

NOTICE FOR POSTING
MEETING OF
BOARD OF ADJUSTMENT, PANEL A
TUESDAY, NOVEMBER 16, 2021

BRIEFING: 11:00 a.m. via **Videoconference and** in **6ES**, Dallas City Hall, 1500 Marilla Street

HEARING: 1:00 p.m. via **Videoconference and** in **6ES** Dallas City Hall, 1500 Marilla Street

* The Board of Adjustment hearing will be held by videoconference and in 6ES at City Hall. Individuals who wish to speak in accordance with the Board of Adjustment Rules of Procedure **by joining the meeting virtually**, should register online at <https://form.jotform.com/210537186514151> or contact the Planning and Urban Design Department at 214-670-4209 **by the close of business Monday, November 15, 2021. All virtual speakers will be required to show their video in order to address the board.** The public is encouraged to attend the meeting virtually, however, City Hall is available for those wishing to attend the meeting in person following all current pandemic-related public health protocols. Public Affairs and Outreach will also stream the public hearing on Spectrum Cable Channel 96 or 99; and bit.ly/cityofdallastv or YouTube.com/CityofDallasCityHall and **the WebEx link:** <https://bit.ly/BDA111621>

Purpose: To take action on the attached agenda, which contains the following:

1. Board of Adjustment appeals of cases the Building Official has denied.
2. And any other business which may come before this body and is listed on the agenda.

Handgun Prohibition Notice for Meetings of Governmental Entities

"Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun."

"De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola oculta."

"Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly."

"De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola a la vista."



CITY OF DALLAS
BOARD OF ADJUSTMENT, PANEL A
TUESDAY, NOVEMBER 16, 2021
AGENDA

BRIEFING: 11:00 a.m. via **Videoconference** and in **6ES**, Dallas City Hall,
1500 Marilla Street

HEARING: 1:00 p.m. via **Videoconference** and in **6ES**, Dallas City Hall,
1500 Marilla Street

Andreea Udrea, PhD, AICP, Assistant Director (Interim)
Jennifer Muñoz, Chief Planner/Board Administrator
Pamela Daniel, Senior Planner
LaTonia Jackson, Board Secretary

PUBLIC TESTIMONY

Minutes

BDA201-113(JM) 899 N. Stemmons Fwy.
Application of Cabana Development LLC represented by Philip Kingston to appeal the decision
of the administrative official

MISCELLANEOUS ITEM

Approval of the October 19, 2021 Board of Adjustment Panel A Public Hearing Minutes	M1
Approval of the 2022 Board of Adjustment Calendar	M2
Approval of the 2022 Board of Adjustment Schedule	M3

UNCONTESTED CASES

BDA201-104(PD)	615 S. Moore St. REQUEST: Application of Daymond Lavine for a special exception to the single-family use regulations and provide an additional electrical meter.	1
BDA201-106(PD)	3015 Puget St. REQUEST: Application of Carlos Navarrete represented by Jacs Construction & Home Repair for a variance to the front yard setback regulations.	2
BDA201-110(PD)	3860 Shorecrest Dr. REQUEST: Application of Rob Baldwin of Baldwin Associates for a variance to the side yard setback regulations.	3
BDA201-112(PD)	5518 Winston Ct. REQUEST: Application of Rob Baldwin of Baldwin Associates for a special exception to the fence height regulations.	4

REGULAR CASES

BDA201-113(JM)	899 N. Stemmons Fwy REQUEST: Application of Cabana Development LLC represented by Philip Kingston to appeal the decision of the administrative official.	5
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HOLDOVER CASES

BDA201-098(PD)	3601 Routh Street REQUEST: Application of Mehrdad Moayedi represented by Tommy Mann of Winstead PC for variances to the side yard and front yard setback regulations	6
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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: BDA201-104(PD)

BUILDING OFFICIAL'S REPORT: Application of Daymond Lavine for a special exceptions to the single-family regulations at 615 S. Moore Street. This property is more fully described as Lot 18 in City Block 30/3591 and is zoned an R-5(A) Single Family District, which limits the number of dwelling units on a lot to one and requires that a single-family dwelling use may be supplied by not more than one electrical utility service and metered by not more than one electrical meter. The applicant proposes to construct and maintain an accessory dwelling unit (for rent) on a lot with an existing single-family use and to have more than one electrical utility service or electrical meter, which requires special exceptions to the single-family zoning use regulations.

LOCATION: 615 S. Moore Street

APPLICANT: Daymond Lavine

REQUESTS:

The following request for special exceptions to the single-family use regulations are made to authorize more than one electrical utility service or electrical meter on a site with a single-family use and permit a second dwelling unit (for rent) on one single-family lot.

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE-FAMILY USE REGULATIONS TO AN ACCESSORY DWELLING UNIT ON ONE LOT:

(aa). The board may grant a special exception to authorize a rentable accessory dwelling unit in any district when, in the opinion of the board, the accessory dwelling unit will not adversely affect neighboring properties.

(bb). If a minimum of one additional off-street parking space is not provided, the board shall determine if that will create a traffic hazard. The board may require an additional off-street parking space be provided as a condition of granting this special exception.

(cc). In granting a special exception under this subparagraph, the board shall require the applicant to:

- (l). deed restrict the subject property to require owner-occupancy on the premises;
- and

(II). annually register the rental property with the city's single family non-owner occupied rental program.

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE-FAMILY USE REGULATIONS TO AUTHORIZE MORE THAN ONE ELECTRICAL UTILITY SERVICE OR MORE THAN ONE ELECTRICAL METER:

The board may grant a special exception to authorize more than one electrical utility service or more than one electrical meter for a single-family use on a lot in a single-family zoning, duplex, or townhouse district when, in the opinion of the board, the special exception will not:

1. be contrary to the public interest;
2. adversely affect neighboring properties; and
3. be used to conduct a use not permitted in the zoning district.

STAFF RECOMMENDATION FOR A SPECIAL EXCEPTION TO THE SINGLE-FAMILY USE REGULATIONS TO AUTHORIZE MORE THAN ONE ELECTRICAL UTILITY SERVICE OR MORE THAN ONE ELECTRICAL METER:

No staff recommendation is made on this or any request for a special exception to authorize more than one electrical utility service or more than one electrical meter for a single-family use on a lot in a single-family zoning district since the basis for this type of appeal is *when in the opinion of the board*, the standards described above are met.

STAFF RECOMMENDATION FOR A SPECIAL EXCEPTION TO THE SINGLE-FAMILY USE REGULATIONS TO AN ACCESSORY DWELLING UNIT ON ONE LOT:

No staff recommendation is made on this or any request for a special exception to authorize an accessory dwelling unit since the basis for this type of appeal is *when in the opinion of the board*, the standards described above are met.

BACKGROUND INFORMATION:

Zoning:

- Site: R-5(A) (Single Family District)
North: R-5(A) (Single Family District)
West: R-5(A) (Single Family District)
South: R-5(A) (Single Family District)
East: R-5(A) (Single Family District)

Land Use:

The subject site and adjacent site to the north are developed with a single-family uses while surrounding properties to the east, south, and west are undeveloped lots.

Zoning/BDA History:

There have been no related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

The site is zoned an R-5(A) Single Family District and contains an existing original two-story dwelling unit which fronts on S. Moore Street. In this district, one dwelling unit is allowed per lot and only permitted one electrical or utility meter. The purpose of the request for special exceptions to the single-family use regulations is to construct an accessory dwelling unit structure for rent proposed along the rear of the site and to authorize more than one electrical utility service or electrical meter.

The site is developed with an approximately 3,051-square-foot, two-story single-family structure permitted for construction on October 7, 2019 and a green tag for final inspection on April 29, 2021, according to internal City records.

The site plan and elevation plan provided for the requests depict the proposed ADU situated approximately six feet from the rear of the existing two-story single-family dwelling. The proposed ADU is an approximately 896-square-foot, one-story detached structure containing a rooftop patio with a maximum height of nine-feet-and-three-quarter inches.

As of November 5, 2021, no letters had been submitted in support of the requests nor in opposition of the requests.

The applicant has the burden of proof in establishing that the proposed ADU for rent to be constructed, installed, and/or maintained on the site will not adversely affect neighboring properties. In granting a special exception under this subparagraph, the board shall require the applicant to: (I). deed restrict the subject property to require owner-occupancy on the premises; and (II). annually register the rental property with the city's single family non-owner occupied rental program.

Additionally, the applicant has the burden of proof in establishing that the proposed additional electrical meter to be constructed, installed, and/or maintained on the site will: 1) not be contrary to the public interest; 2) not adversely affect neighboring properties, and 3) not be used to conduct a use not permitted in the City's Development Code.

If the board were to grant the requests for special exceptions to the single-family use regulations to allow the accessory dwelling unit for rent and a second electrical utility service or electrical meter at the site, the only items being authorized are a second

subordinate dwelling unit and the installation of the second electrical utility service or electrical meter, as shown on the submitted site plan. Any other items shown on the site plan are subject to compliance with all other regulations of the Dallas Development Code, as amended, to obtain building permits.

Timeline:

September 19, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

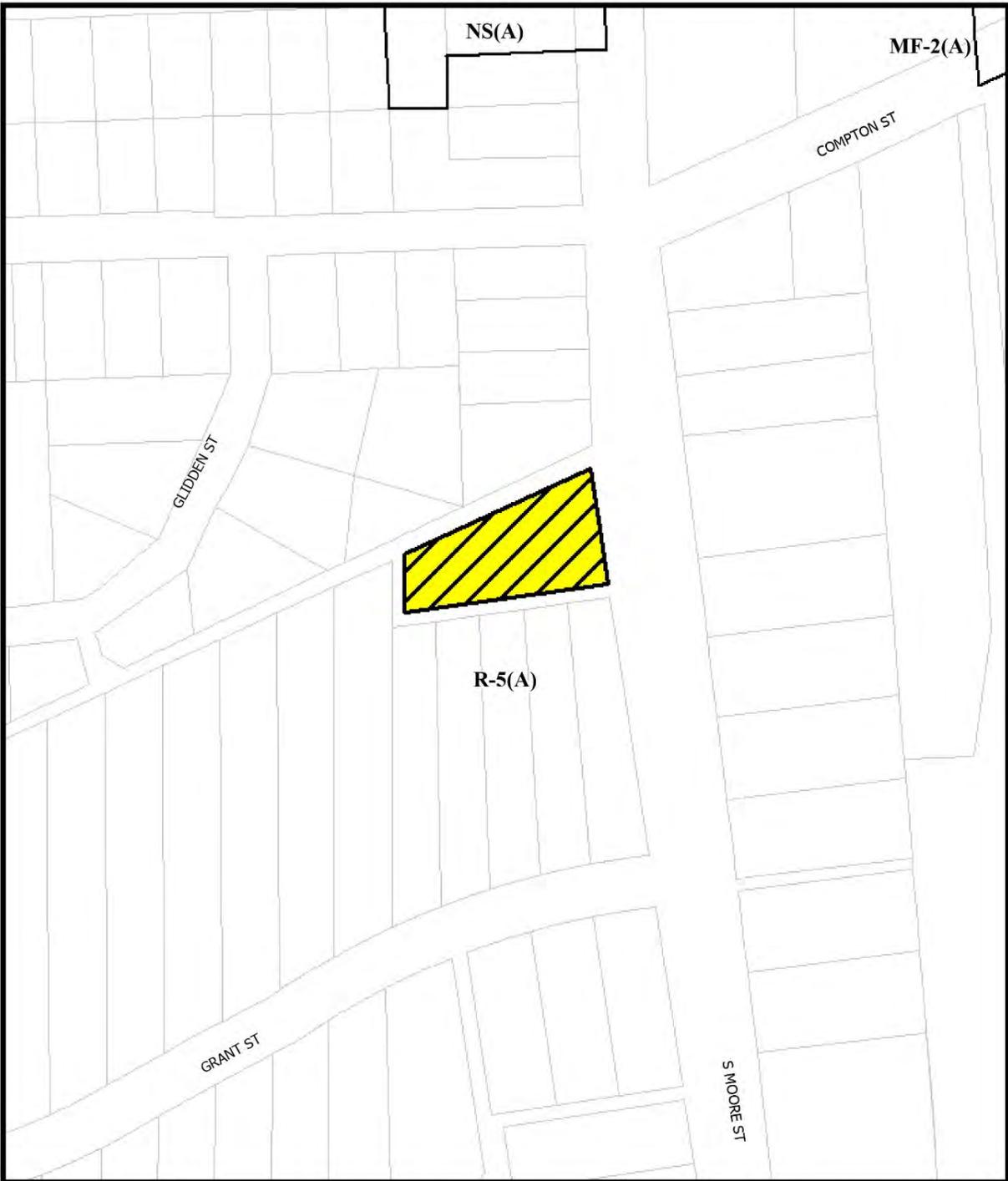
October 14, 2021: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.

October 15, 2021: 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 October 26, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the November 5, 2021 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.

October 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearings. Review team members in attendance included the following: the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner, the Board of Adjustment Senior Planner, the Chief Arborist, the Conservation Districts Chief Planner, the Building Inspection Chief Planner, the Interim Assistant Director of Current Planning, and the Assistant City Attorney to the board.

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

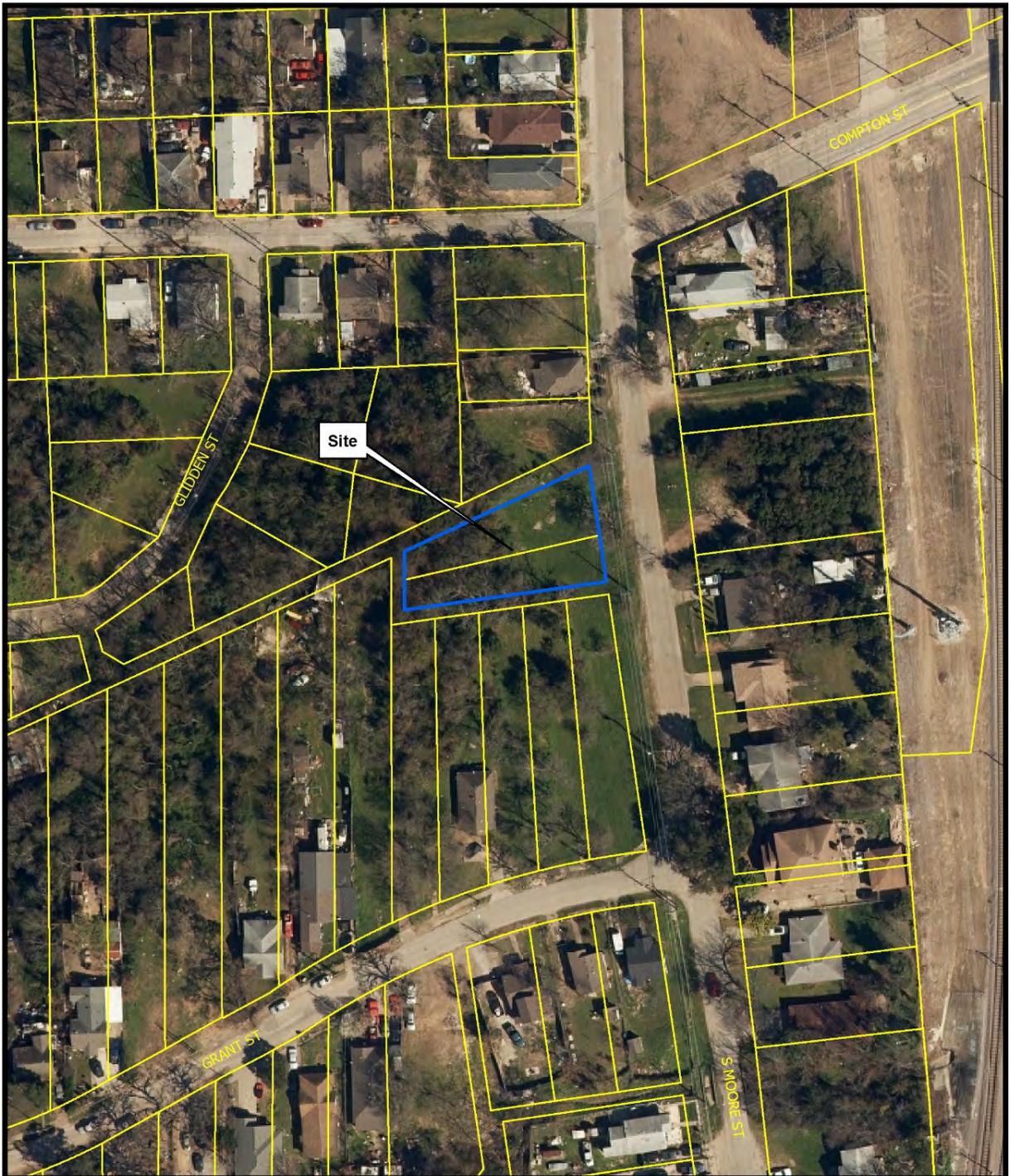


1:1,200

ZONING MAP

Case no: BDA201-104

Date: 10/27/2021

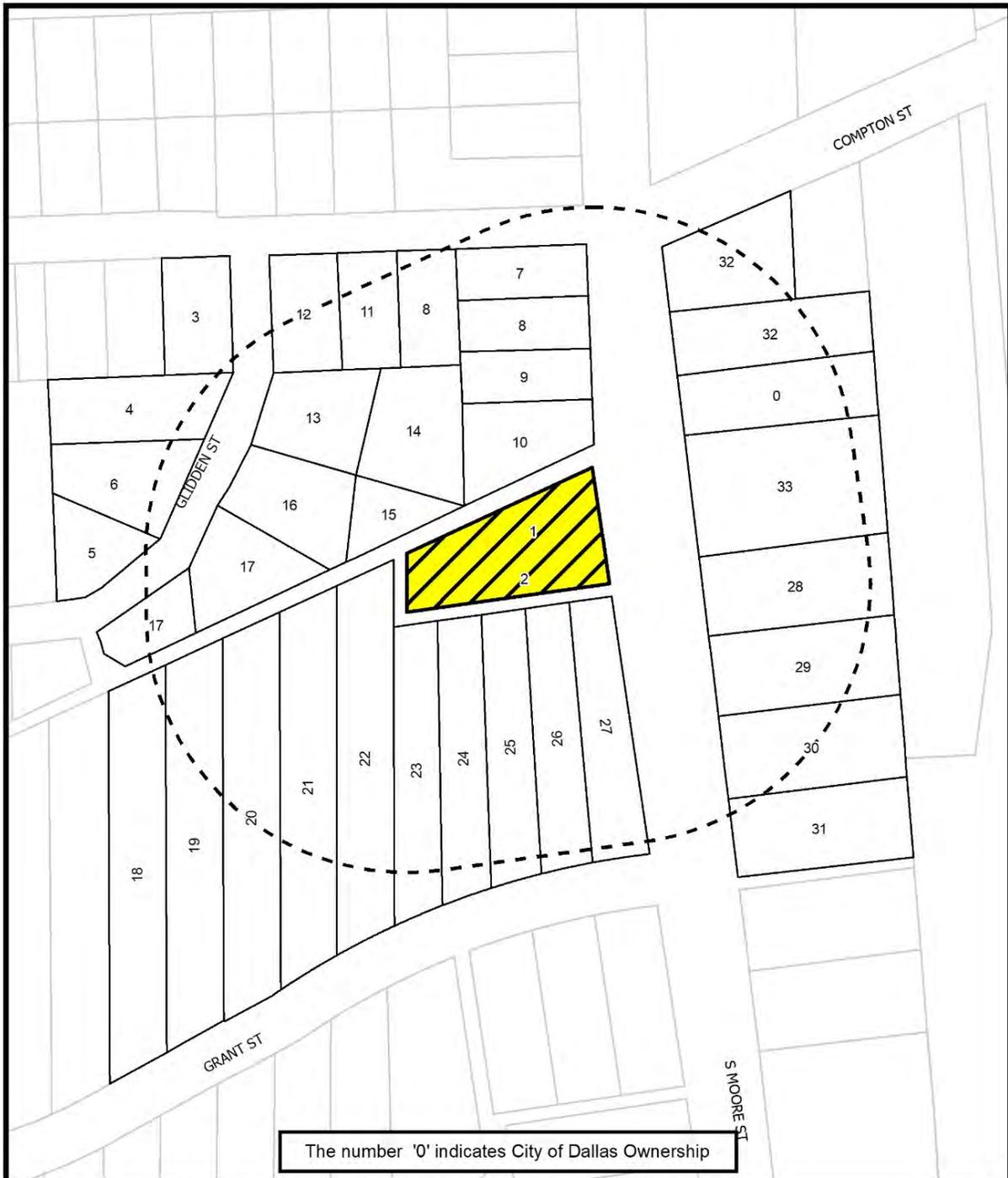


1:1,200

AERIAL MAP

Case no: BDA201-104

Date: 10/27/2021



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
33 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA201-104**
 Date: **10/27/2021**

10/26/2021

Notification List of Property Owners

BDA201-104

33 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	615 S MOORE ST	LAVINE DAYMOND E &
2	617 S MOORE ST	LAVINE DAYMOND E &
3	1322 COMPTON ST	KYSER DICK & MARGIE
4	20 GLIDDEN ST	GROUP UP DFW LLC
5	1327 GLIDDEN ST	GROUND UP DFW LLC
6	1331 GLIDDEN ST	WHITE LIGE EST
7	601 S MOORE ST	GAMBER MONTY
8	603 S MOORE ST	GAMBER MONTY
9	607 S MOORE ST	LLOYDS CANOE RENTAL & REAL
10	611 S MOORE ST	CERDA ERIC
11	1340 COMPTON ST	HERNANDEZAGUIRRE MARIA DEL CARMEN
12	1336 COMPTON ST	FISHER MESHACH
13	1338 GLIDDEN ST	N THE GREEK LIGHT LLC
14	613 S MOORE ST	LAGOW DEV PROJECT LLC
15	9 GLIDDEN ST	FINLEY C A EST OF
16	1334 GLIDDEN ST	TEXAS STATE OF
17	10 GLIDDEN ST	TEXAS STATE OF
18	1325 GRANT ST	GP ACQUISTIONS
19	1329 GRANT ST	LOPEZ ALEXANDER
20	1333 GRANT ST	MARTINEZ ANGELINA
21	1337 GRANT ST	RESENDES FORTUNATO &
22	1343 GRANT ST	CERDA EDGAR
23	1345 GRANT ST	LAGOW DEV PROJECT LLC
24	1353 GRANT ST	BECKETT CYNTHIA &
25	1357 GRANT ST	TEXAS HEAVENLY HOMES LTD
26	1361 GRANT ST	ROMAN HIRAM

10/26/2021

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	1365 GRANT ST	JENSEN RYAN
28	622 S MOORE ST	LEYVA ARMANDO
29	628 S MOORE ST	JACKSON DEBORAH YOUNG
30	630 S MOORE ST	JORDAN WILLIAM K
31	640 S MOORE ST	ROOK SIMON
32	602 S MOORE ST	TORRES MANUEL
33	614 S MOORE ST	LAGOW DEV PROJECT LLC



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-104

Data Relative to Subject Property:

Date: Sep 15, 2021

Location address: 615 S. Moore Street, Dallas, TX 75203

Zoning District: 2207 R-5(A)

Lot No.: 18

Block No.: 30/3591

Acreage: .311

Census Tract: 49.00

Street Frontage (in Feet): 1) 90 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Daymond E. Lavine & Stanley Coleman

Applicant: Daymond E. Lavine Telephone: 817-789-5390

Mailing Address: 615 S. Moore Street, Dallas, Texas Zip Code: 75203

E-mail Address: daymond.realestate@gmail.com

Represented by: Self Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance or Special Exception of _____ accessory dwelling unit (ADU) and additional meter which will require a special exception to the single family zoning use regulations. No other requests being asked for at this time.

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 addition will exist as a secondary rentable unit on the main property of 615 S. Moore Street, Dallas, Texas 75203.

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 Daymond E Lavine
(Affiant/Applicant's name printed)

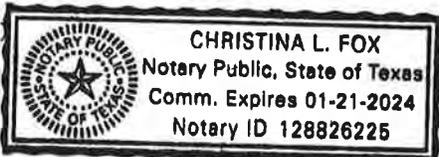
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: Daymond E Lavine
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 19 day of September, 2021

Christina L. Fox
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 Daymond Lavine

did submit a request for a special exception to the single family regulations, and provide an additional electrical meter

at 615 S. Moore Street

BDA201-104. Application of Daymond Lavine for a special exception to the single family regulations, and provide an additional electrical meter at 615 S MOORE ST. This property is more fully described as Lot 18, Block 30/3591, and is zoned R-5(A), which limits the number of dwelling units to one and requires that a single family dwelling use in a single family, duplex, or townhouse district may be supplied by not more than one electrical utility service, and metered by not more than one electrical meter. The applicant proposes to construct an accessory dwelling unit (for rent), which will require a special exception to the single family zoning use regulations, and to construct a single family accessory dwelling unit in a single family district and have more than one electrical utility service, or more than one electrical meter, which will require a special exception to the single family zoning use regulations.

Sincerely,


David Session, Building Official



AFFIDAVIT

Appeal number: BDA 201-104
Stanley Coleman

I, _____, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)
615 S. Moore St. Dallas, TX 75203

at: _____
(Address of property as stated on application)

Daymond E. Lavine
Authorize: _____
(Applicant's name as stated on application)

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

- Variance (specify below)
- Special Exception (specify below)
- Other Appeal (specify below)

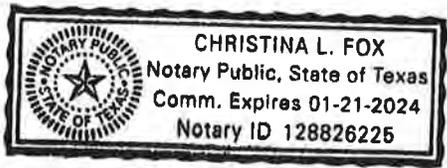
accessory dwelling unit (ADU) and additional meter which will require a special exception to the single family zoning use regulations. No other requests being asked for at this time.

Stanley Coleman Stanley Coleman 09/19/2021
 Print name of property owner/agent Signature of property owner/agent Date

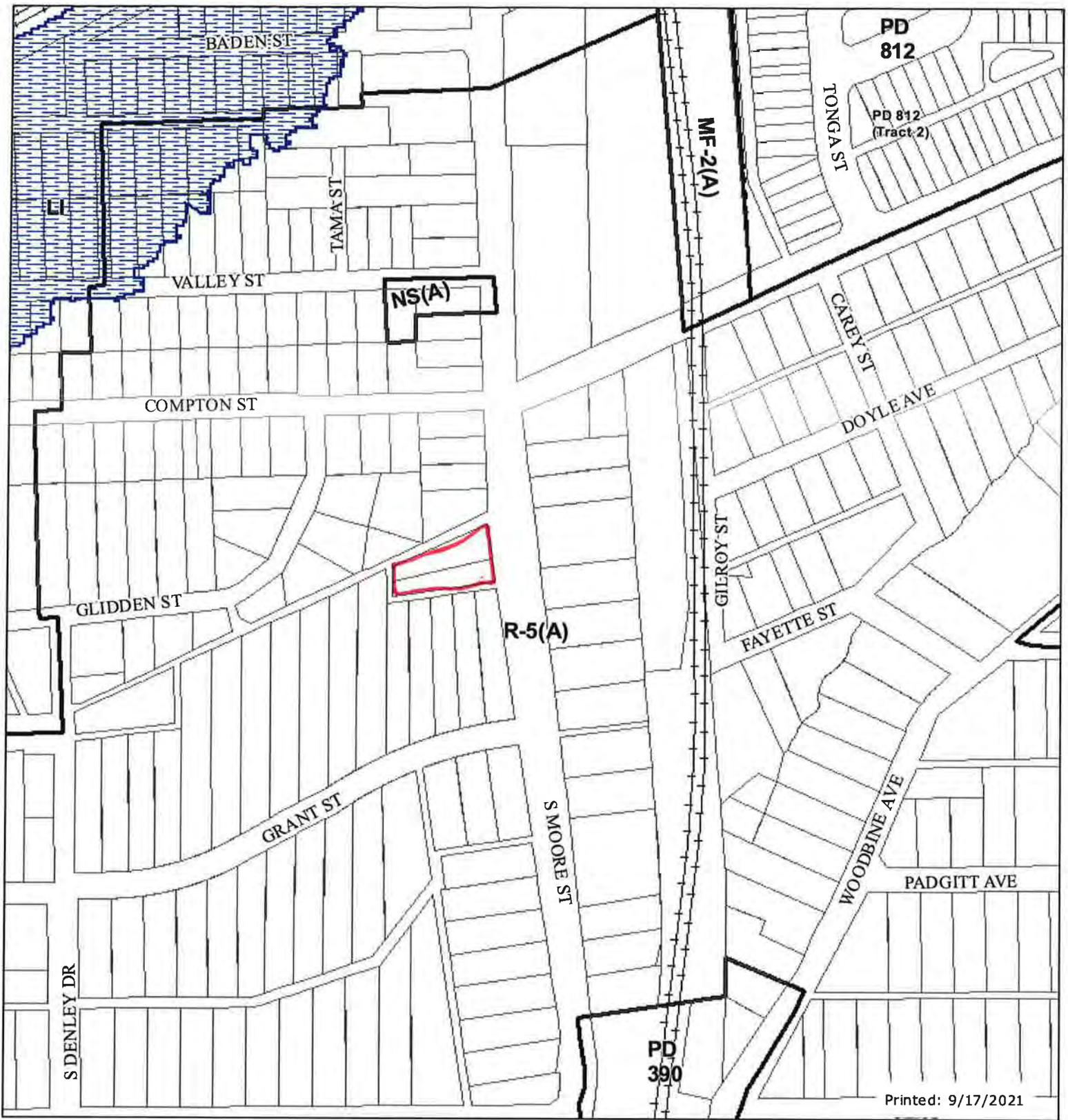
Before me, the undersigned, on this day personally appeared Stanley Coleman

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

Subscribed and sworn to before me this 19 day of September, 2021



Christina L. Fox
 Notary Public for Dallas County, Texas
 Commission expires on 1-21-2024



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 | SPSPD Overlay | MD Overlay | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions | Historic Subdistricts | Parking Management Overlay |
| Parks | SUP | Historic Overlay | Shop Front Overlay |
| | | Height Map Overlay | |

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

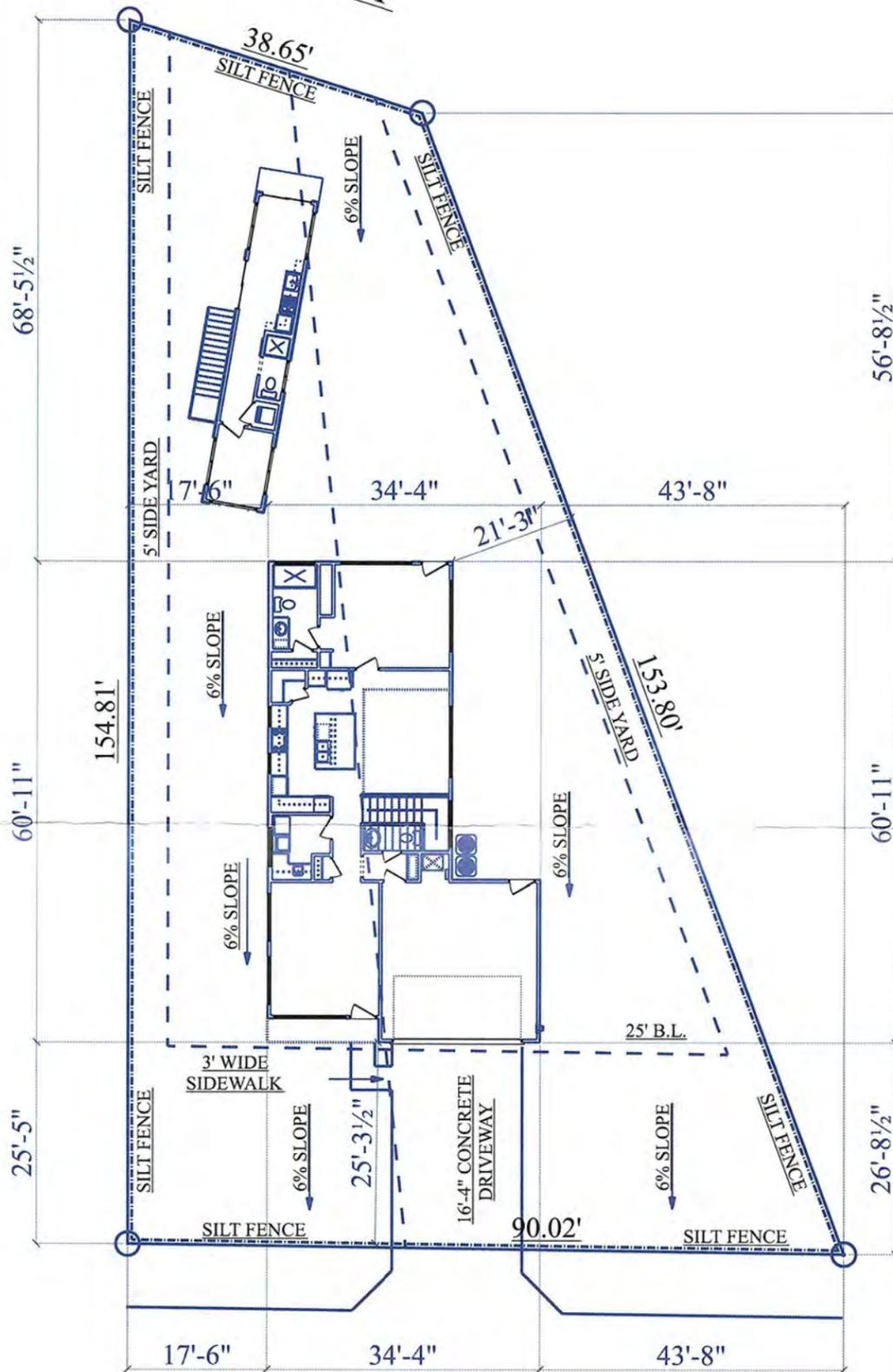




10' ALLEY

LOT 18 BLOCK 30/3591
DALLAS, TEXAS
DALLAS COUNTY

10' ALLEY



615 S. MOORE STREET

SITE PLAN
SCALE: 1" = 20'-0"

FOR REFERENCE ONLY



130 CHIEFTAIN DRIVE
SUITE 101
WAXAHACHIE, TX 75165
OFFICE# (972)935-9710
WWW.PLAN-MASTER.COM



NOVEMBER 3rd, 2020

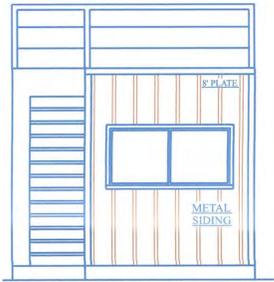
A NEW SINGLE FAMILY
TO BE LOCATED @ 615 S. MOORE ST.
LOT 18 BLK 30/3591 EDMONT
DALLAS, TEXAS
DALLAS COUNTY

COLEMAN
RESIDENCE



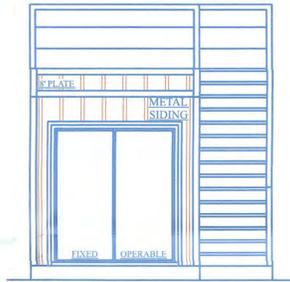
High Cube
Container size is
40' l x 8' w x 9'x6" h

NOTE:
Interior room sizes have been redlined
to reflect new needs per 40' length
container.



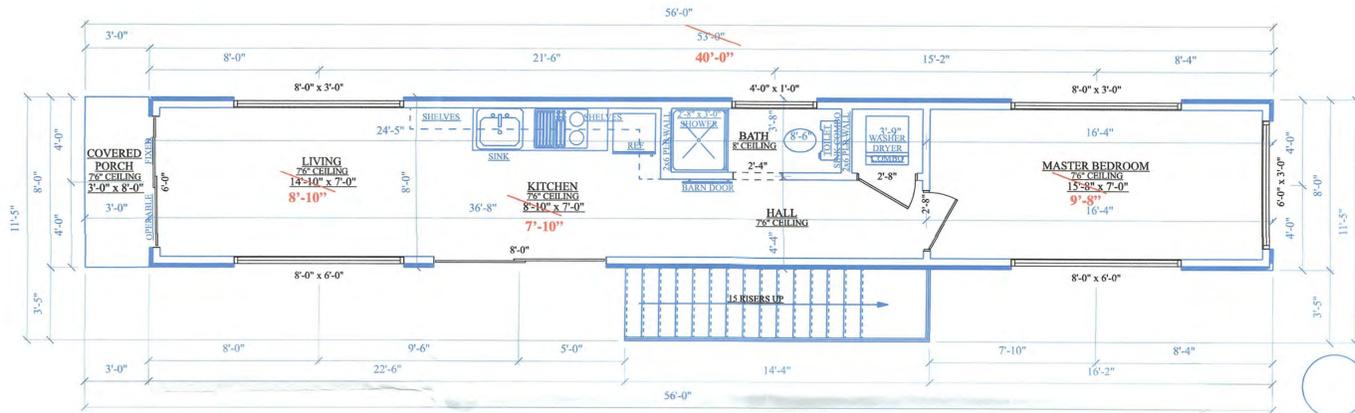
6030 HS
VINYL LOW-E GLASS
@ 6'8" H.H.

REAR ELEVATION
SCALE: 1/4" = 1'-0"



3068 EXT
SLIDING GLASS DOOR
W/ 3068 VINYL GLASS @
6'8" H.H.

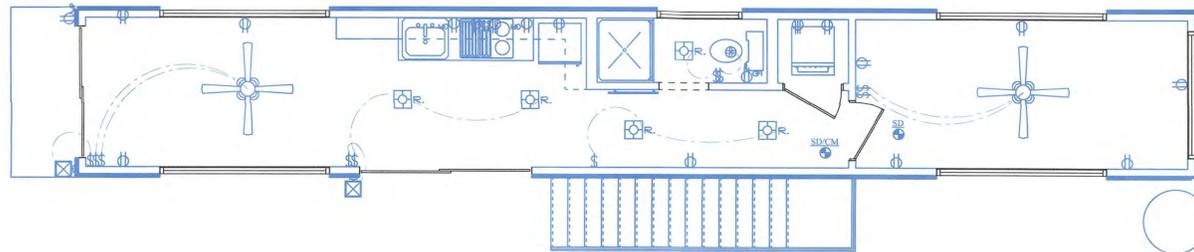
FRONT ELEVATION
SCALE: 1/4" = 1'-0"



AREA TOTALS

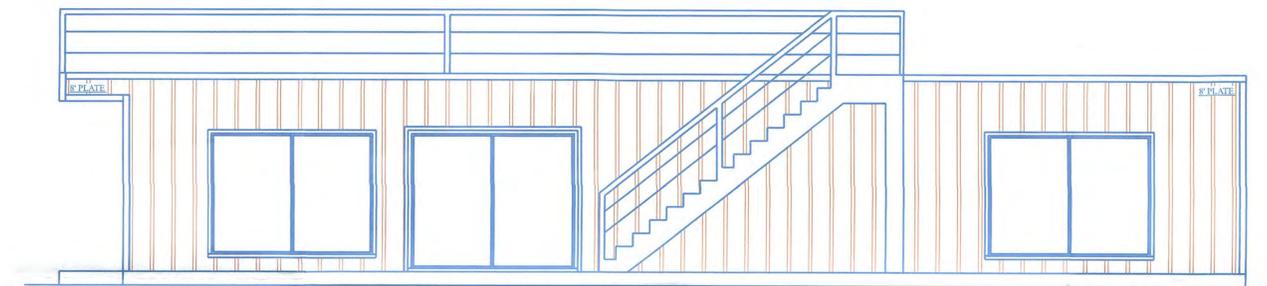
LIVING AREA	424
COVERED PORCH	24
TOTAL UNDER ROOF	448
ROOF TOP PATIO	+319

FLOOR PLAN
SCALE: 1/4" = 1'-0"



- GENERAL ELECTRICAL NOTES:
1. VERIFY ALL EXTERIOR ELECTRICAL, FLOOR PLUGS, PHONE & TV JACKS, SECURITY AND SOUND SYSTEM WIRING WITH OWNER OR BUILDER PRIOR TO CONSTRUCTION.
 2. VERIFY DOOR HEIGHTS W/ BUILDER PRIOR TO CONSTRUCTION.
 3. INSTALL ARC FAULT CIRCUIT INTERPRETER PROTECTION FOR ALL SLEEPING ROOMS.
 4. DEDICATED CIRCUITS FOR MICROWAVE, WASHER, REFRIGERATOR AND DISHWASHER.
 5. PROVIDE SWITCHED LIGHTING AND 110 VOLT RECEPTACLE IN ATTIC @ MECHANICAL PLATFORM.

