

ZONING BOARD OF ADJUSTMENT, PANEL A
TUESDAY, MARCH 21, 2017
AGENDA

BRIEFING	L1FN CONFERENCE CENTER AUDITORIUM 1500 MARILLA STREET DALLAS CITY HALL	11:00 A.M.
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PUBLIC HEARING	L1FN CONFERENCE CENTER AUDITORIUM 1500 MARILLA STREET DALLAS CITY HALL	1:00 P.M.
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Donna Moorman, Chief Planner
Steve Long, Board Administrator

MISCELLANEOUS ITEM

Approval of the February 21, 2017 Panel A Public Hearing Minutes	M1
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HOLDOVER CASES

BDA167-013(SL) 5314 Yolanda Lane REQUEST: - Application of Nathaniel Mangum for special exceptions to the fence standards and visual obstruction regulations	1
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BDA167-020(SL) 100 Crescent Court REQUEST: Application of Robert Reeves, represented by Robert Reeves and Associates, Inc., for a special exception to the landscape regulations	2
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REGULAR CASES

BDA167-029(SL) 13439 Preston Road REQUEST: Application of Rosemary Papa, represented by Misty Ventura of Shupe Ventura, PLLC, for a variance to the height regulations	3
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|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|
| BDA167-030(SL) | 13131 Preston Road
REQUEST: Application of Rosemary Papa,
represented by Misty Ventura of Shupe Ventura,
PLLC, for a variance to the height regulations | 4 |
| BDA167-031(SL) | 13131 Preston Road
REQUEST: Application of Rosemary Papa,
represented by Misty Ventura of Shupe Ventura,
PLLC, for a variance to the height regulations | 5 |
| BDA167-032(SL) | 13131 Preston Road
REQUEST: Application of Rosemary Papa,
represented by Misty Ventura of Shupe Ventura,
PLLC, for a variance to the height regulations | 6 |

EXECUTIVE SESSION NOTICE

The Commission/Board may hold a closed executive session regarding any item on this agenda when:

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 Commission/Board 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 §551.086]

(Rev. 6-24-02)

FILE NUMBER: BDA167-013(SL)

BUILDING OFFICIAL'S REPORT: Application of Nathaniel Mangum for special exceptions to the fence standards and visual obstruction regulations at 5314 Yolanda Lane. This property is more fully described as Lot 7, Block E/5518, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and maintain a 7 foot 2 inch high fence in a required front yard, which will require a 3 foot 2 inch special exception to the fence standards, and to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 5314 Yolanda Lane

APPLICANT: Nathaniel Mangum

REQUESTS:

The following requests have been made on a site that is developed with a single family home:

1. A request for a special exception to the fence standards of up to 3' 2" is made to maintain a fence (a 5' 7" high open metal picket fence with 5' 7" high posts, and two arched open metal picket gates ranging in height from 5' 7" to 7' 2") higher than 4' in height in the site's required front yard.
2. Requests for special exceptions to the visual obstruction regulations are made to maintain portions of the aforementioned open metal picket fence in four 20' visibility triangles at the two driveways into the site.

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.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

The Board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION (fence standards):

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

STAFF RECOMMENDATION (visual obstruction special exceptions):

Denial

Rationale:

- Staff concurred with the Sustainable Development Department Assistant Director of Engineering who recommends that these requests be denied.
- Staff concluded that requests for special exceptions to the visual obstruction regulations should be denied because the applicant had not substantiated how the existing 5' 7" high open metal picket fence with 5' 7" high posts in four 20' visibility triangles at the two driveways into the site from the street do not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac(A) (Single family district 1 acre)
North: R-1ac(A) (Single family district 1 acre)
South: R-1ac(A) (Single family district 1 acre)
East: R-1ac(A) (Single family district 1 acre)
West: R-1ac(A) (Single family district 1 acre)

Land Use:

The subject site is 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 (fence standards):

- This request for a special exception to the fence standards focuses on maintaining a 5' 7" high open metal picket fence with 5' 7" high posts, and two arched open metal picket gates ranging in height from 5' 7" to 7' 2" on a site developed with a single family home.

- The subject site is zoned R-1ac(A). While R-1ac(A) zoning requires a 40' front yard setback, the subject site has a 65' required front yard because of a platted building line.
- 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 applicant has submitted a site plan and an elevation of the proposal/existing fence in the front yard setback with notations indicating that the proposal reaches a maximum height of 7' 2".
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 200' in length parallel to the street and approximately 65' perpendicular to the street on the east and west sides of the site in the required front yard.
 - The fence proposal is represented as being located approximately on the front property line or approximately 15' from the pavement line.
- One single family lot fronts the existing fence, a lot that has no fence in the front yard setback.
- The Board Administrator conducted a field visit of the site and surrounding area approximately 300 feet east and west of the site and noted no other fences that appeared to be above 4' in height and located in a front yard setback.
- As of March 10, 2017, no letters have been submitted in support of the request, and 11 letters have been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence standards of 3' 2" will not adversely affect neighboring property.
- Granting this special exception of 3' 2" with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal/existing fence exceeding 4' in height in the front yard setback to be maintained in the location and of the heights and materials as shown on these documents.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exceptions):

- The requests for special exceptions to the visual obstruction regulations focus on maintaining portions of a 5' 7" high open metal picket fence with 5' 7" high posts in four 20' visibility triangles at the two driveways into the site.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
 - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The applicant submitted a site plan and an elevation representing a 5' 7" high open metal picket fence in the four, 20' visibility triangles at the two driveways into the site.

- The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet along with a photo (see Attachment A). The review comment sheet was marked “Recommends that this be denied” with the following additional comment: “The fence and gate create a public traffic hazard”.
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain portions of a 5’ 7” high open metal picket fence located in four 20’ visibility triangles at the two driveways into the site do not constitute a traffic hazard.
- Granting these requests with the condition that the applicant complies with the submitted site plan and elevation would require the items in the visibility triangles to be limited to and maintained in the locations, height and materials as shown on these documents.

Timeline:

November 22, 2016: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 6, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

January 6, 2017: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 1st deadline to submit additional evidence for staff to factor into their analysis; and the February 10th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standards that the board will use in their decision to approve or deny the requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

February 7, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Assistant Director, the Sustainable Development Department Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

February 10, 2017: The Sustainable Development Department Assistant Director Engineering submitted a review comment sheet along with a photo (see Attachment A). The review comment sheet was marked "Recommends that this be denied" with the following additional comment: "The fence and gate create a public traffic hazard".

February 21, 2017: The Board of Adjustment Panel A conducted a public hearing on this application. The Board delayed action on this application until their next public hearing to be held on March 21, 2017.

February 23, 2017: The Board Administrator emailed the applicant the board's action; the February 1st deadline to submit additional evidence for staff to factor into their analysis; and the February 10th deadline to submit additional evidence to be incorporated into the Board's docket materials. (Note that the applicant has not submitted any additional documents from what was presented before/at the February 21st public hearing).

BOARD OF ADJUSTMENT ACTION: FEBRUARY 21, 2017

APPEARING IN FAVOR: Nathaniel Mangum, 5314 Yolanda Lane, Dallas, TX
Lindsay Mangum, 5314 Yolanda Lane, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Nelson**

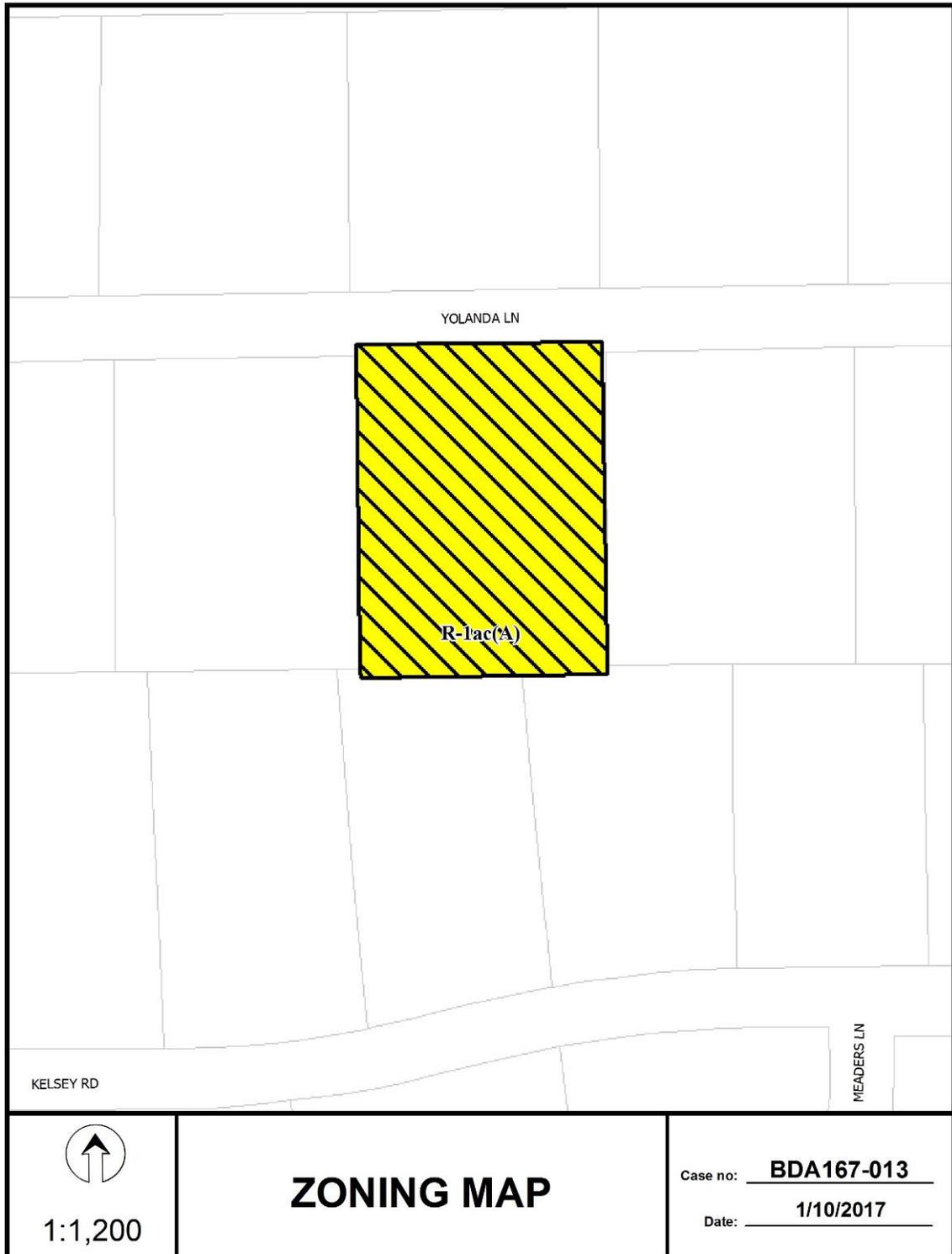
I move that the Board of Adjustment in Appeal No. **BDA 167-013** hold this matter under advisement until **March 21, 2017**.

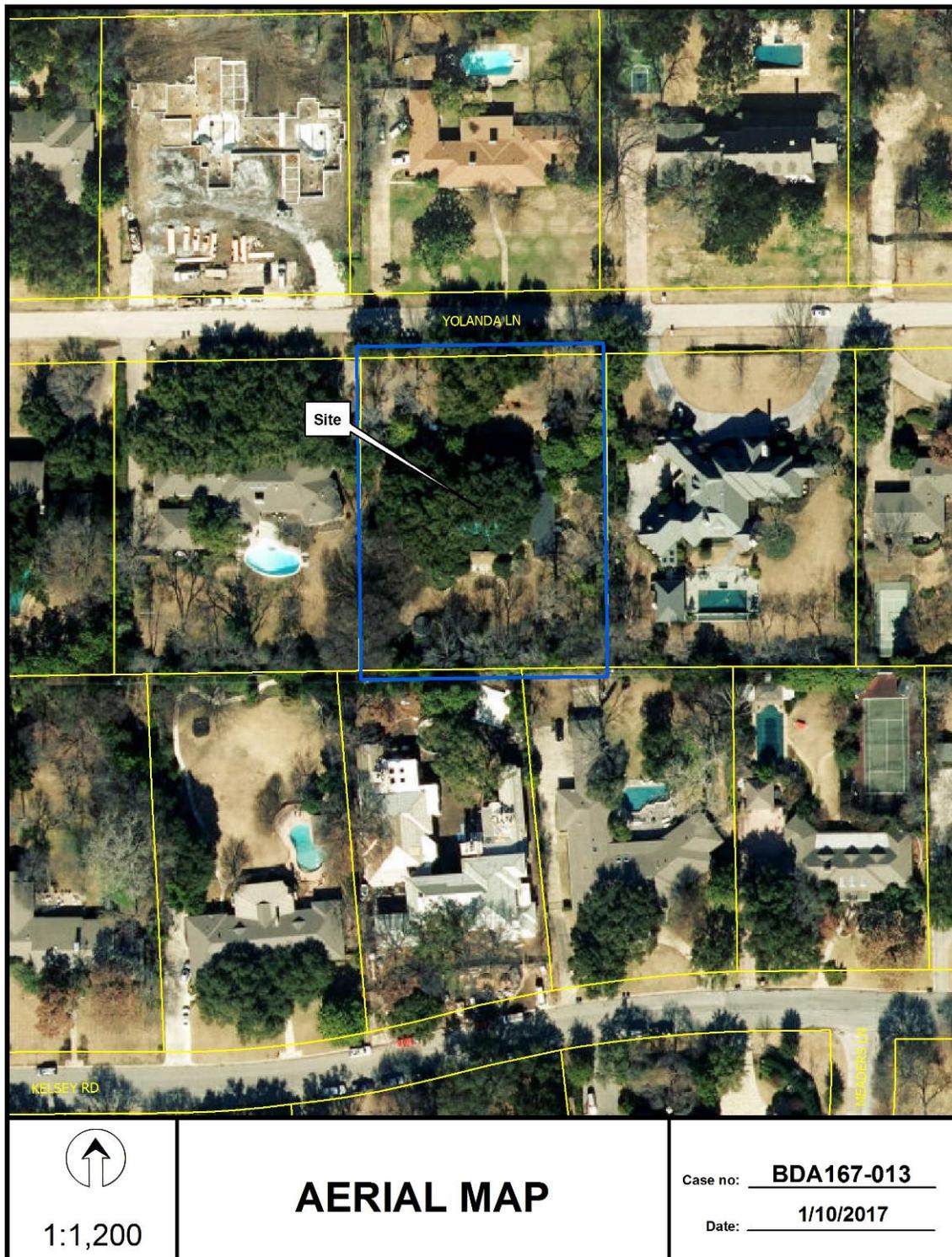
SECONDED: **Sibley**

AYES: 5 – Schulte, Gibson, Nelson, Dutia, Sibley

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)





BDA 167-013

5314 Yolanda Lane



Note that the gate and fence cause the driver to block the entire roadway constituting a traffic hazard.

BDA167-013
Attach A
pg 2



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-013

Data Relative to Subject Property:

Date: 11-22-16

Location address: 5314 Yolanda Lane Zoning District: R-1ac(A)

Lot No.: 7 Block No.: E/5518 Acreage: 1.2 Census Tract: 76.05

Street Frontage (in Feet): 1) 199.93 2) 3) 4) 5) N625

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Nathaniel E. Mangum

Applicant: Nathaniel Mangum Telephone:

Mailing Address: 5314 Yolanda Ln. Dallas, TX Zip Code: 75229

E-mail Address: lindsaymangum@jfaconsulting.com

Represented by: self Telephone:

Mailing Address: same as above Zip Code:

E-mail Address: same

Affirm that an appeal has been made for a Variance, or Special Exception, of 3 feet 2 inches in front yard

and a special exception for a visibility triangle at driveway.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas

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

Will not cause harm to neighbors. Fits neighborhood style. Houses on street and surrounding streets have heights well above 4 feet. Large dog can jump 4 foot fence

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

Affidavit

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

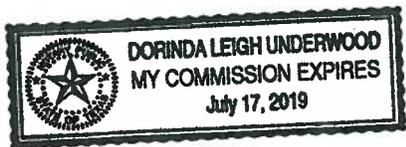
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

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

Subscribed and sworn to before me this 27th day of July, 2016

[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 Nathaniel Mangum

did submit a request for a special exception to the fence height regulations, and for a special exception to the visibility obstruction regulations

at 5314 Yolanda Lane

BDA167-013. Application of Nathaniel Mangum for a special exception to the fence height regulations and a special exception to the visibility obstruction regulations at 5314 Yolanda Lane. This property is more fully described as Lot 7, Block E/5518, and is zoned R-1ac(A) which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct a 7 foot 2-inch high fence in a required front yard, which will require a 3 foot 2 inch special exception to the fence regulation, and to construct and maintain a single family residential fence structure i required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

Sincerely,

Philip Sikes
Philip Sikes, Building Official

City of Dallas

Internal Development Research Site

Legend

Locate Property





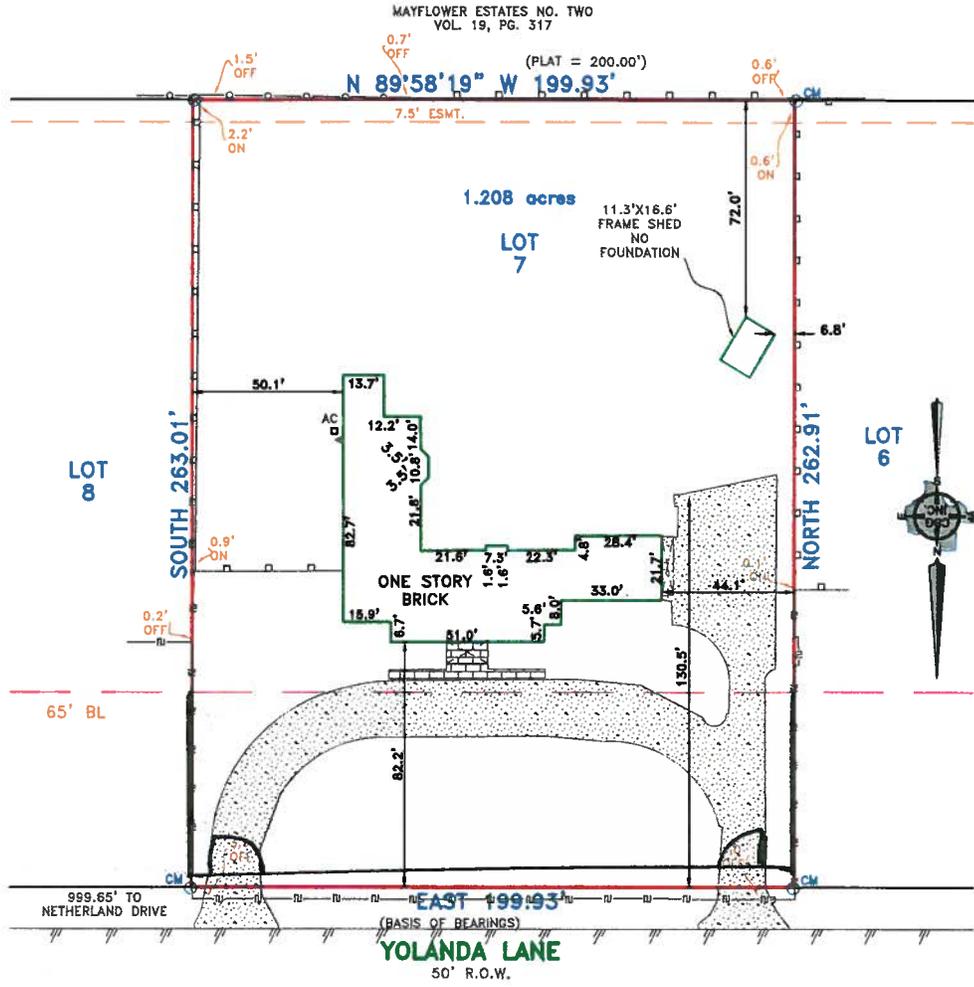
5314 Yolanda Lane

Being Lot 7, Block E/5518, of Lobelia Estates, an Addition to the City of Dallas, Dallas County, Texas, according to the map thereof recorded in Volume 9, Page 243, of the Map Records of Dallas County, Texas.



LEGEND

- 1/2" ROD FOUND
- ⊙ 1/2" ROD SET
- 1" PIPE FOUND
- ⊠ 1" PIPE FOUND/SET
- ◆ 60# NAIL FOUND
- FENCE POST FOR CORNER
- CM CONTROLLING MONUMENT
- AC AIR CONDITIONER
- PE POOL EQUIPMENT
- TE TRANSFORMER PAD
- BRICK COLUMN
- POWER POLE
- ▲ UNDERGROUND ELECTRIC
- △ OVERHEAD ELECTRIC
- OHP OVERHEAD ELECTRIC POWER
- OES OVERHEAD ELECTRIC SERVICE
- CHAIN LINK
- WOOD FENCE 0.5' WIDE TYPICAL
- IJ IRON FENCE
- X BARBED WIRE
- EDGE OF ASPHALT
- EDGE OF GRAVEL
- CONCRETE COVERED AREA



EXCEPTIONS:

NOTE: PROPERTY SUBJECT TO TERMS, CONDITIONS, AND EASEMENTS CONTAINED IN INSTRUMENT RECORDED IN VOL. 9, PG. 245

NOTES:

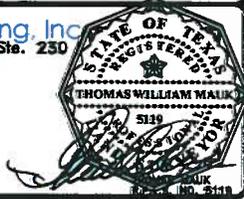
NOTE: BEARINGS, EASEMENTS AND BUILDING LINES ARE BY RECORDED PLAT UNLESS OTHERWISE NOTED.
FLOOD NOTE: According to the F.I.R.M. No. 48113C019D J, this property does lie in Zone X and does not lie within the 100 year flood-zone.

This survey is made in conjunction with the information provided by The Client. Use of this survey by any other parties and/or for other purposes shall be at user's own risk and any loss resulting from other use shall not be the responsibility of the undersigned. This is to certify that I have on this date made a careful and accurate survey on the ground of the subject property. The plat hereon is a correct and accurate representation of the property lines and dimensions as so indicated; location and type of buildings as so shown; and EXCEPT AS SHOWN, there are no visible and apparent encroachments or protrusions on the ground.

Date: _____ Accepted by: _____
Purchaser _____
Purchaser _____

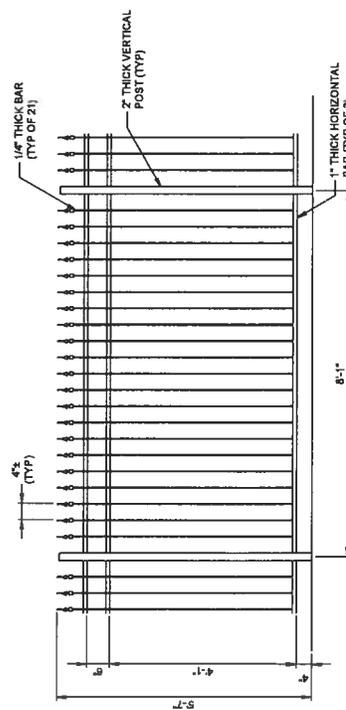
Drawn By: ATA
Scale: 1" = 40'
Date: 10/11/16
GF No.: 14156
Job No. 1403559-03

C.B.G. Surveying, Inc.
12025 Shiloh Road, Ste. 230
Dallas, TX 75228
P 214.349.9485
F 214.349.2216
Firm No. 10168800
www.cbgsd.com





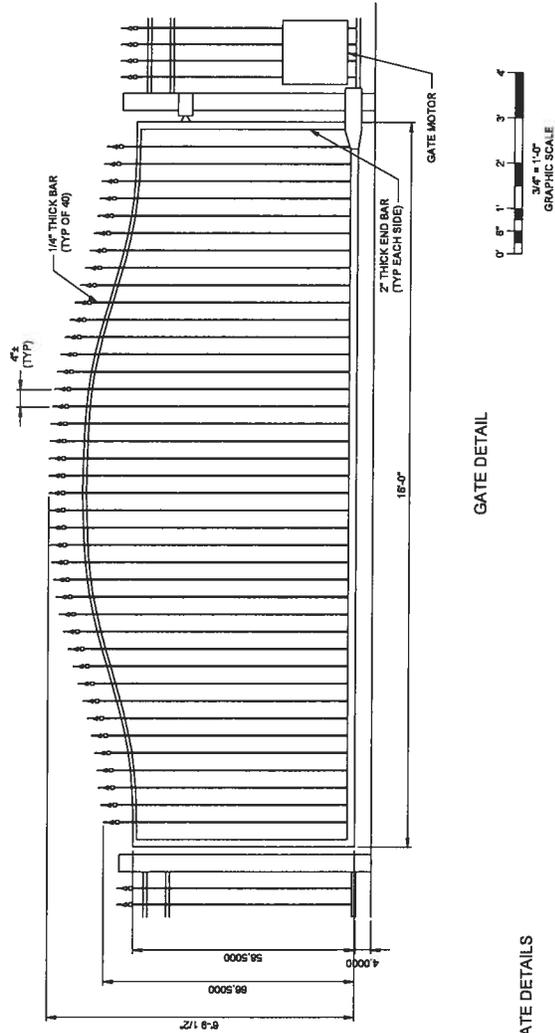
FENCE PHOTO



FENCE DETAIL

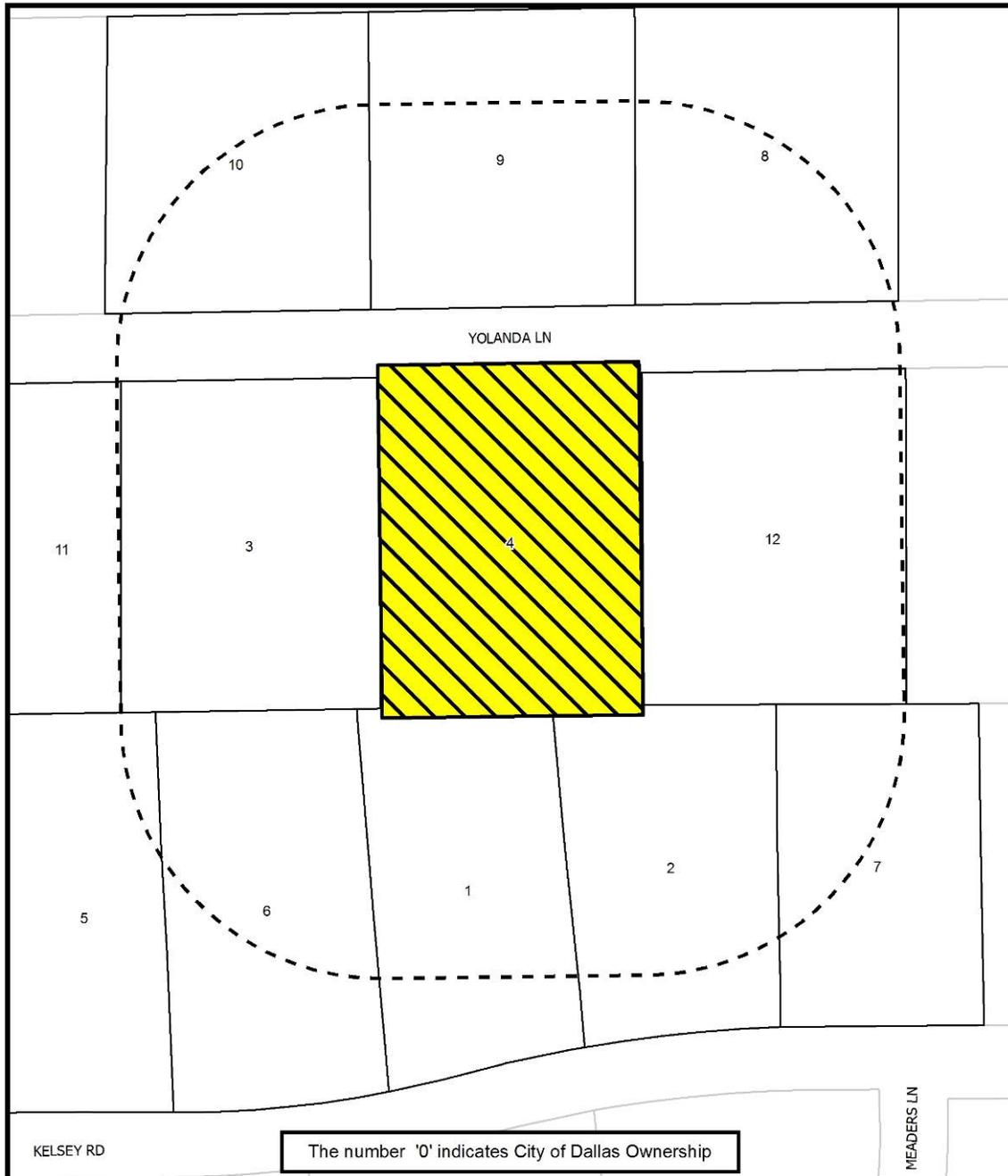


GATE PHOTO



GATE DETAIL

FENCE/ GATE DETAILS



 1:1,200	<h2>NOTIFICATION</h2>	Case no: BDA167-013			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">12</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	12	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
12	NUMBER OF PROPERTY OWNERS NOTIFIED				

Notification List of Property Owners

BDA167-013

12 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5325 KELSEY RD	SPARKS MARC A
2	5337 KELSEY RD	ALLEN MICHAEL M &
3	5230 YOLANDA LN	HANIG JOSEPH A & DEBRA L
4	5314 YOLANDA LN	MANGUM NATHANIEL
5	5233 KELSEY RD	LERER RICHARD
6	5311 KELSEY RD	TRUMPOWER IAN N &
7	5351 KELSEY RD	ELMQUIST DAVID W & ALISON M
8	5331 YOLANDA LN	HAFERTEPE JOE & MAUREEN
9	5315 YOLANDA LN	PLATINUM SERIES DEV LLC
10	5233 YOLANDA LN	ZEIKUS PRIYA SWAMY & ERIC ANDREW
11	5214 YOLANDA LN	SACHS WILLIAM R &
12	5330 YOLANDA LN	BYRNE TIMOTHY W &

FILE NUMBER: BDA167-020(SL)

BUILDING OFFICIAL'S REPORT: Application of Robert Reeves, represented by Robert Reeves and Associates, Inc., for a special exception to the landscape regulations at 100 Crescent Court. This property is more fully described as Lot 1A, Block 2/948, and is zoned PD-193 (HC), which requires mandatory landscaping. The applicant proposes to construct and/or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 100 Crescent Court

APPLICANT: Robert Reeves
Represented by Robert Reeves and Associates, Inc.

REQUEST:

A special exception to the landscape regulations is made to amend certain features shown on an alternate landscape plan (including but not limited to constructing and maintaining two patio areas to the mixed use development) that was imposed as a condition in conjunction with a request for a special exception to the landscape regulations granted on the subject by Board of Adjustment Panel A on August 16, 2016: BDA156-076 on the site currently developed as an approximately 1,450,000 square foot mixed use development (The Crescent).

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS
IN OAK LAWN:**

Section 51P-193-126(a)(4) of the Dallas City Code specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan dated 02-27-2017 is required.

Rationale:

- The City of Dallas Chief Arborist supports the applicant's request in that the features shown on the submitted revised landscape plan meet the spirit and intent of the PD 193 landscape requirements.

BACKGROUND INFORMATION:

<u>Site:</u>	PD 193(HC) (Planned Development, Heavy Commercial)
<u>North:</u>	PD 193(HC) (Planned Development, Heavy Commercial)
<u>South:</u>	PD 193 (PDS 334) (Planned Development, Planned Development)
<u>East:</u>	PD 193(PDS 64) (Planned Development, Planned Development)
<u>West:</u>	PD 193(PDS 74) (Planned Development, Planned Development)

Land Use:

The subject site is developed with a mixed use development (The Crescent). The areas to the north, east, south, and west are developed with a mix of land uses.

Zoning/BDA History:

1. BDA156-076, Property at 100, Crescent Court (the subject site)

On August 16, 2016, the Board of Adjustment Panel A granted a request for special exception to the landscape regulations and imposed the following conditions: 1) compliance with the submitted alternate landscape plan is required; and 2) All landscape improvements in each landscape area on the property as shown on the submitted revised landscape plan must be completed within 18 months of Board action, and landscape improvements for areas B and D as shown on the submitted landscape plan must be completed before the final building inspections of each permit in areas B and D, respectively.

The case report stated the request was made to amend certain features shown on an alternate landscape plan that was imposed as a condition in conjunction with a request for a special exception to the landscape regulations granted on the subject by Board of Adjustment Panel A on March 17, 2015: BDA145-037. The subject site is currently developed as an approximately 1,450,000 square foot mixed use development (The Crescent). Note that the Board of Adjustment Panel A granted the applicant's request to waive the two year time limitation to refile a new application on this site on November 15, 2016).

2. BDA145-037, Property at 100, Crescent Court (the subject site)

On March 17, 2015, the Board of Adjustment Panel A granted a request for special exception to the landscape regulations and imposed the submitted alternate landscape plan as a condition.

The case report stated the request was made to replace an existing drive-through bank facility with an approximately 3,000 square foot restaurant, and not fully providing required landscaping on a site is currently developed as an approximately 1,450,000 square foot mixed use development (The Crescent) (Note that the Board of Adjustment Panel A granted the applicant's request to waive the two year time limitation to refile a new application on this site on June 28, 2016).

3. BDA 134-042, Property at 100, Crescent Court (the subject site)

On June 24, 2014, the Board of Adjustment Panel A granted a request for special exception to the landscape regulations and imposed the submitted revised landscape plan as a condition.

The case report stated the request was made to construct and maintain an approximately 1,400 square foot addition to an approximately 1,450,000 square foot mixed use development (The Crescent), and not fully providing required landscaping. (Note that the Board of Adjustment Panel A granted the applicant's request to waive the two year time limitation to refile a new application on this site on January 20, 2015).

4. BDA 81-239A, Property at 100, 200, 300, 400, and 500 Crescent Court (the subject site)

On February 14, 1988, the Board of Adjustment granted a request for "a 599 parking space variance and eliminate the set-aside land provisions subject to a TMP program as per the memo from Ken Melston, Manager of Transportation Engineering Services.

5. BDA 81-239, 239, Property at 2304 Cedar Springs Road (the subject site)

On October 13, 1981, the Board of Adjustment granted a 599 parking space variance, subject to a parking study to be conducted approximately one year after initial completion of the project

GENERAL FACTS/ STAFF ANALYSIS:

- This request for a special exception to the landscape regulations focuses on amending certain features shown on an alternate landscape plan (including but not limited to constructing and maintaining two patio areas within the mixed use development) that was imposed as a condition in conjunction with a request for a special exception to the landscape regulations granted on the subject by Board of Adjustment Panel A on August 16, 2016: BDA156-076 on the site currently developed as an approximately 1,450,000 square foot mixed use development (The Crescent).
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.
- On February 9th, the applicant submitted a letter to staff (see Attachment B) requesting a delay of this request until the Board of Adjustment Panel A March 21st public hearing to allow additional time to create a revised alternate landscape plan that would represent a new patio for a restaurant use which may have an impact on trees proposed and conveyed on the revised alternate landscape plan that was submitted on February 1st.
- On February 10, 2017, the City of Dallas Chief Arborist submitted a memo with regard to this application (see Attachment C). This memo stated the following:
 - The Chief Arborist supports the proposed revisions to the alternate landscape plan for 100 Crescent Court which was submitted for the February hearing. The revisions sustain a plan which does not violate the spirit and intent of the ordinance.
 - However, based on the applicant's statement of February 9, there may yet be additional revisions to the alternate landscape plan based on proposed future additions on a building site which is undergoing a period of general modification. Any additional revisions to the landscape plan should be completed before permits are submitted for the future addition.
 - The ordinance requires that any change to floor area, and net increase of impervious surfaces, will require future landscape compliance under this ordinance. The applicant has successfully attempted to report all new adjustments or errors to be updated on the revised alternate landscape plans to date. The arborist office only requests the most efficient means to have a complete landscape plan for the purpose of permitting.
 - The Chief Arborist will support the applicant, staff, and the board to help achieve the appropriate outcome.
- On February 28, 2017, the applicant submitted additional documentation that included a revised alternate landscape plan (see Attachment D).
- On March 9, 2017, the City of Dallas Chief Arborist submitted a memo with regard to this application (see Attachment E). This memo stated the following:

- The Chief Arborist supports the additional proposed revisions (shown in Attachment D) to the alternate landscape plan for 100 Crescent Court which was submitted for the February hearing. The revisions sustain a plan which does not violate the spirit and intent of the ordinance. Three oak trees will be removed and four birch trees will be placed back on the property. The removal and modification is acceptable for the use on the property.
- The ordinance requires that any change to floor area, and net increase of impervious surfaces, will require future landscape compliance under this ordinance. The applicant has successfully attempted to report all new adjustments or errors to be updated on the revised alternate landscape plans to date. His diligence on following up on a transitioning property such as 100 Crescent Court is appreciated. .
- The applicant has the burden of proof in establishing that the special exception will not compromise the spirit and intent of Section 51P-193-126: “Landscape, streetscape, screening, and fencing standards”.
- If the Board were to grant this request and impose the submitted alternate landscape plan dated 02-27-2017 as a condition, the site would be granted exception from full compliance to the landscape requirements of the Oak Lawn PD 193 landscape ordinance.

Timeline:

December 15, 2016: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

January 6, 2017: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case.”

January 6, 2017: The Board Administrator emailed the following information to the applicant:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the February 1st deadline to submit additional evidence for staff to factor into their analysis; and the February 10th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

- February 1, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).
- February 7, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Assistant Director, the Sustainable Development Department Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- No review comment sheets with comments were submitted in conjunction with this application.
- February 9, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment B).
- February 10, 2017: The City of Dallas Chief Arborist submitted a memo regarding this application (see Attachment C).
- February 23, 2017: The Board Administrator emailed the applicant the board's action; the February 1st deadline to submit additional evidence for staff to factor into their analysis; and the February 10th deadline to submit additional evidence to be incorporated into the Board's docket materials.
- February 28, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment D).
- March 7, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Sustainable Development and Construction Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

March 9, 2017: The City of Dallas Chief Arborist submitted a memo regarding this application (see Attachment E).

BOARD OF ADJUSTMENT ACTION: FEBRUARY 21, 2017

APPEARING IN FAVOR: Robert Reeves, 900 Jackson St., #160, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Dutia**

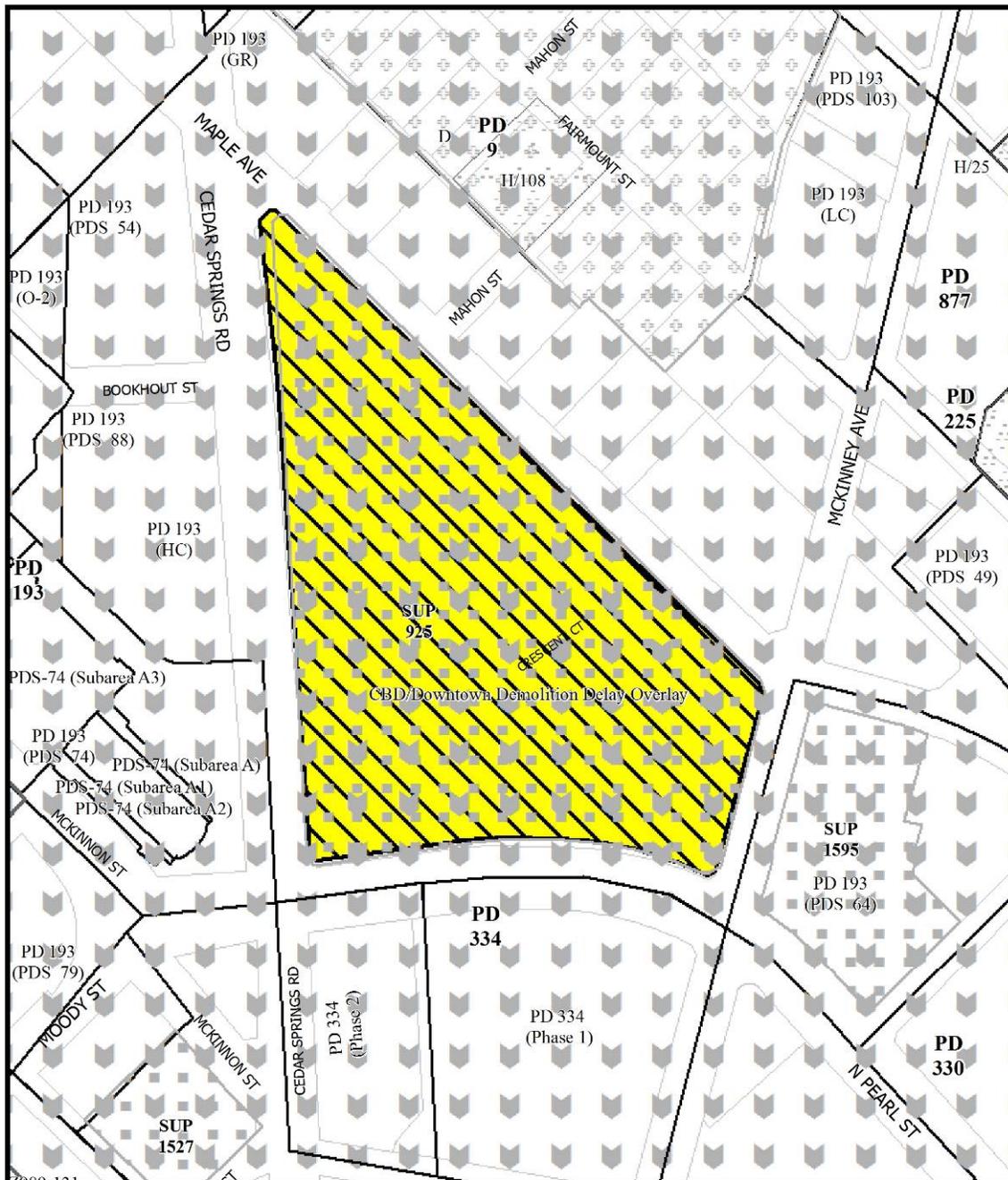
I move that the Board of Adjustment in Appeal No. **BDA 167-020** hold this matter under advisement until **March 21, 2017**.

SECONDED: **Nelson**

AYES: 5 – Schulte, Gibson, Nelson, Dutia, Sibley

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

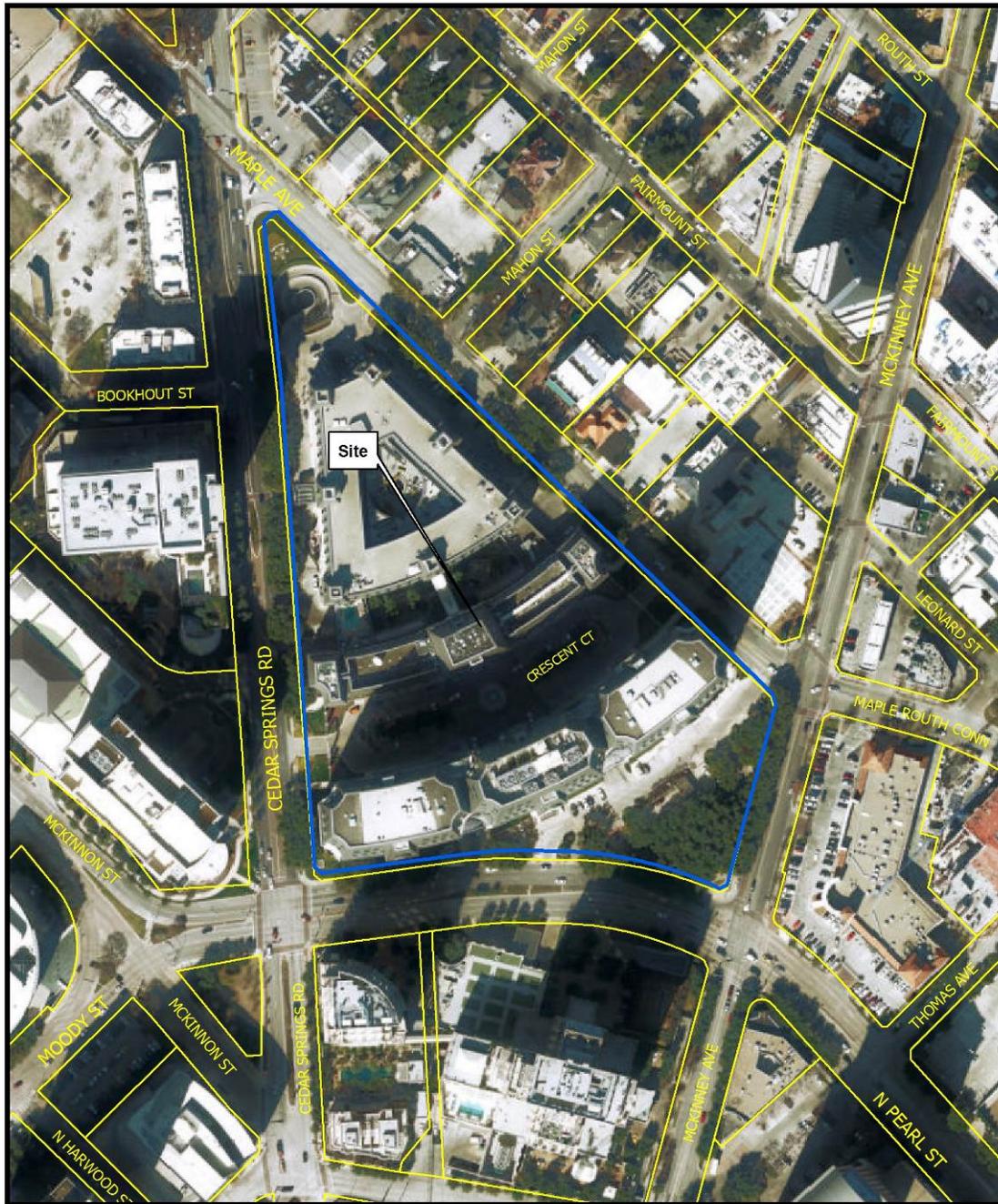


1:2,400

ZONING MAP

Case no: **BDA167-020**

Date: **1/10/2017**



1:2,400

AERIAL MAP

Case no: **BDA167-020**

Date: **1/10/2017**

BDA 167-020
Attach A
B1

ROBERT REEVES
& Associates, Inc.

PLANNING AND ZONING CONSULTANTS

February 1, 2017

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

RE: BDA 167-020
The Crescent

Dear Mr. Long:

On August 16, 2016, the Board of Adjustment, Panel A approved an alternate landscape plan for The Crescent, BDA 156-076(SL). Enclosed is an updated amended landscape plan, which we are requesting board approval.

As you know, a couple of months ago we completed our landscape enhancement program and called for a final inspection by the City Arborist. However, after a site inspection, the Arborist determined that 22 proposed trees were missing, which were shown on the approved landscape plan. Obviously, this revelation was a complete surprise to us.

These missing trees were new trees proposed by the landscape architect and were mistakenly included in the landscape plan approved by the board last August. It was determined that these trees could not or should not be planted for several reasons. Many trees were proposed in areas with underground utility vaults or similar constraints. Other trees were proposed to be planted under the canopy of existing mature street trees and would not thrive or could damage the roots of the existing trees. Lastly, it was determined that planting several proposed River Birch trees at the intersection of Cedar Springs and Maple was excessive and would actually have a negative visual impact.

In addition, Sixty Vines restaurant is currently remodeling the former Palomino restaurant space and would like to construct an outside pavilion, which will cover a portion of the current outside deck. Since there may be a slight increase in the non-permeable surface (450 sq. ft.), the proposed building site has been added to the revised landscape plan.

The following is a summary of the changes:

No existing trees are affective and there have been 128 new trees planted on the site

	Board Approved Landscape Plan	Revised Landscape Plan
Street Trees:	133	132
Interior Trees:	<u>163</u>	<u>148</u>
Total Site Trees;	296	280
General Planting Area:	80,000 sq. ft.	75,550 sq. ft.

Mr. Long, we respectfully request approval of the revised landscape plan.

Sincerely:



Robert Reeves

BDA167-020
Attach B
Pg 1

ROBERT REEVES
& Associates, Inc.

PLANNING AND ZONING CONSULTANTS

February 9, 2017

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

RE: BDA 167-020, The Crescent
Request for a Delay

Dear Mr. Long:

As you know the revised landscape plan for The Crescent will be considered by the Board of Adjustment, Panel A on February 21, 2017. Last Tuesday evening, we presented our proposed landscape revisions to the Oak Lawn Committee including the proposed Sixty Vines restaurant outside pavilion, which will be located on a portion of the existing deck used by the former Palomino Restaurant.

This morning I learned that a new Sandwich Shop restaurant would like to locate on the south side of Office Tower Two. The restaurant would like to have a new patio for outside dining, which will be located next to the loading dock area shown in red on the attached landscape plan. The patio will have an impact on the general planting area and may have an impact on the three new trees planted in this area.

Therefore, we need additional time to provide the staff with information on the patio, resubmit a revised landscape plan, and go back before the Oak Lawn Committee on March 7, 2017. Consequently, we respectfully request that the board delay this case until March 21, 2017.

