

ZONING BOARD OF ADJUSTMENT, PANEL B
WEDNESDAY, OCTOBER 23, 2013
AGENDA

BRIEFING	ROOM L1FN CONFERENCE CENTER AUDITORIUM 1500 MARILLA STREET	11:00 A.M.
PUBLIC HEARING	ROOM L1FN CONFERENCE CENTER AUDITORIUM 1500 MARILLA STREET	1:00 P.M.

Neva Dean, Interim Assistant Director
Steve Long, Board Administrator

MISCELLANEOUS ITEMS

Approval of the Wednesday, September 18, 2013 Board of Adjustment Public Hearing Minutes	M1
Consideration and approval of Panel B's 2014 Public Hearing Calendar	M2

UNCONTESTED CASES

BDA 123-098	3231 S. Lancaster Road REQUEST: Application of Karen J. Hutton, represented by Christopher Berry, for a variance to the front yard setback regulations	1
BDA 123-104	6544 E. Lovers Lane (et al) REQUEST: Application of Zac Lytle for a special exception to the landscape regulations	2
BDA 123-106	9741 Meadowbrook Drive REQUEST: Application of Ed Simons for special exceptions to the fence height and visual obstruction regulations	3
BDA 123-107	9707 Meadowbrook Drive REQUEST: Application of Ed Simons for special exceptions to the fence height and visual obstruction regulations	4

REGULAR CASE

BDA 123-097

3001 Gaston Avenue

REQUEST: Application of Brian Luscher,
represented by Audra Buckley, for a variance to
the off-street parking regulations

5

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]

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel B September 18, 2013 public hearing minutes.

MISCELLANEOUS ITEM NO. 2

To approve the Board of Adjustment Panel B's 2014 public hearing calendar (see Attachment A).

FRONT PAGE BOARD OF ADJUSTMENT Calendar for year 2014 (United States)

m2
Attach A

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Holidays and Observances:	
Jan 1 New Year's Day	Jul 4 Independence Day
Jan 20 Martin Luther King Day	Sep 1 Labor Day
Feb 14 Valentine's Day	Oct 13 Columbus Day (Most regions)
Feb 17 Presidents' Day	Oct 31 Halloween
Apr 13 Thomas Jefferson's Birthday	Nov 11 Veterans Day
Apr 20 Easter Sunday	Nov 27 Thanksgiving Day
May 11 Mothers' Day	Dec 24 Christmas Eve
May 26 Memorial Day	Dec 25 Christmas Day
Jun 15 Fathers' Day	Dec 31 New Year's Eve

LEGEND

PANEL C
 PANEL A
 PANEL B

Calendar generated on www.timeanddate.com/calendar

FILE NUMBER: BDA 123-098

BUILDING OFFICIAL'S REPORT: Application of Karen J. Hutton, represented by Christopher Berry, for a variance to the front yard setback regulations at 3231 S. Lancaster Road. This property is more fully described as Lot 18A, Block 6/4058, and is zoned CR, which requires a front yard setback of 15 feet. The applicant proposes to construct and maintain a structure and provide a 10 foot front yard setback, which will require a 5-foot variance to the front yard setback regulations.

LOCATION: 3231 S. Lancaster Road

APPLICANT: Karen J. Hutton
Represented by Christopher Berry

REQUEST:

A request for a variance to the front yard setback regulations of 5' is made in conjunction with constructing and maintaining an approximately 6,800 square foot retail structure (O'Rilley Auto Parts), part of which would be located in the site's S. Lancaster Avenue 15' front yard setback on a site that is currently developed with a vacant structure that the applicant intends to demolish. (No part of the proposed structure is represented to be located in the site's Oakley Street 15' front yard setback).

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.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The subject site has a restrictive area caused by a 5’ wide street right-of-way widening easement that runs parallel to its S. Lancaster Road frontage that, according to the applicant, was put into place in the early 70’s. Granting this variance does not appear to be contrary to public interest since according to the City’s Department of Public Works and Transportation, the City does not have plans to utilize this 5’ wide easement for any future widening of S. Lancaster Road.
- The applicant states that the proposed structure/development on the site cannot be shifted 5’ westward from the S. Lancaster Road right-of-way line without resulting in noncompliance with off-street parking regulations related to the number of parking spaces required for the proposed use, to required parking space depths, and to required parking lot drive aisle widths.

BACKGROUND INFORMATION:

Zoning:

- Site: CR (Community retail)
- North: CR (Community retail)
- South: CR (Community retail)
- East: PD 426 (Planned Development)
- West: CR (Community retail)

Land Use:

The subject site is currently developed with a vacant structure. The areas to the north, east, south, and west are developed mostly as commercial and retail uses.

Zoning/BDA History:

1. BDA 123-040, Property at 3231 S. Lancaster Road (the subject site)

On May 22, 2013, the Board of Adjustment Panel B granted a request for a special exception to the off-street parking regulations of 6 spaces. The Board imposed the following condition: The special exception of 6 parking spaces shall automatically and immediately terminate if and when the general merchandise or food store greater than 3,500 square feet uses is changed or discontinued. The case report stated that the request was made in conjunction in conjunction with

constructing and maintaining an approximately 6,800 square foot “general merchandise or food store greater than 3,500 square feet” use (O’Reilly Auto Parts).

Timeline:

August 8, 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.

September 19, 2013: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

September 19, 2013: The Board Administrator contacted the applicant’s representative and shared the following information via email:

- an attachment that provided the public hearing date and panel that will consider the application; the October 2nd deadline to submit additional evidence for staff to factor into their analysis; and the October 11th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

September 24, 2013: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

October 8, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

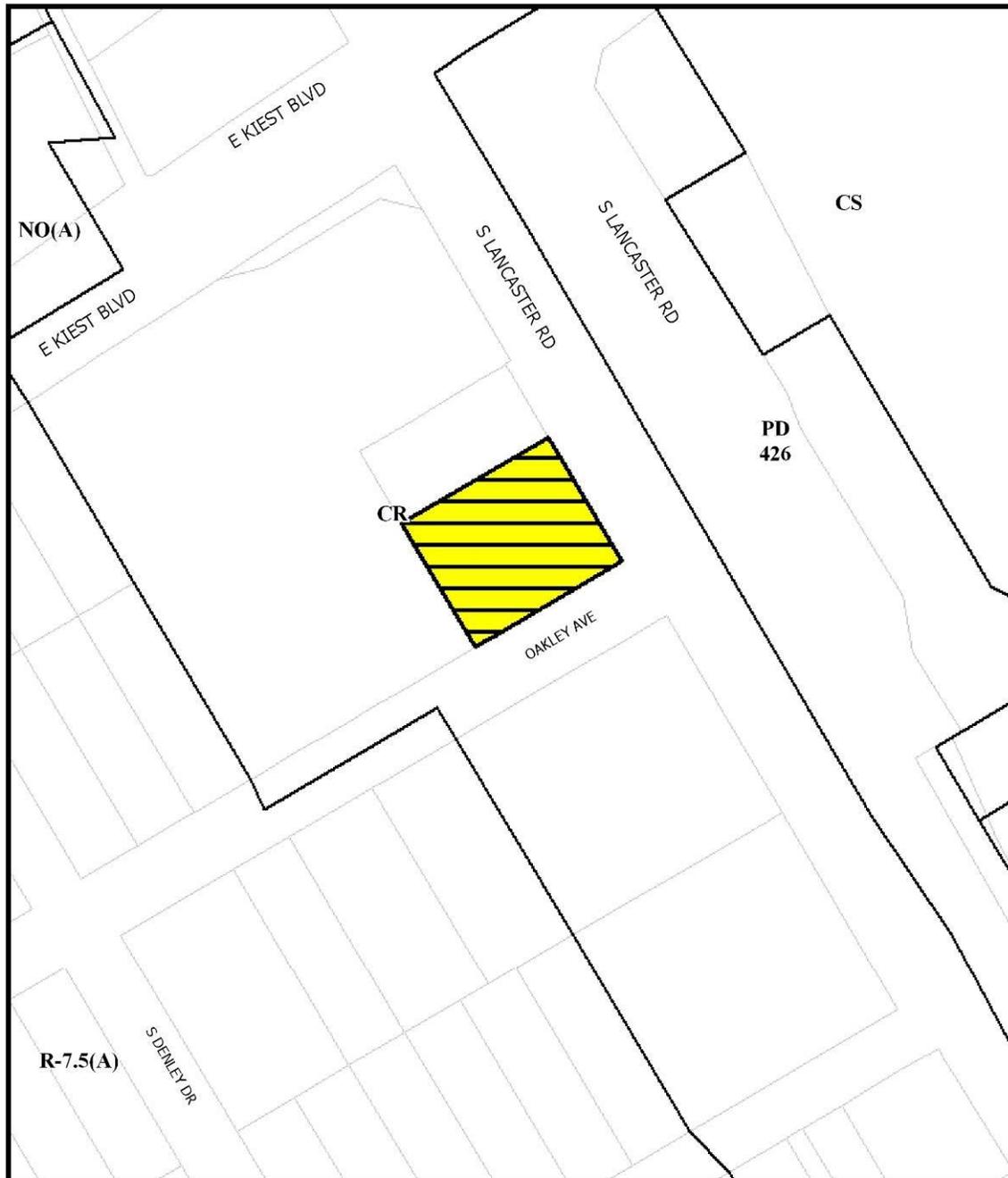
GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining an approximately 6,800 square foot retail structure (O’Rilley Auto Parts), part of which would be located in the site’s S. Lancaster Avenue 15’ front yard setback on a site that is currently

developed with a vacant structure that the applicant intends to demolish. No part of the proposed structure is represented to be located in the site's Oakley Street 15' front yard setback.

- Structures on lots zoned CR are required to provide a minimum front yard setback of 15'.
- The subject site is located at the northwest corner of S. Lancaster Road and Oakley Street. Regardless of how the proposed structure is to be oriented, the subject site has two 15' front yard setbacks along both streets as would any property with two street frontages not zoned agricultural, single family, or duplex.
- A site plan has been submitted denoting that the distance between the proposed structure and the existing right-of-way of S. Lancaster Road is 15' and the distance between the proposed structure and the existing street easement is 10'.
- Since the Dallas Development Code states that the front yard setback is measured from the front property lot line of the building site or the required right-of-way as determined by the thoroughfare plan for all thoroughfares, whichever creates the greater setback, the applicant seeks a variance of 5' to the front yard setback regulations along S. Lancaster Road since the proposed structure is 5' into the 15' front yard setback or only 10' from the existing required street right-of-way line.
- It appears from calculations made by the Board Administrator from the submitted site plan that approximately 450 square feet (or about 7 percent) of the proposed approximately 6,800 square foot building footprint is to be located in the site's S. Lancaster Road 15' front yard setback.
- DCAD records indicate the improvements for property at 3231 S. Lancaster Road is a "free standing retail store" with 2,475 square feet constructed in 1969.
- The subject site is rectangular in shape (130' x 110') and according to the application, is 0.34 acres (or approximately 14,810 square feet) in area. The submitted plat map indicates that the subject site and the lot immediately north have what the applicant has described as a 5' street widening easement put into place in 1972. (According to Public Works and Transportation, the City does not have plans to utilize this 5' wide easement for any future widening of S. Lancaster Road).
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback regulations along S. Lancaster Road 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 CR zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same CR zoning classification.

- If the Board were to grant the variance request and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which is a structure to be located 10’ from the site’s S. Lancaster Road front property line (or 5’ into this 15’ front yard setback).

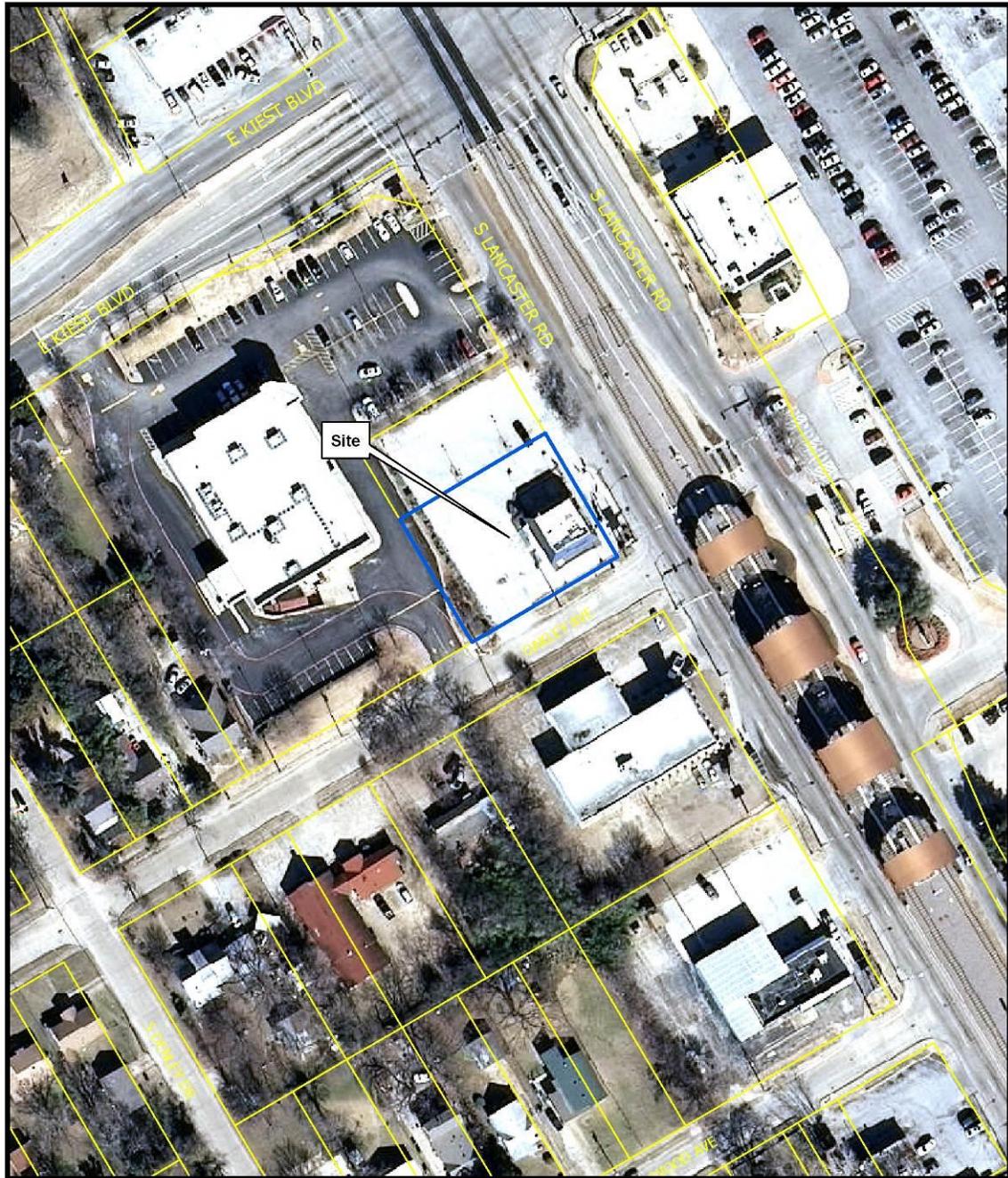


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ZONING MAP

Case no: BDA123-098

Date: 9/30/2013



1:1,200

AERIAL MAP

Case no: BDA123-098

Date: 9/30/2013

September 24, 2013

Mr. Todd Duerksen
City of Dallas
Board of Adjustment
320 E Jefferson Blvd., Room 105
Dallas, TX 75203

Dear Mr. Duerksen,

This letter is an official request for a building setback variance from the City of Dallas for the development of an O'Reilly Auto Parts at 3231 S Lancaster Road (Lot 18A). The proposed project is a redevelopment of 0.54 acres which includes Lots 18A and 19A and has a required building setback of 15' as measured from either the existing right-of-way or street easement, whichever is most restrictive.

The subject property has a 5' street widening easement along S Lancaster Road that was put into place in 1972 and not fully utilized during the subsequent widening of S Lancaster Road. The existing right-of-way is 80' wide, which matches the current thoroughfare plan right-of-way width for S Lancaster Road. The City of Dallas has no intentions to require the 5' street easement to be dedicated right-of-way as the roadway had been widened and the full planned thoroughfare width has been provided. The proposed site plan provides a 15' building setback from the existing right-of-way and 10' from the existing easement location along S Lancaster Road. This variance request is for a 5' reduction of the building setback along S Lancaster Road.

Due to the very limited size of the property and layout, it is not possible to shift the building location an additional 5' away from S Lancaster Road. The existing lot depth is 135'. The provided drive aisle is the minimum allowed 24' and compact parking spaces with a depth of 16' are already being utilized to provide the maximum possible setback from S Lancaster Road. Also, a narrower building cannot be utilized as there is no room to expand the building along the width to accommodate the square footage required by O'Reilly Auto Parts.

We believe granting the variance request would not create a situation significantly different than other surrounding properties. See enclosed exhibit EX-3 to see surrounding area properties with building setbacks from the roadway of similar or lesser distances.

We believe this request and proposed site plan results in the reasonable redevelopment of this property and is consistent with the intent of the building setback regulations. The purpose of requiring building setbacks to be measured from street widening easements is to account for future plans which would result in changes to the right-of-way. That situation is not applicable to the subject property as the full planned thoroughfare width has been accomplished and the remaining street easement is unnecessary for its originally intended purpose.

Sincerely,

Christopher M. Berry

Christopher M. Berry, P.E.
Chris@berryengineers.com
(423) 790-5880

Enclosures



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-098

Data Relative to Subject Property:

Date: 08/08/2013

Location address: 3231 S Lancaster Road Zoning District: CR

Lot No.: 18A Block No.: 6/4058 Acreage: 0.34 Census Tract: 57.00

Street Frontage (in Feet): 1) 110' 2) 130' 3) _____ 4) _____ 5) _____

SW12

To the Honorable Board of Adjustment :

Owner of Property/or Principal: HUTTON GROWTH ONE, LLC

Applicant: KAREN J. HUTTON Telephone: 423-756-9267

Mailing Address: 736 CHERRY STREET, CHATTANOOGA, TN Zip Code: 37402

Represented by: CHRISTOPHER BERRY Telephone: 423-790-5880

Mailing Address: 3555 KEITH STREET, SUITE 109, CLEVELAND, TN Zip Code: 37312

Affirm that a request has been made for a Variance or Special Exception , of _____
5' reduction in the building setback along S Lancaster Road (from 15' to 10').

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 proposed O'Reilly Auto Parts site layout cannot reasonably accommodate shifting the building location 5' without substantial impacts to the property's ability to maintain parking and commercial delivery operations. The proposed setback is 10' from the street widening easement that was established in 1972, which the City has no intention of requiring to be dedicated now that S Lancaster Road has been widened to the full width of the proposed thoroughfare plan. The proposed site plan maintains a 15' setback from the existing R.O.W., but is requesting a variance due to required setbacks being measured from the existing street easement rather than the existing R.O.W.

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: KAREN J. HUTTON
Applicant's name printed

[Handwritten Signature]
Applicant's signature

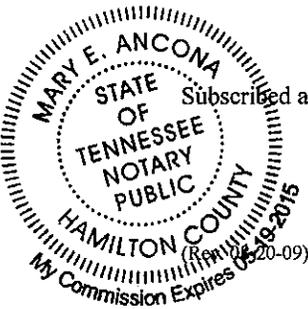
Affidavit

Before me the undersigned on this day personally appeared KAREN J. HUTTON 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.