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

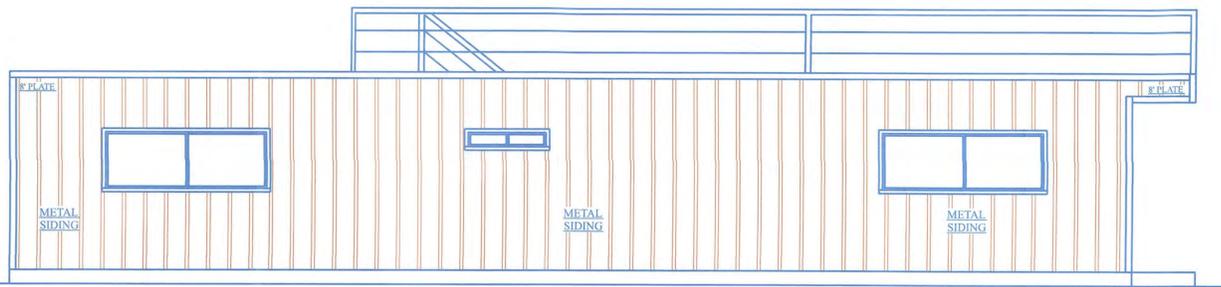


8060 HS
VINYL LOW-E GLASS
@ 6'8" H.H.

4068 EXT DBL
SLIDING GLASS DOOR

8060 HS
VINYL LOW-E GLASS
@ 6'8" H.H.

RIGHT ELEVATION
SCALE: 1/4" = 1'-0"



8030 HS
VINYL LOW-E GLASS
@ 6'8" H.H.

4010 HS
VINYL LOW-E GLASS
@ 6'8" H.H.

8030 HS
VINYL LOW-E GLASS
@ 6'8" H.H.

LEFT ELEVATION
SCALE: 1/4" = 1'-0"

Plan Copyright, Ownership and Liability

These plans are copyrighted and are subject to copyright protection as an "Architectural Work" under section 102 of the Copyright Act, 17 U.S.C. as amended December 1990 and known as Architectural Works Copyright Protection Act of 1990. Reproduction of these home plans or designs either in whole or in part, including any form and/or preparation of derived works thereof for any reason without prior written permission is strictly prohibited. The purchase of a set of home plans in no way transfers any copyright or other ownership interest in it to the buyer except for a limited license to use that set of home plans for the construction of one dwelling unit. The protection includes but is not limited to the overall form as well as the arrangement and composition of spaces and elements of the design. These plans are the property of Blue Line Design.

Blue Line Home Design assumes no liability for any structure constructed from this plan. It is the responsibility of the purchaser of this plan to perform the following before beginning any construction.

1. Verify dimensions and all aspects of plans for compliance with all local codes and ordinances where house is to be constructed.
2. Verify all structural for design, size and reinforcement with local engineer and building officials.
3. Plans indicate locations only; engineering aspects should incorporate actual size and soil conditions.

Limit of Designer's liability is not to exceed price paid for plans.

Blue Line Design assumes no liability for any changes made to these plans nor do we assume any liability for advice given or methods used by the builder, contractor or other professionals involved in the construction of a house from the plans. Blue Line design is not a registered Architect however, Blue Line Design is registered and maintains good standing with the American Institute of Building Design.

NOTES:

1. These plans are intended to provide the basic construction information necessary to substantially complete this structure. These plans must be verified and checked completely by the builder. Any discrepancy, error and/or omission is found is to be brought to the attention of the architect before any construction work or purchases have been made.
2. These plans are designed to be in substantial compliance with the 2015 International Residential Code. The construction shall conform to all national, state and local building codes and ordinances. These codes shall take precedence over anything noted in these drawings.
3. Contractor must verify all dimensions and scale drawings.
4. All stud walls are dimensioned 4" nominal, brick 5" nominal and thin walls 2" nominal.
5. Linen closets and pantries have 5 high shelves unless noted otherwise.
6. Provide 3/8 inch water line to refrigerator.
7. Gas water heaters in the garage are to be on a 18" platform.
8. Air conditioner condenser must be 3" above grade.
9. In absence of mailing schedule prepared by architect or engineer, and accepted by building official use Table R602.3 in the International Residential Code.
10. Refer to engineer drawings for all foundations.
11. Lot drainage to comply with the International Residential Code.
12. Building area to be clear of all burms roots and vegetation. Cut stumps a minimum of 8' below grade and 4' below beams.
13. Check plans for level changes floor outlets and plumbing fixture locations.



COLEMAN
RESIDENCE

MAY 10th, 2019
A NEW SINGLE FAMILY HOME
TO BE LOCATED @ 617 S. MOORE ST.
LOT 18 BLOCK 30/3591 - EDGEMONT
DALLAS, TEXAS 75203
DALLAS COUNTY



CHRIS R. ACKLER
AIBD CERTIFICATION # 620

130 CHIEFTAIN DRIVE
SUITE 101
WAXAHACHIE, TX 75165
OFFICE# (972)935-9710
WWW.PLAN-MASTER.COM



FILE NUMBER: BDA201-106(PD)

BUILDING OFFICIAL'S REPORT: Application of Carlos Navarrete represented by JACS Construction for a variance to the front yard setback regulations at 3015 Puget Street. This property is more fully described as Lot 3 in City Block 16/7126 and is zoned an R-5(A) Single Family District, which requires a front yard setback of 20 feet. The applicant proposes to construct a one-story addition to the existing single-family dwelling that provides the encroachment into both front yard setbacks, remodel the existing roofline and siding, and provide a minimum eight-foot-seven-inch front yard setback along Toronto Street and Puget Street, which will require an eleven-foot-five-inch variance to the front yard setback regulations.

LOCATION: 3015 Puget Street

APPLICANT: Carlos Navarrete represented by JACS Construction

REQUESTS:

A request for a variance to the front yard setback regulations of eleven feet five inches is made to construct and maintain an addition to an existing single-family dwelling and remodel the existing roofline within the subject site's 20-foot front yard setbacks on a site that is currently developed and situated along a corner lot with two front yards and an unimproved alley.

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.

State Law/HB 1475 effective 9-1-21

- the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:
 - (a) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code;
 - (b) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
 - (c) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
 - (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (e) the municipality consider the structure to be a nonconforming structure.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site being situated on a corner lot with two front yards determines this property has an unnecessary hardship and is unable to be developed in a manner commensurate with the development upon other parcels of land with the same R-5(A) zoning classification. Additionally, per State Law/HB 1475 Subsection (c) and evidence (**Attachments A and B**) submitted by the representative, staff believes that compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur.

BACKGROUND INFORMATION:

Zoning:

- Site: R-5(A) Single Family District
- North: R-5(A) Single Family District
- South: CR Community Retail District
- East: R-5(A) Single Family District
- West: R-5(A) Single Family District

Land Use:

The subject site is developed with a single-family dwelling. Surrounding properties to the west and east are developed with single-family dwellings while surrounding properties to the north and south are undeveloped.

Zoning/BDA History:

There have been no related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

This request focuses on constructing and maintaining an addition along the southern portion of the existing single-family dwelling unit that happens to be situated along a front yard (Puget Street). The lot is situated along the intersection of Puget Street and Toronto Street, which provides two front yards along both corridors. Additionally, the location of the subject site is unique since the existing residential dwelling and neighborhood lies adjacent to a CR Community Retail District to the south with an unimproved alley acting as the sole separation between the two. Further Section 51A-4.401(a)(6) regulates that if a blockface is divided by two or more zoning districts, the front yard for the entire blockface must comply with the requirements of the district with the greatest front yard requirement. Since the subject site is zoned an R-5(A) Single Family District and requires a 20-foot front yard setback and the CR Community Retail District requires a 15-foot front yard setback, the most restrictive setback of 20-feet must be maintained along both frontages to ensure continuity of the block. Lastly, since the applicant is proposing to remodel consisting of a reroof and new siding to the existing structure which currently poses an encroachment of 10-feet-five-inches into the front yard along Puget Street and eleven-foot-five-inches into the front yard along Toronto Street, a variance to the front yard setbacks for both frontages is required to update the existing structure. The addition is located within the R-5(A) District yard, lot, and space regulations and requires no relief. The variances will allow for the renovation of the existing structure.

Structures on lots zoned an R-5(A) Single Family District must have a minimum front yard setback of 20 feet. A site plan has been submitted denoting the existing dwelling unit with the proposed addition located eight-feet-seven-inches from the front property line along Puget Street and located twelve-feet-seven-inches from the front property line along Toronto Street. Also, the site plan depicts an existing approximately 546-square-foot, one-story dwelling unit with an approximately 700-square-foot, one-story proposed addition for approximately 1,246-square feet of floor area with a midpoint height of 13-feet-ten-inches. The portion of the addition fronting along Puget Street is not proposed to encroach into the front yard setback. Rather the addition proposes to provide a front yard setback of 20 feet and one inch.

The subject site is not irregular in shape and is approximately 5,096 square feet in lot area. An R-5(A) zoning district requires lots to have a minimum lot size of 5,000 square feet. However, the applicant has provided evidence (**Attachment A and B**) that approximately five lots within the vicinity of the subject site maintain an average lot size of 5,831 square feet. Additionally, the same evidence offers that six lots within the vicinity of the subject site provide an average floor area of 1,744 square feet. Considering both deficits, the subject site contains a delta of 735 feet for the lot size and 1,198 square feet of floor area in comparison to similar homes within the same zoning district.

The applicant has the burden of proof in establishing the following:

- That granting the variance to the front yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-5(A) zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-5(A) zoning classification.

Additionally, the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

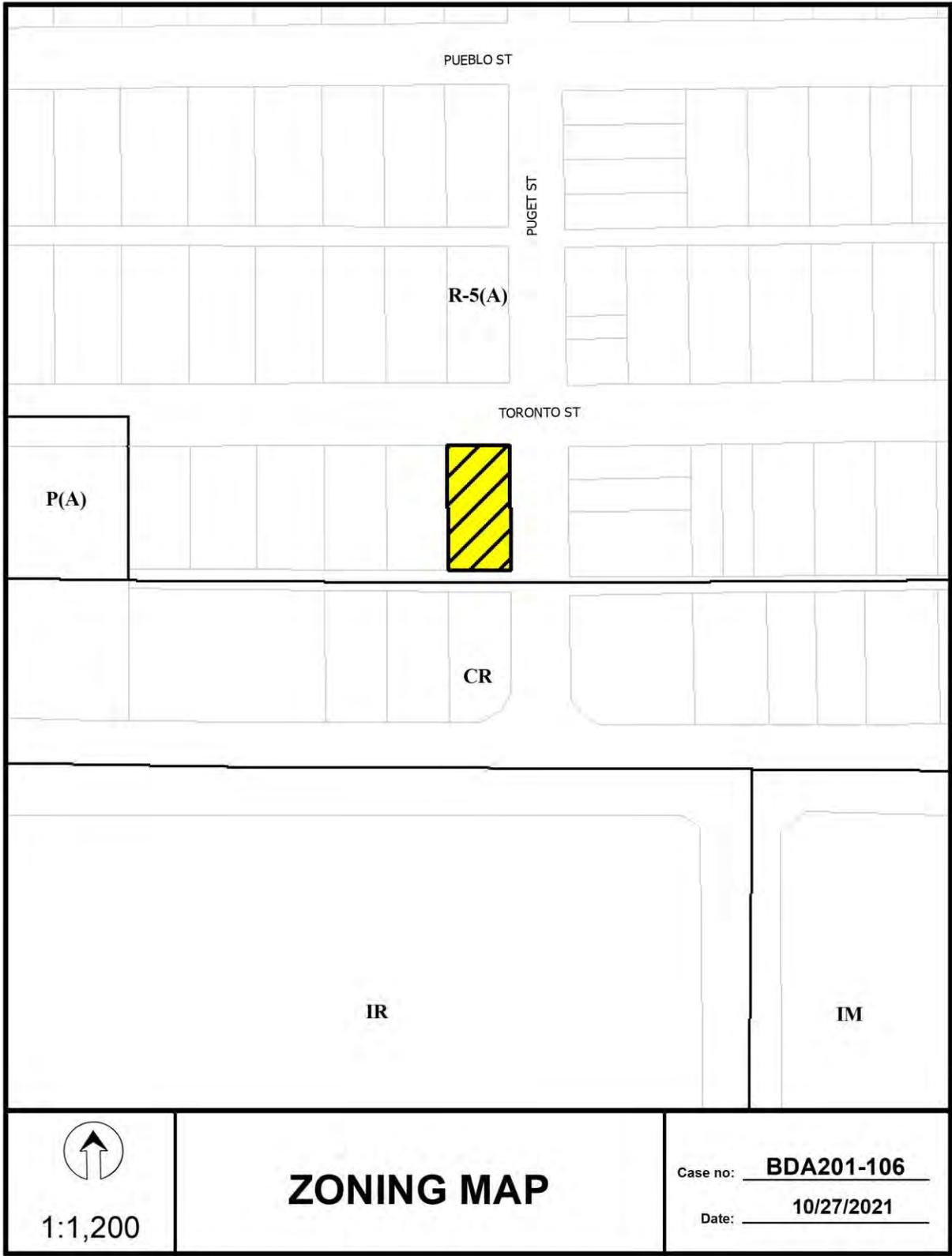
- The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code;
- Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
- Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- The municipality consider the structure to be a nonconforming structure.

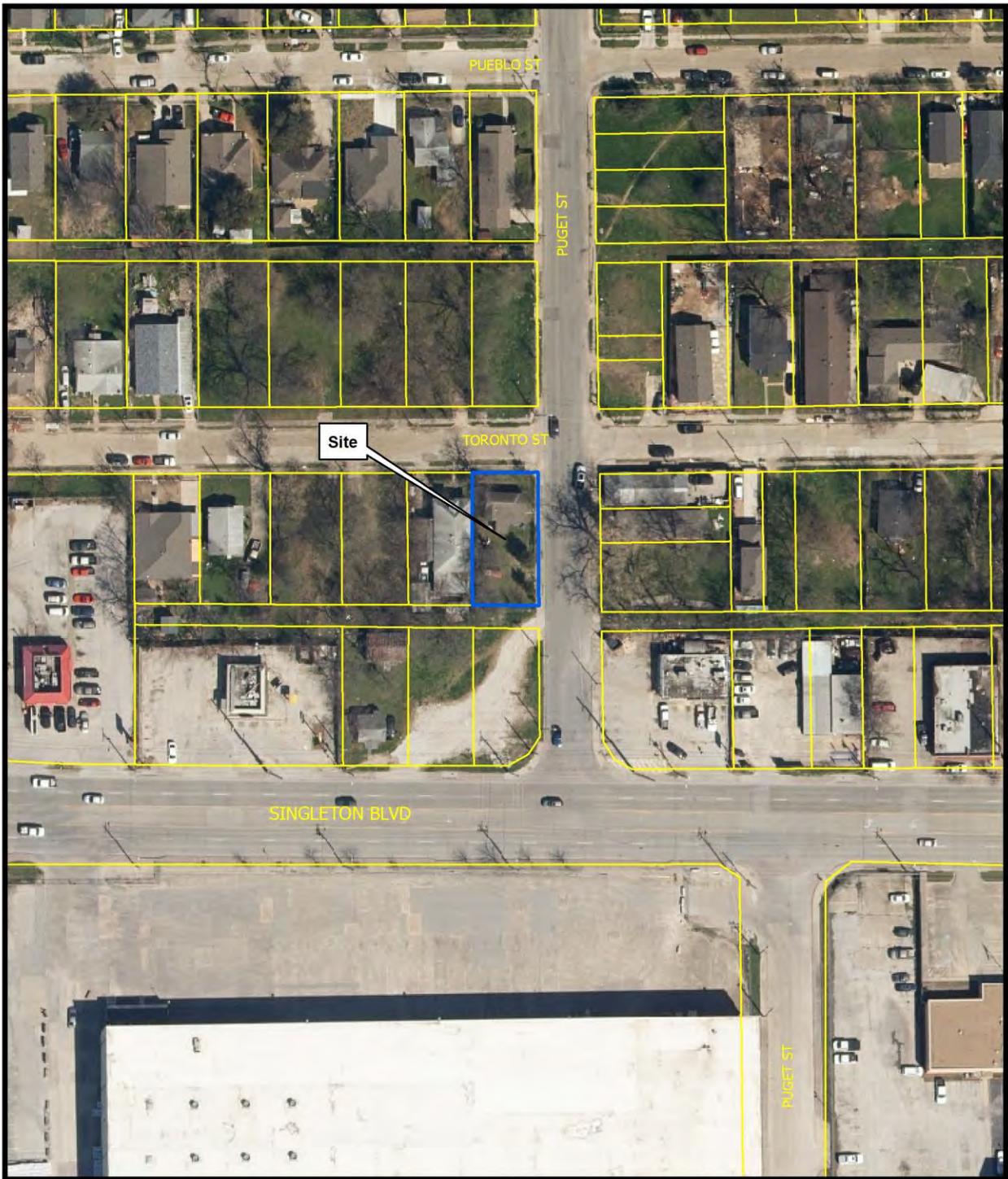
As of November 5, 2021, no letters have been submitted in support of or in opposition of the request. However, the representative provided a petition of support (see reference materials).

If the board were to grant this front yard setback variance request and impose the submitted site plan as a condition, development would be limited to what is shown on this document. Granting this variance request will not provide any further relief from the Dallas Development Code regulations.

Timeline:

- Sept. 23, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- October 12, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.
- October 15, 2021: 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 October 26, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the November 5, 2021 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.
- October 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board. No staff review comment sheets were submitted in conjunction with this application.
- November 4, 2021: Documentary evidence was provided by the representative (**Attachments A & B**).



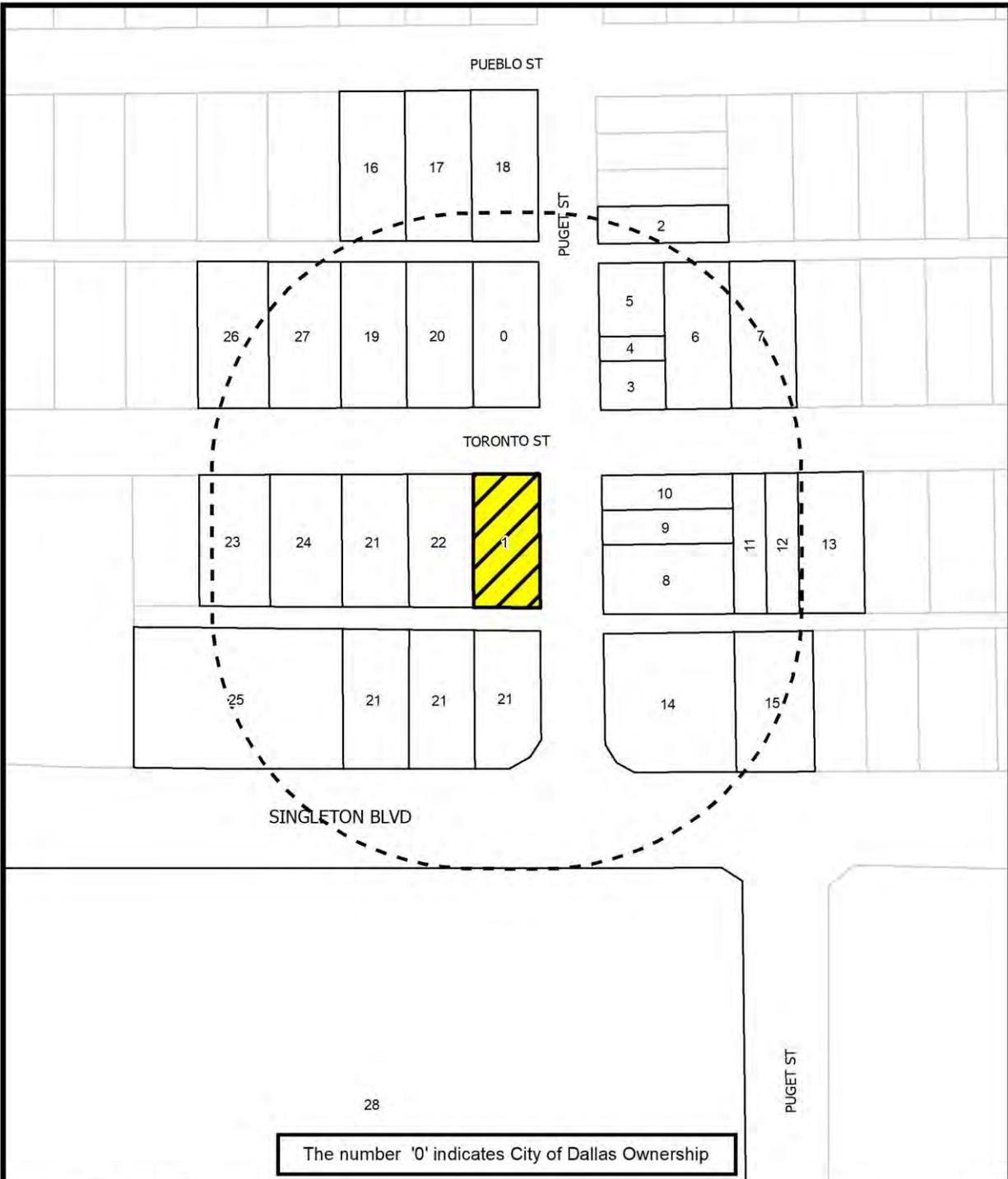


1:1,200

AERIAL MAP

Case no: BDA201-106

Date: 10/27/2021



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
28 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA201-106**

Date: **10/27/2021**

10/26/2021

Notification List of Property Owners

BDA201-106

28 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3015 PUGET ST	NAVARRETE CARLOS
2	3112 PUGET ST	RHEINSTEIN LLC
3	3100 PUGET ST	TSEGU RUSOM
4	3104 PUGET ST	IRVIN SCOTT LLC
5	3106 PUGET ST	WILLIAMS GARY L
6	1963 TORONTO ST	TACEN JULIAN DANIEL CUN &
7	1961 TORONTO ST	DOSS IVAN VINCENT &
8	3012 PUGET ST	AHMED DAWOOD
9	3014 PUGET ST	HILL TH &
10	3018 PUGET ST	GONZALEZ FERNANDO
11	1962 TORONTO ST	CARDOSO ROBERTO
12	1960 TORONTO ST	ABSTRACT PROPERTIES LLC
13	1958 TORONTO ST	Taxpayer at
14	1971 SINGLETON BLVD	ODOMS BARBECUE INC
15	1961 SINGLETON BLVD	MULLEN CHRISTINA MARIE
16	2010 PUEBLO ST	SINES ZACHARY S
17	2006 PUEBLO ST	BROWN LETHA ESTATE OF
18	2002 PUEBLO ST	BEYEN ADDIS & WELDEMICHAEL BERHAN
19	2009 TORONTO ST	DAY TIMOHTY OLIVER &
20	2005 TORONTO ST	ALVAREZ SANDRO & CLARISSA
21	2010 TORONTO ST	HMK LTD
22	2004 TORONTO ST	FRIDIA JEWEL M EST OF
23	2016 TORONTO ST	JACOBS BOBBIE
24	2014 TORONTO ST	BELL ANNIE T TR
25	2019 SINGLETON BLVD	KHAN SINGLETON
26	2021 TORONTO ST	VANN ROY CALVIN
27	2015 TORONTO ST	PATE JAMILLAH &
28	2020 SINGLETON BLVD	2020 SINGLETON BLVD LLC



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-106

Data Relative to Subject Property:

Date: ~~9-20-2021~~ 9-23-21

Location address: 3015 Pogel St Dallas TX 75212 Zoning District: ~~residential~~ R(5A)

Lot No.: 3 Block No.: 16 / 7126 Acreage: .117 Census Tract: 0101.01

Street Frontage (in Feet): 1) 50.93' 2) 102.59' 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Carlos Navarrete

Applicant: Carlos Navarrete Telephone: 682-221-6112

Mailing Address: 3015 Pogel St Dallas TX Zip Code: 75212

E-mail Address: _____

Represented by: JACS construction Telephone: 817-896-4183

Mailing Address: 6804 Briar rd Azle TX Zip Code: 76020

E-mail Address: john@jacsconstruction.com

Affirm that an appeal has been made for a Variance , or Special Exception _____, of Allow the existing home to remain on setback even though alterations are being made.

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

We are not changing the footprint of the property. We are just changing a portion of the roof line.

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

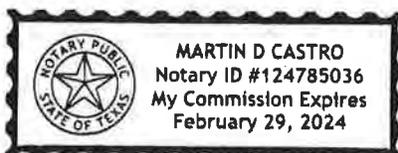
Before me the undersigned on this day personally appeared Carlos Navarrete (Affiant/Applicant's name printed)

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 20 day of September, 2021

(Rev. 08-01-11)



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

**MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT**

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

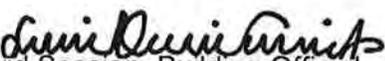
Chairman

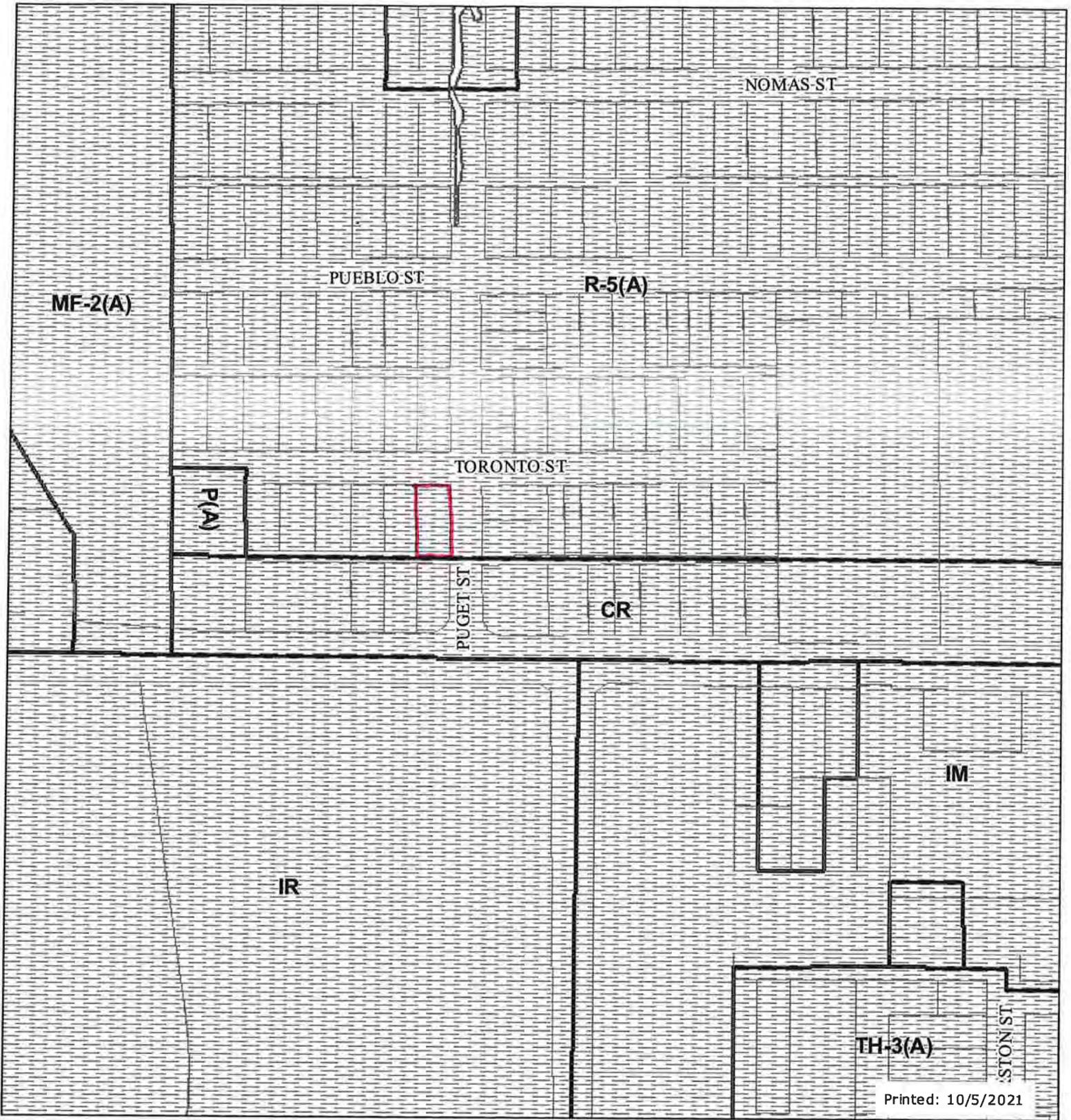
Building Official's Report

I hereby certify that CARLOS NAVARRETE
represented by JACS CONSTRUCTION & HOME REPAIR
did submit a request for a variance to the front yard setback regulations
at 3015 Puget Street

BDA201-106. Application of CARLOS NAVARRETE represented by JACS CONSTRUCTION & HOME REPAIR for a variance to the front yard setback regulations a 3015 PUGET ST. This property is more fully described as Lot 3, Block 16/7126, and is zoned R-5(A), which requires a front yard setback of 20 feet. The applicant proposes to construct a single family residential structure and provide a 8 foot 7 inch front yard setback, which will require a 11 foot 5 inch variance to the front yard setback regulations.

Sincerely,


David Session, Building Official



Printed: 10/5/2021

Legend

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

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





TORONTO STREET
(50' R.O.W.)

PUGET STREET
(50' R.O.W.)

- ### GENERAL NOTES
1. ALL WORK MUST BE DONE ACCORDING TO MANUFACTURE'S SPECIFICATIONS & INDUSTRY STANDARDS.
 2. ALL WORK MUST BE DONE ACCORDING TO ALL CONCERNED CODE & REGULATIONS.
 3. A STRUCTURAL ENGINEER MUST BE CONSULTED FOR ALL CONSTRUCTION DETAILS.
 4. CONTRACTOR TO FIELD VERIFY BUILDING ELEVATIONS AND EXISTING UTILITIES.
 5. VERIFY CLEARANCES ARE REQUIRED FOR ALL EQUIPMENT.
 6. BEFORE PROCEEDING WITH ANY WORK OR ORDERING ANY MATERIALS, THE CONTRACTOR AND/OR SUBCONTRACTOR SHALL VERIFY ALL MEASUREMENTS AND LOCATIONS OF BUILDING COMPONENTS AND THEIR INTERRELATIONSHIP AT THE BUILDING SITE, AND SHALL BE RESPONSIBLE FOR THEIR CORRECTNESS.
 7. CONTRACTOR AND/ OR SUBCONTRACTOR IS ULTIMATELY RESPONSIBLE FOR VERIFYING AND MAKING ADJUSTMENTS TO ANY DISCREPANCIES BETWEEN THE PLANS AND THE BUILDING SITE.

SITE PLAN INFORMATION

LOT SIZE	5,156 S.F.
BUILDING AREA	1,246 S.F.
PERCENT LOT COVERED	24.1%

A MINIMUM OF 70% OF THE NON-ROOF AREA OF THE LOT COVERED WILL HAVE LANDSCAPE (GRASS, TREES, ETC.)

SITE PLAN

SCALE: 1" = 20'-0"

North

THESE PLANS ARE INTENDED TO PROVIDE BASIC CONSTRUCTION INFORMATION NECESSARY TO COMPLY WITH THE REQUIREMENTS OF THE LOCAL CODES AND REGULATIONS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL MEASUREMENTS AND LOCATIONS OF BUILDING COMPONENTS AND THEIR INTERRELATIONSHIP AT THE BUILDING SITE, AND SHALL BE RESPONSIBLE FOR THEIR CORRECTNESS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL MEASUREMENTS AND LOCATIONS OF BUILDING COMPONENTS AND THEIR INTERRELATIONSHIP AT THE BUILDING SITE, AND SHALL BE RESPONSIBLE FOR THEIR CORRECTNESS.

3015 PUGET STREET
Block 16/7126 Lot 3
Dallas, Texas 75212

Date
JANUARY, 2020

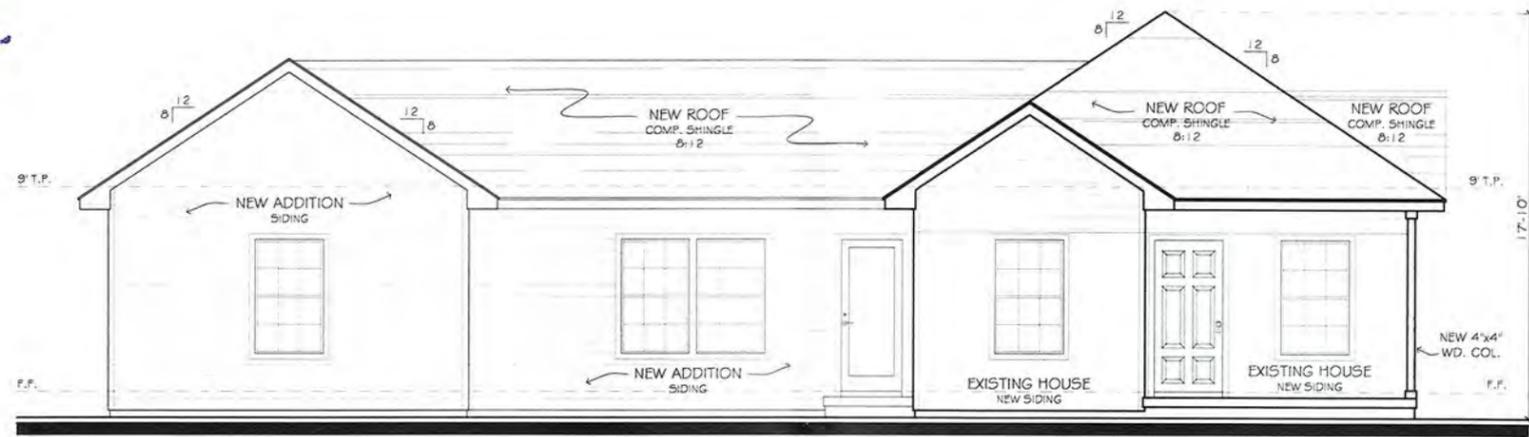
Sheet Title
SITE PLAN

Scale
1" = 20'-0"

Sheet No.

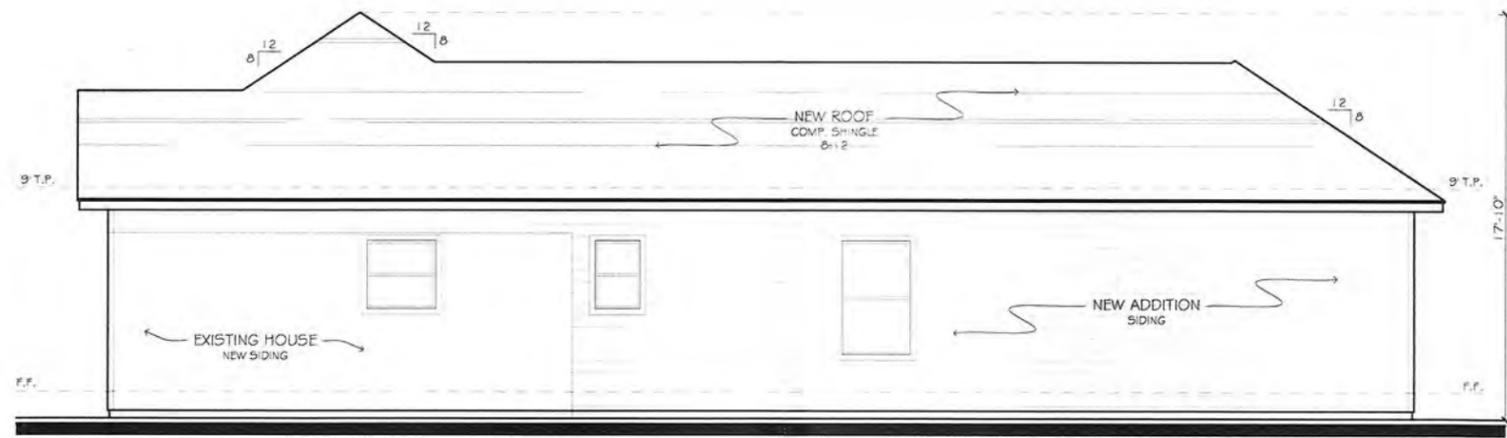
A0.00

Reference only.



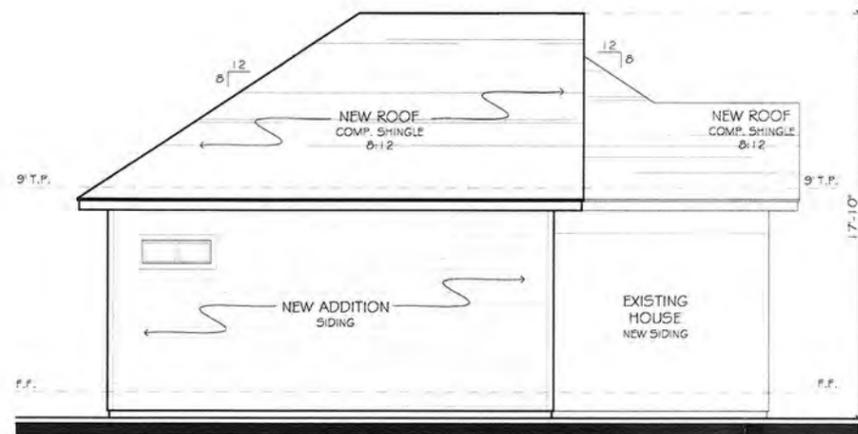
FRONT ELEVATION

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



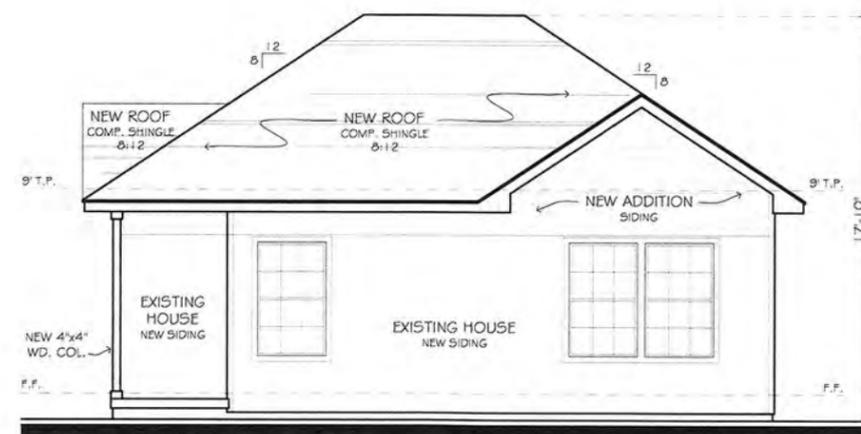
REAR ELEVATION

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



LEFT ELEVATION

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



RIGHT ELEVATION

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

GENERAL NOTES

1. ALL WORK MUST BE DONE ACCORDING TO MANUFACTURER'S SPECIFICATIONS & INDUSTRY STANDARDS.
2. ALL WORK IS TO COMPLY WITH THE 2015 IRC, 2015 IPC, 2015 IMC, 2014 NEC, 2015 IFG AND THE 2015 IECC AND THEIR AMENDMENTS.
3. CONTRACTOR TO FIELD VERIFY BUILDING ELEVATIONS AND EXISTING UTILITIES.
4. VERIFY CLEARANCES ARE REQUIRED FOR ALL EQUIPMENT.
5. BEFORE PROCEEDING WITH ANY WORK OR ORDERING ANY MATERIALS, THE CONTRACTOR AND/OR SUBCONTRACTOR SHALL VERIFY ALL MEASUREMENTS AND LOCATIONS OF BUILDING COMPONENTS AND THEIR INTERRELATIONSHIP AT THE BUILDING SITE, AND SHALL BE RESPONSIBLE FOR THEIR CORRECTNESS.
6. CONTRACTOR AND/OR SUBCONTRACTOR IS ULTIMATELY RESPONSIBLE FOR VERIFYING AND MAKING ADJUSTMENTS TO ANY DISCREPANCIES BETWEEN THE PLANS AND THE BUILDING SITE.

North

THIS SET OF PLANS AND SPECIFICATIONS IS TO BE USED AS A REFERENCE ONLY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL MEASUREMENTS AND LOCATIONS OF BUILDING COMPONENTS AND THEIR INTERRELATIONSHIP AT THE BUILDING SITE, AND SHALL BE RESPONSIBLE FOR THEIR CORRECTNESS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING AND MAKING ADJUSTMENTS TO ANY DISCREPANCIES BETWEEN THE PLANS AND THE BUILDING SITE.

3015 PUGET STREET
 Block 16/7126 Lot 3
 Dallas, Texas 75212

Date
 JANUARY, 2020

Sheet Title

ELEVATIONS
 PLAN

Scale
 1/8" = 1'-0"

Sheet No.

A2.00

Street Number	Lot Size SQFT	Dwelling Size SQFT
1959 Toronto	5600	2436
2004 Toronto	5074	1728
2027 Toronto	6206	1192
2002 Pueblo	5900	1653
2024 Pueblo	6210	1884
1979 Pueblo	5238	1572

BDA201-106_ATTACHMENT_B

Please consider granting the variance for 3015 Puget St. for the below listed reasons and hardships.

- The building addition is within ordinance but to make the residence visually appealing the roof of the existing building will need to be changed. This is where the variance comes in. The existing building encroaches on the easement, which we are not expanding into the easement further we are just changing the roofline of that portion.
- One of the hardships we face with this is that the property has two frontages making the set back on both sides further into the property than most in the surrounding area.
- We do not wish to over build on the property and the square footage of the addition will only make the residence a similar size as the properties nearby with the same lot size (This is shown on the nearby properties sheet)
- We only wish to create a visually appealing home that fits our families needs.

FILE NUMBER: BDA201-110(PD)

BUILDING OFFICIAL'S REPORT: Application of Rob Baldwin of Baldwin Associates for a variance to the side yard setback regulations at 3860 Shorecrest Drive. This property is more fully described as Lot 16A in City Block 5068 and is zoned an R-10(A) Single Family District, which requires a side yard setback of six feet. The applicant proposes to construct and maintain a single-family residential structure and provide a four-foot one-inch side yard setback, which will require a one-foot 11-inch variance to the side yard setback regulations.

