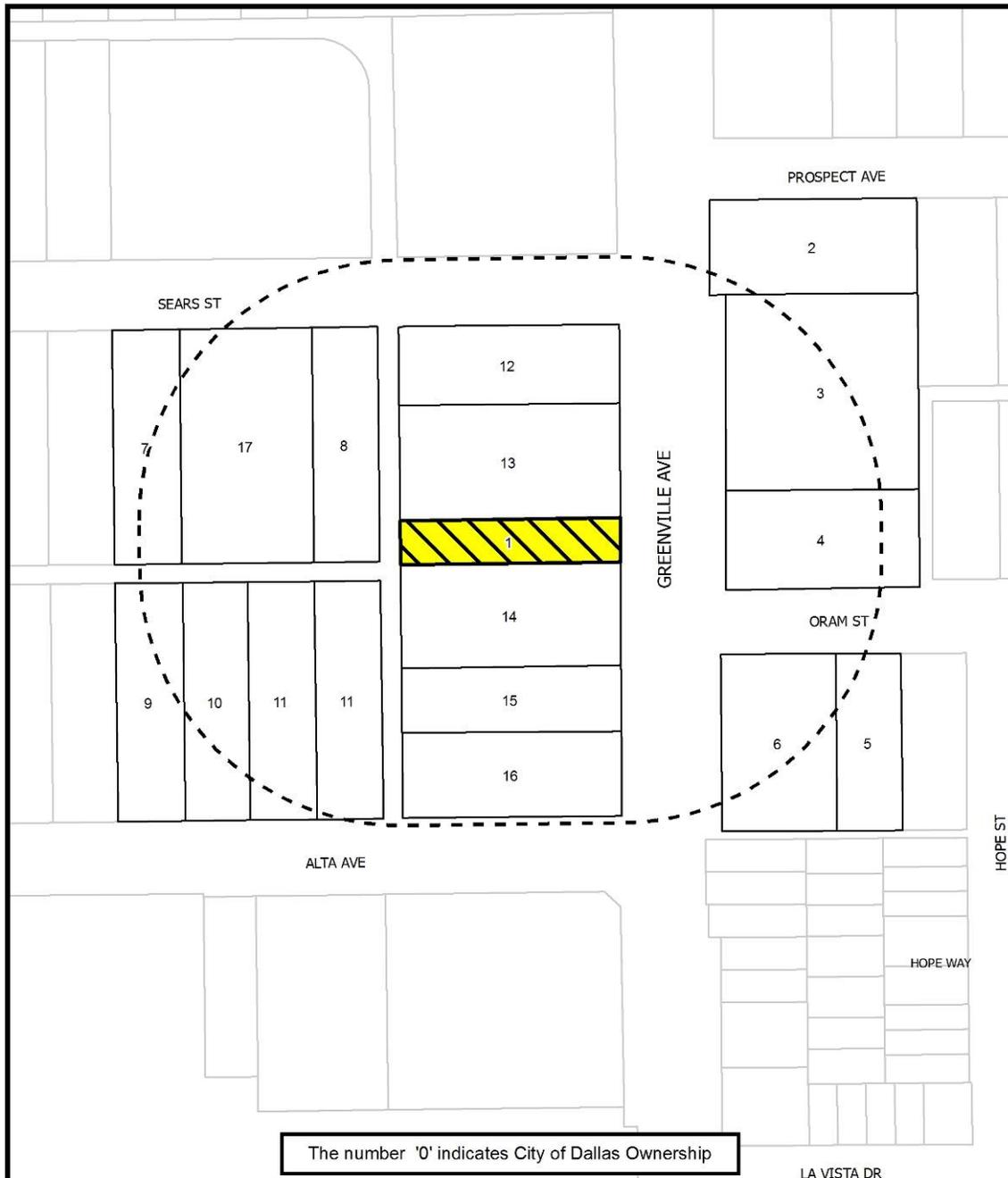
ST. 50  
 167.81 17 18  
 167.37 19  
 167.21 20  
 166.83 21  
 166.59 22  
 166.29 23  
 61.5 50 50 50

5500  
 45 46  
 15 50 2 100 50  
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60  
 50 27 23 50 50 50 31 19 40 8 77  
 140 140 140 140 140 140 140 140 140 140  
 0.3823 6  
 166.4 166.4  
 590' W  
 171.15 4-A  
 0.6905 AC.  
 14.11 156.5  
 5.00' 16.2

ST. 60  
 16.89 16.89  
 16.65 16.65  
 1900 1900





  
 1:1,200

## NOTIFICATION

<b>200'</b>	AREA OF NOTIFICATION
<b>17</b>	NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA178-009**  
 Date: **12/14/2017**

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

***BDA178-009***

### ***17 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	1917 GREENVILLE AVE	SEB GROUP LLC
2	2026 GREENVILLE AVE	ANDRES FAMILY TRUSTS THE
3	2008 GREENVILLE AVE	LAVO PROPERTIES LLC
4	2000 GREENVILLE AVE	LANDE PAUL &
5	5710 ORAM ST	SOURIS GEORGIA REVOCABLE TRUST
6	1928 GREENVILLE AVE	LOWGREEN PS
7	5618 SEARS ST	GREENVILLE HOLDINGS CO
8	5628 SEARS ST	ANDRES FAMILY TRUSTS
9	5619 ALTA AVE	THACKER RICHARD E JR
10	5623 ALTA AVE	GREENWAYSEARS LP
11	5627 ALTA AVE	LOWGREEN PS LTD
12	1931 GREENVILLE AVE	GREENWAY SEARS LP
13	1919 GREENVILLE AVE	1919 27 GREENVILLE LTD
14	1911 GREENVILLE AVE	INTERCITY INVESTMENT PROP
15	1909 GREENVILLE AVE	WORLDWIDE FOOD INC
16	1903 GREENVILLE AVE	LOWGREEN PS
17	5622 SEARS ST	5624 SEARS STREET LTD

**FILE NUMBER:** BDA178-014(SL)

**BUILDING OFFICIAL'S REPORT:** Application of V. C. Seth, represented by Karl A. Crawley, to appeal the decision of an administrative official at 5838 Monticello Avenue. This property is more fully described as Lot 22, Block 8/2153, and is zoned CD 11 which requires compliance with conservation district architectural standards. The applicant proposes to appeal the decision of an administrative official in the denial of a conservation district work review.

**LOCATION:** 5838 Monticello Avenue

**APPLICANT:** V. C. Seth  
Represented by Karl A. Crawley

**REQUEST:**

A request is made to appeal the decision of the administrative official, in this particular application, the Building Official, where the submitted application states "A.O's decision to deny the use of brick and stone exterior walls to enclose side porch for guest bedroom and half bathroom" on a site that is 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 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 use. The areas to the north, south, east and west are developed with single family uses.

**Zoning/BDA History:**

- |  |  |
|--|--|
| 1. BDA178-015, Property at 5838 Monticello Avenue (the subject site) | On February 21, 2018, the Board of Adjustment Panel B will consider a request for a variance to the front yard setback regulations made to maintain and to modify/maintain an existing single family home structure, a portion of which is located 28' 6" from the front property line or 7' 6" into the 36' 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.

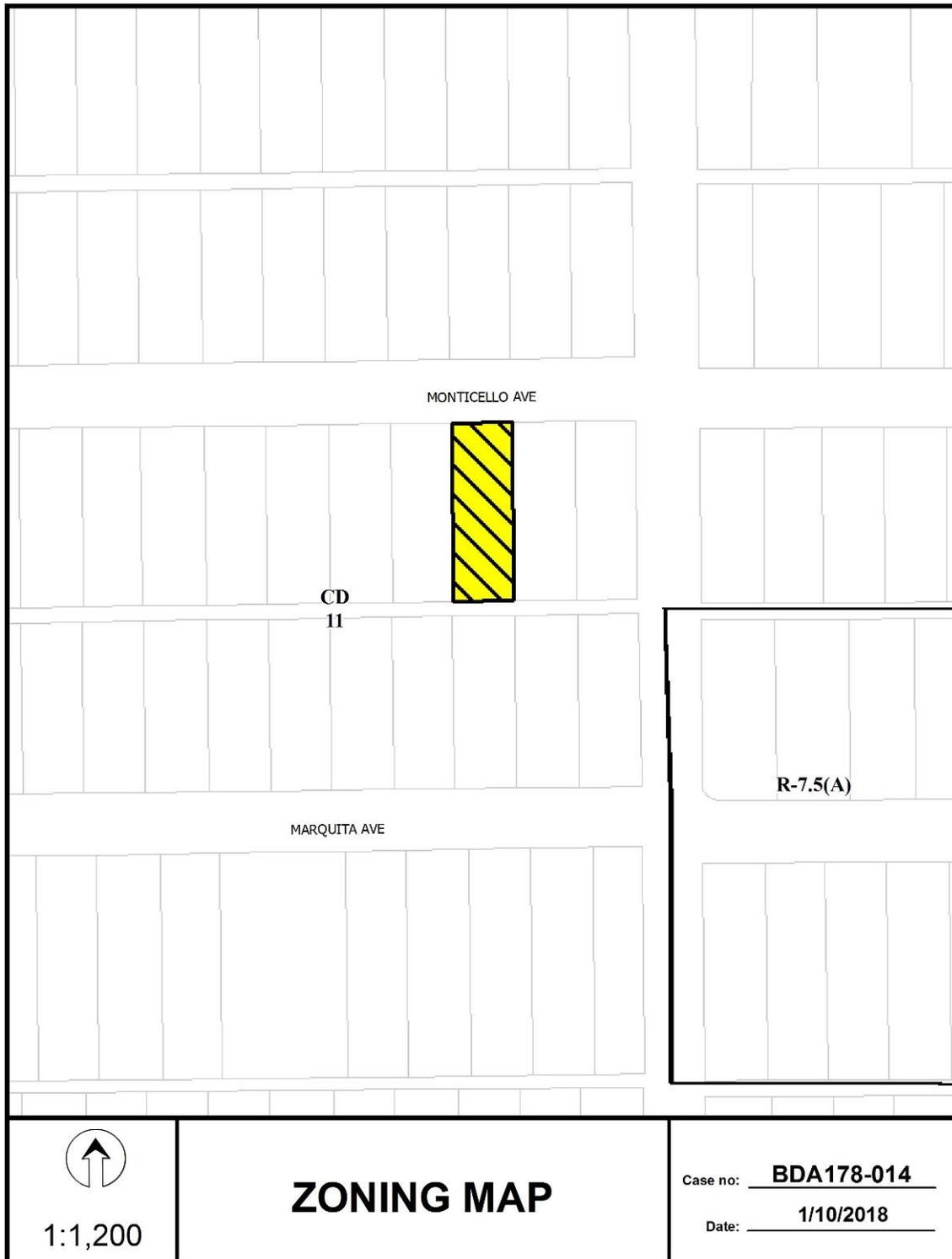
**Timeline:**

- November 16, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- January 5, 2018: The Board of Adjustment Secretary assigned this appeal to Board of Adjustment Panel B.
- January 5, 2018: The Board Administrator emailed the applicant the following information:
- an attachment that provided the appeal date and panel that will consider the appeal; the January 31<sup>st</sup> 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 February 9<sup>th</sup> 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."

February 6, 2018: The applicant and applicant's representative submitted additional documentation on this appeal to the Board Administrator beyond what was submitted with the original application (see Attachment A).

February 6, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Development Code Amendment Chief Planner, the Sustainable Development and Construction Department Senior Planners, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the City of Dallas Chief Arborist, 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: BDA178-014

Date: 1/10/2018

**Long, Steve**

---

**From:** Long, Steve  
**Sent:** Tuesday, February 06, 2018 6:26 AM  
**To:** 'Karl Crawley'  
**Cc:** Dean, Neva; Trammell, Charles; Aguilera, Oscar E; Williams, Kanesia; Hersch, William  
**Subject:** RE: BDA 178-014 and 015, Property at 5838 Monticello Avenue  
**Attachments:** 015 application materials.pdf

Dear Karl,

Given that the questions that I emailed you yesterday and some of which that I emailed you on January 11<sup>th</sup> are still not answered, please be advised of the following:

1. Upon re-reading the email and attachments you sent me last Friday, these materials will be included as attachments in both applications referenced above.
2. Upon re-reading the application you filed on November 16<sup>th</sup>, I will prepare a case report for BDA178-015 that states that the 7' 6" front yard variance you are requesting is for: "2' 0" existing house built in 1926, and 5' 6" awning built in 2016.

Thank you,

Steve



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



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

**From:** Long, Steve  
**Sent:** Monday, February 05, 2018 11:58 AM  
**To:** 'Karl Crawley' <Karl@masterplanconsultants.com>  
**Cc:** Aguilera, Oscar E <oscar.aguilera@dallascityhall.com>  
**Subject:** FW: BDA 178- 015, Property at 5838 Monticello Avenue

Dear Karl,

Over the weekend, you sent me additional materials attached that appears to be to the application referenced above, and possibly BDA178-014, too.

As you know, several weeks ago, we spoke about whether any part of your request for variance to the front yard setback regulations pertaining to the application referenced above was made to address a nonconforming structure on the site.

Once again, I have found on DCAD that the structure at 5838 Monticello Avenue was built in 1926. With this finding, and once again, I am attaching provisions from the Dallas Development Code regarding nonconforming structures.

I still have the same questions that I asked you several weeks ago. Beyond the January 31<sup>st</sup> deadline to add things to your application for staff review purposes that I sent you several weeks ago, would you please provide answers to the following questions by the end of the day today:

1. Can you distinguish on the submitted site plans (sheet 1 and sheet 2) the part of the existing home (if any) on the site in the 36' front yard setback that is a nonconforming structure from the part of the existing home on the site in the 36' front yard setback that is an illegal structure?
2. Can you distinguish on the submitted elevation (sheet 2A) the part of the existing home (if any) on the site in the 36' front yard setback that is a nonconforming structure from the part of the existing home on the site in the 36' front yard setback that is an illegal structure?
3. On the assumption that part of the existing home on the site is a nonconforming structure, please let me know if your variance request is made to: a) remedy the nonconforming aspect of this structure and to maintain the illegal addition/structure to it in the front yard setback, or b) made just to maintain illegal addition/structure to the nonconforming structure in the front yard setback?

A new question that I am hoping you can answer by the end of the day today is whether the attached information that you emailed me last Friday afternoon is for BDA178-014, BDA 178-015, or both?

Thank you,

Steve



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



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

**From:** Karl Crawley [<mailto:Karl@masterplanconsultants.com>]

**Sent:** Friday, February 02, 2018 4:39 PM

BDA 178-014 & 015

Attach A p53

To: Long, Steve <[steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com)>

Subject: BDA 178-014 and 015

Steve

Per our previous conversations I understand the front yard setback variance if approved would grant the variance but any construction, either existing or future, would have to comply with a possible setback or at a minimum a new setback line but would also have to comply with the regulations contained in the Conservation District regulations. With that said we are still requesting to move forward.

Also please find attached additional information provided by the owner.

Karl A. Crawley  
President  
Masterplan Consultants  
900 Jackson Street, Suite 640  
Dallas TX 75202

214 761 9197 Office  
972 342 3707 Mobile

**Long, Steve**

---

**From:** Karl Crawley <Karl@masterplanconsultants.com>  
**Sent:** Friday, February 02, 2018 4:39 PM  
**To:** Long, Steve  
**Subject:** BDA 178-014 and 015  
**Attachments:** 2\_BOA Appeal 178-014 & 178-015\_ Photos of 23 Houses on 5800 Monticello Av.pdf; 1\_5838 Monticello BoA Appeal .pdf; 5843 Monticello Avenue.docx; 5842 Monticello Avenue.docx; 5830 Monticello Avenue.docx; 5835 Monticello Avenue.docx; 5831 Monticello Avenue.docx; 5806 Monticello Avenue.docx

Steve

Per our previous conversations I understand the front yard setback variance if approved would grant the variance but any construction, either existing or future, would have to comply with a possible setback or at a minimum a new setback line but would also have to comply with the regulations contained in the Conservation District regulations. With that said we are still requesting to move forward.

Also please find attached additional information provided by the owner.

Karl A. Crawley  
President  
Masterplan Consultants  
900 Jackson Street, Suite 640  
Dallas TX 75202

214 761 9197 Office  
972 342 3707 Mobile

Board of Adjustment Appeal 178-014 & 178-015

5838 Monticello Avenue  
Dallas, TX 75206

In the 5800 block of Monticello Avenue there are 23 houses, excluding 5838 Monticello. These house were photographed (copies attached). Existing awnings and porches were reviewed and findings are as follows:

Awnings

- 16 houses have regular awnings;
- 3 houses have awnings cum front porches (2 are open and 1 is enclosed with screen);
- 3 houses have cloth awnings; and
- 1 house has no awning.

Porches

- 13 houses have porches enclosed with window(s) and brick/stone/stucco or siding wall;
- 4 houses have porches enclosed with glass;
- 3 houses have porches (1 front porch) that are enclosed with screen;
- 2 houses have porches cum front awnings that are open; and
- 1 house has no porch.

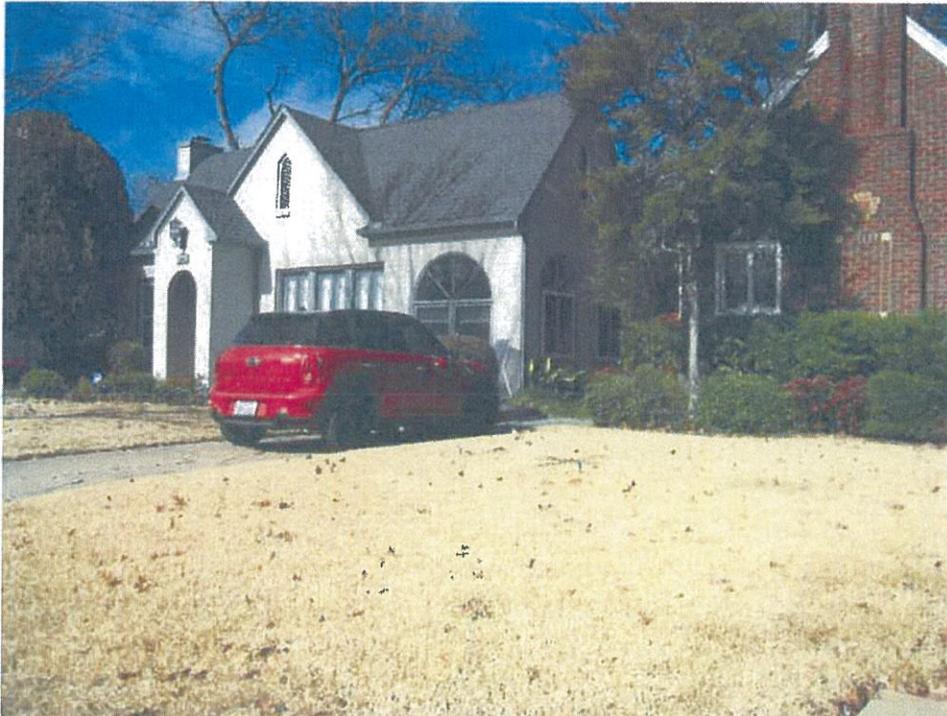
5802 Monticello Avenue



Awning and front porch enclosed with glass

BDA 178-014 & 015  
ATTACH A  
Pg 7

5803 Monticello Avenue



Awning and side porch enclosed with 3 windows and brick wall

BDA178-014-015  
Attach A pg 8

5806 Monticello Avenue



Awning and porch enclosed with 4 windows and siding wall

BDA178-014 + 015  
Attach A  
Pg 9

5807 Monticello Avenue



Awning and porch enclosed with screen

BDA 178-014 + 019

Attach A

PS 10

5810 Monticello Avenue



Awning cum front porch open

BDA 178-014 4015  
A Hech A  
PS 11

5811 Monticello Avenue



Awning and porch enclosed with 5 windows and brick wall

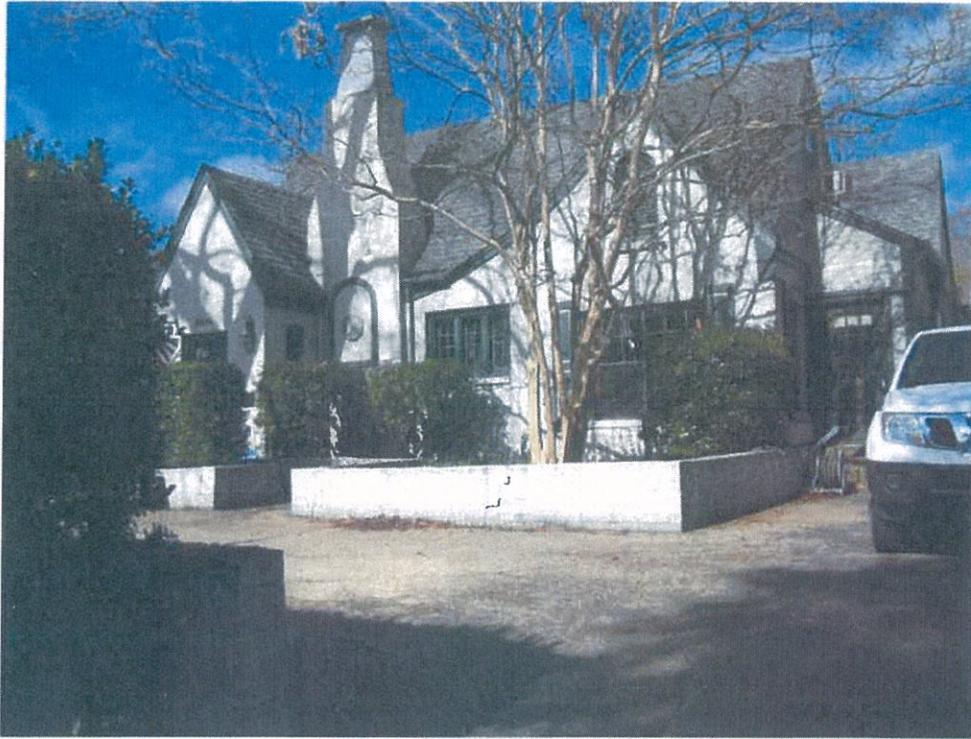
BDA 178-014 + 015  
Attachment A  
Pg 12

5814 Monticello Avenue



Awning cum front porch enclosed with screen

5815 Monticello Avenue



Awning and porch enclosed with screen

BDA 178-014 - 015

A H. in A

PS 14

5818 Monticello Avenue



No awning and porch enclosed with 3 windows and brick/stone wall

BDA 178-014 + 015

Attach A

pg 15

5819 Monticello Avenue



Awning and porch enclosed with 3 windows and brick/stucco wall + a car port

BDA 178-014 + 015  
Attention A  
Pg 16

5822 Monticello Avenue



Awning and porch enclosed with 3 windows and brick wall

BDA 178-014 & 015

Att. A

PS 17

5823 Monticello Avenue



Awning and porch enclosed with 2 windows and brick wall

BDA178-014 2015  
A Home A  
P3 13

5826 Monticello Avenue



Awning and no porch

BDA178-014 & 015

Attach A

PS 19

5827 Monticello Avenue



Awning and porch enclosed with 1 window and solid brick wall

BDA 178-014 & 015  
Attach A  
Pg 20

5830 Monticello Avenue



Cloth awning and porch enclosed with glass and brick wall

BDA 178-014 & 015  
Attachment A  
P521

5831 Monticello Avenue



Awning and porch enclosed with one window and solid brick wall

BDA 178-014 & 015  
Attach A  
Pg 22

5834 Monticello Avenue



Awning and porch enclosed with glass

BDA 178-014 & 015

Attach A

PS 23

5835 Monticello Avenue



Awning and porch enclosed with 3 windows and brick wall

BDA178-014 & 015

Attach A

PS 24

5839 Monticello Avenue



Awning cum front porch open

BDA178-014 i 015  
Atch A  
Pg 25

5842 Monticello Avenue



Cloth awning and porch enclosed with glass

BDA 178-014 c 015  
A Home A  
PS 26

5843 Monticello Avenue



Cloth awning and porch enclosed with 5 windows and brick wall

BDA178-014 & 015

Attach A

PS 27

5946 Monticello Avenue



Awning and porch enclosed with 4 windows and brick wall

BDA 178-014-015

AH-A

PS 23

5847 Monticello Avenue



Awning and porch enclosed with 7 windows and brick wall

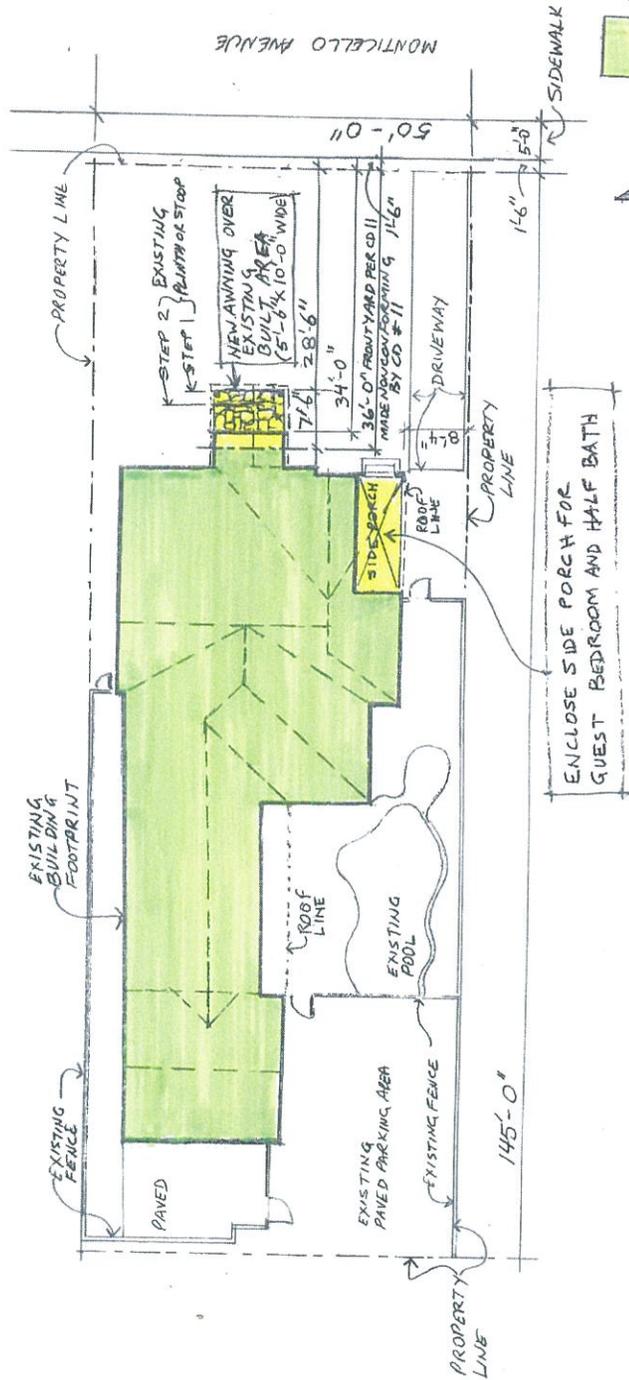
BDA 178-014-015

ATTACH A

1529

BOARD OF ADJUSTMENT APPEAL: 178-014 & 178-015

5838 MONTICELLO AVENUE  
DALLAS, TX 75206



CONFORMING  
 NONCONFORMING



SCALE: 1" = 16'-0"

