

ZONING BOARD OF ADJUSTMENT, PANEL C
MONDAY, MAY 19, 2014
AGENDA

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

**Neva Dean, Interim Assistant Director
Steve Long, Board Administrator**

MISCELLANEOUS ITEMS

	Approval of the April 21, 2014 Board of Adjustment Panel C Public Hearing Minutes	M1
BDA 123-124	9650 Chartwell Drive REQUEST: Of Frank Richardson of Pross Design Group to extend the time to file an application for a building permit or certificate of occupancy an additional 12 months beyond the 180 days from the Board of Adjustment's favorable action for a variance to the front yard setback regulations	M2

UNCONTESTED CASES

BDA 134-040D	5100 Brookview Drive REQUEST: Application of Jeff Tyson for special exceptions to the fence height and visual obstruction regulations	1
BDA 134-041	9236 Hollow Way Road REQUEST: Application of Jennifer Dix, represented by Samit Patel, for special exceptions to the fence height and visual obstruction regulations	2
BDA 134-044	6957 Lakeshore Drive REQUEST: Application of Robert Baldwin for a special exception to the visual obstruction regulations	3

REGULAR CASE

BDA 134-047

4802 S. Marsalis Avenue

4

REQUEST: Application of M. D. Robinson for
a special exception to the tree preservation 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 compliant 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]

**BOARD OF ADJUSTMENT
CITY OF DALLAS, TEXAS**

MONDAY, MAY 19, 2014

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel C April 21, 2014 public hearing minutes.

MISCELLANEOUS ITEM NO. 2

FILE NUMBER: BDA 123-124

REQUEST: To extend the time period in which to file an application for a building permit or certificate of occupancy an additional 12 months beyond the 180 days from the Board of Adjustment's favorable action on a request for a variance to the front yard setback regulations of 15' granted by Board of Adjustment Panel C on December 16, 2013.

LOCATION: 9650 Chartwell Drive

APPLICANT: Frank Richardson of Pross Design Group

**STANDARD FOR EXTENDING THE TIME PERIOD IN WHICH TO APPLY FOR A
BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY:**

- The Dallas Development Code states:
The applicant shall file an application for a building permit or certificate of occupancy within 180 days for the date of the favorable action of the board, unless the applicant files for and is granted an extended time period prior to the expiration of the 180 days. The filing of a request for an extended time period does not toll the 180 day time period. If the applicant fails to file an application within the time period, the request is automatically denied without prejudice, and the applicant must begin the process to have his request heard again.
- The *Board of Adjustment Working Rules of Procedure* state the following with regard to extensions of the time period for making application for a building permit or certificate of occupancy:
A panel may not extend the time period for making application for a building permit or certificate of occupancy beyond 180 days from the date of its favorable action unless it makes a *specific finding* based on evidence presented at a public hearing that there are no substantially changed conditions or circumstances regarding the property to the satisfaction of the panel. In no event, however, may the board extend the time period beyond 18 months from the date of its favorable action.

Timeline:

December 16, 2013: The Board of Adjustment Panel C granted a variance to the front yard setback regulations of 15' and imposed the submitted site plan as a condition to the request (see Attach A).

- May 1, 2014: The applicant sent a letter to the Board Administrator requesting an extension of the time period in which to make application for a building permit or certificate of occupancy (see Attachment B).
- May 1, 2014: The Board Administrator emailed the applicant acknowledging his request for the Board to extend the time period in which to file an application for a building permit or certificate of occupancy an additional 12 months beyond the 180 days that the applicant had to do so from the December 16, 2013 favorable action (see Attachment C). The Board Administrator emailed the applicant's representative the following information:
- an attachment that provided the public hearing date of the request; and 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;
 - an attachment of materials related to BDA 123-124; and
 - The Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."



M2
Attach A
PSI

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-124

Data Relative to Subject Property: _____ Date: 10-07-13

Location address: 9650 Chartwell Drive Zoning District: IR

Lot No.: _____ Block No.: A/8071 Acreage: 4.86 Census Tract: 185.06

Street Frontage (in Feet): 1) 480.7' 2) 318.0' 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment:

Owner of Property (per Warranty Deed) MegaMex Foods, LLC

Applicant: Frank Richardson/ Pross Design Group Telephone: 972-759-1400

Mailing Address: 5310 Harvest Hill Rd, Suite 180 Zip Code: 75230

E-mail Address: FRichardson@pdgarch.net

Represented by: See Above Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance X, or Special Exception , of 15' from the required 15' front yard setback.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:
See "supplemental information A" attached.

BOARD OF ADJUSTMENT TO THE BOARD OF ADJUSTMENT
Note to Applicant: If the appeal requested on 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 Frank Richardson **NOTARY PUBLIC** (Affiant/Applicant's name printed)
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted,

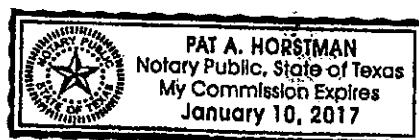
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 11th day of October, 2013

Pat A. Horstman

Notary Public in and for Dallas County, Texas

(Rev. 08-01-11)



BOARD OF ADJUSTMENT
CITY OF DALLAS, TEXAS

MONDAY, DECEMBER 16, 2013

FILE NUMBER: BDA 123-124

BUILDING OFFICIAL'S REPORT: Application of Frank Richardson of Poss Design Group for a variance to the front yard setback regulations at 9650 Chartwell Drive. This property is more fully described as a 4.86 tract of land in Block A/8071 and is zoned IR, which requires a front yard setback of 15 feet. The applicant proposes to construct and maintain structures and provide a 0 foot front yard setback, which will require a 15 foot variance to the front yard setback regulations.

LOCATION: 9650 Chartwell Drive

APPLICANT: Frank Richardson of Poss Design Group

REQUEST:

A request for a variance to the front yard setback regulations of 15' is made in conjunction with constructing and maintaining approximately 1,500 square foot waste water treatment facility structures, part of which are to be located in the site's Hillguard Road 15' front yard setback on a site that is currently developed with an approximately 100,000 square foot industrial use (Don Miguel Mexican Foods). (No part of any proposed structure is represented to be located in the site's Chartwell Drive 15' front yard setback).

STANDARD FOR A VARIANCE:

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

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

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MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing Dec. 16, 2013

Appeal was--Granted OR Denied

Chairman

Larry Holmes

Remarks Granted.
Compliance with the
submitted site plan
is required.

Building Official's Report

I hereby certify that Frank Richardson

did submit a request for a variance to the front yard setback regulations
at 9650 Chartwell Drive

BDA123-124. Application of Frank Richardson for a variance to the front yard setback regulations at 9650 Chartwell Drive. This property is more fully described as a 4.86 tract of land in Block A/8071 and is zoned IR, which requires a front yard setback of 15 feet. The applicant proposes to construct a nonresidential structure and provide a 0 foot front yard setback, which will require a 15 foot variance to the front yard setback regulation.

**BOARD OF ADJUSTMENT DECISION FILED
IN THE OFFICE OF THE BOARD OF ADJUSTMENT
THIS THE 19 DAY OF**

December, 2013.

J. Holmes
ADMINISTRATOR

Sincerely,

Larry Holmes
Larry Holmes, Building Official



M2
Attach A
PS4

December 19, 2013

Frank Richardson
5310 Harvest Hill Road, Suite 180
Dallas, TX 75230

Re: BDA 123-124, Property at 9650 Chartwell Drive

Dear Mr. Richardson:

The Board of Adjustment Panel C, at its public hearing held on Monday, December 16, 2013 granted your request for a variance to the front yard setback regulations of 15 feet, subject to the following condition:

- Compliance with the submitted site plan is required.

Contact Building Inspection at 320 E. Jefferson, Room 118 to file an application for a building permit or certificate of occupancy within 180 days from the date of the favorable action of the board.

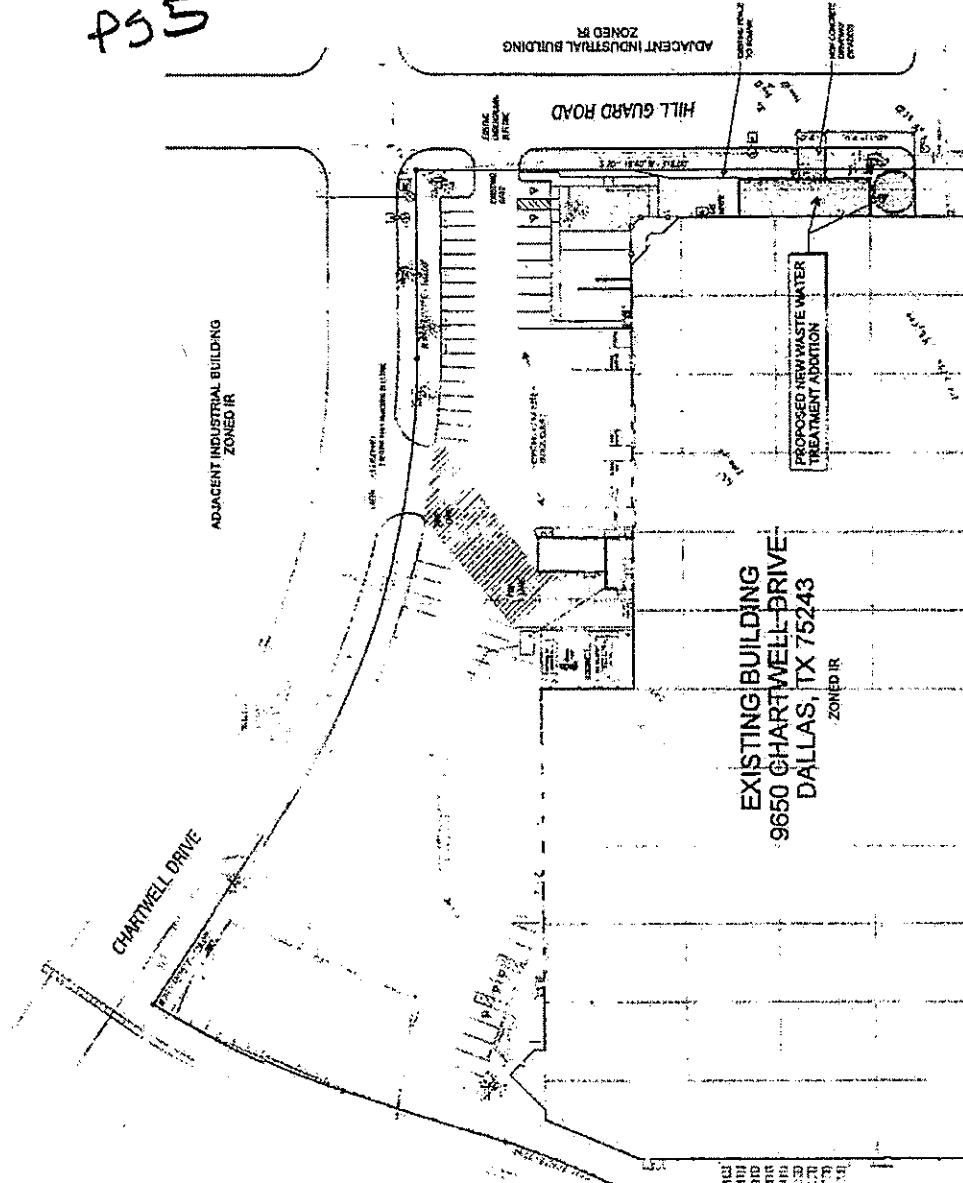
Should you have any further questions regarding the Board's action, please contact me at (214) 670-4666.


Steve Long, Board Administrator
Board of Adjustment
Sustainable Development and Construction

c: James Martin, Code Enforcement, 3112 Canton, RM 100
Todd Duerksen, Bldg. Inspection, 320 E. Jefferson #105



PG 5



PLANS APPROVED
SUBMITTED TO
DRAFTER
DATE: 12/23/04
ADMINISTRATOR: SJA

ADJACENT INDUSTRIAL BUILDING
ZONE IR

M2

Attach B.

01 May 2014

Mr. Steve Long
Board Administrator
City of Dallas Board of Adjustments
1500 Marilla Street, Room 5BN
Dallas, TX 75201

Re: Case # BDA 123-124
9650 Chartwell Drive
MegaMex Foods, LLC – Owner
Don Miguel Foods – Occupant

Dear Mr. Long,

Pursuant to the Board's Rules of procedure, we request an extension of the 180 days from date of favorable action, dated 12.16.2013, to file for a building permit.

I attest to the following:

- 1: There are no substantially changed conditions or circumstances regarding the property.
- 2: All conditions of the previously-issued favorable action will be adhered to.
- 3: An extension of 12 months is requested.
- 4: Such extension is necessary to perform all necessary engineering for the wastewater treatment equipment and related piping, ventilation, electrical, etc. required for building permit application.

Thank you for your consideration.

Sincerely yours,



Frank Richardson, AIA, LEED AP
Vice President – Architecture

Cc: Andrew Klenner, Hormel Foods
Bruce Salcido, Don Miguel Foods
Heath Renfro, Don Miguel Foods

11 -
Attach C
PDT

Long, Steve

From: Long, Steve
Sent: Thursday, May 01, 2014 1:50 PM
To: 'Frank Richardson'
Cc: Dean, Neva; Duerksen, Todd; Way, Jamilah; Jimenez, Danielle; Law, Trena
Subject: RE: BDA123-124, 9650 Chartwell Drive, Miscellaneous Item Time Extension Request
Attachments: Richardson letter.pdf; Info on BDA 123-124.pdf; time extension.PDF; documentary evidence.pdf; Panel C hearing date and deadlines.doc

Dear Mr. Richardson,

Please consider this email as official notice that the miscellaneous item request for a time extension in which to file for a building permit or certificate of occupancy beyond the 180 days you have to do so from the December 16, 2013 favorable action by Board of Adjustment Panel C in conjunction with the board of adjustment application referenced above has been scheduled for the Monday, May 19th Panel C public hearing to be held in the LIFN Conference Center Auditorium of Dallas City Hall at 1:00 p.m.

Here is additional information regarding your miscellaneous item time extension request:

1. Your letter of request- which will be included in a docket that is emailed to you and the board members about a week ahead of your May 19th public hearing.
2. Related documents to BDA 123-124.
3. The provision from the Board's Working Rules of Procedure allowing the board to extend the time period in which to make application for a building permit or certificate of occupancy (Section 9.(j)).
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 write or call me at 214/670-4666 if you have any questions/concerns, or if I can be of any additional assistance to you on your request.

Thanks,

Steve

From: Frank Richardson [mailto:frichardson@pdgarch.net]
Sent: Thursday, May 01, 2014 1:25 PM
To: Long, Steve
Cc: AJKlenner@Hormel.com
Subject: RE: BDA123-124, 9650 Chartwell Drive

Steve,

I incorporated your comment about date into the enclosed letter. Do you need me to drop off an original to your office?

Frank

From: Long, Steve [mailto:steve.long@dallascityhall.com]
Sent: Thursday, May 01, 2014 12:29 PM
To: Frank Richardson
Subject: RE: BDA123-124, 9650 Chartwell Drive

Dear Mr. Richardson,

I left you a message with one comment.

Thanks,

Steve

M 2
Atten C
PG 2

From: Frank Richardson [mailto:frichardson@pdgarch.net]
Sent: Thursday, May 01, 2014 11:45 AM
To: Long, Steve
Cc: Duerksen, Todd; Dean, Neva; Way, Jamilah; Jimenez, Danielle
Subject: RE: BDA123-124, 9650 Chartwell Drive

Steve,

Is the enclosed letter acceptable? If so, I will print on letterhead and get it to you.

Frank

From: Long, Steve [mailto:steve.long@dallascityhall.com]
Sent: Thursday, May 01, 2014 11:11 AM
To: Frank Richardson
Cc: Duerksen, Todd; Dean, Neva; Way, Jamilah; Jimenez, Danielle
Subject: RE: BDA123-124, 9650 Chartwell Drive

Dear Mr. Richardson,

As we just discussed on the phone, a request for a time extension in which to file for a building permit or certificate of occupancy beyond the 180 days an applicant has to do so from a favorable action by Board of Adjustment is scheduled as a miscellaneous item request if the applicant makes a request in writing to me at point in time that allows me to schedule it for a docket before the 180 days expires (which in this case is 180 days from December 16, 2013). There is no fee for miscellaneous item request.

Here is additional information regarding the miscellaneous time extension request you are considering:

1. Related documents to BDA 123-124.
2. The provision from the Board's Working Rules of Procedure allowing the board to extend the time period in which to make application for a building permit or certificate of occupancy (Section 9.(j)).

Please write or call me at 214/670-4666 if you have any questions/concerns, and note that I need any such time extension request from you no later than 5:00 pm, tomorrow, May 2nd to schedule for Panel C's May 19th docket.

Thanks,

Steve

From: Frank Richardson [mailto:frichardson@pdgarch.net]
Sent: Thursday, May 01, 2014 10:24 AM
To: Duerksen, Todd
Cc: Long, Steve; AJKlenner@Hormel.com
Subject: RE: BDA123-124, 9650 Chartwell Drive

Is there a fee for requesting a time extension? Is there a form or procedure to follow? How long does this process take?

Frank

From: Duerksen, Todd [mailto:todd.duerksen@dallascityhall.com]
Sent: Tuesday, April 22, 2014 4:36 PM
To: Frank Richardson
Cc: Long, Steve
Subject: RE: BDA123-124, 9650 Chartwell Drive

To file for an extension of the 180 day time limit:

- (j) A panel may not extend the time period for making application for a building permit or certificate of occupancy beyond 180 days from the date of its favorable action unless it makes a specific finding based on evidence presented at a public hearing that there are no substantially changed conditions or circumstances regarding the property. The person requesting the time extension shall have the burden of establishing that there are no substantially changed conditions or circumstances regarding the property to the satisfaction of the panel. In no event, however, may the panel extend the time period beyond 18 months from the date of its favorable action.

The time extension must be requested prior to the expiration of the 180 day time limit.
 Contact Steve Long, Board Administrator, 214-670-4666

Todd Duerksen
 Sr. Plans Examiner - Zoning Code Consultant
 City of Dallas
 Building Inspection Division
 Department of Sustainable Development & Construction

From: Frank Richardson [mailto:frichardson@pdgarch.net]
Sent: Tuesday, April 22, 2014 2:59 PM
To: Duerksen, Todd
Cc: AJKlenner@Hormel.com
Subject: RE: BDA123-124, 9650 Chartwell Drive

Todd,

We are staying within the approved building footprint and height.

The variance says we need to apply for a permit within 180 days. We may not be ready to apply for a full building permit with MEP drawings yet by that time. Can we apply for a demo permit? Driveway permit? Foundation permit? Get an extension for a month or 2?

Frank

From: Duerksen, Todd [mailto:todd.duerksen@dallascityhall.com]
Sent: Wednesday, March 26, 2014 8:57 AM
To: Frank Richardson
Cc: Long, Steve
Subject: RE: BDA123-124, 9650 Chartwell Drive

While the board did not condition the proposed addition to an elevation drawing and therefore did not limit the height, they did condition it to compliance with the approved submitted site plan. You are therefore limited to a structure with a dimensional footprint as illustrated on the approved site plan.

The probability that a crucial dimension will be missing on any given drawing is why the submitted drawings are required to be drawn to scale. Any item with a dimension that is missing can be measured on the scale drawing and the omitted dimension can be determined.

To have a larger structure now would require that a new appeal be filed and since the board granted the previous appeal a two-year waiting period is imposed.

Section 13. Two-Year Limitation.

- (a) Except as provided in Subsections (b) and (c), after a final decision is reached by a panel, no further applications may be considered on the matter decided for that property for two years from the date of the final decision.
- (b) If a panel renders a final decision of denial without prejudice, the two-year limitation is waived.
- (c) A property owner may apply for a waiver of the two-year limitation in the following manner:
 - (1) The applicant shall submit his request in writing to the board administrator. The board administrator shall inform the applicant of the date on which his request shall be considered and shall advise the applicant of his right to appear before the panel to which the matter has been assigned.
 - (2) A panel may waive the time limitation if there are changed circumstances regarding the property sufficient to warrant a new hearing. A simple majority vote is required to grant the request. If a rehearing is granted, the applicant shall follow the appeal procedure.

Todd Duerksen
 Sr. Plans Examiner - Zoning Code Consultant
 City of Dallas
 Building Inspection Division
 Department of Sustainable Development & Construction
 Oak Cliff Municipal Center
 320 E. Jefferson Blvd., Rm. 105

From: Frank Richardson [mailto:frichardson@pdgarch.net]
Sent: Tuesday, March 25, 2014 2:11 PM
To: Duerksen, Todd
Subject: RE: BDA123-124, 9650 Chartwell Drive

Good afternoon Todd,

We spoke a week or 2 ago about this the height of this project, and determined that raising the height of the addition to match the existing building was OK because only the Site Plan was referenced in the approved recommendation.

Well, in order to accommodate the waste-water treatment equipment they must now install, the building must grow slightly in size (see enclosed sketch) from 20' x 70' to 22' x 77'. It is still less than the depth of the adjacent water storage tank, which became the determining factor. Per that factor, the setback was taken to 0' from the property line. The building will still be 3' from the property line while the tank will be almost at 0'.

As I read the approved recommendation (enclosed), it appears as though this should be OK since it again refers to allowing a 0' setback and refers to the Site Plan which does not have any dimensions on the addition.

Am I OK here?

Frank

**BOARD OF ADJUSTMENT
CITY OF DALLAS, TEXAS**

MONDAY, MAY 19, 2014

FILE NUMBER: BDA 134-040

BUILDING OFFICIAL'S REPORT: Application of Jeff Tyson for a special exception to the fence height regulations and a special exception to the visibility obstruction regulations at 5100 Brookview Drive. This property is more fully described as part of Lot 1, Block 7/5580, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulation, and to construct and maintain a single family residential fence structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

LOCATION: 5100 Brookview Drive

APPLICANT: Jeff Tyson-One Specialty

REQUEST:

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

1. A request for a special exception to the fence height regulations of 4' is requested to construct and maintain a fence in the site's required 40' front yard that is developed with a single family home—a 3'7" high open wrought iron fence atop a 2' high stucco base with 6' high stucco columns, and an 8' high wrought iron gate, 12'9" wide, with 8' high stucco columns.
2. A request for a special exception to the visual obstruction regulations are made to maintain portions of the aforementioned fence and columns in the east and west 20' visibility triangles of the driveway into the site from Brookview Drive.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

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

STAFF RECOMMENDATION (Fence Height):

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

STAFF RECOMMENDATION (Visual Obstruction):

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Senior Engineer has indicated that he has no objections to these requests.
- The applicant has substantiated how the location of portions of a proposed 8' high fence (3'7" high open wrought iron fence atop a 2' high stucco base) with 8' high masonry columns proposed in the east and west 20' visibility triangles of the driveway into the site from Brookview Drive does not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac(A)
North: R-1ac(A)
South: PD #815
East: R-1ac(A)
West: R-1ac(A)

Land Use:

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

Zoning/BDA History:

1. BDA 012-231, 5205 Brookview Drive (Lot East of the Site) On September 24, 2002, the Board of Adjustment Panel A granted a request for a special exception to the fence regulations of 4'7", needed in conjunction with constructing and maintaining a 4'8" high open iron fence, 4'10" high iron posts, two, 5'10" high open gates, and four, 8'7" high entry columns (including approximately 2' high pineapple finials).

2. BDA 89-065, 5139 Brookview Drive
(Lot East of the Site)

On September 12, 1989, the Board of Adjustment followed the staff recommendation and granted a request for a special exception to the fence regulations of 2'10", needed in conjunction with constructing and maintaining a 6'6" high fence with 6'10" high columns.

Timeline:

February 28, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

April 14, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

April 14, 2014: The Sustainable Development and Construction Department Current Planner contacted the applicant and emailed him the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the April 30th deadline to submit additional evidence for staff to factor into their analysis; and the May 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

May 6, 2014 : The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Interim Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

One review comment sheet with comments was submitted in conjunction with this application.

GENERAL FACTS/STAFF ANALYSIS (Fence Height):

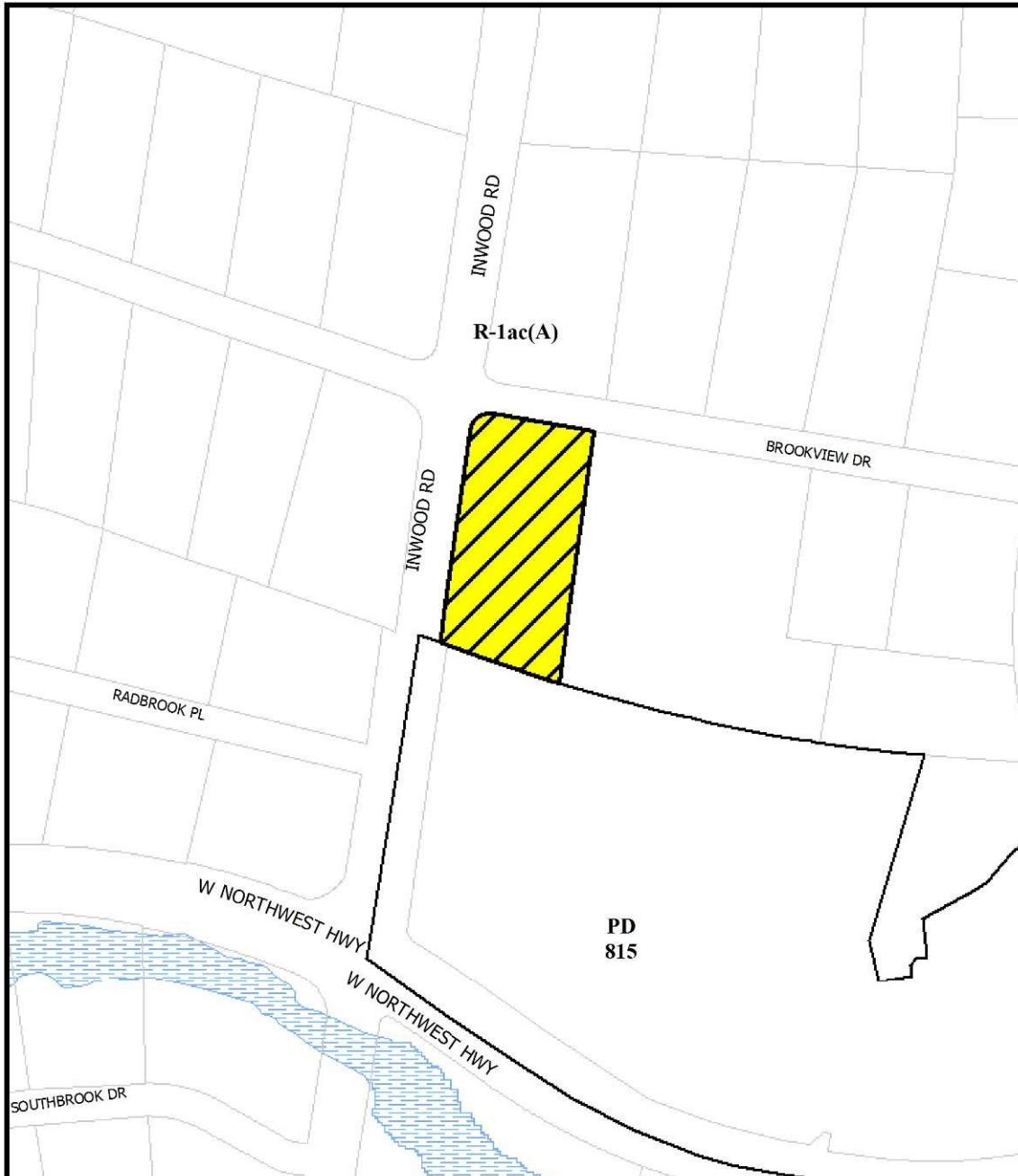
- This request focuses on constructing and maintaining a fence in the site's 40' required front yard on a site that is developed with a single family home – a 3' 7" high open wrought iron picket fence atop a 2' high stucco base with 6' high stucco columns, and an 8' high wrought iron gate, 12' 9" wide, with 8' high stucco columns.
- 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 following additional information was gleaned from the submitted site plan and elevation:
 - The proposal in the front yard setback is represented as being approximately 92' in length parallel to Brookview Drive, and approximately 32' in length following the visibility triangle at the intersection of Brookview Drive and Inwood Road.
 - The proposed fence is represented as being located approximately on the property line.
- The proposal would be located on the site where one lot would have direct frontage, a lot which has a fence in its front yard setback.
- As of May 12, 2014, no letters have been submitted in support of the request and no letters have been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4' will not adversely affect neighboring property.
- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the front yard setback to be constructed/maintained in the location and of the heights and materials as shown on these documents.

