

ZONING BOARD OF ADJUSTMENT, PANEL B
WEDNESDAY, NOVEMBER 20, 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, October 23, 2013 Board of Adjustment Public Hearing Minutes	M1
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UNCONTESTED CASES

BDA 123-108	1067 Tranquilla Drive REQUEST: Application of Stephanie Jehle, represented by Tom Guerin of Jepsen/Guerin Architects, for a variance to the front yard setback regulations	1
BDA 123-111	4502 Wildwood Road REQUEST: Application of Don Romer for a variance to the front yard setback regulations	2
BDA 123-116	4533 Ross Avenue REQUEST: Application of Steve Jennings for special exceptions to the off-street parking and fence height regulations	3
BDA 123-117	4534 Munger Avenue REQUEST: Application of Steve Jennings for special exceptions to the off-street parking and fence height regulations	4

HOLDOVER CASE

BDA 123-082

5629 SMU Boulevard

REQUEST: Application of Carlos D. Goyne, Café Build, LLC for a special exception 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 October 23, 2013 public hearing minutes.

FILE NUMBER: BDA 123-108

BUILDING OFFICIAL'S REPORT: Application of Stephanie Jehle, represented by Tom Guerin of Jepsen/Guerin Architects, for a variance to the front yard setback regulations at 1067 Tranquilla Drive. This property is more fully described as Lot 7, Block 8/5371 and is zoned R-7.5(A), which requires a front yard setback of 25 feet. The applicant proposes to construct and maintain a structure and provide an 18 foot 6 inch front yard setback, which will require a 6 foot 6 inch variance to the front yard setback regulations.

LOCATION: 1067 Tranquilla Drive

APPLICANT: Stephanie Jehle
Represented by Tom Guerin of Jepsen/Guerin Architects

REQUEST:

A variance to the front yard setback regulations of 6' 6" is requested in conjunction with constructing and maintain an approximately 400 square foot two-vehicle garage addition to an existing one-story single family home with an approximately 1,700 square foot building footprint, part of which would be located in the site's 25' front yard setback.

STANDARD FOR A VARIANCE:

The Dallas Development Code Section 51A-3.102(d)(10) 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 compliance with the submitted site plan

Rationale:

- The lot's irregular shape precludes its development in a manner commensurate with other developments found on similarly-zoned R-7.5(A) lots. Documentation submitted by the applicant shows that the total square footage of the existing home on the subject site with proposed addition would be approximately 1,900 square feet in area which is the average square footage/size of 10 other developments he found in the same R-7.5(A) zoning district. In addition, there appears to be no other reasonable area for a two-vehicle garage on the subject site other than in the front yard setback given the location and floor plan of the existing single family home and the fact that there is no alley to construct and maintain a detached garage on the site.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

- August 30, 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.
- October 23, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- October 24, 2013: The Board Administrator emailed the applicant's representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the October 30th deadline to submit additional evidence for staff to factor into their analysis;

and the November 8th 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 30, 2013: The applicant's representative submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

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

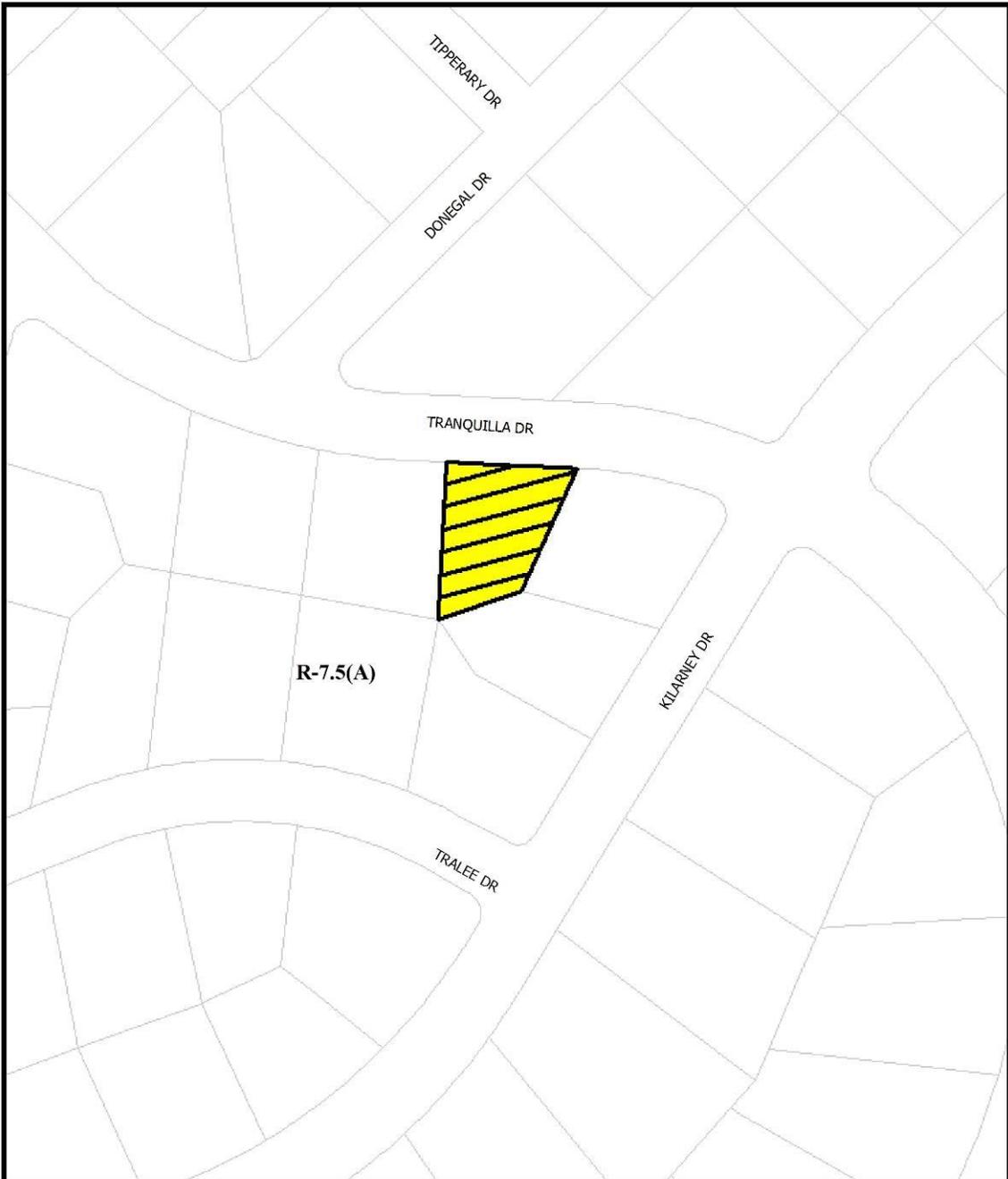
No review comment sheets were submitted in conjunction with this application.

GENERAL FACTS /STAFF ANALYSIS:

- This request focuses on constructing and maintain an approximately 400 square foot two-vehicle garage addition to an existing one-story single family home with an approximately 1,700 square foot building footprint, part of which would be located in the site's 25' front yard setback.
- A 25' front yard setback is required for properties zoned R-7.5(A).
- A site plan has been submitted indicating the structure/building footprint (roof eave) is as close as 18' 6" from the front property line or 6' 6" into the 25' front yard setback.
- According to calculations taken from the site plan by the Board Administrator, approximately 120 square feet (or about 30 percent) of the proposed addition's approximately 400 square foot building footprint is to be located in the site's front yard setback, or approximately 6 percent of the approximately 2,100 square foot expanded total building footprint.
- The site is flat, irregular in shape, and according to the application is 0.19 acre (or 8,300 square feet) in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area.
- The site is bounded on the east by an existing 15' wide utility easement.
- According to DCAD records, the "main improvement" at 1067 Tranquilla Drive is a structure built in 1950 with 1,497 square feet of living/total area; and the "additional improvements" being a 252 square foot attached garage.
- The applicant submitted a document showing that the total square footage of the existing home on the subject site with proposed addition would be approximately

1,900 square feet in area which is the average square footage/size of 10 other developments he found in the same R-7.5(A) zoning district

- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance to front yard setback regulations are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
 - The variance to front yard setback regulations would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant the front yard variance request, imposing a condition whereby the applicant must comply with the submitted site plan, the structure in the front yard setback would be limited to that what is shown on the submitted plan – a structure that could be located close as 6' 6" from the front property line or 18' 6' into the 25' front yard setback.

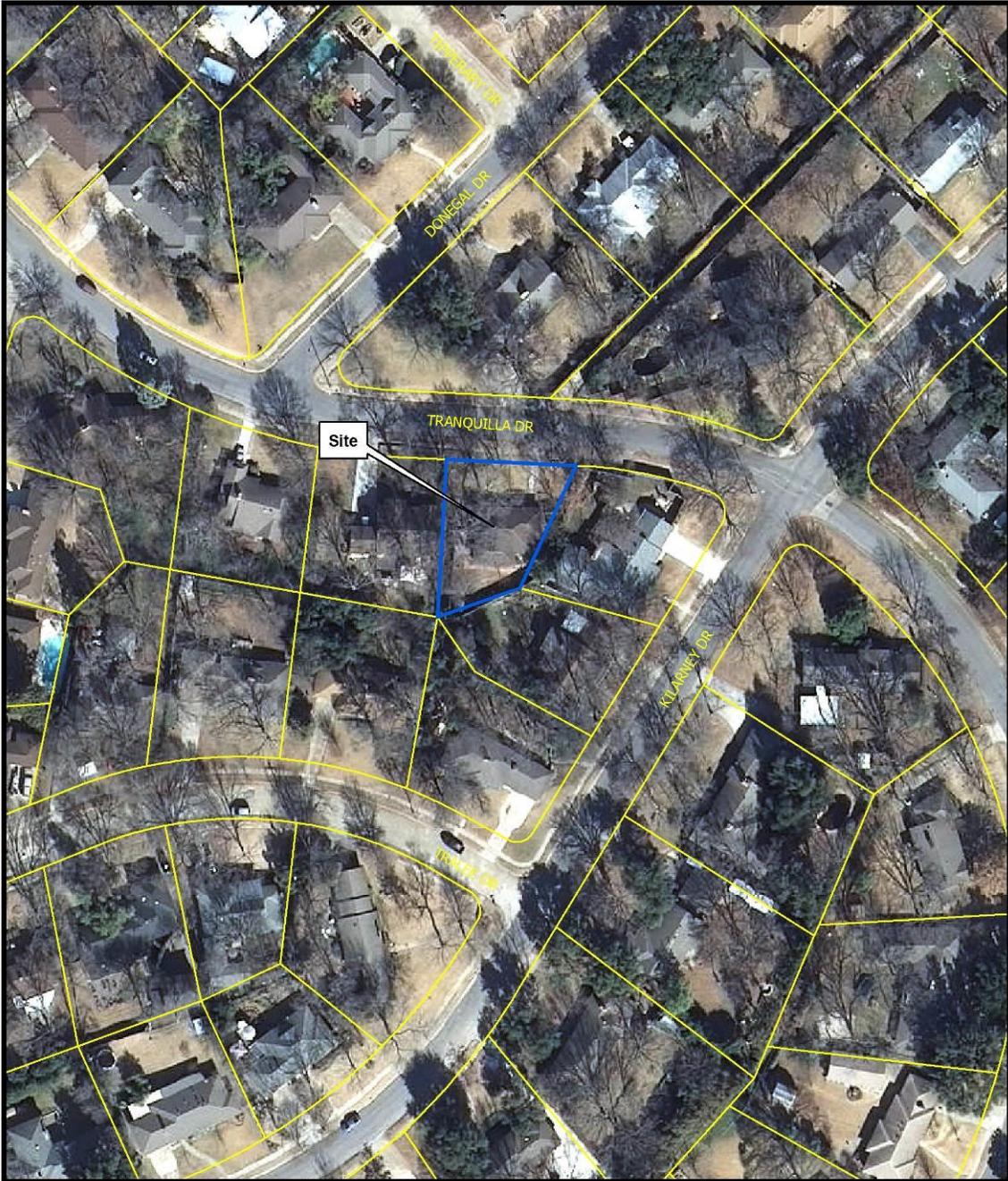


1:1,200

ZONING MAP

Case no: BDA123-108

Date: 11/4/2013



1:1,200

AERIAL MAP

Case no: BDA123-108

Date: 11/4/2013

JEHLE RESIDENCE

VARIANCE BDA 123-108 / HOUSE AT 1067 TRANQUILLA DRIVE

AMENDMENT TO ADD PERTINANT INFORMATION FOR UPCOMING CASE

Please consider the following points as you review the noted application:

1. The subject property is located within City of Dallas R7.5 zoning district
2. The irregular lot shape, lack of alley for possible detached garage and utility easement presently precludes provisions for a 2-car garage
3. The neighbors adjacent to the proposed garage have fences on both sides of the street projecting much further toward the street frontage
4. The request to be able to accommodate a 2-car garage is commensurate and proportional to houses of this size as found in this zoning district even though 1-car garages are seen on Tranquilla Dr.

Per DCAD records of similar properties in this area (R7.5 zoning district) note following similar sized houses with 2-car garages

	<i>Address</i>	<i>BR's</i>	<i>A/C SF</i>	<i>Garage SF</i>	<i>Total SF</i>
1	10837 Wyatt St.	3/2	1288	440	1728
2	11331 Rupley Ln.	3/2	1406	400	1806
3	11359 Rupley Ln.	3/2	1411	504	1915
4	10902 Palace Way	3/2	1442	440	1882
5	11647 Rogue Way	3/2	1464	460	1924
6	9614 Tralee Dr.	2/2	1472	441	1913
7	11363 Rupley Ln.	3/2	1476	420	1896
8	11156 Lanewood Cir.	3/2	1549	440	1989
9	10214 Solta Dr.	3/2	1556	462	2018
10	626 Harter Rd.	2/2	1680	400	2080
	AVERAGE		1474.4	440.7	1915.1

Subject property at 1067 Tranquilla Dr. is presently as follows:

1497 252 1749

Proposed SF areas with new 2-car garage with this variance:

1497 440 1937



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-108

Data Relative to Subject Property:

Date: 8/30/13

Location address: 1067 TRANQUILLA DRIVE Zoning District: R-7.5(A)

Lot No.: 7 Block No. 8/5371 Acreage: 0.19 Census Tract: 82.00

Street Frontage (in Feet): 1) 100' 2) 3) 4) 5) 966

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): STEPHANIE NEHLE

Applicant: STEPHANIE NEHLE Telephone: 214-228-2728

Mailing Address: 1067 TRANQUILLA DRIVE Zip Code: 75218

E-mail Address: whiterockagent@gmail.com

Represented by: TOM GUERIN Telephone: 214-526-6007

Mailing Address: WEPSEN/GUERIN ARCHITECTS P.O. BOX 14151 DALLAS, TX Zip Code: 75214

E-mail Address: tguerin@swebell.net

Affirm that an appeal has been made for a Variance X or Special Exception of 6'-6" VARIANCE FROM FRONT YARD SETBACK FOR GARAGE

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:

SHAPE OF LOT AND EXISTING UTILITY EASEMENT PREVENTS ADDITION OF NEW 2-CAR GARAGE

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

Stephanie Nehle (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.

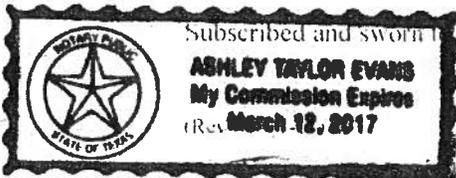
Respectfully submitted:

Stephanie Nehle (Affiant/Applicant's signature)

30 day of

Aug. 2013

Ashley Evans (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 _____

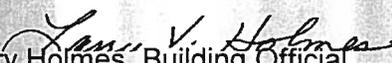
Chairman

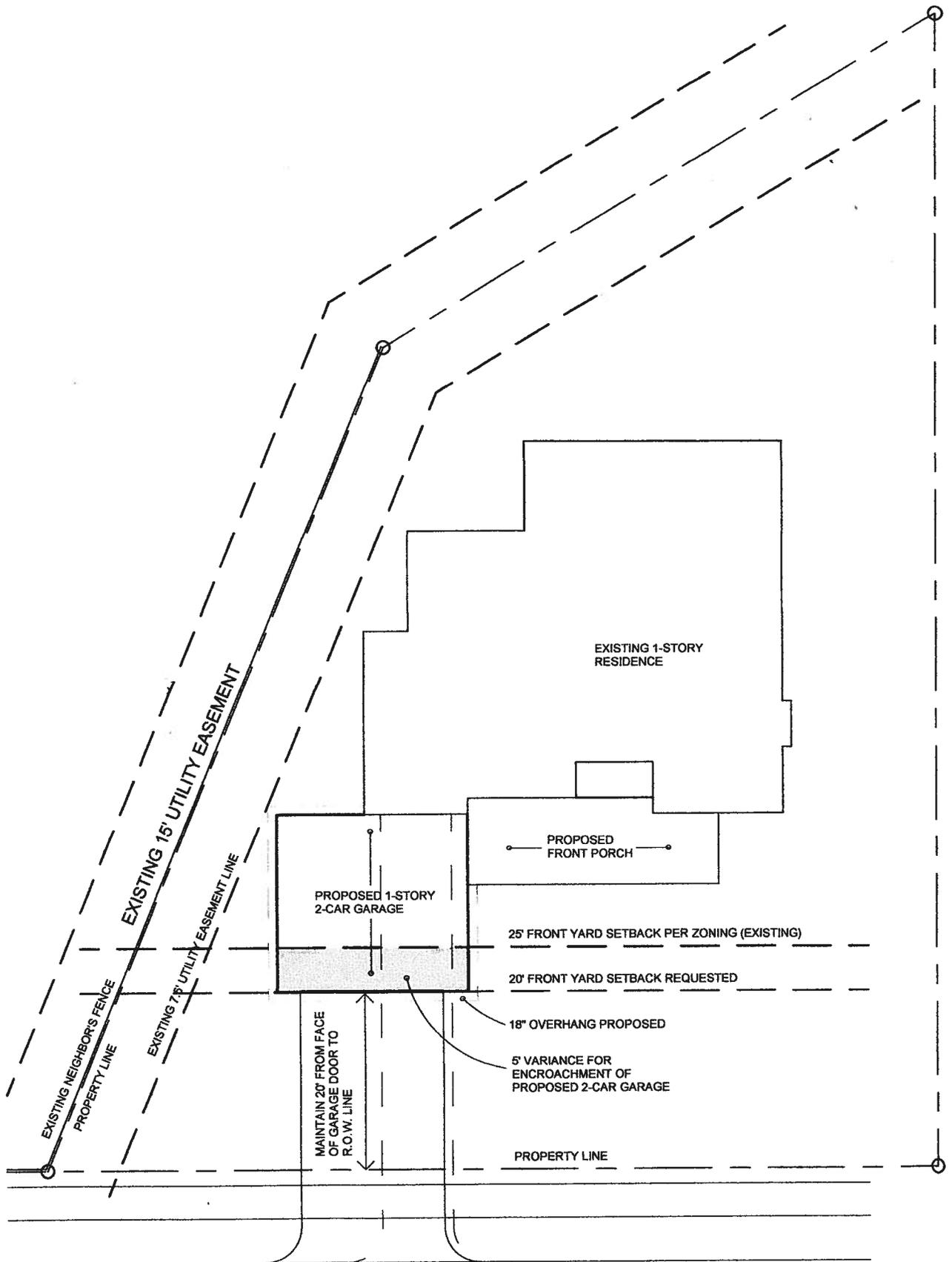
Building Official's Report

I hereby certify that Stephanie Jehle
represented by Tom Guerin
did submit a request for a variance to the front yard setback regulations
at 1067 Tranquilla Drive

BDA123-108. Application of Stephanie Jehle represented by Tom Guerin for a variance to the front yard setback regulations at 1067 Tranquilla Drive. This property is more fully described as Lot 7, Block 8/5371 and is zoned R-7.5(A), which requires a front yard setback of 25 feet and allows a cantilevered roof eave to project up to five feet into the required front yard. The applicant proposes to construct and maintain a single family residential structure and provide an 18 foot 6 inch front yard setback, which will require a 6 foot 6 inch variance to the front yard setback regulation.

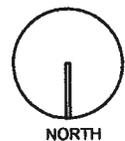
Sincerely,


Larry Holmes, Building Official



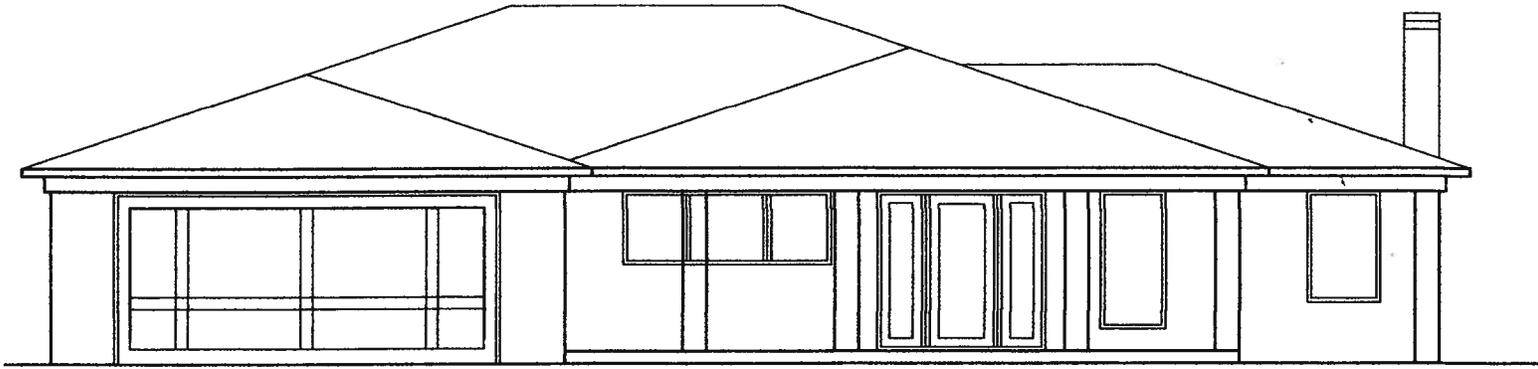
SHAPE OF LOT AND PROXIMITY OF EXISTING 1-CAR GARAGE TO ADJACENT UTILITY EASEMENT PREVENTS ADDITION OF A NEW 2-CAR GARAGE ENTIRELY WITHIN EXISTING FRONT YARD SETBACK AND OUTSIDE OF EASEMENT

1067 TRANQUILLA DRIVE

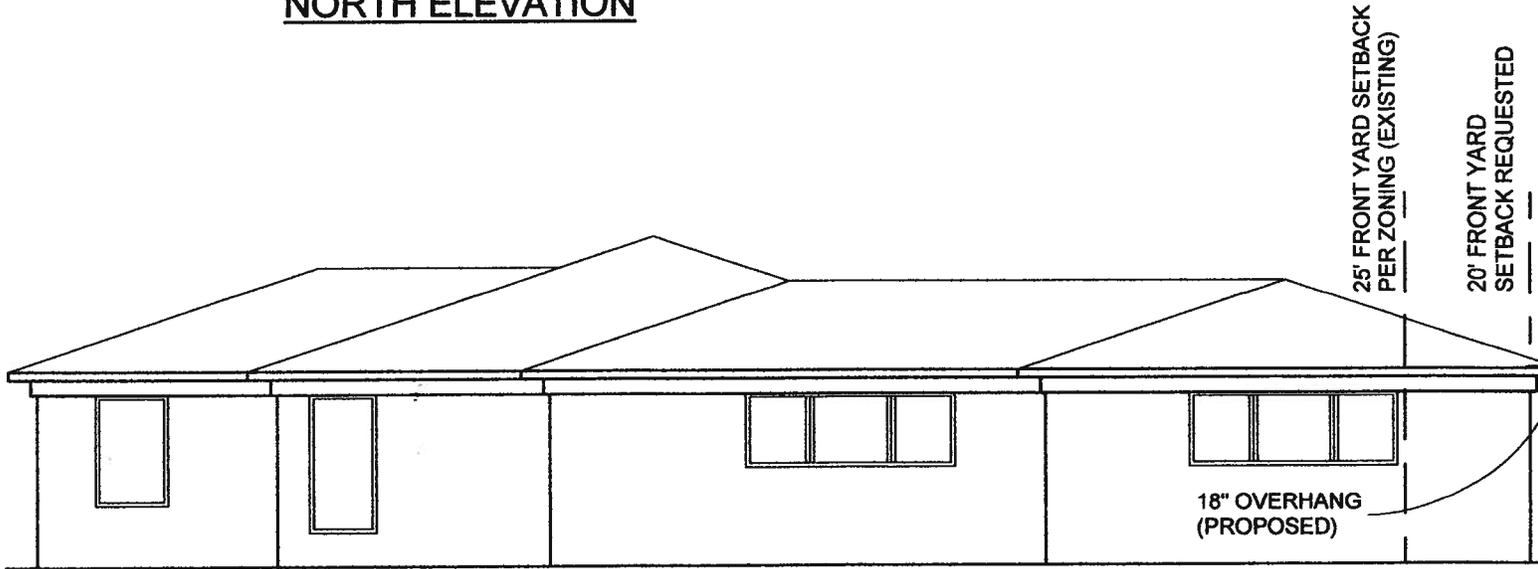


VARIANCE REQUEST SITE PLAN

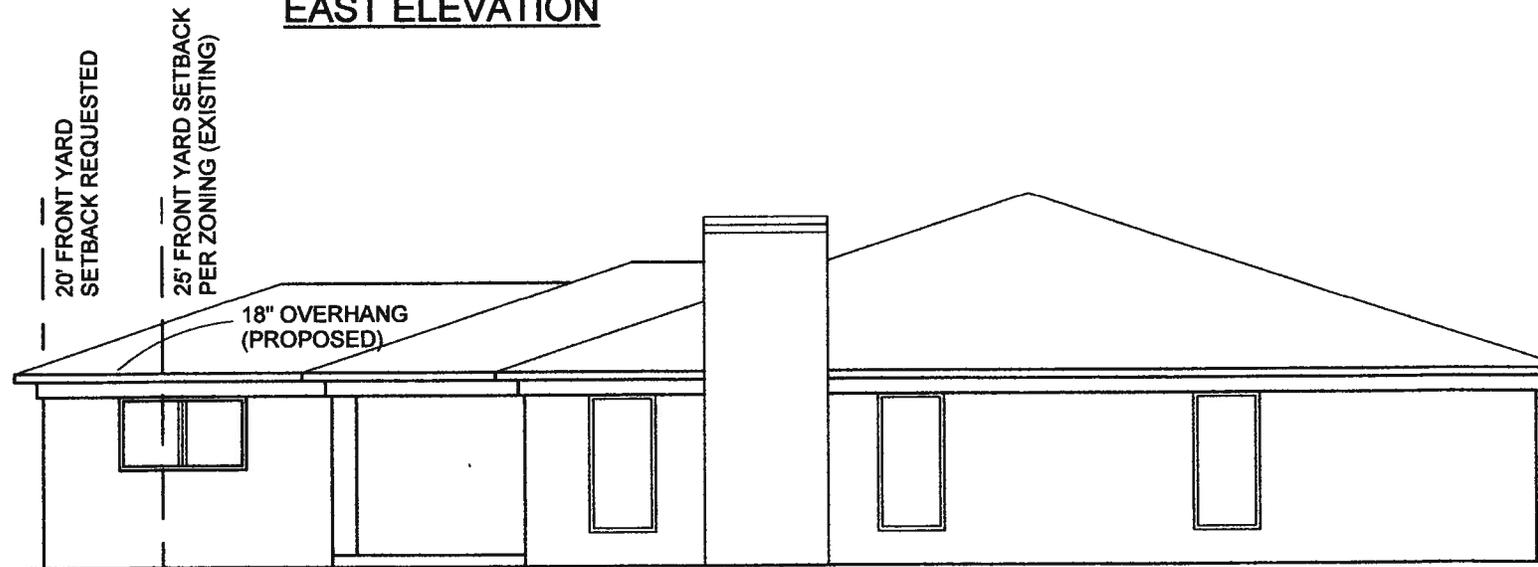
SCALE: 1" = 10'