SITE PLAN

**SHEET 1**

16 NOV 2017



**SHEET 3**

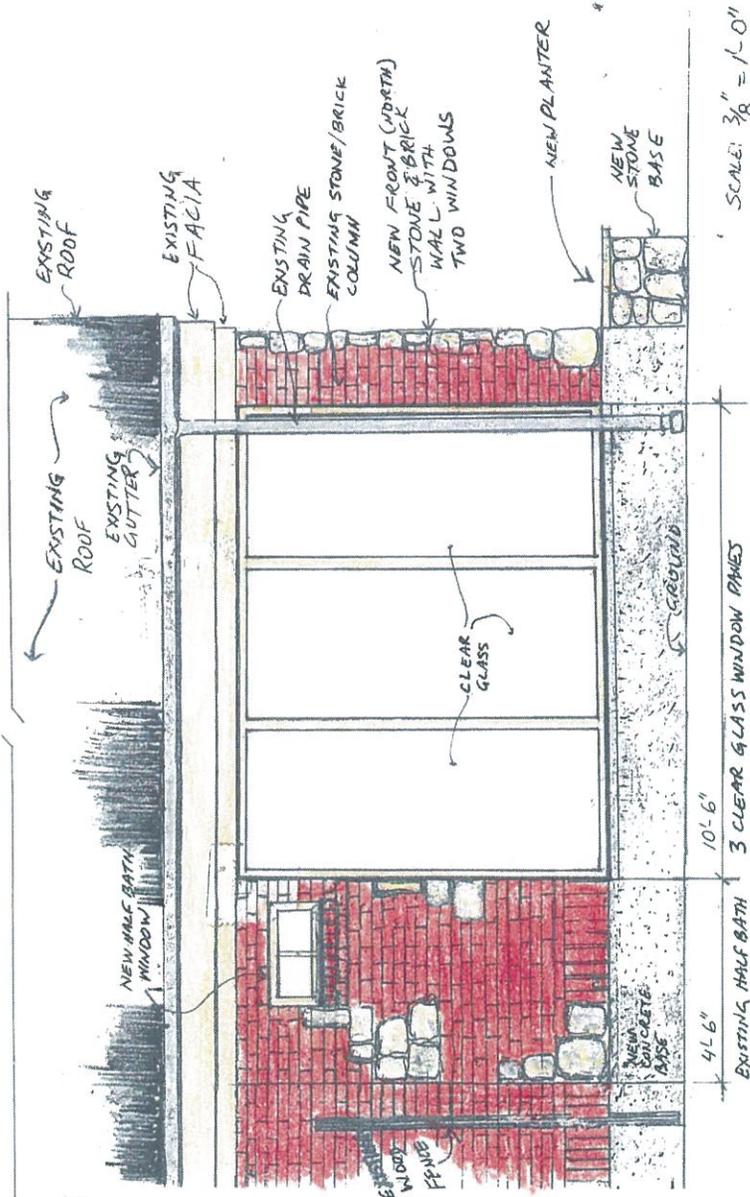
16 NOV 2017



SHERWIN WILLIAMS  
SW 7453 - PACKER BEIGE  
FOR WINDOWS AND FACIA



SHERWIN WILLIAMS  
SW 625B - TRICORN BLACK  
FOR TRIM



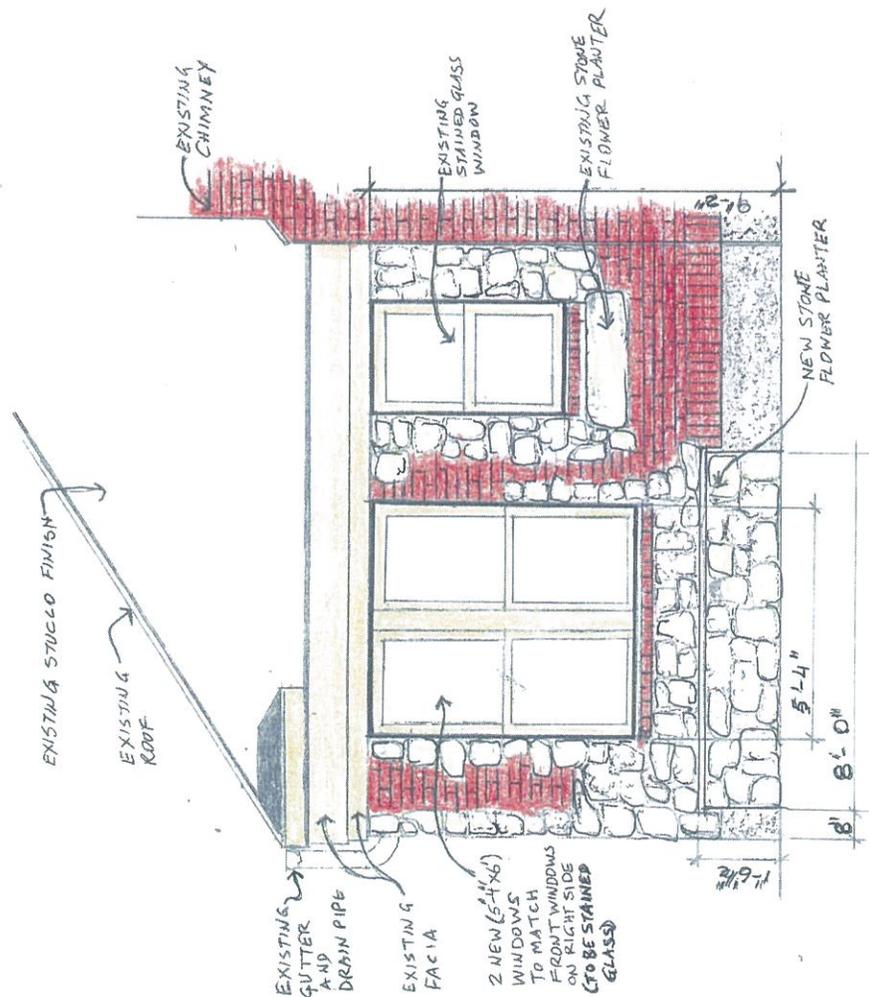
ELEVATION: EAST WALL  
GUEST BED ROOM & HALF BATH

**SHEET 4**

16 NOV 2017



STAINED GLASS WINDOWS  
ON FRONT RIGHT SIDE





BDA178-014 & 015

Attach A

PS 34

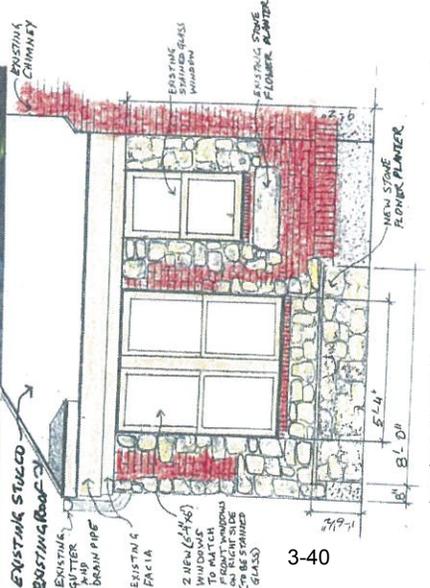
SHEET 6

16 NOV 2017

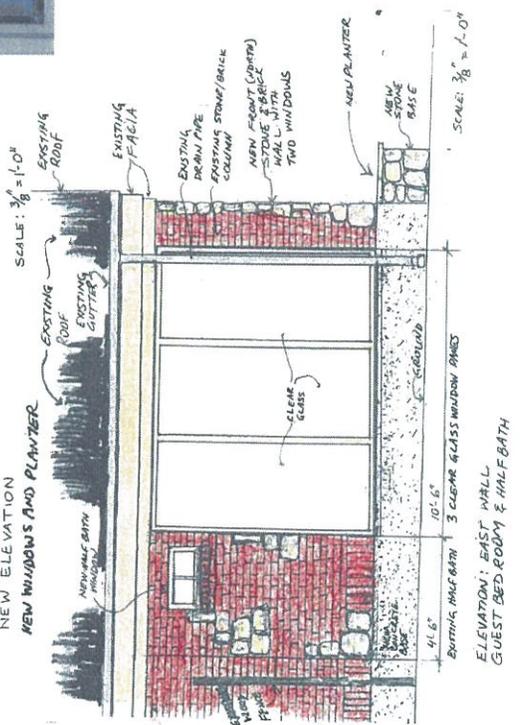


11' 4"  
EXISTING

Address	Owner	In Favor	In Opposition
5838 Monticello Avenue Dallas, TX 75206			
Our neighbor Mr. and Mrs. Seth are requesting the city of Dallas for approval of the following improvements:			
<ul style="list-style-type: none"> <li>FRONT ENTRYWAY AWNING</li> <li>ENCLOSE SIDE PORCH:</li> </ul>			
<ol style="list-style-type: none"> <li>Existing east and north outer open areas are 163 square feet (SF)</li> <li>To enclose porch with outer walls require 75% or 122 SF clear glass window panes</li> <li>The proposed enclosure provides a total of 68% or 83 SF clear glass window panes:                             <ol style="list-style-type: none"> <li>East wall with three 8' - 0" X 3' - 4" fixed clear glass window panes = 65.5 SF</li> <li>North wall with two 5' - 0" X 1' - 8" clear glass window panes = 16.5 SF</li> <li>East wall half bathroom with two 1' - 0" X 0' - 6" clear glass window panes = 1 SF</li> </ol> </li> </ol>			
Address	Owner	In Favor	In Opposition
5830 Monticello	Robert S. Bloss Jr	✓	
5834	Casey Evans	✓	
5842	Cynthia G. Neighbor & Ron Samples	✓	
5846	Hunter J. & Erica Austin	✓	
5831	Cliton K. & Madeline B. Gulick	✓	
5835	Steven M. Lobo	✓	
5839	Campbell B. Reed	✓	
5843	Thomas & Tracy Chiang	✓	
5847	Philip T. & Jessica L. Dieke	✓	



3-40



5842 Monticello Avenue

BDA178-014 . 015

Attach A

P530



Cloth awning and porch enclosed with glass

BDA 178-014 + 015  
Attach A  
P337

5830 Monticello Avenue



Cloth awning and porch enclosed with glass and brick wall

5835 Monticello Avenue

BDA178-014 2015

Attach A

ps 38



Awning and porch enclosed with 3 windows and brick wall

BDA-178-014 4015  
Attach A  
PS 39

5831 Monticello Avenue



Awning and porch enclosed with one window and solid brick wall

BDA178-014 < 015

Attach A

PS 40

5806 Monticello Avenue



Awning and porch enclosed with 4 windows and siding wall



B

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-014

Data Relative to Subject Property:

Date: 11-16-17

Location address: 5838 MONTICELLO AV., DALLAS, TX Zoning District: CD11

Lot No.: 22 Block No.: 8/2153 Acreage: 0.166 Census Tract: 2.02

Street Frontage (in Feet): 1) 50'-0" 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment: LAKSHMI D. SETHI.

Owner of Property (per Warranty Deed): VIRENDRA C. SETHI

Applicant: VIRENDRA C. SETHI ~~LAKSHMI D. SETHI~~ Telephone: 214-692-9431

Mailing Address: 5838 MONTICELLO AV., DALLAS, TX Zip Code: 75206

E-mail Address: v.sethi@sbcglobal.net

Represented by: ~~MASTER PLAN~~ KARL CRAWLEY Telephone: 214-761-9197

Mailing Address: 900 JACKSON ST., SUITE 640, DALLAS, TX Zip Code: 75202

E-mail Address: Karl@masterplanconsultants.com

Affirm that an appeal has been made for a Variance, or Special Exception, of ADU's Decision ADMINISTRATION OFFICIAL'S DECISION TO DENY THE USE OF BRICK AND STONE EXTERIOR WALLS TO ENCLOSE THE SIDE PORCH FOR GUEST BEDROOM AND HALF BATHROOM.

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:

RISTRICTING THE USE OF MY HOUSE FOR GUEST BEDROOM AND HALF BATHROOM. SEE THE ATTACHED AND FRONT YARD SETBACK OF 7'6" FROM 36'-0" REQUIREMENT

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

~~LAKSHMI D. SETHI~~

Before me the undersigned on this day personally appeared VIRENDRA C. SETHI (Affiant/Applicant's name printed)

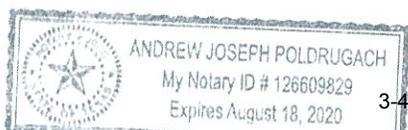
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted:

Lakshmi Sethi  
(Affiant/Applicant's signature)

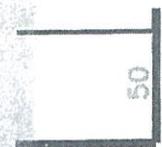
Subscribed and sworn to before me this 20th day of October, 2017

(Rev. 08-01-11)



Andrew Poldrugach  
Notary Public in and for Dallas County, Texas





60

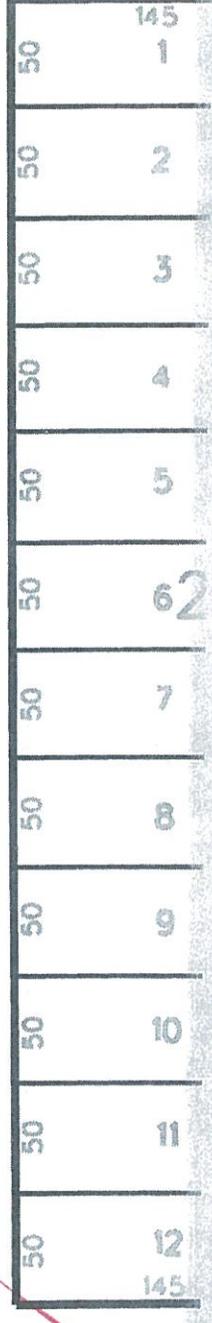
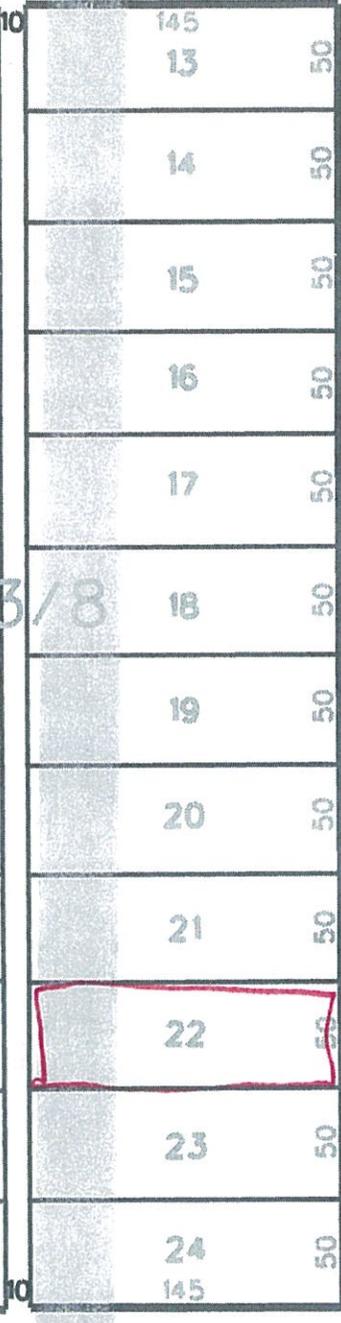
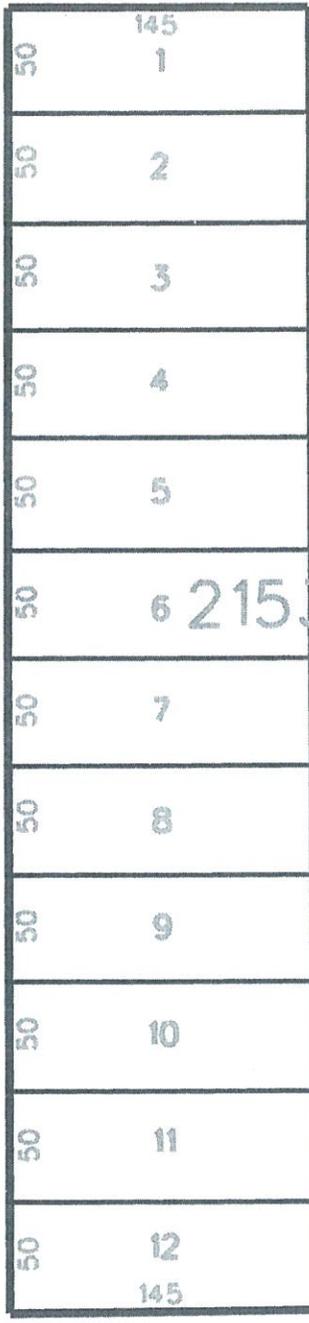


5800

MARQUITA



90 (FLORENCE ST.) 3100



5800

MONTICELLO

3100

5900



5900

# City of Dallas

## Internal Development Research Site

### Legend

Locate Property

Search by:

GIS Account #

Locate

OR

Street address.  
5838 Monticello

Locate

OR

Parcel address.  
Use street type for better re

Locate



5823 MONTICELLO AVE	5831 MONTICELLO AVE	5835 MONTICELLO AVE	5839 MONTICELLO AVE	5843 MONTICELLO AVE	5847 MONTICELLO AVE	5901 MONTICELLO AVE	5905 MONTICELLO AVE	5911 MONTICELLO AVE	5915 MONTICELLO AVE	5918 MONTIC AVE
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Monticello Ave

CD

11

5820 MONTICELLO AVE	5824 MONTICELLO AVE	5828 MONTICELLO AVE	5832 MONTICELLO AVE	5836 MONTICELLO AVE	5840 MONTICELLO AVE	5902 MONTICELLO AVE	5906 MONTICELLO AVE	5910 MONTICELLO AVE	5914 MONTICELLO AVE
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5829 MARQUITA AVE	5833 MARQUITA AVE	5837 MARQUITA AVE	5841 MARQUITA AVE	5845 MARQUITA AVE	5900 MARQUITA AVE	5904 MARQUITA AVE	5908 MARQUITA AVE	5912 MARQUITA AVE	5916 MARQUITA AVE
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Marquita Ave

5824 MARQUITA AVE	5828 MARQUITA AVE	5832 MARQUITA AVE	5836 MARQUITA AVE	5840 MARQUITA AVE	5844 MARQUITA AVE	5902 MARQUITA AVE	5906 MARQUITA AVE	5910 MARQUITA AVE	5914 MARQUITA AVE	5918 MARQUITA AVE
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5838 Monticello Avenue  
Dallas, TX 75206

Requesting Board of Adjustment appeal:

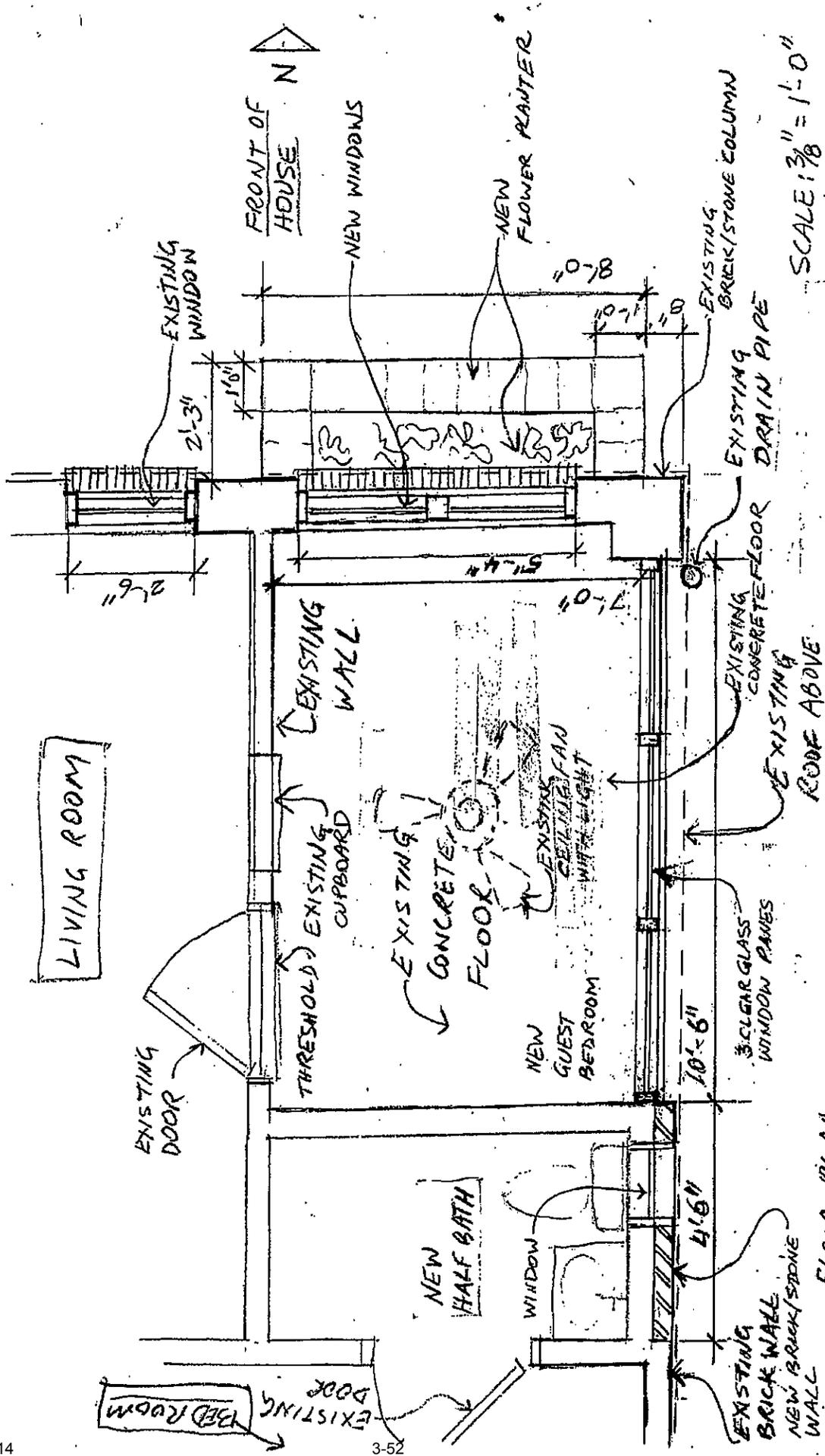
1. Requesting approval of Verge Board and Gable that have been relocated in front of the new awning and 7'-6" front yard variance to allow for 2'-0" of existing house built in 1926 and 5'-6" awning, built in 2016, above the 2 steps (leading to the front door) which are a total of 5'-6" long and 1'-3" high from the ground.
2. Requesting approval to enclose the porch total open area 163 square feet (SF) on the east and north would require 75% or 122 SF clear glass, with a total of 68% or 83 SF clear glass window panes in the following manner:
  - Enclose part of east side of the porch with three new 8'-0" X 3'-4" fixed clear glass window panes (~~65.5 SF~~ clear glass area) *connect,*
  - The remaining east side of the porch with the existing half bathroom, built in 2016, with a 2'-0" X 0'-6" clear glass window (1 SF clear glass area) and a brick/stone wall to match the rest of the house exterior.
  - The north side of the porch with the existing two 5'-0" X 1'-8" windows (to match rest of the stained glass windows in front of the house) (~~16.5 SF~~ clear glass area) and a stone planter below, both built in 2016. *incorrect, actually 17.5 SF*

*Also not approved.*

<b>DENIED</b>	
DATE	11/16/17
BY	[Signature] - CD
PHONE	948-4458
REASON	Does not meet code.

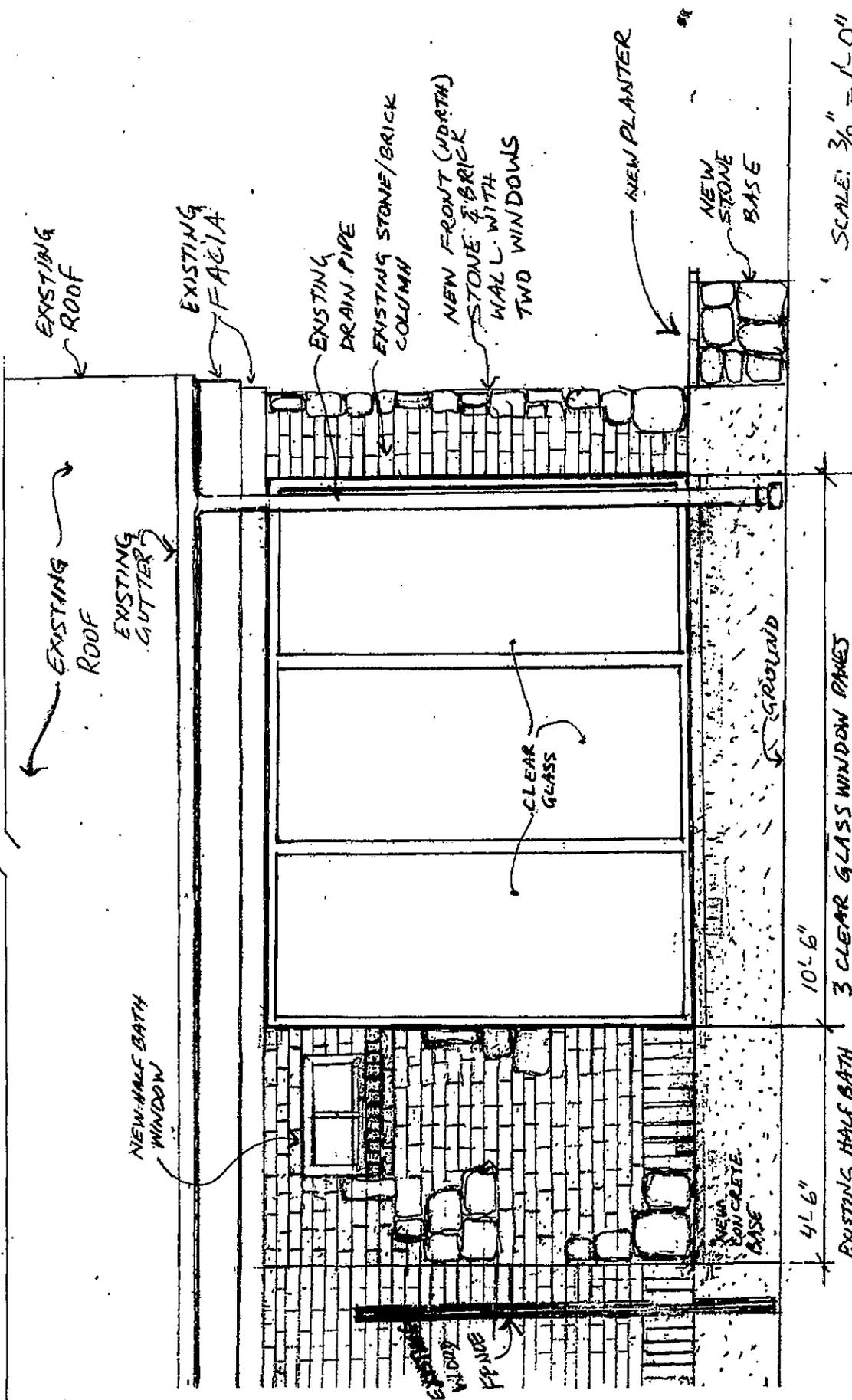


NEW PART IS TO REPLACE OPEN AREA  
WITH GUEST BEDROOM AND HALF BATH



FLOOR PLAN  
CONVERT EXISTING OPEN AREA  
INTO GUEST BEDROOM AND HALF BATH

**SHEET 2**



SCALE: 3/8" = 1'-0"



SHERWIN WILLIAMS  
SW 6258 - TRICORN BLACK  
FOR TRIM

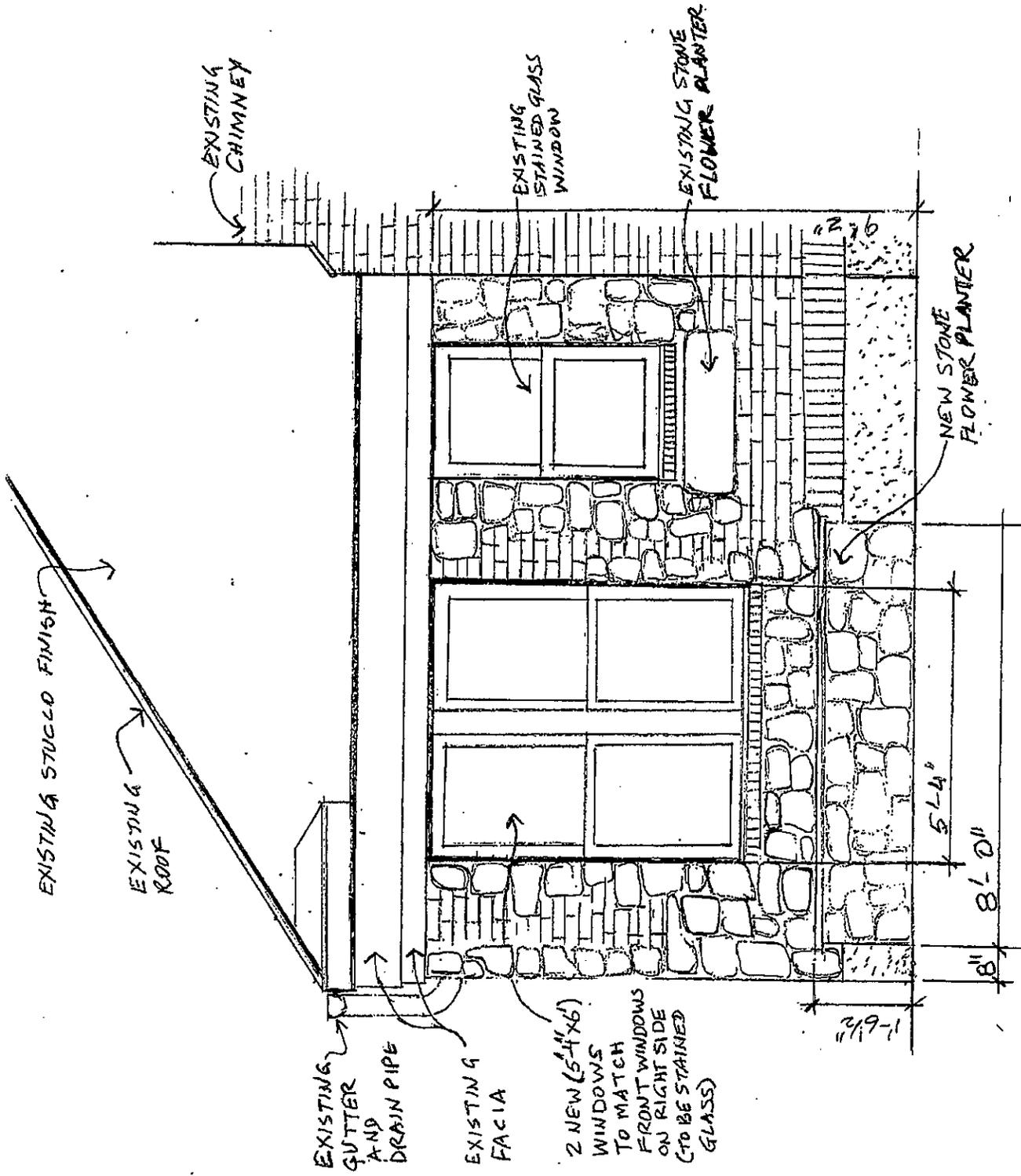


SHERWIN WILLIAMS  
SW 7453 - PACKER BEIGE  
FOR WINDOWS, FACIA  
AND CLEAR GLASS FRAME

EXISTING HALF BATH | 10'-6" | 3 CLEAR GLASS WINDOW PANE

ELEVATION: EAST WALL  
GUEST BED ROOM & HALF BATH

# SHEET 3



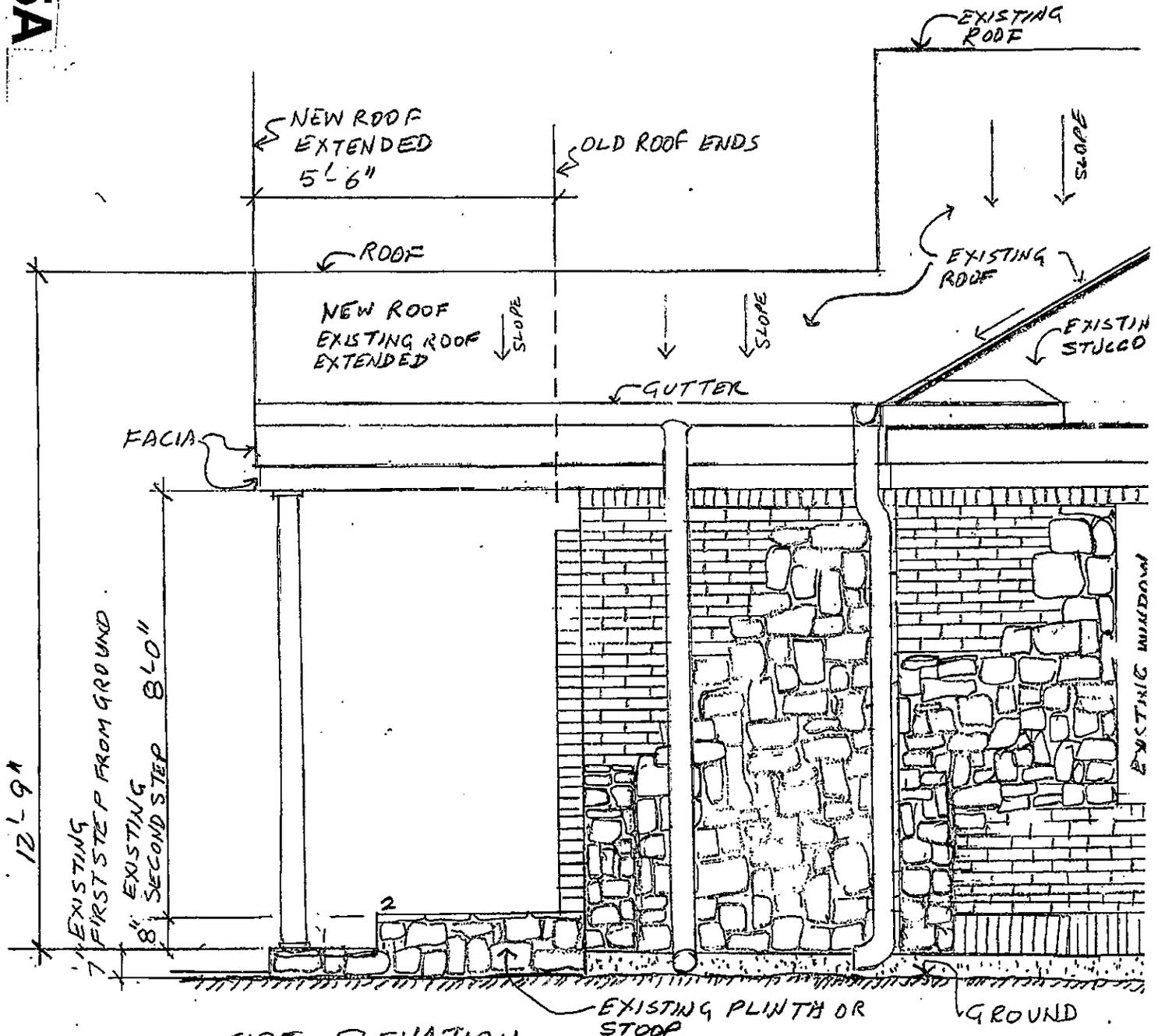
SCALE:  $\frac{3}{8}'' = 1'-0''$

NEW ELEVATION  
(WITH NEW WINDOWS & FLOWER PLANT BOX)

