

BOARD OF ADJUSTMENT, PANEL A
TUESDAY, MARCH 17, 2020
AGENDA

BRIEFING	5ES 1500 MARILLA STREET DALLAS CITY HALL	11:00 A.M.
PUBLIC HEARING	COUNCIL CHAMBERS 1500 MARILLA STREET DALLAS CITY HALL	1:00 P.M.

Neva Dean, Assistant Director
Jennifer Muñoz, Chief Planner/Board Administrator
Oscar Aguilera, Senior Planner
LaTonia Jackson, Board Secretary

PUBLIC TESTIMONY

Minutes

BDA190-001(SM) 1101 S Haskell Avenue - Application
of Dallas City Council, pursuant to Resolution 19-0916
to require compliance of a nonconforming use.

MISCELLANEOUS ITEM

Approval of the February 18, 2020 Board of Adjustment
Panel A Public Hearing Minutes M1

REGULAR CASES

BDA190-036(JM)	4305 Colgate Avenue REQUEST: Application of Olivia Howe for a variance to the side yard setback regulations	1
BDA190-028(JM)	1177 Lausanne Avenue REQUEST: Application of Robert Baldwin for a variance to the front yard setback regulations	2
BDA190-037(OA)	1606 Rio Vista Drive	3

REQUEST: Application of Sarah Alexander for a special exception to the single-family regulations

HOLDOVER CASE

BDA190-001(SM) 1101 S Haskell Avenue 4
REQUEST: Application of Dallas City Council, pursuant to Resolution 19-0916 to require compliance of a nonconforming use

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: BDA190-036(JM)

BUILDING OFFICIAL’S REPORT: Application of Olivia Howe for a variance to the side yard setback regulations at 4305 Colgate Avenue. This property is more fully described as Lot 34, Block 3/5631, and is zoned an R-7.5(A) Single Family District, which requires a side yard setback of five feet. The applicant proposes to construct and maintain a single family residential accessory structure and provide a three-foot side yard setback, which will require a two-foot variance to the side yard setback regulations.

LOCATION: 4305 Colgate Avenue

APPLICANT: Olivia Howe

REQUEST:

A request for a variance to the side yard setback regulations of two feet is made to complete and maintain the west facade of a single family home structure located two feet from the site’s west side property line or three feet into the five-foot side yard setback.

STANDARD FOR A VARIANCE¹:

The applicant has the burden of proof in establishing the following standards have been met in consideration of granting the above request.

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:

1. 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;
2. 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

¹ Reference Section 51(A)-3.102(d)(10) of the Dallas Development Code.

3. not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the applicant has shown with the letter provided by the applicant (Attachment A), that a literal enforcement of this chapter would result in unnecessary hardship.
- According to the letter provided by the applicant (Attachment A), the subject site is unique and different from most lots zoned an R-7.5(A) Single Family District due to the restrictive area of the lot. Otherwise, the lot is flat and rectangular in shape.
- Granting the variance would not be contrary to public interest if the board imposes the submitted site plan as a condition since the features on this plan represent the only new structure to be located in the side yard setback is a two-story accessory structure proposed to be located three feet from southwest side property line or two feet into the 5-foot side yard setback on a site developed with a single family structure.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single Family District)

North: R-7.5(A) (Single Family District)

East: R-7.5(A) (Single Family District)

South: R-7.5(A) (Single Family District)

West: R-7.5(A) (Single Family District)

Land Use:

The subject site and properties to the east, west, and south are developed with single family uses. The property to the north is developed with a church and private school.

Zoning/BDA History:

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

GENERAL FACTS /STAFF ANALYSIS:

The purpose of this request for variance to the side yard setback regulations of two feet is to complete and maintain an accessory structure located three feet from the site's southwest side property line, as shown in the submitted site plan. According to permit records, a permit for new construction was made on March 5, 2019. The application was subsequently cancelled and the new 998-square-foot, two-story accessory structure was erected on the existing slab.

The subject site is 8,281 square feet in area, is rectangular in shape, and is relatively flat. The R-7.5(A) zoning district requires a minimum lot area of 7,500 square feet. The applicant provided a list of comparative properties zoned an R-7.5(A) District and ranging in size from 9,108 to 20,386 square feet with an average of 13,483 square feet (Attachment A). Additional information found in this letter included a history of the redevelopment of the accessory structure, a garage. A contractor was hired to reconstruct the garage on the existing foundation and add a second story; however, the existing garage slab was allowed to maintain less than a five-foot side yard when it met the side yard provisions for accessory structures requiring the structure to be less than 15 feet-in-height and located within the rear 30 percent of the lot². The reconstructed garage could not maintain the three-foot side yard with the excess height created by the second story of the garage. The reconstructed two-story garage is approximately 24 feet-in-height.

As of March 10, 2020, one letter in support and one letter in opposition to the request had been received.

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

- That granting the variance to the side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
- The variance 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

² Reference Section 51(A)-4.402(b)(3) of the Dallas Development Code.

development upon other parcels of land in districts with the same R-7.5(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-7.5(A) zoning classification.

If the board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the side yard setback would be limited to what is shown on this document which, in this case, is a structure located two feet into the required five-foot side yard setback.

Timeline:

January 24, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 11, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.

February 14, 2020: The Board of Adjustment Chief Planner/Board Administrator emailed the applicant’s representative the public hearing date and panel that will consider the application; the February 25th deadline to submit additional evidence for staff to factor into their analysis; and the March 6th deadline to submit additional evidence to be incorporated into the board’s docket materials and the following information:

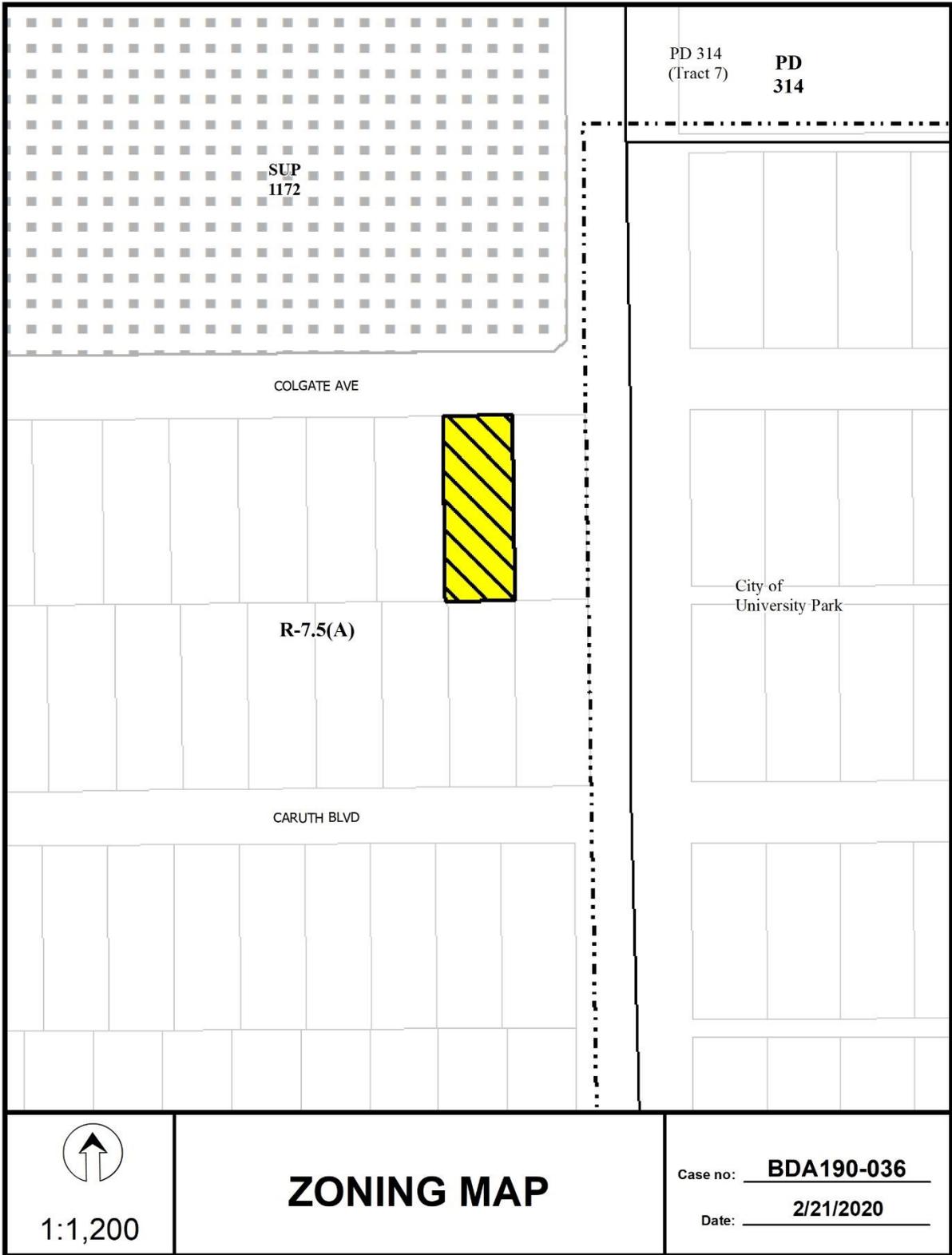
- a copy of the application materials including the Building Official’s report on the application;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

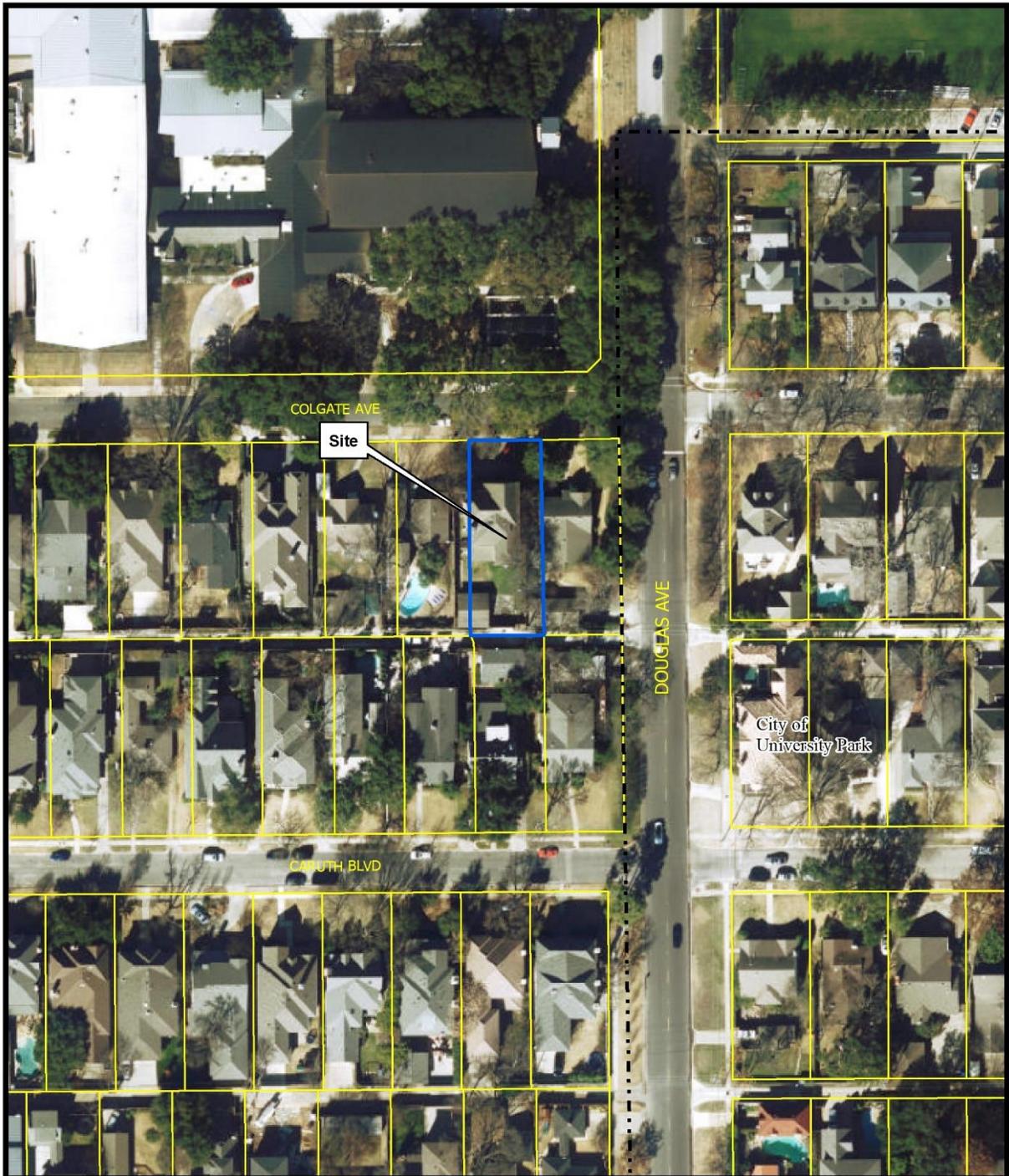
February 27, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included the Assistant City Attorney to the board and the following from the Sustainable Development and Construction Department: Board of Adjustment staff including the Chief Planner/Board Administrator,

the Senior Planner, and the Assistant Director; Building Inspection Division staff including the Chief Planner, Building Official, and Assistant Building Official; and Engineering Division staff including the Senior Engineer.

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

February 24, 2020: The applicant submitted additional evidence regarding the request and a comparison to other similarly zoned properties (Attachment A) along with an engineering statement and other letters (Attachment B).





1:1,200

AERIAL MAP

Case no: BDA190-036

Date: 2/21/2020



RECEIVED
JAN 24 2020
BY:

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 190-036

Date: ~~1/11/20~~ 1-24-20

Data Relative to Subject Property:

Location address: 4305 Colgate Avenue Zoning District: R-7.5(A)

Lot No.: 34 Block No.: 35631 Acreage: 0.1901 Census Tract: 73.01

Street Frontage (in Feet): 1) 54 ft 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Bart Howe and Olivia Howe

Applicant: Olivia Howe Telephone: 214-803-4114

Mailing Address: 4305 Colgate Avenue Zip Code: 75225

E-mail Address: OliviaDianne@gmail.com

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance , or Special Exception _____, of Side yard
Setback to build on existing structure. It will be an accessory
structure for a home office over the detached garage. The variance would
be 22 inches

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 variance is not contrary to public interest and would require only a modest
variance of 22 inches for the accessory structure alone. Further, the parcel of
land is smaller than many nearby parcels in the same zoning and thus
cannot be developed commensurate with them. Finally, the variance is not
sought for a self-created or personal hardship.

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.

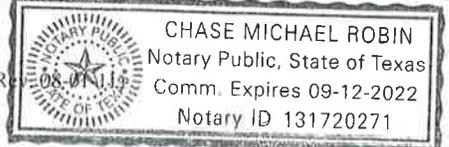
Affidavit

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

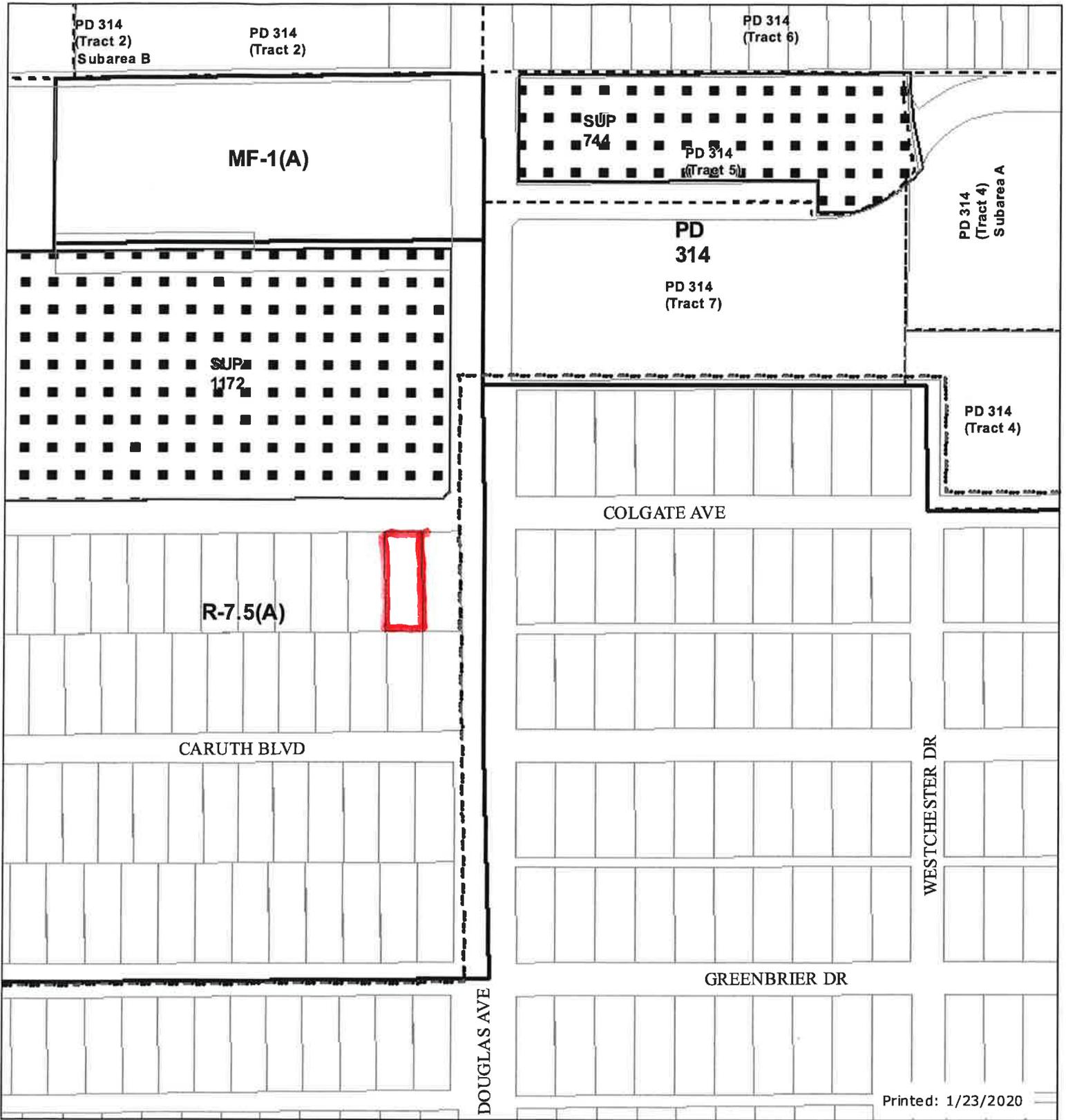
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

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

Subscribed and sworn to before me this 21 day of January, 2020



Notary Public in and for Dallas County, Texas



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 | Sign 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)

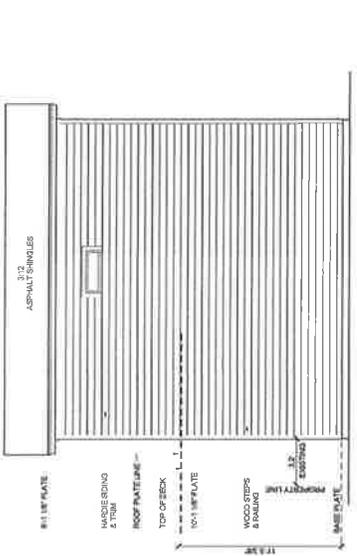


ODH

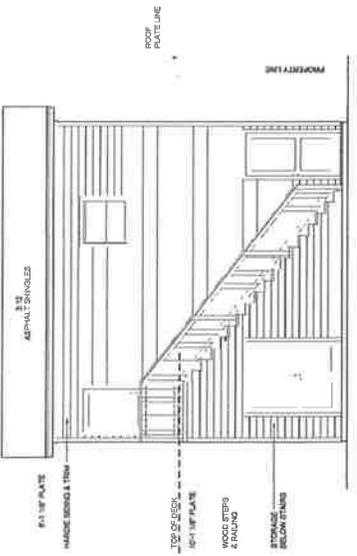
4231 MODLIN ST. MESQUITE, TEXAS 75150
 ANDY PAPERSON, Inc.
 BUCKHYNE, Inc.