Sincerely:



Robert Reeves

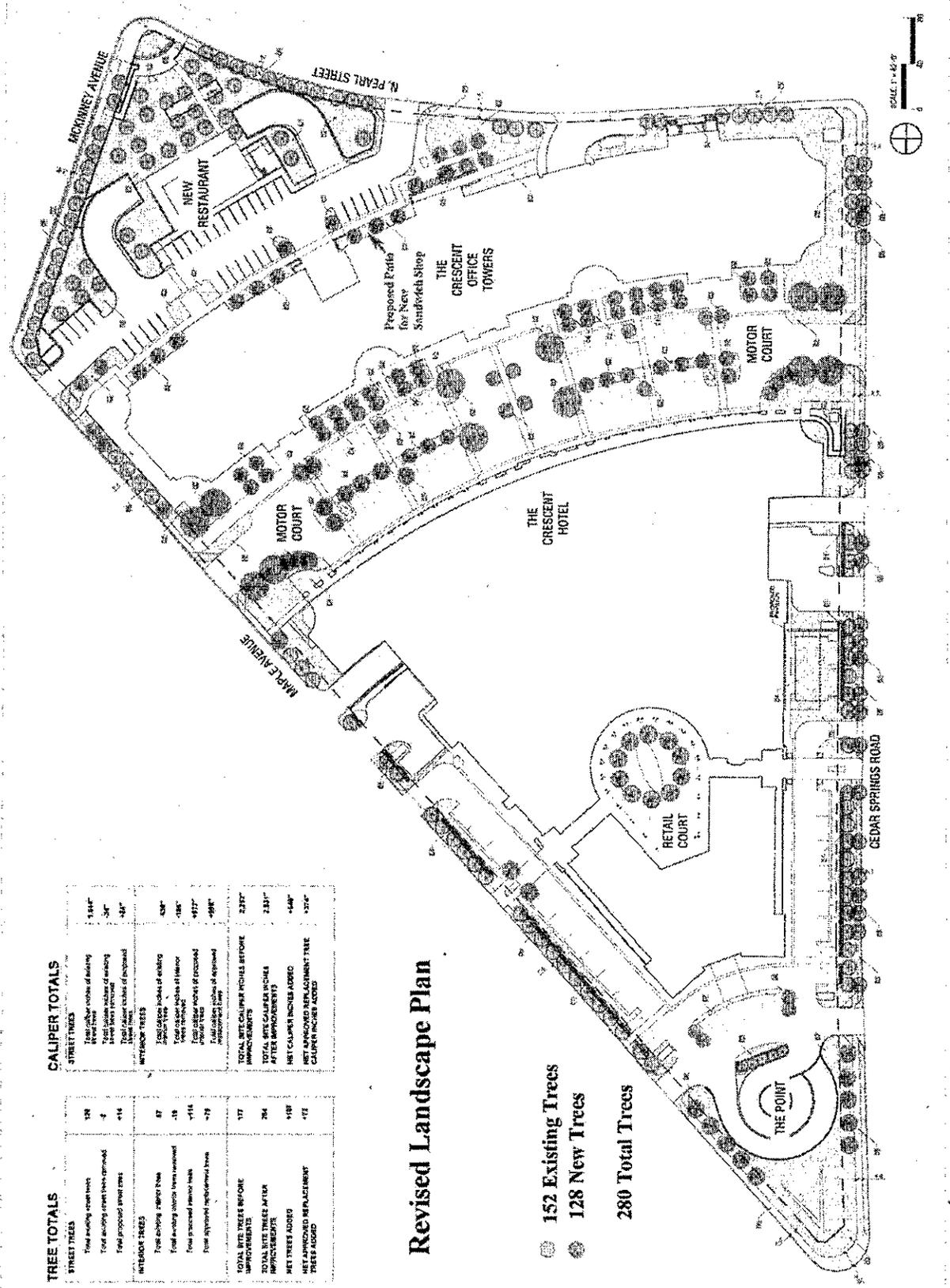
SYMBOL LEGEND

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LANDSCAPE PLAN
DRAWING NUMBER: L1.02

BDA
167-
020

ATTACH B
B2



TREE TOTALS		CALIPER TOTALS	
STREET TREES		STREET TREES	
Total existing street trees	128	Total caliper volume of existing street trees	1,847"
Total existing street trees removed	4	Total caliper volume of existing street trees removed	36"
Total proposed street trees	+14	Total caliper volume of proposed street trees	+87"
INTERIOR TREES		INTERIOR TREES	
Total existing interior trees	87	Total caliper volume of existing interior trees	428"
Total existing interior trees removed	-18	Total caliper volume of interior trees removed	-186"
Total proposed interior trees	+114	Total caliper volume of proposed interior trees	+877"
Total proposed interior trees removed	-79	Total caliper volume of proposed interior trees removed	-494"
TOTAL NET TREES BEFORE IMPROVEMENTS		TOTAL NET CALIPER INCHES BEFORE IMPROVEMENTS	
TOTAL NET TREES BEFORE IMPROVEMENTS	177	TOTAL NET CALIPER INCHES BEFORE IMPROVEMENTS	2,227"
TOTAL NET TREES AFTER IMPROVEMENTS	264	TOTAL NET CALIPER INCHES AFTER IMPROVEMENTS	2,831"
NET TREES ADDED	118	NET CALIPER INCHES ADDED	+604"
NET TREES REPLACEMENT TREES ADDED	+72	NET CALIPER INCHES REPLACEMENT TREES ADDED	+327"

Revised Landscape Plan

- 152 Existing Trees
- 128 New Trees
- 280 Total Trees**

Memorandum



Date February 10, 2017
To Steve Long, Board Administrator
Subject BDA #167-020; 100 Crescent Court

The chief arborist does support the proposed revisions to the alternate landscape plan for 100 Crescent Court which was submitted for the February hearing. It is my belief the revisions sustain a plan which does not violate the spirit and intent of the ordinance. However, based on Mr. Reeves' statement of February 9, there may yet be additional revisions to the alternate landscape plan based on proposed future additions on a building site which is undergoing a period of general modification. Any additional revisions to the landscape plan should be completed before permits are submitted for the future addition.

As you are aware, any change to floor area, and net increase of impervious surfaces, will require future landscape compliance under this ordinance. Mr. Reeves has successfully attempted to report all new adjustments or errors to be updated on the revised alternate landscape plans to date. The arborist office only requests the most efficient means to have a complete landscape plan for the purpose of permitting.

We will support the applicant, staff, and the board to help achieve the appropriate outcome.

Philip Erwin
Chief Arborist
Building Inspection

BDA 167-020
Attach D
FSI

ROBERT REEVES
& Associates, Inc.

PLANNING AND ZONING CONSULTANTS

February 28, 2017

Todd Duerksen
Chief Zoning Inspector, Building Inspection
Department of Sustainable Development & Construction
320 East Jefferson
Dallas, Texas 75203

RE: Revised Landscape Plan
Case BDA 167-020
The Crescent

Dear Mr. Duerksen:

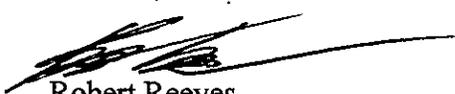
As you are aware, the Board of Adjustment held this case over until March 21, 2017 in order for my client to submit a revised landscape plan.

Attached is a revised landscape plan, which includes a new 1,250 sq. ft. patio adjacent to Office Tower Two for a new East Hampton Sandwich Company restaurant. I have also included a rendering and site plan of the new patio.

Installation of the patio will require removing three newly planted High Rise Oak Trees (18 caliper inches) and reducing the general planting area by 1,250 square feet to 74,300 square feet. Four new River Birch Trees (20 caliper inches) will be planted adjacent to drive to the underground garage at the northern end of the site.

Mr. Duerksen, let me know if you need additional information.

Sincerely:



Robert Reeves

cc: Phil Erwin

SYN	TYPE	QTY.
T01	PROPOSED STREET TREES	14
T02	EXISTING STREET TREES	129
T03	PROPOSED INTERIOR TREES	114
T04	EXISTING INTERIOR TREES	57
T05	PROPOSED RETAIL COURT TREES	19
T06	EXISTING RETAIL COURT TREES	18
T07	PROPOSED MOTOR COURT TREES	114
T08	EXISTING MOTOR COURT TREES	114
T09	PROPOSED OFFICE TOWER TREES	17
T10	EXISTING OFFICE TOWER TREES	17
T11	PROPOSED MOTOR COURT TREES	114
T12	EXISTING MOTOR COURT TREES	114
T13	PROPOSED OFFICE TOWER TREES	17
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T95	PROPOSED MOTOR COURT TREES	114
T96	EXISTING MOTOR COURT TREES	114
T97	PROPOSED OFFICE TOWER TREES	17
T98	EXISTING OFFICE TOWER TREES	17
T99	PROPOSED MOTOR COURT TREES	114
T100	EXISTING MOTOR COURT TREES	114

Rev	Date	Description
1	01/27/17	ISSUED FOR PERMIT
2	01/27/17	ISSUED FOR PERMIT
3	01/27/17	ISSUED FOR PERMIT
4	01/27/17	ISSUED FOR PERMIT
5	01/27/17	ISSUED FOR PERMIT

Drawing Title: LANDSCAPE PLAN

L1.02

BDA
167-
020



Revised Landscape Plan
Revisions to previously submitted landscape plan
2/27/17

- 152 Existing Trees
- 128 New Trees

288 Total Trees
129 New Trees
180 Total Trees

Four new River Birch Trees will be planted

TREE TOTALS	
STREET TREES	
Total existing street trees	129
Total existing street trees removed	-2
Total proposed street trees	+16
INTERIOR TREES	
Total existing interior trees	57
Total existing interior trees removed	-19
Total proposed interior trees	+114
Total approved replacement trees	+73
TOTAL SITE TREES BEFORE IMPROVEMENTS	
TOTAL SITE CALIPER INCHES BEFORE IMPROVEMENTS	2,282"
TOTAL SITE CALIPER INCHES AFTER IMPROVEMENTS	2,831"
NET TREES ADDED	+157
NET APPROVED REPLACEMENT TREES ADDED	+73"
STREET TREES	
Total caliper inches of existing street trees	1,644"
Total caliper inches of existing street trees removed	-24"
Total caliper inches of proposed street trees	+84"
INTERIOR TREES	
Total caliper inches of existing interior trees	618"
Total caliper inches of interior trees removed	-185"
Total caliper inches of proposed interior trees	+877"
Total caliper inches of approved replacement trees	+482"
TOTAL SITE CALIPER INCHES BEFORE IMPROVEMENTS	
TOTAL SITE CALIPER INCHES BEFORE IMPROVEMENTS	2,282"
TOTAL SITE CALIPER INCHES AFTER IMPROVEMENTS	2,831"
NET CALIPER INCHES ADDED	+549"
NET APPROVED REPLACEMENT TREE CALIPER INCHES ADDED	+374"



Attach D
P33



BDA
167-
020

Attach D
Pg 4

BDA167-020

Attach E

Memorandum



CITY OF DALLAS

Date March 9, 2017
To Steve Long, Board Administrator
Subject BDA #167-020; 100 Crescent Court

The chief arborist does support the additional proposed revisions (shown in Attachment D) to the alternate landscape plan for 100 Crescent Court which was submitted for the February hearing. It is my belief the revisions sustain a plan which does not violate the spirit and intent of the ordinance. Three oak trees will be removed and four birch trees will be placed back onto the property. I believe the removal and modification is acceptable for the use on the property.

As you are aware, any change to floor area, and net increase of impervious surfaces, will require future landscape compliance under this ordinance. As was stated in my previous comments, Mr. Reeves has successfully attempted to report all new adjustments or errors to be updated on the revised alternate landscape plans to date. His diligence on following up on a transitioning property such as 100 Crescent Court is appreciated.

Philip Erwin
Chief Arborist
Building Inspection



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-020

Data Relative to Subject Property:

Date: 12/15/16

Location address: 100 Crescent Court Zoning District: PD193, SUP 925, HC Heavy Commercial Subdistrict

Lot No.: 1A Block No.: 2/948 Acreage: 9.9414 acres Census Tract: 18.00

Street Frontage (in Feet): (1) Cedar Spr. 958' (2) Maple 1,082' (3) Pearl 559' 4) McKinney 300'

To the Honorable Board of Adjustment:

Owner of Property (per Warranty Deed): Crescent TC Investors LP

Applicant: Robert Reeves Telephone: (214) 749-0530

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

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

Represented by: Robert Reeves & Associates, Inc. Telephone: (214) 749-0530

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

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

Affirm that a request has been made for a Variance, or Special Exception X of An alternate landscape plan for 100 Crescent Ct.

Application is now made to the Honorable Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: The Crescent would like to revise the 8/16/16 board-approved alternative landscape plan, BDA156-076, to properly identify trees that were proposed, however were not planted per the approved plan. A waiver of the 2-year waiting period was board-approved on 11/15/2016.

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

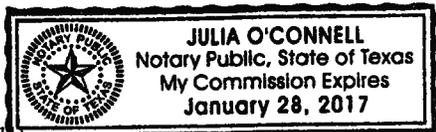
Affidavit

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

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

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

Subscribed and sworn to before me this 15th day of December 2016.



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

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

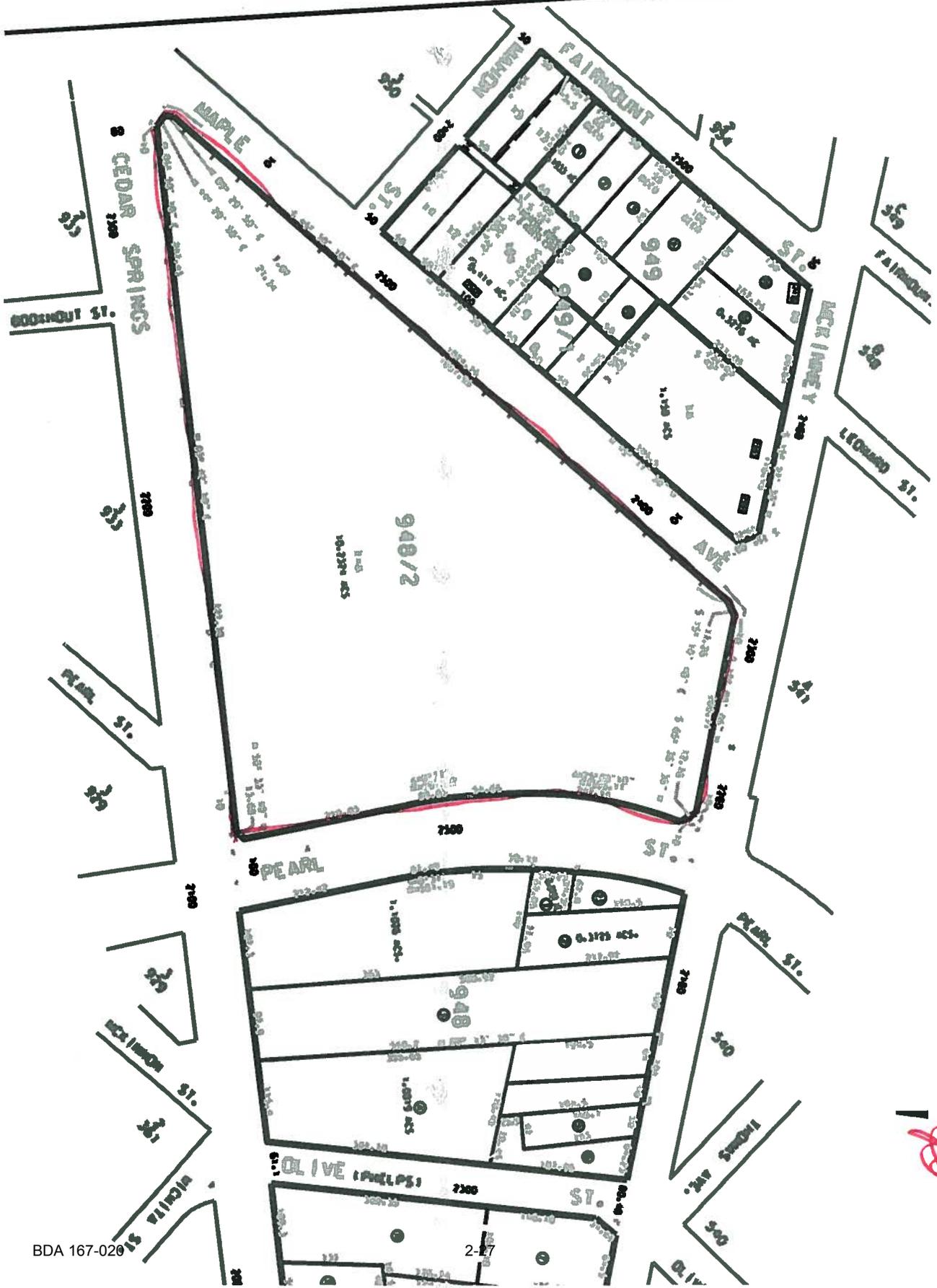
I hereby certify that Robert Reeves

did submit a request for a special exception to the landscaping regulations
at 100 Crescent Court

BDA167-020. Application of Robert Reeves for a special exception to the landscaping regulations at 100 Crescent Court. This property is more fully described as Lot 1A, Block 2/948, and is zoned PD-193 (HC), which requires mandatory landscaping. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

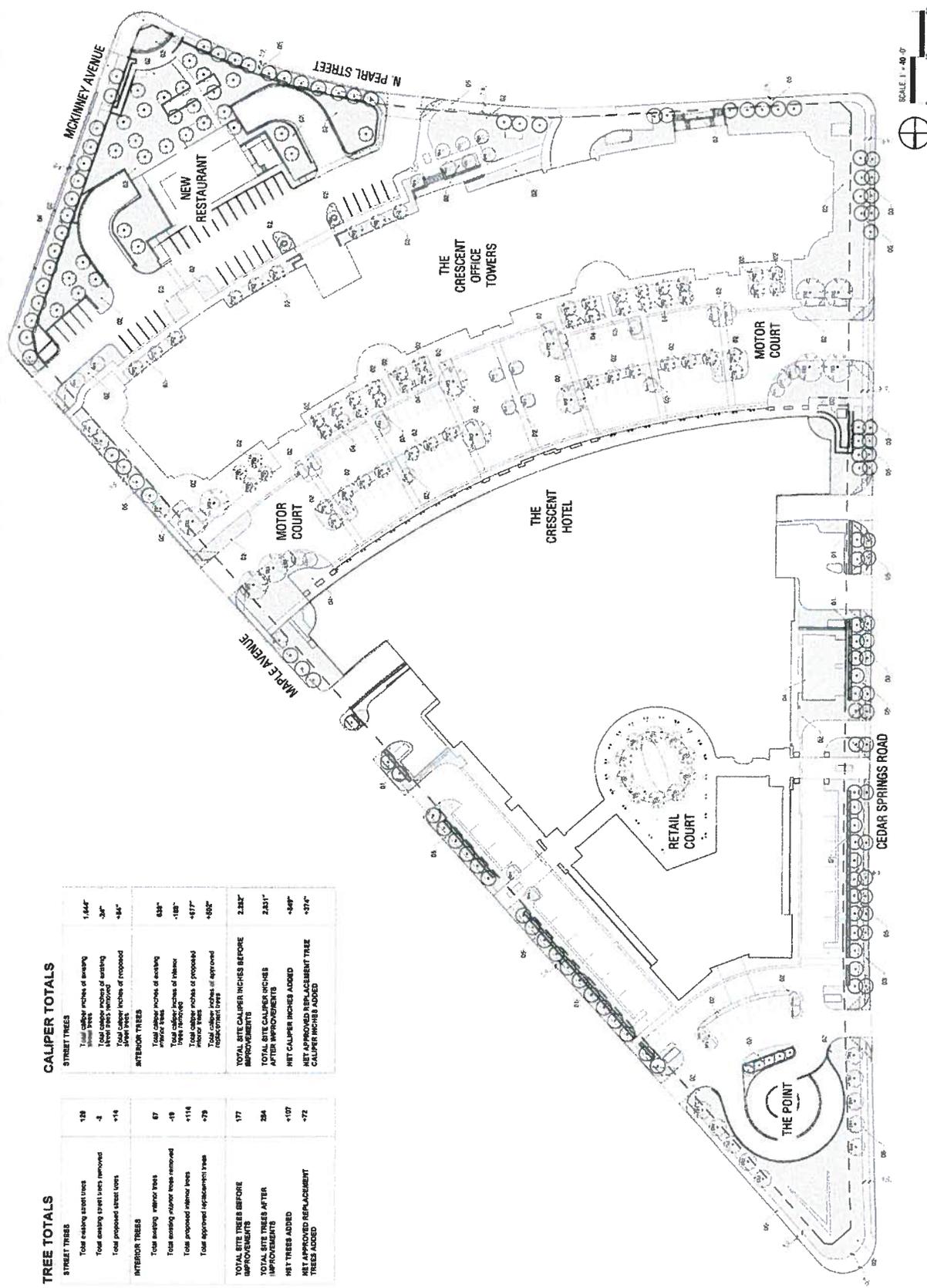
Sincerely,

Philip Sikes
Philip Sikes, Building Official

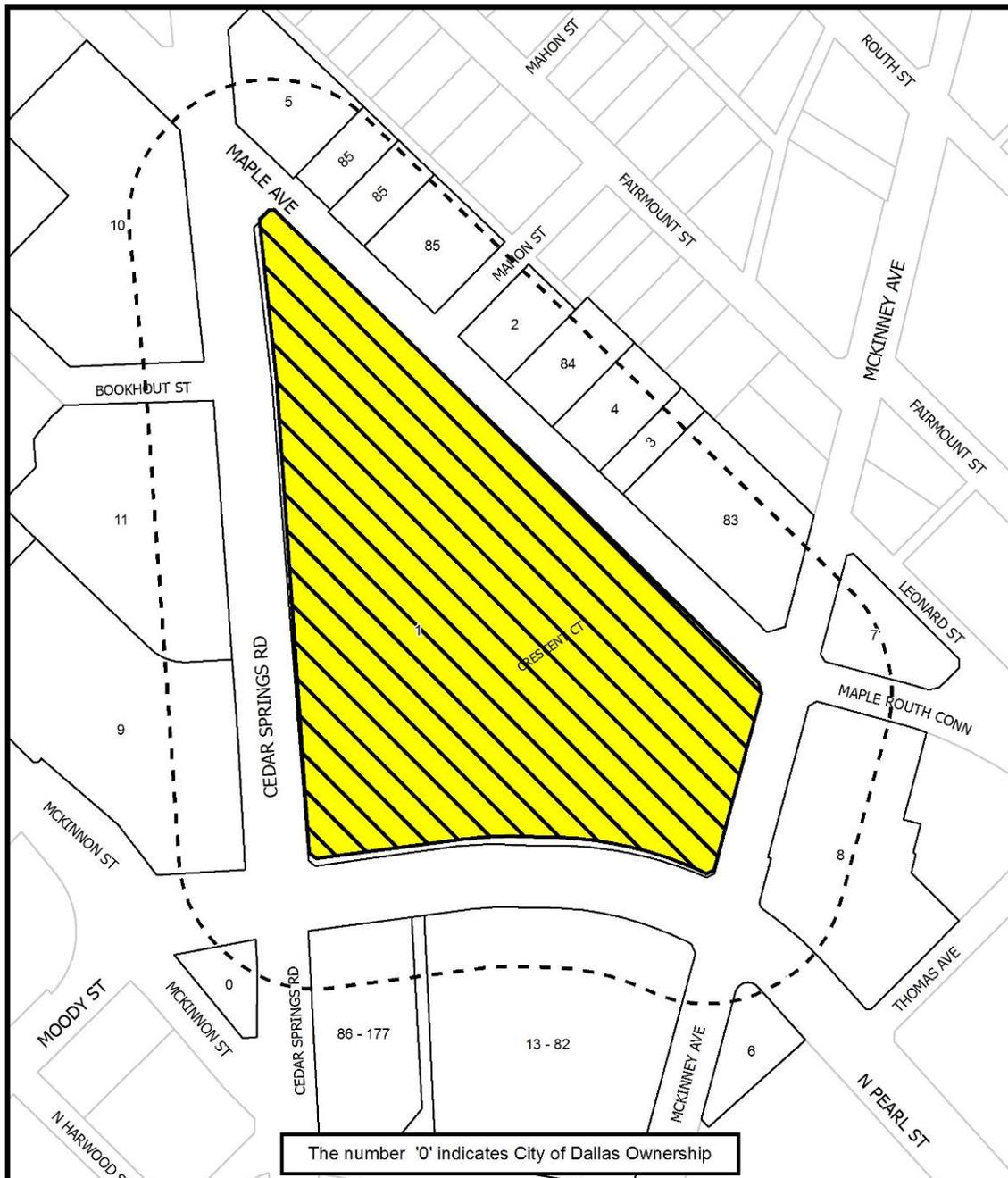


SYM	TYPE	QTY
TR1	PROPOSED SMALL TREE N. 100' TO 150' 12" DBH 10' HGT	10
TR2	PROPOSED MEDIUM TREE 150' TO 200' 18" DBH 15' HGT	10
TR3	PROPOSED LARGE TREE 200' TO 300' 24" DBH 20' HGT	10
TR4	PROPOSED VERY LARGE TREE 300' TO 400' 30" DBH 25' HGT	10
TR5	PROPOSED MATURE TREE 400' TO 500' 36" DBH 30' HGT	10
TR6	PROPOSED MATURE TREE 500' TO 600' 42" DBH 35' HGT	10
TR7	PROPOSED MATURE TREE 600' TO 700' 48" DBH 40' HGT	10
TR8	PROPOSED MATURE TREE 700' TO 800' 54" DBH 45' HGT	10
TR9	PROPOSED MATURE TREE 800' TO 900' 60" DBH 50' HGT	10
TR10	PROPOSED MATURE TREE 900' TO 1000' 66" DBH 55' HGT	10
TR11	PROPOSED MATURE TREE 1000' TO 1100' 72" DBH 60' HGT	10
TR12	PROPOSED MATURE TREE 1100' TO 1200' 78" DBH 65' HGT	10
TR13	PROPOSED MATURE TREE 1200' TO 1300' 84" DBH 70' HGT	10
TR14	PROPOSED MATURE TREE 1300' TO 1400' 90" DBH 75' HGT	10
TR15	PROPOSED MATURE TREE 1400' TO 1500' 96" DBH 80' HGT	10
TR16	PROPOSED MATURE TREE 1500' TO 1600' 102" DBH 85' HGT	10
TR17	PROPOSED MATURE TREE 1600' TO 1700' 108" DBH 90' HGT	10
TR18	PROPOSED MATURE TREE 1700' TO 1800' 114" DBH 95' HGT	10
TR19	PROPOSED MATURE TREE 1800' TO 1900' 120" DBH 100' HGT	10
TR20	PROPOSED MATURE TREE 1900' TO 2000' 126" DBH 105' HGT	10
TR21	PROPOSED MATURE TREE 2000' TO 2100' 132" DBH 110' HGT	10
TR22	PROPOSED MATURE TREE 2100' TO 2200' 138" DBH 115' HGT	10
TR23	PROPOSED MATURE TREE 2200' TO 2300' 144" DBH 120' HGT	10
TR24	PROPOSED MATURE TREE 2300' TO 2400' 150" DBH 125' HGT	10
TR25	PROPOSED MATURE TREE 2400' TO 2500' 156" DBH 130' HGT	10
TR26	PROPOSED MATURE TREE 2500' TO 2600' 162" DBH 135' HGT	10
TR27	PROPOSED MATURE TREE 2600' TO 2700' 168" DBH 140' HGT	10
TR28	PROPOSED MATURE TREE 2700' TO 2800' 174" DBH 145' HGT	10
TR29	PROPOSED MATURE TREE 2800' TO 2900' 180" DBH 150' HGT	10
TR30	PROPOSED MATURE TREE 2900' TO 3000' 186" DBH 155' HGT	10
TR31	PROPOSED MATURE TREE 3000' TO 3100' 192" DBH 160' HGT	10
TR32	PROPOSED MATURE TREE 3100' TO 3200' 198" DBH 165' HGT	10
TR33	PROPOSED MATURE TREE 3200' TO 3300' 204" DBH 170' HGT	10
TR34	PROPOSED MATURE TREE 3300' TO 3400' 210" DBH 175' HGT	10
TR35	PROPOSED MATURE TREE 3400' TO 3500' 216" DBH 180' HGT	10
TR36	PROPOSED MATURE TREE 3500' TO 3600' 222" DBH 185' HGT	10
TR37	PROPOSED MATURE TREE 3600' TO 3700' 228" DBH 190' HGT	10
TR38	PROPOSED MATURE TREE 3700' TO 3800' 234" DBH 195' HGT	10
TR39	PROPOSED MATURE TREE 3800' TO 3900' 240" DBH 200' HGT	10
TR40	PROPOSED MATURE TREE 3900' TO 4000' 246" DBH 205' HGT	10
TR41	PROPOSED MATURE TREE 4000' TO 4100' 252" DBH 210' HGT	10
TR42	PROPOSED MATURE TREE 4100' TO 4200' 258" DBH 215' HGT	10
TR43	PROPOSED MATURE TREE 4200' TO 4300' 264" DBH 220' HGT	10
TR44	PROPOSED MATURE TREE 4300' TO 4400' 270" DBH 225' HGT	10
TR45	PROPOSED MATURE TREE 4400' TO 4500' 276" DBH 230' HGT	10
TR46	PROPOSED MATURE TREE 4500' TO 4600' 282" DBH 235' HGT	10
TR47	PROPOSED MATURE TREE 4600' TO 4700' 288" DBH 240' HGT	10
TR48	PROPOSED MATURE TREE 4700' TO 4800' 294" DBH 245' HGT	10
TR49	PROPOSED MATURE TREE 4800' TO 4900' 300" DBH 250' HGT	10
TR50	PROPOSED MATURE TREE 4900' TO 5000' 306" DBH 255' HGT	10

LANDSCAPE PLAN
Drawing Number: L1.02



TREE TOTALS		CALIPER TOTALS	
STREET TREES		STREET TREES	
Total existing street trees	128	Total caliper inches of existing street trees	1,644"
Total existing street trees removed	-4	Total caliper inches of existing interior trees	30"
Total proposed street trees	+14	Total caliper inches of proposed street trees	434"
INTERIOR TREES		INTERIOR TREES	
Total existing interior trees	67	Total caliper inches of existing interior trees	638"
Total existing interior trees removed	-19	Total caliper inches of existing interior trees	-188"
Total proposed interior trees	+114	Total caliper inches of proposed interior trees	4,777"
Total approved replacement trees	+79	Total caliper inches of approved replacement trees	4,852"
TOTAL SITE TREES BEFORE IMPROVEMENTS		TOTAL SITE TREES BEFORE IMPROVEMENTS	
Total existing street trees	128	Total caliper inches before improvements	2,324"
Total existing interior trees	67	Total caliper inches before improvements	2,511"
Total existing trees removed	-23	Total caliper inches before improvements	-426"
Total proposed trees	+127	Total caliper inches added	+4,897"
Total approved replacement trees	+72	Total caliper inches added	+4,776"



The number '0' indicates City of Dallas Ownership

 1:2,400	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">177</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	177	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: BDA167-020 Date: 1/10/2017
200'	AREA OF NOTIFICATION					
177	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA167-020

177 Property Owners Notified

Label #	Address	Owner
1	100 CRESCENT CT	CRESCENT TC INVESTORS LP
2	2516 MAPLE AVE	HEYMANN CLAIRE L
3	2504 MAPLE AVE	PASHA & SINA INC
4	2508 MAPLE AVE	PASHA & SINA INC
5	2628 MAPLE AVE	GREENWAY MAPLE LP
6	2120 MCKINNEY AVE	MCPP 2100 MCKINNEY LLC
7	2324 MCKINNEY AVE	MAPLE AND MCKINNEY L P
8	2222 MCKINNEY AVE	AMREIT UPTOWN DALLAS LP
9	2101 CEDAR SPRINGS RD	ROSEWOOD COURT LLC
10	2305 CEDAR SPRINGS RD	GPI CEDAR MAPLE LP
11	2215 CEDAR SPRINGS RD	ASHTON UPTOWN LP
12	2510 CEDAR SPRINGS RD	CRESCENT REAL ESTATE
13	2121 MCKINNEY AVE	CRESCENT PLZ HOTEL OWNER
14	2525 N PEARL ST	STRONG ASA & NANCY
15	2525 N PEARL ST	ADELGLASS JEFFREY &
16	2525 N PEARL ST	MCKENZIE ARETA B
17	2525 N PEARL ST	HIXSON ROBERT L JR &
18	2525 N PEARL ST	BADINTER SIMON M
19	2525 N PEARL ST	RAK PROPERTIES INC
20	2525 N PEARL ST	FRICKE MICHAEL T & ARLENE S
21	2525 N PEARL ST	COTTEL WILLIS I TRUSTEE
22	2525 N PEARL ST	SHINN LLOYD &
23	2525 N PEARL ST	BOSSE JEFFREY F & DONNA S
24	2525 N PEARL ST	QUIST SHARON S
25	2525 N PEARL ST	MOSER FAMILY TRUST
26	2525 N PEARL ST	PEJOVICH BRENDA FAMILY LIVING TRUST THE

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	2525 N PEARL ST	STERN MATT D
28	2525 N PEARL ST	STONE EVAN
29	2525 N PEARL ST	OHRE DAVID E
30	2525 N PEARL ST	POWELL MARK W
31	2525 N PEARL ST	SAVAGE LIVING TRUST THE
32	2525 N PEARL ST	TOELLER GARY RICHARD & ANNE S TRUSTEES
33	2525 N PEARL ST	SONNENSCHNEIN INVESTMENTS LTD
34	2525 N PEARL ST	FONBERG PETER
35	2525 N PEARL ST	ELLINGTON SCOTT
36	2525 N PEARL ST	CARLOW CORP
37	2525 N PEARL ST	SMITH LINDA J
38	2525 N PEARL ST	DIXON GENE JR &
39	2525 N PEARL ST	ABOU QAMAR MAAMOUN Y
40	2525 N PEARL ST	MITCHELL F LANE
41	2525 N PEARL ST	GALLETTA NANCY J
42	2525 N PEARL ST	BAILEY CHARLES R & VIRGINIA H
43	2525 N PEARL ST	KLS INVESTMENTS LLC
44	2525 N PEARL ST	FDRE LLC
45	2525 N PEARL ST	WITRY MARY CAROL
46	2525 N PEARL ST	MANUEL GREGORY W &
47	2525 N PEARL ST	CUMMINGS KEVIN & GUINEVERE
48	2525 N PEARL ST	SANDLIN MARK R
49	2525 N PEARL ST	VAN CLEAVE ROBERT C &
50	2525 N PEARL ST	GUBA RAYMOND KERSHAW
51	2525 N PEARL ST	BROWER SHANNON
52	2525 N PEARL ST	KIM TAESEUNG BEN &
53	2525 N PEARL ST	YAMINI SARA M
54	2525 N PEARL ST	QUIST SHARON S
55	2525 N PEARL ST	1013 NW LOOP 410 VENTURE
56	2525 N PEARL ST	MCKNIGHT JAMES ROSS & BILLIE
57	2525 N PEARL ST	MITCHELL KEITH & LOIS TRUST THE

Label #	Address	Owner
58	2525 N PEARL ST	ALVARADO JOSEPH
59	2525 N PEARL ST	HAUSLEIN FERDINAND A JR
60	2525 N PEARL ST	WALKER ROBERT M & GUDRUN S
61	2525 N PEARL ST	LEE JAMES J & DORIS P
62	2525 N PEARL ST	TAYLOR BERNARD &
63	2525 N PEARL ST	ALBERTS DENNY & CYNTHIA COMPARIN
64	2525 N PEARL ST	DOUGLASS GREGORY
65	2525 N PEARL ST	NURENBERG PAMELA &
66	2525 N PEARL ST	PARKS JAMES LEE
67	2525 N PEARL ST	ROMAN FRANK
68	2525 N PEARL ST	CROWDER KEVIN & KAREN
69	2525 N PEARL ST	ROBINSON STEPHEN W & JEAN M
70	2525 N PEARL ST	ROSS STEPHANIE REVOCABLE TRUST
71	2525 N PEARL ST	SCHAKE ERIC
72	2525 N PEARL ST	TEL REAL ESTATE LLC
73	2525 N PEARL ST	CARTER DONALD J & LINDA JO
74	2525 N PEARL ST	MAYER TOM & SUSAN
75	2525 N PEARL ST	KARKOUTLY AMAN &
76	2525 N PEARL ST	WITZKE DAVID
77	2525 N PEARL ST	QUINN TERRENCE JEROME &
78	2525 N PEARL ST	WAGNER DUER III
79	2525 N PEARL ST	HADDOCK RON W &
80	2525 N PEARL ST	SOLOMON WILLIAM T & GAY F
81	2525 N PEARL ST	LARKIN JOHN G &
82	2525 N PEARL ST	ANDERSON CHARLES C JR & MOLLY R
83	2401 MCKINNEY AVE	ELK FINANCIAL INC
84	2512 MAPLE AVE	HEIDARI ALI
85	2610 MAPLE AVE	2620 MAPLE AVENUE LLC
86	2555 N PEARL ST	FOSS ERIC
87	2555 N PEARL ST	CRESCENT TOWER RESIDENCES LP
88	2555 N PEARL ST	TORRENCE FLP

Label #	Address	Owner
89	2555 N PEARL ST	CHOTI CAROLE LAMPESIS & MICHAEL ANDREW
90	2555 N PEARL ST	CREWS KYLE W & ANNE C
91	2555 N PEARL ST	CREWS KYLE W & ANNE C CREWS
92	2555 N PEARL ST	BENTON HELEN RASPBERRY TRUST
93	2555 N PEARL ST	ALEXANDER GREG
94	2555 N PEARL ST	AMENDED AND RESTATED DAGNON REV TRUST
95	2555 N PEARL ST	WOEHR MICHELLE S & GUSTAVE
96	2555 N PEARL ST	STEPHANIAN EDIC
97	2555 N PEARL ST	MOROS HORACIO JAVIER
98	2555 N PEARL ST	THELIN THOMAS
99	2555 N PEARL ST	ZOYS GEORGE N
100	2555 N PEARL ST	VEERARAGHAVAN UMA & KRISHNA
101	2555 N PEARL ST	CHI WEIWEI &
102	2555 N PEARL ST	RITZ TOWER 405 LLC
103	2555 N PEARL ST	CLARKE DIEN S & FRED E III
104	2555 N PEARL ST	HENRY JAMES J & PATRICIA M
105	2555 N PEARL ST	ATTICUS PEARL STREET LLC
106	2555 N PEARL ST	HASHEM OMAR & MIASSAR
107	2555 N PEARL ST	FABER CAREY E
108	2555 N PEARL ST	SREERAMA RAVI KUMAR &
109	2555 N PEARL ST	WORTLEY MICHAEL D & PATRICIA
110	2555 N PEARL ST	LEVY MARLON &
111	2555 N PEARL ST	PERSONS MELISSA LEE &
112	2555 N PEARL ST	MUSSULMAN DANIEL G
113	2555 N PEARL ST	KERNSTINE KEMP & CASSANDRA
114	2555 N PEARL ST	CLAUSE CARL & ROSALIE
115	2555 N PEARL ST	CAMMACK BRUCE A & MICHELE G
116	2555 N PEARL ST	CLAUSE CARL & ROSALIE
117	2555 N PEARL ST	PESES IAN &
118	2555 N PEARL ST	UPTOWN DREAMS LLC
119	2555 N PEARL ST	HOLMES CHARLTON C

Label #	Address	Owner
120	2555 N PEARL ST	MILLER PAMELA MARGARET
121	2555 N PEARL ST	STEVENS KRISTEN E
122	2555 N PEARL ST	YOUNGMAN STEPHEN A & DENISE A
123	2555 N PEARL ST	ROBERSON SHANNON G
124	2555 N PEARL ST	TWOMEY FAMILY TRUST AGREEMENT
125	2555 N PEARL ST	SMITH OPERATING AND MANAGEMENT CO
126	2555 N PEARL ST	PORTER ZACHARY & EMILY RAY
127	2555 N PEARL ST	HEEBE ADREA D
128	2555 N PEARL ST	KLAASSEN LIVING TRUST
129	2555 N PEARL ST	RODER RICHARD
130	2555 N PEARL ST	KRISHNAN SUMANT GOPAL
131	2555 N PEARL ST	BEREZINA VICTORIA
132	2555 N PEARL ST	ULLMAN MYRON EDWARD & CATHY EMMONS TRUSTEES
133	2555 N PEARL ST	HARGIS KENNETH & DARLENE LIVING TRUST
134	2555 N PEARL ST	FAURIA THOMAS J & RENEE
135	2555 N PEARL ST	HARASYM STEVEN MICHAEL
136	2555 N PEARL ST	SHORECREST FAMILY LP
137	2555 N PEARL ST	KEN CARLILE 2004 TRUST THE
138	2555 N PEARL ST	RIPPETO J DOUGLAS
139	2555 N PEARL ST	NICKERSON STEVEN CASH & EVELYN THOMAS
140	2555 N PEARL ST	NICKERSON STEVEN CASH & EVELYN THOMAS
141	2555 N PEARL ST	MUHL BRADLEY GILBERT & HOLLY BOWEN
142	2555 N PEARL ST	FRAZIER DEBBIE
143	2555 N PEARL ST	BLUE CRESCENT VENTURE LP
144	2555 N PEARL ST	FOX PATRICK K & CYNTHIA E
145	2555 N PEARL ST	FORD SCOTT T & JOAN D
146	2555 N PEARL ST	CRADICK CAROLINE CHARETTE TR
147	2555 N PEARL ST	SANTAGA GREGORY P & ANN M JOINT REVOCABLE TRUST
148	2555 N PEARL ST	AVANT HARRY L
149	2555 N PEARL ST	BARSACHS EDWIN HARRY JR &
150	2555 N PEARL ST	DORF ROGER & SANDRA DORF

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
151	2555 N PEARL ST	PARSELL SUSAN P
152	2555 N PEARL ST	GRANGER KIMBERLEY
153	2555 N PEARL ST	LAM SAMUEL M MD
154	2555 N PEARL ST	MD COMMONS COMMERCIAL
155	2555 N PEARL ST	LAZOF FAMILY TRUST
156	2555 N PEARL ST	MOTSENBOCKER ALAN K & ANNE B
157	2555 N PEARL ST	DUNN FREDRICK L & PRISCILLA A
158	2555 N PEARL ST	AKBARI HOMAIRA
159	2555 N PEARL ST	MUHL BRADLEY GILBERT & HOLLY
160	2555 N PEARL ST	SIKKEL MARK
161	2555 N PEARL ST	HOLT TEXAS PROPERTIES INC
162	2555 N PEARL ST	OLSON R CASEY & MARGARET L
163	2555 N PEARL ST	RC TRUST THE &
164	2555 N PEARL ST	GORES ALEC ELIAS REV LIVING TRUST THE
165	2555 N PEARL ST	ROGERS MARY MCDANIEL
166	2555 N PEARL ST	ROGERS ROBYN M REVOCABLE
167	2555 N PEARL ST	THE FRONT PORCH LLC
168	2555 N PEARL ST	FRONT PORCH LLC THE
169	2555 N PEARL ST	DARVISHSEFAT FARID YU
170	2555 N PEARL ST	DARVISHSEFAT FARID YU
171	2555 N PEARL ST	SHINN LLOYD &
172	2555 N PEARL ST	HEDGEHOG REAL ESTATE LLC
173	2555 N PEARL ST	CHILANGO LLC
174	2555 N PEARL ST	KAPLAN GABRIEL TR
175	2555 N PEARL ST	GRANGER KIMBERLEY
176	2555 N PEARL ST	REESJONES TREVOR
177	2555 N PEARL ST	VAN WOLFSWINKEL RANDALL

FILE NUMBER: BDA167-029(SL)

BUILDING OFFICIAL'S REPORT: Application of Rosemary Papa, represented by Misty Ventura of Shupe Ventura, PLLC, for a variance to the height regulations at 13439 Preston Road. This property is more fully described as a 3.35 acre tract in Lot 3, Block A/7409, and is zoned PD 887 (Subdistrict 1), which limits the maximum story height to 15 feet. The applicant proposes to construct and maintain a structure with a story height of 32 feet, which will require a 17 foot variance to the height regulations.

LOCATION: 13439 Preston Road

APPLICANT: Rosemary Papa
Represented by Misty Ventura of Shupe Ventura, PLLC

REQUEST:

A request for a variance to the height regulations (specifically to story height) of up to 17' is made to construct and maintain a 4-story fitness facility structure where the proposed 2nd, 3rd, and 4th floors have stories at 20', 32', and 22' in height, respectively, and exceed the maximum story height of 15' required in PD 887 Subdistrict 1 by as much as 17' on a site that is currently developed with a combination of surface parking and retail use that the applicant intends to demolish.

STANDARD FOR A VARIANCE:

The Dallas Development Code Section 51A-3.102(d)(10) 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 that the variance should be denied because there was no property hardship to the site that warranted a variance to the height regulations. The applicant had not demonstrated how the features of the flat, rectangular in shape, and 3.35 acre site preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 887 zoning classification while complying with code provisions including height regulations.

BACKGROUND INFORMATION:

Zoning:

- Site: PD 887 (Planned Development)
- North: PD 887 (Planned Development)
- South: PD 887 (Planned Development)
- East: PD 17 (Planned Development)
- West: PD 887 (Planned Development)

Land Use:

The subject site is developed with a combination of surface parking and retail use that the applicant intends to demolish. The areas to the north east, south, and west are developed with nonresidential uses.

Zoning/BDA History:

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1. Z123-186, Property located generally east of the Dallas North Tollway, south of Southern Boulevard, south of Monfort Place, south of the northern boundary of Woodchase Apartments, south of the northern boundary of Preston View Estates, west of Preston Road, and north of Interstate Highway 635 (LBJ Freeway). (Property that includes the subject site). | <p>On June 12, 2013, the City Council created an ordinance changing the zoning on property that had been zoned PD 130, PD 215, PD 250, PD 279, PD 322, PE 423, PD 713, CR, CS, GO(A), RR, LO-2, MO-2, MF-1(A), MF-4(A), MU-1, MU-2, MU-3, and P(A) to PD 887.</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

- | | |
|--------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>2. BDA167-030, Property located at 13131 Preston Road (property west of the subject site)</p> | <p>On March 21, 2017, the Board of Adjustment Panel A will consider a request for a variance to the height regulations (specifically to story height) of up to 25' made to construct and maintain a 2-story theater structure where the proposed 2nd floor is 40' in height and exceeds the maximum story height of 15' required in PD 887 Subdistrict 1B by 25'.</p> |
| <p>3. BDA167-031, Property located at 13131 Preston Road (property west of the subject site)</p> | <p>On March 21, 2017, the Board of Adjustment Panel A will consider a request for a variance to the height regulations (specifically to the minimum number of stories required by PD 887) of 1 story is made to construct and maintain a 2-story theater structure, a structure that is 1-story less than the 3 stories required on properties in PD 887 (Subdistrict 1B).</p> |
| <p>4. BDA167-032, Property located at 13131 Preston Road (property west of the subject site)</p> | <p>On March 21, 2017, the Board of Adjustment Panel A will consider a request for a variance to the height regulations (specifically to story height) of up to 15' is made to construct and maintain a 10-story hotel structure where the proposed 5th floor is 30' in height and exceeds the maximum story height of 15' required in PD 887 Subdistrict 1B by 15'.</p> |

GENERAL FACTS /STAFF ANALYSIS:

- The request for a variance to the height regulations (specifically to story height) of up to 17' focuses on constructing and maintaining a 4-story fitness facility structure where the proposed 2nd, 3rd, and 4th floors have stories at 20', 32', and 22' in height, respectively exceed the maximum story height of 15' required in PD 887 Subdistrict 1 by as much as 17' on a site that is currently developed with a combination of surface parking and retail use that the applicant intends to demolish.
- The subject site is zoned PD 887 (Subdistrict 1). PD 887 provides the following related to "stories":
 1. Minimum number of stories above grade is two. The minimum height provisions of Section 51A-13.302(b)(2), (3), (4), and (5) also apply.
 2. Maximum number of stories above grade is 12.
- Section 51A-13.304(a)(4) provides regulations for MU District Type specifically stating the ground story height is a minimum/maximum of 15'/30' and the upper story height is a minimum/maximum of 10'/15'.

- The applicant has submitted an elevation of the proposed fitness center structure detailing the height of all four floors/stories. The elevation denotes the 1st floor/story to meet the height requirement; the 2nd floor story to be 20' (or 5' over the maximum story height); the 3rd floor/story to be 32' (or 17' over the maximum story height); and the 4th floor/story to be 22' (or 7' over the maximum story height).
- The site is flat, rectangular in shape, and according to the application is 3.35 acres in area.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the height 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 to height regulations 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 PD 887 zoning classification.
 - The variance to height setback regulations would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 887 zoning classification.
- If the Board were to grant the request for a variance to the height regulations, a determination should be made if any conditions should be imposed with this request (i.e. submitted site plan and/or elevation).

Timeline:

January 26, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 15, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

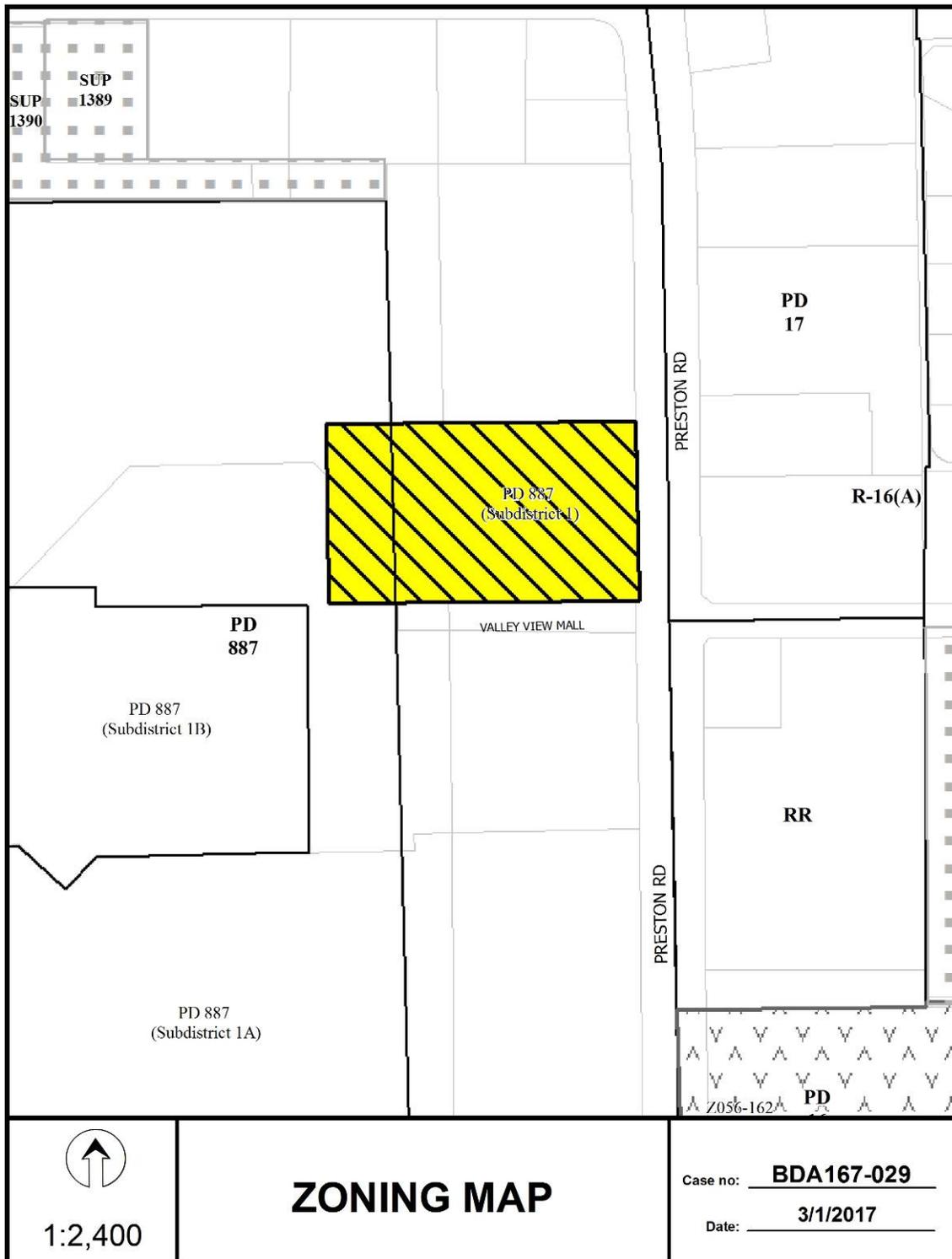
February 15, 2017: The Board Administrator emailed the applicant’s representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the March 1st deadline to submit additional evidence for staff to factor into their analysis; and the March 10th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

March 6, 2017: The applicant's representative submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

March 7, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Sustainable Development and Construction Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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





Site

VALLEY VIEW BLVD

DTLBECK LN

PRESTON RD

PRESTON RD



1:2,400

AERIAL MAP

Case no: BDA167-029

Date: 3/1/2017

Fitness Block – 029 (Height)

- Per Article PD887: Subdistrict 1
 - o Sec.51P-887.109 (a1)District Type: WMU-12

- Per Article 13:
 - o See chart for Regulations for MU District Type

 - o Story Height:
 - Upper Story (min/max ft): 10/15

We are requesting a variance to increase the maximum Upper Story Height from 15' to 32'.

