

BOARD OF ADJUSTMENT, PANEL A
TUESDAY, NOVEMBER 15, 2011
AGENDA

BRIEFING	5/E/S	12:00 NOON
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 Tuesday, October 18, 2011 Board of Adjustment Public Hearing Minutes	M1
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UNCONSTESTED CASES

BDA 101-109	5706 E. Mockingbird Lane REQUEST: Application of William J. Harkinson for a special exception to the off-street parking regulations	1
BDA 101-119	13608 Knollwood Drive REQUEST: Application of Sarah Griffis for a special exception to the fence height regulations	2

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 A October 18, 2011 public hearing minutes.

FILE NUMBER: BDA 101-109

BUILDING OFFICIAL'S REPORT:

Application of William J. Harkinson for a special exception to the off-street parking regulations at 5706 E. Mockingbird Lane. This property is more fully described as Lot 1 in City Block 2893 and is zoned CR, which requires parking to be provided. The applicant proposes to construct/maintain a structure for restaurant without drive-in or drive-through service, general merchandise or food store 3500 square feet or less, personal service, dry cleaning or laundry store, and medical clinic or ambulatory surgical center uses and provide 196 of the required 245 parking spaces, which will require a special exception of 49 spaces.

LOCATION: 5706 E. Mockingbird Lane

APPLICANT: William J. Harkinson

REQUEST:

- A special exception to the off-street parking regulations of 49 spaces is requested in conjunction with leasing and maintaining square footage/space within an existing approximately 480,000 square foot 3-story structure (Mockingbird Park) with a certain mix of uses (restaurant without drive-in or drive through service, dry cleaning and laundry store, general merchandise or food store 3,500 square feet or less, personal service, dry cleaning or laundry store, and medial clinic or ambulatory surgical center uses), and providing 196 (or 80 percent) of the 245 required off-street parking spaces.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- The special exception shall automatically and immediately terminate if and when the store, general merchandise or food store 3,500 square feet or less, personal service, dry cleaning or laundry store, and medial clinic or ambulatory surgical center uses are changed or discontinued.

Rationale:

- The applicant has substantiated how the parking demand generated by the existing/proposed general merchandise, personal service, and restaurant uses does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

- The Sustainable Development Department Project Engineer has indicated that he has no objections to the applicant's request.

STANDARD FOR A SPECIAL EXCEPTION TO THE OFF-STREET PARKING REGULATIONS:

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights. For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 50 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.
- 2) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
 - (A) establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) impose restrictions on access to or from the subject property; or
 - (C) impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.

- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
- (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

GENERAL FACTS:

- The Dallas Development Code requires the following off-street parking requirement:
 - General merchandise or food store 3,500 square feet or less: 1 space for 200 square feet of floor area.
 - Personal service use: 1 space per 200 square feet of floor area.
 - Dry cleaning or laundry service: 1 spaces per 200 square feet of floor area
 - Restaurant without drive-in service use: 1 space per 200 square feet of floor area
 - Medical clinic or ambulatory surgical center use: 1 space per 200 square feet of floor area

The applicant proposes to provide 196 (or 80 percent) of the required 245 off-street parking spaces in conjunction with the site being leased/maintained with a combination of the uses mentioned above.
- The applicant forwarded additional information beyond what was submitted with the original application (see Attachment A).

BACKGROUND INFORMATION:

Zoning:

Site: CR (Community Retail)
North: MU-3 (Mixed Use)
South: R-7.5(A) (NSO 2)(Single family residential 7,500 square feet, Neighborhood Stabilization Overlay)
East: CR (Community Retail)
West: CR (Community Retail)

Land Use:

The subject site is developed with an existing approximately 480,000 square foot 3-story structure. The area to the north is undeveloped, the areas to the east and west are developed with retail/commercial uses; and the area to the south is developed with single family uses.

Zoning/BDA History:

1. BDA 089-047, Property at 5646 E. Mockingbird Lane (the lot immediately west of the site)

On April 13, 2009, the Board of Adjustment Panel C granted a request for a special exception to the landscape regulations (imposing the submitted revised alternate landscape plan dated 4-13-09 as a condition to the request) but denied requests for a special exception to the screening regulations, special exceptions to the visual obstruction regulations without prejudice. The case report states that the requests were made in conjunction with developing the site as a financial institution with drive-in window use.

Timeline:

- September 8, 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 A.
- October 21, 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 24, 2011: The applicant submitted additional information to staff 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

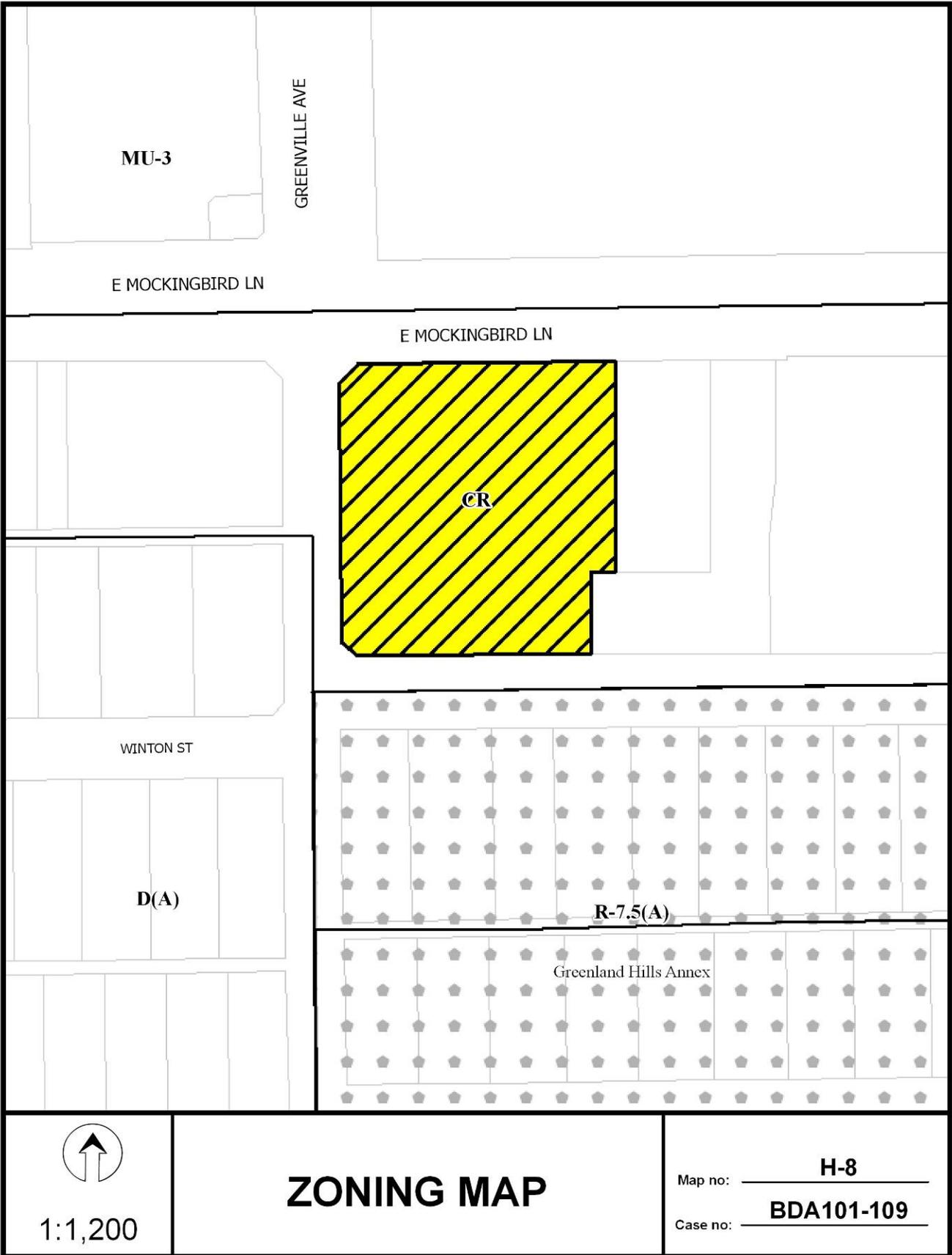
Construction Department Current Planning Assistant Director, the Acting Building Official, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

November 3, 2011: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."

STAFF ANALYSIS:

- This request focuses on leasing and maintaining square footage/space within an existing approximately 480,000 square foot 3-story structure (Mockingbird Park) with a certain mix of uses, and providing 196 (or 80 percent) of the 245 required off-street parking spaces.
- The request is triggered from the applicant's attempt to lease a vacant 2,000 square foot suite within this structure with a "general merchandise or food store 3,500 square feet or less" use.
- The applicant seeks this parking reduction request in his attempt to re-lease the vacant 2,000 square feet suite with what the applicant thought would be a Certificate of Occupancy for the same type of use – one "general merchandise" use for another "general merchandise" use, or a "My Fit Foods" store/use in place of what had been a "3-Day Framing" store/use.
- The applicant discovered however in his attempt to re-lease this suite with as a "general merchandise or food store" use that the "3 Day Framing" store suite had been erroneously "CO'd" for "office" use - a use with a lesser parking requirement rather than what it should have been "CO'd" for - a "general merchandise or food store" use. Hence the applicant's attempt to re-lease the same suite with a "general merchandise" use could not be issued without seeking a reduction to the off-street parking requirement for the same "general merchandise or food store" use – in this case, a proposed "My Fit Foods" store/use in the suite that had been a "3 Day Framing" store/use - erroneously CO'd for "office" use for over the past five years.
- The Sustainable Development Department Project Engineer has indicated that he has no objections to the applicant's request for the 20 percent parking reduction.
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the existing/proposed uses on the site does not warrant the number of off-street parking spaces required, and
 - The special exception of 49 spaces (or a 20 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, subject to the condition that the special exception of 49 spaces shall automatically and immediately terminate if and when the restaurant without drive-in or drive through service, dry

cleaning and laundry store, general merchandise or food store 3,500 square feet or less, personal service, dry cleaning or laundry store, and medial clinic or ambulatory surgical center uses are changed or discontinued, the applicant would be allowed to lease/maintain the site with these specific uses and provide 196 of the 245 code required off-street parking spaces.



DATE: October 27, 2011



1:1,200

AERIAL MAP

Map no: H-8

Case no: BDA101-109

DATE: October 27, 2011

Long, Steve

From: Jeff Harkinson [jharkinson@harkcorp.com]
Sent: Monday, October 24, 2011 5:50 PM
To: Long, Steve
Cc: Bill Walker
Subject: RE: BDA 101-109, Property at 5706 E. Mockingbird Avenue

pg 1

Dear Mr. Long,

Thank you for your email and visit by telephone. Please consider the following as additional information to support our request to the Board of Adjustment.

Our partnership--Mockingbird Park, Ltd.—acquired the subject property in March, 1994. Prior to and subsequent to our acquisition of the property, it has been operating as a retail shopping center anchored by a fitness center of the top (3rd floor) and most of the second floor, with office and service uses on the balance of the second floor and general retail on the first floor. During our 17+ year ownership and management of the property, we have never experienced a parking shortage or been unable to accommodate the parking needs of our tenants and their customers/visitors to the property wholly on-site. We have nearly 200 on-site parking spaces for approximately 46,000 SF of building area. Never has the parking spilled off-site to surrounding streets or neighborhoods, and never has traffic trying to enter or exit the property caused traffic to be blocked or back up onto Mockingbird Lane or Greenville Avenue.

