

BOARD OF ADJUSTMENT, PANEL A
TUESDAY, MARCH 19, 2013
AGENDA

BRIEFING	ROOM 6/E/S, 1500 MARILLA STREET	11:00 A.M.
LUNCH		
PUBLIC HEARING	ROOM 6/E/S, 1500 MARILLA STREET	1:00 P.M.

David Cossum, Assistant Director
Steve Long, Board Administrator

MISCELLANEOUS ITEM

Approval of the Tuesday, February 19, 2013 Board of Adjustment Public Hearing Minutes	M1
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UNCONTESTED CASES

BDA 123-021	8200 Barbaree Boulevard REQUEST: Application of Leonel Moreno for a special exception to the fence height regulations	1
BDA 123-024	4103 Maple Avenue REQUEST: Application of Robert Baldwin for a special exception to the landscape regulations	2

REGULAR CASES

BDA 123-019	3905 Oak Lawn Avenue REQUEST: Application of Jon Cannon, represented by Henry Quigg, for a special exception to the landscape regulations	3
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BDA 123-028

2701 McKinney Avenue
REQUEST: Application of Herbert B. Story, Jr., represented by Michael R. Coker, for variances to the front yard setback and off-street parking regulations, and a special exception to the landscape regulations

EXECUTIVE SESSION NOTICE

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

1. seeking the advice of its attorney about pending or contemplated litigation, settlement offers, or any matter in which the duty of the attorney to the Commission/Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act. [Tex. Govt. Code §551.071]
2. deliberating the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.072]
3. deliberating a negotiated contract for a prospective gift or donation to the city if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.073]
4. deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing. [Tex. Govt. Code §551.074]
5. deliberating the deployment, or specific occasions for implementation, of security personnel or devices.. [Tex. Govt. Code §551.076]
6. discussing or deliberating commercial or financial information that the city has received from a business prospect that the city seeks to have locate, stay, or expand in or near the city and with which the city is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect. [Tex. Govt. Code §551.086]

(Rev. 6-24-12)

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel A, February 19, 2013 public hearing minutes.

FILE NUMBER: BDA 123-021

BUILDING OFFICIAL'S REPORT: Application of Leonel Moreno for a special exception to the fence height regulations at 8200 Barbaree Boulevard. This property is more fully described as Lot 17 in City Block B/7040 and is zoned R-1/2ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a 6-foot-high fence in a required front yard, which will require a special exception to the fence height regulations of 2 feet.

LOCATION: 8200 Barbaree Boulevard

APPLICANT: Leonel Moreno

REQUEST:

A special exception to the fence height regulations of 2' is requested in conjunction with constructing and maintaining a 5' high open metal fence with a 5' - 6' high arched open metal gate on a site that is currently developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

Site: R-1/2ac(A) (Single family district ½ acre)
North: R-1/2ac(A) (Single family district ½ acre)
South: PD 34 (Planned Development)
East: R-1/2ac(A) (Single family district ½ acre)
West: R-1/2ac(A) (Single family district ½ acre)

Land Use:

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

Zoning/BDA History:

- | | |
|---|--|
| 1. BDA 078-025, Property at 8176 Barbaree Boulevard (the lot immediately southwest of subject site) | On February 13, 2008, the Board of Adjustment Panel B granted a request to construct and maintain a 6' 4' high fence on the property. The board imposed the following condition: compliance with the submitted site plan, landscape plan, and elevation is required. The case report stated that the request was made for a fence to be constructed of cedar posts and galvanized steel wires, and that the fence was to stand at 6' 4" and the gate was to stand at 5' 6" high. |
|---|--|

Timeline:

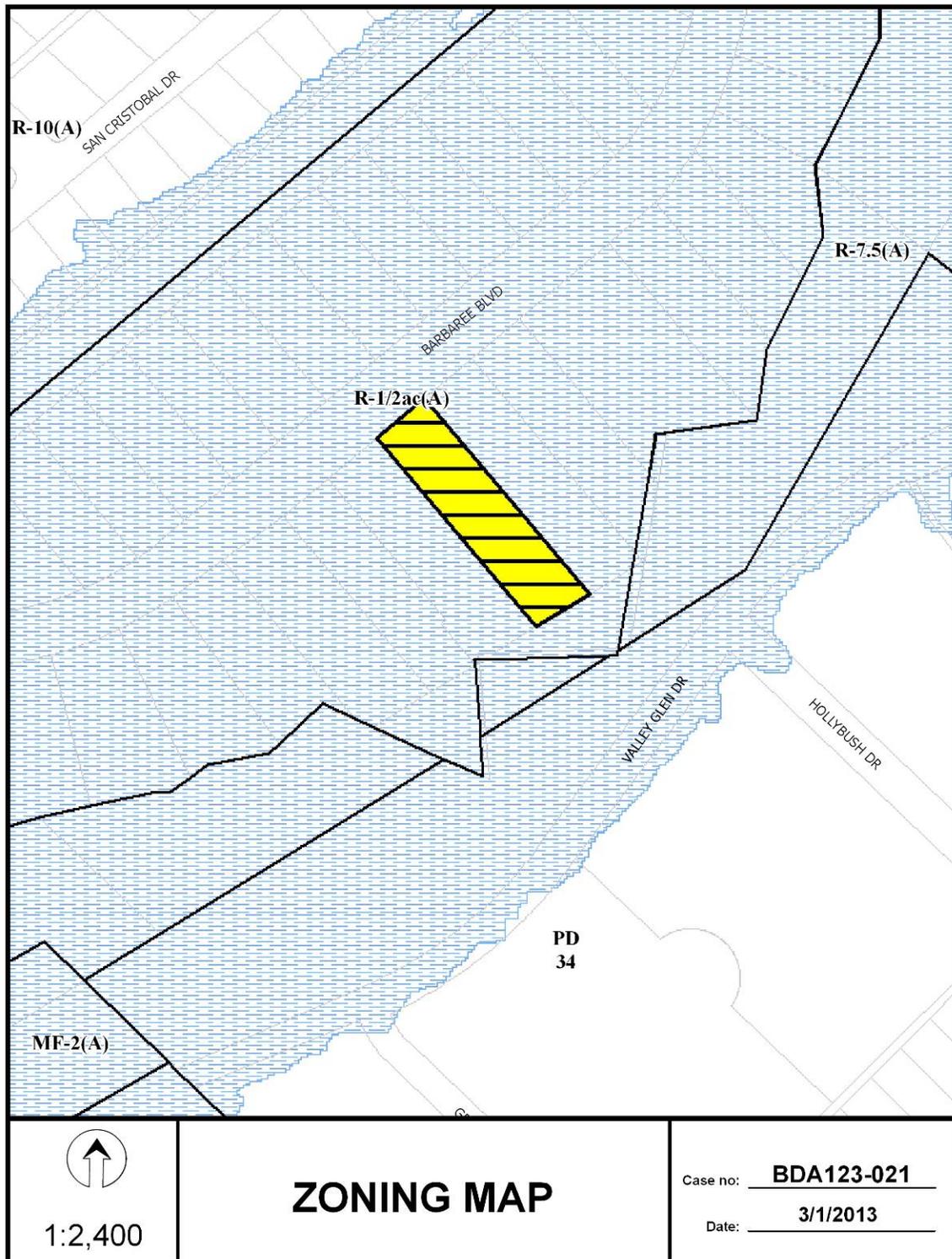
- January 24, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- February 13, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- February 19, 2013: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the February 29th deadline to submit additional evidence for staff to factor into their analysis; and the March 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the requests; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- March 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Planner, the Building Inspection Senior Plans

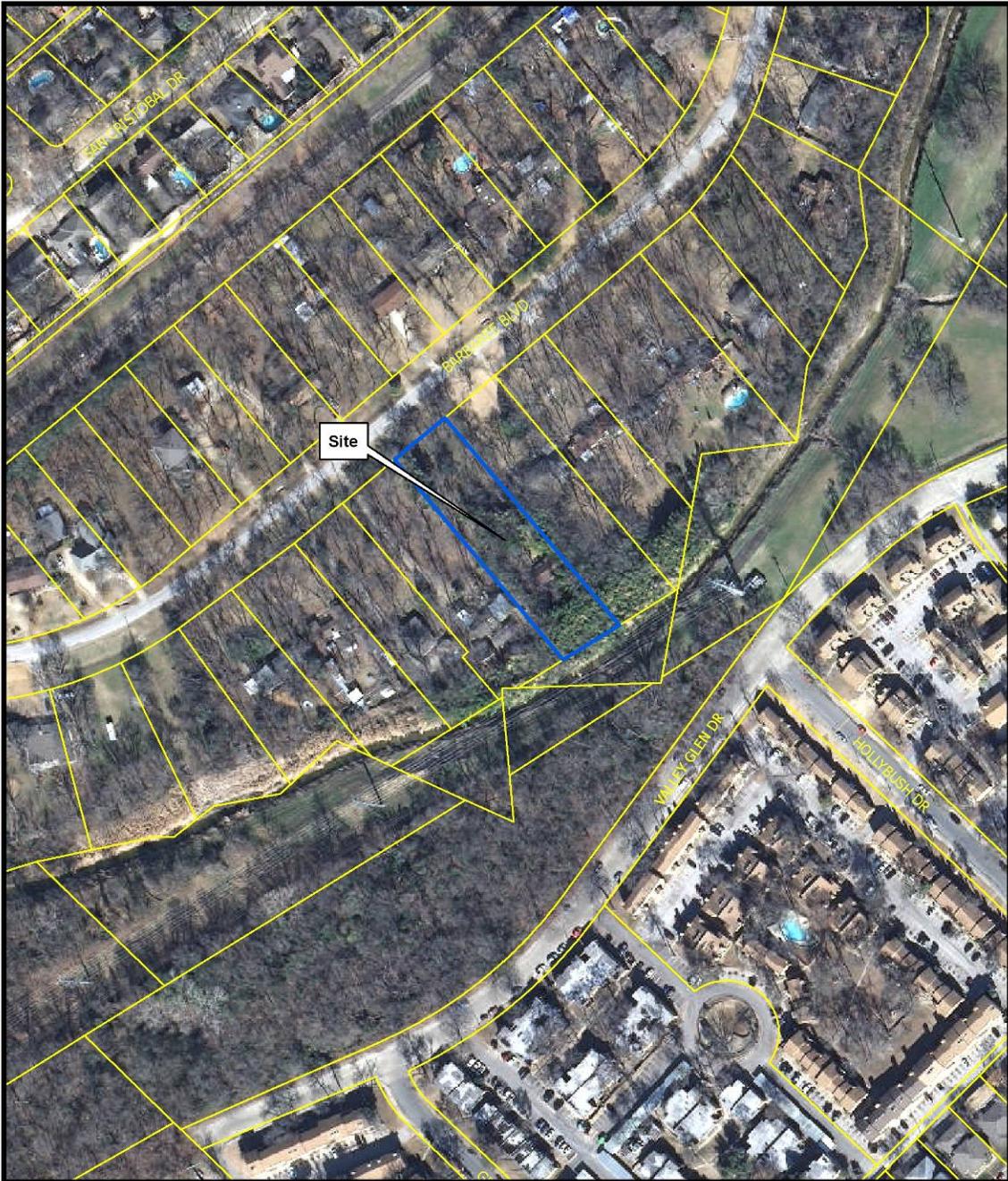
Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining a 5' open metal fence with a 5' - 6' high arched open metal gate on a site that is currently developed with a single family home.
- The Dallas Development Code states that a person shall not erect or maintain a fence in a required yard more than 9' above grade, and additionally states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant has submitted a site plan and partial fence and gate elevations of the proposal in the front yard setback that reaches a maximum height of 6'.
- The following additional information was gleaned from the submitted site plan:
 - The proposal located in the required front yard setback over 4' in height is represented on the site plan as being approximately 100' in length parallel to the street and approximately 26' perpendicular to the street on the north side of the site in the front yard setback.
 - The fence and gate are shown to be located approximately 14' from the site's front property line or approximately 52' from the pavement line.
- One single family home "fronts" to the existing fence on the subject site, a home with no fence in its front yard.
- The Board Administrator conducted a field visit of the site and surrounding area and noted one fence in a front yard setback. This noted fence was immediately southwest of the subject site and is approximately 5.5 feet high. This fence appears to be the result of a request for a fence height special exception granted by the Board of Adjustment Panel B in February of 2008: BDA 078-025.
- As of March 11, 2012, no letters have been submitted in support or opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 2' will not adversely affect neighboring property.
- Granting this special exception of 2' with a condition imposed that the applicant complies with the submitted site plan and partial elevations would require the proposal exceeding 4' in height in the front yard setback to be constructed and maintained in the location and of the heights and materials as shown on these documents.





1:2,400

AERIAL MAP

Case no: BDA123-021

Date: 3/1/2013



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-021

Data Relative to Subject Property:

Date: 1-24-13

Location address: 8200 Barbarsee Blvd Zoning District: R-1/220(A)

Lot No.: 17 Block No.: B/7040 Acreage: 0.94 Census Tract: 122.09

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

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Leonel Moreno + Victoria Moreno

Applicant: Leonel Moreno Telephone: 214-801-2281

Mailing Address: 8200 Barbarsee Blvd. Zip Code: 75228

Represented by: (self) Telephone: 214-801-2281

Mailing Address: 8200 Barbarsee Blvd Zip Code: 75228

Affirm that a request has been made for a Variance , or Special Exception of 2' is requested
in conjunction with maintaining a 6' high fence in the site's front yard
setback.

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

the special exception will not adversely affect neighboring property because
we are only asking for an additional 12ft setback from the original
property line out of the allowed 5ft setback. Also, our neighbors
currently have the same setback for their fence and gate and this does not
appear to be adversely affecting neighboring property.

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

Respectfully submitted: Leonel Moreno
Applicant's name printed
Victoria Moreno
Affidavit

Leonel Moreno / Victoria Moreno
Applicant's signature

Before me the undersigned on this day personally appeared Leonel Moreno + Victoria Moreno
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.

Leonel Moreno / Victoria Moreno
Affiant (Applicant's signature)

Subscribed and sworn to before me this 13th day of December, 2012
Christine B. Miramontes
Notary Public in and for Dallas County, Texas

(Rev. 08-20-09)



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

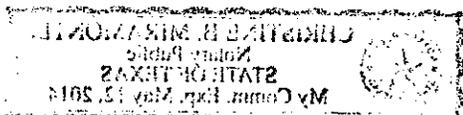
I hereby certify that Leonel Moreno

did submit a request for a special exception to the fence height regulations
at 8200 Barbaree Blvd.

BDA123-021. Application of Leonel Moreno for a special exception to the fence height regulations at 8200 Barbaree Blvd. This property is more fully described as Lot 17, Block B/7040 and is zoned R-1/2ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 6 foot high fence in a required front yard, which will require a 2 foot special exception to the fence regulation.

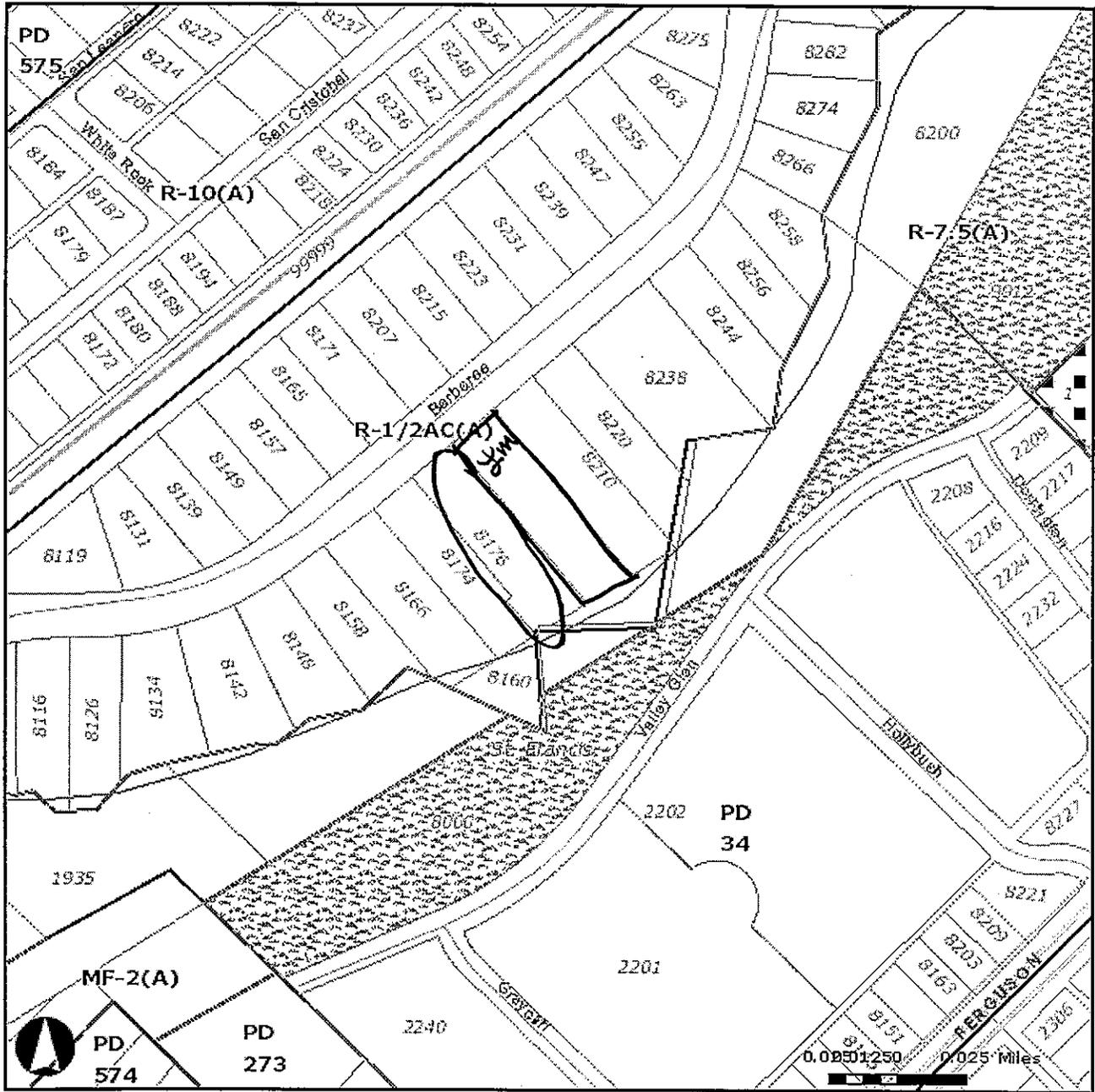
Sincerely,

Larry V. Holmes
Larry Holmes, Building Official



City of Dallas Zoning

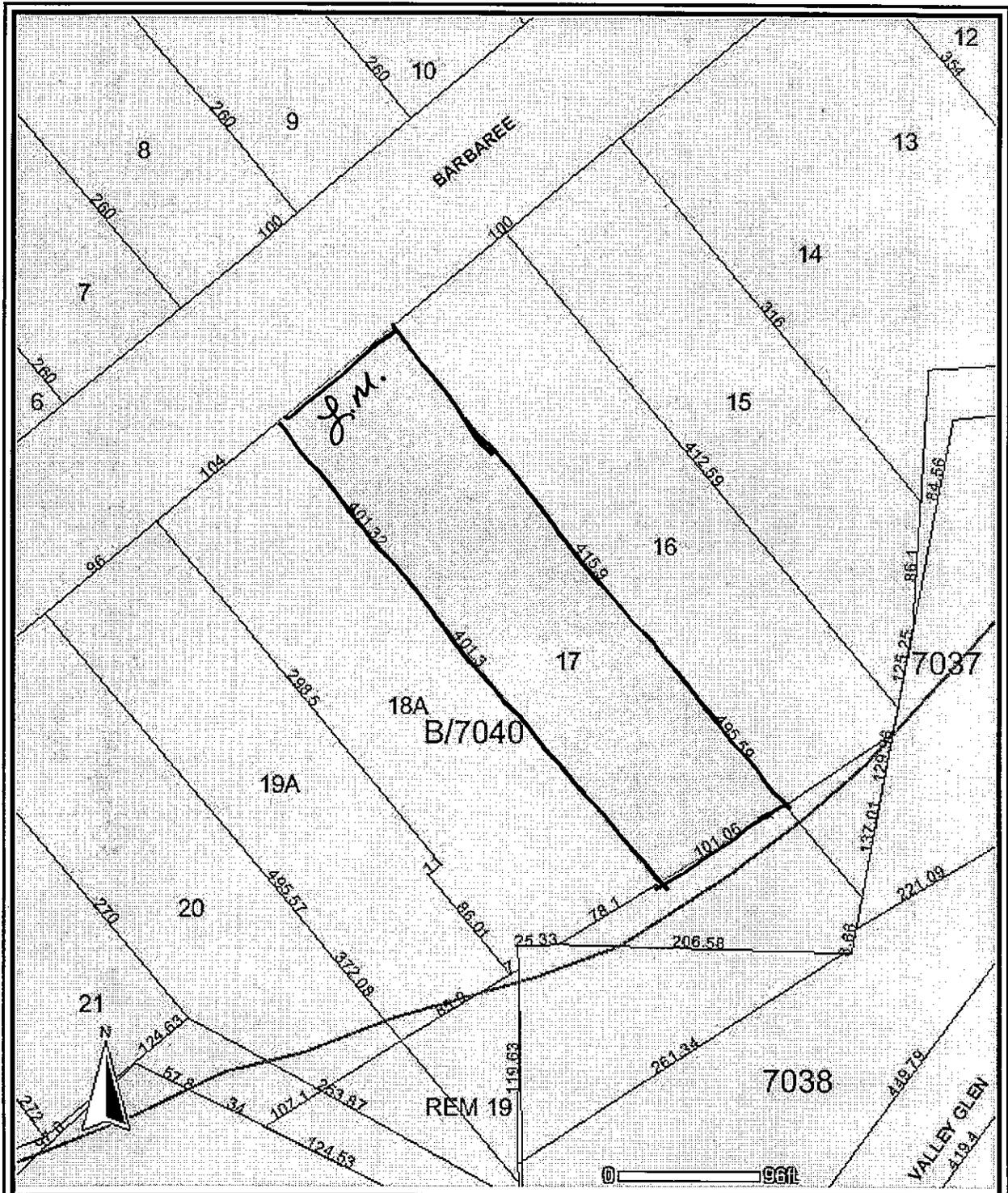
BDA 078-025 2-13-09 Part B



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

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

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



**Dallas Central
Appraisal District**
www.dallascad.org

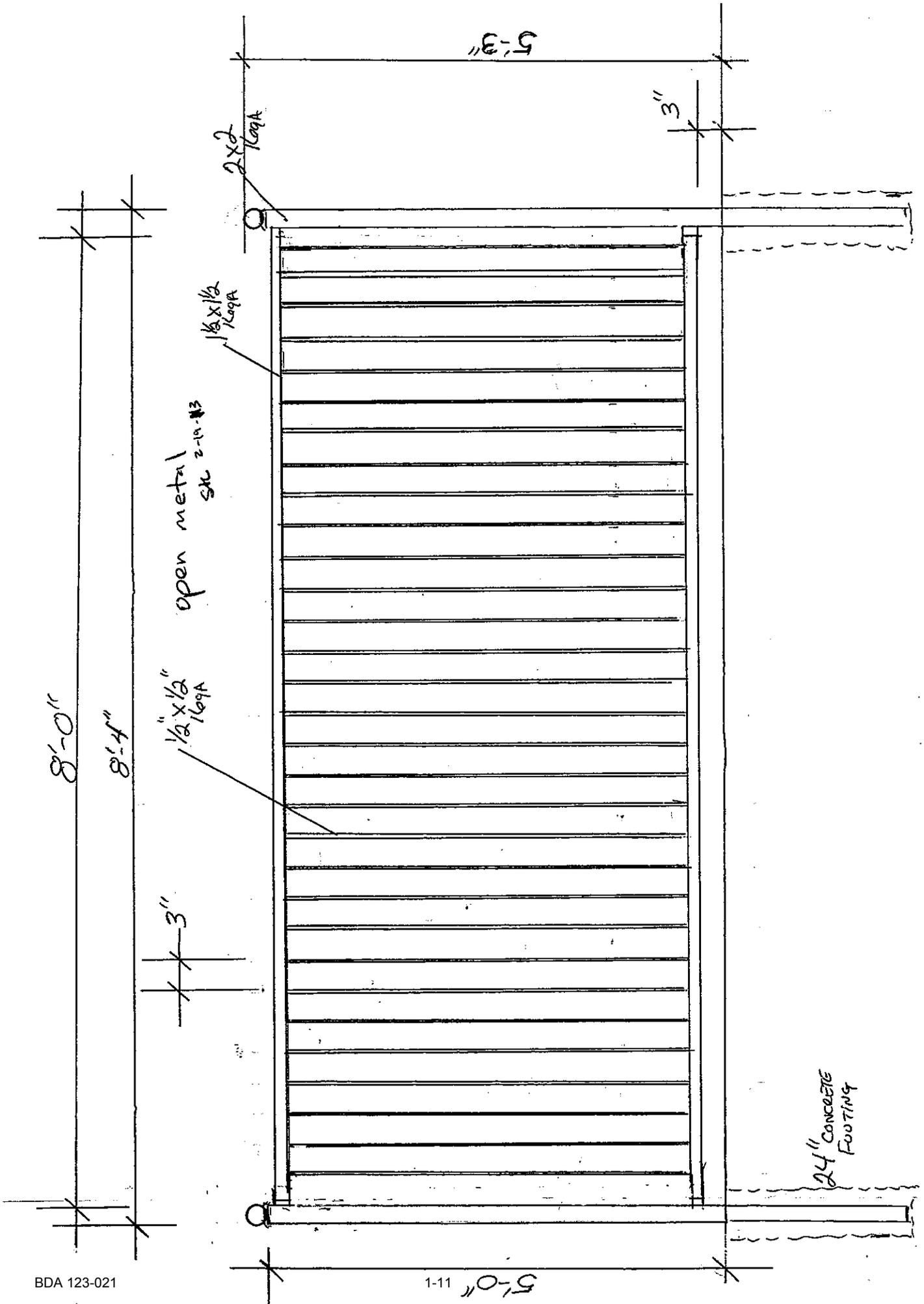
DISCLAIMER

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.

