

ZONING BOARD OF ADJUSTMENT, PANEL C
MONDAY, NOVEMBER 14, 2011
AGENDA

BRIEFING	5ES	11:00 A.M.
LUNCH		
PUBLIC HEARING	COUNCIL CHAMBERS, 1500 MARILLA STREET	1:00 P.M.

David Cossum, Assistant Director
Steve Long, Board Administrator

MISCELLANEOUS ITEM

Approval of the Monday, October 17, 2011 Board of Adjustment Public Hearing Minutes	M1
---	----

UNCONSTESTED CASES

BDA 101-100	6867 Avalon Avenue REQUEST: Application of Patrick L. Boyd for a variance to the front yard setback regulations	1
BDA 101-102	6331 Petain Avenue REQUEST: Application of Elias Rodriguez/CCI for a special exception to the side yard setback regulations for a carport	2
BDA 101-104	6712 Patrol Way REQUEST: Application of Clifton Phillips for a variance to the landscape regulations	3

HOLDOVER CASES

BDA 101-072	3003 S. Buckner Boulevard REQUEST: Application of Mohammed I. Sultan, represented by Mohammed Kamal, for variances to the side yard setback and landscape regulations	4
--------------------	--	---

BDA 101-084

3104 San Lucas Avenue

5

REQUEST: Application of Dee Anna Hanchey for special exceptions to the visual obstruction regulations

REGULAR CASE

BDA 101-108

5541 Richard Avenue

6

REQUEST: Application of Staci Howie, represented by Michael R. Coker, to appeal the decision of an administrative official

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)

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel C October 17, 2011 public hearing minutes.

FILE NUMBER: BDA 101-100

BUILDING OFFICIAL'S REPORT:

Application of Patrick L. Boyd for a variance to the front yard setback regulations at 6867 Avalon Avenue. This property is more fully described as Lot 4 in City Block F/2805 and is zoned R-10(A), which requires a front yard setback of 30 feet. The applicant proposes to construct/maintain a structure and provide a 3 foot front yard setback, which will require a variance of 27 feet.

LOCATION: 6867 Avalon Avenue

APPLICANT: Patrick L. Boyd

REQUEST:

- A variance to the front yard setback regulations of 27' is requested in conjunction with constructing and maintaining swimming pool and a pool equipment "structures" all or part of which would be located in one of the site's two 30' front yard setbacks (Pickens Street) on a site developed with a single family home. (No request has been made in this application to construct/maintain any structure in the site's Avalon Avenue front yard setback).

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted revised site plan is required.

Rationale:

- The subject site is unique and different from most lots zoned R-10(A) in that it is a corner lot with a restrictive area due to two front yard setbacks. The atypical two front yard setbacks on the approximately 12,500 square foot property/subject site precludes it from being developed in a manner commensurate with development on other similarly zoned properties - in this case, the development on the property being the maintenance of a typically-sized single family home with an added swimming pool and related swimming pool structure.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, 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.

GENERAL FACTS:

- Structures on lots zoned R-10(A) are required to provide a minimum front yard setback of 30’.
- The subject site is located at the northwest corner of Avalon Avenue and Pickens Street. Regardless of how the existing single-family structure on the site is oriented or addressed (in this case, Avalon Avenue), the subject site has two 30’ front yard setbacks along both streets. The site has a 30’ front yard setback along Avalon Avenue, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district, and a 30’ front yard setback along Pickens Street, the longer of the two frontages of this corner lot which would typically be regarded as a side yard where only a 6’ yard setback would be required. But the site’s Pickens Street frontage is deemed a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lots developed with single family homes north of the site that front/are oriented eastward onto Pickens Street.

A revised scaled site plan (see Attachment A) has been submitted denoting a portion of the proposed swimming pool structure and the entire “pool equipment structure to be located 3’ from the Pickens Street front property line or 27’ into the 30’ front yard setback; and (No encroachment is proposed in the site’s Avalon Avenue 30’ front yard setback).

- According to calculations taken by the Board Administrator from the submitted revised site plan, the area of the proposed swimming pool structure to be located in the site’s Pickens Street 30’ front yard setback is approximately 475 square feet in area or approximately 90 percent of the approximately 540 square foot footprint; and that all of the proposed 40 square foot “pool equipment” structure is to be located in the site’s Pickens Street 30’ front yard setback.
- According to DCAD records, the “main improvement” at 6867 Avalon is a structure built in 1952 with 2,887 square feet of living area; and that “additional improvements” is an attached garage with 720 square feet. Note

that although part of the existing home is located in the Pickens Street front yard setback, the home is most likely a nonconforming structure (a structure that does not conform to the current front yard setback regulations but was lawfully constructed under the regulations in force at the time of construction) where the applicant (who has been fully advised of code provisions related to nonconforming structures – that being the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner’s agent) has chose not to seek variance for it.

- The subject site is sloped, somewhat irregular in shape (approximately 96’ on the north, approximately 79’ on the south, approximately 132’ on the east, and approximately 134’ on the west), and approximately 12,500 square feet in area. The site is zoned R-10(A) where lots in this zoning district are typically 10,000 square feet in area. This site has two 30’ front yard setbacks; and two 6’ side yard setbacks; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.
- The site has approximately 94’ x 54’ or 5,100 square feet of developable area left once its setbacks are accounted for as opposed to 94’ x 78’ or 7,300 square feet of developable area left if the site were more typical with having just one front yard setback.
- The structures requiring variance to the front yard setback regulations would be allowed by right if the Pickens Street frontage of the property was a side yard setback.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-10(A) (Single family district 10,000 square feet)
<u>North:</u>	R-10(A) (Single family district 10,000 square feet)
<u>South:</u>	R-10(A) (Single family district 10,000 square feet)
<u>East:</u>	R-10(A) (Single family district 10,000 square feet)
<u>West:</u>	R-10(A) (Single family district 10,000 square feet)

Land Use:

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

Zoning/BDA History:

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

Timeline:

July 29, 2011: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

October 14, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

October 17, 2011: 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 October 28th deadline to submit additional evidence for staff to factor into their analysis; and the November 4th 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.

November 1, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Assistant Director, the Acting Building Official, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

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

November 3 2011: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

STAFF ANALYSIS:

- This request focuses on constructing and maintaining swimming pool and a pool equipment “structures” all or part of which would be located in one of the site’s two 30’ front yard setbacks (Pickens Street) on a site developed with a single family home.
- The proposed swimming pool and a pool equipment “structures” that are the issue of this request are to be located on a site that has two front yard setbacks – a site with one front yard setback on Avalon Avenue (where no structure is proposed to be located in); the other front yard setback on

Pickens Street (where the proposed structures that are the issue of this application are shown to be as close as 3' from the Pickens Street front property line or 27' into the 30' front yard setback).

- Regardless of how the proposed structure on the site may be oriented or addressed, the subject site has two 30' front yard setbacks along both streets. The site has a 30' front yard setback along Avalon Avenue, the shorter of the two frontages which is always deemed the front yard setback on a corner lot in a single family zoning district, and a 30' front yard setback along Pickens Street, the longer of the two frontages of this corner lot which would typically be regarded as a side yard. (The structures requiring front yard variance in this application would be permitted by right if the site's Pickens Street frontage were deemed a side yard).
- The site's Pickens Street frontage is deemed a front yard setback nonetheless in order to maintain the continuity of the established front yard setback established by the lots developed with single family homes north of the site that front/are oriented eastward onto Pickens Street.
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the proposed swimming pool structure to be located in the site's Pickens Street 30' front yard setback is approximately 475 square feet in area or approximately 90 percent of the approximately 540 square foot footprint; and that all of the proposed 40 square foot "pool equipment" structure is to be located in the site's Pickens Street 30' front yard setback.
- According to DCAD records, the "main improvement" at 6867 Avalon is a structure built in 1952 with 2,887 square feet of living area; and that "additional improvements" is an attached garage with 720 square feet. Note that although part of the existing home is located in the Pickens Street front yard setback, the home is most likely a nonconforming structure (a structure that does not conform to the current front yard setback regulations but was lawfully constructed under the regulations in force at the time of construction) where the applicant (who has been fully advised of code provisions related to nonconforming structures – that being the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent) has chose not to seek variance for it.
- The subject site is sloped, somewhat irregular in shape (approximately 96' on the north, approximately 79' on the south, approximately 132' on the east, and approximately 134' on the west), and approximately 12,500 square feet in area. The site is zoned R-10(A) where lots in this zoning district are typically 10,000 square feet in area. This site has two 30' front yard setbacks; and two 6' side yard setbacks; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.
- The site has approximately 94' x 54' or 5,100 square feet of developable area left once its setbacks are accounted for as opposed to 94' x 78' or 7,300 square feet of developable area left if the site were more typical with having just one front yard setback.
- The applicant has the burden of proof in establishing the following:

- That granting the variance to the Pickens Street front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-10(A) zoning classification.
- The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-10(A) zoning classification.
- If the Board were to grant the variance request, subject to the submitted revised site plan, the structures in the front yard setback would be limited to what is shown on this document– which in this case is a structure to be located as close as 3' from the Pickens Street front property line (or as much as 27' into this 30' front yard setback).
- The applicant is aware that his request for variance to the front yard setback regulations will not provide relief to any existing or proposed noncompliant issues on the subject site pertaining to the City's visual obstruction regulations.



1:1,200

ZONING MAP

Map no: I-9

Case no: BDA101-100

DATE: October 27, 2011



1:1,200

AERIAL MAP

Map no: 1-9

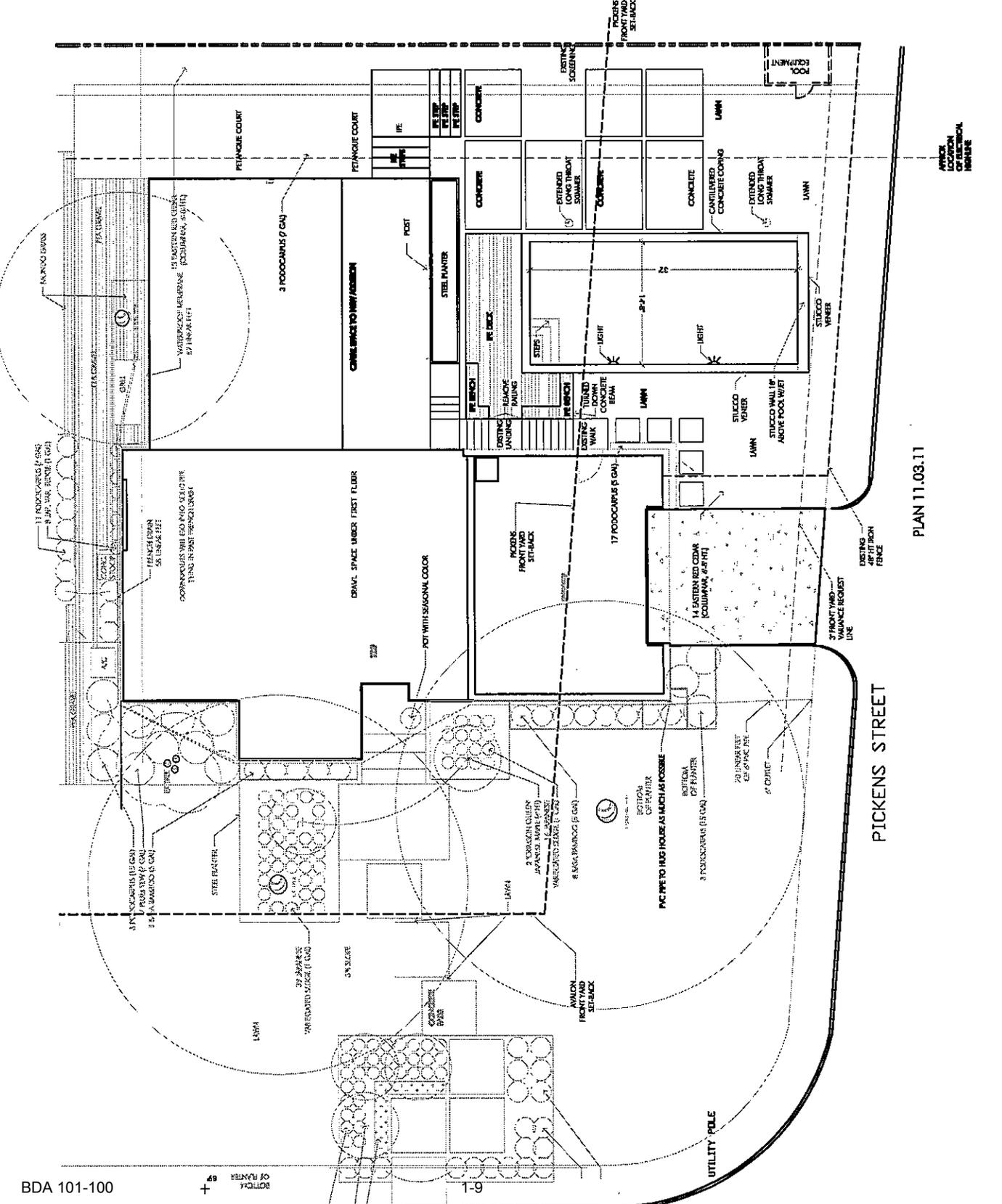
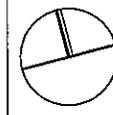
Case no: BDA101-100

DATE: October 27, 2011

David Rolston
 Registered Landscape Architects
 phone 214.224.6333
 fax 214.224.9270
 The Meadows Building
 5646 Meadow #329
 Dallas, TX 75206

Paris Residence
 6867 Avalon Ave.
 Dallas, TX

Date 3 Nov 11
 Revision
 Scale 1/8"=1'-0"



PLAN 11.03.11



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-100

Data Relative to Subject Property:

Date: 29 July 11

Location address: 10907 AVALON DR, TX 75214 Zoning District: R-10A

Lot No.: 4 Block No.: F/2805 Acreage: 12,493 SF Census Tract: 1,00

Street Frontage (in Feet): 1) 78' AVALON 2) 131' PICKENS 3) 4) 5) 505B

To the Honorable Board of Adjustment:

Owner of Property/or Principal: HOLLY G FORSYTH / JACQUES L PANIS

Applicant: ~~DAVID ROUSTON~~ / PATRICK L. BOYD Telephone: 214-424-6333

Mailing Address: 5106 WILTON #329 Zip Code: 75206

Represented by: DAVID ROUSTON / PATRICK L. BOYD Telephone: NONE

Mailing Address: SAME Zip Code: SAME

Affirm that a request has been made for a Variance 1, or Special Exception, of 27' TO THE 30' FRONT YARD SET BACK ON PICKENS ST. THE MAIN HOUSE FACES AVALON, WHICH ALSO HAS A 30' FRONT YARD SET BACK

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

OWNERS WISH TO INSTALL A POOL WHICH WOULD BE IN THE 30' FRONT YARD SET BACK ON PICKENS ST. ALSO CAUSING A HOODSHIP LIMITATION IS ON OVERHEAD POWER LINES THAT IS 15' IN FROM THE REAR PROPERTY LINE.

Note to Applicant: If the relief requested in this application is granted by the Board of Adjustment, said 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.

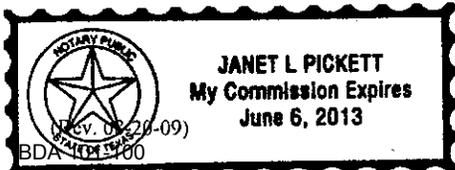
Respectfully submitted: PATRICK L. BOYD [Signature] Applicant's name printed Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared PATRICK L. BOYD 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.

[Signature] Affiant (Applicant's signature)

Subscribed and sworn to before me this 29th day of July, 2011



[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 _____

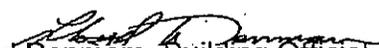
Chairman

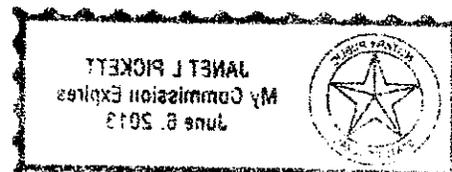
Building Official's Report

I hereby certify that Patrick L. Boyd
did submit a request for a variance to the front yard setback regulations
at 6867 Avalon Avenue

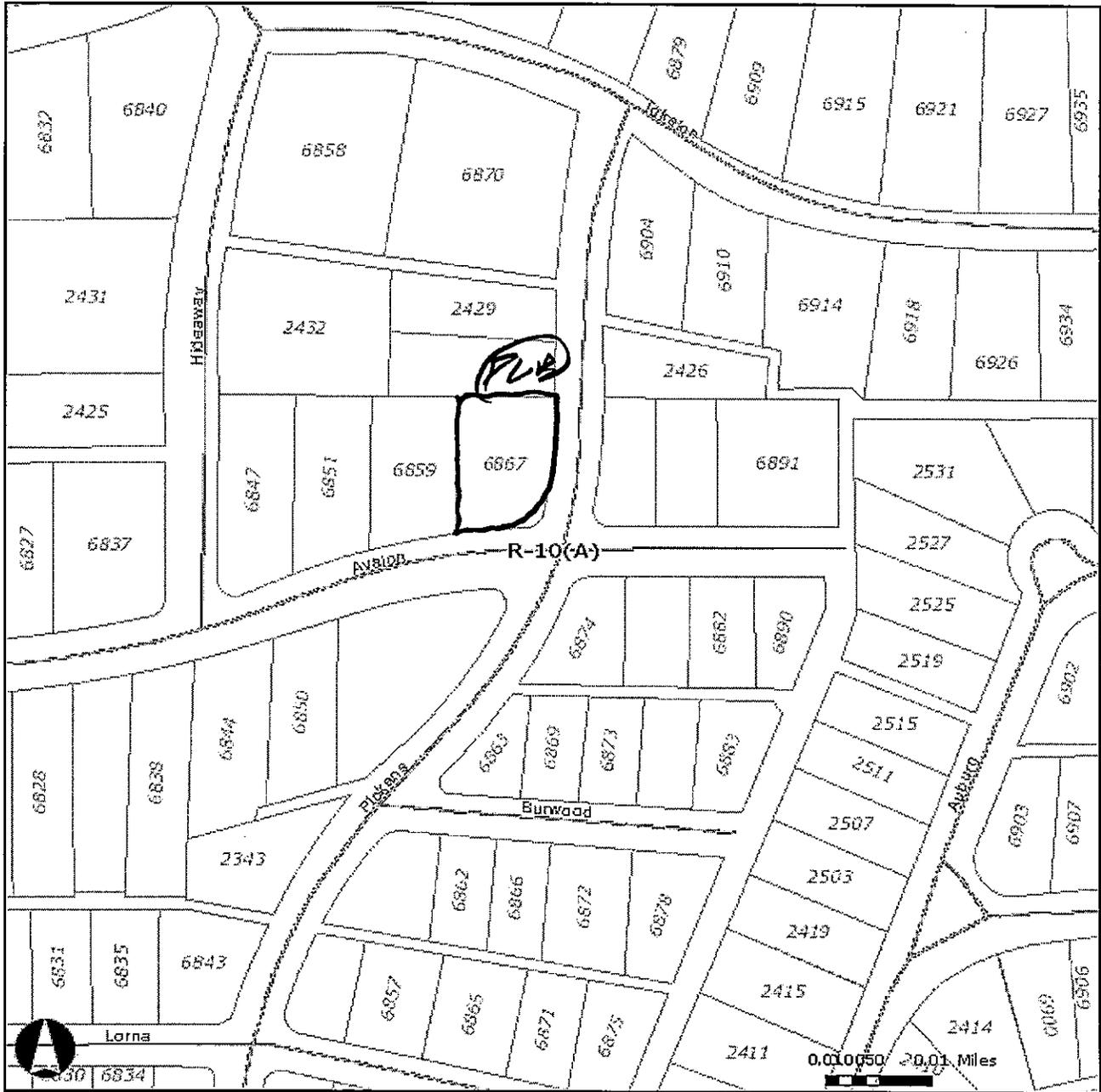
BDA101-100. Application of Patrick L. Boyd for a variance to the front yard setback regulations at 6867 Avalon Avenue. This property is more fully described as lot 4 in city block F/2805 and is zoned R-10(A), which requires a front yard setback of 30 feet. The applicant proposes to construct and maintain a single family residential structure and provide a 3 foot front yard setback, which will require a 27 foot variance to the front yard setback regulation.

Sincerely,


Lloyd Denmam, Building Official



City of Dallas Zoning



City Boundaries



County



Certified Parcels



DISD Sites



Council Districts



Waterways



Parks



Dry Overlay



Historic Overlay



Historic Subdistricts



NSO Overlay



NSO Subdistricts



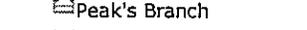
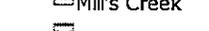
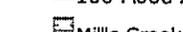
MD Overlay



Base Zoning



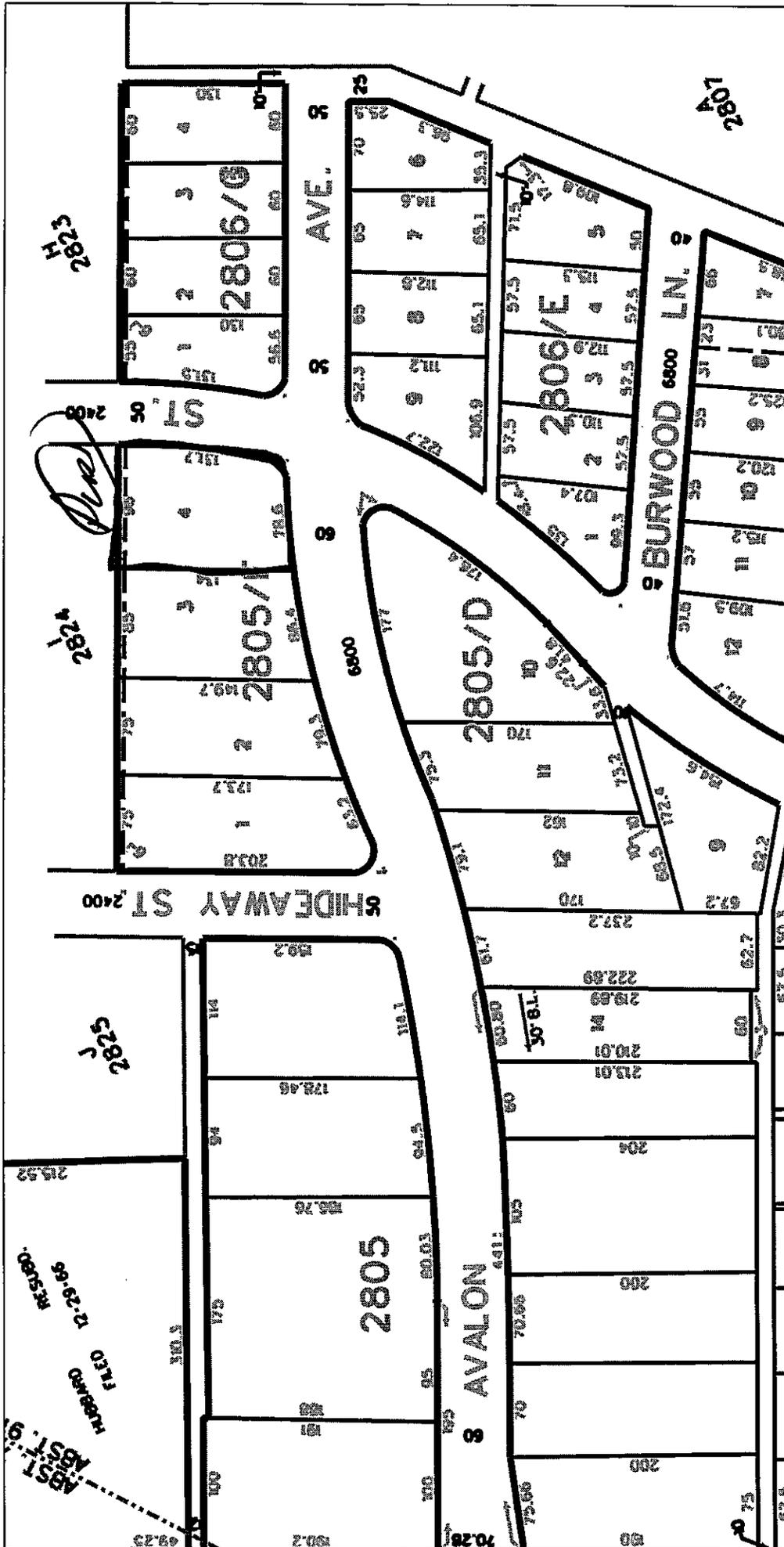
Floodplain

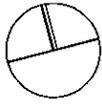


Pedestrian Overlay



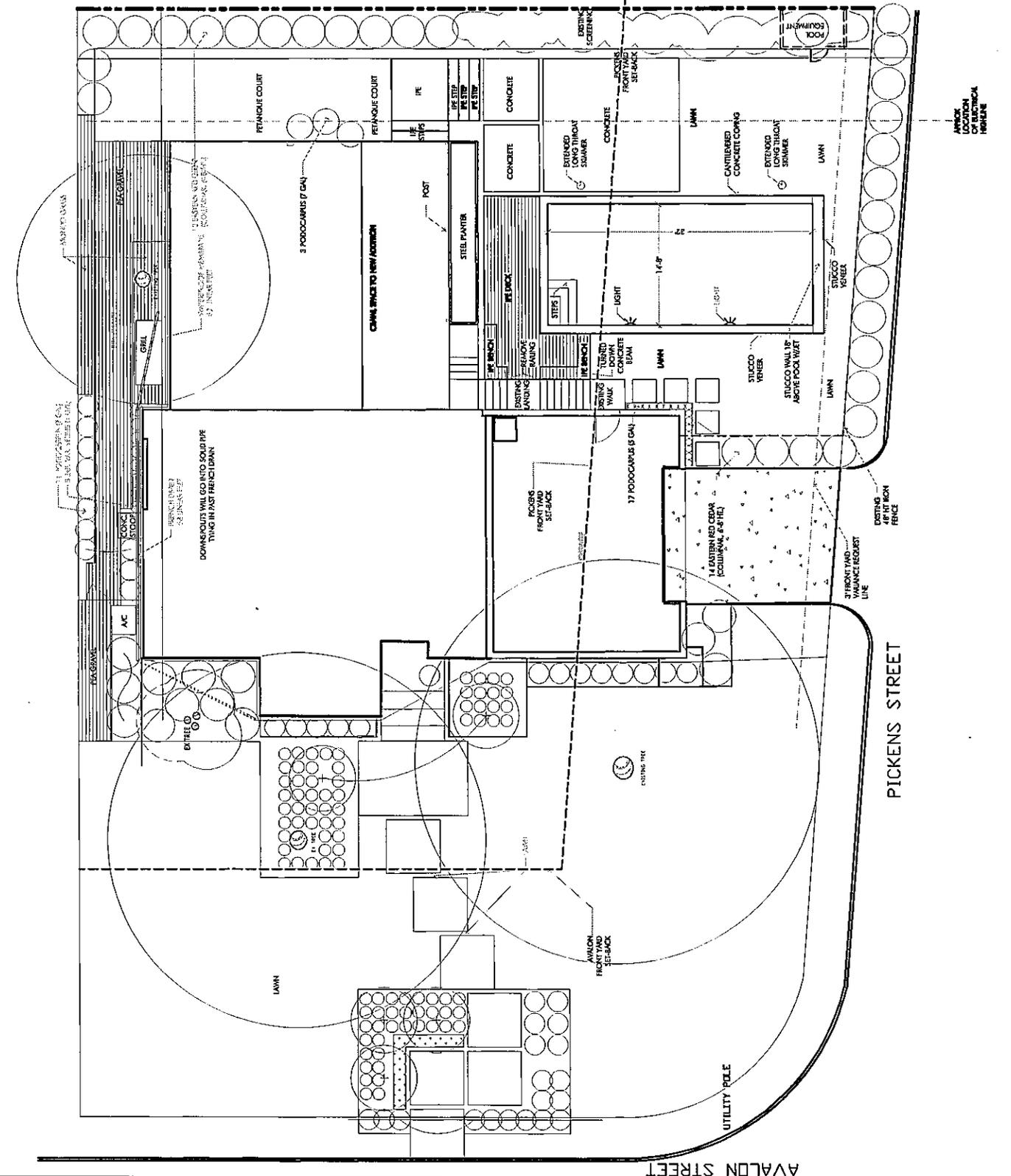
Environmental Corridors





Date: 29 July 11
 Revisions:
 Scale: 1/16"=1'-0"

Paris Residence
 6867 Avalon Ave.
 Dallas, TX






 1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
23 NUMBER OF PROPERTY OWNERS NOTIFIED

Map no: I-9
 Case no: BDA101-100

DATE: October 27, 2011

Notification List of Property Owners

BDA101-100

23 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	6867 AVALON AVE	JONSSON HOLLY G &
2	6858 AVALON AVE	JOHNSTON RICHARD D & SHALMIR TIPPIT JOHN
3	6850 AVALON AVE	COOK BYRON & APRIL REV TRUST BYRON C & A
4	6847 AVALON AVE	MORENO BARBARA F ET AL
5	6851 AVALON AVE	HEARD CHARLES R
6	6859 AVALON AVE	SHANNON JAY & ROBIN
7	6863 BURWOOD LN	DYKE GARY
8	6869 BURWOOD LN	RAY IAN G PMB 348
9	6873 BURWOOD LN	JOHNSON ERIC W
10	6882 AVALON AVE	HAMILTON SARAH H
11	6878 AVALON AVE	INGRAM KELLY
12	6874 AVALON AVE	RAY IAN & ERIN M
13	6875 AVALON AVE	HILLIARD JEFFREY & STEPHANIE
14	6879 AVALON AVE	BROOKS JOHN PRESTON
15	6891 AVALON AVE	HUGHEY RICHARD
16	6910 TOKALON DR	ROSE MICHAEL J
17	6904 TOKALON DR	RICHMOND ROBERT H
18	2426 PICKENS ST	WESTERBERG ROBERT J
19	6870 TOKALON DR	HOUGHTELING ANN R
20	6858 TOKALON DR	FRANKLIN TALCOTT J & JENNIFER T
21	2432 HIDEAWAY DR	CLAYTON GARY E & MARSHA SWANN
22	2425 PICKENS ST	FREEMAN RICHARD WILLIAM
23	2429 PICKENS ST	HATTO JOHN C & CASSANDRA L

FILE NUMBER: BDA 101-102

BUILDING OFFICIAL'S REPORT:

Application of Elias Rodriguez/CCI for a special exception to the side yard setback regulation at 6331 Petain Avenue. This property is more fully described as Lot 9 and the eastern 10.56 feet of Lot in City Block 15/5810 and is zoned R-7.5(A), which requires a side yard setback of 5 feet. The applicant proposes to construct/maintain a carport and provide a 0 foot side yard setback, which will require a special exception of 5 feet.

LOCATION: 6331 Petain Avenue

APPLICANT: Elias Rodriguez/CCI

REQUEST:

- A special exception to the side yard setback regulations of 5' is requested in conjunction with maintaining an existing approximately 450 square foot metal carport attached to a single-family home, part of which is located in the site's 5' side yard setback on the west side of the property.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to the side yard setback regulations since the basis for this type of appeal is *when in the opinion of the board*, the carport will not have a detrimental impact on surrounding properties.

STANDARD FOR A SPECIAL EXCEPTION TO ALLOW A CARPORT IN THE SIDE YARD:

The Board of Adjustment may grant a special exception to the minimum side yard requirements to allow a carport for a single-family or duplex use when, in the opinion of the Board, the carport will not have a detrimental impact on surrounding properties. In determining whether to grant a special exception, the Board shall consider the following:

- (1) Whether the requested special exception is compatible with the character of the neighborhood.
- (2) Whether the value of surrounding properties will be adversely affected.
- (3) The suitability of the size and location of the carport.
- (4) The materials to be used in construction of the carport.

(Storage of items other than motor vehicles is prohibited in a carport for which a special exception is granted in this section of the Code).

ORIGINAL GENERAL FACTS:

- A 5’ side yard setback is required in the R-7.5(A) zoning district. The applicant has submitted a revised site plan and elevation plan (see Attachment A) indicating the location of the carport on the site’s western side property line or 5’ into the 5’ side yard setback.
- The following information was gleaned from the submitted revised site plan:
 - The carport is represented to be 38’ in length and from 10’ – 16’ 8” in width (447 square feet in total area) of which 190 square feet or approximately 40 percent is located in the western side yard setback.
- The following information was gleaned from the submitted revised elevation plan:
 - Represented to be 9’ in height, slightly higher in with the cornice line of the house, with aluminum metal roofing and with aluminum frame.
- The subject site is approximately 150’ x 50’ (or 7,500 square feet) in area.
- According to DCAD, the property at 6331 Petain has the following:
 - “main improvement” - a structure in “good” condition built in 1945 with 1,389 square feet of living area,
 - “additional improvements” – “room addition” with 540 square feet, and “attached carport” with 260 square feet.
- The Dallas Development Code provides for the Board of Adjustment to consider special exceptions for *carports* in the side yard with a specific basis for this type of appeal. (Note that the Dallas Development Code does not provide a definition of “carport” however Building Inspection interprets a “carport” to be a structure that would cover a vehicle and be open on at least one side. Building Inspection has recently been interpreting what would appear to a layperson to be a garage without a garage door as a “carport”).
- The Dallas Development Code provides for the Board of Adjustment to consider *variances for structures* in the side yard setback with a different basis for appeal than that of *special exceptions for carports* in the side yard setback.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

August 11, 2011: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

October 14, 2011: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

October 17, 2011: 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 October 28th deadline to submit additional evidence for staff to factor into their analysis; and the November 4th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

October 21, 2011: The Board Administrator emailed the applicant his concerns that arose from further review of the application – specifically what appeared to be discrepancies between what is conveyed on the applicant’s submitted site plan/elevations from what the administrator had photographed on the subject site the week prior. The administrator requested that the applicant provide clarity as to the application was made to: 1) modify the existing carport as photographed on the site to what is shown on the applicant’s submitted site plan and elevation (noting how what *appeared* to be the carport - “new addition 420 sq. ft.” - on the submitted site plan was located behind the building footprint of the “existing one store house” but the photos showed the existing carport even with façade of the existing home; or to maintain the existing carport as is. (The administrator noted that if the application was to maintain the carport as is then the

applicant would need to submit a revised site plan and elevation that accurately represented the features of the existing carport to Todd Duerksen and him no later than noon, October 28th).

October 27, 2011: The applicant emailed the Board Administrator conveying that he had actually went to do a field inspection that day, and determined that he needed to modify the original plans to reflect what is actually there, and re-send updated ones. The applicant conveyed that his client built without a permit therefore has to apply for a building permit as well.

October 31, 2011: The applicant submitted additional information beyond what was submitted with the original application (see Attachment A).

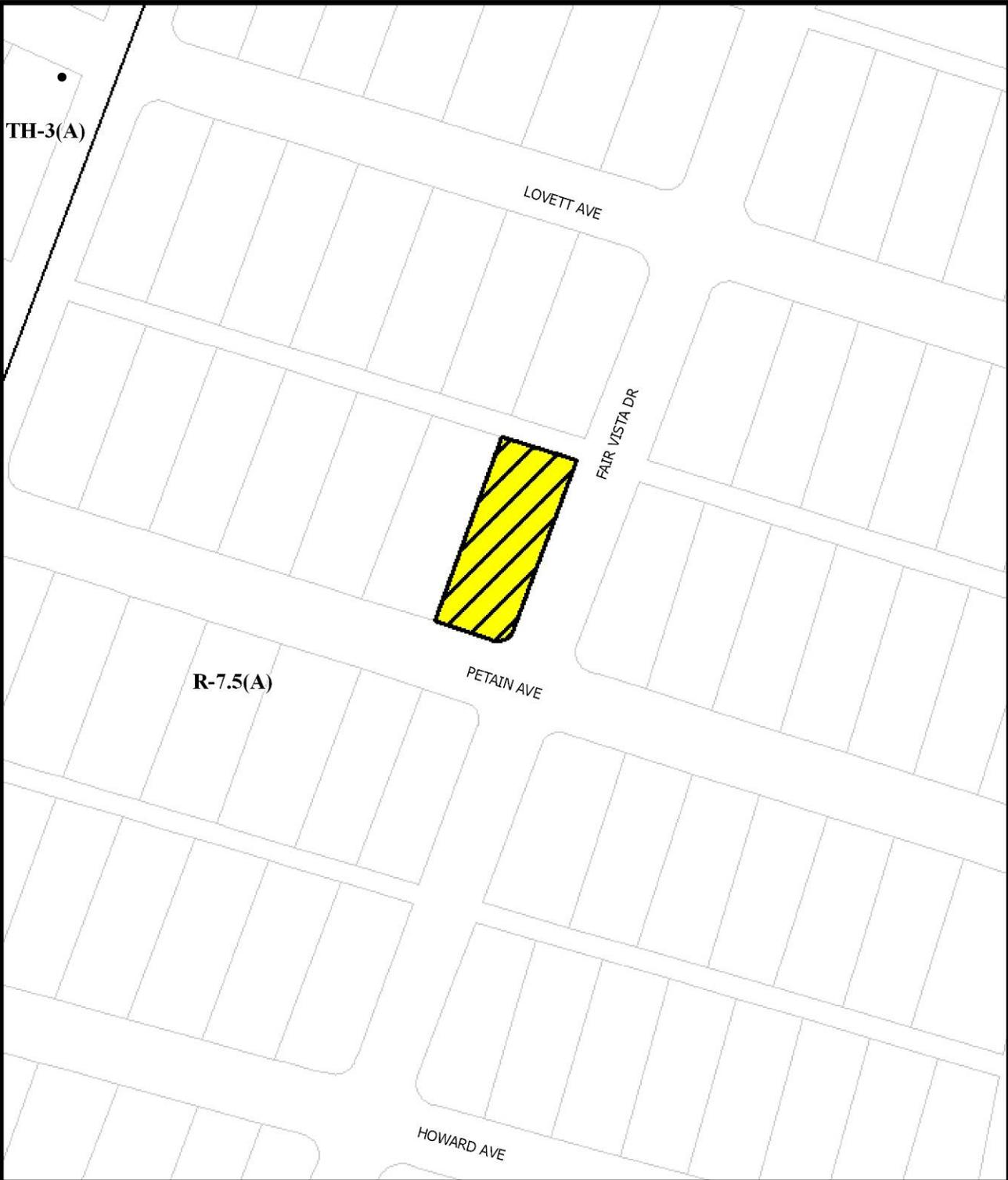
November 1, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Assistant Director, the Acting Building Official, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- This request focuses on maintaining an existing approximately 450 square foot metal carport that is located on a side property line or 5' into the required 5' side yard setback on the west side of the property.
- A revised site plan has been submitted indicating that the carport structure is 38' in length and 10' – 16' 8" in width.
- The submitted revised elevation represents the carport is 9' in height, slightly higher in with the cornice line of the house, with aluminum metal roofing and with aluminum frame.
- The applicant has the burden of proof in establishing the following:
 - That granting this special exception to the side yard setback regulations of 5' will not have a detrimental impact on surrounding properties.
- As of November 7, 2011, no letters had been submitted in support or in opposition to the request.

