

ZONING BOARD OF ADJUSTMENT, PANEL C
MONDAY, DECEMBER 15, 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.

Donna Moorman, Chief Planner
Steve Long, Board Administrator

MISCELLANEOUS ITEMS

	Approval of the November 17, 2014 Board of Adjustment Panel C Public Hearing Minutes	M1
BDA 134-075	8333 Douglas Avenue REQUEST: Of Maxwell Fisher 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 Panel C's favorable action for a special exception to the off-street parking regulations	M2

UNCONTESTED CASES

BDA 134-060	200 Rock Island Street (AKA 300 Rock Island Street) REQUEST: Application of Robert Baldwin to enlarge a nonconforming use	1
BDA 134-101D	4047 Cochran Chapel Road REQUEST: Application of Karl A. Crawley for a special exception to the fence height regulations	2
BDA 134-102D	4055 Cochran Chapel Road REQUEST: Application of Karl A. Crawley for a special exception to the fence height regulations	3

BDA 134-119 4243 Duncanville Road 4
REQUEST: Application of Craig C. Wagstaff,
represented by Chris B. Balling, for a special
exception to the landscape regulations

BDA 134-124 1920 McKinney Avenue 5
REQUEST: Application of Ron Ragsdale,
represented by Jeff Innmon, for a special exception
to the landscape regulations

REGULAR CASE

BDA 134-126 8500 N. Stemmons Freeway, Suite 4040 6
REQUEST: Application of Lorri Davis, represented
by John Dwyre, to appeal the decision of the
administrative official

EXECUTIVE SESSION NOTICE

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

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

(Rev. 6-24-02)

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel C November 17, 2014 public hearing minutes.

MISCELLANEOUS ITEM NO. 2

FILE NUMBER: BDA 134-075

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 Panel C's favorable action on a request for a special exception to the off-street parking regulations of 161 parking spaces granted by Board of Adjustment Panel C on August 18, 2014.

LOCATION: 8333 Douglas Avenue

APPLICANT: Maxwell Fisher of Masterplan

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 from 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:

August 18, 2014: The Board of Adjustment Panel C granted a request for a special exception to the off-street parking regulations of 161 spaces and imposed the following condition to this request: The special exception of 161 spaces shall automatically and immediately terminate if and when the mix of office and financial institution with

drive-in window uses that would normally need no more than 1,791 required parking spaces is changed or discontinued (see Attachment A).

December 8, 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).

December 8, 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 August 18, 2014 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 134-075; and
- The Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

FILE NUMBER: BDA 134-060

BUILDING OFFICIAL'S REPORT: Application of Robert Baldwin to enlarge a nonconforming use at 200 Rock Island Street (AKA 300 Rock Island Street). This property is more fully described as part of Lot 22, Block 65/415, and is zoned PD 784 (Mixmaster Riverfront), which limits the legal uses in a zoning district. The applicant proposes to enlarge a nonconforming tower/antenna for cellular communication use, which will require a request to enlarge a nonconforming use.

LOCATION: 200 Rock Island Street (AKA 300 Rock Island Street)

APPLICANT: Robert Baldwin

REQUEST:

A request is made to enlarge a nonconforming "tower/antenna for cellular communication" use by increasing the height of the existing monopole tower from 80' to 150'.

STANDARD FOR ENLARGING A NONCONFORMING USE:

The board may allow the enlargement of a nonconforming use when, in the opinion of the Board, the enlargement: 1) does not prolong the life of the nonconforming use; 2) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and 3) will not have an adverse effect on the surrounding area.

STAFF RECOMMENDATION:

No staff recommendation is made on a request to enlarge a nonconforming use since the basis for this type of appeal is based on when, in the opinion of the Board, the enlargement: 1) does not prolong the life of the nonconforming use; 2) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and 3) will not have an adverse effect on the surrounding area.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	PD 784 (Mixmaster Riverfront) (Planned Development)
<u>North:</u>	PD 784 (Mixmaster Riverfront) (Planned Development)
<u>South:</u>	PD 784 (Mixmaster Riverfront) (Planned Development)
<u>East:</u>	PD 784 (Mixmaster Riverfront) (Planned Development)
<u>West:</u>	PD 784 (Mixmaster Riverfront) (Planned Development)

Land Use:

The subject site is developed as nonconforming “tower/antenna for cellular communication” use. The areas to the north and west are undeveloped, the area to the east is developed with vacant retail use; and the area to the south is developed with commercial use.

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.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on enlarging a nonconforming “tower/antenna for cellular communication” use by increasing the height of the existing monopole tower from 80’ to 150’.
- The subject site is zoned PD 784 (Mixmaster Riverfront).
- A “tower/antenna for cellular communication” use is not permitted in PD 784 (Mixmaster Riverfront).
- A “tower/antenna for cellular communication” use could only become a *conforming* use on this property if/once it has been rezoned by the City Council through a public hearing process.
- The Dallas Development Code defines a nonconforming use as “a use that does not conform to the use regulations of this chapter, but was lawfully established under regulations in force at the beginning of operation and has been in regular use since that time.”
- The Dallas Development Code states that enlargement of a nonconforming use means any enlargement of the physical aspects of a nonconforming use, including any increase in height, floor area, number of dwelling units, or the area in which the nonconforming use operates.
- A document entitled “Appeal for a special exception to enlarge a nonconforming use” is included in the case file that lists the following:
 - Property address: 200 Rock Island Street (AKA 300 Rock Island Street)
 - Nonconforming use being appealed: tower/antenna for cellular communication
 - Reason the use is considered as nonconforming: change in zoning to PD 784

- Current zoning on the property on which the use is located: PD 784 (Mixmaster Riverfront)
- Previous zoning of the property on which the use is located: IM
- Date that the nonconforming use became nonconforming: 09-24-08
- A copy of a Certificate of Occupancy is included in the case file for a “radio, television, or microwave tower (CO #9205111008) issued on August 7, 1992.
- The applicant has been informed of the Dallas Development Code provisions pertaining to “Nonconforming Uses and Structures,” and how nonconforming uses can be brought to the Board of Adjustment for amortization where if the board determines that continued operation of the use will have an adverse effect on nearby properties, it shall proceed to establish a compliance date for that nonconforming use - a compliance date that is provided under a plan whereby the owner’s actual investment in the use before the time that the use became nonconforming can be amortized within a definite time period.
- The applicant has submitted a site plan and a “compound elevations” document. The site plan makes representation of the “existing 80’ monopole tower” in the same location as the “modified 150’ monopole tower” on the site. The submitted elevation makes a representation of the 150’ high monopole tower inside and outside fence from Rock Island Street.
- The applicant has stated that the zoning prior to the current PD 784 zoning was IM Industrial Manufacturing; and that if the property was still zoned IM, he would have been eligible to request an SUP (Specific Use Permit) for the proposed 150’ monopole since the maximum height limit in this zoning district was 110’. The applicant also states that prior to 1992 and the creation of the tower/antenna for cellular communication use, the cell tower would have been allowed to be constructed at any legal height due to the classification as a Utility and Public Service use within 51A-4.212.
- The applicant has the burden of proof to establish that the enlargement of the non-conforming use:
 1. does not prolong the life of the nonconforming use;
 2. would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and
 3. will not have an adverse effect on the surrounding area.
- If the Board were to grant this request, they can consider imposing as a condition any or all of the applicant’s submittals (site plan, elevation). If the Board were to grant the request and impose any or all of these submittals as conditions, the enlargement of the nonconforming use would be limited to what is shown on any such document.

Timeline:

October 23, 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.

November 12, 2014: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

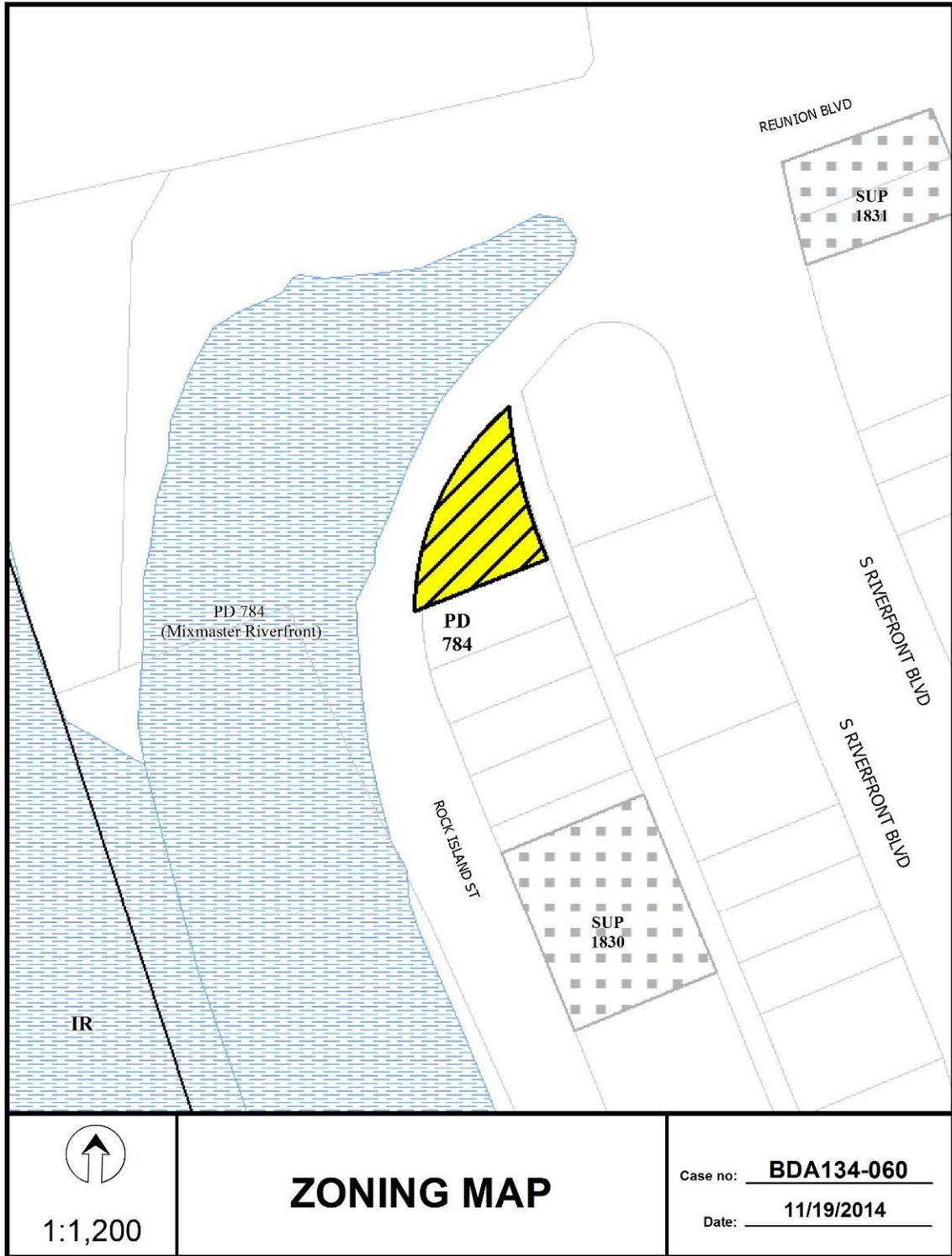
November 12, 2014: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the November 26th deadline to submit additional evidence for staff to factor into their analysis; and the December 5th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the section from the Dallas Development Code pertaining to nonconforming uses and structures; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

November 25, 2014: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

December 2, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for December public hearing. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

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





1:1,200

AERIAL MAP

Case no: BDA134-060

Date: 11/19/2014

BDA 134-060

Attach A

PS 1

Baldwin
Associates

November 25, 2014

Steve Long, Board Administrator
Board of Adjustment
City of Dallas
1500 Marilla 5BN
Dallas, TX 75201

RE. Request before the City of Dallas Board of Adjustment
BDA134-060 200 Rock Island

Dear Mr. Long and Honorable Board Members:

This firm is representing NCWPCS in their request to enlarge a nonconforming cell tower at the above referenced location. The property has had a monopole tower for cellular communication since 1992 and was actually permitted as a radio/tv/microwave tower, which was the land use classification prior to "tower for cellular communication." The zoning in 1992 was an IM Industrial Manufacturing District. However, on September 24, 2008 the zoning was changed to PDD No. 784, the Trinity River Corridor Special Purpose District, and the Downtown Form District. The zoning requires towers for cellular communication to be mounted towers, which makes the monopole tower on the Property a nonconforming use.

We are requesting approval to enlarge this nonconforming use. We need to add additional height and carrier capacity to this location to serve the I-35 / I-30 Mixmaster area. A monopole tower was removed at 603 S. Riverfront Boulevard due to a City taking to allow for a driveway for the reconstruction of the Able Pump Station. We are proposing to co-locate the service from that cell tower to this Property, but it requires an expansion of the tower. Our design is to essentially cap the existing tower with an additional tower to get the necessary height and equipment in place to increase service. This cell tower is of significant importance due to its Mixmaster service area.

The Board's test to enlarge a nonconforming use requires the Board to find the proposal will not prolong the life of the nonconforming use; that it would have been permitted under the IM zoning when the monopole tower was first constructed; and will not have an adverse effect on the surrounding area.

The request to enlarge the cell tower will not prolong the existence of a monopole tower on the Property. The existing monopole tower is currently operating and is capable of operating in its current capacity, and it would have done so had not the City acquired 603 S. Riverfront Boulevard.

The IM Industrial Manufacturing District has a maximum height of 110, but the tower/antenna for cellular communication is allowed to exceed the maximum height of the district by SUP.¹ If the Property's zoning was still an IM Industrial Manufacturing District, we would have been eligible to request an SUP for the proposed 150' monopole tower. In 1992, prior to the creation of the tower/antenna for cellular communication use, the cell tower would have been allowed to be constructed as any legal height due to the classification as a Utility and Public Service use within 51A-4.212².

The proposed expansion of the monopole cell tower will not adversely impact surrounding properties. The cell tower is providing an important public service to the area. The availability of cell tower capacity is a necessary utility that serves the Mixmaster area. The only noticeable difference on the Property will be the additional height of the monopole tower and an ice bridge (basically a conduit covering that protects the wires and cables that connect the tower to the existing equipment platform). The remainder of the site will be as it is today. The proposal to expand the capacity of the monopole cell tower complies with the City's objective to co-locate cell towers whenever possible.

We believe the Board members will find that the request to enlarge the cell tower meets the test from the Dallas Development Code and that the request is in the public's best interest.

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

¹ 51A-4.212(10.1)(B)(iii) "Monopole cellular towers: By right in commercial, industrial, and central area districts with RAR required in commercial and industrial districts. By right in LO(A), MO(A), GO(A), mixed use, and multiple commercial districts if the height of the tower does not exceed the maximum height for structures in that district as provided in the district regulations (Divisions 51A-4.100 et seq.) with RAR required in the same districts; otherwise by SUP only."

² 51A-4.408(a)(1) "Structures for utility and public service uses and institutional uses may be erected to any height consistent with the Federal Aviation Administration air space limitations, residential proximity slope height restrictions, and the building code." There are exceptions to this paragraph, however, they refer primarily to RPS and the Property has no residential zoning districts within 450 feet. The requested height does not conflict with the exceptions.

City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-060

Data Relative to Subject Property:

Date: 10-23-14

Location address: 200 Rock Island Zoning District: PD 784

Lot No.: pt 22 Block No.: 65/415 Acreage: .1334 Census Tract: 100.00

Street Frontage (in Feet): 1) 170 2) _____ 3) _____ 4) _____ 5) _____ *SE 28*

To the Honorable Board of Adjustment:

Owner of Property (per Warranty Deed): NCWPCS MPL 28 -Year Sites Tower Holdings LLC

Applicant: Robert Baldwin Telephone: 214-824-7949

Mailing Address: 3909 Elm St #B Zip Code: 75226

E-mail Address: Rob@baldwinplanning.com

Represented by: Robert Baldwin Telephone: _____

Mailing Address: 3904 Elm St #B Zip Code: 75226

E-mail Address: Rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance __, or Special Exception X __, to allow the expansion of a non-conforming use.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: Where there is no height limit in this zoning district, cell towers are no longer allowed. This tower will be sleeved with a taller tower that will allowed increased service. Additionally the expansion of this tower will replace the service that is being lost due to of another cell tower that is being removed due to the I-30 Horseshoe project.

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

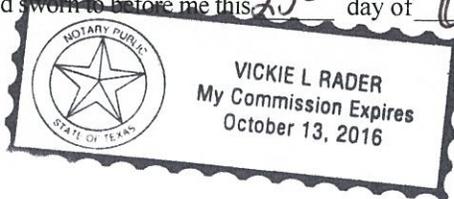
Before me the undersigned on this day personally appeared Robert Baldwin
(Affiant/Applicant's name printed)

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 23rd day of October, 2014

(Rev 08-01-11)



Notary Public in and for Dallas County, Texas
Vickie L. Rader

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

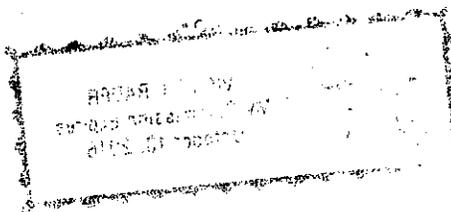
Building Official's Report

I hereby certify that Robert Baldwin
did submit a request for a special exception to enlarge a nonconforming use
at 200 Rock Island Street

BDA134-060. Application of Robert Baldwin for a special exception to enlarge a nonconforming use at 200 Rock Island Street (aka: 300 Rock Island Street). This property more fully described as part of Lot 22, Block 65/415, and is zoned PD 784 (Mixmaster Riverfront), which limits the legal uses in a zoning district. The applicant proposes to enlarge a nonconforming tower/antenna for cellular communication use, which will require a special exception to the nonconforming use regulation.

Sincerely,


Larry Holmes, Building Official





Appeal #BDA 134-060
Property address: 200 Rock Island Street

The use in the above appeal, tower/antenna for cellular communication has been identified by Building Inspection to be a nonconforming use.

Appeal for a special exception to enlarge a nonconforming use per Sec. 51A-4.704(b)(5)

Section 51A-4.704. Nonconforming uses and structures.

(b) Changes to nonconforming uses.

(5) Enlargement of a nonconforming use.

(A) In this subsection, enlargement of a nonconforming use means any enlargement of the physical aspects of a nonconforming use, including any increase in height, floor area, number of dwelling units, or the area in which the nonconforming use operates.

(B) The board may allow the enlargement of a nonconforming use when, in the opinion of the board, the enlargement:

- (i) does not prolong the life of the nonconforming use;
- (ii) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and
- (iii) will not have an adverse effect on the surrounding area.

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

or

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

SECTION 51A-4.704. NONCONFORMING USES AND STRUCTURES.

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

(1) Amortization of nonconforming uses.

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

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



City of Dallas

Zoning Board of Adjustment

Appeal for a special exception to enlarge a nonconforming use.

Sec. 51A-4.704. Nonconforming uses and structures.

(b) Changes to nonconforming uses.

(5) Enlargement of a nonconforming use.

(A) In this subsection, enlargement of a nonconforming use means any enlargement of the physical aspects of a nonconforming use, including any increase in height, floor area, number of dwelling units, or the area in which the nonconforming use operates.

(B) The board may allow the enlargement of a nonconforming use when, in the opinion of the board, the enlargement:

- (i) does not prolong the life of the nonconforming use;
- (ii) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and
- (iii) will not have an adverse effect on the surrounding area.

Property address: 200 Rock Island Street, BDA/34-060
(AKA: 300 Rock Island St.)

1. The nonconforming use being appealed: tower/antenna for cellular communication
(The land use as stated on the current valid Certificate of Occupancy. Copy of C.O. attached)

2. Reason the use is classified as nonconforming: change in zoning to PD 784

(Was there a change in zoning or in the use requirements.)

3. Current zoning of the property on which the use is located: PD 784 (mixmaster riverfront)

4. Previous zoning of the property on which the use is located: IM
(Applies if a zoning district change caused the use to become nonconforming.)