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

SECTION 1. That the zoning classification is changed from Subdistrict 1A within Planned Development District No. 887 to Subdistrict 1B within Planned Development District No. 887 on the property described in Exhibit A, which is attached to and made a part of this ordinance ("the Property").

SECTION 2. That Section 51P-887.104, "Creation of Subdistricts," of Article 887, "PD 887," of Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code is amended by adding a new Paragraph (2.1) to read as follows:

"(2.1) Subdistrict 1B. Subdistrict 1B is intended to be a walkable high-density, mixed-use area within the interior of Subdistrict 1A. At the core of this subdistrict is an enhanced esplanade that features additional pedestrian amenities and open space. Similar to Subdistrict 1A, this subdistrict also allows for a mix of residential and nonresidential uses, including both large-format and small-format retail."

SECTION 3. That Section 51P-887.105, "Definitions," of Article 887, "PD 887," of Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code is amended by adding a new Paragraph (5.1) to read as follows:

"(5.1) PATHWAY means an area at street level that provides a passage for pedestrians."

SECTION 4. That Section 51P-887.109, "Subdistrict Regulations," of Article 887, "PD 887," of Chapter 51P, "Dallas Development Code: Planned Development District Regulations," of the Dallas City Code is amended to read as follows:

"SEC. 51P-887.109. SUBDISTRICT REGULATIONS.

(a) Subdistrict 1.

(1) In general. Except as provided in this article, the district regulations for the WMU-12 Walkable Urban Mixed Use District apply.

	Mixed Use Shopfront	Single-Story Shopfront	General Commercial	Apartment	Townhouse Stacked	Townhouse	Manor House	Single-family House	Civic Building	Open Space Lot
	Mu	Ss	Gc	Apt	Ts	Th	Mh	Sf	Civ	O
LOT										
Area per unit or building (min sf)	none	none	none	none	1,200	1,200	depends on # of units	3,500	3,000	2,000
Area per building (max sf)	none	none	none	none	none	none	20,000	5,000	none	none
Width (min ft)	none	none	none	none	16	16	50	35	30	20
Width (max ft)	none	none	none	none	none	none	100	45	none	none
Lot coverage (max)	100%	80%	80%	80%	80%	80%	60%	60%	60%	5%
FRONT SETBACK AREA										
Primary street (min/max ft)	5/15	5/15	5/15	5/15	5/15	5/15	15/none	15/none	20/none	10/none
Side street (min/max ft)	5/15	5/15	5/15	5/15	5/15	5/15	10/none	10/none	10/none	10/none
Service street (min/max ft)	none	none	none	none	none	none	none	none	none	10/none
REQUIRED STREET FRONTAGE										
Primary street (min/max ft)	90%	90%	70%	70%	70%	70%	none	none	none	none
Side street (min/max ft)	40%	40%	40%	40%	40%	40%	none	none	none	none
Service street (min/max ft)	none	none	none	none	none	none	none	none	none	none
PARKING SETBACK										
From primary street (min ft)	30	30	30	30	30	30	none	none	20	none
From side street (min ft)	5	5	5	5	5	5	none	none	5	none
From service street (min ft)	5	5	5	5	5	5	none	none	5	none
Abutting single-family district (min ft)	10	10	10	10	10	10	none	none	10	none
Abutting multifamily, nonresidential district, alley (min ft)	5	5	5	5	5	5	none	none	5	none
SIDE SETBACK										
Abutting single-family district (min ft)	15	15	15	15	10	10	10	5	10	10
Abutting multifamily, nonresidential district (min ft)	0 or 5	0 or 5	0 or 5	0 or 5	0 or 5	0 or 5	5	5	10	10
Abutting alley (min ft)	5	5	5	5	5	5	5	5	10	10
REAR SETBACK										
Abutting single-family district (min ft)	15	15	15	15	24	24	15	15	10	10
Abutting multifamily, nonresidential district (min ft)	5	5	5	5	24	24	15	15	10	10
Abutting alley (ft)	5	5	5	5	3/20+	3/20+	3/20+	3/20+	10	10
Abutting service street (ft)	10	10	10	10	3/20+	3/20+	none	none	10	10
HEIGHT										
Building height (min stories)	District dependent	1	District dependent	District dependent	2	District dependent	2	1	1	none
Building height (max stories/ft)	District dependent	1 / 30	District dependent	District dependent	3 1/2 / 50	District dependent	2 1/2 / 35	2 1/2 / 35	District dependent	35
STORY HEIGHT										
Ground story (min/max ft)	15/30	15/30	11/22	10/15	10/15	10/15	10/15	10/15	none	none
Upper story (min/max ft)	10/15	none	10/15	10/15	10/15	10/15	10/15	10/15	none	none
GROUND STORY TRANSPARENCY										
Primary street facade (min)	50%	50%	30%	30%	30%	30%	20%	20%	none	none
Side street facade (min)	25%	25%	25%	25%	25%	25%	20%	20%	none	none
Service street facade (min)	none	none	none	none	none	none	none	none	none	none
UPPER STORY TRANSPARENCY										
Primary street facade (min)	20%	none	20%	20%	20%	20%	20%	20%	none	none
Side street facade (min)	20%	none	20%	20%	20%	20%	20%	20%	none	none
Service street facade (min)	none	none	none	none	none	none	none	none	none	none
ENTRANCE										
Primary street entrance	required	required	required	required	required	required	required	required	none	none
Entrance spacing (max linear ft)	100	100	none	none	none	none	none	none	none	none
Side street entrance	allowed	allowed	allowed	allowed	allowed	allowed	allowed	allowed	none	none
Service street entrance	allowed	allowed	allowed	allowed	allowed	allowed	allowed	allowed	none	none
BLANK WALL AREA										
Primary street (max linear ft)	20	20	30	30	30	30	30	30	none	none
Side street (max linear ft)	none	none	none	none	none	none	none	none	none	none
Service street (max linear ft)	none	none	none	none	none	none	none	none	none	none

The subject property is located in a PD 887 and is also subject to Section 51A, Article XIII: Form Districts requirements and the City's Thoroughfare Plan. The combination and interaction of these three complex documents creates unique special conditions that result in an unnecessary hardship to the applicant. Based on the variance criteria below, the applicant is requesting a variance based on the special conditions these three documents create.

Variance Criteria

(A) The variance is not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in the unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done

PD 887 – Purpose and Vision

Purpose. The Valley View - Galleria Area Special Purpose District is envisioned as the primary regional town center of North Dallas, characterized by an economically vibrant and environmentally sustainable mix of moderate to high density residential and non-residential land uses, supported by an enhanced system of streets and open spaces. The goals of this special purpose district are as follows:

- (1) Encourage development that creates a diverse mix of compatible land uses in buildings designed to support a pedestrian, bicycle, and transit friendly environment, reduce the dominance of visible parking, and reduce environmental impacts.
- (2) Create a network of well-maintained, publicly-accessible open spaces with a range of sizes and functions, designed to enhance the quality of life for the growing resident population and workforce in the area.
- (3) Create a network of connected public and private streets and pathways designed to enhance multi-modal accessibility while reducing automobile-dependence within the area through improvements that support pedestrian, bicycle, and transit circulation.

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(b) Vision. The Valley View - Galleria Area Plan is intended to serve as a guide and should be consulted for goals, objectives, policy statements, and recommendations for development of this special purpose district. (Ord. 29032)

The variance request is within the intended vision of the PD887 Ordinance and is not contrary to the public interest. Currently, the site has a substantially vacant mall with two vacant anchor retail buildings and a dilapidated parking lot with substandard lighting. The applicant wants to construct the equivalent of Uptown Dallas in the Midtown District. The variance that we are requesting is not contrary to the public interest and is in fact, supporting the public interest of redeveloping Valley View Mall.

City Council has entered into a TIF reimbursement agreement with the developer that incentivizes this project and includes drawings for the project approved by the Dallas Urban Design Peer Review.

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Attach **A**
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(B) The variance is necessary to permit development of a specific parcel of land that differs from the other parcels of land by being of such restrictive area, shape, or slope that it cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning. The city has implemented a new Thoroughfare Plan overlay for PD887 (see below).



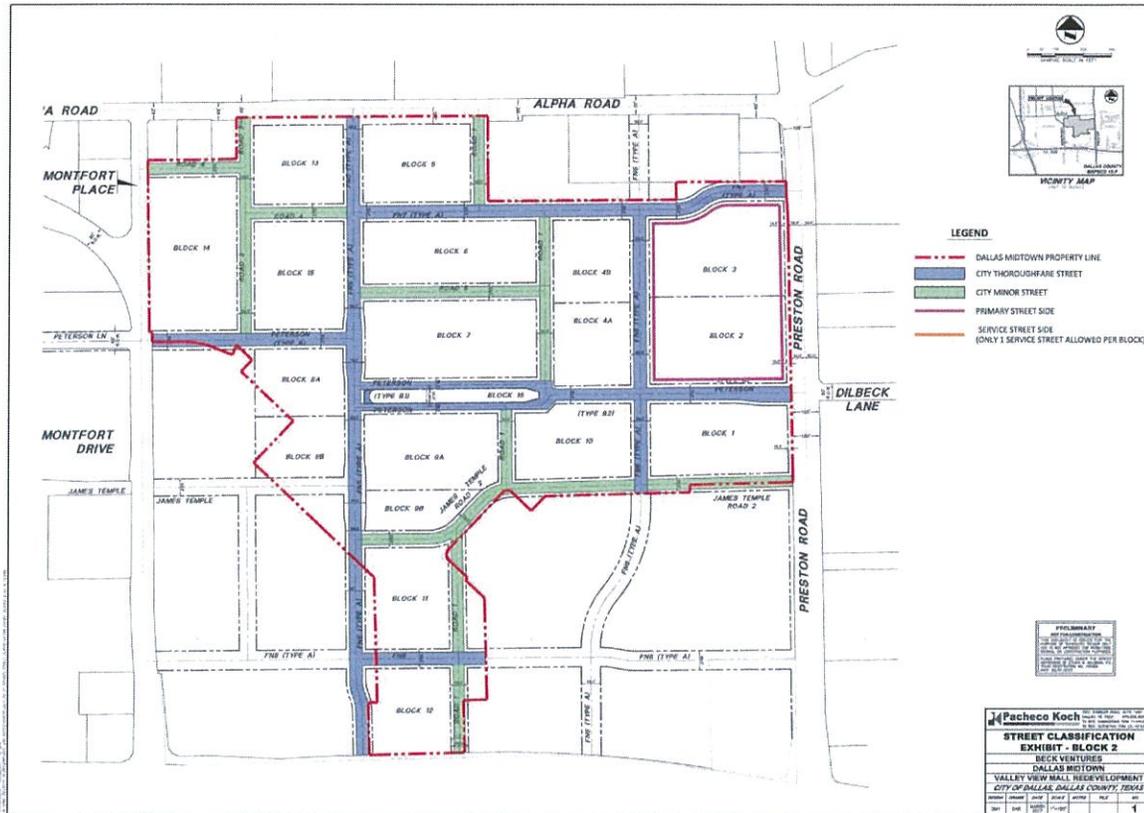
* THESE MINOR STREETS ARE CONCEPTUAL AND INTENDED ONLY TO ILLUSTRATE DESIRED CONNECTIVITY FOR NEW STREETS. ALTERNATIVE ALIGNMENTS MAY BE APPROVED BY THE DIRECTOR OF PUBLIC WORKS IF THEY PROVIDE EQUIVALENT CONNECTIVITY AND COMPLY WITH THE PROVISIONS OF SECTION 51P-887.115 (STREET STANDARDS) AND SECTION 51A-13.502 (NEW MINOR STREETS).

CONCEPTUAL STREET NETWORK

EXHIBIT 887C
STREETS PLAN

C. 1
APRIL 16, 2015

Article 13 Sec. 51A-13.703 Site Plan Review Item c stipulates the Primary Street Designation. Based on these criteria, we have developed a plan showing the Primary Streets designated for this block (see below).



Additional Criteria:

Article 13 Section 51A-13.304 Development Types Item a3D states that Structured Parking must contain active uses on the ground story along any Primary Street for the first 30’ of the building measured inward from the street facing facade.

Having to abide by the above requirements of PD 887 and Article 13, in addition to the City’s Thoroughfare Plan, creates a restrictive area and shape for each block.

PD887 allows for large format retail as long as all parking is provided in a parking structure. Large format retail, hotel or cinemas, which are a critical component of the PD887 purpose and vision, cannot be located on the ground floor because:

- 1) The Thoroughfare Plan, as adopted by the City of Dallas, travels through the applicant's property and requires roads to be built which create blocks with a restrictive area and shape
- 2) Due to the desired density of the projects, each block must contain structured parking.
- 3) Due to the size, shape and area of each of the blocks, the parking garage must be located in the center of the block.
- 4) Ground floor retail must be used to wrap the parking garage to meet the active use requirement for structured parking within the PD.
- 5) These required conditions have forced large format retail, theatres and hotels to be located above the ground floor.
- 6) These uses require an upper story height of greater than 15'.

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

The granting of this Story Height Variance is not to relieve a self-created hardship or for financial reason but specifically in response to a hardship of the area and shape of this block created by the thoroughfare plan, the streets plan that is an exhibit to the PD, and other PD restrictions the combined effect of which is to force larger permitted uses like the proposed use to be located on upper stories when locating in this block. Upper stories are restricted to 15 feet in height, which would prohibit this particular use even though it is a permitted use and consistent with the vision for this district.

The subject site cannot be designed in a manner that meets all PD restrictions and allows for the proposed use on the ground floor level. There are physical limitations that necessitate the granting of the variance for the proposed permitted use to allow it to be located on an upper level.

ARTICLE 887.

PD 887.

Valley View - Galleria Area Special Purpose District

SEC. 51P-887.101. LEGISLATIVE HISTORY.

PD 887 was established by Ordinance No. 29032, passed by the Dallas City Council on June 12, 2013. (Ord. 29032)

SEC. 51P-887.102. PROPERTY LOCATION AND SIZE.

PD 887 is established on property generally bounded by Southern Boulevard on the north, Preston Road on the east, LBJ Freeway on the south, and the Dallas North Tollway on the west. The size of PD 887 is approximately 445 acres. (Ord. 29032)

SEC. 51P-887.103. PURPOSE AND VISION.

(a) Purpose. The Valley View - Galleria Area Special Purpose District is envisioned as the primary regional town center of North Dallas, characterized by an economically vibrant and environmentally sustainable mix of moderate to high density residential and non-residential land uses, supported by an enhanced system of streets and open spaces. The goals of this special purpose district are as follows:

(1) Encourage development that creates a diverse mix of compatible land uses in buildings designed to support a pedestrian, bicycle, and transit friendly environment, reduce the dominance of visible parking, and reduce environmental impacts.

(2) Create a network of well-maintained, publicly-accessible open spaces with a range of sizes and functions, designed to enhance the quality of life for the growing resident population and workforce in the area.

(3) Create a network of connected public and private streets and pathways designed to enhance multi-modal accessibility while reducing automobile-dependence within the area through improvements that support pedestrian, bicycle, and transit circulation.

(b) Vision. The Valley View - Galleria Area Plan is intended to serve as a guide and should be consulted for goals, objectives, policy statements, and recommendations for development of this special purpose district. (Ord. 29032)

SEC. 51P-887.104. CREATION OF SUBDISTRICTS.

(a) This special purpose district is divided into the following subdistricts:

(2) A regulating plan is not a site plan, as required for all development (see Section 51A-13.703, "Site Plan Review").

(d) Modification of a Regulating Plan.

Any change to a regulating plan is a change in zoning district classification and must follow the zoning amendment procedure in Section 51A-4.701.

(e) Compliance with Regulating Plan.

The requirements of the regulating plan are conditions that must be complied with before a certificate of occupancy may be granted.

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Attach A
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SEC. 51A-13.703. SITE PLAN REVIEW.

(a) Site Plan Required.

(1) Except as provided in Paragraph (2), all development must receive site plan approval by the building official in accordance with Section 51A-4.803 before issuance of a building permit. A certificate of occupancy will not be issued unless all aspects of the development fully conform to the approved site plan.

(2) A site plan is not required if the permit is only needed for:

(A) restoration of a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind; or

(B) construction work that does not change the use or increase the existing building height, floor area ratio, or nonpermeable coverage of the lot.

(b) Additional Site Plan Requirements.

The following site plan elements are required in addition to any requirements in Section 51A-4.803.

(A) Designated primary, side, and service streets.

(B) Development types designated on specific lots.

(C) Location and description of pedestrian amenities.

(D) Location and specifications of minor and existing streets.

(E) Location and specifications of open space.

(F) Location of all setback lines.

(G) Building elevations showing compliance with building facade requirements.

(H) Location and specifications of landscaping.

(I) Locations and specifications of site lighting, outdoor storage and display, and signs.

(c) Primary Street Designation.

(1) Applying the standards in this subsection, the building official shall determine whether streets are considered primary or side streets.

(2) If a lot abuts only one street, the street is a primary street. Any street within a -SH overlay is also considered a primary street.

(3) If a lot runs from one street to another and has double frontage, both streets are primary streets.

(4) If a lot is located on a corner, one street is a primary street and one street is a side street, except as provided in Paragraph (5). The primary street is:

- (A) the street abutting the longest face of the block; or
- (B) the street parallel to the alley within the block.

(5) When a lot is located on a corner, both streets are primary streets if:

- (A) a majority of the lots on the shorter block face are platted perpendicularly to the longer face of the block;
- (B) there are two primary streets designated on a regulating plan; or
- (C) the applicant designates both streets as primary streets.

(d) Service Street Designation.

(1) The building official shall determine whether a service street is appropriate based on the criteria contained in this subsection.

(2) The applicant must control the land along an entire block face of a service street, and the service street must be designated from one street intersection to another street intersection.

(3) A site with a service street must have at least two frontages and one frontage must be a primary street.

(4) Only one service street may be designated abutting any block.

(e) Multiple Development Types on a Single Lot or Parcel.

(1) Calculation of Lot Coverage.

(A) Where multiple development types are located on a single building site, the calculation of lot coverage is based on the proportion of total coverage required for each development type in relation to the proposed building footprints.

(B) As an example, a building site with one proposed mixed use shopfront building (allowed 100 percent coverage) with a lot coverage of 10,000 square feet and two proposed general commercial buildings (allowed 80 percent coverage) with a combined lot coverage of 20,000 square feet would have a lot coverage of 86 percent.

$$\frac{10,000 \text{ SF}}{30,000 \text{ SF}} \times 1.00 + \frac{20,000 \text{ SF}}{30,000 \text{ SF}} \times 0.80 = 86\% \text{ Lot Coverage}$$

(C) Where the lot coverage for all proposed development types is the same, no calculation is necessary.

(2) Calculation of Required Frontage.

(A) In order to ensure the pedestrian frontage remains as consistent as possible, if multiple development types are located on a single building site, the building official shall calculate required street frontage on a building-by-building basis.

(B) As an example, a site with a mixed use shopfront building with 180 linear feet of street frontage (required 90 percent street frontage) must be located on an artificial lot with a width no greater than 200 feet. A proposed general commercial building with 200 linear feet of street frontage (required 70 percent street frontage) must be located on an artificial lot with a width no greater than 286 feet in width.

(f) Consistency With Regulating Plan.

The building official shall determine that the site plan is consistent with any adopted regulating plan prior to approval.

(3) Parking Setbacks and Access.

(A) On-site surface parking must be located behind the parking setback line.

(B) The parking setback line applies only to the ground story.

(C) Except when configured as a multi-way boulevard or indented parking, no on-site surface parking is permitted between a building and the street. (See Division 51A-13.500, "Minor Streets and Streetscapes.")

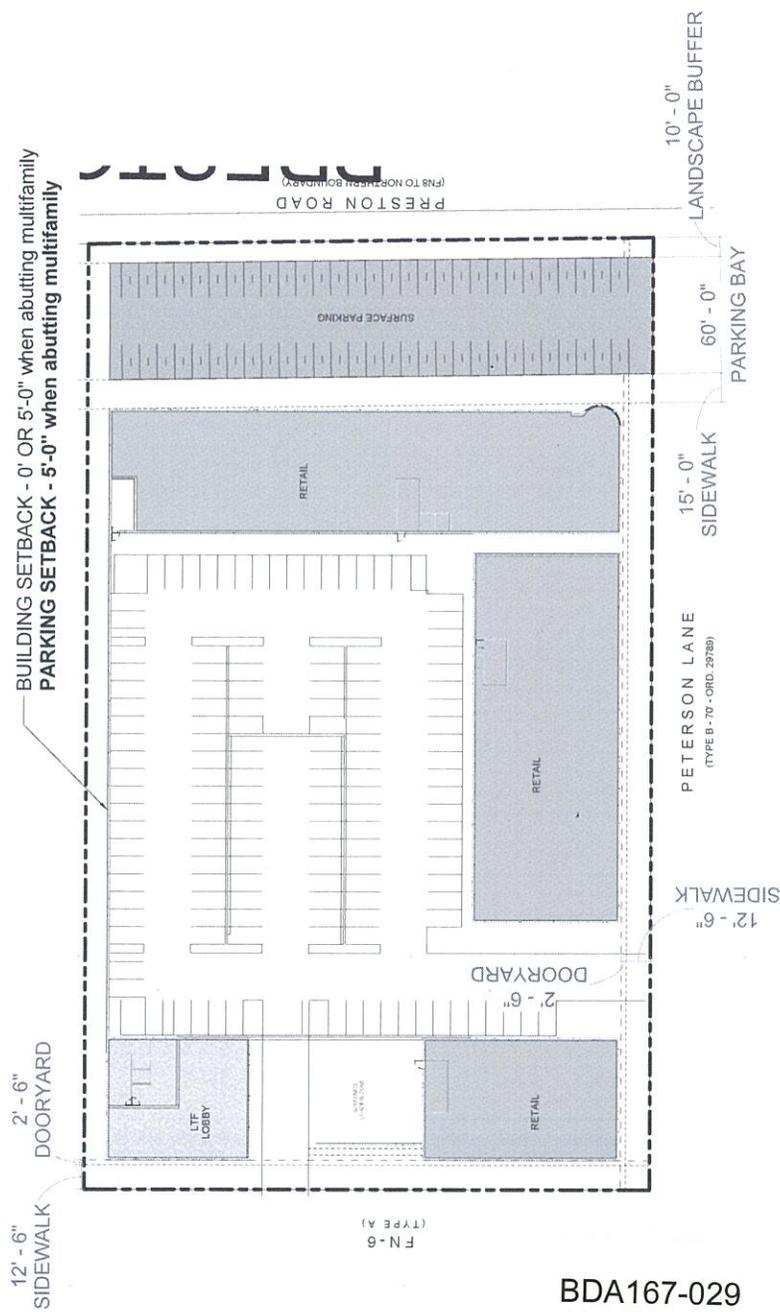
(D) Structured parking must contain active uses on the ground story along any -SH overlay or any primary street for the first 30 feet of the building measured inward from the street-facing facade. There is no active ground-story use requirement for structured parking along a service street.

(E) The requirements of Subparagraphs (A), (B), (C), and (D) above do not apply to on-street or underground parking.

(F) The required street frontage may be interrupted to allow for a maximum 30-foot-wide vehicular entrance to a parking structure or area.

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Attach A
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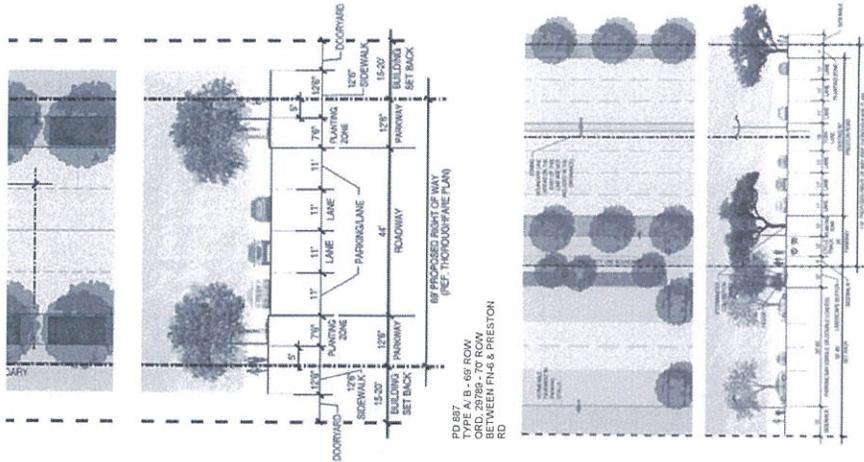
BDA167-029
 Attach A
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SIDE SETBACK

- Abutting single-family district (min ft) 15
- Abutting multifamily or nonresidential district (min ft) 0 or 5
- Abutting alley (min ft) 5

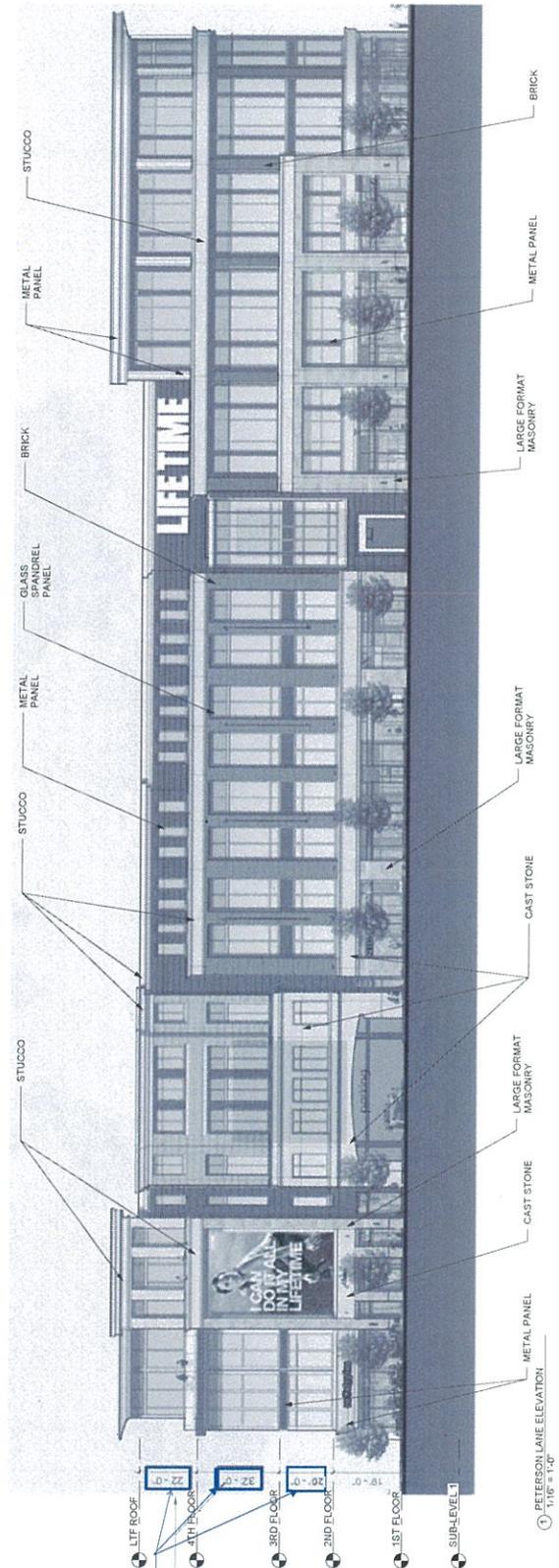
ARTICLE XIII (SEC. 51A-13)



INTERSECT THE VULNERABLE SIDEWALKS WITH THE PLANNING SPECIES

PD 887
 TYPE A - B - 65' ROW
 ORD. 29786 - 70' ROW
 BETWEEN PH-6 & PRESTON
 RD

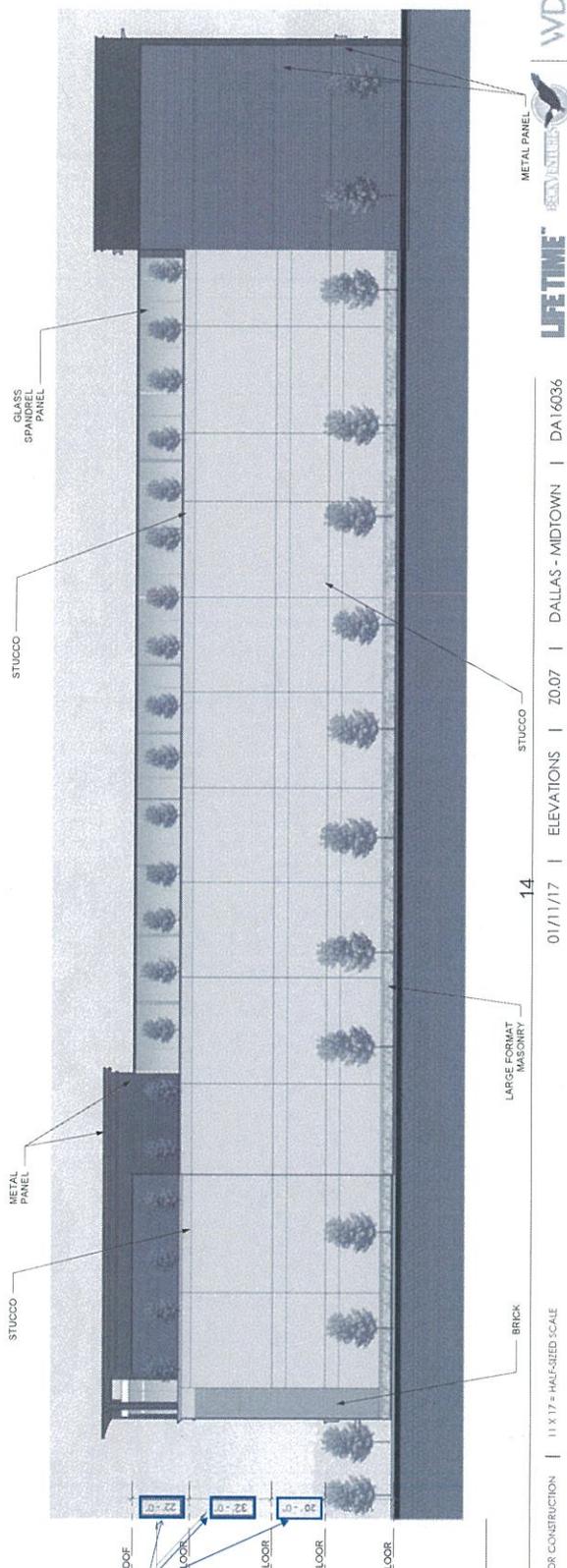
① 1ST FLOOR - LIT SITE PLAN
 1" = 30'-0"



FITNESS/OFFICE FLOOR HEIGHTS ARE GREATER THAN THE REQUIREMENTS OF MU UPPER STORY REQUIREMENTS (10' MIN/15' MAX)

1ST FLOOR MEETS MU GROUND FLOOR STORY HEIGHT REQUIREMENT (15' MIN/ 30' MAX)

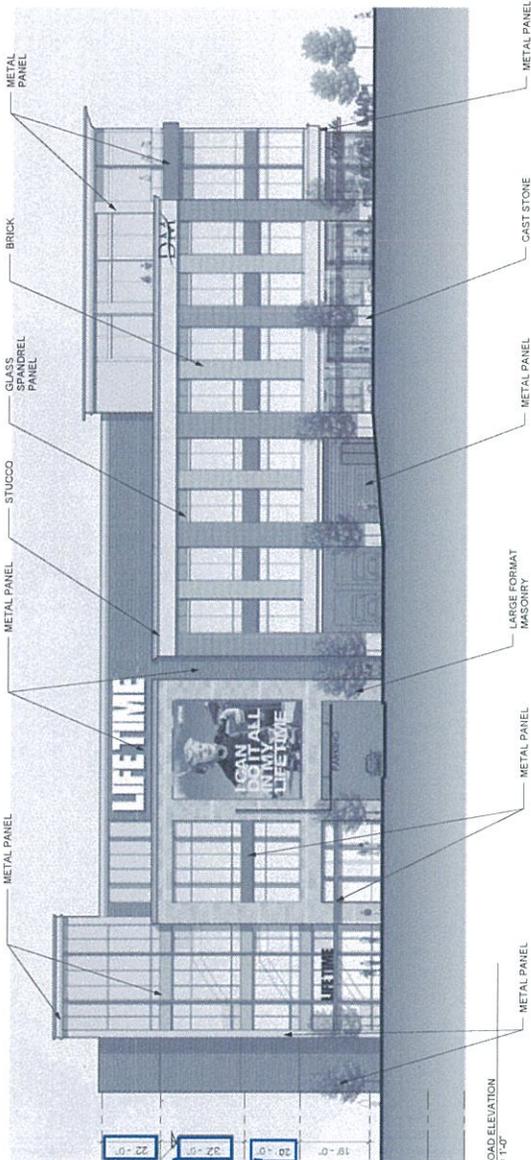
① PETERSON LANE ELEVATION
 1/16" = 1'-0"



FITNESS/OFFICE FLOOR HEIGHTS ARE GREATER THAN THE REQUIREMENTS OF MU UPPER STORY REQUIREMENTS (10' MIN/15' MAX)

1ST FLOOR MEETS MU GROUND FLOOR STORY HEIGHT REQUIREMENT (15' MIN/ 30' MAX)

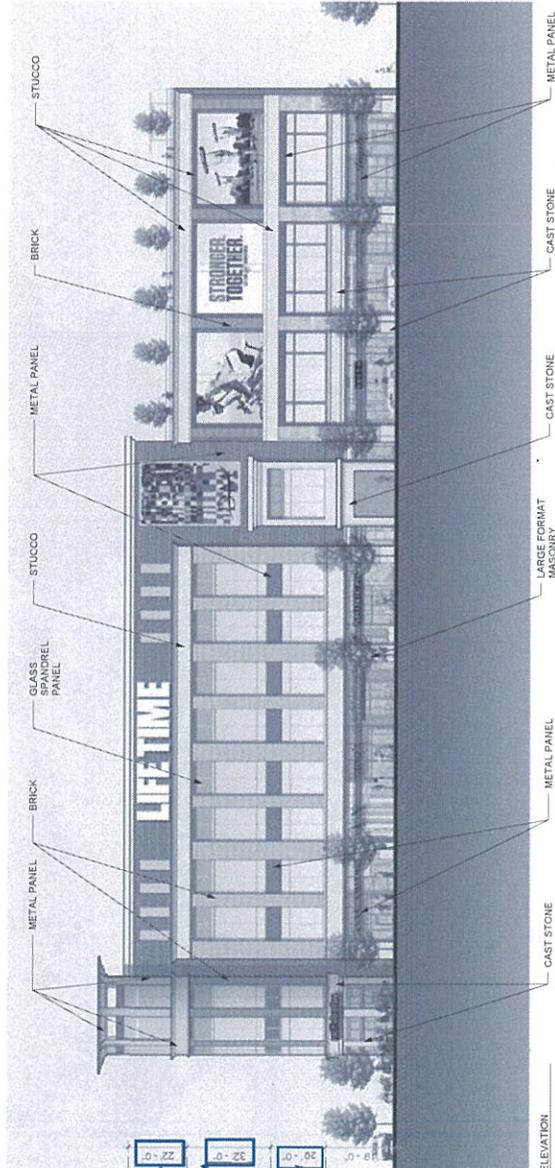
② NORTH ELEVATION
 1/16" = 1'-0"



FITNESS/ OFFICE FLOOR HEIGHTS ARE GREATER THAN THE REQUIREMENTS OF MU UPPER STORY REQUIREMENTS (10' MIN/ 15' MAX)

1ST FLOOR MEETS MU GROUND FLOOR STORY HEIGHT REQUIREMENT (15' MIN/ 30' MAX)

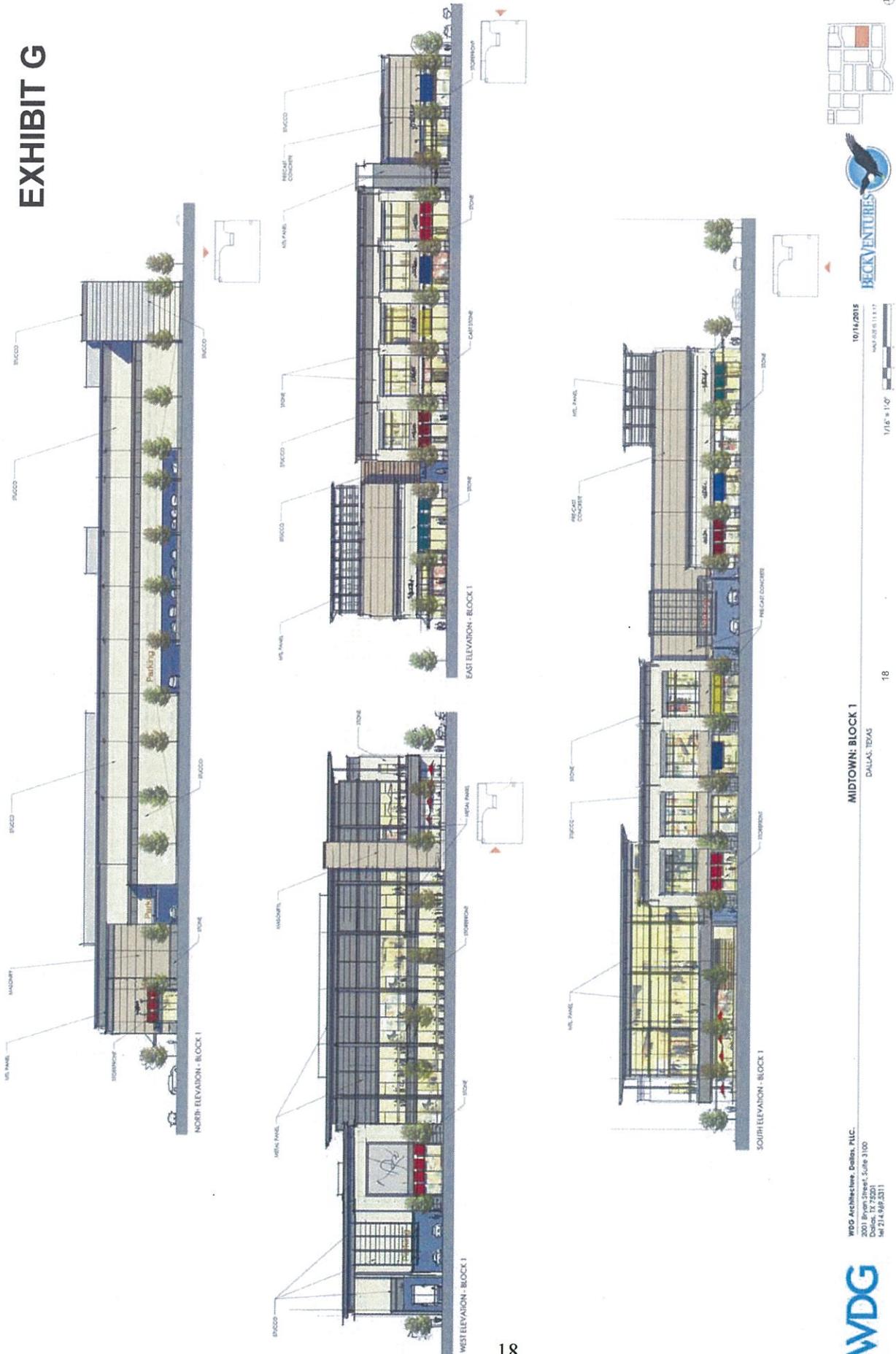
153-22



FITNESS/ OFFICE FLOOR HEIGHTS ARE GREATER THAN THE REQUIREMENTS OF MU UPPER STORY REQUIREMENTS (10' MIN/ 15' MAX)

1ST FLOOR MEETS MU GROUND FLOOR STORY HEIGHT REQUIREMENT (15' MIN/ 30' MAX)

EXHIBIT G





APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-029

Data Relative to Subject Property:

Date: January 26, 2017 PD 887 (Subd. 1)

Location address: 13439 Preston Road Zoning District: WMU-12

Lot No.: 3 Block No.: A/7409 Acreage 3.35 Census Tract: 0136.15

Street Frontage (in Feet): 1) 500.0' 2) 291.0' 3) 503.8' 4) 291.0' 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Algodon Properties, LLC

Applicant: Rosemary Papa Telephone: 469-533-5021

Mailing Address: 13101 Preston Road, Suite 510 Dallas, TX Zip Code: 75240

E-mail Address: rosemary@beckventures.com

Represented by: Myron Dornic Telephone: 214-953-5946

Mailing Address: 2323 Ross Avenue, Suite 600, Dallas, TX Zip Code: 75201

E-mail Address: mdornic@jw.com

Affirm that an appeal has been made for a Variance X, or Special Exception, of 17' to the maximum upper story height for the mixed use shopfront development type of 15'

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: The current maximum upper story height is 15'. This significantly limits the potential uses for the upper stories. The Developer has a tenant to operate a 184,000 SF fitness facility located in 3 upper stories that requires higher story heights due to the nature of the use.

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

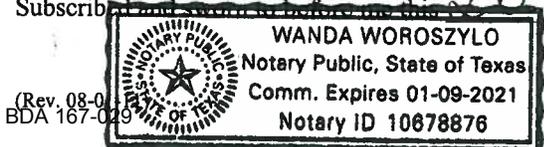
Affidavit

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

Subscribed and sworn to before me this 26 day of JANUARY, 2017



Wanda Woroszylo 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

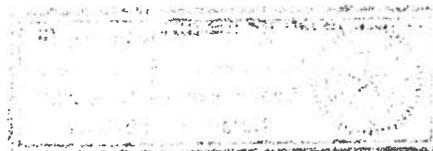
Building Official's Report

I hereby certify that Rosemary Papa
represented by Myron Dornic
did submit a request for a variance to the building height regulations
at 13439 Preston Road

BDA167-029. Application of Rosemary Papa represented by Myron Dornic for a variance to the building height regulations at 13535 Preston Road. This property is more fully described as a 3.35 acre tract in Lot 3, Block A/7409, and is zoned PD-887, which limits the maximum story height to 15 feet. The applicant proposes to construct a nonresidential structure with a story height of 32 feet, which will require a 17 foot variance to the maximum building height regulation.

Sincerely,

Philip Sikes
Philip Sikes, Building Official



City of Dallas

Internal Development Research Site

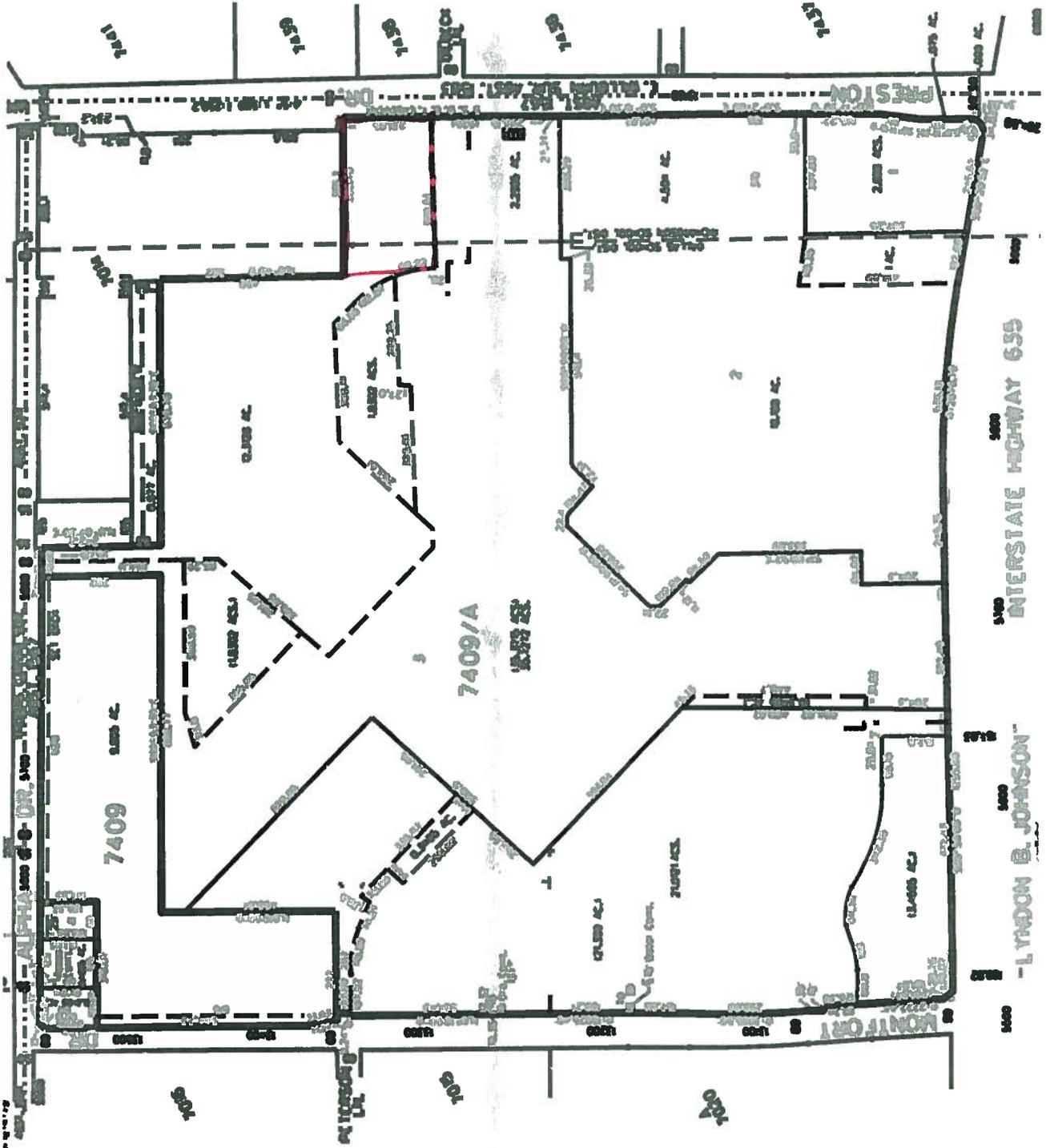
Legend

- Addresses
- Dallas Zoning
- Floodplain
- Building Inspection
- DART
- Real Estate
- Alcohol
- Plats
- Areas of Request
- Thoroughfare Plan
- Capital Improvement Program
- Council and Census
- Roads
- Tax Parcels
- Zoning Grid
- Stormwater
- Water Distribution
- Waste Water Collect



GES

63B



Within the form district zoning the intention is to create active use on the ground floor of buildings. In order to achieve this streetscape character, many smaller format stores and restaurants need to line the inline storefront space at grade. Within the master PD, only a couple subdistricts allow for large format retail within the blocks, this being one of such subdistricts. In order to achieve the intention of the zoning, it is imperative that developers locate the large format retail above the first floor. The typical large format retailer has floor to ceiling heights in excess of 15' and thus we are requesting a variance to allow for this type of large format retail to exist within this subdistrict, in conformance with the intent of the zoning and vision plan.

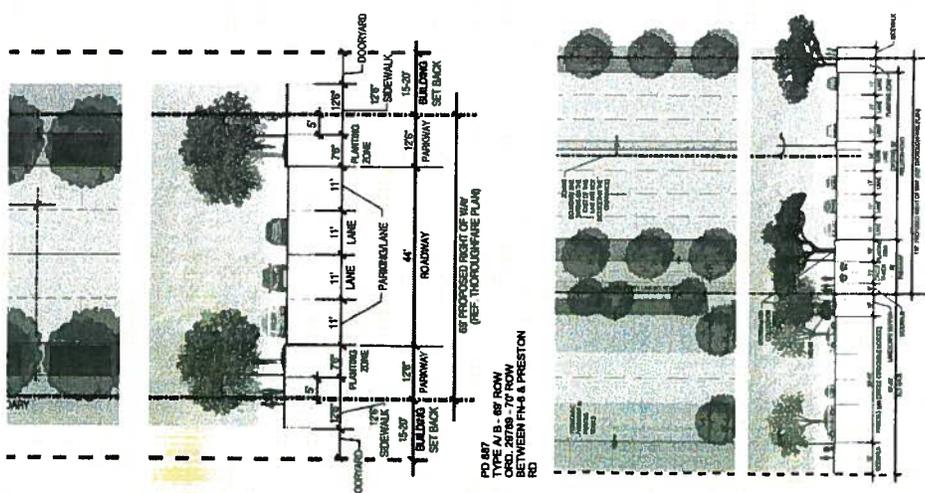
Due to the significant size of this Athletic Club tenant and the requirements to have a minimum of 2 stories in this sub-district, the only option to include this use in the district is to locate it above the ground floor, on at least 3 stories, which would require higher upper story heights. Early on in the design process, the Midtown District TIF Board and the Dallas Urban Design Peer Review reviewed and approved the elevations of this block which exceeds the 15' maximum. Based on these approvals, the Developer proceeded with pursuing uses that exceeded the 15' maximum. In addition the Dallas Office of Economic Development and the City of Dallas City Council have signed a developer agreement with the Developer incentivizing them to build such a facility within the district. In conclusion, and for all these reasons, we believe "a literal enforcement of the zoning ordinance would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done".