LOCATION: 3860 Shorecrest Drive

APPLICANT: Rob Baldwin of Baldwin Associates

REQUESTS:

The site is currently developed with a single-family dwelling and situated along an alley to the west and Shorecrest Drive to the north. A request for a variance to the side yard setback regulations of one-foot eleven-inches is made to construct an addition and maintain an existing portion of the structure within the subject site's six-foot side yard setback.

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.

State Law/HB 1475 effective 9-1-21

- the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:
 - (a) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code;
 - (b) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
 - (c) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
 - (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (e) the municipality consider the structure to be a nonconforming structure.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- While the property containing 21,000 SF is larger than the minimum standard of 10,000 SF, the site is slightly sloped and partially within a floodplain.
- Per evidence (**Attachment A and B**) submitted and State Law/HB1475 Subsection B the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code. DCAD lists the improvement value of the existing structure at \$225,180. To comply with the R-10(A) Single Family District regulation would require the removal of bedrooms, baths, closets and exceed more than 50% of the value of the DCAD improvement value of the home to demolish and relocate the existing portion of the structure. An estimate provided by the applicant's representative states the cost for coming into compliance is about \$130,000, which is more than half of the DCAD value of the structure.

BACKGROUND INFORMATION:

Zoning:

Site: R-10(A) Single Family District
North: R-10(A) Single Family District
South: R-10(A) Single Family District
East: R-10(A) Single Family District
West: R-10(A) Single Family District

Land Use:

The subject site and surrounding properties to the west, south, and east are developed with single-family uses while the property to the north is developed with a public park (Bachman Creek Greenbelt).

Zoning/BDA History:

There has been one related board case in the vicinity within the last five years.

1. **BDA201-090:** On October 19, 2021, the Panel A, Board of Adjustments granted a special exception to the fence height and fence standards regulations to construct a five-foot six-inch-high fence in a required front yard using a prohibited material, which will require a one-foot six-inch special exception to the fence height regulations and a special exception to the fence standards regulations regarding materials at 8627 Lakemont Drive

GENERAL FACTS/STAFF ANALYSIS:

This request focuses on constructing an addition and maintain an existing portion of the structure along a residential dwelling unit within the subject site's six-foot side yard setback. The site is developed with a single-family dwelling unit and situated along an alley to the west and Shorecrest Drive to the north. The portion of the structure that encroaches along the southern façade of the existing residential dwelling unit exists within the confines of the one-story single-family structure and contains portions of the master bedroom, the master en-suite with access to an outdoor patio, master closet, secondary bedroom, and an outdoor storage closet along the southern façade of the structure fronting along an unimproved alley. The existing encroachment is one-foot-eleven-inches into the required six-foot side yard setback and therefore provides a four-foot-one-inch side yard setback. Additionally, a second story addition is proposed atop of the portion of the first story that currently encroaches into DCAD, Dallas County Appraisal District reflect a one-story structure with an approximate total floor area of 2,977 square feet with an outdoor living area/covered patio built in 1948. The applicant proposes the second story addition to provide a total floor area of 4,385 square feet

which proposes to provide an addition of 1,276 square feet of floor area to the single-family dwelling unit.

Structures on lots zoned an R-10(A) Single Family District must have a minimum side yard setback of six feet. A site plan has been submitted denoting the portion of the existing single-family structure and the proposed addition to be located four-feet-one-inch from the side property line along the unimproved alley. Additionally, the site plan depicts an approximately 400-square-foot detached carport encroaching four feet into the required side yard setback, however, the applicant has provided notation that the existing structure is proposed to be demolished and will therefore not require any action from the board.

An R-10(A) zoning district requires lots to have a minimum lot size of 10,000. The subject site is slightly irregular in shape and is approximately 21,000 square feet in lot area which is twice the size of lots within the same zoning district. However, the property does contain an approximately ten-foot-wide drainage ditch along the portion of the front yard fronting Shorecrest Drive. Additionally, a retaining wall runs along the drainage ditch which was not observed within the portion of the drainage ditch on adjacent properties. Thus, observance of the retaining causes staff to believe that the subject property may contain topography changes.

The applicant has the burden of proof in establishing the following:

- That granting the variance to the front yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-10(A) zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-10(A) zoning classification.

Additionally, the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

- The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the

assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code;

- Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
- Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- The municipality consider the structure to be a nonconforming structure.

As of November 5, 2021, no letters have been submitted in support of nor in opposition of the request.

If the board were to grant this side yard setback variance request and impose the submitted site plan as a condition, development would be limited to what is shown on this document. Granting this variance request will not provide any relief to the Dallas Development Code regulations.

Timeline:

Sept. 24, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

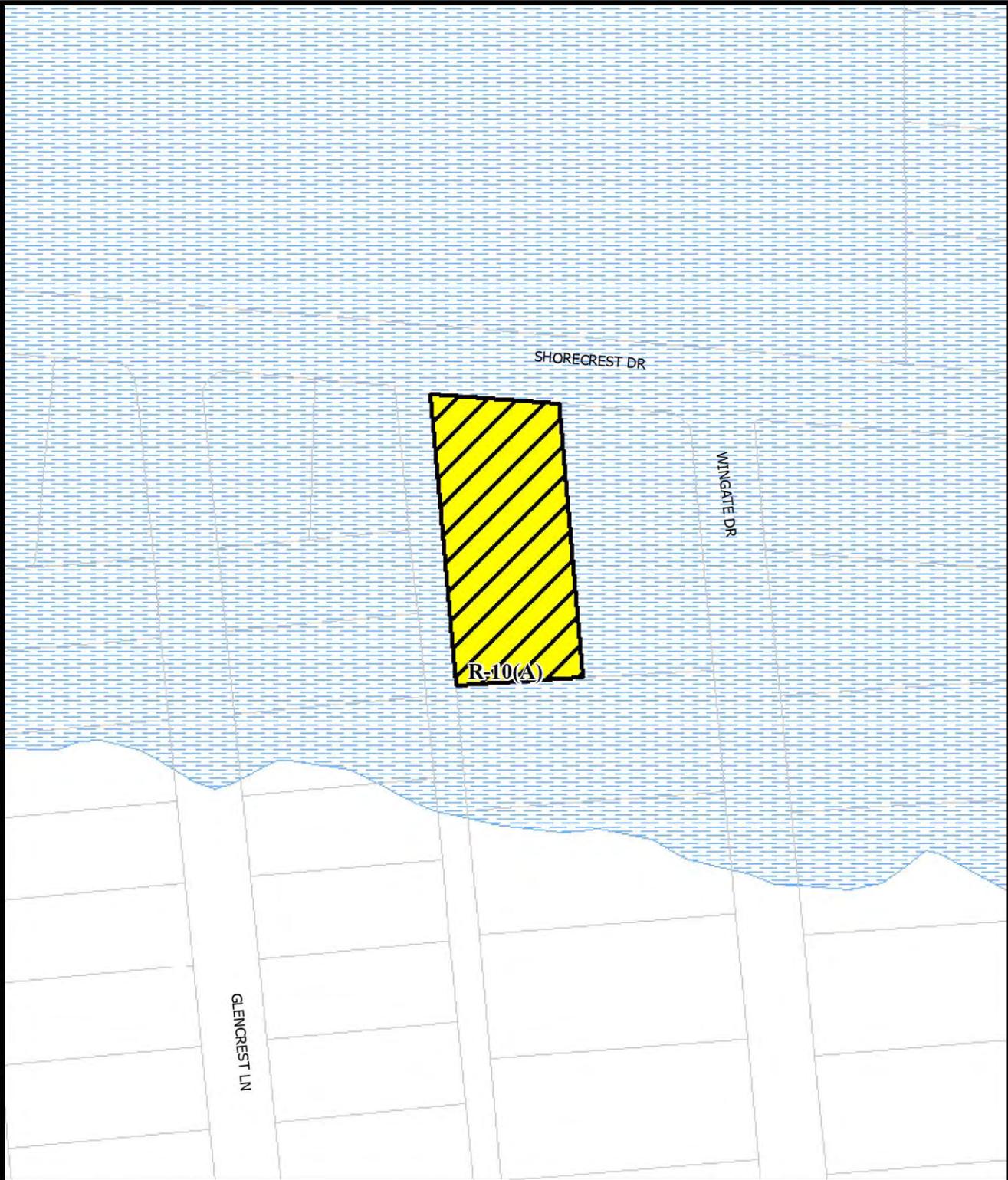
October 12, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

October 14, 2021: 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 October 26, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the November 5, 2021 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.

October 26, 2021: Documentary evidence was provided by the representative **(Attachments A and B)**.

October 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board. No staff review comment sheets were submitted in conjunction with this application.

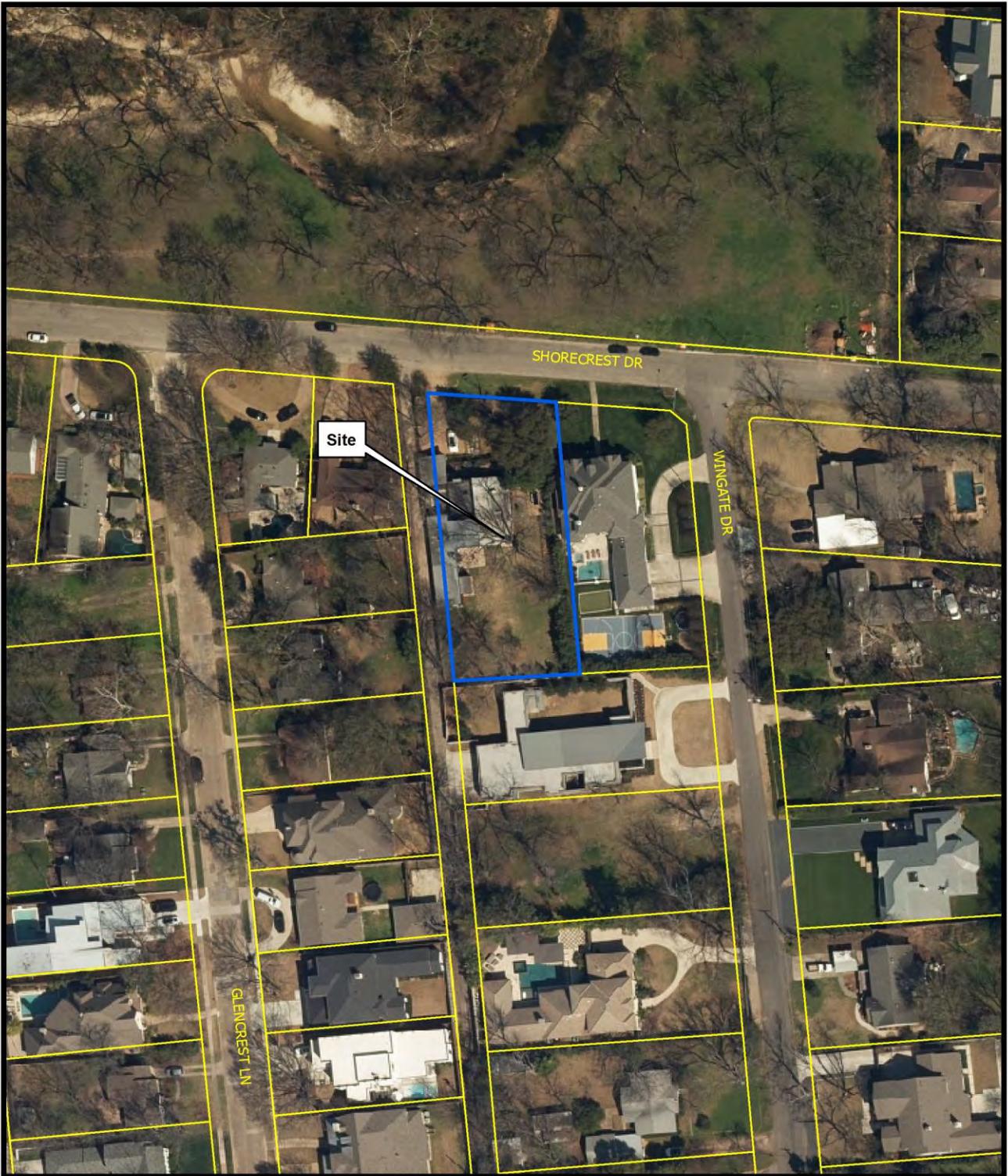


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ZONING MAP

Case no: BDA201-110

Date: 10/27/2021

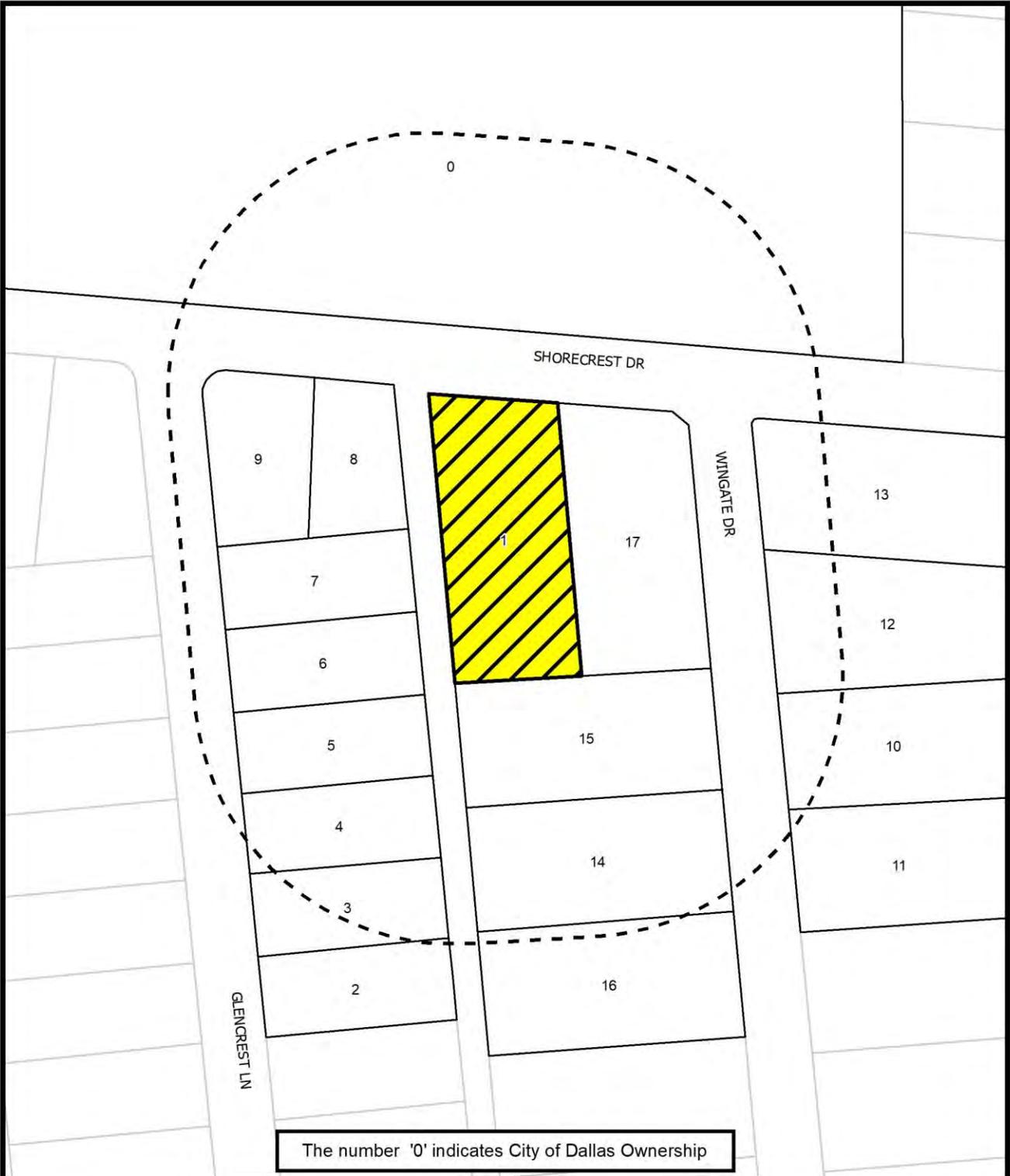


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AERIAL MAP

Case no: BDA201-110

Date: 10/27/2021



The number '0' indicates City of Dallas Ownership


 1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
17 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: BDA201-110
 Date: 10/27/2021

10/26/2021

Notification List of Property Owners

BDA201-110

17 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3860 SHORECREST DR	NOONAN ANTHONY KYLE &
2	8712 GLENCREST LN	BOIKESS MARTIN H &
3	8718 GLENCREST LN	ERWIN HUNTER & KRISTIN
4	8722 GLENCREST LN	MATHEWS ANDREW W & LAUREN H
5	8728 GLENCREST LN	MYLES PROPERTIES LLC
6	8732 GLENCREST LN	WYNNE BEDFORD
7	8738 GLENCREST LN	TKNPA PROPERTIES LP
8	3856 SHORECREST DR	HELM CHRISTOPHER BLAKE
9	3852 SHORECREST DR	JONES CLARK
10	8714 WINGATE DR	GONZALEZ MARIANELA
11	8706 WINGATE DR	CHUNG ANDY
12	8718 WINGATE DR	ADAMS DONALD L JR
13	8726 WINGATE DR	QUINTANILLA RAYMUNDO
14	8707 WINGATE DR	MURPHY KEN & STACY
15	8715 WINGATE DR	TOSHA STEPHEN P
16	8647 WINGATE DR	DDFS PARTNERSHIP LP
17	3868 SHORECREST DR	MUNNERLYN JIM & JENNIFER



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-110

Date: 9-24-21

Data Relative to Subject Property:

Location address: 3860 Shorecrest Drive Zoning District: R-10(A)

Lot No.: 16A Block No.: 5068 Acreage: 0.48 acres Census Tract: 73.02

Street Frontage (in Feet): 1) 102 ft 2) 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Anthony Kyle Noonan and Courtney Kerr

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 X, or Special Exception, of 1'11" to the 6' side yard setback to allow a 4'1" setback

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: Per DCAD records, the structure was constructed in 1948. However, historical aerials show a building addition was constructed in approximately 2005 without a permit. The financial cost to remove the 1'11" portion of the structure (including portions of two bedrooms and the master bathroom) will exceed 50% of the DCAD structure value. The property is encumbered with a 50-foot platted front building line and within a floodplain overlay, restricting developable area of the lot.

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

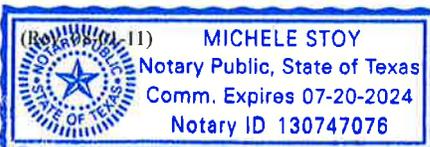
Before me the undersigned on this day personally appeared Robert Baldwin (Affiant/Applicant's name printed)

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 20 day of September, 2021

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





AFFIDAVIT

Appeal number: BDA 201-110

I, Anthony Kyle Noonan, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 3860 Shorecrest
(Address of property as stated on application)

Authorize: Rob Baldwin, Baldwin Associates
(Applicant's name as stated on application)

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

- Variance (specify below)
- Special Exception (specify below)
- Other Appeal (specify below)

Specify: Side yard setback

Anthony Kyle Noonan
Print name of property owner or registered agent

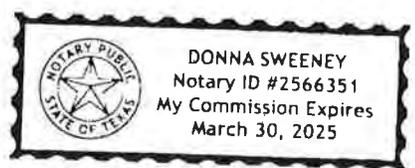
[Signature]
Signature of property owner or registered agent

Date 9/17/21

Before me, the undersigned, on this day personally appeared Anthony Kyle Noonan

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

Subscribed and sworn to before me this 17 day of September, 2021



[Signature]
Notary Public for Dallas County, Texas
Commission expires on March 30, 2025



AFFIDAVIT

Appeal number: BDA 201-110

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

at: 3860 Shorecrest
(Address of property as stated on application)

Authorize: Rob Baldwin, Baldwin Associates
(Applicant's name as stated on application)

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

- Variance (specify below)
- Special Exception (specify below)
- Other Appeal (specify below)

Specify: Side yard setback

Courtney Kerr
Print name of property owner or registered agent

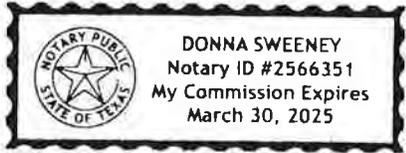
[Signature]
Signature of property owner or registered agent

Date 9/17/21

Before me, the undersigned, on this day personally appeared Courtney Kerr

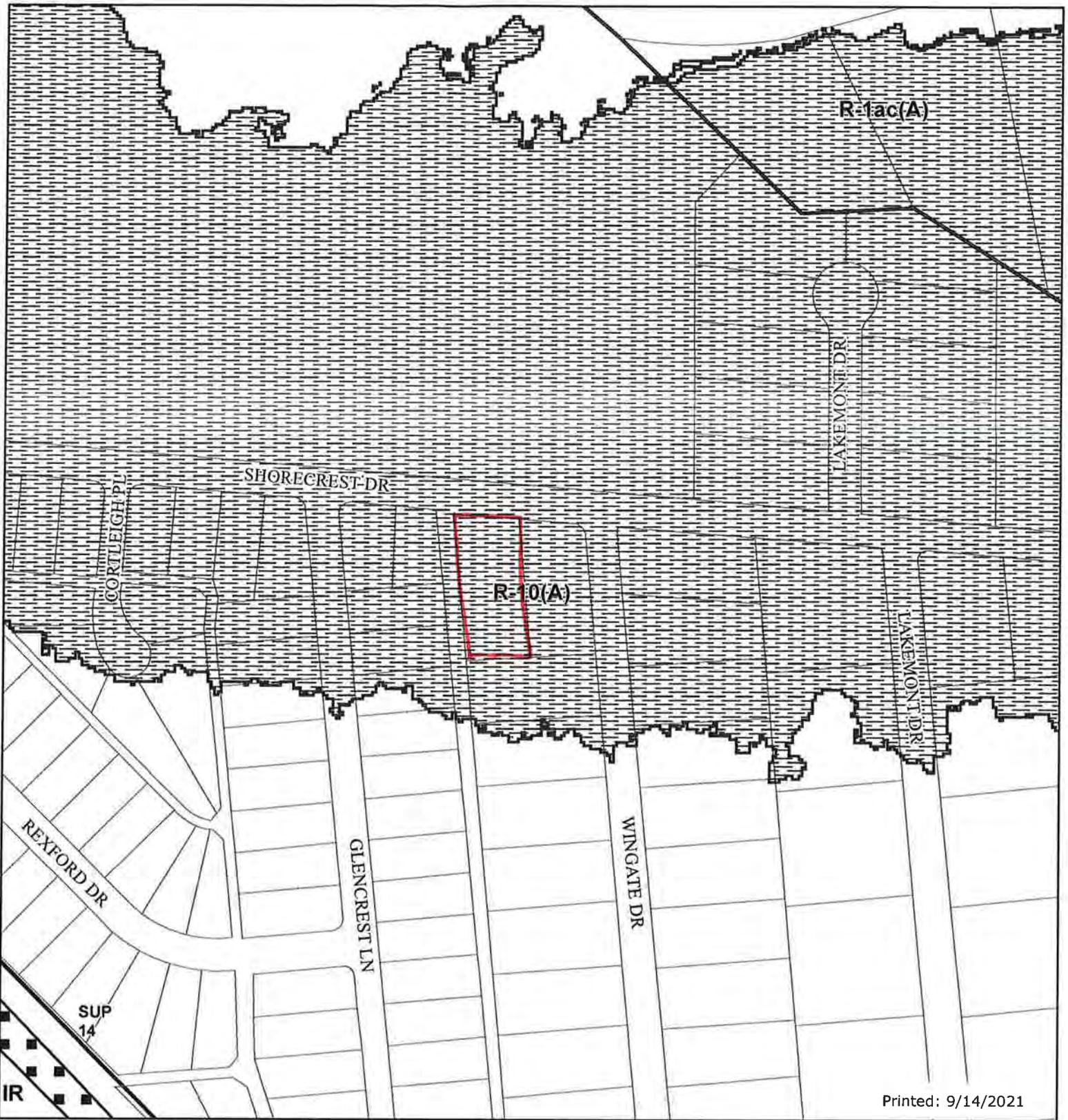
Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 17 day of September, 2021



Donna Sweeney
Notary Public for Dallas County, Texas

Commission expires on March 30, 2025



Printed: 9/14/2021

Legend

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

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



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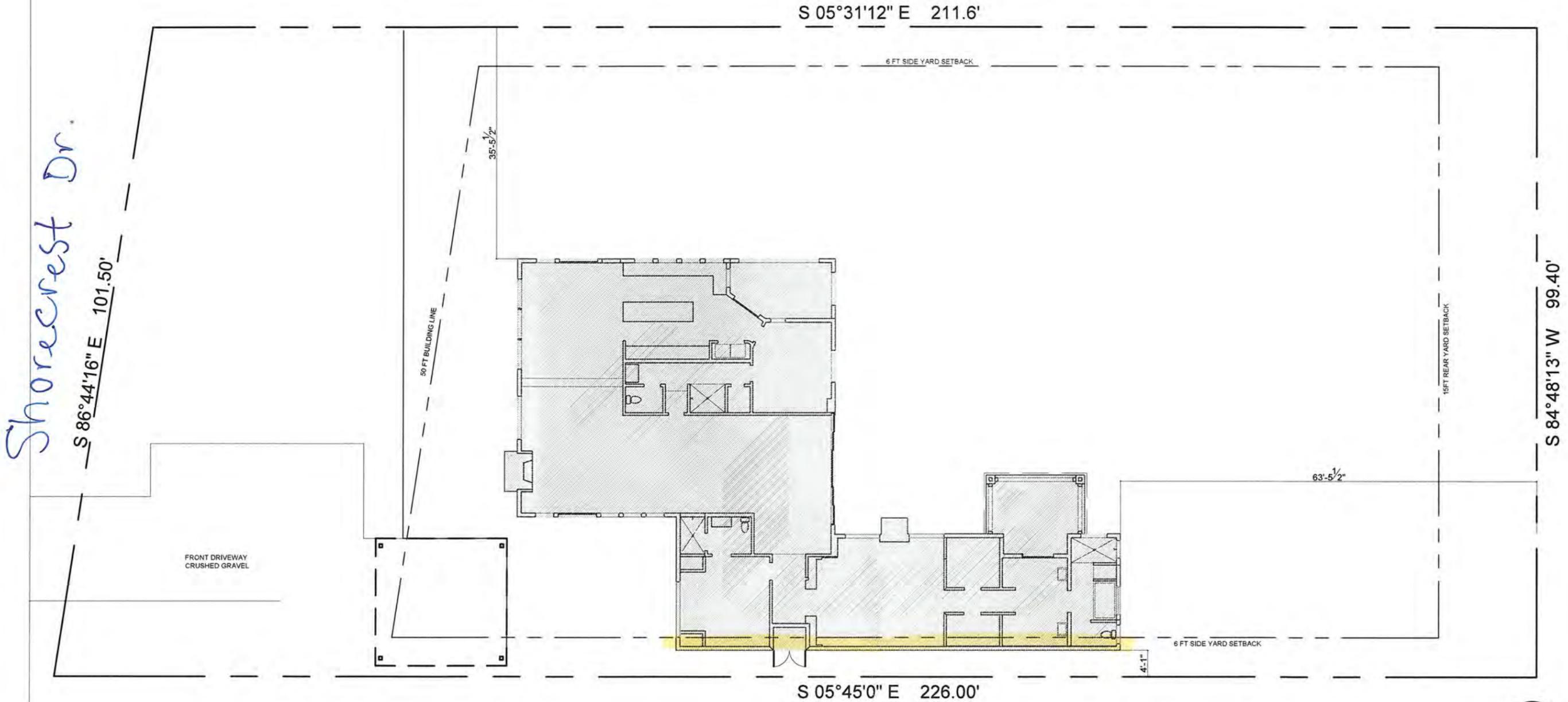


SHORECREST RESIDENCE
 13 SEPTEMBER 2021
 3860 Shorecrest Drive
 Dallas, Texas

square footages

Square Footage	
First Floor (Existing)	3,320

LEGAL DESCRIPTION: LOT 16A, Block 5068, of Evans Subdivision, and additon to City of Dallas, Dallas County, Texas according to the plat thereof recorded in Volume 13, Page 59 of the Map Records of Dallas, Dallas County, Texas.



Existing Site Plan
 scale: 1/16" = 1'-0"

09-13-2021

DATE:
 DESCRIPTION:
Existing Site Plan
EX0.0

Shorecrest resid.

3860 shorecrest
 dallas, tx 75209

laura juarez baggett
 studio
 214.803.3847
 www.laurajuarezbaggett.com

Baldwin
Associates

October 26, 2021

Pamela Daniel
Board of Adjustment

RE: 3860 Shorecrest
BDA201-110

Dear Ms. Daniel:

Our firm is helping the property owner at the above-referenced property with their request to the Board of Adjustment to allow for a building addition to their home and maintain an existing encroachment into the side yard setback that was constructed without permit. The owners purchased the property in April 2021 without knowledge that the home has a side yard setback violation. The proposed addition will include a 2nd story to allow the home to be commensurate (4,385 square feet) with other similar newer construction homes in the area.

The property is zoned R-10(A) and approximately 21,000 square feet. The western property line runs along the residential alley within this block. While this property is larger than the minimum 10,000 square feet that the zoning district requires, the property is within a flood plain and is slightly sloped. A retaining wall and bar ditch run along the Shorecrest frontage to assist with the stormwater drainage and protect the property. The property is slightly irregular in shape.

The building encroachment is on the alley side of the property and therefore does not impact any neighbor directly. The encroachment is also well inside the fence line and does not affect the use or drivability of the alley in any way. The fences are all in line and symmetrical on either side of the alley for its entire length. It is the fences that determine the usable width of the alley and not the building since it is well behind the fence line.

The attached floor plan shows that the existing addition to the home consists of the master bedroom with en suite and another bedroom. The existing encroachment is less than 2' into the required 6' side yard setback. DCAD lists the improvement value of the existing structure at \$225,180.00. To comply with this 6'-setback would require the removal of these bedrooms, baths, and closets and would exceed more than 50% of the value of the DCAD improvement value of the home to demolish this addition and relocate the addition. This is an unreasonable financial burden for these owners. The elevations provided with the application materials show that the

proposed addition will maintain the existing architecture of the home and is not overbuilt for the property or neighborhood.

We hope you can support our request. If you have any questions, we will be happy to discuss this matter with you.

With kind regards,

A handwritten signature in black ink, appearing to be 'Rob Baldwin', with a long horizontal flourish extending to the right.

Rob Baldwin

BDA201-110_ATTACHMENT_B

	Hammer Solutions Inc.	
3860 Shorecrest: Estimated Financial Cost for Additional Work		
1	Install new 1400 sq ft slab foundation	\$49,000.00
2	250 Linear Feet of 10ft tall, 2x6 framing	\$12,000.00
3	1000 sq ft of rework to exterior patio	\$10,000.00
4	Grading rework	\$10,000.00
5	Relocate existing electrical panel	\$13,500.00
6	demo of existing home	\$12,000.00
7	Build fee for HSI	\$23,500.00
	Total Cost	\$130,000.00

FILE NUMBER: BDA201-112(PD)

BUILDING OFFICIAL'S REPORT: Application of Rob Baldwin of Baldwin Associates for a special exception to the fence height regulations at 5518 Winston Court. This property is more fully described as Lot 1A, Block B/5592, and is zoned an R-1ac(A) Single Family District, which limits the height of a fence in the front yard to four feet. The applicant proposes to construct an eight-foot-high fence, which will require a four-foot special exception to the fence regulations.

LOCATION: 5518 Winston Court

APPLICANT: Rob Baldwin of Baldwin Associates

REQUEST:

The applicant proposes a fence of eight-feet-in-height, constructed of chopped stone walls, chopped stone columns, wrought iron fence panels, and wrought iron electric gates fronting along Winston Court at a length of 288 feet and one-half inch and fronting along Hollow Way Road at a length of 230 feet and one-quarter inch. The portion of the fence along the eastern half of the subject site proposes a depth of approximately 84 feet and ten inches which is partially proposed within the 40-foot front yard setback. The site is currently developed with a two-story single family dwelling use, contains 11 accessory structures, and is currently under construction with an addition and remodel.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac(A) (Single Family District)
North: R-1ac(A) (Single Family District)
East: R-1ac(A) (Single Family District)
South: R-1ac(A) (Single Family District)
West: R-1ac(A) (Single Family District)

Land Use:

The subject site is currently developed with a single-family dwelling unit. Surrounding properties to the north, east, south, and west are also developed with single-family uses.

Zoning/BDA History:

There have been eleven related board cases in the vicinity within the last five years.

1. **BDA167-007:** On January 17, 2017, the Panel A, Board of Adjustment granted a request for a special exception to the fence standards to construct and maintain a nine-foot-high fence in a required front yard, which will require a five-foot special exception at 9820 Meadowbrook Drive.
2. **BDA167-051:** On May 16, 2017, the Panel A, Board of Adjustments granted special exceptions to the fence standards to construct and maintain an eight-foot-two-inch-high fence and construct and maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than five feet from the front lot line at 5814 Watson Avenue.
3. **BDA178-003:** On January 16, 2018, the Panel A, Board of Adjustments granted special exceptions to the fence standards and visual obstruction regulations to construct and 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, and to locate and maintain items in required visibility triangles at 9025 Douglas Avenue.
4. **BDA178-006:** On January 16, 2018, the Panel A, Board of Adjustment granted a variance to the front yard setback regulations construct and maintain a structure and provide a 34-foot front yard setback, which will require a 6 foot variance to the front yard setback regulations at 5243 Park Lane.
5. **BDA178-017:** On February 20, 2018, Panel A, Board of Adjustment granted a special exception to the fence standards regulations and a special exception to the visual obstruction regulations to construct and maintain a six-foot-six-inch high

fence in a required front yard which will require a 2 foot 6 inch special exception to the fence standards regulations, and to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations at 5530 Falls Road.

6. **BDA178-019:** On February 22, 2018, Panel C, Board of Adjustment granted a special exception to the fence standards to construct and maintain a ten-foot-high fence in a required front yard, which will require a six-foot special exception in a required front yard at 5539 Falls Road.
7. **BDA189-118:** On October 23, 2019, the Panel B, Board of Adjustments granted a special exception to the fence standards regulations and visual obstructions regulations to construct and maintain construct and/or maintain a 5-foot-6-inch-high fence, which will require a 1-foot-6-inch special exception to the fence at 5807 Park Lane.
8. **BDA167-003:** On June 23, 2020, the Panel B, Board of Adjustments granted a special exception to the fence regulations to construct and maintain a 10-foot-high fence in a required front yard, which will require a 6-foot special exception to the fence standards, and to construct and 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 at 9520 Hathaway Street.
9. **BDA190-052:** On June 23, 2020, Panel A, Board of Adjustments granted a special exception to the fence height regulations to construct and maintain a six-foot-high fence in a required front yard, which will require a two-foot special exception at 5830 Falls Road.
10. **BDA201-042:** On May 19, 2021, Panel B, Board of Adjustments granted a request for a special exception to the fence height regulations to construct an eight-foot seven-inch-high fence in a required front yard, which will require a four-foot seven-inch at 5535 Park Lane.
11. **BDA201-105:** On November 15, 2021, Panel C, Board of Adjustments will hear a request for a special exception to the fence height regulations construct and maintain an eight-foot-high fence, which will require a four-foot special exception at 5532 Park Lane.

GENERAL FACTS/STAFF ANALYSIS:

The request for a special exception to the fence height regulations of four feet is made to construct and maintain an eight-foot-high fence which will require a four-foot special exception.

According to Dallas County Appraisal District records, the property is currently developed with an approximately 8,891-square-foot, two-story single-family dwelling. Additionally, the property contains approximately 13,893-square-feet of accessory uses consisting of: a porte cochere of 345-square feet, three detached garages with approximately 10,227 square feet, a cabana with 434 square feet, four storage spaces/buildings totaling 1,833 square feet, an outdoor living area of 364 square feet, detached quarters with 1,172 square feet, and a pool. The applicant proposes an eight-foot-high fence constructed of chopped stone walls, 12 chopped stone columns along Hollow Way Road, 16 chopped stone columns along Winston Court, and four chopped stone columns along the eastern portion of the site, wrought iron fence panels, two wrought iron electric gates for vehicular access fronting along Winston Court, two wrought iron electric gates for vehicular access along Hollow Way Road, and two wrought iron electric gates for pedestrian access along both Winston Court and Hollow Way Road.

The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed four feet above grade when located in the required front yard. The subject site is zoned an R-1ac(A) Single Family District and requires a minimum front yard setback of 40 feet. Furthermore, the site has two front yards because while the Hollow Way Road frontage is technically the longer side for the lot, the building site is composed of two lots, making the Hollow Way Road frontage the shorter of the two sides.

The following information is shown on the submitted site plan:

- The proposed fence with access gates along Winston Court and Hollow Way Road encroach 100 percent into the required 40-foot front yard setbacks along both frontages to the south and west as well as along the eastern portion of the subject site are setback 34 feet.
- The property contains two front yards along Winston Court and Hollow Way Road. Due to continuity of block face, the 40-foot front yard setback must be maintained for both front yards. Thus, the portion of the fence proposed along both frontages are located at or along the property lines.
- Along Winston Court the fence is proposed at a length of 288-feet and one half-inch. Along Hollow Way Road the fence is proposed at a length of 230 feet and one-quarter inch.

As of November 5, 2021, no letters have been submitted in opposition of or support of the request.

The applicant has the burden of proof in establishing that the special exception to the fence standards related to the height of eight feet located on Winston Court and Hollow Way Road will not adversely affect neighboring properties.

Granting the special exception to the fence standards related to the height would require the proposal exceeding four feet-in-height in the front yard setback located along both frontages to be maintained in the locations and height as shown on the site plan and elevation.

Timeline:

Sept. 28, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

October 12, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

October 15, 2021: 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 October 26, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the November 5, 2021 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.

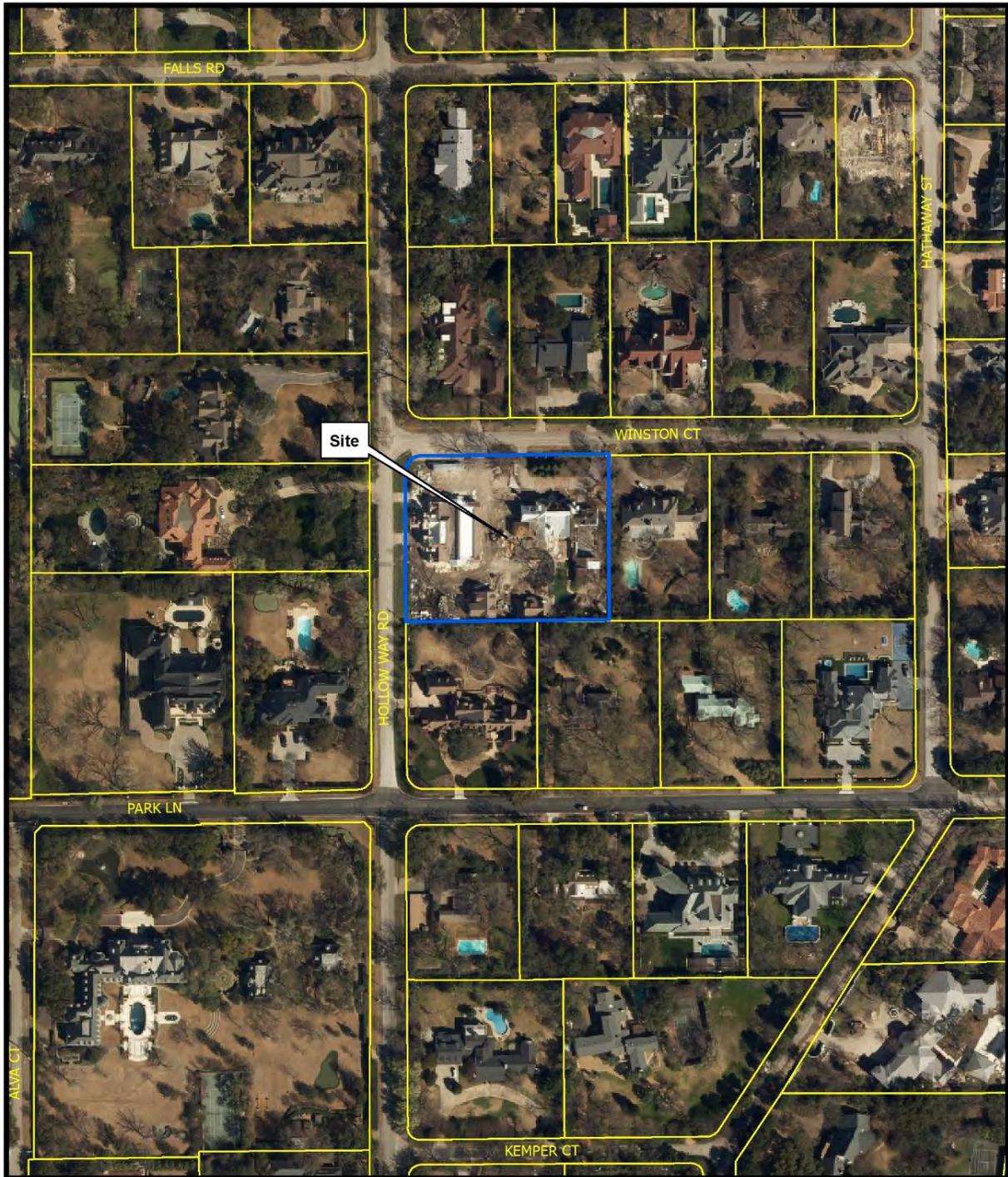
October 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearing. The review team members in attendance included: Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board. No staff review comment sheets were submitted with these requests.