5. Date that the nonconforming use became nonconforming: 09-24-08 (PD 784)
(Date the property zoning or use requirements changed.)

(Rev. 04/04/14)





City of Dallas

Certificate of Occupancy

Issued: 08/07/1992

75207

300 ROCK ISLAND ST

Address:

METRO CELL CELLULAR TELEPHONE

000000

Owner:

DBA:

Land Use: (4759) RADIO, TELEVISION OR MICROWAVE TOWER

Occupied Portion:

C.O.#: 9205111008

Lot:	Block:	Zoning:	IM	PDD:	0	SUP:
Historic Dist:	Consrv Dist:	Pro Park:	0	Req Park:	0	Park Agrmt:
Dwlg Units:	Stories:	Occ Code:	B2	Lot Area:	0	Total Area:
Type Const:	Sprinkler:	Occ Load:		Alcohol:	N	Dance Floor:

Remarks: 407-6100

Larry V. Holmes

Larry Holmes, Building Official

This certificate shall be displayed on the above premise at all times.

CBI 2 9205111008 BLDG INSPECTION CERTIFICATE OF OCCUPANCY Password
Status B Type CO (CO/PE) Trace #: 9205111008

300 - ROCK ISLAND ST 75207

Land use 4759 Description: RADIO/TV/MICROWAVE TOWER

Act A Own A Occ B2 Block 650 415 / Lot 22 Base zone IM Pedest
Pdd# Sup# Deed Restr Fld Pl Dry Hist Escarp Airpt
Type const Req park Pro park Lot area Sprktr
Bdrms Bths DwI units Stories BDA Pkg agrmt Early release
RAR DIR Postage LL Review

Remarks 407-6100

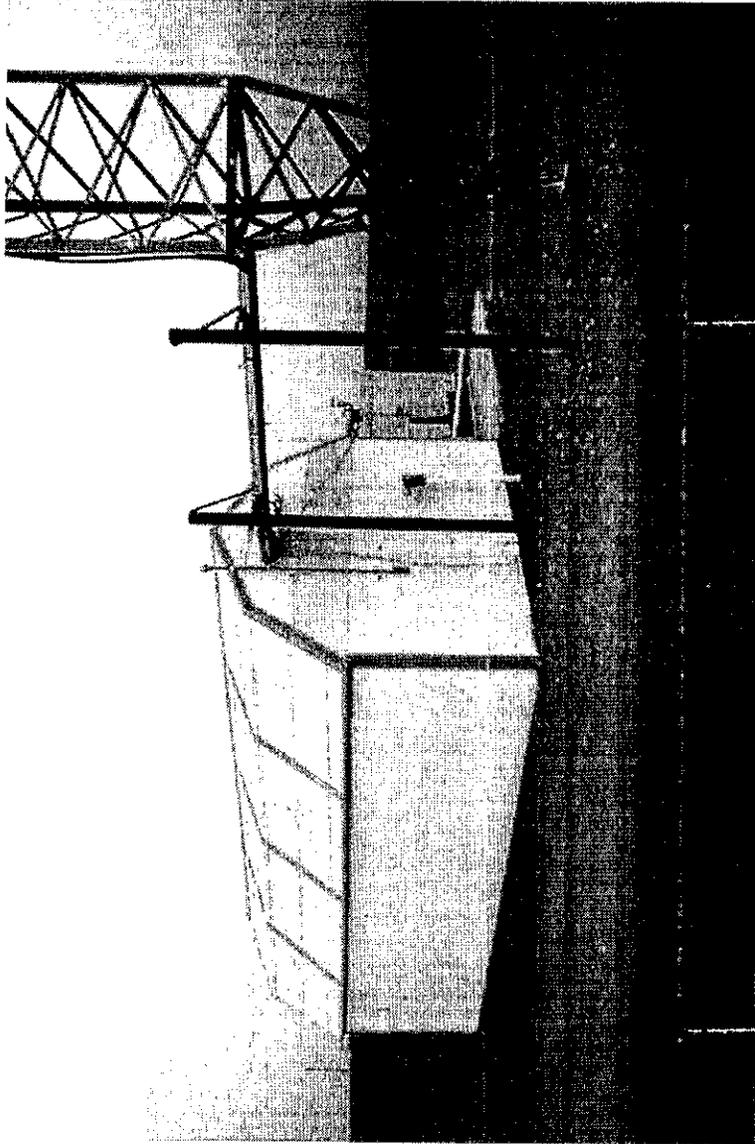
Issue Permit N Print Invoice N

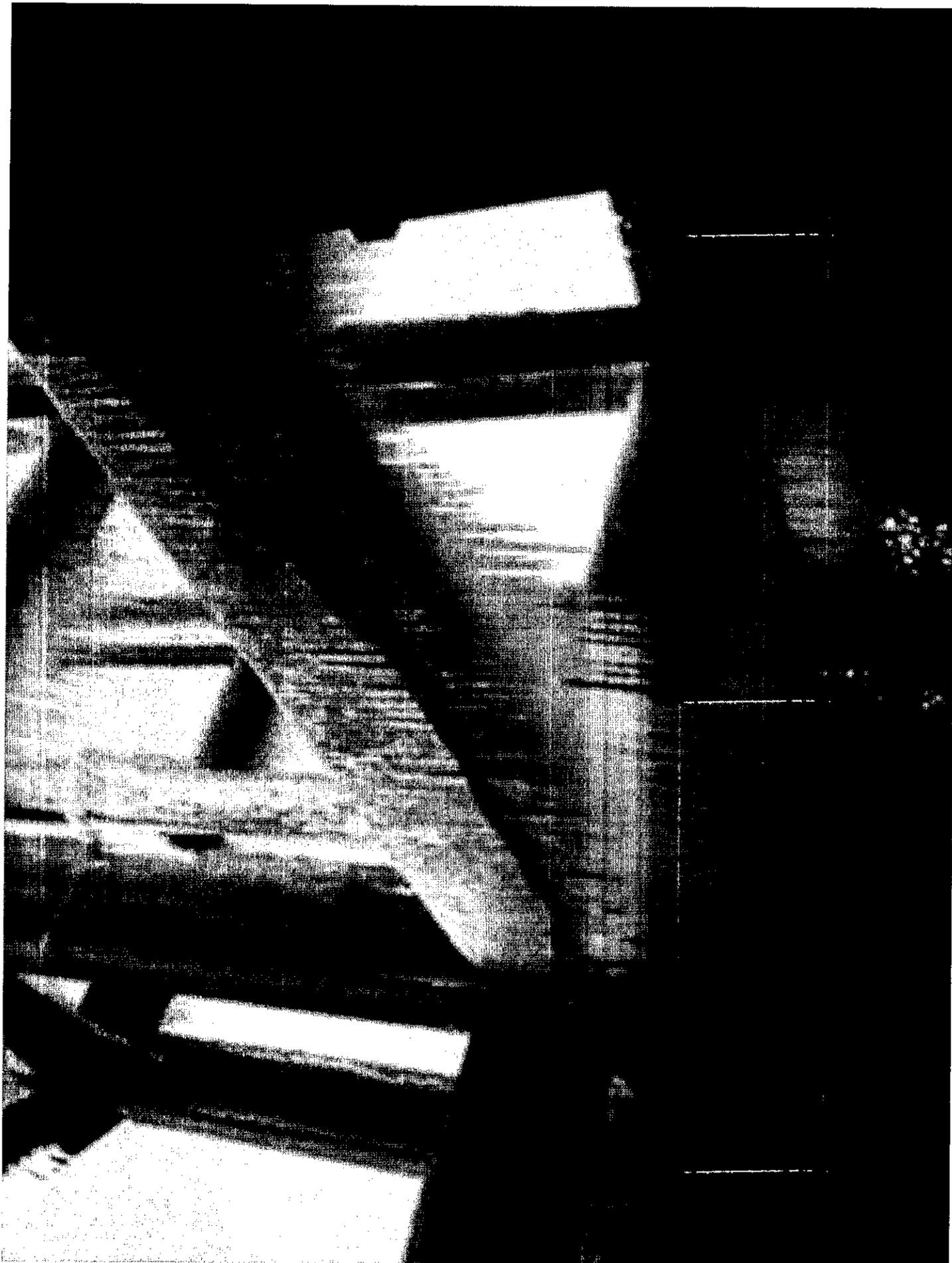
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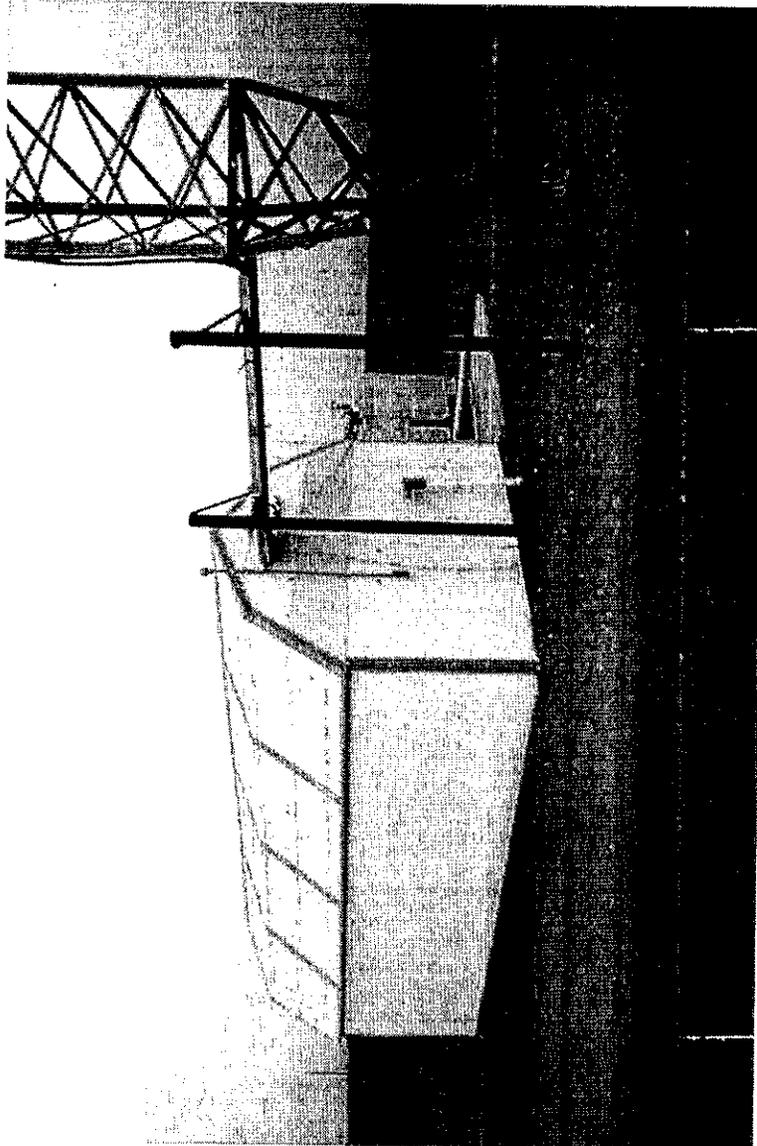
Permit Fee \$: 168 . 00 Total Fee: 168 . 00
Payment Receipt number Bal Due :
Charge N SSN# Charge # Double Fee N Exempt N Debit

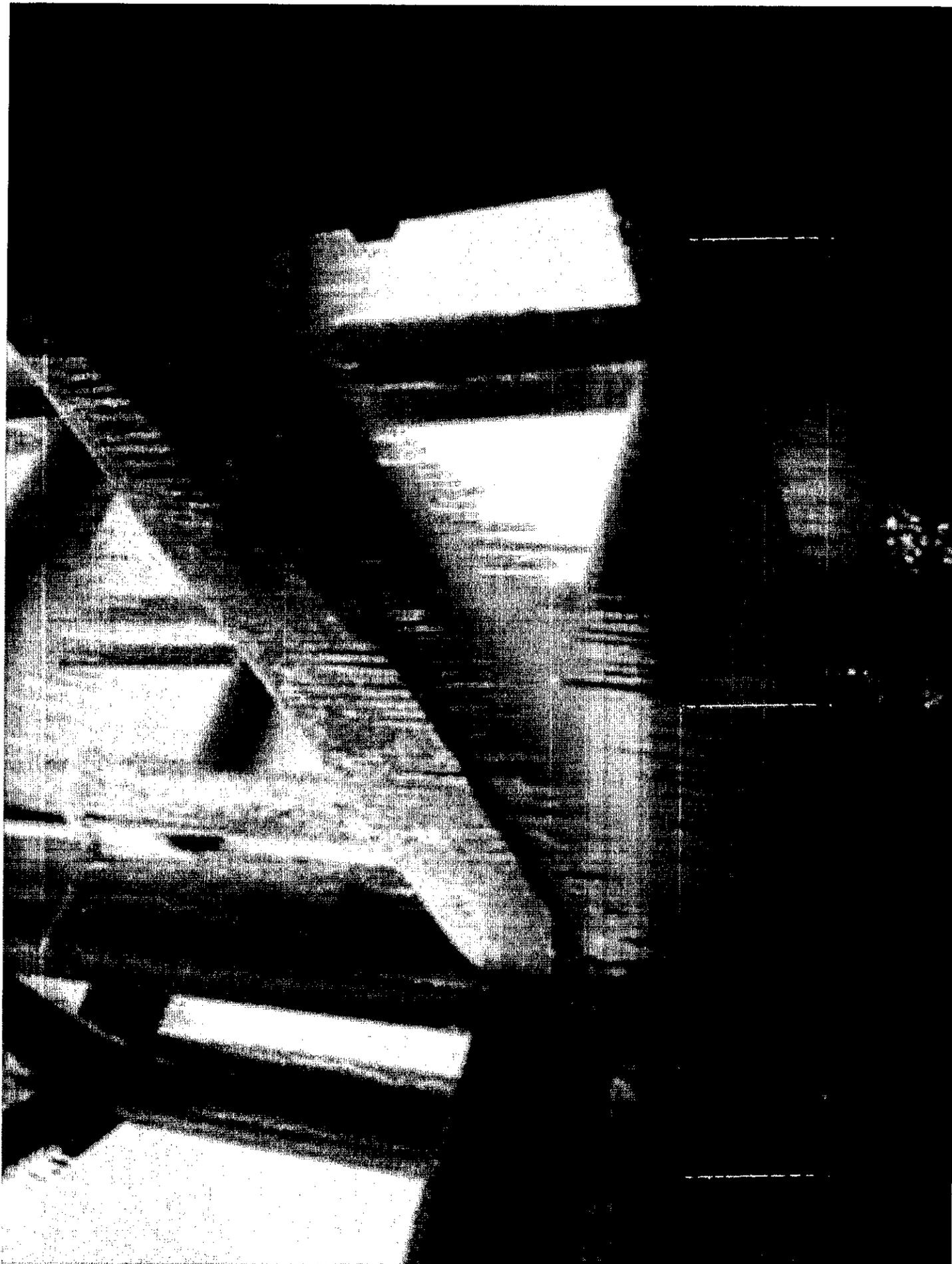
Enter=Process F1=Help F2=CONTR F3=BICOPY F4=BI F5=BIT F6=IID
F7=Prev F8=Next F9=BIADR F10=BTREV F11=Print F12=Return

4-0 1 Sess-1 192.168.104.52 6/11











AFFIDAVIT

BDA Case # 134-060

I, NCWPCS MPL 28 YR SITE TWR HOLDINGS LLC, Owner of the subject property
at: 200 Rock Island

Authorize (applicant) Robert Baldwin with Baldwin Associates

To pursue an appeal to the City of Dallas Board of Adjustment for the following request (s)

Variance (please specify)

Special Exception (please specify) Expand a nonconforming use

Other {please specify}

Matthew D. Seal
Director of Real Estate

4/24/14

Print name of property owner

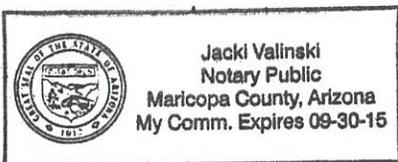
Signature of property owner

Date

Before me the undersigned on the day of personally appeared Matthew D. Seal

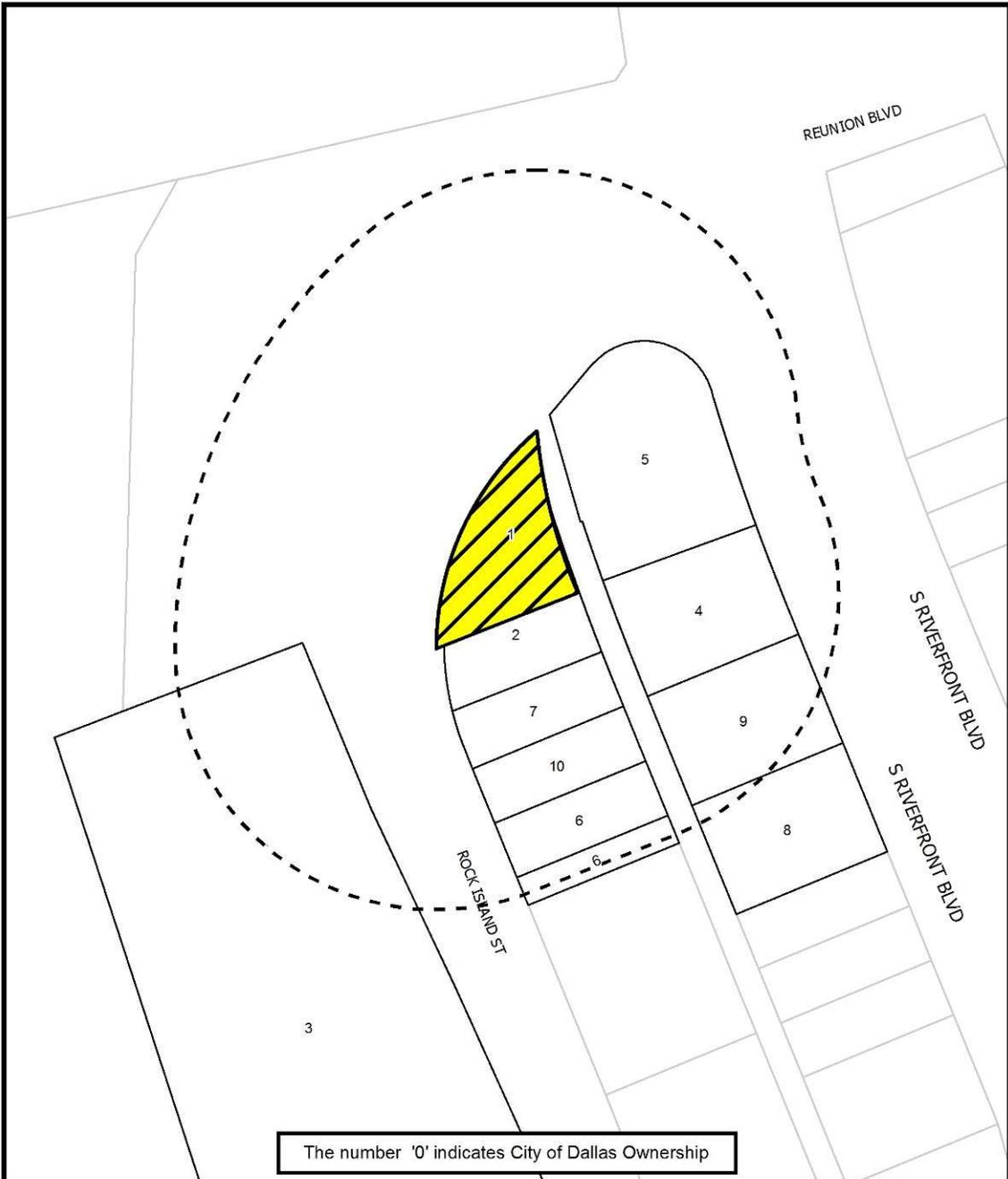
Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 24th day of April, 2014



Notary Public on and for
Maricopa Arizona
~~Dallas County, Texas~~

Commission expires on 9/30/15



 1:1,200	NOTIFICATION		Case no: BDA134-060
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">10</div> NUMBER OF PROPERTY OWNERS NOTIFIED		Date: 11/19/2014

11/19/2014

Notification List of Property Owners

BDA134-060

10 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	200 ROCK ISLAND ST	NCWPCS MPL 28 YR SITE TWR HOLDINGS LLC
2	304 ROCK ISLAND ST	THOMPSON RUSSELL W
3	417 ROCK ISLAND ST	CITY & COUNTY LEVEE
4	317 RIVERFRONT BLVD	JIFFY PROPERTIES LP
5	311 RIVERFRONT BLVD	JIFFY PPTIES LP
6	314 ROCK ISLAND ST	HARGETT ELECTRIC COMPANY LP
7	306 ROCK ISLAND ST	WILLIAM , LYN , CASH & ELLA LLC
8	331 RIVERFRONT BLVD	CHPD LP
9	323 RIVERFRONT BLVD	LAMS FAMILY LTD
10	310 ROCK ISLAND ST	WILLIAM , LYN , CASH & ELLA LLC

FILE NUMBER: BDA 134-101D

BUILDING OFFICIAL'S REPORT: Application of Karl A. Crawley for a special exception to the fence height regulations at 4047 Cochran Chapel Road. This property is more fully described as Tract 5, Block 5077, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulation.