BARBARA BARBAREE

TYPICAL FENCE PANEL

SCALE 1" = 1'





 1:2,400	NOTIFICATION		Case no: BDA123-021
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">12</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 3/1/2013	

Notification List of Property Owners

BDA123-021

12 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	8200 BARBAREE BLVD	MORENO VICTORIA & LEONEL
2	8000 VALLEY GLEN DR	TEXAS UTILITIES ELEC CO % STATE & LOCAL
3	8165 BARBAREE BLVD	BAGLEY FRANCES S & THOMAS C ORR
4	8171 BARBAREE BLVD	DUKE CHARLES WILLIAM
5	8207 BARBAREE BLVD	BOATMAN KEN & REBECCA
6	8215 BARBAREE BLVD	STEVENSON SEAN & TAMI HARP
7	8223 BARBAREE BLVD	HOWARD BOBBIE SUE
8	8238 BARBAREE BLVD	LEWIS VERNON E JR & LISA L SIEVERS
9	8220 BARBAREE BLVD	ENGLAND MILLIE S
10	8210 BARBAREE BLVD	DANIEL CYNTHIA M
11	8176 BARBAREE BLVD	HICKOCK CHERYL L
12	8174 BARBAREE BLVD	VOGEL HELEN LOUISE

FILE NUMBER: BDA 123-024

BUILDING OFFICIAL'S REPORT: Application of Robert Baldwin for a special exception to the landscape regulations at 4103 Maple Avenue. This property is more fully described as Lot 1B in City Block A/1007 and is zoned PD 193(GR) and PD 262, which requires mandatory landscaping. The applicant proposes to construct and maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 4103 Maple Avenue

APPLICANT: Robert Baldwin

REQUEST:

A special exception to the landscape regulations is requested in conjunction with completing and maintaining all three phases of a mixed use development under development on the 12.5 acre subject site, and not fully meeting the required landscaping requirements of PD 193 on the portion of the site zoned PD 193.

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

Section 26(a)(4) of Ordinance No. 21859, which establishes PD 193, specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted landscape plan is required.

Rationale:

- The City's Chief Arborist recommends approval of this request whereby, if the submitted landscape plan is imposed as a condition, the special exception would not compromise the spirit and intent of the landscaping requirements of PD 193.
- The applicant only seeks exception to the PD 193 landscaping requirements time for completion, which would allow Phase II to be completed under the current approved plan, and Phase III to be completed under a separate future landscape plan. All aspects of the PD 193 landscaping requirements would be required.

BACKGROUND INFORMATION:

Zoning:

Site: PD 193 (GR) & PD 262 (Planned Development District, General Retail)
North: PD 193 (GR) (Planned Development District, General Retail)
South: PD 193 (I-2) (Planned Development District, Industrial)
East: PD 518 (Planned Development District)
West: PD 193 (I-2) (Planned Development District, Industrial)

Land Use:

The subject site is under development as a mixed use development. The areas to the north, south, and east are developed with a mix of office and retail uses; and the area to the west is the North Dallas Tollway.

Zoning/BDA History:

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

Timeline:

January 25, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 13, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

February 13, 2012: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 29th deadline to submit additional evidence for staff to factor into their analysis; and the March 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

February 26, 2013: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

February 27, 2013: The Sustainable Development and Construction Department Historic Senior Planner emailed the Board Administrator the

following comments: “portions of PD 262 also include historic overlays for Old Parkland Hospital and the Nurse’s Building” with “no other concerns.”

March 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

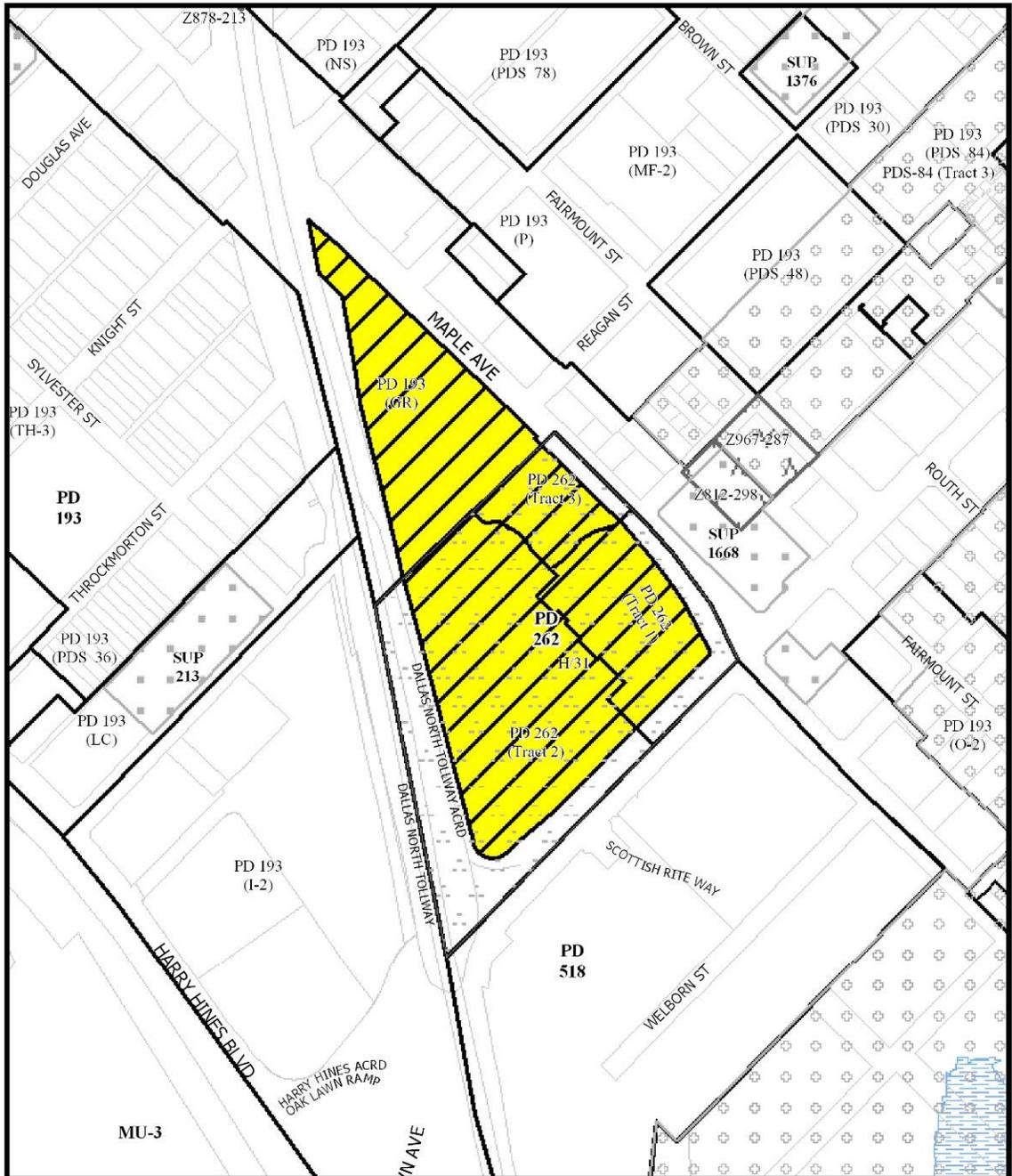
March 11, 2013: The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the request (see Attachment B).

GENERAL FACTS/ STAFF ANALYSIS:

- This request focuses on completing and maintaining all three phases of a mixed use development under development on the subject site, and not fully meeting the required landscaping requirements of PD 193 on the portion of the site zoned PD 193.
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.
- Section 126(b)(8) of the Oak Lawn Special Purpose District states that if a landscape plan is required under this section, all landscaping must be completed in accordance with the approved landscape plan before the final inspection of any structure on the lot or, if no final inspection is required, within 120 days of the date of issuance of the landscape permit.
- On March 11, 2013 the City of Dallas Chief Arborist submitted a memo to the Board Administrator (see Attachment B). The memo states among other things how the property on a single lot is currently under construction with permit; that the approved landscape plan demonstrates the site can currently comply with all PD 193 landscape regulations for the entire property but that a portion of the property (Phase III) will not be ready for development completion when another part of the site is ready for final inspections (Phase II).
- The Chief Arborist recommends approval of the request in that the only aspect of the landscape requirements that the applicant can not meet is the timing aspect of having all landscaping completed in accordance with an approved landscape plan before any structure on the lot within 120 days of the issuance of the landscape

permit. In this particular case, the special exception to this provision of the landscape requirements can be approved/granted by the Board since development of this 12.5 acre site will be completed in three phases. The applicant only seeks exception to allow for Phase III of the development to be completed under a separate future landscape plan that will comply with PD 193, allowing Phase II to be completed and inspected under the applicable construction area on the current approved plan.

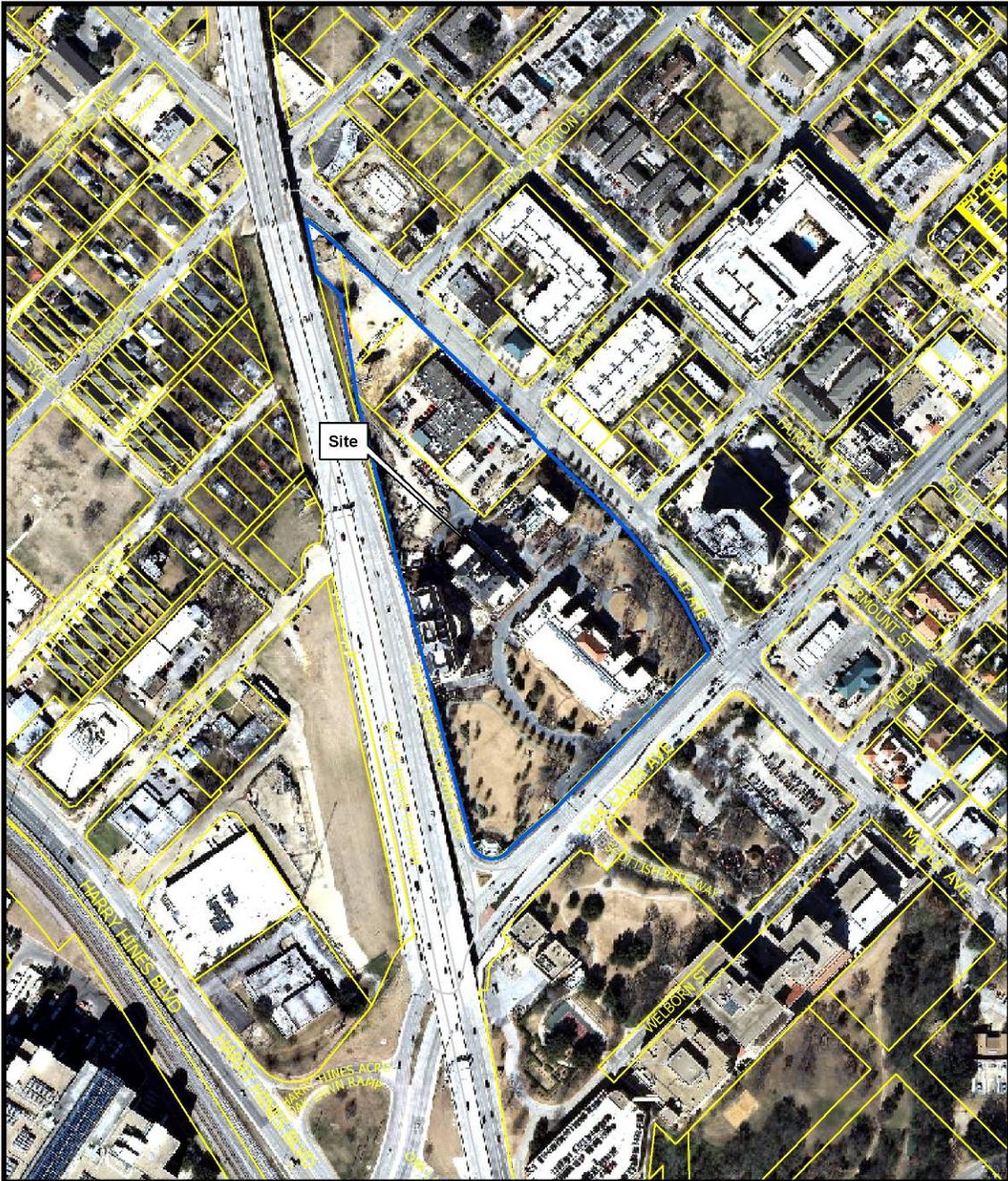
- The applicant has the burden of proof in establishing the following:
 - The special exception (where an alternate landscape plan has been submitted that is deficient in meeting the landscape completion timing aspect of the requirements of the PD 193 landscape regulations) will not compromise the spirit and intent of the section of the ordinance (Section 26: Landscape, streetscape, screening, and fencing standards).
- If the Board were to grant this request and impose the submitted alternate landscape plan as a condition, the site would be granted exception from the landscape completion timing aspect of the requirements of the Oak Lawn PD landscape ordinance.




 1:3,600

ZONING MAP

Case no: BDA123-024
 Date: 3/1/2013



1:3,600

AERIAL MAP

Case no: **BDA123-024**

Date: **3/1/2013**

BDA123-024
Attach A
P31

Baldwin
Associates

February 26, 2013

Mr. Steve Long
Board of Adjustment Administrator
City of Dallas
1500 Marilla
Dallas, Texas 75201

Re: BDA 123-024 - 4103 Maple Avenue

Dear Mr. Long:

This firm represents owner of the property known as 4103 Maple Avenue in their request to allow for an alternative-landscaping plan for this property. This property is also known as a portion of the Old Parkland Hospital property. The specific request is to allow additional time to install the required landscaping on the northern end of the Old Parkland property. The area that is subject to this request is shown as Phase III on the attached exhibit.

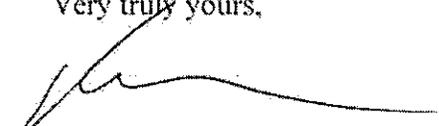
The Old Parkland property is comprised of several large office buildings all located on a single lot. The southern half of the property is located in PD-262, while the northern half is located in PD-193. The boundary line is at Reagan Street. All of the property north of Reagan Street must comply with the requirements of PD-193. The landscaping requirements in PD-193 do not allow for an "artificial lot" to be used when determining compliance with the landscaping requirements. An artificial lot allows the city to consider only the impacted portion of a lot to be landscaped rather than the entire lot.

In this case, TRT Holdings is building their new headquarters on a portion of the property located in PD-193. The TRT building is not located on a separately platted lot. Before the TRT headquarters building can be awarded a Certificate of Occupancy (CO), it has to be in total compliance with the requirements of PD-193. In order to come into total compliance, TRT will have to landscape their portion of the property, as well as all undeveloped property, located within the PD-193 portion of the Old Parkland Hospital site. There is a portion of the property that is located north of the TRT headquarters that is slated for the final phase of the Old Parkland Hospital development. We are seeking this request in order to not have to plant the required landscaping on this unbuilt portion of the site, as it will have to be removed when construction starts. We are not requesting any relief from the PD-193 landscaping requirements; we just don't want to have to put them in twice.

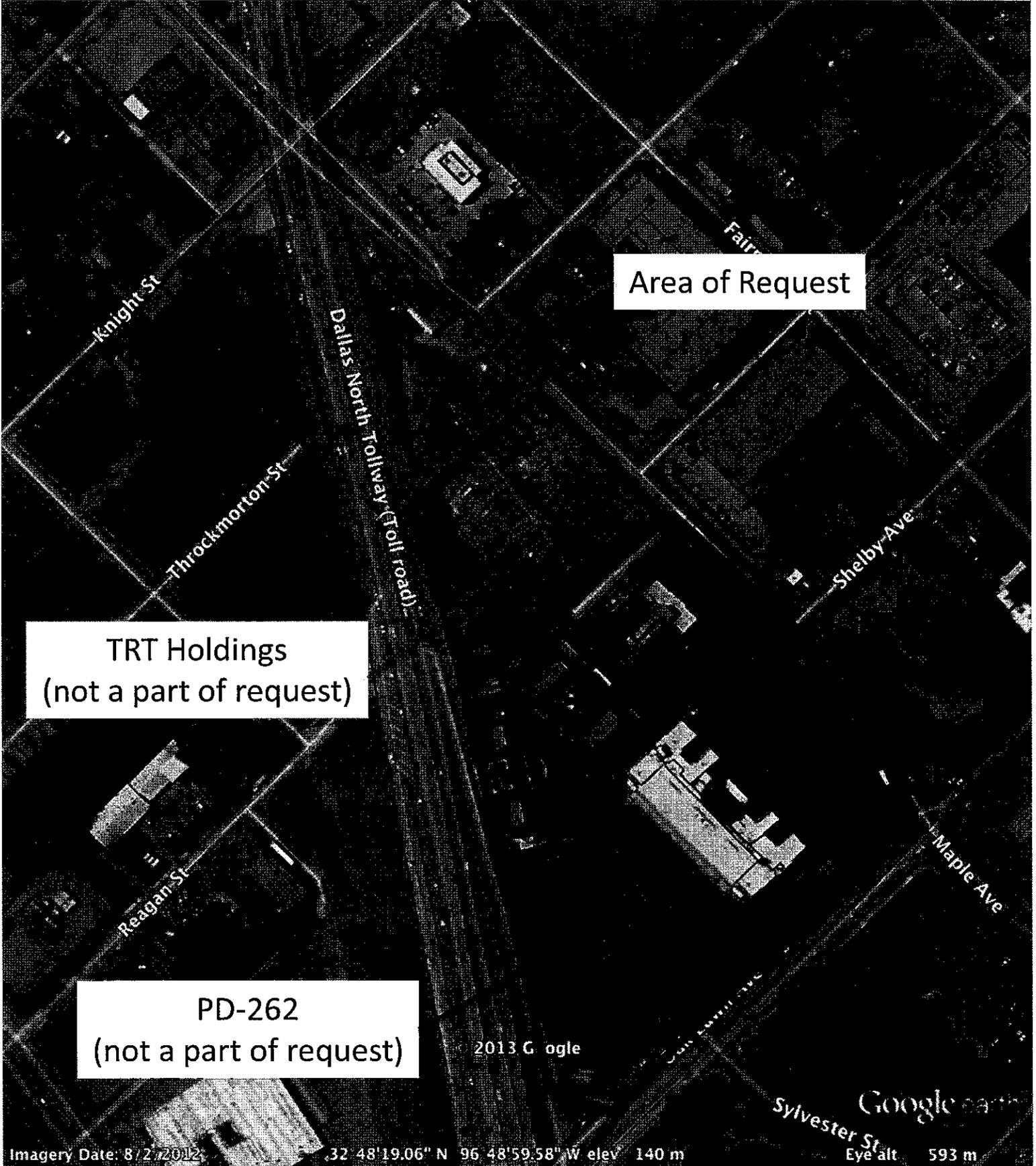
BDA123-024
Attach A
v32

Thank you for your assistance with this matter. If you have any questions or need any additional information, please do not hesitate to call me.