- Typically, staff has suggested that the Board impose conditions with this type of appeal. The following conditions would restrict the location and size of the carport in the side yard setback; would require the carport in the side yard setback to be maintained (in this case) in a specific design with specific materials and in a specific configuration; and would require the applicant to mitigate any water drainage-related issues that the carport may cause on the lot immediately west:
 1. Compliance with the submitted revised site plan and revised elevation is required.
 2. The carport structure must remain open at all times.
 3. No lot-to-lot drainage is permitted in conjunction with this carport special exception.
 4. All applicable building permits must be obtained.
 5. No item (other than a motor vehicle) may be stored in the carport.
- If the Board chooses to grant this side yard special exception request, and impose the submitted revised site plan and revised elevation as a condition, the applicant would only be provided exception for what has been applied for, in this case, exception for the carport structure in the required side yard setback as represented/shown on these documents.
- The applicant is aware that his request for a special exception to the side yard setback regulations for a carport will not provide relief to any existing or proposed noncompliant issues on the subject site pertaining to the City's visual obstruction regulations.



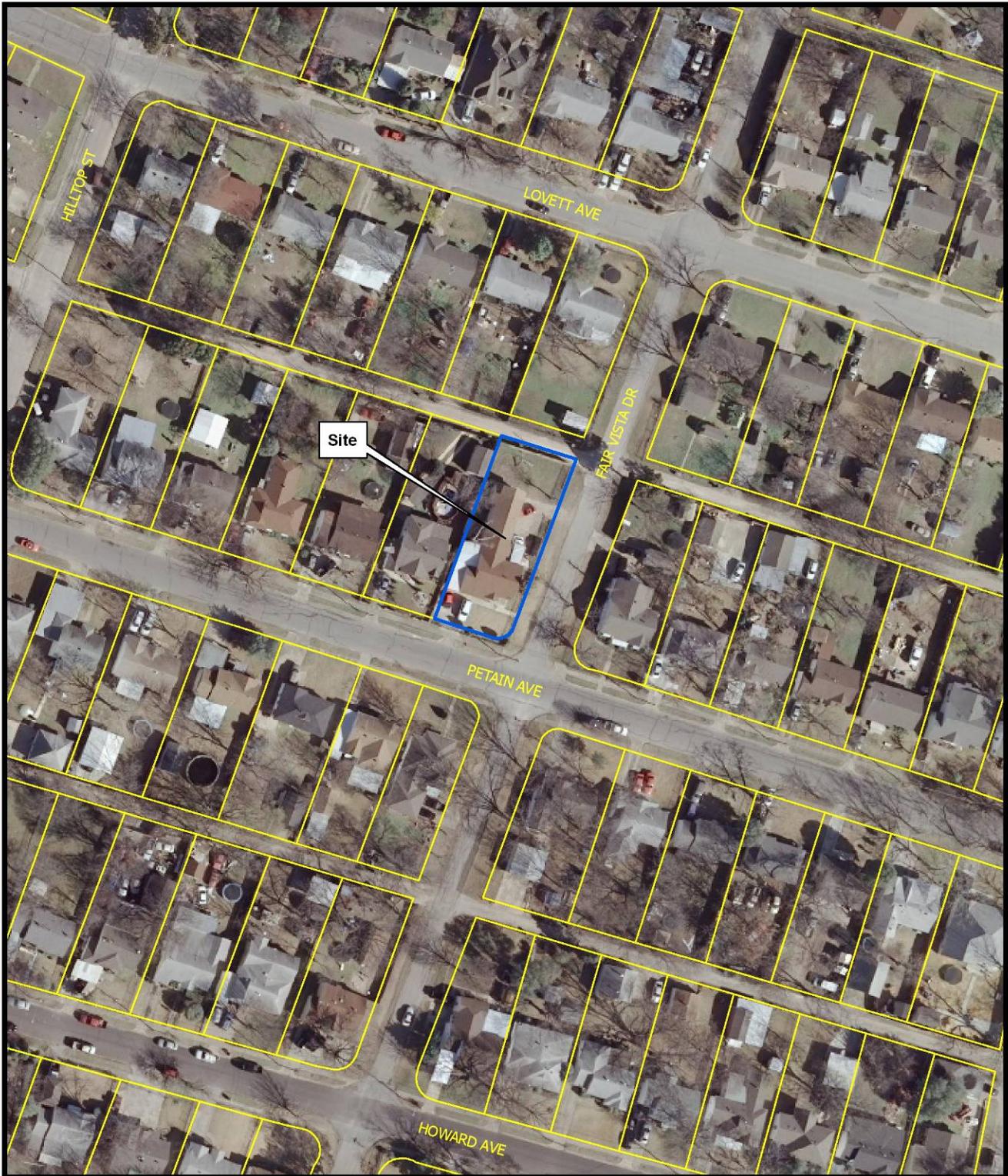
1:1,200

ZONING MAP

Map no: J-9

Case no: BDA101-102

DATE: October 27, 2011



1:1,200

AERIAL MAP

Map no: J-9

Case no: BDA101-102

DATE: October 27, 2011

CONSTRUCTION CONCEPTS INC.
 "Planning and Designing a Better Tomorrow"
 317 E. JEFFERSON BLVD.
 DALLAS, TX. 75203
 TEL. (214) 946-4300
 FAX. (214) 948-9544

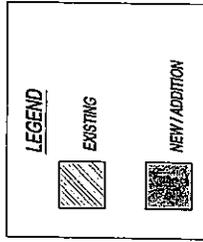
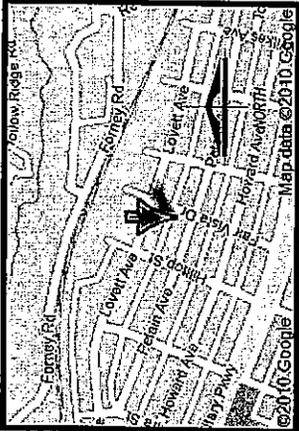
THESE PLANS ARE INTENDED TO PROVIDE BASIC CONSTRUCTION INFORMATION NECESSARY TO SUBSTANTIALLY BUILD THIS STRUCTURE. THESE PLANS MUST BE KEPT AND CHECKED BY THE BUILDER, HOMEOWNER, AND ALL CONTRACTORS OF THIS JOB PRIOR TO CONSTRUCTION. BUILDER SHOULD OBTAIN COMPLETE SERVICES, HVAC, AND STRUCTURAL BEFORE BEGINNING CONSTRUCTION OF ANY KIND. NOTE: ALL FEDERAL, STATE, AND LOCAL CODES AND RESTRICTIONS TAKE PRECEDENCE OVER ANY PART OF THESE PLANS.

GREAT CARE AND EFFORT HAVE GONE INTO THE CREATION OF THESE BLUEPRINTS. HOWEVER, BECAUSE OF THE NATURE IN ENGINEERING, CONSTRUCTION CONCEPTS, INC. WILL NOT ASSUME LIABILITY FOR ANY DAMAGES DUE TO ERRORS, OMISSIONS, OR DEFICIENCIES ON THESE PLANS. OWNER/BUILDER MUST COMPLY WITH LOCAL BUILDING CODES PRIOR TO COMMENCEMENT OF CONSTRUCTION.

THE PURCHASE OF THESE PLANS ENTITLES THE BUYER TO CONSTRUCT THIS HOUSE ONLY ONCE. ANY COPYING, TRACING, OR ALTERING OF THESE PLANS IS NOT PERMITTED. VIOLATORS WILL BE SUBJECT TO PROSECUTION UNDER COPYRIGHT LAWS.

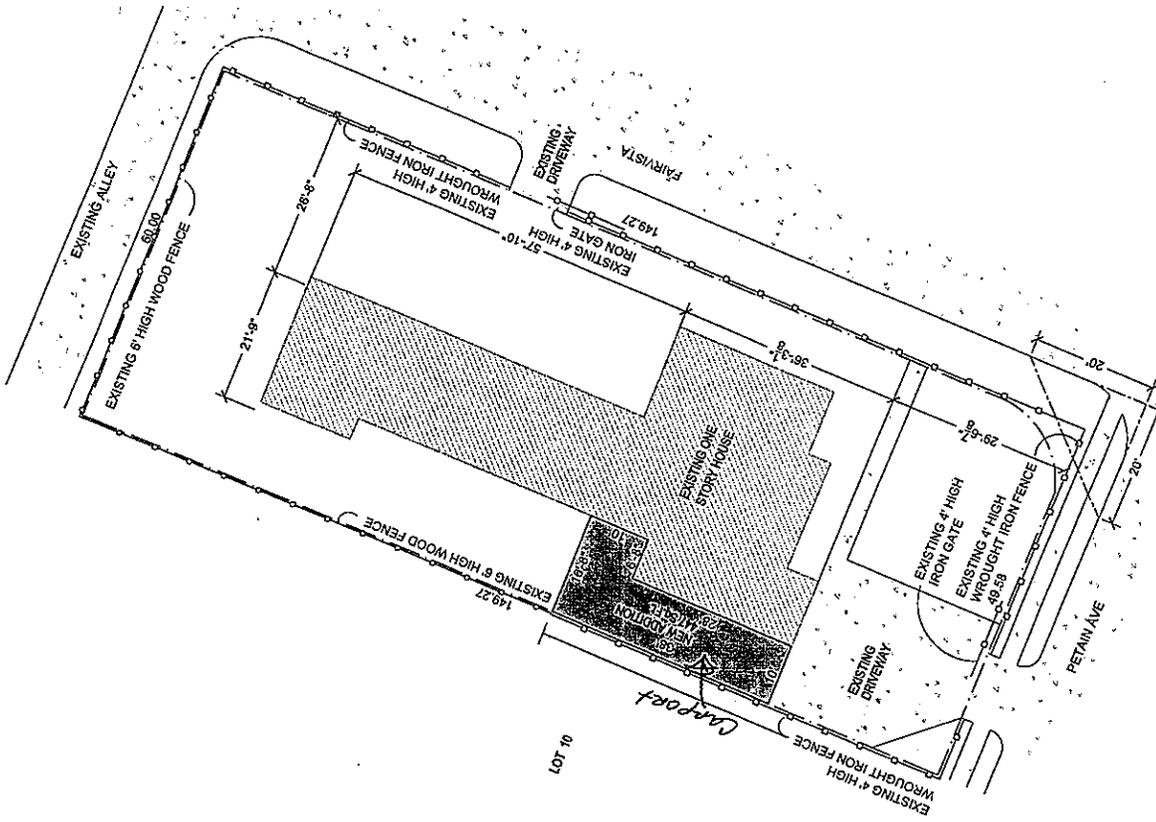
Project Name & Address
 6331 PETAIN AVE
 Dallas, TX
 75227

Project	SITE PLAN	Sheet	1
Date	10/28/11	Scale	1"=20'-0"
Drawn By	L.A.		



EXISTING HOUSE SQ. FT. = 2,318 SQ. FT.
 CARPORT ADDITION SQ. FT. = 659 SQ. FT.

LOT 9 & 10
 BLOCK 19 5110



CONSTRUCTION CONCEPTS INC.
 "Planning and Designing a Better Tomorrow"
 317 E. JEFFERSON BLVD.
 DALLAS, TX. 75203
 TEL. (214) 946-4300
 FAX. (214) 948-9544

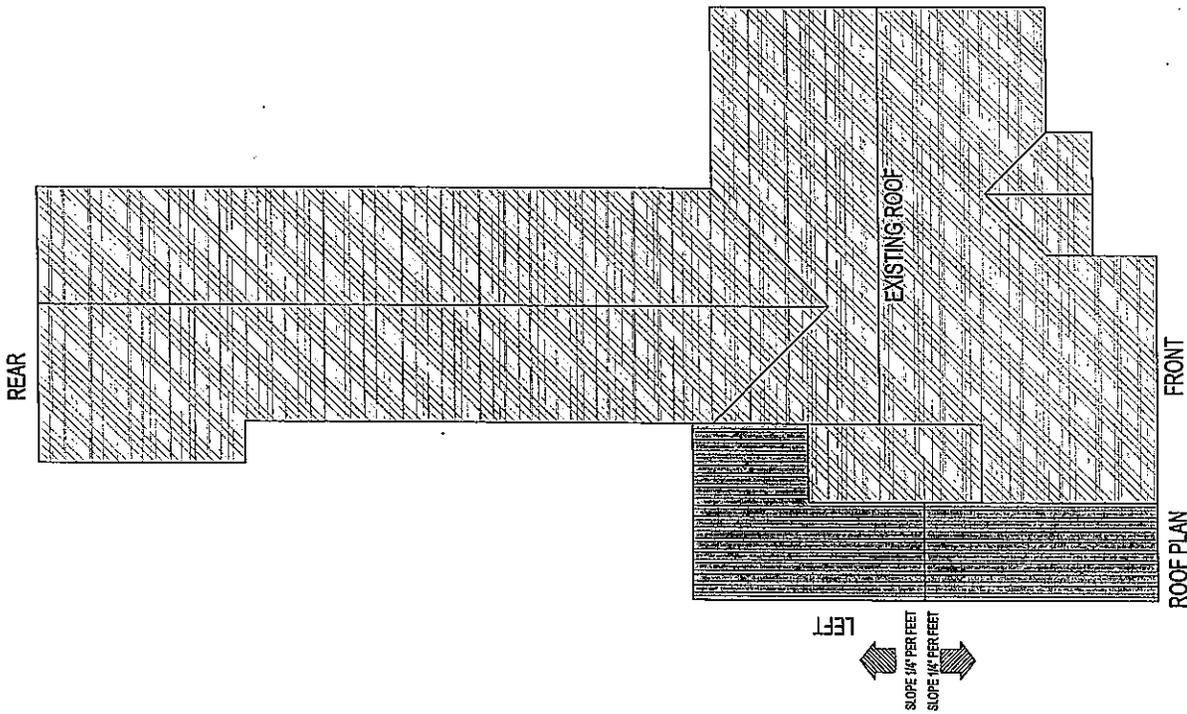
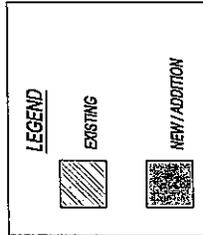
THESE PLANS ARE INTENDED TO PROVIDE BASIC CONSTRUCTION INFORMATION NECESSARY TO SUBSTANTIALLY BUILD THIS STRUCTURE. THESE PLANS MUST BE VERIFIED AND CHECKED BY THE BUILDER, HOWEVER, AND ALL CONTRACTORS OF SERVICES, HVAC AND STRUCTURAL BEFORE CONSTRUCTION OF ANY KIND. THIS JOB PRIOR TO CONSTRUCTION. BUILDER SHOULD OBTAIN COMPLETE ENGINEERING SERVICES, HVAC AND STRUCTURAL BEFORE CONSTRUCTION OF ANY KIND. NOTE: ALL FEDERAL, STATE AND LOCAL CODES AND RESTRICTIONS TAKE PRECEDENCE OVER ANY PART OF THESE PLANS.

CONCEPTS, INC. WILL NOT ASSUME LIABILITY FOR ANY DAMAGES DUE TO ERRORS, OMISSIONS, OR DEFICIENCIES ON THESE PLANS. OWNER/BUILDER MUST CONSULT WITH LOCAL BUILDING CODES PRIOR TO COMMENCEMENT OF CONSTRUCTION.

THE PURCHASER OF THESE PLANS ENTITLES THE BUYER TO CONSTRUCT THIS HOUSE PERMITTED. VIOLATIONS WILL BE SUBJECT TO PROSECUTION UNDER COPYRIGHT LAWS.

Project Name & Address
 6331 PETAIN AVE
 Dallas, TX
 75227

Project	Sheet
ROOF PLAN	2
Date	10/28/11
Scale	3/32" = 1'-0"
Drawn By	L.A.



CONSTRUCTION CONCEPTS INC.
Planning and Designing a Better Tomorrow

317 E. JEFFERSON BLVD.
DALLAS, TX. 75203

TEL. (214) 946-4300
FAX. (214) 948-9544

THESE PLANS ARE INTENDED TO PROVIDE BASIC CONSTRUCTION INFORMATION NECESSARY TO SUBSTANTIALLY BUILD THIS STRUCTURE. THESE PLANS MUST BE VERIFIED AND CHECKED BY THE BUILDER, HOMEOWNER, AND ALL CONTRACTORS OF THIS JOB PRIOR TO COMMENCING CONSTRUCTION. A COMPLETE ENGINEERING SERVICES, HVAC, AND STRUCTURAL BEFORE BEGINNING CONSTRUCTION OF ANY KIND. NOTE: ALL FEDERAL, STATE AND LOCAL CODES AND RESTRICTIONS TAKE PRECEDENCE OVER ANY PART OF THESE PLANS.

GREATER CARE AND EFFORT HAVE GONE INTO THE CREATION OF THESE BLUEPRINTS. HOWEVER, BECAUSE OF THE VARIANCE IN GEOGRAPHIC LOCATIONS, CONSTRUCTION METHODS, MATERIALS, AND LOCAL CODES, THE BUILDER MUST CONSULT WITH LOCAL BUILDING CODES PRIOR TO COMMENCEMENT OF CONSTRUCTION. THE PURCHASE OF THESE PLANS ENTITLES THE BUYER TO CONSTRUCT THIS HOUSE ONLY ONCE. ANY COPYING, REPRODUCING, OR ALTERING OF THESE PLANS IS NOT PERMITTED. VIOLATORS WILL BE SUBJECT TO PROSECUTION UNDER COPYRIGHT LAWS.

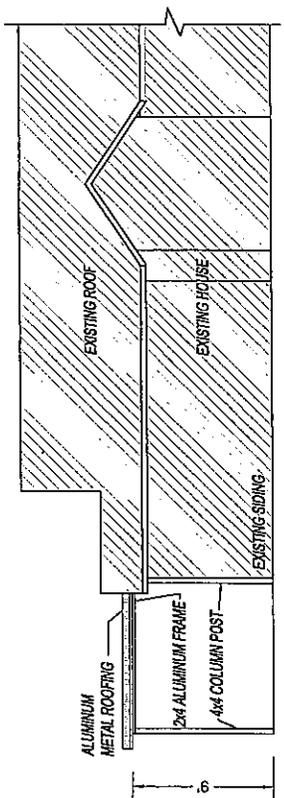
Project Name & Address
6331 RETAIN AVE
Dallas, TX
75227

Project ELEVATION PLAN	Sheet
Date 10/28/11	3
Scale 1/8" = 1'-0"	
Drawn By L.A.	

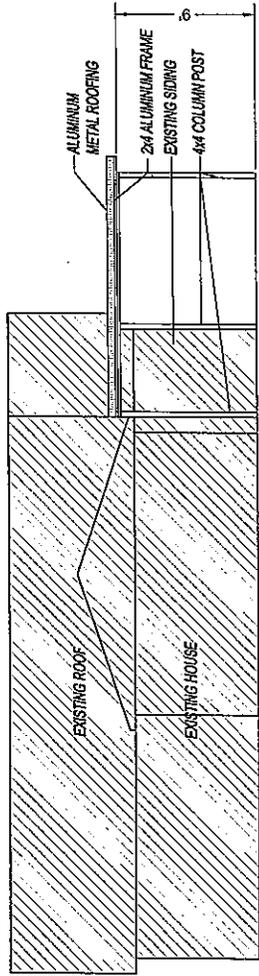
LEGEND

EXISTING 

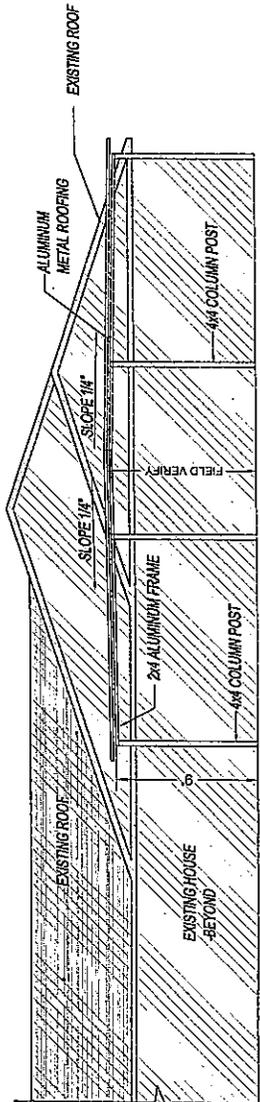
NEW/ADDITION 



01 FRONT ELEVATION



02 REAR ELEVATION



03 LEFT ELEVATION



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: 101-102

Data Relative to Subject Property:

Date: 8-11-11

Location address: 6331 Retain Ave. Zoning District: R-7.5 (A)

Lot No.: 9 Block No.: 15/5810 Acreage: .205 Fee: \$ 84,00

Frontage (in Feet): 1) 50' 2) 3) 4) 5)

To the Honorable Board of Adjustment :

sc 9

Owner of Property/or Principal: Marcos Macedo

Applicant: Elias Rodriguez /CCI Telephone: 214-946-4300

Mailing Address: 317 E Jefferson Blvd Zip Code: 75203

Represented By: Elias Rodriguez /CCI Telephone: 214-946-4300

Mailing Address: Zip Code:

Affirm that a request has been made for a Variance, or Special Exception of 5' side yard set back for a carport

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

Note to applicant: If the relief requested in this application is granted by the Board of Adjustment, said 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.

Respectfully submitted: Elias Rodriguez Print name Signature

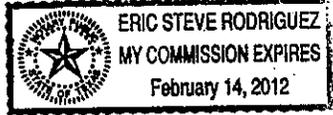
Affidavit

Before me the undersigned on this day personally appeared ELIAS RODRIGUEZ 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.

Signature of Elias Rodriguez Affiant (Applicant's signature)

Subscribed and sworn to before me this 11 day of August, 2011

Signature of 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

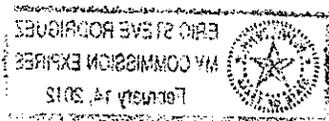
I hereby certify that ELIAS RODRIGUEZ

did submit a request for a special exception to the side yard setback regulation
at 6331 Petain Avenue

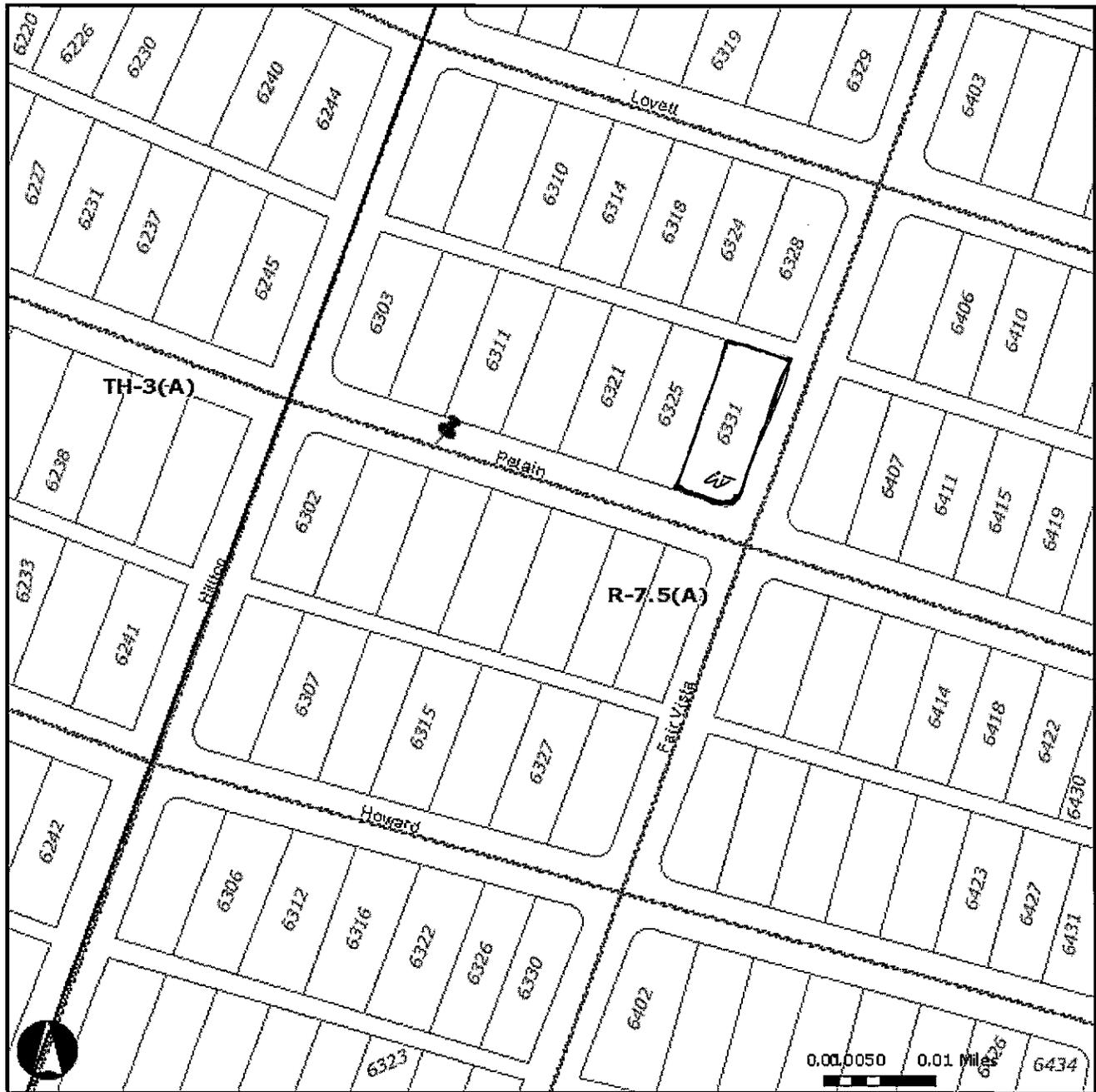
BDA101-102. Application of Elias Rodriguez for a special exception to the side yard setback regulation at 6331 Petain Avenue. This property is more fully described as lot 9 in city block 15/5810 and is zoned R-7.5(A), which requires a side yard setback of 5 feet. The applicant proposes to construct and maintain a carport for a single family residential dwelling in a side yard and provide a 0 foot setback, which will require a 5 foot special exception to the side yard setback regulation.

Sincerely,


Lloyd Denmam, Building Official



City of Dallas Zoning



Address Candidates



City Boundaries



County



Certified Parcels



DISD Sites

SUP



Dry Overlay



Historic Overlay



Historic Subdistricts

PDS Subdistricts



Base Zoning

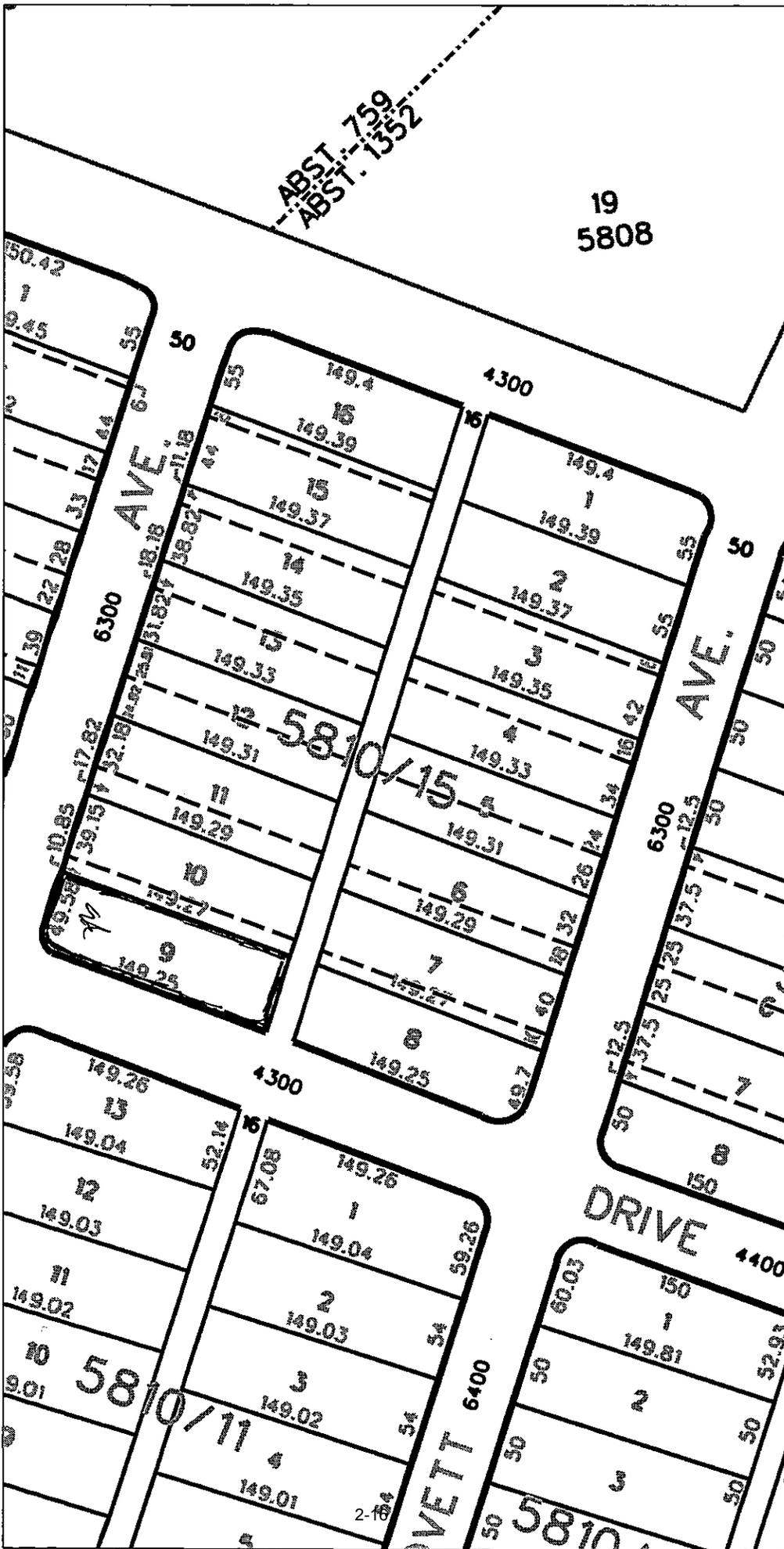


Floodplain



ABST. 759
ABST. 1352

19
5808



CONSTRUCTION CONCEPTS INC.
 "Planning and Designing a Better Tomorrow"

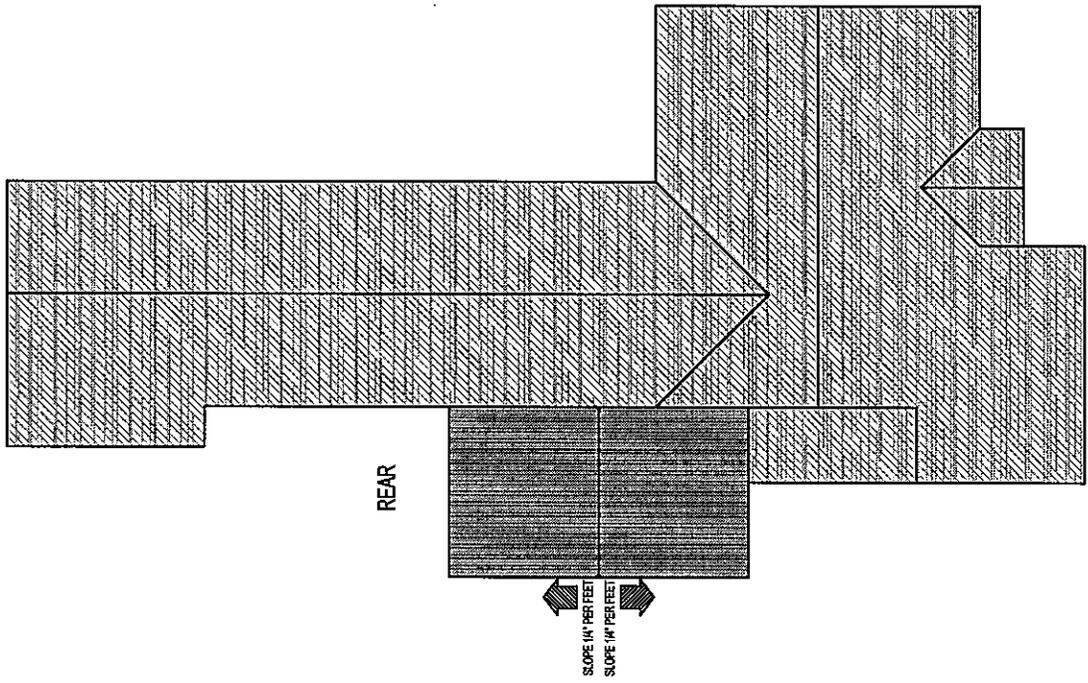
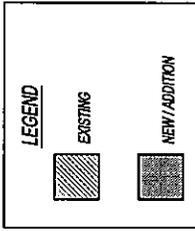
317 E. JEFFERSON BLVD.
 DALLAS, TX. 75203
 TEL. (214) 946-4300
 FAX. (214) 948-9544

THESE PLANS ARE INTENDED TO PROVIDE BASIC CONSTRUCTION INFORMATION NECESSARY TO SUBSTANTIALLY BUILD THIS STRUCTURE. THESE PLANS MUST BE REVIEWED AND CHECKED BY THE BUILDER, HOMEOWNER AND ALL CONTRACTORS OF THIS JOB PRIOR TO CONSTRUCTION. BUILDER SHOULD OBTAIN ENGINEERING SERVICES, HVAC AND STRUCTURAL BEFORE BEGINNING CONSTRUCTION OF ANY KIND. NOTE: ALL FEDERAL, STATE AND LOCAL CODES AND RESTRICTIONS TAKE PRECEDENCE OVER ANY PART OF THESE PLANS.

GREAT CARE AND EFFORT HAVE GONE INTO THE CREATION OF THESE BLUEPRINTS. HOWEVER, BECAUSE OF THE VARIANCE IN GEOPHYSIC LOCATIONS, CONSTRUCTION CONCERNS, OR DEFICIENCIES ON THESE PLANS, OWNER/BUILDER MUST COMPLY WITH LOCAL BUILDING CODES PRIOR TO COMMENCEMENT OF CONSTRUCTION. THE PURCHASE OF THESE PLANS ENTITLES THE BUYER TO CONSTRUCT THIS HOUSE ONLY ONCE. ANY COPYING, TRACING, OR ALTERING OF THESE PLANS IS NOT PERMITTED. VIOLATORS WILL BE SUBJECT TO PROSECUTION UNDER COPYRIGHT LAWS.

Project Name & Address
 6331 RETAIN AVE
 Dallas, TX
 75227

Project	ROOF PLAN	Sheet	2
Date	08/04/11	Scale	3/32"=1'-0"
Drawn By	L.A.		



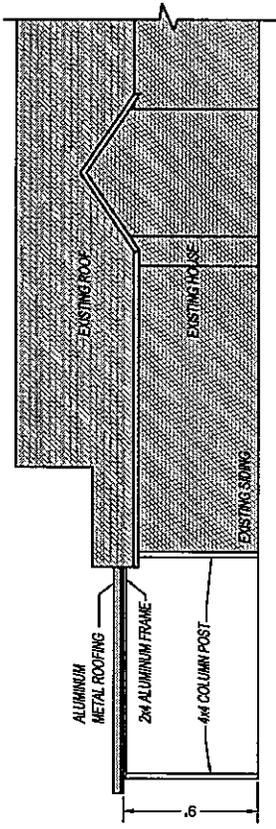
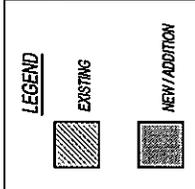
CONSTRUCTION CONCEPTS INC.
 "Planning and Designing a Better Tomorrow"

317 E. JEFFERSON BLVD.
 DALLAS, TX. 75203
 TEL. (214) 946-4300
 FAX. (214) 948-8944

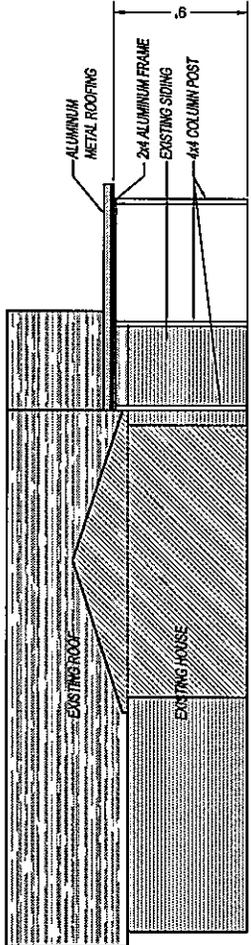
THESE PLANS ARE INTENDED TO PROVIDE BASIC CONSTRUCTION INFORMATION NECESSARY TO SUBSTANTIALLY BUILD THIS STRUCTURE. THESE PLANS MUST BE REFERRED AND CHECKED BY THE BUILDER, HOWEVER, AND ALL CONTRACTORS OF SERVICES SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE LOCAL BUILDING CODES PRIOR TO COMMENCEMENT OF CONSTRUCTION. THE LOCAL BUILDING CODES FROM THE JURISDICTION OF CONSTRUCTION. THE PURCHASE OF THESE PLANS ENTITLES THE BUYER TO CONSTRUCT THIS HOUSE ONLY ONCE. ANY COPYING, TRACING OR ALTERING OF THESE PLANS IS NOT PERMITTED. VIOLATORS WILL BE SUBJECT TO PROSECUTION UNDER COPYRIGHT LAWS.

