

ZONING BOARD OF ADJUSTMENT, PANEL A
TUESDAY, SEPTEMBER 18, 2018
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
Steve Long, Board Administrator/ Chief Planner
Oscar Aguilera, Senior Planner

BRIEFING ITEM

Recent code amendments regarding accessory dwelling units
Donna Moorman, Chief Planner

MISCELLANEOUS ITEM

Approval of the August 21, 2018 Board of Adjustment Panel A Public Hearing Minutes	M1
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UNCONTESTED CASES

BDA178-092(SL)	5722 Velasco Avenue REQUEST: Application of Courtney Gray, represented by Mike Kierbow, for a special exception for the handicapped to the rear yard setback regulations	1
BDA178-095(OA)	4070 Cedarbrush Drive REQUEST: Application of Steven Wood for a special exception to the fence standards regulations	2

HOLDOVER CASE

BDA178-054(SL) 10261 E. Technology Boulevard 3
REQUEST: Application of Nick Flaherty, represented by Brad Williams of Winstead, to appeal the decision of the administrative official

REGULAR CASES

BDA178-093(OA) 9874 Mixon Drive 4
REQUEST: Application of Opulent Homes LLC, represented by Chris Ramsey, for a variance to the side yard setback regulations

BDA178-097(SL) 5001 W. Lovers Lane 5
REQUEST: Application of Joe Pastora, represented by Brad Williams, for a variance to the off-street parking Regulations

EXECUTIVE SESSION NOTICE

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

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

FILE NUMBER: BDA178-092(SL)

BUILDING OFFICIAL'S REPORT: Application of Courtney Gray, represented by Mike Kierbow, for a special exception for the handicapped to the rear yard setback regulations at 5722 Velasco Avenue. This property is more fully described as Lot 6, Block 8/1888, and is zoned CD 12, which requires a rear yard setback of 5 feet. The applicant proposes to construct and/or maintain a structure and provide a 2 foot 8 inch rear yard setback, which will require a 2 foot 4 inch special exception for the handicapped to the rear yard setback regulations.

LOCATION: 5722 Velasco Avenue

APPLICANT: Courtney Gray
Represented by Mike Kierbow

REQUEST:

A request for a special exception for the handicapped to the rear yard setback regulations of 2' 4" is made to complete and maintain a detached two-story garage/accessory structure, which is located 2' 8" from the rear property line or 2' 4" into the 5' rear yard setback on a site developed with a single family home/use.

STANDARD FOR A SPECIAL EXCEPTION FOR THE HANDICAPPED: Section 51A-1.107.(b)(1) states that the Board of Adjustment shall grant a special exception to any regulation in this chapter, if, after a public hearing, the board finds that the exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling. The term "handicapped person," means a person with a "handicap," as that term is defined in the Federal Fair Housing Amendments Act of 1988, as amended.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception for the handicapped since the basis for this type of appeal is when the board finds that the exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling.

BACKGROUND INFORMATION:

Zoning:

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

West: CD 13 (Conservation District)

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- The request for a special exception for the handicapped to the rear yard setback regulations of 2' 4" focuses on completing and maintaining a detached two-story garage/accessory structure with an approximately 625 square foot building footprint, which is located 2' 8" from the site's rear property line or 2' 4" into the 5' rear yard setback on a site that is developed with a single family home/use.
- The property is zoned CD 12 which requires a minimum 5' rear yard setback for accessory structures over 15'. (An elevation of the accessory structure on the subject site represents that it is over 15' in height).
- The submitted site plan denotes that the detached "existing garage" structure is located 2' 8" from the site's rear property line or 2' 4" into the required 5' rear yard setback.
- Section 51A-1.107(b)(1) states that the Board of Adjustment shall grant a special exception to any regulation in this chapter, if, after a public hearing, the board finds that the exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling. The term "handicapped person," means a person with a "handicap," as that term is defined in the Federal Fair Housing Amendments Act of 1988, as amended.
- A copy of the "handicap" definition from this act was provided to the Board Administrator by the City Attorney's Office. Section 3602 of this act states the following:
 - “(h) “Handicap” means, with respect to a person -
 1. a physical or mental impairment which substantially limits one or more of such person's major life activities,
 2. a record of having such an impairment, or
 3. being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 802 of Title 21).”
- Unlike most requests where the board is considering a structure that encroaches into a setback via a variance (where property hardship must be demonstrated), the board is to consider this special exception for the handicapped request solely on whether they conclude that the special exception is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling.

- The applicant has the burden of proof in establishing the following:
 - The special exception (which in this case is requested to maintain a detached accessory structure in the rear yard setback) is necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling; and
 - there is a person with a “handicap” (as that term is defined in the Federal Fair Housing Amendments Act of 1988, as amended) who resides and/or will reside on the site.
- If the Board were to grant the request, and impose conditions that compliance with the submitted site plan is required, and that the special exception expires when a handicapped person no longer resides on the property, the structure would be required to be completed and maintained in the location shown on the submitted site plan for as long as the applicant or any other handicapped person resides on the site.

Timeline:

May 23, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

August 29, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

August 29, 2018: The Board Administrator emailed the applicant’s representative the following information:

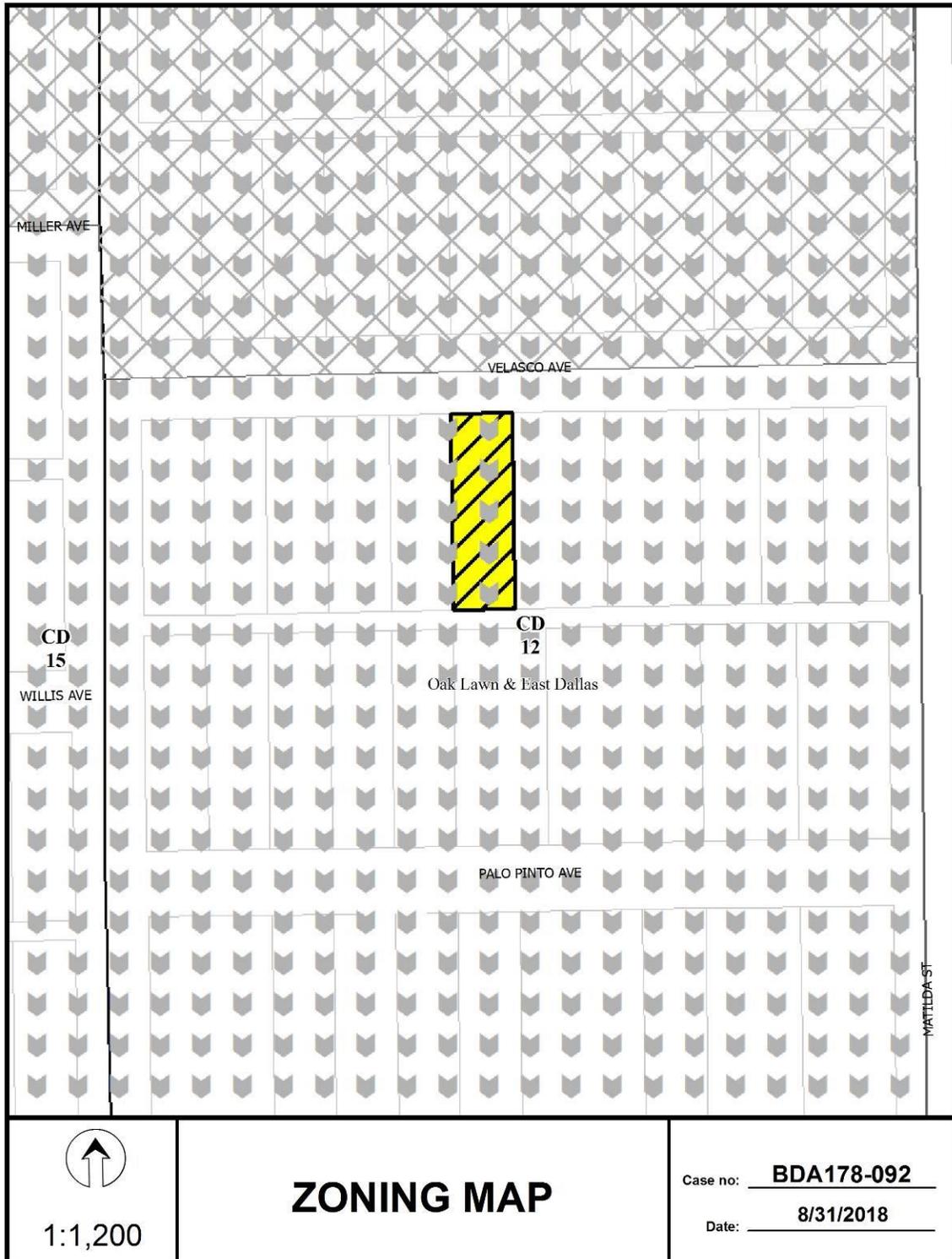
- an attachment that provided the public hearing date and panel that will consider the application; the August 30th deadline to submit additional evidence for staff to factor into their analysis; and the September 7th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- A copy of the “handicap” definition from the Federal Fair Housing Amendments Act of 1988; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

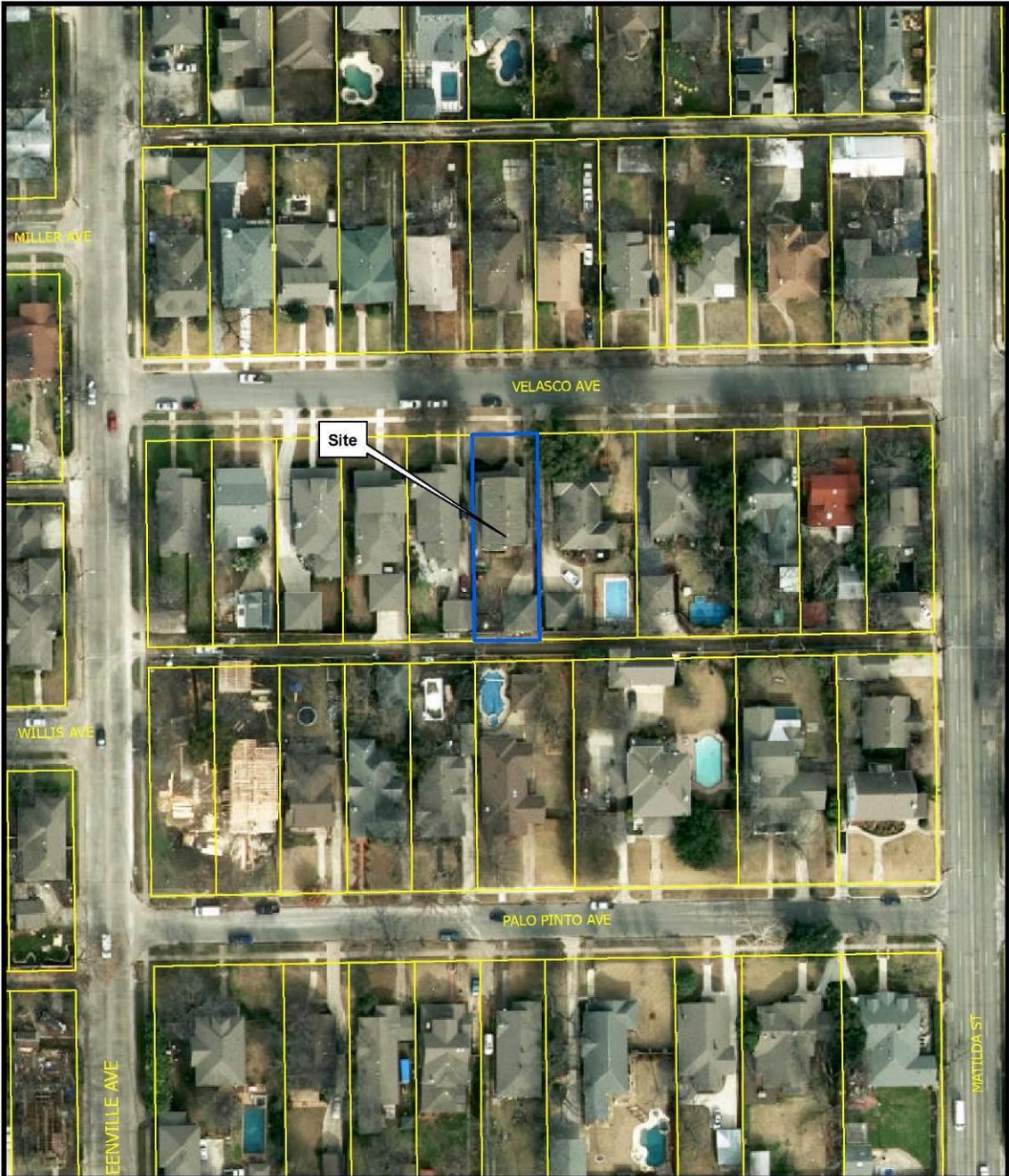
September 4, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the Sustainable Development and Construction Director, the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Authorized Hearing/Development Code Amendment Chief Planner, 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.

September 7, 2018: The applicant's representative submitted additional documentation to staff (see Attachment A).





1:1,200

AERIAL MAP

Case no: BDA178-092

Date: 8/31/2018

Long, Steve

From: Mike Kierbow <m.kierbow@yahoo.com>
Sent: Friday, September 07, 2018 12:51 PM
To: Long, Steve
Subject: 5722 Velasco document for hearing
Attachments: 1163_001.pdf

Attam A
P31

Steve this and 1 other page will be our printed items for the hearing

BDA178-092

Attch A

PJZ

children'shealthSM

Complex Care
Medical Services

To Whom it May Concern,

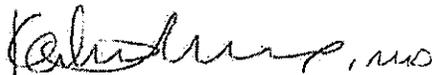
I am writing on behalf of Emma Gray-Gonfalone's family, who has told me about their need for an explanation of Emma's medical conditions and disabilities. I serve as her primary care pediatrician in the Complex Care Clinic, a medical home for children with complex and chronic medical issues. Emma requires management from multiple subspecialties including Cardiology, Pulmonology, Gastroenterology, Otolaryngology, Endocrinology, Physical Medicine and Rehab, and Genetics. However due to her unique medical conditions, she still has to travel to New York to seek expertise that is not available in Dallas.

Emma has a history of a congenital heart disease called Tetralogy of Fallot requiring surgical correction, severe pulmonary artery hypertension requiring high oxygen needs and a continuous Remodulin infusion, right heart failure with portal hypertension (esophageal varices, hepatomegaly, hypersplenism requiring splenic embolization, rectal prolapse), and Graves disease requiring thyroidectomy.

Emma is on a combination of therapies to treat these chronic conditions including continuous oxygen, constant infusion of IV medication, and multiple oral medications. Due to her extreme oxygen requirement, she is no longer able to fly. When the family travels the 1500 miles to New York to see the Pulmonary Hypertension specialist they have to drive, and are required to bring a medical stroller, two 3 foot tall, 140 pound reservoirs of liquid oxygen, an oxygen concentrator, multiple oxygen tanks, her IV medications and supplies, and her oral medications. Obviously this requires a large vehicle. Additionally, due to Emma's limited mobility, she requires a medical stroller and scooter, both of which need to be stored in the garage when not in use.

As a result of Emma's increased medical fragility the family had to make the difficult decision to pull her out of school to begin homebound schooling, where the school sends a teacher to the home. The family is required to provide space for this schooling and thus converted their guest room into a school room. In addition, during Emma's frequent hospitalizations, family often comes to stay to support the household and Emma's sibling for extended periods of time and need somewhere to stay in the home. It is my understanding that this is why the family has decided to build over their garage.

I hope that this sheds a little light into this family's situation and Emma's multiple medical conditions and disabilities. Please feel free to contact me with any questions or concerns.



Katherine G. Maddox, MD
Complex Care Medical Services
2350 N. Stemmons Fwy
Dallas, Texas 75207
Tel: 469.488.7200 | Fax: 469.488.7201
complexcare@childrens.com



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-092

Date: 5/23/18

Data Relative to Subject Property:

Location address: 5722 Velasco Ave Zoning District: CD12

Lot No.: 6 Block No.: 8/1888 Acreage: 0.177 Census Tract: 11.01

Street Frontage (in Feet): 1) 49 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Fabrice Gontalone and Courtney M. Gray

Applicant: Courtney Gray Telephone: (914) 471-5923

Mailing Address: 5722 Velasco Ave Zip Code: 75206

E-mail Address: Courtneygray75@gmail.com

Represented by: Mike Kierbow Telephone: (214) 725-5700

Mailing Address: 12830 Hillcrest Rd Suite 111 Zip Code: 75230

E-mail Address: m.kierbow@yahoo.com

Affirm that an appeal has been made for a Variance __, or Special Exception X, of adjustment of 2 feet 4 inches from my rear property line, thus meeting the setback total of 5 feet.

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 garage is needed and is dependent on safe entry and exit of occupant with a disability/handicap to and from a vehicle housed within the structure.

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

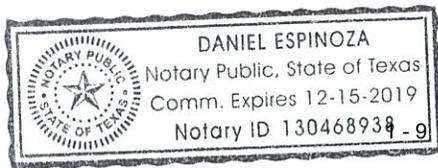
Before me the undersigned on this day personally appeared Courtney Gray (Affiant/Applicant's name printed)

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 18th day of May, 2018

(Rev. 08-01-11)



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

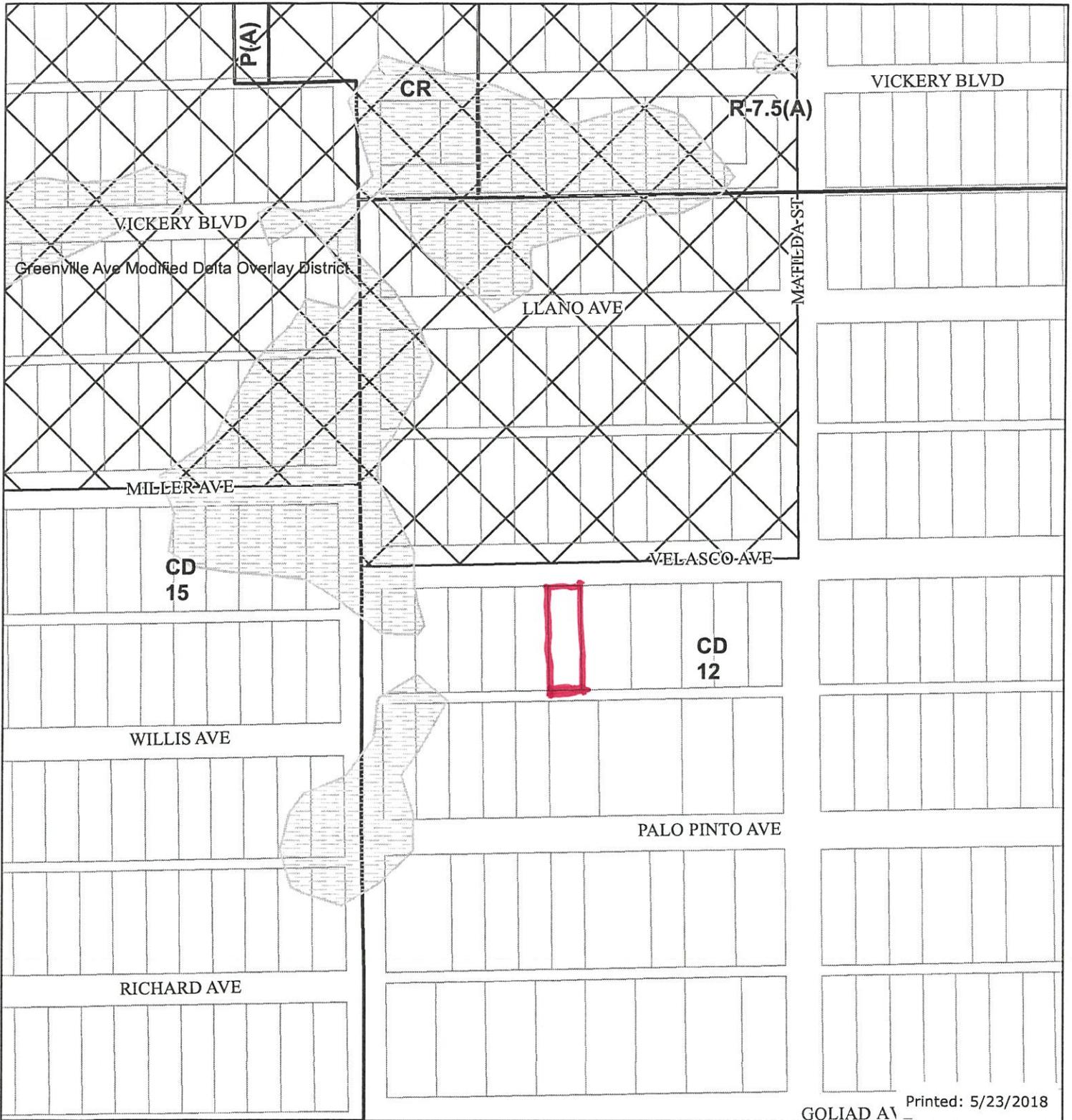
Building Official's Report

I hereby certify that Courtney Gray
represented by MIKE KIERBOW
did submit a request for a special exception to the rear yard setback regulations to afford a
handicapped person equal opportunity to use and enjoy a dwelling
at 5722 Velasco Avenue

BDA178-092. Application of Courtney Gray represented by MIKE KIERBOW for a special exception to the rear yard setback regulations to afford a handicapped person equal opportunity to use and enjoy a dwelling at 5722 VELASCO AVE. This property is more fully described as Lot 6, Block 8/1888, and is zoned CD-12, which requires a rear yard setback of 5 feet. The applicant proposes to construct a single family residential structure and provide a 2 foot 8 inch rear yard setback, which will require a 2 foot 4 inch special exception to the rear yard setback regulation for th

Sincerely,

Philip Sikes
Philip Sikes, Building Official



Printed: 5/23/2018

Legend

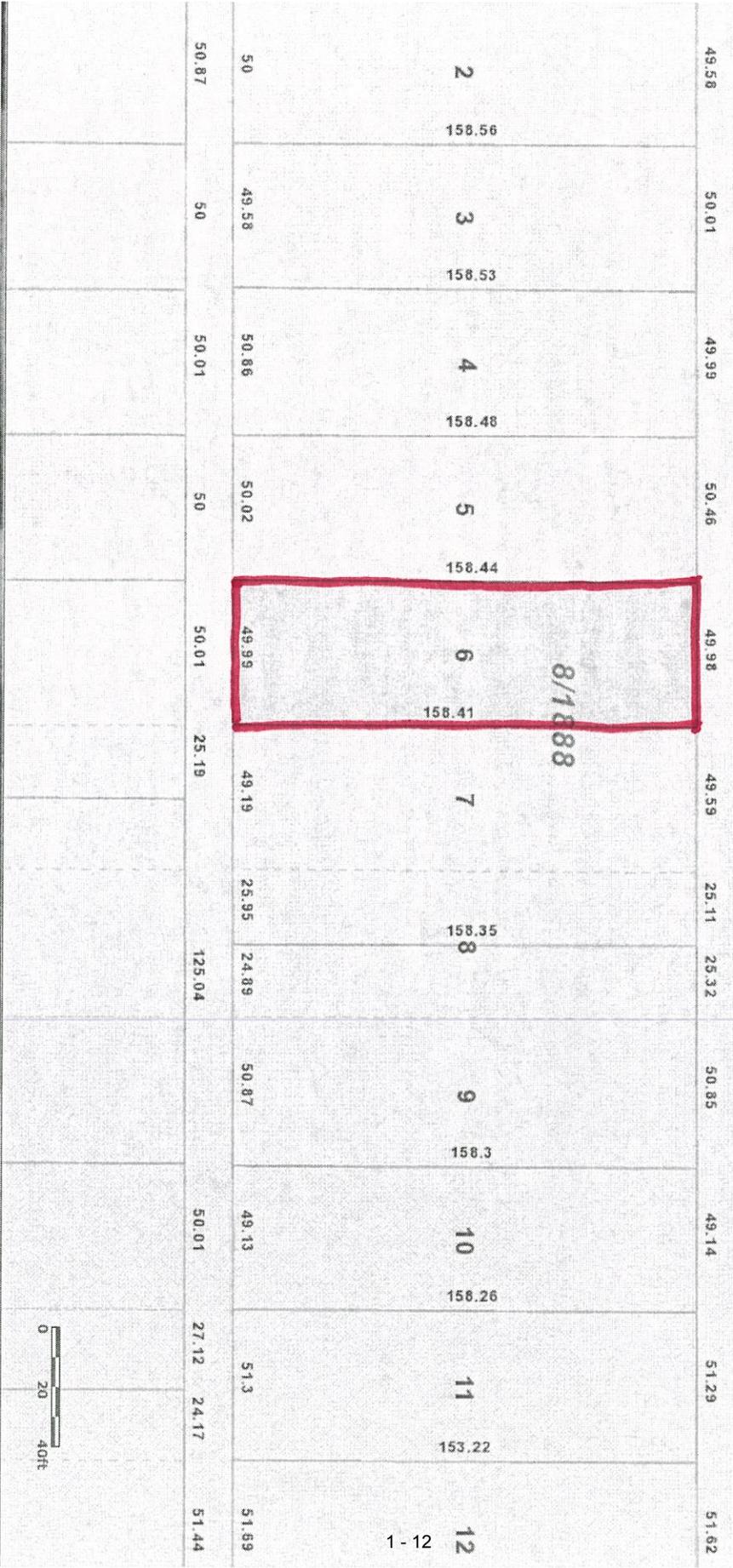
- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits | railroad | Dry Overlay | CD Subdistricts |
| School | Certified Parcels | D | PD Subdistricts |
| Floodplain | Base Zoning | D-1 | PDS Subdistricts |
| 100 Year Flood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