**SHEET 4**



# SHEET 5A



SIDE ELEVATION  
AWNING FRONTING NORTH

SCALE:  $\frac{3}{8}'' = 1'-0''$



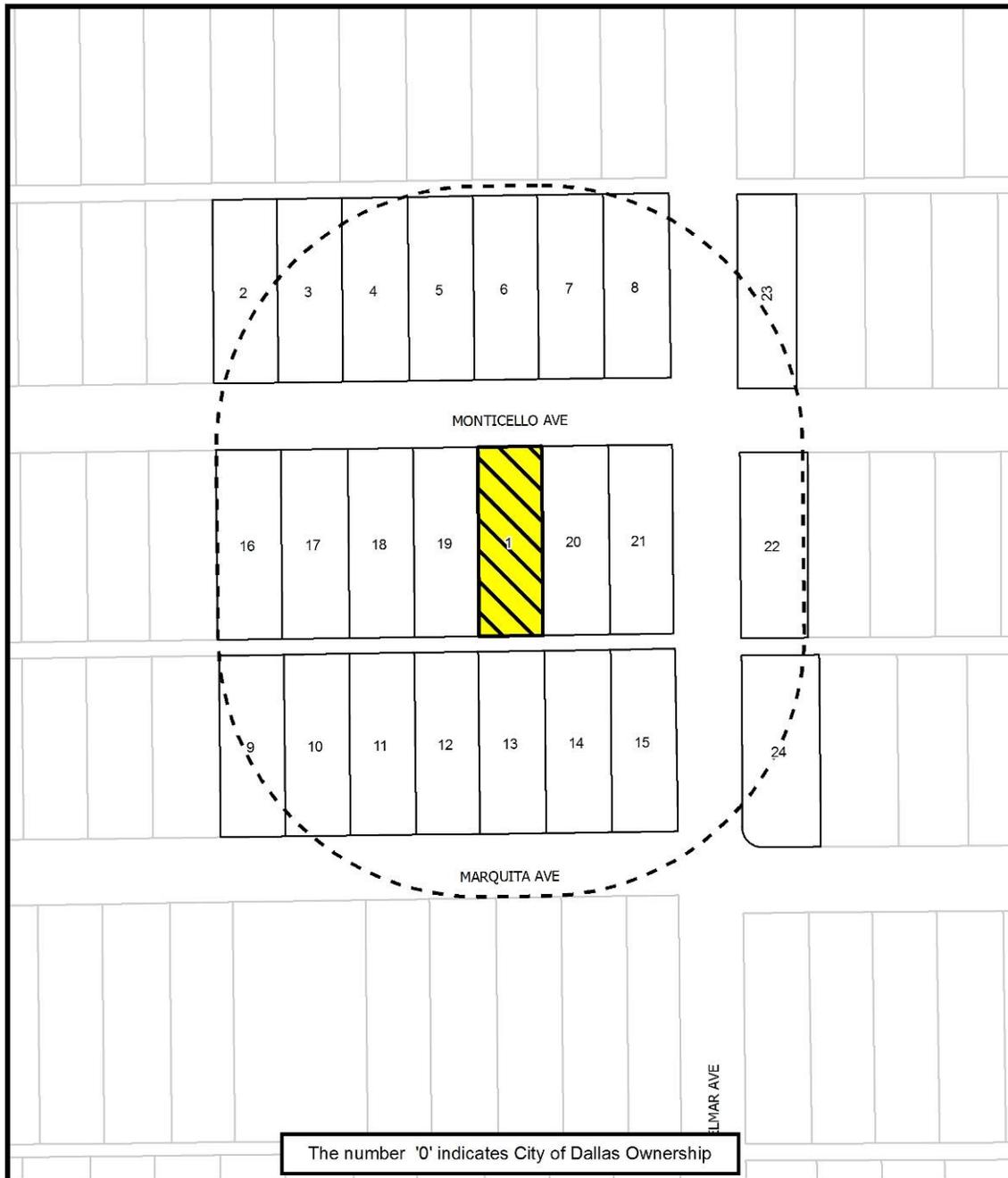
## CITY OF DALLAS

### **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	<h2 style="margin: 0;">NOTIFICATION</h2> <table style="margin: 10px auto; border-collapse: collapse;"> <tr> <td style="border: 1px solid black; padding: 2px 5px; font-weight: bold;">200'</td> <td style="padding: 2px 5px;">AREA OF NOTIFICATION</td> </tr> <tr> <td style="border: 1px solid black; padding: 2px 5px; font-weight: bold;">24</td> <td style="padding: 2px 5px;">NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	24	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <b>BDA178-014</b> Date: <b>1/10/2018</b>
200'	AREA OF NOTIFICATION					
24	NUMBER OF PROPERTY OWNERS NOTIFIED					

## *Notification List of Property Owners*

***BDA178-014***

### ***24 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	5838 MONTICELLO AVE	SETH VIRENDRA C & LAKSHMI D
2	5823 MONTICELLO AVE	MOQUIST BRIAN
3	5827 MONTICELLO AVE	WILLIFORD CHRISTINE
4	5831 MONTICELLO AVE	GULICK CLINTON K & MADELINE B
5	5835 MONTICELLO AVE	LOBO STEVEN M
6	5839 MONTICELLO AVE	READ CAMPBELL B &
7	5843 MONTICELLO AVE	CHIANG THOMAS & TRACY
8	5847 MONTICELLO AVE	DIEKE PHILLIP T & JESSICA L
9	5823 MARQUITA AVE	ALLEN ASHLEY
10	5827 MARQUITA AVE	TRAN JOHN
11	5831 MARQUITA AVE	BURNS WARREN T
12	5835 MARQUITA AVE	KOONTZ CARL H
13	5839 MARQUITA AVE	JABLONSKI JOSEPH STEVEN &
14	5843 MARQUITA AVE	FAUCHER MARYANN
15	5847 MARQUITA AVE	CLARY TAMMY L
16	5822 MONTICELLO AVE	LAFUZE WILLIAM L JR
17	5826 MONTICELLO AVE	SULLIVAN OLIVIA R
18	5830 MONTICELLO AVE	BLOSS ROBERT S JR
19	5834 MONTICELLO AVE	EVANS CASEY
20	5842 MONTICELLO AVE	NEIGHBOR CYNTHIA G
21	5846 MONTICELLO AVE	AUSTIN HUNTER J & ERICA
22	5902 MONTICELLO AVE	COONEY BETH
23	5901 MONTICELLO AVE	LOVETT SUZANNE
24	5903 MARQUITA AVE	FRATER GORDON H

**FILE NUMBER:** BDA178-015(SL)

**BUILDING OFFICIAL'S REPORT:** Application of V. C. Seth, represented by Karl A. Crawley, for a variance to the front yard setback regulations at 5838 Monticello Avenue. This property is more fully described as Lot 22, Block 8/2153, and is zoned CD 11, which requires a front yard setback of 36 feet. The applicant proposes to construct and/or maintain a structure and provide a 28 foot 6 inch front yard setback, which will require a 7 foot 6 inch variance to the front yard setback regulations.

**LOCATION:** 5838 Monticello Avenue

**APPLICANT:** V. C. Seth  
Represented by Karl A. Crawley

**REQUEST:**

A request for variance to the front yard setback regulations of 7' 6" is made to maintain and to modify/maintain an existing single family home structure, a portion of which is located 28' 6" from the front property line or 7' 6" into the 36' front yard setback. The existing structure on the subject site is in part a nonconforming structure (a step structure constructed in the 1920's), and in part a structure that is an illegal structure (a porch structure built in 2016).

**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:**

Denial

Rationale:

- The applicant had not substantiated how the rectangular-shaped, flat, approximately 7,250 square foot subject site cannot be developed in a manner commensurate with the development upon other parcels of land with the same CD 11 zoning district. Other than step structure in the CD 11 front yard setback that is assumed to have been built with the home constructed in the 1920's, features of the site have allowed it to be developed with an approximately 2,000 square foot single family home that had complied with front yard setbacks in the previous R-7.5(A) zoning and in the existing CD 11 zoning until a porch structure was added over the nonconforming step structure without a permit in 2016.
- Staff concluded that the applicant had not substantiated how if the Board were to grant the variance, it would not be to relieve a self-created or personal hardship, nor for financial reasons only.

**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, south, east and west are developed with single family residential uses.

**Zoning/BDA History:**

- |  |  |
|--|--|
| 1. BDA178-014, Property at 5838 Monticello Avenue (the subject site) | On February 21, 2018, the Board of Adjustment Panel B will consider an appeal of the decision of an administrative official. |
|--|--|

**GENERAL FACTS/STAFF ANALYSIS:**

- The request for a variance to the front yard setback regulations of 7' 6" focuses on: 1) maintaining a nonconforming step structure at the entry into the single family home constructed in the 1920's, and 2) modifying and maintaining an illegal porch structure added to the existing single family home in 2016, which are located 28' 6" from the front property line or 7' 6" into the front yard setback.

- The site is located in CD 11 which states that minimum front yard setback is the average of the front yard of the contributing structures on the block face, with the average front yard of contributing main structures block face listed in Exhibit B of the ordinance. (Exhibit B lists that the average setback of the blockface is 36'). Prior to the creation of CD 11 in 2004, the property had been zoned R-7.5(A).
- The submitted scaled site plan indicates a "new awning over existing built area (5' 6" x 10') located 28' 6" from the front property line.
- According to DCAD records, the "main improvement" for property addressed at 5838 Monticello Avenue is structure built in 1926 with 2,018 square feet of living/total area, and that "additional improvements" is a 420 square foot attached garage and pool. Because records show that the main improvement/structure on this site was built in the 1920's, it is assumed that the part of the existing structure on the site is a nonconforming structure.
- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.
- The code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.
- The code states that a person may renovate, remodel, repair, rebuild, or enlarge a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations.
- The applicant has chosen to seek variance to the front yard setback regulations for both the nonconforming and illegal structures in the front yard setback.
- The Sustainable Development and Construction Conservation District Chief Planner has submitted a review comment sheet with the following comments: Projecting front gable at porch will not meet the architectural requirements of Ordinance 25474(k)(5)(B)." Any remodeling must match the consistent materials in type, color, coursing, joint detailing, mortaring, size, and texture." Projection is comprised of wood spindle columns which does not match the remainder of the house which is brick and stone.
- The site is flat, rectangular in shape (145' x 50') and 7,250 square feet in area. The site is zoned CD 11, however the site had been zoned R-7.5(A) where lots are typically 7,500 square feet in area prior to the creation of the CD in 2004.
- 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 CD 11 zoning classification.

- If the Board were to grant the variance, it would not be to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same CD 11 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 are nonconforming step and illegal porch structures that are located 28' 6" from the front property line (or 7' 6" into this 36' front yard setback).
- Granting the front yard variance request will not provide any relief to architectural requirements of CD 11 some of which have been identified by the Sustainable Development and Construction Conservation District Chief Planner.

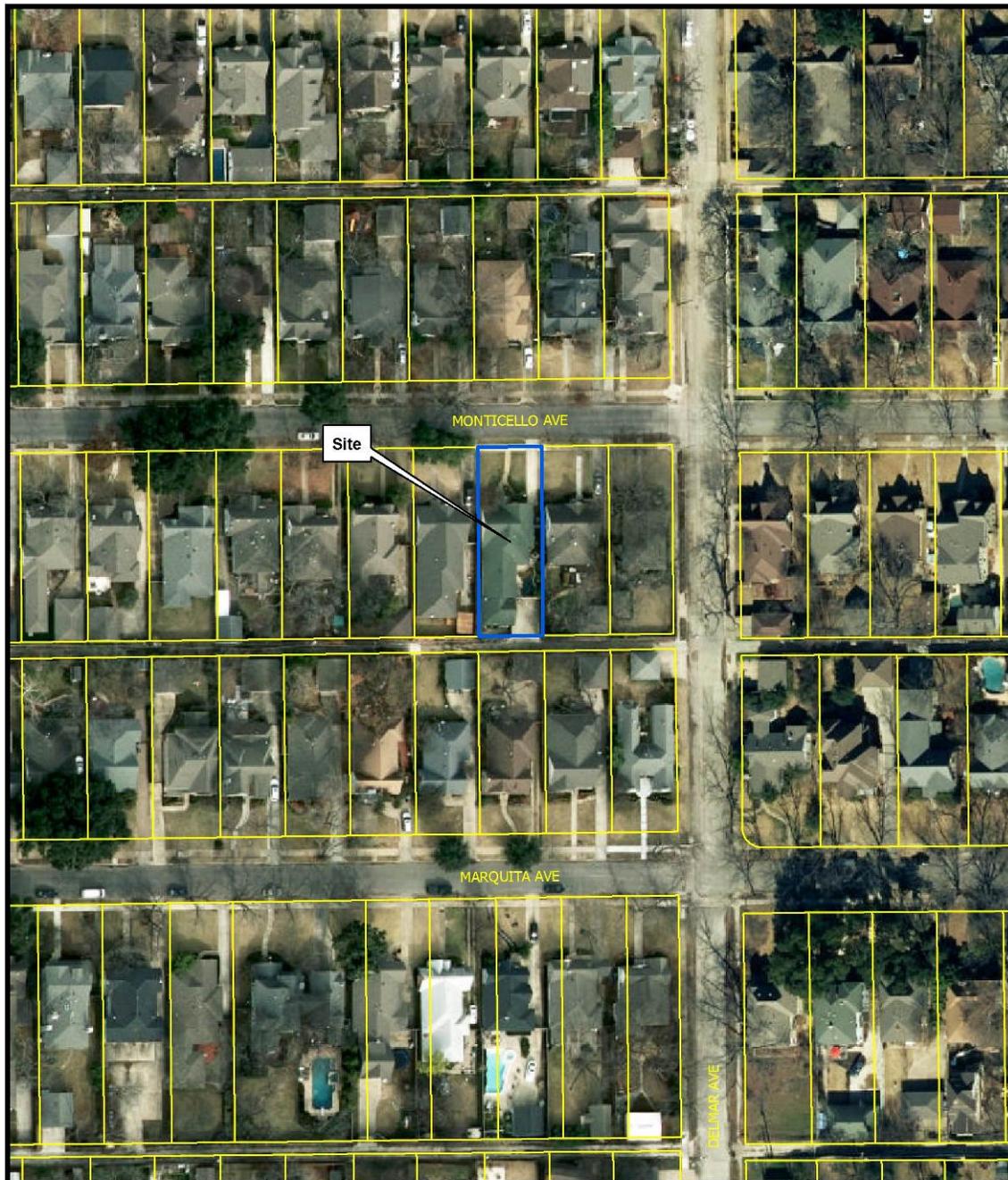
**Timeline:**

- November 16, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- January 5, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- January 5, 2018: The Board Administrator emailed the applicant's representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the January 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and February 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- January 30, 2018: The Sustainable Development and Construction Conservation District Chief Planner has submitted a review comment sheet with the following comments: "Projecting front gable at porch will not meet the architectural requirements of Ordinance 25474(k)(5)(B)." Any remodeling must match the consistent materials in type, color, coursing, joint detailing, mortaring, size, and texture." Projection is comprised of wood spindle columns which does not match the remainder of the house which is brick and stone".

February 6, 2018: The applicant and applicant's representative submitted additional documentation on this appeal to the Board Administrator beyond what was submitted with the original application (see Attachment A).

February 6, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Development Code Amendment Chief Planner, the Sustainable Development and Construction Department Senior Planners, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.





1:1,200

# AERIAL MAP

Case no: BDA178-015

Date: 1/10/2018

**Long, Steve**

**From:** Long, Steve  
**Sent:** Tuesday, February 06, 2018 6:26 AM  
**To:** 'Karl Crawley'  
**Cc:** Dean, Neva; Trammell, Charles; Aguilera, Oscar E; Williams, Kanesia; Hersch, William  
**Subject:** RE: BDA 178-014 and 015, Property at 5838 Monticello Avenue  
**Attachments:** 015 application materials.pdf

Dear Karl,

Given that the questions that I emailed you yesterday and some of which that I emailed you on January 11<sup>th</sup> are still not answered, please be advised of the following:

1. Upon re-reading the email and attachments you sent me last Friday, these materials will be included as attachments in both applications referenced above.
2. Upon re-reading the application you filed on November 16<sup>th</sup>, I will prepare a case report for BDA178-015 that states that the 7' 6" front yard variance you are requesting is for: "2' 0" existing house built in 1926, and 5' 6" awning built in 2016.

Thank you,

Steve



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



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

**From:** Long, Steve  
**Sent:** Monday, February 05, 2018 11:58 AM  
**To:** 'Karl Crawley' <Karl@masterplanconsultants.com>  
**Cc:** Aguilera, Oscar E <oscar.aguilera@dallascityhall.com>  
**Subject:** FW: BDA 178- 015, Property at 5838 Monticello Avenue

Dear Karl,

Over the weekend, you sent me additional materials attached that appears to be to the application referenced above, and possibly BDA178-014, too.

As you know, several weeks ago, we spoke about whether any part of your request for variance to the front yard setback regulations pertaining to the application referenced above was made to address a nonconforming structure on the site.

Once again, I have found on DCAD that the structure at 5838 Monticello Avenue was built in 1926. With this finding, and once again, I am attaching provisions from the Dallas Development Code regarding nonconforming structures.

I still have the same questions that I asked you several weeks ago. Beyond the January 31<sup>st</sup> deadline to add things to your application for staff review purposes that I sent you several weeks ago, would you please provide answers to the following questions by the end of the day today:

1. Can you distinguish on the submitted site plans (sheet 1 and sheet 2) the part of the existing home (if any) on the site in the 36' front yard setback that is a nonconforming structure from the part of the existing home on the site in the 36' front yard setback that is an illegal structure?
2. Can you distinguish on the submitted elevation (sheet 2A) the part of the existing home (if any) on the site in the 36' front yard setback that is a nonconforming structure from the part of the existing home on the site in the 36' front yard setback that is an illegal structure?
3. On the assumption that part of the existing home on the site is a nonconforming structure, please let me know if your variance request is made to: a) remedy the nonconforming aspect of this structure and to maintain the illegal addition/structure to it in the front yard setback, or b) made just to maintain illegal addition/structure to the nonconforming structure in the front yard setback?

A new question that I am hoping you can answer by the end of the day today is whether the attached information that you emailed me last Friday afternoon is for BDA178-014, BDA 178-015, or both?

Thank you,

Steve



**Steve Long**

*Board of Adjustment Chief Planner*

**City of Dallas | [www.dallascityhall.com](http://www.dallascityhall.com)**

Current Planning Division

Sustainable Development and Construction

1500 Marilla Street, 5BN

Dallas, TX 75201

O: 214-670-4666

[steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com)



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

**From:** Karl Crawley [<mailto:Karl@masterplanconsultants.com>]

**Sent:** Friday, February 02, 2018 4:39 PM

BDA 178-014 & 015

Attach A ps 3

To: Long, Steve <[steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com)>

Subject: BDA 178-014 and 015

Steve

Per our previous conversations I understand the front yard setback variance if approved would grant the variance but any construction, either existing or future, would have to comply with a possible setback or at a minimum a new setback line but would also have to comply with the regulations contained in the Conservation District regulations. With that said we are still requesting to move forward.

Also please find attached additional information provided by the owner.

Karl A. Crawley  
President  
Masterplan Consultants  
900 Jackson Street, Suite 640  
Dallas TX 75202

214 761 9197 Office  
972 342 3707 Mobile

**Long, Steve**

---

**From:** Karl Crawley <Karl@masterplanconsultants.com>  
**Sent:** Friday, February 02, 2018 4:39 PM  
**To:** Long, Steve  
**Subject:** BDA 178-014 and 015  
**Attachments:** 2\_BOA Appeal 178-014 & 178-015\_ Photos of 23 Houses on 5800 Monticello Av.pdf; 1\_5838 Monticello BoA Appeal .pdf; 5843 Monticello Avenue.docx; 5842 Monticello Avenue.docx; 5830 Monticello Avenue.docx; 5835 Monticello Avenue.docx; 5831 Monticello Avenue.docx; 5806 Monticello Avenue.docx

Steve

Per our previous conversations I understand the front yard setback variance if approved would grant the variance but any construction, either existing or future, would have to comply with a possible setback or at a minimum a new setback line but would also have to comply with the regulations contained in the Conservation District regulations. With that said we are still requesting to move forward.

Also please find attached additional information provided by the owner.

Karl A. Crawley  
President  
Masterplan Consultants  
900 Jackson Street, Suite 640  
Dallas TX 75202

214 761 9197 Office  
972 342 3707 Mobile

Board of Adjustment Appeal 178-014 & 178-015

5838 Monticello Avenue  
Dallas, TX 75206

In the 5800 block of Monticello Avenue there are 23 houses, excluding 5838 Monticello. These house were photographed (copies attached). Existing awnings and porches were reviewed and findings are as follows:

Awnings

- 16 houses have regular awnings;
- 3 houses have awnings cum front porches (2 are open and 1 is enclosed with screen);
- 3 houses have cloth awnings; and
- 1 house has no awning.

Porches

- 13 houses have porches enclosed with window(s) and brick/stone/stucco or siding wall;
- 4 houses have porches enclosed with glass;
- 3 houses have porches (1 front porch) that are enclosed with screen;
- 2 houses have porches cum front awnings that are open; and
- 1 house has no porch.

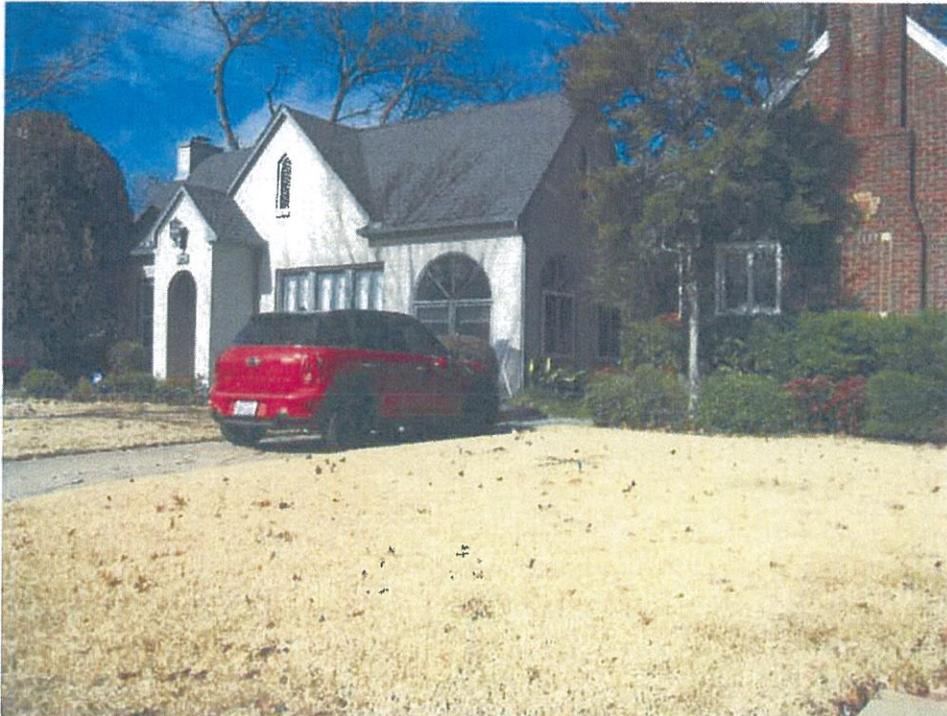
5802 Monticello Avenue



Awning and front porch enclosed with glass

BDA 178-014 & 015  
ATTACH A  
Pg 7

5803 Monticello Avenue



Awning and side porch enclosed with 3 windows and brick wall

BDA178-014-015  
Attach A pg 8

5806 Monticello Avenue



Awning and porch enclosed with 4 windows and siding wall

BDA178-014 + 015  
Attach A  
Pg 9

5807 Monticello Avenue



Awning and porch enclosed with screen

BDA 178-014 + 015

Attach A

PS 10

5810 Monticello Avenue



Awning cum front porch open

BDA 178-014 & 015  
A Hech A  
pg 11

5811 Monticello Avenue



Awning and porch enclosed with 5 windows and brick wall

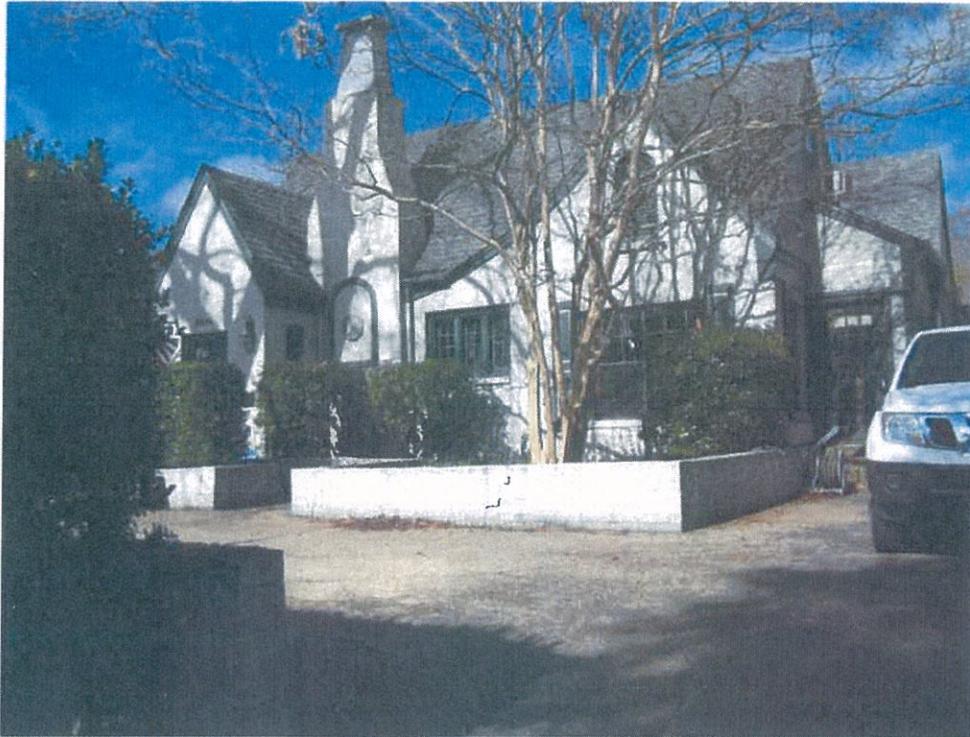
BDA 178-014 + 015  
Attachment A  
Pg 12