Project Name & Address
 6331 RETAIN AVE
 Dallas, TX
 75227

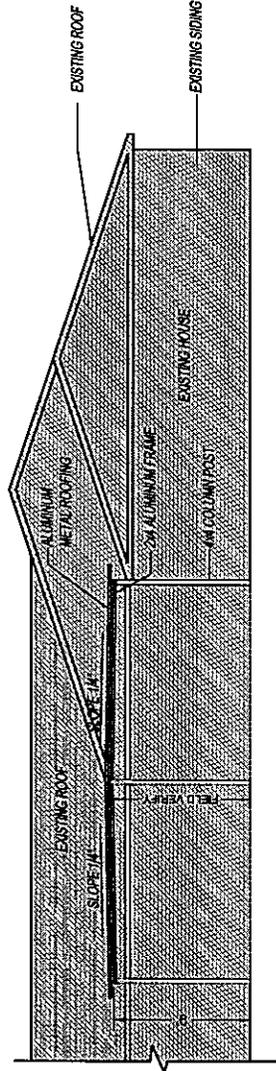
Project ELEVATION PLAN Sheet
 Date 08/04/11
 Scale 1/8"=1'-0"
 Drawn By L.A.
3



01 FRONT ELEVATION



02 REAR ELEVATION



03 LEFT ELEVATION

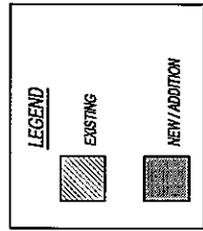
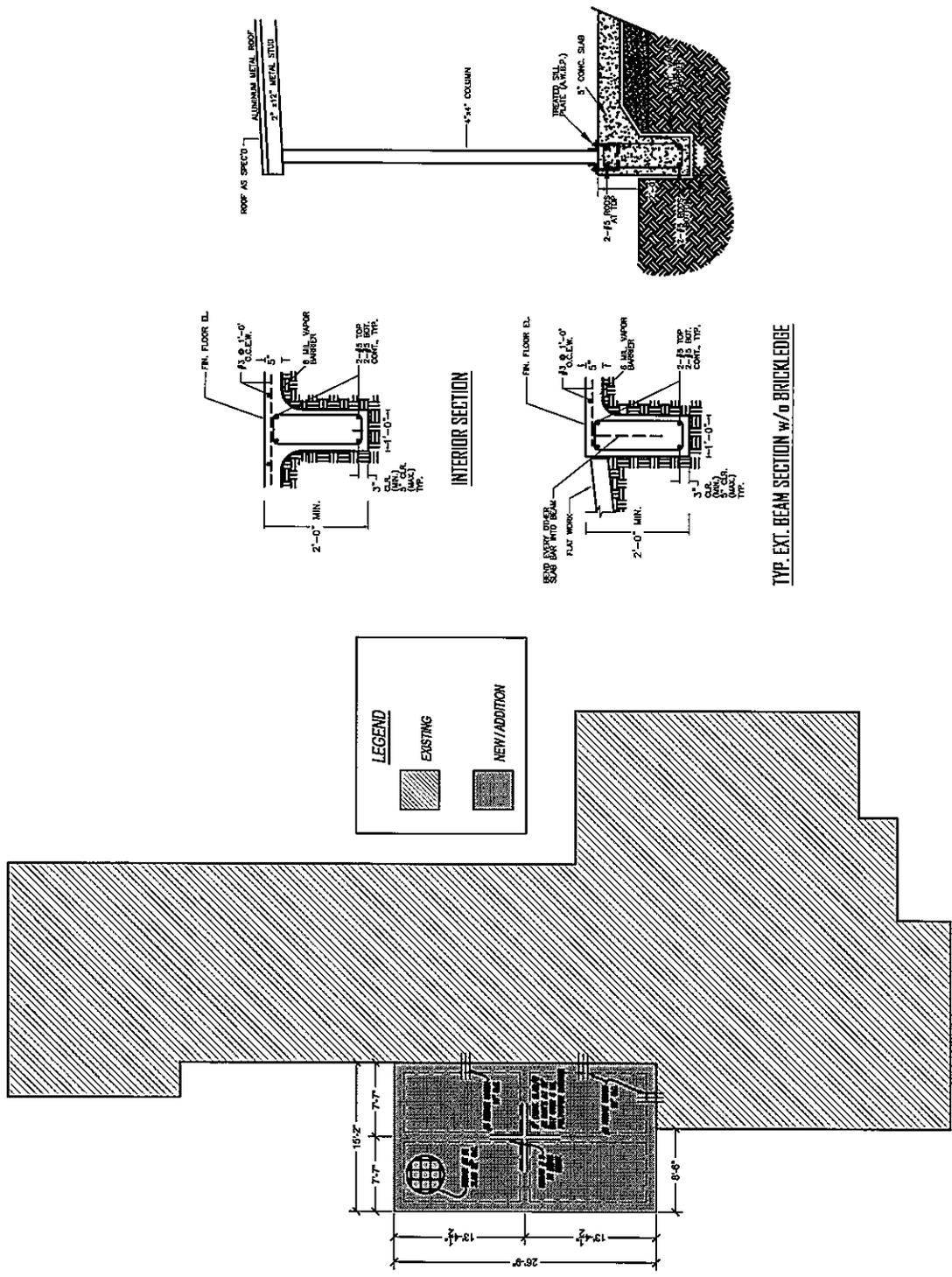
CONSTRUCTION CONCEPTS INC.
 "Planning and Designing a Better Tomorrow"

317 E. JEFFERSON BLVD.
 DALLAS, TX. 75203
 TEL. (214) 948-4300
 FAX. (214) 948-9544

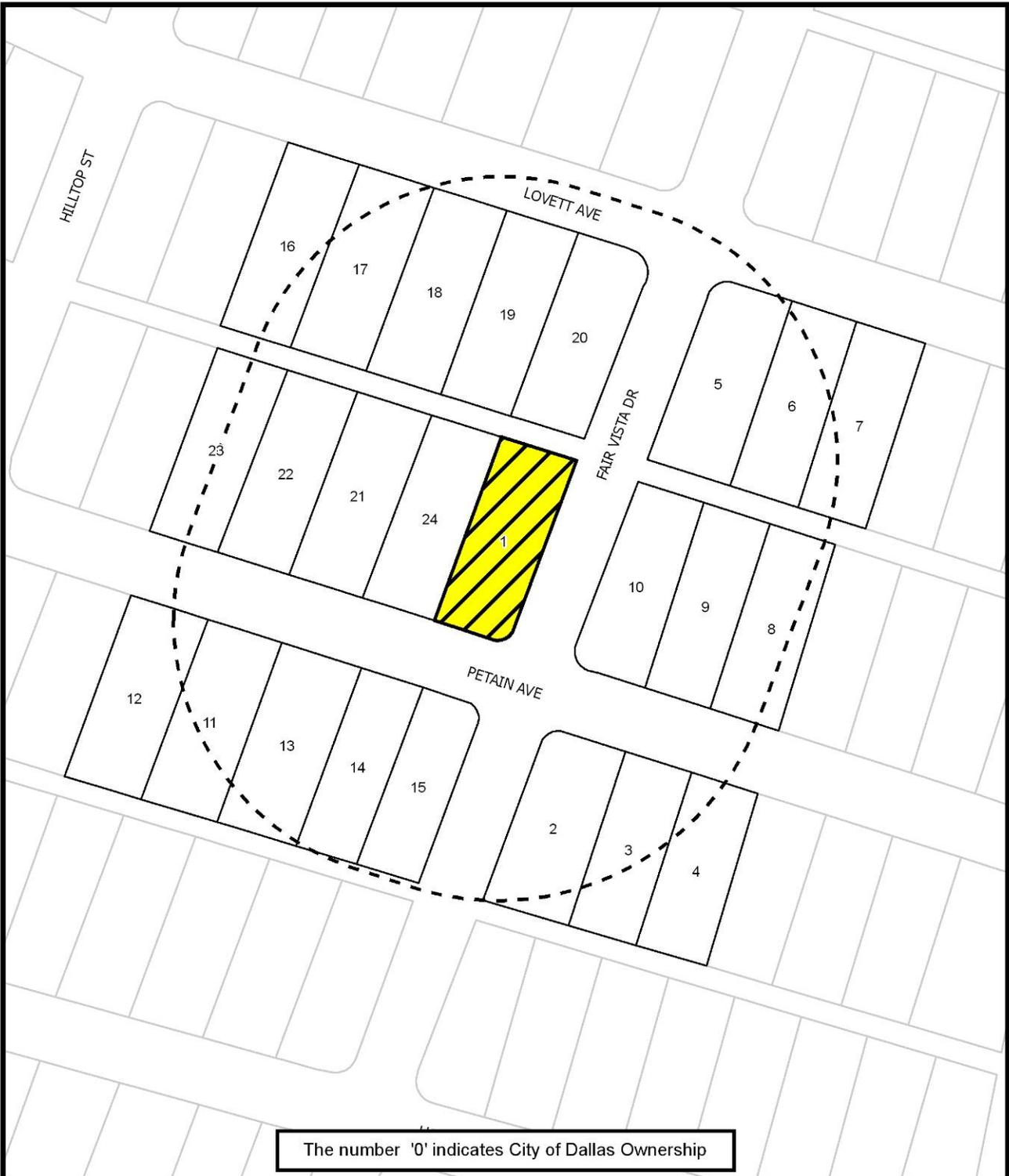
THESE PLANS ARE INTENDED TO PROVIDE BASIC CONSTRUCTION INFORMATION NECESSARY TO SUBSTANTIALLY BUILD THIS STRUCTURE. THESE PLANS MUST BE REVIEWED AND CHECKED BY THE BUILDER, ARCHITECT, AND ALL CONTRACTORS OR OTHER PROFESSIONALS BEFORE BEGAINING CONSTRUCTION OF ANY KIND. THE ARCHITECT, ENGINEER, OR OTHER PROFESSIONAL SHALL OBTAIN CONSENT FROM ALL LOCAL, STATE, AND FEDERAL AGENCIES BEFORE BEGAINING CONSTRUCTION OF ANY KIND. OVER ANY PART OF THESE PLANS. CONCEPTS, INC. WILL NOT ASSUME LIABILITY FOR ANY DAMAGES DUE TO ERRORS, OMISSIONS, OR DEFICIENCIES ON THESE PLANS. OWNER/BUILDER MUST COMPLY WITH LOCAL BUILDING CODES PRIOR TO COMMENCEMENT OF CONSTRUCTION. THE PURCHASE OF THESE PLANS ENTITLES THE BUYER TO CONSTRUCT THIS HOUSE ONLY ONCE. ANY OTHER REVISIONS OR ALTERATIONS TO THESE PLANS IS NOT PERMITTED. VIOLATORS WILL BE SUBJECT TO PROSECUTION UNDER COPYRIGHT LAWS.

Project Name & Address
 6331 RETAIN AVENUE
 Dallas, TX
 75227

Project SECTION	Sheet
Date 08/04/11	4
Scale N.T.S.	
Drawn By L.A.	



TYP. EXT. BEAM SECTION w/o BRICKLEDGE



 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="0" style="width: 100%;"> <tr> <td style="border: 1px solid black; padding: 2px;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="border: 1px solid black; padding: 2px;">24</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	24	NUMBER OF PROPERTY OWNERS NOTIFIED	<p style="text-align: right;">J-9</p> <p>Map no: _____</p> <p style="text-align: center;">BDA101-102</p> <p>Case no: _____</p>
200'	AREA OF NOTIFICATION					
24	NUMBER OF PROPERTY OWNERS NOTIFIED					

DATE: October 27, 2011

Notification List of Property Owners

BDA101-102

24 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	6331 PETAIN AVE	MACEDO MARCOS CARACHURE & GENARA MARTINE
2	6402 PETAIN AVE	CASTANEDA ADRIAN & LETICIA
3	6406 PETAIN AVE	GONZALEZ DAVID
4	6410 PETAIN AVE	MACIAS MARIO
5	6402 LOVETT AVE	CHASE HOME FINANCE LLC
6	6406 LOVETT AVE	GONZALEX ELISEO & JUANA
7	6410 LOVETT AVE	MECCA APRIL INC
8	6411 PETAIN AVE	PIO IGNACIO & ANTONIA G
9	6407 PETAIN AVE	MENDEZ GUADALUPE & FRANCISCO
10	6403 PETAIN AVE	MENDEZ BENJAMIN & CHRISTINA A
11	6316 PETAIN AVE	JIMENEZ GABRIEL
12	6312 PETAIN AVE	DORIA JESUS C & VERONICA L
13	6322 PETAIN AVE	DAVILA JOSE G
14	6326 PETAIN AVE	TAYLOR ALICE E DODD
15	6330 PETAIN AVE	GONZALEZ BRENDA ELIZABETH
16	6310 LOVETT AVE	MORENO TINA & MARIA ELDA GUERRERO
17	6314 LOVETT AVE	RODRIGUEZ ARTURO H & MARIA A
18	6318 LOVETT AVE	GARZA ALFONSO
19	6324 LOVETT AVE	RUEDA FRANCISCO
20	6328 LOVETT AVE	CHICO ROGELIO S & ISABEL R
21	6321 PETAIN AVE	ALMEIDA ABEL & OLGA OCHOA
22	6315 PETAIN AVE	MATA LAURA JULIE & MATA ERIKA YADIRA
23	6311 PETAIN AVE	HERNANDEZ MARIA V & JOSE O MEDINA
24	6325 PETAINAVE	ROBLES REYNALDO & ESTELLA

FILE NUMBER: BDA 101-104

BUILDING OFFICIAL'S REPORT:

Application of Clifton Phillips for a variance to the landscape regulations at 6712 Patrol Way. This property is more fully described as Lot 1 in City Block A/6896 and is zoned PD 625 (residential/retirement housing use subdistrict), which requires mandatory landscaping. The applicant proposes to construct a structure and provide an alternate landscape plan, which will require a variance.

LOCATION: 6712 Patrol Way

APPLICANT: Clifton Phillips

REQUEST:

- A variance to the landscape regulations is requested in conjunction with completing and maintaining a 112-unit residential/retirement housing development (Magnolia Trace) and not fully meeting the specific landscape requirements of PD No. 625.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required.

Rationale:

- A literal enforcement of certain landscape requirements of PD 625 would result in unnecessary hardship where the slope of the subject site precludes the applicant from fully complying with specific PD. No. 625 requirements related to the spacing of trees and the provision of tree grates along Patrol Way and Crouch Road.
- The City of Dallas Chief Arborist recommends approval of this request given how development of the property along Patrol Way required slope adjustments for drainage and site protection, and how Crouch Road is not at a proper elevation and does not provide curb or infrastructure to support the placement of a tree grate/sidewalk combination for the site.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, 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.

GENERAL FACTS:

- The subject site is located in PD No. 625 – a Planned Development District that was created in 2002 and made up of three subdistricts: a residential use subdistrict, a residential/retirement housing use subdistrict (the subject site), and a mixed use subdistrict.
- PD No. 625 states that “except as modified in this section (Landscaping), the regulations in Article X, “Landscape and Tree Preservation Regulations,” apply in this district. The PD additionally provides additional “landscaping” for the “residential/retirement housing use subdistrict” – the subdistrict in this PD that is the subject site.
- The City of Dallas Chief Arborist submitted a memo to the Board Administrator regarding the applicant’s submitted alternate landscape plan (see Attachment A). The memo states among other things how the applicant’s request is triggered by the new construction of retirement housing on the site; and where relief is sought from the tree spacing and tree grate requirements of the PD. The arborist’s memo explains several “factors’ related to the application, and recommends approval of the request.
- The site is sloped, virtually rectangular in shape (approximately 500’ on the northeast, approximately 504’ on the southwest; approximately 800’ on the southeast, and approximately 760’ on the northwest) and according to the application 8.94 acres in area. The subject site is zoned PD No. 625 (residential/retirement housing use subdistrict).
- DCAD shows “no record found” for property at 6712 Patrol Way.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 625 (residential/retirement housing use subdistrict)
North: R-7.5(A) (Single family residential 7,500 square feet)
South: PD No. 625 (residential use subdistrict)

East: PD No. 625 (residential use subdistrict)
West: PD No. 625 (residential use subdistrict)

Land Use:

The subject site is being developed as a 112-unit residential/retirement housing development (Magnolia Trace). The areas to the north, east, south, and west appear to be undeveloped.

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.

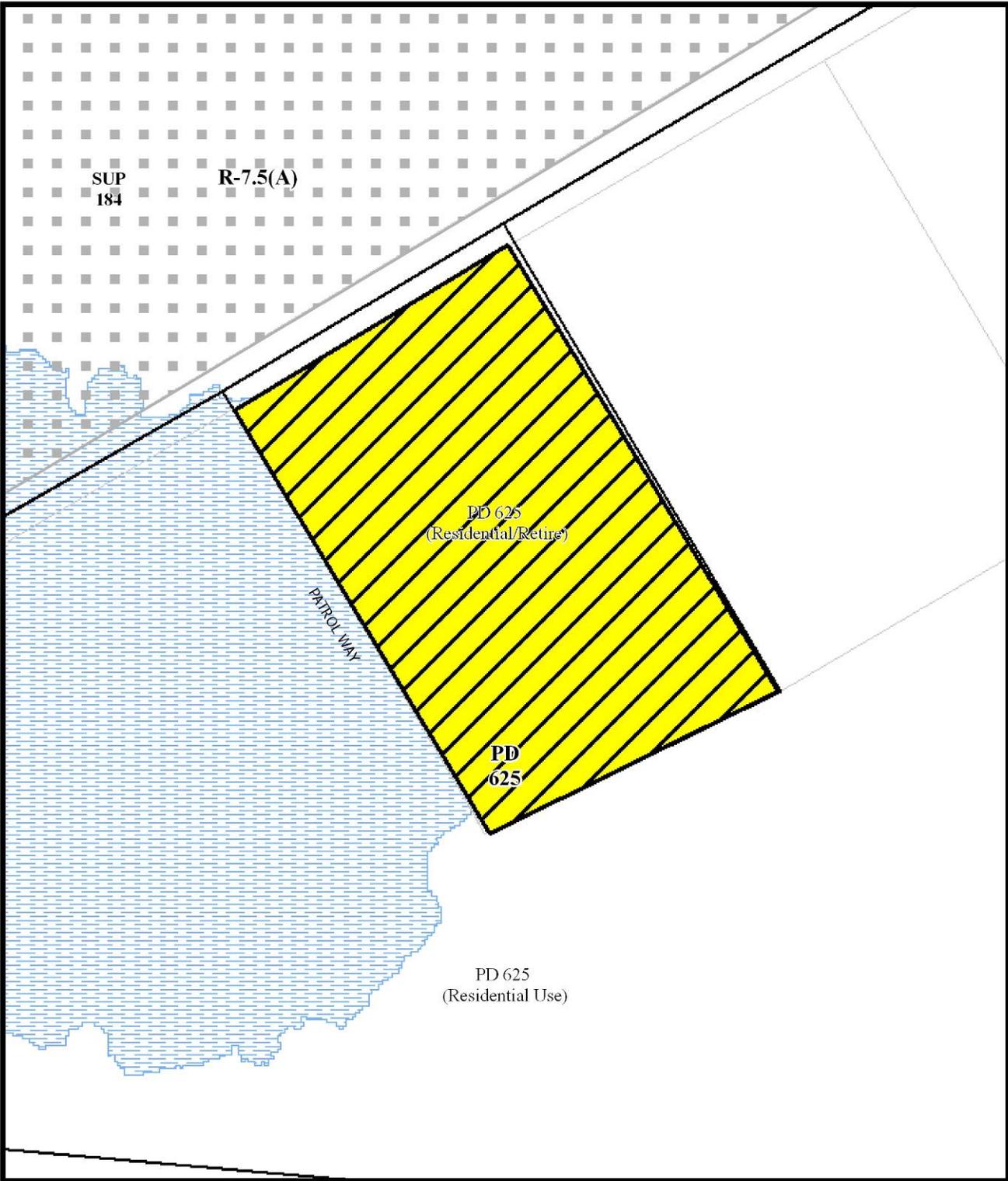
Timeline:

- July 28, 2011: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- October 14, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- October 20, 2011: 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 October 28th deadline to submit additional evidence for staff to factor into their analysis; and the November 4th 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.
- November 1, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Assistant Director, the Acting Building Official, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

November 4, 2011: The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the request (see Attachment A).

STAFF ANALYSIS:

- This request focuses on completing and maintaining a 112-unit residential/retirement housing development (Magnolia Trace) and not fully meeting the specific landscape requirements of PD No. 625.
- Given specific provisions of the landscape provisions of PD No. 625, the applicant can only seek these leniencies from the board of adjustment by requesting a *variance* to the landscape regulations as opposed to the more typical *special exception* to the landscape regulations.
- The subject site is sloped, virtually rectangular in shape (approximately 500' on the northeast, approximately 504' on the southwest; approximately 800' on the southeast, and approximately 760' on the northwest) and according to the application 8.94 acres in area. The subject site is zoned PD No. 625 (residential/retirement housing use subdistrict).
- DCAD shows “no record found” for property at 6712 Patrol Way.
- The City of Dallas Chief Arborist recommends approval of this request given how development of the property along Patrol Way required slope adjustments for drainage and site protection, and how Crouch Road is not at a proper elevation and does not provide curb or infrastructure to support the placement of a tree grate/sidewalk combination for the site. The arborist states that the general slope of the property and the drainage slope along the street perimeter creates hardship that prohibits compliance with site requirements.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the landscape regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 625 zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PD No. 625 zoning classification.
- If the Board were to grant this request and impose a condition that the applicant must comply with the submitted alternate landscape plan, the site would be “varied” from the tree spacing and tree grate requirements of PD No. 625.



1:2,400

ZONING MAP

Map no: O-7, O-8

Case no: BDA101-104

DATE: October 27, 2011



1:2,400

AERIAL MAP

Map no: O-7, O-8

Case no: BDA101-104

DATE: October 27, 2011

BDA101-104
Attach A
Pg 1

Memorandum



CITY OF DALLAS

DATE November 4, 2011
TO Steve Long, Board of Adjustment Administrator
SUBJECT # BDA 101 · 104 6712 Patrol Way

The applicant is requesting a variance to the landscape requirements of PD 625. The site complies with Article X conditions. The request is for provisions included under Section 625.113(b) "Landscaping," and Section 625.116 as additional provisions.

Trigger

New construction of retirement housing.

Deficiencies

The site is not deficient Article X conditions. The deficiencies of 625.113(b) are:

"(C) Trees must be planted at 30 feet on center." The applicant states 'trees are currently 'spaced on average between 25' – 38' on center because of spacing requirement of amenities. One tree is provided per 50 linear feet of frontage.'

"(G) Tree grates must be provided for all trees within the planting zone."

Section 625.116(c)(2) states three inch caliper trees must be placed at a minimum of one per thirty feet of pathway. The site meets or exceeds all other 'additional provisions.'

Factors

The property complies with the Article X provisions within the PD.

The west/southwest edge of the property, and Patrol Way, were elevated, in part, to be out of the 100-year floodplain and to adjust to the slope of the property from the hilltop to the east. The resulting slope places the pedestrian linkage sidewalk and tree planting area above the street elevation.

Due to drainage requirements of the property, and general slope configuration of the property near the street, tree grates could not be placed onto a supportive framework around the trees at a slope. The trees have been planted in an large open green space along the perimeter of the property.

Crouch Road is unimproved with a drainage ditch that increases in depth and angle of slope toward the west end of the property.

The PD landscape requirements include pedestrian amenity lighting of pedestrian light poles at 75 foot intervals, provide a minimum of 1.5 footcandles, and be mounted at a height no greater than 14 feet. In order to comply with the footcandle requirements, they provided more light poles at closer spacing. The increase of light poles brought about changes in tree planting locations.

Recommendation

Approval of the submitted landscape plan.

Development of the property alongside Patrol Way required slope adjustments for drainage and site protection. Crouch Road is not at a proper elevation, and provides no curb or infrastructure, to support the placement of a tree grate/sidewalk combination for the site. The general slope of the property, and the drainage slope along the street perimeter, create a hardship that prohibits compliance with site requirements.

Philip Erwin, ISA certified arborist #TX-1284(A)
Chief Arborist



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-104

Data Relative to Subject Property:

Date: 07/28/2011

Location address: 6712 Patrol Way Zoning District: PD 625 Sub-district No. 3

Lot No.: 1 Block No.: A/6896 Acreage: 8.94 Census Tract: 113

Street Frontage (in Feet): 1) 756 2) 560 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property/or Principal: UHF Magnolia Trace, L.P.

Applicant: Clifton Phillips Telephone: 972-243-4205

Mailing Address: 1750 Valley View Lane, Ste. 420, Dallas, TX Zip Code: 75234

Represented by: Clifton Phillips Telephone: 972-243-4205

Mailing Address: Same as above Zip Code: 75234

Affirm that a request has been made for a Variance or Special Exception of Alternate landscape plan

Application is now made to the Honorable Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described request for the following reason: Due to the oversized planting zone provided, tree grates would not provide as much room for tree growth that the planting zone provides. Additionally, due to the limited space available because of required pedestrian lighting, bicycle racks and benches, it is not possible to plant trees 30' o.c. without overcrowding the trees, essentially having to space them much closer than 30' o.c. Trees are spaced on average between 25' - 38' o.c. because of spacing requirements of amenities. One tree is provided per 50 l.f. of street frontage.

Note to Applicant: If the relief requested in this application is granted by the Board of Adjustment, said 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.

Respectfully submitted: Clifton Phillips Applicant's name printed [Signature] Applicant's signature

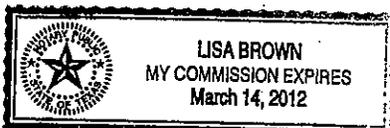
Affidavit

Before me the undersigned on this day personally appeared Clifton Phillips 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.

[Signature] Affiant (Applicant's signature)

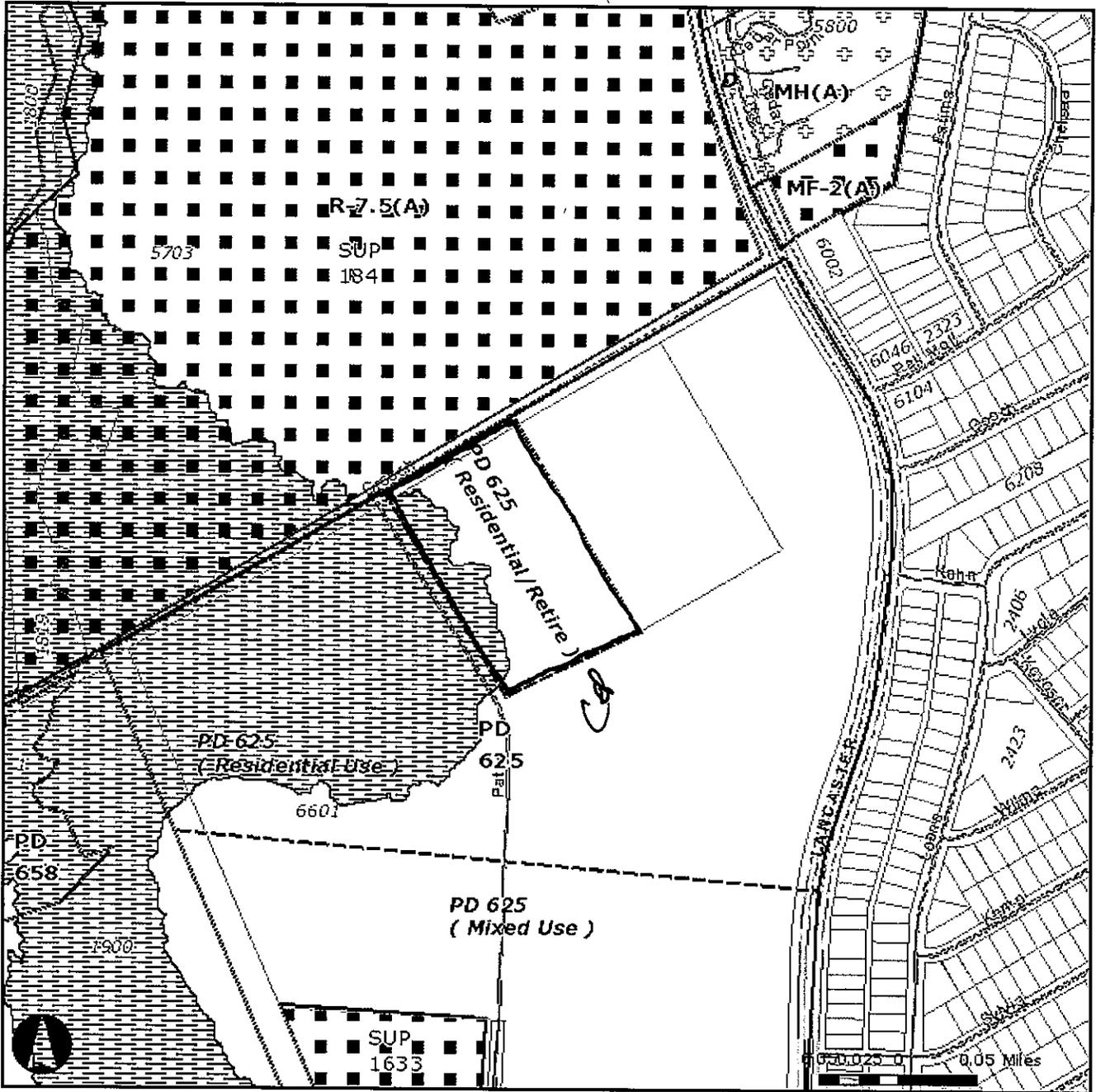
Subscribed and sworn to before me this 16th day of August, 2011

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



(Rev. 08-20-09)

City of Dallas Zoning



City Boundaries



County



Certified Parcels



DISD Sites



Council Districts



Major Lakes



Historic Overlay



Historic Subdistricts



NSO Overlay



NSO Subdistricts



MD Overlay



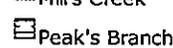
CD Subdistricts



Floodplain



Mill's Creek



Peak's Branch



X PROTECTED BY LEVEE

Pedestrian Overlay



CP

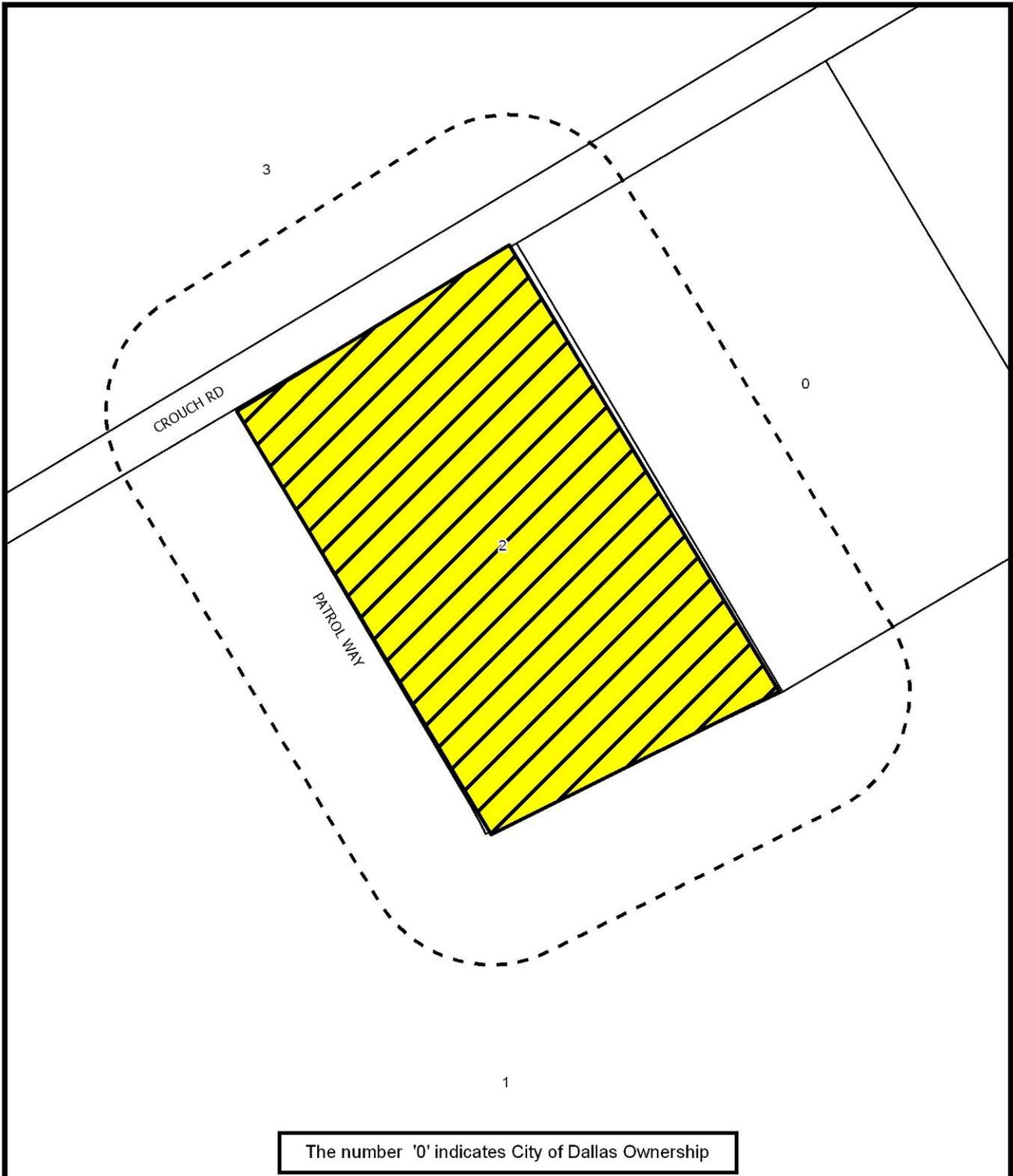


Sp



Environmental Corridors





The number '0' indicates City of Dallas Ownership


 1:2,400

NOTIFICATION

200' AREA OF NOTIFICATION
3 NUMBER OF PROPERTY OWNERS NOTIFIED

Map no: 0-7, 0-8
 Case no: BDA101-104

DATE: October 27, 2011

Notification List of Property Owners

BDA101-104

3 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	6601 LANCASTER RD	261 CW SPRINGS LTD
2	6601 LANCASTER RD	UHF MAGNOLIA TRACE LP SUITE 125
3	5703 LANCASTER RD	ADAMS JULIA &

FILE NUMBER: BDA 101-072

BUILDING OFFICIAL'S REPORT:

Application of Mohammed I. Sultan, represented by Mohammed Kamal, for variances to the side yard setback regulations and landscape regulations at 3003 S. Buckner Boulevard. This property is more fully described as Lot 1 in City Block D/6179 and is zoned PD-366, Subarea 6, which requires a side yard setback of 20 feet where there is residential adjacency for new construction and requires mandatory landscaping. The applicant proposes to construct/maintain a structure and provide a 1 foot side yard setback, which will require a variance of 19 feet to the side yard setback regulations, and provide an alternate landscape plan, which will require a variance to the landscape regulations

LOCATION: 3003 S. Buckner Boulevard

APPLICANT: Mohammed I. Sultan
Represented by Mohammed Kamal

REQUESTS:

- The following appeals have been made in this application on a site developed with a fuel station/convenience store structure/use (Conoco):
 1. A variance to the side yard setback regulations of 19' is made in conjunction with maintaining an approximately 1,100 square foot addition on an approximately 1,000 square foot convenience store structure, virtually of which is located in the site's 20' side yard setback on the north side of the site;
 2. A variance to the side yard setback regulations of approximately 16' 6" is made in conjunction with maintaining an approximately 1,100 square foot addition on an approximately 1,000 square foot convenience store structure part of which is located in the site's 20' side yard setback on the west side of the site;
 3. A variance to the side yard setback regulations of approximately 2' is made in conjunction with maintaining an approximately 1,000 square foot convenience store structure, part of which is located in the site's 20' side yard setback on the west side of the site; and
 4. A variance to the side yard setback regulations of up to 18' 8" is requested in conjunction with locating and maintaining an approximately 64 square foot dumpster structure which is located in the site's 20' side yard setback on the west side of the site.
 5. A variance to the landscape regulations is requested in conjunction with maintaining the existing structure on the site, and not fully meeting the specific landscape requirements of PD No. 366 and Article X: The Landscape Regulations of the Dallas Development Code..

STAFF RECOMMENDATION:

Denial of the requests

Rationale:

- The applicant had not substantiated how either the restrictive area, shape, or slope of the site/lot preclude it from being developed in a manner commensurate with development found on other PD No. 366 (Subarea 6) zoned lots; nor how a literal enforcement of the code provisions (including setback and landscape regulations) results in unnecessary hardship.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, 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.

GENERAL FACTS (side yard variances):

- The minimum side yard setback on a lot zoned PD 366 (Subarea 6) is 20 feet where adjacent to or directly across an alley from a single family, duplex, townhouse, or multifamily zoning district; or no minimum in all other cases. The subject site directly abuts an R-7.5(A) (single family) zoning district to the north and west – an area that is developed as the Pleasant Mound Cemetery.

The applicant has submitted a site plan indicating a “proposed extension” structure that is 1,082 square feet attached to an “existing 1 story building” that is 1,030 square feet. Although the site plan denotes a “proposed extension” along with an “existing 1 story building,” it appears from a field visit of the site that the “proposed extension” has been completed and is in the setbacks. The “proposed extension” structure is represented on the site plan as being 1’ 1” from the site’s northern side property line (or 18’ 11” into this required 20’ side yard setback) and approximately 3’ 6” from the site’s western side property line (or 16’ 6” into this required 20’ side yard setback). The site plan also represents that the “existing 1 story building”

structure is approximately 18' from the site's side property line on the west (or 2' into this required 20' side yard setback). Lastly, the site plan also denotes a dumpster structure that (given its mobility) could potentially be located as close as 1' 4" from the site's side property line on the west (or as much as 18' 8" into this required 20' side yard setback).

- According to calculations taken by the Board Administrator from the submitted site plan, virtually the entire 1,082 square foot "proposed extension" structure is located in the site's northern 20' side yard setback; about 320 square feet (or approximately 30 percent) of the "proposed extension" structure, about 50 square feet (or approximately 4 percent) of the 1,030 square foot "existing 1 story building" structure, and the entire 64 square foot dumpster structure are located in the site's western 20' side yard setback.
- The site is flat, is rectangular in shape (116.5' x 125'), and is approximately 14,600 square feet in area. The site is zoned PD 366 (Subarea 6). The site has two front yard setbacks along both street frontages which is typical of any corner lot not zoned agricultural, single family, or duplex.
- According to DCAD records, the "improvements" at 3003 S. Buckner Boulevard is a 976 square foot "convenience store" built in 1998.
- On August 15, 2011, the Board conducted a public hearing and heard testimony from the applicant and staff. The Board delayed action on the application until their November 14th public hearing in order for the applicant to possibly amend his application by adding a request for a special exception to the landscape and/or screening regulations.

GENERAL FACTS (landscape variance):

- The subject site is located in PD No. 366 – a Planned Development District that was created in 1992. PD No. 366 includes specific provisions regarding landscaping. The applicant has submitted an amended application and revised alternate "site/landscape plan" (see Attachments A and B).
- The City of Dallas Chief Arborist submitted a memo to the Board Administrator regarding the applicant's revised "site/landscape plan" (see Attachment C). The memo states among other things how the applicant's request is triggered by the construction of a building addition in 2005; and where relief is sought from parkway landscaping, site area landscaping, front yard strip landscaping, and mandatory perimeter landscape buffer requirements of either the landscape requirements of PD No. 366 or Article X: The Landscape Regulations of the Dallas Development Code. The arborist's memo explains several "factors" related to the application, and recommends denial of the request.
- The site is flat, is rectangular in shape (116.5' x 125'), and is approximately 14,600 square feet in area. The site is zoned PD 366 (Subarea 6). The site has two front yard setbacks along both street frontages which is typical of any corner lot not zoned agricultural, single family, or duplex.
- According to DCAD records, the "improvements" at 3003 S. Buckner Boulevard is a 976 square foot "convenience store" built in 1998.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 366 (Subarea 6) (Planned Development)
North: R-7.5(A) (SUP 92) (Single family district 7,500 square feet)(Specific Use Permit)
South: R-7.5(A) (SUP 92) (Single family district 7,500 square feet)(Specific Use Permit)
East: PD No. 366 (Subarea 6) (Planned Development)
West: R-7.5(A) (SUP 92) (Single family district 7,500 square feet)(Specific Use Permit)

Land Use:

The subject site is developed with a convenience store/fuel station structure/use (Conoco). The areas to the north, south, and west are developed a cemetery use (Pleasant Mound Cemetery); and the area to the east is developed with commercial and retail 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.