These plans are intended to provide the basic construction information necessary to construct the building. They do not constitute a contract. The contractor shall be responsible for obtaining all necessary permits and for complying with all applicable codes and regulations. The contractor shall also be responsible for providing all materials and labor necessary for the construction of the building. The contractor shall also be responsible for obtaining all necessary permits and for complying with all applicable codes and regulations. The contractor shall also be responsible for providing all materials and labor necessary for the construction of the building.

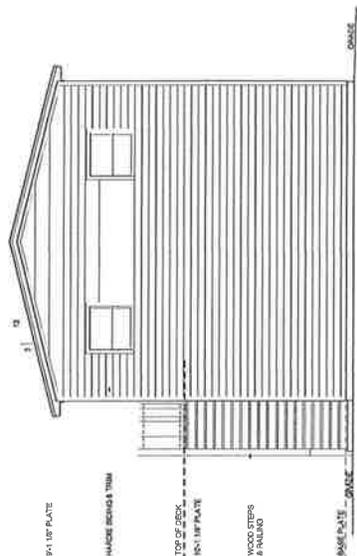
4305 COLGATE AVENUE
 LOT 34, BLOCK 3, 6931
 IDEWILD ANNEX ADDITION
 DALLAS, TEXAS
 Project No. 1801000000
 Date: 11/11/2020
 A3



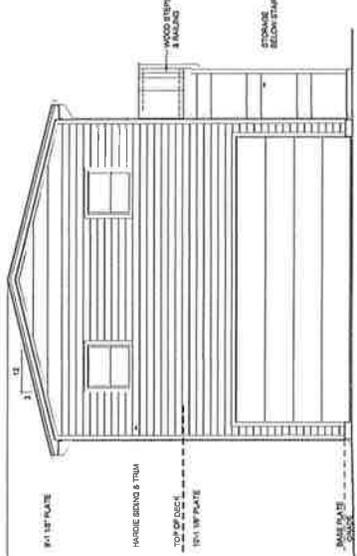
4 SOUTH ELEVATION
 SCALE 1/4" = 1'-0"



3 NORTH ELEVATION
 SCALE 1/4" = 1'-0"



2 WEST ELEVATION
 SCALE 1/4" = 1'-0"



1 EAST ELEVATION
 SCALE 1/4" = 1'-0"

February 24, 2020

City of Dallas
Jennifer Munoz
Cc: Charles Trammell
1500 Marilla Street, 5DN
Dallas, TX 75201

To Whom It May Concern:

This letter is an addendum to the request for a variance at 4305 Colgate Avenue, Dallas, TX 75225, which will outline the reasons we feel that the variance should be awarded. Firstly, the variance is not contrary to the public interest as you can see from the support we have from the surrounding neighbors. Further, if granted with the submitted site plan as a condition, only a small portion of the total structure on the site would require a variance, and the requested variance would be a modest 22 inches at most. To that point, the requested variance applies only to the detached garage structure, not to the entire dwelling, and the construction of additional living space above the existing garage structure would only increase resale value of the property and therefore increase neighboring property value.

Secondly, the variance is necessary to permit development of the lot because our lot cannot be developed in a manner commensurate with other parcels of land in our same R-7.5(A) zoning classification. Per DCAD records, and as reflected on the attachment to this letter, our lot, at 8,281 square feet, is smaller than many lots in the R-7.5(A) zoning district. Likewise, the living area of the home on the subject site is considerably less than the average of other homes in the same R-7.5(A) zoning district. Please see the attached chart showing houses within *one mile* of our property that are also in the area zoned R-7.5(A). The chart reflects that the average lot size around us for properties in the same zoning district is 13,483 square feet—which is significantly larger than our 8,281 square foot lot. Further, as you can see on the attached chart, the houses around us in our same zoning district have an average square footage of 5,048. This demonstrates that our home, at 3,689 square feet, is far smaller than the average. Therefore, our lot is not at risk of being over-built, especially considering the proposed construction will not increase the footprint of the existing structures at all.

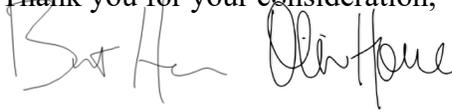
Finally, the variance is not requested to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit a privilege not permitted to others in the same zoning district. In fact, the structure is located on the pre-existing foundation in the exact location of the previous detached garage structure. The pre-existing foundation has been approved for the additional construction by a structural engineer (see attached "Exhibit 1"), and no modification to the pre-existing setback is being requested. We believe that these factors are reasonable justification for our modest variance request.

Moreover, while we are aware that the reason for the request should not sway the decision, I would like to include the fact that the licensed contractor initially hired for the project fled the state after stealing a significant amount of money from our family and many other victims, and left us in the middle of this construction project. Moreover, his numerous misrepresentations—

BDA190-036_Attachment_A

which included filing incorrect architectural plans with the City of Dallas without our knowledge or approval—misled us into thinking we had the proper permits needed to complete the project. This resulted in the garage being built nearly to completion before we had any idea that we would need a variance under his proposed plans to build on the existing detached garage. I am attaching two letters to that contractor to provide some additional color on the situation (see attached "Exhibit 2"). His theft and the resulting course of events have taken a significant financial and emotional toll on us and our family, and we simply want to complete the construction project which has been sitting as an incomplete eyesore now for almost six months. We humbly plead for your help in reaching a resolution to this ongoing saga. Alongside all of our neighbors, we will greatly appreciate getting this construction project to a positive conclusion.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "Bart & Olivia Howe". The signature is written in a cursive, flowing style.

Bart & Olivia Howe
Homeowners
214-803-4114

BDA190-036_Attachment_A

Exhibit A

Properties within 1 mile of Colgate with the same R-7.5(A) Zoning Code:

Address	Lot Sq Footage	Dwelling Sq Footage
5630 Greenbrier Drive	12,212	5,792
5626 Greenbrier Drive	11,815	5,582
5410 Stanford Avenue	14,789	4,979
5426 Purdue Avenue	9,108	4,862
5531 Purdue	12,109	5,533
5708 Surrey Square Lane	15,202	3,976
5719 Caruth Boulevard	16,710	4,377
5633 Caruth Boulevard	12,763	5,932
5514 Caruth Boulevard	20,386	4,881
5602 Southwestern Boulevard	9,736	4,564
<i>AVERAGE</i>	<i>13,483</i>	<i>5,048</i>

Subject Address	Lot Sq Footage	Dwelling Sq Footage
4305 Colgate Ave	8,281	3,689
<i>Δ from Average</i>	<i>(5,202)</i>	<i>(1,359)</i>

The properties above all share the same R-7.5(A) zoning as 4305 Colgate and are located less than one mile away. Compared to these 10 properties above, 4305 Colgate is **5,216 square feet smaller** than the average lot, and the dwelling is **1,359 square feet smaller** than the average dwelling size.

Exhibit 1



LIGHTHOUSE ENGINEERING, L.L.C.

Texas Professional Engineer (TX: 95672)
Oklahoma Professional Engineer (OK: 22438)
Arkansas Professional Engineer (AR: 17788)
Registered Texas Engineering Firm (F: 9334)

Phone: 214-577-1077
Fax: 214-224-0549
Website: www.LighthouseEng.com
Email: Office@LighthouseEng.com

BDA190-036_Attachment_B

DATE: Wednesday, December 18, 2019

TO: Olivia Howe (Current Homeowner)

RE: Analysis of Existing Foundation Prior to Construction of Second Story Addition
4305 Colgate Avenue
Dallas, TX 75225

Dear Sir:

Christopher Curry, (under the direct supervision of Michael Gandy, PE) physically inspected the above referenced property to make an evaluation of the existing concrete slab-on-ground foundation of the detached garage along the rear of the subject home prior to construction of a second story addition above the detached garage.

This engineer determined that the existing foundation is sufficient to construct the proposed structure atop the existing structure. No additional structural improvements are recommended to this foundation prior to the construction of the proposed addition.

The proposed addition shall be constructed to meet or exceed all requirements as outlined in the 2015 International Residential Code (IRC) as adopted by the City of Dallas.

In Good Faith,
Michael Gandy, P.E.

Wednesday, December 18, 2019
Registered Engineering Firm F-9334



Exhibit 2

Skyler Cooke
550 Reserve St 150
Southlake, TX 76092

BDA190-036_Attachment_B

December 2, 2019

Skyler,

I can't believe I am writing this letter, but the more layers we peel back on this thing the more apparent it becomes that you lied to us repeatedly and have stolen all the money we paid you for our garage.

First, you told us you were hiring Statton Design out of Southlake as the architects for the garage. You emailed me that that firm worked really well with the City of Dallas and while they were expensive, you trusted them. Based on those representations, we paid you for the architect and the garage plans. Because you filed the plans without showing us anything, we had no idea you never hired Statton Design like you said you would. Instead, you hired someone named Karen Cantu who we have just learned filed incorrect plans with the City that made it look like the garage was five feet from the property line. You know this is not accurate and even told us not to worry about the location of the garage because it would be "grandfathered in." Not only is Ms. Cantu's incorrect filing causing significant issues for us now, but we have been told she has a reputation for shoddy work, she is **known** to have caused issues for other clients, and that you may have received a kickback payment for using her. I cannot believe that on top of everything else, you have put us in this position.

Second, you told me to my face that both the engineering firm you hired and the City of Dallas signed off on the foundation of the garage as suitable for a second story—and I reimbursed you for the engineering report. We have just learned that the engineering report you filed actually indicated additional support was needed for the foundation, and that you likely also received a kickback payment from that engineering firm. We recently had our own unbiased engineering firm come in to evaluate the foundation and they said the foundation was perfectly capable of supporting a second story as is. I now believe you were trying to unnecessarily run up the bill on us so you could further line your own pocket.

The City has asked us to stop work on the garage because of the misrepresentations you and Karen Cantu made to them. We are now months and months behind schedule with a partially built hazard in our backyard that prevents our kids from being able to play back there, and we are out the thousands of dollars we paid you to do the project. Not only that, but because of the lies you told us, we are in limbo indefinitely and are likely going to have to have a hearing with the City to try and get this sorted out.

I don't want to involve a lawyer but you have put us in a terrible position. What I need from you now is 1) for you to pay us back the money we gave you for the garage which you have done nothing with, and 2) for you to write a letter to the City owning up to the actions you took. If I haven't heard from you in two weeks, we will have to pursue a more formal demand.

Regards,



BDA190-036_Attachment_B

December 30, 2019

Skyler Cooke
550 Reserve St 150
Southlake, TX 76092

Re: *4305 Colgate Avenue Garage Project*

Dear Mr. Cooke:

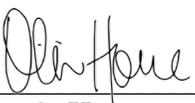
In reliance on your assurances, you were provided with advance funds to complete a garage project at 4305 Colgate Avenue, Dallas TX 75225. On December 2, 2019, you were sent a letter requesting you return those funds and provide a letter to the City of Dallas explaining why you filed incorrect documents with the City. A copy of the letter is attached for your convenient reference.

Despite several communications requesting payment of this account, you have made no effort to respond or to return the money. Therefore, demand for immediate payment is made for the full amount, which is past due and owing. **IN ORDER TO AVOID FURTHER LEGAL ACTION, YOU MUST REMIT PAYMENT WITHIN THIRTY DAYS OF THE DATE OF THIS LETTER.** Please remit payment to Bart Howe and deliver it to 4305 Colgate Avenue, Dallas, TX 75225 within the above time.

Unless payment is received or acceptable payment arrangements have been made with our office within 30 days of the date of this letter, we will take further action to collect this obligation, which may include pursuing a legal action. Should that occur, then nothing in this letter shall be construed as an admission or as a waiver, modification or diminution of all rights and claims against you relating to collection of this account or any other matters.

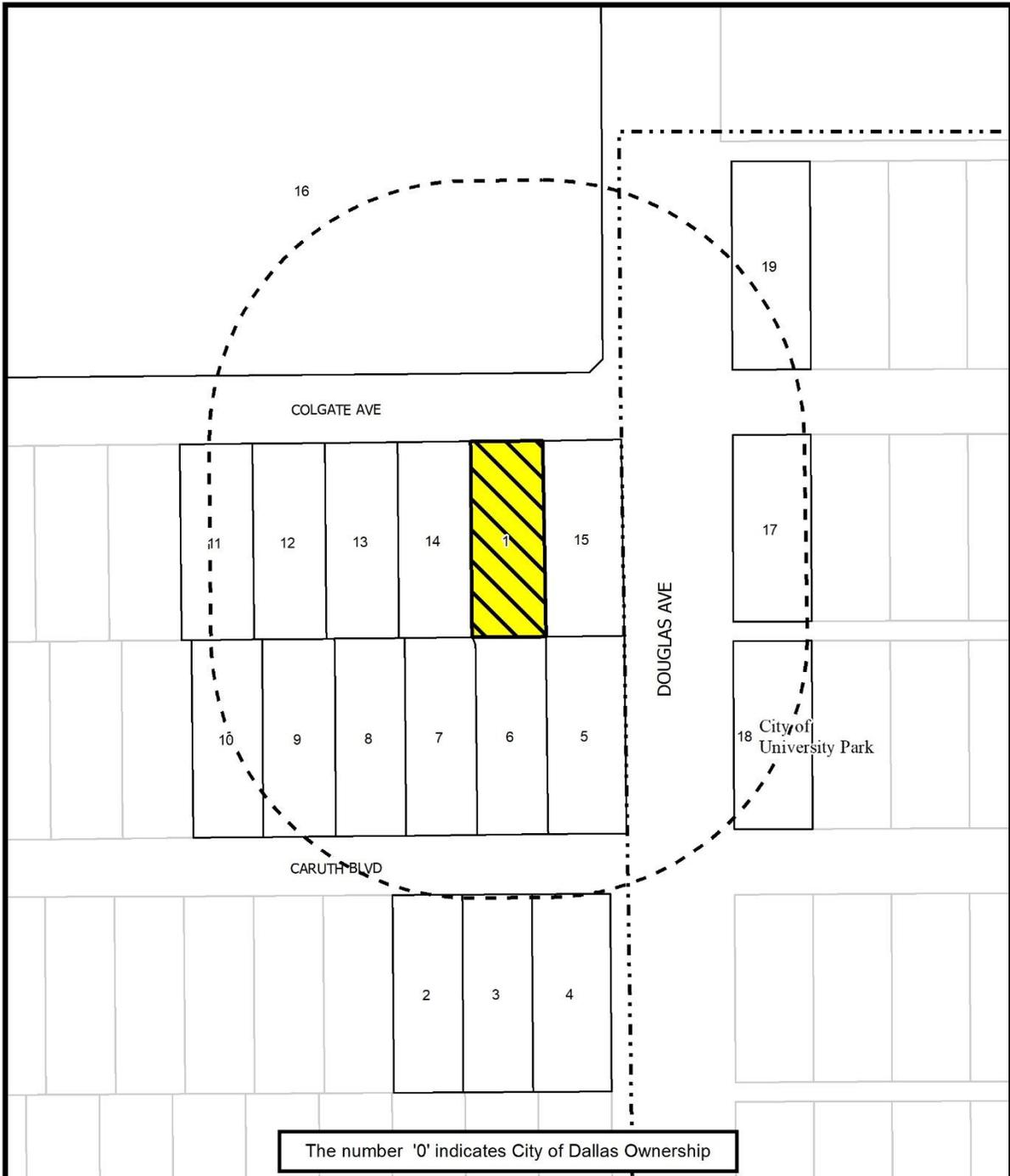
Please call me at your earliest convenience at 214-803-4114 if you have any questions or if you would like to discuss resolution of this account.

Best regards,

By: 

O. Howe

**WE ARE ATTEMPTING TO COLLECT A DEBT.
ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
19 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA190-036**
 Date: **2/21/2020**

02/20/2020

Notification List of Property Owners

BDA190-036

19 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4305 COLGATE AVE	HOWE OLIVIA D & BART A
2	4309 CARUTH BLVD	OBRIEN MICHAEL
3	4305 CARUTH BLVD	IDRIS AHAMED &
4	4301 CARUTH BLVD	COWDEN JOHN B III
5	4300 CARUTH BLVD	MARTIN CYNTHIA A
6	4304 CARUTH BLVD	GRIFFIN DEBORAH A
7	4308 CARUTH BLVD	EWING JERRY L &
8	4312 CARUTH BLVD	FOX ANN &
9	4316 CARUTH BLVD	SAVAGE SCOTT M &
10	4320 CARUTH BLVD	BOURGEOIS KIMBERLY A
11	4321 COLGATE AVE	REDDICK STEFAN C & CLAIRE S
12	4317 COLGATE AVE	ALLEN JOEL STEVEN
13	4313 COLGATE AVE	WEST JR. JAMES DANIEL
14	4309 COLGATE AVE	PETTIJOHN JOANNE P
15	4301 COLGATE AVE	AYART LLC
16	8011 DOUGLAS AVE	CORPORATION OF EPISCOPAL
17	4237 COLGATE AVE	CAREY PHILLIP & AMY
18	4236 CARUTH BLVD	GUY MARK GREGORY &
19	4236 COLGATE AVE	WEAVER JOSEPH R JR &

FILE NUMBER: BDA190-028(JM)

BUILDING OFFICIAL'S REPORT: Application of Rob Baldwin of Baldwin Associates for a variance to the front yard setback regulations at 1177 Lausanne Avenue. This property is more fully described as Lot 1A, 2A, and 3A, Block 8/3826 and is zoned CD No. 13 Subarea 1, which requires a front yard setback of 25 feet for accessory structures. The applicant proposes to construct a single family residential accessory structure and provide a seven-foot six-inch front yard setback, which will require a 17-foot six-inch variance to the front yard setback regulations.

LOCATION: 1177 Lausanne Avenue

APPLICANT: Rob Baldwin of Baldwin Associates

REQUEST:

A request for a variance to the front yard setback regulations of 17 feet, six inches is made to construct a one-story accessory structure to be used as an open-air pool cabana, and is proposed to be located seven feet, six inches from one of the site's two front property lines or 17 feet, six inches into the 25-foot front yard setback on Olympia Drive on a site developed with a single family structure.

STANDARD FOR A VARIANCE¹:

The applicant has the burden of proof in establishing the following standards have been met in consideration of granting the above request.