5814 Monticello Avenue



Awning cum front porch enclosed with screen

5815 Monticello Avenue



Awning and porch enclosed with screen

BDA 178-014 - 015

A H. in A

PS 14

5818 Monticello Avenue



No awning and porch enclosed with 3 windows and brick/stone wall

BDA 178-014 + 015

Attach A

pg 15

5819 Monticello Avenue



Awning and porch enclosed with 3 windows and brick/stucco wall + a car port

BDA 178-014 + 015  
Attention A  
Pg 16

5822 Monticello Avenue



Awning and porch enclosed with 3 windows and brick wall

BDA 178-014 & 015

Att. A

PS 17

5823 Monticello Avenue



Awning and porch enclosed with 2 windows and brick wall

BDA178-014 2015  
A Home A  
P3 13

5826 Monticello Avenue



Awning and no porch

BDA178-014 & 015

Attach A

PS 19

5827 Monticello Avenue



Awning and porch enclosed with 1 window and solid brick wall

BDA 178-014 & 015  
Attach A  
Pg 20

5830 Monticello Avenue



Cloth awning and porch enclosed with glass and brick wall

BDA 178-014 & 015  
Attachment A  
P521

5831 Monticello Avenue



Awning and porch enclosed with one window and solid brick wall

BDA 178-014 & 015  
Attach A  
Pg 22

5834 Monticello Avenue



Awning and porch enclosed with glass

BDA 178-014 & 015

Attach A

PS 23

5835 Monticello Avenue



Awning and porch enclosed with 3 windows and brick wall

BDA178-014 & 015

Attach A

PS 24

5839 Monticello Avenue



Awning cum front porch open

BDA178-014 i 015  
Atch A  
Pg 25

5842 Monticello Avenue



Cloth awning and porch enclosed with glass

BDA 178-014 c 015  
A Home A  
PS 26

5843 Monticello Avenue



Cloth awning and porch enclosed with 5 windows and brick wall

BDA178-014 & 015

Attach A

PS 27

5946 Monticello Avenue



Awning and porch enclosed with 4 windows and brick wall

BDA 178-014-015

AH-A

PS 23

5847 Monticello Avenue



Awning and porch enclosed with 7 windows and brick wall

BDA 178-014-015

ATTACH A

1529

BOARD OF ADJUSTMENT APPEAL: 178-014 & 178-015

5838 MONTICELLO AVENUE  
DALLAS, TX 75206



SCALE: 1" = 16'-0"

SITE PLAN

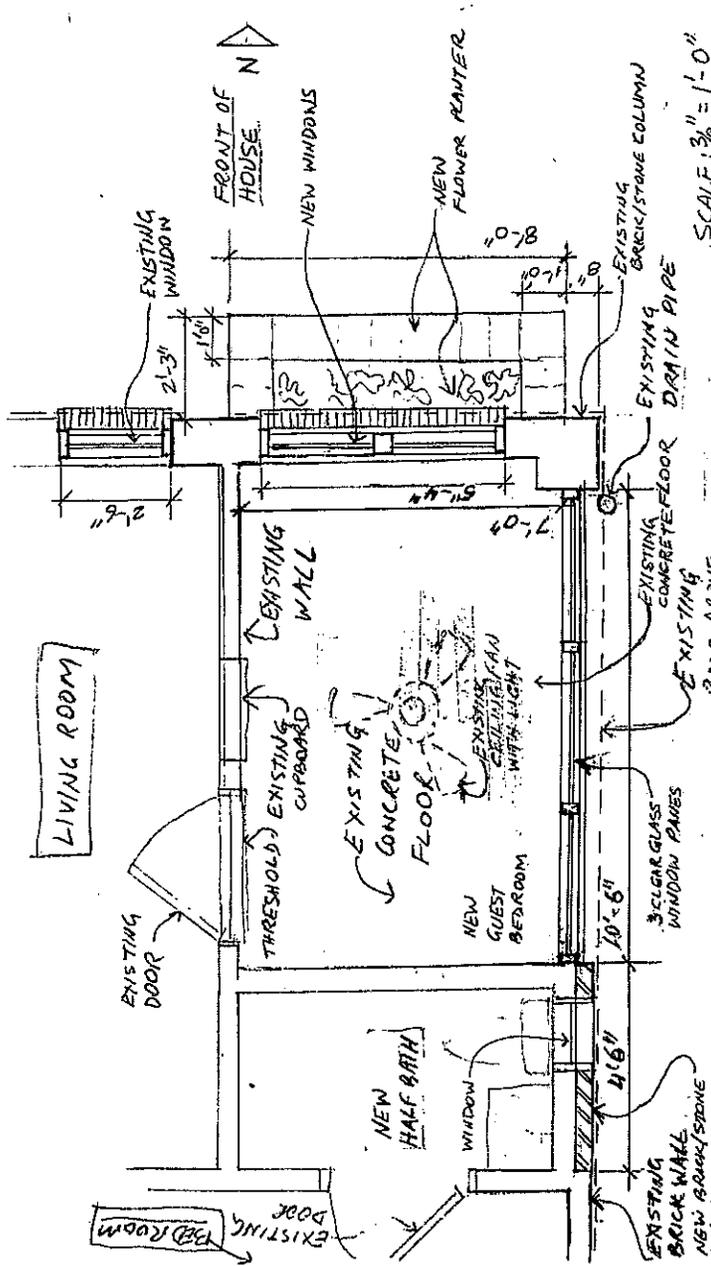
SHEET 1

16 NOV 2017

BDA 178-014 2015  
 ARL-A  
 PS30

SHEET 2  
 16 Nov 2017

NEW PART IS TO REPLACE OPEN AREA  
 WITH GUEST BEDROOM AND HALF BATH.



SCALE 1 3/8" = 1'-0"

FLOOR PLAN  
 CONVERT EXISTING OPEN AREA  
 INTO GUEST BEDROOM AND HALF BATH

SHEET 3

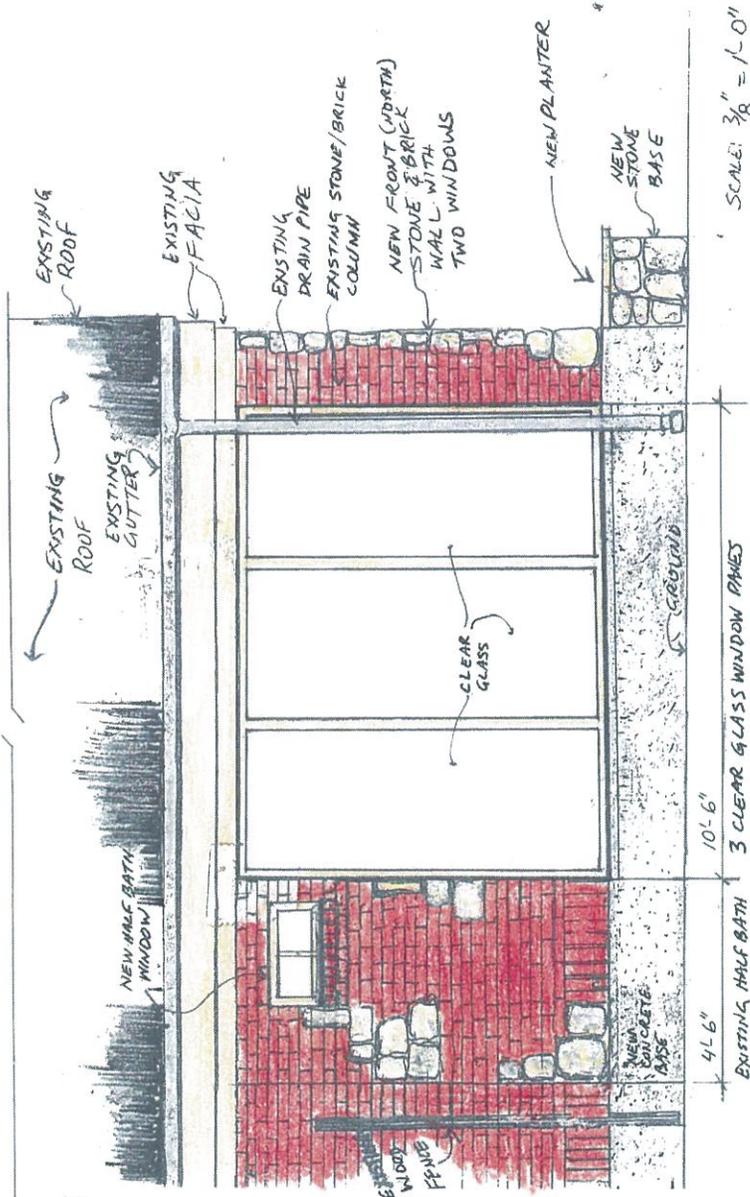
16 Nov 2017



SHERWIN WILLIAMS  
SW 7453 - PACKER BEIGE  
FOR WINDOWS AND FACIA



SHERWIN WILLIAMS  
SW 625B - TRICORN BLACK  
FOR TRIM



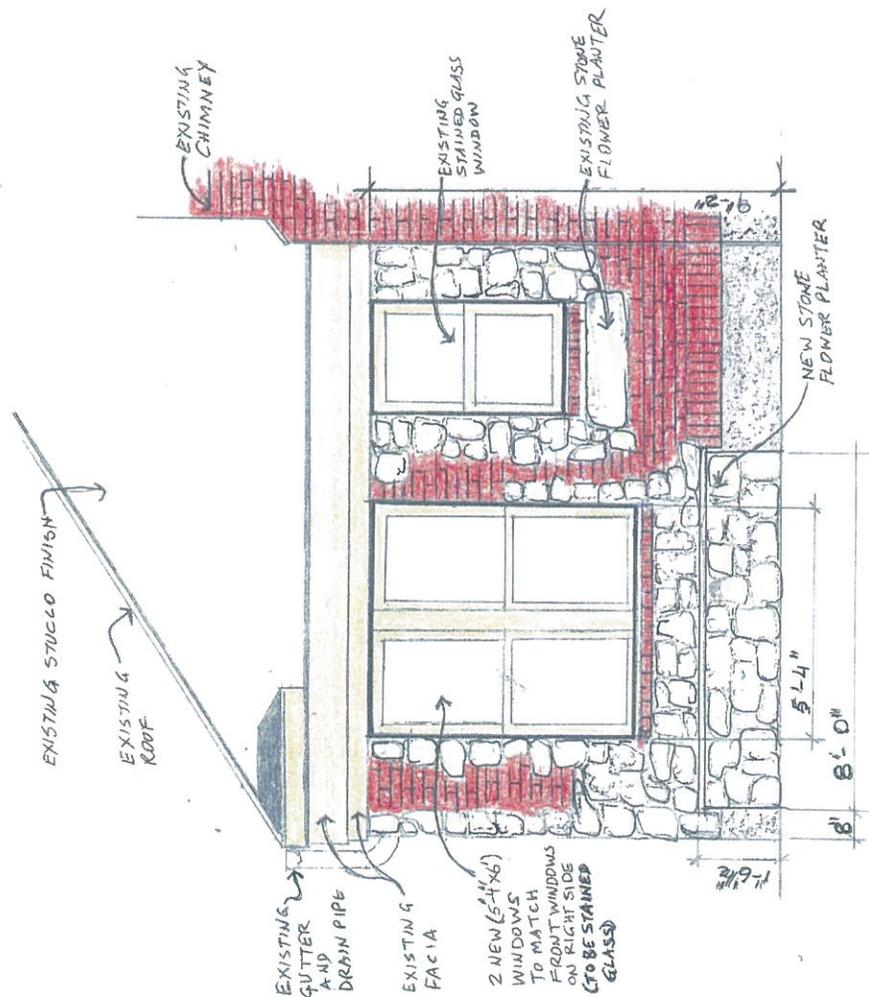
ELEVATION: EAST WALL  
GUEST BED ROOM & HALF BATH

**SHEET 4**

16 NOV 2017



STAINED GLASS WINDOWS  
ON FRONT RIGHT SIDE





BDA178-014 & 015

Attach A

PS 34

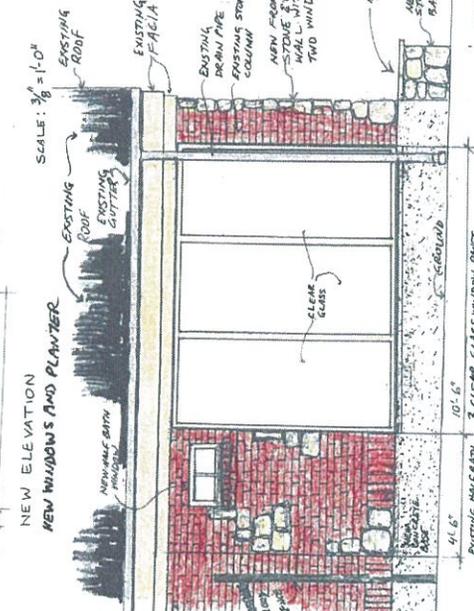
SHEET 6

16 NOV 2017



11' 4" EXISTING

Address	Owner	In Favor	In Opposition
5838 Monticello Avenue Dallas, TX 75206			
Our neighbor Mr. and Mrs. Seth are requesting the city of Dallas for approval of the following improvements:			
<ul style="list-style-type: none"> <li>FRONT ENTRYWAY AWNING</li> <li>ENCLOSE SIDE PORCH:</li> </ul>			
<ol style="list-style-type: none"> <li>Existing east and north outer open areas are 163 square feet (SF)</li> <li>To enclose porch with outer walls require 75% or 122 SF clear glass window panes</li> <li>The proposed enclosure provides a total of 68% or 83 SF clear glass window panes:               <ol style="list-style-type: none"> <li>East wall with three 8' - 0" X 3' - 4" fixed clear glass window panes = 65.5 SF</li> <li>North wall with two 5' - 0" X 1' - 8" clear glass window panes = 16.5 SF</li> <li>East wall half bathroom with two 1' - 0" X 0' - 6" clear glass window panes = 1 SF</li> </ol> </li> </ol>			
Address	Owner	In Favor	In Opposition
5830 Monticello	Robert S. Bloss Jr	✓	
5834	Casey Evans	✓	
5842	Cynthia G. Neighbor & Ron Samples	✓	
5846	Hunter J. & Erica Austin	✓	
5831	Cliton K. & Madeline B. Gulick	✓	
5835	Steven M. Lobo	✓	
5839	Campbell B. Reed	✓	
5843	Thomas & Tracy Chiang	✓	
5847	Philip T. & Jessica L. Dieke	✓	



5842 Monticello Avenue

BDA178-014 . 015

Attach A

P530



Cloth awning and porch enclosed with glass

P-DA-178-014 + 015  
Attachment A  
P537

5830 Monticello Avenue



Cloth awning and porch enclosed with glass and brick wall

5835 Monticello Avenue

BDA178-014 2015

Attach A

ps 38



Awning and porch enclosed with 3 windows and brick wall

BDA-178-014 4015  
Attach A  
PS 39

5831 Monticello Avenue



Awning and porch enclosed with one window and solid brick wall

BDA178-014 < 015

Attach A

PS 40

5806 Monticello Avenue



Awning and porch enclosed with 4 windows and siding wall



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-015

Data Relative to Subject Property:

Date: 11-16-17

Location address: 5838 MONTICELLO AV. DALLAS, TX Zoning District: ~~75206~~ CD11

Lot No.: 22 Block No.: 8/2153 Acreage: 0.166 Census Tract: \_\_\_\_\_

Street Frontage (in Feet): 1) 50'-0" 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): LAKSHMI D. SETH  
VIRENDRA C. SETH

Applicant: VIRENDRA C. SETH ~~LAKSHMI D. SETH~~ Telephone: 214-692-9431

Mailing Address: 5838 MONTICELLO AV. DALLAS, TX Zip Code: 75206

E-mail Address: V.Seth@sbcglobal.net

Represented by: ~~MASTERPLAN~~ KARL CRAWLEY Telephone: 214-761-9197

Mailing Address: 900 JACKSON ST., SUITE 640, DALLAS, TX Zip Code: 75202

E-mail Address: Karl@masterplanconsultants.com

Affirm that an appeal has been made for a Variance, or Special Exception, of ~~ADMINISTRATION OFFICIAL'S DECISION TO DENY FRONT YARD VARIANCE SETBACK OF 7'-6" FROM THE 36' REQUIREMENT.~~

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:

~~SEE ATTACHED~~ REQUESTING APPROVAL OF 7'-6" FRONT YARD VARIANCE TO ALLOW FOR 2'-0" EXISTING HOUSE BUILT IN 1926, AND 5'-6" AWNING, BUILT IN 2016, ABOVE THE 2 STEPS (CLEARING TO FRONT DOOR) WHICH ARE A TOTAL OF 5'-6" LONG AND 1'-3" HIGH FROM THE GROUND.

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

~~LAKSHMI D. SETH~~

Before me the undersigned on this day personally appeared VIRENDRA C. SETH  
(Affiant/Applicant's name printed)

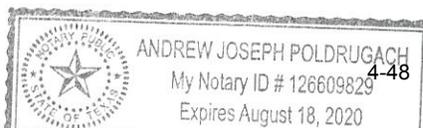
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

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

Subscribed and sworn to before me this 20th day of October, 2017

(Rev. 08-01-11)

BDA 178-015



Andrew Poldrugach  
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 V. C. Seth  
represented by Karl A. Crawley  
did submit a request for a variance to the front yard setback regulations  
at 5838 Monticello Avenue

BDA178-015. Application of V. C. Seth represented by Karl A. Crawley for a variance to the front yard setback regulations at 5838 Monticello Ave. This property is more fully described as Lot 22, Block 8/2153, and is zoned CD-11, which requires a front yard setback of 36 feet. The applicant proposes to construct a single family residential structure and provide a 28 foot 6 inch front yard setback, which will require a 7 foot 6 inch variance to the front yard setback regulations.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official

# City of Dallas

## Internal Development Research Site

BDA 178-015

### Legend

#### Locate Property

Search by:

GIS Account #

OR

Street address.

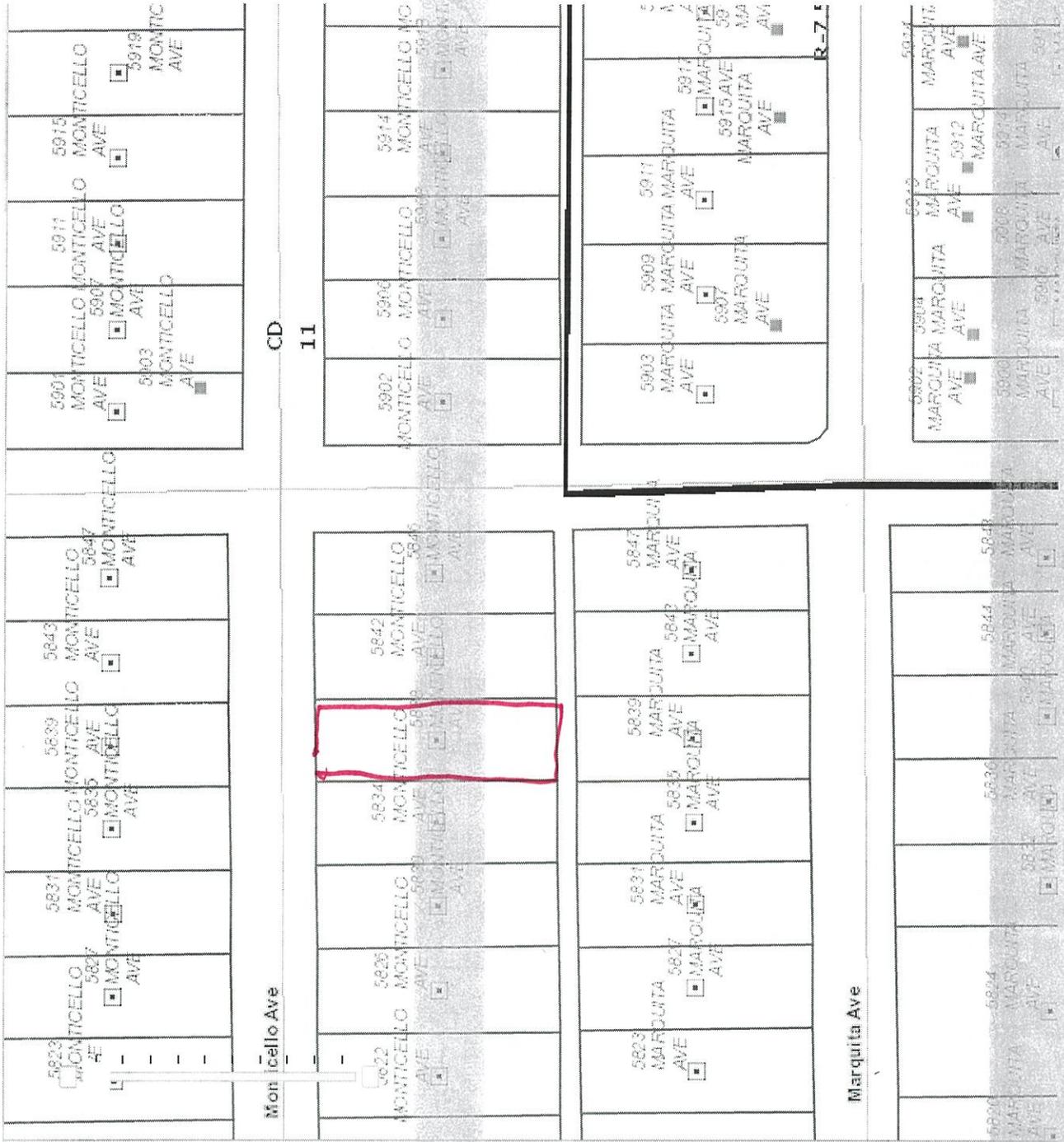
5838 monticello

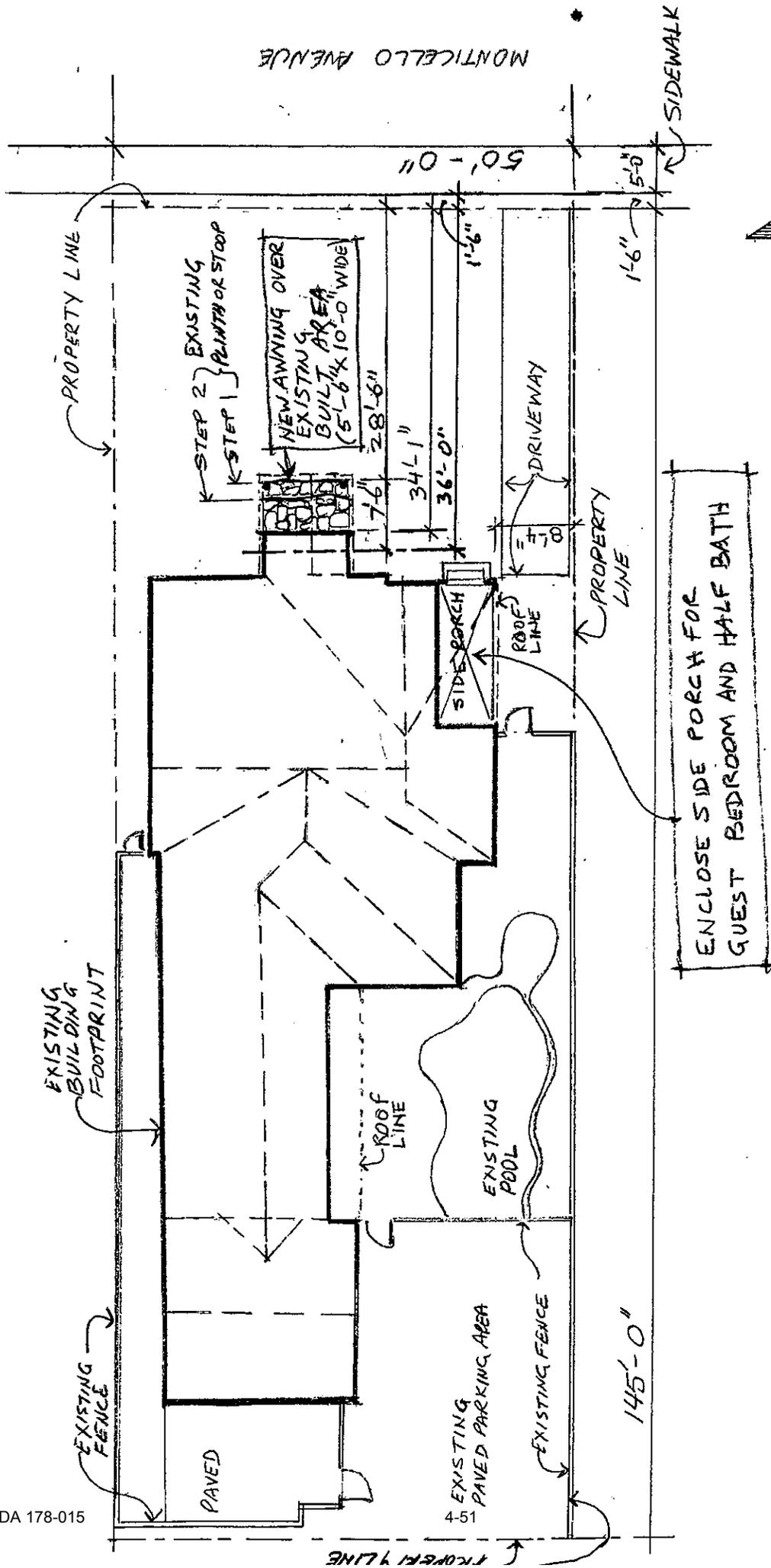
OR

Parcel address.