The reason this request for a parking exception arose is that we have a 2,000 SF vacancy (Suite 190) facing Mockingbird Lane that was recently vacated by 3-Day Framing, a retail custom framing company which occupied and conducted business from Suite 190 for over five years and was a tenant in the property since before our acquisition 17 years ago. Their use and occupation of the space was for "General Merchandise". However, when the tenant or their general contractor applied for a CO for this space over five years ago, their use was described as "Office" rather than "General Merchandise". We have now entered into a new lease with a company called "My Fit Foods" which also will be a "General Merchandise" use. However, due to the error in the classification of the use by the prior tenant, 3-Day Framing, the change from an "office" classification to a "general merchandise" classification triggered a parking review. Never did we have parking issues from 3-Day Framing's general merchandise use nor, in our opinion, will we have parking problems due to My Fit Food's general merchandise use.

Our long history with this property has demonstrated that we have always met the needs of our existing tenants wholly within and on the site and we have not had a negative impact on traffic in the neighborhood. Our location at a hard corner with curb cuts on three streets (Mockingbird, Greenville and Winton) has allowed free and easy ingress-egress and we are actually one of the few properties on Lower Greenville that has ample and abundant on-site parking notwithstanding the fact that we do not meet a strict interpretation of the current code requirements based on our in-place tenancy. We benefit, in part, due to the transitory (in and out) nature of several of our current uses, such as a dry cleaners drop off site or UPS, which is a drop-off destination.

During the past 17 years, neither we nor the City of Dallas has ever received a complaint from our tenants, their customers, neighborhood residents or others that our property has a parking problem or is creating a parking problem or nuisance to the neighborhood.

At your suggestion, I have called today and left a voice mail message with Mr. Jerry Svec to let him know that we stand ready to answer any questions he may have or provide additional information that he may need to support our application.

Your consideration of these factors in approving our request for a parking exception is appreciated.

Jeff Harkinson
Partner
Mockingbird Park, Ltd.

From: Long, Steve [mailto:steve.long@dallascityhall.com]
Sent: Friday, October 21, 2011 9:35 AM
To: jharkinson@harkcorp.com
Subject: FW: BDA 101-109, Property at 5706 E. Mockingbird Avenue

Attach A
pg 2

Dear Mr. Harkinson,

It appears that I sent this to the wrong email address on Wednesday – sorry.

Steve

From: Long, Steve
Sent: Wednesday, October 19, 2011 9:23 AM
To: 'jharkinson@harcorp.com'
Cc: Duerksen, Todd; Svec, Jerry
Subject: BDA 101-109, Property at 5706 E. Mockingbird Avenue

Dear Mr. Harkinson,

Here is information regarding your application to the board of adjustment at the address referenced above:

1. Your application materials- all of which will be forwarded to you and the board of adjustment members about a week ahead of the scheduled November 15th public hearing;
2. The standard as to how the board is able to grant a special exception to the off-street parking regulations (51A-4.311);
3. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board; and
4. The board's rule pertaining to documentary evidence.

Please review the Building Official's Report/second page of your application and contact Todd Duerksen at 214/948-4475 no later than noon, Friday, October 28th with regard to any amendment that you feel is necessary to address the issue at hand. (Note that the discovery of any additional appeal needed beyond the requested parking special exception will most likely result in postponement of the appeal until the panel's next regularly scheduled public hearing).

Lastly, you may want to contact Jerry Svec, City of Dallas Project Manager, at 214/948-4444 to determine if there is any additional information that he may need from you in making a favorable conclusion on your request that in turn would be forwarded to the board.

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 included in your attached application materials, 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
Dallas, Texas 75201



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-109

Data Relative to Subject Property:

Date: 9/8/11

Location address: 5706 E. MOCKINGBIRD LN. TX 75206 Zoning District: CR

Lot No.: 1 Block No.: 2893 Acreage: 1.194 Census Tract: 2.02

Street Frontage (in Feet): 1) 205.7 2) 225.0 3) 237.0 4) _____ 5) _____

To the Honorable Board of Adjustment :

SB 24

Owner of Property (per Warranty Deed): MOCKINGBIRD PARK, LTD.

Applicant: WILLIAM J. HARKINSON Telephone: 972.934.8414

Mailing Address: 4455 LIBA FRWY #812 FARMERS TX BRANCH TX Zip Code: 75244

E-mail Address: W.HARKINSON@HARKCORP.COM

Represented by: N/A Telephone: N/A

Mailing Address: N/A Zip Code: N/A

E-mail Address: N/A

Affirm that an appeal has been made for a Variance _____, or Special Exemption V, of OFF STREET PARKING REQUIREMENTS TO PERMIT 49 FEWER ON SITE PARKING SPACES FROM THE 245 SPACES REQUIRED.

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

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

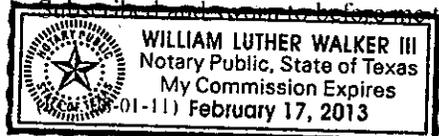
Affidavit

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

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

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

this 8th day of SEPTEMBER 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

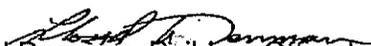
Building Official's Report

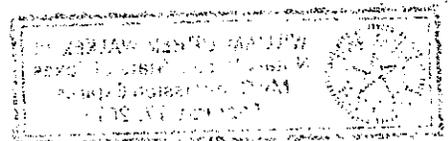
I hereby certify that William J. Harkinson

did submit a request for a special exception to the parking regulations,
at 5706 E. Mockingbird Lane

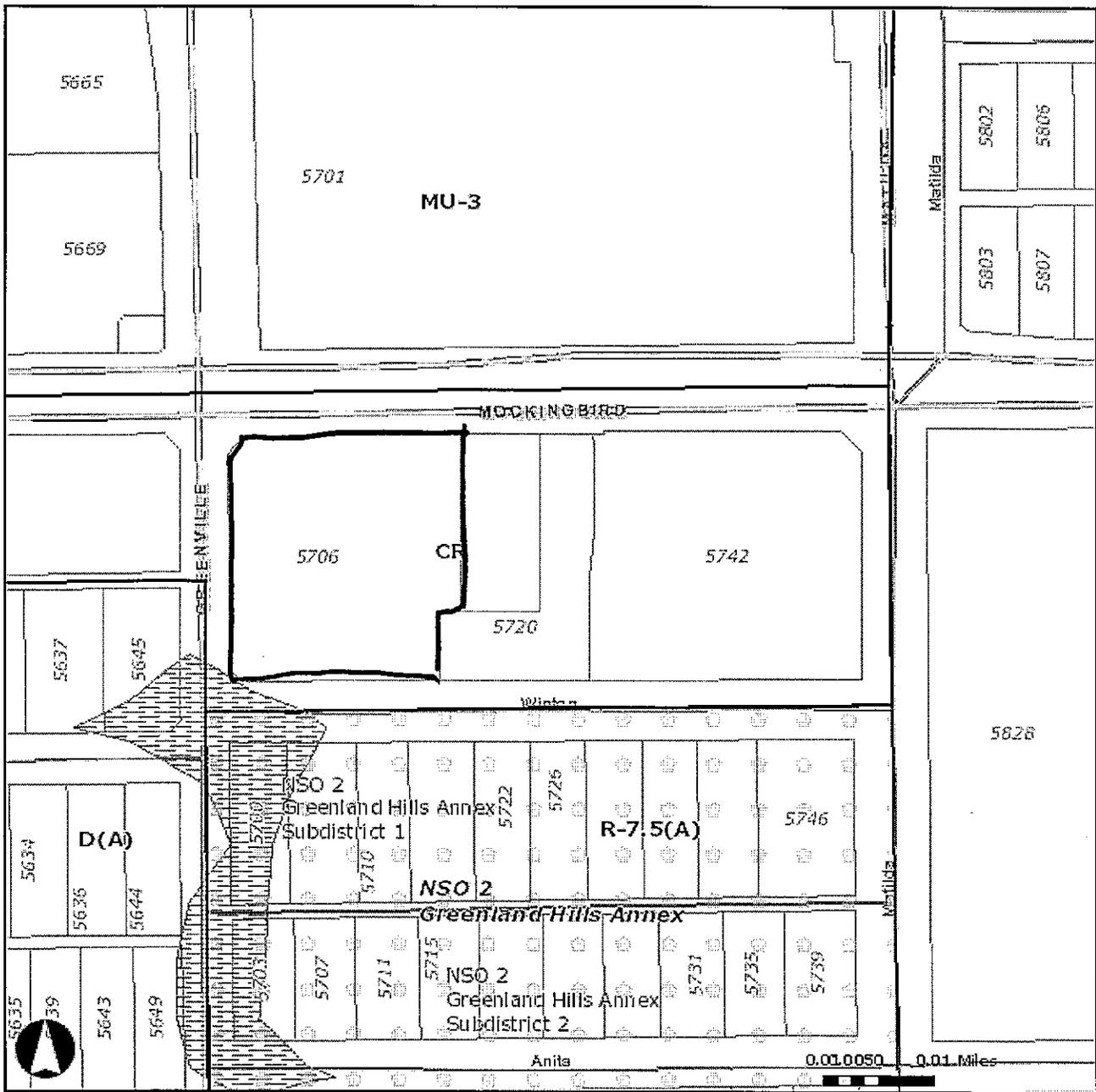
BDA101-109. Application of William J. Harkinson for a special exception to the parking regulations at 5706 E. Mockingbird Lane. This property is more fully described as lot 1 in city block 2893 and is zoned CR, which requires parking to be provided. The applicant proposes to construct and maintain a nonresidential structure for restaurant without drive-in or drive-through service, general merchandise or food store 3500 square feet or less, personal service, dry cleaning or laundry store, and medical clinic or ambulatory surgical center uses and provide 196 of the required 245 parking spaces, which will require a 49 space special exception (20% reduction) to the parking regulation.

Sincerely,


Lloyd Denman, 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

Application/Appeal to the Board of Adjustment

City of Dallas

Special Exception

Page 2 of 2

9/8/11

No overflow from the existing on site parking exists even with full occupancy of the Shopping Center. Tenant mix at the property including use of the upper floors for a health and fitness center has remained the same for the past (20) years with no observed ill effects to traffic circulation or the surrounding neighborhood. More onsite parking is provided for this facility than for any other in the Lower Greenville area.