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ZONING MAP

Case no: BDA201-112
Date: 10/27/2021

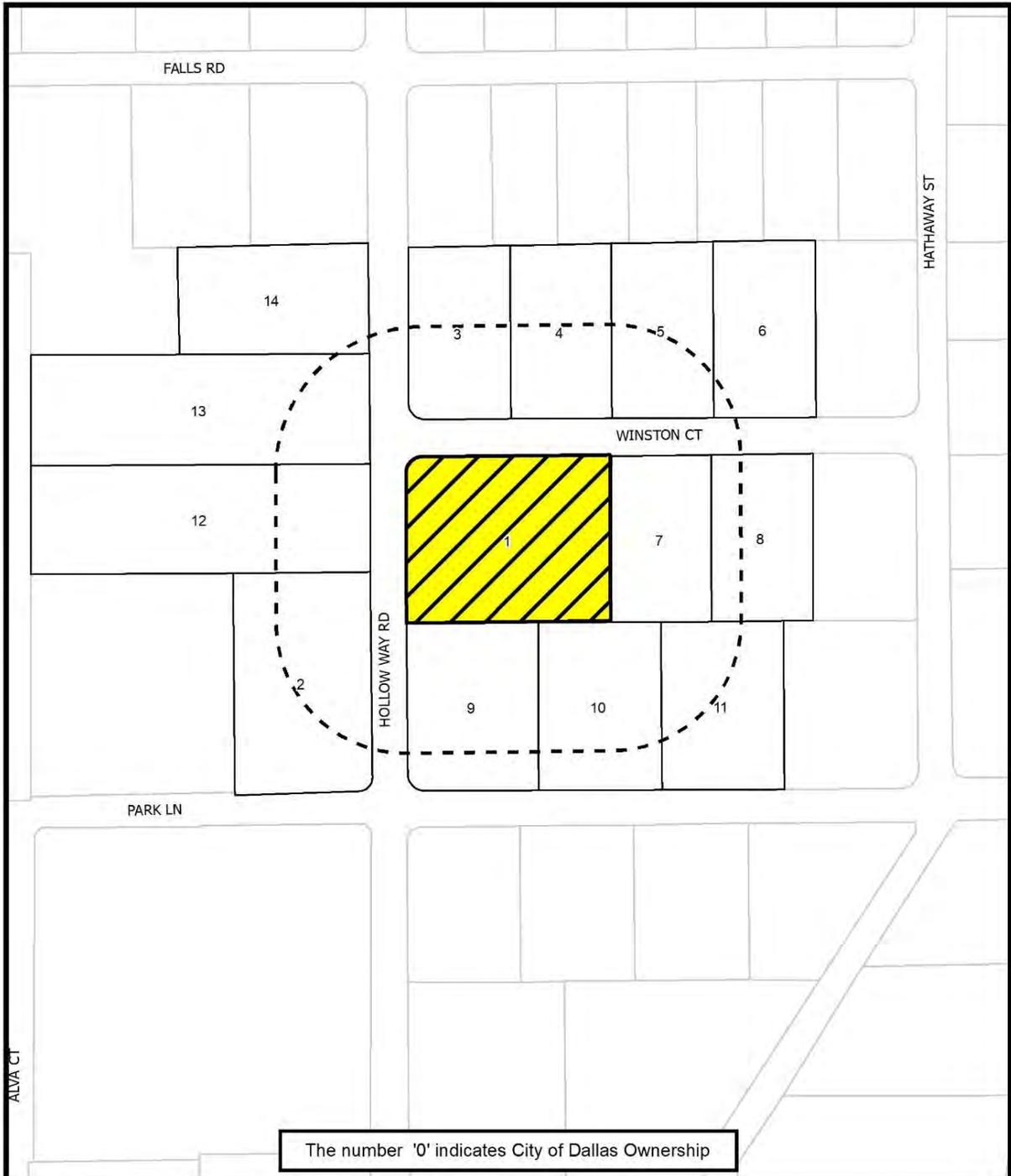


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AERIAL MAP

Case no: BDA201-112

Date: 10/27/2021



The number '0' indicates City of Dallas Ownership


 1:2,400

NOTIFICATION

200' AREA OF NOTIFICATION
14 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: BDA201-112
 Date: 10/27/2021

10/26/2021

Notification List of Property Owners

BDA201-112

14 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5518 WINSTON CT	WOOD CHARLES D JR
2	5435 PARK LN	WHITMAN KIMBERLY &
3	5507 WINSTON CT	ELBAOR JAMES EDWARD
4	5519 WINSTON CT	JONESROHRER LIVING TRUST
5	5531 WINSTON CT	BOSCAMP KEVIN D &
6	5543 WINSTON CT	ROWLEY SHIRLEY G
7	5530 WINSTON CT	JENNINGS JAMES B & REGINA A
8	5542 WINSTON CT	JOHNSON HENRY D III &
9	5511 PARK LN	SULENTIC ROBERT E &
10	5523 PARK LN	MCDONALD JANET
11	5535 PARK LN	BONNER DARCY R & MARTA R
12	9639 HOLLOW WAY RD	DAVIES LEWIS PAUL III 2004 TRUST
13	9701 HOLLOW WAY RD	SMITH JAMES C &
14	9711 HOLLOW WAY RD	HALLE ANDREW P &



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-112

Date: 9-28-21

Data Relative to Subject Property:

Location address: 5518 Winston Court Zoning District: R-1AC(A)

Lot No.: 1A Block No.: B/5592 Acreage: 1.831 acres Census Tract: 206.00

Street Frontage (in Feet): 1) 230 2) 288' 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Charles David Wood, Jr.

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 4' to the fence height regulations in a required front yard to allow a 8' fence & columns and solid panel walls

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: The proposed fencing will be similar in height and appearance to other fences in the area so the approval of this Special Exception is reasonable and will not negatively affect 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.

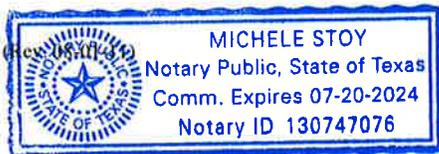
Affidavit

Before me the undersigned on this day personally appeared Robert 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 23 day of September, 2021



[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 BALDWIN ASSOCIATES

did submit a request for a special exception to the fence height regulations
at 5518 Winston Court

BDA201-112. Application of BALDWIN ASSOCIATES for a special exception to the fence height regulations at 5518 WINSTON CT. This property is more fully described as Lot 1A, Block B/5592, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot high fence in a required front yard, which will require a 4 foot inch special exception to the fence regulations.

Sincerely,


David Session, Building Official



AFFIDAVIT

Appeal number: BDA 201-112

I, Charles David Wood, Jr., Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 5518 Winston Court
(Address of property as stated on application)

Authorize: Rob Baldwin, Baldwin Associates
(Applicant's name as stated on application)

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

- Variance (specify below)
- Special Exception (specify below)
- Other Appeal (specify below)

Specify: Fence

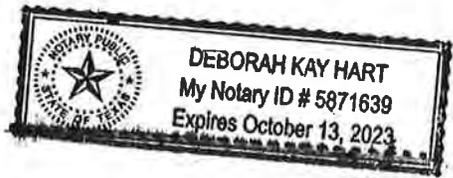
Charles David Wood, Jr. C. D. Wood Jr
 Print name of property owner or registered agent Signature of property owner or registered agent

Date 8/12/2021

Before me, the undersigned, on this day personally appeared Charles David Wood, Jr

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

Subscribed and sworn to before me this 12th day of August, 2021



Deborah Kay Hart
 Notary Public for Dallas County, Texas
 Commission expires on 10/13/2023



Printed: 8/11/2021

Legend

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

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







GENERAL NOTES

- 1) Lot to lot drainage will not be allowed without Engineering Section approval.
- 2) Any structure new or existing may not extend across new property lines.
- 3) The purpose of this plat is to create one platted lot from two platted lots.
- 4) Basis of bearing determined by Texas State Plane Coordinate System, North Central Zone, North American Datum of 1983 (2011).
- 5) Coordinates shown are Texas State Plane Coordinate System, North Central Zone, North American Datum of 1983 on Grid Coordinate values, No Scale, No Projection.

LEGEND	
O.P.R.D.C.T.	OFFICIAL PUBLIC RECORDS, DALLAS COUNTY, TEXAS
D.R.D.C.T.	DEED RECORDS, DALLAS COUNTY, TEXAS
VOL.	VOLUME
PG.	PAGE
1/2" IRS	1/2 INCH IRON ROD SET
M.R.D.C.T.	MAP RECORDS, DALLAS COUNTY, TEXAS
INST. NO.	INSTRUMENT NUMBER
C.M.	CONTROLLING MONUMENT
1/2" IRF	1/2 INCH IRON ROD FOUND
1" IPF	1 INCH IRON PIPE FOUND

PRESTON HOLLOW ADDITION,
VOL. 5, PG. 69,
M.R.D.C.T.

BLOCK

A/5591

LOT 1

LOT 2

LOT 3

WINSTON COURT
CENTERLINE 50' WIDE PUBLIC RIGHT-OF-WAY
VOLUME 5, PAGE 69 - M.R.D.C.T.

PLACE OF BEGINNING

$\Delta=89^{\circ}37'00''$
 $R=25.00' L=39.10'$
 $CB=N44^{\circ}31'33''E$
 $CD=35.24'$

$N 89^{\circ}20'03'' E 288.50'$

$N=7,005,585.6384$
 $E=2,486,450.1662$

1" IPF CONTROLLING MONUMENT

1" IPF CONTROLLING MONUMENT

1/2" IRS
w/ 3-1/4" ALUMINUM DISC STAMPED
"WINSTON HOLLOW ADDITION,
RPLS 5310, BLOCK B/5592.

1/2" IRS
w/ 3-1/4" ALUMINUM DISC STAMPED
"WINSTON HOLLOW ADDITION,
RPLS 5310

Thence North $00^{\circ}16'57''$ East, a distance of 254.82' to a 1/2" iron rod with a 3-1/4" aluminum disc stamped "WINSTON HOLLOW ADDITION, RPLS 5310" set for corner in the South line of Winston Court, a 50' right-of-way, at the Northwest corner of Lot 3, of said Block B/5592, same being the Northeast corner of said Lot 2;

Thence South $00^{\circ}16'57''$ East, a distance of 254.82' to a 1/2" iron rod with a 3-1/4" aluminum disc stamped "WINSTON HOLLOW ADDITION, RPLS 5310" set for corner in the North line of Lot 7, of said Block B/5592, at the Southwest corner of said Lot 3;

Thence South $89^{\circ}17'08''$ West, passing at a distance of 156.00' to the common South corner of said Lots 1 and 2, of said Block, continuing a total distance of 313.34' to a 1/2" iron rod with a 3-1/4" aluminum disc stamped "WINSTON HOLLOW ADDITION, RPLS 5310" set for corner in the East line of Hollow Way Road, a 60' right-of-way, at the Northwest corner of Lot 6, of said Block B/5592, same being the Southwest corner of said Lot 1;

Thence North $00^{\circ}16'57''$ West, along said East line, a distance of 230.25' to a 1" iron pipe found at the South corner of the transitional right-of-way between said East line of Hollow Way Road and said South line of Winston Court, and being at the beginning of a tangent curve to the right, having a central angle of $89^{\circ}37'00''$, a radius of 25.00', and a chord bearing and distance of North $44^{\circ}31'33''$ East, 35.24';

Thence Northeasterly, along said transitional right-of-way and said curve to the right, an arc distance of 39.10' to a 1/2" iron rod with a 3-1/4" aluminum disc stamped "WINSTON HOLLOW ADDITION, RPLS 5310, BLOCK B/5592" set at the North corner of said transitional right-of-way.

Thence North $89^{\circ}20'03''$ East, along said South line, passing at a distance of 132.60' to the common North corner of said Lots 1 and 2, continuing at a total distance of 288.50' to the PLACE OF BEGINNING and containing 79,761 square feet or 1.831 acres of land.

SURVEYOR'S CERTIFICATE

STATE OF TEXAS
COUNTY OF DALLAS

I, John S. Turner, A REGISTERED PROFESSIONAL LAND SURVEYOR, licensed by the State of Texas, affirm that this plat was prepared under my direct supervision, from recorded documentation, evidence collected on the ground during field operations and other reliable documentation; and that this plat substantially complies with the Rules and Regulations of the Texas Board of Professional Land Surveying, the City of Dallas Development Code (Ordinance no. 19455, as amended), and Texas Local Government Code, Chapter 212. I further affirm that monumentation shown hereon was either found or placed in compliance with the City of Dallas Development Code, Sec. 51A-8.617 (a), (b), (c), (d), & (e); and that the digital drawing file accompanying this plat is a precise representation of the Signed Final Plat.

DATED this 9th day of MAY, 2019.

John S. Turner
John S. Turner R.P.L.S. 5310
Registered Professional Land Surveyor

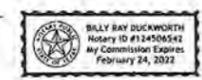


STATE OF TEXAS
COUNTY OF DALLAS

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE ON THIS DAY PERSONALLY APPEARED JOHN S. TURNER, R.P.L.S. NO. 5310, STATE OF TEXAS, KNOWN BY ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 9th day of MAY, 2019.

Billy Ray Duckworth
Billy Ray Duckworth
Notary Public



WINNER'S CERTIFICATE

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That Charles D. Wood, Jr., does hereby adopt this plat, designating the herein described property as **WINSTON HOLLOW ADDITION**, an addition to the City of Dallas, Dallas County, Texas, and do hereby dedicate, in fee simple, to the public use forever any streets, alleys, and floodway management areas shown thereon. The easements shown thereon are hereby reserved for the purposes indicated. The utility and fire lane easements shall be open to the public, fire and police units, garbage and rubbish collection agencies, and all public and private utilities for each particular use. The maintenance of paving on the utility and fire lane easements is the responsibility of the property owner. No buildings, fences, trees, shrubs, or other improvements or growths shall be constructed, reconstructed or placed upon, over or across the easements as shown. Said easements being hereby reserved for the mutual use and accommodation of all public utilities using or desiring to use same. All, and any public utility shall have the right to remove and keep removed all or parts of any building, fences, trees, shrubs, or other improvements or growths which in any way may endanger or interfere with the construction, maintenance or efficiency of its respective system on the easements, and all public utilities shall at all times have the full right of ingress and egress to or from the said easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or parts of its respective systems without the necessity at any time of procuring the permission of anyone. (Any public utility shall have the right of ingress and egress to private property for the purpose of reading meters and any maintenance or service required or ordinarily performed by that utility).

Water main and wastewater easements shall also include additional area of working space for construction and maintenance of the systems. Additional easement area is also conveyed for installation and maintenance of manholes, cleanouts, fire hydrants, water services and wastewater services from the main to the curb or pavement line, and description of such additional easements herein granted shall be determined by their location as installed.

This plat approved subject to all platting ordinances, rules, regulations, and resolutions of the City of Dallas.

WITNESS MY HAND AT DALLAS, TEXAS, this the 14 day of May, 2019.

Charles David Wood, Jr.
Charles David Wood, Jr. Owner

STATE OF TEXAS
COUNTY OF DALLAS

BEFORE ME, the undersigned, a Notary Public in and for the said County and State, on this day personally appeared, Charles David Wood, Jr., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 14 day of May, 2019.

Kim Tipton
Notary Public in and for The State of Texas



074D-17518



A&W SURVEYORS, INC.
Professional Land Surveyors
TEXAS REGISTRATION NO. 100174-00
P. O. BOX 870029, MESQUITE, TX 75187
PHONE: (972) 881-4875 FAX: (972) 881-4954
WWW.AWSURVEY.COM

- PROPERTY ADDRESS: 5505 & 5518 WINSTON COURT -
Owner: Charles David Wood Jr.

FINAL PLAT

WINSTON HOLLOW ADDITION
LOT 1A, BLOCK B/5592

BEING A REPLAT OF LOTS 1, & 2, BLOCK B/5592

074D-17518

Confirmed Copy
Official Public Records
John F. Warren, County Clerk
Dallas County, TEXAS
05/02/2019 10:33:01 AM
\$66.00



John F. Warren

201900137542

CERTIFICATE OF APPROVAL

I, Gloria Jarolky, Chairperson of the City Plan Commission of the City of Dallas, State of Texas, hereby certify that the attached Plat was duly filed for approval with the City Plan Commission of the City of Dallas on the 10 day of May, A.D. 2019, and the same was duly approved on the 10 day of May, A.D. 2019 by said Commission.

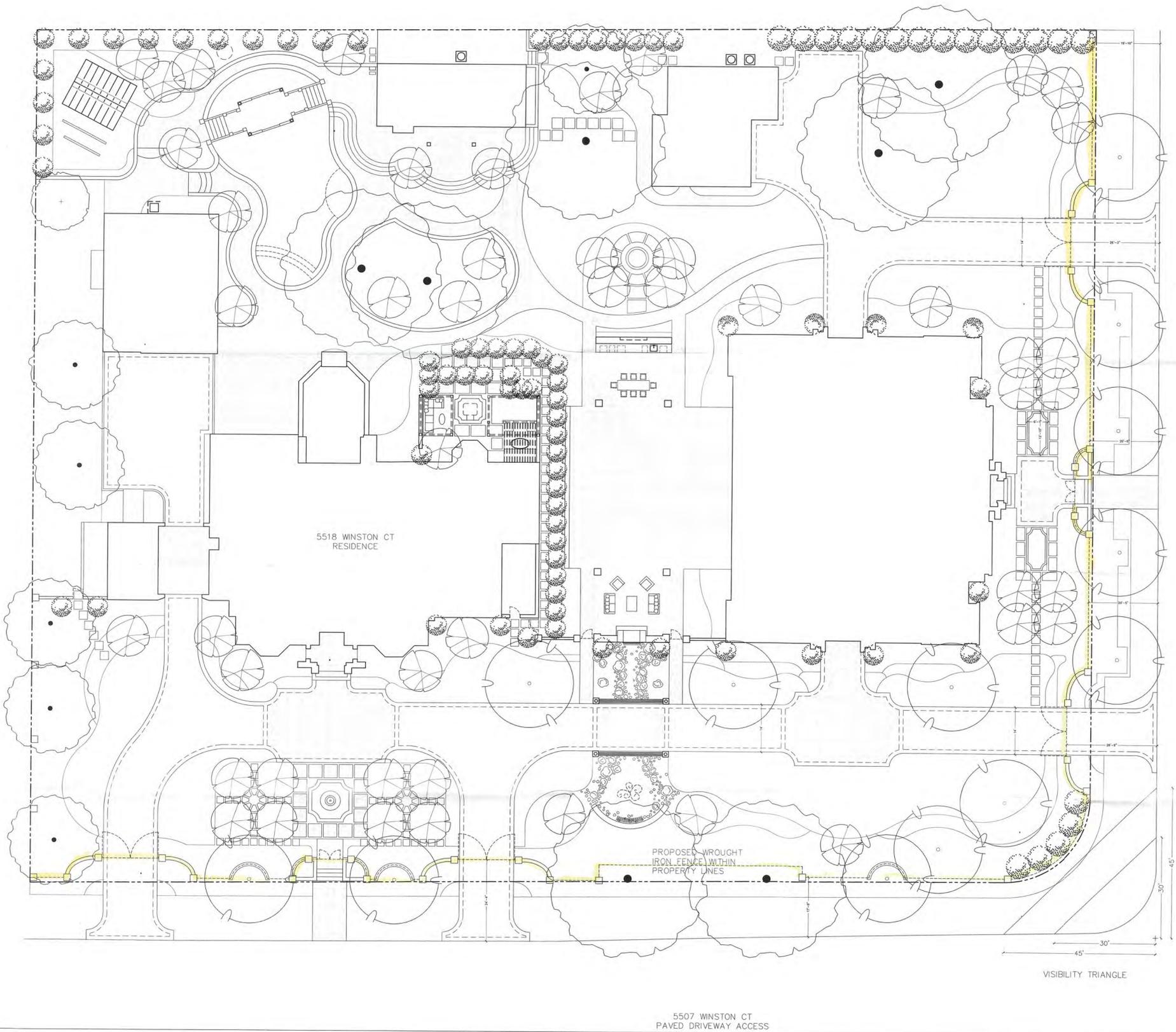
Gloria Jarolky
Chairperson
City Plan Commission
Dallas, Texas

Attest:

Wanda Peterson
Secretary

RECEIVED
MAY 9 2 2019

201-112



THESE PLANS ARE COPYRIGHTED AND ARE SUBJECT TO COPYRIGHT PROTECTION AS PROVIDED BY THE COPYRIGHT ACT OF 1976, AS AMENDED DECEMBER 1992 AND KNOWN AS "COPYRIGHT ACT OF 1976". ANY REPRODUCTION OR TRANSMISSION OF THESE PLANS WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT IS PROHIBITED. PROTECTION INCLUDES BUT IS NOT LIMITED TO THE OVERALL FORM AS WELL AS THE SPACES AND ELEMENTS OF THE DESIGN.

The Wood Residence

5518 Winston Ct
Dallas, TX

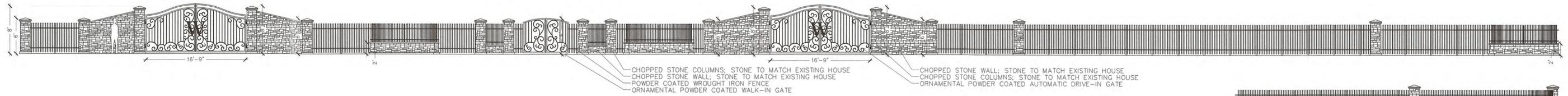


Date:
September 21, 2021

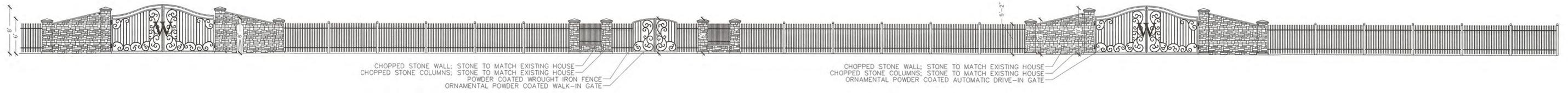
Drawn By:
Mirka Chodakova

Scale:
1/16" = 1' - 0"

COPYRIGHT © 2021



STONE & WROUGH IRON FENCE ELEVATION
WINSTON COURT; DALLAS TX



STONE & WROUGH IRON FENCE ELEVATION
HOLLOW WAY ROAD, DALLAS TX



North Arrow:

Date: September 27, 2021

Drawn By: Mirka Chodakova

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

The Wood Residence

5518 Winston Ct
Dallas, TX

THESE PLANS ARE COPYRIGHTED AND ARE SUBJECT TO COPYRIGHT PROTECTION AS IN ARCHITECTURAL WORK UNDER SEC. 101 AND 102, TITLE 17, U.S. CODE, AS AMENDED DECEMBER 1990 AND KNOWN AS ARCHITECTURAL WORKS COPYRIGHT PROTECTION ACT OF 1976. THIS PROTECTION INCLUDES BUT IS NOT LIMITED TO THE OVERALL FORM AS WELL AS THE ARRANGEMENT AND COMPOSITION OF SPACES AND ELEMENTS OF THE DESIGN.

FILE NUMBER: BDA201-113(JM)

BUILDING OFFICIAL'S REPORT: Application of Cabana Development LLC represented by Philip Kingston to appeal the decision of the administrative official at 899 N. Stemmons Freeway. This property is more fully described as Blocks 401, 409, and 3/409, and is zoned Subarea 1J within Planned Development District No. 621, which requires that the building official shall not issue a permit or certificate of occupancy if the building official determines that the use would be operated in violation of the Dallas Development Code, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations. The applicant proposes to appeal the decision of an administrative official in the issuance of a building permit and certificate of occupancy.

LOCATION: 899 N. Stemmons Freeway

APPLICANT: Cabana Development LLC represented by Philip Kingston

REQUEST:

A request is made to appeal the decision of the administrative official, more specifically, the Building Official's authorized representative, the Assistant Building Official in Development Services, to deny an application for a Certificate of Occupancy for a hotel use, which does not comply with other regulations (park land dedication ordinance).

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).

STAFF RECOMMENDATION:

Staff does not make a recommendation on appeals of the decisions of administrative officials.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	Subdistrict J, PD No. 621
<u>North:</u>	Subdistrict 1, PD No. 621
<u>East:</u>	Subdistricts I-2 and I-3, PD No. 193
<u>South:</u>	Subdistrict 2, PD No. 621
<u>West:</u>	Subdistrict 1, PD No. 621

Land Use:

The subject site is developed with a vacant commercial structure being redeveloped with a hotel use and other mixed-uses. Surrounding land uses include office/showroom warehouses to the east and north; Stemmons Freeway to the east with hotel, office, multifamily, and a cinema; and, a transportation use (bus terminal) to the south.

Zoning/BDA History:

There has been one relevant zoning case at the subject site and no board cases in the vicinity within the last five years.

1. **Z178-314:** On June 12, 2019, the City Council adopted the creation of Subdistrict J within PD No. 621 to allow for the restoration of an existing building to be occupied as a hotel use, and to allow for a future mixed-use development to include multifamily and retail and personal service uses. (*The subject site.*)

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:

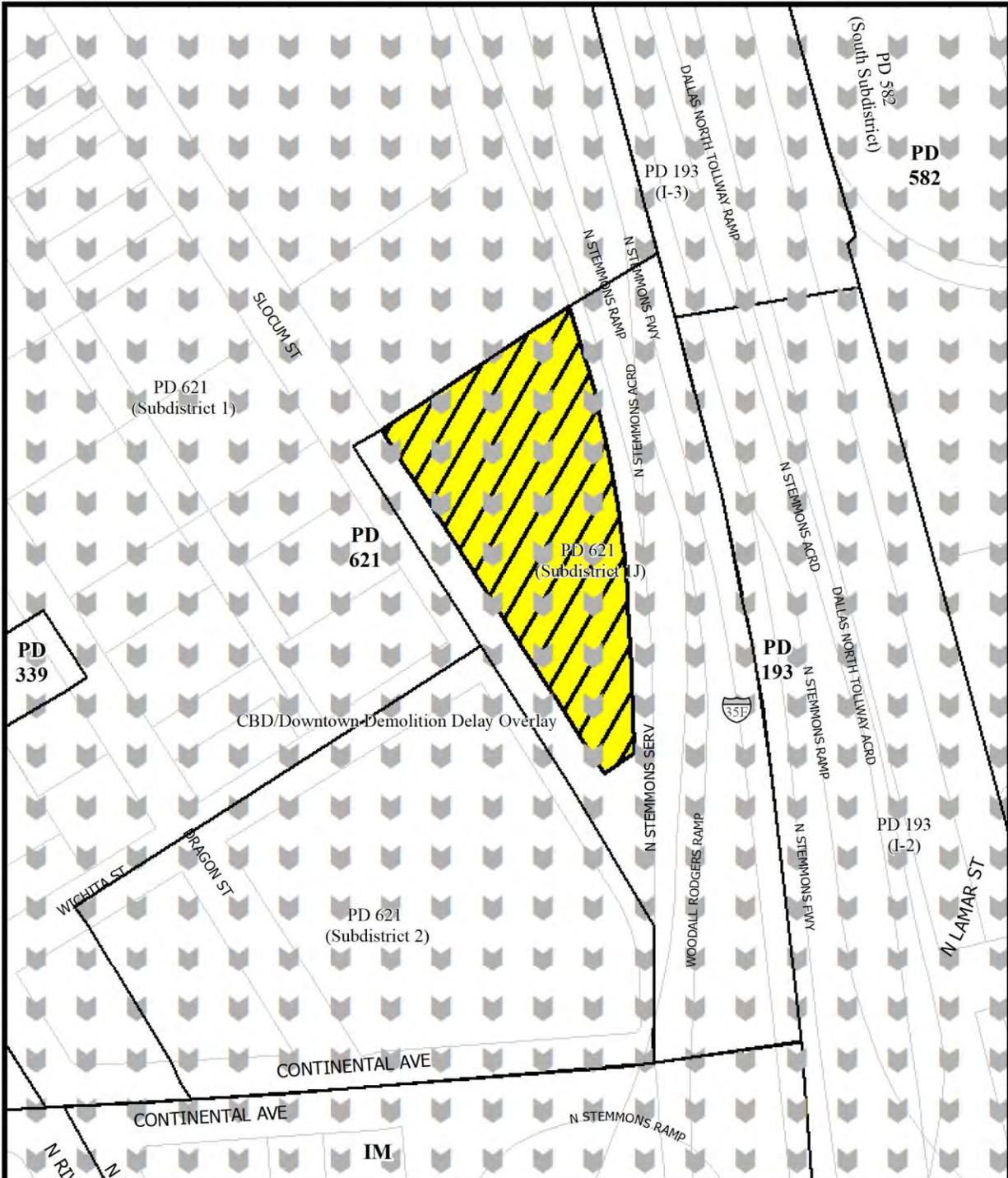
- October 1, 2021: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- October 12, 2021: The Board of Adjustment Chief Planner randomly assigned this case to Board of Adjustment Panel A.
- October 19, 2021: The Board of Adjustment Chief 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 October 26, 2021 deadline to submit additional evidence for staff to factor into their

analysis; and the November 5, 2021 deadline to submit additional evidence to be incorporated into the Board's docket materials;

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

October 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board. No staff review comment sheets were submitted in conjunction with this application.

November 5, 2021: The City's attorney submitted additional evidence for consideration (**Attachment A**).

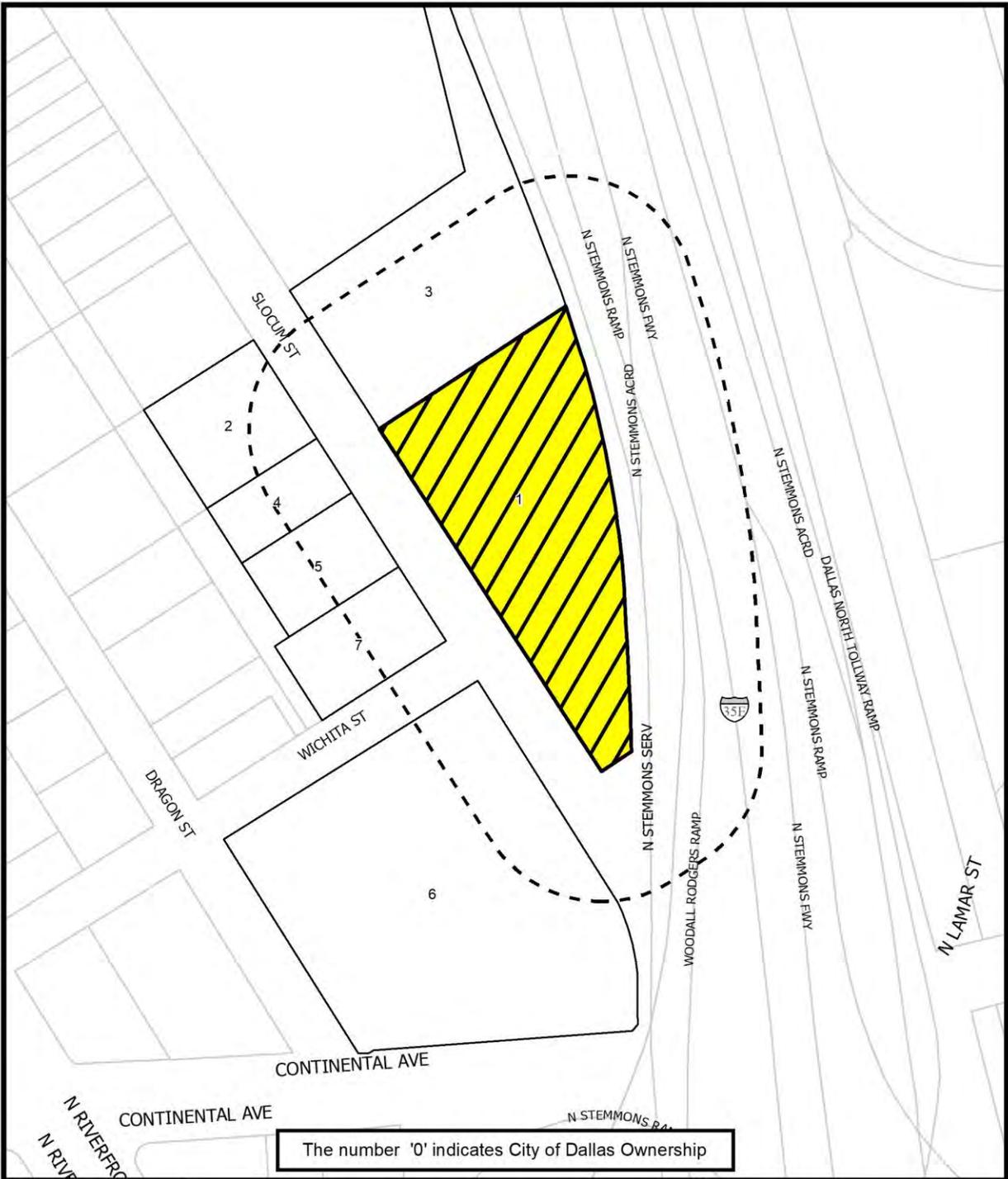


1:2,400

ZONING MAP

Case no: BDA201-113

Date: 10/27/2021



The number '0' indicates City of Dallas Ownership



1:2,400

NOTIFICATION

200' AREA OF NOTIFICATION
7 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA201-113**

Date: **10/27/2021**

10/26/2021

Notification List of Property Owners

BDA201-113

7 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	899 N STEMMONS FWY	CABANA DEVELOPMENT LLC
2	1025 N STEMMONS FWY	TEXAS UTILITIES ELEC CO
3	1023 N STEMMONS FWY	ONCOR ELEC RIC DELIVERY COMPANY
4	923 SLOCUM ST	FEIZY PROPERTIES LTD
5	915 SLOCUM ST	Taxpayer at
6	315 CONTINENTAL AVE	GLI ACQUISITION CO
7	903 SLOCUM ST	STORAGE CHOICE DESIGN DISTRICT LTD



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-113

Date: ~~09/15/21~~ 10-1-21 [Signature]

Data Relative to Subject Property:

Location address: 899 N. Stemmons Fwy Zoning District: Trinity Industrial Dist No. 1 PD621 (Sub. D)

Lot No.: Block No.: 401-409 & 3/409 Acreage: 3.28 Census Tract: 100.00

Street Frontage (in Feet): 1) 629' 2) 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Cabana Development LLC

Applicant: Cabana Development LLC Telephone: 469.892.7200

Mailing Address: 1800 Valley View Ln #300, Farmers Branch, TX Zip Code: 75234

E-mail Address: philip@kingstonfordallas.com

Represented by: Kingston Consulting Telephone: 214-642-1707

Mailing Address: 5901 Palo Pinto, Dallas, TX Zip Code: 75206

E-mail Address: philip@kingstonfordallas.com

Affirm that an appeal has been made for a Variance, or Special Exception X, of assessment of Park Dedication Ordinance fee in lieu of dedication

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 building official refuses to issue a building permit without payment of the Park Dedication Ordinance's fee in lieu of dedication. The ordinance by its plain language grants the subject property a 100% deduction in the size of dedication required meaning that no fee is owed. In the alternative, the property is a historic structure being redeveloped with historic tax credits and the imposition of the fee interferes with an adaptive reuse of the property in violation of city policy.

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.

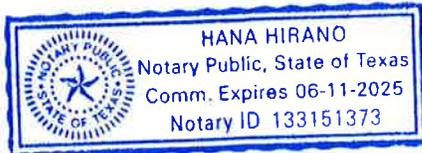
Affidavit

Before me the undersigned on this day personally appeared Philip Kingston (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 24 day of Sept, 2021



(Rev. 08-01-11)

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

**MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT**

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that Cabana Development LLC
represented by Philip Kingston
did submit a request to appeal the decision of the administrative official
at 899 N. Stemmons FRWY

BDA201-113. Application of Cabana Development LLC, represented by Philip Kingston to appeal the decision of the administrative official at 899 N STEMMONS FWY. This property is more fully described as Blocks 401, 409, and 3/409, and is zoned PD-621 (Subarea 1J) which requires that the building official shall not issue a permit or certificate of occupancy if the building official determines that the use would be operated in violation of the Dallas Development Code, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations. The applicant proposes to appeal the decision of an administrative official in the issuance of a building permit and certificate of occupancy.

Sincerely,


David Session, Building Official



Grantor hereby expressly reserves and retains for Noteholder, and Noteholder's successors and assigns, the vendor's lien, as well as the superior title, in and to the Property to secure (i) the payment of the Note, and (ii) the performance and payment by Grantee of all covenants, conditions, obligations and liabilities under the Deed of Trust. Upon the full and complete payment of the Note and satisfaction and performance of all covenants, conditions, obligations and liabilities under the Deed of Trust, then this conveyance shall become absolute and the vendor's lien and superior title herein reserved shall be automatically released and discharged.

TO HAVE AND TO HOLD the Property, subject to the Permitted Exceptions, as aforesaid, unto Grantee, its successors and assigns, forever; and Grantor does hereby bind itself and its successors and assigns, to WARRANT AND FOREVER DEFEND al and singular the Property unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof, by, through or under Grantor, but not otherwise.

By acceptance of this Special Warranty Deed, Grantee assumes payment of property taxes on the Property after the Effective Date of this deed for the year 2017 and subsequent years.

IN WITNESS WHEREOF, the Grantor herein has executed this Special Warranty Deed to be effective as of the 15 day of November, 2017 (the "Effective Date").



COUNTY OF DALLAS, STATE OF TEXAS

By: [Signature]
Clay Lewis Jenkins
County Judge

RECOMMENDED:

[Signature]
Darryl Martin
Dallas County Administrator

*Approved as to Form:

FAITH JOHNSON
DISTRICT ATTORNEY

[Signature]
Chong Choe
Assistant District Attorney

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the 15 day of November, 2017, by Clay Lewis Jenkins, County Judge of County of Dallas, State of Texas, for and on behalf of the County of Dallas, State of Texas.

[Signature]
Notary Public in and for
The State of Texas

JHEISON ROMAIN
Notary Public State of Texas
My Commission# 130870217
My Comm. Exp. Jan. 23, 2021



EXHIBIT A

LEGAL DESCRIPTION

BEING a 3.278 acre tract of land situated in the Garrett Fox Survey Abstract No. 1679, Dallas County, Texas and lying in City of Dallas Block 401, City of Dallas, Dallas County, Texas and being all of a called 3.276 acre tract of land described in a Special Warranty Deed to County of Dallas, State of Texas recorded in Volume 85001, Page 2592 of the Deed Records, Dallas County, Texas and being more particularly described as follows;

BEGINNING at a 5/8 inch iron rod set in the east line of Slocum Street (an 80 feet wide right of and being the northwest corner of said 3.276 acre tract;

THENCE along said north line, **NORTH 58°18'42"** a distance of 347.12 feet to a 5/8 inch iron rod set for corner in the west line of Stemmons freeway (Interstate Highway 35-E) (a variable width right of way) and being the beginning of a non-tangent curve to the right having a radius of 1894.86 feet and a chord bearing of **SOUTH 08°39'40" EAST**;

THENCE along the west line of said Stemmons Freeway and along said non-tangent curve to the right, through a central angle of **17°44'40"** for an arc length of 585.84 feet to a 3" aluminum disk in concrete found for corner;

THENCE continuing along said west line **SOUTH 00°05'56" EAST** a distance of 114 41 feet to a x-cut in concrete in concrete found for corner;

THENCE SOUTH 55°12'12" WEST a distance of 58.64 feet to a x-cut in concrete in concrete found for corner in the east line of said Slocum Street,

THENCE along the east line of said Slocum Street, **NORTH 31°41'19" WEST** a distance of 638.56 feet to the **POINT** or **BEGINNING**, **CONTAINING 3.278 acres or 142,794 square feet of land more or less.**



EXHIBIT B

PERMITTED EXCEPTIONS

1. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.
2. Homestead or community property or survivorship rights, if any of any spouse of any insured.
3. Any titles or rights asserted by anyone, including, but not limited to, persons, the public, corporations, governments or other entities.
 - a. to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or
 - b. to lands beyond the line of the harbor or bulkhead lines as established or changed by any government, or
 - c. to filled-in lands, or artificial islands, or
 - d. to statutory water rights, including riparian rights, or
 - e. to the area extending from the line of mean low tide to the line of vegetation, or the rights of access to that area or easement along and across that area.
4. Standby fees, taxes and assessments by any taxing authority for the year 2017, and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year.
5. The terms and conditions of the documents creating your interest in the land.
6. Materials furnished or labor performed in connection with planned construction before signing and delivering the lien document described in Schedule A of the Title Commitment, if the land is part of the homestead of the owner.
7. The following matters and all terms of the documents creating or offering evidence of the matters:
 - a. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records. There may be leases, grants, exceptions or reservations of mineral interest that are not listed.
 - b. Rights of parties in possession.
 - c. Easement as shown in instrument from Industrial Properties Corporation to City of Dallas, dated March 12, 1947 and filed in Volume 2800, Page 97.