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:

1. 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;
2. 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

¹ Reference Section 51(A)-3.102(d)(10) of the Dallas Development Code.

developed in a manner commensurate with the development upon other parcels of land with the same zoning; and

3. not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the subject site is unique and different from most lots zoned CD 13 given its slope, its irregular shape, and restrictive area caused by it having two front yard setbacks. The subject site has a number of physical site constraints that preclude the applicant from developing it in a manner commensurate with development found on other similarly zoned CD 13 properties that are flat, rectangular in shape, and with one front yard setback.
- Staff concluded that the applicant has shown by submitting a document indicating among other things that many other properties are able to maintain accessory structures; therefore, the request is commensurate to that what is found on 29 other properties in the same CD 13 zoning district.
- Granting the variance would not be contrary to public interest if the board imposes the submitted site plan as a condition since the features on this plan represent the only new structure to be located in the front yard setback is a one-story accessory structure to be used as an open-air pool cabana, and is proposed to be located seven feet, six inches from one of the site's two front property lines or 17 feet, six inches into the 25-foot front yard setback on Olympia Drive on a site developed with a single family structure.

BACKGROUND INFORMATION:

Zoning:

Site: CD 13, Subarea 1 (Kessler Park Conservation District)

North: CD 13, Subarea 1 (Kessler Park Conservation District)

East: CD 13, Subarea 1 (Kessler Park Conservation District)

South: CD 13, Subarea 1 (Kessler Park Conservation District)

West: CD 13, Subarea 1 (Kessler Park Conservation District)

Land Use:

The subject site and all surrounding properties are developed with single family uses.

Zoning/BDA History:

There have been two related board or zoning cases near the subject site within the last five years.

1. BDA 178-030, On March 19, 2018, the Board of Adjustment Panel C granted a request for a variance to the front yard setback regulations of 11 feet, three inches. The case report stated the request was made to construct and maintain a “ventless firebox” and “planter/retaining wall” structures on a property developed with a single family home, which, according to the submitted revised site plan, would be located as close as 20 feet three inches from the front property line along Olympia Drive, or as much as 11 feet three inches into the 31-foot six-inch front yard setback.
Property at 1520 Olympia Drive (adjacent to the west of the subject site)
2. BDA 167-009, January 17, 2017, the Board of Adjustment Panel C granted a request for a variance to the front yard setback regulations of 74 feet, seven inches, made to construct and maintain a fountain structure and fence on a property developed with a single family home, which, according to the submitted site plan, would be located five feet from one of the site’s two front property lines (Olympia Drive) or 69 feet five inches into the 74-foot seven-inch front yard setback along Olympia Drive.
Property at 1545 W. Colorado Boulevard (Property located within the cul-de-sac, west of the subject site)

GENERAL FACTS /STAFF ANALYSIS:

The request for variance for a variance to the front yard setback regulations of 17 feet, six inches is made to construct a one-story accessory structure to be used as an open-air pool cabana, and is proposed to be located seven feet, six inches from one of the site’s two front property lines or 17 feet, six inches into the 25-foot front yard setback on Olympia Drive.

The subject site is developed with a single family structure containing approximately 6,358 square feet of living area with a 540-square-foot basement erected in 1925, and accessory structures including a two-story, 972-square-foot detached garage with a 720-

square-foot attached quarters, a 324-square-foot carport, and a swimming pool, per DCAD. The property is zoned Subarea 1 within CD 13, the Kessler Park Conservation District. Overall, lots in CD 13, Subarea 1 vary in size and shape, a quality that allowed for the preservation of the natural topography of the area, according to a letter submitted by the representative (Attachment A).

CD 13 states that for corner lots, the minimum front yard must equal that of the front yard of the house on the contiguous lot. In this case, the lot to the west has fronting along Olympia Drive, the area of request, has a front yard setback of 31 feet six inches. Prior to the creation of CD 13 in 2005, the subject site and surrounding properties had been zoned an R-7.5(A) Single Family District where the front yard setback is 25 feet. Additionally, the rounded triangular lot has frontage along the transition from West Colorado Boulevard into Lausanne Avenue, and along Olympia Drive. Both lot frontages are considered front yards, since the code states that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets². Finally, CD 13 states that for accessory structures in a front yard, the required setback is 25 feet.

The applicant submitted a comparison table of 29 other nearby properties that appear to be in CD 13 (Attachment A). This table represents that the other properties also maintain a variety of accessory structures; however, the location of the structures was not apparent. Additional information provided describes Kessler Park as, “an area of north Oak Cliff that has topography and mature trees. The streets have gradual curves, which create some irregular corner lots, especially in Subarea 1.”

The site experiences the greatest topography along the Olympia Drive street frontage, the location of the proposed pool cabana encroaching into the required front yard. The lot is irregular, with a rounded triangular shape, and according to the application, is 0.83 acres or 36,154 square feet in size. Lots in CD 13 vary in size significantly. Prior to the creation of CD 13 in 2005, the subject site and surrounding properties had been zoned an R-7.5(A) District where the typical lot size is 7,500 square feet.

As of March 11, 2020, four letters in support and no letters in opposition to the request had been received.

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.

² Reference Section 51(A)-4.401(a)(5) of the Dallas Development Code.

- The variance to front yard setback regulations are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same CD 13 zoning classification.
- The variance to front yard setback regulations 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 CD 13 zoning classification.

If the board were to grant the request, imposing a condition whereby the applicant must comply with the submitted site plan, the structures in the front yard setback would be limited to that what is shown on this plan – an open-air pool cabana located seven feet six inches from the front property line along Olympia Drive.

Timeline:

January 17, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 11, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

February 14, 2020: The Board of Adjustment Chief Planner/Board Administrator emailed the applicant’s representative the public hearing date and panel that will consider the application; the February 25th deadline to submit additional evidence for staff to factor into their analysis; and the March 6th deadline to submit additional evidence to be incorporated into the board’s docket materials and the following information:

- a copy of the application materials including the Building Official’s report on the application;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

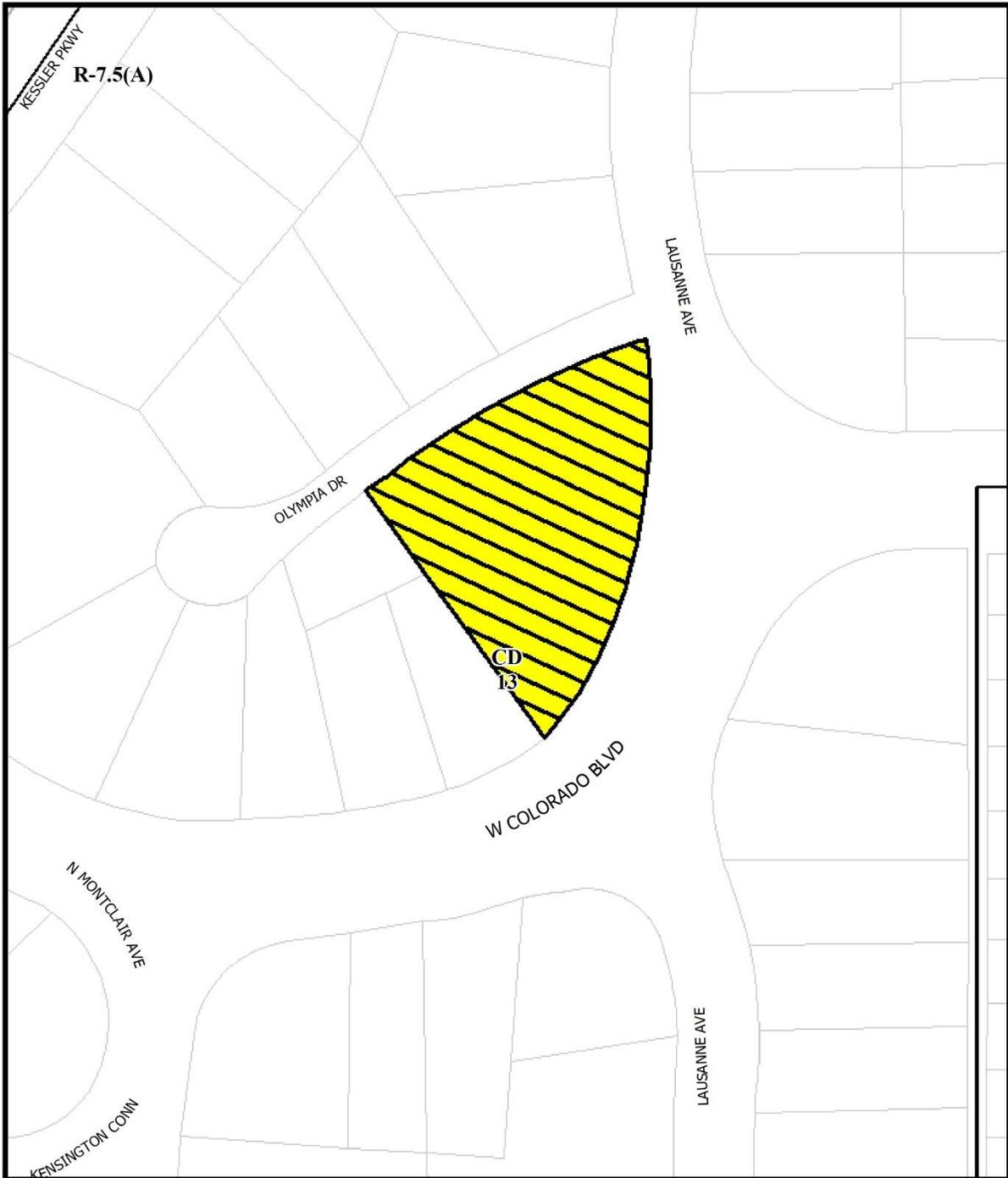
February 27, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March

public hearings. Review team members in attendance included the Assistant City Attorney to the board and the following from the Sustainable Development and Construction Department: Board of Adjustment staff including the Chief Planner/Board Administrator, the Senior Planner, and the Assistant Director; Building Inspection Division staff including the Chief Planner, Building Official, and Assistant Building Official; and Engineering Division staff including the Senior Engineer.

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

March 5, 2020:

The representative submitted an additional evidence regarding the neighborhood and request (Attachment A).

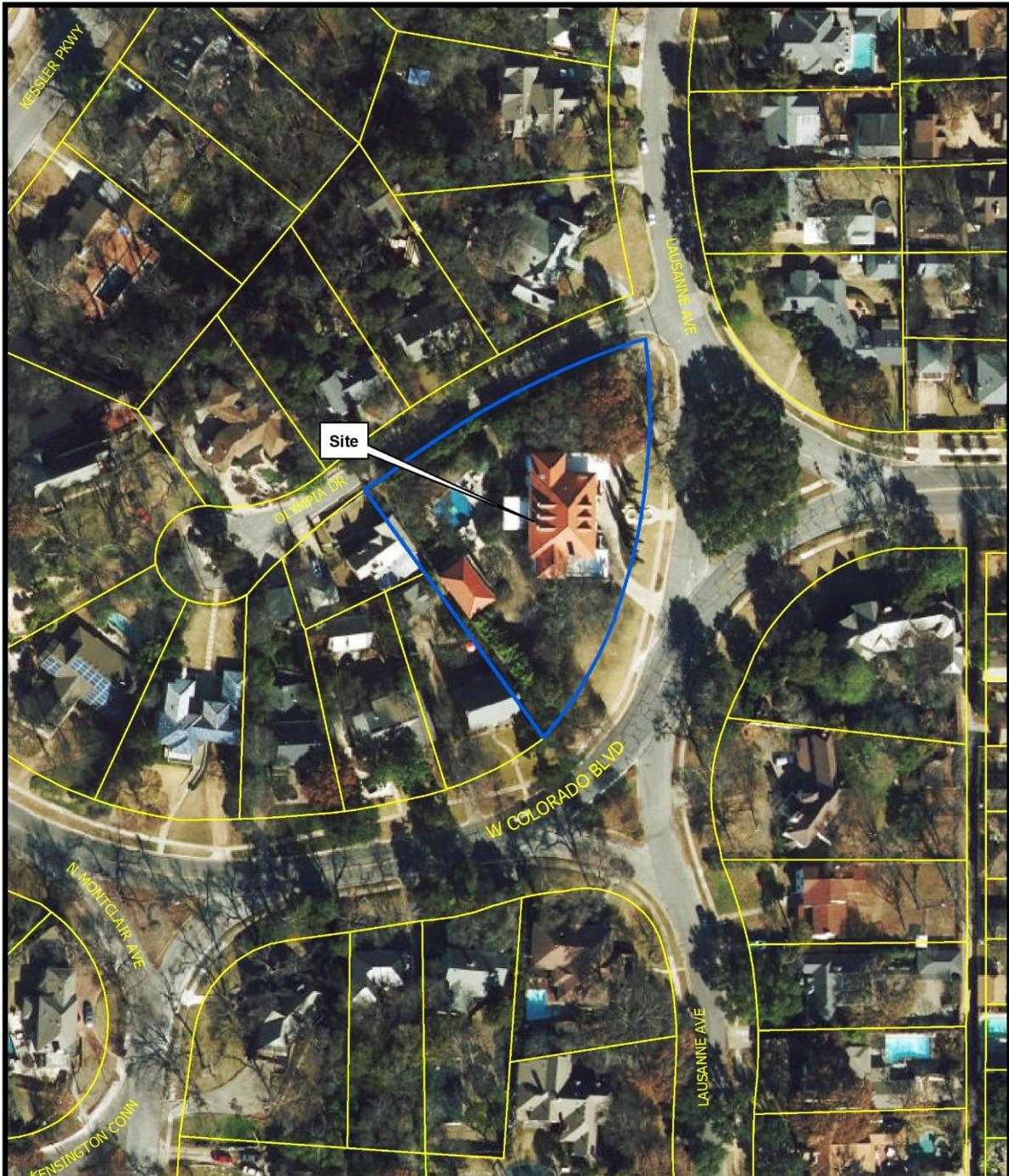


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ZONING MAP

Case no: BDA190-028

Date: 2/21/2020



1:1,200

AERIAL MAP

Case no: BDA190-028

Date: 2/21/2020



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

RECEIVED
JAN 17 2020
BY:

Case No.: BDA 190-028

Date: 1-17-20

Data Relative to Subject Property:

Location address: 1177 Lausanne Ave Zoning District: CD-13

Lot No.: 1A, 2A, 3A Block No.: 8/3826 Acreage: 0.83 acres Census Tract: 44.00

Street Frontage (in Feet): 1) 224.81 ft 2) 314.79 ft 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Marshall Adam and Ashley Renee Spears

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 25' 176" 144" to the required 24' 10" front yard setback along Olympia Drive (cabana to provide 7'6" 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: The subject property is a corner lot with two front yards, somewhat triangular in shape, and is somewhat sloped. The single family structure was constructed in 1925 according to DCAD. The area west of the single family structure functions as the backyard. The proposed cabana will be screened by the existing solid wall with dense landscaping from the street and neighboring property and not adversely impact surrounding 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

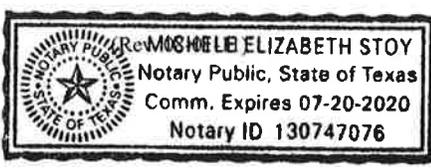
Before me the undersigned on this day personally appeared Robert Baldwin (Affiant/Applicant's name printed)

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 17 day of January, 2020

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



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that Robert Baldwin

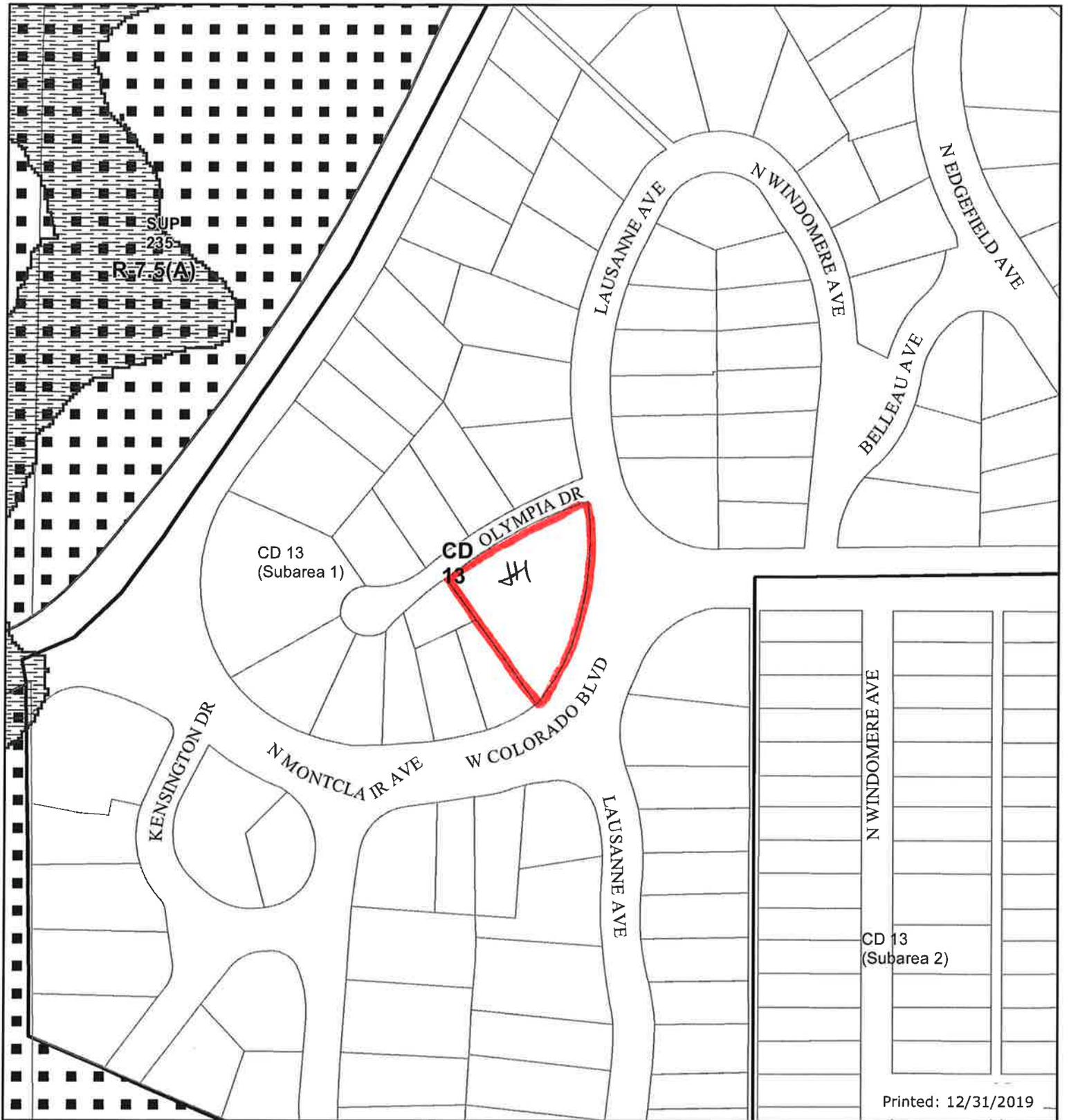
did submit a request for a variance to the front yard setback regulations
at 1177 Lausanne Avenue

BDA190-028. Application of Robert Baldwin for a variance to the front yard setback regulations at 1177 LAUSANNE AVE. This property is more fully described as Lot 1A,2A,3A, Block 8/3826, and is zoned CD-13 Subarea 1, which requires a front yard setback of 25 feet. The applicant proposes to construct a single family residential accessory structure and provide a 7 foot 6 inch front yard setback, which will require a 17 foot 6 inch variance to the front yard setback regulations.