NORTH ELEVATION

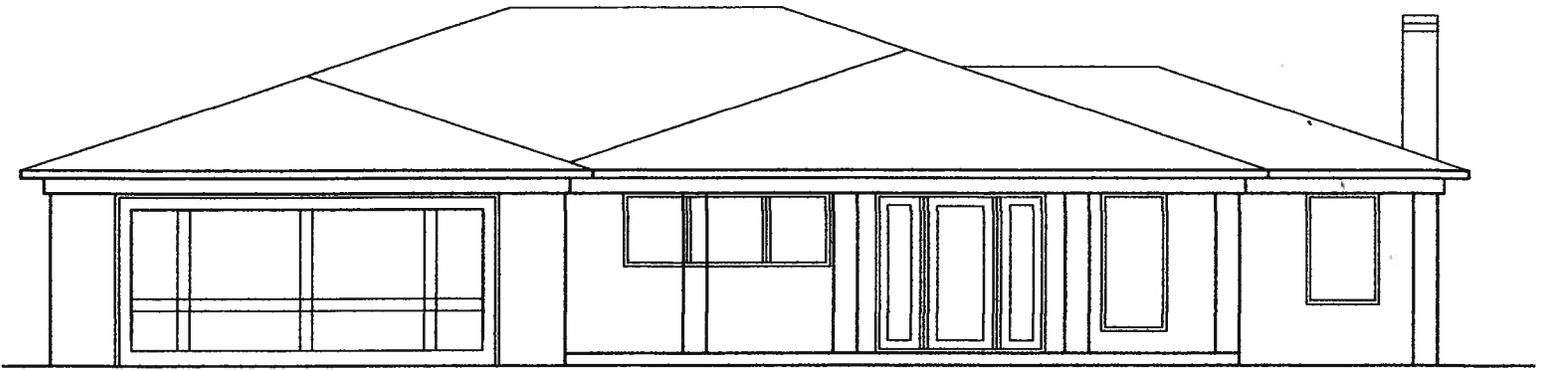


EAST ELEVATION

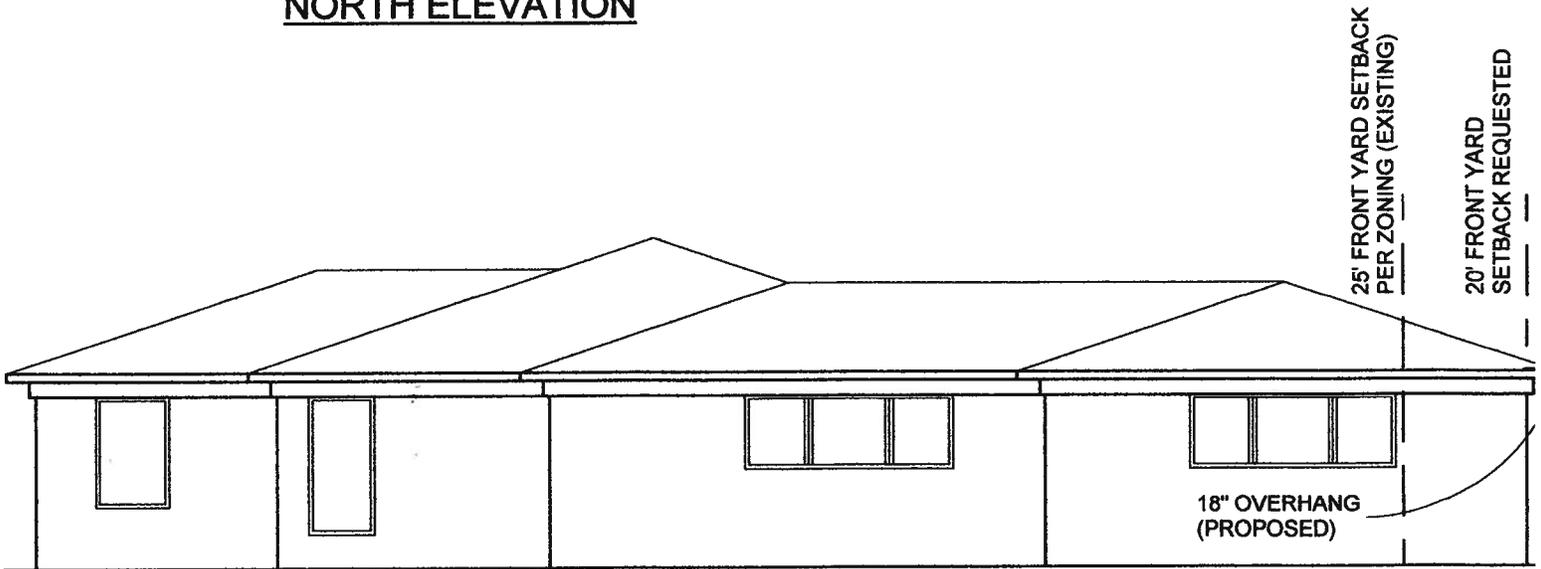


WEST ELEVATION

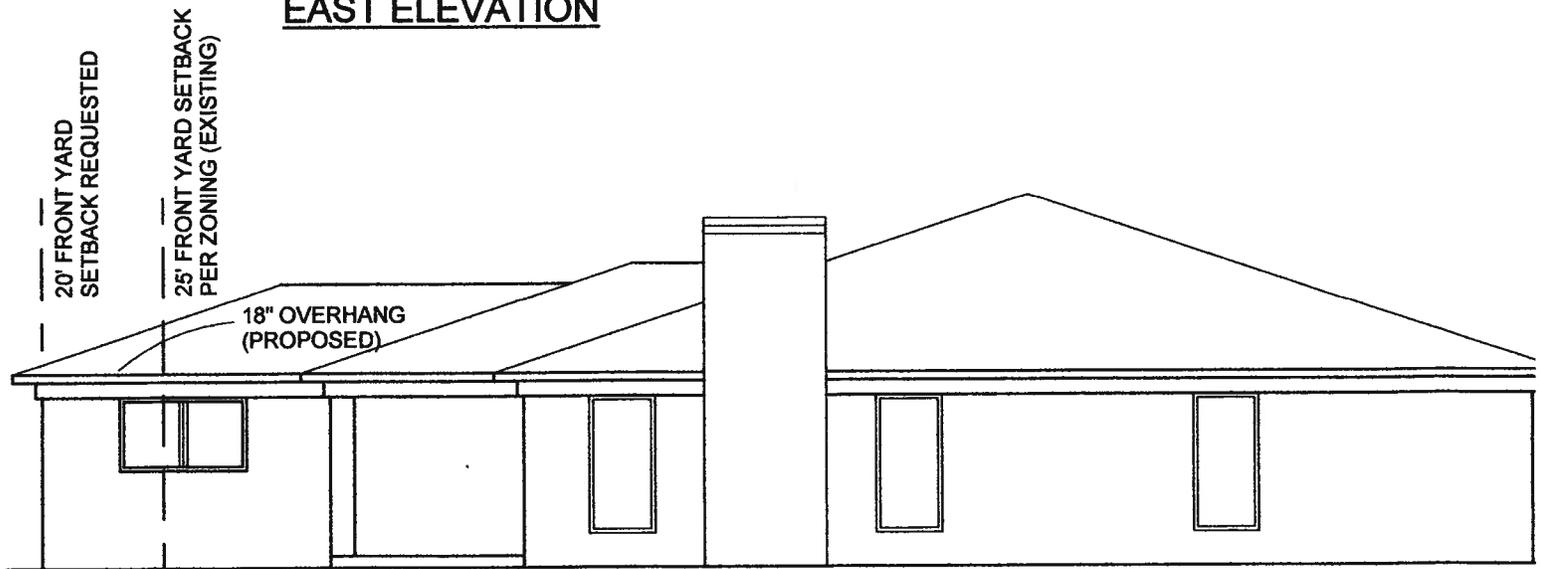
1067 TRANQUILLA DRIVE
EXTERIOR ELEVATIONS
 SCALE: 1/8" = 1'-0"



NORTH ELEVATION

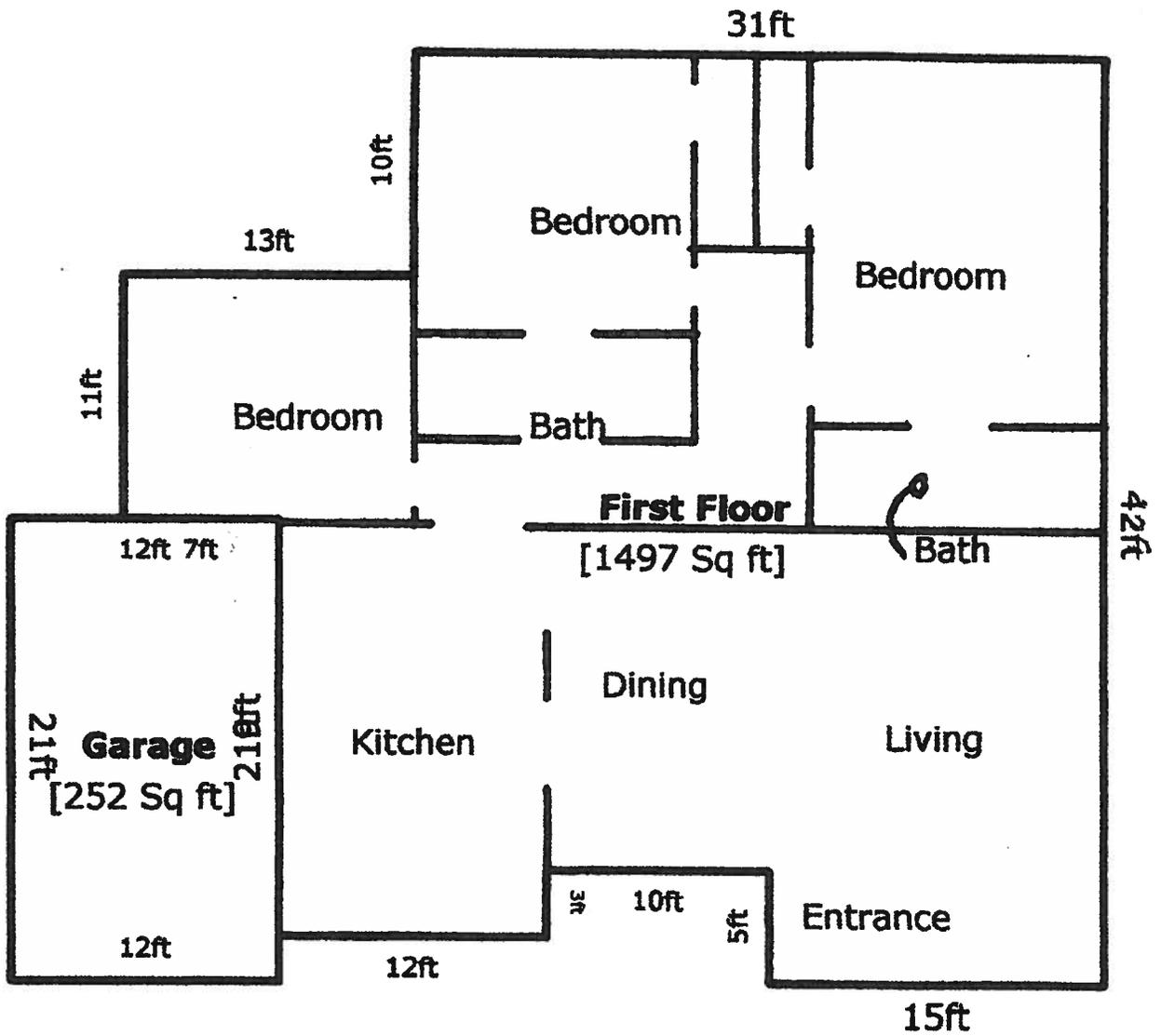


EAST ELEVATION



WEST ELEVATION

1067 TRANQUILLA DRIVE
EXTERIOR ELEVATIONS
 SCALE: 1/8" = 1'- 0"



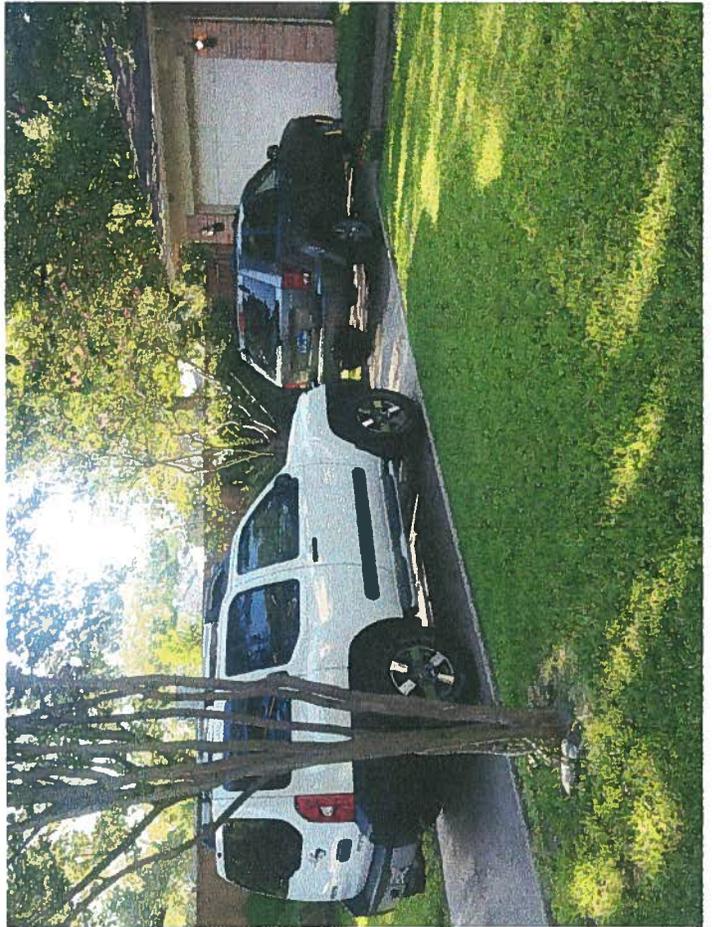
1067 TRANQUILLA DRIVE
EXISTING FLOOR PLAN
 SCALE: 1/8" = 1'-0"



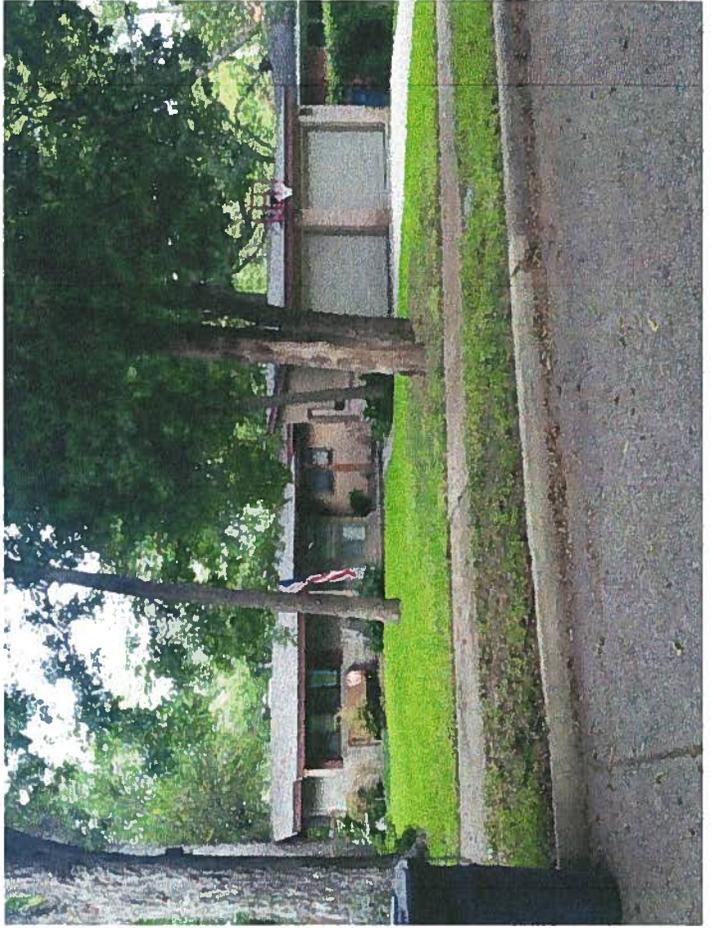
LOOKING NORTH FROM 1067



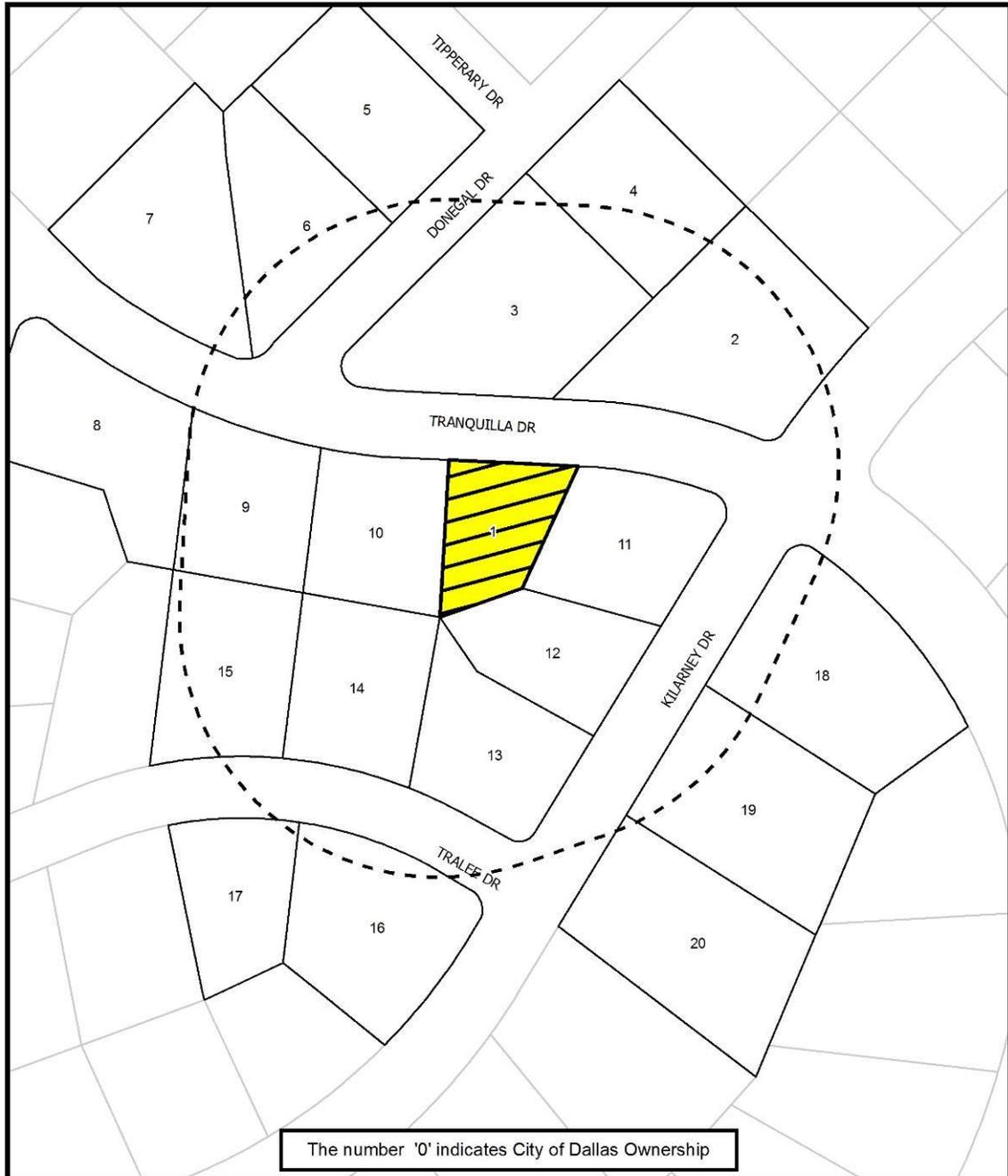
LOOKING S.E., AT 1067 GARAGE



1067 DRIVEWAY



REFERENCE IN NEIGHBORHOOD



 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">20</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	20	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u>BDA123-108</u> Date: <u>11/4/2013</u>
200'	AREA OF NOTIFICATION					
20	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA123-108

20 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1067 TRANQUILLA DR	JEHLE STEPHANIE
2	9907 KILARNEY DR	NELSON MARY LUAN & TOMMY L
3	9814 DONEGAL DR	BANNON THOMAS J
4	9822 DONEGAL DR	BARNES LESLIE J
5	9819 DONEGAL DR	ADAME RUDY & JENNIE S
6	9811 DONEGAL DR	GRIGGS CANDACE P & DAVID GRIGGS
7	1038 TRANQUILLA DR	BURNS JEFFREY
8	1039 TRANQUILLA DR	KLEIN OPAL JUANITA
9	1051 TRANQUILLA DR	RUST THOMAS HOLLISTER
10	1059 TRANQUILLA DR	HUNN MARVIN & DEBBIE
11	9823 KILARNEY DR	FRANCE TERRY M & LEA ANN
12	9815 KILARNEY DR	CARPENTER AMY L
13	9735 TRALEE DR	MULLANE MICHAEL J & DEBORAH
14	9731 TRALEE DR	ENRIQUEZ PAUL V
15	9723 TRALEE DR	SLAUGHTER PATRICK W
16	9731 KILARNEY DR	WATKINS LUCAN N
17	9726 TRALEE DR	THEODORE JOSHUA A & CHRISTINA
18	1115 TRANQUILLA DR	ROBINSON MARIE JONES
19	9814 KILARNEY DR	LESTINA NICHOLAS R
20	9806 KILARNEY DR	MORRIS ANITA & MORRIS MICHAEL

FILE NUMBER: BDA 123-111

BUILDING OFFICIAL'S REPORT: Application of Don Romer for a variance to the front yard setback regulations at 4502 Wildwood Road. This property is more fully described as Lot 1AA, Block N/4983 and is zoned PD-455 (Subdistrict C), which requires a front yard setback of 30 feet. The applicant proposes to construct and maintain structures (single family home, air conditioning units, and 7 foot high screening fence) and provide an 8 foot 9 inch front yard setback, which will require a 21 foot 3 inch variance to the front yard setback regulations.

LOCATION: 4502 Wildwood Road

APPLICANT: Don Romer

REQUESTS:

Variances to the front yard setback regulations of up to 21' 3" are requested in conjunction with maintaining a nonconforming single family home structure, relocating and maintaining two a/c condenser structures, and constructing and maintaining an approximately 7' high, approximately 18' long fence located as close as 8' 9" from one of the site's two front property lines (Catawba Road) or 21' 3" in this required 30' 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 is unique and different from most lots in the PD 455 zoning district in that it is a corner lot with a restrictive area due to its size and its two front yard setbacks. The atypical two front yard setbacks on the lot precludes the applicant from developing it in a manner commensurate with development on other similarly zoned properties of the same size and with one front yard setback. Documentation submitted by the applicant states that the approximately 16,500 square foot subject site is the smallest of six corner lots in PD 455 Subdistrict C that have similar double front yard setback conditions - properties ranging from about 40,000 square feet to about 16,500 square feet (the subject site) with the average being about 22,000 square feet.

BACKGROUND INFORMATION:

Zoning:

Site: PD 455 (Planned Development)
North: PD 455 (Planned Development)
South: PD 455 (Planned Development)
East: PD 455 (Planned Development)
West: PD 455 (Planned Development)

Land Use:

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

Zoning/BDA History:

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

Timeline:

September 19, 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.

October 23, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

October 24, 2013: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the October 30th deadline to submit additional evidence for staff to factor into their analysis; and the November 8th 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 31, 2013: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

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

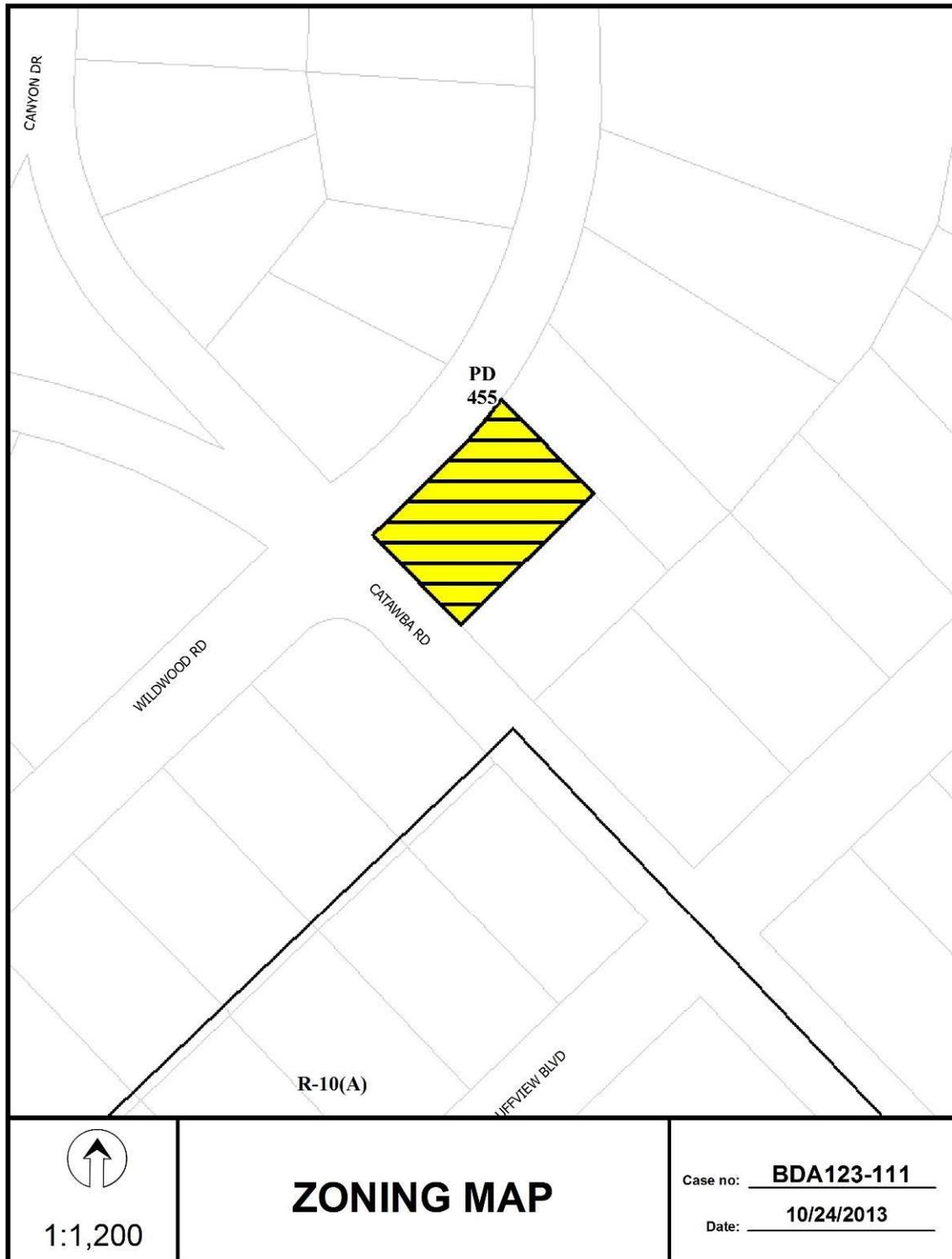
GENERAL FACTS/STAFF ANALYSIS:

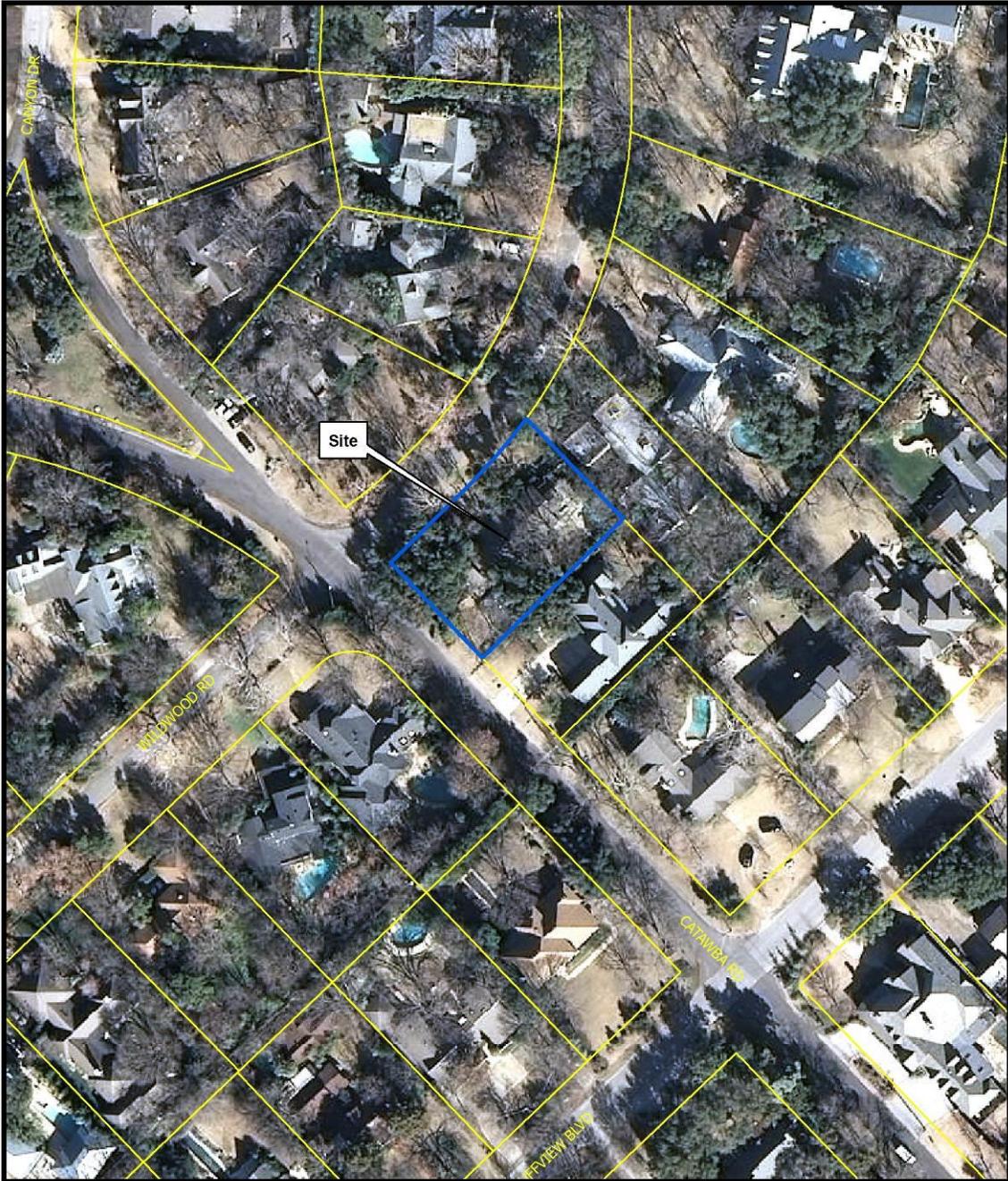
- These requests focus on maintaining a nonconforming single family home structure, relocating and maintaining a/c condenser structures, and constructing and maintaining an approximately 7' high, approximately 18' long fence located as close as 8' 9" from one of the site's two front property lines (Catawba Road) or 21' 3" in this required 30' front yard setback. (The applicant has stated that "the owners are not seeking to expand the footprint of the existing structure, but to be able to maintain through the normal permit process.")
- Structures on lots zoned PD 455 are required to provide a minimum front yard setback of 30'.
- The subject site is located at the east corner of Wildwood Road and Catawba Road. Regardless of how the existing single family structure is oriented, the subject site has two 30' front yard setbacks along both streets. The site has a 30' front yard setback along Catawba Road, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district. The site also has a 30' front yard setback along Wildwood Road, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where only a 10' setback is required. But the site's Wildwood Road frontage is deemed a front

yard setback nonetheless to maintain the continuity of the established front yard setback established by the lots developed with single family homes northeast of the site that front/are oriented northwestward onto Wildwood Road.