LOCATION: 4047 Cochran Chapel Road

APPLICANT: Karl A. Crawley

REQUEST:

The following request has 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 made to construct a 4'-5" high wrought iron fence with 5'-6" high stucco columns and one 6'-5" high wrought iron swinging vehicular gate flanked by 6'-4" high stucco and cast stone columns parallel and perpendicular to Cochran Chapel 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.

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.

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac(A) (Single family district one acre)
North: TH-2(A) (Townhouse district)
South: R-1ac(A) (Single family district one acre)
East: R-1ac(A) (Single family district one acre)
West: R-1ac(A) (Single family district one acre) and R-10(A) (Single family district 10,000 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:

1. BDA 967-218, Property at 4055 Cochran Chapel Road (the subject site)
On April 21, 1997, the Board of Adjustment Panel C granted a request for a variance to the side yard setback of 10'. The case report stated that the request was made in conjunction with constructing and maintaining a new garage, a portion of which encroached into the entire 10' side yard setback.
2. BDA 123-048, Property at 4040 Cochran Chapel Road (property southwest of the subject site)
On May 20, 2013, the Board of Adjustment Panel C approved a request for a variance to the front yard setback regulations of 15'. The case report stated that the request was made in conjunction with replacing an existing one-story home with a two-story home in virtually the same location, part of which would be located in the 40' front yard setback.

GENERAL FACTS/STAFF ANALYSIS (FENCE HEIGHT):

- This request focuses on constructing a 4'-5" high wrought iron fence with 5'-6" high stucco columns and one 6'-5" high wrought iron swinging vehicular gate flanked by 6'-4" high stucco and cast iron columns, parallel and perpendicular to Cochran Chapel Road, in the 40' required front yard 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.
- R-1ac(A) Single Family District requires the minimum front yard setback to be 40'.
- The following additional information was gleaned from the submitted revised site plan:
 - The proposal is represented as being approximately 176' in length parallel to Cochran Chapel Road, and extending approximately 31' in length perpendicular on the west side of the 40' required front yard.
 - The proposal is represented as being located approximately 8'-4" from the property line.
- While the Current Planner conducted a field visit of the site and surrounding area and noted no other visible fences above 4 feet high which appeared to be located in

a front yard setback, a number of columns over 4 feet high were noted in several front yard setbacks.

- One home fronts the proposal.
- As of December 9th, 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' will not adversely affect neighboring property.
- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted landscape plan 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.

Timeline:

August 14, 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.

November 12, 2014: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

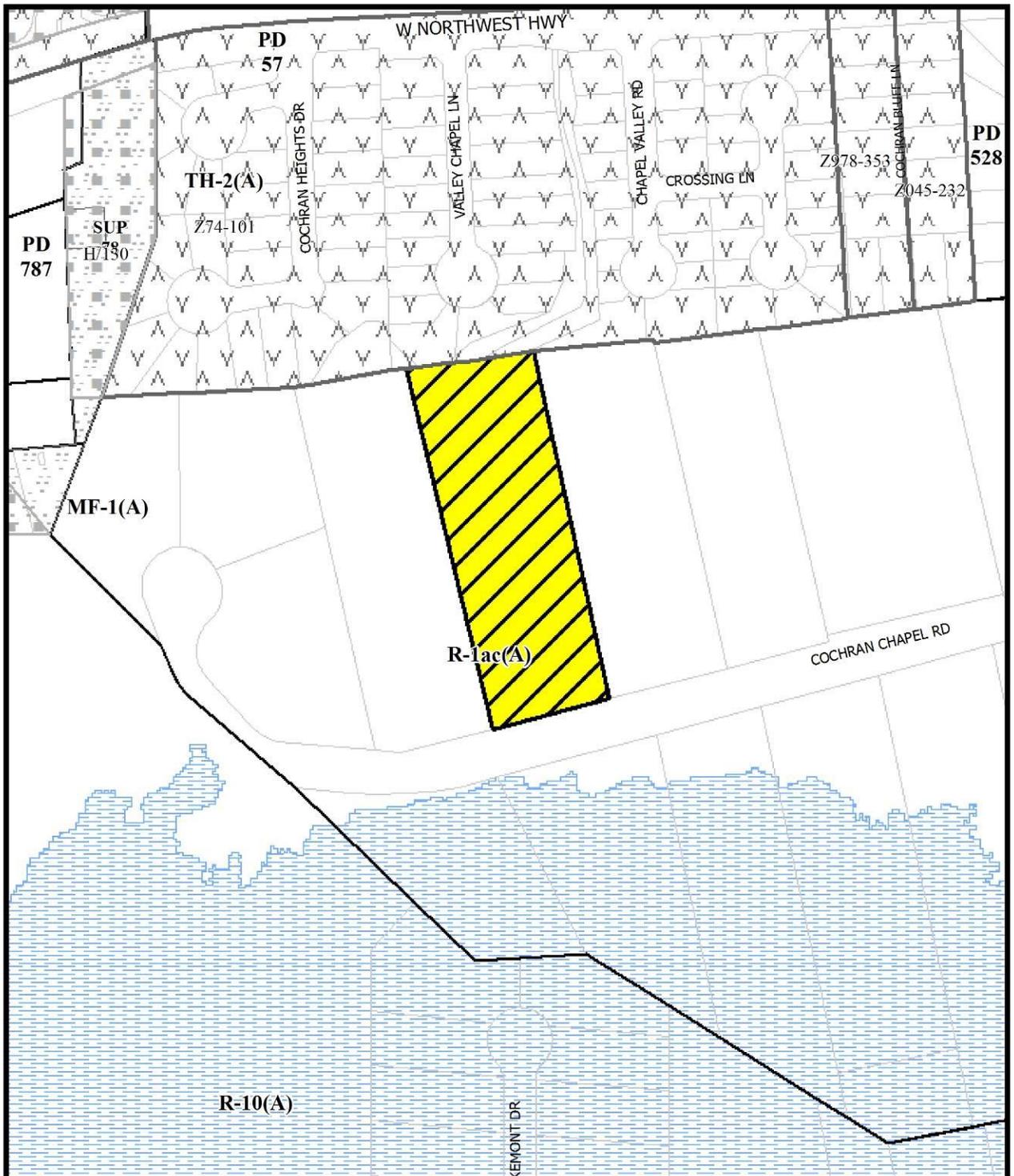
November 12, 2014: The Current Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the November 26th deadline to submit additional evidence for staff to factor into their analysis; and the December 5th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the section from the Dallas Development Code pertaining to nonconforming uses and structures; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 2, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for December public hearing. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

December 3, 2014: The applicant submitted additional information via e-mail to staff beyond what was submitted with the original application (see Attachment A).

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

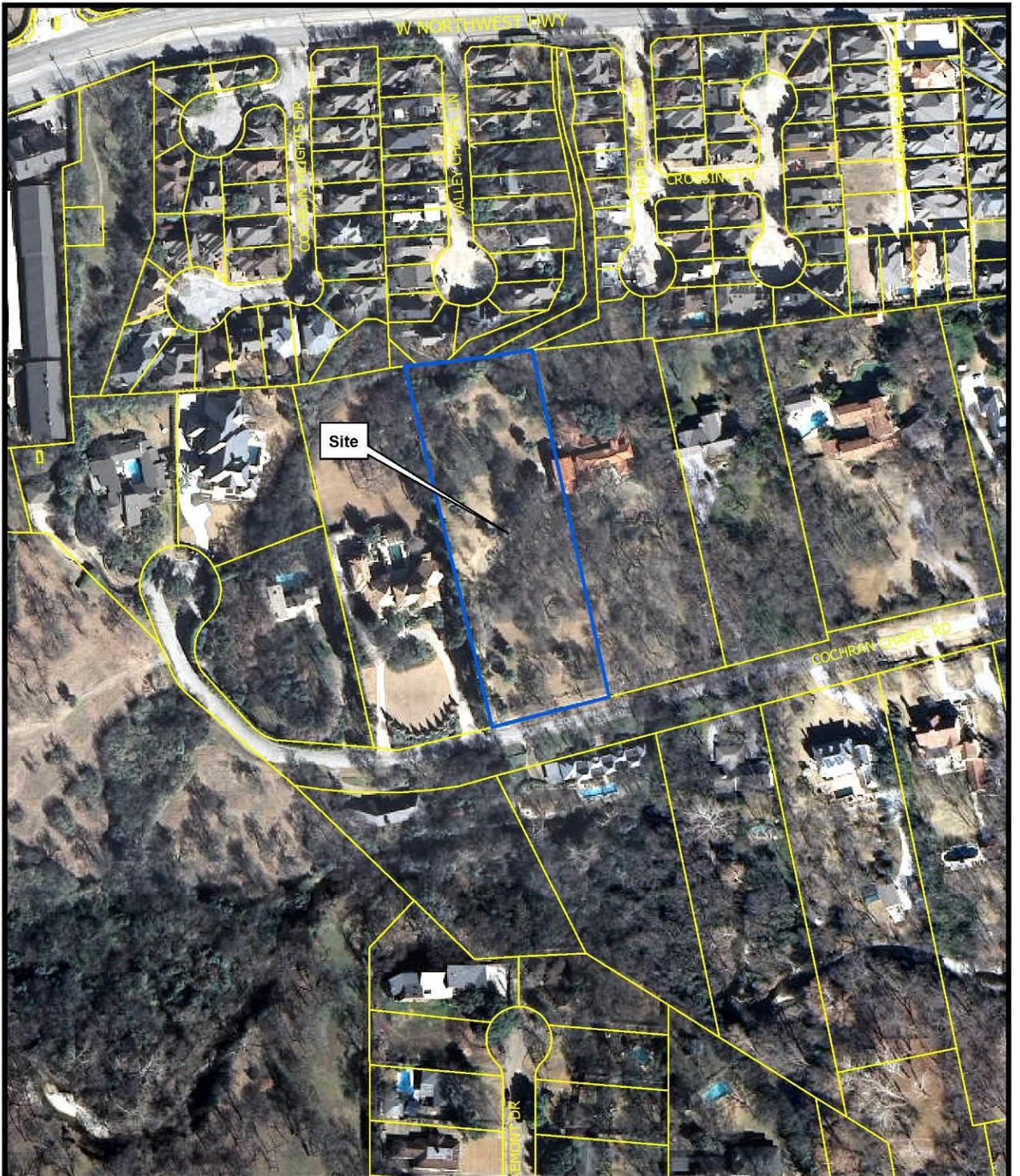


1:2,400

ZONING MAP

Case no: BDA134-101

Date: 9/23/2014



1:2,400

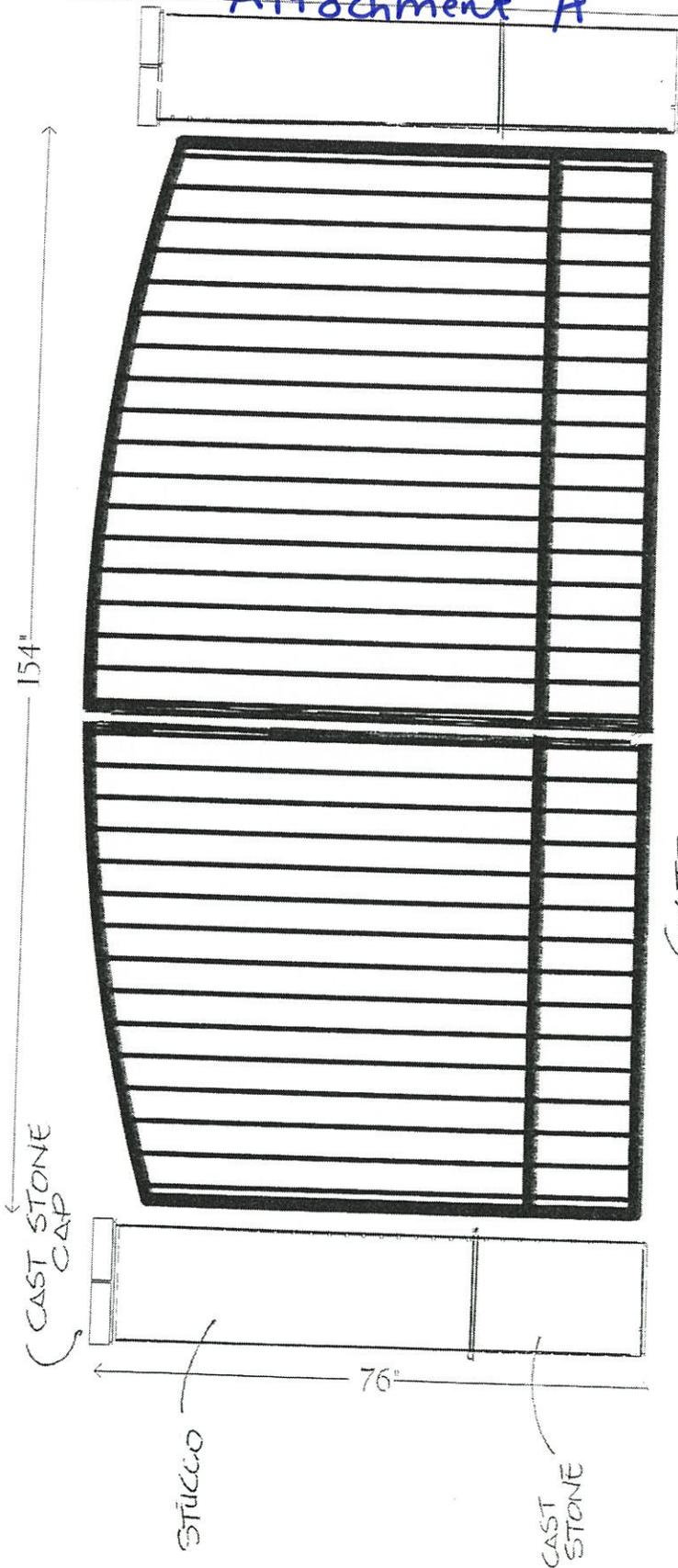
AERIAL MAP

Case no: BDA134-101

Date: 9/23/2014

Attachment A

DOUBLE SWING GATE



GATE

4047 COCHRAN CHAPEL

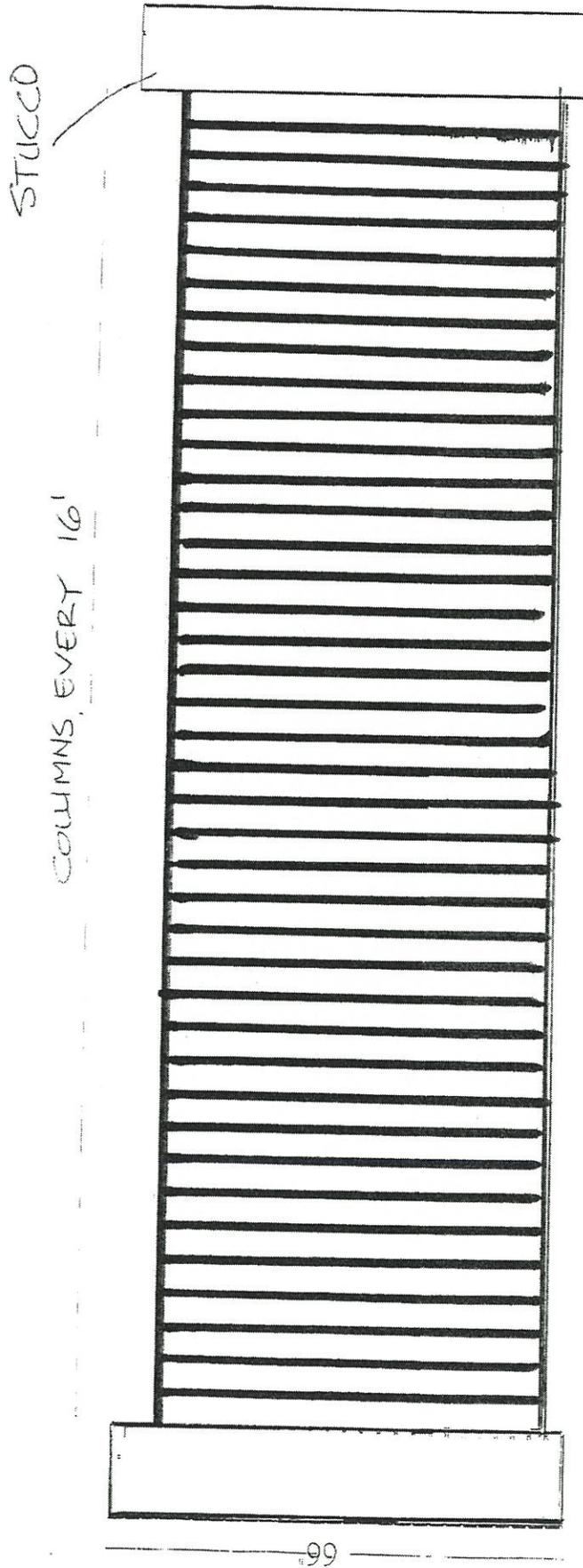
1/2" = 1.0'

BDA - 134 - 101

Attachment A

4047 Cochran Chapel Road, Dallas, TX

Typical iron fence section with columns



1/2"=1'

BDA 134-101



City of Dallas

C

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-101

Data Relative to Subject Property:

Date: 8-14-14

Location address: 4047 Cochran Chapel Road Zoning District: R-1ac (A)

Lot No.: Tract 5 Block No.: 5077 Acreage: 2.345ac Census Tract: 73.02

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

NW21A

To the Honorable Board of Adjustment:

Owner of Property/or Principal Trive, LLC Conner Searcy

Applicant: Karl A Crawley Telephone: 214 761 9197

Mailing Address 900 Jackson St. Ste 640 Dallas TX Zip Code: 75202

Represented by: Karl A Crawley Telephone: 214 761 9197

Mailing Address: 900 Jackson St. Ste 640 Dallas TX Zip Code: 75202

Affirm that a request has been made for a Variance __, or Special Exception x, of 4 feet to allow a fence and gate with a height greater than four (4) feet in the required front yard.

