

NOTICE FOR POSTING
MEETING OF
BOARD OF ADJUSTMENT, PANEL C
MONDAY, MARCH 19, 2007

Briefing: 10:30 A.M. 5ES
Public Hearing: 1:00 P.M. COUNCIL CHAMBERS

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

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

*** All meeting rooms and chambers are located in Dallas City Hall, 1500 Marilla, Dallas, Texas 75201**

tl
03-19-2007

ZONING BOARD OF ADJUSTMENT, PANEL C
MONDAY, MARCH 19, 2007
AGENDA

BRIEFING	5ES	10:30 A.M.
LUNCH		
PUBLIC HEARING	COUNCIL CHAMBERS	1:00 P.M.

Donnie Moore, Chief Planner
Jennifer Hiromoto, Senior Planner
Steve Long, Board Administrator

MISCELLANEOUS ITEMS

Approval of the Monday, February 12, 2007 Board of Adjustment Public Meeting Minutes	M1
--	----

UNCONSTESTED CASES

BDA 056-234(J)	4060 Buena Vista Street REQUEST: Application of Paul Stanzel represented by Robert Baldwin for a special exception to the landscaping regulations	1
BDA 067-042(J)	3434 Swiss Avenue REQUEST: Application of Swiss Avenue Medical Building Joint Venture represented by Masterplan for a special exception to the parking regulations	2
BDA 067-051(J)	8333 Douglas Avenue (aka 8383 Douglas Avenue) REQUEST: Application of DeShazo, Tang & Associates, Inc. represented by John J. DeShazo, Jr. for a special exception to the parking regulations	3

BDA 067-052(J) 8070 Park Lane 4
REQUEST: Application of DeShazo, Tang & Associates, Inc. represented by John J. DeShazo, Jr. for a special exception to the parking regulations

BDA 067-055(J) 4610 Isabella Lane 5
REQUEST: Application of Scott and Gina Ginsburg represented by Robert Baldwin for a special exception to the fence height regulations

HOLDOVER CASE

BDA 067-035 2525 W. Mockingbird Lane 6
REQUEST: Application of Marvin Cannon, represented by Randy Daniels, for a special exception to the parking regulations

REGULAR CASE

BDA 067-019 8727 Douglas Avenue 7
REQUEST: Application of Richard Gussoni, represented by Ed Simons for a variance to the height regulations

EXECUTIVE SESSION NOTICE

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

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

(Rev. 6-24-02)

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel C February 12, 2007 public hearing minutes.

FILE NUMBER: BDA 056-234(J)

BUILDING OFFICIAL'S REPORT:

Application of Paul Stanzel represented by Robert Baldwin for a special exception to the landscaping regulations at 4060 Buena Vista Street. This property is more fully described as Lot 8 in City Block A/1514 and is zoned PD-193 which requires mandatory landscaping. The applicant proposes to construct a multi-family dwelling and provide an alternate landscape plan which would require a special exception.

LOCATION: 4060 Buena Vista Street

APPLICANT: Paul Stanzel
Represented by Robert Baldwin

REQUEST:

A special exception to the landscape regulations is requested in conjunction with constructing and maintaining a third multifamily structure on a site already developed with two multifamily structures.

STAFF RECOMMENDATION:

Approval

Rationale:

- The City's Chief Arborist recommends approval of the request, if certain conditions are met.

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

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

GENERAL FACTS:

- The request site is developed with two multifamily structures and a third multifamily structure under construction.

- The Dallas Development Code requires full compliance with the Landscape Regulations with new construction or with increasing non-permeable coverage by more than 2,000 square feet.

The applicant proposed an alternate landscape plan with the original application that did not fully comply with the landscape regulations, where, according to the City of Dallas Chief Arborist, the applicant was specifically requesting relief from the sidewalk width and location, the quantity and location of street tree, and the required minimum percentage of the lot designated as “general planting area” requirements of the PD No. 193 ordinance.

- The City of Dallas Chief Arborist submitted a memo to the Board Administrator and the Board of Adjustment Chief Planner (see Attachment A). The memo stated the following with regard to the originally submitted landscape plan:

- The applicant is requesting relief from the sidewalk width and location, the quantity and location of street tree, and the required minimum percentage of the lot designated as “general planting area” requirements of the PD No. 193 ordinance.

- The special exception request is triggered by new construction.

- Deficiencies:

1. The applicant is required to provide a 4’ wide sidewalk between 5’ – 10’ from the back of curb.

The applicant is proposing to provide a 4’ wide sidewalk between 7.5’ and 11.5’ along Buena Vista and located between 2.5’ and 6.5’ along the majority of Elizabeth.

2. The applicant is required to provide (1) one 3.5” diameter street tree for every 25’ of street frontage, and each tree should be located between 2.5’ and 5’ from the back of curb: 15 street trees total.

3. The applicant is required to provide a general planting area in the amount of 1,842 square feet based on the lot area.

The applicant is providing about 1,000 square feet of general planting area.

Factors for consideration:

- Additional general planting area could be increased by changing some of the areas identified as grass to groundcover or shrubs. Three of the four street trees proposed for the tree planting zone must be removed due to visibility triangle obstructions. The proposed trees could be rearranged to be able to provide 15 trees that while within the front yard/corner yard but not in the tree planting zone would function as street trees.