PARKING ANALYSIS

MOCKINGBIRD PARK SHOPPING CENTER
5706 MOCKINGBIRD LANE DALLAS, TEXAS 75209

LISTING OF ALL AVAILABLE LEASE SPACE

<u>NAME OF TENANT</u>	<u>TOTAL S.F. SIZE</u>	<u>TYPE OF USE</u>	<u>SUITE #</u>	<u>PARKS REQ.</u>
U.S. CLEANERS	1,000	RETAIL	100	5
SUBWAY	1,143	RESTAURANT	110	11
UPS STORE	942	RETAIL	115	5
FLOYD'S 99	1,572	RETAIL	120	8
SMOOTHIE KING	1,104	RESTAURANT	130	11
YODER SISTERS	1,000	RETAIL	140	5
FINE NAILS SALON	1,000	RETAIL	145	5
PALM BEACH TAN	3,181	RETAIL	150	16
JANEY TAILOR	820	RETAIL	170	4
CHIEF SECURITY & SAFE	2,000	RETAIL	180	10
MY FIT FOODS	2,000	RETAIL	190	10
TX URBAN LIVING REALTY	1,330	OFFICE	210	4
NEVILLE HELENA M DDS	1,980	MEDICAL CLINIC	200	10
PEREZ CHIROPRACTIC & WELLNESS	1,330	MEDICAL CLINIC	220	7
24 HOUR FITNESS	26,731	HEALTH CLUB	250	134
TOTAL	483,167			

TOTALS

<u>PARKING CALCULATION</u>	<u>TOTALS</u>
OFFICE	4
MEDICAL CLINIC	17
RETAIL	68
RESTAURANT	22
HEALTH CLUB	134
TOTAL REQUIRED	245
TOTAL PROVIDED	199

SURVEY DATE: 19 AUGUST 2011
 SURVEY REVISED: 22 AUGUST 2011 PER CITY REQUIREMENT

MOCKINGBIRD PARK - DALLAS, TX

31 AUGUST 2011



1000 COMMERCIAL BLVD
DALLAS, TEXAS 75202
TEL: 214.760.1000
FAX: 214.760.1000
www.hubcity.com

5706 MOCKINGBIRD LANE #190 - DALLAS TEXAS 75209
CONSULTING & RETAIL STORE
MyFitFoods

REV. NO.	DATE	DESCRIPTION

DATE ISSUED:	08-16-11
PROJECT NO.:	21331
DRAWER NO.:	A0.0

BDA 101-109

MOCKINGBIRD PARK SHOPPING CENTER
5706 MOCKINGBIRD LANE DALLAS, TEXAS 75209

LISTING OF ALL AVAILABLE LEASE SPACE

NAME OF TENANT	TOTAL S.F. SIZE	TYPE OF USE	SUITE #	PARKS REQ.
U.S. CLEANERS	1,000	RETAIL	100	5
SUBWAY	1,143	RESTAURANT	110	11
UPS STORE	942	RETAIL	115	5
FLOYD'S #6	1,572	RETAIL	120	8
SMOOTHIE KING	1,104	RESTAURANT	130	11
YODER SISTERS	1,000	RETAIL	140	5
FINE NAILS SALON	1,000	RETAIL	145	5
PALM BEACH TAN	3,181	RETAIL	180	16
JANEY TAILOR	820	RETAIL	170	4
CHIEF SECURITY & SAFE	2,000	RETAIL	180	10
RY FIT FOODS	2,000	RETAIL	190	10
TX URBAN LIVING REALTY	1,330	OFFICE	210	4
NEVILLE MELBA W DDS	1,980	MEDICAL CLINIC	200	10
PEREZ CHIROPRACTIC & WELLNESS	1,330	MEDICAL CLINIC	220	7
24 HOUR FITNESS	26,731	HEALTH CLUB	250	134
TOTAL	493,167			

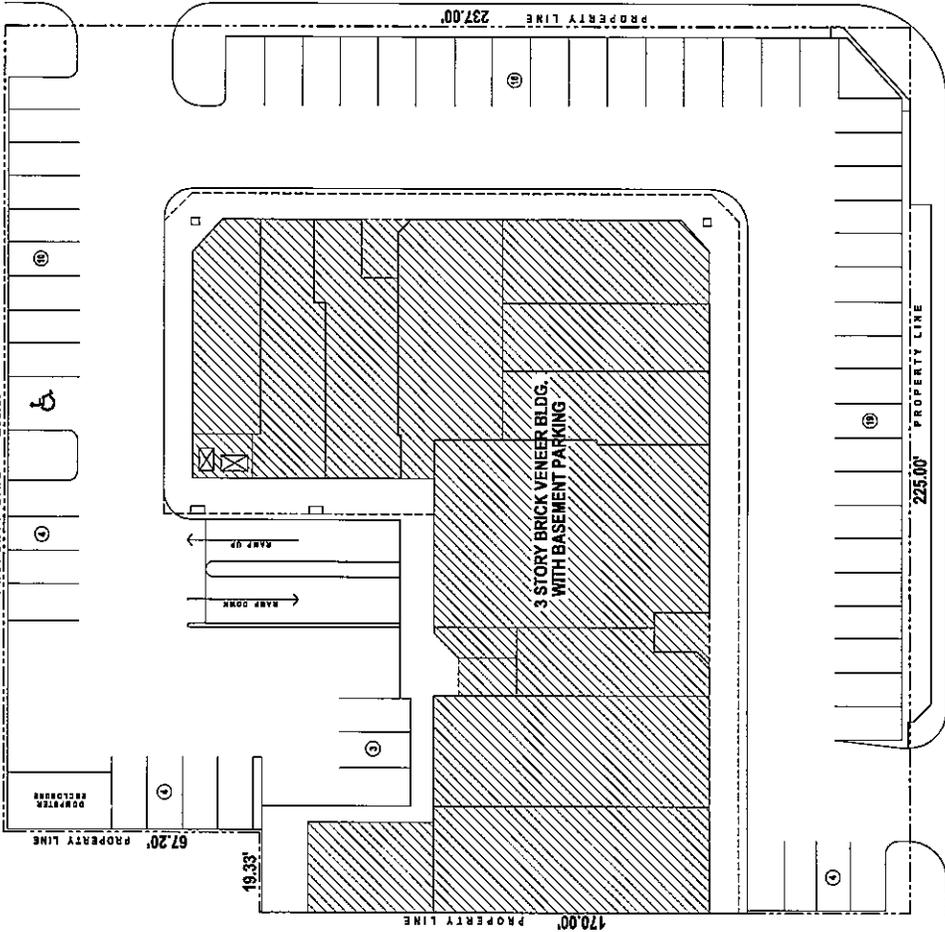
1. PARKING CALCULATION

	TOTALS
OFFICE	4
MEDICAL CLINIC	17
RETAIL	68
RESTAURANT	22
HEALTH CLUB	134
TOTAL PROVIDED	245
TOTAL REQUIRED	198

SURVEY DATE: 19 AUGUST 2011
SURVEY REVISED: 22 AUGUST 2011 PER CITY REQUIREMENT

WINTON STREET

PROPERTY LINE 205.67'



MOCKINBIRD LANE



PARKING ANALYSIS	
60	= GROUND LEVEL PARKING
139	= BASEMENT PARKING
199	PARKS PROVIDED
245	PARKS REQUIRED
03	ACCESSIBLE SPACES

01 SITE PLAN

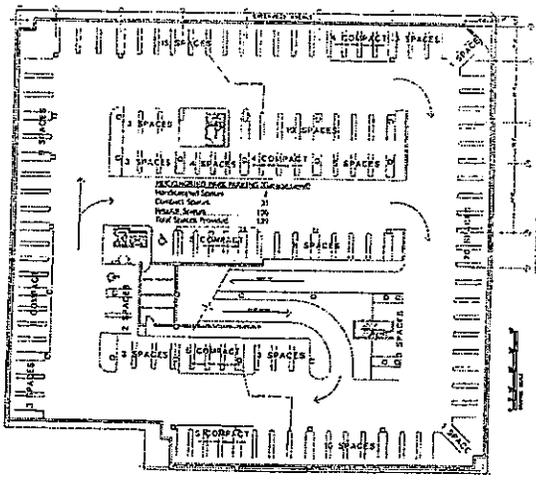
SCALE: 1/16" = 1'-0"



5706 MOCKINGBIRD LANE • DALLAS TEXAS 75209
 SHOPPING CENTER
MOCKINGBIRD PARK

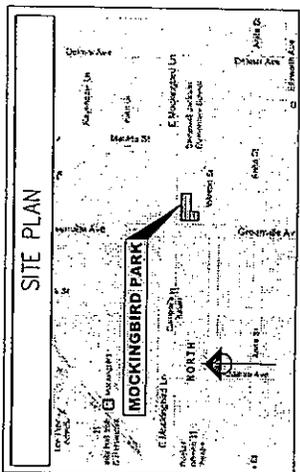
PARKING ANALYSIS

DATE ISSUED: 08-31-11
 PROJECT NO.: 21333
 DRAWING NO.: A0.0

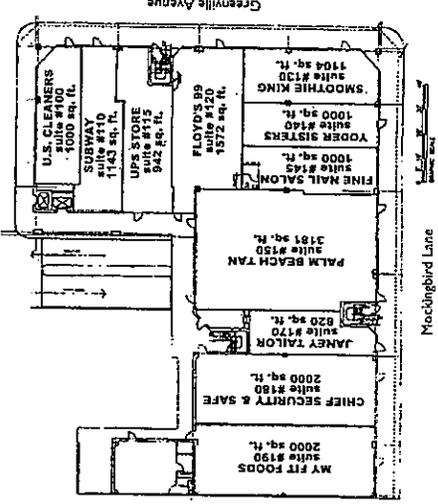


BASEMENT PARKING PLAN
 NOT TO SCALE

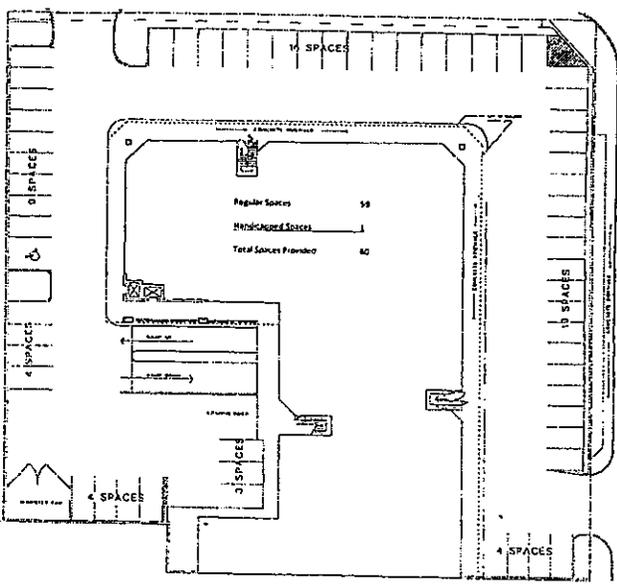
NAME OF TENANT	SQ. FT. AREA	TYPE OF USE	STORIES	PER 1,000 SQ. FT.	TOTAL SPACES
U.S. CLEANERS	1,000	RESTAURANT	1	1.00	100
SMOOTHIE KING	1,000	RESTAURANT	1	1.00	100
YODER SISTERS	1,000	RESTAURANT	1	1.00	100
FINE NAIL SALON	1,000	RESTAURANT	1	1.00	100
PALM BEACH TAN	1,000	RESTAURANT	1	1.00	100
JANNEY TAILOR	2,000	RESTAURANT	1	1.00	200
CHIEF SECURITY & SAFE	2,000	RESTAURANT	1	1.00	200
MY FIT FOODS	2,000	RESTAURANT	1	1.00	200
FLORIAN'S	1,572	RESTAURANT	1	1.00	157
SMOOTHIE KING	1,000	RESTAURANT	1	1.00	100
YODER SISTERS	1,000	RESTAURANT	1	1.00	100
FINE NAIL SALON	1,000	RESTAURANT	1	1.00	100
PALM BEACH TAN	1,000	RESTAURANT	1	1.00	100
JANNEY TAILOR	2,000	RESTAURANT	1	1.00	200
CHIEF SECURITY & SAFE	2,000	RESTAURANT	1	1.00	200
MY FIT FOODS	2,000	RESTAURANT	1	1.00	200
FLORIAN'S	1,572	RESTAURANT	1	1.00	157
TOTAL	24,000				2,400