Very truly yours,



Robert B. Baldwin, AICP

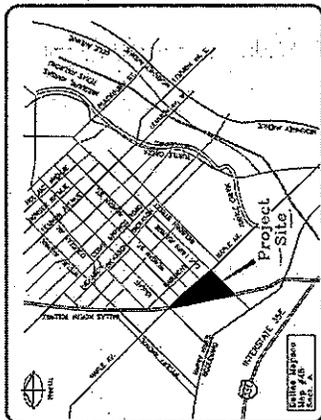


Area of Request

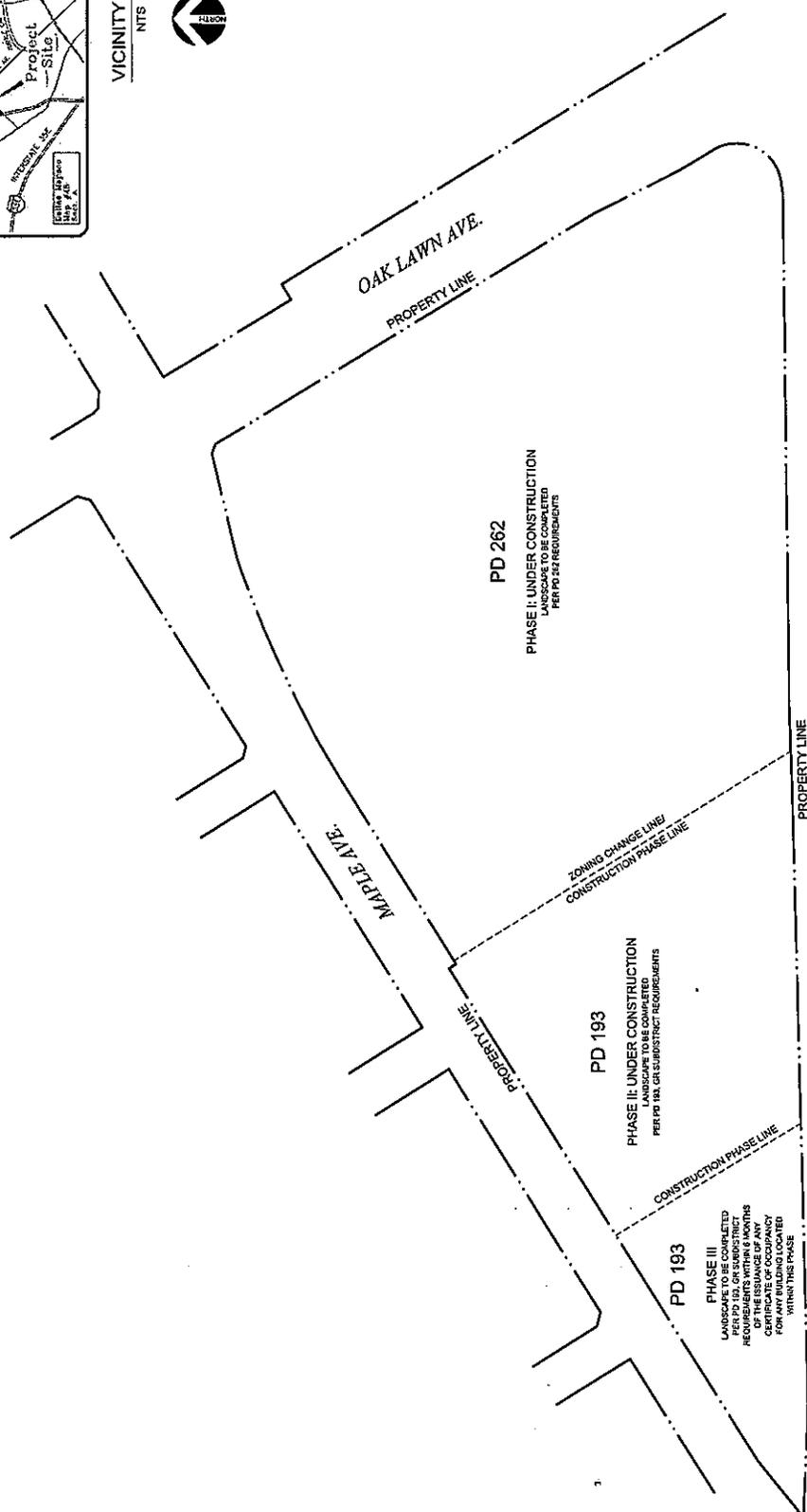
TRT Holdings
(not a part of request)

PD-262
(not a part of request)

BDA123-024
Sheet A
PJ 4



VICINITY MAP
NTS



PD 262

PHASE I: UNDER CONSTRUCTION
LANDSCAPE TO BE COMPLETED
PER PD 262 REQUIREMENTS

ZONING CHANGE LINE/
CONSTRUCTION PHASE LINE

PD 193

PHASE II: UNDER CONSTRUCTION
LANDSCAPE TO BE COMPLETED
PER PD 193 SUBDISTRICT REQUIREMENTS

CONSTRUCTION PHASE LINE

PD 193

PHASE III
LANDSCAPE TO BE COMPLETED
PER PD 193 SUBDISTRICT
REQUIREMENTS. THIS PHASE
REQUIRES THE ISSUANCE OF ANY
CERTIFICATE OF OCCUPANCY
FOR ANY BUILDING LOCATED
WITHIN THIS ZONE

DALLAS NORTH TOLLWAY



BDA LANDSCAPE PLAN
SCALE: 1" = 60'-0"



Memorandum



CITY OF DALLAS

DATE March 11, 2013
TO Steve Long, Board of Adjustment Administrator
SUBJECT # BDA 123 - 024 4103 Maple Avenue

The applicant is requesting a special exception to the landscape requirements of PD 193, the Oak Lawn Special Purpose District. Specifically, the applicant seeks a special exception to the general requirements of Section 51P-193.126(b)(8) for the completion of landscaping.

Trigger

New and future construction in PD 193(GR) district.

Deficiencies

The property on a single lot is currently under construction with permit. The approved landscape plan demonstrates the building site can currently comply with all PD 193 landscape regulations for the entire property. However, a portion of the property (Phase III) will not be ready for development completion when the Phase II portion of the property, currently under construction, is ready for final inspections.

Factors

The Oak Lawn Special District regulations, Section 51P-193.126(b)(8), states "if a landscape plan is required under this section, all landscaping must be completed in accordance with the approved landscape plan before the final inspection of any structure on the lot or, if no final inspection is required, within 120 days of the issuance of the landscape permit."

Under the current regulations, the landscaping for the undeveloped Phase III area, which shares a lot with Phase II, must be completed at the same time as the built Phase II area. The applicant seeks approval to allow for Phase III to be completed under a separate future landscape plan that will comply with PD 193(GR) regulations, and to allow Phase II to be completed, and inspected, under the applicable construction area on the current approved plan.

Recommendation

Approval.

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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: 123-024

Date: 1-25-13

Data Relative to Subject Property:

Location address 4103 Maple Ave. Zoning District: PD-193 (GR)

Lot No.: 1B Block No.: A/1007 Acreage: 12.47 acres Census Tract: 5.00

Frontage (in Feet): 1) 1350 2) 700 3) 1521 4) _____ 5) _____

SW22

To the Honorable Board of Adjustment:

Owner of Property/or Principal: North Maple, LLC & Maple Avenue BT, LLC

Applicant: Robert Baldwin Telephone: 214.824.7949

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

Represented By: Robert Baldwin Telephone: 214.824.7949

Mailing Address: 3904 Elm Street – Suite B Zip Code: 75226

Affirm that a request has been made for a Variance , or Special Exception X, of a special exception for an alternate landscape plan.

Application is now made to the Honorable Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described request for the following reason: The applicant is seeking to provide an alternate landscape plan that will postpone landscaping on the undeveloped section of the lot until the lot is deveopled.

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

Respectfully submitted: Robert Baldwin
Applicant's name printed

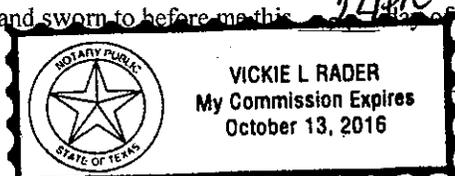
[Signature]
Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Robert Baldwin who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

[Signature]
Affiant (Applicant's signature)

Subscribed and sworn to before me this 24th day of January, 2013



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

(Rev. 08-20-09)

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

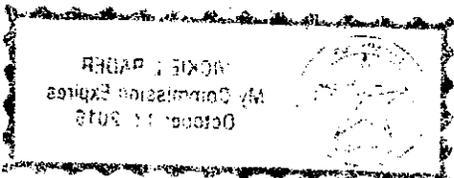
I hereby certify that ROBERT BALDWIN

did submit a request for a special exception to the landscaping regulations
at 4103 Maple Avenue

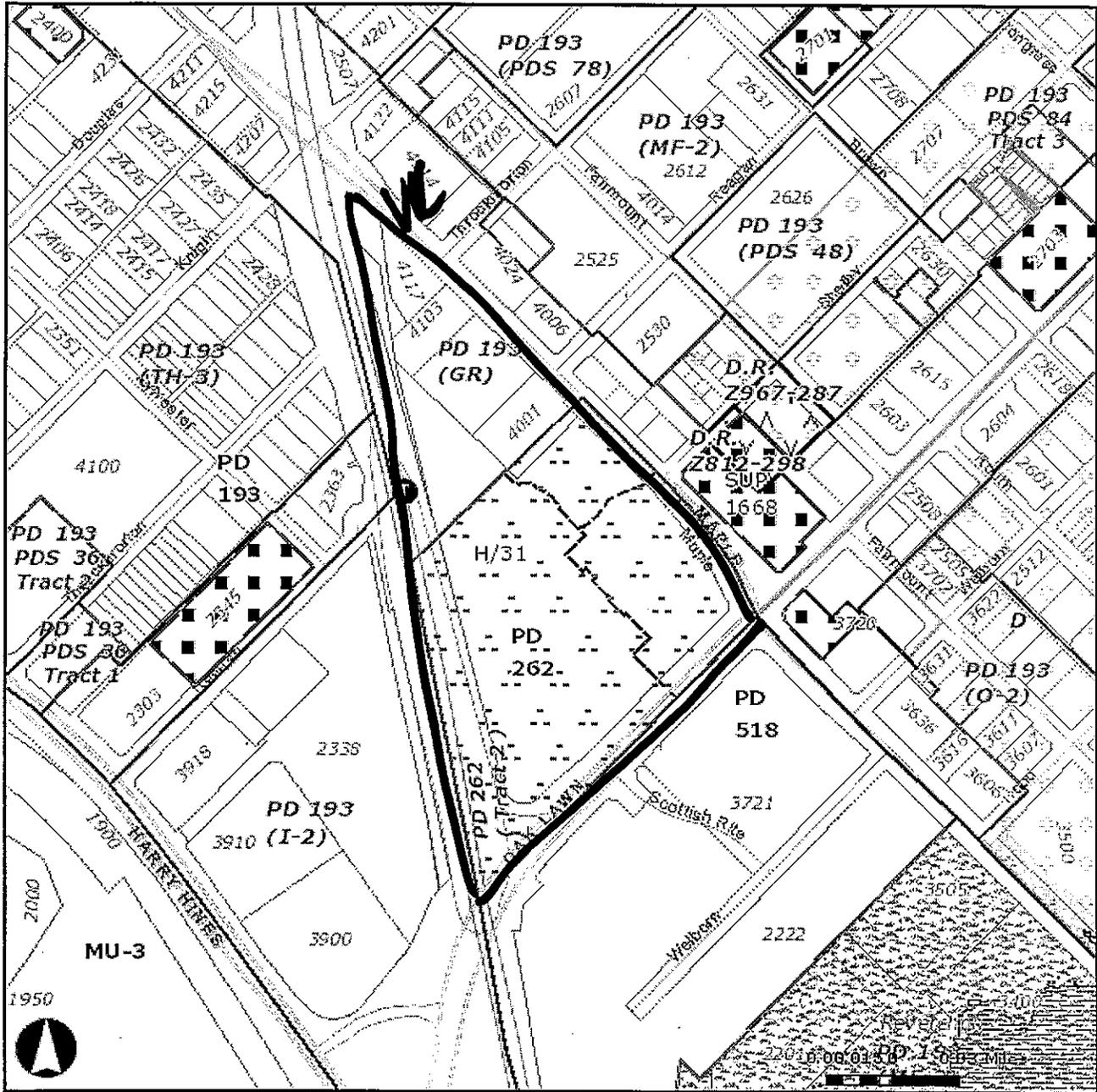
BDA123-024. Application of Robert Baldwin for a special exception to the landscaping regulations at 4103 Maple Avenue. This property is more fully described as Lot 1B, Block A/1007 and is zoned PD193(GR) and PD262, which requires mandatory landscaping. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

Sincerely,

Larry V. Holmes
Larry Holmes, Building Official



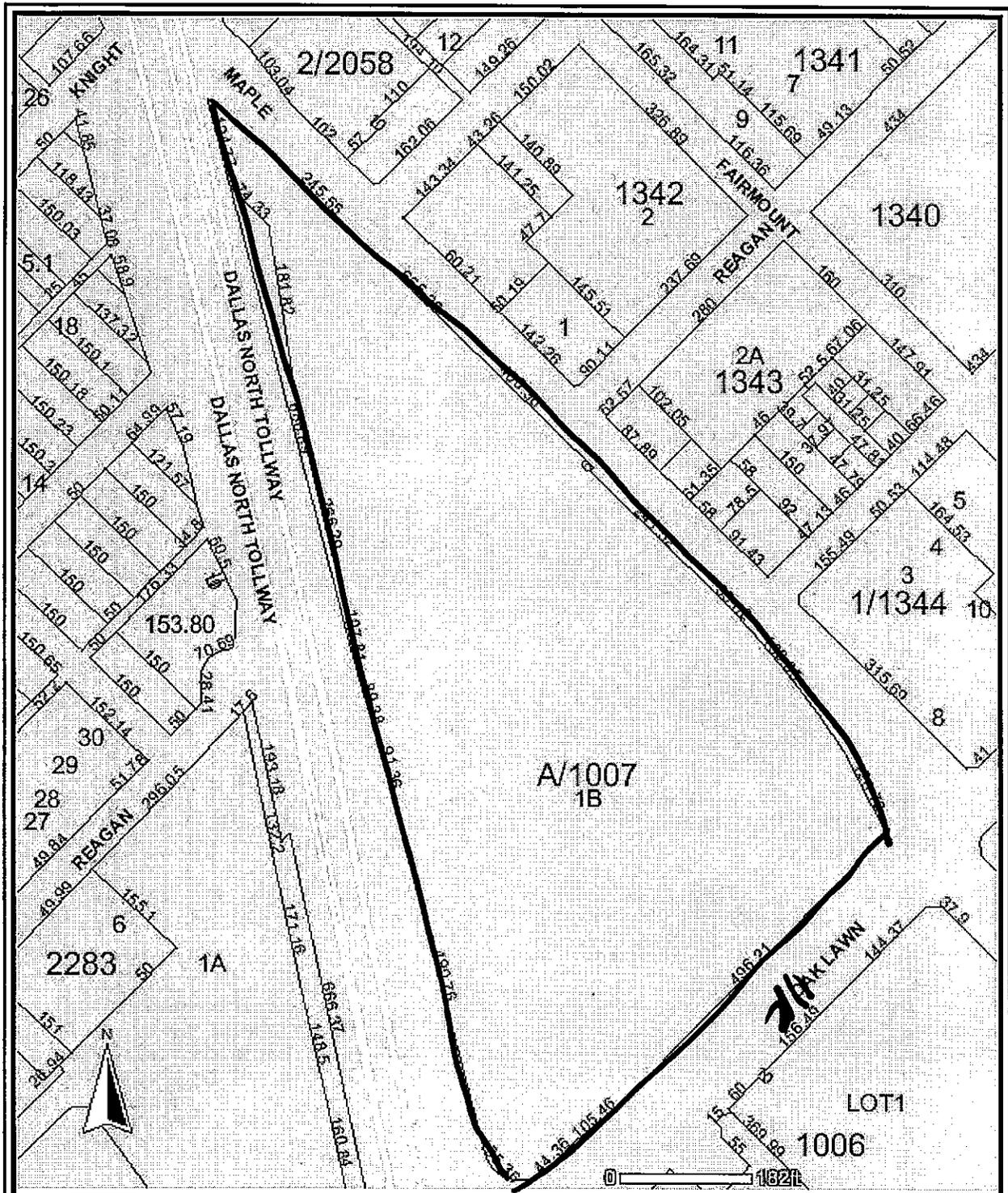
City of Dallas Zoning



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

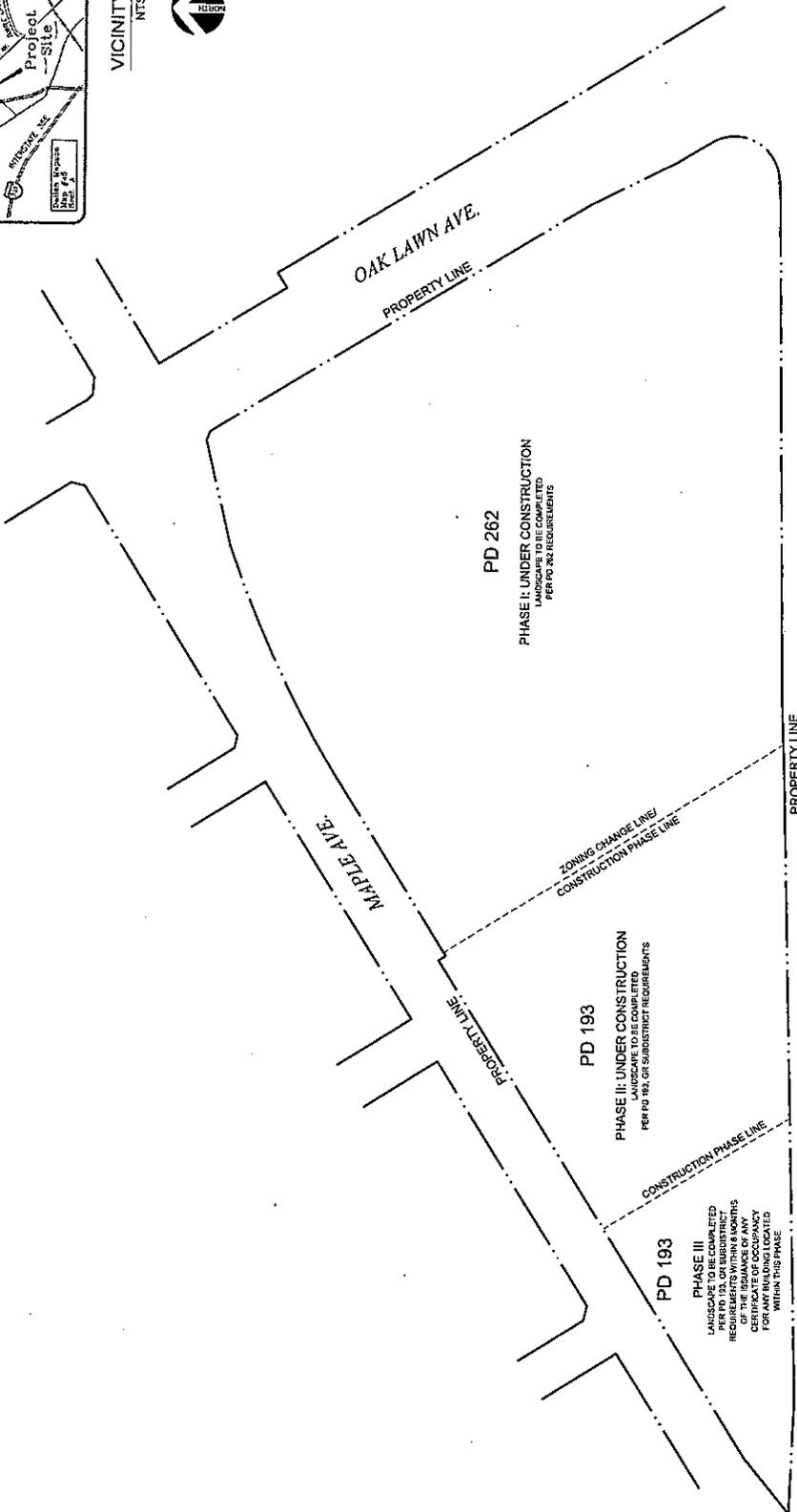
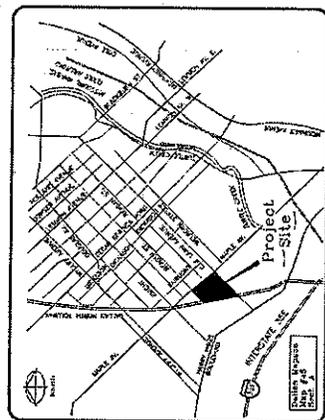
- Dry Overlay
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- PDS Subdistricts
- Base Zoning
- Floodplain
- 100 Flood Zone
- Mill's Creek
- Peak's Branch
- X PROTECTED BY LEVEE
- Pedestrian Overlay
- CP



**Dallas Central
Appraisal District**
www.dallascad.org

DISCLAIMER
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.



PD 262
PHASE I: UNDER CONSTRUCTION
LANDSCAPE TO BE COMPLETED
PER PD 262 REQUIREMENTS

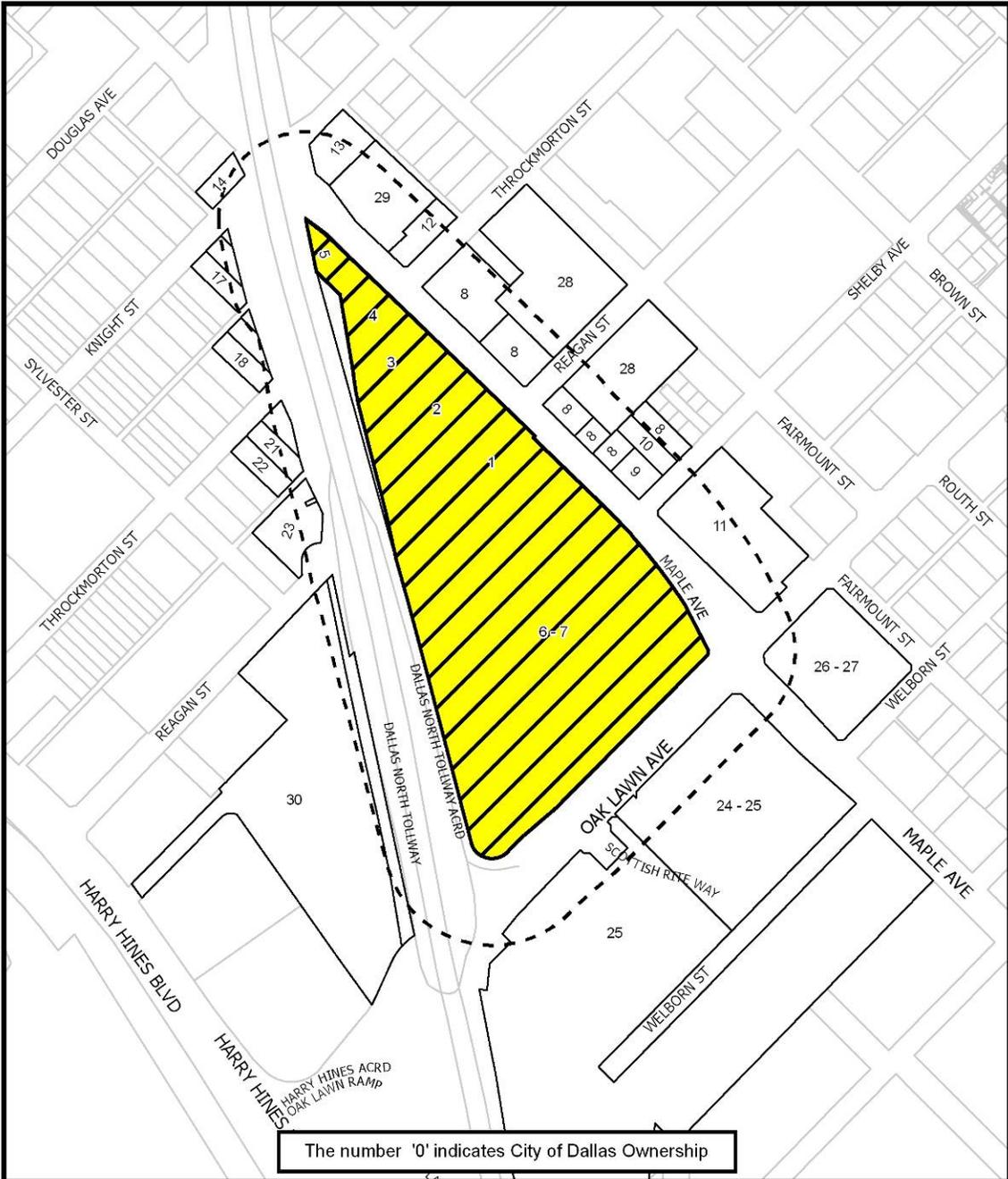
PD 193
PHASE II: UNDER CONSTRUCTION
LANDSCAPE TO BE COMPLETED
PER PD 193, OR SUBDISTRICT REQUIREMENTS