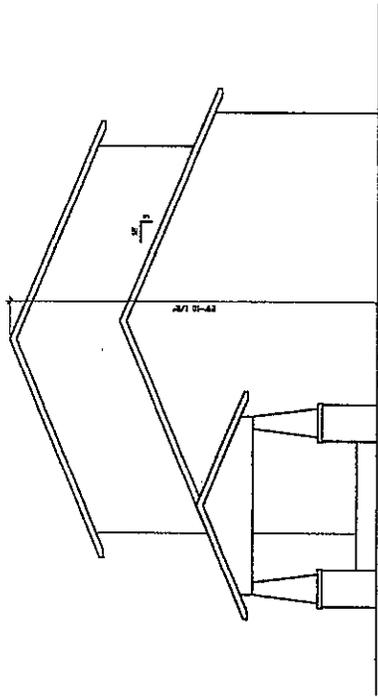
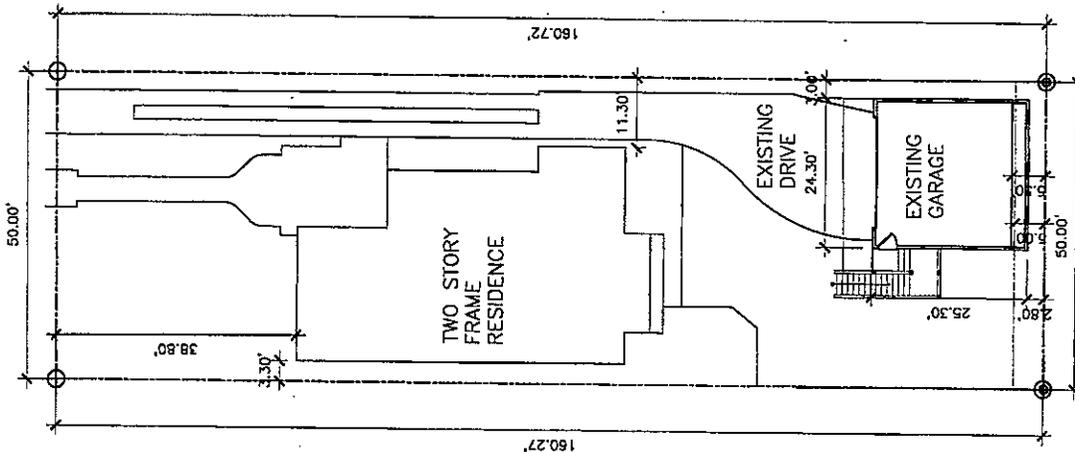
This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering,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



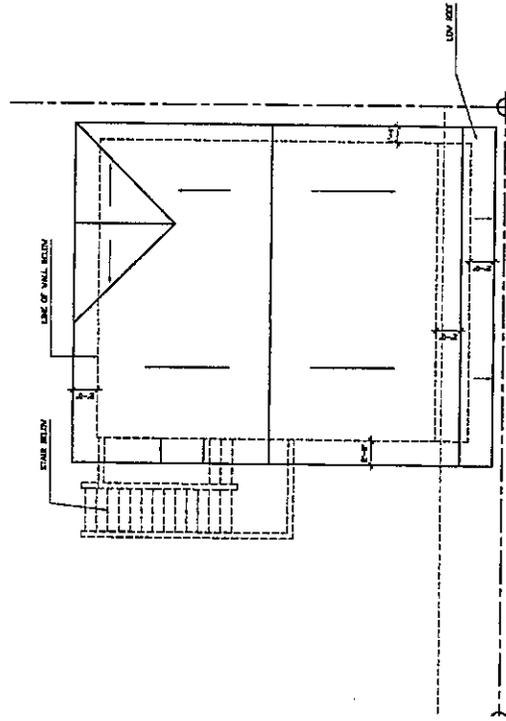
49.58 50.02 50.84 50.02 49.58 50 50.42 50.03 63.81 23.56 51.44

ASCO AVE VELASCO AVE VELASCO AVE VELASCO A





03 MAIN HOUSE ELEVATION
SCALE: 1/4"=1'-0"



02 ROOF PLAN
SCALE: 1/4"=1'-0"

04 NOT USED
SCALE: NOT USED

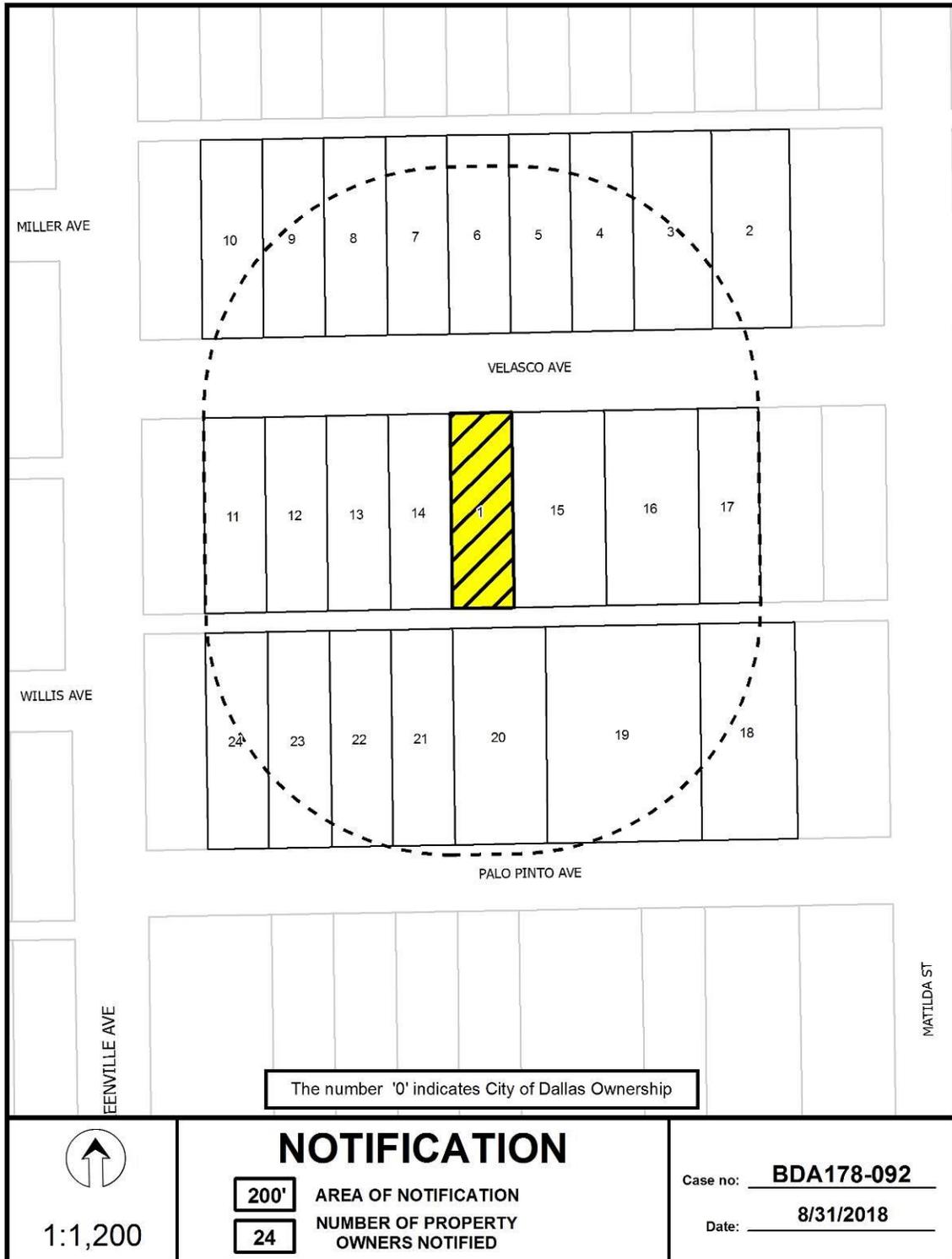
03/12/87

DWY. ALDRIDGE ARCHITECT
DALLAS, TEXAS

ALDRIDGE ARCHITECTS
DALLAS, TEXAS

A1

DALLAS, TEXAS



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
24 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA178-092**
 Date: **8/31/2018**

Notification List of Property Owners

BDA178-092

24 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5722 VELASCO AVE	GONFALONE FABRICE &
2	5739 VELASCO AVE	ZIN LIN M & DOANH K LUONG
3	5735 VELASCO AVE	SBRJWM LTD
4	5731 VELASCO AVE	GUYNES JASON D
5	5727 VELASCO AVE	LARREMORE CHARLES D &
6	5721 VELASCO AVE	TREECE RUSSELL
7	5719 VELASCO AVE	SILVA MICHAEL & SUSAN
8	5715 VELASCO AVE	ZINSER LUIS G & EMILY A
9	5709 VELASCO AVE	LONG C BRENT &
10	5705 VELASCO AVE	FREEDMAN TAMRA
11	5706 VELASCO AVE	FLOYD CHARLES PATRICK
12	5710 VELASCO AVE	SHAFFER CHADWICK WARNER & ELIZABETH E
13	5714 VELASCO AVE	JOHNS MICHELLE C & WALTER C
14	5718 VELASCO AVE	CLARK SCOTT R
15	5728 VELASCO AVE	ARCHER STEVEN
16	5730 VELASCO AVE	EARMAN LAURA C &
17	5738 VELASCO AVE	LOCKETT HUDSON C III &
18	5737 PALO PINTO AVE	DOHERTY EDMUND H & JESSICA L BURKHARDT
19	5729 PALO PINTO AVE	HOOPER DAVID & CARI
20	5723 PALO PINTO AVE	BERNAL JORGE A
21	5719 PALO PINTO AVE	WOHLFELD ROBERT N
22	5715 PALO PINTO AVE	BOYD CHRISTOPHER & ELIZABETH
23	5711 PALO PINTO AVE	ROSEWOOD CUSTOM BUILDERS LLC
24	5705 PALO PINTO AVE	FRANK S KEITH & SUSAN

FILE NUMBER: BDA178-095(OA)

BUILDING OFFICIAL'S REPORT: Application of Steven Wood for a special exception to the fence standards regulations at 4070 Cedarbrush Drive. This property is more fully described as Lot 7, Block C/6404, and is zoned R-16(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain a 7 foot 6 inch high fence in a required front yard, which will require a 3 foot 6 inch special exception to the fence standards regulations.

LOCATION: 4070 Cedarbrush Drive

APPLICANT: Steven Wood

REQUESTS:

A request for a special exception to the fence standards regulations related to height of 3' 6" is made to maintain a 7' 6" high stucco columns and a 6' 7" wrought iron fence with a wrought iron swing gate in the required front yard on a site developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

Site: R-16(A) (Single family district 16,000 square feet)
North: R-16(A) (Single family district 16,000 square feet)
South: R-16(A) (Single family district 16,000 square feet)
East: R-16(A) (Single family district 16,000 square feet)
West: R-16(A) (Single family district 16,000 square feet)

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- This request for a special exception to the fence height of 3' 6" focuses on maintaining a 7' 6" high stucco columns and a 6' 7" wrought iron fence with a wrought iron swing gate in the required front yard on a site developed with a single family home.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The property is located in an R-16(A) zoning district. The site has a 40' required front yard caused by a platted building line along Cedarbrush Drive.
- The applicant had submitted a site plan and elevation that shows the proposal in the front yard setback reaching a maximum height of 7' 6".
- The following additional information was gleaned from the submitted site plan/elevation:
 - The proposal is represented as being approximately 28' in length parallel to Cedarbrush and approximately 8' perpendicular to Cedarbrush Drive on the west side in this front yard setback.
 - The proposal is represented as being located approximately 32' from the front property line. (The distance between the fence and the pavement line is approximately 43').
- The Sustainable Development and Construction Department Senior Planner conducted a field visit of the site and surrounding area and noted no other fences that appeared to be above 4' in height and located in a front yard setback.
- As of September 7th, no letters had been submitted in support of the request, and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach 7' 6" in height) will not adversely affect neighboring property.
- Granting this special exception of 3' 6" with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding 4' in height to be maintained in the location and of the heights and materials as shown on this document.

Timeline:

May 30, 2018: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

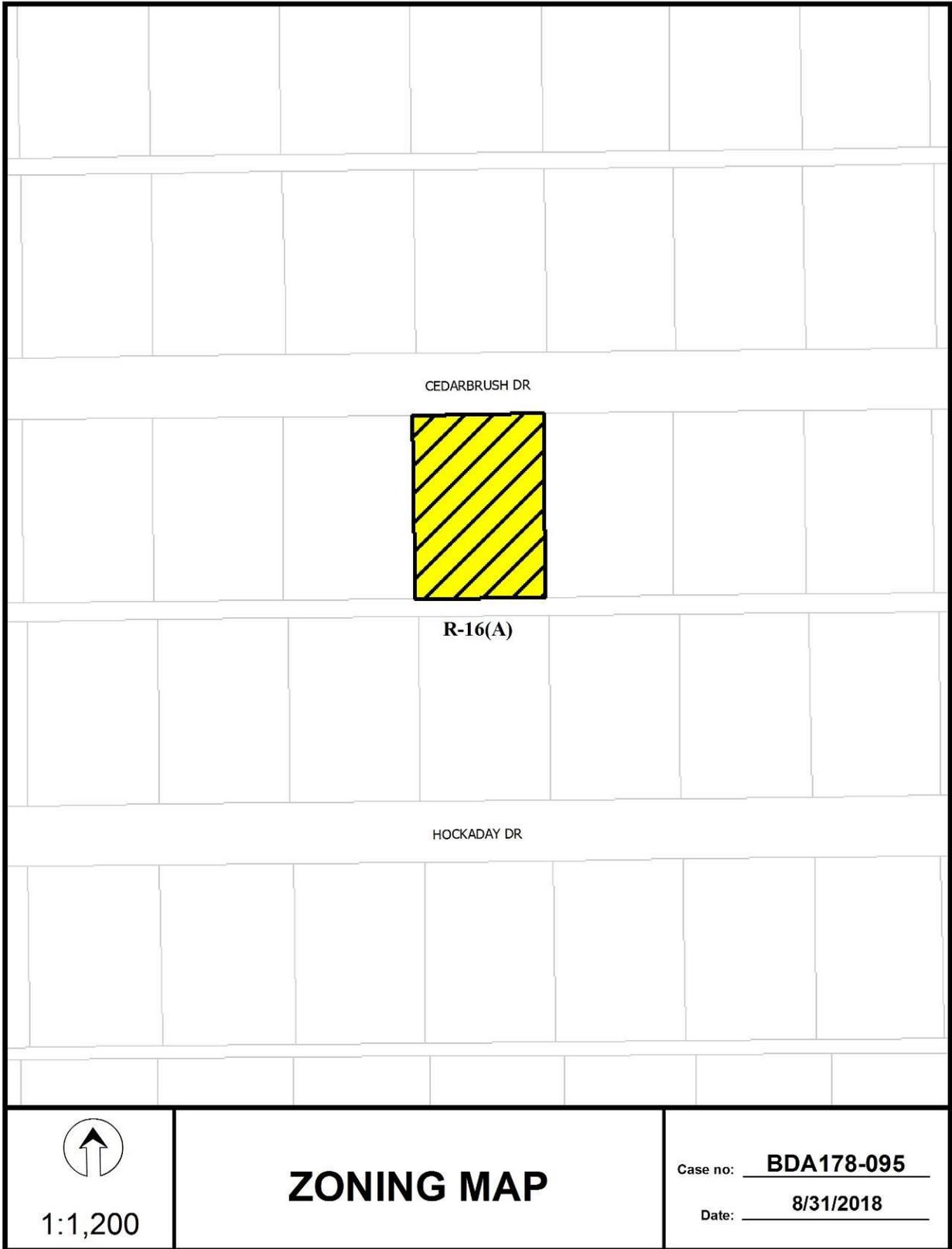
August 14, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

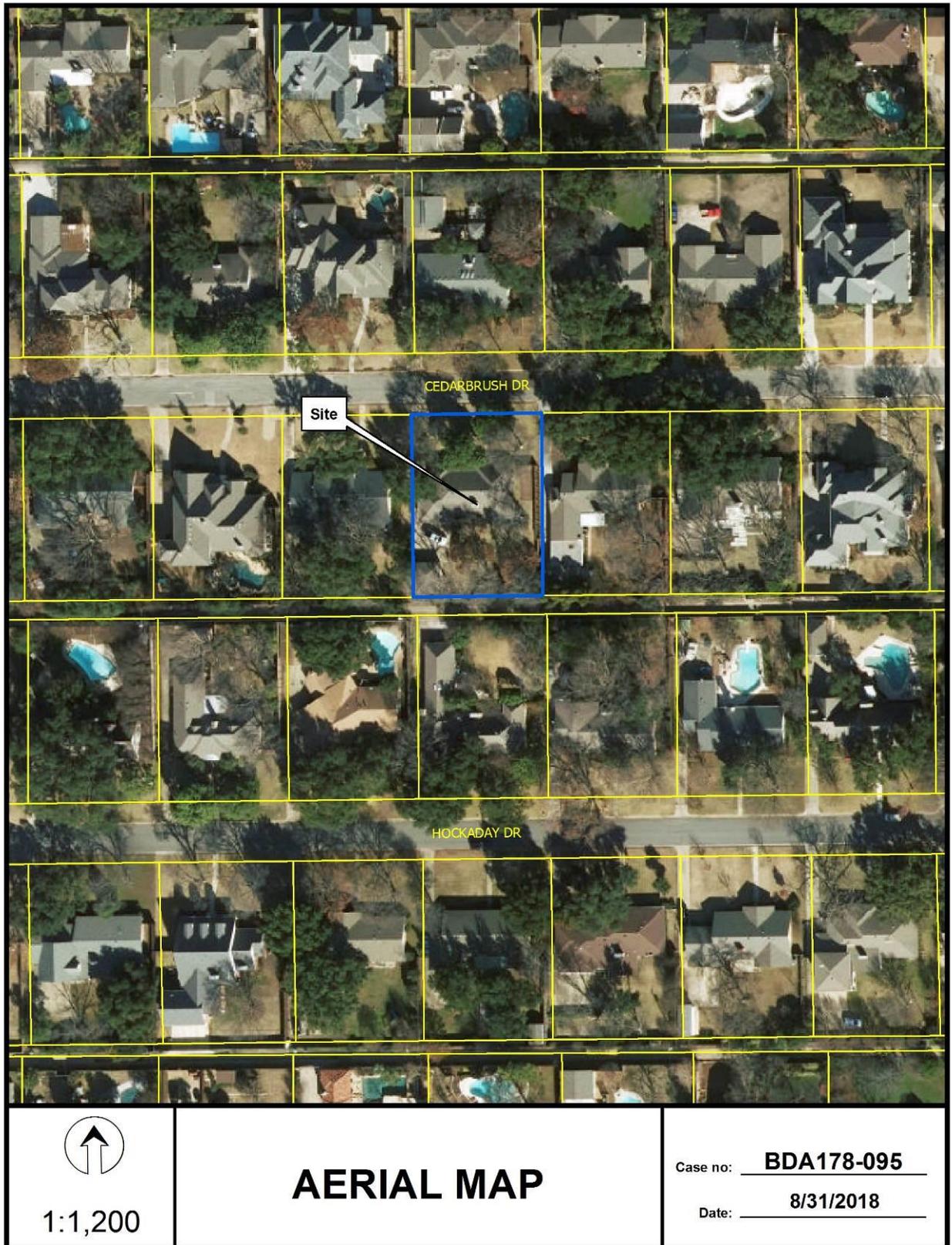
August 14, 2018: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the August 29st deadline to submit additional evidence for staff to factor into their analysis; and the September 7th 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.

September 4, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the Sustainable Development and Construction Director, 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 Authorized Hearing/Development Code Amendment Chief Planner, 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.







City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-095

Data Relative to Subject Property:

Location address: 4070 Cedarbrush

Date: 5/30/18

Lot No.: 1 Block No.: C116404 Acreage: 0.367

Zoning District: R(16)

Street Frontage (in Feet): 1) 106 2) _____ 3) _____ 4) _____ 5) _____

116006

To the Honorable Board of Adjustment:

Owner of Property (per Warranty Deed): Premier Renovations

Applicant: Steven Wood (Texas permit) Telephone: 817 682-7218

Mailing Address: Po Box 3293, Forney Tx Zip Code: 75126

E-mail Address: Steven@txpermit.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 to the front ~~and setback~~ of 3'6" to the required 4' fence height with a total fence height of 7'6"

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:
to establish a gate away from the house that is not a hindrance to the neighborhood and is in accordance with the neighborhood. This gate is commensurate to the fences in the neighborhood.

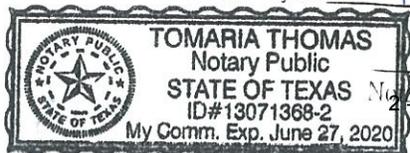
Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

Before me the undersigned on this day personally appeared Steven Wood (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 30 day of MAY, 2018.



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

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that STEVEN WOOD

did submit a request for a special exception to the fence height regulations

at 4070 Cedarbrush Drive

BDA178-095. Application of STEVEN WOOD for a special exception to the fence height regulations at 4070 CEDARBRUSH DR. This property is more fully described as Lot 7, Block C/6404, and is zoned R-16(A), which limits the height of a fence in the front yard to 6 feet. The applicant proposes to construct a 7 foot 6 inch high fence in a required front yard which will require a 3 foot 6 inch special exception to the fence regulations.

