

NOTICE FOR POSTING
MEETING OF
BOARD OF ADJUSTMENT, PANEL C
MONDAY, DECEMBER 13, 2021

BRIEFING: 11:00 a.m. via **Videoconference and** in **6ES**, Dallas City Hall, 1500 Marilla Street

HEARING: 1:00 p.m. via **Videoconference and** in **6ES**, Dallas City Hall, 1500 Marilla Street

* The Board of Adjustment hearing will be held by videoconference and in 6ES at City Hall. Individuals who wish to speak in accordance with the Board of Adjustment Rules of Procedure **by joining the meeting virtually**, should register online at <https://form.jotform.com/210907944450153> or contact the Planning and Urban Design Department at 214-670-4209 **by the close of business Friday, December 10, 2021. All virtual speakers will be required to show their video in order to address the board.** The public is encouraged to attend the meeting virtually, however, City Hall is available for those wishing to attend the meeting in person following all current pandemic-related public health protocols. Public Affairs and Outreach will also stream the public hearing on Spectrum Cable Channel 96 or 99; and bit.ly/cityofdallastv or [YouTube.com/CityofDallasCityHall](https://www.youtube.com/CityofDallasCityHall), and the WebEx link: <https://bit.ly/BDA121321>

Purpose: To take action on the attached agenda, which contains the following:

1. Board of Adjustment appeals of cases the Building Official has denied.
2. And any other business which may come before this body and is listed on the agenda.

Handgun Prohibition Notice for Meetings of Governmental Entities

"Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun."

"De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola oculta."

"Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly."

"De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola a la vista."

UNCONTESTED CASE(S)

BDA201-114(JM)	1921 Greenville Ave. Ste. 200 REQUEST: Application of Rob Baldwin of Baldwin Associates to restore lost delta credits.	1
BDA201-115(PD)	901 Elsbeth St. REQUEST: Application of Aaron Galvan for a variance to the side yard setback regulations	2
BDA201-117(PD)	6664 Santa Anita Dr. REQUEST: Application of Daniel Simone for a special exception to the single-family regulations, and for a variance to the floor area ratio regulations	3
BDA201-118(PD)	8115 San Benito Way REQUEST: Application of Rob Baldwin of Baldwin Associates for a special exception for tree preservation to the side yard setback regulations	4
BDA201-119(PD)	5302 Belmont Ave. REQUEST: Application of Rob Baldwin of Baldwin Associates for a variance to the front yard setback regulations	5

REGULAR CASES

BDA201-116(PD)	3925/27 Prescott Ave. REQUEST: Application of Dustin Lauderdale for a variance to the side yard setback regulations	6
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HOLDOVERS

None.

EXECUTIVE SESSION NOTICE

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

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

FILE NUMBER: BDA201-114(JM)

BUILDING OFFICIAL'S REPORT: Application of Rob Baldwin of Baldwin Associates to restore lost delta credits at 1921 Greenville Avenue Ste. 200. This property is more fully described as Lot 18 and part of Lot 19, Block C/1983, and is zoned Planned Development District No. 842 with an MD-1 Modified Delta No. 1 Overlay, in which the right to nonconforming delta parking credits is lost if the use is vacant for 12 months or more. The Board may grant a special exception to this provision only if the owner can demonstrate there was not an intent to abandon the use. The applicant proposes to restore the lost delta credits.

LOCATION: 1921 Greenville Avenue, Suite 200

APPLICANT: Rob Baldwin of Baldwin Associates

REQUEST:

A request for a special exception to the Modified Delta Overlay District No. 1 regulations to carry forward nonconforming parking spaces under the delta theory that were terminated since the personal service uses on the site was discontinued or remained vacant for 12 months or more is made in order for the applicant to obtain a Certificate of Occupancy for an office use in two vacant suites (upper units) in a commercial structure.

STANDARD FOR SPECIAL EXCEPTION TO THE MODIFIED DELTA OVERLAY DISTRICT No. 1 REGULATIONS TO CARRY FORWARD NONCONFORMING PARKING AND LOADING SPACES UNDER THE DELTA THEORY WHEN A USE IS DISCONTINUED OR REMAINS VACANT FOR 12 MONTHS OR MORE:

The Modified Delta Overlay District No. 1 states that the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include *but not be limited* to the following:

1. A decline in the rental rates for the area which has affected the rental market.
2. An unusual increase in the vacancy rates for the area which has affected the rental market.
3. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

STAFF RECOMMENDATION:

Approval

Rationale:

- Staff concluded that the applicant had demonstrated that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of the following extreme circumstances:

The applicant documented how the suites remained occupied despite tenants failing to apply for change of owner/tenant COs through evidence provided including contracts/lease and termination documents and utility bills.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 842 with MD Overlay District No. 1
North: PD No. 842 with MD Overlay District No. 1
South: PD No. 842 with MD Overlay District No. 1
East: PD No. 842 with MD Overlay District No. 1
West: PD No. 842 with MD Overlay District No. 1

Land Use:

The subject site is developed with a commercial structure. The areas to the north, east, and south, are developed with commercial uses; and the area to the west is developed with surface parking.

Zoning/BDA History:

While there have been two BDA cases and no relevant zoning cases within the area in the last five years.

1. **BDA178-009:** On Wednesday, January 17, 2018, Panel B of the Board of Adjustment approved a special exception to reinstate delta credits at 1917 Greenville Avenue (south of the subject site).
2. **BDA190-025:** On Tuesday, February 15, 2020, Panel A of the Board of Adjustment approved a front yard variance request at 2026 Greenville Avenue (east of the subject site).

GENERAL FACTS/STAFF ANALYSIS:

This request focuses on carrying forward nonconforming parking spaces under the delta theory terminated because a part of the structure/use on the site was discontinued or remained vacant for 12 months or more. Reinstating the delta credits would allow for the applicant to obtain a Certificate of Occupancy for an office use proposed in the two

upstairs suites. The delta credits are currently in question due to the period of vacancy discovered since the prior tenant.

The subject site is zoned Planned Development District No. 842 with Modified Delta Overlay District No.1. According to DCAD, the property at 3016 Greenville Avenue is developed with a “retail strip” with over 12,210 square feet of floor area built in 1930.

The Dallas Development Code provides the following relating to nonconformity of parking or loading:

- Increased requirements. A person shall not change a use that is nonconforming as to parking or loading to another use requiring more off-street parking or loading unless the additional off-street parking and loading spaces are provided.
- Delta theory. In calculating required off-street parking or loading, the number of nonconforming parking or loading spaces may be carried forward when the use is converted or expanded. Nonconforming rights as to parking or loading are defined in the following manner: required parking or loading spaces for existing use minus the number of existing parking or loading spaces for existing use equals nonconforming rights as to parking or loading.
- Decreased requirements. When a use is converted to a new use having less parking or loading requirement, the rights to any portion of the nonconforming parking or loading that are not needed to meet the new requirements are lost.

In 1987, the City Council created “Modified Delta Overlay Districts” in those areas where it has determined that a continued operation of the delta theory is not justified because there is no longer a need to encourage redevelopment and adaptive reuse of existing structures, or a continued application of the delta theory will create traffic congestion and public safety problems and would not be in the public interest.

In a modified delta overlay district, the city council may limit the number of percentages of nonconforming parking or loading spaces that may be carried forward by a use under the delta theory. An ordinance establishing a modified delta overlay district may not increase the number of nonconforming parking or loading spaces that may be carried forward under the delta theory when a use is converted or expanded.

An ordinance establishing a modified delta overlay district must provide that when a use located in the district is converted to a new use having less parking or loading requirements, the rights to **any portion** of the nonconforming parking or loading **not needed** to meet the new requirements **are lost**.

An ordinance establishing a modified delta overlay district may provide that rights under the delta theory terminate when a use for which the delta theory has been applied is discontinued.

In 1987, the City Council established Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:

- That no nonconforming parking spaces may be carried forward by a use under the delta theory when a use in the Community Retail District with an MD Overlay District No. 1a is expanded.

In 1995, the City Council amended Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:

- The right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:
 1. A decline in the rental rates for the area which has affected the rental market.
 2. An unusual increase in the vacancy rates for the area which has affected the rental market.
 3. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

Per DCAD, the property contains a two-story retail strip with over 13,500 square feet of floor area constructed in 1924 with a portion of the top story containing 1,650 square feet constructed in 1933. The site is situated on the west side of Greenville Avenue, south of Sears Street. The retail strip accommodates six suites with a variety of retail and personal service uses. The applicant proposes to operate an office use within 1921 Greenville Suite 200, the entire upstairs portion of the structure.

If the board were to grant the special exception to reinstate the delta credits, no specific number of credits shall be indicated. The credits will be determined during the permitting process through the Development Services Department.

Timeline:

October 4, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

November 12, 2021: The Board Administrator assigned this case to Board of Adjustment Panel B.

November 23, 2021: The Board Administrator emailed the applicant’s representative 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 and the following information:

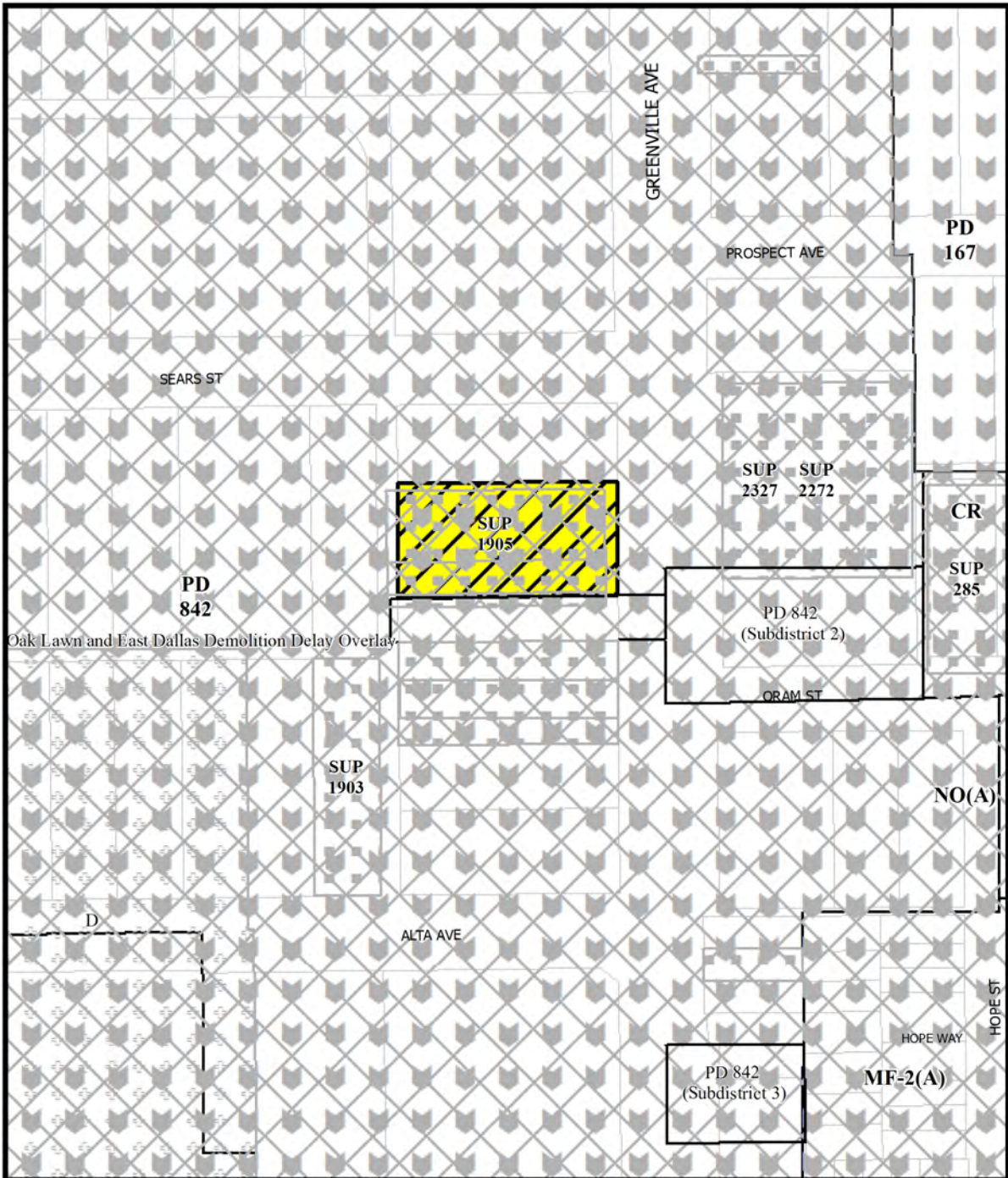
- a copy of the application materials including the Building Official's report on the application.
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

November 23, 2021: The applicant submitted additional information to staff beyond what was submitted with the original application (**Attachment A**).

November 30, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearings. The review team members in attendance included the Planning and Urban Design: Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Development Services Senior Plans Examiner/Development Code Specialist, Senior Engineer, the Board of Adjustment Senior Planner, the and the Assistant City Attorney to the Board.

November 30, 2021: Additional evidence was submitted for consideration (**Attachment B**).

December 1, 2021: Additional evidence was submitted for consideration (**Attachment C**).

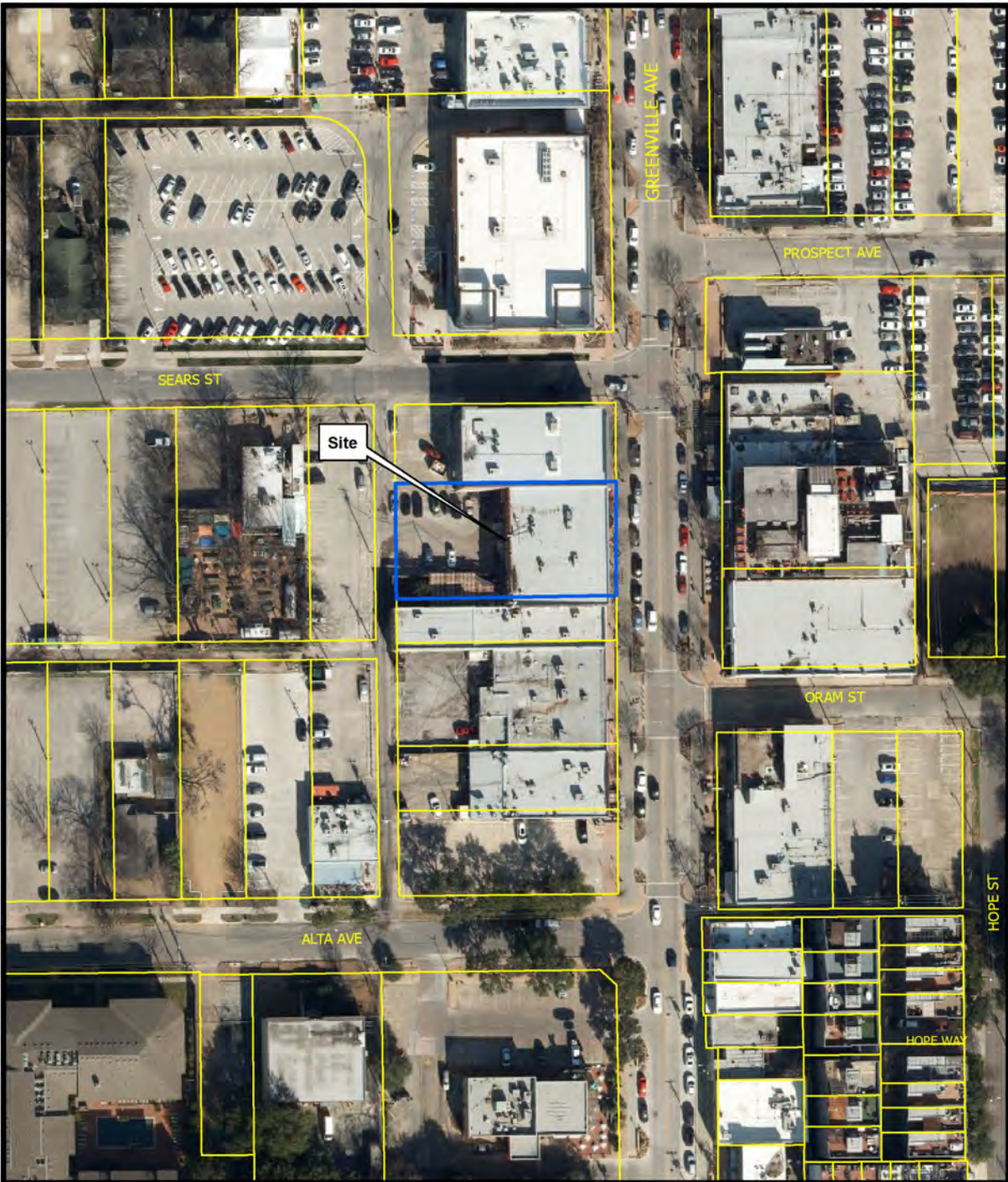


1:1,200

ZONING MAP

Case no: **BDA201-114**

Date: **11/22/2021**

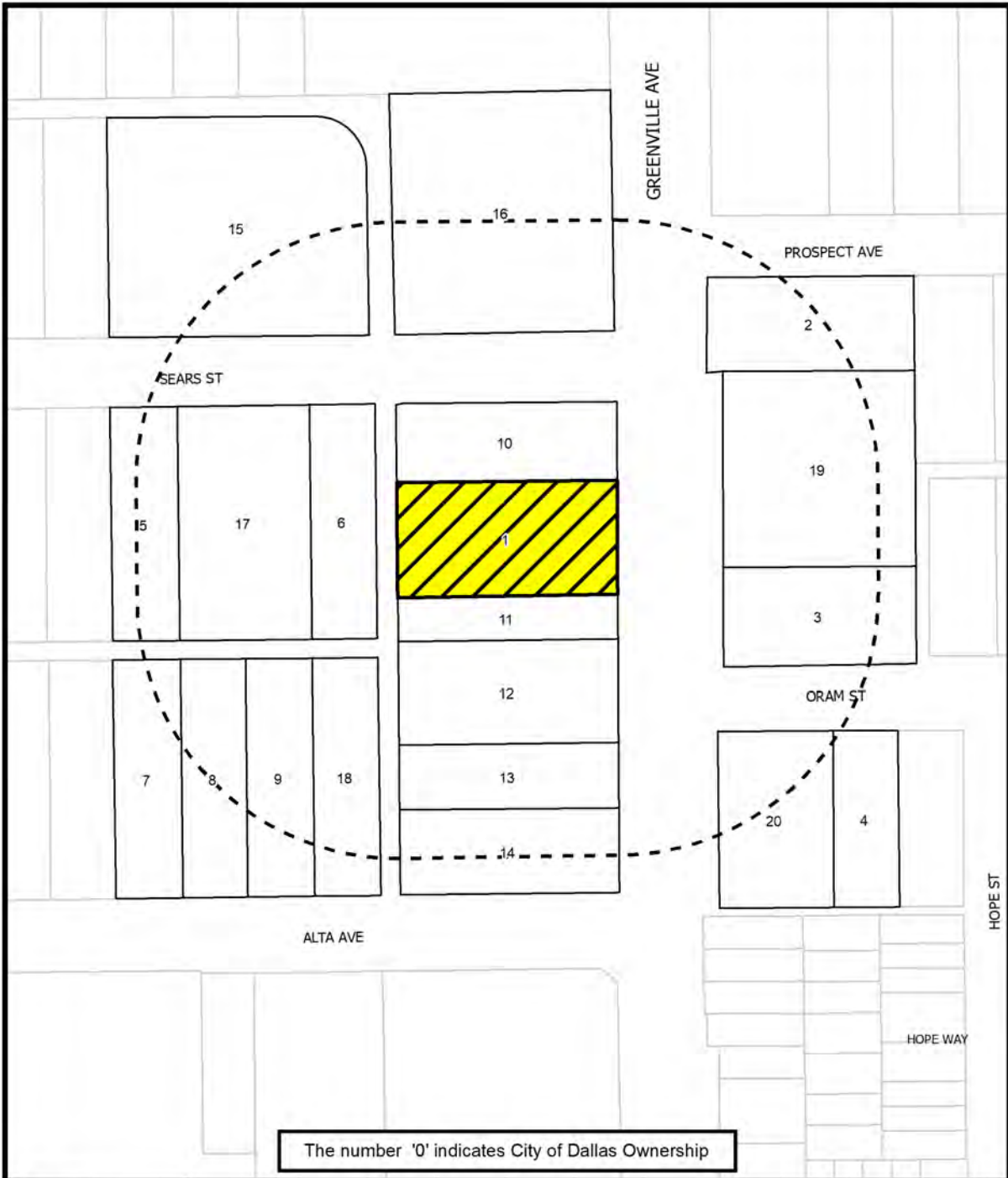


1:1,200

AERIAL MAP

Case no: BDA201-114

Date: 11/22/2021



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
20 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA201-114**
 Date: **11/22/2021**

11/22/2021

Notification List of Property Owners

BDA201-114

20 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1919 GREENVILLE AVE	1919 27 GREENVILLE LTD
2	2026 GREENVILLE AVE	ANDRES FAMILY TRUSTS THE
3	2000 GREENVILLE AVE	2000 GREENVILLE INVESTORS LLC
4	5710 ORAM ST	SOURIS GEORGIA REVOCABLE TRUST
5	5618 SEARS ST	GREENVILLE HOLDINGS CO
6	5628 SEARS ST	Taxpayer at
7	5619 ALTA AVE	THACKER RICHARD E JR
8	5623 ALTA AVE	GREENWAYSEARS LP
9	5627 ALTA AVE	Taxpayer at
10	1931 GREENVILLE AVE	GREENWAY SEARS LP
11	1917 GREENVILLE AVE	MEDICAPITAL INC
12	1911 GREENVILLE AVE	INTERCITY INVESTMENT PROP
13	1909 GREENVILLE AVE	WORLDWIDE FOOD INC
14	1903 GREENVILLE AVE	Taxpayer at
15	5623 SEARS ST	2001 GREENVILLE VENTURE LTD
16	2001 GREENVILLE AVE	2001 GREENVILLE VENTURE LTD
17	5622 SEARS ST	5624 SEARS STREET LTD
18	5631 ALTA AVE	Taxpayer at
19	2018 GREENVILLE AVE	Taxpayer at
20	1920 GREENVILLE AVE	Taxpayer at



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-114

Data Relative to Subject Property: 1921 Greenville Ste. 200 per 12-1-21 revised BO report--JM Date: 10-4-21

Location address: 1919 Greenville Ave Zoning District: PD 842 MD-1

Lot No.: 18 & Pt 19 Block No.: C/1983 Acreage: 0.34 acres Census Tract: 10.02

Street Frontage (in Feet): 1) 87 ft 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): 1919 27 GREENVILLE LTD

Applicant: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Represented by: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance __, or Special Exception __, of _____
Reinstate delta credits _____

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:
The suites at 1921 and 1921 1/2 Greenville Avenue have not ceased operation for more than 12 months; however, prior tenants did not receive proper Certificate of Occupancy (CO) for continuous legal use of these suites. Documentation is provided to show the suites continued operation within 12 months of the current CO application. The parking requirement will decrease as the CO requested will be for an office use (1:333 parking ratio) rather than personal service (1:200).

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

Affidavit

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

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

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

Subscribed and sworn to before me this 27 day of September, 2021



Michele Stoy
Notary Public in and for Dallas County, Texas



AFFIDAVIT

Appeal number: BDA 201-114

I, 1919 27 GREENVILLE LTD, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 1919 Greenville Avenue
(Address of property as stated on application)

Authorize: Rob Baldwin, Baldwin Associates
(Applicant's name as stated on application)

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

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

Specify: Reinstate delta credits in an MD-1 Overlay

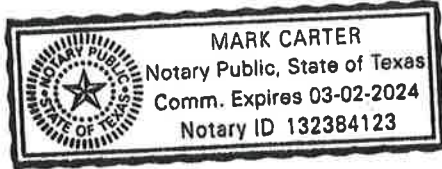
1919-27 Greenville, Ltd. - Jon Hetzel, Authorized Signatory
Print name of property owner or registered agent Signature of property owner or registered agent

Date 9/22/2021

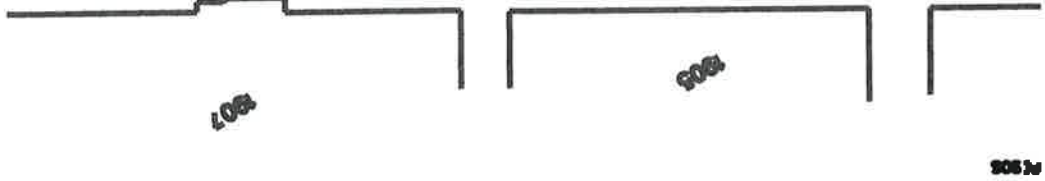
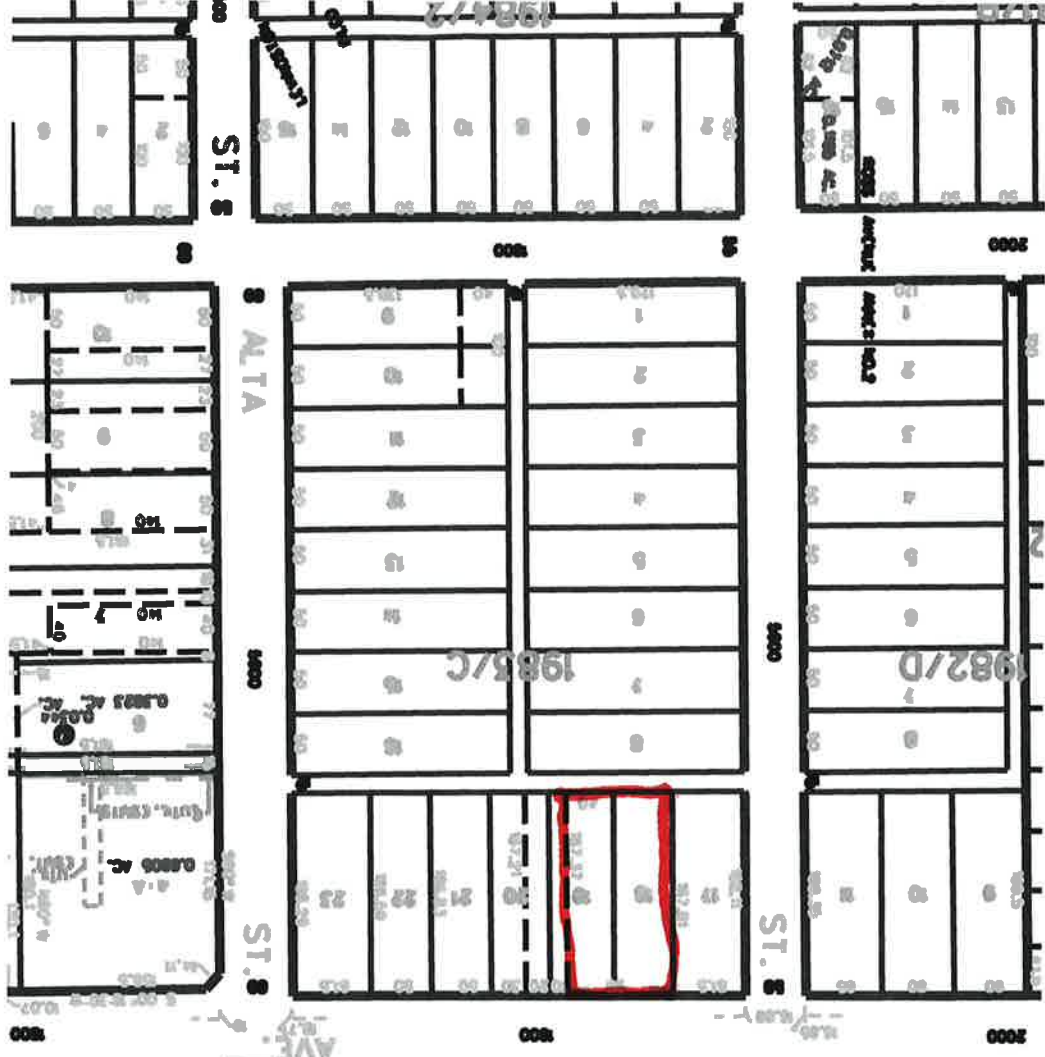
Before me, the undersigned, on this day personally appeared Jon Hetzel

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

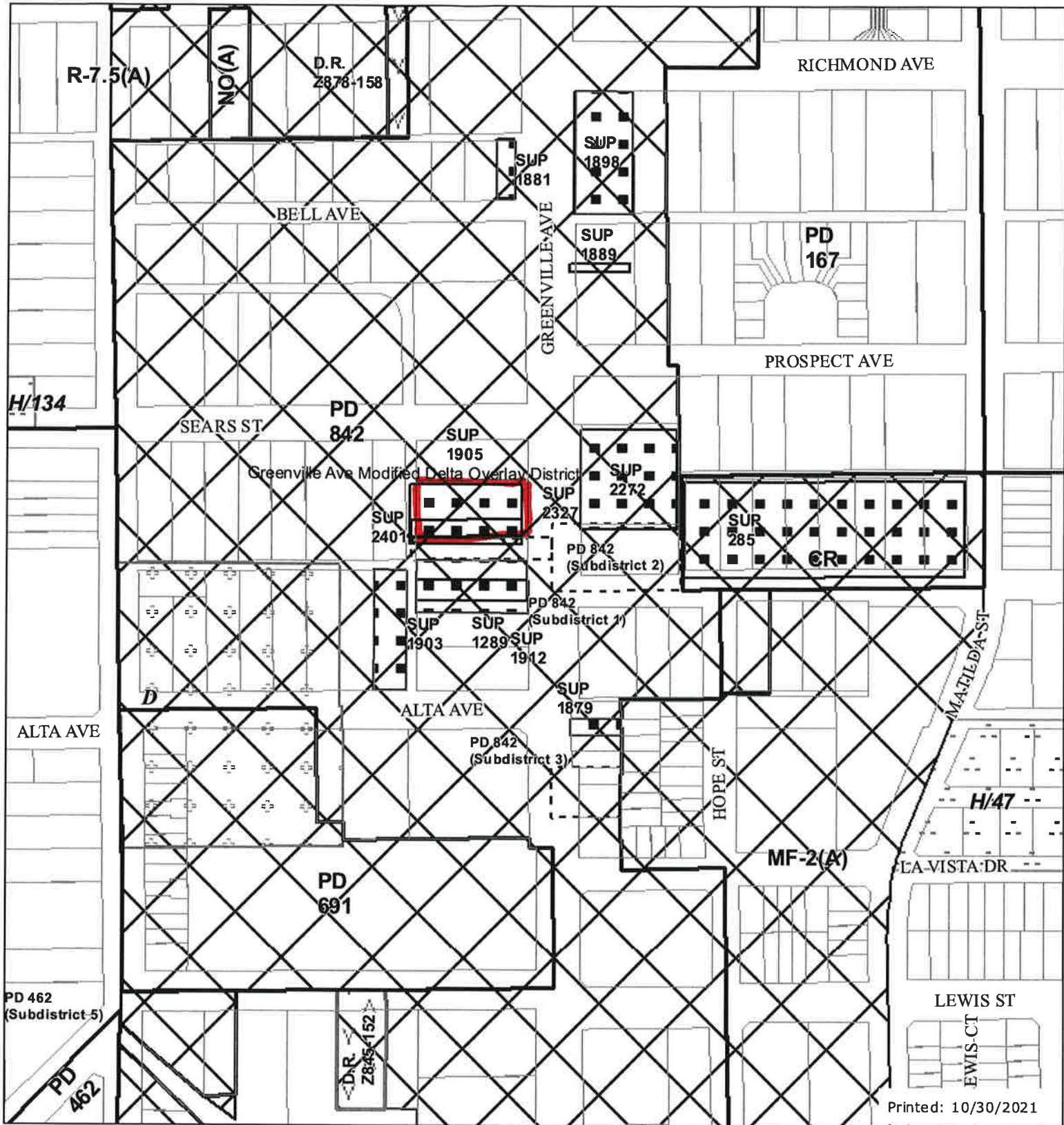
Subscribed and sworn to before me this 22nd day of September, 2021



[Signature]
Notary Public for Dallas County, Texas
Commission expires on 03/02/2024



CITY OF DALLAS PL
 ADDITION
 ORD. NO. _____
 ABST. 578
 SCALE 100 FT. EQUA



Legend

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

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



AFFIDAVIT FOR BUILDING PERMIT

THE STATE OF TEXAS)
)
COUNTY OF DALLAS)

BEFORE ME, the undersigned authority, this day personally appeared Sammy Mandell, who, under oath, deposes as follows:

"I am the owner of the Mandell Family Ventures, LLC which was a former tenant of 1921 Greenville Ave. 1/2.

My personal mailing address is: 8646 Daytonia Ave. Dallas, TX 75218

My personal telephone number is: 214-641-1712

My electronic mail address is: Sammy.J.mandell@gmail.com

I was a tenant of 1921 Greenville Ave. 1/2 until I moved out July 1, 2020. I took over the space immediately following it's use by the prior tenant in 2017 and the property was in use by my company continuously until we moved out.

I swear and affirm that the information provided here is true and correct."

Signature: [Handwritten Signature]

Print Name: Sammy Mandell

Title (if any): Owner

Business entity (if any): _____

SUBSCRIBED AND SWORN TO before me on this 6 day of August, 2020

K. Aeder
NOTARY PUBLIC, STATE OF TX.

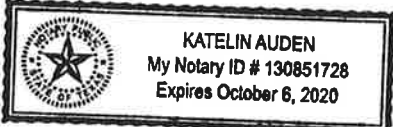


Exhibit A
Parking Analysis 1919-1927 Greenville;
Lots 18 & pt 19 of Block C/1983

Unit	1966 Parking Requirements				1984 Parking Requirements			
	Use	SF	Ratio	Reqd	Use	SF	Ratio	Reqd
1919	Retail	1,850	220	8.41	Restaurant	2,700	100	27.00
1921	Retail	1,475	220	6.70	Retail	1,475	220	6.70
1921 A	Retail	3,800	220	17.27	Personal Service	3,800	220	17.27
1921 B	Retail	2,900	220	13.18	Personal Service	2,900	220	13.18
1923	Retail	1,475	220	6.70	Retail	1,475	220	6.70
1925	Retail	938	220	4.26	Retail	938	220	4.26
1927	Retail	938	220	4.26	Retail	938	220	4.26
Total		13,376		60.8	(added patio)	14,226		79.39
		Total Required		61		Total Required		79
1966 Parking Provided				1984 Parking Provided				
		On Site Parking		0		On-site Parking		19
		Shared Parking		0		Remote parking agreement(s)		0
		Deltas (built before pkg reqmts)		61		Deltas		61
		Total Provided		61		Total Provided		80
		Net		0		Net		0

Unit	1987 Parking Requirements				2012 Parking Requirements			
	Use	SF	Ratio	Reqd	Use	SF	Ratio	Reqd
1919	Restaurant	2,700	100	27.00	Nonconforming ABE	2,700	100	27.00
1921	Retail	1,475	200	7.38	Retail	1,475	200	7.38
1921 A	Personal Service	3,800	200	19.00	Personal Service	3,800	200	19.00
1921 B	Personal Service	2,900	200	14.50	Personal Service	2,900	200	14.50
1923	Retail	1,475	200	7.38	Restaurant	1,475	100	14.75
1925	Retail	938	200	4.69	Retail	938	200	4.69
1927	Retail	938	200	4.69	Personal Service	938	200	4.69
Total		14,226		84.63		14,226		92.01
		Total Required		85		Total Required		92
2010 Parking Provided				2012 Parking Requirements				
		On-site Parking		19		On-site Parking		19
		Remote parking agreement(s)		0		Remote parking agreement(s)		14
		Deltas (gen. pkg. reqmts. inc.)		66		Deltas (converted 1923 to rest.)		59
		Total Provided		85		Total Provided		92
		Net		0		Net		0

Unit	2013 Parking Requirements					
	Use	SF	Ratio	Pr. Lic.	SF Ratio	Reqd
1919	Restaurant	2,600	100	300		300 27.00
1921	Retail	1,475	200	0		300 7.38
1921 A	Personal Service	3,800	200	0		300 19.00
1921 B	Personal Service	2,900	200	0		300 14.50
1923	Restaurant	1,475	100	0		300 14.75
1925	Retail	938	200	0		300 4.69
1927	Personal Service	938	200	0		300 4.69
Total		14,126		300		92.01
		Total Required				92
2013 Parking Requirements						
		On-site Parking				19
		Remote parking agreement(s)				14
		Deltas (converted 1923 to rest.)				59
		Total Provided				92
		Net				0



GREENVILLE AVENUE PIZZA
 1921 1/2 GREENVILLE LOCATION
 PO BOX 180327
 DALLAS TX 75218-0327

Page: 1 of 2
 Issue Date: Mar 28, 2020
 Account Number: 290954940

Sparks Fly Per. 5

Your bill is available online at att.com. You can also safely and conveniently make payments. Don't have an online account? Go to att.com to register for one.

Total due

\$111.85

AutoPay is scheduled for:
Apr 18, 2020

Account summary

Your last bill	\$111.85
Payment, Mar 21 - Thank you!	-\$111.85
Remaining balance	\$0.00

Service summary

Internet <i>Page 2</i>	\$111.85
Total services	\$111.85

Total due **\$111.85**

AutoPay is scheduled to debit your bank account on Apr 18, 2020

Ways to pay and manage your account:

myAT&T app
iPhone and Android

att.com/pay

Ordering, billing or support
800.321.2000
TTY: 800.651.5111



GREENVILLE AVENUE PIZZA
 1921 1/2 GREENVILLE LOCATION
 PO BOX 180327
 DALLAS TX 75218-0327

**AutoPay of \$111.85 is scheduled for
Apr 18, 2020**

Account number: 290954940

AT&T
 PO BOX 6014
 CAROL STREAM IL 60197-5014



410040330002909549408000000011185000000011185000009

Service activity

Internet

Monthly charges		Mar 29 - Apr 28
1. Internet 300M / 75M (Promotional Offer)		\$100.00
Surcharges & fees		
2. Cost Assessment Charge		\$5.25
3. State Cost-Recovery Fee		\$0.39
Government taxes & fees		
4. TX City District Sales Tax		\$0.75
5. TX Local Sales Tax		\$0.75
6. TX State Sales Tax		\$4.71
Total for Internet		\$111.85

Important information

Late payment charge

A late payment charge of \$9.25 will be assessed if payment is not received on or before the due date.

Electronic check conversion

Paying by check authorizes AT&T to use the information from your check to make a one-time electronic fund transfer from your account. Funds may be withdrawn from your account as soon as your payment is received. If we cannot process the transaction electronically, you authorize AT&T to present an image copy of your check for payment. Your original check will be destroyed once processed. If your check is returned unpaid you agree to pay such fees as identified in the terms and conditions of your agreement, up to \$30. Returned checks may be presented electronically. If you want to save time and stamps, sign up for AutoPay at att.com/autopay using your checking account. It's easy, secure, and convenient!

AT&T U-verseSM TV, AT&T Internet and AT&T Phone provided by AT&T Texas.

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Printed on Recyclable Paper

1074.017.184743.01.01.000000 NNNNNNNN 017645.017645



1074 17 810 184743 1 AV 0.308 8c
 GREENVILLE AVENUE PIZZA
 1921 1/2 GREENVILLE LOCATION
 PO BOX 180327
 DALLAS TX 75218-0327

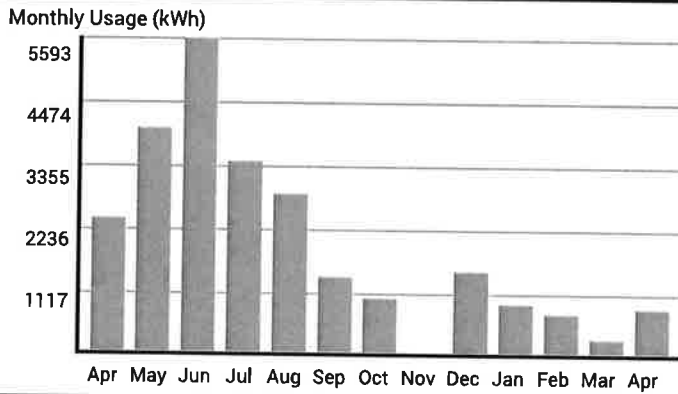


Invoice # 201540042282323
 Account # 1627394
 Invoice Date 06/02/20
 Due Date 06/22/20
 Page 1

CUSTOMER INFORMATION

Company: Extend Fitness Studio
 Billing Address: Extend Fitness Studio
 705 Southwynd St
 Mesquite, TX 75150

USAGE HISTORY



MESSAGE CENTER

INVOICE SUMMARY

Previous Balance	\$764.49
Payment Received	\$0.00
Total Balance Forward	\$764.49
Adjustments	\$0.00
Late Payment Charge	\$2.07
Current Usage Charges	\$195.17
Taxes	\$20.53
Total Current Charges	\$217.77
Amount Due By June 22, 2020	\$982.26

PAYMENT OPTIONS

- By web myaccount.directenergy.com
- By phone 888.925.9115
- By mail Remittance slip below

QUESTIONS?

- Visit Us myaccount.directenergy.com
- Call Us 888.925.9115
- Outages 1.888.313.4747

Detach here and return this portion with check or money order. Do not staple or fold.



1001 Liberty Avenue
 Pittsburgh, PA 15222

Invoice # 201540042282323
 Account # 1627394

Amount Due by June 22, 2020 \$982.26

Amount Enclosed

Please write your account number on your check or money order made payable to Direct Energy Business.

Please remit to



Direct Energy Business
 P.O. Box 660749
 Dallas, TX 75266

Extend Fitness Studio
 705 Southwynd St
 Mesquite, TX 75150

5000000000000000000016273942020062200000982264



Invoice # 201540042282323
Account # 1627394
Invoice Date 06/02/20
Due Date 06/22/20
Page 2

The average price you paid reflects the total of all fixed and variable recurring charges, but does not include state and local sales taxes, reimbursement for the state miscellaneous gross receipt tax, and any nonrecurring charges or credits, divided by the kilowatt-hour consumption. The amount billed may include price changes allowed by law or regulatory actions.

GENERAL INFORMATION

For questions or concerns relating to this bill, please call Direct Energy Business's Customer Relations Department at:

8 AM - 6 PM ET, Monday through Friday
myaccount.directenergy.com
Phone: 888.925.9115

If mailing correspondence, please forward to
Direct Energy Business
Attn: Customer Relations
1001 Liberty Avenue
Pittsburgh, PA 15222

Delivery problems such as power outages are typically due to problems with local distribution facilities. For service problems call the utility's 24-hour service center at: Oncor 1.888.313.4747.

According to the terms contained in your energy service agreement with Direct Energy, if you end your service prior to the end of your agreement term, you may be charged an early termination fee. Please refer to your energy service agreement for details.

In the event that the Term of your Agreement has expired, your account will be invoiced at a Market Variable Rate. This rate is subject to change monthly. Please refer to your agreement for additional information.

RIGHT TO FILE A PUC COMPLAINT: If you believe this bill contains any unauthorized charges, please contact Direct Energy Business Customer Relations at the information above. If, after contacting Customer Relations, you are not satisfied with the resolution, you have the right to file a complaint with Public Commission of Texas, P.O.Box 13326, Austin, TX 78711-3326, (512) 936-7120 or toll free in Texas at (888) 782-8477. Hearing and speech impaired individuals with text telephones (TTY) may contact the Commission at 1-866-787-9819.

Direct Energy Business - REP Certificate Number: 10011

For more information on terms and definitions found within this invoice, please visit us online at directenergybusiness.com/ or through MyAccount. If you would prefer to have a copy of invoice terms and definitions sent to you, please submit your request via phone at 1-888-925-9115.

Change of Address?

Please contact the Direct Energy Business Customer Relations team at:

Direct Energy Business
Attn: Customer Relations
1001 Liberty Avenue
Pittsburgh, PA 15222
Phone 1-888-925-9115

YOUR SERVICE CHARGES

1921 1/2 GREENVILLE AVE STE B, DALLAS TX
 EDC.# 10443720002590213 Store Number :
 PO #:

Direct Energy Business

Electric Service

Meter# 141016062LG			
Current meter read Actual-Total	May 28, 2020	11.45	
Previous read	April 29, 2020	0	
Current period consists of 29 days	Difference	<u>11.45</u>	
Meter Multiplier of 1 x Difference of 11.45 =			11 kW
PowerFactor = 0			
Current meter read Actual-Total	May 28, 2020	12,218	
Previous read	April 29, 2020	11,414	
Current period consists of 29 days	Difference	<u>804</u>	
Meter Multiplier of 1 x Difference of 804 =			804 kWh
PowerFactor = 0			

April 29, 2020 to May 28, 2020

Fixed Price - 804 kWh Total @ \$0.06345/kWh	\$51.01
City Sales Tax - 0% Exempt	\$0.52
Dallas Mta - 0% Exempt	\$0.52
Gross Receipts Reimb. - 0% Exempt	\$1.02
TX Puc Assessment - 0% Exempt	\$0.09
State Sales Tax - 0% Exempt	\$3.26
Current Actual Charges	\$56.42

Oncor

Electric Service

Meter# 141016062LG			
Current meter read Actual-Total	May 28, 2020	11.45	
Previous read	April 29, 2020	0	
Current period consists of 29 days	Difference	<u>11.45</u>	
Meter Multiplier of 1 x Difference of 11.45 =			11 kW
PowerFactor = 0			
Current meter read Actual-Total	May 28, 2020	12,218	
Previous read	April 29, 2020	11,414	
Current period consists of 29 days	Difference	<u>804</u>	
Meter Multiplier of 1 x Difference of 804 =			804 kWh
PowerFactor = 0			

April 29, 2020 to May 29, 2020

TRANSMISSION COST RECOVERY FACTOR	\$39.83
METERING CHARGE	\$30.82
NUCLEAR DECOMMISSIONING CHARGE	\$1.22
CUSTOMER CHARGE	\$9.25
DISTRIBUTION SYSTEM CHARGE	\$61.14
ENERGY EFFICIENCY COST RECOVERY	\$0.28



Invoice # 201540042282323
Account # 1627394
Invoice Date 06/02/20
Due Date 06/22/20
Page 4

1921 1/2 GREENVILLE AVE STE B, DALLAS TX (Continued)

EDC.# 10443720002590213

Store Number :

PO #:

DISTRIBUTION COST RECOVERY FACTOR	\$2.29
INTEREST SAVINGS REFUND	-\$0.94
ELECTRICITY RELIEF PROGRAM	\$0.27
City Sales Tax - 0% Exempt	\$1.46
Dallas Mta - 0% Exempt	\$1.46
Gross Receipts Reimb. - 0% Exempt	\$2.85
TX Puc Assessment - 0% Exempt	\$0.24
State Sales Tax - 0% Exempt	\$9.11
Current Actual Charges	\$159.28

Direct Energy Business
Other Charges and Adjustments

Late Payment Charge	\$2.07
Current Other Charges and Adjustments	\$2.07

TOTAL CHARGES FOR EDC.# 10443720002590213 **\$217.77**



Acct #: 300018036 Invoice #: 2004045084 Invoice Date : 04/30/20

Page: 1 of 2

Hudson Energy Services, LLC
P.O. Box 142109
Irving, TX 75014
PUC License #: 10092

Greenville Ave Pizza Company
P.o. Box 180327 Dallas
Dallas, TX 75218

Service at ESI ID #: 10443720002590123
1921 1/2 GREENVILLE AVE STE A
DALLAS, TX 75206-7438
gapcogreenville@bill.com

Invoice Date: 04/30/20 Invoice Period - 03/30/20 thru 04/29/20

Summary table with columns: Previous Balance, New Charges, Payments/Adj., Due Amount, Due Date

Meter details table with columns: Meter, Type, Dates, Current meter read, Previous meter read, Mult, Usage kWh, Demand, Power Factor

Main billing table listing Previous Balance, Payments and Adjustments (Reissued Inv Credit, Reissued Inv Debit), and Usage with corresponding dollar amounts.

...Please return this portion with your payment...

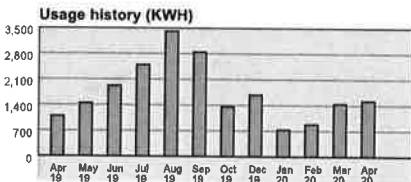
Questions or Comments

HudsonEnergyCare@hudsonenergy.net
www.HudsonEnergy.net

866-483-7664
Mon - Fri: 9:00 am - 5:30 pm Central

Emergencies and Power Outages
Call Oncor directly at
1-888-313-4747

The amount billed may include price changes allowed by law or regulatory action.



P.O. Box 142109 Irving, TX 75014
*PLEASE DO NOT MAIL CHECK TO THIS ADDRESS

Payment information box containing Acct #, Invoice Date, Invoice #, Amount Due, Due by, Amount Enclosed, and Auto ACH Payment info.

Please contact us if you would like to donate to the Company's Bill Payment Assistance Program.

Greenville Ave Pizza Company
P.o. Box 180327 Dallas
Dallas, TX 75218



Hudson Energy Services, LLC
P.O. Box 731137
Dallas, TX 75373-1137



Hudson Energy Services, LLC
P.O. Box 142109
Irving, TX 75014
PUC License #: 10092

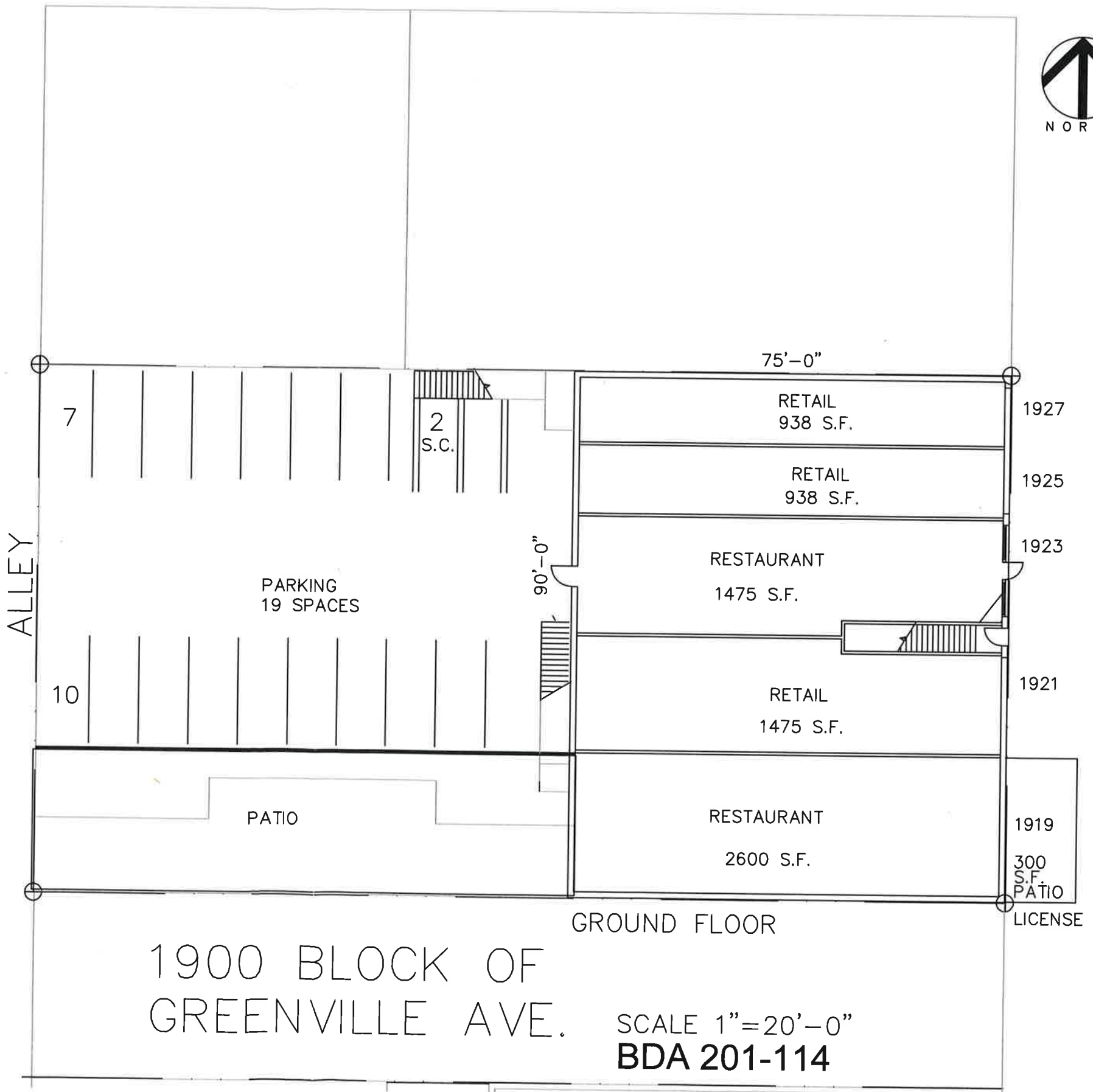
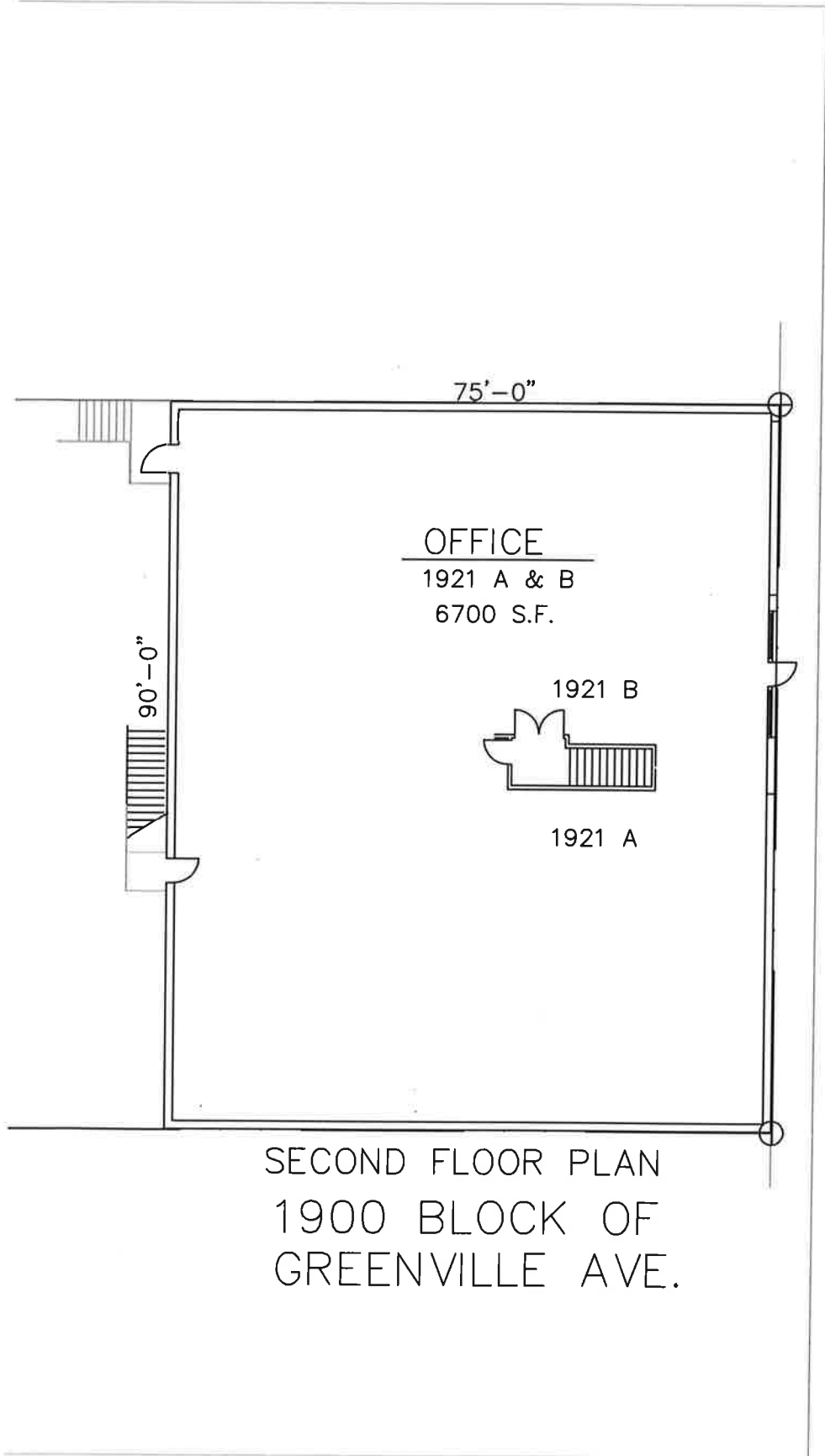
Questions concerning your bill? Call
866-483-7664

Total Payments/Adjustments.....				-\$341.79
Current Charges				Amount
Electric Service				
Electric Energy Charges.....	1,521.00	0.05000		\$76.05
TDU Delivery Charges.....				\$161.70
Applicable Taxes				
City Tax.....				-\$1.08
Gross Receipts Reimb.....				-\$2.11
Special Tax.....				-\$1.08
PUC Assessment.....				-\$0.17
Sales Tax.....				-\$6.74
Total Current Charges.....				\$226.57
Total Amount Due.....				\$53.09

Agreement Details	Usage kWh	Avg Supply Rate	Amount
03/31/20 - 04/29/20 Fixed Rate	1,521.00	0.05000	\$76.05

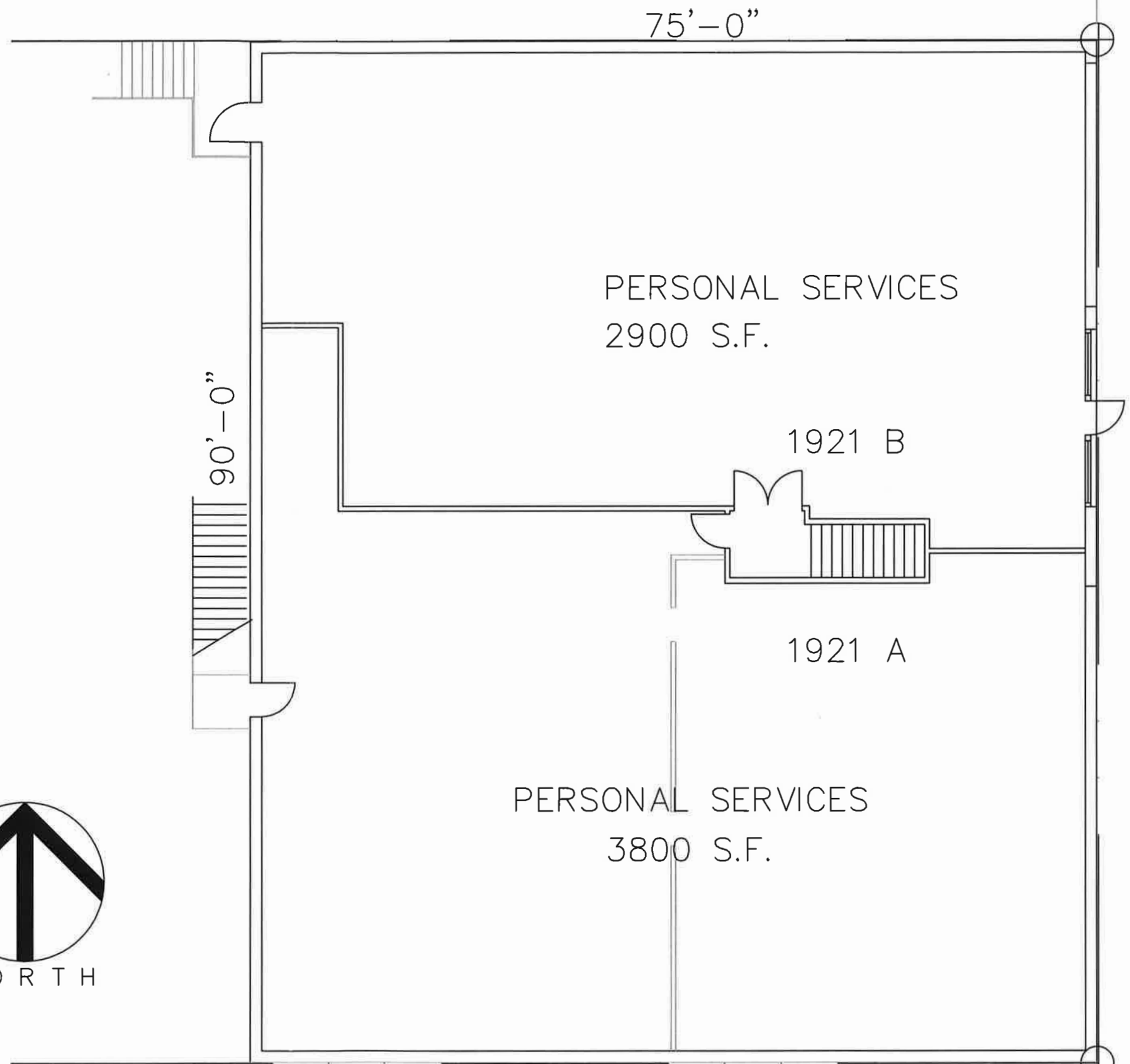
The Average price you paid for electric service is 15.6¢ per kWh.
Contract valid through 06/28/2023.

If you believe this bill includes unauthorized charges, please contact Hudson Energy to dispute such charges and, if you are not satisfied with our review, you may file a complaint with the Public Utility Commission of Texas, P.O. Box 13326, Austin, TX 78711-3326, (512) 936-7120 or toll-free in Texas at (888) 782-8477. Hearing and speech impaired individuals with text telephones (TTY) may contact the Commission at (512) 936-7136.



GREENVILLE AVENUE

Revised.
11-12-21



GREENVILLE AVENUE

SECOND FLOOR PLAN $3/32" = 1'-0"$
1900 BLOCK OF
GREENVILLE AVE.



November 30, 2021

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

RE: BDA 201-114, 1921 Greenville Avenue

Dear Ms. Munoz:

Our firm is helping the owner at the above-referenced property with their request to reinstate delta credits due to restrictions within the MD-1 Modified Delta Overlay. The subject property is developed with a two-story multitenant commercial building constructed in 1924 and 1933 according to DCAD. Please accept this additional information to demonstrate the continued use of the two upper floor suites that we are seeking to occupy with an office use.

The previous tenants on the upper stories, addressed 1921 ½ and 1921 Suite 200 Greenville Avenue, last had Certificate of Occupancies (CO) for personal service uses (0311141002 and 0804091082, respectively). Both were issued by city permitting staff utilizing delta credits for the entirety of these suites.

The 1921 ½ CO was issued in 2003 and operated until late 2016. Once that space was vacant, the operator of Greenville Pizza Company took over the suite in 2017 for their office use, as stated in the supplied affidavit, and moved out on July 1, 2020.

Suite 200 was issued a CO on May 5, 2008 under the DBA, The Girls Room. The owner of The Girls Room sold to another individual, Samantha Coley, in 2015. The new owner operated under this DBA for a period of time but renamed the business to Extend Fitness. The supplied affidavit from Ms. Coley indicated continuous use of the suite as a personal service use until she moved out on June 1, 2020.

Both suites 1921 ½ and 200 had lease agreements with the property owner that requires compliance with all city regulations, but they both failed to obtain a CO. However, the leases with Mandell Family Venture and Samantha Coley document that the owner did not intend to vacate these uses in these suites.

These tenants moved out to allow for a new office tenant who is seeking to occupy the entire 6,700 square feet of the second floor. This area is represented on the revised site plan that has been provided. Permit applications for the office use were filed on May 1, 2020. The permit applications have not cleared the zoning review due to the request for documentation that these suites were not discontinued or vacant for 12 months or more. The support documentation of affidavits and utility bills of the provided in this application to the Board has also been provided to permit review staff.

The special exception criteria in MD-1 requires an intent not to vacate the uses for more than 12 months, which has been demonstrated by the supplied affidavits from the operators. While we understand that the City prefers that the evaluation of the requirements of the MD-1 Overlay be documented with COs, the intent of the overlay is to have continued use and operation of this historic commercial area as an incentive to maintain non-conforming parking rights. We have documented that we are meeting this intent to not vacate the uses here.