PD 193
PHASE III
LANDSCAPE TO BE COMPLETED
PER PD 193, OR SUBDISTRICT REQUIREMENTS
CERTIFICATE OF OCCUPANCY
FOR PHASE III TO BE ISSUED
WITHIN THIS PHASE

DALLAS NORTH TOLLWAY



BDA LANDSCAPE PLAN
SCALE: 1" = 60'-0"



 1:3,600	NOTIFICATION		Case no: BDA123-024
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">30</div> NUMBER OF PROPERTY OWNERS NOTIFIED		Date: 3/1/2013

Notification List of Property Owners

BDA123-024

30 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4001 MAPLE AVE	NORTH MAPLE LLC
2	4011 MAPLE AVE	4011 MAPLE LLC ATTN: ASST MGR - 4011 MAP
3	4103 MAPLE AVE	NORTH MAPLE LLC % ASSET MANAGER
4	4117 MAPLE AVE	SOUTH TOLLWAY 3920 LP C/O MANDY LEMMOND
5	4117 MAPLE AVE	MAPLE AVENUE BT LLC C/O MANDY LEMMOND
6	3819 MAPLE AVE	OLD PARKLAND UNIT A LLC
7	3963 OAK LAWN AVE	TRT OLD PARKLAND LLC
8	4024 MAPLE AVE	SOUTH TOLLWAY 3920 LP
9	3902 MAPLE AVE	PAPPAS JASON &
10	2507 SHELBY AVE	PAPPAS HARRIS PROPERTIES LLC
11	2501 OAK LAWN AVE	GAEDEKE HOLDINGS II LTD STE 500
12	4100 MAPLE AVE	BALLAS VICTOR
13	4122 MAPLE AVE	TECHNICALLY SCOTTISH I LTD
14	4203 MAPLE AVE	YO EL RIO NILO
15	2440 KNIGHT ST	MATISE HOYT R
16	2438 KNIGHT ST	GARCIA PATRICIA ANN
17	2434 KNIGHT ST	SOSA FERNANDO & DORA H
18	2427 THROCKMORTON ST	GARRISON RICHARD T
19	2431 THROCKMORTON ST	SOLTES KAYLEE ET AL % RICHARD SOLTES
20	2429 THROCKMORTON ST	KUNOFSKY MORRIS TRUSTEE TRUST ASSETS
21	2418 THROCKMORTON ST	MEDRANO JOE N
22	2414 THROCKMORTON ST	RAMOS CLEMENTINA M
23	2363 REAGAN ST	PRESCOTT INTERESTS LTD STE 225
24	3721 MAPLE AVE	TEXAS SCOTTISH RITE HOSP
25	2312 OAK LAWN AVE	TEXAS SCOTTISH RITE HOSPITAL FOR CHILDRE
26	3720 OAK LAWN AVE	TEXAS SCOTTISH RITE HOSP % EXXON MOBIL C

2/28/2013

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	3716 MAPLE AVE	EXXON CORPORATION
28	2525 REAGAN ST	IMT CAPITAL SEVILLE LP SUITE 200
29	4114 MAPLE AVE	ASHMORE RETAIL PROPERTIES INC
30	2338 REAGAN ST	NORTH TEXAS TOLLWAY AUTHORITY

FILE NUMBER: BDA 123-019

BUILDING OFFICIAL'S REPORT: Application of Jon Cannon, represented by Henry Quigg, for a special exception to the landscape regulations at 3905 Oak Lawn Avenue. This property is more fully described as part of Lot 1 & 2 in City Block 4/1509 and is zoned PD-193 (GR), which requires mandatory landscaping. The applicant proposes to construct and maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 3905 Oak Lawn Avenue

APPLICANT: Application of Jon Cannon
Represented by Henry Quigg

REQUEST:

A special exception to the landscape regulations is requested in conjunction with constructing and maintaining an approximately 60 square foot elevator structure on a site developed with a two-story approximately 9,400 square foot office/retail use/structure (FedEx), and not fully providing required landscaping.

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

Section 26(a)(4) of Ordinance No. 21859, which establishes PD 193, specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

STAFF RECOMMENDATION:

Denial

Rationale:

- The applicant has not substantiated how granting this request would not compromise the spirit and intent of the landscaping requirements of PD 193.
- The City's Chief Arborist recommends that this request be denied because, while he recognizes how certain practical factors with limited construction and utility conflicts may restrict certain landscape improvements, a direct assessment could not be made between the culmination of minor improvements identified on the submitted alternate landscape plan and the purpose of the ordinance "to promote landscape/streetscape quality and appearance."

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	PD 193 (GR) (Planned Development District, General Retail)
<u>North:</u>	PD 193 (GR) (Planned Development District, General Retail)
<u>South:</u>	PD 193 (GR) (Planned Development District, General Retail)
<u>East:</u>	PD 193 (GR) (Planned Development District, General Retail)
<u>West:</u>	PD 193 (O-2) (Planned Development District, Office)

Land Use:

The subject site is developed with an approximately 9,400 square foot office/retail use/structure (FedEx) that according to DCAD was constructed in 1983. The areas to the north, south, east, and west are developed with a mix of office and retail uses.

Zoning/BDA History:

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

Timeline:

December 21, 2012: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 13, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

February 13, 2013: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 29th deadline to submit additional evidence for staff to factor into their analysis; and the March 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

March 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development

and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

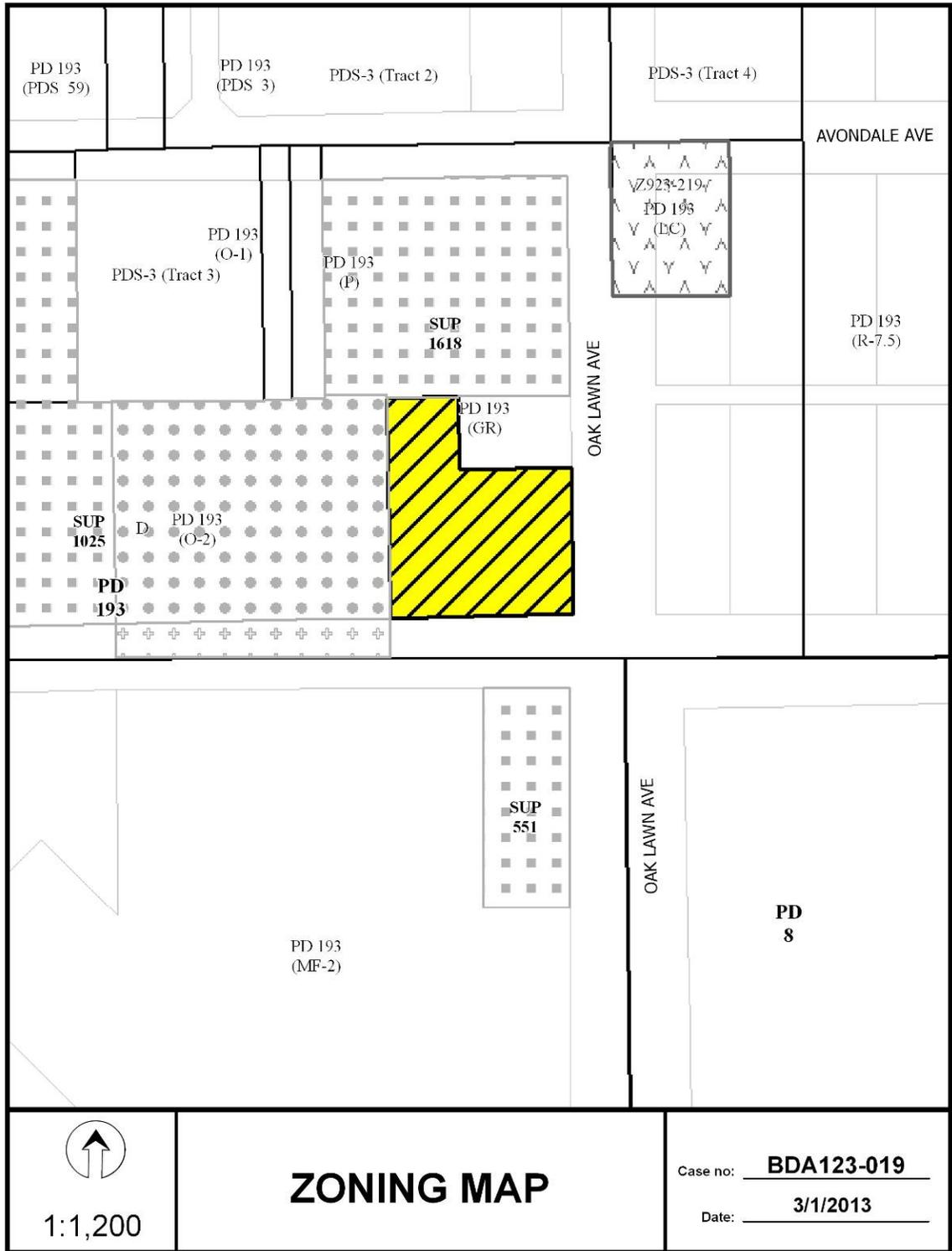
March 11, 2013: The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the request (see Attachment A).

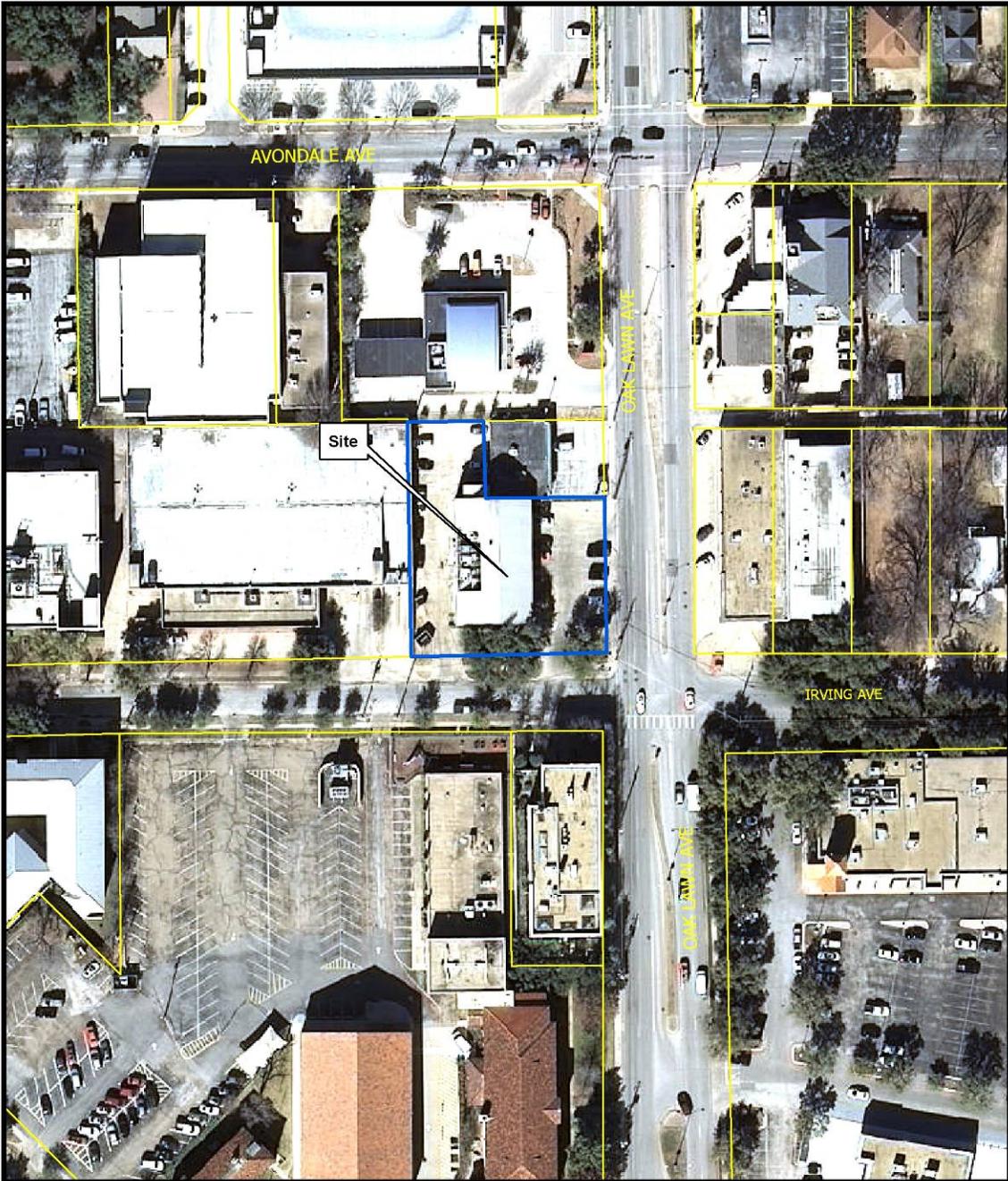
GENERAL FACTS/ STAFF ANALYSIS:

- This request focuses on constructing and maintaining an approximately 60 square foot elevator structure on a site developed with an early 80's, two-story approximately 9,400 square foot office/retail use/structure (FedEx), and not fully complying with the landscaping requirements of PD 193.
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.
- On March 11, 2013, the City of Dallas Chief Arborist submitted a memo to the Board Administrator regarding the submitted landscape plan/special exception request (see Attachment A).
- The Chief Arborist's memo stated among other things how the request is triggered by new construction of a new external elevator to the rear of the structure that will increase the floor area on the property, and how the applicant seeks exception from the from the general requirements for landscaping area for: 1) the tree planting zone (2.5' – 5' from back of curb); 2) sidewalks (location and width); 3) screening of off-street parking requirements; 4) garbage storage area landscaping; and 5) landscape site area/general planting area requirements.
- The Chief Arborists listed several factors for consideration on this request: the fact the property was developed prior to the initiation of PD 193 regulations; how some existing landscape areas along Irving Avenue are in the parkway and/or not identified; how the landscape area at the corner of Oak Lawn Avenue and Irving Avenue is being increased; how a large live oak tree at the street corner is proposed for removal; how a stand of three large live oaks along Irving Avenue provide substantial landscape site area; how overhead utility lines exist over the Oak Lawn Avenue sidewalk and tree planting zone; and how locating trees in the tree planting zone along Irving Avenue would put conflict with the canopies of mature live oak trees, and be near overhead power lines.
- The Chief Arborist recommends denial of request. The arborist states that while he recognizes certain practical factors with limited construction and utility conflicts may restrict certain landscape improvements, a direct assessment could not be made between the culmination of minor improvements identified on the submitted plan and the purpose of the ordinance "to promote landscape/streetscape quality and

appearance.” The arborist stated that he could not make a favorable recommendation on this request given the multiple deficiencies with limited mitigating landscape additions.

- The Chief Arborist recommends that if the Board supports the applicant’s request, that they impose not only the submitted alternate landscape plan as a condition, but also that “the garbage storage enclosure must be provided doors and landscaping in accordance with Section 51P-193.126(b)(11).”
- The applicant has the burden of proof in establishing the following:
 - The special exception (where an alternate landscape plan has been submitted that is deficient in meeting the tree planning zone, sidewalks, screening of off-street parking requirements, garbage storage area landscaping, and landscape site area/general planting area requirements of the PD 193 landscape regulations) will not compromise the spirit and intent of the section of the ordinance (Section 26: Landscape, streetscape, screening, and fencing standards).
- If the Board were to grant this request and impose the submitted landscape plan as a condition, the site would be granted exception from full compliance to the tree planning zone, sidewalks, screening of off-street parking requirements, garbage storage area landscaping, and landscape site area/general planting area requirements of the Oak Lawn PD 193 landscape ordinance.





1:1,200

AERIAL MAP

Case no: BDA123-019

Date: 3/1/2013

Memorandum



CITY OF DALLAS

DATE March 11, 2013

TO

Steve Long, Board of Adjustment Administrator

SUBJECT # BDA 123 - 019

3905 Oak Lawn Avenue

The applicant is requesting a special exception to the landscape requirements of PD 193 (GR), the Oak Lawn Special Purpose District. Specifically, the applicant seeks a special exception to the general requirements of Section 51P-193.126 landscape regulations for 1) tree planting zone, 2) sidewalks, 3) screening of off-street parking, 4) the garbage storage area landscaping, and for 5) the conditions for landscape site area and general planting area.

Trigger

New construction of a new external elevator to the rear of the structure that will increase the floor area ratio on the property.

Deficiencies

Based on the timing (pre-1986) of the initial construction on the property, the site is not currently under PD 193 landscape requirements. The new addition will initiate the current landscape code requirements on the property. The proposed plan addresses landscaping only at the Irving Avenue frontage and at the corner with Oak Lawn Avenue. The deficiencies include 1) tree planting zone, 2) sidewalks, 3) screening of off-street parking, 4) the garbage storage area landscaping, and 5) the general landscape site area requirements for GR districts.

The tree planting zone (193.126(b)(5)) for PD 193 requires one tree per 25 feet of frontage and planted between 2.5' and 5' from the back of curb. The plan identifies one existing small ornamental tree on Irving Avenue.

The sidewalk (193.126(b)(4)) is required to be a minimum of 6 feet wide, and placed between 5 and 12 feet from back of curb. The proposed sidewalk plan indicates the current sidewalk along Irving Avenue has 4 feet of width and is approximately 7' to 11' from curb. The Oak Lawn Avenue sidewalk is contiguous from the curb and extends into the property where it abuts a curb for vehicles that can overhang to the property line.

Screening of off-street parking (193.126(b)(3)) regulations require surface parking screening to be installed and maintained at 3.5 feet in height. Corner landscaping will provide some buffering but it will be inhibited by a visibility height limitation due to the visibility triangle, and the existing dumpster enclosure would act to screen parallel parking on the property's western boundary.

The proposed plan does not account for screening along the 120 feet frontage along Oak Lawn Avenue, but limitations of parking and maneuvering space may inhibit the installation of a three feet wide planting bed for screening. The ordinance does allow for solid wood or masonry screening elements, but these may also have limitations due to damage from vehicles that currently overhang the curb. Screening is not provided for the parking locations along Irving Avenue, though space would allow for a portion of the planting bed to be on the property.

Garbage storage area landscaping (193.126(b)(11)) is required when the storage area is within the required front yard. We have calculated a portion of the constructed masonry dumpster enclosure is within the 10' setback. The proposed plan indicates the storage area will be retained in its existing location. The area between the storage area and the property line is currently paved with no landscape improvements.

The GR districts require a landscape site area (193.126(h)) of 10% of the lot area, and 60% of the front yard. The front yard setback is 10' in the GR district. The proposed plan is deficient of these counts.

Required		Provided		
5 STREET TREES, BETWEEN 2.5' - 5' OF CURB		1 STREET TREES, 2.5.-5' FROM CURB		
6' SIDEWALK BETWEEN 5'-12' FROM BACK OF CURB		VAR. WIDTH SIDEWALK/4' WIDE SW, 7' BACK OF CURB		
AREA %'S IN SQFT	LANDSCAPE SITE AREA	GENERAL PLANTING AREA	SPECIAL PLANTING AREA	
LOT AREA	10%	na	na	
REQ'D FR YARD	60%	20% (of LSA)	6% (of GPA)	
	Required	Provided	Required	Provided
LOT AREA	2160	572	NA	NA
REQ'D FR YARD	1194	572	238	224

Factors

The property was developed prior to initiation of PD 193 regulations.

Existing landscape areas are in the parkway on Irving Avenue adjacent to the property. Some existing plants west of the driveway are not identified on the landscape plan.

The proposed plan increases the landscape area at the corner of Irving Avenue and Oak Lawn (beneath the existing sign) without reducing parking spaces. The landscape appearance will be modified to fill the landscape site area with appropriate plant materials.

The large live oak tree at the street corner is proposed for removal for the purpose of preventing the continual maintenance and topping of the tree due to overhead utilities. A new 2" caliper Texas ash tree is proposed a few feet further away from the property boundary. I am reluctant to address the removal of existing street trees, but the current location for the large tree is not appropriate for the long-term health of the tree in proximity to the utilities. I must acknowledge that the tree still does provide a visual

buffering element and shade on that street corner, but the tree is also deficient a substantial amount of canopy due to an ongoing aerial space conflict with the utilities. There is an existing on-premise sign in that location, but the applicant did not indicate any intent by the owner of removing the tree for the purpose of sign clearance when we addressed the aerial utility conflict in my office. Introducing a new landscape design to this corner for the duration of this development may be a more practicable solution to repeated disfiguring of the tree by pruning or topping. However, the retention of the tree may be a factor the Board chooses to consider.

A stand of three large live oaks is currently along the Irving Avenue frontage near the structure and the location provides the substantial landscape site area currently on the property. These trees, and the surrounding landscape area, will be maintained in their current condition.

Overhead utility lines exist over the Oak Lawn Avenue sidewalk and tree planting zone. An underground storm water line also extends under the sidewalk. Planting trees within the required tree planting zone along Oak Lawn Avenue would be prohibited by the underground utility. Trees may be planted on the property, but existing parking would need to be sacrificed to provide adequate space for the tree, or trees.

Placing trees in the tree planting zone along Irving Avenue would put them in opposition to the canopies of the maturing live oak trees on the property, and place them near to overhead power lines.

Recommendation

I recommend denial of the proposed landscape plan.

The ordinance states the special exception is graded on how it 'will not compromise the spirit and intent' of Section 51P-193.126. Although I recognize certain practical factors with limited construction and utility conflicts that may restrict certain landscape improvements on the property and the adjacent parkway, I could not directly assess that the culmination of minor improvements identified on this plan have fully met a purpose of the ordinance 'to promote landscape / streetscape quality and appearance.' I have identified multiple deficiencies with limited mitigating landscape additions that weighed against a favorable recommendation from this office.

If the Board supports the applicant's request, I recommend the following condition be applied:

The garbage storage enclosure must be provided doors and landscaping in accordance with Section 51P-193.126(b)(11).

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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-019

Data Relative to Subject Property:

Date: 12/21/12

Location address: 3905 Oaklawn Avenue

Zoning District: PD193(GR)

Lot No.: 1&2 Block No.: 4/1509 Acreage: 21,600

Census Tract: _____

Street Frontage (in Feet): 1) 100' 2) 150' 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Oaklawn P&J LLC

Applicant: Jon Cannon

Telephone: 214-223-8144

Mailing Address: 1421 Basil Dr, Flower Mound, TX

Zip Code: 75028

E-mail Address: jongcannon@verizon.net

Represented by: Henry Quigg

Telephone: 972-484-5977

Mailing Address: 12200 Stemmons Fwy #317

Zip Code: 75234

E-mail Address: hq@rg-arch.com

Affirm that an appeal has been made for a Variance or Special Exception X of Landscaping requirement due to building addition required under PD-193

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 existing property is being improved by adding an external elevator for access to the second floor, under PD-193 any addition to the building area requires compliance with current landscaping the sites current development and constraints prohibit meeting these requirement without the lose of parking and/or building area.