GENERAL FACTS/STAFF ANALYSIS (Visual Obstruction):

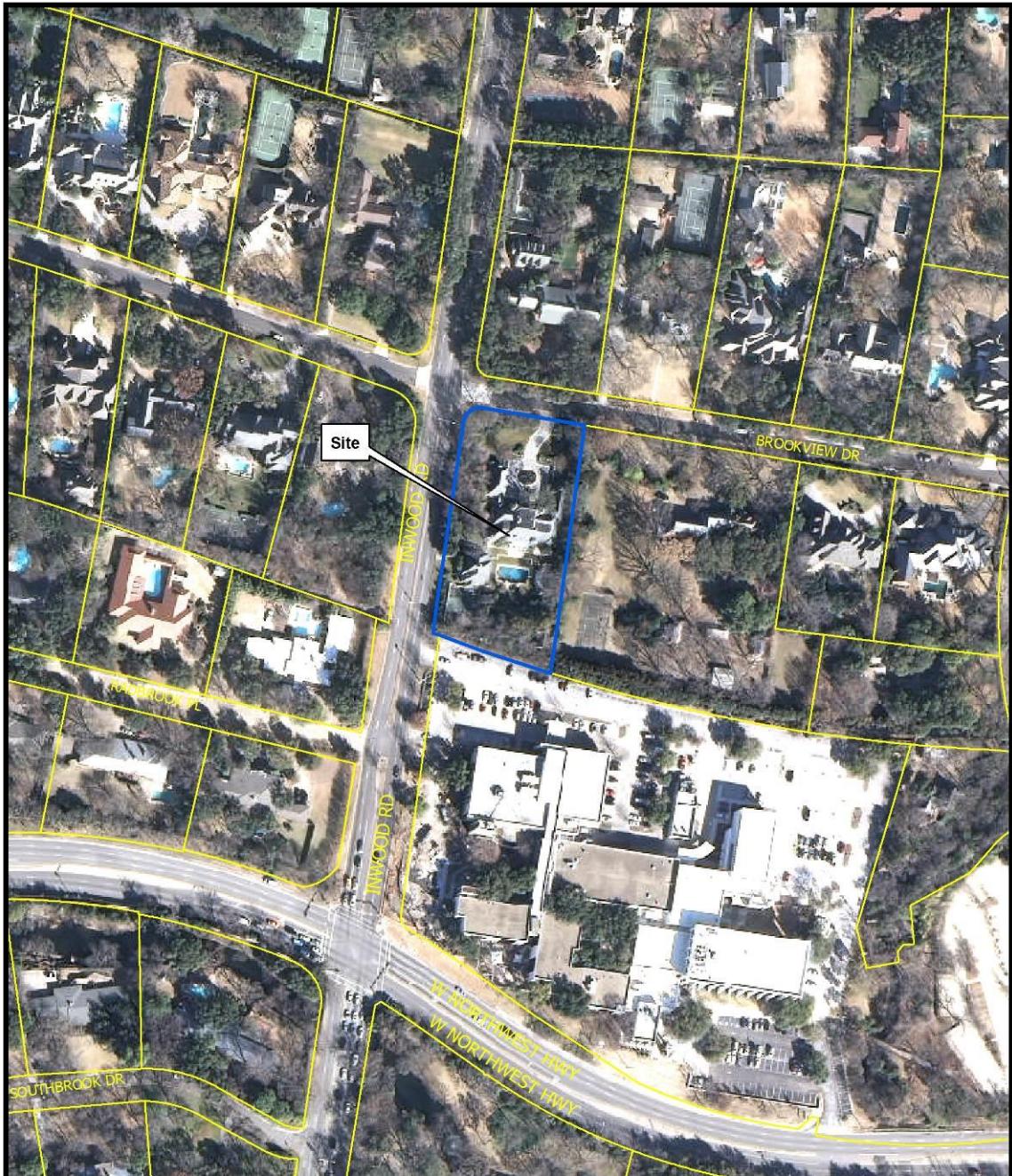
- This request focuses on maintaining portions of the open metal picket fence, stucco base, and two stucco columns on both sides of the driveway into the site from Brookview Drive.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
 - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked "Has no objections."
- The applicant has the burden of proof in establishing how granting the request for a special exception to the visual obstruction regulations to maintain portions of an open metal picket fence, two masonry columns, and landscape materials on both

sides of the driveway into the site from Brookview Drive does not constitute a traffic hazard.

- Granting these requests with a condition imposed that the applicant complies with the submitted revised site plan and a detailed elevation would require the items as described above to be limited to and maintained in the locations, height and materials as shown on these documents.



1:2,400	ZONING MAP	Case no: <u>BDA134-040</u>
		Date: <u>4/24/2014</u>



1:2,400

AERIAL MAP

Case no: BDA134-040

Date: 4/24/2014



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-040

Data Relative to Subject Property:

Date: 2-28-14

Location address: 5100 BROOKVIEW DR 75220 Zoning District: R-1 ac(A)

Lot No.: PT, 1 Block No.: 7/5590 Acreage: .1151 Census Tract: 206.00

Street Frontage (in Feet): 1) 185 2) 350 3) _____ 4) _____ 5) NE 25

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): John M & MARJENN V POCOCK

Applicant: JEFF TYSON (ONE SPECIALTY) Telephone: 214-449-3030

Mailing Address: 2300 WILLIAM D. TATE SUITE 300 Zip Code: _____

E-mail Address: JTYSON@ONESPECIALTY.COM

Represented by: SAME Telephone: SAME

Mailing Address: SAME Zip Code: _____

E-mail Address: SAME

Affirm that an appeal has been made for a Variance , or Special Exception X, of 4 FEET
TO MAXIMUM FENCE HEIGHT OF 4 FEET IN THE
FRONT YARD OF A RESIDENTIAL DISTRICT AND
VISIBILITY TRIANGLE OBSTRUCTION AT DRIVEWAY

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 FENCE IS MOSTLY ORNAMENTAL AND OPEN STRUCTURE
IT WILL PLATE NO NEGATIVE IMPACT ON SURROUNDING
PROPERTIES. THE DRIVEWAY OBSTRUCTION WILL
HAVE NO IMPACT ON SURROUNDING 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 JEFF TYSON
(Affiant/Applicant's name printed)

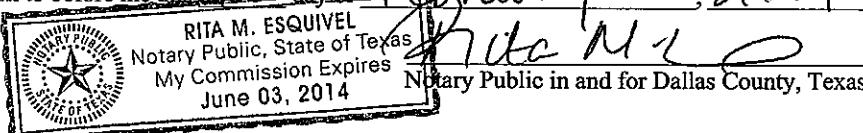
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted:

Jeff Tyson
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 28 day of February, 2014

(Rev. 08-01-11)



**MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT**

Chairman _____

Date of Hearing _____

Appeal was--Granted OR Denied _____

Remarks _____

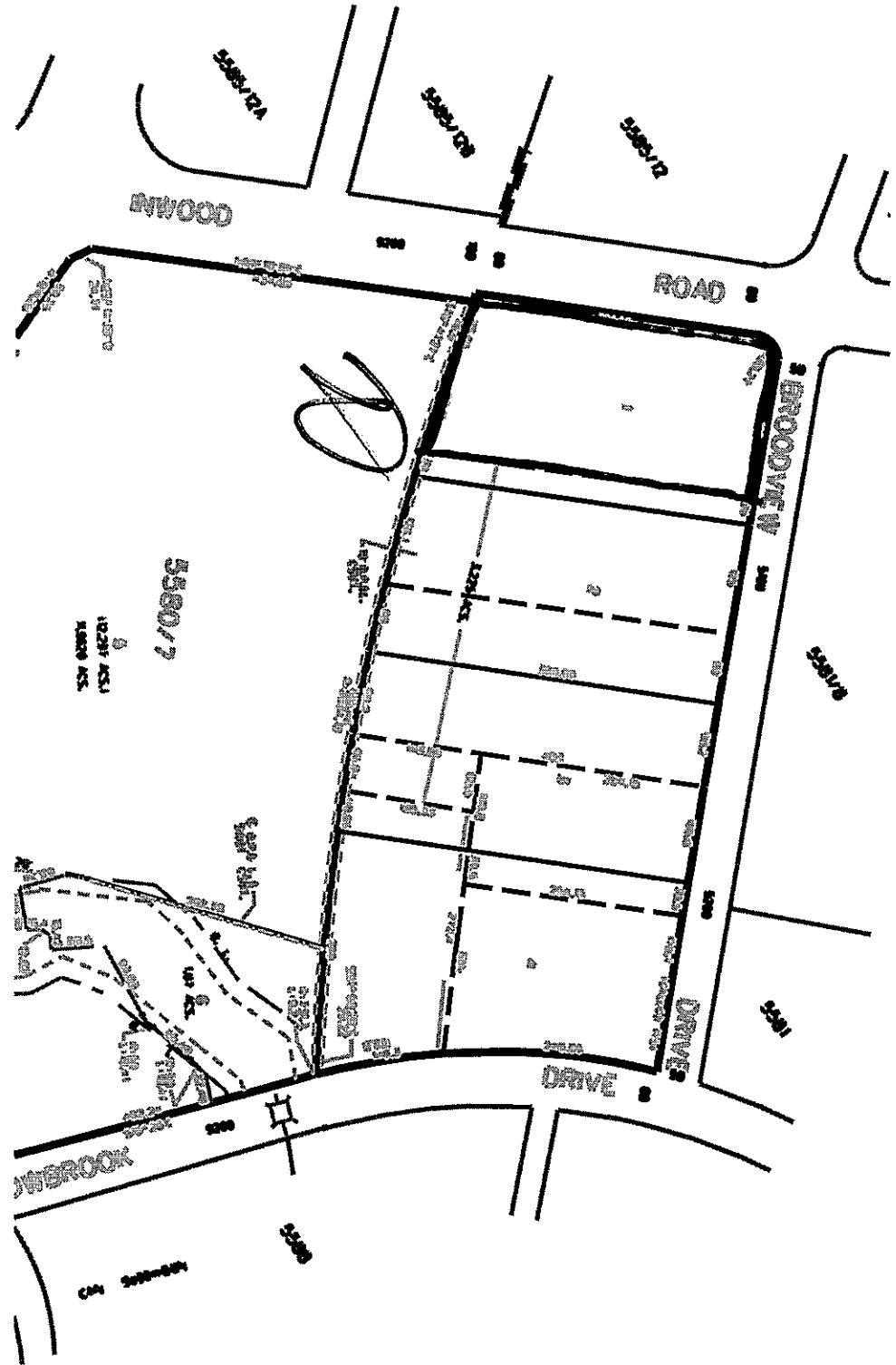
Building Official's Report

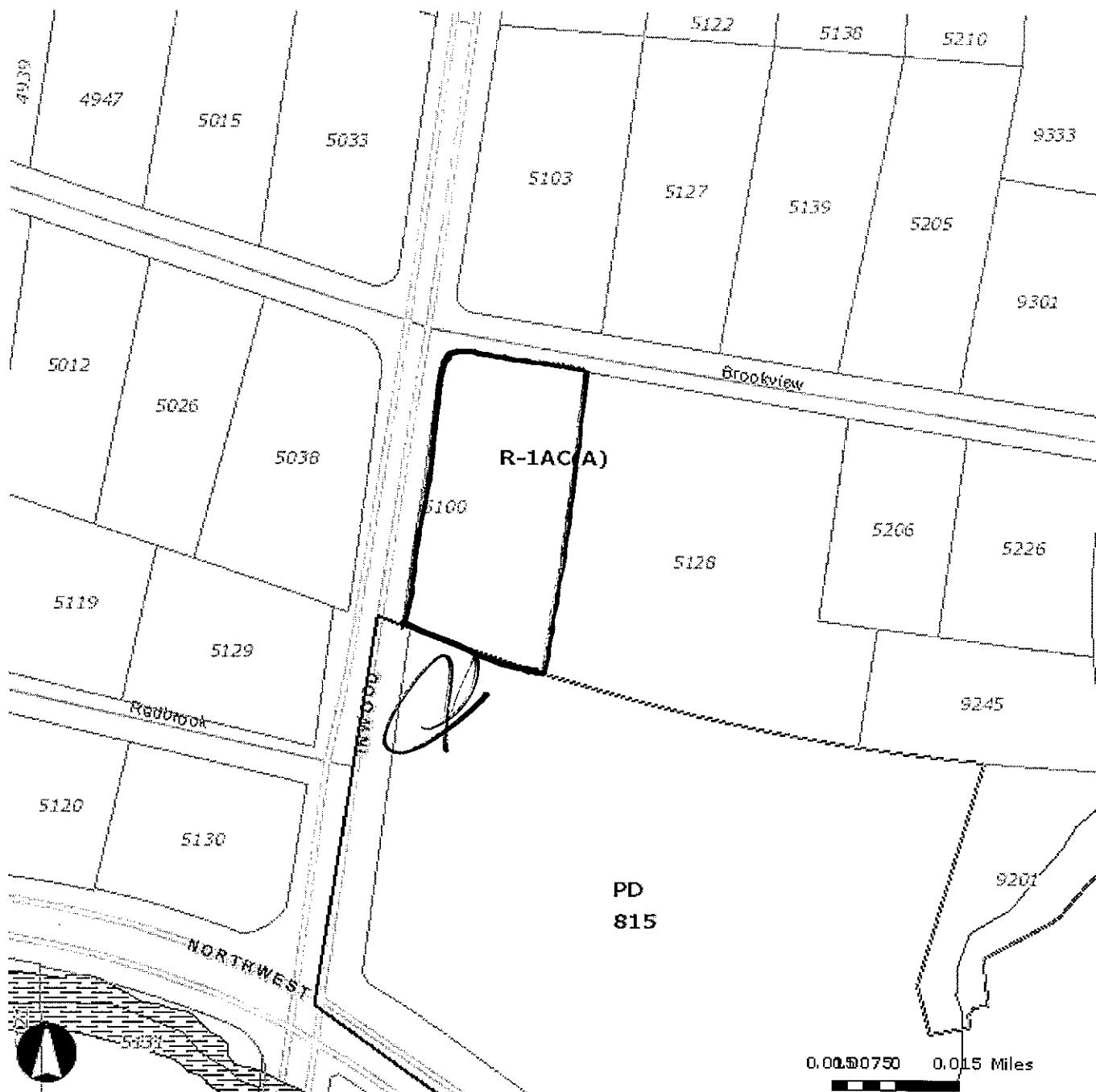
I hereby certify that Jeff Tyson
did submit a request for a special exception to the fence height regulations, and for a special exception to the visibility obstruction regulations
at 5100 Brookview Drive

BDA134-040. Application of Jeff Tyson for a special exception to the fence height regulations and a special exception to the visibility obstruction regulations at 5100 Brookview Drive. This property is more fully described as part of Lot 1, Block 7/5580, and is zoned R-1 ac(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulation, and to construct and maintain a single family residential fence structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

Sincerely,

Larry V. Holmes
Larry Holmes, Building Official







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TRANS ARE COPYRIGHTED AND ARE
TO COPYRIGHT PROTECTION AS

THESE PLANS ARE CONFIDENTIAL AND ARE SUBJECT TO CONFIDENTIAL PROTECTION AS INVENTORIUTICAL WORK IN U.S.A. SEC. 102 OF THE COPYRIGHT ACT, 1976, AND AS AMENDED BY DECEMBER 1980 AND KNOWN AS AMERICANATIONAL WORKS CONFIDENTIAL PROTECTION ACT OF 1980. THE PROTECTION INCLUDES BUT IS NOT LIMITED TO THE ORIGINAL WORKS AS WELL AS THE

Pocock Residence

Dallas, TX
5100 Brookview Dr.

Site Plan

Date: February 28, 2014

Drawn By:
Tyler Bigham

$1''=10' \cdot 0''$

LS100

2020年



CONSTRAINTS

200 State St., St. Paul, Minn.

THESE PLANS ARE COPIRIGHTED AND ARE
SUBJECT TO COPYRIGHT PROTECTION AS
MASSON CONTRACTUAL WORK UNDER SEC.
102 OF THE COPYRIGHT ACT, 1976, U.S.A.
AMERICAN REEL NUMBER 1964 IN INDIANAPOLIS
AS ASSISTED BY THE U.S. CINEMA
PROTECTION ACT OF 1950. THE
PHOTOCOPIES HEREIN CONTAINED ARE NOT UNLAWFUL
PROHIBITED BY LAW FOR USE AS A WHOLE OR PART
TO THE EXCLUSION OF THE ORIGINAL.
THESE PLANS ARE THE PROPERTY OF
AMERICAN DAY AND NIGHT CORPORATION OF
INDIANAPOLIS, INDIANA.

Pocock Residence

5100 Brookview Dr.
Dallas, TX

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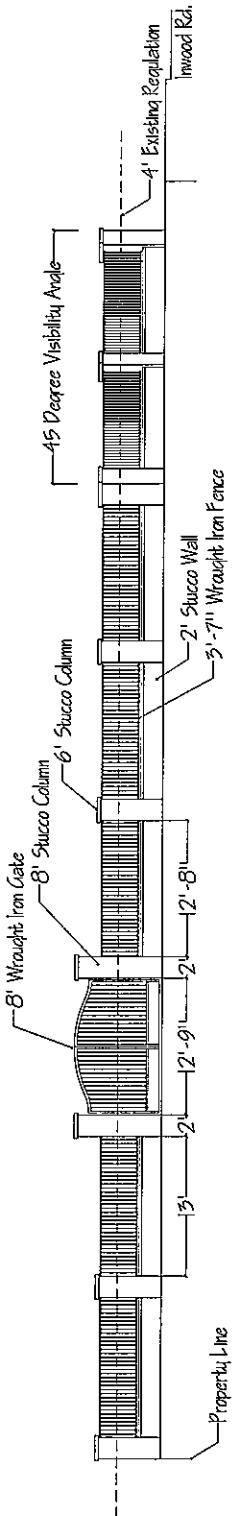
Date: February 28, 2014

Drawn By:
Tyer Bigham

n/a

LS 200

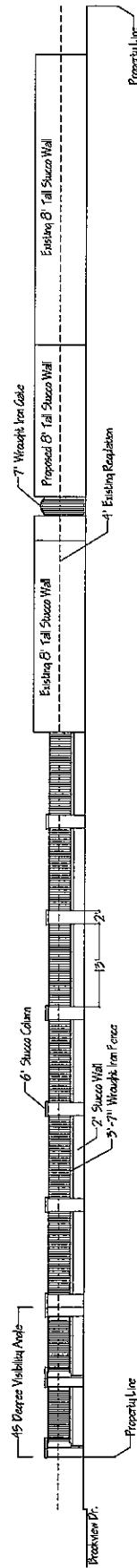
COPYRIGHT 1994



LANDSCAPE IMPROVEMENT ELEVATION - FRONT YARD FENCE ALONG BROOKVIEW DRIVE

SCALING

1-13



Landscape Improvement Elevation - Side Yard Fence Along Inwood Road

卷之三

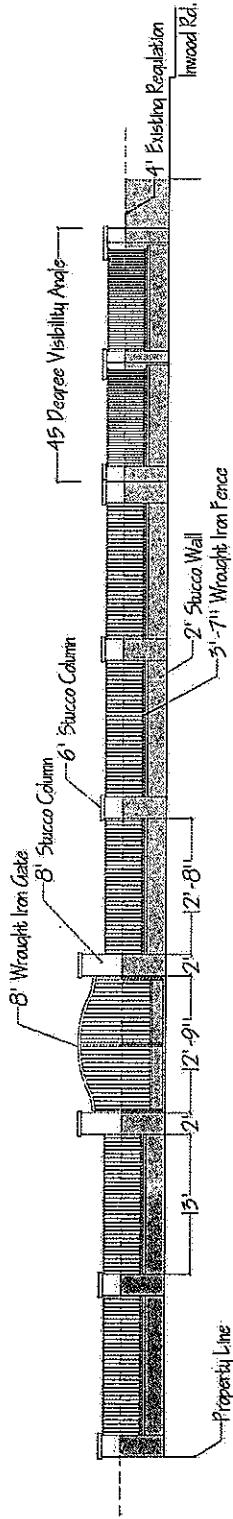


ONE SPECIALTY

7700 N. Mopac Expressway

Austin, TX 78751

(512) 201-2022



(A) LANDSCAPE IMPROVEMENT ELEVATION - FRONT YARD FENCE ALONG BROOKVIEW DRIVE
Scale: 1/8" = 1'-0"

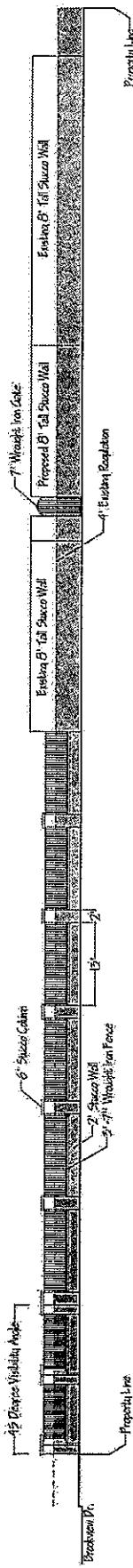
Poccok Residence

Michael
Dallas, TX
5100 Brookview Dr.

Notes:

Date: February 28, 2014
Drawn By: Tyler Bligham
Scale: n/a
Dwg #: LS 200

(A2) LANDSCAPE IMPROVEMENT ELEVATION - SIDE YARD FENCE ALONG INWOOD ROAD
Scale: 1/8" = 1'-0"





ONE SPECIALTY

2000 Willow Dr., Suite 200
Greenville, NC 27858
(877) 40-2277

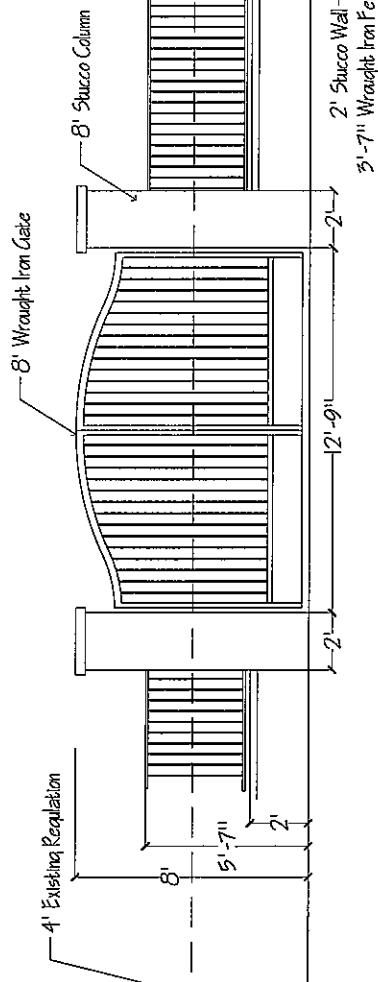
THIS DRAWING IS THE PROPERTY OF ONE SPECIALTY INC.
RIGHT TO COPIES IS RESERVED. ANYONE RECEIVING A
COPY OF THIS DRAWING IS ASSUMED TO HAVE AGREED
TO THE TERMS OF USE AS STATED ON THE REVERSE SIDE
OF THIS DRAWING. FOR INFORMATION CONCERNING
THE TERMS OF USE, REFER TO THE AGREEMENT
PRINTED ON THE REVERSE SIDE OF THIS DRAWING.
TO THE ORIGINAL DRAWINGS WILL BE MADE
AVAILABLE TO THE OWNER FOR A FEE EQUAL TO THE
AMOUNT OF ONE HUNDRED DOLLARS (\$100.00) PLUS
A FEE OF TWENTY-FIVE CENTS (\$0.25) FOR EACH
ADDITIONAL COPY MADE.

POCOCK Residence

Michael
5100 Brookview Dr.
Dallas, TX

Notes:

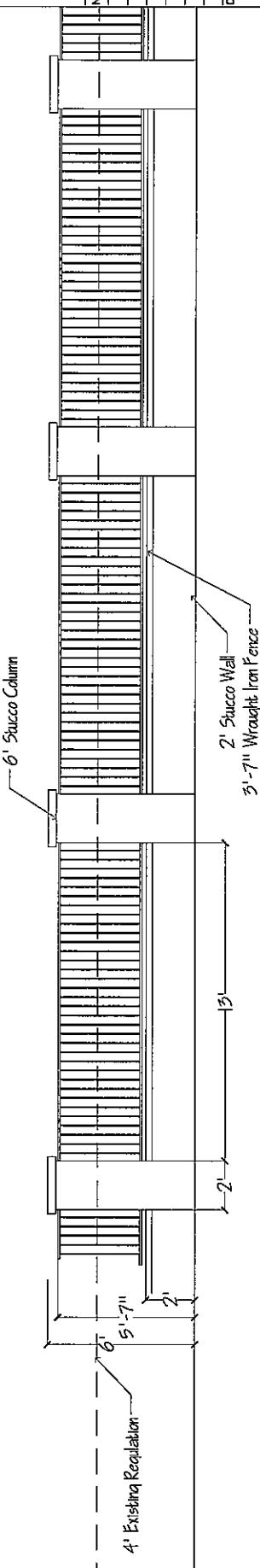
Date:
February 28, 2014
Drawn By:
Tyler Brigham
Scale:
n/a
Dwg #:
LS 201
Comments: 2014



(A3) LANDSCAPE IMPROVEMENT ELEVATION - FRONT YARD FENCE ALONG BROCKVIEW DRIVE
SCALE: 1" = 1'-0"

BDA 134-040

1-15



(A4) LANDSCAPE IMPROVEMENT ELEVATION - SIDE YARD FENCE ALONG INWOOD ROAD
SCALE: 1" = 1'-0"

February 28, 2014

re:

Special Exception for
John M and Marjean V Pocock
5100 Brookview Drive, Dallas, Texas 75220

Dear Sir or Madam:

I am providing additional information with regard to the special exception appeal on behalf of John and Marjean Pocock. The existing fence on the front yard facing Inwood road, has been in place for a significant period of time. We have not found any permitting or related documentation for this existing fence. Our company was not involved in the construction of the fence, so we have no additional documentation to offer.

We are requesting that an 8' section be constructed to connect to sections of the fence that already exist(per drawings). In so doing, the resulting fence will increase the continuity of the fencing, improve the appearance from the street and surrounding properties, and increase security for the homeowner.

Additionally, the new additions to the fence that will continue on Inwood to the traffic triangle(no obstruction to Inwood/Briarwood intersection will be created), are largely wrought iron supported by columns. The height of the wrought iron is 6'. Installation of the fencing along the boundary of the traffic triangle will increase visibility and safety at the intersection as the landscaping will be pruned in accordance with the requirement for open visibility from a height of 30" to 8'.

The obstruction created at the drive approach will only impact the homeowner and will not have any effect on surrounding properties.

Respectfully,

Jeff Tyson
One Specialty
214-449-3030
jtyson@onespecialty.com



 1:2,400	NOTIFICATION <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> 200' 8 </div> <div style="text-align: center;"> AREA OF NOTIFICATION NUMBER OF PROPERTY OWNERS NOTIFIED </div> </div>	Case no: BDA134-040 Date: 4/24/2014
--	--	--

Notification List of Property Owners**BDA134-040*****8 Property Owners Notified***

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5100 BROOKVIEW DR	MCCLAIN DENNIS & CLAUDIA 3030 OLIVE STRE
2	5128 BROOKVIEW DR	MUNSON DAVID M
3	5103 BROOKVIEW DR	POSTON GEORGE
4	5127 BROOKVIEW DR	PORTER BIGGS C & MARILYN G
5	5139 BROOKVIEW DR	GENEVERWATLING DAVID C & JANET M
6	5033 BROOKVIEW DR	WARNER JAMES A III & MI JUNG KIM WARNER
7	5038 BROOKVIEW DR	EWING GAIL ORAND % EWING BUICK
8	5129 RADBROOK PL	HUBBARD STEPHEN L & MARY S

**BOARD OF ADJUSTMENT
CITY OF DALLAS, TEXAS**

MONDAY, MAY 19, 2014

FILE NUMBER: BDA 134-041

BUILDING OFFICIAL'S REPORT: Application of Jennifer Dix, represented by Samit Patel, for special exceptions to the fence height and visual obstruction regulations at 9236 Hollow Way Road. This property is more fully described as part of Lot 25, Block 7/5597, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct/maintain an 8 foot 10 inch high fence, which will require a 4 foot 10 inch special exception to the fence height regulations, and to locate/maintain items in required visibility triangles, which will require a special exception to the visual obstruction regulations.

LOCATION: 9236 Hollow Way Road

APPLICANT: Jennifer Dix
Represented by Samit Patel

REQUESTS:

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

1. A request for a special exception to the fence height regulations of 4' 10" is made to maintain a 6' high open metal picket fence with 8' high brick columns, an 8' high open metal picket vehicular gate with 8' high brick columns, and an 8' 10" high pedestrian gate with 8' high brick columns parallel to the street, and an 8' high board-on-board cedar fence perpendicular to the street in the front yard setback.
2. Requests for special exceptions to the visual obstruction regulations are made to maintain portions of the aforementioned fence and columns and landscape materials in the two 20' visibility triangles on both sides of the two driveways into the site from Hollow Way Road.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

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

STAFF RECOMMENDATION (fence height):

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

STAFF RECOMMENDATION (visual obstruction):

Approval, subject to the following conditions:

- Compliance with the revised site plan, two revised detail plans of the north and south drive, and a detailed elevation is required.
- Any/all vegetation located in the visibility triangle at the north driveway must comply the visual obstruction regulations of the Dallas Development Code.