- A site plan has been submitted indicating that part of the single family home structure is located as close as 8' 9" from the site's Catawba Road front property line or 21' 3" into this 30' front yard setback.
- The applicant has chosen to seek variance to the front yard setback regulations to not only relocate and maintain an a/c condenser structure and to construct and maintain a fence in the Catawba Road front yard setback but also to address the existing nonconforming single family home structure on the site in this front yard setback.
- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.
- Because the code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent, the owner could not replace the existing nonconforming structure if it were intentionally destroyed and not granted variance.
- According to DCAD records, the "main improvement" at 4502 Wildwood Road (the subject site) is a structure built in 1954 with 3,378 square feet of living/total area. According to DCAD records, the "additional improvements" this address are a 256 square foot detached servants quarters, a pool, and a 378 square foot attached garage.
- The applicant states that the approximately 16,500 square foot subject site is the smallest of six corner lots in PD 455 Subdistrict C that have similar double front yard setback conditions. These properties range from about 40,000 square feet to about 16,500 square feet with the average being about 22,000 square feet.
- The subject site is flat, generally rectangular in shape and according to the application, 0.346 acres (or approximately 15,000 square feet) in area. The site is zoned PD 455. The site has two 30' front yard setbacks; and two 10' side yard setbacks; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 455 zoning classification.
 - The variances would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 455 zoning classification.

- If the Board were to grant the variance requests, and impose the submitted site plan as a condition, the structures in the front yard setback would be limited to what is shown on this document– which in this case are structures located as close as 8' 9" from the Catawba Road front property line (or as much as 21' 3" into this 30' front yard setback).





1:1,200

AERIAL MAP

Case no: BDA123-111

Date: 10/24/2013

but reinstated
 replan on 10-28 10-31-13
 etc

BDA 123-111 ATTACH A
 102

HARDAGE RESIDENCE
 4502 WILWOOD DALLAS, TEXAS

PAUL T. DICKEL
 NANCY G. LEIR
 ARCHITECTS
 4415 Hillside Blvd
 Dallas, Texas 75206
 214.343.0242 FAX

CARRELL PARTNERS & YOST ARCHITECTS
 4415 Hillside Blvd
 Dallas, Texas 75206
 214.343.0242 FAX

DESIGNED BY: CMR
 CHECKED BY: PTD
 DATE: 04.10.2013
 REVISIONS:

PROJECT NO.: 13022
 SHEET NO.: A401

DOOR SCHEDULE

01 TYPE: WESTERN SERIES 2400 48.3" POCKET DOOR (PFD)
 AZZ: CONTEMPORARY STYLE, MAROON STYLE,
 96" H, 1.5" LBS, 1.5" LBS, NO SCREENS,
 96" H, 1.5" LBS, 1.5" LBS

02 TYPE: WESTERN SERIES 400 48.3" POCKET DOOR (PFD)
 AZZ: CONTEMPORARY STYLE, MAROON STYLE,
 96" H, 1.5" LBS, 1.5" LBS, NO SCREENS,
 96" H, 1.5" LBS, 1.5" LBS

03 TYPE: WESTERN SERIES 400 48.3" POCKET DOOR (PFD)
 AZZ: CONTEMPORARY STYLE, MAROON STYLE,
 96" H, 1.5" LBS, 1.5" LBS, NO SCREENS,
 96" H, 1.5" LBS, 1.5" LBS

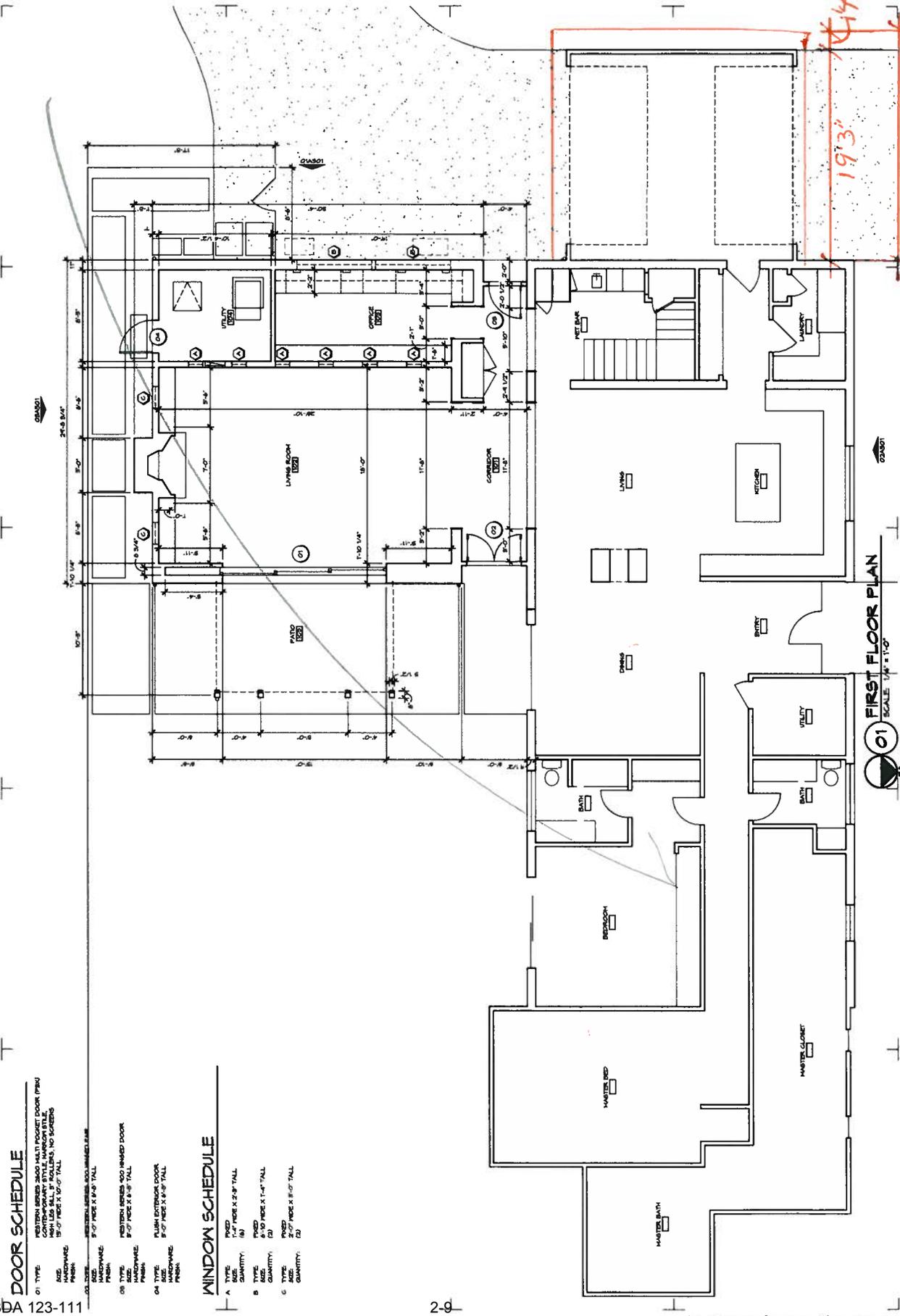
04 TYPE: WESTERN SERIES 400 48.3" POCKET DOOR (PFD)
 AZZ: CONTEMPORARY STYLE, MAROON STYLE,
 96" H, 1.5" LBS, 1.5" LBS, NO SCREENS,
 96" H, 1.5" LBS, 1.5" LBS

WINDOW SCHEDULE

A TYPE: PFD
 QUANTITY: 10
 SIZE: 6'-0" WIDE X 2'-8" TALL

B TYPE: PFD
 QUANTITY: 10
 SIZE: 6'-0" WIDE X 1'-4" TALL

C TYPE: PFD
 QUANTITY: 10
 SIZE: 6'-0" WIDE X 8'-0" TALL



01 FIRST FLOOR PLAN
 SCALE: 1/4" = 1'-0"



City of Dallas

B

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-111

Data Relative to Subject Property:

Date: 9-19-13

Location address: 4502 WILLOWOOD RD Zoning District: PD455 (sub C)

Lot No.: 1-AA Block No.: N/4983 Acreage: 0.346 Census Tract: 73.02

Street Frontage (in Feet): 1) 148 2) 100 3) _____ 4) _____ 5) _____ NE21A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): KELLY HARDAGE AND GINGER HARDAGE

Applicant: Don Romer Telephone: 214-215-3565

Mailing Address: 5105 OLD OAK LN, COLLEYVILLE, TX Zip Code: 76034

E-mail Address: donromer@verizon.net

Represented by: Don Romer Telephone: _____

Mailing Address: SAME Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance , or Special Exception , of 21'3"
ON CATAWBA STREET FRONT YARD SETBACK

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

~~WHEREBY THE NATURE OF OUR PROPERTY THAT BEING A CORNER LOT AND THE SMALLEST OF SIMILAR LOTS IN THE SAME PD455 SUB DISTRICT C, THE VARIANCE WOULD BE NECESSARY TO PERMIT THE DEVELOPMENT OF A SPECIFIC PARCEL OF LAND OF SUCH RESTRICTIVE AREA, SIZE, AND SHAPE THAT IT CANNOT BE DEVELOPED IN A MANNER COMMENSURATE~~

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. WITH THE DEVELOPMENT UPON OTHER PARCELS OF LAND IN DISTRICTS WITH THE SAME Affidavit ZONING CLASSIFICATION.

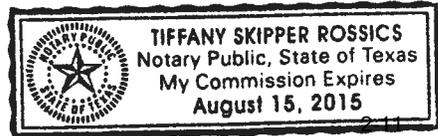
Before me the undersigned on this day personally appeared Don Romer
(Affiant/Applicant's name printed)

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 16 day of September, 2013

(Rev. 08-01-11)



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

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

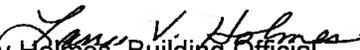
Building Official's Report

I hereby certify that DON ROMER

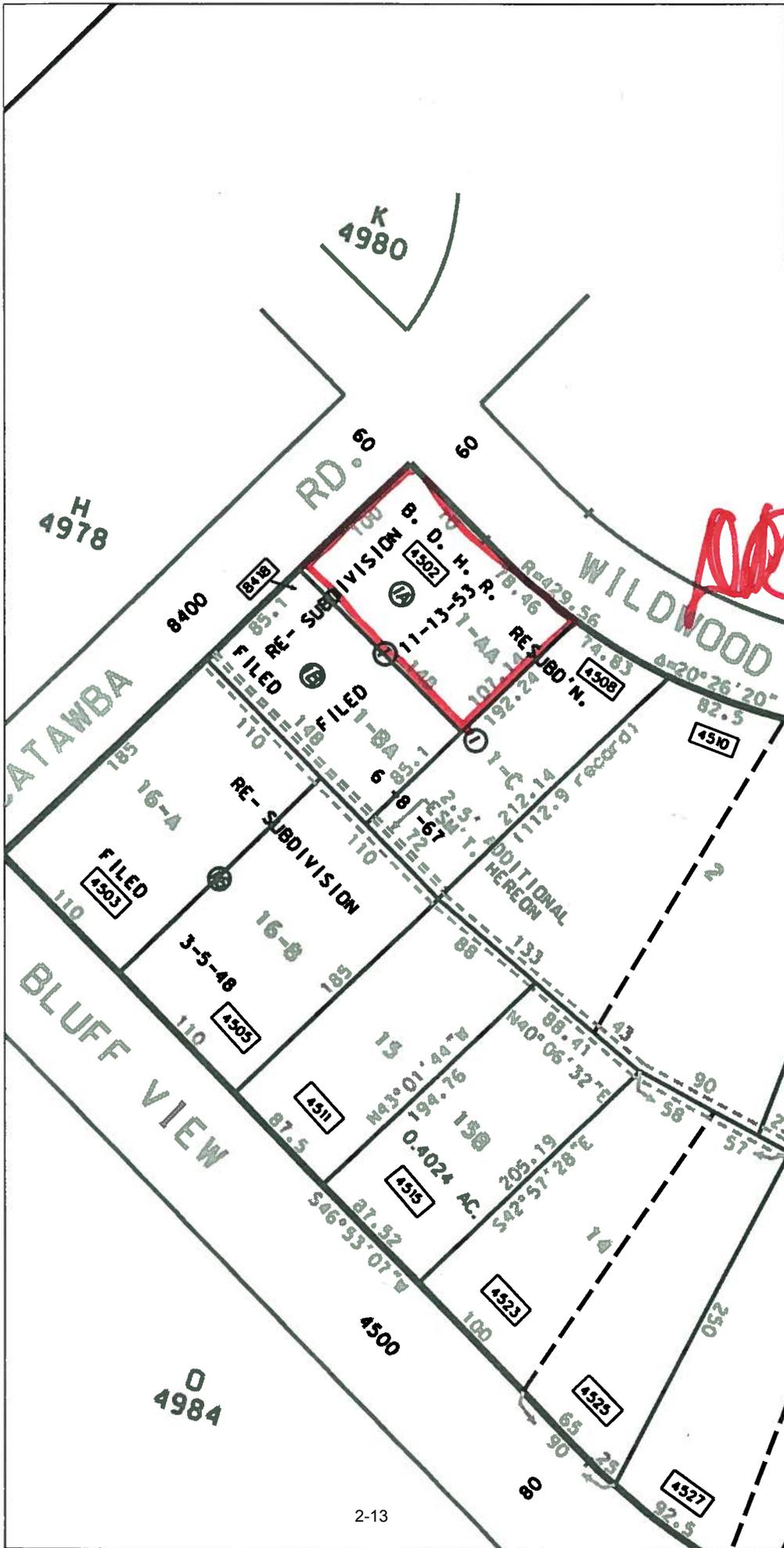
did submit a request for a variance to the front yard setback regulations
at 4502 Wildwood Road

BDA123-111. Application of Don Romer for a variance to the front yard setback regulations at 4502 Wildwood Road. This property is more fully described as Lot 1AA, Block N/4983 and is zoned PD-455 (Subdistrict C), which requires a front yard setback of 30 feet and allows a cantilevered roof eave to project up to five feet into the required front yard. The applicant proposes to construct and maintain a single family residential structure and provide an 8 foot 9 inch front yard setback, which will require a 21 foot 3 inch variance to the front yard setback regulation.

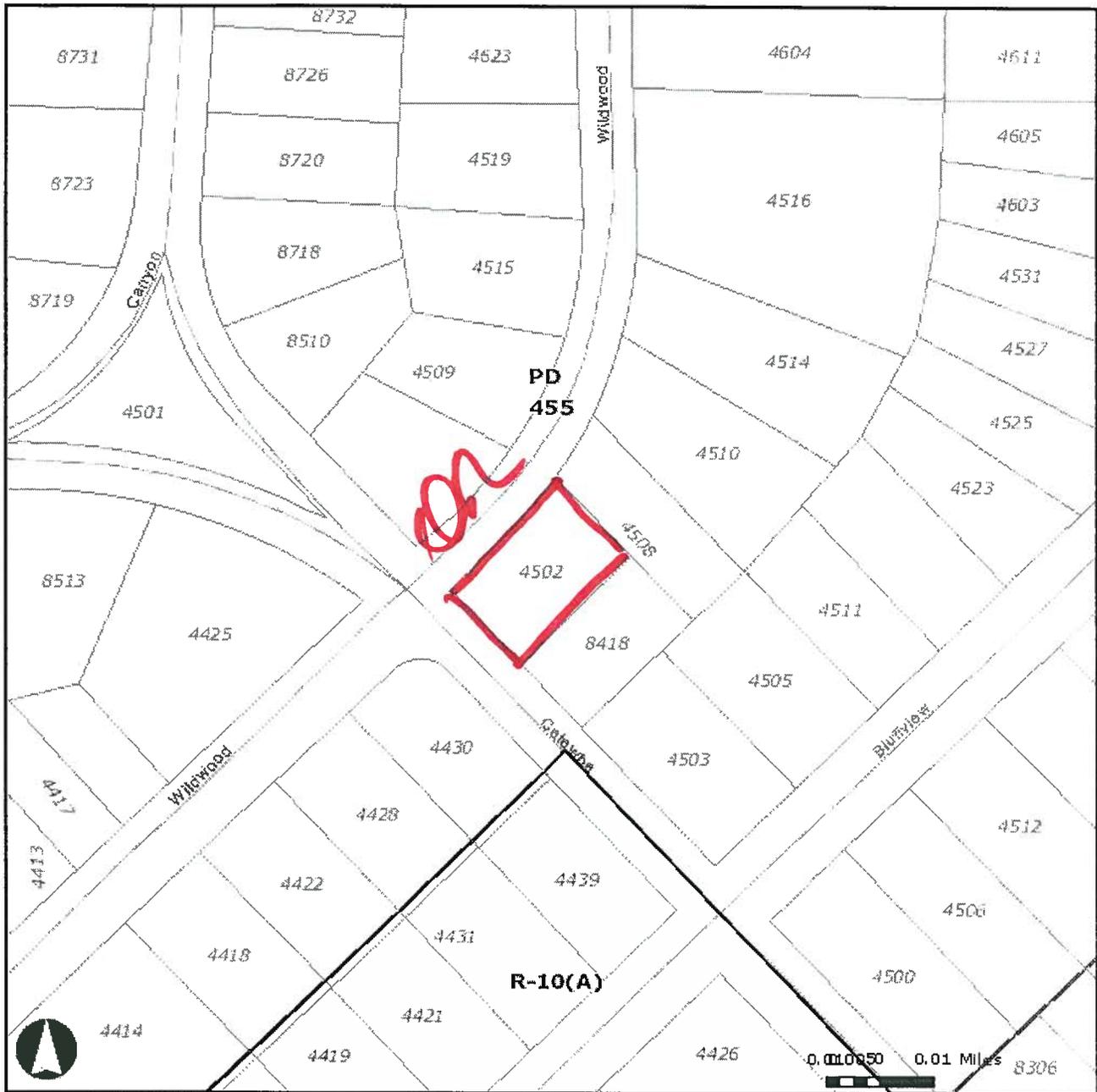
Sincerely,


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

CODE NOTES:

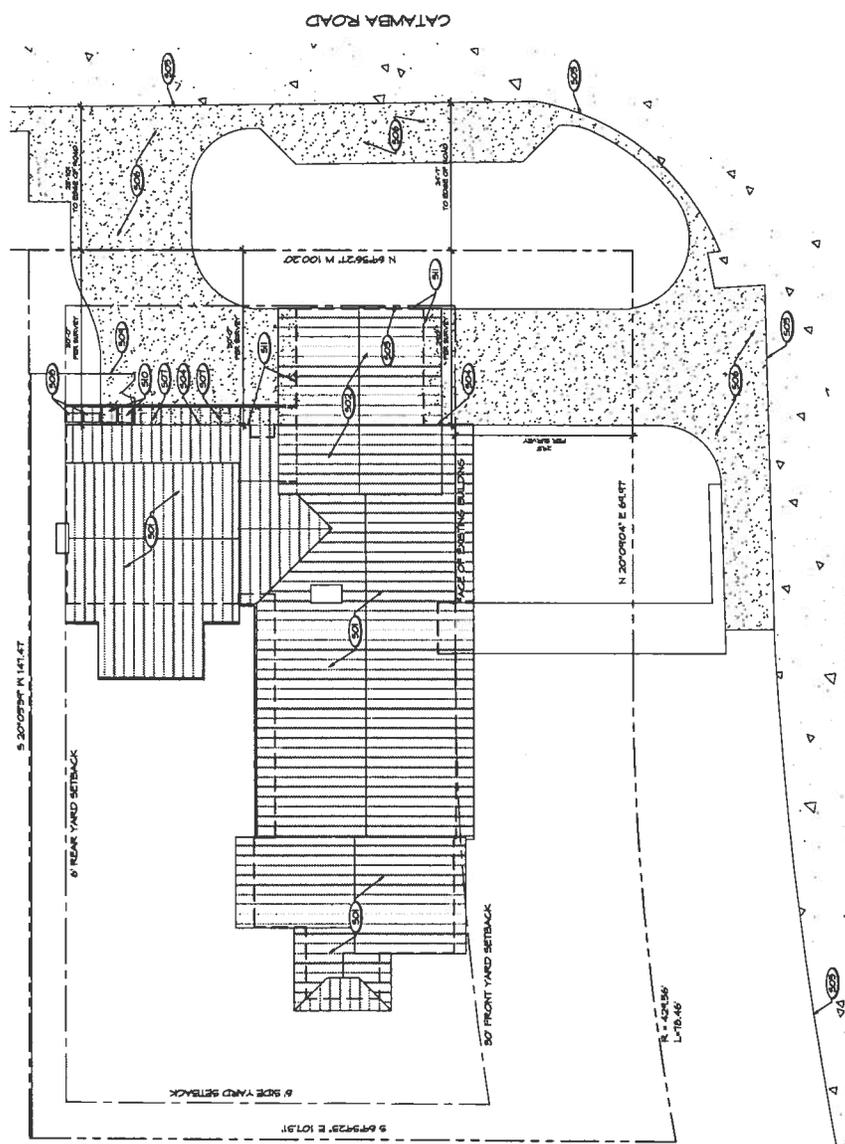
- LEGAL DESCRIPTION: PD 455 SUBTRACT C
- SUBJECT: PD 455 SUBTRACT C
- ZONE: A
- FRONT YARD SETBACK: 5'
- REAR YARD SETBACK: 5'
- MAX LOT COVERAGE: 40%
- MAX BUILDING HEIGHT: 30'
- EXISTING BUILDING AREA: 4,145 S.F.
- TOTAL BUILDING AREA: 4,145 S.F.
- NET GROSS CONSTRUCTION: 14,118 S.F.
- TYPICAL WALL INSULATION: R-19
- TYPICAL CEILING INSULATION: R-30

GENERAL NOTES:

1. THE CONTRACTOR SHALL VISIT THE PROJECT SITE TO FAMILIARIZE THEMSELVES WITH THE EXISTING CONDITIONS PRIOR TO BID.
2. CONTRACTOR SHALL FIELD VERIFY ALL DIMENSIONS PRIOR TO COMMENCEMENT OF THE WORK AND SHALL NOTIFY THE ARCHITECT OF ANY DISCREPANCIES FROM THE DIMENSIONS OR CONDITIONS NOTED ON ALL OF THE DOCUMENTS.
3. CONTRACTOR SHALL NOTIFY ARCHITECT OF ANY SCALED MEASUREMENTS ON THE DRAWINGS THAT DO NOT CORRELATE WITH FIELD CONDITIONS.
4. CONTRACTOR SHALL BE RESPONSIBLE FOR ALL MEASUREMENTS ON THE DRAWINGS.
5. THE CONTRACTOR IS RESPONSIBLE TO SET UP TEMPORARY OR PERMANENT FACILITIES FOR USE DURING CONSTRUCTION.
6. THESE DOCUMENTS SHALL CONSTITUTE AN INTEGRATED PROJECT. THE GENERAL CONTRACTOR AND ALL SUBCONTRACTORS ARE TO CONSIDER THE DOCUMENTS AS A WHOLE AND NOT RELY ON AN INDIVIDUAL SHEET OR PORTION THEREOF. LOCATION NECESSARY TO UNDERSTAND THE FULL SCOPE OF THE PROJECT.
7. THESE DRAWINGS DO NOT NECESSARILY INCLUDE OR EXCLUDE ALL WORK REQUIRED FOR FULL PERFORMANCE AND COMPLETION OF THE REQUIREMENTS OF THE CONTRACT DOCUMENTS.
8. CONTRACTOR SHALL BE RESPONSIBLE FOR ALL CUTTING, FITTING AND PATCHES THAT MAY BE REQUIRED TO COMPLETE THE WORK.
9. CONTRACTOR SHALL REPAIR OR REPLACE ANY DAMAGE TO EXISTING UTILITIES OR OTHERS THAT MAY BE CAUSED BY THE WORK.
10. CONTRACTOR SHALL AT ALL TIMES KEEP THE PREMISES FREE FROM AN ACCUMULATION OF WASTE MATERIALS OR RUBBISH CAUSED BY DEMOLITION, CONSTRUCTION AND OPERATIONS UNDER THE CONTRACT.
11. CONTRACTOR SHALL REPAIR OR REPLACE ALL DAMAGE TO EXISTING UTILITIES OR OTHERS THAT MAY BE CAUSED BY THE WORK.
12. CONTRACTOR TO TEST ALL EQUIPMENT FOR PROPER OPERATION.
13. CONTRACTOR SHALL COORDINATE STAIRS, DAMPERS, AND TEMPORARY FACILITIES WITH OWNER WITH PRIOR NOTIFICATION.
14. ALL CONSTRUCTION TO COMPLY WITH ALL APPLICABLE AND GOVERNING CODES AND AUTHORITIES.
15. HVAC SUBCONTRACTOR TO WALK THROUGH ALL EQUIPMENT WITH OWNER AND PROVIDE COPIES OF OPERATING INSTRUCTIONS INCLUDING TEST AND MAINTENANCE PROCEDURES.
16. CONTRACTOR TO SUBMIT COMMENTS ON ALL ITEMS SPECIFIED FOR APPROVAL PRIOR TO CONSTRUCTION.
17. CONTRACTOR TO SUBMIT SHOP DRAWINGS FOR ALL MILLWORK AND SPECIALTY ITEMS PRIOR TO FABRICATION.
18. CONTRACTOR TO SUBMIT PAINT AND FINISH SAMPLES FOR ALL FINISHES SPECIFIED PRIOR TO WORK PERFORMED OR ITEMS ORDERED.
19. CONTRACTOR TO PROTECT ALL EXISTING TREES THROUGHOUT CONSTRUCTION.