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

Jon Cannon

(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.

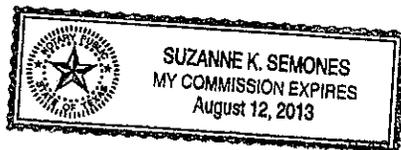
Respectfully submitted:

(Affiant Applicant's signature)

Subscribed and sworn to before me this 11 day of JANUARY (JON CANNON)

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

(Rev. 08-01-11)



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

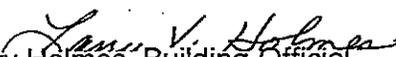
Chairman

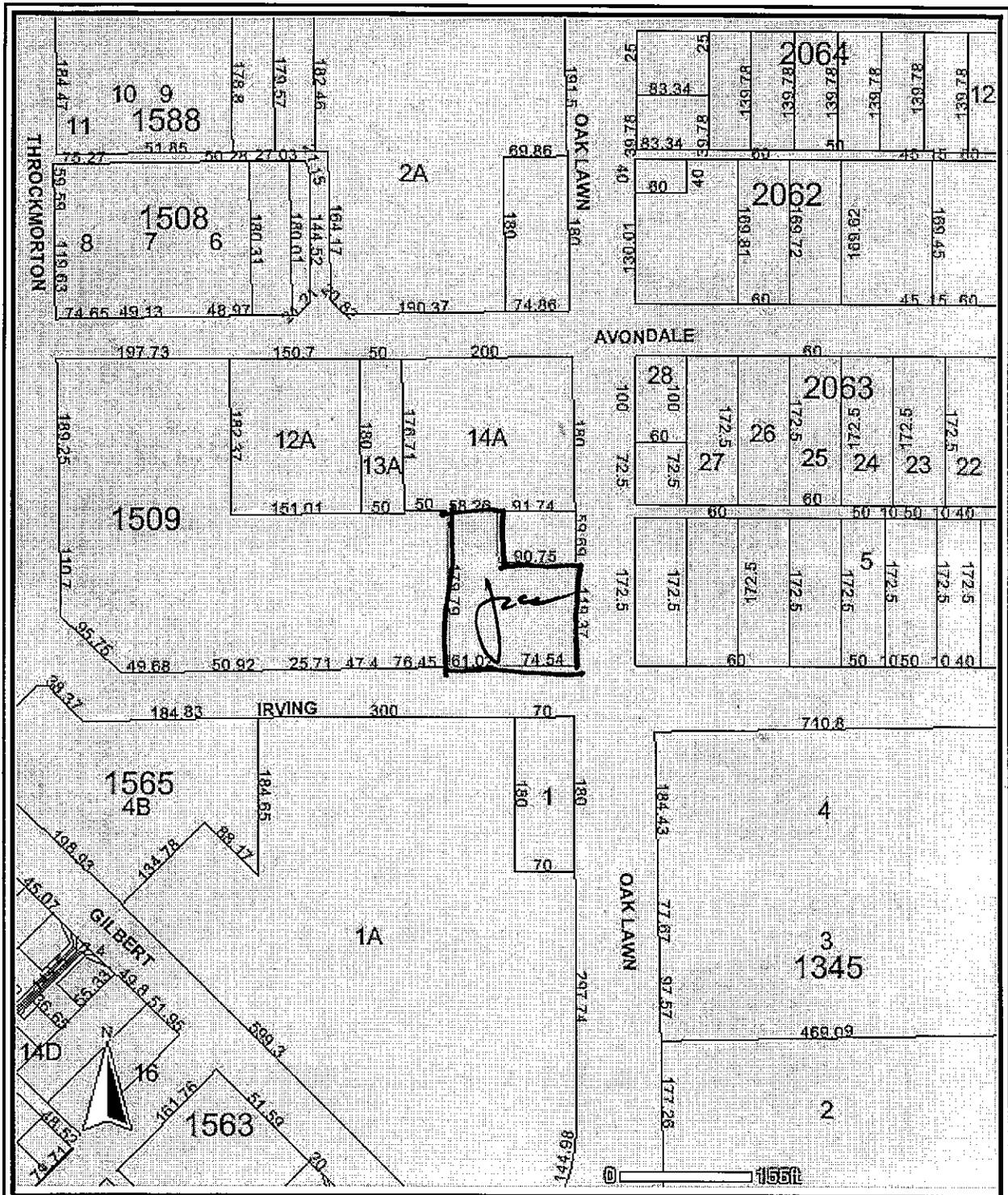
Building Official's Report

I hereby certify that Jon Cannon
represented by Henry Quigg
did submit a request for a special exception to the landscaping regulations
at 3905 Oak Lawn Avenue

BDA123-019. Application of Jon Cannon represented by Henry Quigg for a special exception to the landscaping regulations at 3905 Oak Lawn Avenue. This property is more fully described as part of Lot 1 & 2, Block 4/1509 and is zoned PD-193 (GR), which requires mandatory landscaping. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

Sincerely,

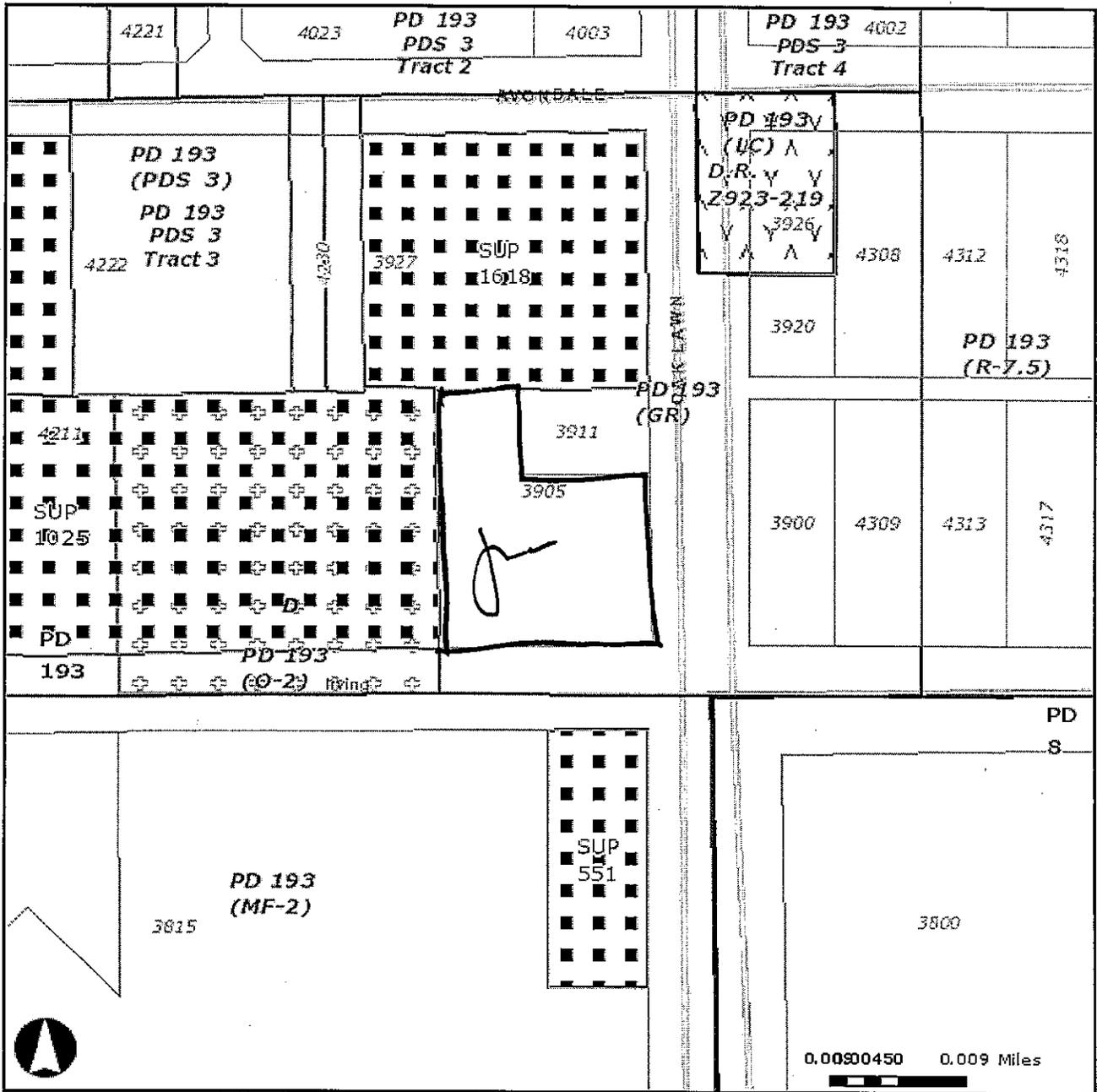

Larry Holmes, Building Official



**Dallas Central
Appraisal District**
www.dallascad.org

DISCLAIMER
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City of Dallas Zoning



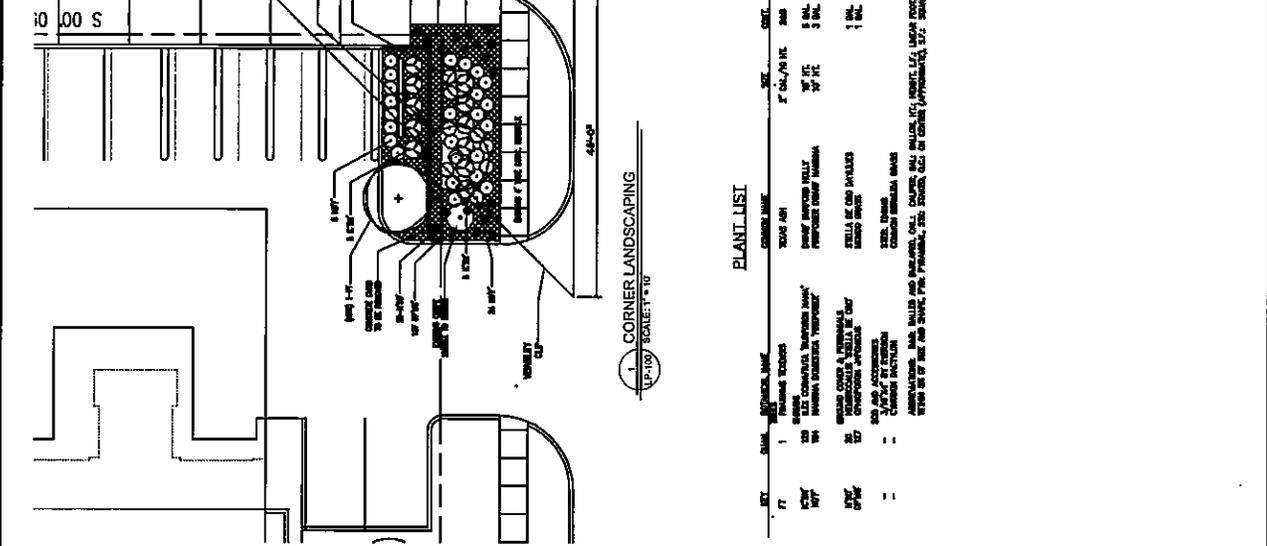
- City Boundaries
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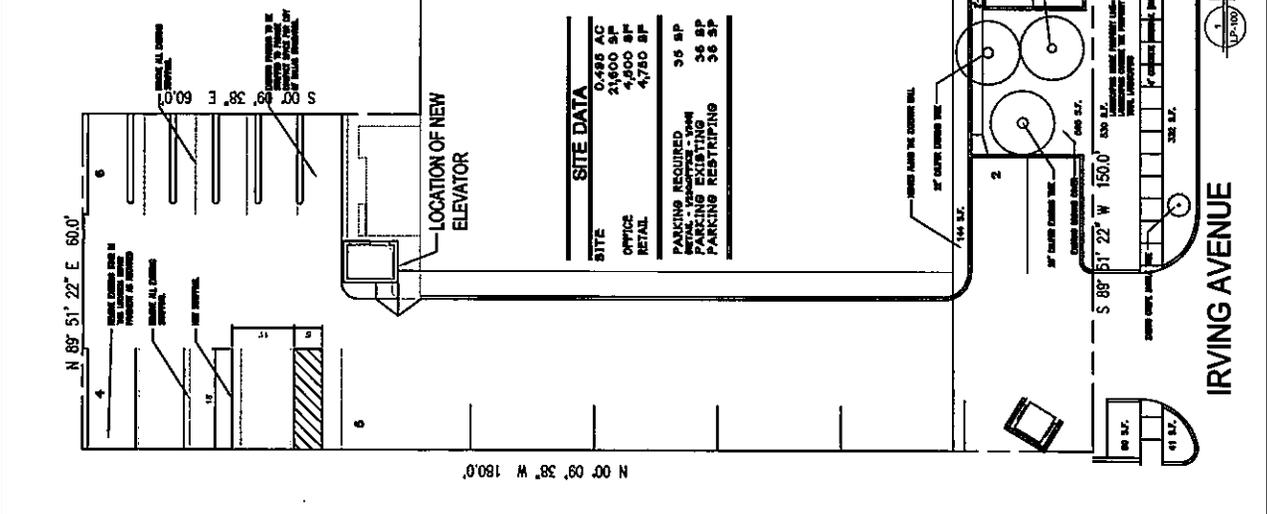
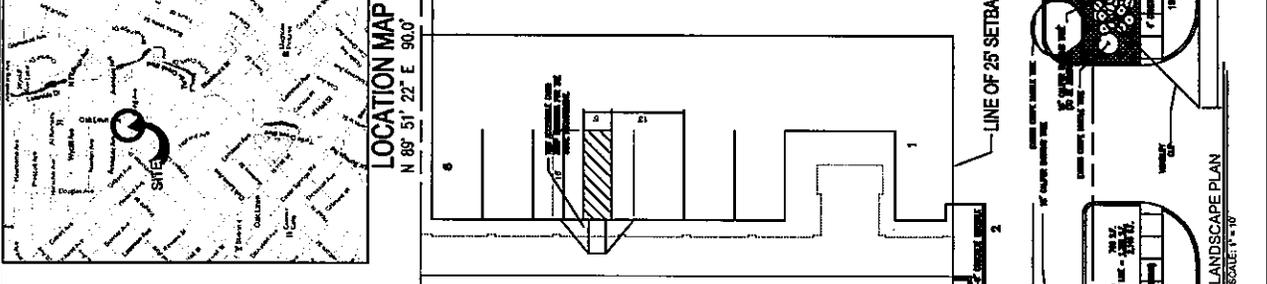
RICHMOND GROUP ARCHITECTURE & PLANNING
 12001 SHILOH TRAIL, SUITE 317, DALLAS, TEXAS 75244
 PHONE: 972.443.7777 FAX: 972.443.8011 WEBSITE: RICHMONDGROUP.COM

FedEx OFFICE BUILDING
 3905 OAK LAWN
 DALLAS, TEXAS



PLANT LIST

QTY	SYMBOL	COMMON NAME	SIZE	CONT.	SPACING
1	1	1	1	1	1
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CITY OF DALLAS

AFFIDAVIT

Appeal number: BDA 123-019

I, Oaklawn P&J LLC, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

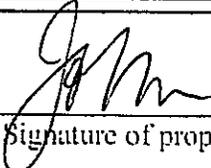
at: 3905 Oaklawn Avenue
(Address of property as stated on application)

Authorize: Jon Cannon
(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)

For landscaping requirements due to an increase of building area. The increase of area is due to the addition of an external elevator being added for access to the second floor. Area of addition is 70 square feet.

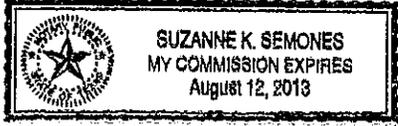
<u>Jon Cannon</u>		<u>12/21/12</u>
Print name of property owner/agent	Signature of property owner/agent	Date

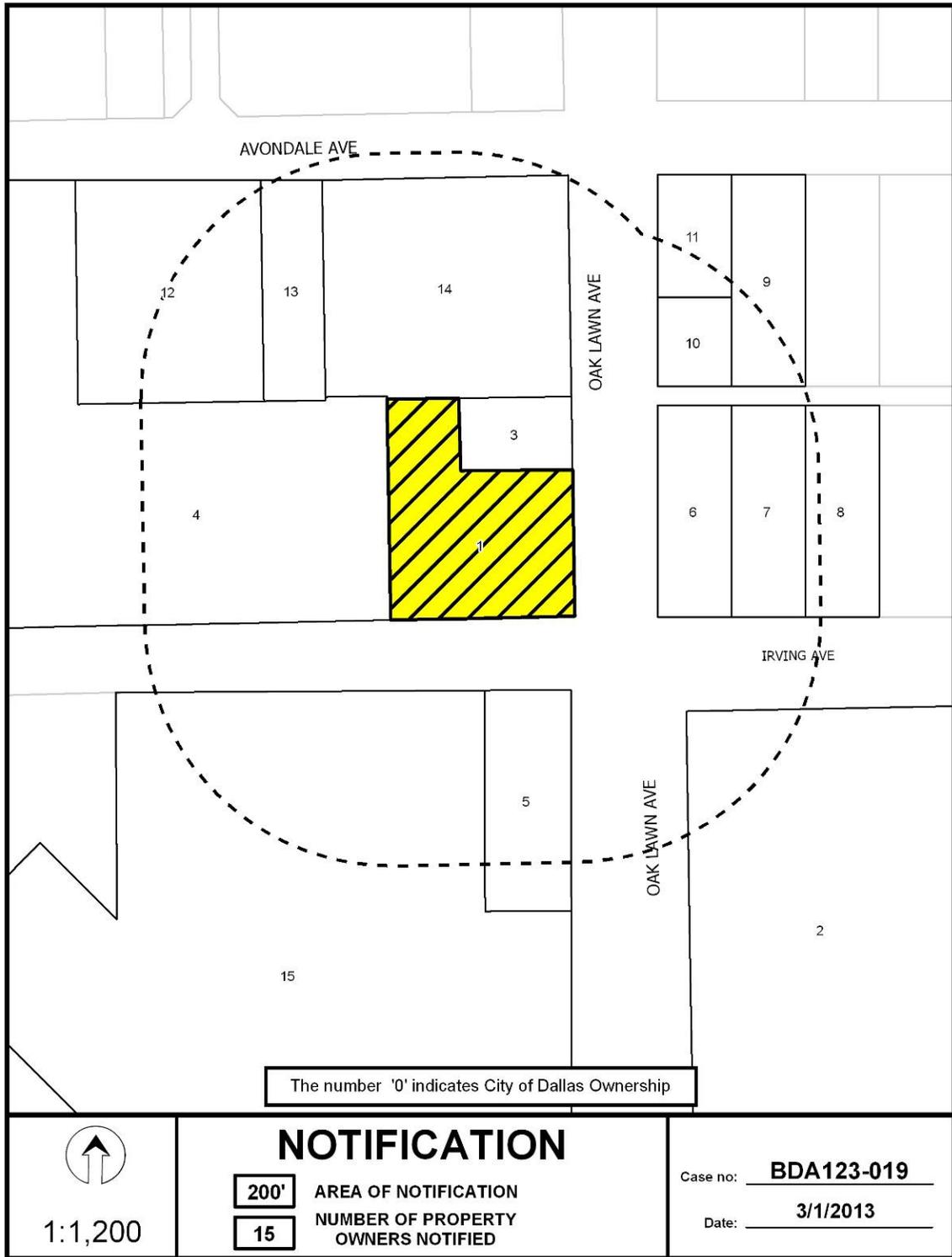
Before me, the undersigned, on this day personally appeared Jon Cannon

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 11 day of JANUARY, 2013


 Notary Public for Dallas County, Texas
 Commission expires on 8-12-2013





Notification List of Property Owners

BDA123-019

15 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3905 OAK LAWN AVE	OAKLAWN P & J LLC
2	3800 IRVING AVE	TC PROPCO I LP
3	3911 OAK LAWN AVE	ESMAILI M REZA & ALI ESMAELI
4	4211 IRVING AVE	SOUTHWESTERN BELL SBC COMM INC PPTY TAX
5	3845 OAK LAWN AVE	LEE JOHN RIDINGS
6	3900 OAK LAWN AVE	HUFF ROSALYN C MESSINA
7	4309 IRVING AVE	IA IRVING AVENUE INVESTORS LLC
8	4313 IRVING AVE	IA IRVING AVENUE INVESTORS LLC
9	4308 AVONDALE AVE	GIBRALTAR CT LLC 4308 AVONDALE AVE STE 1
10	3920 OAK LAWN AVE	EUDARICAMIRI PAM
11	3926 OAK LAWN AVE	GREY CORNELIA O EST ET AL % JAMES GREY
12	4222 AVONDALE AVE	4023 OAK LAWN ASSOC LP % BANK OF AMERICA
13	4230 AVONDALE AVE	ROBERTS CRAIG REVOCABLE TRUST
14	3927 OAK LAWN AVE	CDC OAKLAWN LP
15	3815 OAK LAWN AVE	HOLY TRINITY PARISH SCHOOL

FILE NUMBER: BDA 123-028

BUILDING OFFICIAL'S REPORT: Application of Herbert B. Story, Jr., represented by Michael R. Coker, for variances to the front yard setback and off-street parking regulations, and a special exception to the landscape regulations at 2701 McKinney Avenue. This property is more fully described as Lot 3A, Block 2/955 and is zoned PD-193 (LC), which requires (1) a front yard setback of 10 feet, (2) off-street parking, and (3) mandatory landscaping. The applicant proposes to construct and maintain a restaurant without drive-in or drive-through service use and provide (1) a 0 foot front yard setback, which will require a 10 foot variance to the front yard setback regulations; (2) 41 of the required 54 parking spaces, which will require a variance to the off-street parking regulations of 13 spaces; and (3) an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 2701 McKinney Avenue

APPLICANT: Application of Herbert B. Story, Jr.
Represented by Michael R. Coker

REQUESTS:

The following appeals have been made on a site that is currently developed with a restaurant use (S & D Oyster House):

1. A variance to the front yard setback regulations of 10' is made in conjunction with constructing and maintaining an addition structure (freezer/cooler room and stairwell) with an approximately 1,900 square foot building footprint, part of which is to be located in on the Boll Street front property line, or as much as 10' into this 10' front yard setback along Boll Street.
2. Variances to the front yard setback regulations of 10' are made in conjunction with remedying/addressing the nonconforming aspect of the existing nonconforming structure that is located in the site's two 10' front yard setbacks along McKinney Avenue and Boll Street
3. A variance to the off-street parking regulations of 13 spaces (or a 24 percent reduction of the 54 off-street parking spaces that are required) is requested in conjunction with constructing and maintaining existing/proposed development with a total of approximately 5,400 square feet of restaurant use (where the applicant proposes to provide 41 (or 76 percent) of the required 54 required off-street parking.
4. A special exception to the PD 193 landscape regulations in conjunction with the proposed new construction, and not fully complying with the landscaping requirements of PD 193.

STANDARD FOR A VARIANCE:

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

area for structures accessory to single family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

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

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

Section 26(a)(4) of Ordinance No. 21859, which establishes PD 193, specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

STAFF RECOMMENDATIONS (variances and special exception):

Hold under advisement until April 16, 2013

Rationale:

- Staff recommends that the applicant's requests for variances to the front yard setback and off-street parking, and a special exception to the landscape regulations be held under advisement until April 16, 2013 for the City Plan Commission to consider the applicant's plat application on this site on April 4, 2013.
- Staff is concerned that if the board of adjustment were to grant the requested variances/special exception and impose the submitted plans as conditions, the board of adjustment imposed conditions may not be in agreement with the re-plat that City Plan Commission may approve on April 4, 2013.
- The applicant's representative is aware that if the City Plan Commission approves a re-plat past March 19th that is not in agreement with plans imposed by the board of adjustment, he would have to re-file a new board of adjustment application.