Sincerely,

Philip Sikes
Philip Sikes, Building Official



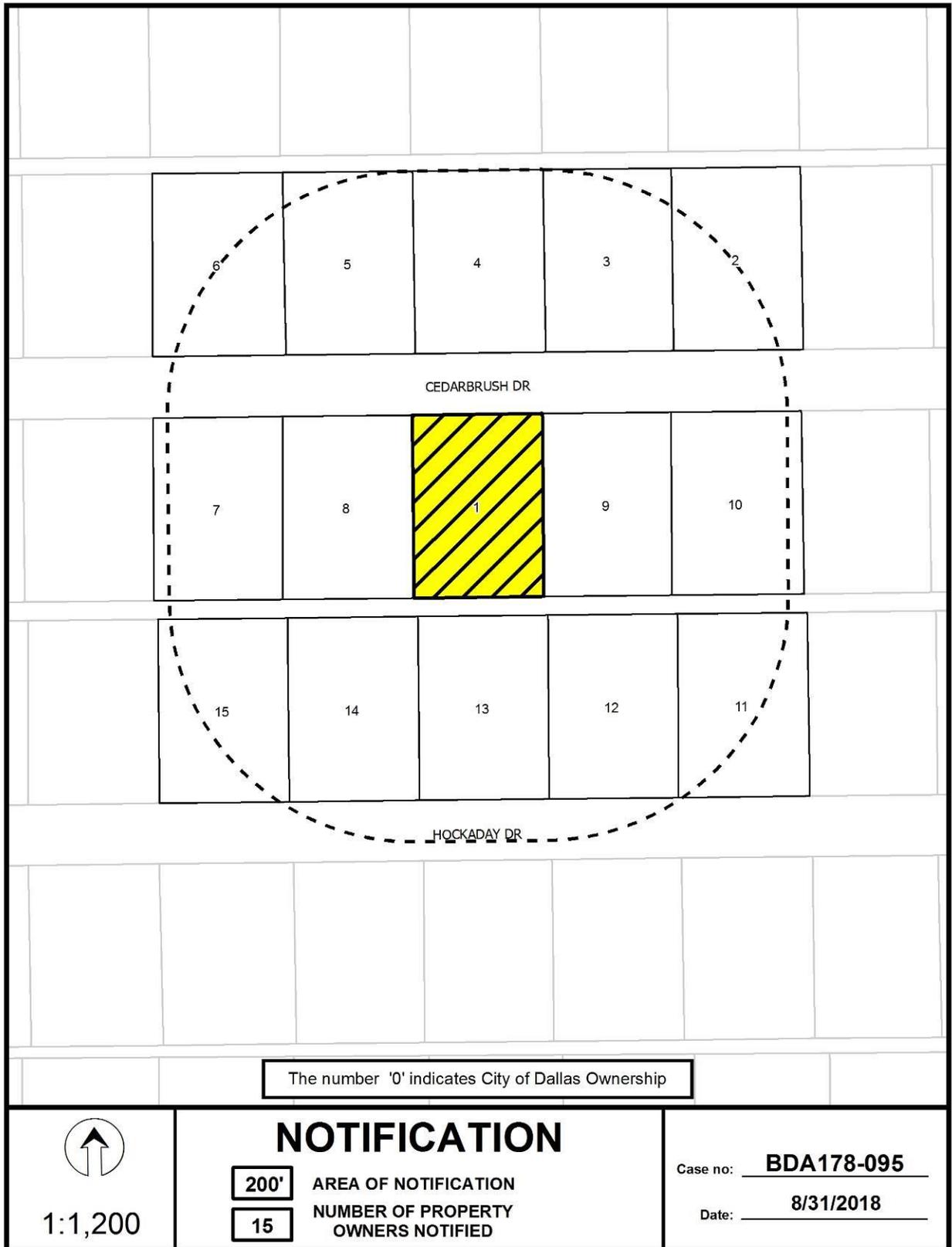
Legend

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

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



SL



Notification List of Property Owners

BDA178-095

15 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4070 CEDARBRUSH DR	PREMIER RENOVATIONS INC
2	4115 CEDARBRUSH DR	WRIGHT JOHN MARK &
3	4107 CEDARBRUSH DR	NAIR BINDU B
4	4069 CEDARBRUSH DR	HUMPHREYS MARY ELIZABETH
5	4059 CEDARBRUSH DR	HARRIGAN MARJORIE A & BRIAN D
6	4049 CEDARBRUSH DR	COCKRELL VIRGINIA M
7	4050 CEDARBRUSH DR	KISTER JEFFREY ALAN &
8	4060 CEDARBRUSH DR	OLSON ROSEMARY
9	4106 CEDARBRUSH DR	BROCHTRUP FRANK P
10	4114 CEDARBRUSH DR	SONG PAUL
11	4115 HOCKADAY DR	MILLER JAMES D JR
12	4107 HOCKADAY DR	PREMIER RENOVATIONS INC
13	4057 HOCKADAY DR	ANSBACHER REALTY LLC
14	4049 HOCKADAY DR	SUMNER MARY LOU
15	4041 HOCKADAY DR	BENAVIDES ABRAHAM A & MARY C

FILE NUMBER: BDA178-054(SL)

BUILDING OFFICIAL'S REPORT: Application of Nick Flaherty, represented by Brad Williams of Winstead, to appeal the decision of the administrative official at 10261 E. Technology Boulevard. This property is more fully described as Lot 1.5, Block C/6499, and is zoned IR, which requires compliance with the IR district use regulations. The applicant proposes to appeal the decision of an administrative official.

LOCATION: 10261 E. Technology Boulevard

APPLICANT: Nick Flaherty
Represented by Brad Williams of Winstead

REQUEST:

A request is made to appeal the decision of the administrative official, more specifically, the February 27, 2018 use determination by the Chief Planner, on a site developed with, according to DCAD, a "theme restaurant".

STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:

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

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

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

BACKGROUND INFORMATION:

Zoning:

Site: IR (Industrial/research)
North: MU-3 (Mixed Use)
South: IR (Industrial/research)
East: IR (Industrial/research)
West: IR (Industrial/research)

Land Use:

The subject site is developed with, according to DCAD, a “theme restaurant”. The areas to the north and east and west are developed with retail uses; and the areas to the south and west are undeveloped.

Zoning/BDA History:

1. Z178-240, Property at 10261 E. Technology Boulevard (the subject site) A request for a zoning change from property zoned IR to CS has been filed, and was tentatively scheduled to be heard by the City Plan Commission on July 19, 2018.

GENERAL FACTS/STAFF ANALYSIS:

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

Timeline:

- March 13, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 15, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- May 15, 2018: The Board Administrator emailed the applicant’s representative the following information:
- an attachment that provided the appeal date and panel that will consider the appeal; the May 30th deadline to submit additional evidence for staff to factor into their analysis (with a notation that staff does not form a recommendation on this type of appeal); and the June 8th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the outline of procedure for appeals from decisions of the building official to the board of adjustment; and
 - the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”
- June 6, 2018: The applicant’s representative submitted additional documentation on this appeal to the Board Administrator beyond what was submitted with the original application (see Attachment A).

- June 5, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the June public hearings. Review team members in attendance included: the Sustainable Development and Construction Director the Sustainable Development and Construction Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Chief Arborist, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, the Sustainable Development and Construction Department Authorized Hearing/Code Amendment Senior Planner, and the Assistant City Attorney to the Board.
- No review comment sheets were submitted in conjunction with this application.
- June 8, 2018: The applicant's representative submitted additional documentation on this appeal to the Board Administrator beyond what was submitted with the original application (see Attachment B).
- June 19, 2018: The Board of Adjustment Panel C conducted a hearing on this appeal, and delayed action on this appeal until September 18, 2018 hearing.
- June 19, 2018: The Board Administrator wrote the applicant's representative a letter of the board's action; the August 29th deadline to submit additional evidence for staff to factor into their analysis; and the September 7th deadline to submit additional evidence to be incorporated into the Board's docket materials. (Note that the applicant's representative has not submitted any additional documentation to staff since the June 19th public hearing).
- September 4, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the Sustainable Development and Construction Director, 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 Authorized Hearing/Development Code Amendment Chief Planner, the Sustainable Development and

Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: June 19, 2018

APPEARING IN FAVOR: Brad Williams, 2728 N. Harwood St., Dallas, TX

APPEARING IN OPPOSITION: No One

MOTION: **Narey**

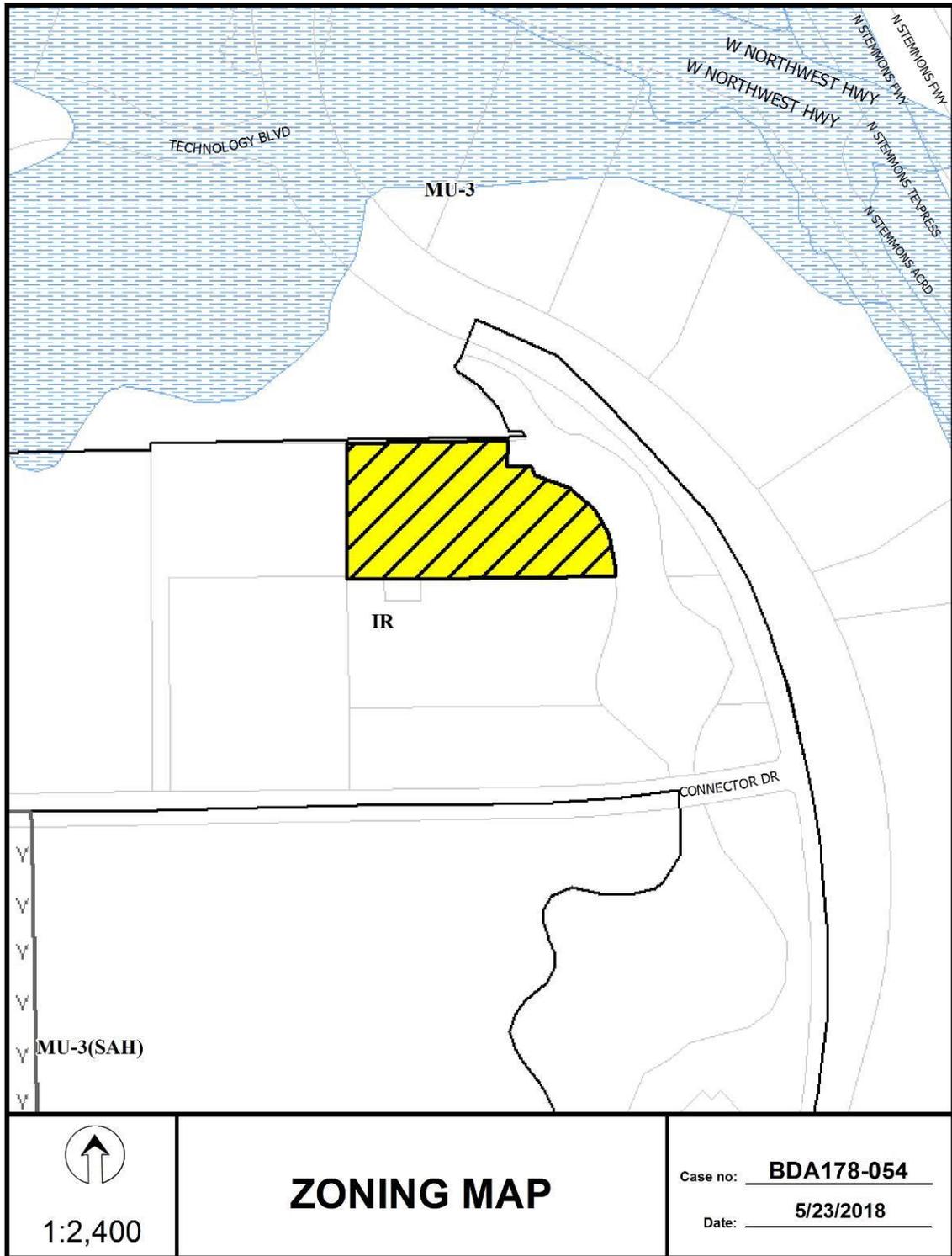
I move that the Board of Adjustment in Appeal No. BDA 178-054, hold this matter under advisement until September 18, 2018.

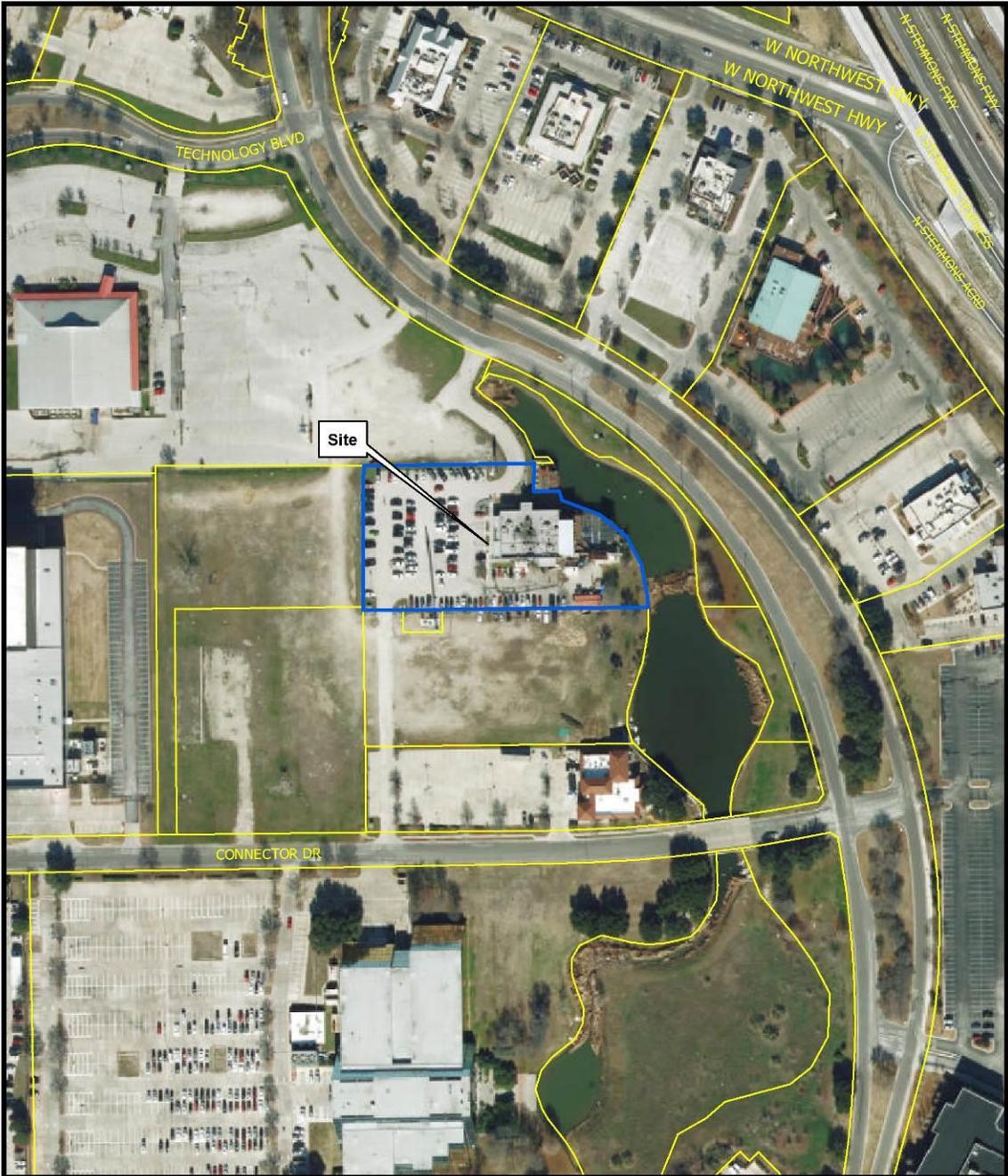
SECONDED: **Sibley**

AYES: 5 – Schulte, Nelson, Jones, Narey, Sibley

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)





 1:2,400	<h1>AERIAL MAP</h1>	Case no: <u>BDA178-054</u> Date: <u>5/23/2018</u>
--	---------------------	--

BDA178-054
Attach A p51

Long, Steve

From: Long, Steve
Sent: Wednesday, June 06, 2018 6:01 AM
To: 'Williams, Brad'
Subject: RE: BDA178-054, Property at 10261 E. Technology Boulevard

Dear Brad,

I will.

Thank you,

Steve



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



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

From: Williams, Brad [mailto:bwilliams@winstead.com]
Sent: Tuesday, June 05, 2018 3:13 PM
To: Long, Steve <steve.long@dallascityhall.com>
Cc: Williams, Kanesia <kanesia.williams@dallascityhall.com>; Pham, Theresa Y <theresa.pham@dallascityhall.com>; Trammell, Charles <charles.trammell@dallascityhall.com>; Kay, Kiesha <kiesha.kay@dallascityhall.com>; Dean, Neva <neva.dean@dallascityhall.com>; Aguilera, Oscar E <oscar.aguilera@dallascityhall.com>
Subject: RE: BDA178-054, Property at 10261 E. Technology Boulevard

Thank you Steve. Please forward the request to the Board.

Thanks.

Brad R. Williams, Attorney
Winstead PC | 2728 N. Harwood Street, Suite 500 | Dallas, Texas 75201
214.745.5264 *direct* | 214.745.5390 *fax* | bwilliams@winstead.com | www.winstead.com

From: Long, Steve [mailto:steve.long@dallascityhall.com]
Sent: Tuesday, June 05, 2018 6:01 AM

To: Williams, Brad
Cc: Williams, Kanesia; Pham, Theresa Y; Trammell, Charles; Kay, Kiesha; Dean, Neva; Aguilera, Oscar E
Subject: RE: BDA178-054, Property at 10261 E. Technology Boulevard

BDA178-054
Attach A pgs 2

Dear Brad,

Please be advised that at this point in the process, staff cannot remove the board of adjustment application/appeal referenced above from the June docket and place it on the September docket.

I can forward the email below to the board for them to consider your request at the June 19th hearing on this appeal where the board can, at that time.: 1) affirm the decision of the administrative official, 2) overturn the decision of the administrative official, 3) modify the decision of the administrative official, or 4) delay action.

Please let me know what you would like me to forward to the board for their consideration on this appeal at their June 19th hearing.

Thank you,

Steve



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



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

From: Williams, Brad [<mailto:bwilliams@winstead.com>]
Sent: Monday, June 04, 2018 3:59 PM
To: Long, Steve <steve.long@dallascityhall.com>
Subject: RE: BDA178-054, Property at 10261 E. Technology Boulevard

Steve,

After confirming with the Applicant, please consider this correspondence as our formal request that this case be removed from the June BDA docket and placed on the September BDA docket. The reason for this request is that the Applicant has a pending zoning application with the city to resolve the issues raised in this appeal. That zoning case is tentatively scheduled for August 2018.

Please let me know if this request will be honored and if you have any questions or need additional information.

Thanks.

Brad R. Williams, Attorney
Winstead PC | 2728 N. Harwood Street, Suite 500 | Dallas, Texas 75201
214.745.5264 *direct* | 214.745.5390 *fax* | bwilliams@winstead.com | www.winstead.com

BDA178-054

Attach A

pg 3

From: Long, Steve [<mailto:steve.long@dallascityhall.com>]
Sent: Tuesday, May 15, 2018 12:18 PM
To: Williams, Brad
Cc: Trammell, Charles; Aguilera, Oscar E; Wimer, Megan; Kay, Kiesha; Sikes, Phil; Dean, Neva
Subject: BDA178-054, Property at 10261 E. Technology Boulevard

Dear Brad,

Here is information regarding the appeal to the board of adjustment referenced above that you are representing for Nick Flaherty:

1. The application and submitted materials - all of which will be emailed to you, city staff, and the board of adjustment members in a docket report about a week ahead of your tentatively scheduled June 19th Board of Adjustment Panel A hearing.
2. The provision from the Dallas Development Code that allows the board to consider appeals of an administrative official (Section 51A-4.703(a)(2)).
3. The outline of procedure for appeals from decisions of an administrative official by the board of adjustment.
4. A document that lists dates including your hearing date and other deadlines for submittal of additional information to staff/the board. (**Please note that staff does not form a recommendation on this type of appeal**).
5. The board's rule pertaining to documentary evidence.

Please carefully review the attached application materials to make sure they are complete, and within these materials, the Building Official's Report/second page of the application (page 2 of 6 in these attached materials). Please contact Charles Trammell at 214/948-4618 or charles.trammell@dallascityhall.com no later than 1 p.m., Wednesday, May 30th with regard to anything you feel is missing from what you originally submitted, or with regard to any amendment that you feel is necessary to address the issue at hand, specifically if for any reason you feel that any statement in the Building Official's report is incorrect.

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

Thank you,

Steve

PS: If there is anything that you want to submit to the board for me to include in their docket beyond what has been included in the attached materials, please feel free to email it to steve.long@dallascityhall.com or mail it to me at the following address no later than 1 p.m., Friday, June 8th:

BDA178-054

Attachment A

pg 4



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



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Information contained in this transmission is attorney privileged and confidential. It is intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone.

--

--

BDA178-054
Attachment B
PSI

Williams, Brad

From: Kay, Kiesha <kiesha.kay@dallascityhall.com>
Sent: Wednesday, June 06, 2018 4:23 PM
To: Wimer, Megan; Williams, Brad
Cc: Mann, Tommy
Subject: Re: BDA178-054, Property at 10261 E. Technology Boulevard

Brad,

No, I do not. We have available space on the September docket.

Thank you,

Kiesha Kay

Get [Outlook for Android](#)

From: Williams, Brad <bwilliams@winstead.com>
Sent: Wednesday, June 6, 2018 3:02:04 PM
To: Kay, Kiesha; Wimer, Megan
Cc: Mann, Tommy
Subject: FW: BDA178-054, Property at 10261 E. Technology Boulevard

Kiesha,

Do you anticipate any objection from the Building Official on postponing this appeal until September?

Brad R. Williams, Attorney
Winstead PC | 2728 N. Harwood Street, Suite 500 | Dallas, Texas 75201
214.745.5264 *direct* | 214.745.5390 *fax* | bwilliams@winstead.com | www.winstead.com

From: Long, Steve [mailto:steve.long@dallascityhall.com]
Sent: Wednesday, June 06, 2018 6:16 AM
To: Williams, Kanesia; Pham, Theresa Y; Trammell, Charles; Kay, Kiesha; Dean, Neva; Aguilera, Oscar E; Wimer, Megan; Sikes, Phil
Cc: Williams, Brad
Subject: FW: BDA178-054, Property at 10261 E. Technology Boulevard

Attached is additional information from the applicant's representative (Brad Williams) regarding the appeal referenced above that I have labeled Attachment A. This information will become part of what is included in the docket that is assembled and emailed to you, the applicant, and the board members next week.

Please write or call me if you have questions or concerns.

Thank you,

Steve



A

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-054

Date: 3/13/2018

Data Relative to Subject Property:

Location address: 10261 E. Technology Blvd. Zoning District: IR

Lot No.: 1.5 Block No.: C/6499 Acreage: 1.902 Census Tract: 0099.00

Street Frontage (in Feet): 1) -0- 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): MDF Global Asset Management LLC

Applicant: Nick Flaherty Telephone: 917-239-0864

Mailing Address: 117 Wrangler Dr., Suite 100, Coppell, TX Zip Code: 75019

E-mail Address: nick@gmbg.com

Represented by: Brad Williams, Winstead PC Telephone: 214-745-5264

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

E-mail Address: bwilliams@winstead.com

Affirm that an appeal has been made for a Variance __, or Special Exception __, of _____
Appeal the February 27, 2018, use determination by the Chief Planner (Exhibit A).

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 correct use of the subject property is a Restaurant. In the alternative, the commercial amusement (outside) use is permitted on the subject property as an accessory use to the restaurant. The Chief Planner's determination to the contrary is in error.

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

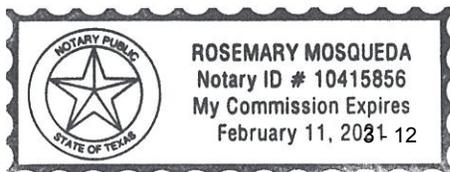
Before me the undersigned on this day personally appeared Nick Flaherty
(Affiant/Applicant's name printed)

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 12th day of March 2018

(Rev. 08-01-11)



Rosemary Mosqueda
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 Nick Flaherty
represented by Brad Williams
did submit a request to appeal the decision of the administrative official
at 10261 E Technology Blvd.

BDA178-054 Application of Nick Flaherty represented by Brad Williams to appeal the decision of the administrative official at 10261 E Technology Blvd. This property is more fully described as Lot 1.5, Block C/6499, and is zoned IR, which requires compliance with the IR district use regulations. The applicant proposes to appeal the decision of an administrative official.