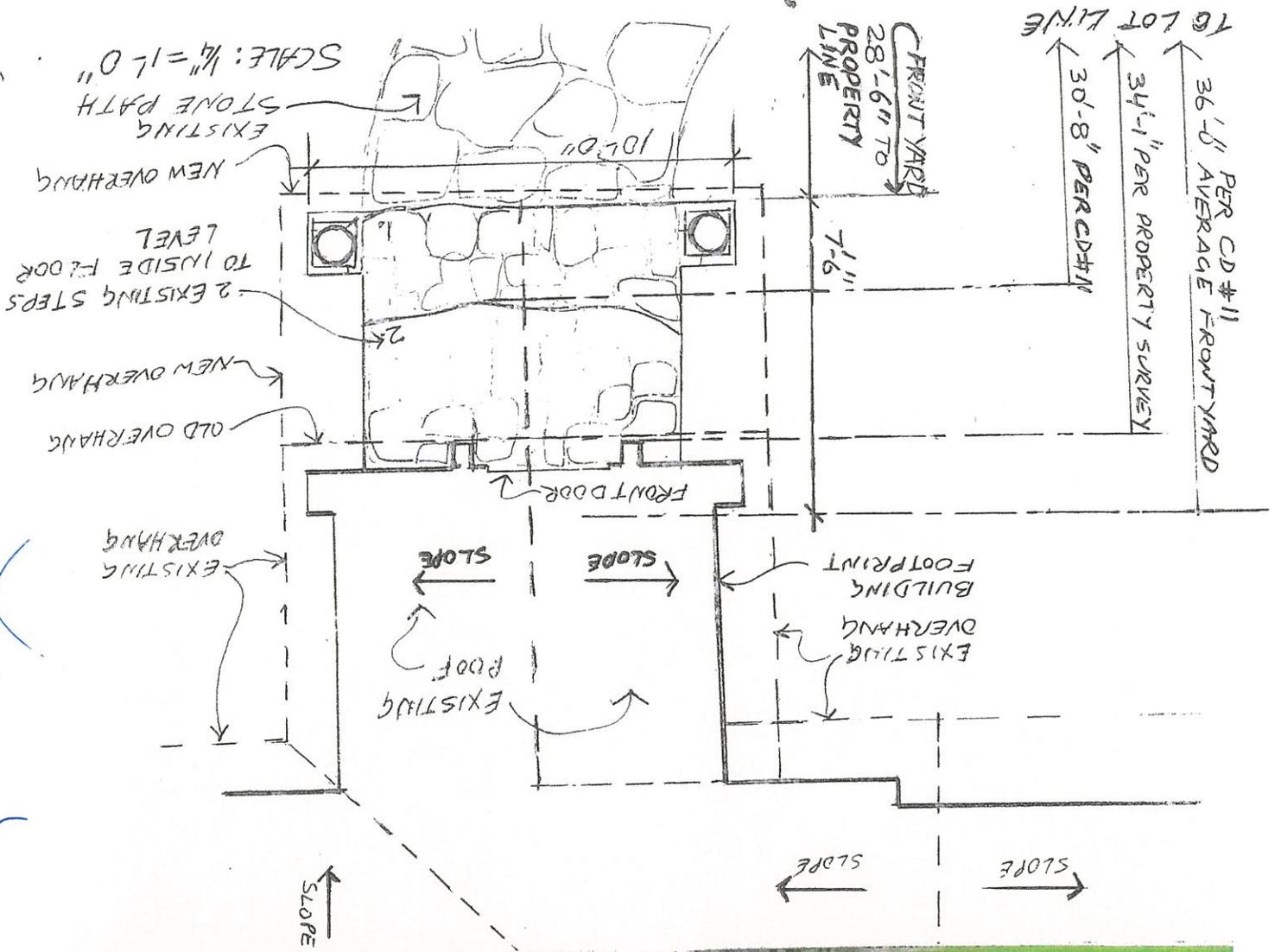
Use street type for better re

*W*



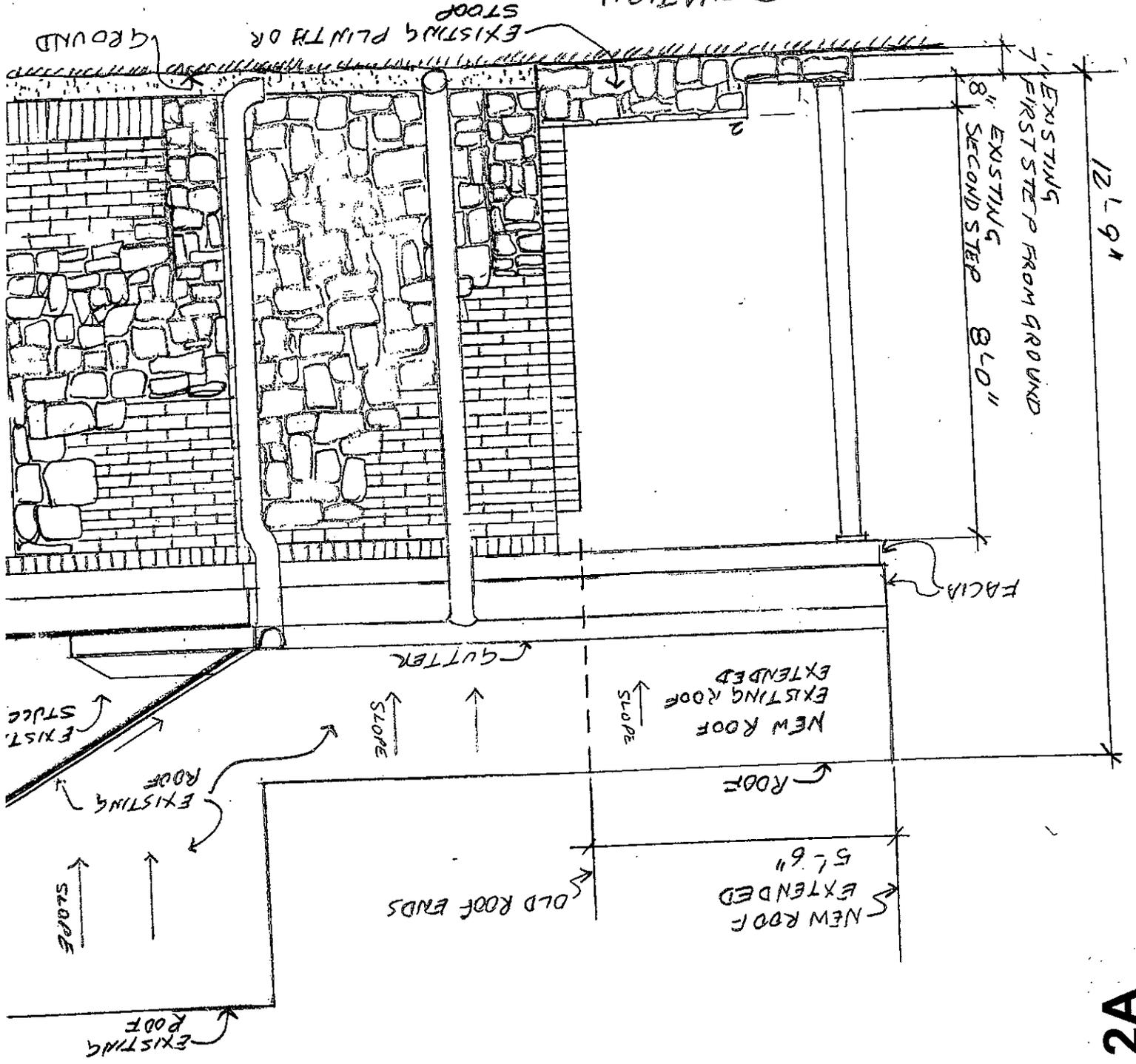


SITE PLAN

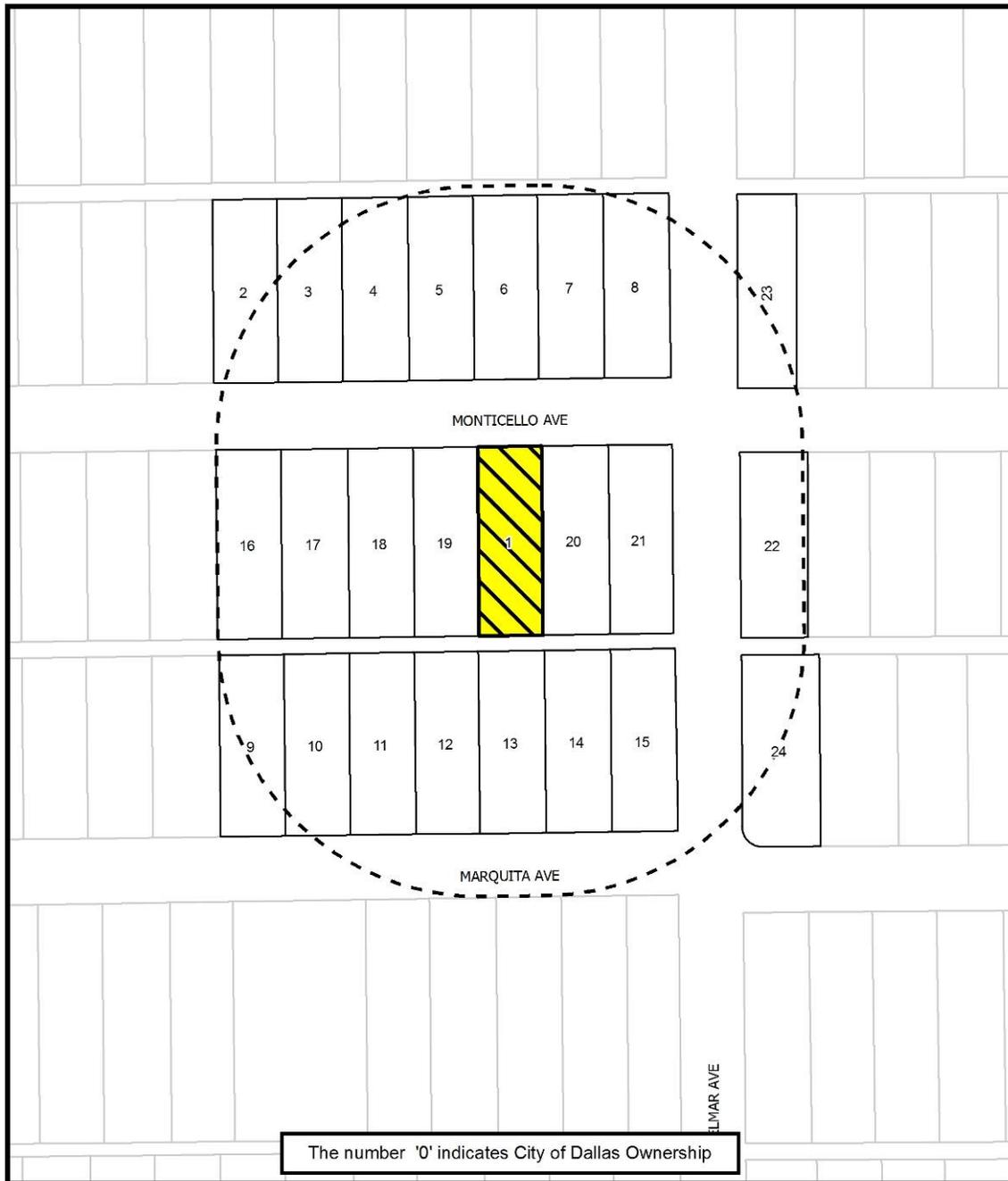


SCALE: 3/8" = 1'-0"

SIDE ELEVATION  
ANNING FRONTING NORTH



SHEET 2A



 1:1,200	<h2>NOTIFICATION</h2>	Case no: <b>BDA178-015</b>			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">24</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	24	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
24	NUMBER OF PROPERTY OWNERS NOTIFIED				

## *Notification List of Property Owners*

### *BDA178-015*

#### *24 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5838 MONTICELLO AVE	SETH VIRENDRA C & LAKSHMI D
2	5823 MONTICELLO AVE	MOQUIST BRIAN
3	5827 MONTICELLO AVE	WILLIFORD CHRISTINE
4	5831 MONTICELLO AVE	GULICK CLINTON K & MADELINE B
5	5835 MONTICELLO AVE	LOBO STEVEN M
6	5839 MONTICELLO AVE	READ CAMPBELL B &
7	5843 MONTICELLO AVE	CHIANG THOMAS & TRACY
8	5847 MONTICELLO AVE	DIEKE PHILLIP T & JESSICA L
9	5823 MARQUITA AVE	ALLEN ASHLEY
10	5827 MARQUITA AVE	TRAN JOHN
11	5831 MARQUITA AVE	BURNS WARREN T
12	5835 MARQUITA AVE	KOONTZ CARL H
13	5839 MARQUITA AVE	JABLONSKI JOSEPH STEVEN &
14	5843 MARQUITA AVE	FAUCHER MARYANN
15	5847 MARQUITA AVE	CLARY TAMMY L
16	5822 MONTICELLO AVE	LAFUZE WILLIAM L JR
17	5826 MONTICELLO AVE	SULLIVAN OLIVIA R
18	5830 MONTICELLO AVE	BLOSS ROBERT S JR
19	5834 MONTICELLO AVE	EVANS CASEY
20	5842 MONTICELLO AVE	NEIGHBOR CYNTHIA G
21	5846 MONTICELLO AVE	AUSTIN HUNTER J & ERICA
22	5902 MONTICELLO AVE	COONEY BETH
23	5901 MONTICELLO AVE	LOVETT SUZANNE
24	5903 MARQUITA AVE	FRATER GORDON H

**FILE NUMBER:** BDA178-020(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Robert Reeves and Associates, represented by Robert Reeves, for variances to the front and side yard setback regulations, and off-street loading regulations, and a special exception to the off-street parking regulations at 13907 Noel Road. This property is more fully described as Lot 1B, Block A/7005, and is zoned MU-3(SAH), which requires a front yard (urban form) setback of 35 feet and requires a side yard (tower spacing) setback of 13 feet 6 inches, and requires off-street loading and off-street parking spaces to be provided. The applicant proposes to construct and maintain a structure and provide a 15 foot front yard setback, which will require a 20 foot variance to the front yard (urban form) setback regulations; to construct and maintain a structure and provide a 6 foot side yard setback, which will require a 7 foot 6 inch variance to the side yard (tower spacing) setback regulations; to construct and maintain a structure with a hotel or motel use and provide 2 of the required 3 off-street loading spaces, which will require a 1 space variance to the loading regulations; and to construct and maintain a structure with a hotel or motel use, a general merchandise or food store 3500 square feet or less use, and an animal shelter or clinic without outside runs use, and provide 213 of the required 246 off-street parking spaces, which will require a 33 space special exception to the off-street parking regulations.

**LOCATION:** 13907 Noel Road

**APPLICANT:** Robert Reeves and Associates  
Represented by Robert Reeves

**REQUESTS:**

The following requests have been made to construct and maintain a 6-story, approximately 72' high, approximately 170,000 square foot mixed structure (hotel or motel use, general merchandise or food store 3,500 square feet or less use, animal shelter or clinic without outside runs use) (Plush Galleria Hotel) on a site that is currently undeveloped:

1. Variances to the front yard setback (urban form setback) regulations of 20' are made to construct and maintain the aforementioned mixed use structure where a portion of this structure over 45' in height will be located as close as 15' from the two front property lines (Noel Road and Southern Boulevard) or 20' into the 35' urban form front yard setbacks;
2. A variance to the side yard setback (tower spacing setback) regulations of 7' 6" is made to construct and maintain the aforementioned mixed use structure where a portion of this structure over 45' in height will be located as close as 6' from one of the two side property lines (the north side property line) or 7' 6" into this 13' 6" tower spacing side yard setback;

3. A variance to the off-street loading regulations of 1 loading space is made to construct and maintain the aforementioned mixed use structure where 2 of the required 3 loading spaces are to be provided; and
4. A special exception to the off-street parking regulations of 33 spaces is made to construct and maintain the aforementioned mixed use structure with a combination of hotel or motel, general merchandise or food store 3,500 square feet or less, animal shelter or clinic without outside runs uses where 213 of the required 246 spaces are to be provided.

### **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.

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

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

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 75 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). For the office use, the maximum reduction authorized by this section is 35 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). Applicants may seek a special

exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.

- 2) In determining whether to grant a special exception, the board shall consider the following factors:
  - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
  - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
  - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
  - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
  - (E) The availability of public transit and the likelihood of its use.
  - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
  - (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
  - (B) Impose restrictions on access to or from the subject property; or
  - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
  - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
  - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

**STAFF RECOMMENDATION (front yard, side yard, and loading variances):**

Denial

Rationale:

- While staff recognized that the flat subject site was slightly irregular in shape caused by a 0.2 acre street easement in its southeast corner, and that this easement reduced the approximately 1.7 acre site by approximately 13 percent, staff

concluded that the applicant had not substantiated how this precludes him from developing the site in a manner commensurate with the development upon other parcels of land with the same MU-3 zoning, nor how the size, shape or slope of the site precludes him from developing it with a structure/use that could meet the front yard (urban form) and side yard (tower spacing) setback and loading regulations.

- Staff concluded that the applicant had not substantiated how if the Board were to grant these three requests for variances it would not be to relieve a self-created or personal hardship, nor for financial reasons only.
- In addition, with regard to the request for a variance to the off-street loading regulations, staff concluded that granting this variance is contrary to public interest because the Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “Recommends that this be denied” commenting: “Reduction of code-required loading spaces would facilitate a substandard design and affect traffic safety. Proposed design does not accommodate adequate maneuvering of off-street loading operations: space is limited and does not allow more than one truck to operate at a time. Goods and service vehicles would park on Southern Boulevard. Loading spaces are also proposed to be located on the front yard, exposed to the garage primary access point”.

**STAFF RECOMMENDATION (parking special exception):**

Approval, subject to the following condition:

- The special exception of 33 spaces shall automatically and immediately terminate if and when the hotel or motel, general merchandise or food store 3,500 square feet or less, animal shelter or clinic without outside runs uses are changed or discontinued.

Rationale:

- The Sustainable Development and Construction Department Senior Engineer indicated that he has no objections to this request.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: MU-3(SAH)(Deed restricted)\* (Mixed use)  
North: GO(A)(SAH)(Deed restricted) (General Office)  
South: PD 887 (Planned Development)  
East: PD 216 (Planned Development)  
West: MU-3(SAH) (Mixed use)

\* Note that on January 4, 2018, the applicant has represented in an email to the Board Administrator/Chief Planner that the deed restrictions on this property in no way conflict with the requests made to the board of adjustment on this application.

## **Land Use:**

The subject site is undeveloped. The areas to the north is developed with a hotel use; the area to the east is developed with multifamily use; the area to the south is developed with an office use, and the area to the west is developed with retail use.\

## **Zoning/BDA History:**

1. BDA990-372, Property at 13907 Noel Road (the subject site)

On December 6, 2000, the Board of Adjustment Panel B granted a request for a special exception to the off-street parking regulations of 6 spaces and imposed the following condition: the special exception granted automatically and immediately terminates if and when the retail and restaurant uses on the site are changed or discontinued.

The case report stated that the request was made to construct and maintain a retail development and restaurant on the undeveloped site and provide 95 of the required 101 off-street parking spaces required by code.

## **GENERAL FACTS/STAFF ANALYSIS (variances):**

- The requests for variances to the front (urban form) and side (tower spacing) setback regulations and off-street loading requirements focus on constructing and maintaining a 6-story, approximately 72' high, approximately 170,000 square foot mixed structure (hotel or motel use, general merchandise or food store 3,500 square feet or less use, animal shelter or clinic without outside runs use) (Plush Galleria Hotel) on a site that is currently undeveloped.
- The subject site is located at the northwest corner of Noel Road and Southern Boulevard.
- The site is zoned MU-3(SAH).
- The site has two front yard setbacks and two side yard setbacks.
- Section 51A-4.125(f)(4)(A) and (B) states that properties zoned MU-3 are required to provide a minimum front yard setback of 15 feet and a minimum side yard setback of 20' where adjacent to or directly across an alley from residential zoning districts or no minimum in all other cases.
- But Section 51A-4.125(d)(4)(A) and (B) also states that properties zoned MU-3 have additional front and side yard setbacks for structures that exceed 45' in height. An additional 20' front yard setback (urban form setback) is required for that portion of a structure over 45' in height; and an additional side and rear yard setback (tower spacing setback) of 1' for each 2' in height above 45' is required for that portion of a structure above 45' in height up to a total setback of 30'.

- While the submitted site plan and elevations indicate that the proposed structure complies with the minimum front and side yard setbacks for the portion of it 45' or less in height, the submitted site plan and elevations indicate that the proposed 72' high structure does not provide the additional 20' front yard setback required from the front property lines along Noel Road on the east and Southern Boulevard on the south, or the additional 13' 6" side yard setback required from the side property line along the north side of the subject site.
- Section 51A-4.205(1) of the Dallas Development Code requires the following off-street loading requirements for a hotel and motel use:
  - 0 to 10,000 square feet: NONE
  - 10,000 to 50,000 square feet: 1
  - 50,000-100,000 square feet: 2
  - Each additional 100,000 square feet or fraction thereof: 1 additional
- The applicant proposes to construct an approximately 170,000 square foot hotel or motel use and provide 2 of the 3 off-street loading spaces.
- According to DCAD records, there are "no improvements" listed at 13907 Noel Road.
- The subject site is flat, slightly irregular in shape, and according to the submitted application is 1.74 acres in area. The site is zoned MU-3(SAH).
- The applicant has identified that a 0.2 acre street easement in its southeast corner, reduces the approximately 1.7 acre site by approximately 13 percent.
- The site has two front yard setbacks as any corner property has in this zoning district.
- The applicant has the burden of proof in establishing the following:
  - That granting the variances to the front and side yard setback and off-street loading 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 variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same IM (Industrial/manufacturing) zoning classification.
  - If the Board were to grant the variances, it would not be to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same MU-3 zoning classification.
- If the Board were to grant the any or all of the variance requests, and impose the submitted site plan and elevations as a condition to any or all of the requests, the building footprint and heights of the structure on the site would be limited to what is shown on these documents.

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

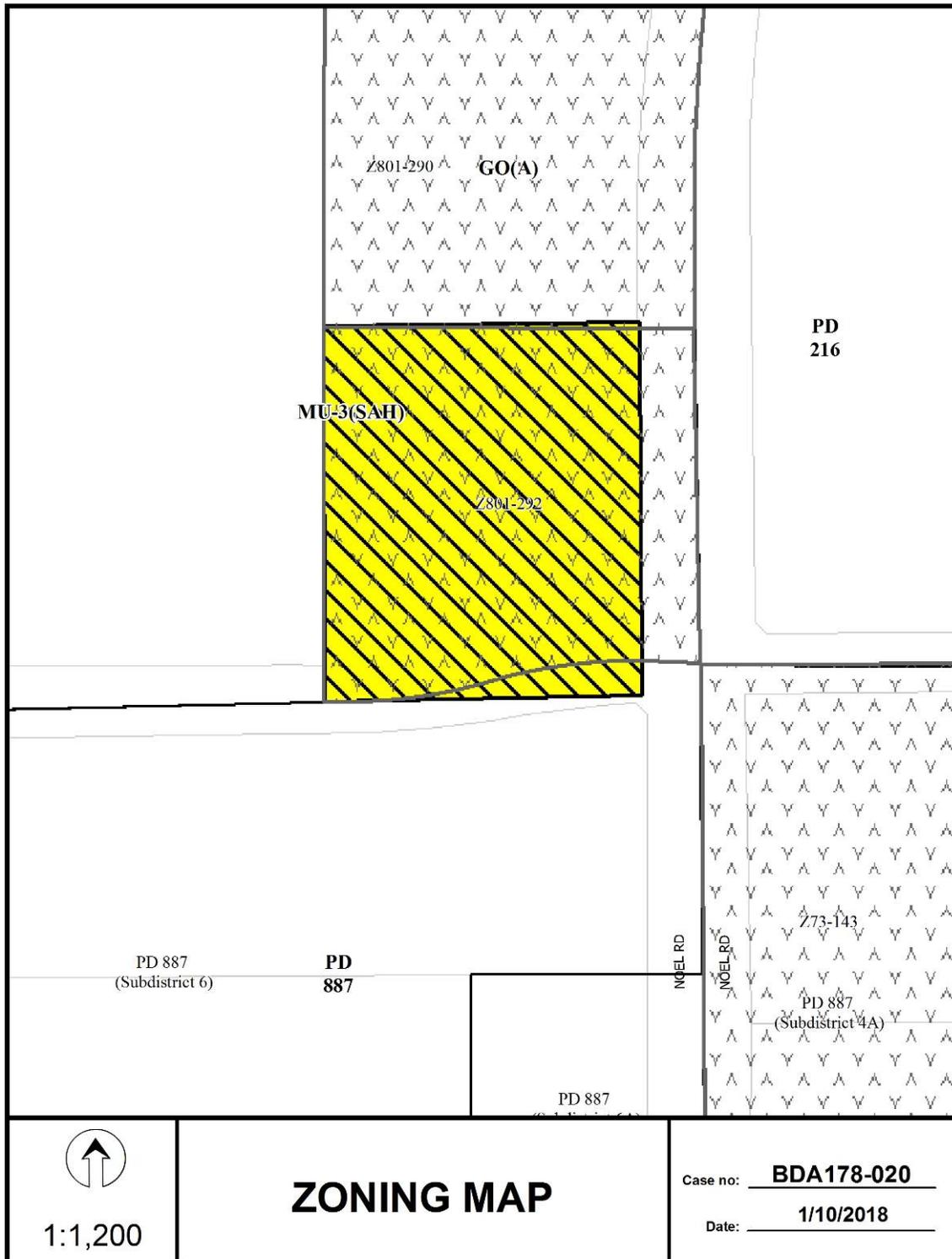
- This request for a special exception to the off-street parking regulations of 33 spaces focuses on constructing and maintaining approximately 170,000 square foot mixed structure with a mix of hotel or motel (a 213 room hotel), general merchandise or food store 3,500 square feet or less (1,800 square feet of retail use), animal shelter or clinic without outside runs (7,000 square foot “doggy day care”) uses, and providing 213 (or 87 percent) of the 246 off-street parking spaces required by code.
- Chapter 51A requires the following off-street parking requirement:
  - Hotel or motel: one space for each unit for units 1 to 250;  $\frac{3}{4}$  space for each unit for units 251 to 500,  $\frac{1}{2}$  space for each unit for all units over 500; plus one space per 200 square feet of meeting room.
  - General merchandise or food store 3,500 square feet or less: one space per 200 square feet of floor area.
  - Animal shelter or clinic: One space per 300 square feet of floor area.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “Has no objections”.
- The applicant has the burden of proof in establishing the following:
  - The parking demand generated by the proposed hotel or motel, general merchandise or food store 3,500 square feet or less, animal shelter or clinic without outside runs uses does not warrant the number of off-street parking spaces required, and
  - The special exception of 33 spaces (or a 13 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 33 spaces shall automatically and immediately terminate if and when the hotel or motel, general merchandise or food store 3,500 square feet or less, animal shelter or clinic without outside runs uses are changed or discontinued, the applicant could develop the site with these uses, and provide 213 (or 87 percent) of the 246 required off-street parking spaces.

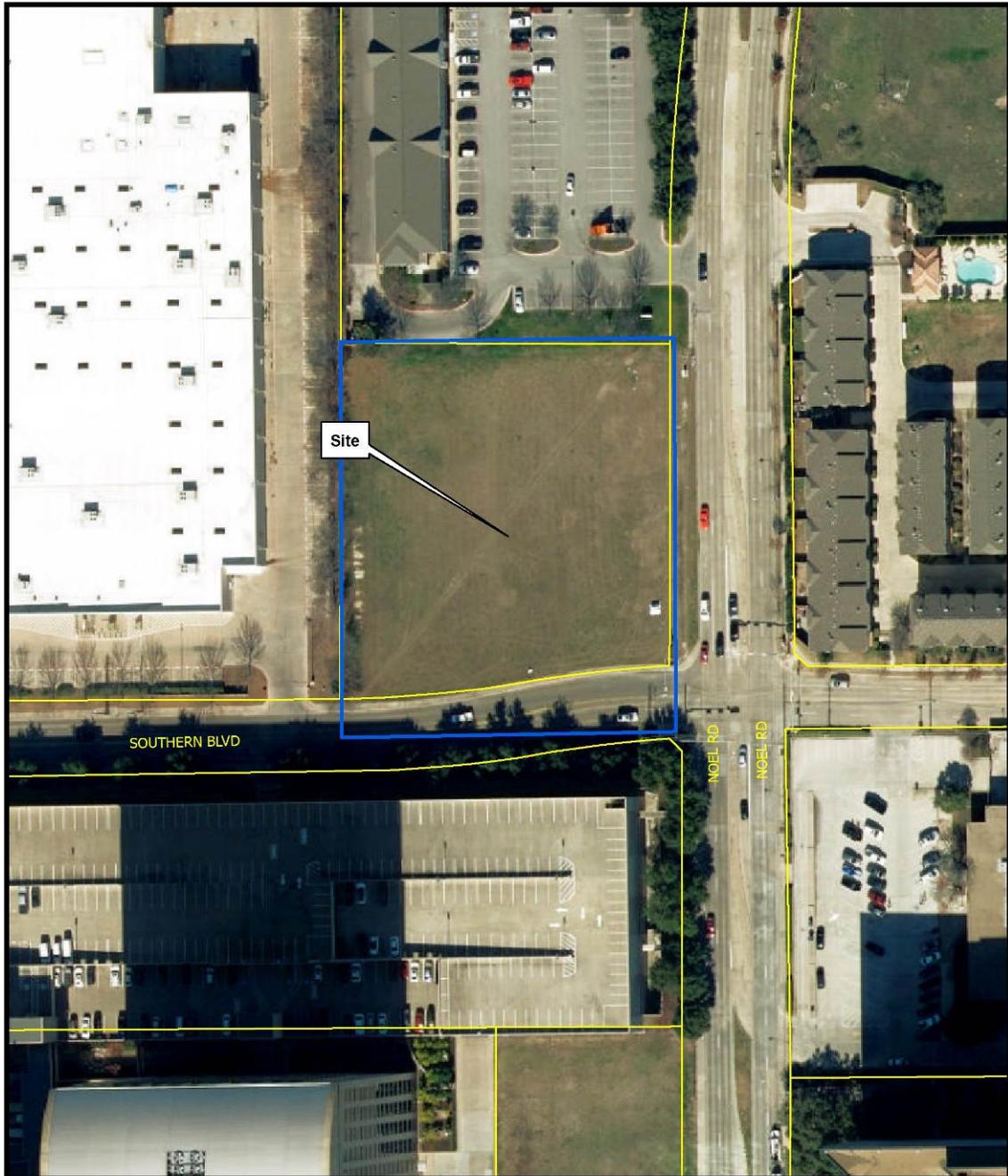
### **Timeline:**

December 12, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 5, 2018: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case”.

- January 5, 2018: The Board Administrator emailed the applicant the following information:
- a copy of the application materials including the Building Official's report on the application;
  - an attachment that provided the public hearing date and panel that will consider the application; the January 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- February 5 and 6, 2018: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachments A and B).
- February 6, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Development Code Amendment Chief Planner, the Sustainable Development and Construction Department Senior Planners, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.
- February 8, 2018: The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked "Recommends that this be denied" commenting:
1. "Reduction of code-required loading spaces would facilitate a substandard design and affect traffic safety. Proposed design does not accommodate adequate maneuvering of off-street loading operations: space is limited and does not allow more than one truck to operate at a time. Goods and service vehicles would park on Southern Boulevard. Loading spaces are also proposed to be located on the front yard, exposed to the garage primary access point.
  2. No comment on the 20' front yard setback variance request.
  3. No comment on the 7.5' side yard setback variance request.
  4. No objection to the 33 space off-street parking exception request.





SOUTHERN BLVD

NOEL RD

NOEL RD

Site



1:1,200

# AERIAL MAP

Case no: BDA178-020

Date: 1/10/2018

BDA178-020  
Attach A  
PS1

ROBERT REEVES  
& Associates, Inc.

PLANNING AND ZONING CONSULTANTS

January 31, 2018

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

RE: BDA 178-020, 13907 Noel Road  
The Plush Business Hotel

Dear Mr. Long:

The following additional information is submitted for Case BDA 178-020. As you know there are two components to this request. The first part of this request is for a 33-parking space special exception or 13.4% reduction, for a new Plush Hotel, which is classified in the International Traffic Engineer Manual as a business hotel with limited amenities. The hotel will also include a 1,800 sq. ft. retail/personal use in addition to a 7,200 sq. ft. animal clinic without outside runs. The development requires 246 parking spaces. Attached is a slightly revised Parking Demand Study.

The second part of this request is for a 20 ft. front yard variance along Noel Rd. and a portion of Southern Blvd.; a 7 ft. 6 in. side yard variance along the north property line; and one loading space variance. The 20 ft. front yard variance is a result of the urban form setback, which states, "An additional 20-foot front yard setback is required for that portion of a structure above 45 feet in height." The 7ft. 6 in. side yard variance is a result of the tower spacing requirement, which states, "An additional side and rear yard setback of one foot for each two feet in height above 45 feet is required for that portion of a structure above 45 feet in height up to a total setback of 30 feet. This subparagraph does not require a total side or rear yard setback greater than 30 feet." The setback variances are illustrated in the crosshatched areas shown on the attached site plan.

We believe we have a property hardship based on an irregular shaped lot impacted by a street easement along Southern Blvd., which significantly impacts the building area, particularly near the intersection of Noel Rd. and Southern Blvd.