SITE/ROOF PLAN KEYNOTES

- 1. EXISTING 1 STORY FRAME BUILDING
- 2. EXISTING 2 STORY FRAME BUILDING
- 3. PROPOSED 4-9' SIDE YARD SETBACK
- 4. EXISTING 50' FRONT YARD SETBACK
- 5. LINE OF EXISTING STREET PAVING
- 6. EXISTING GRAVEL DRIVE AND SHOULDER
- 7. EXISTING A/C CONDENSER TO BE RELOCATED
- 8. NEW A/C CONDENSER LOCATION
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01 SITE PLAN / PROPOSED ROOF PLAN

SCALE: 1" = 10'-0"
SITE PLAN BASED ON SURVEY BY DANIEL A. SMITH, RPLS, DATED 8/20/12
AND FORM BOARD SURVEY JOHN S. TURNER, RPLS, DATED 08/02/2012

HARDAGE RESIDENCE
4502 WILDWOOD DALLAS, TEXAS

PAUL T. DICKE
NANCY C. LEIB
544 MILTON SUITE 404
DALLAS, TX 75218
214.763.1100
214.763.1102
214.851.001 FAX

CARRRELL
PARTNERS
& YOST
ARCHITECTURE

544 Milam Street
Dallas, TX 75202
214.763.1100
214.763.1102
214.851.001 FAX

DRAWN BY: CHR
CHECKED BY: PTD
DATE: 09.10.2013

NO. REVISED	BY	DATE
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PROJECT NO. 13022
SHEET NO. A201

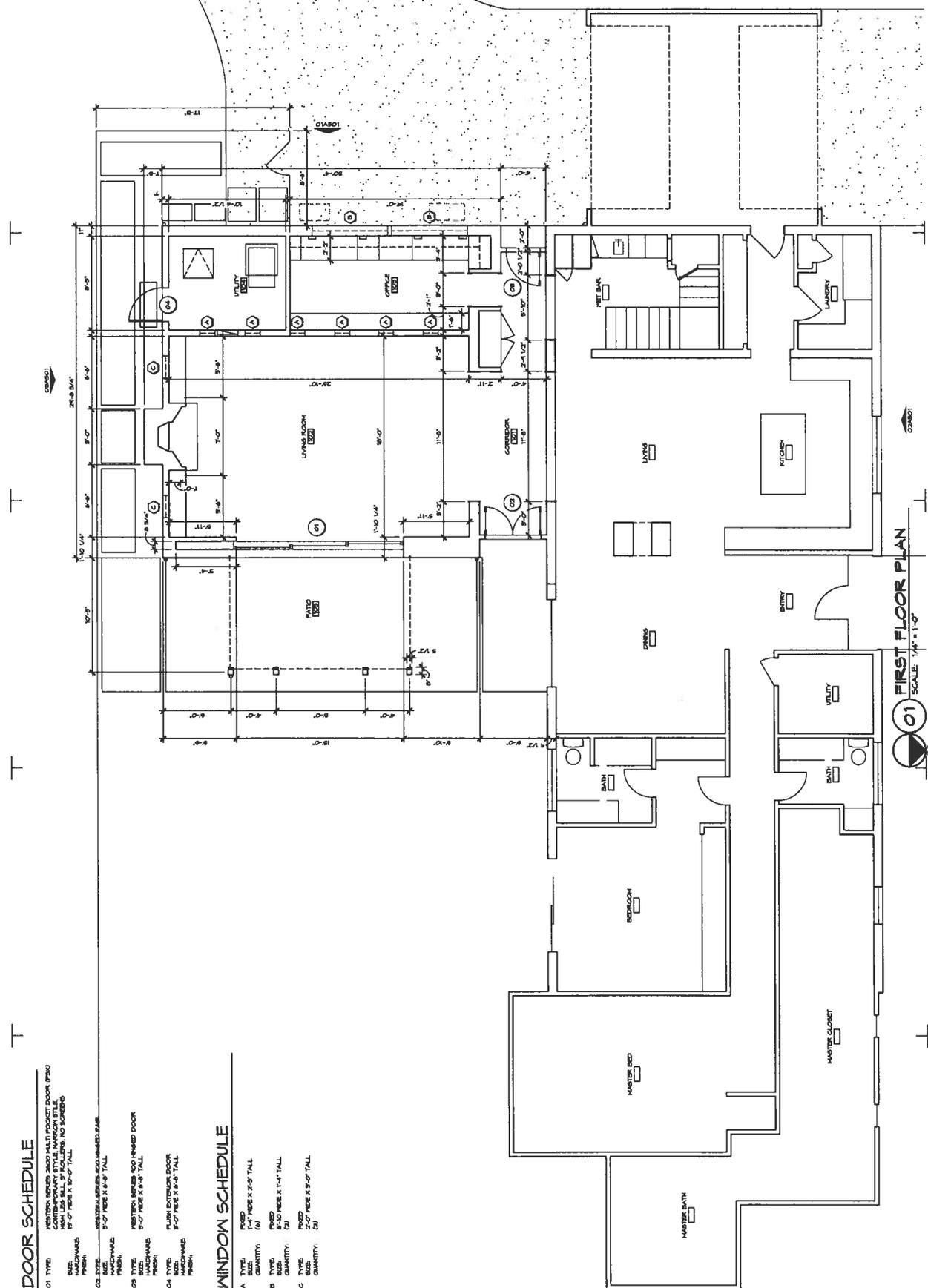
10-30

DOOR SCHEDULE

- O1 TYPE: WESTERN SERIES 3600 MULTI POCKET DOOR (P20)
CONTEMPORARY STYLE, MINORON STYLE
FINISH, NO SUREGRIP
SIZE: 36" WIDE X 8'-0" TALL
FINISH: 19'-0" WIDE X 8'-0" TALL
- O2 TYPE: WESTERN SERIES 3600 WINGED DOOR
CONTEMPORARY STYLE, MINORON STYLE
FINISH, NO SUREGRIP
SIZE: 36" WIDE X 8'-0" TALL
FINISH: 19'-0" WIDE X 8'-0" TALL
- O3 TYPE: WESTERN SERIES 3600 WINGED DOOR
CONTEMPORARY STYLE, MINORON STYLE
FINISH, NO SUREGRIP
SIZE: 36" WIDE X 8'-0" TALL
FINISH: 19'-0" WIDE X 8'-0" TALL
- O4 TYPE: FLUSH EXTERIOR DOOR
CONTEMPORARY STYLE, MINORON STYLE
FINISH, NO SUREGRIP
SIZE: 36" WIDE X 8'-0" TALL
FINISH: 19'-0" WIDE X 8'-0" TALL

WINDOW SCHEDULE

- A TYPE: WESTERN SERIES 3600 WINGED DOOR
CONTEMPORARY STYLE, MINORON STYLE
FINISH, NO SUREGRIP
SIZE: 36" WIDE X 8'-0" TALL
FINISH: 19'-0" WIDE X 8'-0" TALL
- B TYPE: WESTERN SERIES 3600 WINGED DOOR
CONTEMPORARY STYLE, MINORON STYLE
FINISH, NO SUREGRIP
SIZE: 36" WIDE X 8'-0" TALL
FINISH: 19'-0" WIDE X 8'-0" TALL
- C TYPE: WESTERN SERIES 3600 WINGED DOOR
CONTEMPORARY STYLE, MINORON STYLE
FINISH, NO SUREGRIP
SIZE: 36" WIDE X 8'-0" TALL
FINISH: 19'-0" WIDE X 8'-0" TALL



01 FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"

HARDAGE RESIDENCE
 4502 WILDWOOD DALLAS, TEXAS
 PAUL T. DICKEL
 NANCY O. LEIB
 1446 MILTON BUTTE BAR
 DALLAS, TX 75246
 214.462.1111

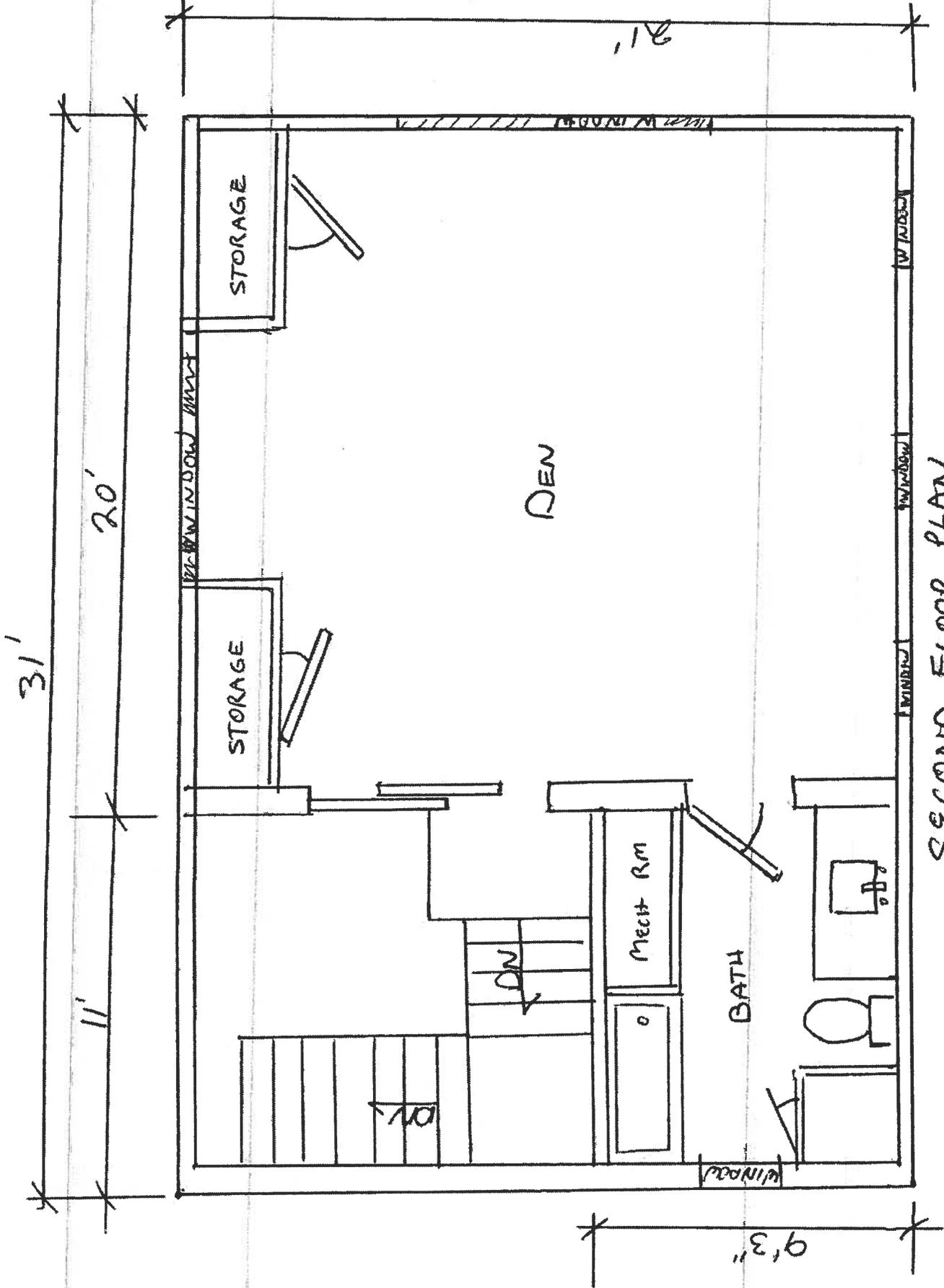
CARRELL PARTNERS & YOST ARCHITECTURE
 1446 MILTON BUTTE BAR
 DALLAS, TX 75246
 214.462.1111

DRAWN BY: CMR
 CHECKED BY: PTD
 DATE: 09.10.2019
 INTERNO:
 JOHN WARD: NUMBER 208
 REVISED: 02.24.20

PROJECT NO: 13022
 SHEET NO: **A401**

10-30

FILE: K:\13022 - Hardage Residence\40-Construction Administration\BDA-WR\WACE DRAWINGS\19-BDA-A401.dwg
 USER: cmr\cmr (2019/09/24 10:24:19) C:\H:\BASE.dwg X:\BDA\2234-BDA.dwg
 SCALE: AS DATE/TIME: 09/24/2019 10:24:19



SECOND FLOOR PLAN
SCALE 1/4" = 1'0"

Context to variance request for 4502 Wildwood

Owners are requesting setback variance (changing to 9'3") to the 30 ft front yard setback created by corner lot continuity on the Catawba side (assumed to have been 6' side yard setback) so they can keep and maintain the two story living space and garage that has been in place since before 1967.

Owners only became aware of the variance issue during permit discussions with the city for any addition that fits within the double front yard setbacks.

The issue was disclosed in seller's disclosure when the current residents purchased the house in 2004.

The issue was not picked up by the title insurance company.

Owners are not seeking to expand the footprint of the existing structure, but to be able to maintain through the normal permit process.

Owners are requesting to move two existing AC units app 10ft South of their present location and enclose with and extension on the existing fence and gate access. Trash and Recycle bins would also be concealed within this space. This area would be better concealed from Catawba view by existing hedges and trees that will remain.

There are six corner lots in PD 455 Sub District C that have similar double front yard set back conditions. They range in size from 39,525 SF to 16,430 SF according to DCAD with 4502 Wildwood being the smallest. The average lot size for those six properties is 22,013 Sf. The average for all of the properties in Sub District C is 19,560 SF and for all corner lots in same 21,399 SF. Data from the current Surveys show that the lot size within property lines calculates smaller at 15,030 SF for this property.

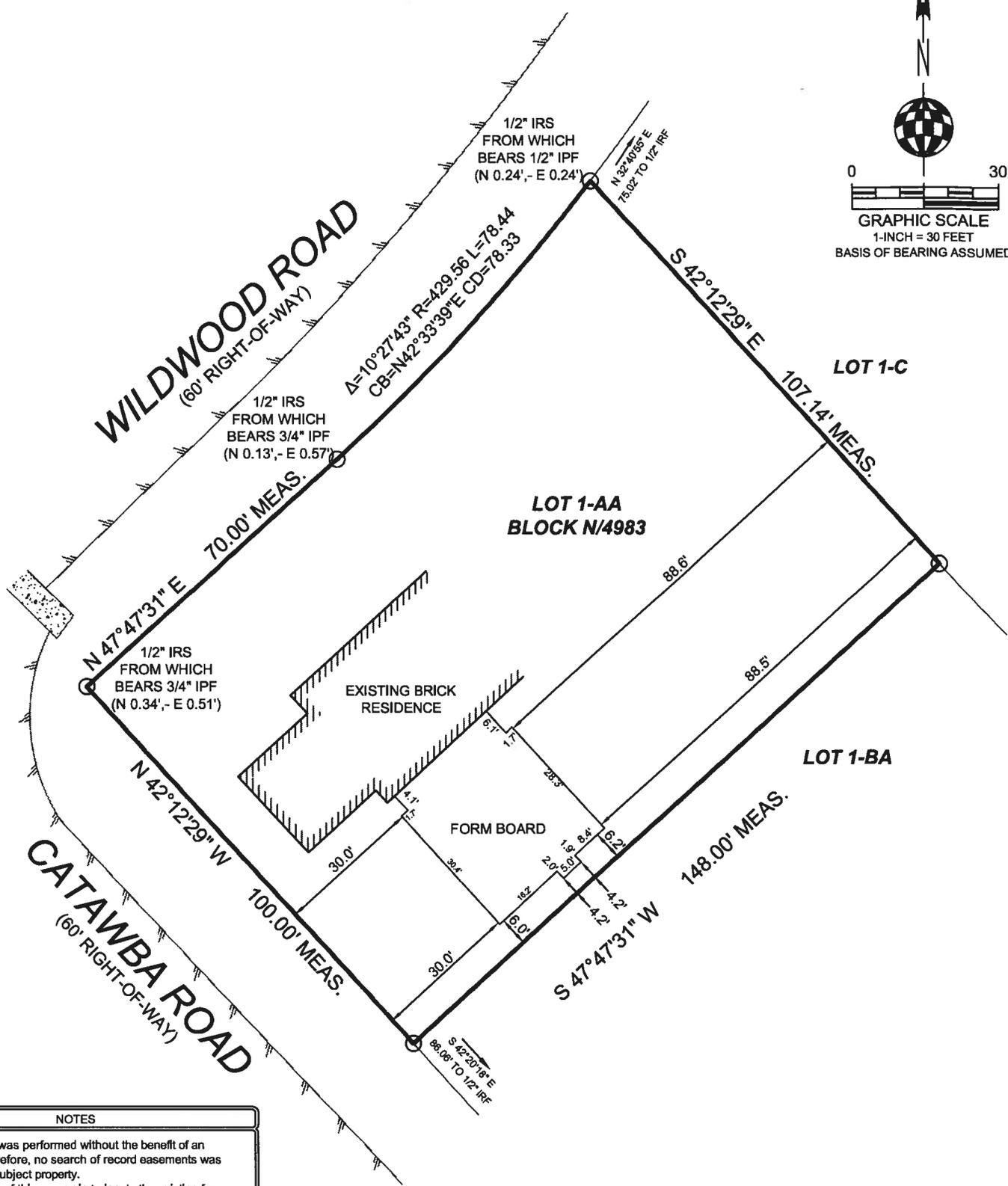
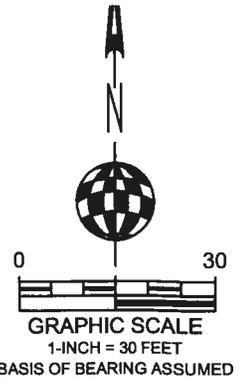
Numerous Master Building permits from 1979 thru 2013 were completed without any issues with the footprint of the residence. Earlier records were not found in the City Archives.

Bluffview Estates PD455 Subdistrict C lot size chart

Address	SF per DCAD	Corner Lots	CL w/2 FY SB
4405 Wildwood	18,445		
4406 Wildwood	29,450		
4413 Wildwood	23,250		
4414 Wildwood	37,000		
4417 Wildwood	11,625		
4418 Wildwood	18,500		
4421 Wildwood	9,300		
4422 Wildwood	18,500		
4425 Wildwood	39,525	39,525	39,525
4428 Wildwood	18,500		
4430 Wildwood	18,014	18,014	
4501 Wildwood	16,740	16,740	16,740
4502 Wildwood	16,430	16,430	16,430
4508 Wildwood	15,150		
4509 Wildwood	15,369		
4510 Wildwood	25,110		
4514 Wildwood	28,327		
4515 Wildwood	18,809		
4519 Wildwood	19,945		
8703 Canyon	20,202	20,202	20,202
8707 Canyon	28,000		
8708 Canyon	18,833	18,833	18,833
8712 Canyon	13,640		
8714 Canyon	14,105		
8715 Canyon	11,935		
8718 Canyon	17,980		
8719 Canyon	14,492		
8418 Catawba	12,595		
8510 Catawba	15,810		
8513 Catawba	24,645		
4439 Bluffview	18,500	18,500	
4500 Bluffview	24,000	24,000	
4503 Bluffview	20,350	20,350	20,350
4505 Bluffview	20,350		
4511 Bluffview	16,946		
4515 Bluffview	17,529		
4523 Bluffview	17,205		
4525 Bluffview	17,321		
4527 Bluffview	20,421		

SF Totals	762,848	192,594	132,080
# of properties	39	9	6

Ave lot SF	19,560	21,399	22,013
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NOTES

1) This survey was performed without the benefit of an abstractor, therefore, no search of record easements was performed on subject property.

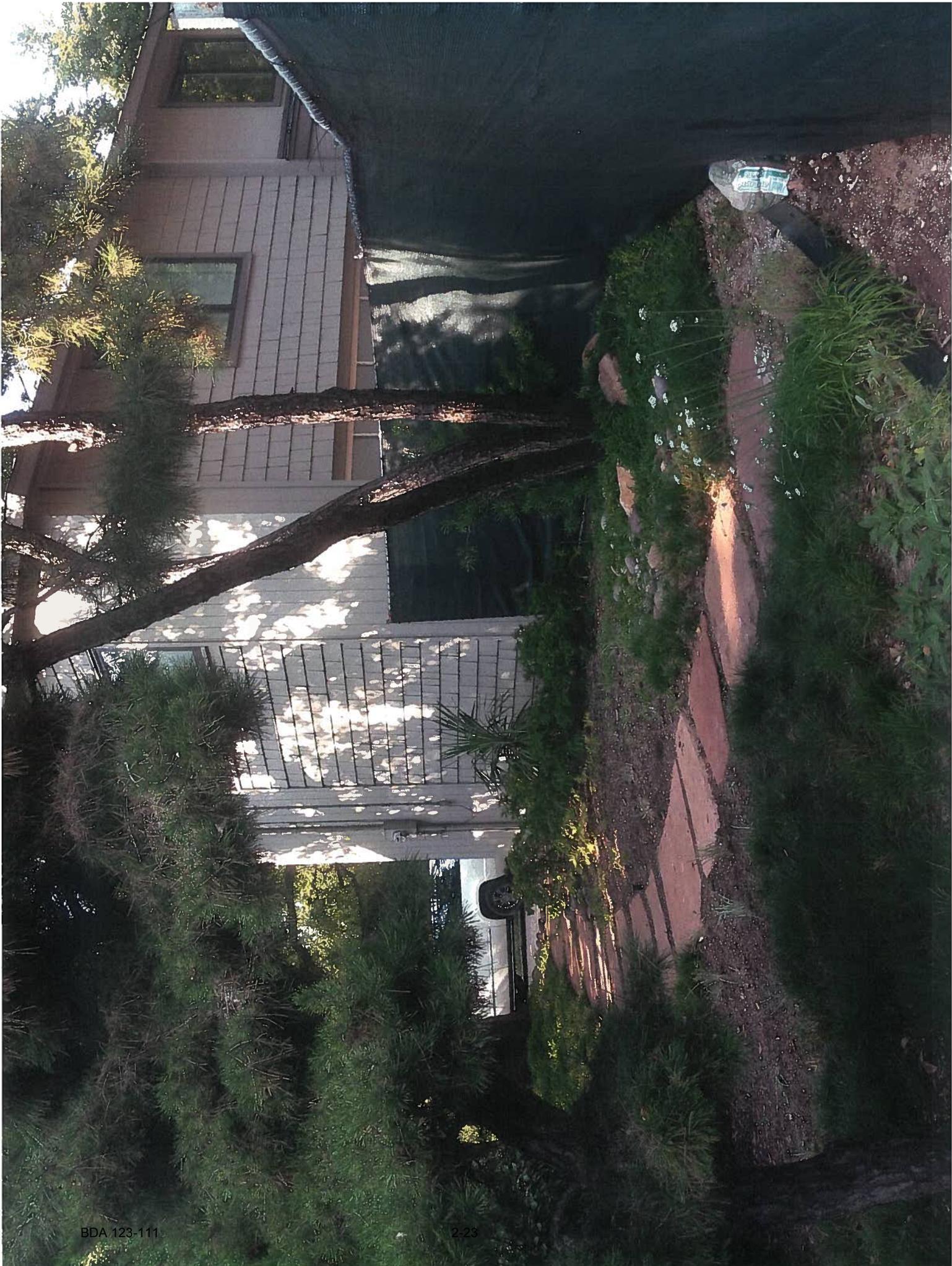
2) The purpose of this survey is to locate the existing forms. Other improvements not shown.

LEGEND

● 1/2" IR FOUND	⊙ X-FOUND	☒ TELE. BOX	⊕ UTILITY POLE	—OHU— OVERHEAD UTILITY LINE	▬ BRICK RET. WALL	▬ CONCRETE
○ 1/2" IR SET	⊙ X-SET	☐ CABLE BOX	◇ WATER METER	—GUY WIRE ANCHOR	▬ STONE RET. WALL	▬ GRAVEL
⊙ 5/8" IR FOUND	⊙ SAN. SEW. MH.	⊗ ELECTRIC BOX	△ GAS METER	—X— BARBED WIRE FENCE	▬ BUILDING LINE	▬ BRICK
⊙ 3/8" IR FOUND	⊙ IRRIGATION VALVE	☐ BRICK COLUMN	● A.C. PAD	—□— IRON FENCE	--- EASEMENT	▬ STONE
● 60-D NAIL FOUND	⊙ WATER VALVE	☐ STONE COLUMN	⊗ TRANS. BOX	—○— CHAINLINK FENCE	▬ BOUNDARY	▬ WOOD DECK
⊙ PK NAIL SET	⊙ FIRE HYDRANT	⊙ STORM DRAIN MH.	⊙ P.E. POOL EQUIP.	▬ WOOD FENCE	▬ HIGH BANK LINE	▬ BUILDING WALL
⊙ 1/2" IP FOUND	⊙ LIGHT POLE	⊙ SAN. SEW. CO.		▬ ASPHALT	▬ FEMA FLOOD LINE	▬ TILE

This survey was performed exclusively for the parties shown hereon and is licensed for a single use. This survey remains the property of the Surveyor. Any unauthorized reuse is not permitted without the expressed written permission of the Surveyor. This survey is an original work protected by United States Copyright law and International treaties. All rights reserved. Do not make illegal copies.