Sincerely,

Philip Sikes
Philip Sikes, Building Official





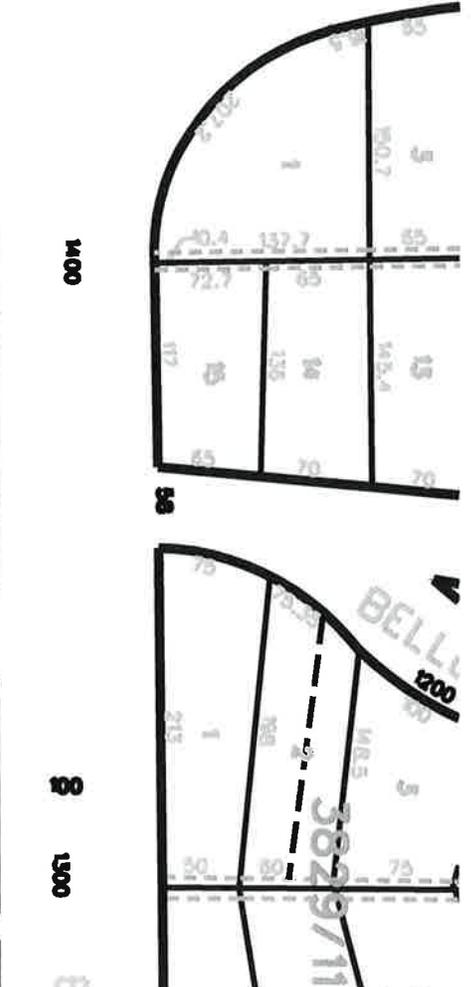
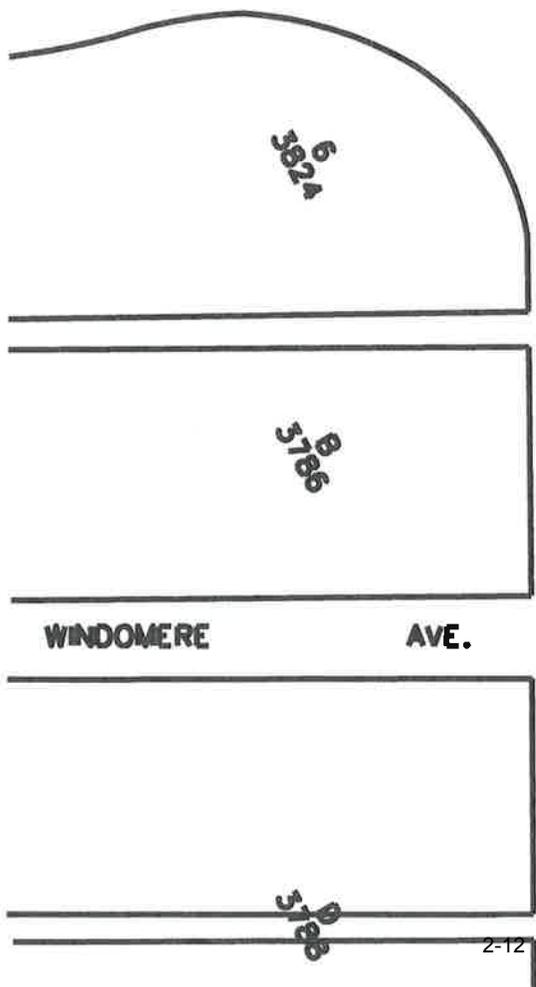
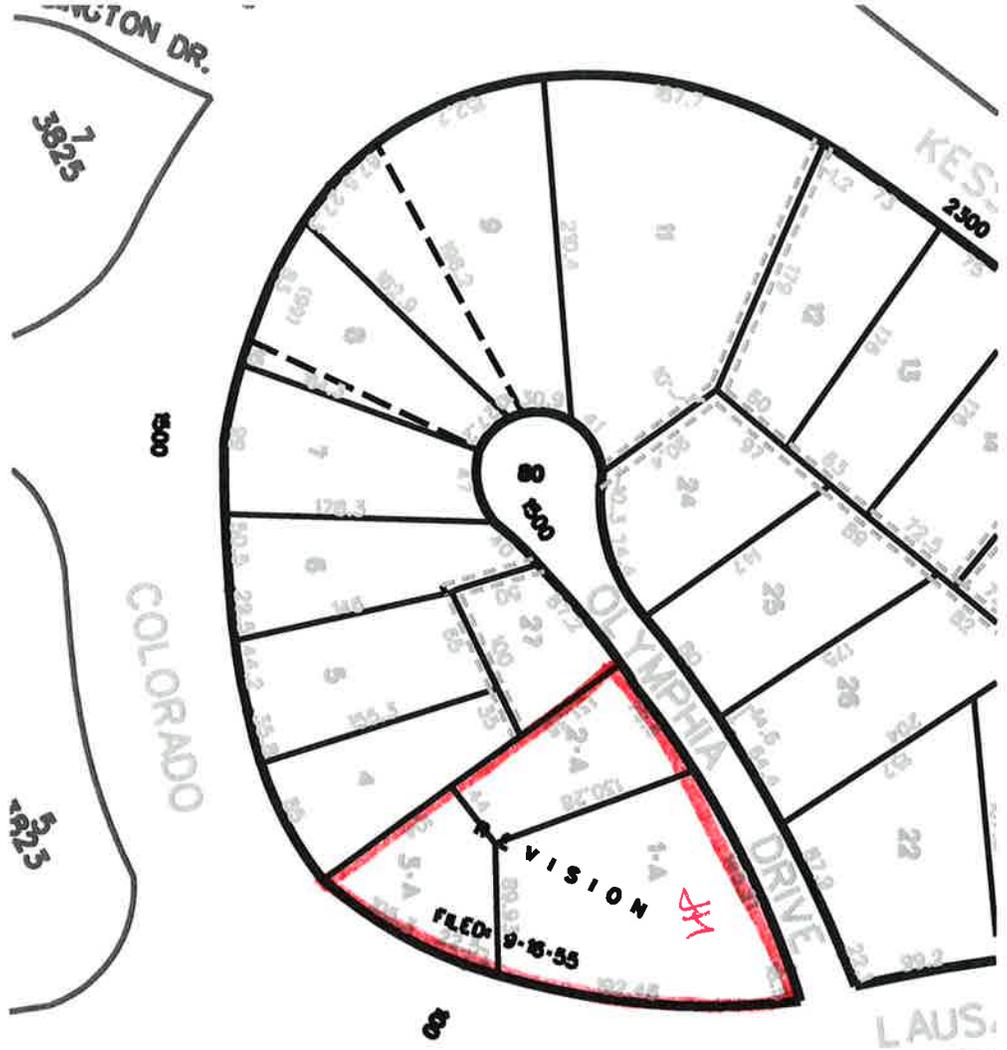
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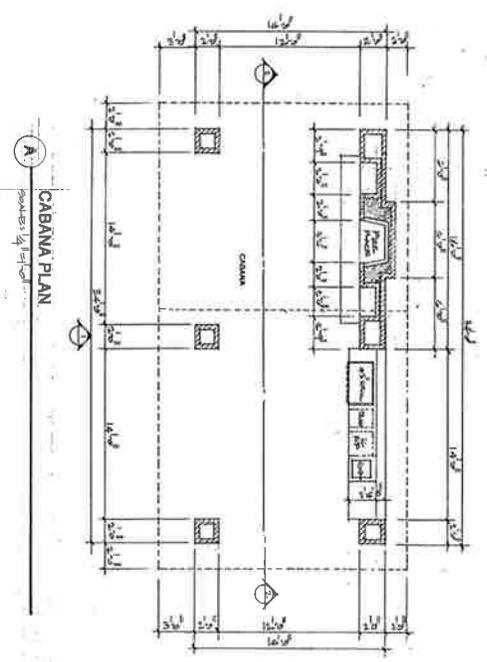
Legend

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

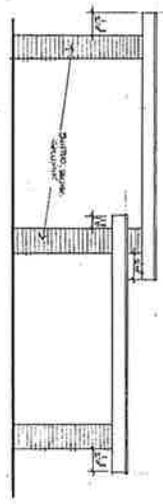
This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, 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)



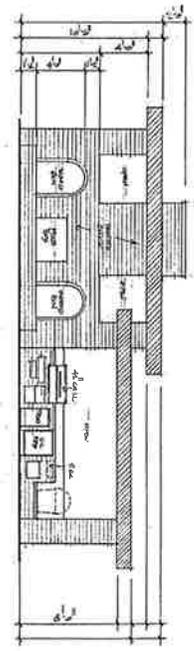




A
CABANA PLAN
SECTION 1-1



1
CABANA ELEVATION FROM POOL
SECTION 1-1



2
CABANA SECTION
SECTION 2-2

NO.	REVISION



March 5, 2020

Jennifer Munoz
Board Administrator
City of Dallas – Board of Adjustment
1500 Marilla 5BN
Dallas, TX 75201

RE: BDA 190-028 variance request, 1177 Lausanne Avenue

Dear Mrs. Munoz,

Our firm is helping the property owner with their request to the City of Dallas to allow for a variance to the front yard setback requirements along Olympia Drive. The property is a corner lot with two front yard setbacks per CD 13. The owners are proposing to build a cabana next to the existing pool in the back yard that will be screened by the existing solid wall and dense landscaping. The proposed cabana will provide a 7'6" setback instead of a 25' setback the CD 13 zoning requires for accessory structures. Kessler Park was zoned R-7.5(A) prior to the CD zoning, but the lot sizes vary from below R-7.5(A) typical lot standards to larger lots which often contain homes that are more distinguished, larger homes. CD 13 is also one of the conservation districts that has a demolition standard that limits which structures can be demolished, controlled by the structure's DCAD value.

This is a variance request which requires demonstration of property hardship, that the request is not self-created, and not contrary to the public interest. CD 13, the Kessler Park Conservation District, was established in 2004 and covers 410 acres of land and over 800 homes. The subject property is Subarea 1 of this Conservation District. Kessler Park is an area of north Oak Cliff that has topography and mature trees. The streets have gradual curves, which create some irregular corner lots, especially in Subarea 1.

The subject property is a triangular lot with rounded lines along *three* street frontages, which is not typical of most residential lots. The northern street, Olympia Drive, is a cul de sac. Lausanne Avenue intersects with Colorado Boulevard and Colorado curves around the block to the west of the subject property.

The subject property's home was constructed in 1925 and provides a 40-foot setback along Lausanne to the main facade of the home, with porches at each end providing approximately 34-foot setbacks. The Olympia setback is 39 feet. The placement of the main structure leaves an irregularly shaped "back yard" for accessory structures and enjoyment of the property for the owners. The existing accessory structures include a detached garage and swimming pool. An area south of the garage is planned for a children's play area. The proposed cabana is planned adjacent to the swimming pool. The location is proposed to be the least intrusive for the surrounding properties, by being situated closer to the home and screened by the existing solid fencing and landscaping.

A brief survey of properties in Subarea 1 of CD 13 found that many properties contain detached structures, similar to the subject property. Most homes were constructed prior to 1950 and on average built around 1934. Lot sizes are often much larger than a typical R-7.5(A) lot, sometimes due to the street geometry. Corner lots are listed in bold. The survey shows that most homes have accessory structures commensurate with the subject property. Viewing the homes with double frontage on Olympia and Colorado Boulevard, at least one or more appears to not to have a 25-foot setback for the accessory structures fronting on Olympia. One or more of these homes may have received variances for these structures.

<u>Address</u>	<u>Home year built</u>	<u>Accessory structure</u>
1527 W Colorado	1927	Detached garage
1533 W Colorado	1930	Detached garage
1545 W Colorado	1927	Detached quarters
1553 W Colorado	1958	Pool
1525 Olympia	1928	Detached quarters, detached garage
2322 Kessler	1945	Carport, pool
2316 Kessler	1954	
2310 Kessler	1937	Detached garage, outdoor living area
2302 Kessler	1940	
1217 Lausanne	1927	Detached garage, pool
1511 Olympia	1934	Detached garage
1517 Olympia	1925	
1523 Olympia	1940	
1414 W Colorado	1931	Detached garage, pool
1134 Lausanne	1936	Detached quarters
1133 Lausanne	1940	Detached garage, pool
1123 Lausanne	1924	Pool
1109 Lausanne	1928	Detached garage, storage buildings, pool, cabana
1203 Lausanne	1928	
1212 Lausanne	1959	Detached garage
1224 Lausanne	1938	Detached garage, pool
1228 Lausanne	1936	Pool
1232 Lausanne	1935	
1234 Lausanne	1926	Detached garage, pool
1235 Lausanne	1929	Detached garage, detached quarters, pool, cabana, carport
1241 Lausanne	1929	Carport, storage building
1344 N Windomere	1928	Detached garage, cabana, pool
1340 N. Windomere	1924	Detached garage, pool

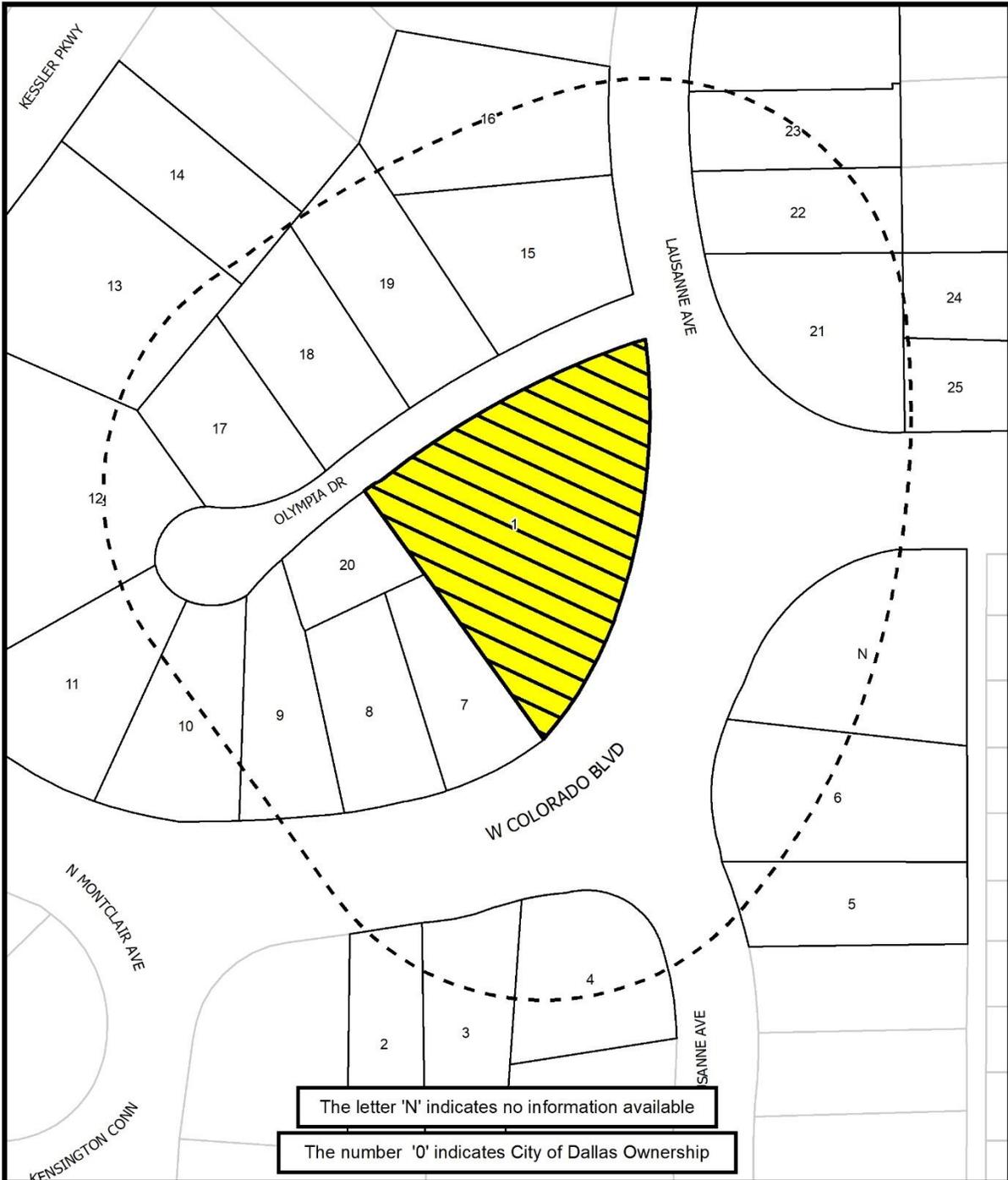
We hope you will find this additional information to support the proposed development is commensurate with properties in the same zoning district, that the property is irregularly shaped, somewhat sloped, and not a self created hardship. The proposed location of the cabana is the best location in the public interest, especially for the interest of the surrounding property owners. We have

contacted surrounding property owners and have received support from a few neighbors. The homeowners have also had conversations with the surrounding owners to explain the request and answer any questions.

We hope staff can support this request. Please do not hesitate to contact me if I can be of further assistance.

With warm regards,

Rob Baldwin




 1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
25 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA190-028**
 Date: **2/21/2020**

Notification List of Property Owners

BDA190-028

25 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1177 LAUSANNE AVE	SPEARS MARSHALL ADAM &
2	1518 W COLORADO BLVD	NANCE MICHAEL W
3	1510 W COLORADO BLVD	COLLIN ROBERT R III &
4	1133 LAUSANNE AVE	KING SCOTT E & VALARIE J
5	1126 LAUSANNE AVE	DENTON TROY NORWOOD & ANGELA INZANA
6	1134 LAUSANNE AVE	KELLEHER JOHN & JANET
7	1527 W COLORADO BLVD	SALINAS SANTIAGO
8	1533 W COLORADO BLVD	SCHWEGMANN CHRISTOPHER J & SHELBI L
9	1541 W COLORADO BLVD	SMITH CYNTHIA CARPENTER
10	1545 W COLORADO BLVD	ANDERSON MARK & BETH
11	1553 W COLORADO BLVD	LINIADO MARK E & AMY
12	1525 OLYMPIA DR	GOSSARD WAYNE H
13	2322 KESSLER PKWY	ROACH PAUL ALTON & RHONDA ELAINE HARRIS
14	2316 KESSLER PKWY	MELNICK SUSAN L &
15	1203 LAUSANNE AVE	LEE GEORGE T JR & NATALIE
16	1209 LAUSANNE AVE	ROWE VINCE &
17	1523 OLYMPIA DR	CHARHON DEVIN DAVID &
18	1517 OLYMPIA DR	STUNDINS KARL A
19	1511 OLYMPIA DR	DUGGER SCOTT O & RHONDA
20	1520 OLYMPIA DR	MOORE WINFIELD &
21	1212 LAUSANNE AVE	ALDERS RICHARD W &
22	1216 LAUSANNE AVE	WALKER MARK A & WENDY S
23	1220 LAUSANNE AVE	INGLIS PAMELA
24	1207 N WINDOMERE AVE	KUCHARSKI ROBERT
25	1203 N WINDOMERE AVE	VUONG NICHOLAS M

FILE NUMBER: BDA190-037(OA)

BUILDING OFFICIAL'S REPORT: Application of Sarah Alexander for a special exception to the single family use regulations at 1606 Rio Vista Drive. This property is more fully described as Lot 14, Block 2/4634 1/2, and is zoned an R-7.5(A) Single Family District, which limits the number of dwelling units to one. The applicant proposes to construct and/or maintain an additional dwelling non-rental unit, which will require a special exception to the single family use regulations.

