

ZONING BOARD OF ADJUSTMENT, PANEL C
MONDAY, APRIL 15, 2013
AGENDA

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

David Cossum, Assistant Director
Steve Long, Board Administrator

MISCELLANEOUS ITEM

Approval of the Monday, March 18, 2013 Board of Adjustment Public Hearing Minutes	M1
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UNCONTESTED CASE

BDA 123-031	3409 Spring Avenue REQUEST: Application of Robin Wilkins, represented by Audra Buckley, for a special exception to restore a nonconforming use	1
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HOLDOVER CASES

BDA 112-103	2800 Prichard Lane REQUEST: Application of Donna Woods, represented by Mark A. Mosley, for a special exception to the tree preservation regulations	2
BDA 123-026	6422 Sondra Drive REQUEST: Application of Grayson Wafford a special exception to the fence height regulations	3

REGULAR CASE

BDA 123-036

5806 W. Lovers Lane

4

REQUEST: Application of Ed Simons for variances to the front yard setback and off-street parking regulations, and special exceptions to the landscape and off-street parking 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]

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel C March 18, 2013 public hearing minutes.

FILE NUMBER: BDA 123-031

BUILDING OFFICIAL'S REPORT: Application of Robin Wilkins, represented by Audra Buckley, to restore a nonconforming use at 3409 Spring Avenue. This property is more fully described as Lot 10, Block 5/1789 and is zoned PD-595 (CC), which limits the legal uses in the zoning district. The applicant proposes to restore a nonconforming multifamily residential use, which will require a special exception to the nonconforming use regulations.

LOCATION: 3409 Spring Avenue

APPLICANT: Robin Wilkins
Represented by Audra Buckley

REQUEST:

- A special exception to reinstate nonconforming use rights is requested in conjunction with obtaining a Certificate of Occupancy (CO) for a "multifamily" use on the subject site even though this nonconforming use was discontinued for a period of six months or more.

STANDARD FOR A SPECIAL EXCEPTION TO OPERATE A NONCONFORMING USE IF THAT USE IS DISCONTINUED FOR SIX MONTHS OR MORE: The Dallas Development Code states that the Board may grant a special exception to operate a nonconforming use that has been discontinued for six months or more if the owner can show that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to operate a nonconforming use if that use is discontinued for six months or more since the basis for this type of appeal is based on whether the board determines that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 595(CC) (Planned Development, Community Commercial)
North: PD No. 595(CC) (Planned Development, Community Commercial)
South: PD No. 595(R-5(A)) (Planned Development, Single family 5,000 square feet)

East: PD No. 595(R-5(A)) (Planned Development, Single family 5,000 square feet)
West: PD No. 595(R-5(A)) (Planned Development, Single family 5,000 square feet)

Land Use:

The subject site is developed with what appears to be a multifamily structure that is vacant. The area to the north is developed with retail uses; and the areas to the 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:

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

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

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

- an attachment that provided the public hearing date and panel that will consider the application; the March 27th deadline to submit additional evidence for staff to factor into their analysis; and the April 5th 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;
- the section from the Dallas Development Code pertaining to nonconforming uses and structures; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

April 2, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

GENERAL FACTS/STAFF ANALYSIS:

- This special exception request is made to restore nonconforming use rights (and obtain a Certificate of Occupancy) for a nonconforming “multifamily” use that has been discontinued for six months or more.

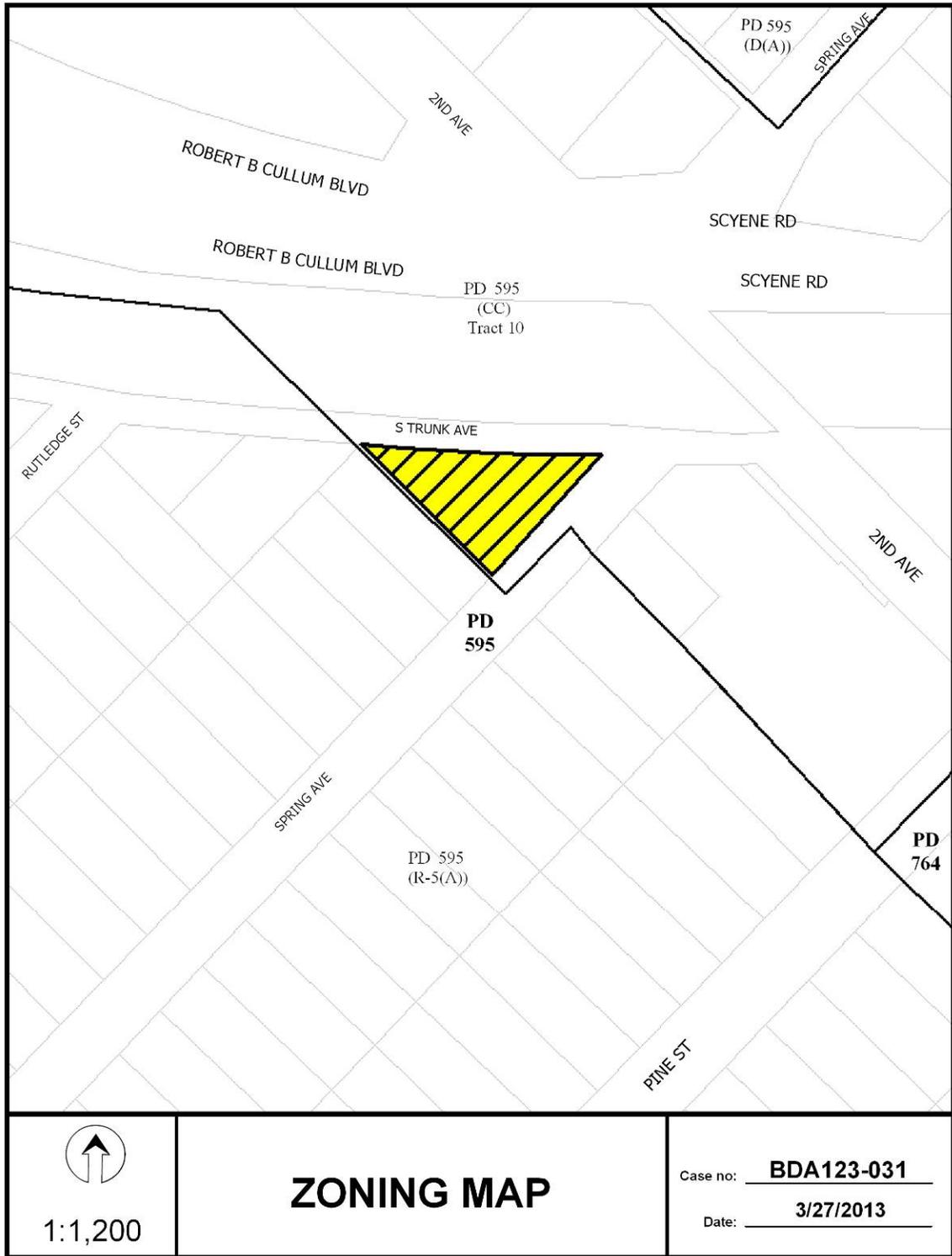
- The Dallas Development Code defines “nonconforming use” as “a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time.

The nonconforming use regulations state it is the declared purpose of the nonconforming use section of the code that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

The nonconforming use regulations also states that the right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more, and that the board of adjustment may grant a special exception to operate a nonconforming use that has been discontinued for six months or more if the owner can show that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

- The subject site is zoned PD No. 595 (CC) – a zoning district that does not permit a multifamily use.
- According to information from Dallas Central Appraisal District (DCAD), the “improvements” at 3409 Spring Avenue is developed with an “apartment” with 3,264 square feet built in 1961.
- Building Inspection has stated that these types of special exception request originate from when an owner/officer related to the property apply for a CO and Building Inspection sees that the use is a nonconforming use. Before a CO can be issued, the City requires the owner/officer related to the property to submit affidavits stating that the use was not abandoned for any period in excess of 6 months since the issuance of the last valid CO. The owners/officers must submit documents and records indicating continuous uninterrupted use of the nonconforming use, which in this case, they could not.
- If the Board were to grant this request, the nonconforming “multifamily” use on the site would be subject to the possibility of an application that may be brought to the Board of Adjustment requesting that the board establish a compliance date as is the case with any other nonconforming use in the city.
- The multifamily use can obtain “conforming use” status with a change in zoning.
- The owner could develop the site with any use that is permitted by right in the site’s existing PD No. 595 (CC)(Community Commercial) zoning classification.
- A document has been included in the case file that states the following:
 1. The nonconforming use to be reinstated: 5 multifamily dwelling units.

2. Reason the use is classified as nonconforming: Change is zoning from M-1 to PD 595.
 3. Date that the use became nonconforming: September 2001
 4. Date the nonconforming use was discontinued: February 2010
 5. Current zoning of the property on which the use is located: PD 595 (Sub CC)).
 6. Previous zoning of the property on which the use is located: M-1
- Copies of what appear to be Certificates of Occupancies for the properties at 3407, 3409, and 3411 Spring Avenue Avenue were submitted as part of the case file.
 - The applicant has the burden of proof in establishing the following related to the special exception request:
 - There was a clear intent not to abandon the nonconforming “multifamily” use on the subject site even though the use was discontinued for six months or more.
 - Granting this request would reinstate/restore the nonconforming multifamily use rights that were lost when the use was abandoned for a period of six months or more.
 - If restored/reinstated, the nonconforming use would be subject to compliance with use regulations of the Dallas Development Code by the Board of Adjustment as any other nonconforming use in the city. (The applicant’s representative has been advised by staff of Section 51A-4.704 which is the provision in the Dallas Development Code pertaining to “Nonconforming Uses and Structures”).

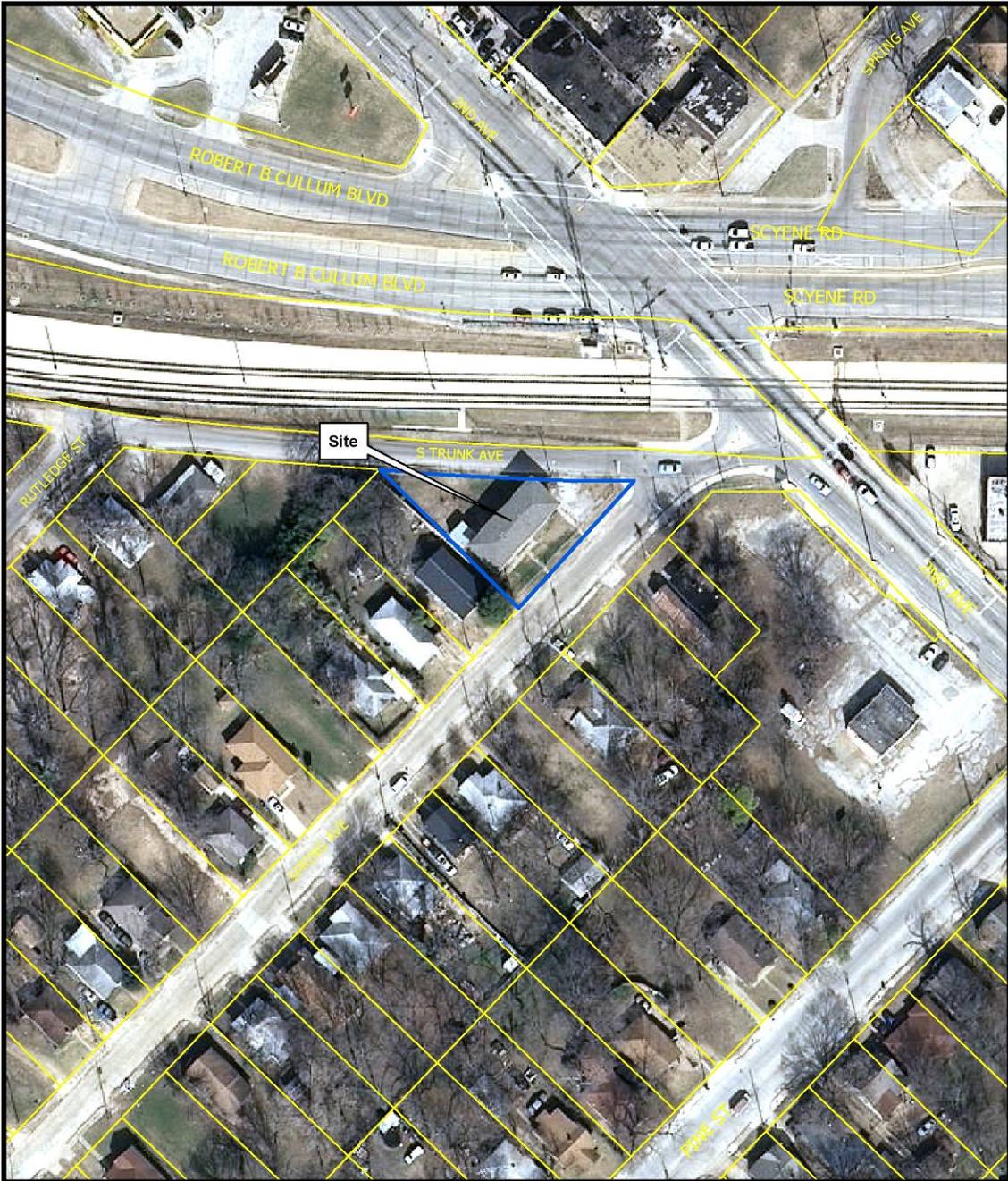


1:1,200

ZONING MAP

Case no: BDA123-031

Date: 3/27/2013



1:1,200

AERIAL MAP

Case no: BDA123-031

Date: 3/27/2013



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-031

Date: January 25, 2013

Data Relative to Subject Property:

Location address: 3409 Spring Avenue Zoning District: PD 595/CC

Lot No.: 10 Block No.: 5/1789 Acreage: .227 Census Tract: 0037.00

Street Frontage (in Feet): 1) 195.7 2) 131.7 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Onyx Holdings, LLC

Applicant: Robin Wilkins Telephone: 972-977-3455

Mailing Address: P.O. Box 2610154 Plano Zip Code: 75026

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

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

Affirm that a request has been made for a Variance __, or Special Exception X, of _____
To reinstate nonconforming use rights is requested in conjunction with obtaining a Certificate of Occupancy
for a "multi-family" use on the subject site even though this nonconforming use was discontinued
for a period of six months or more.

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

Please see attached statement of request.

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

Respectfully submitted: Robin Wilkins
Applicant's name printed

[Signature]
Applicant's signature

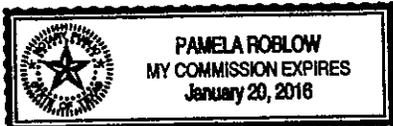
Affidavit

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

[Signature]
Affiant (Applicant's signature)

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

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



(Rev. 08-20-09)

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

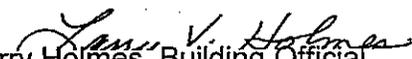
Chairman

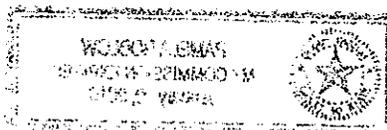
Building Official's Report

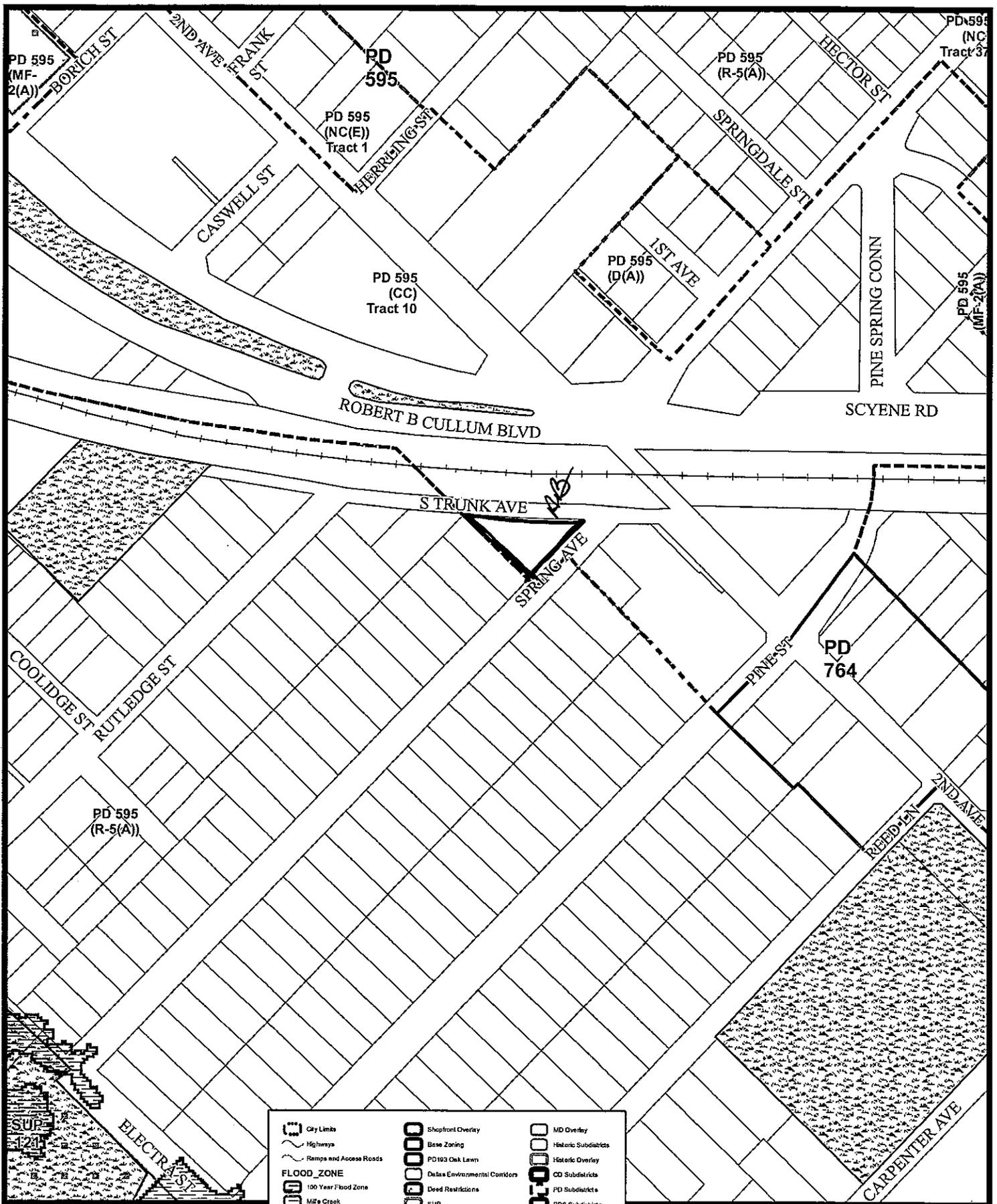
I hereby certify that Robins Wilkins
represented by AUDRA BUCKLEY
did submit a request to restore a nonconforming use
at 3409 Spring Avenue

BDA123-031. Application of Robin Wilkins represented by Audra Buckley to restore a nonconforming use at 3409 Spring Avenue. This property is more fully described as Lot 10, Block 5/1789 and is zoned PD-595 (CC), which limits the legal uses in the zoning district. The applicant proposes to restore a nonconforming multifamily residential use, which will require a special exception to the nonconforming use regulation.

Sincerely,


Larry Holmes, Building Official



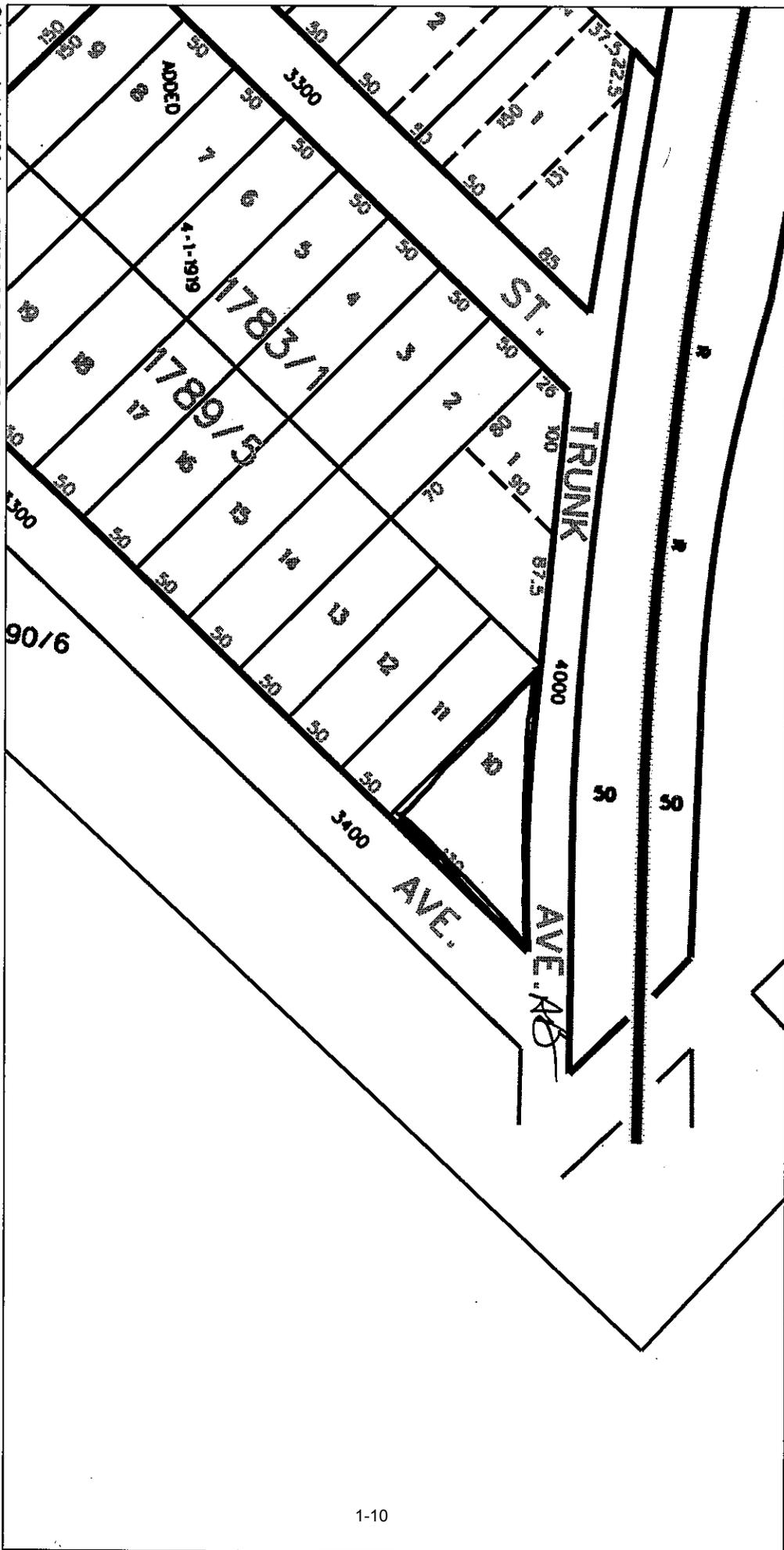



 1:2,400

	City Limits		Shopfront Overlay		MD Overlay
	Highways		Base Zoning		Historic Subdistricts
	Ramps and Access Roads		PD 193 Oak Lawn		Historic Overlay
	FLOOD_ZONE		Delta Environmental Corridor		CD Subdistricts
	100 Year Flood Zone		Deed Restrictions		PD Subdistricts
	Mize Creek		SUP		PDS Subdistricts
	Ponk's Branch		D		NSD Subdistricts
	X PROTECTED BY LEVEE		D-1		NSO Overlay
	Paika		CP		Escarpment Overlay
	Height Map Overlay		SP		
	Parking Management Overlay				

Case ID:
 Printed: 1/31/2013

C:\tax_plats\1783.dgn 2/7/2013 2:35:35 PM





City of Dallas

Zoning Board of Adjustment

Appeal to establish a compliance date for a nonconforming use.
Sec. 51A-4.704(a)(1)(A)

or

Appeal to reinstate a nonconforming use. Sec. 51A-4.704(a)(2)

SEC. 51A-4.704. NONCONFORMING USES AND STRUCTURES.

(a) Compliance regulations for nonconforming uses. It is the declared purpose of this subsection that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

(1) Amortization of nonconforming uses.

(A) Request to establish compliance date. The city council may request that the board of adjustment consider establishing a compliance date for a nonconforming use. In addition, any person who resides or owns real property in the city may request that the board consider establishing a compliance date for a nonconforming use. Upon receiving such a request, the board shall hold a public hearing to determine whether continued operation of the nonconforming use will have an adverse effect on nearby properties. If, based on the evidence presented at the public hearing, the board determines that continued operation of the use will have an adverse effect on nearby properties, it shall proceed to establish a compliance date for the nonconforming use; otherwise, it shall not.