Rationale:

- The Sustainable Development and Construction Department Senior Engineer has indicated that he has no objections to these requests if the staff-suggested conditions referenced above are imposed.
- The applicant has substantiated how the location of the open metal picket fence, four masonry columns, and certain landscape materials as denoted on his submitted plans on both sides of the two driveways into the site from Hollow Way Road does not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA 989-177, Property at 9245 Hollow Way Road (the lot immediately west of the subject site) On February 18, 1999, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of 10' 4" and imposed the submitted revised site plan and elevation as a condition to the request. The case report

states that the request was made to construct/maintain a 6' 9" high wall with 6' 9" high columns, and a 12' 8" high open metal entry gate with 14' 4" high entry columns on property developed with a single family home.

Timeline:

- March 3, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- April 14, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- April 14, 2014: The Board Administrator emailed the following information to the applicant:
- an attachment that provided the public hearing date and panel that will consider the application; the April 30th deadline to submit additional evidence for staff to factor into their analysis; and the May 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."
- April 29, 2014: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).
- April 30 2014: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment B).
- May 6, 2014 : The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Interim Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

May 8, 2014: The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following additional comment: "subject to removing all the vegetation from visibility triangle at north drive."

GENERAL FACTS/STAFF ANALYSIS (fence height):

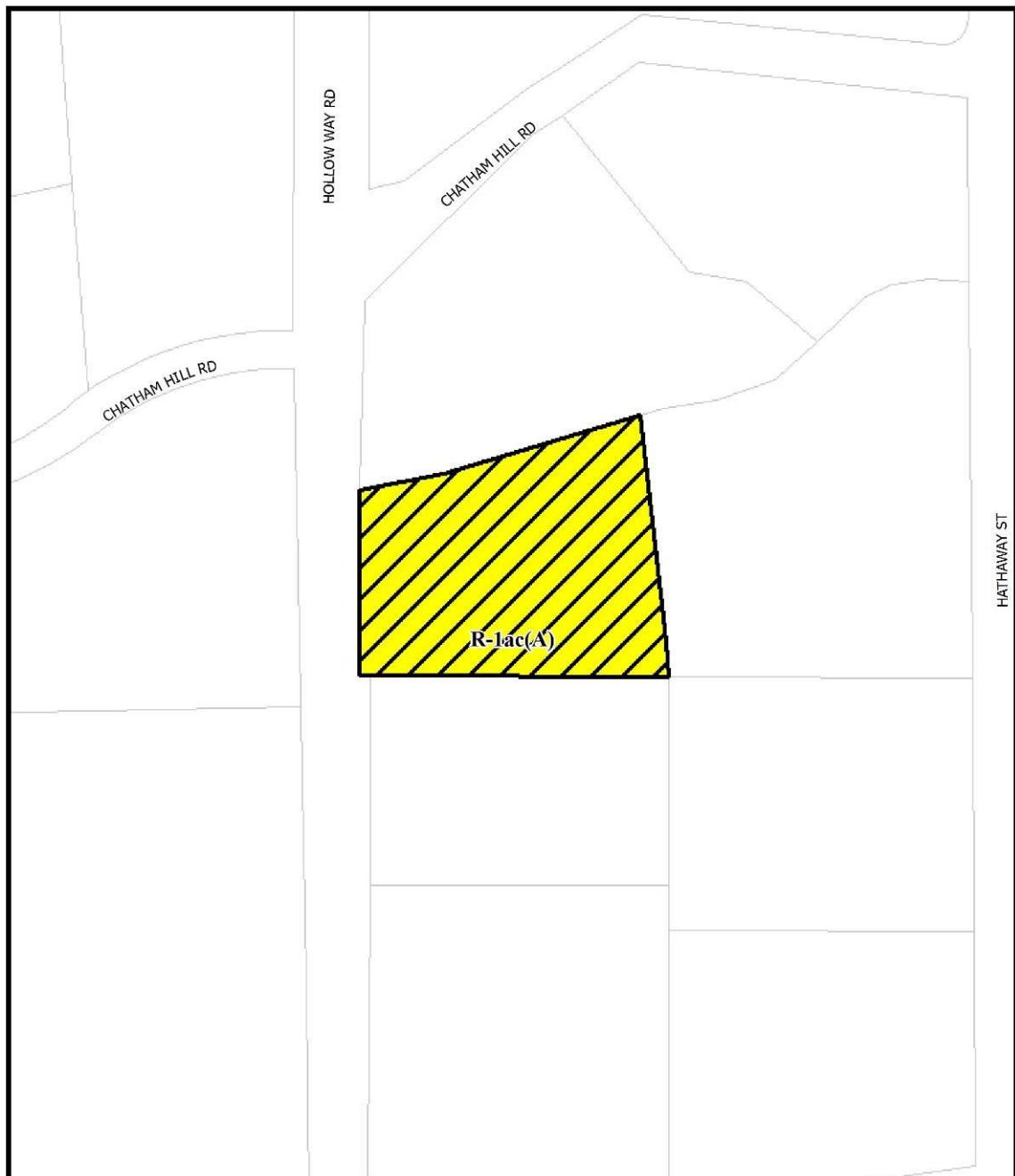
- This request focuses on maintaining a 6' high open metal picket fence with 8' high brick columns, an 8' high open metal picket vehicular gate with 8' high brick columns, and an 8' 10" high pedestrian gate with 8' high brick columns parallel to the street, and an 8' high board-on-board cedar fence perpendicular to the street in the front yard setback on a site developed with a single family home/use.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant has submitted a revised site plan and an elevation of the proposal in the front yard setback that reaches a maximum height of 8' 10".
- The following additional information was gleaned from the submitted revised site plan:
 - The proposal is represented as being approximately 145' in length parallel to the Hollow Way Road, and approximately 39' in length perpendicular to the street on the north and south sides of the site in the front yard setback.
 - The proposal is represented as being located approximately 1' from the property line or about 12' from the pavement line.
- The revised site plan denotes certain landscape materials adjacent to the existing fence some of which appear to be located in the public right-of-way.
- The Board Administrator conducted a field visit of the site and surrounding area and noted one other visible fence above 4 feet high which appeared to be located in a front yard setback that being an approximately 6' high solid brick fence located two lots to the south of the subject site – a fence with no recorded BDA history.
- One home fronts the proposal – a home that has a chain link fence virtually hidden from street view by landscape materials.
- As of May 12th, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4' 10" will not adversely affect neighboring property.
- Granting this special exception of 4' 10" with a condition imposed that the applicant complies with the submitted revised site plan and elevation would require the proposal exceeding 4' in height in the front yard setback to be maintained in the location and of the heights and materials as shown on these documents.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction):

- These requests focus on maintaining portions of the open metal picket fence, four masonry columns, and landscape materials (a shoal creek vitex and a Nellie R.

Stevens Holly at the north driveway, and a shoal creek vitex and two Nellie R. Steven Hollys in the south) on both sides of the two driveways into the site from Hollow Way Road.

- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
 - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The applicant has submitted a revised site plan, two revised detail plans of the north and south drive, and a detailed elevation denoting the items to be maintained in the 20' visibility triangles at the two drive approaches into the site from Hollow Way Road.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following additional comment: "subject to removing all the vegetation from visibility triangle at north drive."
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain portions of an open metal picket fence, four masonry columns, and landscape materials on both sides of the two driveways into the site from Hollow Way Road does not constitute a traffic hazard.
- Granting these requests with the staff-suggested conditions imposed would require the items as described above to be limited to and maintained in the locations, height and materials as shown on these documents.



1:1,200	ZONING MAP	Case no: <u>BDA134-041</u>
		Date: <u>4/24/2014</u>



1:1,200

AERIAL MAP

Case no: BDA134-041

Date: 4/24/2014

Long, Steve

BDA 134-041

Attach A

Pg 1

From: Samit J Patel <Samit@samitpatelds.com>
Sent: Tuesday, April 29, 2014 12:21 AM
To: Long, Steve
Subject: RE: BDA 134-041, Property at 9236 Hollow Way Road
Attachments: S13-007 000 PLANS_FENCE_REV0429.pdf

Importance: High

Steve,

Please find attached the update plans per your request and comments. Please advise if you require any further information.

I appreciate your assistance in this matter.

If you have any questions please let me know.

Thanks

Samit

Samit J. Patel, RLA



www.SamitPatelDS.com

Samit@samitpatelds.com

214-995-9530

*SJPLA*design is now Samit Patel Design Studio

Please come visit us at our new site

From: Long, Steve [mailto:steve.long@dallascityhall.com]

Sent: Monday, April 28, 2014 12:51 PM

To: Samit J Patel

Cc: Hatefi, Alireza; Duerksen, Todd; Dean, Neva; Jimenez, Danielle

Subject: RE: BDA 134-041, Property at 9236 Hollow Way Road

Dear Mr. Patel,

Please let the record show that as we just spoke about, I have saved the 7 photos that you emailed to me this morning, and plan to include them along with a revised full site plan and partial north and south drive plans that you will be sending me in the next day or so as one attachment. Once you have submitted the revised plans, I will add them to your file and forward them to staff and the board members.

Please write or call me at 214/670-4666 if I can assist you in any other way on this application.

Thank you,

Steve

From: Samit J Patel [<mailto:Samit@samitpatelds.com>]
Sent: Monday, April 28, 2014 11:14 AM
To: Long, Steve
Cc: Hatefi, Alireza
Subject: RE: BDA 134-041, Property at 9236 Hollow Way Road
Importance: High

BDA 134-041
Attach A
Pg 2

STEVE, I TRIED SENDING THIS TO YOU LAST WEEK BUT IT KICKED BACK. PERHAPS THE FILE SIZES WERE TOO LARGE. I AM RESENDING ACROSS SEVERAL EMAILS.

THANKS

SAMIT

Steve,

Please find attached updated Site Plan for the North and South Entries showing the landscaping for your review. I am also attaching photographs taken from inside my car and looking towards the car from the street demonstrating the visibility of the vehicle and from the vehicle while in the drive. Please note, when I took these photos, vehicles or trade workers doing work in the house were parked in the street. I do not suspect this is typical. The pictures will be sent across three emails.

If you have any questions please let me know.

Thanks

Samit

Samit J. Patel, RLA



www.SamitPatelDS.com

Samit@samitpatelds.com

214-995-9530

SJPLAdesign is now Samit Patel Design Studio

Please come visit us at our new site

From: Long, Steve [<mailto:steve.long@dallascityhall.com>]
Sent: Thursday, April 24, 2014 12:26 PM
To: samit@samitpatelds.com
Cc: Hatefi, Alireza
Subject: FW: BDA 134-041, Property at 9236 Hollow Way Road

Dear Mr. Patel,

As we spoke about this morning, please feel free to email me any revised site plan that would show any/all items you want the board to consider as part of your requests for special exceptions to the visual obstruction regulations no later than April 30th for staff review purposes.

Thank you,

Steve

BDA 134-041
Attach A
Pg 3

From: Long, Steve
Sent: Monday, April 14, 2014 11:13 AM
To: 'samit@smitpatelds.com'
Subject: FW: BDA 134-041, Property at 9236 Hollow Way Road

From: Long, Steve
Sent: Monday, April 14, 2014 11:11 AM
To: 'samit@smitpatelds.com'
Cc: Jimenez, Danielle; Duerksen, Todd; Hatefi, Alireza
Subject: BDA 134-041, Property at 9236 Hollow Way Road

Dear Mr. Patel,

Here is information regarding the application to the board of adjustment at the address referenced above that you are representing for Jennifer Dix:

1. The submitted application materials- all of which will be emailed to you, city staff, and the board members in a docket report about a week ahead of your tentatively scheduled May 19th Board of Adjustment Panel C public hearing.
2. The provisions from the Dallas Development Code allowing the board to consider/grant special exceptions to the fence height regulations (51A-4.602(a)(6)) and to the visual obstruction regulations (51A-4.602(d)(3)).
3. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board.
4. The board's rule pertaining to documentary evidence.

Please review the Building Official's Report/second page of your application (page 2 of 9 in the application materials attached) and contact Todd Duerksen at 214/948-4475 no later than noon, Wednesday, April 30th with regard to any amendment that you feel is necessary to address the issues at hand, specifically if for any reason you feel that the statement in his report stating that the applicant proposes to construct/maintain an 8 foot 10 inch high fence which will require a 4 foot 10 inch special exception to the fence height regulations is incorrect. (Note that the discovery of any additional appeal needed in addition to the requested fence height and visual obstruction special exceptions beyond April 30th will result in postponement of the appeal until the panel's next regularly scheduled public hearing).

Lastly, I would encourage you to contact Ali Hatefi, City of Dallas Sustainable Development Department Senior Engineer at 214/948-5379 to determine if there is any additional information that he may need from you in making a favorable recommendation to the board on your request for a special exception to the visual obstruction regulations.

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

Thanks,

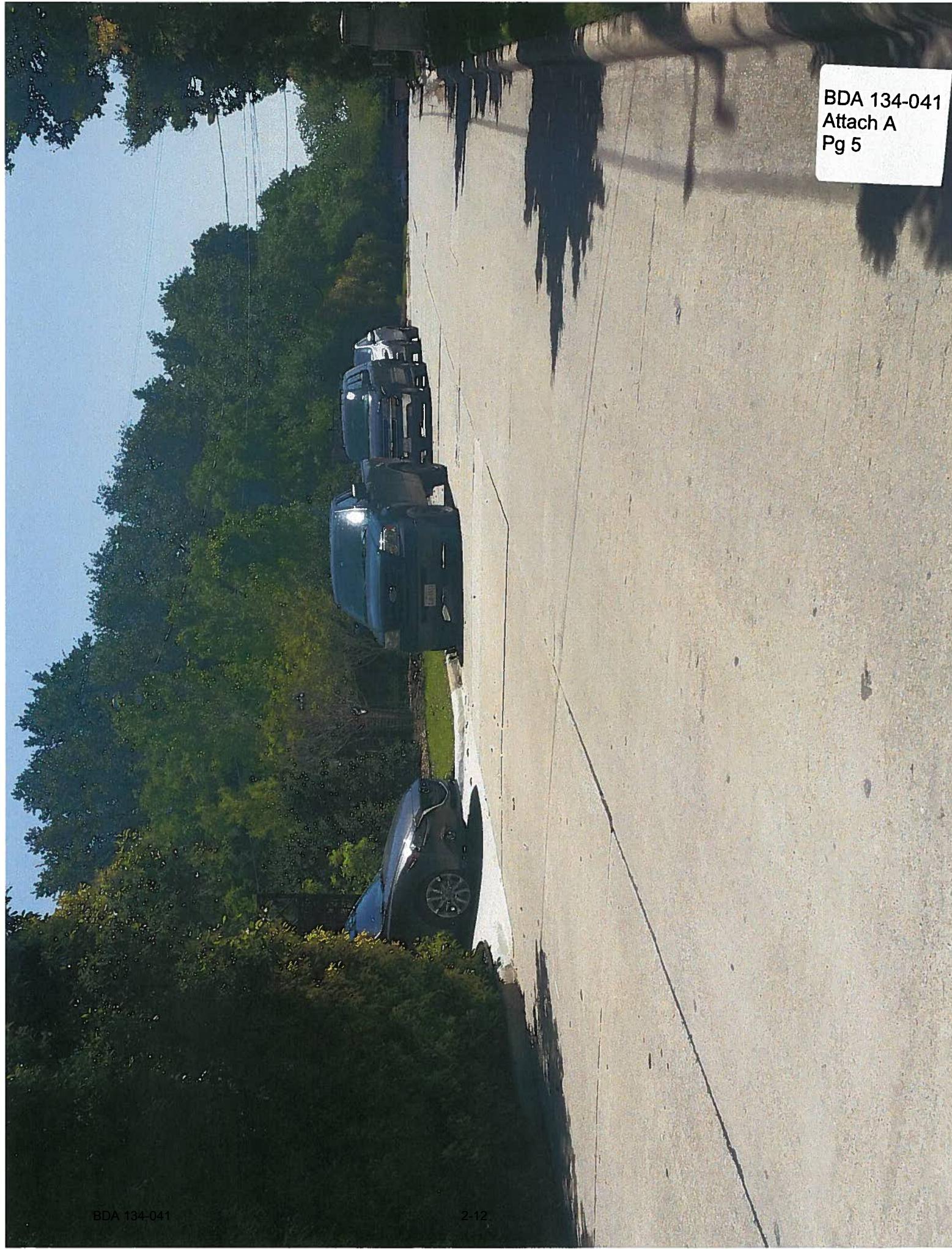
Steve

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

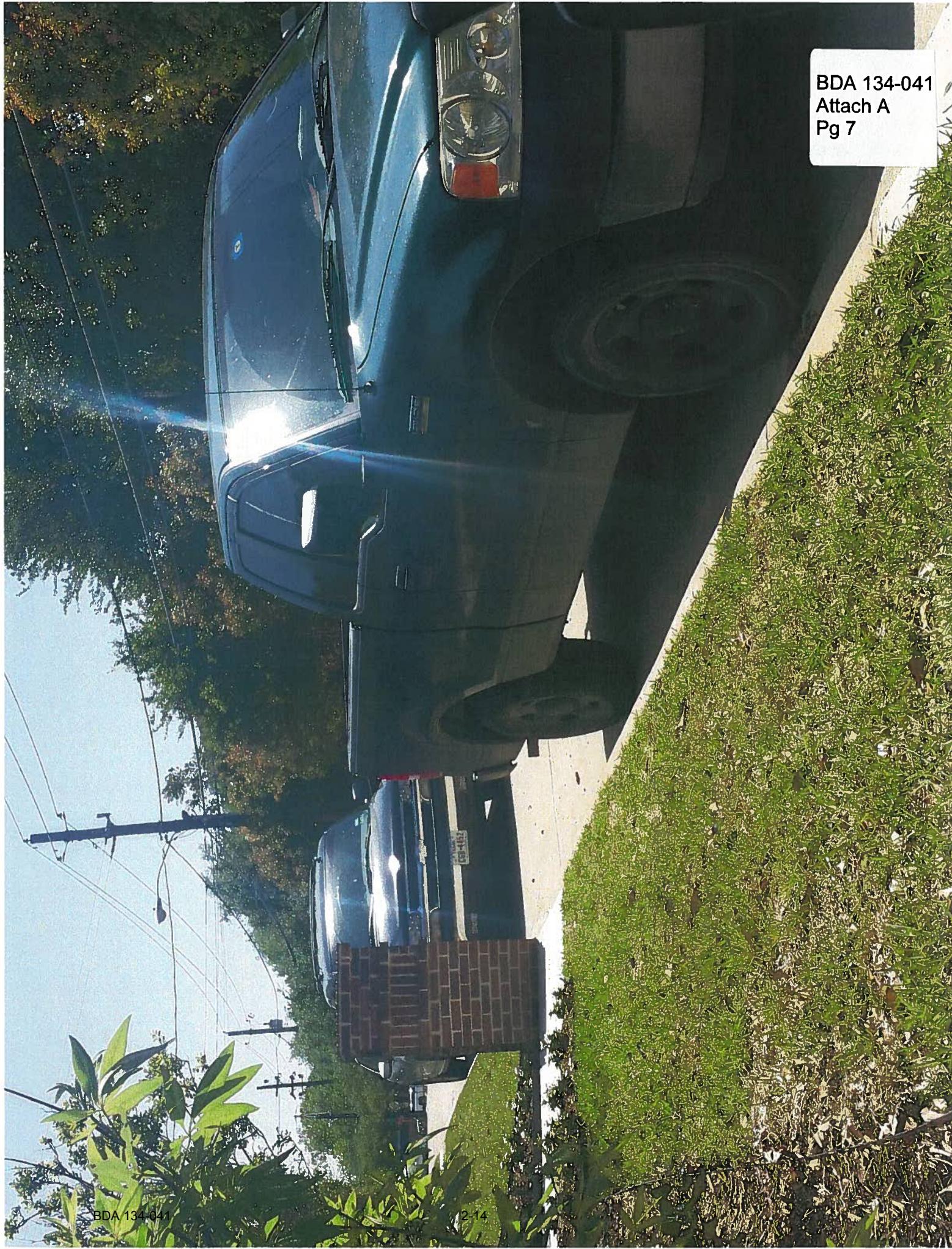
BDA 134-041
Attach A
Pg 4

BDA 134-041
Attach A
Pg 5



BDA 134-041
Attach A
Pg 6

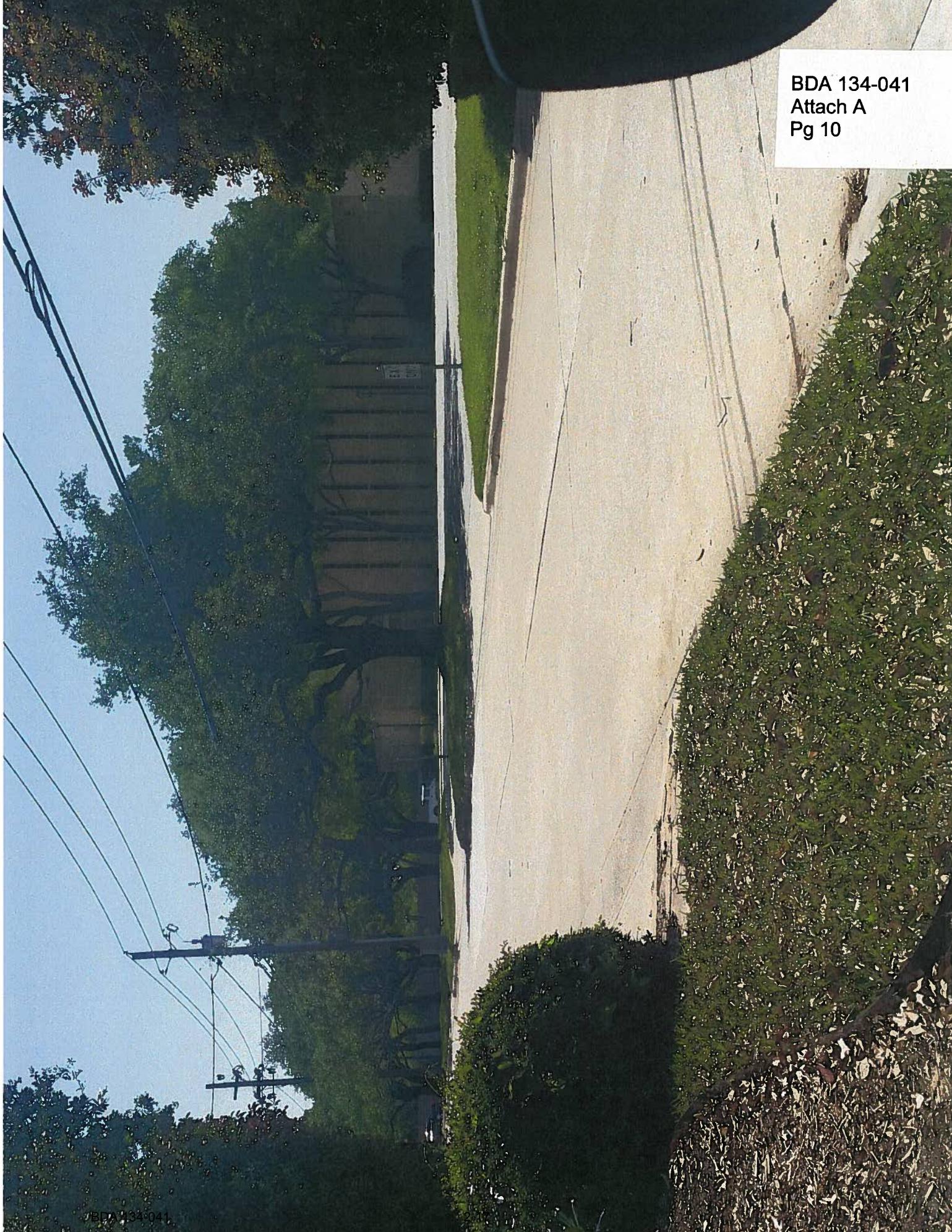
BDA 134-041
Attach A
Pg 7



BDA 134-041
Attach A
Pg 8

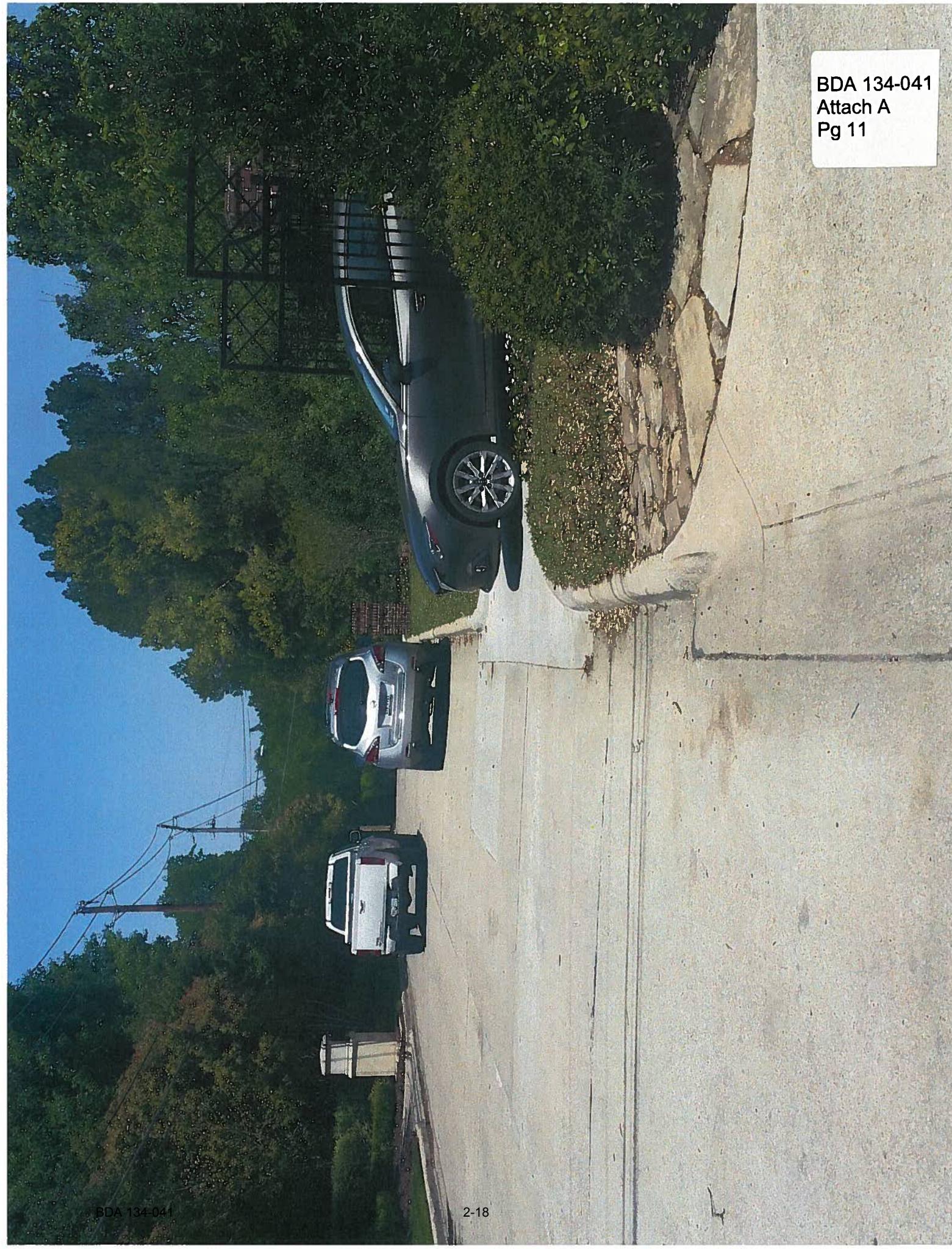


BDA 134-041
Attach A
Pg 9

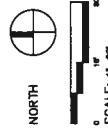


BDA 134-041
Attach A
Pg 10

BDA 134-041
Attach A
Pg 11



SITE PLAN

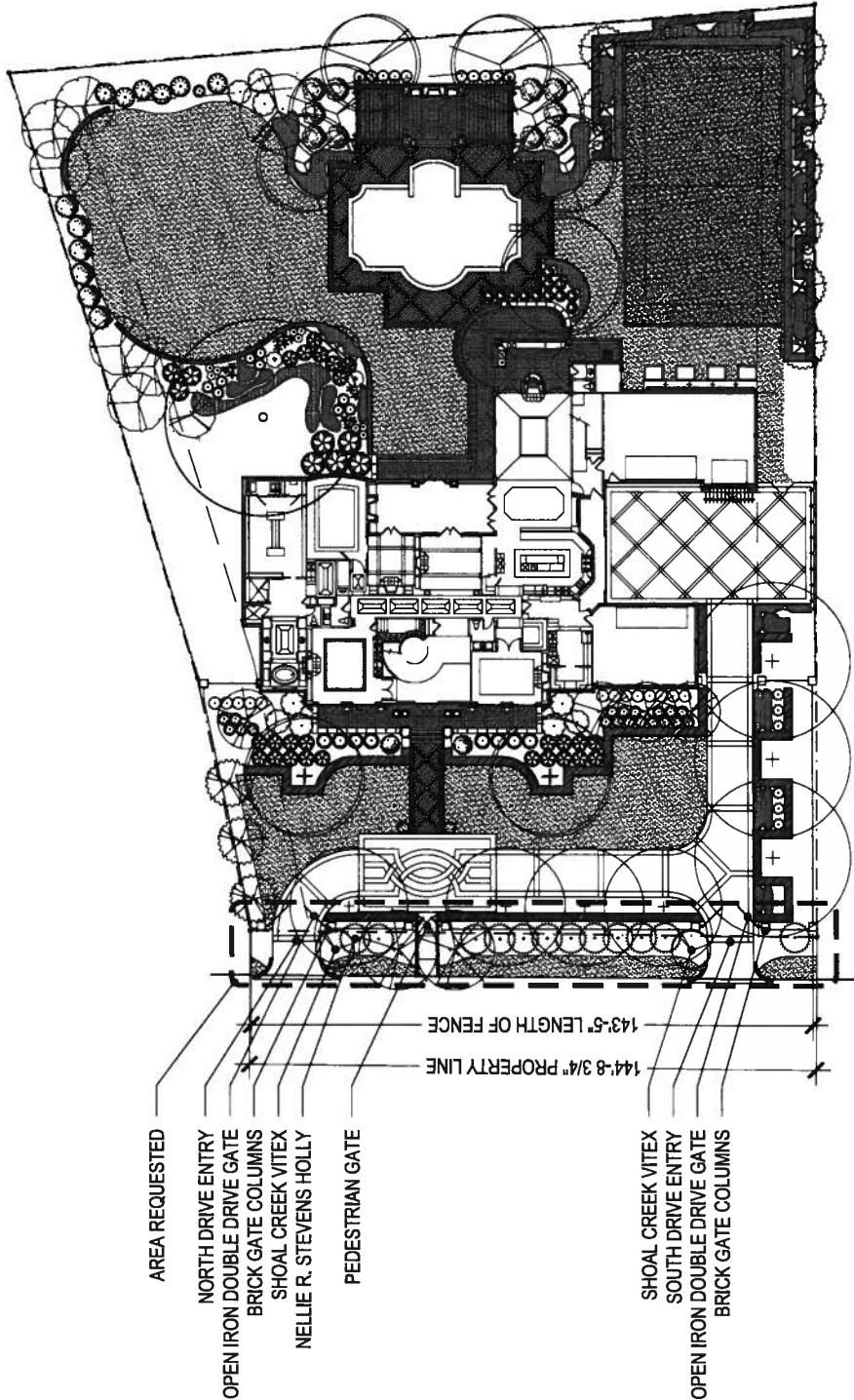


NORTH

DATE: 4-29-2014

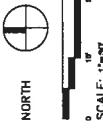
SCALE: 1"=30'