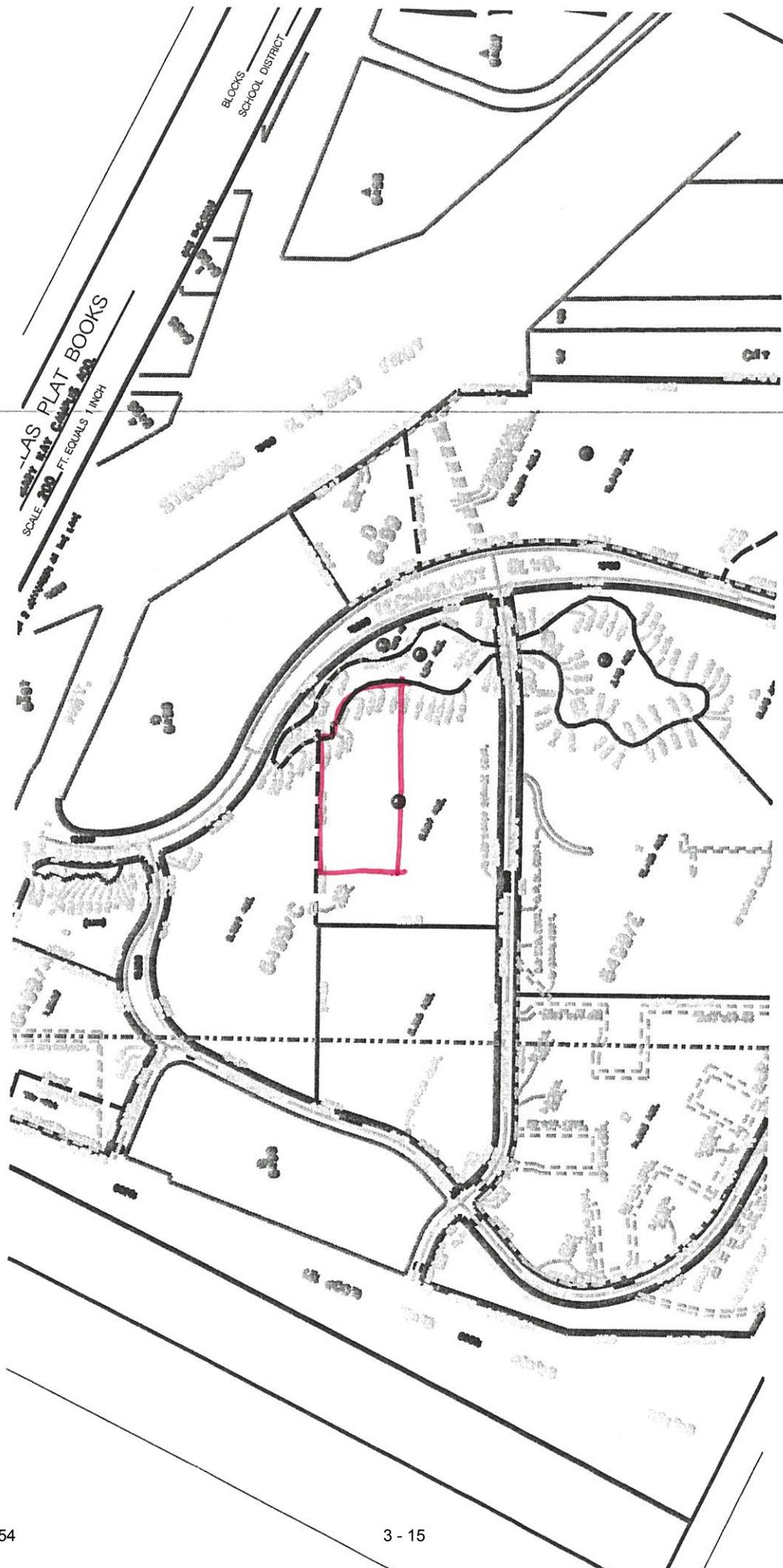
Sincerely,

Philip Sikes
Philip Sikes, Building Official

BL
3/13/18



182
3/13/18





CITY OF DALLAS



February 27, 2018

Brad R. Williams
Winstead Attorneys
2728 N Harwood
Dallas, TX 75201

RE: Zoning Determination Request of Land Use; 10261 E Technology, Lot 1.5 and Block C/6499

Dear Mr. Williams:

As detailed in your letter dated February 17, 2018 and attached, you have requested a written determination of land use.

Per the attached land use statement, the following land uses have been determined:

Restaurant without drive-in or drive-through service, per Sec.51A-4.210(b)(24). This land use is defined as an establishment principally for the sale and consumption of food on the premises. This use does not include a restaurant with drive-in or drive-through service. Additional provisions pertaining to this land use is the sale and service of alcoholic beverages in conjunction with the operation of this use is allowed generally, but may be prohibited if this use is located in a liquor control overlay district.

The second land use established per the land use statement is commercial amusement (outside), per Sec.51A-4.210(b)(8). This land use is defined as a facility offering entertainment or games of skill to the general public for a fee where any portion of the activity takes place outside. This use includes, but is not limited to a golf driving range or miniature golf house.

The property referenced above is located in the IR Industrial Research zoning district. The land use of restaurant without drive-in or drive-through service is allowed by right. The land use of commercial amusement (outside), as described in the attached land use statement is not a permitted use in the IR district.

This letter does not constitute a building permit or certificate of occupancy, nor does it imply that a building permit or certificate of occupancy will be approved without complying with all applicable rules and regulations. The City of Dallas does not provide letters certifying that a property or development complies with all applicable rules and regulations.

If you have any further questions, please contact me at 214-948-4476 or kiesha.kay@dallascityhall.com.

Respectfully,

Kiesha Kay
Chief Planner
Building Inspection Division

cc: Megan Wimer, Assistant Building Official



CITY OF DALLAS

AFFIDAVIT

Appeal number: BDA 178-054

I, MDF Global Asset Management LLC, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 10261 E. Technology Blvd.
(Address of property as stated on application)

Authorize: Nick Flaherty
(Applicant's name as stated on application)

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

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

Specify: Appeal the February 27, 2018, use determination by the Chief Planner.

<u>MDF Global Asset Management LLC*</u>	<u><i>Nick Flaherty</i></u>	<u>3-12-2018</u>
Print name of property owner/agent	Signature of property owner/agent	Date

Before me, the undersigned, on this day personally appeared Nick Flaherty

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

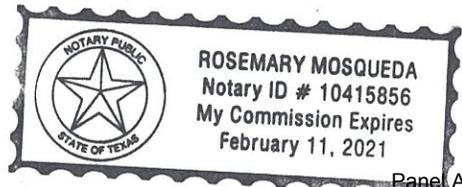
Subscribed and sworn to before me this 12th day of March, 2018

*By: Nick Flaherty

Rosemary Mosqueda
Notary Public for Dallas County, Texas

Its: Authorized Signatory

Commission expires on 02/11/2021





CITY OF DALLAS

Outline of Procedure for Appeals from Decisions of an Administrative Official

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

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

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

BDA178-054
Attach B
PSZ



500 Winstead Building
2728 N. Harwood Street
Dallas, Texas 75201

214.745.5400 OFFICE
214.745.5390 FAX
winstead.com

bwilliams@winstead.com

214.745.5264 DIRECT

February 17, 2018

VIA EMAIL: kiesha.kay@dallascityhall.com

Kiesha Kay
Chief Planner
City of Dallas
320 E. Jefferson Street
Dallas, Texas 75203

Re: Use determination request; Gas Monkey Bar N' Grill (the "Gas Monkey");
10261 E. Technology Blvd. (the "Property")

Kiesha,

The purpose of this letter is to confirm the appropriate use classification for the Gas Monkey under Chapter 51A, Dallas City Code (the "Code"). The Gas Monkey is the current occupant of the Property. According to the zoning map, the Property is zoned IR (Exhibit A). In April 2013, the City correctly issued a valid Certificate of Occupancy ("CO") (#1303251082) to the Gas Monkey for a Restaurant use on the Property (Exhibit B). Based on information provided to us by representatives of the Gas Monkey, we understand the current use of the Property to be consistent with the following:

The Gas Monkey is a full-service restaurant that serves both lunch and dinner, seven days a week. Alcohol sales at the Gas Monkey are less than 50% of total receipts. In connection with its food service, the Gas Monkey offers live musical entertainment for its guests several nights per week.¹ From time-to-time, the Gas Monkey will also host touring musicians for which tickets may be purchased ahead of time as well as at the door. Regardless of the size of the audience or the popularity of the performers, the Gas Monkey kitchen is open and food service is available. Customers are never required to purchase concert tickets in order to have lunch or dinner at the Gas Monkey. Ordinarily, the Gas Monkey closes at midnight during the week and as late as 2:00 am on weekends, with music generally concluding by 11:00 pm. The entertainment portion of the outdoor patio at the Gas Monkey consists of approximately 1,680 square feet, which,

¹ It should be noted that the subject of this request is The Gas Monkey *Bar N' Grill*, which is a separate use and property than the related and nearby Gas Monkey *Live!*, which is an indoor concert venue.

when compared to the lot area of 82,851 square feet, constitutes only 2.0% of the lot.

A survey of COs for similar uses in the City reveals identical classifications as restaurant. The most similar of which is likely The Rustic, located at 3656 Howell Street (Exhibit C). However, the stage and outdoor portion of The Rustic is notably larger than the Gas Monkey. Other similar uses with a restaurant CO include Truckyard, located at 5624 Sears Street (Exhibit D); Chicken Scratch/The Foundry, located at 2303 Pittman Street (Exhibit E); The Armory, located at 2714 Elm Street (Exhibit F); and Lee Harvey's, located at 1807 Gould Street (Exhibit G). All of these uses and locations include outdoor music in connection with their food and drink service. Photographs illustrating the similarity between the referenced uses, particularly the outdoor/patio elements, are enclosed herewith (Exhibit H).

Based on the description of the Gas Monkey use above, as well as the COs and photographs for similar uses enclosed herewith, please confirm that the Gas Monkey is correctly classified as a Restaurant use under the Code.

As stated above, the outdoor entertainment portion of the Property consists of only 2.0% of the lot. *If you determine that this aspect of the Gas Monkey cannot be considered part of the Restaurant main use, please confirm that it is nevertheless permitted as an accessory use under Sec. 51A-4.217.*

If you cannot confirm either of the statements above, please indicate the correct use classification for the Gas Monkey and provide an explanation for that classification in light of the similar uses cited herein. Please let me know if you require any additional information to assist you in addressing the questions presented herein. At your earliest convenience, please provide a letter answering the questions along with a final invoice.

Sincerely,



Brad R. Williams

Encls: Exhibits A-H

Cc: Tommy Mann, of the firm

Certificate of Occupancy

Address: 10261 E TECHNOLOGY BLVD 75220

Owner: GMG HOLDINGS
117 WANGLER COPPELL TX 75019

DBA: GAS MONKEY GRILL

Land Use: (5811) RESTAURANT WITHOUT DRIVE-IN SERVICE

Occupied Portion:

C.O.#: 1303251082

Lot: 1.5 Block: C/6499 Zoning: IR PDD: SUP: Park Agrmt: N
Historic Dist: Consrv Dist: Pro Park: 142 Req Park: 66 Total Area: 12000
Dwlg Units: 1 Stories: A3 Occ Code: 82851 Lot Area: 82851 Dance Floor: N
Type Const: VB Sprinkler: All Occ Load: Alcohol: Y

Remarks: EXISTING USE CO#0203181032 HEALTH PERMIT #47326. 5-20-2013
TABC MB, LB. AFFIDAVIT ON FILE.
occ load inside 316/ occ load on patio 314

Larry V. Holmes
Larry Holmes, Building Official

Issued: 04/03/2013

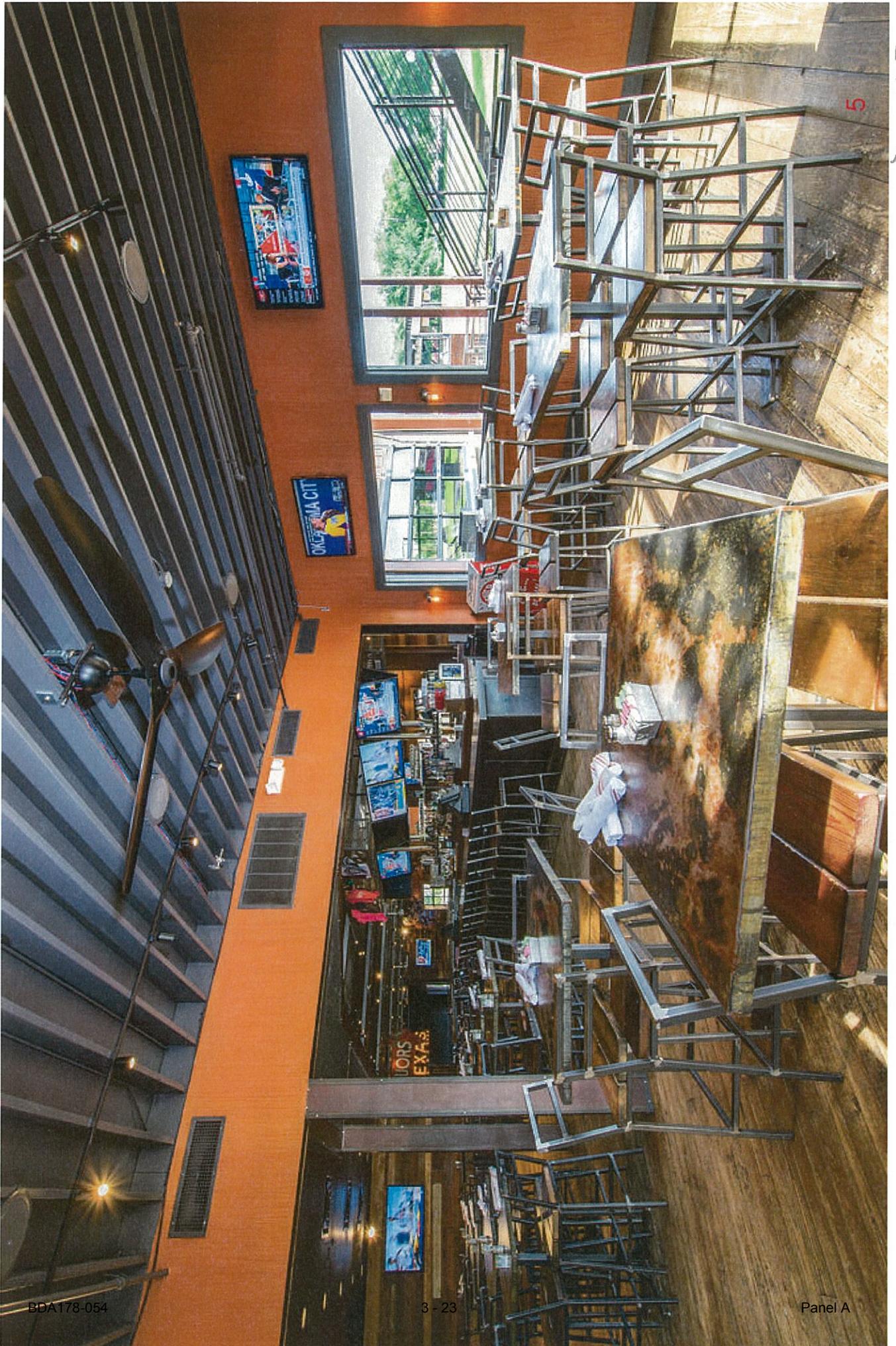
BDA178-054
Att. B
P34

4

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BDA
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054
Attach
B
195





6



Dallas Home Building Inspection Home Offices Records Newsletter Government

Master Permit - 0312051004

- Details
- Trades
- Documents
- Zoning Info

Property

Street Address

View 10261 E TECHNOLOGY BLVD

Status: Work Completed

Application Date: Dec 5, 2003
Issue Date: Jan 23, 2004
Completed Date: Sep 10, 2004

Applicant

JB JONES

Contractor

JONES BAKER
501 2ND
A-800
DALLAS, TX 75226
(214) 827-4300

Owner Category: PRIVATE
Work Description: REMODEL
Land Use Description: RESTAURANT WITHOUT DRIVE-IN SERVICE

Fee Web Contractor:

Project

Doing business as: FIREWATER BAR AND GRILL
Activity: (B) Alteration or Reconstruction or Renovation
Occupancy: A21
Constr. Type: V1HR

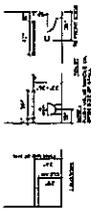
Selling Alcohol: [] Dwelling Units: 0
Dance Floor: [] Stories: 1
Bedrooms: 0
Bathrooms: 0

Table with 4 columns: Category, Sq Ft, Cost, and another Category. Rows include New, Remodel, Total, and Job Value.

CA Not Required: [] Subdivision not Required: []

FIRE WATER BAR & GRILL

NOT TO BE INSTALLED BY GC
 SEE FIRE WATER BAR & GRILL
 FOR INSTALLATION INSTRUCTIONS
 FOR INSTALLATION INSTRUCTIONS



TYPICAL MOUNTING HEIGHTS
 SCALE: 1/4" = 1'-0"

1. All dimensions are minimum unless otherwise noted.
2. All dimensions are minimum unless otherwise noted.
3. All dimensions are minimum unless otherwise noted.
4. All dimensions are minimum unless otherwise noted.
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9. All dimensions are minimum unless otherwise noted.
10. All dimensions are minimum unless otherwise noted.

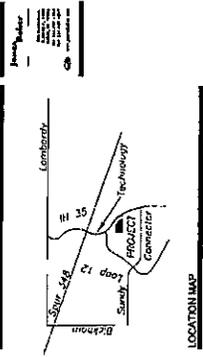
GENERAL ACCESSIBILITY NOTES

1. All dimensions are minimum unless otherwise noted.
2. All dimensions are minimum unless otherwise noted.
3. All dimensions are minimum unless otherwise noted.
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GENERAL NOTES

1. All dimensions are minimum unless otherwise noted.
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BDA178-054
 ATTACH B
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LOCATION MAP

GENERAL INFORMATION

PROJECT: FIRE WATER BAR & GRILL
 10261 WEST TECHNOLOGY BLVD.
 DALLAS, TX 75220

OWNER: JPMORGAN CHASE

PROJECT DESIGNER: JPMORGAN CHASE
 14407 LBJ Fwy
 Dallas, TX 75243

MEP ENGINEER: JPMORGAN CHASE
 14407 LBJ Fwy
 Dallas, TX 75243

STRUCTURAL ENGINEER: JPMORGAN CHASE
 14407 LBJ Fwy
 Dallas, TX 75243

APPLICABLE CODES:
 International Building Code
 International Fire Code
 International Mechanical Code
 International Plumbing Code
 International Electrical Code

SCOPE OF WORK:
 PROVIDE AND INSTALL FIRE WATER BAR AND GRILL FOR EXISTING RESTROOM AND MEN ROOM.
 PROVIDE AND INSTALL NEW EXTERIOR PAINT FOR EXISTING RESTROOM AND MEN ROOM.
 PROVIDE AND INSTALL NEW EXTERIOR PAINT FOR EXISTING RESTROOM AND MEN ROOM.

OCCUPANCY CLASSIFICATION: AS
 CONSTRUCTION TYPE: V - FULLY SPRAUDED

SQUARE FOOTAGE:
 EXISTING RESTROOM: 815 SQ. FT.
 EXISTING MEN ROOM: 490 SQ. FT.
 NEW RESTROOM ADDITION: 281 SQ. FT.
 NEW MEN ROOM ADDITION: 281 SQ. FT.
 NEW EXTERIOR PAINT: 281 SQ. FT.
 NEW EXTERIOR PAINT: 281 SQ. FT.

SHEET INDEX

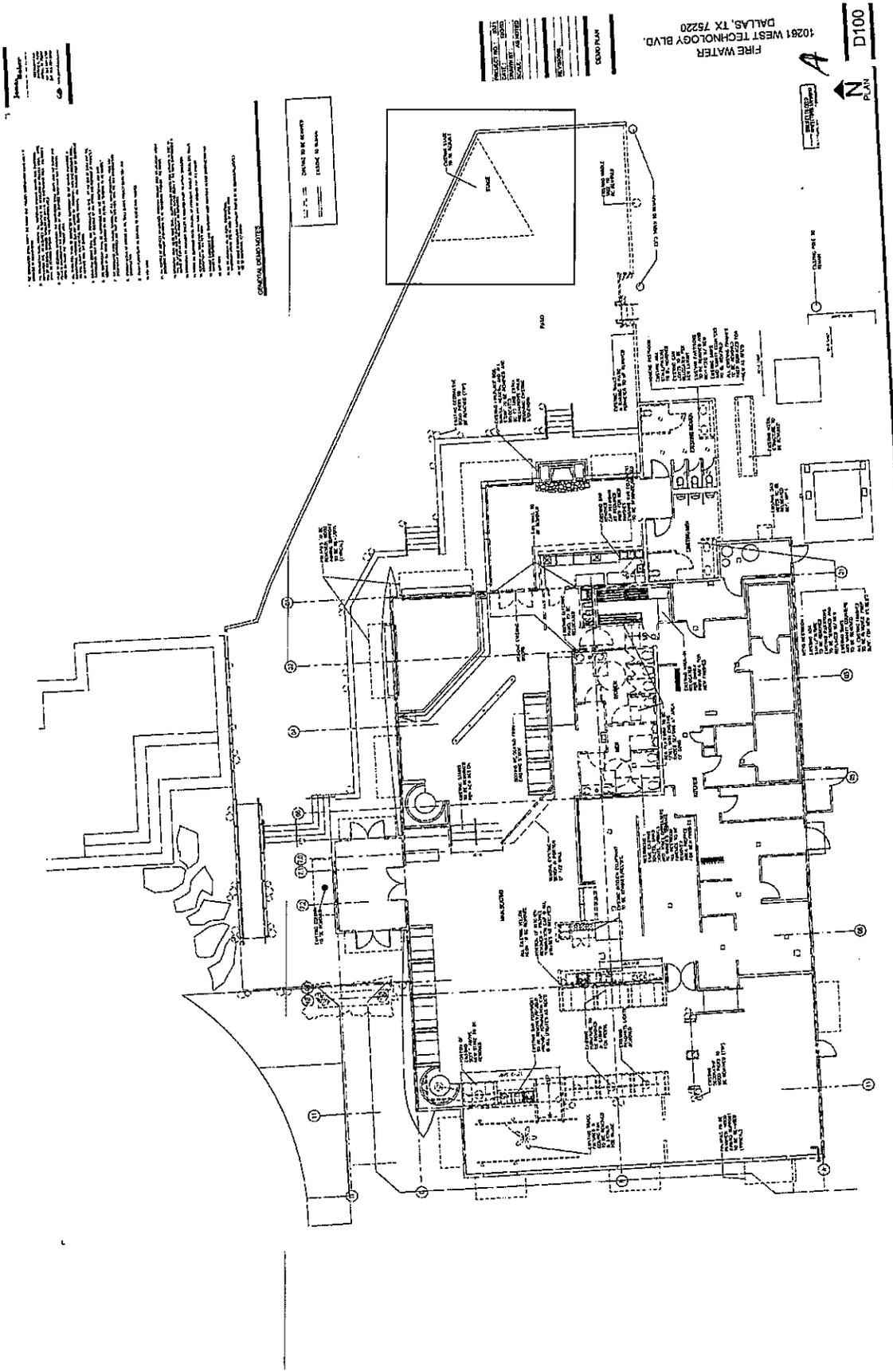
NO.	DESCRIPTION
1	GENERAL INFORMATION
2	MEP ENGINEER
3	STRUCTURAL ENGINEER
4	APPLICABLE CODES
5	SCOPE OF WORK
6	OCCUPANCY CLASSIFICATION
7	SQUARE FOOTAGE
8	GENERAL NOTES
9	TYPICAL MOUNTING HEIGHTS
10	GENERAL ACCESSIBILITY NOTES
11	GENERAL NOTES

NO.	DESCRIPTION
1	GENERAL INFORMATION
2	MEP ENGINEER
3	STRUCTURAL ENGINEER
4	APPLICABLE CODES
5	SCOPE OF WORK
6	OCCUPANCY CLASSIFICATION
7	SQUARE FOOTAGE
8	GENERAL NOTES
9	TYPICAL MOUNTING HEIGHTS
10	GENERAL ACCESSIBILITY NOTES
11	GENERAL NOTES

FIRE WATER
 10261 WEST TECHNOLOGY BLVD.
 DALLAS, TX 75220

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11

DOOR SCHEDULE

NO.	DESCRIPTION	QTY	UNIT	MANUFACTURER	FINISH	NOTES
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GENERAL NOTES

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.
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10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.

DOOR FRAME TYPES

TYPE A: ...

TYPE B: ...

TYPE C: ...