LOCATION: 1606 Rio Vista Drive

APPLICANT: Sarah Alexander

REQUEST:

A request for a special exception to the single family use regulations is made to construct and maintain a one-story additional home/dwelling unit structure on a site developed with a one-story main single family home/dwelling unit structure.

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

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

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

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to authorize an additional dwelling unit since the basis for this type of appeal is when, in the opinion of the board, the structure or portion of the structure will be used by bonafide servants or caretakers and will not be rental accommodations.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-7.5(A) (Single Family District)
<u>North:</u>	R-7.5(A) (Single Family District)
<u>East:</u>	PD 468 (Planned Development)
<u>South:</u>	PD 468 (Planned Development)
<u>West:</u>	R-7.5(A) (Single Family District)

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

This request for a special exception to the single family use regulations focuses on constructing and maintaining a one-story additional home/dwelling unit structure on a site developed with a one-story main single family home/dwelling unit structure.

The site is zoned an R-7.5(A) Single Family District where the Dallas Development Code permits one dwelling unit per lot.

The single family use regulations of the Dallas Development Code state that only one dwelling unit may be located on a lot and that the Board of Adjustment may grant a special exception to this provision and authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: (1) be use as a rental accommodations; or (2) adversely affect neighboring properties.

The Dallas Development Code defines:

- a “single family” use as “one dwelling unit located on a lot;” and a “dwelling unit” as “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.”
- a “kitchen” as “any room or area used for cooking or preparing food and containing one or more ovens, stoves, hot plates, or microwave ovens; one or more refrigerators; and one or more sinks. This definition does not include outdoor cooking facilities.”

- a “bathroom” as “any room used for personal hygiene and containing a shower or bathtub or containing a toilet and sink.”
- a “bedroom” as “any room in a dwelling unit other than a kitchen, dining room, living room, bathroom, or closet. Additional dining rooms and living rooms, and all dens, game rooms, sunrooms, and other similar rooms are considered bedrooms.”

The submitted site plan denotes the locations of two building footprints, the larger of the two with what appears to be the existing single family main structure and the smaller of the two denoted as a “proposed granny flat”.

This request centers on the function of what is proposed to be inside the smaller structure on the site – the “proposed granny flat” structure, specifically its collection of rooms/features shown on the floor plan.

According to DCAD records, the “main improvement” for the property at 1606 Rio Vista Drive is a structure built in 1959 with 2,603 square feet of total living area with the following “additional improvements”: a 528-square-foot detached garage and a 240-square-foot detached garage.

According to the submitted site plan the main structure contains 2,603 square feet of total living area and the proposed additional dwelling unit contains 494 square feet of living area (with garage and porches 830 square feet).

The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions, if approved) and will not adversely affect neighboring properties.

If the board were to approve this request, the board may choose to impose a condition that the applicant complies with the site plan if they feel it is necessary to ensure that the special exception will not adversely affect neighboring properties. However, granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e. development on the site must meet all required code requirements).

The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

If the board were to grant this request, building inspection would view the structure denoted on the submitted site plan as a “proposed granny flat” as an “additional dwelling unit”.

Timeline:

January 29, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

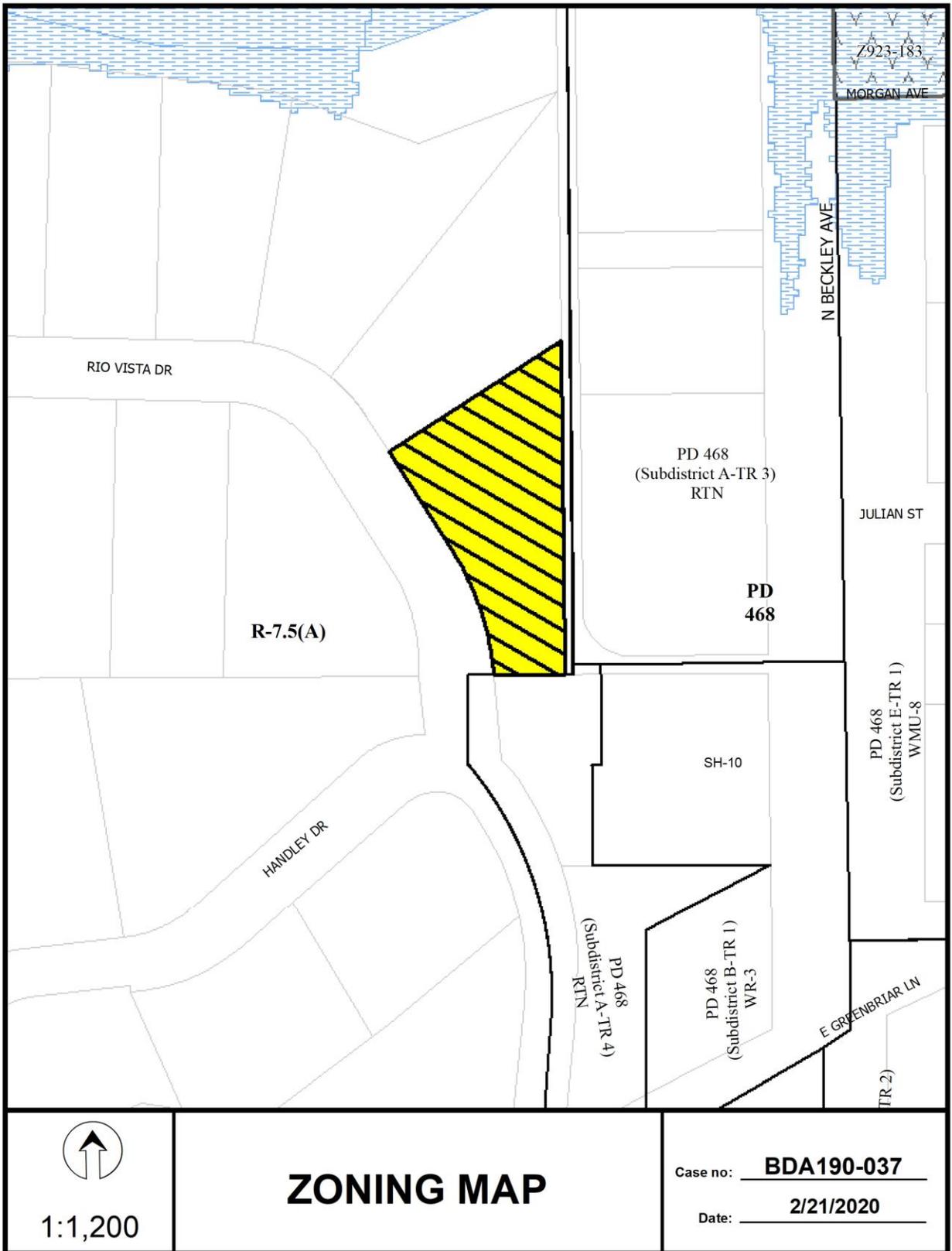
February 11, 2020: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel A.

February 14, 2020: 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 February 25th deadline to submit additional evidence for staff to factor into their analysis; and the March 6th deadline to submit additional evidence to be incorporated into the board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

February 27, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

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





1:1,200

AERIAL MAP

Case no: **BDA190-037**

Date: **2/21/2020**



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 190-037

Date: ~~1/27/2020~~ 1-29-20

Data Relative to Subject Property:

Location address: 1606 Rio Vista Dr. Zoning District: R-7.5(A)

Lot No.: 14 Block No.: 2/4634 1/2 Acreage: .525 Census Tract: 42.01

Street Frontage (in Feet): 1) 203' 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): BRIAN ALEXANDER + SARAH ALEXANDER

Applicant: SARAH ALEXANDER Telephone: 214-498-5478

Mailing Address: 1606 Rio Vista Dr. Zip Code: 75208

E-mail Address: Sillywillow1971@gmail.com

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance __, or Special Exception , of AN ADDITIONAL Dwelling unit.

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

- The architectural style of additional dwelling unit is the same as the main home
- Applicant will deed restrict additional dwelling unit from being rental property
- The additional unit is for personal use only to accommodate family members

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

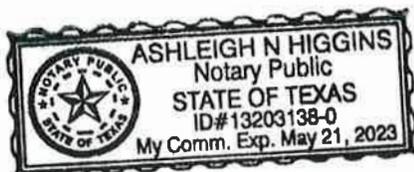
Before me the undersigned on this day personally appeared Sarah Alexander (Affiant/Applicant's name printed)

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: Sarah Alexander (Affiant/Applicant's signature)

Subscribed and sworn to before me this 24th day of January, 2020

(Rev. 08-01-11)



Ashleigh Higgins 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

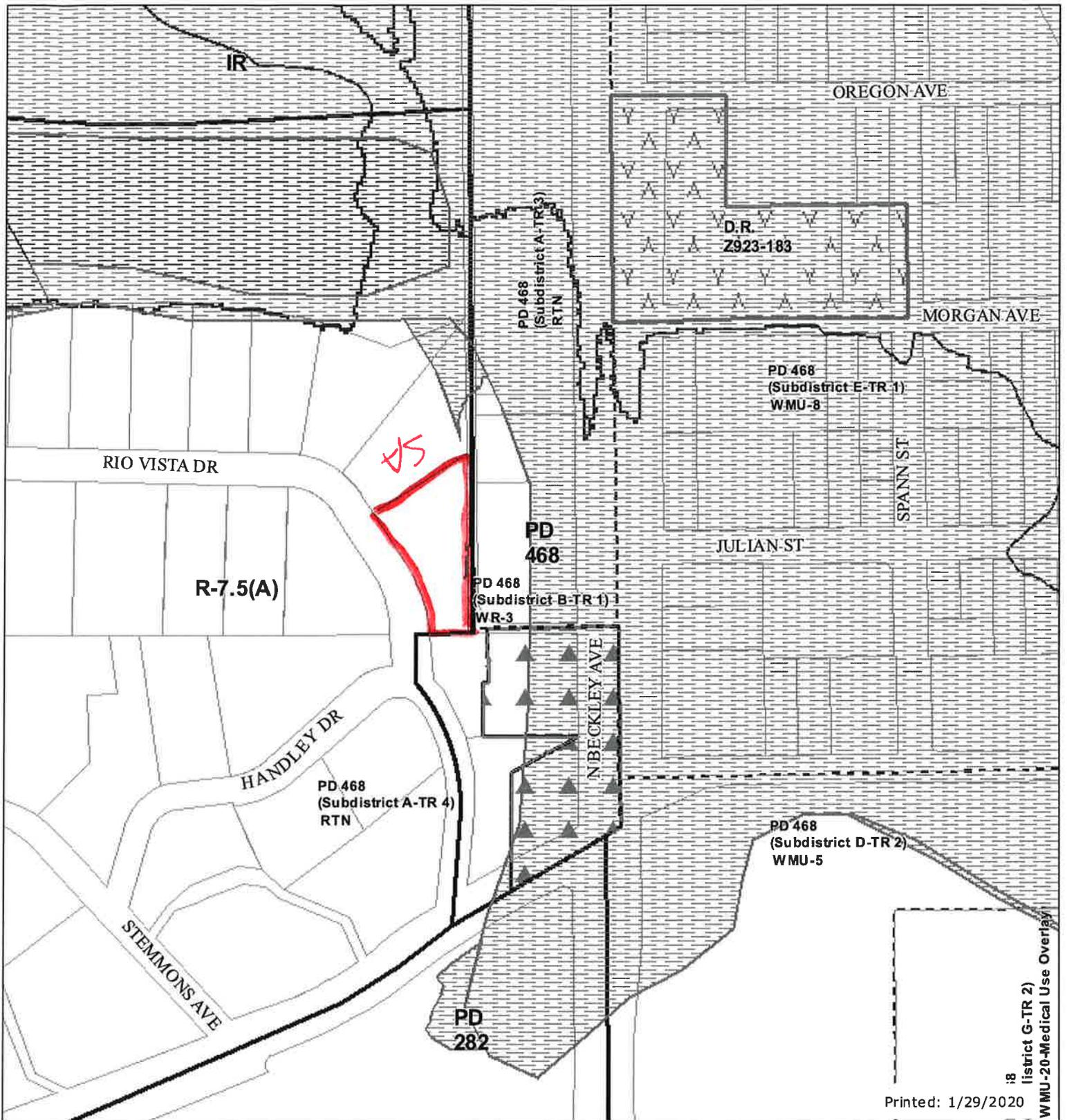
Building Official's Report

I hereby certify that Sarah Alexander
did submit a request for a special exception to the single family regulations
at 1606 Rio Vista Drive

BDA190-037. Application of Sarah Alexander for a special exception to the single family regulations at 1606 RIO VISTA DR. This property is more fully described as Lot 14, Block 2/4634 1/2, and is zoned R-7.5(A), which limits the number of dwelling units to one. The applicant proposes to construct an additional dwelling unit, which will require a special exception to the single family zoning use regulations.

Sincerely,

Philip Sikes
Philip Sikes, Building Official



Printed: 1/29/2020

District G-TR 2) WMU-20-Medical Use Overlay

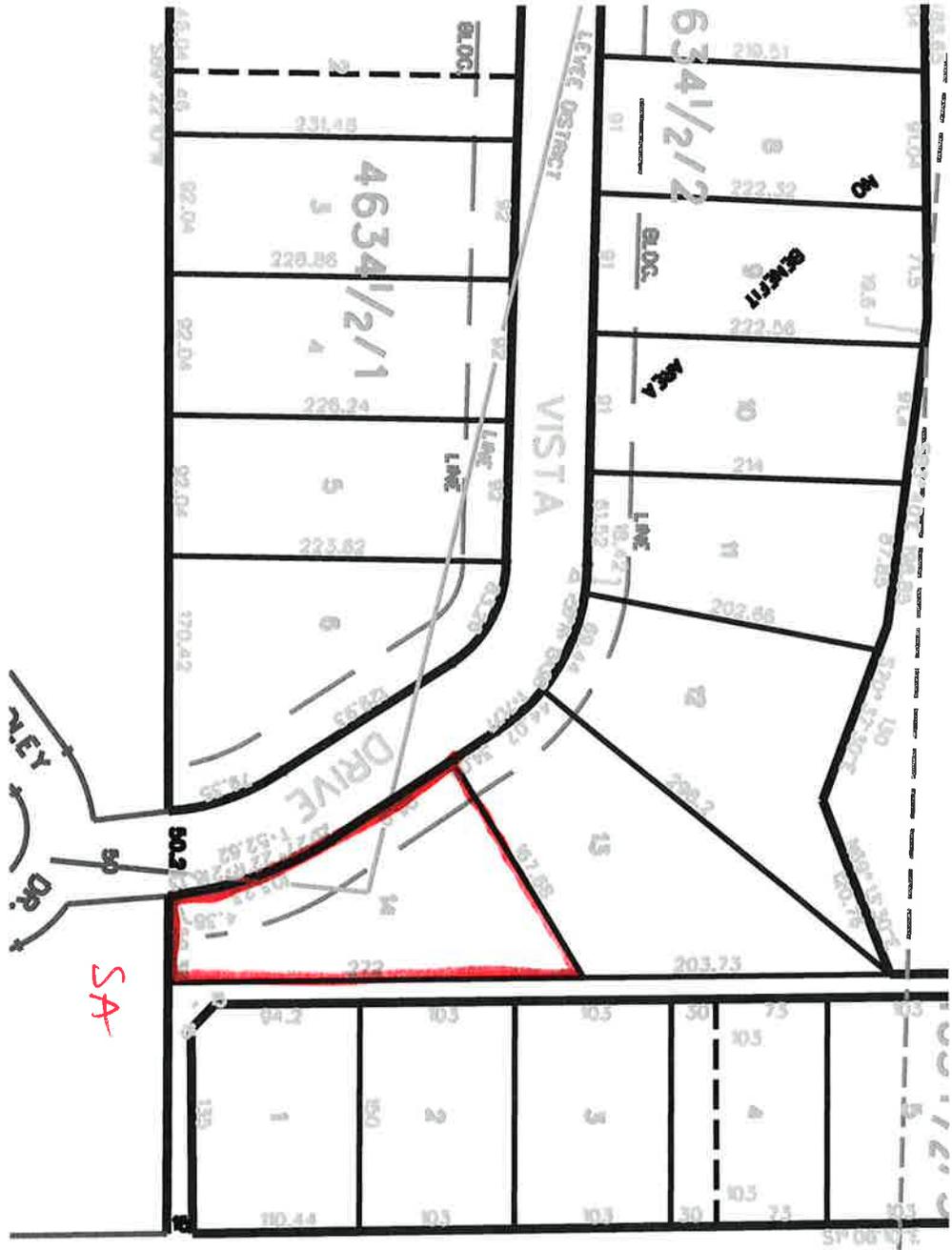
Legend

- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| 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 | Sign Front Overlay |
| | | Height Map Overlay | |

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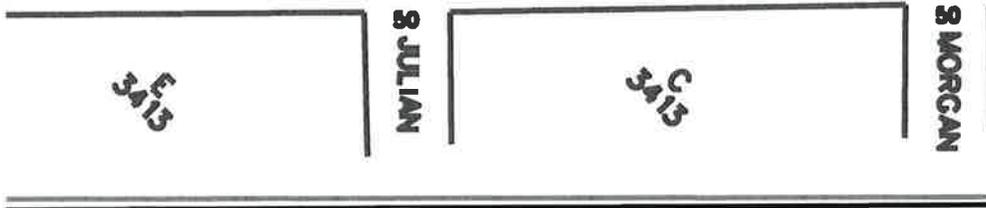
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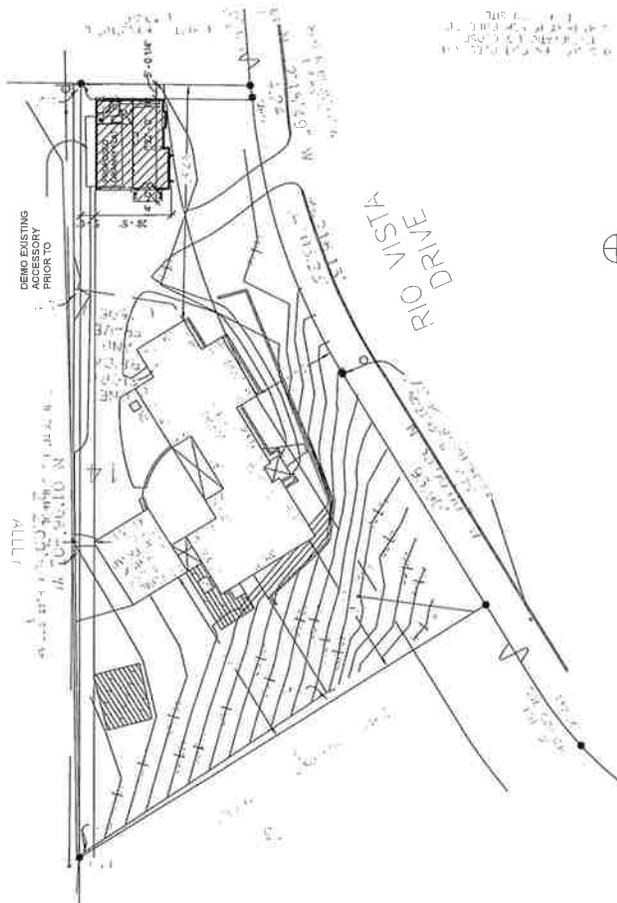