[Handwritten Signature]
Affiant (Applicant's signature)

Subscribed and sworn to before me this 13th day of August, 2013

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



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

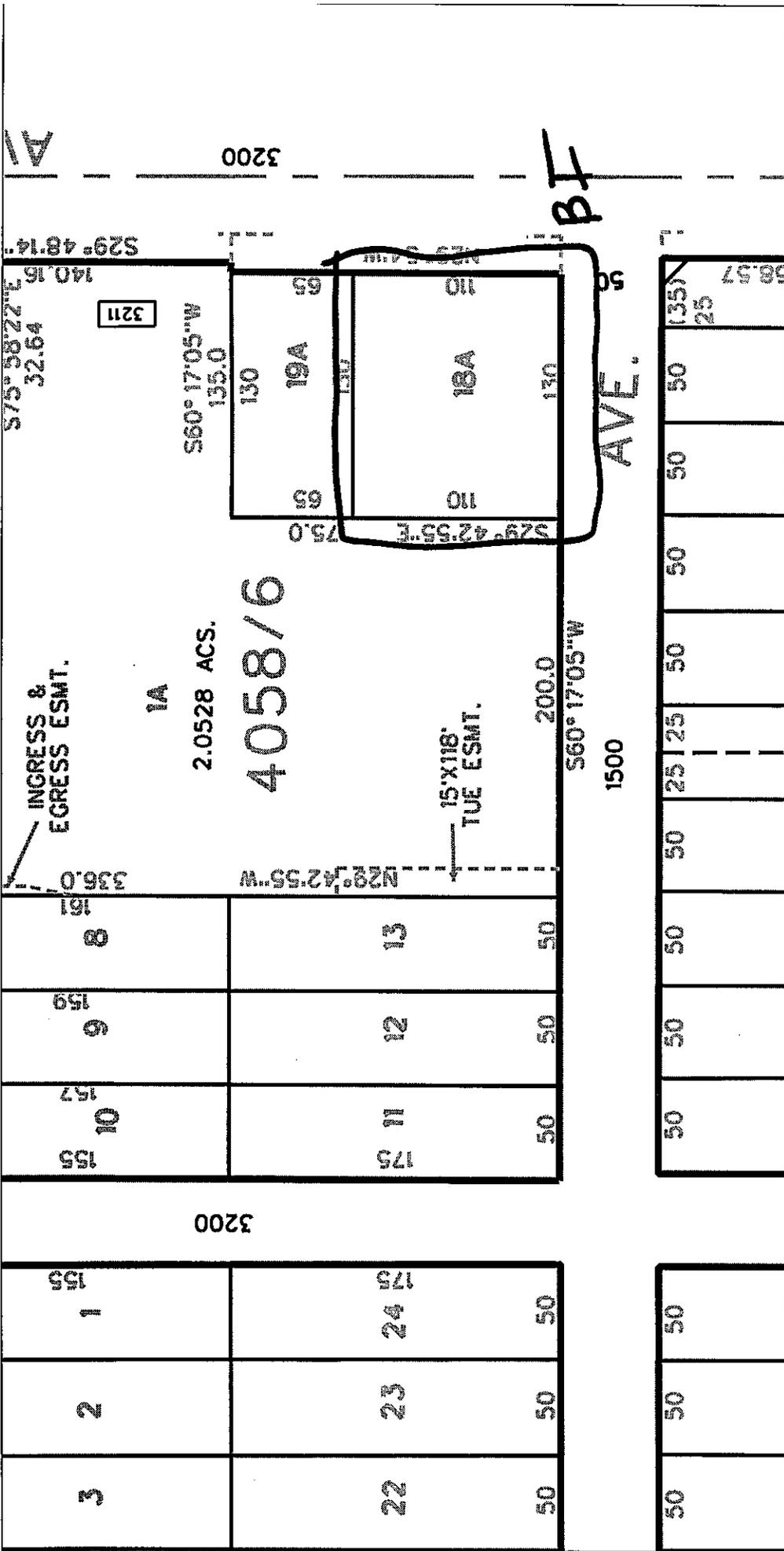
I hereby certify that Karen J. Hutton
represented by Christopher Berry
did submit a request for a variance to the front yard setback regulations
at 3231 S. Lancaster Road

BDA123-098. Application of Karen J. Hutton represented by Christopher Berry for a variance to the front yard setback regulations at 3231 S. Lancaster Road. This property is more fully described as Lot 18A, Block 6/4058, and is zoned CR, which requires a front yard setback of 15 feet. The applicant proposes to construct a nonresidential structure and provide a 10 foot front yard setback, which will require a 5 foot variance to the front yard setback regulation.

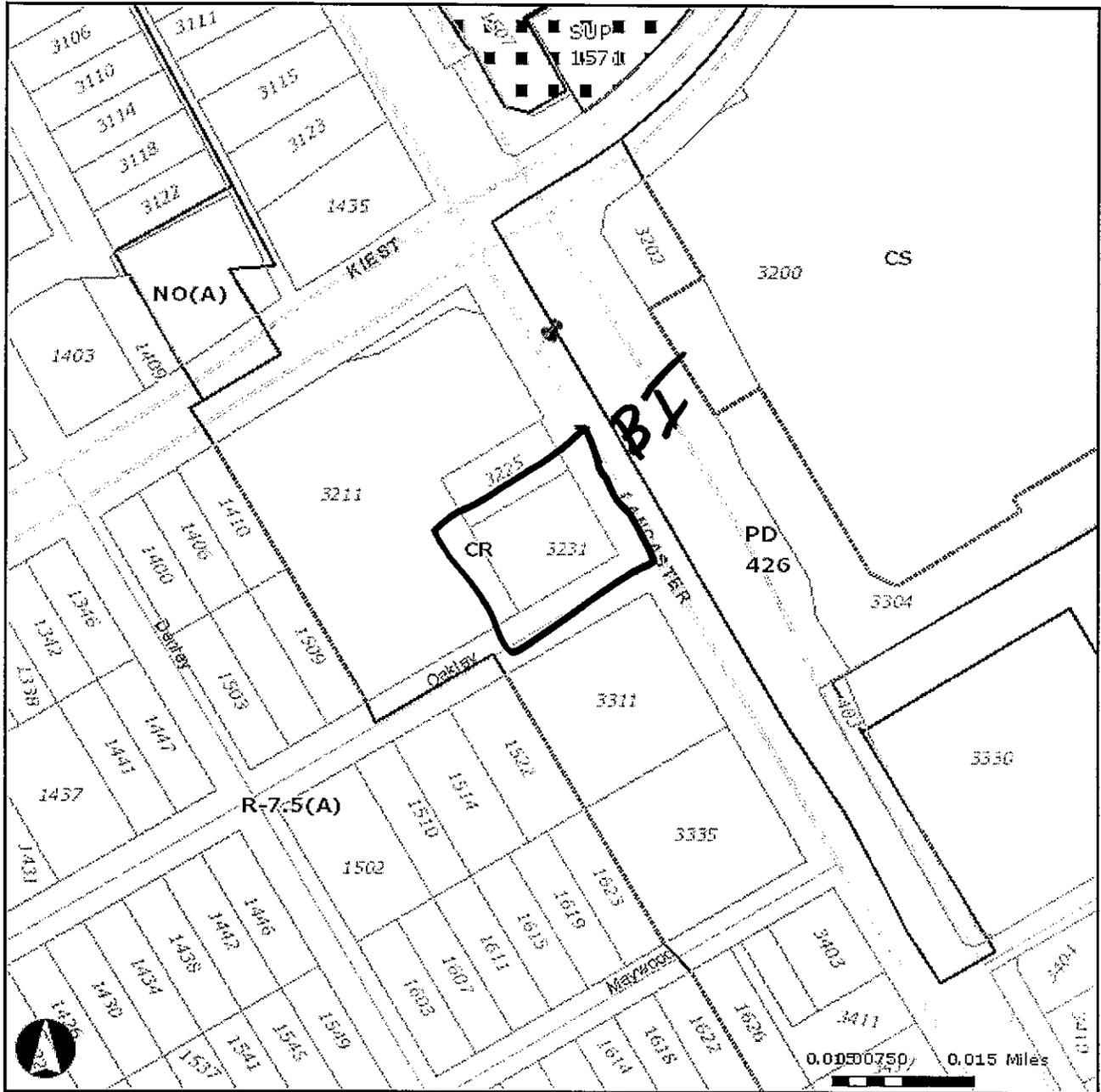
Sincerely,

Larry V. Holmes
Larry Holmes, Building Official





City of Dallas Zoning



Address Candidates

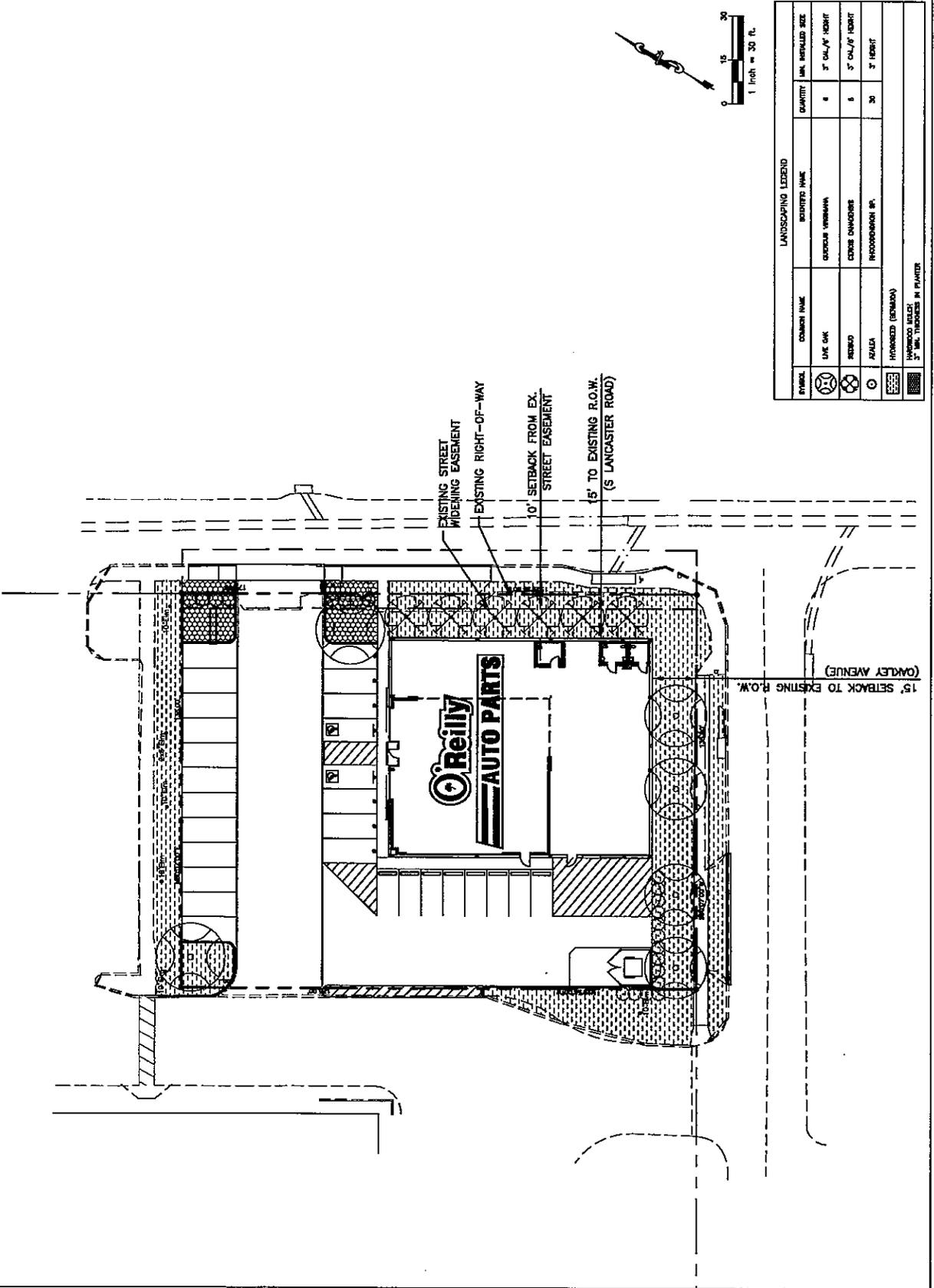
- Address Candidates
- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways

SUP

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

PDS Subdistricts

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



August 12, 2013

Mr. Todd Duerksen
City of Dallas
Board of Adjustment
320 E Jefferson Blvd., Room 105
Dallas, TX 75203

Dear Mr. Duerksen,

This letter is an official request for a building setback variance from the City of Dallas for the development of an O'Reilly Auto Parts at 3231 S Lancaster Road (Lot 18A). The proposed project is a redevelopment of 0.54 acres which includes Lots 18A and 19A and has a required building setback of 15' as measured from either the existing right-of-way or street easement, whichever is most restrictive.

The subject property has a 5' street widening easement along S Lancaster Road that was put into place in 1972. The existing right-of-way is 80' wide, which matches the current thoroughfare plan right-of-way width for S Lancaster Road. The City of Dallas has no intentions to require the 5' street easement to be dedicated right-of-way as the roadway had been widened and the full planned thoroughfare width has been provided. The proposed site plan provides a 15' building setback from the existing right-of-way and 10' from the existing easement location along S Lancaster Road. This variance request is for a 5' reduction of the building setback along S Lancaster Road.

Due to the very limited size of the property and layout, it is not possible to shift the building location an additional 5' away from S Lancaster Road and be able to maintain sufficient parking and truck delivery operations. Additionally, granting the variance request would not create a situation significantly different than other surrounding properties. See enclosed exhibit EX-3 to see surrounding area properties with building setbacks from the roadway of similar or lesser distances.

We believe this request and proposed site plan results in the reasonable redevelopment of this property and is consistent with the intent of the building setback regulations. The purpose of requiring building setbacks to be measured from street widening easements is to account for future plans which would result in changes to the right-of-way. That situation is not applicable to the subject property as the full planned thoroughfare width has been accomplished and the remaining street easement is unnecessary for its originally intended purpose.

Sincerely,

Christopher M. Berry

Christopher M. Berry, P.E.
Chris@berryengineers.com
(423) 790-5880

Enclosures

EXHIBIT

BERRY
ENGINEERS LLC
2115 NORTH AVENUE, SUITE 1100
CHATTANOOGA, TN 37424
TEL: (423) 796-9800
FAX: (423) 796-9801

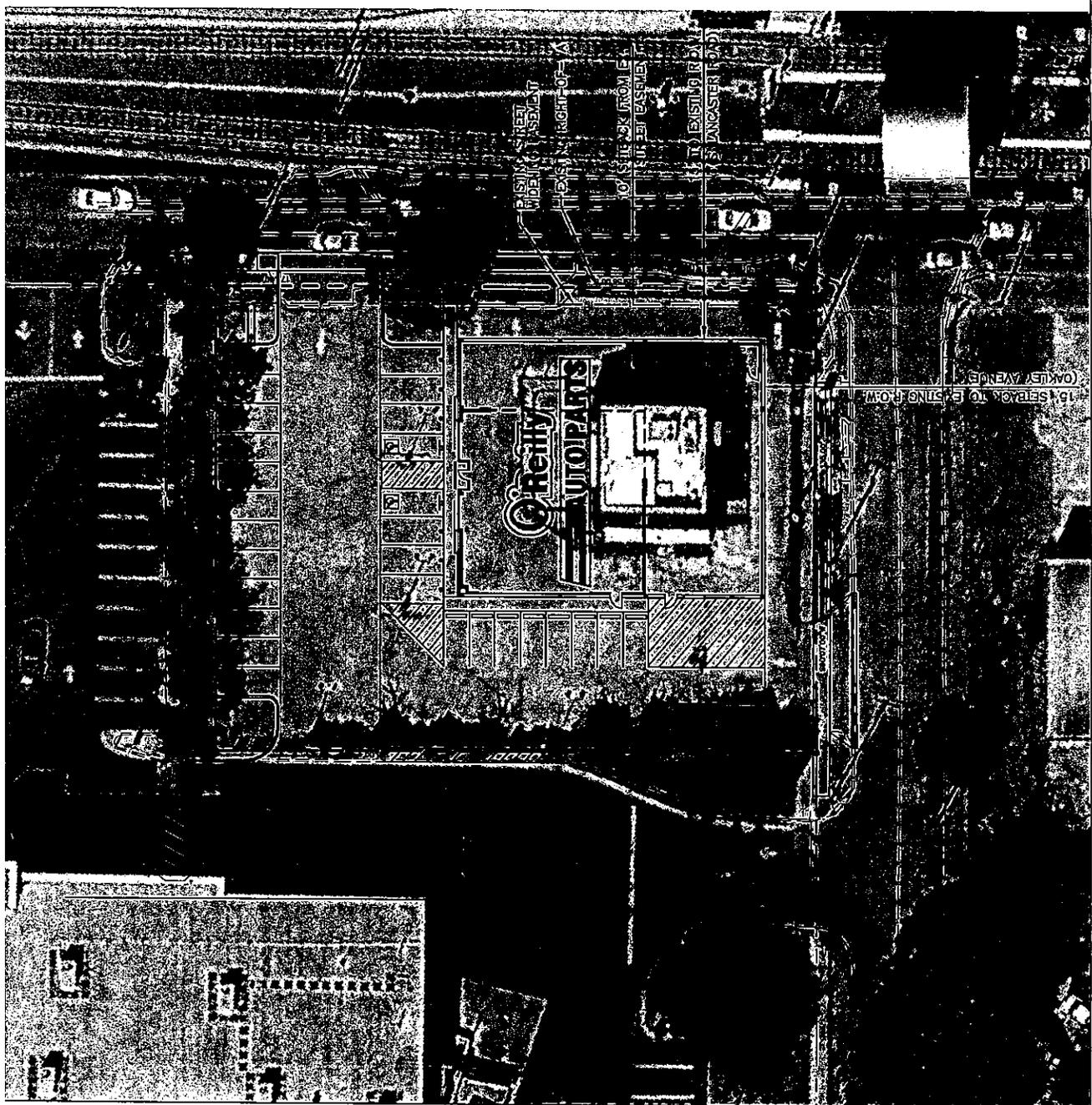
THE HILTON COMPANY
736 CHERRY STREET
CHATTANOOGA, TN 37402

O'Reilly
AUTO PARTS
3231 S LANCASTER ROAD
DALLAS, TEXAS

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PROJECT NAME:
SETBACK VARIANCE
EXHIBIT (AERIAL)

DATE: _____
SUBJECT: _____
DRAWN BY: CAB
CHECKED BY: BMS
PROJECT NO.: 1206
REPORT NUMBER:
EX-2





 1:1,200	NOTIFICATION		Case no: BDA123-098
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">8</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 9/30/2013	

Notification List of Property Owners

BDA123-098

8 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3231 LANCASTER RD	HUTTON GROWTH ONE LLC
2	1509 OAKLEY AVE	CHAVEZ MARIA DEL CARMEN
3	3311 LANCASTER RD	HOPPENSTEIN PROPERTIES INC
4	1522 OAKLEY AVE	ROLLINS JESSIE
5	1514 OAKLEY AVE	PRELATE OF TEXAS EAST JURISDICTION COGIC
6	3211 LANCASTER RD	GOTTLIEB DALLAS DRUGSTORE LLC
7	3200 LANCASTER RD	DONALDSON PROPERTIES LTD
8	3304 LANCASTER RD	DALLAS AREA RAPID TRANSIT

FILE NUMBER: BDA 123-104

BUILDING OFFICIAL'S REPORT: Application of Zac Lytle for a special exception to the landscape regulations at 6544 E. Lovers Lane (et al). This property is more fully described as Lot 4 (et al), Block 1/5431, and is zoned TH-3(A), which requires mandatory landscaping. The applicant proposes to construct and maintain a single family residential shared access development and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 6544 E. Lovers Lane (et al).

APPLICANT: Zac Lytle

REQUEST:

A request for a special exception to the landscape regulations is made in conjunction with developing a single family residential shared access development on a site currently developed with a single family home, and not fully meeting the landscape regulations.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REGULATIONS:

The board may grant a special exception to the landscape regulations of this article upon making a special finding from the evidence presented that:

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property;
- (2) the special exception will not adversely affect neighboring property; and
- (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

In determining whether to grant a special exception, the Board shall consider the following factors:

- the extent to which there is residential adjacency;
- the topography of the site;
- the extent to which landscaping exists for which no credit is given under this article; and
- the extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required.

Rationale:

- The applicant has substantiated how strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property, and that the special exception will not adversely affect neighboring property. The submitted plan's deficiency from full compliance with street tree requirements for shared access developments is compensated by the applicant's plan to retain several large trees on the subject site.
- The City's Chief Arborist recommends approval of the applicant's request for exception to the Landscape Regulations.

BACKGROUND INFORMATION:

Zoning:

Site: TH-3(A) (Townhouse)
North: TH-3(A) (Townhouse)
South: R-7.5(A) (Single family 7,500 square feet)
East: R-7.5(A) (Single family 7,500 square feet)
West: TH-3(A) (Townhouse)

Land Use:

The site is currently developed with a single family use. The areas to the north, south, east, and west appear to be developed with single family uses.

Timeline:

August 9, 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.

September 19, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

September 19, 2013: The Board Administrator contacted the applicant's representative and shared the following information via email:

- an attachment that provided the public hearing date and panel that will consider the application; the October 2nd deadline to submit additional evidence for staff to factor into their analysis; and the October 11th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

September 30, 2013: The applicant submitted additional information beyond what was submitted with the original application (see Attachment A).

October 8, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

October 9 2013: The City of Dallas Chief Arborist submitted a memo regarding the request (see Attachment B).

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on developing a single family residential shared access development on a site currently developed with a single family home, and not fully meeting the landscape regulations. More specifically, according to the City of Dallas Chief Arborist, the site is deficient to the Landscape Regulations regarding the number of new trees to be provided in the shared access development – the plan is providing 23 new trees within the SAD (shared access development) and the retention of several large trees where the ordinance would require a minimum of 36 trees for the shared lot with at least 24 trees in the front yard.
- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment B). The memo states how this request is triggered by new construction of a shared access development on the site.
- The arborist's memo lists the following factors for consideration:
 1. All of the trees to be planted are on the approved replacement tree list; the plan calls for planting 23 new trees within the SAD.
 2. The design of the shared access development includes the retention of several large trees, including one large shade tree at the Lovers Lane street frontage.
 3. The proposed plan would comply with the minimum landscape requirements of 51A-10.125(a)(2)(B) for a shared access development in "districts other than single family districts," with the exception of the placement of one street tree.