The actual lapse in operation in these suites has been since June/July 2020, during the beginning of the permit review process for a new tenant to occupy both suites. The extreme circumstance for this vacancy time is due to the challenges in navigating the permit review process during a global pandemic. The City of Dallas closed the Oak Cliff Municipal Center during 2020 and part of 2021 to the general public, which made obtaining information and responding to comments on permit applications extremely difficult for individuals.

We hope you can support our request. If you have any questions or would like to speak with us about this, please call our office at 214-824-7949 or email me at jennifer@baldwinplanning.com or Rob Baldwin at rob@baldwinplanning.com. We will be happy to discuss this matter with you.

With kind regards,

A handwritten signature in cursive script that reads "Jennifer Hiromoto".

Jennifer Hiromoto

Address: **1921 GREENVILLE AVE, 1/2 75206**

Issued: 11/17/2003

Owner: **GREG BLOMBERG**
009422 COVEMEADOW DALLAS TX 75206

DBA: **GREG BLOMBERG INC.**

Land Use: **(6299) PERSONAL SERVICE USE**

Occupied Portion:

C.O.#: **0311141002**

Lot:	Block:	Zoning:	CR	PDD:	0	SUP:	
Historic Dist:	Consv Dist:	Pro Park:	0	Req Park:	0	Park Agrmt:	N
Dwlg Units: 0	Stories: 0	Occ Code:	B	Lot Area:	0	Total Area:	3400
Type Const:	Sprinkler:	Occ Load:		Alcohol:	N	Dance Floor:	N

Remarks: MD-1

Larry V. Holmes

Larry Holmes, Building Official

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



City of Dallas

Certificate of Occupancy

Address: 1921 GREENVILLE AVE Ste:B 75206

Owner: KARYN PENTECOST
1921 1/2 GREENVILLE
DALLASA TX 75206

DBA: THE GIRLS ROOM

Land Use: (6299) PERSONAL SERVICE USE

C.O.#: 0804091082

Issued Date: 05/05/2008

Lot: 18	Block: C/1983	Zoning: CR	PDD:	SUP:
Historic Dist:	Consv Dist:	Pro Park:	Req Park:	Park Agrmt: N
Dwlg Units:	Stories:	Occ Code: B	Lot Area: 15184	Total Area:
Type Const: UNK	Sprinkler:	Occ Load:	Alcohol: N	Dance Floor:N

Remarks: MD-1 AFFIDAVIT ON FILE. SUITE 1/2

Ray Wazny, Building Official

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

BDA201-114_ATTACHMENT_B

SHOPPING CENTER LEASE

ARTICLE 1 DEFINITIONS AND CERTAIN BASIC PROVISIONS

Section 1.1 The following list sets out certain defined terms and certain financial and other information pertaining to this Shopping Center Lease (this "Lease"):

- (a) "Landlord": 1919-27 Greenville, Ltd.
- (b) Landlord's address: 2622 Commerce Street
Dallas, Texas 75226
- (c) "Tenant": Mandell Family Ventures, LLC
- (d) Tenant's address: PO Box 180327, Dallas, TX 75218
- (e) Tenant's trade name: Greenville Avenue Pizza Company
- (f) Tenant's guarantor
(if applicable, attach
Guaranty as an exhibit): Not applicable.
- (g) "Agent": Gideon Interests
- (h) "Cooperating Agent": Madison Retail Holdings
- (i) "Shopping Center": Landlord's property in the multi-tenant retail building located at 1919-1927 Greenville Avenue, City of Dallas, Dallas County Texas (including any leased property or property upon which the Landlord holds certain easement rights) located in the City of Dallas, Dallas County, Texas, as described on Exhibit A attached to this Lease.
- (j) "Demised Premises": a store unit in the Shopping Center containing approximately 1,800 square feet in area (measured by calculating lengths and widths to the center of interior walls, and to the outside of exterior walls), being known as 1921 Greenville Avenue, Suite A Dallas, TX (front half only) as depicted on Exhibit B attached to this Lease. With regard to Exhibit B, the parties agree that the exhibit is attached solely for the purpose of locating the Demised Premises within the Shopping Center and that no representation, warranty, or covenant is to be implied by any other information shown on the exhibit (i.e., any information as to buildings, tenants or prospective tenants, etc., is subject to change at any time). Landlord and Tenant stipulate that the number of square feet in the Demised Premises and, subject to Section 7.1, in the Shopping Center set forth above is conclusive and shall be binding upon them.
- (k) "Commencement Date": May 1, 2017
- (l) "Lease Term": Commencing on the Commencement Date and continuing for Three (3) years and zero (0) months after the Commencement Date; provided that if the Commencement Date is a date other than the first day of a calendar month, the Lease Term shall be extended to the last day of the calendar month in which the Lease Term expires.
- (m) "Minimum Guaranteed Rental": With the following adjustments to occur automatically (if blank, then no adjustments will be deemed to occur):
 - (n) "Percentage rental rate": Not Applicable
 - (o) Prepaid rental: g an estimate of the Minimum Guaranteed Rental, Common Area Maintenance Expenses, Tenant's obligations for real estate charges and insurance expenses, and (if applicable) merchants' association dues or promotional fund for the first full month of the Lease Term, such prepaid rental being due and payable upon execution of this Lease.
 - (p) Security deposit: h security deposit will be transferred from a prior lease between Landlord and Tenant for the Demised Premises to this Lease.
 - (q) "Permitted Use": SEE ATTACHED USE ADDENDUM. Tenant acknowledges that the above specification of a "Permitted Use" means only that Landlord has no objection to the specified use and does not include any representation or warranty by Landlord as to whether or not such specified use complies with applicable laws and/or requires special governmental permits. In this regard, Tenant acknowledges this Section 1.1(q) is subject to Section 3.1 and Section 9.9 of this Lease.

Section 1.2 The following chart is provided as an estimate of Tenant's initial monthly payment broken down into its components, exclusive of any charges for utility services or trash pickup that may be assessed pursuant to this Lease. This chart, however, does not supersede the specific provisions contained elsewhere in this Lease:

ARTICLE 2 GRANTING CLAUSES

Section 2.1 Landlord leases to Tenant and Tenant leases from Landlord, the Demised Premises upon the terms and conditions set forth in this Lease. Except as otherwise specifically allowed or provided for herein, Landlord will use commercially reasonable efforts to provide Tenant peaceable enjoyment of the Demised Premises during the Term.

ARTICLE 3 DELIVERY OF PREMISES; RELOCATION

Section 3.1 Except to the extent modified by Landlord's express assumption of construction obligations, if any, in an exhibit attached to this Lease as Exhibit C, the Demised Premises are being leased in their "**AS IS**" condition on the date of this Lease, with Tenant accepting all defects, if any; and Landlord makes no warranty of any kind, express or implied, with respect to the Demised Premises (without limitation, Landlord makes no warranty as to the habitability, fitness or suitability of the Demised Premises for a particular purpose nor as to the absence of any toxic or otherwise hazardous substances). Tenant acknowledges it has been given the opportunity to inspect the Demised Premises and to have qualified experts inspect the Demised Premises prior to the execution of this Lease. Tenant agrees that Landlord shall not be obligated to perform any construction, remodeling work, or other improvements of any kind in connection with Tenant's commencement and/or operation of business in the Demised Premises, except as outlined in Exhibit C attached hereto and made a part hereof and any work performed or directed by Tenant shall be at the sole cost and expense of Tenant. Occupancy of the Demised Premises by Tenant prior to the Commencement Date shall be subject to all of the provisions of this Lease excepting only those requiring the payment of Minimum Guaranteed Rental and additional rent.

Section 3.2 Except as provided in Section 28.32, if this Lease is executed before the Demised Premises became vacant, or if any present tenant or occupant of the Demised Premises holds over and Landlord cannot acquire possession of the Demised Premises prior to the Commencement Date of this Lease or Landlord is otherwise unable to deliver possession of the Demised Premises in the condition required by this Lease on the estimated "ready for occupancy" date, Landlord shall not be deemed to be in default under this Lease or be liable for damages therefor; and in such event Tenant agrees to accept possession of the Demised Premises at such time as Landlord is able to tender the same. If Landlord utilizes the provisions of this Section, Landlord will waive the payment of rentals and other charges covering any period prior to tender of possession of the Demised Premises to Tenant.

Section 3.3 Intentionally Deleted.

ARTICLE 4 RENT

Section 4.1 **ACCORD AND SATISFACTION:** No payment by Tenant or receipt by Landlord of a lesser amount than any installment or payment of rentals due shall be deemed to be other than on account of the amount due, and no endorsement or statement on any check or payment of rentals shall be deemed an accord and satisfaction. Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such installment or payment of rentals, or pursue any other remedies available to Landlord.

Section 4.2 Rentals shall accrue from the Commencement Date, and shall be payable to Landlord at Landlord's address. Tenant shall timely pay to Landlord all rentals required hereunder without notice, demand, deduction or set-off and all rentals shall be accompanied by all applicable state and local sales or use taxes. The obligations of Tenant to pay Minimum Guaranteed Rental and other sums to Landlord and the obligations of Landlord under this Lease are independent obligations.

Section 4.3 Tenant shall pay to Landlord Minimum Guaranteed Rental in monthly installments in the amounts specified in Section 1.1(m) and (n) of this Lease. The first such monthly installment shall be due and payable contemporaneously with Tenant's execution of this Lease, and subsequent installments shall be due and payable on or before the first day of each succeeding calendar month during the Lease Term; provided that if the Commencement Date is a date other than the first day of a calendar month, there shall be due and payable on or before such date as Minimum Guaranteed Rental for the balance of such calendar month a sum equal to that proportion of the rental specified for the first full calendar month as herein provided, which the number of days from the Commencement Date to the end of the calendar month during which the Commencement Date shall fall bears to the total number of days in such month.

Section 4.4 Intentionally Deleted

Section 4.5 Intentionally Deleted

Section 4.6 Intentionally Deleted

Section 4.7 Except as specifically provided elsewhere herein, it is understood Minimum Guaranteed Rental is payable on or before the first day of each calendar month (in accordance with Section 4.1 through Section 4.3 above) and percentage rental, if any, is payable on or before the 10th day of each calendar month, without offset or deduction of any nature. If any rental is not received on or before its due date for any reason whatsoever, or if any rental payment by check is returned due to insufficient funds, then in addition to the past due amount, Tenant shall pay to Landlord one of the following (the choice to be at the sole option of Landlord unless one of the choices is improper under applicable law, in which event the other alternative will automatically be deemed to have been selected): (a) a late charge equal to ten percent (10%) of the rental then due, in order to compensate Landlord for its administrative and other overhead expenses; or (b) interest on the rental then due at the maximum contractual rate which could legally be charged in the event of a loan of such rental to Tenant (but not to exceed 1½% per month), such interest to accrue continuously on any unpaid balance due to Landlord by Tenant during the period commencing with the rental due date and terminating on the date Tenant makes full payment of all amounts owing to Landlord at the time of said payment (the selected alternative is referred to herein as the "Default Fee"). All such late charge or interest payments shall be payable as additional rental under this Lease, shall not be considered as a deduction from percentage rental, and shall be payable immediately on demand. If any rent or other payment due Landlord hereunder paid by check is returned due to insufficient funds, Tenant shall immediately make the required payment to Landlord in good funds; moreover, Tenant shall also pay Landlord the amounts specified above in this Section 4.7, plus an additional fee of \$50.00 to compensate Landlord for its expenses and effort in connection with the dishonored check. Notwithstanding anything to the contrary contained in the foregoing provisions, in the event any such rental payment then due for any particular month is mailed by Tenant (via U.S. certified mail) but is not actually received by Landlord on or before the first day of such month, Tenant shall not be in default and shall not be charged any such late charge or interest amount on such rental payment if Tenant provides Landlord with a copy of such certified mail receipt dated at least three (3) days prior to the first day of such calendar month and Tenant replaces the rent check that was not received by Landlord prior to the tenth day of the month.

Section 4.8 If Tenant fails in two consecutive months or in two non-consecutive months within any six-month period to make rental payments within ten (10) days after its due date, Landlord, in order to reduce its administrative costs, may require, by giving written notice to Tenant (and in addition to any late charge or interest accruing pursuant to Section 4.6 above, as well as any other rights and remedies accruing pursuant to Article 22 or Article 23 below, or any other provision of this Lease or at law), that Minimum Guaranteed Rentals are to be paid quarterly in advance instead of monthly and that all future rental payments are to be made on or before the due date by cash, cashier's check, or money order and that the delivery of Tenant's personal or corporate check will no longer constitute a payment of rental as provided in this Lease. Any acceptance of a monthly rental payment or of a personal or corporate check thereafter by Landlord shall not be construed as a subsequent waiver of said rights.

ARTICLE 5 **SALES REPORTS, RECORDS AND FINANCIAL STATEMENTS**

Section 5.1 Intentionally Deleted

Section 5.2 Tenant shall keep in the Demised Premises or at some other location within thirty (30) miles of the city limits where the Demised Premises are located a permanent, accurate set of books and records of all sales of merchandise and revenue derived from business conducted in the Demised Premises, and all supporting records such as tax reports and banking records. All such books and records shall be retained and preserved for at least twenty-four (24) months after the end of the calendar year to which they relate, and shall be subject to inspection and audit by Landlord and its agents at all reasonable times, with ten (10) days advance written notice to Tenant of Landlord's intent to inspect and audit such books and records. Landlord shall endeavor to not interrupt Tenant's business in conducting such audits.

Section 5.3 Intentionally Deleted

Section 5.4 Intentionally omitted.

Section 5.5 Landlord shall use good faith efforts to keep confidential all sales reports, records and financial statements supplied by Tenant; however, Landlord shall be permitted to reveal such information if required by law or court order on a need to know basis to prospective purchasers and mortgagees (and agents in such regard) and to Landlord's own managerial and administrative staff, its attorneys, mortgagees, accountants and existing or prospective financial partners, provided such persons are informed of Landlord's duty to keep such information confidential and agree to keep such information confidential. In the event Landlord receives a subpoena or other court order instructing the turnover of such information about Tenant, Landlord shall promptly inform Tenant of such order.

ARTICLE 6 **TENANT'S RESPONSIBILITY FOR TAXES, OTHER REAL ESTATE CHARGES AND INSURANCE EXPENSES**

Section 6.1 Tenant shall be liable for all taxes levied or assessed against personal property, furniture and fixtures placed by Tenant in the Demised Premises or in or on the Shopping Center. If any such taxes are levied or assessed against Landlord or Landlord's property and if Landlord elects to pay the same or if the assessed value of

Landlord's property is increased by inclusion of personal property, furniture and fixtures placed by Tenant in the Demised Premises and Landlord elects to pay the taxes based on such increase, Tenant shall pay to Landlord upon demand that part of such taxes related to Tenant's personal property, furniture and fixtures in the Demised Premises or in the Shopping Center.

Section 6.2 Tenant shall also be liable for "Tenant's proportionate share" (as defined below) of all "real estate charges" (as defined below) and "insurance expenses" (as defined below) related to the Shopping Center or Landlord's ownership of the Shopping Center. Tenant's obligations under this Section 6.2 shall be prorated during any partial year (i.e., the first year and the last year of the Lease Term). "Tenant's proportionate share" shall be a fraction, the numerator of which is the total floor area in the Demised Premises and the denominator of which is the total leasable floor area of the building that contains the Demised Premises in the Shopping Center at the time when the respective charge was incurred, excluding, however, areas for which any such real estate charges or insurance expenses, or both, are paid by a party or parties other than Landlord. Tenant's proportionate share is subject to adjustment as provided in Section 7.1. "Real estate charges" shall include ad valorem taxes, general and special assessments, parking surcharges, any tax or excise on rents, any tax or charge for governmental services (such as street maintenance or fire protection) the commercially reasonable cost of a tax consultant utilized to represent the Shopping Center before any taxing authority, and any tax or charge which replaces any of such above-described "real estate charges"; provided, however, that "real estate charges" shall not be deemed to include any franchise, estate, inheritance or general income tax. "Insurance expenses" shall include all premiums and other expenses incurred by Landlord for liability insurance and fire and extended coverage property insurance (plus whatever endorsements or special coverages that Landlord, in Landlord's sole discretion, may consider appropriate).

Section 6.3 With regard to the calendar year during which the Lease Term expires, Landlord, at its option and sole discretion, may either (a) bill Tenant when the charges become payable, or (b) charge Tenant an estimate of Tenant's pro rata share of whichever charges have been or are to be paid by Landlord (based upon information available for the current year plus, if current year information is not adequate in itself, information relating to the immediately preceding year).

Section 6.4 If, during the Lease Term, Landlord believes that at some time within the immediately succeeding twelve (12) month period Tenant will owe Landlord any amounts pursuant to one or more of the preceding sections of this Article 6, Landlord may direct that Tenant prepay monthly a prorata portion of the prospective future payment (i.e., the prospective future payment divided by the number of months before the prospective future payment will be due) by delivery to Tenant in writing a request therefore along with an itemization of the amounts expected to be due, separated by category. Tenant agrees that any such prepayment directed by Landlord shall be due and payable monthly on the same day Minimum Guaranteed Rental is due.

Section 6.5 If any payment due from Tenant to Landlord is not received within five (5) days of the date it is due hereunder, for any reason whatsoever, or if any such payment is by check which is returned due to insufficient funds then, in addition to the amount then due, Tenant shall pay to Landlord a Default Fee with respect thereto.

ARTICLE 7 COMMON AREAS

Section 7.1 The term "Common Area" is defined for all purposes of this Lease as that part of the Shopping Center intended for the common use of all tenants, including among other facilities (as such may be applicable to the Shopping Center), parking areas, private streets and alleys, landscaping, curbs, loading area, sidewalks, malls and promenades (enclosed or otherwise), lighting facilities, drinking fountains, meeting rooms, public toilets, and the like but excluding (a) space in buildings (now or hereafter existing) designated for rental for commercial purposes, as the same may exist from time to time; (b) streets and alleys maintained by a public authority; (c) areas within the Shopping Center which may from time to time not be owned by Landlord (unless subject to a cross-access agreement benefiting the area which includes the Demised Premises); and (d) areas leased to a single purpose user (such as a bank or a fast-food restaurant) where access is restricted. In addition, although the roof(s) of the building(s) in the Shopping Center are not literally part of the Common Area, they will be deemed to be so included for purposes of (1) Landlord's ability to prescribe rules and regulations regarding same and (2) their inclusion for purposes of Common Area Maintenance Expenses (defined below). Landlord reserves the right to change from time to time the dimensions and location of the Common Area, as well as the dimensions, identity and type of any buildings in the Shopping Center. For example, and without limiting the generality of the immediately preceding sentence, Landlord may from time to time substitute for any parking area or other areas reasonably accessible to the tenants of the Shopping Center, which areas may be elevated, surface or underground. Further, if buildings are added to or removed from the Shopping Center, or additional areas are leased to tenants whose rentable square footage is excluded from the rentable area of the Shopping Center, then Tenant's proportionate share shall be appropriately adjusted.

Section 7.2 Tenant, and its employees and customers, and when duly authorized pursuant to the provisions of this Lease, its subtenants, licensees and concessionaires, shall have the non-exclusive right to use the Common Area (excluding roofs of buildings in the Shopping Center) as constituted from time to time, such use to be in common with Landlord, other tenants in the Shopping Center and other persons permitted by Landlord to use the same, and subject to such reasonable rules and regulations governing uses as Landlord from time to time prescribes. For example, and without limiting the generality of Landlord's ability to establish rules and regulations governing all aspects of the Common Areas, Tenant agrees as follows:

(a) Tenant and Tenant's employees shall park their cars only in those parking areas designated for that purpose by Landlord. Tenant shall furnish Landlord with state automobile license numbers assigned to Tenant's car or cars, and cars of Tenant's employees, within five (5) days after taking possession of the Demised Premises and shall thereafter notify Landlord of any changes within five (5) days after such changes occur. If Tenant

or its employees fail to park their cars in designated parking areas as aforesaid, Landlord may charge Tenant Ten Dollars (\$10.00) per day per car parked in any area other than those designated, as and for liquidated damages and Tenant shall pay such charges upon demand. Tenant authorizes Landlord to cause any car which is not parked in the designated parking areas to be towed from the Shopping Center and Tenant shall reimburse Landlord for the cost thereof upon demand, and otherwise indemnify, defend and hold Landlord harmless with respect thereto.

(b) Tenant shall not solicit business within the Common Area nor take any action that would interfere with the rights of other persons to use the Common Area without Landlord's prior written consent.

(c) Landlord may temporarily close any part of the Common Area for such periods of time as may be necessary to make repairs or alterations or to prevent the public from obtaining prescriptive rights, but in doing so Landlord shall use commercially reasonable efforts to not interrupt or otherwise interfere with Tenant's normal business operations.

(d) With regard to the roof(s) of the building(s) in the Shopping Center, use of the roof(s) is reserved to Landlord or, with regard to any tenant demonstrating to Landlord's satisfaction a need for same, to such tenant after receiving prior written consent from Landlord and with appropriate compensation, as determined by Landlord in its sole discretion.

Section 7.3 Landlord shall be responsible for the operation, management and maintenance of the Common Area, the manner of maintenance and the expenditures therefore to be in the sole discretion of Landlord, but to be generally in keeping with similar shopping centers within the same geographic area as the Shopping Center. Without limiting the generality of the immediately preceding sentence, Tenant acknowledges that **LANDLORD MAKES NO REPRESENTATION OR WARRANTY REGARDING WHETHER OR NOT LANDLORD WILL PROVIDE SECURITY SERVICES OR, IF SO, WHAT FORM OF SECURITY SERVICES WILL BE PROVIDED.**

Section 7.4 In addition to the Minimum Guaranteed Rental payable under this Lease, during the Lease Term, Tenant shall pay to Landlord as additional rental Tenant's proportionate share of all costs incurred by Landlord, in its commercially reasonable discretion, related to the ownership, operation, management, repair, maintenance, security, equipping, guarding and insuring the Shopping Center, including the Common Area, buildings and other improvements included in the Shopping Center, and in providing facilities and services for the common use of Tenant and any other tenants of the Shopping Center (collectively the "**Common Area Maintenance Expenses**"), including, without limitation, the following items: the costs of all utilities used for buildings and improvements which are not billed separately to a tenant of the Shopping Center; costs of maintaining and repairing the buildings and other improvements in the Shopping Center other than the Building's Structure (as defined below); wages, salaries and compensation of employees, including taxes, insurance and employee benefits, exclusively up to and including the level of senior property manager; consulting, accounting, legal, janitorial, maintenance, security and other services; management fees and costs (charged by Landlord, any affiliate of Landlord or any other entity managing the Shopping Center, determined at a rate consistent with prevailing market rates for comparable services and buildings); costs of glass cleaning, parking lot and sidewalk cleaning and removal of trash and debris; costs of repair, maintenance and replacement of landscaping, signage and directories located on-site and off-site, sprinkler systems, lighting, utility lines and underground storm and sanitary sewers, parking areas, parking garages, driveways, curbs, sidewalks and walkways, loading areas and facilities for traffic and pedestrian control, security gates, alarm systems, custodial facilities, stairs, stairways, elevators, escalators, ramps and interior corridors and hallways, advertising, seasonal decorations and an allowance in an amount equal to 15% of the Common Area Maintenance Expenses for Landlord's overhead and administrative costs; alterations, additions and improvements made by Landlord for purposes of reducing Common Area Maintenance Expenses or complying with applicable laws; and any other costs or expenses that under generally accepted accounting principles would be regarded as management, maintenance, repairs and operating expenses. In addition, although the roofs of the buildings in the Shopping Center are not literally part of the Common Area, Landlord and Tenant agree that roof maintenance, repair and replacement shall be included as part of Common Area Maintenance Expenses to the extent not specifically allocated to Tenant under this Lease nor to another tenant pursuant to its lease nor to the portion of the cost that is covered by proceeds received by Landlord from Landlord insurance carrier due to such maintenance, repair, or replacement being covered by a policy of insurance, proceeds of which are paid or payable to Landlord. With regard to capital expenditures (a) the original investment in capital improvements, i.e., upon the initial construction of the Shopping Center, shall not be included and (b) improvements and replacements, to the extent not capitalized on Landlord's records, shall be included and (c) improvements and replacements, to the extent capitalized on Landlord's records, shall be included only to the extent of a reasonable depreciation or amortization taking into consideration the probable life expectancy of such improvement or replacement, as applicable (including interest accruals commensurate with Landlord's interest costs). The proportionate share to be paid by Tenant of the cost of operation and maintenance of the Common Area shall be computed on the ratio that the total floor area (all of which is deemed "leasable") of the Demised Premises bears to the total leasable floor area of all buildings within the Shopping Center (excluding, however, areas owned or maintained and expenses paid for by a party or parties other than Landlord). If this Lease should commence on a date other than the first day of a calendar year or terminate on a date other than the last day of the calendar year, Tenant's reimbursement obligations under this Section 7.4 shall be prorated based upon Landlord's expenses for the entire calendar year. Tenant shall make such payments to Landlord on demand, at intervals not more frequent than monthly. Landlord may at its option make monthly or other periodic charges based upon the estimated annual cost of operation and maintenance of the Common Area, payable in advance but subject to adjustment after the end of the year on the basis of the actual cost for such year. If any payment due from Tenant to Landlord is not received on the date it is due hereunder for any reason whatsoever, or if any such payment made by check is returned due to insufficient funds, then, in addition to the amount then due, Tenant shall pay to Landlord a Default Fee with respect thereto.

Section 7.5 By June 1 of each calendar year, Landlord shall furnish to Tenant a written statement of Common Area Maintenance Expenses, Real Estate Charges and Insurance Expenses ("Shopping Center Expenses") for the previous calendar year ("Shopping Center Expenses Statement"). If a Shopping Center Expenses Statement reveals that Tenant paid more for Shopping Center Expenses than the actual amount of the Tenant's proportionate share for the year for which such statement was prepared, then Landlord shall, at Tenant's option and within thirty (30) days after delivery of such statement by Landlord, either (i) credit Tenant the amount of such excess against the rentals next due, or (ii) reimburse Tenant for such excess. If a Shopping Center Expense statement reveals that Tenant paid less for Shopping Center Expenses than the actual amount of the Tenant's proportionate share for the year for which such statement was prepared, then Tenant shall pay such additional amount to Landlord within thirty (30) days after delivery of such statement by Landlord.

Section 7.6 Notwithstanding anything to the contrary contained herein, for purposes of computing Tenant's proportionate share of Common Area costs, the Controllable Common Area Costs (hereinafter defined) shall not increase by more than six percent (6%) per lease year on a cumulative, compounding basis over the prior lease year after the first full calendar year of the Lease Term. "Controllable Common Area Costs" shall mean all Common Area costs exclusive of the cost of real estate charges, utilities costs, security expenses, valet charges, licensing costs, natural gas or gasoline surcharges, snow and ice removal or other weather or other unforeseen incident related charges, and insurance expenses.

ARTICLE 8

Section 8.1 INTENTIONALLY DELETED

ARTICLE 9 USE AND CARE OF DEMISED PREMISES

Section 9.1 Tenant shall commence business operations in the Demised Premises on or immediately after the Commencement Date and shall operate its business in an efficient, high-class and reputable manner so as to produce the maximum amount of gross sales from the Demised Premises. Tenant shall not at any time leave the Demised Premises vacant, but shall in good faith continuously throughout the Lease Term conduct and carry on in the entire Demised Premises the type of business for which the Demised Premises is leased. Tenant shall, except during reasonable periods for remodeling, repairing, cleaning and decorating, keep the Demised Premises open to the public for business with adequate personnel in attendance on all non-holiday business days and during normal business hours for the area and use, except to the extent Tenant may be prohibited from being open for business by applicable law, ordinance or governmental regulation.

Section 9.2 The Demised Premises may be used only for the purpose or purposes specified in Section 1.1(q) above, and only under the trade name specified in Section 1.1(d) (or, if Section 1.1(d) is not filled in, any trade name approved in writing in advance by Landlord), and for no other purpose and under no other trade name, it being understood and acknowledged Landlord has entered into this Lease in large part because it believes that such use and trade name will benefit the Shopping Center as a whole. Landlord agrees not to withhold its approval to any proposed trade name in a wholly unreasonable and arbitrary manner (as further explained in Section 28.4 of this Lease).

Section 9.3 Tenant shall not, without Landlord's prior written consent, keep anything within the Demised Premises or use the Demised Premises for any purpose which increases the insurance premium cost or invalidates any insurance policy carried on the Demised Premises or other parts of the Shopping Center. All property kept, stored or maintained within the Demised Premises by Tenant shall be at Tenant's sole risk. Tenant shall indemnify, defend and hold Landlord harmless from and against any and all liability, liens, claims, demands, damages, expenses, fees, costs, fines, penalties, suits, proceedings, actions and causes of action (including without limitation all commercially reasonable attorneys' fees and expenses and cost of clean up and remediation) arising out of or relating to, directly or indirectly, any violation or alleged violation by Tenant of any government authority pertaining to health or the environment relating to the Demised Premises and the Shopping Center (collectively, "Environmental Laws"), now existing or hereafter arising, except for violations of Environmental Laws caused exclusively by Landlord, in which event Landlord shall indemnify, defend and hold Tenant harmless from and against any and all liability, liens, claims, demands, damages, expenses, fees, costs, fines, penalties, suits, proceedings, actions and causes of action (including without limitation all attorneys' fees and expenses and cost of clean up and remediation) arising out of or relating to, directly or indirectly, such violations exclusively by Landlord. This indemnification shall survive the expiration or termination of this Lease.

Section 9.4 Tenant shall not conduct within the Demised Premises any fire, auction, bankruptcy, "going-out-of-business," "lost-our-lease" or similar sale; nor shall Tenant operate within the Demised Premises a "wholesale" or "factory outlet" store, a cooperative store, a "second hand" store, a "surplus" store or a store commonly referred to as a "discount house." The purpose for this restriction is the maintenance of a first-class shopping center image, not price regulation; therefore, Landlord agrees that items may be sold, and on occasion be advertised as being sold, at discounted prices as long as Tenant complies with all applicable laws and maintains an image consistent with a first-class shopping center.

Section 9.5 Tenant shall not permit any objectionable noises or odors to emanate from the Demised Premises; nor place or permit any radio, television, loudspeaker or amplifier on the roof or outside the Demised Premises or where the same can be seen or heard from outside the building; nor place any antenna, equipment, awning or other projection on the exterior of the Demised Premises; nor take any other action which would constitute a nuisance or would disturb or endanger other tenants of the Shopping Center or unreasonably interfere with their use of their respective premises; nor permit any unlawful or immoral practice to be carried on or committed on the Demised Premises; nor do anything which would tend to injure the reputation of the Shopping Center. Furthermore, the Demised Premises may not be used in any manner that would violate any exclusive use covenant or use restriction then in effect for the benefit of any tenant of the Shopping Center or violate any restrictive covenants or other covenants and restrictions then affecting the Shopping Center. Landlord, however, represents that Tenant's operation of a pizzeria and Italian restaurant does not violate any exclusive use covenant or restriction affecting the Shopping Center. If Landlord, in its sole but reasonable discretion, incurs any expense in connection with Tenant's violation of this Section, Tenant shall immediately reimburse Landlord all of Landlord's expenses therefor.

Section 9.6 Tenant shall take good care of the Demised Premises; shall keep the Demised Premises secure (i.e., Tenant acknowledges that it is not relying on any representation or warranty by Landlord in this regard), and keep the same free from deterioration and waste at all times. Tenant shall not overload the floors in the Demised Premises, nor deface or injure the Demised Premises. Tenant shall keep the Demised Premises and sidewalks, service-ways and loading areas adjacent to the Demised Premises neat, clean and free from dirt, rubbish, ice or snow at all times. Tenant shall store all trash and garbage within the Demised Premises, or in a trash dumpster or similar container approved by Landlord as to type, location and screening; and Tenant shall arrange for the regular pick-up of such trash and garbage at Tenant's expense (unless Landlord finds it necessary to furnish such a service, in which event Tenant shall be charged an equitable portion of the total charges to all tenants using the service). Tenant shall be responsible for paying the cost associated with its prorata share of regular pumping out of any shared grease trap or grease container used by Tenant (or the full cost of any grease trap or grease container that is solely for the use of Tenant). Provided however, Landlord may at any time and in its sole discretion (but Landlord is under no obligation to so elect) elect to take over the responsibility for pumping or disposing of any shared grease trap or grease container (or any grease trap or grease container that is solely for the use of Tenant), and in such event, Tenant shall be relieved of the responsibility for pumping or disposing of the contents of any such grease trap or grease container and both the cost of pumping and the proceeds (if any) received from the sale of the resulting grease shall belong to Landlord. Receiving and delivery of goods and merchandise and removal of garbage and trash shall be made only in the manner and areas prescribed by Landlord. Tenant shall not operate an incinerator or burn trash or garbage within the Shopping Center. Tenant shall collapse all corrugated boxes or large containers to minimize the volume of space taken up in the dumpster, or Tenant shall be assessed an additional charge for such activity.

Section 9.7 Tenant shall maintain all display windows in a neat, attractive condition (as determined by Landlord in its sole but reasonable discretion), and shall keep all display windows, exterior signs and exterior lighting under any canopy in front of the Demised Premises lighted from dusk until 11:00 p.m. every day, including Sundays and holidays (or any other hours established by Landlord for the Shopping Center). Landlord reserves the right to connect all canopy signs in the Shopping Center, including Tenant's, to a common electrical line controlled by Landlord, in order to control the hours during which such signs are kept lighted, and all charges for the installation, maintenance and repair of such electrical line, as well as all electrical usage charges associated therewith, shall be included in Common Area Maintenance Expenses.

Section 9.8 Tenant shall include the address and identity of its business activities in the Demised Premises in all advertisements made by Tenant in which the address and identity of any similar local business activity of Tenant is mentioned.

Section 9.9 Tenant shall procure at its sole expense any permits and licenses required for the transaction of business in the Demised Premises and otherwise comply with all applicable laws, ordinances and governmental regulations. In addition, if the nature of Tenant's business makes it advisable for Tenant to take any extra precautions (for example, in the case of a business which is affected by so-called "dram shop" laws, Tenant's compliance with all "dram shop" educational programs and procedures), Tenant shall take all such extra precautions. At Landlord's request, Tenant shall deliver to Landlord copies of all such permits and licenses and proof of Tenant's compliance with all such laws, ordinances, governmental regulations and extra precautions.

Section 9.10 With regards to the Demised Premises, but not including the sidewalks or walkways outside of the Demised Premises, Tenant shall be responsible for compliance with the Americans with Disabilities Act of 1990, as amended from time to time (the "ADA"), and related state and municipal laws and regulations, including without limitation the Texas Accessibility Standards ("TAS") as provided in the Texas Architectural Barriers Act (Art. 91.02 Tex. Rev. Civ. Statutes, the "TABA") and regulated by the Texas Department of Licensing and Regulations ("TDLR") in all matters regarding both the configuration at the Demised Premises (the interior as well as all public and/or employee door entrances) and Tenant's business operations at the Demised Premises. In this regard, Tenant shall (a) engage the firm of Johnson Kelly Associates (972-422-5384), or other firm of similar qualifications approved in writing by Landlord to verify compliance with any and all requirements of the TAS, TABA and the TDLR or other applicable state or Federal authority to insure compliance with the ADA, TAS, TABA and TDLR, (b) pay the applicable filing fees associated therewith, and (c) return to Landlord a certificate of inspection and compliance therewith prior to the later of Tenant's commencement of operations in the Demised Premises, or Tenant's requesting any reimbursement from Landlord in accordance with the terms of Exhibit C of this Lease.

Section 9.11 Tenant shall warehouse, store or stock on the Demised Premises only such goods, wares and merchandise as Tenant intends to offer for sale at retail in or from the Demised Premises, and as is permitted under this Lease, and Tenant may use for office or non-selling purposes only such space as is reasonably required for Tenant's business. In no event, however, shall the aggregate amount of space in the Demised Premises utilized for

office or non-selling purposes exceed 20% of the gross leasable area of the Demised Premises. Without limiting the generality of the foregoing, areas used for the storage or stocking of inventory which are not publicly displayed shall be deemed used for "non-selling" purposes.

Section 9.12 If Tenant shall fail to (a) open for business to the public in the Demised Premises fixtured, stocked and staffed as herein provided on the Commencement Date, (b) open and remain open for business as herein provided during such hours as herein required, or (c) maintain during such hours a staff of employees and stock of merchandise as herein required, the same shall constitute an Event of Default hereunder if such failure continues for five (5) days beyond written notice thereof from Landlord to Tenant.

Section 9.13 Tenant shall not engage in, nor permit its employees, agents, affiliates or customers to engage in solicitations, demonstrations or other activities inconsistent with first class shopping center standards.

ARTICLE 10 **MAINTENANCE AND REPAIR OF PREMISES**

Section 10.1 In addition to any other duties of Landlord specifically provided for in this Lease, Landlord shall keep the foundation, the exterior walls (except plate glass; windows, doors, door closure devices and other exterior openings; window and door frames, molding, locks and hardware, special store fronts; lighting, heating, air conditioning, plumbing and other electrical, mechanical and electromotive installation equipment and fixtures; signs, placards, decorations or other advertising media of any type; and interior painting or other treatment of exterior walls) and roof (subject to the second sentence in Section 7.4 above) of the Demised Premises in good repair. Landlord, however, shall not be required to make any repairs occasioned by the act or negligence of Tenant, its agents, employees, subtenants, licensees, customers or concessionaires (including, but not limited to, roof leaks resulting from Tenant's installation of air conditioning equipment or any other roof penetration or placement); and the provisions of the previous sentence are expressly recognized to be subject to the provisions of Article 17 and Article 18 of this Lease. In the event that the Demised Premises should become in need of repairs required to be made by Landlord hereunder, Tenant shall give immediate written notice thereof to Landlord; and Landlord shall not be responsible in any way for failure to make any such repairs until a reasonable time shall have elapsed after receipt by Landlord of such written notice; provided, however, Landlord shall act in a commercially reasonable manner in commencing repairs in the event a condition threatens the health or safety of Tenant or any of its employees or invitees, and roof repairs shall be commenced as soon as commercially practicable if roof leaks are present.

Section 10.2 Tenant shall keep the Demised Premises in good, clean and habitable condition and shall at its sole cost and expense keep the Demised Premises free of insects, rodents, vermin and other pests and make all needed repairs and replacements, including replacement of cracked or broken glass. Without limiting the coverage of the previous sentence, it is understood that Tenant's responsibilities therein include the repair and replacement of all lighting, heating, air conditioning, plumbing and other electrical, mechanical and electromotive installation, equipment and fixtures and also include all utility repairs in ducts, conduits, pipes and wiring, and any sewer stoppage located in, under and above the Demised Premises, regardless of when or how the defect or other cause for repair or replacement occurred or became apparent. If any repairs required to be made by Tenant hereunder are not made within ten (10) days after written notice delivered to Tenant by Landlord, Landlord may at its option make such repairs without liability to Tenant for any loss or damage which may result to its stock or business by reason of such repairs; and Tenant shall pay to Landlord upon written demand, as additional rental hereunder, the cost of such repairs (including a 15% administrative fee) plus interest at the maximum contractual rate which could legally be charged in the event of a loan of such payment to Tenant (but not to exceed 1½% per month), such interest to accrue continuously from the date of written demand for payment by Landlord until repayment by Tenant. At the expiration of this Lease, Tenant shall surrender the Demised Premises in good condition, excepting reasonable wear and tear and losses required to be restored under this Lease.

Section 10.3 Tenant shall be responsible for all aspects of the care and maintenance, and if necessary in Tenant's commercially reasonable discretion replacement or relocation of the heating, ventilation and air conditioning equipment for the Demised Premises, including without limitation, preventative maintenance of the equipment (the "HVAC"). Without limiting the generality of the immediately preceding sentence: (a) Tenant shall replace all filters in the HVAC system at least once every ten (10) weeks; and (b) Tenant shall have the HVAC inspected by a qualified or licensed HVAC contractor at least once a year. The inspection specified in item (b) immediately above shall be completed between March 1st and May 31st of each year. Tenant shall provide Landlord with a copy of the invoice or report from the inspecting company, giving evidence that the system has been inspected. If Landlord has not received from Tenant by June 15th of each year a copy of the inspection report, Landlord shall have the right to have the HVAC inspected by a company to be selected by Landlord. Landlord shall bill Tenant for the reasonable cost of such inspection, which shall be paid within ten (10) days of Tenant's receipt of Landlord's invoice therefore.

Section 10.4 Tenant shall be responsible for pest control within the Demised Premises. Tenants whose primary business involves the sale of any type of food, beverages, plants, animals or any other type of merchandise which attracts pests, such business to be at Landlord's sole discretion, are required to have inspections each month. Tenant shall provide written evidence of each such pest control inspection each month to Landlord by the tenth (10) day of each month. If Tenant fails to provide such evidence within ten (10) days of written request therefor, Landlord shall perform such inspection and bill Tenant for the cost of such inspection, which shall be paid within ten (10) days of Tenant's receipt of Landlord's invoice therefor.

ARTICLE 11
ALTERATIONS

Section 11.1 Tenant shall not make any alterations, additions or improvements to the Demised Premises without the prior written consent of Landlord, which response shall not be unreasonably delayed, except for the installation of unattached, movable trade fixtures, which may be installed in the Demised Premises without drilling, cutting or otherwise defacing the Demised Premises. Without limiting the generality of the immediately preceding sentence, any installation or replacement of Tenant's HVAC must be effected strictly in accordance with Landlord's instructions. All alterations, additions, improvements and fixtures (including, without limitation, all floor coverings, and all HVAC, but excluding Tenant's unattached, readily movable furniture and office equipment) which may be made or installed by either party upon the Demised Premises shall remain upon and be surrendered with the Demised Premises and become the property of Landlord at the termination of this Lease, unless Landlord requests their removal, in which event Tenant, at Tenant's expense, shall remove the same and restore the Demised Premises to their original condition at Tenant's expense prior to the expiration of the Lease Term.

Section 11.2 All work performed, materials furnished, or obligations incurred by or at the request of a Tenant shall be deemed authorized and ordered by Tenant only, and Tenant shall not permit any mechanic's liens to be filed against the Demised Premises or the Shopping Center in connection therewith. Upon completion of any such work, Tenant shall deliver to Landlord final lien waivers from all contractors, subcontractors and materialmen who performed such work. Landlord and Tenant acknowledge and agree that their relationship is and shall be solely that of "landlord-tenant" (thereby excluding a relationship of "owner-contractor," "owner-agent" or other similar relationships). Accordingly, all materialmen, contractors, artisans, mechanics, laborers and any other persons now or hereafter contracting with Tenant, any contractor or subcontractor of Tenant or any other Tenant Party for the furnishing of any labor, services, materials, supplies or equipment with respect to any portion of the Demised Premises, at any time from the date hereof until the end of the Lease Term, are hereby charged with notice that they look exclusively to Tenant to obtain payment for same. All work done by Tenant within the Demised Premises shall be performed in a good and workmanlike manner, in compliance with all governmental requirements, and in such manner as to cause a minimum of interference with other work in progress and with the transaction of business in the Shopping Center. Tenant agrees to indemnify, defend and hold Landlord harmless against any loss, liability, liens or damage resulting from such work, and Tenant shall, if requested by Landlord, furnish bond or other security reasonably satisfactory to Landlord against any such loss, liability or damage.

Section 11.3 If Tenant uses a general contractor to perform construction work within the Demised Premises, Tenant shall, prior to the commencement of such work, require said general contractor to execute and deliver to Landlord a waiver and release of any and all claims against Landlord and liens against the Shopping Center to which such contractor might at any time be entitled and to execute or record a Bond to Pay Claims (the "**Bond**") in accordance with Chapter 53, Subchapter I of the Texas Property Code, as such may be amended, superseded or replaced from time to time, and shall deliver a copy of the recorded Bond to Landlord. The delivery of the waiver and release of lien or the Bond within the time period set forth above shall be a condition precedent to Tenant's ability to enter on and begin its construction work at the Demised Premises and, if applicable, to any reimbursement from Landlord for its construction work.

Section 11.4 If Landlord elects to remodel all or any portion of the Shopping Center, Tenant will cooperate with such remodeling, including Tenant's tolerating inconveniences (and even the temporary removal of Tenant's signs in order to facilitate such remodeling, as it may relate to the exterior of the Demised Premises, which such removal and replacement of such signs, without causing any damage thereto other than damage that already existed prior to such remodeling, shall be undertaken by Landlord at Landlord's sole cost and expense).

ARTICLE 12
LANDLORD'S RIGHT OF ACCESS

Section 12.1 Landlord shall have the right to enter upon the Demised Premises during Tenant's normal business hours for the purpose of inspecting the same, or of making repairs, alterations or additions to adjacent premises, or of showing the Demised Premises to prospective purchasers, tenants or lenders. Landlord shall have the right to enter upon the Demised Premises during normal business hours upon one (1) day advance written notice to Tenant for all of the foregoing reasons, except in the case of emergency, to make repairs to the Demised Premises. Landlord shall not unreasonably interfere with Tenant's business at the Demised Premises and shall use commercially reasonable care to schedule such access to the Demised Premises so as to minimize such interference.

Section 12.2 Tenant will permit Landlord to place and maintain "For Rent" or "For Lease" signs on the Demised Premises during the last ninety (90) days of the Lease Term, it being understood that such signs shall in no way affect Tenant's obligations pursuant to Section 9.4, Section 13.1 or any other provision of this Lease.

ARTICLE 13
SIGNS; STORE FRONTS

Section 13.1 Tenant shall not, without Landlord's prior written consent, (a) make any changes to the store front, (b) install any exterior lighting, decorations, paintings, awnings, canopies or the like, or (c) erect or install any signs, window or door lettering, placards, decorations or advertising media of any type which can be viewed from the exterior of the Demised Premises, excepting only dignified displays of customary type for its display windows. All signs, lettering, placards, decorations and advertising media (including, without limitation, the sign required by Section 13.2 below) shall conform in all respects to the sign criteria established by Landlord for the Shopping Center from time to time in the exercise of its sole discretion, and shall be subject to Landlord's requirements as to construction, method of attachment, size, shape, height, lighting, color and general appearance and in compliance with

any applicable sign ordinance, rules or regulations for the municipality in which the Shopping Center is located. Tenant shall keep all of its signs in good condition and in proper operating order at all times.

Section 13.2 Subject to the restrictions of Section 13.1 above, Tenant agrees to install and maintain a first-class sign as of the Commencement Date on the front of the Demised Premises and maintain such sign during the Lease Term.

ARTICLE 14 **UTILITIES**

Section 14.1 Landlord agrees to cause to be provided in the Shopping Center the necessary mains, conduits and other facilities necessary to supply water, gas (if deemed appropriate by Landlord), electricity, telephone service and sewerage service to a location within the Demised Premises.

Section 14.2 Tenant shall promptly pay all charges for electricity, water, gas, telephone service, sewerage service and other utilities furnished to the Demised Premises (including all tap fees and similar assessments made in connecting the Demised Premises to such utilities) and any maintenance charges therefor. Landlord may, if it so elects, furnish one or more utility services to Tenant, and in such event Tenant shall purchase the use of such services as are tendered by Landlord, and shall pay on demand as additional rental the rates established therefor by Landlord which shall not exceed the rates which would be charged for the same services directly by the local utility companies. Landlord may at any time, after providing Tenant with at least five (5) days' advance written notice, discontinue furnishing any such service without obligation to Tenant other than to connect the Demised Premises to the public utility, if any, furnishing such service prior to Landlord discontinuing such service.

Section 14.3 Landlord shall not be liable for any abatement of rent as a result of, or any other loss or damages whatsoever occurring in connection with, any interruption or failure whatsoever in utility services not furnished by Landlord, nor for interruptions in utility services furnished by Landlord which are due to fire, accident, strike, acts of God or other causes beyond the control of Landlord or in order to make alterations, repairs or improvements. In the event such an interruption is caused solely by Landlord's gross negligence and Tenant is unable to operate its business as a result, Rent shall be abated for each day Tenant cannot operate its business.

Section 14.4 If a sub-meter is installed in the Demised Premises to measure the flow of water, electricity, or gas thereto, Tenant at the request of Landlord shall be responsible to read said meter and provide all meter information to Landlord.

ARTICLE 15 **INSURANCE COVERAGES**

Section 15.1 Landlord shall procure and maintain throughout the Lease Term a policy or policies of insurance, at its sole cost and expense (but subject to Tenant paying its proportionate share pursuant to Article 6 above), causing the Shopping Center, including without limitation the roof of the Shopping Center, to be insured under standard fire and extended insurance coverage and liability insurance (plus whatever endorsements or special coverages Landlord, in its sole discretion, may consider appropriate).

Section 15.2 Tenant shall procure and maintain throughout the Lease Term a policy or policies of insurance, at its sole cost and expense, causing Tenant's fixtures and contents to be insured under standard fire and extended coverage insurance and, with regard to liability insurance, insuring both Landlord and Tenant against all claims, demands or actions arising out of or in connection with Tenant's use or occupancy of the Demised Premises, or by the condition of the Demised Premises. The limits of Tenant's liability policy or policies shall be in an amount not less than \$1,000,000 per occurrence (and no offset for occurrences on property other than the Demised Premises), and shall be written by insurance companies satisfactory to Landlord, which are licensed to do business in the state in which the Shopping Center is located with a general policyholder's rating of not less than B+ and a financial rating of not less than Class VIII, as rated in the most current edition of Best's Key Rating Guide. Tenant shall obtain a written obligation on the part of each insurance company to notify Landlord at least thirty (30) days prior to cancellation of such insurance. Such policies or duly executed certificates of insurance shall be promptly delivered to Landlord and renewals thereof as required shall be delivered to Landlord at least thirty (30) days prior to the expiration of the respective policy terms. If Tenant should fail to comply with the foregoing requirement relating to insurance, Landlord may obtain such insurance and Tenant shall pay to Landlord on demand as additional rental hereunder the premium cost thereof plus interest at the maximum contractual rate (but not to exceed 1½% per month) from the date of Tenant's receipt of written request for payment from Landlord along with proof of payment by Landlord, until repaid by Tenant.

Section 15.3 Tenant covenants and agrees to maintain insurance on all alterations, additions, betterments, partitions and improvements erected by, or on behalf of, Tenant in, on or about the Demised Premises in an amount not less than 90% (or such greater percentage as may be necessary to comply with the provisions of any co-insurance clause of the policy) of the "replacement cost" thereof as such term is defined in the State of Texas Insurance code or laws. Tenant shall also maintain the following insurance policies: (1) insurance covering the full value of all furniture, trade fixtures and personal property (including property of Tenant or others) in the Demised Premises or otherwise placed in the Shopping Center by or on behalf of a Tenant Party (defined below), (2) contractual liability insurance sufficient to cover Tenant's indemnity obligations hereunder (but only if such contractual liability insurance is not already included in Tenant's commercial general liability insurance policy), and (3) worker's compensation or similar insurance (unless Tenant elects to obtain employer's liability insurance as an alternative), and business interruption insurance in an amount reasonably acceptable to Landlord. Such insurance shall insure against the perils and be in form, including stipulated endorsements, as provided in Section 15.2 hereof. Such insurance shall be for the sole benefit of Tenant and under its sole control. All such policies shall be procured by Tenant from

responsible insurance companies which meet the insurance company requirements of Section 15.2 above or are otherwise reasonably satisfactory to Landlord. Certified copies of policies of such insurance, together with receipt evidencing payment of premiums therefor shall be delivered to Landlord prior to the Commencement Date. Not less than thirty (30) days prior to the expiration date of any such policies, certified copies of renewals thereof (bearing notations evidencing the payment of renewal premiums) shall be delivered to Landlord. Such policies shall further provide that not less than thirty (30) days written notice shall be given to Landlord before such policy may be canceled or changed to reduce insurance provided thereby.

ARTICLE 16 **WAIVER OF LIABILITY; INDEMNITY; MUTUAL WAIVER OF SUBROGATION**

Section 16.1 Landlord and Landlord's agents and employees shall not be liable to Tenant, nor to Tenant's employees, agents, or visitors, nor to any other person whomsoever, for any injury to person or damage to property caused by the Demised Premises or other portions of the Shopping Center becoming out of repair or by defect or failure of any structural element of the Demised Premises or of any equipment, pipes or wiring, or broken glass, or by the backing up of drains, or by gas, water, steam, electricity or oil leaking, escaping or flowing into the Demised Premises (except where due to Landlord's gross negligence or willful failure to make repairs required to be made hereunder, after the expiration of a written notice to Landlord of the need for such repairs), nor shall Landlord be liable to Tenant, nor to Tenant's employees, agents or visitors, nor to any other person whomsoever, for any loss or damage that may be occasioned by or through the acts or omissions of other tenants of the Shopping Center or of any other persons whomsoever, excepting only duly authorized employees and agents of Landlord. Landlord shall not be held responsible in any way on account of any construction, repair or reconstruction (including widening) of any public roadways, walkways or utility lines.

Section 16.2 Subject to Section 16.3, Tenant shall defend, indemnify, and hold harmless Landlord and its representatives and agents from and against all claims, demands, liabilities, causes of action, suits, judgments, damages, and expenses (including reasonable attorneys' fees) arising from any injury to or death of any person or the damage to or theft, destruction, loss, or loss of use of, any property or inconvenience (a "Loss") (a) occurring in or on the Shopping Center (other than within the Demised Premises) to the extent caused by the negligence or willful misconduct of any Tenant Parties, (b) occurring in the Demised Premises, or (c) arising out of the installation, operation, maintenance, repair or removal of any property of any Tenant Party located in or about the Shopping Center. **It being agreed that clauses (b) and (c) of this indemnity are intended to indemnify Landlord and its agents against the consequences of their own negligence or fault, even when Landlord or its agents are jointly, comparatively, contributively, or concurrently negligent with Tenant, and even though any such claim, cause of action or suit is based upon or alleged to be based upon the strict liability of Landlord or its agents; however, such indemnity shall not apply to the sole or gross negligence or willful misconduct of Landlord and its agents.** The indemnities set forth in this Lease shall survive termination or expiration of this Lease and shall not terminate or be waived, diminished or affected in any manner by any abatement or apportionment of rent under any provision of this Lease. If any proceeding is filed for which indemnity is required hereunder, the indemnifying party agrees, upon request therefor, to defend the indemnified party in such proceeding at its sole cost utilizing counsel reasonably satisfactory to the indemnified party. As used herein, "**Tenant Party**" means any of the following persons: Tenant; any assignees claiming by, through, or under Tenant; any subtenants claiming by, through, or under Tenant; and any of their respective agents, contractors, employees, licensees, guests and invitees.

Section 16.3 Landlord and Tenant each hereby waive any claim it might have against the other and releases the other from any and all liability or responsibility to the other, or to any other party claiming through or under them by way of subrogation or otherwise, for any loss or damage to property caused by a casualty which is insurable under the standard fire and extended coverage insurance **regardless of whether the negligence of the party caused such Loss**; provided, however, that this mutual waiver and release shall be applicable only with respect to a loss or damage occurring during the time when property insurance policies, which are readily available in the marketplace, contain a clause or endorsement to the effect that any such release shall not adversely affect or impair the policy or the right of the insured party to receive proceeds under the policy. The waiver and release specified in this Section 16.3 is cumulative with any waivers, releases or exculpations, which may be contained in other provisions of this Lease. Additionally, Tenant waives any claim it may have against Landlord for any Loss to the extent such Loss is caused by a terrorist act. Each party shall cause its insurance carrier to endorse all applicable policies waiving the carrier's rights of recovery under subrogation or otherwise against the other party. Notwithstanding any provision in this Lease to the contrary, Landlord, its agents, employees and contractors shall not be liable to Tenant or to any party claiming by, through or under Tenant for (and Tenant hereby releases Landlord and its servants, agents, contractors, employees and invitees from any claim or responsibility for) any damage to or destruction, loss, or loss of use, or theft of any property of any Tenant Party located in or about the Shopping Center, caused by casualty, theft, fire, third parties or any other matter or cause, regardless of whether the negligence of any party caused such loss in whole or in part. Tenant acknowledges that Landlord shall not carry insurance on, and shall not be responsible for damage to, any property of any Tenant Party located in or about the Shopping Center.

ARTICLE 17 **DAMAGES BY CASUALTY**

Section 17.1 Tenant shall give immediate written notice to Landlord of any damage caused to the Demised Premises by fire or other casualty (but in no event shall any such lack of notice from Tenant relieve Landlord of its obligations under Article 17).

Section 17.2 If the Demised Premises shall be damaged or destroyed by fire or other casualty insurable under standard fire and extended coverage insurance and Landlord does not elect to terminate this Lease as hereinafter provided, Landlord shall proceed with reasonable diligence and at its sole cost and expense to rebuild and repair the

Demised Premises. In the event (a) the building in which the Demised Premises is located shall be destroyed or substantially damaged by a casualty not covered by Landlord's insurance, (b) such building shall be destroyed or rendered untenable to an extent in excess of fifty percent (50%) of the first floor area by a casualty covered by Landlord's insurance, or (c) the holder of a mortgage, deed of trust or other lien on the Demised Premises at the time of the casualty elects, pursuant to such mortgage, deed of trust or other lien, to require the use of all or part of Landlord's insurance proceeds in satisfaction of all or part of the indebtedness secured by the mortgage, deed of trust or other lien, Landlord may elect either to terminate this Lease or to proceed to rebuild and repair the Demised Premises. Landlord shall give written notice to Tenant of such election within sixty (60) days after the occurrence of such casualty and, if Landlord elects to rebuild and repair, shall proceed to do so with reasonable diligence. Notwithstanding anything to the contrary herein, if during the last eighteen (18) months of the term of this Lease the Demised Premises shall be substantially damaged or destroyed by fire or other casualty to an extent that the cost of repair shall exceed fifty percent (50%) of the replacement value of the leasehold improvements existing in the Demised Premises prior to such casualty, then Tenant or Landlord shall have the right, provided the party that wishes to terminate is not in default under this Lease, to terminate this Lease as of the date of such casualty by delivering written notice to the other party within thirty (30) days after the date of such casualty.

Section 17.3 Landlord's obligation to rebuild and repair under this Article 17 shall in any event be limited to restoring one of the following (as may be applicable): (a) if this Lease does not include an attached exhibit describing Landlord's initial construction responsibility ("Landlord's Work"), restoring the Demised Premises to substantially the condition in which they existed prior to such casualty, exclusive of any alterations, additions, improvements, fixtures and equipment installed by Tenant; or (b) if this Lease does include any attached exhibit securing Landlord's Work, Landlord shall restore Landlord's Work, as described in the applicable exhibit attached to this Lease, to substantially the same condition in which the same existed prior to the casualty. Tenant agrees that promptly after completion of such work by Landlord, Tenant will proceed with reasonable diligence and at Tenant's sole cost and expense to restore, repair and replace all alterations, additions, improvements, fixtures, signs and equipment installed by Tenant, or, if any exhibit describing Tenant's Work is attached hereto, all items of Tenant's Work as described in such exhibit, as the case may be.

Section 17.4 Tenant agrees that during any period of reconstruction or repair of the Demised Premises, it will continue the operation of its business within the Demised Premises to the extent practicable. During the period from the occurrence of the casualty until Landlord's repairs are completed, the Minimum Guaranteed Rental shall be reduced to such extent as may be fair and reasonable under the circumstances; however, there shall be no abatement of the percentage rental and other charges provided for herein. In the event Tenant is in compliance with the insurance provisions contained in Sections 17.2 and 17.3 of this Lease and Tenant's insurance company fails to adequately reimburse Tenant for Tenant's proportionate share of Common Area Maintenance Expense, Insurance Expenses and Real Estate Charges related to the period of time before Tenant reopens for business in the Demised Premises and after the occurrence of the casualty, Landlord will abate fifty percent (50%) of Tenant's proportionate share of Common Area Maintenance Expense, Insurance Expenses and Real Estate Charges (unless such failure to reimburse is the result of Tenant's failure to obtain a sufficient amount of insurance to cover such charges) for up to sixty (60) days until Tenant reopens for business in the Demised Premises.

ARTICLE 18 **EMINENT DOMAIN**

Section 18.1 If more than thirty percent (30%) of the floor area of the Demised Premises should be taken for any public or quasi-public use under any governmental law, ordinance or regulation or by right of eminent domain or by private purchase in lieu thereof; this Lease shall terminate and the rental shall be abated during the unexpired portion of this Lease, effective on the date physical possession is taken by the condemning authority.

Section 18.2 If less than thirty percent (30%) of the floor area of the Demised Premises should be taken as aforesaid, this Lease shall not terminate; however, the Minimum Guaranteed Rental (but not percentage rental) payable hereunder during the unexpired portion of this Lease shall be reduced in proportion to the area taken, effective on the date physical possession is taken by the condemning authority. Following such partial taking, Landlord shall make all necessary repairs or alterations to the remaining portions of the Demised Premises or, if an exhibit describing Landlord's Work is attached to this Lease, all necessary repairs within the scope of Landlord's Work as described in such exhibit, as the case may be, required to make the remaining portions of the Demised Premises an architectural whole.

Section 18.3 If any part of the Common Area should be taken as aforesaid, this Lease shall not terminate, nor shall the rental payable hereunder be reduced, except that either Landlord or Tenant may terminate this Lease if the area of the Common Area remaining following such taking plus any additional parking area provided by Landlord in reasonable proximity to the Shopping Center shall be less than seventy percent (70%) of the area of the Common Area immediately prior to the taking. Any election to terminate this Lease in accordance with this provision shall be evidenced by written notice of termination delivered to the other party within thirty (30) days after the date on which physical possession is taken by the condemning authority.

Section 18.4 All compensation awarded for any taking (or proceeds of private sale in lieu thereof) of the Demised Premises or Common Area shall be the property of Landlord, and Tenant hereby assigns its interest in any such award to Landlord; provided, however, Landlord shall have no interest in any award made to Tenant for Tenant's moving and relocation expenses or for the loss of Tenant's fixtures and other tangible personal property if a separate award for such items is made to Tenant as long as such separate award does not reduce the amount of the award that would otherwise be awarded to Landlord.

ARTICLE 19
ASSIGNMENT AND SUBLETTING

Section 19.1 Tenant shall not assign or in any manner transfer this Lease any estate or interest herein, whether directly or by operation of law, or sublet the Demised Premises or any part thereof, or grant any license, concession or other right of occupancy of any portion of the Demised Premises, or permit the use of the Demised Premises by any parties other than Tenant, or permit any other entity to become Tenant hereunder by merger, consolidation or other reorganization, without the prior written consent of Landlord. Landlord will not withhold, condition, or delay consent in a wholly arbitrary manner; however, in determining whether or not to grant its consent, Landlord shall be entitled to take into consideration factors such as Landlord's desired tenant mix, the reputation and net worth of the proposed transferee, the then current market conditions (including market rentals), the parking requirements and proposed use of the Demised Premises by the proposed transferee (it being understood that such proposed use must be a Permitted Use hereunder, otherwise Landlord may withhold its consent in its sole discretion) and whether the proposed transferee is another occupant of the Shopping Center, a governmental entity, or subdivision or agency thereof, or a person or entity with whom Landlord is then, or has been within the six month period prior to the time Tenant seeks to enter into such assignment or subletting, negotiating to lease space in the Shopping Center or any affiliate of any such person or entity. Concurrently with Tenant's notice of any request for consent, Tenant shall pay to Landlord a fee of \$1,000 to defray Landlord's expenses in reviewing such request, and Tenant shall also reimburse Landlord immediately upon request for its reasonable attorneys' fees incurred in connection with considering any request for consent. Consent by Landlord to one or more assignments or sublettings shall not operate as a waiver of Landlord's rights as to any subsequent assignments and sublettings. Notwithstanding anything to the contrary in this Lease, Landlord and Tenant agree that an acceptable assignee shall comply with all of the following provisions: (a) the proposed assignee has a verifiable net worth of \$7,000,000 or more as of the date of such proposed assignment; (b) financial statements for such proposed assignee and including detailed information on the owners of such assignee are delivered to Landlord contemporaneously with the request for such assignment and such financial statements are either (i) audited in accordance with generally accepted accounting principles consistently applied, or (ii) are in such other form as are reasonably acceptable to Landlord, (c) the proposed assignee possesses six (6) or more years of experience owning and operating a restaurant, and (d) the proposed assignee will continue to operate the restaurant in the Demised Premises in a substantially similar manner as it has been operated by Tenant, and in compliance with Exhibit F of this Lease.