NORTH

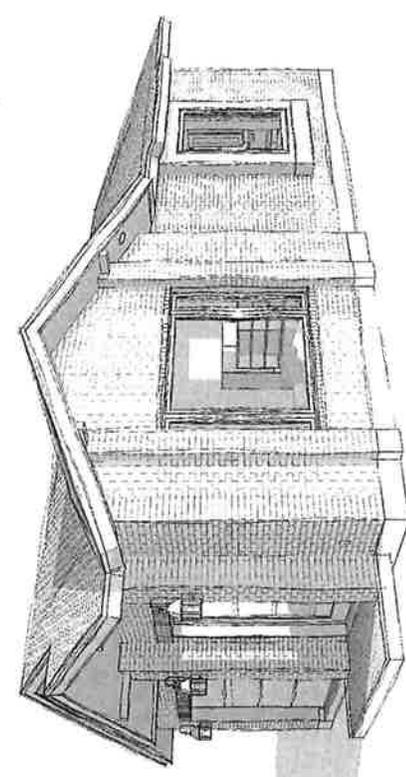
1700

BECK

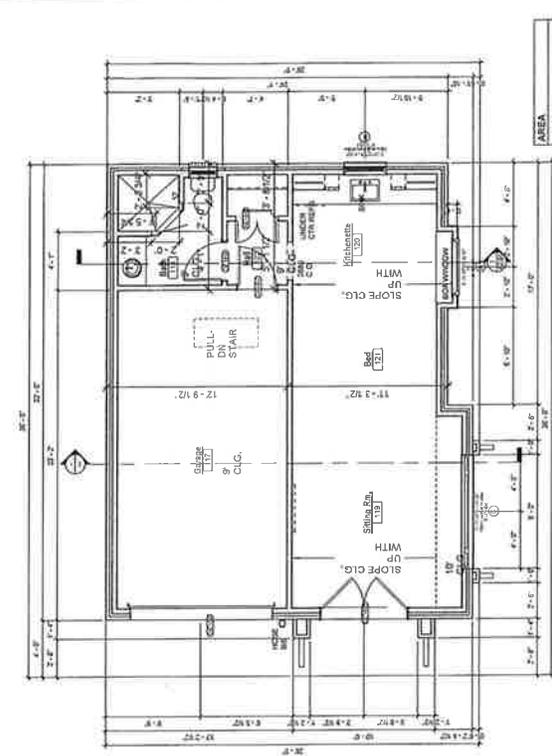




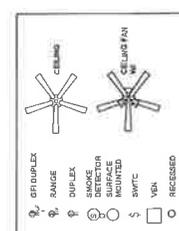
2 .Site Plan Working
1/4" = 1'-0"



4 3D Front
1/4" = 1'-0"

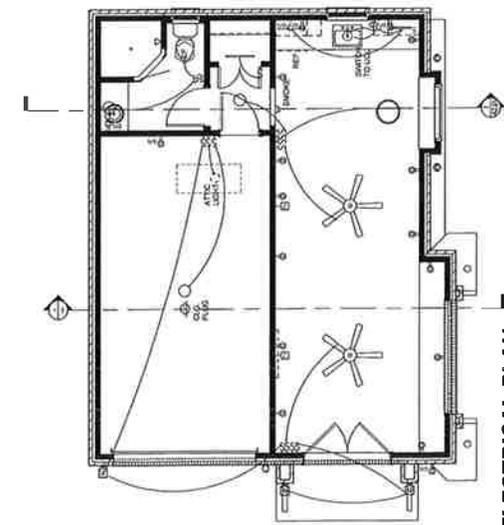


1 1ST FLOOR OVERALL PLAN
1/4" = 1'-0"

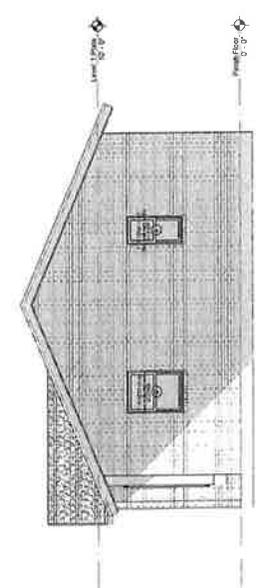


Window Schedule

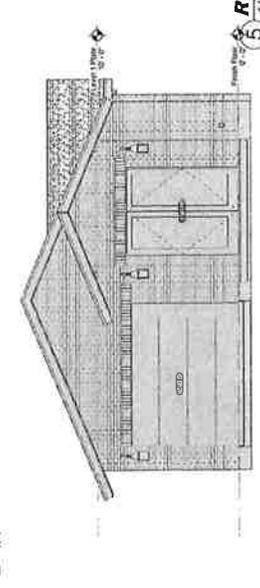
Window	Code	Size	Material
1	1	2'-11 1/2" x 11'-10"	1/2" GLASS
2	2	2'-11 1/2" x 11'-10"	1/2" GLASS
3	3	2'-11 1/2" x 11'-10"	1/2" GLASS
4	4	2'-11 1/2" x 11'-10"	1/2" GLASS



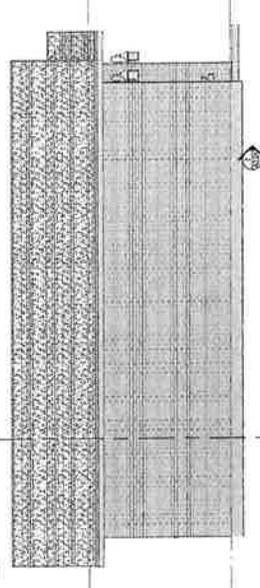
3 ELECTRICAL PLAN
1/4" = 1'-0"



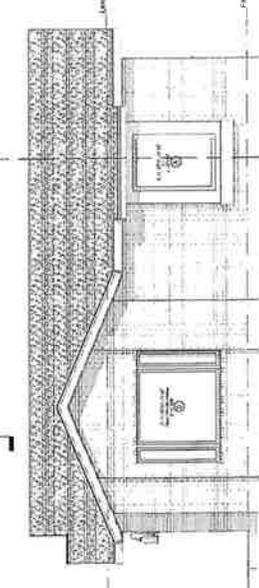
3 1/4" = 1'-0"



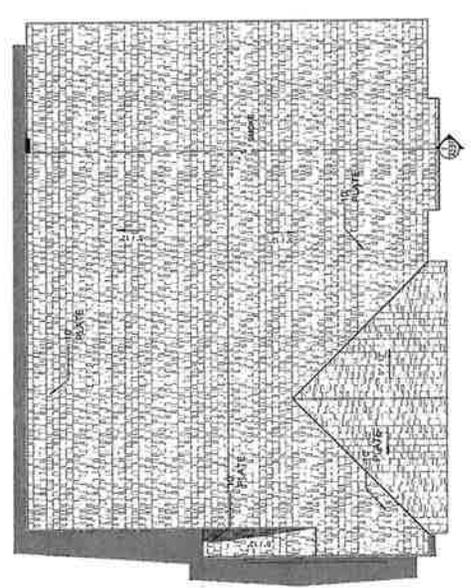
4 1/4" = 1'-0"



1 1/4" = 1'-0"



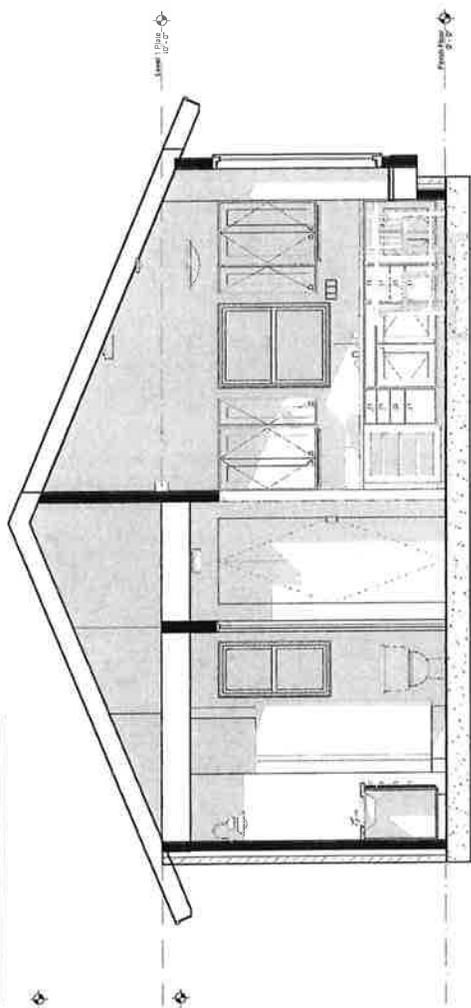
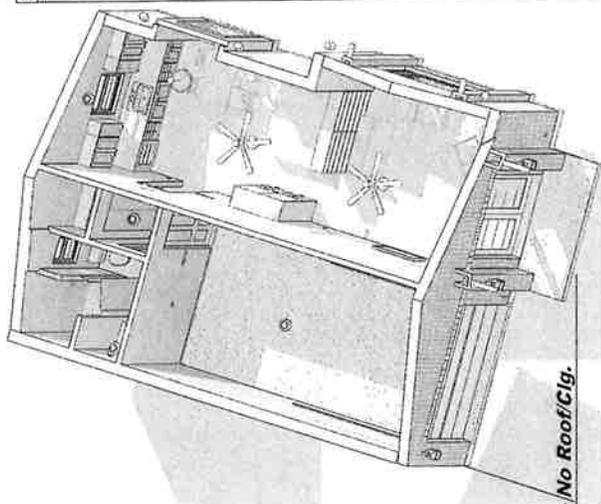
2 1/4" = 1'-0"



5 1/4" = 1'-0"

TYPE	SYMBOL	TYPE	SYMBOL	TYPE	SYMBOL
A	[Symbol]	B	[Symbol]	C	[Symbol]
D	[Symbol]	E	[Symbol]	F	[Symbol]

6 3d - No Roof/Clg.



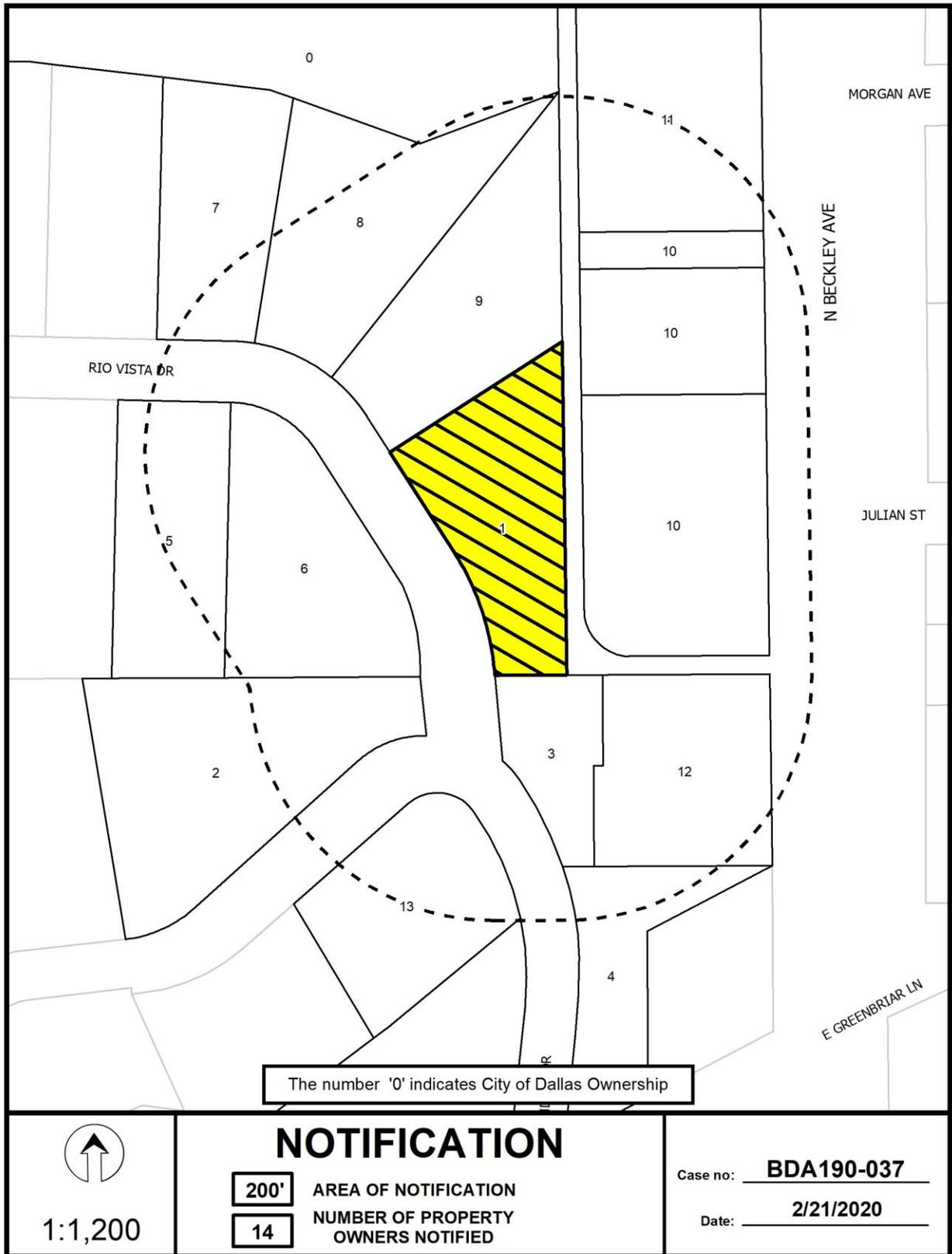
7 1/2" = 1'-0"

DRAWN BY: [Name]
 CHECKED BY: [Name]
 DATE: [Date]
 DESIGNED FOR PROJECT: [Project Name]
 REVISIONS:
 1. [Revision Description]
 2. [Revision Description]
 3. [Revision Description]

R P G A
 DESIGN GROUP, INC.
 ARCHITECTURAL SPACE PLANNING INTERIORS
 1505 KENNEDY BLVD. SUITE 1000 DALLAS, TX 75201
 WWW.RPARCHITECTS.COM

Alexander
 Granny Flat Addition
 1606 Rio Vista Drive
 Dallas, TX

SHEET DESCRIPTION:
 BUILDING ELEVATIONS
 SHEET NO. **A2.01**



02/20/2020

Notification List of Property Owners

BDA190-037

14 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1606 RIO VISTA DR	ALEXANDER BRIAN & BICK SARAH
2	1640 HANDLEY DR	MALLINSON LUKE W &
3	1620 HANDLEY DR	KAVANAGH PETER
4	115 W GREENBRIAR LN	DSGN ASSOCIATES INC
5	1619 RIO VISTA DR	WARREN MARK W & FAITH C
6	1611 RIO VISTA DR	CHERNOCK CHRISTIAN S
7	1620 RIO VISTA DR	GULLEY JOHN F & DAWN
8	1616 RIO VISTA DR	DANIEL LYNSEY
9	1612 RIO VISTA DR	TRAYLOR GARY L &
10	1717 N BECKLEY AVE	BG BROOKVIEW PARTNERS LTD
11	1909 N BECKLEY AVE	BURDINE INDUSTRIES INC
12	1619 N BECKLEY AVE	AUSBROOKE LLC
13	1629 HANDLEY DR	HOMAN KATHERINE LIFE ESTATE
14	133 W GREENBRIAR LN	JOHNSTON JOHN & PATRICIA

FILE NUMBER: BDA 190-001

BUILDING OFFICIAL'S REPORT: Application of the Dallas City Council, pursuant to Resolution 19-0916, represented by Keisha Crane and Zinzi Bonilla, to require compliance of a nonconforming use at 1101 S Haskell Avenue. This property is more fully described as parts of Lots 14 and 15, Block 24/1270, and is zoned CS, which limits the legal uses in a zoning district. The applicant proposes to request that the Board establish a compliance date for a nonconforming alcoholic beverage establishment.

LOCATION: 1101 S Haskell Avenue

APPLICANT: Dallas City Council Resolution 19-0916
Represented by Keisha Crane and Zinzi Bonilla

REQUEST:

A request is made for the Board of Adjustment to establish a compliance date for a nonconforming alcoholic beverage establishment use (Club Linares Bar) on the subject site.

COMPLIANCE REGULATIONS FOR NONCONFORMING USES: SEC. 51A-4.704. NONCONFORMING USES AND STRUCTURES of the Dallas Development Code provides the following provisions:

- (a) Compliance regulations for nonconforming uses. It is the declared purpose of this subsection that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.
 - (1) Amortization of nonconforming uses.
 - (A) Request to establish compliance date. The city council may request that the board of adjustment consider establishing a compliance date for a nonconforming use. In addition, any person who resides or owns real property in the city may request that the board consider establishing a compliance date for a nonconforming use. Upon receiving such a request, the board shall hold a public hearing to determine whether continued operation of the nonconforming use will have an adverse effect on nearby properties. If, based on the evidence presented at the public hearing, the board determines that continued operation of the use will have an adverse effect on nearby properties,

it shall proceed to establish a compliance date for the nonconforming use; otherwise, it shall not.

(B) Factors to be considered. The board shall consider the following factors when determining whether continued operation of the nonconforming use will have an adverse effect on nearby properties:

- (i) The character of the surrounding neighborhood.
- (ii) The degree of incompatibility of the use with the zoning district in which it is located.
- (iii) The manner in which the use is being conducted.
- (iv) The hours of operation of the use.
- (v) The extent to which continued operation of the use may threaten public health or safety.
- (vi) The environmental impacts of the use's operation, including but not limited to the impacts of noise, glare, dust, and odor.
- (vii) The extent to which public disturbances may be created or perpetuated by continued operation of the use.
- (viii) The extent to which traffic or parking problems may be created or perpetuated by continued operation of the use.
- (ix) Any other factors relevant to the issue of whether continued operation of the use will adversely affect nearby properties.

(C) Finality of decision. A decision by the board to grant a request to establish a compliance date is not a final decision and cannot be immediately appealed. A decision by the board to deny a request to establish a compliance date is final unless appealed to state court within 10 days in accordance with Chapter 211 of the Local Government Code.

(D) Determination of amortization period.

- (i) If the board determines that continued operation of the nonconforming use will have an adverse effect on nearby properties, it shall, in accordance with the law, provide a compliance date for the nonconforming use under a plan whereby the owner's actual investment in the use before the time that the use became nonconforming can be amortized within a definite time period.
- (ii) The following factors must be considered by the board in determining a reasonable amortization period:
 - (aa) The owner's capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) on the property before the time the use became nonconforming.
 - (bb) Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages.

- (cc) Any return on investment since inception of the use, including net income and depreciation.
- (dd) The anticipated annual recovery of investment, including net income and depreciation.
- (E) Compliance requirement. If the board establishes a compliance date for a nonconforming use, the use must cease operations on that date and it may not operate thereafter unless it becomes a conforming use.
- (F) For purposes of this paragraph, "owner" means the owner of the nonconforming use at the time of the board's determination of a compliance date for the nonconforming use.