BACKGROUND INFORMATION:

Zoning:

Site: PD 193 (LC) (Planned Development District, Light commercial)

North: PD 193 (LC) (Planned Development District, Light commercial)
South: PD 193 (LC) (Planned Development District, Light commercial)
East: PD 193 (LC) (Planned Development District, Light commercial)
West: PD 193 (LC) (Planned Development District, Light commercial)

Land Use:

The subject site is developed with a restaurant use (S & D Oyster House). The areas to the north, east, south, and west are a mix of office and retail uses.

Zoning/BDA History:

1. BDA 112-040, Property at 2612 Boll Street (the western portion of the subject site)

On May 15, 2012, the Board of Adjustment Panel A granted a request for a variance to the front yard setback regulations of 10 feet and a special exception to the landscape requirements. The Board imposed the following condition: Compliance with the submitted revised site plan dated 5-15-12 is required.

The case report stated that the requests were made in conjunction with constructing and maintaining what appeared to be from the submitted site plan a “raised planting bed” structure, a staircase structure, and the westernmost wall of a “proposed two story brick addition” structure (with an approximately with an approximately 600 square foot building footprint that is proposed to be located on the lot immediately to the east/adjacent to the subject site – a separate parcel of land developed with an existing one story structure/restaurant use immediately east (S & D Oyster House) and the subject site of an application made by the same applicant for variance to the front yard setback regulations and special exception to the landscape regulations that was heard by Panel A on May 15, 2012: BDA 112-058).

On January 18, 2013 the Board of Adjustment Panel A waived the two year limitation on requests for (1) a variance to the front yard setback regulations; and (2) a special exception to the landscape regulations granted by Board of Adjustment

Panel A on 5-15-12, subject to a revised site plan dated 5-15-12 and submitted landscape plan dated 5-15-12.

2. BDA 112-058, Property at 2701 McKinney Avenue (the eastern portion of the subject site)

On May 15, 2012, the Board of Adjustment Panel A granted a request for a special exception to the landscape requirements and a request for variance to the front yard setback regulations along Boll Street. The Board imposed the following condition to these granted requests: compliance with the submitted landscape plan dated 5-15-12 is required. The Board denied the request for a variance to the front yard setback along McKinney Avenue with prejudice.

The case report stated that these requests for variances to the front yard setback regulations of 10' and a special exception to the landscape regulations were made in conjunction with constructing and maintaining a "proposed two story brick addition" structure with an approximately 600 square foot building footprint (with the exception of its westernmost wall that is proposed to be located on the lot immediately to the adjacent property to the west of the subject site – a separate parcel of land developed with an office structure use that the applicant intended to demolish and the subject site of an application made by the same applicant for variance to the front yard setback regulations and special exception to the landscape regulations that was heard by Panel A on May 15, 2012: BDA 112-040) that were to be located in the site's 10' front yard setback along Boll Street; and addressing and remedying the nonconforming aspect of the existing nonconforming structure on this site that is located in the site's two front yard setbacks along McKinney Avenue and Boll Street.

On January 18, 2013 the Board of Adjustment Panel A waived the two year limitation on requests for (1) variances to the front yard setback regulations and a special exception to the landscape regulations granted by Board of Adjustment Panel A on 5-15-12, subject to a revised site plan dated 5-15-12 and submitted landscape plan dated 5-15-12.

Timeline:

January 25, 2013: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 13, 2013: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case.”

February 13, 2013: The Board Administrator emailed the applicant’s representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 29th deadline to submit additional evidence for staff to factor into their analysis; and the March 9th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

February 27, 2013: The Sustainable Development and Construction Department Historic Senior Planner emailed the Board Administrator the following comments: “proposed work is located next to H116 (Ahab Bowen House” with “no other concerns.”

February 27, 2013: The applicant’s representative submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

March 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

- March 7, 2013: The Board Administrator emailed the applicant's representative the following information:
- Staff would be recommending that the board hold his requests under advisement until their April 16th public hearing in order for CPC to consider his plat on April 4th.
 - Staff was concerned of the potential problem that may occur for his client's development if the board of adjustment were to grant his requested variances/special exception on March 19th with his submitted plans imposed as conditions, and where these board-imposed conditional plans would not be in agreement with a re-plat that the City Plan Commission may approve at some time after the March 19th board of adjustment hearing.
- March 8, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet regarding the applicant's request for a variance to the off-street parking regulations marked "Has no objections."
- March 11, 2013: The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the request for a special exception to the landscape regulations (see Attachment B).

GENERAL FACTS/ANALYSIS (front yard variances):

- Part of the variance request focuses on constructing/maintaining an addition structure (freezer/cooler room and stairwell) with an approximately 1,900 square foot building footprint, part of which is to be located in on the Boll Street front property line, or as much as 10' into this 10' front yard setback along Boll Street.
- Part of the variance request focuses on remedying/addressing the nonconforming aspect of the existing nonconforming structure that is located in the site's two front yard setbacks along McKinney Avenue and Boll Street. The existing nonconforming structure is located on the Boll Street front property line or 10' into this 10' front yard setback, and 3' from the McKinney Avenue front property line or 7' into this 10' front yard setback.
- The minimum front yard setback on a PD 193 (LC) zoned lot is 10 feet.
- A revised site plan (see Attachment A) has been submitted showing a proposed/existing structure as close as on the Boll Street front property line and an existing structure as close as 3' from the McKinney Avenue front property line.
- According to information submitted by the applicant, approximately 500 square feet of the approximately 1,900 square foot proposed addition building footprint is located in the Boll Street front yard setback.
- According to calculations taken from the submitted revised site plan by the Board Administrator, approximately 500 square feet of the approximately 2,500 square foot existing building footprint is located in the Boll Street front yard setback and approximately 350 square feet of the approximately 2,500 square foot existing building footprint is located in the McKinney Avenue front yard setback.

- DCAD records indicate that the improvements at 2701 McKinney are a “restaurant” with 2,450 square feet built in 1927.
- The site is flat, irregular in shape, and according to the application, is 0.185 acres (or approximately 8,000 square feet) in area. The site is zoned PD 193 (LC). The corner property with two street frontages has two front yard setbacks as any corner property with two street frontages would that is not zoned agricultural, single family, or duplex.
- The applicant has the burden of proof in establishing the following:
 - That granting the variances 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 variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 193 (LC) zoning classification.
 - The variances would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PD 193 (LC) zoning classification.
- If the Board were to grant this front yard variance request, imposing a condition whereby the applicant must comply with the submitted revised site plan, the proposed and/or existing structures in one or both front yard setbacks would be limited to what is shown on this plan.

GENERAL FACTS/ STAFF ANALYSIS (off-street parking variance):

- This request focuses on constructing and maintaining existing/proposed development with a total of approximately 5,400 square feet of restaurant use (where the applicant proposes to provide 41 (or 76 percent) of the required 54 required off-street parking spaces in conjunction with constructing and maintaining this use with this square footage on a site developed with a restaurant use.
- The subject site is zoned PD 193 (LC). PD 193 states that the parking requirement for “restaurant” use to be one space per 100 square feet of floor area.
- Dallas Development Code Section 51A-4.311(a)(1) states that the Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required *under this article* if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets; and that the maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.
- However, Dallas Development Code Section 51A-311(a)(6) states that the Board of Adjustment *shall not* grant a special exception to reduce the number of off-street

parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:

(A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or

(B) the regulations governing that specific district expressly authorize the board to grant the special exception.

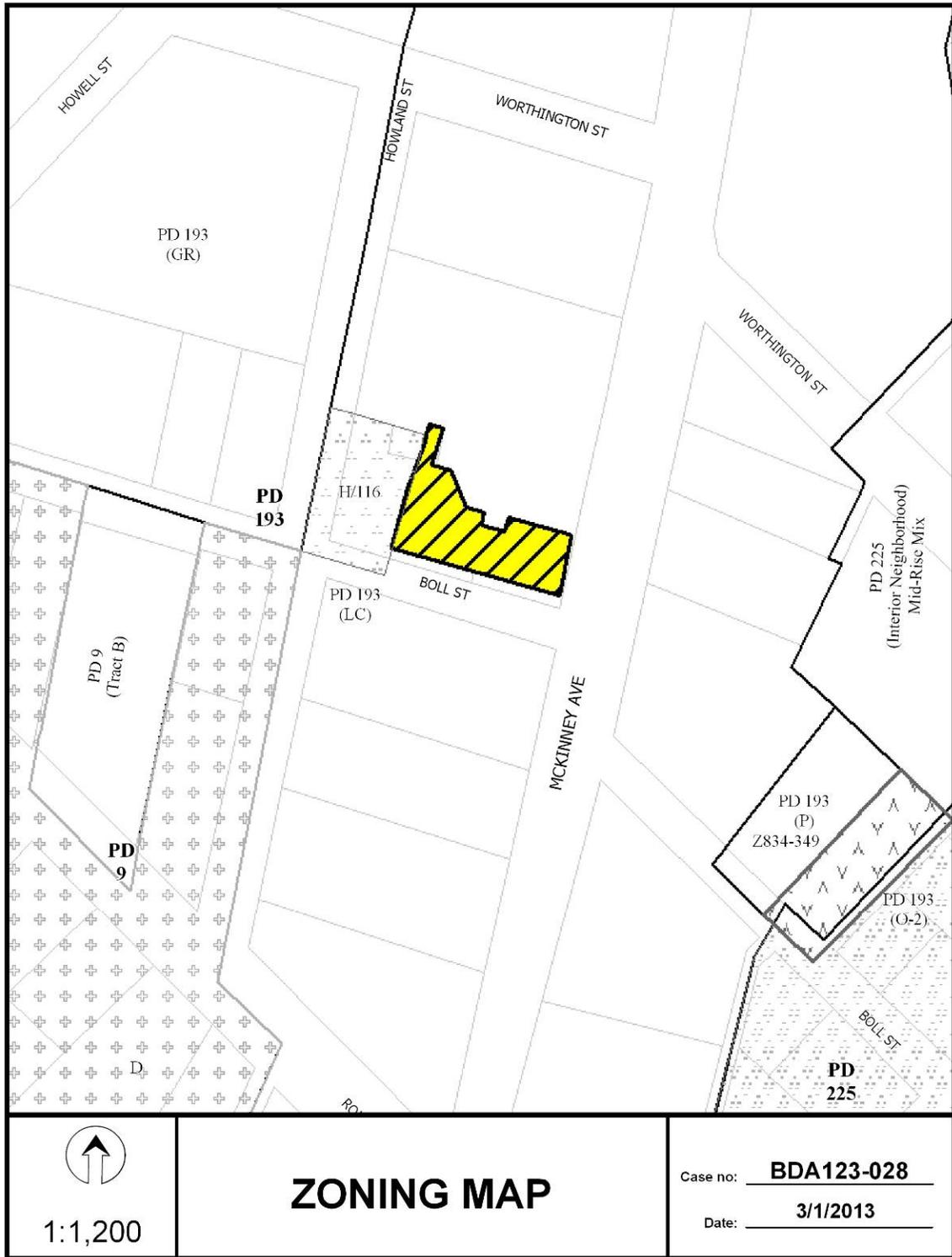
- Therefore, because PD 193 does not make references to the existing off-street parking regulations in Chapter 51 or Chapter 51(A), the applicant may only apply for a *variance* and only the variance standard applies on this request to reduce the off-street parking regulations for restaurant use in PD 193 even though the reduction request is 24 percent of the required off-street parking.
- DCAD records indicate that the improvements at 2701 McKinney are a “restaurant” with 2,450 square feet built in 1927.
- The site is flat, irregular in shape, and according to the application, is 0.185 acres (or approximately 8,000 square feet) in area. The site is zoned PD 193 (LC). The corner property with two street frontages has two front yard setbacks as any corner property with two street frontages would that is not zoned agricultural, single family, or duplex.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the off-street parking regulations of will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site (that differs from other parcels of land by being of such a restrictive area, shape, or slope) that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 193 (LC) zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PD 193 (LC) zoning classification.
- The Sustainable Development and Construction Department Engineering Division Assistant Director has submitted a review comment sheet marked “Has no objections.”

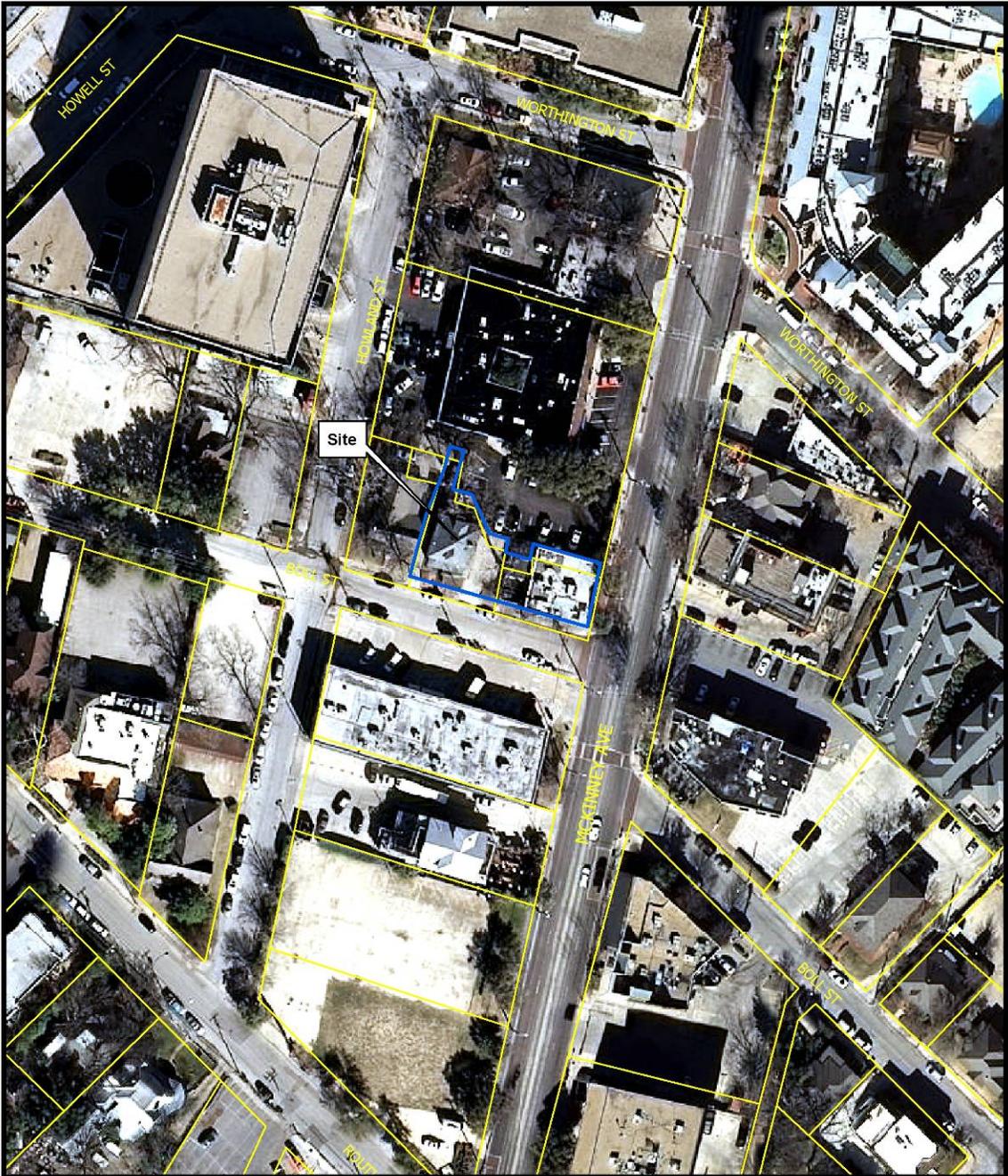
GENERAL FACTS/STAFF ANALYSIS (landscape special exception):

- This request focuses on proposed new construction on the site, and not fully complying with the landscaping requirements of PD 193.
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of

the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.

- On March 11, 2013, the City of Dallas Chief Arborist submitted a memo to the Board Administrator regarding the submitted revised landscape plan/landscape special exception request (see Attachment B).
- The Chief Arborist's memo stated among other things how the request is triggered by new floor area on a new platted lot, and how the applicant seeks exception from the tree planting zone, sidewalk, and landscape site area/general planting area/special planting area of PD 193 landscaping requirements. More specifically, the site maintains an existing structure about 7' off of Boll Street that restricts the property from compliance with sidewalk standards, and the applicant proposes an addition along Boll Street whereby there are deficiencies to the sidewalk location and width for the rest of the site along Boll Street, and on the general code requirements for landscape site area, general planting areas, and special planting areas within the front yard.
- The Chief Arborists listed several factors for consideration: the location of the existing structure and how it affects compliance with required sidewalk location; the continuance of a future 70' length of wall in alignment with the existing structure and how this proposed location affects compliance with the required sidewalk location; how the proposed sidewalk provides continuity with the sidewalk currently in place along the existing structure; and the property's compliance with the screening requirements for the one parking spaces and with required street trees.
- The Chief Arborist recommends denial of the proposed landscape plan because it compromises the spirit and intent of the PD 193 landscaping requirements in that the extended sidewalk spacing, combined with the lack of landscape site area in the front yard, are significant deviations from the requirements.
- The applicant has the burden of proof in establishing the following:
 - The special exception (where an alternate landscape plan has been submitted that is deficient in meeting tree planting zone, sidewalk, and landscape site area/general planting area/special planting area of PD 193 landscaping requirements) will not compromise the spirit and intent of the section of the ordinance (Section 26: Landscape, streetscape, screening, and fencing standards).
- If the Board were to grant this request, imposing the revised alternate landscape plan as a condition, the site would be provided exception to the tree planting zone, sidewalk, and landscape site area/general planting area/special planting area requirements of the Oak Lawn PD 193 landscape ordinance.





1:1,200

AERIAL MAP

Case no: BDA123-028

Date: 3/1/2013

Long, Steve

From: Erin Scherer [ecscherer@cokercompany.com]
Sent: Wednesday, February 27, 2013 11:29 AM
To: Long, Steve; Michael Coker
Cc: Duerksen, Todd; Erwin, Philip; Cossum, David; Palomino, Tammy; Denman, Lloyd; Svec, Jerry
Subject: BDA 123-028, 2701 McKinney Avenue
Attachments: BDA123-028, 2701 McKinney_RevisedLandscapeNotes_022713.pdf; BDA123-028, 2701 McKinney_RevisedSitePlan_022713.pdf; BDA123-028, 2701McKinney_RevisedLandscapePlan_022713.pdf

Good morning Steve:

This morning, Mike and I delivered to you, Todd, and Phil our revised site and landscape plans and revised landscape planting notes for our Board case. The delivery included full size copies of each plan and a reduction of each. I believe that Mike included some color renderings showing the proposed work to you too.

The revisions that we made are minor and are as follows:

Site Plan: we closed the Boll Street curb cut that was shown going in to the service corridor. We will did this because there will be no vehicular access at this location. We also showed the location of our existing awning and seating areas that are located within the front yard setback on McKinney Avenue.

Landscape Plan: we also closed the Boll Street curb cut on this plan. Additionally, per Phil's request, we included the existing structure and landscaping on the McKinney frontage so that the Board can see the project in its entirety. Because we increased the drawing, we moved the landscape planting notes to a second sheet.

I've attached the three revised drawings for your reference. Please let me know if you have questions or require additional information.

Thank you,

*Erin C. Scherer, Vice President
Michael R. Coker Company
2700 Swiss Avenue, Suite 100
Dallas, Texas 75204
214.821.6105 ext. 202
www.cokercompany.com*

From: Long, Steve [mailto:steve.long@dallascityhall.com]
Sent: Tuesday, February 26, 2013 12:54 PM
To: Michael Coker
Cc: Duerksen, Todd; Erwin, Philip; Cossum, David; Palomino, Tammy; Denman, Lloyd; Svec, Jerry; Erin Scherer
Subject: RE: BDA 123-028, Property at 2701 McKinney Avenue

Ok. Thanks, Mike.

Here is some feedback to some of your answers:

To number 1 below: Please be advised that I need paper copies of anything you submit electronically.

To number 8 below: Please make sure to submit any revised landscape plan to: 1) Todd, 2) Phil, and 3) me – I need three full scales and one reduction.

To number 9 below: The attached PDF showing an approved plan that I stamped in conjunction with BDA 034-118 was for a landscape special exception request granted in 2004 for property in the vicinity of your subject site today (Howland and Boll), not ON your subject site today (McKinney and Boll). What is the relevance of this plan

to your current application, particularly since there is no mention in the hearing minutes on this 2004 application to a surface parking lot for either S & D or any specific use?

To your general comment about an amended site plan: Please make sure to submit any revised site plan to: 1) Todd, and 2) me – I need three full scales and one reduction.

Thanks,

Steve

BDA 123-028
Attach A
Pg 2

From: Michael Coker [<mailto:mrcoker@cokercompany.com>]
Sent: Tuesday, February 26, 2013 12:10 PM
To: Long, Steve; herb@sdoyster.com
Cc: Cossum, David; Erwin, Philip; Duerksen, Todd; Denman, Lloyd; Svec, Jerry; Erin Scherer
Subject: RE: BDA 123-028, Property at 2701 McKinney Avenue

Steve, I have attempted to answer each of your inquiries in the message below.

Michael R. Coker, AICP/CBO
Michael R. Coker Company, Inc.
2700 Swiss Avenue
Suite 100
Dallas, Texas 75240
214.821.6105 x 201 [p]
214.821.6125 [f]
mrcoker@cokercompany.com
www.cokercompany.com

From: Long, Steve [<mailto:steve.long@dallascityhall.com>]
Sent: Monday, February 25, 2013 10:18 AM
To: Michael Coker
Cc: Cossum, David; Erwin, Philip; Duerksen, Todd; Denman, Lloyd; Svec, Jerry
Subject: FW: BDA 123-028, Property at 2701 McKinney Avenue

Dear Mike,

I have dug a little deeper into this application and have the following concerns/questions:

- 1) Did you intentionally not submit an elevation of your proposal in conjunction with your front yard variance request on Boll Street?
Not intentionally. However, I will forward a digital image of the front elevation today and some additional imagery that we would like the Board to review..
- 2) Given the fact that when the board chooses to grant a setback variance request they typically impose the applicant's submitted site plan (as opposed to what is referenced to elsewhere in an application) as a condition to the request, are you able to represent that your submitted site plan comprehensively shows every structure that you wish for them to consider in the site's McKinney Avenue and Boll Street front yard setbacks? (If not, you may want to consider submitting a revised site plan to Todd and myself prior to noon, February 27th).
I confirmed with the Client that the submitted site plan is inclusive of all the anticipated structures on the site.
- 3) Could you list the "structures" as shown on your submitted site plan requiring variance to the front yard setback on Boll Street?
Yes. The existing structure at 2701 McKinney is built to the property line, so it needs a variance. Then moving west along Boll the new southern wall for the expansion and all of the internal construction planned for the interior there. Then moving further west the new courtyard wall, gate and terminus for the gate. Lastly, the new cooler freezer building. I think the site plan that shows the planned improvements is

representative of our plans.