- Recommendation:

- Approval if the following conditions are met: revise the landscape plan to (1) maximize the general planting area provided; (2) remove the three street trees violating the visibility obstruction regulations, and (3) rearrange the trees located in the front yard and the corner side yard to be able to increase the number provided to a minimum of 15.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 (MF-2 Subdistrict) (Planned Development District, Multifamily)

North: PD No. 193 (MF-2 Subdistrict) (Planned Development District, Multifamily)
South: PD No. 193 (MF-2 Subdistrict) (Planned Development District, Multifamily)
East: PD No. 193 (MF-2 Subdistrict) (Planned Development District, Multifamily)
West: PD No. 193 (MF-2 Subdistrict) (Planned Development District, Multifamily)

Land Use:

The subject site is developed with a residential structure. The areas to the north, east, south, and west appear to be developed with 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:

- Aug. 25, 2006: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- Sept. 20, 2006: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- Sept. 25, 2006: The Board Senior Planner mailed the applicant's representative a letter that contained the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the October 26th deadline to submit additional evidence for staff to factor into their analysis/recommendation;
 - the November 3rd deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the November public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

- October 9, 2006 The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the special exception to the landscape regulations (see Attachment A).
- October 27, 2006: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the November public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner; the Development Services Senior Engineer, and the Assistant City Attorney to the Board.
- October 27, 2006: The Board Senior Planner contacted the applicant's representative to request additional documentation showing authorization from the condominium association to make the application.
- January 29, 2007: The applicant's representative submitted documentation of authorization from the condominium association to make the application.

STAFF ANALYSIS:

- The applicant proposes to construct a multifamily structure.
- An alternate landscape plan was submitted with the request where, according to the City of Dallas Chief Arborist, there were areas that would not fully comply with sidewalk width and location, quantity and location of street tree, garage screening and landscaping, and required minimum percentage of the lot designated as "general planting area" requirements.
- The applicant has the burden of proof in establishing the following:
 - The special exception will not compromise the spirit and intent of the section of the ordinance (Section 26: Landscape, streetscape, screening, and fencing standards).
- If the Board were to grant this request and impose a condition that the applicant must comply with the submitted landscape plan, the proposed multifamily structure could be constructed on the site with the site would be "excepted" from full compliance with the quantity and location of street trees, and required minimum percentage of general planting area requirements of the Oak Lawn PD landscape ordinance.

FILE NUMBER: BDA 067-042(J)

BUILDING OFFICIAL'S REPORT:

Application of Swiss Avenue Medical Building Joint Venture represented by Masterplan for a special exception to the parking regulations at 3434 Swiss Avenue. This property is more fully described as a 1.615 acre tract of land in City Block 750 and is zoned PD-298 Subarea 12, which requires parking to be provided. The applicant proposes to construct a nonresidential structure for medical office use and provide 345 parking spaces which would require a special exception of 86 spaces (20% reduction) to the parking regulations.

LOCATION: 3434 Swiss Avenue.

APPLICANT: Swiss Avenue Medical Building Joint Venture
Represented by Masterplan

REQUEST:

- A special exception to the off-street parking regulations of 86 spaces (or 20% of the required off-street parking) is requested in conjunction with constructing a 26,941 square foot addition for medical office use on a site developed with a 59,240 square feet building for medical office uses. The applicant proposes to provide 345 (or 80%) of the total required 431 off-street parking spaces.

STAFF RECOMMENDATION:

Approval

Rationale:

- The Development Services Senior Engineer has no objection to this request if certain conditions are met.

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

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights. For the commercial

amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 50 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.

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

GENERAL FACTS:

- The applicant is proposing the following on the request site:
 - Maintain the existing 59,240 square feet building containing medical office uses,
 - Construct a 26,941 square foot addition for medical office use on the fourth floor of the parking structure.
- The Dallas Development Code requires the following parking requirements for the existing/proposed use on the subject site:
 - 1 space is required for every 200 square feet of medical office use.

- Feb. 13, 2007: The Board Administrator mailed the applicant a letter containing the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the March 2nd deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
 - the March 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the March public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- Feb. 16, 2007: The applicant submitted a parking study (Attachment A), a map showing the existing DART bus stops (Attachment B), and a map showing existing on-street parking (Attachment C). Color copies of the maps were provided for each Board member and a color copy will be retained in the case file.
- March 1, 2007 The applicant submitted a letter and a revised parking study to the Development Services Senior Engineer (Attachment D).
- March 5, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Assistant Director of the Development Services Current Planning Division, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Interim Chief Arborist, and the Assistant City Attorney to the Board.
- March 7, 2007 The Development Services Senior Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met."

STAFF ANALYSIS:

- The Development Services Senior Engineer submitted a review comment sheet marked “Has no objections if certain conditions are met” with the following comments:
 - The site plan shows 3 parking spaces that should not be counted because Floyd Street is used for maneuvering.
 - One or more parking attendant(s) is required to operate tandem parking.
- Pursuant to the Development Services Senior Engineer’s determination that 3 spaces did not meet the standards for off-street parking, the Building Official’s report was amended to reflect the need for 86 spaces instead of 83 spaces.
- The applicant has submitted additional information to support the parking special exception request, including maps of existing DART bus stations and on-street parking near the request site and a parking study (Attachments A-D).
- 80 percent of the required off-street parking spaces are proposed to be provided in conjunction with constructing a 26,941 square feet addition on a site developed with an approximately 59,240 square foot medical office building.
- Granting this request, subject to the condition that the special exception of 86 spaces automatically and immediately terminates if and when the medical office uses on the site are changed or discontinued, would allow development of additional floor area for medical office use on the site.
- The applicant has the burden of proof in establishing the following:
 - that the parking demand generated by the proposed medical office uses do not warrant the number of off-street parking spaces required, and
 - the special exception of 86 spaces (or 20% of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

FILE NUMBER: BDA 067-051(J)

BUILDING OFFICIAL'S REPORT:

Application of DeShazo, Tang & Associates, Inc. represented by John J. DeShazo, Jr. for a special exception to the parking regulations at 8333 Douglas Avenue (aka 8383 Douglas Avenue). This property is more fully described as Lot 5A and part of Lot 6 in City Block 2/5625 and a portion of an abandoned alley and is zoned PD-314, Tract II, which requires parking to be provided. The applicant proposes to construct an addition to an existing nonresidential building for office and financial institution use and provide 1,114 parking spaces, which would require a special exception of 181 spaces (14% reduction) to the parking regulations.