- The City of Dallas Chief Arborist recommends approval of this proposed landscape plan
- The applicant has the burden of proof in establishing the following:
 - Strict compliance with the requirements of the Landscape Regulations of the Dallas Development Code will unreasonably burden the use of the property; and
 - The special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted landscape plan as a condition to the request, the site would be provided exception from full compliance with the street tree requirements for shared access developments of Article X: The Landscape Regulations.

|




 1:2,400

ZONING MAP

Case no: BDA123-104
 Date: 9/30/2013



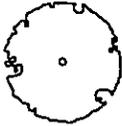
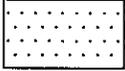
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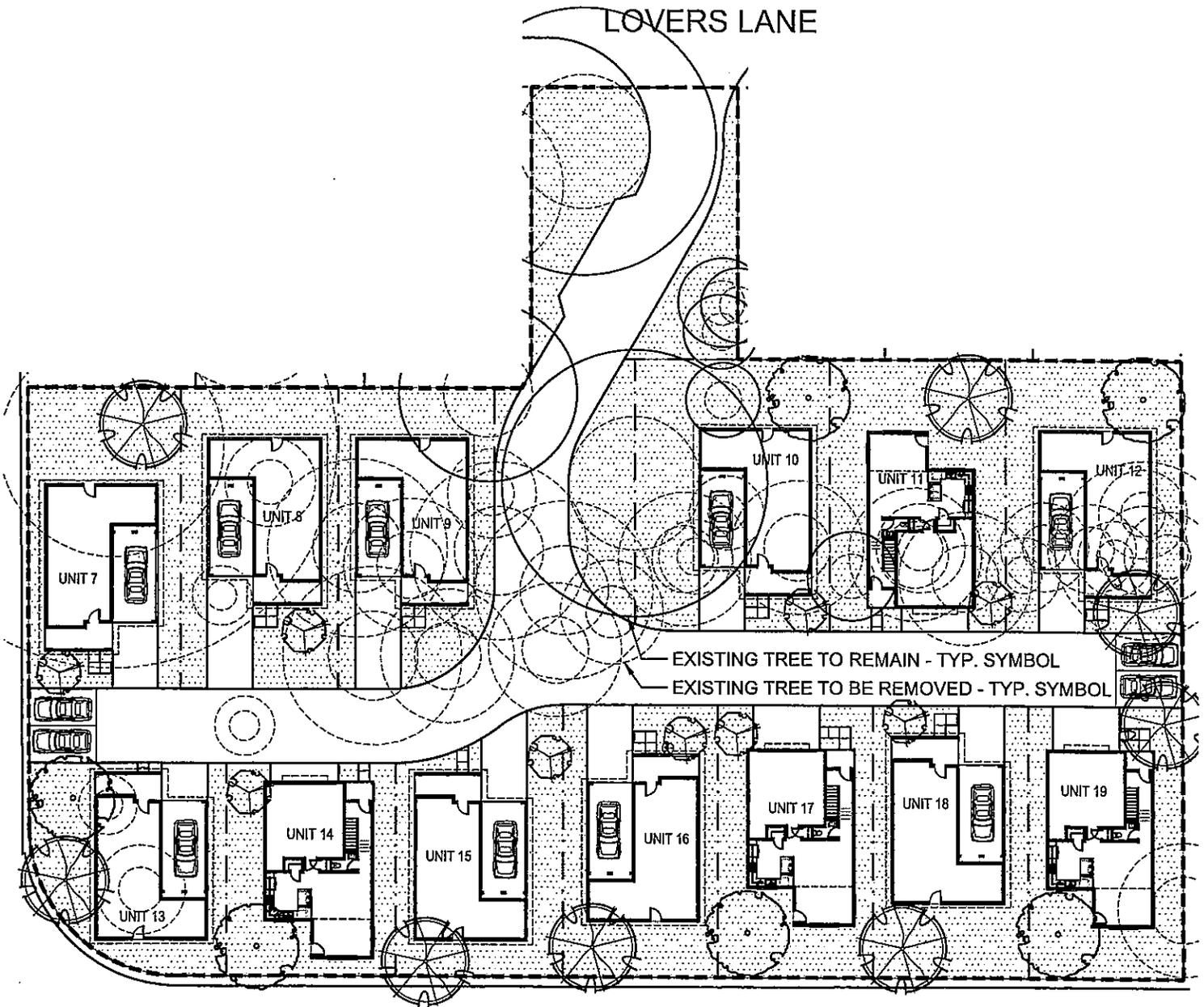
AERIAL MAP

Case no: BDA123-104

Date: 9/30/2013

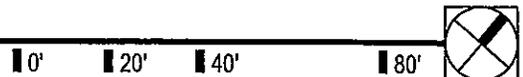
LEGEND

	8 - 4" CHINKAPIN OAK QUERCUS MUHLENBERGII		6 - 4" LIVE OAK QUERCUS VIRGINIANA
	ZOYSIA GRASS SOD		9 - 2" NATCHEZ CRAPE MYRTLE LAGERSTROEMIA INDICA
			SHARED ACCESS BOUNDARY



6536-6558 Lovers Lane, Dallas, Texas 75214

September 2013





City of Dallas

B

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-104

Data Relative to Subject Property:

Date: 8/26/2013

Location address: 6544 E. Lover's Ln., et al Zoning District: TH 3(A)

Lot No.: - 4 Block No.: 1/5431 Acreage: 1.70 Census Tract: 6079.02

Street Frontage (in Feet): 1) 56' 2) 118' 3) 271' 4) _____ 5) _____

385B

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): PSW Real Estate LLC

Applicant: Zac Lytle Telephone: 972 623 7913

Mailing Address: 2003 S. 1st Street Austin Tx Zip Code: 78704

E-mail Address: Zac.Lytle@PSWRealEstate.com

Represented by: Zac Lytle Telephone: 972 623 7913

Mailing Address: 626 N Montclair Dallas Zip Code: 75208

E-mail Address: Zac.Lytle@PSWrealestate.com

Affirm that an appeal has been made for a Variance __, or Special Exception X, of Article X
landscape code

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:
It is not possible to comply w/ the Article X code for single family shared access drive communities on this site. An alterable plan has been provided.

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 Zac Lytle
(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 26 day of August, 2013



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

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

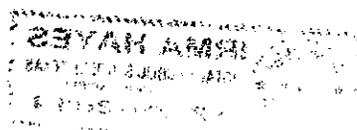
Building Official's Report

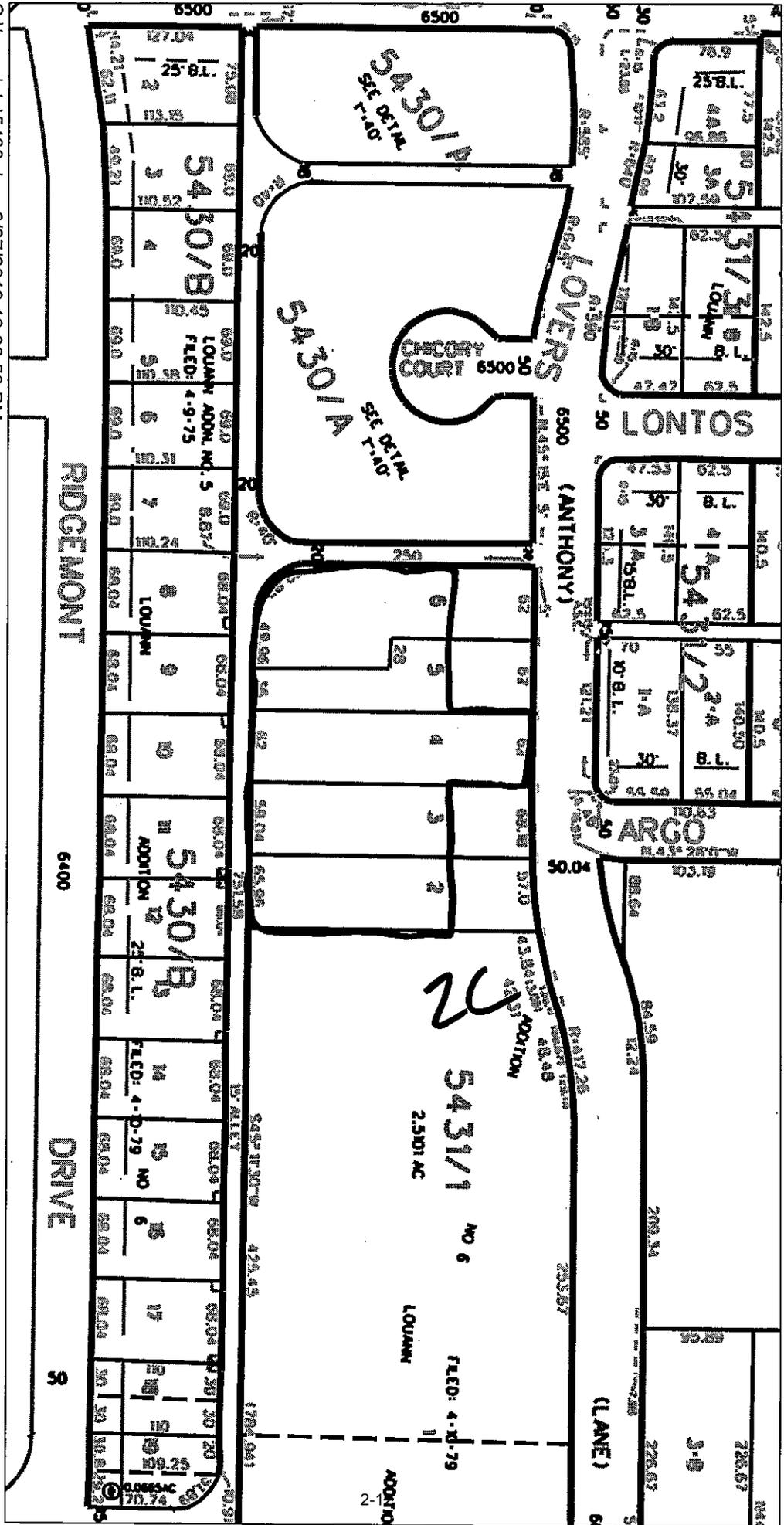
I hereby certify that Zac Lytle
represented by Zac Lytle
did submit a request for a special exception to the landscaping regulations
at 6544 E. Lovers Lane (et al)

BDA123-104. Application of Zac Lytle for a special exception to the landscaping regulations at 6544 E. Lovers Lane (et al). This property is more fully described as Lot 4 (et al), Block 1/5431, and is zoned TH-3(A), which requires mandatory landscaping. The applicant proposes to construct a single family residential shared access development and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

Sincerely,


Larry Holmes, Building Official



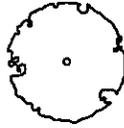


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LEGEND



9 - 4" SHUMARD OAK
QUERCUS SHUMARDII



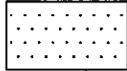
10 - 4" LIVE OAK
QUERCUS VIRGINIANA



12 - 4" CHINKAPIN OAK
QUERCUS MUHLENBERGII



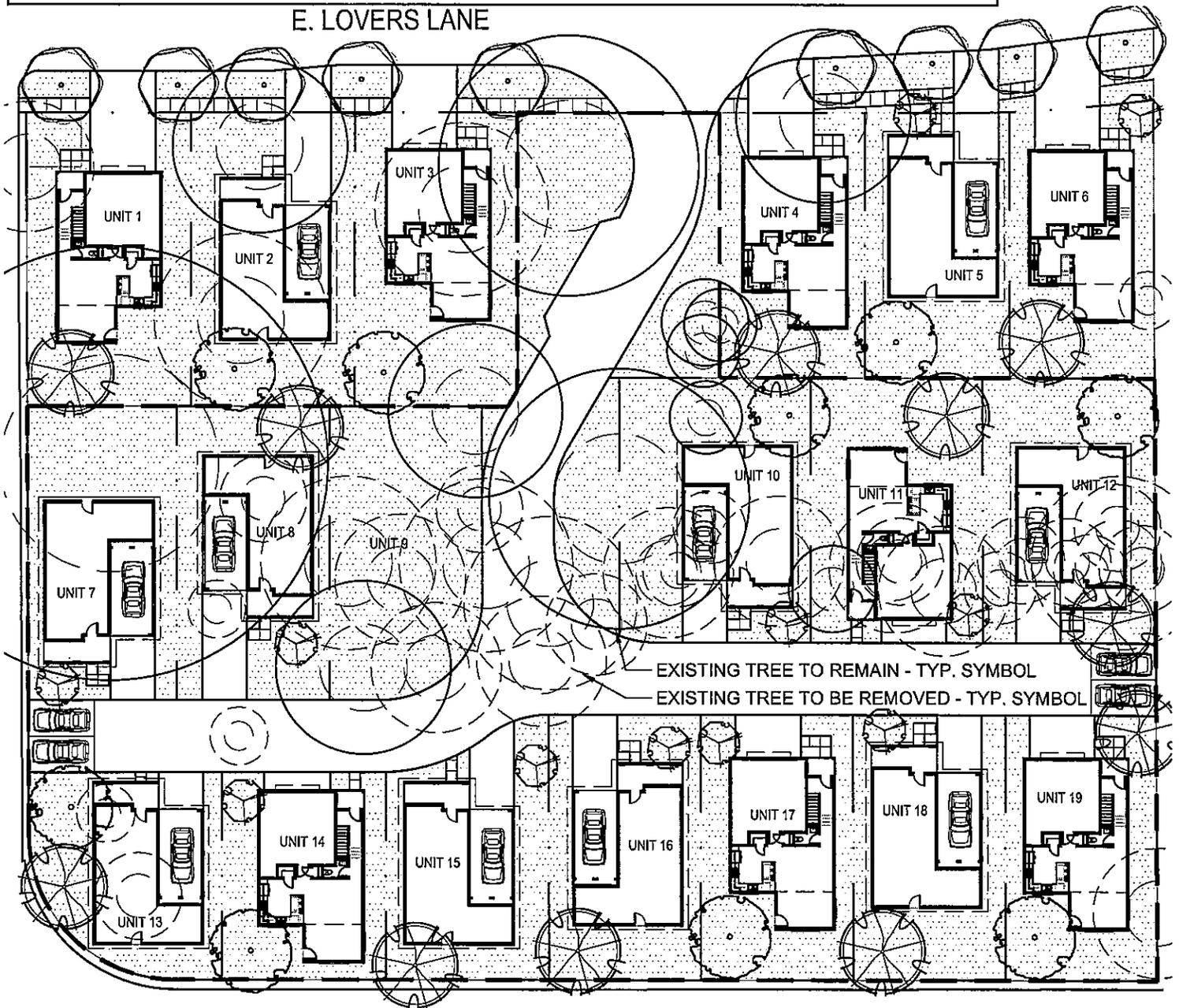
11 - 2" NATCHEZ CRAPE MYRTLE
LAGERSTROEMIA INDICA
"NATCHEZ"
SHARED ACCESS
BOUNDARY



ZOYSIA
GRASS SOD



E. LOVERS LANE



EXISTING TREE TO REMAIN - TYP. SYMBOL

EXISTING TREE TO BE REMOVED - TYP. SYMBOL

6536-6558 Lovers Lane, Dallas, Texas 75214

September 2013

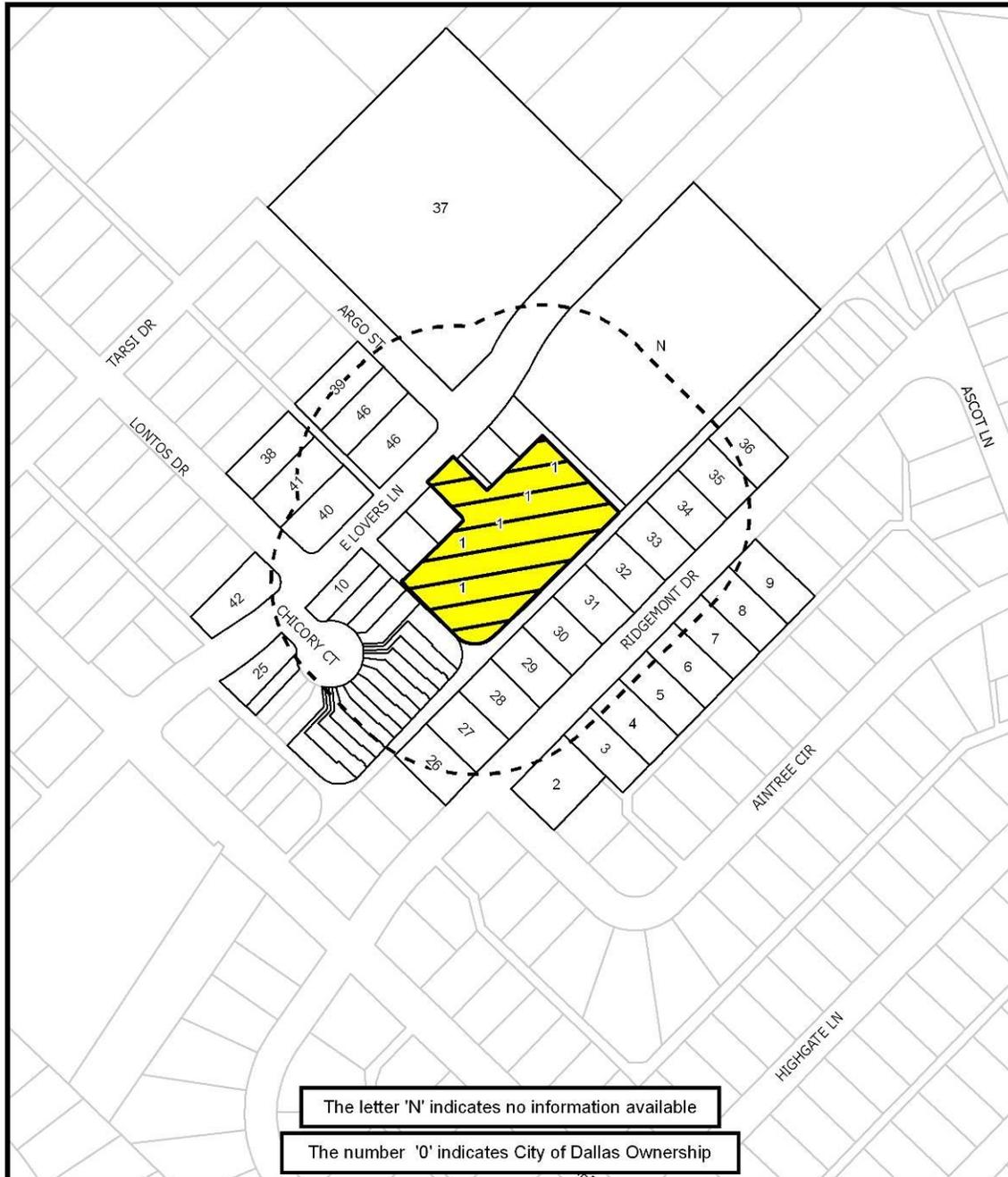
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80'





The letter 'N' indicates no information available

The number '0' indicates City of Dallas Ownership



1:2,400

NOTIFICATION

200'

AREA OF NOTIFICATION

46

NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA123-104**

Date: **9/30/2013**

Notification List of Property Owners

BDA123-104

46 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	6558 LOVERS LN	PSW REAL ESTATE LLC
2	6605 AINTREE CIR	STAMBAUGH LEO P JR
3	6458 RIDGEMONT DR	PARKER RUTH
4	6454 RIDGEMONT DR	NORRIS JANICE H
5	6450 RIDGEMONT DR	SHOWERS ELIZABETH
6	6446 RIDGEMONT DR	LLOYD MAXON
7	6442 RIDGEMONT DR	MARTINEZ MARCO &
8	6438 RIDGEMONT DR	FISCHER BETTY EVELYN
9	6434 RIDGEMONT DR	SCHUTZ PATSY SHELTON
10	6586 CHICORY CT	TURNER D MACK & CATHERINE B
11	6572 CHICORY CT	HUGGINS NICHOLAS G & MARIKA COLE CROCKET
12	6568 CHICORY CT	BURGMIEIER REBECCA J
13	6564 CHICORY CT	TOLLE MARY TERESA
14	6560 CHICORY CT	FERGUSON JENNIFER C
15	6556 CHICORY CT	SCHURBA MARIANA
16	6552 CHICORY CT	LI SHING
17	6548 CHICORY CT	HELME JASON
18	6544 CHICORY CT	NGUYEN JEANNIE
19	6540 CHICORY CT	MENDENHALL RITA MARJORIE & PATRICIA A ME
20	6536 CHICORY CT	MARSHALL AGNES
21	6532 CHICORY CT	LAHIRI SATYAJEET&SUDESHNA
22	6528 CHICORY CT	WEISS MERLE S
23	6524 CHICORY CT	LAHIRI SATYAJEET & SUDESHNA
24	6508 CHICORY CT	CATO GAIL M
25	6504 CHICORY CT	BERNSTEIN JACK
26	6475 RIDGEMONT DR	UTSMAN MARY MARGARET

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	6469 RIDGEMONT DR	SWITALSKI BOGUSLAW
28	6465 RIDGEMONT DR	TOWNER NANCY J
29	6459 RIDGEMONT DR	BOND ANNE & DANIEL
30	6455 RIDGEMONT DR	YARBROUGH ANDREA M &
31	6451 RIDGEMONT DR	MITCHELL RUSSELL A JR & LANG A KIMBERLY
32	6447 RIDGEMONT DR	GREGORY JOSEPH III & KATHERINE GREGORY
33	6443 RIDGEMONT DR	SOLEWIN MARK S & LEOLA S
34	6439 RIDGEMONT DR	GEBREDINGIL TESFA
35	6435 RIDGEMONT DR	ROMEO RONALD & LINDA
36	6431 RIDGEMONT DR	SORIA ERIC & NORMA CISNEROS
37	6607 LOVERS LN	NESSSEL DEVELOPMENT X LLC
38	6489 LONTOS DR	BRENKUS STEVE
39	6486 ARGO ST	ODOHERTY DERMOT
40	6497 LONTOS DR	RASH RAMONA B
41	6493 LONTOS DR	MALONE JAMES K
42	6511 LOVERS LN	PEF CAPITAL PROPERTIES LLC
43	6584 CHICORY CT	BILLINGS CYNTHIA M
44	6582 CHICORY CT	GILMORE JO GINDRATT
45	6580 CHICORY CT	GOMEZ TRESA S
46	6494 ARGO ST	SLAZYK LIVING TRUST THE

FILE NUMBER: BDA 123-106

BUILDING OFFICIAL'S REPORT: Application of Ed Simons for special exceptions to the fence height and visual obstruction regulations at 9741 Meadowbrook Drive. This property is more fully described as Lot 2, Block 1/5601 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and maintain a 6 foot 10 inch high fence, which will require a 2 foot 10 inch special exception to the fence height regulations, and to locate and maintain items in required visibility triangles, which will require a special exception to the visual obstruction regulations.