We request that the Board extend the permit date to within 270 days of the date of the final action.

SIDE SETBACK

Abutting single-family district, (min ft)	15
Abutting multifamily or nonresidential district (min ft)	0 or 5
Abutting alley (min ft)	5

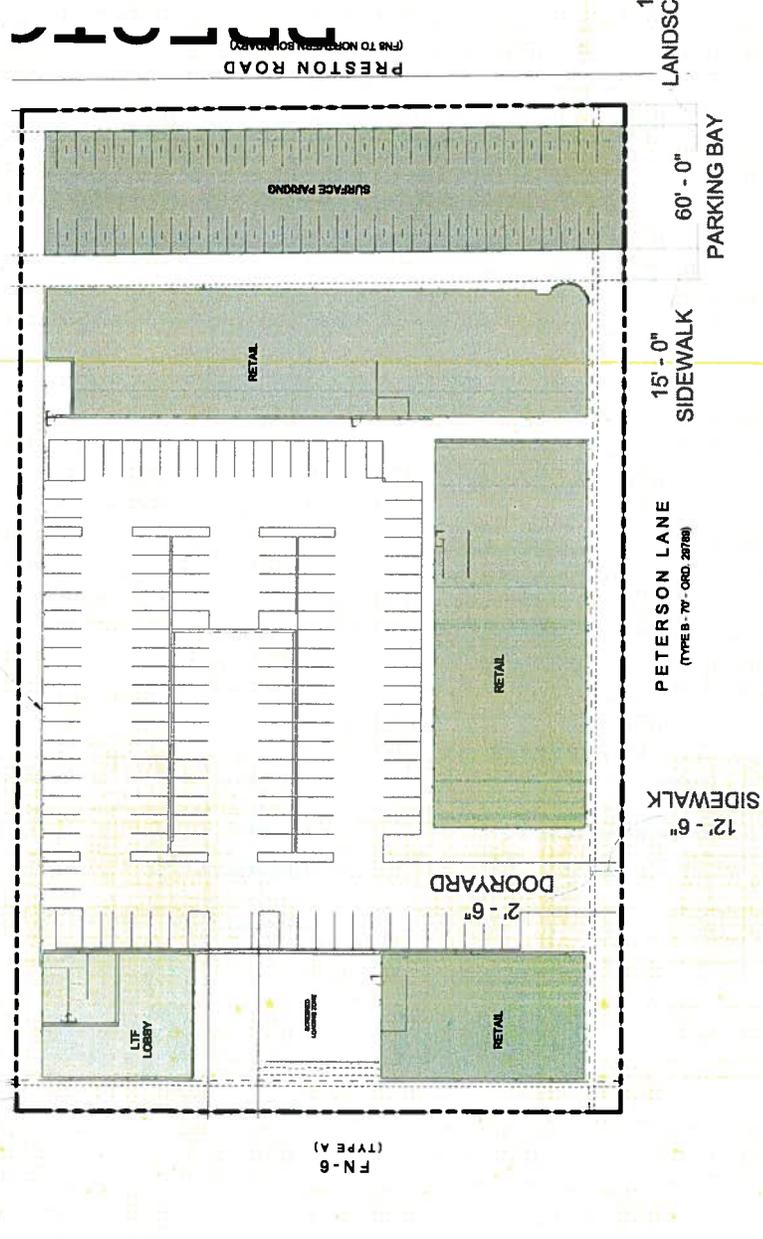
ARTICLE XIII (SEC. 61A-13.



PD 887
TYPE A/B - 68' ROW
ORD. 26768 - 70' ROW
BETWEEN PH-6 & PRESTON
RD

REFER TO THE WALLEY VIEW GALLERY AREA PLAN FOR GRADING AND TREE PLANTING SPACES
PARKING
FROM PH-6 TO NORTHERN
BOUNDARY

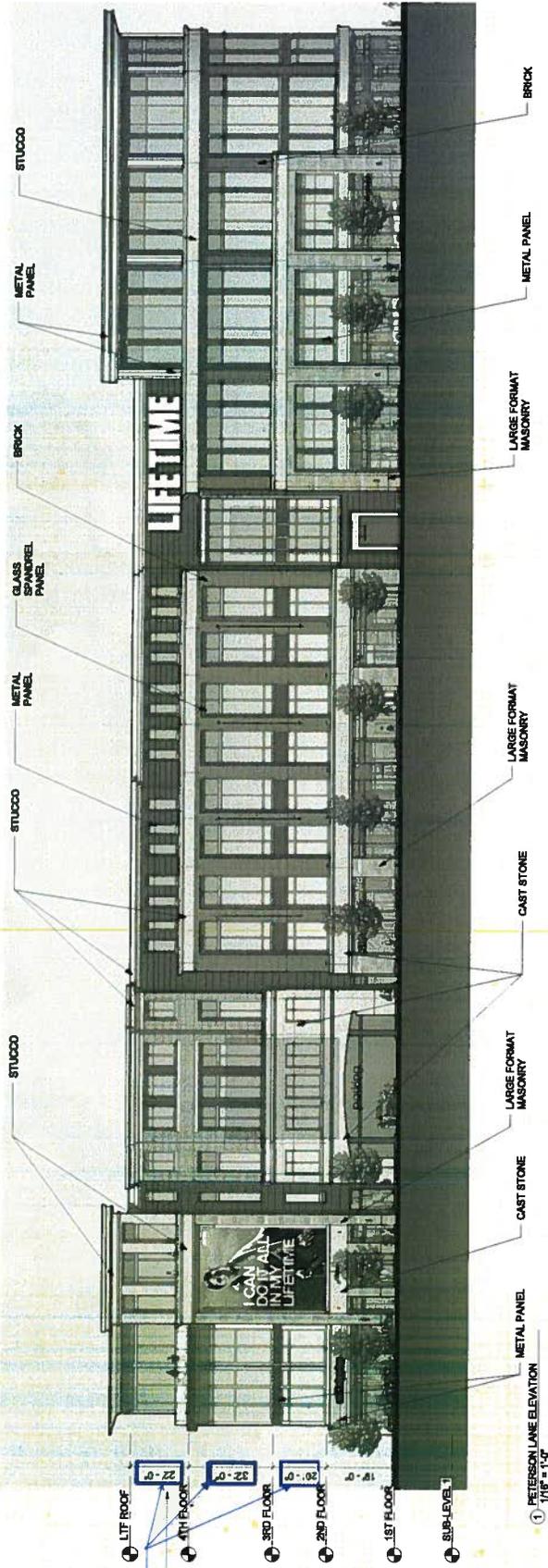
BUILDING SETBACK - 0' OR 5'-0" when abutting multifamily
PARKING SETBACK - 5'-0" when abutting multifamily



① 1ST FLOOR - LITE SITE PLAN
1" = 30'-0"



BDA 167-029

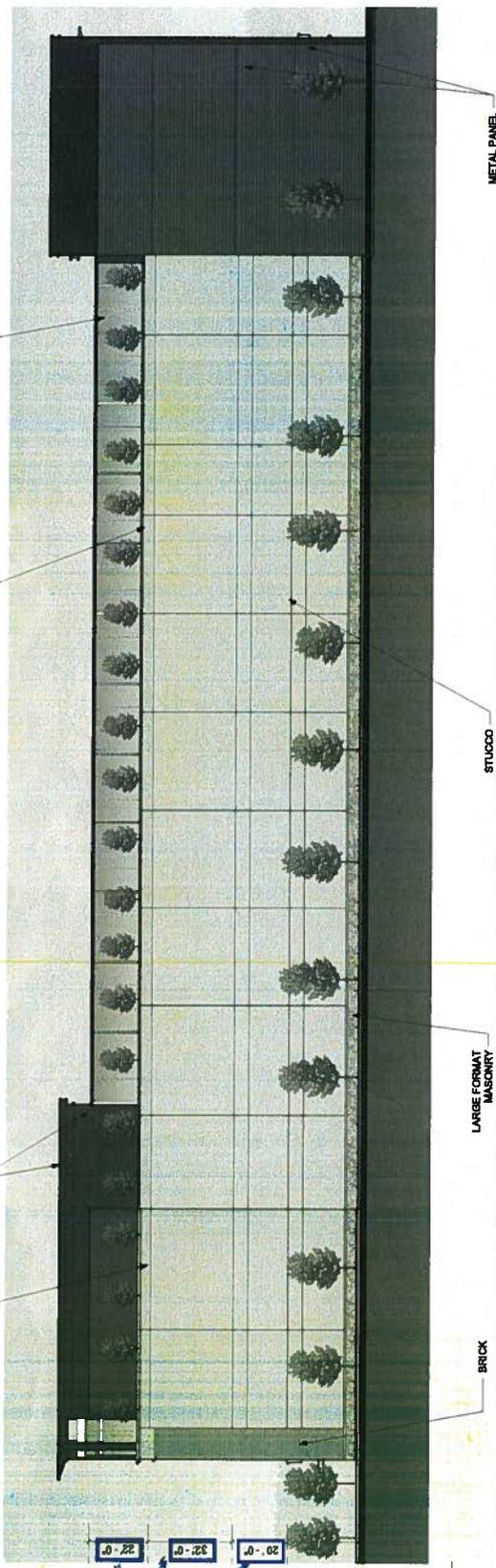


FITNESS/OFFICE FLOOR HEIGHTS ARE GREATER THAN THE REQUIREMENTS OF MU UPPER STORY REQUIREMENTS (10' MIN/15' MAX)

1ST FLOOR MEETS MU GROUND FLOOR STORY HEIGHT REQUIREMENT (15' MIN/ 30' MAX)

3-32

① PETERSON LANE ELEVATION
1/16" = 1'-0"



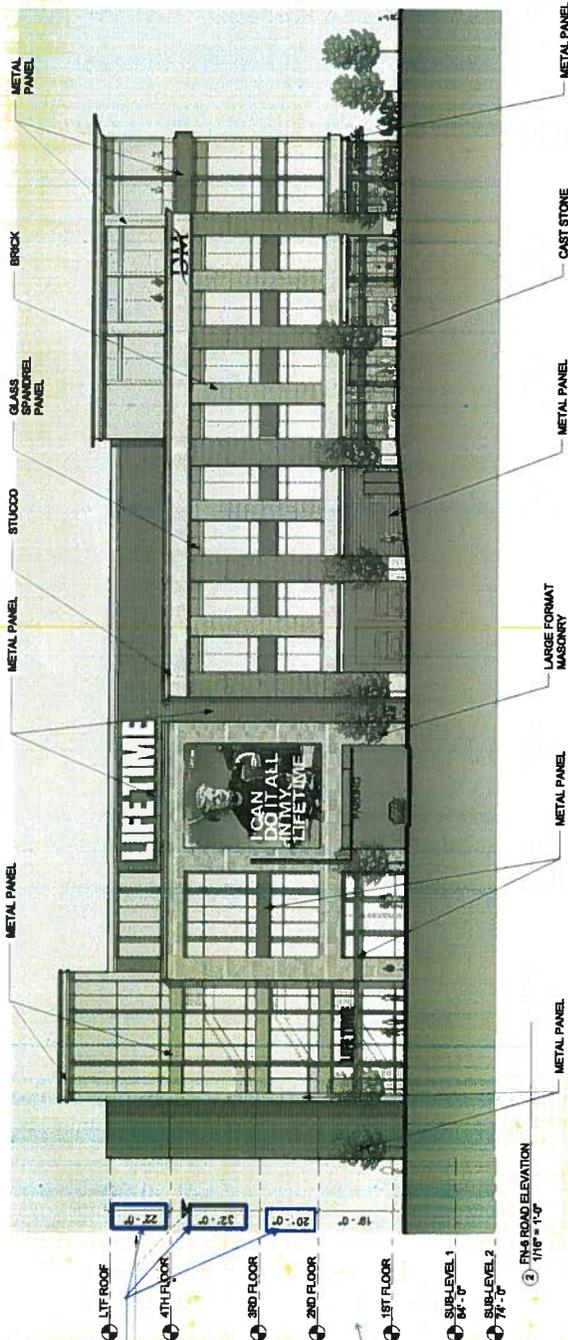
FITNESS/OFFICE FLOOR HEIGHTS ARE GREATER THAN THE REQUIREMENTS OF MU UPPER STORY REQUIREMENTS (10' MIN/15' MAX)

1ST FLOOR MEETS MU GROUND FLOOR STORY HEIGHT REQUIREMENT (15' MIN/ 30' MAX)

② NORTH ELEVATION
1/16" = 1'-0"

BDA

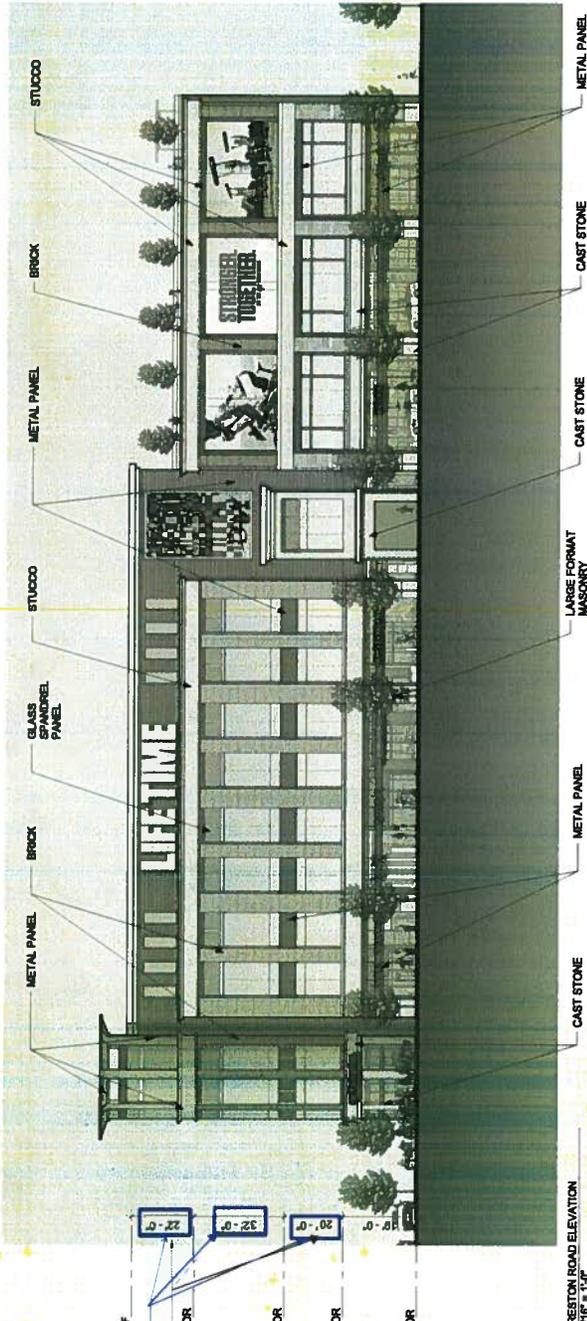
1ST FLOOR MEETS MU HEIGHT REQUIREMENT (15' MIN/ 30' MAX)



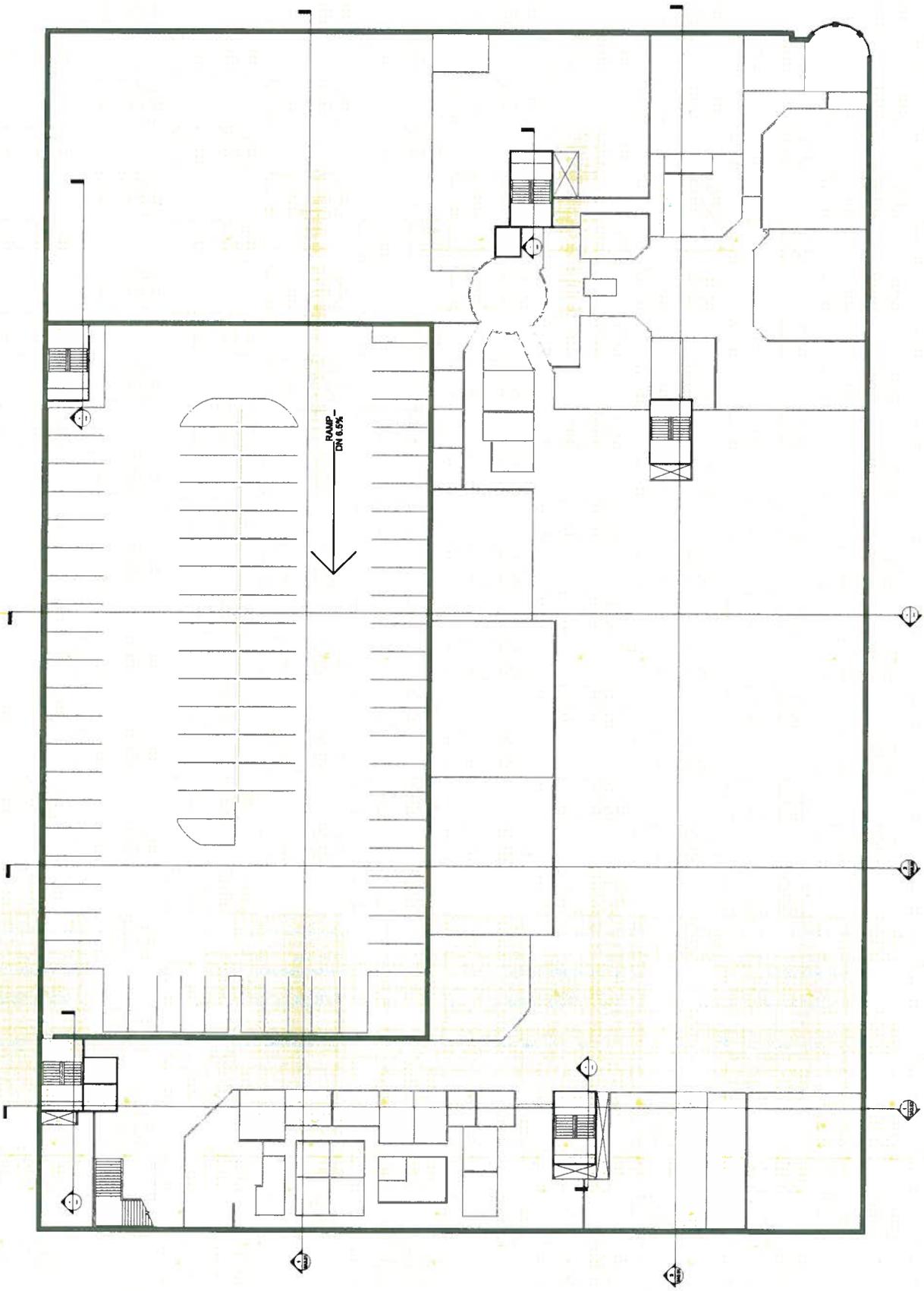
1ST FLOOR MEETS MU HEIGHT REQUIREMENT (15' MIN/ 30' MAX)

3-33

1ST FLOOR MEETS MU HEIGHT REQUIREMENT (15' MIN/ 30' MAX)



1ST FLOOR MEETS MU HEIGHT REQUIREMENT (15' MIN/ 30' MAX)



AREA OF REQUEST
3.353 ACRE TRACT
Part of Lot 3, Block A/7409
Valley View Center
H. Wilburn Survey, Abstract No. 1567
City of Dallas, Dallas County, Texas

DESCRIPTION, of a 3.353 acre tract of land situated in the H. Wilburn Survey, Abstract No. 1567, Dallas County, Texas; said tract being part of Lot 3, Block A/7409, Valley View Center, an addition to the City of Dallas, Texas according to the plat recorded in Volume 72178, Page 1879, as affected by Certificate of Error recorded in Volume 73134, Page 2254, both of the Deed Records of Dallas County, Texas; said tract also being part of that certain tract of land described as "Tract 2" in Special Warranty Deed to 13331 Preston Road, L.P. recorded in Instrument No. 201200326375 of the Official Public Records of Dallas County, Texas; said 3.353 acre tract being more particularly described as follows (Bearing system for this survey is based on the State Plane Coordinate System, North American Datum of 1983 (2011), Texas North Central Zone 4202. Distances shown have been adjusted by applying the Dallas County TxDOT combination factor of 1.000136506):

COMMENCING, at a 3-inch aluminum disk stamped "PACHECO KOCH - DM" set in the west right-of-way line of Preston Road (a variable width right-of-way); said point being the northeast corner of Lot 2, Block A/7409 of said Valley View Center; from said point a 1/2-inch iron rod found bears North 67 degrees, 30 minutes West, a distance of 0.7 feet; (Grid: N: 7,025,142.50, E: 2,488,920.16)

THENCE, in a northerly direction, along the said west line of Preston Road, the following two (2) calls:

North 00 degrees, 53 minutes, 00 seconds West, a distance of 27.81 feet to a 3-inch aluminum disk stamped "PACHECO KOCH - DM" set; from said point a 1/2-inch iron rod found bears North 69 degrees, 24 minutes West, a distance of 0.7 feet;

North 01 degrees, 18 minutes, 30 seconds West, a distance of 328.41 feet to a 3-inch aluminum disk stamped "PACHECO KOCH - DM III" set at the **POINT OF BEGINNING**; (Grid: N: 7,025,498.58, E: 2,488,912.23)

THENCE, South 89 degrees, 26 minutes, 30 seconds West, departing the said west line of Preston Road, a distance of 503.84 feet to a point for corner;

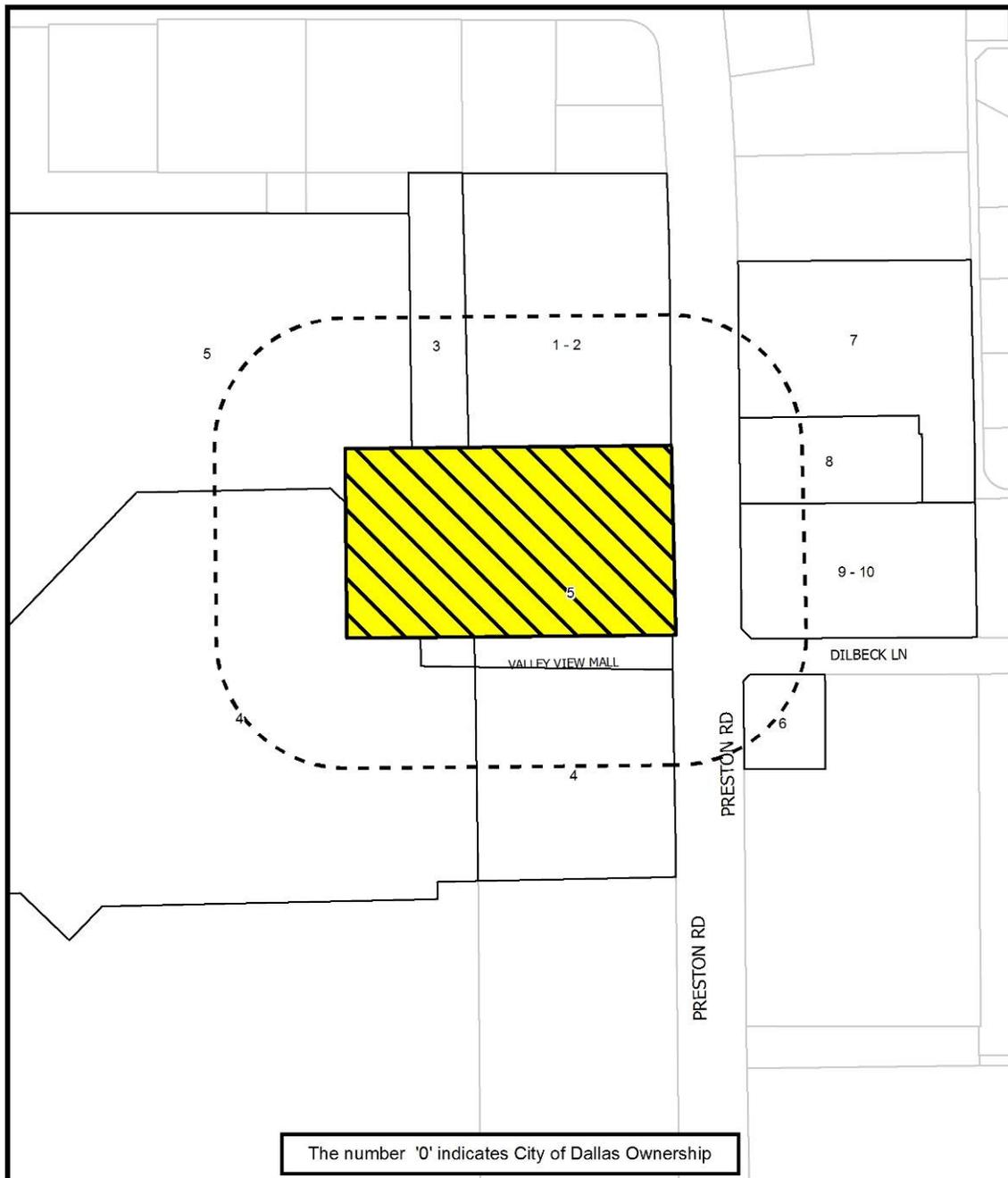
THENCE, North 00 degrees, 33 minutes, 30 seconds West, a distance of 291.00 feet to a point for corner;

THENCE, North 89 degrees, 26 minutes, 30 seconds East, a distance of 500.03 feet to a point for corner in the said west line of Preston Road;

THENCE, South 01 degrees, 18 minutes, 30 seconds East, along the said west line of Preston Road, a distance of 291.02 feet to the **POINT OF BEGINNING**;

CONTAINING: 146,064 square feet or 3.353 acres of land, more or less.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey and is not to be used to convey or establish interest in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.



The number '0' indicates City of Dallas Ownership

 1:2,400	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">10</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	10	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u>BDA167-029</u> Date: <u>3/1/2017</u>
200'	AREA OF NOTIFICATION					
10	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA167-029

10 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	13439 PRESTON RD	ALGODON I LP
2	13439 PRESTON RD	ALGODON PROPERTIES LLC
3	13439 PRESTON RD	ALGODON I LP
4	13131 PRESTON RD	13331 PRESTON RD LP
5	13343 PRESTON RD	13331 PRESTON RD LP
6	13398 PRESTON RD	350 ST NICHOLAS REALTY CORP &
7	13444 PRESTON RD	FONBERG HOLDINGS LTD
8	13420 PRESTON RD	GILLILAND PPTIES II LTD
9	13410 PRESTON RD	ARNOLD SQUARE INVESTMENTS LLC
10	13410 PRESTON RD	CAPITAL ONE N A

FILE NUMBER: BDA167-030(SL)

BUILDING OFFICIAL'S REPORT: Application of Rosemary Papa, represented by Misty Ventura of Shupe Ventura, PLLC, for a variance to the height regulations at 13131 Preston Road. This property is more fully described as a 2.964 acre tract in Lot 3, Block A/7409, and is zoned PD 887 (Subdistrict 1B), which limits the maximum story height to 15 feet. The applicant proposes to construct and maintain a structure with a story height of 40 feet, which will require a 25 foot variance to the height regulations.

LOCATION: 13131 Preston Road

APPLICANT: Rosemary Papa
Represented by Misty Ventura of Shupe Ventura, PLLC

REQUEST:

A request for a variance to the height regulations (specifically to story height) of up to 25' is made to construct and maintain a 2-story theater structure where the proposed 2nd floor is 40' in height and exceeds the maximum story height of 15' required in PD 887 Subdistrict 1B by 25' on a site that is currently developed with a combination of surface parking and retail use that the applicant intends to demolish.

Note that the applicant has filed another request on this property that will be heard by Board of Adjustment Panel A on March 21st: BDA167-031 - a request for a variance to the height regulations (specifically to the minimum number of stories required by PD 887) of 1 story to construct and maintain the 2-story theater structure, a structure that is 1-story less than the 3 stories required on properties in PD 887 (Subdistrict 1B).

On March 6, 2017, the applicant's representative emailed the Board Administrator requesting that that both applications be presented at the same time since they are related, and that if that is not possible, the first case heard should be for the upper story height increase (BDA 167-030), and if that variance is not granted, then the applicant would likely withdraw Case BDA 167-031.

STANDARD FOR A VARIANCE:

The Dallas Development Code Section 51A-3.102(d)(10) 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 that the variance should be denied because there was no property hardship to the site that warranted a variance to the height regulations. The applicant had not demonstrated how the features of the flat, somewhat irregular in shape, approximately 3 acre site preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 887 zoning classification while complying with code provisions including height regulations.

BACKGROUND INFORMATION:

Zoning:

Site: PD 887 (Planned Development)
North: PD 887 (Planned Development)
South: PD 887 (Planned Development)
East: PD 887 (Planned Development)
West: PD 887 (Planned Development)

Land Use:

The subject site is developed with a combination of surface parking and retail use that the applicant intends to demolish.. The areas to the north east, south, and west are developed with nonresidential uses.

Zoning/BDA History:

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1. Z123-186, Property located generally east of the Dallas North Tollway, south of Southern Boulevard, south of Monfort Place, south of the northern boundary of Woodchase Apartments, south of the northern boundary of Preston View Estates, west of Preston Road, and north of Interstate Highway 635 (LBJ Freeway). (Property that includes the subject site).</p> | <p>On June 12, 2013, the City Council created an ordinance changing the zoning on property that had been zoned PD 130, PD 215, PD 250, PD 279, PD 322, PE 423, PD 713, CR, CS, GO(A), RR, LO-2, MO-2, MF-1(A), MF-4(A), MU-1, MU-2, MU-3, and P(A) to PD 887.</p> |
| <p>2. BDA167-029, Property located at 13439 Preston Road (property east of the subject site)</p> | <p>On March 21, 2017, the Board of Adjustment Panel A will consider a request for a variance to the height regulations (specifically to story height) to construct and maintain a 4-story fitness facility structure where the proposed 2nd, 3rd, and 4th floors have stories at 20', 32', and 22' in height, respectively, and exceed the maximum story height of 15' required in PD 887 Subdistrict 1.</p> |
| <p>3. BDA167-031, Property located at 13131 Preston Road (the subject site)</p> | <p>On March 21, 2017, the Board of Adjustment Panel A will consider a request for a variance to the height regulations (specifically to the minimum number of stories required by PD 887) of 1 story is made to construct and maintain a 2-story theater structure, a structure that is 1-story less than the 3 stories required on properties in PD 887 (Subdistrict 1B).</p> |
| <p>4. BDA167-032, Property located at 13131 Preston Road (property east of the subject site)</p> | <p>On March 21, 2017, the Board of Adjustment Panel A will consider a request for a variance to the height regulations (specifically to story height) of up to 15' is made to construct and maintain a 10-story hotel structure where the proposed 5th floor is 30' in height and exceeds the maximum story height of 15' required in PD 887 Subdistrict 1B by 15'.</p> |

GENERAL FACTS /STAFF ANALYSIS:

- The request for a variance to the height regulations of (specifically to story height) of 25' focuses on constructing and maintaining a 2-story theater structure where the proposed 2nd floor is 40' in height and exceeds the maximum story height of 15'

required in PD 887 Subdistrict 1B by 25' on a site that is currently developed with a combination of surface parking and retail use that the applicant intends to demolish.

- The subject site is zoned PD 887 (Subdistrict 1B). PD 887 provides the following related to “stories”:
 1. Except as provided in this paragraph, minimum number of stories above grade is three. Minimum number of stories above grade for general commercial development types is two. Structures constructed in an esplanade within Street Section Type B1 of the Street Plans may not exceed one story. The minimum height provisions of Section 51A-13.302(b)(2), (3), (4), and (5) also apply.
 2. Maximum number of stories above grade is 20.
- Section 51A-13.304(a)(4) provides regulations for MU District Type specifically stating the ground story height is a minimum/maximum of 15'/30' and the upper story height is a minimum/maximum of 10'/15'.
- The applicant has submitted an elevation of the proposed 2-story theater structure detailing the height of its two stories. The elevation denotes the 1st floor/story to meet the height requirement; and the 2nd floor story to be 40' (or 25' over the maximum story height).
- The site is flat, somewhat irregular in shape, and according to the application is 2.964 acres in area.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the height 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 to height regulations 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 PD 887 zoning classification.
 - The variance to height setback regulations would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 887 zoning classification.
- If the Board were to grant the request for a variance to the height regulations, a determination should be made if any conditions should be imposed with this request (i.e. submitted site plan and/or elevation).

Timeline:

January 26, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 15, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

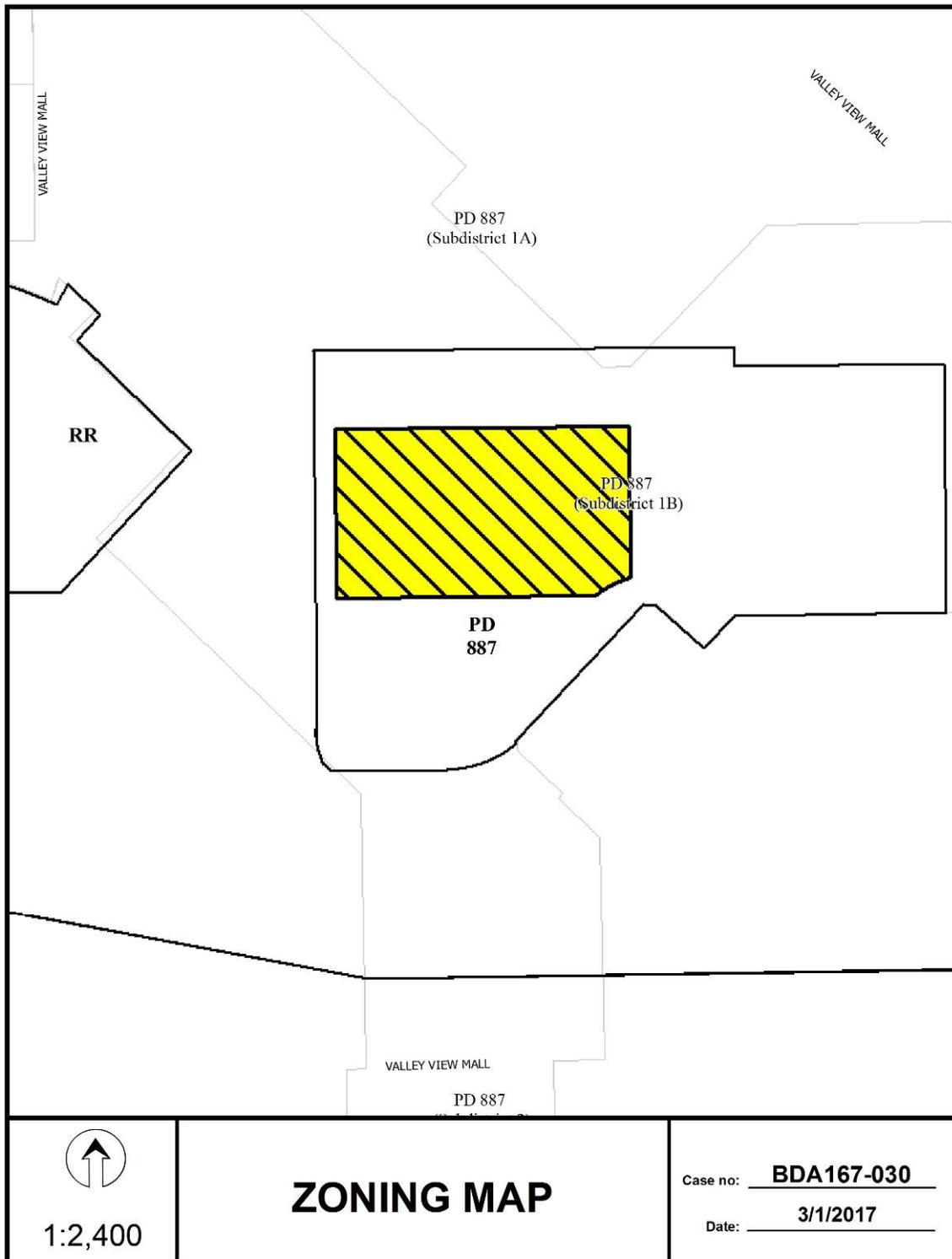
February 15, 2017: The Board Administrator emailed the applicant's representative the following information:

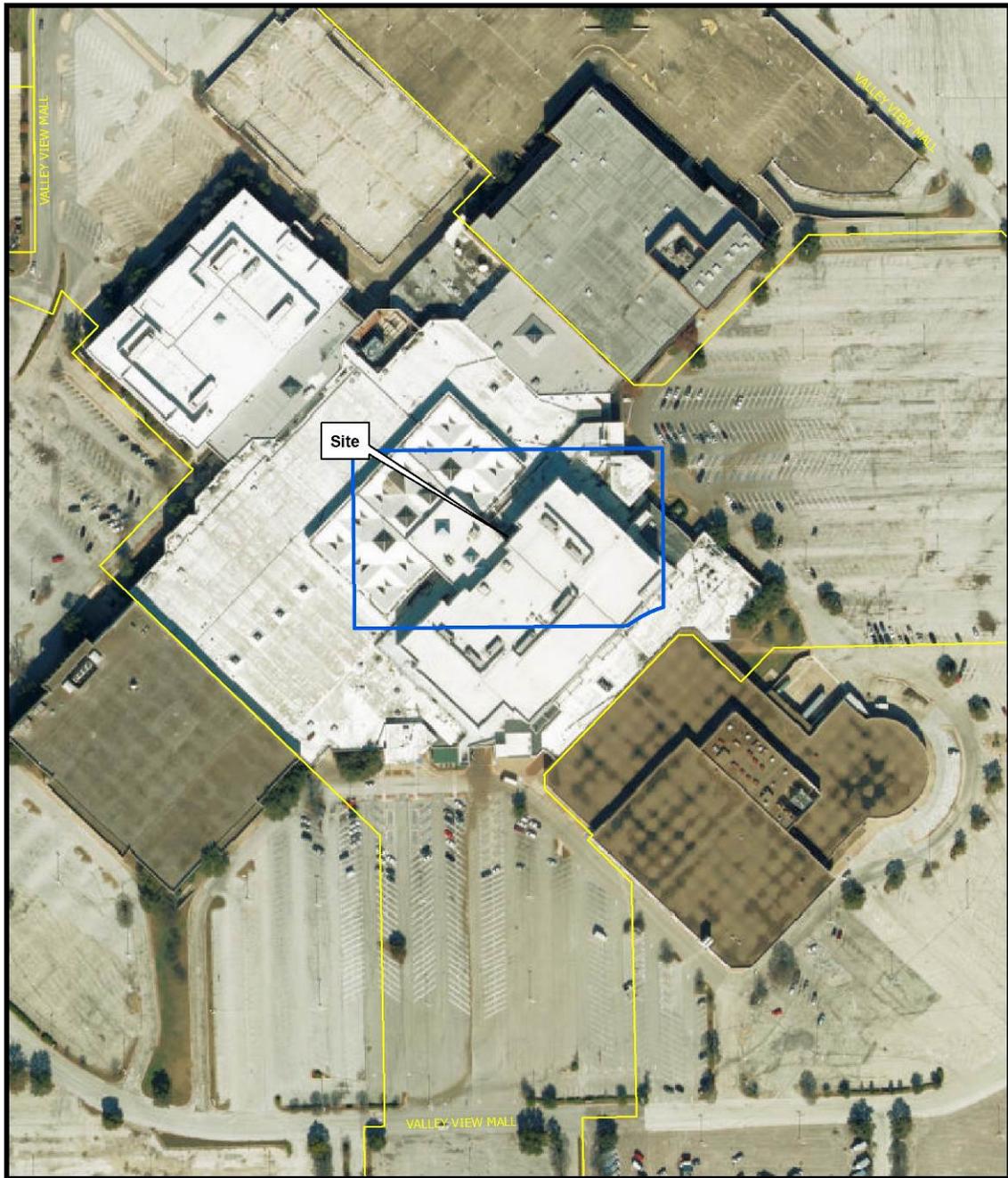
- an attachment that provided the public hearing date and panel that will consider the application; the March 1st deadline to submit additional evidence for staff to factor into their analysis; and the March 10th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

March 6, 2017: The applicant's representative submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

March 7, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Sustainable Development and Construction Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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





1:2,400

AERIAL MAP

Case no: BDA167-030

Date: 3/1/2017

Theater Block – 030 (Height)

- Per Article PD887: Subdistrict 1B
 - o Sec.51P-887.109 (c1) District Type: WMU-20

- Per Article 13:
 - o See chart for Regulations for MU Classification.

 - o Story Height:
 - Upper Story (min/max ft): 10/15

We are requesting a variance to increase the maximum Upper Story Height from 15' to 40'.

(2) Stories.

(A) Minimum number of stories above grade is two. The minimum height provisions of Section 51A-13.302(b)(2), (3), (4), and (5) also apply.

(B) Maximum number of stories above grade is 12.

(3) Urban form setback. An additional 20-foot setback from the minimum setback is required for any portion of a structure above five stories fronting on all streets except Preston Road.

(b) Subdistrict 1A.

(1) In general. Except as provided in this article, the district regulations for the WMU-20 Walkable Urban Mixed Use District apply.

(2) Stories.

(A) Except as provided in this paragraph, minimum number of stories above grade is three. Minimum number of stories above grade for general commercial development types is two. The minimum height provisions of Section 51A-13.302(b)(2), (3), (4), and (5) also apply.

(B) Maximum number of stories above grade is 20.

(3) Urban form setback. An additional 20-foot setback from the minimum setback is required for any portion of a structure above five stories fronting on all streets except Preston Road.

(c) Subdistrict 1B.

(1) In general. Except as provided in this article, the district regulations for the WMU-20 Walkable Urban Mixed Use District apply.

(2) Stories.

(A) Except as provided in this paragraph, minimum number of stories above grade is three. Minimum number of stories above grade for general commercial development types is two. Structures constructed in an esplanade within Street Section Type B1 of the Streets Plan may not exceed one story. The minimum height provisions of Section 51A-13.302(b)(2), (3), (4), and (5) also apply.

(B) Maximum number of stories above grade is 20.

	Mixed Use Shopfront	Single-Story Shopfront	General Commercial	Apartment	Townhouse Stacked	Townhouse	Manor House	Single-family House	Civic Building	Open Space Lot
	Mu	Ss	Gc	Apt	Ts	Th	Mh	Sf	Civ	O
LOT										
Area per unit or building (min sf)	none	none	none	none	1,200	1,200	depends on # of units	3,500	3,000	2,000
Area per building (max sf)	none	none	none	none	none	none	20,000	5,000	none	none
Width (min ft)	none	none	none	none	16	16	50	35	30	20
Width (max ft)	none	none	none	none	none	none	100	45	none	none
Lot coverage (max)	100%	80%	80%	80%	80%	80%	60%	60%	60%	5%
FRONT SETBACK AREA										
Primary street (min/max ft)	5/15	5/15	5/15	5/15	5/15	5/15	15/none	15/none	20/none	10/none
Side street (min/max ft)	5/15	5/15	5/15	5/15	5/15	5/15	10/none	10/none	10/none	10/none
Service street (min/max ft)	none	none	none	none	none	none	none	none	none	10/none
REQUIRED STREET FRONTAGE										
Primary street (min/max ft)	90%	90%	70%	70%	70%	70%	none	none	none	none
Side street (min/max ft)	40%	40%	40%	40%	40%	40%	none	none	none	none
Service street (min/max ft)	none	none	none	none	none	none	none	none	none	none
PARKING SETBACK										
From primary street (min ft)	30	30	30	30	30	30	none	none	20	none
From side street (min ft)	5	5	5	5	5	5	none	none	5	none
From service street (min ft)	5	5	5	5	5	5	none	none	5	none
Abutting single-family district (min ft)	10	10	10	10	10	10	none	none	10	none
Abutting multifamily, nonresidential district, alley (min ft)	5	5	5	5	5	5	none	none	5	none
SIDE SETBACK										
Abutting single-family district (min ft)	15	15	15	15	10	10	10	5	10	10
Abutting multifamily, nonresidential district (min ft)	0 or 5	0 or 5	0 or 5	0 or 5	0 or 5	0 or 5	5	5	10	10
Abutting alley (min ft)	5	5	5	5	5	5	5	5	10	10
REAR SETBACK										
Abutting single-family district (min ft)	15	15	15	15	24	24	15	15	10	10
Abutting multifamily, nonresidential district (min ft)	5	5	5	5	24	24	15	15	10	10
Abutting alley (ft)	5	5	5	5	3/20+	3/20+	3/20+	3/20+	10	10
Abutting service street (ft)	10	10	10	10	3/20+	3/20+	none	none	10	10
HEIGHT										
Building height (min stories)	District dependent	1	District dependent	District dependent	2	District dependent	2	1	1	none
Building height (max stories/ft)	District dependent	1 / 30	District dependent	District dependent	3 1/2 / 50	District dependent	2 1/2 / 35	2 1/2 / 35	District dependent	35
STORY HEIGHT										
Ground story (min/max ft)	15/30	15/30	11/22	10/15	10/15	10/15	10/15	10/15	10/15	none
Upper story (min/max ft)	10/15	none	10/15	10/15	10/15	10/15	10/15	10/15	10/15	none
GROUND STORY TRANSPARENCY										
Primary street facade (min)	50%	50%	30%	30%	30%	30%	20%	20%	none	none
Side street facade (min)	25%	25%	25%	25%	25%	25%	20%	20%	none	none
Service street facade (min)	none	none	none	none	none	none	none	none	none	none
UPPER STORY TRANSPARENCY										
Primary street facade (min)	20%	none	20%	20%	20%	20%	20%	20%	none	none
Side street facade (min)	20%	none	20%	20%	20%	20%	20%	20%	none	none
Service street facade (min)	none	none	none	none	none	none	none	none	none	none
ENTRANCE										
Primary street entrance	required	required	required	required	required	required	required	required	none	none
Entrance spacing (max linear ft)	100	100	none	none	none	none	none	none	none	none
Side street entrance	allowed	allowed	allowed	allowed	allowed	allowed	allowed	allowed	none	none
Service street entrance	allowed	allowed	allowed	allowed	allowed	allowed	allowed	allowed	none	none
BLANK WALL AREA										
Primary street (max linear ft)	20	20	30	30	30	30	30	30	none	none
Side street (max linear ft)	none	none	none	none	none	none	none	none	none	none
Service street (max linear ft)	none	none	none	none	none	none	none	none	none	none

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 Attach A
 Pg 3

The subject property is located in a PD 887 and is also subject to Section 51A, Article XIII: Form Districts requirements and the City's Thoroughfare Plan. The combination and interaction of these three complex documents creates unique special conditions that result in an unnecessary hardship to the applicant. Based on the variance criteria below, the applicant is requesting variances based on the special conditions these three documents create.

Variance Criteria

(A) The variance is not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in the unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done

PD 887 – Purpose and Vision

(a) Purpose. The Valley View - Galleria Area Special Purpose District is envisioned as the primary regional town center of North Dallas, characterized by an economically vibrant and environmentally sustainable mix of moderate to high density residential and non-residential land uses, supported by an enhanced system of streets and open spaces. The goals of this special purpose district are as follows:

- (1) Encourage development that creates a diverse mix of compatible land uses in buildings designed to support a pedestrian, bicycle, and transit friendly environment, reduce the dominance of visible parking, and reduce environmental impacts.
- (2) Create a network of well-maintained, publicly-accessible open spaces with a range of sizes and functions, designed to enhance the quality of life for the growing resident population and workforce in the area.
- (3) Create a network of connected public and private streets and pathways designed to enhance multi-modal accessibility while reducing automobile-dependence within the area through improvements that support pedestrian, bicycle, and transit circulation.

(b) Vision. The Valley View - Galleria Area Plan is intended to serve as a guide and should be consulted for goals, objectives, policy statements, and recommendations for development of this special purpose district. (Ord. 29032)

The variance request is within the intended vision of the PD887 Ordinance and is not contrary to the public interest. Currently, the site has a substantially vacant mall with two vacant anchor retail buildings and a dilapidated parking lot with substandard lighting. The applicant wants to construct the equivalent of Uptown Dallas in the Midtown District. The variance that we are requesting is not contrary to the public interest and is in fact, supporting the public interest of redeveloping Valley View Mall.

City Council has entered into a TIF reimbursement agreement with the developer that incentivizes this project and includes drawings for the project approved by the Dallas Urban Design Peer Review.

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(B) The variance is necessary to permit development of a specific parcel of land that differs from the other parcels of land by being of such restrictive area, shape, or slope that it cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning

The city has implemented a new Thoroughfare Plan overlay for PD887 (see below).