DOOR FINISHES

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FINISH 2: ...

FINISH 3: ...

FINISHES

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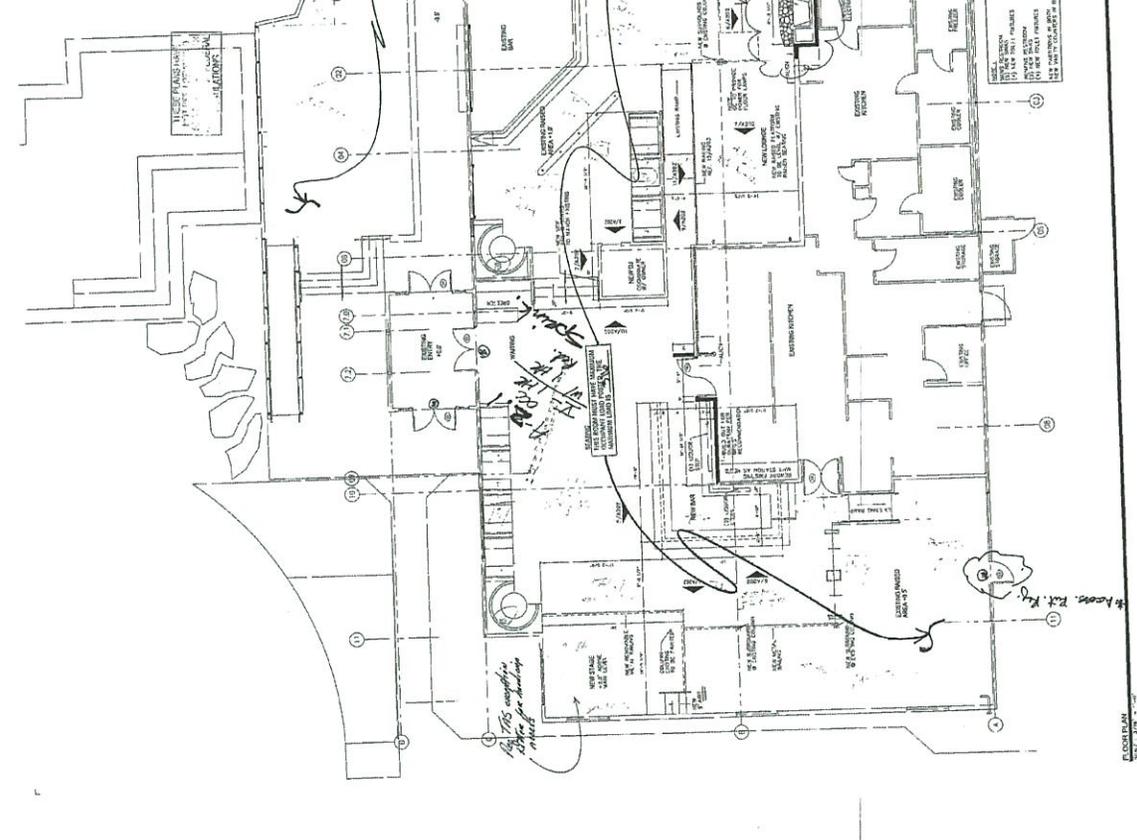
FINISH 3: ...

FINISHES

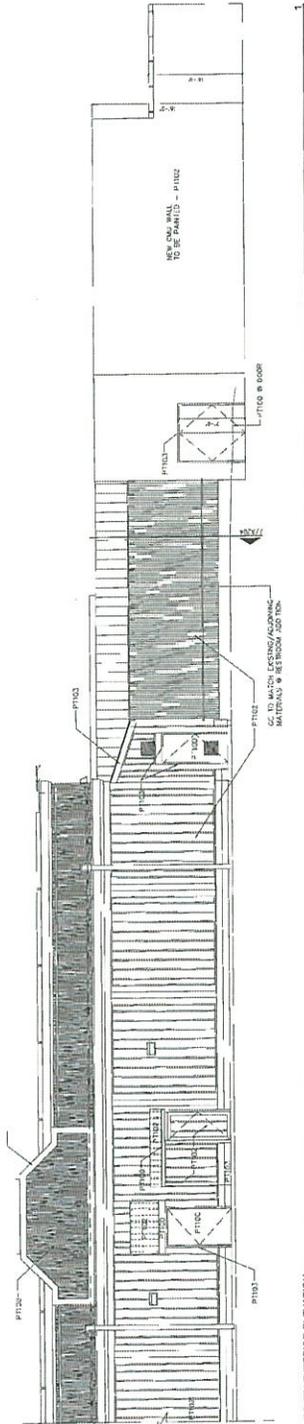
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FINISH 2: ...

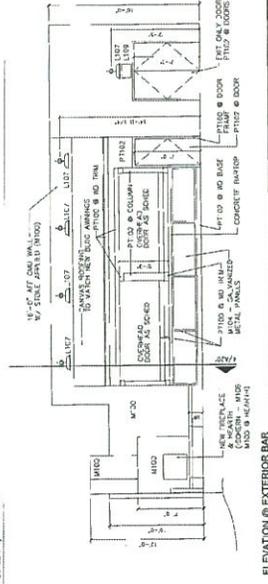
FINISH 3: ...



NOTE: This is a microfilm copy from the Building Inspection Central Files Office. Copies cannot be Refilmed. DO NOT RETURN



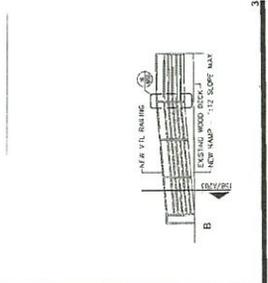
SOUTH EXTERIOR ELEVATION
 SCALE: 1/4" = 1'-0"



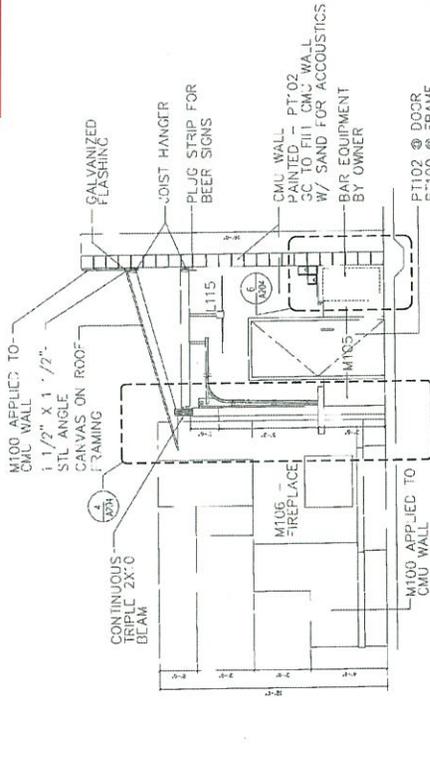
ELEVATION @ EXTERIOR BAR
 SCALE: 1/4" = 1'-0"



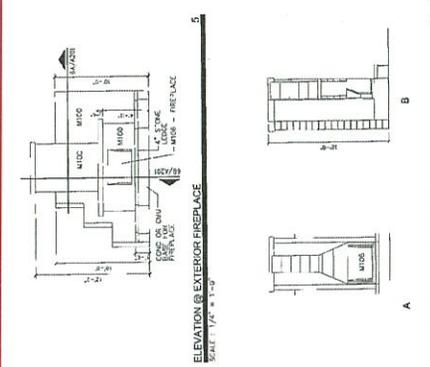
ELEVATION @ EXTERIOR STAGE
 SCALE: 1/4" = 1'-0"



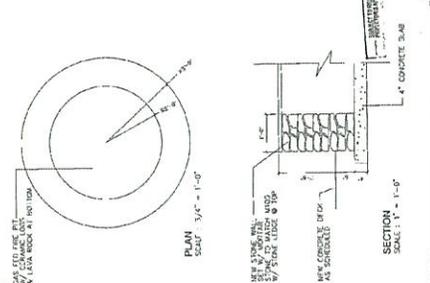
ELEVATION @ EXTERIOR FIREWATER
 SCALE: 1/4" = 1'-0"



SECTION @ EXTERIOR BAR
 SCALE: 1/4" = 1'-0"



ELEVATION @ EXTERIOR FIREWATER
 SCALE: 1/4" = 1'-0"



SECTION @ EXTERIOR FIREWATER
 SCALE: 1/4" = 1'-0"

10261 WEST TECHNOLOGY BLVD.
 DALLAS, TX 75220
 FIRE WATER

A201

150-AL-V001
 H.L.B
 P.S.L
 14



City of Dallas

Certificate of Occupancy

Address: 10261 E TECHNOLOGY BLVD 75220

Owner: MELVIS DENMAN
3641 AMES RD
LANCASTER TX 75134

DBA: FIRE WATER BAR & GRILL

Land Use: (5811) RESTAURANT WITHOUT DRIVE-IN SERVICE

C.O.#: 0704111110 Issue Date: 04/12/2007

Lot:	1.5	Block:	C/6499	Zoning:	IR, MU-3	PDD:	SUP:
Historic Dist:		Consrv Dist:		Pro Park:		Req Park:	Park Agrmt: N
Dwlg Units:	1	Stories:	1	Occ Code:	A2	Lot Area:	Total Area: 8993
Type Const:	VA	Sprinkler:	All	Occ Load:		Alcohol:	Dance Floor: N

Remarks: EXISTING USE/W/1HR MAX OCC 814 A2.1 =367 OUT A-2.1 =447 PER
CO#0308181089 HEALTH APL #40017

Building Official

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BDA178 054
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P310



Legend

10261 Technology Blvd E

BDA178-054
ATTN: B
PS19



100 ft

3.31.2005

Google Earth



Certificate of Occupancy

City of Dallas

Address: 10261 E TECHNOLOGY BLVD 75220 Issued Date: 06/24/2011

Owner: MARY L DAVIS
P O BOX 270087 FLOWER MOUND TX 75027

DBA: MARY'S SOUTHERN CUISINE AND ENTERTAINMENT

Land Use: (5811) RESTAURANT WITHOUT DRIVE-IN SERVICE

C.O.#: 1012091104

Lot:	1.5	Block:	C/6499	Zoning:	IR	IR	PDD:	SUP:
Historic Dist:		Consrv Dist:		Pro Park:		Req Park:		Park Agrmt: N
Dwlg Units:	1	Stories:	1	Occ Code:	A2	Lot Area:	82851	Total Area: 7626
Type Const:	VA	Sprinkler:	All	Occ Load:		Alcohol:	Y	Dance Floor:N

Remarks: EXISTING USE

Batsheba Antebi

Batsheba Antebi, Building Official

BDA178-054

ATTN B
P520

20

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Legend

10261 Technology Blvd E

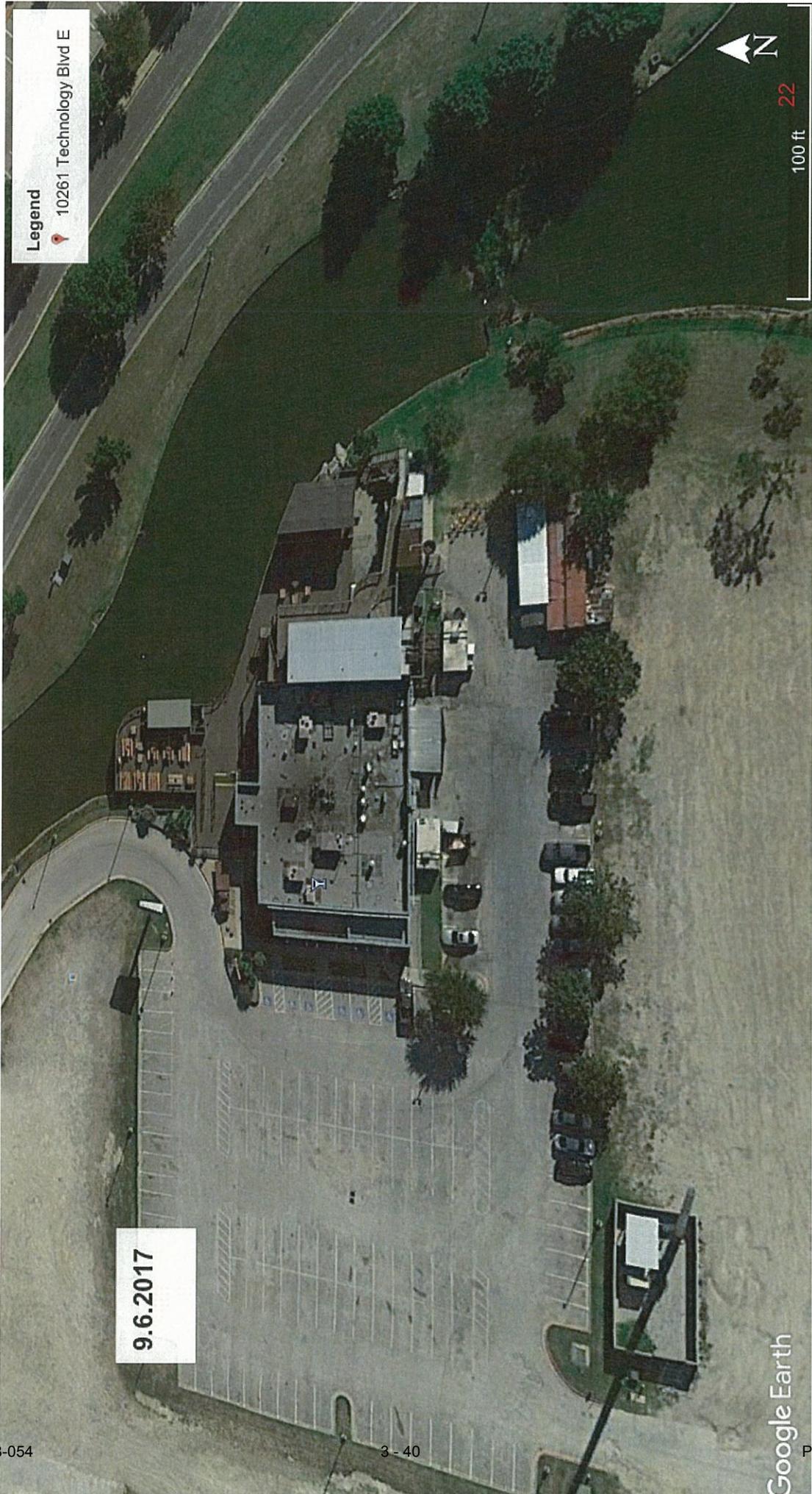


100 ft 21

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Google Earth



Legend

10261 Technology Blvd E



100 ft 22

9.6.2017

Google Earth

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PS 22

BD178-054
Area B
P523

Print

The Dallas City Code

SEC. 51A-4.217. ACCESSORY USES.

(a) General provisions.

(1) An accessory use must be a use customarily incidental to a main use. A use listed in Sections 51A-4.201 through 51A-4.216 may be an accessory use if the building official determines that the use is customarily incidental to a main use and otherwise complies with this section. Except as otherwise provided in this article, an accessory use must comply with all regulations applicable to the main use.

(2) Except as otherwise provided in this article, an accessory use must be located on the same lot as the main use.

(3) Except as otherwise provided in this article, accessory uses listed in Subsection (b) or in Sections 51A-4.201 through 51A-5.216 are subject to the following area restrictions: If the use is conducted outside, it may not occupy more than five percent of the area of the lot containing the main use. If the use is conducted inside, it may not occupy more than five percent of the floor area of the main use. Any use which exceeds these area restrictions is considered to be a separate main use.

(4) Except as otherwise provided in Subsection (b), an accessory use is permitted in any district in which the main use is permitted.

(5) Except as provided in this paragraph, an alcohol related establishment that is customarily incidental to a main use, such as an alcohol related establishment within a hotel, restaurant, or general merchandise store, is not limited to the five percent area restriction in Section 51A-4.217(a)(3), and will be considered as part of the main use when determining the gross revenue derived by the establishment from the sale of alcoholic beverages for on-premise consumption. Accessory microbrewery, micro-distillery, or winery uses and accessory alcoholic beverage manufacturing uses may not occupy more than 40 percent of the total floor area of the main use. Any use that exceeds these area restrictions is considered a separate main use.

(b) Specific accessory uses. The following accessory uses are subject to the general provisions in Subsection (a) and the regulations and restrictions outlined below:

(1) Accessory community center (private).

(A) Definition: An integral part of a residential project or community unit development that is under the management and unified control of the operators of the project or development, and that is used by the residents of the project or development for a place of meeting, recreation, or social activity.

(B) District restrictions:

(i) This accessory use is not permitted in A(A), office, retail, CS, industrial, multiple commercial, and P(A) districts.

(ii) An SUP is required for this accessory use in single family, duplex, townhouse, CH, and urban corridor districts.

(C) Required off-street parking:

(i) Except as provided in this subparagraph, one space for each 100 square feet of floor area.

(ii) No off-street parking is required if this use is accessory to a multifamily use and is used primarily by residents.

(D) Required off-street loading: None.

Certificate of Occupancy

Address: [REDACTED] 3656 HOWELL ST Issued: 10/12/2015

Owner: [REDACTED] FREE RANGE PRESENTS DALLAS LLC
8111 PRESTON RD SUITE 610
DALLAS TX 75225

DBA: [REDACTED] THE RUSTIC

Land Use: [REDACTED] (5811) RESTAURANT WITHOUT DRIVE-IN SERVICE

Occupied Portion: [REDACTED]

C.O.#: [REDACTED] 1409301032

Lot:	Block:	Zoning:	PDD:	SUP:
Historic Dist:	Consvy Dist:	Pro Park:	Req Park:	Park Agrmt:
Dwlg Units:	Stories:	Occ Code:	Lot Area:	Total Area:
Type Const:	Sprinkler:	Occ Load:	Alcohol:	Dance Floor:
	VB	All	246	Y
				N

Remarks: HEALTH # 47856. ADDED OCC CLASS, CONST TYPE AND SPRINKLER STATUS PER PERMIT #1409301030 11-24-15 BW.

Larry V. Holmes
Larry Holmes, Building Official

BDA178-054
Attch B
PS 24

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BDA178-05
ATT-4B
PS 25

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Certificate of Occupancy

Address: 2303 PITTMAN ST, Suite A & B 75208 Issued: 12/16/2011

Owner: COMPOUND RESTAURANT MGMNT II, LLC
901 FW AV
DALLAS, TX, 75208

DBA: CHICKEN SCRATCH / THE FOUNDRY

Land Use: (5811) RESTAURANT WITHOUT DRIVE-IN SERVICE

Occupied Portion:

C.O.#: 1110171078

Lot:	3	Block:	1/6817	Zoning:	PD-714	PDD:	714	SUP:	
Historic Dist:		Consrv Dist:	Fort Worth Av	Pro Park:	49	Req Park:	49	Park Agrmt:	N
Dwlg Units:		Stories:	1	Occ Code:	A2	Lot Area:	70540	Total Area:	4854
Type Const:	VB	Sprinkler:	Partial	Occ Load:	165	Alcohol:	Y	Dance Floor:	N

Remarks: 11-23-11 LB, FB, RM. AFFIDAVIT ON FILE.
OCC FOR BUILDING A = 68 BUILDING B = 97
occ load for outside is 188 updated 10/4/12 by sw



Lloyd Denman, Building Official

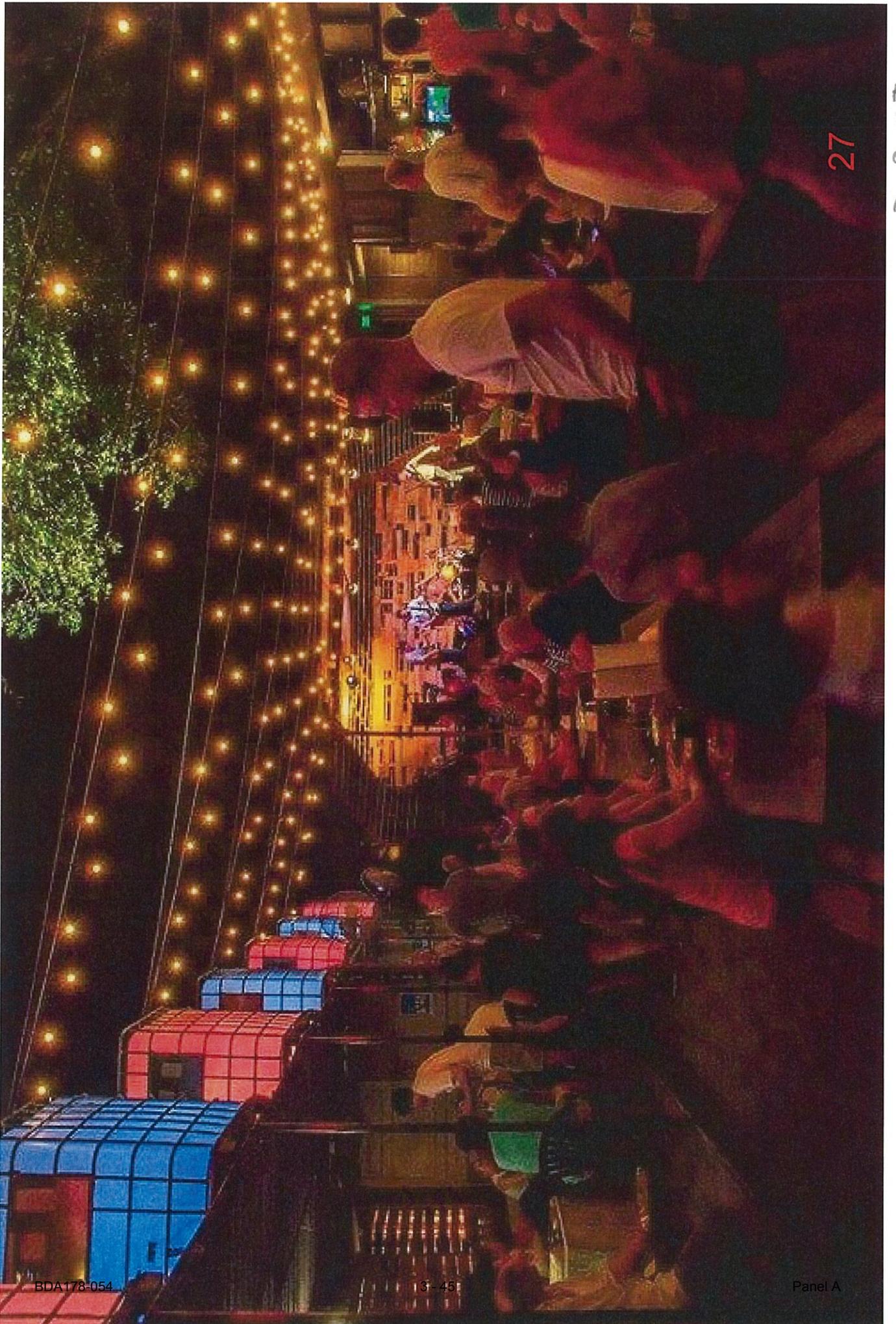
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Sustainable Development and Construction | Building Inspection Division | 214/948-4480 | www.dallascityhall.com

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Certificate of Occupancy

City of Dallas

Address: 1807 GOULD ST 75215 Issued Date: 12/31/2008

Owner: SETH SMITH
1816 CLARENCE
DALLAS, TX,
DBA: LEE HARVEY'S

Land Use: (5811) RESTAURANT WITHOUT DRIVE-IN SERVICE

C.O.#: 0810071095

Lot:	6	Block:	D/905	Zoning:	PD-317	PDD:	317	SUP:	
Historic Dist:		Consrv Dist:		Pro Park:	26	Req Park:	26	Park Agrmt:	N
Dwlg Units:		Stories:		Occ Code:	A2	Lot Area:	0	Total Area:	2604
Type Const:	VB	Sprinkler:	None	Occ Load:		Alcohol:	N	Dance Floor:	N