(2) The right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more. The board may grant a special exception to this provision only if the owner can show that there was a clear intent not to abandon the use even though the use was discontinued for six months or more.

Property address: 3409 Spring Avenue

1. The nonconforming use being appealed/reinstated: 5 Multi-Family Units
(The use as stated on the current valid Certificate of Occupancy. Copy of C.O. attached)

2. Reason the use is classified as nonconforming: Change in zoning from M-1 to PD 595 C
(Was there a change in zoning of the property or in the use requirements. Be specific.)

3. Date that the nonconforming use became nonconforming: September 2001
(Date the property zoning or use requirements changed.)

4. Date the nonconforming use was discontinued: Fall 2010

5. Current zoning of the property on which the use is located: PD 595 Sub CC

6. Previous zoning of the property on which the use is located: M-1
(Applies if a zoning district change caused the use to become nonconforming.)

(Rev. 10/04/11)

ADDRESS 3407-09-11 Spring Ave. ZONING M-1

CO-Lic. _____ Date 6-8-61 To Henry Thompson

DBA _____ Use 3 unit apt, Barber & Beauty Shop

Remarks Zoning old for 2 story - 7 units up - 6 units, Barber &

CO-Lic. _____ Date 6-20-61 To Beauty Shop down

DBA _____ Use 5 unit apt Barber & Beauty Shop

Remarks Zoning old for 3 unit apt - 2 units, Barber & Beauty

CO-Lic. _____ Date _____ To shop down on a revised

DBA _____ Use smaller plan.

Remarks _____

CO-Lic. _____ Date _____ To _____

DBA _____ Use _____

Remarks _____

Address 3411 Spring Ave

Block 5-1789 Lot _____ Type Construction _____

Sq Ft _____ Fire Zone _____ District 26 Zoning I-2
SOUTH

Occupancy R Use Barber Shop

Name _____ Owner Walter E. ...

Date Issued 1-6-69 CO-Lic 31429 Date Vacated _____

Remarks _____

Occupancy _____ Use _____

Name _____ Owner _____

Date Issued _____ CO-Lic _____ Date Vacated _____

Remarks _____

Reason for the Request

LAND USE:

The subject site is developed with a 2-story, 3300 sq. ft. multi-family use with surface parking. The areas adjoining the site on two of three sides are City of Dallas right-of-way with the remainder being R-5 single-family.

Zoning:

Site and Surrounding Zoning: PD 595, Subdistrict CC.

Property does not lie within any flood zone.

GENERAL FACTS:

- The Dallas Development Code defines “nonconforming use” as “a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time.
- The subject site is zoned PD 595, Subdistrict CC – a zoning district that does not permit any residential use. Multi-family is not permitted as a stand-alone or as part of a mixed use development.
- Previous use was multi-family with a barber shop and beauty shop as accessory uses under zoning M-1, according to central files. The two accessory uses were later converted to efficiency apartments in the early 1980’s, according to the previous owners, bringing the total number of units from five to seven. There are no city records on file that document this change.
- This site has been in existence since 1961.
- The applicant has recently renovated the interior of the existing building for the residential use and plans further renovations upon approval. No other improvements have been made on the property.
- As approved, there were 8 parking spaces utilized to meet the parking requirements for a multi-family use with two accessory uses.
- The owner of the site could develop the site with any use that is permitted in the site’s existing CC zoning district if the site was completely redeveloped.
- Date the nonconforming use was discontinued: Fall 2010.
- Granting this request would restore the “multi-family” use as legal nonconforming use but not as a legal conforming use.

2/5/2013

THE REQUEST:

A special exception to reinstate nonconforming use rights is requested in conjunction with obtaining a Certificate of Occupancy (CO) for a "multi-family" use on the subject site even though this nonconforming use was discontinued for a period of six months or more. The original CO was issued for five multi-family units and this request seeks to restore those five units.

Applicant purchased the property in December 2012 with the assumption the multi-family use would continue. In talking with city staff, the applicant discovered they had purchased a non-conforming use and that approval of this request would be required.

The previous owners had invested money in the property in 2010 for renovations to the units (cosmetic) and had attempted to obtain a certificate of occupancy for an accessory daycare in 2011 on the first floor leaving the upper units intact but the contract with that tenant fell through. Additionally, the entire building could not be converted to a daycare due to the lack of parking on the site. It appears, due to some internal conflicts within their partnership, the property was placed on the market in 2011, according to the most recent MLS listing. It was and has been advertised as multi-family. There was never any intention of abandoning the multi-family use.

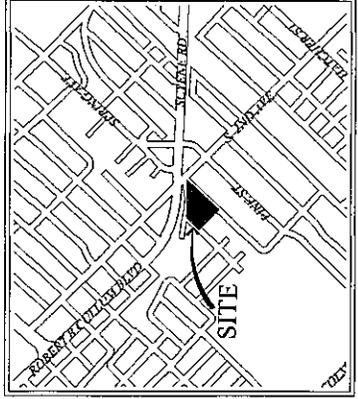
The site is surrounded by residential. If there were conforming commercial use adjacencies that could provide parking to the subject site via shared or remote parking agreement, it would be easier to convert the site to commercial. However, that is not the case. Additionally, due to the odd configuration of the lot, new construction would be difficult due to setback requirements for two front yards and one side yard.

PROJECT NUMBER
02/04/13

PERMITTED DEVELOPMENT
416 S. Ervay Street
Dallas, Texas 75201
214.688.3835
www.permitteddevelopment.com



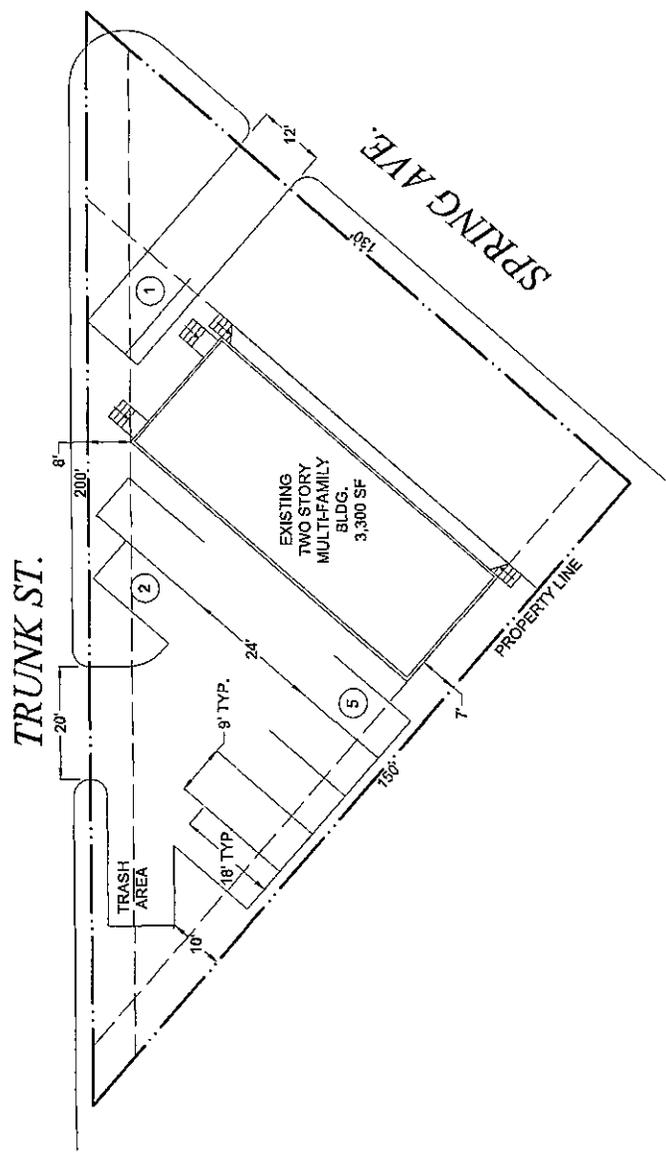
CITY OF DALLAS, TEXAS
3409 SPRING AVE.



VICINITY MAP
NTS



CURRENT ZONING: PD 595, SUB-DISTRICT CC
CURRENT USE: MULTI-FAMILY
HEIGHT: 2 STORIES
TOTAL NUM. OF UNITS: 7
TOTAL BLDG. AREA: 3,300 SF
REQ. PARKING (1 SPACE/600 SF OF DWELLING UNIT; NO LESS THAN 100R MORE THAN 2.5 SPACES PER UNIT): 7 SPACES*
PROVIDED PARKING: 8 SPACES
* PARKING SHOWN WAS PRE-APPROVED ON EXISTING SITE PLAN DATED 6/20/61



SITE PLAN
SCALE: 1" = 10'-0"

PERMITTED DEVELOPMENT
 418 S. Erway Street
 Dallas, Texas 75201
 214.686.3835
 www.permitteddevelopmentllp.com

PROJECT NUMBER
 02/04/13

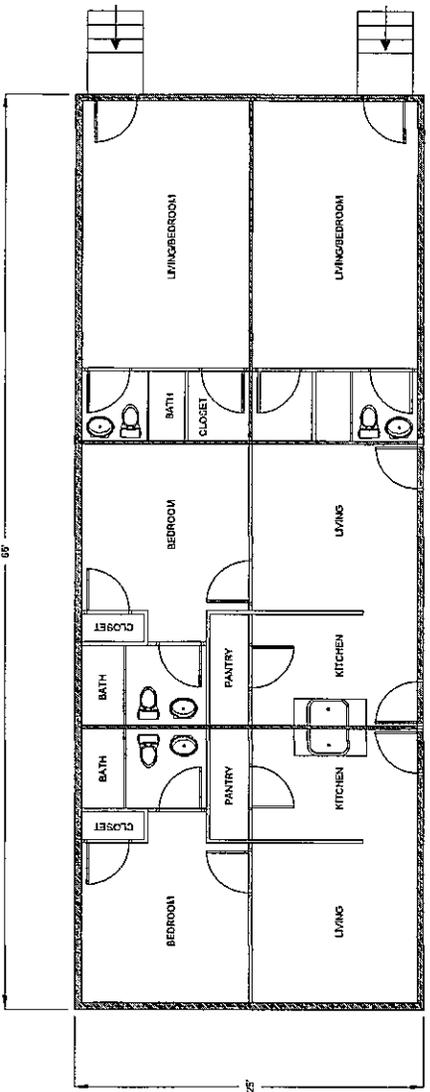


CITY OF DALLAS, TEXAS
 3409 SPRING AVE.

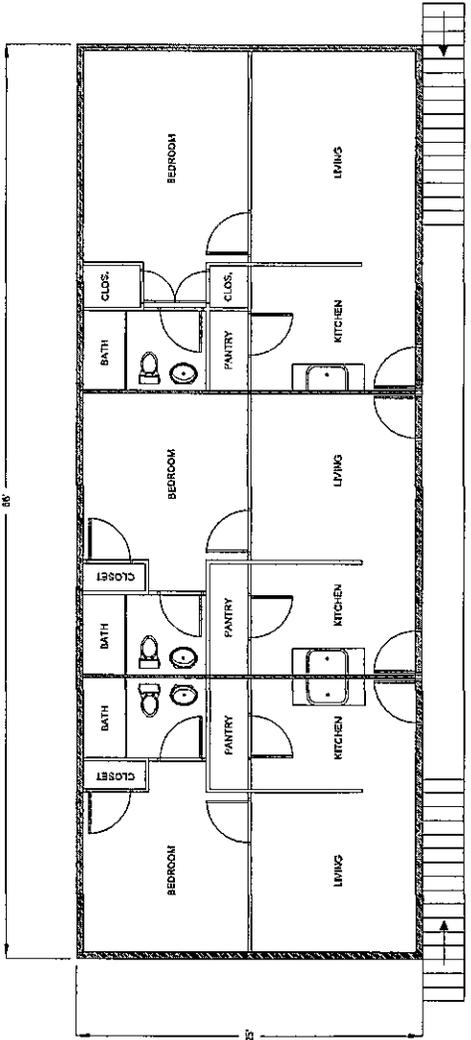
CURRENT ZONING: PD 595, SUB-DISTRICT CC
 CURRENT USE: MULTI-FAMILY
 HEIGHT: 2 STORIES
 TOTAL NUM. OF UNITS: 7
 TOTAL BLDG. AREA: 3,300 SF



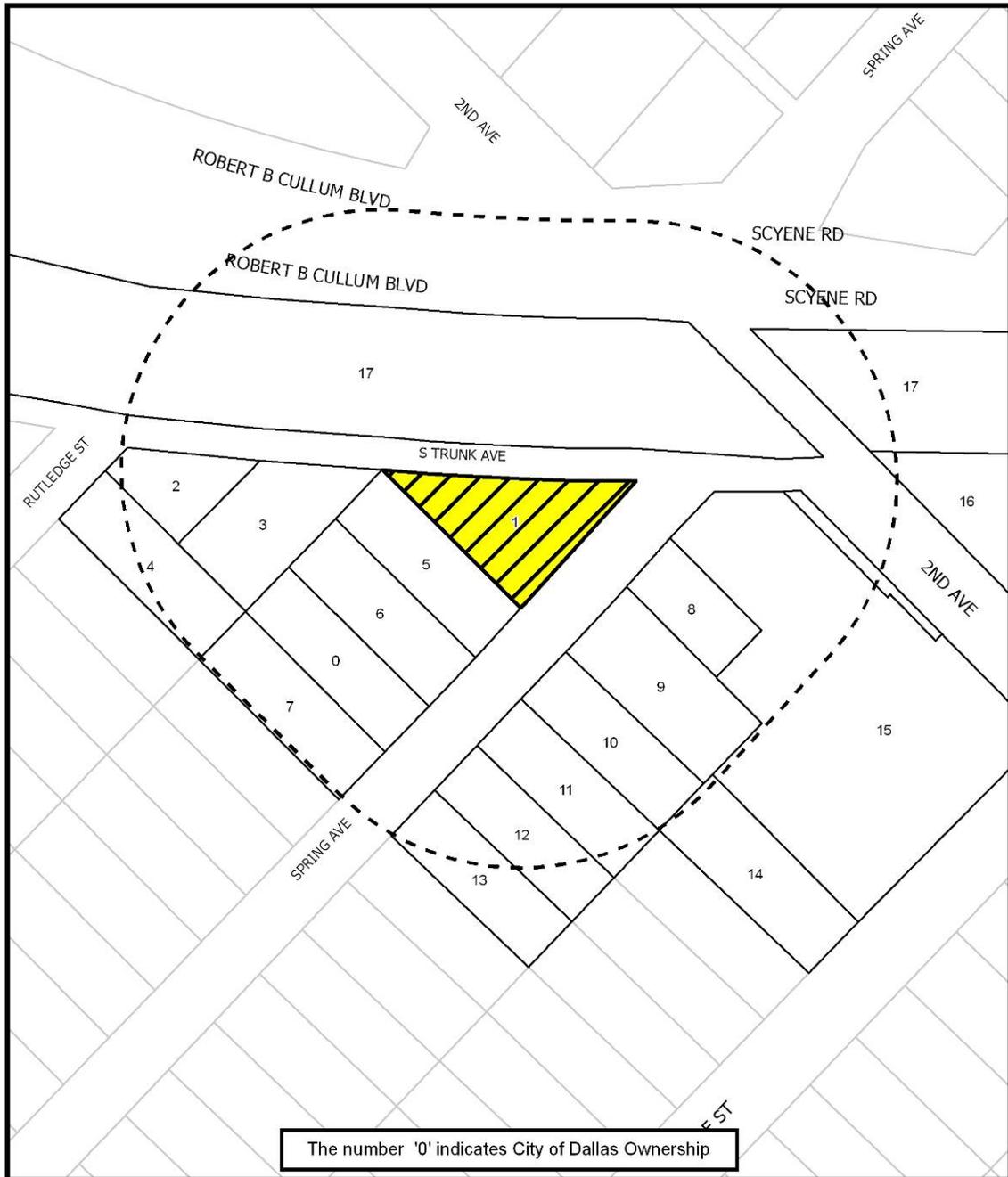
SCALE: 1/4" = 1'-00"



1 FIRST FLOOR PLAN
 SCALE: 1/4" = 1'-00"



2 SECOND FLOOR PLAN
 SCALE: 1/4" = 1'-00"



The number '0' indicates City of Dallas Ownership

 1:1,200	<h2>NOTIFICATION</h2>	Case no: BDA123-031
	<div style="display: flex; justify-content: space-between;"> <div style="border: 1px solid black; padding: 2px;">200'</div> <div>AREA OF NOTIFICATION</div> </div> <div style="display: flex; justify-content: space-between;"> <div style="border: 1px solid black; padding: 2px;">18</div> <div>NUMBER OF PROPERTY OWNERS NOTIFIED</div> </div>	Date: 3/27/2013

Notification List of Property Owners

BDA123-031

18 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3409 SPRING AVE	LOCO BOYZ
2	3332 RUTLEDGE ST	JERNIGAN HARVIE C % HATTIE MARSHALL
3	4011 TRUNK AVE	MCGEE IRENE ESTATE OF
4	3330 RUTLEDGE ST	ABOVO CORP
5	3407 SPRING AVE	VAZQUEZ FLORIBERTO R
6	3403 SPRING AVE	MCCLURKIN NARVEL
7	3331 SPRING AVE	STEIN BERNARD A
8	3414 SPRING AVE	TRIGG EARL L & ELLEN
9	3408 SPRING AVE	SCOLNIC SYLVIA
10	3404 SPRING AVE	GODS CHURCH IN CHRIST
11	3402 SPRING AVE	SHELTON WALTER L
12	3334 SPRING AVE	ROSE ACCEPTANCE INC
13	3330 SPRING AVE	FUENTES RAMON ROMERO MARIA LORENA ESCOBE
14	3407 PINE ST	FERGUSON WILLIE SMITH
15	4119 2ND AVE	WALKER MARK E
16	4150 2ND AVE	WALKER AUTO BODY & FRAME %MARK E WALKER
17	401 BUCKNER BLVD	DART
18	403 REUNION BLVD	DALLAS AREA RAPID TRANSIT

FILE NUMBER: BDA 112-103

BUILDING OFFICIAL'S REPORT:

Application of Donna Woods, represented by Mark A. Mosley, for a special exception to the tree preservation regulations at 2800 Prichard Lane. This property is more fully described as Tract 4 in City Block 6118 and is zoned R-7.5(A), which requires mandatory landscaping and tree mitigation. The applicant proposes to construct and/or maintain a structure and provide an alternate plan for tree mitigation which will require a special exception to the tree preservation regulations.

LOCATION: 2800 Prichard Lane

APPLICANT: Donna Woods
Represented by Mark A. Mosley

REQUEST:

A special exception to the tree preservation regulations is requested in conjunction with the removal of trees on a site developed as a private school (Nova Academy), and not fully complying with the Chapter X: Tree Preservation Regulations of the Dallas Development Code.

STANDARD FOR A SPECIAL EXCEPTION TO THE TREE PRESERVATION REGULATIONS:

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

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

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

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

STAFF RECOMMENDATION:

Denial

Rationale:

- The applicant has not substantiated:
 - how strict compliance with the requirements of the Tree Preservation Regulations of the Dallas Development Code will unreasonably burden the use of the property; and
 - that the special exception will not adversely affect neighboring property.
- The City’s Chief Arborist recommends denial of the request.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u> Permit)	R-7.5(A)(SUP 1805) (Single family residential 7,500 square feet, Specific Use
<u>North:</u>	R-7.5(A) (Single family residential 7,500 square feet)
<u>South:</u>	R-7.5(A) (Single family residential 7,500 square feet)
<u>East:</u>	CR (Community Retail)
<u>West:</u>	R-7.5(A) (Single family residential 7,500 square feet)

Land Use:

The subject site is developed with a private school (Nova Academy). The areas to the north and west appear to be undeveloped; the area to the east is partially developed with multifamily use and partially undeveloped; and the area to the south is 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 5, 2012: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

September 12, 2012: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

September 19, 2012: 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 September 26th deadline to submit additional evidence for staff to factor into their analysis; and the October 5th 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 2, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Building Inspection Senior Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

Staff concluded at this meeting that the application must be postponed until November given that no alternate tree preservation plan had been submitted to date.

November 27, 2012: 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 Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Building Inspection Senior Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

Staff concluded at this meeting that the application must be postponed until February given that no alternate tree preservation plan had been submitted to date.

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

Staff concluded at this meeting that the application should be scheduled for February given the amount of time that had passed since the application was submitted in September of 2012.

February 6, 2013: The Board Administrator emailed the applicant's representative the following information:

- notice that his application would be scheduled for February 21st, and
- the February 8th deadline to submit additional evidence to be incorporated into the Board's docket materials.

February 8, 2013: The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment A).

February 21, 2013: The Board of Adjustment Panel C conducted a public hearing on this application. The applicant's representative provided testimony stating that his request to the Board was for a special exception to the tree preservation regulations was one where the applicant would fully comply with the tree preservation regulations with one exception: the timing in which the applicant would be required to fully mitigate. The Board held the request under advisement until April 15th.

March 1, 2013: The Board Administrator sent a letter to the applicant's representative noting the February 21st action of the Board, the March 27th deadline to submit any new information for staff review, and the April 5th deadline to submit additional evidence to be incorporated into the Board's docket materials.

April 2, 2013: At this time, no additional information had been submitted to the Board Administrator by the applicant's representative. The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

April 4, 2013: The City of Dallas Chief Arborist submitted an updated memo regarding this request (see Attachment B).

GENERAL FACTS/STAFF ANALYSIS:

- An application has for a “special exception of the Dallas Development Code Article X, Landscape and Tree Preservation Regulations through a Conservation Easement Grant” on property that is developed as a private school.
- The Dallas Development Code requires full compliance with the Tree Preservation Regulations with new construction or with increasing non-permeable coverage by more than 2,000 square feet.
- On February 8, 2013, the City of Dallas Chief Arborist had submitted a memo regarding this request to the Board Administrator prior to the February 21st hearing (see Attachment A). The memo stated among other things how the request is triggered by new construction of an educational facility and removal of 2,005 caliper inches of trees to be mitigated.
- The Chief Arborist had stated that the property is currently under an active building permit with pending inspection for tree mitigation. The tree mitigation has not yet been resolved beyond a number of trees planted for compliance with the landscape requirements.
- The Chief Arborist had noted that a conservation easement did not exist; that the applicant had proposed but not produced a final document for approval that was acceptable by the City of Dallas; that in addition, the arborist noted that the property was heavily wooded in the western and southern portions which would have had limited impact from development, and that the land area found to be suitable for a conservation easement could provide for up to a 65 percent mitigation reduction if a recorded easement was completed. But lastly the arborist noted that an easement by ordinance would not resolve all tree mitigation requirements for the property.
- The Chief Arborist had recommended denial of the request.
- On April 4, 2013, the City of Dallas Chief Arborist submitted an updated memo regarding this request to the Board Administrator (see Attachment B). The memo stated among other things how the request made to the timing requirements for completing tree mitigation and is triggered by new construction of an educational facility and removal of 2,005 caliper inches of trees to be mitigated.
- The Chief Arborist states that the property is currently under an active building permit with pending inspection for tree mitigation. The tree mitigation has not yet been resolved beyond a number of trees planted for compliance with the minimum landscape requirements.
- The Chief Arborist notes the following factors for consideration: 1) based on comments before the Board, and to him on March 28th, the applicant is requesting “the time to exercise the option(s)” to mitigate the tree removal per Article X methods of replacement. All methods of mitigation in Sections 51A-10.134 and 10.135 are currently available to the owners of the property; and 2) the mitigation requirements for protected trees removed or other disturbances have been codified in ordinance since 1994; the property was permitted for construction and tree removal in August of 2010.
- The Chief Arborist recommends denial of the request.
- The property owner can comply with tree preservation regulations by mitigating the removed trees in any of the alternative methods provided for in Article X: planting within one mile of the Property, donating trees to the Park Department, forming a

conservation easement on property within city limits, and/or paying into the Reforestation Fund.

- The applicant has the burden of proof in establishing the following:
 - Strict compliance with the requirements of the Tree Preservation Regulations of the Dallas Development Code will unreasonably burden the use of the property.
 - The special exception will not adversely affect neighboring property.