Section 19.2 If Tenant is a corporation, partnership or other entity and if at any time during the Lease Term the person or persons who own a majority of either the outstanding voting rights or the outstanding interests of Tenant at the time of the execution of this Lease cease to own a majority of such voting rights or ownership interests (except as a result of transfers by devise or descent or if transfers are to a trust of which the majority owner is the Trustee), the loss of a majority of such voting rights or ownership interests shall be deemed an assignment of this Lease by Tenant and, therefore, subject in all respects to the provisions of Section 19.1 above.

Section 19.3 Any assignee or sublessee of an interest in and to this Lease shall be deemed, by acceptance of such assignment or sublease or by taking actual or constructive possession of the Demised Premises, to have assumed all of the obligations set forth in or arising under this Lease. Such assumption or subletting shall be effective as of the earlier of the date of such assignment or sublease or the date on which the assignee or sublessee obtains possession of the Demised Premises.

Section 19.4 Notwithstanding any assignment, subletting or other transfer, Tenant and any guarantor of Tenant's obligations under this Lease shall (except as may be specifically provided in such Guaranty) at all times remain fully responsible and liable for the payment of the rental herein specified and for compliance with all of its other obligations under this Lease (even if future assignments and sublettings occur subsequent to the assignment or subletting by Tenant, and regardless of whether or not Tenant's approval has been obtained for such future assignments and sublettings). Moreover, if the rental due and payable by a sublessee (or a combination of the rental payable under such sublease plus any bonus or other consideration therefore or incident thereto) exceed the rental payable under this Lease, or if with respect to a permitted assignment, permitted license or other transfer by Tenant permitted by Landlord, the consideration payable to Tenant by the assignee, licensee or other transferee exceeds the rental payable under this Lease, then Tenant shall be bound and obligated to pay Landlord all such excess rental and other excess consideration within ten (10) days following receipt thereof by Tenant from such sublessee, assignee, licensee or other transferee, as the case may be. Finally, in any event of assignment or subletting, it is understood and agreed that all rentals paid to Tenant by an assignee or sublessee shall be received by Tenant in trust for Landlord, to be forwarded immediately to Landlord without offset or reduction of any kind; and upon election by Landlord such rentals shall be paid directly to Landlord as specified in Article 4 of this Lease (to be applied as a credit and offset to Tenant's rental obligation).

Section 19.5 Tenant shall not mortgage, pledge or otherwise encumber its interests in this Lease or in the Demised Premises.

Section 19.6 In the event of the transfer and assignment by Landlord of its interest in this Lease and in the building containing the Demised Premises to a person expressly assuming Landlord's obligations under this Lease, Landlord shall thereby be released from any further obligations hereunder arising from and after the transfer date, and Tenant agrees to look solely to such successor in interest of the Landlord for performance of such obligations. Any security given by Tenant to secure performance of Tenant's obligations hereunder may be assigned and transferred by Landlord to such successor in interest and Landlord shall thereby be discharged of any further obligation relating thereto.

ARTICLE 20
SUBORDINATION; ATTORNMEN; ESTOPPELS

Section 20.1 Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust, or other lien presently existing or hereafter placed upon the Shopping Center or any portion of the Shopping Center which includes the Demised Premises, and to any renewals and extensions thereof. Tenant agrees that any Landlord's Mortgagee (defined below) shall have the right at any time to subordinate its mortgage, deed of trust or other lien to this Lease; provided, however, notwithstanding that this Lease may be (or made to be) superior to a mortgage, deed of trust or other lien, Landlord's Mortgagee shall not be liable for prepaid rentals, security deposits and claims accruing during Landlord's ownership; further provided that the provisions of a mortgage, deed of trust or other lien relative to the rights of Landlord's Mortgagee with respect to proceeds arising from an eminent domain taking (including a voluntary conveyance by Landlord) and provisions relative to proceeds arising from insurance payable by reason of damage to or destruction of the Demised Premises shall be prior and superior to any contrary provisions contained in this instrument with respect to the payment or usage thereof. Landlord is hereby irrevocably vested with full power and authority to subordinate this Lease to any mortgage, deed of trust or other lien hereafter placed upon the Demised Premises or the Shopping Center as a whole, and Tenant agrees to execute such further commercially reasonable instruments subordinating this Lease as Landlord may request within fifteen (15) days of Landlord's written request therefor.

Section 20.2 At any time when the holder of an outstanding mortgage, deed of trust or other lien covering Landlord's interest in the Demised Premises ("**Landlord's Mortgagee**") has given Tenant written notice of its interest in this Lease, Tenant may not exercise any remedies for default by Landlord hereunder unless and until Landlord's Mortgagee shall receive written notice of such default and a reasonable time (not less than 30 days) shall thereafter have elapsed without the default having been cured.

Section 20.3 Tenant agrees that it will from time to time upon request by Landlord execute and deliver to Landlord a written statement addressed to Landlord (or to a party designated by Landlord), which statement shall identify Tenant and this Lease, shall certify that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as so modified), shall confirm Landlord is not in default as to any obligations of Landlord under this Lease (or if Landlord is in default, specifying any default), shall confirm Tenant's agreements contained above in this Article 20 and shall contain such other information or confirmations as Landlord may reasonably require. Landlord is hereby irrevocably appointed and authorized as the agent and attorney-in-fact of Tenant to execute and deliver any such written statement on Tenant's behalf if Tenant fails to do so within seven (7) days after delivery of a written request from Landlord to Tenant.

Section 20.4 Tenant shall attorn to any party succeeding to Landlord's interest in the Demised Premises, whether by purchase, foreclosure, deed in lieu of foreclosure, power of sale, termination of lease, or otherwise, upon such party's request, and shall execute such agreements confirming such attornment as such party may reasonably request.

Section 20.5 If Landlord's Mortgagee shall succeed to the interest of Landlord under this Lease, Landlord's Mortgagee shall not be: (a) liable for any act or omission of any prior lessor (including Landlord); (b) bound by any rent or additional rent or advance rent which Tenant might have paid for more than the current month to any prior lessor (including Landlord), and all such rent shall remain due and owing, notwithstanding such advance payment; (c) bound by any security or advance rental deposit made by Tenant which is not delivered or paid over to Landlord's Mortgagee and with respect to which Tenant shall look solely to Landlord for refund or reimbursement; (d) bound by any termination, amendment or modification of this Lease made without Landlord's Mortgagee's consent and written approval, except for those terminations, amendments and modifications permitted to be made by Landlord without Landlord's Mortgagee's consent pursuant to the terms of the loan documents between Landlord and Landlord's Mortgagee; (e) subject to the defenses which Tenant might have against any prior lessor (including Landlord); and (f) subject to the offsets which Tenant might have against any prior lessor (including Landlord) except for those offset rights which (1) are expressly provided in this Lease, (2) relate to periods of time following the acquisition of the Shopping Center by Landlord's Mortgagee, and (3) Tenant has provided written notice to Landlord's Mortgagee and provided Landlord's Mortgagee a reasonable opportunity to cure the event giving rise to such offset event. Landlord's Mortgagee shall have no liability or responsibility under or pursuant to the terms of this Lease or otherwise after it ceases to own an interest in the Shopping Center. Nothing in this Lease shall be construed to require Landlord's Mortgagee to see to the application of the proceeds of any loan, and Tenant's agreements set forth herein shall not be impaired on account of any modification of the documents evidencing and securing any loan.

ARTICLE 21
DIRECTION OF TENANT'S ENERGIES

Intentionally Deleted

ARTICLE 22
TENANT DEFAULT AND LANDLORD REMEDIES

Section 22.1 The following events shall be deemed to be events of default by Tenant under this Lease:

(a) Tenant fails to pay any installment of rental or any other obligation under this Lease involving the payment of money and such failure continues for a period of ten (10) days after written notice thereof to Tenant; provided, however, that for each calendar year during which Landlord has already given Tenant two (2) written notices of the failure to pay an installment of rental, no further notice shall be required (i.e., the event of default

will automatically occur without any obligation of Landlord to give any notice if Tenant fails to pay rental when due during the remainder of such calendar year).

(b) Tenant fails to comply with any term, provision or covenant of this Lease, other than as described in Section 22.1(a) above, and shall not cure such failure within thirty (30) days after written notice thereof to Tenant or such longer period if Tenant commences a cure within such thirty (30) days and diligently pursues its completion, or shall cure that particular failure but shall again fail to comply with the same provision of the lease within three months after Landlord's written notice.

(c) The filing of a petition by or against Tenant (the term "Tenant" shall include, for purposes of this Section 22.1(c), any guarantor of Tenant's obligations hereunder) (1) in any bankruptcy or other insolvency proceeding; (2) seeking any relief under any state or federal debtor relief law; (3) for the appointment of a liquidator or receiver for all or substantially all of Tenant's property or for Tenant's interest in this Lease; (4) for the reorganization of Tenant's capital structure while under financial distress and not as an ordinary corporate reorganization for legitimate business purposes; (5) in any assignment for the benefit of creditors proceeding; however, if such a petition is filed against Tenant, then such filing shall not be an event of default unless Tenant fails to have the proceedings initiated by such petition dismissed within 90 days after the filing thereof; or (6) Tenant shall become insolvent or shall make a transfer in fraud of creditors.

(d) Tenant deserts or vacates or commences to desert or vacate the Demised Premises or any substantial portion of the Demised Premises fails to continuously operate its business in the Demised Premises for the Permitted Use set forth herein or at any time prior to the last month of the Lease Term removes or attempts to remove, without the prior written consent of Landlord, all or a substantial amount of Tenant's goods, wares, equipment, fixtures, furniture, or other personal property.

(e) Tenant does or permits to be done anything that creates a lien upon the Demised Premises or upon all or any part of the Shopping Center if such lien continues following thirty (30) days advance written notice from Landlord to Tenant of the existence of such lien.

(f) Tenant fails to provide any estoppel certificate after Landlord's written request therefor pursuant to Section 20.3 and such failure shall continue for five days after Landlord's second written notice thereof to Tenant.

(g) Tenant fails to procure, maintain and deliver to Landlord evidence of the insurance policies and coverages as required under Article 15.

Section 22.2 Upon the occurrence of any such events of default, Landlord shall have the option to pursue any one or more of the following remedies in addition to all other rights and remedies afforded Landlord hereunder by law or equity:

(a) Without any further notice or demand whatsoever, Tenant shall be obligated to reimburse Landlord for the damages suffered by Landlord as a result of the event of default, plus interest on such amount at the maximum contractual rate which could legally be charged in the event of a loan of such amount to Tenant (but not to exceed 1½% per month); and Landlord may pursue a monetary recovery from Tenant. Landlord and Tenant further agree that inasmuch as the exact amount of damages would be difficult to determine, liquidated damages will be due monthly (1) in an amount equal to fifteen percent of the Minimum Guaranteed Rental payable for that month (i.e., Tenant will pay Minimum Guaranteed Rental equal to one hundred fifteen percent (115%) of the amount specified in Section 1.1(m) of this Lease) if Tenant opens for business but fails to install a sign and (2) in an amount equal to twenty-five percent (25%) of the Minimum Guaranteed Rental payable for that month (i.e., Tenant will pay Minimum Guaranteed Rental equal to one hundred twenty-five percent [125%] of the amount specified in Section 1.1(m) of this Lease) if Tenant fails to open for business as required in this Lease or, having opened for business, subsequently deserts or vacates the Demised Premises or otherwise ceases to conduct business in the Demised Premises as required by this Lease (including, but not limited to, failing to comply with the requirements of Section 9.1 of this Lease).

(b) Without any further notice or demand whatsoever, Landlord may take one or more of the actions permissible at law or equity to ensure performance by Tenant of Tenant's covenants and obligations under this Lease. In this regard, and without limiting the generality of the immediately preceding sentence, it is agreed if Tenant fails to open for business as required in this Lease or, having opened for business, deserts or vacates the Demised Premises, Landlord may enter upon and take possession of the Demised Premises in order to protect them from deterioration and continue to demand from Tenant the monthly rentals and other charges provided in this Lease; however, if Landlord does relet the Demised Premises, such action by Landlord shall not be deemed as an acceptance of Tenant's surrender of the Demised Premises unless Landlord expressly notifies Tenant of such acceptance in writing pursuant to this Section 22.2(b), Tenant hereby acknowledging that Landlord shall otherwise be reletting as Tenant's agent and Tenant furthermore hereby agreeing to pay to Landlord on demand any deficiency that may arise between the monthly rentals and other charges provided in this Lease and that actually collected by Landlord. It is further agreed in this regard upon the occurrence of any default described in Section 22.1(b) of this Lease, Landlord may enter upon the Demised Premises by force if necessary without being liable for prosecution or any claim of damages therefor, and do whatever Tenant is obligated to do under the terms of this Lease; and Tenant agrees to reimburse Landlord on demand for any expense Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease, and Tenant further agrees Landlord shall not be liable for any damages resulting to Tenant from such action. Nothing in this Agreement, however, limits or eliminates Landlord's duty to mitigate its damages in the event of breach by Tenant to the extent that the laws of Texas require the Landlord to mitigate its damages.

(c) Landlord may terminate this Lease by written notice to Tenant, in which event Tenant shall immediately surrender the Demised Premises to Landlord, and if Tenant fails to do so, Landlord may, without prejudice to any other remedy which Landlord may have for possession or arrearages in rentals (including any late charge or interest which may have accrued pursuant to Article 4 or any other provision of this Lease), enter upon and take possession of the Demised Premises and expel or remove Tenant and any other person who may be occupying the Demised Premises or any part thereof, by force if necessary, without being liable for prosecution or any claim for damages therefor. Tenant hereby waives any statutory requirement of prior written notice for filing eviction or damage suits for non-payment of rentals. In addition, Tenant agrees to pay to Landlord on demand the amount of all loss and damage which Landlord may suffer by reason of any termination effected pursuant to this Section 22.2(c), said loss and damage to be determined by either of the following alternative measures of damages:

(1) Until Landlord is able, through reasonable efforts, the nature of which efforts shall be at the sole discretion of Landlord, to relet the Demised Premises, Tenant shall pay to Landlord on or before the first day of each calendar month, the monthly rentals and other charges provided in this Lease. After the Demised Premises have been relet by Landlord, Tenant shall pay to Landlord on the 20th day of each calendar month the difference between the monthly rentals and other charges provided in this Lease for such calendar month and that actually collected by Landlord for such month. If it is necessary for Landlord to bring suit in order to collect any deficiency, Landlord shall have the right to allow such deficiencies to accumulate and to bring an action on several or all of the accrued deficiencies at one time. Any such suit shall not prejudice in any way the right of Landlord to bring a similar action for any subsequent deficiency or deficiencies. Any amount collected by Landlord from subsequent tenants for any calendar month, in excess of the monthly rentals and other charges provided in this Lease, shall be credited to Tenant in reduction of Tenant's liability for any calendar month in which the amount collected by Landlord will be less than the monthly rentals and other charges provided in this Lease; but Tenant shall have no right to such excess other than the above-described credit.

(2) When Landlord desires, Landlord may demand a final settlement. Upon demand for a final settlement, Landlord shall have the right to, and Tenant hereby agrees to pay, the difference between the total of all monthly rentals and other charges provided in this Lease for the remainder of the Lease Term and the reasonable rental value of the Demised Premises for such period, such difference to be discounted to present value at a per annum rate equal to five percent (5%).

If Landlord elects to exercise the remedy prescribed in Section 22.2(b) above, this election shall in no way prejudice Landlord's rights at any time thereafter to cancel said election in favor of the remedy prescribed in Section 22.2(c) above, provided that at the time of such cancellation Tenant is still in default. Similarly, if Landlord elects to compute damages in the manner prescribed by Section 22.2(c)(1) above, this election shall in no way prejudice Landlord's right at any time thereafter to demand a final settlement in accordance with Section 22.2(c)(2) above. Pursuit of any of the above remedies shall not preclude pursuit of any other remedies prescribed in other sections of this Lease and any other remedies provided by law. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default.

Section 22.3 It is expressly agreed that in determining "the monthly rentals and other charges provided in this Lease," as that term is used throughout Section 22.2(c)(1) and Section 22.2(c)(2) above, there shall be added to the Minimum Guaranteed Rental (as specified in Section 1.1(m) and (n) and Article 4 of this Lease) a sum equal to Tenant's Proportionate share of Common Area Maintenance Expenses (as specified in Section 1.1(o) and Section 7.4 of this Lease) the payments for taxes, real estate charges and insurance expenses (as specified in Article 6 of this Lease) plus one twenty-fourth (1/24th) of the total of all percentage rentals required to be paid by Tenant (pursuant to Section 4.4 of this Lease) because of gross sales during the two full calendar years immediately preceding the date Landlord initiated action pursuant to said subsections (or, if two full calendar years have not then elapsed, to the corresponding fraction of all percentage rentals required to be paid because of gross sales during the period commencing with the Commencement Date of this Lease and concluding with the date on which Landlord initiated such action).

Section 22.4 It is further agreed that, in addition to payments required pursuant to Section 22.2(b) and Section 22.2(c) above, Tenant shall compensate Landlord for all expenses incurred by Landlord in repossession (including, among other expenses, any increase in insurance premiums caused by the vacancy of the Demised Premises), all expenses incurred by Landlord in reletting (including, among other expenses, repairs, remodeling, replacements, advertisements and brokerage fees), all concessions granted to a new tenant upon reletting (including, among other concessions, renewal options), all losses incurred by Landlord as a result of Tenant's default (including, among other losses, any adverse reaction by Landlord's mortgagee or by other tenants or potential tenants of the Shopping Center) and a reasonable allowance for Landlord's administrative efforts, salaries and overhead attributable directly or indirectly to Tenant's default and Landlord's pursuing the rights and remedies provided herein and under applicable law. Tenant shall reimburse Landlord on demand for any expenses which Landlord may incur in thus effecting compliance with Tenant's obligations under this Lease (including, but not limited to, collection costs and commercially reasonable legal expenses), plus interest thereon at the Default Rate. Landlord shall provide Tenant with commercially reasonable detail on Landlord's expenses related to effecting compliance with Tenant's obligations under this Lease if requested by Tenant in writing.

Section 22.5 Landlord may restrain or enjoin any breach or threatened breach of any covenant, duty or obligation of Tenant herein contained without the necessity of proving the inadequacy of any legal remedy or irreparable harm. The remedies of Landlord hereunder shall be deemed cumulative and not exclusive of each other.

Section 22.6 The prevailing party in any litigation arising out of or to interpret this Agreement shall recover its reasonable and necessary attorney's fees and costs from the other party.

Section 22.7 Landlord may suspend any services required to be provided by Landlord hereunder for reasons and/or time that is commercially reasonable without being liable for any claim for damages therefor.

Section 22.8 In the event of a default under Section 22.1(a) above or if one or more provisions of this Article 22 authorizes Landlord to enter the Demised Premises, Landlord is entitled and is hereby authorized, without any notice to Tenant, to enter upon the Demised Premises by use of a duplicate key, a master key, a locksmith's entry procedures or any other means not involving personal confrontation, and to alter or change the door locks on all entry doors of the Demised Premises, thereby permanently excluding Tenant. In such event, Landlord shall not be obligated to place any written notice on the Demised Premises explaining Landlord's action; moreover, if a reason for Landlord's action is the failure of Tenant to pay any one or more rentals when due pursuant to this Lease, Landlord shall not be required to provide the new key (if any) to Tenant until and unless all rental defaults of Tenant have been fully cured.

Section 22.9 Tenant acknowledges its obligation to deposit with Landlord the sum stated in Section 1.1(p) above, to be held by Landlord without interest as security for the performance by Tenant of Tenant's covenants and obligations under this Lease. Tenant agrees that such deposit may be commingled with Landlord's other funds and is not an advance payment of rental or a measure of Landlord's damages in case of default by Tenant. Upon the occurrence of any event of default by Tenant, Landlord may, from time to time, without prejudice to any other remedy provided herein or provided by law, use such funds to the extent necessary to make good any arrears of rentals and any other damages, injury, expenses or liability caused to Landlord by such event of default, and Tenant shall pay to Landlord on demand the amount so applied in order to restore the security deposit to its original amount. If Tenant is not then in default hereunder and subject to the requirements of, and conditions imposed by, laws applicable to security deposits under commercial leases, any remaining balance of such deposit shall be returned by Landlord to Tenant within the time period required by applicable law (subject to the provisions of Section 19.6 above).

Section 22.10 Upon any default described in Section 22.1(c) of this Lease, any assumption and assignment must conform with the requirements of the federal Bankruptcy Code of the United States, as amended, which provides, in part, that Landlord must be provided with adequate assurances (a) of the source of rent and other consideration due under this Lease, (b) that the financial condition and operating performance of any proposed assignee and its guarantors, if any, shall be similar to the financial condition and operating performance of Tenant and its guarantors, if any, as of the date of execution of this Lease; (c) that any percentage rent due under this Lease will not decline substantially; (d) that any assumption or assignment is subject to all of the provisions of this Lease (including, but not limited to, restrictions as to use) and will not breach any such provision contained in any other lease, financing agreement or other agreement relating to the Shopping Center; and (e) that any assumption or assignment will not disrupt any tenant mix or balance in the Shopping Center.

(1) In order to provide Landlord with the assurances contemplated by the Bankruptcy Code, Tenant must fulfill the following obligations, in addition to any other reasonable obligations Landlord may require, before any assumption of this Lease is effective; (A) all defaults under **Error! Reference source not found.** of this Lease other than under Section 22.1(c) must be cured within fifteen (15) days after the date of assumption; (B) all actual monetary losses incurred by Landlord (including, but not limited to, reasonable attorneys' fees) must be paid to Landlord within ten (10) days after the date of assumption; and (C) Landlord must receive within ten (10) days after the date of assumption a security deposit in the amount of six (6) months minimum guaranteed rent (using the minimum guaranteed rent in effect for the first full month immediately following the assumption) and an advance prepayment of minimum guaranteed rent in the amount of three (3) months minimum guaranteed rent (using the minimum guaranteed rent in effect for the first full month immediately following the assumption), both sums to be held by Landlord in accordance with Section 22.9 above and deemed to be rent under this Lease for the purposes of the Bankruptcy Code as amended and from time to time in effect.

(2) If this Lease is assumed in accordance with the requirements of the Bankruptcy Code and this Lease, and is subsequently assigned, then, in addition to any other reasonable obligations Landlord may require and in order to provide Landlord with the assurances contemplated by the Bankruptcy Code, Landlord shall be provided with (A) a financial statement of the proposed assignee prepared in accordance with generally accepted accounting principles consistently applied, though on a cash basis, which reveals a net worth in an amount sufficient, in Landlord's reasonable judgment, to assure the future performance by the proposed assignee of Tenant's obligations under this Lease; or (B) a written guaranty by one or more guarantors with financial ability sufficient to assure the future performance of Tenant's obligations under this Lease, such guaranty to be in form and content satisfactory to Landlord and to cover the performance of all of Tenant's obligations under this Lease.

Section 22.11 No agreement to accept a surrender of the Demised Premises and no act or omission by Landlord or Landlord's agent during the term shall constitute an acceptance of surrender of the Demised Premises unless made in writing and signed by Landlord. No reentry or taking possession of the Demised Premises by Landlord shall constitute an election by Landlord to terminate this Lease unless a written notice of such intention is given to Tenant.

ARTICLE 23
LANDLORD'S CONTRACTUAL SECURITY INTEREST

Section 23.1 In addition to any statutory landlord's lien now or hereafter enacted, Tenant grants to Landlord a security interest to secure payment of all rentals and other sums of money becoming due hereunder from Tenant, and to secure payment of any damages or loss which Landlord may suffer by reason of the breach by Tenant of any covenant, agreement or condition contained herein, upon all goods, wares, equipment, fixtures, furniture, improvements and other personal property of Tenant presently, or which may hereafter be, situated on the Demised Premises, and all proceeds therefrom (collectively, the "Collateral"), and such property shall not be removed without the consent of Landlord until all arrearages in rent as well as any and all other sums of money then due to Landlord or to become due to Landlord hereunder shall first have been paid and discharged and all the covenants, agreements and conditions hereof have been fully complied with and performed by Tenant. Upon the occurrence of an event of default by Tenant, Landlord may, in addition to any other remedies provided herein, enter upon the Demised Premises and take possession of any and all of the Collateral, without liability for trespass or conversion, and sell the same at public or private sale, with or without having such Collateral at the sale, after giving Tenant reasonable written notice of the time and place of any public or private sale, at which sale the Landlord or its assigns may purchase unless otherwise prohibited by law. Unless otherwise provided by law, and without intending to exclude any other manner of giving Tenant reasonable notice, the requirement of reasonable notice shall be met if such notice is given in the manner prescribed in this Lease at least five days before the time of sale. Any sale made pursuant to the provisions of this paragraph shall be deemed to have been a public sale conducted in a commercially reasonable manner if held in the above described or where the property is located after the time, place and method of sale and a general description of the types of property to be sold have been advertised in a daily newspaper published in the county in which the property is located, for five consecutive days before the date of the sale. The proceeds from any such disposition, less any and all expenses connected with the taking of possession, holding and selling of the property (including reasonable attorneys' fees and legal expenses), shall be applied as a credit against the indebtedness secured by the security interest granted in this paragraph. Any surplus shall be paid to Tenant or as otherwise required by law; Tenant shall pay any deficiencies forthwith. Upon request by Landlord, Tenant agrees to execute and deliver to Landlord a financing statement in form sufficient to perfect the security interest of Landlord in the aforementioned property and proceeds thereof under the provision of the Uniform Commercial Code (or corresponding state statute or statutes) in force in the state in which the property is located, as well as any other state the laws of which may at any time consider to be applicable; moreover Tenant grants to Landlord a power of attorney to execute and file any financing statement or other instrument necessary to perfect Landlord's security interest under this Section 23.1, which power is coupled with an interest and is irrevocable during the Lease Term. Landlord may also file a copy of this Lease as a financing statement to perfect its security interest in the Collateral.

ARTICLE 24
HOLDING OVER

Section 24.1 If Tenant remains in possession of the Demised Premises after the expiration of the Lease Term and without the execution of a new lease, it shall be deemed to be occupying said premises as a tenant at sufferance and, in addition to all other damages and remedies to which Landlord may be entitled for such holding over, Tenant shall pay a rental equal to the rental (including any percentage rental) herein provided plus fifty percent (50%) of such amount and otherwise subject to all the conditions, provisions and obligations of this Lease. The provisions of this Section 24.1 shall not be deemed to limit or constitute a waiver of any other rights or remedies of Landlord provided herein or at law. If Tenant fails to surrender the Demised Premises upon the termination or expiration of this Lease, in addition to any other liabilities to Landlord accruing therefrom, Tenant shall protect, defend, indemnify and hold Landlord harmless from all loss, costs (including reasonable attorneys' fees) and liability resulting from such failure, including any claims made by any succeeding tenant founded upon such failure to surrender, and any lost profits to Landlord resulting therefrom.

ARTICLE 25
NOTICES

Section 25.1 Wherever any notice is required or permitted hereunder, such notice shall be in writing. Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered when actually received by the designated addressee or, if earlier and regardless of whether actually received or not, when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the parties hereto at the respective addresses set out in Section 1.1 above or by facsimile with confirmatory receipt by sender at the numbers set forth herein, (or at Landlord's option, to Tenant at the Demised Premises), or when hand delivered to the intended addressee or sent by a nationally recognized overnight courier service. The parties hereto may change their addresses by written notice to the other given in conformity with this provision.

Section 25.2 If and when included within the term "Landlord" as used in this instrument there are more than one person, firm or corporation, all shall jointly arrange among themselves for their joint execution of such notice specifying some individual at some specific address for the receipt of notices and payments to the Landlord; if and when included within the term "Tenant" as used in this instrument there are more than one person, firm or corporation, all shall jointly arrange among themselves for their joint execution of such a notice specifying some individual at some specific address for the receipt of notices and payment to Tenant. All parties included within the terms "Landlord" and "Tenant," respectively, shall be bound by notices and payments given in accordance with the provisions of this Article to the same effect as if each had received such notice or payment. In addition, Tenant agrees notices to Tenant may be given by Landlord's attorney, property manager or other agent.

Section 25.3 Landlord and Tenant hereby agree not to conduct the transactions or communications contemplated by this Lease **related to required notices, default notices, any amendments to the Lease, notices of**

termination, notices of exercising a renewal option, SNDAs, any notice triggering a required action or response by the other party and certificates of acceptance by electronic means, except by facsimile transmission as specifically set forth in Section 25.1; nor shall the use of the phrase "in writing" or the word "written" be construed to include electronic communications except by facsimile transmissions as specifically set forth in Section 25.1.

ARTICLE 26 **COMMISSIONS**

Section 26.1 Landlord shall pay to Gideon Interests, as Agent, and Madison Retail Holdings, as Cooperating Agent, a commission for negotiating this Lease per separate written agreement. Other than Agent and Cooperating Agent, if any, Tenant has not dealt with any broker or agent in connection with this Lease. Tenant and Landlord shall each indemnify the other against all costs, expenses, attorneys' fees, liens and other liability for commissions or other compensation claimed by any other broker or agent claiming the same by, through or under the indemnifying party.

Section 26.2 Tenant hereby acknowledges that at the time of the execution of this Lease, Tenant has been advised by this writing that Tenant should have an abstract covering the real estate upon which the Shopping Center and the Demised Premises are located examined by attorney of Tenant's own selection, or at Tenant's option, that Tenant should obtain a leasehold owner's policy of title insurance. Landlord represents and warrants that it owns the Shopping Center and has all required authority to enter into this Lease and let the Demised Premises to Tenant.

Section 26.3 Tenant also acknowledges Agent has advised Tenant that, because Agent has no expertise with respect to toxic or otherwise hazardous substances, Tenant should, prior to executing this Lease, have qualified experts conduct proper inspections of the Demised Premises in order to determine whether or not toxic or otherwise hazardous substances exist in, under or around the Demised Premises.

ARTICLE 27 **REGULATIONS**

Section 27.1 Landlord and Tenant acknowledge there are in effect federal, state, county and municipal laws, orders, rules, directives and regulations (collectively, the "Regulations") and additional Regulations may hereafter be enacted or go into effect, relating to or affecting the Demised Premises or the Shopping Center, and concerning the impact on the environment of construction, land use, maintenance and operation of structures, and conduct of business. Subject to the express rights granted to Tenant under the terms of this Lease, Tenant will not cause, or permit to be caused, any act or practice, by negligence, omission, or otherwise, that would adversely affect the environment, or do anything to permit anything to be done that would violate any of said Regulations. Moreover, Tenant shall have no claim against Landlord by reason of any changes Landlord may make in the Shopping Center or the Demised Premises pursuant to said Regulations or any charges imposed upon Tenant, Tenant's customers or other invitees pursuant to same.

Section 27.2 If, by reason of any Regulations, the payment to, or collection by, Landlord of any rental or other charge (collectively, "Lease Payments") payable by Tenant to Landlord pursuant to the provisions of this Lease is in excess of the amount (the "Maximum Charge") permitted by the Regulations, then Tenant, during the period (the "Freeze Period") when the Regulations shall be in force and effect shall not be required to pay, nor shall Landlord be permitted to collect, any sum in excess of the Maximum Charge. Upon the earlier of (a) the expiration of the Freeze Period, or (b) the issuance of a final order or judgment of a court of competent jurisdiction declaring the Regulations to be invalid or not applicable to the provisions of this Lease, Tenant, to the extent not then proscribed by law, and commencing with the first day of the month immediately following, shall pay to Landlord as additional rental, in equal monthly installments during the balance of the Lease Term, a sum equal to the cumulative difference between the Maximum Charges and the Lease Payments during the Freeze Period. If any provision of this section, or the application thereof, shall to any extent be declared to be invalid and unenforceable, the same shall not be deemed to affect any of the other provisions of this section or of this Lease, all of which shall be deemed valid and enforceable to the fullest extent permitted by law.

ARTICLE 28 **MISCELLANEOUS**

Section 28.1 Nothing in this Lease shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto, it being understood and agreed that neither the method of computation of rentals, nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant.

Section 28.2 Tenant shall not for any reason withhold or reduce Tenant's required payments of rentals and other charges provided in this Lease, it being agreed that the obligations of Landlord under this Lease are independent of Tenant's obligations except as may be otherwise expressly provided. The immediately preceding sentence shall not be deemed to deny Tenant the ability of pursuing all rights granted it under this Lease or at law; however, as contemplated in Texas Rule of Civil Procedure 174(b), as amended from time to time, at the direction of Landlord, Tenant's claims in this regard shall be litigated in proceedings different from any litigation involving rental claims or other claims by Landlord against Tenant (i.e., each party may proceed to a separate judgment without consideration, counterclaim or offset as to the claims asserted by the other party).

Section 28.3 The liability of Landlord to Tenant for any default by Landlord under the terms of this Lease shall be limited to the proceeds of sale on execution of the interest of Landlord in the Demised Premises; and

Landlord shall not be personally liable for any deficiency, except that Landlord shall, subject to the provisions of Section 19.6 hereof, remain personally liable to account to Tenant for any security deposits under this Lease. The liability of Landlord to Tenant shall be limited to Tenant's actual direct, but not consequential, damages therefor and shall be recoverable only from the interest of Landlord in the Shopping Center, and Landlord (and its partners, shareholders or members) shall not be personally liable for any deficiency. The provisions of this Section shall survive any expiration or termination of this Lease. Additionally, Tenant hereby waives its statutory lien under Section 91.004 of the Texas Property Code.

Section 28.4 In all circumstances under this Lease where the prior consent of one party (the "consenting party"), whether it be Landlord or Tenant, is required before the other party (the "requesting party") is authorized to take any particular type of action, such consent shall not be withheld in a wholly unreasonable and arbitrary manner; however, the requesting party agrees that its exclusive remedy if it believes that consent has been withheld improperly (including, but not limited to, consent required from Landlord pursuant to Section 9.2 or Section 19.1) shall be to institute litigation either for a declaratory judgment or for a mandatory injunction requiring that such consent be given (with the requesting party hereby waiving any claim for damages, attorneys' fees, or any other remedy unless the consenting party refuses to comply with a court order or judgment requiring it to grant its consent).

Section 28.5 One or more waivers of any covenant, term or condition of this Lease by either party shall not be construed as a waiver of a subsequent breach of the same covenant term or condition. The consent or approval by either party to or of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

Section 28.6 Whenever a period of time is herein prescribed for action to be taken by Landlord or Tenant, Landlord or Tenant, as appropriate, shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, terrorist acts or activities, governmental laws, regulations or restrictions, tornado, flood, hurricane, or any other causes of any kind whatsoever which are beyond the reasonable control of Landlord or Tenant, as appropriate.

Section 28.7 If the designation of a percentage rental rate in Section 1.1(n) of this Lease includes a breakpoint of gross sales (e.g., "6% of gross sales over \$1,000,000"), then: (a) **Error! Reference source not found.** of this Lease shall be deemed to have been deleted and all other formula references in Section 4.4 adjusted accordingly; (b) the breakpoint shall be divided by twelve for purposes of computing monthly percentage rental installments in the second sentence of Section 4.4; and (c) during all periods when Minimum Guaranteed Rentals are reduced (e.g., pursuant to Section 17.4 or Section 18.2) the breakpoint shall be reduced accordingly.

Section 28.8 If any provisions of this Lease should be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Lease shall not be affected thereby.

Section 28.9 If this Lease is in fact a sublease, Tenant accepts this Lease subject to all of the terms and conditions of the underlying lease under which Landlord holds the Shopping Center as lessee. Tenant covenants that it will not act or do anything which would constitute a violation by Landlord of its obligation under such underlying lease; provided, however, that Tenant's agreement in this regard is premised on Landlord's assurance to the effect that the terms of this Lease do not violate such underlying lease.

Section 28.10 The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Lease. Venue for any action under this Lease shall be the county in which the Demised Premises are located.

Section 28.11 The captions used herein are for convenience only and do not limit or amplify the provisions hereof.

Section 28.12 Whenever herein the singular number is used, the same shall include the plural, and words of any gender shall include each other gender.

Section 28.13 The terms, provisions and covenants contained in this Lease shall apply to, inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors in interest and legal representatives except as otherwise herein expressly provided.

Section 28.14 Tenant shall provide the items described in this Section 28.14 to Landlord for Landlord's written approval prior to this Lease being in full force and effect (but Landlord and Tenant agree such items are for the benefit of Landlord, and Landlord may waive the right to receive any or all of such items, and Tenant shall have no right to terminate this Lease as a result thereof). Prior to commencement of any work in or to the Demised Premises, Tenant shall first obtain Landlord's written approval of Tenant's plans and written specifications covering the proposed work, Tenant's proposed contractor(s), and Tenant's contract(s) covering the proposed work.

(a) Should there be construction work performed in the Demised Premises, upon completion thereof, Tenant shall provide Landlord satisfactory evidence that all bills have been paid to all contractors, subcontractors and vendors who performed services or provided materials in or on the Demised Premises. Additionally, Tenant shall furnish final notarized lien waivers acceptable to Landlord, which lien waivers shall include but not be limited to the total contract amount of material and/or labor used in or on the Demised Premises.

(b) In connection with the installation of any equipment on or penetrations through the roof of the Demised Premises, Tenant at its sole cost and expense must provide to Landlord a letter satisfactory to Landlord from a structural engineer of Landlord's selection stating said engineer has approved the location at which the

equipment is to be installed and/or the location of any proposed roof penetrations. Additionally, the letter must clarify: (1) the installation of all equipment and/or penetrations was located and completed in accordance with said engineer's instructions which may have included the requirement of some additional structural bracing; (2) all work was performed in a good and workmanlike manner; and (3) said work was completed in accordance with the specifications set forth in Section 28.14(c)(3)(A) through Section 28.14(c)(3)(D).

(c) If Tenant installs any equipment on the roof of the Demised Premises, the associated roof work as described below shall be performed under the direction of a professional roofing contractor hereinafter referred to as the "Consultant"; and not a mechanical contractor. Said work shall include but not be limited to creating penetrations through the roof, flashing such penetrations, installing and flashing curbs or other approved materials upon which all equipment is to be set, and filling, pitchpockets and/or pitchpans. Tenant must obtain a letter satisfactory to Landlord from the Consultant, certifying that said Consultant reviewed and approved the Tenant's roofing contractor's shop drawings prior to the commencement of any work, with such shop drawings having reflected the scope of work to be performed and the type, description, and weight of all materials to be utilized. Additionally, the Consultant's letter shall certify: (1) the work in progress was inspected to the extent deemed necessary by the Consultant; (2) the Consultant inspected the completed work; and (3) the roofing contractor performed all of said work in a good and workmanlike manner acceptable to said Consultant and in accordance with industry standards and such work included to the extent applicable, but was not limited to the following: (A) the roofing contractor performed the roof flashing work on all penetrations (including but not limited to soil stacks, vent stacks, conduit, piping, etc.); (B) said roofing contractor filled all pitchpans to the extent pitchpans were installed and filled all pitchpockets after all electrical lines or conduit had been installed through the roof; (C) said roofing contractor installed rain caps over all uncovered vents; and (D) said roofing contractor removed all debris from the work area on the roof. Notwithstanding anything stated above, if Landlord's roof is still under warranty, Tenant must use the roofing contractor of the Landlord's designation; and in connection therewith, it is Tenant's obligation to ascertain Landlord's roof warranty status prior to any work being initiated on the roof. If the roof is not under warranty, Tenant shall nevertheless, prior to the commencement of any work on the roof, obtain Landlord's written approval of the proposed roofing contractor Tenant intends to use. The cost of all Consultant's inspections and certifications letters as well as all work required by the Consultant shall be paid by the Tenant.

(d) Tenant shall provide Landlord with a true copy of Tenant's Certificate of Occupancy issued by the governmental authority in whose jurisdiction the Demised Premises is located.

(e) To the extent Tenant is a corporation, Tenant must provide to Landlord a corporate resolution in form and substance acceptable to Landlord authorizing Tenant to enter into this Lease and authorizing the officer executing this Lease to do so on behalf of Tenant.

Section 28.15 This lease contains the entire agreement between the parties, and no brochure, rendering, information or correspondence shall be deemed to be part of this agreement unless specifically incorporated herein by reference. In addition, no agreement shall be effective to change, modify or terminate this Lease in whole or in part unless such is in writing and duly signed by the party against whom enforcement of such change, modification or termination is sought.

Section 28.16 LANDLORD AND TENANT HEREBY ACKNOWLEDGE THAT THEY ARE NOT RELYING UPON ANY BROCHURE, RENDERING, INFORMATION, REPRESENTATION OR PROMISE OF THE OTHER, OR OF THE AGENT OR COOPERATING AGENT, EXCEPT AS MAY BE EXPRESSLY SET FORTH IN THIS LEASE.

Section 28.17 This lease consists of twenty-eight articles, Exhibit A through E, including the Use Addendum. With the exception of Article 7, if any provision of an exhibit or other attached page shall be inconsistent with a provision in the body of this Lease, the provision as set forth in the exhibit shall be deemed to control.

Section 28.18 Not applicable.

Section 28.19 Should pollution liability insurance become necessary, Landlord has the right to require Tenant to carry such insurance with limits and coverage reasonably acceptable to Landlord.

Section 28.20 Tenant shall have no renewal options unless expressly granted by Landlord in writing, in accordance with Exhibit D attached hereto.

Section 28.21 Intentionally Deleted.

Section 28.22 Provided Tenant has performed all of its obligations hereunder, Tenant shall peaceably and quietly hold and enjoy the Demised Premises for the Lease Term, without hindrance from Landlord or any party claiming by, through, or under Landlord, but not otherwise, subject to the terms and conditions of this Lease.

Section 28.23 There shall be no merger of the leasehold estate hereby created with the fee estate in the Demised Premises or any part thereof if the same person acquires or holds, directly or indirectly, this Lease or any interest in this Lease and the fee estate in the leasehold Demised Premises or any interest in such fee estate.

Section 28.24 The submission of this Lease to Tenant shall not be construed as an offer, and Tenant shall not have any rights under this Lease unless Landlord executes a copy of this Lease and delivers it to Tenant.

Section 28.25 TO THE MAXIMUM EXTENT PERMITTED BY LAW, LANDLORD AND TENANT EACH WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LITIGATION OR TO HAVE A JURY

PARTICIPATE IN RESOLVING ANY DISPUTE ARISING OUT OF OR WITH RESPECT TO THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS RELATED HERETO.

Section 28.26 Tenant shall not record this Lease or any memorandum of this Lease without the prior written consent of Landlord, which consent may be withheld or denied in the sole and absolute discretion of Landlord and any recordation by Tenant shall be a material breach of this Lease. Tenant grants to Landlord a power of attorney to execute and record a release releasing any such recorded instrument of record that was recorded without the prior written consent of Landlord.

Section 28.27 If Tenant is comprised of more than one party, each such party shall be jointly and severally liable for Tenant's obligations under this Lease. All unperformed obligations of Tenant hereunder not fully performed at the end of the Term shall survive the end of the Lease Term, including payment obligations with respect to rent and all obligations concerning the condition and repair of the Demised Premises.

Section 28.28 Whenever Tenant requests Landlord to take any action not required of it hereunder or give any consent required or permitted under this Lease, Tenant will reimburse Landlord for Landlord's reasonable, out-of-pocket costs payable to third parties and incurred by Landlord in reviewing the proposed action or consent, including reasonable attorneys', engineers' or architects' fees, within ten days after Landlord's delivery to Tenant of a statement of such costs. Tenant will be obligated to make such reimbursement without regard to whether Landlord consents to any such proposed action.

Section 28.29 Tenant represents and warrants to Landlord that Tenant is currently in compliance with and shall at all times during the Term (including any extension thereof) remain in compliance with the regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit or Support Terrorism), or other governmental action relating thereto.

Section 28.30 Landlord and Tenant agree each provision of this Lease for determining charges and amounts payable by Tenant is commercially reasonable and, as to each such charge or amount, constitutes a statement of the amount of the charge or a method by which the charge is to be computed for purposes of Section 93.012 of the Texas Property Code.

Section 28.31 To the extent Tenant or its agents or employees discover any water leakage, water damage or mold in or about the Demised Premises or Shopping Center, Tenant shall promptly notify Landlord thereof in writing no later than ten days following such discovery.

Section 28.32 Tenant acknowledges that the Demised Premises constitute the front half of the space on the second floor of the building in the Shopping Center at 1921 Greenville Avenue as shown in the outline of the space shown on Exhibit B to this Lease, that Landlord has the right to lease any remaining adjacent space of the second floor to other tenants and that such other tenants of Landlord occupying space on the second floor have the right to use Common Areas along with Tenant.

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LANDLORD AND TENANT EXPRESSLY DISCLAIM ANY IMPLIED WARRANTY THAT THE DEMISED PREMISES ARE SUITABLE FOR TENANT'S INTENDED COMMERCIAL PURPOSE, AND TENANT'S OBLIGATION TO PAY ANY RENTAL HEREUNDER IS NOT DEPENDENT UPON THE CONDITION OF THE DEMISED PREMISES OR THE PERFORMANCE BY LANDLORD OF ITS OBLIGATIONS HEREUNDER, AND, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, TENANT SHALL CONTINUE TO PAY ALL RENTAL, WITHOUT ABATEMENT, DEMAND, SETOFF OR DEDUCTION, NOTWITHSTANDING ANY BREACH BY LANDLORD OF ITS DUTIES OR OBLIGATIONS HEREUNDER, WHETHER EXPRESS OR IMPLIED.

EXECUTED as of the latest date accompanying a signature by Landlord or Tenant below.

LANDLORD:

1919-27 Greenville, Ltd.
By: Hope Street, LLC it's General Partner

By: _____

Date of Signature: _____
Phone: 214.217.4300
Fax: 214.217.0500

TENANT:

Mandell Family Ventures, LLC

By: 
Name: Samuel Mandell, III

Title: Owner
Date of Signature: 3-15-17
Tax ID No.: 02-0808325

Phone: 214-641-1712
E-mail: Sammy.J.mandell@gmail.com

PARTICIPATE IN RESOLVING ANY DISPUTE ARISING OUT OF OR WITH RESPECT TO THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS RELATED HERETO.

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EXECUTED as of the latest date accompanying a signature by Landlord or Tenant below.

LANDLORD:

1919-27 Greenville, Ltd.
By: Hope Street, LLC's General Partner

By: 

Date of Signature: 5-10-17
Phone: 214.217.4300
Fax: 214.217.0500

TENANT:

Mandell Family Ventures, LLC

By: 

Name: Samuel Mandell, III
Title: Owner
Date of Signature: 5-15-17
Tax ID No.: 02-0808325

Phone: 214-641-1312
E-mail: Sammy.L.Mandell@gmail.com

EXHIBIT A

LEGAL DESCRIPTION OF SHOPPING
CENTER

THE SHOPPING CENTER LOCATED IN LOT 18 AND THE NORTHERN 40 FEET OF LOT 19 OF BLOCK C/1983 OF THE ROSS AVENUE ANNEX, AN ADDITION TO THE CITY OF DALLAS AND COUNTY OF DALLAS, TEXAS, MORE COMMONLY KNOWN AS 1925 GREENVILLE AVENUE, DALLAS, TEXAS AS WELL AS ASSOCIATED PARKING

EXHIBIT B

DEPICTION OF DEMISED PREMISES

The Demised Premises is in the Shopping Center and is approximately outlined in red below. This Exhibit is attached to this Lease solely for the purpose of locating the Demised Premises within the Shopping Center and depicting the general layout of the Shopping Center and shall not be deemed to be a representation, warranty or agreement by Landlord as to any information shown hereon or that the Shopping Center or stores be exactly as indicated hereon.

EXHIBIT C

CONSTRUCTION: TENANT ACCEPTANCE OF SPACE "AS-IS"

ARTICLE I
TENANT'S OBLIGATIONS

Tenant hereby accepts the Demised Premises "AS-IS" and "ready for occupancy". Prior to the commencement of any construction Tenant shall adhere to the following:

A. PRE-CONSTRUCTION OBLIGATIONS

1. Plans diagrams, schedules and other data relating to work to be performed by Tenant must be furnished by Tenant to Landlord complete, sufficient to obtain a building permit, and ready for Landlord's consideration and final approval prior to the commencement of any construction work. Without limiting the generality of the immediately preceding sentence. Tenant's submissions must include a site plan, exterior elevations, a floor plan, a reflected ceiling plan, a plumbing, electrical and HVAC design plan, elevations of walls and a fixture plan. All drawings shall be at scale of either 1/4" or 1/8". Tenant shall reimburse Landlord for any loss or extra cost which may result to Landlord by reason of failure on the part of Tenant to submit any such plans, diagrams, schedules, specifications and/or other data within said period of time.

2. Tenant shall secure Landlord's written approval of all designs, plans, specifications, materials, contractors and contracts for work to be performed by Tenant before beginning the work (including following whatever "work letter" instructions, if any, which Landlord may deliver to Tenant in connection with the work), and shall secure all necessary licenses and permit to be used in performing the work. Tenant's finished work shall be subject to Landlord's approval and acceptance.

3. The insurance requirements under Article 15 of this Lease and the indemnity requirements under Article 16 of this Lease shall apply during the construction contemplated in this exhibit and Tenant shall provide evidence of appropriate insurance coverage prior to beginning any of Tenant's work. Tenant shall provide Landlord with evidence of insurance covering both Tenant and Tenant's contractor against damage to their personal property, as well as against third-party liability and worker's compensation claims arising out of all construction and associated activities. All policies of insurance shall be subject to Landlord's prior approval and shall be endorsed showing Landlord as an additional named insured (or if permitted by Landlord, may provide a waiver of subrogation against Landlord).

B. DESCRIPTION OF TENANT'S WORK

1. **Signs**: Tenant shall pay for all signs and the installation thereof, including the electrical hook-up, subject to the provisions of Section 13.1 of this Lease.

2. **Utilities**: All meters or other measuring devices in connection with utility services shall be provided by Tenant. All service deposits shall be made by Tenant at Tenant's expense.

3. All work undertaken by Tenant shall be at Tenant's expense, and shall not damage the building or any part thereof. Any roof penetration shall be performed by Landlord's roofer, or, at Landlord's option, by a bonded roofer approved in advance by Landlord. The work shall be begun only after Landlord has given consent, which consent shall in part be conditioned upon Tenant's plans to include materials acceptable to Landlord in order to prevent injury to the roof and to spread the weight of the equipment being installed. Tenant shall also be responsible for obtaining, and paying for, professional inspections of any structural work (including, without limitation, any roof work or concrete work).

4. All work undertaken by Tenant shall be awarded to Landlord's contractor unless, before any construction begins, Tenant chooses and receives Landlord's written approval for another contractor to complete Tenant's work, which approval shall not be unreasonably withheld, conditioned, or delayed.

5. Upon completion of Tenant's Work, Tenant shall (a) notify Landlord that the work is complete and ready for Landlord's review, (b) deliver to Landlord a true copy of Tenant's certificate of occupancy (or similar governmental permit), (c) provide documentation acceptable to Landlord that all bills have been paid to Tenant's contractors, subcontractors and professionals, (d) deliver to Landlord a Certificate of Compliance with the TAS, TABA and TDLR requirements, and (e) deliver to Landlord an executed Certificate of Acceptance.

6. Tenant, at Tenant's cost, shall have the Demised Premises inspected for asbestos by a licensed Engineer, Architect, or person licensed to perform a survey.

Intentionally Deleted.

ARTICLE 2

DESCRIPTION OF LANDLORD'S WORK

A. LANDLORD WORK

1. Landlord will responsible for the following:

(a) Ensure that there are HVAC units appropriate for the size of the space as an office use in good working order along with duct work based on the current configuration of the Demised Premises.

(b) Replace windows on the south and west side of the Demised Premises.

B. Limitations and Conditions:

1. The work to be done by Landlord shall be limited to that described as Landlord's Work in the foregoing paragraphs of this Article 2. All work not so classified as Landlord's Work is Tenant's Work. Landlord's Work and Tenant's Work are collectively referred to herein as the "**Work**".

All work requested by Tenant and performed by Landlord which is in excess of that required of Landlord by this Exhibit C Article 2 shall be undertaken only after Tenant has deposited full payment for same with Landlord in the form of cash, money order or cashier's check; and Tenant agrees to make such deposit promptly after execution of this Lease (with any delay in Tenant's making such deposit to be deemed a default under this Lease, without the requirement of additional notice from Landlord, and causing Tenant's time periods for completing Tenant's work and opening for business to commence as if Tenant's delay had not occurred).

EXHIBIT D

RENEWAL OPTION (MARKET)

Tenant (but not any assignees or subtenant of Tenant, even if Landlord's consent is obtained as required by Article 19 of this Lease) is granted the option(s) to extend the term of this Lease for one (1) consecutive extended term(s) of five (5) years each, provided (a) Tenant is not in default at the time of exercise of the respective option, and (b) Tenant gives written notice of its exercise of the respective option no earlier than two hundred seventy (270) days and no later than one hundred eighty (180) days prior to the expiration of the original term or the expiration of the then existing term. Each extension term shall be upon the same terms, conditions and rentals, except (1) Tenant shall have no further right of renewal after the last extension term prescribed above, and (2) the monthly Minimum Guaranteed Rental will be equal to whatever monthly Minimum Guaranteed Rental (plus whatever periodic adjustments) Landlord is then quoting to prospective tenants for new leases of comparable space in the Shopping Center for a comparable term (as confirmed by written statement to Tenant by a representative of Landlord), or if no comparable space exists in the Shopping Center, then whatever is then being quoted to prospective tenants for new leases of reasonably comparable space in reasonably comparable shopping centers within the same general geographical area as the Shopping Center (also as confirmed by written statement to Tenant by a representative of Landlord) (the "**Prevailing Rental Rate**"). Notwithstanding the above provisions to the contrary in no event will the adjusted monthly Minimum Guaranteed Rental for any option period be lower than the monthly Minimum Guaranteed Rental for the immediately preceding period. Within 30 days after receipt of Tenant's notice to renew, Landlord shall deliver to Tenant written notice of the Prevailing Rental Rate and shall advise Tenant of the required adjustment to Minimum Guaranteed Rental, if any, and the other terms and conditions offered. Tenant shall, within ten days after receipt of Landlord's notice, notify Landlord in writing whether Tenant accepts or rejects Landlord's determination of the Prevailing Rental Rate. If Tenant notifies Landlord that Tenant accepts Landlord's determination of the Prevailing Rental Rate within thirty (30) days of receipt of written confirmation of the Prevailing Rental Rate from Landlord, then, on or before the commencement date of the extended Lease Term, Landlord and Tenant shall execute an amendment to this Lease extending the Lease Term on the same terms provided in this Lease, except as follows:

(a) The Minimum Guaranteed Rental shall be adjusted to the Prevailing Rental Rate (and if Percentage rental is payable hereunder with reference to a stated "breakpoint" of gross sales, the breakpoint shall be appropriately adjusted in the same proportion as the change in Minimum Guaranteed Rental);

(b) Tenant shall have no further renewal option unless expressly granted by Landlord in writing; and

(c) Landlord shall lease to Tenant the Demised Premises in their then-current condition, and Landlord shall not provide to Tenant any allowances (e.g., moving allowance, construction allowance, and the like) or other tenant inducements.

If Tenant rejects Landlord's determination of the Prevailing Rental Rate, or fails to timely notify Landlord in writing that Tenant accepts or rejects Landlord's determination of the Prevailing Rental Rate, time being of the essence with respect thereto, Tenant's rights under this Exhibit shall terminate and Tenant shall have no right to renew this Lease.

Tenant's rights under this Exhibit shall terminate if (1) this Lease or Tenant's right to possession of the Demised Premises is terminated, (2) Tenant assigns any of its interest in this Lease or sublets any portion of the Demised Premises without Landlord's consent where required, or (3) Tenant fails to timely exercise its option under this Exhibit, time being of the essence with respect to Tenant's exercise thereof.

EXHIBIT E

SIGNAGE CRITERIA

The following sign criteria has been established to assist tenants in complying with their lease. These basic standards have been made to govern the design, fabrication and installation of tenant signs and is intended to afford all tenants with good visual identification, both day and night, and to protect against poorly designed and badly proportioned signing.

The sign standards have been selected to harmonize with and complement the building materials and will assist in creating the proper atmosphere for the center, which we feel is located in a unique trade area of the Metroplex.

This criteria should be given to your sign company to serve as a guide in preparing their design and cost estimates for your approval.

Please inform your sign fabricator that he must submit two copies of his detailed, scaled sign drawings to the office of the Landlord: c/o Madison Partners, L.L.C., 2622 Commerce Street, Dallas, Texas 75226 (Attn: Property Management), telephone (214) 217.4300 for approval prior to fabrication of your sign.

You will be held liable and shall bear all costs for removal and/or correction of signs, sign installation and damage to the building by sign installations that do not conform with the following specifications.

SPECIFICATIONS

1. All signs are to be in the form of individual face channel letters, illuminated with neon tubing with plastic letter faces.

2. **Sign Text:** Signs shall be limited to Tenant's "Trade Name" as it appears in this Lease. All attached signs must be premises signs. Copy on awnings and canopies is prohibited.

3. **Letter height:** One horizontal line of lettering not to exceed 16" in height. Tenants leasing spaces over 14,000 square feet in area may use a letter height of 24", if approved by the city in which the Demised Premises are located.

4. **Letter spread:** Not to exceed length of 75% of storefront (example: a storefront measuring 40' can have a sign length not exceeding 30').

5. **Sign area:** Signs for any one tenant shall not have an aggregate area exceeding that calculated by multiplying this Lease frontage by two (2) feet and in no event exceeding 200 square feet aggregate total sign area.

6. **Letter depth:** Returns - 5/8"

7. **Materials of construction:**

(a) Metal portions of letters may be of porcelain enamel, painted or prefinished anodized aluminum, to match #313 dark bronze Duranodic.

(b) Plastic letter faces of Rohm & Haas #2146 Ivory Plexiglas.

(c) Face retainers of 1" dark bronze Jewelite trimcap.

(d) Neon tubing of 6500 white.

8. Sign letters will be fastened to a metal continuous wiring bar (raceway) which will house all wiring, transformers and supports for the sign letters and will be centered vertically on the back of the letters.

The raceway shall be attached using through bolts penetrating the parapet wall with angle iron backups. No toggle bolts will be allowed. No exposed angle iron will be permitted.

INDUSTRIAL ENAMEL - ultra deep base B-54T104
2 oz. Of maroon; 57/32 + 1/64 of black; 5 1/32 + 1/128 of gold;
2/32 + 1/128 of white = makes 1 gallon of paint.

Signs featuring separate words will require separate wiring bars unless otherwise approved by Landlord.

Exposed electrical conduit is not permitted. All sign supports must be painted to match raceway.

9. **Placement:** Letters shall center on brick ban vertically, and left and right on lease frontage.

10. **Quantity of Signs:** One sign per tenant storefront. If a leased space affronts on more than one elevation, one sign will be allowed for each perpendicular elevation, provided it falls within city sign ordinances.

11. **Secondary signs:**

- (a) No secondary exterior signs are to be placed on building wall elevations. Landlord will allow letters not to exceed 5" to be placed on the rear door for identification purposes.
- (b) No sandwich or easel/portable signs are allowed.
- (c) No window signs are permitted without the express approval of the Landlord.
- (d) Standard address numerals for postal identification of premise will be permitted. Numeral height shall not exceed 5".

12. Notwithstanding anything to the contrary in this Exhibit, Landlord approves Tenant's existing signage as of the date of this Lease.

EXHIBIT F

USE ADDENDUM

The Premises shall be used solely for the following purposes (describe the use as well as the management team, general concept, décor, theme, music genre, and other pertinent matters):

Office and Personal Service Use

Nothing contained herein shall suggest that the Tenant will be allowed to discriminate or exclude any patrons on the basis of their sex, or any other protected category.

Landlord has agreed to enter into this lease based upon Tenant's representations as to the nature of the business it will operate in the Premises. Landlord, and Landlord's other tenants and/or affiliates, own and/or operate other properties in the vicinity of the Premises, and any change in the nature of Tenant's operations in the Premises has the potential to harm the Premises and/or other properties owned or operated by Landlord or Landlord's other tenants and/or affiliates. Accordingly, Tenant agrees to promptly open and operate its business under the above trade name and in a manner consistent with the above purpose. Any material change in Tenant's operations, including but not limited to management, menu, concept/theme, music genre, interior and exterior décor, business name, dress code and the like shall be subject to the prior, written consent of Landlord. Any such change without Landlord's prior, written consent shall be a default by Tenant under this Lease.

Tenant shall operate its business in a first-class manner, in full compliance with all applicable governmental requirements, laws, rules, codes and ordinances, including but not limited to City of Dallas zoning and building codes, City of Dallas noise ordinances, Texas Alcoholic Beverage Commission regulations, health and safety codes, etc. Tenant shall insure compliance by its employees, customers and visitors with the Dress Code (copy attached). Failure to comply with the foregoing shall be a default under this Lease.

In the event that Landlord consents to an assignment of this Lease or a sublease of the Premises, any such assignment or sublease shall be subject to the above provisions, and such consent shall not be deemed consent to any change in operations.

Unless a lesser time period is provided for in the Lease (in which case the lesser period shall apply), the time period allowed for Tenant to cure a default under this Use Addendum shall be limited to ten (10) days.

ASSIGNMENT AND AMENDMENT OF LEASE

This Consent to Assignment and Amendment of Lease (this "Agreement") is executed as of May 1, 2015 (the "Effective Date"), among 1919-27 Greenville, Ltd. ("Landlord"), Karyn Pentecost ("Assignor" and "Original Tenant"), and Samantha Coley ("Assignee" and "New Tenant").

RECITALS:

WHEREAS, Assignor is the owner of the leasehold for approximately 2,945 square feet of space, together with all rights, privileges and appurtenances thereto as ("Leasehold Estate") granted pursuant to the lease agreement between Assignor (as "Tenant") and Landlord, executed on January 11, 2008 (the "Lease"), extended and amended with the First Amendment dated August 1, 2010, extended and amended with the Second Amendment dated January 1, 2015, and covering certain property located at 1921 Greenville Avenue, Suite B, Dallas, Texas 75206 (the "Demised Premises"); which Lease was agreed to be assigned from Assignor to Assignee by Purchase Agreement dated May 1, 2015, between Assignor and Assignee (the "Purchase Agreement") in which Assignee is purchasing the assets of the business of Assignor; and

WHEREAS, Assignor is selling the assets of the business known and operating as the Girls Room to Assignee pursuant to the Purchase Agreement and pursuant to the Purchase Agreement, Assignor is acquiring the ownership of all the assets of Assignor, including the Lease and the Leasehold Estate, which are being conveyed to Assignee by this Agreement, and Assignee desires to accept such assignment and conveyance and agrees to be bound by the terms of the Lease, as modified by this Agreement; and

WHEREAS, Landlord hereby consents and approves this Assignment and Assumption of Lease from Assignor to Assignee; and

WHEREAS, Landlord agrees to approve and allow the acquisition of the assets of the business of Assignor by Assignee as specified in the Purchase Agreement and this Agreement.

AGREEMENT:

NOW, THEREFORE and in consideration for the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration paid to Assignor by Assignee, the receipt and sufficiency of which are hereby acknowledged.

The above referenced recitals are incorporated in this Agreement for all purposes.

Assignor does hereby GRANT, BARGAIN, SELL, CONVEY, ASSIGN, TRANSFER, SET-OVER and DELIVER unto Assignee the Lease and the Leasehold Estate including, without limitation, all advance rental paid under the Lease, all causes of action existing or arising thereunder, if any, and all the rights and benefits of every description whatsoever belonging to or accruing to the benefit of the lessee under the Lease.

TO HAVE AND TO HOLD, all and singular, the Lease and the Leasehold Estate unto Assignee, its successors and assigns forever, and Assignor does hereby bind itself and her heirs, executors, administrators, legal representatives, successors and assigns, to warrant and forever defend, all and singular, the Lease and the Leasehold Estate unto Assignee, its successors and assigns against every person whatsoever lawfully claiming or to claim the same the same or any part thereof.

Assignee does hereby accept the assignment of the Lease as herein provided and acknowledges that Landlord is holding a Security Deposit in the amount of \$1,600.00, and said Security Deposit is to be held under the Lease on the same terms as therein provided on behalf of Assignee, and Assignor releases any and all claims to said Security Deposit by the execution hereof.

This assignment of the Lease is effective as of May 1, 2015.

The Commencement Date of the Lease was January 1, 2008, and the current amended Lease term expires on January 31, 2018.