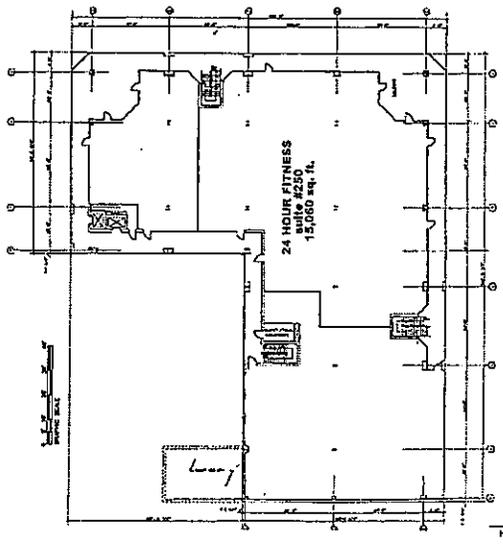
SITE PLAN



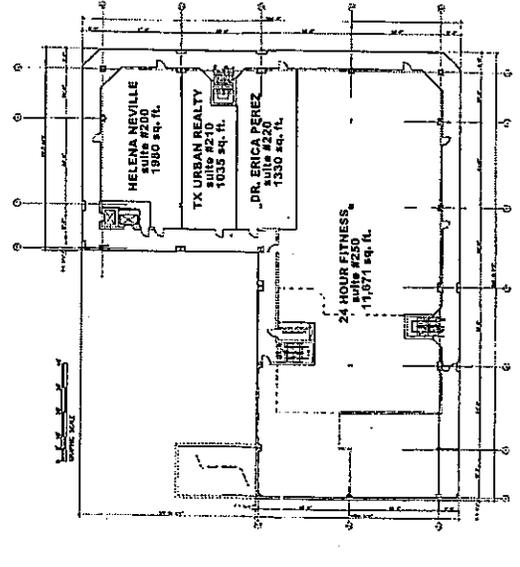
GROUND FLOOR PLAN
 NOT TO SCALE



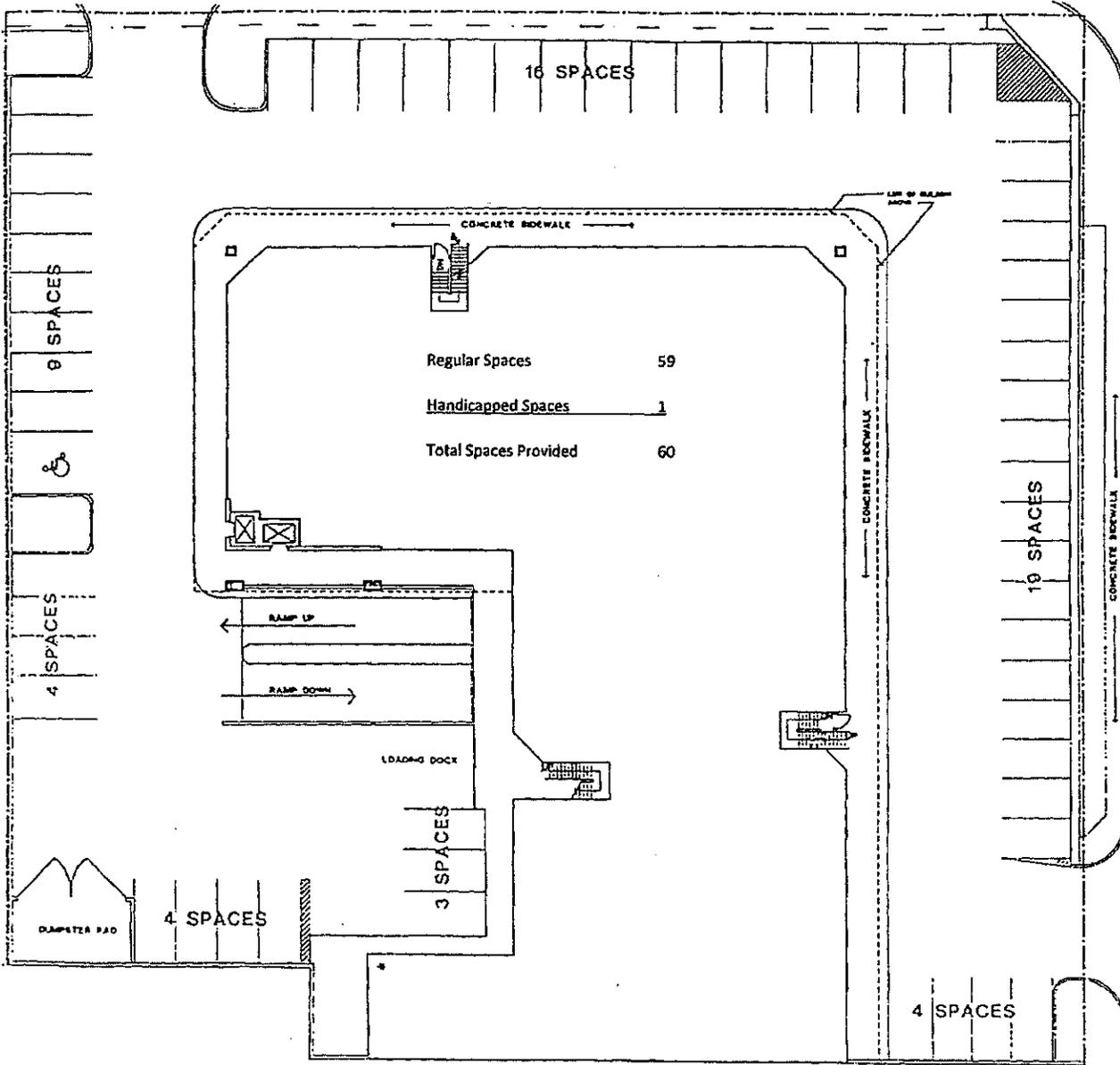
SURFACE PARKING PLAN
 NOT TO SCALE



THIRD FLOOR PLAN
 NOT TO SCALE



SECOND FLOOR PLAN
 NOT TO SCALE



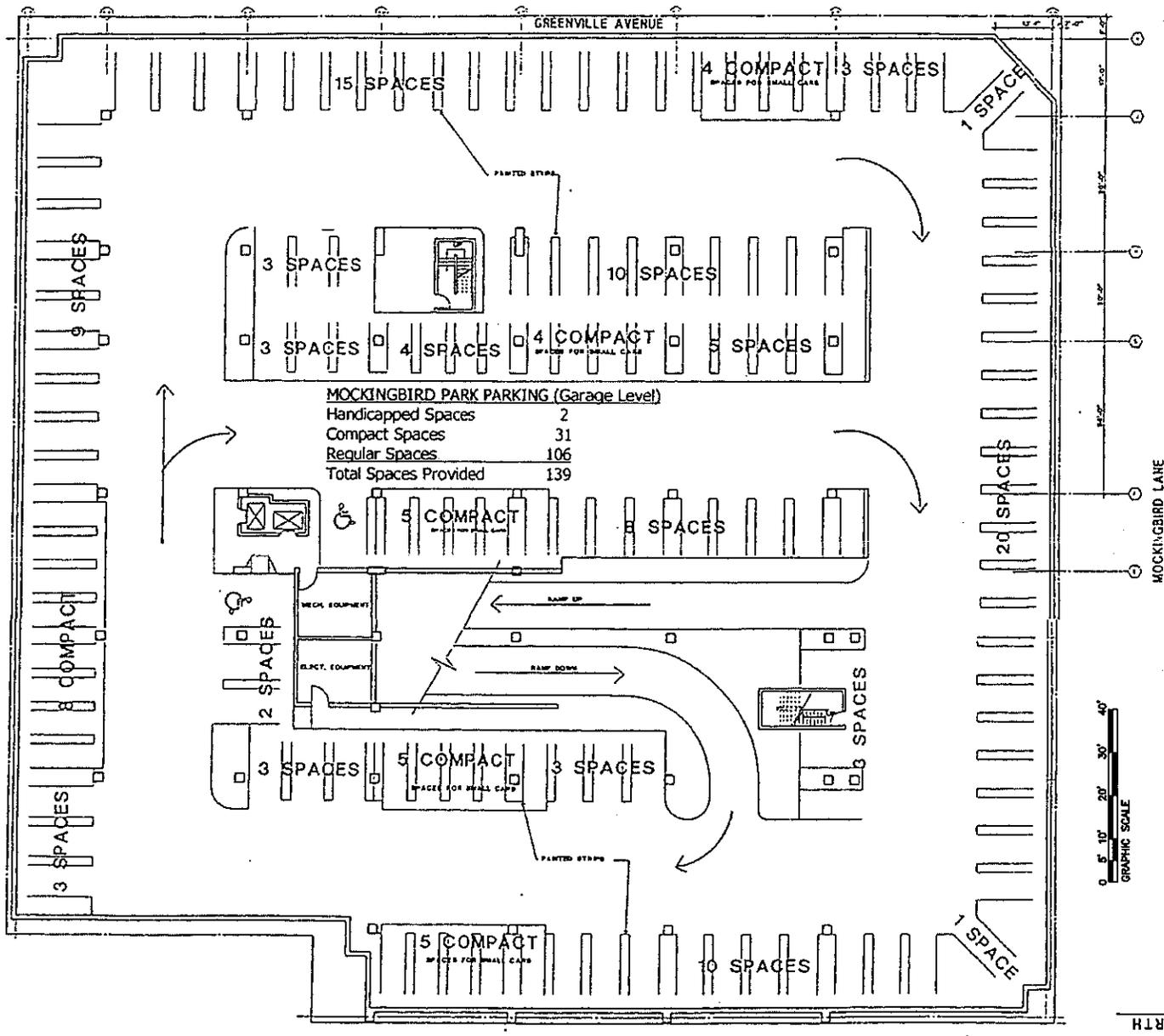
E. MOCKINGBIRD LANE

0 5' 10' 20' 30' 40'