BOARD OF ADJUSTMENT ACTION: FEBRUARY 21, 2013

APPEARING IN FAVOR: Mark Mosley, 1410 Avenue G, Plano, TX

APPEARING IN OPPOSITION: No One

MOTION: **Maten**

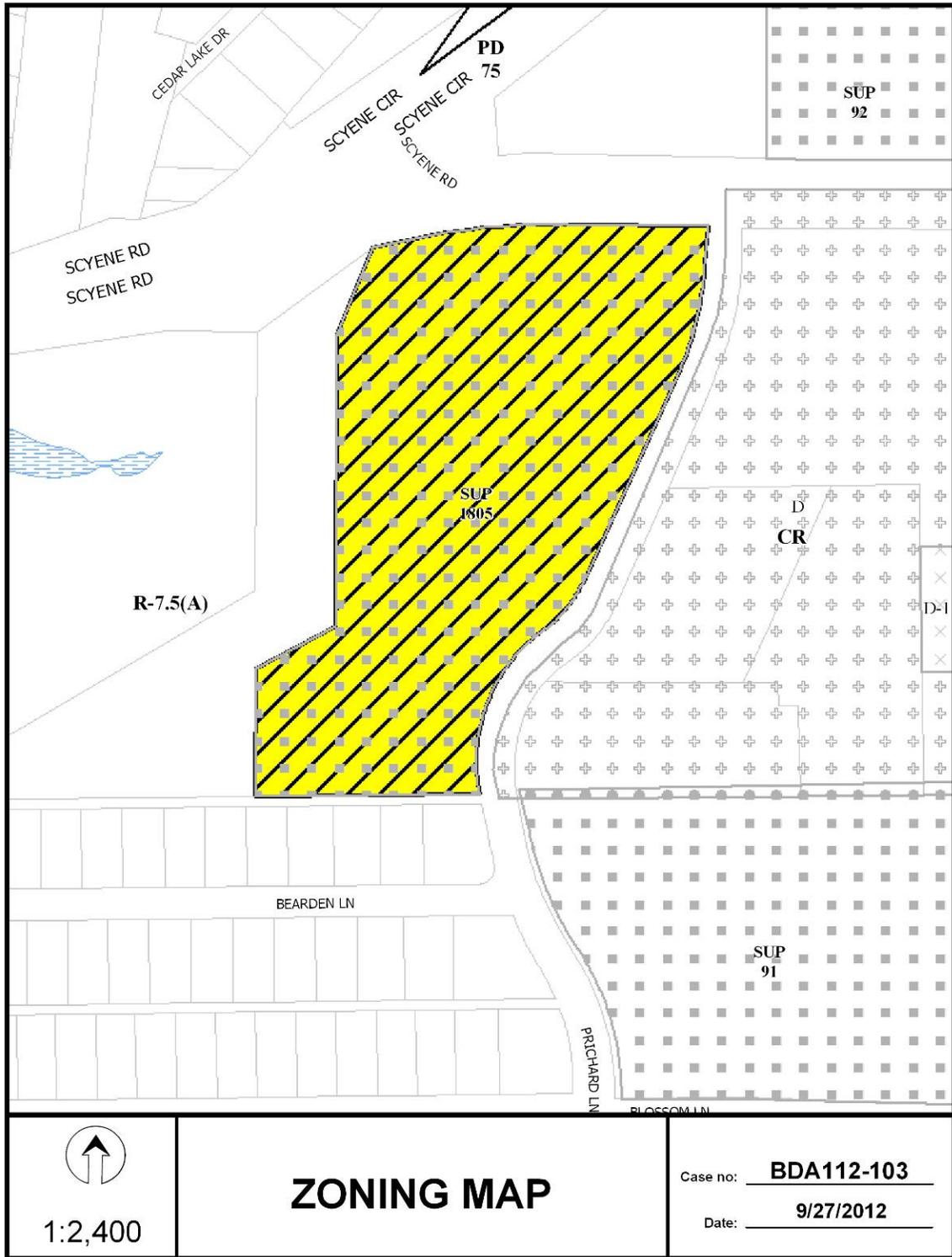
I move that the Board of Adjustment, in Appeal No. **BDA 113-103**, hold this matter under advisement until **April 15, 2013**.

SECONDED: **Coulter**

AYES: 5– Richardson, Maten, Coulter, Richard, Agnich

NAYS: 0 –

MOTION PASSED: 5– 0 (unanimously)





1:2,400

AERIAL MAP

Case no: **BDA112-103**

Date: **9/27/2012**

BDA 112-103
Attach A

Memorandum



CITY OF DALLAS

DATE February 8, 2013
TO Steve Long, Board of Adjustment Administrator
SUBJECT # BDA 112 · 103 2800 Prichard Lane

The applicant is requesting a special exception to the tree mitigation regulations of Article X of the Dallas Development Code. Specifically, the applicant is requesting a special exception "through a conservation easement grant."

Trigger

New construction of a education facility and compliance with the resulting 2,005 caliper inches of tree mitigation.

Deficiencies

The property is currently under an active building permit with pending inspection for tree mitigation. The tree mitigation has not yet been resolved beyond a limited number of trees planted for compliance with the landscape requirements.

Factors

A conservation easement does not exist. The applicant has proposed an easement but has not produced a final document for approval that is acceptable by the City of Dallas.

The property is heavily wooded in the western and southern portions, which have had limited to no impact from development. The land area has been found to be suitable for a conservation easement which could provide up to 65% mitigation reduction, per Article X, Section 51A-10.135, if a recorded easement was completed. An easement by ordinance would not resolve all tree mitigation requirements for the property.

Recommendation

Denial.

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

Memorandum



CITY OF DALLAS

DATE April 4, 2013
TO Steve Long, Board of Adjustment Administrator
SUBJECT # BDA 112 · 103 2800 Prichard Lane

The applicant is requesting a special exception to the tree mitigation regulations of Article X of the Dallas Development Code. Specifically, the applicant is requesting a special exception to the timing requirements for completing tree mitigation stated in Section 51A-10.134 of the Dallas Development Code.

Trigger

New construction of a education facility and compliance with the resulting 2,005 caliper inches of tree mitigation.

Deficiencies

The property is currently under an active building permit with pending inspection for tree mitigation. The tree mitigation has not yet been resolved beyond a limited number of trees planted for compliance with the minimum landscape requirements.

Factors

Based on comments before the Board, and to me on March 28, the applicant is requesting 'the time to exercise the option(s)' to mitigate the tree removal per Article X methods of replacement. All methods of mitigation in Sections 51A-10.134 and 10.135 are currently available to the owners of the property.

The mitigation requirements for protected trees removed for development or other disturbances have been codified in ordinance since 1994. The property was permitted for construction and tree removal in August, 2010.

Recommendation

Denial.

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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-103

Data Relative to Subject Property:

Date: 9-5-12

Location address: 2800 Prichard Ln., Dallas, TX _____ Zoning District: R7.5(A)

Lot No.: Tr. 4 Block No.: 6118 _____ Acreage: 9.724 Census Tract: 0091.01 _____

Street Frontage (in Feet): 1) 1003' 2) 548' 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Nova Charter School d/b/a Nova Academy _____

Applicant: Donna Woods _____ Telephone: (972) 808-7470 _____

Mailing Address: P.O. Box 170127, Dallas, TX _____ Zip Code: 75227 _____

Represented by: Mark A. Mosley _____ Telephone: (972) 437-4119 _____

Mailing Address: 1410 G Avenue, Suite 400, Plano, TX mark@mosleylawfirm.com Zip Code: 75074 _____

Affirm that a request has been made for a Variance __, or Special Exception X, of the Dallas Development Code Article X, Landscape and Tree Preservation Regulations through a Conservation Easement Grant.

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

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

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

Respectfully submitted: Donna Woods
Applicant's name printed

[Handwritten signature of Donna Woods]
Applicant's signature

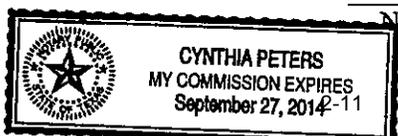
Affidavit

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

[Handwritten signature of affiant]
Affiant (Applicant's signature)

Subscribed and sworn to before me this 5th day of September, 2012

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 _____

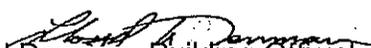
Chairman

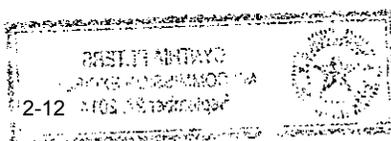
Building Official's Report

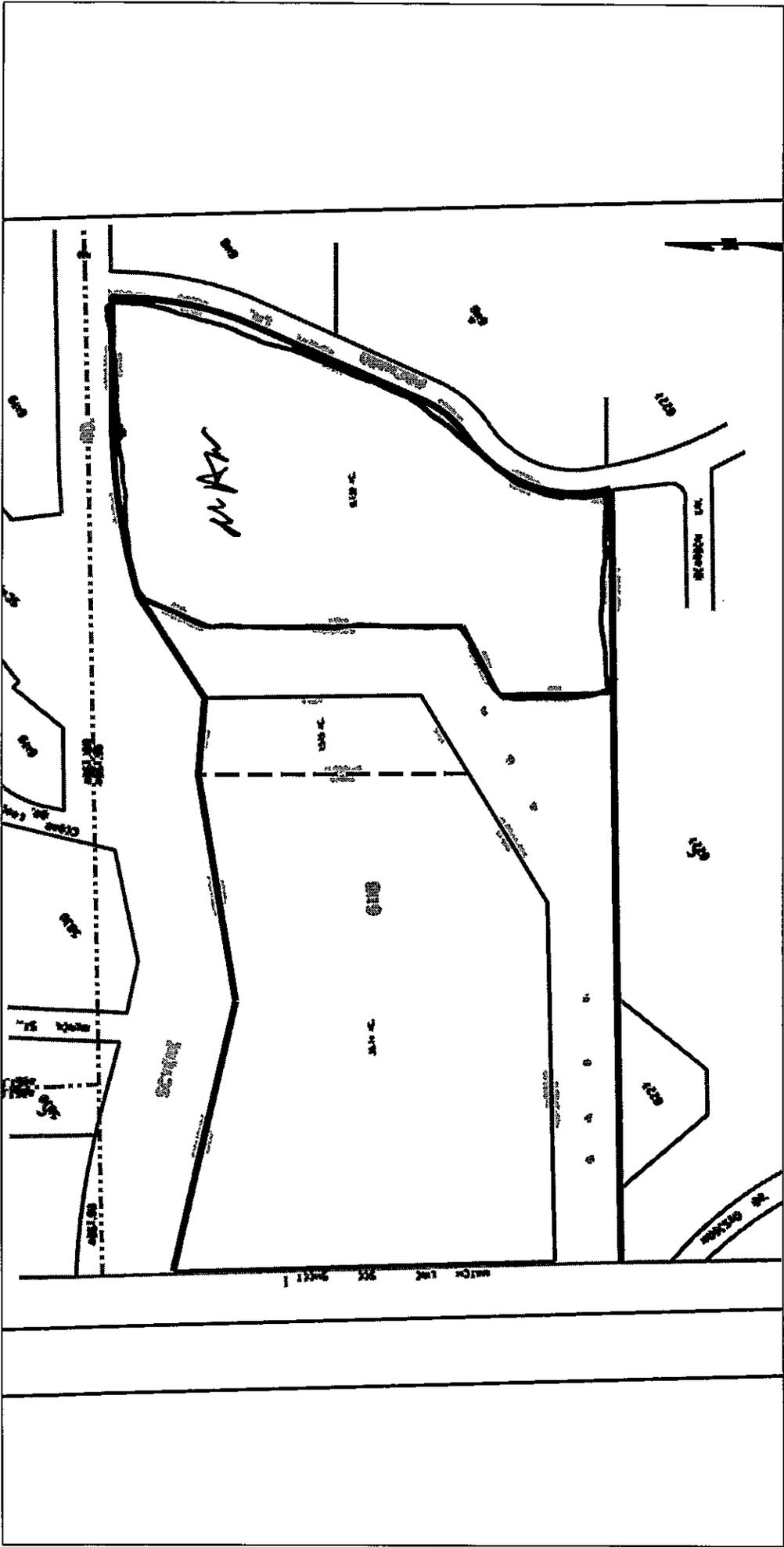
I hereby certify that Donna Woods
represented by Mark A. Mosley
did submit a request for a special exception to the landscaping regulations
at 2800 Prichard Lane

BDA112-103. Application of Donna Woods represented by Mark A. Mosley for a special exception to the landscaping and tree preservation regulations at 2800 Prichard Lane. This property is more fully described as tract 4 in city block 6118, a 9.724 acre tract of land and is zoned R-7.5(A), which requires mandatory landscaping and tree mitigation. The applicant proposes to construct and maintain a nonresidential structure and provide an alternate landscape plan for tree mitigation, which will require a special exception to the landscape and tree preservation regulations.

Sincerely,

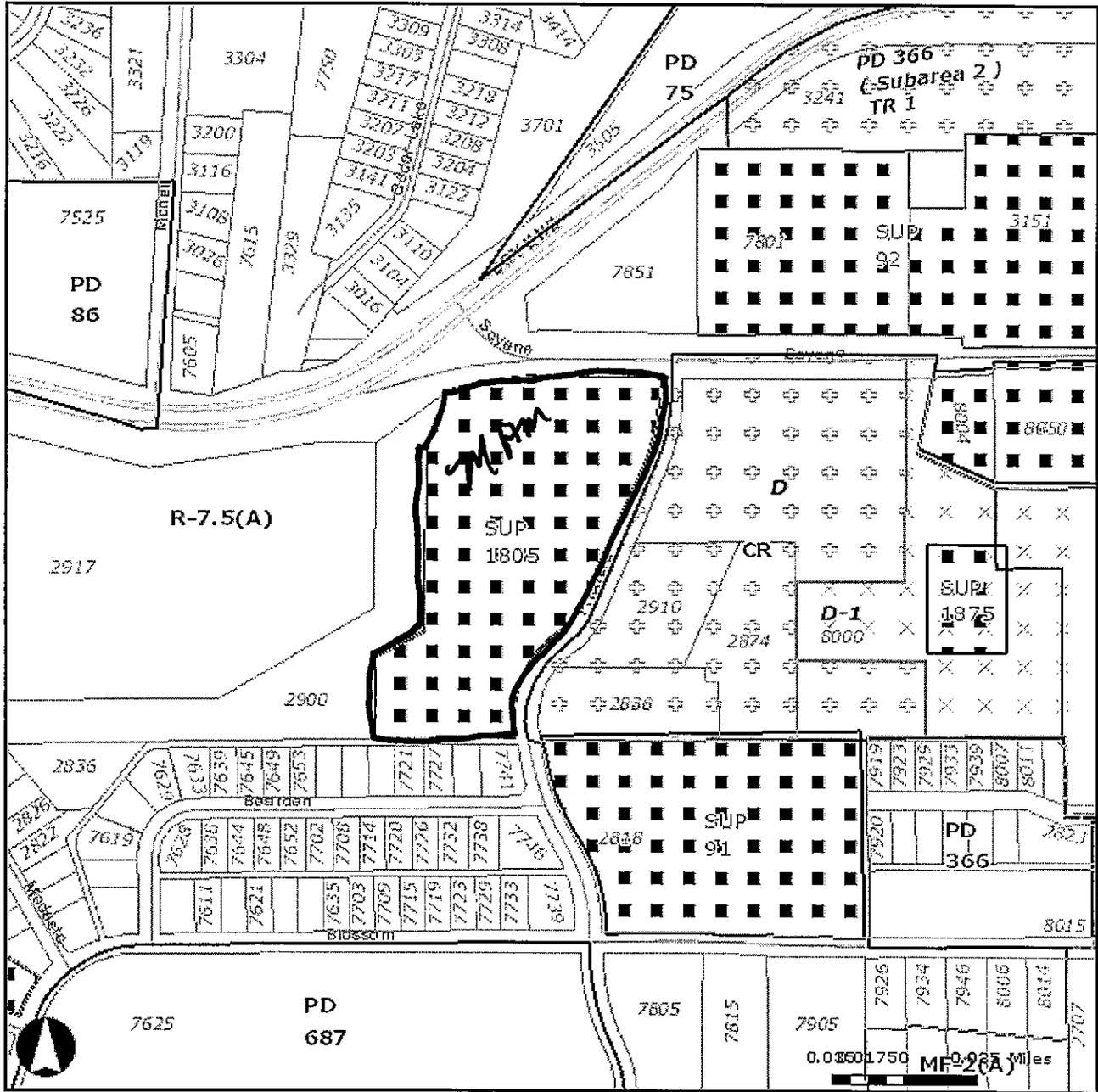

Lloyd Denman, Building Official





C:\tax_plats\6118_p2.dgn 9/5/2012 1:53:44 PM

City of Dallas Zoning



Address Candidates

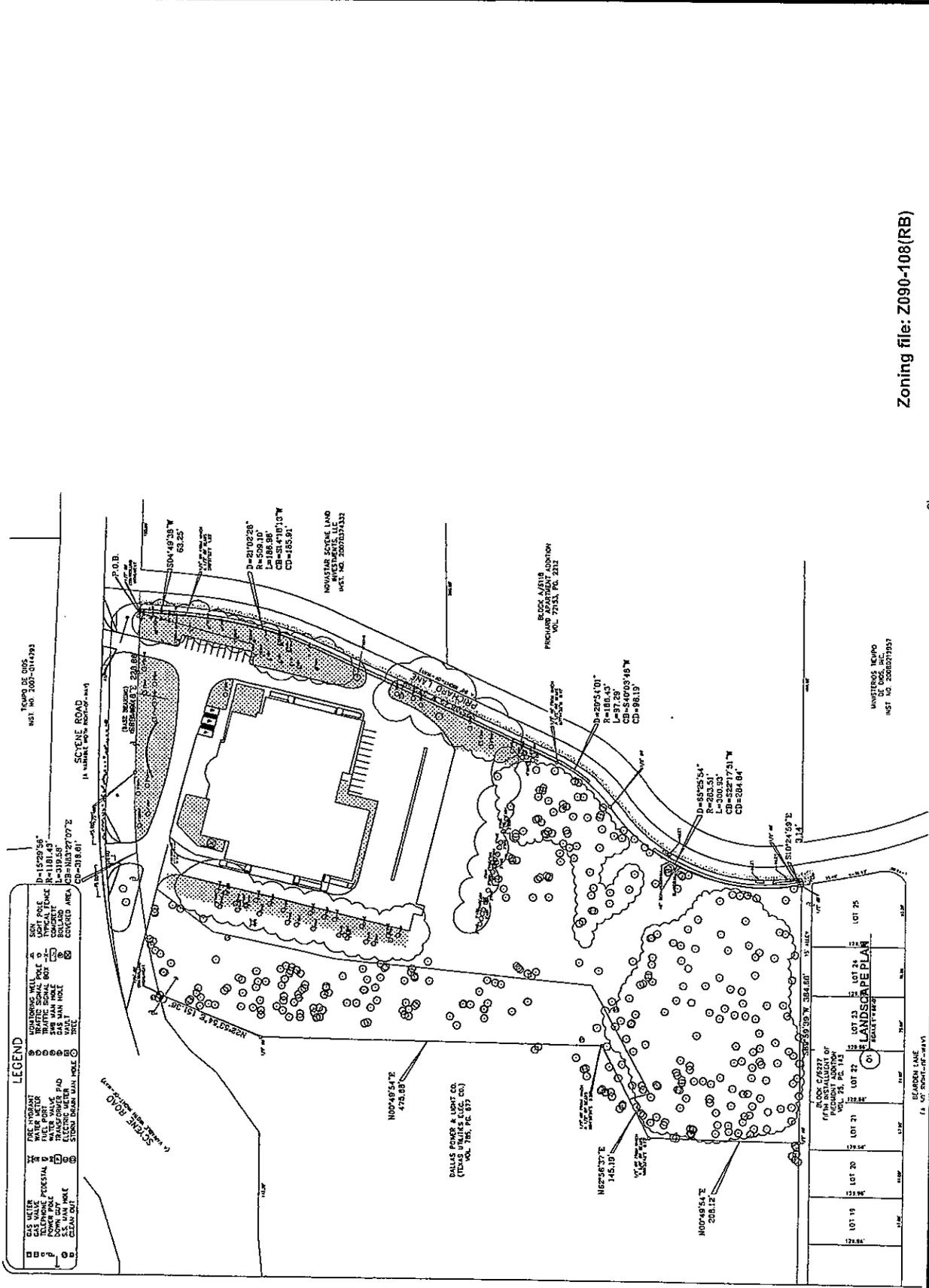
- Address Candidates
- City Boundaries
- County
- Certified Parcels
- Deed Restrictions
- SUP
- Dry Overlay

Historic Subdistricts

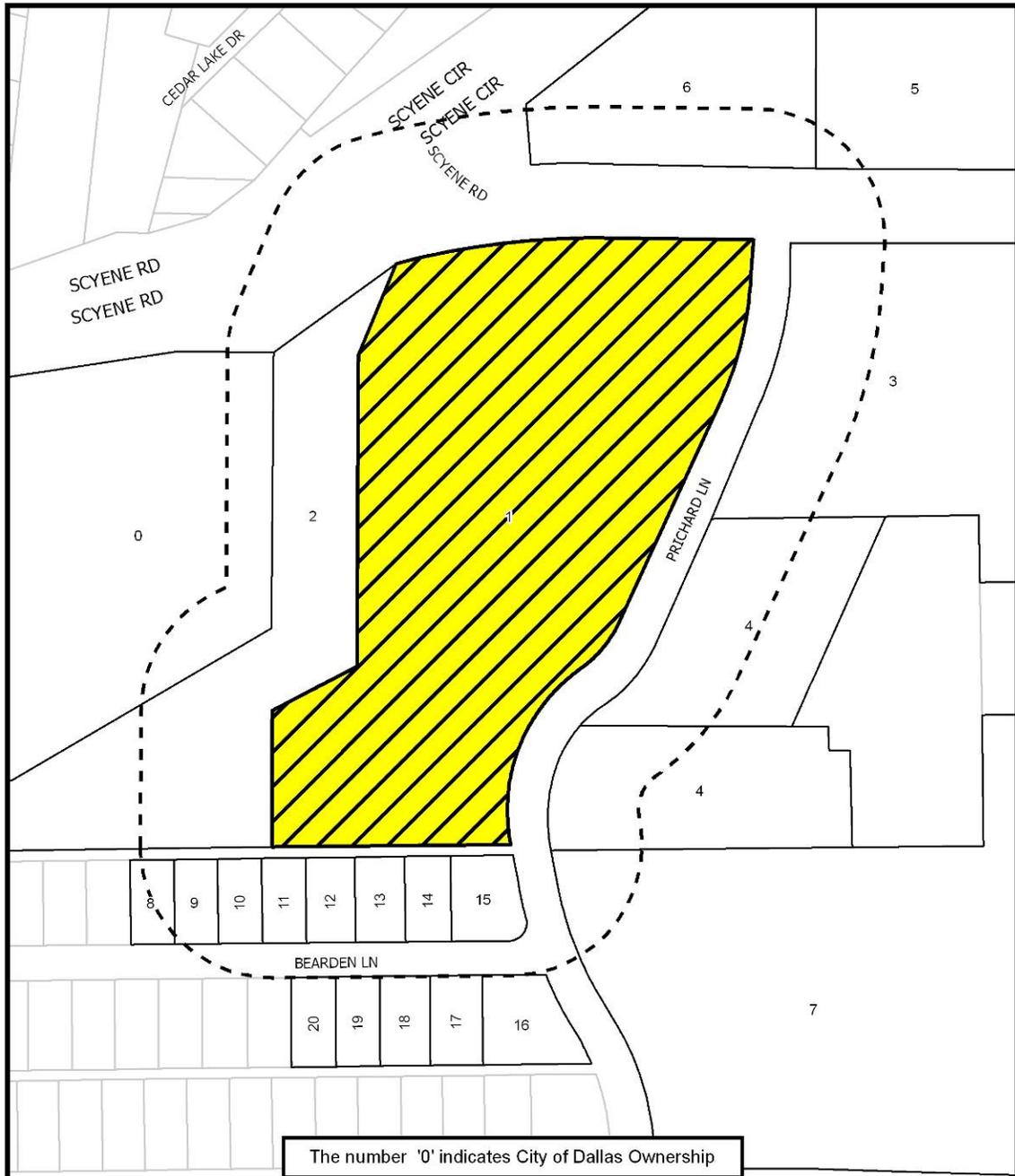
- NSO Overlay
- NSO Subdistricts
- MD Overlay
- CD Subdistricts
- PD Subdistricts
- PD193 Oak Lawn

Floodplain

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



Zoning file: Z090-108(RB)



 1:2,400	<h2>NOTIFICATION</h2>	Case no: BDA112-103			
	<table border="1"> <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
200'	AREA OF NOTIFICATION				
20	NUMBER OF PROPERTY OWNERS NOTIFIED				

Notification List of Property Owners

BDA112-103

20 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	2800 PRICHARD LN	NOVA CHARTER SCHOOL D/B/A NOVA ACADEMY
2	2900 BUCKNER BLVD	TEXAS UTILITIES ELEC CO % STATE & LOCAL
3	8000 SCYENE RD	NOVASTAR SCYENE LAND INV LLC
4	2838 PRICHARD LN	NOTTINGHILL GATE HILLSIDE STE 203A
5	7801 SCYENE RD	CONGREGATION TIFERET
6	7851 SCYENE RD	TEMPLO DE DIOS
7	2818 PRICHARD LN	MINISTERIOS TIEMPO DE DIOS INC
8	7653 BEARDEN LN	RACKLEY DAVID SCOTT
9	7703 BEARDEN LN	ELMO CHEYENNE
10	7709 BEARDEN LN	RIOS CARLOS J & LETICIA H
11	7715 BEARDEN LN	CHIO JOSE A
12	7721 BEARDEN LN	JENKINS BOBBY R JR
13	7727 BEARDEN LN	PARRA JORGE L & LILIA
14	7733 BEARDEN LN	RODRIGUEZ FIDENCIO & ROBERT RODRIGUEZ
15	7741 BEARDEN LN	HOGG JAMES & GLORIA
16	7746 BEARDEN LN	CONINE JAMES WALTER
17	7738 BEARDEN LN	CARDOSO MARIA OJEDA
18	7732 BEARDEN LN	SMITH BARBARA ANN
19	7726 BEARDEN LN	VALDEZ JOSE & MARIA
20	7720 BEARDEN LN	ANDRADE MIGUEL & ROSA

FILE NUMBER: BDA 123-026

BUILDING OFFICIAL'S REPORT: Application of Grayson Wafford for variances to the front yard setback regulations and a special exception to the fence height regulations at 6422 Sondra Drive. This property is more fully described as Lot 4 in City Block 5/4909 and is zoned R-7.5(A), Neighborhood Stabilization Overlay (NSO) No. 4, which requires a front yard setback of 30 feet and limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a single family structure and provide minimum front yard setbacks of 20 feet, which will require variances to the front yard setback regulations of up to 10 feet. The applicant also proposes to construct and maintain an 8-foot 6-inch-high fence in a required front yard, which will require a special exception to the fence height regulations of 4 feet 6 inches.