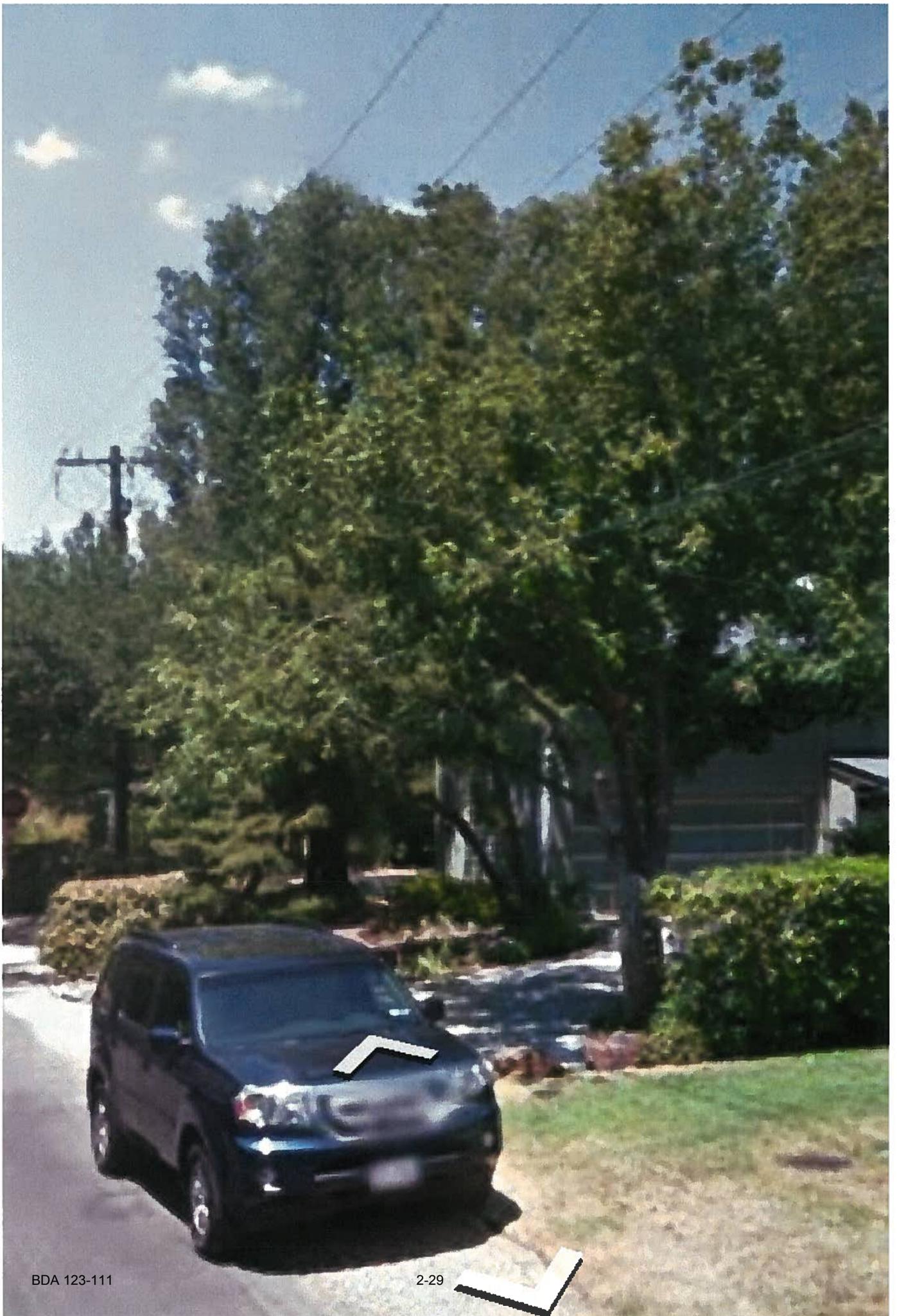


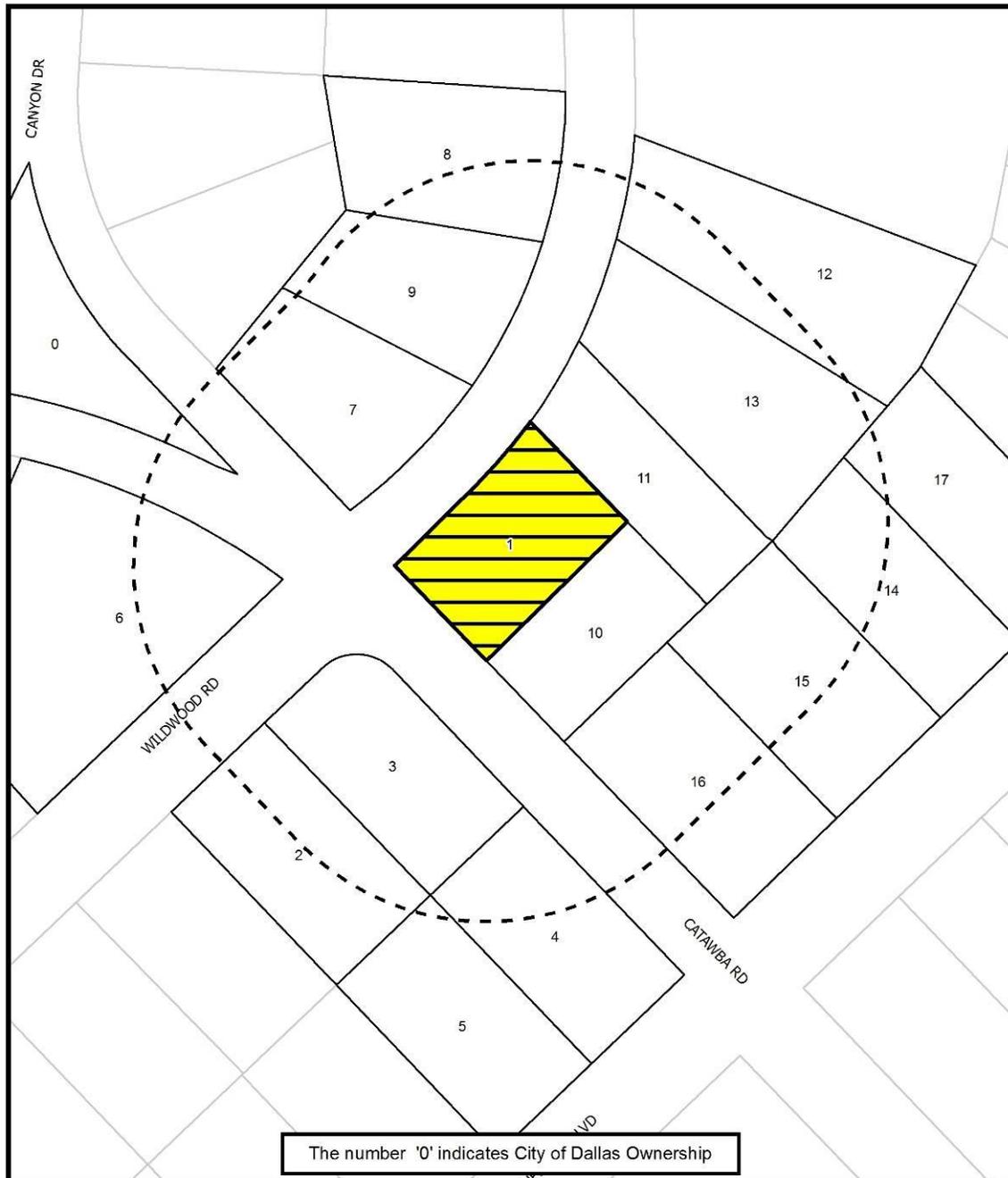












 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">17</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	17	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u>BDA123-111</u> Date: <u>10/24/2013</u>
200'	AREA OF NOTIFICATION					
17	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA123-111

17 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4502 WILDWOOD RD	HARDAGE KELLY & HARDAGE GINGER
2	4428 WILDWOOD RD	ADDAMS JACK E & DIANA E ADDAMS
3	4430 WILDWOOD RD	BYARS STEVEN H
4	4439 BLUFFVIEW BLVD	UPTON RICHARD D & MOIRA
5	4431 BLUFFVIEW BLVD	OLIVER WILLIAM E & PABLO C CHAVEZ
6	4425 WILDWOOD RD	ROSENBERG ROGER & ADRIENNE
7	4501 WILDWOOD RD	WALSH TRACY R JR
8	4515 WILDWOOD RD	MATTHEWS MARTY L
9	4509 WILDWOOD RD	JOHO ANGELICA T
10	8418 CATAWBA RD	SIKES STUART B & JEANIE H
11	4508 WILDWOOD RD	PHELAN CALVIN R & CATHY M
12	4514 WILDWOOD RD	ROBERTS ROBERT LEE &
13	4510 WILDWOOD RD	TITUS SARAH L REVOCABLE TRUST SARAH L TI
14	4511 BLUFFVIEW BLVD	SCHROEDER CARRIE
15	4505 BLUFFVIEW BLVD	CLARK DAVID L & KIMBERLY U
16	4503 BLUFFVIEW BLVD	VOHRA VIKHAM & JULIA
17	4515 BLUFFVIEW BLVD	KANZLER KEVIN D & KIMBERLY S

FILE NUMBER: BDA 123-116

ORIGINAL BUILDING OFFICIAL'S REPORT: Application of Steve Jennings for special exceptions to the off-street parking and fence height regulations at 4533 Ross Avenue. This property is more fully described as Lot 5, Block A/651, and is zoned PD 298 (Subarea 4), which requires off-street parking to be provided and limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a multifamily residential use and provide 72 of the required 76 off-street parking spaces, which will require a 4 space special exception to the off-street parking regulations, and to construct and maintain a 9 foot high fence, which will require a 5 foot special exception to the fence height regulations.

REVISED BUILDING OFFICIAL'S REPORT: Application of Steve Jennings for special exceptions to the off-street parking and fence height regulations at 4533 Ross Avenue. This property is more fully described as Lot 5, Block A/651, and is zoned PD 298 (Subarea 4), which requires off-street parking to be provided and limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a multifamily residential use and provide 60 of the required 64 off-street parking spaces, which will require a 4 space special exception to the off-street parking regulations, and to construct and maintain a 9 foot high fence, which will require a 5 foot special exception to the fence height regulations.

LOCATION: 4533 Ross Avenue

APPLICANT: Steve Jennings

REQUESTS:

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

1. Special exceptions to the fence height regulations of 5' are requested in conjunction with constructing and maintaining a 9' high open metal post fence and gate in the site's 5' Ross Avenue and Annex Avenue front yard setbacks.
2. A special exception to the off-street parking regulations of 4 spaces is requested in conjunction with constructing and maintaining a multifamily development and providing 60 (reduced from the originally requested 72) or 94 percent of the required 64 (reduced from the originally requested 76) off-street parking spaces required by code.

(Note that this application abuts a property to the northwest where the same applicant seeks similar fence height and off-street parking special exceptions from Board of Adjustment Panel B on November 20th: BDA 123-117).

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 OFF-STREET PARKING REGULATIONS:

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the office use, the maximum reduction authorized by this section is 35 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). Applicants may seek a special exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.
- 2) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
 - (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) Impose restrictions on access to or from the subject property; or
 - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.

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 (off-street parking special exception):

Approval, subject to the following condition:

- The special exception of 4 spaces shall automatically and immediately terminate if and when the multifamily use that would normally need no more than 64 required parking spaces is changed or discontinued.

Rationale:

- The Sustainable Development and Construction Department Engineering Division Assistant Director has indicated that he has no objections to the applicant's request.

BACKGROUND INFORMATION:

Zoning:

Site: PD 298 (Subarea 4) (Planned Development)
North: MF-2(A) (Multi-family)
South: PD 298 (Subarea 4) (Planned Development)
East: PD 298 (Subarea 4) (Planned Development)
West: PD 446 (Planned Development)

Land Use:

The subject site is undeveloped. The area to the north is undeveloped (and the subject site of BDA 123-117), the areas to the east and west are developed with institutional uses; and the area to the south is developed with commercial/retail uses.

Zoning/BDA History:

1. BDA 123-117, Property at 4534 Munger Avenue (the lot immediately northwest of subject site)

On November 20, 2013, the Board of Adjustment Panel B will consider requests for special exceptions to the fence height and off-street parking regulations requested in conjunction with constructing and maintaining a 9' high open iron fence and constructing and maintaining a multifamily development and providing 37 of 42 off-street parking spaces required by code.

Timeline:

September 30, 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.

October 23, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

October 24, 2013: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the October 30th deadline to submit additional evidence for staff to factor into their analysis; and the November 8th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

October 30, 2013: The Board Administrator emailed the applicant the following information confirming certain facts about his application:

- the applications will only be for special exceptions to the fence height and off-street parking regulations and will NOT include requests for special exceptions to visual obstruction regulations,
- that while his submitted site plan for these applications shows part of the fence located in visibility triangles, he has directed and allowed the Building Inspection Senior Plans Examiner/Development Code Specialist to stamp the site plan with a note stating that the site will comply with visual obstruction regulations; and
- that the Building Inspection Senior Plans Examiner/Development Code Specialist states that if the board grants the fence height special exception requests and imposes the site plan as a condition, the stamp on this plan stating that the site will be compliant to visual obstruction regulations will allow a fence permit to be issued on the fact that the fence on these properties will be located in compliance with visual obstruction regulations

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

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

November 7, 2013: The applicant submitted additional documentation on this application beyond what was submitted with the original application and the Building Inspection Senior Plans Examiner/Development Code Specialist submitted a related revised Building Official's report (see Attachment A).

November 7, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked "Has no objections."

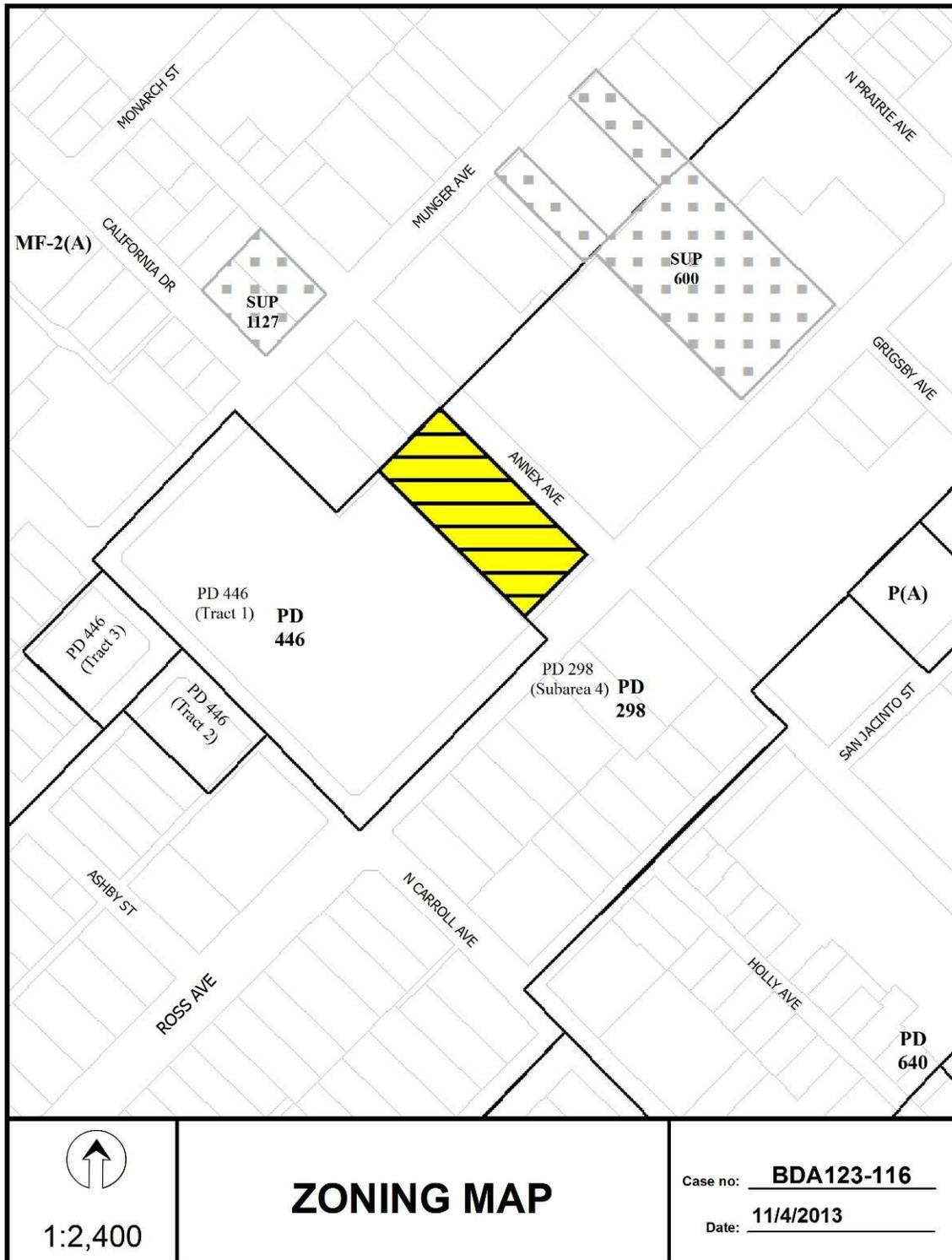
GENERAL FACTS/STAFF ANALYSIS (fence height special exceptions):

- These requests focus on constructing and maintaining a 9' high open metal post fence and gate in the site's 5' Ross Avenue and Annex Avenue front yard setbacks on an undeveloped lot.
- PD 298 states that the maximum fence height for all residential uses in the required front yard is 4' and that the maximum fence height for all other uses is 9'.
- The applicant has submitted a site plan/elevation of the proposal in the front yard setbacks that reaches a maximum height of 9'.
- The following additional information was gleaned from the submitted site plan/elevation:
 - The proposal is represented as being approximately 150' in length parallel to the Ross Avenue and approximately 350' in length parallel to Annex Avenue.
 - The proposal is represented as being located on the property lines or about 12' from the pavement lines.
- The Board Administrator conducted a field visit of the site and surrounding area and noted the following fences above 4 feet high which appeared to be located in a front yard setback:
 - an approximately 6' high open wrought iron fence immediately south of the subject site surrounding property zoned PD 446 and the Caesar Chavez Learning Center.
 - an approximately 6' high open iron wrought iron fence immediately northeast of the site that appears to be a nonresidential use in PD 298 where the zoning allows a 9' high fence by right.
- As of November 11, 2013, no letters/emails have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exceptions to the fence height regulations of 5' will not adversely affect neighboring property.
- Granting these special exceptions of 5' 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 setbacks to be constructed and maintained in the location and of the heights and materials as shown on this document. (Note that the

submitted site plan is marked with notations stating that visibility triangles should be kept clear).

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

- This request focuses on constructing and maintaining a multifamily development and providing 60 (or 94 percent) of the required 64 off-street parking spaces required by code.
- The Dallas Development Code requires the following off-street parking requirement:
 - Multifamily: one space per bedroom with a minimum of one space per dwelling unit.
- The applicant has submitted a document (see Attachment A) stating that he proposes to provide 60 of the 64 off-street parking spaces required by code.
- The Sustainable Development and Construction Department Engineering Division Assistant Director has indicated that he has no objections to the applicant's request.
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the proposed multifamily use does not warrant the number of off-street parking spaces required, and
 - The special exception of 4 spaces (or a 6 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 4 spaces shall automatically and immediately terminate if and when the multifamily use is changed or discontinued, the applicant would be allowed to construct and maintain the multifamily development, providing 60 of the 64 code required off-street parking spaces.



BDA123-116
Attach A
P51

4533 Ross Avenue

This project consists of new townhome units for sale. Given the redevelopment nature of the area, and the relative isolation of this particular location from developments to the west, the items requested will help us build a better project which will be more likely to attract potential buyers to this neighborhood. A successful development will, in turn, have great benefits for the neighborhood and the City redevelopment efforts.

This is an appeal to the Board of Adjustments for a Special Exemption on the **4533 Ross Avenue** portion of the property, for the following:

- A. **FENCE REQUEST:** On the portion of the property fronting Ross Avenue and Annex Street, with a zoning designation of PD298 subarea 4, we are requesting an increase in the fence height in the required minimum 5 foot front yard setback - from the allowed 4 foot to a maximum of 9 foot.

REASON: 1. Security. This is a City-designated redevelopment area in transition. Per the local law enforcement information, there is a relatively high incidence of property-related crimes. The allowable 4 foot fence height at the front property line is too low to provide resident security.

2. Landscaping and outdoor space. The request to increase the fence height would allow us to place the fence at the zero setback line, thereby gaining an additional 5 feet of outdoor space for each townhome unit. This space, as per the attached plans, is to be used for outdoor patios and landscaping. The outdoor patios enhance livability and help attract new residents to this redevelopment area. The extra space would also be utilized for additional landscaping which will benefit the residents and the urban nature of the project.

3. Privacy and comfort. The additional 5 foot space for extra landscaping will also enhance privacy for the yards facing the streets. It will provide an additional comfort zone for new residents coming to a redevelopment area which, by its very nature, can contain issues of concern. It is important to note that this townhome development will bring prospective owners to the neighborhood rather than temporary renters. Purchasers spending their life savings and taking on the burden of mortgages need to have the extra degree of comfort that they are making the right decision.

4. Commercial vs. residential uses. This particular PD 298 designation allows multiple commercial and residential uses. The fence height of up to 9 feet at

the front property line is already allowed for commercial uses on this property. That means that if the proposed use was commercial rather than residential, this *exact* parcel would allow a taller fence at the property line. Yet, it is the residents of the project who are going to be living on the property day and night and who will consist of an anticipated mix of young urban types, older empty-nesters and young families with small children who arguably need the security of the taller fence at least as much, and probably more, than a commercial property.

5. **Continuity and Consistency** The neighboring properties on the east and west share similar fence characteristics. The Women's Forum building to the east has a tall fence in the front setback, while the fence belonging to the school to the west has a somewhat shorter fence placed at the property line.

6. **No harm** This request will not adversely affect neighboring properties. In fact, it is highly unlikely that a request of this nature will even be noticed.

7. **Better project** The request will result in a better overall project which will be more attractive to prospective purchasers and thus accelerate the transitional nature of the area and benefit both the immediate neighborhood and the city in general.

B. PARKING REQUEST: We are requesting a 4 parking space reduction, from the required 64 spaces to the provided 60 spaces.

REASON: 1. **Urban Project** This is an urban project which, by its nature and proximity to public transit and downtown is very likely to attract people with the desired demographic characteristics of users of public transit. Also, the urban character of the townhouse development generally precludes residents with multiple cars – maybe two cars, but rarely three.

2. **DART** The DART representatives who visited the property were very enthusiastic about this project; both because it will contribute to the redevelopment of the area, and because it will, in the DART experience, result in additional riders on the DART bus system. This sentiment validates the reduced need for additional automobiles and therefore parking.

3. **Area characteristics** The proposed project is located in a mixed-use urban area, it encourages less reliance on the automobile and this type of project helps transition the development of Ross Avenue to existing neighborhoods.

4. **Bus Shelter** The existing bus shelter meets the general requirements for a parking bonus by providing both shade and seating, is not in proximity to a rail

transit station, and is well within the required walking distance to the townhomes; in fact, it is directly in front of the property.

5. More flexible project design The parking reduction will allow the project design to offer more flexible floorplans that will appeal to a wider variety of prospective residents with varying needs. The prospective buyers are likely to be young urban singles, young married couples starting new families, and mature empty nesters. These groups are more likely to use the additional bedroom as an office or den, nursery or occasional guest accommodations, thus decreasing the need for additional permanent parking spaces.

6. No harm This request will not adversely affect neighboring properties. In fact, this is the type of exemption that cannot even be seen by anyone and only the actual owner of the townhome will even be conscious of it.

Parking requirements and availability worksheet

Address: 4533 Ross Avenue

Proposed use: 24 new townhomes for sale

Parking spaces provided per design:

Garage spaces:	51
Outside space located on property:	<u>9</u>
Total spaces provided:	60

Parking spaces required by design:

14 2-bedroom units @ 2 spaces/unit:	28
10 3-bedroom units @ 3 spaces/unit:	30
Required guest parking spaces:	<u>6</u>
Total Required:	64

Reduction requested: 64 required – 60 available = 4 parking space reduction request



APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-116

Date: 9-30-13

Data Relative to Subject Property:

Location address: 4533 Ross Avenue

Zoning District: PD298 subarea 4

Lot No.: 5 Block No.: A/651 Acreage: 1.15 Census Tract: Alexander Park 8.00

Street Frontage (in Feet): 1) 148 2) 341 3) _____ 4) _____ 5) _____ *gc 23*

To the Honorable Board of Adjustment:

Owner of Property (per Warranty Deed): Rossland LLC

Applicant: Steve Jennings Telephone: 214 269 7638

Mailing Address: 5015 Addison Circle, Unit 503, Addison, TX Zip Code: 75001

E-mail Address: charter@10370.com

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance, or Special Exception XXX, of 5' spec. exceptio
1. Increase the fence height in the front yard setback from 4 feet to a max. of 9 feet
2. Reduce the required parking from the required 76 spaces to 72 spaces, or a 5% reduction

4 spec. spec. exception for 2 MF use
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:

- 1. Fence: Security in a redevelopment area, Additional space for landscaping and outdoor patios, Privacy and buyer reassurance, Continuity and consistency, No harm to neighbors, More attractive overall project.
- 2. Parking: Urban project, less reliance on cars, DART bus shelter directly in front of property, DART experience in resident usage of public transport, More flexible project design, No harm to neighbors

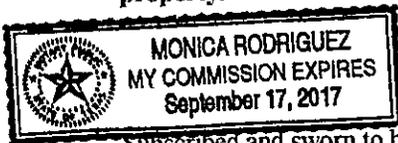
Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

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

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

Respectfully submitted: _____
(Affiant/Applicant's signature)



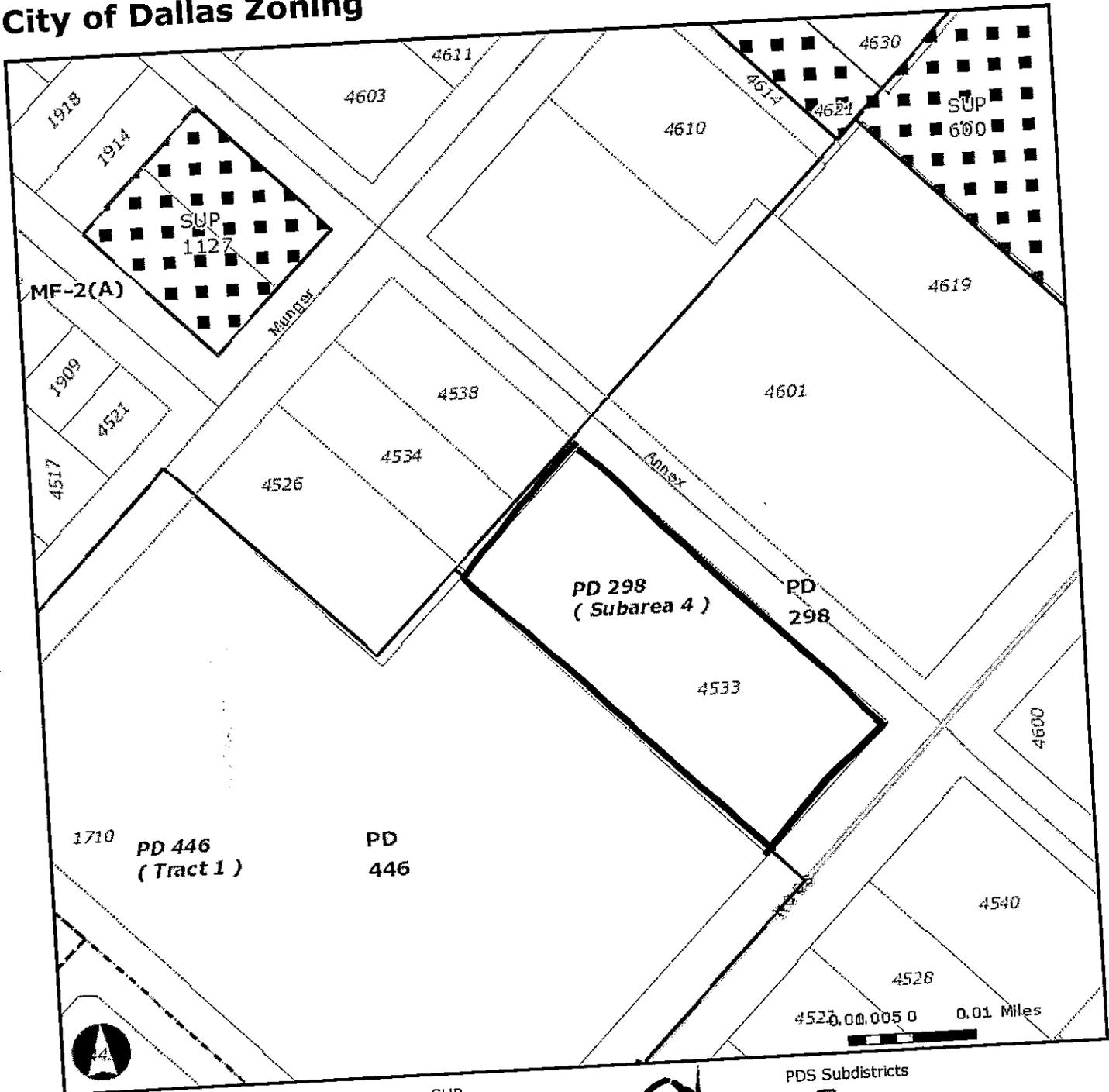
Subscribed and sworn to before me this 30 day of September, 2013