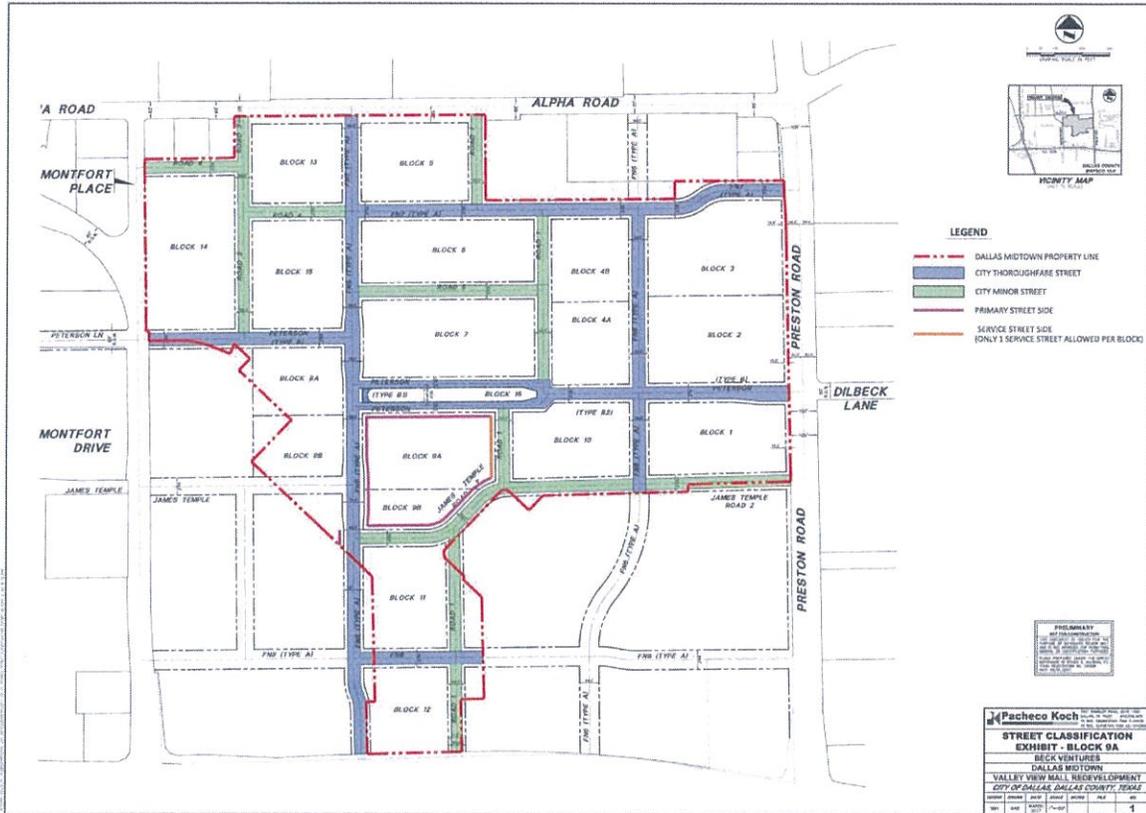
* THESE MINOR STREETS ARE CONCEPTUAL AND INTENDED ONLY TO ILLUSTRATE DESIRED CONNECTIVITY FOR NEW STREETS. ALTERNATIVE ALIGNMENTS MAY BE APPROVED BY THE DIRECTOR OF PUBLIC WORKS IF THEY PROVIDE EQUIVALENT CONNECTIVITY AND COMPLY WITH THE PROVISIONS OF SECTION 51P-887.115 (STREET STANDARDS) AND SECTION 51A-13.502 (NEW MINOR STREETS).

CONCEPTUAL STREET NETWORK

EXHIBIT 887C
STREETS PLAN

C.1
APRIL 16, 2015

Article 13 Sec. 51A-13.703 Site Plan Review Item c stipulates the Primary Street Designation. Based on these criteria, we have developed a plan showing the Primary Streets designated for this block (see below).



Additional Criteria:

Article 13 Section 51A-13.304 Development Types Item a3D states that Structured Parking must contain active uses on the ground story along any Primary Street for the first 30' of the building measured inward from the street facing facade.

Having to abide by the above requirements of PD 887 and Article 13, in addition to the City's Thoroughfare Plan, creates a restrictive area and shape for each block.

PD887 allows for large format retail as long as all parking is provided in a parking structure. Large format retail, hotel or cinemas, which are a critical component of the PD887 purpose and vision, cannot be located on the ground floor because:

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 Attach A
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- 1) The Thoroughfare Plan, as adopted by the City of Dallas, travels through the applicant's property and requires roads to be built which create blocks with a restrictive area and shape
- 2) Due to the desired density of the projects, each block must contain structured parking.
- 3) Due to the size, shape and area of each of the blocks, the parking garage must be located in the center of the block.
- 4) Ground floor retail must be used to wrap the parking garage to meet the active use requirement for structured parking within the PD.
- 5) These required conditions have forced large format retail, theatres and hotels to be located above the ground floor.
- 6) These uses require an upper story height of greater than 15'.

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

The granting of this Story Height and Minimum Number of Stories Variances are not to relieve a self-created hardship or for financial reason but specifically in response to a hardship of the area and shape of this block created by the thoroughfare plan, the streets plan that is an exhibit to the PD, and other PD restrictions the combined effect of which is to force larger permitted uses like the proposed use to be located on upper stories when locating in this block. Upper stories are restricted to 15 feet in height, which would prohibit this particular use even though it is a permitted use and consistent with the vision for this district. With a second story height of 40', the 2 story portion of the building is consistent with the massing of a 3-4 story building and provides the same pedestrian experience.

The subject site cannot be designed in a manner that meets all PD restrictions and allows for the proposed use on the ground floor level. There are physical limitations that necessitate the granting of the variance for the proposed permitted use to allow it to be located on an upper level.

ARTICLE 887.

PD 887.

Valley View - Galleria Area Special Purpose District

SEC. 51P-887.101. LEGISLATIVE HISTORY.

PD 887 was established by Ordinance No. 29032, passed by the Dallas City Council on June 12, 2013. (Ord. 29032)

SEC. 51P-887.102. PROPERTY LOCATION AND SIZE.

PD 887 is established on property generally bounded by Southern Boulevard on the north, Preston Road on the east, LBJ Freeway on the south, and the Dallas North Tollway on the west. The size of PD 887 is approximately 445 acres. (Ord. 29032)

SEC. 51P-887.103. PURPOSE AND VISION.

(a) Purpose. The Valley View - Galleria Area Special Purpose District is envisioned as the primary regional town center of North Dallas, characterized by an economically vibrant and environmentally sustainable mix of moderate to high density residential and non-residential land uses, supported by an enhanced system of streets and open spaces. The goals of this special purpose district are as follows:

(1) Encourage development that creates a diverse mix of compatible land uses in buildings designed to support a pedestrian, bicycle, and transit friendly environment, reduce the dominance of visible parking, and reduce environmental impacts.

(2) Create a network of well-maintained, publicly-accessible open spaces with a range of sizes and functions, designed to enhance the quality of life for the growing resident population and workforce in the area.

(3) Create a network of connected public and private streets and pathways designed to enhance multi-modal accessibility while reducing automobile-dependence within the area through improvements that support pedestrian, bicycle, and transit circulation.

(b) Vision. The Valley View - Galleria Area Plan is intended to serve as a guide and should be consulted for goals, objectives, policy statements, and recommendations for development of this special purpose district. (Ord. 29032)

SEC. 51P-887.104. CREATION OF SUBDISTRICTS.

(a) This special purpose district is divided into the following subdistricts:

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(2) A regulating plan is not a site plan, as required for all development (see Section 51A-13.703, "Site Plan Review").

(d) Modification of a Regulating Plan.

Any change to a regulating plan is a change in zoning district classification and must follow the zoning amendment procedure in Section 51A-4.701.

The Valley View Galleria Area Plan is the Regulating Plan for PD 887

(e) Compliance with Regulating Plan.

The requirements of the regulating plan are conditions that must be complied with before a certificate of occupancy may be granted.

SEC. 51A-13.703. SITE PLAN REVIEW.

(a) Site Plan Required.

(1) Except as provided in Paragraph (2), all development must receive site plan approval by the building official in accordance with Section 51A-4.803 before issuance of a building permit. A certificate of occupancy will not be issued unless all aspects of the development fully conform to the approved site plan.

(2) A site plan is not required if the permit is only needed for:

- (A) restoration of a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind; or
- (B) construction work that does not change the use or increase the existing building height, floor area ratio, or nonpermeable coverage of the lot.

(b) Additional Site Plan Requirements.

The following site plan elements are required in addition to any requirements in Section 51A-4.803.

- (A) Designated primary, side, and service streets.
- (B) Development types designated on specific lots.
- (C) Location and description of pedestrian amenities.
- (D) Location and specifications of minor and existing streets.
- (E) Location and specifications of open space.
- (F) Location of all setback lines.
- (G) Building elevations showing compliance with building facade requirements.
- (H) Location and specifications of landscaping.
- (I) Locations and specifications of site lighting, outdoor storage and display, and signs.

(c) Primary Street Designation.

(1) Applying the standards in this subsection, the building official shall determine whether streets are considered primary or side streets.

(2) If a lot abuts only one street, the street is a primary street. Any street within a -SH overlay is also considered a primary street.

(3) If a lot runs from one street to another and has double frontage, both streets are primary streets.

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(4) If a lot is located on a corner, one street is a primary street and one street is a side street, except as provided in Paragraph (5). The primary street is:

- (A) the street abutting the longest face of the block; or
- (B) the street parallel to the alley within the block.

(5) When a lot is located on a corner, both streets are primary streets if:

- (A) a majority of the lots on the shorter block face are platted perpendicularly to the longer face of the block;
- (B) there are two primary streets designated on a regulating plan; or
- (C) the applicant designates both streets as primary streets.

(d) Service Street Designation.

(1) The building official shall determine whether a service street is appropriate based on the criteria contained in this subsection.

(2) The applicant must control the land along an entire block face of a service street, and the service street must be designated from one street intersection to another street intersection.

(3) A site with a service street must have at least two frontages and one frontage must be a primary street.

(4) Only one service street may be designated abutting any block.

(e) Multiple Development Types on a Single Lot or Parcel.

(1) Calculation of Lot Coverage.

(A) Where multiple development types are located on a single building site, the calculation of lot coverage is based on the proportion of total coverage required for each development type in relation to the proposed building footprints.

(B) As an example, a building site with one proposed mixed use shopfront building (allowed 100 percent coverage) with a lot coverage of 10,000 square feet and two proposed general commercial buildings (allowed 80 percent coverage) with a combined lot coverage of 20,000 square feet would have a lot coverage of 86 percent.

$$\frac{10,000 \text{ SF} \times 1.00}{30,000 \text{ SF}} + \frac{20,000 \text{ SF} \times 0.80}{30,000 \text{ SF}} = 86\% \text{ Lot Coverage}$$

(C) Where the lot coverage for all proposed development types is the same, no calculation is necessary.

(2) Calculation of Required Frontage.

(A) In order to ensure the pedestrian frontage remains as consistent as possible, if multiple development types are located on a single building site, the building official shall calculate required street frontage on a building-by-building basis.

(B) As an example, a site with a mixed use shopfront building with 180 linear feet of street frontage (required 90 percent street frontage) must be located on an artificial lot with a width no greater than 200 feet. A proposed general commercial building with 200 linear feet of street frontage (required 70 percent street frontage) must be located on an artificial lot with a width no greater than 286 feet in width.

(f) Consistency With Regulating Plan.

The building official shall determine that the site plan is consistent with any adopted regulating plan prior to approval.

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 Attach A
 Pg 11

(3) Parking Setbacks and Access.

(A) On-site surface parking must be located behind the parking setback line.

(B) The parking setback line applies only to the ground story.

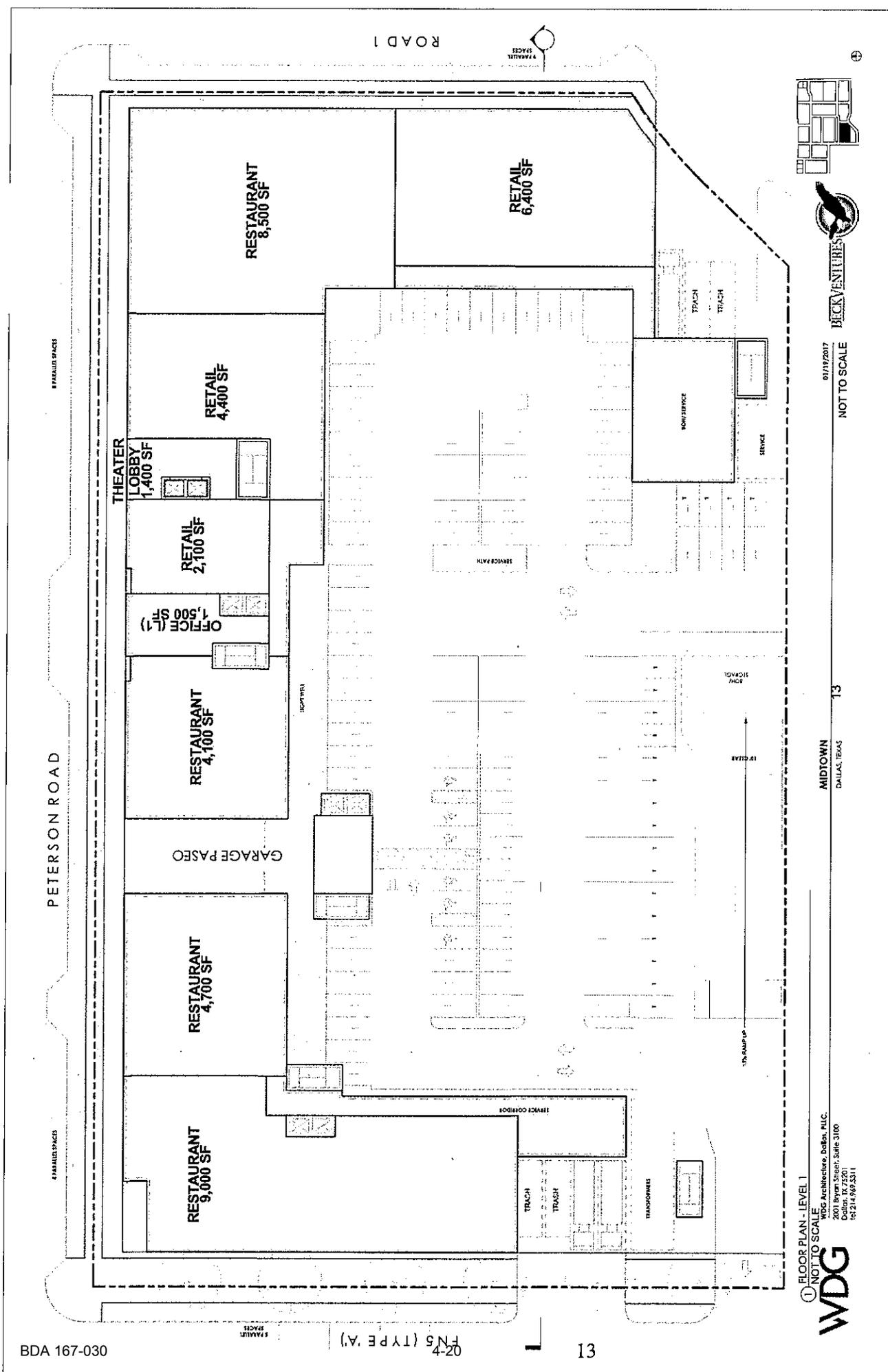
(C) Except when configured as a multi-way boulevard or indented parking, no on-site surface parking is permitted between a building and the street. (See Division 51A-13.500, "Minor Streets and Streetscapes.")

(D) Structured parking must contain active uses on the ground story along any -SH overlay or any primary street for the first 30 feet of the building measured inward from the street-facing facade. There is no active ground-story use requirement for structured parking along a service street.

(E) The requirements of Subparagraphs (A), (B), (C), and (D) above do not apply to on-street or underground parking.

(F) The required street frontage may be interrupted to allow for a maximum 30-foot-wide vehicular entrance to a parking structure or area.

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Attach A
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BDA 167-030

027
 FNS (TYPE A)

13

1 FLOOR PLAN - LEVEL 1

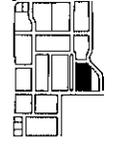
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 2001 Bryan Street, Suite 3100
 Dallas, TX 75201
 15214-99-3311



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13

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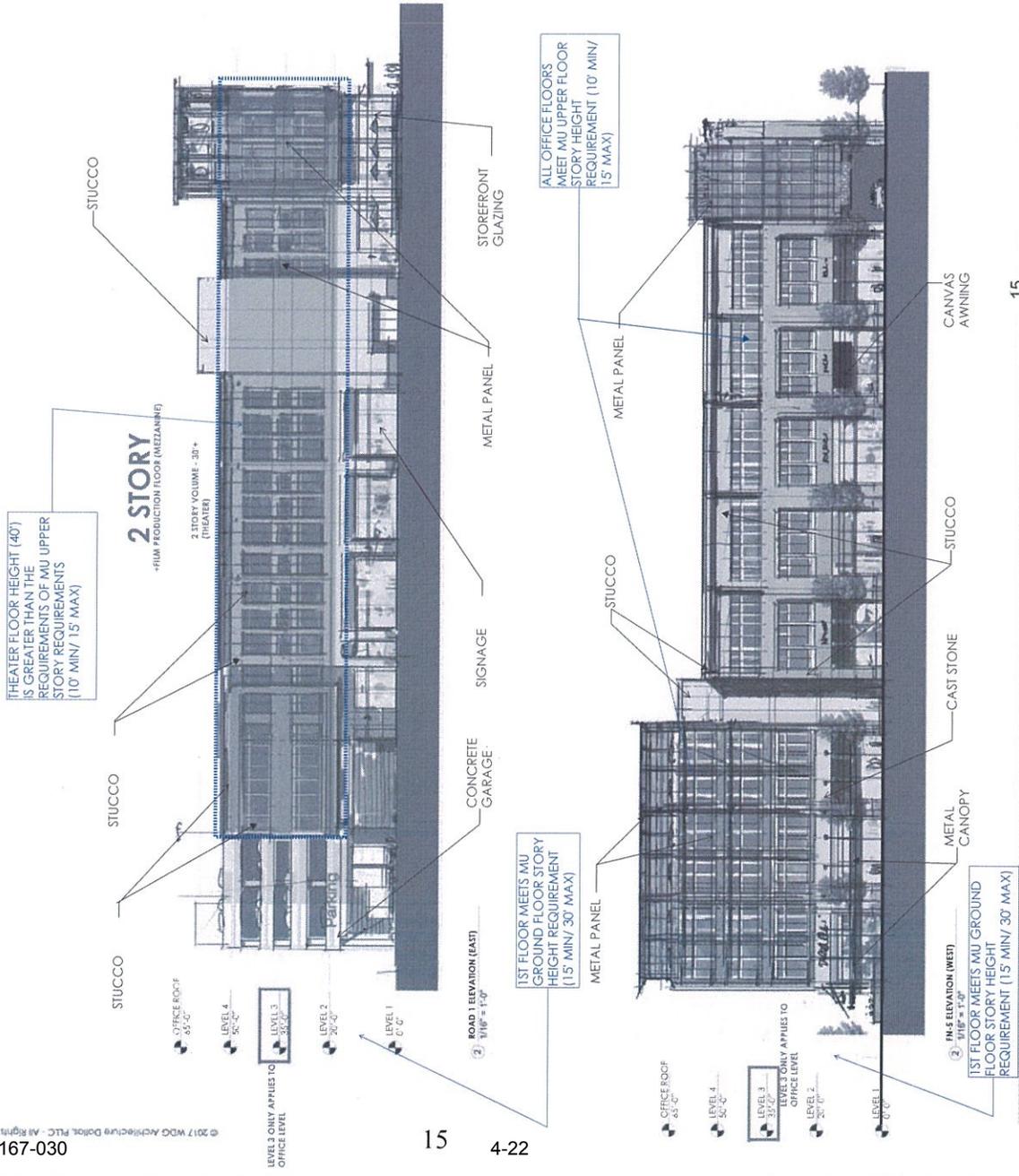
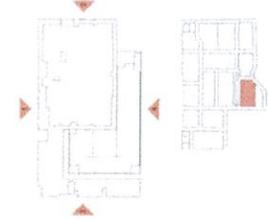
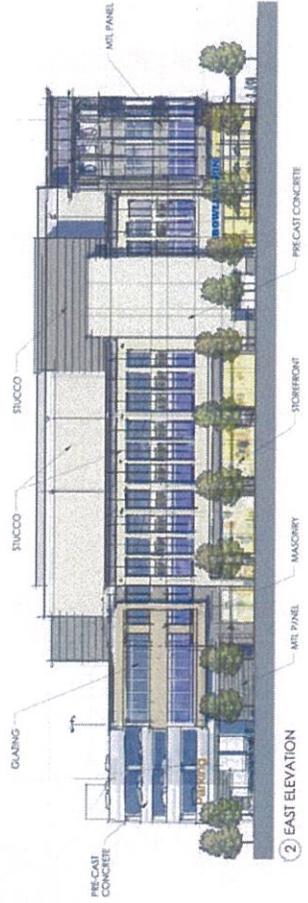


EXHIBIT G

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1 Scale : 1" = 20'-0"

2001 Bryan Street :: Suite 3100 :: Dallas TX 75201 :: Tel: 214.969.5311

BLOCK 4 ELEVATIONS

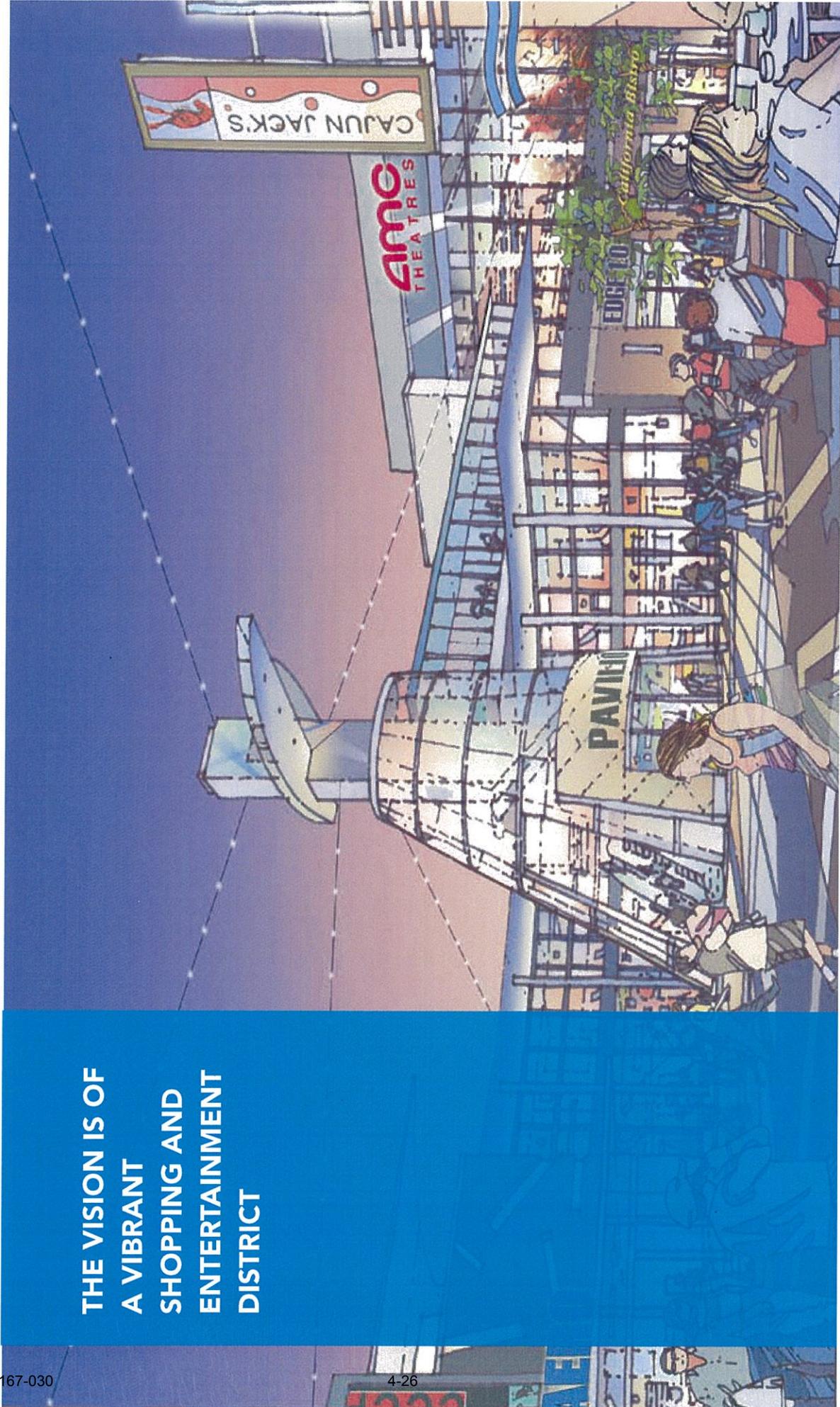
MIDTOWN DALLAS, TEXAS
DA1407 10/30/2015



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Attach A
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The Valley View - Galleria Area Plan is the regulating plan for this PD, and its contents are incorporated by reference into the PD. This excerpt from the plan demonstrates that a theater with a taller story height was contemplated from the inception of this project.

THE VISION OVERVIEW



**THE VISION IS OF
A VIBRANT
SHOPPING AND
ENTERTAINMENT
DISTRICT**



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-030

Data Relative to Subject Property:

Date: January 26, 2017

Location address: 13131 Preston Road, Dallas TX Zoning District: PD887 (Sbd. 1B) WMTU-20

Lot No.: 3 Block No.: A/7409 Acreage: 2.964 Census Tract: 0136.15

Street Frontage (in Feet): 1) 475.5' 2) 244.8' 3) 63.1' 4) 419.3' 5) 273.5'

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): 13331 Preston Road, L.P.

Applicant: Rosemary Papa Telephone: 469-533-5021

Mailing Address: 13101 Preston Road, Suite 510 Dallas, TX Zip Code: 75240

E-mail Address: rosemary@beckventures.com

Represented by: Myron Dornic Telephone: 214-953-5946

Mailing Address: 2323 Ross Avenue, Suite 600, Dallas, TX Zip Code: 75201

E-mail Address: mdornic@jw.com

Affirm that an appeal has been made for a Variance X, or Special Exception, of 25' to the maximum upper story height for the mixed use shopfront development type of 15'.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: The current maximum upper story height is 15'. This significantly limits the potential uses for the upper stories. The Developer has a tenant to operate a 39,000 SF luxury theater facility located in the second story that requires a higher story height due to the nature of the use, specifically a movie theatre screen.

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.

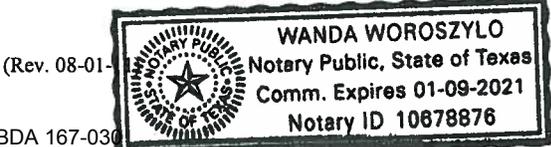
Affidavit

Before me the undersigned on this day personally appeared Rosemary Papa (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: Myron Dornic (Affiant/Applicant's signature)

Subscribed and sworn to before me this 26 day of January, 2017



Wanda Woroszylo 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

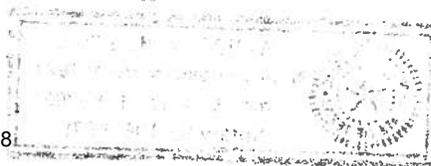
Building Official's Report

I hereby certify that Rosemary Papa
represented by Myron Dornic
did submit a request for a variance to the building height regulations
at 13131 Preston Road

BDA167-030. Application of Rosemary Papa represented by Myron Dornic for a variance to the building height regulations at 13131 Preston Road. This property is more fully described as a 2.964 acre tract in Lot 3, Block A/7409, and is zoned PD-887, which limits the maximum story height to 15 feet. The applicant proposes to construct a nonresidential structure with a story height of 40 feet, which will require a 25 foot variance to the maximum height regulation.

Sincerely,

Philip Sikes
Philip Sikes, Building Official



City of Dallas

Internal Development Research Site

Legend

Addresses

Dallas Zoning

Floodplain

Building Inspection

DART

Real Estate

Alcohol

Plats

Areas of Request

Thoroughfare Plan

Capital Improvement Program

Council and Census

Roads

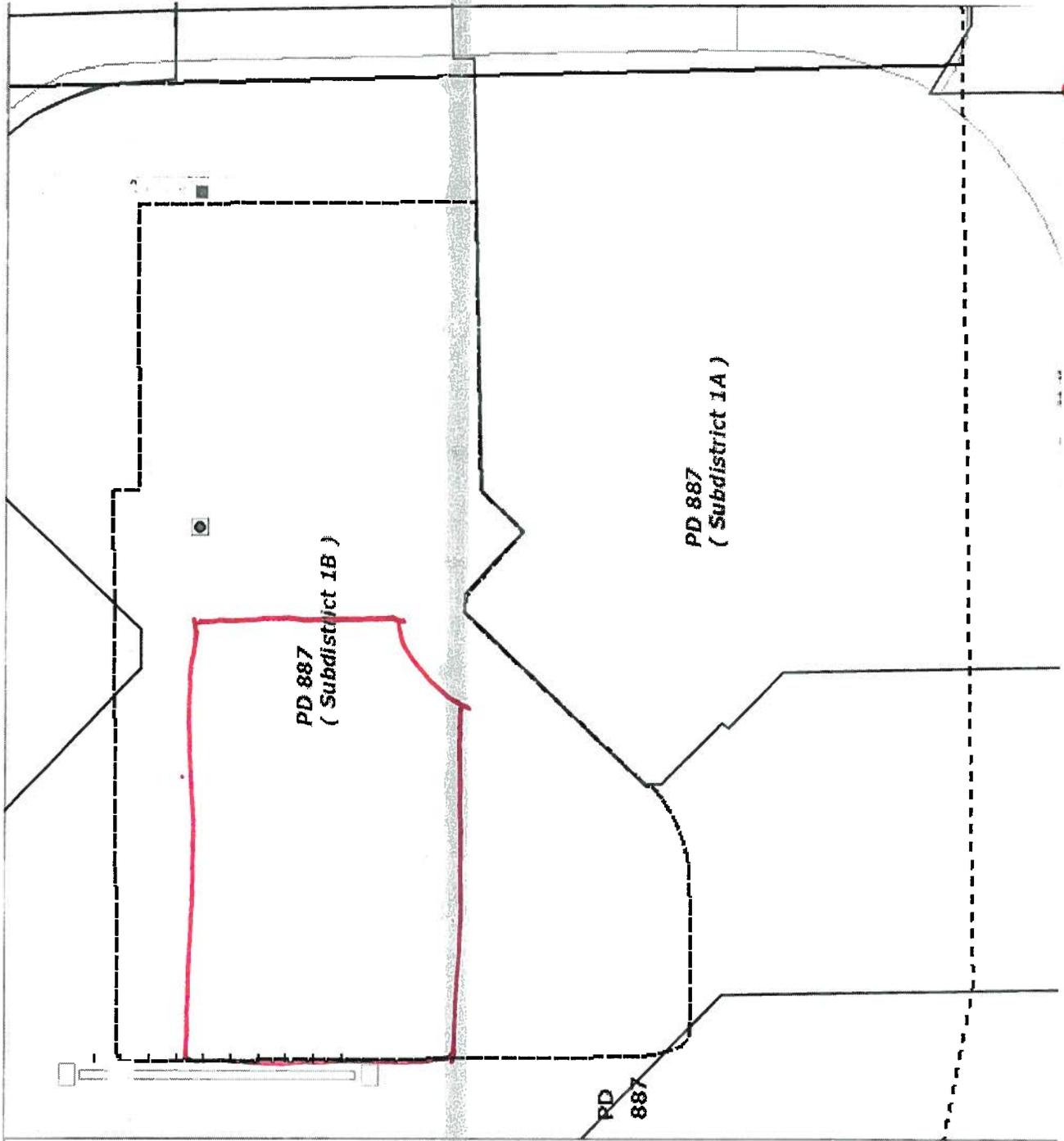
Tax Parcels

Zoning Grid

Stormwater

Water Distribution

Waste Water Collect



Within the form district zoning, the intention is to create active use on the ground floor of buildings. In order to achieve this streetscape character, many smaller format stores and restaurants need to line the inline storefront space at grade. Within the master PD, only a couple subdistricts allow for large format retail within the blocks, this being one of such subdistricts. In order to achieve the intention of the zoning, it is imperative that developers locate the large format retail above the first floor. The typical large format retailer has floor to ceiling heights in excess of 15' and thus we are requesting a variance to allow for this type of large format retail to exist within this subdistrict, in conformance with the intent of the zoning and vision plan.

Due to the specialized use of this tenant, the only option to include this use in the district is to locate it above the ground floor, which would require a higher upper story height. Early on in the design process, the Midtown District TIF Board and the Dallas Urban Design Peer Review reviewed and approved the elevations of this block.

In addition, the Dallas Office of Economic Development and the City of Dallas City Council have signed a developer agreement with the Developer incentivizing them to build such a facility within the district. In conclusion, and for all these reasons we believe "a literal enforcement of the zoning ordinance would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done". We request that the Board extend the permit date to within 270 days of the date of the final action. _

PETERSON ROAD

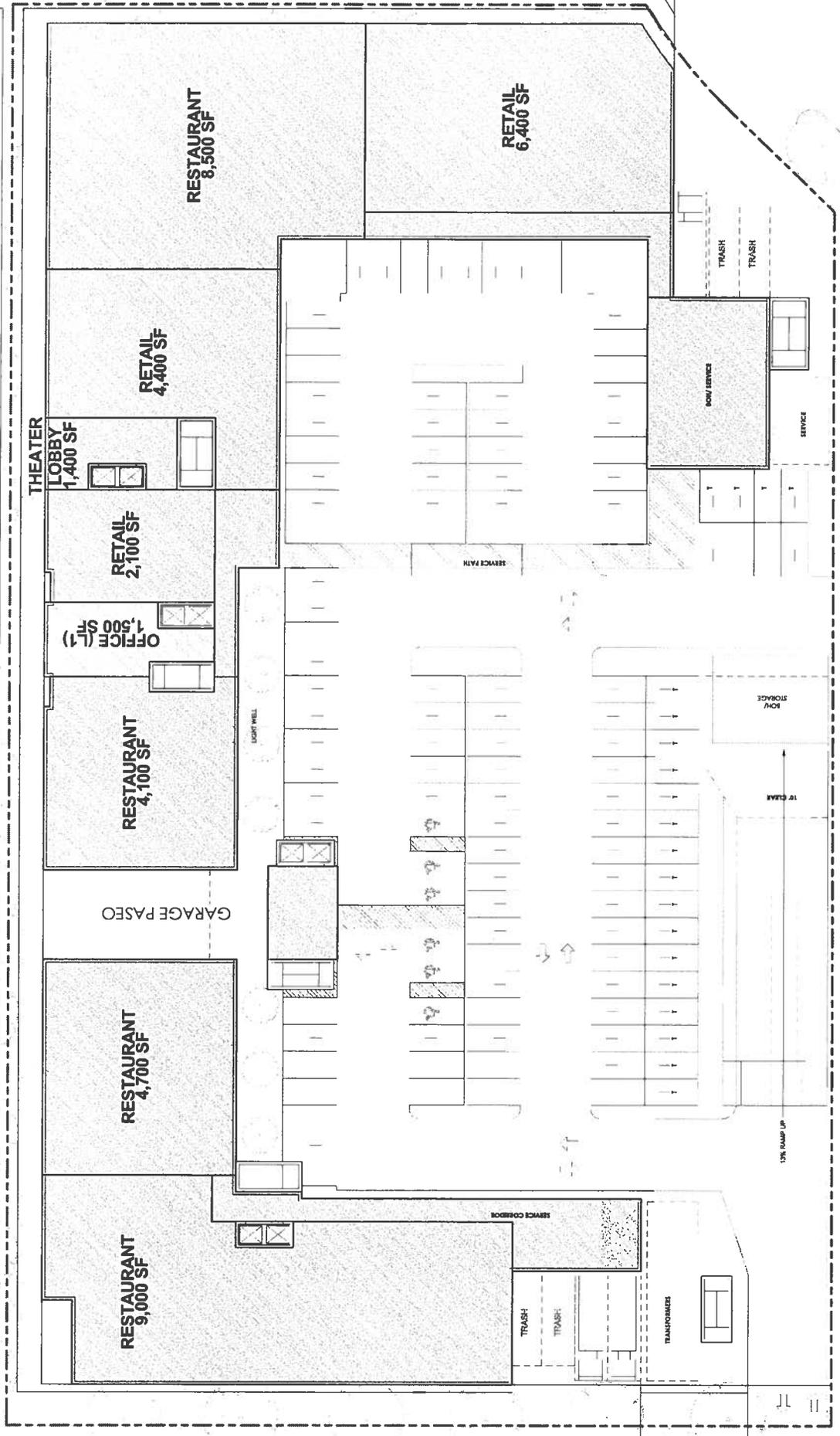
4 PARALLEL SPACES

4 PARALLEL SPACES

BDA 167-030

4 PARALLEL SPACES

23FN5 (TYPE 'A')

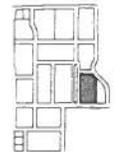


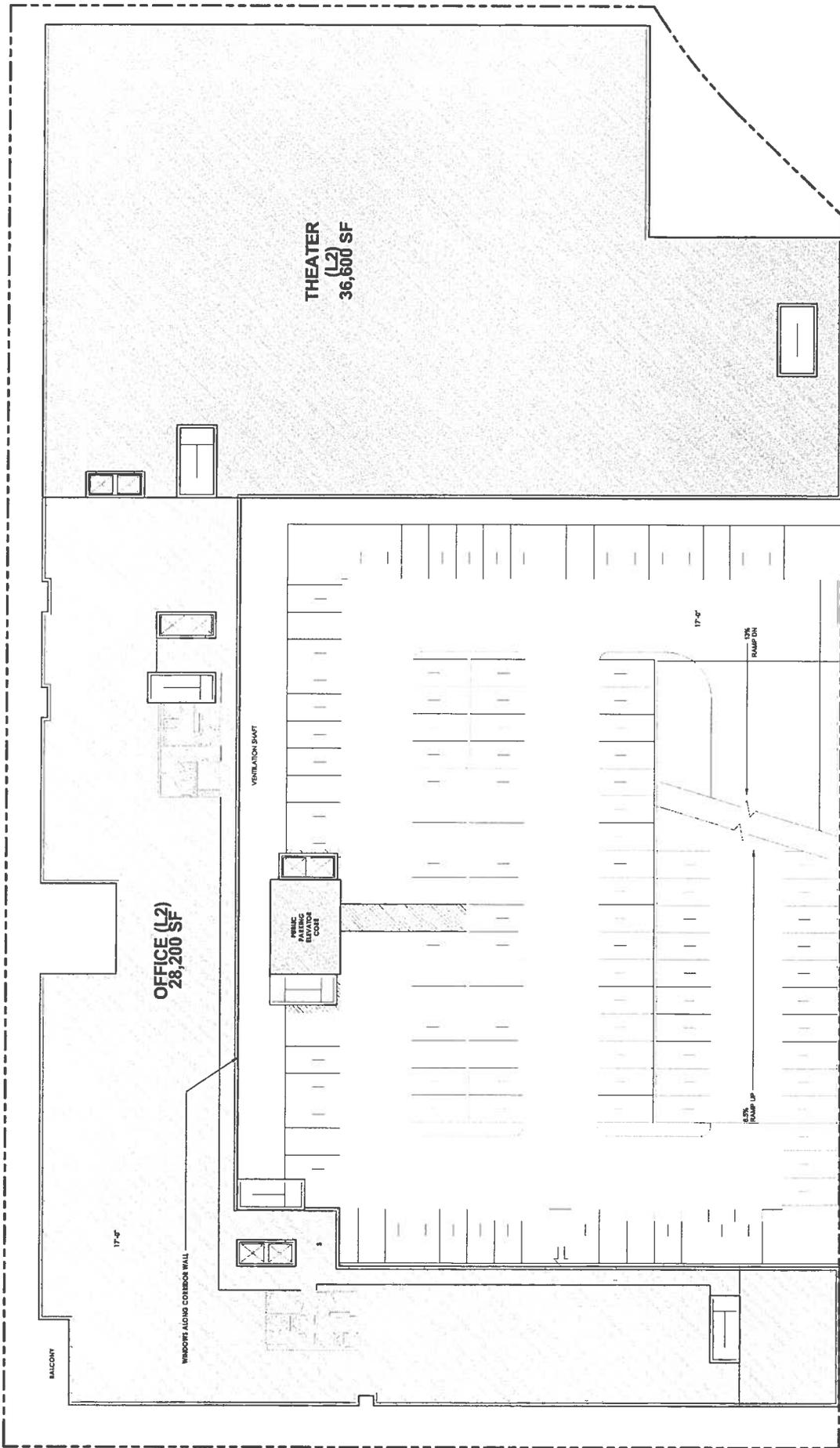
1 FLOOR PLAN - LEVEL 1
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2001 Bryan Street, Suite 3100
Dallas, TX 75201
Tel: 214.769.3311

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① FLOOR PLAN - LEVEL 2
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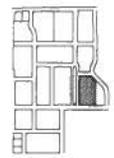
WDG Architecture, Dallas, P.L.L.C.
2001 Byron Street, Suite 3100
Dallas, TX 75201
Tel 214.967.3511

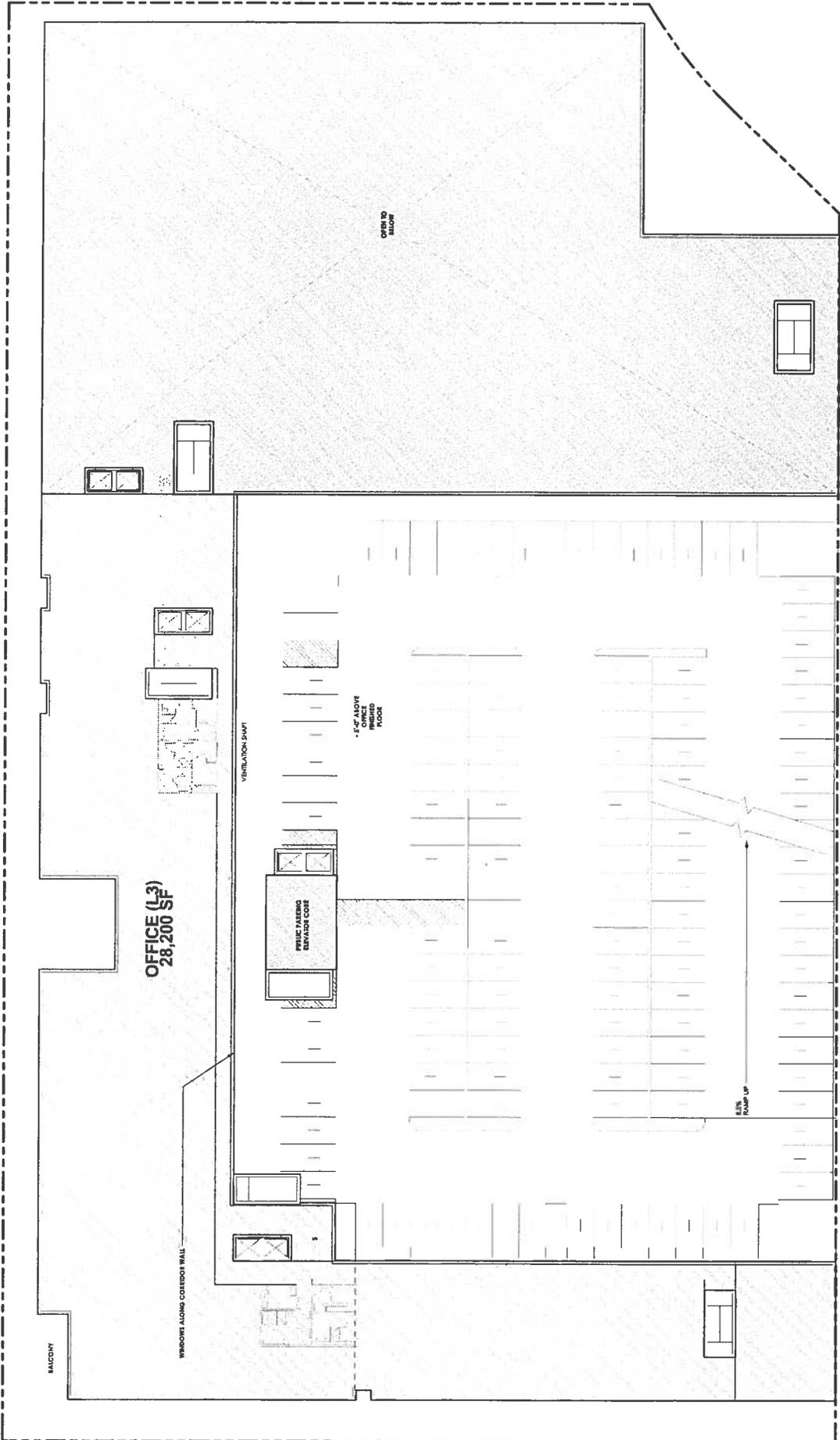
MIDTOWN
DALLAS, TEXAS

01/19/2017
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BECK VENTURES





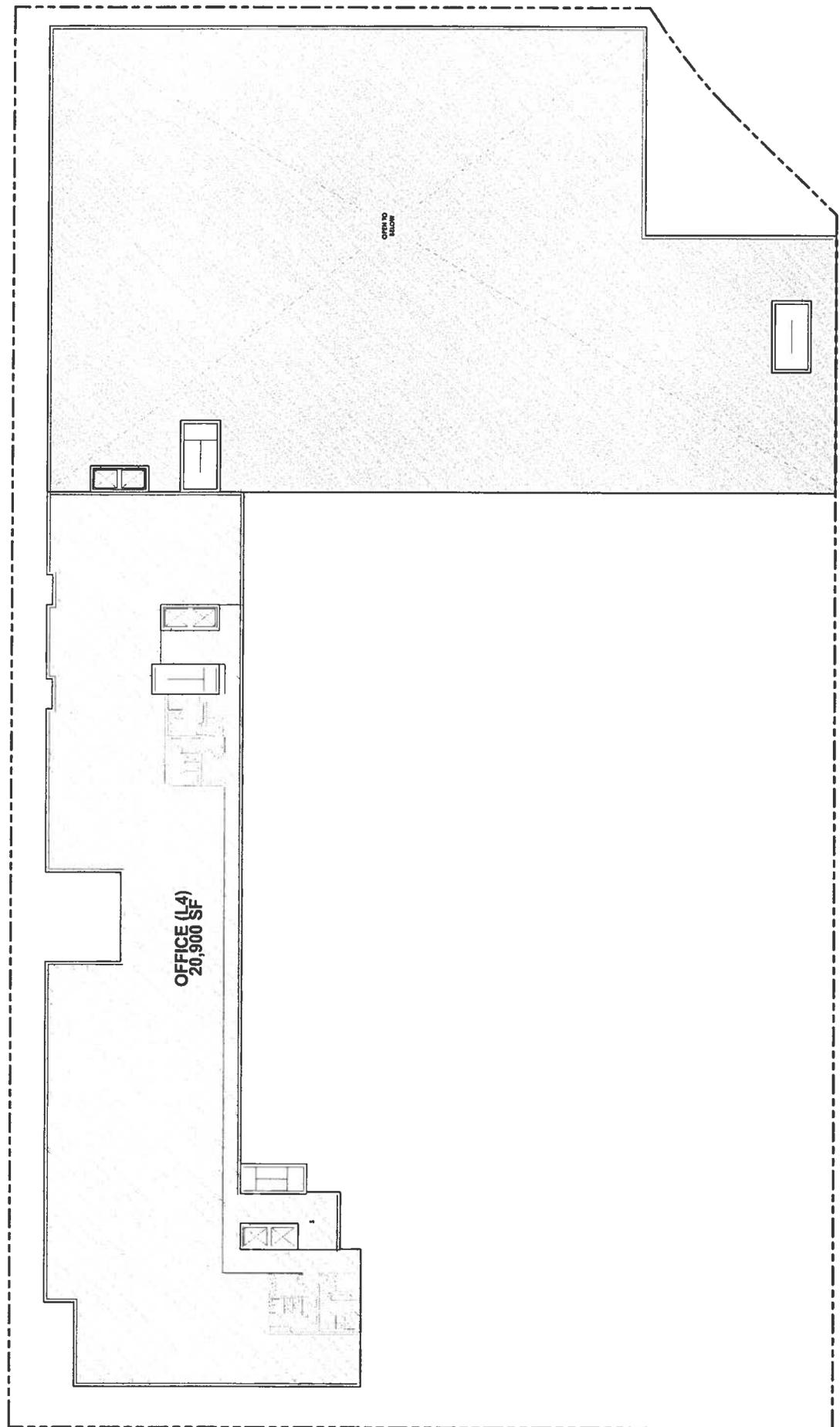
① FLOOR PLAN - LEVEL 3
NOT TO SCALE

WDG Architecture, Dallas, PLLC.
2001 Byron Street, Suite 3100
Dallas, TX 75201
972.747.9511

MIDTOWN
DALLAS, TEXAS

01/19/2017
NOT TO SCALE





① BLOCK 4 - LEVEL 4
 NOT TO SCALE



BECK VENTURES

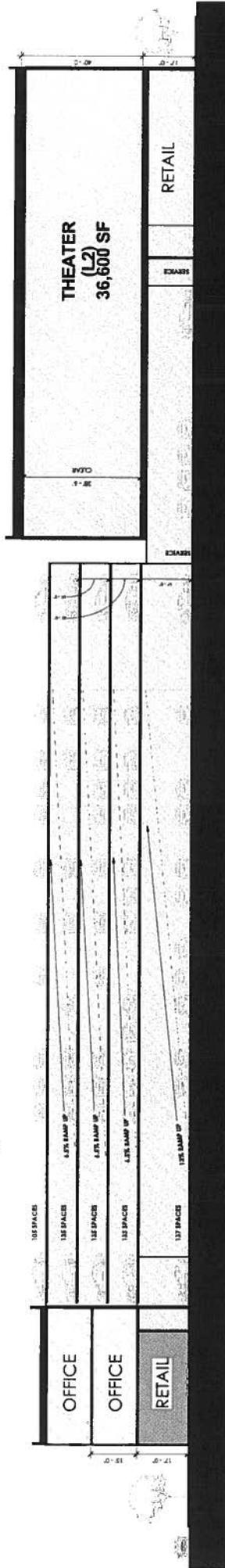
01/19/2017
 NOT TO SCALE

MIDTOWN
 DALLAS, TEXAS

WDG Architecture, Dallas, P.L.C.
 2001 Byron Street, Suite 3100
 Dallas, TX 75201
 972.214.8673/5111



OFFICE (SEE ABOVE)



1 Section AA
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WDG Architecture, Dallas, P.L.L.C.
2001 Beyond Street, Suite 3100
Dallas, Texas 75201
Tel: 214.899.5311

MIDTOWN
DALLAS, TEXAS

01/19/2017
NOT TO SCALE



030

AREA OF REQUEST
2.964 ACRE TRACT
Part of Lot 3, Block A/7409
Valley View Center
H. Wilburn Survey, Abstract No. 1567
City of Dallas, Dallas County, Texas

DESCRIPTION, of a 2.964 acre tract of land situated in the H. Wilburn Survey, Abstract No. 1567, Dallas County, Texas; said tract being part of Lot 3, Block A/7409, Valley View Center, an addition to the City of Dallas, Texas according to the plat recorded in Volume 72178, Page 1879, as affected by Certificate of Error recorded in Volume 73134, Page 2254, both of the Deed Records of Dallas County, Texas; said tract also being part of that certain tract of land described as "Tract 2" in Special Warranty Deed to 13331 Preston Road, L.P. recorded in Instrument No. 201200326375 of the Official Public Records of Dallas County, Texas; said 2.964 acre tract being more particularly described as follows (Bearing system for this survey is based on the State Plane Coordinate System, North American Datum of 1983 (2011), Texas North Central Zone 4202. Distances shown have been adjusted by applying the Dallas County TxDOT combination factor of 1.000136506):

COMMENCING, at a 3-inch aluminum disk stamped "PACHECO KOCH - DM" set in the west right-of-way line of Preston Road (a variable width right-of-way); said point being the northeast corner of Lot 2, Block A/7409 of said Valley View Center; from said point a 1/2-inch iron rod found bears North 67 degrees, 30 minutes West, a distance of 0.7 feet;
(Grid: N: 7,025,142.50, E: 2,488,920.16)

THENCE, North 00 degrees, 53 minutes, 00 seconds West, along the said west line of Preston Road, a distance of 4.67 feet to the intersection of the said west line of Preston Road and the future centerline of proposed James Temple Road;

THENCE, departing the said west line of Preston Road, and along said future centerline, the following three (3) calls:

South 88 degrees, 26 minutes, 06 seconds West, a distance of 964.81 feet to the beginning of a tangent curve to the right;

Along said curve to the right, having a central angle of 07 degrees, 47 minutes, 57 seconds, a radius of 150.00 feet, a chord bearing and distance of North 87 degrees, 39 minutes, 55 seconds West, 20.40 feet, an arc distance of 20.42 feet to the beginning of a reverse curve to the left;

Along said curve to the left, having a central angle of 24 degrees, 28 minutes, 12 seconds, a radius of 146.06 feet, a chord bearing and distance of South 84 degrees, 19 minutes, 30 seconds West, 61.91 feet, an arc distance of 62.38 feet to the end of said curve;

THENCE, North 17 degrees, 35 minutes, 03 seconds West, departing said future centerline, a distance of 31.00 feet to the **POINT OF BEGINNING**; said point being the beginning of a non-tangent curve to the left; (Grid: N: 7,025,145.07, E: 2,487,864.42)

THENCE, in a southwesterly direction, along said curve to the left, having a central angle of 20 degrees, 03 minutes, 49 seconds, a radius of 181.00 feet, a chord bearing and distance of South 62 degrees, 23 minutes, 02 seconds West, 63.06 feet, an arc distance of 63.38 feet to the end of said curve;

AREA OF REQUEST

2.964 ACRE TRACT

(continued)

THENCE, South 89 degrees, 26 minutes, 30 seconds West, a distance of 419.34 feet to a point for corner;

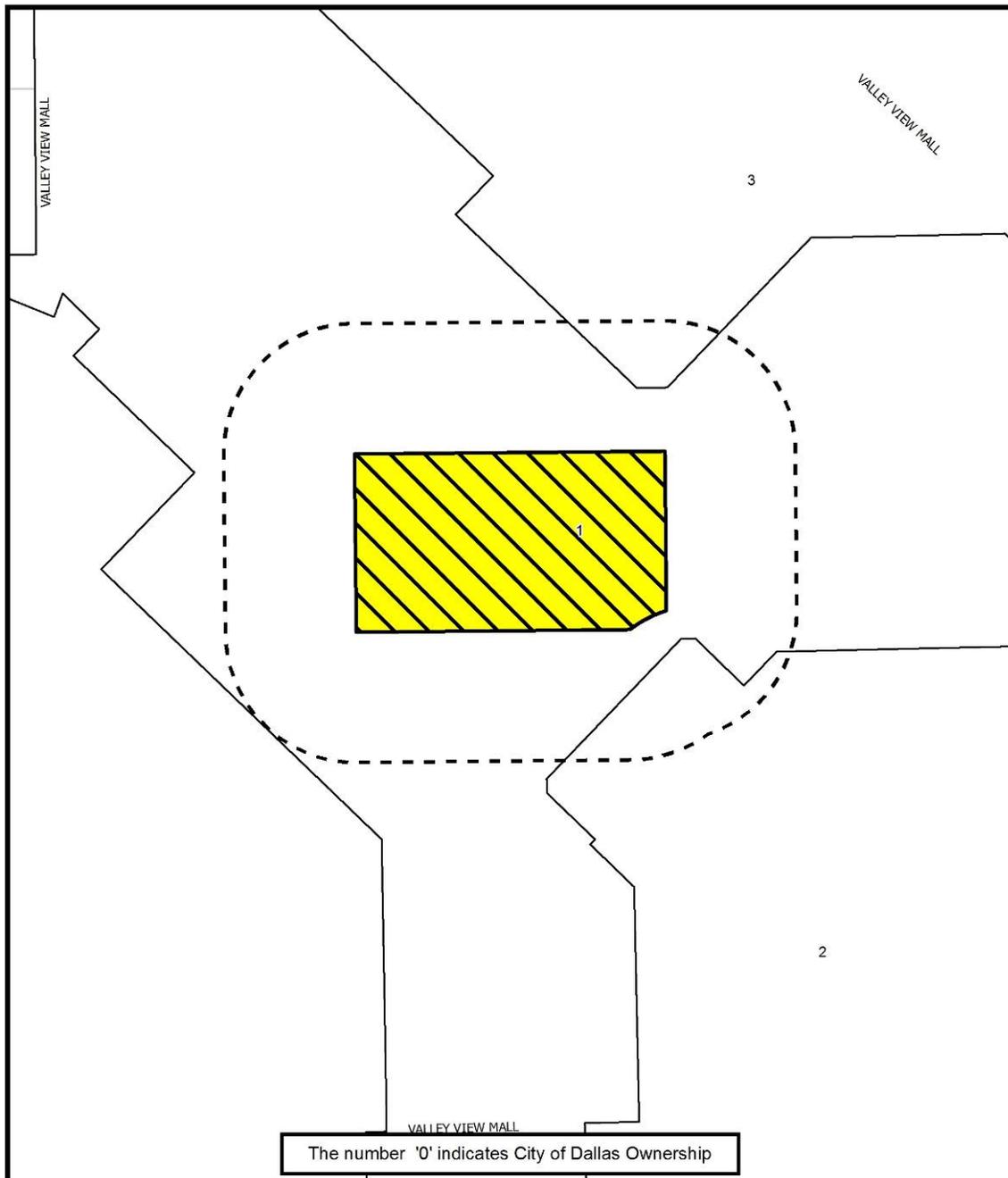
THENCE, North 00 degrees, 33 minutes, 30 seconds West, a distance of 273.51 feet to a point for corner;

THENCE, North 89 degrees, 26 minutes, 31 seconds East, a distance of 475.50 feet to a point for corner;

THENCE, South 00 degrees, 33 minutes, 30 seconds East, a distance of 244.82 feet to the **POINT OF BEGINNING**;

CONTAINING: 129,131 square feet or 2.964 acres of land, more or less.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey and is not to be used to convey or establish interest in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.