LOCATION: 6422 Sondra Drive

APPLICANT: Grayson Wafford

ORIGINAL MARCH 18, 2013 REQUESTS:

The following appeals had been made on a site that is currently developed with a single family home structure, which the applicant intends to demolish:

1. A variance to the front yard setback regulations of 9' 6" was requested in conjunction with constructing and maintaining single family home structure part of which would be located in the site's 30' Sondra Avenue front yard setback.
2. A variance to the front yard setback regulations of 8' was requested in conjunction with constructing and maintaining a single family home structure, part of which would be located in the site's 30' Marquita Avenue front yard setback.
3. A special exception to the fence height regulations of 4' 6" was requested in conjunction with constructing an 8' 6" high solid wood fence in the site's Marquita Avenue front yard setback.

On March 18, 2012, the Board of Adjustment Panel C conducted a public hearing on this application, and took the following actions: (1) granted a 9 foot 6 inch variance along Sondra Avenue to the minimum front yard setback regulations and an 8 foot variance along Marquita Avenue to the minimum front yard setback regulations, with the site plan imposed as a condition; and (2) held the request for a special exception to the fence height regulations of 4' 6" until April 15th.

UPDATED APRIL 15, 2013 REQUEST:

A special exception to the fence height regulations of 4' 6" is requested in conjunction with constructing and maintaining an 8' 6" high combination solid masonry/open metal picket fence in the site's Marquita Avenue front yard setback on a site currently

developed with a single family home that the applicant intends to replace with a new single family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

STAFF RECOMMENDATION:

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

Zoning:

- Site:** R-7.5(A) (NSO 4) (Single family district 7,500 square feet, Neighborhood Stabilization Overlay)
- North:** R-7.5(A) (NSO 4) (Single family district 7,500 square feet, Neighborhood Stabilization Overlay)
- South:** R-7.5(A) (NSO 4) (Single family district 7,500 square feet, Neighborhood Stabilization Overlay)
- East:** R-7.5(A) (NSO 4) (Single family district 7,500 square feet, Neighborhood Stabilization Overlay)
- West:** R-7.5(A) (NSO 4) (Single family district 7,500 square feet, Neighborhood Stabilization Overlay)

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:

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

Timeline:

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

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

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

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

February 21, 2013: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

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

March 6, 2013: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment B).

March 8, 2013: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment C).

March 18, 2013: The Board of Adjustment Panel C conducted a public hearing on this application, and took the following actions: granted a 9 foot 6 inch variance along Sondra Avenue to the minimum front yard setback regulations and an 8 foot variance along Marquita Avenue to the minimum front yard setback regulations, and imposed the submitted site plan as a condition; and held the request for a special exception to the fence height regulations of 4' 6" until April 15th.

March 21, 2013: The Board Administrator sent a letter to the applicant noting the March 21st action of the Board, and the April 5th deadline to submit additional evidence to be incorporated into the Board's docket materials.

April 2, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

April 5, 2013: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application and beyond what was submitted at the March 18th public hearing (see Attachment D).

GENERAL FACT /STAFF ANALYSIS:

- This request that remains in this application focuses constructing and maintaining an 8' 6" high combination solid masonry/open metal picket fence in the site's 30' front yard setback along Marquita Avenue. (No fence is proposed in the site's 30' front yard setback along Sondra Avenue).
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant had originally submitted a scaled site plan and an elevation that showed the proposal in the Marquita Avenue front yard setback reaches a maximum height of 8' 6".
- The following additional information was gleaned from the originally submitted site plan:
 - Approximately 68' in length parallel to Marquita Avenue (and approximately 23 in length perpendicular on the sided of the site in this required front yard setback), approximately on this front property line or approximately 12' from the pavement line where two homes would have direct frontage to the proposal - homes with no fences in their front yards.
- On April 5, 2013, the applicant emailed reduction copies of a revised site plan and a revised partial elevation (see Attachment D). The applicant stated the following in the email that accompanied this revised plans:
 - The site plan attached includes NO changes to the size, shape or foot print of the home to be built on the lot. The only changes that have been made are to the fence.
 - The maximum height of the fence will be 8'6" at the top of the capstones at each pillar and the maximum height of the walls of the fence between pillars will be 8'.
 - The fence will be built 1' from the property line along Marquita Avenue.

- The fence will be approximately 12' from the curb/pavement along Marquita Avenue.
- Measuring from the edge of the home to the end of the pillar, the length of the wall located on the western property line is 22'.
- Measuring from the edge of the home to the end of the pillar, the length of the wall located on the eastern side of the lot, including the gate, is 21'.
- Measuring from pillar's edge to pillar's edge, the wall located along the Marquita Avenue property line is 63'.
- A 50 square foot circular planter has been added on the southwest corner of the fence.
- The board on board wooden fence has been changed to either masonry or metal material
- The metal portions of the fence will serve as lattice for creeping vines and climbing rose plants.
- The gate on the Marquita Avenue wall has been removed to eliminate any increased foot traffic and improve safety and aesthetic appeal.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences higher than 4' in the immediate area.
- As of April 8, 2013, no letters had been submitted in support or in opposition to the revised request that the applicant submitted on April 5, 2013.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach 8' 6" in height) will not adversely affect neighboring property.
- Granting this special exception of 4' 6" with a condition imposed that the applicant complies with the submitted revised site plan and revised elevation would require the proposal exceeding 4' in height in the Marquita Avenue front yard setback to be constructed/maintained in the location and of the heights and materials as shown on these documents.

BOARD OF ADJUSTMENT ACTION: MARCH 18, 2013

APPEARING IN FAVOR: Grayson Wafford, 6422 Sondra, Dallas, TX

APPEARING IN OPPOSITION: James Scott, 6427 Vanderbilt Ave., Dallas, TX
 Kerry Robichaux, 6431 Sondra Dr., Dallas, TX
 John Hamilton, 6441 Sondra, Dallas, TX
 Jonathan Phillips, 6428 Marquita Ave., Dallas, TX

MOTION #1: Maten

I move that the Board of Adjustment, in Appeal No. **BDA 123-026**, on application of Grayson Wafford, grant a 9 foot 6 inch variance along Sondra Avenue to the minimum front yard setback regulations and an 8 foot variance along Marquita Avenue to the minimum front yard setback regulations because our evaluation of the property and the testimony shows that physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would

result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: **Lewis**

AYES: 4–Maten, Coulter, Richard, Lewis

NAYS: 1 – Richardson,

MOTION PASSED: 4– 1

MOTION #2: **Maten**

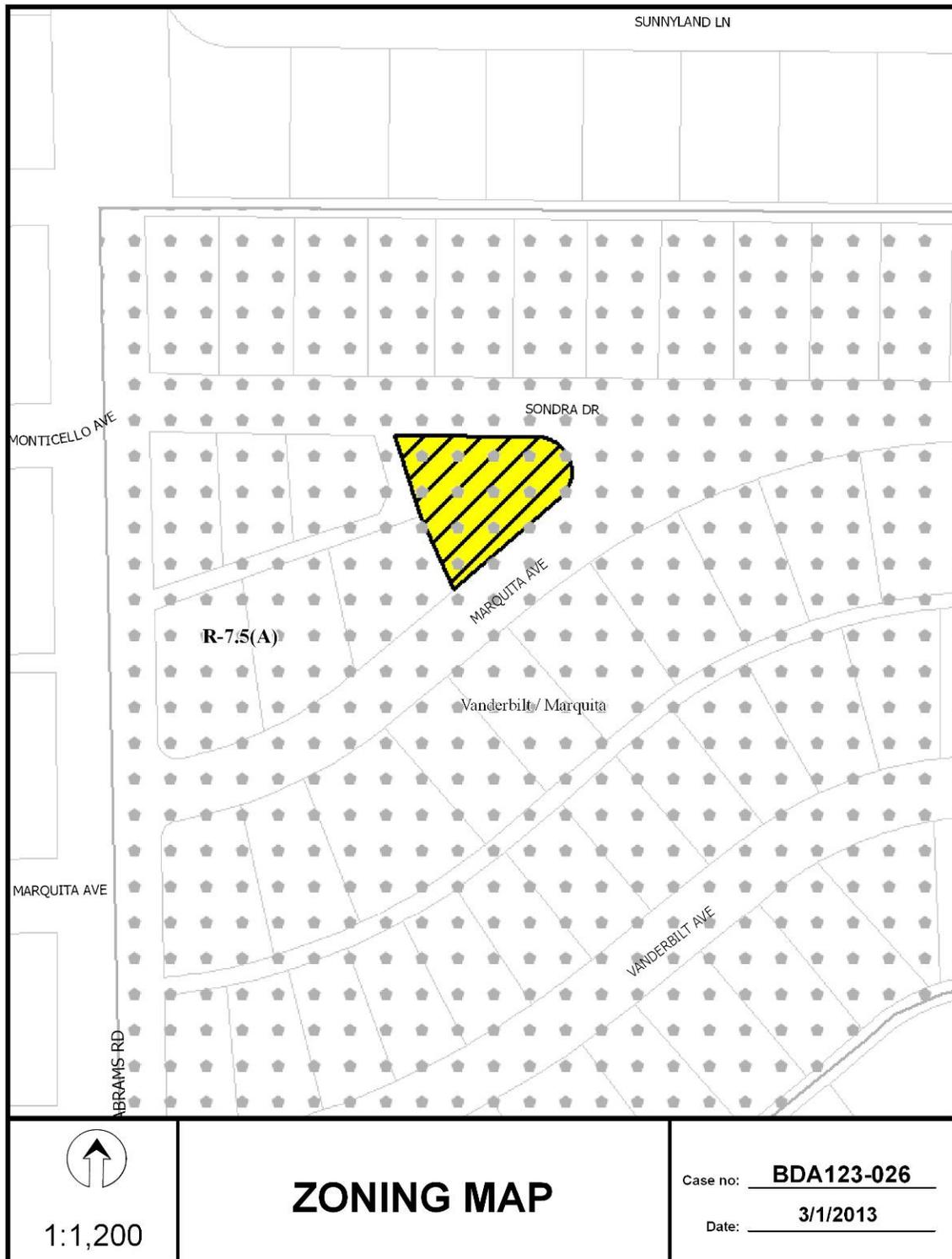
I move that the Board of Adjustment, in Appeal No. **BDA 123-026**, on application of Grayson Wafford, hold the fence height special exception under advisement until **April 15, 2013**.

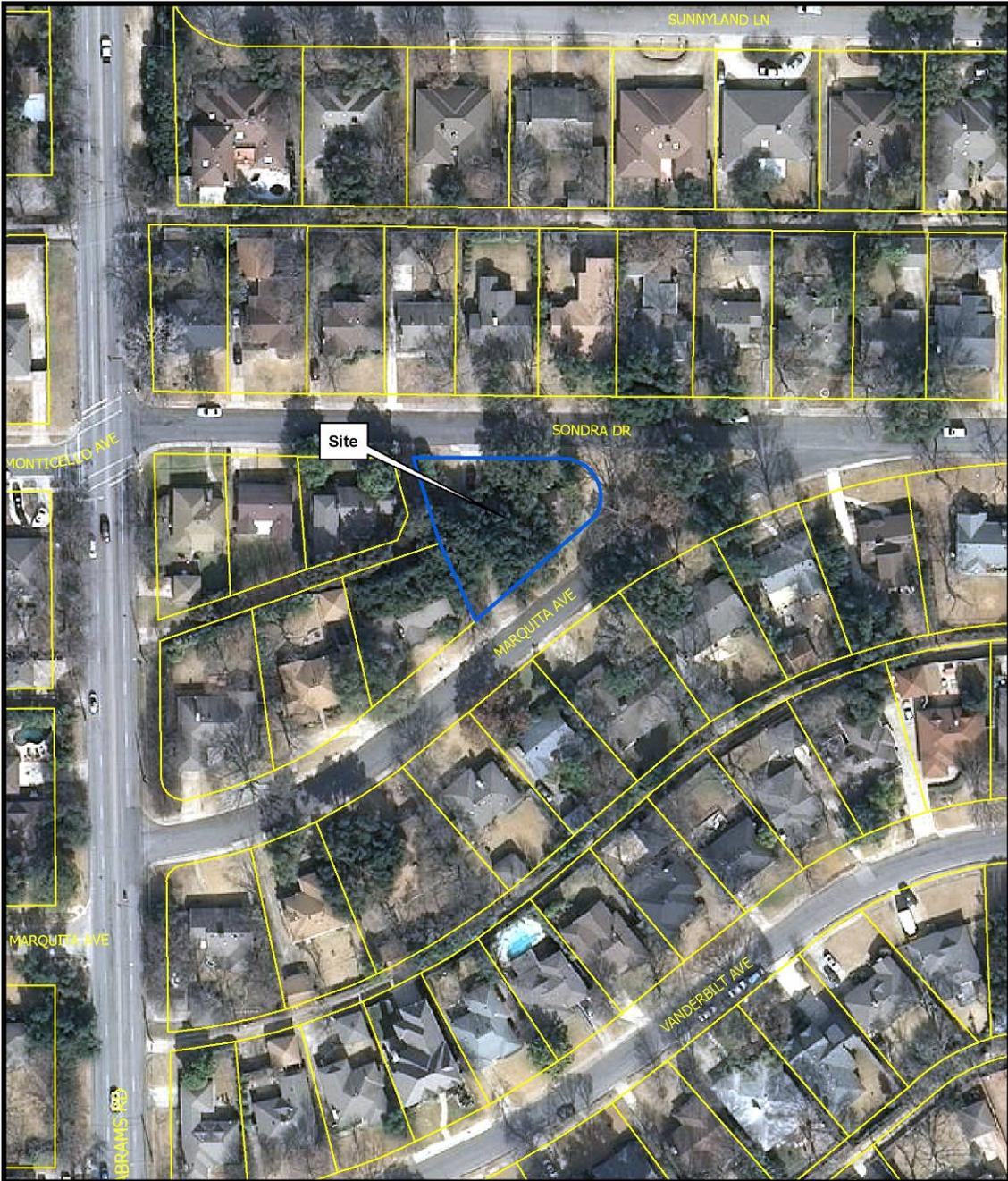
SECONDED: **Coulter**

AYES: 5– Richardson, Maten, Coulter, Richard, Lewis

NAYS: 0 –

MOTION PASSED: 5– 0(unanimously)





1:1,200

AERIAL MAP

Case no: BDA123-026

Date: 3/1/2013

BDA 123-026

Attach A

Long, Steve

From: Grayson Wafford [grayson_wafford@yahoo.com]
Sent: Thursday, February 21, 2013 2:59 PM
To: Long, Steve
Subject: Re: BDA 123-026, Property at 6422 Sondra Avenue
Attachments: 6422 Sondra - Lot Coverage Comps.xlsx

Pg 1

Hello Steve,

The approximate proposed footprint will be 2,341 sq/ft of Living Area (downstairs), 1,200 sq/ft in garage and storage, and 250 of patio area. The planned total Living Area square footage is 3,457 (up and downstairs).

The approximate square ft. of the home that will be located within the Sondra front yard set-back is 730 sq/ft.

The approximate square ft. of the home that will be located within the Marquita front yard set-back is 200 sq/ft.

If we take the absolute maximum 'foot print' square footage of approximately 3,800 and divide it by the lot size of 10,997, we arrive at 34.5% lot coverage.

Attached is a spreadsheet I put together using the information available on the DCAD.org website. As you can see, my proposed building is actually well below the average lot coverage in the surrounding area.

I hope this helps. If you have any further questions, please let me know.

Thanks,
 Grayson Wafford
 214-404-8272

From: "Long, Steve" <steve.long@dallascityhall.com>
To: grayson_wafford@yahoo.com
Sent: Thursday, February 21, 2013 7:55 AM
Subject: FW: BDA 123-026, Property at 6422 Sondra Avenue

Dear Mr. Wafford,

I'm wondering if you would be able to provide the square footage of your proposed building footprint along with the amount of it that is proposed to be located in the Sondra Avenue front yard setback, and the amount of it that is proposed to be located in the Marquita Avenue front yard setback. (I am able to provide these facts when the building footprint is a rectangle on a rectangular-shaped lot but as you know, that is not the case here).

Steve

BDA 123-026

From: Long, Steve
Sent: Tuesday, February 19, 2013 3:36 PM
To: 'grayson_wafford@yahoo.com'
Subject: FW: BDA 123-026, Property at 6422 Sondra Avenue

Attach A
pg 2

Dear Mr. Wafford,

Please let the record show that I am aware of the fact that your application is located at 6422 Sondra Avenue .

Thanks,

Steve

From: Long, Steve
Sent: Wednesday, February 13, 2013 12:55 PM
To: 'grayson_wafford@yahoo.com'
Cc: Duerksen, Todd
Subject: BDA 123-026, Property at 6422 Wafford Avenue

Dear Mr. Wafford,

Here is information regarding your application to the board of adjustment at the address referenced above, most of which we just discussed on the phone:

1. Your application materials- all of which will be emailed to you, city staff, and the board of adjustment members in a docket report about a week ahead of the scheduled March 18th public hearing.
2. The provision from the Dallas Development Code allowing the board to grant a variance to the front setback regulations (51A-3.102(d)(10)).
3. The provision from the Dallas Development Code allowing the board to grant a special exception to the fence height regulations (51A-4.602(a)(6)).
4. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board.
5. The board's rule pertaining to documentary evidence.

Please review the Building Official's Report/second page of your application and contact Todd Duerksen, at 214/948-4475 no later than noon, February 27th with regard to any amendment that you feel is necessary to address the issue at hand. (Note that the discovery of any additional appeal needed beyond the requested front yard setback variance and fence height special exception will result in postponement of the appeal until the panel's next regularly scheduled public hearing).

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

Thanks,

Steve

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

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

BDA-123-026
 Attach A
 Pg 3

Address #	Street	Living Area	Additional		Lot coverage		Year built
			Improvements	Total Sq/Ft	Lot Sq/ft	ratio %	
6419	Vanderbilt	3,981	450	4,431	6,479	68.39%	2006
6442	Vanderbilt	4,135	468	4,603	7,954	57.87%	2007
6466	Vanderbilt	2,285	380	2,665	7,163	37.21%	1995
6467	Vanderbilt	2,376	400	2,776	7,505	36.99%	1995
6470	Sondra	3,041	575	3,616	8,494	42.57%	1990
6412	Sondra	2,422	400	2,822	5,692	49.58%	1941
6427	Sondra	2,380	288	2,668	7,719	34.56%	1978

Average	46.74%
High	68.39%
Low	34.56%

BDA 123-026
Attach B**Long, Steve**

From: Grayson Wafford [grayson_wafford@yahoo.com]
Sent: Wednesday, March 06, 2013 11:09 AM
To: Long, Steve
Subject: Re: BDA 123-026, Property at 6422 Sondra Avenue
Attachments: 6422 Sondra - Lot Coverage Comps v2.xlsx

P51

Steve,

In order to provide consistency for analysis, I would like to adjust the figures I provided in my email dated February 21, 2013. My original estimation of 'Additional Improvements' was incorrect according to Dallas Central Appraisal District ("DCAD") definitions and standards of practice.

Per the plans submitted in BDA 123-026, and according to the definitions provided by the "DCAD", it is our expectation that the 'Living Area' of the 'Main Improvement' will be approximately 3,457 sq/ft and the 'Additional Improvement' of an 'Attached Garage' will measure approximately 510 sq/ft. This will bring the total sq/ft to 3,967.

For your review, I've attached an updated version of the table I included on February 21st, to include the proposed property.

If you need any further assistance, require any explanation or have questions regarding the correction, please do not hesitate to ask.

Regards,
Grayson Wafford

From: "Long, Steve" <steve.long@dallascityhall.com>
To: Grayson Wafford <grayson_wafford@yahoo.com>
Sent: Wednesday, March 6, 2013 9:14 AM
Subject: FW: BDA 123-026, Property at 6422 Sondra Avenue

Dear Mr. Wafford,

A question was posed yesterday at the staff review team meeting about the total size of your proposed home. Would you please give me a call today at 214/670-4666?

Thanks,

Steve

From: Long, Steve
Sent: Monday, February 25, 2013 9:03 AM
To: Cossum, David ; Duerksen, Todd; Palomino, Tammy
Cc: 'grayson_wafford@yahoo.com'
Subject: FW: BDA 123-026, Property at 6422 Sondra Avenue

Attached is information that I have entitled as "Attach A" that the applicant (Grayson Wafford) emailed to me last week. This information will be added to the case file and become part of: 1) what is discussed at the March 5th staff review team meeting and 2) the case report/docket that is emailed to you, the applicant near or on March 11th.

Please let me know if you have any questions or concerns with this information.

BDA123-026

Attach B

Pg 2

Thanks,

Steve

From: Grayson Wafford [mailto:grayson_wafford@yahoo.com]
Sent: Thursday, February 21, 2013 2:59 PM
To: Long, Steve
Subject: Re: BDA 123-026, Property at 6422 Sondra Avenue

Hello Steve,

The approximate proposed footprint will be 2,341 sq/ft of Living Area (downstairs), 1,200 sq/ft in garage and storage, and 250 of patio area. The planned total Living Area square footage is 3,457 (up and downstairs).

The approximate square ft. of the home that will be located within the Sondra front yard set-back is 730 sq/ft.

The approximate square ft. of the home that will be located within the Marquita front yard set-back is 200 sq/ft.

If we take the absolute maximum 'foot print' square footage of approximately 3,800 and divide it by the lot size of 10,997, we arrive at 34.5% lot coverage.

Attached is a spreadsheet I put together using the information available on the DCAD.org website. As you can see, my proposed building is actually well below the average lot coverage in the surrounding area.

I hope this helps. If you have any further questions, please let me know.

Thanks,
Grayson Wafford
214-404-8272

From: " Long, Steve " <steve.long@dallascityhall.com>
To: grayson_wafford@yahoo.com
Sent: Thursday, February 21, 2013 7:55 AM
Subject: FW: BDA 123-026, Property at 6422 Sondra Avenue

Dear Mr. Wafford,

I'm wondering if you would be able to provide the square footage of your proposed building footprint along with the amount of it that is proposed to be located in the Sondra Avenue front yard setback, and the amount of it that is proposed to be located in the Marquita Avenue front yard setback. (I am able to provide these facts when the building footprint is a rectangle on a rectangular-shaped lot but as you know, that is not the case here).

Steve

BDA 123-026

Attach B
p3

From: Long, Steve
Sent: Tuesday, February 19, 2013 3:36 PM
To: 'grayson_wafford@yahoo.com'
Subject: FW: BDA 123-026, Property at 6422 Sondra Avenue

Dear Mr. Wafford,

Please let the record show that I am aware of the fact that your application is located at 6422 Sondra Avenue .

Thanks,

Steve

From: Long, Steve
Sent: Wednesday, February 13, 2013 12:55 PM
To: 'grayson_wafford@yahoo.com'
Cc: Duerksen, Todd
Subject: BDA 123-026, Property at 6422 Wafford Avenue

Dear Mr. Wafford,

Here is information regarding your application to the board of adjustment at the address referenced above, most of which we just discussed on the phone:

1. Your application materials- all of which will be emailed to you, city staff, and the board of adjustment members in a docket report about a week ahead of the scheduled March 18th public hearing.
2. The provision from the Dallas Development Code allowing the board to grant a variance to the front setback regulations (51A-3.102(d)(10)).
3. The provision from the Dallas Development Code allowing the board to grant a special exception to the fence height regulations (51A-4.602(a)(6)).
4. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board.
5. The board's rule pertaining to documentary evidence.