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DALLAS, TEXAS

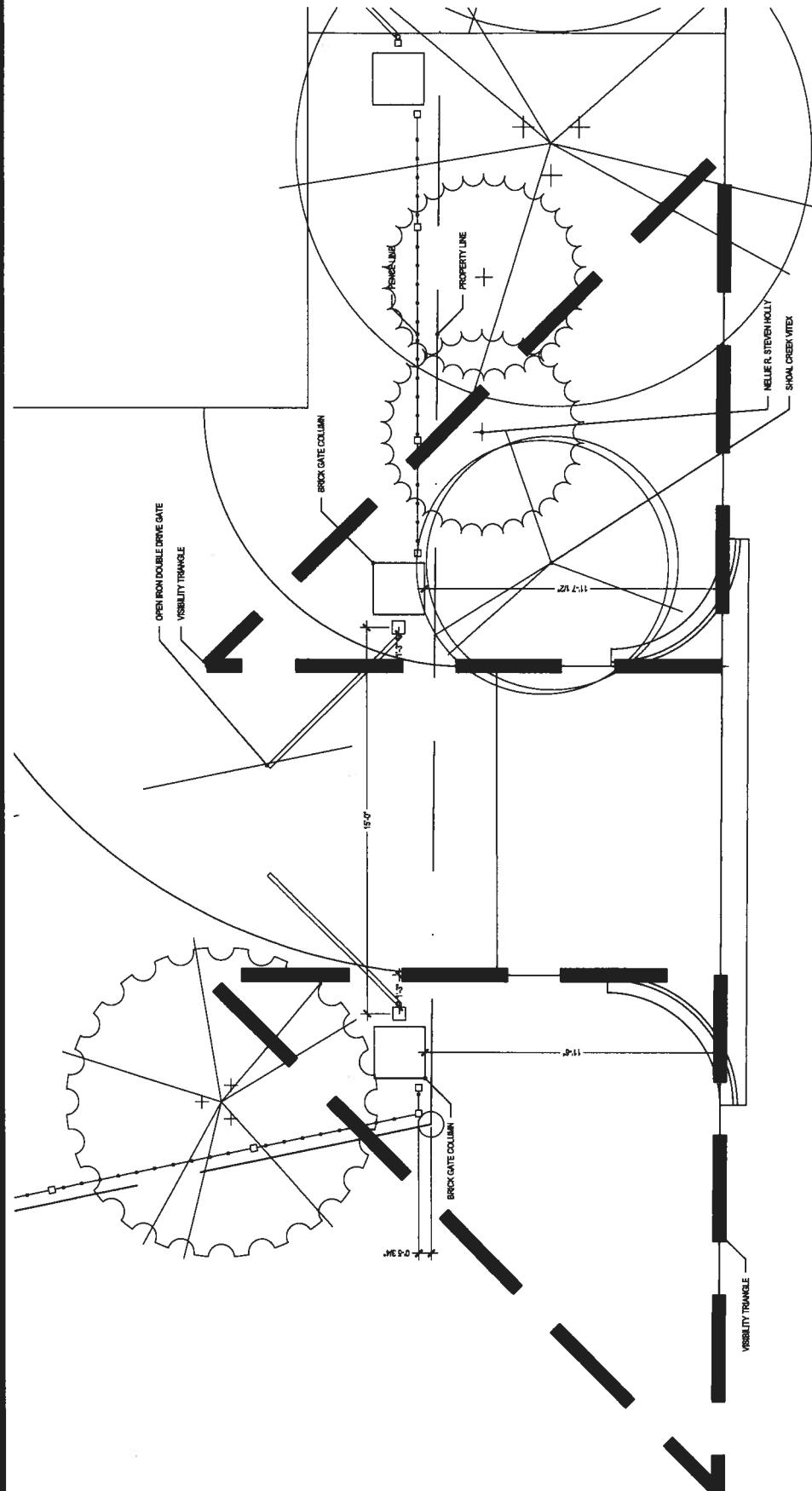


SITE PLAN - NORTH DRIVE

L0.01



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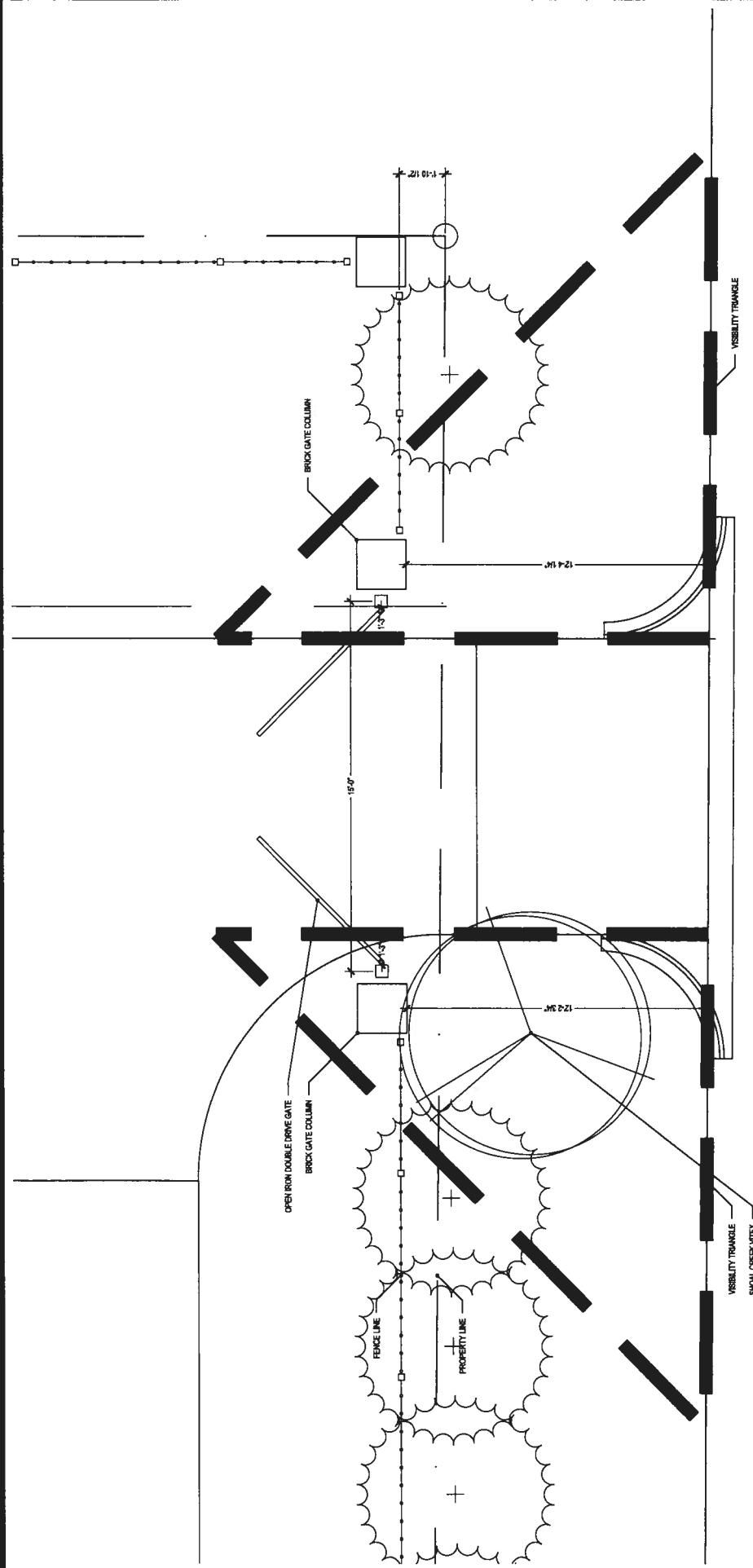
SITE PLAN - SOUTH DRIVE

L0.01



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Landscaping
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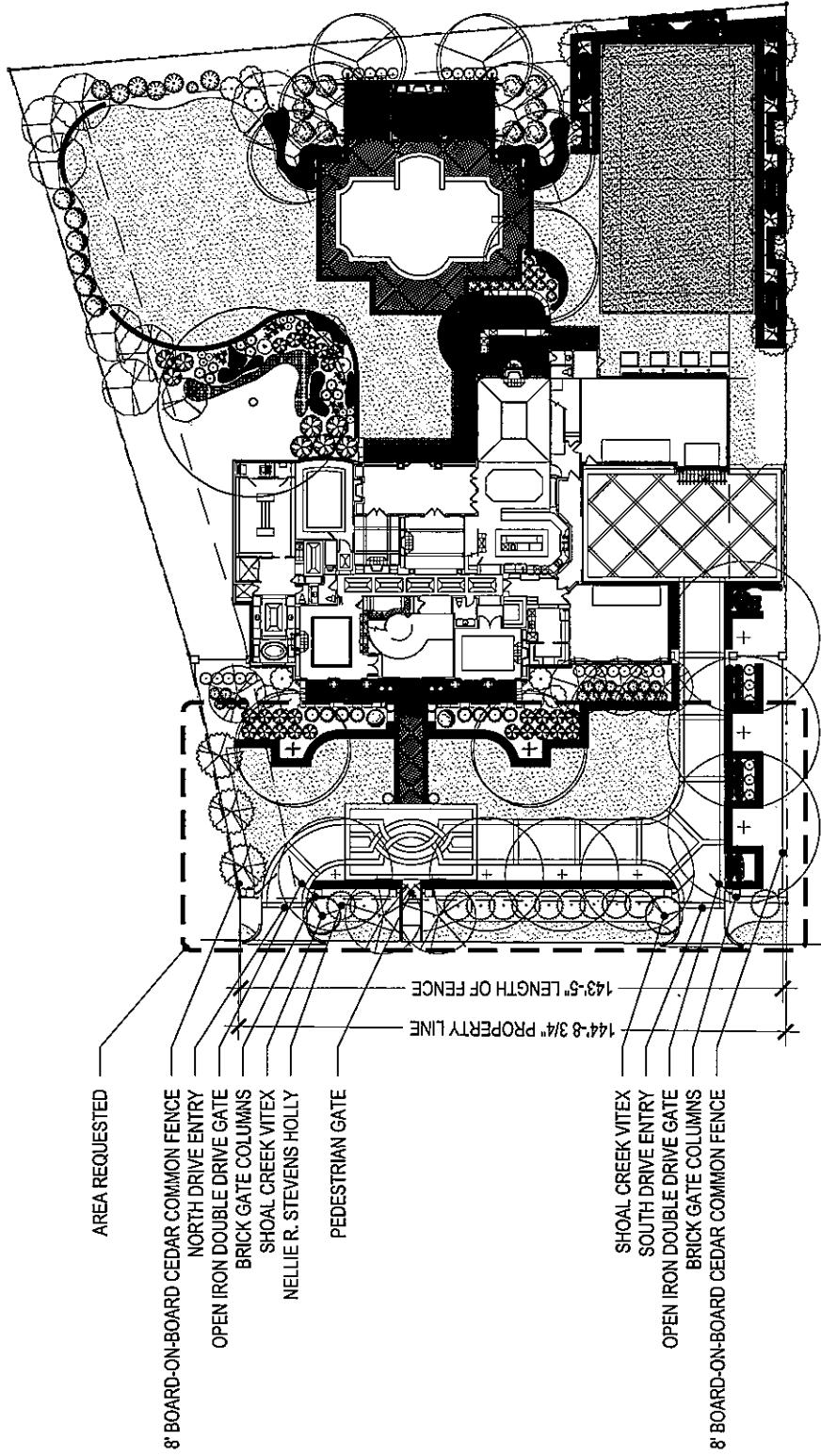
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REVISED: 4-20-04
DATE: 22-6-2014
SCALE: 1"-30'

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PRIVATE
RESIDENCE
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DALLAS, TEXAS
(214) 939-9330



NORTH

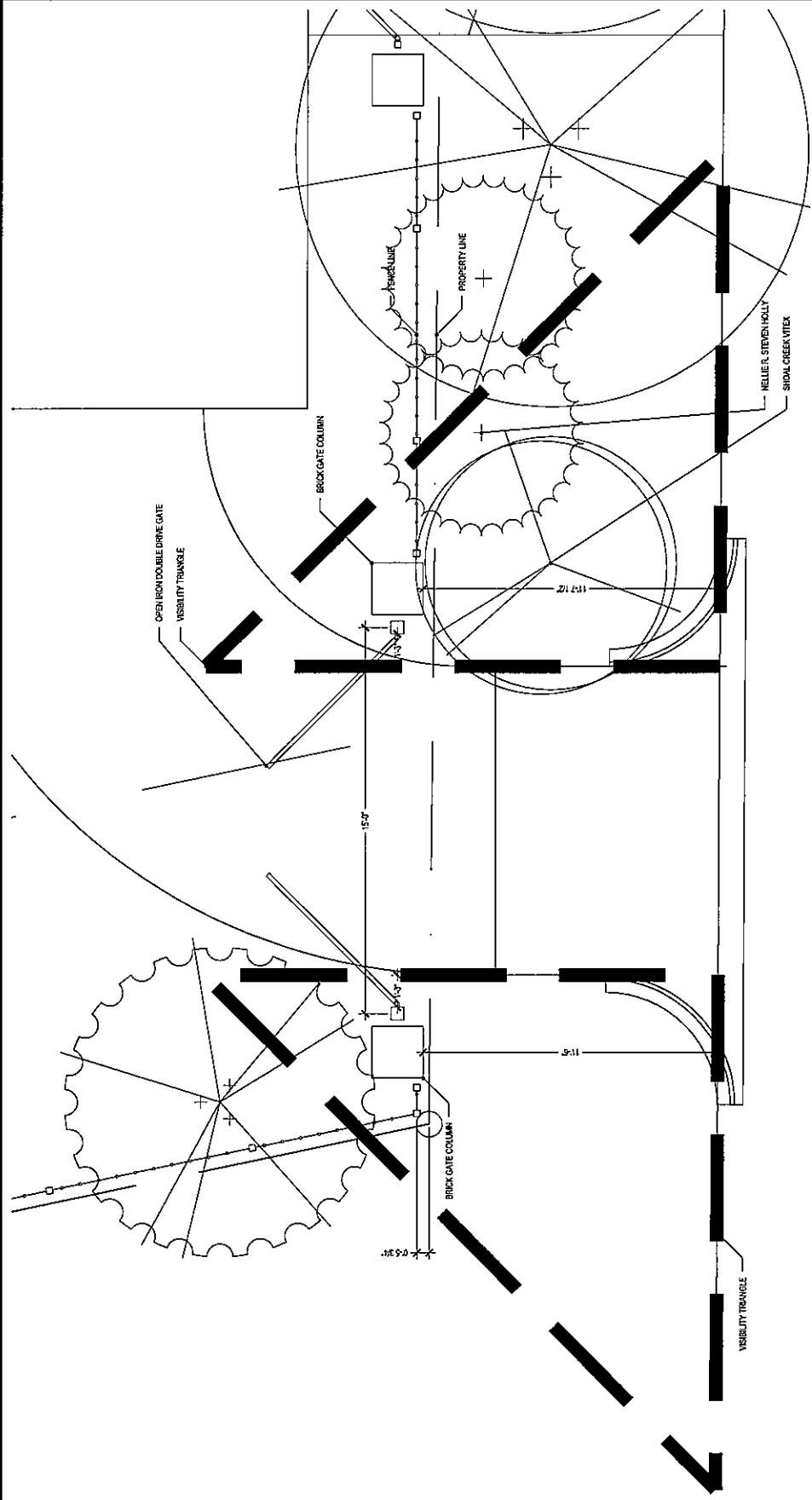


SITE PLAN - NORTH DRIVE

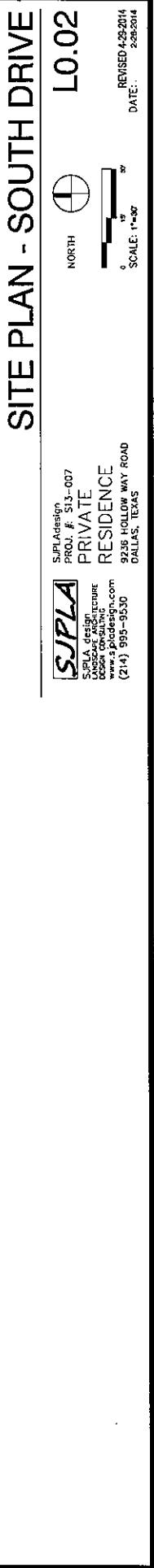
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NORTH
SPLA
SubPlaceDesign
PROJ. #: S13-007
DRIVE AT

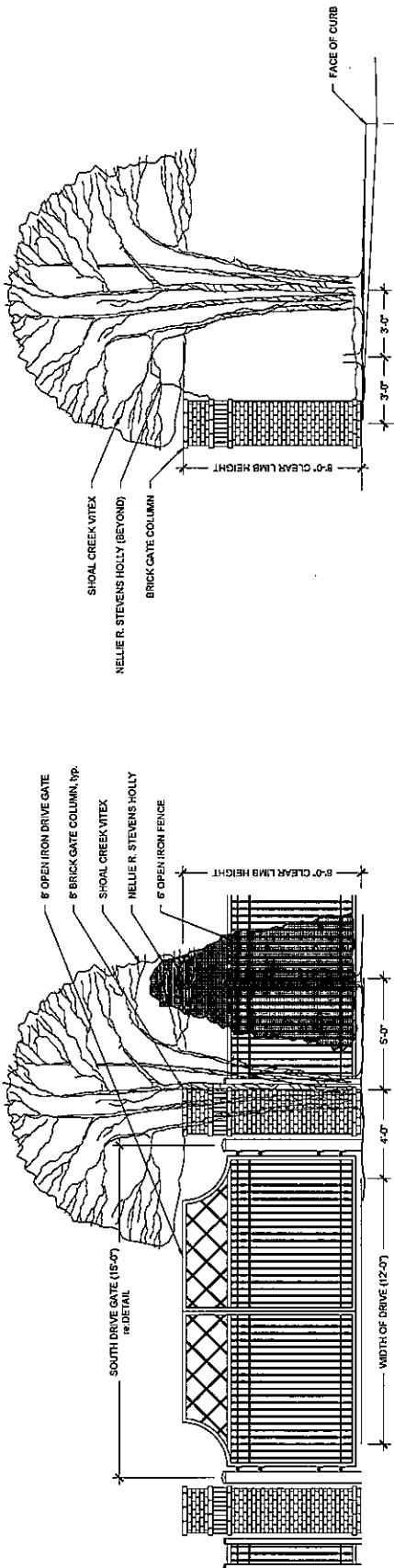
REVISED 4-29-2014
DATE: 2-26-2014



5-20

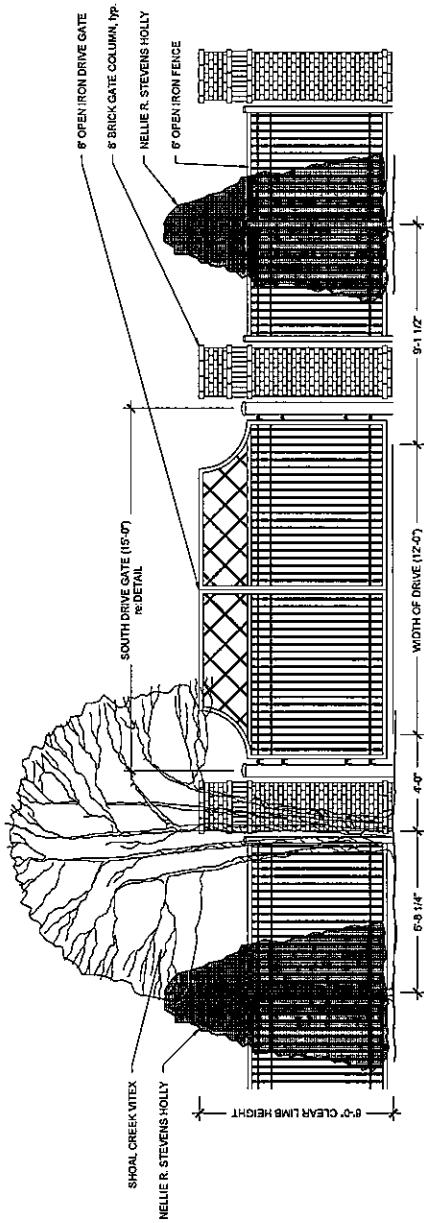


4-30



1 ELEVATION - NORTH ENTRY GATE

SECTION - ENTRY DRIVE, typ. NTS



2 ELEVATION - SOUTH ENTRY GATE

NTS

DETAILS	
SJPLA SjPLA Design Landscaping Architecture Custom Design Services www.sjpladesigns.com (214) 939-9330	NORTH SCALE: AS SHOWN DATE: 4-29-2014 F3



APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-041

Data Relative to Subject Property:

Date: 3-3-14

Location address: 9236 Hollow Way Road, Zoning District: R-1ac(A)

Lot No.: Pt 25 Block No.: 7/5597 Acreage: .909 Census Tract: 206.00

Street Frontage (in Feet): 1) 142' 2) _____ 3) _____ 4) _____ 5) _____ NE2S

To the Honorable Board of Adjustment:

Owner of Property (per Warranty Deed): 9236 Hollow Way Ventures, LLC

Applicant: Jennifer Dix Telephone: 972.809.9090

Mailing Address: 9236 Hollow Way Road Zip Code: 75220

E-mail Address: jennifer@dixfamily.com

Represented by: Samit Patel Telephone: 214.495.9530

Mailing Address: 2854 Hilldale Dr., Lewisville Zip Code: 75067

E-mail Address: Samit@SamitPatelDS.com

Affirm that an appeal has been made for a Variance or Special Exception , or front yard, fence height of 4'10" over and visibility triangle obstruction at drive approach.

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

Fence height and alignment is designed to match fence, heights of neighboring properties both to left and right of property.

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 Jennifer Dix
(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.

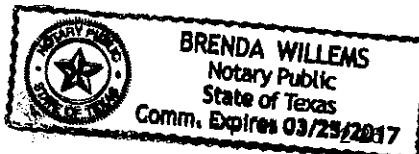
Respectfully submitted:

Jennifer Dix
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 3rd day of March, 2014

Brenda Willems
Notary Public in and for Dallas County, Texas

(Rev. 08-01-11)



**MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT**

Chairman _____

Date of Hearing _____

Appeal was—Granted OR Denied

Remarks _____

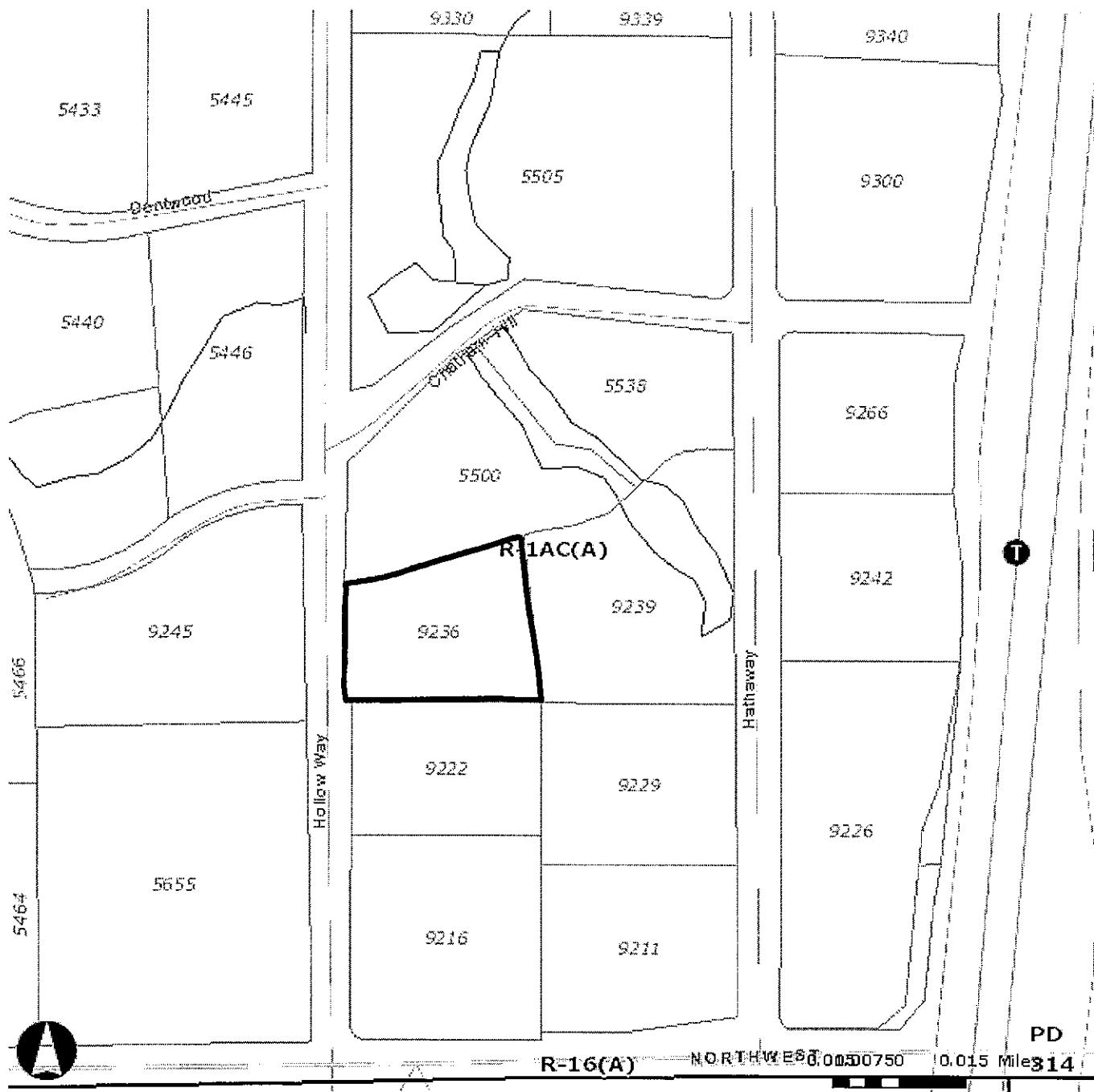
Building Official's Report

I hereby certify that Jennifer Dix
represented by Samit Patel
did submit a request for a special exception to the fence height regulations, and for a special exception to the visibility obstruction regulations
at 9236 Hollow Way Road

BDA134-041. Application of Jennifer Dix represented by Samit Patel for a special exception to the fence height regulations and a special exception to the visibility obstruction regulations at 9236 Hollow Way Road. This property is more fully described as part of Lot 25, Block 7/5597, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct an 8 foot 10 inch high fence in a required front yard, which will require a 4 foot 10 inch special exception to the fence regulation, and to construct and maintain a single family residential fence structure in a required visibility obstruction triangle which will require a special exception to the visibility obstruction regulation.