LOCATION: 8333 Douglas Avenue (aka 8383 Douglas Avenue)

APPLICANT: DeShazo, Tang & Associates, Inc.
Represented by John J. DeShazo, Jr.

REQUEST:

- A special exception to the off-street parking regulations of 181 spaces (or 14% of the required off-street parking) is requested in conjunction with constructing an office tower with 144,400 square feet of office uses and 4,600 square foot bank use. The applicant proposes to provide 1,114 (or 86%) of the total required 1,295 off-street parking spaces on a site currently developed with an approximately 278,000 square foot office tower.

STAFF RECOMMENDATION:

Approval

Rationale:

- The Development Services Senior Engineer has no objection to this request.

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

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not

provided due to already existing nonconforming rights. For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 50 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.

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

GENERAL FACTS:

- On February 13, 2006, the Board of Adjustment Panel C approved a parking special exception of 288 spaces (or 22% of the required off-street parking) in conjunction with constructing a new 126,000 square foot office tower and 8,500 square foot restaurant on a site developed with an existing office with 277,500 square feet. The parking special exception was subject to automatically and immediately terminate if and when the office and restaurant use on the site is changed or discontinued. The

applicant is proposing to develop the site with only office and bank uses and therefore the special exception will not be valid.

- The applicant is proposing the following on the request site:
 - Maintain the existing 277,500 square feet building containing office uses
 - Construct a new 149,000 square foot building containing (144,400 square feet) office uses and 4,600 square foot bank use.
- The Dallas Development Code requires the following parking requirements for the existing/proposed uses on the subject site:
 - 1 space is required for every 333 square feet of office use.
 - 1 space is required for every 333 square feet of financial institution with or without drive-in window use.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 314 (Planned Development District)
North: PD No. 314 (Planned Development District)
South: PD No. 314 (Planned Development District)
East: PD No. 314 (Planned Development District)
West: PD No. 314 (Planned Development District)

Land Use:

The subject site is developed with an office tower. The areas to the north, east, south, and west are developed with office, restaurant, and retail uses.

Zoning/BDA History:

1. BDA 056-053 (subject site) On February 13, 2006, the Board of Adjustment Panel C approved a parking special exception of 288 spaces (or 22% of the required off-street parking) in conjunction with constructing a new 126,000 square foot office tower and 8,500 square foot restaurant on a site developed with an existing office with 277,500 square feet.

Timeline:

- January 24, 2007: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- Feb. 15, 2007: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- Feb. 13, 2007: The Board Administrator mailed the applicant a letter containing the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the March 2nd deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- the March 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the March public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

March 5, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Assistant Director of the Development Services Current Planning Division, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Interim Chief Arborist, and the Assistant City Attorney to the Board.

March 7, 2007 The Development Services Senior Engineer submitted a review comment sheet marked "Has no objections" with the following comments:

- "Based on the (revised) study dated January 26, 2007."

STAFF ANALYSIS:

- 86 percent of the required off-street parking spaces are proposed to be provided in conjunction with constructing a new 144,400 square feet of office uses and 4,600 square foot bank use on a site developed with an approximately 278,000 square foot office tower.
- Granting this request, subject to the condition that the special exception of 181 spaces automatically and immediately terminates if and when the office and bank uses on the site are changed or discontinued, would allow development of the office and bank on the site.
- The applicant has the burden of proof in establishing the following:
 - that the parking demand generated by the proposed office and bank uses do not warrant the number of off-street parking spaces required, and

- the special exception of 181 spaces (or 14% of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- The Development Services Senior Engineer submitted a review comment sheet marked "Has no objections" with the following comments:
 - "Based on the (revised) study dated January 26, 2007." The study is revised from the study submitted with the February Board of Adjustment case, BDA 056-053.

FILE NUMBER: BDA 067-052(J)

BUILDING OFFICIAL'S REPORT:

Application of DeShazo, Tang & Associates, Inc. represented by John J. DeShazo, Jr. for a special exception to the parking regulations at 8070 Park Lane. This property is more fully described as Lot 1B in City Block A/5456 and is zoned MU-3(SAH) which requires parking to be provided. The applicant proposes to construct multiple commercial buildings with mixed residential and nonresidential uses and provide 6,223 parking spaces, which would require a special exception of 374 spaces (5.67% reduction) to the parking regulations.

LOCATION: 8070 Park Lane

APPLICANT: DeShazo, Tang & Associates, Inc.
Represented by John J. DeShazo, Jr.

REQUEST:

- A special exception to the off-street parking regulations of 374 spaces (or 5.67% of the required off-street parking) is requested in conjunction with developing a 33-acre site with mixed-uses.

STAFF RECOMMENDATION:

Approval

Rationale:

- The Development Services Senior Engineer has no objection to this request if certain conditions are met.

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

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights. For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction

authorized by this section is 50 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.