Timeline:

- June 6, 2011: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 22, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- June 30, 2011: 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 August 1st deadline to submit additional evidence for staff to factor into their analysis; and the August 5th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - 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.

August 2, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Development and Construction Department Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

The Building Inspection Senior Plans Examiner/Development Code Specialist raised a concern about whether the site was in compliance with Article X: The Landscape Regulations. Staff discussed that while the site may not be in compliance with these regulations, the applicant made no request for the board to consider any leniency or exception to these regulations, and that the applicant's request for variances to the side yard setback regulations will not provide any relief to any existing or proposed noncompliant issues on the subject site pertaining to Article X: The Landscape Regulations.

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

August 15, 2011: The Board conducted a public hearing and heard testimony from the applicant and staff. The Board delayed action on the application until their November 14th public hearing in order for the applicant to possibly amend his application by adding a request for a special exception to the landscape and/or screening regulations.

October 25 & 31, 2011: The applicant amended his application and submitted a revised alternate "site/landscape plan" to staff (see Attachments A and B). (Note that the applicant informed the Board Administrator that the revised site/landscape plan made no amendments to the locations and sizes of the structures as conveyed on the originally submitted site plan).

October 25, 2011: The Board Administrator emailed the applicant and the applicant's representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the October 28th deadline to submit additional evidence for staff to factor into their analysis; and the November 4th 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.

November 1, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Assistant Director, the Acting Building Official, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

November 3, 2011: The Chief Arborist submitted a memo to the Board Administrator pertaining to the landscape variance request (see Attachment C).

STAFF ANALYSIS (side yard variances):

- The requests focus on maintaining portions of an existing convenience store structure/use (Conoco), part of which are located in the northern and western side yard setbacks, and a dumpster structure all of which is located in the western side yard setback.
- According to calculations taken by the Board Administrator from the submitted site plan, virtually the entire 1,082 square foot “proposed extension” structure is located in the site’s northern 20’ side yard setback; about 320 square feet (or approximately 30 percent) of the “proposed extension” structure, about 50 square feet (or approximately 4 percent) of the 1,030 square foot “existing 1 story building” structure, and the entire 64 square foot dumpster structure are located in the site’s western 20’ side yard setback.
- The site is flat, is rectangular in shape (116.5’ x 125’), and is approximately 14,600 square feet in area. The site is zoned PD 366 (Subarea 6). The site has two front yard setbacks along both street frontages which is typical of any corner lot not zoned agricultural, single family, or duplex.
- According to DCAD records, the “improvements” on the property is a 976 square foot “convenience store” built in 1998.
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to the side yard setback regulations of up to 19’ will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 366 (Subarea 6) zoning classification.
 - The variances 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 No. 366 (Subarea 6) zoning classification.

- If the Board were to grant the variances to the side yard setback regulations, imposing a condition whereby the applicant must comply with the submitted site plan and/or the submitted revised site/landscape plan (which the applicant states made no amendments to the locations and sizes of the structures as conveyed on the originally submitted site plan), the encroachments into these setbacks would be limited to what is shown on either one of these plans which in this case are structures that are located as close as 1' from the side property line or as much as 19' into the 20' side yard setbacks.
- The applicant's request for variances to the side yard setback regulations will not provide any relief to any existing or proposed noncompliant issues on the subject site pertaining to either the landscape requirements of PD No. 366 or Article X: The Landscape Regulations of the Dallas Development Code.

STAFF ANALYSIS (landscape variance):

- This request focuses on maintaining an existing convenience store structure/use (Conoco), and not fully complying with parkway landscaping, site area landscaping, front yard strip landscaping, and mandatory perimeter landscape buffer requirements of either the landscape requirements of PD No. 366 or Article X: The Landscape Regulations of the Dallas Development Code.
- Given specific provisions of the landscape provisions of PD No. 366, the applicant can only seek these leniencies from the board of adjustment by requesting a *variance* to the landscape regulations within this PD as opposed to the more typical *special exception* to the landscape regulations.
- The site is flat, is rectangular in shape (116.5' x 125'), and is approximately 14,600 square feet in area. The site is zoned PD 366 (Subarea 6). The site has two front yard setbacks along both street frontages which is typical of any corner lot not zoned agricultural, single family, or duplex.
- According to DCAD records, the "improvements" at 3003 S. Buckner Boulevard is a 976 square foot "convenience store" built in 1998.
- The City of Dallas Chief Arborist recommends denial of this request.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the landscape regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD No. 366 zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing

this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PD No. 366 zoning classification.

- If the Board were to grant this request and impose a condition that the applicant must comply with the submitted revised site/landscape plan, the site would be “varied” from parkway landscaping, site area landscaping, front yard strip landscaping, and mandatory perimeter landscape buffer requirements of either the landscape requirements of PD No. 366 or Article X: The Landscape Regulations of the Dallas Development Code.
- The applicant’s request for variance to the landscape regulations will not provide any relief to the existing noncompliant issue on the subject site pertaining to side yard setbacks.

BOARD OF ADJUSTMENT ACTION: AUGUST 15, 2011

APPEARING IN FAVOR: Mohammed Kamal, 7953 Pinkerton Ct., Plano, TX

APPEARING IN OPPOSITION: No one

MOTION: **Moore**

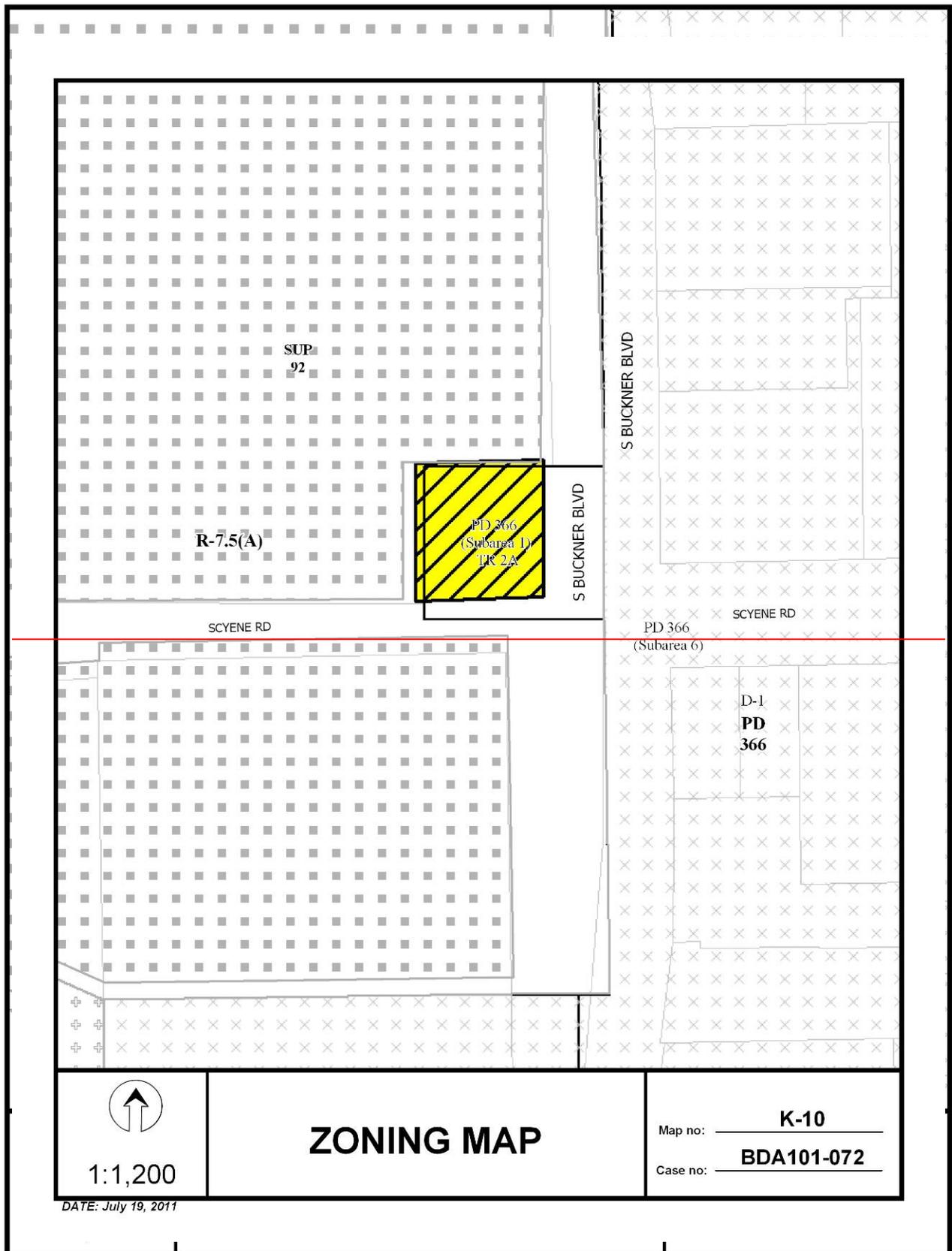
I move that the Board of Adjustment, in Appeal No. **BDA 101-072**, hold this matter under advisement until **November 14, 2011**.

SECONDED: **Maten**

AYES: 5–Boyd, Moore, Malter, Coulter, Richard

NAYS: 0 - None

MOTION PASSED: 5 – 0 (Unanimously)




 1:1,200

ZONING MAP

Map no: K-10
 Case no: BDA101-072

DATE: July 19, 2011

DATE: July 19, 2011



1:1,200

AERIAL MAP

Map no: K-10
Case no: BDA101-072

DATE: July 19, 2011

Attach A
of
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 Mohammed I Sultan
represented by MOHAMMED KAMAL
did submit a request for a variance to the side yard setback regulations, and for a special
exception to the landscaping regulations
at 3003 S. Buckner Blvd.

BDA101-072. Application of Mohammed I Sultan represented by Mohammed Kamal for a variance to the side yard setback regulations and landscaping regulations at 3003 S. Buckner Blvd. This property is more fully described as Lot 1 in city block D/6179 and is zoned PD-366, Subarea 6, which requires a side yard setback of 20 feet where there is residential adjacency for new construction and requires mandatory landscaping. The applicant proposes to construct and maintain a nonresidential structure and provide a 1 foot side yard setback, which will require a 19 foot variance to the side yard setback regulation, and provide an alternate landscape plan, which will require a variance to the landscape regulations.

Sincerely,


Lloyd Denman, Building Official

PROJECT STATUS:
AS SUBMIT
PROJECT MANAGER:
DAYNE ROAN
CLIENT/MANAGER:
RICN
PROJECT DATE:
09/25/11
REVISION DATE:
02/25/11

M. DELWAR HOSSAIN
3003 S. BUCKNER BLVD.
DALLAS, TEXAS

ADR-DESIGNS-LLC
TOTAL DESIGN MANAGERS
1001 AUSTRALIAN ROAD GRAND PRAIRIE, TX 75050
PH: 972-642-0870 FAX: 214-272-2987
E-Mail: address@adrdesigns.com

BUCKNER CONOCO
5005 S. BUCKNER BLVD.
DALLAS, TEXAS



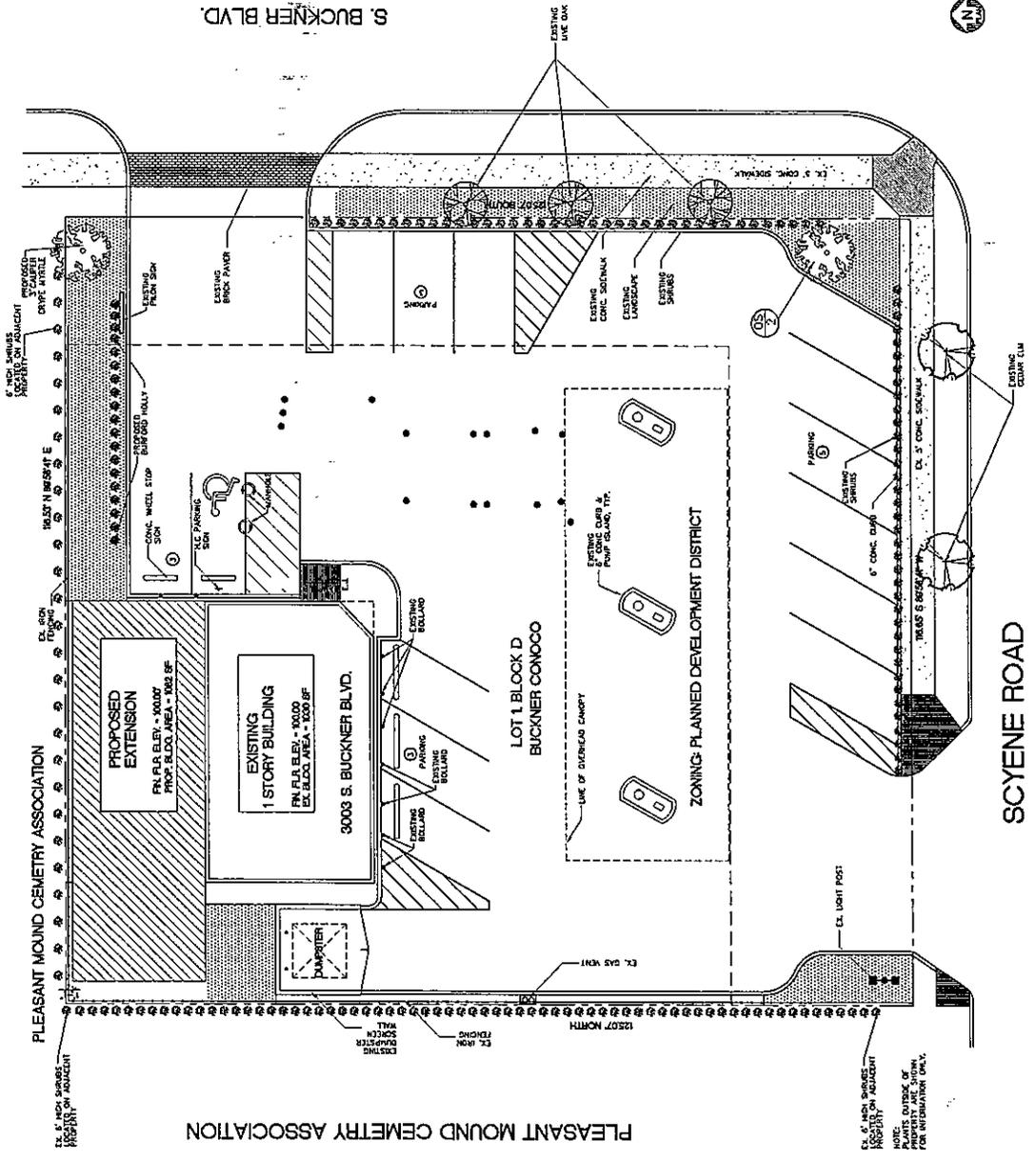
MIR Engineering
7853 PINKERTON COURT
PLANO, TEXAS 75025
PH: (469) 584-8150 FAX: (972) 787-3000
FRM # P - 9828
EMAIL: mhossain@mir.com

JOB NUMBER:
MIR-11187
SHEET NUMBER:
L101

BDA101-072
ATTACH A
pg 2

SITE/LANDSCAPE PLAN
SCALE: 1/8" = 1'-0"

BLOCK 679 TR 137 AND FT 30A





City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-072

Data Relative to Subject Property:

Date: 6-6-11

Location address: 3003 S Buckner Zoning District: PD 366 (Subarea 6)

Lot No.: 1 Block No.: D/6179 Acreage: .33 Census Tract:

Street Frontage (in Feet): 1) 116 2) 125 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property/or Principal: East Bengal Corp.

Applicant: Mohammed I Sultan Telephone: 214-682-4824

Mailing Address: 3003 S Buckner Blvd, Dallas Zip Code: 75227

Represented by: Mohammed S Kamal Telephone: 469-544-8150

Mailing Address: 7953 Pinkerton Ct, Plano Zip Code: 75025

Affirm that a request has been made for a Variance, or Special Exception, of Need variance for 18-8" set back on west side and 19' set back on North side.

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

Building Needed Bathrooms for the employees and customers due to increased size approved by the city previously also required GIS space for the driveway. By providing this avoided taking out required parking.

Note to Applicant: If the relief requested in this application is granted by the Board of Adjustment, said 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.

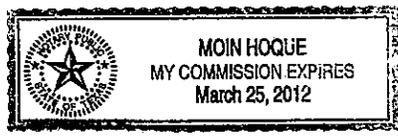
Respectfully submitted: MOHAMMED I SULTAN Applicant's name printed [Signature] Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared 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.

[Signature] Affiant (Applicant's signature)

Subscribed and sworn to before me this 17 day of MAY, 2011



[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

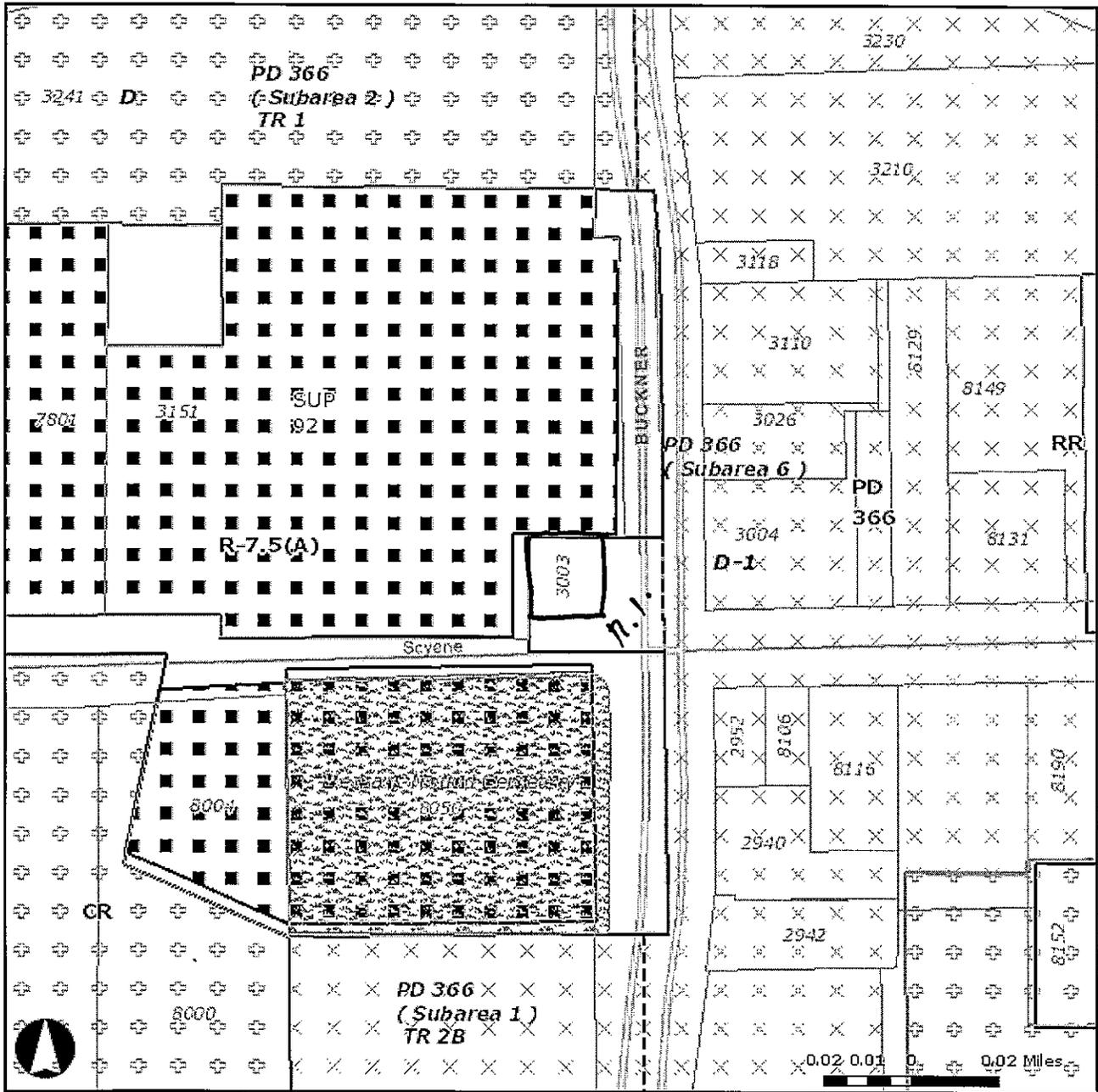
I hereby certify that Mohammed I Sultan
represented by MOHAMMED KAMAL
did submit a request for a variance to the side yard setback regulations
at 3003 S. Buckner Blvd.

BDA101-072. Application of Mohammed I Sultan represented by Mohammed Kamal for a variance to the side yard setback regulations at 3003 S. Buckner Blvd. This property is more fully described as Lot 1 in city block D/6179 and is zoned PD-366, Subarea 6, which requires a side yard setback of 20 feet where there is residential adjacency for new construction. The applicant proposes to construct and maintain a nonresidential structure and provide a 1 foot side yard setback, which will require a 19 foot variance to the side yard setback regulation.

Sincerely,

Batsheba Antebi
Batsheba Antebi, Building Official

City of Dallas Zoning



-  County
-  Certified Parcels
-  DISD Sites
-  Council Districts
-  Waterways
-  Parks

Dry Overlay

-  D
-  D-1
-  Historic Overlay
-  Historic Subdistricts
-  NSO Overlay
-  NSO Subdistricts
-  MD Overlay

Base Zoning

-  Floodplain
-  100 Flood Zone
-  Mill's Creek
-  Peak's Branch
-  X PROTECTED BY LEVEE
- Pedestrian Overlay**
-  CP
-  SP
- Environmental Corridors**

PROJECT STATUS: FINAL
 PROJECT NUMBER: 101-072
 PROJECT MANAGER: RICH
 PROJECT DATE: 05/21/11
 REVISION DATE: 08/11/11

M. DELWAN HOSSAIN
 3003 S. BUCKNER BLVD.
 DALLAS, TEXAS

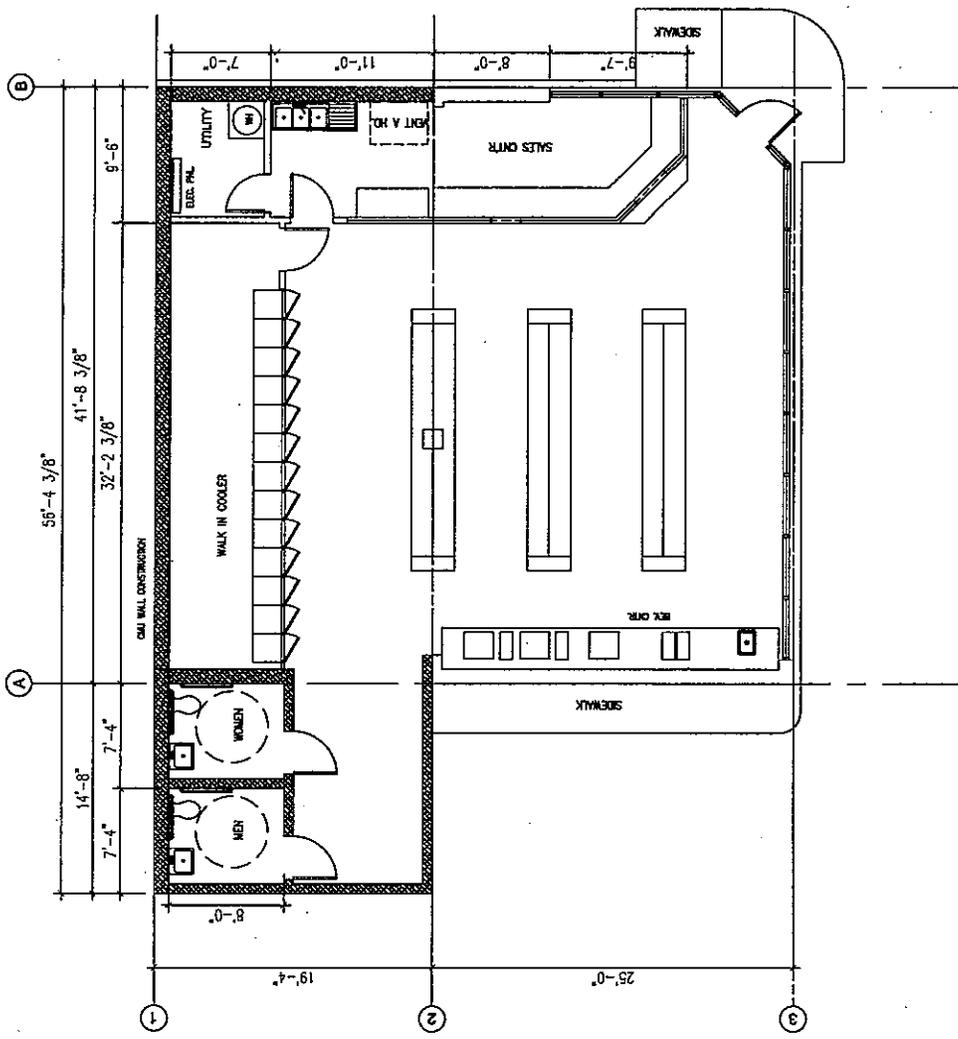
ADR-DESIGNS-LLC
 TOTAL DESIGN MANAGERS
 1001 ALSTRIM ROAD GRAND PRAIRIE, TX 75050
 PH: 972-642-0873 FAX: 214-272-2887

COMOCO EXPANSION
 3003 S. BUCKNER BLVD.
 DALLAS, TEXAS



FORINTEGRITY
 7863 PINKERTON COURT
 PLANO, TEXAS 75028
 PH: (469) 644-1191 FAX: (972) 767-3003
 EMAIL: PINKERTON@FORINTEGRITY.COM

JOB NUMBER: 101-072
 SHEET NUMBER: A2.0



01 FLOOR PLAN
 SCALE: 1/8" = 1'-0"

Platt-Holton, Ltd.
 100 WESTERN BLVD., SUITE 100
 DALLAS, TEXAS 75201
 ARCHITECTS

M. DELWAR HOSSAIN
 OWNER
 3003 S. BUCKNER BLVD.
 DALLAS, TEXAS

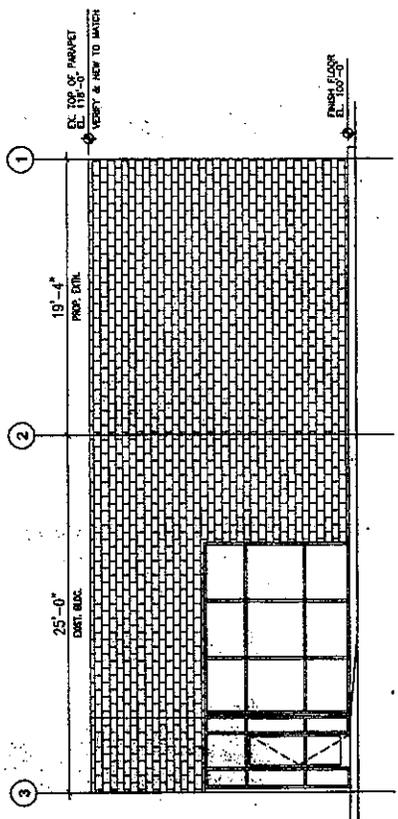
CONOCO EXPANSION
 FOR
 CONSTRUCTION DRAWINGS

ISSUE RECORD	
DATE	ISSUED FOR REVISIONS
CITY PERMIT	
BOOK	
CONSTRUCTION	

LOT DATA
 LOT AREA: 10,000 SQ. FT.
 CONOCO PROPERTY
 3003 S. BUCKNER BLVD.
 DALLAS COUNTY, TEXAS

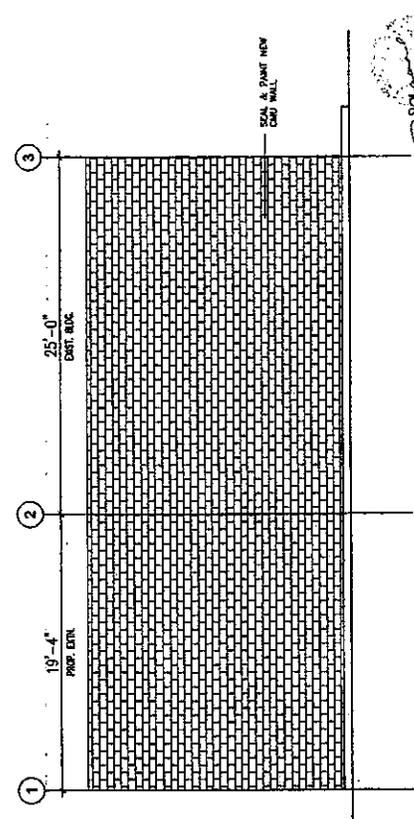
ELEVATIONS

A 3.0

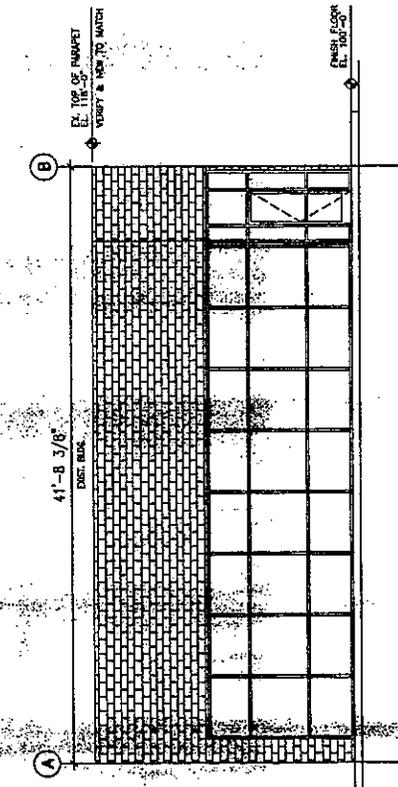


02 SIDE ELEVATION
 SCALE: 1/4" = 1'-0"

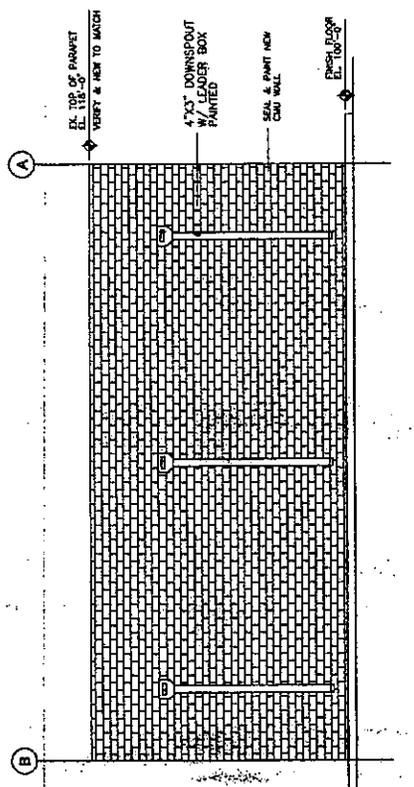
SEE SHEET 01 FOR
 WINDOW SCHEDULE
 BUILDING CODE
 110404-001



04 SIDE ELEVATION
 SCALE: 1/4" = 1'-0"



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



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

PROJECT STATUS: FINAL
 PROJECT MANAGER: DAVINE PAM
 DESIGN MANAGER: RCM
 PROJECT DATE: 08/11/11
 REVISION DATE: 08/11/11

3003 S. BUCKNER BLVD.
 DALLAS, TEXAS
 ADR-DESIGNS-LLC
 TOTAL DESIGN MANAGERS
 1001 AUSTIN ROAD GRAND PRAIRIE, TX 75008
 PH: 817-422-0873 FAX: 214-272-0887

COMCO EXPANSION
 3003 S. BUCKNER BLVD.
 DALLAS, TEXAS

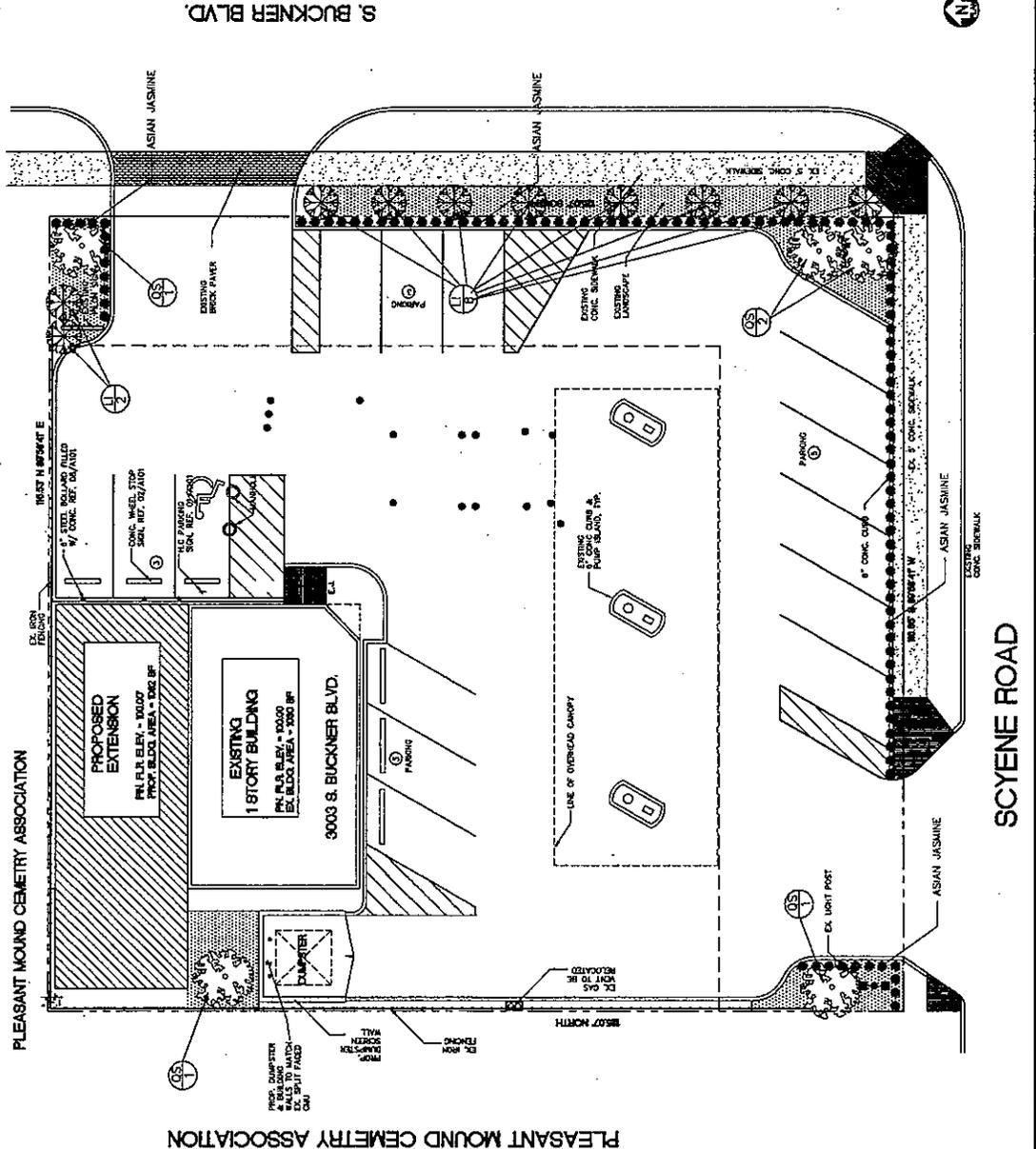


M.R.H. ENGINEERING
 7863 PINEGLEN COURT
 PLANO, TEXAS 75025
 PH: (469) 544-8150 FAX: (972) 787-2008
 EMAIL: MRH@MRHENGINEERING.COM

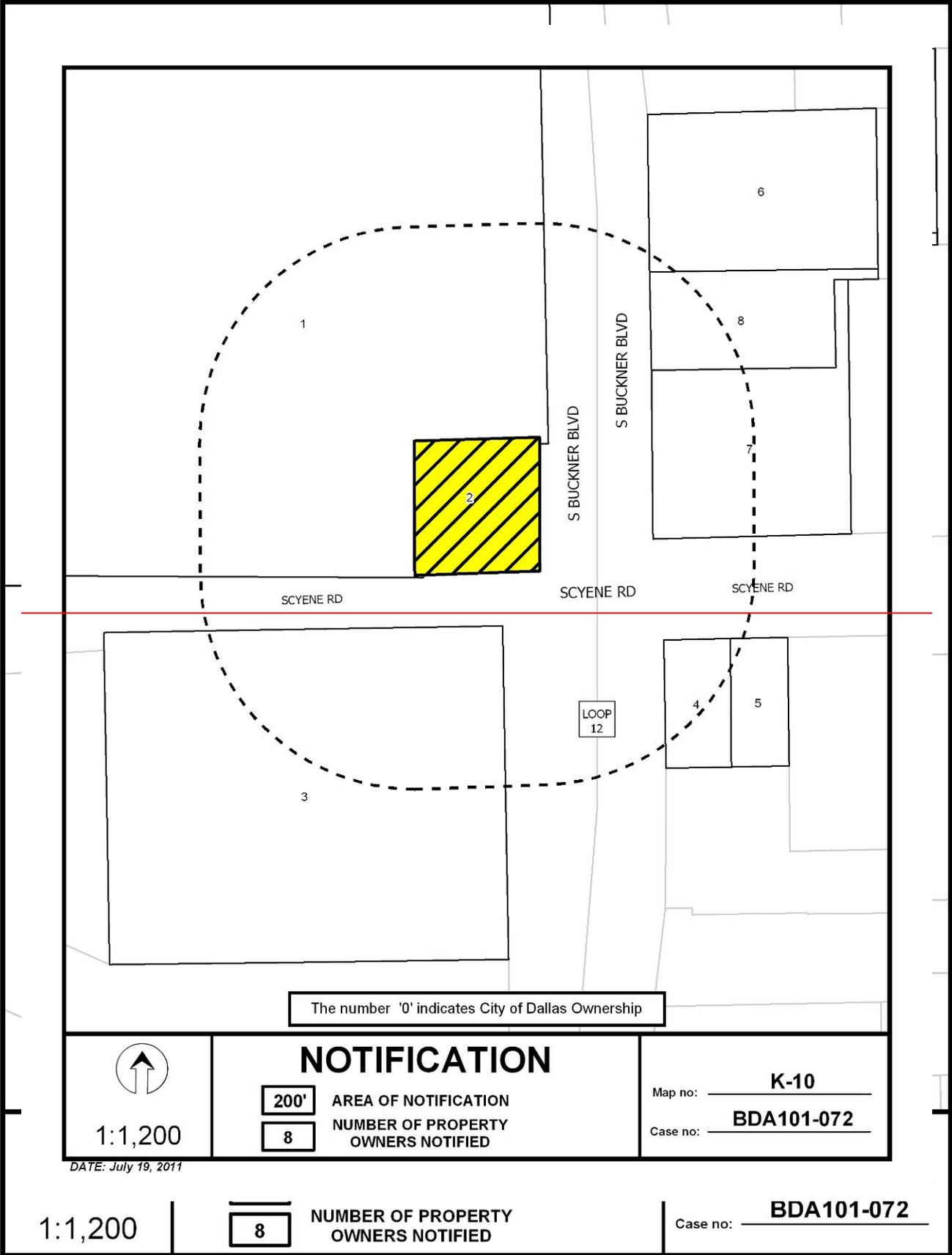
JOB NUMBER: 3003
 SHEET NUMBER: L101

PLANTING SCHEDULE	TYPE	SYMBOL	QTY.	COMMON NAME	BOTANICAL NAME	SIZE / CAL.	HEIGHT	SPREAD	ROOT	PLANTS/SF	SPACING	REMARKS
TREES		(Symbol)	3	QUERCUS SHUMARDI	SHUMARD RED OAK	3"	8' - 10'	6' - 8'	B & B	N/A	N/A	FULL, MATCHED
SHRUBS		(Symbol)	17	LACERSTROBIA INDICA	GRAPE MYRTLE (RED)	1 1/2" TRUNK	6' - 8'	6' - 8'	B & B	N/A	N/A	FULL, MATCHED 3 OR 4 TRUNKS
LAWN		(Symbol)	55	PHOTINIA FRASERI	RED TIP PHOTINIA	-	36"	30"	3 GAL.	N/A	72"	FULL, MATCHED
		(Symbol)	AS REQD.	OTYADON DACTION	COMMON BERMUDA GRASS	SY	N/A	N/A	N/A	N/A	N/A	SOLID SOD

NOTE:
 ALL LANDSCAPING AND IRRIGATION SYSTEM
 SHALL BE INSTALLED IN ACCORDANCE TO
 THE CITY OF DALLAS STANDARDS.