STATE OF Texas
COUNTY OF Dallas

Monica Rodriguez
Notary Public in and for Dallas County, Texas

Sworn to (or affirmed) and subscribed before me this 30 day of 9, 2013, by Steve Jennings
Notary Name Monica Rodriguez
My Commission Expires on 9-17-2017

City of Dallas Zoning



Address Candidates

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

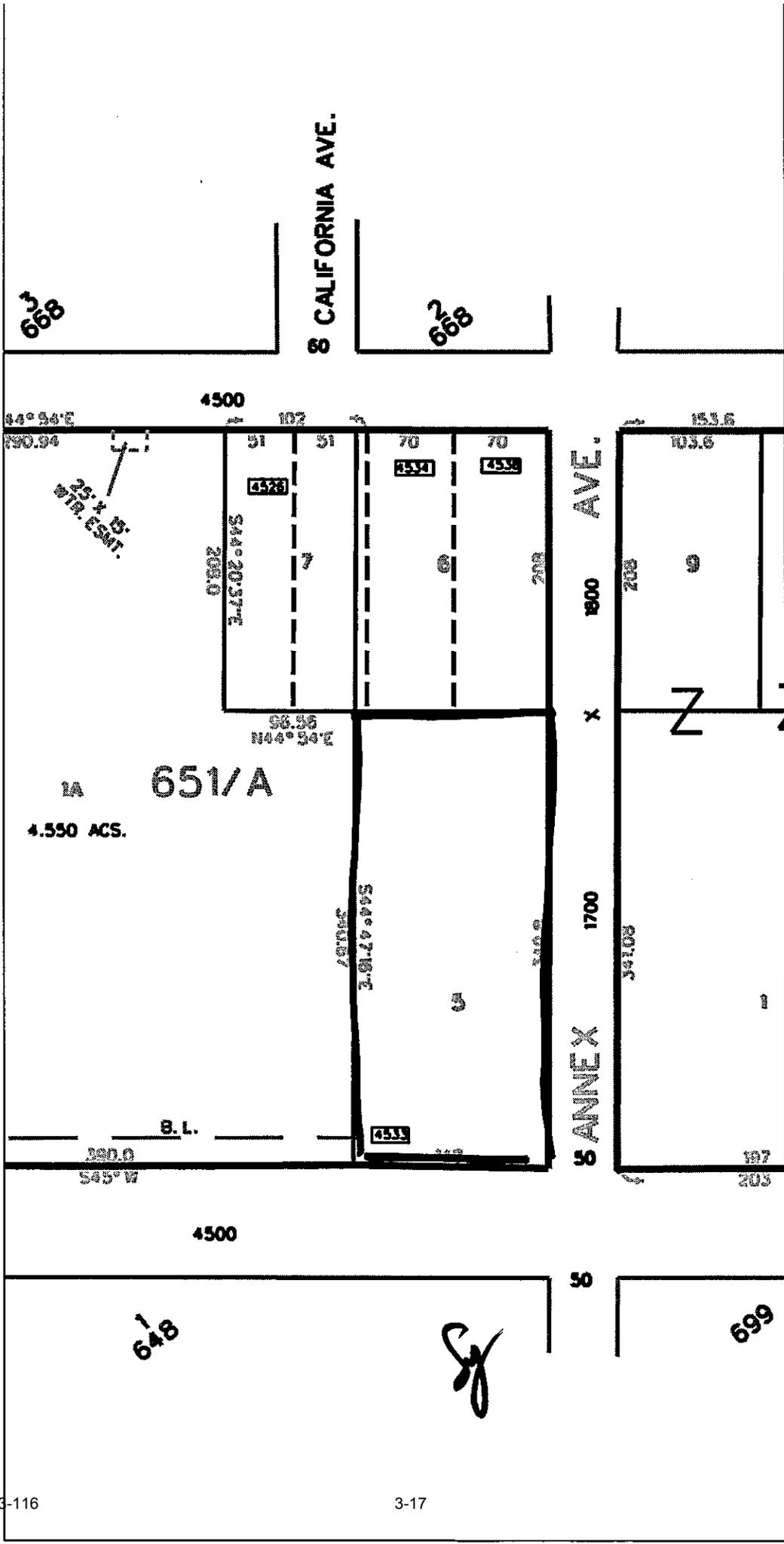
SUP

- 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

Handwritten signature or initials



4533 Ross Avenue

This project consists of new townhome units for sale. Given the redevelopment nature of the area, and the relative isolation of this particular location from developments to the west, the items requested will help us build a better project which will be more likely to attract potential buyers to this neighborhood. A successful development will, in turn, have great benefits for the neighborhood and the City redevelopment efforts.

This is an appeal to the Board of Adjustments for a Special Exemption on the **4533 Ross Avenue** portion of the property, for the following:

- A. **FENCE REQUEST:** On the portion of the property fronting Ross Avenue and Annex Street, with a zoning designation of PD298 subarea 4, we are requesting an increase in the fence height in the required minimum 5 foot front yard setback - from the allowed 4 foot to a maximum of 9 foot.

REASON: 1. Security. This is a City-designated redevelopment area in transition. Per the local law enforcement information, there is a relatively high incidence of property-related crimes. The allowable 4 foot fence height at the front property line is too low to provide resident security.

2. Landscaping and outdoor space. The request to increase the fence height would allow us to place the fence at the zero setback line, thereby gaining an additional 5 feet of outdoor space for each townhome unit. This space, as per the attached plans, is to be used for outdoor patios and landscaping. The outdoor patios enhance livability and help attract new residents to this redevelopment area. The extra space would also be utilized for additional landscaping which will benefit the residents and the urban nature of the project.

3. Privacy and comfort. The additional 5 foot space for extra landscaping will also enhance privacy for the yards facing the streets. It will provide an additional comfort zone for new residents coming to a redevelopment area which, by its very nature, can contain issues of concern. It is important to note that this townhome development will bring prospective owners to the neighborhood rather than temporary renters. Purchasers spending their life savings and taking on the burden of mortgages need to have the extra degree of comfort that they are making the right decision.

4. Commercial vs. residential uses. This particular PD 298 designation allows multiple commercial and residential uses. The fence height of up to 9 feet at

transit station, and is well within the required walking distance to the townhomes; in fact, it is directly in front of the property.

5. More flexible project design The parking reduction will allow the project design to offer more flexible floorplans that will appeal to a wider variety of prospective residents with varying needs. The prospective buyers are likely to be young urban singles, young married couples starting new families, and mature empty nesters. These groups are more likely to use the additional bedroom as an office or den, nursery or occasional guest accommodations, thus decreasing the need for additional permanent parking spaces.

6. No harm This request will not adversely affect neighboring properties. In fact, this is the type of exemption that cannot even be seen by anyone and only the actual owner of the townhome will even be conscious of it.

Parking requirements and availability worksheet

Address: 4533 Ross Avenue

Proposed use: New townhomes for sale

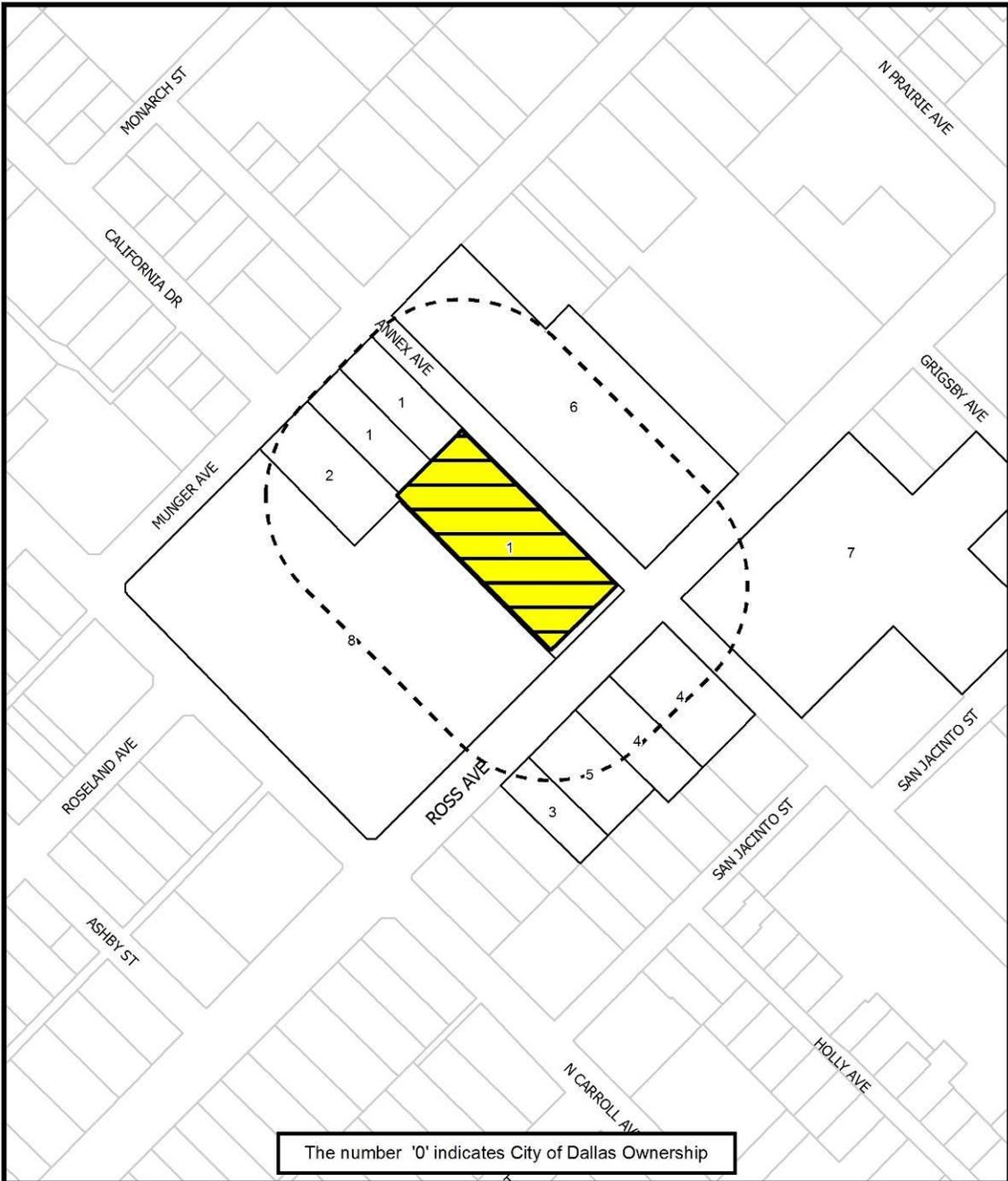
Parking spaces provided per design:

Garage spaces:	51
Outside space located on property:	8
Allowable street parking:	<u>13</u>
Total spaces provided:	72

Parking spaces required by design:

5 2-bedroom units @ 2 spaces/unit: (approx. 1500 sf)	10
20 3-bedroom units @ 3 spaces/unit: (approx. 1750-2000 sf)	60
Required Guest parking spaces:	<u>6</u>
Total Required:	76

Reduction requested: $76 \times 5\% = 4$
76 required – 4 reduced = 72 available



 1:2,400	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="0"> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center;">8</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	8	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u>BDA123-116</u> Date: <u>11/4/2013</u>
200'	AREA OF NOTIFICATION					
8	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA123-116

8 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4533 ROSS AVE	ROSSLAND LLC
2	4526 MUNGER AVE	MUNGER SAN JUAN PS
3	4516 ROSS AVE	ALLEN THOMAS RICHARD
4	4528 ROSS AVE	PRESCOTT INTERESTS LTD
5	4522 ROSS AVE	CHAPMAN MOTORS INC
6	4601 ROSS AVE	DALLAS WOMANS FORUM
7	4600 ROSS AVE	DALLAS TEACHERS CREDIT % CONTROLLER
8	1710 CARROLL AVE	Dallas ISD ATTN OFFICE OF LEGAL SERVICES

FILE NUMBER: BDA 123-117

ORIGINAL BUILDING OFFICIAL'S REPORT: Application of Steve Jennings for special exceptions to the off-street parking and fence height regulations at 4534 Munger Avenue. This property is more fully described as Lot 6, Block A/651 and is zoned MF-2(A), which requires off-street parking to be provided and limits the height of a fence in the front yard to 6 feet. The applicant proposes to construct and maintain a multifamily residential use and provide 39 of the required 44 off-street parking spaces, which will require a 5 space special exception to the off-street parking regulations, and to construct and maintain a 9 foot high fence, which will require a 3 foot special exception to the fence height regulations.

REVISED BUILDING OFFICIAL'S REPORT: Application of Steve Jennings for special exceptions to the off-street parking and fence height regulations at 4534 Munger Avenue. This property is more fully described as Lot 6, Block A/651 and is zoned MF-2(A), which requires off-street parking to be provided and limits the height of a fence in the front yard to 6 feet. The applicant proposes to construct and maintain a multifamily residential use and provide 37 of the required 42 off-street parking spaces, which will require a 5 space special exception to the off-street parking regulations, and to construct and maintain a 9 foot high fence, which will require a 3 foot special exception to the fence height regulations.

LOCATION: 4534 Munger Avenue

APPLICANT: Steve Jennings

REQUESTS:

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

1. Special exceptions to the fence height regulations of 3' are requested in conjunction with constructing and maintaining a 9' high open metal post fence in the site's 5' Annex Avenue and Munger Street front yard setbacks.
2. A special exception to the off-street parking regulations of 5 spaces is requested in conjunction with constructing and maintaining a multifamily development and providing 37 (reduced from the originally requested 39) or 88 percent of the required 42 (reduced from the originally requested 44) [off-street parking spaces required by code.

(Note that this application abuts a property to the southeast where the same applicant seeks similar fence height and off-street parking special exceptions from Board of Adjustment Panel B on November 20th: BDA 123-116).

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 OFF-STREET PARKING REGULATIONS:

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the office use, the maximum reduction authorized by this section is 35 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). Applicants may seek a special exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.
- 2) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
 - (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) Impose restrictions on access to or from the subject property; or
 - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.

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 (off-street parking special exception):

Approval, subject to the following condition:

- The special exception of 5 spaces shall automatically and immediately terminate if and when the multifamily use that would normally need no more than 42 required parking spaces is changed or discontinued.

Rationale:

- The Sustainable Development and Construction Department Engineering Division Assistant Director has indicated that he has no objections to the applicant's request.

BACKGROUND INFORMATION:

Zoning:

Site: MF-2(A) (Multi-family)
North: MF-2(A) (Multi-family)
South: PD 446 (Planned Development)
East: PD 298 (Subarea 4) (Planned Development)
West: MF-2(A) (Multi-family)

Land Use:

The subject site is undeveloped. The areas to the north and west are developed with residential uses; the area to the east is undeveloped (and the subject site of BDA 123-116), and the area to the south is developed with institutional use.

Zoning/BDA History:

1. BDA 123-116, Property at 4533 Ross Avenue (the lot immediately southeast of subject site)

On November 20, 2013, the Board of Adjustment Panel B will consider requests for special exceptions to the fence height and off-street parking regulations requested in conjunction with constructing and maintaining a 9' high open iron fence and constructing and maintaining a multifamily development and providing 60 (or 94 percent) of the 64 spaces required by code.

Timeline:

September 30, 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.

October 23, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

October 24, 2013: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the October 30th deadline to submit additional evidence for staff to factor into their analysis; and the November 8th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

October 30, 2013: The Board Administrator emailed the applicant the following information confirming certain facts about his application:

- the applications will only be for special exceptions to the fence height and off-street parking regulations and will NOT include requests for special exceptions to visual obstruction regulations,
- that while his submitted site plan for these applications shows part of the fence located in visibility triangles, he has directed and allowed the Building Inspection Senior Plans Examiner/Development Code Specialist to stamp the site plan with a note stating that the site will comply with visual obstruction regulations; and
- that the Building Inspection Senior Plans Examiner/Development Code Specialist states that if the board grants the fence height special exception requests and imposes the site plan as a condition, the stamp on this plan stating that the site will be compliant to visual obstruction regulations will allow a fence permit to be issued on the fact that the fence on these properties will be located in compliance with visual obstruction regulations

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

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

November 7, 2013: The applicant submitted additional documentation on this application beyond what was submitted with the original application and the Building Inspection Senior Plans Examiner/Development Code Specialist submitted a related revised Building Official's report (see Attachment A).

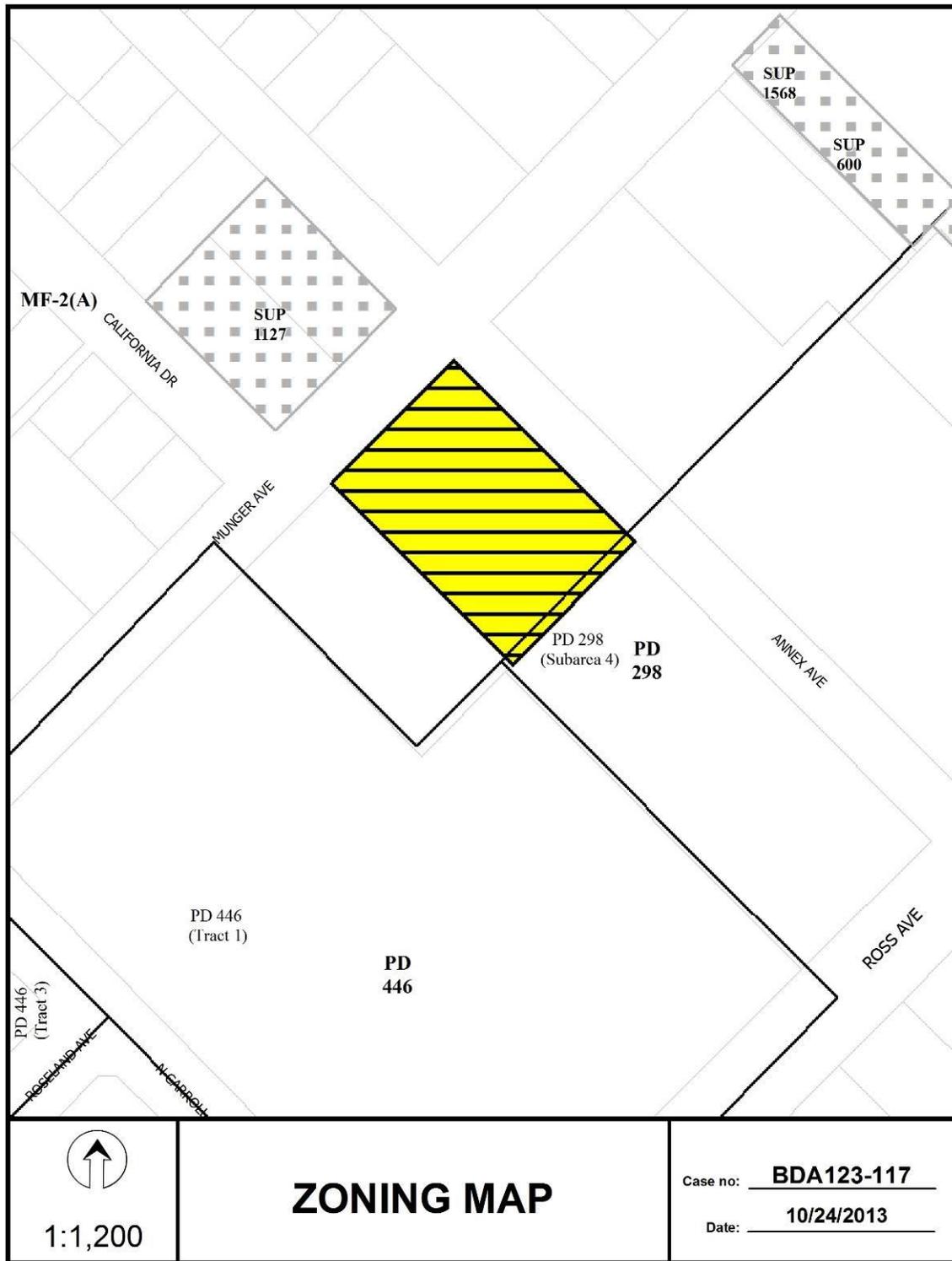
November 7, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked "Has no objections."

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

- These requests focus on constructing and maintaining a 9' high open metal post fence and gate in the site's 5' Annex Avenue and Munger Street front yard setbacks on an undeveloped lot.
- The Dallas Development Code states that the maximum fence height on properties in multifamily districts that meet certain conditions (to which the subject site does) is 6'.
- The applicant has submitted a site plan/elevation of the proposal in the front yard setbacks that reaches a maximum height of 9'.
- The following additional information was gleaned from the submitted site plan/elevation:
 - The proposal is represented as being approximately 150' in length parallel to the Munger Avenue and approximately 230' in length parallel to Annex Avenue.
 - The proposal is represented as being located on the property lines or about 12' from the pavement lines.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other following fences above 6 feet high which appeared to be located in a front yard setback.
- As of November 11, 2013, no letters/emails have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exceptions to the fence height regulations of 3' will not adversely affect neighboring property.
- Granting these special exceptions of 3' 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 setbacks to be constructed and maintained in the location and of the heights and materials as shown on this document. (Note that the submitted site plan is marked with notations stating that visibility triangles should be kept clear).

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

- This request focuses on constructing and maintaining a multifamily development and providing 37 (or 88 percent) of the required 42 off-street parking spaces required by code.
- The Dallas Development Code requires the following off-street parking requirement:
 - Multifamily: one space per bedroom with a minimum of one space per dwelling unit.
- The applicant has submitted a document (see Attachment A) stating that he proposes to provide 37 of the 42 off-street parking spaces required by code.
- The Sustainable Development and Construction Department Engineering Division Assistant Director has indicated that he has no objections to the applicant's request.
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the proposed multifamily use does not warrant the number of off-street parking spaces required, and
 - The special exception of 5 spaces (or a 12 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 5 spaces shall automatically and immediately terminate if and when the multifamily use is changed or discontinued, the applicant would be allowed to construct and maintain the multifamily development, providing 37 of the 42 code required off-street parking spaces.





1:1,200

AERIAL MAP

Case no: BDA123-117

Date: 10/24/2013

BDA123-117
Attach A
PS 1

4534 Munger Avenue

This project consists of new townhome units for sale. Given the redevelopment nature of the area, and the relative isolation of this particular location from developments to the west, the items requested will help us build a better project which will be more likely to attract potential buyers to this neighborhood. A successful development will, in turn, have great benefits for the neighborhood and the City redevelopment efforts.

This is an appeal to the Board of Adjustments for a Special Exemption on the **4534 (and 4538) Munger Avenue** portion of the property, for the following:

- A. **FENCE REQUEST:** On the portion of the property fronting Munger Street and Annex Street, with a zoning designation of MF2, we are requesting an increase in the fence height from the 6 foot height allowed at the front property line to the maximum 9 foot height.

REASON: 1. Security This is a City-designated redevelopment area in transition. Per the local law enforcement information, there is a relatively high incidence of property-related crimes. The allowable 6 foot fence height at the property line is too low to provide the required resident security.

2. Outdoor space. The increased fence height with the accompanying expectations of security and privacy would allow the placement of outdoor living areas/patios along the street frontage. The outdoor patios enhance livability and help attract new residents to this redevelopment area.

2. Continuity and Consistency The neighboring properties on the east and west have similar fence characteristics. Additionally, the portion of our property fronting Ross Avenue/Annex (see the Exemption request for 4533 Ross Avenue) currently does allow up to a 9 foot fence at the 5 foot setback. We would like to harmonize the fence height for the overall project.

3. Privacy and comfort Potential residents contemplating moving into a redevelopment area and spending money on real estate purchases need to have the comfort and the knowledge that they are making the right decisions. Privacy and security play a big role in that decision-making.

4. No harm This request will not adversely affect neighboring properties. In fact, it is unlikely that a request of this nature will even be noticed.

5. Better project The request will result in a better overall project which will be more attractive to prospective purchasers and thus accelerate the transitional nature of the area and benefit both the immediate neighborhood and the city in general.

B. PARKING REQUEST: We are requesting a 5 parking space reduction, from the required 42 spaces to the provided 37 spaces.

REASON: 1. Urban Project This is an urban project which, by its nature and proximity to public transit and downtown is very likely to attract people with the desired demographic characteristics of users of public transit. Also, the urban character of the townhouse development generally precludes residents with multiple cars – maybe two cars, but rarely three.

2. DART The DART representatives who visited the property were very enthusiastic about this project; both because it will contribute to the redevelopment of the area, and because it will, in the DART experience, result in additional riders on the DART bus system. This sentiment validates the reduced need for additional automobiles and therefore parking.

3. Area characteristics The proposed project is located in a mixed-use urban area, it encourages less reliance on the automobile and this type of project helps transition the development of Ross Avenue to existing neighborhoods.

4. Bus Shelter The existing bus shelter meets the general requirements for a parking bonus by providing both shade and seating, is not in proximity to a rail transit station, and is well within the required walking distance to the townhomes

5. More flexible project design The parking reduction will allow the project design to offer more flexible floorplans that will appeal to a wider variety of prospective residents with varying needs. The prospective buyers are likely to be young urban singles, young married couples starting new families, and mature empty nesters. These groups are more likely to use the additional bedroom as an office or den, nursery or occasional guest accommodations, thus decreasing the need for additional permanent parking spaces.

6. No harm This request will not adversely affect neighboring properties. In fact, this is the type of exemption that cannot even be seen by anyone and only the actual owner of the townhome will even be conscious of it.

BDA123-117
Attach A
Pg 3

Parking requirements and availability worksheet

Address: 4534 Munger Avenue

Proposed use: 15 new townhomes

Parking spaces provided per design:

Garage spaces:	32
Outside space located on property:	<u>5</u>
Total spaces provided:	37

Parking spaces required by design:

7 2-bedroom units @ 2 spaces/unit:	14
8 3-bedroom units @ 3 spaces/unit:	24
Required Guest parking spaces:	<u>4</u>
Total required:	42

Reduction requested: 42 required – 37 available = 5 parking space reduction request

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 Steve Jennings

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

at 4534 Munger Avenue

BDA123-117. Application of Steve Jennings for a special exception to the parking regulations and a special exception to the fence height regulations at 4534 Munger Avenue. This property is more fully described as Lot 6, Block A/651 and is zoned MF-2(A), which limits the height of a fence in the front yard to 6 feet and requires parking to be provided. The applicant proposes to construct a multifamily residential use and provide 37 of the required 42 parking spaces, which will require a 5 space special exception (11.9% reduction) to the parking regulation, and to construct a 9 foot high fence in a required front yard, which will require a 3 foot special exception to the fence regulation.