GRAPHIC SCALE



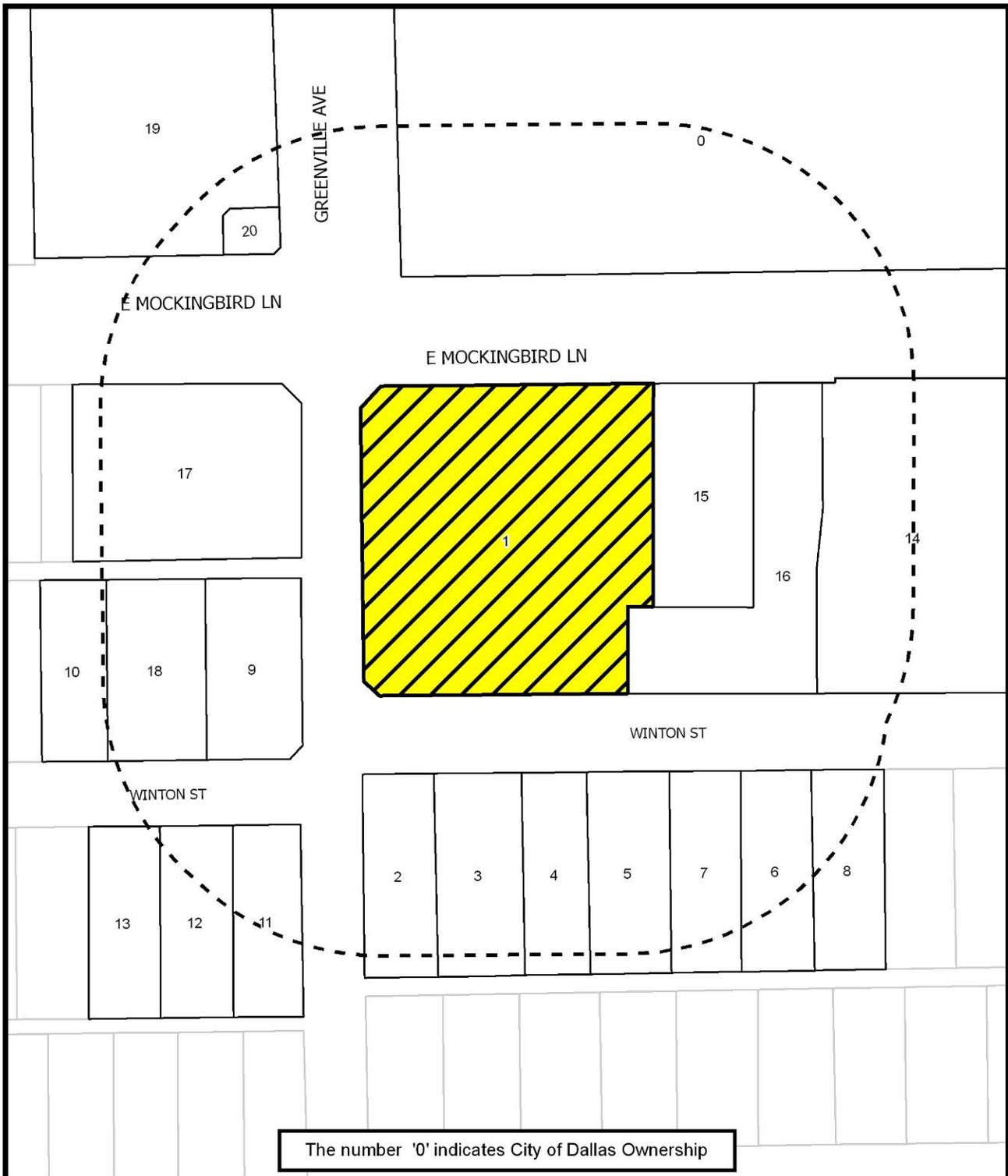
SURFACE PARKING PLAN



BASEMENT PARKING PLAN

31 AUGUST 2011

MOCKINGBIRD PARK - DALLAS, TX



 1:1,200	<h2 style="margin: 0;">NOTIFICATION</h2> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="border: 1px solid black; padding: 2px 5px;">200'</div> <div style="text-align: left; margin-left: 5px;">AREA OF NOTIFICATION</div> </div> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="border: 1px solid black; padding: 2px 5px;">20</div> <div style="text-align: left; margin-left: 5px;">NUMBER OF PROPERTY OWNERS NOTIFIED</div> </div>	<p>Map no: <u> H-8 </u></p> <p>Case no: <u> BDA101-109 </u></p>
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DATE: October 27, 2011

Notification List of Property Owners

BDA101-109

20 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5706 MOCKINGBIRD LN	THORNE ELIZABETH ORAM TR & ROBBYE JEANNE
2	5700 WINTON ST	BLANCO RUBY A B T
3	5706 WINTON ST	BARROWS THOMAS H
4	5710 WINTON ST	LANDWEHR JENNIFER A
5	5716 WINTON ST	CEJKA DAVID C & BETTYE L
6	5726 WINTON ST	DUNCAN JOHN T III & KIMBERLY J
7	5722 WINTON ST	5722 WINTON LLC
8	5730 WINTON ST	HIATT AUSTIN SCOTT
9	5645 WINTON ST	LEETAN INC
10	5633 WINTON ST	HORTON THOMAS M
11	5644 WINTON ST	MORLEY DAVID & MICHEL
12	5636 WINTON ST	WOODWARD KIM M & LOIS N WOODWARD
13	5634 WINTON ST	LANE CATHERINE C
14	5742 MOCKINGBIRD LN	RHJ DALLAS I LLC
15	5720 MOCKINGBIRD LN	DALLAS LUBE VENTURE LLC
16	5720 MOCKINGBIRD LN	PIEDMONT MOCKINGBIRD PTNRS LP
17	5646 MOCKINGBIRD LN	MOCKINGBIRD FRONT 200 KNOX PLACE
18	5637 WINTON ST	MACKENZIE KEVIN C
19	5669 MOCKINGBIRD LN	EXXON CORP
20	5665 MOCKINGBIRDLN	KROGER CO THE

FILE NUMBER: BDA 101-119

BUILDING OFFICIAL'S REPORT:

Application of Sarah Griffis for a special exception to the fence height regulations at 13608 Knollwood Drive. This property is more fully described as Lot 1 in City Block 23/7497 and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct/maintain an 8 foot high fence in a required front yard, which will require a special exception of 4 feet.

LOCATION: 13608 Knollwood Drive

APPLICANT: Sarah Griffis

REQUEST:

- A special exception to the fence height regulations of 4' is requested in conjunction with maintaining a wood fence represented on submitted elevations as being from 7' 3" - 8' in height located in one of the site's two required front yards on a site developed with a single family home – Spring Grove Avenue. (No fence proposal is shown to be located in the site's Knollwood Drive required front yard).

STAFF RECOMMENDATION:

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

GENERAL FACTS:

- The Dallas Development Code provides for front yard provisions for residential districts, specifically stating that if a corner lot in a single family zoning district has two street frontages of unequal distance, the shorter frontage is governed by the front yard regulations, and the longer frontage is

governed by the side yard regulations. But the code continues to state that notwithstanding this provision, the continuity of the established setback along street frontage must be maintained.

- The subject site is a property zoned R-7.5(A) located at the north corner of Knollwood Drive and Spring Grove Avenue. The property has street frontages of unequal distances – the property’s frontage along Knollwood Drive is 100’; the property’s frontage along Spring Grove Avenue is 110’.
This site has two required front yards - a 30’ required front yard created by a platted building line along its shorter frontage (Knollwood Drive) and a 20’ required front yard (created by another platted building line) along its longer frontage (Spring Grove Avenue). Regardless of how the site’s Spring Grove Avenue frontage functions as a side yard on the property and is the longer of the property’s street frontages (which is typically deemed a side yard where a fence can be erected by right at 9’ in height), it is a front yard nonetheless in order to maintain continuity of the required front yards established by the lots northeast of the site fronting southeastward onto Spring Grove Avenue.
- The Dallas Development Code states that a person shall not erect or maintain a fence in a required yard more than 9’ above grade, and additionally states that in all residential districts except multifamily districts, a fence may not exceed 4’ above grade when located in the required front yard.
The applicant has submitted a site plan and elevation indicating that the proposal in the 20’ Spring Grove Avenue required front yard reaches a maximum height of 8’.
- The following additional information was gleaned from the submitted site plan:
 - The proposal located in the Spring Grove Avenue required front yard over 4’ in height is approximately 80’ in length parallel to the street and approximately 18’ in length *perpendicular* to Spring Grove Avenue on the north and south sides of the site in the required front yard.
 - The proposal is shown to be located 2’ from the site’s Spring Grove Avenue front property line or 18’ from the curb line.
- Three single family homes “front” to the existing fence on the subject site, none of which have fences in their front yards.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences above four (4) feet high which appeared to be located in a front yard setback.
- The applicant submitted additional information beyond what was submitted with the original application (see Attachment A).

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-7.5(A) (Single family district 7,500 square feet)
<u>North:</u>	R-7.5(A) (Single family district 7,500 square feet)
<u>South:</u>	R-7.5(A) (SUP 499) (Single family district 7,500 square feet, Specific Use Permit)
<u>East:</u>	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 with a single family home. The areas to the north, east, and west are developed with single family uses; and the area to the south is developed as a public elementary school (Spring Valley Elementary School).

Zoning/BDA History:

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

Timeline:

August 24, 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 A.

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.

October 28, 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

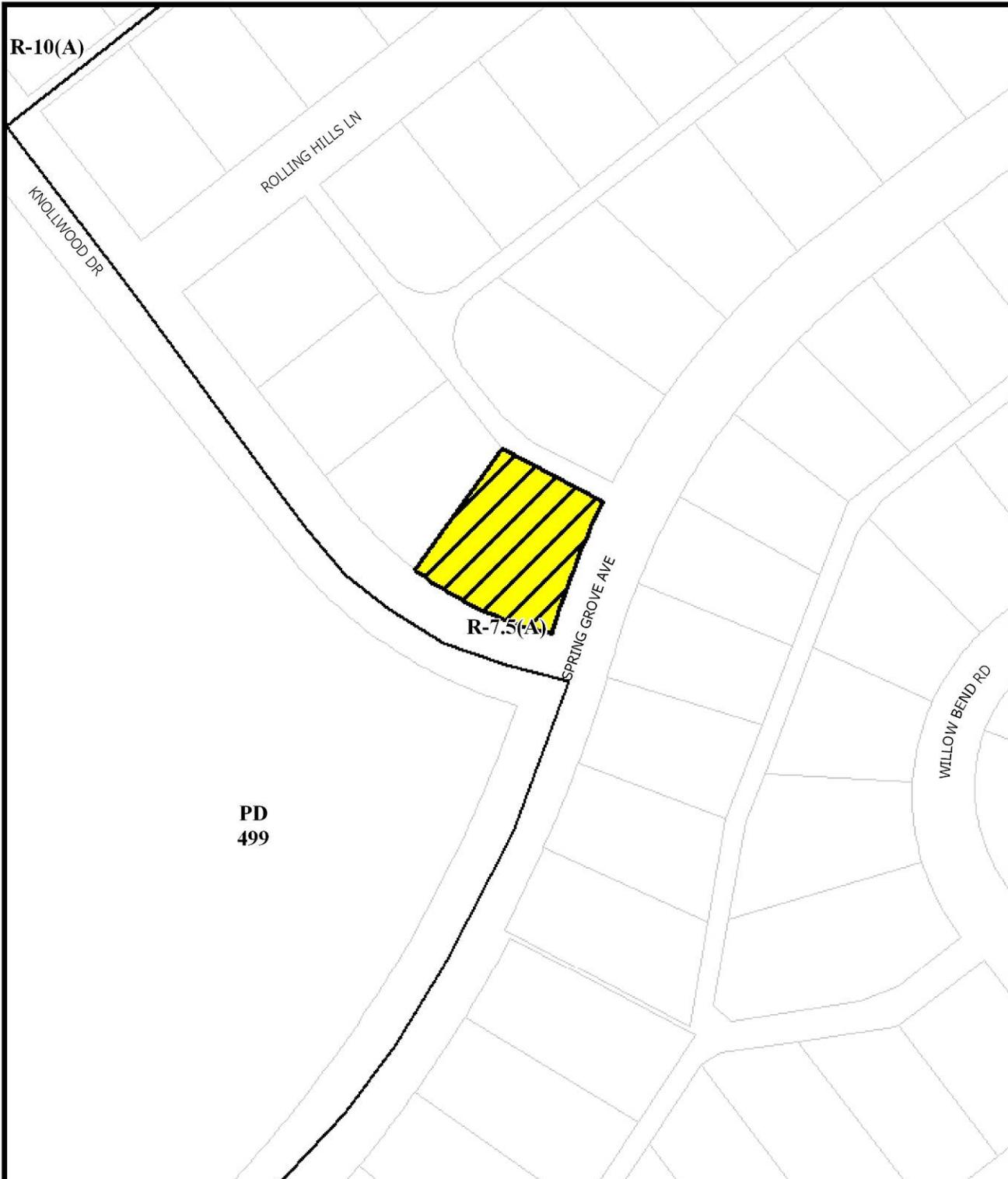
Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- This request focuses on maintaining 7' 3" – 8' high wood fence along Spring Grove Avenue - one of the site's two required front yards on a site developed with a single family home. (No fence proposal is shown to be located in the site's Knollwood Drive front yard setback).
- The subject site is a property zoned R-7.5(A) located at the north corner of Knollwood Drive and Spring Grove Avenue. The property has street frontages of unequal distances – the property's frontage along Knollwood Drive is 100'; the property's frontage along Spring Grove Avenue is 110'.
This site has two required front yards - a 30' required front yard created by a platted building line along its shorter frontage (Knollwood Drive) and a 20' required front yard (created by another platted building line) along its longer frontage (Spring Grove Avenue). Regardless of how the site's Spring Grove Avenue frontage functions as a side yard on the property and is the longer of the property's street frontages (which is typically deemed a side yard where a fence can be erected by right at 9' in height), it is a front yard nonetheless to maintain continuity of the required front yards established by the lots northeast of the site fronting southeastward onto Spring Grove Avenue.
- The submitted site plan and elevation documents the location, height, and material of the existing fence over 4' in height in the Spring Grove Avenue required front yard. The site plan shows the fence is approximately 80' in length parallel to Spring Grove Avenue and approximately 18' in length *perpendicular* to Spring Grove Avenue on the north and south sides of the site in the required front yard; and located approximately 2' from the site's Spring Grove Avenue front property line or about 18' from the curb line. The elevation shows that the existing fence to be 7' 3" – 8' in height. The site plan denotes that the fence is a "wood fence."
- Three single family homes "front" to the existing fence on the subject site, none of which have fences in their front yards.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences above four (4) feet high which appeared to be located in a front yard setback.
- As of November 7, 2011, a petition signed by 10 neighbors/owners had been submitted in support of the request and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4' (whereby the proposal/existing fence that reaches a maximum height of 8' in the site's Spring Grove Avenue required front yard) does not adversely affect neighboring property.

- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted site plan and elevation would assure that the proposal/existing fence exceeding 4' in height in the Spring Avenue required front yard would be maintained in the location and of the height and material as shown on these documents.



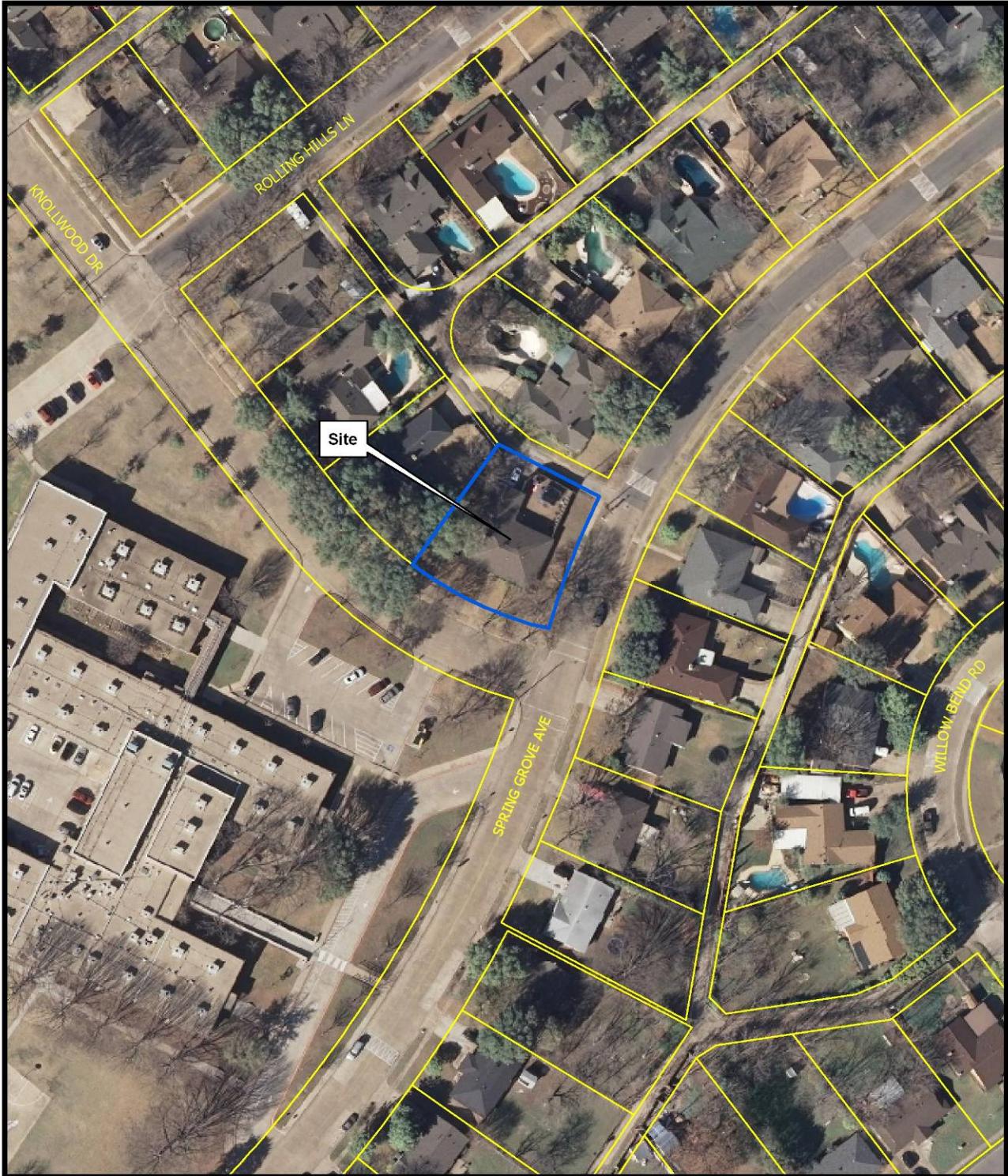
1:1,200

ZONING MAP

Map no: C-8

Case no: BDA101-119

DATE: October 27, 2011



1:1,200

AERIAL MAP

Map no: C-8

Case no: BDA101-119

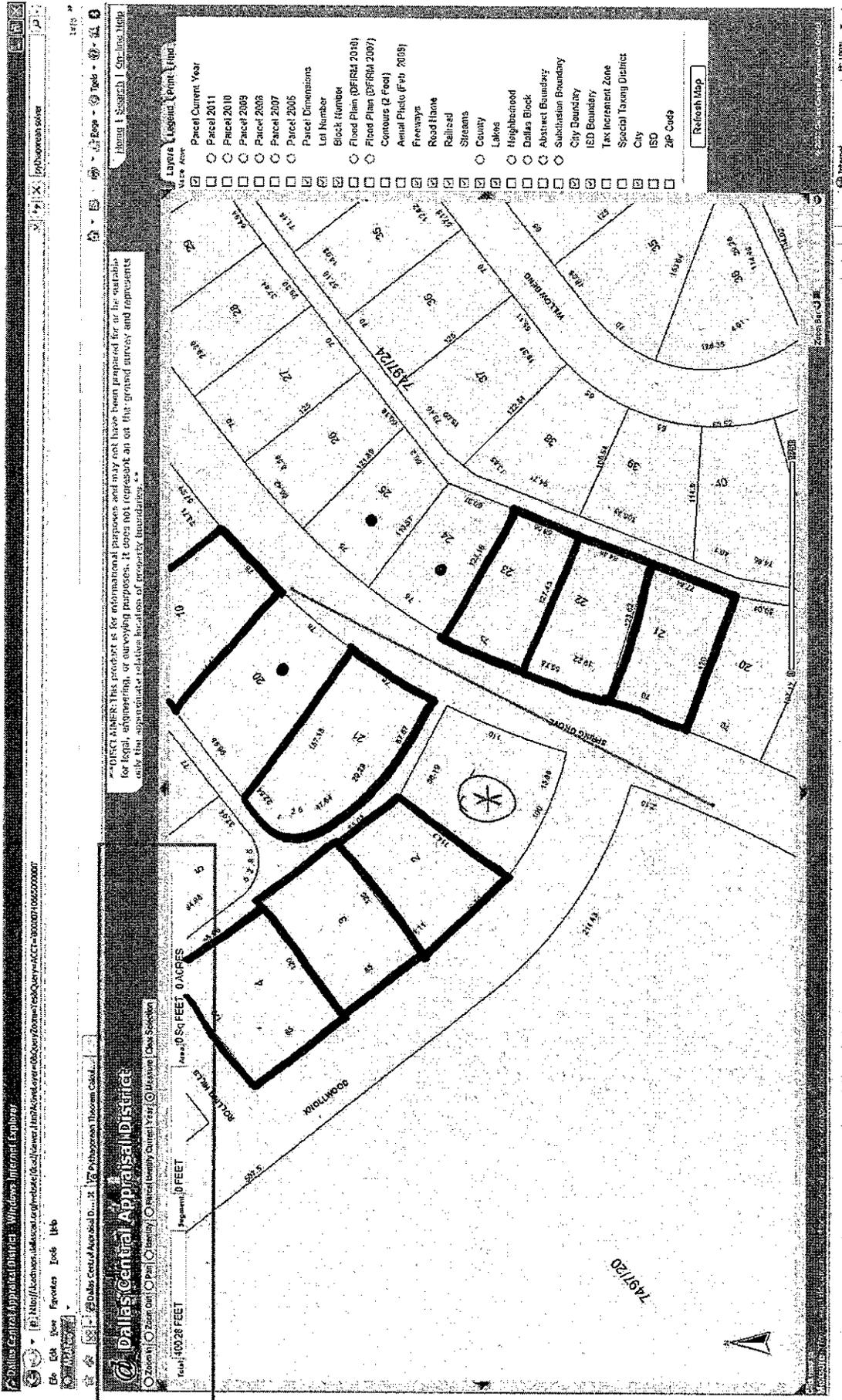
DATE: October 27, 2011

Petition for Fence

BDA101-119
 Attach A
 P. 01

<p>Petitioning</p>	<p>City of Dallas, Board of Adjustments</p> <p>To provide a safe play area for their children, improve security, and enhance the look of their home & neighborhood, Sarah and Troy Griffis hired a professional fence company to install a new wooden fence.</p> <p>The new wooden fence replaced a prior 8' high fence that was dilapidated and falling. The new fence was extended to enclose the side yard of the home (facing Spring Grove Ave). The enclosure provides exceptional security and privacy for two (2) bedrooms and a living area; both bedrooms having large windows on the Spring Grove Ave side of the home. The enclosure also creates an aesthetically pleasing curb appeal along with a secure and intimate landscape.</p> <p>As part of the Griffis' contract, the fence company promised to complete all permitting needed. Sadly, after the fence was completed and money paid, Sarah and Troy would find out that the fence company were dishonest and did not obtain the permit they claimed they had.</p> <p>Weeks after the new fence was completed, the City of Dallas informed the Griffis' that the side yard of the house facing Spring Grove Ave is considered a "Front Yard". A front yard fence may only be 4 feet in height; however, the newly installed fence is 8 feet in height.</p> <p>The City of Dallas will waive the height restriction, such that the fence is shown not to be an impairment or blight to the nearby neighbors.</p>
<p>Action petitioned for</p>	<p>We, the undersigned, are concerned citizens and neighbors that live within 200 feet of Sarah and Troy Griffis, who reside at 13608 Knollwood Drive, Dallas, TX, 75240.</p> <p>We, the undersigned, urge the members of the Planning and Zoning Commission to waive the height restriction and all penalties associated with the newly installed fence at 13608 Knollwood Drive, Dallas, TX, 75240.</p>

Printed Name	Signature	Address	Comment	Date
Matt Hawener	<i>[Signature]</i>	13614 Knollwood Dr	Looks good	9/22
JOE BARNES	Joe A. Barnes	13626 Knollwood Dr	Looks Great	9/22
RAY BARNES	<i>[Signature]</i>	13610 SPRINGDALE	BEAUTIFUL FENCE	9/22
Angie Pearce	Angie Pearce	13505 Spring Grove	Lovely fence	9/22
Jorge Martinez	Jorge Martinez	13606 Spring Grove Ave	it looks good	9/22
Maria D M ARENAS	Maria D M Arenas	13606 Spring Grove Ave	I like it	9/22
Ernest Nidsen	Ernest Nidsen	13552 Spring Grove	I like it	9/23
REN SELNER	<i>[Signature]</i>	13670 Knollwood Dr	I'm serious! FENCE	9/23
Lidia Gonzalez Welch	<i>[Signature]</i>	13615 Spring Grove Ave	looks great	10/3
DAVID SMITH	David Smith	13625 Spring Grove Ave	looks great	10/4



- (*) : Address 13608 Knollwood Drive, fence property
- : Neighbors who have signed petition
- : Neighbors will are continuing to try to speak with regarding fence but who have been unreachable

October 26, 2011

RE: Explanation of Built Fence at Address 13608 Knollwood Dr.