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:

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: Karl A Crawley Applicant's name printed [Signature] Applicant's signature

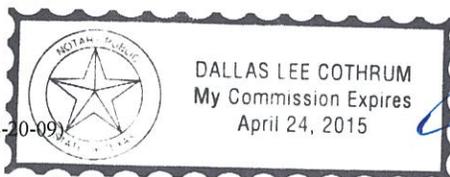
Affidavit

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

[Signature]
Affiant (Applicant's signature)

Subscribed and sworn to before me this 14th day of August, 2014

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



(Rev. 08-20-09)

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that KARL CRAWLEY

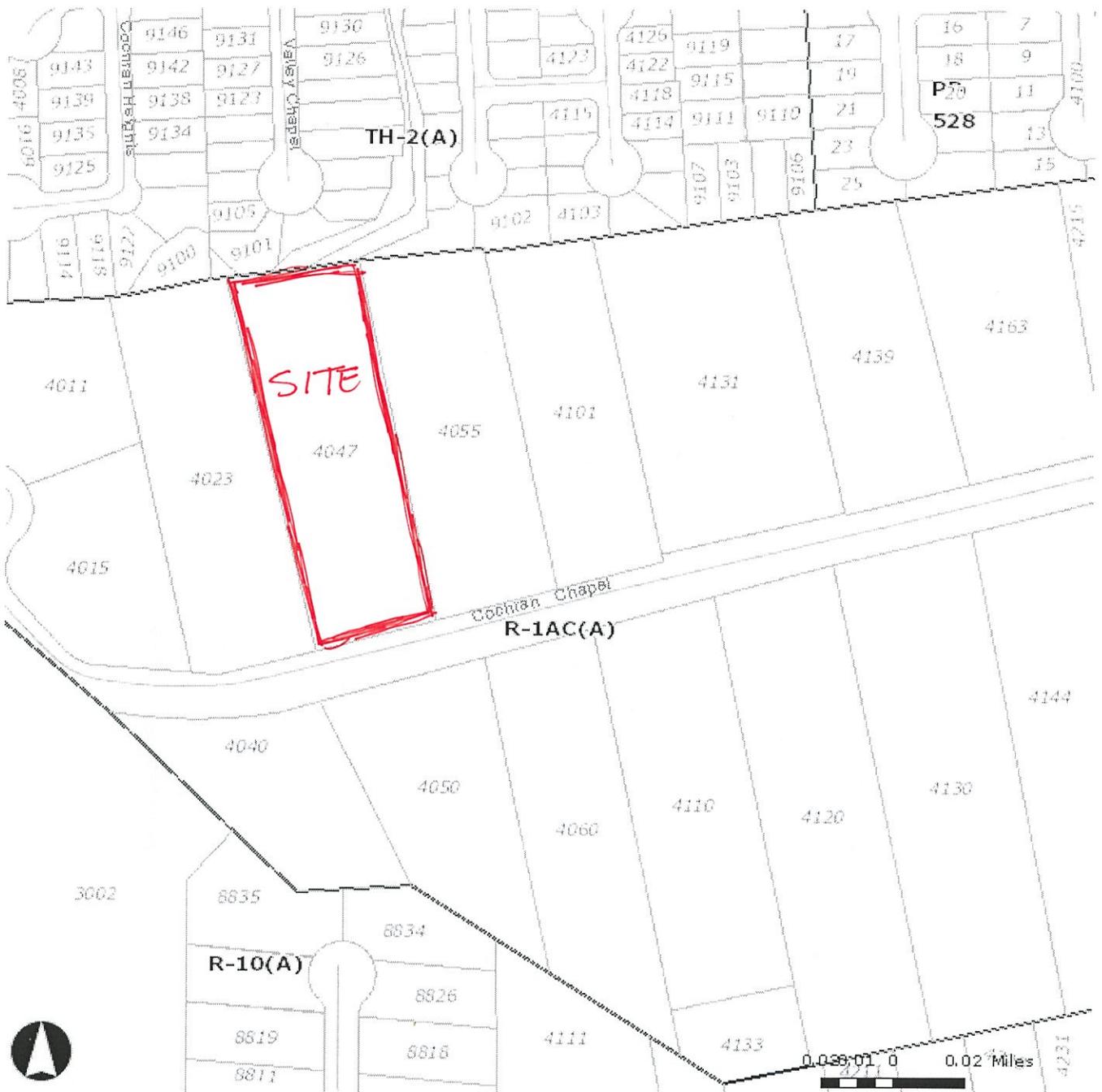
did submit a request for a special exception to the fence height regulations
at 4047 Cochran Chapel Road

BDA134-101. Application of Karl A. Crawley for a special exception to the fence height regulations at 4047 Cochran Chapel Road. This property is more fully described as Tract Block 5077, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulation.

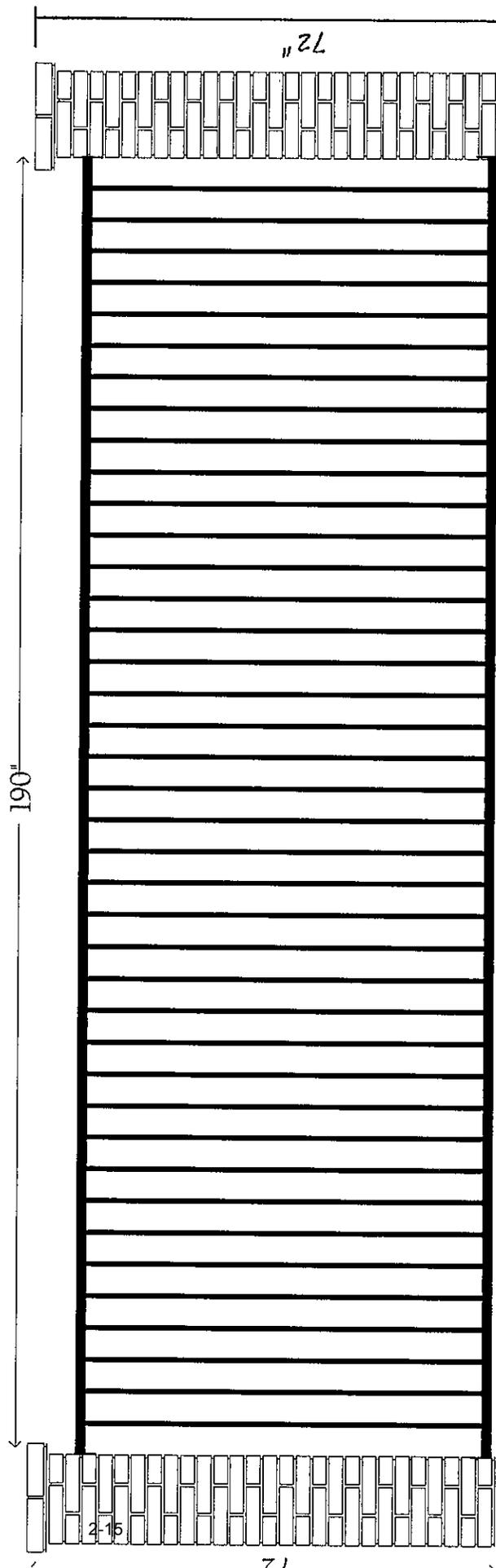
Sincerely,


Larry Holmes, Building Official





Typical iron fence section with columns



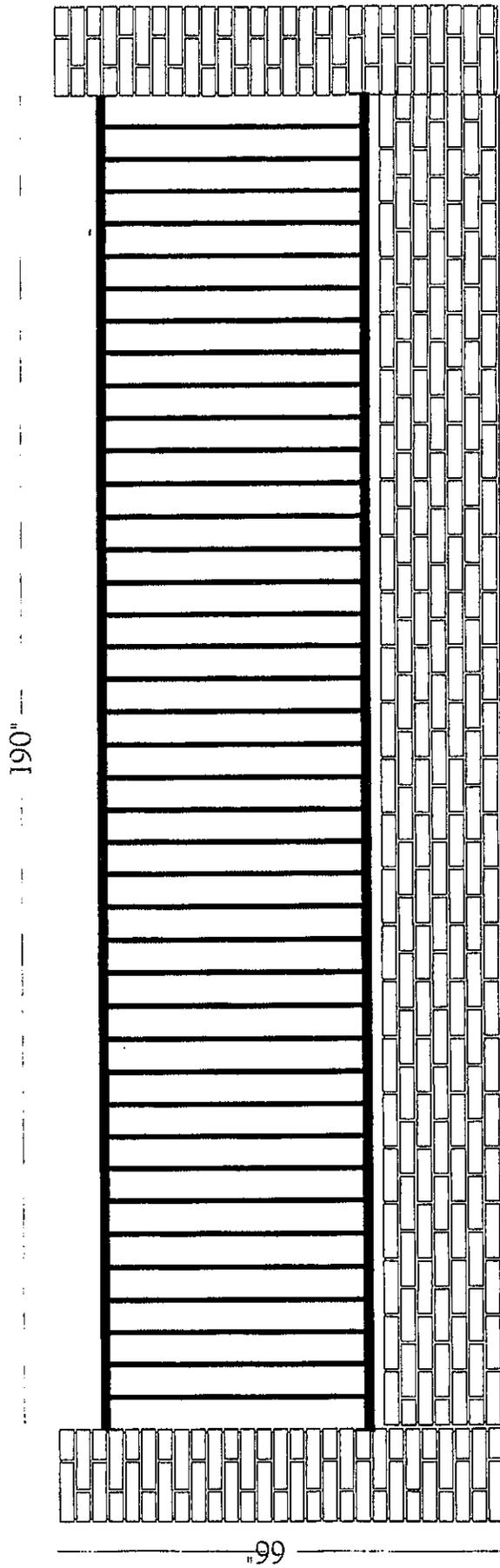
4047 COCHRAN CHAPEL

1/2"=1'

BDA 134-101

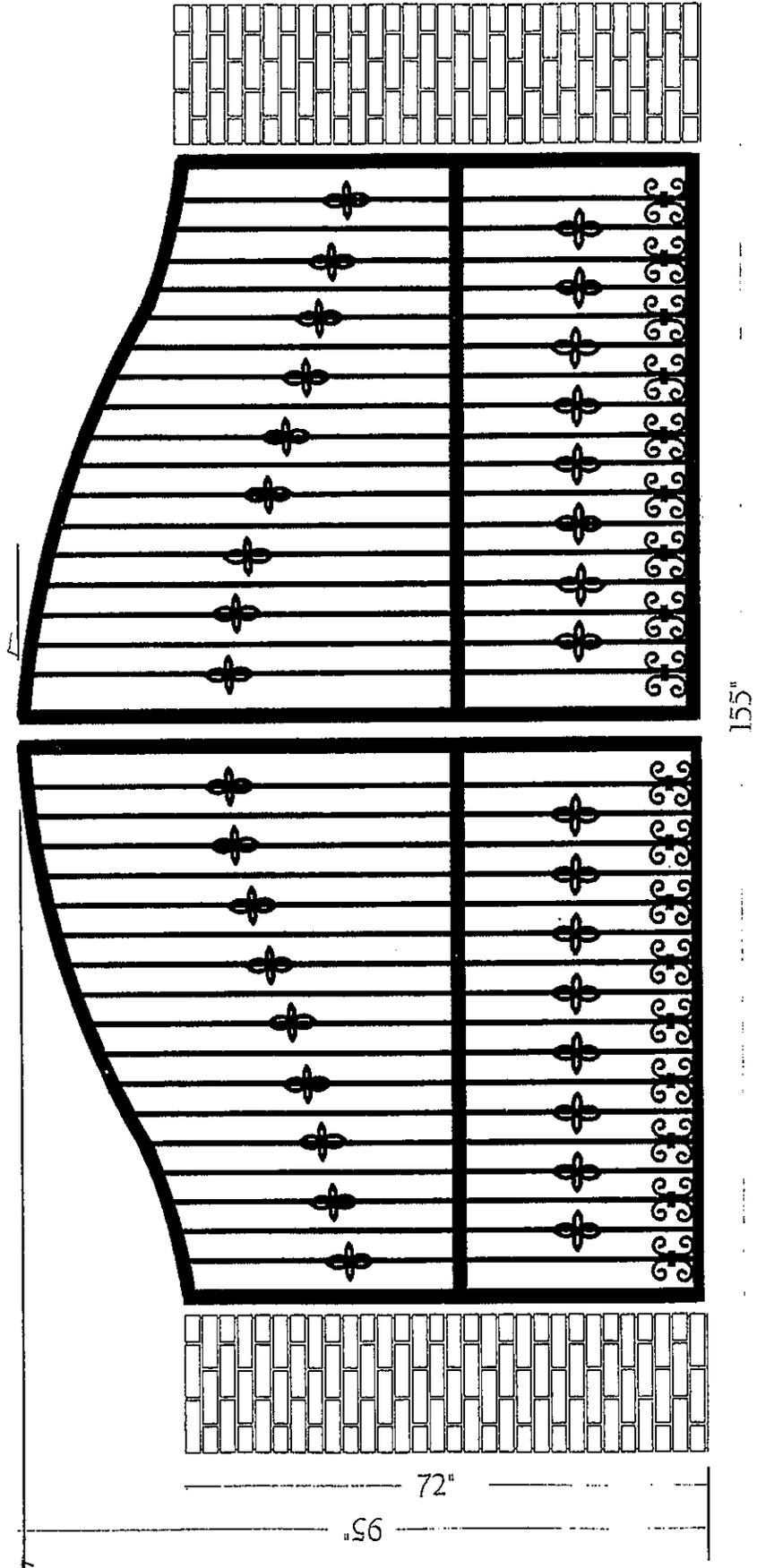
4047 Cochran Chapel Road, Dallas, TX

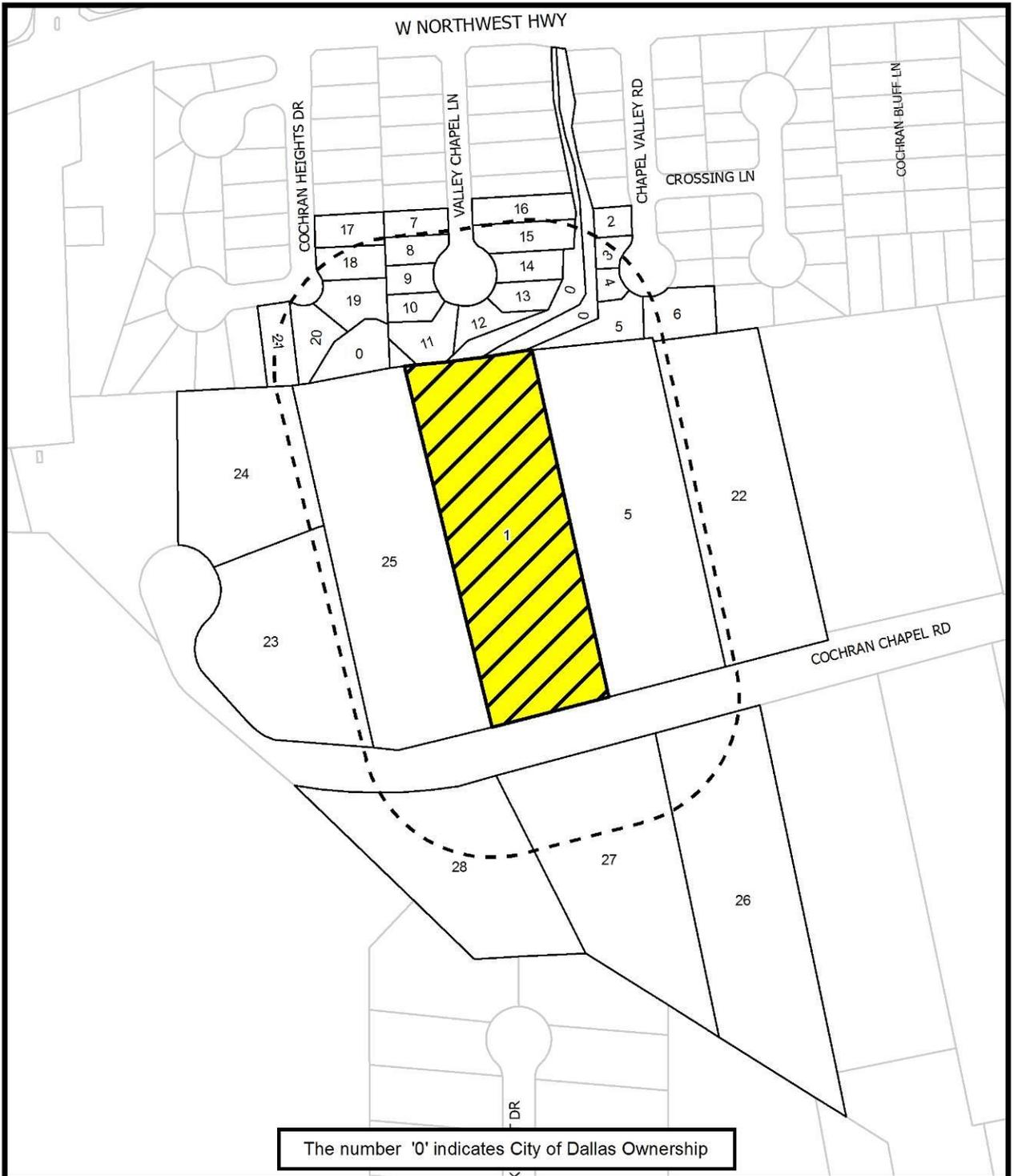
Typical iron fence section with columns



4047 Cochran Chapel Road, Dallas, TX

Double Swing Gate





 1:2,400	<h2 style="text-align: center;">NOTIFICATION</h2> <p> 200' AREA OF NOTIFICATION 28 NUMBER OF PROPERTY OWNERS NOTIFIED </p>	Case no: <u> BDA134-101 </u> Date: <u> 9/23/2014 </u>
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Notification List of Property Owners

BDA134-101

28 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4047	COCHRAN CHAPEL RDTRIVE LLC
2	9115	CHAPEL VALLEY RD FORD LIBERTY
3	9111	CHAPEL VALLEY RD GILMORE CURTIS W TR &
4	9107	CHAPEL VALLEY RD CIUBA GARY S
5	4055	COCHRAN CHAPEL RDMATHES JOHN CHENEY CURTIS
6	9102	CHAPEL VALLEY RD BASS COURTENAY L
7	9119	VALLEY CHAPEL LN LEHNORTT SUSAN M
8	9115	VALLEY CHAPEL LN BLEIBERG MICHELLE E
9	9109	VALLEY CHAPEL LN GRANDFIELD PAUL
10	9105	VALLEY CHAPEL LN ZOETEWAY RANDALL LEE
11	9101	VALLEY CHAPEL LN HILLYER JOHN C & FRANCES S
12	9102	VALLEY CHAPEL LN BROWN J HAL
13	9106	VALLEY CHAPEL LN ABIO ELIZABETH M &
14	9110	VALLEY CHAPEL LN FADAL DONNA
15	9114	VALLEY CHAPEL LN PEARCE CHRISTOPHER E &
16	9116	VALLEY CHAPEL LN ORS DURSUN
17	9134	COCHRAN HEIGHTS DR ERNEST POULOS FAMILY
18	9130	COCHRAN HEIGHTS DR HUFFINE C DIANE
19	9126	COCHRAN HEIGHTS DR SMITH THOMAS M
20	9122	COCHRAN HEIGHTS DR FISCHER LEO J
21	9118	COCHRAN HEIGHTS DR WILDBURGER HANS A & SUSAN
22	4101	COCHRAN CHAPEL RDSWANK JERRY & KATHY
23	4015	COCHRAN CHAPEL RDSTONE ROBERT G
24	4011	COCHRAN CHAPEL RDGROVE TOBIN C & DAWN C
25	4023	COCHRAN CHAPEL RDO NEIL LYNN G
26	4060	COCHRAN CHAPEL RDSHAMPAIN RICHARD H

09/23/2014

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	4050	COCHRAN CHAPEL RDSHIRLEY WILLIAM A JR & COLLEEN M
28	4040	COCHRAN CHAPEL RDSMITH STEVEN T & LAUREL PAYNE

FILE NUMBER: BDA 134-102D

BUILDING OFFICIAL'S REPORT: Application of Karl A. Crawley for a special exception to the fence height regulations at 4055 Cochran Chapel Road. This property is more fully described as Tract 6, Block 5077, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulation.

LOCATION: 4055 Cochran Chapel Road

APPLICANT: Karl A. Crawley

REQUEST:

The following request has 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 made to construct a 3.5' high wrought iron fence atop a 1.5' high stucco base with 5.5' high stucco columns and one 8' high wrought iron swinging vehicular gate flanked by 6' high stucco columns parallel and perpendicular to Cochran Chapel 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.

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.