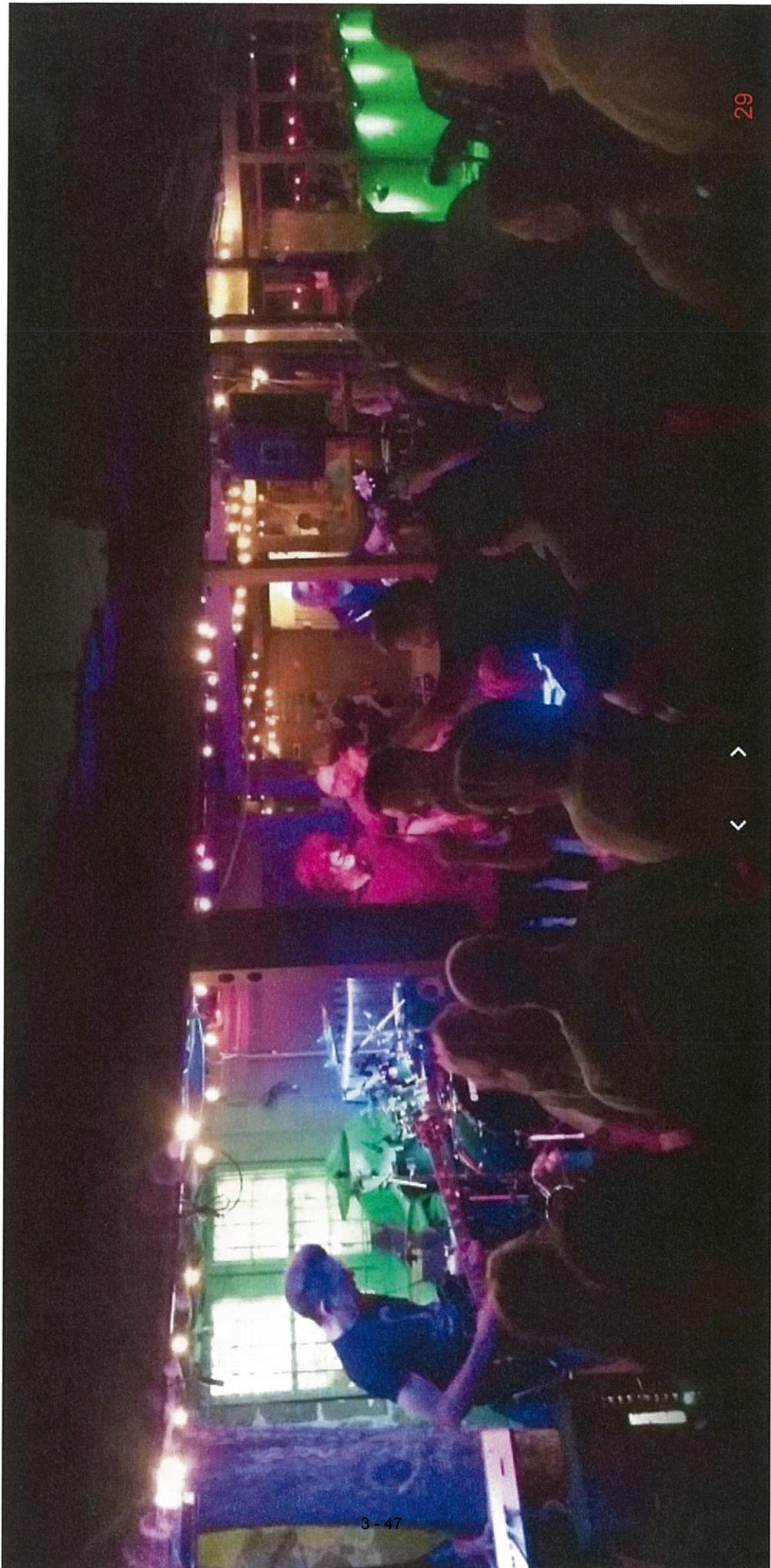
Remarks: 9 DELTA CREDITS AND 17 PARKING SPACES LOCATED AT 1401 BEAUMONT. W/2 HR FIRE BARRIERS. OCC. LOAD INSIDE 43-COVERED PATIO 99.BW 10-16-08.

Zaida Basora

Zaida Basora, Building Official

PDA-78-054
ATTN: B
PS 28

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Development Services Department | Building Inspection Division | 214/948-4480 | www.dallascityhall.com



BDA178-
054
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p. 29

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Certificate of Occupancy

City of Dallas

Address: **5624 SEARS ST 75206** Issued: 12/21/2017

Owner: **Jason**
10815 BRANCH OAKS CIR , DALLAS TEXAS 752304466 UNITED STATES OF AMERICA

DBA: **Truck Yard Restaurant Outhouse**

Land Use: **(5811) RESTAURANT WITHOUT DRIVE-IN SERVICE**

Occupied Portion:

C.O.#: **1310011092**

Lot:	7	Block:	C/1983	Zoning:	PD-842	PDD:	SUP:
Historic Dist:	Consrv Dist: Belmont To	Pro Park:	23	Req Park:	23	Lot Area:	8975
Dwlg Units:	Stories:	Occ Code:	A2	Alcohol:	N	Total Area:	2339
Type Const:	VB	Sprinkler:	None	Occ Load:		Dance Floor:	N

Remarks: PER PREVIOUS CO, OCC LOAD INSIDE 78- PATIO 85.

Philip Sikes
Philip Sikes, Building Official

BDA 178-054
ATTN B
PS 30

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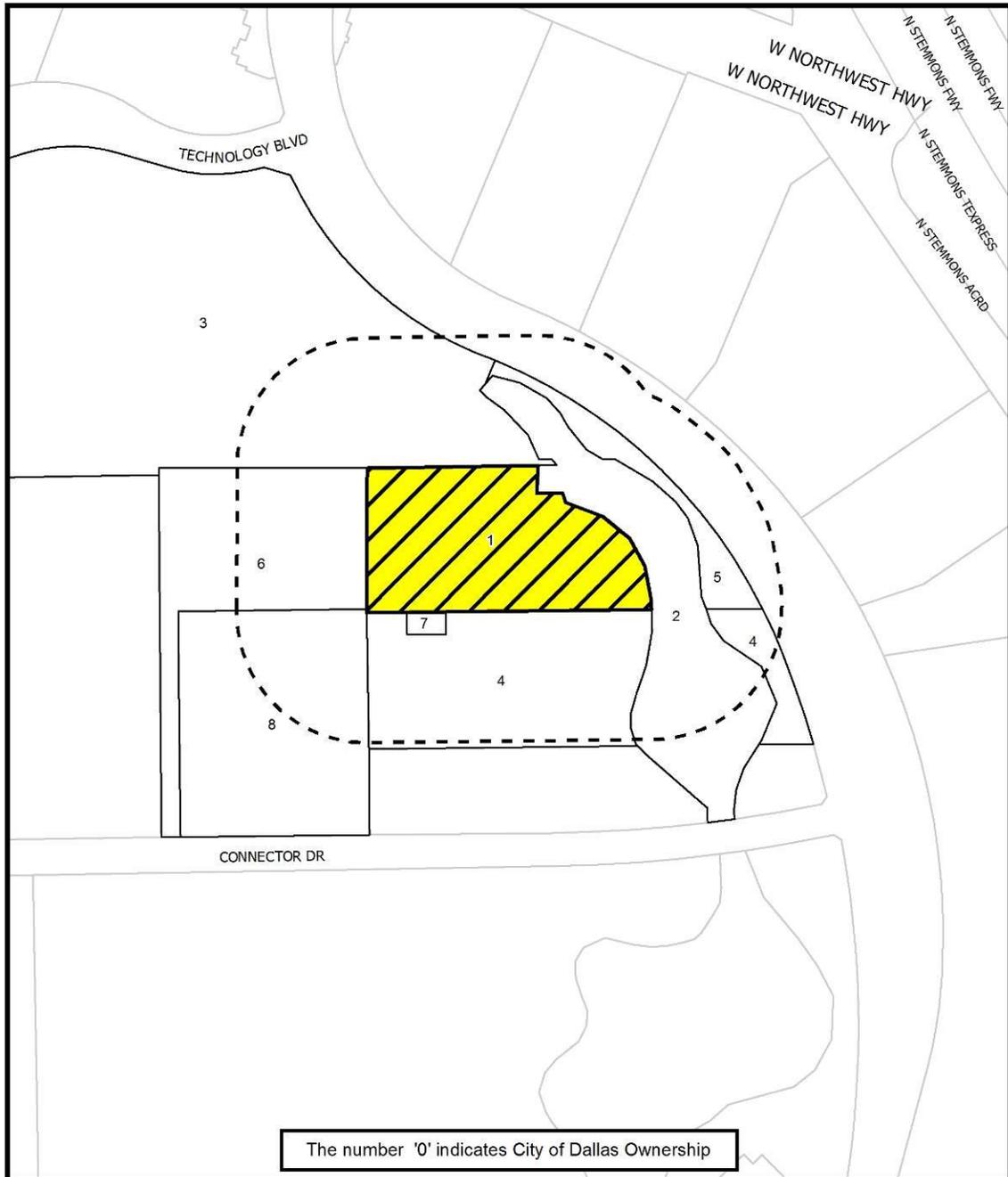
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BDA
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Att: E
Pg 32

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 1:2,400	<h2>NOTIFICATION</h2>	Case no: BDA178-054			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">8</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	8	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
8	NUMBER OF PROPERTY OWNERS NOTIFIED				

Notification List of Property Owners

BDA178-054

8 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	10261 E TECHNOLOGY BLVD	MDF GLOBAL ASSET MGMT LLC
2	2200 CONNECTOR DR	THIRD Coast TRADING
3	10310 E TECHNOLOGY BLVD	DDRR LP
4	2200 CONNECTOR DR	MDF GLOBAL ASSET MGMT LLC
5	10100 E TECHNOLOGY BLVD	UNITED STATES OF AMERICA
6	2225 CONNECTOR DR	RED RIVER ENTERPRISES LLC
7	2225 CONNECTOR DR	CONNELL DEVELOPMENT CO
8	2225 CONNECTOR DR	BIJAL HOSPITALITY LLC

FILE NUMBER: BDA178-093(OA)

BUILDING OFFICIAL'S REPORT: Application of Opulent Homes LLC, represented by Chris Ramsey, for a variance to the side yard setback regulations at 9874 Mixon Drive. This property is more fully described as Lot 5, Block 7/6178, and is zoned R-7.5(A), which requires a 5 foot side yard setback. The applicant proposes to construct and/or maintain a structure and provide a 4 foot 1 inch side yard setback, which will require an 11 inch variance to the side yard setback regulations.

LOCATION: 9874 Mixon Drive

APPLICANT: Opulent Homes LLC,
Represented by Chris Ramsey

REQUESTS:

A request for a variance to the side yard setback regulations of 11" is made to maintain a two-story single family home structure 4' 1" from the side property line (the south side property line) or 11" into the 5' side yard setback on a site that is being developed with a single family home.

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION (front yard, side yard, and floor area variances):

Denial

Rationale:

- Staff concluded that the applicant had not substantiated how 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 it cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-7.5 (A) zoning district.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS (side yard variance):

- This request focuses on maintaining a structure 4’ 11” from the side property line (the south side property line) or 11” into the 5’ side yard setback.
- Structures on lots zoned R-7.5(A) are required to provide a minimum side yard setback of 5’.
- A site plan has been submitted denoting a two-story single family home structure located 4’ 1” from the side property line (the south side property line) or 11” into this 5’ side yard setback.
- It appears from the submitted site plan that approximately 1 percent of the unfinished 4050 square foot structure footprint is located 11” in the site’s southern 5’ side yard setback.
- DCAD records indicate “no main improvements” for the property at 9874 Mixon Drive.
- The subject site is rectangular in shape, flat, and according to the application, is 0.25 acres (or approximately 10,900 square feet) in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal

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

- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-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 this side yard setback 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 is a structure 4' 1" from the side property line (the south side property line) or 11" into the 5' side yard setback.

Timeline:

May 16, 2018: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

August 14, 2018: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.

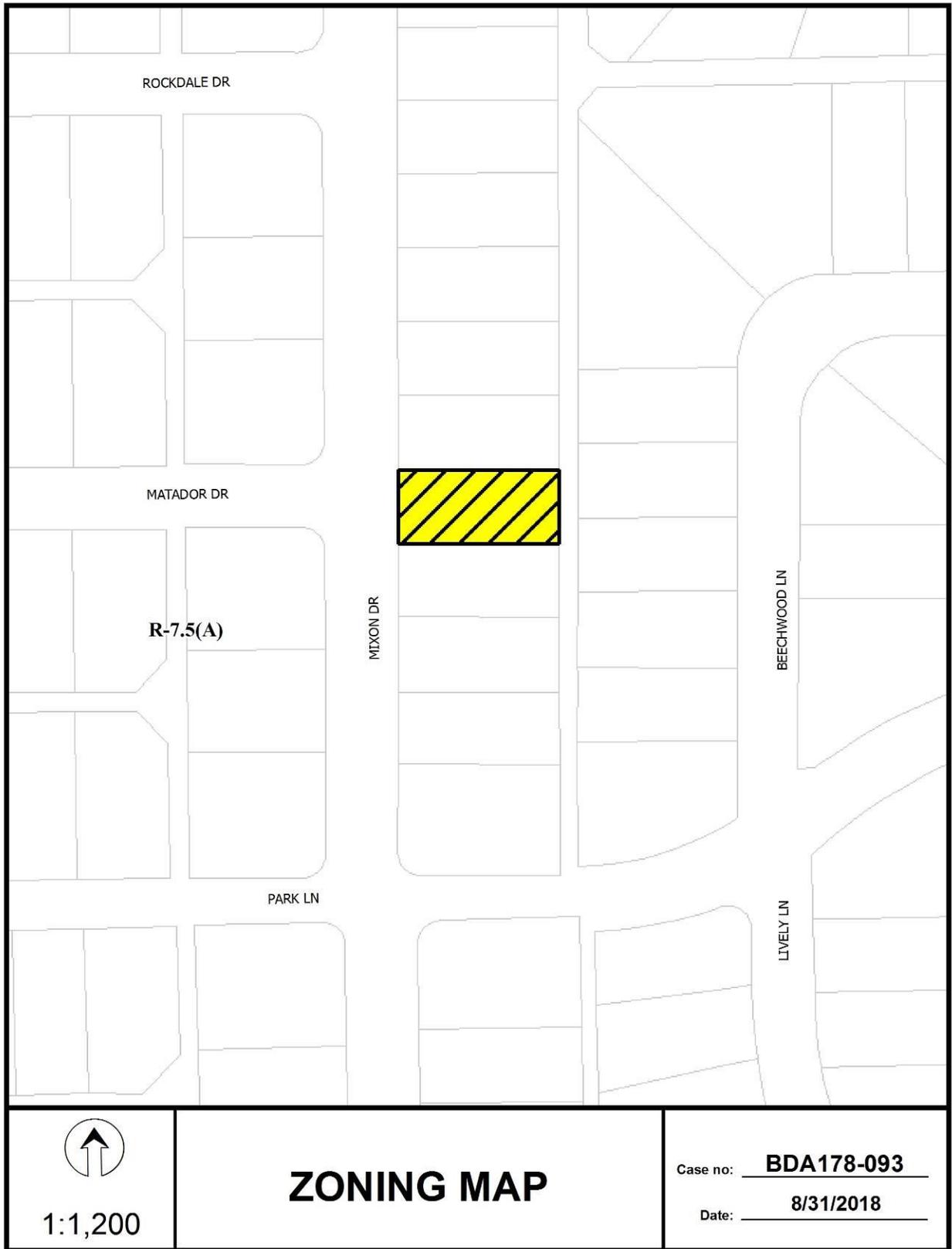
August 16, 2018: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

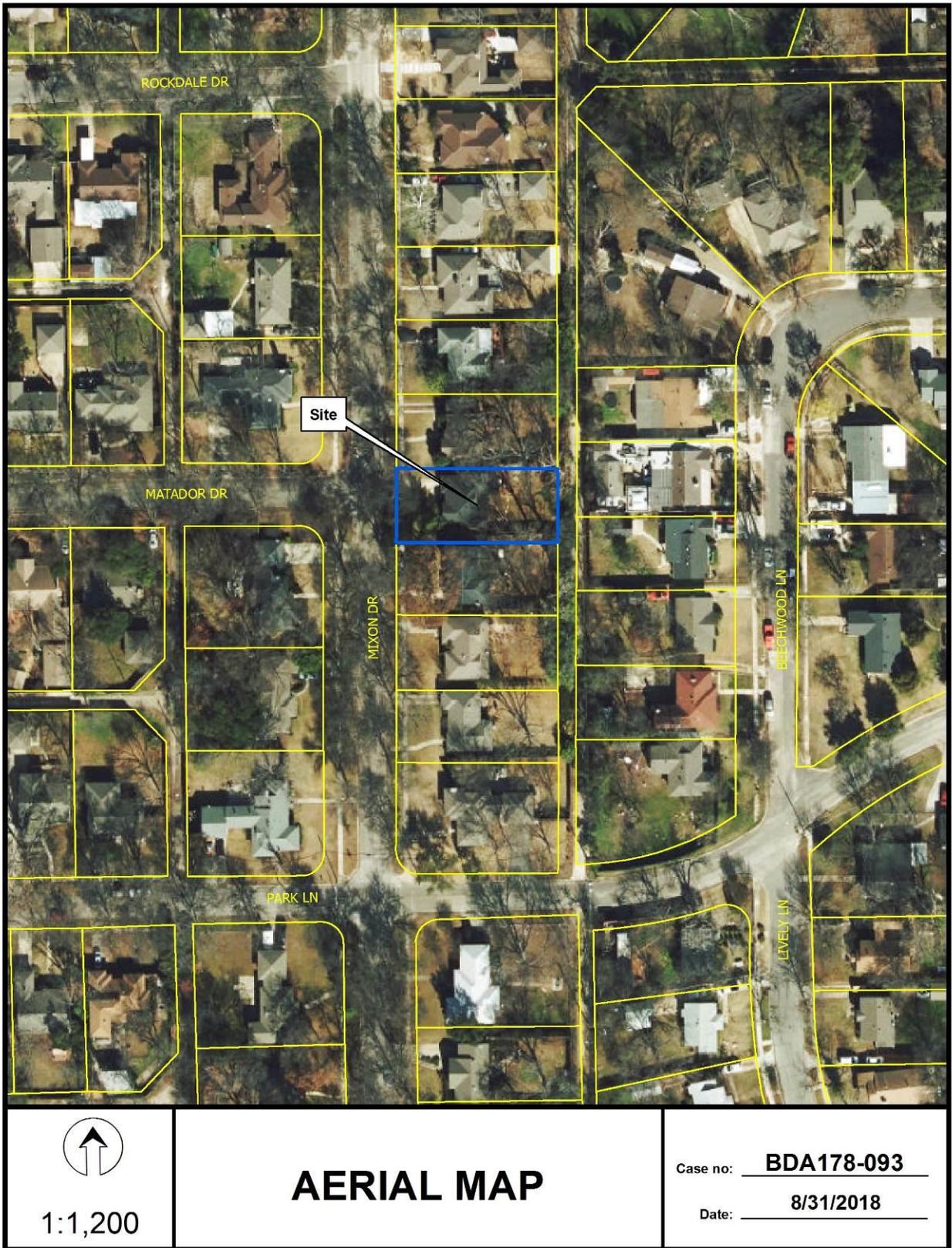
- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the August 29th deadline to submit additional evidence for staff to factor into their analysis; and the September 7th 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."

September 4, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the Sustainable Development and Construction Director, 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 Authorized Hearing/Development

Code Amendment Chief Planner, 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.







City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-093

Data Relative to Subject Property:

Date: 5/23/18

Location address: 9874 MIXON DRIVE Zoning District: R-7.5(A)

Lot No.: 5 Block No.: 7/6178 Acreage: 0.25 Census Tract: 94.01

Street Frontage (in Feet): 1) 60 2) 130.01 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): MIXON VALLEY LLC

Applicant: OPULENT HOMES LLC Telephone: 469-260-6393

Mailing Address: P.O. Box 140909 Zip Code: 75214

E-mail Address: ramseyandassoc@yahoo.com

Represented by: CHRIS RAMSEY Telephone: 469-260-6393

Mailing Address: P.O. Box 140909 Zip Code: 75214

E-mail Address: ramseyandassoc@yahoo.com

Affirm that an appeal has been made for a Variance , or Special Exception _____, of south side yard setback from 5' to 4.1' due to Rhodes surveying error. Error wasn't discovered until new home was already framed with roof completed.

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:

requesting a sideyard variance of 0.9' resulting in a sideyard set back of 4.1' on south property line

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

Affidavit

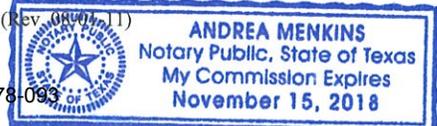
Before me the undersigned on this day personally appeared James J. Rigelsky (Affiant/Applicant's name printed)

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] (Mixon Valley LLC) (Affiant/Applicant's signature)

Subscribed and sworn to before me this 16th day of May, 2018

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



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was---Granted OR Denied

Remarks _____

Chairman

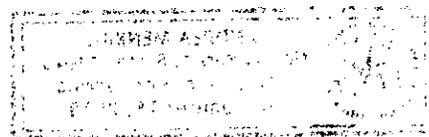
Building Official's Report

I hereby certify that OPULENT HOMES LLC
represented by Chris Ramsey
did submit a request for a variance to the side yard setback regulations
at 9874 Mixon Drive

BDA178-093. Application of OPULENT HOMES LLC represented by Chris Ramsey for a variance to the side yard setback regulations at 9874 Mixon Drive. This property is more fully described as Lot 5, Block 7/6178, and is zoned R-7.5(A), which requires a 5 foot side yard setback. The applicant proposes to construct a single family residential structure and provide a 4 foot 1 inch side yard setback, which will require a 11 inch variance to the side yard setback regulations.

Sincerely,

Philip Sikes
Philip Sikes, Building Official





Printed: 5/23/2018

Legend

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

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



1529 E. I-30, STE. 106
GARLAND, TX 75043

FORM SURVEY



RHODES

Surveying

WWW.RHODESURVEYING.COM

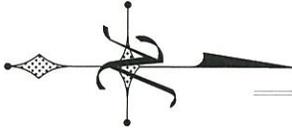
FIRM REGISTRATION NO. 10194052

BRIAN S. RHODES Registered Professional Land Surveyor (972) 475-8940

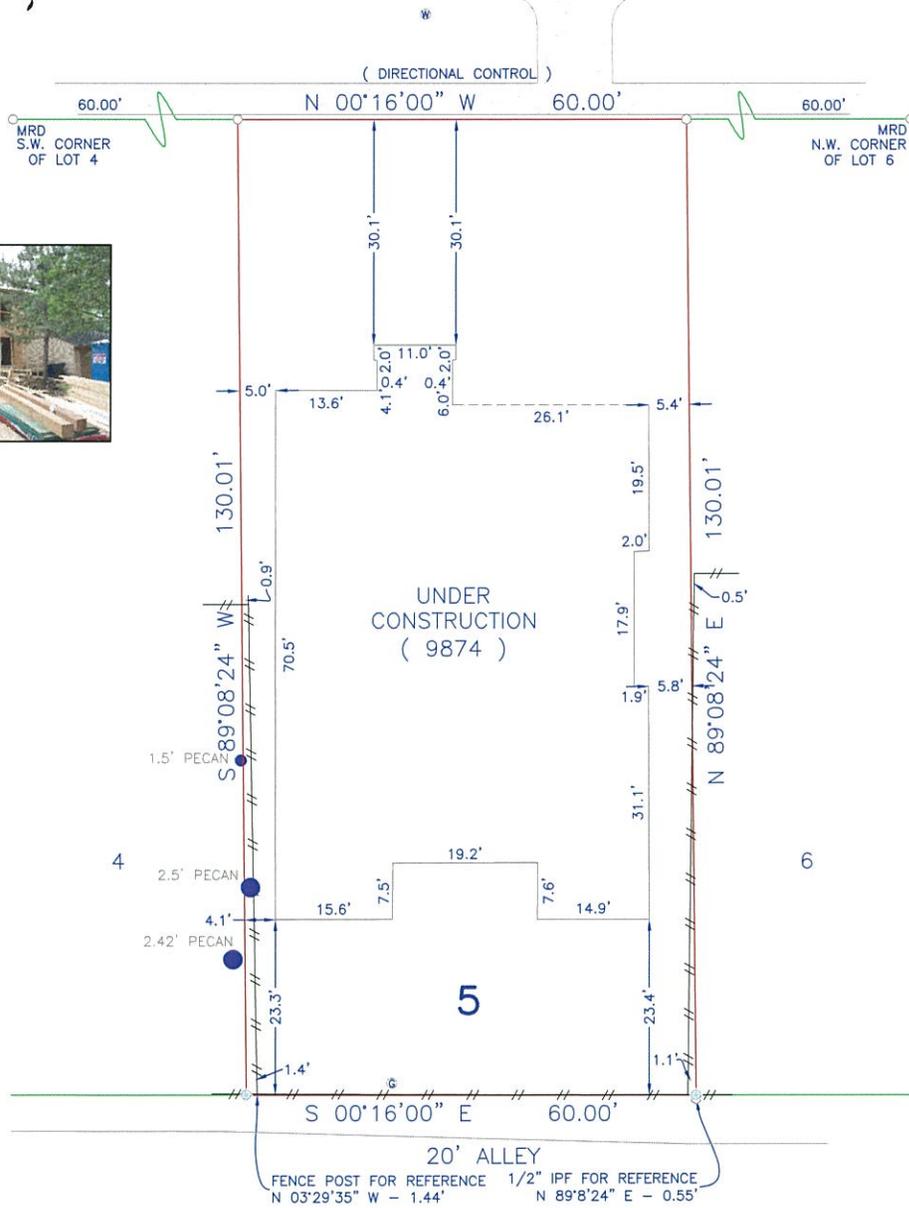
This is to certify that I have, this date, made a careful and accurate survey on the ground of property located at No. 9874 MIXON DRIVE, in the city of DALLAS Texas.