GENERAL FACTS:

- City records indicate the following:
 - The nonconforming use at 1101 S. Haskell Avenue is an alcoholic beverage establishment.
 - Reason the use is classified as nonconforming: On June 23, 1993, City Council passed Ordinance No. 21735 which added a requirement that alcoholic beverage establishment uses must obtain a Specific Use Permit (SUP).
 - Date that the use became nonconforming: June 23, 1993
 - Date the nonconforming use was discontinued: June 5, 2019
 - Current zoning of the property on which the use is located: CS
 - A Certificate of Occupancy was issued on 05-05-2008 for property at 1101 S Haskell Avenue to owner Edgar Romano land use (5821) alcoholic beverage establishment with remarks: "Alcoholc [sic] beverage est. nonconforming per last CO#0401091101. See attached TABC records & letter. No change in ownership. Added square footage per record 3-23-15 BW."
- The Dallas Development Code defines a "nonconforming use" as "a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time."
- The subject site is zoned CS Commercial Service district, which does not permit an alcoholic beverage establishment use without a Specific Use Permit (SUP).

BACKGROUND INFORMATION:

Zoning:

Site: CS (Commercial Service)
North: CS (Commercial Service)

East: CS (Commercial Service)
South: IR (Industrial Research)
West: IR (Industrial Research)

Land Use:

The site is currently developed with a vacant structure. Surrounding land uses include a warehouses to the north, south, and west and undeveloped land separates the subject site from a retail business to the east.

Zoning/BDA History:

There have been no recent Board of Adjustment or zoning cases on or in the immediate vicinity of the subject site.

TIMELINE:

- October 18, 2019: 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 31, 2019: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.
- November 14, 2019: The Interim Board Administrator wrote/sent the record owner of the property and use (Fermin and Gloria Lopez) a letter (with a copy to Keisha Crane) informing them that a Board of Adjustment case had been filed against the nonconforming alcoholic beverage establishment use. The letter included following enclosures:
1. A copy of the Board of Adjustment application and related materials.
 2. Dallas Development Code Section 51A-3.102 describing the Board of Adjustment.
 3. Dallas Development Code Section 51A-2.102(90), which defines a nonconforming use.
 4. Dallas Development Code Section 51A-4.704, provisions for nonconforming uses and structures.
 5. Dallas Development Code Section 51A-4.703, Board of Adjustment hearing procedures.
 6. City of Dallas Board of Adjustment Working Rules of

Procedures.

7. The hearing procedures for board of adjustment amortization of a nonconforming use.

The letter also informed Mr. and Mrs. Lopez of the date, time, and location of the public hearing, and provided a deadline of January 10th to submit any information that would be incorporated into the board's docket.

December 24, 2019: The US Postal Service returned the above unopened letter with a note that the letter was unclaimed and unable to forward.

December 30, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included the following: the Interim Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Department Building Inspection Senior Plans Examiner, the Sustainable Development and Construction Senior Engineer, Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the board.

January 8, 2020: The applicant requested the case be held under advisement until March 17, 2020 (Attachment A).

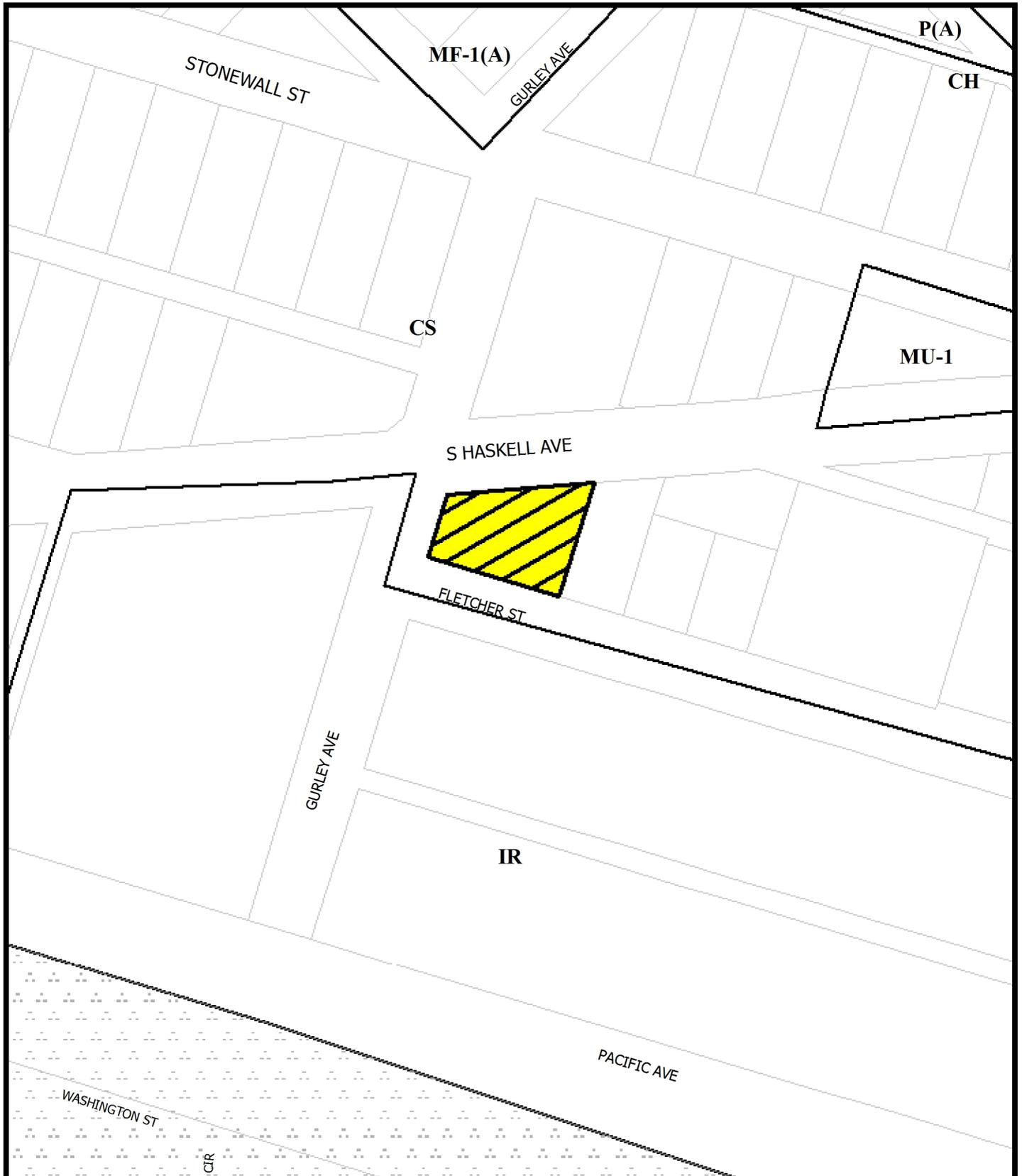
January 21, 2020: The Board of Adjustment Panel A conducted a public hearing on this application, and delayed action on this application until the next public hearing to be held under advisement until March 17, 2020.

February 28, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included the Assistant City Attorney to the board and the following from the Sustainable Development and Construction Department: Board of Adjustment staff including the Chief Planner/Board Administrator, the Senior Planner, and the Assistant Director; Building Inspection Division staff including the Senior Plans Examiner, Building Official, Assistant Building Official, and Chief Planner; and

Engineering Division staff including the Senior Engineer and Assistant Director.

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

March 10, 2020: The representative, on behalf of the applicant, requested to withdraw the application (Attachment B).



1:1,200

ZONING MAP

Case no: BDA190-001
Date: 12/13/2019



1:1,200

AERIAL MAP

Case no: BDA190-001

Date: 12/13/2019



City of Dallas

APPLICATION TO THE BOARD OF ADJUSTMENT
TO SET A COMPLIANCE DATE FOR A NONCONFORMING USE

CASE NO.: BDA 190-001

DATE: 10-18-19

Data Relevant to Subject Property:

Location address: 1101 S. Haskell Avenue Zoning District: CS

Name of Property Owner: Fermin Lopez & Gloria Lopez

Lot No.: SWPTS1415 Block No.: 24/1270 Acreage: .016 Census Tract: 25

Street Frontage (in Feet): (1) 113.65 (2) 48.99 (3) 106.00 (4) _____ (5) _____

To the Honorable Board of Adjustment:

Applicant: Dallas City Council Telephone: 214.670.4050

Mailing Address: 1500 Manila St, Dallas, TX Zip Code: 75201

E-mail address: _____

Represented By: Asst. City Atty. Keisha Crane & Zinzi Bonilla Telephone: 214.789.6804

Mailing Address: 1500 Manila St., 7DN, Dallas, TX Zip Code: 75201

E-mail address: Keisha.Crane@dallascityhall.com, zinzi.bonilla@dallascityhall.com

Affirm that a request has been made to establish a compliance date for the property described above for the following reason(s): Under Dallas City Code

Section SIA-4. 704(c)(1)(A), a compliance date for the nonconforming use should be established because continued operation of the use will have an adverse effect on nearby properties.

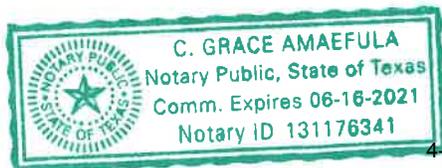
Respectfully submitted: Keisha Crane KCrane
Print Applicant's name Applicant's Signature

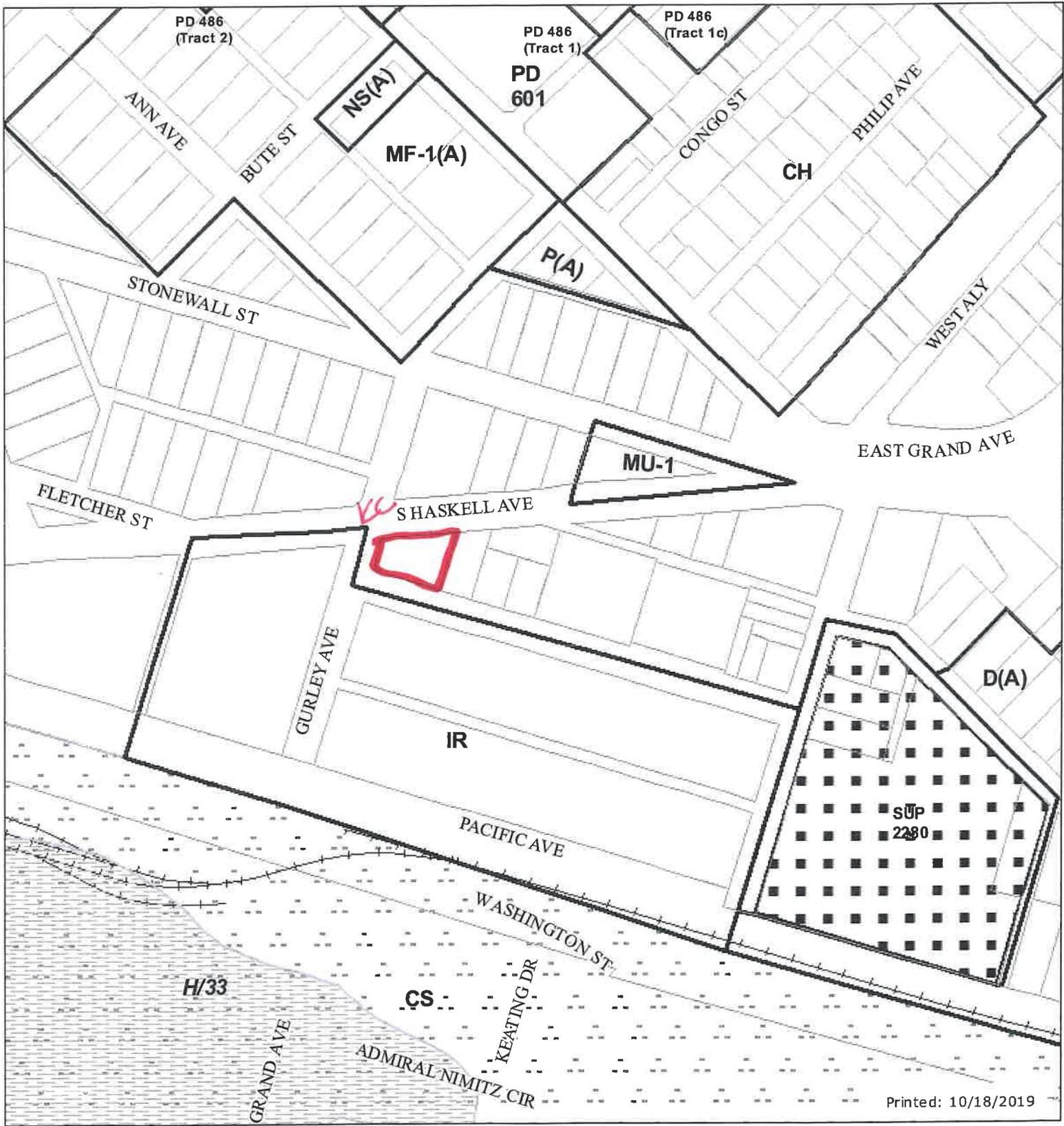
Before me the undersigned on this day personally appeared Keisha Crane who on his or her oath certifies that the above statements are true and correct to his or her best knowledge and belief and that he or she resides or owns property in the City of Dallas.

KCrane
Affiant (Applicant's Signature)

Subscribed and sworn before me this 18th day of October 2019

C. Grace Amaefula
Notary Public in and for Dallas County, Texas





Printed: 10/18/2019

Legend

- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits | railroad | Dry Overlay | CD Subdistricts |
| School | Certified Parcels | D | PD Subdistricts |
| Floodplain | Base Zoning | D-1 | PDS Subdistricts |
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| Parks | SUP | Historic Overlay | 4-11 Shop Front Overlay |
| | | Height Map Overlay | |

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R.
R.

1000 (F ORANGE Y)

1268/26

1267/23

GURLEY

4500

FLETCHER

1270/24

1270/24

1000

AVE.

ST. S

GRAND

1271/28

4500

AVE.

1438

1405/1

WEST ST.

1405

Memorandum



CITY OF DALLAS

DATE October 18, 2019

TO Board of Adjustment

SUBJECT Attachment to Application to the Board of Adjustment to Set a Compliance Date for a Nonconforming use at 1101 S. Haskell Avenue (the "Property")

The above-referenced application is submitted to the Board of Adjustment on behalf of the Applicant, the Dallas City Council, pursuant to City Council Resolution No. 19-0916, dated June 12, 2019, to establish a compliance date for Club Linares Bar located on the Property.

The Property is zoned as a Commercial Service District. Under Dallas City Code Section 51A-4.210(b)(4), an alcoholic beverage establishment is permitted in a Commercial Service District by specific use permit (SUP) only. Club Linares Bar does not have a SUP for an alcoholic beverage establishment; thus, its continued use is nonconforming.

Under Dallas City Code Section 51A-4.704(a)(1)(A), the Dallas City Council may request that the Board of Adjustment consider establishing a compliance date for a nonconforming use. It is the City Council's position that operation of the nonconforming alcoholic beverage establishment at the Property has, and will have, an adverse effect on nearby properties. More specifically, the Property is a common nuisance because the Property owners are maintaining it as a place where people habitually go to commit criminal activity, and, have failed to make reasonable attempts to abate criminal activity from occurring on the property. Thus, this nonconforming use presents a continued threat to public health and safety. Furthermore, the operation of an alcoholic beverage establishment is incompatible with the character of the surrounding neighborhood and public disturbances may be created or perpetuated by continued operation of the use.



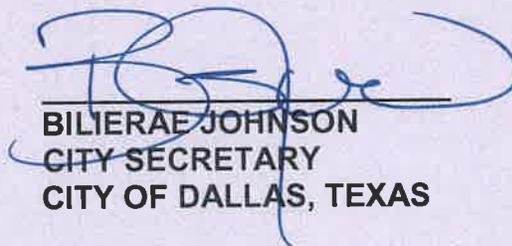
STATE OF TEXAS §
COUNTY OF DALLAS §
CITY OF DALLAS §

I, **BILIERAE JOHNSON**, City Secretary of the City of Dallas, Texas, do hereby certify that the attached is a true and correct copy of:

FILE NO. 19-0916

filed in my office as official records of the City of Dallas, and that I have custody and control of said records.

WITNESS MY HAND AND THE SEAL OF THE CITY OF DALLAS, TEXAS, this the **25th** day of **September, 2019**.


BILIERAE JOHNSON
CITY SECRETARY
CITY OF DALLAS, TEXAS



PREPARED BY: LJ

OFFICIAL ACTION OF THE DALLAS CITY COUNCIL

JUNE 12, 2019

19-0916

Item 64: A resolution requesting the Board of Adjustment to authorize compliance proceedings for the Club Linares Bar located at 1101 South Haskell Avenue, Dallas, Texas - Financing: No cost consideration to the City (via Councilmembers Felder, Deputy Mayor Pro Tem Medrano, Kingston, Narvaez, and Arnold)

Councilmember Felder moved to adopt the item.

Motion seconded by Councilmember Kingston.

After discussion, Presiding Officer Thomas called a vote and declared the item adopted on a divided vote with Councilmember Kleinman voting "No." (Rawlings, Griggs absent)

June 12, 2019

WHEREAS, the Club Linares Bar is located at 1101 Haskell Avenue, Dallas, Texas; and

WHEREAS, the Club Linares Bar operates under a certificate of occupancy for an alcoholic beverage establishment; and

WHEREAS, the property at 1101 South Haskell Avenue is zoned as a CS Commercial Service District; and

WHEREAS, an alcoholic beverage establishment requires a specific use permit in a CS Commercial Service District; and

WHEREAS, the Club Linares Bar is operating without a specific use permit as it is a nonconforming use as defined in the Dallas Development Code; and

WHEREAS, the Dallas Development Code authorizes the City Council to request that the Board of Adjustment consider establishing a compliance date for a nonconforming use.

Now, Therefore,

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

SECTION 1. That the Board of Adjustment is requested to consider establishing a compliance date for the nonconforming use of an alcoholic beverage establishment known as Club Linares Bar located at 1101 South Haskell Avenue, Dallas, Texas.

SECTION 2. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.

APPROVED BY
CITY COUNCIL

JUN 12 2019

CITY SECRETARY



Agenda Information Sheet

File #: 19-660

Item #: 64.

STRATEGIC PRIORITY: Government Performance and Financial Management

AGENDA DATE: June 12, 2019

COUNCIL DISTRICT(S): 7

DEPARTMENT: Mayor and City Council Office

EXECUTIVE: T.C. Broadnax

SUBJECT

A resolution requesting the Board of Adjustment to authorize compliance proceedings for the Club Linares Bar located at 1101 South Haskell Avenue, Dallas, Texas - Financing: No cost consideration to the City (via Councilmembers Felder, Deputy Mayor Pro Tem Medrano, Kingston, Narvaez, and Arnold)

BACKGROUND

The Club Linares Bar is located at 1101 South Haskell Avenue, Dallas Texas. The Club Linares Bar operates under a certificate of occupancy for an alcoholic beverage establishment. The property at 1101 South Haskell Avenue is zoned as a CS Commercial Service District. An alcoholic beverage establishment requires a specific use permit in a CS Commercial Service District. The Club Linares Bar is operating as a nonconforming use because it does not have a specific use permit. Section 51A-4.704(a)(1) allows City Council to request that the Board of Adjustment consider establishing a compliance date for a nonconforming use.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

This item has no prior action.