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac(A) (Single family district one acre)
North: TH-2(A) (Townhouse district)
South: R-1ac(A) (Single family district one acre)
East: R-1ac(A) (Single family district one acre)
West: R-1ac(A) (Single family district one acre) and R-10(A) (Single family district 10,000 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:

- | | |
|---|--|
| 1. BDA 967-218, Property at 4055 Cochran Chapel Road (the subject site) | On April 21, 1997, the Board of Adjustment Panel C granted a request for a variance to the side yard setback of 10'. The case report stated that the request was made in conjunction with constructing and maintaining a new garage, a portion of which encroached into the entire 10' side yard setback. |
| 2. BDA 123-048, Property at 4040 Cochran Chapel Road (property southwest of the subject site) | On May 20, 2013, the Board of Adjustment Panel C approved a request for a variance to the front yard setback regulations of 15'. The case report stated that the request was made in conjunction with replacing an existing one-story home with a two-story home in virtually the same location, part of which would be located in the 40' front yard setback. |

GENERAL FACTS/STAFF ANALYSIS (FENCE HEIGHT):

- This request focuses on constructing a 3.5' high wrought iron fence atop a 1.5' high stucco base with 5.5' high stucco columns and one 8' high wrought iron swinging vehicular gate flanked by 6' high stucco columns, parallel and perpendicular to Cochran Chapel Road, in the 40' required front yard 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.
- R-1ac(A) Single Family District requires the minimum front yard setback to be 40'.
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 175' in length parallel to Cochran Chapel Road, and extending approximately 30' in length perpendicular on the east and west sides of the 40' required front yard.
 - The proposal is represented as being located approximately 10' from the property line.
- While the Current Planner conducted a field visit of the site and surrounding area and noted no other visible fences above 4 feet high which appeared to be located in a front yard setback, a number of columns over 4 feet high were noted in several front yard setbacks.

- Two homes front the proposal.
- As of December 9th, 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' will not adversely affect neighboring property.
- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted landscape plan 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.

Timeline:

August 14, 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.

November 12, 2014: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

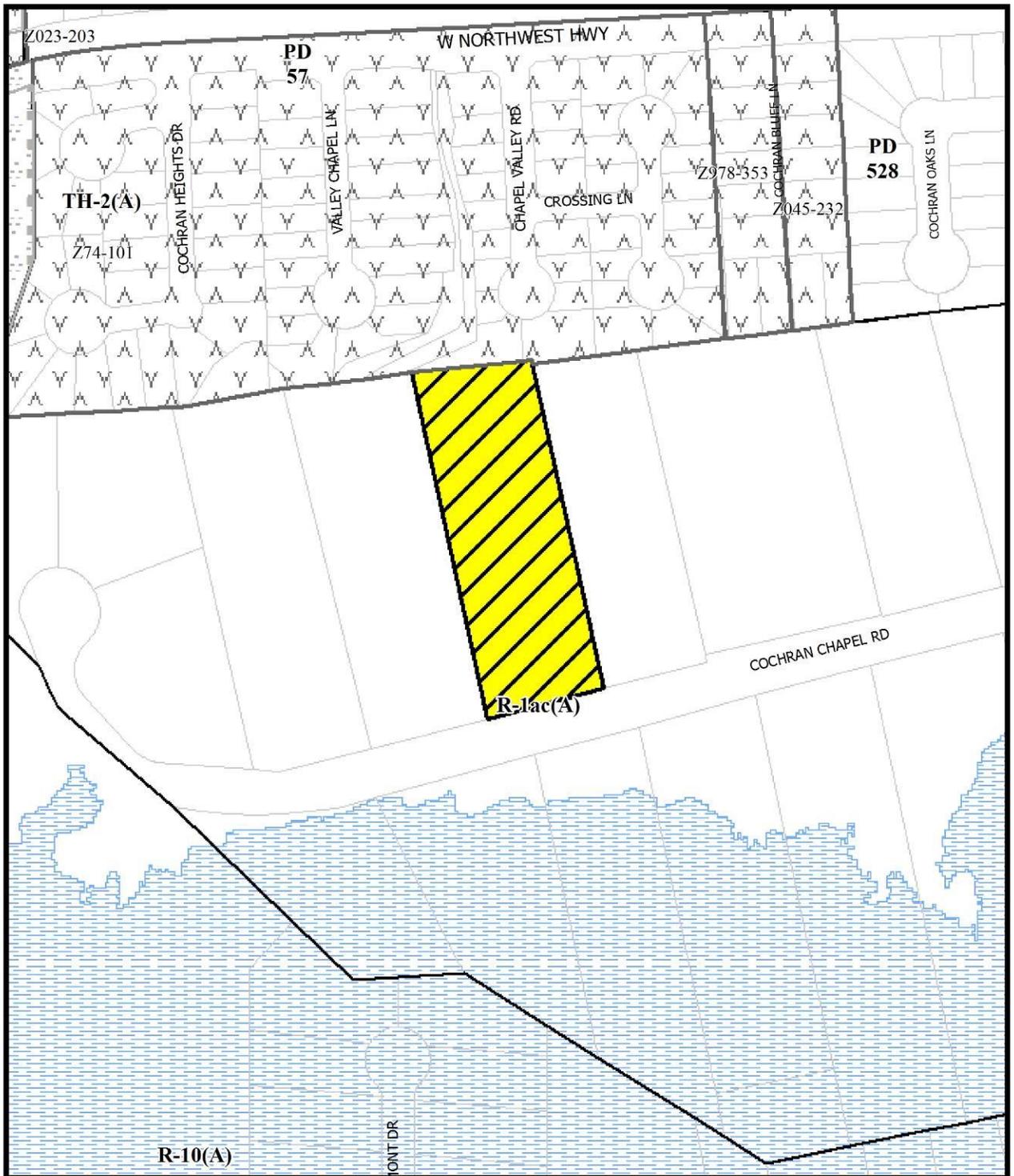
November 12, 2014: The Current Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the November 26th deadline to submit additional evidence for staff to factor into their analysis; and the December 5th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the section from the Dallas Development Code pertaining to nonconforming uses and structures; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 2, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for December public hearing. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

December 4, 2014: The applicant submitted additional information via e-mail to staff beyond what was submitted with the original application (see Attachment A).

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

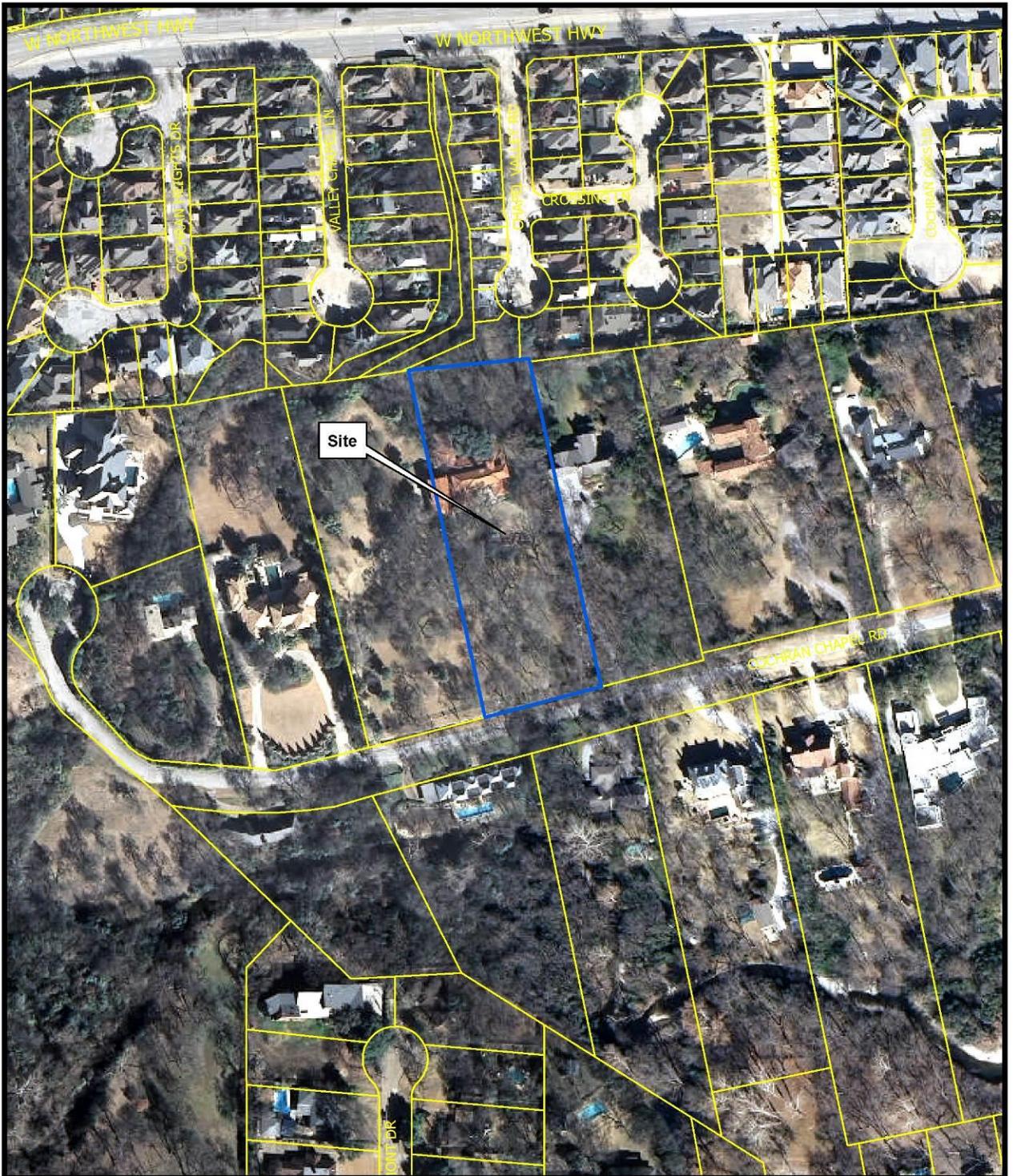


1:2,400

ZONING MAP

Case no: **BDA134-102**

Date: **9/23/2014**



1:2,400

AERIAL MAP

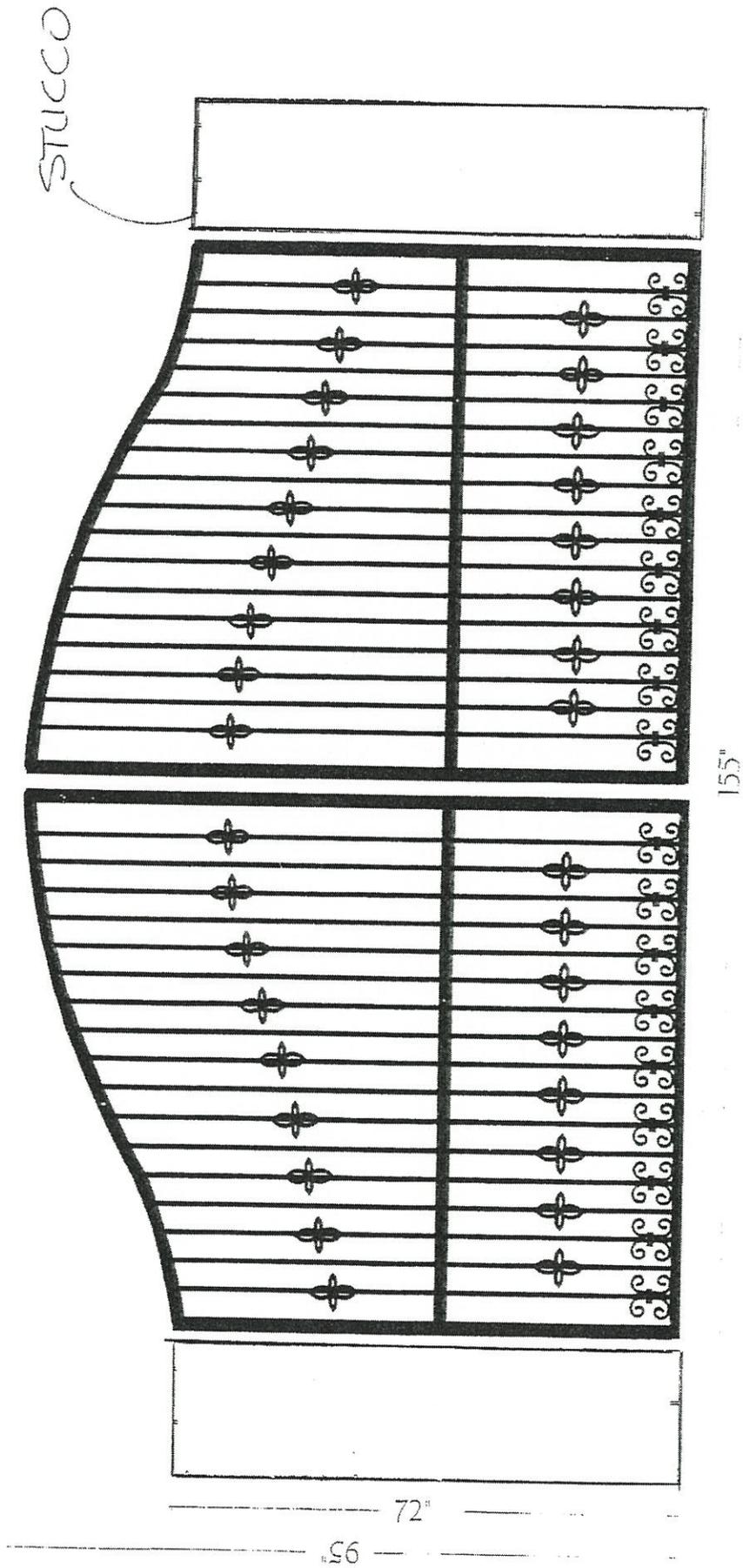
Case no: BDA134-102

Date: 9/23/2014

4055 Cochran Chapel Rd, Dallas TX

Double Swing Gate

Attachment A



BDA-134-100

1/2" = 1'

1/2" = 1'

Attachment A

4055 Cochran Chapel Rd, Dallas TX

Typical iron fence section with columns

STUCCO

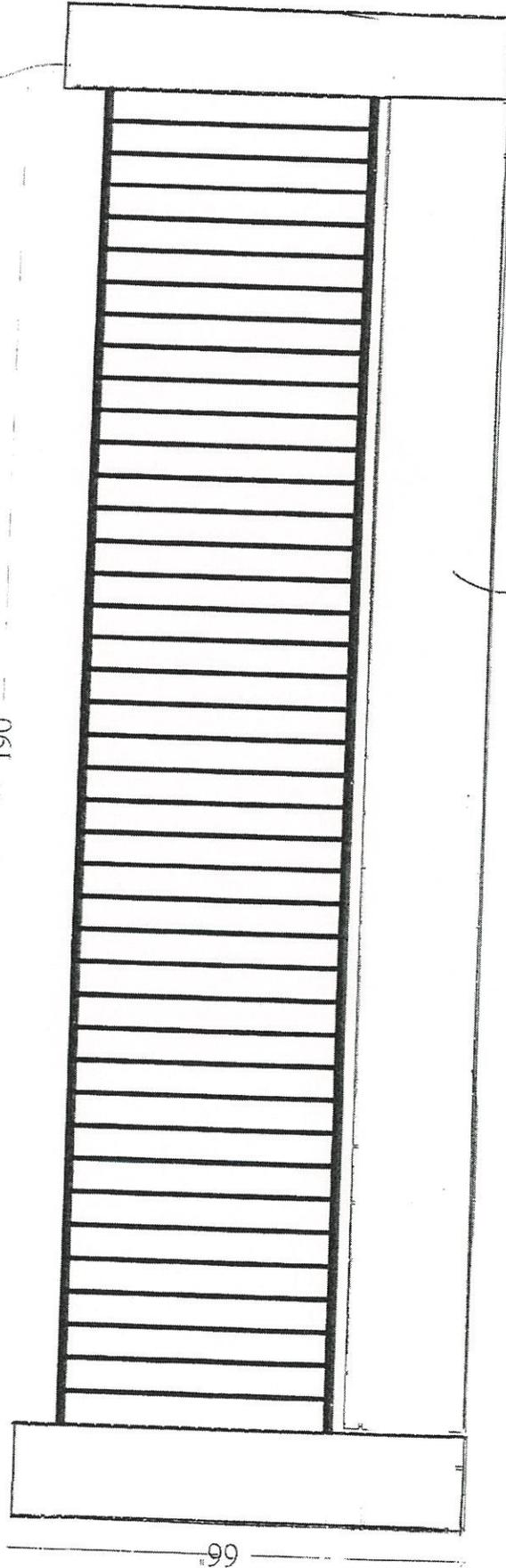
190"

STUCCO

BDA-100

1/2"=1'

99





City of Dallas

C

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-102

Data Relative to Subject Property:

Date: 8-14-14

Location address: 4055 Cochran Chapel Road Zoning District: R-1ac (A)

Lot No.: Tract 6 Block No.: 5077 Acreage: 2.249ac Census Tract: 73.02

Street Frontage (in Feet): 1 185 2 _____ 3) _____ 4) _____ 5) _____ NW21A

To the Honorable Board of Adjustment:

Owner of Property/or Principal John Cheney Curtis Mathes & Whitney Mathes

Applicant: Karl A Crawley Telephone: 214 761 9197

Mailing Address 900 Jackson St. Ste 640 Dallas TX Zip Code: 75202

Represented by: Karl A Crawley Telephone: 214 761 9197

Mailing Address: 900 Jackson St. Ste 640 Dallas TX Zip Code: 75202

Affirm that a request has been made for a Variance , or Special Exception , of 4 feet to allow a fence and gate with a height greater than four (4) feet in the required front yard.

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:

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: Karl A Crawley Applicant's name printed [Signature] Applicant's signature

Affidavit

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

[Signature]
Affiant (Applicant's signature)

Subscribed and sworn to before me this 14th day of August, 2014



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

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

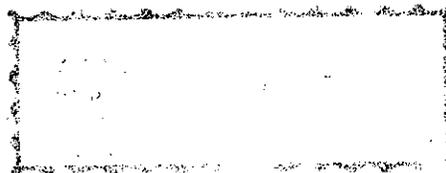
I hereby certify that Karl A. Crawley

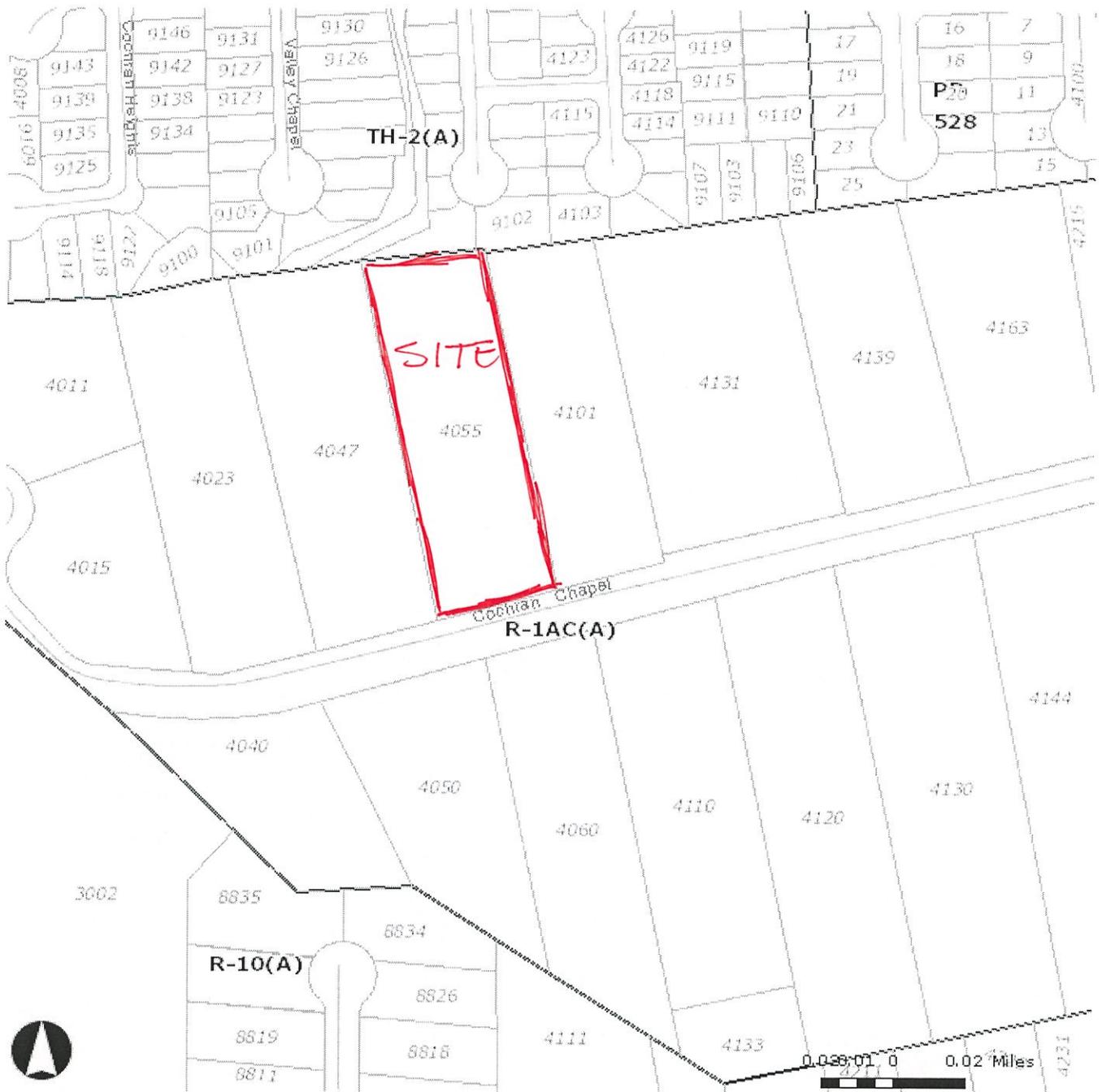
did submit a request for a special exception to the fence height regulations
at 4055 Cochran Chapel Road

BDA134-102. Application of Karl A. Crawley for a special exception to the fence height regulations at 4047 Cochran Chapel Road. This property is more fully described as Tract (Block 5077, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulation.