Sincerely,

Larry Holmes, Building Official



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-117

Date: 9-30-13

Data Relative to Subject Property:

Location address: 4534 and 4538 Munger Avenue

Zoning District: MF2

Lot No.: 6 Block No.: A/651 Acreage: 0.7 Census Tract: Alexander Park 8.00

Street Frontage (in Feet): 1) 140 2) 208 3) _____ 4) _____ 5) _____ *GC 23*

To the Honorable Board of Adjustment:

Owner of Property (per Warranty Deed): Rossland LLC

Applicant: Steve Jennings Telephone: 214 269 7638

Mailing Address: 5015 Addison Circle, Unit 503, Addison, TX Zip Code: 75001

E-mail Address: charter@10370.com

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance, or Special Exception XXX, of 3' spec. exception
1. Increase the fence height in the front yard setback from 6 feet to a max. of 9 feet
2. Reduce the required parking from the required 44 spaces to 39 spaces, or an 11 % reduction

5 spec. Exception for a MF USC,

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:

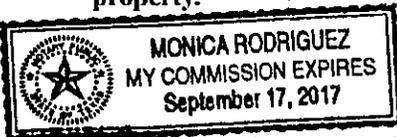
- Fence:** Security in a redevelopment area, Additional space for landscaping and outdoor patios, Privacy and buyer reassurance, Continuity and consistency, No harm to neighbors, More attractive overall project.
- Parking:** Urban project, less reliance on cars, DART bus shelter in front of property, DART experience in resident usage of public transport, More flexible project design, No harm to neighbors

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 Steven Jennings
(Affiant/Applicant's name printed)

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



Respectfully submitted: _____
(Affiant/Applicant's signature)

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

Monica Rodriguez
Notary Public in and for Dallas County, Texas

sworn to (or affirmed) and subscribed before me this 30 day of 9, 2013, by Notary
Monica Rodriguez
Notary Name
Monica Rodriguez
Notary's Signature
My Commission Expires on 9-17-2017

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 Steve Jennings

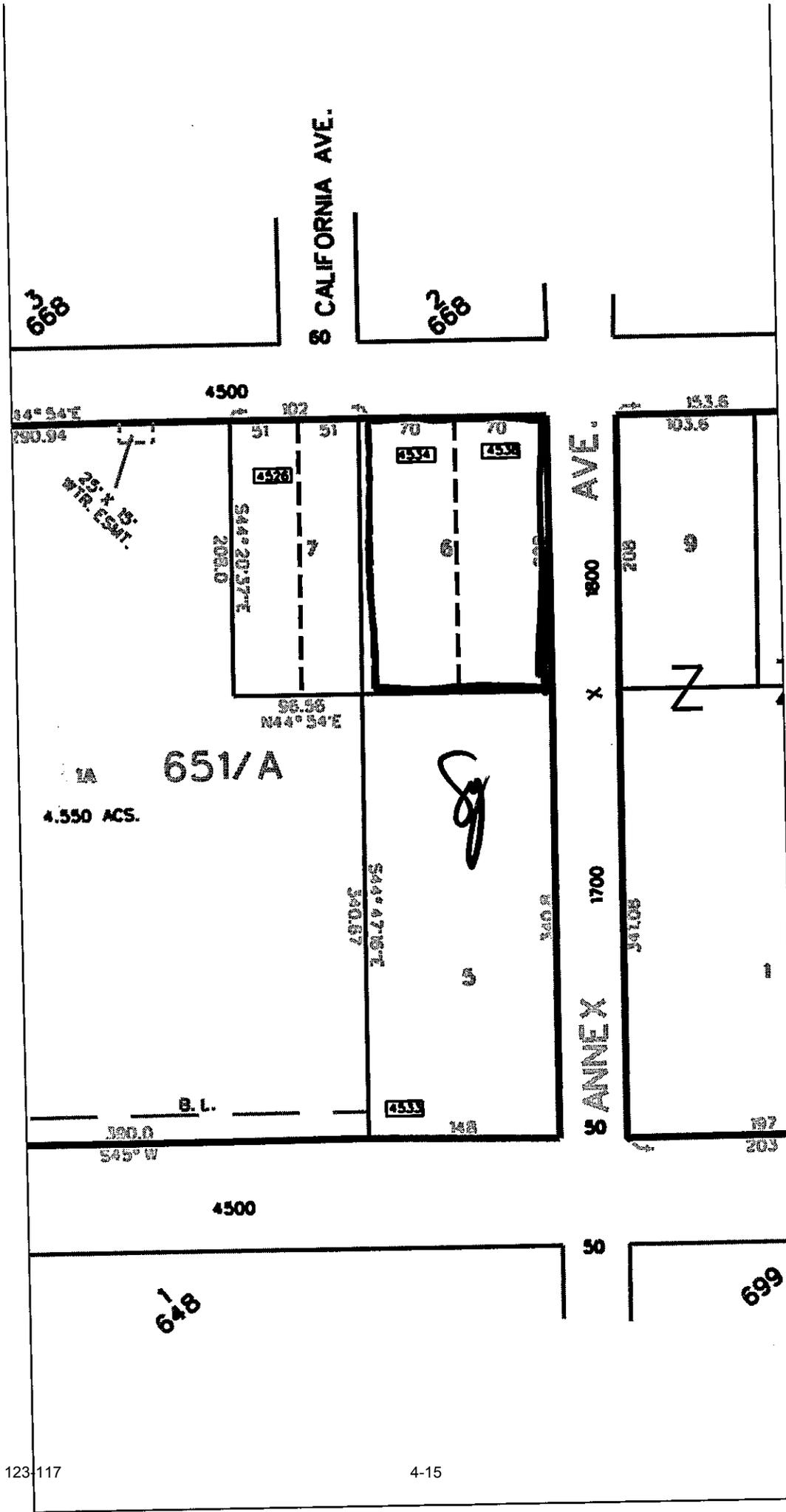
did submit a request for a special exception to the parking regulations, and for a special exception to the fence height regulations

at 4534 Munger Avenue

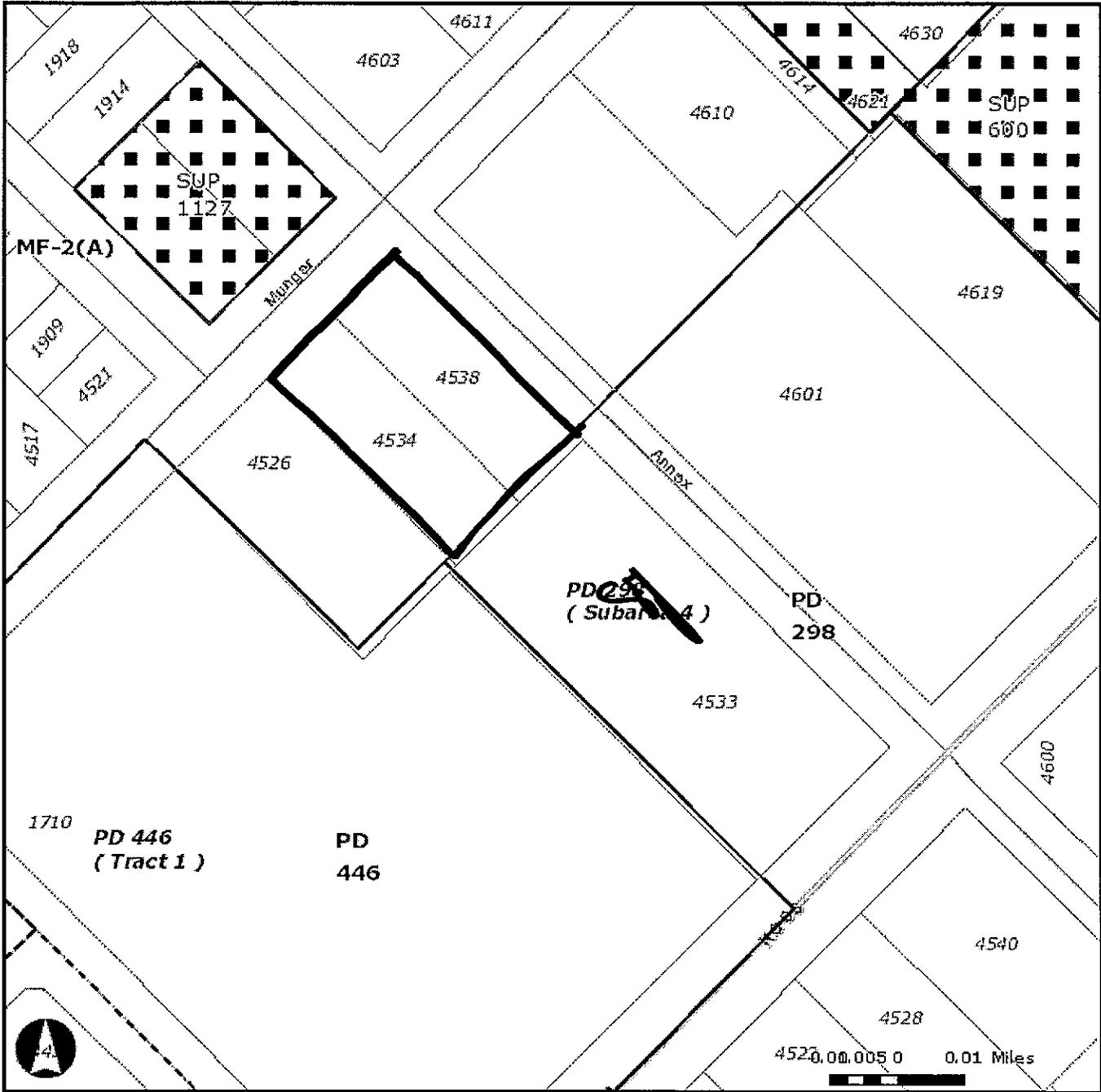
BDA123-117. Application of Steve Jennings for a special exception to the parking regulations and a special exception to the fence height regulations at 4534 Munger Avenue. This property is more fully described as Lot 6, Block A/651 and is zoned MF-2(A) which limits the height of a fence in the front yard to 6 feet and requires parking to be provided. The applicant proposes to construct a multifamily residential use and provide 39 of the required 44 parking spaces, which will require a 5 space special exception (11.36% reduction) to the parking regulation, and to construct a 9 foot high fence in a required front yard, which will require a 3 foot special exception to the fence regulation.

Sincerely,


Larry Holmes, Building Official



City of Dallas Zoning



Address Candidates



City Boundaries



County



Certified Parcels



DISD Sites



Council Districts



Waterways



BDA 123-117

SUP



Dry Overlay



Historic Overlay



Historic Subdistricts



NSO Overlay



NSO Subdistricts



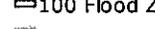
PDS Subdistricts



Base Zoning



Floodplain



Pedestrian Overlay



4534 and 4538 Munger Avenue

This project consists of new townhome units for sale. Given the redevelopment nature of the area, and the relative isolation of this particular location from developments to the west, the items requested will help us build a better project which will be more likely to attract potential buyers to this neighborhood. A successful development will, in turn, have great benefits for the neighborhood and the City redevelopment efforts.

This is an appeal to the Board of Adjustments for a Special Exemption on the **4534 and 4538 Munger Avenue** portion of the property, for the following:

- A. **FENCE REQUEST:** On the portion of the property fronting Munger Street and Annex Street, with a zoning designation of MF2, we are requesting an increase in the fence height from the 6 foot height allowed at the front property line to the maximum 9 foot height.

REASON: 1. Security This is a City-designated redevelopment area in transition. Per the local law enforcement information, there is a relatively high incidence of property-related crimes. The allowable 6 foot fence height at the property line is too low to provide the required resident security.

2. Outdoor space. The increased fence height with the accompanying expectations of security and privacy would allow the placement of outdoor living areas/patios along the street frontage. The outdoor patios enhance livability and help attract new residents to this redevelopment area.

2. Continuity and Consistency The neighboring properties on the east and west have similar fence characteristics. Additionally, the portion of our property fronting Ross Avenue/Annex (see the Exemption request for 4533 Ross Avenue) currently does allow up to a 9 foot fence at the 5 foot setback. We would like to harmonize the fence height for the overall project.

3. Privacy and comfort Potential residents contemplating moving into a redevelopment area and spending money on real estate purchases need to have the comfort and the knowledge that they are making the right decisions. Privacy and security play a big role in that decision-making.

4. No harm This request will not adversely affect neighboring properties. In fact, it is unlikely that a request of this nature will even be noticed.

5. **Better project** The request will result in a better overall project which will be more attractive to prospective purchasers and thus accelerate the transitional nature of the area and benefit both the immediate neighborhood and the city in general.

B. PARKING REQUEST: We are requesting a reduction of 11% in the parking requirement, equivalent to 5 parking spaces, from the required 44 spaces to the provided 39 spaces.

REASON: 1. **Urban Project** This is an urban project which, by its nature and proximity to public transit and downtown is very likely to attract people with the desired demographic characteristics of users of public transit. Also, the urban character of the townhouse development generally precludes residents with multiple cars – maybe two cars, but rarely three.

2. **DART** The DART representatives who visited the property were very enthusiastic about this project; both because it will contribute to the redevelopment of the area, and because it will, in the DART experience, result in additional riders on the DART bus system. This sentiment validates the reduced need for additional automobiles and therefore parking.

3. **Area characteristics** The proposed project is located in a mixed-use urban area, it encourages less reliance on the automobile and this type of project helps transition the development of Ross Avenue to existing neighborhoods.

4. **Bus Shelter** The existing bus shelter meets the general requirements for a parking bonus by providing both shade and seating, is not in proximity to a rail transit station, and is well within the required walking distance to the townhomes

5. **More flexible project design** The parking reduction will allow the project design to offer more flexible floorplans that will appeal to a wider variety of prospective residents with varying needs. The prospective buyers are likely to be young urban singles, young married couples starting new families, and mature empty nesters. These groups are more likely to use the additional bedroom as an office or den, nursery or occasional guest accommodations, thus decreasing the need for additional permanent parking spaces.

6. **No harm** This request will not adversely affect neighboring properties. In fact, this is the type of exemption that cannot even be seen by anyone and only the actual owner of the townhome will even be conscious of it.

Parking requirements and availability worksheet

Address: 4534 and 4538 Munger Avenue

Proposed use: New townhomes for sale

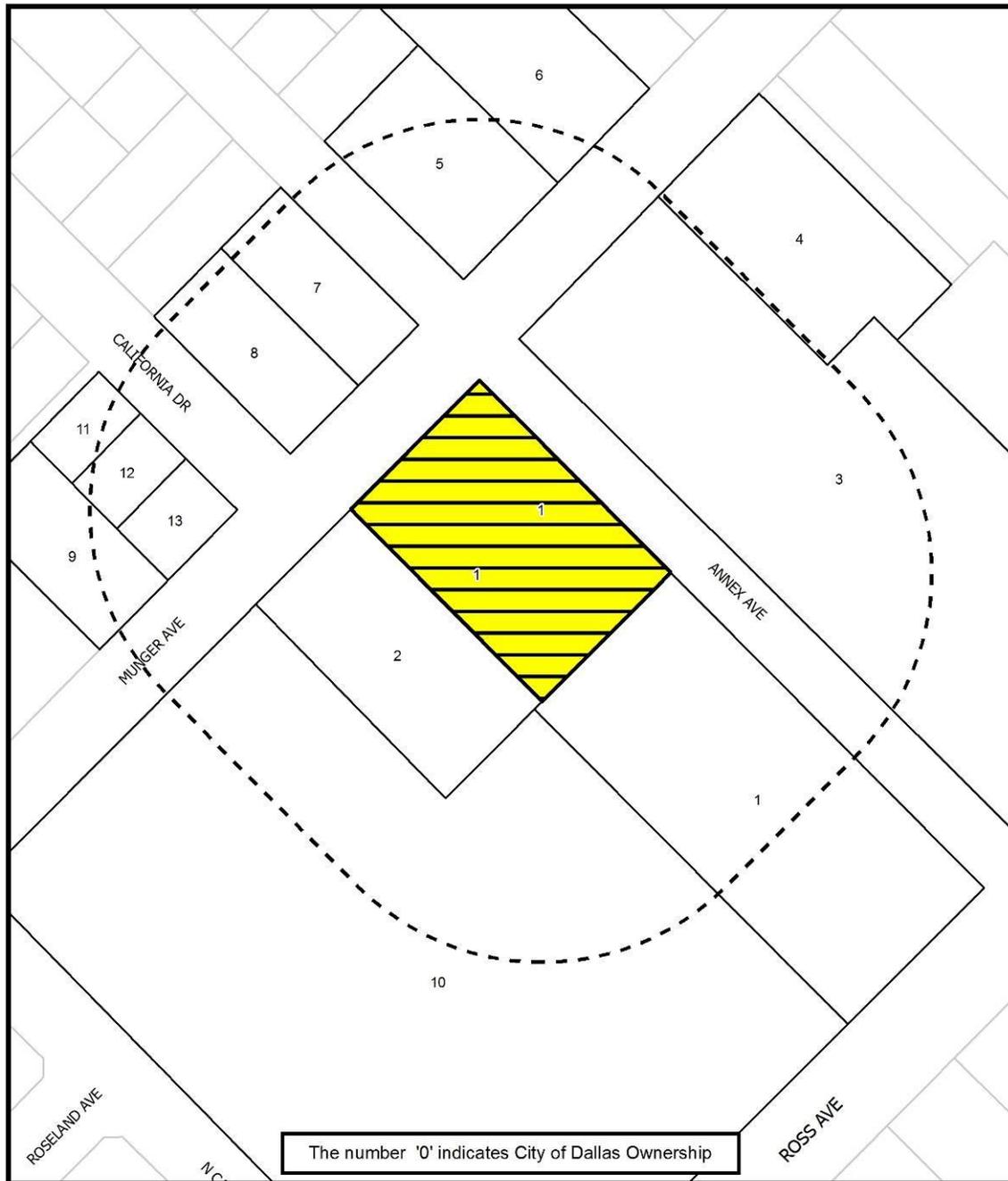
Parking spaces provided per design:

Garage spaces:	35
Outside space located on property:	4
Allowable street parking:	<u>0</u>
Total spaces provided:	39

Parking spaces required by design:

5 2-bedroom units @ 2 spaces/unit: (approx. 1500 sf)	10
10 3-bedroom units @ 3 spaces/unit: (approx. 1750-2000 sf)	30
Required Guest parking spaces:	<u>4</u>
Total required:	44

Reduction requested: $44 \times 13\% = 6$
 $44 \text{ required} - 5 \text{ reduced} = 39 \text{ available}$



 1:1,200	NOTIFICATION		Case no: BDA123-117
	<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;">13</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 10/24/2013	

Notification List of Property Owners

BDA123-117

13 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4533 ROSS AVE	ROSSLAND LLC
2	4526 MUNGER AVE	MUNGER SAN JUAN PS
3	4601 ROSS AVE	DALLAS WOMANS FORUM
4	4610 MUNGER AVE	SLJ COMMERCE/EXCHANGE LTD
5	4603 MUNGER AVE	LORING CORP
6	4611 MUNGER AVE	SECKER FRED JR
7	4539 MUNGER AVE	CHILD CARE GROUP THE SUITE 500 SOUTH
8	4535 MUNGER AVE	CHILD CARE GROUP SUITE 300
9	4517 MUNGER AVE	MARRUFO JOSE H
10	1710 CARROLL AVE	Dallas ISD ATTN OFFICE OF LEGAL SERVICES
11	1913 CALIFORNIA AVE	GONZALES PEDRO & MARIA
12	1909 CALIFORNIA AVE	TRINIDAD SERVANDO A & JUANA
13	4521 MUNGER AVE	MENDOZA JOSE A & MARIA C MENDOZA

FILE NUMBER: BDA 123-082

BUILDING OFFICIAL'S REPORT: Application of Carlos D. Goyne, Café Build, LLC for a special exception to the off-street parking regulations at 5629 SMU Boulevard. This property is more fully described as part of Lot 22, Lots 23 & 24, and part of Lot 25, Block B/5187 and is zoned MU-3, which requires off-street parking to be provided. The applicant proposes to construct and maintain a structure for restaurant without drive-in or drive-through service and alcoholic beverage establishment uses and provide 65 of the required 86 parking spaces, which will require a 21 space special exception to the off-street parking regulations.

LOCATION: 5629 SMU Boulevard

APPLICANT: Carlos D. Goyne, Café Build, LLC

REQUEST:

A special exception to the off-street parking regulations of 21 parking spaces (or a 24 percent reduction of the 65 off-street parking spaces that are required) is made in conjunction with leasing and maintaining two vacant structures on the site with a total square footage of about 8,600 square feet with restaurant and alcoholic beverage establishment uses. The applicant proposes to provide 65 (or 68 percent) of the required 86 off-street parking spaces in conjunction with leasing and maintaining these uses with these square footages on the property.

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

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). Applicants may seek a special exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.
- 2) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.

- (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
 - 4) In granting a special exception, the board may:
 - (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) Impose restrictions on access to or from the subject property; or
 - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
 - 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
 - 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
 - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

STAFF RECOMMENDATION:

Denial

Rationale:

- The applicant has not substantiated how the parking demand generated by the restaurant and alcoholic beverage establishment uses does not warrant the number of off-street parking spaces required, nor how the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- The Sustainable Development and Construction Department Engineering Division Assistant Director recommends that this request be denied.

BACKGROUND INFORMATION:

Zoning:

Site: MU-3 (Mixed use)
North: MU-3 (Mixed use)
South: PD 786 (Planned Development)
East: MU-3 (Mixed use)
West: MU-3 (Mixed use)

Land Use:

The subject site is currently developed with two vacant structures. The areas to the north, east, south, and west are developed with a mix of retail, commercial, and residential uses.

Zoning/BDA History:

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

Timeline:

- June 20, 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.
- August 20, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- August 21, 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 August 28th deadline to submit additional evidence for staff to factor into their analysis; and the September 6th 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 3, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

September 5, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked “recommends that this be denied” commenting “submitted parking analysis and layout is not feasible. Surrounding area is currently under-parked.”

September 18, 2013: The Board of Adjustment Panel B conducted a public hearing on this application where the applicant submitted additional documentation to the Board (see Attachment A). The Board held the request under advisement until November 20th in order for the applicant to submit additional materials to substantiate his parking reduction request. (As of November 11, 2013, the applicant had submitted no additional information to staff).

September 20, 2013: The Board Administrator sent a letter to the applicant that noted the decision of the panel, the October 30th deadline to submit any additional evidence for staff to factor into their analysis; and the November 8th deadline to submit additional evidence to be incorporated into the Board’s docket materials.

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

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on leasing and maintaining two vacant structures on the site with a total square footage of about 8,600 square feet with restaurant and alcoholic beverage establishment uses. The applicant proposes to provide 65 (or 68 percent) of the required 86 off-street parking spaces in conjunction with leasing and maintaining these uses with these square footages on the property.
- The Dallas Development Code requires the following off-street parking requirement:
 - Restaurant without drive-in or drive-through service use: 1 space per 100 square feet of floor area.
 - Bar, lounge, or tavern use: 1 space per 100 square feet of floor area.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “recommends that this be denied”

commenting “submitted parking analysis and layout is not feasible. Surrounding area is currently under-parked.”

- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the proposed restaurant and alcoholic beverage establishment uses on the site does not warrant the number of off-street parking spaces required, and
 - The special exception of 21 spaces (or a 24 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 21 spaces shall automatically and immediately terminate if and when restaurant and alcoholic beverage establishment uses, or a combination of these uses, that would normally need no more than 86 required parking spaces, are changed or discontinued, the applicant would be allowed to lease/maintain the site with these specific uses and provide only 65 of the 86 code required off-street parking spaces.

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 18, 2013

APPEARING IN FAVOR: Carlos Goyne, 1529 Dragon St., Dallas, TX

APPEARING IN OPPOSITION: Tommy Donohue, 5645 SMU Blvd., Dallas, TX

MOTION #1: Leone

I move that the Board of Adjustment, in Appeal No. **BDA 123-082**, on application of Carlos Goyne, Café’ Build, LLC, **deny** the special exception to the off-street parking regulations requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that the parking demand generated by the use does warrants the number of off-street parking spaces required, and the special exception would create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

SECONDED: Gillespie

***No vote was called on this motion and an alternate motion was made.**

MOTION #2: Chernock

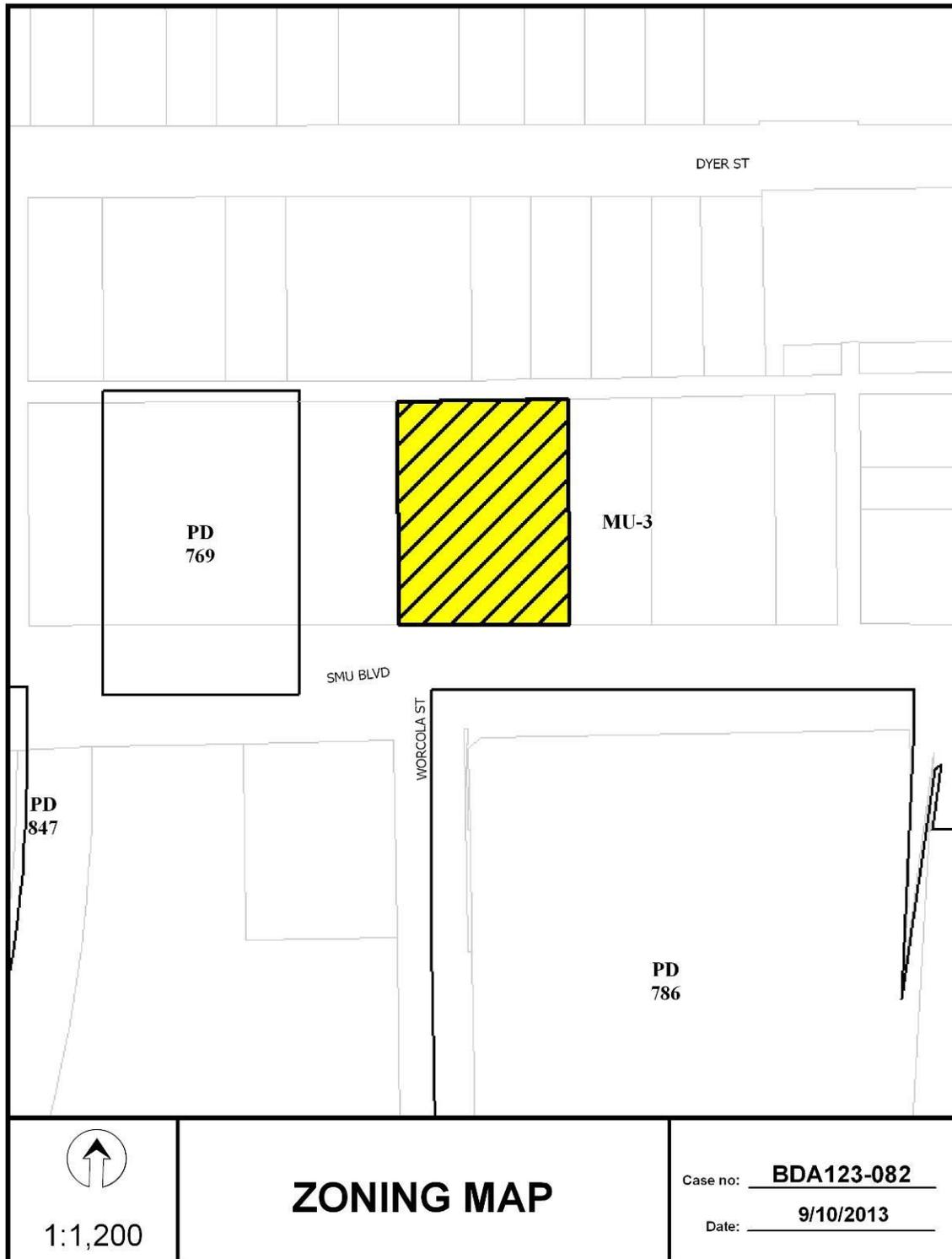
I move that the Board of Adjustment, in Appeal No. **BDA 123-082**, hold this matter under advisement until **November 20, 2013**.