Please review the Building Official's Report/second page of your application and contact Todd Duerksen, at 214/948-4475 no later than noon, February 27th with regard to any amendment that you feel is necessary to address the issue at hand. (Note that the discovery of any additional appeal needed beyond the requested front yard setback variance and fence height special exception will result in postponement of the appeal until the panel's next regularly scheduled public hearing).

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

Thanks,

Steve

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

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

Address #	Street	Living Area	Additional		Lot coverage		Year built
			Improvements	Total Sq/Ft	Lot Sq/ft	ratio %	
6419	Vanderbilt	3,981	450	4,431	6,479	68.39%	2006
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6470	Sondra	3,041	575	3,616	8,494	42.57%	1990
6412	Sondra	2,422	400	2,822	5,692	49.58%	1941
6427	Sondra	2,380	288	2,668	7,719	34.56%	1978
Average		2,946	423	3,369	7,287	46.74%	

High 68.39%
Low 34.56%

Proposed Home		Living Area	Improvements	Total Sq/Ft	Lot Sq/ft	Lot coverage ratio %	Year built
6422	Sondra	3,457	510	3,967	10,997	36.07%	2013

BDA 123-026

Attach C

Long, Steve

P 31

From: Grayson Wafford [grayson_wafford@yahoo.com]
Sent: Thursday, March 07, 2013 3:06 PM
To: Long, Steve
Cc: Cossum, David
Subject: BDA 123-026 Set-back Comparison
Attachments: 6422 Sondra - Front Yard Set Back Comparison.xlsx; Comparable Lots.pdf; Sondra Site Plan (city).pdf

Dear Steve and David,

Please include the attached spreadsheet and information provided below in my application for a variance of the front yard set-back in NSO-4.

I would like to please ask you to consider this information when you make your staff recommendation to the Board of Adjustments. I believe I have shown a clear unnecessary hardship due to the restrictive area and shape of the lot. Furthermore, the information below should make a very clear and strong case that the property cannot be developed in a manner commensurate with the development upon other parcels of land within the same zoning area.

Front Yard Set-Back Comparison

Attached you will find a table showing the depth for every regularly shaped lot on the 6400 block on Sondra Ave and Marquita Ave. ("Comparable Lots"). According to the Dallas Central Appraisal District ("DCAD"), every property has a depth of approximately 125 ft.

Also, I have attached a map of the Comparable Lots, highlighted for your review. This map was obtained from the DCAD website and corroborates the findings on the website. Per the map, the most shallow property of all of the Comparable Lots has a depth of 121.62 ft. (6411 Marquita).

If one were to apply a 30 ft. front yard set-back; as well as, a 5 ft back yard set-back, the **absolute minimum** build-able depth for any of the Comparable Lots would be 86.62 ft.

According to the plans submitted for BDA 123-026, the maximum length of any side of the home will be approximately 85 ft. Therefore, a home of this size could be developed on any of the other Comparable Lots, without the need of variance for a front yard set-back, all of which fall within the same zoning, NSO-4.

Home Size Comparison

Included in the attached table, is the lot size of the each of the Comparable Lots. The average lot size of all of the Comparable Lots is approximately 8,853 sq/ft. After applying the maximum lot coverage for residential structures of 45%, the average build-able area for the Comparable Lots would be 3,984 sq/ft. This is higher than the 3,967 sq/ft of total square footage in the plans submitted in BDA 123-026. Please keep in mind the 3,967 sq/ft includes a 2nd story.

Also, if the average size of the lots within R7.5(A) is approximately 7,500 sq/ft, and the maximum lot coverage is 45%, that would imply an average build-able area of 3,375 sq/ft in zone R7.5(A). According to DCAD, the lot at 6422 Sondra is approximately 10,977 sq/ft. However, due to the lot's irregular shape and the imposition of two (2) front yard set backs, the build-able area is only approximately 3,382 sq/ft. So, even though the lot at 6422 Sondra is almost 3,500 sq/ft larger than the average lot in R7.5(a), the build-able area is only increased by 7 sq/ft. This may not seem substantial at first, but when you consider that the average lot within R7.5(A) is shaped as a rectangle, and the 3,382 sq/ft of lot 6422 is shaped as a triangle, it becomes extremely difficult to develop.

Furthermore, DCAD applies a 10% market adjustment increase to the taxable value for the above average size of the 6422 lot relative to lots in the area. However, there is no benefit to the increased size. I realize variance may not be granted to relieve personal hardship, nor for financial reason **only**, but it is my understanding they may be taken into consideration.

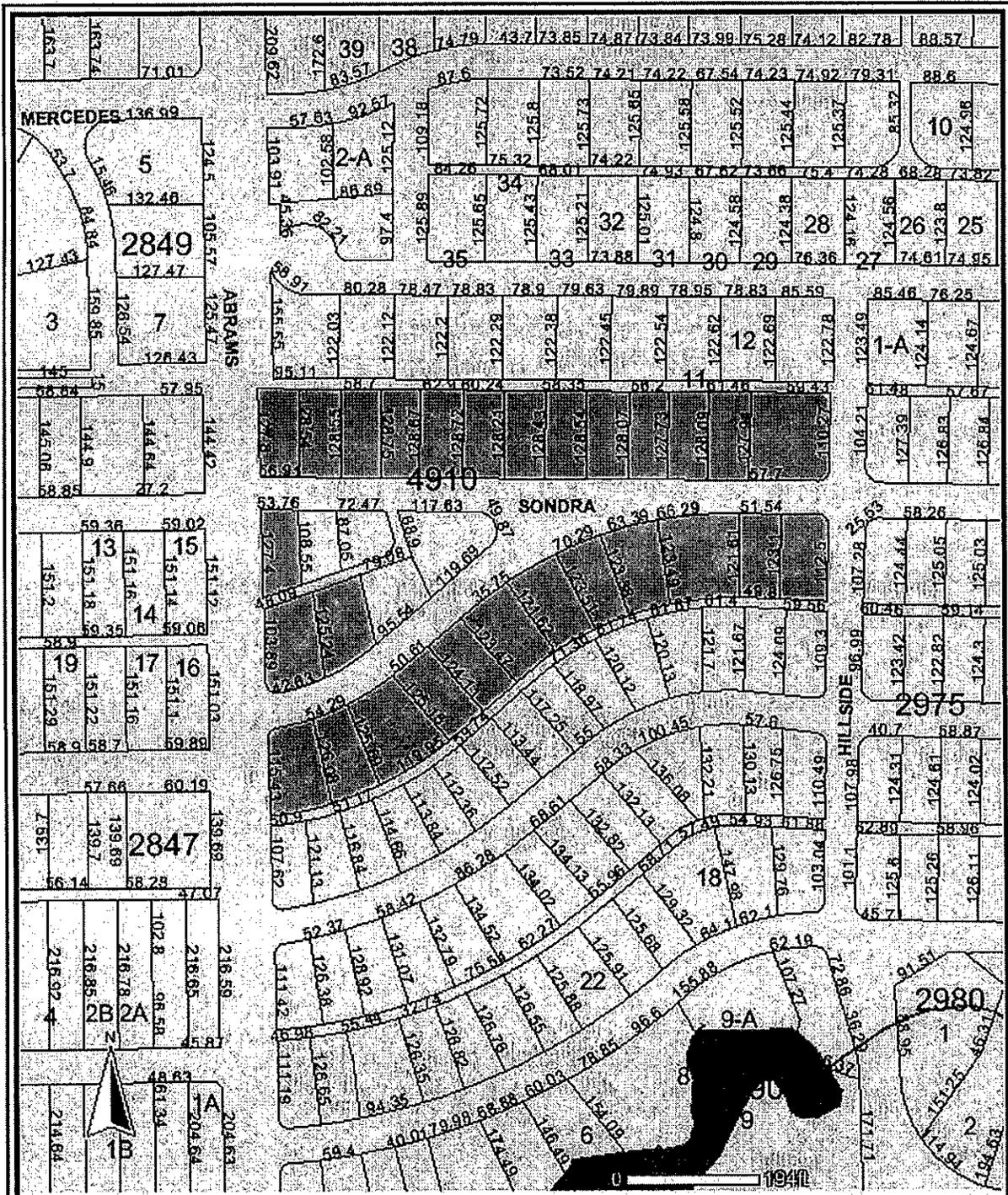
Further Consideration

BDA 123-026
Attach C pg 2

According to DCAD, the home currently sitting on the lot at 6422 Sondra is approximately 2,084 sq/ft, and was built in 1946. The existing structure is outlined by a dotted line on the 'Sondra Site Plan' submitted with the BDA 123-026 application. I've attached the site plan for your convenience. As you can see, the home is non-conforming, it does not sit within the 30 ft front yard set-backs. In fact, there is no way to move or rotate the home to fit it within the 30 ft set-backs. I make this point to illustrate just how difficult this lot would be to develop with two 30 ft set-backs. Not even a 2,100 sq/ft home could be built without variance being granted! I find this very compelling evidence and illustrative of the property cannot be developed in a manner commensurate with the development upon other parcels of land within the same zoning area.

Thank you for your consideration in this manner and please let me know if you have any requests or would like any further explanation of the included information.

Sincerely,
Grayson Wafford



BDA
 123-
 026
 Attach C
 P53



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

DISCLAIMER
 This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

BDA 123-026
 Attach C PS 4

Address #	Street	Depth	Area (sq/ft)	Year built
6402	Marquita	125	9,922	1950
6403	Sondra	125	7,486	1947
6405	Marquita	125	10,081	1948
6406	Marquita	125	8,105	1949
6407	Sondra	125	7,845	1947
6411	Marquita	120	8,996	1998
6411	Sondra	125	7,633	1947
6412	Marquita	125	12,434	1953
6417	Sondra	125	7,030	1947
6420	Marquita	125	8,174	1970
6421	Sondra	125	8,137	1941
6424	Marquita	125	10,997	1948
6427	Sondra	125	7,862	1978
6428	Marquita	125	7,719	1954
6431	Sondra	125	9,622	1941
6435	Sondra	125	7,601	1974
6438	Marquita	125	7,636	1995
6441	Sondra	125	9,174	1960
6442	Sondra	125	8,012	1948
6445	Sondra	125	7,588	1949
6450	Sondra	125	7,209	1942
6451	Sondra	125	9,057	1948
6454	Sondra	125	7,423	1948
6455	Sondra	125	13,572	1947
6466	Sondra	125	7,755	1990
6469	Sondra	125	7,195	1946
6470	Sondra	125	14,774	1990

Average Depth	125	8,853
Minus Front Yard Setback	-30	
Minus Back Yard Setback	-5	
Average Depth less Setbacks	<u>90</u>	

BDA 123-026 Max Length
 (according to plans submitted) 86

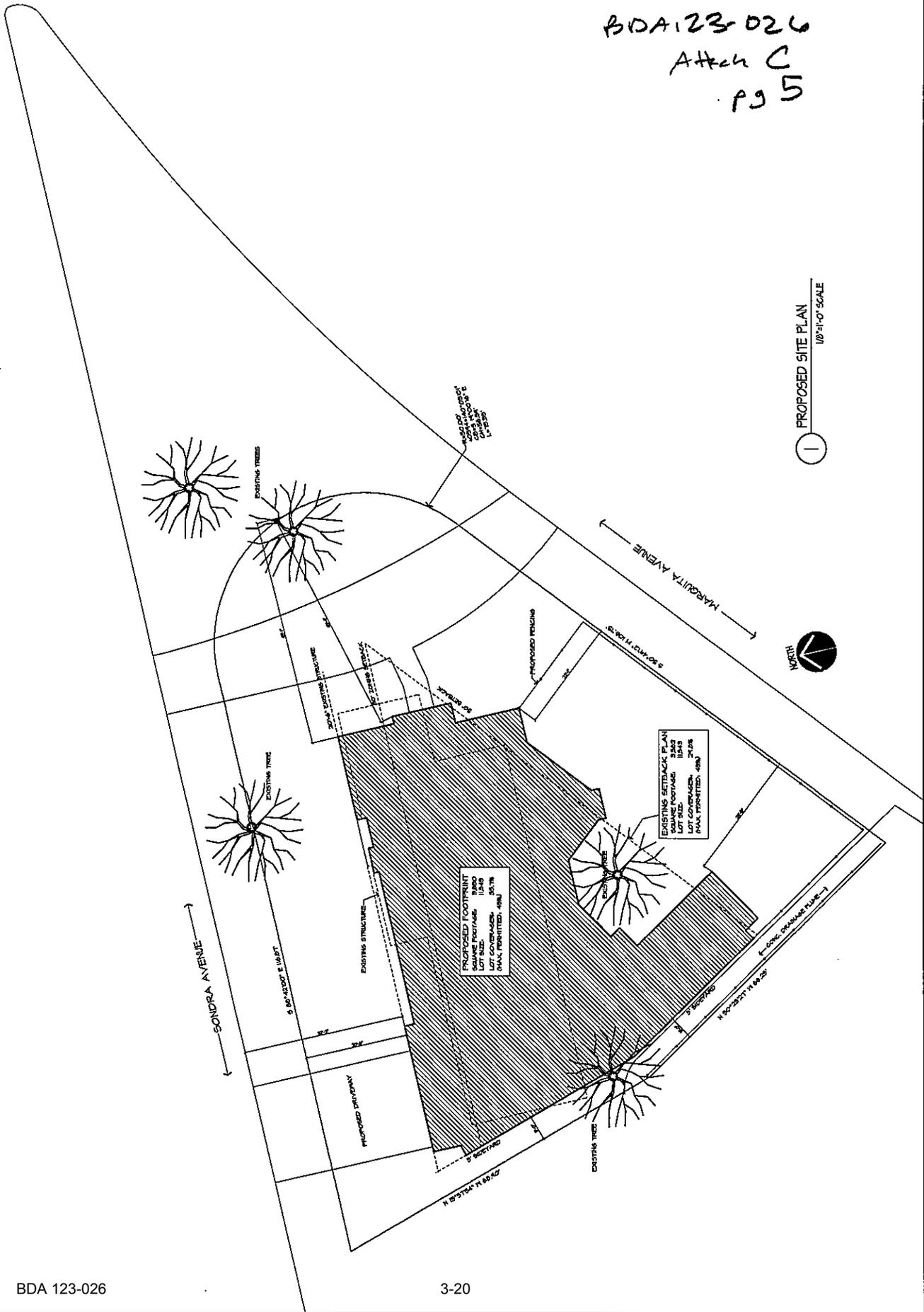
Max Lot Coverage of 45%
 (8,853 x 45%) 3,984

BDA 123-026 Max sq/ft
 (including a 1116 ft 2nd story & 500 sq/ft garage) 3,967

Note:
 Both the length and the square footage of the plans submitted fall below the average of what is commensurate with development upon other parcels of land within the same zoning area.

BDA 123-026
Attach C
P 5

1 PROPOSED SITE PLAN
1/8"=1'-0" SCALE



BDA 123-026
Attach D**Long, Steve**

From: Grayson Wafford [grayson_wafford@yahoo.com]
Sent: Friday, April 05, 2013 2:18 PM
To: Long, Steve
Cc: Duerksen, Todd
Subject: Re: BDA 123-026 - Fence Plan
Attachments: Fence Site Plan Final.pdf; Wall Elevations.pdf

Pg 1

Mr. Long,

I've attached the site plan and elevation for the revised fence for the special exception request.

I'd like to make the following representations:

- 1) The site plan attached includes NO changes to the size, shape or foot print of the home to be built on the lot. The only changes that have been made are to the fence.
- 2) The maximum height of the fence will be 8'6" at the top of the capstones at each pillar and the maximum height of the walls of the fence between pillars will be 8'.
- 3) The fence will be built 1' from the property line along Marquita.
- 4) The fence will be approximately 12' from the curb/pavement along Marquita.
- 5) Measuring from the edge of the home to the end of the pillar, the length of the wall located on the western property line is 22'.
- 6) Measuring from the edge of the home to the end of the pillar, the length of the wall located on the eastern side of the lot, including the gate, is 21'.
- 7) Measuring from pillar's edge to pillar's edge, the wall located along the Marquita property line is 63'.

A couple of things to note:

- 1) I've added a 50 sq/ft circular planter on the Southwest corner of the fence. This will be a very pretty flower garden that will improve the aesthetic appeal of the street when drivers are heading east on Marquita.
- 2) I changed all of the board on board wooden fence to either masonry or metal material.
- 3) The metal portions of the fence will serve as lattice for creeping vines and climbing rose plants. This will transform the wall into a living flower garden and be quite appealing for anyone living on Marquita or driving down the 6400 block of Marquita.
- 4) We removed the gate on the Marquita wall to eliminate any increased foot traffic and improve safety and aesthetic appeal.

Please let me know if you need anything further prior to the April 15th meeting.

Thanks,
Grayson Wafford

From: "Long, Steve" <steve.long@dallascityhall.com>
To: Grayson Wafford <grayson_wafford@yahoo.com>
Cc: "Duerksen, Todd" <todd.duerksen@dallascityhall.com>

BDA 123-026

Attch D

P 32

Sent: Friday, April 5, 2013 11:11 AM
Subject: FW: BDA 123-026 - Fence Plan

Dear Mr. Wafford,

One more thing: Can you minimally represent that your proposal as shown on your attached wall elevations does not exceed 8' 6" in height? If you cannot make that representation, please create an elevation that does seeing that your request is for a 4' 6" special exception.

Thanks,

Steve

From: Long, Steve
Sent: Friday, April 05, 2013 10:58 AM
To: 'Grayson Wafford'
Cc: Duerksen, Todd
Subject: RE: BDA 123-026 - Fence Plan

Dear Mr. Wafford,

- 1) Can you represent to me that the dimensions of the home on the attached site plan and its relationship to the property lines is the same as what was shown on your site plan that was imposed as a condition to the variances granted on this property last month? (If you cannot make that representation about this attached site plan, please create a site plan that does).
- 2) Todd and I need a copy of a full scale site plan and elevation no later than the end of the day today if you want staff to be able to provide certain facts about your revised fence proposal in the docket that is emailed to you, staff and the board members next week. (My office is in Room 5BN, Dallas City Hall , and Todd is in Room 105, Oak Cliff Municipal Center).

Please write or call me at 214/670-4666 if you have questions or concerns.

Thanks,

Steve

From: Grayson Wafford [mailto:grayson_wafford@yahoo.com]
Sent: Friday, April 05, 2013 10:40 AM
To: Long, Steve
Subject: BDA 123-026 - Fence Plan

Mr. Long,

I've attached the site plan and elevation for the revised fence for the special exception request. I've spent a great deal of time with designers and architects trying to develop a plan that will undoubtedly enhance the aesthetic value of the neighborhood.

A couple of things to note:

- 1) I've added a 50 sq/ft planter on the Southwest corner of the fence. This will be a very pretty flower garden that will improve the aesthetic appeal of the street when drivers are heading east on Marquita.
- 2) I changed all of the board on board wooden fence to either masonry or metal.
- 3) The metal portions of the fence will serve as lattice for creeping vines and climbing rose plants. This will transform the wall into a living flower garden and be quite appealing for anyone living or driving down the 6400 block of Marquita.

4) We removed the gate on the Marquita wall to eliminate any increased foot traffic and improve safety and aesthetic appeal.

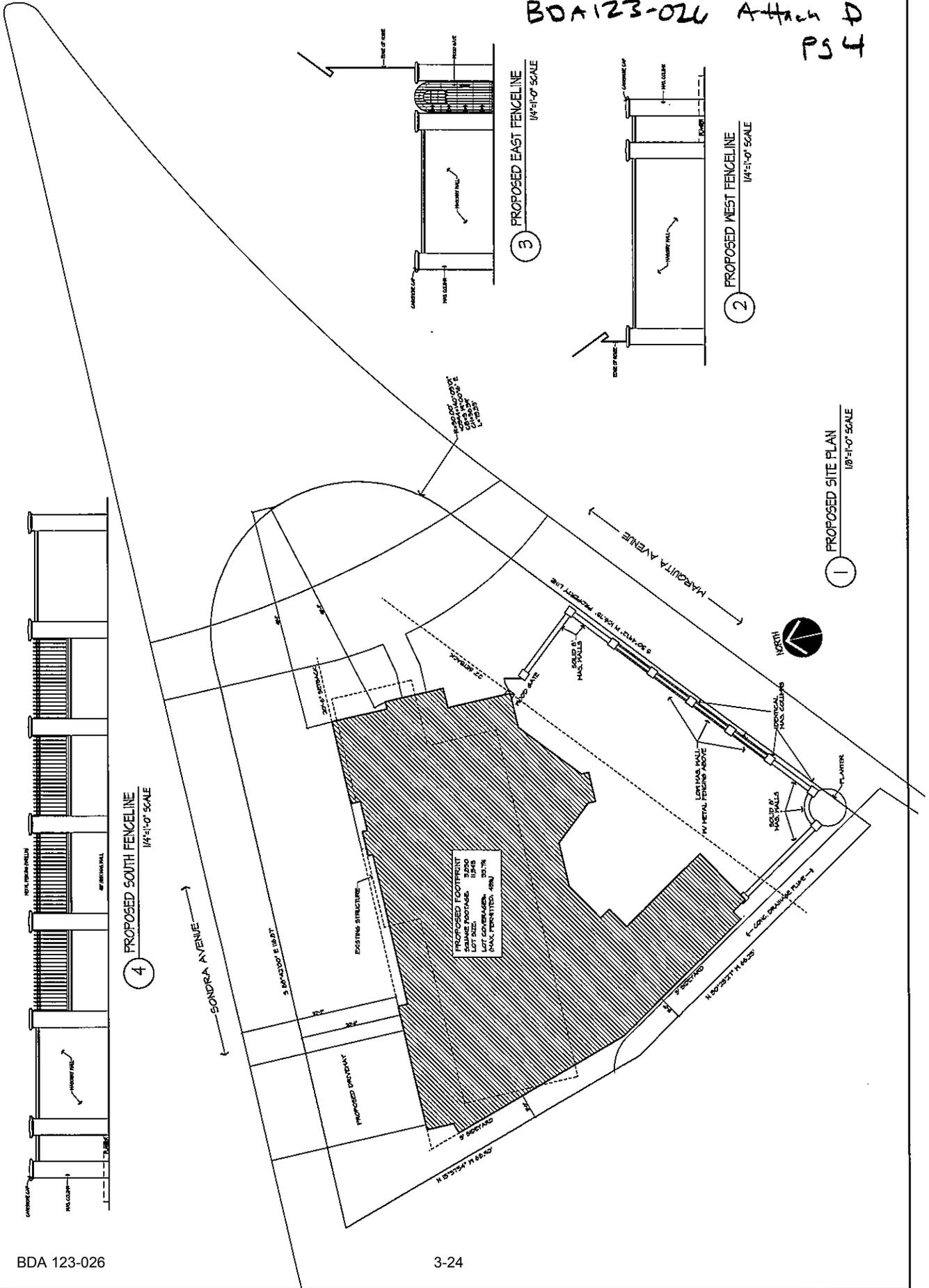
I've shared the plans with several neighbors and the plans have received only positive feedback with no objections or concerns.

Although this fence will cost over 200% more than the board on board version first submitted, it is worth the increased expense to provide a wall that will provide safety, privacy and greatly increase the neighborhood's beauty.

Please let me know if you need anything further prior to the April 15th meeting.