LOCATION: 9741 Meadowbrook Drive

APPLICANT: Ed Simons

REQUESTS:

The following appeals have been made on a site that is currently undeveloped:

1. A request for a special exception to the fence height regulations of 2' 10" is made in conjunction with constructing and maintaining what is shown on the submitted elevation as a 6' 6 1/2" high fence (a 4' 6 1/2" high open iron picket fence atop a 2' high limestone wall) and a 6' 6 1/2" high open iron picket gate in the site's 40' front yard setback.
2. Requests for special exceptions to the visual obstruction regulations are made in conjunction with locating and maintaining portions of the 6' 6 1/2" high fence (a 4' 6 1/2" high open iron picket fence atop a 2' high limestone wall) in the 20' visibility triangles on either side of the driveway into the site from Meadowbrook Lane.

(Note that this application abuts a property to the south and west where the same applicant seeks similar fence height and visual obstruction special exceptions on that subject site's western side along Ravine Drive. See BDA 123-107).

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.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

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

STAFF RECOMMENDATION (fence height special exception):

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.

STAFF RECOMMENDATION (visual obstruction special exceptions):

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Engineering Division Assistant Director has indicated that he has no objections to these requests.
- The applicant has substantiated how the location of portions of the proposed fence to be located in the 20' visibility triangles on either side of the driveway into the site from Meadowbrook Lane does not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA 123-107, Property at 9707 Meadowbrook Lane (the lot immediately south and west of subject site)

On October 23, 2013, the Board of Adjustment Panel B will consider requests for special exceptions to the fence height and visual obstruction regulations requested in conjunction with constructing and maintaining a 6' 6 1/2" high open iron fence and gate with 8' 6" high limestone columns in the site's Ravine Drive 40' front yard setback, and locating and maintaining portions of the fence and columns in the 20' visibility triangles on either side of the driveway into the site from Ravine Drive.

2. BDA 112-078, Property at 9807 Meadowbrook Drive (the lot immediately north of the subject site)

On August 15, 2012, the Board of Adjustment Panel B granted request for special exceptions to the fence height and visual obstruction regulations and imposed the submitted revised site plan and elevation as a condition to these requests. The case report stated that the request was made in conjunction with completing/maintaining an 8' high board-on-board fence and sliding gate located in one of the site's two front yard setbacks (Ravine Drive) on a site developed with a single family home, and completing/maintaining a portion of the aforementioned board fence and gate in the 20' visibility triangle on the west side of the driveway into the site from Ravine Drive.

3. BDA 80-191, Property at 9807 Meadowbrook Drive (the lot immediately north of subject site)

On June 10, 1980, the Board of Adjustment granted a variance of 3' for the "application for a permit to erect a 7' high brick column and a 6' 3" wrought-iron fence which will permit a variance of 3'."

4. BDA 101-042, Property at 9821 Meadowbrook Drive (two lots immediately north of the subject site)

On May 16, 2011, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations and imposed the submitted site plan and "landscape development plan"/partial elevation as conditions to this request. The case report stated that the request was made in conjunction with constructing and maintaining an 8' 8" high open wrought iron fence with 9' 1" high columns and a 12' 4" high open wrought iron entry gate in the site's 40' front yard setback on a lot being developed with a single family home

5. BDA 090-070, Property at 5306 Falls Road (the lot immediately east of subject site)

On June 16, 2010, the Board of Adjustment Panel B granted a request for special exception to the fence height regulations of 4' 6" and imposed the submitted revised site plan/elevation document dated 6-10-10 as a condition to the request. The case report stated that the special exceptions to the fence height regulations of 4' 6" were requested in conjunction with constructing and maintaining an 8' high "masonry/wrought iron" fence/wall (5' wrought iron atop a 3' masonry base) in the site's Falls Road front yard setback, and an alternating 8' high solid masonry or stone fence wall with an 8' high wrought iron fence in the site's Meadowbrook Drive front yard setback.

6. BDA 090-071, Property at 5323 Park Lane (the lot immediately southeast of subject site)

On June 16, 2010, the Board of Adjustment Panel B granted a request for special exception to the fence height regulations of 4' 6" and imposed the submitted site plan/elevation document as a condition to the request. The case report stated that the special exceptions to the fence height regulations of 4' 6" were requested in conjunction with constructing and maintaining an 8' high "masonry/wrought iron" fence/wall (5' wrought iron atop a 3' masonry base) with 8' 6" high columns in the site's Park Lane front yard setback.

7. BDA 090-017, Property at 5323 Park Lane (the lot immediately southeast of the subject site)

On February 17, 2010, the Board of Adjustment Panel B granted a request for a fence height special exception and imposed the site plan/elevation plan submitted on February 15, 2010 as a condition to the request. The case report stated that the request was made to construct and maintain a 7' 4" high solid masonry fence/wall with 7' 10" high columns; an 8' 4" high "decorative wrought iron fence" on the portion of the site that is shown as a "floodway easement in the Meadowbrook Drive front yard setback parallel to the street, and perpendicular to the street on the north "side" of the site in the front yard setback;" and to construct and maintain an 8' 4" high "decorative wrought iron fence" in the Park Lane front yard setback *perpendicular* to this street on the east side of the subject site.

8. BDA 967-203, Property at 9707 Meadowbrook Drive (the lot immediately south of the subject site)

On March 18, 1997, the Board of Adjustment Panel B granted requests for special exception to the fence height to maintain an 8' 6" fence with columns of a maximum height of 13' 4", and gates with a maximum height of 15' 3" and to the visual obstruction regulations and imposed the following conditions: 1) Compliance with the submitted revised site plan/elevation plan and submitted revised landscape plan is required; and 2) Trees and branches located on the visibility triangle at the service entry driveway and Ravine Drive must have at least 8' clearance from ground level; 3)

landscape must be provided as indicated on the submitted revised landscape plan for the property adjacent to the fence on Meadowbrook Road to a distance of 3' west of the fence toward the main building, and the area east of the fence on Meadowbrook Road to the pavement line provided the applicant can obtain a license to place landscaping on the public right-of-way; if not the applicant must reapply to the Board of approval of a revised plan. The case report stated that the request were made in conjunction with constructing and maintaining an 8' 6" high open metal fence, 13' 4" high columns, and a 15' 3" high entry gate in the front yards and in drive approach visibility triangles along Meadowbrook Drive and Ravine Drive.

9. BDA 089-085, Property at 9635 Meadowbrook Drive (two lots immediately south of subject site)

On August 17, 2009, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of 4' 9" and imposed the following condition: compliance with the submitted site plan and elevation document is required. The case report stated that the request was made in conjunction with constructing and maintaining a predominantly 5' – 6' high open ornamental iron fence with 8' 9" high open ornamental iron gate/stone entry columns in the site's 40' front yard setback

Timeline:

August 28, 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.

September 19, 2013: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

September 19, 2013: The Board Administrator contacted the applicant and shared the following information via email:

- an attachment that provided the public hearing date and panel that will consider the application; the October 2nd deadline to submit additional evidence for staff to factor into their analysis;

- and the October 11th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

October 8, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

October 10, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet regarding the applicant's request for special exceptions to the visual obstruction regulations marked "Has no objections."

GENERAL FACTS/STAFF ANALYSIS (fence height special exception):

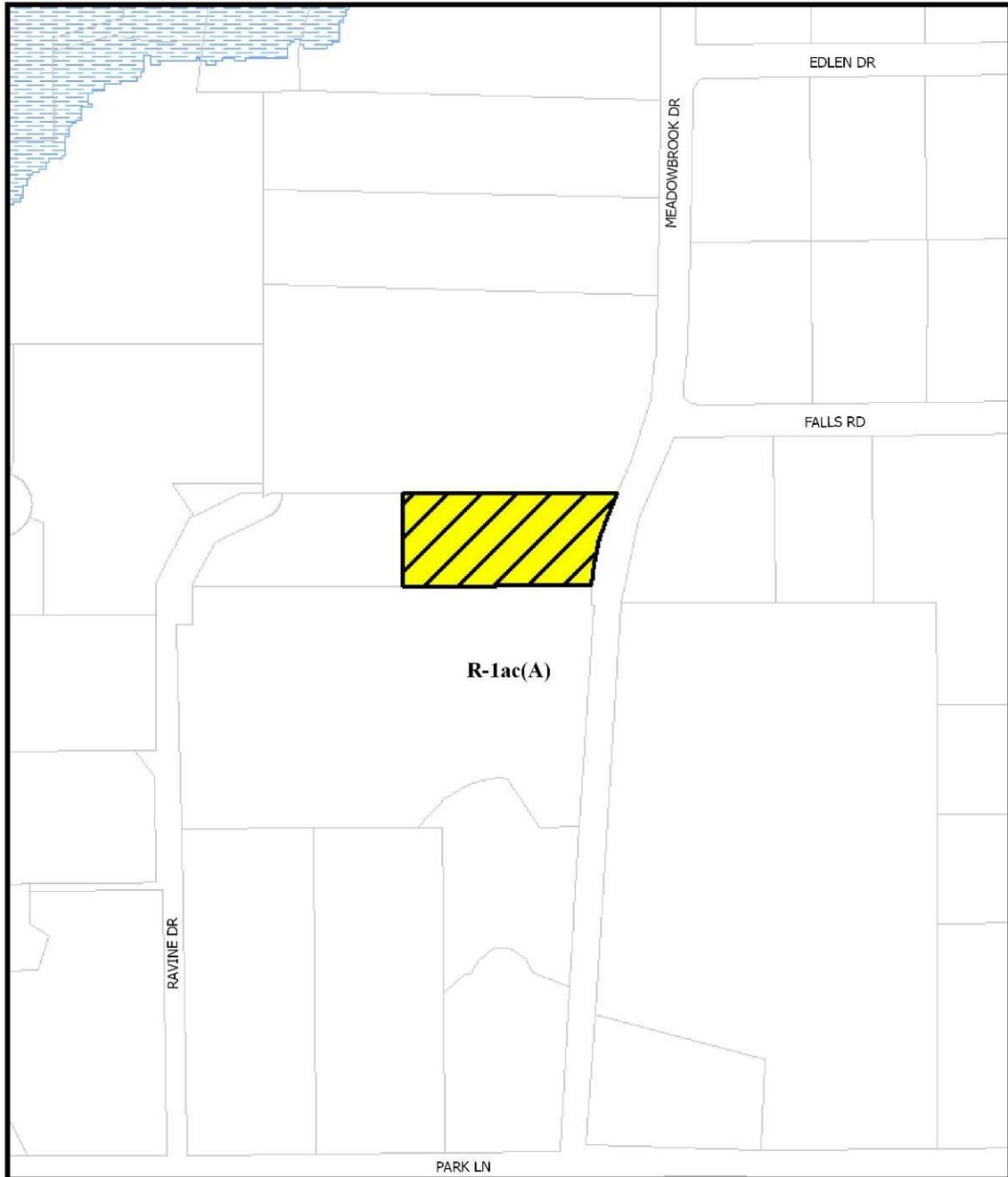
- This request focuses on constructing and maintaining what is shown on the submitted elevation as a 6' 6 ½" high fence (a 4' 6 ½" high open iron picket fence atop a 2' high limestone wall) and a 6' 6 ½" high open iron picket gate in the site's 40' front yard setback on an undeveloped lot.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant has submitted a site plan/elevation of the proposal in the front yard setback that reaches a maximum height of 6' 6 ½".
- The following additional information was gleaned from the submitted site plan/elevation:
 - The proposal is represented as being approximately 140' in length parallel to the street.
 - The proposal is represented as being located on the property line or about 16' from the pavement line.
- The Board Administrator conducted a field visit of the site and surrounding area (approximately 500' north and south of the subject site) and noted the following fences above 4 feet high which appeared to be located in a front yard setback:
 - an approximately 8' 8" high open wrought iron fence with 9' 1" high columns and a 12' 4" high open wrought iron entry gate two lots immediately north of the site that appears to be the result of a granted fence height special exception from 2011 – BDA 101-042.

- an approximately 8' high combination solid masonry and open iron wrought iron fence immediately east of the site that appears to be the result of a granted fence height special exception from 2010 – BDA 090-070.
- an approximately 8' 6" high fence with columns of a maximum height of 13' 4", and gates with a maximum height of 15' 3" immediately south of the site that appears to be the result of a granted fence height special exception from 1997 – BDA 967-203.
- an approximately 7' 4" high solid masonry fence/wall with 7' 10" high columns southeast of the subject site that appears to be the result of a granted fence height special exception from 2011)- BDA 090-017. _
- As of October 14, 2013, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 2' 10" will not adversely affect neighboring property.
- Granting this special exception of 2' 10" with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding 4' in height in the front yard setback to be maintained in the location and of the heights and materials as shown on this document.

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

- These requests focus on locating and maintaining portions of a 6' 6 ½" high fence (a 4' 6 ½" high open iron picket fence atop a 2' high limestone wall) in the 20' visibility triangles on either side of the driveway into the site from Meadowbrook Lane.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
 - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- A site plan/elevation has been submitted indicating portions of a 6' 6 ½" high fence (a 4' 6 ½" high open iron picket fence atop a 2' high limestone wall) in the 20' visibility triangles on either side of the driveway into the site from Meadowbrook Lane.
- The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked "Has no objections."
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain portions of a 6' 6 ½" high fence (a 4' 6 ½" high open iron picket fence atop a 2' high limestone wall) in the 20' visibility triangles on either side of the driveway into the site from Meadowbrook Lane does not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan/elevation would require the item (a 6' 6 ½" high fence - 4' 6

1/2" high open iron picket fence atop a 2' high limestone wall) in the 20' visibility triangles on either side of the driveway into the site from Meadowbrook Lane to be limited to the locations, height and materials of this item as shown on this document.

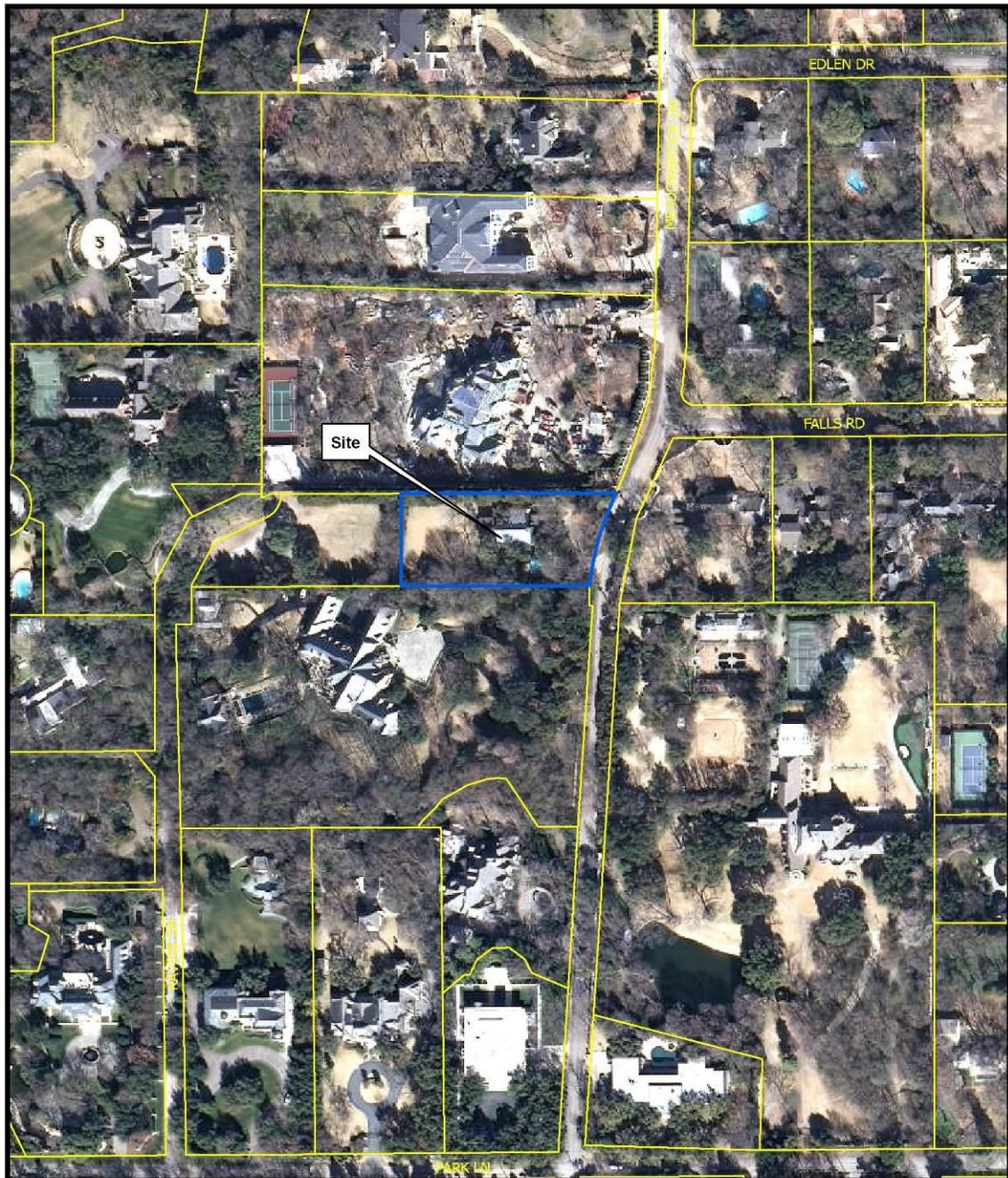


1:2,400

ZONING MAP

Case no: BDA123-106

Date: 9/30/2013



1:2,400

AERIAL MAP

Case no: BDA123-106

Date: 9/30/2013



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-106

Data Relative to Subject Property:

Date: August 28, 2013

Location address: 9741 Meadowbrook Zoning District: R-1ac(A)

Lot No.: 2 Block No.: 1/ 5601 Acreage: .8520 Census Tract: 206.00

Street Frontage (in Feet): 1 149.13 2 _____ 3) _____ 4) _____ 5) _____ NE 2S

To the Honorable Board of Adjustment:

Owner of Property/or Principal Steven L & Carol R. Aaron

Applicant: Ed Simons (Masterplan) Telephone: 214-761-9197

Mailing Address 900 Jackson, Suite 640 Zip Code: 75202

Represented by: Same Telephone: Same

Mailing Address: Same Zip Code: _____

Affirm that a request has been made for a Variance __, or Special Exception X, of Two feet 10 inches to the maximum fence height of 4 feet in the front yard of a residential district, and visibility triangle obstruction at driveway.

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 fence is mostly an open ornamental fence which has not negative impact on surrounding properties.