Dear Members of the City of Dallas Board of Appeals:

Thank you for hearing our case regarding the new fence built at our home. We would like to take this opportunity to share some back ground about our property, the new fence, and us.

My husband and I purchased our home in 2010. During the closing process on the property we enjoyed daydreaming of ways to fix up the house that we plan to raise a family in. One of the biggest sore spots to the home was the outside. The landscaping had been severely neglected, the yard had poor drainage, the back yard had no grass growing, and the 8' fence was old, falling, and dilapidated. This scene was a far cry from the play area we dreamt about for our kids.

In an effort to beautify our neighborhood and create a safe and secure play area for our children, we began interviewing landscape companies. After six months of researching and interviewing potential contractors we choose two; one to manage the groundwork and irrigation, the other to install a fence. We believed both companies to be trustworthy and fair. Shortly thereafter the work commenced in July 2011.

A few weeks after the entire project was complete, we received notice that a permit was not pulled for the new fence. We were shocked. Before the job started the fence company assured us that all permits would be obtained and that the price associated with the permitting was included in the total price.

After visiting with our surrounding neighbors, each one of them signed a petition of support on our behalf. We love the peace and privacy that the new fence provides; from the new play area for the kids to the simple freedom to finally leave our bedroom windows open. We hope that you will take both our neighbors and our own sentiments into consideration and allow us to keep the new fence as-is.

Respectfully,

Sarah Griffis



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-119

Data Relative to Subject Property:

Date: 8/24/11

Location address: 13608 Knollwood Drive Zoning District: R-7.5 (A)

Lot No.: 1 Block No.: 23/7497 L#1 Acreage: 11,531.0000²⁶ sq-ft. Census Tract: 136.10

Street Frontage (in Feet): 1) 114 ft 2) 110' 3) 4) 5) NEAR

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Troy J. Griffis, Sarah M. Griffis

Applicant: Sarah Griffis Telephone: 209-329-1017 cell

Mailing Address: 13608 Knollwood Drive Zip Code: 75240

E-mail Address: smlapachet@gmail.com

Represented by: Sarah Griffis Telephone: 209-329-1017 cell

Mailing Address: 13608 Knollwood Drive Zip Code: 75240

E-mail Address: smlapachet@gmail.com

Affirm that an appeal has been made for a Variance, or Special Exception X, of fence height in a required front yard set back of 4 feet

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

Because the fence height will not adversely affect the neighbors as it adds aesthetically to the neighborhood and will likely improve the property values of surrounding homes.

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

Affidavit

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

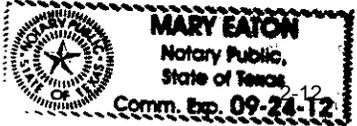
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: Sarah Griffis (Affiant/Applicant's signature)

Subscribed and sworn to before me this 24th day of August, 2011

Mary Eaton Notary Public in and for Dallas County, Texas

(Rev. 08-01-11)



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

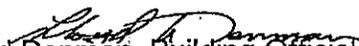
I hereby certify that SARAH GRIFFIS

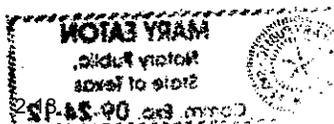
did submit a request for a special exception to the fence height regulations

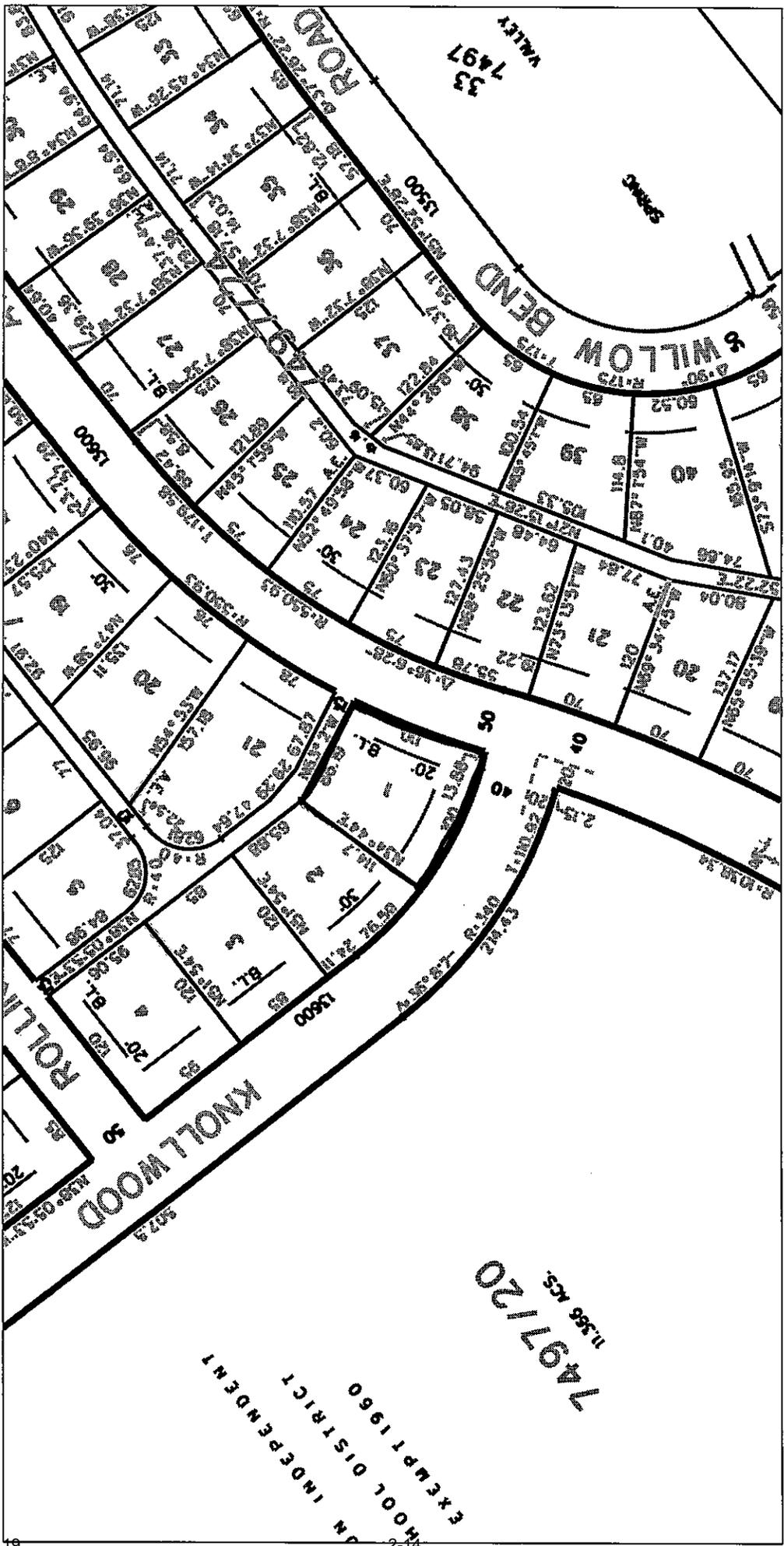
at 13608 Knollwood Drive

BDA101-119. Application of Sarah Griffis for a special exception to the fence height regulations at 13608 Knollwood Drive. This property is more fully described as lot 1 in city block 23/7497 and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulation.

Sincerely,


Lloyd Denman, Building Official



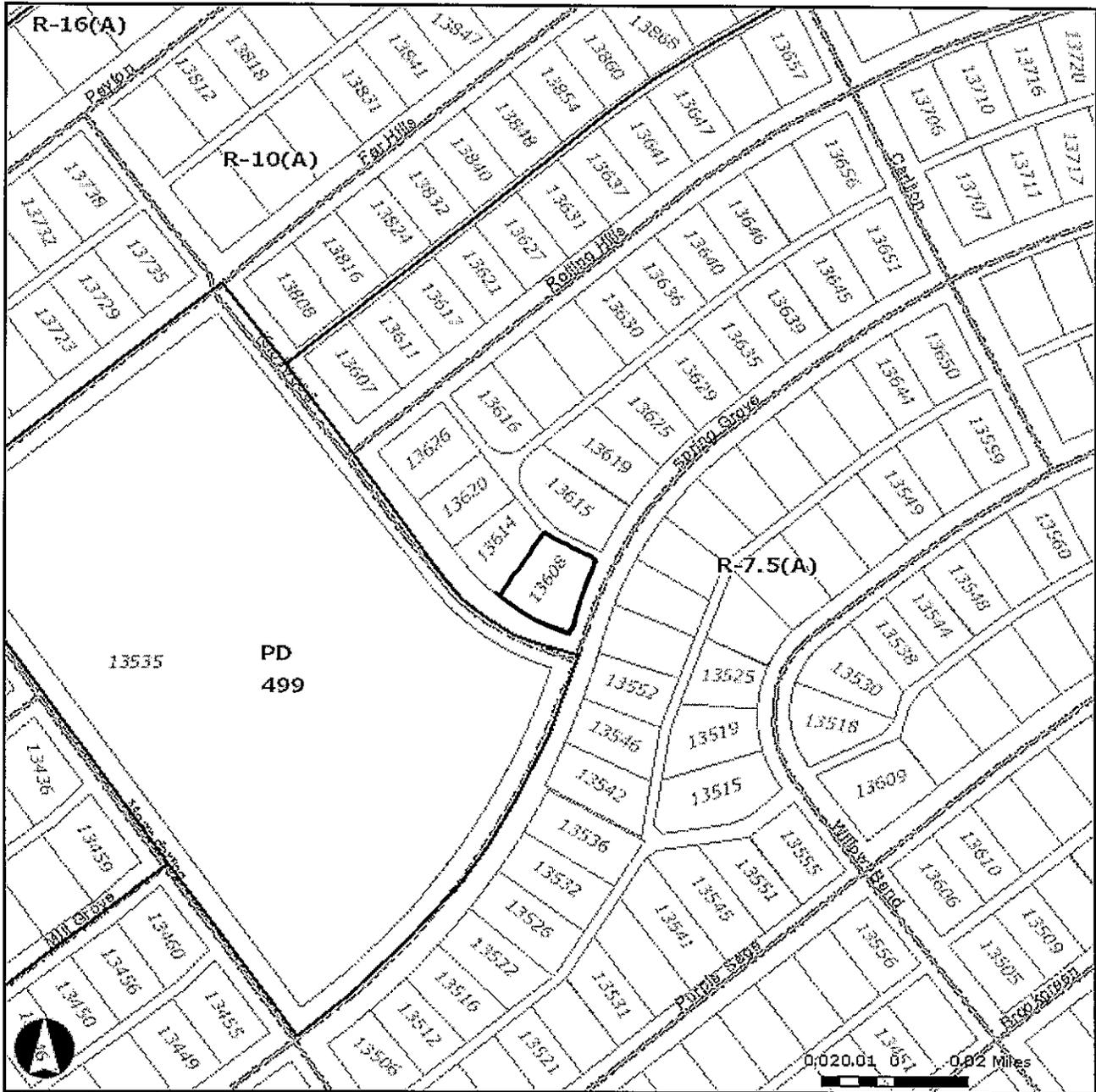


smj

7497/20
11.366 ACS.