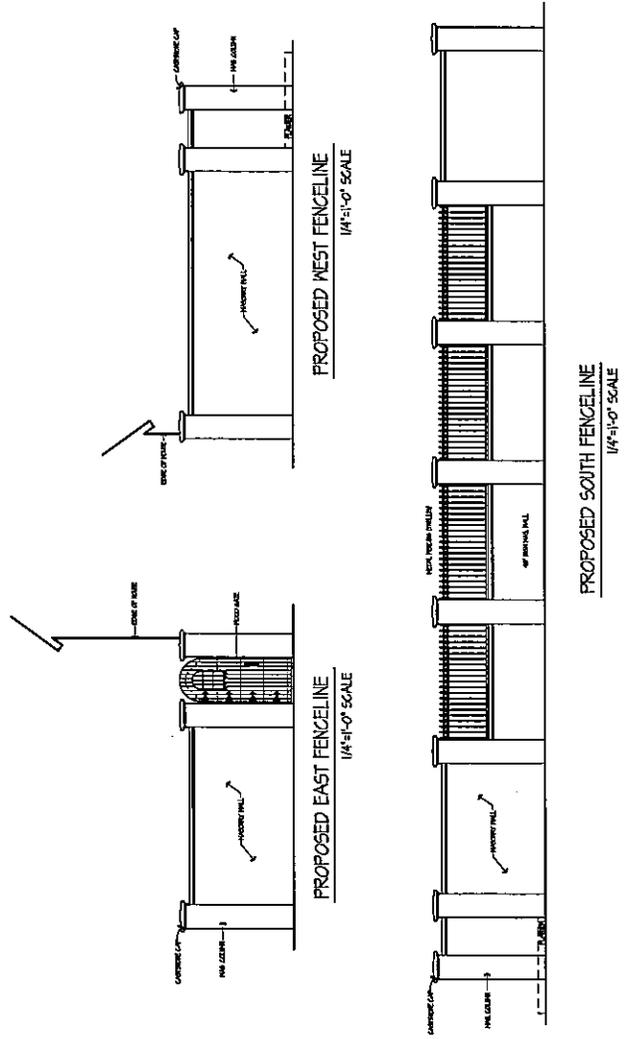
Thanks,
Grayson Wafford

BDA123-026 Attach D
PS 4



BDA 123-026

Attach D
P35





City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-026

Data Relative to Subject Property:

Date: 1/25/2013

Location address: 6422 SONORA AVE 75206 Zoning District: NS04

Lot No.: 4 Block No.: 5/4909 Acreage: .26 Census Tract: 80.00

Street Frontage (in Feet): 1) 125, 2) 132, 3) 2, 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): GRAYSON WAFFORD

Applicant: GRAYSON WAFFORD Telephone: 2144048272

Mailing Address: 5530 RIDGEDALE DALLAS, TX Zip Code: 75206

E-mail Address: grayson-wafford@yahoo.com

Represented by: N/A Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance X, or Special Exception X, of 10 FEET TO THE FRONT YARD SETBACK, AND A SPECIAL EXCEPTION OF 4'6" TO THE FENCE HEIGHT IN A FRONT YARD

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 IRREGULAR SHAPE OF THE LOT RELATIVE TO THOSE IN THE SURROUNDING ZONE REDUCES THE BUILDABLE FOOTPRINT TO JUST 29.8% OF THE PROPERTY. IN ORDER TO FENCE A FRONT YARD I MUST REQUEST A SPECIAL EXCEPTION OF FOUR FEET SIX INCHES TO BUILD AN EIGHT FT SIX INCH FENCE ALONG THE MARQUETA FRONTAGE, WHICH WILL NOT ADVERSELY AFFECT NEIGHBORING PROPERTIES

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 GRAYSON J WAFFORD (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 25 day of January, 2013



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

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

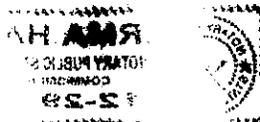
Building Official's Report

I hereby certify that GRAYSON WAFFORD
did submit a request for a variance to the front yard setback regulations, and for a special
exception to the fence height regulations
at 6422 Sondra Ave

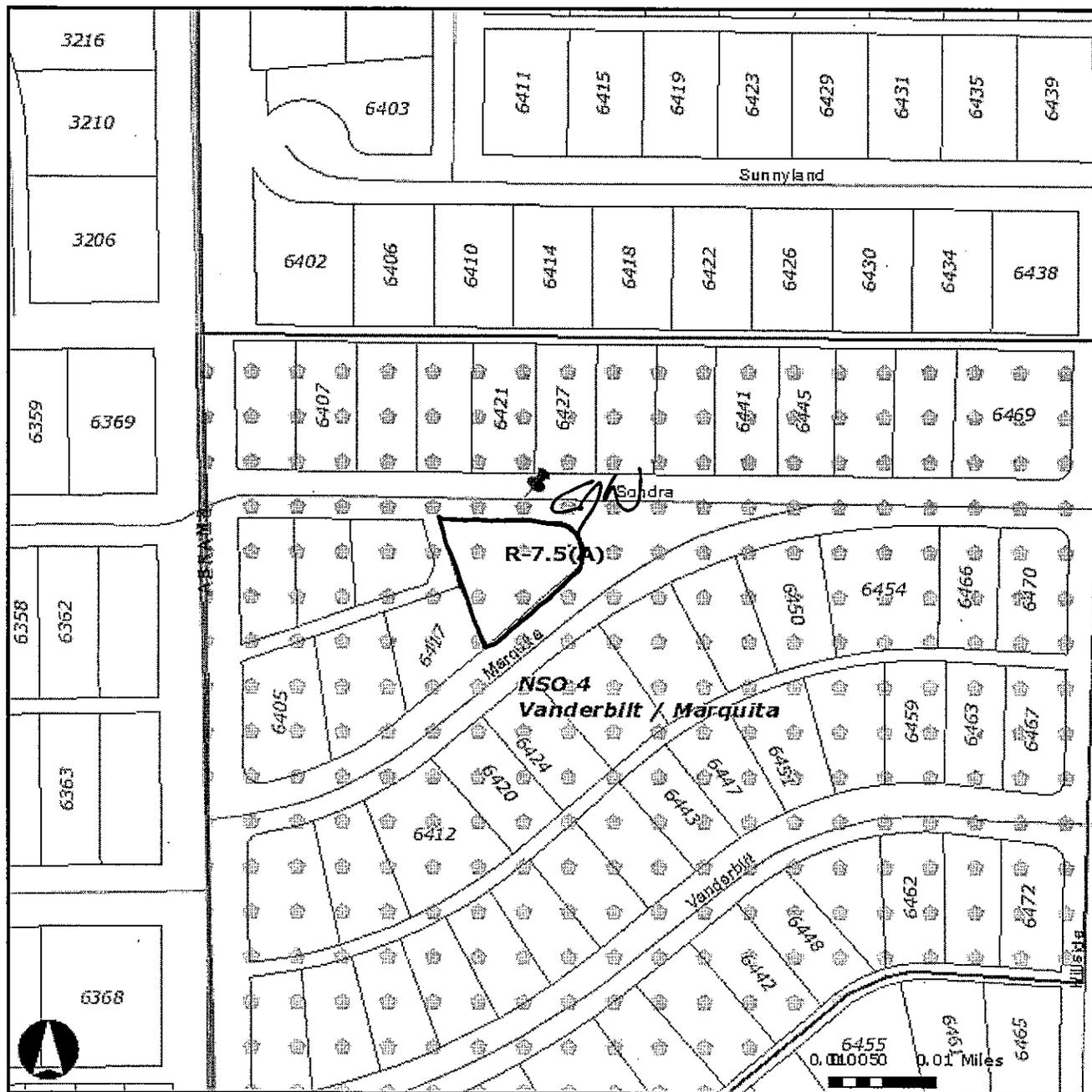
BDA123-026. Application of Grayson Wafford for a variance to the front yard setback regulations and a special exception to the fence height regulations at 6422 Sondra Drive. This property is more fully described as Lot 4, Block 5/4909 and is zoned R-7.5(A), NSO 4, which limits the height of a fence in the front yard to 4 feet and requires a front yard setback of 30 feet. The applicant proposes to construct a single family residential structure and provide a 20 foot front yard setback, which will require a 10 foot variance to the front yard setback regulation, and to construct an 8 foot 6 inch high fence in a required front yard, which will require a 4 foot 6 inch special exception to the fence regulation.

Sincerely,

Larry V. Holmes
Larry Holmes, Building Official



City of Dallas Zoning



Address Candidates



Address Candidates



City Boundaries



County



Deed Restrictions



SUP



Dry Overlay



Historic Overlay

PD193 Oak Lawn



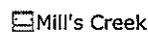
PDS Subdistricts

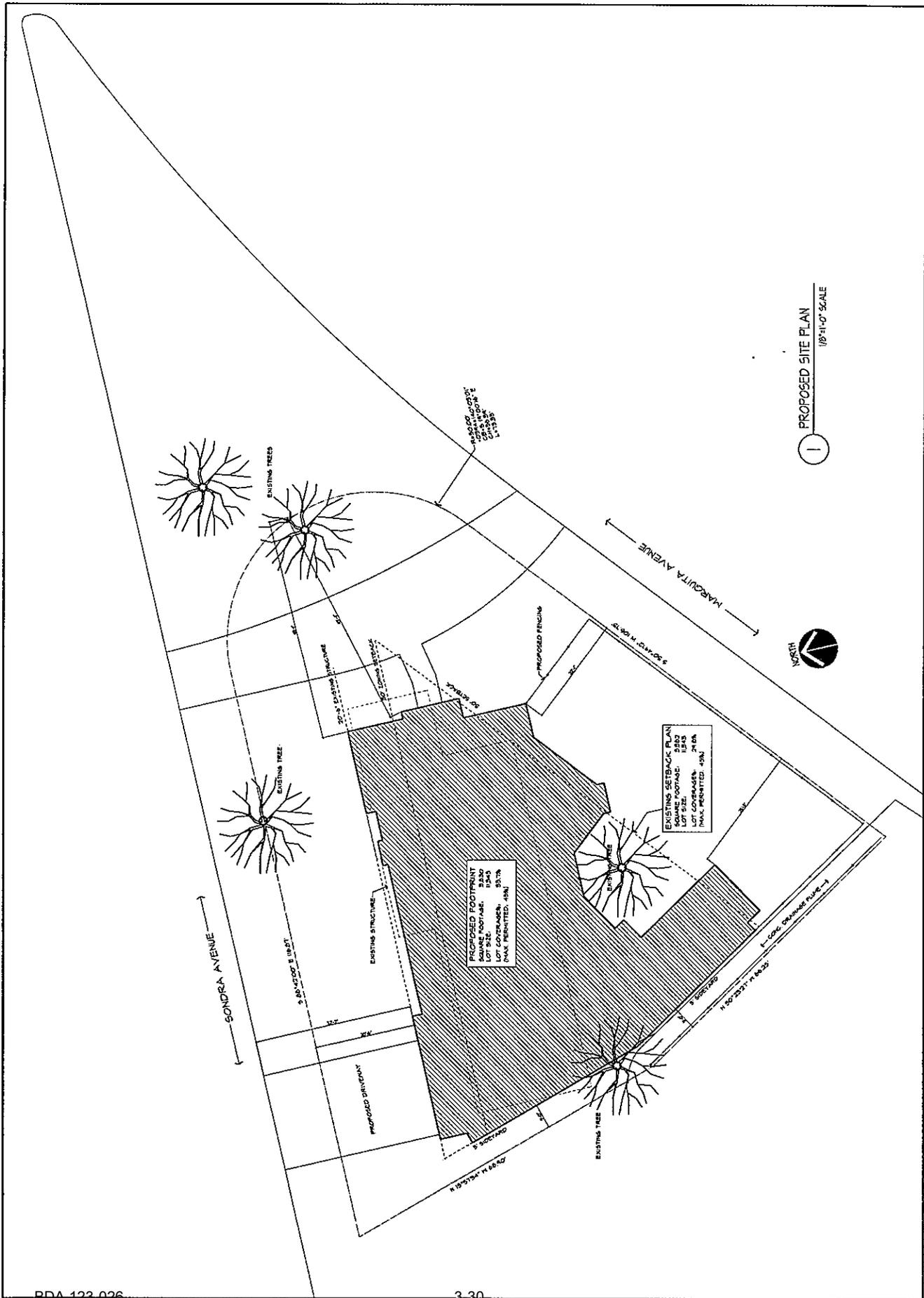


Base Zoning

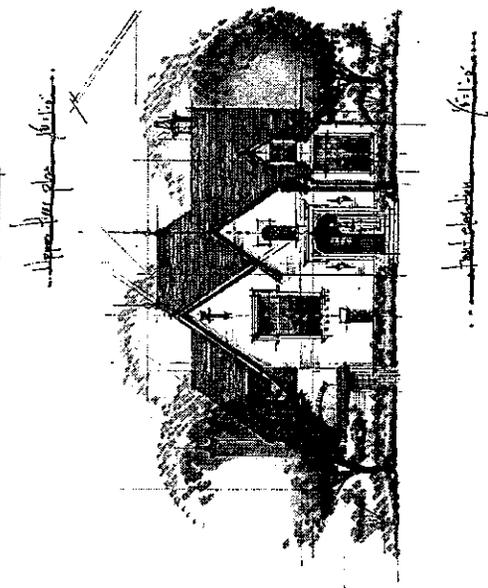
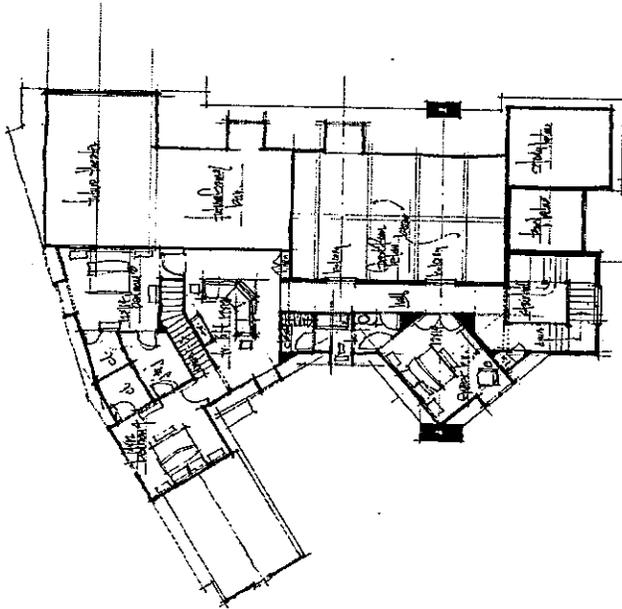
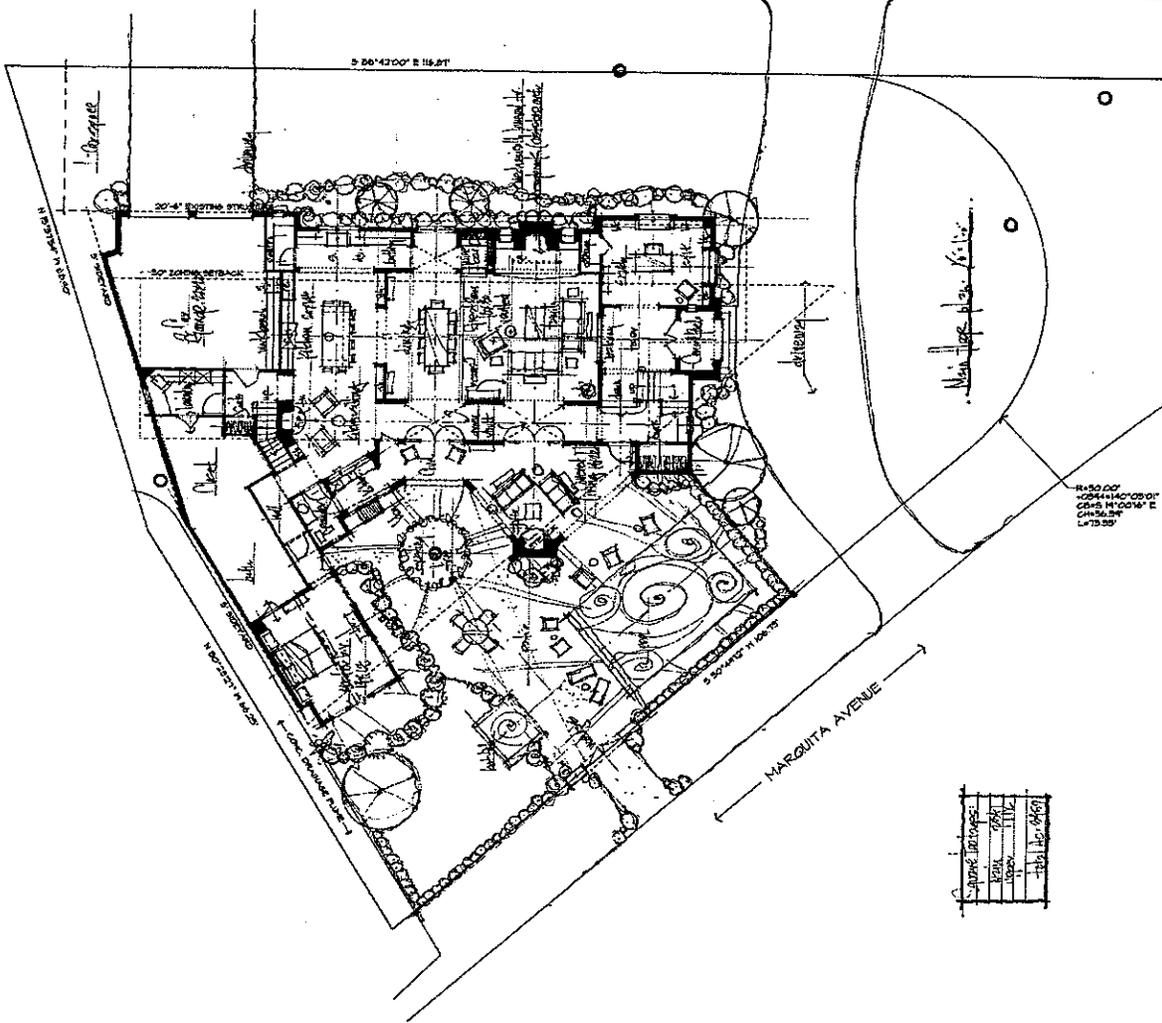