 1:2,400	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="0" style="width: 100%;"> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center;">3</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	3	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u>BDA167-030</u> Date: <u>3/1/2017</u>
200'	AREA OF NOTIFICATION					
3	NUMBER OF PROPERTY OWNERS NOTIFIED					

03/01/2017

Notification List of Property Owners

BDA167-030

3 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	13131 PRESTON RD	13331 PRESTON RD LP
2	13131 PRESTON RD	SERITAGE SRC FINANCE LLC
3	13343 PRESTON RD	13331 PRESTON RD LP

FILE NUMBER: BDA167-031(SL)

BUILDING OFFICIAL'S REPORT: Application of Rosemary Papa, represented by Misty Ventura of Shupe Ventura, PLLC, for a variance to the height regulations at 13131 Preston Road. This property is more fully described as a 2.964 acre tract in Lot 3, Block A/7409, and is zoned PD 887 (Subdistrict 1B), which requires a minimum number of three stories. The applicant proposes to construct and maintain a structure with two stories, which will require a one story variance to the height regulations.

LOCATION: 13131 Preston Road

APPLICANT: Rosemary Papa
Represented by Misty Ventura of Shupe Ventura, PLLC

REQUEST:

A request for a variance to the height regulations (specifically to the minimum number of stories required by PD 887) of 1 story is made to construct and maintain a 2-story theater structure, a structure that is 1-story less than the 3 stories required on properties in PD 887 (Subdistrict 1B) on a site that is currently developed with a combination of surface parking and retail use that the applicant intends to demolish.

Note that the applicant has filed another request on this property that will be heard by Board of Adjustment Panel A on March 21st: BDA167-030 - a request for a variance to the height regulations (specifically to story height) of up to 25' to construct and maintain a 2-story theater structure where the proposed 2nd floor is 40' in height and exceeds the maximum story height of 15' required in PD 887 Subdistrict 1B by 25').

On March 6, 2017, the applicant's representative emailed the Board Administrator requesting that that both applications be presented at the same time since they are related, and that if that is not possible, the first case heard should be for the upper story height increase (BDA 167-030), and if that variance is not granted, then the applicant would likely withdraw Case BDA 167-031.

STANDARD FOR A VARIANCE:

The Dallas Development Code Section 51A-3.102(d)(10) 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 that the variance should be denied because there was no property hardship to the site that warranted a variance to the height regulations. The applicant had not demonstrated how the features of the flat, somewhat irregular in shape, approximately 3 acre site preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 887 zoning classification while complying with code provisions including height regulations.

BACKGROUND INFORMATION:

Zoning:

Site: PD 887 (Planned Development)
North: PD 887 (Planned Development)
South: PD 887 (Planned Development)
East: PD 887 (Planned Development)
West: PD 887 (Planned Development)

Land Use:

The subject site is developed with a combination of surface parking and retail use that the applicant intends to demolish. The areas to the north east, south, and west are developed with nonresidential uses.

Zoning/BDA History:

1. Z123-186, Property located generally east of the Dallas North Tollway, south of Southern Boulevard, south of Monfort Place, south of the northern boundary of Woodchase Apartments, south of the northern boundary of Preston View Estates, west of Preston Road, and north of Interstate Highway 635 (LBJ Freeway). (Property that includes the subject site).

On June 12, 2013, the City Council created an ordinance changing the zoning on property that had been zoned PD 130, PD 215, PD 250, PD 279, PD 322, PE 423, PD 713, CR, CS, GO(A), RR, LO-2, MO-2, MF-1(A), MF-4(A), MU-1, MU-2, MU-3, and P(A) to PD 887.
2. BDA167-030, Property located at 13131 Preston Road (the subject site)

On March 21, 2017, the Board of Adjustment Panel A will consider a request for a variance to the height regulations (specifically to story height) of up to 25' made to construct and maintain a 2-story theater structure where the proposed 2nd floor is 40' in height and exceeds the maximum story height of 15' required in PD 887 Subdistrict 1B by 25'.
3. BDA167-029, Property located at 13149 Preston Road (property east of the subject site)

On March 21, 2017, the Board of Adjustment Panel will consider a request for a variance to the height regulations (specifically to story height) to construct and maintain a 4-story fitness facility structure where the proposed 2nd, 3rd, and 4th floors have stories at 20', 32', and 22' in height, respectively, and exceed the maximum story height of 15' required in PD 887 Subdistrict 1.
4. BDA167-032, Property located at 13131 Preston Road (property east of the subject site)

On March 21, 2017, the Board of Adjustment Panel A will consider a request for a variance to the height regulations (specifically to story height) of up to 15' is made to construct and maintain a 10-story hotel structure where the proposed 5th floor is 30' in height and exceeds the maximum story height of 15' required in PD 887 Subdistrict 1B by 15'.

GENERAL FACTS /STAFF ANALYSIS:

- The request for a variance to the height regulations (specifically to the minimum number of stories required by PD 887) of 1 story focuses on constructing and maintaining a 2-story theater structure, a structure that is 1-story less than the 3

stories required on properties in PD 887 (Subdistrict 1B) on a site that is currently developed with a combination of surface parking and retail use that the applicant intends to demolish.

- The subject site is zoned PD 887 (Subdistrict 1B). PD 887 provides the following related to “stories”:
 1. Except as provided in this paragraph, minimum number of stories above grade is three. Minimum number of stories above grade for general commercial development types is two. Structures constructed in an esplanade within Street Section Type B1 of the Street Plans may not exceed one story. The minimum height provisions of Section 51A-13.302(b)(2), (3), (4), and (5) also apply.
 2. Maximum number of stories above grade is 20.
- The applicant has submitted an elevation of the proposed 2-story theater structure detailing that is proposed to be 2 stories.
- The site is flat, somewhat irregular in shape, and according to the application is 2.964 acres in area.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the height 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 to height regulations 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 PD 887 zoning classification.
 - The variance to height setback regulations would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 887 zoning classification.
- If the Board were to grant the request for a variance to the height regulations, a determination should be made if any conditions should be imposed with this request (i.e. submitted site plan and/or elevation).

Timeline:

January 26, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 15, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

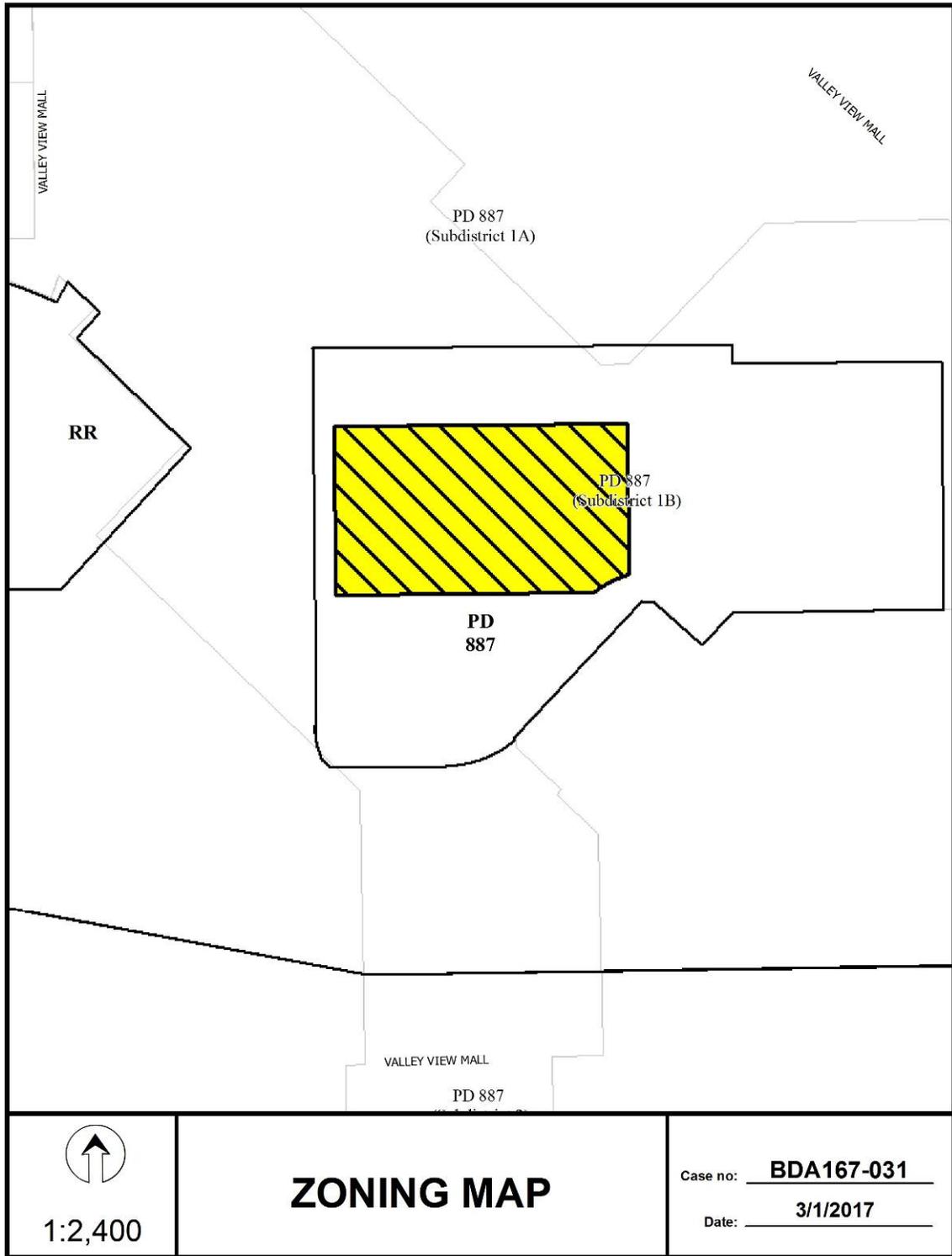
February 15, 2017: The Board Administrator emailed the applicant’s representative the following information:

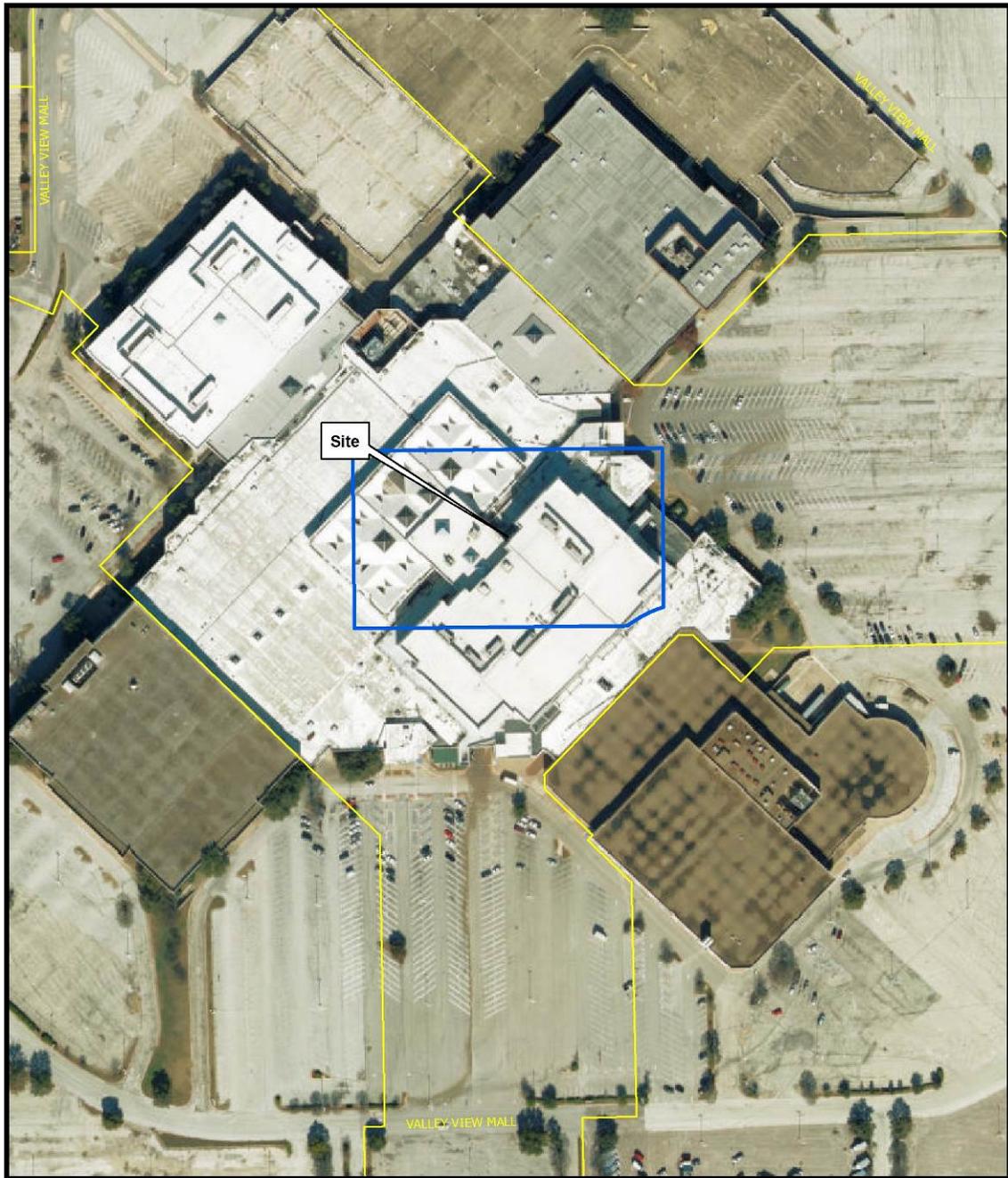
- an attachment that provided the public hearing date and panel that will consider the application; the March 1st deadline to submit additional evidence for staff to factor into their analysis; and the March 10th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

March 6, 2017: The applicant's representative submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

March 7, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Sustainable Development and Construction Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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





1:2,400

AERIAL MAP

Case no: BDA167-031

Date: 3/1/2017

Theater Block -031 (Stories)

BDA167-031
Attach A
Pg 1

- Per Article PD887: Subdistrict 1B
 - o Sec.51P-887.109 (c1) District Type: WMU-20
 - o Sec.51P-887.109 (c2a): Min # of stories: 3

We are requesting a variance to decrease the minimum # of stories from 3 to 2.

(2) Stories.

(A) Minimum number of stories above grade is two. The minimum height provisions of Section 51A-13.302(b)(2), (3), (4), and (5) also apply.

(B) Maximum number of stories above grade is 12.

(3) Urban form setback. An additional 20-foot setback from the minimum setback is required for any portion of a structure above five stories fronting on all streets except Preston Road.

(b) Subdistrict 1A.

(1) In general. Except as provided in this article, the district regulations for the WMU-20 Walkable Urban Mixed Use District apply.

(2) Stories.

(A) Except as provided in this paragraph, minimum number of stories above grade is three. Minimum number of stories above grade for general commercial development types is two. The minimum height provisions of Section 51A-13.302(b)(2), (3), (4), and (5) also apply.

(B) Maximum number of stories above grade is 20.

(3) Urban form setback. An additional 20-foot setback from the minimum setback is required for any portion of a structure above five stories fronting on all streets except Preston Road.

(c) Subdistrict 1B.

(1) In general. Except as provided in this article, the district regulations for the WMU-20 Walkable Urban Mixed Use District apply.

(2) Stories.

(A) Except as provided in this paragraph, minimum number of stories above grade is three. Minimum number of stories above grade for general commercial development types is two. Structures constructed in an esplanade within Street Section Type B1 of the Streets Plan may not exceed one story. The minimum height provisions of Section 51A-13.302(b)(2), (3), (4), and (5) also apply.

(B) Maximum number of stories above grade is 20.

The subject property is located in a PD 887 and is also subject to Section 51A, Article XIII: Form Districts requirements and the City's Thoroughfare Plan. The combination and interaction of these three complex documents creates unique special conditions that result in an unnecessary hardship to the applicant. Based on the variance criteria below, the applicant is requesting variances based on the special conditions these three documents create.

Variance Criteria

(A) The variance is not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in the unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done

PD 887 – Purpose and Vision

(a) Purpose. The Valley View - Galleria Area Special Purpose District is envisioned as the primary regional town center of North Dallas, characterized by an economically vibrant and environmentally sustainable mix of moderate to high density residential and non-residential land uses, supported by an enhanced system of streets and open spaces. The goals of this special purpose district are as follows:

- (1) Encourage development that creates a diverse mix of compatible land uses in buildings designed to support a pedestrian, bicycle, and transit friendly environment, reduce the dominance of visible parking, and reduce environmental impacts.
- (2) Create a network of well-maintained, publicly-accessible open spaces with a range of sizes and functions, designed to enhance the quality of life for the growing resident population and workforce in the area.
- (3) Create a network of connected public and private streets and pathways designed to enhance multi-modal accessibility while reducing automobile-dependence within the area through improvements that support pedestrian, bicycle, and transit circulation.

(b) Vision. The Valley View - Galleria Area Plan is intended to serve as a guide and should be consulted for goals, objectives, policy statements, and recommendations for development of this special purpose district. (Ord. 29032)

The variance request is within the intended vision of the PD887 Ordinance and is not contrary to the public interest. Currently, the site has a substantially vacant mall with two vacant anchor retail buildings and a dilapidated parking lot with substandard lighting. The applicant wants to construct the equivalent of Uptown Dallas in the Midtown District. The variance that we are requesting is not contrary to the public interest and is in fact, supporting the public interest of redeveloping Valley View Mall.

City Council has entered into a TIF reimbursement agreement with the developer that incentivizes this project and includes drawings for the project approved by the Dallas Urban Design Peer Review.

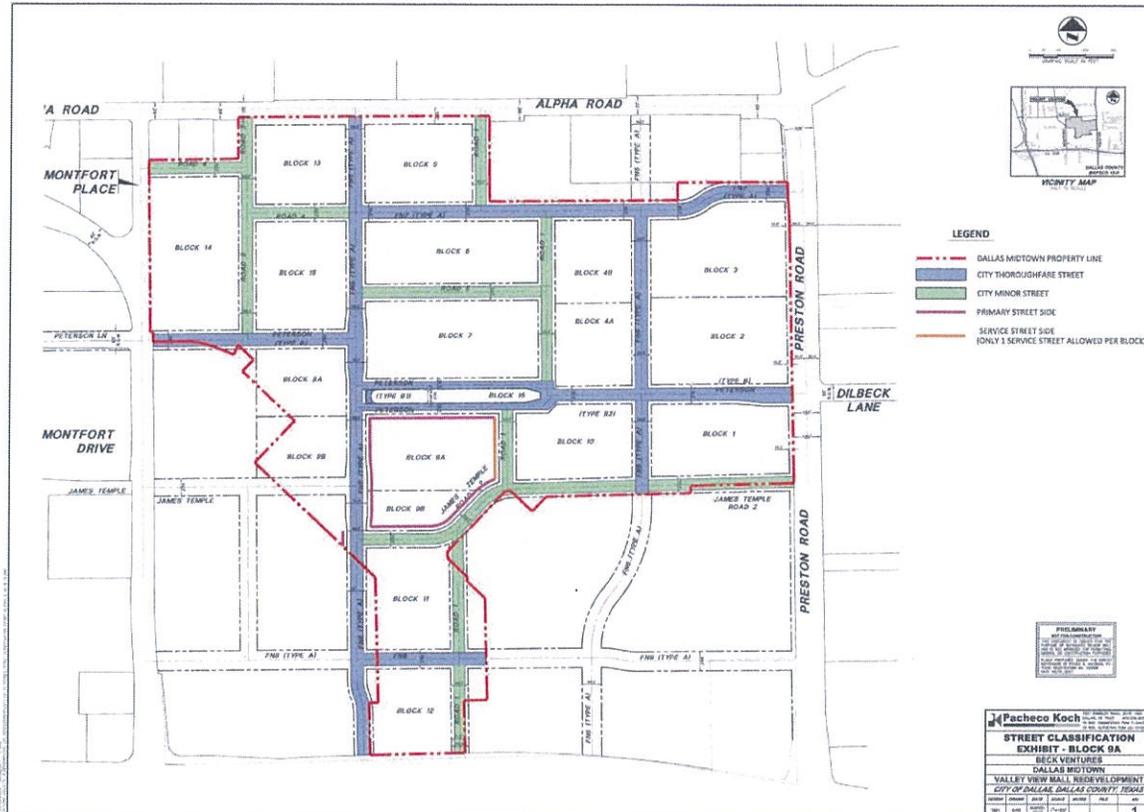
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Attach A
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(B) The variance is necessary to permit development of a specific parcel of land that differs from the other parcels of land by being of such restrictive area, shape, or slope that it cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning. The city has implemented a new Thoroughfare Plan overlay for PD887 (see below).



* THESE MINOR STREETS ARE CONCEPTUAL AND INTENDED ONLY TO ILLUSTRATE DESIRED CONNECTIVITY FOR NEW STREETS. ALTERNATIVE ALIGNMENTS MAY BE APPROVED BY THE DIRECTOR OF PUBLIC WORKS IF THEY PROVIDE EQUIVALENT CONNECTIVITY AND COMPLY WITH THE PROVISIONS OF SECTION 51P-887.115 (STREET STANDARDS) AND SECTION 51A-13.502 (NEW MINOR STREETS).

Article 13 Sec. 51A-13.703 Site Plan Review Item c stipulates the Primary Street Designation. Based on these criteria, we have developed a plan showing the Primary Streets designated for this block (see below).



Additional Criteria:

Article 13 Section 51A-13.304 Development Types Item a3D states that Structured Parking must contain active uses on the ground story along any Primary Street for the first 30’ of the building measured inward from the street facing facade.

Having to abide by the above requirements of PD 887 and Article 13, in addition to the City’s Thoroughfare Plan, creates a restrictive area and shape for each block.

PD887 allows for large format retail as long as all parking is provided in a parking structure. Large format retail, hotel or cinemas, which are a critical component of the PD887 purpose and vision, cannot be located on the ground floor because:

- 1) The Thoroughfare Plan, as adopted by the City of Dallas, travels through the applicant's property and requires roads to be built which create blocks with a restrictive area and shape
- 2) Due to the desired density of the projects, each block must contain structured parking.
- 3) Due to the size, shape and area of each of the blocks, the parking garage must be located in the center of the block.
- 4) Ground floor retail must be used to wrap the parking garage to meet the active use requirement for structured parking within the PD.
- 5) These required conditions have forced large format retail, theatres and hotels to be located above the ground floor.
- 6) These uses require an upper story height of greater than 15'.
- 7) Since the second story height is 40' to accommodate the theater use, the building mass is consistent with a 3-4 story building, instead of a typical 2 story building.

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

The granting of this Story Height and Minimum Number of Stories Variances are not to relieve a self-created hardship or for financial reason but specifically in response to a hardship of the area and shape of this block created by the thoroughfare plan, the streets plan that is an exhibit to the PD, and other PD restrictions the combined effect of which is to force larger permitted uses like the proposed use to be located on upper stories when locating in this block. Upper stories are restricted to 15 feet in height, which would prohibit this particular use even though it is a permitted use and consistent with the vision for this district. With a second story height of 40', the 2 story portion of the building is consistent with the massing of a 3-4 story building and provides the same pedestrian experience.

The subject site cannot be designed in a manner that meets all PD restrictions and allows for the proposed use on the ground floor level. There are physical limitations that necessitate the granting of the variance for the proposed permitted use to allow it to be located on an upper level.

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ARTICLE 887.

PD 887.

Valley View - Galleria Area Special Purpose District

SEC. 51P-887.101. LEGISLATIVE HISTORY.

PD 887 was established by Ordinance No. 29032, passed by the Dallas City Council on June 12, 2013. (Ord. 29032)

SEC. 51P-887.102. PROPERTY LOCATION AND SIZE.

PD 887 is established on property generally bounded by Southern Boulevard on the north, Preston Road on the east, LBJ Freeway on the south, and the Dallas North Tollway on the west. The size of PD 887 is approximately 445 acres. (Ord. 29032)

SEC. 51P-887.103. PURPOSE AND VISION.

(a) Purpose. The Valley View - Galleria Area Special Purpose District is envisioned as the primary regional town center of North Dallas, characterized by an economically vibrant and environmentally sustainable mix of moderate to high density residential and non-residential land uses, supported by an enhanced system of streets and open spaces. The goals of this special purpose district are as follows:

(1) Encourage development that creates a diverse mix of compatible land uses in buildings designed to support a pedestrian, bicycle, and transit friendly environment, reduce the dominance of visible parking, and reduce environmental impacts.

(2) Create a network of well-maintained, publicly-accessible open spaces with a range of sizes and functions, designed to enhance the quality of life for the growing resident population and workforce in the area.

(3) Create a network of connected public and private streets and pathways designed to enhance multi-modal accessibility while reducing automobile-dependence within the area through improvements that support pedestrian, bicycle, and transit circulation.

(b) Vision. The Valley View - Galleria Area Plan is intended to serve as a guide and should be consulted for goals, objectives, policy statements, and recommendations for development of this special purpose district. (Ord. 29032)

SEC. 51P-887.104. CREATION OF SUBDISTRICTS.

(a) This special purpose district is divided into the following subdistricts:

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(2) A regulating plan is not a site plan, as required for all development (see Section 51A-13.703, "Site Plan Review").

(d) Modification of a Regulating Plan.

Any change to a regulating plan is a change in zoning district classification and must follow the zoning amendment procedure in Section 51A-4.701.

The Valley View Galleria Area Plan is the Regulating Plan for PD 887



(e) Compliance with Regulating Plan.

The requirements of the regulating plan are conditions that must be complied with before a certificate of occupancy may be granted.

SEC. 51A-13.703. SITE PLAN REVIEW.

(a) Site Plan Required.

(1) Except as provided in Paragraph (2), all development must receive site plan approval by the building official in accordance with Section 51A-4.803 before issuance of a building permit. A certificate of occupancy will not be issued unless all aspects of the development fully conform to the approved site plan.

(2) A site plan is not required if the permit is only needed for:

- (A) restoration of a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind; or
- (B) construction work that does not change the use or increase the existing building height, floor area ratio, or nonpermeable coverage of the lot.

(b) Additional Site Plan Requirements.

The following site plan elements are required in addition to any requirements in Section 51A-4.803.

- (A) Designated primary, side, and service streets.
- (B) Development types designated on specific lots.
- (C) Location and description of pedestrian amenities.
- (D) Location and specifications of minor and existing streets.
- (E) Location and specifications of open space.
- (F) Location of all setback lines.
- (G) Building elevations showing compliance with building facade requirements.
- (H) Location and specifications of landscaping.
- (I) Locations and specifications of site lighting, outdoor storage and display, and signs.

(c) Primary Street Designation.

(1) Applying the standards in this subsection, the building official shall determine whether streets are considered primary or side streets.

(2) If a lot abuts only one street, the street is a primary street. Any street within a -SH overlay is also considered a primary street.

(3) If a lot runs from one street to another and has double frontage, both streets are primary streets.

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(4) If a lot is located on a corner, one street is a primary street and one street is a side street, except as provided in Paragraph (5). The primary street is:

- (A) the street abutting the longest face of the block; or
- (B) the street parallel to the alley within the block.

(5) When a lot is located on a corner, both streets are primary streets if:

- (A) a majority of the lots on the shorter block face are platted perpendicularly to the longer face of the block;
- (B) there are two primary streets designated on a regulating plan; or
- (C) the applicant designates both streets as primary streets.

(d) Service Street Designation.

(1) The building official shall determine whether a service street is appropriate based on the criteria contained in this subsection.

(2) The applicant must control the land along an entire block face of a service street, and the service street must be designated from one street intersection to another street intersection.

(3) A site with a service street must have at least two frontages and one frontage must be a primary street.

(4) Only one service street may be designated abutting any block.

(e) Multiple Development Types on a Single Lot or Parcel.

(1) Calculation of Lot Coverage.

(A) Where multiple development types are located on a single building site, the calculation of lot coverage is based on the proportion of total coverage required for each development type in relation to the proposed building footprints.

(B) As an example, a building site with one proposed mixed use shopfront building (allowed 100 percent coverage) with a lot coverage of 10,000 square feet and two proposed general commercial buildings (allowed 80 percent coverage) with a combined lot coverage of 20,000 square feet would have a lot coverage of 86 percent.

$$\frac{10,000 \text{ SF}}{30,000 \text{ SF}} \times 1.00 + \frac{20,000 \text{ SF}}{30,000 \text{ SF}} \times 0.80 = 86\% \text{ Lot Coverage}$$

(C) Where the lot coverage for all proposed development types is the same, no calculation is necessary.

(2) Calculation of Required Frontage.

(A) In order to ensure the pedestrian frontage remains as consistent as possible, if multiple development types are located on a single building site, the building official shall calculate required street frontage on a building-by-building basis.

(B) As an example, a site with a mixed use shopfront building with 180 linear feet of street frontage (required 90 percent street frontage) must be located on an artificial lot with a width no greater than 200 feet. A proposed general commercial building with 200 linear feet of street frontage (required 70 percent street frontage) must be located on an artificial lot with a width no greater than 286 feet in width.

(f) Consistency With Regulating Plan.

The building official shall determine that the site plan is consistent with any adopted regulating plan prior to approval.

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Attach A
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(3) Parking Setbacks and Access.

(A) On-site surface parking must be located behind the parking setback line.

(B) The parking setback line applies only to the ground story.

(C) Except when configured as a multi-way boulevard or indented parking, no on-site surface parking is permitted between a building and the street. (See Division 51A-13.500, "Minor Streets and Streetscapes.")

(D) Structured parking must contain active uses on the ground story along any -SH overlay or any primary street for the first 30 feet of the building measured inward from the street-facing facade. There is no active ground-story use requirement for structured parking along a service street.

(E) The requirements of Subparagraphs (A), (B), (C), and (D) above do not apply to on-street or underground parking.

(F) The required street frontage may be interrupted to allow for a maximum 30-foot-wide vehicular entrance to a parking structure or area.

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PETERSON ROAD

ROAD 1

PARALLEL SPACES

PARALLEL SPACES

THEATER

LOBBY

1,400 SF

RETAIL

2,100 SF

OFFICE (1)

1,500 SF

RESTAURANT

4,100 SF

GARAGE PASSEO

RESTAURANT

4,700 SF

RESTAURANT

9,000 SF

RESTAURANT

8,500 SF

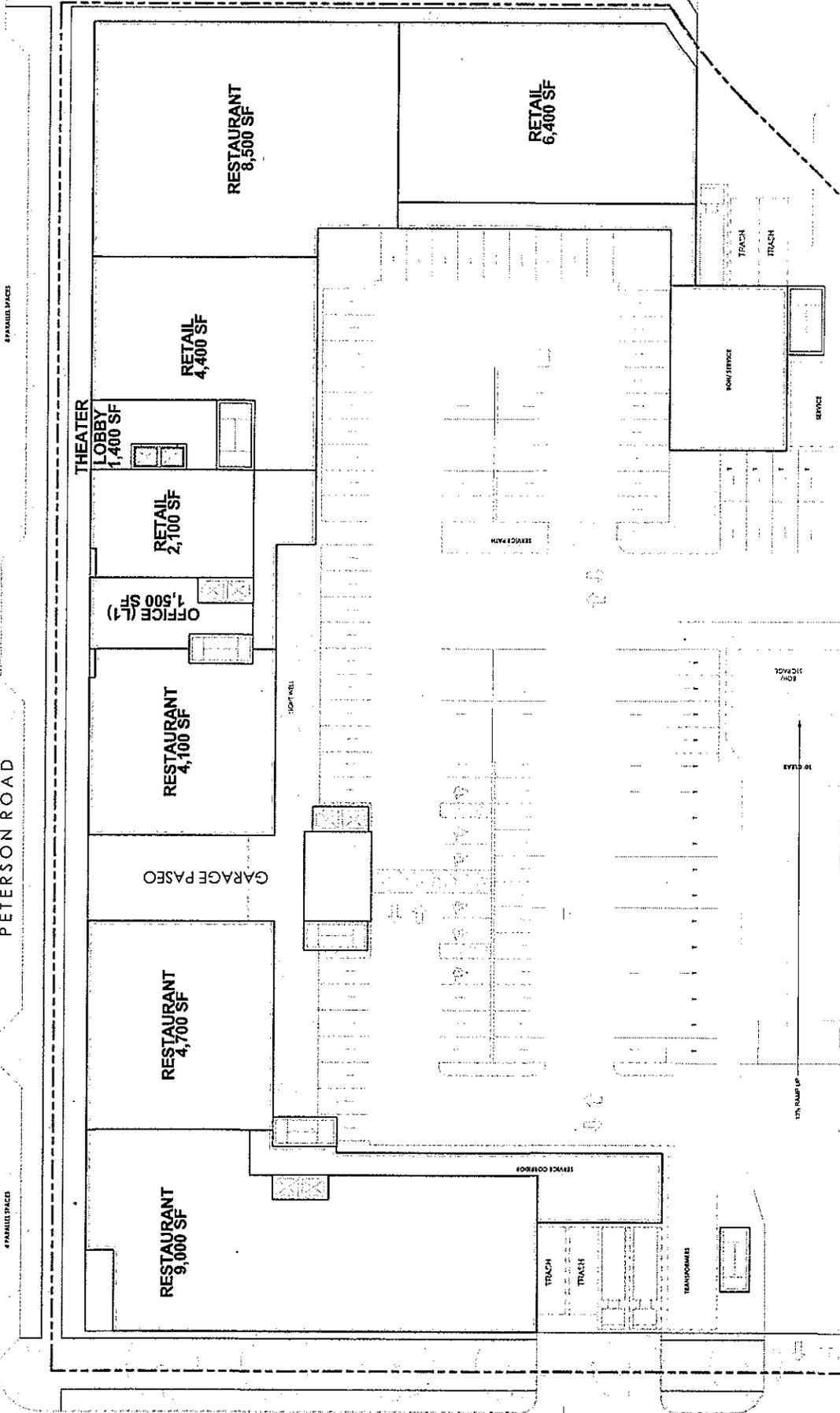
RETAIL

6,400 SF

PARALLEL SPACES

5-20 FNS (TYPE 'A')

13



1 FLOOR PLAN - LEVEL 1

NOT TO SCALE
 WDG Architecture, Dallas, PLLC.
 2001 Bryan Street, Suite 3100
 Dallas, TX 75201
 469.214.989/5311

MIDTOWN
 DALLAS, TEXAS

13

NOT TO SCALE
 01/17/2017
 BECK VENTURES



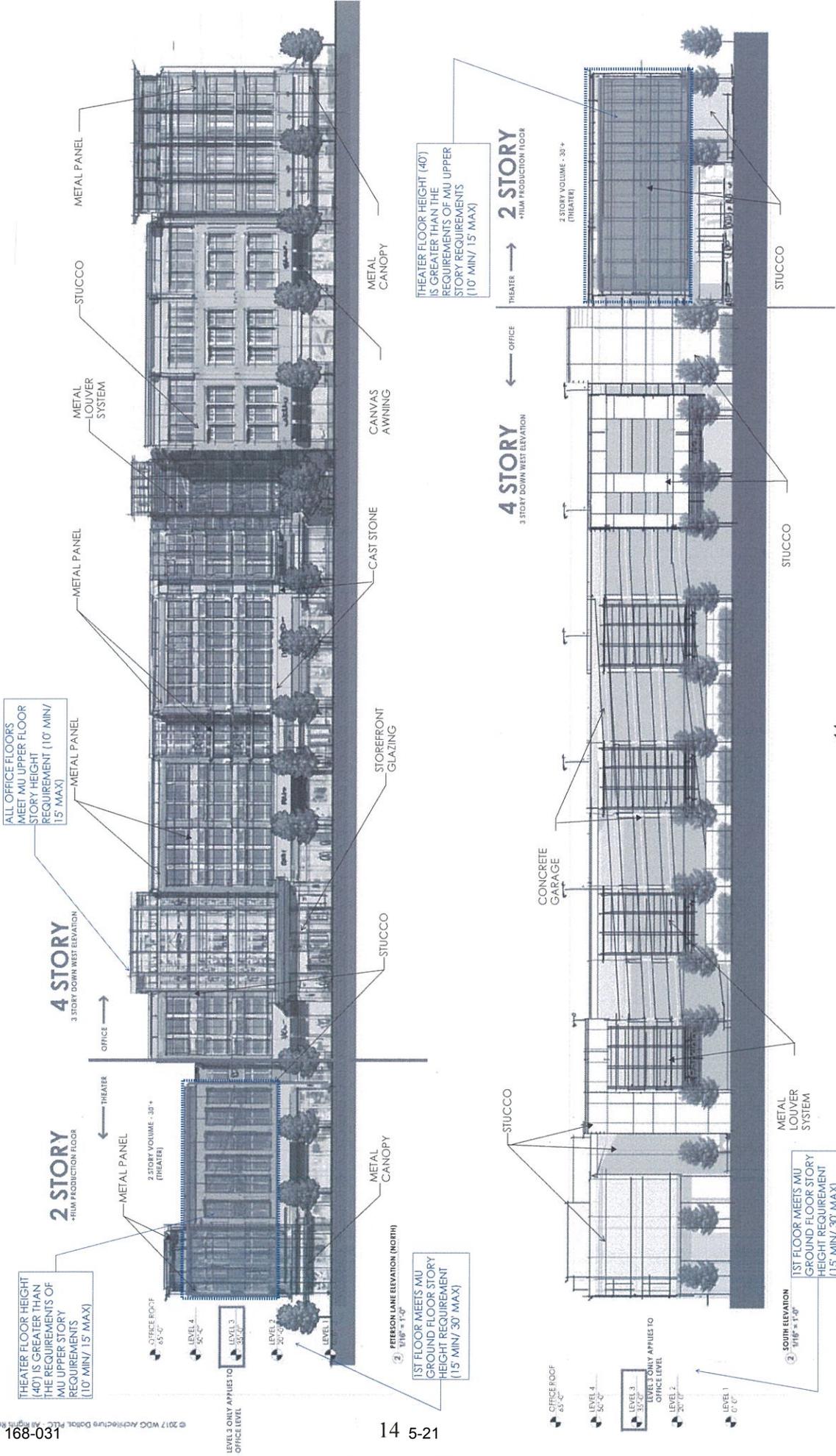


EXHIBIT G



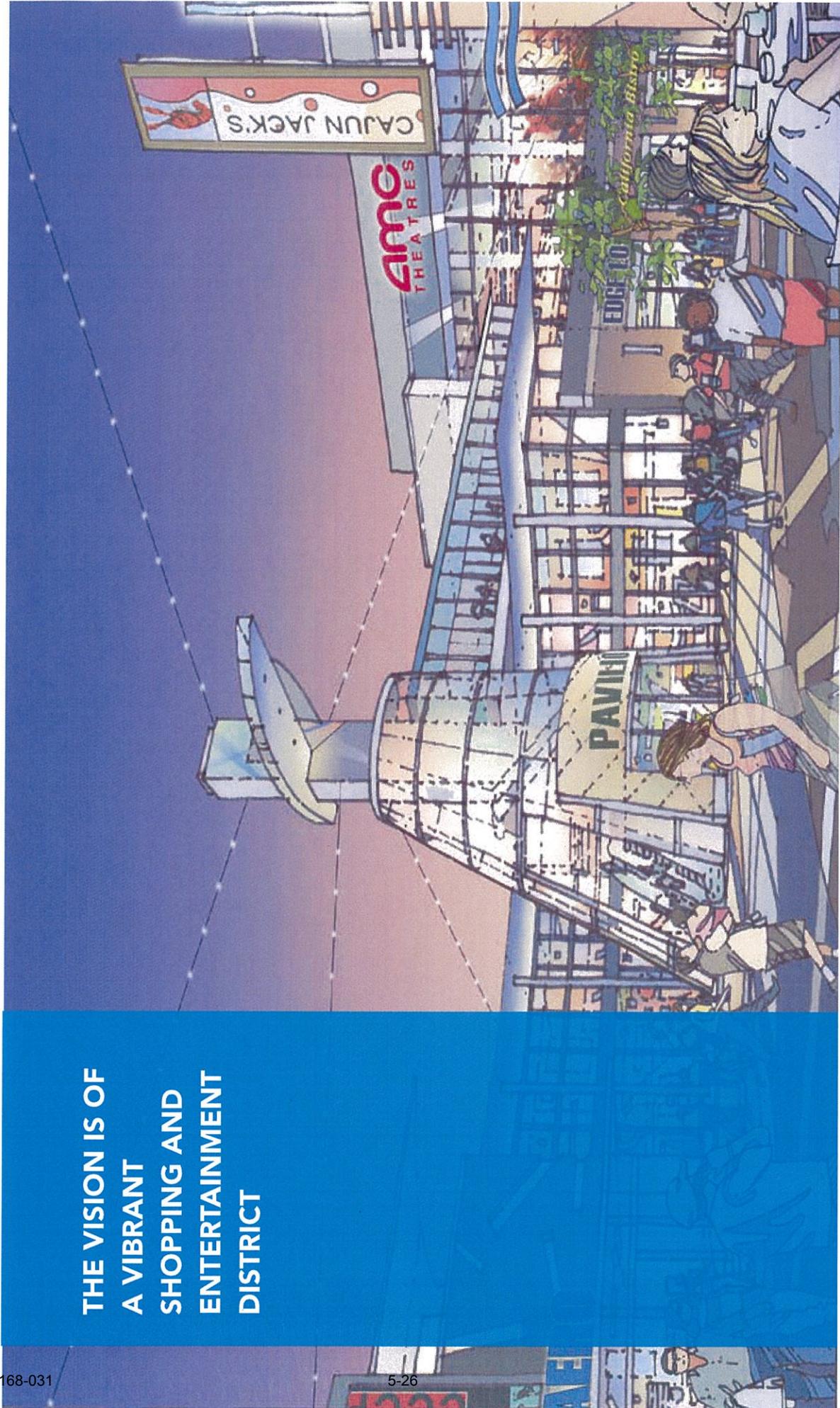
MIDTOWN DALLAS, TEXAS
 DA14007 10/30/2015

BLOCK 4 ELEVATIONS

Scale : 1" = 20'-0"
 2001 Bryan Street :: Suite 3100 :: Dallas TX 75201 :: Tel 214.969.5311

The Valley View - Galleria Area Plan is the regulating plan for this PD, and its contents are incorporated by reference into the PD. This excerpt from the plan demonstrates that a 2-story building with a theater was contemplated from the inception of this project.

THE VISION OVERVIEW



THE VISION IS OF A VIBRANT SHOPPING AND ENTERTAINMENT DISTRICT



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-031

Data Relative to Subject Property:

Date: January 26, 2017

Location address: 13131 Preston Road, Dallas TX Zoning District: PD 887 (Subd. 1B) WMTJ-20

Lot No.: 3 Block No.: A/7409 Acreage: 2.964 Census Tract: 0136.15

Street Frontage (in Feet): 1) 475.5' 2) 244.8' 3) 63.1' 4) 419.3' 5) 273.5'

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): 13331 Preston Road, L.P.