Sincerely,

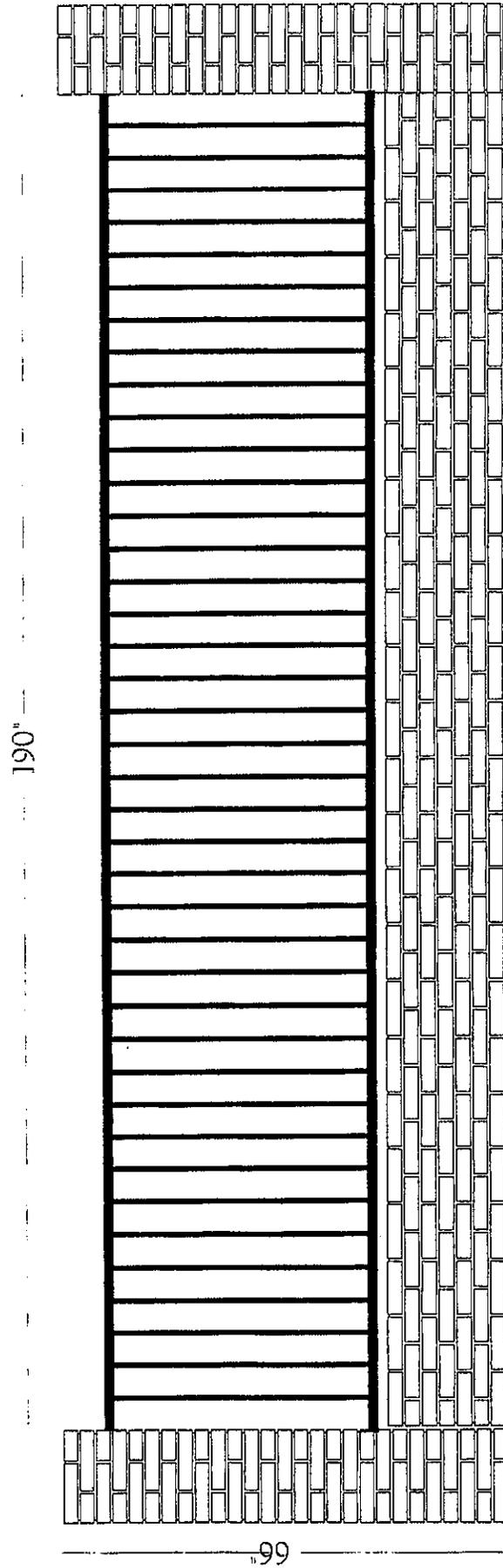

Larry Holmes, Building Official





4055 Cochran Chapel Rd, Dallas TX

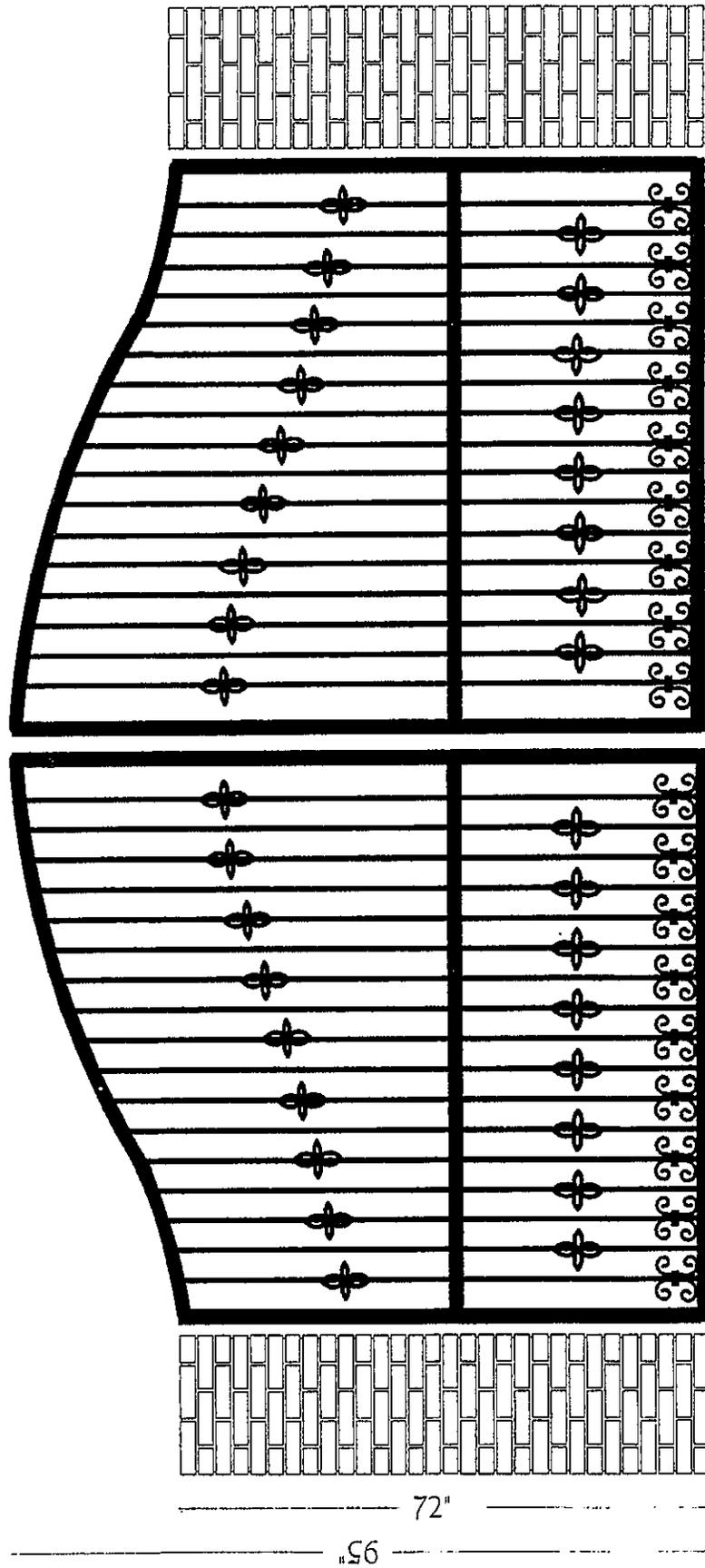
Typical iron fence section with columns

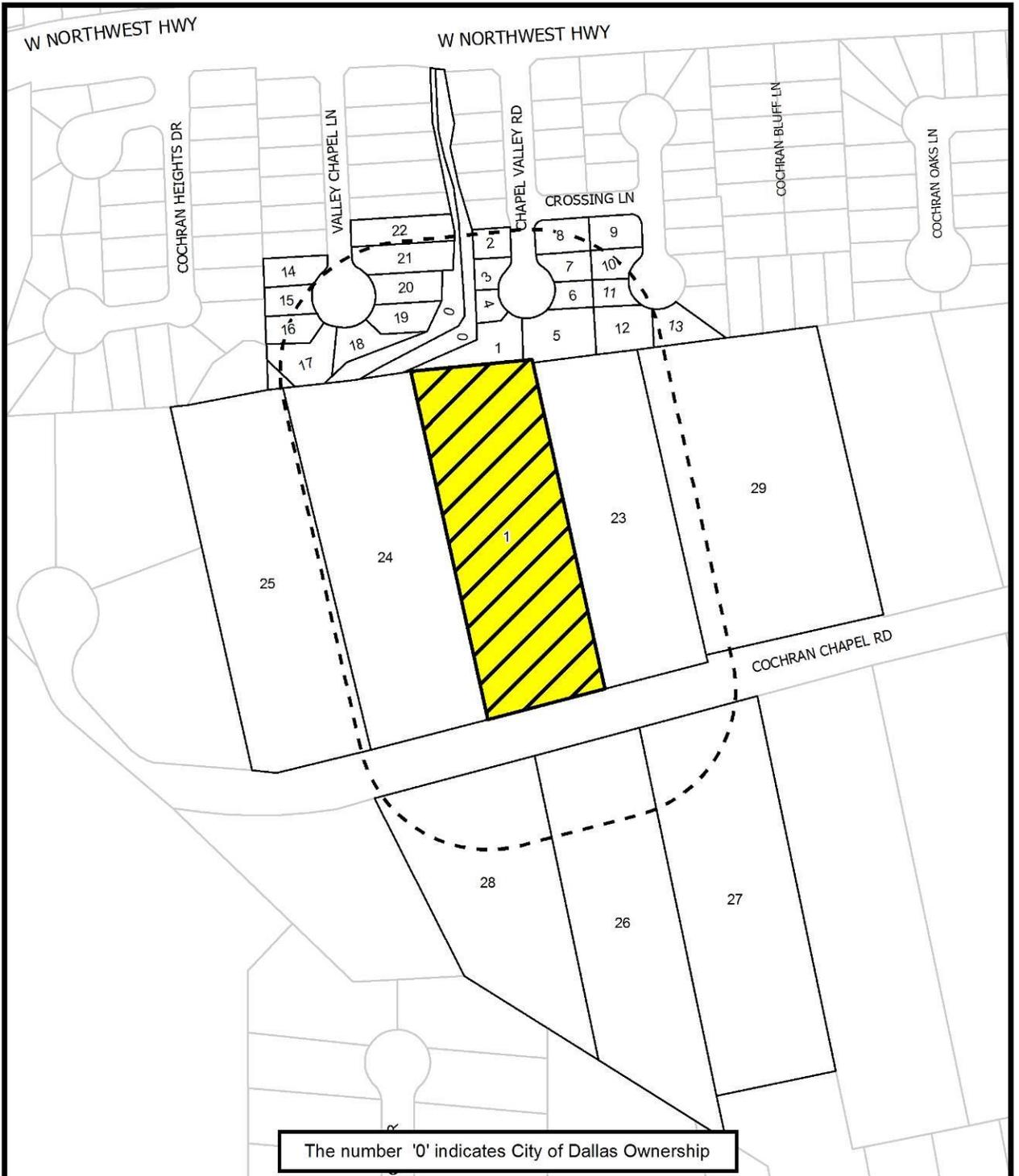


1/2" = 1'

4055 Cochran Chapel Rd, Dallas TX

Double Swing Gate





 1:2,400	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="0"> <tr> <td style="border: 1px solid black; padding: 2px;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="border: 1px solid black; padding: 2px;">29</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	29	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: BDA134-102 Date: 9/23/2014
200'	AREA OF NOTIFICATION					
29	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA134-102

29 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4055	COCHRAN CHAPEL RDMATHES JOHN CHENEY CURTIS
2	9115	CHAPEL VALLEY RD FORD LIBERTY
3	9111	CHAPEL VALLEY RD GILMORE CURTIS W TR &
4	9107	CHAPEL VALLEY RD CIUBA GARY S
5	9102	CHAPEL VALLEY RD BASS COURTENAY L
6	9106	CHAPEL VALLEY RD CHANG VICTOR
7	9110	CHAPEL VALLEY RD VICK PATRICK B & NELDA
8	9114	CHAPEL VALLEY RD RICE JAMES P & MYRTIE R
9	4115	CROSSING LN MCCARTER WILLIAM R SKIP
10	4111	CROSSING LN WISKOW BARBARA ANN
11	4107	CROSSING LN NEW CAROLYN B
12	4103	CROSSING LN SCHUETZ ROBERT J &
13	4100	CROSSING LN BROWN DEMPSEY S III
14	9115	VALLEY CHAPEL LN BLEIBERG MICHELLE E
15	9109	VALLEY CHAPEL LN GRANDFIELD PAUL
16	9105	VALLEY CHAPEL LN ZOETEWEE RANDALL LEE
17	9101	VALLEY CHAPEL LN HILLYER JOHN C & FRANCES S
18	9102	VALLEY CHAPEL LN BROWN J HAL
19	9106	VALLEY CHAPEL LN ABIO ELIZABETH M &
20	9110	VALLEY CHAPEL LN FADAL DONNA
21	9114	VALLEY CHAPEL LN PEARCE CHRISTOPHER E &
22	9116	VALLEY CHAPEL LN ORS DURSUN
23	4101	COCHRAN CHAPEL RDSWANK JERRY & KATHY
24	4047	COCHRAN CHAPEL RDTRIVE LLC
25	4023	COCHRAN CHAPEL RDO NEIL LYNN G
26	4060	COCHRAN CHAPEL RDSHAMPAIN RICHARD H

09/23/2014

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	4110	COCHRAN CHAPEL RDCADEDU JEFFREY &
28	4050	COCHRAN CHAPEL RDSHIRLEY WILLIAM A JR & COLLEEN M
29	4131	COCHRAN CHAPEL RDWILBUR WHITNEY ANTHONY TR

FILE NUMBER: BDA 134-119

BUILDING OFFICIAL'S REPORT: Application of Craig C. Wagstaff, represented by Chris B. Balling, for a special exception to the landscape regulations at 4243 Duncanville Road. This property is more fully described as Lot 1, Block A/8032, and is zoned IR, which requires mandatory landscaping. The applicant proposes to construct and/or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 4243 Duncanville Road

APPLICANT: Craig C. Wagstaff
Represented by Chris B. Balling

REQUEST:

A request for a special exception to the landscape regulations is made to maintain a motor vehicle fueling station use (Questar Fueling Station), and not fully meet the landscape regulations.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REGULATIONS:

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

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

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

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required.

Rationale:

- The City’s Chief Arborist recommends approval of the applicant’s request because the applicant has demonstrated strict compliance with the requirements of Article X would unreasonably burden the use of the property, and has favorably demonstrated the special exception would not negatively affect neighboring property. In this case, the only area in which the applicant is not proposing to meet the landscape regulations is the location of street trees. The Chief Arborist feels the exception in this case is reasonable because of the fact that both street frontages of the site are encumbered with fuel line easements where the planting of trees in the required code location could increase the possibility of root growth conflicts with the pipeline infrastructure.

BACKGROUND INFORMATION:

Zoning:

- Site: IR (Industrial Research)
- North: IR (Industrial Research)
- South: IR (Industrial Research)
- East: IR (Industrial Research)
- West: IR (Industrial Research)

Land Use:

The site is currently developed with a motor vehicle fueling station. The areas to the north and west appear to be undeveloped; and the areas to the south and east are developed with commercial and vacant residential uses.

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on and maintaining motor vehicle fueling station use (Questar Fueling Station), and not fully meeting the landscape regulations. More specifically, according to the City of Dallas Chief Arborist, the submitted alternate landscape plan does not provide the required street trees factored at one tree per 50 linear feet of frontage within 30 feet of the curb.

- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment A). The memo states how this request is triggered by the new construction of a natural gas fueling station.
- The Chief Arborist's memo lists the following factors for consideration:
 1. Both street frontages are encumbered with two fuel line easements that are restrictive to tree planting. The extended fuel line easements are aerially monitored on a routine basis to help secure and maintain the lines. Planting of street trees in these locations restrict the ability to monitor the lines and could increase the possibility of root growth conflicts with the pipeline infrastructure.
 2. The required street trees are alternately placed within the large front yard in a central planting location which, along with a row of screening shrubs, will provided substantial buffering from the street. The proposed alternate landscape plan complies with all other Article X landscape requirements.
- The City of Dallas Chief Arborist recommends approval of the alternate landscape plan because the applicant has demonstrated strict compliance with the requirements of Article X would unreasonably burden the use of the property, and has favorably demonstrated the special exception would not negatively affect neighboring property.
- The applicant has the burden of proof in establishing the following:
 - Strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property; and the special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted alternate landscape plan as a condition to the request, the site would be provided exception from full compliance with the street tree requirements of Article X: The Landscape Regulations.

Timeline:

October 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.

November 12, 2014: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

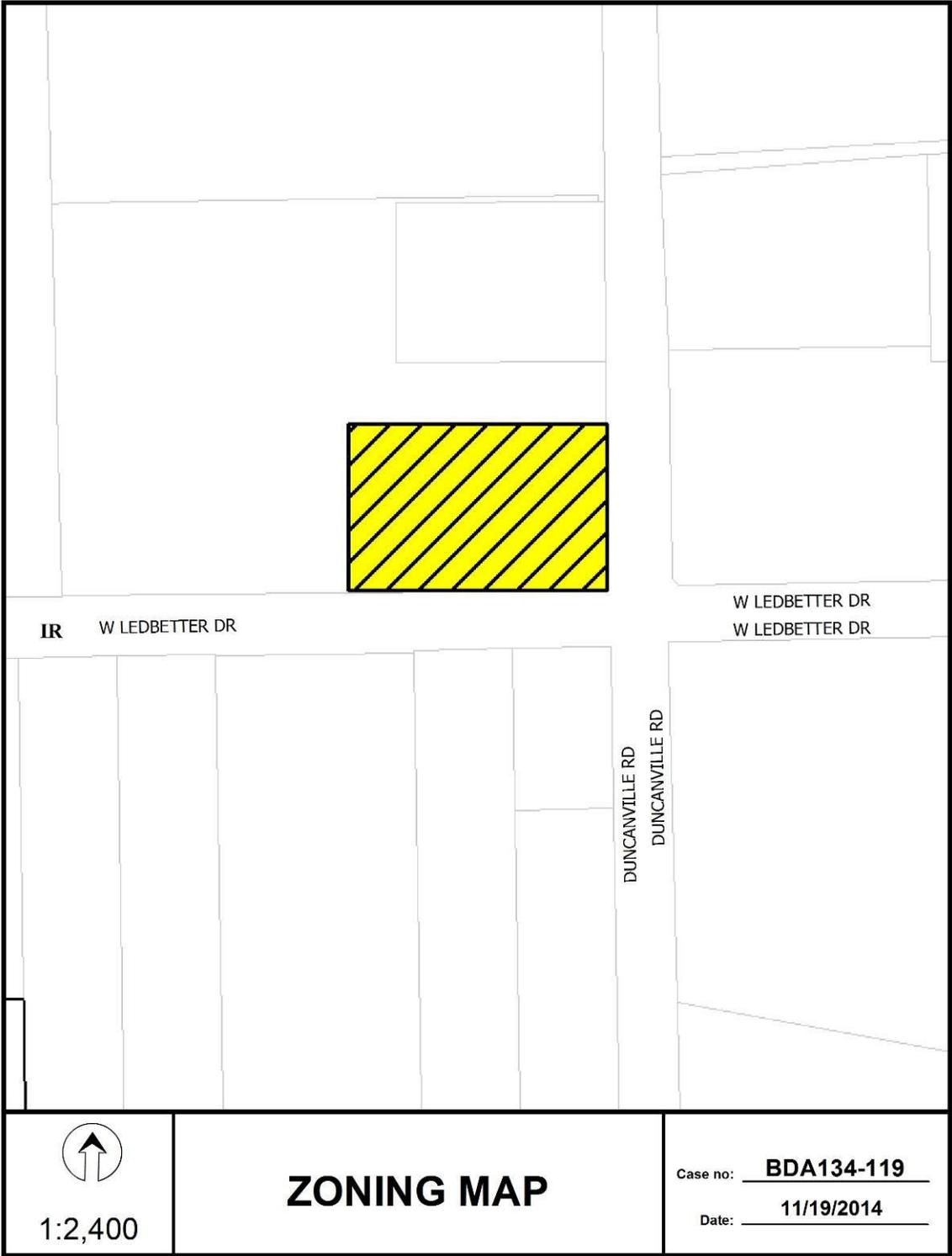
November 12, 2014: The Board Administrator emailed the applicant's representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the November 26th deadline to submit additional evidence for staff to factor into their analysis; and the December 5th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

December 2, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for December public hearing. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

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

December 4, 2014: The City of Dallas Chief Arborist submitted a memo regarding the request (see Attachment A).