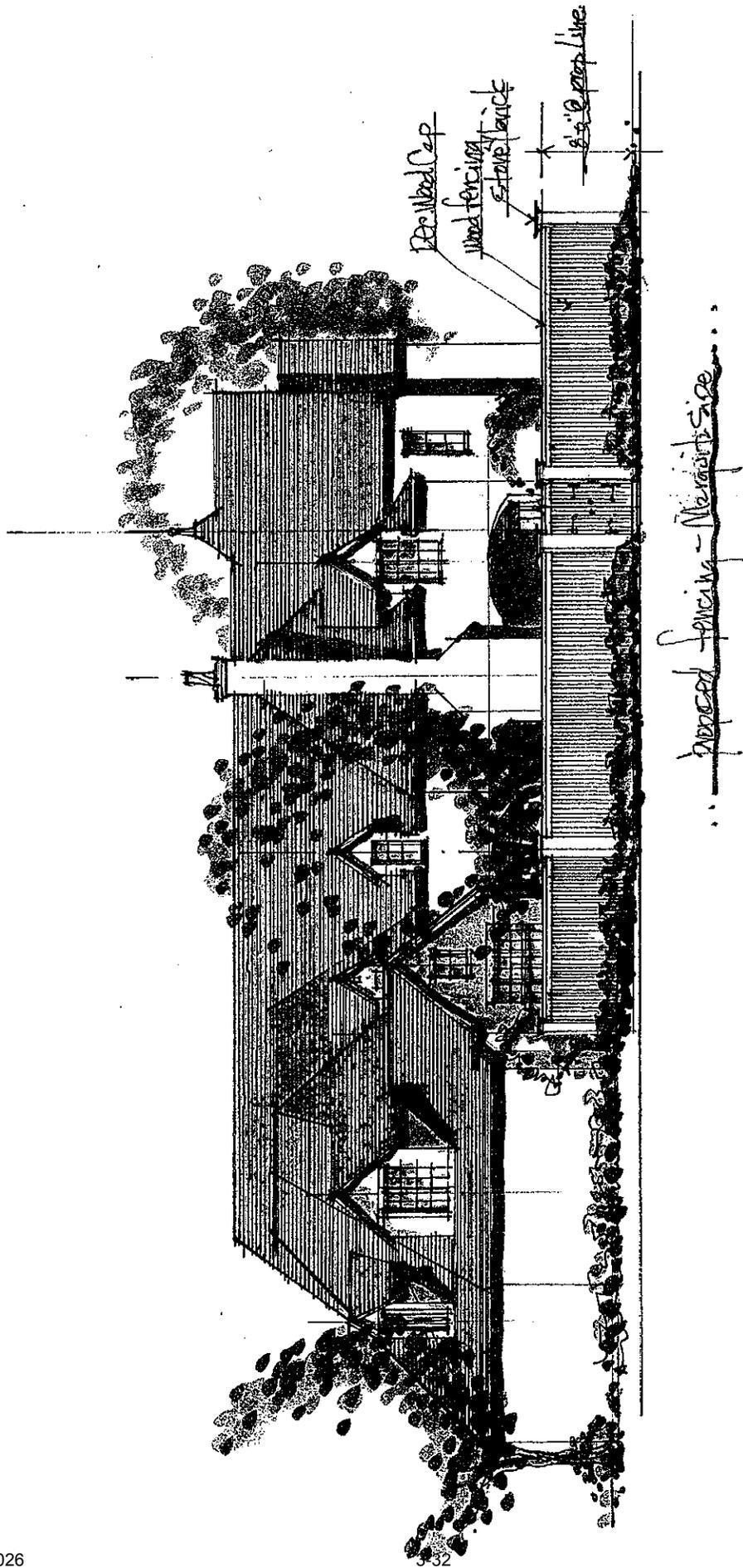
Floodplain

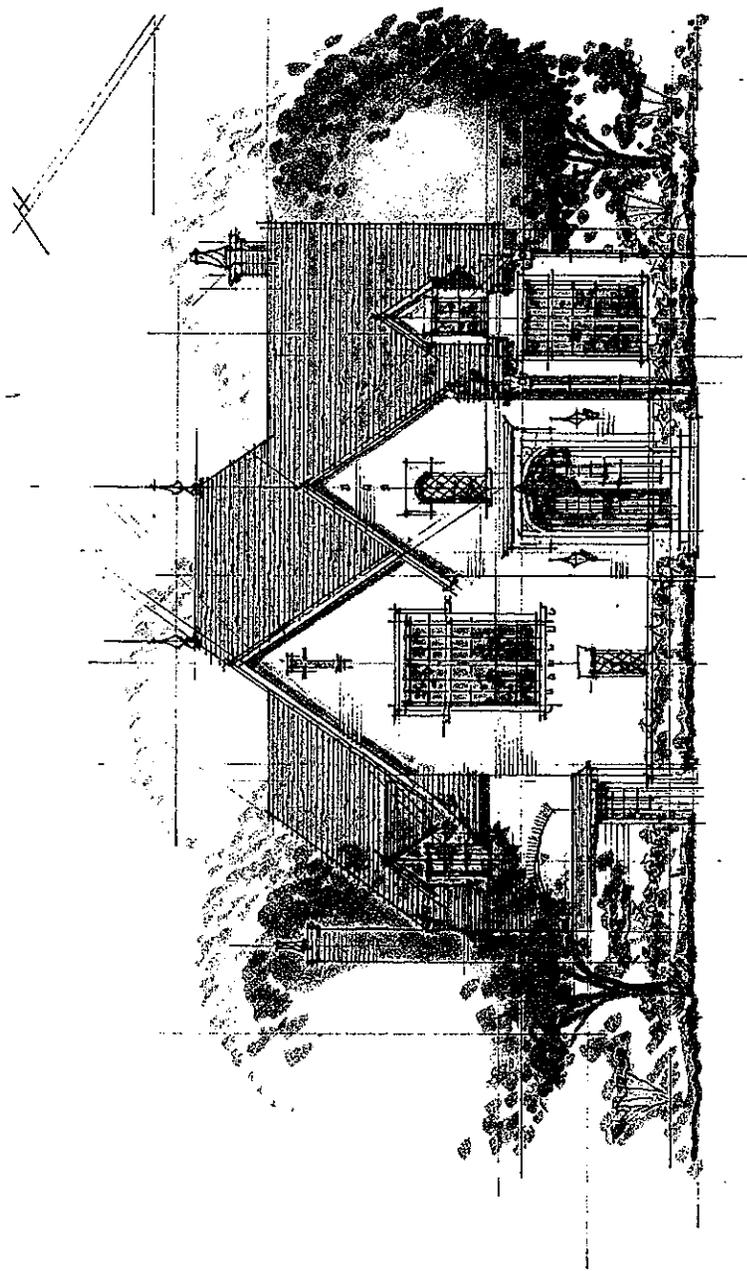




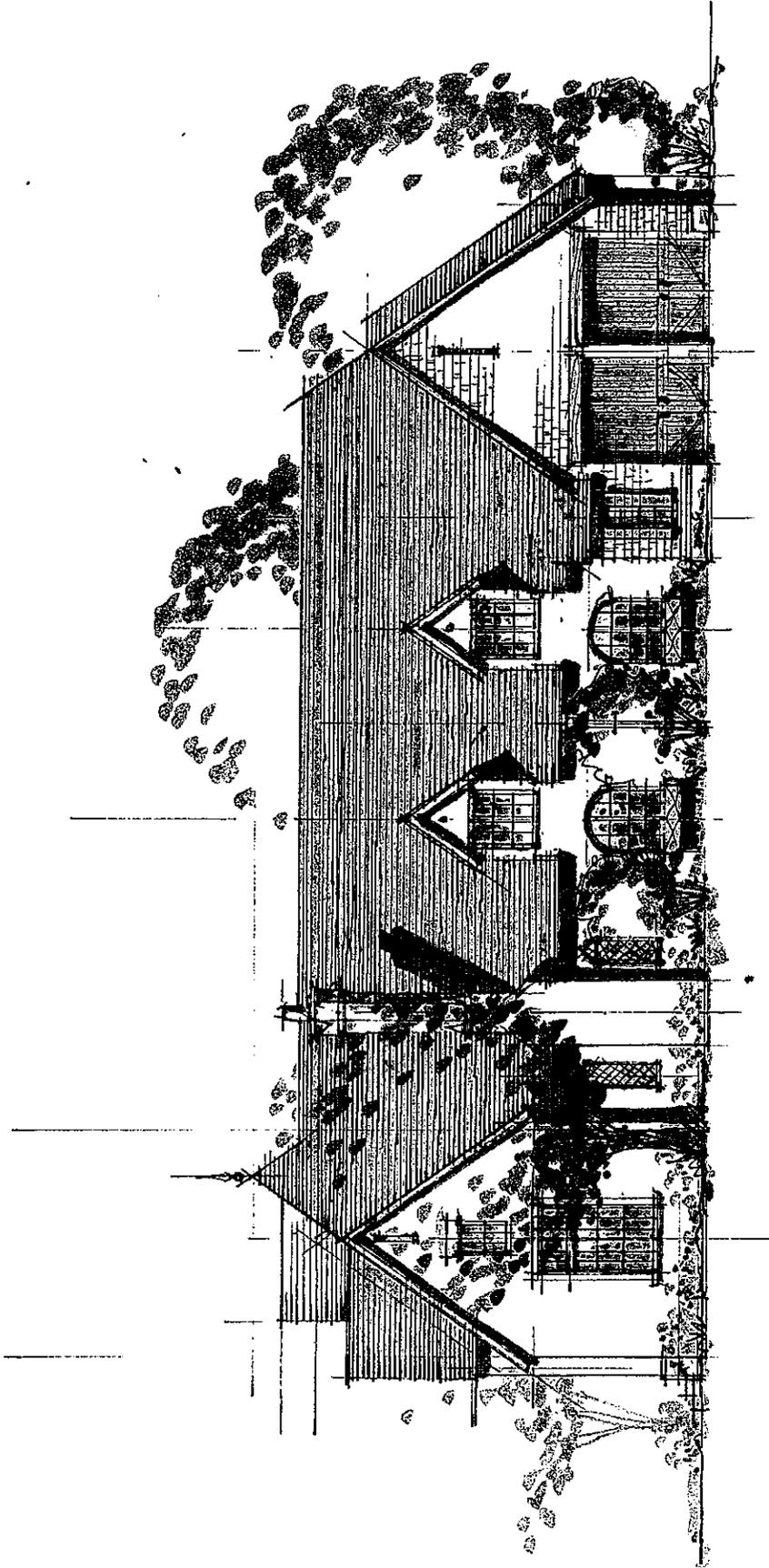
← SONDR A AVENUE →



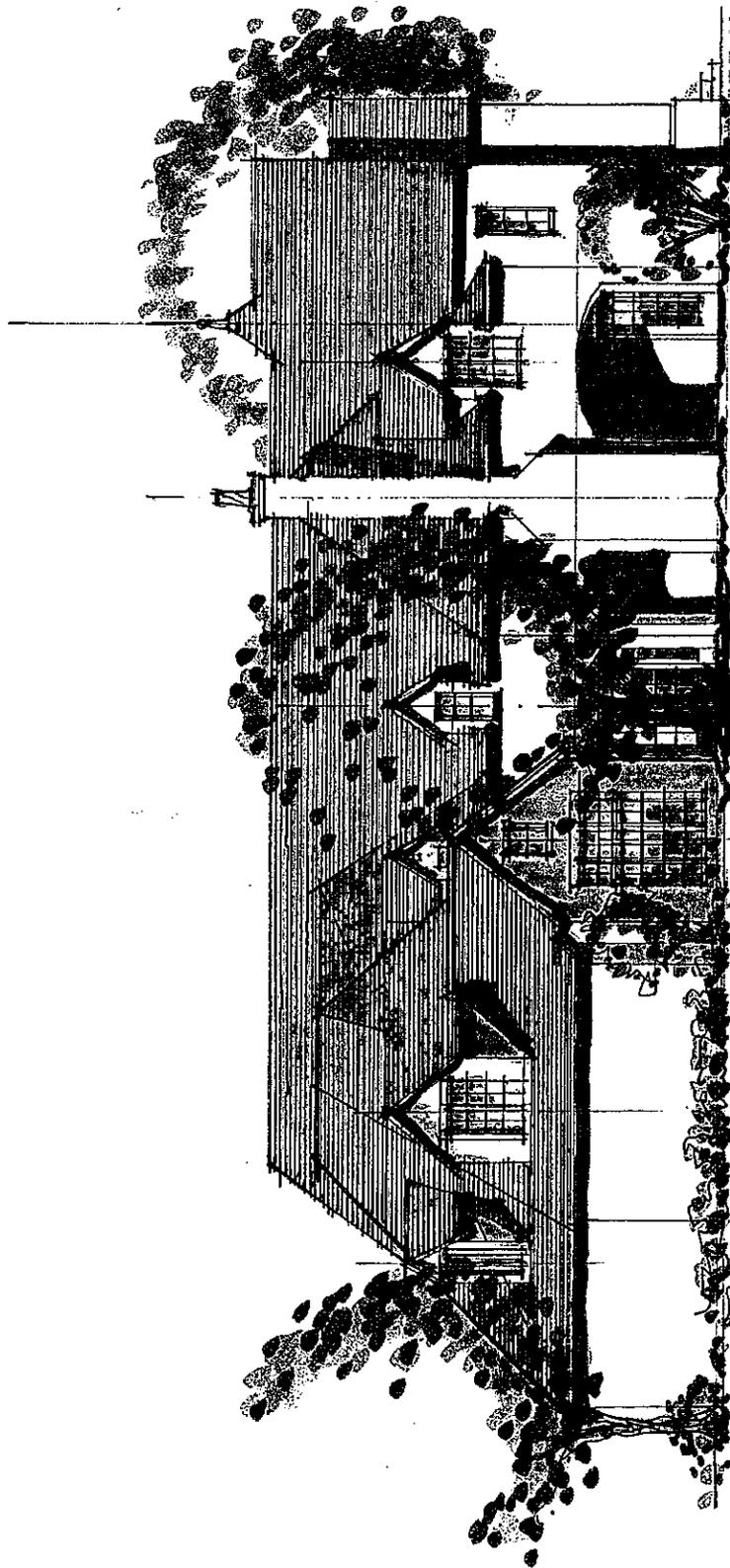




...
Tant Estadia
1/2" = 1'-0"



... Ground Side elevation 1/4" = 1'-0"



Marquise Side Elevation 1/2" = 1'-0"



 1:1,200	NOTIFICATION		Case no: BDA123-026
	<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;">32</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 3/1/2013	

Notification List of Property Owners

BDA123-026

32 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	6422 SONDR A DR	NASH JUDY & CLARICE A TIMMERMAN
2	6406 SUNNYLAND LN	MITCHELL THOMAS H & KATHLEEN A
3	6410 SUNNYLAND LN	FRITTS DOROTHY J
4	6414 SUNNYLAND LN	GOODRUM ELLIS R & OPAL
5	6418 SUNNYLAND LN	BULLOCK MATTHEW C & WEI LI
6	6406 MARQUITA AVE	BUX ELIZABETH
7	6412 MARQUITA AVE	JOHNSON GARRY G
8	6420 MARQUITA AVE	HICKEY MARY SUSAN
9	6424 MARQUITA AVE	ESTES CAROLYN REES
10	6428 MARQUITA AVE	PHILLIPS JONATHAN M
11	6438 MARQUITA AVE	CHILDS DAVID N & LESLEY F
12	6442 SONDR A DR	SINGLETON SALLY K
13	6450 SONDR A DR	WIRTH PHYLLIS GREENE
14	6447 VANDERBILT AVE	HELFFRICH DAVID THOMPSON III HELFFRICH K
15	6443 VANDERBILT AVE	BRUNS FRANCES E
16	6439 VANDERBILT AVE	MASSO JADD F & CHRISTINA W
17	6435 VANDERBILT AVE	STROCK ANNE E
18	6402 SONDR A DR	JOHNSON ERIC W
19	6406 SONDR A DR	ARYAN DOST
20	6412 SONDR A DR	CUNNINGHAM JAMES W & MELINDA CUNNINGHAM
21	6417 MARQUITA AVE	FEDERAL NATIONAL MORTGAGE ASSN
22	6411 MARQUITA AVE	ROBERTSON JOHN D & AUDREY E
23	6405 MARQUITA AVE	MACKENZIE KEVIN
24	6403 SONDR A DR	TOLER JAMES O
25	6407 SONDR A DR	JORDAN GEORGE J & SHANNON
26	6411 SONDR A DR	JENKINS ALEXANDRA

2/28/2013

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	6417 SONDR A DR	MOOREHEAD JERRY W
28	6421 SONDR A DR	MARSH FAMILY LIVING TRUST
29	6427 SONDR A DR	FONTANE MATTHEW
30	6431 SONDR A DR	ROBICHAUX ELAINE
31	6435 SONDR A DR	KIMOSH KYLEE O &
32	6441 SONDR A DR	PANTEL EARLENE M

FILE NUMBER: BDA 123-036

BUILDING OFFICIAL'S REPORT: Application of Ed Simons for a variance to the front yard setback regulations, a special exception to the landscape regulations, and a special exception and a variance to the off-street parking regulations at 5806 W. Lovers Lane. This property is more fully described as Lot 16A, Block 11/5688 and is zoned CR, which requires (1) a front yard setback of 15 feet; (2) mandatory landscaping, and (3) off-street parking. The applicant proposes to construct and/or maintain a structure with a general merchandise or food store greater than 3,500 square feet use and a nursery, garden shop or plant sales use and provide (1) a 0 foot front yard setback, which will require a 15 foot variance to the front yard setback regulations; (2) an alternate landscape plan, which will require a special exception to the landscape regulations; and 31 of the required 48 parking spaces, which will require a space special exception of 12 spaces and a variance of 5 spaces to the off-street parking regulations.

LOCATION: 5806 W. Lovers Lane.

APPLICANT: Ed Simons

REQUESTS:

The following appeals have been made on a site that is currently developed with a "general merchandise or food store greater than 3,500 square feet" and "nursery, garden shop, or plant sales" uses (Dr. Delphinium Design and Events):

1. A variance to the front yard setback regulations of 10' is made in conjunction with constructing and maintaining a "new greenhouse one story 2,367 s.f." structure, part of which is to be located on the Dallas North Tollway service road front property line, or 15' into this 15' front yard setback.
2. Variances to the front yard setback regulations of 10' are made in conjunction with remedying/addressing the nonconforming aspect of the existing nonconforming structures ("two story frame" and "one story stucco") that are located on the Dallas North Tollway service road front property line, or 15' into this 15' front yard setback.
3. Requests for both a variance to the off-street parking regulations of 5 spaces and a special exception to the off-street parking regulations of 12 spaces are made in conjunction with providing a total of 31 of the total 48 off-street parking required for the existing/proposed "general merchandise or food store greater than 3,500 square feet" and "nursery, garden shop, or plant sales" uses on the site.
4. A special exception to the landscape regulations is made in conjunction with the submission of an alternate landscape plan that varies from an approved landscape plan submitted in conjunction with a previous building addition permitted in 1993. (The new building addition proposed on the site does not trigger landscape requirements under the current Article X ordinance).

STANDARD FOR A VARIANCE:

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

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

STANDARD FOR A SPECIAL EXCEPTION TO THE 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.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REGULATIONS:

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

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

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

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

STAFF RECOMMENDATIONS (front yard setback and off-street parking variances):

Denial

Rationale:

- The applicant has not substantiated how a literal enforcement of the code provisions related to front yard setback and off-street parking regulations would result in unnecessary hardship; how the variances are necessary to permit development of the subject site in that it is different from other parcels of land by its restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels with the same CR zoning district; nor how the variances are not needed to relieve a self-created or personal hardship, nor for financial reasons only.
- The applicant has not substantiated how the requested variances to the front yard setback and off-street parking regulations are necessary to permit its development (a site that is flat, virtually rectangular in shape (approximately 278' x 100'), and approximately 27,900 square feet in area in a manner commensurate with the development upon other parcels of land with the same CR zoning, or how with the physical features of the site preclude him from complying with front yard setback and off-street parking requirements for uses/structures with less square footage than what exists and/or is proposed.
- While the Sustainable Development and Construction Department Engineering Division Assistant Director has indicated "no objections" to the parking reduction request made by the applicant by requests for variance and special exception, staff recommends denial of this request because of the applicant's inability to fully address the variance standard.

STAFF RECOMMENDATION (off-street parking special exception):

Approval, subject to the following condition:

- The special exception of 12 spaces shall automatically and immediately terminate if and when the "general merchandise or food store greater than 3,500 square feet" and "nursery, garden shop, or plant sales" uses is changed or discontinued.

Rationale:

- The applicant has substantiated how the parking demand generated by the "general merchandise or food store greater than 3,500 square feet" and "nursery, garden shop, or plant sales" uses 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 Sustainable Development and Construction Department Engineering Division Assistant Director has indicated that he has no objections to this request.

STAFF RECOMMENDATION (landscape special exception):

Denial

Rationale:

- The applicant has not substantiated how strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property, and that the special exception will not adversely affect neighboring property.
- The City’s Chief Arborist recommends denial of this request.

BACKGROUND INFORMATION:

Zoning:

Site: CR (Community Retail)
North: City of University Park
South: CR (Community Retail)
East: CR (Community Retail)
West: Dallas North Tollway

Land Use:

The subject site is developed with a “general merchandise or food store greater than 3,500 square feet” and “nursery, garden shop, or plant sales” uses (Dr. Delphinium Design and Events). The area to the north is developed with retail uses; the area immediately to the east is undeveloped; the area to the south is developed as an electrical substation; and the area immediately west is the Dallas North Tollway.

Zoning/BDA History:

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

Timeline:

February 22, 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.

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

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

- an attachment that provided the public hearing date and panel that will consider the application; the March 27th deadline to submit additional evidence for staff to factor into their analysis; and the April 5th 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.”

April 2, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

April 5, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet regarding the applicant’s request for a variance to the off-street parking regulations marked “Has no objections.”

April 5, 2013: The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the request for a special exception to the landscape regulations (see Attachment A).

GENERAL FACTS/ANALYSIS (front yard variances):

- Part of the variance request focuses on a “new greenhouse one story 2,367 s.f.” structure, part of which is to be located on the Dallas North Tollway service road front property line, or 15’ into this 15’ front yard setback.
- Part of the variance request focuses on remedying/addressing the nonconforming aspect of the existing nonconforming structures (“two story frame” and “one story stucco”) that are located on the Dallas North Tollway service road front property line, or 15’ into this 15’ front yard setback.
- The Dallas Development Code defines a nonconforming structure as a structure that does not conform to the regulations (other than the use regulations) of this chapter, but which was lawfully constructed under the regulations in force at the time of construction.
- The Dallas Development Code states that a person may renovate, remodel, repair, or enlarge a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations; and 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 minimum front yard setback on a CR zoned lot is 15 feet.
- A site plan has been submitted showing the proposed and existing structures as close as on the Dallas North Tollway service road front property line.
- According to calculations taken from the submitted site plan by the Board Administrator, approximately 680 square feet (or about 1/3) of the “new greenhouse one story 2,367 s.f.” structure is located in the Dallas North Tollway service road

front yard setback; approximately 700 square feet (or about 1/3) of the existing approximately 2,500 square foot “two story frame structure is located in the Dallas North Tollway service road front yard setback; and approximately 800 square feet (or about 1/3) of the approximately 2,400 square foot “one story stucco” structure is located in the Dallas North Tollway service road front yard setback.

- DCAD records indicate that the improvements at 5806 W. Lovers Lane are a “free standing retail store” with 2,856 square feet built in 1940, and a “storage warehouse” with 1,748 square feet built in 1994.
- The site is flat, virtually rectangular in shape (approximately 278’ x 100’), and according to the application, is 0.64 acres (or approximately 27,900 square feet) in area. The site is zoned CR (Community Retail). The corner property with two street frontages has two front yard setbacks as any corner property with two street frontages would that is not zoned agricultural, single family, or duplex.
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same CR 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 CR zoning classification.
- If the Board were to grant this front yard variance request, imposing a condition whereby the applicant must comply with the submitted site plan, the proposed and/or existing structures in the Dallas North Tollway service road front yard setback would be limited to what is shown on this plan.

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

- This request focuses on constructing and maintaining approximately 8,600 square feet of “general merchandise” use and approximately 2,400 square feet of “nursery” use on the site where the applicant proposes to provide 31 (or 65 percent) of the required 48 required off-street parking spaces in conjunction with constructing and maintaining these uses with these square footages on the site.
- The Dallas Development Code requires the following off-street parking requirement:
 - General merchandise or food store use greater than 3,500 square feet use: 1 space per 200 square feet of floor area.
 - Nursery, garden shop, or plant sales use: 1 space per 500 square feet of floor area.

- The applicant proposes to provide 31 (or 65 percent) of the required 48 off-street parking spaces in conjunction with the site being leased/maintained with the use mentioned above.
- The submitted site plan denotes the following:
 - parking required: General Merchandise Use- North Building: 8,665 s.f.(1/200 s.f.) = 43 spaces; Nursery Use- South Building: 2,367 s.f. (1/500 s.f.) = 5 spaces; Total Parking Required: 11,032 s.f. 48 spaces
- Dallas Development Code Section 51A-4.311(a)(1) states that the Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required *under this article* if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets; and that the maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.
- Therefore, because the applicant's off-street parking requirement reduction requests exceeds more than 25 percent of the total number of off-street parking spaces required, he can not seek his reduction request solely as a special exception. The applicant could have sought his reduction request solely as a variance but chose to divide his total parking reduction request into the maximum amount he can as a special exception (12 spaces or 25 percent of 48 total required) with the remaining amount as a variance (5 spaces or 10 percent of 48 total required).
- DCAD records indicate that the improvements at 5806 W. Lovers Lane are a "free standing retail store" with 2,856 square feet built in 1940, and a "storage warehouse" with 1,748 square feet built in 1994.
- The site is flat, virtually rectangular in shape (approximately 278' x 100'), and according to the application, is 0.64 acres (or approximately 27,900 square feet) in area. The site is zoned CR (Community Retail). The property with three street frontages has three front yard setbacks as any property with three street frontages would that is not zoned agricultural, single family, or duplex.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the off-street parking regulations of will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site (that differs from other parcels of land by being of such a restrictive area, shape, or slope) that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same CR zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the CR zoning classification.

- The Sustainable Development and Construction Department Engineering Division Assistant Director has submitted a review comment sheet marked “Has no objections.”

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

- This request focuses on constructing and maintaining approximately 8,600 square feet of “general merchandise” use and approximately 2,400 square feet of “nursery” use on the site where the applicant proposes to provide 31 (or 65 percent) of the required 48 required off-street parking spaces in conjunction with constructing and maintaining these uses with these square footages on the site.
- The Dallas Development Code requires the following off-street parking requirement:
 - General merchandise or food store use greater than 3,500 square feet use: 1 space per 200 square feet of floor area.
 - Nursery, garden shop, or plant sales use: 1 space per 500 square feet of floor area.

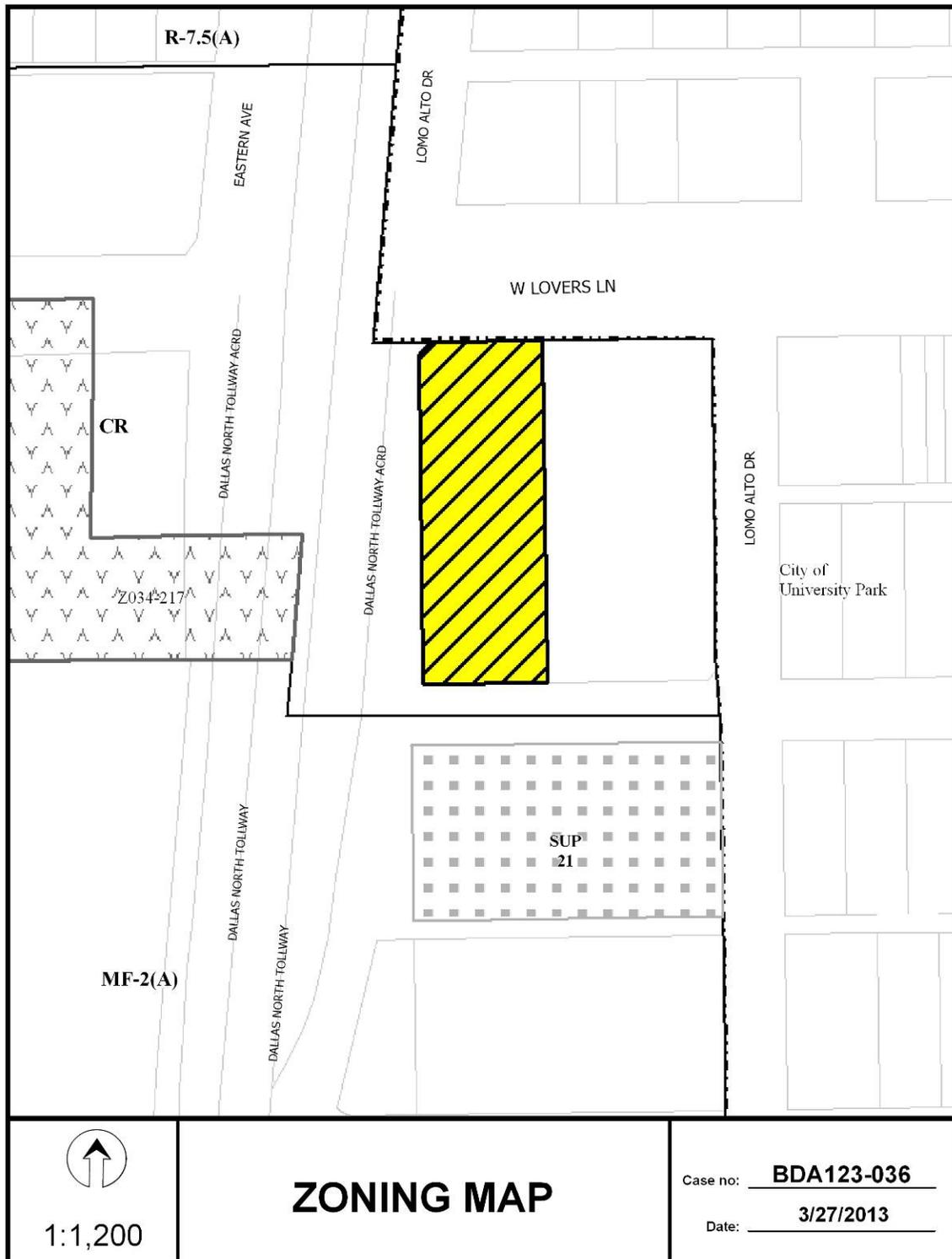
The applicant proposes to provide 31 (or 65 percent) of the required 48 off-street parking spaces in conjunction with the site being leased/maintained with the use mentioned above.

- The submitted site plan denotes the following:
 - parking required: General Merchandise Use- North Building: 8,665 s.f.(1/200 s.f.) = 43 spaces; Nursery Use- South Building: 2,367 s.f. (1/500 s.f.) = 5 spaces; Total Parking Required: 11,032 s.f. 48 spaces
- Dallas Development Code Section 51A-4.311(a)(1) states that the Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required *under this article* if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets; and that the maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.
- Therefore, because the applicant’s off-street parking requirement reduction requests exceeds more than 25 percent of the total number of off-street parking spaces required, he can not seek his reduction request solely as a special exception.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the “general merchandise or food store greater than 3,500 square feet” and “nursery, garden shop, or plant sales” uses on the site does not warrant the number of off-street parking spaces required, and
 - The special exception of 12 spaces (or a 25 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 12 spaces shall automatically and immediately terminate if and when

the “general merchandise or food store greater than 3,500 square feet” and “nursery, garden shop, or plant sales” uses is changed or discontinued, the applicant would be allowed to lease/maintain the site with these specific uses and provide only 36 of the 48 code required off-street parking spaces. (Note that the applicant would also need to have his 5 space parking variance request granted also in order to lease/maintain the site with his proposed uses where only 31 of the 48 code required off-street parking spaces provided).

GENERAL FACTS/STAFF ANALYSIS (landscape special exception):

- This request focuses on varying from an approved landscape plan submitted in conjunction with a previous building addition permitted in 1993.
- The City of Dallas Chief Arborist states that the applicant is requested a special exception from all applicable mandatory and design standard provisions of Article X.
- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- The City of Dallas Chief Arborist submitted a memo to the Board Administrator regarding the applicant’s request (see Attachment A). The memo states how this application is for an alternate landscape plan that varies from the approved landscape plan for a previous building addition permitted in 1993, and that the new building addition to the property will not trigger landscape requirements under the current Article X ordinance.
- The City of Dallas Chief Arborist has stated in his memo among other things how the property currently does not have the required landscaping installed that was approved in plan review in 1993, and where the site is deficient the providing the mandatory landscape buffer strip along the southern perimeter of the property and the required design standard points.
- The City of Dallas Chief Arborist recommends denial of this request.
- The applicant has the burden of proof in establishing the following:
 - Strict compliance with the requirements of the Landscape Regulations of the Dallas Development Code will unreasonably burden the use of the property; and
 - The special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted site/landscape plan as a condition to the request, the site would be provided exception from full compliance with the mandatory landscape buffer strip along the southern perimeter of the property and the required design standard points of Article X: The Landscape Regulations.