EXEMPT 1980
INDEPENDENT

City of Dallas Zoning



City Boundaries

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

Dry Overlay

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

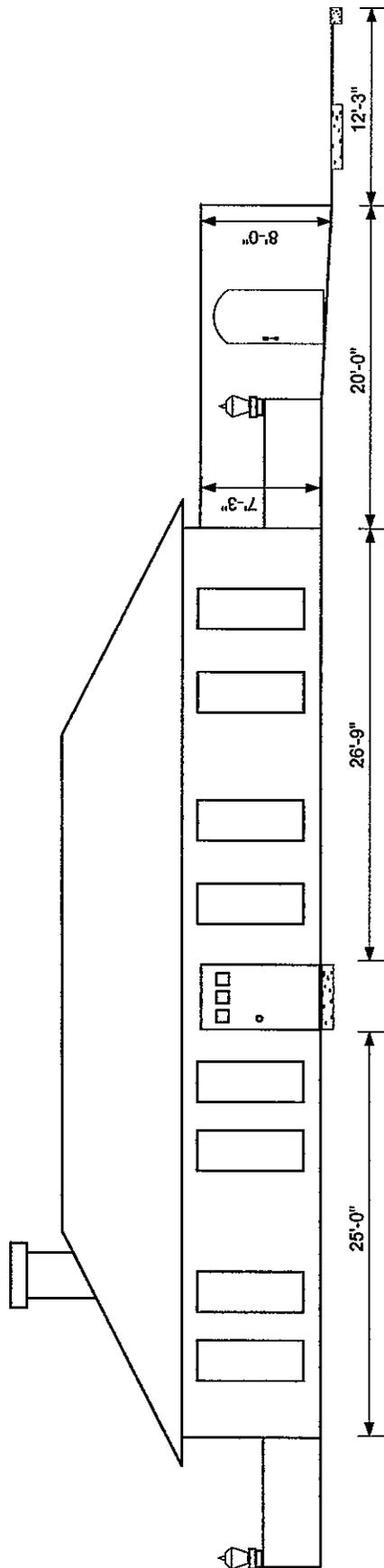
Smg

Base Zoning

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

13608 Knollwood Drive, Dallas, TX, 75240

Front of Home – Knollwood Drive Elevation

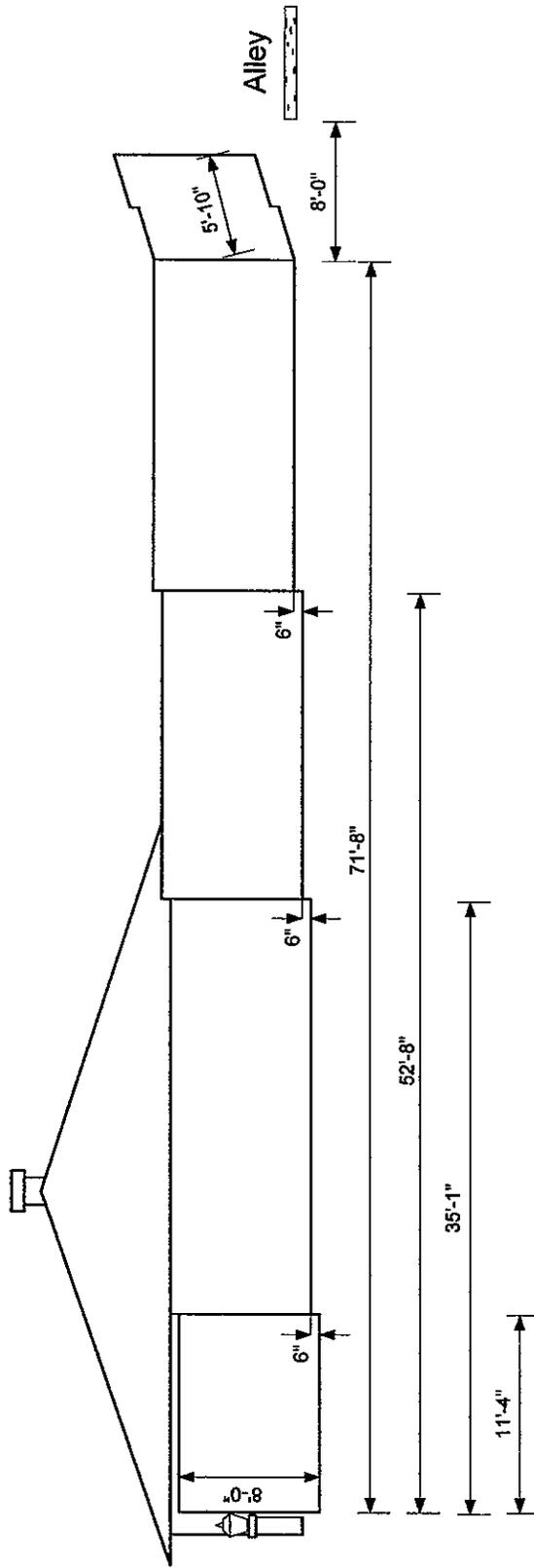


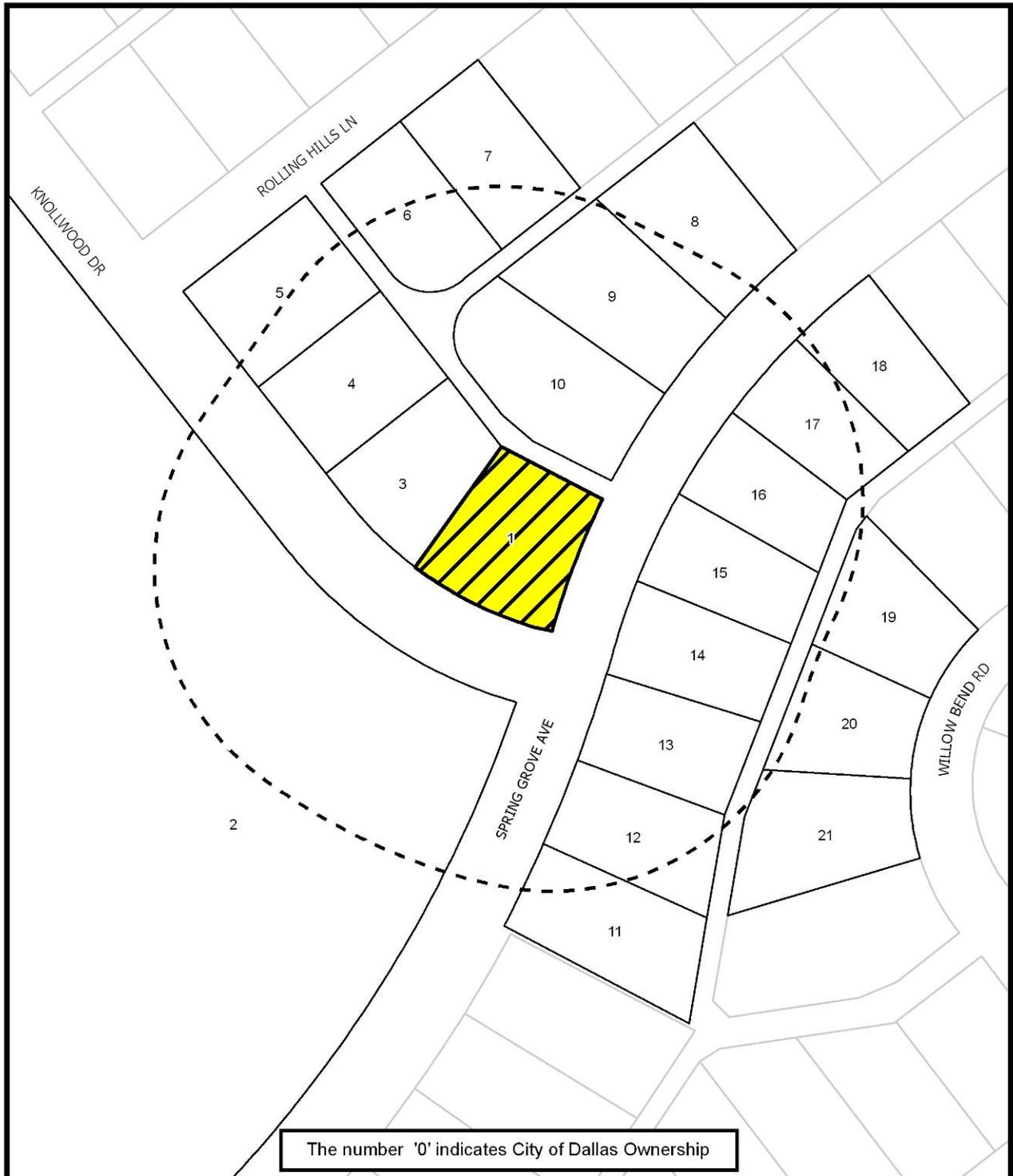
Scale: 1" = 10'

North arrow pointing towards the top right of the page.

13608 Knollwood Drive, Dallas, TX, 75240

Side of Home – Spring Grove Drive Elevation





1:1,200

NOTIFICATION

- 200' AREA OF NOTIFICATION
- 21 NUMBER OF PROPERTY OWNERS NOTIFIED

Map no: C-8
 Case no: BDA101-119

DATE: October 27, 2011

Notification List of Property Owners

BDA101-119

21 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	13608 KNOLLWOOD DR	GRIFFIS TROY J & SARAH M
2	13535 SPRING GROVE AVE	RICHARDSON I S D
3	13614 KNOLLWOOD DR	HAVENER MATTHEW & CHRISTINE A
4	13620 KNOLLWOOD DR	STEINER RON E & MELISSA G
5	13626 KNOLLWOOD DR	BALLAS JOE A
6	13616 ROLLING HILLS LN	TWO MICKEYS INC
7	13620 ROLLING HILLS LN	WICHMAN L W & GENE TRUST
8	13625 SPRING GROVE AVE	HOLOMON EDGAR E JR
9	13619 SPRING GROVE AVE	DECKER THOMAS & MIRIAM
10	13615 SPRING GROVE AVE	SHOREBIRD ENTERPRISES LLC
11	13542 SPRING GROVE AVE	A GONZALEZ INVESTMENTS LTD
12	13546 SPRING GROVE AVE	DE LA CRUZ MARTIN & NORMA R DE LA CRUZ
13	13552 SPRING GROVE AVE	NIELSEN ERNEST & MAYELA G NEILSEN
14	13606 SPRING GROVE AVE	MARTINEZ JORGE & JORGE PEREZ
15	13610 SPRING GROVE AVE	PEARCE LAWRENCE RAY & ANGELA N
16	13616 SPRING GROVE AVE	GOMEZ ELIZABETH C &
17	13620 SPRING GROVE AVE	WILSON KENT E & ASHLEY R GATLIN
18	13626 SPRING GROVE AVE	NKWOCHA ANNA & CLEMENT NKWOCHA
19	13529 WILLOW BEND RD	SHATLEY JAMES A
20	13525 WILLOW BEND RD	WITHERSPOON NORTHWESTON & LOIS B
21	13519 WILLOW BEND RD	PEREZ GUSTAVO