- Deed Records, Dallas County, Texas, and as shown on survey dated August 1, 2014 prepared by Austin J. Bedford, RPLS #4132.
- d. Easement as shown in instrument from Industrial Properties Corporation to City of Dallas, dated April 14, 1958 and filed in Volume 4890, Page 517, Deed Records, Dallas County, Texas and as shown on survey dated August 1, 2014 prepared by Austin J. Bedford, RPLS #4132.
 - e. Easement as shown in instrument from DALLAS CABANA, INC. to Dallas Power & Light Company, dated November 17, 1961 and filed in Volume 5673, Page 168, Deed Records, Dallas County, Texas and as shown on survey dated August 1, 2014 prepared by Austin J. Bedford, RPLS #4132.
 - f. Memorandum of Lease executed by Al Richard and WEB SERVICE COMPANY, INC., dated December 20, 1996, filed March 20, 1997, recorded in Volume 97055, Page 4957, Deed Records, Dallas County, Texas and as noted on survey dated August 1, 2014 prepared by Austin J. Bedford, RPLS #4132.
 - g. Rights or claims, if any, of adjoining property owner(s) in and to that portion of insured property lying between the fence and the east property line as shown on the survey prepared by Austin J. Bedford, RPLS No. 4132, dated August 1, 2014.

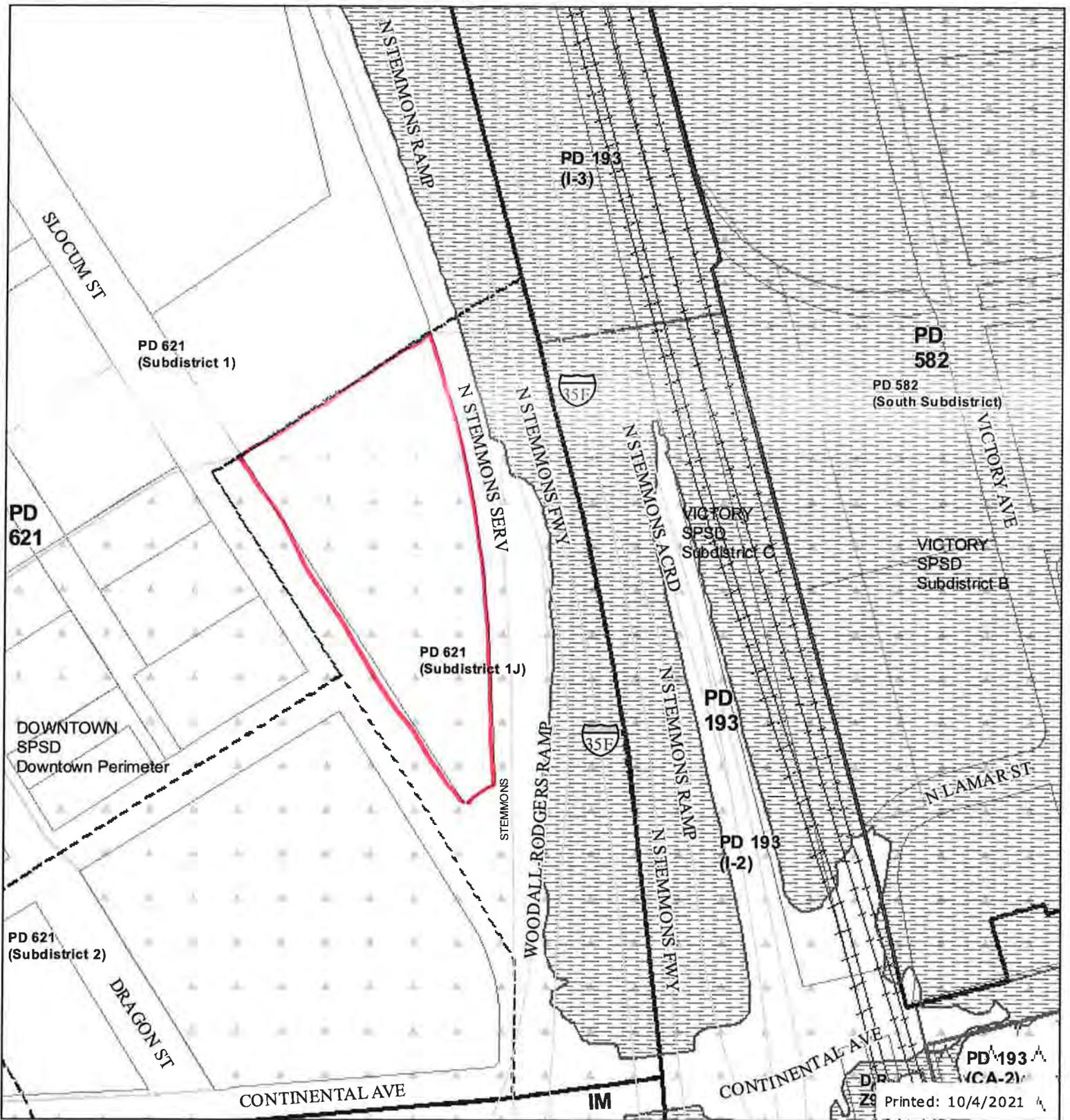
Filed and Recorded
Official Public Records
John F. Warren, County Clerk
Dallas County, TEXAS
11/16/2017 01:43:22 PM
\$46.00
201700324616



SPECIAL WARRANTY DEED

PAGE 6 OF 6





Printed: 10/4/2021

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 | SPSPD Overlay | MD Overlay | Escarpment Overlay |
| X Protected by Levee | Dead Restrictions | Historic Subdistricts | Parking Management Overlay |
| Parks | SUP | Historic Overlay | Shop Front Overlay |
| | | Height Map Overlay | |

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



1:2,400





CITY OF DALLAS

September 30, 2021

Mr. Raj Sharma
7309 Bay Chase Drive
Arlington, TX 76016

RE: Denial of an application for Building Project No. 2103011148 for building permits and a certificate of occupancy for a hotel use at 899 N. Stemmons Freeway

Dear Mr. Sharma:

This letter is to inform you that the referenced application is hereby denied because it does not comply with the park land dedication or payment of the fee-in-lieu of dedication that is required for this change of use in accordance with Division 51A-4.1000 of the Dallas Development Code.

Pursuant to Paragraph (1), Section 306.5, "Denial," of Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas City Code, the building official shall deny an application for a certificate of occupancy if the building official determines that the certificate of occupancy requested does not comply with the codes, the Dallas Development Code, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations.

Pursuant to Section 51A-4.1002(a)(2) of the Dallas Development Code, park land dedication requirements apply to a building permit that includes a hotel or motel use. The last certificate of occupancy was issued on January 13, 1997 for a halfway house, which is classified as an institutional and community service use pursuant to Section 51A-4.204 of the Dallas Development Code. The referenced application is for a hotel, which is classified as a lodging use pursuant to Section 51A-4.205 of the Dallas Development Code. Therefore, this application constitutes a change of use; specifically, from a use that does not require park land dedication to a use that does require dedication.

This decision is final unless appealed to the Board of Adjustment in accordance with Section 51A-4.703 of the Dallas Development Code before the 20th day after written notice of the above action.¹ If you have any questions, please contact me at 214-948-4501.

Sincerely,

Megan Wimper, AICP, CBO
Assistant Building Official
Building Inspection Division

cc: Dr. Eric A. Johnson, Director (I), Sustainable Development and Construction
Vernon Young, Assistant Director(I), Sustainable Development and Construction
David Session, Interim Building Official
Tammy Palomino, Executive Assistant City Attorney
Bertram Vandenberg, Assistant City Attorney

¹ Section 51A-4.703(a)(2), "Board of Adjustment Hearing Procedures," of Chapter 51A of the Dallas Development Code.

BDA201-113_ATTACHMENT_A

No. BDA 201-113

The State of Texas	§	City of Dallas
	§	
	§	Board of Adjustment
	§	
Dallas County	§	Cabana Developments, LLC
	§	(899 N. Stemmons Fwy, Dallas)

**CITY OF DALLAS’S POSITION STATEMENT
WITH SUPPORTING EVIDENCE AND AUTHORITY**

To the Honorable Board of Adjustment:

The City of Dallas (“the City”) submits this position statement, together with the attached evidence and the included authority, for consideration by the Board.

I. INTRODUCTION

On November 15, 2017, Cabana Development, LLC (“Cabana” or “Applicant”) acquired land and improvements located at 899 North Stemmons Freeway, Dallas, Texas 75207 (the “Property”) from the County of Dallas for \$6.3 million. At the time of the purchase, the most-recent certificate of occupancy (the “Prior CO”) for the Property, dated February 20, 1997, permitted it to be used as a halfway house. A copy of the Prior CO is attached as **Exhibit A**.

On February 12, 2021, Applicant submitted a permit application (the “Permit Application”) to the City seeking to remodel the existing building on the Property, construct a new floor and facilities, and operate the Property as a Cabana hotel:

The project consists of the renovation of an existing 10 story building into a 264-room hotel. Guestrooms will be on floors 2-10 of the main building as well as the 2-story lanai wing. The ground floor will be used for hotel lobby, ballroom, retail, and restaurant space with [sic] will be white-boxed...A new steel and glass pavilion will be constructed on the east side of the courtyard...A new 11th floor addition will be constructed on the existing upper roof...A new 8000 sf steel and glass event space will be constructed on the ground floor of the existing parking garage at the northern end of the site.

See **Exhibit B** (Pre-Development Meeting Application); *see also* **Exhibit C** (Permit Application).

Because the Permit Application’s project and use for the Property did not comply with the park-land dedication or fee-in-lieu requirement of the Dedication Ordinance, the City denied the Permit Application on September 30, 2021. On October 1, 2021, Applicant initiated this appeal to the Board of Adjustment. A copy of the appeal application (the “Appeal Application”) to the Board of Adjustment is attached as **Exhibit D**.¹

As demonstrated more fully below, the City’s decision to deny the Permit Application was correct. The Permit Application clearly indicates a change in use from a halfway house to hotel, thus mandating application of the Dedication Ordinance. *Compare* Prior CO (“Land Use: (1295) Halfway House”) *with* Permit Application (“Use: Cabana Hotel”). Applicant failed to comply with both the procedural and substantive requirements to dedicate land to the City or to pay a fee-in-lieu. Moreover, the Dedication Ordinance does not allow Applicant to unilaterally determine in advance that it would be entitled to a 100% deduction of any fee-in-lieu; rather, only the director of the City’s park and recreation department (the “Director”) may determine the amount of any deduction/credit. Accordingly, the City respectfully requests that the Board of Adjustment deny Applicant’s appeal and affirm the City’s denial of the Permit Application.

II. THE PARK LAND DEDICATION ORDINANCE

A. Purpose of the Dedication Ordinance

On July 1, 2019, the City enacted a Park Land Dedication Ordinance (the “Dedication Ordinance”). *See* Dallas, Tex., Code of Ordinances (the “City Code”), § 51A-4.1001-1012. For the Board Panel’s convenience, a copy of the Dedication Ordinance is attached as **Exhibit E**. The Dedication Ordinance is intended to ensure that new residents and visitors to Dallas have access

¹ Although the Permit Application lists Raj Sharma as the applicant and Cabana as the property owner, the Appeal Application lists only Cabana as the applicant. Regardless, there is no dispute that Cabana owns the property and is the proper party to appeal the denial of the Permit Application.

to “recreational amenities and green infrastructure consistent with the current level of park services for existing residents.” *See* City Code § 51A-4.1001. By its terms, the Dedication Ordinance applies to any “development plan or building permit that includes multifamily residential units or a hotel or motel use”² but does not apply to “plats, replats, or issuance of building permits for new construction on land owned by a governmental unit.” *Compare* City Code § 51A-4.1002(a)(2) (applying to hotel or motel use) *with* § 51A-4.1002(b)(2) (exempting “land owned by a governmental unit”). To be clear, the Dedication Ordinance was not in effect when Dallas County owned the Property and, because Dallas County is a governmental unit, the Dedication Ordinance would not have applied in any event. *See Catalina Dev., Inc. v. Cty. of El Paso*, 121 S.W.3d 704, 705 (Tex. 2003) (“A county is a governmental unit protected by the doctrine of sovereign immunity.”). The Dedication Ordinance does, however, apply to Applicant, who has owned the Property since the Ordinance took effect and now seeks to convert it to a “hotel or motel use.”

B. Dedication or Fee-in-Lieu

To accomplish its goal of ensuring sufficient park services and recreational amenities, the Dedication Ordinance requires that a building-permit application contemplate either (1) dedication to and acceptance by the City of a specified amount of suitable land for a park or (2) payment of a fee-in-lieu of dedication. *See* City Code § 51A-4.1004(a). For hotel and motel use, the developer must either dedicate one acre of land per 233 guest rooms or pay a fee-in-lieu in an amount determined by the Director pursuant to a statutory formula. *Id.* §§ 51A-4.1004(e)(3) (calculating amount of dedication), 51A-4.1005(a) (“The owner of property for which dedication is required may pay a fee-in-lieu of dedication in the amount determined in Subsection (c) of this section, and the director shall not refuse any payment of a fee-in-lieu of dedication.”).

² Under City Code § 51A-4.1003(a)(3), “HOTEL AND MOTEL USE means a hotel or motel use, extended stay hotel or motel use, lodging or boarding house use, or residential hotel.”

Critically, a building permit for a hotel or motel use cannot be issued until and unless the applicant has complied with its dedication or fee-in-lieu obligation. *Id.* § 51A-4.1004(g). In either event, the Director – not the applicant – calculates the amount of the dedication or the fee-in-lieu, and the Director approves the applicant’s proposal. *Id.* § 51A-4.1007(a) (“The director shall determine the amount of land required to be dedicated, or the fees-in-lieu to be paid”). If the applicant elects to pay a fee-in-lieu of dedication (or if the Director requires it), the applicant may seek a deduction or credit of the amount of the dedication or fee-in-lieu. *Id.* § 51A-4.1007(b). To do so, the applicant makes a written request to the Director, explaining the applicant’s basis for and calculation of the proposed deduction. The “burden is on the applicant” to “demonstrate to the satisfaction of the director” both the applicant’s entitlement to and the amount of any deduction or credit. *Id.* The Director then responds in writing to the applicant’s request, also explaining the basis for the Director’s decision and the calculation of the amounts to be paid. Importantly, the deduction or credit is contingent upon the applicant’s compliance with the plans submitted in support of the credit-request. Simply put, the applicant cannot unilaterally declare that it would be entitled to a 100% deduction of the fee-in-lieu to nullify (or satisfy) the dedication requirement.

While an applicant has discretion to either dedicate property or pay a fee-in-lieu, the applicant cannot choose to do neither. That is, the applicant **must** complete one of the following options before a building permit can be approved and issued: (1) record in the real property records a general warranty deed for the required land dedication approved and accepted by the Director, (2) identify the requisite amount of private park on the preliminary and final plats or development plans, or (3) confirm deposit of the fee-in-lieu into the park land dedication fund. *Id.* § 51A-4.1004(g). If the applicant does not complete one of these requirements, the permit application is deficient and must be denied.

III. DENIAL OF THE PERMIT APPLICATION PURSUANT TO THE DEDICATION ORDINANCE

A. The Permit Application Seeks a Change of Use Under the City Code

As demonstrated above, the most-recent certificate of occupancy issued for the Property permitted its use as a halfway house. *See* Ex. A (“Land Use: (1295) Halfway House”). Section 51A-4.204(13) of the City Code designates a halfway house as an “institutional and community service use.” By contrast, under City Code section 51A-4.205(1), a “hotel or motel” is designated as a “lodging use.” Under the plain terms of the City Code, converting the Property from use as a halfway house to use as a hotel constitutes a change of use.

Similarly, by its own terms, the Dedication Ordinance does not apply to institutional or community service use, but it *does* apply to a hotel or motel use. *See* City Code § 51A-4.1002(a)(2). Because Applicant sought a building permit for construction that would convert the Property from a halfway house to a hotel, Applicant was obligated to comply with the Dedication Ordinance, including the land-dedication or fee-in-lieu provisions.

B. Because Applicant Did Not Comply with the Dedication or Fee-in-Lieu Provisions of the Dedication Ordinance, the City Properly Denied the Permit Application

It is undisputed that, as part of its Permit Application process, Applicant neither proposed a land-dedication nor provided for a fee-in-lieu (as determined by the Director). In other words, Applicant did not comply with the dedication or fee-in-lieu provisions of the Dedication Ordinance. Instead, Applicant has unilaterally declared that those provisions of the Dedication Ordinance did not apply because Applicant’s plans would not increase the number of units on the Property. Applicant is wrong.

As a preliminary matter, the Director – not Applicant – determines whether a dedication or fee-in-lieu is necessary for a building permit to be issued. City Code § 51A-4.1007(a). Applicant cannot unilaterally determine that it has no obligation to dedicate land or pay a fee-in-lieu, and

instead must obtain such a determination from the Director. Applicant's failure to do so rendered the Permit Application procedurally deficient.

Even if Applicant had sought a determination from the Director, it is far from certain that Applicant would be entitled to a 100% deduction of the fee-in-lieu for this project. To the extent Applicant claims that the number of units at the Property would not increase as a result of the underlying project, Applicant is ignoring the realities of the currently-permitted use of the Property as a halfway house. First, because the Dedication Ordinance does not apply to use as a halfway house, the Property is currently considered to have no units for purposes of dedication or fee-in-lieu. Second, by law, a halfway house cannot have more than 50 residents, and Applicant intends to have more than 250 hotel guests on any given night. *See City Code § 51A-4.204(13)(E)(i)* ("No more than 50 residents are permitted in a halfway house."); *see also* Ex. B at p. 5 (noting intent to renovate existing building into 264-room hotel). Given the professed intent of the Dedication Ordinance to ensure that permitted building projects do not negatively impact the accessibility and quality of the City's parks and recreational amenities, the proposed 5-fold increase in the number of residents at or visitors to the Property would likely merit a land-dedication or fee-in-lieu. Finally, Applicant argues that, because the project will be funded through tax credits, Applicant need not comply with the Dedication Ordinance. Put bluntly, Applicant believes it is entitled to double-dip from the City's coffers: first, by accepting tax-credits to build a for-profit business; second, by declining to provide for park land, as required under the Dedication Ordinance. Tellingly, Applicant provides no basis for this self-serving argument. The reason for this omission is simple: tax credits are separate and distinguishable from park land dedication, and that is why the Dedication Ordinance does not mention them.

IV. CONCLUSION

Applicant failed to comply with the procedural and substantive requirements under the Dedication Ordinance. As such, the City properly denied the Permit Application. On appeal, Applicant has failed to satisfy its burden to show that denial of the Permit Application was in error. Accordingly, the City requests that its denial of the Permit Application be affirmed.

Respectfully submitted,

/s/ Andrew G. Spaniol

Andrew G. Spaniol

Assistant City Attorney

1500 Marilla Street, Suite 7DN

Dallas, Texas 75201

Telephone – 214-670-3519

Telecopier – 214-670-0622

andrew.spaniol@dallascityhall.com

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2021, a true and correct copy of the above and foregoing, together with all exhibits thereto, was served on the following:

Via Email:

Jennifer Munoz (jennifer.munoz@dallascityhall.com)

Board of Adjustment Administrator

Latonia Jackson (latonia.jackson@dallascityhall.com)

Administrative Specialist

Megan Wimer (megan.wimer@dallascityhall.com)

Sarah May (sarah.may@dallascityhall.com)

Philip Kingston (philip@kingstonfordallas.com)

/s/ Andrew G. Spaniol

Andrew G. Spaniol

EXHIBIT A

EXHIBIT B



PRE-DEVELOPMENT MEETING
CHECKLIST

SUSTAINABLE DEVELOPMENT & CONSTRUCTION
320 E. JEFFERSON, ROOM 101
DALLAS, TX 75203

REQUIRED ITEMS FOR PRE-DEVELOPMENT MEETING

- APPLICATION
- LIST OF ATTENDEES AND RESPECTIVE RESPONSIBILITIES IN THE PROJECT
- AREAS OF CONCERN WITH DEVELOPMENT (PROVIDED WITH THE APPLICATION)
- SITE LOCATION MAP OR TAX MAP INDICATING THE LOCATION OF THE PROPOSED PROJECT
- SITE PLAN AND FLOOR PLAN
- DRAWINGS OR OTHER GRAPHIC INFORMATION TO DEPICT THE PROPOSED PROJECT

IS THIS A RESIDENTIAL SUBDIVISION OR SHARED ACCESS DEVELOPMENT?

YES OR NO

THIS APPLICATION WITH THE REQUESTED DOCUMENTS ARE REQUIRED IN ORDER TO SCHEDULE THE PRE-DEVELOPMENT MEETING. IF AVAILABLE, PLEASE PROVIDE ANY QUESTIONS REGARDING THE PROPOSED PROJECT IN ADVANCE. THIS IS NOT A REQUIREMENT, BUT IT IS STRONGLY ENCOURAGED.

I, THE UNDERSIGNED, REQUEST A PRE-DEVELOPMENT MEETING FOR THE PURPOSE OF DISCUSSING A PROPOSED PROJECT IN GENERAL TERMS. I HAVE PROVIDED THE INFORMATION REQUESTED IN THIS FORM AND UNDERSTAND THAT THIS MEETING DOES NOT CONSTITUTE CITY REVIEW FOR THE PURPOSES OF APPROVAL OR PERMIT ISSUANCE. UPON SUBMITTAL OF THE APPROPRIATE APPLICATION(S) ADDITIONAL COMMENTS ARE TO BE EXPECTED THAT ARE NOT DISCUSSED IN THIS MEETING.

FURTHERMORE, I UNDERSTAND THE COMMENTS PROVIDED BY STAFF AT THE PRE-DEVELOPMENT MEETING ARE BASED ON THE INFORMATION PROVIDED TO THE CITY PRIOR TO AND AT THE MEETING. THE COMMENTS DO NOT REPRESENT OR GUARANTEE APPROVAL OF ANY PROJECT OR PERMIT. SUBMITTAL OF A COMPLETE PERMIT SUBMITTAL MAY REVEAL ADDITIONAL ISSUES THAT WERE NOT IDENTIFIED DURING PRE-DEVELOPMENT MEETING. PLANS SHALL BE PREPARED IN ACCORDANCE WITH THE CITY OF DALLAS ORDINANCES, AS WELL AS ANY INTERNATIONAL, FEDERAL, STATE, LOCAL CODES INCORPORATED OR REFERENCED THEREIN.



SIGNATURE

07-19-2019

DATE

Emily Rowan

PRINT NAME



PRE-DEVELOPMENT MEETING
APPLICATION

SUSTAINABLE DEVELOPMENT & CONSTRUCTION
320 E. JEFFERSON, ROOM 101
DALLAS, TX 75203

PRE-DEVELOPMENT MEETING APPLICATION

THE FOLLOWING INFORMATION IS **REQUIRED** IN ORDER TO SCHEDULE A PRE-DEVELOPMENT MEETING. PLEASE NOTE THAT THE MORE DETAIL YOU CAN PROVIDE REGARDING YOUR PROJECT, THE MORE FEEDBACK STAFF WILL BE ABLE TO PROVIDE.

CONTACT PERSON: Emily Rowan			PHONE: 214-347-8090
ADDRESS: 300 N. Field Street			CELL:
CITY: Dallas	STATE: TX	ZIP: 75202	E-MAIL: emilyr@merriman-maa.com
PROPERTY OWNER(S), IF DIFFERENT: Cabana Development, LLC (Mehrdad Moayedi)			PHONE: 469-892-7200
ADDRESS: 1800 Valley View Lane, Suite 300			CELL:
CITY: Farmers Branch	STATE: TX	ZIP: 75234	E-MAIL:
SITE ADDRESS: 899 N. Stemmons Freeway, Dallas, TX 75207		ZONING: PD 621 & PD 442	
LEGAL DESCRIPTION: Part of Block 3/409 Trinity Industrial District No. 1			
PROJECT NAME: Cabana Hotel			
DESCRIPTION OF PROPOSAL (E.G. BUILDING, PROPOSED USE): See attached Project Description page.			
DESCRIBE ALL LAND USES THAT WILL BE ASSOCIATED WITH THE PROPOSED PROJECT: Hotel, Restaurant, Meeting Space, Retail, Entertainment (Night Club)			
PROPOSED HEIGHT: 109'-0" (98'-8" Existing)		NUMBER OF STORIES: 11 (10 Existing)	

FLOOR AREA (SQ. FT.)	230,000	TOTAL SITE AREA (SQ. FT.):	142,795
NUMBER OF DWELLING UNITS:	264	SQ. FT. OF DWELLING UNITS:	114,000
PROPOSED TYPE OF CONSTRUCTION (E.G. I-A, V-B):	I-B		
PROPOSED OCCUPANCY (E.G. B, M, R):	R-1		
TYPE OF PROJECT:	<input checked="" type="radio"/> REMODEL <input checked="" type="radio"/> NEW CONSTRUCTION		
IS THE SITE PLATTED?	<input checked="" type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> DON'T KNOW
IF CURRENTLY PLATTING, PLEASE PROVIDE FILE NUMBER:			
DATE ANTICIPATED FOR PERMIT SUBMITTAL:	Sept. 13, 2019		
TARGET DATE TO BEGIN CONSTRUCTION:	Oct. 2019		
TARGET DATE FOR COMPLETION OF CONSTRUCTION:			
CHECK ALL APPLICATION TYPE(S) TO BE DISCUSSED AT THE MEETING:			
<input type="checkbox"/> PLATTING			
<input checked="" type="checkbox"/> SITE PLAN			
<input checked="" type="checkbox"/> CONCEPT PLAN			
<input type="checkbox"/> OTHER _____			
CHECK TRADE(S) TO ATTEND MEETING:			
<input type="checkbox"/> SUBDIVISION (PLATTING)			
<input checked="" type="checkbox"/> ENGINEERING DRAINAGE/ GRADING/ PAVING/ CIRCULATION			
<input checked="" type="checkbox"/> ENGINEERING WATER/ WASTEWATER			
<input checked="" type="checkbox"/> ZONING			
<input checked="" type="checkbox"/> LANDSCAPING			
<input checked="" type="checkbox"/> BUILDING CODE/ FIRE PROTECTION			
<input checked="" type="checkbox"/> FIRE RESCUE			
<input checked="" type="checkbox"/> ELECTRICAL CODE			
<input checked="" type="checkbox"/> MECHANICAL AND PLUMBING CODES			

TO SCHEDULE A PRE-DEVELOPMENT MEETING PLEASE CONTACT:

MARGIE SAABEDRA

EMAIL: MARGIE.SAABEDRA@DALLASCITYHALL.COM

PHONE: 214.948.4120

MEETINGS ARE HELD TUESDAY-THURSDAY AND SCHEDULED ON A FIRST-COME, FIRST-SERVE BASIS.

PRE-DEVELOPMENT MEETING FEES	
PROJECT AREA (SQ. FT.)	FEES
25,000 OR LESS	\$250.00
25,001 TO 50,000	\$500.00
GREATER THAN 50,000	\$750.00

THE PRE-DEVELOPMENT MEETING FEE WILL BE APPLIED TOWARDS THE PERMIT FEE, IF THE PERMIT APPLICATION IS SUBMITTED WITHIN TWELVE MONTHS OF THE MEETING.

FOR STAFF USE ONLY

DEV NUMBER: _____

DATE RECEIVED: _____

DATE MEETING SCHEDULED: _____

ADDITIONAL NOTES:

MERRIMAN ANDERSON/ARCHITECTS, INC.

architecture · planning · interiors

Predevelopment Application Project Description - 07.19.19

The Cabana Hotel

The project consists of the renovation of an existing 10-story building into a 264-room hotel. Guestrooms will be on floors 2-10 of the main building, as well as the 2-story lanai wing. The ground floor will be used for hotel lobby, ballroom, retail and restaurant space which will be white-boxed. The existing ground floor kitchen will be renovated. The basement will include space for MEP services and white-boxed club and spa/fitness areas for the hotel. The existing pool in the courtyard will be refurbished and expanded to include a hot tub and shallow perimeter tanning shelf. A new 1-story steel and glass pavilion will be constructed on the east side of the courtyard and will be approx. 1,500 sf. A new roof deck with seating will be on the existing low roof overlooking the courtyard. The existing sub-surface parking garage below the courtyard will be refurbished and used as hotel parking with a portion allocated for white box retail space. A new 11th floor addition will be constructed on the existing upper roof and will consist of a steel and glass white-boxed restaurant approx. 4,000 sf. A new roof deck will be installed around the perimeter of the new restaurant space, as well as two private rooftop decks connected to the two hotel suites below. A new 8,000 sf steel and glass event space will be constructed on the ground floor of the existing parking garage at the northern end of the site. The existing garage ramp up to the parking levels will be relocated as required.

merriman-maa.com

300 n. field street dallas, texas 75202 t.214.987.1299 f.214.987.2138

dallas · austin · charlotte



EXHIBIT C

DATE: Feb 12/21

PERMIT APPLICATION

PLEASE TYPE OR PRINT CLEARLY

JOB NO: (OFFICE USE ONLY)

PERMIT NO: (OFFICE USE ONLY)

APPLICATION TYPE

REGULAR EXPRESS 

City of Dallas

STREET ADDRESS OF PROPOSED PROJECT 899 N STEMMONS FREEWAY		SUITE/BLDG/FLOOR NO PROJECT		USE OF PROPERTY CABANA HOTEL	
APPLICANT RAJSHARMA		ADDRESS 7309 BAYCHASE DR		CITY ARLINGTON TEXAS	
DBA (IF APPLICABLE)		PHONE NO 214-957-5024		E-MAIL ADDRESS (MAY BE USED FOR OFFICIAL COMMUNICATION)	
CONTRACTOR INDIVIDUAL 112659		CONTRACTOR NUMBER #12659		PIN 7978	
CURRENT HOME REPAIR LICENSE ON FILE? <input type="radio"/> YES <input type="radio"/> NO		IF YES, LIST NUMBER		PHONE NO	
PROPERTY OWNER (INDIVIDUAL CONTACT) RAY ZAFAR		ADDRESS 899 1800 VALLEYVIEW LANE		CITY FARMERS BRANCH TEXAS	
PROPERTY OWNER (COMPANY NAME) CABANA DEVELOPMENTS LLC		PHONE NO		E-MAIL ADDRESS (MAY BE USED FOR OFFICIAL COMMUNICATION)	

DESCRIPTION OF PROPOSED PROJECT Q TEAM REVIEW REMODEL OF EXISTING BUILDING AND A NEW 13,000 sq. ft Building		NEW CONST 5,675,000		NEW CONST 6,121	
MFD OTHER		MFD OTHER		REMODEL 2,121,179	
REMODEL 13,000,000		TOTAL VALUATION 18,675,000		TOTAL AREA 218,300	

PLEASE INDICATE ALL TYPES OF WORK THAT WILL BE PART OF THIS PROJECT BY CHECKING THE APPROPRIATE BOX

<input checked="" type="checkbox"/> BUILDING	<input checked="" type="checkbox"/> PLUMBING	<input type="checkbox"/> FENCE	<input type="checkbox"/> DRIVE APPROACH	<input type="checkbox"/> BACKFLOW	<input type="checkbox"/> BARRICADE	<input checked="" type="checkbox"/> ENERGY
<input checked="" type="checkbox"/> ELECTRICAL	<input checked="" type="checkbox"/> FIRE SPRKLR	<input type="checkbox"/> SIGN	<input type="checkbox"/> SWIMMING POOL	<input type="checkbox"/> CUSTOMER SVC	<input checked="" type="checkbox"/> GREEN	<input type="checkbox"/> PAVING/GRADING
<input checked="" type="checkbox"/> MECHANICAL	<input checked="" type="checkbox"/> FIRE ALARM	<input type="checkbox"/> LANDSCAPE	<input type="checkbox"/> LAWN SPRINKLER	<input type="checkbox"/> FLAMMABLE LIQUID	<input type="checkbox"/> OTHER:	

All food service establishments require a grease interceptor to be installed on site Is there a grease interceptor on site? YES NO

The following is applicable to all applications for building permits that are accepted and routed for any reviews As required by Texas Local Government Code Section 214.904, the City of Dallas will grant (Approve) or deny your building permit application to erect or improve a building or other structure no later than the 45th day after the application is submitted Denial of a permit application in review that requires revisions or corrections may be avoided by agreeing to allow the City the following additional time to review the application

I hereby agree to a deadline of 14 days to grant or deny the permit after the date of the approval of all of the following reviews, as applicable where the applicant has provided the plans, examiners the requested corrections, plans and actions; and the contractor has been named on the permit

Zoning, Building Code, Residential Code, Electrical Code, Plumbing/Mechanical Code, Fuel Gas Code, Energy Code, Green Building Code, Health, Historical/Conservation District, Engineering/Flood Plain, Water Utilities, Fire Code, Landscaping and Aviation

If the permit is granted (Approved) within this deadline the City will retain and/or assess all fees. If the permit is denied within this deadline the City will retain all plan review fees and 20 percent of the permit fees. If the permit application is not granted or denied within the agreed additional time of review, the City will refund any permit fees that have been collected and the City may not collect any permit fees associated with the application.

I AGREE. I DO NOT AGREE.

I UNDERSTAND THAT THIS PERMIT APPLICATION WILL EXPIRE IN 180 DAYS FROM THE APPLICATION DATE. I MAY REQUEST IN WRITING AN ADDITIONAL 180 DAY EXTENSION OF THE PERMIT APPLICATION PRIOR TO THE APPLICATION EXPIRATION. IF THE APPLICATION IS ALLOWED TO EXPIRE, IT MAY ONLY BE REACTIVATED BY THE FILING OF A NEW APPLICATION INCLUDING APPLICABLE PLANS AND FEES.

I HAVE CAREFULLY READ THE COMPLETED APPLICATION AND KNOW THE SAME IS TRUE AND CORRECT AND HEREBY AGREE THAT IF A PERMIT IS ISSUED ALL PROVISIONS OF THE CITY ORDINANCES AND STATE LAWS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT. I AM THE OWNER OF THE PROPERTY OR THE DULY AUTHORIZED AGENT. PERMISSION IS HEREBY GRANTED TO ENTER PREMISES AND MAKE ALL INSPECTIONS. I ALSO AFFIRM THAT THE EMAIL ADDRESS GIVEN ABOVE MAY BE USED FOR OFFICIAL COMMUNICATION CONCERNING THIS APPLICATION AND PERMIT.

APPLICANT'S SIGNATURE R	DATE OF APPLICATION SUBMISSION Feb 12/21
----------------------------	---

EXHIBIT D



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-113

Data Relative to Subject Property:

Date: 09/13/21 10-1-21 COA
PD621 (Sub 1J)

Location address: 899 N. Stemmons Fwy Zoning District: Trinity Industrial Dist No. 1

Lot No.: _____ Block No.: 401-409 & 3/409 Acreage: 3.28 Census Tract: _____

Street Frontage (in Feet): 1) 629 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Cabana Development LLC

Applicant: Cabana Development LLC Telephone: 469.892.7200

Mailing Address: 1800 Valley View Ln #300, Farmers Branch, TX Zip Code: 75234

E-mail Address: philip@kingstonfordallas.com

Represented by: Kingston Consulting Telephone: 214-642-1707

Mailing Address: 5901 Palo Pinto, Dallas, TX Zip Code: 75206

E-mail Address: philip@kingstonfordallas.com

Affirm that an appeal has been made for a Variance , or Special Exception X, of assessment of Park Dedication Ordinance fee in lieu of dedication _____

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 building official refuses to issue a building permit without payment of the Park Dedication Ordinance's fee in lieu of dedication. The ordinance by its plain language grants the subject property a 100% deduction in the size of dedication required meaning that no fee is owed. In the alternative, the property is a historic structure being redeveloped with historic tax credits and the imposition of the fee interferes with an adaptive reuse of the property in violation of city policy.

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

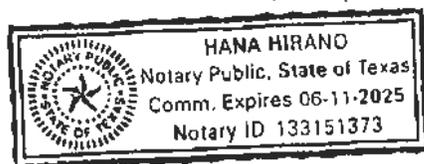
Before me the undersigned on this day personally appeared Philip Kingston
(Affiant/Applicant's name printed)

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 24 day of Sept., 2021

(Rev. 08-01-11)



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

Sender Title
GF# 1703391-UC99

RECORDING REQUESTED BY
AND AFTER RECORDING, MAIL TO:
Sender Title
1800 Valley View Lane #160
Farmers Branch, Texas 75234

SPECIAL WARRANTY DEED

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

THAT COUNTY OF DALLAS, STATE OF TEXAS, a political subdivision of the State of Texas (hereinafter referred to as "Grantor"), for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to it in hand paid by CABANA DEVELOPMENT, LLC, a Texas limited liability company (hereinafter referred to as "Grantee"), whose mailing address is 1800 Valley View Lane, Suite 300, Farmers Branch, Texas 75234, the receipt and sufficiency of which consideration are hereby acknowledged, has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents does hereby GRANT, BARGAIN, SELL and CONVEY, unto Grantee all of the real property situated in Dallas County, Texas, described on Exhibit A attached hereto and made a part hereof, together with all and singular the rights, benefits, privileges, easements, tenements, hereditaments and appurtenances thereon or in anywise appertaining thereto, and together with all improvements situated thereon and any right, title and interest of Grantor in and to adjacent streets, alleys and rights-of-way (said land, rights, benefits, privileges, easements, tenements, hereditaments, appurtenances, improvements and interest being hereinafter referred to collectively as the "Property"). Notwithstanding anything to the contrary herein, the term "Property" as used under this Agreement specifically excludes any interests in the oil, gas and minerals that are in, on and under the Property.

This conveyance is made subject to all matters set forth on Exhibit B, attached and incorporated, as well as shortages in area, encroachments, overlapping of improvements, and all matters affecting the Property which are visible or would be revealed by a survey thereof (such matters being referred to herein as the "Permitted Exceptions").

As a portion of the other consideration for the conveyance herein made, Grantee shall execute and deliver to Frontier State Bank, a federal savings association ("Noteholder"), that certain Promissory Note ("Note") dated November 15, 2017 in the original principal amount of SIX MILLION THREE HUNDRED THOUSAND DOLLARS AND NO/100 (\$6,300,000.00), executed by Grantee and payable to the order of Noteholder, and the payment of the Note shall be secured by the vendor's lien and superior title herein reserved and assigned to Noteholder and by that certain DEED OF TRUST (WITH SECURITY AGREEMENT AND FINANCING STATEMENT) ("Deed of Trust") of even date with the Note from Grantee to Steve Elliott, as Trustee, having an address of 5100 S I-35 Service Road, Oklahoma City, Oklahoma 73129, for the benefit of Noteholder, covering the Property.

SPECIAL WARRANTY DEED



Grantor hereby expressly reserves and retains for Noteholder, and Noteholder's successors and assigns, the vendor's lien, as well as the superior title, in and to the Property to secure (i) the payment of the Note, and (ii) the performance and payment by Grantee of all covenants, conditions, obligations and liabilities under the Deed of Trust. Upon the full and complete payment of the Note and satisfaction and performance of all covenants, conditions, obligations and liabilities under the Deed of Trust, then this conveyance shall become absolute and the vendor's lien and superior title herein reserved shall be automatically released and discharged.

TO HAVE AND TO HOLD the Property, subject to the Permitted Exceptions, as aforesaid, unto Grantee, its successors and assigns, forever, and Grantor does hereby bind itself and its successors and assigns, to WARRANT AND FOREVER DEFEND al and singular the Property unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof, by, through or under Grantor, but not otherwise.

By acceptance of this Special Warranty Deed, Grantee assumes payment of property taxes on the Property after the Effective Date of this deed for the year 2017 and subsequent years.

IN WITNESS WHEREOF, the Grantor herein has executed this Special Warranty Deed to be effective as of the 15 day of November, 2017 (the "Effective Date").



COUNTY OF DALLAS, STATE OF TEXAS

By: [Signature]
Clay Lewis Jenkins
County Judge

RECOMMENDED:

[Signature]
Darryl Martin
Dallas County Administrator

*Approved as to Form:

FAITH JOHNSON
DISTRICT ATTORNEY

[Signature]
Chong Choe
Assistant District Attorney

STATE OF TEXAS

COUNTY OF DALLAS

This instrument was acknowledged before me on the 15 day of November 2017, by Clay Lewis Jenkins, County Judge of County of Dallas, State of Texas, for and on behalf of the County of Dallas, State of Texas.

[Signature]
Notary Public in and for
The State of Texas

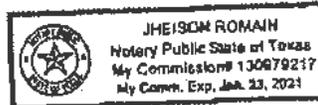


EXHIBIT A

LEGAL DESCRIPTION

BEING a 3.278 acre tract of land situated in the Garrett Fox Survey Abstract No. 1679, Dallas County, Texas and lying in City of Dallas Block 401, City of Dallas, Dallas County, Texas and being all of a called 3.276 acre tract of land described in a Special Warranty Deed to County of Dallas, State of Texas recorded in Volume 85001, Page 2592 of the Deed Records, Dallas County, Texas and being more particularly described as follows;

BEGINNING at a 5/8 inch iron rod set in the east line of Slocum Street (an 80 feet wide right of and being the northwest corner of said 3.276 acre tract;

THENCE along said north line, **NORTH 58°18'42"** a distance of 347.12 feet to a 5/8 inch iron rod set for corner in the west line of Stemmons freeway (Interstate Highway 35-E) (a variable width right of way) and being the beginning of a non-tangent curve to the right having a radius of 1894.86 feet and a chord bearing of **SOUTH 08°39'40" EAST**;

THENCE along the west line of said Stemmons Freeway and along said non-tangent curve to the right, through a central angle of **17°44'40"** for an arc length of 385.84 feet to a 3" aluminum disk in concrete found for corner;

THENCE continuing along said west line **SOUTH 00°05'56" EAST** a distance of 114.41 feet to a x-cut in concrete in concrete found for corner;

THENCE **SOUTH 55°12'12" WEST** a distance of 58.64 feet to a x-cut in concrete in concrete found for corner in the east line of said Slocum Street,

THENCE along the east line of said Slocum Street, **NORTH 31°41'19" WEST** a distance of 638.56 feet to the **POINT** or **BEGINNING**, **CONTAINING** 3.278 acres or 142,794 square feet of land more or less.