1:1,200

ZONING MAP

Case no: BDA123-036

Date: 3/27/2013

Memorandum



CITY OF DALLAS

DATE April 5, 2013
 TO Steve Long, Board of Adjustment Administrator
 SUBJECT # BDA 123 · 036 5806 W Lovers Lane

The applicant is requesting a special exception to the landscape regulations of Article X of the Dallas Development Code. Specifically, the applicant is requesting a special exception of all applicable mandatory and design standard provisions of Article X.

Trigger

This application is for an alternative landscape plan that varies from the approved landscape plan for a previous building addition permitted in 1993. A new building addition to the property will not trigger landscape requirements under the current Article X ordinance.

Deficiencies

The property currently does not have the required landscaping installed that was approved in plan review in 1993. The original landscape plan was authorized under Chapter 51 provisions. Currently, one ornamental tree is on the property.

Based on the approved 1993 landscape plan, the site is deficient the mandatory provisions of Chapter 51 Section 51-10.106 in the following:

Mandatory landscape buffer strip – a minimum 10' wide landscape buffer strip is required along the southern perimeter where residential adjacency exists.

As a lot with residential adjacency, the property required 30 points of design standards under Section 51-105. The approved landscape plan identified 30 points through the following provisions:

Landscape buffer strip – 6' height photinias along Hyer Street (10 points)
 Landscape parking lot – 25 sf each and large canopy trees (10 points)
 Providing special amenities – large trees along Dallas North Tollway (10 points)

The site is deficient design standard points of Section 51-10.107.

The applicant is requesting approval of an alternative landscape plan. We have placed a copy of the original landscape plan from 1993 into the file for comparison. The current standards for Board of Adjustment review apply

Trees existing off property (on NTTA property) were given recognition for design standard tree credits on the applicants landscape plan. The trees are off-site and under electric transmission lines. Some of the trees have been topped for billboard sign visibility from the Tollway. Topped trees may not be used as street trees.

The property has residential adjacency across Hyer Street to the south (MF-2(A)), but the adjacent property is a electric substation.

Comparison Chart for Landscaping - 5806 W Lovers Lane

	Requested	Article X - 1993 standards	Article X - current standards
<u>Mandatory</u>	<u>Provided on Plan</u> 2 - 3" oak trees 1 existing ornamental <320 square feet landscape Trees on NTTA property** and Lovers Lane ROW.	<u>Approved on Original Plan</u> 10' landscape buffer strip	<u>Standard</u> 7 site trees / 3 provided 9 street trees / 7 on plan** parking lot trees - OK RA* - 2 plant grps - NO
<u>Design</u>		<u>30 points required - RA*</u> Providing screening (south) - 10 pts Parking lot LA - 10 pts Tree credits** - 10 pts	<u>9 design standard options</u>
<u>Standards</u>			none provided

*RA - Residential adjacency exists to the south. A minimum 10' buffer is required per ordinance.

**Trees on NTTA property are subject to authority of NTTA and electric utility. Sign company has topped a number of the trees for a visibility corridor. Pine trees replaced 'rose garden'.

The original landscape plan was noted in record to have been inspected for final approval in 1995. No inspection or notice of violation is known to have been filed since that time.

The new plan proposes two new trees in general locations shown with the original plan. All landscaping, including photinia and landscape surface area, in the southern half of the lot adjacent to Hyer Street is removed and the area is now impervious to the street.

Recommendation

I recommend denial of the submitted landscape plan that removes required buffering elements from the southern landscape area.

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



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-036

Data Relative to Subject Property:

Date: 02-22-13

Location address: 5806 W Lovers Lane Zoning District: CR

Lot No.: 16A Block No.: 11/5688 Acreage: .64 Census Tract: 71.01

Street Frontage (in Feet): 1 90.30 2 268.00 3) 100.30
4) _____ 5) _____

NE21A

To the Honorable Board of Adjustment:

Owner of Property/or Principal Carol Lindemann White 2012 GST GRAT Trust

Applicant: Ed Simons Telephone: 214-914-9746

Mailing Address 900 Jackson Street, Suite 640 Zip Code: 75202

Represented by: Same Telephone: _____

Mailing Address: _____ Zip Code: _____

Affirm that a request has been made for a Variance X or Special Exception X of Front Yard Setback of 15' and alternate landscape plan. A SPECIAL EXCEPTION OF 12 SPACE AND A VARIANCE OF 5 SPACE FOR A GENERAL MERCHANDISE STORE / GARDEN SHOP
Application is now made to the Honorable Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described request for the following reason: The front yard setback along the tollroad does not function as a front yard. The residential adjacency along Hyer abuts an Oncor electrical substation and restricts needed parking. THERE IS NO DEMAND FOR MORE PARKING AND THERE ARE SPACES IN FRONT THAT DON'T COUNT.

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

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

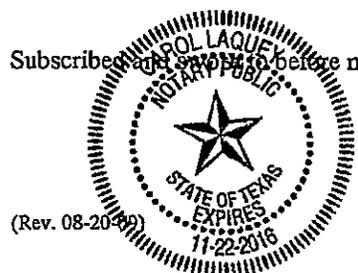
Affidavit

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

[Signature]
Applicant (Applicant's signature)

Subscribed and sworn to before me this 22 day of February, 2013

Carol Laquey
Notary Public in and for Dallas County, Texas



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that ED SIMONS

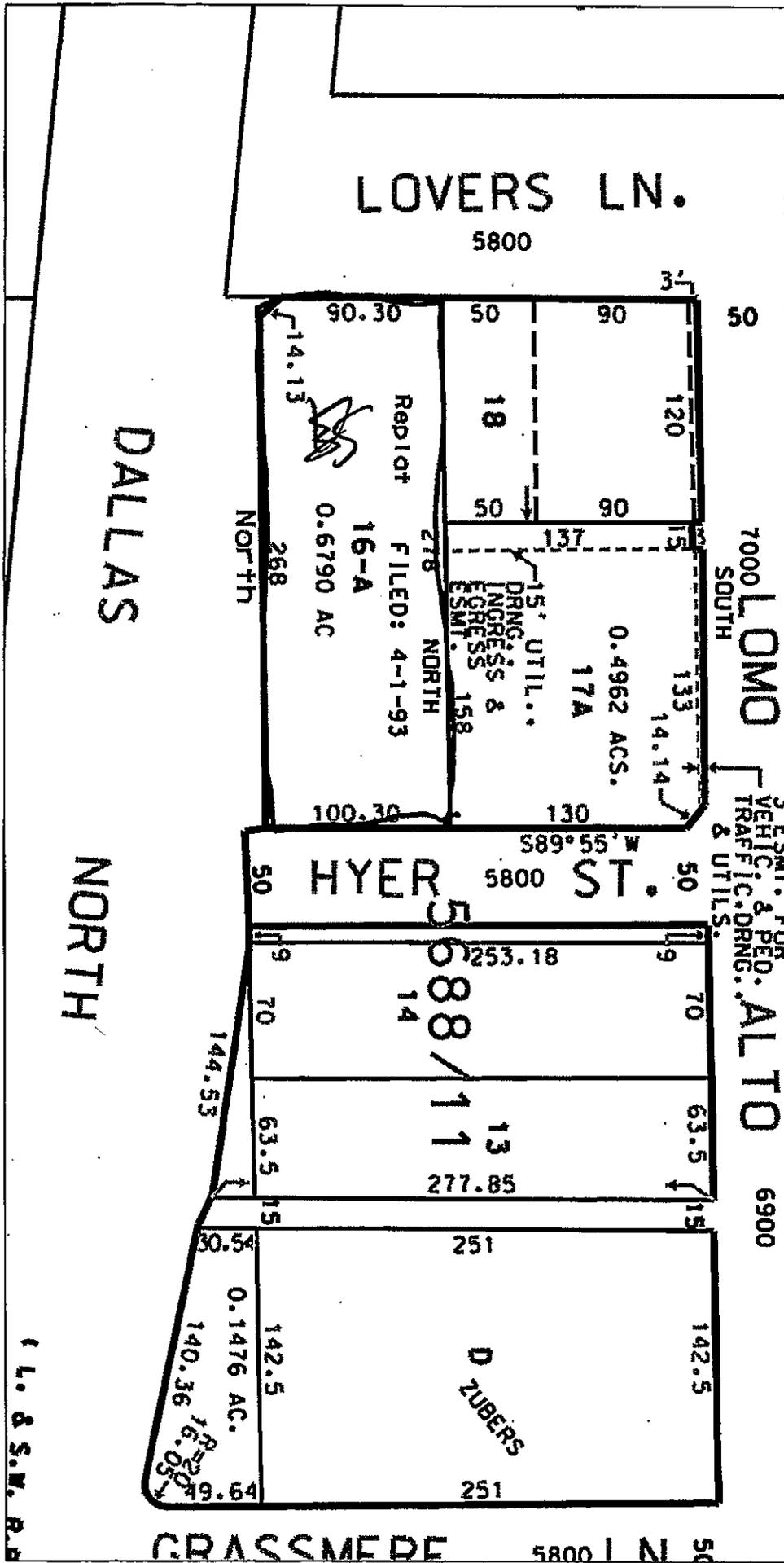
did submit a request for a variance to the front yard setback regulations, and for a special exception to the landscaping regulations, and for a special exception and a variance to the parking regulations

at 5806 W. Lovers Lane

BDA123-036. Application of Ed Simons for a variance to the front yard setback regulations, and a special exception to the landscaping regulations, and a special exception and a variance to the parking regulations at 5806 W. Lovers Lane. This property is more fully described as Lot 16A, Block 11/5688 and is zoned CR, which requires a front yard setback of 15 feet and requires mandatory landscaping and requires parking to be provided. The applicant proposes to construct and maintain a nonresidential structure and provide a 0 foot front yard setback, which will require a 15 foot variance to the front yard setback regulation, and to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations, and to construct and maintain a nonresidential structure for a general merchandise or food store greater than 3500 square feet use and a nursery, garden shop, or plant sales use, and provide 31 of the required 48 parking spaces, which will require a 12 space special exception (25% reduction) to the parking regulation and a 5 space variance to the parking regulation.

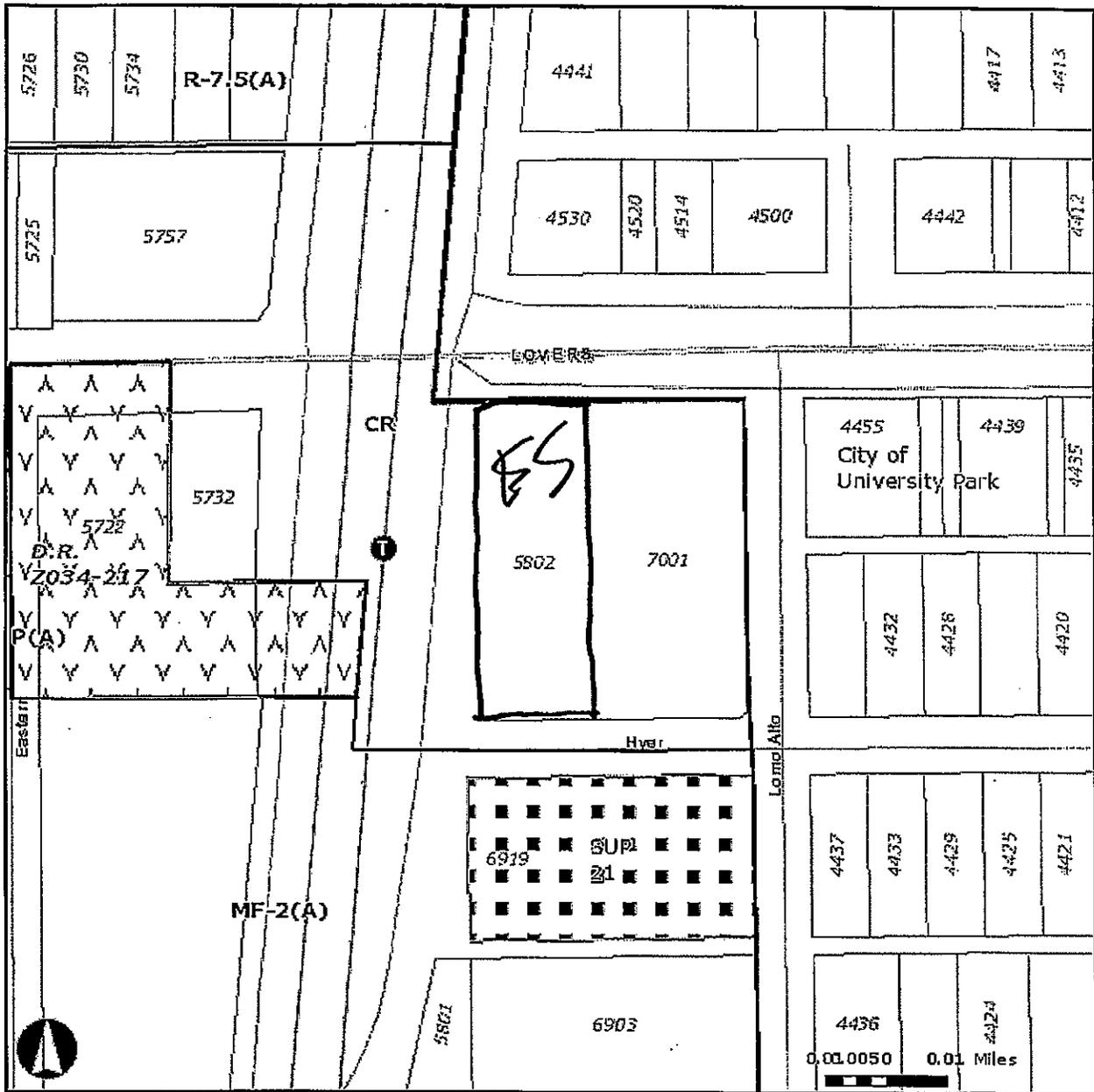
Sincerely,


Larry Holmes, Building Official



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City of Dallas Zoning



Address Candidates

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

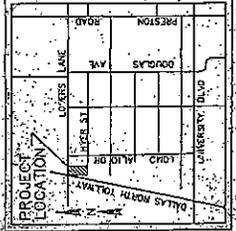
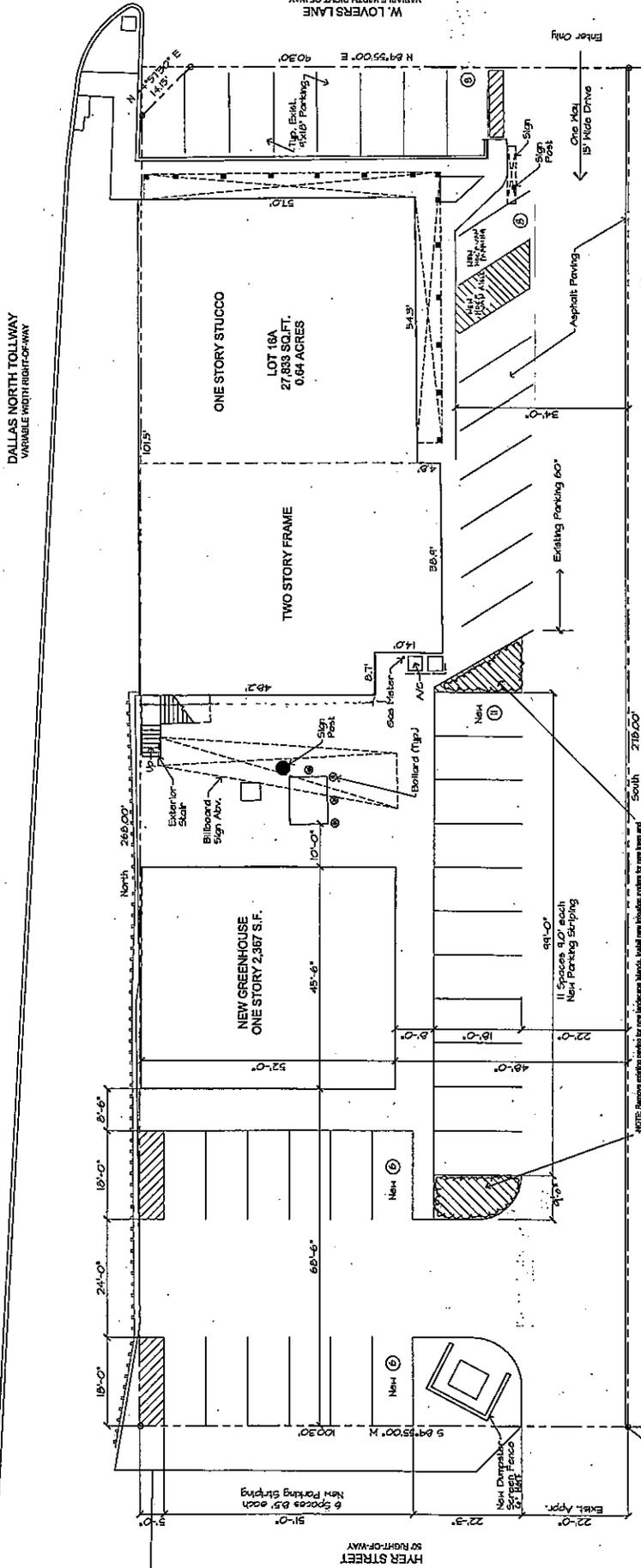
SUP

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

PDS Subdistricts

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

DALLAS NORTH TOLLWAY
VARIABLE WIDTH RIGHT-OF-WAY



Site Plan
Scale: 1" = 10'-0"

Site Data - Remodel / Renovation Plan
Lot Area: 24,461 (2,333.1)
Zoning: Retail

Building Area:
North Addition: 5,814 s.f. (Existing)
North Addition 2nd Floor: 2,741 s.f. (Existing)
South Addition: 8,563 s.f. (Existing)
South Addition: 2,367 s.f. (Remove existing and construct new same s.f.)
Total Building Area: 11,022 s.f.

Lot Coverage: 30 %
F.A.R.: 40:1

Parking Requirements:
General Mercantile Use - North Building: 8,865 s.f. (1,000 s.f.) = 43 spaces
General Mercantile Use - South Building: 2,367 s.f. (1,000 s.f.) = 5 spaces
Total Parking Requirement: 11,002 s.f.
48 spaces

Parking to be provided: 48 spaces (includes 2 handicapped)

Project	Remodel
DR. DELPHINIUM DESIGNS & EVENTS	
5006 W. Lovers Lane Dallas, Texas 75225	
THE CAPERTON GROUP	
14860 MONTFORT - SUITE 200 DALLAS, TEXAS 75240	
City of Cedar, AIA Architect, Inc.	
170 Westwood Parkway Arlington, Texas 76010 (817) 946-9899	
Sheet	SP

Site Plan
Scale: 1" = 10'-0"

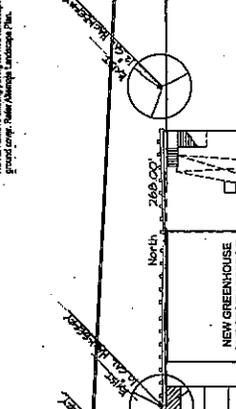
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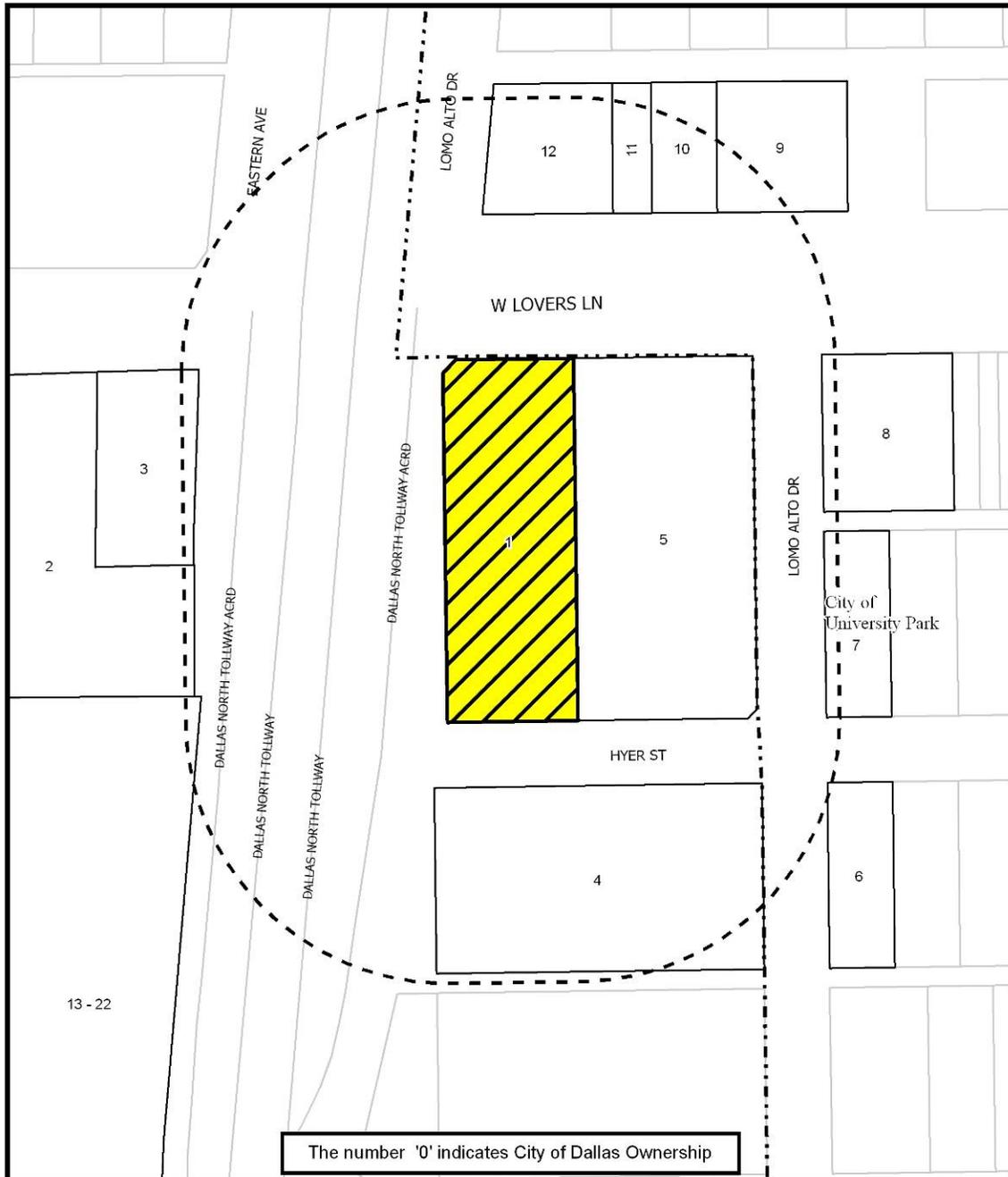
Parking to be provided: 48 spaces (includes 2 handicapped)



Alternate Landscape Plan
Scale: 1" = 20'-0"

NOTE: Existing Electrical Substation occupies the south side of Hyer Street.

3-22-12



 1:1,200	NOTIFICATION		Case no: BDA123-036
	<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;">22</div> NUMBER OF PROPERTY OWNERS NOTIFIED		Date: 3/27/2013

Notification List of Property Owners

BDA123-036

22 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5802 LOVERS LN	WHITE ROSCOE F JR
2	5722 LOVERS LN	FRANCHISE REALTY
3	5732 LOVERS LN	FLICKINGER J D
4	6919 LOMO ALTO DR	TEXAS UTILITIES ELEC CO % STATE & LOCAL
5	7001 LOMO ALTO DR	R & P EQUITIES LTD
6	4437 HYER ST	MATTHEWS DIANA
7	4436 HYER ST	AMIRI MAJID
8	4455 LOVERS LN	VICTRON SORES LP
9	4500 LOVERS LN	PENCE BRAD & IRENE PENCE
10	4514 LOVERS LN	WYLL STANLEY L
11	4520 LOVERS LN	HUMPERVILLE LP PS SUITE 204
12	4530 LOVERS LN	PAT & PETE PARTNERS LTD
13	7700 EASTERN AVE	CRESCENT ESTATES CUSTOM HOMES LP
14	7700 EASTERN AVE	MEEK M STEPHEN & RUTH
15	7700 EASTERN AVE	KIRCHHOFER JOHN D
16	7700 EASTERN AVE	HABIBI MINA & SOROUSH BEHNAM
17	7700 EASTERN AVE	DECKER MICHAEL DONALD
18	7700 EASTERN AVE	ETP INVESTMENTS LLC
19	7700 EASTERN AVE	CORBETT ERIN K &
20	7700 EASTERN AVE	ARMSTRONG THOMAS F & CLAUDIA E
21	7700 EASTERN AVE	HENCY MATTHEW STE 603
22	7700 EASTERN AVE	ROGERS JAMES B TRUSTEE THE JAMES C RHOAD