The site is a small 1.7473-acre tract. Approximately .235 acres (13.4%) of the street easement intrudes into the site leaving 1.486 net acres. But more importantly, 2,857 sq. ft. of the street easement intrusion significantly impacts the required front yard setback along Southern Blvd. and Noel Rd., in addition to the side yard setback along the north property line. Instead of Southern Blvd. continuing eastward in a straight line from the Tollway to Noel Rd., the street easement swings to the north before it intersects with Noel Rd. impacting the development area. The front yard setback along a portion of Southern Blvd. is shifted north by 15 ft. and pushes the structure closer to the north property line. If the street easement had not shifted to the north, than the front yard setback variance along Southern Blvd. and the side yard setback variance along the north property line would not be necessary, see attached site plan.

In addition, because the buildable area has been reduced by the front yard setback along Southern Blvd. shifting to the north by 15 ft., it has made it difficult to construct three required loading docks necessitating our request for a one loading dock space variance. Therefore these variances are necessary to permit development of this parcel of land because it differs from other parcels of land being of such a restructured 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.

The property is zoned Mixed-Use 3 (Standard Affordable Housing or SAH). This zoning allows structures to be 270 ft. height and 20 stories. The urban form front yard setback and tower spacing side yard setback are required in order to provide light and air and minimize the visual impact of a canyon effect resulting from 270 feet high structures. The Plush Hotel is only six stories or 67'-8" high with an 8' parapet wall for screening mechanical equipment. Our 76-foot hotel with the yard variances will have far less impact on light and air than a 270 foot structure with an additional 20-foot front yard setback and 7'-6" side yard setback.

Mr. Long let me know if you have any questions or need additional information.

Respectfully:



Robert Reeves



## MEMORANDUM

To: Plush Hotel Dallas

From: Scot Johnson, P.E., PTOE  
Kimley-Horn and Associates, Inc.  
Registered Firm F-928

Date: January 29, 2018

Subject: Parking Demands for Modern Hotel Uses in Dallas



### **Introduction**

The proposed Plush Hotel would contain approximately 213 rooms and would be located on the northwest corner of Noel Road and Southern Boulevard in Dallas, Texas. Compared to traditional hotels, the proposed Plush Hotel would be designed differently and would follow a new business model that serves a modern business user with minimal amenities. These differences mean the hotel's users would need fewer parking spaces than the City code would normally require. The site is proposed to provide 0.85 spaces per room, a reduction of 15% from the City code requirement of 1 space per room for the first 250 rooms in a hotel.

The hotel site will also contain 1,800 SF of retail uses and 7,000 SF of doggy day care uses. Both of these are assumed to be standalone operations, not accessory uses of the hotel. Code parking for the retail area is 1 space per 200 SF, and for the doggy day care it is assumed to be 1 space per 500 SF, matching other adult and child day care uses.

Careful sizing of parking areas to specific uses will prevent the waste of space and building materials that is caused by providing parking that is rarely if ever used. Excessive parking also has negative impacts on often-hidden issues like walkable design, stormwater runoff, and urban heat island effects.

This memorandum describes the differences of the Plush Hotel, and then documents the two lines of inquiry which were investigated to find a reasonable parking supply requirement for the special hotel use. The investigation included a review of national parking research and observations of parking occupancy at comparable local sites.

### **Plush Hotel Characteristics**

The proposed Plush Hotel would have more limited amenities and services than most hotel developments, concentrating its value in the room finishes and in its integration with the surrounding neighborhood. The hotel's primary guests would be business users who are accessing the surrounding high density of office uses. The rooms would offer only king size beds, limiting the attractiveness to vacationing families or groups.

The hotel would not have a restaurant or pool. There would be a small gym space and a limited bar area for guests only. There may be limited banquet or conference spaces for use by guests, but the hotel would not offer catering or other support. Guest needs for restaurant, retail, and other non-lodging uses would be met in the nearby mixed-use areas of the Galleria and the upcoming Dallas Midtown district. As examples of limited services, there is no staffed front desk and housekeeping would not serve every room every day. These procedures would significantly reduce the number of staff on site.

As business travelers, the Plush guests will have fewer personal vehicles than other hotel guests. Transportation network companies like Uber and Lyft will be popular, in addition to traditional taxis and the Plush site's shuttle service. The site will also provide bike rentals for local trips. With the proximity of the office areas for business uses and the mixed-use areas for eating and entertainment, guests will know they will not need a rental car to satisfy their basic needs during their stay.

### **Parking Research**

The acknowledged source for national-level parking demand data is the Institute of Transportation Engineers (ITE) publication *Parking Generation, 4<sup>th</sup> Edition (2010)*. The category most closely matching the Plush Hotel is Land Use #312 Business Hotel. ITE's Business Hotel definition is lodging with limited facilities aimed at business travelers. The hotels have limited or no food service and no meeting spaces.

ITE observations show an average weekday parking demand of 0.60 vehicles per occupied room and an 85<sup>th</sup>-percentile demand, often used for design, of 0.75 vehicles per occupied room. Showing the business focus of the hotels, the weekend parking demand is nearly equal, with an average of 0.66 and an 85<sup>th</sup>-percentile of 0.72 vehicles per occupied room. These observations of business hotel parking demand are significantly lower than the Dallas code parking requirement of 1 space per room.

### **Dallas Observations**

Multiple observations were made at two nearby hotels, Le Meridien at 13402 Noel Road and the Sheraton at 4801 LBJ Freeway. These peer hotels serve similar demographics as the proposed Plush Hotel, but are larger and have extensive amenities such as restaurants and meetings spaces. Observations were conducted nightly after 1:00 AM to focus on the peak of lodging parking demand, removing most of the parking demand that may be due to non-guest use of the amenities. With some influence of the amenities and the higher staffing levels, these observations can be considered to be conservatively high for actual lodging parking demand. **Table 1** shows the details of each site and the observations conducted in March 2017.

Across the week of data, the observed parking demand averaged 0.40 per room for Le Meridien and 0.44 per room for the Sheraton. The highest observed demand was 0.68 spaces per room for Le Meridien on Friday night, when there was an obvious late-night event still underway. All other observations at both sites were under 0.59 spaces per room, with the Monday to Thursday weeknight demands ranging from 0.24 to 0.44 spaces per room. These observed parking demands at nearby similar hotels show that these active, successful hotels are still generating much less parking demand than the Dallas city code supply requirement of 1 space per room.

Table 1. Dallas Hotel Parking Occupancy (2017)

Site	Day	Vehicles Parked	Parking Demand Per Room
Le Meridien 13402 Noel Road, Dallas 258 Rooms	Monday	70	0.27
	Tuesday	65	0.25
	Wednesday	61	0.24
	Thursday	89	0.34
	Friday	175	0.68
	Saturday	152	0.59
	<i>Mon-Sat Average</i>		
Sheraton 4801 LBJ Freeway 308 Rooms	Monday	118	0.38
	Tuesday	120	0.39
	Wednesday	120	0.39
	Thursday	136	0.44
	Friday	171	0.56
	Saturday	161	0.52
	<i>Mon-Sat Average</i>		

**Loading Spaces**

In addition to not needing the typical number of parking spaces, due to its mode of operation the Plush Hotel site will not need the normal requirement of 3 loading spaces on the site. The site proposes to provide 1 loading space, which will be sufficient for serving the laundry/housekeeping needs of the hotel. As noted, the hotel will not have a restaurant, so there is no loading activity necessary for the delivery, removal, and trash demands of such a use.

**Applied Parking Requirement**

Using the 0.85 spaces per room rate, the site's parking requirement and supply for the current site plan would be as follows:

213 Hotel Rooms at 0.85 spaces per room	=	182 spaces
1,800 SF retail at 1 space per 200 SF	=	9 spaces
7,000 SF doggy day care at 1 space per 500 SF	=	14 spaces
Total Requirement		= 205 spaces
Site Supply		= 213 spaces
Surplus		= 8 spaces

BDA-178-020  
Attachment A  
Pg 6

**Shared Parking**

While not necessary to meet the site's code parking requirement, the site will additionally benefit from shared parking, where multiple users can occupy the same parking space across the course of a day. The retail use would typically see its peak demand at midday, with demand lower in the mornings and evenings, and no demand overnight. The doggy day care has a small staff parking demand throughout the day, and then small peaks parking activity around the commuter peak hours for drop-off and pick-up. The hotel demand peaks overnight. With the parking usage spread out across 24 hours, the highest level of actual parking demand at any given time on the site will be somewhat lower than the sum of the parking requirements. This shared parking synergy provides an additional conservative margin between actual demand and the site's supply.

**Summary**

A parking supply of 0.85 spaces per room is reasonable and appropriate for the Plush Hotel development. The Plush Hotel is focused on lodging for business travelers and will provide minimal staffing and amenities. That 0.85 per room parking supply is above the observed parking demand at business hotels in national studies and comparable local hotels, leaving a comfortable margin. The site's service needs will also be served appropriately by a single loading space. The other retail and doggy day care uses on the site can be served at the normal City code rates.

**END**



- LEGEND:**
- R.O.W. RIGHT OF WAY
  - EXISTING POWER POLE
  - EXISTING LIGHT POLE
  - EXISTING WASTEWATER MANHOLE
  - EXISTING TREE
  - EXISTING VOLUME
  - PL. PLANTING
  - MAP RECORDS, DALLAS COUNTY, TEXAS
  - DEED RECORDS, DALLAS COUNTY, TEXAS
  - BFR BURIED FREE CURB RAMP

**MOCITY MAP**  
NOT TO SCALE

**SITE DATA:**

Zoning: MU-3 (SAH)  
 Lot Area: 1.7473 AC.  
 Floor Area: 179,250 sq. ft.  
 Hotel: 170,250 sq. ft. (213 rooms)  
 Animal shelter or clinic without outside runs: 7,200 sq. ft.  
 General merchandise or food store and personal service uses: 1,800-sq. ft.

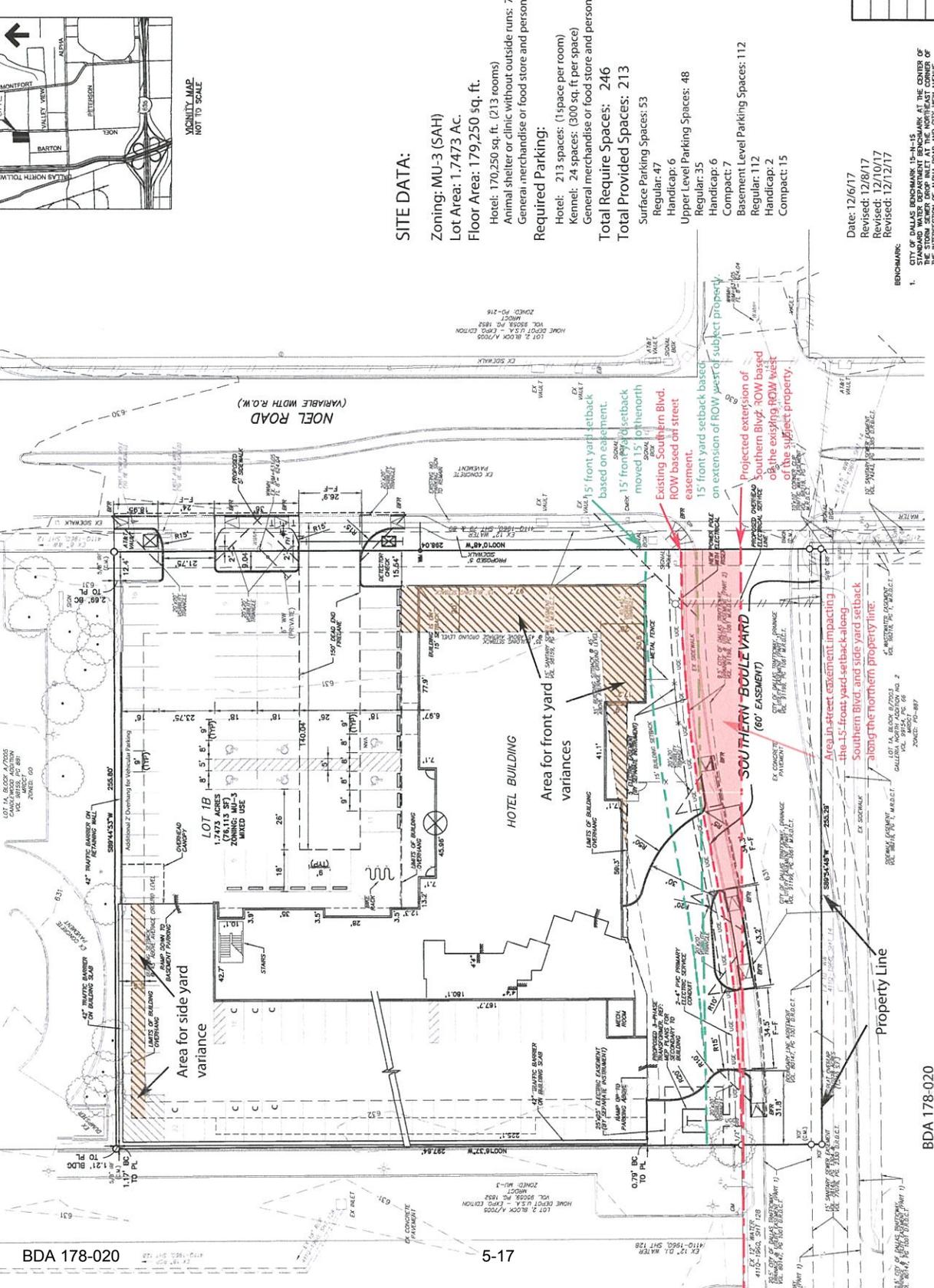
**Required Parking:**

Hotel: 213 spaces: (1 space per room)  
 Kennel: 24 spaces: (300 sq. ft. per space)  
 General merchandise or food store and personal service uses: 9 spaces (200 sq. ft. per space)  
 General merchandise or food store and personal service uses: 246  
**Total Require Spaces: 246**  
**Total Provided Spaces: 213**  
 Surface Parking Spaces: 53  
 Regular: 47  
 Handicap: 6  
 Upper Level Parking Spaces: 48  
 Regular: 35  
 Handicap: 6  
 Compact: 7  
 Basement Level Parking Spaces: 112  
 Regular: 112  
 Handicap: 2  
 Compact: 15

**PRELIMINARY FOR REVIEW ONLY**

THESE DOCUMENTS ARE FOR REVIEW ONLY AND ARE NOT TO BE USED FOR CONSTRUCTION OR PERMITTING. THEY HAVE BEEN PREPARED BY PHILIP ALMON WOLF, P.E. DATE: 11/29/2017

SITE PLAN		311T-94-08
PLUSH SUITES		
LOT 1B, BLOCK A/7005		
CANDLEWOOD ADDITION		
DALLAS, TEXAS		
VIEWTECH INC.		
DESIGN	DATE	SCALE
AW	11/29/17	1"=30'
JOB #	2017127	SHEET
		C2

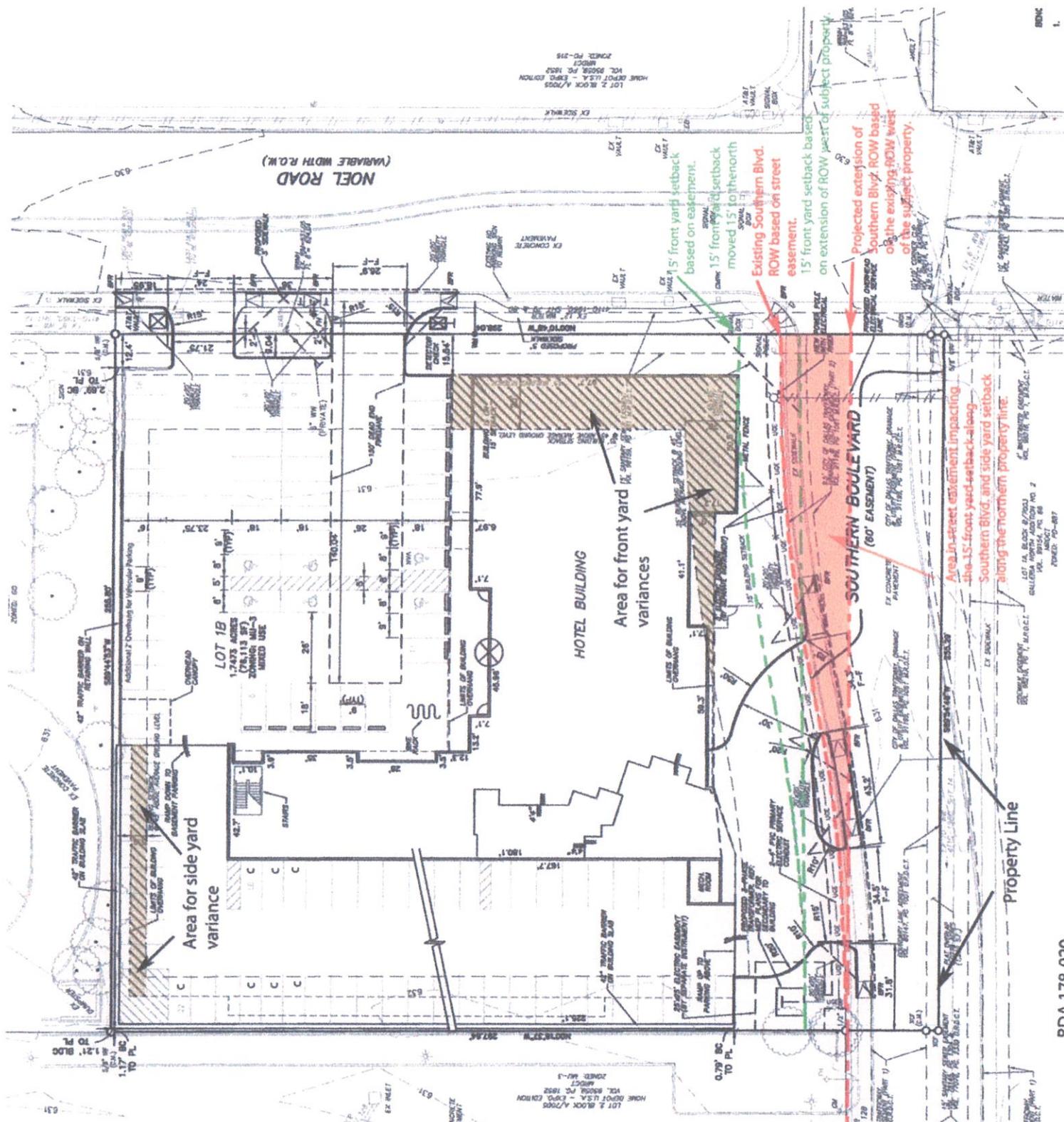


**DATE:** 12/6/17  
**REVISED:** 12/8/17  
**REVISIONS:** 12/01/17  
**REVISED:** 12/12/17

- BENCHMARKS:**
- CITY OF DALLAS BENCHMARK 15-N-15 STANDARD WATER DEPARTMENT BENCHMARK AT THE CENTER OF THE INTERSECTION OF ALPHEA ROAD AND CITY NEW AVENUE. ELEV: 694.317
  - CITY OF DALLAS BENCHMARK 15-N-25 STANDARD WATER DEPARTMENT BENCHMARK AT THE CENTER OF THE INTERSECTION OF ALPHEA ROAD AND CITY NEW AVENUE. ELEV: 694.317

**NOTES:**

CONTRACTOR SHALL CONSTRUCT, RECONSTRUCT, ALTER, REPAIR, REMOVE, REPLACE, PAVE, REPAIR, SURFACE OR RESURFACE, ANY WALK, DRIVE, CURB, GUTTER, PAVED AREA OR APPROPRIATION ON PUBLIC PROPERTY IN THE CITY WITHOUT FIRST OBTAINING FROM THE BUILDING INSPECTOR A PERMIT TO DO SO.



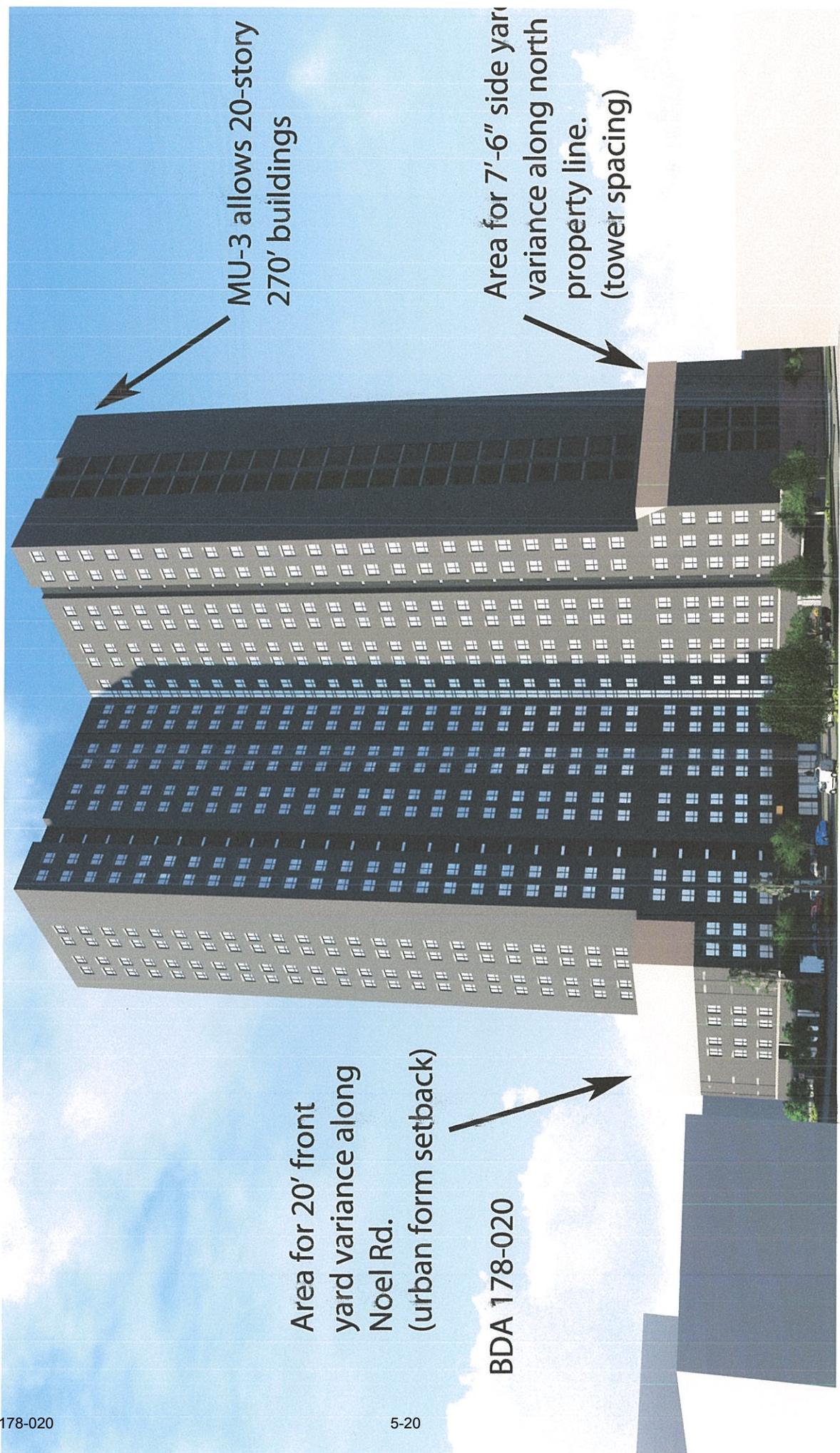


Proposed height of main structure: 76'  
Allowed height: 270'

View from Noel Rd.

BDA 178-020

BDA  
178-  
120  
Attach A  
p. 9



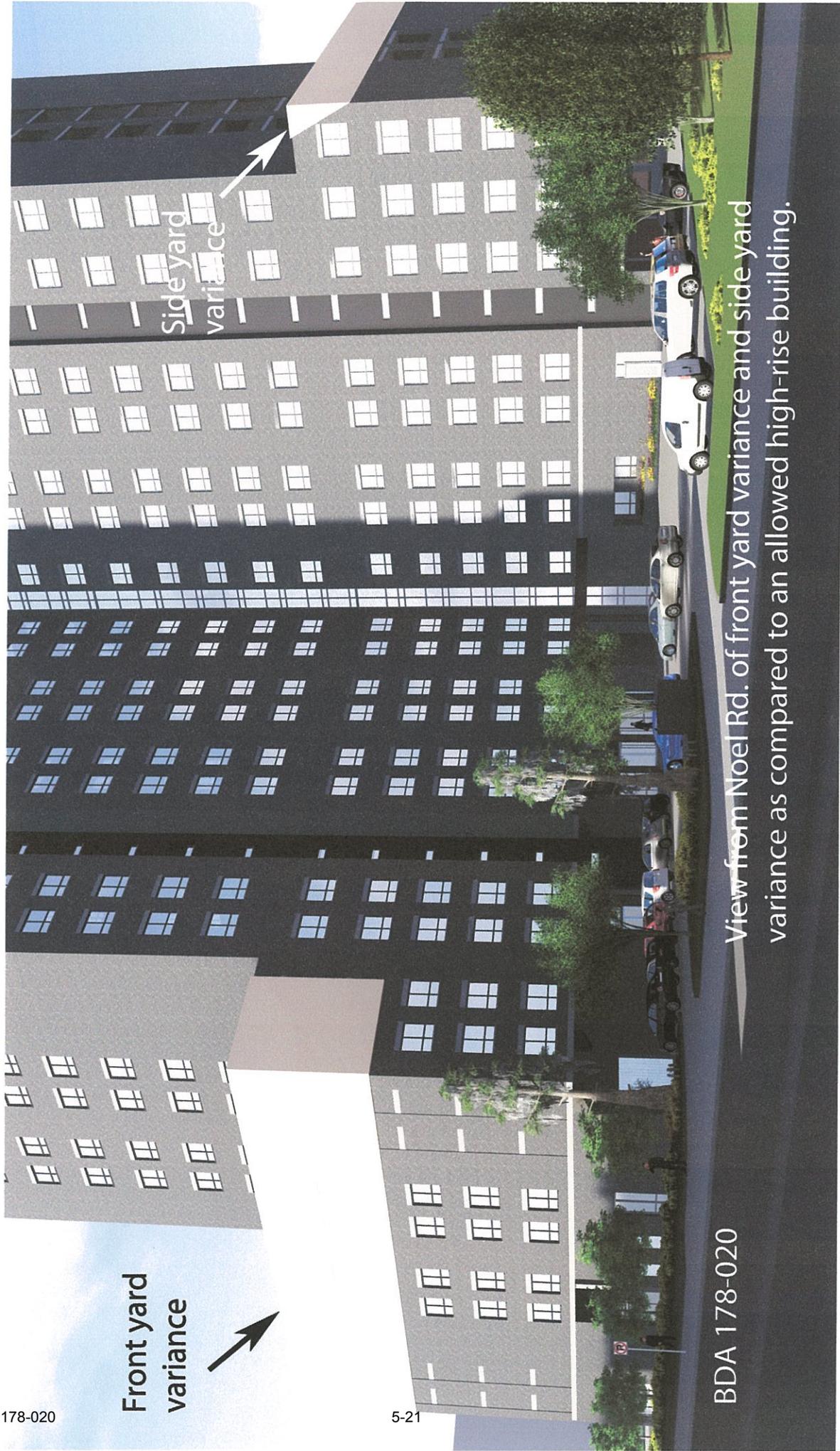
MU-3 allows 20-story  
270' buildings

Area for 7'-6" side yard  
variance along north  
property line.  
(tower spacing)

Area for 20' front  
yard variance along  
Noel Rd.  
(urban form setback)

BDA 178-020

BDA  
178-  
020  
Attachment A  
pg 10



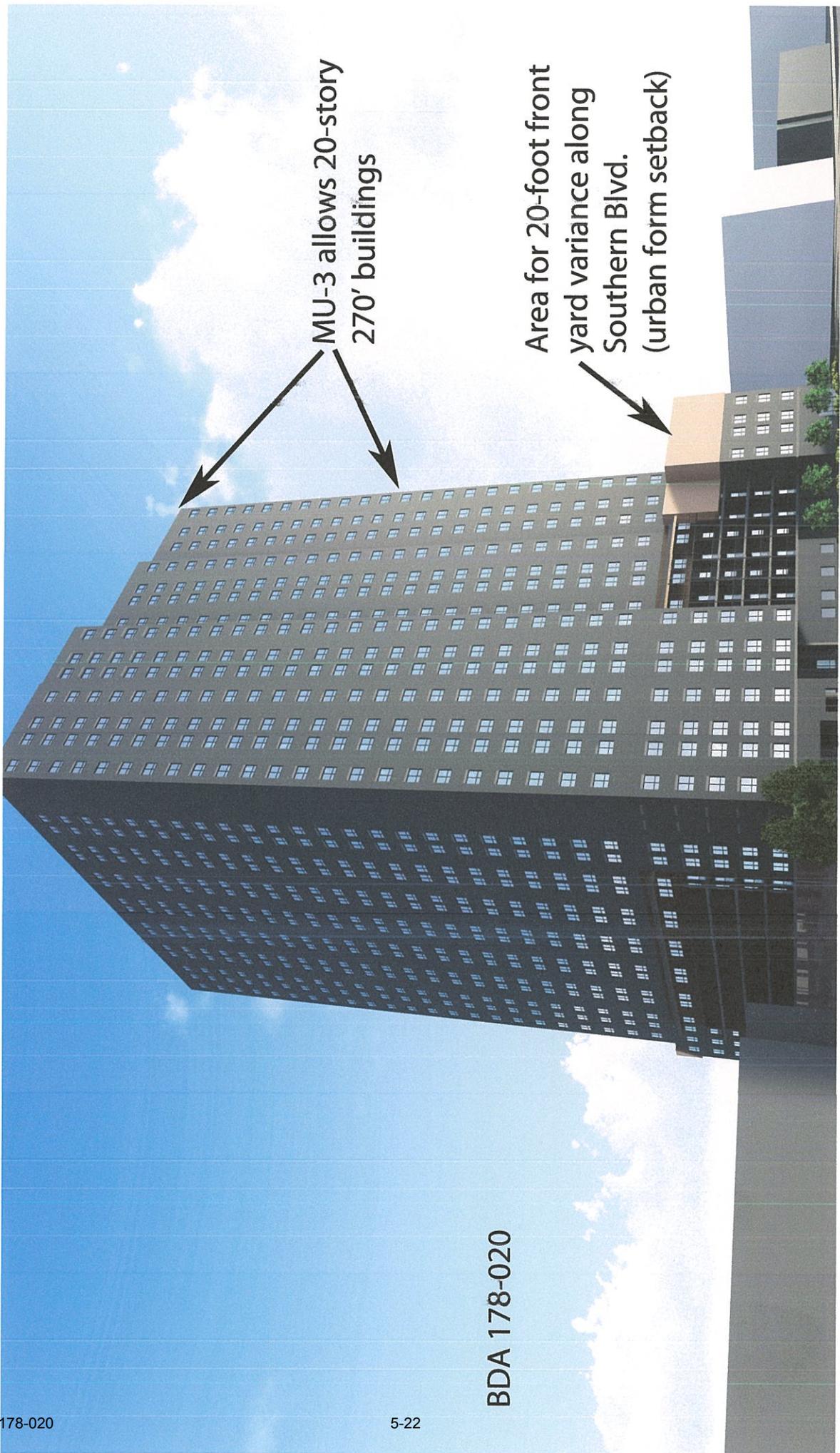
Front yard variance

Side yard variance

BDA 178-020

View from Noel Rd. of front yard variance and side yard variance as compared to an allowed high-rise building.