SECONDED: Gillespie

AYES: 5– Reynolds, Gillespie, Chernock, Wilson, Leone

NAYS: 0 –

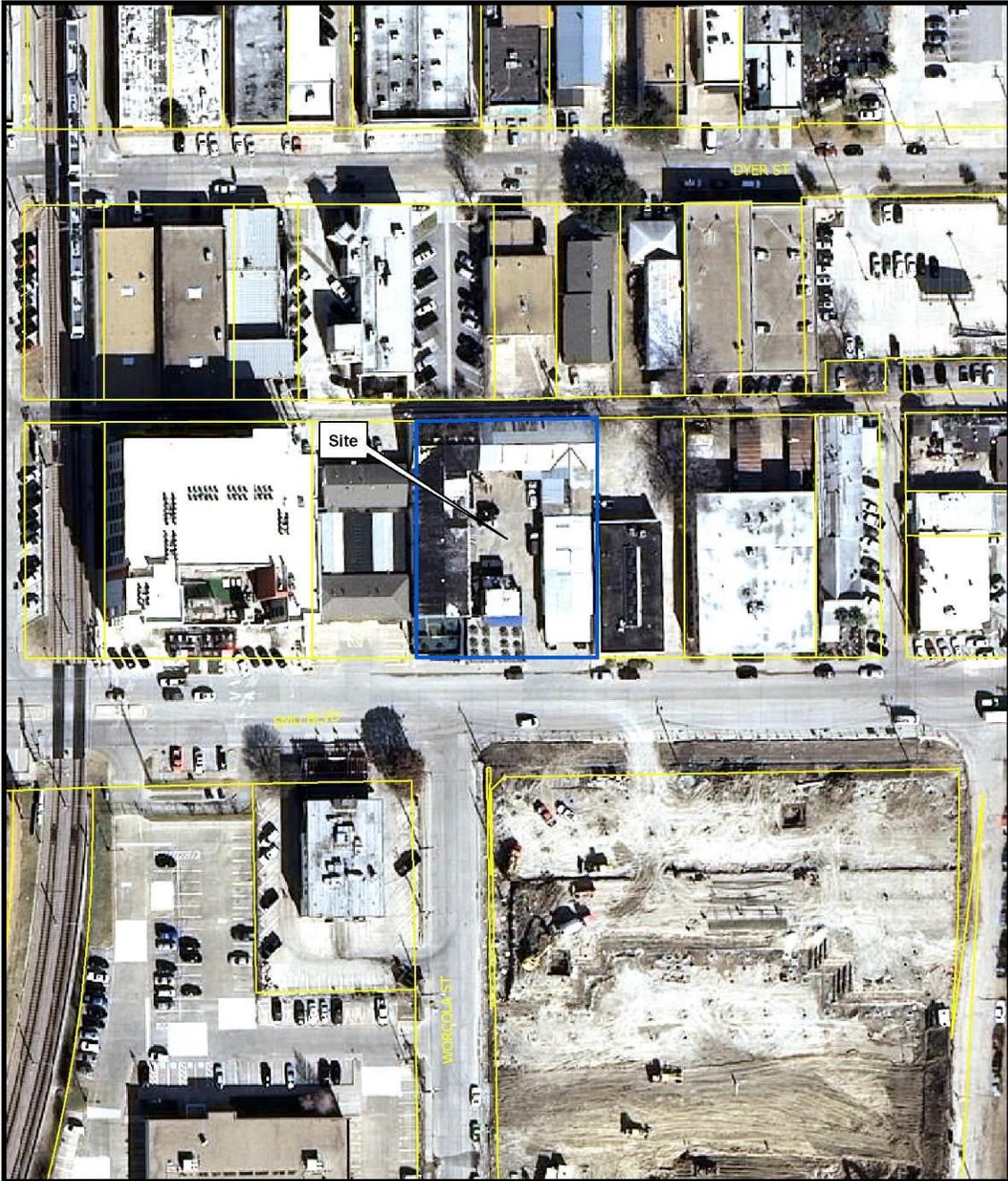
MOTION PASSED 5 – 0 (unanimously)




 1:1,200

ZONING MAP

Case no: BDA123-082
 Date: 9/10/2013



1:1,200

AERIAL MAP

Case no: BDA123-082

Date: 9/10/2013

Mr. Long,

Thank you for sending us the concerns of our neighbors, Messrs Hopkins and Long. We appreciate their concern for SMU Blvd, as it has developed significantly over the past several years improving the appeal of the street and certainly increasing the value of his property at the cost of greater traffic on SMU Blvd. 5625-5629 SMU Blvd is currently an eyesore, and it was acquired for a reasonable amount, not a steal. The intent is to improve SMU Blvd further by developing it and making SMU Blvd even more appealing and more valuable in the future. The former tenants were a dilapidated air conditioning repair shop, and two dive bars, who occupied buildings which should have been condemned by the City.



We understand that our neighbors do not want to discourage the development of SMU Blvd or complicate the Board of Adjustment hearing, but want to make sure that any future developers consider the requests of their concerns as property owners and tenants. We will make every effort to designate employee areas with signage and also make every effort to mandate that deliveries be managed within the site and not in the turning lanes as current operators do along SMU Blvd, so as not to create unsafe conditions for pedestrians or vehicular traffic along SMU Blvd.

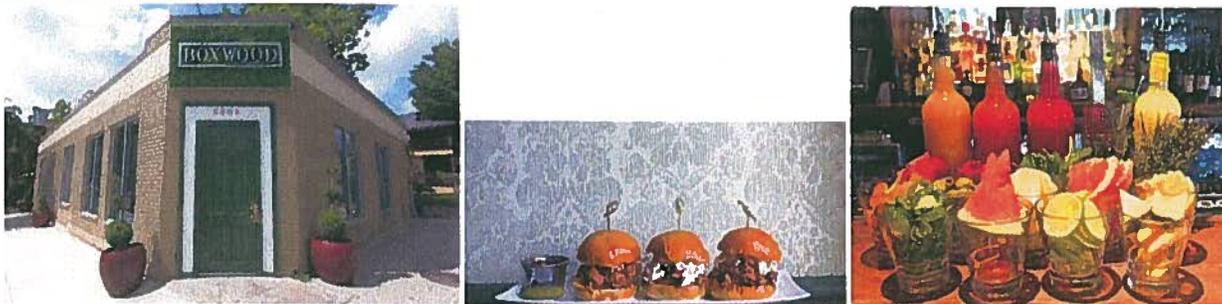
After improvement, it is the intent to occupy the property with professional well-funded operator/tenants who would operate with professional managers and professional maintenance contractors, after putting forth two designed concepts which would appeal to the neighborhood and surrounding areas.

Recently the investor has tenanted two fine sites in Dallas, Texas that we helped develop: The Dram on Henderson and Boxwood on Thomas Ave. Both had parking issues that were addressed by their operation team with valet services and adjacent nearby parking and support from the patrons within walking distances which contribute to their success at those locations.

<http://thedramdallas.com/>

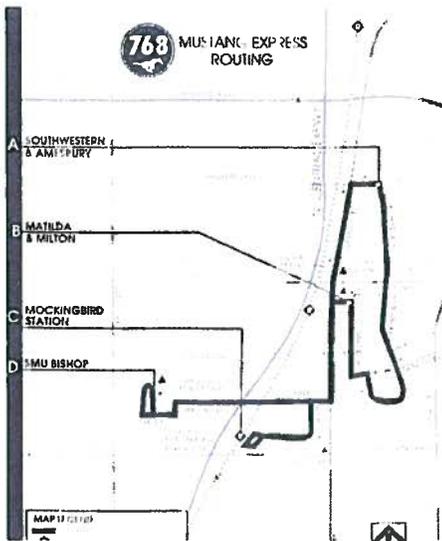


<http://boxwoodtg.com/>



The 5625-5629 SMU location will be developed and operated with the same level of professionalism and attention to detail in every aspect of operation and maintenance of the site.

We have proposed a plan which involves demolishing aspects of the site (including the "Icehouse" structure), which will allow parking to be added to the site to accommodate the tenanting of the auto-air conditioning repair building to be improved to a restaurant/bar use. SMU Blvd will be improved dramatically at this site creating two valuable businesses that succeed off of the residents who live within walking distances, which we will demonstrate below, and from patrons who use mass transit from SMU and surrounding residential areas that are dropped off directly in front of the site at Worcola and SMU Blvd. These bus routes are below.



- 23375 - Worcola @ SMU - s FS
- 23376 Worcola @ SMU - N - NS
- 26624 - Greenville @ SMU - S-NS
- 24019 - Greenville @ Dyer - N-NS
- 24018 - Greenville @ Dyer -S-NS
- 27428 Worcola @ SMU -N-MB2
- 27222 Worcola @ twin sixties - S-MB1
- 26521 SMU @ US 75 W-MB
- 26522 SMU @ Prentice -E-MB

The Shelby, The BLVD and SMU dorms will be almost completely occupied as well as the area of the bus route shown below. The site will also have bike racks which will allow for patrons to pedal to the site if desired.

The Shelby, The BLVD, SMU Dorms, and the residences south of Southwestern, east of Greenville and west of Amesbury are sufficient to support the two businesses, which is why we are asking for a special exception for parking.

We understand that in order to succeed, the businesses need to be adequately parked in order to put patrons into the space. We have parking agreements tied to the property, which will remain, but we wanted the Board of Adjustments to reduce the parking to the maximum extent allowable after we reduced the square footage of covered space to the smallest footprint allowable for the intended use of restaurant/bar occupancy. With the maximum allowable reduction, we will be able to change the use of one of the buildings to restaurant/bar from auto service, which is a non-desired zoning of this space.

We ask that the Board consider all of the above factors in the consideration of the reduction of 21 spaces in order for the change of use of one of the spaces from auto service to restaurant/bar

We would be pleased to come in person to discuss this matter, as we can even revise the parking plan in our planning phase to allow for parking in compliance with the Off-street Parking and Driveways Handbook from the City of Dallas Department of Development Services, though we know that we wish to construct 8,600sf of covered restaurant/bar space which demands that we provide 86 spaces and the maximum allowed via special exception is 21 spaces.

Thank you again for distributing our responses to our neighbors and considering our request for a space reduction of the maximum allowable 21 spaces for 5625-5629 SMU Blvd. Warmest regards as I remain

Very truly yours,
CarlosDavidGoynes
214.793.8181



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-082

Data Relative to Subject Property:

Date: 20JUN13

Location address: 5629 SMU Boulevard Dallas, Texas 75206 Zoning District: MU-3

Lot No.: 23.24 Block No.: B/5187 Acreage: 0.58 Census Tract: 79.14

Street Frontage (in Feet): 1) 140' 2) _____ 3) _____ 4) _____ 5) _____

SE 24 A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): ASBURY APARTMENTS LLC

Applicant: Carlos D. Goyne, Cafe Build LLC Telephone: 214.793.8181

Mailing Address: 1529 Dragon Street, Dallas, Texas Zip Code: 75207

E-mail Address: cdgoyne@goyne.net

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance __, or Special Exception X, of 21 spaces required in order to allow the use of the building sapce to be a restaurant/bar requiring 1 space per 100 square feet. The total square footage of both combined spaces is 8,600sf, though there are only 65 spaces on the property.

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

The reduction of the parking requirement of 21 spaces of the required parking will not have an adverse affect on site or neighboring properties, as there are adjacent multi-family residences within walking distance and mass-transit stations within walking distance. In addition, we will provide bike racks for patrons who ride to the location.

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

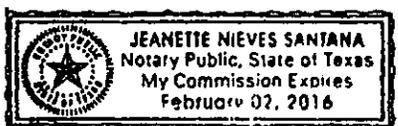
Before me the undersigned on this day personally appeared Carlos D. Goyne
(Affiant/Applicant's name printed)

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

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

Subscribed and sworn to before me this 20th day of June, 2013

(Rev. 08-01-11)



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

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

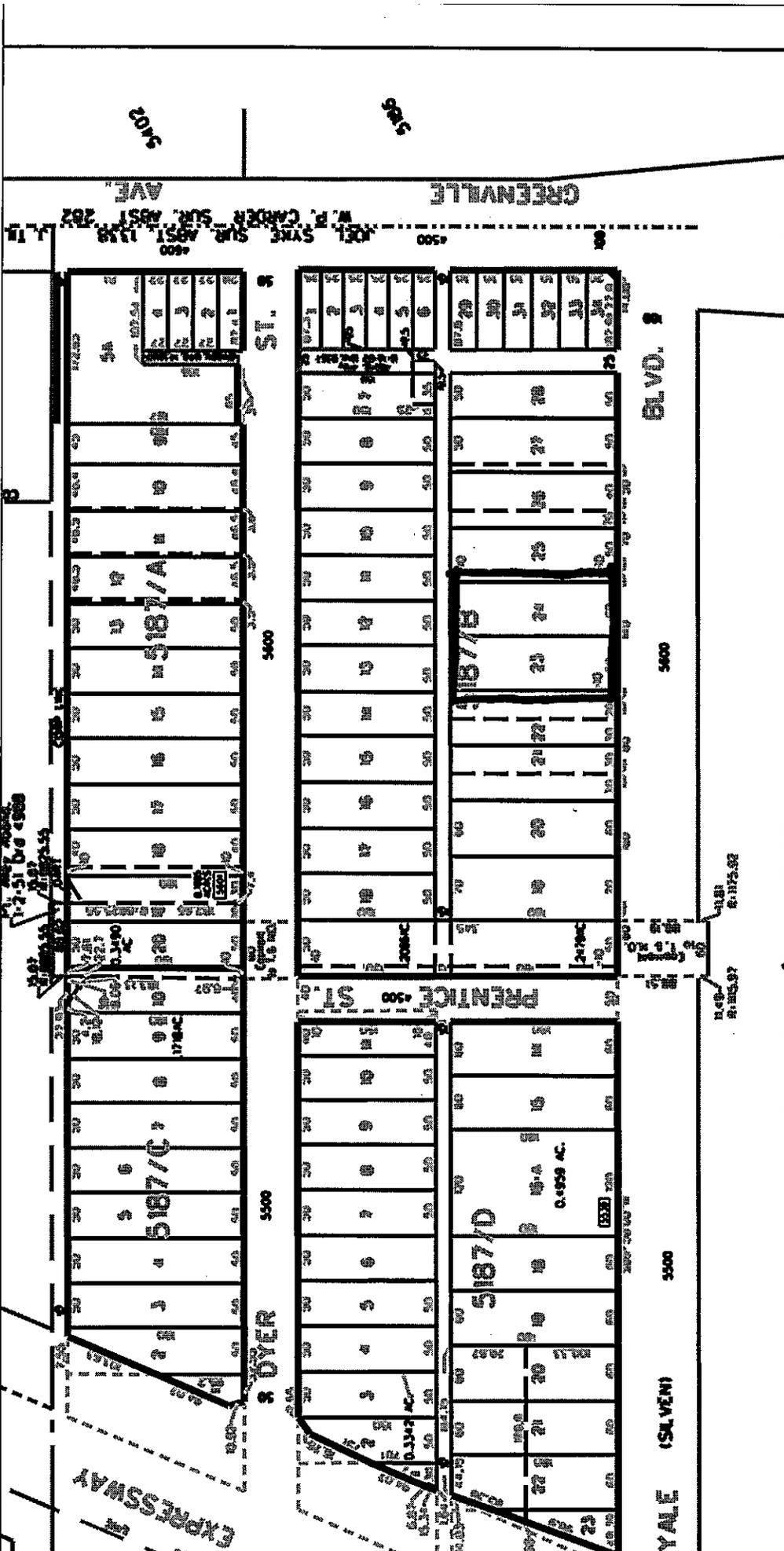
I hereby certify that CARLOS GOYNE

did submit a request for a special exception to the parking regulations
at 5629 SMU Blvd.

BDA123-082. Application of Carlos Goyne for a special exception to the parking regulations at 5629 SMU Blvd. This property is more fully described as part of Lot 22, Lots 23 & 24, and part of Lot 25, Block B/5187 and is zoned MU-3, which requires parking to be provided. The applicant proposes to construct and maintain a nonresidential structure for a restaurant without drive-in or drive-through service use and an alcoholic beverage establishment use and provide 65 of the required 86 parking spaces, which will require a 21 space special exception (24% reduction) to the parking regulation.

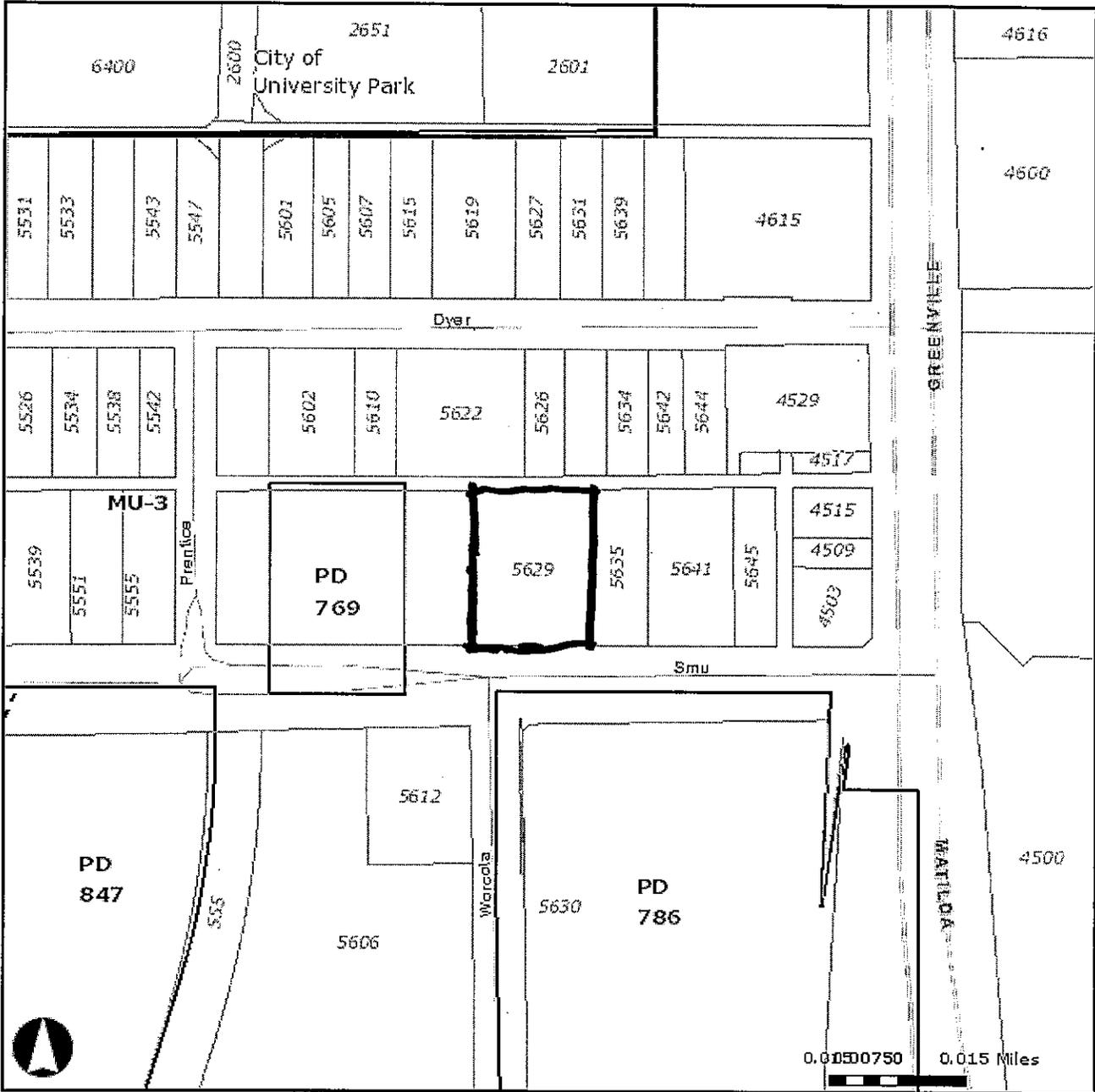
Sincerely,


Larry Holmes, Building Official



2

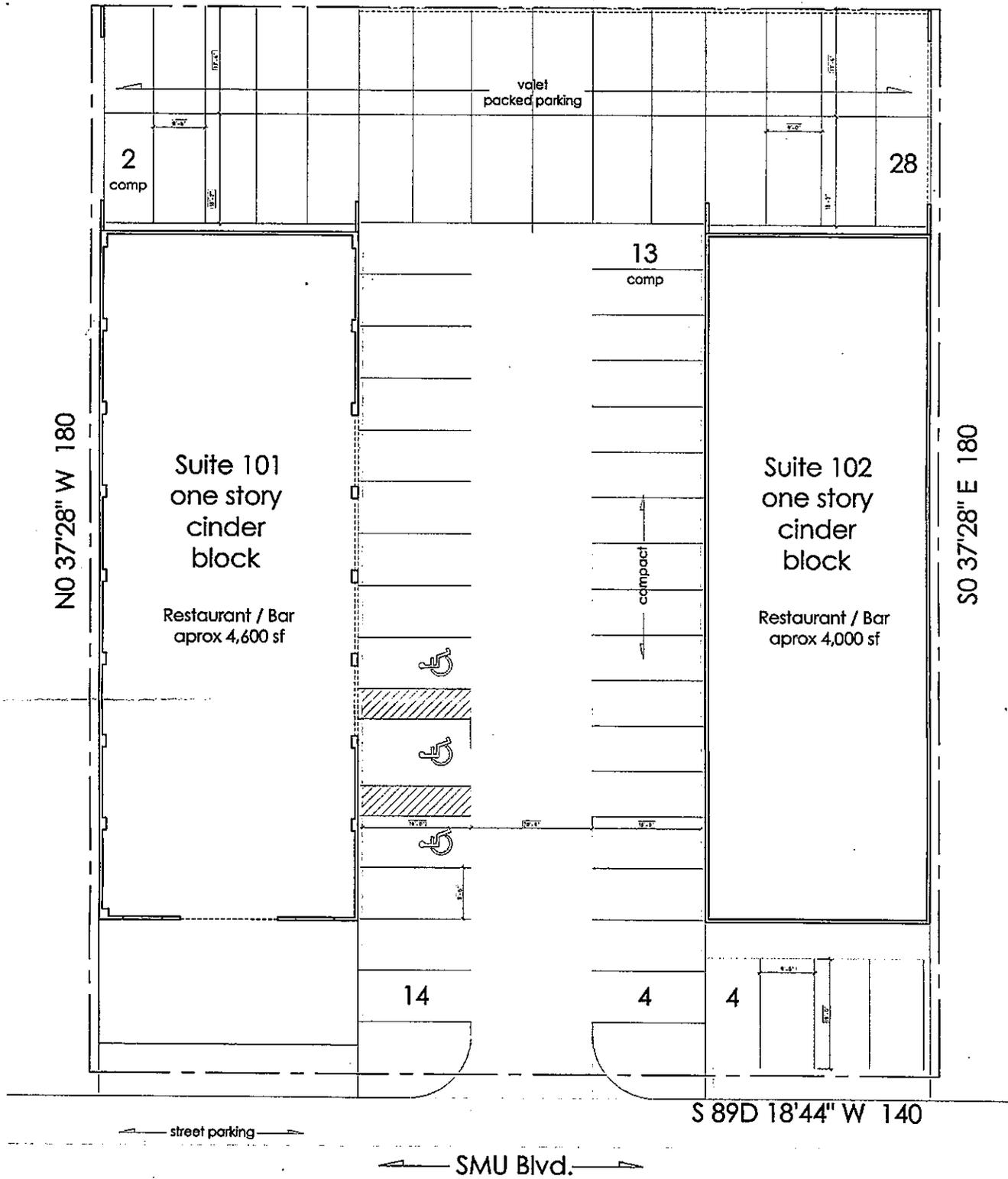
City of Dallas Zoning



- | | | |
|--|--|--|
| <p>City Boundaries</p> <p>County</p> <p>Certified Parcels</p> <p>DISD Sites</p> <p>Council Districts</p> <p>Waterways</p> <p>Parks</p> | <p>Dry Overlay</p> <p>D</p> <p>D-1</p> <p>Historic Overlay</p> <p>Historic Subdistricts</p> <p>NSO Overlay</p> <p>NSO Subdistricts</p> <p>MD Overlay</p> | <p>Base Zoning</p> <p>Floodplain</p> <p>100 Flood Zone</p> <p>Mill's Creek</p> <p>Peak's Branch</p> <p>X PROTECTED BY LEVEE</p> <p>Pedestrian Overlay</p> <p>CP</p> <p>SP</p> <p>Environmental Corridors</p> |
|--|--|--|



N 89D 17'19" E 140



parking

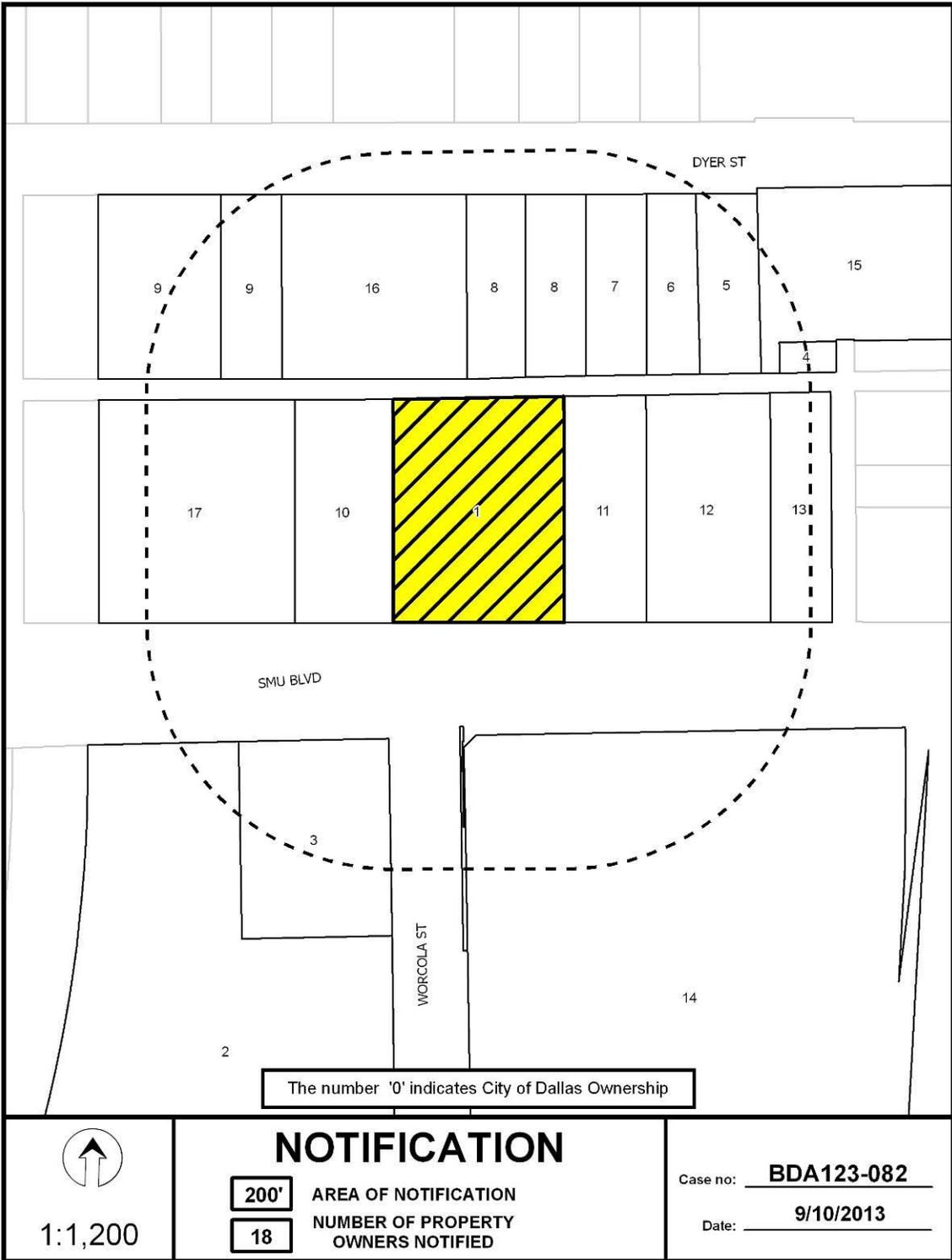
standard	50
compact	15
TOTAL	65

parking analysis

Suite	Use	Area	Ratio	Reqd.
suite 101	Rest.	4,600sf	1/100	46
suite 102	Rest.	4,000sf	1/100	40
TOTAL				86

01 site plan - parking study 1/16" = 1'-0"





Notification List of Property Owners

BDA123-082

18 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5629 SMU BLVD	KAEHLER ANN TRUSTEE ANN KAEHLER GST TRUS
2	5606 SMU BLVD	U S POSTAL SERVICE
3	5612 SMU BLVD	YALE CENTRAL LLC
4	5650 DYER ST	SMITH M NED
5	5644 DYER ST	HOLLYWOOD OVERHEAD DOOR CO
6	5642 DYER ST	HOLLYWOOD OVERHEAD DOOR CO INC
7	5634 DYER ST	PRENGLER HERSCHEL
8	5630 DYER ST	JACKSON LEASING PARTNERS LTD
9	5610 DYER ST	NAK JOINT VENTURE LTD
10	5619 SMU BLVD	HOLTVET HOLDINGS LLC
11	5635 SMU BLVD	JACKSON LEASING PTNRS LTD % JERRY JACKSO
12	5641 SMU BLVD	5641 YALE LTD PS
13	5645 SMU BLVD	SMITH NED
14	5630 SMU BLVD	5640 SMU BLVD LP SUITE 101
15	4529 GREENVILLE AVE	MOONDANCE INV LTD
16	5622 DYER ST	DYER STREET INVESTORS LP
17	5609 SMU BLVD	MC 5609 YALE LP
18	403 REUNION BLVD	DALLAS AREA RAPID TRANSIT