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

GENERAL FACTS:

- The Dallas Development Code contains the following parking requirements for the existing and proposed uses on the subject site:
 - 1 space per 333 square feet of floor area for office uses;
 - 1 space per each 500 square feet of floor area for multifamily uses, with not less than 1 space nor more than 2 ½ spaces for each dwelling unit in a multifamily structure less than 36 feet in height;

- 1 space per each 500 square feet of floor area for multifamily uses, with not less than 1 space nor more than 2 spaces for each dwelling unit in a multifamily structure *more* than 36 feet in height;
- 1 space per 200 square feet of floor area for a general merchandise or food store (including 3,500 square feet or less, greater than 3,500 square feet, and greater than 100,000 square feet) uses;
- 1 space per 200 square feet of floor area for personal service uses;
- 1 space per 100 square feet of floor area for restaurant uses;
- 1 space per 100 square feet of floor area for commercial amusement (inside) uses (excluding bingo parlor, bowling alley, children's amusement center, dance hall, motor track, and skating rink uses);
- 6 spaces is required per lane for commercial amusement (inside) uses for a bowling alley;
- 1 space per unit for units 1-250; $\frac{3}{4}$ space for each unit for units 251 to 500; $\frac{1}{2}$ space for all units over 500; plus one space per 200 square feet of floor area of meeting rooms for hotel uses; and
- 1 space per 25 square feet of classroom floor area for business school uses.
- The Dallas Development Code allows for an additional reduction for large scale mixed use development projects.
 - Ten percent of the required parking for the office use when that use totals in excess of 250,000 square feet in floor area and is developed on the same lot with a use qualifying for an exception under Subsections (c)(6)(B) or (C) of this section.
 - Ten percent of the required parking for the hotel and motel use when that use totals in excess of 250 guest rooms and is developed on the same lot with a use qualifying for an exception under Subsections (c)(6)(A) or (C) of this section.
 - Ten percent of the required parking for the retail and personal service uses, when those uses total in excess of 40,000 square feet in floor area and are developed on the same lot with a use qualifying for an exception under Subsections (c)(6)(A) or (B) of this section.
 - Fifty percent of the required parking for the following uses when developed on the same lot with an office use with more than 250,000 square feet of floor area or a hotel or motel use with more than 250 guest rooms:
 - Bar, lounge, or tavern.
 - Carnival or circus (temporary)
 - Catering service.
 - Commercial amusement (inside).
 - Commercial amusement (outside).
 - Country club with private membership.
 - Drive-in theater.
 - Private recreation center, club, or area.
 - Public park, playground, or golf course.
 - Restaurant without drive-in service.
 - Restaurant with drive-in or drive- through service.
 - Theater.
- Table 1 of the submitted parking study indicates the applicant proposes to develop the request site with the following uses and amounts:
 - Office 250,000 square feet

- | | |
|---------------------------------|---------------------------------|
| - Multifamily residential | 710 units |
| - General Merchandise retail | 549,894 square feet |
| - Personal Service | 85,553 square feet |
| - Restaurant | 63,304 square feet |
| - Commercial Amusement (inside) | 30 bowling alley lanes |
| - Commercial Amusement (inside) | 7,000 square feet |
| - Hotel | 208 rooms |
| - Hotel | 5,670 square feet |
| - Business School | 23,960 square feet of classroom |
- Information regarding the height of the multifamily buildings or the number of meeting rooms was not provided in Table 1.
 - Table 1 also indicates that the additional provisions for non-residential parking for large, mixed-use developments allows a reduction of 11.3% of the total parking required based on the amount of uses proposed, which equates to 6,597 parking spaces required.
 - The applicant is proposing to provide 6,223 off-street parking spaces or 94.3% when 6,597 spaces are required based on the floor area of the proposed uses combined.
 - Table 1 in the parking study indicates that there is 153,560 square feet of existing office uses that will remain on the subject site.
 - The applicant's representative has verbally indicated that the platform for the existing Park Lane DART rail station, which is presently located on the north side of Park Lane west of Greenville Avenue, is proposed to be expanded to provide platform access to the subject property.
 - The submitted site plan shows the proposed layout of the large mixed-use development and the four existing office buildings.

BACKGROUND INFORMATION:

Zoning:

Site: MU-3(SAH) (Mixed Use -3 Standard Affordable Housing)
North: RR (Regional Retail)
South: GO(A) (General Office)
East: PD 526 (Transit Passenger Station and Mixed Use -3) and MU-3 (Mixed Use -3)
West: RR (Regional Retail)

Land Use:

The subject site is partially developed with four office buildings and the remainder of the site is undeveloped. The surrounding area is developed with office and retail uses.

Zoning/BDA History:

Z067-162 (request site) An application to terminate two sets of deed restrictions and volunteer one set of deed restrictions on property zoned an MU-3(SAH) Mixed Use District located on the southeast

corner of Park Lane and Central Expressway is scheduled for City Plan Commission on March 22, 2007.

Timeline:

- January 26, 2007: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- Feb. 15, 2007: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- Feb. 13, 2007: The Board Administrator mailed the applicant a letter containing the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the March 2nd deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
 - the March 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the March public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- March 5, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Assistant Director of the Development Services Current Planning Division, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Interim Chief Arborist, and the Assistant City Attorney to the Board.
- March 7, 2007 The Development Services Senior Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following comments:
- All of the uses proposed on this Lot 1B should conform to Table 1 in the DT&A study dated January 26, 2007 titled: "Shared

Parking Demand Analysis for the Proposed Park Lane Mixed Use...”