EXHIBIT B

PERMITTED EXCEPTIONS

1. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.
2. Homestead or community property or survivorship rights, if any of any spouse of any insured.
3. Any titles or rights asserted by anyone, including, but not limited to, persons, the public, corporations, governments or other entities.
 - a. to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or
 - b. to lands beyond the line of the harbor or bulkhead lines as established or changed by any government, or
 - c. to filled-in lands, or artificial islands, or
 - d. to statutory water rights, including riparian rights, or
 - e. to the area extending from the line of mean low tide to the line of vegetation, or the rights of access to that area or easement along and across that area.
4. Standby fees, taxes and assessments by any taxing authority for the year 2017, and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year.
5. The terms and conditions of the documents creating your interest in the land.
6. Materials furnished or labor performed in connection with planned construction before signing and delivering the lien document described in Schedule A of the Title Commitment, if the land is part of the homestead of the owner.
7. The following matters and all terms of the documents creating or offering evidence of the matters:
 - a. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records. There may be leases, grants, exceptions or reservations of mineral interest that are not listed.
 - b. Rights of parties in possession.
 - c. Easement as shown in instrument from Industrial Properties Corporation to City of Dallas, dated March 12, 1947 and filed in Volume 2800, Page 97.



Deed Records, Dallas County, Texas, and as shown on survey dated August 1, 2014 prepared by Austin J. Bedford, RPLS #4132.

- d. Easement as shown in instrument from Industrial Properties Corporation to City of Dallas, dated April 14, 1958 and filed in Volume 4890, Page 517, Deed Records, Dallas County, Texas and as shown on survey dated August 1, 2014 prepared by Austin J. Bedford, RPLS #4132.
- e. Easement as shown in instrument from DALLAS CABANA, INC. to Dallas Power & Light Company, dated November 17, 1961 and filed in Volume 5673, Page 168, Deed Records, Dallas County, Texas and as shown on survey dated August 1, 2014 prepared by Austin J. Bedford, RPLS #4132.
- f. Memorandum of Lease executed by Al Richard and WEB SERVICE COMPANY, INC., dated December 20, 1996, filed March 20, 1997, recorded in Volume 97055, Page 4957, Deed Records, Dallas County, Texas and as noted on survey dated August 1, 2014 prepared by Austin J. Bedford, RPLS #4132.
- g. Rights or claims, if any, of adjoining property owner(s) in and to that portion of insured property lying between the fence and the east property line as shown on the survey prepared by Austin J. Bedford, RPLS No. 4132, dated August 1, 2014.

Filed and Recorded
Official Public Records
John F. Warren, County Clerk
Dallas County, TEXAS
11/16/2017 01:43:22 PM
\$46.00
201700324616



TAX CERTIFICATE



JOHN R. AMES, CTA
DALLAS COUNTY TAX ASSESSOR/COLLECTOR
1201 Elm Street, Suite 2600
Dallas, Texas 75270

Issued To:

CABANA DEVELOPMENT LLC
1800 VALLEY VIEW LN STE 300
FARMERS BRANCH, TX 75234-0000

Legal Description

TRINITY INDUSTRIAL DISTRICT NO 1
BLKS 401-409 & 3/409 ACS 3.2753
635.55X347.12X629.26X57.71
INT201700324616 DD11152017 CO-DC
0401 000 00000 2000401 000

Parcel Address: 899 N STEMMONS FWY, DA

Legal Acres: .0000

Account Number: 000-001-086-46000000

Certificate No: 103531

Certificate Fee: \$10.00 CREDIT

Print Date: 09/24/2021 09:12:35 AM

Paid Date: 09/24/2021

Issue Date: 09/24/2021

Operator ID: JOANNA_PALACIOS

TAX CERTIFICATES ARE ISSUED WITH THE MOST CURRENT INFORMATION AVAILABLE. ALL ACCOUNTS ARE SUBJECT TO CHANGE PER SECTION 26.15 AND 11.43(i) OF THE TEXAS PROPERTY TAX CODE. THIS IS TO CERTIFY THAT ALL TAXES DUE ON THE ABOVE DESCRIBED PROPERTY HAVE BEEN EXAMINED, UP TO AND INCLUDING THE YEAR 2020. ALL TAXES ARE PAID IN FULL

Exemptions:

Certified Owner:

CABANA DEVELOPMENT LLC
1800 VALLEY VIEW LN STE 300
FARMERS BRANCH, TX 75234-0000

Certified Tax Unit(s):

1002 DALLAS COUNTY
1021 PARKLAND HOSPITAL
1031 DALLAS COUNTY COMMUNITY COLI
1041 SCHOOL EQUALIZATION
1102 DALLAS ISD
1208 CITY OF DALLAS

Table with 2 columns: Description and Amount. Rows include 2020 Value (8,100,000), 2020 Levy (\$219,742.88), 2020 Levy Balance (\$0.00), Prior Year Levy Balance (\$0.00), Total Levy Due (\$0.00), P&I + Attorney Fee (\$0.00), and Total Amount Due (\$0.00).

Reference (GF) No: N/A
Issued By: JOANNA PALACIOS

Handwritten signature of Joanna Palacios

JOHN R. AMES, CTA
DALLAS COUNTY TAX ASSESSOR/COLLECTOR





CITY OF DALLAS

September 27, 2021

ADDRESS: **899 N STEMMONS FWY**

RE: **DCAD 0000108646000000**

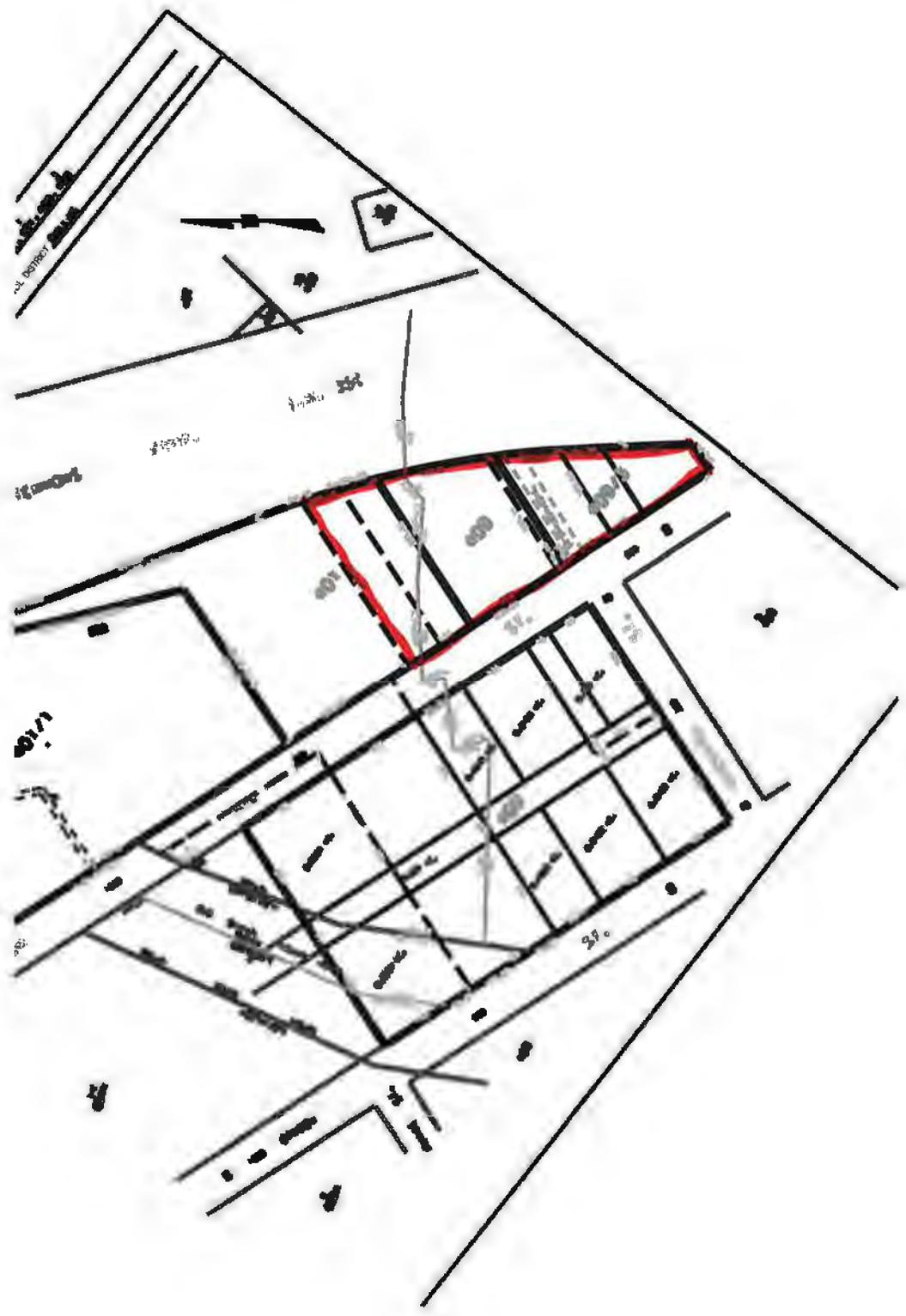
DEAR SIR/MADAM,

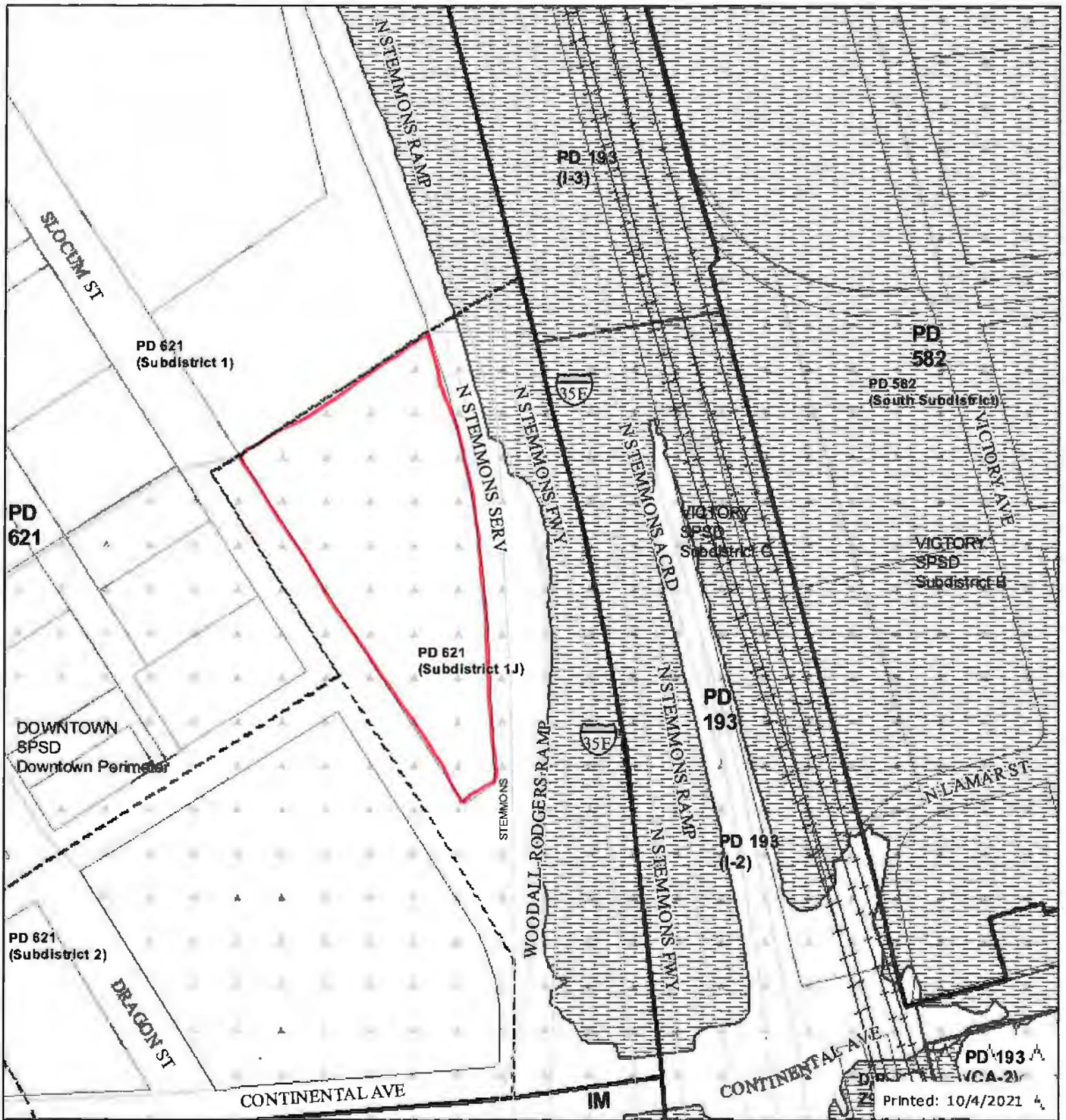
No information was found responsive to your request for identification of City liens in the records of Special Collections. This response does not constitute legal advice regarding the status of the real property at **899 N STEMMONS FWY**. There may be additional liens of record in the County Clerk's office. This response is made to your request for public information and constitutes neither estoppel against the City of Dallas nor relinquishment, waiver, release, or other change in any lien interest of record.

Should you have any further questions please contact Special Collections at 214-670-3438.

Sincerely,

Special Collections Division
Dallas Water Utilities





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 |
| Mills Creek | Dallas Environmental Corridors | SP | NSO_Overlay |
| Peak's Branch | SPSD Overlay | MO Overlay | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions | Historic Subdistricts | Parking Management Overlay |
| Parks | SUP | Historic Overlay | Shop Front Overlay |
| | | Height Map Overlay | |

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





CITY OF DALLAS

September 30, 2021

Mr. Raj Sharma
7309 Bay Chase Drive
Arlington, TX 76016

RE: Denial of an application for Building Project No. 2103011148 for building permits and a certificate of occupancy for a hotel use at 899 N. Stemmons Freeway

Dear Mr. Sharma:

This letter is to inform you that the referenced application is hereby denied because it does not comply with the park land dedication or payment of the fee-in-lieu of dedication that is required for this change of use in accordance with Division 51A-4.1000 of the Dallas Development Code.

Pursuant to Paragraph (1), Section 306.5, "Denial," of Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas City Code, the building official shall deny an application for a certificate of occupancy if the building official determines that the certificate of occupancy requested does not comply with the codes, the Dallas Development Code, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations.

Pursuant to Section 51A-4.1002(a)(2) of the Dallas Development Code, park land dedication requirements apply to a building permit that includes a hotel or motel use. The last certificate of occupancy was issued on January 13, 1997 for a halfway house, which is classified as an institutional and community service use pursuant to Section 51A-4.204 of the Dallas Development Code. The referenced application is for a hotel, which is classified as a lodging use pursuant to Section 51A-4.205 of the Dallas Development Code. Therefore, this application constitutes a change of use; specifically, from a use that does not require park land dedication to a use that does require dedication.

This decision is final unless appealed to the Board of Adjustment in accordance with Section 51A-4.703 of the Dallas Development Code before the 20th day after written notice of the above action.¹ If you have any questions, please contact me at 214-948-4501.

Sincerely,

Megan Winger, AICP, CBO
Assistant Building Official
Building Inspection Division

cc: Dr. Eric A. Johnson, Director (I), Sustainable Development and Construction
Vernon Young, Assistant Director(I), Sustainable Development and Construction
David Session, Interim Building Official
Tammy Palomino, Executive Assistant City Attorney
Bertram Vandenberg, Assistant City Attorney

¹ Section 51A-4.703(a)(2), "Board of Adjustment Hearing Procedures," of Chapter 51A of the Dallas Development Code.

EXHIBIT E

6-22-18

ORDINANCE NO. 30934

An ordinance amending Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code by adding a new Division 51A-4.1000, "Park Land Dedication"; amending Sections 51A-1.105, 51A-8.405, and 51A-10.135; creating a park land dedication program; providing for park land dedication credit in Article X; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 51A-1.105, "Fees," of Article I, "General Provisions," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended by adding a new Subsection (z), "Fee-In-Lieu for Park Land Dedication and Park Development Fees," to read as follows:

"(z) Fee-in-lieu for park land dedication and park development fees.

(1) The developer shall pay the filing fee to the building official. The building official shall deposit fees received in the official city depository not later than the next business day following receipt of the fees.

(2) Fee schedule for park land dedication fee-in-lieu.

Type of Development	Fee-in-lieu
Single family or duplex	\$762.00 per dwelling unit
Multifamily (one bedroom)	\$299.00
Multifamily (two or more bedrooms)	\$600.00

College dormitory, fraternity, or sorority house	\$299.00 per sleeping room
Hotel and motel	\$327.00 per guest room

(3) Park development fees.

Type of Development	Park land development fee
Single family or duplex	\$403.00 per dwelling unit
Multifamily (one bedroom)	\$158.00
Multifamily (two or more bedrooms)	\$317.00
College dormitory, fraternity, or sorority house	\$158.00 per sleeping room
Hotel and motel	\$173.00 per guest room

SECTION 2. That Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended by adding a new Division 51A-4.1000, "Park Land Dedication," to read as follows:

"Division 51A-4.1000. Park Land Dedication.

SEC. 51A-4.1001. PURPOSE.

Dedication of park land provides new residents and visitors with recreational amenities and green infrastructure consistent with the current level of park services for existing residents.

SEC. 51A-4.1002. APPLICABILITY.

(a) In general. Except as provided in this section, park land dedication requirements apply to:

(1) a single family or duplex residential plat or building permit for new construction; and

(2) a development plan or building permit that includes multifamily residential units or a hotel or motel use.

(b) Exceptions. These regulations do not apply to:

(1) plats, replats, or issuance of building permits for new construction on land owned by a governmental unit; and

(2) developments in planned development districts, existing on July 1, 2019, with open space or park land requirements.

(c) Waivers. Only developments that are enrolled in a program administered by the housing and neighborhood revitalization department and authorized by the city council, that furthers the public purposes of the city's housing policy may be eligible to have some or all of these requirements waived.

SEC. 51A-4.1003. DEFINITIONS AND INTERPRETATIONS.

(a) Definitions. In this division:

(1) **COMMUNITY PARK** means a park that is larger than a neighborhood park and serves several neighborhoods.

(2) **DIRECTOR** means the director of the park and recreation department.

(3) **HOTEL AND MOTEL USE** means a hotel or motel use, extended stay hotel or motel use, lodging or boarding house use, or residential hotel.

(4) **MULTIFAMILY USE** means a college dormitory, fraternity, or sorority house, group residential facility, multifamily use, or retirement housing.

(5) **NEIGHBORHOOD PARK** means a park that serves a variety of age groups within a limited area or neighborhood.

(6) **PARK DEDICATION ZONE** means an area as illustrated on the park land dedication map created by the park and recreation department defining the area where dedication may occur.

(7) **PRIVATE PARK LAND** means privately owned park land, common area, or green spaces provided on-site that is accessible to the residents of a development.

(8) **SINGLE FAMILY OR DUPLEX USE** means a duplex use, handicapped group dwelling unit, or single family use.

(b) Interpretations. For uses or terms found in Chapter 51 the regulations in Section 51A-4.702(a)(6)(C) apply in this division.

SEC. 51A-4.1004. DEDICATION.

(a) General. Dedication may be accomplished by dedication to and acceptance of suitable land by the city or by payment of a fee-in-lieu of dedication.

(b) On-site dedication. For single family or duplex residential subdivisions, on-site dedication must be shown on the preliminary and final plat. For multifamily or hotel and motel uses, on-site dedication must be shown on the development plan or other plan submitted with a building permit application.

(c) Off-site dedication. Off-site dedication must be evidenced by a deed to the city that has been accepted by the director.

(d) Deferral. Payment of the fee-in-lieu may be deferred from the time of platting to the time of issuance of building permits.

(e) Dedication calculation. The following formula applies to determine the amount of land required to be dedicated.

(1) For a single family or duplex residential development:

One acre per 100 dwelling units. Less than 100 dwelling units on a pro rata basis.

(2) For a multi-family development:

One acre per 255 single bedroom dwelling units. Less than 255 dwelling units on a pro rata basis.

One acre per 127 two bedroom or greater dwelling units. Less than 127 dwelling units on a pro rata basis.

For a college dormitory, fraternity, or sorority house, one acre for 255 sleeping rooms. Less than 255 sleeping rooms on a pro rata basis.

(3) For a hotel or motel use development:

One acre per 233 guest rooms. Less than 233 guest rooms on a pro rata basis.

(f) Single family and duplex development. For single family or duplex developments, park land dedication may occur at either the subdivision or permitting phase. Dedication is only required once.

(1) Residential subdivision.

(A) Unless dedication has been deferred to the permitting phase, final approval of a single family or duplex residential subdivision plat requires at least one of the following to satisfy the requirements of Subsection (e) of this section including any credits or off-sets authorized pursuant to Section 51A-4.1007

(i) For park land dedicated within the subdivision, a fee simple dedication on the subdivision plat of the required park land approved by the director.

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(ii) For park land dedicated outside the subdivision, evidence of recording in the appropriate real property records of a general warranty deed of the required park land approved and accepted by the director.

(iii) For land platted as a private park, the land must be identified on the plat.

(iv) Confirmation of deposit into the park land dedication fund of the fee-in-lieu of dedication in the amount established pursuant to Section 51A-4.1005.

(B) Land established as a private park for the purposes of this section may not be replatted to change the designation without the approval of the city plan commission. The city plan commission shall not approve a replat that would change the designation unless it determines that:

(i) alternative private park land that satisfies the requirements of this subsection is identified within the original subdivision that meets the dedication requirement; or

(ii) park land dedication requirements are met with an off-site dedication or fee-in-lieu meeting the requirements of this division.

(C) For phased plats, park land dedication plats may only be accepted for the active phase.

(2) Residential building permit. Issuance of a building permit for a single family or duplex development requires at least one of the following to satisfy the requirements of Subsection (e) of this section including any credits or off-sets authorized pursuant to Section 51A-4.1007:

(A) For dedicated park land, evidence of recording in the appropriate real property records of a general warranty deed for the required park land approved and accepted by the director; or

(B) Confirmation of deposit into the park land dedication fund of the fee-in-lieu of dedication in the amount established pursuant to Section 51A-4.1005.

(C) For private park land and publicly accessible private park land, the final plat must be filed or an instrument acceptable to the city attorney must be filed in deed records.

(g) Multifamily and hotel or motel use developments. Issuance of a building permit for a multifamily or hotel or motel use development requires at least one of the following to satisfy the requirements of Subsection (e) of this section including any credits or off-sets authorized pursuant to Section 51A-4.1007:

(1) For dedicated park land, evidence of recording in the appropriate real property records of a general warranty deed for the required park land approved and accepted by the director;

(2) Identification of the required amount of private park on the preliminary and final plats or development plan if applicable; or

(3) Confirmation of deposit into the park land dedication fund of the fee-in-lieu of dedication in the amount established pursuant to Section 51A-4.1005.

(h) Minimum size. If the calculation in Subsection (e) of this section results in less than one acre, the director may require the developer to pay the fee-in-lieu of land dedication as provided in Section 51A-4.1005. The director may approve the dedication of less than one acre of property if the proposed park meets or addresses a need in the park system or presents an opportunity to enhance the city parks system as recommended by the comprehensive plan.

SEC. 51A-4.1005. FEE-IN-LIEU.

(a) The owner of property for which dedication is required may pay a fee-in-lieu of dedication in the amount determined in Subsection (c) of this section, and the director shall not refuse any payment of a fee-in-lieu of dedication.

(1) In some instances, the director may require the developer to pay fees-in-lieu of dedicating land. In making this determination, the director shall consider the following factors:

(A) Whether sufficient park land and open space exists in the area of the proposed development; and

(B) Whether recreation potential for an area would be better served by expanding or improving existing parks, by adding land or additional recreational amenities.

(2) The director shall notify the developer in writing of the director's decision to require a fee-in-lieu of dedication and the reason for the decision. The developer may appeal the decision to the park and recreation board by filing a written notice with the director within 15 days after the date of the decision.

(b) Payment of the fee-in-lieu is required at the time of approval of the final plat or issuance of building permits. Cash payments may be used only for acquisition or improvement of park land and facilities located within the same park dedication zone as the development. Fees may be applied to any type of park site or improvement within the park dedication zone in accordance with park and recreation department prioritization.

(c) For developments in more than one park dedication zone, or that abut another park dedication zone, fees-in-lieu may be spent in either park dedication zone.

(d) For Park Dedication Zone Seven (the Downtown/Uptown Zone) as shown on the parkland dedication zone map, fees-in-lieu may be used to increase connectivity in the city's trail system for the recreational benefit of the residents of that area.

SEC. 51A-4.1006. PARK DEVELOPMENT FEE.

(a) In general. To provide recreational amenities on existing park land for new residents and visitors, a park development fee is required to be paid at the time of dedication or payment of fee-in-lieu. Except as provided in this section, park development fees must be applied to parks within the park dedication zone in accordance with park and recreation department prioritization.

(1) Credit may be provided on a dollar for dollar basis for capital improvements on adjacent park land if the capital improvements:

- (A) meet minimum park and recreation standards;
- (B) are needed and are appropriate for the park land; and
- (C) are accepted by the director.

(2) Credit may be provided on a dollar for dollar basis for capital improvements on publicly accessible private park land if the capital improvements:

- (A) meet minimum park and recreation standards;
- (B) are needed and are appropriate for the park land; and
- (C) are accepted by the director.

(3) A maximum credit of 50 percent of the total requirement may be provided for capital improvements on non-publicly accessible private park land if the capital improvements:

- (A) meet minimum park and recreation standards;
- (B) are needed and are appropriate for the park land; and

(C) are accepted by the director.

(b) Location. For developments in more than one park dedication zone, or that abut another park dedication zone, park development fees may be spent in either park dedication zone.

(c) Timing. Park development fees must be paid at the time all other dedications or payments are made.

SEC. 51A-4.1007. CALCULATIONS, DEDUCTIONS, AND CREDITS.

(a) Initial calculations. The director shall determine the amount of land required to be dedicated, or fees-in-lieu of dedication to be paid, in accordance with Sections 51A-1.105(z), 51A-4.1004, 51A-4.1005, and this section.

(1) The director shall first calculate the amount of park dedication required in Section 51A-4.1004;

(2) If the owner of the subdivision or development elects to pay a fee-in-lieu of dedication, or the director requires the payment of a fee-in-lieu of dedication, the director shall calculate the fee according Section 51A-4.105(z);

(3) If the owner of the subdivision or development chooses to satisfy the requirements of this division by a combination of dedication of land and payment of a fee-in-lieu of dedication, the director shall:

(A) First, calculate the total park dedication requirement;

(B) Second, subtract from the total park land dedication requirement the amount of park land to be dedicated;

(C) Third, calculate amount of fee-in-lieu for the remaining amount of park land dedication required by multiplying the remaining land area by the fee-in-lieu per square foot cost factor.

(b) Deductions and credits.

(1) The number of dwelling units, guest rooms, or sleeping rooms requiring dedication is based on a total increase in dwelling units, guest rooms, or sleeping rooms. The director shall deduct from the initial calculation the number of dwelling units, guest rooms, or sleeping rooms in existence within five years of the approval of the preliminary plat or the issuance of the first building permit for the proposed new development. The burden is on the applicant to demonstrate to the satisfaction of the director that the dwelling units, guest rooms, or sleeping rooms existed before the application for the subdivision plat or building permits generating the dedication requirement;

(2) The director shall reduce the dedication requirement of Section 51A-4.1004 or the fee-in-lieu of dedication requirement of Section 51A-4.1005, as applicable, by one or more of the following credits:

(A) The director shall grant a maximum credit of 100 percent of the total dedication requirement for publicly accessible private park land provided within the subdivision or development generating the dedication requirement that meets the requirements of this paragraph.

(i) To be eligible for credit, publicly accessible private park land must be:

(aa) made accessible to the public on an instrument approved by the city attorney;

(bb) of a size approved by the director to appropriately meet the needs of the development;

(cc) provide landscaping and recreational amenities approved by the director; and

(dd) be open to the public during all times it is accessible to the residents of the development.

(ii) Equipment in a private park must comply with city standards applicable to the type of equipment.

(iii) A publicly accessible private park land instrument must:

(aa) contain a legal description of the development and the publicly accessible private park land;

(bb) be signed by all owners and lienholders of the development property and is binding on lienholders by a subordination clause;

(cc) be approved by the director;

(dd) be approved as to form by the city attorney;

(ee) create a covenant running with the land;

(ff) provide that the owners of the property development are responsible for all general park maintenance at a level consistent with minimum park and recreation standards;

(gg) provide necessary easements for access to the publicly accessible private park land;

(hh) give the city the right, but not the obligation, to take any action needed to make necessary repairs or improvements within the publicly accessible private park land, and to place a lien on all lots within the development until the city has received full compensation for that action;

(ii) provide that the owners of property in the development agree to defend and indemnify the city, and to hold the city harmless from and against all claims or liabilities arising out of or in connection with publicly accessible private park land or publicly accessible private park land instrument;

(jj) provide that it is governed by the laws of the State of Texas; and

(kk) provide that it may only be amended or terminated:

(I) with the consent of all the owners and lienholders of property in the development;

(II) upon the dedication of any park land or payment of a fee-in-lieu necessary to meet the requirements of this section; and

(III) after approval as to form by the city attorney, and approval by the director.

(B) A maximum credit of 50 percent of the total requirement will be given for non-publicly accessible private park land provided within the subdivision or development generating the dedication requirement that meets the requirement of this subparagraph. Private park land eligible for credit must:

(i) be of a size approved by the director to appropriately meet the needs of the development;

(ii) be maintained at a level consistent with minimum park and recreation maintenance standards;

(iii) provide landscaping and recreational amenities approved by the director;

(iv) have equipment that complies with city standards applicable to the type of equipment; and

(v) not be an interior common area.

(C) Developments located within a community unit development with open space meeting the requirements of Subparagraph (A) or Subparagraph (B) may receive credit for park land dedication as provided in this section.

(3) Credits are cumulative, up to a maximum of 100 percent of the required dedication and are only applicable to the original property being developed.

SEC. 51A-4.1008. PARK LAND DEDICATION STANDARDS.

(a) Park land location standards. It is the purpose of this section to ensure that parks are easy to access, can be linked with nearby park and recreational facilities, and are generally open to public view or accessible by easement to benefit area development, enhance the visual character of the city, protect public safety, and minimize conflict with adjacent land uses. Land proposed to be dedicated for parks must meet the following location standards:

(1) Where physically feasible, parks should be bound by streets or by other public uses (e.g., school, library, recreation center) to facilitate access and possible joint use.

(2) Where residential lots directly abut a park, consideration should be given to future owners' access to the facility and protection from future park uses, such as lighting and noise.

(3) Dedicated park land must be in a location that is accessible by the public.

(4) The director may accept dedication of property within the park dedication zone that provides for access to parks other than community and neighborhood parks.

(5) The land must comply with current park standards.

(b) Park land acceptance standards.

(1) The city may accept or reject an offer of dedication, after consideration of the recommendation of the director, and require the payment of fees in lieu of dedication as provided in Section 51A-4.1005.

(2) Land dedicated for park and recreational areas must be of such size, dimensions, topography and general character as is reasonably required by the city for the type of use necessary to meet the current park system requirements.

(3) Land proposed to be dedicated for parks must generally meet the following requirements. The director may recommend the acceptance of the dedication of property that does not meet these criteria if the property is adjacent to an existing park or other public space, provides access to a park, or otherwise presents an opportunity to enhance the city parks system consistent with the park and recreation department's comprehensive plan update.

(A) Minimum size and configuration standards.

(i) Unless determined otherwise by the director pursuant to Subsection 51A-4.1004(h), the minimum size of land dedicated for a park is one acre.

(ii) Land dedicated for a park must be a contiguous piece of property that can physically accommodate improvements associated with a neighborhood or community park.

(B) Location and access standards.

(i) The land must meet the applicable location requirements of Paragraph (4).

(ii) The land must have connectivity to a public street appropriate for the size and use of the park.

(C) Physical characteristics standards.

(i) Unless otherwise approved by the director, land must be vacant and cleared of nonvegetative material.

(ii) The land must be in full compliance with all ordinances, rules, and regulations of the city.

(iii) Except when approved by the director, the land must not have severe slopes or unusual topography that would not allow the park to be used for its intended purpose without recontouring the property.

(D) Minimum environmental conditions standards. Unless provided otherwise in rules promulgated by the director, the land must be reasonably free of recognized environmental conditions.

(i) If land is proposed to be dedicated by plat, before submittal of a final plat, the applicant shall submit either a phase I environmental assessment that shows no environmental conditions exist on the property or a phase II environmental assessment that shows no remediation is required.

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(ii) If land is proposed to be dedicated by separate instrument, before acceptance the applicant shall submit either a phase I environmental assessment that shows no environmental conditions exist on the property or a phase II environmental assessment that shows no remediation is required.

(4) Land in a federally designated floodplain or floodway may be dedicated as park land if the land otherwise meets the acceptance standards for park land in this section and all other ordinances, rules, and regulations of the city. Floodplain and floodway areas may only be used to meet a maximum of 50 percent of the dedication requirements. Stormwater detention/retention areas and associated access easements do not meet the standards for acceptance of park land.

(5) For developments in more than one park dedication zone, property may be dedicated in either park dedication zone.

SEC. 51A-4.1009. PARK LAND DEDICATION FUND.

(a) In general.

(1) There is hereby established a special fund for the deposit of all sums paid in lieu of land dedication under this section. The fund will be known as the "Park Land Dedication Fund." Except as provided in this section and Section 51A-4.1005, funds will only be released from the Park Land Dedication Fund to buy, build, or enhance a park within the park dedication zone, from which the funds originated.

(2) Fees paid into the park land dedication fund must be spent by the city within 10 years after the payment of the required fees. If the funds cannot be spent within the 10 year period, the owners of the property on the last day of the 10 year period will be entitled to a refund of the unexpended sum upon request. The owners of the property, as shown on the current tax roll or proven by other instrument, must request a refund within one year of the expiration of the 10 year period. The request must be made in writing to the director.

(3) Where funds have been paid or a dedication for a phased development has been made in accordance with this section, and the original developer does not complete all phases of the entire development, credit for any prior dedication or payment will be applied to subsequent replats or development plans for the same land on a pro-rata basis by dwelling unit for a period of 10 years. Increased density requires the dedication of additional park land or payment of additional fees.

(b) Expenditures. The park land dedication fund must be used for the acquisition and improvement of parks and may not be used for park maintenance or city staff overhead expenses. Indirect costs reasonably incurred in connection with park acquisition and improvement, such as appraisal fees, environmental assessment costs, legal expenses, and engineering and design costs, are limited to a maximum of 10 percent of total acquisition or improvement costs.

SEC. 51A-4.1010. TREE MITIGATION.

(a) In general. Trees on dedicated park land may be used to meet tree mitigation requirements in accordance with Article X.

(b) Tree mitigation credits. To be eligible for Article X tree mitigation credits, dedicated park land and private park land must meet the conservation easement standards in Sections 51A-10.135(f)(1), 51A-10.135(f)(3), and 51A-10.135(f)(5).

(c) Conservation easements. Park land dedication requirements may be met on an acre for acre basis for any land dedicated as a conservation easement under Article X that meets the conservation easement standards in Article X and the requirements for publicly accessible private park land in Section 51A-4.1007(b)(2)(A)(i) and is accepted by the director.

SEC. 51A-4.1011. APPEALS.

Except for appeals of apportionment of exactions, all appeals of the director's decisions are appealable to the park and recreation board following the same procedure as an appeal of an administrative official's decision to the board of adjustment. Notice of appeal must be made within 15 days of the date of that decision.

SEC. 51A-4.1012. REVIEW.

The director shall review this ordinance every five years from the effective date."

SECTION 3. That Section 51A-8.405, "Apportionment of Exactions," of Division 51A-8.400, "Procedures," of Article VIII, "Plat Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"SEC. 51A-8.405. APPORTIONMENT OF EXACTIONS AND PARK LAND DEDICATION.

(a) See Section 51A-1.109 for regulations and procedures concerning apportionment of exactions.

(b) See Division 51A-4.1000 for regulations and procedures concerning park land dedication."

SECTION 4. That Subsection (h), "Reforestation Fund," of Section 51A-10.135 — "Alternative Methods of Compliance with Tree Replacement Requirements," of Division 51A— 10.130, "Urban Forest Conservation," of Article X, "Landscape and Tree Conservation Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(h) Park land dedication. Preserved protected trees on dedicated park land and private park land may be used to meet tree mitigation requirements in accordance with Subsection (f).

(1) Except as provided in this subsection, to be eligible for tree mitigation credits, dedicated park land and private park land must meet the conservation easement standards in Sections 51A-10.135(f)(1), 51A-10.135(f)(3), and 51A-10.135(f)(5).

(2) Park land dedication requirements may be met on an acre for acre basis for any land dedicated as a conservation easement under this section that meets the conservation easement standards in this section and the requirements for publicly accessible private park land in Section 51A-4.1007(b)(2)(A)(i) and is accepted by the director of the park and recreation department.

[Reforestation fund:

~~(1) Mitigation requirements may be met by making a payment into a special city account, to be known as the Reforestation Fund in accordance with this subsection.~~

~~(2) The director shall administer the reforestation fund to purchase trees to plant on public property, to create an urban forest master plan and to update it periodically, to fund a staff position for managing and directing the fund for planting and urban forest education, or to acquire conservation easements or wooded property. A minimum of 50 percent of all funds provided for each fiscal year must be available to planting trees on public property or to acquire conservation easements or wooded property.~~

~~(3) The amount of the payment required is calculated by using the formula for appraising the value of a tree, as derived from the most recent edition of the Guide for Plant Appraisal published by the Council of Tree & Landscape Appraisers, unless another publication is designated by the building official. If more than one tree is being removed or seriously injured or not planted, the values of the trees are added when calculating the payment required.~~

~~(4) All property purchased through this fund must be located within the city of Dallas.]"~~

SECTION 5. That Section 51A-10.135, "Alternative Methods of Compliance with Tree Replacement Requirements," of Division 51A-10.130, "Urban Forest Conservation," of Article X "Landscape and Tree Conservation Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended by adding a new Subsection (i), "Reforestation Fund," to read as follows:

"(i) Reforestation fund.

(1) Mitigation requirements may be met by making a payment into a special city account, to be known as the Reforestation Fund in accordance with this subsection.

(2) The director shall administer the reforestation fund to purchase trees to plant on public property, to create an urban forest master plan and to update it periodically, to fund a staff position for managing and directing the fund for planting and urban forest education, or to acquire conservation easements or wooded property. A minimum of 50 percent of all funds provided for each fiscal year must be available to planting trees on public property or to acquire conservation easements or wooded property.

(3) The amount of the payment required is calculated by using the formula for appraising the value of a tree, as derived from the most recent edition of the *Guide for Plant Appraisal* published by the Council of Tree & Landscape Appraisers, unless another publication is designated by the building official. If more than one tree is being removed or seriously injured or not planted, the values of the trees are added when calculating the payment required.

(4) All property purchased through this fund must be located within the city of Dallas."

SECTION 6. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 7. That Chapter 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 8. That any act done or right vested or accrued, or any proceeding, suit, prosecution had or commenced in any action before the amendment or repeal of any ordinance, part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 9. That the terms and provisions of this ordinance are severable and governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 10. That this ordinance shall take effect on July 1, 2019 and it is accordingly so ordained.

APPROVED AS TO FORM:

LARRY E. CASTO City Attorney

By _____
Assistant City Attorney

JUN 27 2018

Passed _____

SECTION 8. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 9. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 10. That this ordinance shall take effect on July 1, 2019 and it is accordingly so ordained.

APPROVED AS TO FORM:

LARRY E. CASTO City Attorney

By _____
Assistant City Attorney

JUN 27 2018

Passed _____

EXHIBIT F

ST Oak Cliff Dallas, LLC

October 19, 2021

Mr. Dennis Ware
City of Dallas – Dallas Park and Recreation Department
1500 Marilla, 6FS
Dallas, TX 75201

Subject: Parkland Development Fee Credit

Dear Mr. Ware,

This letter is our formal application request to be granted the applicable Parkland Development Credits/Offsets we qualify for. Specifically, we are seeking a 50% credit to the “Park Development Fee” and a 50% credit to the “Fee-In-Lieu for land dedication”. We have worked diligently to provide industry leading amenities and open park / green space for our residents to enjoy. We sincerely appreciate your review and consideration of our development.