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: Ed Simons
Applicant's name printed

[Signature]
Applicant's signature

Affidavit

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

[Signature]
Affiant (Applicant's signature)

Subscribed and sworn to before me this 28 day of August, 2013



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

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that ED SIMONS

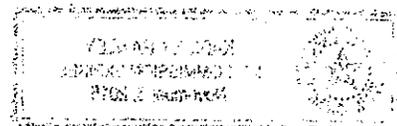
did submit a request for a special exception to the fence height regulations, and for a special exception to the visibility obstruction regulations

at 9741 Meadowbrook Drive

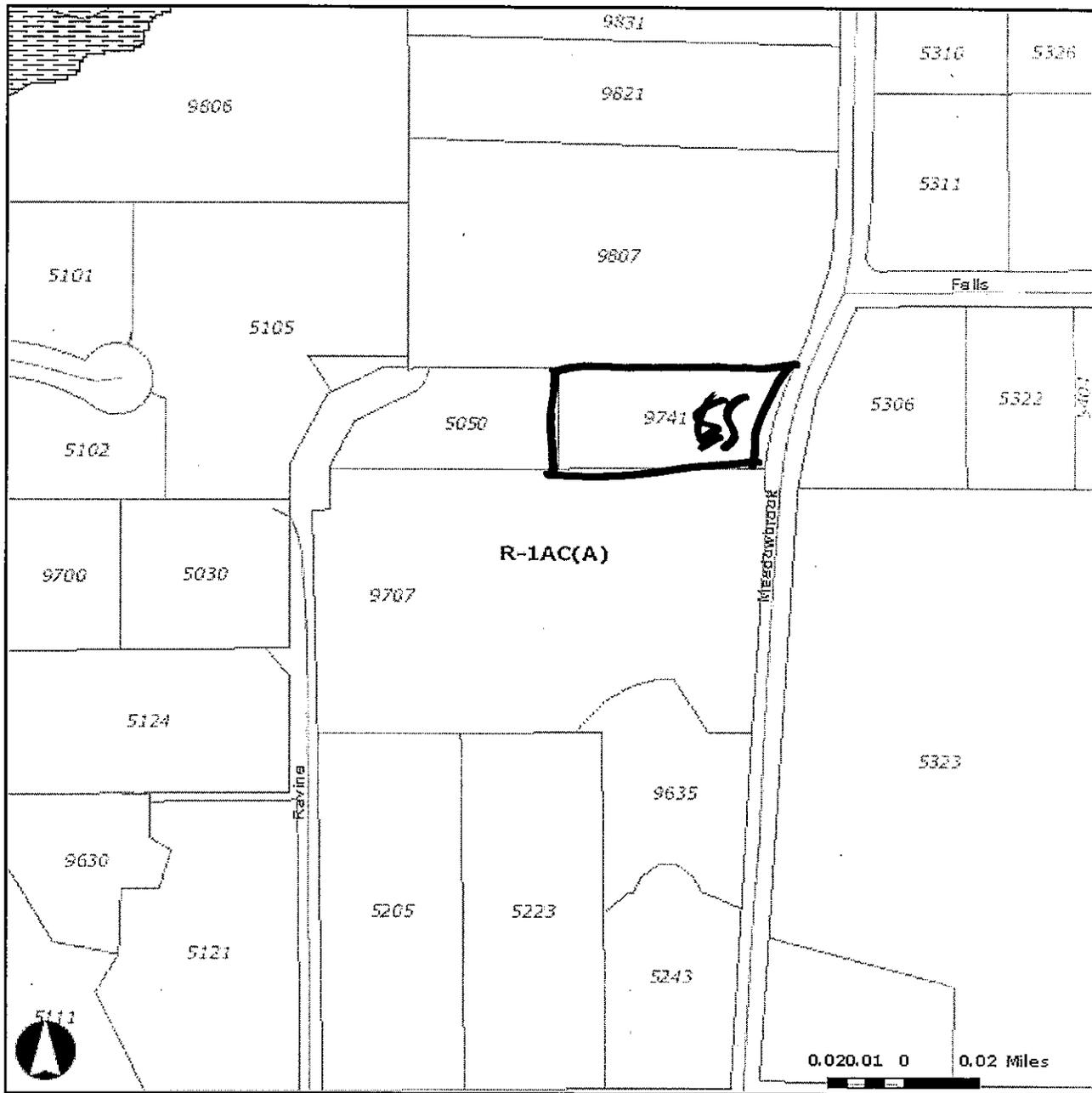
BDA123-106. Application of Ed Simons for a special exception to the fence height regulations and a special exception to the visibility obstruction regulations at 9741 Meadowbrook Drive. This property is more fully described as Lot 2, Block 1/5601 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct a 6 foot 10 inch high fence in a required front yard, which will require a 2 foot 10 inch special exception to the fence regulation, and to construct a residential fence in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

Sincerely,


Larry Holmes, Building Official



City of Dallas Zoning



City Boundaries

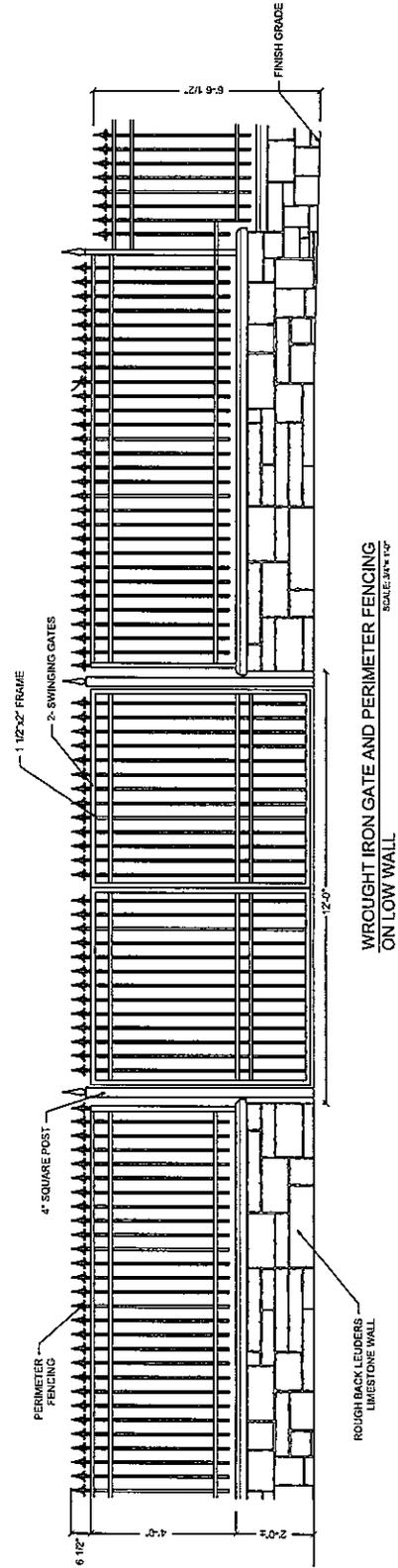
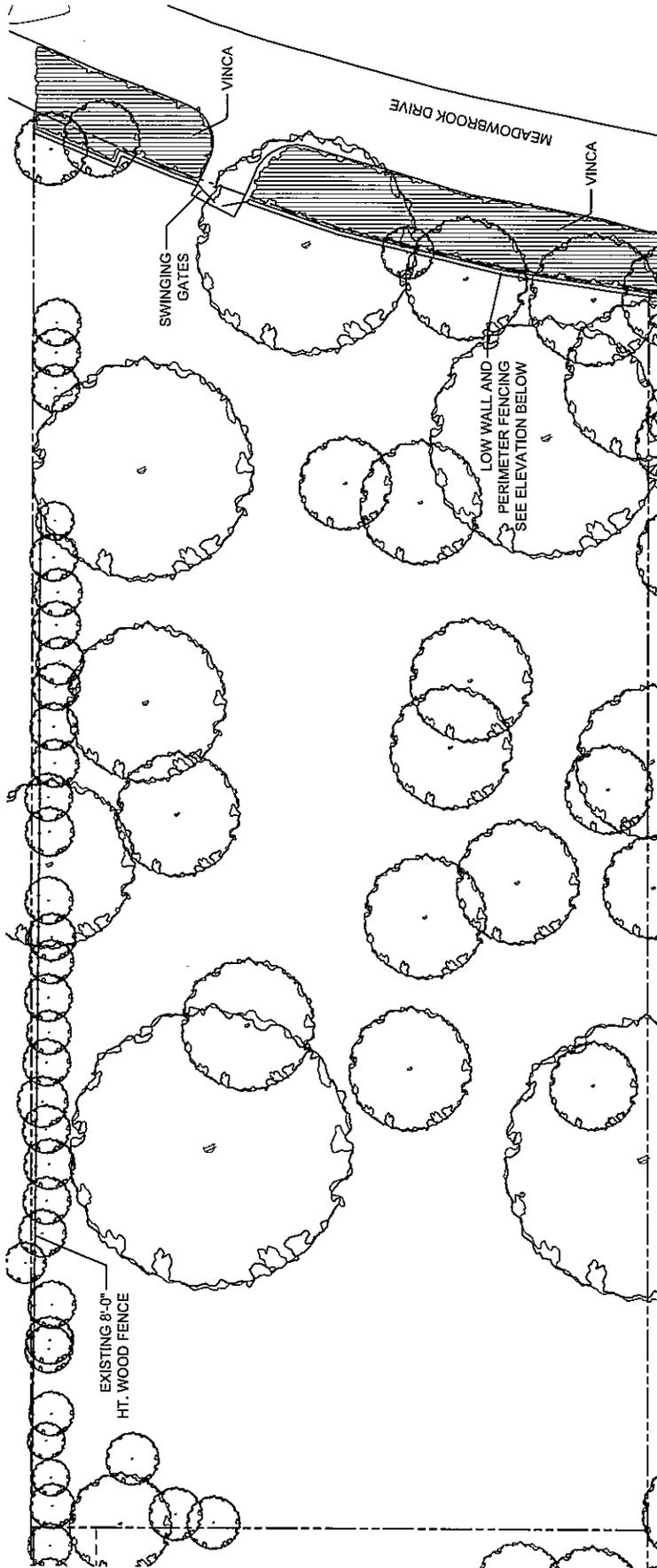
- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

Dry Overlay

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

Base Zoning

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



WROUGHT IRON GATE AND PERIMETER FENCING ON LOW WALL
SCALE: 3/4" = 1'-0"

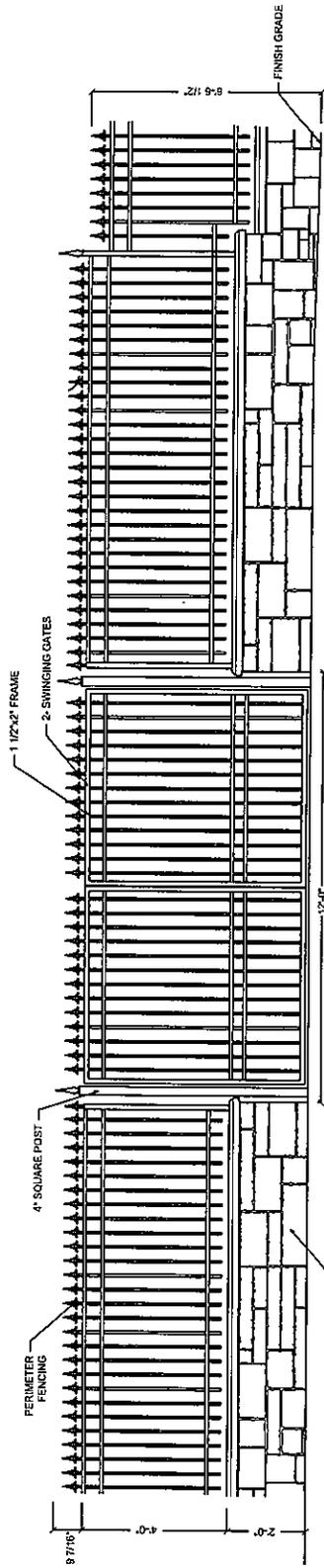
EAST TRACT FENCING
PLAN
DATE: 8-28-13

AARON RESIDENCE

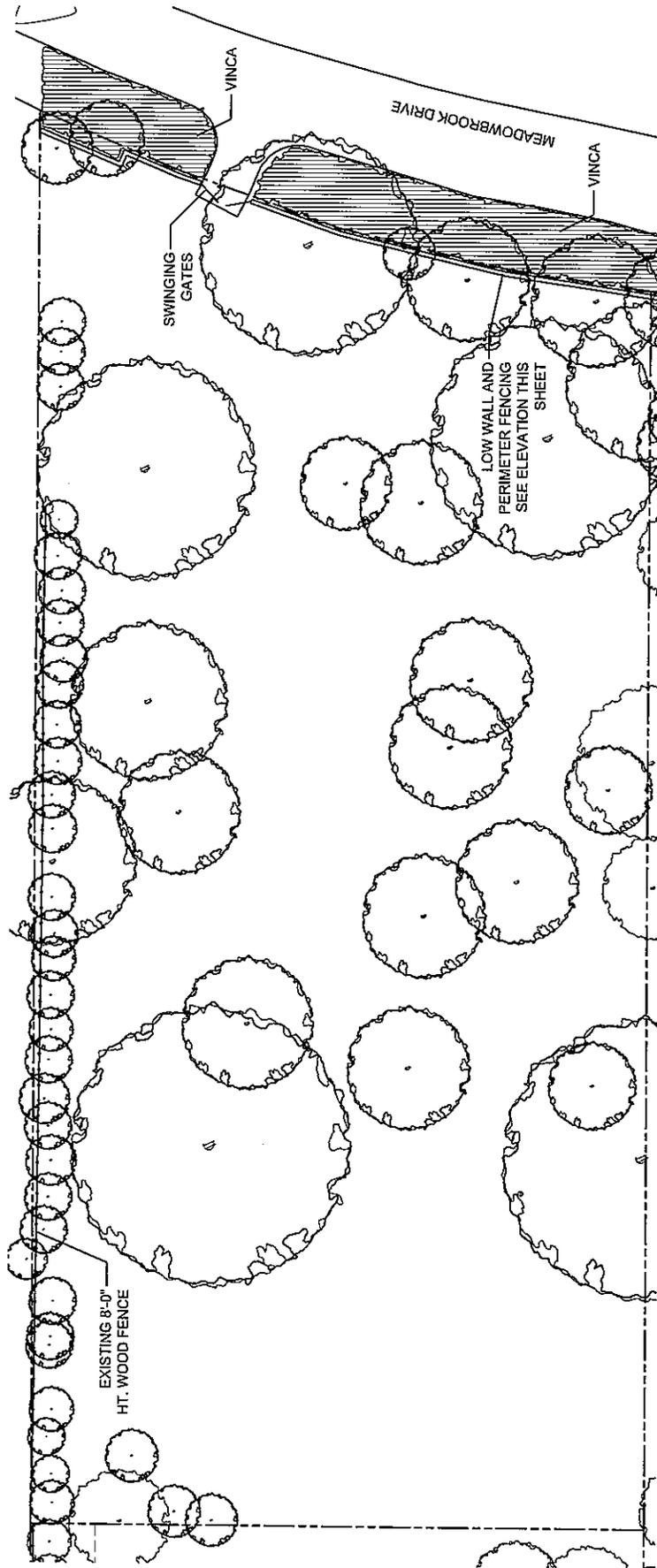
LINA TYCHER & ASSOCIATES, INC.
LINA TYCHER
& ASSOCIATES

SCALE: 1" = 10'-0"

L1.02



WROUGHT IRON GATE AND PERIMETER FENCING ON LOW WALL
SCALE: 3/4"=1'-0"



EAST TRACT FENCING

PLAN

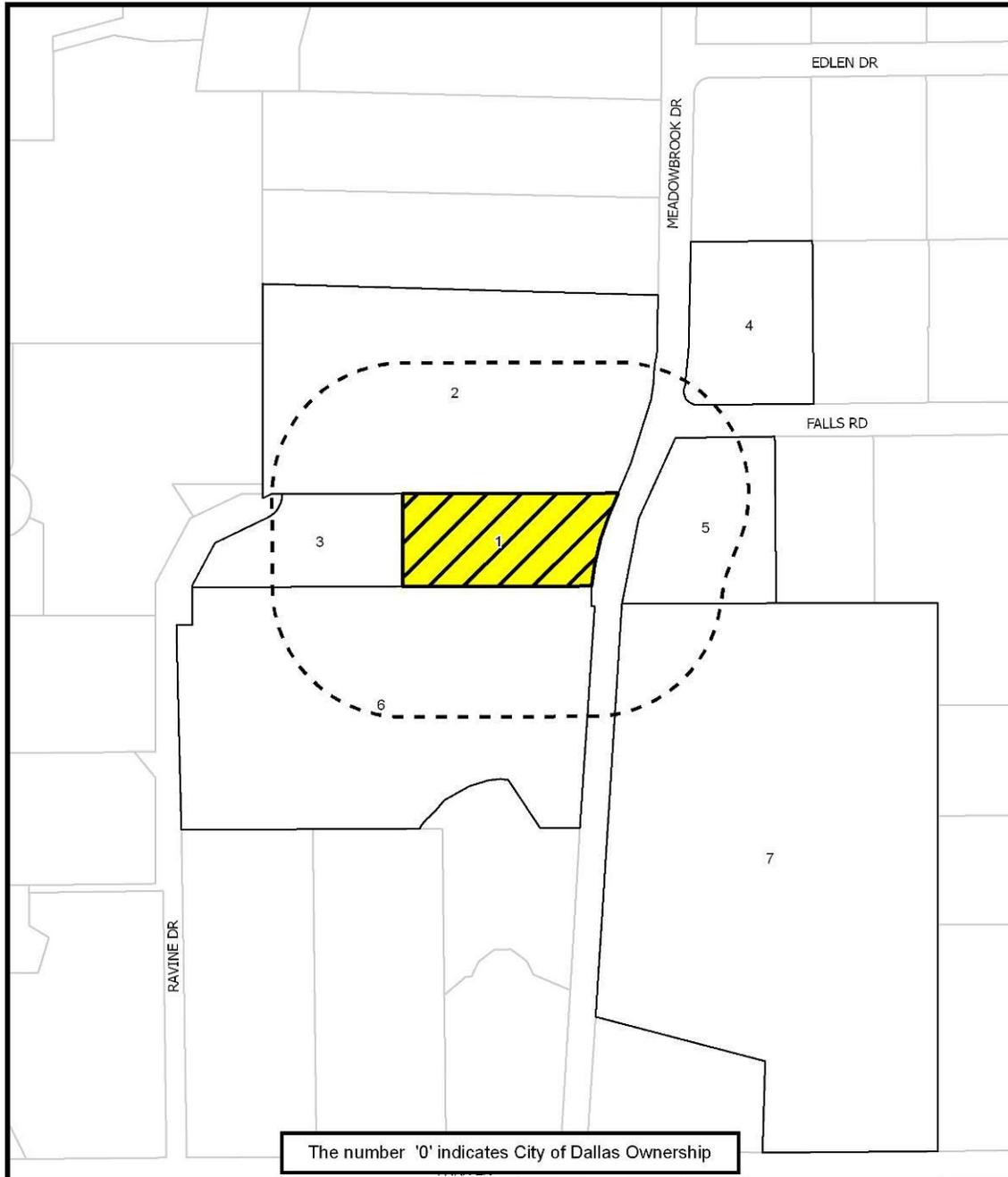
DATE: 9-05-13

SCALE: 1"=10'-0"

AARON RESIDENCE

LINA TYCHER ARCHITECTS, INC.
LINA TYCHER ARCHITECTS, INC.
5515 W. 12TH AVENUE, SUITE 100
DENVER, CO 80202

L1.03



 1:2,400	NOTIFICATION		Case no: BDA123-106
	<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;">7</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 9/30/2013	

Notification List of Property Owners

BDA123-106

7 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	9741 MEADOWBROOK DR	AARON STEVEN L & CAROL R
2	9807 MEADOWBROOK DR	BARRETT RICHARD M & NONA N
3	5050 RAVINE DR	AARON STEVEN L & CAROL R
4	5311 FALLS RD	FRELING RICHARD A
5	5306 FALLS RD	WARREN KELCY
6	9707 MEADOWBROOK DR	AARON STEVEN L & CAROL R
7	5323 PARK LN	WARREN KELCY

FILE NUMBER: BDA 123-107

BUILDING OFFICIAL'S REPORT: Application of Ed Simons for special exceptions to the fence height and visual obstruction regulations at 9707 Meadowbrook Drive. This property is more fully described as Lot 1B, Block 1/5589 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and maintain an 8 foot 6 inch high fence, which will require a 4 foot 6 inch special exception to the fence height regulations, and to locate and maintain items in required visibility triangles, which will require a special exception to the visual obstruction regulations.