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



The number '0' indicates City of Dallas Ownership

 1:1,200 <small>DATE: July 19, 2011</small>	<h2>NOTIFICATION</h2>	Map no: <u> K-10 </u>
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">8</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u> BDA101-072 </u>

1:1,200 <small>DATE: July 19, 2011</small>	<div style="border: 1px solid black; padding: 2px; display: inline-block;">8</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u> BDA101-072 </u>
---	---	------------------------------------

Notification List of Property Owners

BDA101-072

8 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3151 BUCKNER	PLEASANT MOUND CEMETERY ASSOCIATION
2	3003 BUCKNER	EAST BENGAL CORP
3	8050 SCYENE	CEMETERY
4	2952 BUCKNER	MONA & NADA CORPORATION
5	8106 SCYENE	ZUNIGA CLAUDIA Y
6	3110 BUCKNER	MOHAWK MOTEL
7	3004 BUCKNER	FIREBRAND PROPERTIES LP
8	3026 BUCKNER	ROBERTSON EUGENE

FILE NUMBER: BDA 101-084

BUILDING OFFICIAL'S REPORT:

Application of Dee Anna Hanchey for special exceptions to the visual obstruction regulations at 3104 San Lucas Avenue. This property is more fully described as Lot 1 in City Block L/7312 and is zoned R-7.5(A) which requires a 20 foot visibility triangle at alley and driveway approaches. The applicant proposes to locate and maintain items in required visibility triangles, which will require special exceptions.

LOCATION: 3104 San Lucas Avenue

APPLICANT: Dee Anna Hanchey

REQUESTS:

- Special exceptions to the visual obstruction regulations are requested in conjunction with either maintaining or modifying and maintaining an eight-foot high solid wood fence/sliding wood gate in the two 20-foot visibility triangles at the drive approach into the site from Matterhorn Drive, and at the 20-foot visibility triangle at the intersection of the alley immediately south of the site and Matterhorn Drive. The site is developed as a single family home.

ORIGINAL SEPTEMBER STAFF RECOMMENDATIONS:

(1) Approval of the requests for special exceptions to the visual obstruction regulations to maintain an eight-foot high solid wood fence/gate in the two 20-foot visibility triangles at the drive approach into the site from Matterhorn Drive, subject to the following condition:

- Compliance with the submitted site plan and elevation is required.

Rationale:

- The Sustainable Development and Construction Department Engineering Assistant Director recommends approval of these requests.
- The applicant has substantiated how the location of the items in these drive approach visibility triangles does not constitute a traffic hazard.

(2) Denial of the request for a special exception to the visual obstruction regulations to maintain an eight-foot high solid wood fence/gate in the 20-foot visibility triangle at the intersection of the alley immediately south of the site and Matterhorn Drive.

Rationale:

- The Sustainable Development and Construction Department Engineering Assistant Director recommends denial of this request.
- The applicant has not substantiated how the location of the items in this 20-foot visibility triangle does not constitute a traffic hazard.

UPDATED NOVEMBER STAFF RECOMMENDATIONS:

(1) Approval of the requests for special exceptions to the visual obstruction regulations to maintain an eight-foot high solid wood fence/gate in the two 20-foot visibility triangles at the drive approach into the site from Matterhorn Drive, subject to the following condition:

- Compliance with the submitted site plan and elevation is required as the features shown on these documents relate to the fence located in the two 20-foot visibility triangles at the drive approach into the site from Matterhorn Drive only.

Rationale:

- The Sustainable Development and Construction Department Engineering Assistant Director recommends approval of these requests.
- The applicant has substantiated how the location of the fence and gate in these drive approach visibility triangles does not constitute a traffic hazard.

(2) Denial of the request for a special exception to the visual obstruction regulations to maintain an eight-foot high solid wood fence/gate in the 20-foot visibility triangle at the intersection of the alley immediately south of the site and Matterhorn Drive.

Rationale:

- The Sustainable Development and Construction Department Project Engineer recommends denial of this request, and only supports the applicant's proposal to relocate the existing solid wood fence where it no longer encroaches into this required visibility triangle.
- The applicant has not substantiated how either the location of the existing solid wood fence with safety mirrors or a modification to the existing solid wood fence with added windows with open wrought iron panels in this 20-foot visibility triangle does not constitute a traffic hazard.

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.

GENERAL FACTS:

- The Dallas Development Code states the following with regard to visibility triangles: 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).

A site plan had been submitted that showed a fence (and sliding gate) located in the two 20-foot visibility triangles at the drive approach into the site from Matterhorn Drive (lengths of approximately six feet in each triangle), and in the 20-foot visibility triangle at the intersection of the alley immediately south of the site at Matterhorn Drive (length of approximately five feet in this triangle). An elevation document had been submitted that represents what appears as a solid fence (no materials are denoted on the elevation) that is eight feet in height.

- On September 19, 2011, the Board conducted a public hearing and heard testimony from the applicant and staff. The Board delayed action on the application until their November 14th public hearing for the applicant to possibly amend his application/proposal with particular focus on what was to be maintained or modified and maintained in the 20-foot visibility triangle at the intersection of the alley immediately south of the site at Matterhorn Drive
- On October 27, 2011, the applicant submitted additional information to staff (see Attachment B). This information included what the applicant described as “new proposals that focus on pedestrian safety at the intersection of Matterhorn Drive and the alley between San Lucas Avenue and San Marcus Avenue.” The applicant entitled his three proposals as: Proposal A - Safety Mirror Solution, Proposal B - Decorative Openings; and Proposal C - Corner Cut with Gate Reconfiguration.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

June 30, 2011: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

August 12, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

- August 18, 2011: 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 September 1st deadline to submit additional evidence for staff to factor into their analysis; and the September 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- September 6, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Assistant Director, Sustainable Development and Construction Department Engineering Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.
- September 8, 2011: The Sustainable Development and Construction Department Engineering Assistant Director submitted a review comment sheet marked "Recommends that this be denied" commenting "1) Alley visibility obstruction should be denied due to pedestrian safety concerns. (Remedy exists by sliding gate in other direction); and 2) No objections to driveway visibility triangles."
- September 19, 2011: The Board conducted a public hearing and heard testimony from the applicant and staff. The Board delayed action on the application until their November 14th public hearing in order for the applicant to possibly amend his application/proposal with particular focus on what was to be maintained or modified and maintained in the 20-foot visibility triangle at the intersection of the alley immediately south of the site at Matterhorn Drive
- October 17, 2011: 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 deadline to submit additional evidence for staff to factor into their analysis; and the deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence; and
 - a letter for his review from board member Bob Richard to him on the applicant's request (see Attachment A).

October 27, 2011: The applicant submitted additional information to staff on the application (see Attachment B).

October 31, 2011: The Building Inspection Senior Plans Examiner/Development Code Specialist emailed the applicant concerns that he had with the applicant's submittals (see Attachment C). Among the code specialist's concerns relayed to the applicant was that the "ideas" submitted for the board's consideration did not include "a proper site plan and elevation drawing" that would be required in conjunction with obtaining permits for construction if the board were to grant the requests.

November 1, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Assistant Director, the Acting Building Official, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

November 3, 2011: The Sustainable Development and Construction Department Project Engineer forwarded an email to the Board Administrator on the applicant's proposals (see Attachment D).

STAFF ANALYSIS:

- The requests for special exceptions to the visual obstruction regulations focus on either maintaining or modifying and maintaining an eight-foot high solid wood fence/sliding wood gate in the two 20-foot visibility triangles at the drive approach into the site from Matterhorn Drive, and at the 20 foot visibility triangle at the intersection of the alley immediately south of the site and Matterhorn Drive. The site is developed as a single family home.
- The applicant has submitted "new proposals that focus on pedestrian safety at the intersection of Matterhorn Drive and the alley between San Lucas Avenue and San Marcus Avenue" in which he has entitled his three proposals as: Proposal A - Safety Mirror Solution, Proposal B - Decorative Openings; and Proposal C - Corner Cut with Gate Reconfiguration. Proposal A appears to be maintenance of the existing features in the alley/Matterhorn visibility triangle on the site that is leaving the solid wood fence with safety mirrors; Proposal B appears to be modification of the existing features in the alley/Matterhorn visibility triangle on the site that is leaving the fence in its current location but cutting two windows with open decorative wrought iron panels into the solid wood fence; and Proposal C appears to be modification of the existing features in the alley/Matterhorn visibility triangle on the site that is relocating the existing solid wood fence in a location that complies with the visual obstruction regulations.

- The Sustainable Development and Construction Department Engineering Assistant Director had originally submitted a review comment sheet in September marked “Recommends that this be denied” commenting “1) Alley visibility obstruction should be denied due to pedestrian safety concerns. (Remedy exists by sliding gate in other direction); and 2) No objections to driveway visibility triangles.”
- However on November 3, 2011, the Sustainable Development and Construction Department Project Engineer emailed to the Board Administrator his recommendation on the applicant’s proposals indicating that Proposal C was acceptable and the only proposal of the three that would reduce the existing traffic hazard. The City engineer commented that Proposal A was not acceptable since we (the City) do not depend on mirrors for visibility requirements; and that Proposal B would have trees growing through the openings which would be a constant maintenance/enforcement problem.
- The applicant has the burden of proof in establishing how granting each/all of the requests for a special exception to the visual obstruction regulations to either maintain eight-foot high solid wood fence/sliding gate and/or modifying and maintaining the existing solid wood fence in each triangle does not constitute a traffic hazard.
- If the Board chooses to grant any/all of these requests, the Board may choose to impose a site plan and elevation to be submitted by the applicant no later than at the public hearing as a condition to ensure that the item/items in each triangle would not constitute a traffic hazard. (Note that the Building Inspection Senior Plans Examiner/Development Code Specialist has expressed concerns with the applicant’s submittals, specifically that the applicant’s submitted “ideas” did not include “a proper site plan and elevation drawing” that would be required in conjunction with obtaining permits for construction if the board were to grant the requests).

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 19, 2011

APPEARING IN FAVOR: Dee Anna Hanchey, 3104 San Lucas Ave., Dallas, TX
Chris Hanchey, 3104 San Lucas Ave., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION #1: Coulter

I move that the Board of Adjustment, in Appeal No. **BDA 101-084**, on application of Dee Anna Hanchey, **grant** the request of this applicant to maintain an eight-foot-high solid wood fence/sliding wood gate in the two 20-foot visibility triangles at the drive approach into the site from Matterhorn Drive as a special exception to the visual obstruction regulation in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not constitute a traffic hazard. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan and elevation is required.

SECONDED: Maten

***No vote called. Motion was withdrawn.**

MOTION #2: **Coulter**

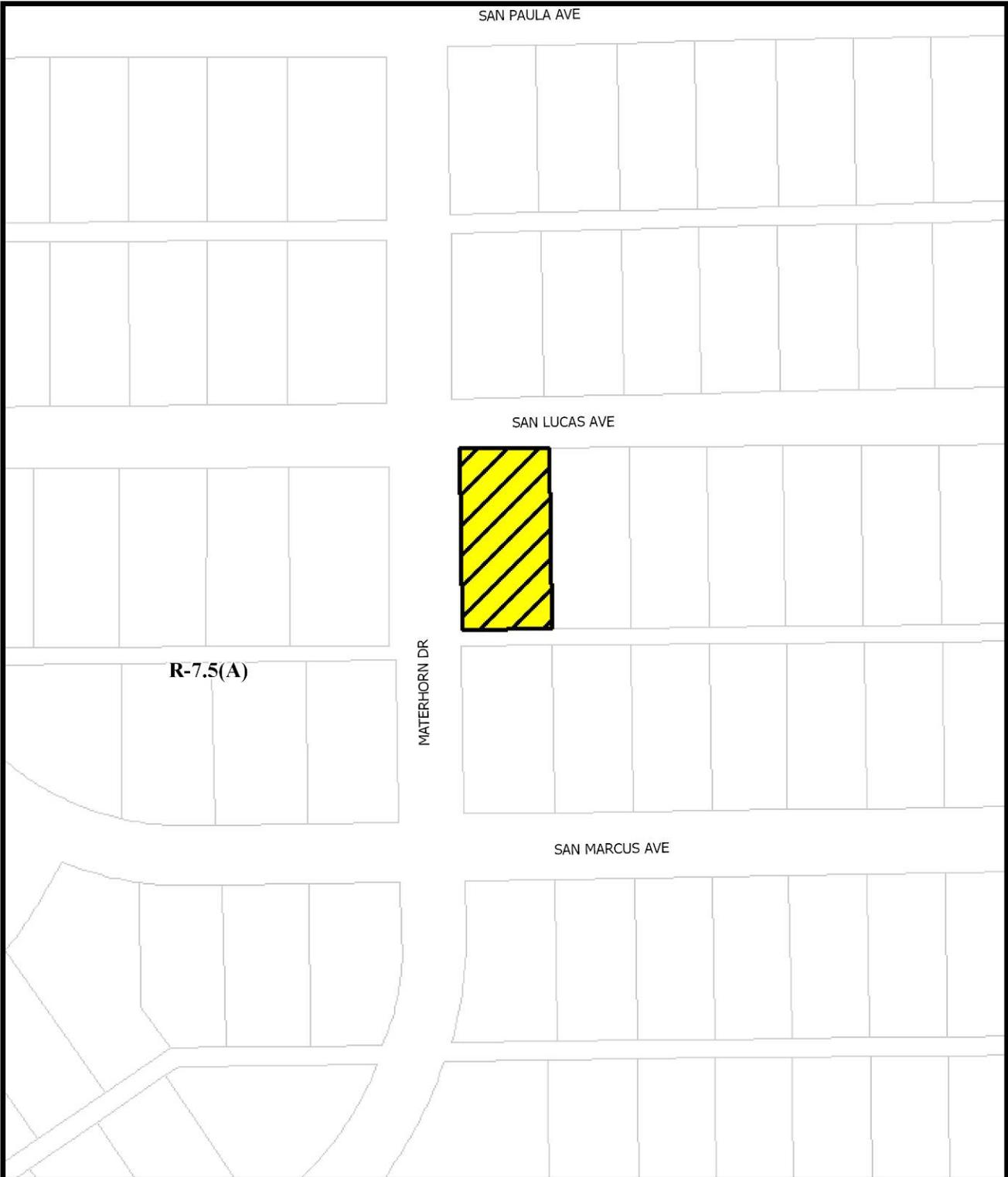
I move that the Board of Adjustment in Appeal No. **BDA 101-084**, hold this matter under advisement until **November 14, 2011**.

SECONDED: **Maten**

AYES: 4–Moore, Maten, Coulter, Richard

NAYS: 1 – Boyd

MOTION PASSED: 4– 1

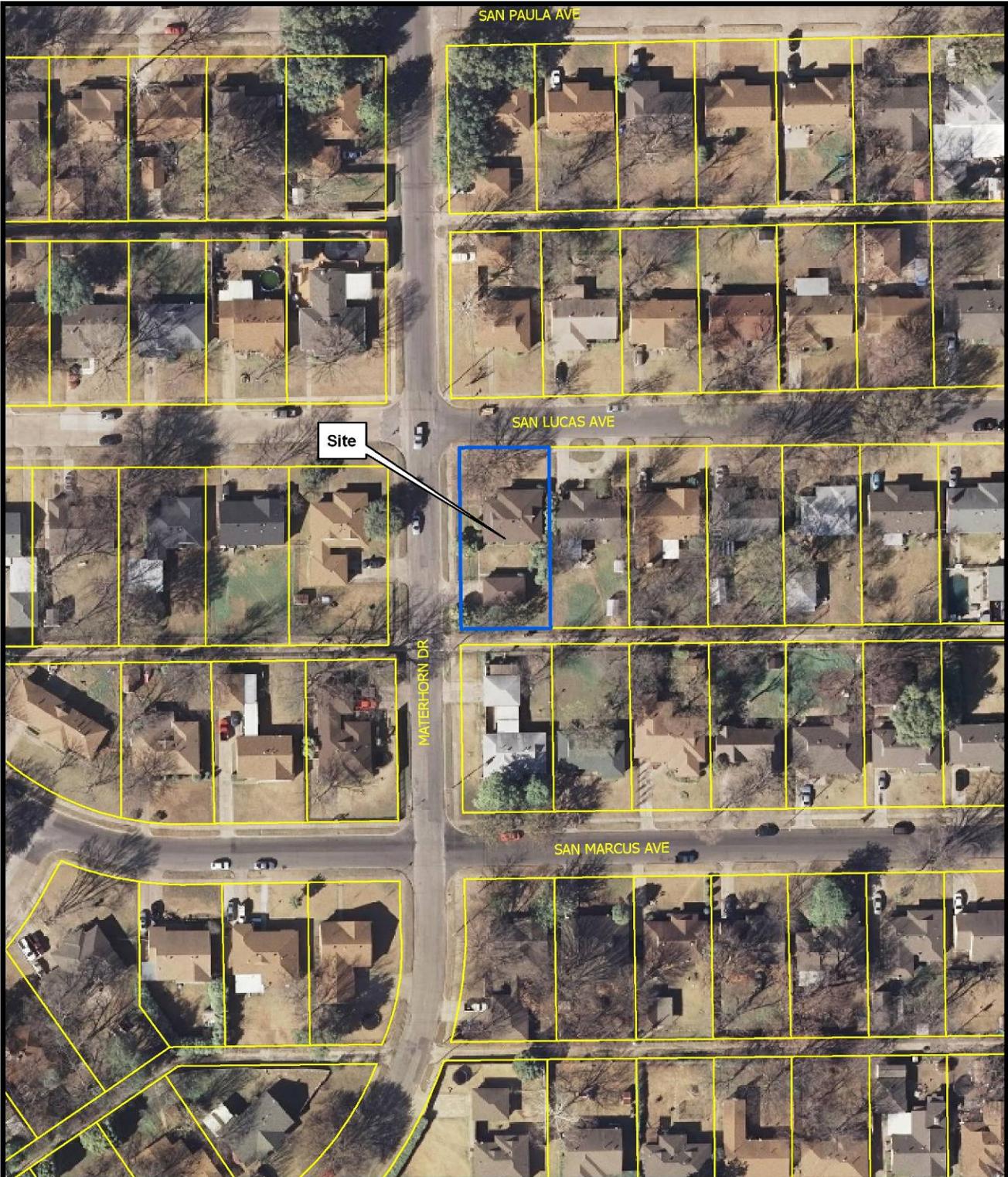


1:1,200

ZONING MAP

Map no: H-11
 Case no: BDA101-084

DATE: August 18, 2011



1:1,200

AERIAL MAP

Map no: H-11

Case no: BDA101-084

DATE: August 18, 2011

BDA101-084

Attach A

PS 1

Long, Steve

From: Long, Steve
Sent: Monday, October 17, 2011 7:07 PM
To: Chris Hanchey
Subject: RE: BDA 101-084, Property at 3104 San Lucas Avenue

Ok. Best of luck to you on your efforts with this!

S.

From: Chris Hanchey [mailto:chris.hanchey@att.net]
Sent: Mon 10/17/2011 3:37 PM
To: Long, Steve
Cc: Duerksen, Todd; Palomino, Tammy; Svec, Jerry
Subject: Re: BDA 101-084, Property at 3104 San Lucas Avenue

That is interesting. One of the three proposals we are working on is exactly that configuration of the windows in the corner of the fence. We will have to add a screening wall inside the fenceline further eating up our yard, but we would not have to reconstruct the gate operation if this were to be acceptable to the board.

Chris Hanchey

On Oct 17, 2011, at 3:24 PM, Long, Steve wrote:

Dear Mr. Hanchey,

Here is information regarding your application to the board of adjustment at the address referenced above, some of which I believe you are aware of:

1. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board;
2. The board's rule pertaining to documentary evidence; and
3. A letter for your review from board member Bob Richard to me on your request.

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

Thanks,

Steve

PS: If there is anything that you want to submit to the board beyond what you have already submitted, please feel free to email it to steve.long@dallascityhall.com or mail it to me at the following address:

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

BDA 101-084
Attach A
Pg 2

Dallas, Texas 75201

-----Original Message-----

From: Long, Steve
Sent: Thursday, September 22, 2011 2:12 PM
To: 'Chris Hanchey'
Cc: Palomino, Tammy
Subject: RE: BDA 101-084 Hearing Date

Dear Mr. Hanchey,

I understand how you would like to get a resolution on your situation as soon as possible but unfortunately there is not an administrative way to move your hearing up until October since the board held your request this week to a date certain: November 14th.

But please let me know if there is anything I can do to assist you on your application between now and November.

Thanks,

Steve

-----Original Message-----

From: Chris Hanchey [mailto:chris.hanchey@att.net]
Sent: Thursday, September 22, 2011 1:51 PM
To: Long, Steve
Subject: BDA 101-084 Hearing Date

Scott,

RE: BDA 101-084 (I think I'm going to have to get that on a tattoo)

Thank you for all your advice at our hearing on Sept 19. We are currently coming up with new options of various costs and visibility levels that we hope will find approval with the board.

Would it be possible to get on the docket prior to November? I think we can easily have our option and costs presented by an October deadline. We would prefer to wrap this issue up sooner if we can.

Regards,

Chris Hanchey

<Panel C hearing date and deadlines.doc><documentary evidence.pdf><Richards comment or ideas.pdf>

BDA 101-084

BDA 101-072

Attach A

pg 3

Hub Scott Associates

7240 whispering Pines

Dallas, Texas 75248

214 679-0091

Bob Richard

bobrich@flash.net

Steve Long

Board Administrator

Dallas City Hall

Room 5

Dallas, Tex 75201

Subject: Case BDA 101-084"visual obstruction"

I know I cannot contact the contestants directly so I am sharing my concepts with you. If you think they have merit possibly you can pass them on for consideration. I think if they "cut a window" in the alley and street side it would provide the visibility to traffic and satisfy the requirements. It would probably have to be open from 30" to about 72". this would still leave 4 1/2 feet of fence. they would have to frame it like a "picture frame" and leave intact the fence posts, sliding gate frame, etc. they could put "wrought iron fencing" on the back side of the cutout to provide security and still visibility.

If they should consider this seriously they would want to review it with the City before coming back to our Nov meeting. but here is what I think would be accomplished.

- 1) create visibility from the alley to the street and vice versa.
- 2) maintain security to their yard
- 3) maintain the basic integrity of the fence and sliding gate
- 4) they would not have to tear down the fence and relocate any portion of it
- 5) they would not have to disrupt their existing landscaping/trees unless it intruded into the "visibility area".
- 6) this should be able to be accomplished at a minimum cost.

Maybe this will serve as a "concept to be considered" as I am sure their initial reaction from the meeting is "frustration, concern and what do we do now".

thanks Bob

BDA 101-084

Per the previous hearing on September 19, 2011, and the documentation provided by Lloyd Denman, P.E. (submitted Sept. 8, 2011) indicating that the current driveway gate configuration is allowable, the homeowners of 3104 San Lucas Avenue are presenting new proposals that focus on pedestrian safety at the intersection of Materhorn Drive and the alley between San Lucas Avenue and San Marcus Avenue.

POINT OF CONTENTION

As a reminder, the homeowners would like to reiterate that **the issue they are now trying to resolve was created by an agent of the City of Dallas.** The homeowners were replacing an existing fence on their property at 3104 San Lucas Avenue and presented this information to the City agent along with a site plat indicating the current fence line. No issues were raised with the proposed fence or gate layout as presented at permit application. The homeowners then proceeded to build the fence as permitted, assumed to be a contract to be honored by both parties. Then upon inspection after the fence had been built, the permitted fence now had issues that were not easily resolved. The homeowners feel that the Board of Adjustment should consider the situation created by the City's agent before passing final judgment at the hearing.

Proposal A — Safety Mirror Solution

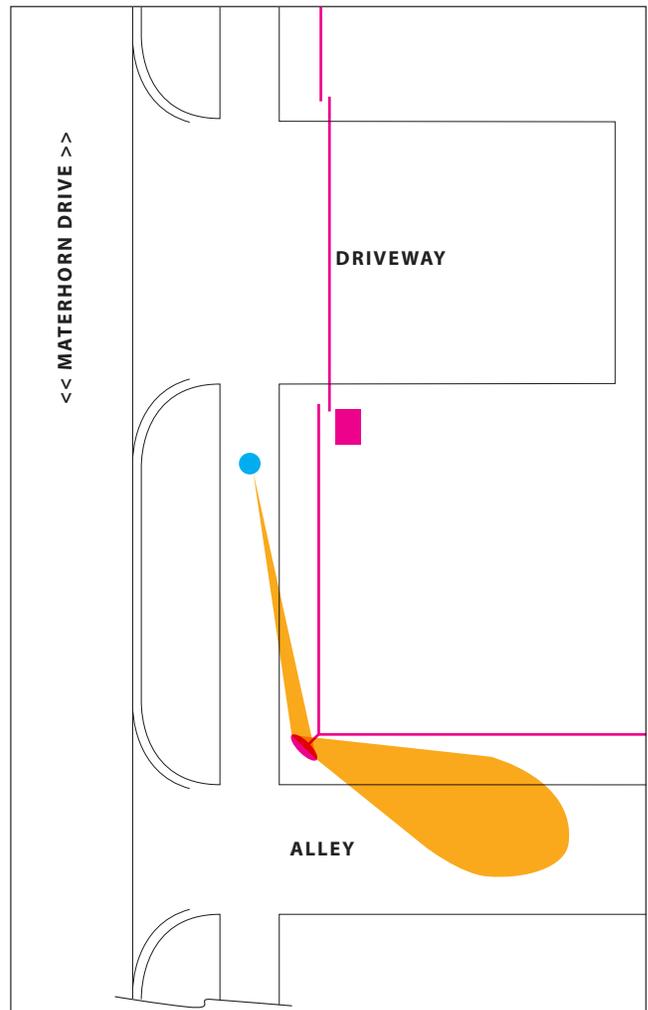
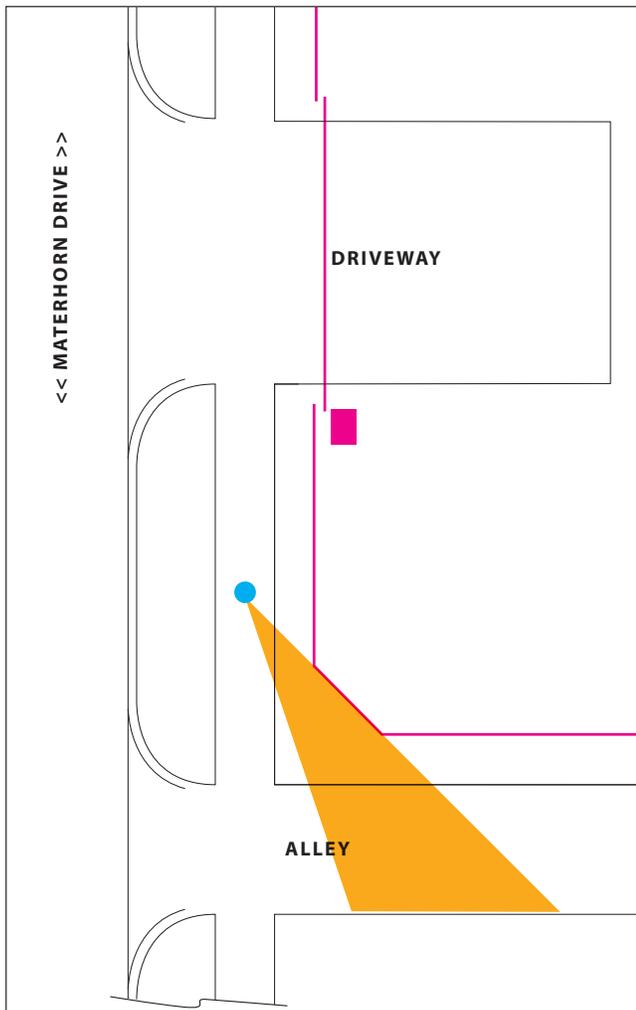
Estimated cost to City of Dallas: \$0.00

Estimated cost to homeowners: \$0.00 (\$90 each instance of replacement, if required)

The homeowners still contend that the original mirror solution provides pedestrians and motorists alike with greater visibility around the corner in question than if the fence was cut to city specifications. The biggest issue brought against this solution was that the privately owned safety mirror was hanging out in public airspace, thereby constituting an “illegal mirror” according to one city engineer. So, the homeowners propose that they donate the mirror to the City of Dallas, thereby making the safety mirror a city-owned fixture hanging in public airspace. The homeowners promise to continue to donate replacement mirrors as needed to keep the public safe. This option would be the homeowners’ preferred scenario.

Fig. A
When approaching corner, pedestrian only gets maximum visibility when they are tangent to the fence corner cut.

Fig. B
With mirror, pedestrian gets maximum visibility much earlier to being tangent to the fence corner cut.



Proposal B — Decorative Openings

Estimated cost to City of Dallas: \$0.00

Estimated cost to homeowners: \$3,500.00

In order to keep the existing fence line and gate mechanics as originally presented when the homeowners applied for the permit, they are suggesting that they cut large “window” openings at two positions at the corner between existing posts to increase driver and pedestrian visibility through the fence structure. These windows will be finished with decorative metal inserts approximately 54" x 60" wide and would be set at 24" off the ground. This configuration will allow for better visibility than if the fence were cut according to minimum city code since the code will only result in the last 4' of fence line being removed. The new openings would have to strike a balance between security, visibility and aesthetics. The homeowners reserve the right to adjust the final dimensions slightly to fit the panels in within the existing fence structure so that the panels look like part of the original plan and not an afterthought. Additionally, to provide the same security and privacy enjoyed with the current fence configuration, a layer of metal window screen will need to be added behind the ironwork. Another modification to the area will be the addition of an angled screening wall that would be placed a few feet inside the fence line to restrict visibility into the yard (see page 4). This option does involve considerable cost (including relocation of existing vegetation to make room for the privacy screen), but would satisfy the homeowners' desire to leave the fence line intact as originally permitted by the construction permit.

Fig. C

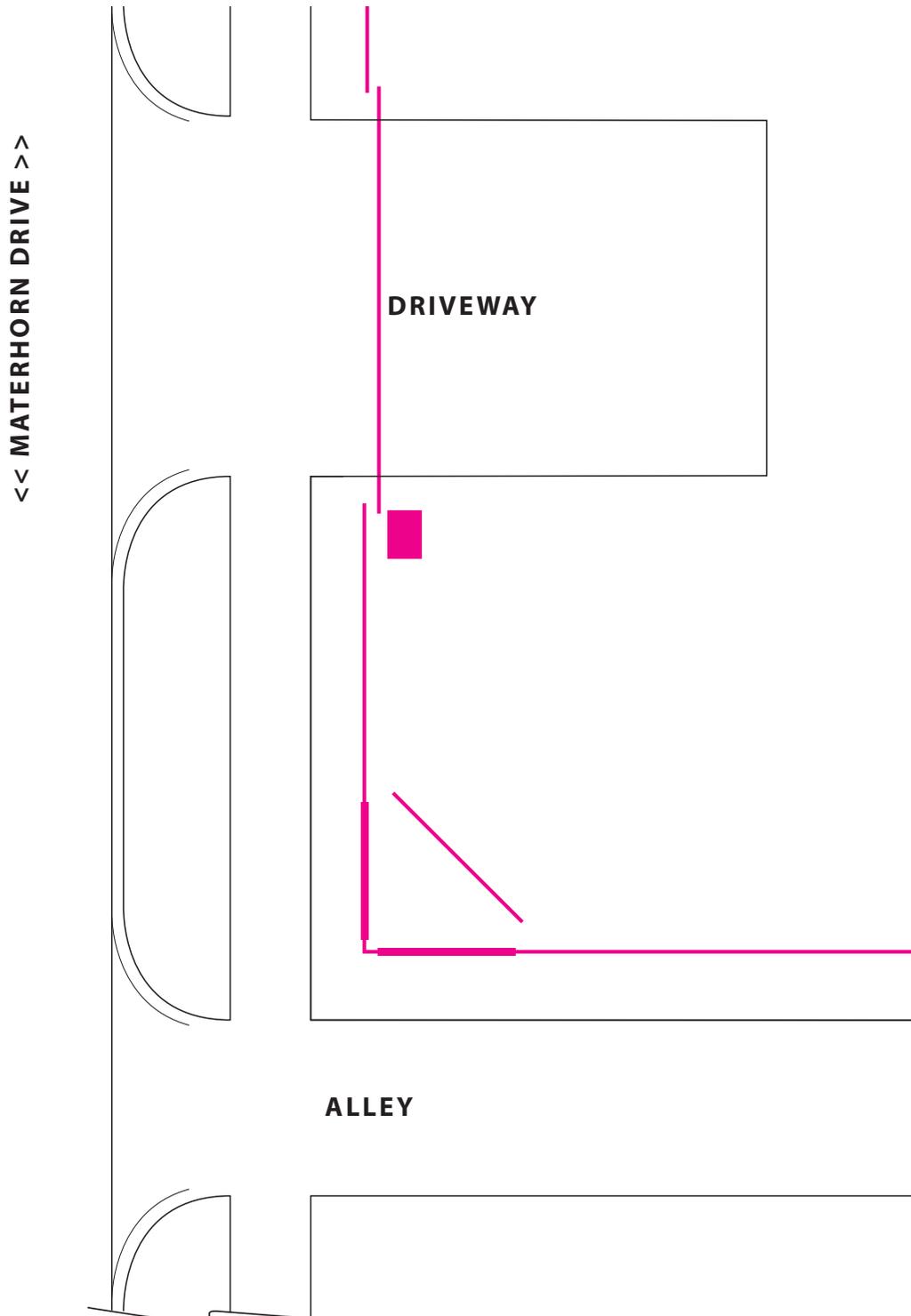
Simulated Decorative Opening solution. The safety mirror shown in this image would be removed.



Proposal B — Decorative Openings

This site plan shows the addition of the privacy screening wall inside the current fence structure that creates the privacy afforded by the existing fence while still allowing the gate operation as designed. It also shows the approximate position of the window openings at the fence corner.

Fig. D

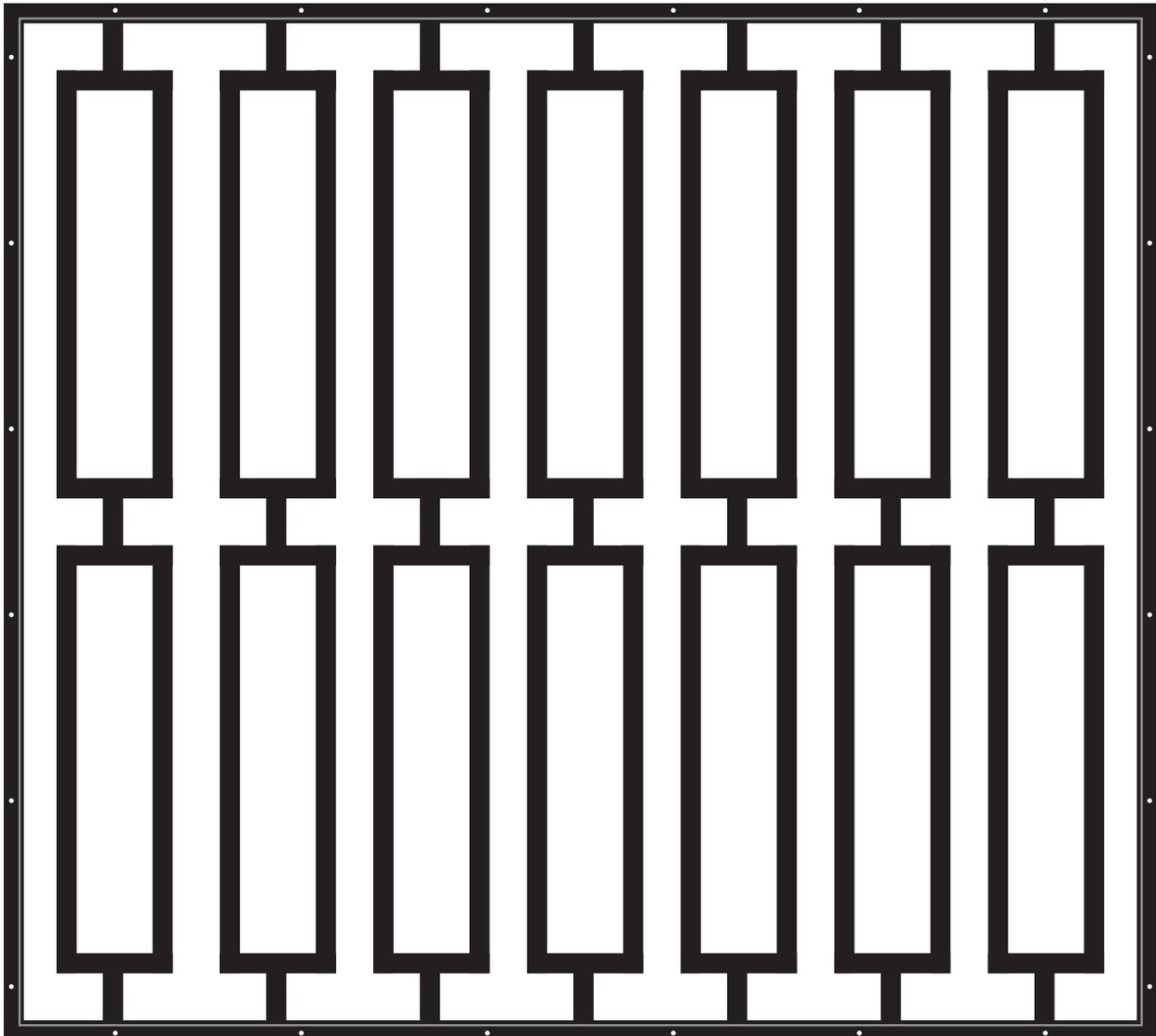


Proposal B — Decorative Openings

This is **OPTION A** the homeowners are considering for the fence window inserts.