- 4) Could you list the "structures" as shown on your submitted site plan requiring variance to the front setback on McKinney Avenue?

Yes. The only structure needing the front yard setback variance is the existing building. There is approximately a seven foot encroachment into the required 10 foot front yard setback on McKinney. The width of the building as it front on McKinney is 23 feet. So, approximately 161 square feet is located in the required front yard setback. Remember this building was constructed long before there were front yard setback required. This subdivision was platted in the 1894 and this building was built about that same time. One more thing, we would like to the ability to use the remaining portion of front yard between the front of the existing building and the property line for some fixed seating, lighting, etc.

- 5) Would you be able to provide an approximation of how much of your proposed building footprints is in the Boll Street front yard setback?

The existing building is 50.5 feet long and 10 feet encroaches into the front yard setback along Boll. That is 505 Square Feet. Then the new building addition is 31 feet long at the front property line and it encroaches 10 feet into the front yard setback. That is 310 square feet. Then there is the courtyard wall, the stairs, raised planter and the new building for the walk-in freezer/cooler that encroach into the front yard setback around 4.5 feet.

- 6) Would you be able to provide an approximation of how much of your existing building footprint is in the Boll Street front yard setback? See 4) above.
- 7) Would you be able to provide an approximation of how much of your existing building footprint is in the McKinney Avenue front yard setback? See 4) above.
- 8) Given the fact that when the board chooses to grant a landscape special exception request they typically impose the applicant's submitted alternate landscape plan as a condition to the request, is it your intention to only submit a partial landscape plan of the site – in this case a landscape plan showing only the Boll Street side of the site in conjunction with your landscape special exception request? (If not, you may want to consider submitting a full alternate landscape plan to Todd, Phil Erwin, and myself prior to noon, February 27th).

We are preparing a revised landscape plan that shows the full alternate landscape plan and it will be delivered prior to noon tomorrow.

- 9) Even though your attachment refers to certain things related to a "special exception to reduce the required parking," would you confirm the fact that you ARE aware that the parking reduction request on this site being located in PD 193 is for VARIANCE (as opposed to a special exception) to the off-street parking regulations? We are aware that the parking variance request is for a variance rather than for a special exception since we are located in the Oak Lawn Special Purpose District [PDD 193]. Also, I have attached a pdf of the BDA approved parking plan for the proposed parking to this message. It was also included in the submittal for the BDA hearing.

Steve, we are preparing an amended site plan that removes the driveway approach that is shown at the rolling gate, but other than that, I think the site plan shows everything that we intend to do.

Thanks,

Steve

From: Long, Steve
Sent: Wednesday, February 20, 2013 10:35 AM
To: 'Michael Coker'
Cc: Duerksen, Todd
Subject: RE: BDA 123-028, Property at 2701 McKinney Avenue

Ok. Got it. And as you know and can see from the attached history on this site from May of 2012, the board granted the applicant's request for front yard variance to Boll Street but denied the applicant's request for front yard variance along McKinney Avenue (made to remedy a nonconforming structure).

Steve

From: Michael Coker [<mailto:mrcoker@cokercompany.com>]
Sent: Wednesday, February 20, 2013 10:06 AM

To: Long, Steve
Cc: Duerksen, Todd; Erin Scherer
Subject: RE: BDA 123-028, Property at 2701 McKinney Avenue

The request is designed to address the nonconforming issues pertaining to the existing building and the proposed new building. So, front yard on McKinney and on Boll for the existing building, then front yard on the Boll side for the proposed new construction, the special exception for the alternate landscaping and parking variance for the addition.

Mike

From: Long, Steve [<mailto:steve.long@dallascityhall.com>]
Sent: Wednesday, February 20, 2013 8:59 AM
To: Michael Coker
Cc: Duerksen, Todd
Subject: FW: BDA 123-028, Property at 2701 McKinney Avenue

Dear Mike,

I have not fully reviewed your submittal but I am wondering if any part of this application is made to address any structure that may be nonconforming. Is it? Last year, the applicant made an application to address the nonconforming aspect of the existing structure in front yard setbacks. Is that part of your request this time OR is your request for variance limited only to the proposed new construction?

I have attached the nonconforming use section of the code for your review.

Please let me know what part (if any) of your application is made related to any aspect of a nonconforming structure on the site.

Thanks,

Steve

From: Long, Steve
Sent: Wednesday, February 13, 2013 1:34 PM
To: 'Michael Coker'
Cc: Duerksen, Todd; Erwin, Philip; Denman, Lloyd; Svec, Jerry
Subject: FW: BDA 123-028, Property at 2701 McKinney Avenue

Dear Mike,

Here is information regarding the application to the board of adjustment at the address referenced above that you are representing for Herbert B. Story, Jr., most of which I believe you are aware of given your experience with the board of adjustment:

1. Your application materials- all of which will be emailed to you, city staff, and the board of adjustment members in a docket report about a week ahead of the scheduled March 19th public hearing.
2. The provision from the Dallas Development Code allowing the board to grant a variance to the front setback and off-street parking regulations (51A-3.102(d)(10)).
3. The standard as to how the board is able to grant a special exception to the landscape requirements of PD No. 193 (126 (a)(4)).
4. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board.
5. The board's rule pertaining to documentary evidence.

Please review the Building Official's Report/second page of your application and contact Todd Duerksen, at

214/948-4475 no later than noon, February 27th with regard to any amendment that you feel is necessary to address the issue at hand. (Note that the discovery of any additional appeal needed beyond the requested front yard setback and off-street parking variances and landscape special exception will result in postponement of the appeal until the panel's next regularly scheduled public hearing).

You may want to contact Phil Erwin, City of Dallas Chief Arborist, at 214/948-4117 to determine if there is any additional information that he may need from you in making a favorable recommendation to the board on your landscape special exception request.

Lastly, you may want to contact Jerry Svec, City of Dallas Project Engineer, at 214/948-4444 or Lloyd Denman, City of Dallas Engineering Assistant Director at 214/948-4354 to determine if there is any additional information that may be needed from you in making a favorable recommendation to the board on your off-street parking variance request.

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

Thanks,

Steve

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

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

BDA 123-028
Attach A
Pg 5

From: Long, Steve
Sent: Monday, January 28, 2013 2:54 PM
To: Michael Coker
Cc: Duerksen, Todd
Subject: RE: S&D oyster house

Hi Mike,

Let's see what Todd says about the points you have raised below.

But regardless of more fee or not, most see the bar being higher to win variance than special exception particularly when part of the variance standard includes a clause about how granting the variance is not needed to relieve a self-created hardship. I know parts of these applications were granted last spring but I do have a concern about how the board may feel with your new application and the fact that now something else has been added to the equation. Of course, no one knows what the board panel will do.

Good luck on this application.

Steve

PS: I assume you have considered a PDS application but thought this BDA route was better.

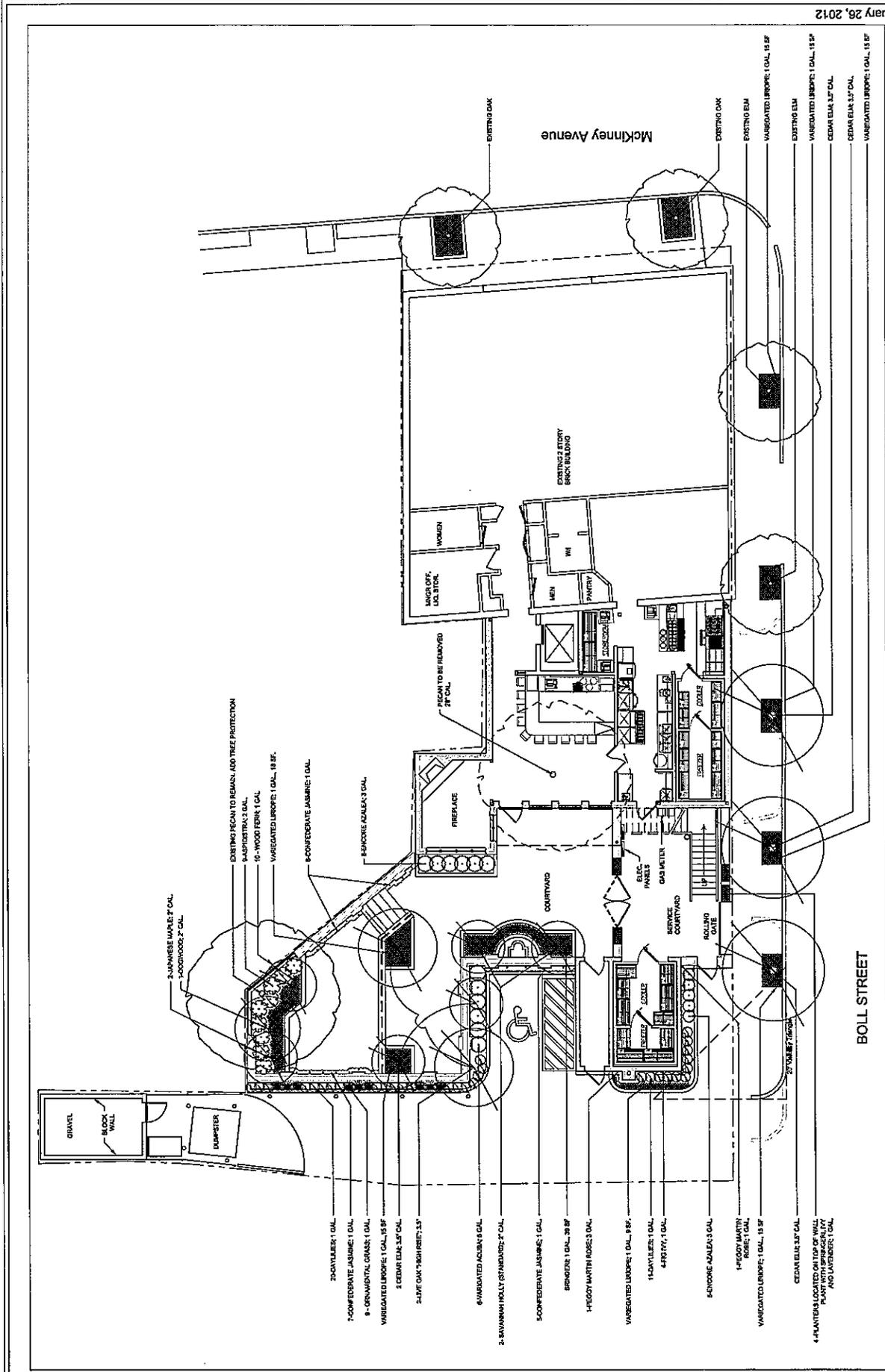
From: Michael Coker [<mailto:mrcoker@cokercompany.com>]
Sent: Mon 1/28/2013 2:25 PM
To: Duerksen, Todd
Cc: Long, Steve; Erin Scherer
Subject: S&D oyster house

Todd, Steve Long advises me that the special exception for up to 25 % is not available in PDD 193. Only a variance for parking is available. So, do I need to pay any more on the application? Also, do we need to amend

the application to reflect that the parking reduction is a request for a variance?

Michael R. Coker, AICP/CBO
Michael R. Coker Company, Inc.
2700 Swiss Avenue
Suite 100
Dallas, Texas 75240
214.821.6105 x 201 [p]
214.821.6125 [f]
mrcoker@cokercompany.com
www.cokercompany.com