- For residential use/multifamily (Table 1), the maximum size is 648 DU or 867,118 square feet.

STAFF ANALYSIS:

- 75.6% percent of the required off-street parking spaces is proposed to be provided in conjunction with constructing a mixed use development of approximately 1,734,139 square feet, plus a bowling alley with 30 lanes, a hotel with 208 hotel rooms for which the square footage was not provided, on a site already developed with 153,560 square feet of office use.
- The Board Senior Transportation Engineer submitted a review comment sheet marked “no objection if certain conditions are met.” The conditions proposed would require all of the uses on the property to be provided in the combination of amounts as shown in Table 1 and limits the number of residential units/ floor area.
- If the combination of uses were to change their amount of floor area or other unit of measurement to determine parking requirements, the parking demand for the new combination of uses may require additional spaces.
- The applicant’s representative has verbally indicated a desire for flexibility in the combination or amount of floor area for the uses due to the unpredictability of market demands over time.
- Granting this request, subject to the condition that the special exception of 374 spaces automatically and immediately terminates if and when the Office; Multifamily residential; General Merchandise retail ; Personal Service; Restaurant; Commercial Amusement (inside) bowling alley; Commercial Amusement (inside) other than bingo parlor, bowling alley, children’s amusement center, dance hall, motor track, and skating rink uses; Hotel; and Business School uses on the site in the amounts shown in Table 1 of the parking study are changed or discontinued, would allow the site to be developed with the uses in the amounts shown in Table 1 of the parking study.
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the proposed uses do not warrant the number of off-street parking spaces required, and
 - The special exception of 374 spaces (or 5.67% of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

FILE NUMBER: BDA 067-055(J)

BUILDING OFFICIAL'S REPORT:

Application of Scott and Gina Ginsburg represented by Robert Baldwin for a special exception to the fence height regulations at 4610 Isabella Lane. This property is more fully described as Lot 1 in City Block G/5534 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot 6 inch fence in the required front yard setback, which would require a special exception of 4 feet 6 inches.

LOCATION: 4610 Isabella Lane

APPLICANT: Scott and Gina Ginsburg
Represented by Robert Baldwin

REQUEST:

- A special exception to the fence height regulations of 4'6" is requested in conjunction with constructing an 8'6" high solid wood fence and vehicular gate in the site's 40' front yard setback along Isabella Lane.

STAFF RECOMMENDATION:

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

GENERAL FACTS:

- The subject site is located at the southeast corner of Isabella Lane and Welch Road. The site has a front yard setback along Isabella Lane given that this frontage is the shorter of the two street frontages. The yard adjacent to Welch Road is considered a side yard along Welch Road given that there is no continuity of an established setback that must be maintained on this street since the lot immediately south of the subject site has a front yard on Woodford Drive.

- The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.
- The applicant submitted a site plan and elevation which indicate a wrought iron and stone fence with wrought iron vehicular gates proposed to reach a maximum height of 8'6" in the Isabella Lane front yard setback.
- The site plan submitted with the application indicated that the proposal in the Isabella Lane 40' front yard setback has the following additional characteristics:
 - Approximately 196' in length parallel to Isabella Lane and 40' on the "sides" perpendicular to Isabella Lane;
 - The proposed fence varies from approximately 1' to approximately 8'6" from the front property line. The portions that are 8'6" are in the areas where the vehicular gates are set back.
 - There is approximately 11' of right of way from the front property line to the curbline.
 - The fence is linear in design except for the curved portions where the vehicular gates are set back and near the intersection of Isabella Lane and Welch Road.
- The proposed fence is not obstructing any visibility triangles according to the site plan.
- The elevations show that the fence will be:
 - solid stone at the entry "wing walls" near the vehicular gates and 13' to the east to the property line at a height of 7'6" that tapers down to 5'6";
 - wrought iron vehicular gates at a height of 7'8";
 - 3'8" wrought iron fencing with 1'6" stone base (a maximum total height of 5'6") and 6' stone columns between the vehicular gates and in the area at the corner of Isabella Lane and Welch Road; and
 - 5'8" wrought iron with 6' stone columns on the remainder of the fence adjacent to Isabella Lane and the portion adjacent to Welch Road.
 - The columns adjacent to each of the vehicular gates on Isabella Lane are the only portion of the proposed fence to be a height of 8'6".
- There are two single family homes that would have direct/indirect frontage to the proposed fence located in the Isabella Lane front yard setback.
- The request site has an existing fence constructed of wrought iron and stone columns located in the side yard setback and a solid wooden fence in the rear yard setback. These existing fences appear to meet the height regulations for fences in side and rear yard setbacks.
- The Board Administrator conducted a field visit of the site and surrounding area along Isabella Lane and noted three other fences above four (4) feet high which appeared to be located in the front yard setback. These fences have Board of Adjustment history.
- The applicant's representative submitted a letter containing additional information beyond what was submitted with the original application (see Attachment A).

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA 056-145, 4562 Isabella Lane (the lot west of the subject site) On May 15, 2006, the Board of Adjustment Panel C granted a request for a special exception of 2 feet. The board imposed the following condition in conjunction with this request: Compliance with the submitted site/elevation plan is required.
2. BDA 001-176, 4612 Isabella Lane (the lot east of the subject site) On March 20, 2001, the Board of Adjustment Panel B granted a request for a special exception of 2 feet to maintain a 6 foot fence in the front yard setback. The board imposed the following condition in conjunction with this request: Compliance with the submitted site/elevation plan is required.
3. BDA 989-216, 4611 Isabella Lane (the lot north of the subject site) On May 17, 1999, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of 1' 6". The board imposed the following condition in conjunction with this request: Compliance with the submitted site/landscape plan and submitted elevation plan is required. The case report states that request was made to construct and maintain a 5' high open metal picket fence and gates with 5' 6" high stucco columns in the front yard setback along Isabella Lane.