Sincerely,

Larry Holmes
Larry Holmes, Building Official

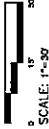


SITE PLAN

LO.00



NORTH

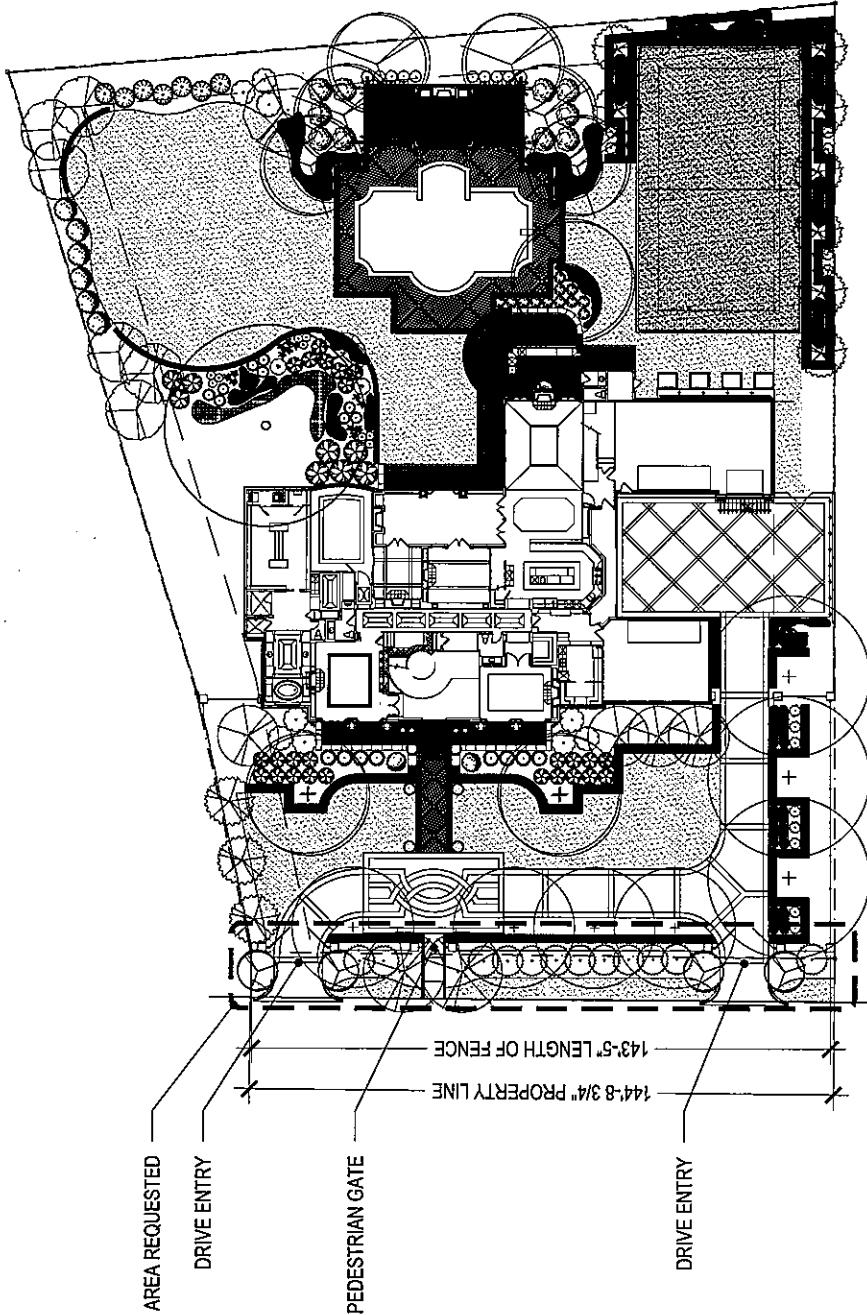


DATE:

2-26-2014



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DESIGN CONSULTING
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9236 HOLLOW WAY ROAD
DALLAS, TEXAS

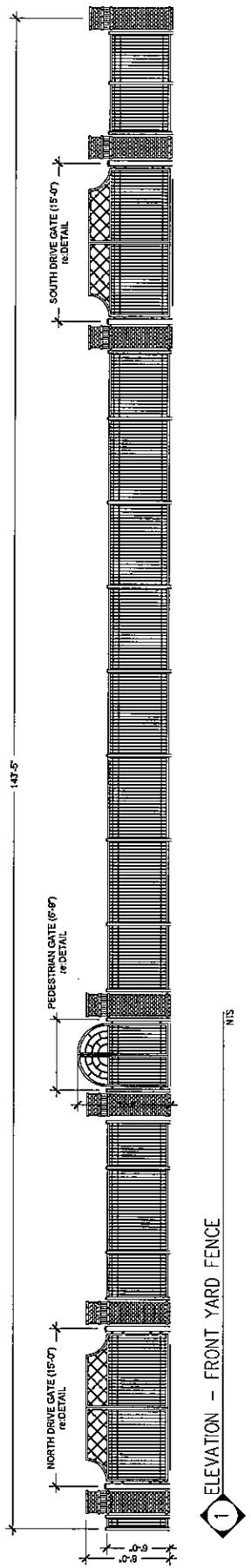


ELEVATION DETAILS

五

NORTH

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RESIDENCE
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LAWRENCE, KS 66046
(214) 953-5930
www.prdesign.com



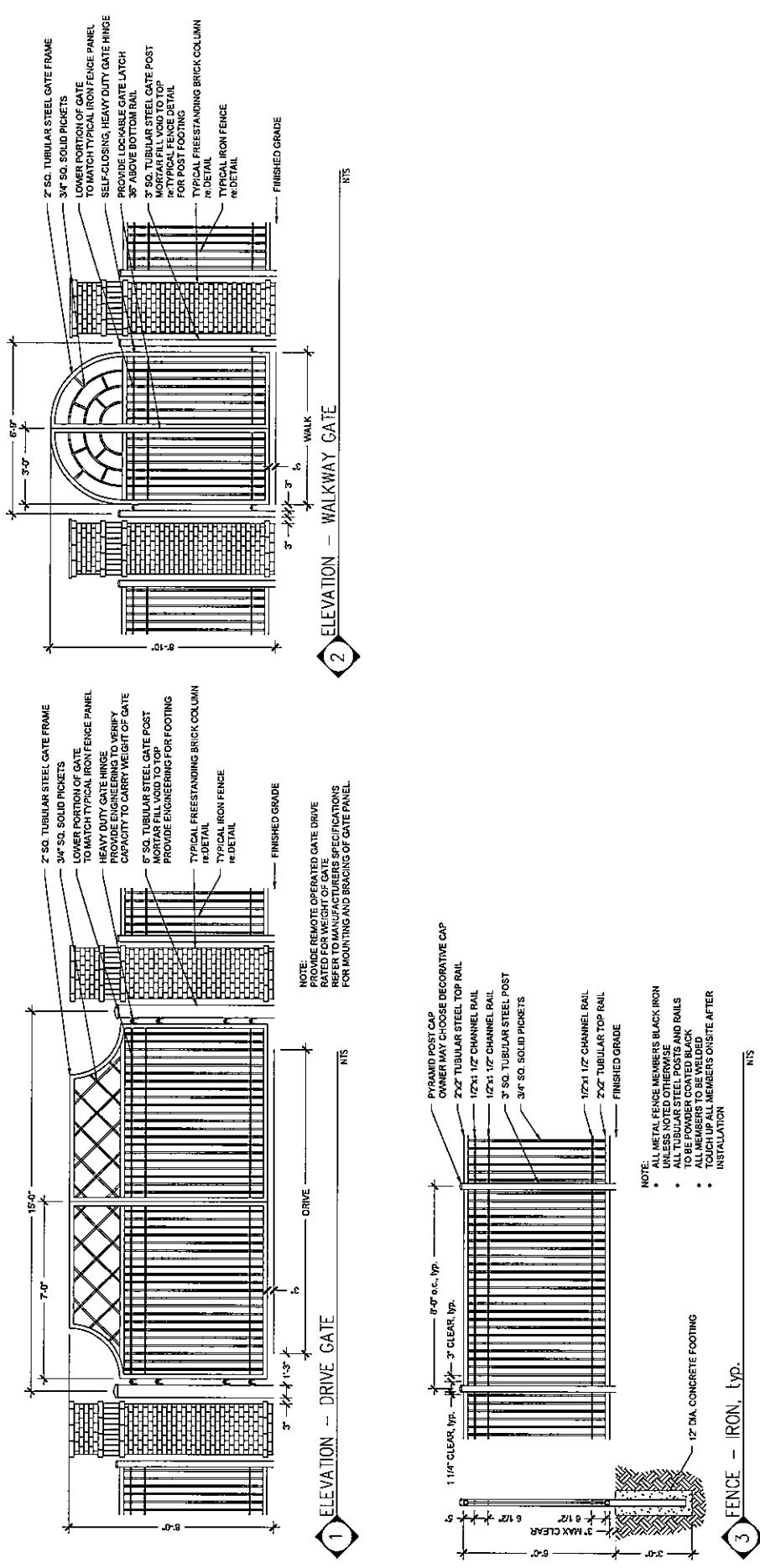
BDA 154-041

L-01

DETAILS

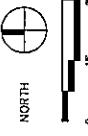
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RESIDENCE **9236 HOLLOW WAY ROAD**
RESIDENCE **9236 HOLLOW WAY ROAD**
DATE: **5-15-14**



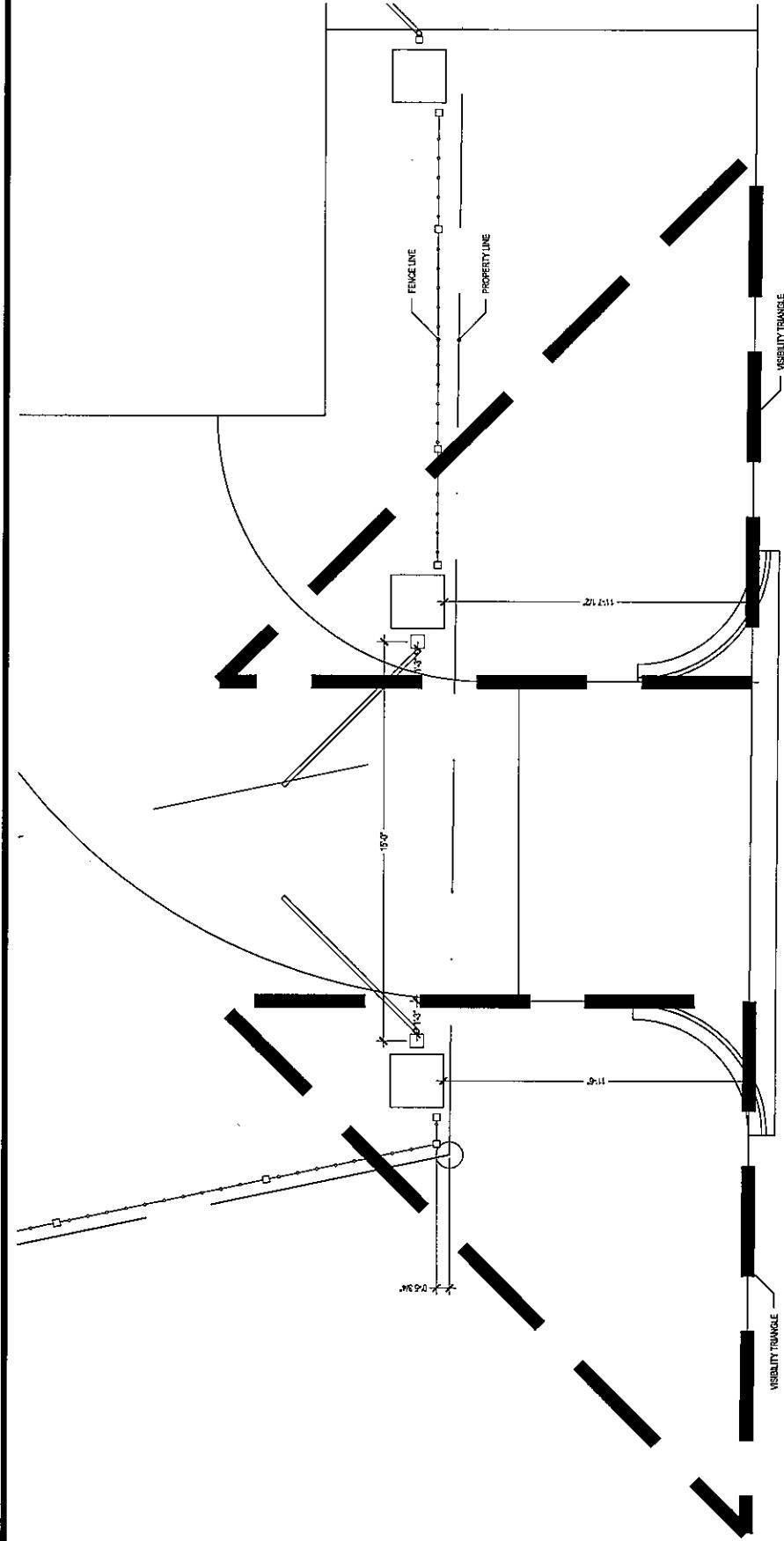
SITE PLAN - NORTH DRIVE

L0.01



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DALLAS, TEXAS
SPIA
Spira design inc.
DESIGN CONSULTING
www.spiadesign.com
(214) 995-9930

DATE: 2-28-2014



SITE PLAN - SOUTH DRIVE

L0.01



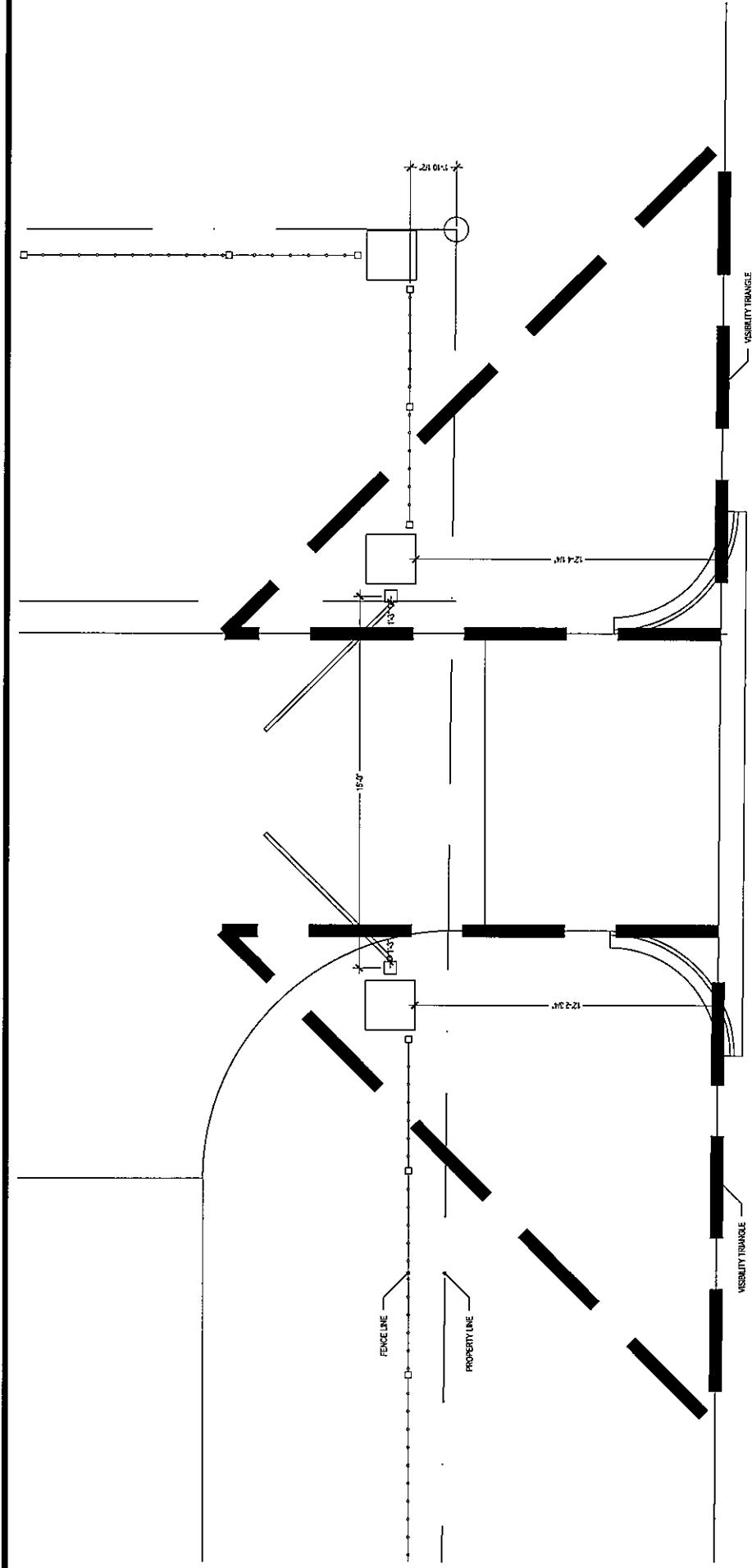
NORTH

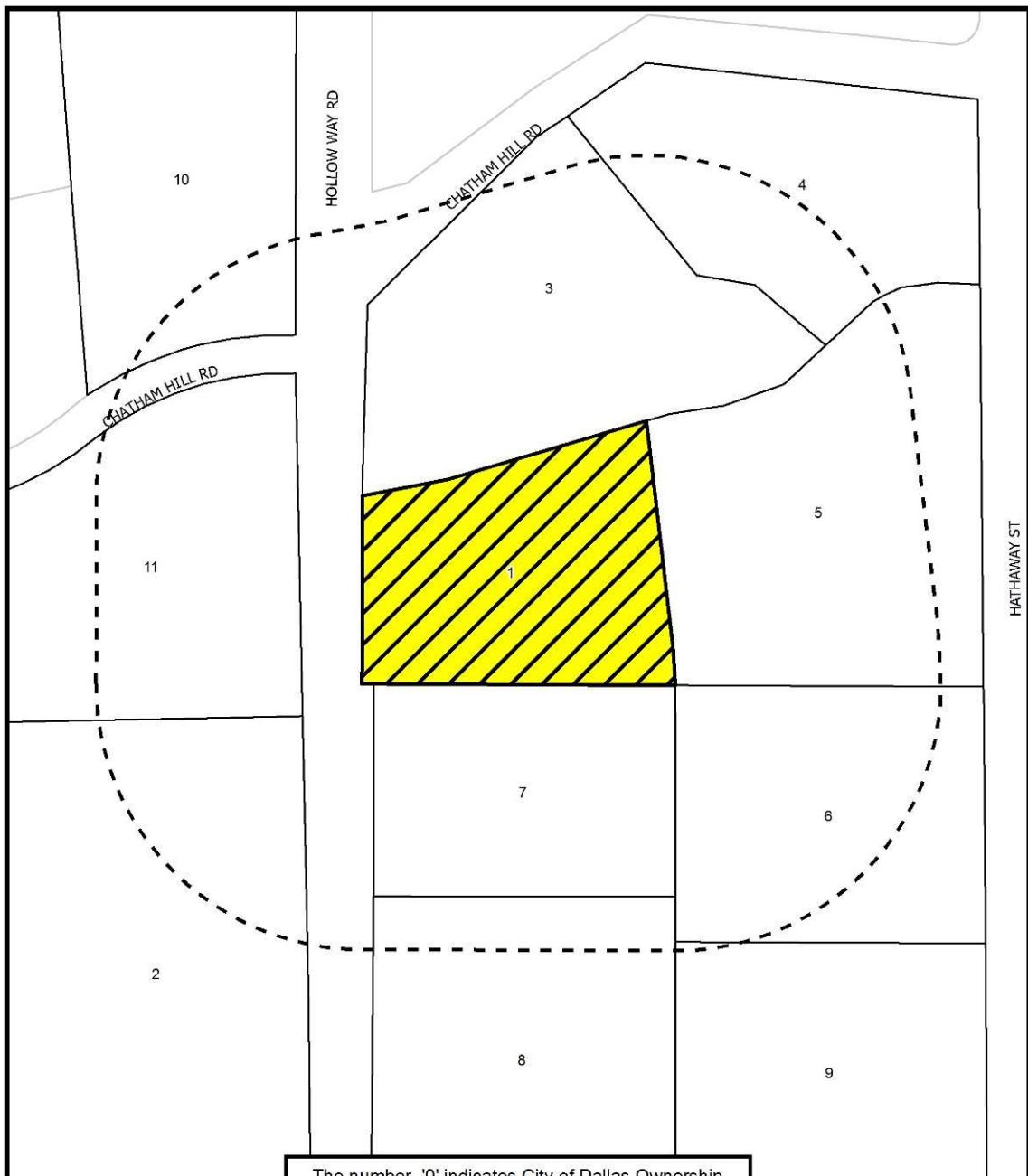
SCALE: 1" = 30'

DATE:

2-28-2014

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PRIVATE
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9236 HOLLOW WAY ROAD
DALLAS, TEXAS
SPLA design, structure
design consulting
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1:1,200	NOTIFICATION		Case no: <u>BDA134-041</u>
	200'	AREA OF NOTIFICATION	Date: <u>4/24/2014</u>
	11	NUMBER OF PROPERTY OWNERS NOTIFIED	

Notification List of Property Owners

BDA134-041

11 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	9236 HOLLOW WAY RD	9236 HOLLOW WAY VENTURES LLC
2	5655 NORTHWEST HWY	FIFTH CHURCH OF CHRISTIAN SCIENCE
3	5500 CHATHAM HILL RD	WORSHAM JOSEPH I II & KATHERINE B
4	5538 CHATHAM HILL RD	CHAND M RIZWAN
5	9239 HATHAWAY ST	DUNNING THOMAS MAYBORN & SARAH H
6	9229 HATHAWAY ST	MORA GUADALUPE
7	9222 HOLLOW WAY RD	KATZ MICHAEL M & LINNIE W KATZ
8	9216 HOLLOW WAY RD	SADIGHIRAD JAHANGIR & YEKTA KERAMATI
9	9211 HATHAWAY ST	JUREK MARION P ISTWAN
10	5446 DENTWOOD DR	CARRY DONALD J & MELISSA M CARRY
11	9245 HOLLOW WAY RD	LANGE BENJAMIN & TRACY

**BOARD OF ADJUSTMENT
CITY OF DALLAS, TEXAS**

MONDAY, MAY 19, 2014

FILE NUMBER: BDA 134-044

BUILDING OFFICIAL'S REPORT: Application of Robert Baldwin for a special exception to the visual obstruction regulations at 6957 Lakeshore Drive. This property is more fully described as part of Lot 2, Block E/2820, and is zoned R-7.5(A), which requires a 20 foot visibility triangle at alley approaches. The applicant proposes to locate/maintain an item in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

LOCATION: 6957 Lakeshore Drive

APPLICANT: Robert Baldwin

REQUEST:

A request for special exception to the visual obstruction regulations is made to locate/maintain portions of a proposed 8' high solid masonry fence with 8.5' high posts/columns in the 20' visibility triangle at where the alley on the northeast side of the site meets West Shore Drive on a site developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Senior Engineer has indicated that he has no objections to this request.
- The applicant has substantiated how the location of the proposed 8' high masonry fence with 8.5' high posts/columns in the 20' visibility triangle at where the alley on the northeast side of the site meets West Shore Drive does not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

- March 25, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- April 14, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- April 14, 2014: The Board Administrator emailed the following information to the applicant:
- an attachment that provided the public hearing date and panel that will consider the application; the April 30th deadline to submit additional evidence for staff to factor into their analysis; and the May 9th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”
- April 30, 2014: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

May 6, 2014 : The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Interim Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

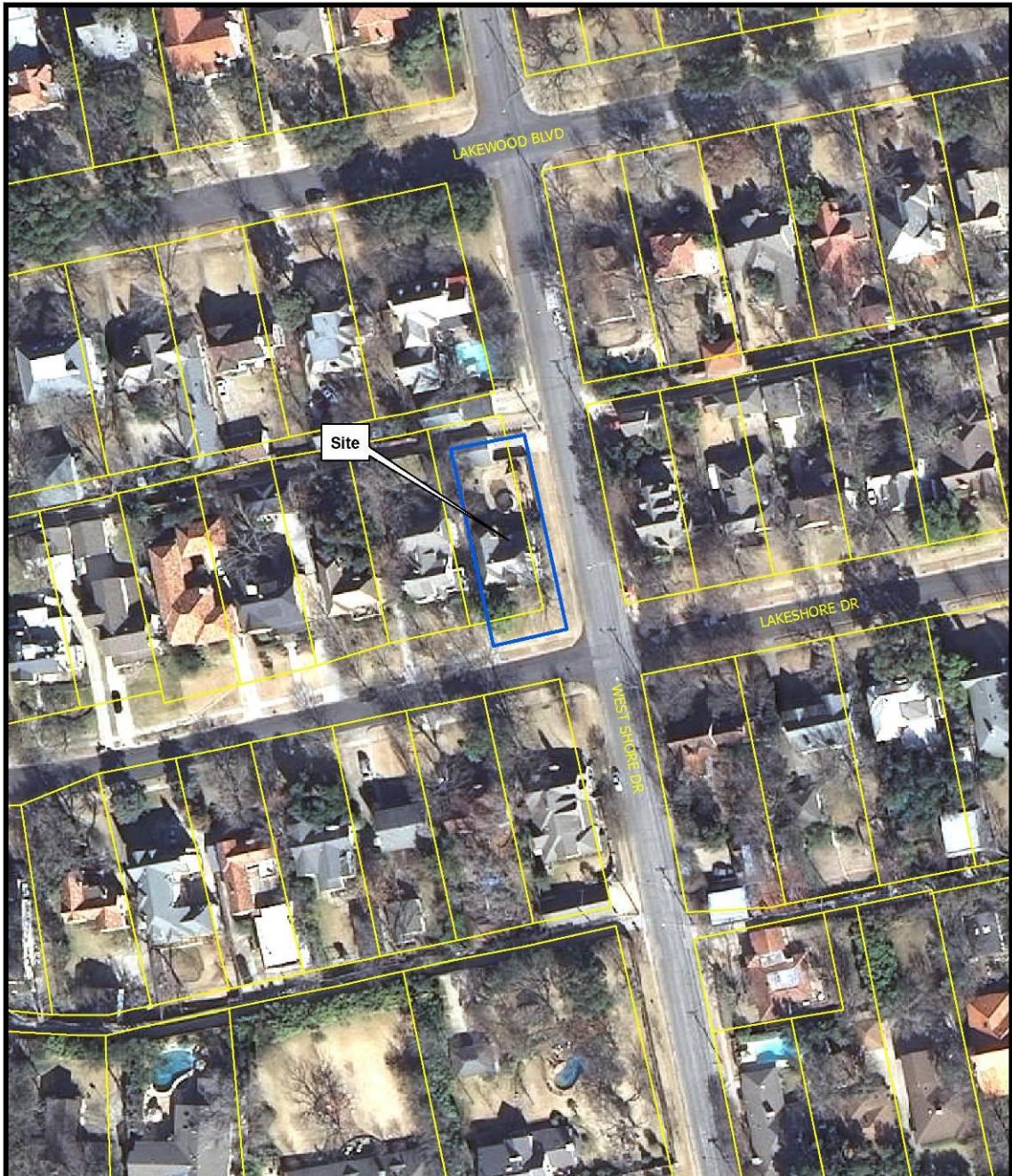
May 8, 2014: The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked "Has no objections."

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on locating/maintaining portions of a proposed 8' high masonry fence with 8.5' high posts/columns in the 20' visibility triangle at where the alley on the northeast side of the site meets West Shore Drive on a site developed with a single family home.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
 - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- A site plan and elevation has been submitted indicating portions of a proposed 8' high solid masonry fence with 8.5' high posts/columns in the 20' visibility triangle at where the alley on the northeast side of the site meets West Shore Drive.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet regarding the applicant's request marked "Has no objections."
- The applicant has the burden of proof in establishing how granting the request for a special exception to the visual obstruction regulations to locate/maintain an 8.5' high solid masonry fence in the 20' visibility triangle at where the alley on the northeast side of the site meets West Shore Drive does not constitute a traffic hazard.
- Granting this request with a condition imposed that the applicant complies with the submitted site plan and elevation would require the item as described above to be limited to and maintained in the locations, height and materials as shown on these documents.