FISCAL INFORMATION

No cost consideration to the City.



City of Dallas

Memorandum

RECEIVED

2019 APR 24 PM 3:54

CITY SECRETARY

DATE April XX, 2019

TO The Honorable Michael S. Rawlings

FROM Kevin Felder

SUBJECT Request for Placement of Agenda Item – Council Member(s)

ITEM/ISSUE PROPOSED FOR COUNCIL CONSIDERATION:

Pursuant to Section 6.2 of the City Council Rules of Procedure, please post the following item on the first VOTING agenda scheduled at least 30 calendar days after receipt of this request:

A resolution requesting the Board of Adjustment to authorize compliance proceedings for the Club Linares Bar located at 1101 South Haskell Avenue, Dallas, Texas – Financing: No cost consideration to the City

BRIEF BACKGROUND:

The Club Linares Bar is located at 1101 South Haskell Avenue, Dallas Texas. The Club Linares Bar operates under a certificate of occupancy for an alcoholic beverage establishment. The property at 1101 South Haskell Avenue is zoned as a CS Commercial Service District. An alcoholic beverage establishment requires a specific use permit in a CS Commercial Service District. The Club Linares Bar is operating as a nonconforming use because it does not have a specific use permit. Section 51A-4.704(a)(1) allows City Council to request that the Board of Adjustment consider establishing a compliance date for a nonconforming use.

Submitted for consideration by:

Kevin Felder, District 7

Printed Name, District #

Signature of Kevin Felder

Supporting Council Member Signatures (4 Signatures Only):

DMPT Adam Medrano District 2

Printed Name, District #

Signature of Adam Medrano

Phillip Kluyffon 14

Printed Name, District #

Signature of Phillip Kluyffon

Onar Narvaez 6

Printed Name, District #

Signature of Onar Narvaez

Carolyn K Arnold

Printed Name, District #

[Handwritten Signature]

Signature

Attachment: Draft Resolution

- c: Honorable Council Members
- T.C. Broadnax, City Manager
- Christopher J. Caso, Interim City Attorney
- Craig D. Kinton, City Auditor
- Biliera Johnson, City Secretary
- Scott Goldstein, Chief of Policy and Communications, Office of the Mayor

COUNCIL CHAMBER

_____ [DATE] _____

WHEREAS, the Club Linares Bar is located at 1101 South Haskell Avenue, Dallas Texas; and

WHEREAS, the Club Linares Bar operates under a certificate of occupancy for an alcoholic beverage establishment; and

WHEREAS, the property at 1101 South Haskell Avenue is zoned as a CS Commercial Service District; and

WHEREAS, an alcoholic beverage establishment requires a specific use permit in a CS Commercial Service District; and

WHEREAS, the Club Linares Bar is operating without a specific use permit as it is a nonconforming use as defined in the Dallas Development Code; and

WHEREAS, the Dallas Development Code authorizes the City Council to request that the Board of Adjustment consider establishing a compliance date for a nonconforming use; **Now, Therefore,**

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

SECTION 1. That the Board of Adjustment is requested to consider establishing a compliance date for the nonconforming use of an alcoholic beverage establishment known as the Club Linares Bar located at 1101 South Haskell Avenue, Dallas Texas.

SECTION 2. That this resolution shall take effect immediately from and after its passage in accordance with the Charter of the City of Dallas, and it is accordingly so resolved.

Each councilmember signing the five-person request to place an item on the agenda must review and confirm that they have read and agree with the draft resolution by dating, initialing, and placing their district number below.

<u>4/24/19</u>	<u>4/24/19</u>	<u>4/24/19</u>	<u>4/24/19</u>	<u>4/24/19</u>
DATE	DATE	DATE	DATE	DATE
<u>KF</u>	<u>AM</u>	<u>[Signature]</u>	<u>[Signature]</u>	<u>[Signature]</u>
CM INITIAL	CM INITIAL	CM INITIAL	CM INITIAL	CM INITIAL
<u>7</u>	<u>2</u>	<u>14</u>	<u>6</u>	<u>4</u>
DIST. NO.	DIST. NO.	DIST. NO.	DIST. NO.	DIST. NO.

Details

Address...	1101 S HASKELL AVE
AddressType1	
AddressType2	
Airport	N
Alcohol	N
Applicant Name Lookup...	
Arborist	N
Base Zoning	
BI Flag	N
BI Flag Comments	
BI Flag Override	N
Bio-Diesel	N
Block	
Board of Adjustment	N
Building	N
Certificate Type	
Comments	
Conditions	
Construction Type	
Create ProjectDox Project	N
Dance Floor	N
Deed Restriction	N
Diesel	N
District	26A
District Office	NW
Doing Business As	
Dry	N
Dwelling Units	0
Electric	N
Email	
Expiration Date	
Flood Plain	N
Fraction	
Gas	N
GIS Flagged Area	
GIS NSOName	
Health	N
Health Inspection Needed	N
Health Permit Fee to Use	
Health Permit Number	
Historic	
Land Use	(5821) ALCOHOLIC BEVERAGE ESTABLISHMENT
Lot	
Manager Approval	N
Manager Name	
MD Overlay	
MD Review Needed	N
Moratorium Override	N
Natural Gas	N
Occupancy	B2
Occupancy Load	
Occupied Portion	
Other Fuel	
Other Fuel Type	N
OverBlock	

Certificate of Occupancy

Address: 1101 S HASKELL AVE 75223 Issued: 05/05/2008

Owner: JUAN ORONA
1101 S HASKELL
DALLAS, TEXAS 75217

DBA: LINARES NUEVO LEON

Land Use: (5821) ALCOHOLIC BEVERAGE ESTABLISHMENT

Occupied Portion:

C.O.#: 0710021072

Lot:	14	Block:	24/1270	Zoning:	CS	PDD:	SUP:
Historic Dist:		Consrv Dist:		Pro Park:		Req Park:	Park Agrmt: N
Dwlg Units:		Stories:	A2	Occ Code:	A2	Lot Area:	Total Area: 1896
Type Const:	IIIB	Sprinkler:		Occ Load:	140	Alcohol:	Dance Floor: N

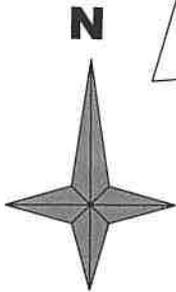
Remarks: ALCOHOLC BEVERAGE EST. NON CONFORMING PER LAST
CO#0401091101. SEE ATTACHED TABC RECORDS & LETTER. NO CHANGE IN
OWNERSHIP. ADDED SQUARE FOOTAGE PER RECORD 3-23-15 BW.

Larry V. Holmes

Larry Holmes, Building Official

This certificate shall be displayed on the above premise at all times.

GURLEY AVENUE
(50-Foot R/W)



20 0 20



14

HASKELL AVENUE
(55-Foot R/W)

Pwr Pole



BLOCK
24/1270

16

FLETCHER STREET
(50-Foot R/W)

				1101 S. HASKELL AVENUE			
				Remainder; Lots 14 & 15			
				Block 24/1270			
				DEPARTMENT OF PUBLIC WORKS			
				SURVEY DIVISION CITY OF DALLAS, TEXAS			
OPER. NAME	DESIGN FILE NAME			SCALE	DATE		
Holt	N:\ENGR\SURVEY\HOLT\HASKELL\Haskell.dgn			As Noted	10/11/19		
PARTY CHIEF	CALCULATIONS	FOLDER		FILE NO.			
Prunty	Holt	Block 2/416		N/A			



January 8, 2020

Elaine Hill
Board Secretary
City of Dallas Board of Adjustment
1500 Marilla 5BN
Dallas, TX 75201
Via E-Mail to: phyllis.hill@dallascityhall.com

Re: BDA190-001, Request to Continue Hearing

Dear Ms. Hill:

The Dallas City Council submitted a request to set a compliance date for the nonconforming alcoholic beverage establishment use at 1101 South Haskell Avenue. The request is scheduled to be heard by Board of Adjustment Panel A at a public hearing on Tuesday, January 21, 2020.

I am requesting that the hearing be continued for at least 60 days. Fermin Lopez, the record owner of the property, has indicated that he no longer intends to operate an alcoholic beverage establishment at the property and plans to operate a tire shop instead. The 60-day continuance will allow the property owner time to follow through with his plans to operate a tire shop which may eliminate the need to set a compliance date for the nonconforming alcoholic beverage establishment use.

Sincerely,

Keisha Crane
Assistant City Attorney
City of Dallas
Dallas City Attorney's Office
1500 Marilla St., 7DN
Dallas, TX 75201
O: 214-789-6804
F: 214-670-0622
keisha.crane@dallascityhall.com



March 6, 2020

LaTonia Y. Jackson
Board Secretary
City of Dallas Board of Adjustment
1500 Marilla 5CN
Dallas, TX 75201
Via E-Mail to: latonia.jackson@dallascityhall.com

Re: BDA190-001, Request to Withdraw Application to Set a Compliance Date for a Nonconforming Use

Dear Ms. Jackson:

The Dallas City Council submitted a request to set a compliance date for the nonconforming alcoholic beverage establishment use at 1101 South Haskell Avenue. The request is scheduled to be heard by Board of Adjustment Panel A at a public hearing on Tuesday, March 17, 2020.

I am requesting a withdrawal of the application to set a compliance date for a nonconforming use. On January 15, 2020, Fermin Lopez, the record owner of the property, signed an affidavit stating that the alcoholic beverage establishment use has remained discontinued on the property for six months or more and he intends to abandon the alcoholic beverage establishment use on the property. Also, on February 28, 2020, the Dallas Building Inspection Division revoked the certificate of occupancy issued for operation of an alcoholic beverage establishment at the property. Therefore, the goal of discontinuing the use of an alcoholic beverage establishment at 1101 S. Haskell Avenue is met without the necessity of a hearing before the Board of Adjustment.

Sincerely,

Keisha Crane
Assistant City Attorney
Dallas City Attorney's Office
O: 214-789-6804
keisha.crane@dallascityhall.com

Encl: Affidavit of Fermin Lopez (1), Certificate of Occupancy Revocation Letter (2)

BDA 190-001: Pending Board of Adjustment Case Located at 1101 South Haskell Avenue

AFFIDAVIT OF FERMIN LOPEZ

STATE OF TEXAS)
)
COUNTY OF DALLAS)

Before me, the undersigned Notary Public, personally appeared Fermin Lopez, who first being duly sworn according to the law, said:

“My name is Fermin Lopez. I am over the age of 18 and am of sound mind and capable of making this affidavit. I have personal knowledge of the statements within this affidavit and such statements are true and correct and they are made under penalty of perjury.

I, along with my wife, Gloria Lopez, own the real property described as Browder’s Providence, Block 24, Dallas City Block 1270, SWPTS Lots 14 & 15 and commonly referred to as 1101 South Haskell Avenue, Dallas, Texas 75223 (the “Property”). From on or around May 5, 2008 to June 5, 2019, we leased the Property to Everado Mora, a tenant who operated Club Linares Bar, an alcoholic beverage establishment. Effective June 5, 2019, Mr. Mora discontinued operation of an alcoholic beverage establishment on the Property and vacated the premises. The alcoholic beverage establishment has remained discontinued for six months or more. We intend to abandon the alcoholic beverage establishment use on the Property, ~~and plan to operate a tire shop~~ ^{FC} ~~instead.~~ ^{F2} We understand that the Property is zoned as a Commercial Service District and an alcoholic beverage establishment requires a specific use permit in a Commercial Service District. We also understand that operating an alcoholic beverage establishment without a specific use permit is a nonconforming use as defined in the Dallas Development Code.

Further the Affiant says not.”

Fermin Lopez
Fermin Lopez, Affiant

SUBSCRIBED AND SWORN TO BEFORE ME on this the 15th day of January 2020, to certify which witness my hand and official seal.



Angie G. Morgan
NOTARY PUBLIC IN AND FOR THE
STATE OF TEXAS



CITY OF DALLAS

February 28, 2020

CERTIFIED MAIL NO. 7016 2140 0001 1831 0221

Mr. Juan Orona
1101 S. Haskell Avenue
Dallas, TX 75223

RE: Revocation of Certificate of Occupancy No. 0710021072 for a nonconforming alcoholic beverage establishment use at 1101 S. Haskell Avenue (“the Property”)

Dear Mr. Orona:

This letter is to inform you that the above-referenced certificate of occupancy, issued on May 5, 2008, is hereby revoked. The building official is required to revoke a certificate of occupancy if the use or occupancy authorized by the certificate of occupancy has been discontinued for six months or more.¹ Furthermore, the right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more.²

It has been confirmed through periodic inspections that the building has remained vacant since June 6, 2019. Therefore, **Certificate of Occupancy No. 0710021072 for an alcoholic beverage establishment use is hereby revoked and the right to operate the nonconforming use has ceased.** Any use operating on the Property without a certificate of occupancy is an illegal land use that must immediately cease operating.³

This decision is final unless appealed to the Board of Adjustment within fifteen days after the date of this letter.⁴ If you have any questions, please contact me at 214-948-4501.

Sincerely,

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

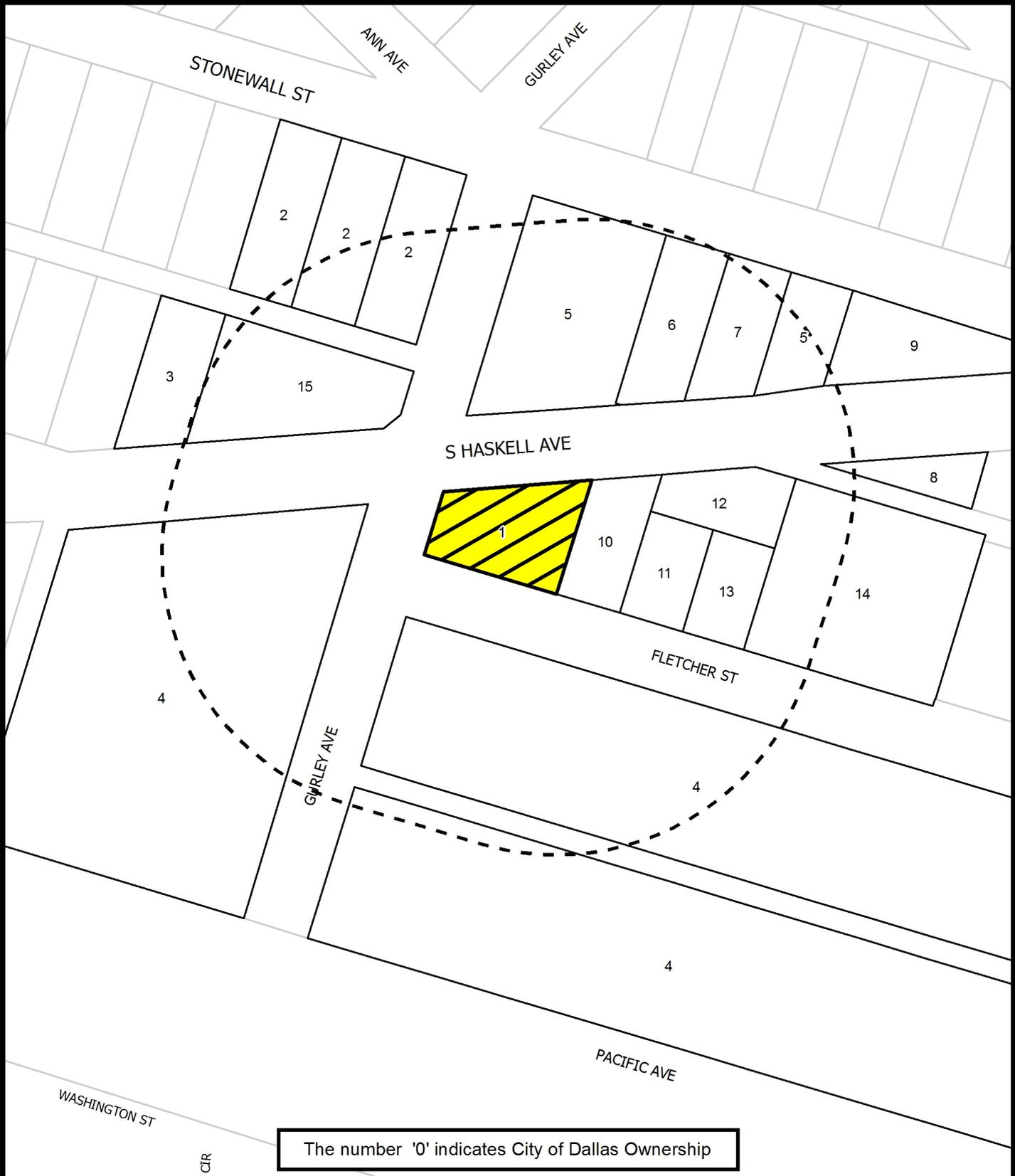
cc: Kris Sweckard, Director, Sustainable Development and Construction
Carl Simpson, Director, Code Compliance
Phil Sikes, CBO, Building Official
Tammy Palomino, Executive Assistant City Attorney
Casey Burgess, Executive Assistant City Attorney
Bertram Vandenberg, Senior Assistant City Attorney

¹ Paragraph (7) 306.13, “Revocation of Certificate of Occupancy,” of Chapter 52, “Administrative Procedures for the Construction Codes,” of the Dallas City Code.

² Section 51A-4.704, “Nonconforming Uses and Structures” of Chapter 51A of the Dallas Development Code.

³ Section 51A-1.104, “Certificate of Occupancy,” of Chapter 51A of the Dallas Development Code; Subsection 306.1, “Use or Occupancy,” of Chapter 52, “Administrative Procedures for the Construction Codes,” of the Dallas City Code.

⁴ Paragraph (2) of Section 306.15, “Appeals of Actions and Determinations,” of Chapter 52, “Administrative Procedures for the Construction Codes,” of the Dallas City Code; and Section 51A-4.703(a)(2), “Board of Adjustment Hearing Procedures,” of Chapter 51A of the Dallas Development Code.



The number '0' indicates City of Dallas Ownership


 1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
15 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA190-001**
 Date: **12/13/2019**

Notification List of Property Owners

BDA190-001

15 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1101 S HASKELL AVE	LOPEZ FERMIN & GLORIA
2	1033 STONEWALL ST	BLUE SKY MANAGMENT INC
3	1024 S HASKELL AVE	DENNIS RIALS
4	1031 S HASKELL AVE	SUTTON STEELE & STEELE
5	1100 S HASKELL AVE	REIGER ASSOCIATES 90 I LTD
6	1110 S HASKELL AVE	TRS ASSET PARTNERS LTD
7	1114 S HASKELL AVE	MSC I LTD
8	1127 S HASKELL AVE	MANZANARES PILAR & ANSELMO
9	1136 S HASKELL AVE	WARD DONALD L
10	1111 S HASKELL AVE	WELCOME HOUSE INC
11	1112 FLETCHER ST	MURDINE BERRY FAMILY TRUST
12	1121 S HASKELL AVE	GURROLA SANDRA NANCY
13	1116 FLETCHER ST	MALLET CHARLES JR
14	1124 FLETCHER ST	SANCHEZ JOSE L &
15	1036 S HASKELL AVE	GARDEA URIEL M