LOCATION: 9707 Meadowbrook Drive

APPLICANT: Ed Simons

REQUESTS:

The following appeals have been made on a site that is currently developed with a single family home/use:

1. A request for a special exception to the fence height regulations of 4' 6" is made in conjunction with constructing and maintaining what is shown on the submitted elevation as a 6' 6 ½" high open iron fence and gate with 8' 6" high limestone columns in the site's Ravine Drive 40' front yard setback.
2. Requests for special exceptions to the visual obstruction regulations are made in conjunction with locating and maintaining portions of the 6' 6 ½" high fence and 8' 6" high limestone columns in the 20' visibility triangles on either side of the driveway into the site from Ravine Drive.

Note the following with regard to this property that has two front yard setbacks – one on the east along Meadowbrook Lane, the other on the west along Ravine Drive:

- This application abuts a property to the north and east where the same applicant seeks similar fence height and visual obstruction special exceptions on that subject site's frontage along Meadowbrook Lane. See BDA 123-106;
- the applicant has stated that application is merely to extend the fence that was granted on the Ravine Street side of this property by the Board in 1997 when the property at that time did not include the parcel of land to the north that is now part of the subject site; and
- This application is not to address any fence or amendment to the existing fence on the Meadowbrook Lane side of this property since the fence on this side of the property has not changed from and complies with conditions imposed by the Board in 1997.

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.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

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

STAFF RECOMMENDATION (fence height special exception):

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.

STAFF RECOMMENDATION (visual obstruction special exceptions):

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Engineering Division Assistant Director has indicated that he has no objections to these requests.
- The applicant has substantiated how the location of portions of the proposed fence and columns to be located in the 20' visibility triangles on either side of the driveway into the site from Ravine Drive does not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA 23-106, Property at 9807 Meadowbrook Drive (the lot immediately north and east of the subject site)

On October 23, 2013, the Board of Adjustment Panel B will consider requests for special exceptions to the fence height and visual obstruction regulations requested in conjunction with constructing and maintaining a 6' 6 ½" high fence (a 4' 6 ½" high open iron picket fence atop a 2' high limestone wall) and a 6' 6 ½" high open iron picket gate in the front yard setback, and locating and maintaining portions of the fence in the 20' visibility triangles on either side of the driveway into the site from Meadowbrook Lane.
2. BDA 112-078, Property at 9807 Meadowbrook Drive (the lot north of the subject site)

On August 15, 2012, the Board of Adjustment Panel B granted requests for special exceptions to the fence height and visual obstruction regulations and imposed the submitted revised site plan and elevation as a condition to these requests. The case report stated that the request was made in conjunction with completing/maintaining an 8' high board-on-board fence and sliding gate located in one of the site's two front yard setbacks (Ravine Drive) on a site developed with a single family home, and completing/maintaining a portion of the aforementioned board fence and gate in the 20' visibility triangle on the west side of the driveway into the site from Ravine Drive.
3. BDA 967-203, Property at 9707 Meadowbrook Drive (the subject site)

On March 18, 1997, the Board of Adjustment Panel B granted requests for special exception to the fence height to maintain an 8' 6" fence with columns of a maximum height of 13' 4", and gates with a maximum height of 15' 3" and to the visual obstruction regulations and imposed the following conditions: 1) Compliance with the submitted revised site plan/elevation plan and submitted revised landscape plan is required; and 2) Trees and branches located on the visibility triangle at the service entry driveway and Ravine Drive must have at least 8' clearance from ground level; 3) landscape must be provided as indicated on the submitted revised landscape plan for the property adjacent to the fence on Meadowbrook Road to a distance of 3' west

of the fence toward the main building, and the area east of the fence on Meadowbrook Road to the pavement line provided the applicant can obtain a license to place landscaping on the public right-of-way; if not the applicant must reapply to the Board of approval of a revised plan. The case report stated that the request were made in conjunction with constructing and maintaining an 8' 6" high open metal fence, 13' 4" high columns, and a 15' 3" high entry gate in the front yards and in drive approach visibility triangles along Meadowbrook Drive and Ravine Drive.

Timeline:

August 28, 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.

September 19, 2013: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. 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."

September 19, 2013: The Board Administrator contacted the applicant and shared the following information via email:

- an attachment that provided the public hearing date and panel that will consider the application; the October 2nd deadline to submit additional evidence for staff to factor into their analysis; and the October 11th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

October 8, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans

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

October 10, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet regarding the applicant's request for special exceptions to the visual obstruction regulations marked "Has no objections."

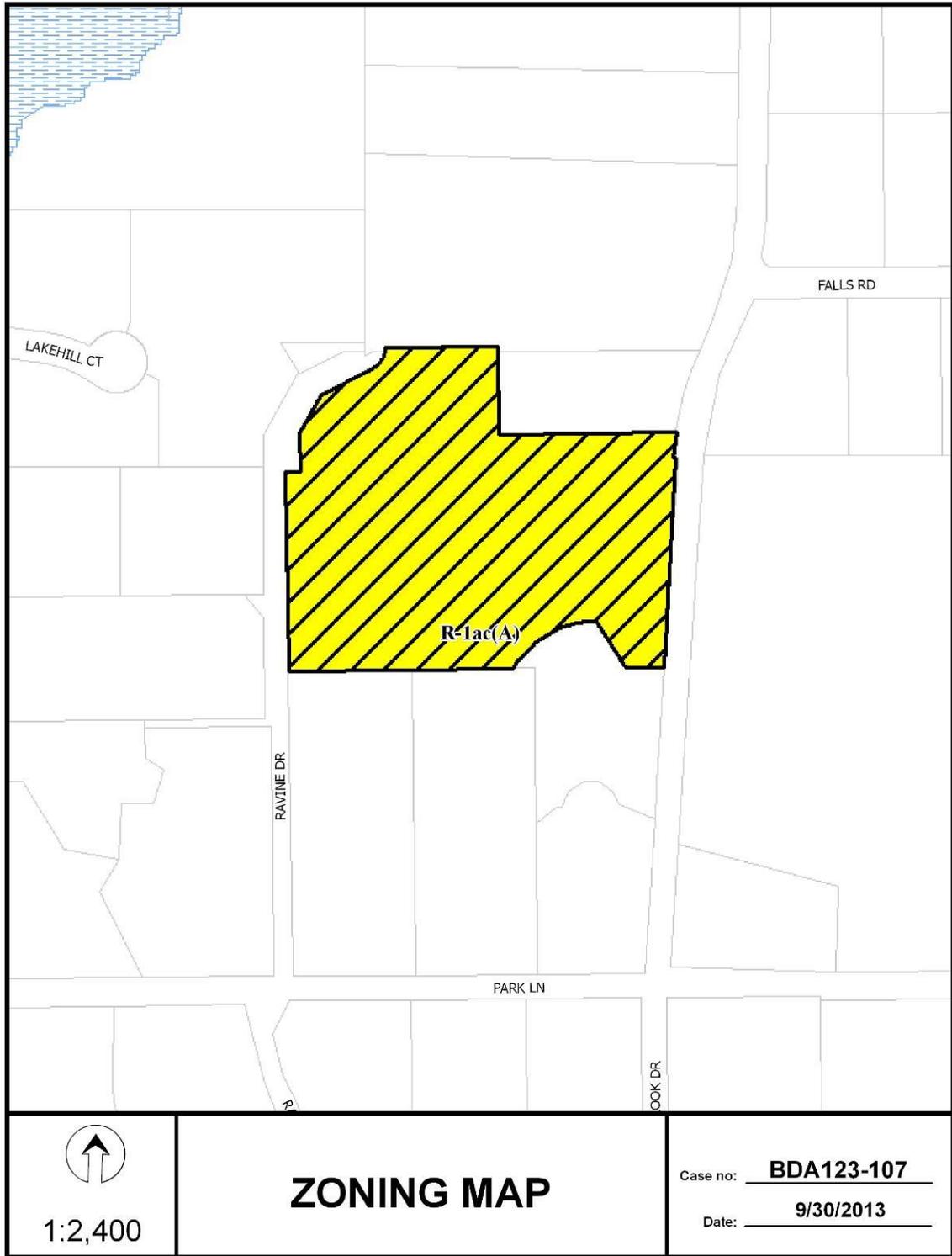
GENERAL FACTS/STAFF ANALYSIS (fence height special exception):

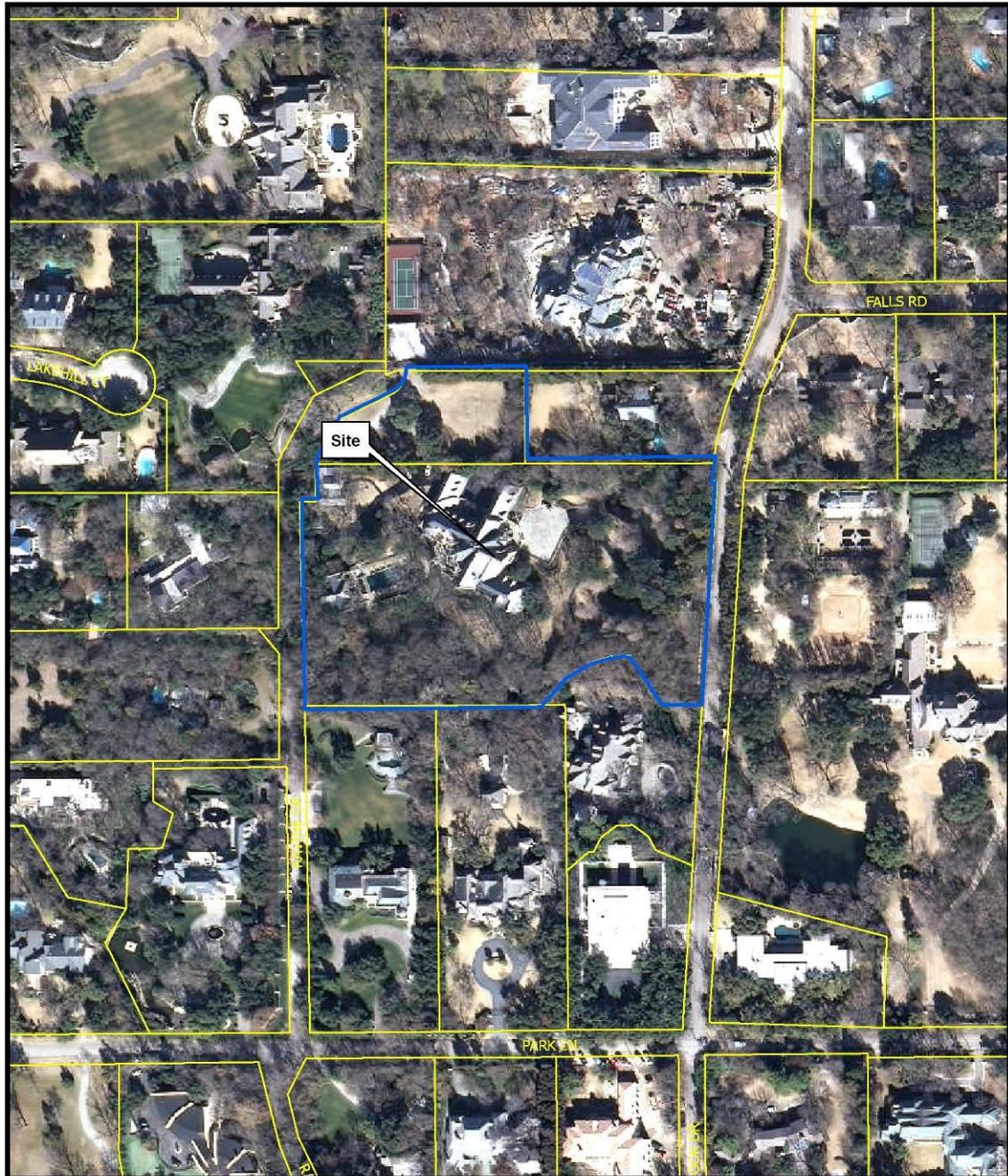
- This request focuses on constructing and maintaining what is shown on the submitted elevation as a 6' 6 ½" high open iron fence and gate with 8' 6" high limestone columns in the site's Ravine Drive 40' front yard setback on site developed with a single family home/use.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant has submitted a site plan and an elevation of the proposal in the front yard setback that reaches a maximum height of 8' 6".
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 240' in length parallel to the street.
 - The proposal is represented as being located on the property line or about 5' from the pavement line.
- The Board Administrator conducted a field visit of the site and surrounding area and noted the following fence above 4 feet high which appeared to be located in a front yard setback:
 - an approximately 8' high solid board-on-board fence located immediately north of the site that appears to be the result of a granted fence height special exception from August of 2012 – BDA 112-078.
- As of October 14, 2013, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4' 6" will not adversely affect neighboring property.
- Granting this special exception of 4' 6" with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the front yard setback to be maintained in the location and of the heights and materials as shown on these documents.

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

- These requests focus on locating and maintaining portions of the 6' 6 ½" high fence and 8' 6" high limestone columns in the 20' visibility triangles on either side of the driveway into the site from Ravine Drive.

- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
 - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- A site plan and elevation has been submitted indicating portions of a 6' 6 ½" high fence and 8' 6" high limestone columns in the 20' visibility triangles on either side of the driveway into the site from Ravine Drive.
- The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked "Has no objections."
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain portions of a 6' 6 ½" high fence and 8' 6" high limestone columns in the 20' visibility triangles on either side of the driveway into the site from Ravine Drive does not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would require the items (a 6' 6 ½" high fence and 8' 6" high limestone columns) in the 20' visibility triangles on either side of the driveway into the site from Ravine Drive to be limited to the locations, height and materials of this item as shown on these documents.





1:2,400

AERIAL MAP

Case no: BDA123-107

Date: 9/30/2013



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-107

Data Relative to Subject Property:

Date: August 28, 2013

Location address: 9707 Meadowbrook Zoning District: R-1ac (A)

Lot No.: 1B Block No.: 1/5589 Acreage: 5.98 Census Tract: 206.00

Street Frontage (in Feet): 1 340.93 2 557.46 3) _____ 4) _____
5) _____

NEZS

To the Honorable Board of Adjustment:

Owner of Property/or Principal Steven L & Carol R. Aaron

Applicant: Ed Simons (Masterplan) Telephone: 214-761-9197

Mailing Address 900 Jackson, Suite 640 Zip Code: 75202

Represented by: Same Telephone: Same

Mailing Address: Same Zip Code: _____

Affirm that a request has been made for a Variance __, or Special Exception X, of 4 feet 6 inches to the maximum fence height of 4 feet in the front yard of a residential district, and visibility triangle obstruction at driveway

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 fence is mostly an open ornamental fence which has not negative impact on surrounding properties. It matches the previously approved fence.

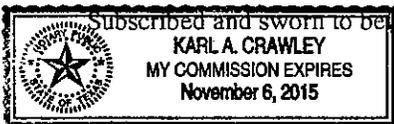
Note to Applicant: If the relief requested in this application is granted by the Board of Adjustment, said permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Respectfully submitted: Ed Simons Applicant's name printed
[Signature] Applicant's signature

Affidavit

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

[Signature]
Affiant (Applicant's signature)



Subscribed and sworn to before me this 28 day of AUGUST, 2013

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

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

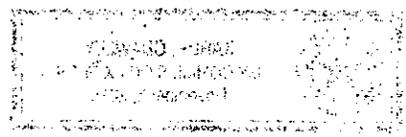
I hereby certify that ED SIMONS

did submit a request for a special exception to the fence height regulations, and for a special exception to the visibility obstruction regulations
at 9707 Meadowbrook Drive

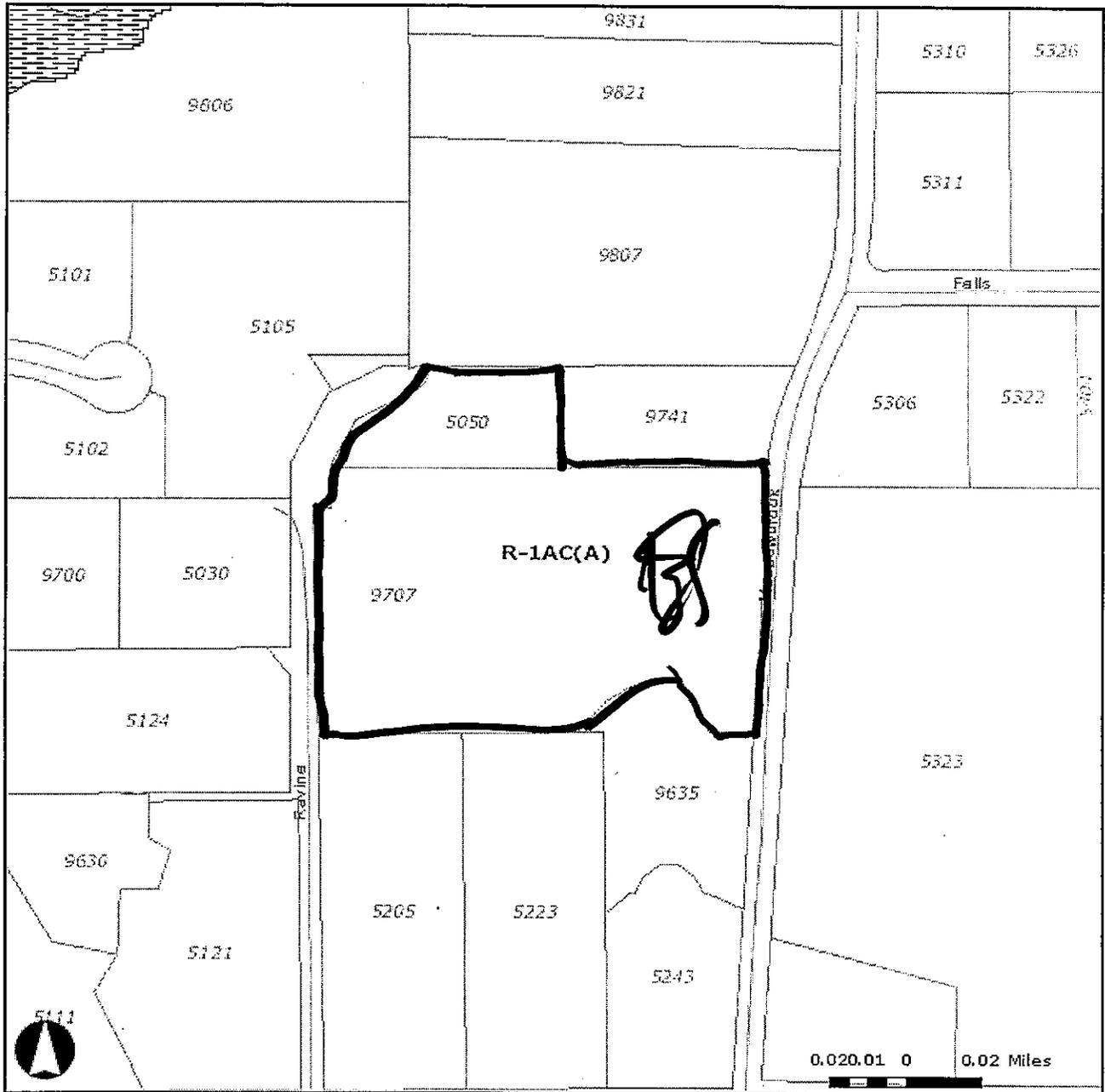
BDA123-107. Application of Ed Simons for a special exception to the fence height regulations and a special exception to the visibility obstruction regulations at 9707 Meadowbrook Drive. This property is more fully described as Lot 1B, Block 1/5589 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct an 8 foot 6 inch high fence in a required front yard, which will require a 4 foot 6 inch special exception to the fence regulation, and to construct a residential fence in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

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



Historic Overlay



Historic Subdistricts



NSO Overlay



NSO Subdistricts



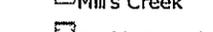
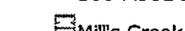
MD Overlay