Timeline:

- January 29, 2007: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- Feb. 15, 2007: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

Feb. 13, 2007: The Board Administrator mailed the applicant a letter containing the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the March 2nd deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- the March 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the March public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

March 2, 2007: The applicant submitted additional information to staff (see Attachment A).

March 5, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Assistant Director of the Development Services Current Planning Division, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Interim Chief Arborist, and the Assistant City Attorney to the Board.

The Development Services Senior Engineer submitted a Review Comment Sheet marked "Has no objections."

STAFF ANALYSIS:

- A fence elevation has been submitted that indicates the maximum height of the fence and vehicular gate (8'6"). The elevation denotes the materials of the fence, columns, and gates are a combination of wrought iron and stone.
- There are two single family homes that would have direct/indirect frontage to the existing fence/wall located in the Isabella Lane front yard setback.
- Three other fences above four (4) feet high which appeared to be located in the front yard setback were noted in the immediate area. These fences have Board of Adjustment approval history.

- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4'6" (whereby the proposal in the front yard setback that would exceed 4' in height) will not adversely affect neighboring property.
- Granting this special exception to the fence height regulations of 4'6" with conditions imposed that the applicant complies with the submitted revised site plan and revised elevation would provide assurance that the fence and gates located in the site's Isabella Lane front yard setback would be constructed and maintained in the location and of the heights and materials as shown on these documents.

FILE NUMBER: BDA 067-035(J)

BUILDING OFFICIAL'S REPORT:

Application of Marvin Cannon, represented by Randy Daniels, for a special exception to the parking regulations at 2525 W. Mockingbird Lane. This property is more fully described as Lot 16 in City Block 2570 and is zoned MC-3 which requires parking to be provided. The applicant proposes to convert an existing warehouse to an animal shelter and clinic and provide 52 of the required 69 parking spaces which would require a special exception of 17 spaces (24.6% reduction) to the parking regulations.

LOCATION: 2525 W. Mockingbird Lane

APPLICANT: Marvin Cannon
Represented by Randy Daniels

REQUEST:

- A special exception to the off-street parking regulations of 17 spaces (or 24.6% of the required off-street parking) is requested in conjunction with converting approximately 30,737 square feet of "warehouse" use to 20,803 square feet of "animal shelter or clinic" use.

STAFF RECOMMENDATION:

Approval

Rationale:

- The Development Services Senior Engineer has no objection to this request.

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

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights. For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 50 percent or one space, whichever is greater, minus

the number of parking spaces currently not provided due to already existing nonconforming rights.

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

GENERAL FACTS:

- The Dallas Development Code requires the following parking requirements for the former and proposed uses on the subject site:
 - 1 space is required per 1,000 square feet of floor area up to 20,000 square feet and 1 space per 4,000 square feet of floor area after 20,000 square feet for "warehouse" use.
 - 1 space is required per 300 square feet of floor area for "animal shelter or clinic" use.
- The submitted site plan indicates the applicant proposes to use 20,803 square feet of the existing structure for the animal shelter use. The existing structure has an

additional 9,934 square feet of floor area that is designated as enclosed parking area. The site plan shows the area dedicated within the portion for the animal shelter as exercise spaces, boarding and grooming, and retail and reception.

- The applicant proposes to provide 52 off-street parking spaces (or 75.4%) when 69 spaces are required based on the floor area of animal shelter use.
- The Dallas Development Code defines “animal shelter or clinic” as “a facility for the diagnosis, treatment, hospitalization, or harbouring of animals, including but not limited to dogs, cats, birds, and horses.”
- The applicant indicated with his application materials a detailed letter indicated the intended use would be harbouring dogs.
- No enlargement or addition to the existing structure on the subject site is planned in conjunction with this request. This special exception request is triggered by the applicant’s intent to transition/convert a part of an existing warehouse structure on the site from “warehouse” use on the site (which required 23 off-street parking spaces) to a “animal shelter or clinic” use (which requires 69 off-street parking spaces).

BACKGROUND INFORMATION:

Zoning:

Site: MC-3 (Multiple Commercial -3)
North: MC-3 (Multiple Commercial -3)
South: MC-3 (Multiple Commercial -3) and MU-2 (Mixed Use-2)
East: MC-3 (Multiple Commercial -3)
West: MC-3 (Multiple Commercial -3) and CS (Commercial Service)

Land Use:

The subject site is developed with vacant structure previously occupied with “warehouse” use. The surrounding area is developed with light industrial and distribution uses and retail uses.

Zoning/BDA History:

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

Timeline:

- January 2, 2007: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- January 19, 2007: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

January 22, 2007: The Board Senior Planner mailed the applicant's representative a letter containing the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the January 26th deadline to submit additional evidence for staff to factor into their analysis/recommendation;
- the February 2nd deadline to submit additional evidence to be incorporated into the Board's docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the February public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

Jan. 30, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Assistant Director of the Development Services Current Planning Division, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Interim Chief Arborist, and the Assistant City Attorney to the Board.

February 5, 2007: The Development Services Senior Engineer submitted a review comment sheet marked "no objection if certain conditions are met."