Our development is a market rate, Class A, multifamily community located at 1210 N. Cockrell Hill Rd. Dallas, TX 75211. The development is situated on 11.076 Acres. We have plans to build 318 total dwelling units, consisting of 36 studios, 168 one bedrooms, 87 two bedrooms, and 27 three bedrooms. The community has 12 total buildings, including the leasing/club area and maintenance building. Future residents will enjoy recreational amenities such as a pool, indoor gym, co-working areas, common area with shuffleboard, tv’s, and a kitchen, outdoor yoga, outdoor game area, grilling stations, fire pits, hammocks, walking paths, a dog park, first floor private yards, and more. Amongst these amenities are large park / green spaces.

We will not be dedicating land as we have chosen to develop the entire site for our resident’s enjoyment. As such, we are to pay a comprehensive fee of \$197,766.00. Of this, \$129,396 is applicable to the fee-in-lieu for land dedication and \$68,370 is applicable to the park development fee. These totals were calculated by Greg Franklin in Q-Team, who is our Senior Plans Examiner / Zoning representative.

Based on our development plans, I believe we qualify for the private park credits the ordinance provides us. I am requesting a review and determination for our eligibility to receive a 50% credit toward the fee-in-lieu for land dedication and a 50% credit for the park development fee. Based on 50% of the fee calculations above, we are seeking \$64,698 and \$34,185, respectively, for a total credit of \$98,883.

We have several recreational amenities that would qualify for the park development fee credit but have specifically identified the pool as our primary recreational amenity. Our estimated cost of the pool is \$187,000. Please see ***Exhibit C*** for our contractor’s proposal. ***Exhibit A*** highlights the area in which this recreational amenity will be located. This amenity will be surrounded by three buildings and the clubhouse, so several dwelling units have poolside views, and the leasing, clubhouse, and fitness center will also benefit with this view.

To qualify for the fee-in-lieu for land dedication, we have plans to develop two parks, including large open green spaces and recreational amenities within. The total area of the “Primary Park” is 22,710 SF (.52 Acres). The recreational amenities within this park include i) a seated gas fire pit, ii) dedicated areas for yard games and yoga / fitness stations, iii) walking paths, iv) luxury lounging hammocks, v) freestanding pergolas for entertainment, vi) outdoor BBQ grills, and vii) chairs and tables for seating and eating. In addition to this park

area, we have plans to develop a “Secondary Park”, which includes a dog park, recreational pet amenities, and adjacent green space. The dog park area alone will be approximately 8,500 SF and the additional green space will be of similar size for residents to enjoy. The pet amenities will include a watering station, shaded area, and various pet park structures. Please see **Exhibit B** for the location of these two park areas, each are labeled accordingly. The costs for both parks are included within **Exhibit C**, which we anticipate will exceed \$200,000 for the recreational amenities alone. Also included within **Exhibit C** is our total landscaping costs for the project, a majority of which is attributable to the open areas we are developing for parks and green space.

There are two contractors identified in **Exhibit C**, i) Carter Pool N Spa, who is responsible for all recreational amenity work, and ii) Gold Landscaping, who is responsible for all landscaping and park / greenspace work.

To be certain, we understand and acknowledge both credits are contingent upon the successful installation and perpetual maintenance of the identified amenities. If we are granted the credits and fail to perform the specified work or maintain the identified recreational amenities, the credits are to be immediately paid back to the City of Dallas.

Again, thank you for your consideration of our development. It is our objective to provide industry leading multifamily communities, centered around green space and amenities for prospective residents to live, work, and play for decades to come. We believe we’ve accomplished this goal and have demonstrated significant investment to do so. Please let me know what other information I can provide.

Sincerely,

A handwritten signature in black ink that reads "Griffin S. Neal". The signature is written in a cursive, flowing style.

Owner & President
ST Oak Cliff Dallas, LLC

EXHIBIT A

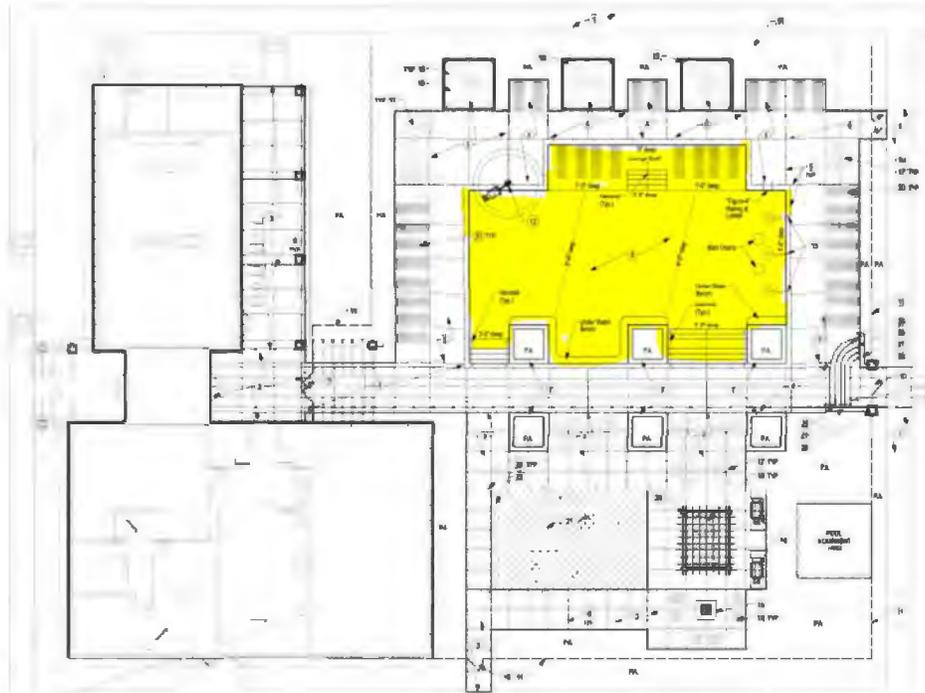
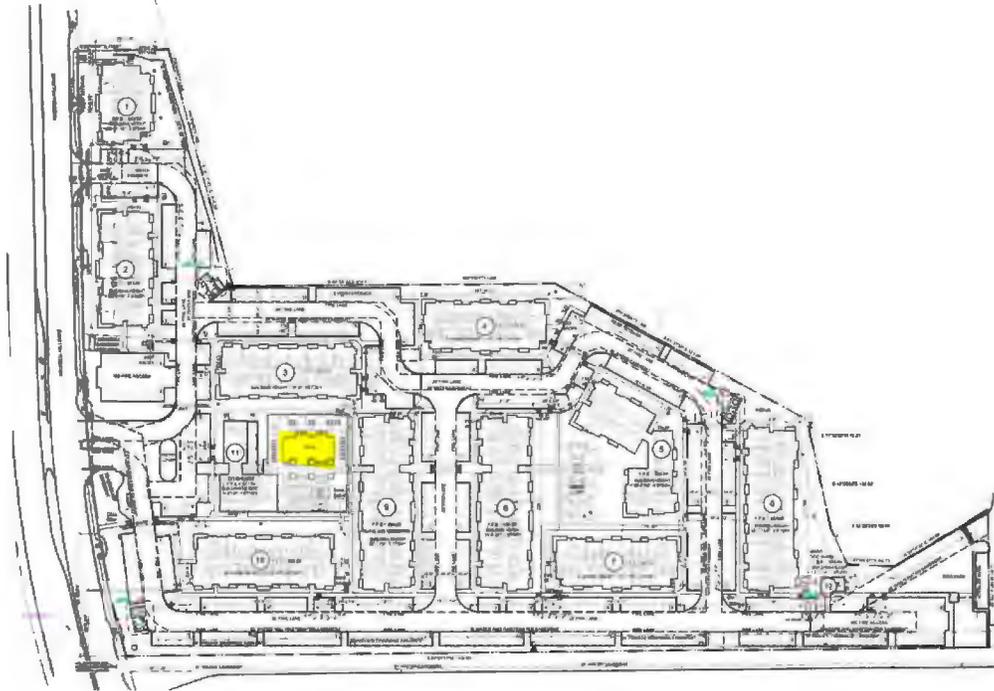
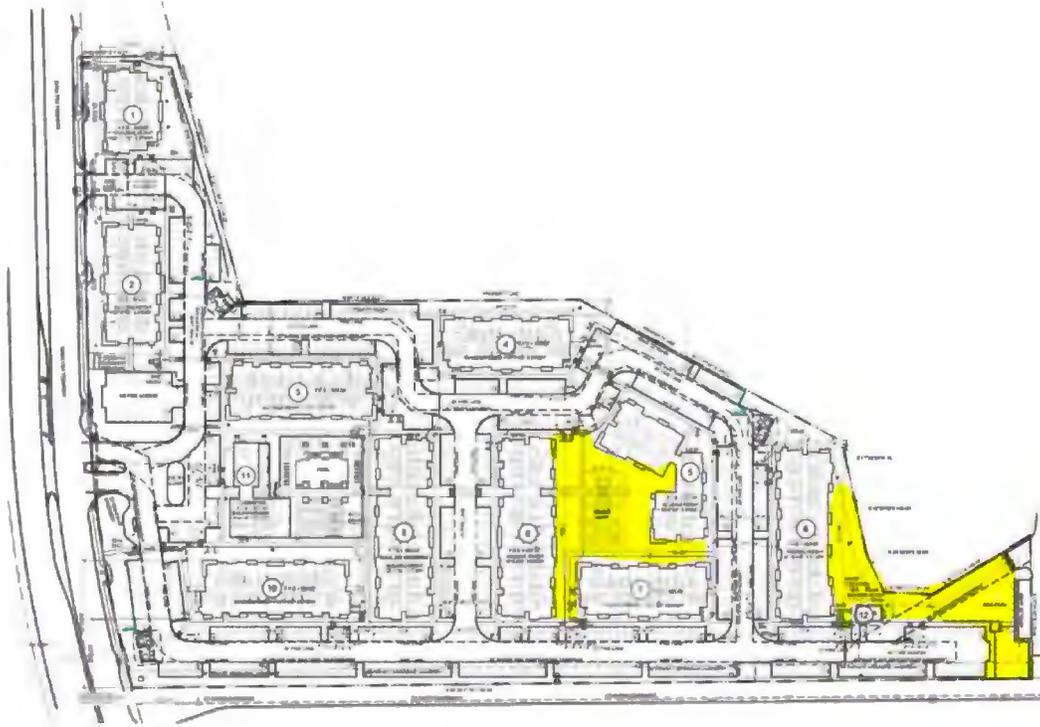


EXHIBIT B



Primary Park



Secondary Park



EXHIBIT C

CARTER POOL & SPA
9025 LAKE OAK CIRCLE
FT WORTH, TEXAS 76118
OFFICE 817-257-8774 FAX 817-258-8778

PAGE 3

PERGOLAS	(2) PRE-FABRICATED PERGOLA 10' X 12' INCLUDES ENGINEERED FOOTINGS AND INSTALLATION
PLANTER CURBS	(6) CONCRETE CURBS 12" X 18" INTEGRAL COLORED, CHAMFERED EDGE
GRILL STATIONS	(4) PREFABRICATED GRILL STATIONS WITH STUCCO FINISH PER PLANS INCLUDES GRILLS AND DOORS GAS AND ELECTRIC BY OTHERS
FESTOON LIGHT POST AND PIERS	4' X 10" PIERS WITH GALVANIZED IRON INCLUDES ENGINEERED FOOTING 10' GALVANIZED POST
HAMMOCKS AND MOUNTING POST	6" POST AND 2' X 2' X 2' PIER
NOT INCLUDED	911 PHONE DRINKING FOUNTAIN ROCK CHARGES SOILS CONDITIONING GAS LINES OR GAS CONNECTIONS
INCLUDED	HANDICAP LIFT CLEANING EQUIPMENT SIGN PACKAGE SAFETY EQUIPMENT

POOL	187,000.00
DECK	130,000.00
TURF	12,000.00
PLANTER CURBS	11,700.00
PERGOLAS*	28,000.00
CABANAS*	27,000.00
GRILLS	35,700.00
FESTOON AND HAMMOCK POST	30,000.00

**THANK YOU
JOHN AND SHONDA CARTER**



November 3, 2021

Mr. Griffin S. Neal
Owner & President, ST Oak Cliff Dallas, LLC
1910 Pacific Ave, Suite 13350,
Dallas, TX 75201

Re: Park Land Dedication Credit Request – 1210 N. Cockrell Hill Rd.

Dear Mr. Neal:

In response to your October 19, 2021, request for credits toward Park Land Dedication Ordinance requirements, I submit to the following:

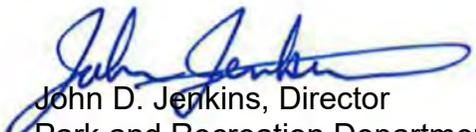
- **Granted:** 50% credit toward the “Park Development Fee”
 - 318 units [One Bed - 204 & Two Bed – 114]
 - Recreational Amenity: Swimming Pool
[as per site plan and cost estimated - \$187,000]
 - \$68,370 – Initial fee
 - **\$34,185** – Fee after applied credit

- **Denied:** 50% credit toward the “Fee-In-Lieu”
 - *Rationale* – Proposed primary and secondary park locations are considered to be recreational amenities only, not a park.
 - **\$129,396** – No credit applied

In summary, your total financial obligation to satisfy the requirements of this ordinance is **\$163,581**.

Should you have any questions, please contact Dennis Ware at 214-671-5095.

Thank you,



John D. Jenkins, Director
Park and Recreation Department

Memorandum



CITY OF DALLAS

DATE November 2, 2021

TO James McKey, Assistant Building Official, DEV

SUBJECT **Park Land Dedication Credit Request – 1210 N. Cockrell Hill Rd.**

On October 19, 2021, Dallas Park and Recreation Department (DPARD) received a request to apply Park Land Dedication (PLD) credits towards a proposed development in southern Dallas (see attached). Upon review, DPARD has issued a response to the applicant – ST Oak Cliff Dallas Inc. (see attached).

The proposed development is a 318-unit multifamily complex. Without any credits applied, the PLD cost would be \$197,766. Although the developer applied for credits towards the “FEE-IN-LIEU” and “Park Development Fee”, he was not granted both. DPARD has issued a 50% credit towards the “Park Development Fee” only:

- \$68,370 – Initial fee
- **\$34,185** – Fee after applied credit

In summary, Total PLD cost for this project should be itemized as follows:

- FEE-IN-LIEU -- \$129,396
- Park Development Fee -- \$34,185
- **Total: \$163,581**

Should you have any questions or concerns regarding this matter, please don't hesitate to let me know.

Dennis Ware

Dennis Ware, Manager
Park and Recreation Department

c: Ryan O' Connor, Assistant Director, DPARD
Megan Wimer, Assistant Building Official, DEV
Bryant Thompson, DEV

FILE NUMBER: BDA201-098(PD)

BUILDING OFFICIAL'S REPORT: Application of Mehrdad Moayedı represented by Tommy Mann of Winstead PC for variances to the side yard and front yard setback regulations at 3601 Routh Street. This property is more fully described as Lots 11, 12, and 13, within Block 7/1012, and is zoned an MF-3 Multiple Family Subdistrict within Planned Development District No. 193, which requires a front yard setback of 10 feet for the portion of a structure less than 36 feet-in-height and 25 feet for the tower portion of a structure greater than 36 feet-in-height, and requires a side yard setback of 41 feet for the tower portion of a structure greater than 36 feet-in-height. The applicant proposes to construct and maintain a multifamily structure and provide a 10-foot side yard setback for the tower portion greater than 36 feet-in-height, which will require a 31-foot variance to the side yard setback regulations on both side yards, and to provide no (zero) front yard setback for the portion less than 36 feet-in-height, which will require a 10-foot variance to the front yard setback regulations, and to construct a multifamily tower structure and provide a 10-foot front yard setback for the portion greater than 36 feet-in-height, which will require a 15-foot variance to the front yard setback regulations on both Routh and Hood street frontages.

LOCATION: 3601 Routh Street

APPLICANT: Mehrdad Moayedı represented by Tommy Mann of Winstead PC

REQUESTS:

The applicant proposes to construct and maintain a multifamily dwelling unit and provide a 10-foot side yard setback for tower portions greater than 36 feet-in-height and a provide a zero-foot front yard setback for the portion less than 36 feet-in-height.

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.

State Law/HB 1475 effective 9-1-21

- the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:
 - (a) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code;
 - (b) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
 - (c) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
 - (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (e) the municipality consider the structure to be a nonconforming structure.

STAFF RECOMMENDATION (both variances):

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots in the MF-3 Multiple Family Subdistrict considering its restrictive lot area of 18,955 square feet, two front yards, and topography changes of approximately eight feet ensuring that the site cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning. The applicant submitted a document (**Attachment A**) indicating the restrictive slope and area.

BACKGROUND INFORMATION:

Zoning: all within PDD No. 193 with a D Liquor Control Overlay

<u>Site</u>	MF-3 Multiple Family Subdistrict
<u>North:</u>	MF-3 Multiple Family Subdistrict
<u>South:</u>	MF-3 Multiple Family Subdistrict
<u>East:</u>	MF-3 Multiple Family Subdistrict
<u>West:</u>	O-2 Office Subdistrict and MF-3 Multiple Family Subdistrict

Land Use:

The subject site is undeveloped while the surrounding properties are developed with residential uses consisting of multifamily or more specifically, condominiums.

Zoning/BDA History:

There have not been any related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

The requests for variances to the front yard and side yard setbacks focus on constructing and maintaining a multifamily structure and providing a 10-foot side yard setback for the tower portion greater than 36 feet-in-height, which will require a 31-foot variance to the side yard setback regulations on both side yards, and to provide no (zero) front yard setback for the portion less than 36 feet-in-height, which will require a 10-foot variance to the front yard setback regulations, and to construct a multifamily tower structure and provide a 10-foot front yard setback for the portion greater than 36 feet-in-height, which will require a 15-foot variance to the front yard setback regulations on both Routh and Hood street frontages.

DCAD records indicate that the subject property was developed with a multifamily development prior to 2018, however the multifamily structure was razed between 2019 and 2021. The property is proposed to be developed with a four-story condominium structure consisting of 20 dwelling units and a total maximum height of approximately 62 feet. Additionally, the subject property is 18,955 square feet in area, contains two front yards, and has topography changes of approximately eight feet across the length of the site.

Section 51P-193.118(b)(6) states that in an MF-3 Subdistrict, the following minimum front yard setbacks must be provided for all building and structures:

- (A) 10 feet for the first 36 feet in height.
- (B) 25 feet for all portions of a building above 36 feet in height. (See Exhibit 193D-6.)

The above section of the code ensures that for the first 36 feet of the structure fronting along Routh Street and Hood Street a minimum setback of 10 feet is required. Since the structure is proposed to have a maximum height of 62 feet measured from average grade, the remaining 26 feet-in-height is required to provide the additional setback of 25 feet. Since the site has two front yards, the size and location of the structure is further encumbered by the additional front yard and tower setback.

Section 51P-193.119(b)(6)(7) states in the MF-3 and MF-4 subdistricts, if a building is erected or altered to exceed 36 feet-in-height, an additional setback must be provided that is equal to one-half of the total height of the building, up to a maximum setback of 50 feet. The additional setback is only required for that portion of a building that exceeds 36 feet-in-height.

Thus, compliance with this section of the code would require the structure to provide the ten-foot side yard with an additional 31 feet (half of the maximum height of 62) for a total setback of 41 feet. Since the property has two front yards, this maintains that the property also has two side yards and no rear yard. Therefore, the northern portion of the structure and the western portion of the structure are considered side yards and must provide a 41-foot side yard setback. Additionally, this section of the code also provides a 20 percent reduction for one side yard, if an additional setback is required. Thus, one side yard could provide a 32-foot-eight-inch side yard setback while the other must provide a 41-foot side yard setback.

The property's slope increases the height of the building since the building will be measured from the average grade rather than grade. This also imposes an additional setback triggered by the increase in height. Considering the restrictive area and slope of the property, the additional setbacks would further restrict the buildable area by more than 1,200 square feet.

The applicant has the burden of proof in establishing the following:

- That granting the variance to the floor area regulations for structures accessory to single-family uses 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 zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing

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

As of October 8, 2021, no letters have been submitted in support of or in opposition to the request.

Ultimately, the four requests are independent, and the board must consider the standards and evidence presented for each request.

If the board were to grant the variances to the front yard and side yard setbacks and impose the submitted site plan as a condition, the building footprints of the structures on the site would be limited to what is shown on the plan. However, granting these requests will not provide any relief to the Dallas Development code regulations.

Timeline:

August 20, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

Sept. 16, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel A.

Sept. 17, 2021: The 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 September 28, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the October 8, 2021 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.

Sept. 30, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the October public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Transportation Senior Engineer, the Board of

Adjustment Senior Planner, and the Assistant City Attorney to the Board. No review comment sheets were submitted in conjunction with this application.

October 8, 2021: The applicant provided additional evidence with renderings (**Attachment A**).

October 19, 2021: The Board held the request under advisement until the November 16, 2021, Panel A hearing. To date, no updates have been provided.

BOARD OF ADJUSTMENT ACTION: October 19, 2021

APPEARING IN FAVOR: Tommy Mann 2728 N. Harwood St.#500 Dallas, TX
Daniel Box 2728 N. Harwood St.#500 Dallas, TX
William Ledbetter 1800 Valley View Ln. Dallas, TX

APPEARING IN OPPOSITION: Robert Schwartz 3617 Routh St. Dallas, TX

MOTION: **Lamb**

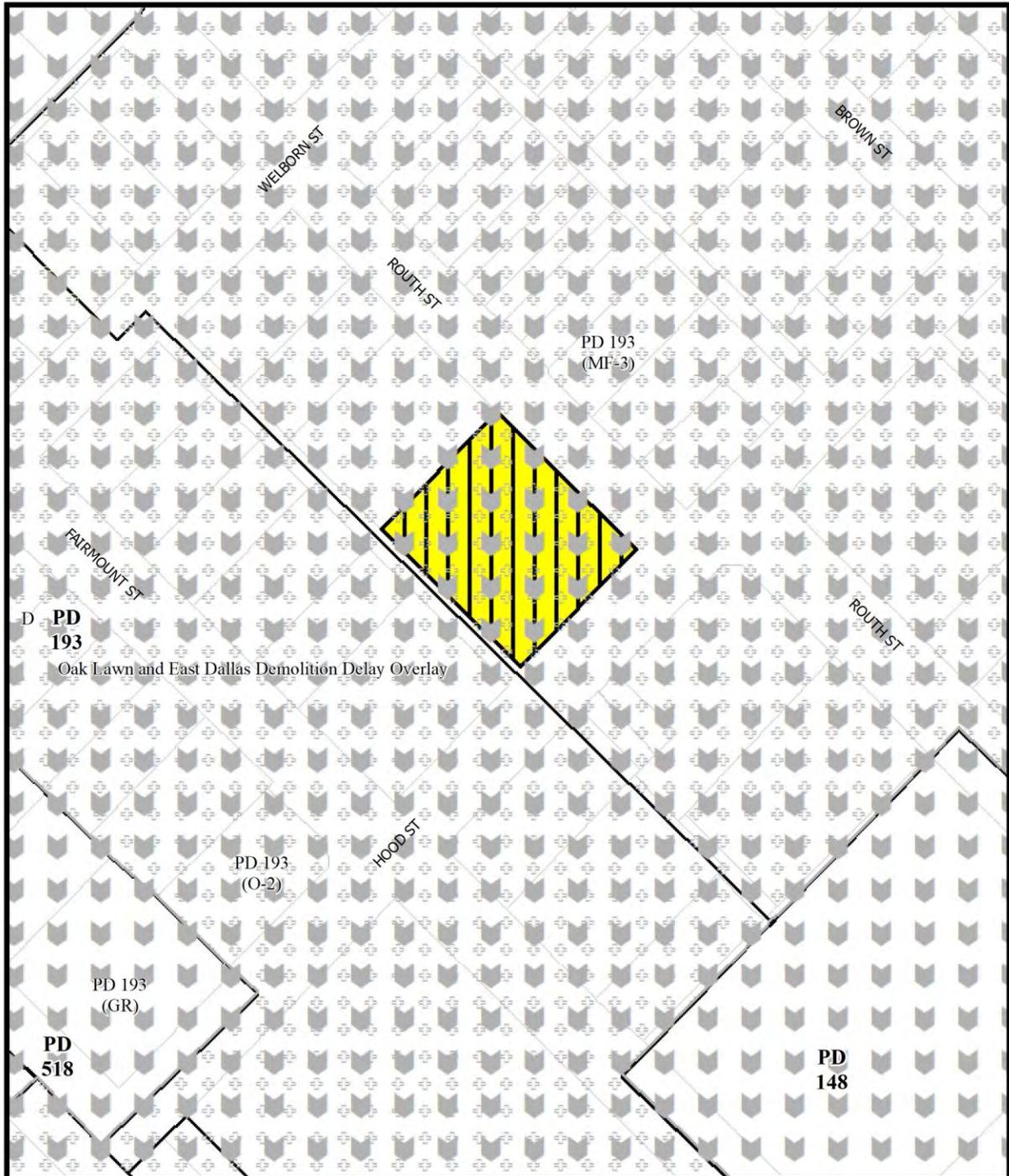
I move that the Board of Adjustment, in Appeal No. BDA 201-098, hold this matter under advisement until **November 16, 2021**.

SECONDED: **Gambow**

AYES: 5 – Gambow, Lamb, Halcomb, Narey, Neumann

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

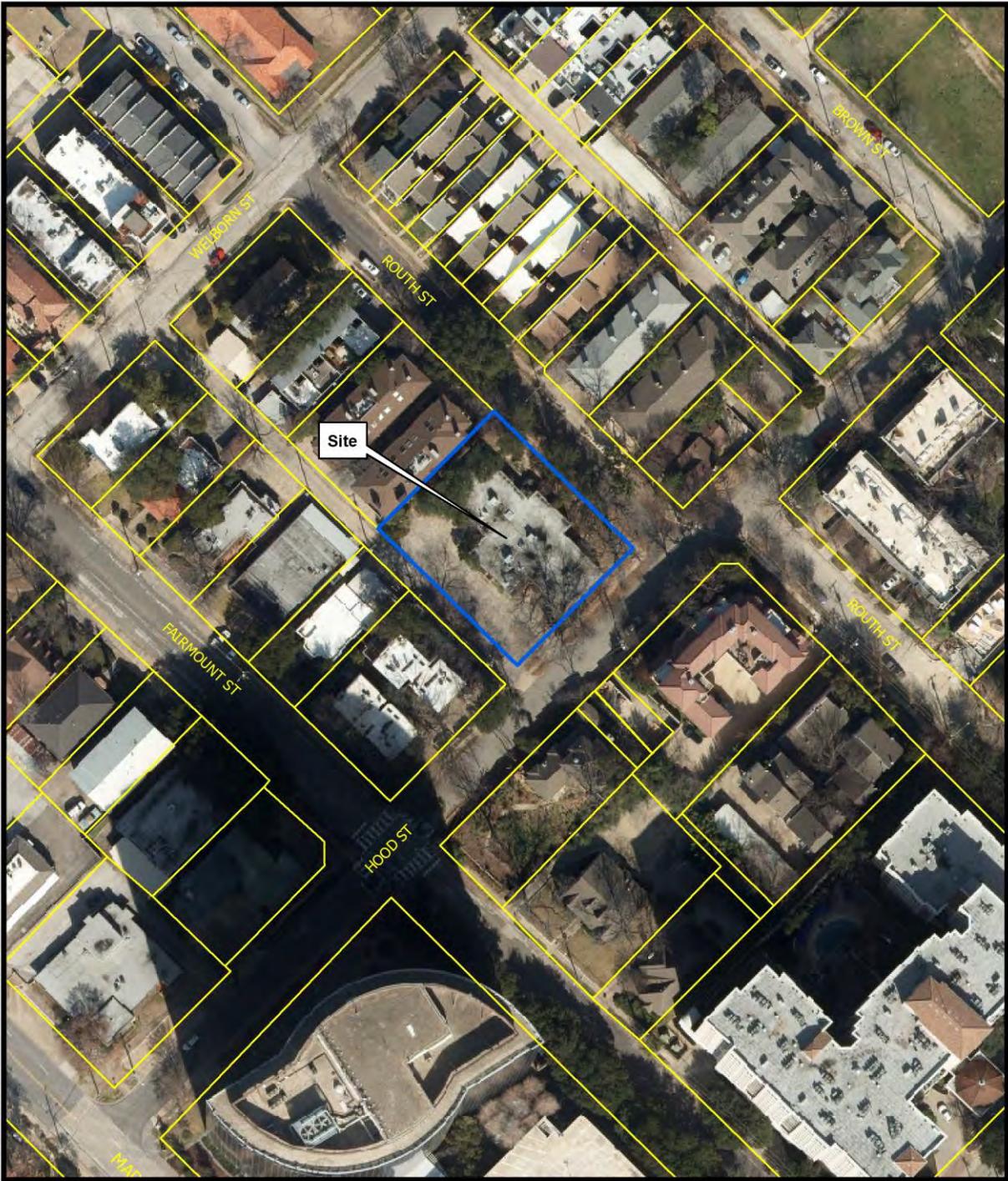


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ZONING MAP

Case no: BDA201-098

Date: 9/24/2021

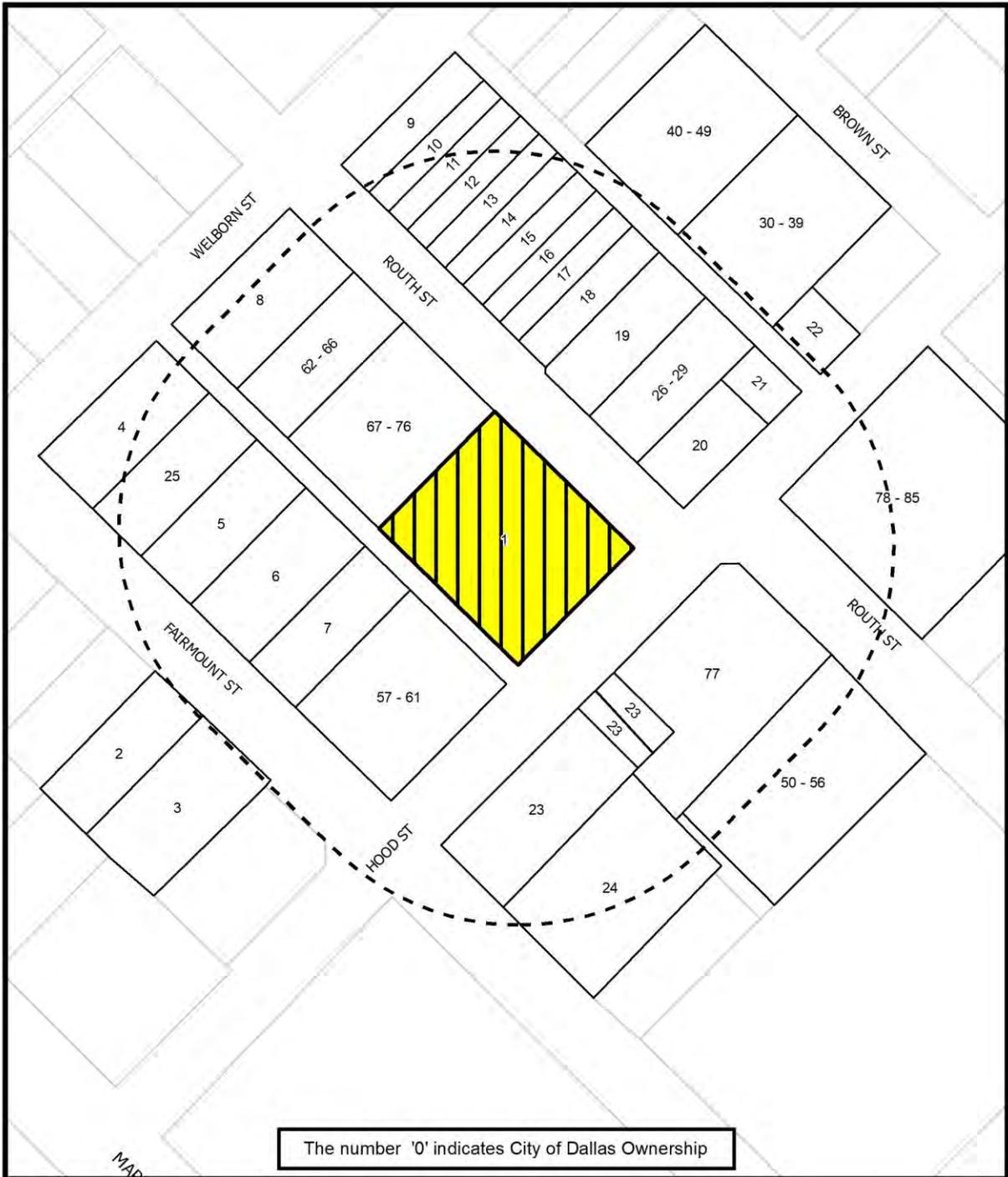


1:1,200

AERIAL MAP

Case no: BDA201-098

Date: 9/24/2021



The number '0' indicates City of Dallas Ownership



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
85 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA201-098**

Date: **9/24/2021**

09/24/2021

Notification List of Property Owners

BDA201-098

85 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3601 ROUTH ST	CRESCENT ESTATES CUSTOM HOMES LP
2	3613 FAIRMOUNT ST	STEPHENS KAREN L
3	3611 FAIRMOUNT ST	TEXAS SCOTTISH RITE HOSPITAL
4	3622 FAIRMOUNT ST	RP TURTLE CREEK LTD PS
5	3618 FAIRMOUNT ST	RP STANFORD LIMITED
6	3614 FAIRMOUNT ST	WESTLAKE FAIRMOUNT LTD
7	3610 FAIRMOUNT ST	PENN PROPERTIES LLC
8	2512 WELBORN ST	SCOPE PROPERTIES LTD
9	3630 ROUTH ST	SALZER KARMA JO
10	3628 ROUTH ST	3628 ROUTH LLC
11	3626 ROUTH ST	JAYARAM NITIN B
12	3624 ROUTH ST	SHOVER MATTHEW
13	3622 ROUTH ST	ARNOLD SCOTT
14	3620 ROUTH ST	FITZPATRICK MICHAEL C
15	3618 ROUTH ST	MCKEON JAMES &
16	3616 ROUTH ST	ALMOND CAROL
17	3614 ROUTH ST	FAUST DANNY K
18	3612 ROUTH ST	LKA REVOCABLE TRUST
19	3610 ROUTH ST	CONDON JOHN K
20	3600 ROUTH ST	HOOD & ROUTH PARTNERS LLC
21	2607 HOOD ST	SHUBERT LLOYD J JR
22	2609 HOOD ST	MCCLAIN CAROLYN
23	3534 FAIRMOUNT ST	MM 3534 FAIRMONT LLC
24	3524 FAIRMOUNT ST	G L F PARTNERS LLP
25	3620 FAIRMOUNT ST	Taxpayer at
26	3606 ROUTH ST	KAISER SARA BETH &

09/24/2021

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	3606 ROUTH ST	NASIRIAN AIDA
28	3606 ROUTH ST	SONDAG MONIQUE
29	3606 ROUTH ST	SHERENIAN EVA M
30	3605 BROWN ST	DOMINICK MIKE & MARY
31	3605 BROWN ST	PNM HOLDINGS LLC
32	3605 BROWN ST	FIGUEROA ABBY M
33	3605 BROWN ST	WESTBROOK DONALD E
34	3605 BROWN ST	THOMPSON WILLIAM CRAIG
35	3605 BROWN ST	MURALIRAJ VIJAY
36	3605 BROWN ST	BOYS RANDY M & KATHERINE D
37	3605 BROWN ST	WU GIALI CALEB &
38	3605 BROWN ST	SERRANITOS LLC
39	3605 BROWN ST	MONTGOMERY THOMAS E
40	3615 BROWN ST	DEPALMA MICHAEL
41	3615 BROWN ST	ALANIZ CESAR JR
42	3615 BROWN ST	CLAYTON HEATH
43	3615 BROWN ST	FDL BROWN D LLC
44	3615 BROWN ST	MILLS MELANIE
45	3617 BROWN ST	PETERS KIM L
46	3617 BROWN ST	DELEON CLAUDIA PATRICIA
47	3617 BROWN ST	WETSCH KYLE ANTHONY
48	3617 BROWN ST	CLAYTON HEATH
49	3617 BROWN ST	TANG PATRICK
50	3525 ROUTH ST	DUFFIE CHARLES F
51	3525 ROUTH ST	CANNON GARY L
52	3525 ROUTH ST	BEREN MICHAEL & CARLA FAMILY
53	3525 ROUTH ST	COATES ALEXANDER
54	3525 ROUTH ST	WELBORN STREET PARTNERS LLC
55	3525 ROUTH ST	SPENCER JOBI
56	3525 ROUTH ST	WELBORN STREET PARTNERS LLC
57	3606 FAIRMOUNT ST	GOLDMAN WENDY

09/24/2021

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
58	2507 HOOD ST	JENKINS JEFF & LESLIE
59	2503 HOOD ST	ZOGG LAUREN
60	2505 HOOD ST	HEIDARI MOHSEN
61	2711 HOOD ST	ADAMS SUSAN E
62	3623 ROUTH ST	WOOLSEY THOMAS & CHERI L
63	3623 ROUTH ST	SALON ESTATE LLC
64	3623 ROUTH ST	BURGER BRANDON J
65	3623 ROUTH ST	ZAMBRANO GERARDO
66	3623 ROUTH ST	THIRTY SIX TWENTY THREE
67	3617 ROUTH ST	ELFENBEIN JESSICA
68	3617 ROUTH ST	PORTER KEVIN
69	3617 ROUTH ST	GATES ANDREA A
70	3617 ROUTH ST	DAMRON ANDREA L
71	3617 ROUTH ST	MCQUAY MICHAEL
72	3617 ROUTH ST	PASCAL PARTNERS LLC
73	3617 ROUTH ST	ELFENBEIN JESSICA & ROBERT I SCHWARTZ
74	3617 ROUTH ST	OCONNOR MONICA L
75	3617 ROUTH ST	ELMORE JESSICA
76	3617 ROUTH ST	CAMPISI AMBER
77	3535 ROUTH ST	CRESCENT ESTATES CUSTOM
78	2614 HOOD ST	AHMED RUBANA & MUSTAQUE
79	2612 HOOD ST	SADACCA STEPHEN
80	2610 HOOD ST	CALHOUN REBEL
81	3534 ROUTH ST	AINSWORTH GEORGE M
82	3532 ROUTH ST	PATTEN ANNE
83	3530 ROUTH ST	KRAMER PAMELA A
84	3528 ROUTH ST	HELLER JANE MICHELLE
85	3526 ROUTH ST	REVISED JOINT LVG TR OF PRICILLA ELLEN PERRY &



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-098

Data Relative to Subject Property:

Date: 8-20-21

Location address: 3601 Routh Street Zoning District: PD 193 (MF-3)

Lot No.: 11-13 Block No.: 7/1012 Acreage: +/- 0.436 Census Tract: 5.02

Street Frontage (in Feet): 1) 150 ft. 2) 126.5 ft. 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): MM 3601 Routh MF LLC / Mehrdad Moayed

Applicant: Mehrdad Moayed Telephone: 469-892-7500

Mailing Address: 1800 Valley View Ln., #300, Farmers Branch, TX Zip Code: 75234

E-mail Address: brado@centurionamerican.com

Represented by: Tommy Mann, David Martin, Winstead PC Telephone: 214-745-5724

Mailing Address: 500 Winstead Bldg., 2728 N. Harwood St., Dallas, TX Zip Code: 75201

E-mail Address: tmann@winstead.com, dmartin@winstead.com, dbox@winstead.com

Affirm that an appeal has been made for a Variance * or Special Exception of (i) an 18-ft. side setback Variance, on the Property's southwest side, from the 36-ft. side setback requirement set forth in Sec. 51P-193.119(b)(6); for the portion of the building above 36 ft.; (ii) an 11-ft. side setback Variance, on the Property's northeast side, from the 36-ft. side setback requirement set forth in Sec. 51P-193.119(b)(6), for the portion of the building above 36 ft.; (iii) a 32-ft.-2 in. rear setback Variance, from the 50-ft. rear setback requirement set forth in Sec. 51P-193.120(b)(2), for the portion of the building above 36 ft.; and (iv) a 5-ft. rear setback Variance, from the 15 ft. rear setback requirement set forth in Sec. 51P-193.125, for the portion of the building below 36 ft. Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas

Development Code, to grant the described appeal for the following reason:

- (i) Property is a small site (8,985.5 sf.), so strict compliance with all setback requirements would unreasonably burden its development, by making its buildable area above 36' substantially smaller (reducing it to roughly 4,918 sf.); (ii) Property slopes downward 8 ft. toward the south; (iii) Hardship was not self-created; and (iv) Variance does not adversely impact 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 Mehrdad Moayed (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 19th day of August, 2021

(Rev 08-01-11)

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



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that Mehرداد Moayedi
represented by Winstead PC
did submit a request for a variance to the side yard setback regulations, and for a variance to the
front yard setback regulations
at 3601 Routh Street

BDA201-098. Application of Mehرداد Moayedi represented by Winstead PC for a variance to the side yard setback regulations, and for a variance to the front yard setback regulations at 3601 ROUTH ST. This property is more fully described as Lots 11, 12, 13, Block 7/1012, and is zoned PD-193 (MF-3), which requires a front yard setback of 10 feet for portion of structure less than 36 feet in height and 25 feet for structure greater than 36 feet in height, and requires a side yard setback of 41 feet for portion of structure greater than 36 feet in height. The applicant proposes to construct a multi-family structure and provide a 10 foot side yard setback for the tower portion greater than 36 feet in height, which will require a 31 foot variance to the side yard setback regulations on both side yards, and to construct a multi-family structure and provide a 0 foot front yard setback for the portion less than 36 feet in height, which will require a 10 foot variance to the front yard setback regulations and to construct a multi-family tower structure and provide a 10 foot front yard setback for the portion greater than 36 feet in height, which will require a 15 foot variance to the front yard setback regulations on both Routh and Hood street frontages.