Applicant: Rosemary Papa Telephone: 469-533-5021

Mailing Address: 13101 Preston Road, Suite 510 Dallas, TX Zip Code: 75240

E-mail Address: rosemary@beckventures.com

Represented by: Myron Dornic Telephone: 214-953-5946

Mailing Address: 2323 Ross Avenue, Suite 600, Dallas, TX Zip Code: 75201

E-mail Address: mdornic@jw.com

Affirm that an appeal has been made for a Variance X, or Special Exception, of 1 story to the minimum # of stories

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: The current minimum number of stories in this subdistrict is 3. The Developer has a tenant to operate a 39,000 SF luxury theater facility located in the second story that requires a higher story height due to the nature of the use, specifically a movie theatre screen. By allowing a higher story height to the second floor, the building has the massing of a 3 story building.

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.

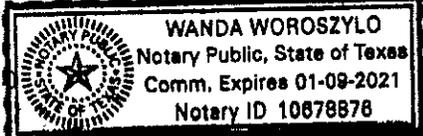
Affidavit

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

Subscribed and sworn to before me this 26 day of JANUARY 2017



Wanda Woroszylo 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

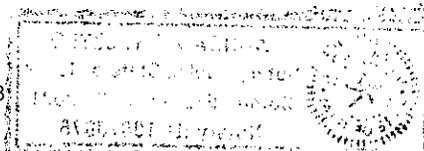
Building Official's Report

I hereby certify that Rosemary Papa
 represented by Myron Dornic
did submit a request for a variance to the building height regulations
 at 13131 Preston Road

BDA167-031. Application of Rosemary Papa represented by Myron Dornic for a variance to the building height regulations at 13131 Preston Road. This property is more fully described as a 2.964 acre tract in Lot 3, Block A/7409, and is zoned PD-887 (Subdistrict 1B), which requires a minimum number of three stories. The applicant proposes to constr a nonresidential structure with two stories, which will require a one story variance to the height regulation.

Sincerely,

Philip Sikes
Philip Sikes, Building Official



City of Dallas

Internal Development Research Site

Legend

Addresses

Dallas Zoning

Floodplain

Building Inspection

DART

Real Estate

Alcohol

Plats

Areas of Request

Thoroughfare Plan

Capital Improvemen
Program

Council and Census

Roads

Tax Parcels

Zoning Grid

Stormwater

Water Distribution

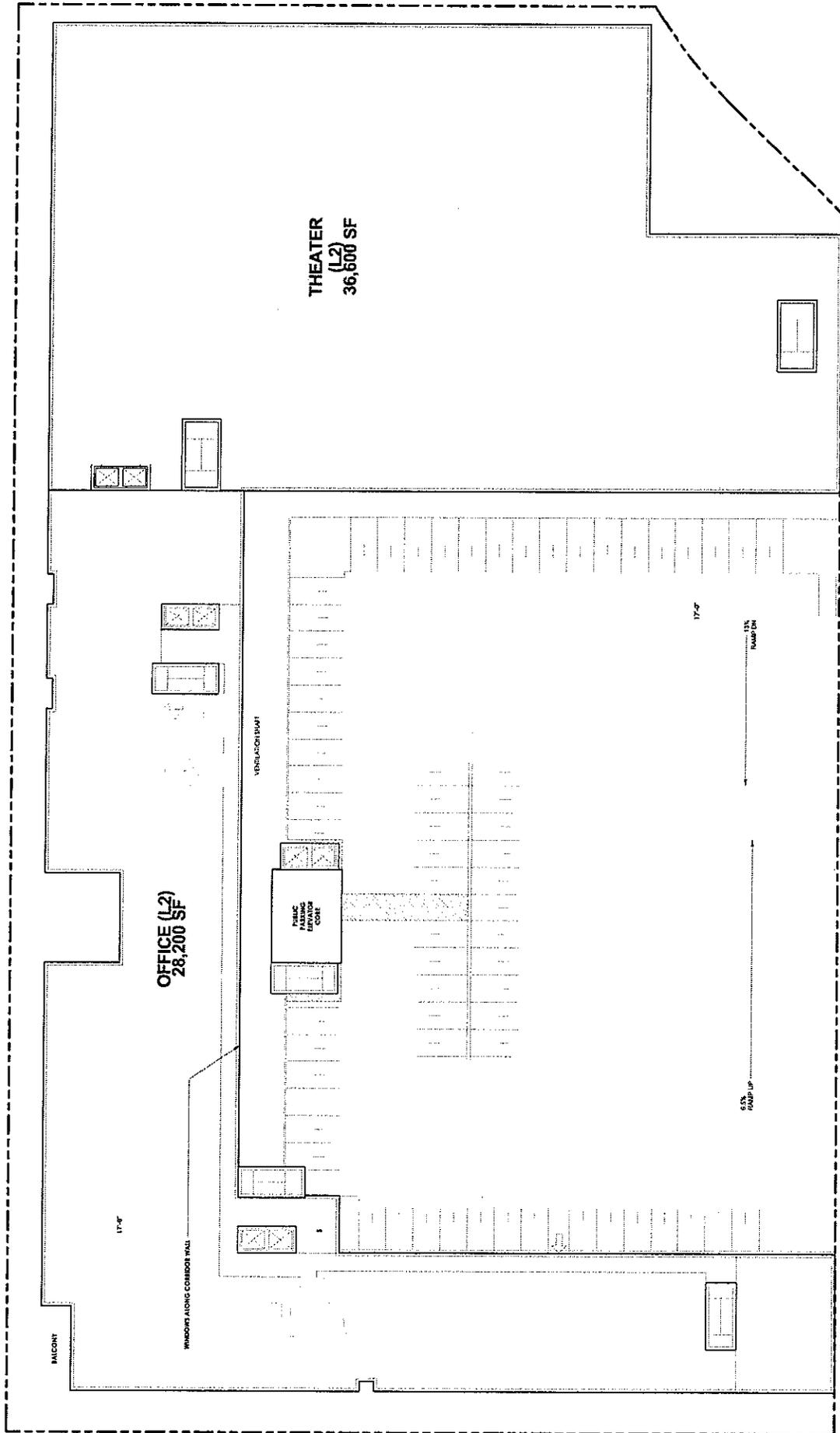
Waste Water Collect



Within the form district zoning, the intention is to create active use on the ground floor of buildings. In order to achieve this streetscape character, many smaller format stores and restaurants need to line the inline storefront space at grade. Within the master PD, only a couple subdistricts allow for large format retail within the blocks, this being one of such subdistricts. In order to achieve the intention of the zoning, it is imperative that developers locate the large format retail above the first floor. The typical large format retailer has floor to ceiling heights in excess of 15' and, in a separate BOA application, we have requested a variance to allow for this type of large format retail to exist within this subdistrict, in conformance with the intent of the zoning and vision plan. By allowing for a higher second story height, we are requesting a variance to allow for a minimum of 2 stories, instead of the 3 stories that are currently required.

Due to the specialized use of this tenant, the only option to include this use in the district is to locate it above the ground floor, which would require a higher upper story height. Early on in the design process, the Midtown District TIF Board and the Dallas Urban Design Peer Review reviewed and approved the elevations of this block.

In addition, the Dallas Office of Economic Development and the City of Dallas City Council have signed a developer agreement with the Developer incentivizing them to build such a facility within the district. In conclusion, and for all these reasons we believe "a literal enforcement of the zoning ordinance would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done". We request that the Board extend the permit date to within 270 days of the date of the final action._



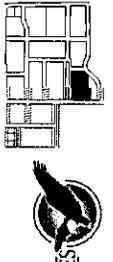
1 FLOOR PLAN - LEVEL 2
NOT TO SCALE

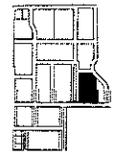
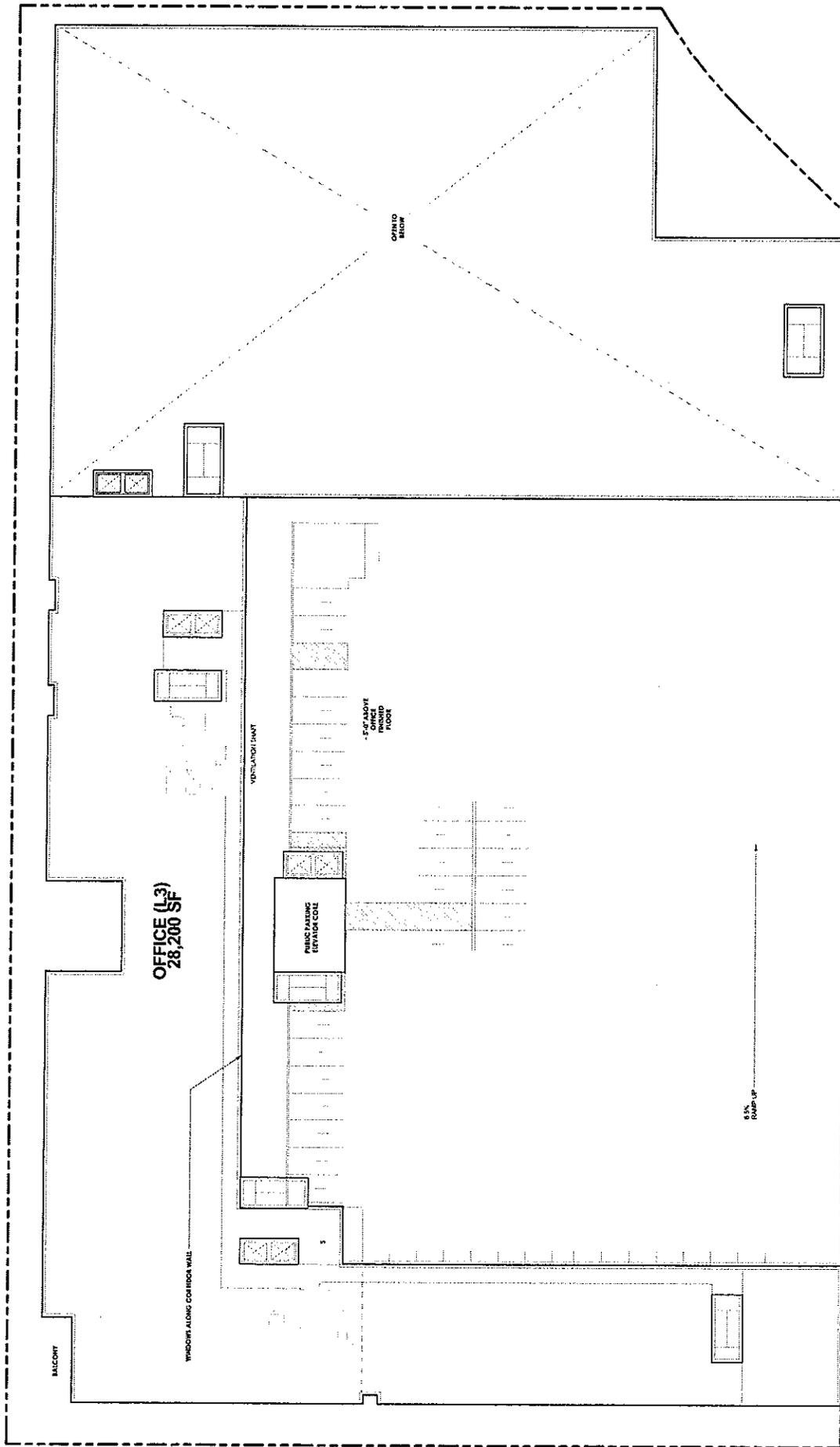
WDG Architecture, Dallas, P.L.L.C.
2001 Texas Street, Suite 3100
Dallas, TX 75201
Tel 214.569.5311

MIDTOWN
DALLAS, TEXAS

01/17/2017
NOT TO SCALE

BECK VENTURES





BECK VENTURES

01/11/2017

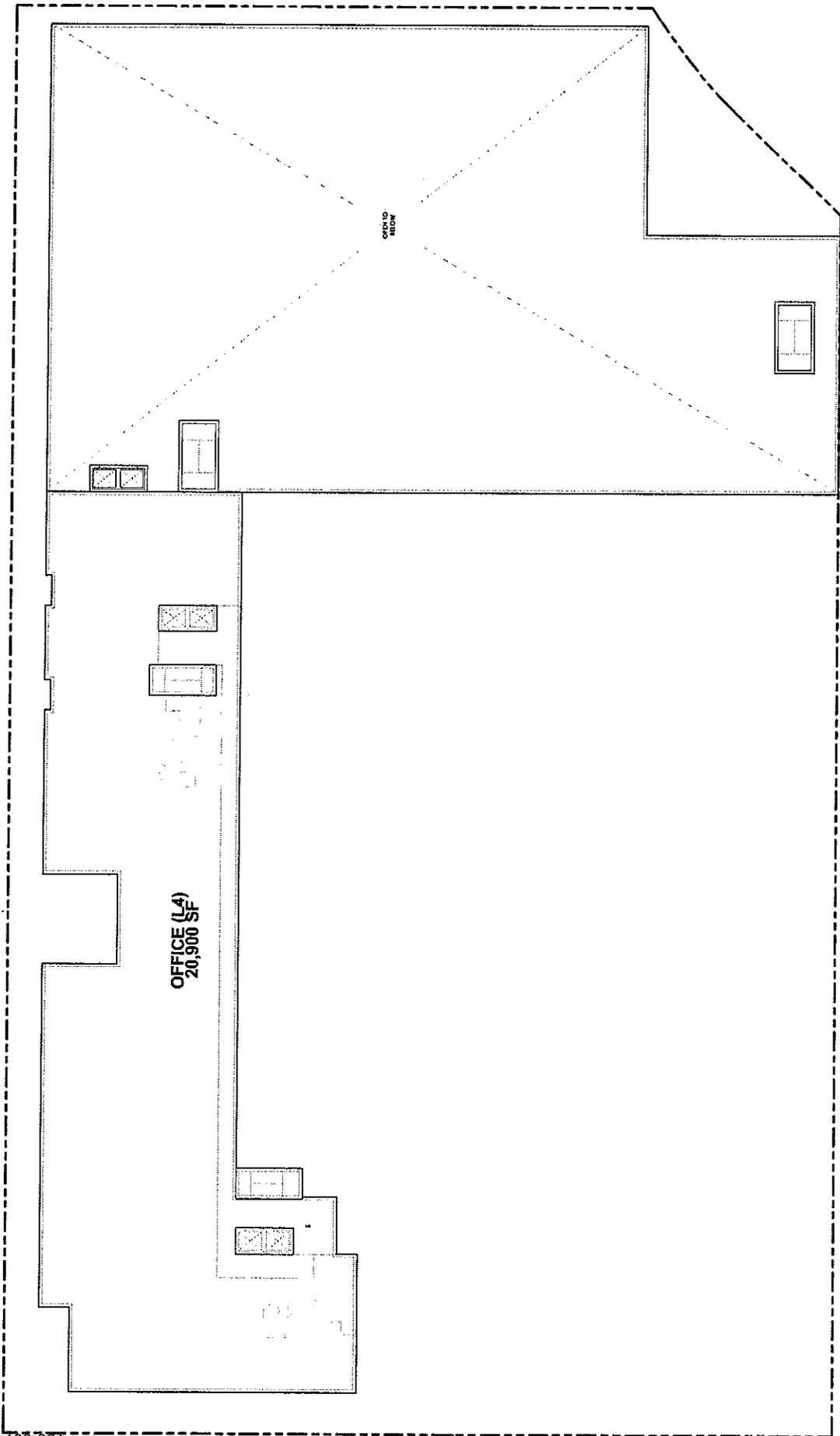
NOT TO SCALE

MIDTOWN
DALLAS, TEXAS

① FLOOR PLAN - LEVEL 3
NOT TO SCALE

WDG Architecture, Dallas, P.L.L.C.
2001 Ross Street, Suite 3100
Dallas, TX 75201
Tel 214-969-5311





1. BLOCK 4 - LEVEL 4
 NOT TO SCALE



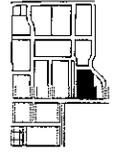
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 2001 Ross Street, Suite 3100
 Dallas, TX 75201
 tel 214-669-5311

MIDTOWN
 DALLAS, TEXAS

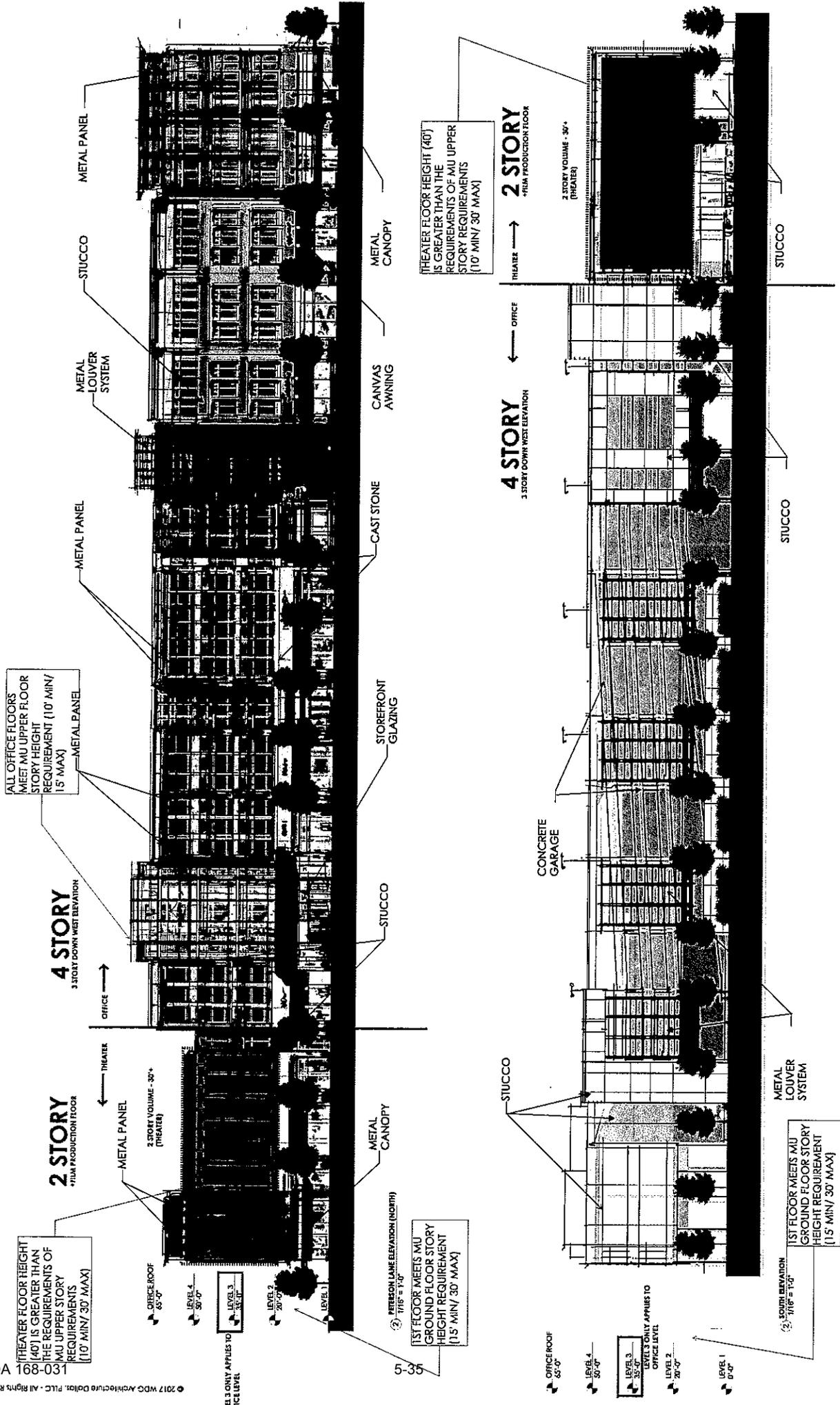
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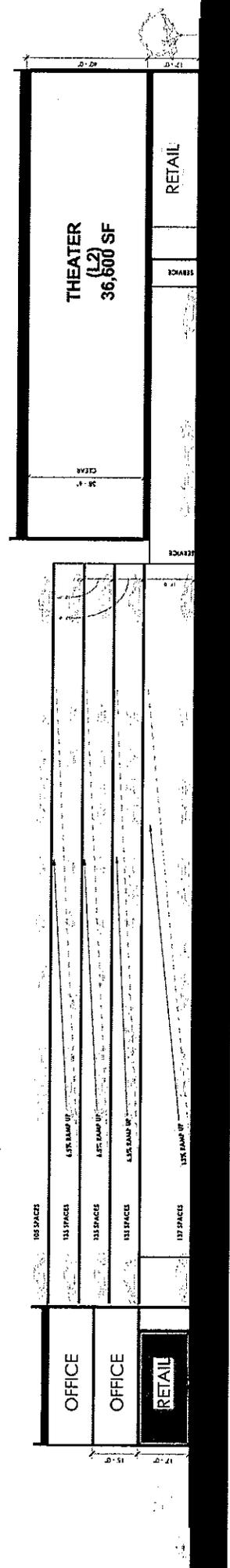
BECK VENTURES



BDA 168-1301



OFFICE (6) IN ROW

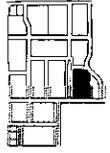


1 Section AA
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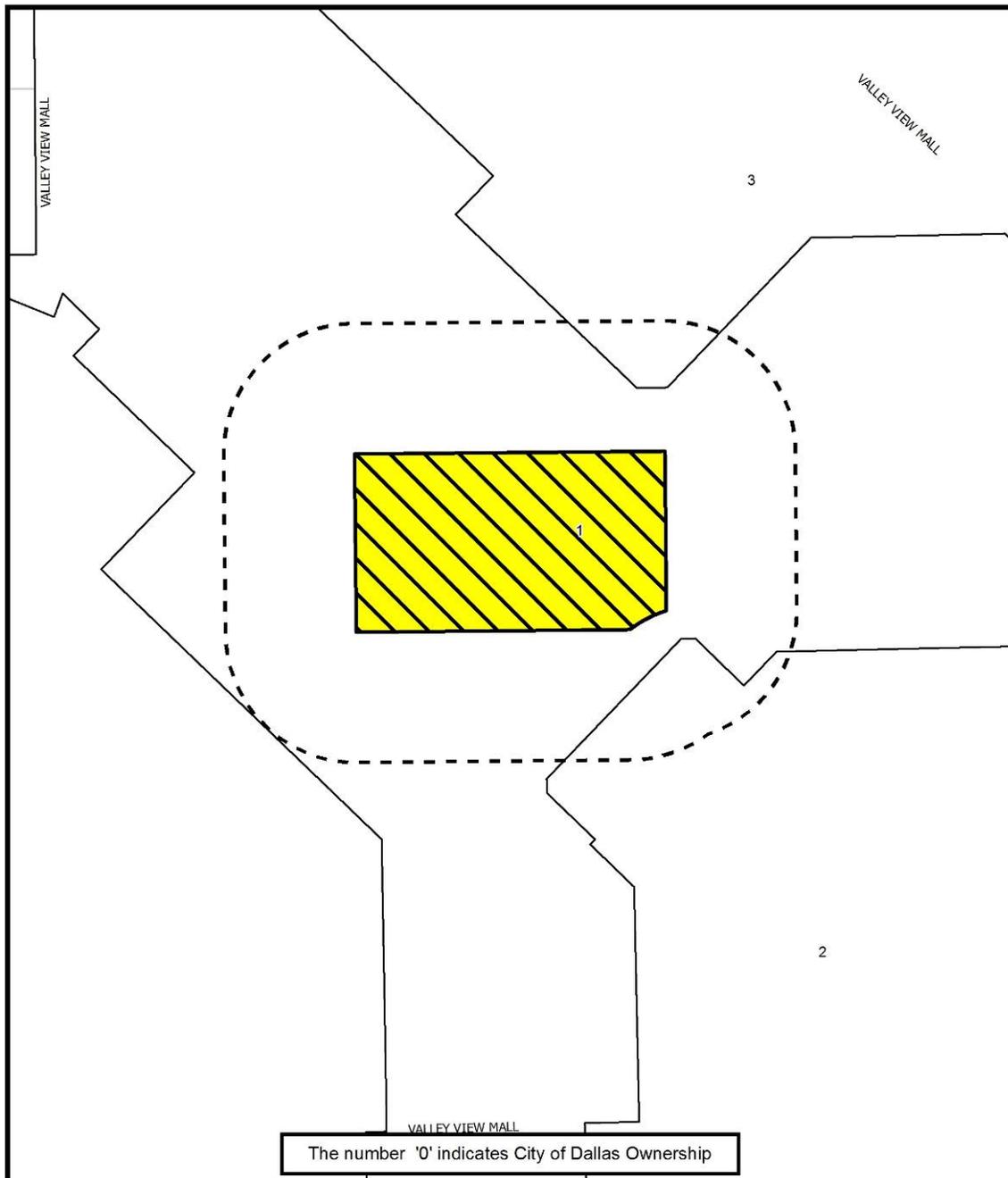
WDG Architecture, Dallas, PLLC
2001 Ross Street, Suite 3100
Dallas, TX 75201
Tel 214.699.5311

MIDTOWN
DALLAS, TEXAS

01/17/2017
NOT TO SCALE



BECK VENTURES



The number '0' indicates City of Dallas Ownership

 1:2,400	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="0"> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center;">3</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	3	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u>BDA167-031</u> Date: <u>3/1/2017</u>
200'	AREA OF NOTIFICATION					
3	NUMBER OF PROPERTY OWNERS NOTIFIED					

03/01/2017

Notification List of Property Owners

BDA167-031

3 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	13131 PRESTON RD	13331 PRESTON RD LP
2	13131 PRESTON RD	SERITAGE SRC FINANCE LLC
3	13343 PRESTON RD	13331 PRESTON RD LP

FILE NUMBER: BDA167-032(SL)

BUILDING OFFICIAL'S REPORT: Application of Rosemary Papa, represented by Misty Ventura of Shupe Ventura, PLLC, for a variance to the height regulations at 13131 Preston Road. This property is more fully described as a 2.457 acre tract in Lot 3, Block A/7409, and is zoned PD 887 (Subdistrict 1B), which limits the maximum story height to 15 feet. The applicant proposes to construct a nonresidential structure with a story height of 30 feet, which will require a 15 foot variance to the height regulations.

LOCATION: 13131 Preston Road

APPLICANT: Rosemary Papa,
Represented by Misty Ventura of Shupe Ventura, PLLC

REQUEST:

A request for a variance to the height regulations (specifically to story height) of up to 15' is made to construct and maintain a 10-story hotel structure where the proposed 5th floor is 30' in height and exceeds the maximum story height of 15' required in PD 887 Subdistrict 1B by 15' on a site that is currently developed with a combination of surface parking and retail use that the applicant intends to demolish.

STANDARD FOR A VARIANCE:

The Dallas Development Code Section 51A-3.102(d)(10) 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 that the variance should be denied because there was no property hardship to the site that warranted a variance to the height regulations. The applicant had not demonstrated how the features of flat, somewhat irregular in shape, and approximately 2.5 acre site preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 887 zoning classification while complying with code provisions including height regulations.

BACKGROUND INFORMATION:

Zoning:

Site: PD 887 (Planned Development)
North: PD 887 (Planned Development)
South: PD 887 (Planned Development)
East: PD 887 (Planned Development)
West: PD 887 (Planned Development)

Land Use:

The subject site is developed with a combination of surface parking and retail use that the applicant intends to demolish. The areas to the north east, south, and west are developed with nonresidential uses.

Zoning/BDA History:

1. Z123-186, Property located generally east of the Dallas North Tollway, south of Southern Boulevard, south of Monfort Place, south of the northern boundary of Woodchase Apartments, south of the northern boundary of Preston View Estates, west of Preston Road, and north of Interstate Highway 635 (LBJ Freeway). (Property that includes the subject site).

On June 12, 2013, the City Council created an ordinance changing the zoning on property that had been zoned PD 130, PD 215, PD 250, PD 279, PD 322, PE 423, PD 713, CR, CS, GO(A), RR, LO-2, MO-2, MF-1(A), MF-4(A), MU-1, MU-2, MU-3, and P(A) to PD 887.

- | | |
|--------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>2. BDA167-030, Property located at 13131 Preston Road (property west of the subject site)</p> | <p>On March 21, 2017, the Board of Adjustment Panel A will consider a request for a variance to the height regulations (specifically to story height) of up to 25' made to construct and maintain a 2-story theater structure where the proposed 2nd floor is 40' in height and exceeds the maximum story height of 15' required in PD 887 Subdistrict 1B by 25'.</p> |
| <p>3. BDA167-031, Property located at 13131 Preston Road (property west of the subject site)</p> | <p>On March 21, 2017, the Board of Adjustment Panel A will consider a request for a variance to the height regulations (specifically to the minimum number of stories required by PD 997) of 1 story is made to construct and maintain a 2-story theater structure, a structure that is 1-story less than the 3 stories required on properties in PD 887 (Subdistrict 1B).</p> |
| <p>4. BDA167-029, Property located at 13439 Preston Road (property east of the subject site)</p> | <p>On March 21, 2017, the Board of Adjustment Panel A will consider a request for a variance to the height regulations (specifically to story height) to construct and maintain a 4-story fitness facility structure where the proposed 2nd, 3rd, and 4th floors have stories at 20', 32', and 22' in height, respectively, and exceed the maximum story height of 15' required in PD 887 Subdistrict 1.</p> |

GENERAL FACTS /STAFF ANALYSIS:

- The request for a variance to the height regulations of (specifically to story height) of 15' focuses on constructing and maintaining a 10-story hotel structure where the proposed 5th floor is 30' in height and exceeds the maximum story height of 15' required in PD 887 Subdistrict 1B by 15' on a site that is currently developed with a combination of surface parking and retail use that the applicant intends to demolish.
- The subject site is zoned PD 887 (Subdistrict 1B). PD 887 provides the following related to "stories":
 1. Except as provided in this paragraph, minimum number of stories above grade is three. Minimum number of stories above grade for general commercial development types is two. Structures constructed in an esplanade within Street Section Type B1 of the Street Plans may not exceed one story. The minimum height provisions of Section 51A-13.302(b)(2), (3), (4), and (5) also apply.
 2. Maximum number of stories above grade is 20.

- Section 51A-13.304(a)(4) provides regulations for MU District Type specifically stating the ground story height is a minimum/maximum of 15'/30' and the upper story height is a minimum/maximum of 10'/15'.
- The applicant has submitted an elevation of the proposed 10-story hotel structure detailing the height of its 10 stories. The elevation denotes all floors/stories the 1st meet the height requirement with the exception of the 5 floor/story that is to be 30' (or 15' over the maximum story height).
- The site is flat, somewhat irregular in shape, and according to the application is 2.457 acres in area.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the height 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 to height regulations 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 PD 887 zoning classification.
 - The variance to height setback regulations would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 887 zoning classification.
- If the Board were to grant the request for a variance to the height regulations, a determination should be made if any conditions should be imposed with this request (i.e. submitted site plan and/or elevation).

Timeline:

January 26, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 15, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

February 15, 2017: The Board Administrator emailed the applicant's representative the following information:

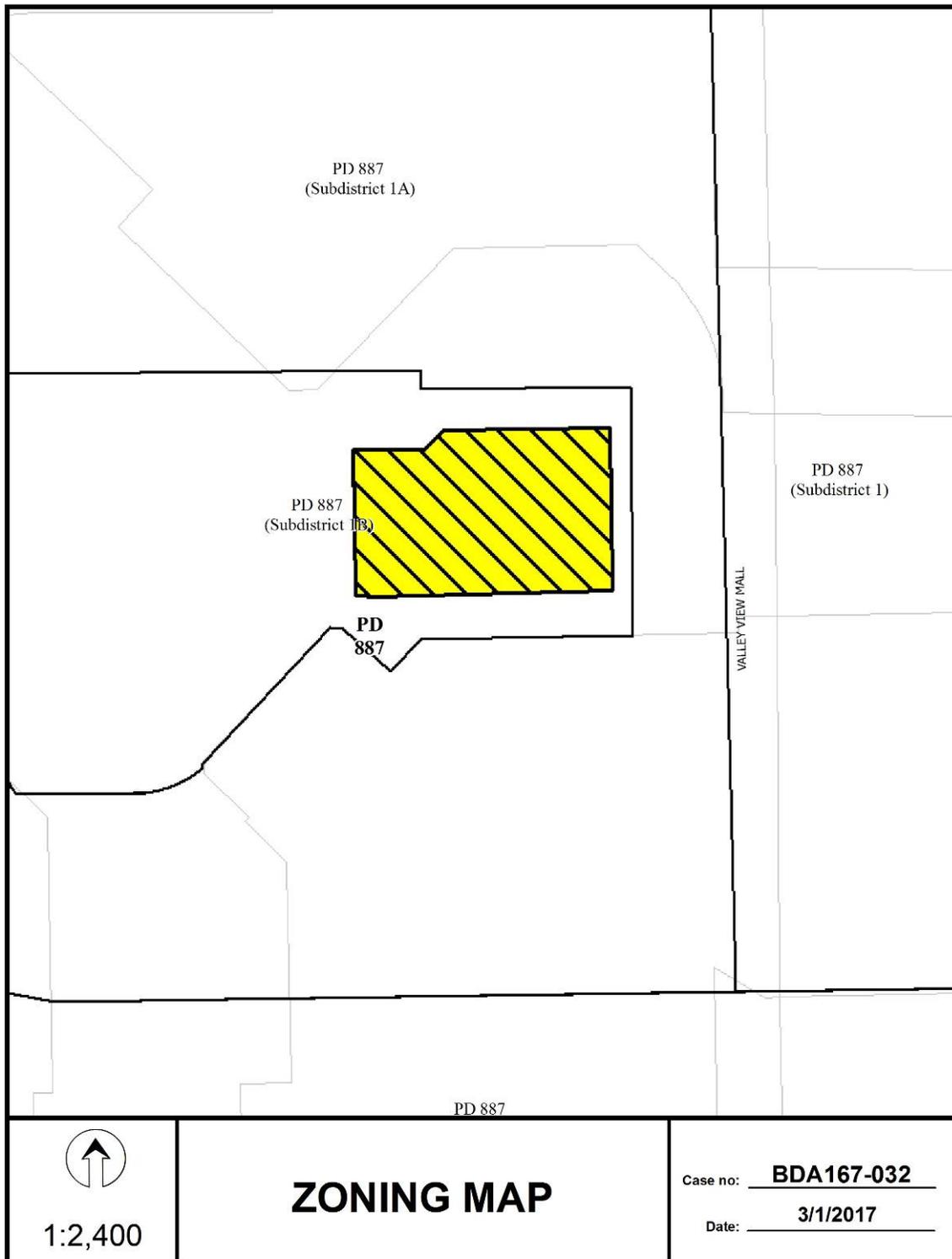
- an attachment that provided the public hearing date and panel that will consider the application; the March 1st deadline to submit additional evidence for staff to factor into their analysis; and the March 10th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and

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

March 6, 2017: The applicant's representative submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

March 7, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Sustainable Development and Construction Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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





1:2,400

AERIAL MAP

Case no: BDA167-032

Date: 3/1/2017

Hotel Block - 032 (Height)

BDA167-032
Attach A
Pg 1

- Per Article PD887: Subdistrict 1B
 - o Sec.51P-887.109 (c1) District Type WMU-20

- Per Article 13:
 - o See chart for Regulations for MU Classification.

 - o Story Height:
 - Upper Story (min/max ft): 10/15

We are requesting a variance to increase the maximum Upper Story Height to 15' to 30'.

(2) Stories.

(A) Minimum number of stories above grade is two. The minimum height provisions of Section 51A-13.302(b)(2), (3), (4), and (5) also apply.

(B) Maximum number of stories above grade is 12.

(3) Urban form setback. An additional 20-foot setback from the minimum setback is required for any portion of a structure above five stories fronting on all streets except Preston Road.

(b) Subdistrict 1A.

(1) In general. Except as provided in this article, the district regulations for the WMU-20 Walkable Urban Mixed Use District apply.

(2) Stories.

(A) Except as provided in this paragraph, minimum number of stories above grade is three. Minimum number of stories above grade for general commercial development types is two. The minimum height provisions of Section 51A-13.302(b)(2), (3), (4), and (5) also apply.

(B) Maximum number of stories above grade is 20.

(3) Urban form setback. An additional 20-foot setback from the minimum setback is required for any portion of a structure above five stories fronting on all streets except Preston Road.

(c) Subdistrict 1B.

(1) In general. Except as provided in this article, the district regulations for the WMU-20 Walkable Urban Mixed Use District apply.

(2) Stories.

(A) Except as provided in this paragraph, minimum number of stories above grade is three. Minimum number of stories above grade for general commercial development types is two. Structures constructed in an esplanade within Street Section Type B1 of the Streets Plan may not exceed one story. The minimum height provisions of Section 51A-13.302(b)(2), (3), (4), and (5) also apply.

(B) Maximum number of stories above grade is 20.

	Mixed Use Shopfront	Single-Story Shopfront	General Commercial	Apartment	Townhouse Stacked	Townhouse	Manor House	Single-family House	Civic Building	Open Space Lot
	Mu	Ss	Gc	Apt	Ts	Th	Mh	Sf	Civ	O
LOT										
Area per unit or building (min sf)	none	none	none	none	1,200	1,200	depends on # of units	3,500	3,000	2,000
Area per building (max sf)	none	none	none	none	none	none	20,000	5,000	none	none
Width (min ft)	none	none	none	none	16	16	50	35	30	20
Width (max ft)	none	none	none	none	none	none	100	45	none	none
Lot coverage (max)	100%	80%	80%	80%	80%	80%	60%	60%	60%	5%
FRONT SETBACK AREA										
Primary street (min/max ft)	5/15	5/15	5/15	5/15	5/15	5/15	15/none	15/none	20/none	10/none
Side street (min/max ft)	5/15	5/15	5/15	5/15	5/15	5/15	10/none	10/none	10/none	10/none
Service street (min/max ft)	none	none	none	none	none	none	none	none	none	10/none
REQUIRED STREET FRONTAGE										
Primary street (min/max ft)	90%	90%	70%	70%	70%	70%	none	none	none	none
Side street (min/max ft)	40%	40%	40%	40%	40%	40%	none	none	none	none
Service street (min/max ft)	none	none	none	none	none	none	none	none	none	none
PARKING SETBACK										
From primary street (min ft)	30	30	30	30	30	30	none	none	20	none
From side street (min ft)	5	5	5	5	5	5	none	none	5	none
From service street (min ft)	5	5	5	5	5	5	none	none	5	none
Abutting single-family district (min ft)	10	10	10	10	10	10	none	none	10	none
Abutting multifamily, nonresidential district, alley (min ft)	5	5	5	5	5	5	none	none	5	none
SIDE SETBACK										
Abutting single-family district (min ft)	15	15	15	15	10	10	10	5	10	10
Abutting multifamily, nonresidential district (min ft)	0 or 5	0 or 5	0 or 5	0 or 5	0 or 5	0 or 5	5	5	10	10
Abutting alley (min ft)	5	5	5	5	5	5	5	5	10	10
REAR SETBACK										
Abutting single-family district (min ft)	15	15	15	15	24	24	15	15	10	10
Abutting multifamily, nonresidential district (min ft)	5	5	5	5	24	24	15	15	10	10
Abutting alley (ft)	5	5	5	5	3/20+	3/20+	3/20+	3/20+	10	10
Abutting service street (ft)	10	10	10	10	3/20+	3/20+	none	none	10	10
HEIGHT										
Building height (min stories)	District dependent	1	District dependent	District dependent	2	District dependent	2	1	1	none
Building height (max stories/ft)		1 / 30			3 1/2 / 50		2 1/2 / 35	2 1/2 / 35	District dependent	35
STORY HEIGHT										
Ground story (min/max ft)	15/30	15/30	11/22	10/15	10/15	10/15	10/15	10/15	none	none
Upper story (min/max ft)	10/15	none	10/15	10/15	10/15	10/15	10/15	10/15	none	none
GROUND STORY TRANSPARENCY										
Primary street facade (min)	50%	50%	30%	30%	30%	30%	20%	20%	none	none
Side street facade (min)	25%	25%	25%	25%	25%	25%	20%	20%	none	none
Service street facade (min)	none	none	none	none	none	none	none	none	none	none
UPPER STORY TRANSPARENCY										
Primary street facade (min)	20%	none	20%	20%	20%	20%	20%	20%	none	none
Side street facade (min)	20%	none	20%	20%	20%	20%	20%	20%	none	none
Service street facade (min)	none	none	none	none	none	none	none	none	none	none
ENTRANCE										
Primary street entrance	required	required	required	required	required	required	required	required	none	none
Entrance spacing (max linear ft)	100	100	none	none	none	none	none	none	none	none
Side street entrance	allowed	allowed	allowed	allowed	allowed	allowed	allowed	allowed	none	none
Service street entrance	allowed	allowed	allowed	allowed	allowed	allowed	allowed	allowed	none	none
BLANK WALL AREA										
Primary street (max linear ft)	20	20	30	30	30	30	30	30	none	none
Side street (max linear ft)	none	none	none	none	none	none	none	none	none	none
Service street (max linear ft)	none	none	none	none	none	none	none	none	none	none

The subject property is located in a PD 887 and is also subject to Section 51A, Article XIII: Form Districts requirements and the City's Thoroughfare Plan. The combination and interaction of these three complex documents creates unique special conditions that result in an unnecessary hardship to the applicant. Based on the variance criteria below, the applicant is requesting a variance based on the special conditions these three documents create.

Variance Criteria

(A) The variance is not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in the unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done

PD 887 – Purpose and Vision

(a) Purpose. The Valley View - Galleria Area Special Purpose District is envisioned as the primary regional town center of North Dallas, characterized by an economically vibrant and environmentally sustainable mix of moderate to high density residential and non-residential land uses, supported by an enhanced system of streets and open spaces. The goals of this special purpose district are as follows:

- (1) Encourage development that creates a diverse mix of compatible land uses in buildings designed to support a pedestrian, bicycle, and transit friendly environment, reduce the dominance of visible parking, and reduce environmental impacts.
- (2) Create a network of well-maintained, publicly-accessible open spaces with a range of sizes and functions, designed to enhance the quality of life for the growing resident population and workforce in the area.
- (3) Create a network of connected public and private streets and pathways designed to enhance multi-modal accessibility while reducing automobile-dependence within the area through improvements that support pedestrian, bicycle, and transit circulation.

(b) Vision. The Valley View - Galleria Area Plan is intended to serve as a guide and should be consulted for goals, objectives, policy statements, and recommendations for development of this special purpose district. (Ord. 29032)

The variance request is within the intended vision of the PD887 Ordinance and is not contrary to the public interest. Currently, the site has a substantially vacant mall with two vacant anchor retail buildings and a dilapidated parking lot with substandard lighting. The applicant wants to construct the equivalent of Uptown Dallas in the Midtown District. The variance that we are requesting is not contrary to the public interest and is in fact, supporting the public interest of redeveloping Valley View Mall.

City Council has entered into a TIF reimbursement agreement with the developer that incentivizes this project and includes drawings for the project approved by the Dallas Urban Design Peer Review.

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(B) The variance is necessary to permit development of a specific parcel of land that differs from the other parcels of land by being of such restrictive area, shape, or slope that it cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning. The city has implemented a new Thoroughfare Plan overlay for PD887 (see below).

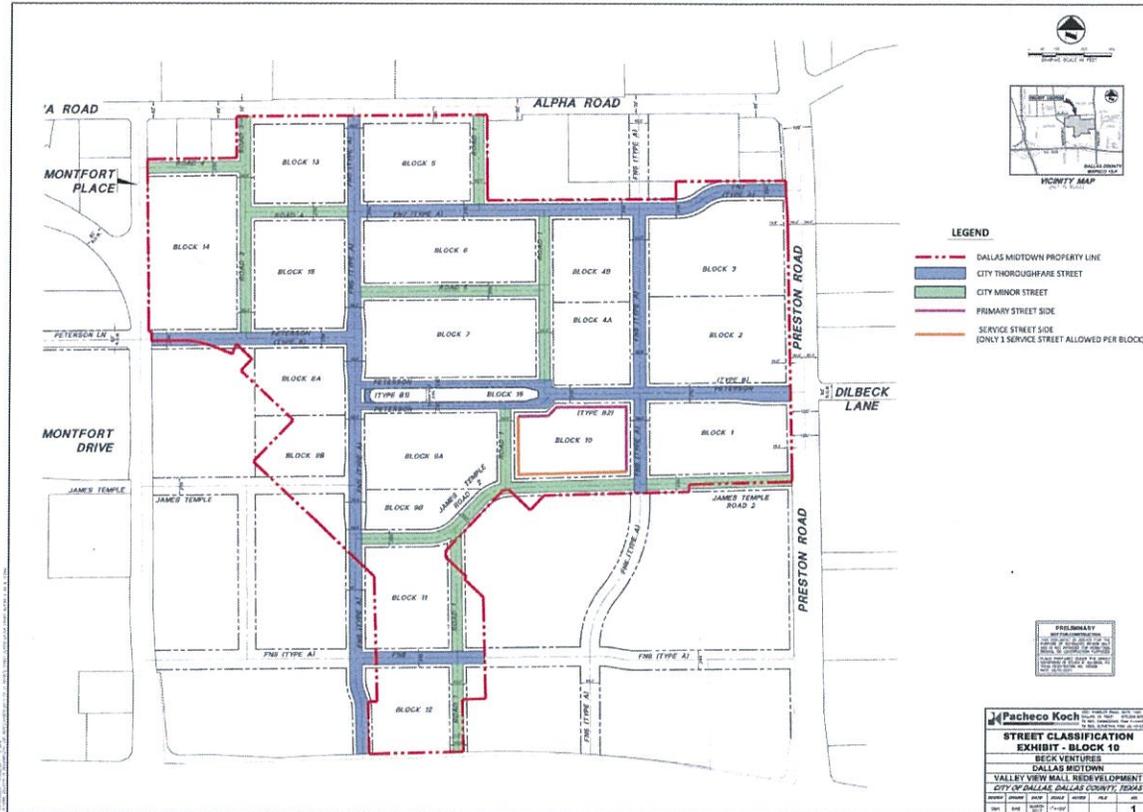


* NOT TO SCALE

- LEGEND:
- STUDY AREA BOUNDARY
 - PROPOSED AMENDMENT TO THOROUGHFARE PLAN
 - FRONTAGE ROAD
 - - - CONCEPTUAL MINOR STREETS, DEVELOPMENT DRIVEN*

* THESE MINOR STREETS ARE CONCEPTUAL AND INTENDED ONLY TO ILLUSTRATE DESIRED CONNECTIVITY FOR NEW STREETS. ALTERNATIVE ALIGNMENTS MAY BE APPROVED BY THE DIRECTOR OF PUBLIC WORKS IF THEY PROVIDE EQUIVALENT CONNECTIVITY AND COMPLY WITH THE PROVISIONS OF SECTION 51P-887.115 (STREET STANDARDS) AND SECTION 51A-13.502 (NEW MINOR STREETS).

Article 13 Sec. 51A-13.703 Site Plan Review Item c stipulates the Primary Street Designation. Based on these criteria, we have developed a plan showing the Primary Streets designated for this block (see below).



Additional Criteria:

Article 13 Section 51A-13.304 Development Types Item a3D states that Structured Parking must contain active uses on the ground story along any Primary Street for the first 30' of the building measured inward from the street facing facade.

Having to abide by the above requirements of PD 887 and Article 13, in addition to the City's Thoroughfare Plan, creates a restrictive area and shape for each block.

PD887 allows for large format retail as long as all parking is provided in a parking structure. Large format retail, hotel or cinemas, which are a critical component of the PD887 purpose and vision, cannot be located on the ground floor because:

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- 1) The Thoroughfare Plan, as adopted by the City of Dallas, travels through the applicant's property and requires roads to be built which create blocks with a restrictive area and shape
- 2) Due to the desired density of the projects, each block must contain structured parking.
- 3) Due to the size, shape and area of each of the blocks, the parking garage must be located in the center of the block.
- 4) Ground floor retail must be used to wrap the parking garage to meet the active use requirement for structured parking within the PD.
- 5) These required conditions have forced large format retail, theatres and hotels to be located above the ground floor.
- 6) These uses require an upper story height of greater than 15'.

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

The granting of this Story Height Variance is not to relieve a self-created hardship or for financial reason but specifically in response to a hardship of the area and shape of this block created by the Thoroughfare Plan, the streets plan that is an exhibit to the PD, and other PD restrictions the combined effect of which is to force larger permitted uses like the proposed use to be located on upper stories when locating in this block. Upper stories are restricted to 15 feet in height, which would prohibit this particular use even though it is a permitted use and consistent with the vision for this district.

The subject site cannot be designed in a manner that meets all PD restrictions and allows for the proposed use on the ground floor level. There are physical limitations that necessitate the granting of the variance for the proposed permitted use to allow it to be located on an upper level.

ARTICLE 887.

PD 887.

Valley View - Galleria Area Special Purpose District

SEC. 51P-887.101. LEGISLATIVE HISTORY.

PD 887 was established by Ordinance No. 29032, passed by the Dallas City Council on June 12, 2013. (Ord. 29032)

SEC. 51P-887.102. PROPERTY LOCATION AND SIZE.

PD 887 is established on property generally bounded by Southern Boulevard on the north, Preston Road on the east, LBJ Freeway on the south, and the Dallas North Tollway on the west. The size of PD 887 is approximately 445 acres. (Ord. 29032)

SEC. 51P-887.103. PURPOSE AND VISION.

(a) Purpose. The Valley View - Galleria Area Special Purpose District is envisioned as the primary regional town center of North Dallas, characterized by an economically vibrant and environmentally sustainable mix of moderate to high density residential and non-residential land uses, supported by an enhanced system of streets and open spaces. The goals of this special purpose district are as follows:

(1) Encourage development that creates a diverse mix of compatible land uses in buildings designed to support a pedestrian, bicycle, and transit friendly environment, reduce the dominance of visible parking, and reduce environmental impacts.

(2) Create a network of well-maintained, publicly-accessible open spaces with a range of sizes and functions, designed to enhance the quality of life for the growing resident population and workforce in the area.

(3) Create a network of connected public and private streets and pathways designed to enhance multi-modal accessibility while reducing automobile-dependence within the area through improvements that support pedestrian, bicycle, and transit circulation.

(b) Vision. The Valley View - Galleria Area Plan is intended to serve as a guide and should be consulted for goals, objectives, policy statements, and recommendations for development of this special purpose district. (Ord. 29032)

SEC. 51P-887.104. CREATION OF SUBDISTRICTS.