Assignor and Assignee represent and warrant to Landlord the following:

Assignee hereby assumes and agrees to perform all of the terms, covenants, and conditions required to be performed on the part of the Assignor under the Lease including the First and Second Amendment and as amended by this Agreement which are effective from and after the date of this Agreement, including without limitation the making of the any and all payments due under the Lease commencing on May 1, 2015. Assignee accepts the premises demised by the Lease in its present condition "as is, where is, and with all faults" and represents to the Landlord that such premises are suitable for Assignee's intended use. As of the date of this Agreement neither Landlord nor Assignor are in default under the terms of the Lease.

The notice address of Assignee is:

Samantha Coley
1921 Greenville Avenue, Suite B
Dallas, Texas 75206
HYPERLINK "mailto:extendfitnessstudio@gmail.com"
extendfitnessstudio@gmail.com
469.237.0547

All the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Assignor and Assignee each represent and warrant with respect to itself and for the benefit of each other and the Landlord that (a) such entity is validly existing and in good standing; (b) the individual executing this Agreement on behalf of such entity is authorized to do so and (c) all financial or other information furnished to the Landlord is true and correct in all material respects. Assignor and Assignee acknowledge and agree that this Agreement shall not be deemed to an amendment or modification of the Lease.

EXECUTED the 20th day of October 2015.

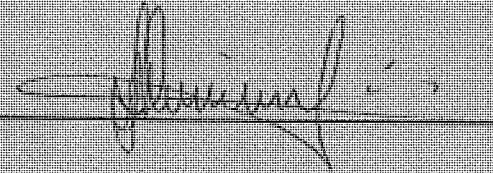
ASSIGNOR and ORIGINAL TENANT:

Karyn Pentecost

By: 

ASSIGNEE and NEW TENANT:

Samantha Coley

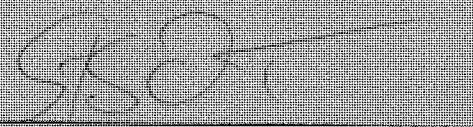
By: 

LANDLORD:

1919-27 Greenville, Ltd

By: Hope Street, LLC its general partner

By: AJ Associates, member

By: 

Stephen Schwartz, Partner

TERMINATION OF TENANCY AGREEMENT

THIS TERMINATION OF TENANCY AGREEMENT (the "Termination") is made and entered into as of the 1st day of June, 2020, by and between **1919-27 GREENVILLE, LTD**, as Landlord (the "Landlord"), and **SAMANTHA COLEY**, as Tenant (the "Tenant"), related to certain premises at 1921 Greenville, Suite B, Dallas, Texas (the "Premises"); and

W I T N E S S E T H:

WHEREAS, Tenant occupied the Premises under a written lease with an effective date of May 1, 2015;

WHEREAS, Tenant and Landlord mutually intend to terminate the Lease;

NOW THEREFORE, in consideration of the recitals, and the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency are hereby acknowledged, Landlord and Tenant agree as follows:

1. The Termination Date is hereby set to June 1, 2020.
2. Landlord shall abate any unpaid balance owed by Tenant as of the Termination Date.
3. On or before the Termination Date, Tenant shall vacate the Premises and shall turn over possession of the Premises to Landlord's designated representative in good and broom-clean condition. Tenant shall remove only its trade fixtures and other personal property from the Premises.

IN WITNESS WHEREOF, the undersigned have executed or have caused their duly authorized officers to execute this Termination of Tenancy Agreement as of, but not necessarily on, the 1st day of June, 2020.

LANDLORD:

1919-27 GREENVILLE, LTD

By: 

Jon Hetzel
Its: Authorized Signatory

TENANT:

Samantha Coley dba Extend Fitness

By: 

BDA201-114_ATTACHMENT_C

BDA201-114

12/1/2021

Timeline

1921 1/2

Date	Item	DBA/Name	Use	End date	Time Vacant (Days)	Time Vacant (Month, approx.)
11/14/2003	CO	Greg Blomberg	Personal Service	10/31/2016	--	--
11/21/2003	CO (Sublease)	Jenni Tarver	Personal Service	--	--	--
5/1/2017	Lease	Mandell Family Venture	Office	7/1/2020	182	6.1
5/1/2020	CO & permit application to combine suites	HanCheng Liu	Office	N/A	0	0.0

1921 Suite 200

AKA 1921 1/2 B

Date	Item	DBA/Name	Use	End date	Time Vacant (Days)	Time Vacant (Month, approx.)
1/11/2008	Lease	The Girls Room - Karyn Pentecost	Personal Service	5/1/15	--	--
4/5/2008	CO	The Girls Room	Personal Service	5/1/15	--	--
5/1/2015	Lease transfer	The Girls Room - Samantha Coley	Personal Service	6/1/2020	0	0
5/1/2020	CO & permit application to combine suites	HanCheng Liu	Office	N/A	0	0

Time waiting / permit in review

518

17.3

**FOURTH AMENDMENT TO LEASE AGREEMENT
(The "Agreement")**

This Fourth Amendment to Lease Agreement (the "The Agreement") is made to be effective the 7th day of October 2013 (the "Effective Date"), by and between 1919-27 GREENVILLE, LTD., a Texas limited partnership ("Landlord") and GREG BLOMBERG ("Tenant").

WITNESSETH

WHEREAS, Landlord and Tenant entered into a Lease Agreement, (the "Lease"), for those certain premises containing a total of approximately 3,755 square feet of space locally known as 1921-A Greenville Avenue, Dallas, Texas (the "Demised Premises");

WHEREAS, Landlord and Tenant now mutually intend and desire to renew, extend and modify the Lease on and subject to the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. The term of the Lease is hereby extended for a period of three (3) years and four months, commencing on July 1, 2013 and expiring on October 31, 2016 ("Renewal Term").
2. The Minimum Guaranteed Rental (as defined in the Lease) due to Landlord and payable by Tenant during the Renewal Term shall be as follows:

<u>Time Period</u>	<u>Annual Rent</u>	<u>Monthly</u>
07/01/2013 – 10/31/2013		
11/01/2013 – 10/31/2014		
11/01/2014 – 10/31/2015		
11/01/2015 – 10/31/2016		

3. The Tenant shall continue to pay its pro-rata share of all additional charges, Common Area Maintenance (as defined in the Lease).
4. As a material inducement to Landlord entering into this Agreement, Tenant certifies to Landlord that as of the date hereof: (i) the Lease, as modified pursuant to written agreement, contains the entire agreement between the parties hereto relating to the Demised Premises and that there are no other agreements between the parties relating to the Demised Premises, the Lease or the Shopping Center; (ii) Landlord is not in default in any respect in any of the terms, covenants and conditions of the Lease (or any amendments thereto); (iii) Tenant specifically waives any and all claims against Landlord or its officers, employees or affiliates related to any interruption of Tenant's business or damage to his business during any time preceding the execution of this Agreement; and (iv) Tenant has no setoffs, counterclaims or defenses against Landlord under the Lease (or any amendments thereto).
5. Tenant and its predecessors, successors, parent, subsidiaries, affiliates and any related entity or person, hereby release Landlord and its parent, subsidiaries, or affiliated entities, and their agents, partners, officers, directors and employees and the respective heirs, executors, administrators, successors and assigns of any of the foregoing, from any and all liability, claims, damages, causes of action or any other form of relief, legal or equitable, that are, have been, or could have been or in the future might be asserted in any way relating to the Lease (or any

amendments thereto), the Landlord's performance thereunder, or the Demised Premises, from the beginning of time to the date of signature of this Agreement.

6. All terms and conditions appearing in said Lease and any former modifications or amendments thereunto except those which are hereby modified are to remain in full force and effect and are hereby ratified and reaffirmed by the parties hereunto.

IN WITNESS WHEREOF, Landlord and Tenant have set their respective hands as of the date first above written.

LANDLORD:


1919-27 GREENVILLE, LTD.,
a Texas limited partnership

By: Hope Street, LLC,
its general partner

By: AJ Associates,
member

By: 
Stephen G. Schwartz, Partner

TENANT:


GREG BLOMBERG

FILE NUMBER: BDA201-115(PD)

BUILDING OFFICIAL'S REPORT: Application of Gaba Group LLC and Aaron Galvan for a variance to the side yard setback regulations at 901 Elsbeth Avenue. This property is more fully described as Lot 6, within Block 10/3332, and is zoned Tract IC within Planned Development District No. 160, which requires a side yard setback of five feet. The applicant proposes to construct and maintain a residential structure and provide a three-foot eight-inch side yard setback, which will require a one-foot four-inch variance to the side yard setback regulations.

LOCATION: 901 Elsbeth Avenue

APPLICANT: Gaba Group LLC and Aaron Galvan

REQUESTS:

The applicant proposes to construct and maintain an approximately 2,124-square-foot single-family dwelling unit and provide a one-foot four-inch side yard setback.

STANDARD FOR A VARIANCE:

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

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

State Law/HB 1475 effective 9-1-21

- the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:
 - (a) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code;
 - (b) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
 - (c) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
 - (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (e) the municipality consider the structure to be a nonconforming structure.

STAFF RECOMMENDATION (both variances):

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Per evidence (**Attachment A**) submitted, staff concludes that the subject site is unique and different from most lots in PDD No. 160 which defaults to the R-7.5(A) Single Family District regulations. The evidence provided a comparison of eight lots with two meeting the minimum lot area and six being larger than the subject property. These eight lots provide structures with floor areas greater than the 2,124 square feet being sought and is slightly larger at 418 square feet than the average floor area of 1,706 square feet. As such the lot is restrictive in area, since the subject site provides only 7,291 square feet in area Thus, the site cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning.

BACKGROUND INFORMATION:

Zoning: all within PDD No. 193 with a D Liquor Control Overlay

<u>Site</u>	Tract IC in PDD No. 160
<u>North:</u>	Tract IC in PDD No. 160
<u>Northwest:</u>	Subdistrict E -Tract 4_Area 1 in PDD No. 468

Southwest: Subdistrict E-Tract 4_ Area 2 in PDD No. 468
South: Tract IC in PDD No. 160
Southwest: Tract I IC w/in PDD No. 160
Northwest: Tract IC w/in PDD No. 160

Land Use:

The subject site is developed with a single-family dwelling undergoing a remodel. The surrounding properties are developed with residential uses consisting of single-family dwelling units to the north, south, and southwest with an undeveloped tract immediately adjacent to the west. The properties to the northwest and southwest are developed with multifamily uses.

Zoning/BDA History:

There have not been any related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

The request for a variance to the side yard setback focuses on constructing and maintaining an approximately 2,124-square-foot single-family dwelling unit and to provide a one-foot four-inch side yard setback along the eastern portion of the structure fronting along Elsbeth Avenue.

DCAD records indicate that the subject property was developed in 1924 with an approximately 1,900-square-foot, one-story single-family dwelling unit and an approximately 400-square-foot, detached garage was constructed in 1945. In November of 2020, a remodel permit was obtained to renovate the interior and exterior of the structure, yet a subsequent inspection found that the single-family structure had been demolished to the piers and would require a new construction permit. The property is proposed to be developed with an approximately 2,124-square-foot, one-story single-family dwelling unit, one approximately 424-square-foot detached garage, and one approximately 144-square-foot detached gazebo for a total of 2,692-square feet of floor area. Additionally, the subject property contains approximately 7,525 square feet in area and is situated along a corner lot.

Section 51P-160(a)(2) states that in Tract IC, the following minimum side yard setback must be provided for detached single-family dwelling units:

(A) A minimum side yard setback of five feet is required for detached single-family dwelling units. Attached single-family dwelling units must have one side yard setback of five feet.

The above section of the code ensures that a minimum setback of five feet is required along both side yards. Since the western portion of the subject site fronting along West

6th Street proposes to provide a side yard setback of eight-feet three-and-three-quarter-inch side yard setback, only the eastern portion of the structure requires relief.

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

- That granting the variance to the side yard regulations for a single-family use 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 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 zoning classification.

As of December 3, 2021, no letters have been submitted in support of or in opposition to the request.

If the board grants the variance to the side yard setback and impose the submitted site plan as a condition, the building footprint of the structure on the site would be limited to what is shown on the plan. However, granting the request will not provide any relief to the Dallas Development code regulations.

Timeline:

October 14, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

Nov. 12, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C.

Nov.12, 2021: The Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the November 23, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the December 3, 2021 deadline to submit

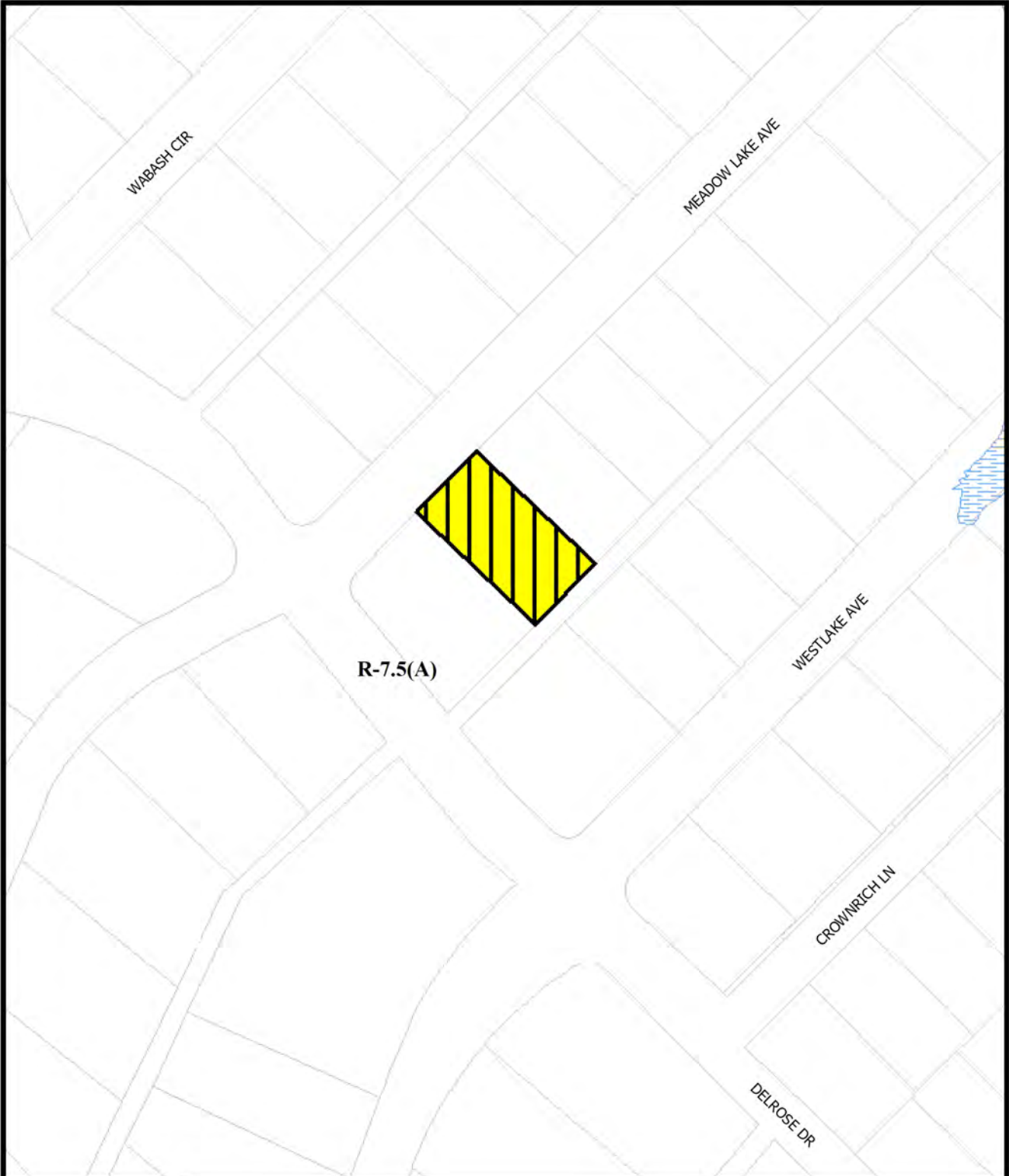
additional evidence to be incorporated into the Board's docket materials;

- 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.

Nov. 22, 2021: Documentary evidence was provided by the applicant (**Attachment A**).

Nov. 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board. No review comment sheets were submitted in conjunction with this application.

Nov. 30, 2021: Documentary evidence was provided by the applicant (**Attachment B**).

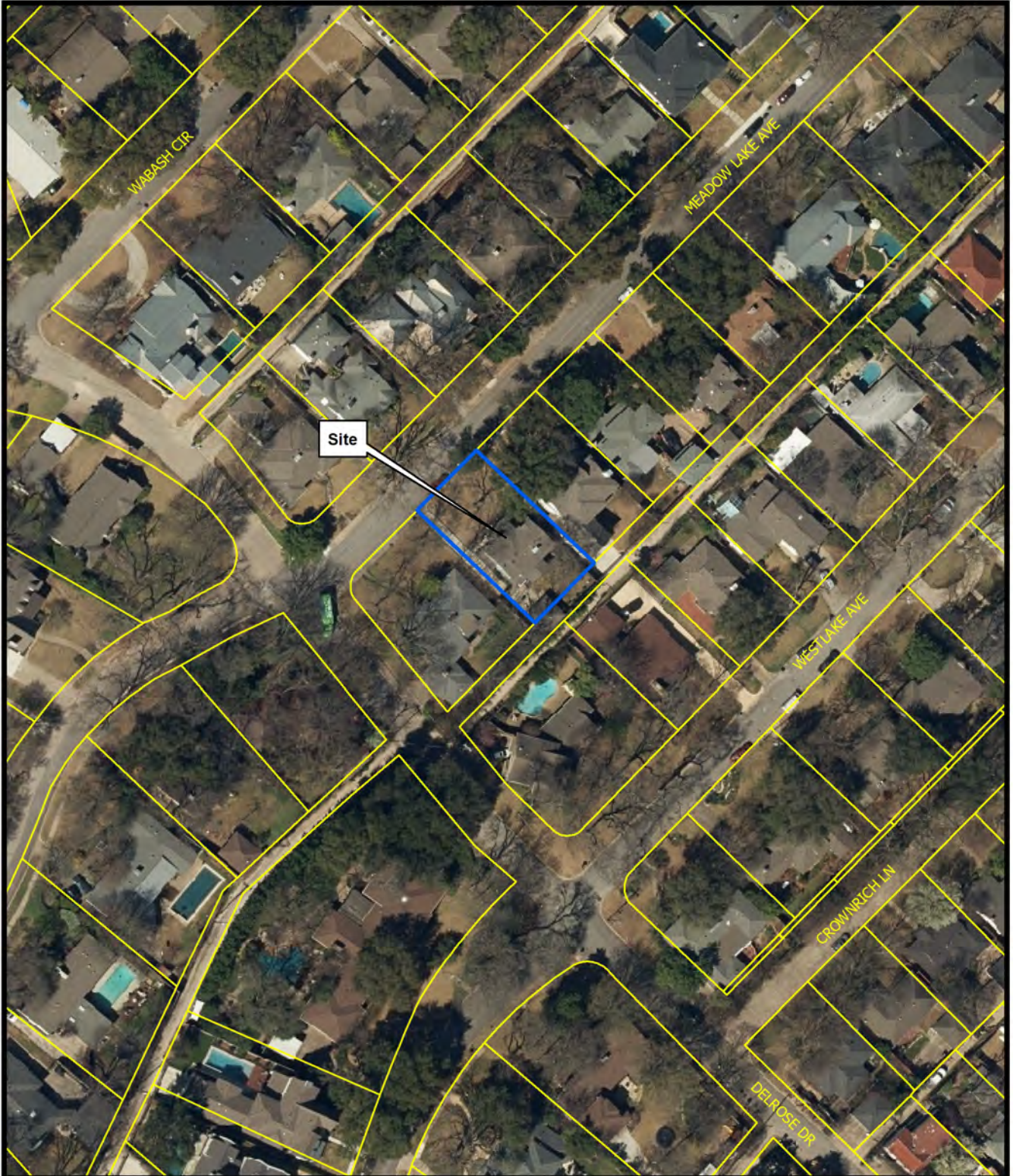


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ZONING MAP

Case no: BDA190-115

Date: 11/23/2020



1:1,200

AERIAL MAP

Case no: BDA190-115

Date: 11/23/2020



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
25 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA190-115**
 Date: **11/23/2020**

11/22/2021

Notification List of Property Owners

BDA201-115

20 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	828 N MADISON AVE	GARCIA CATALINO &
2	836 N MADISON AVE	BREN ADAM
3	834 N MADISON AVE	WATERS JAMES &
4	833 ELSBETH ST	TAYLOR EVELYN S LIVING TRUST &
5	839 ELSBETH ST	FRASER EVERETT &
6	825 ELSBETH ST	FLYING BACKPACK LLC
7	904 N MADISON AVE	LUCKY LENDING LLC
8	900 N MADISON AVE	PISD 2 LLC
9	908 N MADISON AVE	WOODS JONATHAN DAVID
10	912 N MADISON AVE	BELTRAN MARY A
11	918 N MADISON AVE	MOTA CONSUELO
12	917 ELSBETH ST	BROWN CYNTHIA R
13	913 ELSBETH ST	TORRES EDGAR ALFREDO
14	909 ELSBETH ST	BAYLOR AMBER
15	907 ELSBETH ST	HERNANDEZ BELEN I
16	901 ELSBETH ST	GABA GROUP LLC
17	828 ELSBETH ST	LEE LOUIS J
18	835 N ZANG BLVD	GEMSK LLC
19	918 ELSBETH ST	MAC LUU HONG
20	901 N ZANG BLVD	SRD ZANG LLC



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-115

Date: 10/14/2021

Data Relative to Subject Property:

Location address: 901 ELSBETH AVE
LOT 6 SPLIT 2

Zoning District: PD160TRACT 1C

Lot No.: _____ Block No.: 10/3332 Acreage: 0.171 Census Tract: 92-01

Street Frontage (in Feet): 1) 42' 2) 150' 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): GABA GROUP LLC

Applicant: GABA GROUP LLC / AARON GALVAN Telephone: 214-642-3138

Mailing Address: 3712 MURPHY DR BEDFORD TX Zip Code: 76021

E-mail Address: AAED@GABAGROUPLLC.COM

Represented by: AARON GALVAN Telephone: 214-642-3138

Mailing Address: 3621 HARBER DR BEDFORD TX Zip Code: 76021

E-mail Address: AAED@GABA GROUP LLC.COM

Affirm that an appeal has been made for a Variance , or Special Exception _____, of 1'4" ENCROACHMENT
IN TO THE REGULATED 5' SVSB AND WILL PROVIDE 3'8" SETBACK

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

EXISTING STRUCTURE ALREADY IN THIS POSITION
WE CURRENTLY HALF WAY THE REMODEL UNDER A REMODELING
PERMIT, WE NOT ASKING TO MOVE THE PROPERTY BUT
JUST TO CONTINUE WITH THE EXISTING BUILDING AND
SMALL ADDITION IN THE BACK

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 AARON A GALVAN
(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: _____
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 14th day of October, 2021



**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 AARON GALVAN

did submit a request for a variance to the side yard setback regulations
at 901 Elsbeth Ave.

BDA201-115. Application of AARON GALVAN for a variance to the side yard setback regulations at 901 ELSBETH ST. This property is more fully described as Lot 6 split 2, Block 10/3332, and is zoned PD-160 (tract 1C), which requires a side yard setback of 5 feet. The applicant proposes to construct and maintain a single family residential structure and provide a 2 foot side yard setback, which will require a 3 foot variance to the side yard setback regulations.

Sincerely,


David Session, Building Official



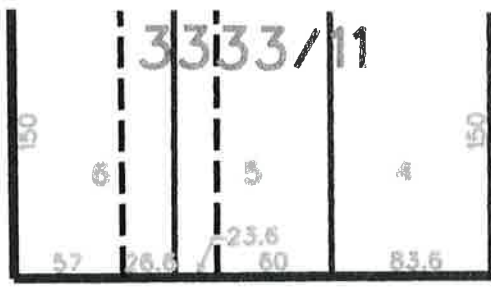
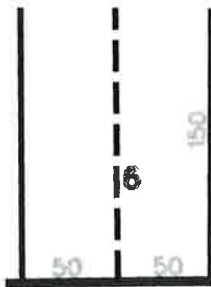
Printed: 10/14/2021

Legend

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

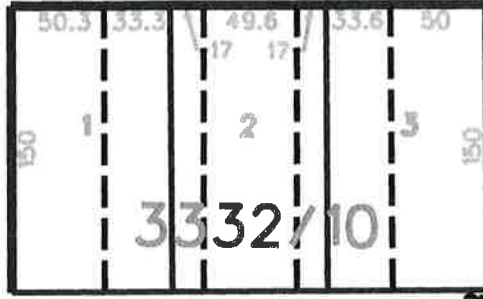
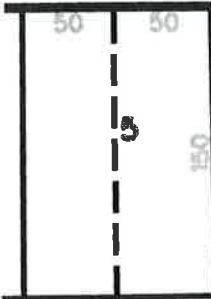
This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering,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



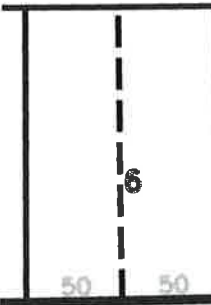


(CONCHO)

AVE. 900 80



3332/10



SIXTH

SIXTH

200 80

200 80

AVE. 900 80



H 337A



J 337A

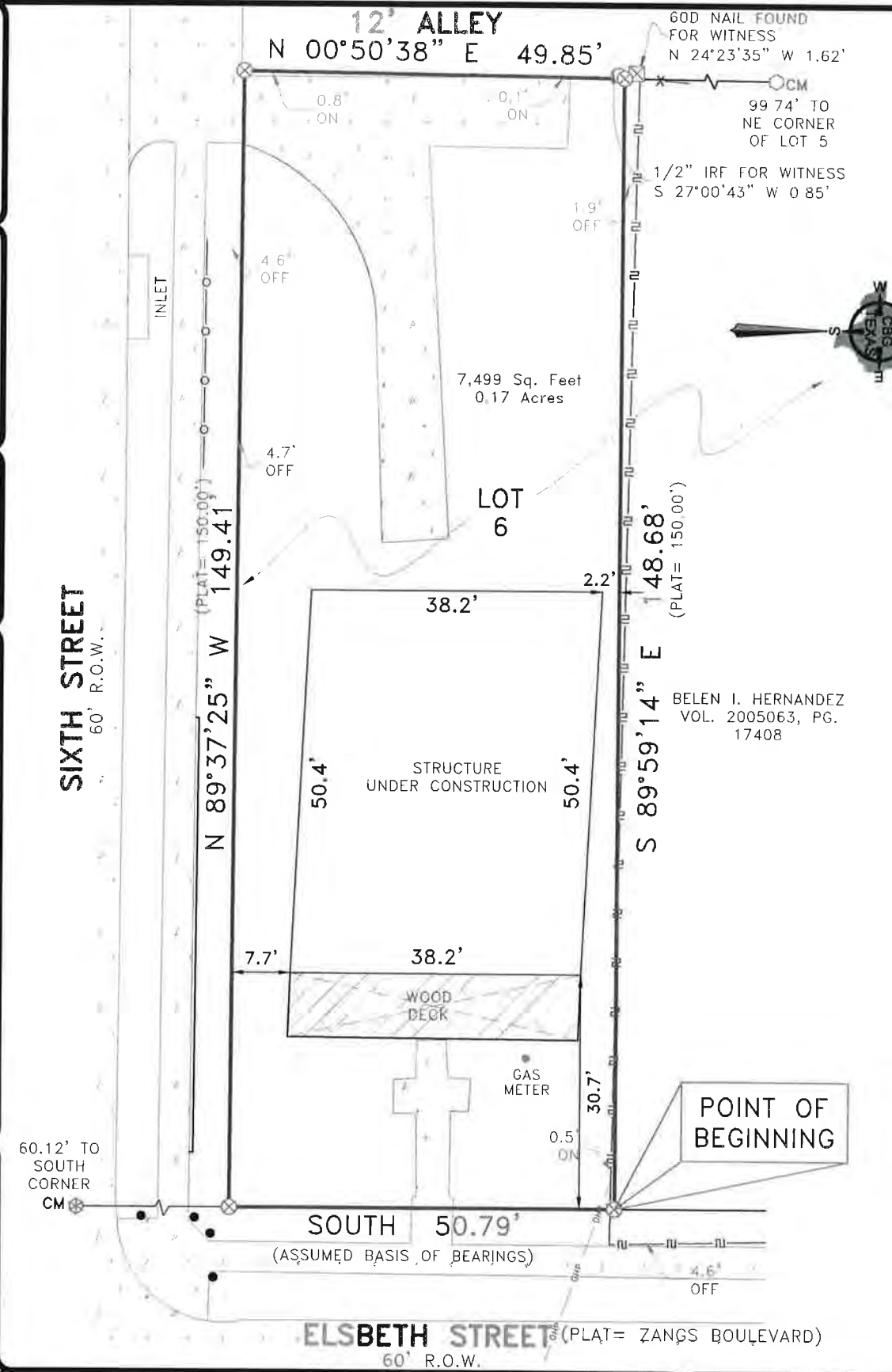
15 3337



LEGEND

- | | |
|----------------------------------|-------------------------|
| ○ 1/2" ROD FOUND | □ FENCE POST FOR CORNER |
| ⊗ 1/2" ROD SET | CM CONTROLLING MONUMENT |
| ○ 1/2" PIPE FOUND | AC AIR CONDITIONER |
| ⊗ 60d NAIL FOUND | PE POOL EQUIPMENT |
| ◆ POINT FOR CORNER | ● POWER POLE |
| ⊗ 3/8" ROD FOUND | △ OVERHEAD ELECTRIC |
| T TRANSFORMER PAD | — — IRON FENCE |
| ■ COLUMN | —X— BARBED WIRE |
| ▲ UNDERGROUND ELECTRIC | — — EDGE OF ASPHALT |
| —OHP— OVERHEAD ELECTRIC POWER | — — EDGE OF GRAVEL |
| —OES— OVERHEAD ELECTRIC SERVICE | — — STONE |
| — — CHAIN LINK | — — CONCRETE |
| — — WOOD FENCE 0.5' WIDE TYPICAL | — — COVERED AREA |
| — — DOUBLE SIDED WOOD FENCE | — — BRICK |

EXCEPTIONS:
NOTE: This survey is made in conjunction with the information provided by the client. CBG Surveying Texas, LLC has not researched the land title records for the existence of easements, restrictive covenants or other encumbrances.



901 Elsbeth Street

Being a portion of Lot 6, Block 10/3332, Miller and Stemmons Addition, an addition to the City of Dallas, Dallas County, Texas, according to the plat thereof, recorded in Volume 1, Page 25, Map Records, Dallas County, Texas, same being that tract of land conveyed to Gaba Group, LLC, by deed recorded in Instrument No. 202000341872, Official Public Records of Dallas County, Texas, and being more particularly described by metes and bounds as follows;

BEGINNING at a 1/2 inch iron rod set with a yellow plastic cap stamped "CBG Surveying" for corner, said corner being the Southeast corner of that tract of land conveyed to Belen I. Hernandez, by deed recorded in Volume 2005063, Page 17408, Deed Records of Dallas County, Texas, and lying along the West line of Elsbeth Street (60 foot right-of-way);

THENCE South, along the West line of said Elsbeth Street, a distance of 50.79 feet to a 1/2 inch iron rod set with a yellow cap stamped "CBG Surveying" for corner, said corner being at the intersection of the North line of Sixth Street (60 foot right-of-way) and the West line of said Elsbeth Street;

THENCE North 89 degrees 37 minutes 25 seconds West, along the North line of said Sixth Street, a distance of 149.41 feet to a 1/2 inch iron rod found for corner, said corner lying East line of a 12 foot alley;

THENCE North 00 degrees 50 minutes 38 seconds East, along the West line of said 12 foot alley, a distance of 49.85 feet to a 1/2 inch iron rod set with a plastic yellow cap stamped "CBG Surveying" for corner, said corner being the Southwest corner of said Hernandez tract, from which a 1/2 iron rod found bears South 27 degrees 00 minutes 43 seconds West, a distance of 0.85' and a 60d nail found bears 24 degrees 23 minutes 35 seconds West a distance of 1.62 feet;

THENCE South 89 degrees 59 minutes 14 seconds East, along the South line of said Hernandez tract, a distance of 148.68 feet to a POINT OF BEGINNING and containing 7499 square feet or 0.17 acres of land.

*Revised Site Plan
11-12-21*

NOTES:
BEARINGS, EASEMENTS AND BUILDING LINES ARE BY RECORDED PLAT UNLESS OTHERWISE NOTED.
FLOOD NOTE: According to the F.I.R.M. No. 48113C0340J this property does lie in Zone X and does not lie within the 100 year flood zone.

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

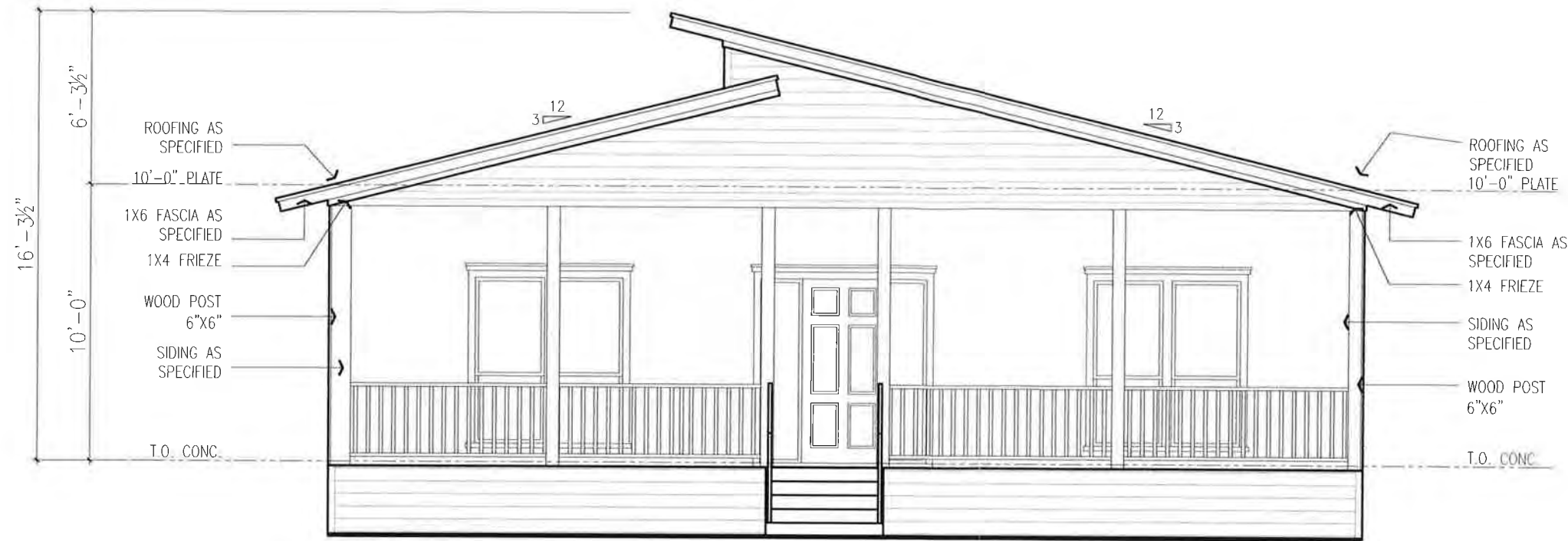
Accepted by: _____
Date: _____
Purchaser
Purchaser

Drawn By: OM
Scale: 1" = 20'
Date: 11/10/2021
GF NO.: GFN
Job No. 2122926

12025 Shiloh Road, Ste. 240
Dallas, TX 75228
P 214.349.9485
F 214.349.2216
Firm No. 10168800
www.cbgtllc.com



Reference only -



1
A2.00 FRONT ELEVATION
SCALE: 3/16" = 1'-0"

JD RIVERO
DALLAS LLC
We enrich your life
Blueprint-Permit-Constructions

9304 FOREST LN. SUITE N274, DALLAS, TX 75243
TEL. +1(214) 462 0683 www.jdrivero.com

CLIENT:	ADDRESS:
MATA RENE R	901 ELSBETH ST. DALLAS TX 75208

10					
9					
8					
7					
6					
5					
4					
3					
2					
1					
No	DATE	REVISION	APPROVED		

REVISIONS

NAME SHEET:	PROJECT NUMBER:
FRONT & RIGHT SIDE ELEVATIONS	PERMIT NUMBER:

ADDRESS:

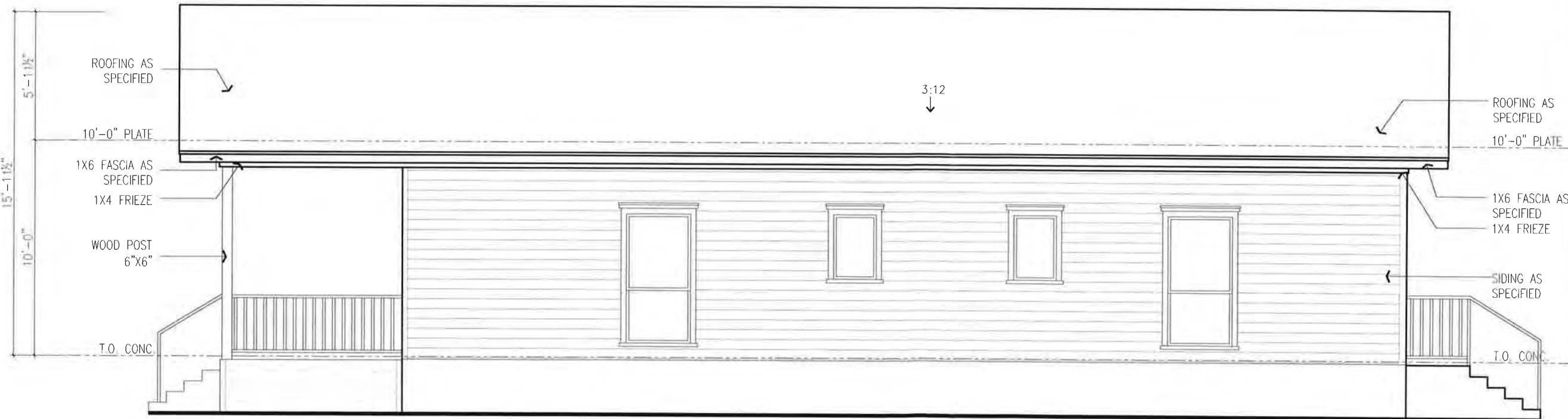
901 ELSBETH ST. DALLAS TX 75208

PROJECT:

NEW CONSTRUCTION

DATE:	SCALE:	SHEET:
09/28/2020	3/16" = 1'-0"	A2.00

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 CONSTRUCTION. BUILDER SHOULD OBTAIN 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 OF THESE PLANS.
 GREAT CARE AND EFFORT HAVE GONE INTO THE CREATION OF THESE BLUEPRINTS, HOWEVER, BECAUSE OF THE VARIANCE IN GEOGRAPHIC LOCATIONS, JD RIVERO 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 BUILDING ONLY ONCE. ANY COPYING, TRACING, OR ALTERING OF THESE PLANS IS NOT PERMITTED. VIOLATORS WILL BE SUBJECT TO PROSECUTION UNDER COPYRIGHT LAWS.

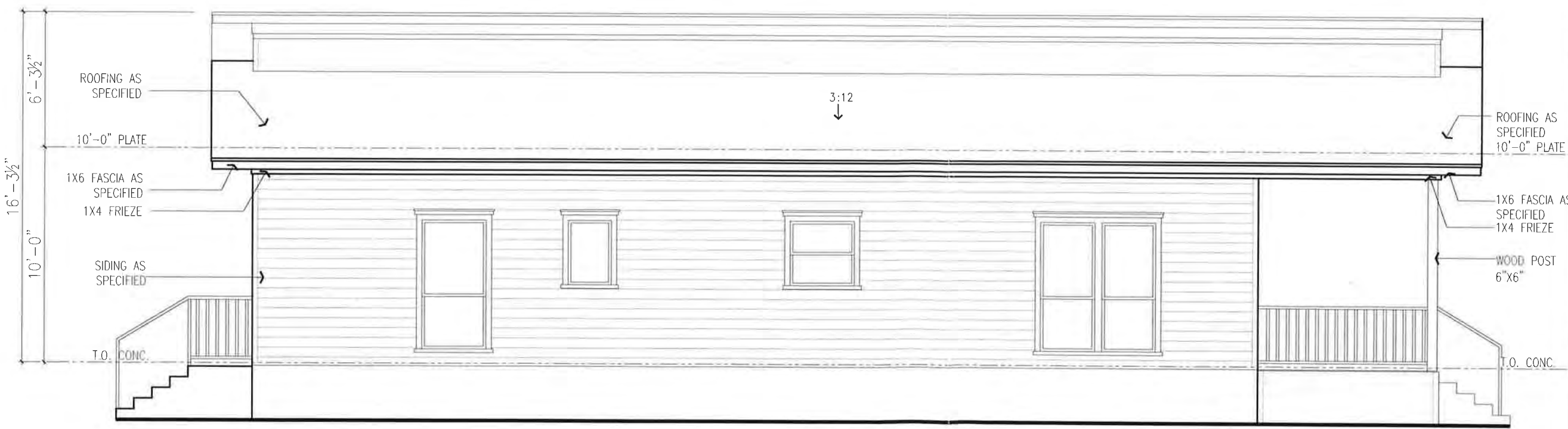


2
A2.00 RIGHT SIDE ELEVATION
SCALE: 3/16" = 1'-0"

Reference only



1 REAR ELEVATION
A2.01 SCALE: 3/16" = 1'-0"



2 LEFT SIDE ELEVATION
A2.01 SCALE: 3/16" = 1'-0"

JD RIVERO
DALLAS LLC
We enrich your life
Blueprint-Permit-Constructions

9304 FOREST LN. SUITE N274, DALLAS, TX 75243
TEL. +1(214) 462 0683 www.jdrivero.com

CLIENT:	ADDRESS:
MATA RENE R	901 ELSBETH ST. DALLAS TX 75208

No	DATE	REVISION	APPROVED
10			
9			
8			
7			
6			
5			
4			
3			
2			
1			

NAME SHEET: REAR & LEFT SIDE ELEVATIONS		PROJECT NUMBER:
		PERMIT NUMBER:

ADDRESS:
901 ELSBETH ST. DALLAS TX 75208

PROJECT:
NEW CONSTRUCTION

DATE: 09/28/2020	SCALE: 3/16" = 1'-0"	SHEET: A2.01
---------------------	-------------------------	-----------------

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 CONSTRUCTION. BUILDER SHOULD OBTAIN 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 OF THESE PLANS.
 GREAT CARE AND EFFORT HAVE GONE INTO THE CREATION OF THESE BLUEPRINTS, HOWEVER, BECAUSE OF THE VARIANCE IN GEOGRAPHIC LOCATIONS, JD RIVERO 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 BUILDING ONLY ONCE. ANY COPYING, TRACING, OR ALTERING OF THESE PLANS IS NOT PERMITTED. VIOLATORS WILL BE SUBJECT TO PROSECUTION UNDER COPYRIGHT LAWS.

BDA201-115_Attachment_A
901 Elsbeth Avenue

GABA GROUP LLC

November 22, 2021

Aaron Galvan
GABA GROUP LLC
3712 Murphy Dr
Bedford TX 76021
214-542-3138
aaed@gabagroupllc.com.

To the City of Dallas Board of Adjustment Members.

We are here before you requesting special exception to allow for 2' side yard setback instead of the 5' that is required by code. The side yard set back provided was already granted by the City of Dallas to the previous owner, We have pull a permit to renovate the property and extend the back by 5'. We had had some inspections done.

Foundation repairs are completed along with the 5' addition to the back of the property. Once the foundations was repaired it shifted the roof and buckle it so we have to structurally remove to release pressure to the side walls and correct structural issues with the framing. City inspector stop us and requested us to pull a permit to remove the roof and to frame a new roof, that took about 4 months to modified this permit but we got approved for the roof framing removal and framing a new roof line unfortunately for us we had to remove the siding due to rotted siding combining with the pressure released from the roof the siding was falling apart, once we removed the wood siding also found some structural issues on the framing of the side walls, we repaired that but our work was stop again by City inspector who told us we didn't had a permit for that and requested us to pull a rebuilt permit. City officials request us to pull a new building permit, at this point we have resources, time and money already invested on the property as is. For example, foundation along has cost us over \$20K for repairs permits and addition. Structurally the property has a foundation done, decking ready for roofing and wall shedding ready for windows and siding. This property was never intended to be a new construction only a remodel with an extension but this process has delay our project that we have been working for over a year and we want to see completed. We only intended to do a good job remodeling the property not to leave any structural issues to the new owner but this has snowball down the hill for us. Please see attached pictures of the property as currently is.

Sincerely yours,

Aaron Galvan





BDA201-115_Attachment_B

AARON GALVAN
214-542-3138.
aaedgalvan@gmail.com

901 Elsbeth Ave
Dallas TX 75208

11/30/2021
Attention:
Planning and Urban Design.

Project Title: 901 Elsbeth

I have put together my block surrounding and adjacent properties that have a building structure and average the lot size and also average the building size on this 8 properties, I have also put the building size and the lot size for 901 Elsbeth for you to compare to the average of the properties on my block.

I have listed the addresses and also included the DCAD for you to see the information use on this table.

Description	Building	Lot SF
907 Elsbeth Ave	1168 SF	7,695 SF
909 Elsbeth Ave	1703 SF	7296 SF
913 Elsbeth Ave	1110 SF	7542 SF
917 Elsbeth Ave	2920 SF	7363 Sf
904 N Madison	1120 SF	7522 SF
908 N Madison	2085 SF	7405 SF
912 N Madison	1305 SF	7269 SF
918 N Madison	2244 SF	7314 SF
Total of all properties	13655 SF	59406 SF
Average	1706.87 SF	7425.75 SF
901 Elsbeth Ave	1900 SF	7291 SF

Please let me know if any additional information needed.

NAVIGATION LINKS

- DCAD Videos
- Annual Report
- About DCAD
- Search Appraisals**
 - By Owner
 - By Account
 - By Address
 - By Business
- Find Property on Map
- Online BPP Rendition
- Online TaxRep Website
- Forms
- Data Products
- Open Records
- GIS Data Products
- Exemptions
- Property Valuation Process
- Protest Process
- Dallas County ARB
- Paying Taxes
- Local Tax Offices
- Taxing Unit Rates
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- Certified Value Summaries
- Certified Comparisons
- Certification Reports
- Preliminary Comparisons
- Average SFR Values
- Reappraisal Plan
- Water & Electricity Usage
- Administration
- Human Resources
- Links
- Contact Us
- On-line Help
- DCAD Mobile Site

Residential Account #0000263311000000

[Location](#) [Owner](#) [Legal Desc](#) [Value](#) [Main Improvement](#) [Additional Improvements](#) [Land](#) [Exemptions](#) [Estimated Taxes](#) [History](#)

Property Location (Current 2022)

Address: 901 ELSBETH ST
Neighborhood: 4DS071
Mapsc0: 54-D (DALLAS)

[DCAD Property Map](#)

[2021 Appraisal Notice](#)

Legal Desc (Current 2022)

- 1: MILLER & STEMMONS
 - 2: BLK 10/3332 PT LT 6 : 50.3X151
 - 3:
 - 4: INT202000341872 DD11302020 CO-DC
 - 5: 3332 010 00600 2003332 010
- Deed Transfer Date: 12/8/2020

Electronic Documents (ENS)

[File Homestead Exemption Online](#)



[Print Homestead Exemption Form](#)

Value	
2021 Certified Values	
Improvement:	\$53,760
Land:	+ \$182,280
Market Value:	= \$236,040
Revaluation Year:	2019
Previous Revaluation Year:	2018

Owner (Current 2022)

GABA GROUP LLC
3712 MURPHY DR
BEDFORD, TEXAS 760212733

Multi-Owner (Current 2022)

Owner Name	Ownership %
GABA GROUP LLC	100%

Main Improvement (Current 2022)

Building Class	04	Construction Type	FRAME	# Baths (Full/Half)	2 / 0
Year Built	1945	Foundation	POST	# Kitchens	1
Effective Year Built	2021	Roof Type	GABLE	# Bedrooms	3
Actual Age	77 years	Roof Material	UNASSIGNED	# Wet Bars	0
Desirability	MANUALLY ENTER DEPRECIATION	Fence Type	NONE	# Fireplaces	1
Living Area	1,900 sqft	Ext. Wall Material	FRAME	Sprinkler (Y/N)	N
Total Area	1,900 sqft	Basement	NONE	Deck (Y/N)	N
% Complete	40%	Heating	NONE	Spa (Y/N)	N
# Stories	ONE STORY	Air Condition	NONE	Pool (Y/N)	N
Depreciation	0%			Sauna (Y/N)	N

Additional Improvements (Current 2022)

#	Improvement Type	Construction	Floor	Exterior Wall	Area (sqft)
1	DETACHED GARAGE		UNASSIGNED	FRAME	400

Land (2021 Certified Values)

#	State Code	Zoning	Frontage (ft)	Depth (ft)	Area	Pricing Method	Unit Price	Market Adjustment	Adjusted Price	Ag Land
1	SINGLE FAMILY RESIDENCES	PLANNED DEVELOPMENT DISTRICT	50	151	7,291.0000 SQUARE FEET	STANDARD	\$25.00	0%	\$182,275	N

* All Exemption information reflects 2021 Certified Values. *

Exemptions (2021 Certified Values)

No Exemptions

Estimated Taxes (2021 Certified Values)

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
Tax Rate per \$100	\$0.7733	\$1.248235	\$0.227946	\$0.12351	\$0.255	N/A
Taxable Value	\$236,040	\$236,040	\$236,040	\$236,040	\$236,040	\$0
Estimated Taxes	\$1,825.30	\$2,946.33	\$538.04	\$291.53	\$601.90	N/A
Tax Ceiling					N/A	N/A
Total Estimated Taxes:						\$6,203.11

DO NOT PAY TAXES BASED ON THESE ESTIMATED TAXES. You will receive an official tax bill from the appropriate agency when they are prepared. **Please note that if there is an Over 65 or Disabled Person Tax Ceiling displayed above, it is NOT reflected in the Total Estimated Taxes calculation provided.** Taxes are collected by the agency sending you the official tax bill. To see a listing of agencies that collect taxes for your property. [Click Here](#)

The estimated taxes are provided as a courtesy and should not be relied upon in making financial or other decisions. The Dallas Central Appraisal District (DCAD) does not control the tax rate nor the amount of the taxes, as that is the responsibility of each Taxing Jurisdiction. Questions about your taxes should be directed to the appropriate taxing Jurisdiction. We cannot assist you in these matters. These tax estimates are calculated by using the most current certified taxable value multiplied by the most current tax rate. **It does not take into account other special or unique tax scenarios, like a tax ceiling, etc.** If you wish to calculate taxes yourself, you may use the [Tax Calculator](#) to assist you.

History

[History](#)

NAVIGATION LINKS

- DCAD Videos
- Annual Report
- About DCAD
- **Search Appraisals**
- By Owner
- By Account
- By Address
- By Business
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- Online TaxRep Website
- Forms
- Data Products
- Open Records
- GIS Data Products
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- Property Valuation Process
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- Certified Comparisons
- Certification Reports
- Preliminary Comparisons
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- Administration
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- Links
- Contact Us
- On-line Help
- DCAD Mobile Site


Residential Account #0000026329600000

[Location](#) [Owner](#) [Legal Desc](#) [Value](#) [Main Improvement](#) [Additional Improvements](#) [Land](#) [Exemptions](#) [Estimated Taxes](#) [History](#)

Property Location (Current 2022)
 Address: 918 N MADISON AVE
 Neighborhood: 4DSD71
 Mapsco: 54-C (DALLAS)

Legal Desc (Current 2022)
 1: MILLER & STEMMONS
 2: BLK 10/3332 N 50FT LOT 3
 3:
 4: INT201200304952 DD10042012 CO-DC
 5: 3332 010 00300 2003332 010
 Deed Transfer Date: 10/11/2012

[DCAD Property Map](#)
[2021 Appraisal Notice](#)

[Electronic Documents \(ENS\)](#)
[File Homestead Exemption Online](#)
 [Print Homestead Exemption Form](#)

Value	
2021 Certified Values	
Improvement:	\$331,620
Land:	+ \$182,850
Market Value:	= \$514,470
Revaluation Year:	2021
Previous Revaluation Year:	2020

Owner (Current 2022)
 MOTA CONSUELO
 1103 HAINES AVE
 DALLAS, TEXAS 752084042

Multi-Owner (Current 2022)	
Owner Name	Ownership %
MOTA CONSUELO	100%

Main Improvement (Current 2022)

Building Class	14	Construction Type	FRAME	# Baths (Full/Half)	2/ 0
Year Built	2018	Foundation	SLAB	# Kitchens	1
Effective Year Built	2018	Roof Type	GABLE	# Bedrooms	4
Actual Age	4 years	Roof Material	COMP SHINGLES	# Wet Bars	0
Desirability	EXCELLENT	Fence Type	WOOD	# Fireplaces	0
Living Area	2,244 sqft	Ext. Wall Material	BRICK VENEER	Sprinkler (Y/N)	N
Total Area	2,244 sqft	Basement	NONE	Deck (Y/N)	N
% Complete	100%	Heating	CENTRAL FULL	Spa (Y/N)	N
# Stories	ONE STORY	Air Condition	CENTRAL FULL	Pool (Y/N)	N
Depreciation	0%			Sauna (Y/N)	N

Additional Improvements (Current 2022)

No Additional Improvements.

Land (2021 Certified Values)

#	State Code	Zoning	Frontage (ft)	Depth (ft)	Area	Pricing Method	Unit Price	Market Adjustment	Adjusted Price	Aq Land
1	SINGLE FAMILY RESIDENCES	PLANNED DEVELOPMENT DISTRICT	50	150	7,314.0000 SQUARE FEET	STANDARD	\$25.00	0%	\$182,850	N

* All Exemption information reflects 2021 Certified Values. *

Exemptions (2021 Certified Values)

No Exemptions

Estimated Taxes (2021 Certified Values)

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
Tax Rate per \$100	\$0.7733	\$1.248235	\$0.227946	\$0.12351	\$0.255	N/A
Taxable Value	\$514,470	\$514,470	\$514,470	\$514,470	\$514,470	\$0
Estimated Taxes	\$3,978.40	\$6,421.79	\$1,172.71	\$635.42	\$1,311.90	N/A
Tax Ceiling					N/A	N/A
Total Estimated Taxes:						\$13,520.23

DO NOT PAY TAXES BASED ON THESE ESTIMATED TAXES. You will receive an official tax bill from the appropriate agency when they are prepared. Please note that if there is an Over65 or Disabled Person Tax Ceiling displayed above, it is NOT reflected in the Total Estimated Taxes calculation provided. Taxes are collected by the agency sending you the official tax bill. To see a listing of agencies that collect taxes for your property. [Click Here](#)

The estimated taxes are provided as a courtesy and should not be relied upon in making financial or other decisions. The Dallas Central Appraisal District (DCAD) does not control the tax rate nor the amount of the taxes, as that is the responsibility of each Taxing Jurisdiction. Questions about your taxes should be directed to the appropriate taxing jurisdiction. We cannot assist you in these matters. These tax estimates are calculated by using the most current certified taxable value multiplied by the most current tax rate. It does not take into account other special or unique tax scenarios, like a tax ceiling, etc. If you wish to calculate taxes yourself, you may use the [Tax Calculator](#) to assist you.

[History](#)

[History](#)

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- DCAD Mobile Site

Residential Account #0000263305000000

[Location](#) [Owner](#) [Legal Desc](#) [Value](#) [Main Improvement](#) [Additional Improvements](#) [Land](#) [Exemptions](#) [Estimated Taxes](#) [History](#)

Property Location (Current 2022)
 Address: 909 ELSBETH ST
 Neighborhood: 4DSB71
 Mapsc0: 54-D (DALLAS)

[DCAD Property Map](#)
[2021 Appraisal Notice](#)

[Electronic Documents \(ENS\)](#)

 [Print Homestead Exemption Form](#)

Owner (Current 2022)
 BAYLOR AMBER
 909 ELSBETH ST
 DALLAS, TEXAS 752084227

Multi-Owner (Current 2022)	
Owner Name	Ownership %
BAYLOR AMBER	100%

Legal Desc (Current 2022)

- 1: MILLER & STEMMONS
- 2: BLK 10/3332 PT LT 5: 50X150.8
- 3: 100FR 5TH ST
- 4: INT201800089883 DD04042018 CO-DC
- 5: 3332 010 00500 2003332 010

Deed Transfer Date: 4/5/2018

Value	
2021 Certified Values	
Improvement:	\$146,100
Land:	+ \$182,400
Market Value:	= \$328,500
Revaluation Year:	2021
Previous Revaluation Year:	2019

Main Improvement (Current 2022)

Building Class	04	Construction Type	FRAME	# Baths (Full/Half)	3/ 0
Year Built	1945	Foundation	POST	# Kitchens	1
Effective Year Built	1945	Roof Type	GABLE	# Bedrooms	3
Actual Age	77 years	Roof Material	COMP SHINGLES	# Wet Bars	0
Desirability	GOOD	Fence Type	WOOD	# Fireplaces	2
Living Area	1,703 sqft	Ext. Wall Material	FRAME	Sprinkler (Y/N)	N
Total Area	1,703 sqft	Basement	NONE	Deck (Y/N)	N
% Complete	100%	Heating	CENTRAL FULL	Spa (Y/N)	N
# Stories	ONE STORY	Air Condition	CENTRAL FULL	Pool (Y/N)	N
Depreciation	45%			Sauna (Y/N)	N

Additional Improvements (Current 2022)

No Additional Improvements.

Land (2021 Certified Values)

#	State Code	Zoning	Frontage (ft)	Depth (ft)	Area	Pricing Method	Unit Price	Market Adjustment	Adjusted Price	Ag Land
1	SINGLE FAMILY RESIDENCES	PLANNED DEVELOPMENT DISTRICT	50	150	7,296.0000 SQUARE FEET	STANDARD	\$25.00	0%	\$182,400	N

* All Exemption information reflects 2021 Certified Values. *

Exemptions (2021 Certified Values)

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
HOMESTEAD EXEMPTION	\$65,700	\$57,850	\$65,700	\$65,700	\$65,700	\$0
Taxable Value	\$262,800	\$270,650	\$262,800	\$262,800	\$262,800	\$0

Exemption Details

Estimated Taxes (2021 Certified Values)

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
Tax Rate per \$100	\$0.7733	\$1.248235	\$0.227946	\$0.12351	\$0.255	N/A
Taxable Value	\$262,800	\$270,650	\$262,800	\$262,800	\$262,800	\$0
Estimated Taxes	\$2,032.23	\$3,378.35	\$599.04	\$324.58	\$670.14	N/A
Tax Ceiling	N/A	N/A	N/A	N/A	N/A	N/A
Total Estimated Taxes:						\$7,004.35

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Residential Account #0000263308000000

Location Owner Legal Desc Value Main Improvement Additional Improvements Land Exemptions Estimated Taxes History

Property Location (Current 2022)
 Address: 907 ELSBETH ST
 Neighborhood: 4DSD71
 Mapscoc: 54-D (DALLAS)

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Owner (Current 2022)
 HERNANDEZ BELEN I
 907 ELSBETH ST
 DALLAS, TEXAS 752084227

Multi-Owner (Current 2022)	
Owner Name	Ownership %
HERNANDEZ BELEN I	100%

Legal Desc. (Current 2022)
 1: MILLER & STEMMONS
 2: BLK 10/3332 16.66FT LT 5 &
 3: 33.3 FT LT 6
 4: VOL2005063/17408 DD03212005 CO-DC
 5: 3332 010 00500 2003332 010
 Deed Transfer Date: 3/31/2005

Value	
2021 Certified Values	
Improvement:	\$77,150
Land:	+ \$192,380
Market Value:	= \$269,530
Capped Value: \$181,140	
Revaluation Year:	2021
Previous Revaluation Year:	2020

Main Improvement (Current 2022)

Building Class	04	Construction Type	FRAME	# Baths (Full/Half)	1/ 0
Year Built	1945	Foundation	POST	# Kitchens	1
Effective Year Built	1945	Roof Type	GABLE	# Bedrooms	2
Actual Age	77 years	Roof Material	COMP SHINGLES	# Wet Bars	0
Desirability	FAIR	Fence Type	CHAIN	# Fireplaces	0
Living Area	1,168 sqft	Ext. Wall Material	FRAME	Sprinkler (Y/N)	N
Total Area	1,168 sqft	Basement	NONE	Deck (Y/N)	N
% Complete	100%	Heating	GAS HEATERS	Spa (Y/N)	N
# Stories	ONE STORY	Air Condition	WINDOW	Pool (Y/N)	N
Depreciation	60%			Sauna (Y/N)	N

Additional Improvements (Current 2022)

#	Improvement Type	Construction	Floor	Exterior Wall	Area (sqft)
1	DETACHED GARAGE		UNASSIGNED	FRAME	288

Land (2021 Certified Values)

#	State Code	Zoning	Frontage (ft)	Depth (ft)	Area	Pricing Method	Unit Price	Market Adjustment	Adjusted Price	Aq Land
1	SINGLE FAMILY RESIDENCES	PLANNED DEVELOPMENT DISTRICT	50	150	7,695.0000 SQUARE FEET	STANDARD	\$25.00	0%	\$192,375	N

* All Exemption Information reflects 2021 Certified Values. *

Exemptions (2021 Certified Values)

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
HOMESTEAD EXEMPTION	\$36,228	\$43,114	\$36,228	\$36,228	\$36,228	\$0
OTHER EXEMPTION	\$107,000	\$45,000	\$69,000	\$75,000	\$69,000	\$0
Taxable Value	\$37,912	\$93,026	\$75,912	\$69,912	\$75,912	\$0

Exemption Details

Estimated Taxes (2021 Certified Values)

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
Tax Rate per \$100	\$0.7733	\$1.248235	\$0.227946	\$0.12351	\$0.255	N/A
Taxable Value	\$37,912	\$93,026	\$75,912	\$69,912	\$75,912	\$0
Estimated Taxes	\$293.17	\$1,161.18	\$173.04	\$86.35	\$193.58	N/A
Tax Ceiling	N/A	\$133.59	\$6.04	N/A	N/A	N/A
Total Estimated Taxes:						\$1,907.32

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Residential Account #0000026329000000

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Property Location (Current 2022)

Address: 908 N MADISON AVE
 Neighborhood: 4DSD71
 Mapsco: 54-C (DALLAS)

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Legal Desc (Current 2022)

- 1: MILLER & STEMMONS
 - 2: BLK 10/3332 PT LT 2: 50 X 150
 - 3: 1 00FR 5TH ST
 - 4: INT201500070790 DD03192015 CO-DC
 - 5: 3332 010 00200 2003332 010
- Deed Transfer Date: 3/23/2015

Electronic Documents (ENS)

[Print Homestead Exemption Form](#)

Value	
2021 Certified Values	
Improvement:	\$334,940
Land:	+ \$185,130
Market Value:	= \$520,070
Revaluation Year:	2021
Previous Revaluation Year:	2019

Owner (Current 2022)

WOODS JONATHAN DAVID
 908 N MADISON AVE
 DALLAS, TEXAS 752084231

Multi-Owner (Current 2022)

Owner Name	Ownership %
WOODS JONATHAN DAVID	100%

Main Improvement (Current 2022)

Building Class	09	Construction Type	FRAME	# Baths (Full/Half)	2/0
Year Built	1964	Foundation	PIER AND BEAM	# Kitchens	1
Effective Year Built	1995	Roof Type	GABLE	# Bedrooms	3
Actual Age	58 years	Roof Material	COMP SHINGLES	# Wet Bars	0
Desirability	VERY GOOD	Fence Type	CHAIN	# Fireplaces	1
Living Area	2,085 sqft	Ext. Wall Material	BRICK VENEER	Sprinkler (Y/N)	N
Total Area	2,085 sqft	Basement	NONE	Deck (Y/N)	N
% Complete	100%	Heating	CENTRAL FULL	Spa (Y/N)	N
# Stories	ONE STORY	Air Condition	CENTRAL FULL	Pool (Y/N)	Y
Depreciation	20%			Sauna (Y/N)	N

Additional Improvements (Current 2022)

#	Improvement Type	Construction	Floor	Exterior Wall	Area (sqft)
1	DETACHED GARAGE		UNASSIGNED	FRAME	600
2	POOL		UNASSIGNED	CC-CONCRETE (POOL)	400

Land (2021 Certified Values)

#	State Code	Zoning	Frontage (ft)	Depth (ft)	Area	Pricing Method	Unit Price	Market Adjustment	Adjusted Price	Ag Land
1		SINGLE FAMILY RESIDENCES	50	150	7,405.0000 SQUARE FEET	STANDARD	\$25.00	0%	\$185,125	N

* All Exemption Information reflects 2021 Certified Values. *

Exemptions (2021 Certified Values)

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
HOMESTEAD EXEMPTION	\$104,014	\$77,007	\$104,014	\$104,014	\$104,014	\$0
Taxable Value	\$416,056	\$443,063	\$416,056	\$416,056	\$416,056	\$0

Exemption Details

Estimated Taxes (2021 Certified Values)

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
Tax Rate per \$100	\$0.7733	\$1.248235	\$0.227946	\$0.12351	\$0.255	N/A
Taxable Value	\$416,056	\$443,063	\$416,056	\$416,056	\$416,056	\$0
Estimated Taxes	\$3,217.36	\$5,530.47	\$948.38	\$513.87	\$1,060.94	N/A
Tax Ceiling	N/A	N/A	N/A	N/A	N/A	N/A
Total Estimated Taxes:						\$11,271.03

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Residential Account #00000263299000000

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Property Location (Current 2022)
 Address: 917 ELSBETH ST
 Neighborhood: 4DSD71
 Mapsco: 54-D (DALLAS)

Legal Desc (Current 2022)
 1: MILLER & STEMMONS
 2: BLK 10/3332 50.66FT LT 4
 3: @ 5TH ST
 4: VOL95039/3624 DD021795 CO-DALLAS
 5: 3332 010 00400 2003332 010
 Deed Transfer Date: 2/27/1995

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Value	
2021 Certified Values	
Improvement:	\$171,620
Land:	+ \$184,080
Market Value:	= \$355,700
Capped Value:	\$348,367
Revaluation Year:	2021
Previous Revaluation Year:	2020

Owner (Current 2022)
 BROWN CYNTHIA R
 917 ELSBETH ST
 DALLAS, TEXAS 752084227

Multi-Owner (Current 2022)	
Owner Name	Ownership %
BROWN CYNTHIA R	100%

Main Improvement (Current 2022)

Building Class	04	Construction Type	FRAME	# Baths (Full/Half)	2/0
Year Built	1954	Foundation	POST	# Kitchens	1
Effective Year Built	1954	Roof Type	GABLE	# Bedrooms	3
Actual Age	68 years	Roof Material	COMP SHINGLES	# Wet Bars	0
Desirability	FAIR	Fence Type	CHAIN	# Fireplaces	2
Living Area	2,920 sqft	Ext. Wall Material	FRAME	Sprinkler (Y/N)	N
Total Area	2,920 sqft	Basement	NONE	Deck (Y/N)	N
% Complete	100%	Heating	CENTRAL FULL	Spa (Y/N)	N
# Stories	TWO STORIES	Air Condition	CENTRAL FULL	Pool (Y/N)	N
Depreciation	60%			Sauna (Y/N)	N

Additional Improvements (Current 2022)

No Additional Improvements.