BDA 178-020  
Attach A  
Pg 11



MU-3 allows 20-story  
270' buildings

Area for 20-foot front  
yard variance along  
Southern Blvd.  
(urban form setback)

BDA  
178-  
120  
Attach A  
pg 12

BDA 178-020

BDA178-020  
Attach A  
PS1

ROBERT REEVES  
& Associates, Inc.

PLANNING AND ZONING CONSULTANTS

February 4, 2018

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

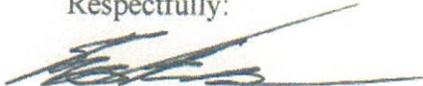
RE: BDA 178-020, 13907 Noel Road  
Additional Graphic, The Plush Business Hotel

Dear Mr. Long:

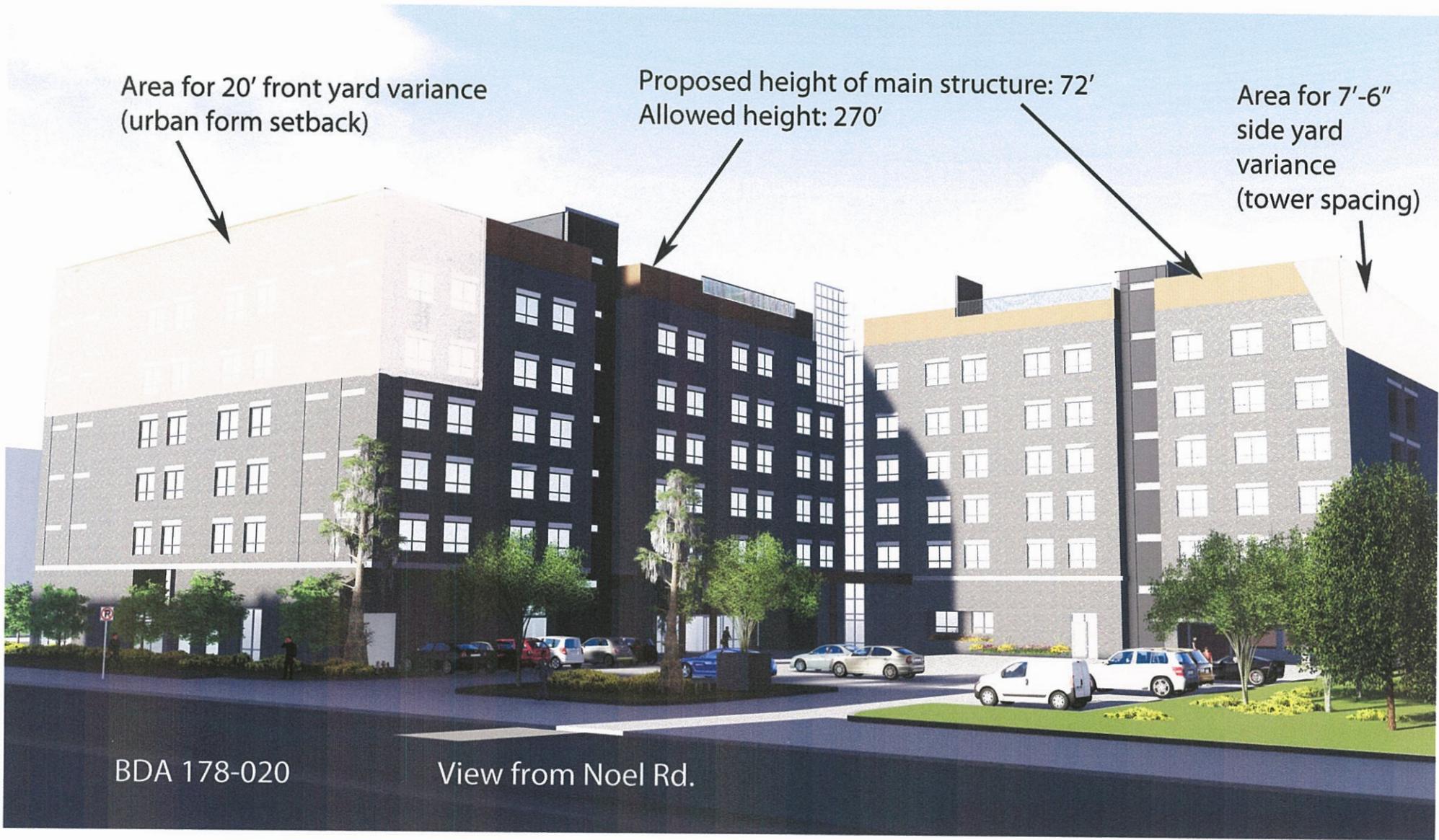
The following additional information is submitted for Case BDA 178-020. This graphic shows the Plush Business Hotel elevation along Noel Road highlighting the building areas impacted by the small front yard and side yard setback variances.

Mr. Long let me know if you have any questions or need additional information.

Respectfully:



Robert Reeves



Area for 20' front yard variance  
(urban form setback)

Proposed height of main structure: 72'  
Allowed height: 270'

Area for 7'-6"  
side yard  
variance  
(tower spacing)

BDA 178-020

View from Noel Rd.

BDA 178-020  
Attach B  
pg 2



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-020

Data Relative to Subject Property:

Date: 12/12/2017

Location address: 13907 Noel Rd. Zoning District: MU-3(SAH)

Lot No.: 1B Block No.: A/7005 Acreage: 1.7473 Census Tract: 0136.26

Street Frontage (in Feet): 1) 297.64' Noel Rd. 2) 255.8' Southern Blvd. 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Curtis D. Hodgson and Kenneth Shipley, individuals (together, "Grantee")

Applicant: Robert Reeves & Associates, Inc. Telephone: 214-749-0530

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

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

Represented by: Robert Reeves Telephone: 214-749-0530

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

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

Affirm that an appeal has been made for a Variance X, or Special Exception X, (1) A request to construct a hotel or motel use of 170,250 sq. ft. and provide 2 of the required 3 loading spaces, which will require a 1 space variance to the loading regulations. (2) A request to construct a mixed use nonresidential structure and provide a 15-foot front yard setback, which will require a 20-foot variance to the front yard setback regulations along Noel Rd. and Southern Blvd. as shown on the site plan. (3) A request to construct a mixed use nonresidential structure and provide a 6-foot side yard setback, which will require a 7-foot 6-inch variance to the side yard setback regulations, as shown on the site plan. (4) A request to construct a mixed-use structure for a 213-room hotel or motel use; a 1,800 sq. ft. general merchandise or food store 3,500 sq. ft. or less use, or a 1,800 sq. ft. personal service use; and a 7,200 sq. ft. animal shelter or clinic without outside runs use and provide 213 required parking spaces, which will require a 33-space special exception. (13.4% reduction), rather than the 246 required parking spaces.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: The lot is 1.7473 acres; however, there is a variable width vehicle, pedestrian traffic and utility easement at the southwest corner of Noel Road and Southern Blvd. of .261 acres, of which approximately 90%, (.235 acres), lies within the applicant's site making the net developable area 1.486 acres. This is a 13.4% reduction in the property's developable area. Because of the easement, the applicant's property approaching the intersection of Southern Blvd. and Noel Road begins to swing to the north and the easement completely falls within the property, making the site slightly irregular in shape. The northward swing of Southern Blvd. was probably done to align with Southern Blvd, east of Noel Rd. Generally, the R.O.W. or street easement for a road is shared equally with the property owners on both side of the R.O.W. or street easement. Of course, this was not the case on this site. Because of this alignment, the property is 13.4% smaller precipitating the owner to ask for a height variance along Southern Blvd. and a height variance along a portion of the north property line. If the alignment for Southern Blvd. shifted to the south 20 feet, neither of these variances would be necessary. Therefore, these variances are necessary to permit development of this parcel of land because it differs from other parcels of land by being of such a restructured 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.

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

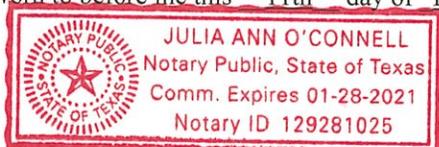
Affidavit

Before me the undersigned on this day personally appeared Robert Reeves (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 11th day of December, 2017



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

(Rev. 08-01-11)

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

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

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

**Building Official's Report**

I hereby certify that Robert Reeves

did submit a request for a variance to the off-street loading regulations, and for a variance to the front yard setback regulations, and for a variance to the side yard setback regulations, and for a special exception to the parking regulations

at 13907 Noel Road

BDA178-020. Application of Robert Reeves for a variance to the front yard setback regulations, a variance to the side yard setback regulations, a special exception to the parking regulations, and for a variance to the off-street loading regulations at 13907 Noel Rd. This property is more fully described as Lot 1B, Block A/7005, and is zoned MU-3(SAH), which requires a front yard setback of 35 feet and requires a side yard setback of 13 feet 6 inches, and requires parking and off-street loading spaces to be provided. The applicant proposes to construct a hotel or motel use and provide 2 of the required 3 loading spaces, which will require a 1 space variance to the loading regulations, and to construct a mixed use nonresidential structure and provide a 15 foot front yard setback, which will require a 20 foot variance to the front yard setback regulations, and to construct a mixed use nonresidential structure and provide a 6 foot side yard setback, which will require a 7 foot 6 inch variance to the side yard setback regulations, and to construct a nonresidential structure for a hotel or motel use, a general merchandise or food store 3500 square feet or less use, and an animal shelter or clinic without outside runs use, and provide 213 of the required 246 parking spaces, which will require a 33 space special exception (13.4% reduction) to the parking regulation.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official



# City of Dallas

Internal Development Research Site

## Legend

### Locate Property

Search by:

GIS Account #

Locate

OR

Street address.

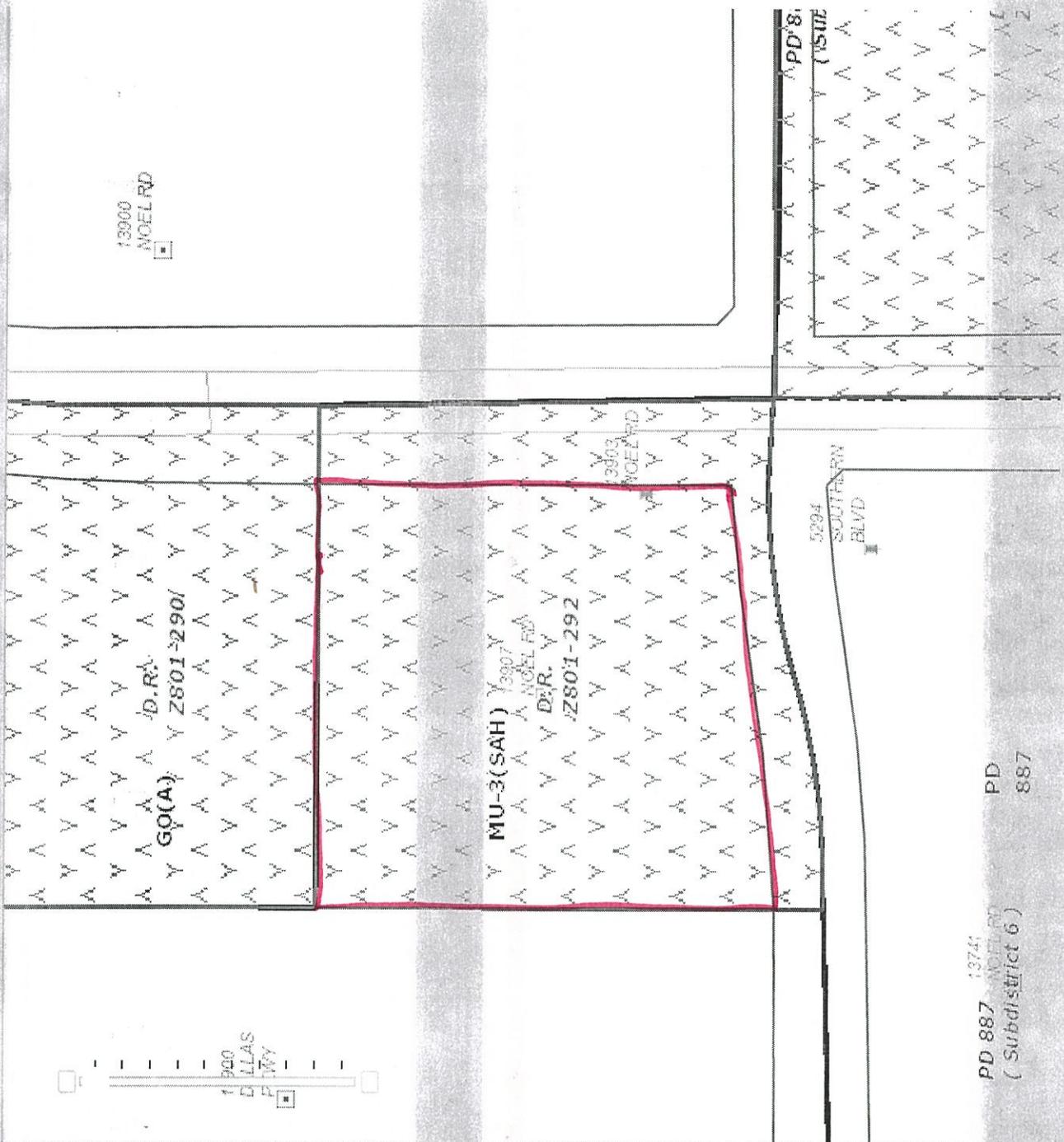
Locate

OR

Parcel address.

Use street type for better re

Locate





**Board of Adjustment Appeal**  
**13907 Noel Rd.**  
**December 12, 2017**

**BDA Requests: 51A-4.125(f)(4) - Mixed Use District MU-3(SAH):**

- 1) A request to construct a hotel or motel use of 170,250 sq. ft. and provide 2 of the required 3 loading spaces, which will require a 1 space variance to the loading regulations.
2. A request to construct a mixed use nonresidential structure and provide a 15-foot front yard setback, which will require a 20-foot variance to the front yard setback regulations along Noel Rd. and Southern Blvd. as shown on the site plan.
- 3) A request to construct a mixed-use nonresidential structure and provide a 6-foot side yard setback along a portion of the north property line, which will require a 7'-6" side yard variance as shown on the site plan.

Tower Spacing:

72' - 45' = 27' / 2' = 13' - 6" setback variance minus a 6' setback at the northern corner of the site.

- 4) A request to construct a mixed-use structure for a 213-room hotel or motel use; a 1,800 sq. ft. general merchandise or food store 3,500 sq. ft. or less use, or a 1,800 sq. ft. personal service use; and a 7,200 sq. ft. animal shelter or clinic without outside runs use and provide 213 required parking spaces, which will require a 33-space special exception, (13.4% reduction), rather than the 246 required parking spaces.

**Rationale for Property Hardship**  
**13907 Noel Road**

The lot is 1.7473 acres; however, there is a variable width vehicle, pedestrian traffic and utility easement at the southwest corner of Noel Road and Southern Blvd. of .261 acres, of which approximately 90%, (.235 acres), lies within the applicant's site making the net developable area 1.512 acres. This is a 13% reduction in the property's developable area. Because of the easement, the applicant's property approaching the intersection of Southern Blvd. and Noel Road begins to swing to the north and the easement completely falls within the property, making the site slightly irregular in shape. The northward swing of Southern Blvd. was probably done to align with Southern Blvd, east of Noel Rd.

Generally, the R.O.W. or street easement for a road is shared equally with the property owners on both side of the R.O.W. or street easement. Of course, this was not the case on this site. Because of this alignment, the property is 13% smaller precipitating the owner to ask for a height variance along Southern Blvd. and a height variance along a portion of the north property line. If the alignment for Southern Blvd. shifted to the south 20 feet, neither of these variances would be necessary.

Therefore, these variances are necessary to permit development of this parcel of land because it differs from other parcels of land by being of such a restructured 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.

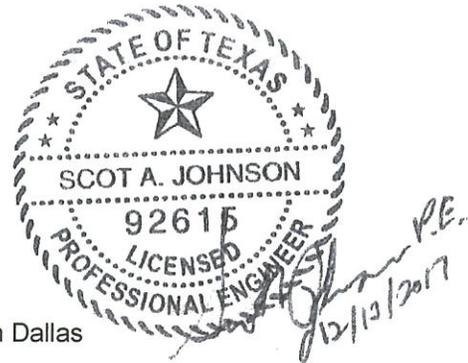
## MEMORANDUM

To: Plush Hotel Dallas

From: Scot Johnson, P.E., PTOE  
Kimley-Horn and Associates, Inc.  
Registered Firm F-928

Date: December 13, 2017

Subject: Parking Demands for Modern Hotel Uses in Dallas



### *Introduction*

The proposed Plush Hotel would contain approximately 213 rooms and would be located on the northwest corner of Noel Road and Southern Boulevard in Dallas, Texas. Compared to traditional hotels, the proposed Plush Hotel would be designed differently and would follow a new business model that serves a modern business user with minimal amenities. These differences mean the hotel's users would need fewer parking spaces than the City code would normally require. The site is proposed to provide 0.85 spaces per room, a reduction of 15% from the City code requirement of 1 space per room for the first 250 rooms in a hotel.

The hotel site will also contain 1,800 SF of retail uses and 7,000 SF of doggy day care uses. Both of these are assumed to be standalone operations, not accessory uses of the hotel. Code parking for the retail area is 1 space per 200 SF, and for the doggy day care it is assumed to be 1 space per 500 SF, matching other adult and child day care uses.

Careful sizing of parking areas to specific uses will prevent the waste of space and building materials that is caused by providing parking that is rarely if ever used. Excessive parking also has negative impacts on often-hidden issues like walkable design, stormwater runoff, and urban heat island effects.

This memorandum describes the differences of the Plush Hotel, and then documents the two lines of inquiry which were investigated to find a reasonable parking supply requirement for the special hotel use. The investigation included a review of national parking research and observations of parking occupancy at comparable local sites.

### *Plush Hotel Characteristics*

The proposed Plush Hotel would have more limited amenities and services than most hotel developments, concentrating its value in the room finishes and in its integration with the surrounding neighborhood. The hotel's primary guests would be business users who are accessing the surrounding high density of office uses. The rooms would offer only king size beds, limiting the attractiveness to vacationing families or groups.

The hotel would not have a restaurant, food and beverage service, or meeting spaces. There would be no pool or gym. Guest needs for restaurant, retail, and other non-lodging uses would be met in the nearby mixed-use areas of the Galleria and the upcoming Dallas Midtown district. As examples of limited services, the front desk would not be open overnight and housekeeping would not serve every room every day. Laundry would be processed off site. These procedures would significantly reduce the number of staff on site.

As business travelers, the Plush guests will have fewer personal vehicles than other hotel guests. Transportation network companies like Uber and Lyft will be popular, in addition to traditional taxis and the Plush site's shuttle service. The site will also provide bike rentals for local trips. With the proximity of the office areas for business uses and the mixed-use areas for eating and entertainment, guests will know they will not need a rental car to satisfy their basic needs during their stay.

### **Parking Research**

The acknowledged source for national-level parking demand data is the Institute of Transportation Engineers (ITE) publication *Parking Generation, 4<sup>th</sup> Edition (2010)*. The category most closely matching the Plush Hotel is Land Use #312 Business Hotel. ITE's Business Hotel definition is lodging with limited facilities aimed at business travelers. The hotels have limited or no food service and no meeting spaces.

ITE observations show an average weekday parking demand of 0.60 vehicles per occupied room and an 85<sup>th</sup>-percentile demand, often used for design, of 0.75 vehicles per occupied room. Showing the business focus of the hotels, the weekend parking demand is nearly equal, with an average of 0.66 and an 85<sup>th</sup>-percentile of 0.72 vehicles per occupied room. These observations of business hotel parking demand are significantly lower than the Dallas code parking requirement of 1 space per room.

### **Dallas Observations**

Multiple observations were made at two nearby hotels, Le Meridien at 13402 Noel Road and the Sheraton at 4801 LBJ Freeway. These peer hotels serve similar demographics as the proposed Plush Hotel, but are larger and have extensive amenities such as restaurants and meetings spaces. Observations were conducted nightly after 1:00 AM to focus on the peak of lodging parking demand, removing most of the parking demand that may be due to non-guest use of the amenities. With some influence of the amenities and the higher staffing levels, these observations can be considered to be conservatively high for actual lodging parking demand. **Table 1** shows the details of each site and the observations conducted in March 2017.

Across the week of data, the observed parking demand averaged 0.40 per room for Le Meridien and 0.44 per room for the Sheraton. The highest observed demand was 0.68 spaces per room for Le Meridien on Friday night, when there was an obvious late-night event still underway. All other observations at both sites were under 0.59 spaces per room, with the Monday to Thursday weeknight demands ranging from 0.24 to 0.44 spaces per room. These observed parking demands at nearby similar hotels show that these active, successful hotels are still generating much less parking demand than the Dallas city code supply requirement of 1 space per room.

Table 1. Dallas Hotel Parking Occupancy (2017)

Site	Day	Vehicles Parked	Parking Demand Per Room
<b>Le Meridien</b> 13402 Noel Road, Dallas 258 Rooms	Monday	70	0.27
	Tuesday	65	0.25
	Wednesday	61	0.24
	Thursday	89	0.34
	Friday	175	0.68
	Saturday	152	0.59
	<b>Mon-Sat Average</b>		
<b>Sheraton</b> 4801 LBJ Freeway 308 Rooms	Monday	118	0.38
	Tuesday	120	0.39
	Wednesday	120	0.39
	Thursday	136	0.44
	Friday	171	0.56
	Saturday	161	0.52
	<b>Mon-Sat Average</b>		

**Loading Spaces**

In addition to not needing the typical number of parking spaces, due to its mode of operation the Plush Hotel site will not need the normal requirement of 3 loading spaces on the site. The site proposes to provide 1 loading space, which will be sufficient for serving the laundry/housekeeping needs of the hotel. As noted, the hotel will not have a restaurant, food service, or meeting spaces, so there is no loading activity necessary for the delivery, removal, and trash demands of those amenities.

**Applied Parking Requirement**

Using the 0.85 spaces per room rate, the site’s parking requirement and supply for the current site plan would be as follows:

213 Hotel Rooms at 0.85 spaces per room	=	182 spaces
1,800 SF retail at 1 space per 200 SF	=	9 spaces
7,000 SF doggy day care at 1 space per 500 SF	=	14 spaces
		Total Requirement = 205 spaces
		Site Supply = 213 spaces
		Surplus = 8 spaces

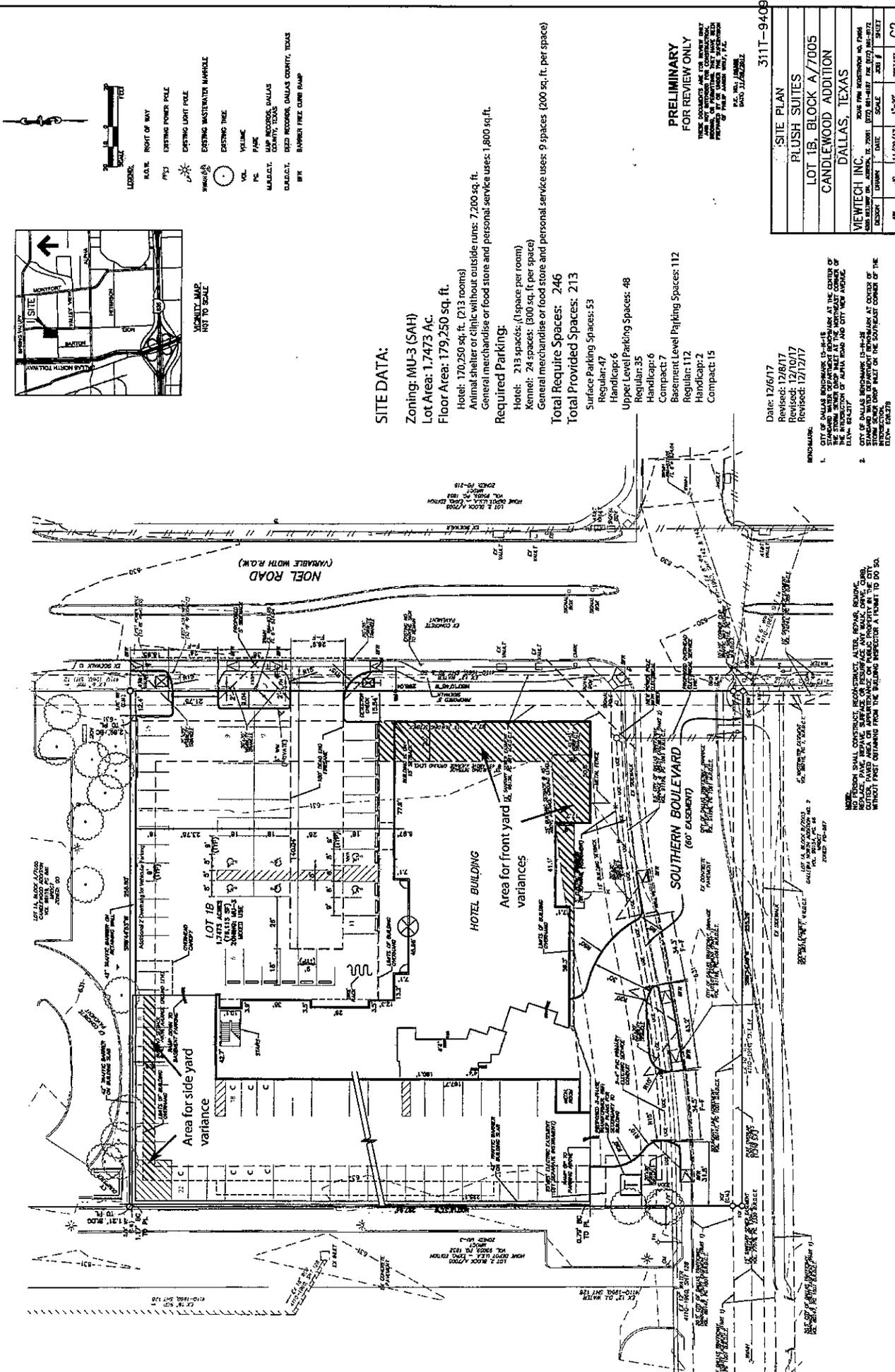
***Shared Parking***

While not necessary to meet the site's code parking requirement, the site will additionally benefit from shared parking, where multiple users can occupy the same parking space across the course of a day. The retail use would typically see its peak demand at midday, with demand lower in the mornings and evenings, and no demand overnight. The doggy day care has a small staff parking demand throughout the day, and then small peaks parking activity around the commuter peak hours for drop-off and pick-up. The hotel demand peaks overnight. With the parking usage spread out across 24 hours, the highest level of actual parking demand at any given time on the site will be somewhat lower than the sum of the parking requirements. This shared parking synergy provides an additional conservative margin between actual demand and the site's supply.

***Summary***

A parking supply of 0.85 spaces per room is reasonable and appropriate for the Plush Hotel development. The Plush Hotel is focused on lodging for business travelers and will provide minimal staffing and amenities. That 0.85 per room parking supply is above the observed parking demand at business hotels in national studies and comparable local hotels, leaving a comfortable margin. The site's service needs will also be served appropriately by a single loading space. The other retail and doggy day care uses on the site can be served at the normal City code rates.

***END***



**SITE DATA:**

Zoning: MU-3 (SAH)  
 Lot Area: 1.7473 Ac.  
 Floor Area: 179,250 sq. ft.

Hotel: 170,250 sq. ft. (213 rooms)  
 Animal shelter or clinic without outside runs: 7,200 sq. ft.  
 General merchandise or food store and personal service uses: 1,800 sq. ft.