54" x 60" Metal window insert

1" Square tubes with 90° angle outer frame, 1/4" holes (panel shown from front)

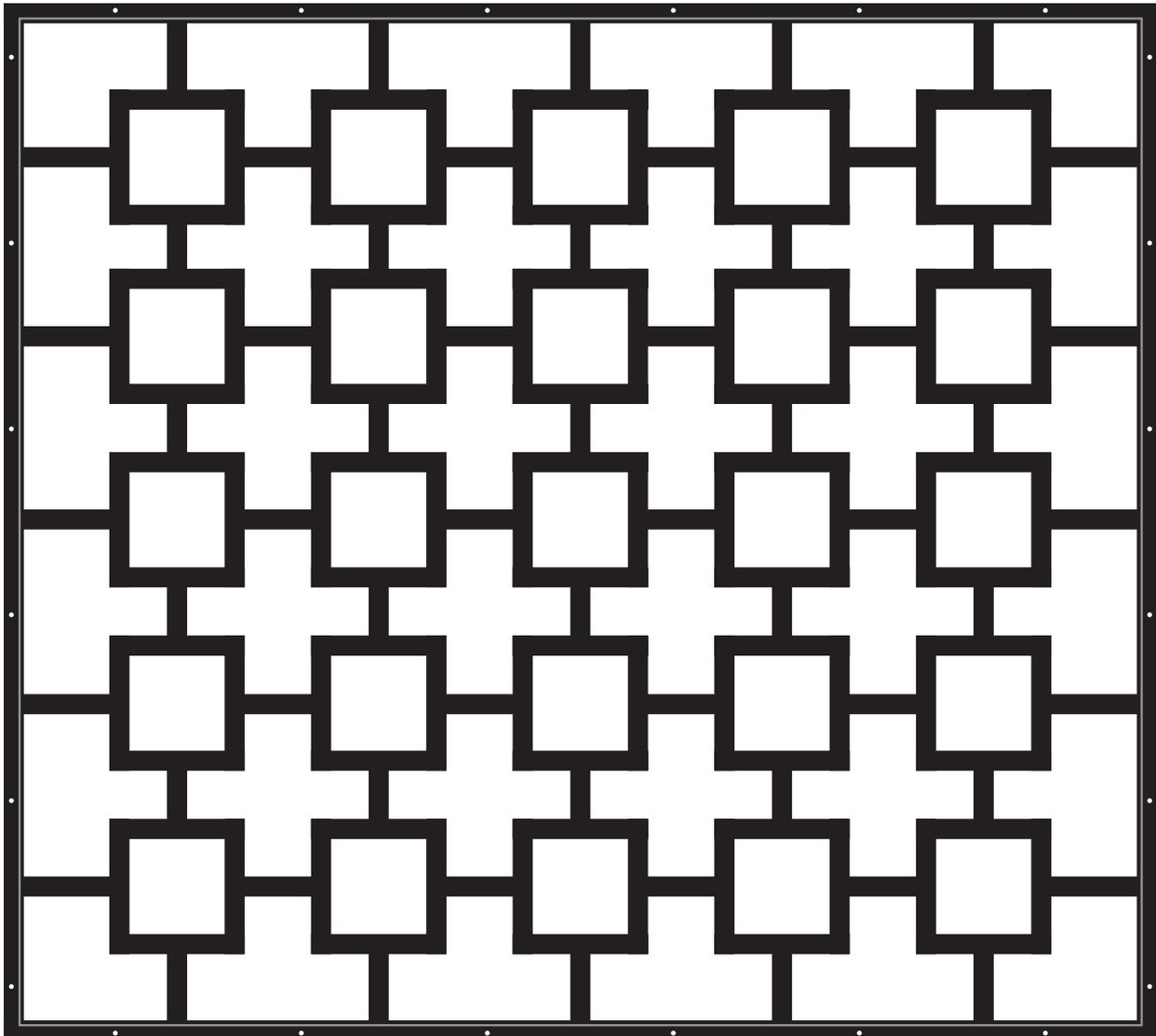


Proposal B — Decorative Openings

This is **OPTION B** the homeowners are considering for the fence window inserts.

54" x 60" Metal window insert

1" Square tubes with 90° angle outer frame, 1/4" holes (panel shown from front)

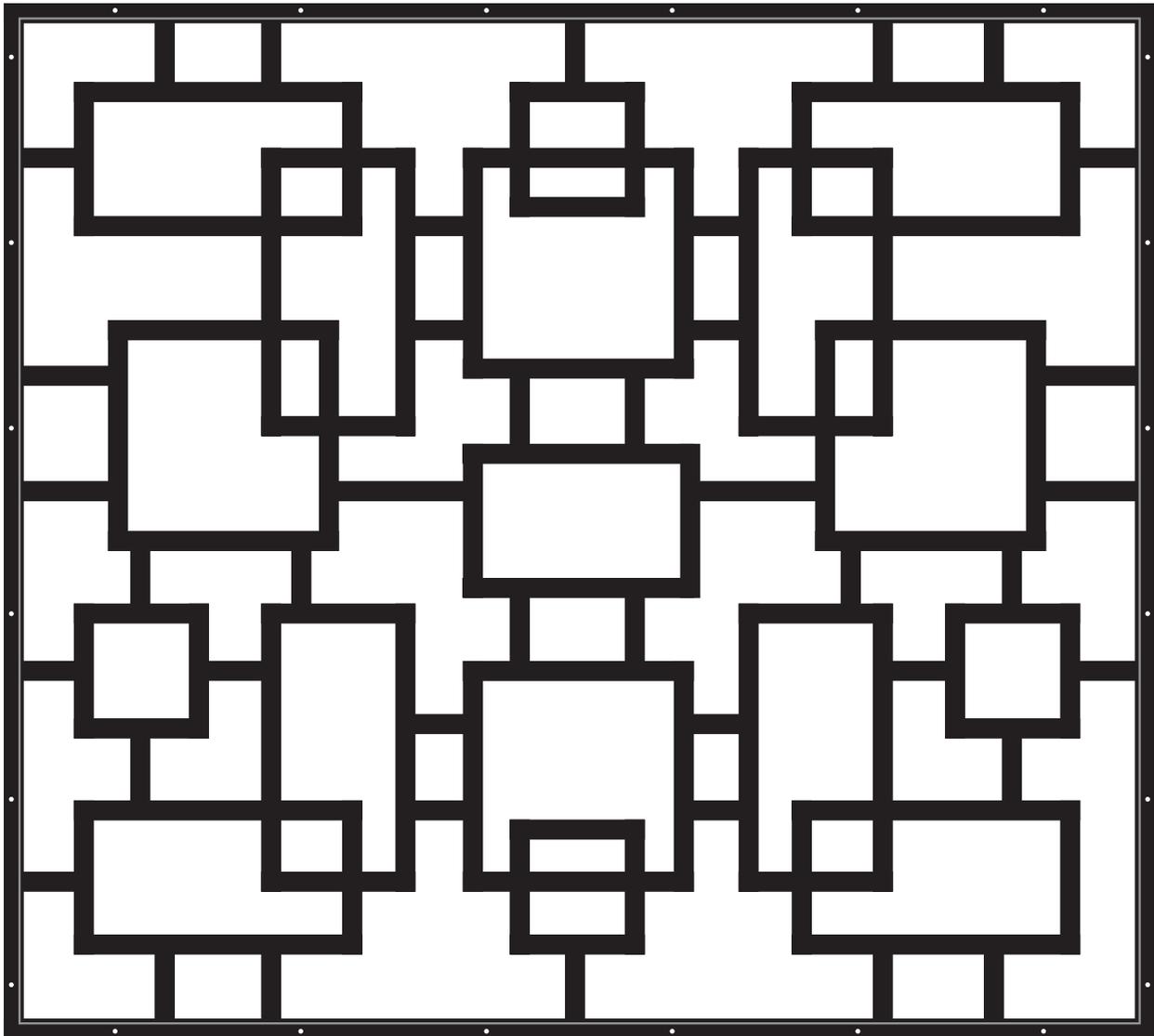


Proposal B — Decorative Openings

This is **OPTION C** the homeowners are considering for the fence window inserts.

54" x 60" Metal window insert

1" Square tubes with 90° angle outer frame, 1/4" holes (panel shown from front)

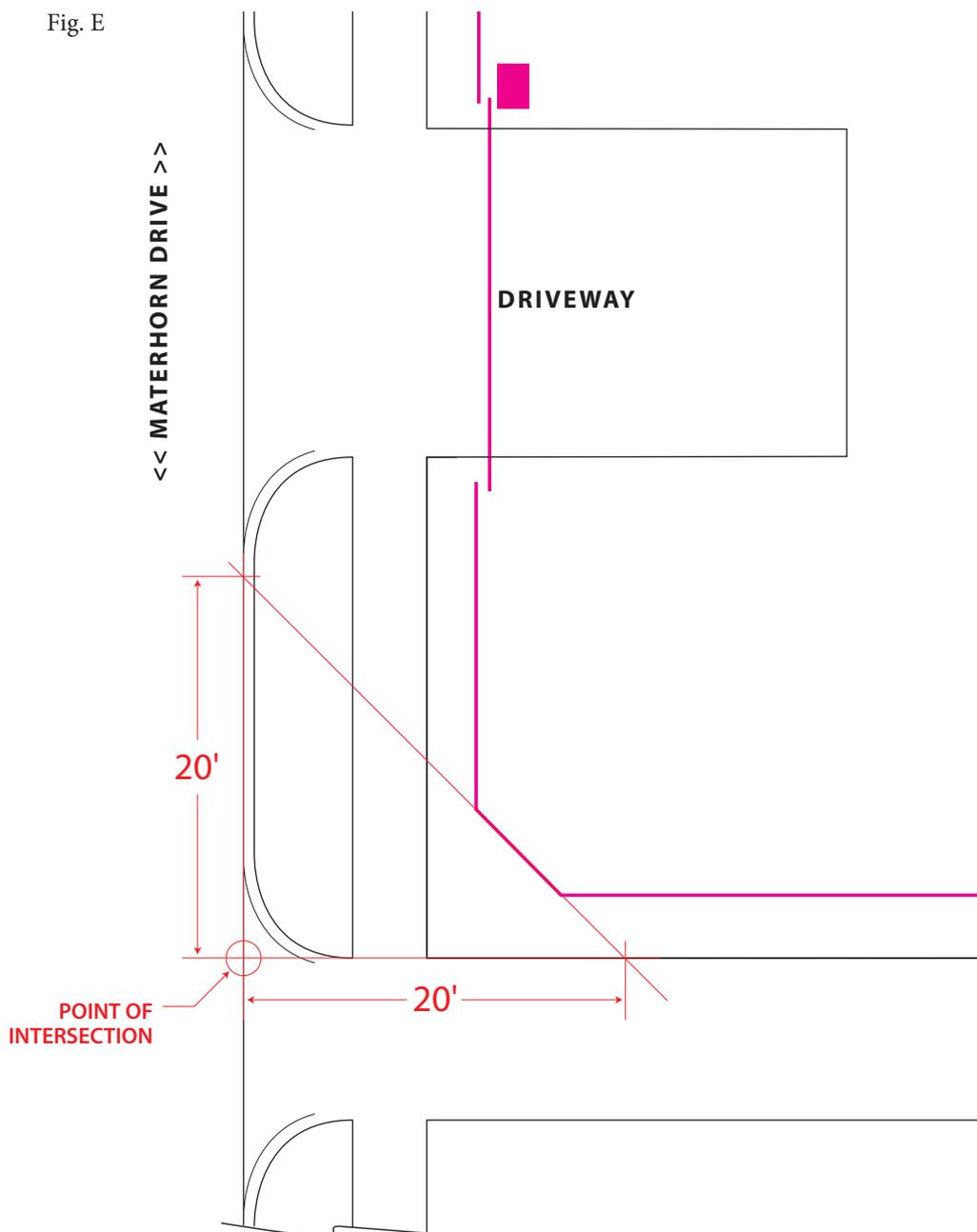


Proposal C — Corner Cut With Gate Reconfiguration

Estimated cost to City of Dallas: \$0.00

Estimated cost to homeowners: \$2,150.00

Under this proposal, the homeowners would concede to clip the fence corner (4' off each surface) in order to meet the city's code requirements. The safety mirror would be removed. The affected trees would be relocated. The gate would be reconfigured, and a trench would be dug in the most frequently used area of the yard (potentially introducing new hazards to the homeowners and their guests) to allow for the gate to slide away from the newly cut corner of the fence line. This is the option of last resort, and one the homeowners would like very much to avoid.



BDA 101-084

AttchC

pg 1

Long, Steve

From: Duerksen, Todd
Sent: Monday, October 31, 2011 2:50 PM
To: 'Chris Hanchey'
Cc: Long, Steve; Palomino, Tammy; Denman, Lloyd; Cossum, David; Svec, Jerry
Subject: RE: BDA 101-084, Property at 3104 San Lucas Avenue
Attachments: Application; Site plan; Permit

Mr. Hanchey,

I understand that it was suggested to you by the Board that you provide "ideas" for them to consider. But, please also understand that without a proper site plan and elevation drawing, there will be no drawings that can be "approval stamped" by the Board in order for you to obtain permits for construction. And, a scaled site plan of the entire property and scaled elevation drawings are a minimum requirement for an appeal.

I obtained copies (see attached, open w/Adobe Reader) from Central Files of your April 2011 application and site plan that you submitted to obtain the fence building permit for the fence now under Board consideration.

I noticed that you did not illustrate a driveway gate on the submitted site plan and therefore no permit has been issued for a gate. Nor was there an indication of an electrical permit for the gate motor if it is hard wired into the circuit breaker panel.

If the Board does approve the fence and gate, you will need to make a new permit application with a site plan drawing illustrating this.

Your April 2011 submitted permit site plan did not illustrate any curb lines or pavement lines that would have been necessary for us to advise you of any visibility obstruction issue. Hence the permit includes the following notations:

"SUBJECT TO FIELD INSPECTOR APPROVAL"

and,

"This document is issued on the basis of information furnished in the application and is subject to the provisions of all governing ordinances, which must be complied with, whether or not herein specified."

Please contact me if you have any questions.

Todd Duerksen
 Sr. Plans Examiner - Zoning Code Consultant
 City of Dallas
 Building Inspection Division
 Department of Sustainable Development & Construction
 Oak Cliff Municipal Center
 320 E. Jefferson Blvd., Rm. 105
 214-948-4475

From: Chris Hanchey [mailto:chris.hanchey@att.net]
Sent: Thursday, October 27, 2011 2:49 PM
To: Long, Steve
Subject: Re: BDA 101-084, Property at 3104 San Lucas Avenue

Steve,

So your team all has the same preconceptions before looking at this, please remind them that board did not ask us for detailed drawings for this next meeting, but for ideas.

Chris Hanchey

BDA101-084
Attach C
Pg 2

On Oct 27, 2011, at 1:13 PM, Long, Steve wrote:

Attached FYI is additional information that the applicant emailed me earlier today. This information/attachment will be added to the case file, part of what is discussed at the staff review team meeting next Tuesday, and part of what is incorporated into the docket that is assembled and mailed to you, the applicant, and the board members near/on November 8th.

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

Thanks,

Steve

BDA101-084
 Attach C
 pg 3

DATE: 4/7/11

APPLICATION TYPE
 PERMIT CO
 OTHER EXPRESS



HEALTH REVIEW
 (Restaurants/Food Service)

BUILDING INSPECTION APPLICATION

1104081038

STREET ADDRESS OF PROPOSED PROJECT: 3104 San Lucas Avenue SUITE/BLDG/FLOOR NO: _____ USE OF PROPERTY: _____

OWNER/TENANT: Dee Anna (Smith) Hanchey ADDRESS: 3104 San Lucas Ave. CITY: Dallas STATE: TX ZIP CODE: 75228

APPLICANT: Dee Anna (Smith) Hanchey CONTR NO: _____ COMPANY NAME: _____

ADDRESS: 3104 San Lucas Avenue CITY: Dallas STATE: TX ZIP CODE: 75228 PHONE NO: (972) 686-1385 FAX NO: _____

DESCRIPTION OF PROPOSED PROJECT: Privacy fence along side and back yard, 8 feet at highest point of corner lot

NEW CONST	VALUATION (\$)	NEW CONST
REMODEL		REMODEL
LEASE		TOTAL VALUATION
TOTAL AREA		<u>#6,473</u>

ALL FOOD SERVICE ESTABLISHMENTS REQUIRE A GREASE INTERCEPTOR INSTALLED ONSITE. CHECK BOX IF THERE IS ONE LOCATED ON THE PROPERTY.

PLEASE INDICATE ALL TYPES OF WORK THAT WILL BE PART OF THIS PROJECT BY CHECKING THE APPROPRIATE BOX AND PROVIDE CONTRACTOR/SUBCONTRACTOR INFORMATION ON THE BACK OF THIS FORM. NOTE: AN AFFIDAVIT IS REQUIRED FOR THE SALE OR SERVING OF ALCOHOL.

BUILDING PLUMBING FENCE DRIVE APPROACH BACKFLOW BARRICADE
 ELECTRICAL FIRE SPRKLR SIGN SWIMMING POOL CUSTOMER SVC GREEN BUILDING/LEED
 MECHANICAL FIRE ALARM LANDSCAPE LAWN SPRINKLER FLAMMABLE LIQUID OTHER: _____

WILL ALCOHOL BE SOLD/SERVED? YES NO PERSONAL SERVICE LICENSE REQUIRED FOR THE PROPOSED USE? YES NO
 WILL THERE BE A DANCE FLOOR? YES NO ARE POTENTIALLY HAZARDOUS FOODS/OPEN FOODS BEING SOLD? YES NO

I HAVE CAREFULLY READ THE COMPLETED APPLICATION AND KNOW THE SAME IS TRUE AND CORRECT AND HEREBY AGREE THAT IF A PERMIT IS ISSUED ALL PROVISIONS OF THE CITY ORDINANCES AND STATE LAWS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT. I AM THE OWNER OF THE PROPERTY OR THE DULY AUTHORIZED AGENT. PERMISSION IS HEREBY GRANTED TO ENTER PREMISES AND MAKE ALL INSPECTIONS.

APPLICANT SIGNATURE: Dee Anna Hanchey

LAND USE	TYPE OF WORK	BASIC ZONING	PD	CONSTRUCTION TYPE	OCCUPANCY	ACTIVITY	APPR
LOT	L-732	R-75(A)	PROPOSED PARKING	SPRINKLER	OCCUPANT LOAD	FLOOD PLAN	ARRPOT
LOT AREA	SOA	SUP	RAV	STORIES	DWELLING UNITS	SPECIAL INSPECTIONS	HISTORICAL
DIR	EARLY RELEASE	DEED RESTRICTION	PARKING AGREEMENT	NUMBER BEDROOMS	NUMBER BATHROOMS	DRY	LL

ITEM	DATE	PERMIT FEE
PRE-SCREEN		
ZONING	<u>Dem 4-8-11</u>	
BUILDING		
ELECTRICAL		
PLUMBING/MECHANICAL		
GREEN BUILDING		
HEALTH		
HISTORICAL/CONS DIST		
PUBLIC WORKS		
WATER		
FIRE		
LANDSCAPING		
AVIATION		
OTHER:		
TOTAL FEES		<u>\$ 100.00</u>



BDA 101-084
Attach C



Permit # 1104081038

City of Dallas

Issue Date: 04/08/2011

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

Address: 3104 SAN LUCAS AVE 75228

Land Use Description: SINGLE FAMILY DWELLING

Work Description: INSTALL 8' FENCE

Value Of Work: \$6,473.00

Owner Or Tenant: DEE ANN SMITH-HANCHEY
 3104 SAN LUCAS AVE
 DALLAS, TX 75228

Applicant: DEE ANNA HANCHEY
Contractor: HANCHEY, DEE ANNA
Business Address: 2104 SAN LUCAS AVE, DALLAS, TX 75228
Telephone: 972/686-1385 **Fax:**

Lot: 1	Block: L/7312	Zoning: R-7.5(A)	PDD:	SUP:
Historic Dist:	Consv Dist:	Pro Park:	Req Park:	Park Agrmt: N
Dwlg Units:	Stories:	New Area:	Lot Area: 0	Total Area:
Type Const:	Sprinkler:	Occ Code:	Occ Load:	
Inches Of Removed Trees:				

Remarks: SUBJECT TO FIELD INSPECTOR APPROVAL;

This document is issued on the basis of information furnished in the application and is subject to the provisions of all governing ordinances, which must be complied with, whether or not herein specified.

THIS DOCUMENT SHALL BE POSTED AT WORK SITE AND IS SUBJECT TO CANCELLATION UPON NOTICE.

Long, Steve

From: Long, Steve
Sent: Thursday, November 03, 2011 3:08 PM
To: 'Chris Hanchey'; Cossum, David; Duerksen, Todd; Palomino, Tammy
Cc: Svec, Jerry; Denman, Lloyd
Subject: FW: BDA 101-084, Property at 3104 San Lucas

Attached is an email that Jerry Svec just forwarded to me on this application. Please be advised that Jerry's comments will be included in the docket that is assembled and emailed to you and the members next week.

Thanks,

Steve

-----Original Message-----

From: Svec, Jerry
Sent: Thursday, November 03, 2011 1:58 PM
To: Long, Steve; Palomino, Tammy; Denman, Lloyd
Cc: Duerksen, Todd
Subject: RE: BDA 101-084, Property at 3104 San Lucas

Steve,

Concept proposal 'C' would be acceptable. Proposal 'A' is not acceptable since we do not depend on mirrors for visibility requirements. Proposal 'B' would have the trees growing through the openings which would be a constant maintenance/enforcement problem. Proposal 'C' is the only one that would reduce this traffic hazard.

Jerry

-----Original Message-----

From: Long, Steve
Sent: Friday, October 28, 2011 7:30 AM
To: Palomino, Tammy; Svec, Jerry; Denman, Lloyd
Cc: Duerksen, Todd
Subject: FW: BDA 101-084, Property at 3104 San Lucas

Please make any comments that you would allow me to forward to Mr. Hanchey preferably BEFORE the staff review team meeting on Tuesday.



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-084

Data Relative to Subject Property:

Date: 6/30/11

Location address: 3104 San Lucas Avenue Zoning District: R-7.5(A)

Lot No.: 1 Block No.: L/7312 Acreage: .2194 Census Tract: 125.00

Street Frontage (in Feet): 1) 70' 2) 136.5' 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

588

Owner of Property/or Principal: Dee Anna (Smith) Hanchey

Applicant: Dee Anna Hanchey Telephone: 972-686-1385

Mailing Address: 3104 San Lucas Avenue Zip Code: 75228

Represented by: Self Telephone: Same

Mailing Address: Same Zip Code: Same

Affirm that a request has been made for a Variance , or Special Exception of
The visibility triangle requirements at the alleyway and driveway of 3104 San Lucas Avenue

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

The homeowners believe that these special exceptions are not a safety hazard for the neighborhood for these reasons:

- This block does not have alley-facing driveways, making residential alley traffic very rare
- Sanitation has not collected via this alleyway since August of 2009
- The alleyway corner breaches the visibility triangle by only 4' and the driveway is only breached by 6.5' (when gate is open)
- Safety mirrors have been installed at the alleyway and driveway to increase visibility for drivers and pedestrians

Note to Applicant: If the relief requested in this application is granted by the Board of Adjustment, said 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.

Respectfully submitted: Dee Anna Hanchey [Signature]
Applicant's name printed Applicant's signature

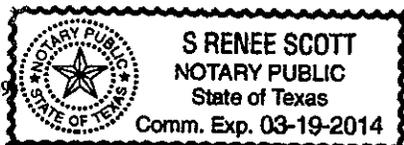
Affidavit

Before me the undersigned on this day personally appeared Dee Anna Hanchey 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.

[Signature]
Affiant (Applicant's signature)

Subscribed and sworn to before me this 30th day of June, 2011

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



(Rev. 08-20-09)

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 DEE ANNA HANCHEY

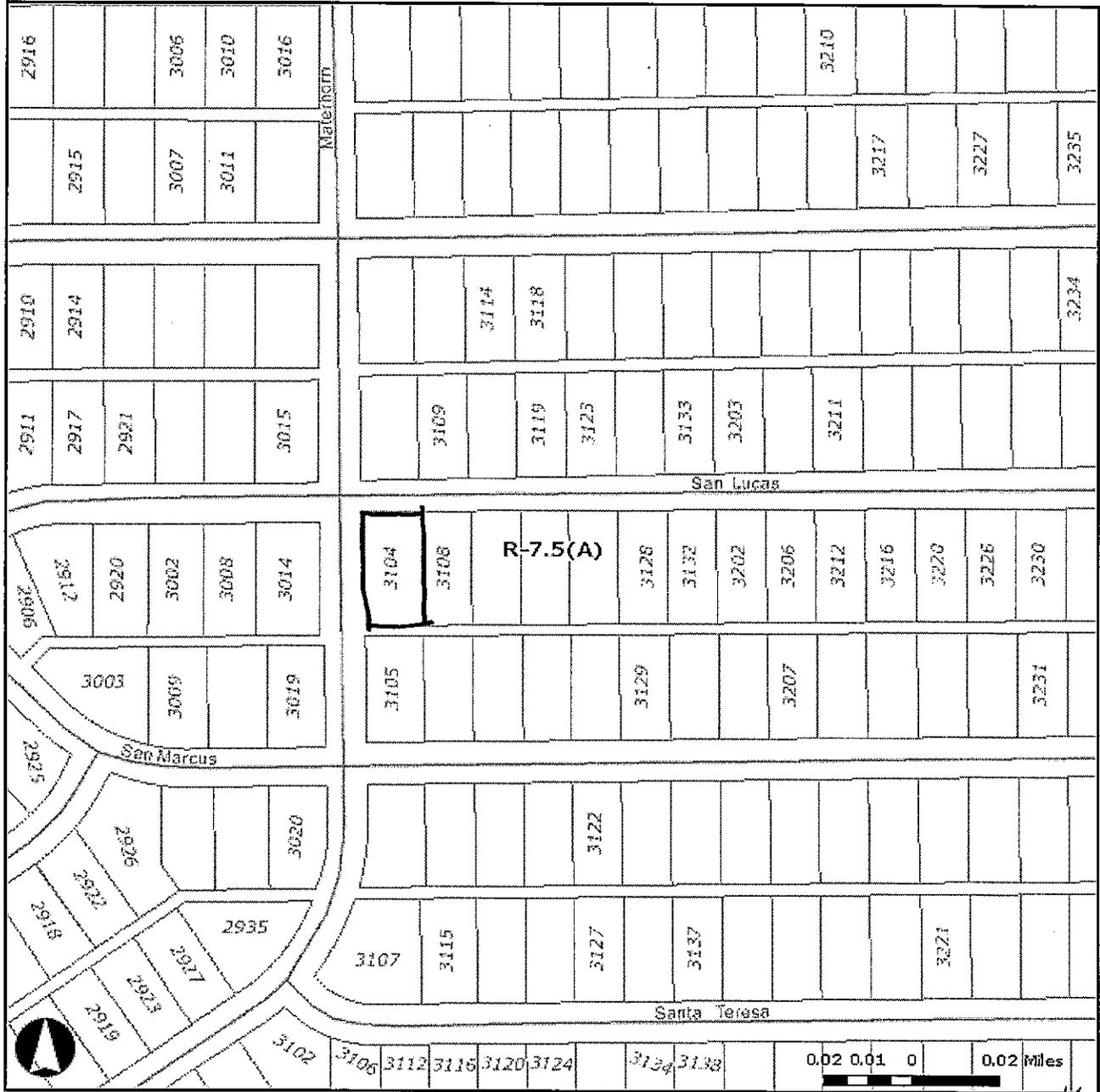
did submit a request for a special exception to the visibility obstruction regulation
at 3104 San Lucas Avenue

BDA101-084. Application of Dee Anna Hanchey for a special exception to the visibility obstruction regulations at 3104 San Lucas Avenue. This property is more fully described as lot 1 in city block L/7312 and is zoned R-7.5(A), which requires a 20 foot visibility triangle at alley and driveway approaches. The applicant proposes to construct and maintain a single family residential fence in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulations.

Sincerely,

Batsheba Antebi
Batsheba Antebi, Building Official

City of Dallas Zoning



City Boundaries

- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

Dry Overlay

- Dry Overlay
- D
- D-1
- Historic Overlay
- Historic Subdistricts
- NSO Overlay
- NSO Subdistricts
- MD Overlay

Base Zoning

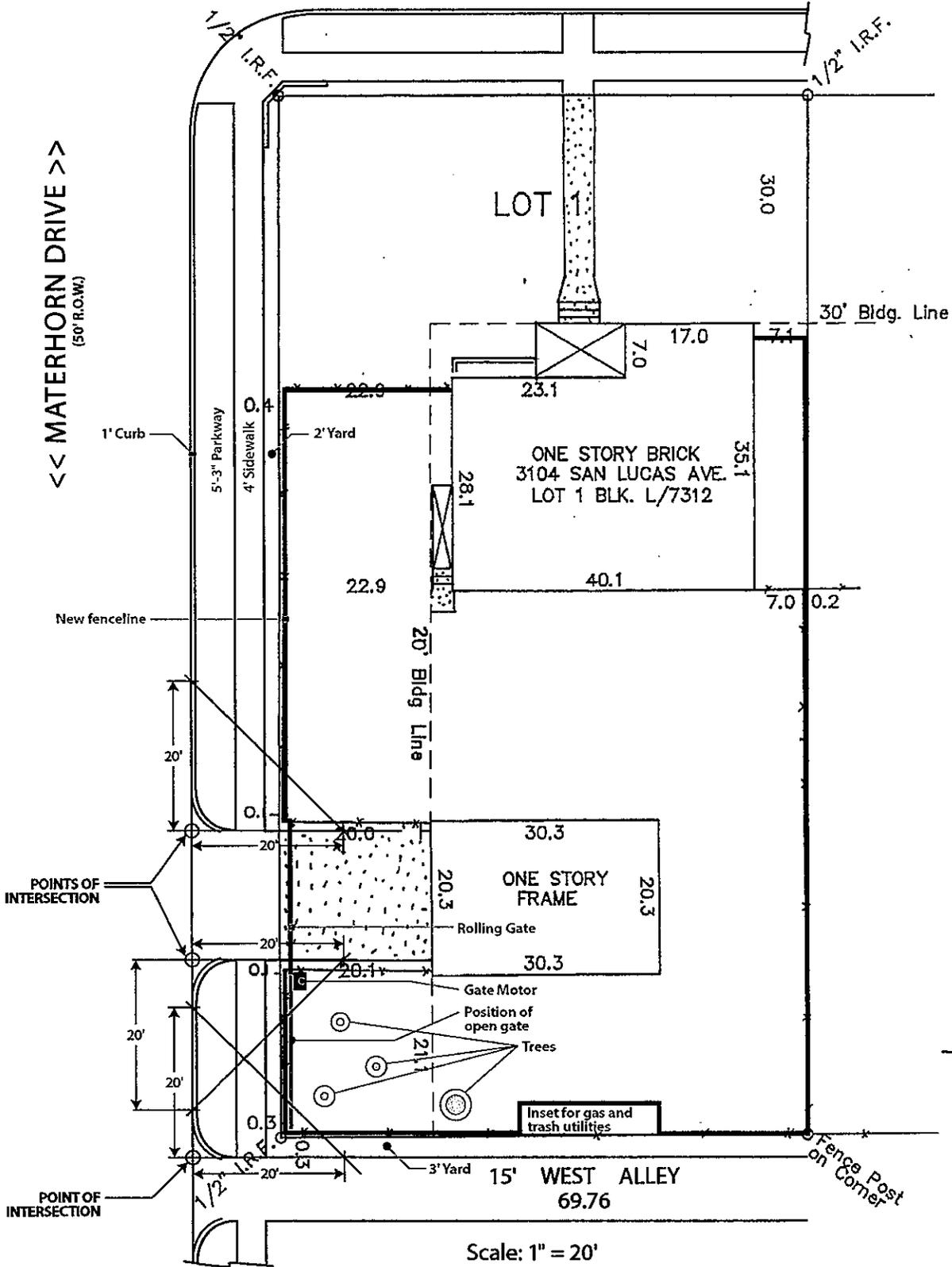
- Base Zoning
- Floodplain
- 100 Flood Zone
- Mill's Creek
- Peak's Branch
- X PROTECTED BY LEVEE
- Pedestrian Overlay
- CP
- SP
- Environmental Corridors

CH

<< SAN LUCAS AVENUE >>
(50' R.O.W.)

(PLAT BEARING)
EAST
70.24

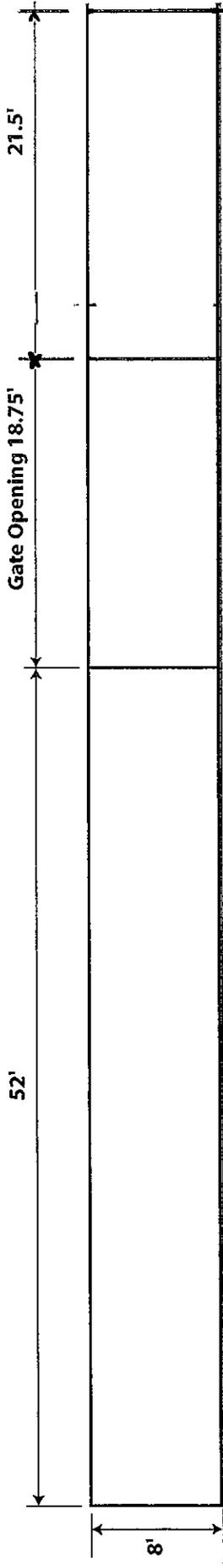
<< MATERHORN DRIVE >>
(50' R.O.W.)



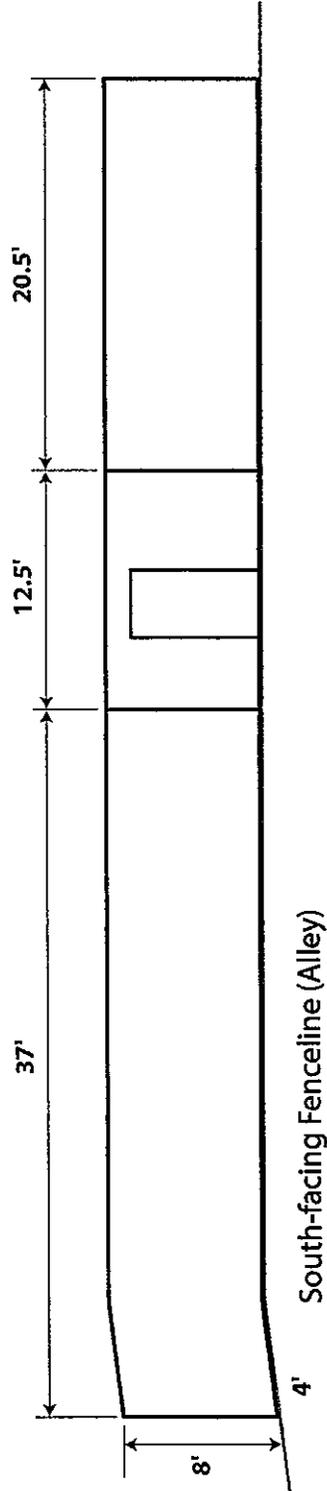
Scale: 1" = 20'

3104 San Lucas Avenue: Fenceline Elevation Drawings

Scale: .1" = 1'



West-facing Fenceline (Materhorn Drive)



South-facing Fenceline (Alley)

**Appeal to the Board of Adjustment
City of Dallas**

**Chris and Dee Anna Hanchey
3104 San Lucas Avenue
Dallas, Texas 75228**

July 1, 2011

Overview

After a permit was issued allowing the installation of an 8-foot fence along an existing fenceline at 3104 San Lucas Avenue, the structure did not pass inspection due to its encroachment into the visibility triangle located at the alleyway. Upon speaking with Todd Duerksen in preparation for this appeal, homeowners Chris and Dee Anna (Smith) Hanchey were advised that the visibility triangles along the driveway must be addressed as well. The Hancheys have already made enhancements to address safety concerns, and are now requesting a variance to allow the current configuration to stand.

Pertinent Background Information

The homeowners engaged the help of a friend and former fence contractor to help them replace their aging chain-link fence with an 8-foot privacy fence. Through this relationship, they were able to obtain materials at a considerable discount. They were also glad to have someone who reportedly was experienced in dealing with the city who was willing to help them get their permits in order. After assuring the Hancheys that their intended plan was approved, and producing a permit that confirmed that plan, the work proceeded.

Points in Support of the Proposed Variance

Safety

- Unlike many neighborhoods in the Dallas area, no homes along this particular block have alley-facing driveways, making residential alley traffic extremely rare.
- The alley at issue has not been used for garbage or recycling collection since August of 2009, making sanitation traffic nonexistent. [EXHIBIT A]
- The cross street (Materhorn) is not a major thoroughfare, consisting of a single lane in either direction.
- The street is not a part of the DART bus network.
- Pedestrian traffic is light.
- When the solar-powered sliding gate is open, the fence on either side of the driveway is a full 13 feet back from the street, and more than 2 feet back from the sidewalk.
- Since the original inspection, the homeowners have installed an 18-inch convex mirror to the corner of the fence at the alleyway to address safety concerns.
 - Even before the mirror was added, oncoming vehicular and pedestrian traffic coming from either direction could be clearly seen by a driver traveling at a reasonable speed for alley travel.
 - Now, with the addition of the safety mirror, visibility is further expanded for both drivers and pedestrians.