1:2,400

AERIAL MAP

Case no: BDA134-119
Date: 11/19/2014

Memorandum



CITY OF DALLAS

DATE December 4, 2014
TO Steve Long, Board of Adjustment Administrator
SUBJECT # BDA 134 · 119 4243 Duncanville Road

The applicant is requesting a special exception to the landscape requirements of Article X.

Trigger

New construction of a natural gas fueling station.

Deficiencies

The proposed alternate landscape plan does not provide the required street trees factored at one tree per 50 linear feet of street frontage within 30 feet of the curb (51A-10.125(b)(4)).

Factors

Both street frontages are encumbered with two fuel line easements that are restrictive to tree planting. The extended fuel line easements are aerially monitored on a routine basis to help secure and maintain the lines. Planting of street trees in these locations restrict the ability to monitor the lines and could increase the possibility of root growth conflicts with the pipeline infrastructure.

The required street trees are alternatively placed within the large front yard in a central planting location which, along with a row of screening shrubs, will provide substantial buffering from the street. The proposed alternate landscape plan complies with all other Article X landscape requirements for a property in an IR district.

Recommendation

The chief arborist recommends approval of the alternate landscape plan because the applicant has demonstrated strict compliance of Article X in this circumstance will unreasonably burden the use of the property, and has favorably demonstrated the special exception will not negatively affect neighboring property.

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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-119

Data Relative to Subject Property:

Date: 10-3-14

Location address: 4243 Duncanville Road Zoning District: IR

Lot No.: 1 Block No.: A/8032 Acreage: 2.56 Census Tract: 165,20

Street Frontage (in Feet): 1) 270' (Duncanville Rd.) 2) 420' (Ledbetter Dr.)

SW14

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Questar Fueling Company

Applicant: Craig C. Wagstaff Telephone: (801) 324-3183

Mailing Address: Attn: Chris Balling, P.O. Box 45360, Salt Lake City, UT Zip Code: 84145-0360

E-mail Address: Chris.Balling@Questar.com

Represented by: Chris B. Balling Telephone: (801) 324-3183

Mailing Address: Attn: Chris Balling, P.O. Box 45360, Salt Lake City, UT Zip Code 84145-0360

E-mail Address: : Chris.Balling@Questar.com

Affirm that an appeal has been made for a Variance , or Special Exception XX, an alternate landscape plan.

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: We are proposing an alternate landscape plan for the locations and number of trees required so as to be situated outside of the various easements around the perimeter of the property. No trees are permitted within these several easements or the detention basin, which presents a hardship in meeting the City landscape requirements. The proposed alternate landscape plan will not adversely affect neighboring properties.

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

Affidavit

Before me the undersigned on this day personally appeared Craig C. Wagstaff
(Affiant/Applicant's name printed)

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

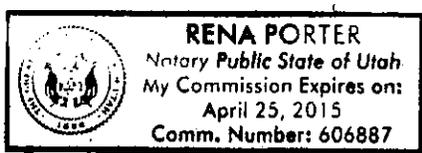
Respectfully submitted: [Signature]
(Affiant/Applicant's signature)

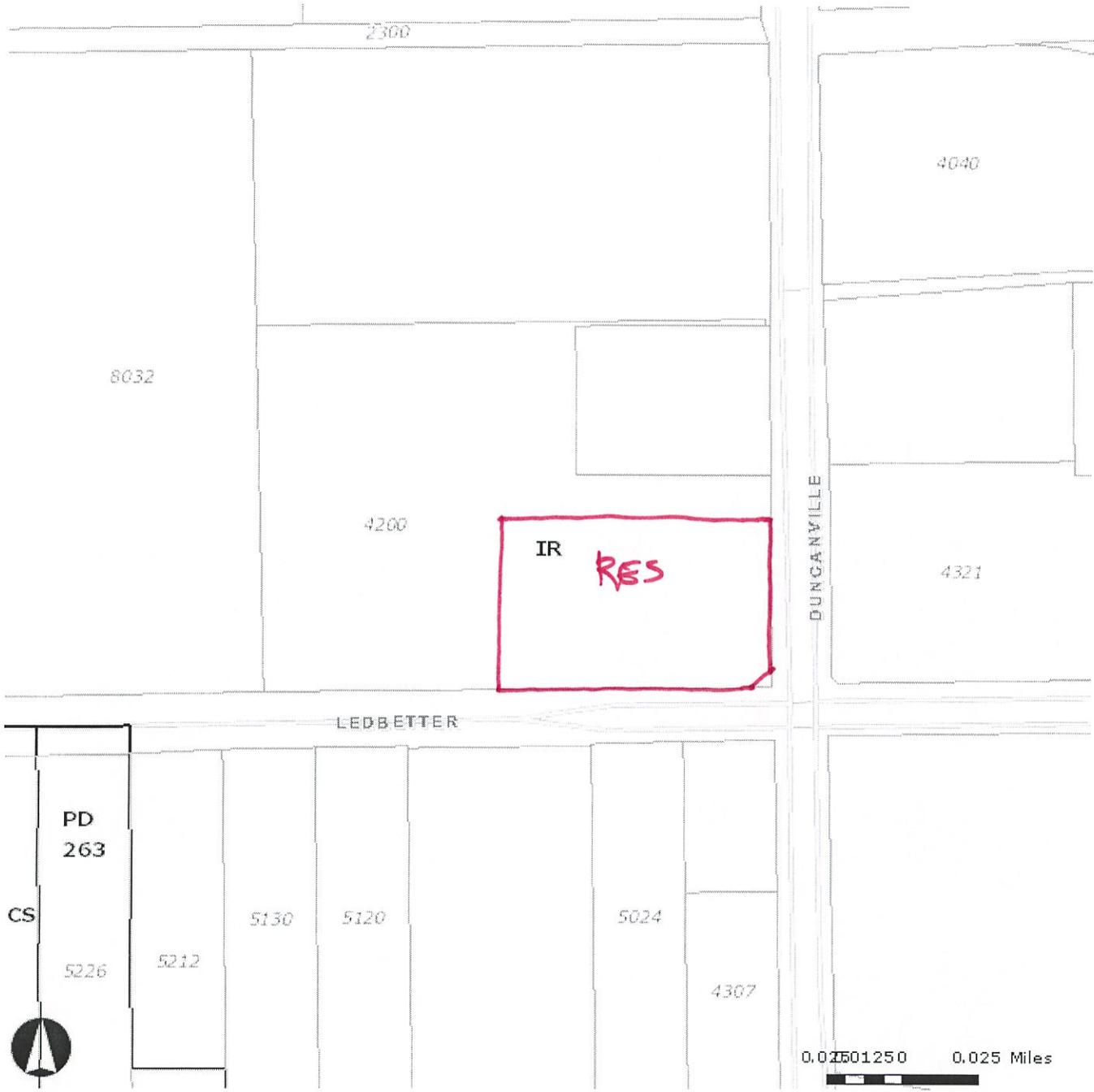
Subscribed and sworn to before me this 1st day of October, 2014

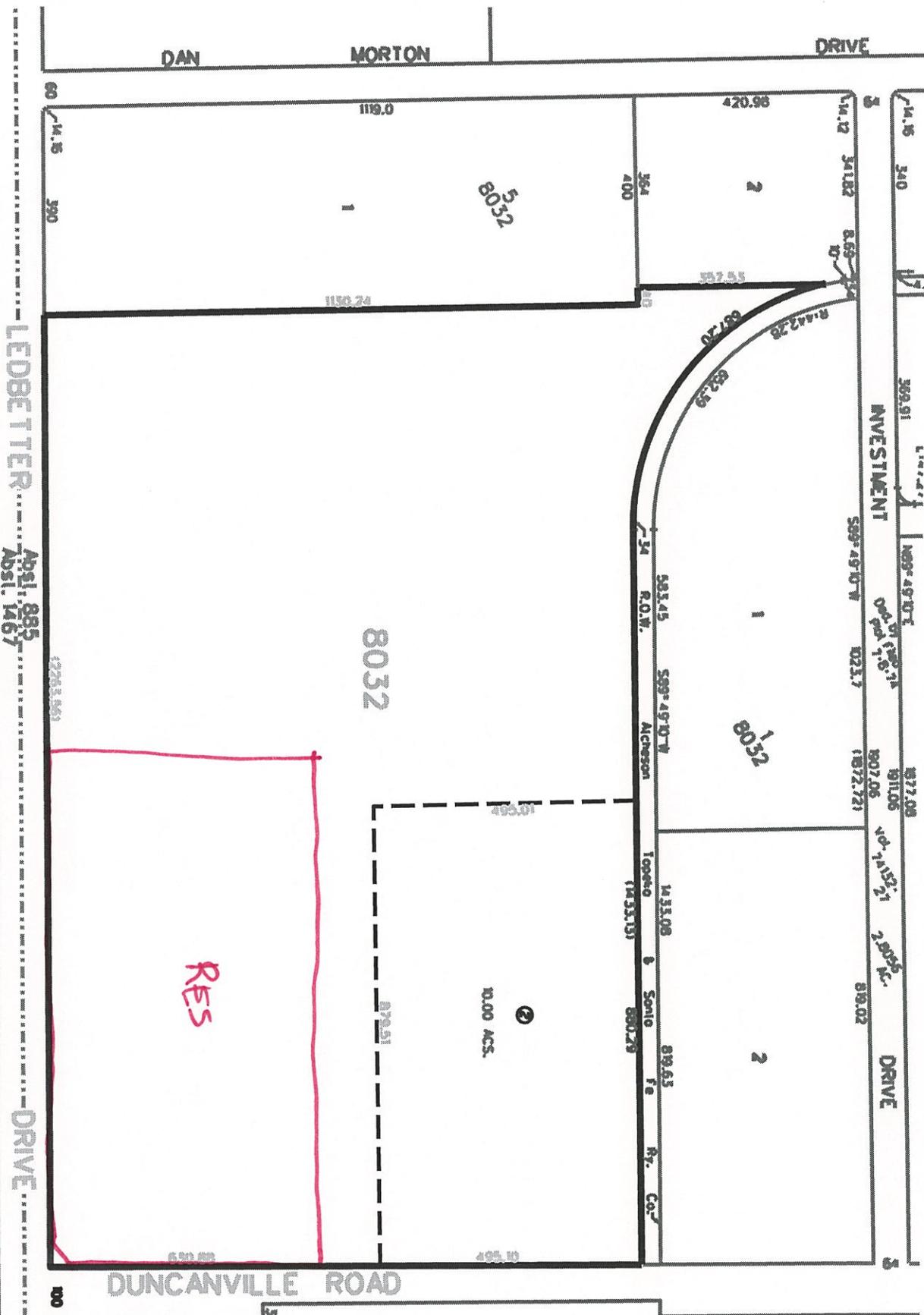
(Rev. 08-01-11)

Notary Public in and for Dallas County, Texas

Salt Lake County, Utah







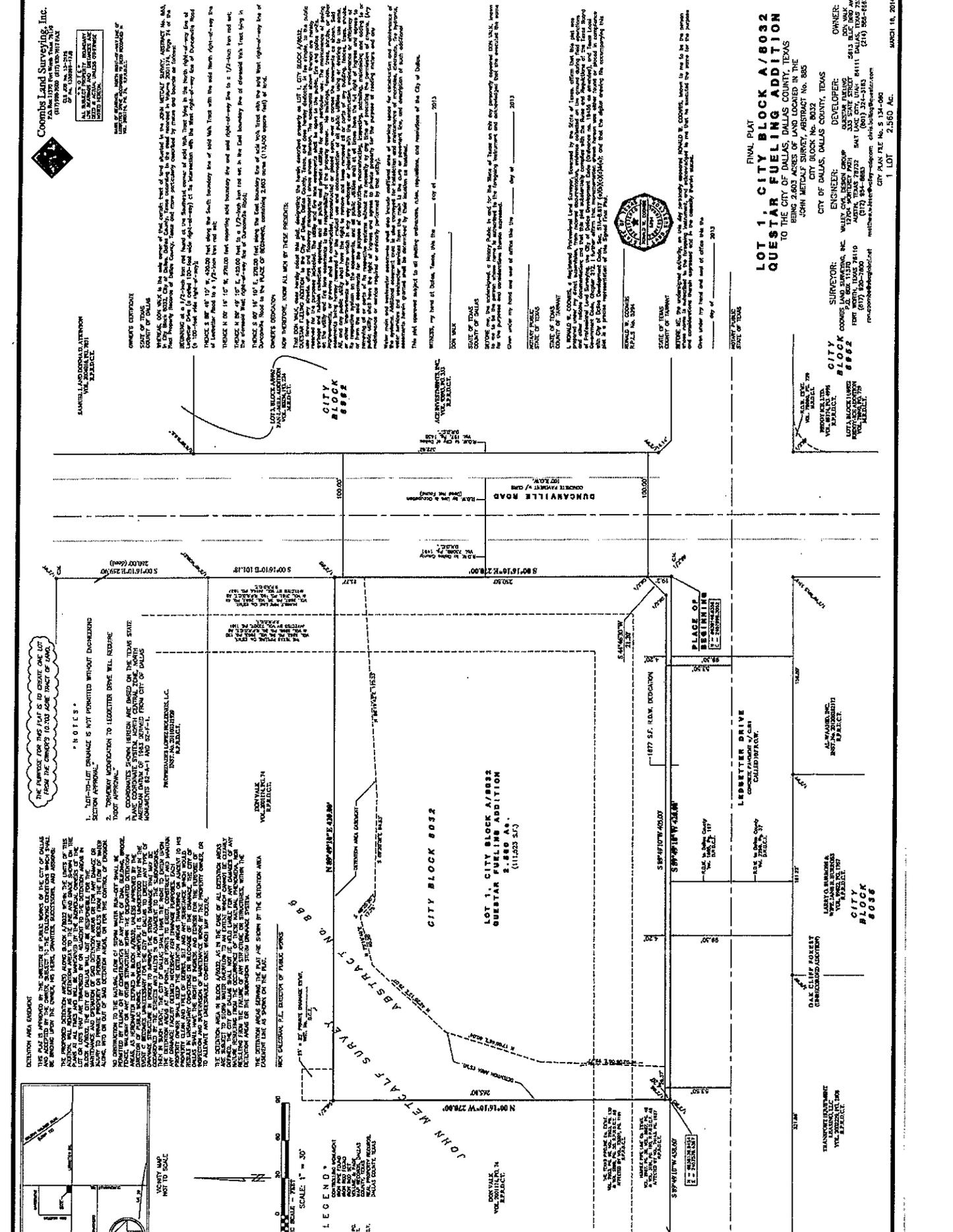
LEDBETTER Absl. 885 Absl. 1467

DRIVE

Cochran Land Surveying, Inc.
 11111 W. LBJ Fwy., Suite 1000
 Dallas, Texas 75241
 (214) 343-1234
 FAX (214) 343-1235

NOTICE
 THIS INSTRUMENT IS A PUBLIC RECORD AND IS SUBJECT TO THE PUBLIC RECORD ACT OF TEXAS, CHAPTER 253, AND THE PUBLIC INFORMATION ACT, CHAPTER 552, BOTH ACTS OF THE 71ST LEGISLATIVE SESSION, 1989.

OWNER'S CERTIFICATE
 COUNTY OF DALLAS
 COUNTY OF TARRANT



FINAL PLAT
LOT 1, CITY BLOCK A/8032
QUESTAR FUELING ADDITION
 TO THE CITY OF DALLAS, DALLAS COUNTY, TEXAS
 BEING 2.603 ACRES OF LAND LOCATED IN THE
 JOHN METCALF SURVEY, ABSTRACT NO. 885
 CITY BLOCK NO. 8032

OWNER:
 JOHN WALK
 DALLAS, TEXAS 75237
 (214) 565-4687

DEVELOPER:
 WALKER REAL ESTATE GROUP
 5615 W. WALKER
 DALLAS, TEXAS 75237
 (214) 565-4687

ENGINEER:
 WALKER REAL ESTATE GROUP
 5615 W. WALKER
 DALLAS, TEXAS 75237
 (214) 565-4687

SURVEYOR:
 COCHRAN LAND SURVEYING, INC.
 11111 W. LBJ Fwy., Suite 1000
 Dallas, Texas 75241
 (214) 343-1234

CITY:
 DALLAS, TEXAS
 CITY BLOCK NO. 8032

PLAT NO.:
 1 LOT 2,560 AC

DATE:
 MARCH 18, 2014

NO.	REVISION/DATE
1	ISSUE FOR PERMITS AND PRELIMINARY LAYOUT PLAN 08/17/2014
2	DATE

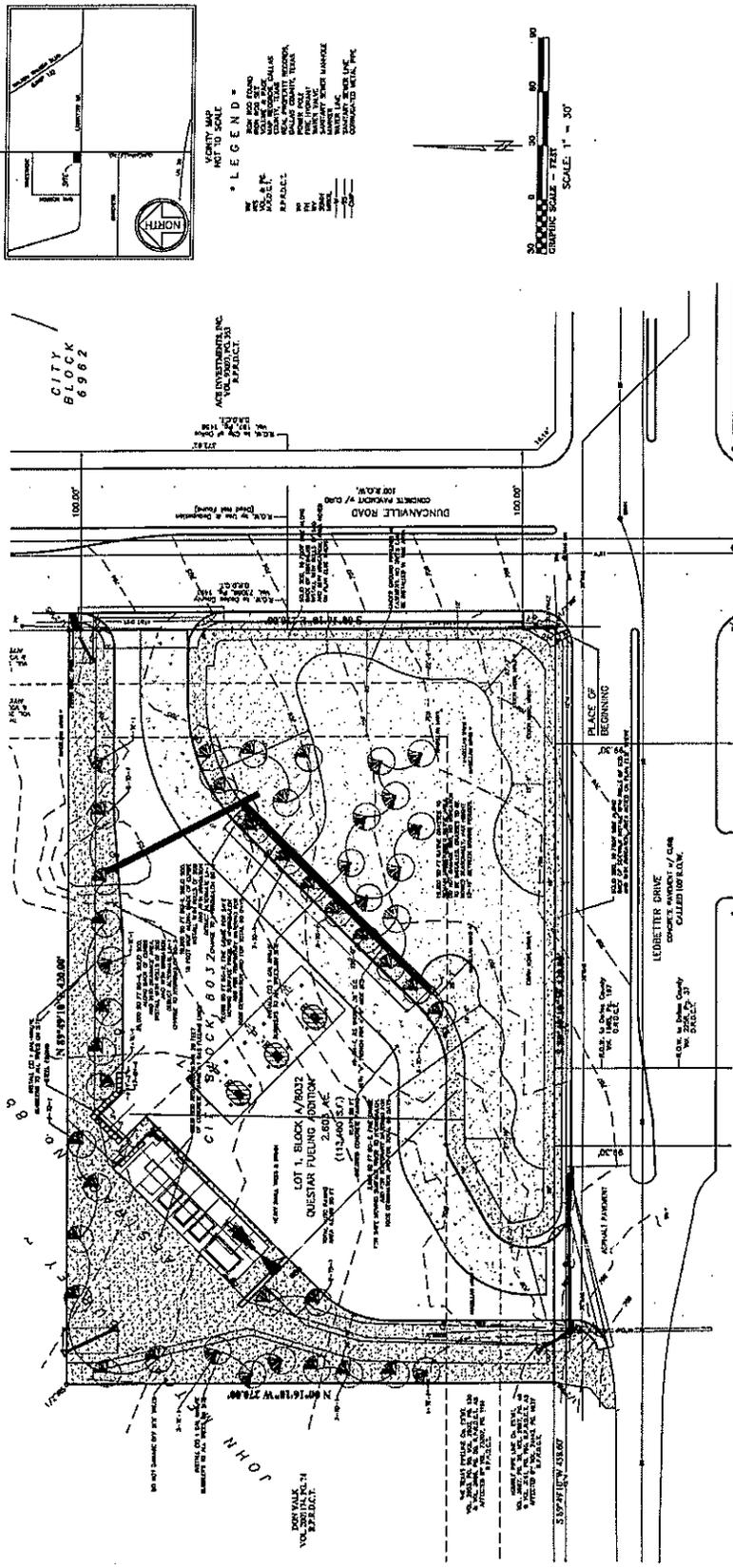
DESIGNER
 CONTACT: DAVE CUMMINS
 PHONE: 972-343-1000