Land (2021 Certified Values)

#	State Code	Zoning	Frontage (ft)	Depth (ft)	Area	Pricing Method	Unit Price	Market Adjustment	Adjusted Price	Ag Land
1	SINGLE FAMILY RESIDENCES	PLANNED DEVELOPMENT DISTRICT	50	150	7,363.0000 SQUARE FEET	STANDARD	\$25.00	0%	\$184,075	N

* All Exemption information reflects 2021 Certified Values. *

Exemptions (2021 Certified Values)

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
HOMESTEAD EXEMPTION	\$69,673	\$59,836	\$69,673	\$69,673	\$69,673	\$0
Taxable Value	\$278,694	\$288,531	\$278,694	\$278,694	\$278,694	\$0

Exemption Details

Estimated Taxes (2021 Certified Values)

	City	School	County and School Equalization	College	Hospital	Special District	
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS COLLEGE	PARKLAND HOSPITAL	UNASSIGNED	
Tax Rate per \$100	\$0.7733	\$1.248235	\$0.227946	\$0.12351	\$0.255	N/A	
Taxable Value	\$278,694	\$288,531	\$278,694	\$278,694	\$278,694	\$0	
Estimated Taxes	\$2,155.14	\$3,601.54	\$635.27	\$344.21	\$710.67	N/A	
Tax Ceiling	N/A	N/A	N/A	N/A	N/A	N/A	
Total Estimated Taxes:							\$7,446.84

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Residential Account #00000263302000000

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Property Location (Current 2022)

Address: 913 ELSBETH ST
 Neighborhood: 4DSD71
 Mapsco: 54-D (DALLAS)

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Owner (Current 2022)

TORRES EDGAR ALFREDO
 913 ELSBETH ST
 DALLAS, TEXAS 752084227

Multi-Owner (Current 2022)	
Owner Name	Ownership %
TORRES EDGAR ALFREDO	100%

Legal Desc (Current 2022)

- 1: MILLER & STEMMONS
 - 2: BLK 10/3332 33.3FT LT 4 &
 - 3: 16.66 FT LT 5
 - 4: INT20070141665 DD12292006 CO-DC
 - 5: 3332 010 00400 2003332 010
- Deed Transfer Date: 4/19/2007

Value

2021 Certified Values	
Improvement:	\$101,810
Land:	+ \$188,550
Market Value:	= \$290,360
Capped Value: \$191,847	
Revaluation Year:	2021
Previous Revaluation Year:	2020

Main Improvement (Current 2022)

Building Class	04	Construction Type	FRAME	# Baths (Full/Half)	2/0
Year Built	1945	Foundation	POST	# Kitchens	1
Effective Year Built	1945	Roof Type	GABLE	# Bedrooms	2
Actual Age	77 years	Roof Material	COMP SHINGLES	# Wet Bars	0
Desirability	AVERAGE	Fence Type	CHAIN	# Fireplaces	0
Living Area	1,110 sqft	Ext. Wall Material	FRAME, PERMASTONE	Sprinkler (Y/N)	N
Total Area	1,110 sqft	Basement	NONE	Deck (Y/N)	N
% Complete	100%	Heating	CENTRAL FULL	Spa (Y/N)	N
# Stories	ONE STORY	Air Condition	CENTRAL FULL	Pool (Y/N)	N
Depreciation	50%			Sauna (Y/N)	N

Additional Improvements (Current 2022)

#	Improvement Type	Construction	Floor	Exterior Wall	Area (sqft)
1	ENCLOSED GARAGE		UNASSIGNED	FRAME	288
2	DETACHED CARPORT		DIRT	ALUMINIUM	200

Land (2021 Certified Values)

#	State Code	Zoning	Frontage (ft)	Depth (ft)	Area	Pricing Method	Unit Price	Market Adjustment	Adjusted Price	Ag Land
1	SINGLE FAMILY RESIDENCES	PLANNED DEVELOPMENT DISTRICT	50	150	7,542.0000 SQUARE FEET	STANDARD	\$25.00	0%	\$188,550	N

* All Exemption information reflects 2021 Certified Values. *

Exemptions (2021 Certified Values)

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
HOMESTEAD EXEMPTION	\$38,369	\$44,184	\$38,369	\$38,369	\$38,369	\$0
Taxable Value	\$153,478	\$147,663	\$153,478	\$153,478	\$153,478	\$0

Exemption Details

Estimated Taxes (2021 Certified Values)

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
Tax Rate per \$100	\$0.7733	\$1.248235	\$0.227946	\$0.12351	\$0.255	N/A
Taxable Value	\$153,478	\$147,663	\$153,478	\$153,478	\$153,478	\$0
Estimated Taxes	\$1,186.85	\$1,843.18	\$349.85	\$189.56	\$391.37	N/A
Tax Ceiling	N/A	N/A	N/A	N/A	N/A	N/A
Total Estimated Taxes:						\$3,960.80

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Residential Account #0000263284000000

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Property Location (Current 2022)

Address: 904 N MADISON AVE
 Neighborhood: 4DSD71
 Mapscoc: 54-C (DALLAS)

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Owner (Current 2022)

LUCKY LENDING LLC
 1205 TIMBER CT
 SOUTHLAKE, TEXAS 760929225

Multi-Owner (Current 2022)

Owner Name	Ownership %
LUCKY LENDING LLC	100%

Legal Desc (Current 2022)

- 1: MILLER & STEMMONS
 - 2: BLK 10/3332 PT LTS 1 & 2: 50X150
 - 3: 50FR 6TH ST
 - 4: INT201900306743 DD10252019 CO-DC
 - 5: 3332 010 00100 2003332 010
- Deed Transfer Date: 11/13/2019

Value

2021 Certified Values	
Improvement:	\$125,830
Land:	+ \$188,050
Market Value:	= \$313,880
Revaluation Year:	2019
Previous Revaluation Year:	2018

Main Improvement (Current 2022)

Building Class	04	Construction Type	FRAME	# Baths (Full/Half)	1/ 0
Year Built	1945	Foundation	POST	# Kitchens	1
Effective Year Built	1995	Roof Type	HIP	# Bedrooms	2
Actual Age	77 years	Roof Material	COMP SHINGLES	# Wet Bars	0
Desirability	UNDESIRABLE	Fence Type	WOOD	# Fireplaces	0
Living Area	1,120 sqft	Ext. Wall Material	FRAME	Sprinkler (Y/N)	N
Total Area	1,120 sqft	Basement	NONE	Deck (Y/N)	N
% Complete	100%	Heating	CENTRAL FULL	Spa (Y/N)	N
# Stories	ONE STORY	Air Condition	CENTRAL FULL	Pool (Y/N)	N
Depreciation	75%			Sauna (Y/N)	N

Additional Improvements (Current 2022)

#	Improvement Type	Construction	Floor	Exterior Wall	Area (sqft)
1	DETACHED GARAGE		UNASSIGNED	FRAME	400

Land (2021 Certified Values)

#	State Code	Zoning	Frontage (ft)	Depth (ft)	Area	Pricing Method	Unit Price	Market Adjustment	Adjusted Price	Ag Land
1	SINGLE FAMILY RESIDENCES	PLANNED DEVELOPMENT DISTRICT	50	150	7,522.0000 SQUARE FEET	STANDARD	\$25.00	0%	\$188,050	N

* All Exemption information reflects 2021 Certified Values. *

Exemptions (2021 Certified Values)

No Exemptions

Estimated Taxes (2021 Certified Values)

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
Tax Rate per \$100	\$0.7733	\$1.248235	\$0.227946	\$0.12351	\$0.255	N/A
Taxable Value	\$313,880	\$313,880	\$313,880	\$313,880	\$313,880	\$0
Estimated Taxes	\$2,427.23	\$3,917.96	\$715.48	\$387.67	\$800.39	N/A
Tax Ceiling					N/A	N/A
Total Estimated Taxes:						\$8,248.74

DO NOT PAY TAXES BASED ON THESE ESTIMATED TAXES. You will receive an official tax bill from the appropriate agency when they are prepared. **Please note that if there is an Over65 or Disabled Person Tax Ceiling displayed above, it is NOT reflected in the Total Estimated Taxes calculation provided.** Taxes are collected by the agency sending you the official tax bill. To see a listing of agencies that collect taxes for your property. [Click Here](#)

The estimated taxes are provided as a courtesy and should not be relied upon in making financial or other decisions. The Dallas Central Appraisal District (DCAD) does not control the tax rate nor the amount of the taxes, as that is the responsibility of each Taxing Jurisdiction. Questions about your taxes should be directed to the appropriate taxing jurisdiction. We cannot assist you in these matters. These tax estimates are calculated by using the most current certified taxable value multiplied by the most current tax rate. **It does not take into account other special or unique tax scenarios, like a tax ceiling, etc..** If you wish to calculate taxes yourself, you may use the [Tax Calculator](#) to assist you.

[History](#)

[History](#)

NAVIGATION LINKS


- DCAD Videos
- Annual Report
- About DCAD
- **Search Appraisals**
 - By Owner
 - By Account
 - By Address
 - By Business
- Find Property on Map
- Online BPP Rendition
- Online TaxRep Website
- Forms
- Data Products
- Open Records
- GIS Data Products
- Exemptions
- Property Valuation Process
- Protest Process
- Dallas County ARB
- Paying Taxes
- Local Tax Offices
- Taxing Unit Rates
- F.A.Q.
- Calendar
- Certified Value Summaries
- Certified Comparisons
- Certification Reports
- Preliminary Comparisons
- Average SFR Values
- Reappraisal Plan
- Water & Electricity Usage
- Administration
- **Human Resources**
- Links
- Contact Us
- On-line Help
- DCAD Mobile Site

Residential Account #0000263293000000

[Location](#) [Owner](#) [Legal Desc](#) [Value](#) [Main Improvement](#) [Additional Improvements](#) [Land](#) [Exemptions](#) [Estimated Taxes](#) [History](#)

Property Location (Current 2022)
 Address: 912 N MADISON AVE
 Neighborhood: 4DSD71
 Mapscoc: 54-C (DALLAS)

[DCAD Property Map](#)
[2021 Appraisal Notice](#)

[Electronic Documents \(ENS\)](#)
[File Homestead Exemption Online](#)
 [Print Homestead Exemption Form](#)

Owner (Current 2022)
 BELTRAN MARY A
 2408 LOCKHART AVE
 DALLAS, TEXAS 752284040

Multi-Owner (Current 2022)	
Owner Name	Ownership %
BELTRAN MARY A	100%

Legal Desc (Current 2022)

- 1: MILLER & STEMMONS
- 2: BLK 10/3332 S33.6FT LT 3 &
- 3: N16.6FT LT 2
- 4: INT201100260537 DD09212011 CO-DC
- 5: 3332 010 00200 2003332 010

Deed Transfer Date: 10/4/2011

Value	
2021 Certified Values	
Improvement:	\$120,040
Land:	+ \$181,730
Market Value:	= \$301,770
Revaluation Year:	2019
Previous Revaluation Year:	2018

Main Improvement (Current 2022)

Building Class	04	Construction Type	FRAME	# Baths (Full/Half)	1/0
Year Built	1940	Foundation	PIER AND BEAM	# Kitchens	1
Effective Year Built	1940	Roof Type	HIP	# Bedrooms	2
Actual Age	82 years	Roof Material	COMP SHINGLES	# Wet Bars	0
Desirability	GOOD	Fence Type	CHAIN	# Fireplaces	0
Living Area	1,305 sqft	Ext. Wall Material	FRAME	Sprinkler (Y/N)	N
Total Area	1,305 sqft	Basement	NONE	Deck (Y/N)	Y
% Complete	100%	Heating	NONE	Spa (Y/N)	N
# Stories	ONE STORY	Air Condition	NONE	Pool (Y/N)	N
Depreciation	45%			Sauna (Y/N)	N

Additional Improvements (Current 2022)

#	Improvement Type	Construction	Floor	Exterior Wall	Area (sqft)
1	DETACHED GARAGE		UNASSIGNED	FRAME	400

Land (2021 Certified Values)

#	State Code	Zoning	Frontage (ft)	Depth (ft)	Area	Pricing Method	Unit Price	Market Adjustment	Adjusted Price	Ag Land
1	SINGLE FAMILY RESIDENCES	PLANNED DEVELOPMENT DISTRICT	50	150	7,269.0000 SQUARE FEET	STANDARD	\$25.00	0%	\$181,725	N

* All Exemption Information reflects 2021 Certified Values. *

Exemptions (2021 Certified Values)

No Exemptions

Estimated Taxes (2021 Certified Values)

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
Tax Rate per \$100	\$0.7733	\$1.248235	\$0.227946	\$0.12351	\$0.255	N/A
Taxable Value	\$301,770	\$301,770	\$301,770	\$301,770	\$301,770	\$0
Estimated Taxes	\$2,333.59	\$3,766.80	\$687.87	\$372.72	\$769.51	N/A
Tax Ceiling					N/A	N/A
Total Estimated Taxes:						\$7,930.49

DO NOT PAY TAXES BASED ON THESE ESTIMATED TAXES. You will receive an official tax bill from the appropriate agency when they are prepared. **Please note that if there is an Over65 or Disabled Person Tax Ceiling displayed above, it is NOT reflected in the Total Estimated Taxes calculation provided.** Taxes are collected by the agency sending you the official tax bill. To see a listing of agencies that collect taxes for your property. [Click Here](#)

The estimated taxes are provided as a courtesy and should not be relied upon in making financial or other decisions. The Dallas Central Appraisal District (DCAD) does not control the tax rate nor the amount of the taxes, as that is the responsibility of each Taxing Jurisdiction. Questions about your taxes should be directed to the appropriate taxing jurisdiction. We cannot assist you in these matters. These tax estimates are calculated by using the most current certified taxable value multiplied by the most current tax rate. **It does not take into account other special or unique tax scenarios, like a tax ceiling, etc.** If you wish to calculate taxes yourself, you may use the [Tax Calculator](#) to assist you.

[History](#)

[History](#)

FILE NUMBER: BDA201-117(PD)

BUILDING OFFICIAL'S REPORT: Application of Daniel Simone for a special exception to the single-family regulations, and for a variance to the floor area ratio regulations at **6664 Santa Anita Drive**. This property is more fully described as Lot 3, Block 12/5424, and is zoned an R-7.5(A) Single Family District, which limits the number of dwelling units to one and requires that an accessory structure may not exceed 25 percent of the floor area of the main structure. The applicant proposes to construct and maintain an accessory structure to be used as an additional dwelling unit (not for rent) with 470 square feet of floor area (34.4 percent of the 1,370-square-foot floor area of the main structure), which will require a special exception to the single-family use zoning regulations and a 156-square-foot variance to the floor area ratio regulations.

LOCATION: 6664 Santa Anita Drive

APPLICANT: Daniel Simone

REQUESTS:

The following request for a special exception to the single-family use regulations is made to permit a second additional dwelling unit (not for rent) on one single-family lot. Additionally, a request for a variance request is made to permit the proposed ADU to exceed the maximum 25 percent floor area of the main structure.

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE-FAMILY USE REGULATIONS TO AN ADDITIONAL DWELLING UNIT ON ONE LOT:

(i). The board may grant a special exception to authorize a rentable additional dwelling unit in any district when, in the opinion of the board, the additional dwelling unit will not:

(aa) be used as rental accommodations; or

(bb) adversely affect neighboring properties.

(ii). In granting a special exception under this subparagraph, the board shall require the applicant to deed restrict the subject property to prevent use of the additional dwelling unit as rental accommodations.

STAFF RECOMMENDATION FOR A SPECIAL EXCEPTION TO THE SINGLE-FAMILY USE REGULATIONS TO AN ADDITIONAL DWELLING UNIT ON ONE LOT:

No staff recommendation is made on this or any request for a special exception to authorize an accessory dwelling unit since the basis for this type of appeal is *when in the opinion of the board*, the standards described above are met.

STANDARD FOR A VARIANCE:

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

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

State Law/HB 1475 effective 9-1-21

- the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:
 - (a) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code;
 - (b) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
 - (c) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
 - (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (e) the municipality consider the structure to be a nonconforming structure.

STAFF RECOMMENDATION:

Approval, subject to compliance:

Rationale:

Upon review of evidence submitted by the applicant (**Attachment A**), staff concluded that the subject site is unique and different from eight other properties with the same zoning of R-7.5(A) Single Family District. Considering its restrictive lot area of 8,929 square feet in comparison to the average of 11,631 square feet, the site cannot be developed in a manner commensurate with development upon other parcels of land with the same zoning.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single Family District)
North: R-7.5(A) (Single Family District)
West: R-7.5(A) (Single Family District)
South: R-7.5(A) (Single Family District)
East: R-7.5(A) (Single Family District)

Land Use:

The subject site and surrounding uses are developed with a single-family uses.

Zoning/BDA History:

There have been no related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

The requests for a special exception to the single-family use regulations and a variance to the maximum floor area ratio regulations focus on constructing and maintaining a 470-square-foot additional dwelling unit (not for rent) ADU to be constructed along the southeastern portion of the site approximately eight feet from the side yard setback. The subject site fronts along Santa Anita Drive and contains approximately 8,929 square feet in lot area. The site is zoned an R-7.5(A) Single Family District where lots are a minimum of 7,500 square feet in area. The property contains an approximately 1,370-square-foot, one-story existing dwelling unit constructed in 1954. Additional structures include a 529-square-foot one-story detached garage and a second 308-square-foot one-story wood frame garage.

In this district, one dwelling unit is allowed per lot which is why the applicant is requesting a special exception to allow a non-rentable ADU. An ADU is an accessory structure and cannot exceed 25 percent of the maximum floor area of the main structure.

The site plan and elevation plan provided depict the proposed ADU situated approximately 18 feet from the rear of the existing one-story single-family dwelling unit. The ADU is proposed to be constructed within the footprint of the existing one-story, 308-square-foot detached garage. The detached garage is proposed to be remodeled and a second story constructed atop of the existing one-story detached garage structure containing approximately 470-square-feet with a maximum height of nineteen-feet-six inches.

Evidence (**Attachment A**) was submitted comparing the lot average and maximum floor area of eight lots. The evidence reflects that of the eight lots a delta of 2,702 square feet exists with the average lot area being 11,631 square feet and the subject site containing 8,929 square feet. Additionally, the eight lots compared provide a maximum floor area of 1,809 square feet for all structures while the subject site contains a maximum floor area of 1,370 square feet. If approved, a maximum floor area of 1,840 square feet will exist on the subject site which is smaller than four properties utilized in the comparison.

The applicant has the burden of proof in establishing that the proposed ADU not for rent to be constructed, installed, and/or maintained on the site will not be used as rental accommodation or adversely affect neighboring properties. In granting a special exception under this subparagraph, the board shall require the applicant to deed restrict the subject property to prevent use of the additional dwelling unit as rental accommodations.

Additionally, the applicant has the burden of proof in establishing the following:

- That granting the variance 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 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 zoning classification.

As of December 3, 2021, no letters had been submitted in support of the requests nor in opposition of the requests.

Ultimately, the two requests are independent, and the board must consider the standards and evidence presented for each request.

If the board were to grant the special exception to the single-family regulations to construct and maintain a two-story additional dwelling unit (not for rent) and allow the ADU, the Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

Furthermore, if the board were to grant the variance to the single-family use regulations to construct and maintain the accessory structure with 470 square feet floor area (34.4 percent of the 1,370-square-foot floor area of the main structure) which will require a 156-square-foot variance to the floor area ratio and impose the submitted site plan as a condition, the building footprint of the structure on the site would be limited to what is shown on this document.

However, granting these requests will not provide any relief to the Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e. development on the site must meet all other code requirements), as depicted on the site plan, including the increase in floor area ratio if each is approved by the board.

Timeline:

October 22, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

November 12, 2021: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

November 12, 2021: The Board Senior Planner emailed the applicant the following information:

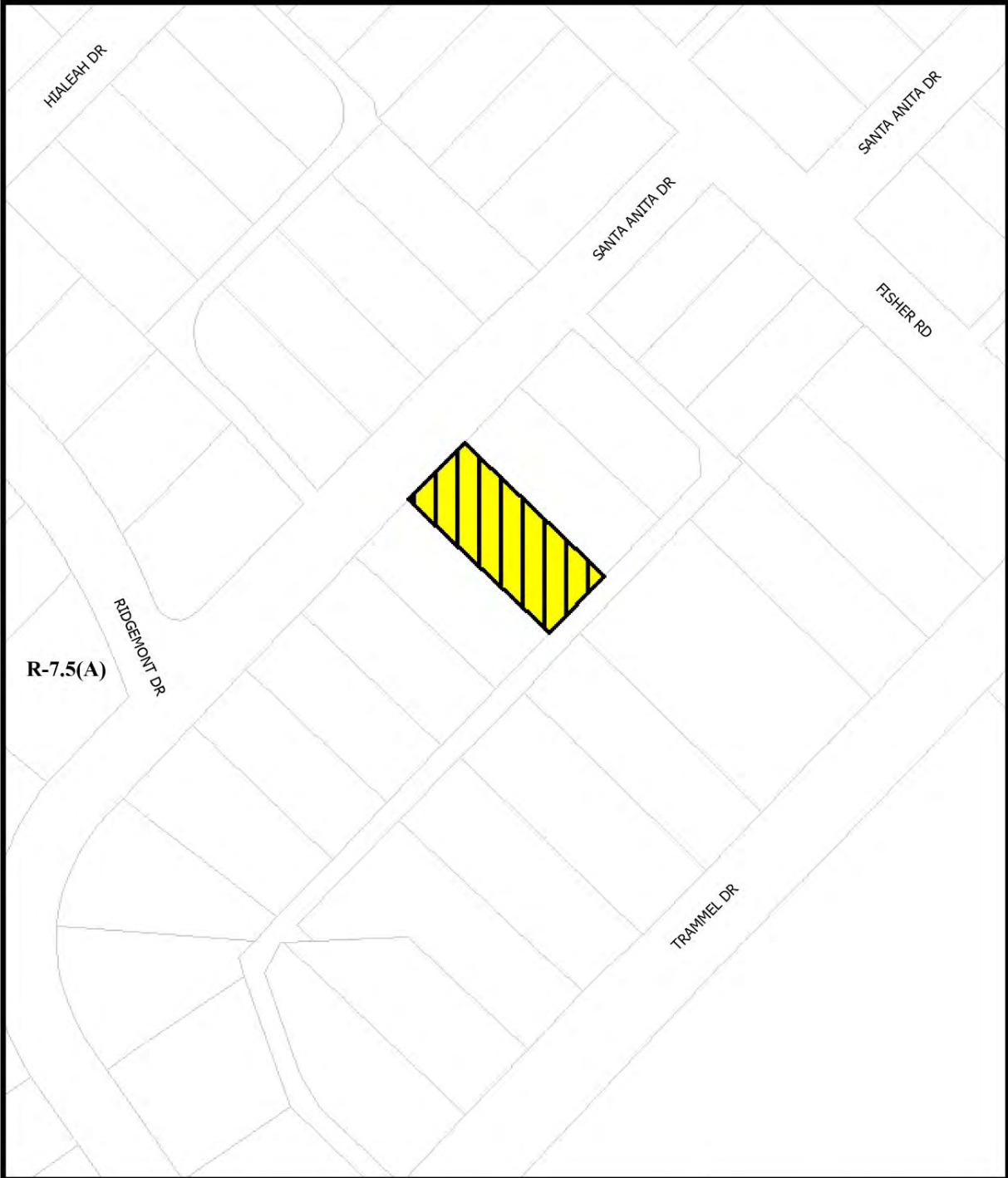
- a copy of the application materials including the Building Official’s report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the November 23, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the December 3, 2021 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 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearings. Review team members in attendance included

the following: the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner, the Board of Adjustment Senior Planner, the Chief Arborist, the Conservation Districts Chief Planner, the Building Inspection Chief Planner, the Interim Assistant Director of Current Planning, and the Assistant City Attorney to the board.

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

December 3, 2021: Documentary evidence was provided by the applicant (**Attachment A**).

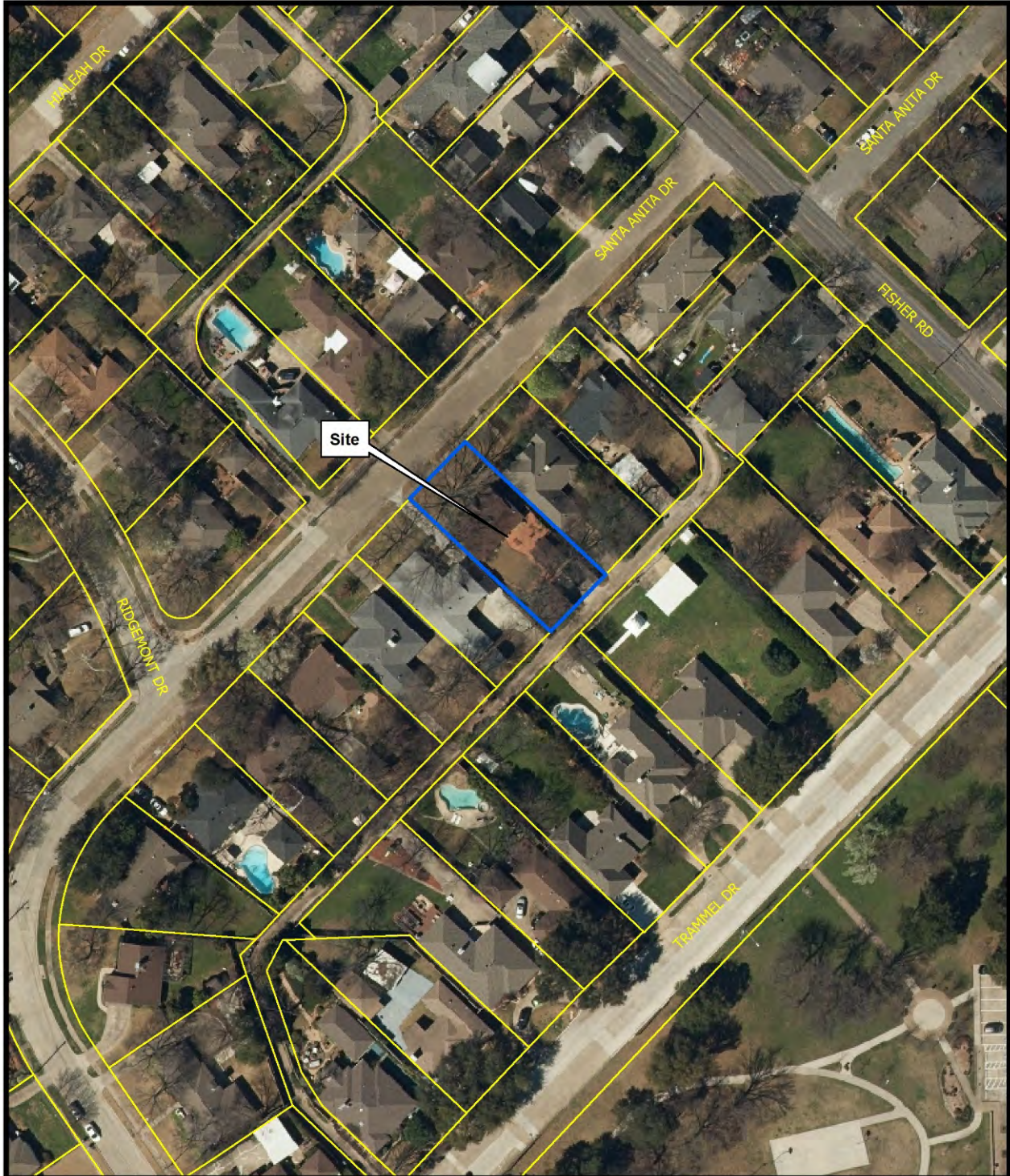


1:1,200

ZONING MAP

Case no: BDA201-117

Date: 11/22/2021

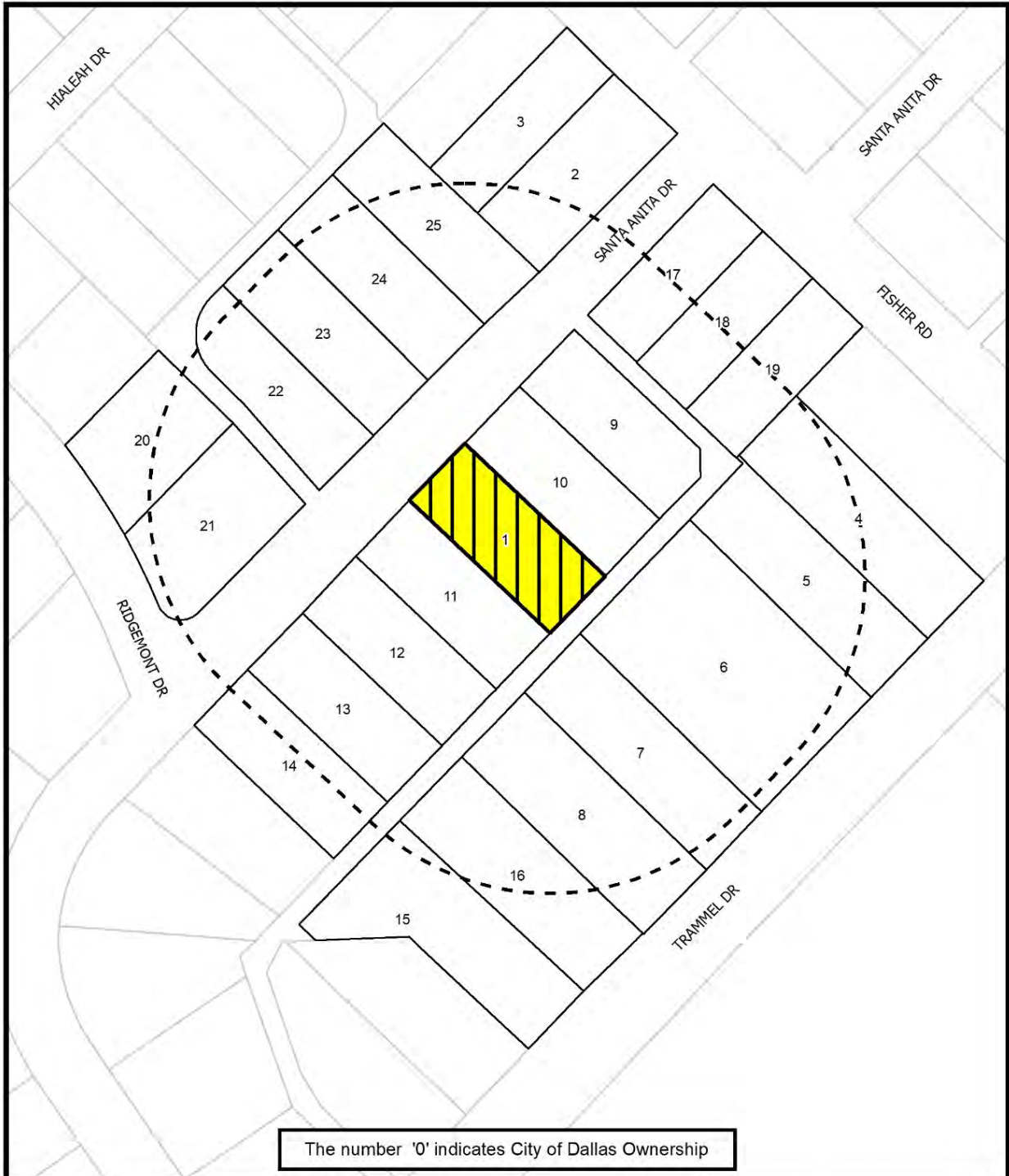


1:1,200

AERIAL MAP

Case no: BDA201-117

Date: 11/22/2021



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
25 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA201-117**

Date: **11/22/2021**

11/22/2021

Notification List of Property Owners

BDA201-117

25 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	6664 SANTA ANITA DR	TUCKER JOHN FREDERICK
2	6652 FISHER RD	SIMMONS SANDRA
3	6648 FISHER RD	MEJIA REYNA M &
4	6763 TRAMMEL DR	PRESSON CAROLE K
5	6757 TRAMMEL DR	ZIEGLER WILLIAM A & LISA
6	6745 TRAMMEL DR	BOLTON CRAIG A &
7	6739 TRAMMEL DR	WEYAND BENJAMIN R
8	6733 TRAMMEL DR	WEYAND JENNIFER
9	6672 SANTA ANITA DR	MORRIS MATTHEW B
10	6668 SANTA ANITA DR	HAGAR DAVID A
11	6660 SANTA ANITA DR	BURKHARD CATHERINE B FAMILY TRUST THE
12	6654 SANTA ANITA DR	SENDER FAMILY LTD
13	6650 SANTA ANITA DR	ARORA VIVEK &
14	6644 SANTA ANITA DR	BURNETT CHRISTOPHER B
15	6723 TRAMMEL DR	LOWE BRIAN & SHANNON
16	6727 TRAMMEL DR	ESSL EMILY KAYE
17	6700 FISHER RD	CABES REVOCABLE TRUST
18	6706 FISHER RD	FENNELL JAMES E
19	6710 FISHER RD	CUMMINS ROBERT & MELANIE
20	6654 RIDGEMONT DR	BOETTCHER KEYLIE M & DOUG WRIGHT
21	6658 RIDGEMONT DR	GEROULO MARY J
22	6661 SANTA ANITA DR	JACOBSON DEVIN K &
23	6665 SANTA ANITA DR	BAUMETZ SIMONE
24	6669 SANTA ANITA DR	MCPHAIL JANICE KENYON
25	6673 SANTA ANITA DR	ATKINSON PAIGE



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-117

Data Relative to Subject Property:

Date: 10-22-21

Location address: 6664 SANTA ANITA Zoning District: R7.5A ~~Biogrowth Pack 3~~
Lot No.: 3 Block No.: 1215424 Acreage: .205 Census Tract: 79.02 REV
Street Frontage (in Feet): 1) 60' 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): JOHN FREDERICK TUCKER
Applicant: DANIEL F. SIMONE Telephone: 972/804-9856
Mailing Address: 4322 THROCKMORTON Zip Code: 75219
E-mail Address: dansim@aol.com
Represented by: DANIEL F. SIMONE Telephone: 972-804-9856
Mailing Address: 4322 THROCKMORTON Zip Code: 75219
E-mail Address: dansim@aol.com

Affirm that an appeal has been made for a Variance , or Special Exception _____, of
TURNING A SINGLE CAR GARAGE INTO living quarters not for rent with a bathroom and kitchenette. + FAR to main structure. ADJUSTMENT REV

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:
the owner of the property, JOHN F. TUCKER, suffers from Multiple Sclerosis. He needs this space to accommodate full or part time physical assistance OR to RENT the space to someone capable of helping him.

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.

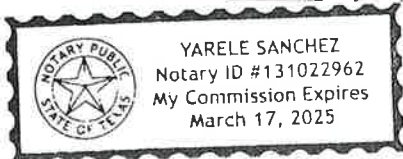
Affidavit

Before me the undersigned on this day personally appeared DANIEL F. SIMONE
(Affiant/Applicant's name printed)
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

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

Subscribed and sworn to before me this 20th day of October, 2021

(Rev. 08-01-11)



[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 Daniel Simone

did submit a request for a special exception to the single family regulations, and for a variance to the floor area ratio regulations

at 6664 Santa Anita Drive

BDA201-117. Application of Daniel Simone for a special exception to the single family regulations, and for a variance to the floor area ratio regulations at 6664 SANTA ANITA D. This property is more fully described as Lot 3, Block 12/5424, and is zoned R-7.5(A), which an accessory structure may not exceed 25% of the floor area of the main structure and limits the number of dwelling units to one. The applicant proposes to construct and maintain an additional dwelling unit (Not For Rent), which will require a special exception to the single family zoning use regulations, and to construct and maintain a single family residential accessory structure with 470 square feet of floor area (34.4% of the 1370 square foot floor area of the main structure), which will require a 156 square foot variance to the floor area ratio regulations.

Sincerely,


David Session, Building Official

Trammell, Charles

From: dansim@aol.com
Sent: Wednesday, November 3, 2021 11:24 AM
To: Trammell, Charles
Subject: 6664 Santa anita

External Email!

Charles...per our discussion this morning, the owner has changed course and designated the additional structure to be NOT for rent. The check I gave this morning for \$600 can be refunded to Dan Simone at 4322 Throckmorton, Dallas TX 75219.

Thanks for your assistance.

Sent from the all new AOL app for Android

CAUTION: This email originated from outside of the organization. Please, do not click links or open attachments unless you recognize the sender and know the content is safe.



AFFIDAVIT

Appeal number: BDA 201-117

I, John Frederick Tucker, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 6664 Santa Anita
(Address of property as stated on application)

Authorize: Daniel F. Simone
(Applicant's name as stated on application)

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

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

Specify: TURN EXISTING ONE CAR GARAGE INTO living quarters with bathroom and kitchenette

John Frederick Tucker
Print name of property owner or registered agent

[Signature]
Signature of property owner or registered agent

Date 10-20-21

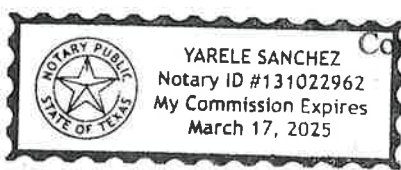
Before me, the undersigned, on this day personally appeared John Frederick Tucker

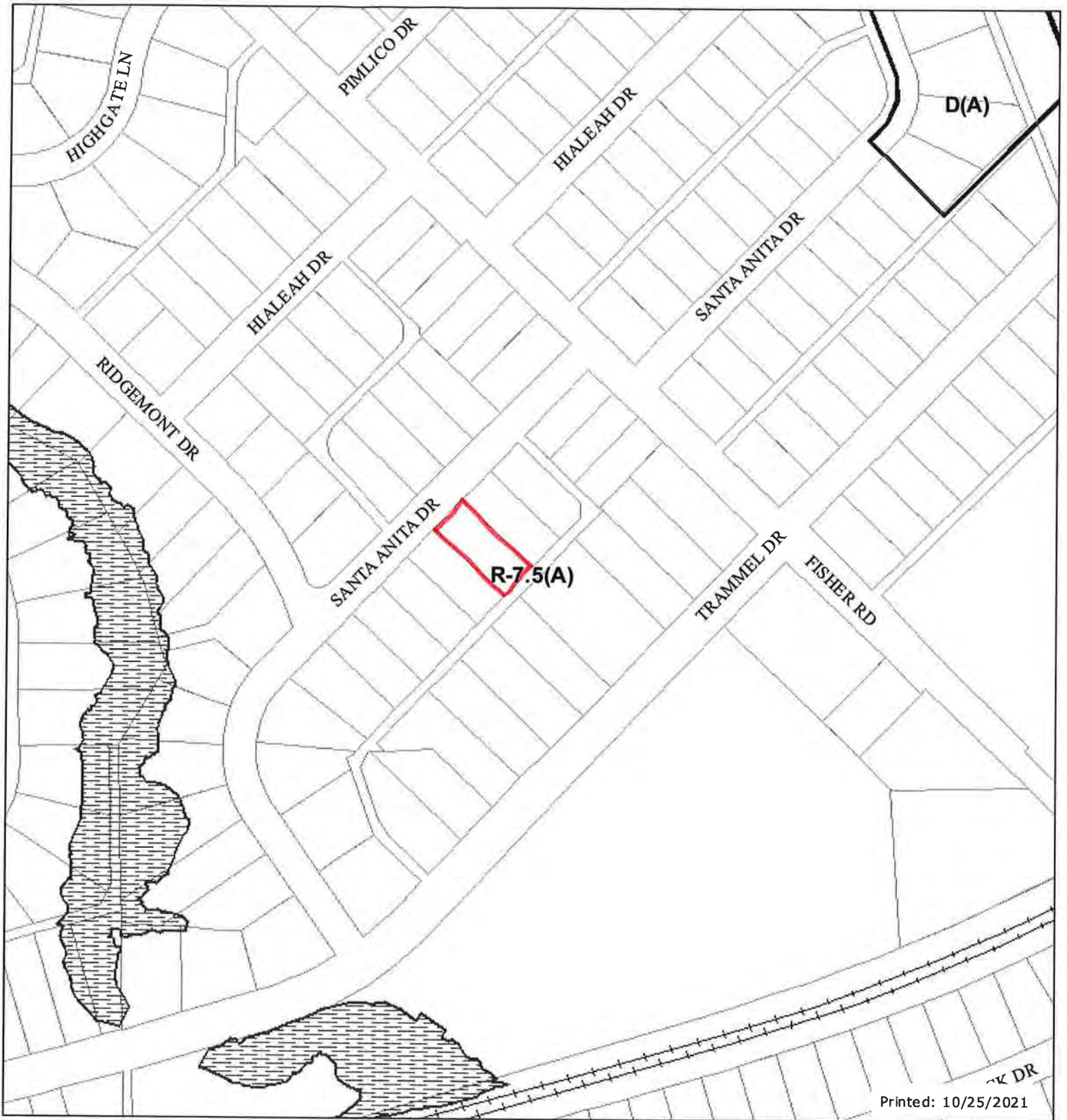
Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 20 day of October, 2021

[Signature]
Notary Public for Dallas County, Texas

Commission expires on March 17, 2025





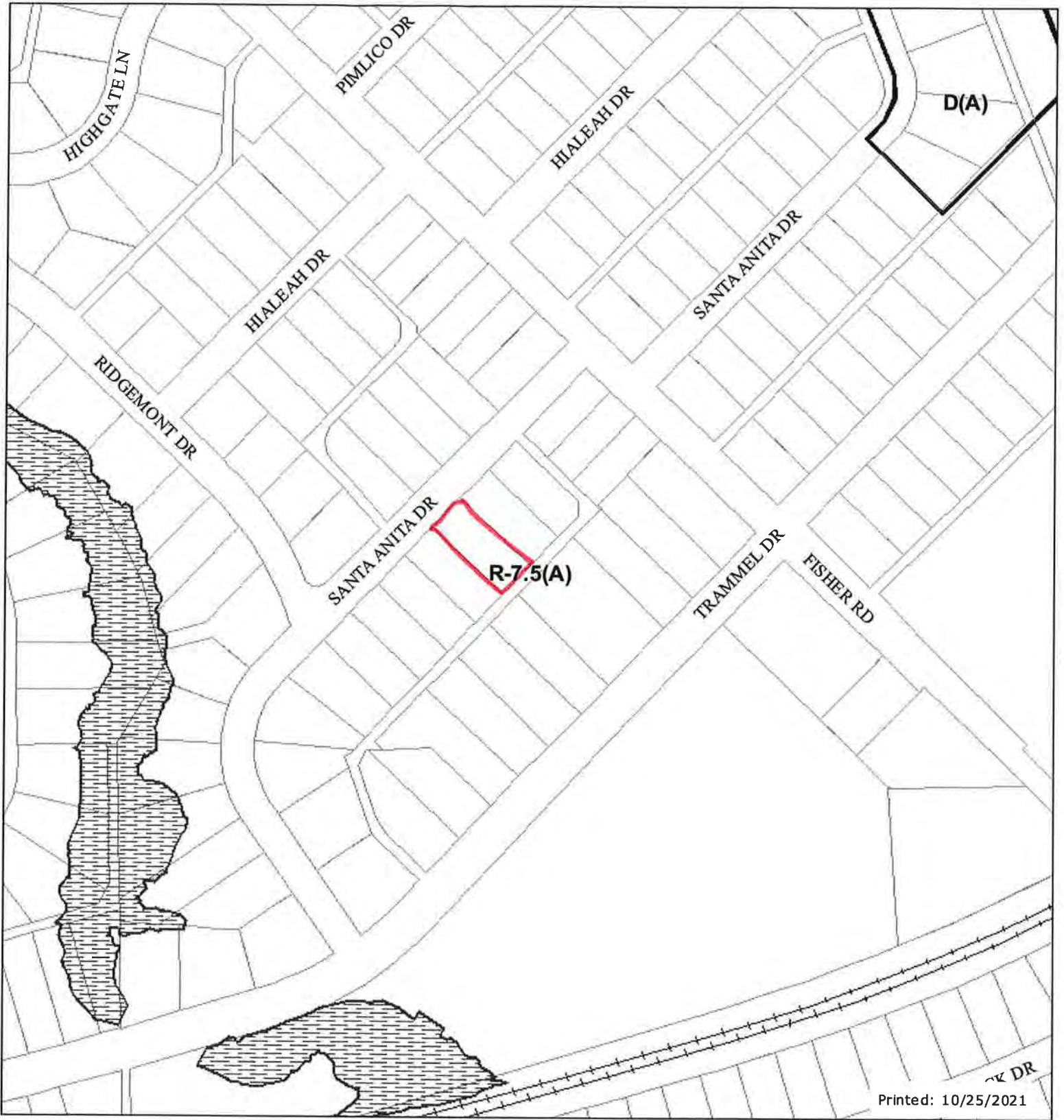
Printed: 10/25/2021

Legend

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

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





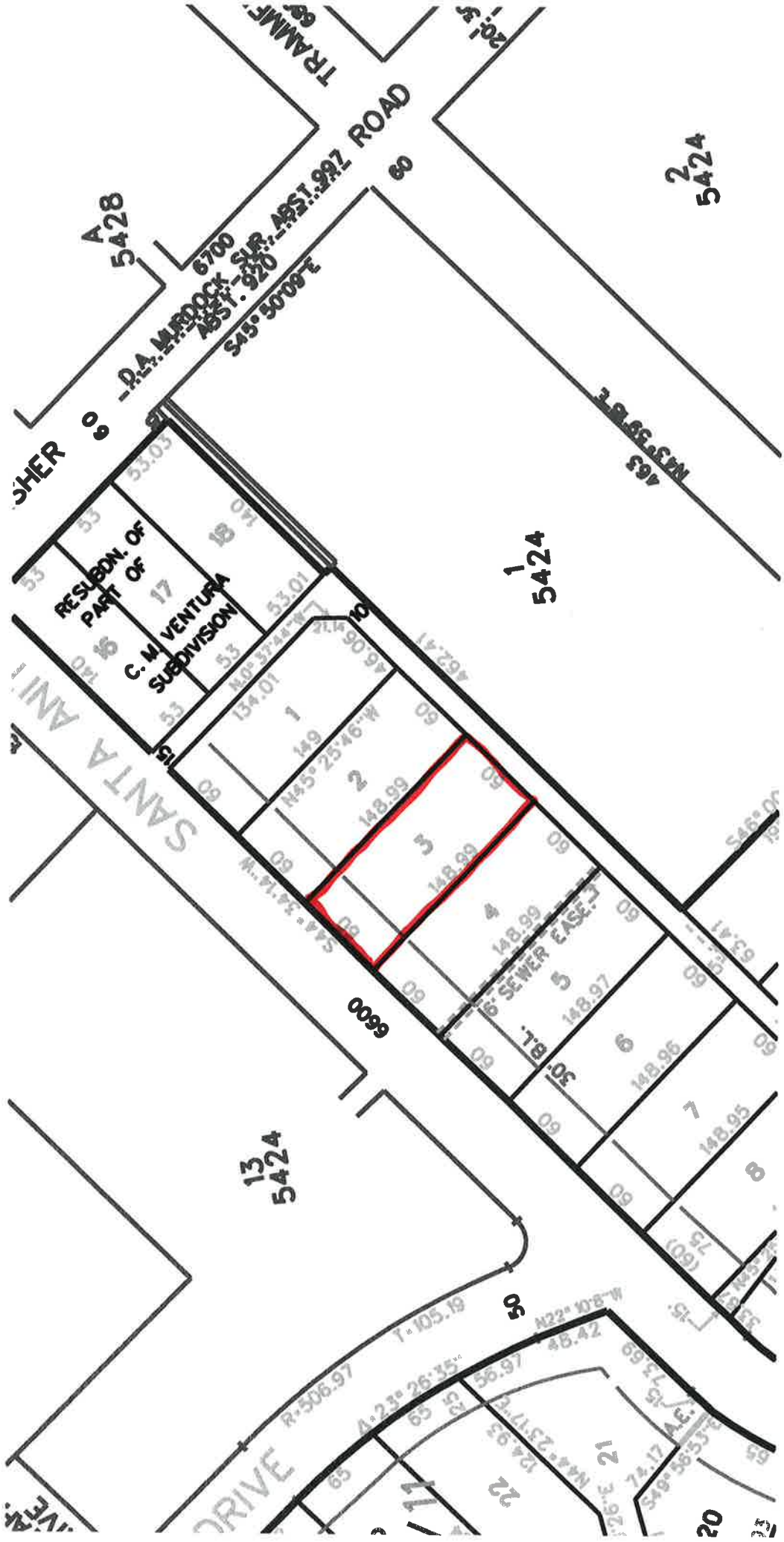
Printed: 10/25/2021

Legend

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

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





RESUBDIVISION OF
PART OF
C. M. VENTURA
SUBDIVISION

5A28

6700
D.A. MURDOCK SLUR ABST. 920
ABST. 921
S43°50'09\"/>

60

2
5A2A

1
5A2A

13
5A2A

6600

DRIVE

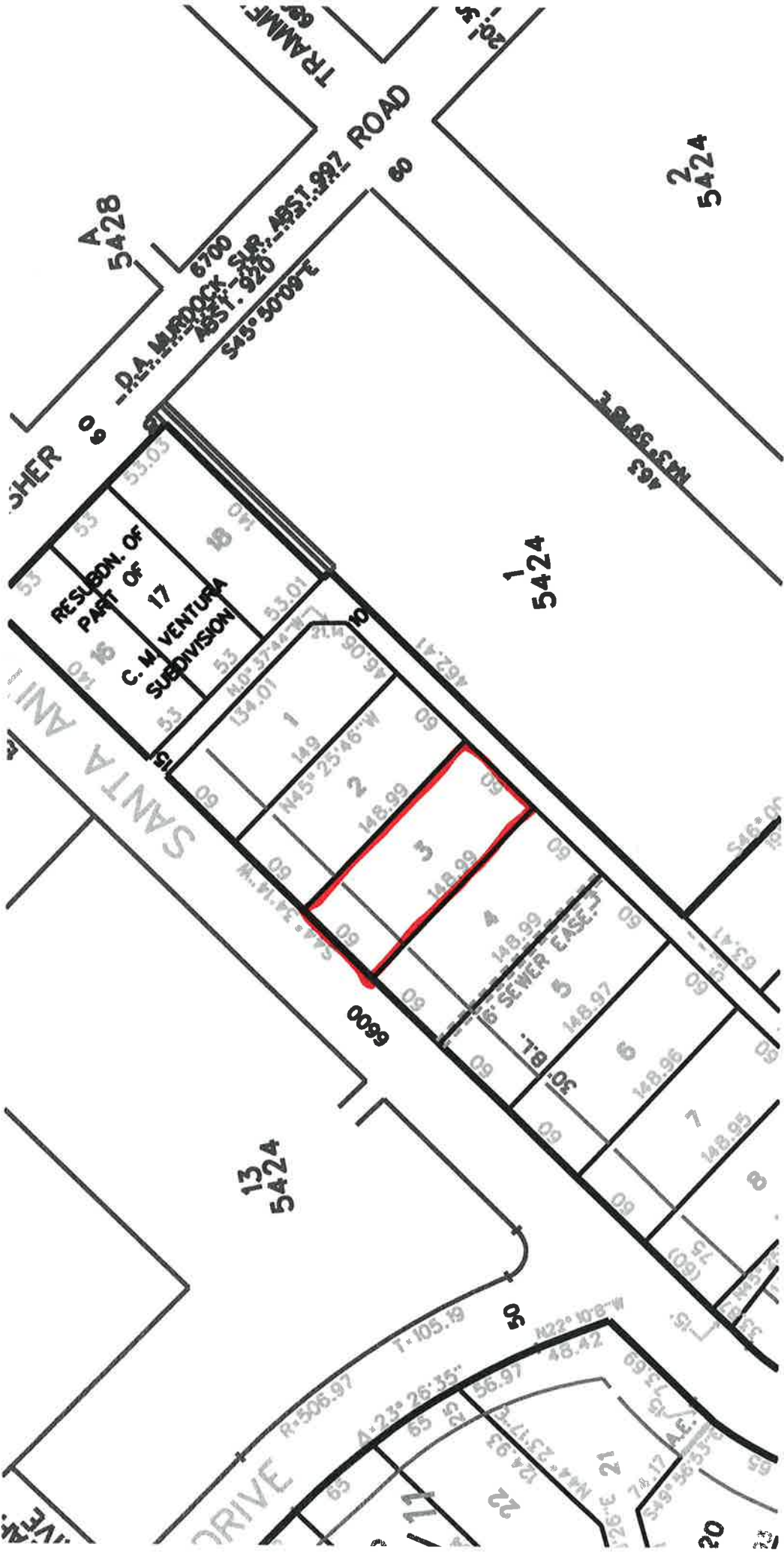
R=506.97
A=23°26'35\"/>

N22°10'8\"/>

22

20

23



RESUBDN. OF
PART OF
17
C. M. VENTURA
SUBDIVISION

5428

5428

6700
D.A. MURDOCK SUR.
ASST. 920
543° 50' 09" E

60

6000

1
5424

13
5424

2
5424

DRIVE

463
M33° 39' 17" E

11

22

20

23

14

SHER 8
6700
D.A. MURDOCK SUR.
ASST. 920
543° 50' 09" E

SANTA ANITA

DRIVE
R=306.97
T=105.19
A=23° 26' 35"

11
22
20
23

1
2
3
4
5
6
7
8

16' SEWER EASE.
30' B.L.
148.99
148.97
148.96
148.95

15
16
17
18
19

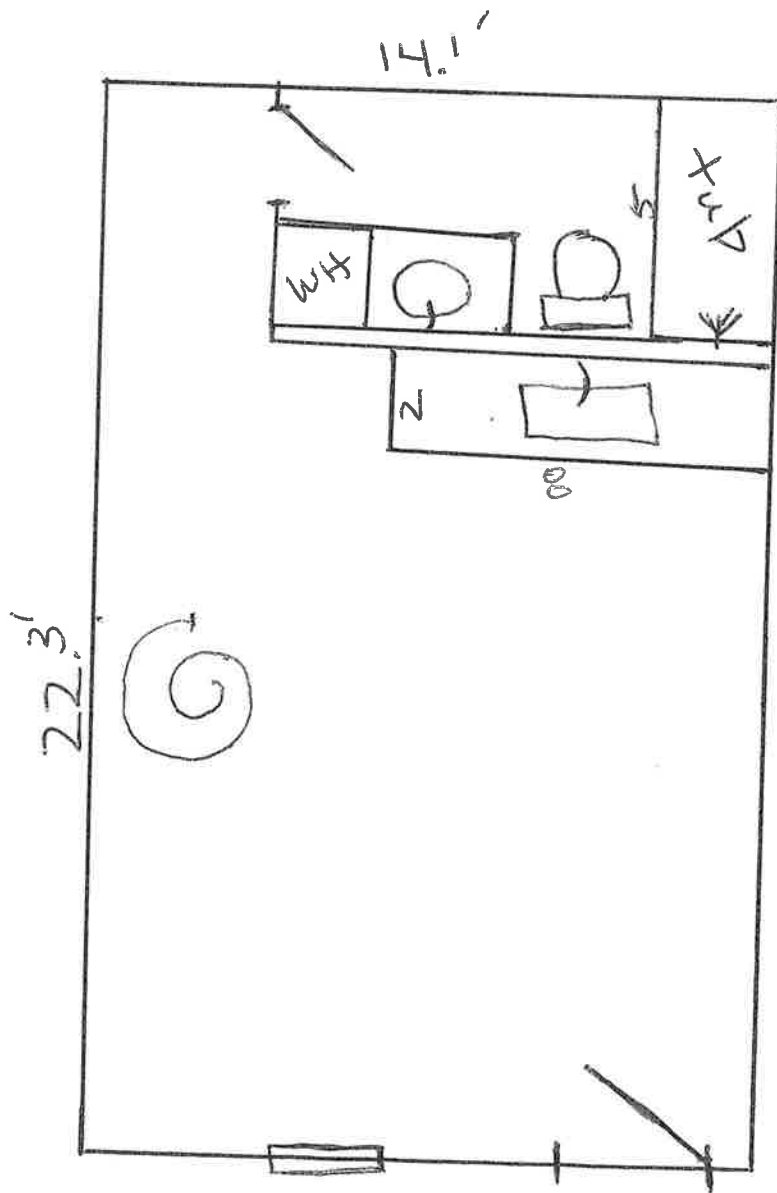
20
21
22
23

TRAMM
201.34

463
M33° 39' 17" E

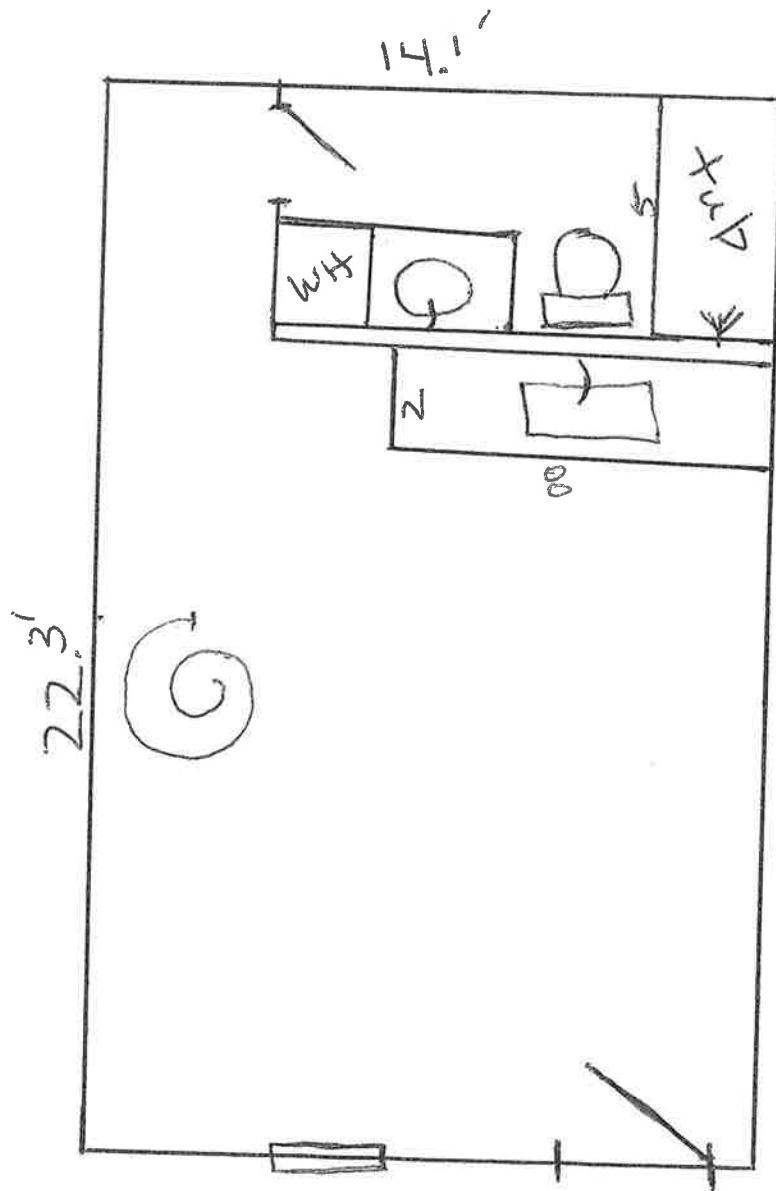
1
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23

6664 SANTA ANITA



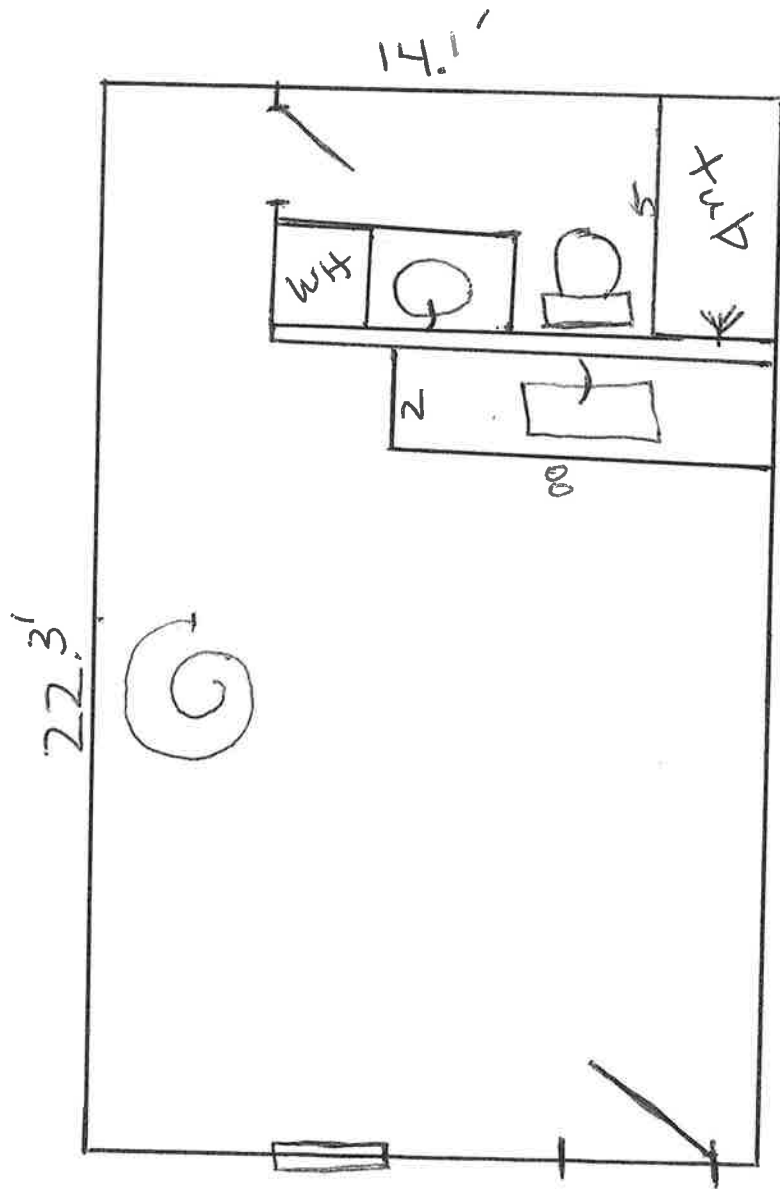
1' = 1/4"