Base Zoning



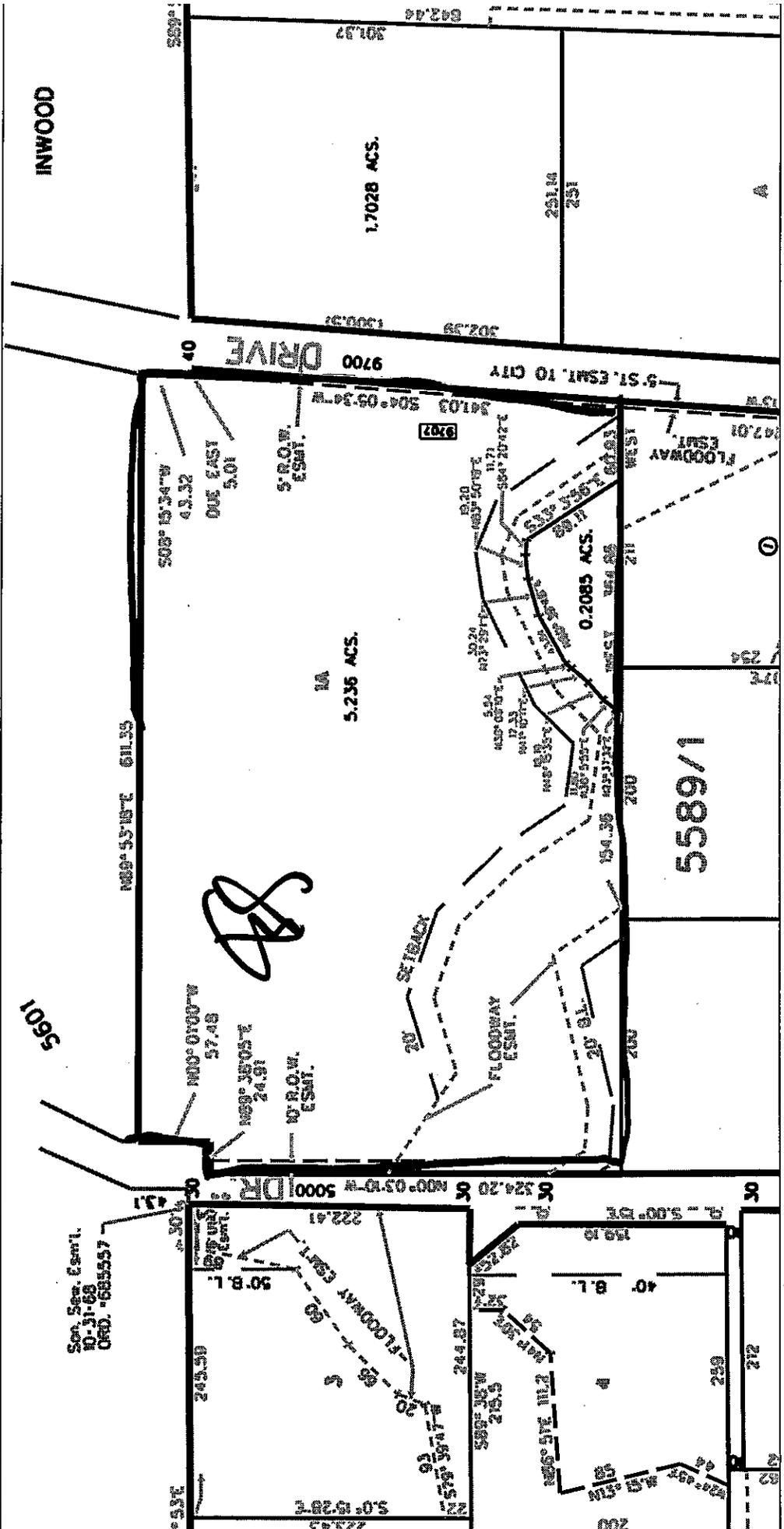
Floodplain



Pedestrian Overlay



Environmental Corridors



INWOOD

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1A

5.235 ACS.

0.2085 ACS.

5589/1

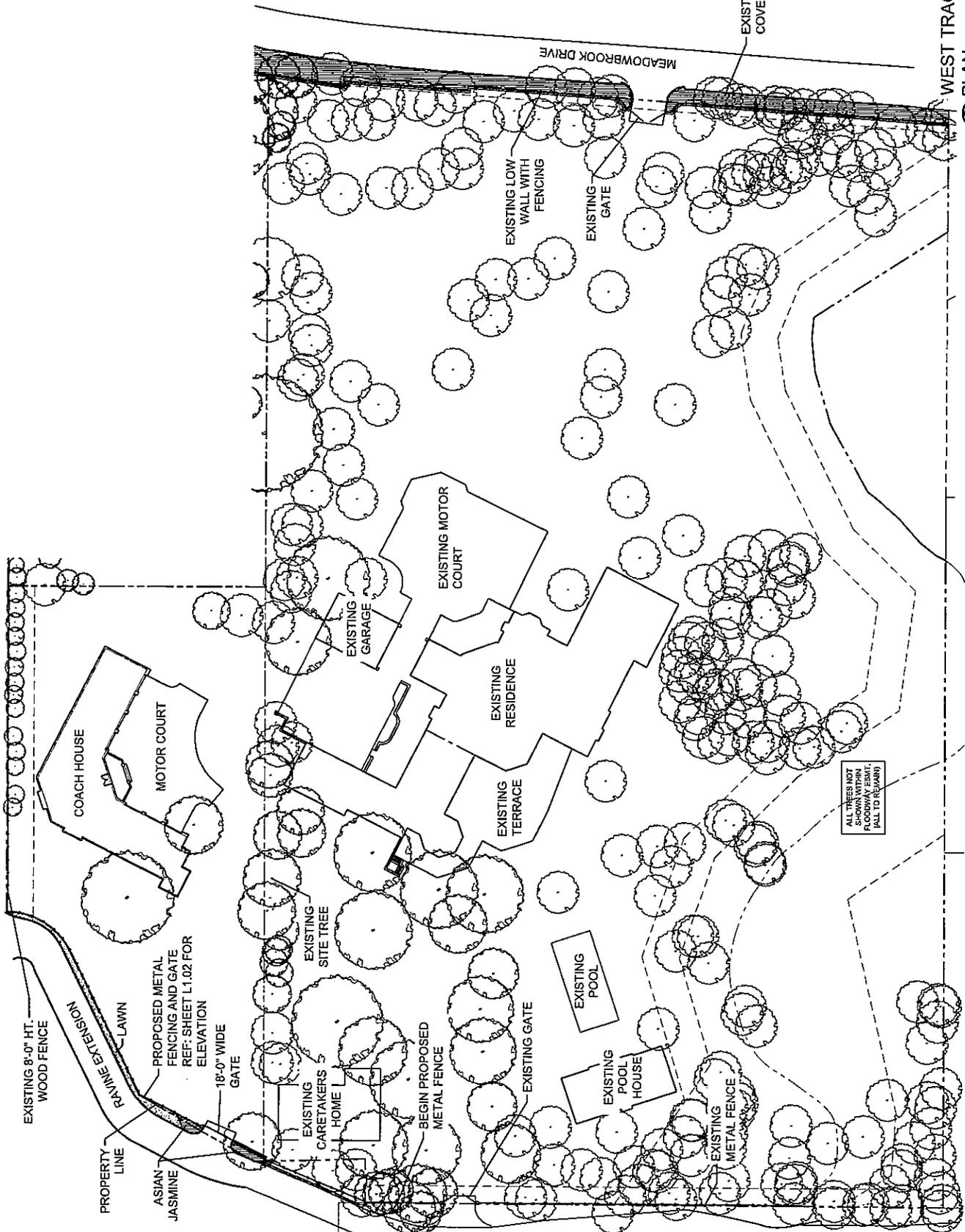
DRIVE 9700

DRIVE 5000

5601

Sec. 5, Twp. 6, R. 1,
10-31-68
Ord. - 685557

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WEST TRACT FENCING
PLAN

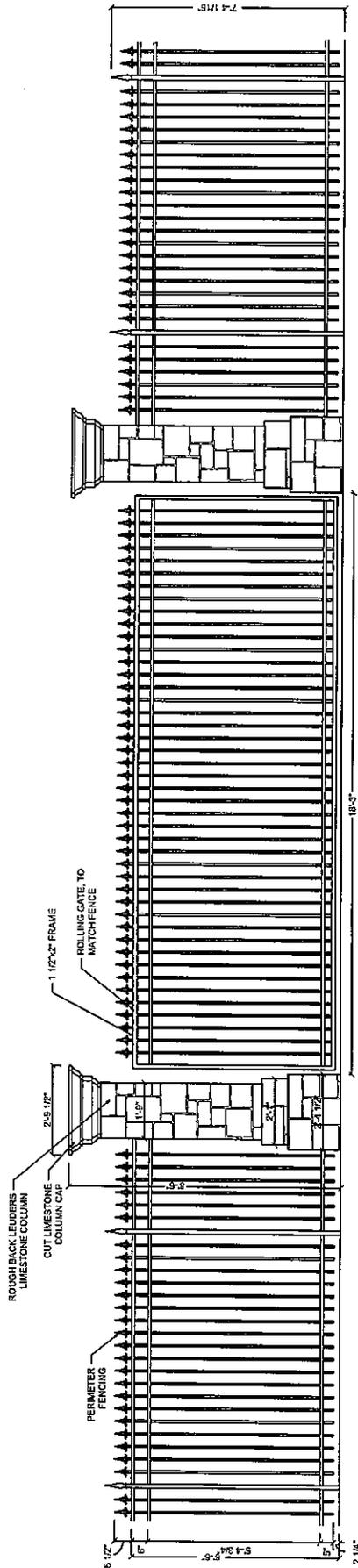
DATE: 9-05-13

SCALE: 1"=20'-0"

L1.01

AARON RESIDENCE

LINDA TYCHER & ASSOCIATES, INC.
LINDA TYCHER
& ASSOCIATES



STONE GATE COLUMNS WITH ROLLING GATE AT RAVINE ENTRY

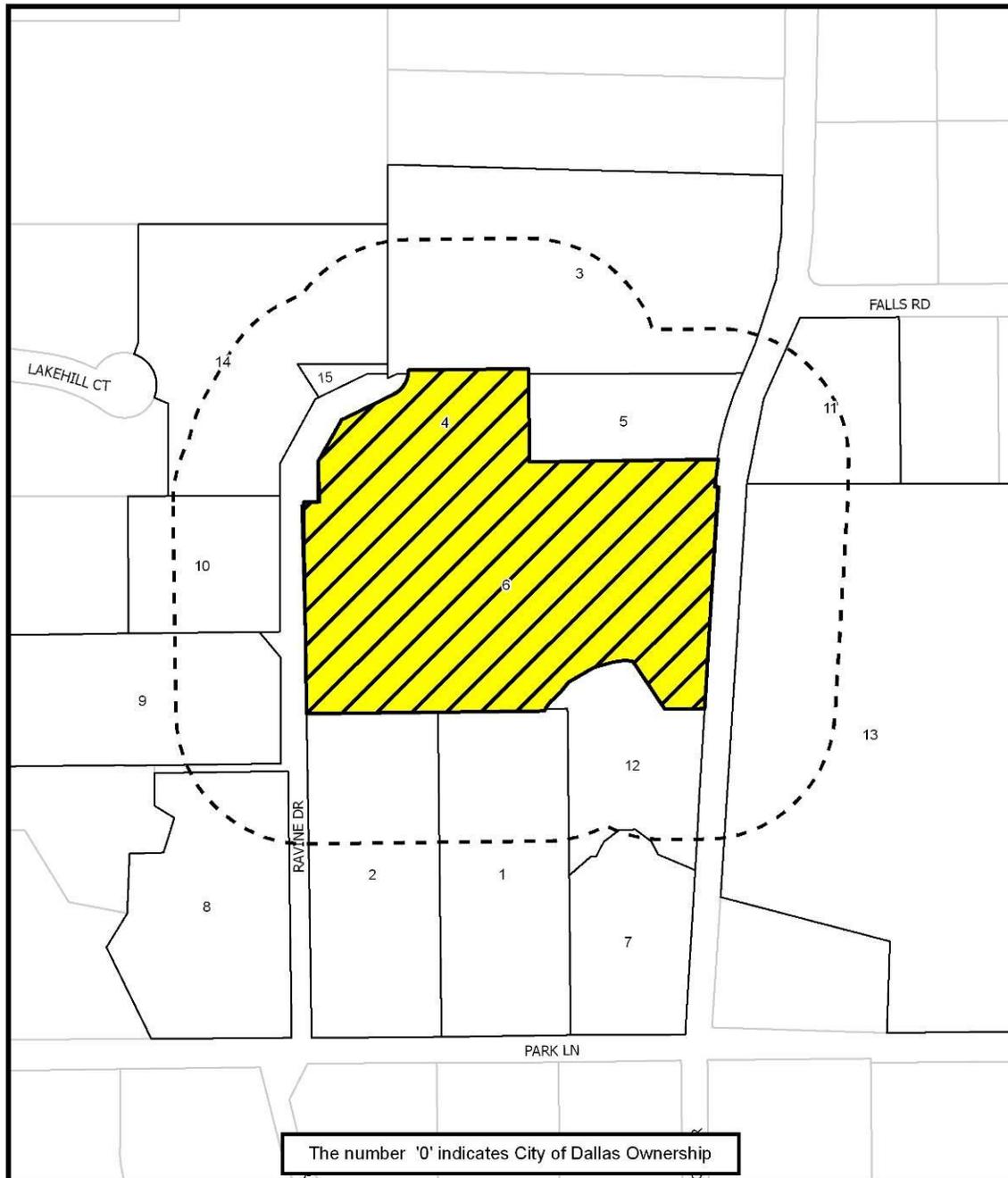
SCALE: 3/4" = 1'-0"

WEST TRACT GATE
ELEVATION
DATE: 0-05-13

AARON RESIDENCE

LINDA TYCHER ASSOCIATES, INC.
LINDA TYCHER ASSOCIATES, INC.
2100 S. 1000 E. SUITE 202
SALT LAKE CITY, UT 84143
TEL: 313-1177

L1.02



 1:2,400	NOTIFICATION		Case no: BDA123-107
	<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;">15</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 9/30/2013	

Notification List of Property Owners

BDA123-107

15 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5223 PARK LN	LONGWELL HARRY J & NORMA L
2	5205 PARK LN	STRAUSS RICHARD C & DIANA
3	9807 MEADOWBROOK DR	BARRETT RICHARD M & NONA N
4	5050 RAVINE DR	AARON STEVEN L & CAROL R
5	9741 MEADOWBROOK DR	AARON STEVEN L & CAROL R
6	9707 MEADOWBROOK DR	AARON STEVEN L & CAROL R
7	5243 PARK LN	EAGLE JOHN & JENNIFER J
8	5121 PARK LN	SKOKOS THEODORE C & SHANNON B
9	5124 RAVINE DR	POTTER EVA JANE TRUSTEE THE EVA POTTER M
10	5030 RAVINE DR	Taxpayer at
11	5306 FALLS RD	WARREN KELCY
12	9635 MEADOWBROOK DR	CALLOWAY JANICE W
13	5323 PARK LN	WARREN KELCY
14	5105 LAKEHILL CT	TURLEY R WINDLE & SHIRLEY A
15	5051 RAVINE DR	TURLEY WINDLE

FILE NUMBER: BDA 123-097

BUILDING OFFICIAL'S REPORT: Application of Brian Luscher, represented by Audra Buckley, for a variance to the off-street parking regulations at 3001 Gaston Avenue. This property is more fully described as part of Lot 9, Block 493, and is zoned PD-298 (Subarea 12), which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure for restaurant without drive-in or drive-through service use and warehouse use and provide 10 of the required 20 off-street parking spaces, which will require a variance to the off-street parking regulations of 10 spaces.

LOCATION: 3001 Gaston Avenue

APPLICANT: Brian Luscher
Represented by Audra Buckley

REQUEST:

A request for a variance to the off-street parking regulations of 10 spaces is made in conjunction with maintaining approximately 4,200 square feet of structure with warehouse use, and leasing and maintaining approximately 1,600 square feet of vacant structure with restaurant without drive-in or drive-through use (Luscher's Post Oak Red Hots) where the applicant proposes to provide 10 (or 50 percent) of the required 20 required off-street parking spaces.

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.

STAFF RECOMMENDATION:

Denial

Rationale:

- While the Sustainable Development and Construction Department Engineering Division Assistant Director has indicated no objections to the request, meaning it may not be contrary to the public interest, staff is unable to conclude that there is an unnecessary hardship as the parcel/subject site does not differ from other parcels of land by being of such restrictive area, shape, or slope that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 298 (Subarea 12) zoning classification. The subject site is flat, rectangular in shape, and according to the application, is 0.19 acres (or approximately 8,300 square feet) in area. While the property has two street frontages with two front yard setbacks this is not a unique feature to any property with two street frontages not zoned agricultural, single family, or duplex.
- The features of this site do not preclude the applicant from leasing the existing structure built in the 40's with a number of uses permitted in the zoning district where an off-street parking reduction request would not be necessary.
- The applicant has not substantiated how this variance for specific uses (restaurant without drive-in or drive-through service and warehouse) is not needed to relieve a self created hardship.

BACKGROUND INFORMATION:

Zoning:

Site: PD 298 (Subarea 12) (Planned Development District)
North: PD 298 (Subarea 11) (Planned Development District)
South: MU-3 (Mixed Use)
East: PD 298 (Subarea 12) (Planned Development District)
West: PD 298 (Subarea 12) (Planned Development District)

Land Use:

The subject site is developed with a structure, part of which is vacant and part of which is warehouse use. The area to the north is developed with a park use (Central Square Park); the areas to the east and west are developed with commercial uses; and the area to the south is developed as a surface parking lot.

Zoning/BDA History:

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

Timeline:

- July 29, 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.
- September 19, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- September 19, 2013: The Board Administrator contacted the applicant’s representative and shared the following information via email:
- an attachment that provided the public hearing date and panel that will consider the application; the October 2nd deadline to submit additional evidence for staff to factor into their analysis; and the October 11th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”
- October 8, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.
- October 10, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked “Has no objections.”

GENERAL FACTS/ STAFF ANALYSIS:

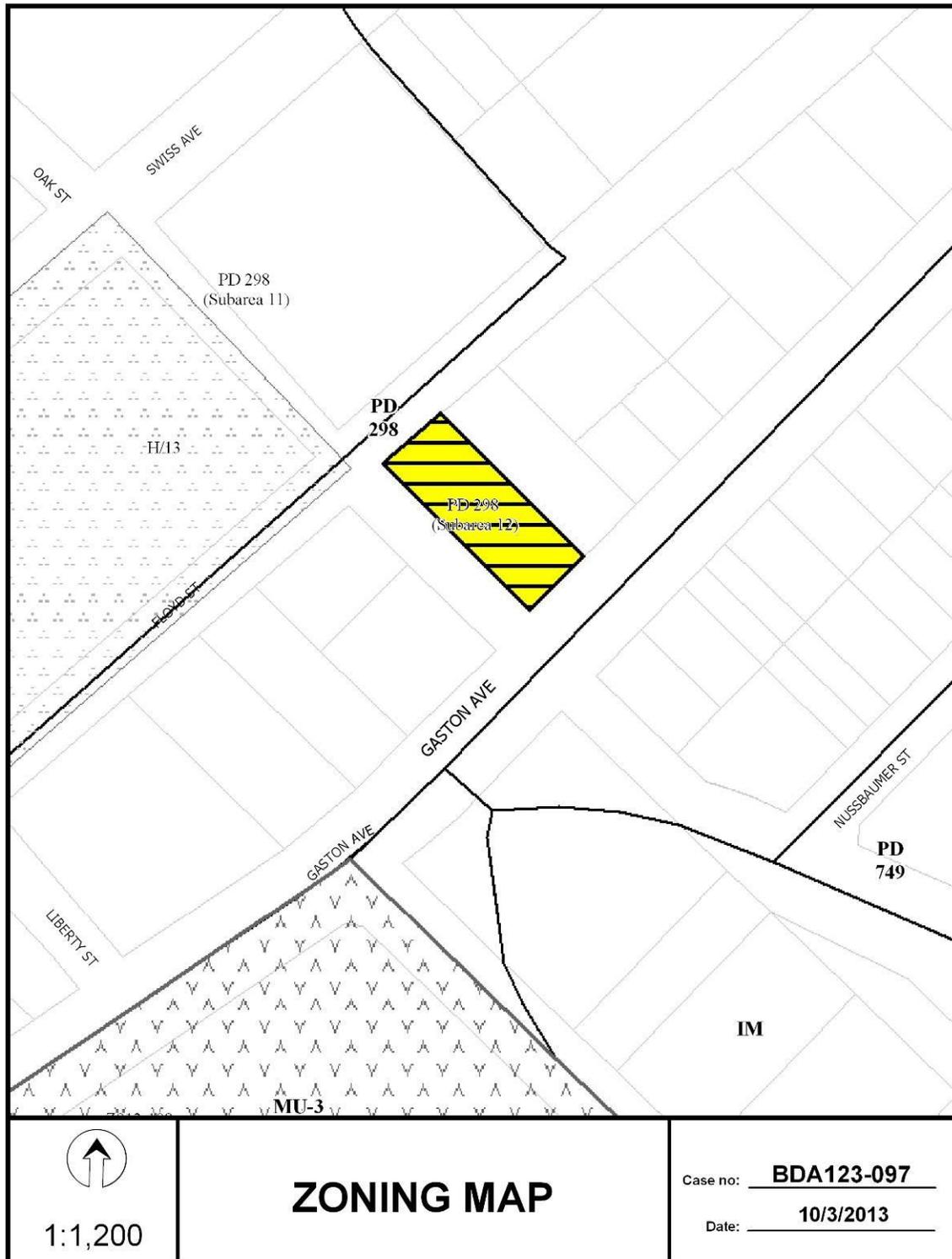
- This request focuses on maintaining approximately 4,200 square feet of vacant structure with warehouse use, and leasing and maintaining approximately 1,600 square feet of vacant structure with restaurant without drive-in or drive-through service use where the applicant proposes to provide 10 (or 50 percent) of the required 20 required off-street parking spaces.
- The subject site is zoned PD 298 (Subarea 12). The parking requirements state that the parking provisions of Chapter 51A apply in the Bryan Area SPD except as modified in the ordinance. While the ordinance makes certain modifications to off-street parking required for large scale mixed use developments, and certain other specific uses in subareas other than Subarea 12, no specific off-street parking

requirement is made for a warehouse use or a restaurant without drive-in or drive-through service use on properties in Subarea 12.