1:1,200	ZONING MAP	Case no: <u>BDA134-044</u>
		Date: <u>4/24/2014</u>



1:1,200

AERIAL MAP

Case no: BDA134-044

Date: 4/24/2014

Baldwin
Associates

April 30, 2014

The Honorable Board of Adjustment
City of Dallas
City Hall
1500 Marilla Street, Room 5BN
Dallas, TX 75201-6390

Re: Board of Adjustment Case 134-044: 6957 Lakeshore Drive

Dear Sir or Madam,

This firm represents Greg and Carla Courtwright, the owners of 6957 Lakeshore Drive, in their request for a Special Exception to Section 51A-4.602 of the Dallas Development Code, which requires that visibility triangles be unobstructed. They are renovating their home and as a part of this renovation, they want to construct a new fence around the back yard up to the alley with a sliding gate for the new driveway off the alley. The Courtwrights seek permission to install an eight (8) foot tall masonry fence that sits on a stone-clad base, and stone capped columns. Specifically, the proposed fence would be eight (8) feet in height as measured from the inside of the fence and generally follow the property line along Lakeshore Drive and West Shore Drive. The property line is approximately 15 feet from the edge of curb. The corner of the fence is proposed to be back from the alley approximately 15 feet, but not provide the full visibility triangle, as city code requires. This fence has been specifically designed to complement the property. I hope you can support this request.

As you can see from the attached photos of the property, the proposed fence will enclose the Courtwrights' backyard and swimming pool. I have submitted a drawing to you that shows a side view of what the fence will look like. Additional photos of nearby properties show that other street/alley visibility triangles are obstructed with fences.

The additional photos of nearby properties demonstrate that while the visibility triangle is obstructed, there is no traffic hazard. The Courtwrights' requested fence would be approximately 15 feet from the street so the view up and down the street will not be diminished for people coming out of the alley onto West Shore Drive.

The style and proposed height of the proposed fence and gate is well designed to complement the property. Therefore, the granting of the Special Exception will not be contrary to the public interest, will not have a negative impact on local property values or be detrimental to the health, safety and welfare of neighborhood residents.