(a) This special purpose district is divided into the following subdistricts:

(2) A regulating plan is not a site plan, as required for all development (see Section 51A-13.703, "Site Plan Review").

(d) Modification of a Regulating Plan.

Any change to a regulating plan is a change in zoning district classification and must follow the zoning amendment procedure in Section 51A-4.701.

(e) Compliance with Regulating Plan.

The requirements of the regulating plan are conditions that must be complied with before a certificate of occupancy may be granted.

SEC. 51A-13.703. SITE PLAN REVIEW.

(a) Site Plan Required.

(1) Except as provided in Paragraph (2), all development must receive site plan approval by the building official in accordance with Section 51A-4.803 before issuance of a building permit. A certificate of occupancy will not be issued unless all aspects of the development fully conform to the approved site plan.

(2) A site plan is not required if the permit is only needed for:

(A) restoration of a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind; or

(B) construction work that does not change the use or increase the existing building height, floor area ratio, or nonpermeable coverage of the lot.

(b) Additional Site Plan Requirements.

The following site plan elements are required in addition to any requirements in Section 51A-4.803.

(A) Designated primary, side, and service streets.

(B) Development types designated on specific lots.

(C) Location and description of pedestrian amenities.

(D) Location and specifications of minor and existing streets.

(E) Location and specifications of open space.

(F) Location of all setback lines.

(G) Building elevations showing compliance with building facade requirements.

(H) Location and specifications of landscaping.

(I) Locations and specifications of site lighting, outdoor storage and display, and signs.

(c) Primary Street Designation.

(1) Applying the standards in this subsection, the building official shall determine whether streets are considered primary or side streets.

(2) If a lot abuts only one street, the street is a primary street. Any street within a -SH overlay is also considered a primary street.

(3) If a lot runs from one street to another and has double frontage, both streets are primary streets.

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(4) If a lot is located on a corner, one street is a primary street and one street is a side street, except as provided in Paragraph (5). The primary street is:

- (A) the street abutting the longest face of the block; or
- (B) the street parallel to the alley within the block.

(5) When a lot is located on a corner, both streets are primary streets if:

- (A) a majority of the lots on the shorter block face are platted perpendicularly to the longer face of the block;
- (B) there are two primary streets designated on a regulating plan; or
- (C) the applicant designates both streets as primary streets.

(d) Service Street Designation.

(1) The building official shall determine whether a service street is appropriate based on the criteria contained in this subsection.

(2) The applicant must control the land along an entire block face of a service street, and the service street must be designated from one street intersection to another street intersection.

(3) A site with a service street must have at least two frontages and one frontage must be a primary street.

(4) Only one service street may be designated abutting any block.

(e) Multiple Development Types on a Single Lot or Parcel.

(1) Calculation of Lot Coverage.

(A) Where multiple development types are located on a single building site, the calculation of lot coverage is based on the proportion of total coverage required for each development type in relation to the proposed building footprints.

(B) As an example, a building site with one proposed mixed use shopfront building (allowed 100 percent coverage) with a lot coverage of 10,000 square feet and two proposed general commercial buildings (allowed 80 percent coverage) with a combined lot coverage of 20,000 square feet would have a lot coverage of 86 percent.

$$\frac{10,000 \text{ SF}}{30,000 \text{ SF}} \times 1.00 + \frac{20,000 \text{ SF}}{30,000 \text{ SF}} \times 0.80 = 86\% \text{ Lot Coverage}$$

(C) Where the lot coverage for all proposed development types is the same, no calculation is necessary.

(2) Calculation of Required Frontage.

(A) In order to ensure the pedestrian frontage remains as consistent as possible, if multiple development types are located on a single building site, the building official shall calculate required street frontage on a building-by-building basis.

(B) As an example, a site with a mixed use shopfront building with 180 linear feet of street frontage (required 90 percent street frontage) must be located on an artificial lot with a width no greater than 200 feet. A proposed general commercial building with 200 linear feet of street frontage (required 70 percent street frontage) must be located on an artificial lot with a width no greater than 286 feet in width.

(f) Consistency With Regulating Plan.

The building official shall determine that the site plan is consistent with any adopted regulating plan prior to approval.

(3) Parking Setbacks and Access.

(A) On-site surface parking must be located behind the parking setback line.

(B) The parking setback line applies only to the ground story.

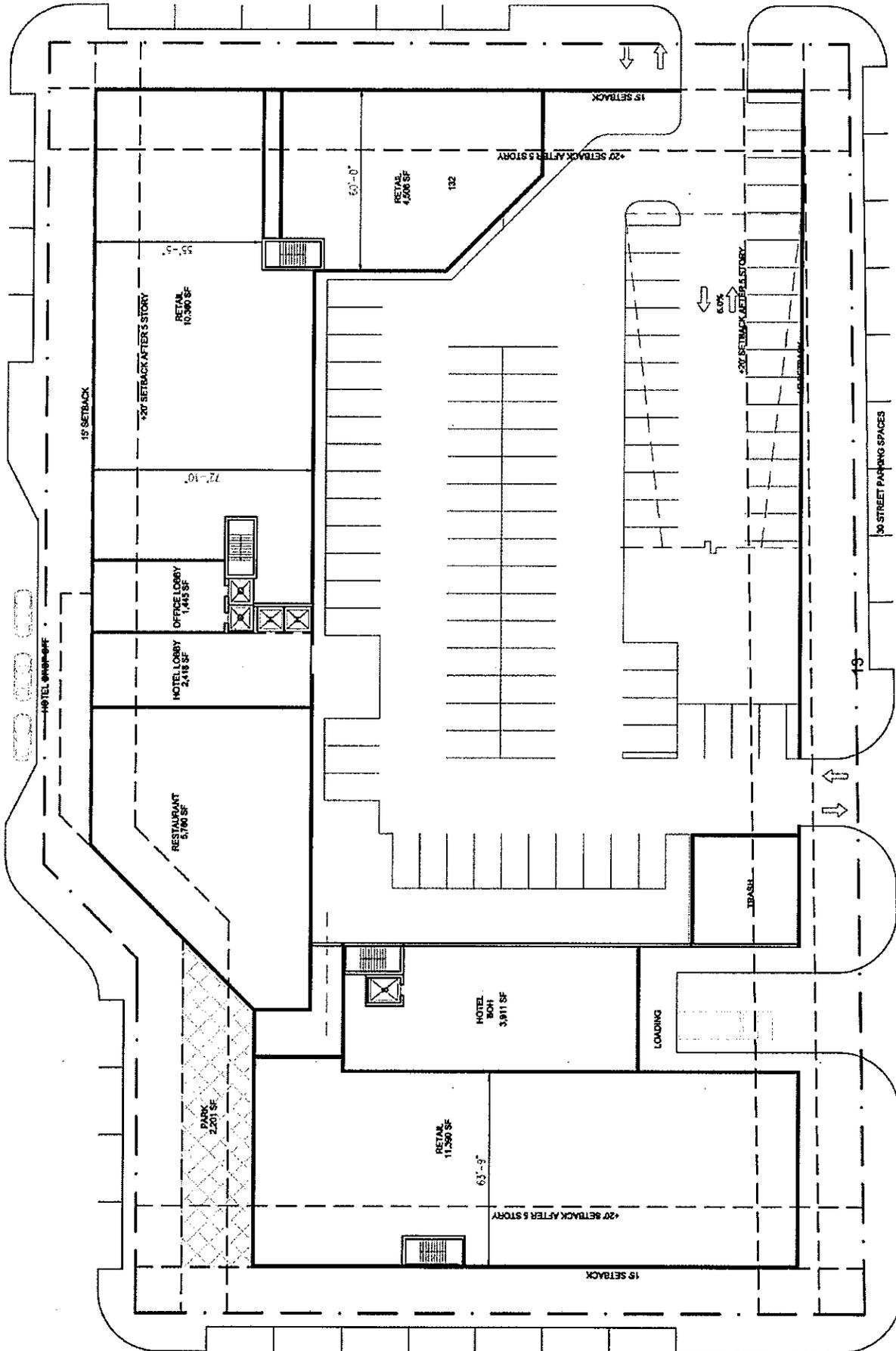
(C) Except when configured as a multi-way boulevard or indented parking, no on-site surface parking is permitted between a building and the street. (See Division 51A-13.500, "Minor Streets and Streetscapes.")

(D) Structured parking must contain active uses on the ground story along any -SH overlay or any primary street for the first 30 feet of the building measured inward from the street-facing facade. There is no active ground-story use requirement for structured parking along a service street.

(E) The requirements of Subparagraphs (A), (B), (C), and (D) above do not apply to on-street or underground parking.

(F) The required street frontage may be interrupted to allow for a maximum 30-foot-wide vehicular entrance to a parking structure or area.

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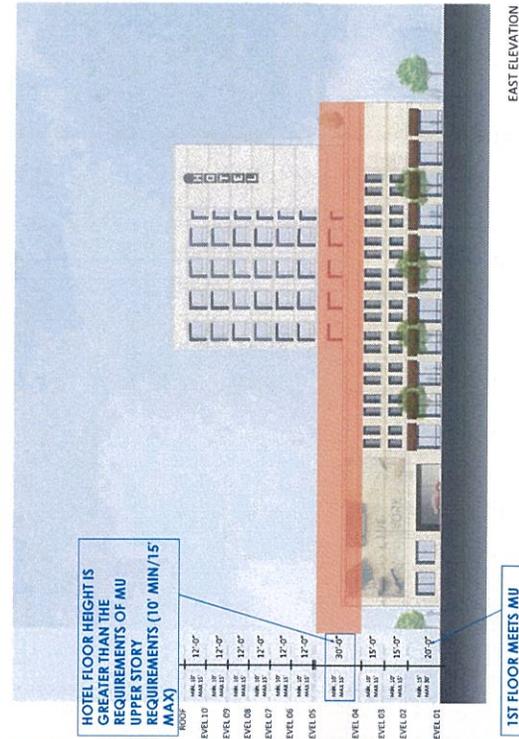
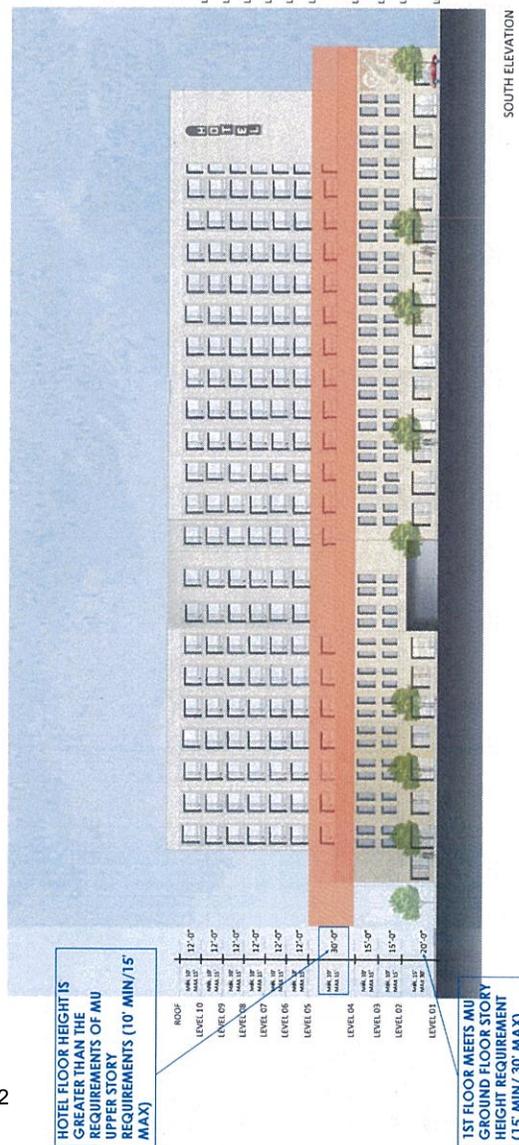
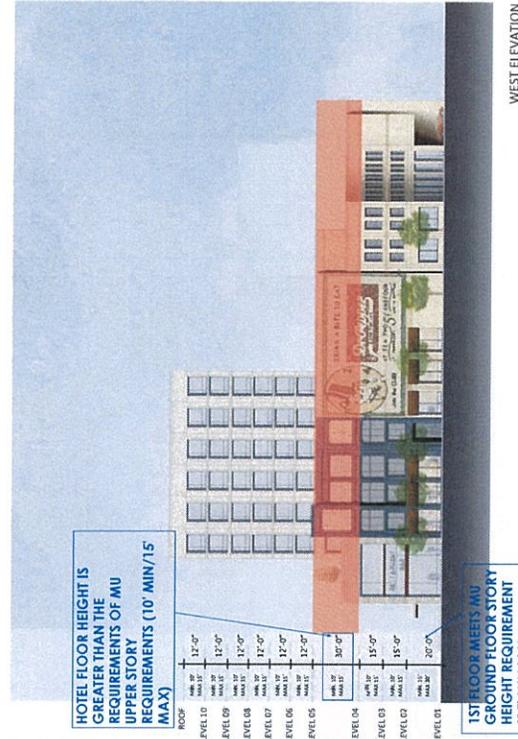
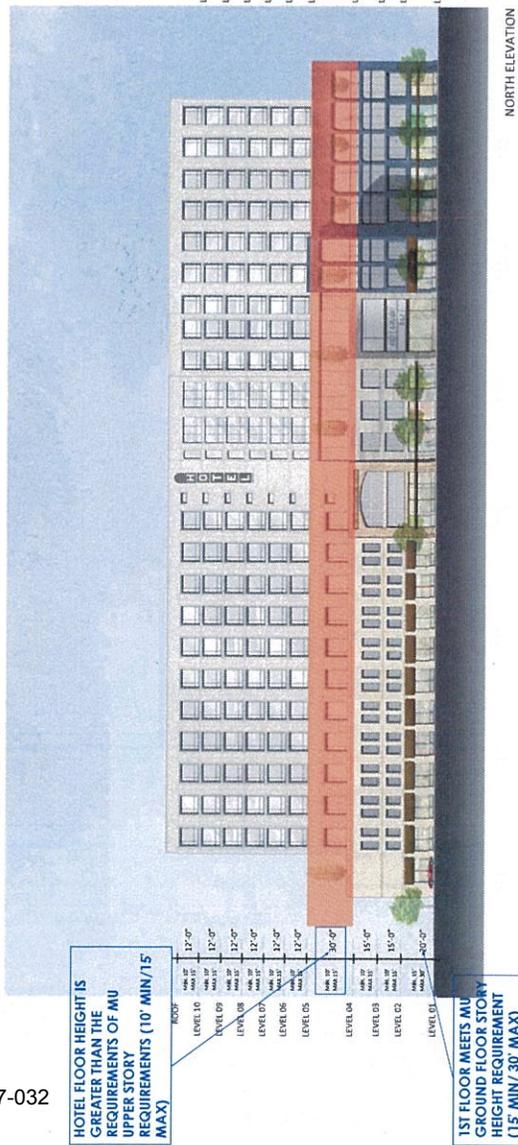


EXHIBIT G

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NORTH ELEVATION



WEST ELEVATION



SOUTH ELEVATION



EAST ELEVATION





APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-032

Data Relative to Subject Property:

Date: January 26, 2017

Location address: 13131 Preston Road, Dallas TX Zoning District: WMU-20 PD 887 (Subd. 1B)

Lot No.: 3 Block No.: A/7409 Acreage: 2.457 Census Tract: 0136.15

Street Frontage (in Feet): 1) 429.3' 2) 263.2' 3) 416.6' 4) 237.1' 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): 13331 Preston Road, L.P.

Applicant: Rosemary Papa Telephone: 469-533-5021

Mailing Address: 13101 Preston Road, Suite 510 Dallas, TX Zip Code: 75240

E-mail Address: rosemary@beckventures.com

Represented by: Myron Dornic Telephone: 214-953-5946

Mailing Address: 2323 Ross Avenue, Suite 600, Dallas, TX Zip Code: 75201

E-mail Address: mdornic@jw.com

Affirm that an appeal has been made for a Variance X, or Special Exception, of 15' to the maximum upper story height for the mixed use shopfront development type of 15'.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: The current maximum upper story height is 15'. This significantly limits the potential uses for the upper stories. The Developer has a hotel operator to manage a 250 key full-service hotel located in this block. The hotel ballroom amenity requires a higher story height due to the nature of the use. In order to have a pedestrian-friendly environment and activate the ground floor, this function is required to be located above the ground floor, which would require a higher upper story height.

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.

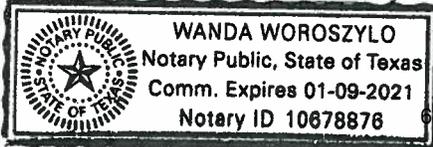
Affidavit

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

Subscribed and sworn to before me this 26 day of January, 2017



Wanda Woroszylo (Notary Public 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 Rosemary Papa
represented by Myron Dornic
did submit a request for a variance to the height regulations
at 13131 Preston Road

BDA167-032. Application of Rosemary Papa represented by Myron Dornic for a variance to the height regulations at 13131 Preston Road. This property is more fully described as a 2.457 acre tract in Lot 3, Block A/7409, and is zoned PD-887, which limits the maximum story height to 15 feet. The applicant proposes to construct a nonresidential structure with a story height of 30 feet, which will require a 15 foot variance to the maximum height regulation.

Sincerely,

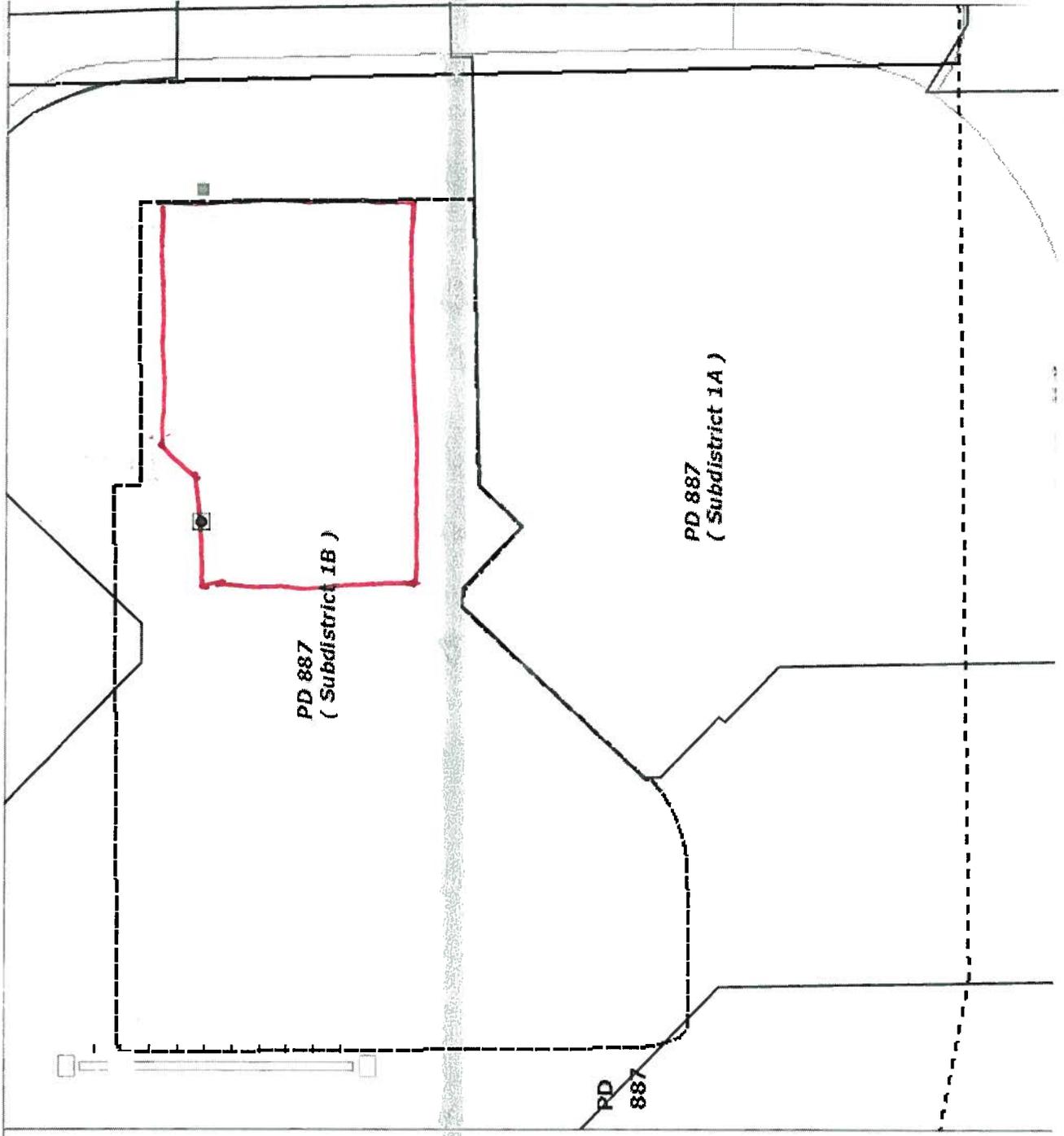
Philip Sikes
Philip Sikes, Building Official

City of Dallas

Internal Development Research Site

Legend

- Addresses
- Dallas Zoning
- Floodplain
- Building Inspection
- DART
- Real Estate
- Alcohol
- Plats
- Areas of Request
- Thoroughfare Plan
- Capital Improvemen
Program
- Council and Census
- Roads
- Tax Parcels
- Zoning Grid
- Stormwater
- Water Distribution
- Waste Water Collect

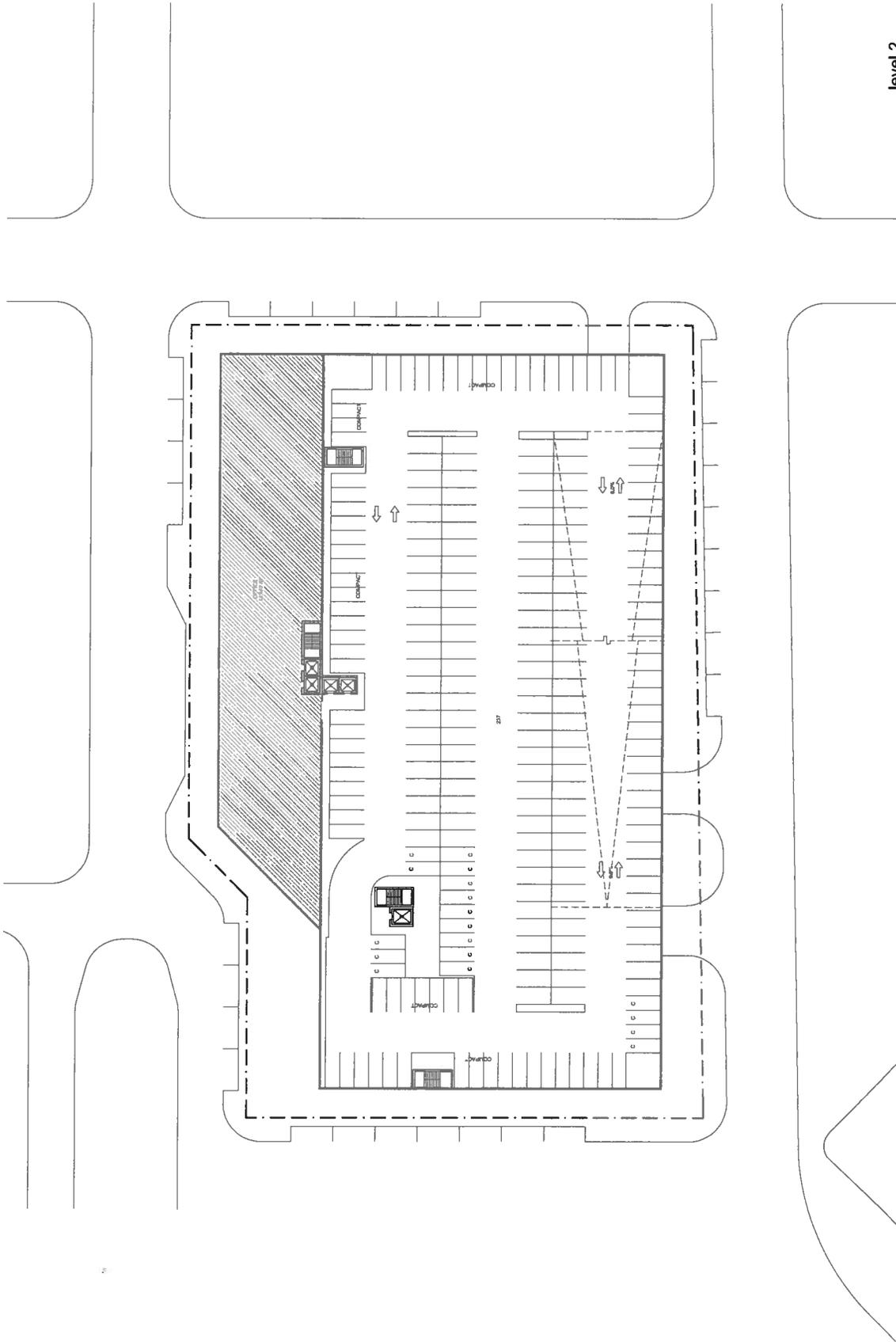


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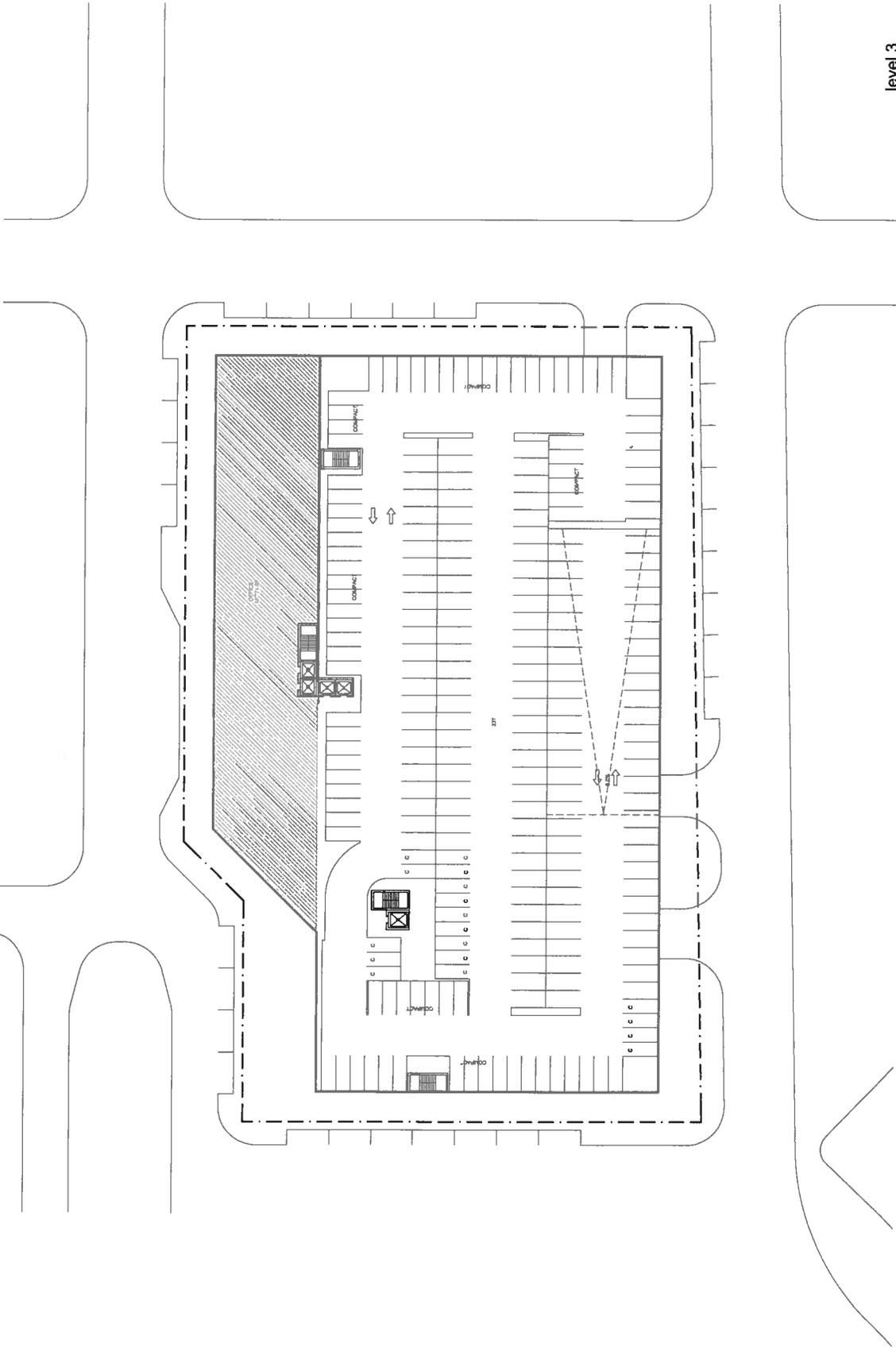
In addition, the Dallas Office of Economic Development and the City of Dallas City Council have signed a developer agreement with the Developer incentivizing them to build such a facility within the district. In conclusion, and for all these reasons we believe “a literal enforcement of the zoning ordinance would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done”.

Also, early on in the design process, the Midtown District TIF Board and the Dallas Urban Design Peer Review reviewed and approved the elevations of this block.

We request that the Board extend the permit date to within 270 days of the date of the final action.



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level 3

03.23.2016

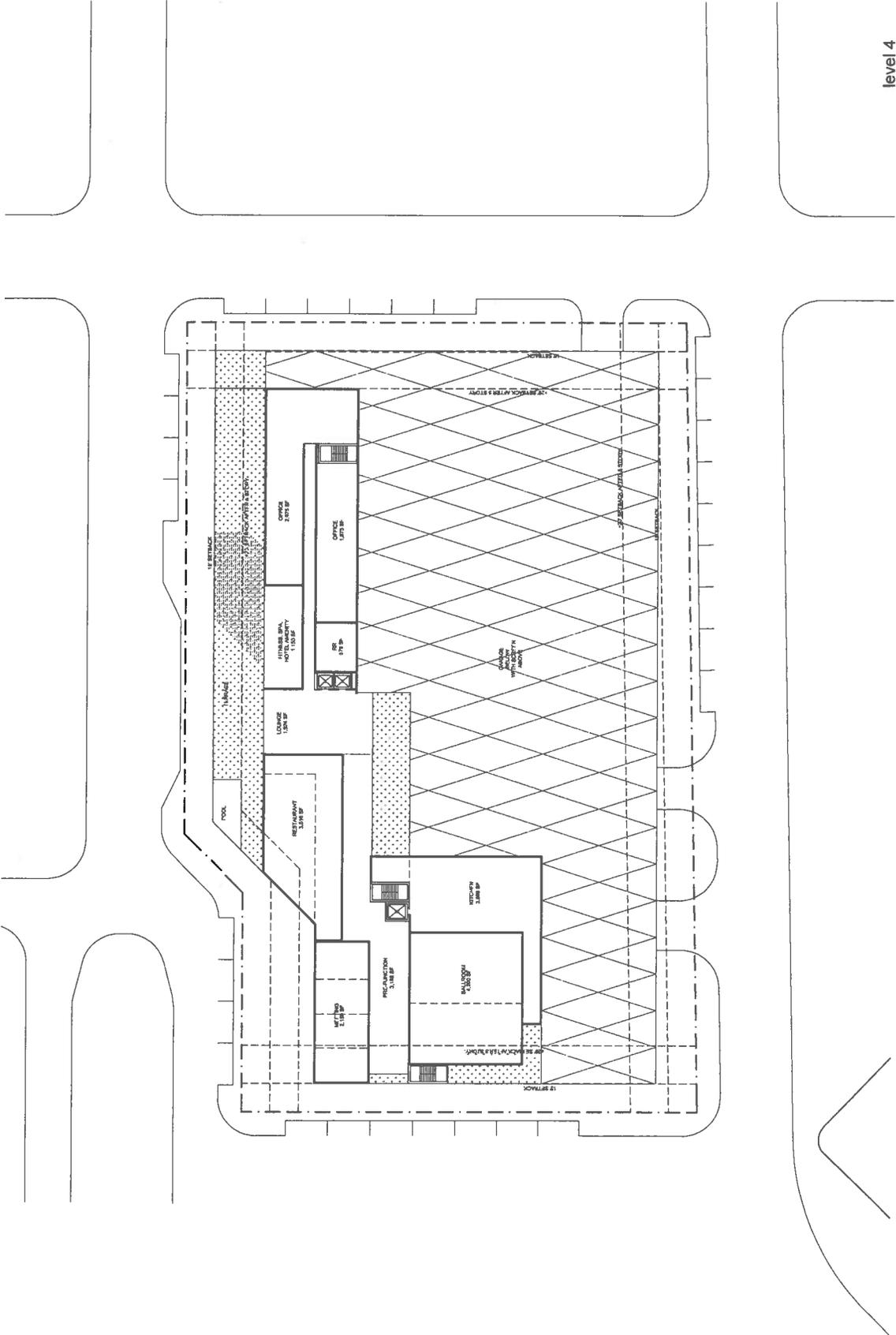


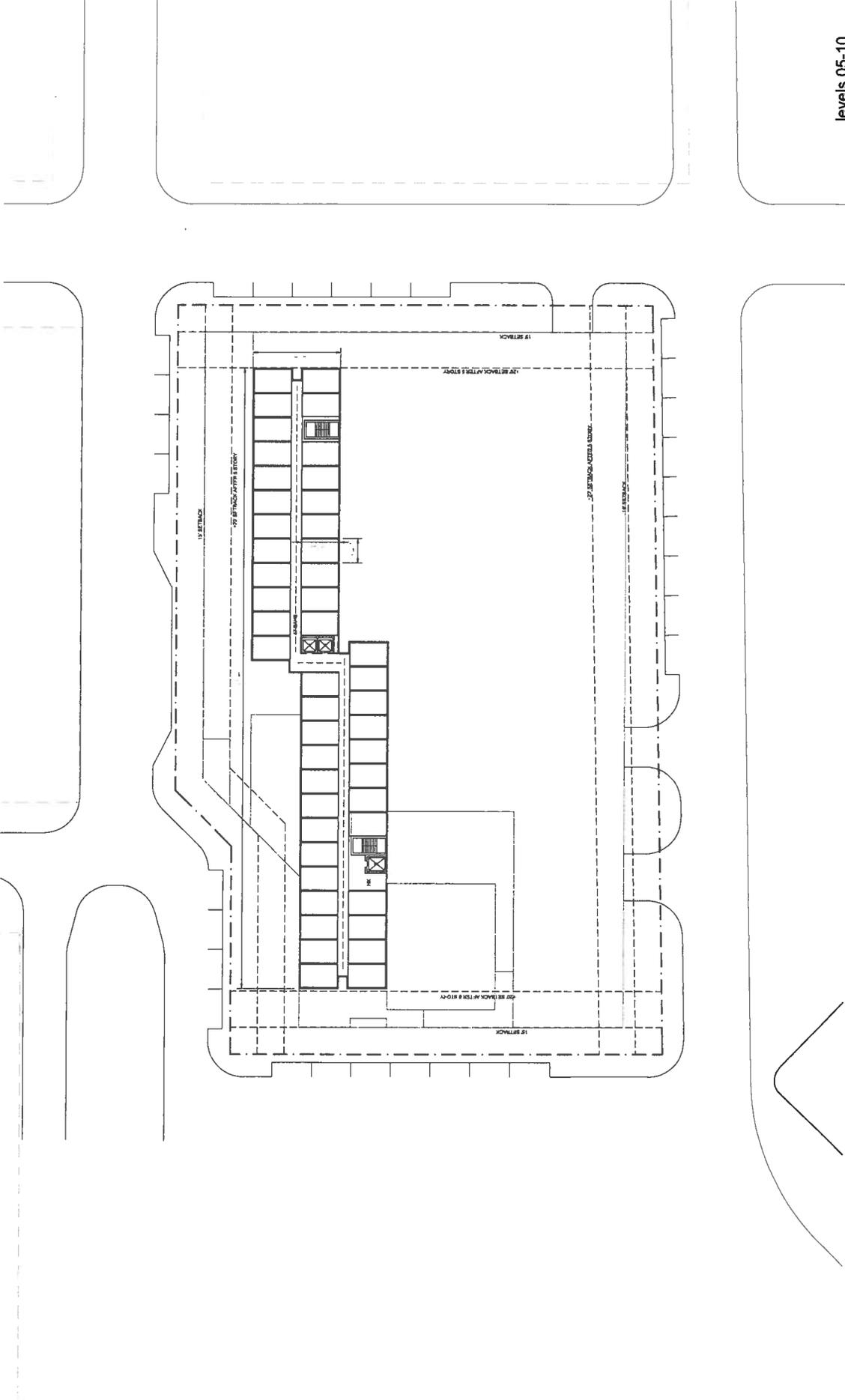
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Dallas Midtown Hotel | Dallas, Texas

5Gstudio_collaborative, llc. 800 Jackson St. #500. Dallas, TX 75202







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Dallas Midtown Hotel | Dallas, Texas

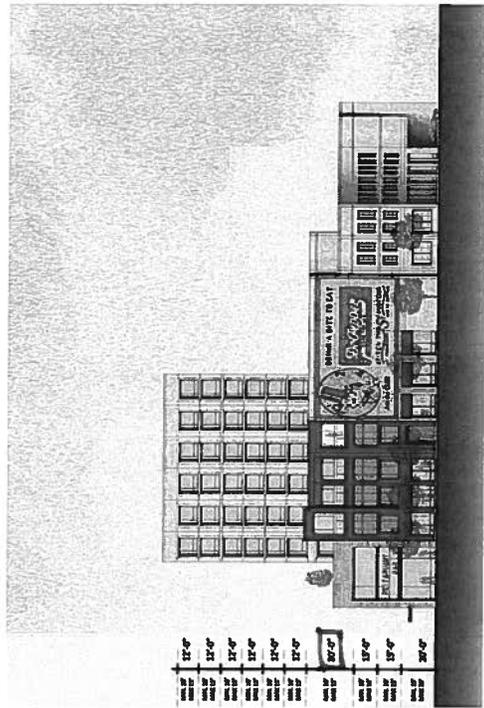
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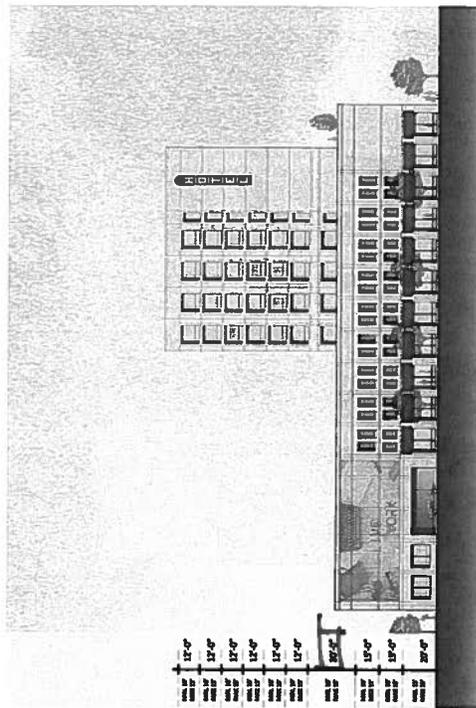
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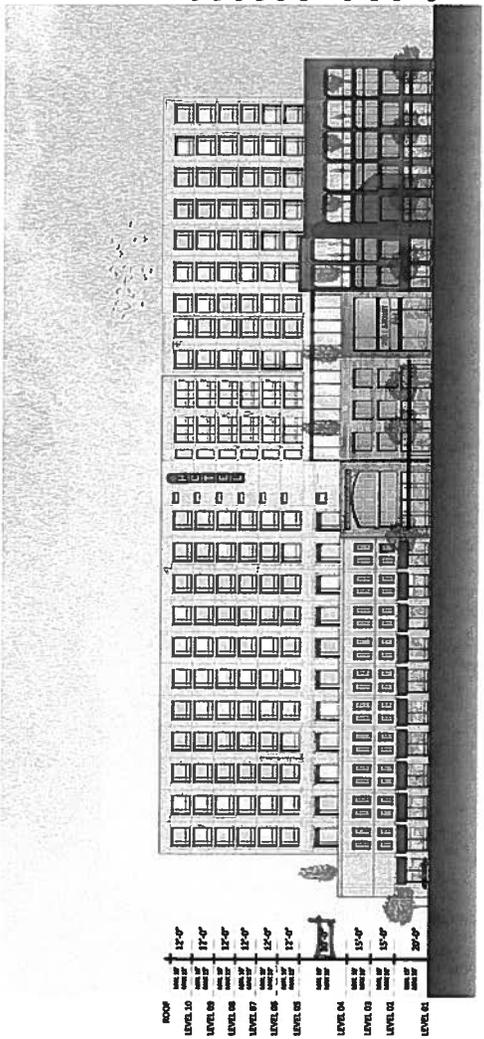


WEST ELEVATION

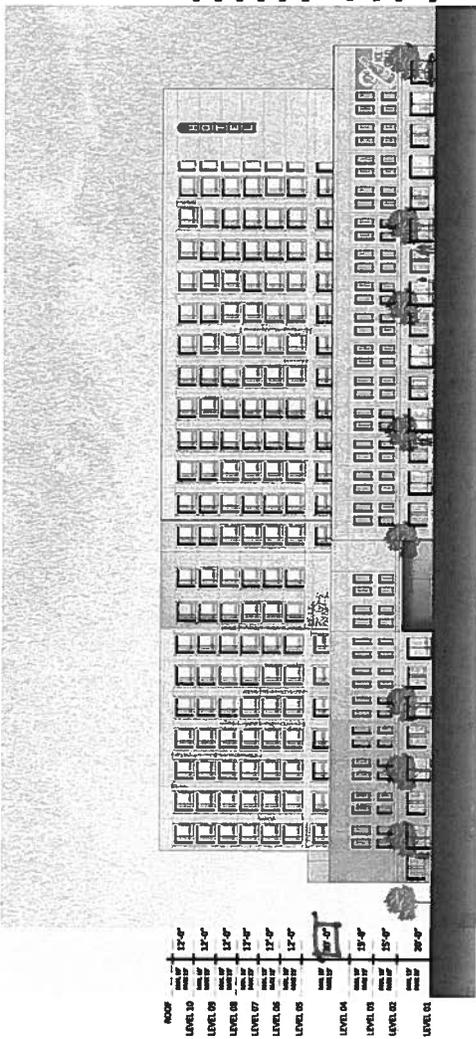


EAST ELEVATION

01.03.2017



NORTH ELEVATION



SOUTH ELEVATION

Dallas Johnson Hill | Dallas, Texas

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032

AREA OF REQUEST
2.457 ACRE TRACT
Part of Lot 3, Block A/7409
Valley View Center
H. Wilburn Survey, Abstract No. 1567
City of Dallas, Dallas County, Texas

DESCRIPTION, of a 2.457 acre tract of land situated in the H. Wilburn Survey, Abstract No. 1567, Dallas County, Texas; said tract being part of Lot 3, Block A/7409, Valley View Center, an addition to the City of Dallas, Texas according to the plat recorded in Volume 72178, Page 1879, as affected by Certificate of Error recorded in Volume 73134, Page 2254, both of the Deed Records of Dallas County, Texas; said tract also being part of that certain tract of land described as "Tract 2" in Special Warranty Deed to 13331 Preston Road, L.P. recorded in Instrument No. 201200326375 of the Official Public Records of Dallas County, Texas; said 2.457 acre tract being more particularly described as follows (Bearing system for this survey is based on the State Plane Coordinate System, North American Datum of 1983 (2011), Texas North Central Zone 4202. Distances shown have been adjusted by applying the Dallas County TxDOT combination factor of 1.000136506):

COMMENCING, at a 3-inch aluminum disk stamped "PACHECO KOCH - DM" set in the west right-of-way line of Preston Road (a variable width right-of-way); said point being the northeast corner of Lot 2, Block A/7409 of said Valley View Center; from said point a 1/2-inch iron rod found bears North 67 degrees, 30 minutes West, a distance of 0.7 feet; (Grid: N: 7,025,142.50, E: 2,488,920.16)

THENCE, North 00 degrees, 53 minutes, 00 seconds West, along the said west line of Preston Road, a distance of 4.67 feet to the intersection of the said west line of Preston Road and the future centerline of proposed James Temple Road;

THENCE, South 88 degrees, 26 minutes, 06 seconds West, a distance of 576.82 feet to a point;

THENCE, North 01 degrees, 33 minutes, 54 seconds West, departing said future centerline, a distance of 31.00 feet to the **POINT OF BEGINNING**;

THENCE, South 88 degrees, 26 minutes, 06 seconds West, a distance of 387.99 feet to the beginning of a tangent curve to the right;

THENCE, in a northwesterly direction, along said curve to the right, having a central angle of 07 degrees, 47 minutes, 57 seconds, a radius of 119.00 feet, a chord bearing and distance of North 87 degrees, 39 minutes, 55 seconds West, 16.19 feet, an arc distance of 16.20 feet to the beginning of a reverse curve to the left;

THENCE, in a northwesterly direction, along said curve to the left, having a central angle of 03 degrees, 56 minutes, 30 seconds, a radius of 181.00 feet, a chord bearing and distance of North 85 degrees, 44 minutes, 12 seconds West, 12.45 feet, an arc distance of 12.45 feet to the end of said curve;

THENCE, North 00 degrees, 33 minutes, 30 seconds West, a distance of 237.11 feet to a point for corner;

THENCE, North 89 degrees, 26 minutes, 27 seconds East, a distance of 115.68 feet to a point for corner;

THENCE, North 44 degrees, 26 minutes, 31 seconds East, a distance of 43.84 feet to a point for corner;

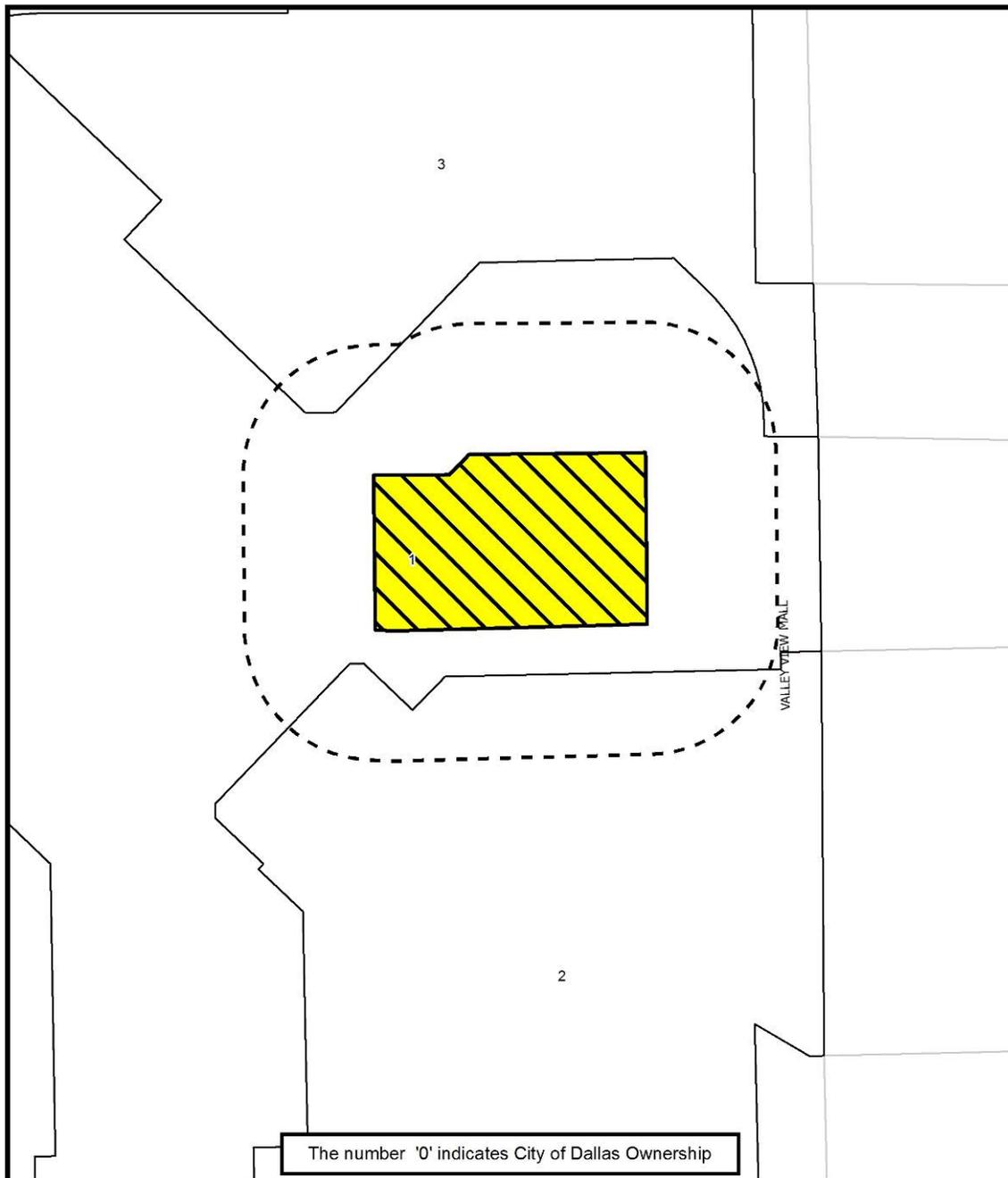
AREA OF REQUEST
2.457 ACRE TRACT

(continued)

THENCE, North 89 degrees, 26 minutes, 30 seconds East, a distance of 269.82 feet to a point for corner;

THENCE, South 00 degrees, 33 minutes, 30 seconds East, a distance of 263.16 feet to the **POINT OF BEGINNING**;

CONTAINING: 107,036 square feet or 2.457 acres of land, more or less.



 1:2,400	<h2>NOTIFICATION</h2> <table border="1"> <tr> <td style="padding: 2px;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="padding: 2px;">3</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	3	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u>BDA167-032</u> Date: <u>3/1/2017</u>
200'	AREA OF NOTIFICATION					
3	NUMBER OF PROPERTY OWNERS NOTIFIED					

03/01/2017

Notification List of Property Owners

BDA167-032

3 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	13131 PRESTON RD	13331 PRESTON RD LP
2	13131 PRESTON RD	SERITAGE SRC FINANCE LLC
3	13343 PRESTON RD	13331 PRESTON RD LP