- The Dallas Development Code requires the following off-street parking requirement:
 - Restaurant without drive-in or drive-through service: 1 space per 100 square feet of floor area
 - Warehouse: 1 space per 1,000 square feet of floor area up to 20,000 square feet, and one space per 4,000 square feet of floor area over 20,000 square feet.

The applicant proposes to provide 10 (or 50 percent) of the required 20 off-street parking spaces in conjunction with the retention of space within the structure as a warehouse and the leasing of space within the structure as a restaurant without drive-in or drive-through service.

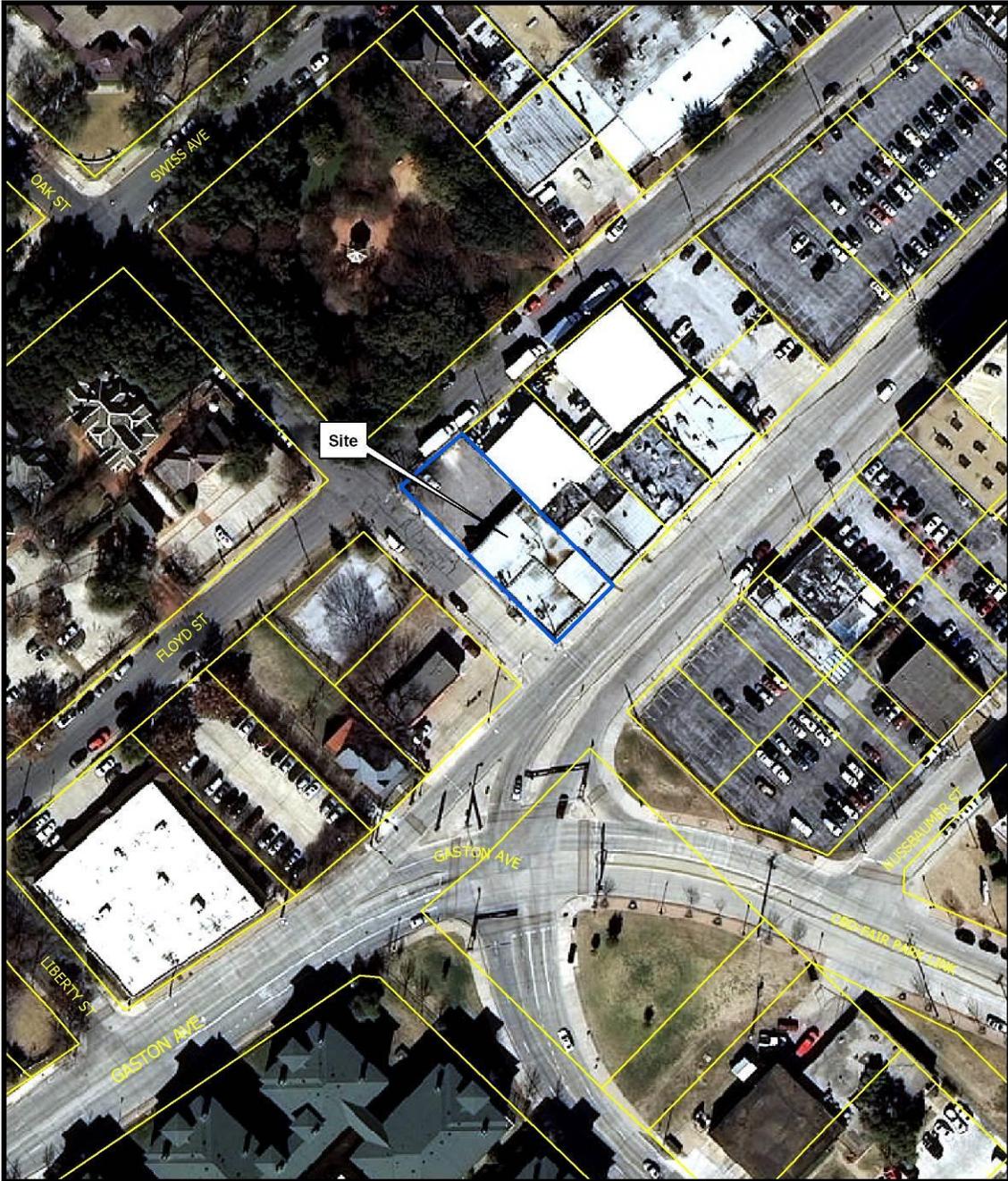
- The site is flat, rectangular in shape, and according to the application, is 0.19 acres (or approximately 8,300 square feet) in area. The site is zoned PD 298 (Subarea 12). The property with two street frontages has two front yard setbacks as any property with two street frontages would that is not zoned agricultural, single family, or duplex.
- DCAD records indicate that the improvement at 3001 Gaston Avenue is a “free standing retail store” with 5,704 square feet built in 1946.
- 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 298 (Subarea 12) 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 298 (Subarea 12) zoning classification.
- The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked “Has no objections.”



1:1,200

ZONING MAP

Case no: BDA123-097
 Date: 10/3/2013



1:1,200

AERIAL MAP

Case no: BDA123-097

Date: 10/3/2013



City of Dallas

B

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-097

Date: July 29, 2013

Data Relative to Subject Property:

Location address: 3001 Gaston Avenue Zoning District: PD298:Sub12

Lot No.: PT LT Block No.: 493 Acreage: .19 Census Tract: 0022.00

Street Frontage (in Feet): 1) 62 2) 161.2 3) 62.6 4) _____ 5) _____ *5621*

To the Honorable Board of Adjustment :

Owner of Property/or Principal: 3001 GASTON PARTNERS LP

Applicant: Brian Luscher Telephone: 214-641-9964

Mailing Address: 2808 Greenville Ave Dallas, TX Zip Code: 75206

Represented by: Audra Buckley - Permitted Development Telephone: 214-686-3635

Mailing Address: 416 S Ervay Street, Dallas, TX Zip Code: 75201

Affirm that a request has been made for a Variance or Special Exception , of _____
10 parking spaces for a restaurant without drive-thru: previous use was a general merchandise store with deli.

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:

A Reduction is Requested due to Restrictive area.
Please see attached statement of request.

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.

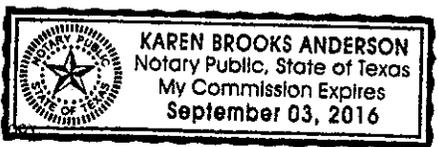
Respectfully submitted: Brian C. Luscher Applicant's name printed Brian C. Luscher Applicant's signature

Affidavit

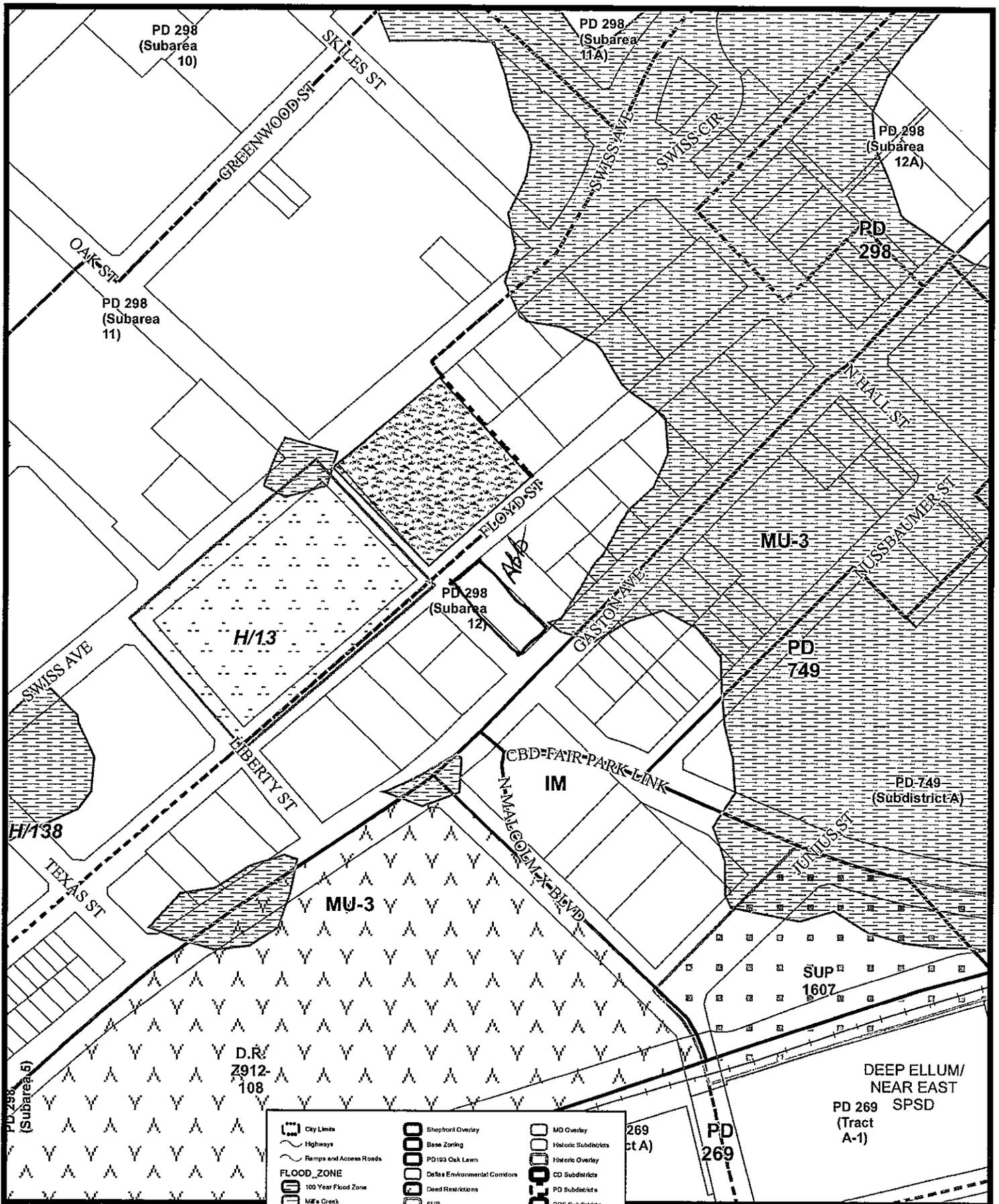
Before me the undersigned on this day personally appeared Brian C. Luscher who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Brian C. Luscher
Affiant (Applicant's signature)

Subscribed and sworn to before me this 30 day of July, 2013



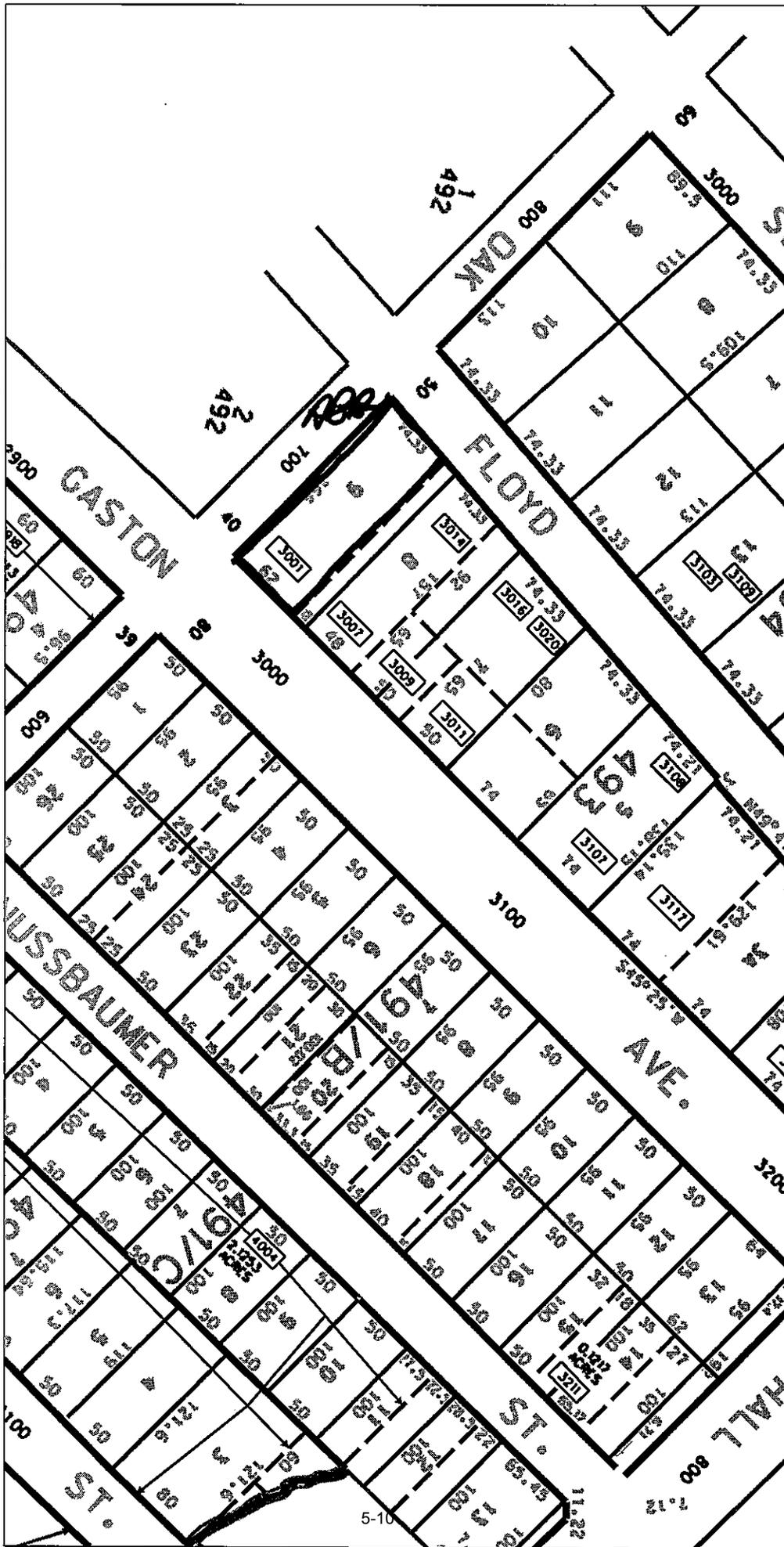
Karen Brooks Anderson
Notary Public in and for Dallas County, Texas



1:2,400

FLOOD_ZONE		

Case ID:
Printed: 8/7/2013



PARKING TABLE

SUITE #	SO. FT.	USE
SUITE A	2,082	WAREHOUSE
SUITE B	1,629	REST./BAR
SUITE C	2,082	WAREHOUSE

EXISTING PARKING

WAREHOUSE/1 PER 1,000	4 SPACES
REST./BAR 1 PER 100	16 SPACES
PROVIDED SPACES	4 COMPACT SPACES
	6 REGULAR SPACES
	2 OFF STREET SPACES
SPACES PROVIDED:	10 SPACES
SPACES REQUIRED:	20 SPACES
DIFFERENCE:	-10



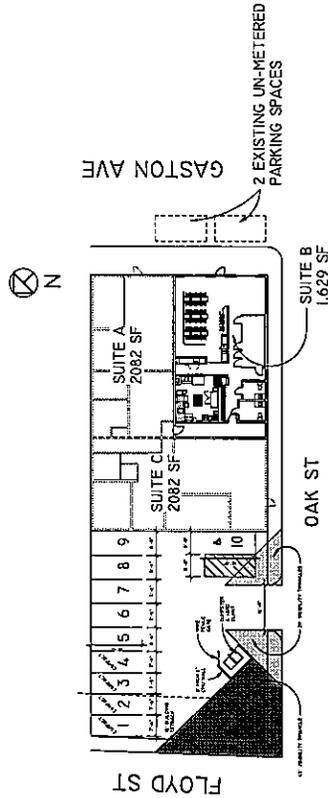
PROJECT ADDRESS
3001 GASTON AVE
DALLAS, TX

GENERAL CONTRACTOR
GREEN MARK BUILD
1501 MAIN STREET
DALLAS, TX 75201

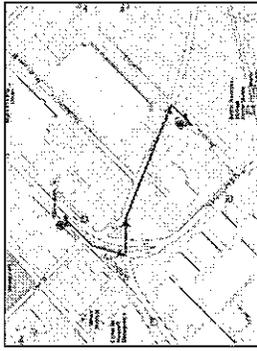
EXISTING ONE-STORY
BUILDING 5793 SQ.FT.

LEGAL DESCRIPTION
NUSSEBAUMERS GASTON AVENUE
BLK 493
PT LT 9

ZONING
PD 298 SUBDISTRICT 12



SHEET NUMBER	SHEET NAME	DESCRIPTION
A100	COVER, SITE	COVER SHEET AND SITE INFO
A101	AREA PLAN	GENERAL CONSTRUCTION AND CODE NOTES
A102	FLOOR PLAN	FLOOR PLAN
A103	ELEVATIONS	INTERIOR ELEVATIONS AND EQUIPMENT CHART



DISTANCE FROM LUSCHER'S TO DART - 0.2MI



LUSCHER'S
POST OAK RED HOTS

Project Number	7729/2013 12:38:44 PM
Date	7/29/2013 12:38:44 PM
Drawn by	GLS
Checked by	LIS
Scale	AS SHOWN
Author	LIS
Project Name	A100

Reason for the Request

LAND USE:

The subject site is developed with a 1-story, 5793 sq. ft. multi-tenant use (two warehouse spaces and one vacant space) with surface parking. The areas adjoining the site on three of four sides are City of Dallas right-of-way with the remainder being commercial.

Zoning:

Site and Surrounding Zoning: PD 298, Subdistrict 12.

Property does not lie within any flood zone.

GENERAL FACTS:

- This request focuses on maintaining the existing site with a total of approximately 4164 square feet of existing warehouse use and a total of 1692 square feet vacant space where the previous use was a general merchandise store with deli. We plan to apply for a restaurant without drive-thru certificate of occupancy and propose to provide 10 (or 50 percent) of the required 20 off-street parking spaces in conjunction with the conversion.
- The subject site is zoned PD 298 Subdistrict 12. The PD was originally passed in 1988 and modified in 1993. The PD states that the parking requirement for uses will default to Chapter 51A.
- We may only apply for a variance and only the variance standard applies on this request to reduce the off-street parking regulations for a restaurant use since the request exceeds 25 percent of the required off-street parking.
- DCAD records indicate that the improvements at 3001 Gaston was a retail store built in 1946.

THE REQUEST:

- A variance to the off-street parking requirement for a restaurant use. The site requires 20 spaces for the two warehouse spaces and the proposed restaurant use. The restaurant use requires 16 of those spaces.
- The existing parking lot contains 16 spaces but the layout is not to code. Visibility triangles were not taken into account and the spaces are non-conforming as to dimension.
- By Chapter 51A standards, only 10 spaces may be legally built on the site. Since we are bound on three sides by city right-of-way and by a commercial building on the other side, the site is restrictive in area.
- Granting the variance to the off-street parking regulations will not be contrary to the public interest based on the following:
 - Eight metered on-street parking spaces on the west side of Gaston.

8/5/2013

- Four un-metered on-street parking spaces on Oak Street.
 - DART rail station lies within .2 miles of the site, as indicated on the site plan
 - Pedestrian oriented neighborhood
- A literal enforcement of the parking requirements would result in unnecessary hardship.

8/5/2013



 1:1,200	NOTIFICATION		Case no: BDA123-097
	<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: 10/3/2013

Notification List of Property Owners

BDA123-097

12 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3001 GASTON AVE	3001 GASTON PARTNERS LP % SQUARE FOOT IN
2	3000 GASTON AVE	A&M BAYLOR COLLEGE OF DENTISTRY ATTN: SY
3	3004 GASTON AVE	A&M BAYLOR COLLEGE OF DENTISTRY ATTNL SY
4	3010 GASTON AVE	3101 GASTON INC
5	2922 SWISS AVE	MEADOWS FOUNDATION INC
6	2929 GASTON AVE	VEIGA FAMILY TRUST
7	2917 GASTON AVE	KIENAST RANDY &
8	2919 FLOYD ST	ASHMORE HELEN & HELEN ASHMORE TRUST B
9	3102 FLOYD ST	3101 GASTON INC
10	3011 GASTON AVE	ROCKING A INVESTMENTS INC
11	3015 GASTON AVE	BAES INC
12	3016 FLOYD ST	ROCKING A INVESTMENTS