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

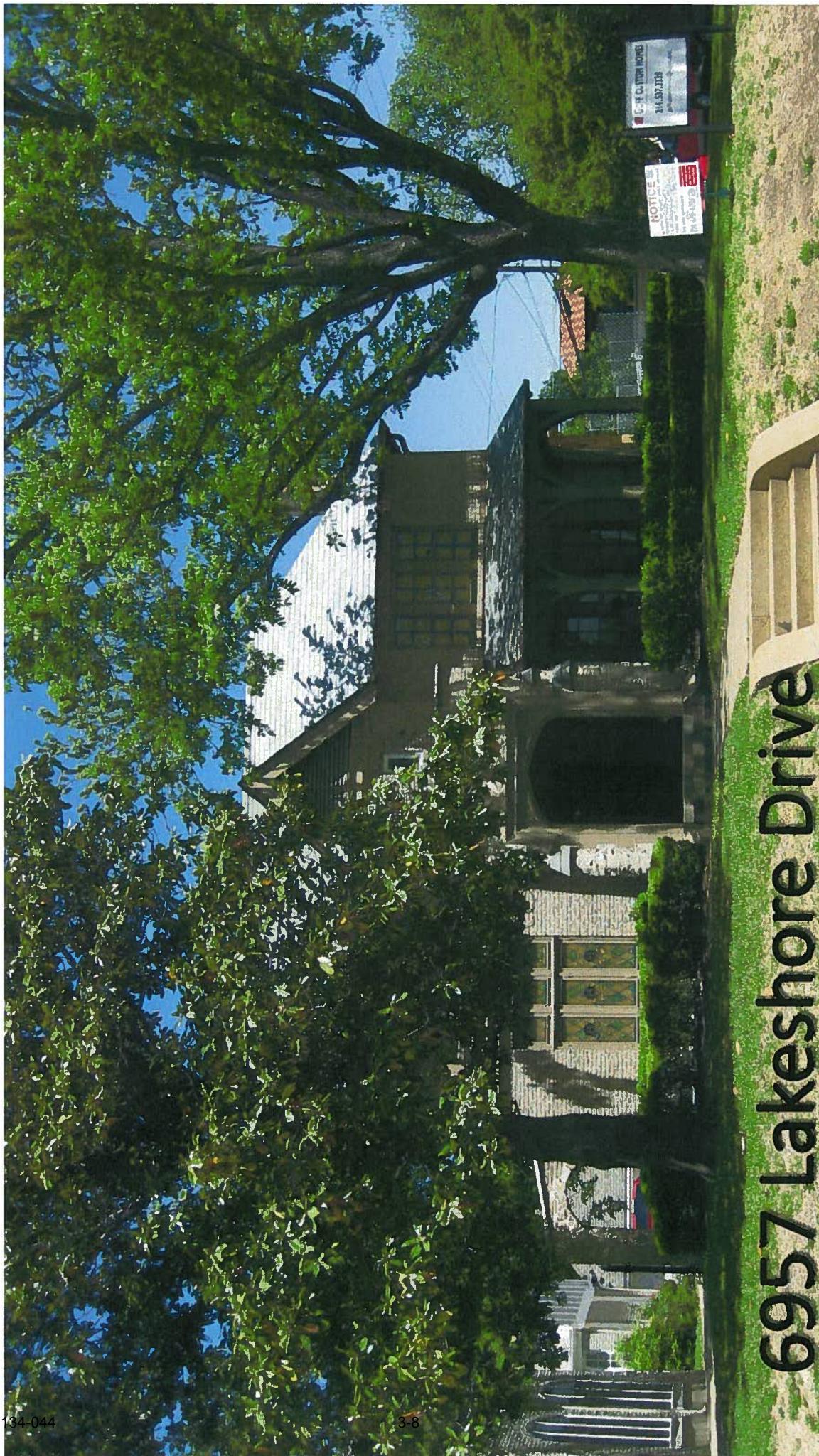
Very truly yours,



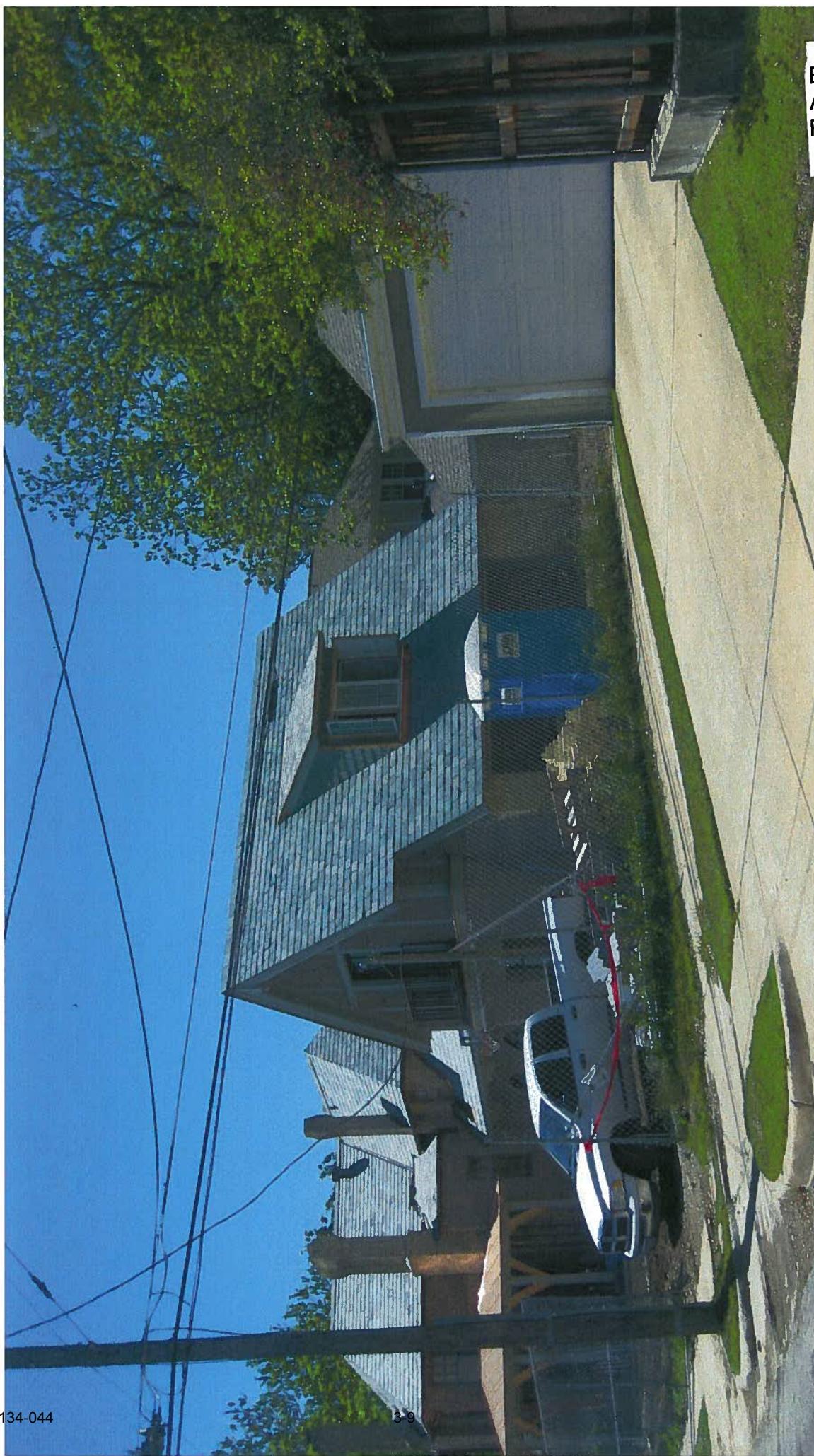
Robert B. Baldwin, AICP

BDA 134-044
Attach A
Pg 3

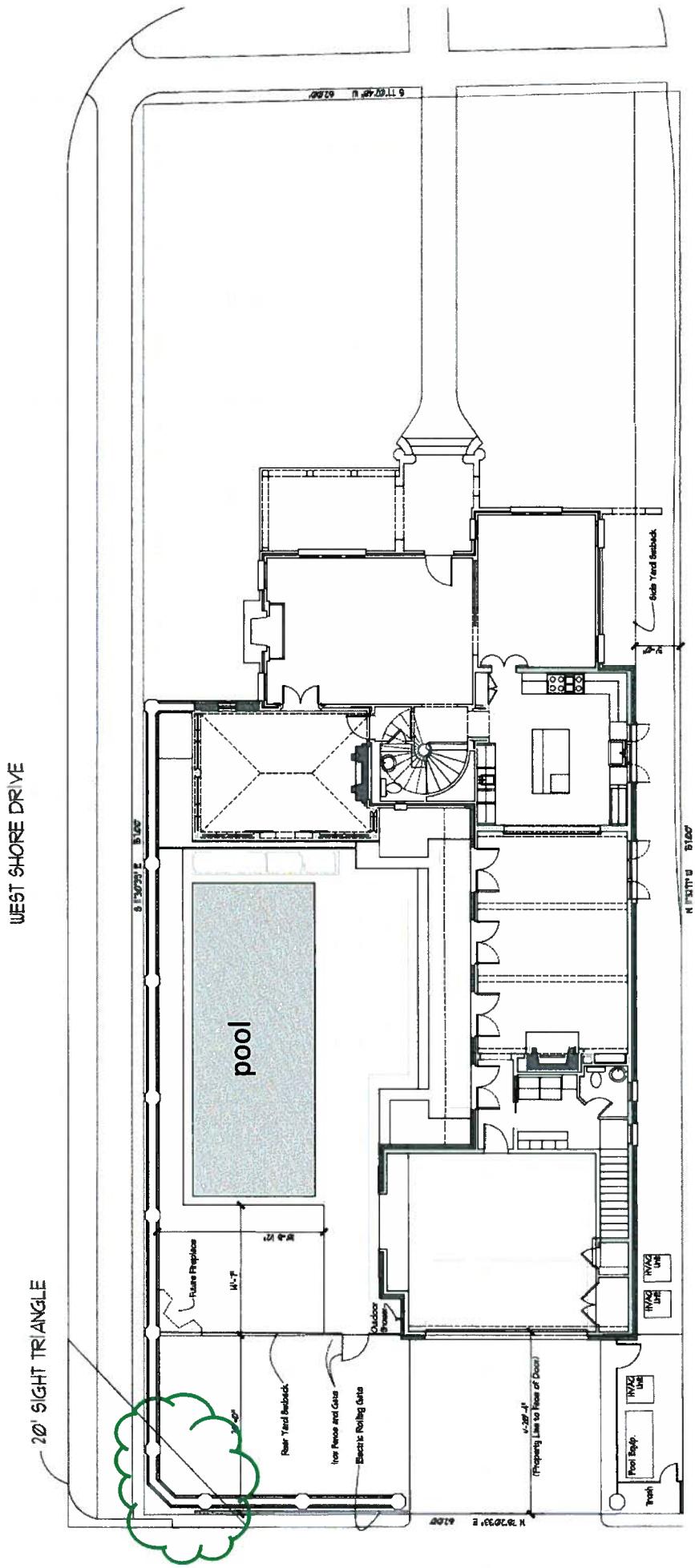
6957 Lakeshore Drive



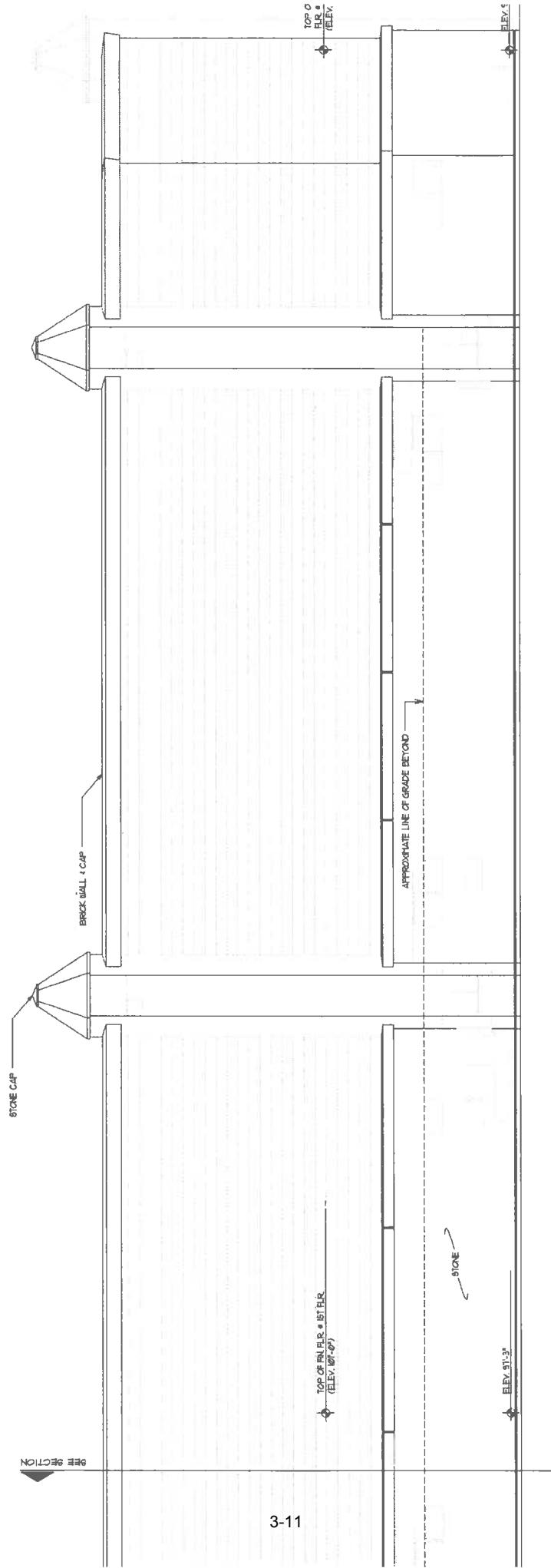
BDA 134-044
Attach A
Pg 4

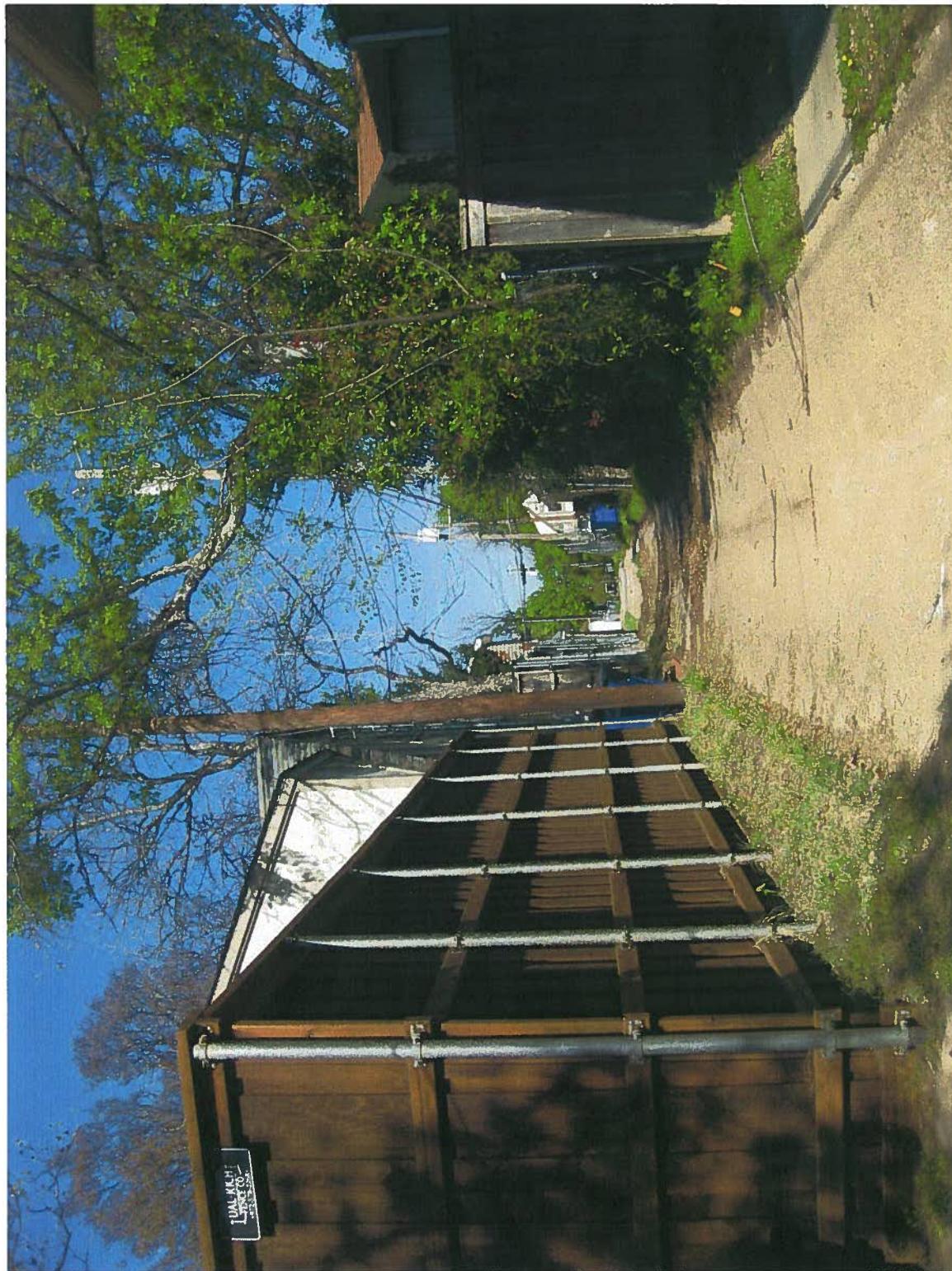


Site Plan

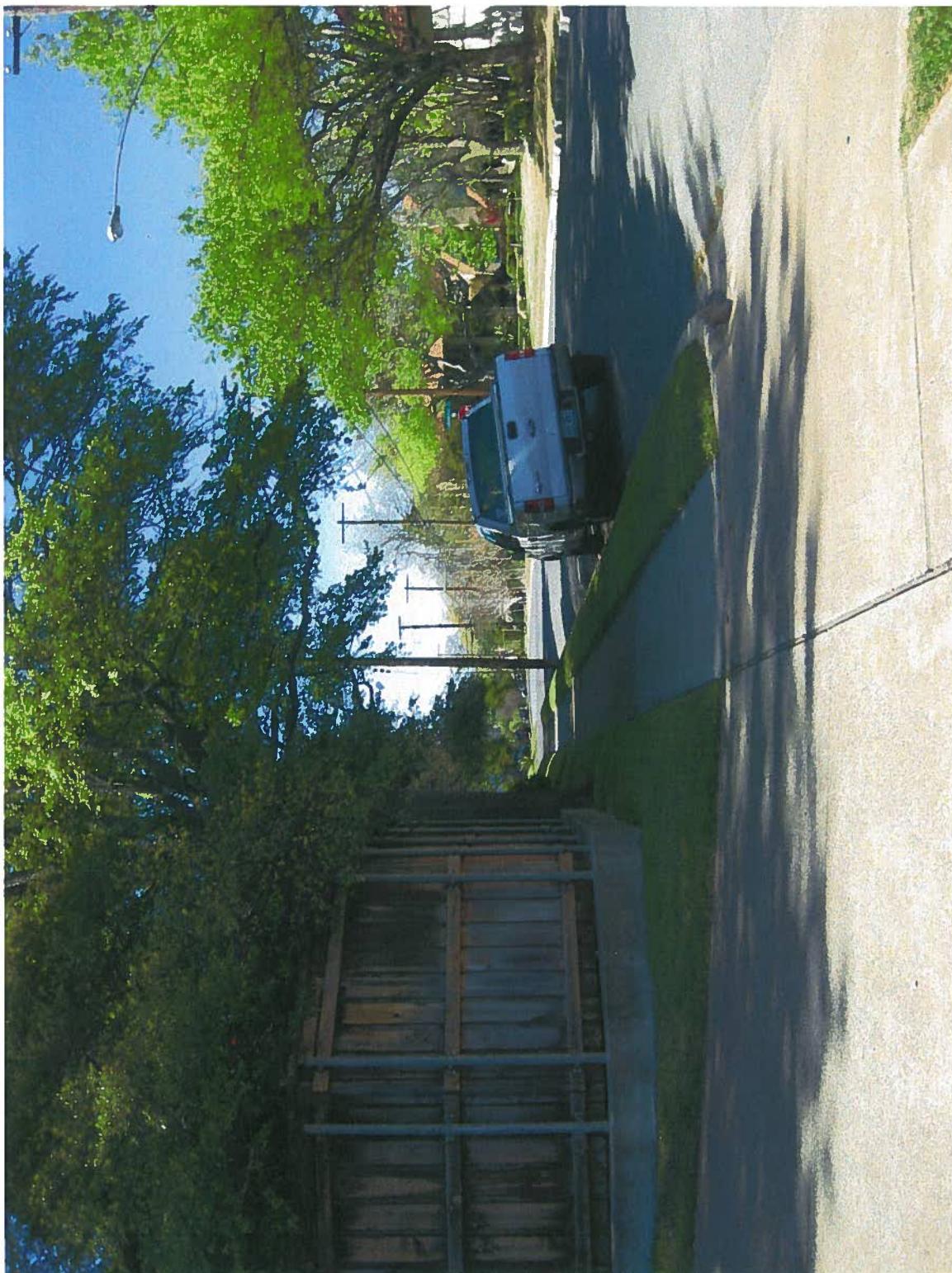


Elevations

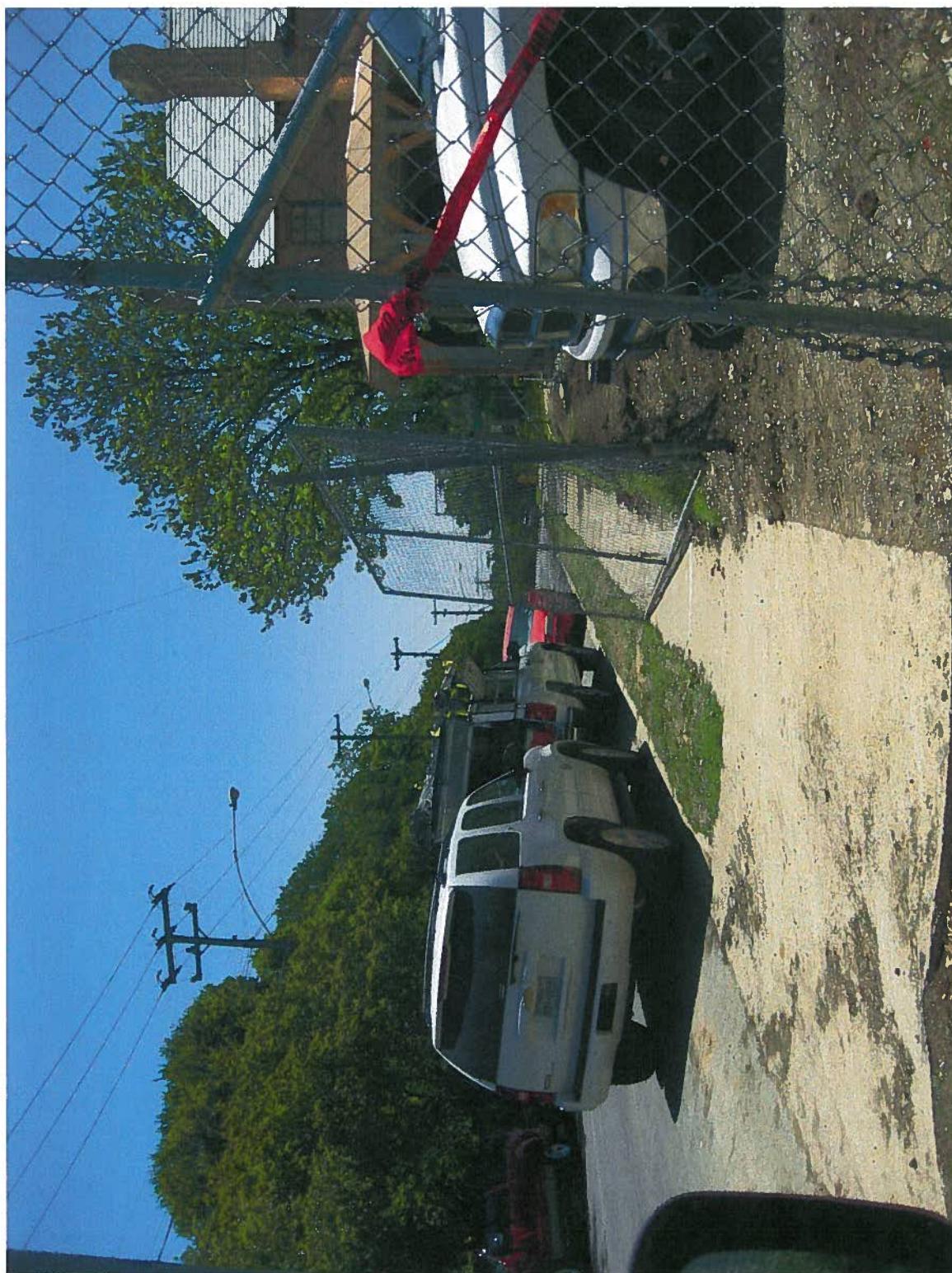




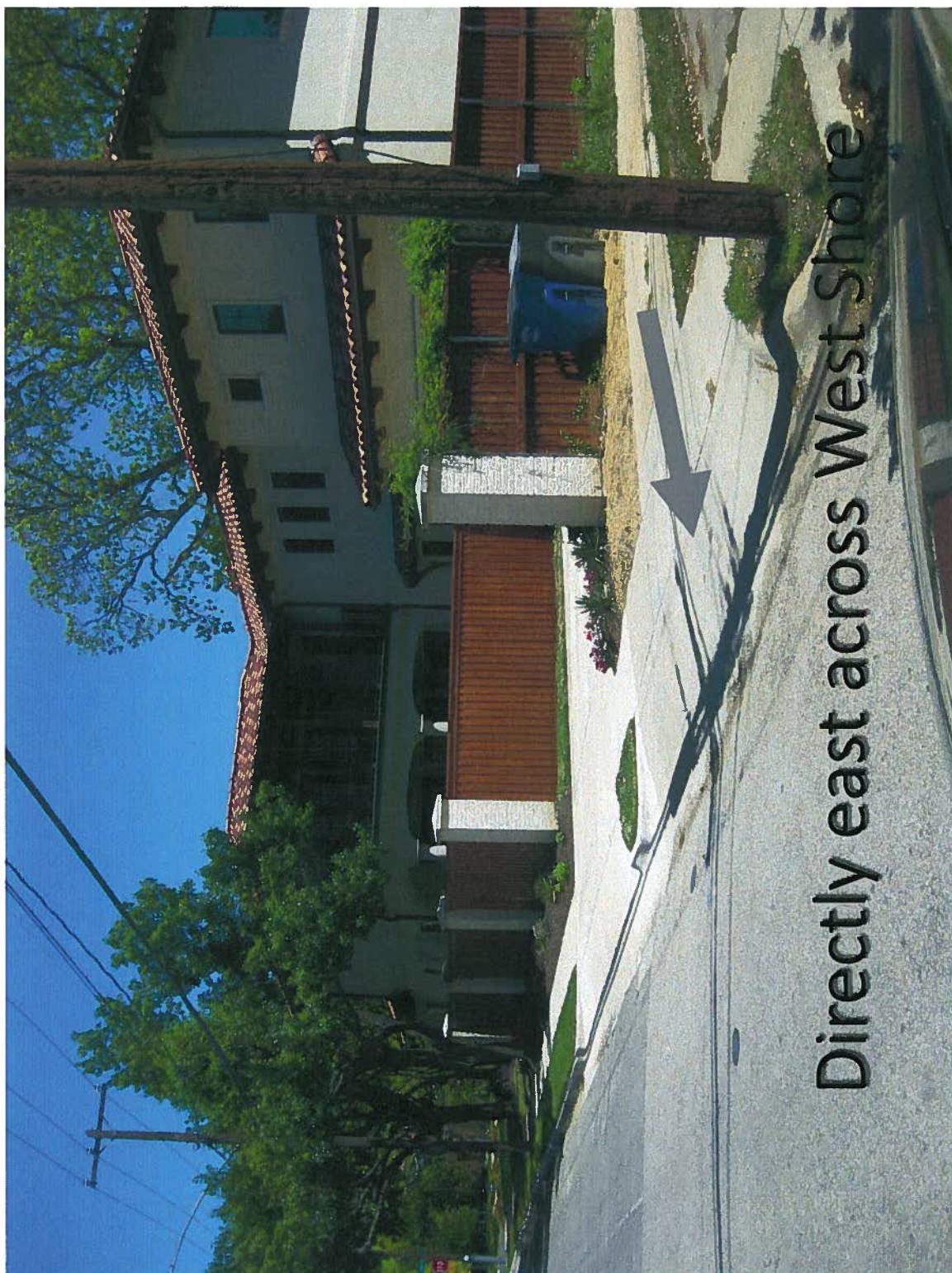


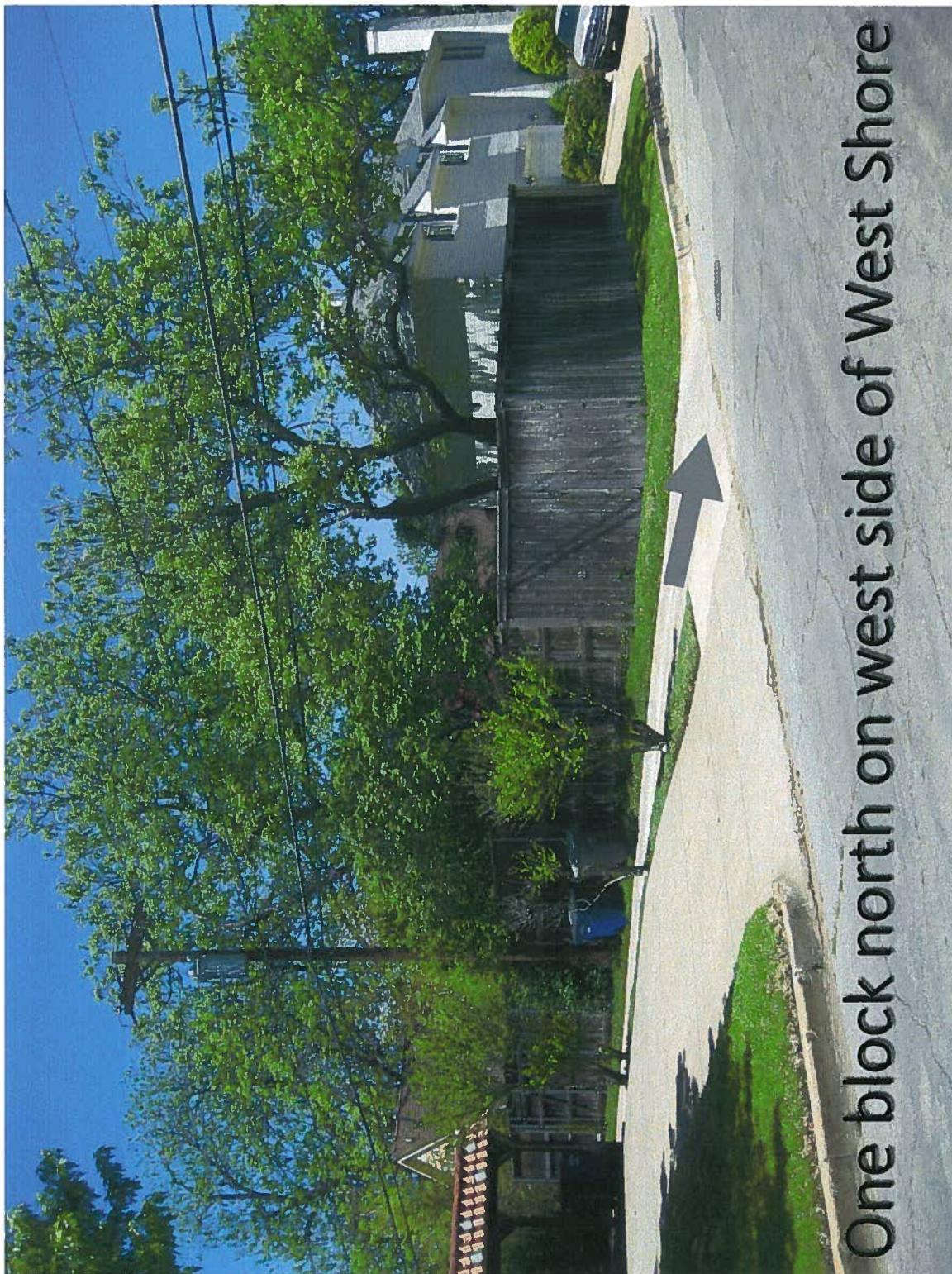






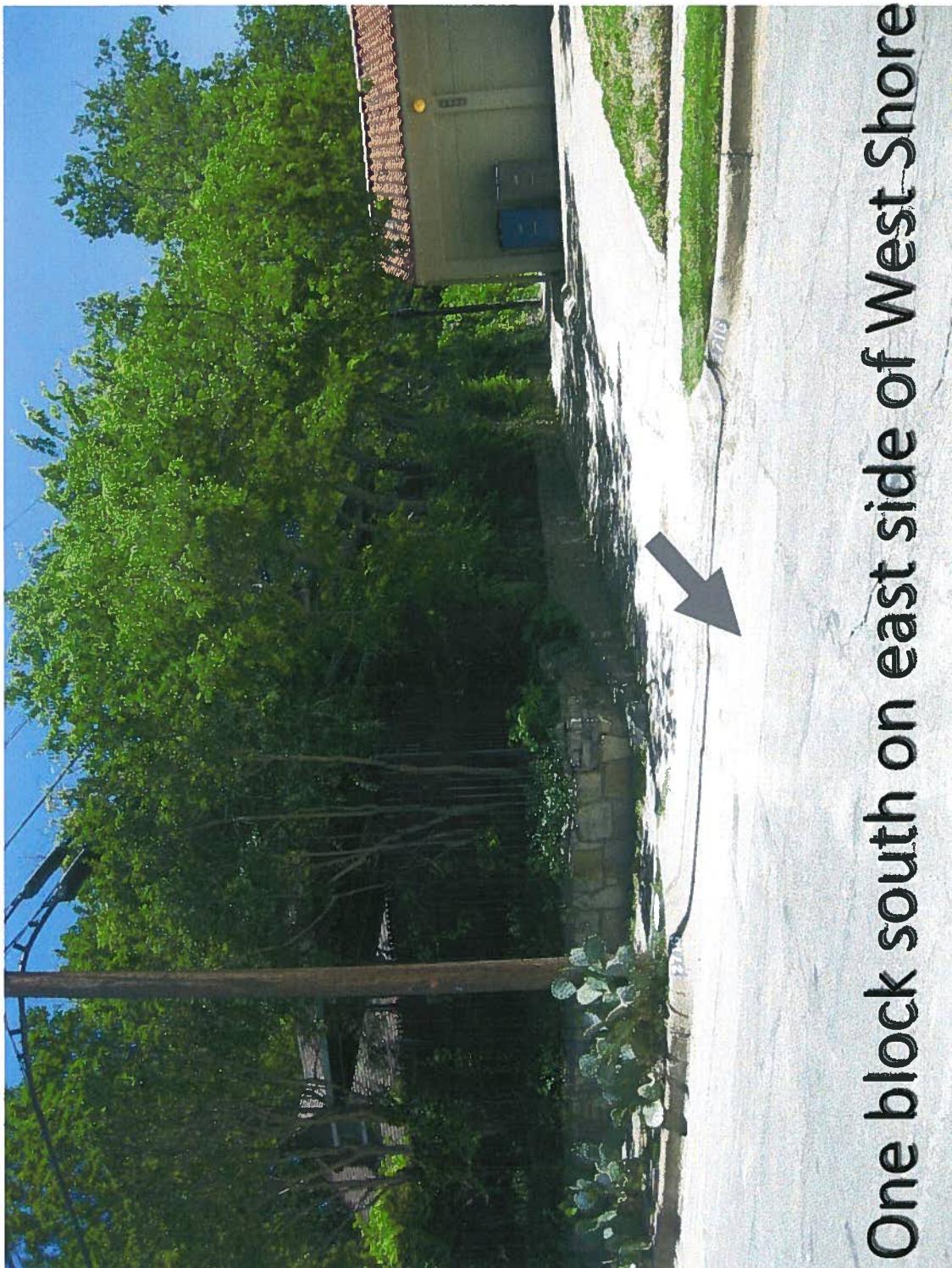














APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: 134-044

Data Relative to Subject Property:

Date: 3-25-14

Location address: 6957 Lakeshore Drive Zoning District: R-7.5(A)

Lot No.: Pt Lot 2 Block No.: E/2820 Acreage: 9,734 sf Census Tract: 80 1,00

Frontage (in Feet): 1) 62 ft 2 157 ft 3) _____ 4) _____ 5) _____ *GC/SB*

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Gregory and Carla Courtwright

Applicant: Robert Baldwin Telephone: 214.824.7949

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

Represented By: Robert Baldwin Telephone: 214.824.7949

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

Affirm that a request has been made for a Variance , or Special Exception X, of a special exception to allow for an encroachment into the sight visibility triangle. @alley

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 owner is seeking permission to erect a fence that would encroach into a sight visibility triangle where the alley meets West Shore Drive and this encroachment will not constitute a traffic hazard.

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

Respectfully submitted: Robert Baldwin

Applicant's name printed

Applicant's signature

Affidavit

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

Affiant (Applicant's signature)

Subscribed and sworn to before me this 25 day of

March, 2014
Janell R Baker

Notary Public In and for Dallas County, Texas

(Rev. 08-20-09)



**MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT**

Chairman _____

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Building Official's Report

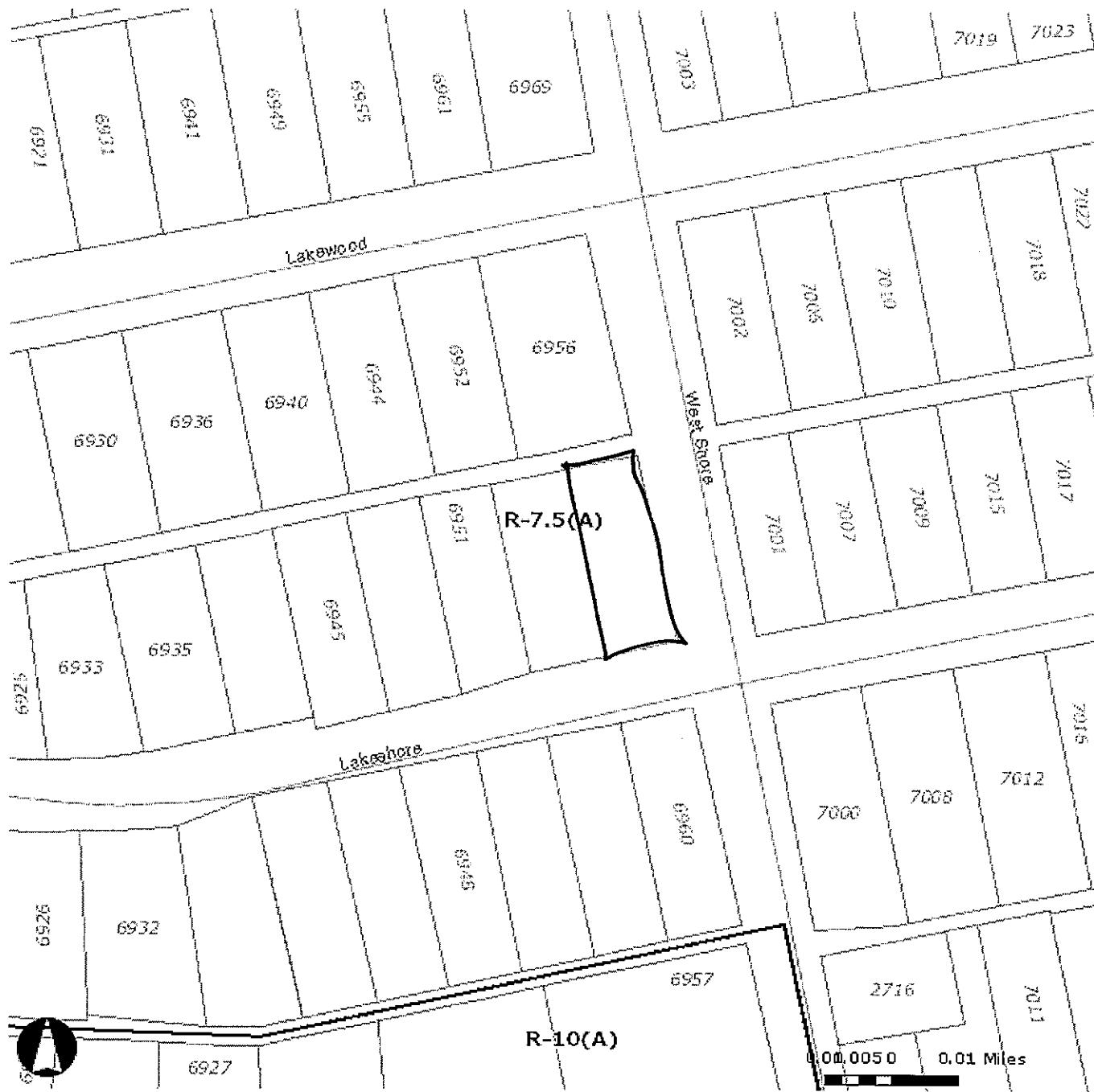
I hereby certify that Robert Baldwin .

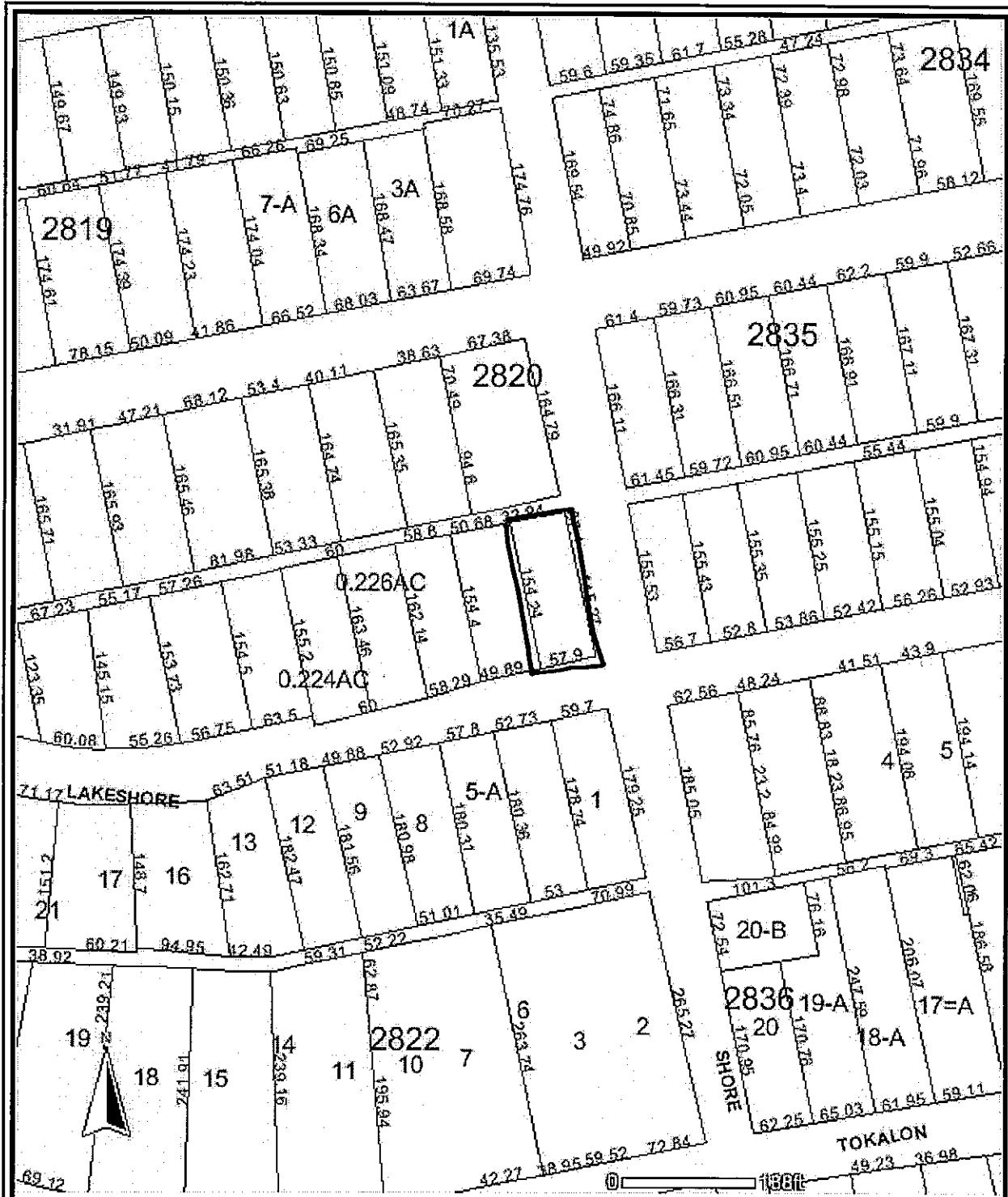
did submit a request for a special exception to the visibility obstruction regulations
at 6957 Lakeshore Drive

BDA134-044. Application of Robert Baldwin for a special exception to the visibility obstruction regulations at 6957 Lakeshore Drive. This property is more fully described as part of Lot 2, Block E/2820, and is zoned R-7.5(A), which requires a 20 foot visibility triangle at alley approaches. The applicant proposes to construct and maintain a single family residential fence in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

Sincerely,

Larry V. Holmes
Larry Holmes, Building Official





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

DISCLAIMER

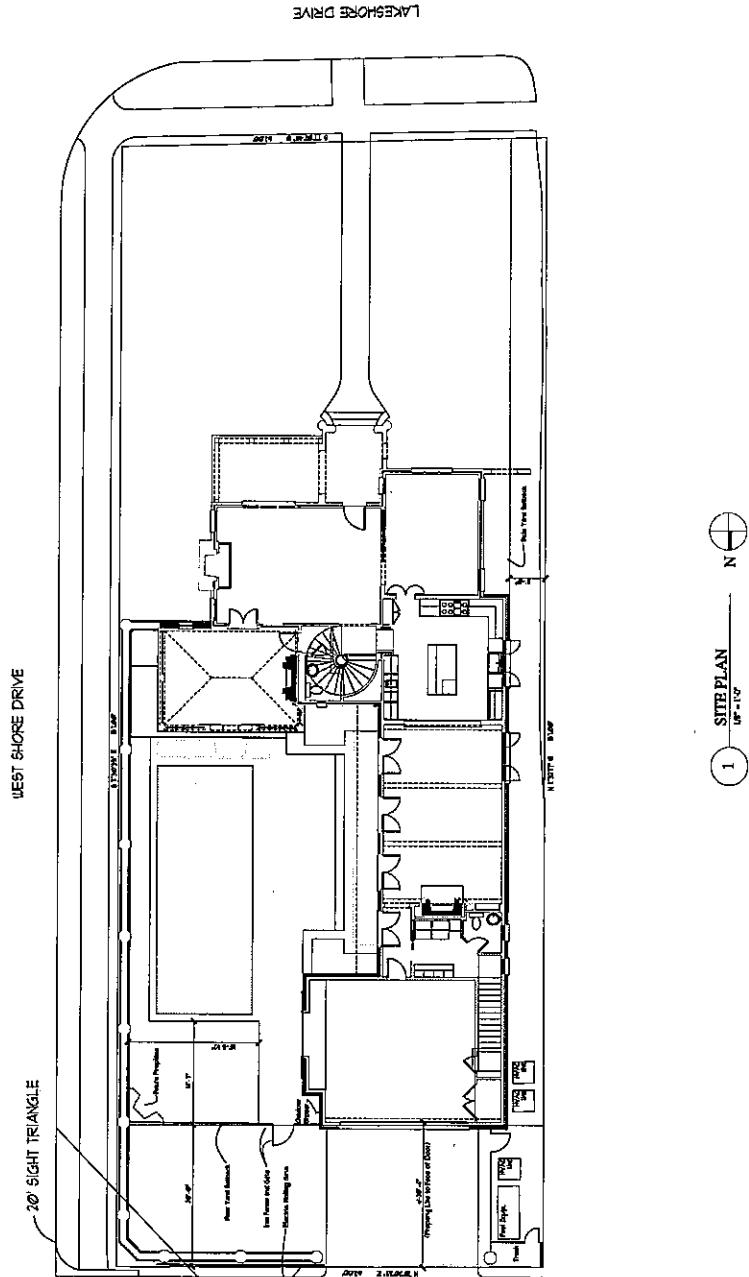
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

5046 Nansen Street • Suite 200 • Dallas, Texas 75206 • (214) 522-7401
Turney & Associates, L.L.C.

6957 Lakeshore • Dallas, Texas
Courtwright Residence Addition

DALLAS COUNTY
RECEIVED
MAY 2, 2013
REV # & DATE
May 29, 2013
June 26, 2013
August 26, 2013
October 8, 2013
SHERIFF

A1.1





1:1,200	NOTIFICATION		Case no: <u>BDA134-044</u>
	200'	AREA OF NOTIFICATION	Date: <u>4/24/2014</u>
	21	NUMBER OF PROPERTY OWNERS NOTIFIED	

Notification List of Property Owners

BDA134-044

21 Property Owners Notified

Label #	Address	Owner
1	6957 LAKESHORE DR	COURTWRIGHT GREGORY S & CARLA W
2	6956 LAKEWOOD BLVD	DEATON D BERNARD & ELIZABETH ELAM DEATON
3	6955 LAKESHORE DR	MOORE RICHARD G & ALISON
4	6952 LAKEWOOD BLVD	BUSH DAVID REMINGTON
5	6951 LAKESHORE DR	MCCONNELL JANE DEAN
6	6944 LAKEWOOD BLVD	MATTHEWS BETTY
7	6940 LAKEWOOD BLVD	PAYNE GERLAD G JR
8	6960 LAKESHORE DR	STANFORD DONALD G & DIANNE B
9	6956 LAKESHORE DR	ELMER FRANK Z & MAELISSA ELMER
10	6952 LAKESHORE DR	GUENVEUR WILLIAM M & MARY H
11	6948 LAKESHORE DR	KAWECKI LINDA SUSAN & D MICHAEL HELLINGH
12	7002 LAKEWOOD BLVD	FOUT APRIL R & GEORGE DOUGLAS FOUT
13	7006 LAKEWOOD BLVD	BRITTINGHAM CATHERINE L
14	7010 LAKEWOOD BLVD	MOSELEY CHRISTOPHER T & MICHELLE TARSNEY
15	7009 LAKESHORE DR	OLSON CRAIG H & STEPHANIE Y CHANG
16	7007 LAKESHORE DR	WEBSTER AL T & BEVERLY E
17	7001 LAKESHORE DR	BOZARTH PAUL G JR & DEBORAH
18	7000 LAKESHORE DR	SMITH DARRELL
19	7008 LAKESHORE DR	TIMMS CYNTHIA & EDWARD G
20	6949 LAKESHORE DR	YOST HARVEY D III
21	6945 LAKESHORE DR	PUTMAN JOHN MICHAEL

**BOARD OF ADJUSTMENT
CITY OF DALLAS, TEXAS**

MONDAY, MAY 19, 2014

FILE NUMBER: BDA 134-047

BUILDING OFFICIAL'S REPORT: Application of M. D. Robinson for a special exception to the tree preservation regulations at 4802 S. Marsalis Avenue. This property is more fully described as Lot 20, Block A/6010, and is zoned R-7.5(A), which requires mandatory 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: 4802 S. Marsalis Avenue

APPLICANT: M. D. Robinson

REQUEST:

A special exception to the tree preservation regulations is requested due to the removal of trees on a site developed as a single family home/use, and not fully complying with the Article 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:

- While the Chief Arborist concludes among other things that granting the special exception would not adversely affect neighboring property since most trees remain on the property, he recommends denial of the request since he has not determined how compliance with the regulations will physically place an unreasonable burden on the property.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is developed as a single family home/use. The areas to the north, south, east, and west appear to be 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:

- March 25, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- April 14, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

- April 15 & 16, 2014: The Board Administrator met the applicant on the subject site, then emailed him the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the April 30th deadline to submit additional evidence for staff to factor into their analysis; and the May 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- May 6, 2014 : The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Interim Assistant Director of Sustainable Development and Construction, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.
- May 12, 2014: The Chief Arborist forwarded additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).
- May 12, 2014: The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment B).

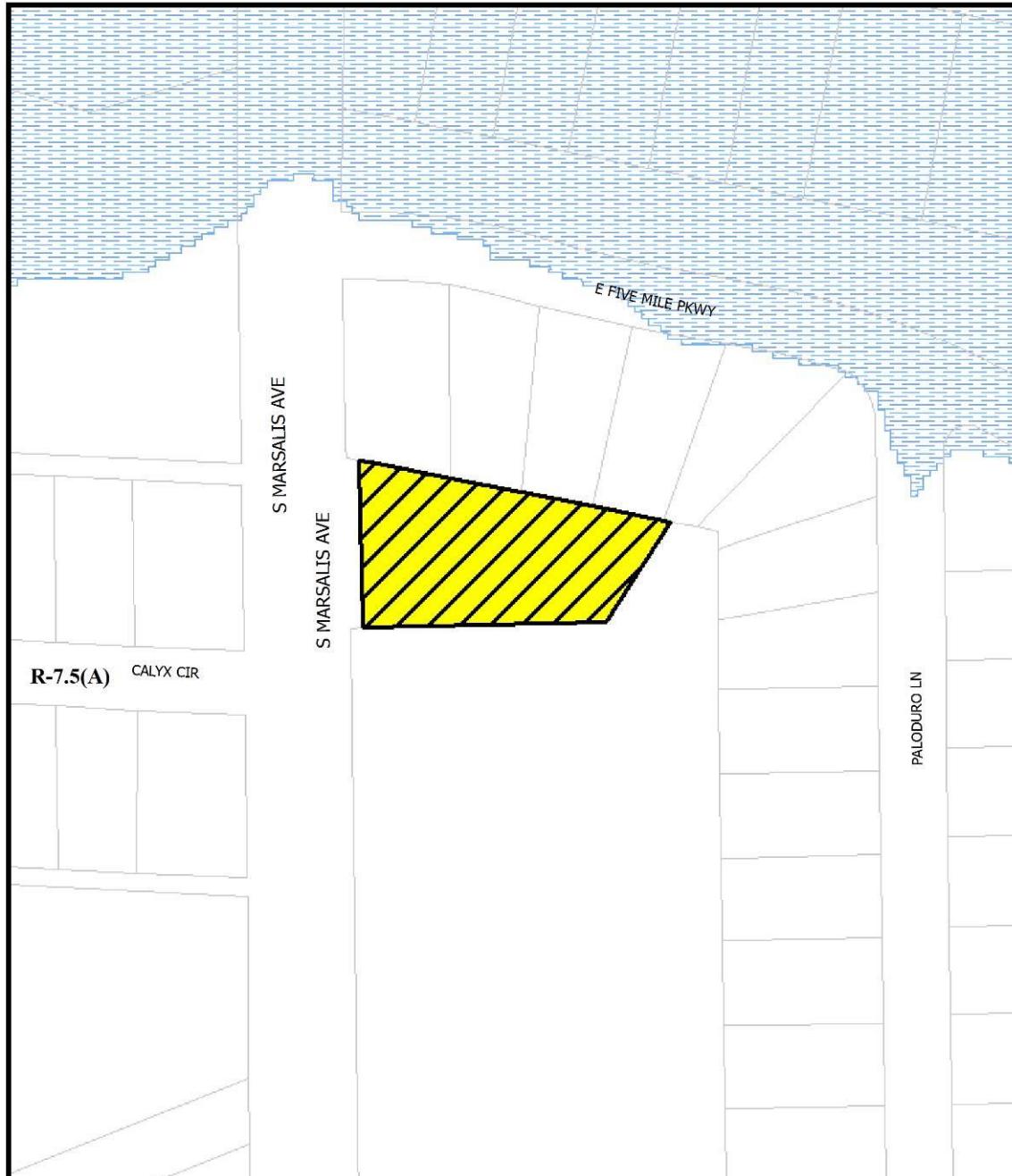
GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on not adhering to tree preservation regulation related to quantity of replacement trees that were removed on the site developed with a single family home. The applicant is requesting relief from the tree preservation regulations of 72 caliper inches where he proposes to retain 686 inches on a site where 758 inches had been prior to the construction of the single family home on the subject site.
- 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.