6664 SANTA ANITA



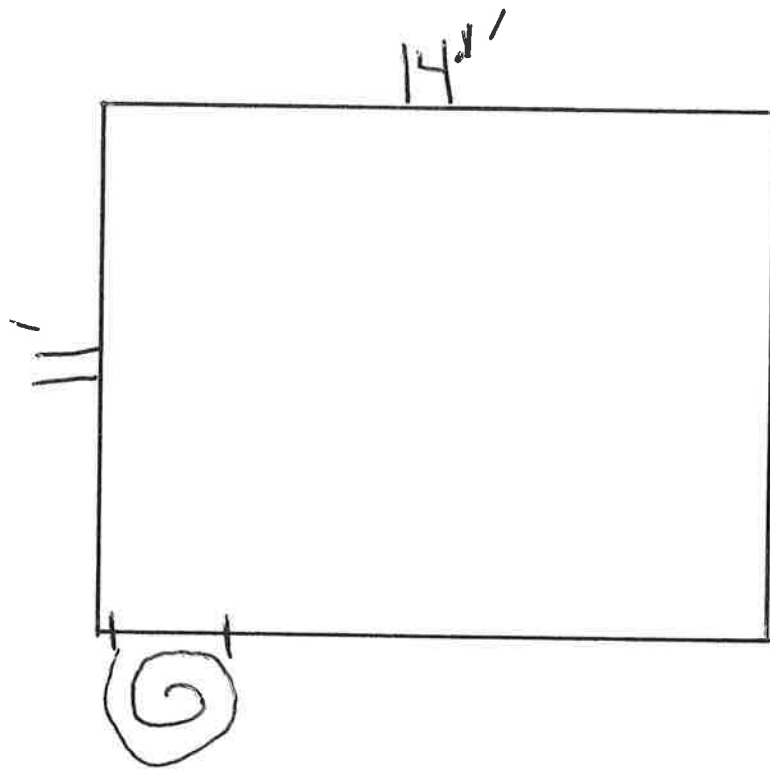
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6664 SANTA ANITA



6664 SANTA ANITA

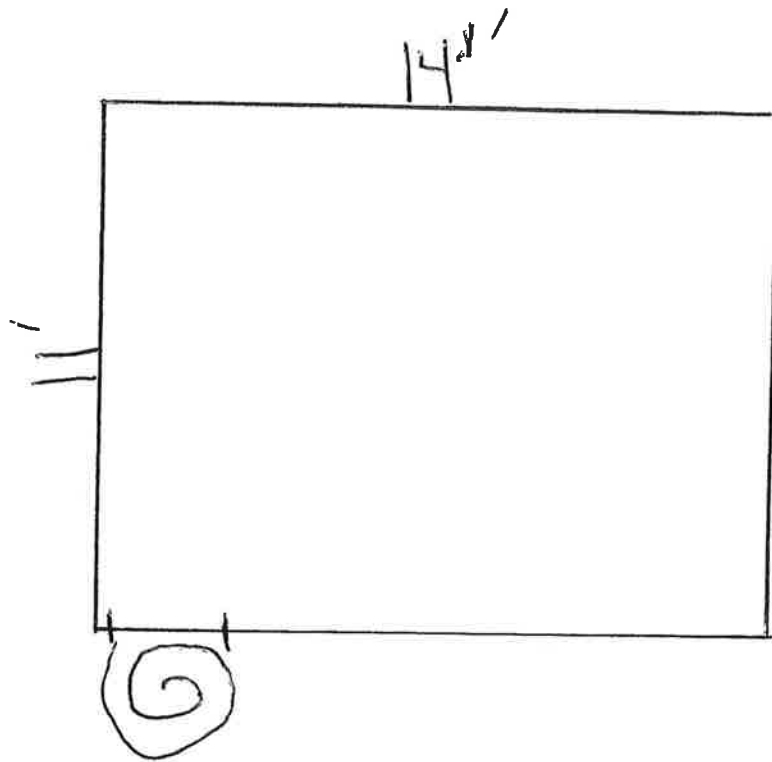
Loft



$$1' = 1/4''$$

6664 SANTA ANITA

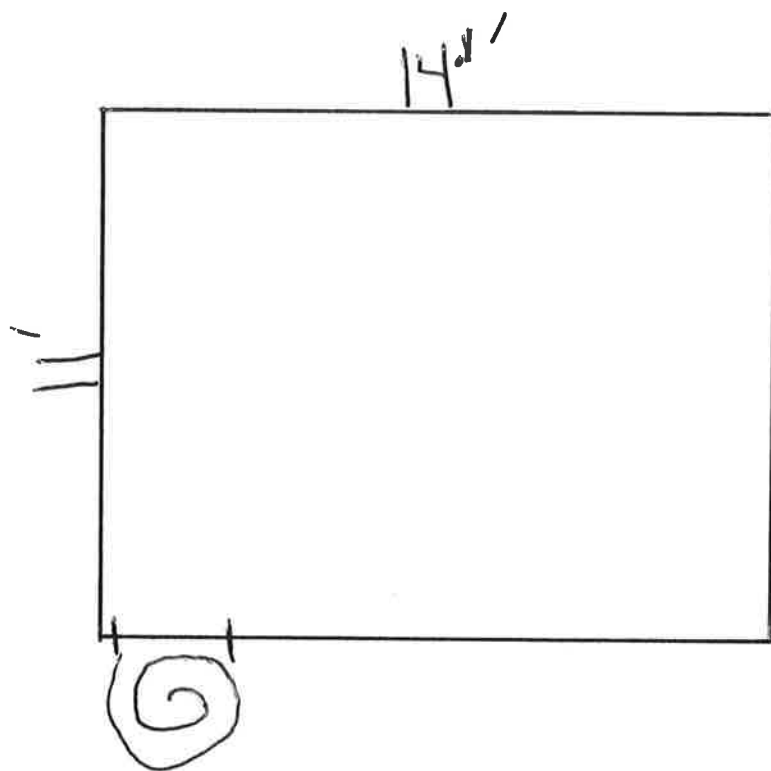
Loft



$$1' = 1/4''$$

6664 SANTA ANITA

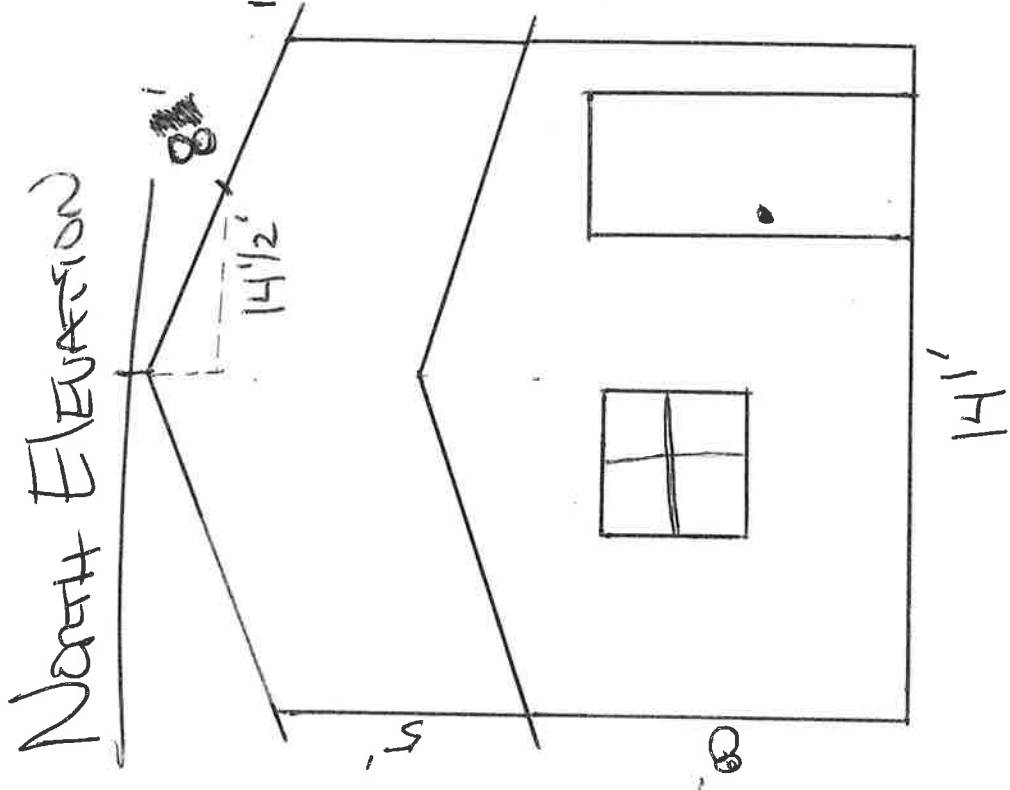
Loft



$$1' = 1/4''$$

For Reference only

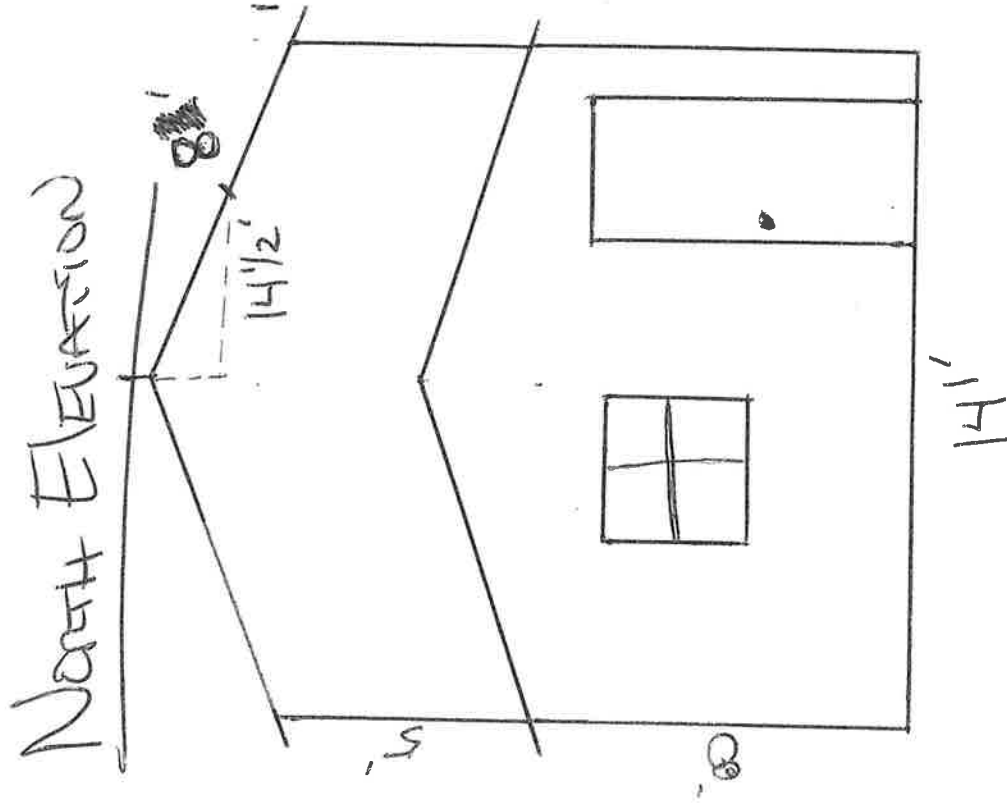
Lola Lola Santa Anita



$$1' = 1/4''$$

For Reference only

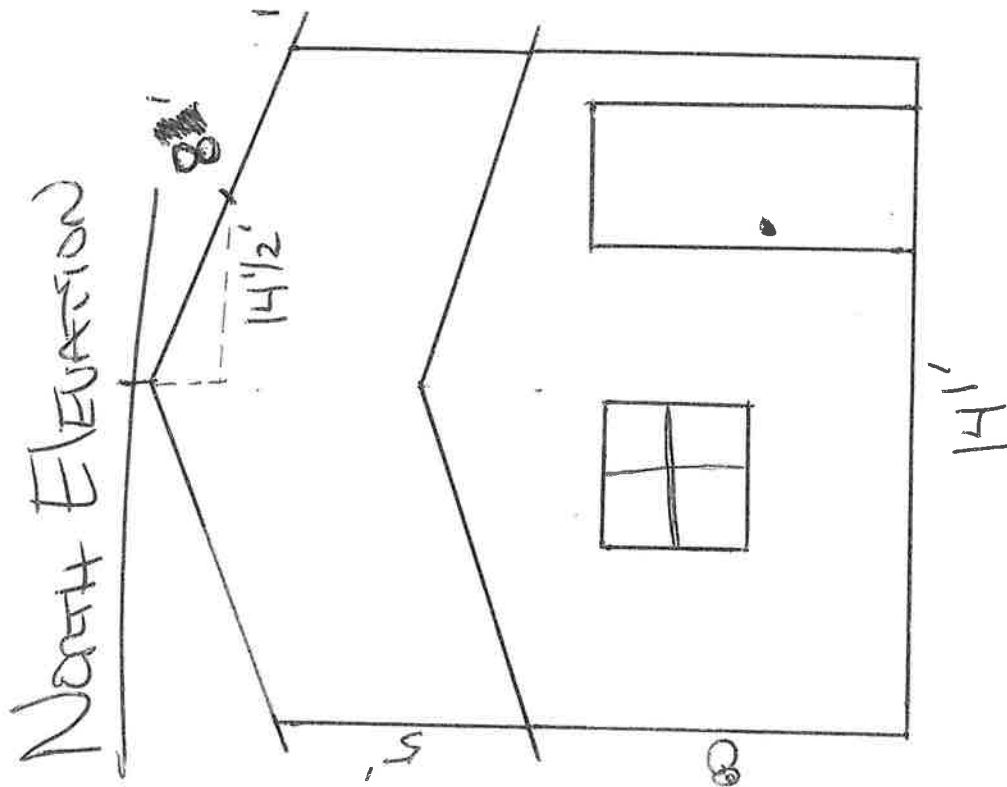
6664 SANTA ANITA



1' = 1/4"

For Reference only

6664 SANTA ANITA

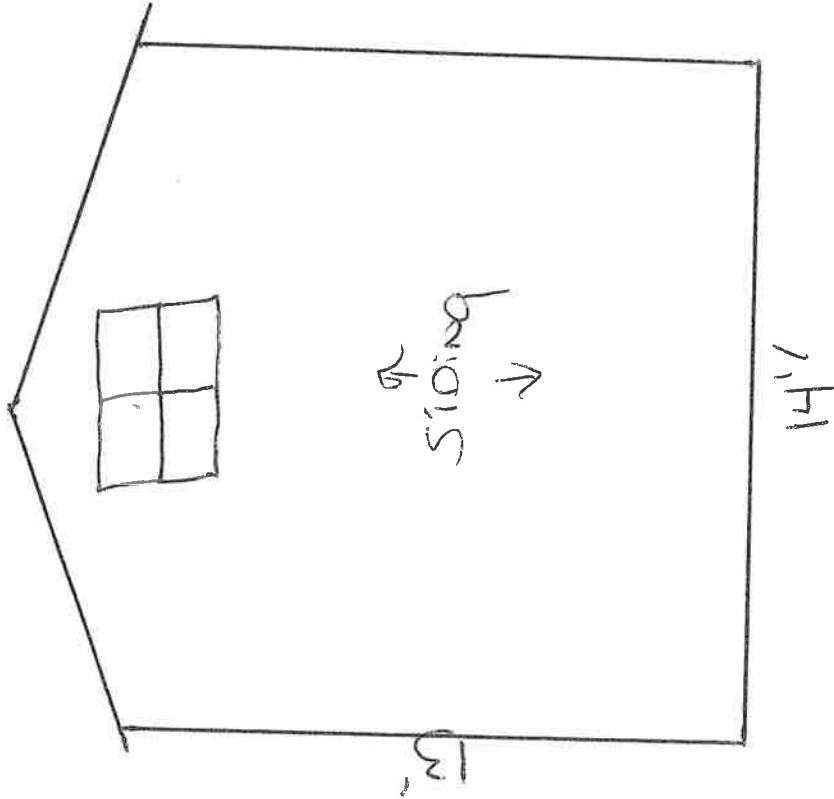


1' = 1/4"

For Reference only

66664 SANTA ANITA

South Elevation

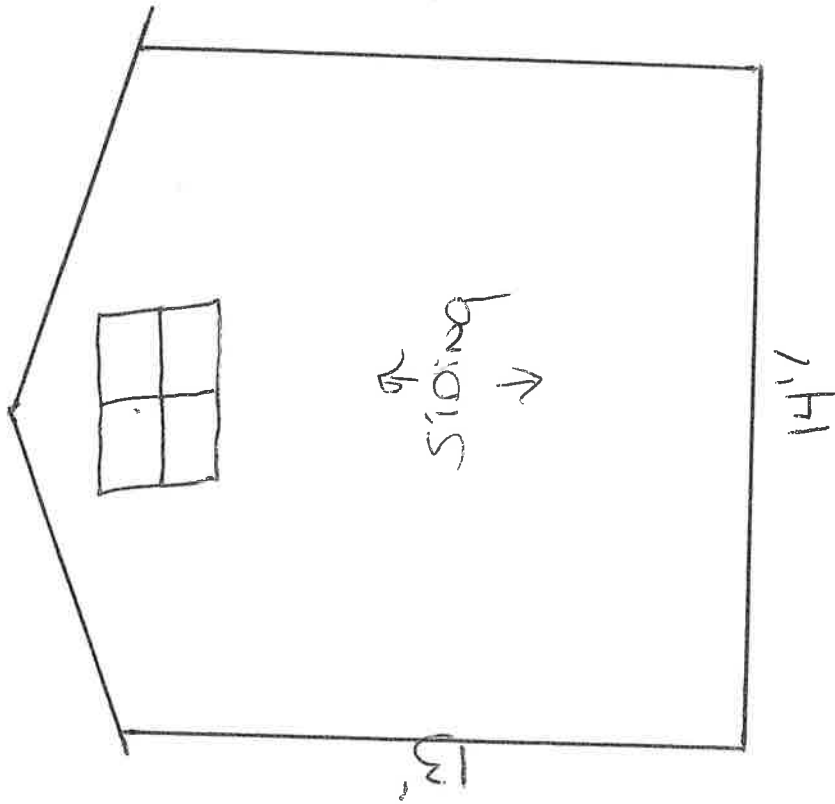


1' = 1/4"

6664 SANTA ANITA

For Reference only

South Elevation

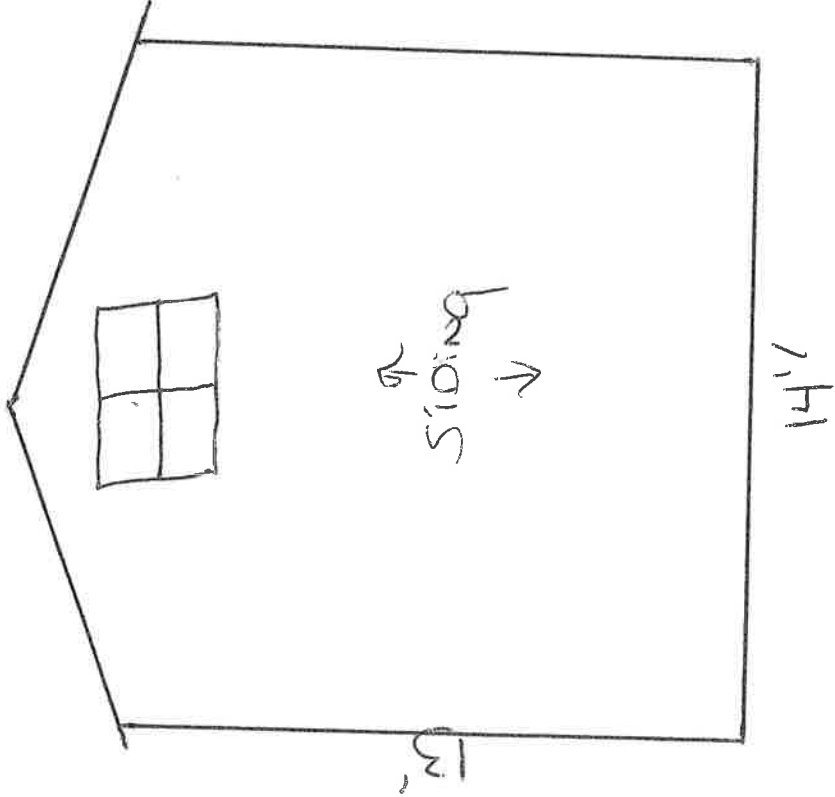


1' = 1/4"

6664 SANTA ANITA

For Reference only

South Elevation

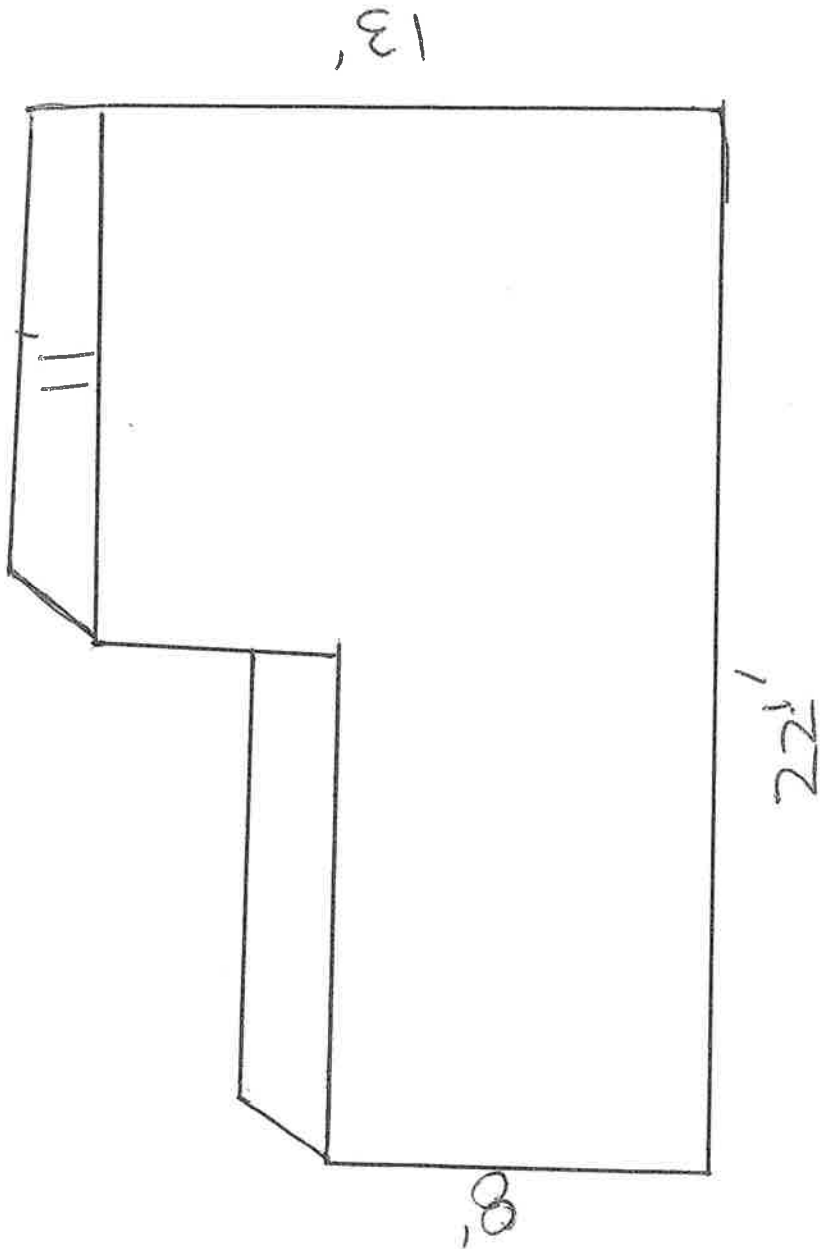


1' = 1/4"

6664 Santa Anita

For Reference only

EAST ELEVATION

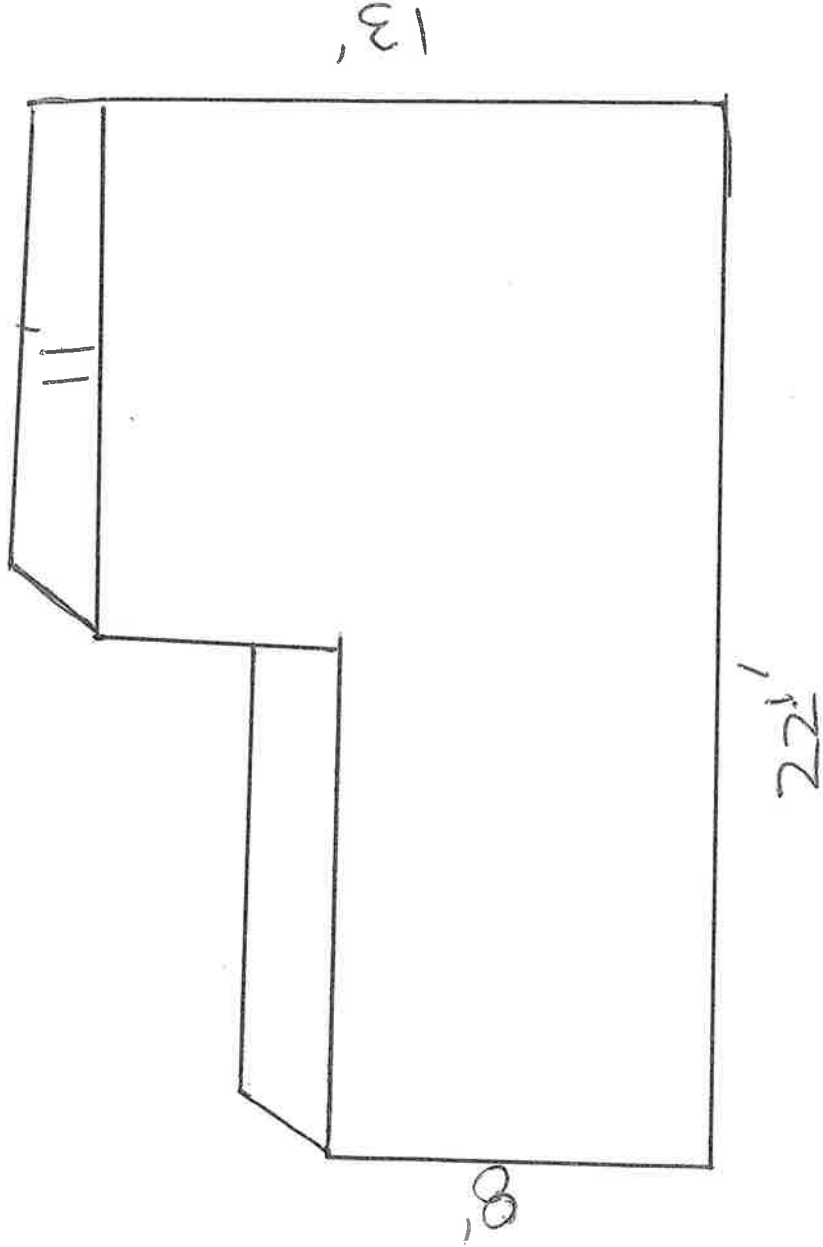


1' = 1/4"

6664 Santa Anita

For Reference only

EAST ELEVATION

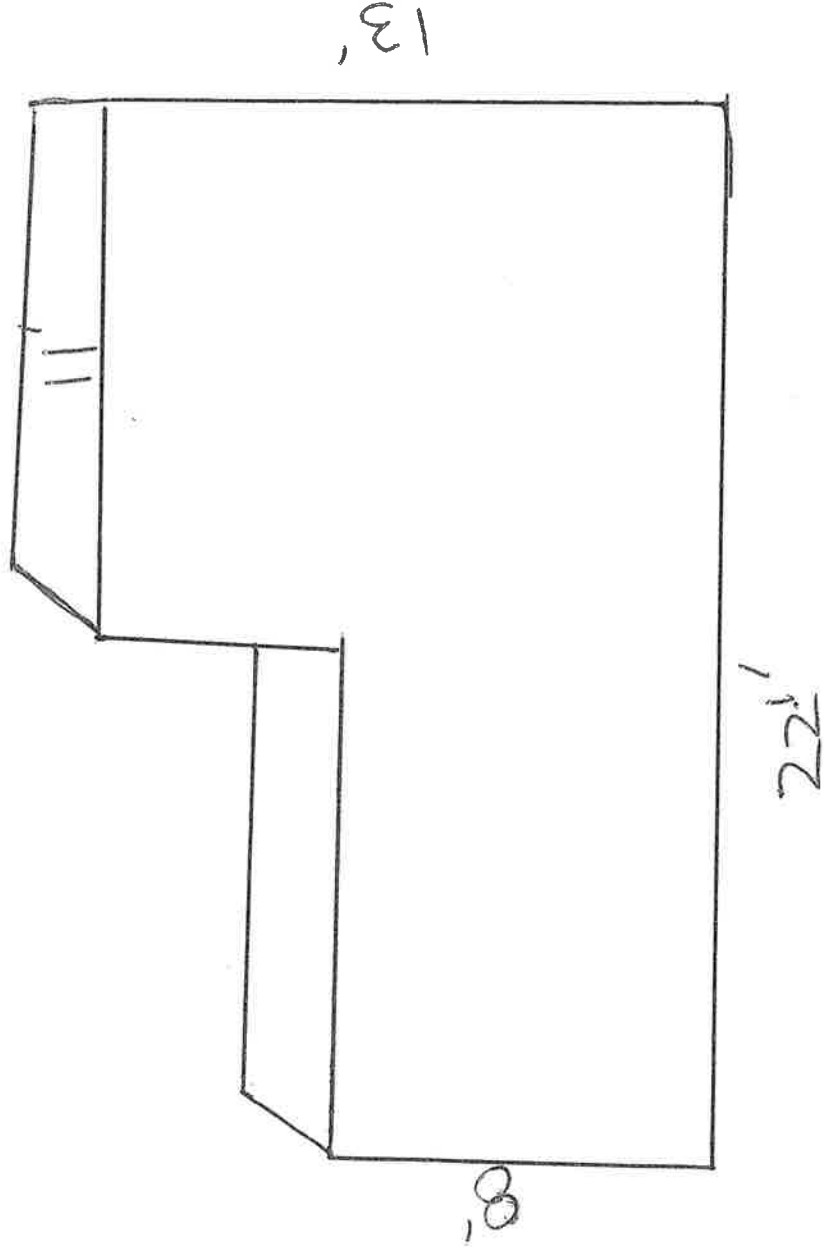


1" = 1/4"

6664 Santa Anita

For Reference only

EAST ELEVATION

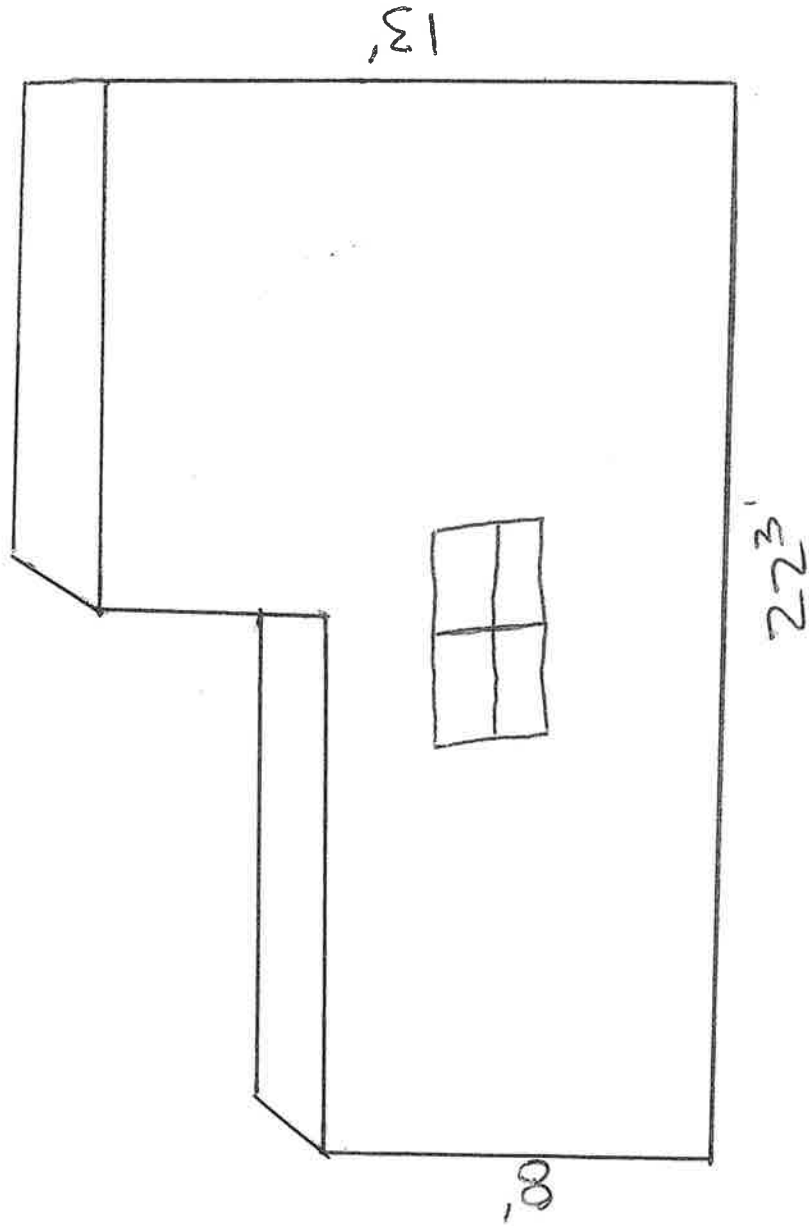


1' = 1/4"

6664 SANTA ANITA

For Reference only

WEST ~~AS~~ ELEVATION

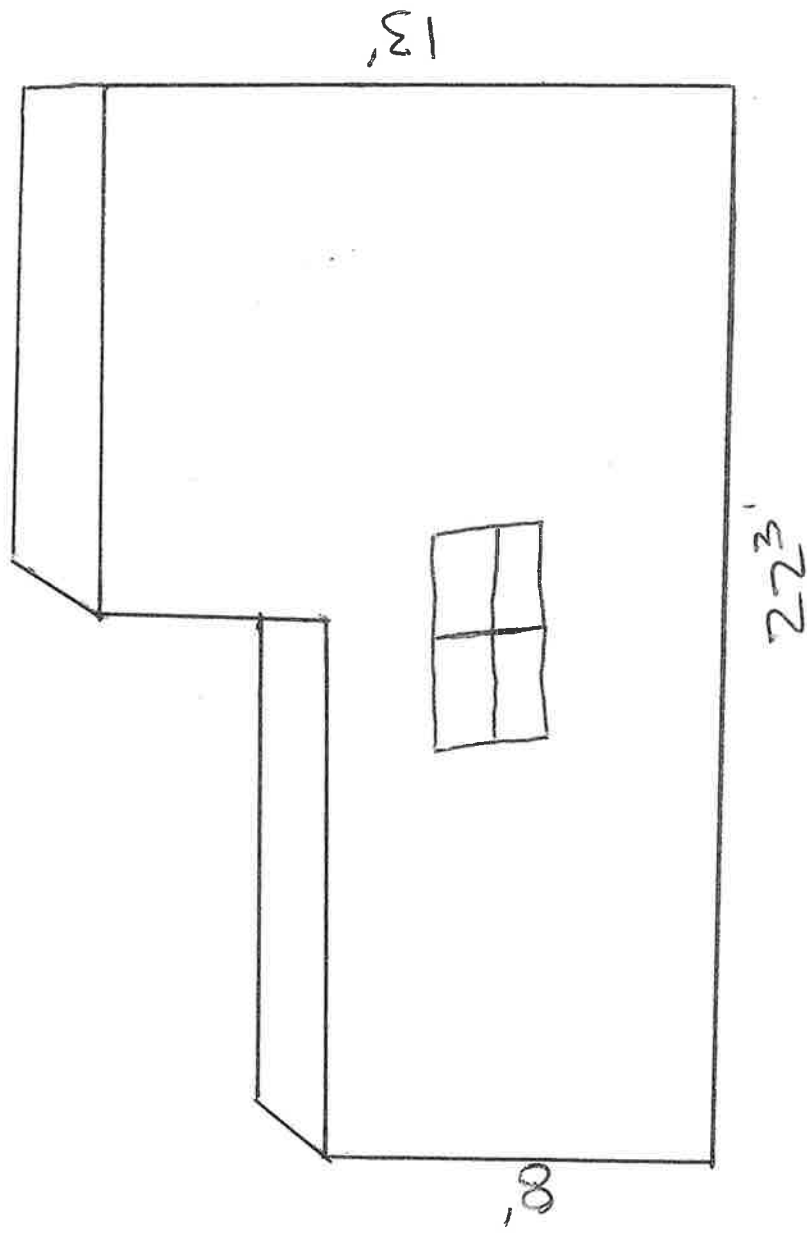


1" = 1/4"

6664 SANTA ANITA

For Reference only

WEST ~~AS~~ ELEVATION

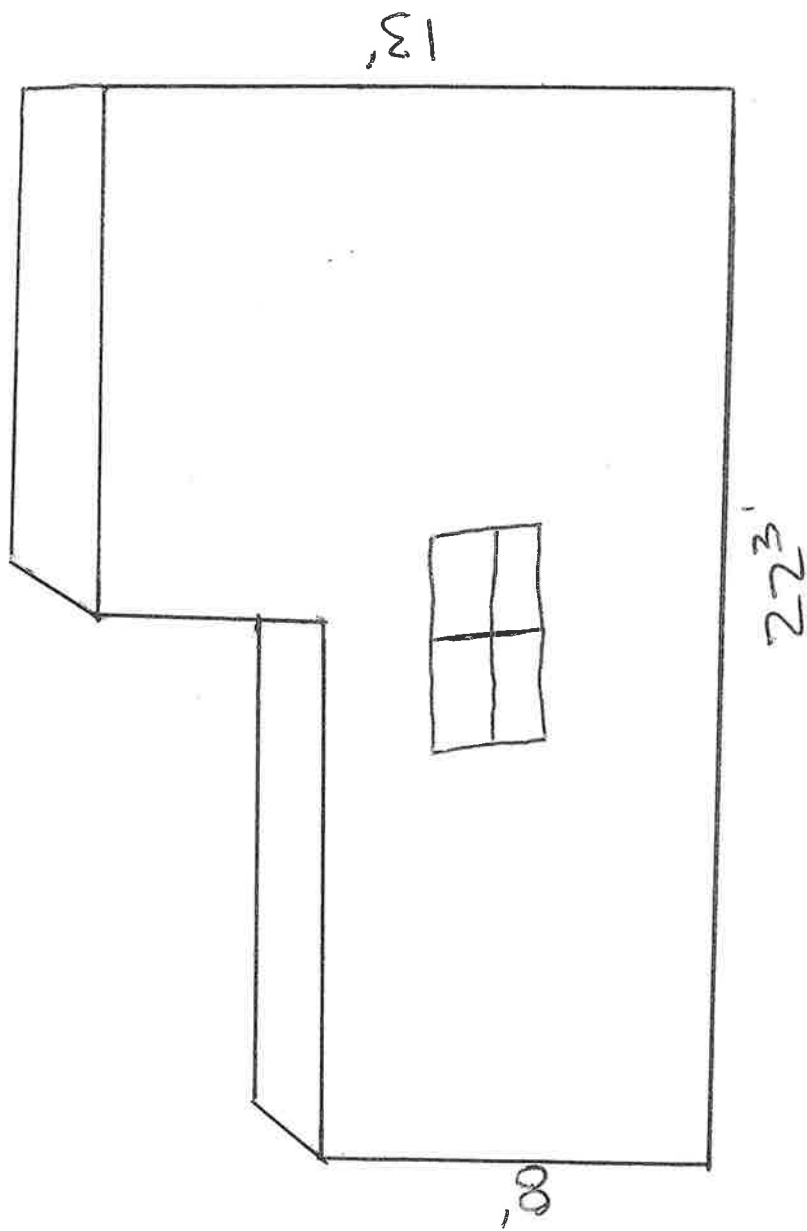


1" = 1/4"

6664 SANTA ANITA

For Reference only

WEST ~~AS~~ ELEVATION



1" = 1/4"

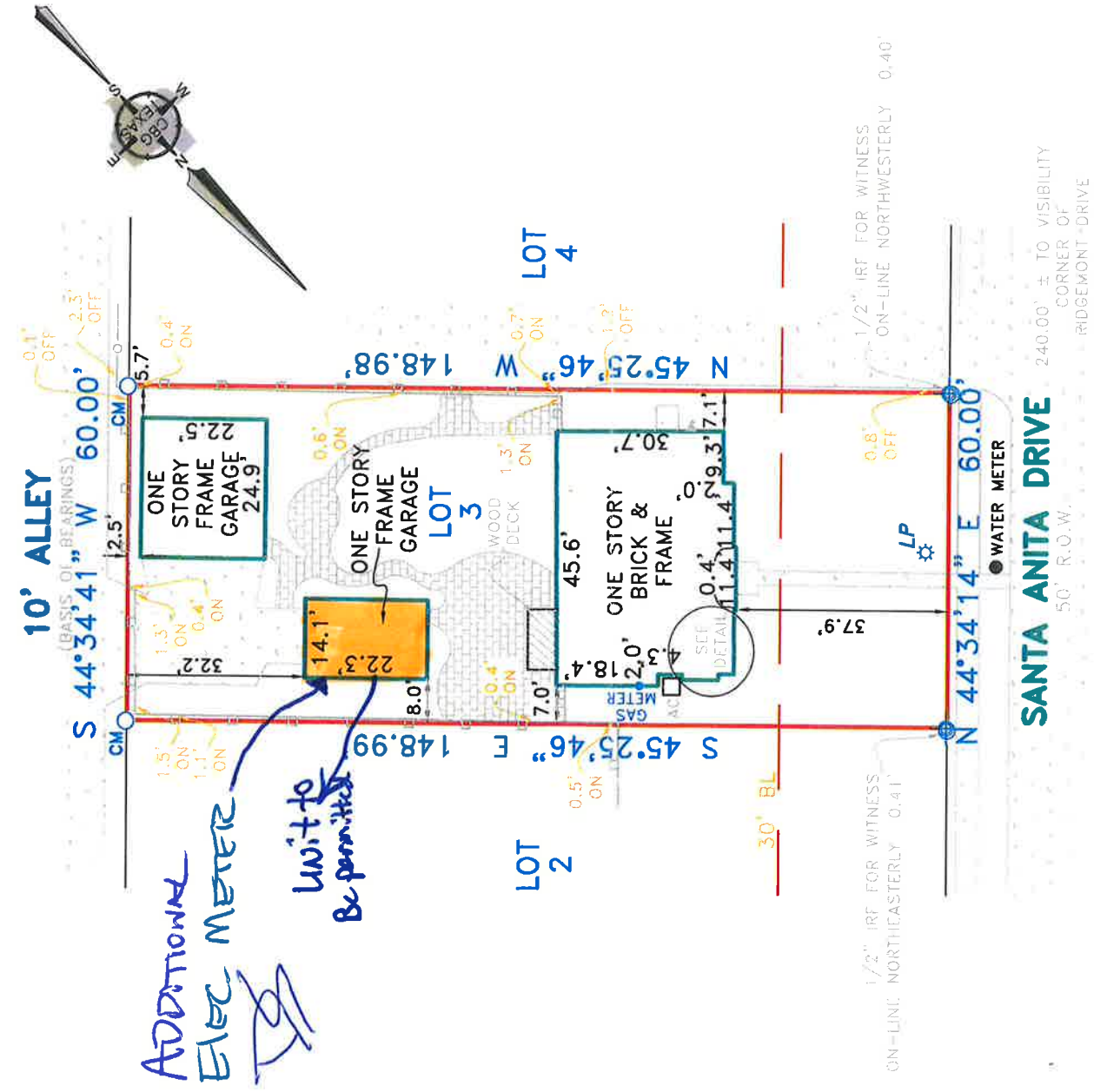
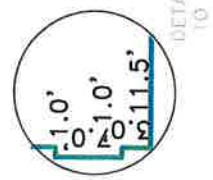


6664 Santa Anita Drive

Lot 3, in Block 12/5424, of the Ridgewood Park Addition No. 3, an Addition to the City of Dallas, Dallas County, Texas, according to the Map thereof recorded in Volume 23, Page 77 of the Map Records of Dallas County, Texas.



- LEGEND**
- 1/2" ROD FOUND
 - ⊗ 1/2" ROD SET
 - 1" PIPE FOUND
 - ⊗ "X" FOUND/SET
 - ⊗ 5/8" ROD FOUND
 - ⊕ POINT FOR CORNER
 - ⊕ FENCE POST FOR CORNER
 - CONTROLLING MONUMENT
 - CM AIR CONDITIONER
 - AC POOL
 - PE EQUIPMENT
 - TE TRANSFORMER PAD
 - COLUMN
 - POWER POLE
 - ▲ UNDERGROUND ELECTRIC
 - △ OVERHEAD ELECTRIC
 - OHP— OVERHEAD ELECTRIC POWER
 - OES— OVERHEAD ELECTRIC SERVICE
 - CHAIN LINK
 - WOOD FENCE 0.5' WIDE TYPICAL
 - ||— IRON FENCE
 - X— BARBED WIRE
 - DOUBLE SIDED WOOD FENCE
 - /// EDGE OF ASPHALT
 - ▲ EDGE OF GRAVEL
 - ▭ CONCRETE
 - ▭ COVERED AREA
 - ▭ BRICK
 - ▭ STONE



1370 #

EXCEPTIONS:

NOTE: PROPERTY SUBJECT TO TERMS, CONDITIONS, AND EASEMENTS CONTAINED IN INSTRUMENTS RECORDED IN VOL. 4081, PG. 573 & VOL. 23, PG. 77

NOTES:

NOTE: BEARINGS, EASEMENTS AND BUILDING LINES ARE BY RECORDED PLAT UNLESS OTHERWISE NOTED.
FLOOD NOTE: According to the F.I.R.M. No. 48113C0355K, this property does lie in Zone X and DOES NOT lie within the 100 year flood zone.

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

Drawn By: KJM/SRG

Scale: 1" = 30'

Date: 12/18/19

GF No.: TXA113361

Job No. 1924887

Accepted by: Purchaser

Purchaser

Date:



CBG
SURVEYING TEXAS LLC
12025 Shiloh Road, Ste. 240
Dallas, TX 75228
P 214.349.9485
F 214.349.2216
Firm No. 10168800
www.cbgtllc.com

JONATHAN M. QUILL
REG. L.S. NO. 5882

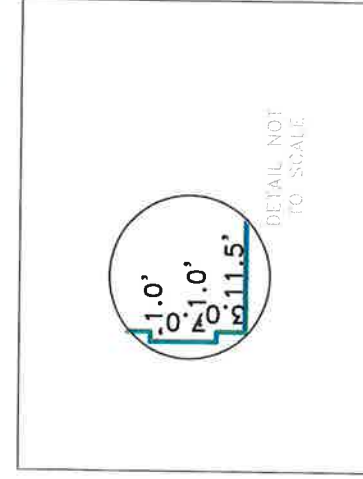


6664 Santa Anita Drive

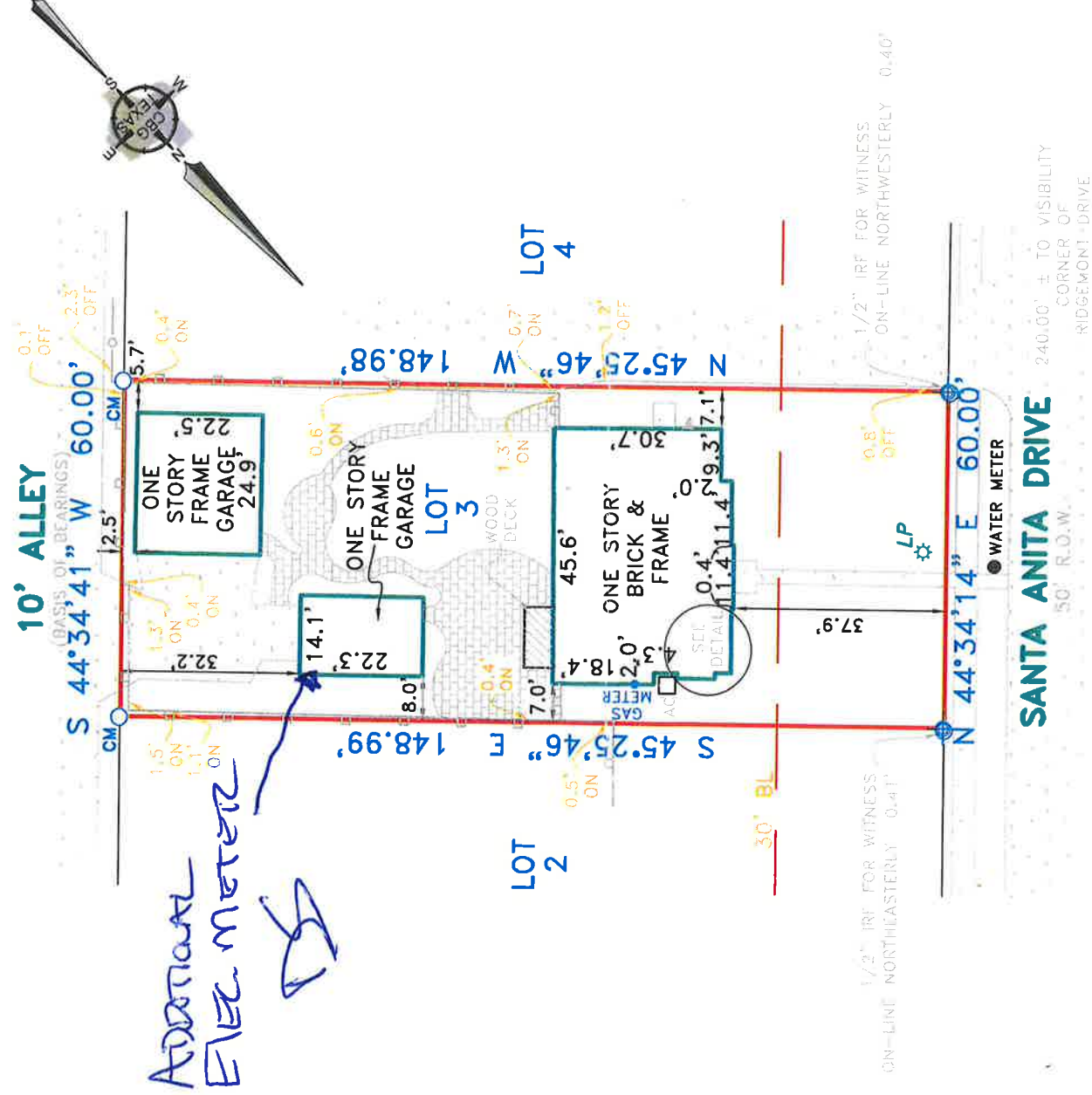
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- LEGEND**
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 - ⊗ 1/2" ROD SET
 - 1" PIPE FOUND
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 - △ OVERHEAD ELECTRIC
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 - OES— OVERHEAD ELECTRIC SERVICE
 - CHAIN LINK
 - WOOD FENCE 0.5' WIDE TYPICAL
 - |— IRON FENCE
 - X— BARBED WIRE
 - DOUBLE SIDED WOOD FENCE
 - //— EDGE OF ASPHALT
 - ▲ EDGE OF GRAVEL
 - ▨ CONCRETE
 - ▨ COVERED AREA
 - ▨ BRICK
 - ▨ STONE



DETAIL NOT TO SCALE



1370 #

EXCEPTIONS:

NOTE: PROPERTY SUBJECT TO TERMS, CONDITIONS, AND EASEMENTS CONTAINED IN INSTRUMENTS RECORDED IN VOL. 4081, PG. 573 & VOL. 23, PG. 77

NOTES:

NOTE: BEARINGS, EASEMENTS AND BUILDING LINES ARE BY RECORDED PLAT UNLESS OTHERWISE NOTED.
FLOOD NOTE: According to the F.I.R.M. No. 48113C0355K, this property does lie in Zone X and DOES NOT lie within the 100 year flood zone.

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

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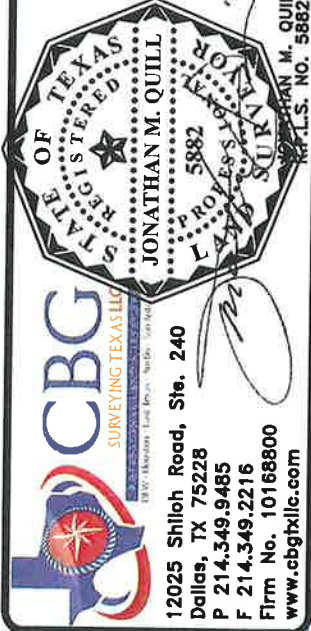
GF No.: TXA113361

Job No.: 1924887

Accepted by: Purchaser

Date: _____

Purchaser



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Dallas, TX 75228

P 214.349.9485

F 214.349.2216

Firm No. 10168800

www.cbgtxllc.com

JONATHAN M. QUILL
REG. L.S. NO. 5882

BDA201-117_ATTACHMENT_A

From: dansim@aol.com
 To: [Daniel, Pamela](#)
 Subject: 6664 Santa Anita
 Date: Friday, December 3, 2021 11:39:04 AM
 Attachments: [20211203_111113.jpg](#)
[20211203_111236.jpg](#)

External Email!

Pamela...please find attached 2 pictures of information regarding the property at 6664 Santa Anita. The average structure size of 8 properties that are close is 1,809 sqft. Our property is 1,370 sqft. The average lot size is 11,631 sqft. Our lot is 8,940 sqft. We feel this is a significant difference to justify the variance.

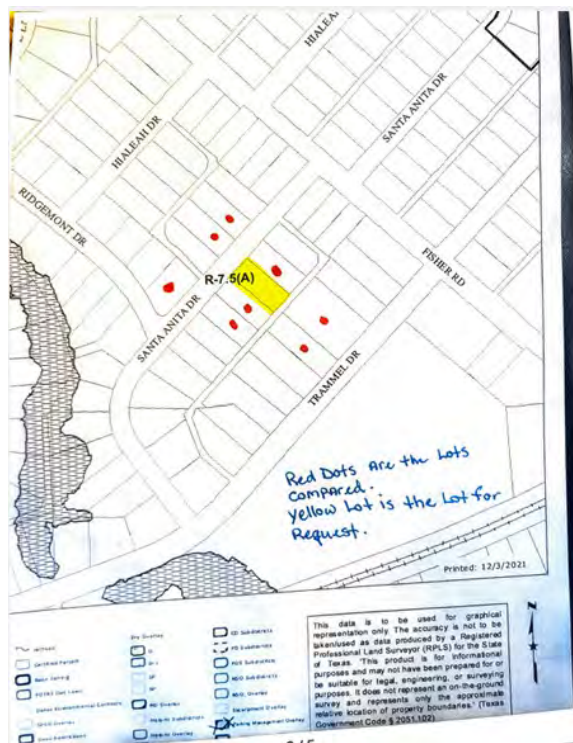
Can you let me know that you received this email.

Thanks
 Dan Simone

Homes close to 6664 Santa Anita

	Lot	Structure
6668 Santa Anita	9019#	1794#
6660 Santa Anita	8833#	2042#
6654 Santa Anita	8928#	1862#
6658 Ridgemont	10727#	1569#
6665 Santa Anita	9815#	1486#
6669 Santa Anita	9860#	1178#
6745 Trammel Dr.	23760#	2493#
6739 Trammel Dr.	12109#	2060#
	93051# ÷ 8	14473# ÷ 8
*6664 Santa Anita	8940#	1370#

Average Lot Size is 11631#
 Average Structure Size is 1809#



FILE NUMBER: BDA201-118(PD)

BUILDING OFFICIAL'S REPORT: Application of Rob Baldwin of Baldwin Associates for a special exception for tree preservation to the side yard setback regulations at **8115 San Benito Way**. This property is more fully described as Lot 10, Block 21/5272, and is zoned Subarea C within Planned Development District No. 575, which requires side yard setback of six feet. The applicant proposes to construct a single-family residential accessory structure and provide a two-foot eight-inch side yard setback, which will require a three-foot four-inch special exception for tree preservation to the side yard setback regulations.

LOCATION: 8115 San Benito Way

APPLICANT: Rob Baldwin, Baldwin Associates

REQUEST:

A request for a special exception to the minimum side yard requirements to preserve five existing trees is made to construct and maintain an approximately 1,704-square-foot accessory structure (detached one-story garage) on a property that is developed with a single-family home.

STANDARD FOR A SPECIAL EXCEPTION TO THE MINIMUM FRONT YARD REQUIREMENTS TO PRESERVE AN EXISTING TREE:

Section 51(A)-4.401(d) of the Dallas Development Code specifies that the board may grant a special exception to the minimum front yard requirements in this section to preserve an existing tree. In determining whether to grant this special exception, the board shall consider the following factors:

- (A) Whether the requested special exception is compatible with the character of the neighborhood.
- (B) Whether the value of surrounding properties will be adversely affected.
- (C) Whether the tree is worthy of preservation.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the requested special exception was compatible with the character of the neighborhood; the value of surrounding properties will not be adversely affected; and that, according to the City of Dallas Chief Arborist, the trees denoted on the submitted site plan, are worthy of preservation.

BACKGROUND INFORMATION:

Zoning:

Site: Subdistrict C in PDD No. 575
North: Subdistrict C in PDD No. 575
South: Subdistrict C in PDD No. 575
East: Subdistrict C in PDD No. 575
West: Subdistrict C in PDD No. 575

Land Use:

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

Zoning/BDA History: There have been no related board or zoning cases in the vicinity in the last five years

GENERAL FACTS /STAFF ANALYSIS:

This request for a special exception to the minimum side yard requirements to preserve five existing trees is made to construct and maintain an approximately 1,704-square-foot accessory structure (a detached, one-story garage) and provide a two-foot eight-inch side yard setback.

The property is zoned Subdistrict C in Planned Development District No. 575, which reverts to Chapter 51A and requires compliance with an R-10(A) Single Family District and requires a side yard setback of six feet for all structures.

The submitted site plan depicts a proposed 1,704-square-foot accessory structure proposed along the side yard which is constructed with a gravel driveway with access from San Benito Way. The tree exhibit depicts three trees along the side yard setback and the driveway. The tree species are Hackberry with calipers that vary between 12.5 caliper inches and 21.5 caliper inches and in good health. Two interior trees exist 32 feet from the side yard setback and one interior tree exists 22-and-one-third inch from

the side yard setback. The two tree species proposed to be preserved are Red Oak trees with calipers between 11.5 and 13 inches while the tree proposed to be removed that will restrict the construction of the accessory structure is a Pecan tree species consisting of 23 caliper inches.

The assessment of a tree, or trees, to be preserved for the special exception for a side yard entails a review of six trees identified by City arborist, Ms. Tina Standeford for the applicant. Thus, the below statement is based on the details from the November 29, 2021, arborist's memorandum, and her opinion of site conditions.

The City of Dallas Arborist submitted a memo regarding this request (**Attachment A**) and stated the following: "The City Arborist investigation was completed by the district arborist, Tina Standeford. Her comments in reference to the Tree Exhibit are as follows:

Trees #13, #15, and #16 are in great shape and worthy of preservation. Trees #15 and #16 are pruned to a height to clear the carport so should be in the right shape to fit between the house and new garage. Care would need to be taken to protect the trees during the foundation installation though. The trees in proximity to the proposed structure are worthy of preservation."

The proposed garage requested under the special exception would have the potential for a significant impact on the roots of two trees (#13, #15 and #16) in the report. The ability to sustain the trees throughout and after construction would likely be based on the construction methods employed to construct in the proposed location. Therefore, the three trees are considered worthy of preservation.

Tree #14 is not mentioned in the arborist's report, however, the owner desires to remove the tree since, "the tree's particular growth habit leans toward the home and the homeowner has considered removing the tree to prevent potential damage to the home in the future."

All healthy protected trees are regulated under the permit and replacement requirements of the district. The owner may only remove trees for construction with an approved tree removal application. The property is not subject to Article X tree conservation regulations.

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

- Whether the requested special exception is compatible with the character of the neighborhood.
- Whether the value of surrounding properties will be adversely affected.
- Whether the tree is worthy of preservation.

As of December 3, 2021, no letters had been submitted in support of the requests nor in opposition of the requests.

If the board were to grant the special exception request and impose the submitted site plan as a condition, the structure in one of the two side yard setbacks would be limited to what is shown on this document.

Timeline:

October 22, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

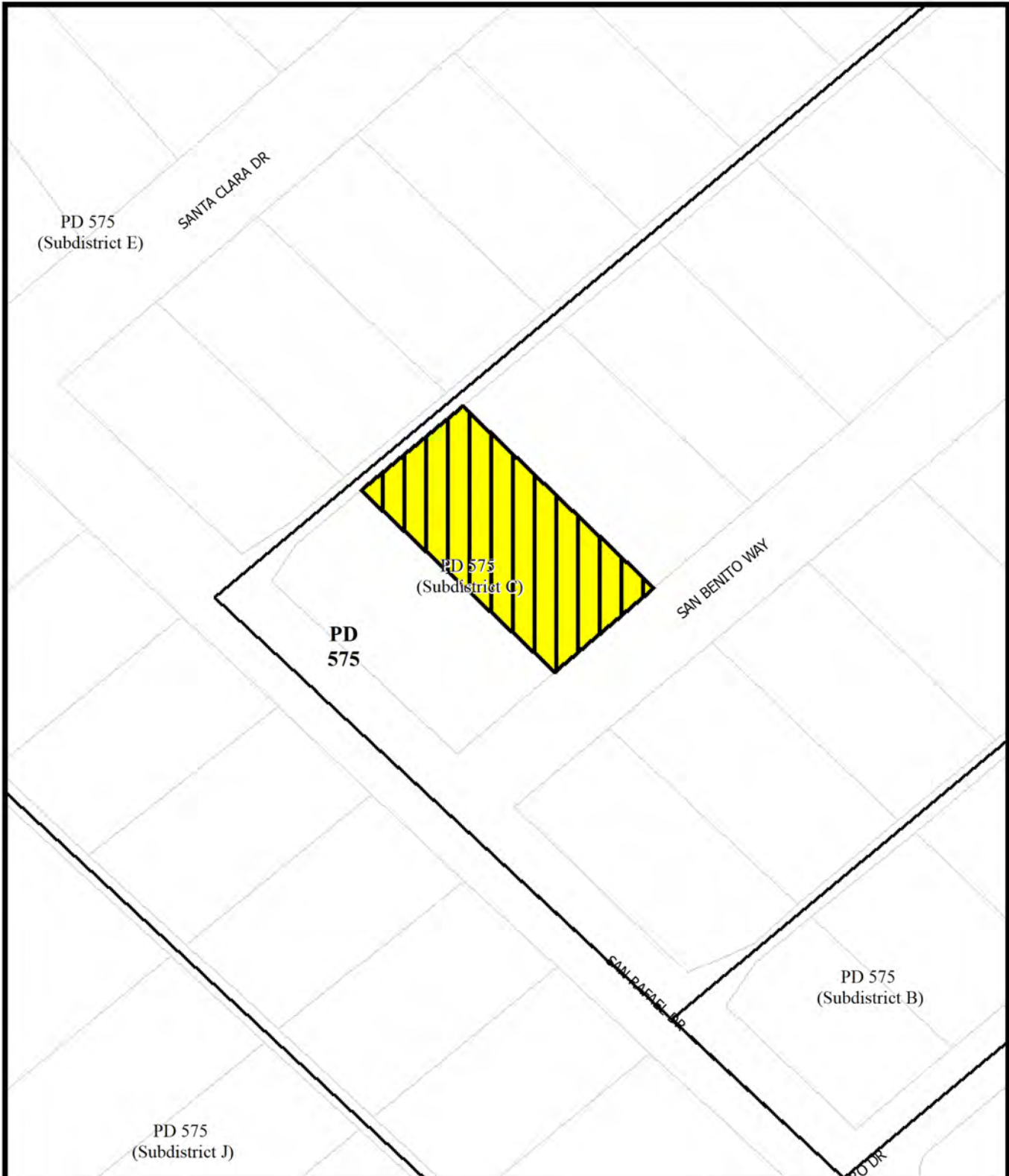
Nov. 12, 2021: The Board of Adjustment Secretary assigned this case to the Board of Adjustment Panel C.