**Required Parking:**

- Hotel: 213 spaces: (1space per room)
- Kennel: 24 spaces: (800 sq. ft. per space)
- General merchandise or food store and personal service uses: 9 spaces (200 sq. ft. per space)
- Total Required Spaces: 246**
- Total Provided Spaces: 213**
- Surface Parking Spaces: 53
- Regular: 47
- Handicap: 6
- Upper Level Parking Spaces: 48
- Regular: 35
- Handicap: 6
- Compact: 7
- Basement Level Parking Spaces: 112
- Regular: 112
- Handicap: 2
- Compact: 15

SITE PLAN		311T-9409
PLUSH SUITES		
LOT 1B, BLOCK A/7005		
CANDLEWOOD ADDITION		
DALLAS, TEXAS		
VIEWTECH INC.		
DATE	SCALE	SHEET
11/29/17	1"=30'	20/112
NO.	DATE	BY
1	11/29/17	311T-9409

**PRELIMINARY FOR REVIEW ONLY**

THESE DOCUMENTS ARE FOR REVIEW ONLY AND ARE NOT TO BE USED FOR CONSTRUCTION. THE PREPARED BY HAS NOT BEEN VERIFIED BY THE CITY ENGINEER. THE PREPARED BY HAS NOT BEEN VERIFIED BY THE CITY ENGINEER.

Date: 12/6/17  
 Revised: 12/6/17  
 Revised: 12/10/17  
 Revised: 12/12/17

- REMARKS:**
- CITY OF DALLAS REQUIREMENT IS TO MARK AT THE CENTER OF THE FRONT YARD DRIVE AT THE NORTHWEST CORNER OF THE LOT. THE CITY ENGINEER HAS REVIEWED THE PLAN AND APPROVED IT.
  - CITY OF DALLAS REQUIREMENT IS TO MARK AT THE CENTER OF THE SIDE YARD DRIVE AT THE NORTHWEST CORNER OF THE LOT. THE CITY ENGINEER HAS REVIEWED THE PLAN AND APPROVED IT.

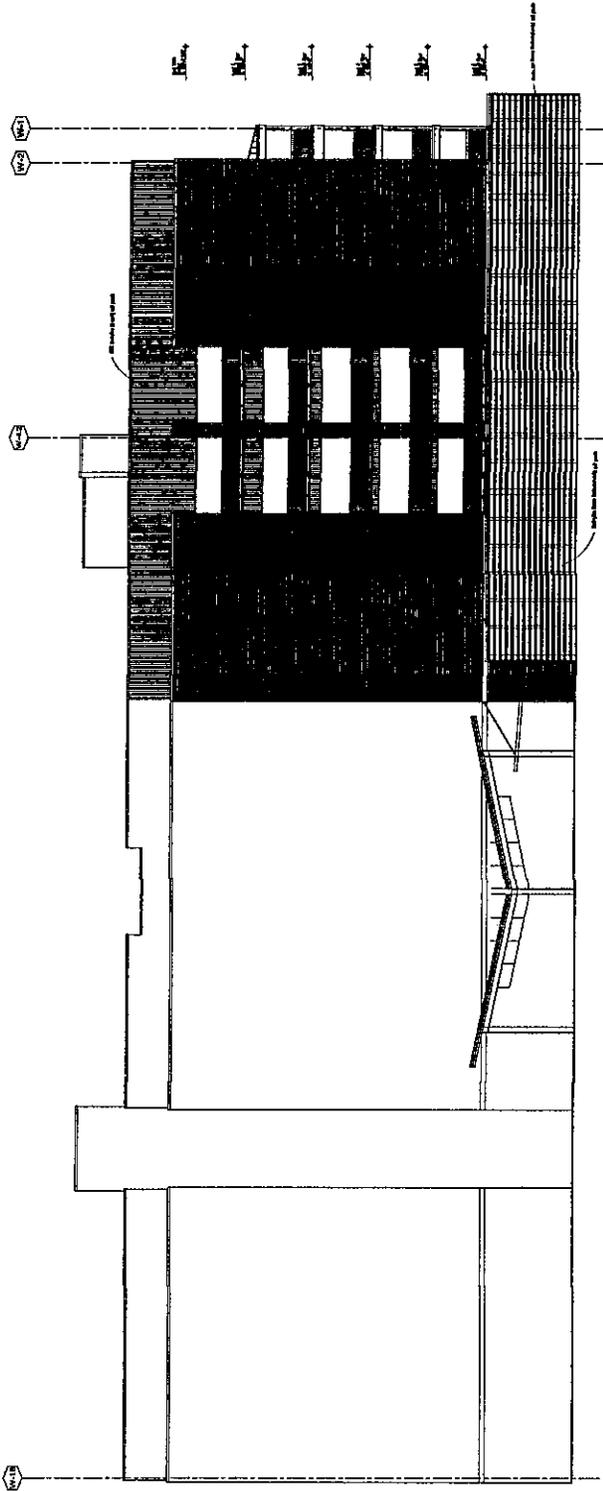
**NOTES:**

- ALL EXISTING UTILITIES SHOWN ARE BASED ON RECORD DRAWINGS. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS AND HAS NOTED ANY DISCREPANCIES. THE ENGINEER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE LOCATION AND DEPTH OF UTILITIES.
- ALL EXISTING TREES TO REMAIN ARE SHOWN WITH SPECIES AND DBH. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS AND HAS NOTED ANY DISCREPANCIES. THE ENGINEER HAS NOT CONDUCTED A FIELD SURVEY TO VERIFY THE LOCATION AND DEPTH OF UTILITIES.



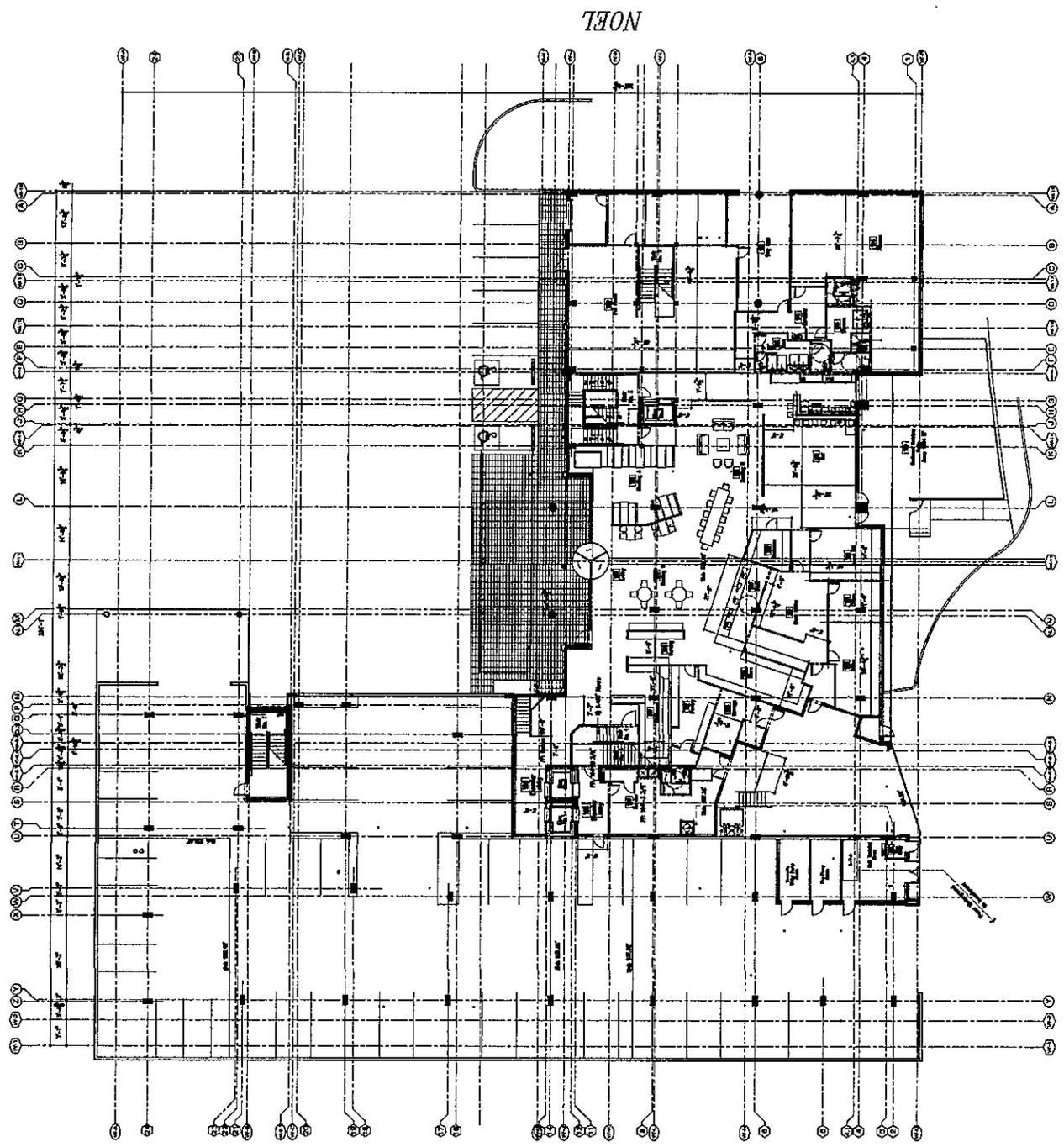






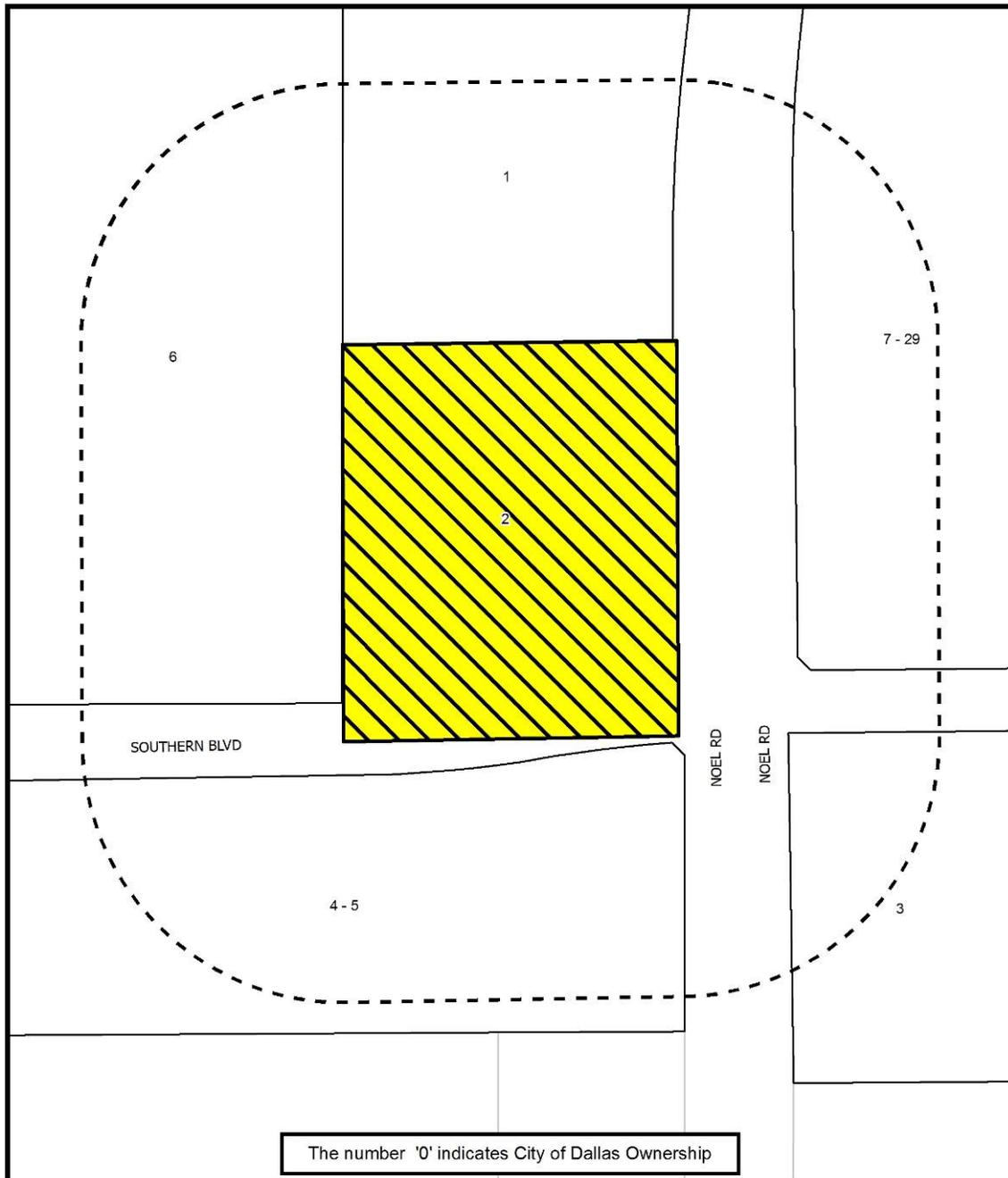
4.04-1 BUILDING ELEVATION-FACING CANDLEWOOD - NO SETBACKS





5.01-1 BUILDING PLAN LEVEL 1  
DATE = 11-11-11





 1:1,200	<h2>NOTIFICATION</h2>	Case no: <b>BDA178-020</b>
	<div style="display: flex; justify-content: space-between;"> <div style="border: 1px solid black; padding: 2px;">200'</div> <div>AREA OF NOTIFICATION</div> </div> <div style="display: flex; justify-content: space-between;"> <div style="border: 1px solid black; padding: 2px;">29</div> <div>NUMBER OF PROPERTY OWNERS NOTIFIED</div> </div>	Date: <b>1/10/2018</b>

## *Notification List of Property Owners*

***BDA178-020***

***29 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	13939 NOEL RD	HPT CW PROPERTIES TRUST
2	13907 NOEL RD	HODGSON CURTIS D &
3	13780 NOEL RD	U S POSTAL SERVICE
4	13741 NOEL RD	IPERS GALLERIA NORTH TOWER I &
5	13741 NOEL RD	GALLERIA HORIZONTAL ASSET LLC
6	13910 DALLAS PKWY	BED BATH & BEYOND INC
7	13900 NOEL RD	CORREA HERMINIA
8	13900 NOEL RD	EVANS AMY
9	13900 NOEL RD	ZHONG XIN
10	13900 NOEL RD	SABETI ARMIN & WENDY
11	13900 NOEL RD	GUERRA KARINA
12	13900 NOEL RD	NGUYEN TUONG V
13	13900 NOEL RD	MALIK IMAD
14	13900 NOEL RD	HOSEY KEVIN E
15	13900 NOEL RD	HARRIS MEGHAN A
16	13900 NOEL RD	HILL CHRISTOPHER M
17	13900 NOEL RD	BERGEN JACQUELINE A &
18	13900 NOEL RD	BOROWSKI OTYLIA
19	13900 NOEL RD	BALOUCHE FAHIM
20	13900 NOEL RD	HAGHI BEHZAD & YVETTE
21	13900 NOEL RD	NGO MAI T
22	13900 NOEL RD	ROBINSON MARIA C
23	13900 NOEL RD	BELLA FLUCHAIRE LLC
24	13900 NOEL RD	VILLERE MICHAEL PIERRE
25	13900 NOEL RD	WATSON ROBERT
26	13900 NOEL RD	WYLIE CINDY L

01/10/2018

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	13900 NOEL RD	WINSLOW WARREN A III
28	13900 NOEL RD	SU KORBAN C & NINTHALA
29	13900 NOEL RD	COLLI JULIANA M

**FILE NUMBER:** BDA178-023(JM)

**BUILDING OFFICIAL'S REPORT:** Application of Robert Liberi for special exceptions to the fence standards regulations at 6207 Yorkshire Drive. This property is more fully described as Lot 1, Block 12/6378, and is zoned R-16(A), which 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 an 8 foot high fence in a required front yard, which will require a 4 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:** 6207 Yorkshire Drive

**APPLICANT:** Robert Liberi

**REQUEST:**

The following requests have been made on a site that is currently being developed with a storage structure:

1. A special exception to the fence standards related to fence height of up to 4' is made to maintain an 8' high solid masonry fence in the Royalshire Drive front yard setback; and,
2. A request for a special exception to the fence standards related to fence materials is made to maintain a fence with panels with surface areas that are less than 50 percent open (the solid masonry fence located as close as on the front lot line (or less than 5' from this front lot line).

**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 (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:**

<u>Site:</u>	R-16(A) (Single family district 16,000 sq. ft.)
<u>North:</u>	R-16(A) (Single family district 16,000 sq. ft.)
<u>South:</u>	R-16(A) (Single family district 16,000 sq. ft.)
<u>East:</u>	R-16(A) (Single family district 16,000 sq. ft.)
<u>West:</u>	R-16(A) (Single family district 16,000 sq. ft.)

### **Land Use:**

The subject site is being developed with a single family structure. 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 (fence standards):**

- The focus of the two requests for special exceptions to the fence standards (one is related to height of up to 8' (4' special exception) and the other is related to fence materials (solid nature) is maintaining the following fence in the site's platted 20' front yard along Royalshire Drive: an 8' high solid masonry (stucco) fence within the required front yard and platted setback area.
- The subject site is zoned R-16(A) which requires a 35' front yard setback. The site is a rectangular corner lot, with 113 feet of frontage along Yorkshire Drive, 168 feet of frontage along Royalshire Drive, and with over 18,900 square feet of area. The subject site has two required front yards -- a front yard setback along Yorkshire Drive (the shorter of the two frontages of the subject site which is always a front yard in this case) and a front yard setback along Royalshire Drive, (the longer of the two frontages which is typically considered a side yard where, on this R-16(A) zoned property, a 9' high fence could be erected by right). However, the site has a front yard setback along Royalshire Drive to maintain continuity of the established front yard setback along this street frontage where homes to the north of the subject site "front" on Royalshire Drive.
- While it has been ascertained that the site has two front yard setback requirements, a provision of the Dallas Development Code Sec. 8.505(e) states that, "A building line platted and recorded prior to December 13, 2006, indicating that a front yard setback has been reduced remains enforceable. Removal of the platted building line may be sought through a replat that complies with this section." Therefore, while the Royalshire Dr. frontage is regulated as a front yard requiring a 35' front yard setback, the platted 20' setback supersedes.

- The Dallas Development Code Sec. 4.602 (a) states:
  - 1) that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
  - 2) 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 five feet from the front lot line.
- The applicant has submitted a site plan and elevation documents of the existing fence in the front yard setback with notations indicating that the proposal reaches a maximum height of 8 feet. Additionally, the fence panels having a surface area that is less than 50 percent open and located less than 5' from this front lot line (from 4 inches to being located along the property line).
- The following additional information was gleaned from the submitted site plan:
  - An 8' high solid masonry (stucco) fence that is attached to the house at the southwest corner, within the Royalshire Dr. required front yard. The fence proceeds for 19' 8" parallel to Yorkshire Dr., then for 91' northbound parallel to Royalshire Dr. before aligning with the alleyway to the north for 19' 8". A four-foot gate is located within the southwest section parallel to Yorkshire Dr.
- The Board Senior Planner conducted a field visit of the site and surrounding area from Yorkshire Dr. to Parkchester Dr. and from Yorkshire Dr. and Royalshire Dr. to Meadowcrest Dr. and noted one other fence that appeared to be above 4' in height and located on a corner lot, possibly in a front yard setback, with no BDA history.
- As of February 9, 2018, one letter has been submitted in opposition to the request (Letters Folder). No letters in support have been offered.
- 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 Royalshire Dr. 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 on the site with a condition imposed that the applicant complies with the submitted site plan/elevation documents, would require the proposal exceeding 4' in height in the front yard setbacks and solid fence panels on the front lot line to be maintained in the location and of the heights and materials as shown on these documents.

**Timeline:**

December 14, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 5, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

January 9, 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 January 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

February 6, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February hearings. Review team members in attendance included: the Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Development Code Amendment Chief Planner, the Sustainable Development and Construction Department Senior Planners, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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



1:1,200

# ZONING MAP

Case no: BDA178-023  
Date: 1/10/2018



1:1,200

# AERIAL MAP

Case no: BDA178-023

Date: 1/10/2018



APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-023

Data Relative to Subject Property: Date:
Location address: 6207 Yorkshire Dr., Dallas TX 75230 Zoning District: R16(A)
Lot No.: 1 Block No.: 12/6378 Acreage: .43 Census Tract:
Street Frontage (in Feet): 1) 113' 2) 168' 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Yorkshire Residential Partners, LLC
Applicant: Robert Liberi Telephone: 972-762-7935
Mailing Address: 4713 W. Lovers Ln., Suite 104, Dallas TX Zip Code: 75209
E-mail Address: bliberi@sbcglobal.net
Represented by: Robert Liberi Telephone: 972-762-7935
Mailing Address: 4713 W. Lovers Ln., Suite 104, Dallas TX Zip Code: 75209
E-mail Address: bliberi@sbcglobal.net

Affirm that an appeal has been made for a Variance, or Special Exception X, of Exception of 4' to fence height (8'-0" total height) within front yard; and exception to 50% open fence standard within 5' of front yard

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 8' stucco wall is an architectural feature that's an extension of the house design. It will:

- 1. Enhance the entire Yorkshire/Royalshire street corner by virtue of the high-end material (compared to a picket fence)
2. Increase 6207 Yorkshire property value, and in turn boost the neighboring properties as well
3. Provide added safety and security

Granting this appeal will not adversely affect the neighboring properties.

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

Affidavit

Before me the undersigned on this day personally appeared Robert Liberi (Affiant/Applicant's name printed) who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: (Affiant/Applicant's signature)

Subscribed and sworn to before me this 14th day of December, 2017

Lorraine Fischer Notary Public in and for Dallas County, Texas



MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

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

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

**Building Official's Report**

I hereby certify that Robert Liberi  
did submit a request for a special exception to the fence height regulations, and for a special  
exception to the fence standards regulations  
at 6207 Yorkshire Drive

BDA178-023. Application of Robert Liberi for a special exception to the fence height regulations, and for a special exception to the fence standards regulations at 6207 Yorksh Dr. This property is more fully described as Lot 1, Block 12/6378, and is zoned R-16(A), which limits the height of a fence in the front yard to 4 feet and requires a fence panel with 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 an 8 foot high fence in a required front yard, which will require a 4 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*  
Philip Sikes, Building Official

# City of Dallas

Internal Development Research Site

## Legend

### Locate Property

Search by:

GIS Account #

Locate

OR

Street address.

6207 yorkshire

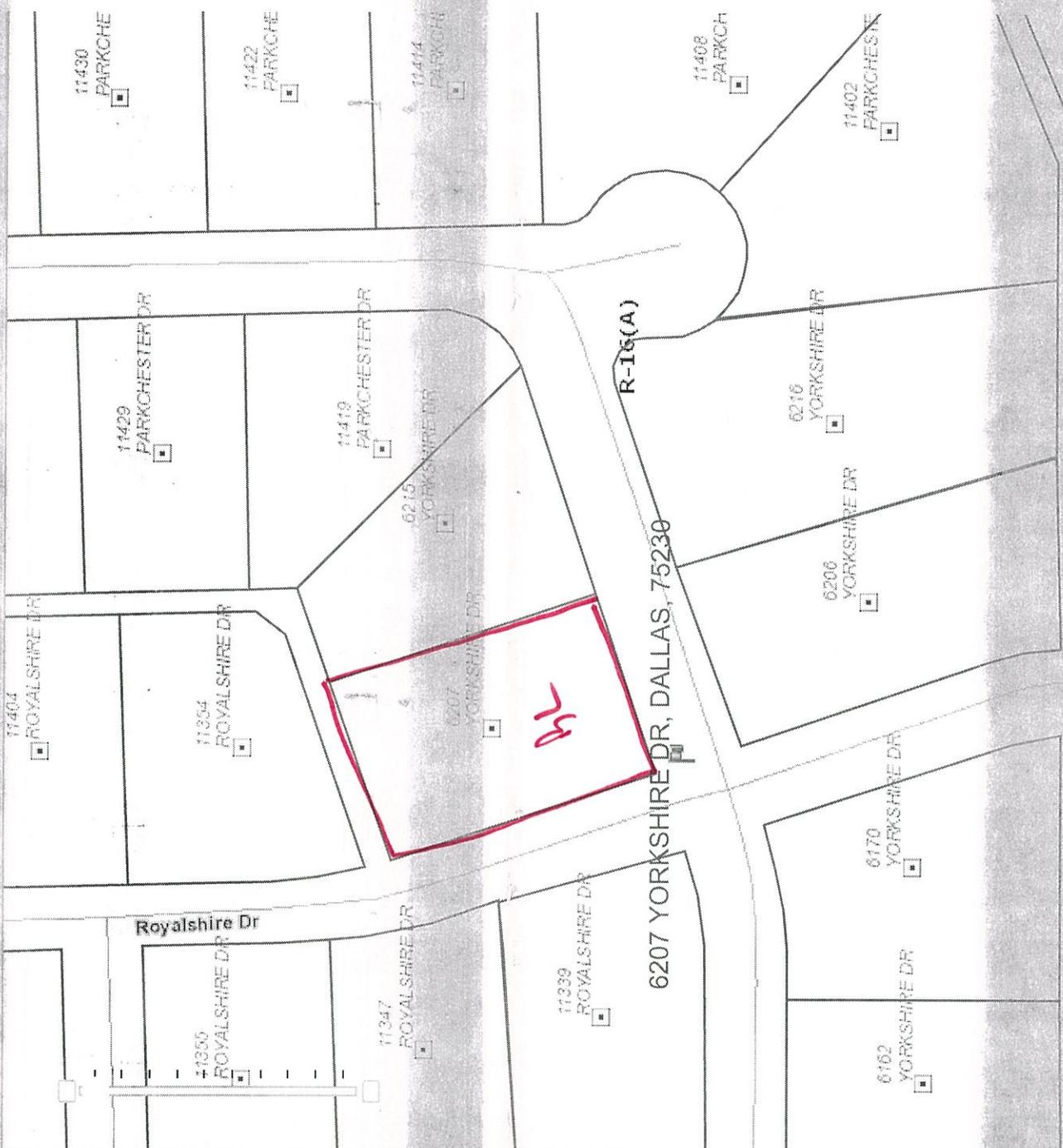
Locate

OR

Parcel address.

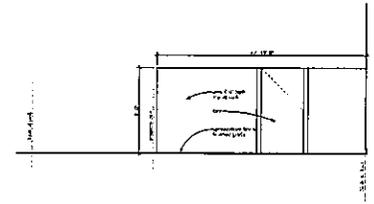
Use street type for better re

Locate

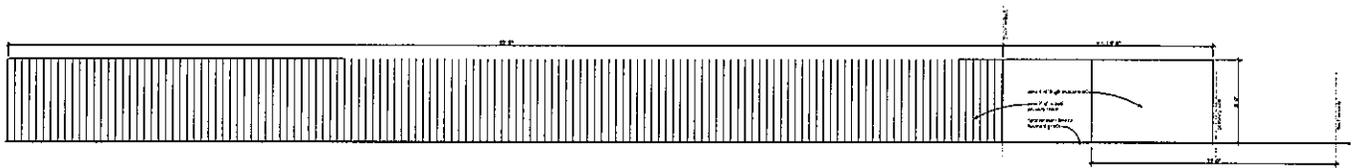




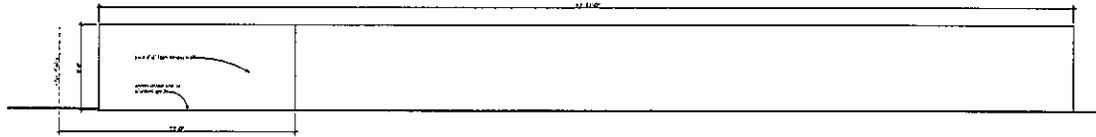




**01** STUCCO WALL ELEVATION (SOUTH)  
SCALE: 1/4" = 1'-0"



**02** STUCCO WALL ELEVATION (NORTH)  
SCALE: 1/4" = 1'-0"



**01** STUCCO WALL ELEVATION (WEST)  
SCALE: 1/4" = 1'-0"

<p>William S. Briggs, Architect, p.l.l.c. 5648 Milton Street, Suite 122 Dallas, Texas 75206 wbriggs@wbsa.com 214.496.1288</p>		<p>being architectural drawings for a project located at: <b>6207 Yorkshire Drive</b> Dallas, Texas 75230</p>	<p>issue date: 07 August 2018 issued for permit and construction 14 December 2017 revised and issued for permit and construction</p>	<p>EXTERIOR ELEVATIONS <b>3.01</b> 60-B-130A</p>
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 1:1,200	<b>NOTIFICATION</b>		Case no: <b>BDA178-023</b>
	<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;">14</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: <b>1/10/2018</b>	

## *Notification List of Property Owners*

***BDA178-023***

### ***14 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	6207 YORKSHIRE DR	YORKSHIRE RESIDENTIAL PTNRS LLC
2	6206 YORKSHIRE DR	WOODRUFF KEVIN L&
3	6216 YORKSHIRE DR	PASQUINELLI BRUNO H &
4	11402 PARKCHESTER DR	MORRIS JACK L JR &
5	6162 YORKSHIRE DR	SINGEL TIMOTHY R & MARY E
6	6170 YORKSHIRE DR	MADE PROPERTIES LLC
7	11355 ROYALSHIRE DR	MCWHORTER FRANCES BERTELSEN
8	11347 ROYALSHIRE DR	DODGEN KENNETH M & KATHLEEN F
9	11339 ROYALSHIRE DR	TOUDOUZE ELIZABETH F
10	6215 YORKSHIRE DR	GARVEY HANSEN LLC
11	11419 PARKCHESTER DR	KERNER JOHN A & LINDA K
12	11429 PARKCHESTER DR	2L PH2 LLC
13	11437 PARKCHESTER DR	JOHNSTON BRETT A & SHERI A
14	11354 ROYALSHIRE DR	PETERS MARK T & KRISANN B