- For a vehicle positioned up to 18 feet short of the sidewalk in the alleyway, the driver’s ability to see pedestrians now extends to approximately 18 feet down the sidewalk, as measured from the inside corner of the intersection of the alleyway and sidewalk — or approximately 25 feet down the sidewalk, if measured from the center of the alleyway. As both car and pedestrian advance, that visibility is further enhanced. [EXHIBIT B]
 - For a pedestrian walking south along the near sidewalk, motion in the alley is detectable from up to 18 feet down the sidewalk, as measured from the inside corner of the intersection of the alleyway and sidewalk — or approximately 25 feet down the sidewalk, if measured from the center of the alleyway. As both car and pedestrian advance, that visibility is further enhanced. [EXHIBIT C]
 - As the driver exits the alleyway, visibility of both northbound and southbound traffic is completely unfettered. [EXHIBIT D]
- In addition to the 18-inch convex mirror installed at the alleyway, the homeowners have also installed two 4x5.5-inch convex mirrors — one on either side of the driveway.
 - Even before these mirrors were added, a driver backing slowly and cautiously out of the driveway could safely ease out the opening and have an unobstructed view in either direction.
 - Now, with the addition of these mirrors, visibility is further enhanced. [EXHIBIT E]

Good-Faith Efforts to Comply

- While the homeowners now understand that the structure does not conform to the letter of the law, they made efforts in good faith to observe city codes, as evidenced by the following measures:
 - They searched the City of Dallas website for applicable codes and conditions and found mention of the visibility triangle on item no. 12 — but the reference to “Chapter 51A-4.602 (d)(13)” seemed to the homeowners to read as a notation of where this passage was obtained, rather than a directive to seek further details. [EXHIBIT F]
 - No links are embedded in the web page to direct novices to a more detailed city code.
 - The page does not include a directive to call the city for important information that is not listed on this page, or to visit City Hall to research specific measurements related to the visibility triangle.

- Searches for the terms “visibility triangle” and “Chapter 51A-4.602” yield no results on the City of Dallas website. [EXHIBIT G]
 - In contrast, the information in the second half of item no. 12 regarding corner lots is more specific about directing readers to “See Chapter 51A-4.401(b)” for special provisions that govern the front yard — a directive that would have prompted the homeowners to seek additional information had it been applied to the visibility triangle code. [EXHIBIT H]
 - They sought and obtained a permit, which was approved without alteration to the corner shown on the survey plat. [EXHIBIT I]
 - After the fence was constructed, the homeowners took it upon themselves to do a test drive from both the alleyway and the driveway to be sure that drivers and pedestrians would have adequate visibility.
 - It’s worth noting that at this point, the homeowners were under the impression that the visibility triangle was determined on a case-by-case basis, rather than by a hard-and-fast measurement.
 - Their belief that the fenceline would be in compliance was further supported by a long list of both recently constructed and older fences within a ½-mile radius that have the same alleyway footprint — and driveway/gate configuration — as the fence at 3104 San Lucas Avenue. (Many more examples exist beyond those that were photographed for this application.) [EXHIBIT J]
- Despite these efforts, the structure failed inspection due to its failure to conform to the letter of the law with relation to the visibility triangle restrictions. At the time of this inspection, no mention was made of any issue with the visibility triangles adjacent to the driveway.
- It was only at that point, the failed inspection, that the homeowners were presented with specific measurements and diagrams outlining the visibility triangle. Had this information been readily available at the outset, the homeowners would have adjusted their plans accordingly before moving forward with construction. [EXHIBIT K]

Homeowner Burden

- The city code states that a variance will not be granted to alleviate a “self-created or personal hardship, nor for financial reasons only.” It also states, however, that “when, owing to special conditions, a literal enforcement of the zoning ordinance would result in unnecessary hardship...the spirit of the ordinance will be observed and substantial justice done.”
- The homeowners have saved for this project for a decade, and being required to alter the existing structure will result in undue financial burdens, including:

- An estimated \$1,000–\$1,500 to alter the fence itself.
 - An estimated \$200–\$300 for the relocation or replacement of a recently planted tree that would be affected by the altered fenceline.
 - An estimated \$1,000 to reposition a sliding gate that currently opens all the way into the corner at issue. [EXHIBIT L]
- The decision to pay the \$600 application fee to appeal the decision was not taken lightly by the homeowners, but it's a step they felt compelled to take since they believe they've presented solid evidence that public safety is not in jeopardy, and since the \$600 fee may prevent the homeowners from spending a much greater amount to conform to the code as written.

Summary

Despite good-faith efforts to obtain a permit and comply with city codes, the homeowners at 3104 San Lucas Avenue find themselves in a situation that could compel them to spend thousands of dollars to comply with city codes after the fact. With the addition of the safety mirror, along with the minimal alleyway and pedestrian traffic outlined previously in this document, Chris and Dee Anna Hanchey ask that the board to use compassionate and logical discretion to allow for the requested variance. The homeowners would gladly welcome the board to visit the location to inspect the structure and surroundings firsthand.



CITY OF DALLAS

August 24, 2009

Dear Valued Customer:

You will experience a temporary change in your garbage and recycle collection procedure in a few days.

The alley behind your house is no longer passable for Sanitation collection services. For safety reasons and the prevention of damage to City and private property, the point of service will be moved to the street.

Starting Monday August 24th, 2009, please place your garbage and recyclables on the street. Your days of collection will remain Monday and Thursday. You may place your roll cart out after 6:00 p.m., the day prior to pick up. You must remove your roll cart to a point behind the building line by 8:00 a.m. following your collection day. We apologize for any inconvenience that this change may cause.

Your cooperation and patience is appreciated. If you have questions please call us at 214.670.3703.

Sincerely,

Kirk Hemphill
Service Response Agent
City of Dallas Sanitation District 5

Pedestrian Visibility Sequence - Part 1

Visibility from Vehicle (Driver's Position) – Vehicle distance from sidewalk: 18' (front nose of vehicle)

Note: For both pedestrians and drivers alike, motion is always the key to noticing any oncoming traffic, with or without obstructions. This demonstration is attempting to simulate the actual motion since there is no video format presentation available for this appeal process.

VIEW FROM CAR

MIRROR DETAIL

Position 1:

Motion is initially visible.
Pedestrian approx. 18'
from inside corner of
intersection of alleyway
and sidewalk.



Position 2:

Motion is still visible.
Pedestrian approx. 14'
from inside corner of
intersection of driveway
and sidewalk.



Position 3:

Motion is still visible.
Pedestrian approx. 10'
from inside corner of
intersection of driveway
and sidewalk.



Pedestrian Visibility Sequence - Part 2

Visibility from Vehicle (Driver's Position) – Vehicle distance from sidewalk: 18' (front nose of vehicle)

Position 4:

Motion is still visible.
Pedestrian approx. 6'
from inside corner of
intersection of driveway
and sidewalk.

VIEW FROM CAR



MIRROR DETAIL



Position 5:

Pedestrian is now visible.
Pedestrian approx. 2'
from inside corner of
intersection of driveway
and sidewalk.



Vehicle Visibility Sequence - Part 1

Visibility from sidewalk – Pedestrian distance from sidewalk: 12' from inside corner of alley and sidewalk

Note: For both pedestrians and drivers alike, motion is always the key to noticing any oncoming traffic, with or without obstructions. This demonstration is attempting to simulate the actual motion since there is no video format presentation available for this appeal process.

VIEW FROM SIDEWALK

MIRROR DETAIL

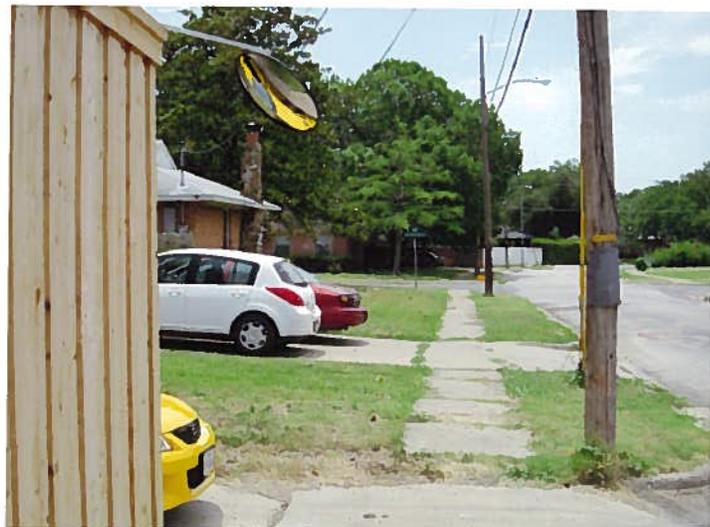
Position 1:
Motion is initially visible.
Vehicle's nose is approx.
18' from inside corner of
intersection of alleyway
and sidewalk.



Position 2:
Motion is still visible.
Vehicle's nose is approx.
9' from inside corner of
intersection of alleyway
and sidewalk.



Position 3:
Motion is still visible.
Vehicle's nose is approx.
2' from inside corner of
intersection of alleyway
and sidewalk.



Vehicle Visibility Demonstration

Visibility from normal stopped position at alley opening.

When vehicles properly stop at alley opening, vehicle has full visibility to street in both directions.



VIEW TO LEFT (INSIDE VEHICLE)



VIEW TO RIGHT (INSIDE VEHICLE)



Español



[Home](#) | [311 Info & Services](#) | [Community & Culture](#) | [Business](#) | [Government](#) | [Visitors](#) | [About](#) | [Dallas Kids](#) | [Search](#)

Fences

1. A fence and screening wall must be structurally sound. It must be capable of supporting its own weight. It must be properly maintained and not out of vertical alignment more than one foot from the vertical. Chapter 27-11 (b)(10)
2. Fences in single family and duplex districts may not exceed four (4) feet above grade when located in the required front yard. Chapter 51A-4.602 (a)(1)
3. Fences in a required yard may not exceed nine (9) feet in height. Chapter 51A-4.602 (a)(1)
4. Fences in multi-tenant districts may be built to a maximum height of six (6) ft if all conditions of Chapter 51A-4.604 (a)(2), (A)(B)(C) are met.
5. Unless the conditions of Chapter 51A-4.602 (a)(2)(3)(4) are met, a fence in a multi-tenant district may not exceed four (4) ft above grade, except when the required front yard is governed by the side yard regulations pursuant to Chapter 51A-4.401.
6. A Master Permit is required to erect any fence or wall over four (4) feet high in the front yard or over six (6) feet high if located elsewhere on private property. (Side and Rear Yard) Chapter 52 (301).
7. Fence heights in single family and duplex districts shall be measured from the top of the fence to the level of the ground on the inside and outside of any fence. The fence height shall be the greater of these two measurements if the fence is constructed on fill material that alters the grade, as determined by the Building Official, the height of the altered grade shall be included in the height of the fence. For the purpose of this provision, altered grade means the placement of fill material that exceed a slope of one (1) foot of height for three (3) feet of distance. Chapter 51A-4.602 (a)(5)(A)
8. In all other zoning districts, fence heights shall be measured from the top of the fence to the level of the ground on the inside of the fence. Chapter 51A-4.602 (a)(5)(A)
9. Barbed wire may not be used for fencing unless it is located six (6) feet or more above grade AND does not project beyond the property line. Chapter 51A-4.602 (a)(8)
10. Fences may not be located in easements. Chapter 51A-4.602 (a)(7)
11. Fences must provide fire-fighting access to the side and rear yard. Chapter 51A-4.602 (a)(9)
12. A fence must not be placed or maintained within a visibility triangle at street, alley or driveway intersections if the fence is higher than two and a half (2 1/2) feet measured from the top of the adjacent street curb. Chapter 51A-4.602 (d)(13) Corner Lot: Has special provisions that govern the front yard. See Chapter 51A-4.401(b).
13. If fence panel set back is required under Chapter 51A-4.602(a) (2)(C) (3) the landscaping must be approved by the Parks and Recreation Director.
14. All screening of off street parking, garbage storage areas, etc. must be constructed and maintained in accordance with applicable codes and ordinances. Chapter 51A-4.301 (f) / Chapter 51A-4.602 (b),(c)
15. Construction fences are under the jurisdiction of Building Inspection.
16. Existing swimming pool installations require that all gates and doors into swimming pool enclosures which lawfully existed before June 1, 1998, shall be made to fully comply with the self-closing and self-latching provisions of Chapter 6304 subsection (b).
17. Swimming pool enclosures have additional fence regulations. See Swimming Pool Policy.
18. If fence is located in an Historical or Conservation District, other regulations may apply.

Code Compliance Home

© 2001-2006 City of Dallas, Texas.

[Accessibility](#) | [Credits](#) | [Contact Us](#) | [Privacy Policy](#) | [City Terminology Guide](#)



[Home](#) | [311 Info & Services](#) | [Community & Culture](#) | [Business](#) | [Government](#) | [Visitors](#) | [About](#) | [Dallas Kids](#) | [Search](#)



Hits 0 - 0 out of about 0 total matching pages



© 2001-2006 City of Dallas, Texas.

[Accessibility](#) | [Credits](#) | [Contact Us](#) | [Privacy Policy](#) | [City Terminology Guide](#)



[Home](#) | [311 Info & Services](#) | [Community & Culture](#) | [Business](#) | [Government](#) | [Visitors](#) | [About](#) | [Dallas Kids](#)

Search



Chapter 51A-4.602

Search

Hits 0 - 0 out of about 0 total matching pages



© 2001 -2006 City of Dallas, Texas.

[Accessibility](#) | [Credits](#) | [Contact Us](#) | [Privacy Policy](#) | [City Terminology Guide](#)



[Home](#) | [311 Info & Services](#) | [Community & Culture](#) | [Business](#) | [Government](#) | [Visitors](#) | [About](#) | [Dallas Kids](#) |

[Search](#)

Fences

1. A fence and screening wall must be structurally sound. It must be capable of supporting its own weight. It must be properly maintained and not out of vertical alignment more than one foot from the vertical. Chapter 27-11 (b)(10)
2. Fences in single family and duplex districts may not exceed four (4) feet above grade when located in the required front yard. Chapter 51A-4.602 (a)(1)
3. Fences in a required yard may not exceed nine (9) feet in height. Chapter 51A-4.602 (a)(1)
4. Fences in multi-tenant districts may be built to a maximum height of six (6) ft if all conditions of Chapter 51A-4.604 (a)(2), (A)(B)(C) are met.
5. Unless the conditions of Chapter 51A-4.602 (a)(2)(3)(4) are met, a fence in a multi-tenant district may not exceed four (4) ft above grade, except when the required front yard is governed by the side yard regulations pursuant to Chapter 51A-4.401.
6. A Master Permit is required to erect any fence or wall over four (4) feet high in the front yard or over six (6) feet high if located elsewhere on private property. (Side and Rear Yard) Chapter 52 (301).
7. Fence heights in single family and duplex districts shall be measured from the top of the fence to the level of the ground on the inside and outside of any fence. The fence height shall be the greater of these two measurements if the fence is constructed on fill material that alters the grade, as determined by the Building Official, the height of the altered grade shall be included in the height of the fence. For the purpose of this provision, altered grade means the placement of fill material that exceed a slope of one (1) foot of height for three (3) feet of distance. Chapter 51A-4.602 (a)(5)(A)
8. In all other zoning districts, fence heights shall be measured from the top of the fence to the level of the ground on the inside of the fence. Chapter 51A-4.602 (a)(5)(A)
9. Barbed wire may not be used for fencing unless it is located six (6) feet or more above grade AND does not project beyond the property line. Chapter 51A-4.602 (a)(8)
10. Fences may not be located in easements. Chapter 51A-4.602 (a)(7)
11. Fences must provide fire-fighting access to the side and rear yard. Chapter 51A-4.602 (a)(9)
12. A fence must not be placed or maintained within a visibility triangle at street, alley or driveway intersections if the fence is higher than two and a half (2 1/2) feet measured from the top of the adjacent street curb. Chapter 51A-4.602 (d)(13) Corner Lot: Has special provisions that govern the front yard. See Chapter 51A-4.401(b).
13. If fence panel set back is required under Chapter 51A-4.602(a) (2)(C) (3) the landscaping must be approved by the Parks and Recreation Director.
14. All screening of off street parking, garbage storage areas, etc. must be constructed and maintained in accordance with applicable codes and ordinances. Chapter 51A-4.301 (f) / Chapter 51A-4.602 (b),(c)
15. Construction fences are under the jurisdiction of Building Inspection.
16. Existing swimming pool installations require that all gates and doors into swimming pool enclosures which lawfully existed before June 1, 1998, shall be made to fully comply with the self-closing and self-latching provisions of Chapter 6304 subsection (b).
17. Swimming pool enclosures have additional fence regulations. See Swimming Pool Policy.
18. If fence is located in an Historical or Conservation District, other regulations may apply.

[Code Compliance Home](#)

© 2001-2006 City of Dallas, Texas.

[Accessibility](#) | [Credits](#) | [Contact Us](#) | [Privacy Policy](#) | [City Terminology Guide](#)



City of Dallas

Permit # 1104081038

Issue Date: 04/08/2011

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

Address: **3104 SAN LUCAS AVE 75228**

Land Use Description: SINGLE FAMILY DWELLING

Work Description: INSTALL 8' FENCE

Value Of Work: \$6,473.00

Owner Or Tenant: DEE ANN SMITH-HANCHEY
3104 SAN LUCAS AVE
DALLAS, TX 75228

Applicant: DEE ANNA HANCHEY

Contractor: HANCHEY, DEE ANNA

Business Address: 2104 SAN LUCAS AVE, DALLAS, TX 75228

Telephone: 972/686-1385 Fax:

Lot: 1	Block: L/7312	Zoning: R-7.5(A)	PDD:	SUP:
Historic Dist:	Consv Dist:	Pro Park:	Req Park:	Park Agrmt:N
Dwlg Units:	Stories:	New Area:	Lot Area: 0	Total Area:
Type Const:	Sprinkler:	Occ Code:	Occ Load:	
Inches Of Removed Trees:				

Remarks: SUBJECT TO FIELD INSPECTOR APPROVAL;

This document is issued on the basis of information furnished in the application and is subject to the provisions of all governing ordinances, which must be complied with, whether or not herein specified.

BPA 101-004 5-47
THIS DOCUMENT SHALL BE POSTED AT WORK SITE AND IS SUBJECT TO CANCELLATION UPON NOTICE

Comparable Fenceline Examples

Other alley/street intersection fenceline examples within 1/2-mile radius of 3104 San Lucas



BDA 101-084

5-48

Comparable Fenceline Examples

Other alley/street intersection fenceline examples within 1/2-mile radius of 3104 San Lucas



BDA 101-084

5-49

WHEN IS A FENCE PERMIT REQUIRED?

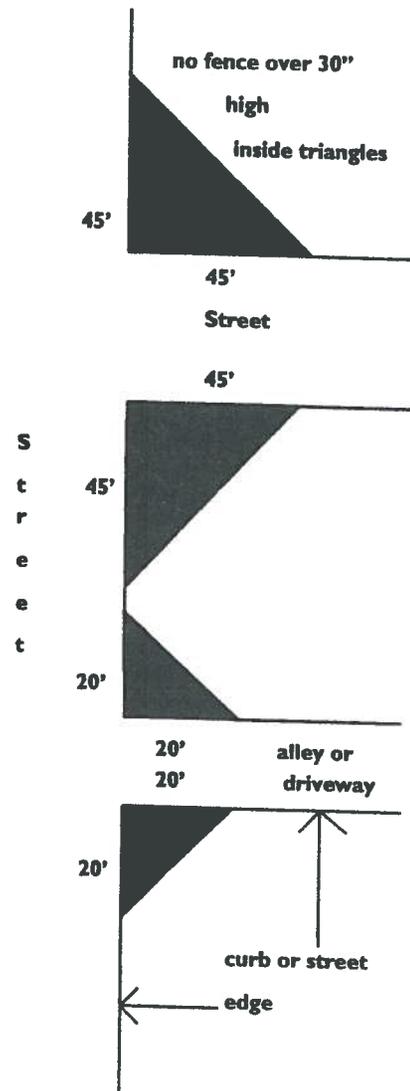
A fence permit is required to erect a fence or wall over four (4) feet in a required front yard setback or over six (6) feet high if located elsewhere on private property.

WHAT SPECIAL REGULATIONS SHOULD I BE AWARE OF?

Special zoning areas called Planned Development Districts, Historic Districts, and Conservation Districts may have unique requirements for fences. To determine if you are in one of these districts and to obtain details about district regulations, call 214-948-4480 or look at the zoning maps on our internet site at www.dallascityhall.com. Locate City Departments, then click on Department of Development Services, and finally Zoning Maps.

If you are not in a special district the following general rules apply:

- In a required front yard setback, fences for single family and duplex uses are limited to four (4) feet above grade. Corner lots may have both street frontages considered as front yard setbacks.
- Fences on the remainder of the lot may not exceed nine (9) feet in height.
- Barbed wire may not be used for fencing unless it is located six (6) feet or more above grade AND does not project beyond the property line.
- Fences may not be located in easements.
- Swimming pool enclosures have additional fence regulations. See the "How to get a Swimming Pool Permit" guide at any Building Inspection office, call 214-948-4480, or check our Internet web page.
- All fences must provide fire-fighting access to the side and rear yard.
- A fence must not be placed within a visibility triangle at street, alley or driveway intersections if the fence is higher than two and a half (2 1/2) feet measured from the top of the adjacent street curb. See the illustration on the following page.



WHAT ARE THE PROCEDURES?

- Complete and submit an application to Building Inspection. See this pamphlet for directions to our locations and internet site. The application form can be downloaded from our internet site.
- Applicants are usually not required to submit a site plan.

HOW MUCH WILL IT COST?

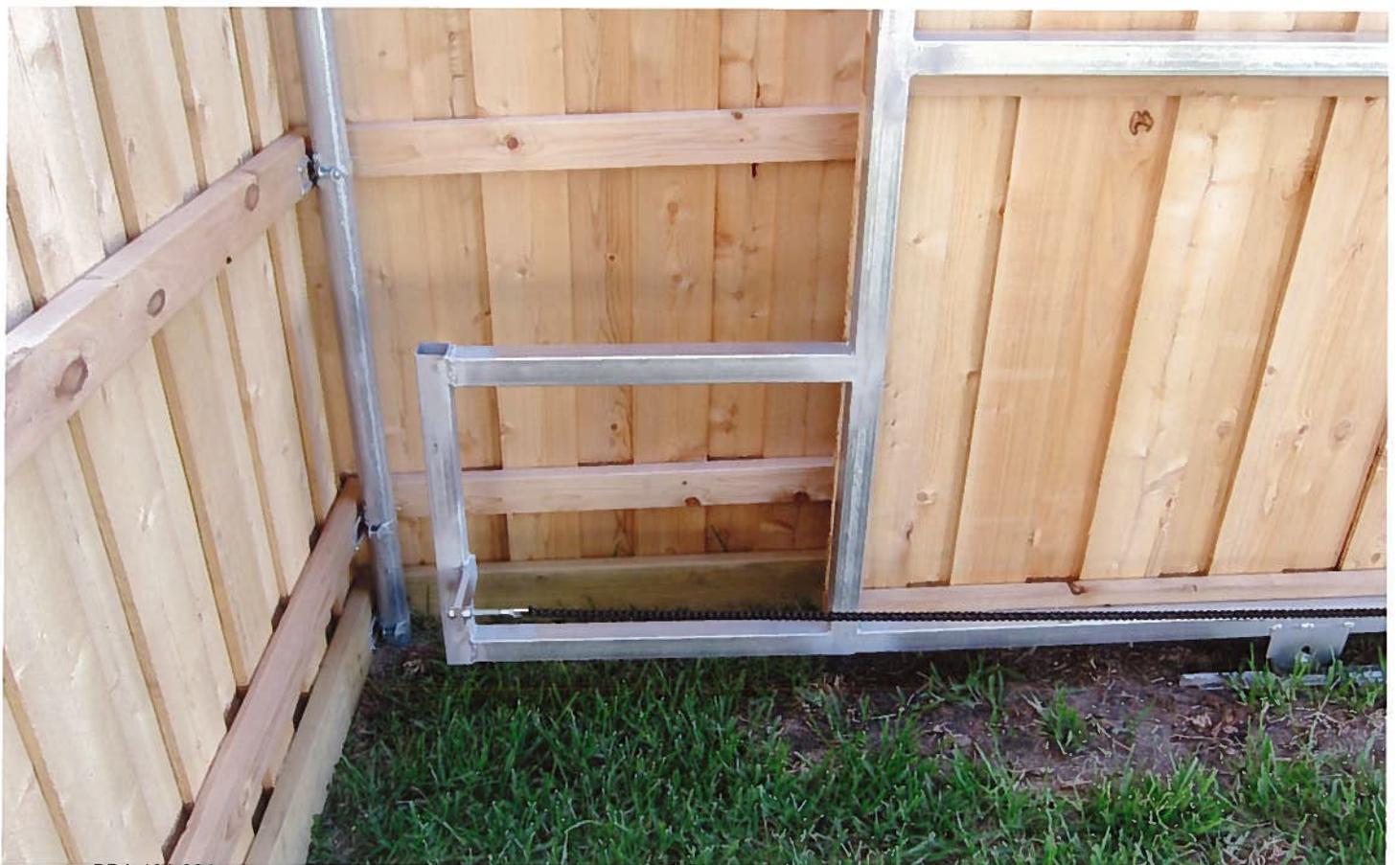
The cost is based on the value of the work with a minimum fee of \$60.00.

HOW LONG DOES IT TAKE TO GET A FENCE PERMIT?

Normally, a fence permit is issued while you wait. Historic Districts take longer due to the review requirement by the Landmark Commission.

Interior Corner Detail

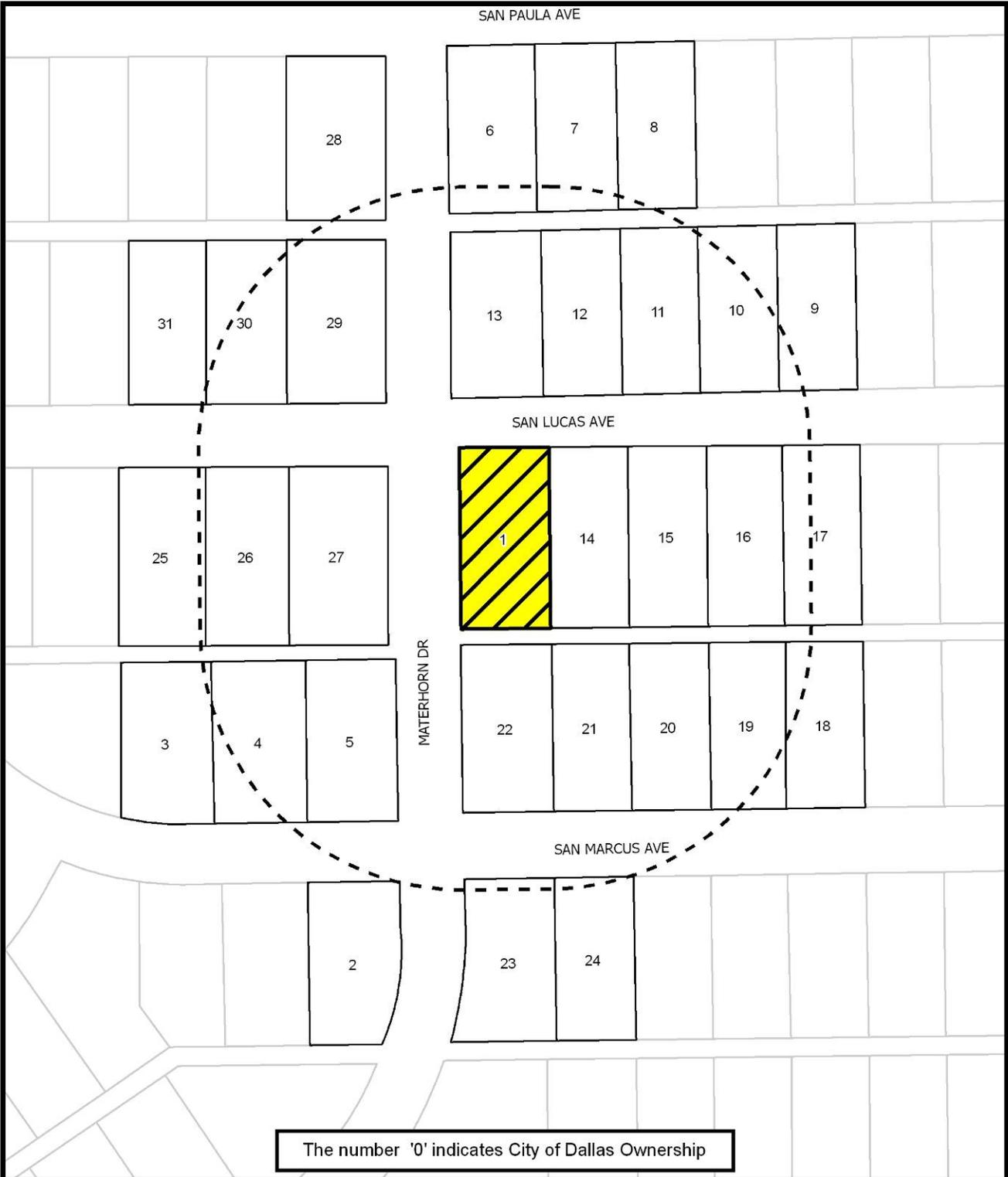
Shows gate opening requires full distance to corner



Driveway Visibility

Gate distance from street allows for easy viewing of oncoming traffic. Mirrors added for enhanced visibility.





1:1,200

NOTIFICATION

200'

AREA OF NOTIFICATION

31

NUMBER OF PROPERTY OWNERS NOTIFIED

Map no: H-11

Case no: BDA101-084

DATE: August 18, 2011

Notification List of Property Owners

BDA101-084

31 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3104 SAN LUCAS	SMITH DEE ANNA
2	3020 SAN MARCUS	MURILLO MARTIN C
3	3009 SAN MARCUS	FOERSTER KEITH & HEATHER FOERSTER
4	3015 SAN MARCUS	MARTINEZ JUAN CARLOS
5	3019 SAN MARCUS	GRACIANO LUIS
6	3104 SAN PAULA	SCAMARDO PAULINE M
7	3108 SAN PAULA	MISSI NANCY L
8	3114 SAN PAULA	GILLEY MARY YARBROUGH
9	3123 SAN LUCAS	BANK OF NEW YORK
10	3119 SAN LUCAS	MITCHELL ROBERT H SR
11	3115 SAN LUCAS	HOLDERFIELD TIMOTHY ETAL
12	3109 SAN LUCAS	MCLAIN DEBORAH N
13	3105 SAN LUCAS	HUNKER ANDREW
14	3108 SAN LUCAS	GONZALES ALCADIO MACK
15	3114 SAN LUCAS	HEINONEN ROBERT L & GAIL W HEINONEN
16	3118 SAN LUCAS	GLASPY MARY JO
17	3122 SAN LUCAS	PETERS VICKI
18	3123 SAN MARCUS	GONZALEZ ROLANDO A
19	3119 SAN MARCUS	AUSTIN STONE INVESTMENTS
20	3115 SAN MARCUS	HAMILTON OPHELIA
21	3109 SAN MARCUS	LESTER CHRISTOPHER R
22	3105 SAN MARCUS	VAQUERA MARIA G
23	3104 SAN MARCUS	SANCHEZ RAMIRO
24	3108 SAN MARCUS	NOBLES LETHA
25	3002 SAN LUCAS	DOTSON JAMIE L
26	3008 SAN LUCAS	MONIER MARIE &
27	3014 SAN LUCAS	MCDONALD NEILL E & ROSARIO T
28	3014 SAN PAULA	DUNCAN JOE C
29	3015 SAN LUCAS	LORENTZ TERESA MAE TR LORENTZ LIVING TR
30	3009 SAN LUCAS	DE LA ROSA MANUEL
31	3003 SAN LUCAS	BENAVIDES R DAVID & TERESA M BENAVIDES

FILE NUMBER: BDA 101-108

BUILDING OFFICIAL'S REPORT:

Application of Staci Howie, represented by Michael R. Coker, to appeal the decision of an administrative official at 5541 Richard Avenue. This property is more fully described as Lot 17 in City Block 19/1932 and is zoned CD 15, which requires that the building official shall deny a building permit if the building official determines that the structure is in violation of the Dallas Development Code, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations. The applicant proposes to appeal the decision of an administrative official in the denial of a building permit.

LOCATION: 5541 Richard Avenue

APPLICANT: Staci Howie
Represented by Michael R. Coker

REQUEST:

- An appeal has been made requesting that the Board of Adjustment reverse/overturn the Building Official's decision of September 2, 2011 to deny an application for a Department of Sustainable Development and Construction Conservation District Work Review Form on the subject site – specifically a "Conservation District Work Review Form" dated 8-8-2011 for property at 5541 Richard Avenue. The applicant alleges that the Administrative Official's decision to deny this Conservation District Work Review Form was in error and should be overturned.

BASIS FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:

Section 51A-3.102(d)(1) of the Dallas Development Code states that the Board of Adjustment has the power and duty to hear and decide appeals from decisions of Administrative Officials made in the enforcement of the Dallas Development Code.

GENERAL FACTS:

- Conservation District No. 15 states that "foundations of main buildings must be raised a minimum of 12 inches above grade."
- Department of Sustainable Development and Construction Work Review Form made by applicant Staci and Douglas Howie for property located at 5541 Richard Avenue in Vickery Place CD 15 was marked "denied" by Margaret Fiskell on September 2, 2011. The aforementioned work review

form was accompanied with a “Description of Proposed Work” attachment and an “Attached Denial Form” that are parts of this case file.

- The application states that a request is made to “appeal the decision of the administrative official who has denied an alternative design standard solution related to the requirement for the foundation of a twelve inch reveal above grade.”
- The “Conservation District Denial” that is part of this case file signed by Batsheba Antebi, Building Official states among other things that “work is denied” stating: “the proposed covering on the East Elevation within the wrap around does not encompass the front elevation; this Cosmetic approach (hiding the deficiency) is not an acceptable solution. A comprehensive excavation and drainage approach will provide the foundation exposure required for compliance; One Option to consider: 1) Raise the level of the Porch and raising the threshold of the Front Door by six inches. 2) Lower the Driveway by six inches. See attached sketch.”

BACKGROUND INFORMATION:

Zoning:

Site: CD No. 15 (Conservation District)
North: CD No. 15 (Conservation District)
South: CD No. 15 (Conservation District)
East: CD No. 15 (Conservation District)
West: CD No. 15 (Conservation District)

Land Use:

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

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.

Timeline:

September 12, 2011: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

October 14, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

October 18, 2011: The Board Administrator emailed the applicant's representative the following information:

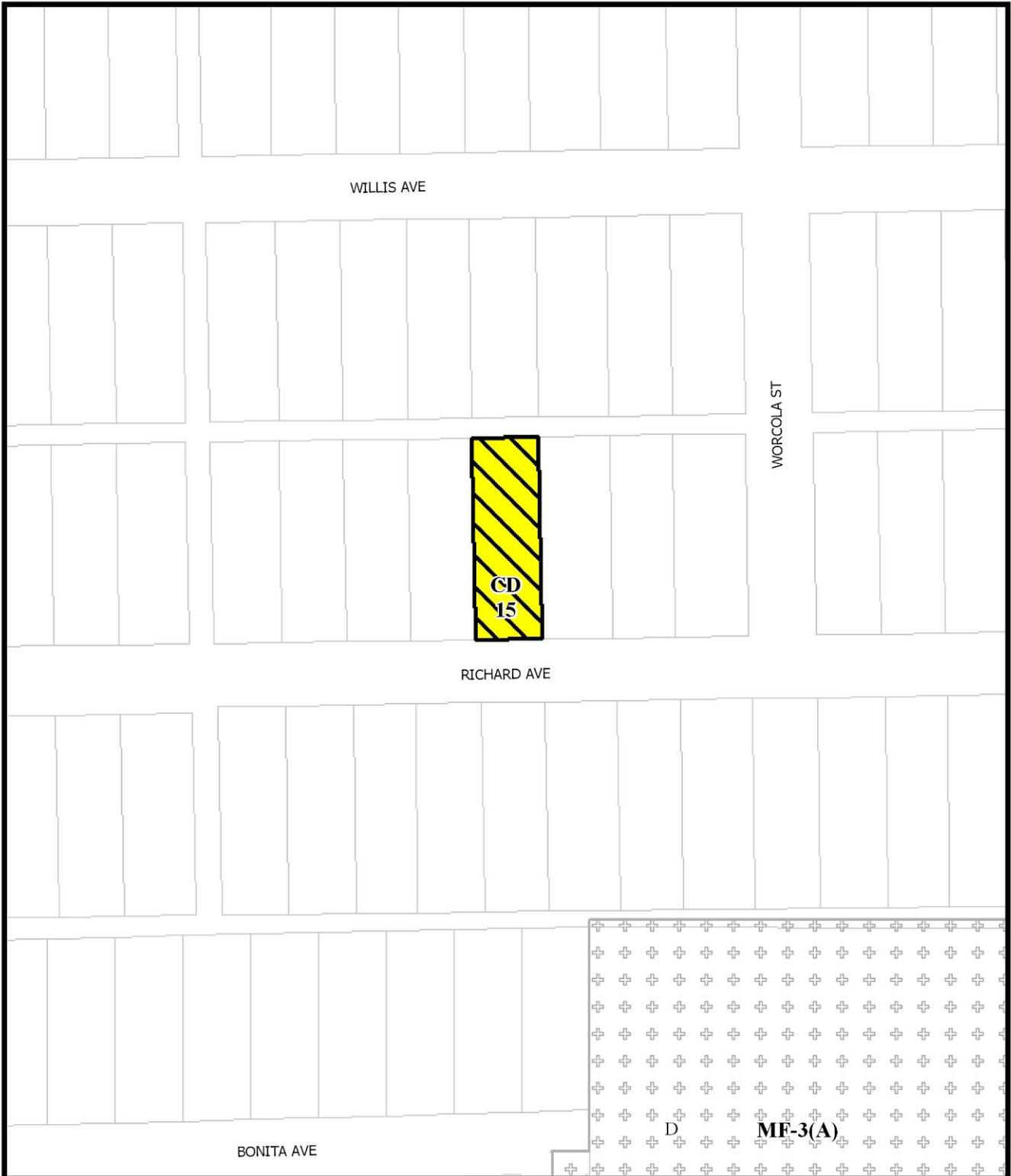
- an attachment that provided the public hearing date and panel that will consider the application; the October 28th deadline to submit additional evidence for staff to factor into their analysis; and the November 4th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the outline of procedure for appeals from decisions of the building official to the board of adjustment; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

November 1, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Assistant Director, the Acting Building Official, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- The applicant is requesting the Board of Adjustment to overturn or reverse the Building Official's decision of September 2, 2011 to deny an application for a Department of Sustainable Development and Construction Conservation District Work Review Form on the subject site – specifically a "Conservation District Work Review Form" dated 8-8-2011 for property at 5541 Richard Avenue.
- If the Board of Adjustment denies the applicant's request and upholds the Building Official's September 2nd decision, the application for a Department of Sustainable Development and Construction Conservation District Work Review Form on the subject site – specifically a "Conservation District Work Review Form" dated 8-8-2011, will remain denied.
- If the Board of Adjustment approves the applicant's request and overturns the Building Official's September 2nd decision, the application for a Department of Sustainable Development and Construction Conservation District Work Review Form on the subject site – specifically a "Conservation District Work Review Form" dated 8-8-2011, will be approved.