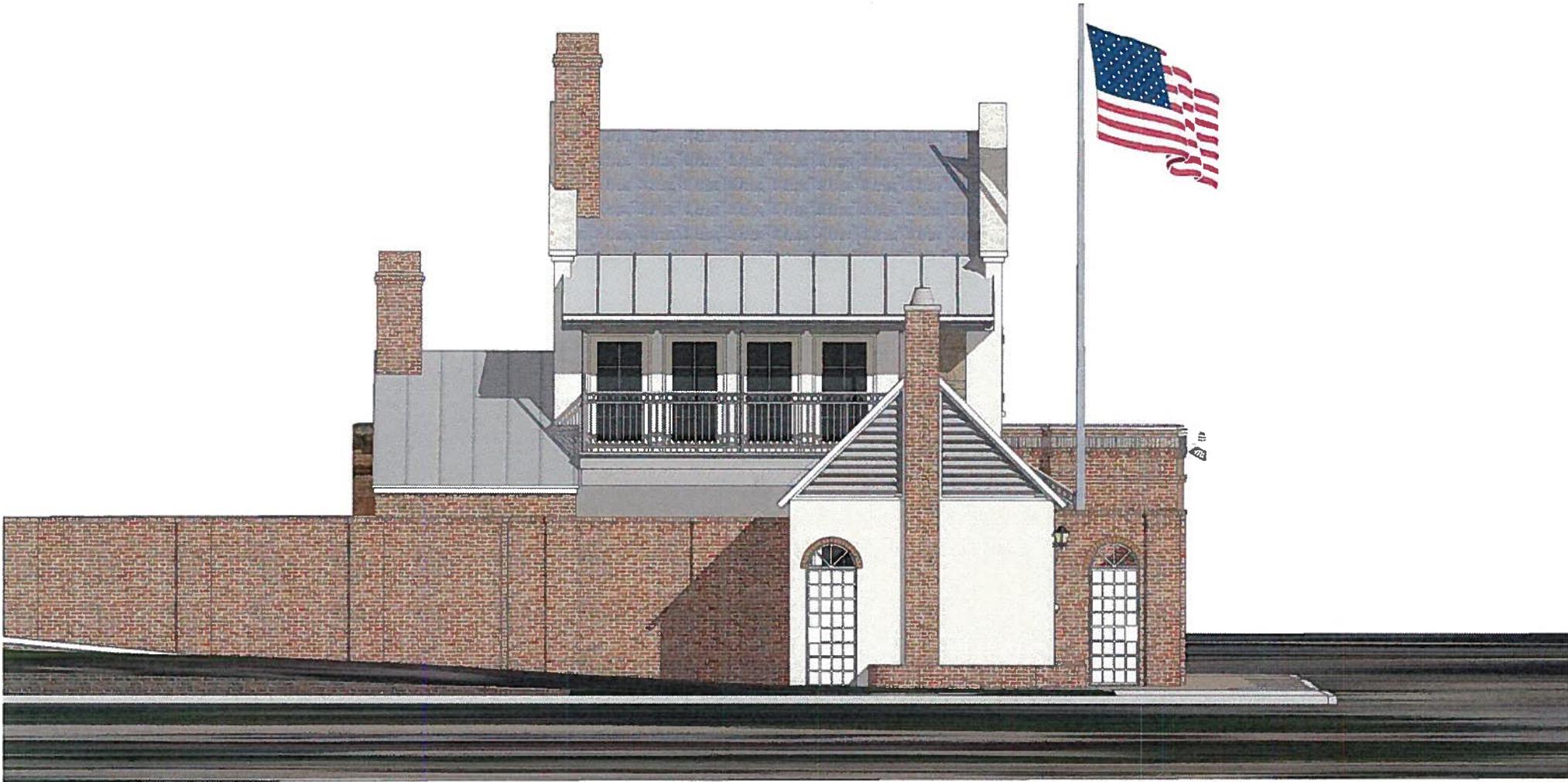
BDA 123-028
Attach A
Pg 6



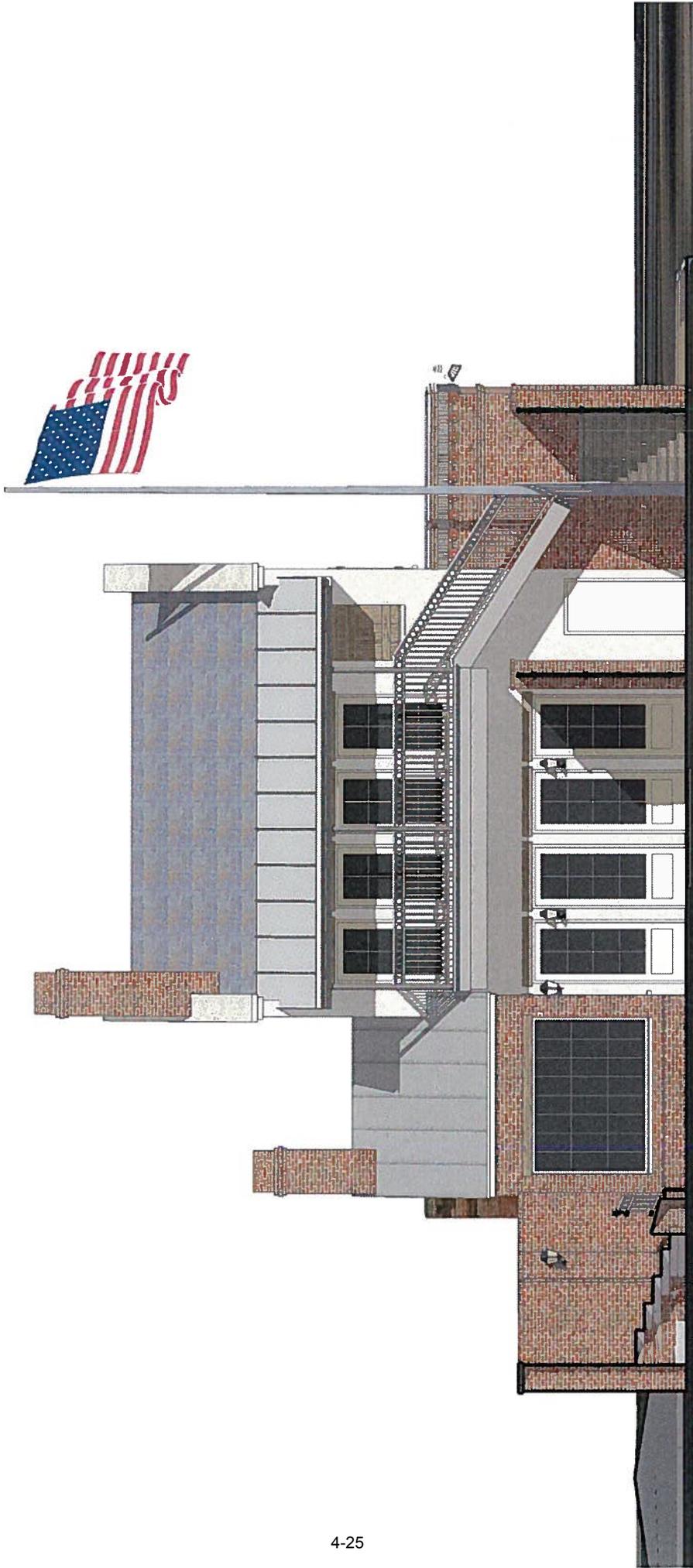
A Site Plan
 © Copyright 2013 DLDS A1



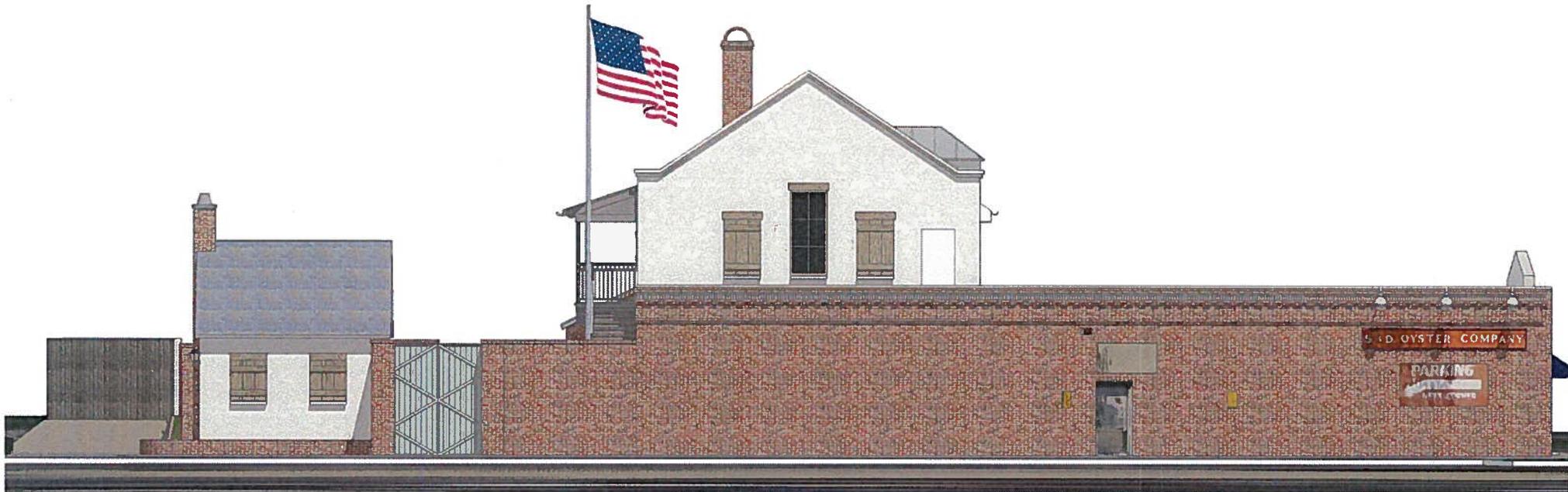


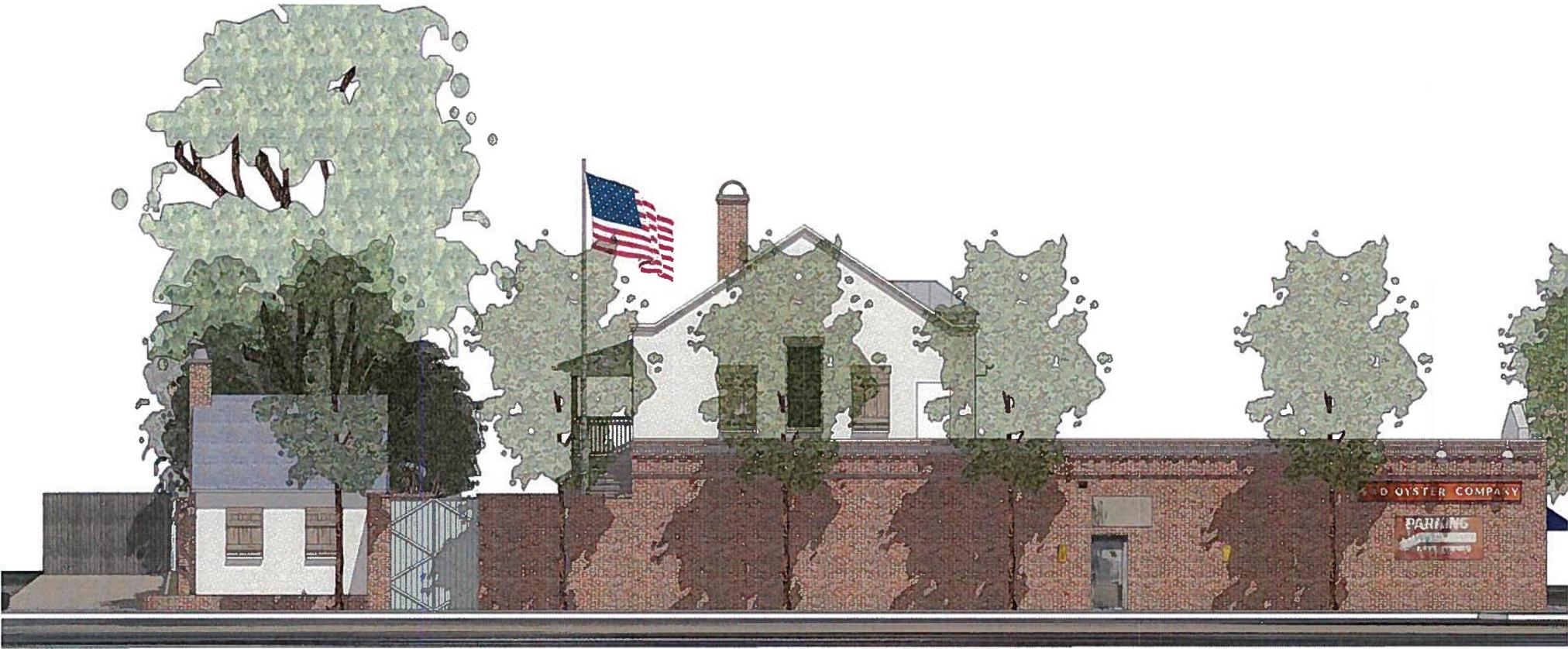


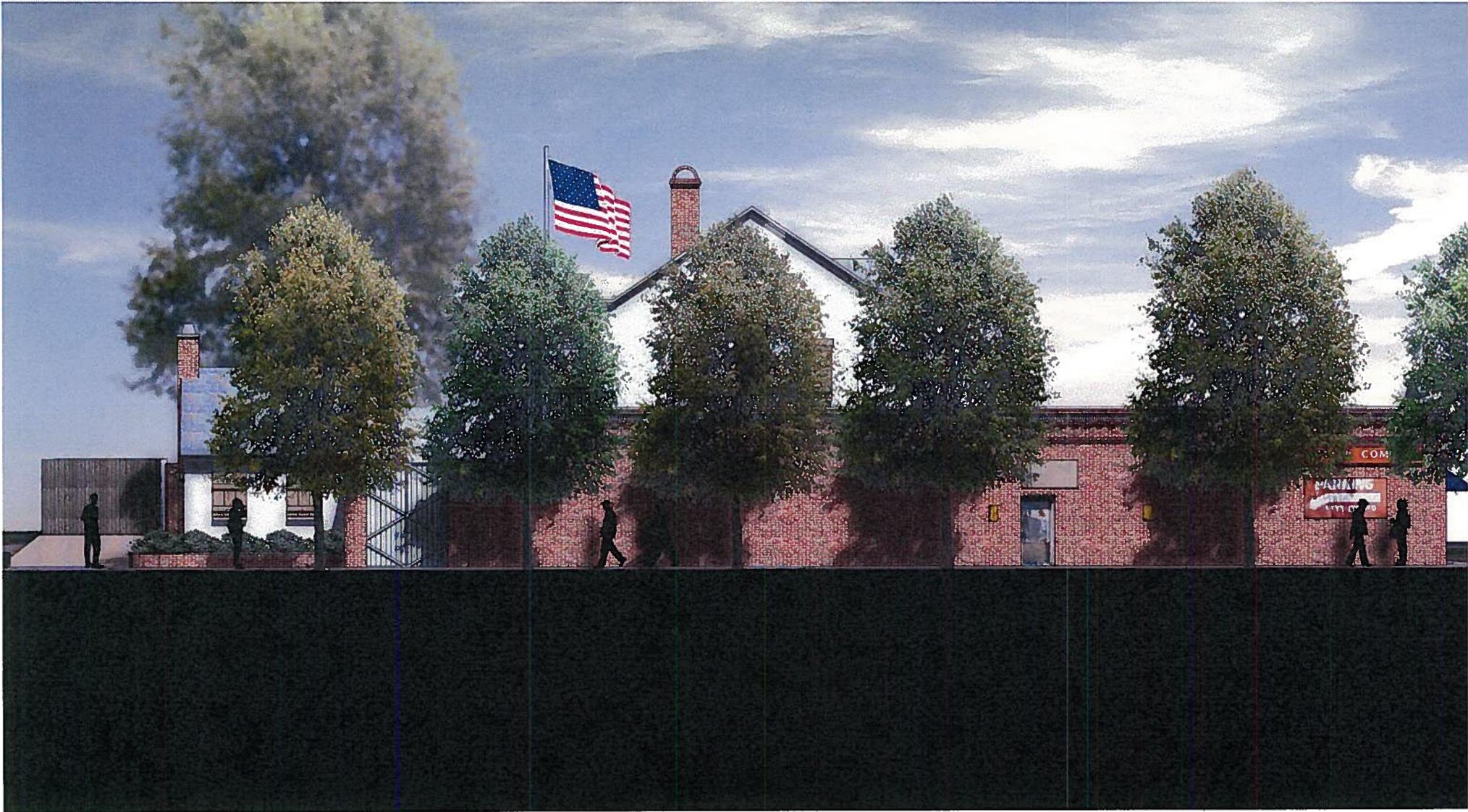
















Memorandum



CITY OF DALLAS

DATE March 11, 2013
 TO Steve Long, Board of Adjustment Administrator
 SUBJECT # BDA 123 · 028 2701 McKinney Avenue

The applicant is requesting a special exception to the landscape requirements of PD 193, the Oak Lawn Special Purpose District. Specifically, the applicant seeks a special exception to the general requirements of Section 51P-193.126 for 1) the tree planting zone, 2) sidewalks, and 3) for the landscape site area, general planting area, and special planting area requirements for an LC district.

Trigger

New construction of floor area on a new platted lot.

Deficiencies

The site maintains an existing structure that is approximately 7 feet off the Boll Street curb line, which restricts the property from compliance with the sidewalk standards.

In addition, the plan is deficient on the sidewalk location and width for the extent of the property along Boll Street, and on the general code requirements for landscape site areas, general planting areas, and special planting areas within the front yard.

Required		Provided				
6 STREET TREES, BETWEEN 2.5' - 5' OF CURB		7 STREET TREES, 2.5.-5' FROM CURB				
6' SIDEWALK BETWEEN 5'-12' FROM BACK OF CURB		VAR. SIDEWALK LOCATED AT THE CURB TO BUILDING				
AREA %'S IN SQFT	LANDSCAPE SITE AREA	GENERAL PLANTING AREA		SPECIAL PLANTING AREA		
LOT AREA	10%	na		na		
REQ'D FR YARD	60%	20% (of LSA)		6% (of GPA)		
	Required	Provided	Required	Provided	Required	Provided
LOT AREA	807	1247	NA	NA	NA	NA
REQ'D FR YARD	484	180*	48	0	29	0

* - including sidewalk.

Factors

The location of the existing structure restricts the placement of the sidewalk from the location required by code between 5 and 12 feet from back of curb. However, according to the proposed site plan, the proposed structure encroaches on this space with a future 70 feet length of wall immediately adjacent to the sidewalk within 9 feet

of the curb. Beyond the wall, the paved surface expands to approximately 16 feet from back of curb, adjacent to a 2' wide landscape bed. This merges with the driveway.

The proposed sidewalk does provide continuity with the sidewalk currently in place along the existing structure.

The property complies with the screening requirements of PD 193 for the one parking space and complies for required street trees. Two existing trees are in the visibility triangle.

Recommendation

I recommend denial of the proposed landscape plan because I believe the proposal compromises the spirit and intent of the PD 193 landscape regulations. In my opinion, the extended sidewalk spacing, combined with the lack of landscape site area in the front yard, are considered significant deviations from the requirement.

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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-028

Data Relative to Subject Property:

Date: January 25, 2013

Location address: 2701 McKinney Avenue Zoning District: PDD 193 (LC)

Lot No.: 3A Block No.: 2/955 Acreage: 0.185 Census Tract: 0018.00

Street Frontage (in Feet): 1) 50.0' 2) 141.87' 3) 4) 5)

50 22

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Herbert B. Story, Jr.

Applicant: Herbert B. Story, Jr. Telephone: 214-720-0400

Mailing Address: 2701 McKinney Avenue Zip Code: 75204

E-mail Address: herb@sdoyster.com

Represented by: Michael R. Coker Telephone: 214-821-6105

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

E-mail Address: mrcoker@cokercompany.com

Affirm that an appeal has been made for a Variance X, or Special Exception X, of 10' FYSB Variance to front yard setbacks, special exception to parking requirements, and a special exception to landscape requirements (alternate landscape plan) as illustrated on attached site and landscape plans, 13 parking spaces for restaurant w/d drive thru.

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:

Variance to front yard setbacks to allow for structures to be located within the required 10 foot front yard on McKinney Avenue and on Boll Street; special exception to parking requirements to reduce amount of required parking; and an alternate landscape plan in order to develop the property in a manner commensurate with similar properties within Planned Development District 193 (LC) and the requests do not adversely affect neighboring properties. (SEE ATTACHMENT)

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.

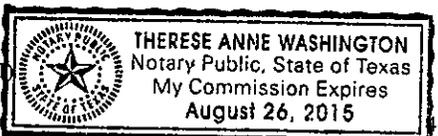
Affidavit

Before me the undersigned on this day personally appeared HERBERT B. STORY JR (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 25th day of January, 2013



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

(Rev. 08-01-11)

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

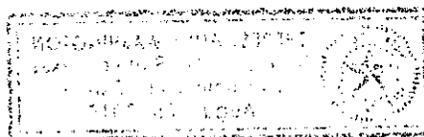
Building Official's Report

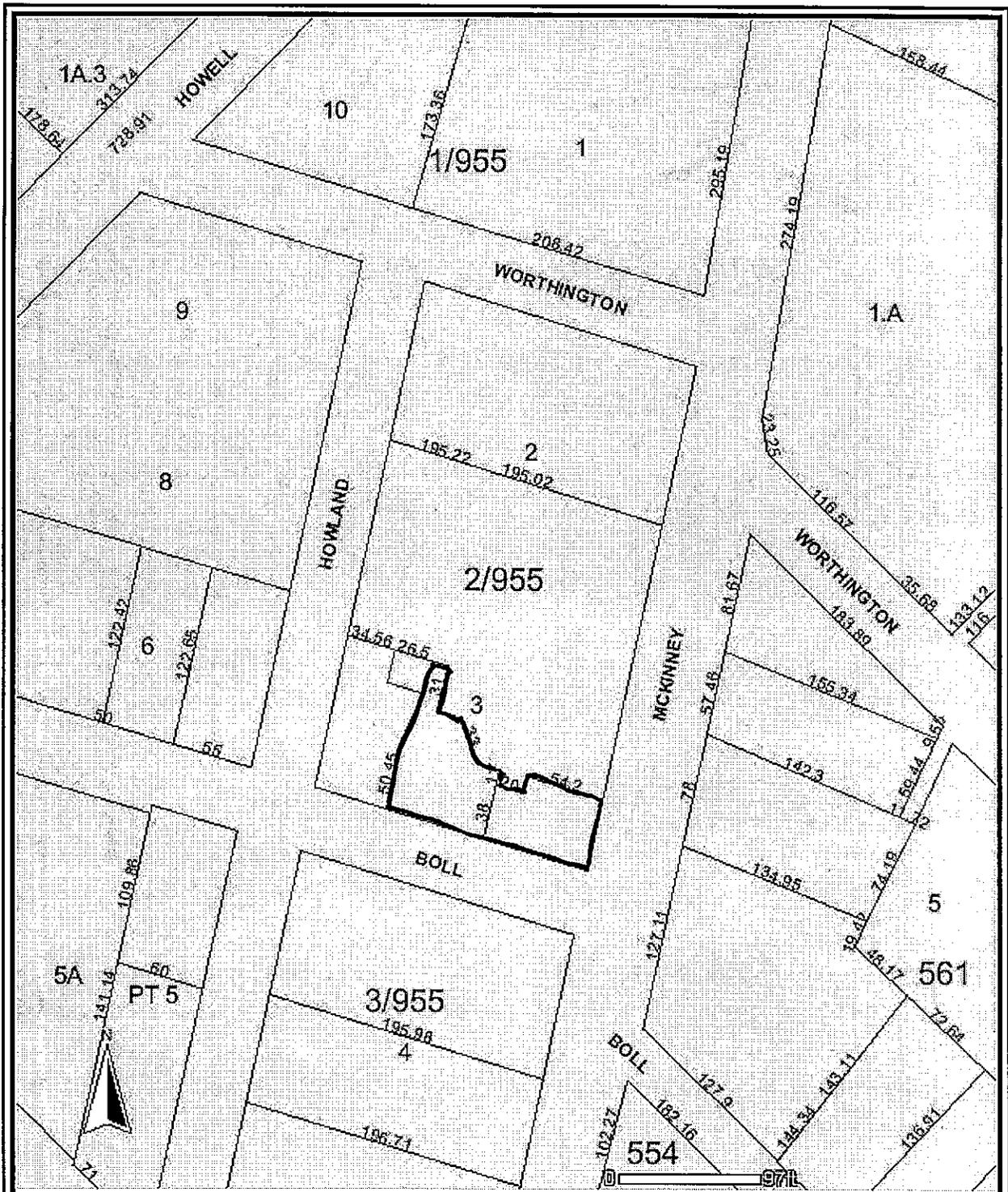
I hereby certify that Herbert B. Story
represented by MICHAEL COKER
did submit a request for a variance to the front yard setback regulations, and for a special
exception to the landscaping regulations, and for a variance to the parking
regulations
at 2701 McKinney Avenue

BDA123-028. Application of Herbert B. Story represented by Michael Coker for a variance to the front yard setback regulations, a special exception to the landscaping regulations, and a variance to the parking regulations at 2701 McKinney Avenue. This property is more fully described as Lot 3A, Block 2/955 and is zoned PD-193 (LC), which requires a front yard setback of 10 feet and requires mandatory landscaping and requires parking to be provided. The applicant proposes to construct and maintain a nonresidential structure and provide a 0 foot front yard setback, which will require a 10 foot variance to the front yard setback regulation, and to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations, and to construct and maintain a nonresidential structure for restaurant without drive-in or drive-through service use and provide 41 of the required 54 parking spaces, which will require a 13 space variance to the parking regulation.

Sincerely,

Larry V. Holmes
Larry Holmes, Building Official





**Dallas Central
Appraisal District**
www.dallascad.org

DISCLAIMER

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.

C

SUPPLEMENTAL INFORMATION FOR BOARD OF ADJUSTMENT REQUEST FOR 2701 MCKINNEY AVENUE

We are requesting three affirmative actions from the Board: 1. Approval of a variance to the required front yards on McKinney Avenue and Boll Streets. 2. Approval of a special exception that reduces the parking requirements related to the expansion of the S&D Oyster House. 3. Approval of a special exception to the landscaping requirements [Alternate landscape plan].

In May 2012 the Board approved a variance to the front yard setbacks on Boll Street for two properties: 2701 McKinney Avenue and 2612 Boll Street. The Board at that time also approved an alternate landscape plan. Both approvals were subject to compliance with the [then] attached site and landscape plans. Since May of 2012, Mr. Story has acquired 2612 Boll Street and engaged a design and construction team who has redesigned the project to more effectively accomplish the expansion objectives. The redesign includes the re-platting of the two properties into one property. The replat application has been submitted [S-123-065] and is scheduled for consideration by the Dallas City Plan Commission on February 7, 2013. The structure previously located at 2612 Boll Street has been demolished and tree removal as authorized by the previous Board approval has been accomplished [a tree removal permit was acquired and the removal was inspected by the area arborist].

Requested variance to the required front yards on McKinney Avenue and Boll Street.

The existing building at 2701 McKinney was constructed in 1927 and was constructed to the property line on Boll Street side and within three and one-half feet of the property line on McKinney. Since the property is located on a corner lot, the code requires a 10 foot front yard setback on both frontages. The addition of the lot located at 2612 Boll Street to the property located at 2701 McKinney continues the requirement for the setback along Boll Street. By allowing the front yard setback along McKinney would allow for a canopy, fixed waiting area seating and fixed planters to be located in the area between the building and the property line.

The site plan that was approved by the Board in May 2012 approved the variance to the front yard setback on Boll Street and we are requesting that variance be approved again. The continuation of the building façade along the Boll Street frontage provides for continuity of design and allows more space for operations on the interior of the wall.

Requested special exception to reduce the required parking.

The existing building has 2,533 square feet. The required parking of 25 spaces for the existing building is and has been provided [since 1976] on a separate lot located at the

southwest corner of Boll Street and Howland Street [2703 Boll Street]. The expansion of the restaurant adds 2863 square feet the bulk of which is support area with a limited amount of new covered customer area. If required to be parked at the required restaurant parking of one space for each 100 square feet of covered floor area, would require an additional 29 parking spaces for a total of 54 parking spaces. However, we believe that parking the current building and the expansion at the required one space per 100 square feet of building is redundant and not consistent with the intent of requiring parking.

Our request is to have the Board authorize required parking for the whole facility of 41 spaces.

First, we are requesting the maximum available reduction in required parking because we have a Dallas Area Rapid Transit stop at the front of the restaurant and a McKinney Avenue Trolley stop at the front of the restaurant. Many of our customers come to restaurant by means of the public transportation system.

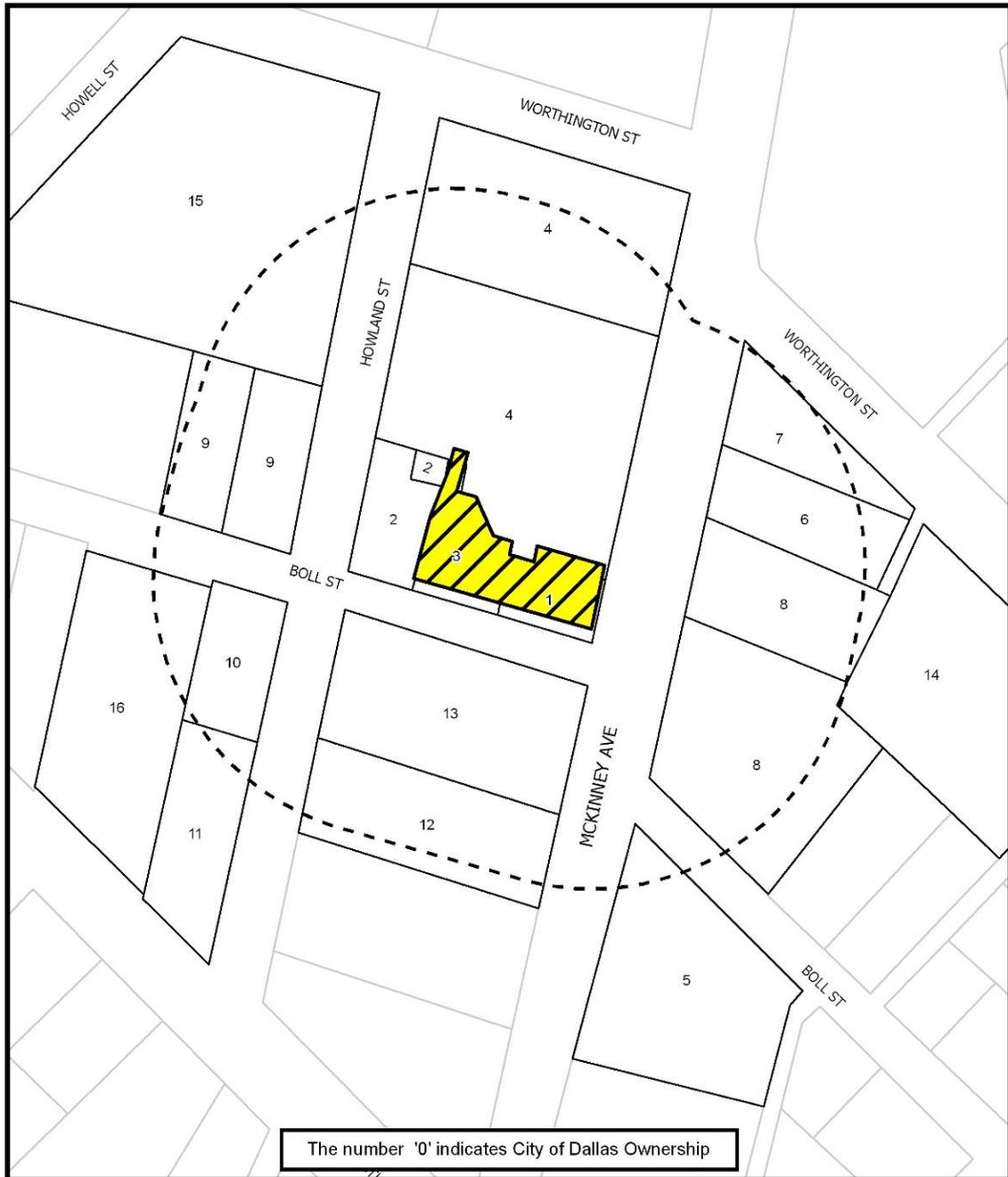
Next, the parking requirement for those areas like storage areas, freezers and coolers could be eliminated. Those areas are only accessed by employees of the restaurant and need not have parking provided. There is not an anticipated increase in restaurant staff as a result of the increased building area. The areas where there seems to be a redundant parking requirement adds up to 714 square feet on the ground floor, so seven spaces can be eliminated. Then we are saving one significant pecan tree and are requesting a reduction of one parking space for the tree preservation credit.

Part of the addition is a second floor. It contains a private office with attached restroom that we request be parked with one parking space. Additionally, there is an employee dressing room, an accessible restroom, an elevator shaft and a balcony, none of which are available to the public, so we are requesting that that the area of the second floor that is not the private office not be required to provide parking. The area that is not the office with private bath is 659 square feet. This approach can eliminate seven spaces since this area is only used by employees that are already included in the original parking requirement.

The additional parking required by the expansion will be provided on the parking lot previously approved by the Board in 2004 which contains 15 parking spaces. The new site plan provides for one additional parking space and the original parking lot has 25 spaces for a total of 41 parking spaces.

Special Exception for alternate landscape plan.

We are requesting an alternate landscape that is consistent with the alternate landscape plan submitted with this request and that was prepared by Walter Dahlberg.



 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">16</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	16	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: BDA123-028 Date: 3/1/2013
200'	AREA OF NOTIFICATION					
16	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA123-028

16 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	2701 MCKINNEY AVE	STORY HERBERT B JR
2	2614 BOLL ST	LONGCRIER MICHAEL C
3	2612 BOLL ST	JACKSON FRANK & EDGAR MASON
4	2705 MCKINNEY AVE	MCKINNEY AVENUE PARTNERS LTD
5	2614 MCKINNEY AVE	J&K REAL ESTATE INV LTD
6	2714 MCKINNEY AVE	PASHA & SINA INC
7	2720 MCKINNEY AVE	HEIDARI MOHSEN C/O SAN FRANCISCO ROSE
8	2702 MCKINNEY AVE	AJP PROPERTIES
9	2706 BOLL ST	STORY HERBERT B JR & MARY KAY STORY
10	2703 BOLL ST	OGLE LINDA K ET AL
11	2704 ROUTH ST	MARTIN INV LP % JAMES B MARTIN
12	2621 MCKINNEY AVE	BLACKFRIAR PROPERTY LLC
13	2633 MCKINNEY AVE	2633 MCKINNEY AVE LLC
14	2521 WORTHINGTON ST	POST APARTMENT HOMES LP POST PPTYS INC
15	2626 HOWELL ST	KODIAK UPTOWN CENTER H LP STE 100
16	2708 ROUTH ST	JTS ROUTH ST PARTNERS LLC ATTN: JOHN T S