Lot No. 5, Block No. 7/6178

of MARSH LANE ADDITION NO. 2, an addition in the city of DALLAS, DALLAS COUNTY Texas according to the MAP THEREOF RECORDED in VOLUME 14 at PAGE 357 of the MAP records of DALLAS COUNTY, TEXAS.



MIXON DRIVE



THIS CERTIFICATION DOES NOT TAKE INTO CONSIDERATION ADDITIONAL FACTS THAT AN ACCURATE TITLE SEARCH AND OR EXAMINATION MIGHT DISCLOSE.

The plat hereon is true, correct, and accurate representation of the property as determined by survey, the lines and dimensions of said property being as indicated by the plat: the size, location and type of building and improvements are as shown, all improvements being within the boundaries of the property, set back from property lines the distance indicated, or visible and apparent easements. TITLE AND ABSTRACTING WORK FURNISHED BY MIXON VALLEY LLC THERE ARE NO ENCROACHMENTS, CONFLICTS, OR PROTRUSIONS, EXCEPT AS SHOWN.

Scale: 1" = 20'

Date: 03/14/2017

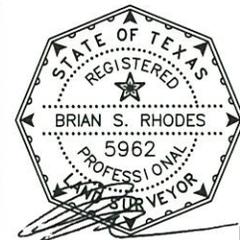
G. F. No.:

Job no.: 98199

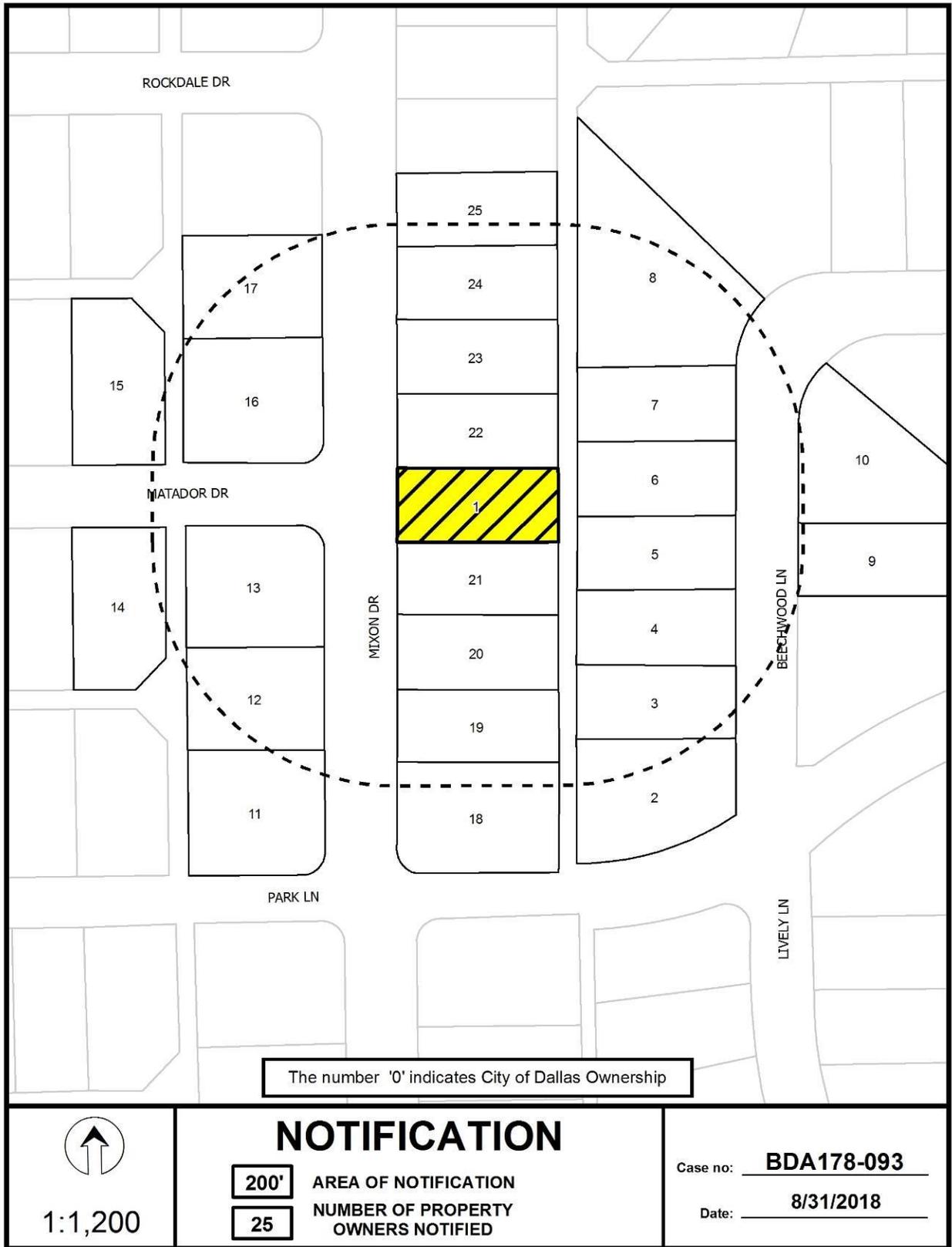
Drawn by: KW / XT

USE OF THIS SURVEY FOR ANY OTHER PURPOSE OR OTHER PARTIES SHALL BE AT THEIR RISK AND UNDERSIGNED IS NOT RESPONSIBLE TO OTHER FOR ANY LOSS RESULTING THEREFROM. THIS SURVEY WAS PERFORMED EXCLUSIVELY FOR MIXON VALLEY LLC

LEGEND	
WOOD FENCE	TEXT
CHAIN LINK	IMPROVEMENTS
IRON FENCE	BOUNDARY LINE
WIRE FENCE	EASEMENT SETBACK
	RESIDENCE
MRD - MONUMENTS OF RECORD DIGNITY	
1/2" IRON ROD FOUND	
1/2" YELLOW-CAPPED IRON ROD SET	
SET "X"	
FOUND "X"	
1/2" IRON PIPE FOUND	
C - CABLE	E - ELECTRIC
CL - CLEAN OUT	PE - POOL EQUIP
G - GAS METER	P - POWER POLE
F - FIRE HYDRANT	T - TELEPHONE
L - LIGHT POLE	W - WATER METER
MH - MANHOLE	V - WATER VALVE
(UNLESS OTHERWISE NOTED)	



BDA 78-093



Notification List of Property Owners

BDA178-093

25 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	9874 MIXON DR	MIXON VALLEY LLC
2	3803 BEECHWOOD LN	WARREN KAY
3	3807 BEECHWOOD LN	REITER AUGUST G
4	3811 BEECHWOOD LN	ESPINO SERGIO R &
5	3817 BEECHWOOD LN	MENDOZA MARTHA
6	3821 BEECHWOOD LN	ESTRADA JUAN
7	3825 BEECHWOOD LN	GARCIA BERNARDO & AMALIA
8	3831 BEECHWOOD LN	LOPEZ LORENA
9	3812 BEECHWOOD LN	PEREZ JESUS M & RAQUEL L
10	3820 BEECHWOOD LN	ESTRADA JUAN J
11	9857 MIXON DR	STRELKE CARA C
12	9865 MIXON DR	BENAVIDEZ FAUSTINO JR &
13	9871 MIXON DR	EZERNACK WENDY E
14	3772 MATADOR DR	STEVENS JOHN & ANTONIO SOTO
15	3773 MATADOR DR	HERNANDEZ CHRISTI D
16	9881 MIXON DR	KERBER JORDAN
17	9885 MIXON DR	SANTOSCOY GENARO D
18	9858 MIXON DR	MINTON CHESTER NEIL &
19	9862 MIXON DR	MARQUIS WILLIAM M
20	9866 MIXON DR	BEADLING GAGE W & JANET K
21	9870 MIXON DR	GARNETT GRANT W & LESLIE K
22	9878 MIXON DR	MANNARI KRISTIN M
23	9882 MIXON DR	MIDWAY HOLLOW PARTNERS LP
24	9886 MIXON DR	MONAHAN TIMOTHY O
25	9890 MIXON DR	RAMIREZ MARY

FILE NUMBER: BDA178-097(SL)

BUILDING OFFICIAL'S REPORT: Application of Joe Pastora, represented by Brad Williams, for a variance to the off-street parking regulations at 5001 W. Lovers Lane. This property is more fully described as Lots 39,40,41,& 42, Block A/5006, and is zoned CR, which requires that the owner of off-street parking must provide screening to separate the parking area from a contiguous residential use or vacant lot if either is in an A, A(A), R, R(A), D, D(A), TH, TH(A), CH, MF, MF(A), MH, or MH(A) district and the parking area serves a nonresidential use. The applicant proposes to construct and/or maintain a structure and not provide the required screening, which will require a variance to the off-street parking regulations.

LOCATION: 5001 W. Lovers Lane

APPLICANT: Joe Pastora
Represented by Brad Williams of Winstead PC

REQUEST:

A request for a variance to the off-street parking regulations, more specifically the screening provisions for off-street parking, is made to lease and maintain a particular use that requires a greater number of off-street parking spaces than the original use on the subject site that is in part developed with a general merchandise or food store use/structure, and in part developed with a vacant nonresidential use/structure, and not provided required screening between the required off-street parking on the site for this proposed use and the property to the north across an alley zoned R-7.5(A) and single family residential in use.

STANDARD FOR A VARIANCE:

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

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and

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

STAFF RECOMMENDATION:

Denial

Rationale:

- Staff concluded from the information submitted by the applicant’s representative at the time of the September 4, 2018 staff review team meeting that the applicant had not substantiated how the physical features of the flat, rectangular in shape (approximately 105 'x 138'), 0.332 acres (or approximately 14,500 square foot) site preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same CR zoning classification.
- Staff concluded from the information submitted by the applicant’s representative at the time of the September 4, 2018 staff review team meeting that any hardship in this case is self-created in that the required screening that the applicant seeks variance for is prompted by the applicant’s proposal/choice to obtain a certificate of occupancy (CO) for a particular use for the vacant nonresidential use/structure on the subject site that requires a greater number of off-street parking spaces than the original use, and that the City could issue a new CO to the applicant for the same use that had occupied the vacant nonresidential use/structure with no screening required or variance to the off-street parking regulations related to required screening.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is developed in part with a general merchandise or food store use/structure, and in part with a vacant nonresidential use/structure. The area to the north is developed with a single family residential; the areas to the east, south, and west are developed with retail uses.

Zoning/BDA History:

1. BDA156-091, Property at 5017 W. On October 18, 2016, the Board of

Lovers Lane (several lots east of the subject site)

Adjustment Panel A granted a variance to the screening regulations for off-street parking and imposed the submitted site plan as a condition.

The case report stated that the request was made to lease and maintain a general merchandise or food store less than 3,500 square foot use on the subject site that is developed with a vacant nonresidential structure, and with no screening between the required off-street parking on the site for this proposed use and the property to the north across an alley zoned R-7.5(A) and single family residential in use).

GENERAL FACTS/STAFF ANALYSIS:

- This request for a variance to the off-street parking regulations focuses on leasing and maintaining a particular use that requires a greater number of off-street parking spaces than the original use on the subject site that is developed in part with a general merchandise or food store use/structure, and in part with a vacant nonresidential use/structure is developed with a vacant nonresidential structure, and not providing required screening between the required off-street parking on the site for this proposed use and the property to the north across an alley zoned R-7.5(A) and single family residential in use.
- The Dallas Development Code states the following related to the screening of off-street parking:
 - (1) The owner of off-street parking must provide screening to separate the parking area from:
 - (A) a contiguous residential use or vacant lot if either is in an A, A(A), R, R(A), D, D(A), TH, TH(A), CH, MF, MF(A), MH, or MH(A) district and the parking area serves a nonresidential use; or
 - (B) a contiguous single family or duplex use or a vacant lot if any of these are in an R, R(A), D, D(A), TH, TH(A), or CH district and the parking area serves a multifamily use.
 - (2) If an alley separates a parking area from another use, the use is considered contiguous to the parking area. If a street separates a parking area from another use, the use is not considered contiguous to the parking area.
- The Dallas Development Code states that the screening for off-street parking required under Subsection (f)(1) must be a brick, stone, or concrete masonry, stucco, concrete, or wood wall or fence that is not less than six feet in height. The wall or fence may not have more than ten square inches of open area for each square foot of surface area and may not contain any openings or gates for vehicular access. The owner of off-street parking must maintain the screening in compliance with these standards.
- The applicant submitted a site plan representing the location of a 6' tall wood fence on the north side of the property between the off-street parking on the site and the

property to the north across an alley zoned R-7.5(A) and single family residential in use.

- Building Inspection has interpreted that the screening as represented on the submitted site plan is noncompliant with required screening on this site because of an opening within the 6' wood fence between the off-street parking on the site and the property to the north across an alley zoned R-7.5(A) and single family residential in use.
- Building Inspection has stated that the required screening that the applicant seeks variance for is prompted by the applicant's proposal/choice to obtain a certificate of occupancy (CO) for a new use that requires a greater number of off-street parking spaces than the original use, and that the City could issue a new CO to the applicant for the same use that had occupied the vacant nonresidential use/structure with no screening required or variance to the off-street parking regulations related to screening required.
- According to DCAD records, the "improvements" for property addressed at 5001 W. Lovers Lane is a 5,215 square foot "retail strip" constructed in 1948.
- The subject site is flat, rectangular in shape (approximately 105 'x 138'), and 0.332 acres (or approximately 14,500 square foot) in area.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same CR 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 CR zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the applicant would be able to lease the vacant nonresidential structure on the site with a particular use that requires a greater number of off-street parking spaces than the original use without required screening between the required off-street parking for this proposed use on the site and the property to the north across an alley zoned R-7.5(A) and single family residential in use.

Timeline:

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

August 14, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

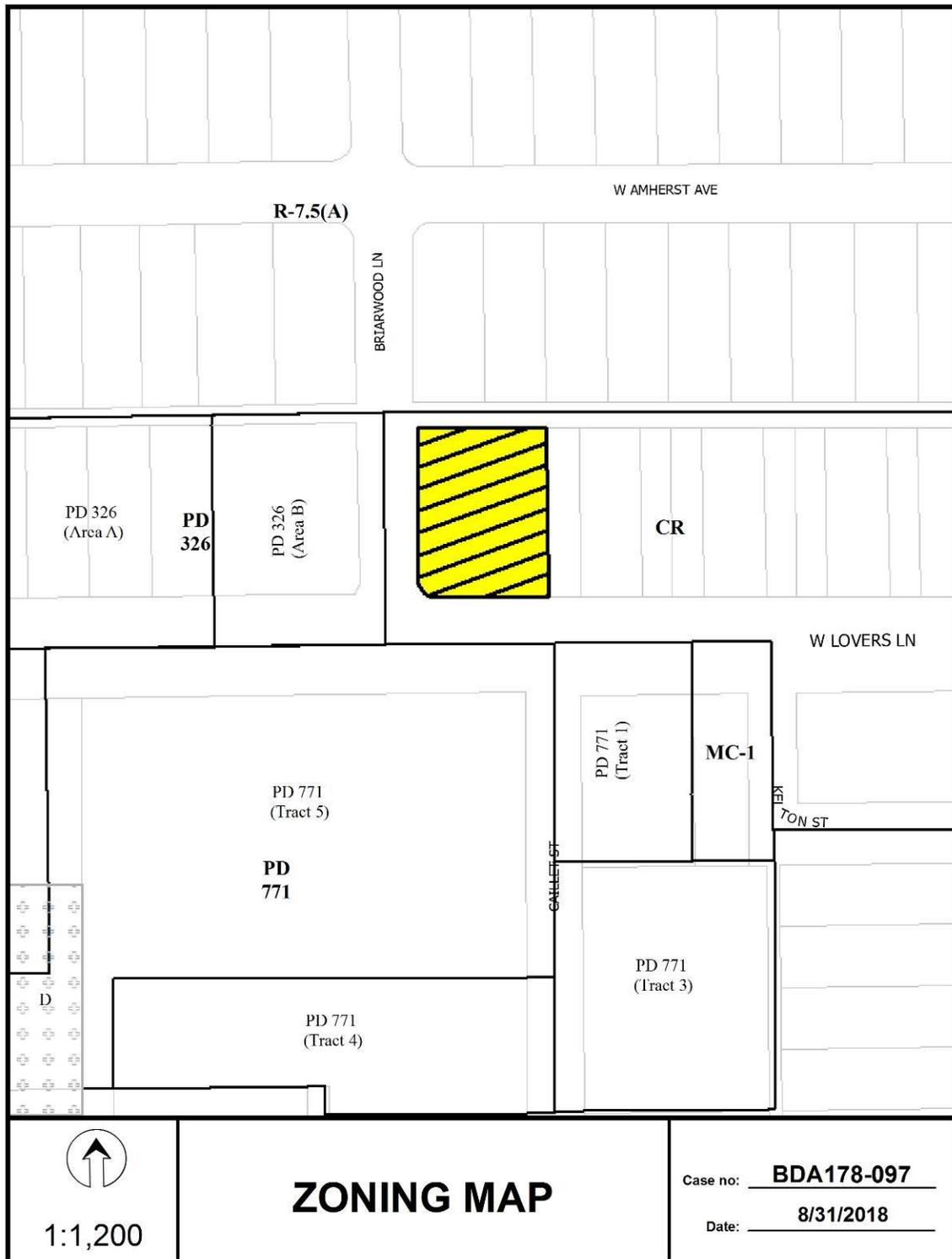
August 14, 2018: The Board Administrator emailed the applicant's representative the following information:

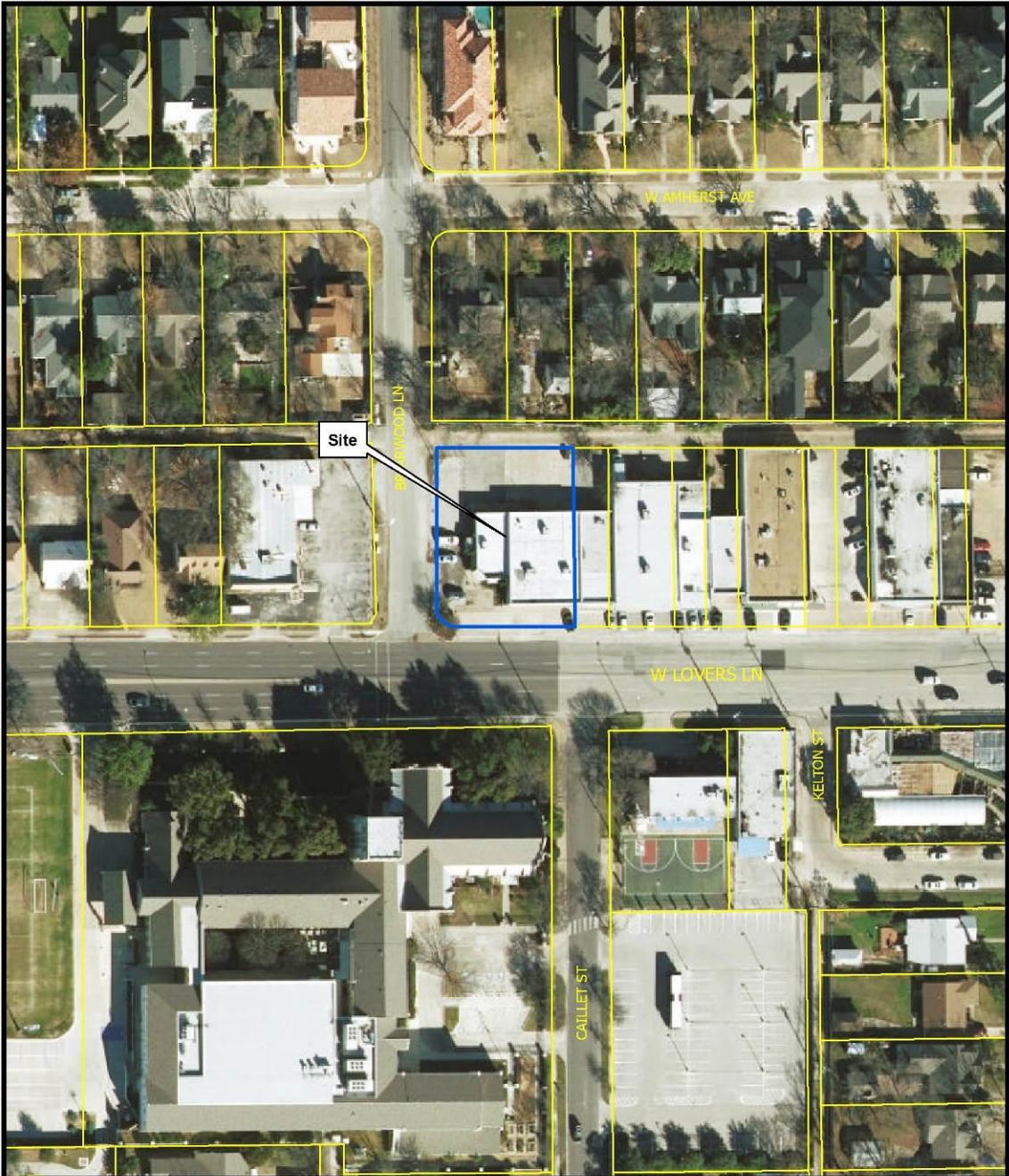
- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the August 29th deadline to submit additional evidence for staff to factor into their analysis; and the September 7th 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."

September 4, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the September public hearings. Review team members in attendance included: the Sustainable Development and Construction Director, 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 Authorized Hearing/Development Code Amendment Chief Planner, 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.

September 7, 2018: The applicant's representative submitted additional documentation to staff (see Attachment A). Note that this information was not factored into the staff recommendation since it was submitted after the September 4, 2018 staff review team meeting.





1:1,200

AERIAL MAP

Case no: BDA178-097

Date: 8/31/2018

BDA178-097

Attach A pg 1

Long, Steve

From: Williams, Brad <bwilliams@winstead.com>
Sent: Friday, September 07, 2018 12:45 PM
To: Long, Steve
Cc: Mann, Tommy
Subject: Re: BDA178-097

Steve,

Documents were just left on your desk. Please let me know if you do not see them when you return. Thanks.

Brad R. Williams, Attorney
Winstead PC
214.745.5264 office
214.728.2519 cell
bwilliams@winstead.com

On Sep 7, 2018, at 12:25 PM, Williams, Brad <bwilliams@winstead.com> wrote:

Steve,

I am bringing you hard copies as well as a stack of color photos, but please see attached for some support letters for the above referenced case. Please let me know if you have any issues.

Thanks.