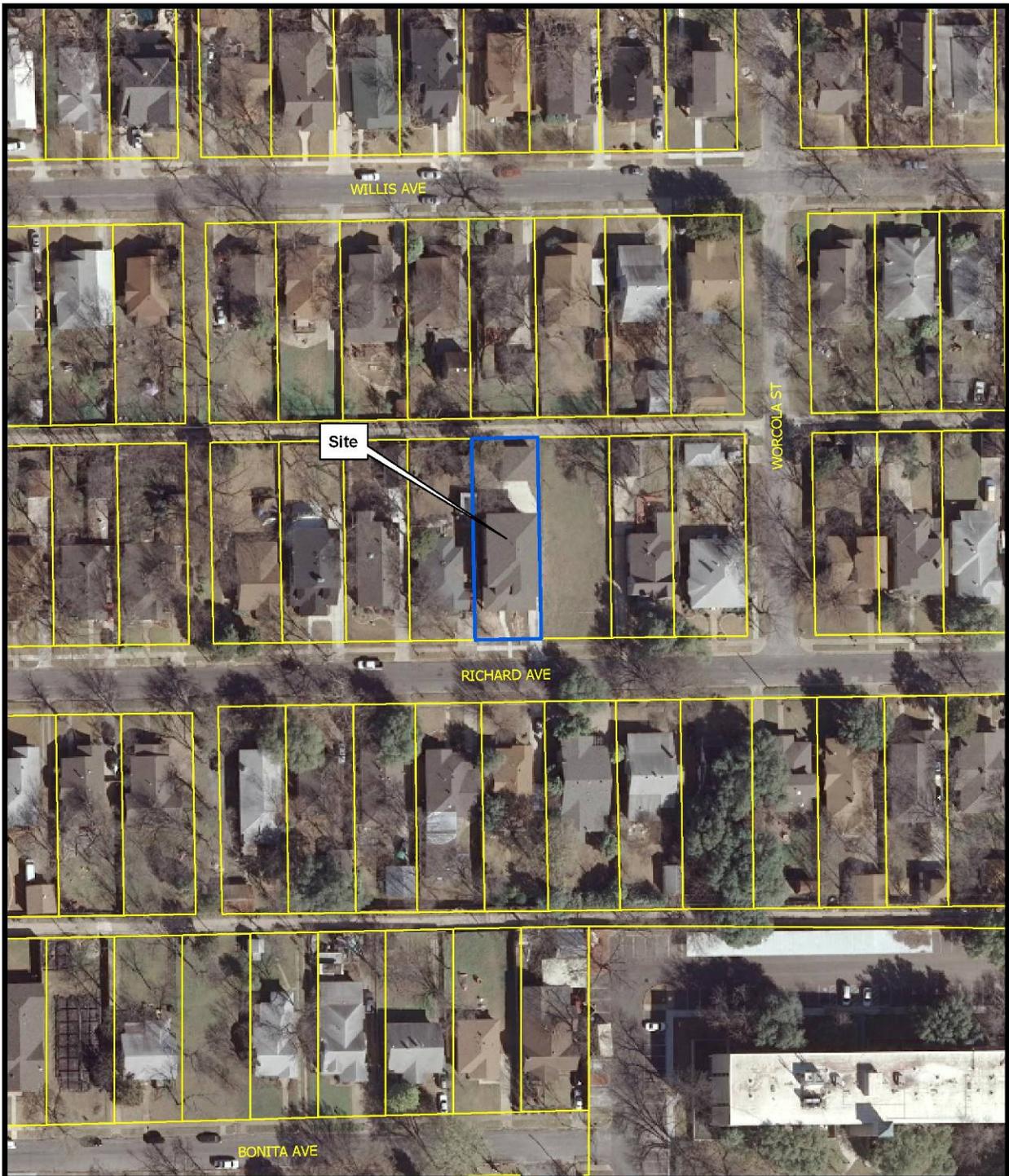
1:1,200

ZONING MAP

Map no: H-8

Case no: BDA101-108

DATE: October 27, 2011



1:1,200

AERIAL MAP

Map no: H-8

Case no: BDA101-108

DATE: October 27, 2011



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-108

Data Relative to Subject Property:

Date: 9/12/2011

Location address: 5541 Richard Avenue Zoning District: CD 15

Lot No.: 17 Block No.: 19/1932 Acreage: 7800 sf Census Tract: 0010.01

Street Frontage (in Feet): 1) 50 2) _____ 3) _____ 4) _____ 5) _____

502A

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Douglas and Staci Howie

Applicant: Staci Howie Telephone: 214.926.2746

Mailing Address: 5541 Richard Avenue Zip Code: 75206

Represented by: Michael R. Coker Telephone: 214.821.6105

Mailing Address: 2700 Swiss Avenue, Suite 100, Dallas Zip Code: 75204

Affirm that a request has been made for a Variance, or Special Exception, of to appeal the decision of an administrative official.

Application is now made to the Honorable Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described request for the following reason:
appeal the decision of the administrative official who has denied an alternative design standard solution related to the requirement for the foundation to have a twelve inch reveal above grade.

Note to Applicant: If the relief requested in this application is granted by the Board of Adjustment, said 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.

Respectfully submitted; Staci Howie Staci Howie
Applicant's name printed Applicant's signature

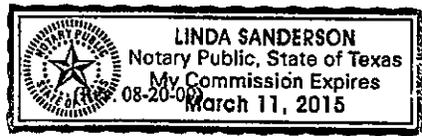
Affidavit

Before me the undersigned on this day personally appeared Staci Howie 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.

Staci Howie
Affiant (Applicant's signature)

Subscribed and sworn to before me this 13th day of September, 2011

Linda Anderson
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 _____

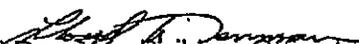
Chairman

Building Official's Report

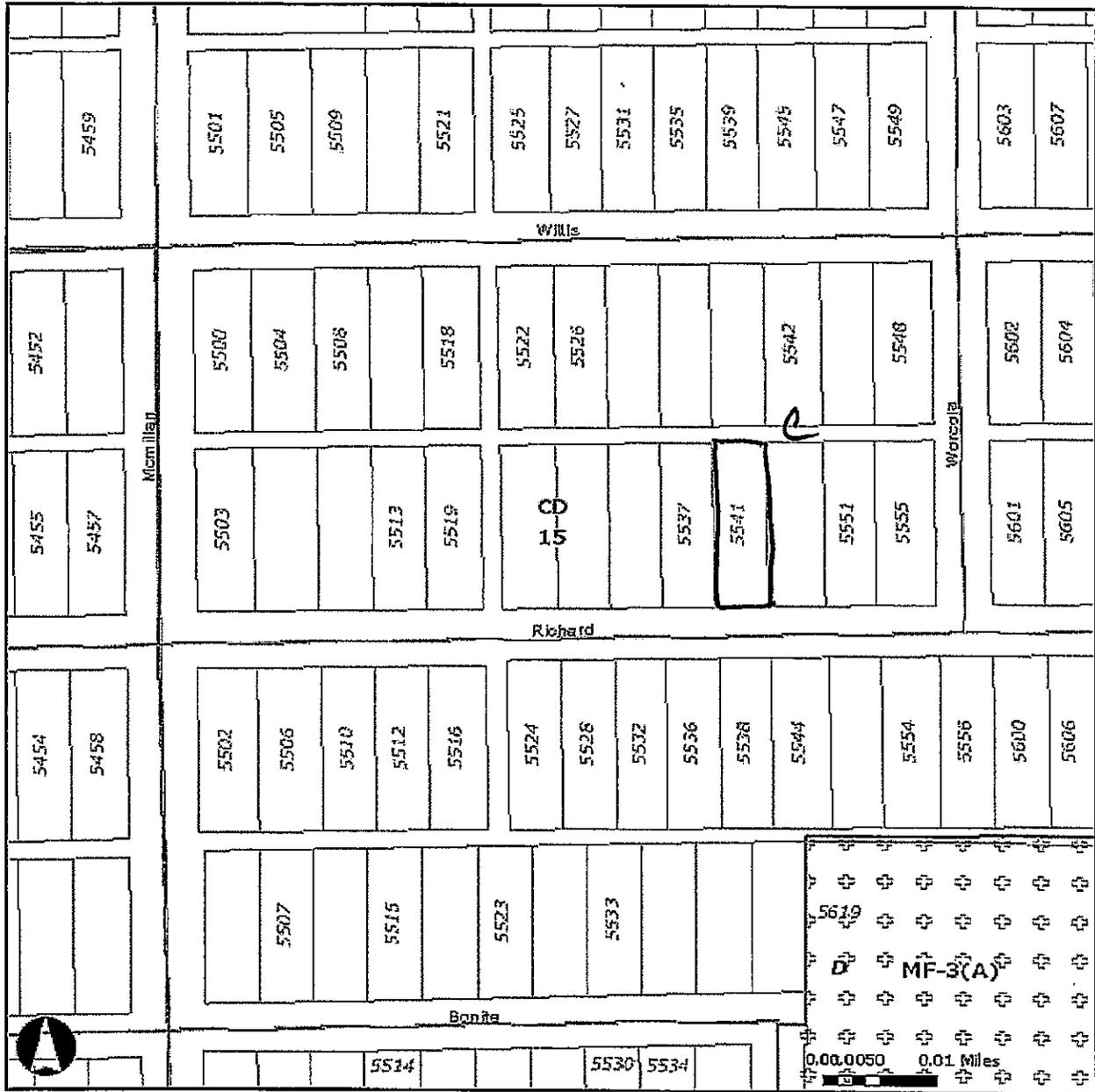
I hereby certify that Staci & Douglas Howie
represented by MICHAEL COKER
did submit a request to appeal the decision of the administrative official
at 5541 Richard Avenue

BDA101-108. Application of Staci & Douglas Howie represented by Michael Coker to appeal the decision of an administrative official at 5541 Richard Avenue. This property is more fully described as lot 17 in city block 19/1932 and is zoned CD 15, which requires that the building official shall deny a building permit if the building official determines that the structure is in violation of the Dallas Development Code, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations. The applicant proposes to appeal the decision of an administrative official in the denial of a building permit.

Sincerely,


Lloyd Denman, Building Official

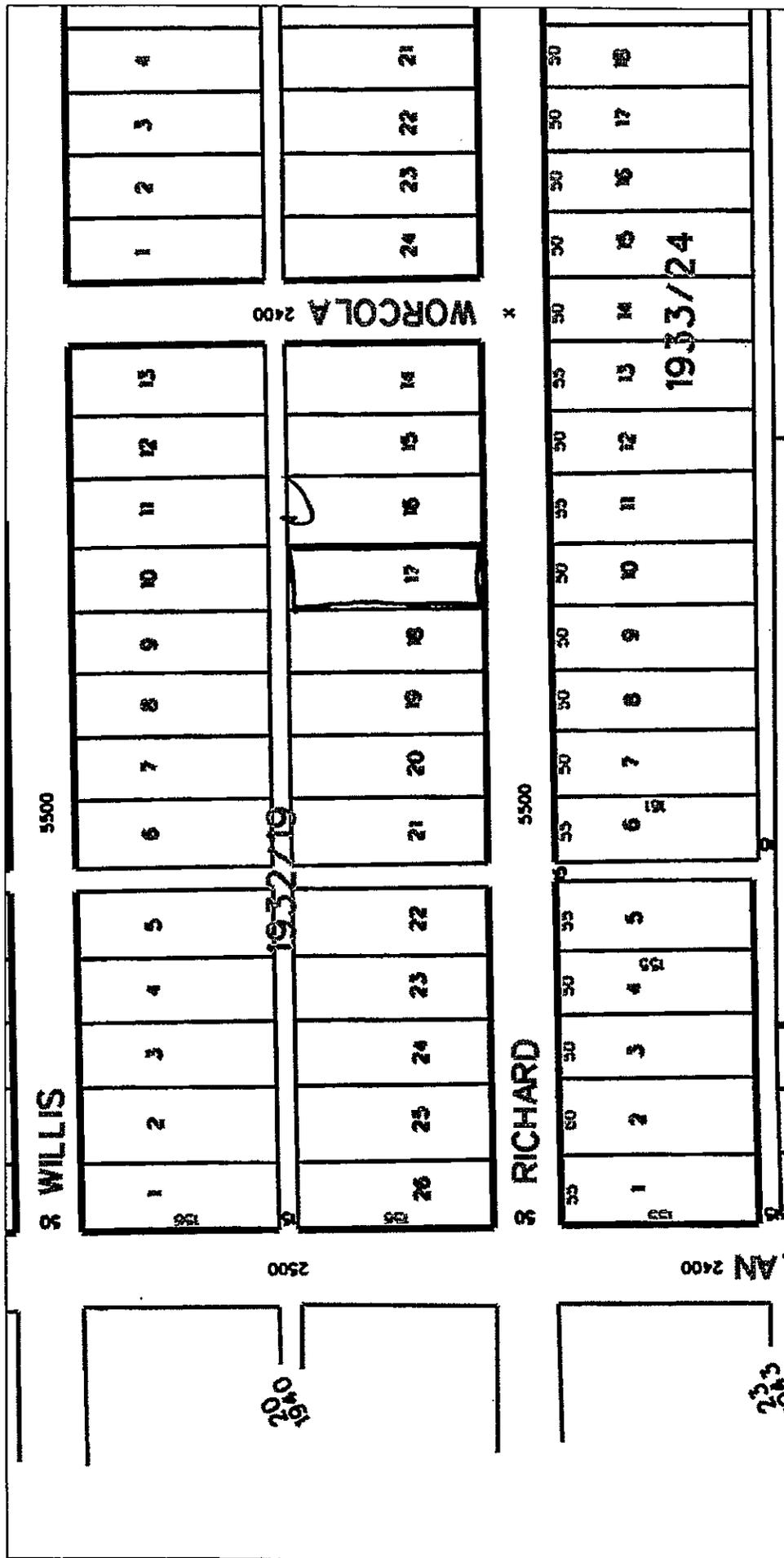
City of Dallas Zoning



- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

- SUP
- Dry Overlay
- D
- D-1
- Historic Overlay
- Historic Subdistricts
- NSO Overlay
- NSO Subdistricts

- PD193 Oak Lawn
- PDS Subdistricts
- Base Zoning
- Pedestrian Overlay
- CP
- Sp
- Environmental Corridors
- Escarpment Overlay



C:\lax_plats\1929.dgn 9/13/2011 3:59:24 PM



Michael R. GOKER Company
ARCHITECTS
1000 WEST WILSON AVENUE
DALLAS, TEXAS 75207
PH: 214.343.8800
WWW.MRGCORP.COM

HOWIE RESIDENCE
5541 RICHARD AVENUE
DALLAS, TEXAS
LOT 17, BLOCK A/1932
VICKERY PLACE

Issue/Revision	DATE	BY	REASON
01	08/11/11	JMG	CONCEPT
02	08/11/11	JMG	SCHEMATIC
03	08/11/11	JMG	PERMITS
04	08/11/11	JMG	ISSUE

Drawing Title

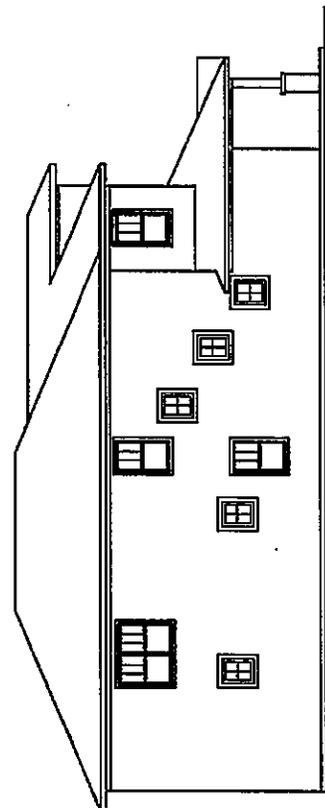
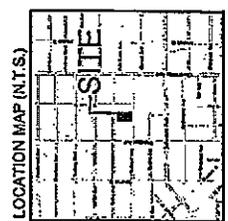
ELEVATIONS

Drawing Scale

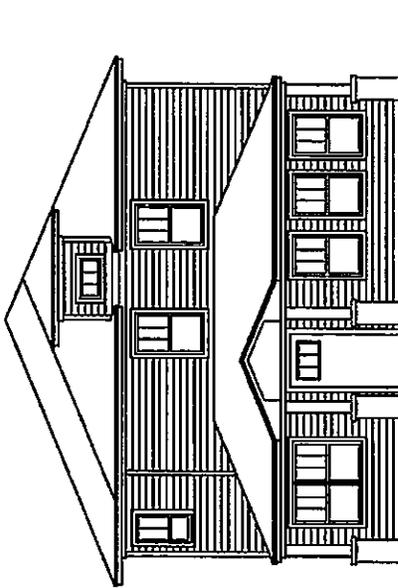
Issue Date: 08/11/11
Client/Project: 2123
Reviewed By: JMG
Drawn By: em

Drawing Number
E1.01

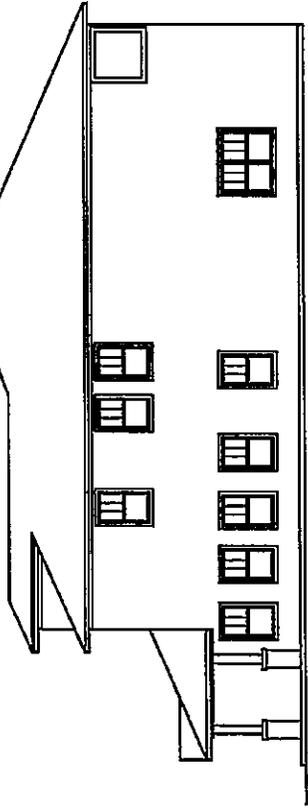
Prepared: HOWIE BDA
Checked: [Signature]
Approved: [Signature]
Professional Seal: [Signature]



LEFT ELEVATION (SCALE: 3/16" = 1')



FRONT ELEVATION (SCALE: 1/4" = 1')



RIGHT ELEVATION (SCALE: 3/16" = 1')

**DEPARTMENT OF SUSTAINABLE DEVELOPMENT & CONSTRUCTION
CONSERVATION DISTRICT WORK REVIEW FORM**

Please provide the following information. If you have any questions or need additional information, please contact City of Dallas Building Inspection at 214-948-4480. Submit this form and two copies of each applicable site plan, elevations, and specification sheets to the Permit Center, Room 118, 320 E. Jefferson, Dallas TX 75203. Please print.

Date: <u>8-8-2011</u> 07-29-2011	Conservation District: <u>Vickery Place CD 15</u>
Property Address: <u>5541 Richard Ave 75206</u>	
Applicant Name: <u>Staci and Douglas Howie</u> Phone #: <u>214-908-3760 douglas mobile</u>	
Applicant Address: <u>5541 Richard Ave 75206</u> Fax#: <u>214-528-8456</u>	
e-mail: <u>dmhowie@gmail.com</u>	
Architecture Style (if applicable): _____	
Description of Proposed Work: <u>please see attached</u>	

The proposed work was reviewed for compliance with the development standards and design requirements for this Conservation District Ordinance.

The proposed work is:

- Approved as submitted – meets development and design standards.
- Approved with the following conditions / comments: _____

Denied. Application does not meet the following requirements: See Attached Denial Form

REVIEWED BY: Margaret A. [Signature]

DATE RECEIVED: 8-8-2011 DATE REVIEWED: 9-2-2011

BUILDING PERMIT REQUIRED: Yes / No

form updated 100109

Copy to: applicant and file

July 29, 2011

Revised Description of proposed work = v. 3

Homeowners Douglas and Staci Howie propose to implement the following adjustments to the home to meet CD requirement for 12" foundation reveal and address suggestions from Leif Sandberg and Margaret Fiskell per previous proposals.

These adjustments are based on a 7/22 meeting, and build on the plan used by another homeowner in our conservation district at 5238 Miller Avenue that faced this predicament.

Additionally, this plan includes excavation and drainage adjustments to the West side of the home, which has enough elevation to safely implement such measures.

In summary, the homeowners would:

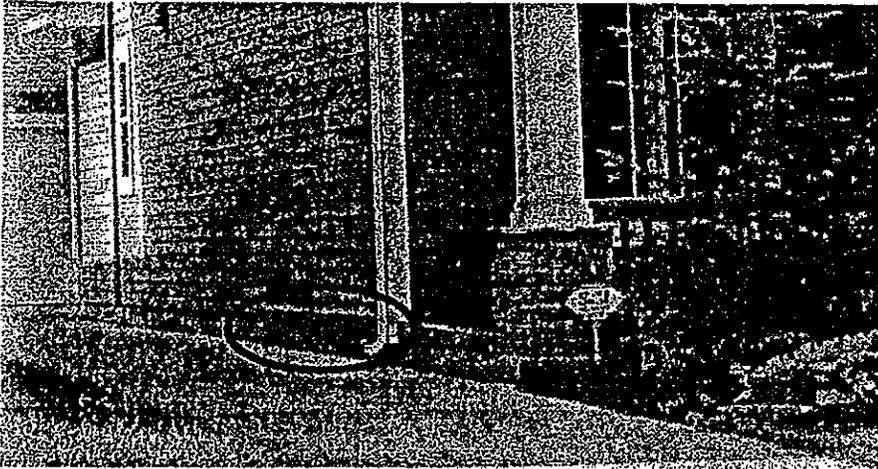
1. Apply pseudo-concrete material to the EAST Side of the home to show 12" of foundation to the required wrap around,
2. Install berm across porch in the FRONT of home except the step on the walkway as with the Miller home, AND/OR install raised (at least 12") flower bed (not to cover walkway). All houses with 12" foundation reveal in neighborhood have subsequently installed flower beds to cover up foundation reveal as no one really wants to look at 12" of concrete. We would rather do the flower bed only.

AND

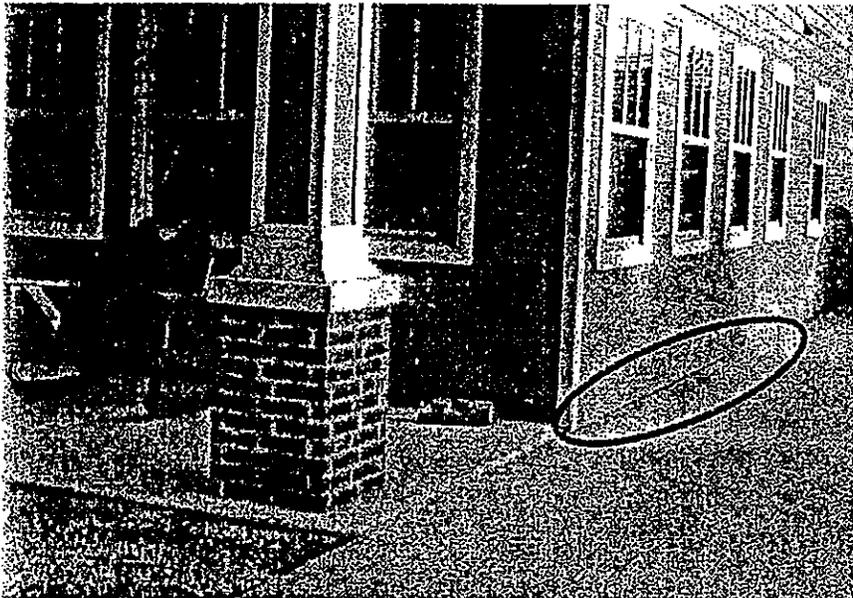
3. Excavate soil and address related drainage on WEST Side of Home to actually reveal 12" of the foundation.

EAST SIDE OF HOME

5238 Miller Avenue home with similar predicament as shown to homeowner by city staff. Approved solution was to apply concrete appearance to side of home.



Similar treatment would be applied to the EAST SIDE of our home at 5541 Richard Avenue to have appearance of 12" foundation reveal.



FRONT OF HOME

5238 Miller Avenue home has same step issue in front of doorway.

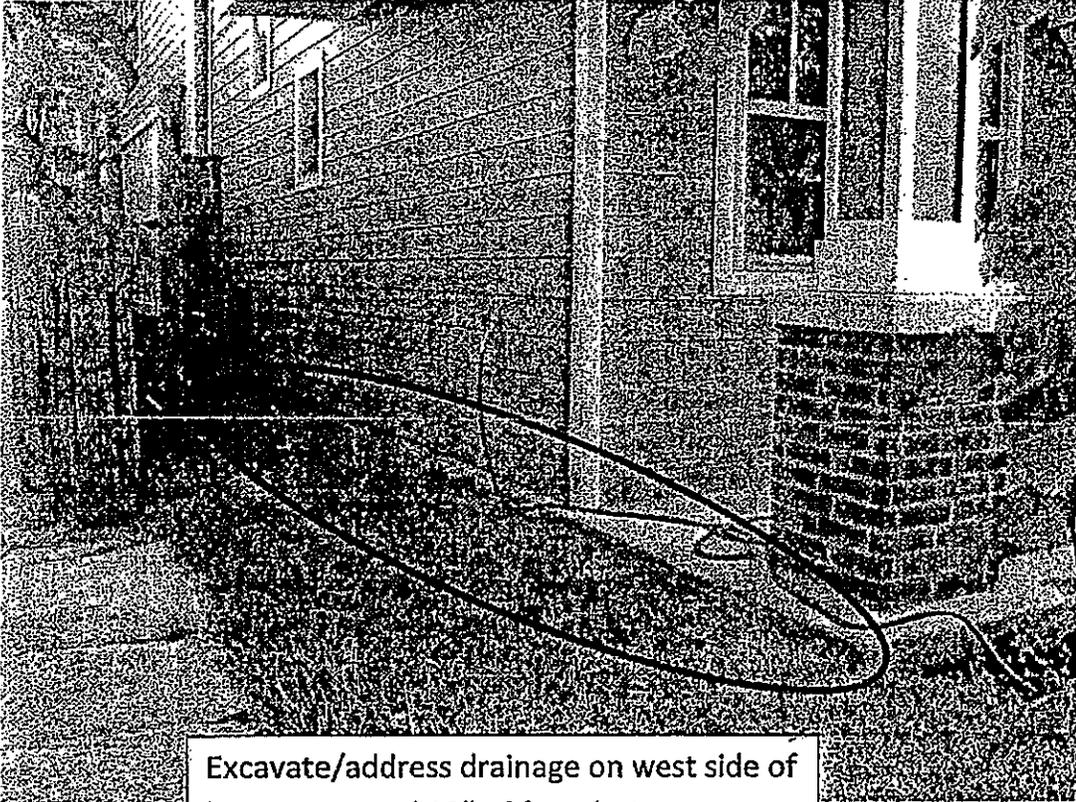


Richard home will have step less than 12" as with the Miller example, but will apply a 5" concrete, stone or brick berm on top of existing porch across the front to be 12" at the front West Side. The 5" berm will go the length of the front porch except where the entry/step is located. Railing would also be added so the berm is not a trip hazard.



WEST SIDE OF HOME

Homeowner to excavate and route drainage appropriately to reveal 12" of foundation on WEST side of home.



Excavate/address drainage on west side of home to reveal 12" of foundation to required wrap around/fence line.

Conservation District Denial



Vickery Place Conservation District

City of Dallas

Date Applied: 09/02/11

Date Reviewed: 09/02/11

Address: 5541 RICHARD AVE

Applicant: Howie, Staci & Douglas
5541 Richard Ave
Dallas, TX 75206
214/926-2746
s_giddens@yahoo.com

Architectural Style: Prairie

Proposed Work: Other - requires permit

Proposal for 12 inches foundation reveal:

- 1) Apply pseudo-concrete material to the East side of home to show 12" foundation to the required wrap around.
- 2) Install berm across porch in the front of home except the step on the walkway as with the Miller home, and/or install raised (at least 12") flower bed (not to cover the walkway).
- 3) Excavate soil and address related drainage on West side of home to actually reveal 12 inches of the foundation.

Permit is required: YES

Work is Denied

The proposed covering on the East Elevation within the wrap around does not encompass the Front Elevation.

This Cosmetic approach (hiding the deficiency) is not an acceptable solution. A comprehensive excavation and drainage approach will provide the foundation exposure required for compliance.

One Option to consider: 1) Raise the level of the Porch and raising the threshold of the Front Door by six inches.

2) Lower the Driveway by six inches. See attached sketch.

Batsheba Antebi

Batsheba Antebi, Building Official

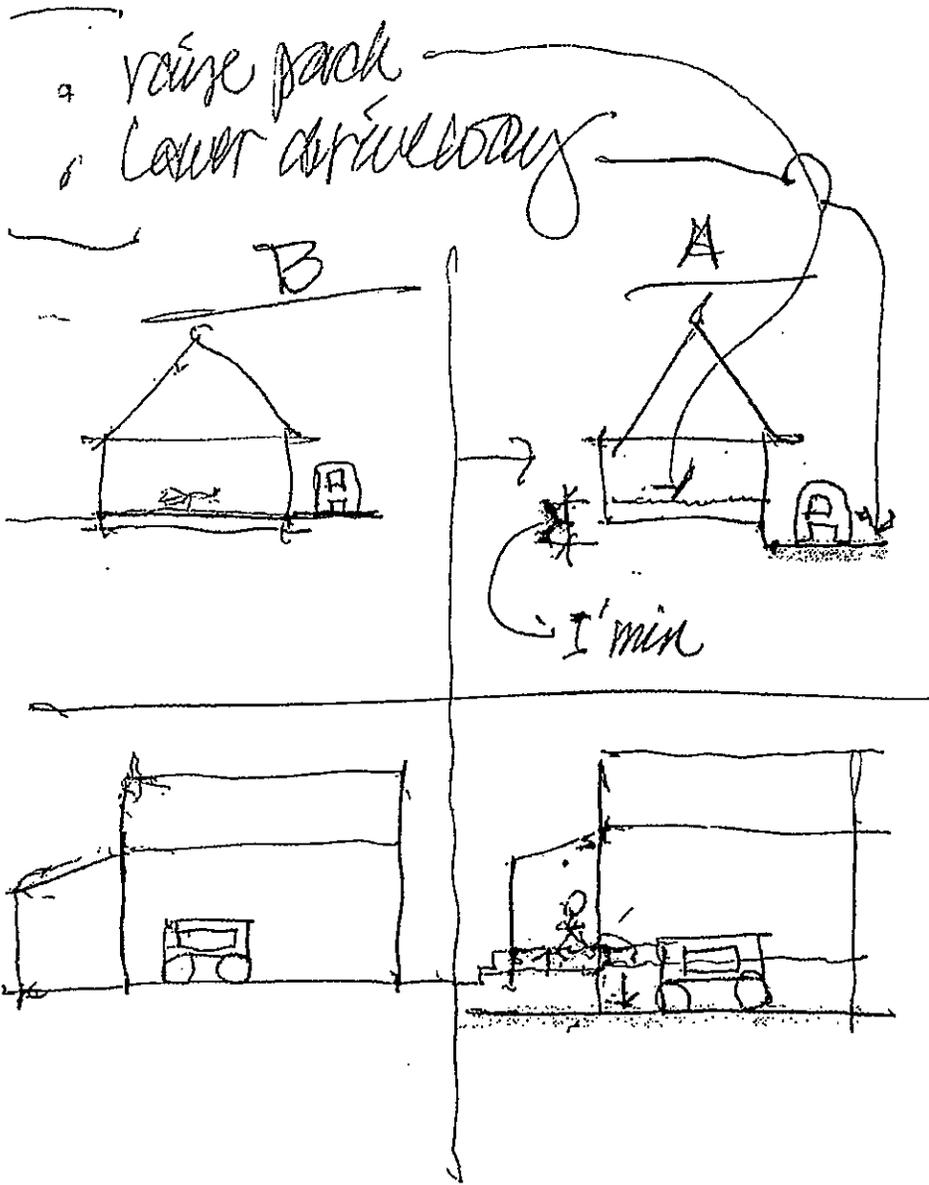
The application was reviewed for compliance with the development standards and design requirements for this Conservation District Ordinance.

This certificate applies only to the work identified on this document. Additional work will have to be reviewed separately.

DENIED

Page 1 of 1

55 41





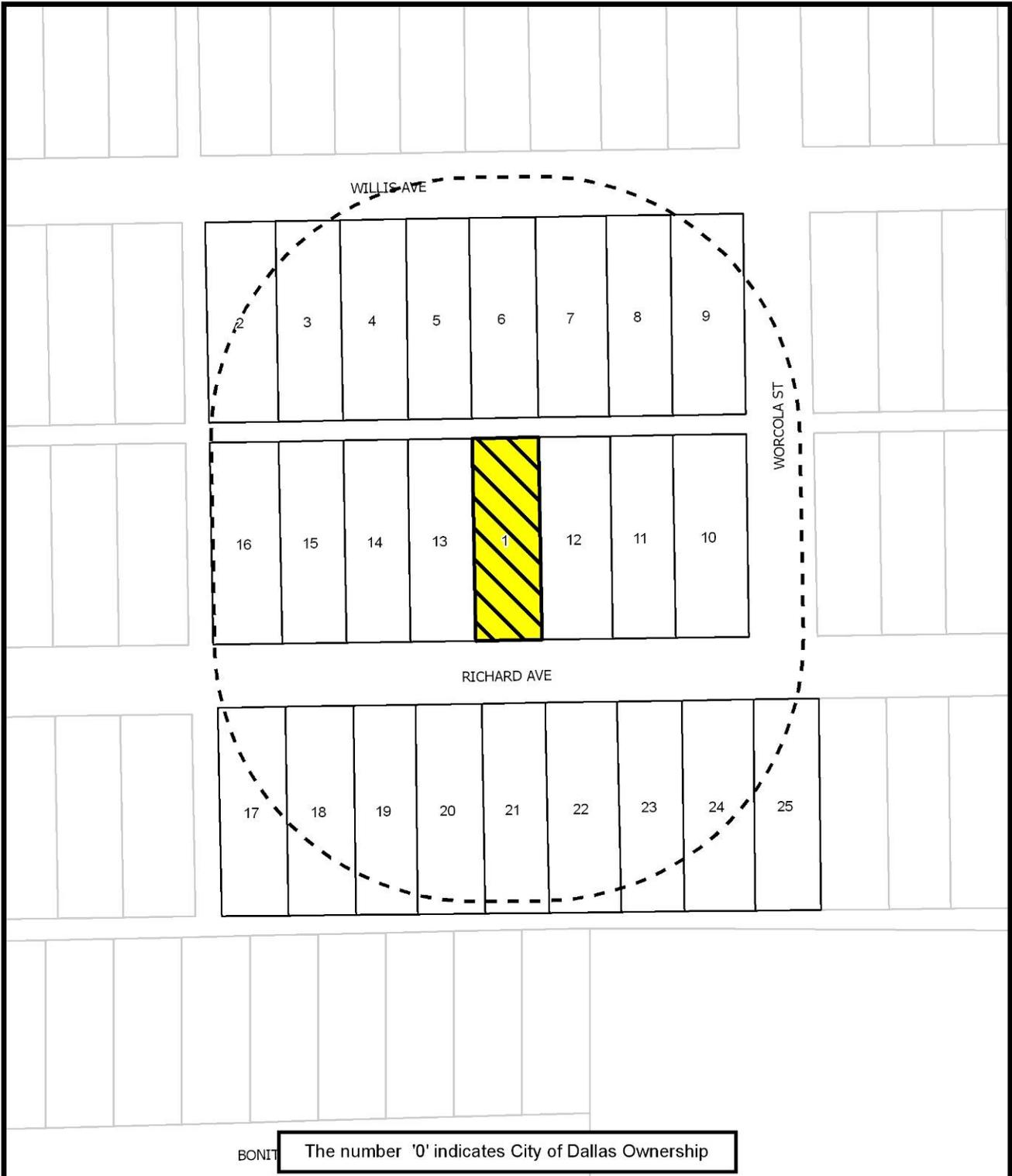
CITY OF DALLAS

Outline of Procedure for Appeals from Decisions of the Building Official by the Board of Adjustment of the City of Dallas

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

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

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



BONIT The number '0' indicates City of Dallas Ownership



1:1,200

NOTIFICATION

200'

AREA OF NOTIFICATION

25

NUMBER OF PROPERTY OWNERS NOTIFIED

Map no: H-8

Case no: BDA101-108

DATE: October 27, 2011

Notification List of Property Owners

BDA101-108

25 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5541 RICHARD AVE	HOWIE DOUGLAS & STACI
2	5522 WILLIS AVE	BERNARD GAIL
3	5526 WILLIS AVE	RAMOS ROQUE
4	5528 WILLIS AVE	HARVEY LAUREN & WILLIAM
5	5532 WILLIS AVE	KREINER JOSEPH C
6	5536 WILLIS AVE	REYNOLDS DANIEL R & KIMBERLY A
7	5542 WILLIS AVE	QUAIL ASSETS LP &
8	5544 WILLIS AVE	RANDOLPH COREY E
9	5548 WILLIS AVE	GUTIERREZ MARIA M
10	5555 RICHARD AVE	YORK BEVERLY D
11	5551 RICHARD AVE	DINGMANN CARRIE
12	5545 RICHARD AVE	OXNER CATHERINE
13	5537 RICHARD AVE	VORHEES SANGDAO
14	5535 RICHARD AVE	JARRATT SCOTT TAYLOR & AMY CHRISTINE
15	5527 RICHARD AVE	WHITTINGTON TARA
16	5523 RICHARD AVE	SOTO SIPRIANA %LUPE MOSQUEDA
17	5524 RICHARD AVE	WALKINGTON DAVID W
18	5528 RICHARD AVE	WALKINGTON DAVID
19	5532 RICHARD AVE	DEGATAIRE MARY ANN
20	5536 RICHARD AVE	LINDSAY LEIGHA
21	5538 RICHARD AVE	CLARK CHRIS
22	5544 RICHARD AVE	HOLLINS ADAM
23	5548 RICHARD AVE	HUFFMAN SHELIA
24	5554 RICHARD AVE	BAILEY DAVID D & IDA J
25	5556 RICHARD AVE	SMITH STEFFANIE