- The Dallas Development Code states that the Tree Preservation, Removal, and Replacement division of Article X applies to all property in the city except for: 1) lots smaller than two acres in size that contain single-family or duplex uses; and 2) lots in a planned development district with landscaping and tree preservation regulations that vary appreciably from those in the article, as determined by the building official.
- The Tree Preservation Regulations of the Dallas Development Code states that if a tree removal application is approved, one or more healthy replacement trees must be planted in accordance with among other things quantity - the total caliper of replacement trees must equal or exceed the total caliper of protected trees removed or seriously injured.
- The Tree Preservation Regulations of the Dallas Development Code states that a property owner can comply with tree preservation regulations by mitigating the removed trees in any of the alternative methods provided for in Article X: donating trees to the Park Department, planting replacement trees on other property within one mile of the tree removal property, making payment into the Reforestation Fund, and/or granting a conservation easement area.
- The City of Dallas Chief Arborist had submitted a memo regarding this request to the Board Administrator (see Attachment B). The memo stated among other things how the request is triggered by new construction for a single family structure with the removal of protected trees.
- The City of Dallas Chief Arborist's memo identifies that the deficiency in this case is that a total of 72 inches from five protected trees were removed under authorization of a building permit for the construction of a new single family residence; and that mitigation for the property has not been completed on site or through any of the alternative methods of mitigation allowed under Article X.
- The City of Dallas Chief Arborist's memo lists several factors for consideration some of which include the following:
 - The property is currently under Article X regulations for the protection of trees. Once the owner completes mitigation, and successfully completes a final inspection, the structure will be authorized for occupancy and a single family use will apply which will then exempt the property from all Article X tree protection regulations. This means that all remaining trees may be retained, or removed without a permit.
 - The applicant has stated 39 large trees (686") remain on the property. He has stated that he would restrict the property "for a total ten year period of nonremoval of mature trees." In the arborist's opinion, the request suggests that the owner would abide by an imposed ruling to maintain all healthy living trees identified to remain on the property for 10 years, in place of completing the tree mitigation of 72 inches.
 - Upon removing protected trees from a property, under permit, an owner must replace trees on the property equal to, or exceeding, the amount of protected inches removed. If it is determined to be "impracticable or imprudent" to replace the trees onto the property "due to inhospitable soil conditions or inadequate spaces," the owner shall comply with one or more alternative methods of mitigation listed in Section 51A-10.135: donating trees to the Park Department, planting replacement trees on other property within one mile of the tree removal

property, making payment into the Reforestation Fund, and/or granting a conservation easement area.

- The current equivalent Reforestation value of 5 protected trees at 72 inches is \$6,602.00 or \$91.69 per inch. The amount would reduce in equal percentage to the rate of any inches of new trees planted on the property.
- The purpose of Article X is, in part, "to encourage the preservation of large trees which, once removed, can be replaced only after generations.
- The Chief Arborist recommends denial of the request. Even though he concludes among other things that granting the special exception would not adversely affect neighboring property since most trees remain on the property, he has not determined how compliance with the regulations will physically place an unreasonable burden on the property.
- The Chief Arborist suggests that if the Board were to grant the request, that the following conditions be applied:
 1. All trees on the property identified on the submitted site plan must be protected and maintained. The trees may not be removed without authorization of the city arborist, or in case of emergency for the protection of life and property. All tree removals must be recorded with the city arborists within 10 days of the removal.
 2. The tree protection restriction must apply for a minimum period of ten years from the date of board approval, or a duration otherwise determined by the board.
- The applicant has the burden of proof in establishing the following:
 1. Strict compliance with the requirements of the Tree Preservation Regulations of the Dallas Development Code will unreasonably burden the use of the property.
 2. The special exception will not adversely affect neighboring property.



1:1,200	ZONING MAP	Case no: <u>BDA134-047</u>
		Date: <u>4/24/2014</u>



1:1,200

AERIAL MAP

Case no: BDA134-047

Date: 4/24/2014

Long, Steve

BDA 134 - 047

From: Erwin, Philip
Sent: Monday, May 12, 2014 9:04 AM
To: Long, Steve
Subject: FW: FW: 134-047 4802 S Marsalis

Attach A
pg 1

From: mdbeats007 [mailto:mdbeats007@aol.com]
Sent: Thursday, May 08, 2014 11:43 AM
To: Erwin, Philip
Subject: RE: FW: 134-047 4802 S Marsalis

I'm willing to extend for a total ten year period of non removal of mature trees , if that would help with the board decision in my favor.

----- Original message -----

From: "Erwin, Philip" <philip.erwin@dallascityhall.com>
Date: 05/07/2014 10:56 AM (GMT-06:00)
To: mdbeats007 <mdbeats007@aol.com>
Subject: FW: 134-047 4802 S Marsalis

From: Erwin, Philip
Sent: Tuesday, May 06, 2014 7:45 AM
To: 'mdbeats007'
Subject: 134-047 4802 S Marsalis

Mr. Robinson,

Before I complete a memorandum to the board administrator, I need to know if you wanted to make any amendments to your request, or statement, regarding a special exception to the tree preservation regulations of Article X. In our last communication, you stated some uncertainty on the time frame for tree protection of the trees on your property and asked if you should resubmit any comments in letter form. If you still wish to make a statement to your case at this time, the response will be submitted to Steve Long for the record.

BDA 134 - 047

Philip Erwin

Chief Arborist

ISA Certified Arborist (TX-1284A)

City of Dallas Building Inspection

Sustainable Development and Construction

320 E Jefferson Blvd, Room 105

Dallas, TX 75203

214-948-4117

214-948-4374 fax

philip.erwin@dallascityhall.com

dallascityhall.com/arborist

Attach A

Pg 2

Memorandum



CITY OF DALLAS

DATE May 9, 2014
 TO Steve Long, Board of Adjustment Administrator
 SUBJECT # BDA 134 · 047 4802 S Marsalis

The applicant is requesting a special exception to the tree mitigation regulations of Article X.

Trigger

New construction for a single family structure with the removal of protected trees.

Deficiencies

A total of 72 inches from five protected trees were removed under authorization of a building permit for the construction of a new single family residence. The mitigation for the property has not been completed 1) on site (51A-10.134), or 2) through any of the alternative methods of mitigation (51A-10.135) allowed under Article X.

Factors

The half acre undeveloped property initially contained 758 inches of protected trees prior to permit. The owner removed 72 protected inches in order to construct a new residential structure and improvements. A total of 686 inches remain on the property after construction, and prior to a final inspection of the property and completion of the building permit. Additional non-protected vegetation is also on the property.

The property is currently under Article X regulations for the protection of trees. Once the owner completes mitigation, and successfully completes a final building inspection, the structure will be authorized for occupancy and a single family use will apply to the property. This new status will then exempt the property from all Article X tree protection regulations. This means that all remaining trees may be retained, or removed without permit, in accordance with the desire of the property owner. Under Section 51A-10.131, the regulations for tree preservation, removal, and replacement do not apply on "lots smaller than two acres in size that contain single family or duplex uses."

The applicant has stated 39 large trees (686") remain on the property. He has also stated he would restrict the property "for a total ten year period of non removal of mature trees." In my opinion, the request suggests the owner would abide by an imposed ruling to maintain all healthy living trees identified to remain on the property for a period of ten years, in place of completing the tree mitigation of 72 inches, as required under Article X.

Upon removing protected trees from a property, under permit, an owner must replace trees on the property equal to, or exceeding, the amount of protected inches removed. If it is determined to be "impracticable or imprudent" to replace the trees onto the property "due to inhospitable soil conditions or inadequate space," the owner shall comply with one or more alternative methods of mitigation listed in Section 51A-10.135: 1) donate trees to the Park Department (through agreement with the department), 2) plant trees within one mile of the removal property (with mutual maintenance agreement with the property owner), 3) make payment into the Reforestation Fund, or 4) create a conservation easement for the preservation of woodland.

When granting the relief the applicant seeks for compliance with Section 51A-10.134, or consequently, 51A-10.135, the board is determining 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 under subsection (a), the board shall consider the following :

- (1) The extent to which there is residential adjacency.
- (2) The topography of the site.
- (3) The extent to which landscaping exist for which no credit is given under this article.
- (4) The extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

The current equivalent Reforestation value for 5 protected trees at 72 inches is \$6,602.00, which is \$91.69 per inch. The amount would reduce in equal percentage to the rate of any inches of new trees planted on the property.

All replacement trees, as large canopy trees (i.e., oak, elm) or small ornamental trees (i.e., crepe myrtle, redbud), must be planted at a minimum of 2" caliper in size.

Under minimum landscaping requirements, a single family use must provide three trees on the property, with two of the trees in the front yard.

The purpose of Article X is, in part, "to encourage the preservation of large trees which, once removed, can be replaced only after generations.

Recommendation

The chief arborist determined it is impracticable to plant replacement trees onto the property because of inadequate suitable space under current conditions. Therefore, the sole request before the board is for relief for the requirements of Section 51A-10.135 regarding the alternative methods of tree replacement. In my opinion, I do not believe the special exception would adversely affect neighboring property since most trees remain on the property, but I have not determined how compliance with regulations will physically place an unreasonable burden on the use of the property.

Because of the latter determination, my recommendation to the board must be denial pending further information from the applicant on this matter.

In addressing Section 51A-10.134, I have determined it is "impracticable or imprudent" to plant all mitigation onto the property "due to inhospitable soil conditions or inadequate space" to plant the trees. The chief arborist could not determine inhospitable soil conditions for the property, with possible exception to the rear of the property. However, the population and density of large trees existing on the property today may limit the growing habits of some new planted nursery stock trees that would be shaded beneath the canopies of the existing trees. It is feasible to plant some small trees that do tolerate shade. Planting some trees may be a suitable option for select locations within the lot, but the property contains a large number of existing large canopy trees which could restrict the potential for many introduced species to thrive in the understory under the existing canopy unless other vegetation is removed first. In order to accommodate 72 inches of trees on the property, the applicant would need 36 nursery stock trees if planting at the minimum required size of 2" caliper. Retention and protection of existing large trees is sound management and I do not object to withholding new trees from the property.

Based on the decision that the applicant cannot replace trees onto the property, it is then determined by ordinance the applicant must comply with Section 51A-10.135 pertaining to alternative methods of tree replacement. If the trees are not to be planted on the property, the ability of the applicant to comply with the alternative options can best be determined between the board members and the applicant. The applicant has provided no formal statement to the board regarding any of the alternative methods of mitigation.

If the board decides to approve the request of the applicant, I recommend the following conditions be applied:

All trees on the property identified on the submitted site plan must be protected and maintained. The trees may not be removed without authorization of the city arborist, or in a case of emergency for the protection of life and property. All tree removals must be recorded with the city arborist within 10 days of the removal.

The tree protection restriction must apply for a minimum period of ten years from the date of board approval, or a duration otherwise determined by the board.

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



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-047

Date: 3/25/2014

Data Relative to Subject Property:

Location address: 4802 S. MARSALIS AVE Zoning District: R-7.5(A)

Lot No.: 20 Block No.: A/6010 Acreage: .505 Census Tract: 59.01

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

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): M.D. ROBINSON

Applicant: M.D. ROBINSON Telephone: 972-679-7620

Mailing Address: P.O. Box 560152 DALLAS TX Zip Code: 75356

E-mail Address: MDBEATS007@aol.com

Represented by: N/A Telephone: N/A

Mailing Address: N/A Zip Code: N/A

E-mail Address: N/A

Affirm that an appeal has been made for a Variance , or Special Exception ✓, of TREE MITIGATION

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:

39 MATURE TREES ARE REMAINING ON LOT 20 BLOCK A/6010

686" remain from the 758 inches originally on site
request to be forgiven for the 721 inches REMOVED m.d. rob

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 M.D. Robinson

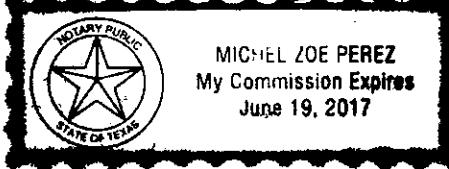
(Affiant/Applicant's name printed)

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: M.D. Robinson
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 26 day of March, 2014

(Rev. 08-01-11)



Michel Zoe Perez
Notary Public in and for Dallas County, Texas

**MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT**

Chairman _____

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

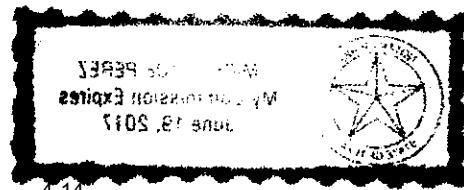
Building Official's Report

I hereby certify that M. D. Robinson
did submit a request for a special exception to the landscaping regulations
at 4802 S. Marsalis Avenue

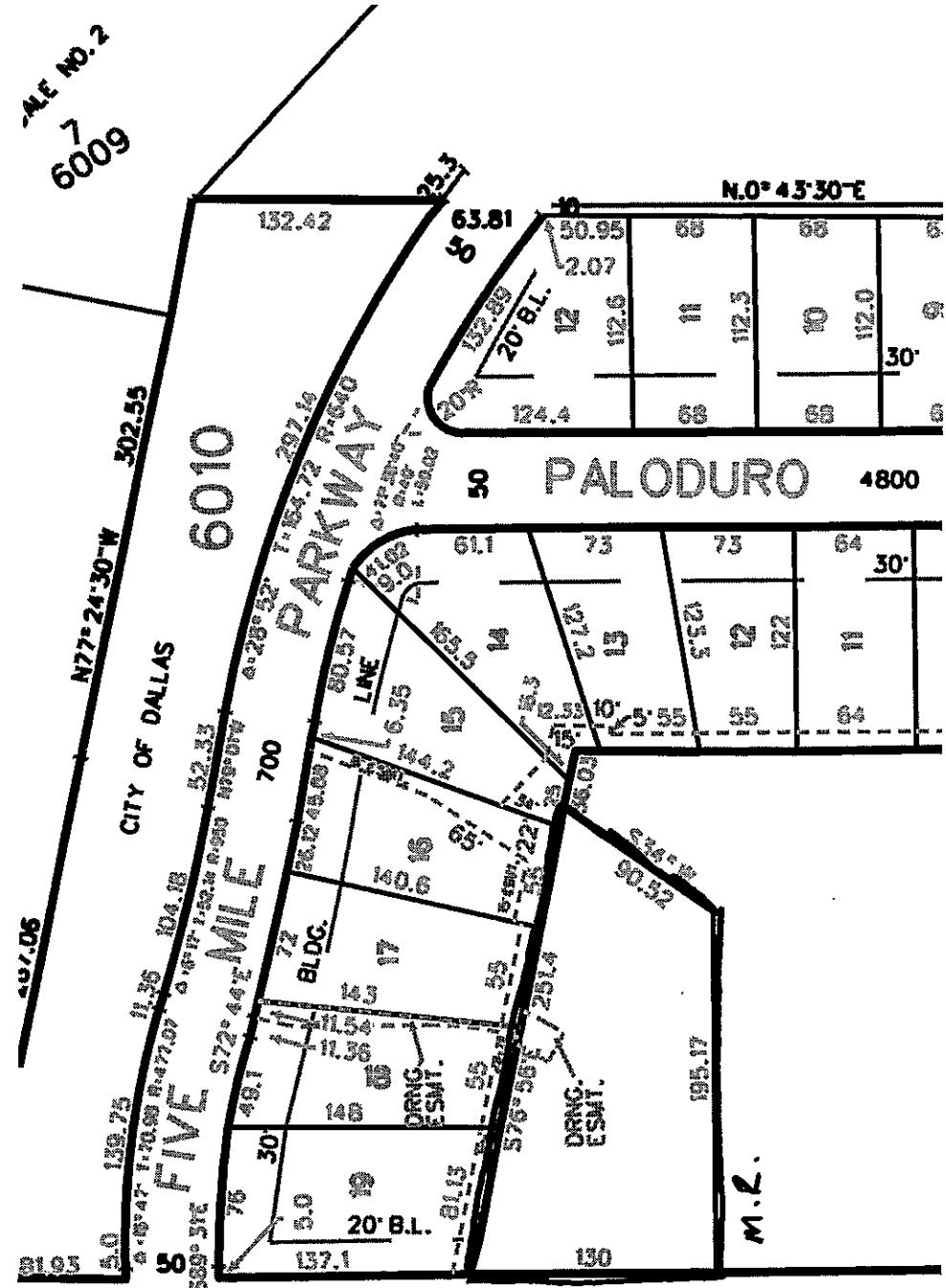
BDA134-047. Application of M. D. Robinson for a special exception to the landscaping regulations at 4802 S. Marsalis Avenue. This property is more fully described as Lot 20, Block A/6010, and is zoned R-7.5(A), which requires mandatory landscaping. The applicant proposes to construct and maintain a single family residential structure and provide an alternate landscape plan for tree mitigation, which will require a special exception to the landscape and tree preservation regulations.

Sincerely,

Larry V. Holmes
Larry Holmes, Building Official







1700 MARSALIS 4800

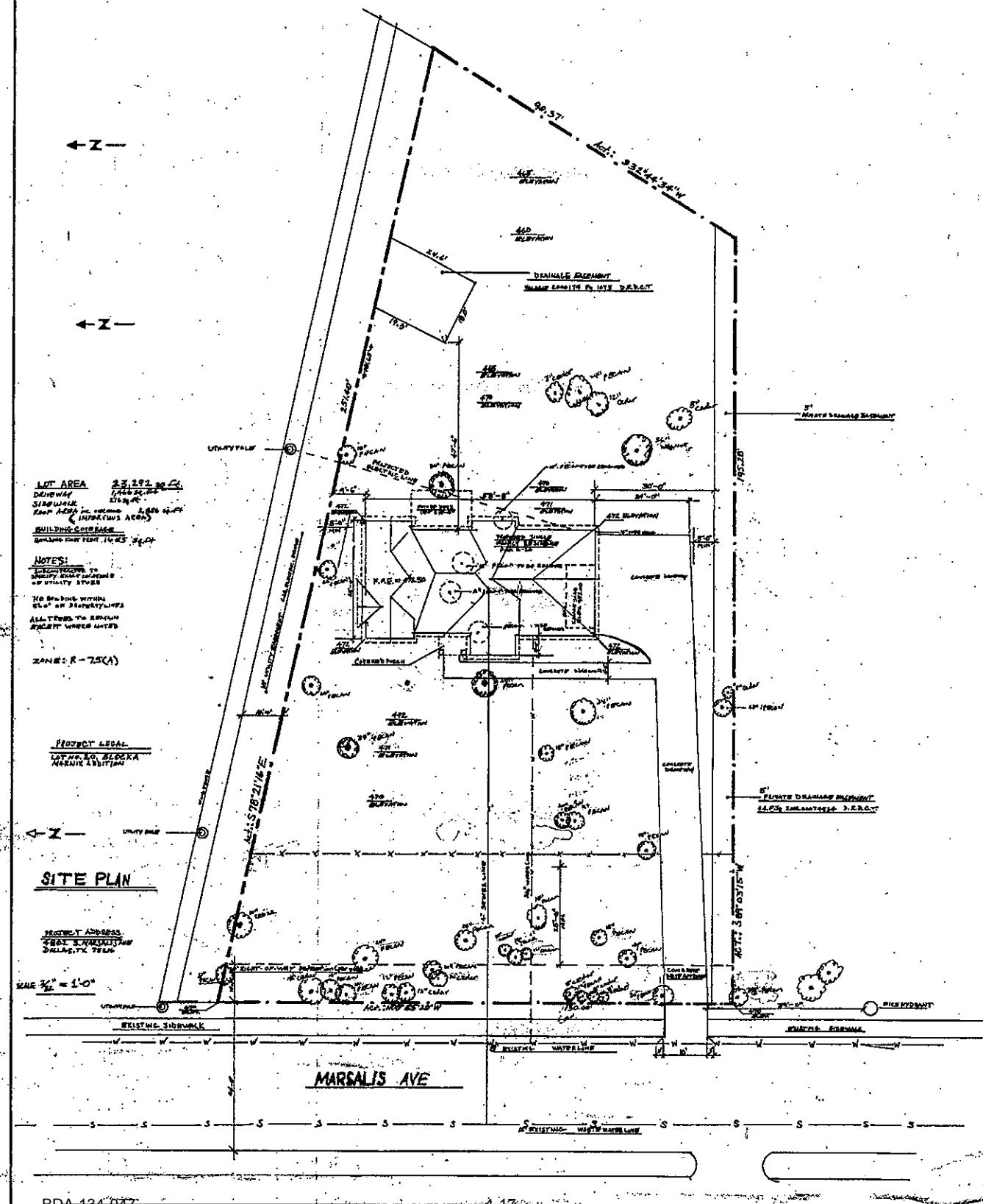
GLENVIEW

4TH

CALYX CIR.

60.B
AC
SE

GATE PLAU



Long, Steve

From: Erwin, Philip
Sent: Tuesday, April 15, 2014 11:38 AM
To: Long, Steve; Duerksen, Todd
Cc: Dean, Neva
Subject: FW: FW: 047 application
Attachments: 20140415_111858.jpg

Steve,

The applicant sent this scanned document to me. As I see it, in whichever form he requests it, he is seeking an exemption of the Article X requirements for mitigation for only the quantity of inches (51A-10.134(1)) to be replaced. In this case, the requirements are for 5 removed trees at 72". He has previously stated he has 39 trees at 686" remaining on site. I will determine a statement of recommendation on the base information provided by his statements and the existing landscape plan.

From: mdbeats007 [mailto:mdbeats007@aol.com]
Sent: Tuesday, April 15, 2014 11:21 AM
To: Erwin, Philip
Subject: RE: FW: 047 application

Hi, phil here is my statement, had problems with scanner, hope this will work, thx

----- Original message -----

From: "Erwin, Philip" <philip.erwin@dallascityhall.com>
Date: 04/14/2014 1:34 PM (GMT-06:00)
To: mddeats007@aol.com,mdbeats007@aol.com
Subject: FW: 047 application

I'm just resending checking on two addresses to confirm you received in one address or another. I think I messed up on the address initially.

From: Erwin, Philip
Sent: Monday, April 14, 2014 10:13 AM
To: 'mddeats007@aol.com'
Subject: FW: 047 application

From: Erwin, Philip
Sent: Monday, April 14, 2014 9:20 AM
To: 'mdbeats007@aol.com'
Subject: 047 application

Mr. Robinson,

The application just needs more detail to the goals of your request.

Steve Long, the Board Administrator, has given some instruction which follows:

Provide a “tangible alternate request to the board – an alternate mitigation plan to the Tree Preservation Regulations as it relates to what specific provisions of this part of Article X he seeks exception from - “replacement of removed trees- quantity, species, location, size, timing” and what specifically his alternative plan is. (For example, an acceptable alternate mitigation plan could be one that is twofold: the regulations say replacement trees must be planted on the lot from which the protected tree is removed within 6 months from removal, where the alternate tree mitigation plan would be to plant all replacement trees removed on the site within a 5 mile radius of the site within 5 years from removal).”

In this case, you will tell us the specifics of the trees removed and then detail of the basis of your case. Your request is to seek a reduction or removal of mitigation requirements. You will need to give us the measures you will apply to address the preservation of the remaining large canopy trees on the property (give numbers and size similar to how you gave it for what you cut down) and how you would restrict yourself and your property. You would need to give us a time period (if not indefinite period) you would request for this tree protection standard.

If you want to use any of the Article X existing methods of mitigation, you can do so. I’ve attached a copy of the tree ordinance for your reference, if needed. You are referring directly to 10.134 and 10.135. The application of division is in 10.131.

I will base my recommendation to the Board squarely on the information (your alternate mitigation plan) in your request and on the merits of the request. I will provide them the information as to your rights under ordinance. It is it to YOUR statement I must reply to the Board, so the more specific information you provide

the better. Again, this is your request based on what YOU want. The Board may wish to discuss options at the hearing but that will wait for then.

I need this before the end of the day. A separate email to me will work, or you can write a letter, scan and send.

Philip Erwin

Chief Arborist

ISA Certified Arborist (TX-1284A)

City of Dallas Building Inspection

Sustainable Development and Construction

320 E Jefferson Blvd, Room 105

Dallas, TX 75203

214-948-4117

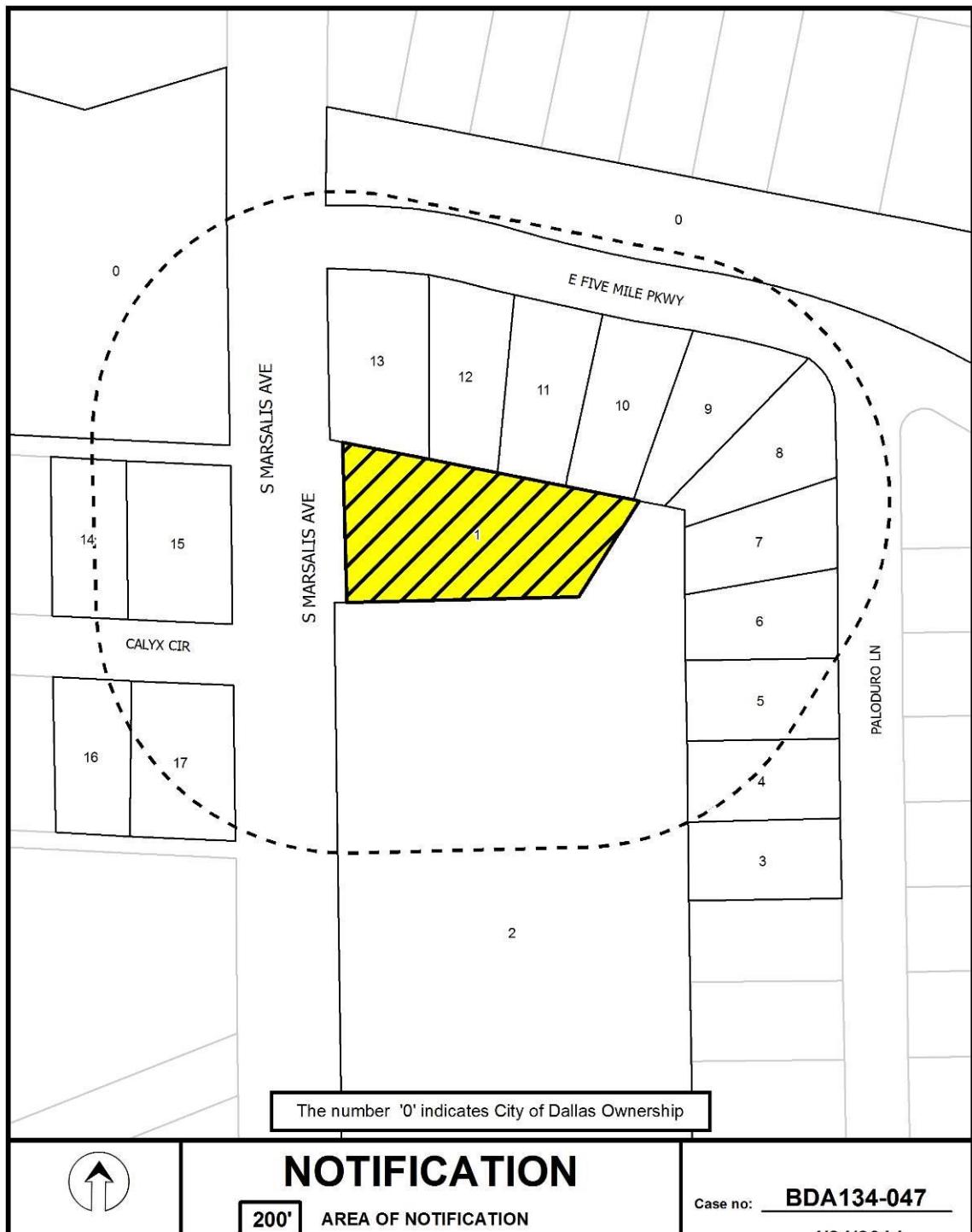
214-948-4374 fax

philip.erwin@dallascityhall.com

dallascityhall.com/arborist

DEED RESTRICTION

I M.D. Robinson, request a special exception of not replacing trees or reimbursement into the city fund ,in exchange no mature tree can be removed for a period of 5 years.



Notification List of Property Owners**BDA134-047****17 Property Owners Notified**

Label #	Address	Owner
1	4802	MARSALIS AVE
2	725	LEDBETTER DR
3	4831	PALODURO LN
4	4825	PALODURO LN
5	4819	PALODURO LN
6	4815	PALODURO LN
7	4807	PALODURO LN
8	4803	PALODURO LN
9	730	FIVE MILE PKWY
10	722	FIVE MILE PKWY
11	716	FIVE MILE PKWY
12	710	FIVE MILE PKWY
13	704	FIVE MILE PKWY
14	641	CALYX CIR
15	647	CALYX CIR
16	640	CALYX CIR
17	646	CALYX CIR