Nov. 12, 2021: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the November 23, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the December 3, 2021 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.

Nov. 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board. No review comment sheets were submitted in conjunction with this application.

Nov. 29, 2021: The City of Dallas Chief Arborist emailed the Board Administrator information regarding this application (**Attachment A**).

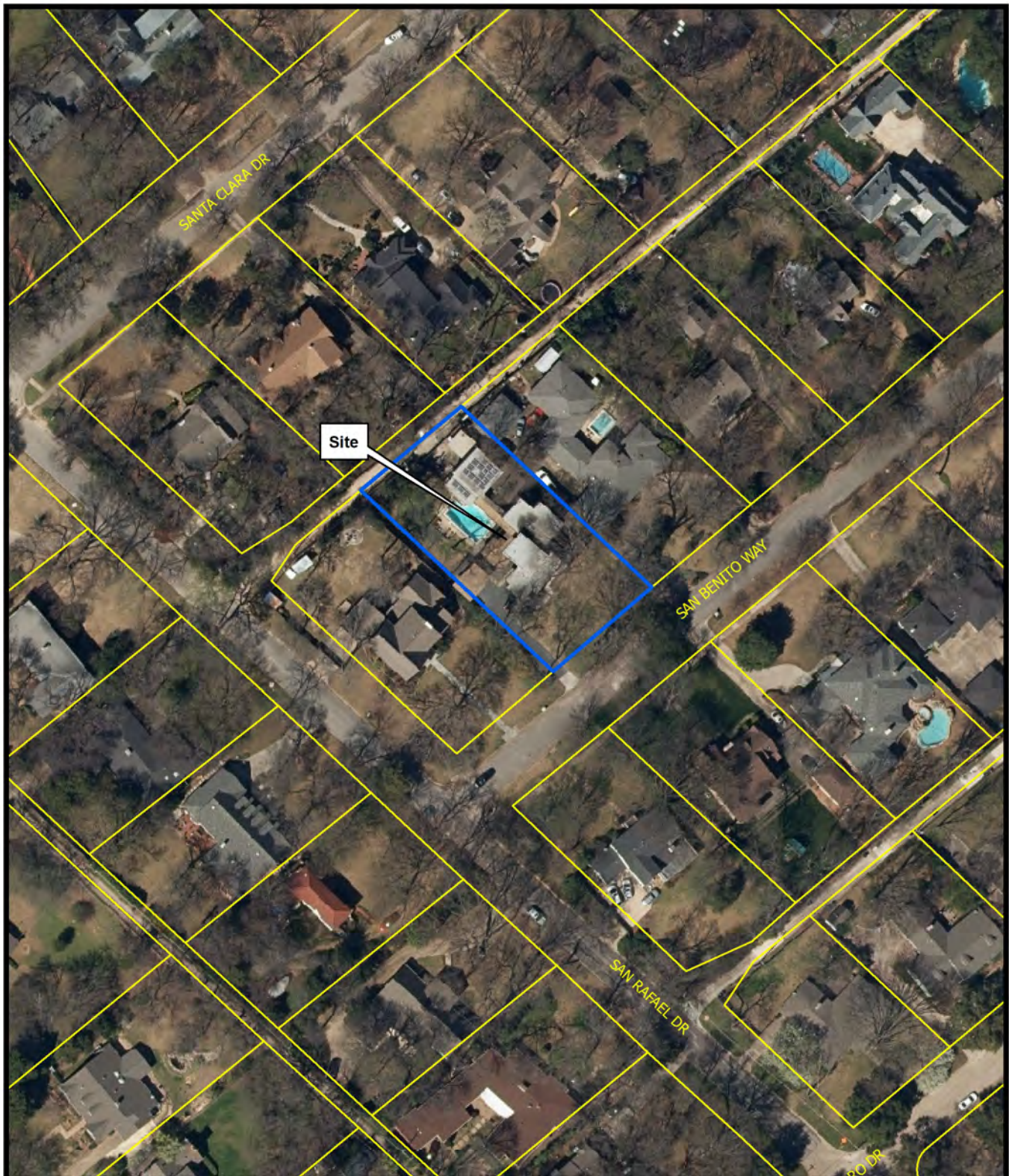


1:1,200

ZONING MAP

Case no: BDA201-118

Date: 11/22/2021

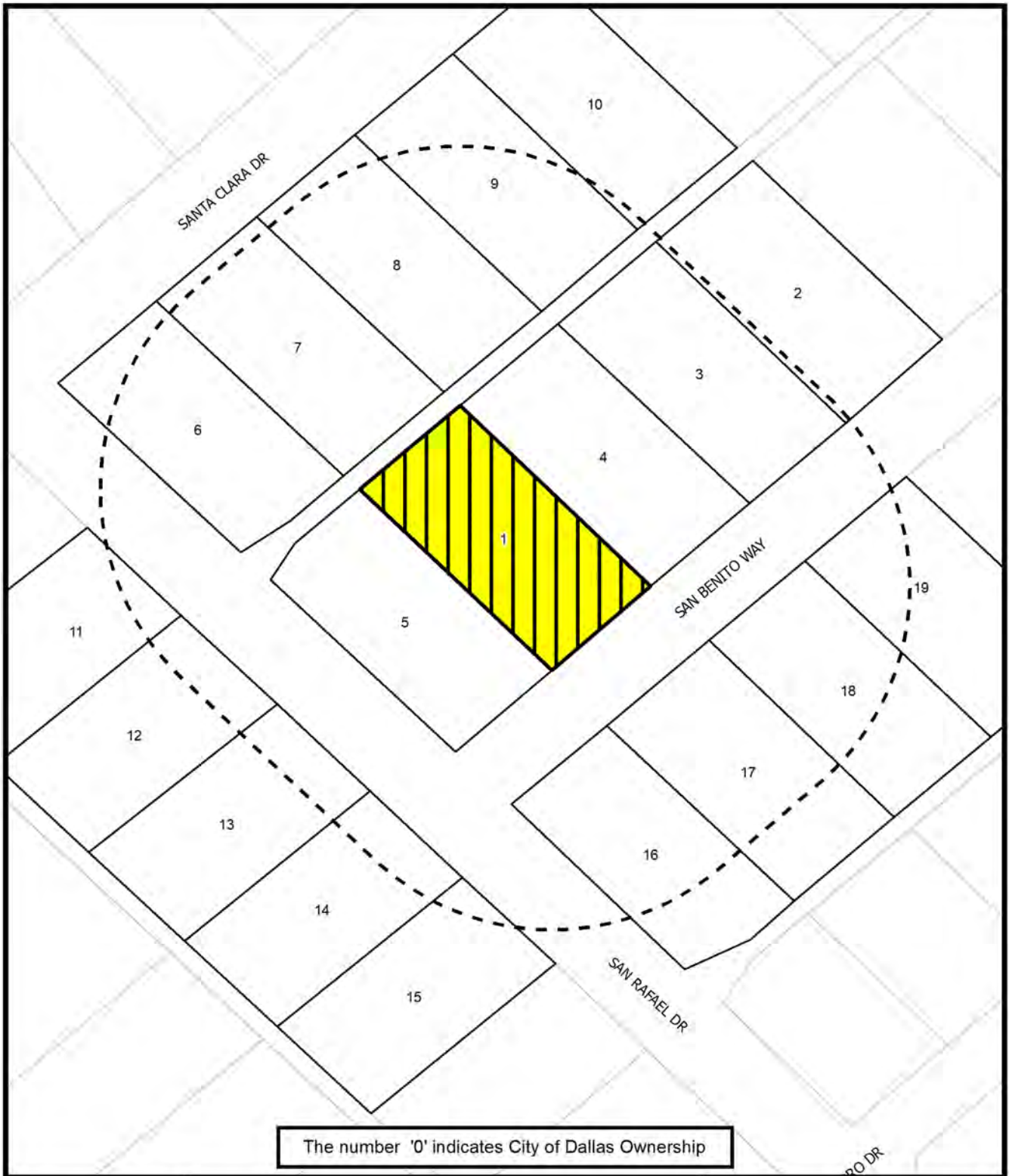


1:1,200

AERIAL MAP

Case no: BDA201-118

Date: 11/22/2021



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
19 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA201-118**

Date: **11/22/2021**

11/22/2021

Notification List of Property Owners

BDA201-118

19 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	8115 SAN BENITO WAY	ALMOND BRADLEY & CATHY
2	8139 SAN BENITO WAY	GILPIN ALLEN W JR &
3	8131 SAN BENITO WAY	WELLS HENRY & GANTT CAROL A
4	8123 SAN BENITO WAY	MAYER ANDREW J
5	8107 SAN BENITO WAY	WESTMORELAND MATTHEW V &
6	8106 SANTA CLARA DR	BURNS BARBARA ANN
7	8114 SANTA CLARA DR	PARKER RUTH WILSON
8	8122 SANTA CLARA DR	BUHMANN DAVID B &
9	8130 SANTA CLARA DR	MOLINA GUSTAVO A
10	8138 SANTA CLARA DR	WHALEN JUDITH K
11	1515 SAN RAFAEL DR	RAMEY COLE B
12	1523 SAN RAFAEL DR	SAIFI MINA R
13	1531 SAN RAFAEL DR	STANLEY JAMES P & MARIA M
14	1539 SAN RAFAEL DR	ROME RICHARD & NANCY
15	1607 SAN RAFAEL DR	JOHNSON CAMILLE &
16	8106 SAN BENITO WAY	MAHER DENNIS C & KIMBERLY
17	8114 SAN BENITO WAY	KILPATRICK STEVEN M
18	8122 SAN BENITO WAY	TWINING KEVIN L & NEOMA S
19	8130 SAN BENITO WAY	MCCUTCHEON 2013 IRREVOCABLE



APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-118

Date: 10-22-21

Data Relative to Subject Property:

Location address: 8115 San Benito Way Zoning District: PD 575 Sub. C

Lot No.: 10 Block No.: 21/5272 Acreage: 0.46 acres Census Tract: 81.00

Street Frontage (in Feet): 1) 100 ft 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Bradley and Cathy Almond

Applicant: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Represented by: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance __, or Special Exception X, of side yard tree preservation

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: The proposed garage/carport is two cars wide and will provide a side yard setback of ^{2'8"} 3 feet where a 6-foot side yard setback is required. The location of the proposed structure will require the removal of one tree that is in fair condition but has an adverse growth pattern. To comply with the 6-foot setback, up to three additional trees would require removal. The proposed location is the best location to minimize tree removal.

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

Affidavit

Before me the undersigned on this day personally appeared Robert Baldwin

(Affiant/Applicant's name printed)

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

Respectfully submitted: [Signature]

(Affiant/Applicant's signature)

Subscribed and sworn to before me this 14 day of October, 2021



[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 BALDWIN ASSOCIATES

did submit a request for a special exception to the side yard setback regulations
at 8115 San Benito Way

BDA201-118. Application of BALDWIN ASSOCIATES for a special exception for tree preservation to the side yard setback regulations at 8115 SAN BENITO WAY. This property is more fully described as Lot 10, Block 21/5272, and is zoned PD-575 (Subarea C), which requires side yard setback of 6 feet. The applicant proposes to construct a single family residential accessory structure and provide a 2 foot 8 inch side yard setback, which will require a 3 foot 4 inch special exception for tree preservation to the side yard setback regulations.

Sincerely,


David Session, Building Official



AFFIDAVIT

Appeal number: BDA 201-118

I, Cathy Almond, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 8115 San Benito Way
(Address of property as stated on application)

Authorize: Rob Baldwin, Baldwin Associates
(Applicant's name as stated on application)

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

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

Specify: Tree preservation for side yard setback

Cathy Almond
Print name of property owner or registered agent

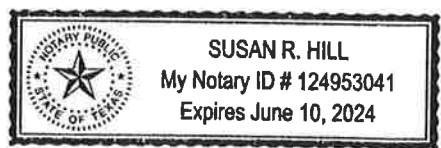
Cathy Almond
Signature of property owner or registered agent

Date 10/14/2021

Before me, the undersigned, on this day personally appeared Cathy Almond

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

Subscribed and sworn to before me this 14 day of October, 2021



[Signature]
Notary Public for Dallas County, Texas
Commission expires on 6/10/24



AFFIDAVIT

Appeal number: BDA 201-118

I, Bradley Almond, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 8115 San Benito Way
(Address of property as stated on application)

Authorize: Rob Baldwin, Baldwin Associates
(Applicant's name as stated on application)

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

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

Specify: Tree preservation for side yard setback

Bradley Almond
Print name of property owner or registered agent

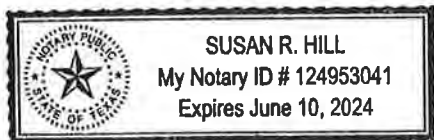
[Signature]
Signature of property owner or registered agent

Date 10/14/21

Before me, the undersigned, on this day personally appeared Bradley Almond

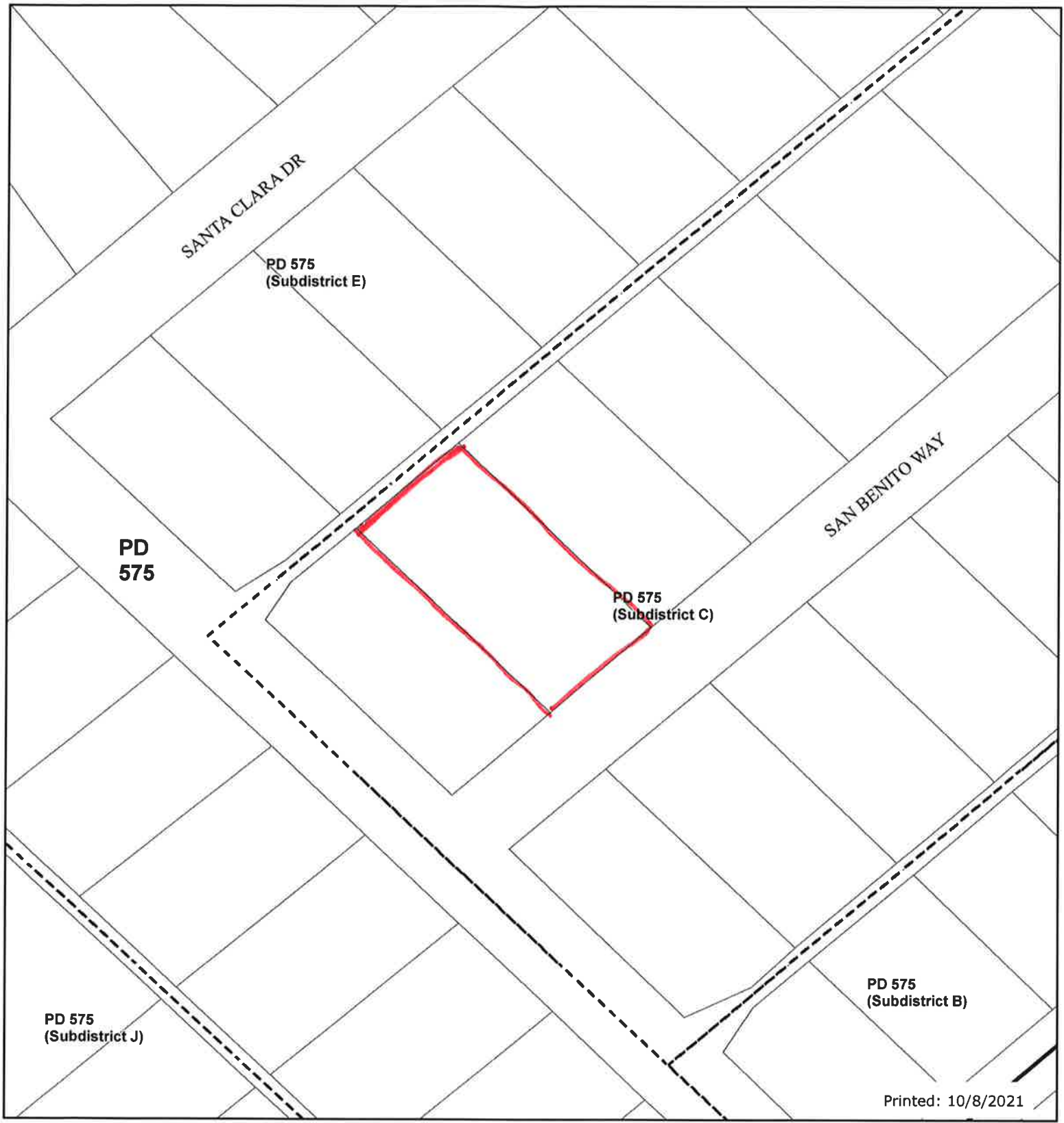
Who on his oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 14 day of October, 2021



[Signature]
Notary Public for Dallas County, Texas

Commission expires on 6/10/24



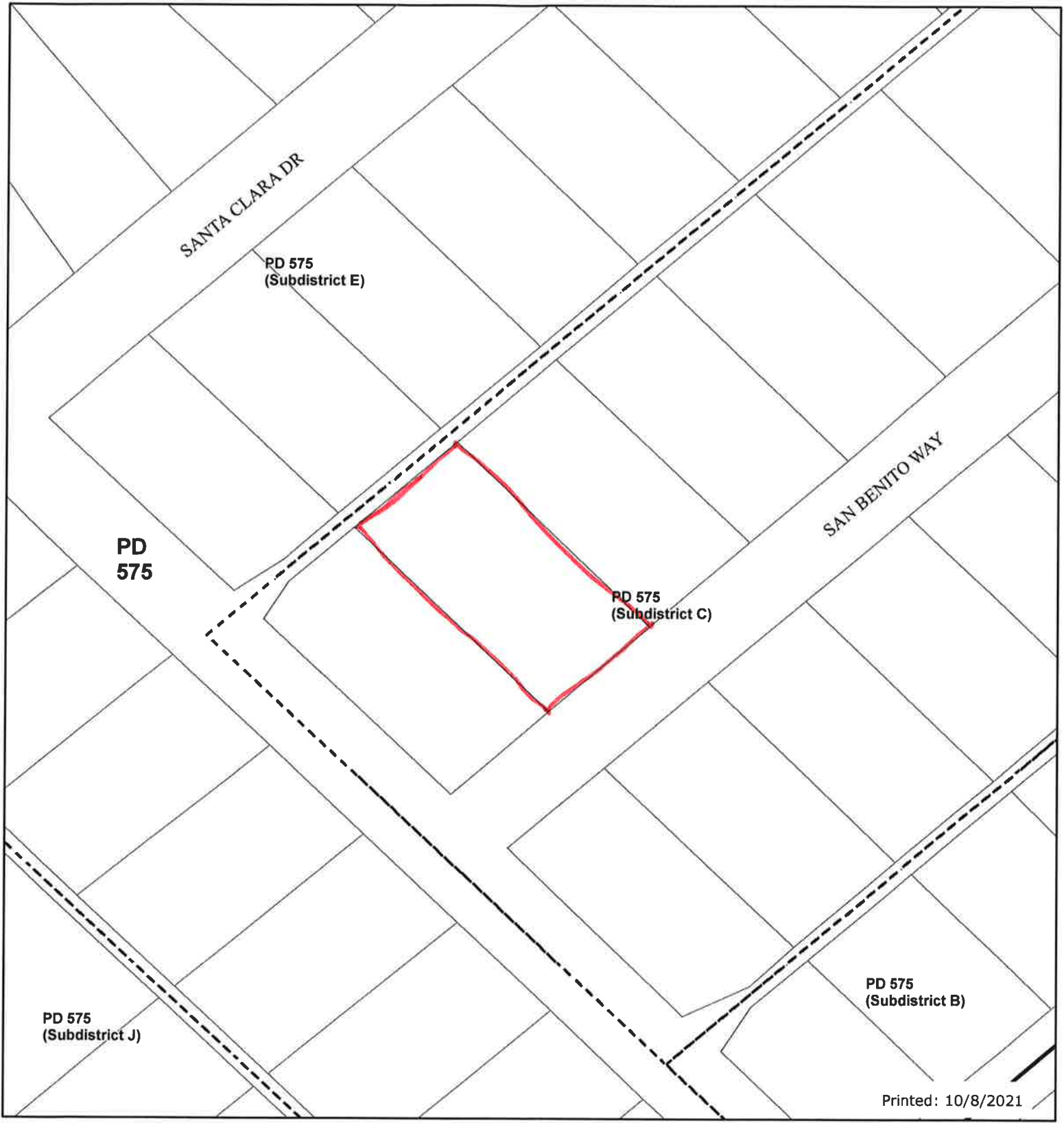
Printed: 10/8/2021

Legend

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

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





Printed: 10/8/2021

Legend

- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
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| School | Certified Parcels | D | PD Subdistricts |
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JONES
1800

SANTA

5275/22

DRIVE

RAFAEL

SAN

CL...

5272/21

BENITO

5274/23

5282

21



JONES
800

SANTA

5273/22

DRIVE

RAFAEL

SAN

CL

5272/21

BENITO

5274/23

5282

ADDISON

October 20, 2021

RE: Request before the City of Dallas
8115 San Benito Way

Dear sir or madam:

My name is Erin Fredi and our firm, E. Brooke Associates, is assisting Baldwin Associates in helping the Almonds with their request to the City of Dallas to obtain Board of Adjustment approval for a garage addition to their home on San Benito Way.

The proposed placement of the garage encroaches the existing 6ft side yard setback. This proposed location would only require the removal of one tree. This tree's particular growth habit leans towards the home and the homeowners have considered removing this tree to prevent future potential damage to the home. The placement of the garage outside of the existing 6ft side yard setback would require the removal of three additional trees the Almonds would prefer to preserve as they are large, healthy Red Oaks.

I have visited the property and performed an assessment of the existing trees which has been outlined on the Tree Survey exhibits (1A & 1B) for your review. The homeowners are committed to preserving these trees during the construction of the expansion and would like to ensure the neighbors and city staff that they will follow the city's recommended tree preservation protocol.

Respectfully,



Erin Fredi

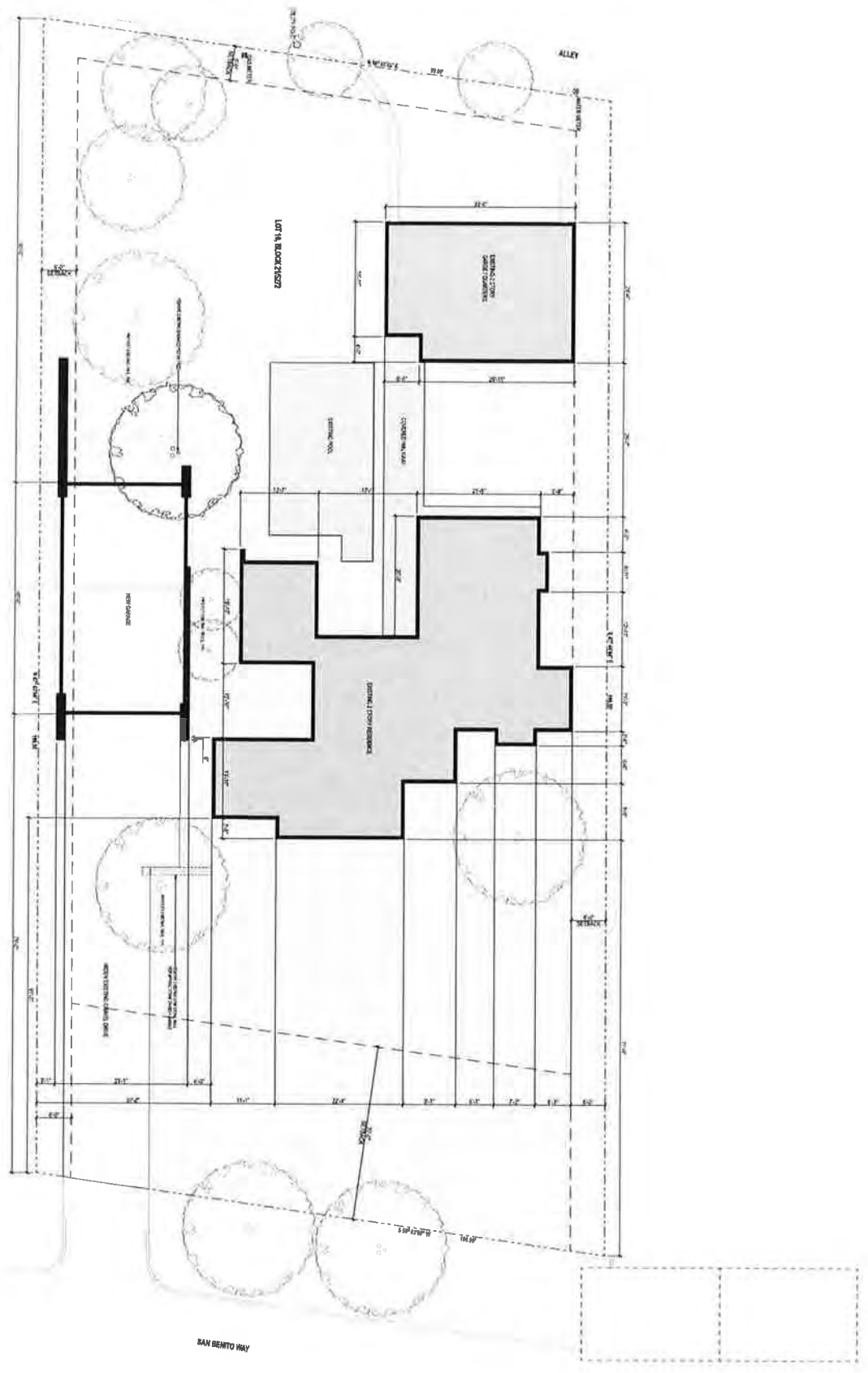
PROJECT
ALMOND RESIDENCE
 8115 San Ramon Way
 Dublin, Texas 75228

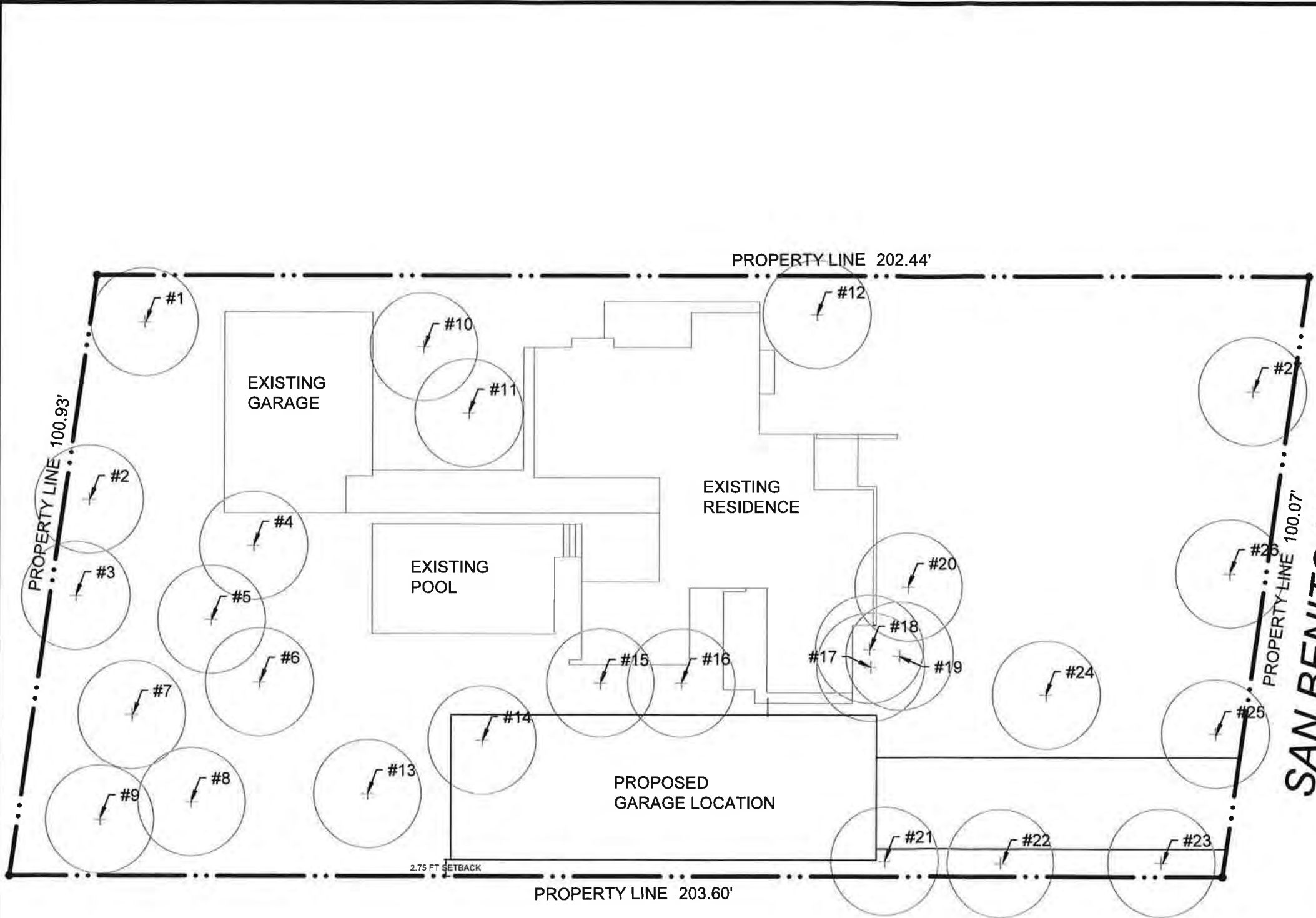
ARCHITECT
WELCH | HALL 3 of 2010
 820 Exposition Ave Suite 4 Dallas, Texas 75228 | 214.527.2107
 www.welchhallarchitect.com

NOT FOR CONSTRUCTION
 PRELIMINARY ONLY DESIGN
 SCALE
 PROJECT NUMBER

TITLE
 SITE PLAN
A1.00

1 SITE PLAN





VICINITY MAP
NTS
NORTH

TREE SURVEY
Project Address: 8115 SAN BENITO WAY

Tree No.	SPECIES	CALIPER	HEALTH	PRESERVE
1	SAVANNAH HOLLY	5.50	GOOD	YES
2	MAGNOLIA	6.00	GOOD	YES
3	MAGNOLIA	6.00	GOOD	YES
4	CHINESE PISTACHE	7.00	GOOD	YES
5	CEDAR	12.00	GOOD	YES
6	HACKBERRY	14.00	GOOD	YES
7	RED OAK	8.00	GOOD	YES
8	CHINKAPIN	4.50	GOOD	YES
9	LIVE OAK	8.00	GOOD	YES
10	SHUMARD OAK	11.00	POOR	YES
11	PINE	3.00	GOOD	YES
12	RED OAK	32.00	GOOD	YES
13	RED OAK	8.00	GOOD	YES
14	PECAN	23.00	FAIR	REMOVE
15	RED OAK	11.50	GOOD	YES
16	RED OAK	13.00	GOOD	YES
17	RED OAK	7.50	GOOD	YES
18	RED OAK	7.50	GOOD	YES
19	CHERRY LAUREL	3.50	GOOD	YES
20	CHINKAPIN	19.50	GOOD	YES
21	HACKBERRY	12.50	GOOD	YES
22	HACKBERRY	13.50	GOOD	YES
23	HACKBERRY	21.50	GOOD	YES
24	RED OAK	4.50	GOOD	YES
25	POST OAK	7.50	GOOD	YES
26	RED OAK	34.00	GOOD	YES
27	RED OAK	39.50	GOOD	YES

NOTE: THIS LOCATION OF THE GARAGE WILL RESULT IN THE LOSS OF TREE #14.

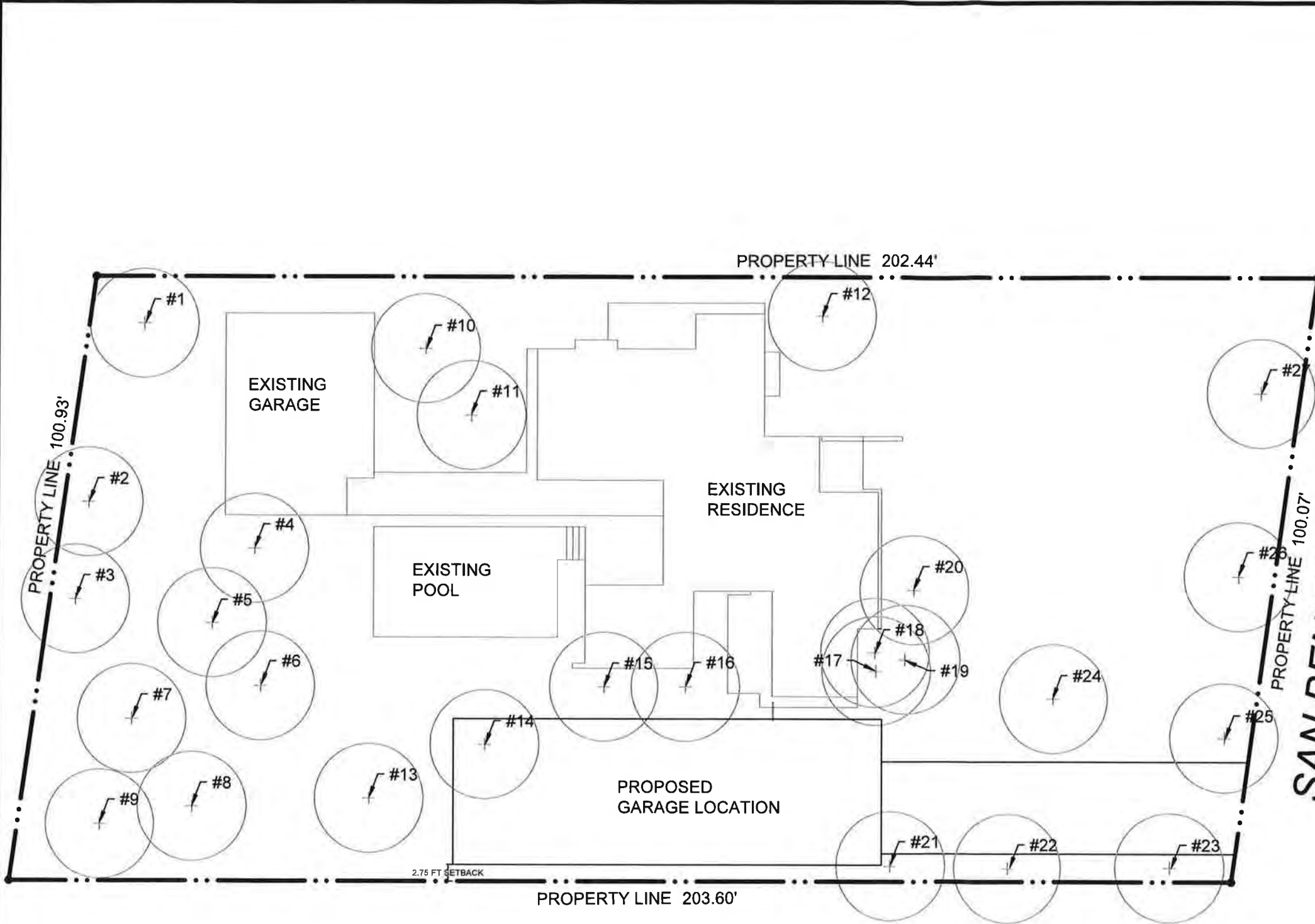


10/19/2021
PROJECT NUMBER
CASE NUMBER

BALDWIN ASSOCIATES
3904 Elm Street, Suite B
Dallas, Texas 75226
MOBILE: 214.729.7949
OFFICE: 214.824.7949
rob@baldwinplanning.com

Baldwin Associates

8115 SAN BENITO WAY
DALLAS, TX



VICINITY MAP
NTS
NORTH

TREE SURVEY
Project Address: 8115 SAN BENITO WAY

Tree No.	SPECIES	CALIPER	HEALTH	PRESERVE
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3	MAGNOLIA	6.00	GOOD	YES
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5	CEDAR	12.00	GOOD	YES
6	HACKBERRY	14.00	GOOD	YES
7	RED OAK	8.00	GOOD	YES
8	CHINKAPIN	4.50	GOOD	YES
9	LIVE OAK	8.00	GOOD	YES
10	SHUMARD OAK	11.00	POOR	YES
11	PINE	3.00	GOOD	YES
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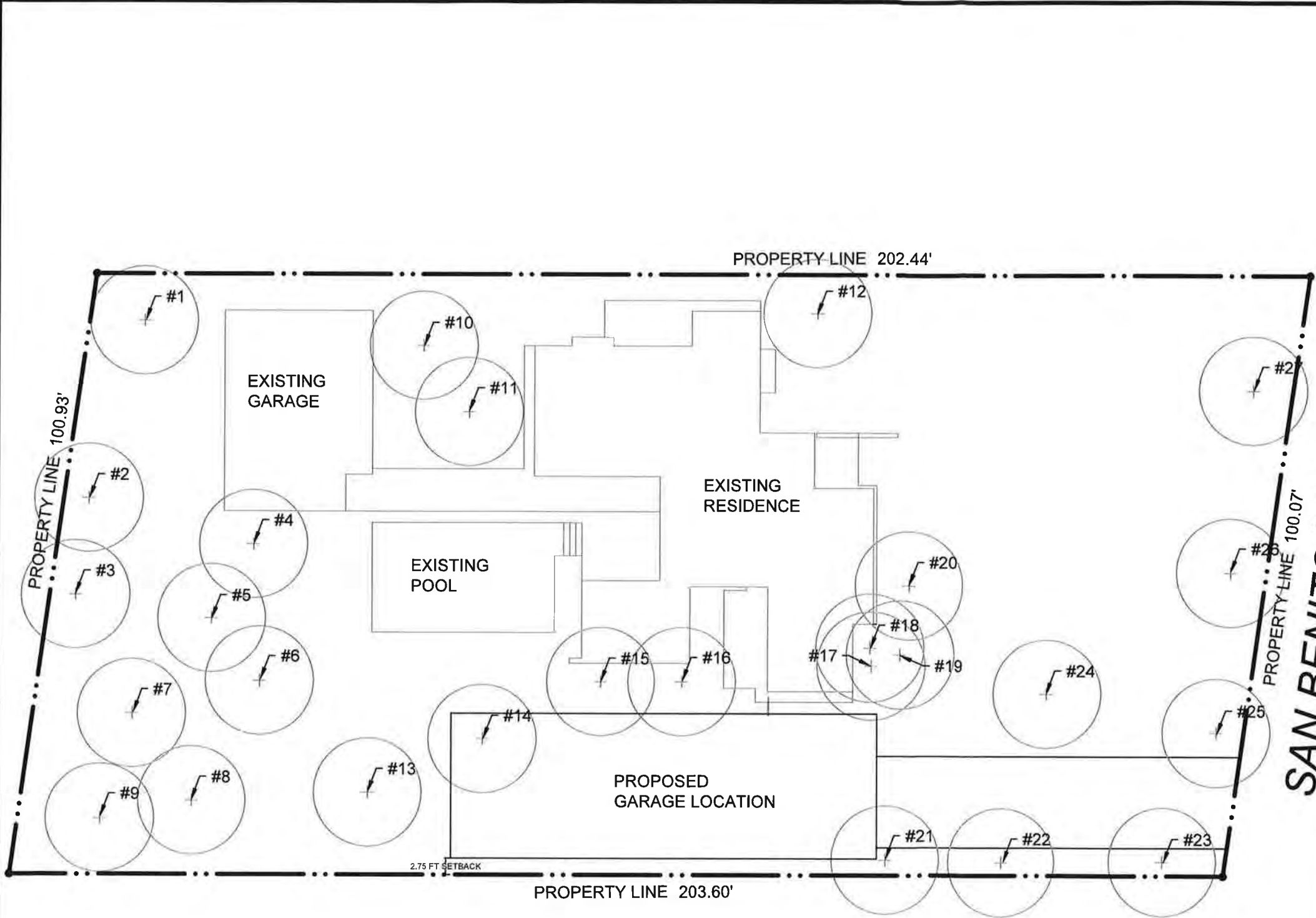


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rob@baldwinplanning.com

Baldwin Associates

8115 SAN BENITO WAY
DALLAS, TX



TREE SURVEY
Project Address: 8115 SAN BENITO WAY

Tree No.	SPECIES	CALIPER	HEALTH	PRESERVE
1	SAVANNAH HOLLY	5.50	GOOD	YES
2	MAGNOLIA	6.00	GOOD	YES
3	MAGNOLIA	6.00	GOOD	YES
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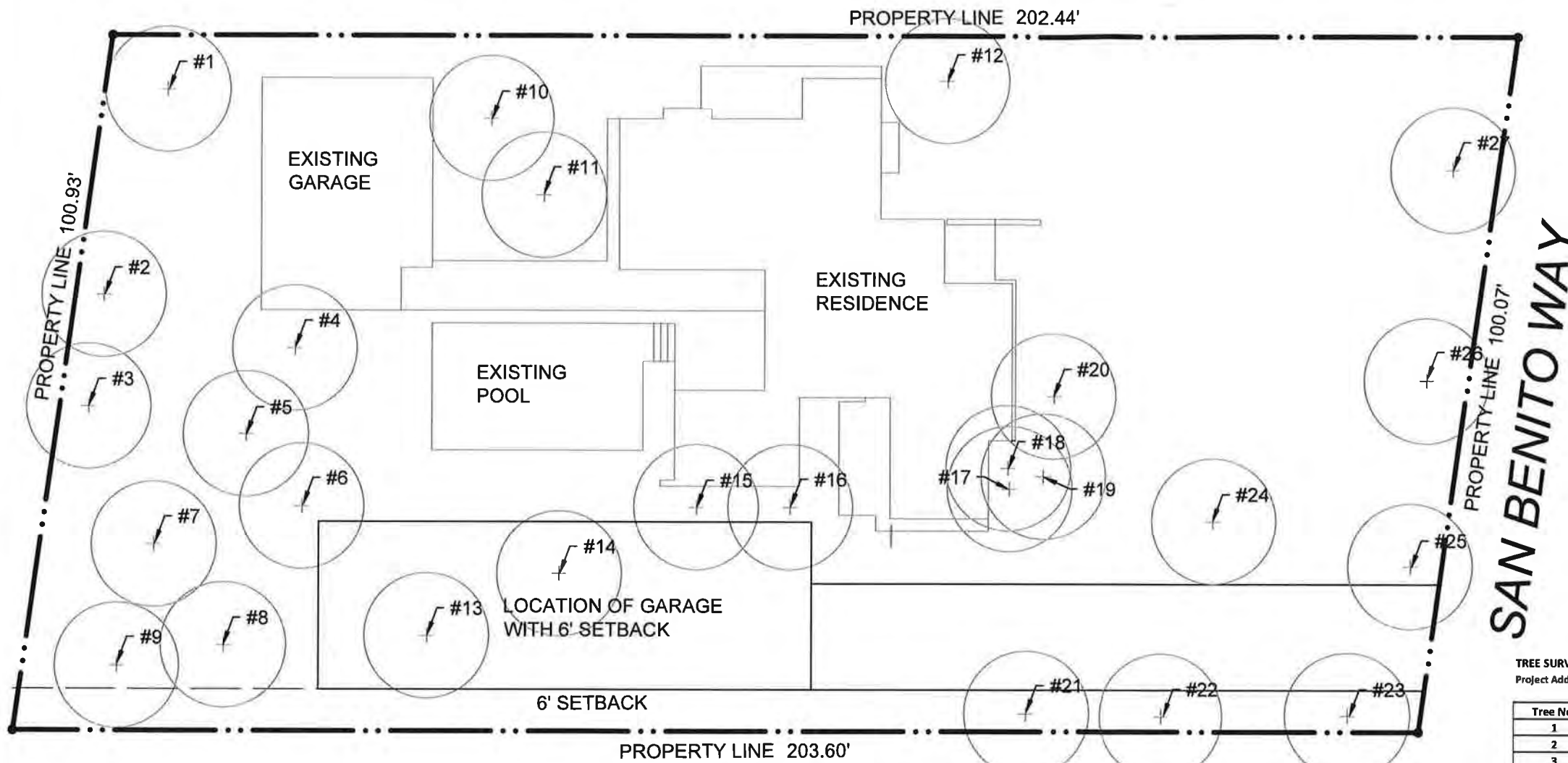


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rob@baldwinplanning.com

Baldwin Associates

8115 SAN BENITO WAY
DALLAS, TX



VICINITY MAP
NTS
NORTH

SAN BENITO WAY

TREE SURVEY
Project Address: 8115 SAN BENITO WAY

Tree No.	SPECIES	CALIPER	HEALTH	PRESERVE
1	SAVANNAH HOLLY	5.50	GOOD	YES
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6	HACKBERRY	14.00	GOOD	YES
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8	CHINKAPIN	4.50	GOOD	YES
9	LIVE OAK	8.00	GOOD	YES
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12	RED OAK	32.00	GOOD	YES
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23	HACKBERRY	21.50	GOOD	YES
24	RED OAK	4.50	GOOD	YES
25	POST OAK	7.50	GOOD	YES
26	RED OAK	34.00	GOOD	YES
27	RED OAK	39.50	GOOD	YES

NOTE: THIS LOCATION OF THE GARAGE WILL RESULT IN THE LOSS OF TREES #13, 14, 15, & 16.

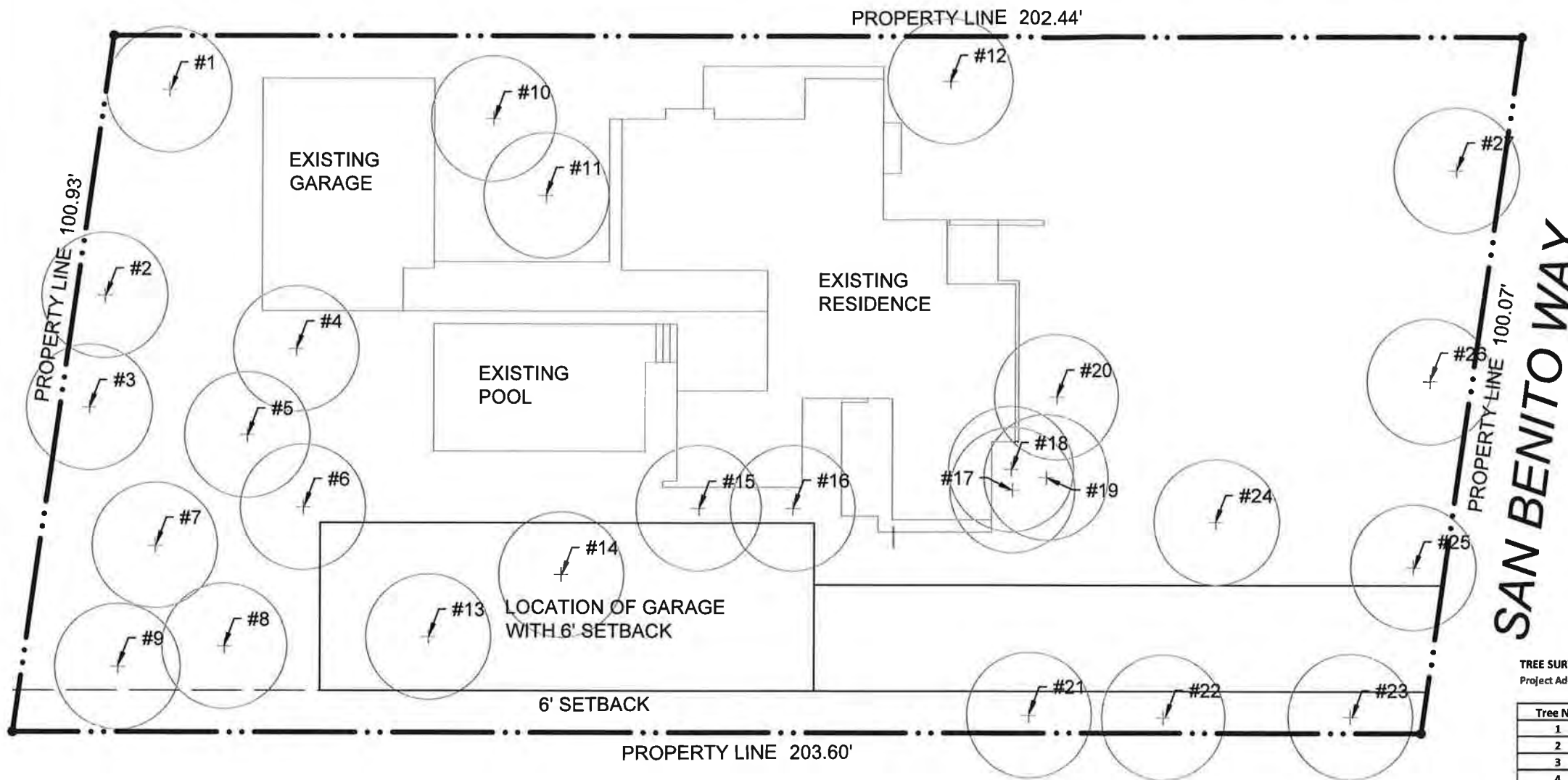


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8115 SAN BENITO WAY
DALLAS, TX



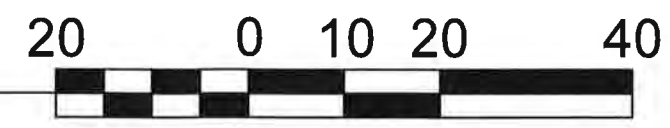
VICINITY MAP
NTS
NORTH

SAN BENITO WAY

TREE SURVEY
Project Address: 8115 SAN BENITO WAY

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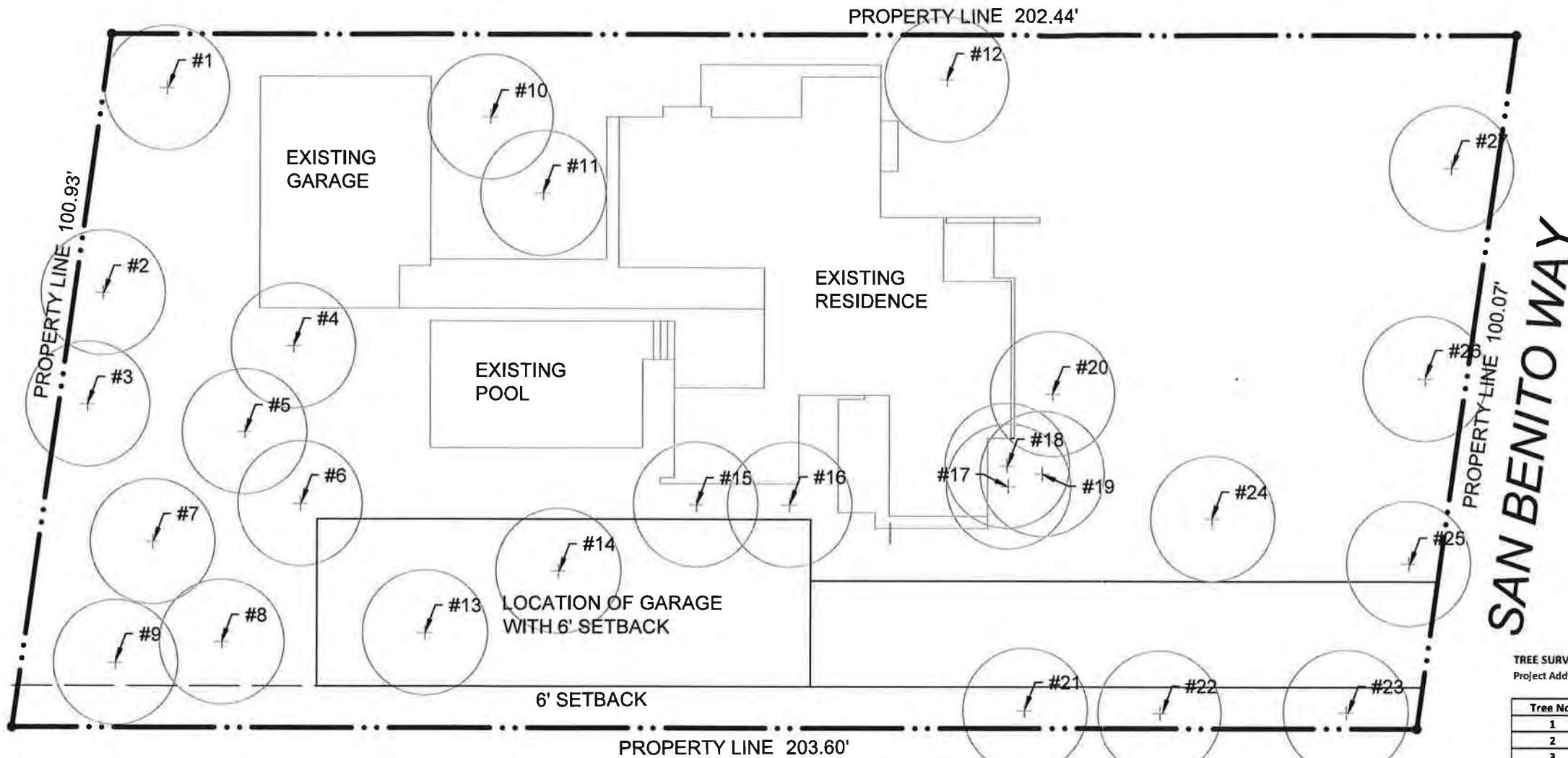


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8115 SAN BENITO WAY
DALLAS, TX



TREE SURVEY
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Baldwin Associates

8115 SAN BENITO WAY
DALLAS, TX



Date November 29, 2021
To Pamela Daniel, Sr. Planner
Jennifer Munoz, Board Administrator
Subject BDA #201-118 8115 San Benito Way Arborist report

Request

The city arborist investigation was completed by the district arborist, Tina Standeford. Her comments in reference to the Tree Exhibit are as follows:

Trees #13, #15, and #16 are in great shape and worthy of preservation. Trees #15 and #16 are pruned to a height to clear the carport so should be in the right shape to fit between the house and new garage. Care would need to be taken to protect the trees during the foundation installation though.

Recommendation

The trees in proximity to the proposed structure are worthy of preservation.

Philip Erwin
Chief Arborist
Building Inspection

FILE NUMBER: BDA201-119(PD)

BUILDING OFFICIAL'S REPORT: Application of Rob Baldwin of Baldwin Associates for a variance to the front yard setback regulations at 5302 Belmont Avenue. This property is more fully described as Lot 1, Block 3/1975, and is zoned an R-7.5(A) Single Family District, which requires a front yard setback of 25 feet. The applicant proposes to construct and maintain a single-family residential structure and provide a 10-foot front yard setback, which will require a 15-foot variance to the front yard setback regulations.

LOCATION: 5302 Belmont Avenue

APPLICANT: Rob Baldwin of Baldwin Associates

REQUESTS:

A request for a variance to the front yard setback regulations of fifteen feet is made to construct and maintain a single-family dwelling within the subject site's 25-foot front yard setback on Madera Street. The property is currently developed and situated along a corner lot with two front yards.

STANDARD FOR A VARIANCE:

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

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

State Law/HB 1475 effective 9-1-21

- the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

- (a) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code;
- (b) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
- (c) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (e) the municipality consider the structure to be a nonconforming structure.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

Staff concluded that the subject site being situated on a corner lot encumbered by two front yards determines this property has an unnecessary hardship and is unable to be developed in a manner commensurate with the development upon 16 other parcels of land with the same R-7.5(A) zoning classification, per evidence (**Attachment A**) submitted by the representative.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) Single Family District
North: R-7.5(A) Single Family District
South: R-7.5(A) Single Family District
East: R-7.5(A) Single Family District
West: R-7.5(A) Single Family District

Land Use:

The subject site is developed with a single-family dwelling. Surrounding properties to the north, east, and south are developed with single-family dwellings while surrounding properties to the west is an undeveloped tract and a tract developed with a single-family dwelling.

Zoning/BDA History:

There have been no related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

This request focuses on constructing and maintaining a single-family dwelling unit that is situated along a front yard (Madera Street). The lot is situated at the intersection of Madera Street and Belmont Avenue, which provides two front yards, one along each corridor. Since the subject site is zoned an R-7.5 Single Family District, a 25-foot front yard setback must be maintained along both frontages to ensure continuity of the block.

A site plan has been submitted denoting the proposed single-family dwelling located ten feet from the front property line along Madera Street and containing approximately 3,265 square feet of floor area. The portion of the single-family structure fronting along Belmont Avenue is not proposed to encroach into the front yard setback and will provide the front yard setback of 25 feet and one inch.

The subject site is not irregular in shape and is approximately 7,500 square feet in lot area. An R-7.5(A) zoning district requires lots to have a minimum lot size of 7,500 square feet. However, the applicant has provided evidence (**Attachment A**) that reflects the decrease in buildable lot area of 30 percent due to the double frontage. The evidence provides an analysis of 16 comparative lots with an average floor area of approximately 2,342 square feet while the existing floor area for the subject site is approximately 1,747 square feet which is a delta of 595 square feet. Additionally, the evidence provided an average of the lot area and living area of twelve lots. The evidence yielded an average lot area of 7,622 square feet while the subject site is only 7,500 square feet and an average living area of 3,976 square feet while the applicant proposes to only develop 3,265 square feet.

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

- That granting the variance to the front yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.

Additionally, the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

- The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code;
- Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
- Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- The municipality consider the structure to be a nonconforming structure.

As of December 3, 2021, no letters have been submitted in support of or in opposition of the request.

If the board were to grant this front yard setback variance request and impose the submitted site plan as a condition, development would be limited to what is shown on this document. Granting this variance request will not provide any further relief from the Dallas Development Code regulations.

Timeline:

October 22, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

November 12, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C.

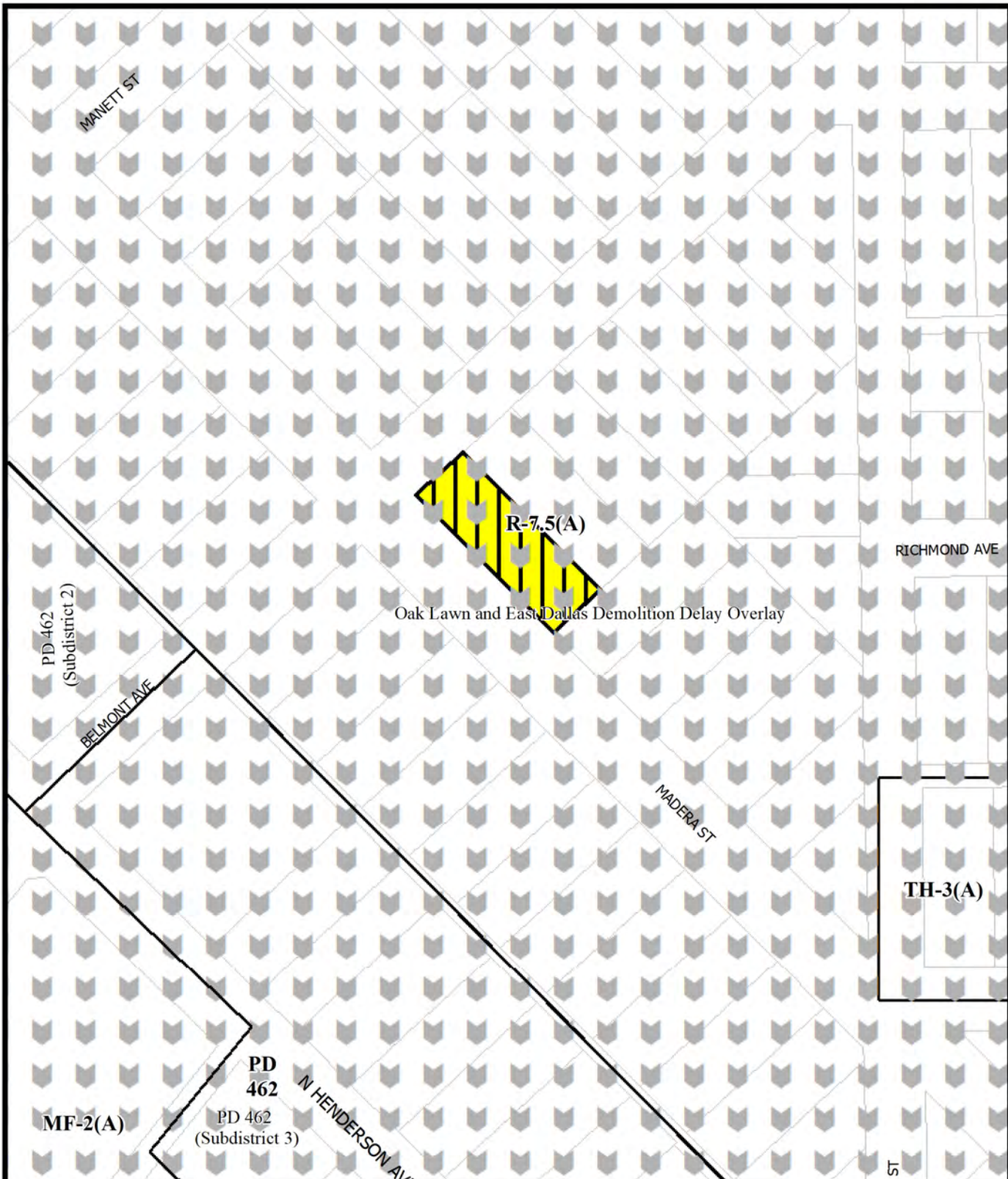
November 12, 2021: The Board Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application.
- an attachment that provided the public hearing date and panel that will consider the application; the November 23, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the December 3, 2021 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 23, 2021: Documentary evidence was provided by the representative **(Attachment A)**.

November 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board. No staff review comment sheets were submitted in conjunction with this application.