Brad R. Williams, Attorney
Winstead PC | 2728 N. Harwood Street, Suite 500 | Dallas, Texas 75201
214.745.5264 direct | 214.745.5390 fax |
bwilliams@winstead.com<<mailto:bwilliams@winstead.com>> |
www.winstead.com<<http://www.winstead.com/>>

<Brian and Elizabeth Conroy - Support Letter 5001 W. Lovers.pdf>

<Dawn Branam - Support Letter 5001 W. Lovers.pdf>

<Thomas Short - Support Letter 5001 W. Lovers.pdf>

<Emily Keller Ltr.pdf>

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BDA 178-097

Attach A
pg 2

9/6/2018

Mr. Steve Long
Dallas City Hall
1500 Marilla St
Dallas, Texas 75201

Re: Letter of Support for BDA 178-097 for property located at 5001 W. Lovers Lane

Dear Steve,

Please accept this letter as support for the request. As a resident of the Briarwood neighborhood directly across the alley from West Lovers Ln, living at 4800 W. Amherst I support the proposed variance of screening between the parking area and the single-family zoning district across the alley from the Property. The proposed property is currently vacant, and the neighborhood would benefit from a restaurant, services, or salon type of tenant more than another antique store as there are several already in area. West Lovers is a vibrant and energetic street, many of my neighbor and I walk to Inwood Village and the surrounding commercial properties and don't necessarily see the need in boxing in the alley as most, if not all, of the residents currently have residential screening from their properties already. Furthermore, the main access to the homes are on W. Amherst not on W. Lovers or the alley.

Please share this letter of recommendation with the Board of Adjustments and let me know if you have any other questions.



Emily Keller

4800 W. Amherst

Dallas, Texas 75209

BDA 178-097
Amherst A
PJ3

9/6/2018

Mr. Steve Long
Dallas City Hall
1500 Marilla St
Dallas, Texas 75201

Re: Letter of Support for BDA 178-097 - 5001 W. Lovers Parking Screening Variance

Dear Mr. Long,

I am a long-time resident, living in the neighborhood just immediately north of 5001 W. Lovers Lane. My address is 5010 W. Amherst; my back fence touches the alley directly behind the property in question. I am one of, if not the most, impacted by this variance request.

I am writing this letter in support of the variance request, which is to eliminate parking screening. I believe the need for parking screening is unnecessary, as all the homes directly behind the property already have nice privacy fences shielding the homes from the alley. In addition, each homeowner accesses their home from W Amherst and not via the commercial alley.

I personally think it will be awkward to have a fragmented section of stand-alone fence, as the entire corridor is not fenced off or grandfathered without fences. If a fence is indeed necessary, then at minimum it should be allowed to have a gap for feasible access.

In addition to general awkwardness of the space, I feel that having open visibility into the alley is much safer for the neighborhood as well. I think having a completely fenced off area in a portion of the alley chops up the visibility in a way that provides more areas for undesirable elements to hide.

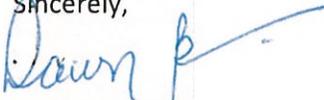
I walk down that alley frequently and many times use the cut through at Neighborhood Services restaurant (that has no fence) as a convenient access point to Lovers Lane or nearby shopping at Inwood Village while on foot. I value having a pleasant alley to walk down with activity and people. I also believe that having a more open, populated alley is contributing factor in fewer break-ins and other criminal mischief in this block of Amherst.

I am glad that a new business will be coming in. A new, vibrant business will enhance the neighborhood and will ultimately benefit the nearby residents of the Bluffview and Briarwood neighborhoods much more than the alley parking screening fence, and certainly more than a vacant building.

Again, please consider this my support of the elimination of screening for 5001 W. Lovers Lane.

I ask that you please share this letter with the Board of Adjustment when considering the Request. Do let me know if you have any questions.

Sincerely,



Dawn Branam
214-505-4208
5010 W. Amherst
Dallas, Texas, 75209

BDA-178-097
Attach A
p 4

8/25/2018

Mr. Steve Long
Dallas City Hall
1500 Marilla St., RM 5BN
Dallas, Texas 75201

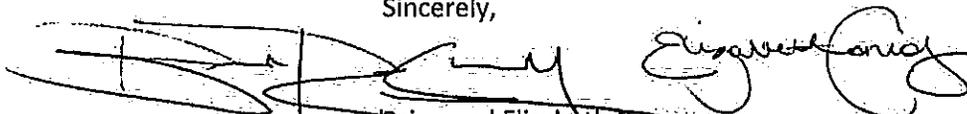
Re: Letter of Support for BDA 178-097- located at 5001 W. Lovers Lane

Dear Steve,

My name is Brian Conroy, my wife Elizabeth and I have lived at our home for the last 5 years and seen a positive shift in the commercial corridor at W. Lovers lane in that timeframe that serve as an amenity to the community. As a resident of the Briarwood + Bluffview neighborhood on the North side of W Lovers Lane located on Amherst Ave, my residence backs up to the commercial alley and I advocate for the variance of the screening requirements between the commercial properties on W Lovers and the residential properties on W Amherst Ave. Today, most of the homes on the south side of Amherst have large fences separating the residences from the commercial properties – requiring additional screening seems disruptive and could potentially create additional eye-sores for the neighborhood residents. Additionally, a new proposed Tenant will certainly be a phenomenal addition to the neighborhood and will quickly add to the charm & overall character of W Lovers. This community a growing district with thriving businesses. This would be a major “win” for the neighborhood rather than the vacant building that is in place today and I firmly support the approval for the variance request.

Please share this letter with the Board of Adjustment. I’m hopeful the City does right for the residents by waiving the fence requirement while allowing the new proposed businesses to open and operate as a neighborhood amenity for years to come. Please let me know if you have any questions.

Sincerely,



Brian and Elizabeth Conroy

4704 W. Amherst Avenue

Dallas, Texas, 75209

BDA 178-097
Attach A
P35

8/27/2018

Mr. Steve Long
Dallas City Hall
1500 Marilla St., RM 5BN
Dallas, Texas 75201

Re: Letter of Support for BDA 178-097 (the "Request") for property located at 5001 W. Lovers Lane (the "Property")

Dear Steve,

My name is Thomas Short , please accept this letter as support for the request at 5001 W. Lovers Lane. My wife Victoria and I live directly across the alley of this property and support the variance and elimination of the screening behind the alley. We are in favor of this because our home, as most of the homes on this block, already have a fence directly behind our residences that screen and shield them from the commercial properties to the south, so in this instance it seems redundant having two fences.

Although the alley technically borders the Briarwood neighborhood, its main function is as a commercial alley serving the properties and businesses to the south and most of the commercial on that block does not have any fences. Frankly, as a resident, I am excited by the possibility to add new quality tenants to our neighborhood rather than a vacant building that currently exists today. This location will be a fantastic addition and future amenity to the community and surrounding neighborhoods. It will add to the growing character of West Lovers Lane and should be a nice compliment to the existing businesses operating today.

I ask that you please share this letter with the Board of Adjustment when considering the variance request and please let me know if you have any questions

Sincerely,



Thomas Short
5026 W. Amherst Ave.
Dallas, Texas 75209
214-220-3683

BDA 178-097
Attach A pg 6

9/6/2018

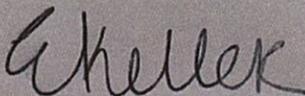
Mr. Steve Long
Dallas City Hall
1500 Marilla St
Dallas, Texas 75201

Re: Letter of Support for BDA 178-097 for property located at 5001 W. Lovers Lane

Dear Steve,

Please accept this letter as support for the request. As a resident of the Briarwood neighborhood directly across the alley from West Lovers Ln, living at 4800 W. Amherst I support the proposed variance of screening between the parking area and the single-family zoning district across the alley from the Property. The proposed property is currently vacant, and the neighborhood would benefit from a restaurant, services, or salon type of tenant more than another antique store as there are several already in area. West Lovers is a vibrant and energetic street, many of my neighbor and I walk to Inwood Village and the surrounding commercial properties and don't necessarily see the need in boxing in the alley as most, if not all, of the residents currently have residential screening from their properties already. Furthermore, the main access to the homes are on W. Amherst not on W. Lovers or the alley.

Please share this letter of recommendation with the Board of Adjustments and let me know if you have any other questions.



Emily Keller

4800 W. Amherst

Dallas, Texas 75209

BDA178-097 Attn: A B 7



BDA 178-097
ATTN: A
PSB





BDA178-097
AHLA
PS10



BDA178-097 Aerial Aerial

BDA17



BDA178-097
Allison A
P112





BDA178-097 A-2014



BDA178-097

Panel A

BDA178-097 Panel A 0315







APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-097

Data Relative to Subject Property:

Date: _____

Location address: 5001 W Lovers Lane Zoning District: CR

Lot No.: 39-42 Block No.: A/5006 Acreage: 0.332 Census Tract: 73.02

Street Frontage (in Feet): 1) 122.37 2) 106.2 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): 5001 Lovers Lane, LLC

Applicant: Joe Pastora Telephone: _____

Mailing Address: 2100 McKinney Ave., Ste. 1550, Dallas, TX Zip Code: 75201

E-mail Address: jpastora@stockdale.com

Represented by: Brad Williams, Winstead PC Telephone: 214-745-5724

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

E-mail Address: bwilliams@winstead.com; tmann@winstead.com

Affirm that an appeal has been made for a Variance x, or Special Exception, of Off-street parking regulations requiring screening from R(A) district.

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: Strict application of the zoning ordinance results in a hardship that is not self-imposed.

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 Joe Pastora (Affiant/Applicant's name printed)

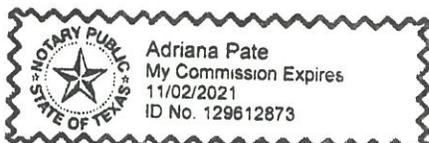
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

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

Subscribed and sworn to before me this 8th day of June, 2018

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

(Rev. 08-01-11)



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

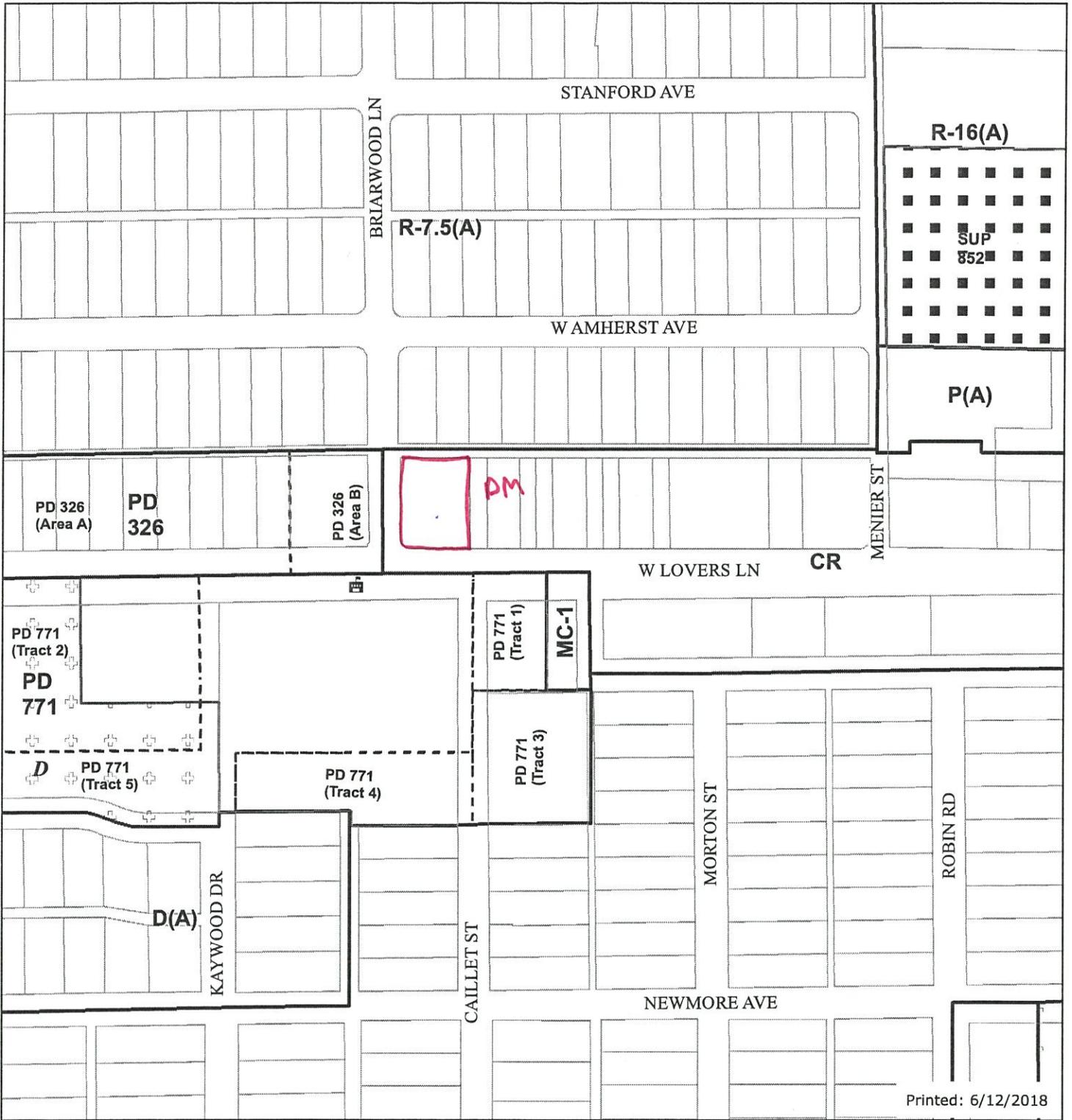
Building Official's Report

I hereby certify that JOE PASTORA
 represented by Brad Williams
did submit a request for a variance to the off-street parking regulation
 at 5001 W Lovers Lane

BDA178-097. Application of JOE PASTORA represented by Brad Williams for a variance to the off-street parking regulation at 5001 W LOVERS LN. This property is more fully described as Lots 39,40,41, & 42, Block A/5006, and is zoned CR, which requires that the owner of off-street parking must provide screening to separate the parking area from a contiguous residential use or vacant lot if either is in an A, A(A), R, R(A), D, D(A), TH, TH(A), CH, MF, MF(A), MH, or MH(A) district and the parking area serves a nonresidential use. The applicant proposes to construct and maintain a nonresidential structure and not provide the required screening, which will require a variance to the off-street parking regulation.

Sincerely,


Philip Sikes, Building Official



Legend

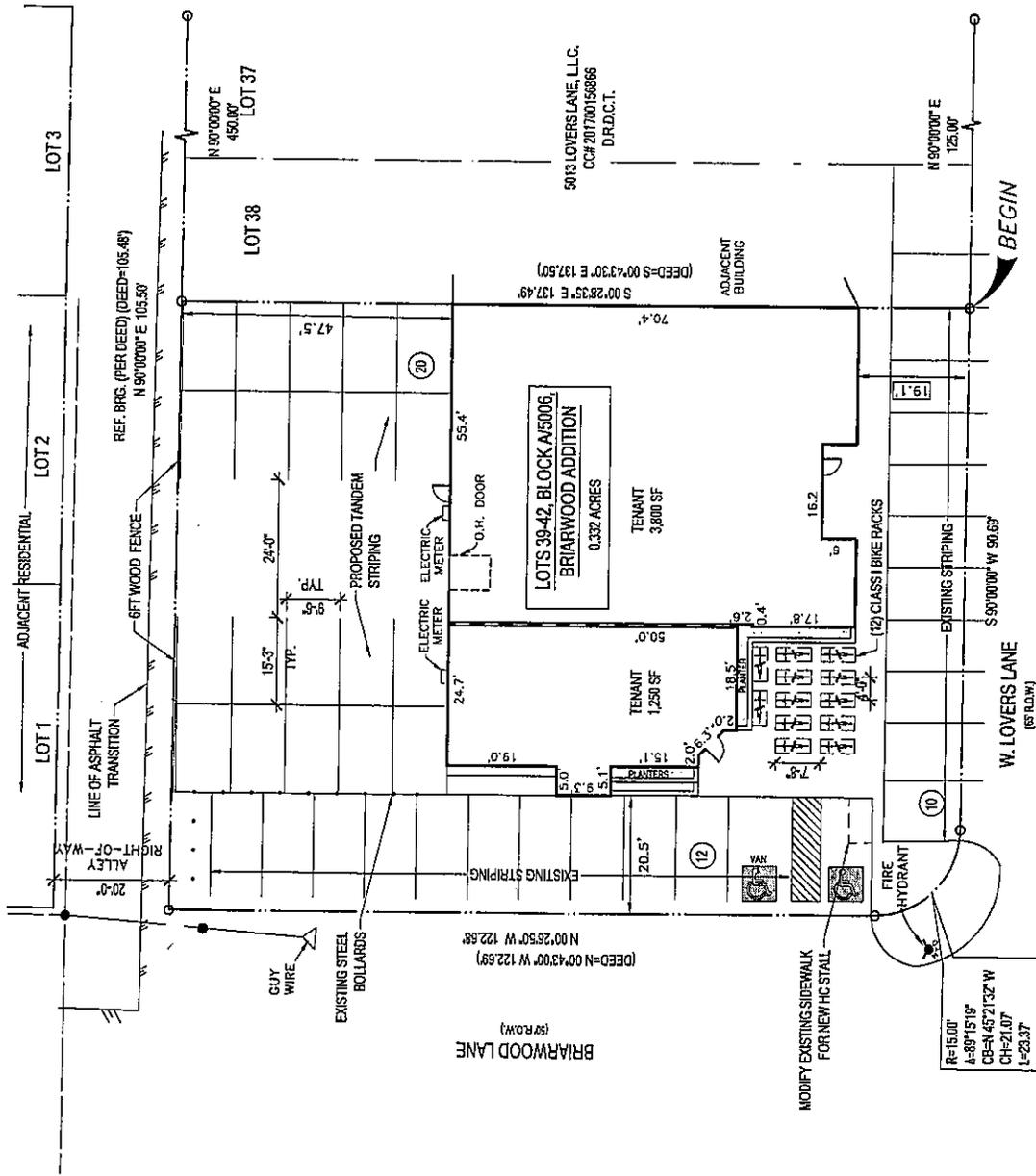
- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits | railroad | Dry Overlay | CD Subdistricts |
| School | Certified Parcels | D | PD Subdistricts |
| Floodplain | Base Zoning | D-1 | PDS Subdistricts |
| 100 Year Flood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

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



ION





PROJECT DATA:

LAND AREA	0.332 AC
BUILDING AREA	5,050 SF
PARKING PROVIDED:	
STREET	22
TANDEM	20
TOTAL	42



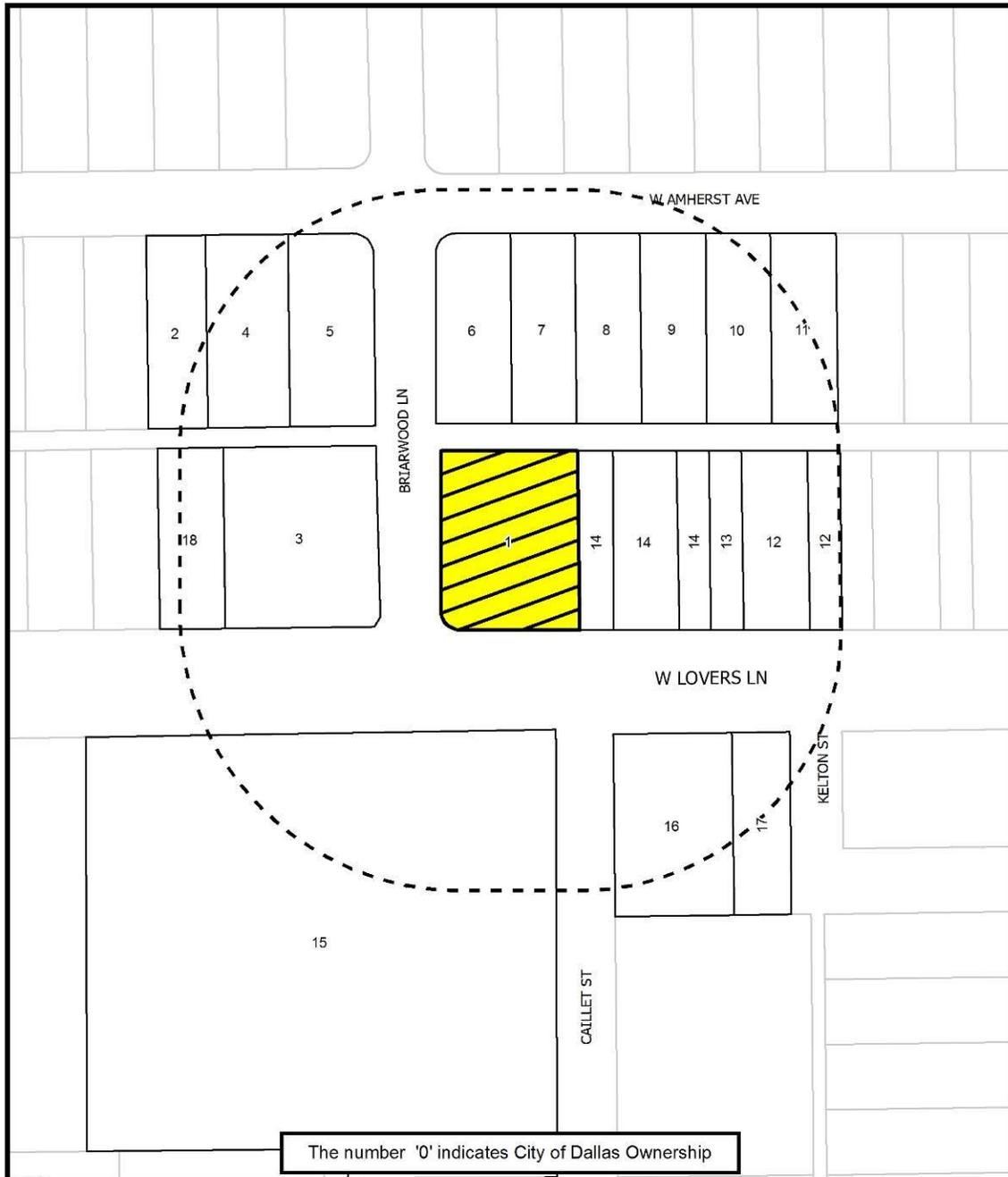
2008 Fairmount Street, Suite 300
Dallas, Texas 75201 | 214.303.1500

3300 West 79th Street, Suite 110
Fort Worth, Texas 76107 | 817.303.1500

CONCEPT SITE PLAN: PROPOSED PARKING

Job #: 18018
File Name: sp-01.dwg
Date: 05.12.18
Drawn by: gff

REC Lovers Lane and Briarwood Lane
Dallas, Texas



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
18 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA178-097**

Date: **8/31/2018**

Notification List of Property Owners

BDA178-097

18 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5001 W LOVERS LN	LOVERS LANE MARKET LLC
2	4922 W AMHERST AVE	CHAVEZ CARISSA N
3	4931 W LOVERS LN	4931 W LOVERS LANE LLC
4	4926 W AMHERST AVE	RENNA MELINDA RAMOS
5	4930 W AMHERST AVE	LIEU LIVING TRUST THE
6	5000 W AMHERST AVE	JONES LAUREL
7	5006 W AMHERST AVE	MENDOZA MARIA DEL ROSARIO
8	5010 W AMHERST AVE	BRANAM DAWN M
9	5014 W AMHERST AVE	MILLER EMILY D
10	5018 W AMHERST AVE	ROLLINS CHESTER BOLTON &
11	5022 W AMHERST AVE	STAGER CYNTHIA C
12	5023 W LOVERS LN	CROFT T GEORGE
13	5017 W LOVERS LN	BARNHART JOSLYN NICOLE
14	5015 W LOVERS LN	5013 LOVERS LANE LLC
15	5002 W LOVERS LN	PROVIDENCE CHRISTIAN
16	5040 W LOVERS LN	PROVIDENCE CHRISTIAN
17	5050 W LOVERS LN	A & D HARRIS FMLY LTD PS
18	4923 W LOVERS LN	4919 WEST LOVERS LANE LLC