February 9, 2007 The applicant submitted a letter that was provided to the Board in the briefing requesting the case be held under advisement until March 19, 2007

February 12, 2007 The Board of Adjustment Panel C held the case under advisement until March 19, 2007

STAFF ANALYSIS:

- 75.6% percent of the required off-street parking spaces are proposed to be provided in conjunction with transitioning the use of part of an existing structure from "warehouse" use to a "animal shelter or clinic" use.
- The Board Senior Transportation Engineer submitted a review comment sheet marked "no objection if certain conditions are met." He noted that the special

exception of 24.6% is in effect only for this use and that a parking study was not provided.

- No enlargement or addition to the existing structure on the site is planned in conjunction with this request. This special exception request is triggered by the applicant's intent to transition the use within part of an existing office structure to an animal shelter use which has a higher parking requirement.
- Granting this request, subject to the condition that the special exception of 17 spaces automatically and immediately terminates if and when the proposed animal shelter or clinic use on the site is changed or discontinued, would allow the site to be used as an animal shelter or clinic.
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the proposed animal shelter does not warrant the number of off-street parking spaces required, and
 - The special exception of 17 spaces (or 24.6% of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

FILE NUMBER: BDA 067-019

BUILDING OFFICIAL'S REPORT:

Application of Richard Gussoni, represented by Ed Simons for a variance to the height regulations at 8727 Douglas Avenue. This property is more fully described as a 6.562 acre tract of land in City Block 9/5599 and is zoned R-1ac(A) which limits the height of a building to 36 feet. The applicant proposes to construct a building with a height of 43 feet which would require a variance of 7 feet.

LOCATION: 8727 Douglas Avenue

APPLICANT: Richard Gussoni
Represented by Ed Simons

REQUEST:

- An application has been made for a variance to the height regulations of 7 feet* requested in conjunction with constructing and maintaining a 2.5-level single family home that would reach 43' in height on a site that is currently developed with a 2-level home that has not been "varied" in terms of height or setback.
 - * Although the applicant's representative has not amended his application nor has the Building Inspection Development Code Specialist amended his Building Official's Report, the applicant's representative submitted a letter on March 5th stating that "our current design proposes a structure that is 40.5 feet in height" which would require a variance of 4.5 feet; and a letter on March 9th stating "The maximum height of the proposed new home being built on the property is 40.5 feet. This is a variance of 4.5 feet."

STAFF RECOMMENDATION:

Denial

Rationale:

- The subject site slopes in its middle to a creek bed, and is "L"-shaped (about 600' on the north, about 420' at the south, about 320' on the east, and about 550' on the west) and is 6.562 acres in size.
- The current features of the site (trees, creek, and flood plain) have allowed the development of a single family home that, according to DCAD has over 6,000 square feet of living space, and that appears to be two-stories in height.
- Even though a portion of the site has floodplain on it, the amount of this feature/condition relative to the whole site does not create a hardship that precludes the site from being developed with a commensurately-sized house that complies

with the height regulations and all other development standards including setback provisions.

- Even though portions of the site has many large trees, the location of these trees does not create a hardship that precludes the site from being developed with a commensurately-sized house that complies with the height regulations and all other development standards including setback provisions.
- The applicant has not substantiated how the site's restrictive area, shape and/or slope precludes the development of a new single family home that could meet the applicable development standards including the maximum 36' height provision commensurate with other developments found on other similarly-zoned R-1ac(A) lots.

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 ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that 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 must be necessary to permit development of a specific parcel of land which 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 in districts with the same zoning classification. A variance may 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 a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

GENERAL FACTS:

- The maximum height for a structure in the R-1ac (A) zoning district is 36 feet. The applicant has submitted elevations indicating a proposed single family structure that, according the Building Official's report and application, would reach 43' in height. (The applicant's representative submitted letters on March 5th and 9th, and revised elevations on March 6th that, according to the applicant's representative, creates a variance need of 4.5' since the proposed home would reach 40.5' in height – see Attachments B, C, and E).
- "Height" is defined in the Dallas Development Code as "the vertical distance measured from grade to:
 - A) for a structure with a gable, hip, or gambrel roof, the midpoint of the vertical dimension between the lowest eaves and the highest ridge of the structure;
 - B) for a structure with a dome roof, the midpoint of the vertical dimension of the dome; and
 - C) for any other structure, the highest point of the structure.