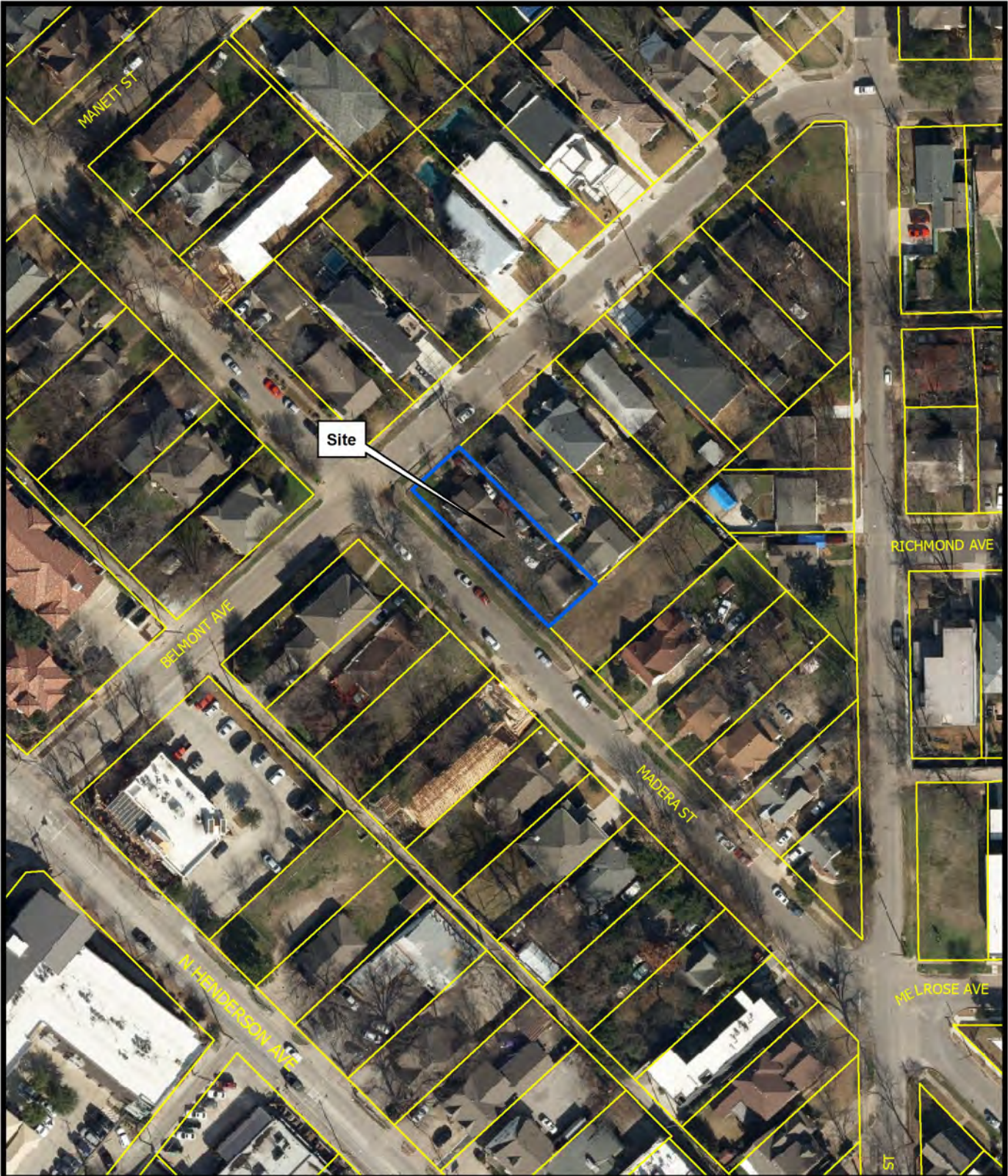


1:1,200

ZONING MAP

Case no: BDA201-119

Date: 11/22/2021



1:1,200

AERIAL MAP

Case no: BDA201-119

Date: 11/22/2021



The number '0' indicates City of Dallas Ownership



1:1,200

NOTIFICATION

200'

AREA OF NOTIFICATION

27

NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA201-119**

Date: **11/22/2021**

11/22/2021

Notification List of Property Owners

BDA201-119

27 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5302 BELMONT AVE	GANDARA HERNANDEZ ALMA ROSA
2	2319 MADERA ST	GONZALEZ OLGA
3	2403 MADERA ST	MEYER MARK D
4	2407 MADERA ST	PHILBRICK JOHN
5	2411 MADERA ST	NGUYEN ANH
6	2415 MADERA ST	BALBUENA JOSE
7	2419 MADERA ST	RAUSCH ROBERT
8	2423 MADERA ST	SHCULTZ JAYNIE &
9	2501 MADERA AVE	POWELL RICHARD CHAD
10	2505 MADERA AVE	TRIMBERGER RYAN
11	2511 MADERA ST	KASSANOFF RUBY &
12	5306 BELMONT AVE	REYNOLDS HELEN
13	5310 BELMONT AVE	GONZALES DEBORA
14	5314 BELMONT AVE	ELMER ANNE
15	5318 BELMONT AVE	ALLEN CHARLES EDWARD &
16	5322 BELMONT AVE	DIAZ HUMBERTO R
17	2203 GLENCOE ST	TREECE RUSSELL
18	2207 GLENCOE ST	RUHLAND ROBERT J &
19	2127 GLENCOE ST	SELMA VENTURES LTD
20	2410 MADERA ST	BEARG JOHN
21	2406 MADERA ST	HOLMES RUSSELL WAYNE
22	2402 MADERA ST	HEPWORTH WESLEY W
23	5301 BELMONT AVE	BATIR ALEXANDRA GATEWOOD &
24	5307 BELMONT AVE	FETZER DAVID T & EIRA S ROTH
25	5311 BELMONT AVE	JONES TROY L &
26	5315 BELMONT AVE	JAWHAR CAROLE
27	5321 BELMONT AVE	MINCES MICHAEL SEAN LIVING TRUST



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-119

Data Relative to Subject Property:

Date: 10-22-21

Location address: 5302 Belmont Avenue Zoning District: R-7.5(A)

Lot No.: 1 Block No.: 3/1975 Acreage: 0.17 acres Census Tract: 10.02

Street Frontage (in Feet): 1) 50 ft 2) 150 ft 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Property Wave LLC

Applicant: Rob Baldwin Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Represented by: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance X, or Special Exception __, of 15' to the 25' front yard along Madera Street

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: The property is a corner lot and 50 feet wide. R-7.5(A) requires a 25-foot front yard setback along both street frontages, which would result in a structure not commensurate with structures typical of R-7.5(A) zoning.

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.

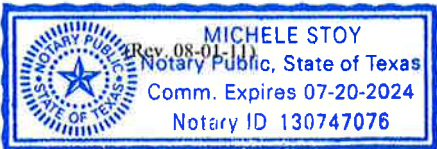
Affidavit

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

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

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

Subscribed and sworn to before me this 20 day of October, 2021



[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 BALDWIN ASSOCIATES

did submit a request for a variance to the front yard setback regulations
at 5302 Belmont Avenue

BDA201-119. Application of BALDWIN ASSOCIATES for a variance to the front yard setback regulations at 5302 BELMONT AVE. This property is more fully described as Lot 1, Block 3/1975, and is zoned R-7.5(A), which requires a front yard setback of 25 feet. The applicant proposes to construct a single family residential structure and provide a 10 foot front yard setback, which will require a 15 foot variance to the front yard setback regulations.

Sincerely,


David Session, Building Official



AFFIDAVIT

Appeal number: BDA 201-119

I, Propertywave LLC, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 5302 Belmont Avenue
(Address of property as stated on application)

Authorize: Rob Baldwin
(Applicant's name as stated on application)

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

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

Specify: Front yard

John Bearg Print name of property owner or registered agent [Signature] Signature of property owner or registered agent

Date October 20, 2021

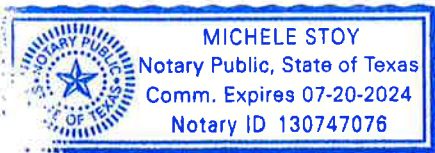
Before me, the undersigned, on this day personally appeared John Bearg

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

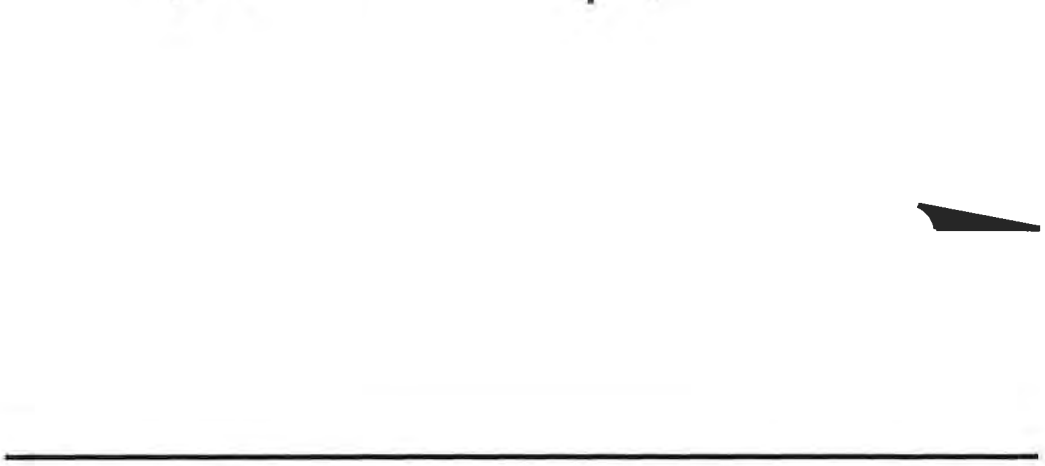
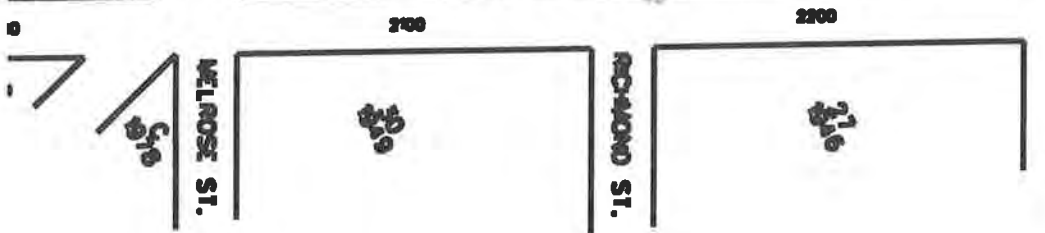
Subscribed and sworn to before me this 20 day of October, 2021

[Signature]
Notary Public for Dallas County, Texas

Commission expires on 7-20-2024









Printed: 9/21/2021

Legend

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

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





Printed: 9/21/2021

Legend

- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits | railroad | Dry Overlay | CD Subdistricts |
| School | Certified Parcels | D | PD Subdistricts |
| Floodplain | Base Zoning | D-1 | PDS Subdistricts |
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| Mill's Creek | Dallas Environmental Corridors | SP | NSO_Overlay |
| Peak's Branch | SPSD Overlay | MD Overlay | Escarpment Overlay |
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November 23, 2021

Pamela Daniel
 City of Dallas Board of Adjustment
 1500 Marilla 5BN
 Dallas, TX 75201

RE: Z201-119, 5302 Belmont

Dear Ms Daniel:

Our firm is helping owner at the above-referenced property with their variance request to construct a new single family house. Please accept this letter as additional evidence for this request to demonstrate the proposed redevelopment of this property meets the variance standards.

The property is zoned R-7.5(A) and is a corner lot with two 25-foot front yard setbacks. The existing home provides an approximately 8' setback along Madera Street. The property is situated within a block that is a right triangle, but the subject property itself is a rectangle. The property is 50-feet wide and 150-feet in depth. The additional front yard setback creates a property hardship and significantly limits the ability to construct a new house with a maximum building width of 20-feet; a 20-foot wide building would not be commensurate with development typical of an R-7.5(A) district. The following table explains the impact of the two front yard setbacks on the buildable area in comparison with the typical R-7.5(A) lot.

	Lot Area	Lot Width	Lot Length	Front Yard Setback	Side yard	Rear yard	Buildable Area
Average R-7.5(A) Lot	7,500 sf	50 ft	150 ft	25 ft	5 ft x 2	5 ft	4,800 sf / 64%
5302 Belmont Ave	7,500 sf	50 ft	150 ft	25 ft x 2	5 ft	5 ft	2,275 sf / 30%

The submitted site plan shows the requested building footprint of up to 3,265 square feet or 43.5% of the lot. The proposed structure would have a floor area of approximately 3,100 square feet. R-7.5(A) zoning has a maximum lot coverage of 45%, so the proposed building footprint would comply with this requirement. The site plan shows a requested 10' setback to be provided along Madera Street.

We researched on Dallas Central Appraisal District the development statistics of the immediately surrounding properties to demonstrate typical development. 17 properties are listed below with one property being vacant. The lot sizes are typical of an R-7.5(A) District. Houses sizes vary and are noticeably smaller than typical new construction.

Survey of Surrounding Houses

	Building size	Year Built	Lot size
5302 Belmont	1747*	1925	7,500
5306 Belmont	1,936	1926	7,500
5310 Belmont	1,556	1930	7,500
5314 Belmont	1,118	1940	7,500
5301 Belmont	1,362	1925	7,500
5307 Belmont	3,653	2016	7,500
5311 Belmont	2,458	2006	7,500
5315 Belmont	3,573	2016	7,500
2423 Madera	2,711	2008	7,250
2419 Madera	1,447	1925	7,250
2415 Madera	vacant	vacant	7,250
2411 Madera	4,171	2018	7,250
2406 Madera	1,477	1923	7,500
2501 Madera	2,992	1928	7,540
2505 Madera	1,460	1950	7,250
2511 Madera	2,082	1925	7,250
2515 Madera	3,137	2021	7,250
Average	2,342	1927	7,399
Average less than 20 yrs old	3,284		


Source: Dallas Central Appraisal District

*DCAD lists the subject property incorrectly as 925 sf

The age of these homes is listed, and many are older homes, which explains the smaller house size. When reviewed for recent construction (since 2006), home sizes are representative of modern square footages for in-fill single family homes in East Dallas. Taking a broader look at the area, a recent Board of Adjustment case, 190-078, provided a survey of their interpretation of typical R-7.5(A) development. The properties in that survey were all recent construction and resulted in an average house size of 3,976 square feet. Between these two surveys of surrounding development, it is a reasonable conclusion that the proposed 3,100 square foot house at the subject property will be commensurate with typical R-7.5(A) development.

We hope you can support our request. If you have any questions or would like to speak with us about this, please call our office at 214-824-7949 or email me at Rob Baldwin at rob@baldwinplanning.com. We will be happy to discuss this matter with you.

With kind regards,

A handwritten signature in blue ink, appearing to be 'Rob Baldwin', with a stylized flourish at the end.

Rob Baldwin

Attachments: Site plan with existing structure overlay
BDA190-078 survey of surrounding properties

PROPERTY COMPARISON for:
APPEAL FOR BUILDING SETBACK VARIANCE ALONG GLENCOE STREET
NEW RESIDENCE - 5330 BELMONT AVENUE, DALLAS, TX 75206
BLK 3/1975 PT LT 7

1) Lot Area Comparison

R-7.5 A Zoning Minimum Lot Area	7,500 SF
Average Lot Area (As determined page 2)	7,622 SF
5330 Belmont Lot Area	
• Lot Area (Street Easement Area Removed)	5,101 SF
• Lot Area (Includes Street Easement)	5,338 SF

2) Structure Area Comparison

- **Average Structure** (As determined page 2)
 - **Living Area** **3,976 SF**
- **5330 Belmont Avenue** (Per this Architect's Plans)
 - **Living Area** **3,574 SF**

3) Average Lot Area and Structure Area Calculations

Lots/Homes selected for Comparison are:

- **Within same R-7.5A Zoning Area**
- **Within proximity to 5330 Belmont Ave.**
- **Represent Development mostly last 5 years**

See Page 2



September 8, 2020

Lot Areas and Structure Areas from DCAD Website

(2020 Appraisal Notice)

Lot				Building		
	Address	Block & Lot	Lot Area	Year Built	Stories	Living Area
1	5318 Belmont Ave.	3/1975 5	7,500 SF	2018	2	4,083 SF
2	5321 Belmont Ave.	4/1975 4	7,500 SF	2016	2	4,708 SF
3	5323 Belmont Ave.	4/1975 6	7,500 SF	2017	2	4,321 SF
4	5329 Belmont Ave.	4/1975 7	7,500 SF	2014	2	4,121 SF
5	5337 Belmont Ave.	4/1975 9	7,500 SF	2015	2	3,574 SF
6	5403 Belmont Ave.	26/1945 30	8,064 SF	2008	2	3,902 SF
7	5414 Belmont Ave.	27/1946 4	7,200 SF	2016	2	3,929 SF
8	5430 Belmont Ave.	27/1946 8	7,200 SF	2018	2	3,508 SF
9	5438 Belmont Ave.	27/1946 10	7,200 SF	2006	2	3,679 SF
10	5454 Belmont Ave.	27/1946 14	7,200 SF	2019	2	3,626 SF
11	5458 Belmont Ave.	27/1946 15	7,200 SF	2015	2	3,692 SF
12	5335 Bonita Ave.	22/1942 20	9,900 SF	2016	2	4,574 SF
TOTALS			91,464 SF			47,717 SF
LOT AREA AVERAGE (TOTAL /12)			7,622 SF			
LIVING AREA AVERAGE (TOTAL /12)						3,976SF



Petition for Variance at 5302 Belmont

5302 Belmont Petition for variance to build with 25 foot setback on Belmont and 10' setback on Madera				
Variance is for a 10 foot setback vs. 25 foot on Madera - I have reviewed and/or have a copy of the SitePlan				
Madera Street	Visited/OK	Adjacent	Owner (s)	Print Name and Signature
2511	OK		Kassanoff Ruby & Piper James Jr.	SIGNED ON 2 ND PAGE
2507 & 2505	OK		TRIMBERGER RYAN	CAROL ^{WIFE} McKay / OK via e-mail
2503 & 2501	OK	Yes	POWELL RICHARD CHAD	CHAD OK via EMAIL
2419	OK		RAUSCH ROBERT	ROBERT OK VIA EMAIL
2415	OK		BALBUENA JOSE	<i>[Signature]</i>
2411	OK		NGUYEN ANH	<i>[Signature]</i>
2407	OK		PHILBRICK JOHN	John Philbrick
2403	OK		MEYER MARK D	Mark D Meyer
2319	OK		GONZALEZ OLGA	Olga Gonzalez
2512	OK		??? Joe and Alexa	Alexandra Gatewood Batir
2410	OK	Yes	Bearg/Onisko	John Bury
2406	OK		HOLMES RUSSELL WAYNE	Russell Holmes
2400 & 2402	?		HEPWORTH WESLEY W	LANDLORD - NO REPLY
2314	?		HEPWORTH WESLEY W	↓ ↓
2423	OK	Yes	SHCULTZ JAYNIE	SIGNED OK VIA EMAIL

Belmont				
5244	OK	Yes	address is actually 2423 Madera	JAYNIE AT 2423 MADERA
5301	OK	Yes	BATIR ALEXANDRA GATEWOOD & Joseph Batir	Alexandra Gatewood Batir
5307	OK	Yes	FETZER DAVID T & EIRA S ROTH	OK via e-mail
5311	OK		JONES TROY L & Tran Taylor	Troy Jones
5315	OK		JAWHAR CAROLE	CAROLE OK VIA EMAIL
5321	?		MINCES MICHAEL SEAN LIVING TRUST	CANT FIND
5306	OK	Yes	REYNOLDS HELEN	HELEN OK VIA EMAIL
5308 & 5310	OK		GONZALES DEBORA	DEBORA GONZALES
5314	OK		ELMER ANNE	ANNE ELMER
5318	OK		ALLEN CHARLES EDWARD & Wang Zengc	Charles Allen Wang
2511 MADERA ST	OK		MR. PIPER	Dakota Piper SW
Glencoe				
2207	OK		RUHLAND ROBERT J & Wendy A.	OWNED BY RUSSELL TRESCE - OK VIA EMAIL
2203	OK		TREECE RUSSELL	RUSSELL OK VIA EMAIL
2127	OK		SELMA VENTURES LTD	VERBA OK ONLY

Email approvals from Neighbors

Neighbors that have approved the site plan / variance by email.

Most neighbors signed, but some sent email.

26 or 28 neighbors have approved and all adjacent neighbors have approved, 2 were unresponsive

Site plan for 5302 Belmont Inbox

Helen Reynolds <reynolds@recon.com>
to me

Sun, Nov 28, 2:48 PM (1 day ago)

Dear John and Nancy:

I am happy to endorse your site plan for the lot next door to mine. Please let me know what else I can do to get your project going.

Helen Reynolds
5306 Belmont Ave.
Dallas TX 75206
214-287-4081

Sent from my iPhone

Regarding the Belmont proposal Inbox

Eira Roth <eira.roth@gmail.com>
to me

Fri, Oct 15, 9:50 AM

Good morning!

This is Eira (of Eira/ David from 5307 Belmont).

We have absolutely no problem with anything you wish to do with your new property. It'll be exciting to see how you transform the lot.

I know we have met in passing out on the street but let me formally introduce us:

David is the UT faculty member whose car you have seen --). Both of us work in healthcare but because I work nights /early morning shifts if you need something during the day I am often home and easier to get a hold of than David is.

Please let us know if we can be of any further assistance.

Eira
eira.roth@gmail.com
Cell: 832-922-9492

RE: 5302 Belmont new build Inbox

Chad Powell
to me

Mon, Nov 1, 4:03 PM

John,

I think we are good on my part.

From: John <jbearg@gmail.com>
Sent: Monday, November 1, 2021 4:02 PM
To: Chad Powell <chad.powell@powellinsurancegroup.com>
Subject: Re: **5302 Belmont new build**

Hi Chad,

I wanted to follow up and see if you had a chance to review the plans. I think this will be a real positive for the neighborhood, but please let me know if you have any concerns.

Thanks much,
John Bearg
972-757-9114

Cad and Howie are partners in 2501 and 2503 Madera

Re: 5302 Belmont New Build 



Howie Reed <howiereed@gmail.com>

to me

OK!

Texas Real Estate Commission IABS

Howie Reed

REALTOR®

Moss Real Estate Group

MOSS

6220 Gaston Avenue, Suite 100

Dallas TX 75214

m: 817.692.2095

www.compass.com

RE: 5302 Belmont Ave. new build 

Jaynie Schultz <jaynie@jaynieschultz.com>

to me

You have our support.

Jaynie Schultz and Ron Romaner

From: John Bearg <jcbearg@gmail.com>

Sent: Wednesday, October 6, 2021 2:29 PM

To: Jaynie Schultz <jaynie@jaynieschultz.com>

Subject: 5302 Belmont Ave. new build

Jaynie,

Per our conversation a few weeks ago, my wife and I have a contract on 5302 Belmont and are planning to build and move in...hopefully, late next summer.

In order for us to build, we need a variance from the City for a 10 foot setback on Madera. Currently, the setback requirement is 25 feet on both sides of Madera and Belmont. Considering it's only a 50 foot lot, that would make it essentially unbuildable.

Also, the current house is only 8.7 feet from Madera, so we are really proposing a further setback or 10 feet.

Attached is a site plan of the proposed new home (thick line) and the existing house (highlighted in yellow).

Please review and let me know if you have any questions. If you are agreeable to this, just reply back with your "OK".

Nancy and I have visited 14 of 27 neighbors and all are supportive, so far.

Thanks for your time and consideration.

Sincerely,

John Bearg and Nancy Onisko


Thu, Oct 7, 3:54 PM



Re: 5302 Belmont Ave. New Build 



Carole J <cjawhar@gmail.com>
to me

Wed, Oct 6, 8:14 PM   

Hi John -
No concern on my side. Good luck!
Regards

On Wed, Oct 6, 2021 at 3:32 PM John Bearg <jcbearg@gmail.com> wrote:
Carole,

Great meeting you a few weeks ago! Nancy and I have a contract on 5302 Belmont and are planning to build and move in...hopefully, late next summer.

In order for us to build, we need a variance from the City for a 10 foot setback on Madera. Currently, the setback requirement is 25 feet on both sides of Madera and Belmont. Considering it's only a 50 foot lot, that would make it essentially unbuildable.

Also, the current house is only 8.7 feet from Madera, so we are really proposing a further setback or 10 feet.

Attached is a site plan of the proposed new home (thick line) and the existing house (highlighted in yellow).

Please review and let me know if you have any questions. If you are agreeable to this, just reply back with your "OK".

Nancy and I have visited 14 of 27 neighbors and all are supportive, so far.



Thanks for your time and consideration.

Sincerely,
John Bearg and Nancy Onisko
(972) 757-9114

Re: 5302 Belmont Ave new build 



Russell Treece <russell-5203@sbcglobal.net>
to me

Wed, Oct 6, 3:43 PM   

OK

Sent from my iPhone

> On Oct 6, 2021, at 2:27 PM, John Bearg <jcbearg@gmail.com> wrote:

>

>

> Russell,

>

> Per our conversation, Nancy and I have a contract on 5302 Belmont and are planning to build and move in...hopefully, late next summer.

>

> In order for us to build, we need a variance from the City for a 10 foot setback on Madera. Currently, the setback requirement is 25 feet on both sides of Madera and Belmont. Considering it's only a 50 foot lot, that would make it essentially unbuildable.

>

> Also, the current house is only 8.7 feet from Madera, so we are really proposing a further setback or 10 feet.

>

> Attached is a site plan of the proposed new home (thick line) and the existing house (highlighted in yellow).

>

> Please review and let me know if you have any questions. If you are agreeable to this, just reply back with your "OK"

>

> Nancy and I have visited 14 of 27 neighbors and all are supportive, so far.

>

> Thanks for your time and consideration.

>

> Sincerely,

> John Bearg and Nancy Onisko

> (972) 757-9114

Re: 5302 Belmont Ave new build > 



 **Robert Rausch** <robert.rausch@live.com>

Wed, Oct 6, 2:02 PM ☆ ↻ ⋮

to me, Nancy ↗

OK!

Good luck and I'm looking forward to the block party!

> On Oct 6, 2021, at 12:56 PM, John Bearg <jcbearg@gmail.com> wrote:

>

>

> Hi Robert,

>

> Per our text conversation, Nancy and I have a contract on 5302 Belmont and are planning to build and move in...hopefully, late next summer.

>

> In order for us to build, we need a variance from the City for a 10 foot setback on Madera. Currently, the setback requirement is 25 feet on both sides of Madera and Belmont. Considering it's only a 50 foot lot, that would make it essentially unbuildable.

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> Sincerely,

> John Bearg and Nancy Onisko

> (972) 757-9114

FILE NUMBER: BDA201-116(PD)

BUILDING OFFICIAL'S REPORT: Application of Dustin Lauderdale for a variance to the side yard setback regulations at 3925 & 3927 Prescott Avenue. This property is more fully described as Lot 26, within Block 10/2038, and is zoned an MF-1 Multiple Family Subdistrict within Planned Development District No. 193, which requires a side yard setback of five feet. The applicant proposes to construct and maintain a duplex residential structure and provide a three-foot six-inch side yard setback, which will require a one-foot six-inch variance to the side yard setback regulations.

LOCATION: 3925 & 3927 Prescott Avenue

APPLICANT: Dustin Lauderdale

REQUESTS:

The applicant proposes to construct and maintain an approximately 7,864-square-foot duplex and provide a one-foot six-inch side yard setback along both side yards to accommodate two chimneys.

STANDARD FOR A VARIANCE:

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

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

State Law/HB 1475 effective 9-1-21

- the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:
 - (a) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code;
 - (b) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development is authorized to physically occur;
 - (c) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
 - (d) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
 - (e) the municipality consider the structure to be a nonconforming structure.

STAFF RECOMMENDATION (both variances):

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Per evidence (**Attachment A**) submitted and State Law/HB1475 Subsection B the financial cost of compliance is greater than 50 percent of the appraised value of the structure as provided as shown on the cost estimate. The structure was permitted for construction in January 2021 and the appraisal roll certified to the assessor for the municipality under Section 26.01 (Submission of Rolls to Taxing Units), Tax Code will not assess an appraisal value until 2022 when the new tax roll is provided. Thus, the contractor lists the improvement value of the newly constructed structure at \$965,024.12 with an estimated cost of \$1,150,000.00 to demolish the existing structure and foundation for a total loss to comply with the development code.

BACKGROUND INFORMATION:

Site MF-1 Subdistrict in PDD No. 193
North: MF-1 Subdistrict in PDD No. 193
East: MF-1 Subdistrict in PDD No. 193
South: PDS No. 52 in PDD No. 193
West: MF-1 Subdistrict in PDD No. 193

Land Use:

The subject site is developed with two attached single-family dwellings (a duplex). The surrounding properties are developed with duplex uses to the north, east and west, and a public-school use to the south.

Zoning/BDA History:

There have not been any related board or zoning cases in the vicinity within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

The request for a variance to the side yard setback focuses on constructing and maintaining an approximately 7,864-square-foot two-story, duplex structure. The request for a variance to the side yard setback is sought to allow a one-foot six-inch side yard setback along the western and eastern portions of the structure fronting along Prescott Avenue.

Internal records indicate that the subject property was permitted for construction on January 20, 2021 in error. As depicted by the proposed site plan, the site contains two, two-story attached residential dwellings with two attached two-car garages along the front yard and two attached covered terraces. As depicted on the proposed site plan, the property provides a five-foot side yard setback as regulated by the code, however, an approximately ten-square-foot chimney encroaches three-feet-six-inches into the side yard setback approximately 98-feet from the front property line. The structure has been constructed and only requires completion of finishes and landscape.

According to 51P-193.125, the schedule for yard, lot, and space requirements in the MF-1 Multiple Family Subdistrict, the minimum required side yard setback is five feet for each side yard.

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

- That granting the variance to side yard regulations for the residential structure 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 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 zoning classification.

As of December 3, 2021, one letter has been submitted in opposition of the request and no letters have been submitted in support of the request.

If the board grants the variance to the side yard setback and impose the submitted site plan as a condition, the building footprint of the structure on the site would be limited to what is shown on the plan. However, granting the request will not provide any relief to the Dallas Development code regulations.

Timeline:

- October 14, 2021: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- Nov. 12, 2021: The Board of Adjustment Administrator assigned this case to Board of Adjustment Panel C.
- Nov.12, 2021: The Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application.
 - an attachment that provided the public hearing date and panel that will consider the application; the November 23, 2021 deadline to submit additional evidence for staff to factor into their analysis; and the December 3, 2021 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.
- Nov. 29, 2021: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearing. The review team members in attendance included: the Planning and Urban Design Interim Assistant Director, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Development Code Specialist, the Senior Sign Inspector, the Transportation Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board. No review comment sheets were submitted in conjunction with this application.
- December 2, 2021: Documentary evidence was provided by the applicant (**Attachment A**).

HAZEL RD

CREEKSIDE DR

HOUGHTON RD



R-7.5(A)

BRAMLETT DR

BARRETT DR

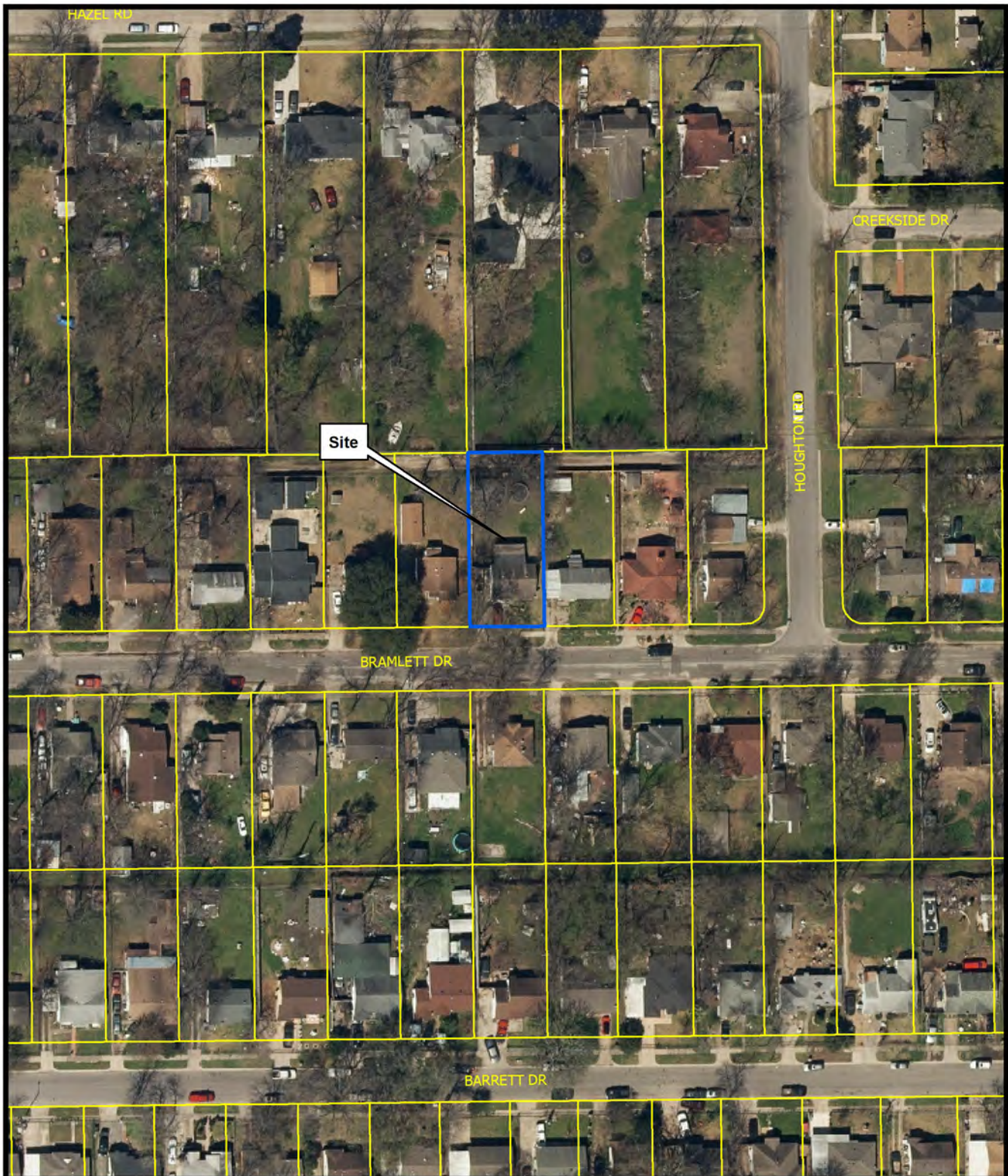


1:1,200

ZONING MAP

Case no: BDA190-116

Date: 11/23/2020



1:1,200

AERIAL MAP

Case no: BDA190-116

Date: 11/23/2020

HAZEL RD

CREEKSIDE DR

HIGHTOWER RD

BRAMLETT DR

BARRETT DR

The number '0' indicates City of Dallas Ownership



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
28 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA190-116**

Date: **11/23/2020**

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11/22/2021

Notification List of Property Owners

BDA201-116

30 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3925 PRESCOTT AVE	TWO PRESCOTT PARTNERS LLC
2	4010 PRESCOTT AVE	SISTERS PARTNERSHIP THE
3	4002 PRESCOTT AVE	PRESCOTT AVE SUITES LLC
4	4003 PRESCOTT AVE	FRIEDMAN JOSH A &
5	4009 PRESCOTT AVE	JOHNSON GREG
6	4011 PRESCOTT AVE	SANDIFER JOSEPH M
7	4010 HAWTHORNE AVE	WORD DONALD B
8	4006 HAWTHORNE AVE	TAYLOR MICHAEL A &
9	4000 HAWTHORNE AVE	WAKURA YOSHIHARU
10	3924 HAWTHORNE AVE	RUSSELL STEPHEN T
11	3930 HAWTHORNE AVE	COOLAM LLC A TEXAS LLC
12	3932 HAWTHORNE AVE	PIERCE JORDAN DEVELOPMENT LLC
13	3938 HAWTHORNE AVE	BLARNEY ROCK LTD
14	3905 PRESCOTT AVE	4500 NORMANDY APARTMENTS LP
15	3907 PRESCOTT AVE	4500 NORMANDY APARTMENTS
16	3911 PRESCOTT AVE	M & M LIVING TRUST UTD
17	3915 PRESCOTT AVE	GOUBERT DAVID C & HELENE
18	3913 PRESCOTT AVE	COWDREY JOEL H JR &
19	3917 PRESCOTT AVE	CLARK ASHLEY P
20	3921 PRESCOTT AVE	MALEKAFZALI AMIN
21	3931 PRESCOTT AVE	THOMAS DELBERT WAYNE JR
22	3801 HERSCHEL AVE	Dallas ISD
23	3940 HAWTHORNE AVE	MORANDI STEFANIA
24	3940 HAWTHORNE AVE	OLENZEK DAVID EDWARD
25	3940 HAWTHORNE AVE	YOUNG WILLIAM CARTER
26	3940 HAWTHORNE AVE	BUSTAMANTE WILSON

11/22/2021

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	3940 HAWTHORNE AVE	IRANI GIL & CINDY
28	3940 HAWTHORNE AVE	MARTINEZ DENISE MARIE
29	3940 HAWTHORNE AVE	KAPP DIEDRE E
30	3940 HAWTHORNE AVE	OLENZEK DAVID



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 201-116

Data Relative to Subject Property:

Date: ~~10/6/21~~ 10-14-21

Location address: 3925 & 3927 Prescott Ave.

Zoning District: PD 193 (MF-1)

Lot No.: 26 Block No.: 102038 Acreage: 0.1722 Census Tract: 6.03

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

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Two Prescott Partners, LLC / Dustin Lauderdale

Applicant: Dustin Lauderdale Telephone: 972-948-8100

Mailing Address: 6415 Stichter Ave, Dallas, TX Zip Code: 75230

E-mail Address: dustin.lauderdale@gmail.com

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance , or Special Exception , of a side yard setback adjustment to allow fireplace box to extend into the side yard 1'3". The setback is 5'. This variance will cover the fireplace boxes which are only 5' long.

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:

- Plan Review released permits for construction with the fireplace box extending into the side yard setback.
- The construction has passed all inspections including the survey to prove location of foundation on the property prior to pouring.
- The structure is already built with all approvals from city officials.

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

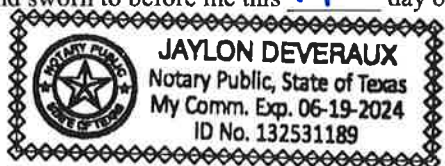
Before me the undersigned on this day personally appeared Dustin Lauderdale
(Affiant/Applicant's name printed)

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

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

Subscribed and sworn to before me this 14th day of October, 2021

(Rev. 08-01-11)



[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 DUSTIN LAUDERDALE

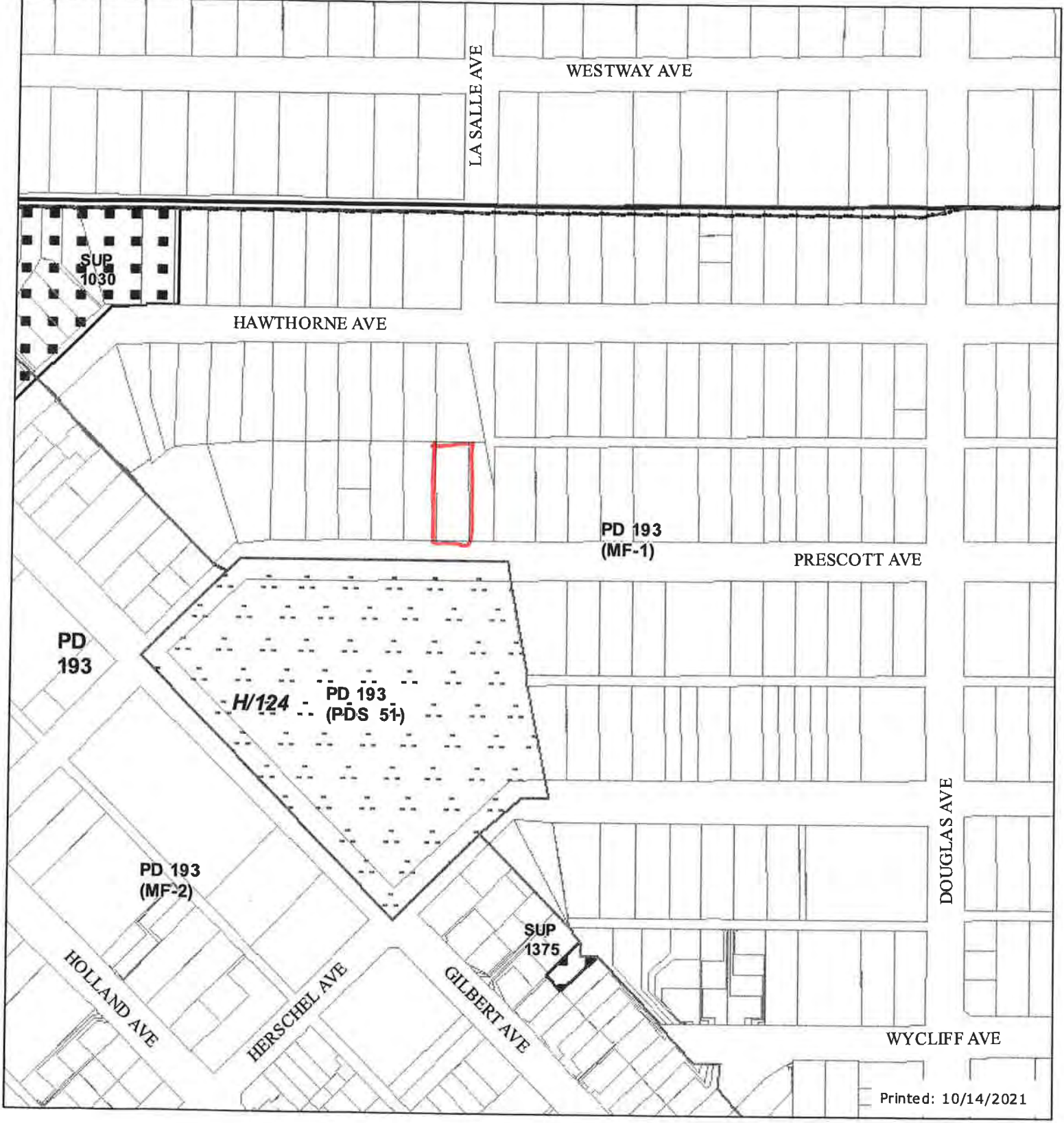
did submit a request for a variance to the side yard setback regulations
at 3925/27 Prescott Avenue

BDA201-116. Application of DUSTIN LAUDERDALE for a variance to the side yard setback regulations at 3925/27 PRESCOTT AVE. This property is more fully described as Lot 26, Block 10/2038, and is zoned PD-193 (MF-1), which requires a side yard setback of 5 feet. The applicant proposes to construct a duplex residential structure and provide a 3 foot 6 inch side yard setback, which will require a 1 foot 6 inch variance to the side yard setback regulations.

Sincerely,


David Session, Building Official

- The project is newly completed with only the finishes and landscaping remaining.
- The owner proceeded in good faith to construct the house as approved and permitted.
- Plans were approved during Covid 19. During this time, it was not possible to speak with anyone about the process (either via phone or email or in person).
- The safety of all involved is priority. However, it did render plan reviews to be extremely difficult and time consuming. It is our belief that this process, while important for safety, also created significant potential for errors.
- This variance does not block or inhibit movement through the side yards of the structure.
- During Plan Review there were two areas of the plans that were submitted that the City rejected and required changes. We changed these with no complaints, and were happy to make sure construction of the new structures would comply. All that said, if additional changes were wanted by the City we would have complied.
- The chimneys cannot be removed without destroying the structural integrity of the foundations thus making the entire building non-qualifying for the City Structural Code.
- The expense to remove the chimneys would be incredible and not predictable. The foundation is a post tension cabled slab foundation. To cut off the foundation of these two fireplaces would require cutting two cables that run the entire length across the slab. Engineers would not allow this to take place as well as Insurance Companies would deny all future claims.
- The current side yard setback is 5 feet. With the variance requested there will be 3.7 feet. The variance would only be at 3.7 feet at the two fireplace locations and 5 feet everywhere else. This means that other than the length of the fireplaces, which is 5 feet long with one fireplace on each side of the structure, the entire length of the house will be at the required setback of 5 feet.



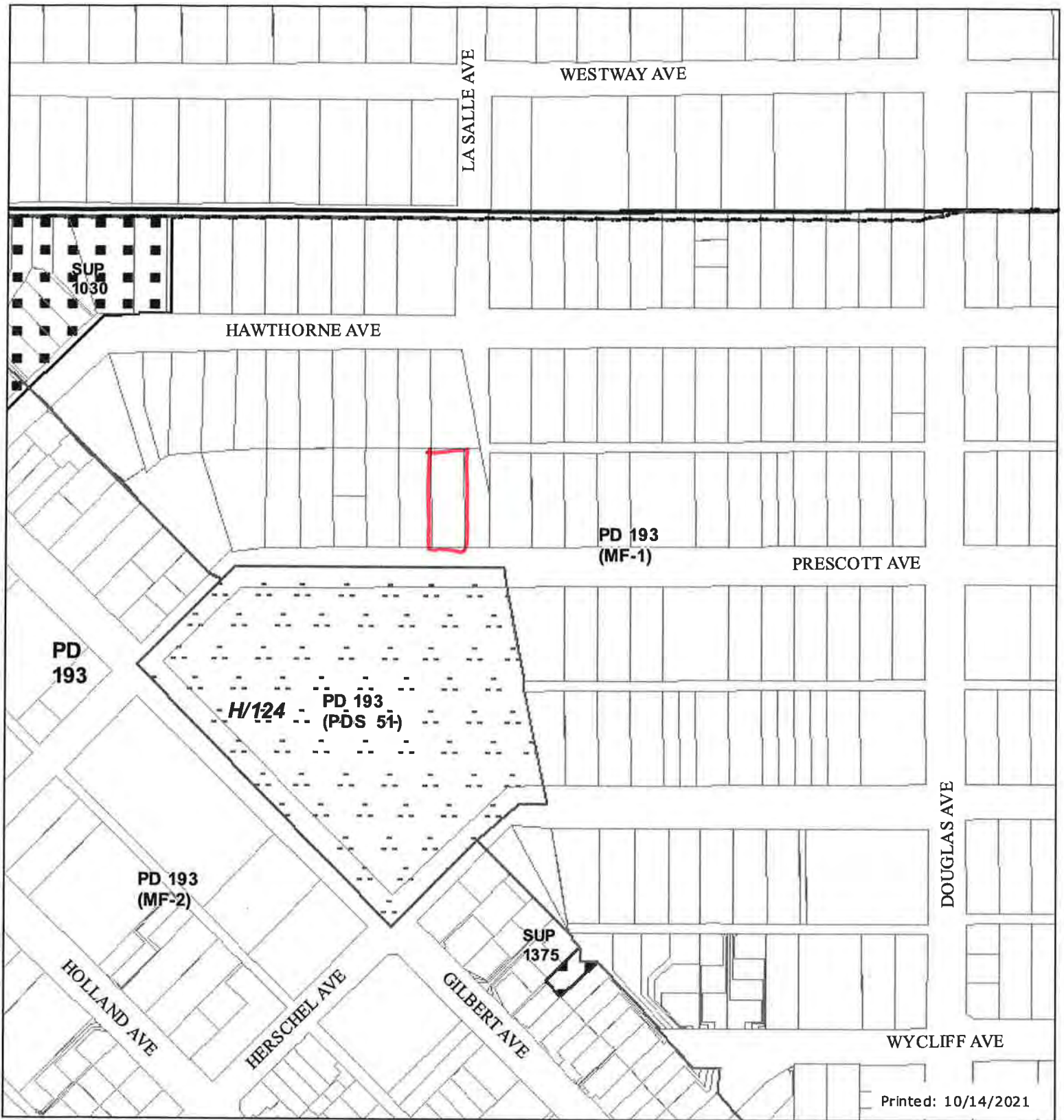
Printed: 10/14/2021

Legend

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

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





Legend

- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits | Railroad | Dry Overlay | CD Subdistricts |
| School | Certified Parcels | D | PD Subdistricts |
| Road/Plain | Base Zoning | D-1 | PDS Subdistricts |
| 100 Year Flood Zone | PD193 Oak Lawn | CP | NSO Subdistricts |
| Mill's Creek | Dallas Environmental Corridors | SP | NSO_Overlay |
| Peak's Branch | SPSPD Overlay | MD Overlay | Escarpment Overlay |
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| Parks | SUP | Historic Overlay | Shop Front Overlay |
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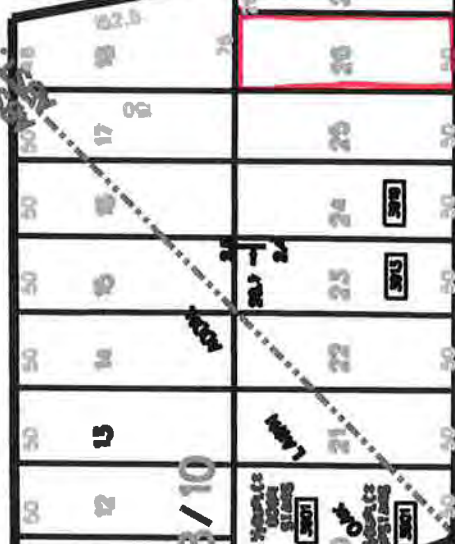


8 HAWTHORNE

3600

WEST 281ST LOT 17

(SECOND)

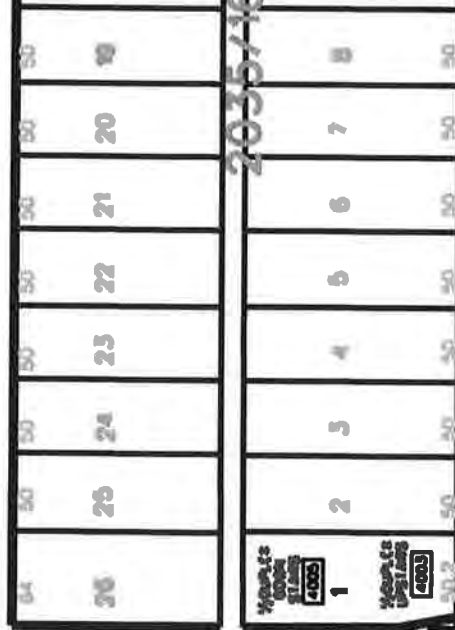


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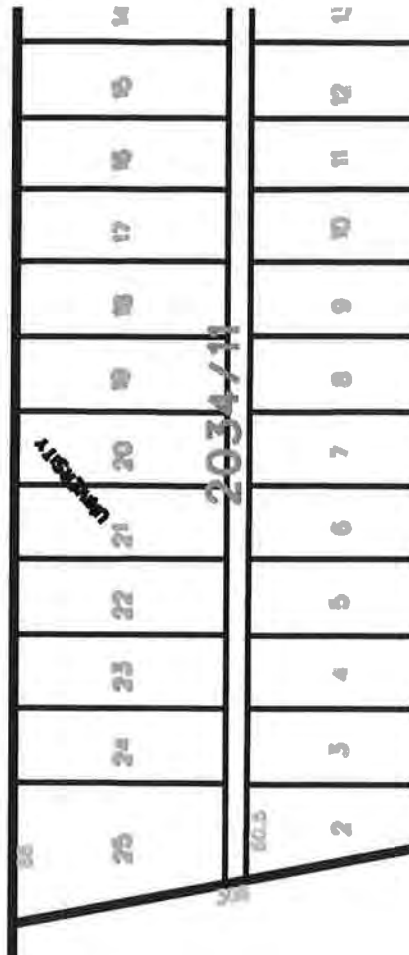


8 PRESCOTT

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STEPHEN J. WAY SCHOOL

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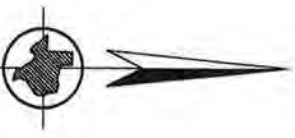
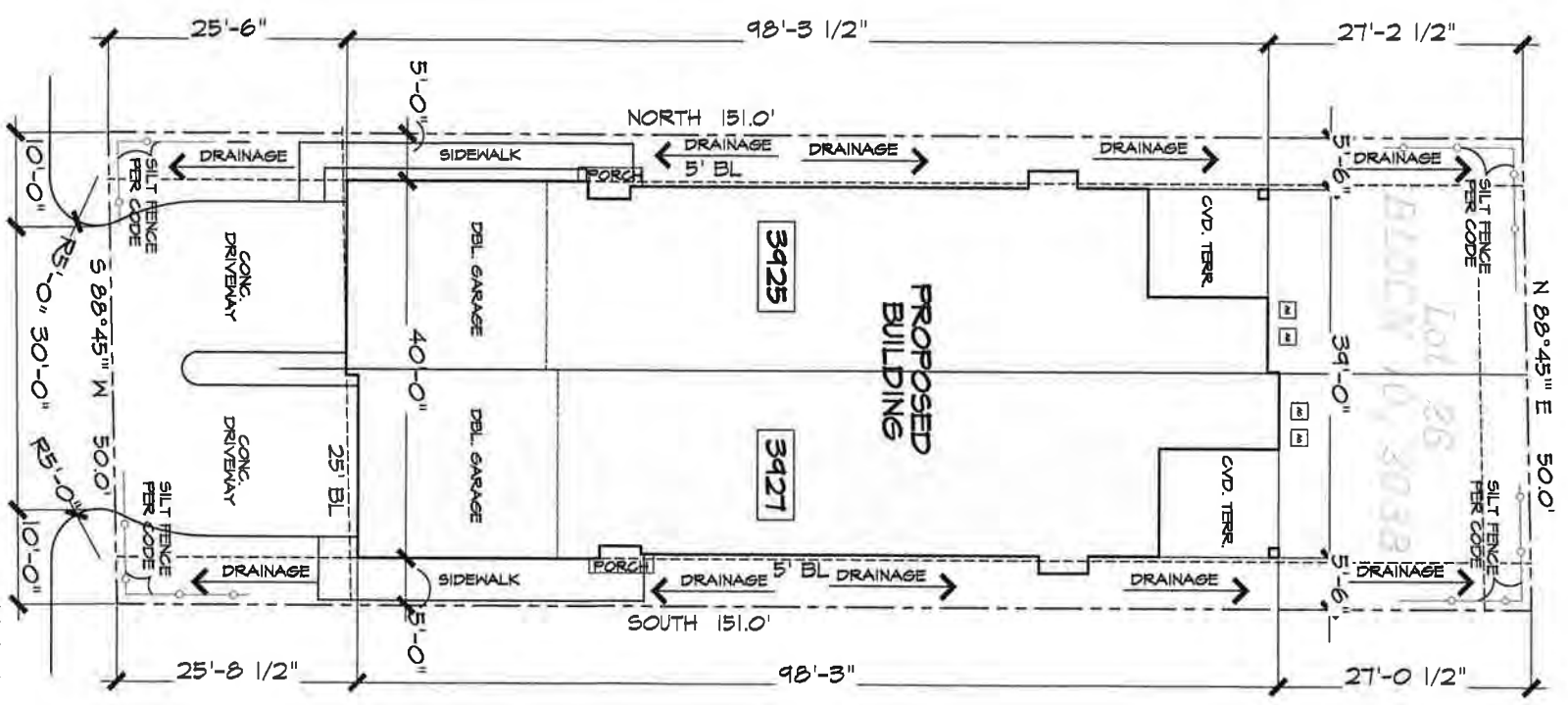
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3925-3927 PRESCOTT AVE.

PLOT PLAN

LOT: 26 BLOCK: 10/2038
 North Oak Lawn Addition, Dallas TX
 3925-3927 Prescott Ave
 Dallas, Texas

SCALE: 1" = 20'-0"
 JOB #220061
 DATE: 8/10/2020

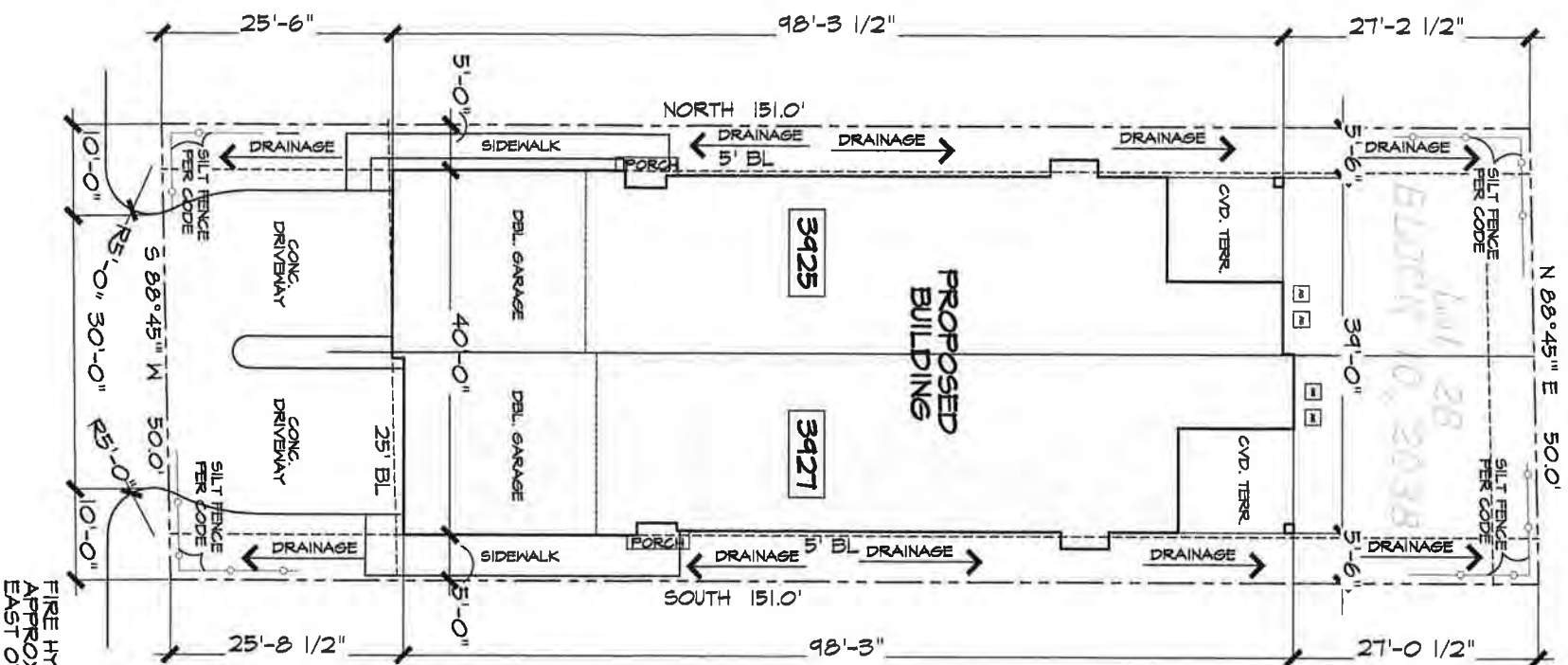
LOT AREA	= 7,548 SF
SLAB AREA	= 3,864 SF
COVERAGE	51.26%
NON-ROOFED AREA	3,679 S.F.
IMPERMEABLE COVERAGE	838 S.F. OR 22.78%



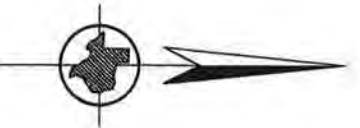
NO AIRDUCT OR HVAC EQUIPMENT WILL BE LOCATED IN GARAGE.

ZONING: PD 143 (MF-1) as per the City of Dallas Development Service and Zoning District.

FIRE HYDRANT →
 APPROX 50'
 EAST OF PROPERTY



3925-3927 PRESCOTT AVE.



PLOT PLAN

LOT: 26 BLOCK: 10/2038
 North Oak Lawn Addition, Dallas TX
 3925-3927 Prescott Ave
 Dallas, Texas

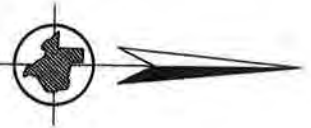
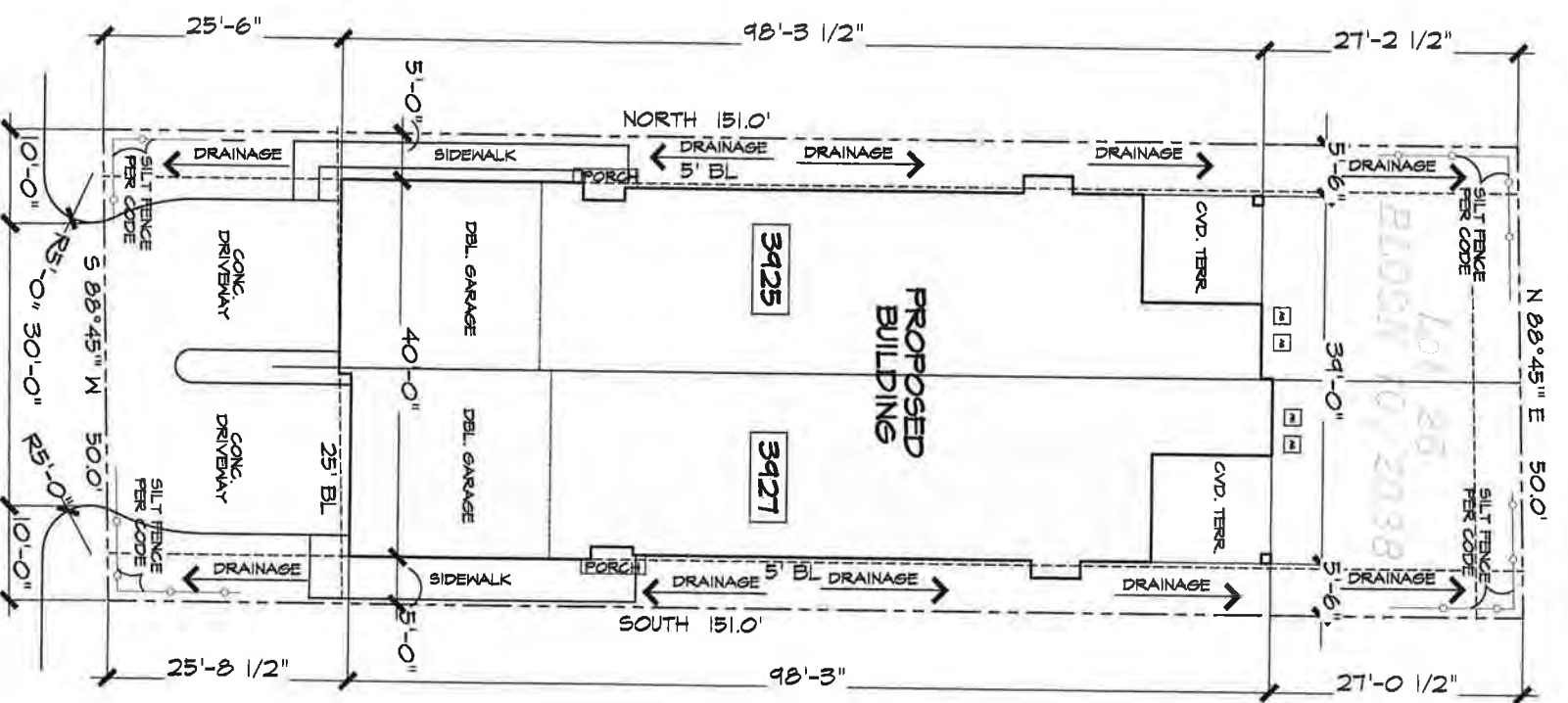
SCALE: 1"=20'-0"
 JOB #220061
 DATE: 8/10/2020

LOT AREA = 7548 SF
SLAB AREA = 3269 SF
COVERAGE 51.26%
NON-ROOFED AREA 3879 S.F.
IMPERMEABLE COVERAGE 838 S.F. OR 22.79%



NO AIRDUCT OR HVAC
 EQUIPMENT WILL BE
 LOCATED IN GARAGE.

ZONING: PD 143 (MF-1) as
 per the City of Dallas
 Development Service and
 Zoning District.



3925-3927 PRESCOTT AVE.

PLOT PLAN

LOT: 26 BLOCK: 10/2038
 North Oak Lawn Addition, Dallas TX
 3925-3927 Prescott Ave
 Dallas, Texas

SCALE: 1"=20'-0"
 JOB #220061
 DATE: 8/10/2020

LOT AREA	= 1548 SF
SLAB AREA	= 5264 SF
COVERAGES	51.26%
NON-ROOFED AREA	3,674 S.F.
INTERMEABLE COVERAGES	538 S.F. OR 22.19%



NO AIRDUCT OR HVAC EQUIPMENT WILL BE LOCATED IN GARAGE.

ZONING: PD 143 (MF-1) as per the City of Dallas Development Service and Zoning District.

FIRE HYDRANT →
 APPROX. 50'
 EAST OF PROPERTY

BDA201-116_ATTACHMENT_A

Variance Application: 3925 & 3927 Prescott

Cost of Compliance:

- The Cost To Correct the Encroachment is 119% of Current Value.
- Value of Construction - \$965,024.12
 - The Total Cost of the Structure is our Value for the Structure. No Profit or Value increase has been included.
 - \$121.75/ sq.ft. Under Roof - 7,926 sq.ft.
- Estimated Cost of Removing Encroachment - \$1,150,000.00
 - The Construction will be a total loss due to the negative effect on the foundation strength. Thus, the building and foundation will have to be demolished and built again with current pricing in material and labor cost as well as increased construction length. No Profit or Value increase has been added to the estimated cost to rebuild.
 - \$145.09/ sq.ft. Under Roof – 7,926 sq.ft.

Respectfully,



Dustin Lauderdale, Manager
Two Prescott Partners LLC