Sincerely,


David Session, Building Official



October 8, 2021

direct dial: 214.745.5724

tmann@winstead.com

Via email

Honorable Chair and Members
Dallas Zoning Board of Adjustment, Panel A
Dallas City Hall
1500 Marilla, 5BN
Dallas, TX 75201

Re: BDA 201-098 – 3601 Routh St

Dear Honorable Members:

The purpose of this letter is to explain in greater detail the property hardships that exist for this site that necessitate the requested variances to the front and side yards.

To reiterate, the applicant is seeking a front setback Variance for the portion of the building below 36 feet (the “Podium”) and also front and side setback Variances for the portion of the proposed building above 36 feet (the “Main Building”).

Though the existing zoning of the property allows any legal height, the proposed project is modestly scaled for the neighborhood as a four-story, condominium building with only 20 dwelling units (the existing zoning would allow well over 100 dwelling units). The property is only 18,955 square feet in size, contains two front yards, and has nearly 10 feet of slope across it. These physical characteristics (restrictive area and slope) make it impossible to develop the property in a manner commensurate with other properties zoned MF-3 within PD 193. Below, each variance is more specifically addressed:

Front Yards

Podium. The 10 foot variance for the podium is caused by the property’s slope. The Main Building is compliant with the 10-foot setback requirement. It is only the pool area that encroaches 10 feet into the front yard, but this encroachment is merely the result of slope. It is only the downward slope of the property that causes this area to appear “raised.” As demonstrated on the attached images, it is a small portion of the overall project that encroaches into this area.

Main Building. The Property’s slope is the primary trigger here as well. More specifically, the slope impacts the measurement of the building height, causing it to be measured from the average of the slope (approximately half the height of the basement level), rather than

from the base of the first floor—a difference of 4 feet in this case. That 4 feet pushes the top of the building's third floor past the 36-foot height mark and into the Main Building's two required front yards. Above that is only protective railing. The primary massing of the building's fourth floor is setback the 25 feet required for the portion of the building over 36' in height.

As can be seen on the attached images, it is a very minimal portion of the building that encroaches into the front yard, and when compared to the fact that the existing zoning allows any legal height, it is clear that this proposed project is much less impactful on surrounding properties than a taller building would be.

Side Yards

With regard to the side setback Variances requested for the Main Building, the small size of the Property, together with its slope, make strict compliance unduly burdensome. The Code provides that required side yards must increase as a building's height increases. At 62' of height measured from average grade, this equates to two side yards of roughly 41' applicable to the Main Building in both side yards. The property's slope increases the measurement of the building height, which also causes an increase in the setbacks applicable to the site. These additional setbacks reduce the buildable area of the property by more than 1,200 square feet. Further, the maximum setback in the side yard is only 50'. Thus, a building much taller than the one proposed would require only 9 more feet of setback in the side yards, and as discussed and demonstrated in the attached materials, the proposed scale of the project is less impactful on surrounding properties than a taller building would be.

Conclusion

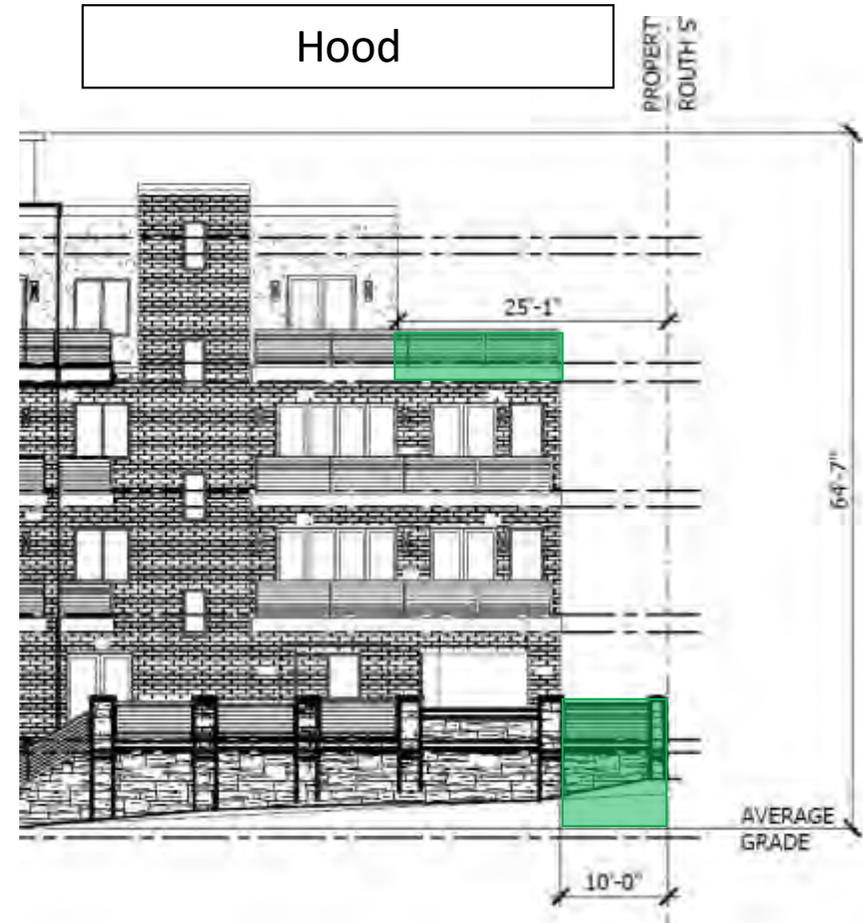
All told, these additional front and side yard setbacks impact all four sides of the building, reducing the buildable envelope on a property that is already small. The impact of these setbacks is further amplified by the property's slope. As such, the property differs significantly from other sites zoned MF-3 within PD 193 that contain much larger and taller towers. Moreover, the proposed project does provide increased setbacks as the building gets taller, which is in keeping with the spirit of the code. Finally, these hardships are a result of the property's physical configuration and are not self-created.

The Variances requested will not adversely impact neighboring properties. Moreover, a taller building that meets the setbacks would have a greater impact on neighboring properties. For these reasons and the others above, we respectfully request your recommendation for approval of the subject Variances.

Sincerely,

Tommy Mann

FRONT YARD VARIANCES



NORTHERN SIDE YARD VARIANCES

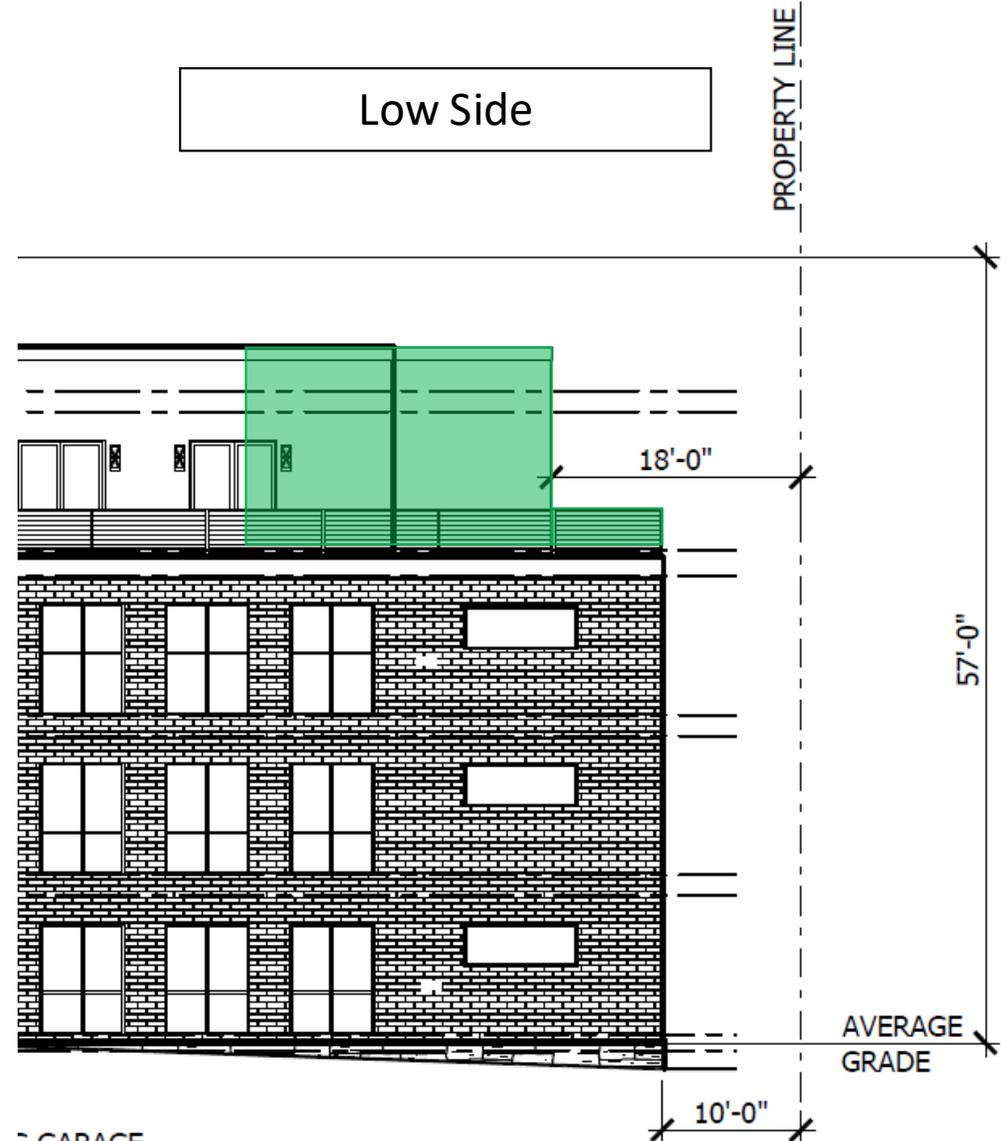
Low Side



High Side



SOUTHERN SIDE YARD VARIANCES







Panel A

11-16-21

BDA201-098

3601 Routh St.

(Opposition; inclusive of previous 10-19-21)

From: [Bernard Bortnick](#)
To: [Jackson, Latonia](#)
Subject: 3617 Routh Street, Dallas, Texas - SOHO apartments
Date: Friday, November 5, 2021 11:12:50 AM

External Email!

Dear Latonia,

I'm a retired architect having practiced the profession for 50 years. My son, Sam Bortnick occupies one of the units adjoining the corner lot at Hood and Routh Street, the site of construction of a 4 story apartment complex.

The developer of that site (Crescent Estates Condo Building) has unlawfully encroached upon the building set-back requirements for that property on the Northeast side of the site. The result if the developer is allowed to persist on this encroachment is degradation of the environmental quality of the occupied units facing East. They will be deprived of the eastern sunlight, trees and vegetation that they previously enjoyed and enhanced that side of the SOHO complex. Those east facing units will lose value as a result of this encroachment. No amount of money will compensate for the loss of the environmental condition. Moreover, the developer in unlawful encroachment, has damaged trees that adjoin that side of the site which will cause their death. These trees must be replaced with the equivalent trees in any remedial action.

As you well know, there are good reasons for the provisions mandated by the rules established governing construction and set-back requirements, long honored by architects and builders. These must be respected to protect residents from unruly, seedy, money grubbers.

Greed and irresponsibility must not be rewarded with approval of this encroachment. This is a demand that the original setback provisions mandated by the City of Dallas be upheld and due respect be rewarded to the residents of the SOHO complex.

Sincerely,

Bernard Bortnick, FAIA

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From: [Sam B](#)
To: [Munoz, Jennifer](#); [Jackson, Latonia](#); [Daniel, Pamela](#)
Subject: 3601 Routh Street Variance BDA201-098 (PD{ 11-16-21 at 1 pm
Date: Sunday, November 7, 2021 9:27:25 PM

External Email!

To the Board of Adjustment:

My name is Sam Bortnick and I am the owner of unit E, at the SoHo Square condo community located at [3617 Routh Street](#).

I am writing to express my emphatic opposition to the setbacks variance request submitted by Crescent Estates Custom Homes, and to strongly urge all of you to deny this variance request.

The developer showed blatant disregard for the Dallas city code stating that there must be a setback of 41 feet from our complex property line; the developer's excavation is now 6-10' from our complex. The huge excavation was done without a permit and the excavation without a variance is now already six feet from our property line. Granting a variance waiver for Crescent's irresponsible and illegal excavation would result in not only a loss of light on the East facing units at [3617 Routh Street](#), but also create a problem with "overlook", in which the new neighbors would be above units in our complex and able to look down into the windows, balconies and patios below, causing a clear case of invasion of privacy. Such a scenario would devalue the properties irreversibly and cannot be permitted. We are also concerned about what might have happened to our foundation due to the close and deep excavation without prior inspection and approval (permits and variances) by Building Inspection. Nothing less than the enforcement of the 41 foot setback as well as the other front and rear legal setbacks, the replacement of the limestone excavated and the trees that were damaged will remedy the problem and provide justice to the homeowners at Soho Square condo community.

Sincerely,

Sam Bortnick

From: carol.sandlin
To: [Jackson, Latonia](mailto:Jackson.Latonia); [Munoz, Jennifer](mailto:Munoz.Jennifer); [Daniel, Pamela](mailto:Daniel.Pamela); robertris999@aol.com
Subject: I object to setbacks at 3601 Routh st.
Date: Sunday, November 7, 2021 10:06:02 AM

External Email!

I am the owner of 3612 Routh Street, Dallas, TX 75219. The developer for the midrise at 3601 Routh is asking for the legal setback to be reduced from 41 feet to 10 feet, a 31 foot reduction. I object to granting ANY setback variances or waivers for the 3601 Routh Street property. Without excavation permits or setback waivers, the developer has already excavated to within 6 feet of property line at 3617 Routh and destroyed half the root systems of the protected trees. Please come take a look and act on this asap.

Thank you,

Carol Sandlin Almond
3612 Routh St.
Dallas, Texas

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From: [Scot Dickey](#)
To: [Munoz, Jennifer](#); [Jackson, Latonia](#); [Daniel, Pamela](#)
Cc: ["Robert Schwartz"](#); stonehavenhoa@swbell.net; ["Willena Hendley"](#)
Subject: RE: 3601 Routh BDA201-098(PD) 11-16-2021
Date: Tuesday, November 9, 2021 4:51:58 PM
Importance: High

External Email!

Dear Board of Adjustment,

My name is Scot Dickey and I am a resident of 3617 Routh Street, Unit H, Dallas, TX 75219. My condo is directly ground level adjacent to the new construction going on at 3601 Routh Street. I have lived in my unit for 6 years now and absolutely love it. I have some major concerns about the direction that construction is heading on the 3601 Routh St site.

I am opposed to granting the proposed setback variances on the 3601 Routh Street property because the variances will have a great negative effect on my unit and our building. The builder's proposed plan is completely impractical for the lot that it is being built on. The reduction in setback from 41ft to 10ft between our property and theirs would allow it to overshadow our building, reducing sunlight, increasing noise and impacting our privacy. Especially units on my side of the building. I have a garden patio courtyard that will be directly affected. Major overlook issues will affect me, towering units with visibility into my private area.

After speaking with all of my neighboring units we are also concerned that our foundation and building structure will be compromised due to the reduced setback. It will dramatically change the character and ambiance of the street. Currently, we have 6 multifamily properties and 1 single family home on this block (3600 Routh to 3630 Routh). The total number of residences on this block is 33. Adding 20 more residences is an increase of 60%. Our street parking is currently at capacity with the existing residences. Without any setbacks on all 4 sides of the proposed building, where will non-residents park when visiting it? This includes deliveries, moving trucks, guests, contractors, etc. The previous structure at 3601 Routh Street had a large parking lot on their property to support anybody going there.

I love our little neighborhood and would love to keep it as charming as it is, but realize new construction and change is always going to happen. That being said, this project is not well thought out and it concerns me. My feelings on the proposed plan are shared by not only my direct neighbors in my complex but a majority of my neighbors on Routh Street. I cannot stress enough to the Board of Adjustment to deny the proposed variances and to help look after this neighborhood that we all love. If you have any questions or would like to discuss please see my cell number below.

Sincerely,

Scot Dickey
214.957.3351

Scot Dickey

Operations Manager | Viki Hall Staffing

c: 214.957.3351 f: 214.432.0997

www.vikihallstaffing.com | www.facebook.com/vikihallstaffing

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From: jelfenb@sbcglobal.net
To: [Munoz, Jennifer](#); [Daniel, Pamela](#); [Jackson, Latonia](#)
Cc: stonehavenhoa@swbell.net; "Willena Hendley"
Subject: Board of Adjustment Hearing is Tuesday, November 16, 2021 at 1 pm. Item DBA-201-098(PD)
Date: Monday, November 1, 2021 6:18:38 PM

External Email!

Dear Board of Adjustment,

My name is Jessica Elfenbein. I am the owner of 3617 Routh Street, Unit A, Dallas, TX 75219. My homestead is at 3617 Routh Street, Unit I, Dallas, TX 75219. My telephone number is 214-520-9861. I have lived here for 32 years. I have lived in the neighborhood for 40 years.

I am **against** granting the proposed setback variances on the 3601 Routh Street property because the variances will adversely affect our property which is right next door. The builder's proposed plan is too large and ambitious for the land it would be built on. The reduction in setback from 41 ft to 10 ft between our property and theirs would allow it to overshadow our building, reducing sunlight, increasing noise and impacting our privacy. We are also concerned that our foundation and building structure will be compromised due to the reduced setback. It will dramatically change the character and ambiance of the street.

Currently, we have 6 multifamily properties and 1 single family home on this block (3600 Routh to 3630 Routh). The total number of residences on this block is 33. Adding 20 more residences is an increase of 60%. Our street parking is currently at capacity with the existing residences. Without any setbacks on all 4 sides of the proposed building, where will non-residents park when visiting it? This includes deliveries, moving trucks, guests, contractors, etc. The previous structure at 3601 Routh Street had a large parking lot on their property to support anybody going there.

In summary, I am not against responsible and well designed development. However, I believe that the proposed plan is out of scale for the street and will negatively affect my quality of life here. I have lived here most of my adult life and I am looking forward to many more years of enjoyment in my home. Therefore, I am requesting that the Board of Adjustment deny the proposed variances.

Sincerely,
Jessica Elfenbein
/s/Jessica Elfenbein
214-520-9861

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From: [Jessica Elmore](#)
To: [Daniel, Pamela](#)
Subject: Case # DBA 201-098(PD)
Date: Monday, November 1, 2021 1:32:20 PM
Attachments: [BDA 201-098 Public Notice.pdf](#)

External Email!

Hi Pamela,

My name is Jessica Elmore and I live at 3617 Routh St, Dallas TX 75219. I wanted to write in to express that I strongly oppose granting the setbacks waiver. I will not be able to attend the meeting on November 16th so I wanted to see what you needed from me in order to make sure my voice is heard?

Thanks,

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Jessica Elmore
936-523-0813

From: [Andrea Gates](#)
To: [Munoz, Jennifer](#); [Daniel, Pamela](#); [Jackson, Latonia](#)
Cc: stonehavenhoa@swbell.net
Subject: Board of Adjustment Hearing, November 16, 2021, Item DBA-201-098(PD)
Date: Monday, November 1, 2021 11:03:08 PM

External Email!

Dear Board of Adjustment:

My name is Andrea Gates and I own unit C at 3617 Routh Street, Dallas, TX 75219. My phone number is 214.364.1012. This has been my residence since 2014. I am writing to you about the setback variance request for the development project at 3601 Routh Street, next door to my home.

I am against granting the proposed setback variances to this development. I am concerned the reduced setback will adversely affect our neighborhood and our building in particular. The builder's proposed plan to reduce the setback from 41' to 10' between our two properties will reduce sunlight, increase noise levels, and negatively impact privacy at 3617 Routh.

Further, the reduced setback will eliminate a surface parking area for visitors to 3601 Routh, which was previously able to accommodate visitors with off street parking. The block's street parking is currently at capacity and there will be insufficient parking for visitors, deliveries, and contractors, if the surface parking at 3601 is eliminated.

I support the project next door however I wish to voice my objection to the setback variance request for 3601 Routh St. and respectfully request the Board of Adjustment deny the proposed variances.

Thank you,
Andrea Gates

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From: [Willena Hendley](#)
To: [Munoz, Jennifer](#); [Daniel, Pamela](#); [Jackson, Latonia](#)
Subject: Board of Adjustment Hearing Tuesday, November 16, 2021 at 1 pm. Item DBA-201-098(PD)
Date: Tuesday, November 9, 2021 9:16:43 AM

External Email!

Dear Board of Adjustment,

My name is Willena Hendley, Managing Director, Stonehaven Association Management. I have been the Property Manager for the Condominium Association located at 3617 Routh Street, Dallas, TX since July 2019.

The property adjacent to these condos, 3601 Routh Street, has been in less than appealing condition prior to our contract to manage the 3617 Routh Street property. The owner failed to respond to any requests to trim trees or generally clean the property; therefore, I have no confidence he will manage the construction project with any responsibility.

The 3617 Routh owner's view of the 3601 Routh property has been one of a large unkept lot with weeds and a cobbled together fence to now, a large hole with a wired together fence. Since 2019, ample time has been available for the owner to obtain proper permits, appropriate setbacks and generally plan an appropriately sized building which will not negatively impact the building at 3617 Routh Street.

When on the condo property, we observe many area residents walking their animals and enjoying the sidewalks with building setbacks currently in place. I am against granting the proposed setback variances on the 3601 Routh Street property because the variances will adversely affect the 3617 Routh Street property and other residences in this area. Without the required setbacks, the proposed building will be very close to the 3617 Routh building virtually block privacy and views from their existing balconies. A variance from the required setback from the 3601 Routh sidewalk will appear to place a commercial building next to personal residences and ruin the ambiance of that block of Routh Street.

I am requesting that the Board of Adjustment deny the proposed variances.

Willena Hendley, Managing Director
Stonehaven Association Management
972 569-8970

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From: [test](#)
To: [Munoz, Jennifer](#); [Daniel, Pamela](#); [Jackson, Latonia](#)
Cc: stonehavenhoa@swbell.net; [Willena Hendley](#)
Subject: Board of Adjustment Hearing is Tuesday, November 16, 2021 at 1 pm. Item DBA-201-098(PD)
Date: Wednesday, November 3, 2021 2:04:11 PM

External Email!

Dear Board of Adjustment,

My name is Patrick Kelcourse. I live in at [3617 Routh Street, Unit G, Dallas, TX 75219](#). My telephone number is 940-783-1257.

I am **against** granting the proposed setback variances on the [3601 Routh Street](#) property because the variances will adversely affect our property which is right next door. The builder's proposed plan is too large and ambitious for the land it would be built on. The reduction in setback from 41 ft to 10 ft between our property and theirs would allow it to overshadow our building, reducing sunlight, increasing noise and impacting our privacy. We are also concerned that our foundation and building structure will be compromised due to the reduced setback. It will dramatically change the character and ambiance of the street.

Currently, we have 6 multifamily properties and 1 single family home on this block (3600 Routh to 3630 Routh). The total number of residences on this block is 33. Adding 20 more residences is an increase of 60%. Our street parking is currently at capacity with the existing residences. Without any setbacks on all 4 sides of the proposed building, where will non-residents park when visiting it? This includes deliveries, moving trucks, guests, contractors, etc. The previous structure at [3601 Routh Street](#) had a large parking lot on their property to support anybody going there.

In summary, I am not against responsible and well designed development. However, I believe that the proposed plan is out of scale for the street and will negatively affect my quality of life here. I have lived here most of my adult life and I am looking forward to many more years of enjoyment in my home. Therefore, I am requesting that the Board of Adjustment deny the proposed variances.

Sincerely,
Patrick Kelcourse

Sent from [Mail](#) for Windows

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From: [Stonehaven Association Management](#)
To: [Munoz, Jennifer](#); [Daniel, Pamela](#); [Jackson, Latonia](#)
Subject: Objection to proposed setback variance requested by the developer of 3601 Routh Street, Dallas
Date: Tuesday, November 9, 2021 8:39:20 AM

External Email!

Dear Board of Adjustment

My name is William Hendley, Community Manager, Stonehaven Association Management. I have been the Community Manager for the Condominium Association located at 3617 Routh Street, Dallas, TX 75219 since September 2019.

The presently undeveloped property adjacent to the 3617 Routh Street condominiums, located at 3601 Routh Street, has been in less than appropriate condition since before we contracted to manage the 3617 Routh Street property. The owner failed to respond to requests to trim trees or generally clean the property over the last 3 years. Since 2019, ample time has been available for the owner to obtain proper permits, request desired variances from the setback requirements, and generally plan an appropriately sized building which will not negatively impact the building at 3617 Routh Street. Instead, he excavated for the underground parking garage without, as we understand it, obtaining various levels of approval, permits, and engineering studies required by the City of Dallas.

When on the condo property, we observe many area residents walking their animals and enjoying the sidewalks and setbacks currently in place. I am against granting the proposed setback variances on the 3601 Routh Street property because the variances will adversely affect the 3617 Routh Street property, specifically light will be blocked. Other residences in the area will be affected as well.

I am requesting that the Board of Adjustment deny the requested setback variances as granting them on the side contiguous to 3617 Routh Street will not enhance the neighborhood, it will have severe negative impacts on the 3617 property, especially on the building immediately adjacent to the common property line. Several owner/residents in that building will lose effective use of their patio areas, as sunlight will be blocked by the proposed building. They will also lose privacy they now have due to the proximity of the new building if the variance(s) are granted.

Bill

Bill Hendley

Community Manager

Stonehaven Association Management

P. O. Box 6294, McKinney, TX 75071

Office 972 569-8970

Fax 972 540-2646

Cell 214 536-6568

stonehavenhoa@swbell.net

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From: [Robert Schwartz](#)
To: [Jackson, Latonia](#); [Daniel, Pamela](#); [Munoz, Jennifer](#)
Cc: stonehavenhoa@swbell.net; "[Willena D. Hendley](#)"
Subject: RE: Urgent - Next Board of Adjustment Hearing is Tuesday, November 16, 2021 at 1 pm. Item DBA-201-098(PD)
Date: Monday, November 1, 2021 5:36:38 PM

External Email!

Dear Board of Adjustment,

My name is Robert Schwartz. I am the owner and resident of 3617 Routh Street, Unit I, Dallas, TX 75219. My telephone number is [REDACTED]

I am **against** granting the proposed setback variances on the 3601 Routh Street because the variances will adversely affect our property which is right next door. The setback's variances or waivers will decrease our property values for the twelve owners and 3 tenants who reside on this property.

Six of the 12 units face the border of the two properties. The primary windows for these 6 units directly face 3601 Routh. If the variance is granted, our windows will look directly into the 3601 building and vice versa, thereby impacting our privacy. This 4 story building so close to ours will block the sunshine and increase noise. Although it is my understanding that parking for the building will be underground, I am unaware if the underground parking will include space for visitors of the proposed building. If it does not, then the reduced setbacks will not allow any guest parking on the property, Instead guests/visitors to the property will look for street parking which is already limited. Our short block on Routh Street only allows parking on once side of the street to reduce congestion. Street parking on this section of Routh is already at capacity.

In summary these setbacks will adversely affect our neighboring property: eliminate our view, reduce our sunshine, light, air, increase noise and increase neighborhood traffic, and decrease our quality of life. The additional density of 20 new 'homes' to our short street will dramatically increase the street parking congestion. With parking allowed on only one side of the street, we already are at capacity for street parking.

Sincerely,
Robert Schwartz
/s/Robert Schwartz
[REDACTED]

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From: [Gonzalez, Stormy](#)
To: [Robert Schwartz](#)
Cc: [Gonzales, Antonio](#); [Cruce, Joel](#); [Jarrett, Debbie](#); [Jelfent](#); [Jackson, Latonia](#); [Munoz, Jennifer](#); [Daniel, Pamela](#)
Subject: RE: 3601 Routh and 3534 Fairmount BDA201-098(PD) 11-16-2021
Date: Tuesday, November 9, 2021 9:49:25 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Thank you for the photos and emails. My team has been instructed to issue citations since permits have not been issued yet.

Additionally, I have reached out to our Intensive Case Resolution team and Community Prosecution team for further guidance since it does not appear that our citations are stopping the violations from occurring. We will continue to follow through.



Stormy Gonzalez

Manager II

City of Dallas | DallasCityNews.net

Department of Code Compliance

320 E. Jefferson Blvd. #218

Dallas, TX 75203

O: 214-948-4637 | C: 214-542-3415

stormy.gonzalez@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: Robert Schwartz [REDACTED]
Sent: Monday, November 8, 2021 7:48 PM
To: Gonzalez, Stormy <stormy.gonzalez@dallascityhall.com>
Cc: Gonzales, Antonio <antonio.gonzales@dallascityhall.com>; Cruce, Joel <joel.cruce@dallascityhall.com>; Jarrett, Debbie <debbie.jarrett@dallascityhall.com>; Jelfent [REDACTED]; Jackson, Latonia <latonia.jackson@dallascityhall.com>; Munoz, Jennifer <jennifer.munoz@dallascityhall.com>; Daniel, Pamela <pamela.daniel@dallascityhall.com>
Subject: RE: 3601 Routh and 3534 Fairmount BDA201-098(PD) 11-16-2021

External Email!

All,

Attached is a picture of the ore truck used by the developer to remove

excavated material from 3534 Fairmount and 3601 Routh. Both properties had stop work orders against them and no excavation permits. The picture was taken on Saturday, November 6, 2021. The developer was working on both properties simultaneously removing excavation debris and loading it into the truck.

From: ROBERT SCHWARTZ [REDACTED]
Sent: Monday, November 8, 2021 12:33 PM
To: Gonzalez, Stormy <stormy.gonzalez@dallascityhall.com>
Cc: Gonzales, Antonio <antonio.gonzales@dallascityhall.com>; Cruce, Joel <joel.cruce@dallascityhall.com>; Jarrett, Debbie <debbie.jarrett@dallascityhall.com>; [REDACTED]
Subject: Re: 3601 Routh and 3534 Fairmount

I saw them working on the rear alley area of the 3601 Routh property, not near any trees. They were also excavating the 3534 Fairmount property that has no trees. They were loading a huge ore truck with excavated stone and soil from 3534 Fairmount and 3601 Routh for a number of hours.

Sent from my iPad

On Nov 8, 2021, at 9:28 AM, Gonzalez, Stormy <stormy.gonzalez@dallascityhall.com> wrote:

Good morning,

The stop work order was issued. Per Building Inspection the contractors were told to replace dirt along with place tree protection around the trees that were damaged during the excavation.

Please allow us to look into the work being conducted to confirm it was not outside of the allowed scope.

<[image001.png](#)>

Stormy Gonzalez
Manager II
City of Dallas | DallasCityNews.net
Department of Code Compliance
320 E. Jefferson Blvd. #218
Dallas, TX 75203

O: 214-948-4637 | C: 214-542-3415
stormy.gonzalez@dallascityhall.com

[<image002.png>](#)

[<image003.png>](#)

[<image004.png>](#)

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From: ROBERT SCHWARTZ [REDACTED]
Sent: Saturday, November 6, 2021 11:49 AM
To: Gonzalez, Stormy <stormy.gonzalez@dallascityhall.com>
Cc: [REDACTED]
Subject: 3601 Routh and 3545 Fairmount

External Email!

Dear Ms. Gonzalez,

Today, 11-6-21, Saturday, the developer has begun work on both properties. Please see attached pictures. I thought shutdown orders were issued for both properties.

Robert Schwartz

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<IMG_2398.JPG>

<IMG_2400.JPG>

<IMG_2399.JPG>

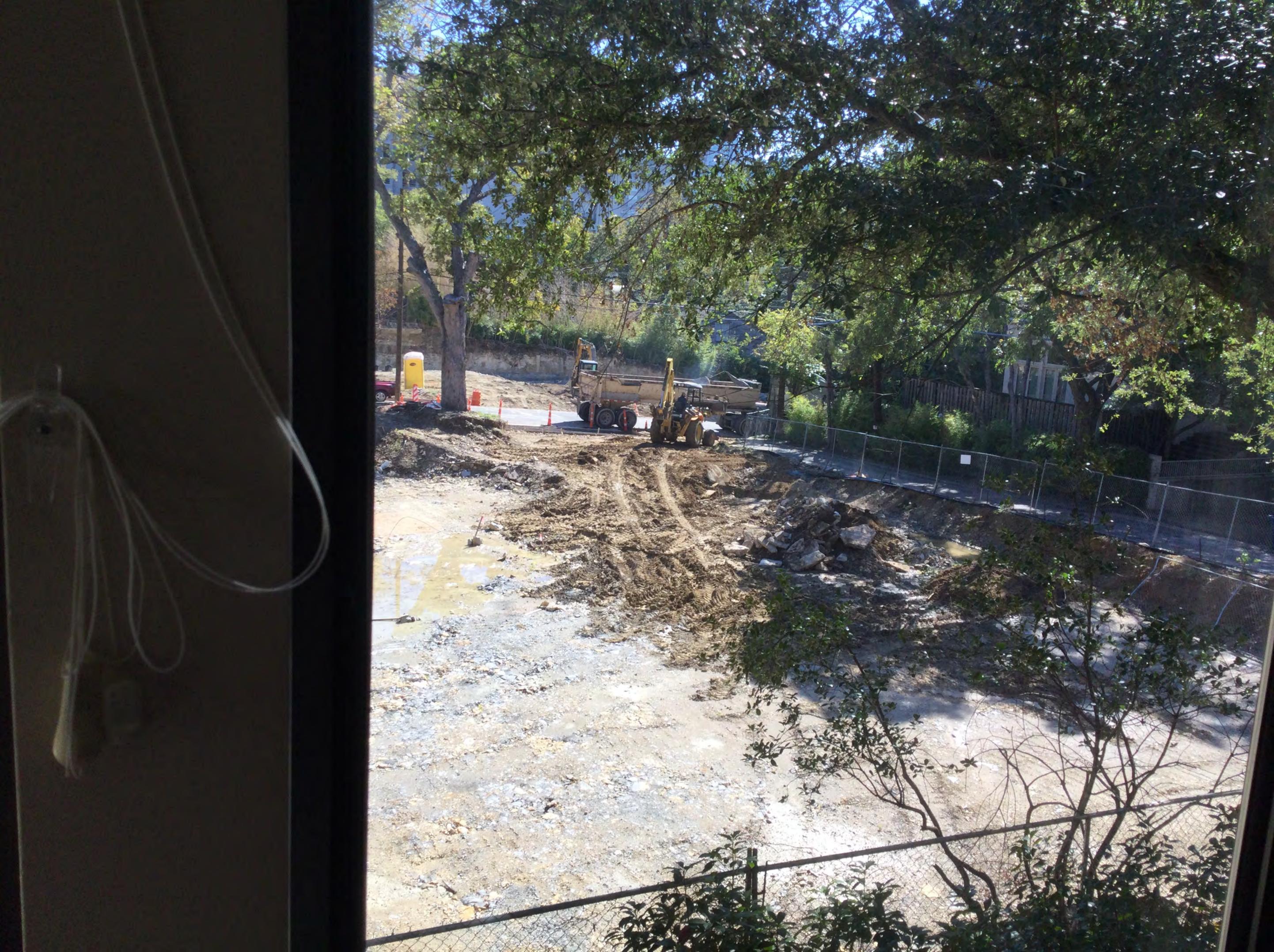
Sent from my iPad

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From: [Munoz, Jennifer](#)
To: [Jackson, Latonia](#)
Subject: FW: 3601 Routh Street excavation
Date: Friday, October 15, 2021 9:56:36 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Would you please add this one to Mr. Schwartz's response? Maybe replace with this one since it has both? Thanks!

Sincerely,



Jennifer Muñoz
Chief Planner/Board Administrator
City of Dallas | www.dallascityhall.com
Planning and Urban Design
1500 Marilla Street, 5BN
Dallas, TX 75201
O: 214-670-4208
Working Remotely, please call:
Google Voice: 972-926-3691
jennifer.munoz@dallascityhall.com



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How am I doing? Please contact my supervisor at andreea.udrea@dallascityhall.com.

From: Robert Schwartz <[REDACTED]>
Sent: Friday, October 15, 2021 9:44 AM
To: Munoz, Jennifer <jennifer.munoz@dallascityhall.com>
Cc: 'Jessica Schwartz' <[REDACTED]>
Subject: RE: 3601 Routh Street excavation

External Email!

[International Developers: Meet Mehrdad Moayed From Tehran, Iran » Dallas Innovates](#)
[Mehrdad Moayed Buys Dentist's House With Backyard Waterpark on Strait Lane, Roxann Taylor Last Agent - CandysDirt.com](#)

Ms. Munoz,

Per our conversation today. I see no reason why the developer could

have designed a structure within the current parameters: height and setbacks. There is plenty of room to build a multi-story structure without exceeding the current legal setbacks. You stated that the developer may ask for a “hardship” waiver. Please see the attached article showing the home the developer lives in was listed for \$32 million. How can he claim “hardship?”

The developer has been in business for at least 20 years. Is he claiming he did not know he needed a permit to excavate a 1/3 block area? If he followed the proper permitting process, building inspection would have determined whether the excavation would have negatively impacted our foundation.

I am a 73 year old senior citizen who has lived in my current home for 26 years. What about the hardship I have because the developer did not follow the proper permitting procedure and may have damaged our foundation?

From: Robert Schwartz [REDACTED]
Sent: Tuesday, October 12, 2021 11:51 AM
To: 'Jennifer.Munoz@dallascityhall.com' <Jennifer.Munoz@dallascityhall.com>
Cc: 'Jessica Schwartz' [REDACTED]
Subject: 3601 Routh Street excavation

Dear Jennifer Munoz, Chief Planner/Board Administer

I reside and am a multiple condo owner at 3617 Routh Street, a twelve unit, three story complex. Five months ago, the owner of 3601 Routh Street excavated a 1/3 city block and 9 feet deep chasm on the property without a permit and stopped any other work. I have been working with Mgr. II Stormy Gonzalez in Code Compliance. We are concerned about the potential damage to our foundation and the destruction of our property. It is my understanding that the owner of the property was going to fill-in the huge deep excavated area so that our property would not be at risk due to soil shifting and foundation

erosion. Heavy rains like those that occurred on Sunday will loosen the soil that supports our property. However no work is being done and the owner removed his Caterpillar® Power Shovel from the property weeks ago.

Even though the developer had no excavation permit they have applied for **BDA201-098** setback variance to allow them to build even closer to our property. Obviously, we are against this setback variance and its potential damage to our property.

Can you help to see that the developer fills-in the property ASAP and does not get a setback variance?

Sincerely,
Robert Schwartz



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From: [Robert Schwartz](#)
To: [Jackson, Latonia](#)
Cc: [Munoz, Jennifer](#); [Daniel, Pamela](#); ["Jessica Schwartz"](#)
Subject: RE: BDA201-098(PD) 3601 Routh meeting
Date: Tuesday, October 19, 2021 12:27:38 AM

External Email!

Dear All,

I want the following statement be given to the attendees of tomorrow's meeting including the Board and included in the record. I am planning to read same during my three minutes. My wife is having knee replacement surgery a 7 am tomorrow. The appointment for surgery was scheduled many months ago. I will try my best to attend both the 11 am and 1 pm meetings.

Thanks,

Robert Schwartz

[REDACTED]
Dallas, TX 75219
[REDACTED]

Thank you for hearing me today. We are in opposition to the setback waiver being considered for 3601 Routh St. We are asking you for the following:

First, In the interests of justice, we want a continuance for today's proceedings because we did not have sufficient notice to consider our options. It is my understanding that 2 notices were sent regarding today's meeting. We never received the first notice. Last week, we received the second notice of today's meeting. Therefore, more time is needed for analysis.

A continuance is needed so that we may hire an

engineer to assess the impact to our foundation and structure. I am requesting that the owner of 3601 pay for this study since said owner excavated 3601 Routh St without an excavation permit, and already excavated beyond the legal setbacks without a waiver or variance. As a result, our 12-unit condominium complex with 12 owners is adversely affected. My wife and I have lived in our unit for over 26 years and it is our primary investment and our home.

The petitioner purchased the 3601 property almost four years ago. Without a permit he excavated a 1/3 block area to at least nine feet. Without a variance he excavated beyond the legal setbacks. The petitioner has been in the building business for over 30 years and should have known that permits and waivers were required before doing this excavation.

The petitioner's improper and illegal behavior in violating Dallas City Codes should not be rewarded with a variance or waiver.

Property setbacks have many benefits both aesthetically and functionally. Reduced setbacks result in reduced property values, loss of view, loss of daylight, increased noise, and potential future foundation damage. We have no earthquake or earth movement insurance to cover structure and foundation damage.

Setbacks help with: better services – having space between houses and streets, etc., ensures that in the case

of a fire or other emergencies, a first responder vehicle can get to you faster. This is also true of maintenance vehicles like sewer, utilities, and cable.

The permitting process when followed protects all property owners.

We are opposed to granting this waiver.

Thank you for listening.

Robert Schwartz



Dallas, TX 75219

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