- According to calculations taken from the submitted site plan by the Board Administrator, the proposed single family home has a building footprint of about 8,400 square feet (140' x 60').
- According to dimensions taken from the originally submitted elevations by the Board Administrator, portions of roof of the home exceed the maximum 36' height limit.
- A site plan has been submitted with contour lines. This plan indicates that the site is about 625' in width at its widest point from Chatham Hill Road on the south to the site's property line on the north. The application states that a creek runs through the site which is substantiated by contour lines on the site plan. The site elevation begins on the south at 583' and declines over a length of about 210' to the middle of the site where a creek bed that divides the site at an elevation of 548'. The site then inclines from the creek bed over about a length of about 210' back to northern edge of the site at an elevation of 563'.
- The site is "L"-shaped (about 600' on the north, about 420' at the south, about 320' on the east, and about 550' on the west). Part of the site is located in a floodplain. (As a result, construction of the home on the site would require a fill permit according to the City's Program Manager of Storm Water Management). There are also portions of the site with mature trees. The site is 6.562 acres in area. The site is zoned R-1ac (A) where lots are typically 1 acre in area.
- DCAD records indicate that the site is developed with the following:
 - a single family home in fair condition built in 1939 with 6,342 square feet of living space;
 - a 510 square foot cabana;
 - a 996 square foot attached garage;
 - a pool;
 - a 560 square foot detached servants quarters;
 - a 400 square foot basement; and
 - a 337 square foot storage building.
- On March 5, 2007, the applicant's representative submitted information beyond what was submitted with the original application and discussed at the March 5th staff review team meeting (see Attachment B). This information included a letter to the board that provided additional details about the request.
- On March 6, the applicant's representative submitted a revised elevation and site plan (see Attachment C), and a copy of the Slaughter Branch Floodplain Information Study dated February 2007 that the applicant's representative requested be placed in the case file and not forwarded to the board members. (Copies of this study will be available for review upon request at the briefing/public hearing).
- On March 9, 2007, the applicant's representative submitted information beyond what was submitted with the original application and discussed at the March 5th staff review team meeting (see Attachment E). This information included the following:
 - a letter to the board that provided additional details about the request;
 - a zoning map of the site and surrounding area;
 - aerials of the site and surrounding area;
 - photos of the site and surrounding area; and
 - a site plan that denotes required setbacks.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA 056-201, 8727 Douglas Avenue (the subject site) On October 16, 2006, the Board of Adjustment Panel C denied a request for a variance to the height regulations of 7 feet without prejudice. The case report stated that the request was made to construct and maintain a 3-level single family home that would reach 43' in height

Timeline:

- Nov. 30, 2006: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- Jan. 19, 2007: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."
- Jan. 19, 2007: The Board Administrator contacted the applicant's representative and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;

- the January 26th deadline to submit additional evidence for staff to factor into their analysis/recommendation;
- the February 2nd deadline to submit additional evidence to be incorporated into the Board's docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the February public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

Jan. 22, 2007: The Board Administrator emailed the Program Manager in the City's Stormwater/Flood Plain Management Division specifically enquiring as to whether or not any portion of the subject site fell within a flood plain. The manager responded and the Board Administrator procured a map that indicated that part of the site is in floodplain (See Attachment A).

Jan. 30, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Assistant Director of the Development Services Current Planning Division, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Interim Chief Arborist, and the Assistant City Attorney to the Board.

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

Jan. 31, 2007: The applicant's representative requested that this request be postponed from Panel C's February 12th hearing to their March 19th hearing.

March 5, 2007: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, Development Services Senior Engineers, the Building Inspection Development Code Specialist, the Interim Chief Arborist, and the Assistant City Attorney to the Board.

The District Manager of Code Compliance submitted a Review Comment Sheet marked "Has no objections."

- March 5, 2007: The applicant's representative submitted additional information immediately following the staff review team meeting (see Attachment B).
- March 6, 2007: The applicant's representative submitted additional information the day following the staff review team meeting (see Attachment C).
- March 6, 2007: The Board Administrator emailed the applicant's representative questions/concerns about the request and the submitted information (see Attachment D).
- March 9, 2007: The applicant's representative submitted additional information that was not factored into the staff recommendation since it was submitted past the staff review team meeting (see Attachment E).

STAFF ANALYSIS:

- A site plan has been submitted with contour lines. This plan indicates that the site is about 625' in width at its widest point from Chatham Hill Road on the south to the site's property line on the north. The application states that a creek runs through the site which is substantiated by contour lines on the site plan. The site elevation begins on the south at 583' and declines over a length of about 210' to the middle of the site where a creek bed that divides the site at an elevation of 548'. The site then inclines from the creek bed over about a length of about 210' back to northern edge of the site at an elevation of 563'.
- The site is "L"-shaped (about 600' on the north, about 420' at the south, about 320' on the east, and about 550' on the west). According to the application, the site is 6.562 acres in area. The site is zoned R-1ac (A) where lots are typically 1 acre in area. The Program Manager of City's Storm Water/Flood Plain Management has indicated that a portion of the subject site has flood plain on it that will require a fill permit. A map from the Flood Plain Management and Storm Drainage Study of Browning Branch and Slaughter Branch denotes the amount of the subject site that has flood plain on it. The program manager has commented that the owner of the subject site will be required to obtain a fill permit in order to construct the house on the site in its proposed location with related costs to bring the site in compliance with flood plain regulations at around \$30,000.00 - \$40,000.00 – a cost that would most likely not be a significant financial burden in developing a house of the magnitude as proposed on the subject site. A site plan has been submitted that denotes the location of a number of trees on portions of the subject site.
- The submitted elevation shows that part of the roof of the proposed 2.5 level single family home would exceed the maximum 36' height limit.
- Although the applicant's representative has submitted letters and a revised elevation that indicates a variance need of 4.5 feet to erect a 40.5 foot high home, neither the application nor the Building Official's Report on this case has been amended from a variance of 7 feet to erect a 43 foot high home.
- The applicant has the burden of proof in establishing the following related to the front yard variance request:
 - That granting the variance to the height regulations of either 7' or 4.5' requested to construct and maintain a 2.5-level single family home 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 the height regulations is necessary to permit development of the subject site (a site with areas of floodplain on it; a site with areas of mature trees on it; and a site that is irregular in shape but over 6 acres in area in a zoning district where lots are typically one acre in area) 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-1ac (A) zoning classification.
- The variance to the height 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 not permitted by this chapter to other parcels of land in districts with the same R-1ac (A) zoning classification.
- If the Board were to grant the variance to the height regulations of either 7' or 4.5', imposing a condition whereby the applicant must comply with the submitted revised site plan and revised elevation, the amount of the structure that would be permitted to encroach above the 36' maximum height would be limited to that what is shown on these documents.