QUESTAR FUELING STATION
 CITY OF DALLAS, DALLAS COUNTY, TX
LANDSCAPE PLANTING PLAN

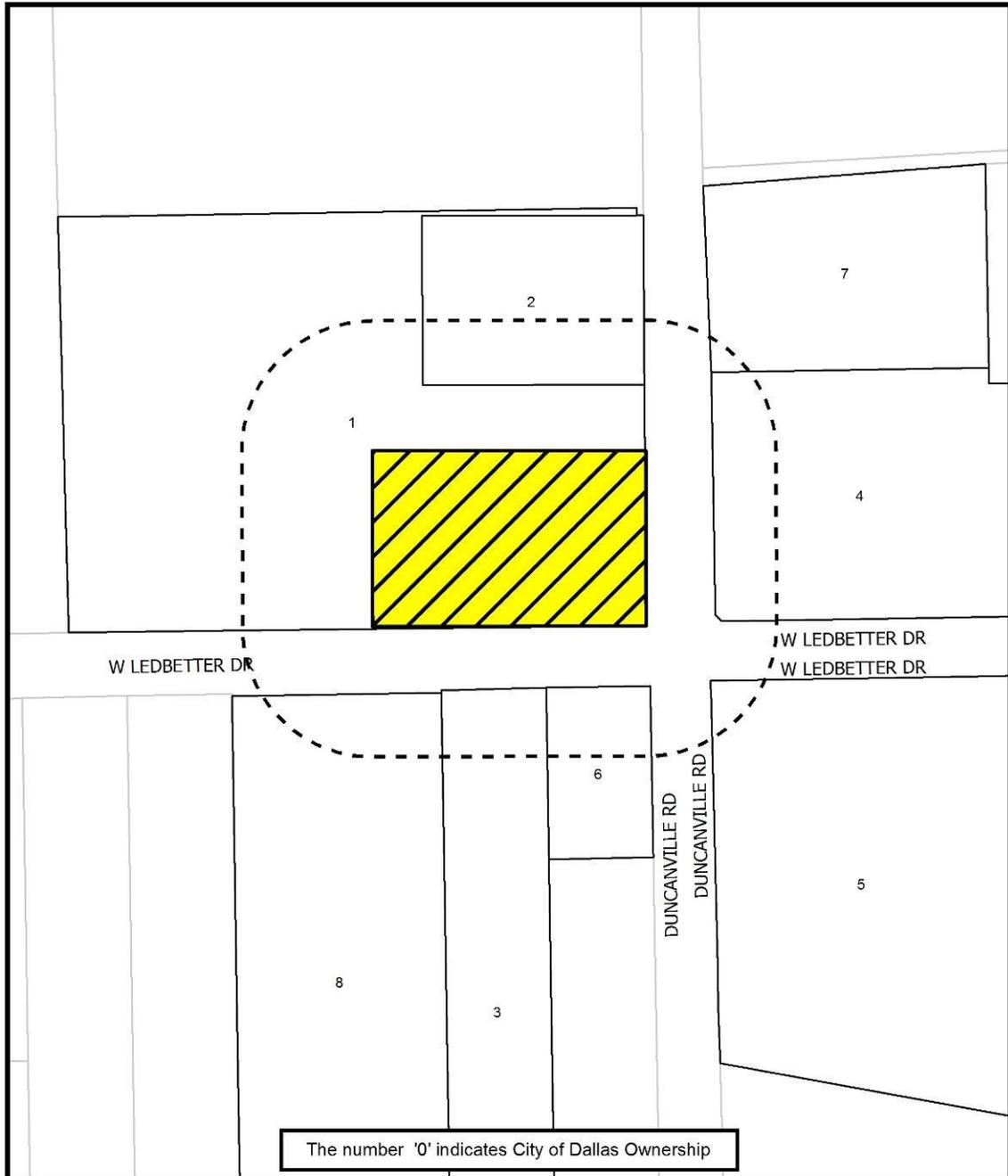
DATE: 08/17/2014
 PROJECT: QUESTAR FUELING STATION
 DRAWING NO.: LA-1

DESIGNED BY: T.H. PITCHER / ASSOCIATES
 12121 W. CAMPBELL AVE.
 SUITE 100
 DALLAS, TEXAS 75243
 PHONE: 214-887-2588
 FAX: 214-887-2589
 WWW: THPITCHER.COM



CITY OF DALLAS LANDSCAPE ORDINANCE
 LANDSCAPE AND TREE PROTECTION REGULATIONS
 CHAPTER 21C, SUBCHAPTER 21C.01, ARTICLE 21C.01.001
 21C.01.001. PURPOSE AND SCOPE. The purpose of this subchapter is to establish minimum standards for the design, installation, and maintenance of landscape and tree plantings on all lots within the City of Dallas. The standards shall apply to all lots within the City of Dallas, regardless of whether the lot is subject to a subdivision plat, a plat of survey, or a plat of a subdivision of land.

LANDSCAPE PLAN LEGEND
 TREE SYMBOLS:
 1. 10" DBH TREE (10" DBH)
 2. 12" DBH TREE (12" DBH)
 3. 14" DBH TREE (14" DBH)
 4. 16" DBH TREE (16" DBH)
 5. 18" DBH TREE (18" DBH)
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 234. 1386" DBH TREE (1386" DBH)
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 251. 1488" DBH TREE (1488" DBH)
 252. 1494" DBH TREE (1494" DBH)
 253. 1500" DBH TREE (1500" DBH)
 254. 1506" DBH TREE (1506" DBH)
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 277. 1644" DBH TREE (1644" DBH)
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 304. 1806" DBH TREE (1806" DBH)
 305. 1812" DBH TREE (1812" DBH)
 306. 1818" DBH TREE (1818" DBH)
 307. 1824" DBH TREE (1824" DBH)
 308. 1830" DBH TREE (1830" DBH)
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 311. 1848" DBH TREE (1848" DBH)
 312. 1854" DBH TREE (1854" DBH)
 313. 1860" DBH TREE (1860" DBH)
 314. 1866" DBH TREE (1866" DBH)
 315. 1872" DBH TREE (1872" DBH)
 316. 1878" DBH TREE (1878" DBH)
 317. 1884" DBH TREE (1884" DBH)
 318. 1890" DBH TREE (1890" DBH)
 319. 1896" DBH TREE (1896" DBH)
 320. 1902" DBH TREE (1902" DBH)
 321. 1908" DBH TREE (1908" DBH)
 322. 1914" DBH TREE (1914" DBH)
 323. 1920" DBH TREE (1920" DBH)
 324. 1926" DBH TREE (1926" DBH)
 325. 1932" DBH TREE (1932" DBH)
 326. 1938" DBH TREE (1938" DBH)
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 328. 1950" DBH TREE (1950" DBH)
 329. 1956" DBH TREE (1956" DBH)
 330. 1962" DBH TREE (1962" DBH)
 331. 1968" DBH TREE (1968" DBH)
 332. 1974" DBH TREE (1974" DBH)
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 336. 1998" DBH TREE (1998" DBH)
 337. 2004" DBH TREE (2004" DBH)
 338. 2010" DBH TREE (2010" DBH)
 339. 2016" DBH TREE (2016" DBH)
 340. 2022" DBH TREE (2022" DBH)
 341. 2028" DBH TREE (2028" DBH)
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 439. 2616" DBH TREE (2616" DBH)
 440. 2622" DBH TREE (2622" DBH)
 441. 2628" DBH TREE (2628" DBH)
 442. 2634" DBH TREE



 1:2,400	NOTIFICATION		Case no: BDA134-119
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">8</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 11/19/2014	

11/19/2014

Notification List of Property Owners

BDA134-119

8 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4200 DUNCANVILLE RD	VALK DON
2	4200 DUNCANVILLE RD	PROPIEADAES LOPEZ HOLDINGS LC
3	5024 LEDBETTER DR	BURROSS LARRY G & JANE B
4	4321 LEDBETTER DR	ACE INVESTMENTS INC
5	4320 DUNCANVILLE RD	REDDY ICE CORP
6	4307 DUNCANVILLE RD	AL WAAHID INC
7	4100 DUNCANVILLE RD	ATKINSON SAMUEL J &
8	5110 LEDBETTER DR	TRANSPORT EQUIPMENT

FILE NUMBER: BDA 134-124

BUILDING OFFICIAL'S REPORT: Application of Ron Ragsdale, represented by Jeff Innmon, for a special exception to the landscape regulations at 1920 McKinney Avenue. This property is more fully described as Lot 3B, Block 524, and is zoned PD-193(HC) & (PDS 66), which requires mandatory landscaping. The applicant proposes to construct and maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 1920 McKinney Avenue

APPLICANT: Ron Ragsdale
Represented by Jeff Innmon

REQUEST:

A request for a special exception to the landscape regulations is made to construct and maintain a multi-story office use/structure on a site currently under development, and not fully provide required landscaping.

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

Section 51P-193-126(a)(4) of the Dallas City Code specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required.

Rationale:

- The City of Dallas Chief Arborist supports the applicant's request because the applicant has reasonably demonstrated the proposed alternate landscape plan does not compromise the spirit and intent of the PD 193 landscape requirements for HC districts.

- In this case, the Chief Arborist notes among other things how:
 1. the applicant’s proposal to provide large canopy trees in wide planting strips compensates for the fact that the applicant is providing a lesser number than the required number of smaller than provided street trees;
 2. the fact that the majority of the aboveground parking structure within the nonresidential building is above the street-level retail units and is hidden behind an enhanced façade that rises for several levels compensates for the applicant’s request to not fully comply with the aboveground parking structure requirement of the ordinance.

BACKGROUND INFORMATION:

- Site: PD 193 (HC) & PDS 66 (Planned Development, Heavy Commercial, Planned Development)
- North: PD 193 (PDS 68) (Planned Development, Planned Development)
- South: PD 193 (HC) & PDS 66 (Planned Development, Heavy Commercial, Planned Development)
- East: PD 193 (PDS 68) (Planned Development, Planned Development)
- West: PD 193 (PDS 66) (Planned Development, Planned Development)

Land Use:

The subject site is under development. The areas to the north, south, east, and west are developed with a mix of office, residential, and retail uses.

Zoning/BDA History:

- | | |
|---|---|
| <p>1. BDA 134-086, Property at 1907 McKinney Avenue (the lot southwest of the subject site)</p> | <p>On September 16, 2014, the Board of Adjustment Panel A granted a request for a special exception to the landscape regulations, and imposed the submitted alternate landscape plan as a condition to the request. The case report stated that this request was made to construct and maintain a surface parking lot on site developed with an office structure/use (HKS) - a structure that according to the application was developed prior to the landscape ordinance adopted in the mid 80’s</p> |
| <p>2. BDA 967-300, Property at 1907 McKinney Avenue (the lot southwest of the subject site)</p> | <p>On October 28, 1997, the Board of Adjustment Panel A was informed that the originally submitted request for a special exception to the landscape regulations was removed from the docket since it had been determined by staff that the request originally heard on September 23, 1997 was not required.</p> |

GENERAL FACTS/ STAFF ANALYSIS:

- This request focuses on constructing and maintaining a multi-story office use/structure on a site currently under development, and not fully providing required landscaping. More specifically, according to the City of Dallas Chief Arborist, the proposed alternate landscape plan would reduce the required number of trees in the tree planting zone from 12 to 10 trees, and does not present a minimum 10 foot wide garage screening buffer on the sides of the building facing the streets.
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment A). The memo states how this request is triggered by new construction.
- The Chief Arborist's memo lists the following factors for consideration:
 - PD 193 (HC) does not have requirements for landscape site area, but only specifies street trees, sidewalks, and screening.
 - A portion of the property is zoned PDS 66 which requires a minimum 10 wide sidewalk and two pedestrian-scale lighting fixtures within that area along Harwood Street. These provisions are not subject to a special exception with this request and the site complies with those measures.
 - The standard requirement for street tree planting would provide 19 trees by calculation of 1 tree per 25' of frontage, however, to accommodate this requirement, the density of planting would place the trees from 12- 15 feet on center due to wide driveway entries to the garage, and due to the location of visibility triangles and utility vault conflicts. The applicant proposes to plant at total of 10 trees along Harwood Street and McKinney Avenue with a spacing of about 30 feet on center on Harwood Street (6 trees to mirror the species across the street for symmetry) and about 24 feet on center for the 4 remaining trees on McKinney Avenue.
 - The street trees proposed are 6 – 8" diameter large canopy trees. The planting area for the trees will be wide planting strips, as opposed to tree wells, which are better to accommodate the long-term growing conditions. Aerial growth conditions in the canopies and the soil volume for the root systems would be more favorable for the long-term health and growth of the fewer trees to be planted.
 - PD 193 states "aboveground parking structures must have a 10-foot landscaping buffer on any side facing a public right-of-way" and "the buffer must contain one tree for every 25 feet of frontage and evergreen shrubs planted three feet on-center."

- In this particular design, the majority of the aboveground parking structure within the nonresidential building is above the street-level retail units and hidden behind an enhanced façade that rises for several levels. Additional garage levels are below grade and have no landscape requirement or site impact. All street-level garage frontage with Harwood and McKinney is exposed primarily at the garage entryways only, being where no buffer strip would be required.
- The building and paved exterior were designed for the purpose of safe and direct pedestrian access from the street to street-level retail uses and other pedestrian entryways. Placement of buffer landscaping could conflict with accessing the retail uses in this heavy commercial district. The sidewalk to the storefront doors and street-level façade is designed with an enhanced grid pattern which should provide a visual appeal.
- The City of Dallas Chief Arborist recommends approval of this request because the applicant has reasonably demonstrated the proposed alternate landscape plan does not compromise the spirit and intent of the PD 193 landscape requirements for HC districts.
- The applicant has the burden of proof in establishing the following:
 - The special exception (where an alternate landscape plan has been submitted that is deficient in meeting the tree planting zone and garage screening buffer requirements) will not compromise the spirit and intent of Section 51P-193-126: Landscape, streetscape, screening, and fencing standards”.
- If the Board were to grant this request and impose the submitted alternate landscape plan as a condition, the site would be granted exception from full compliance to tree planting zone (lesser number of trees) and garage screening buffer requirements of the Oak Lawn PD 193 landscape ordinance.

Timeline:

October 14, 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.

November 12, 2014: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

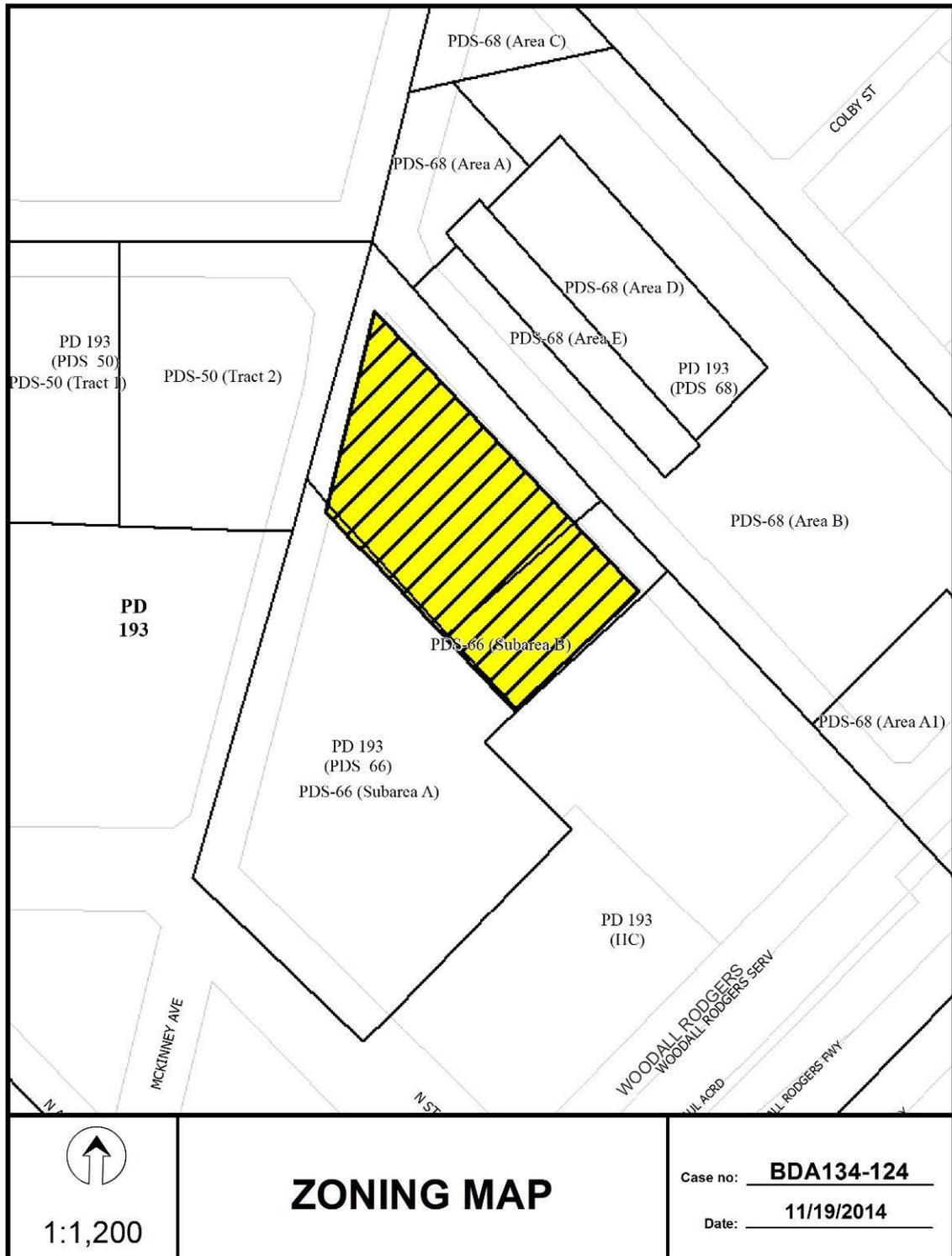
November 12, 2014: The Board Administrator emailed the applicant’s representative the following information:

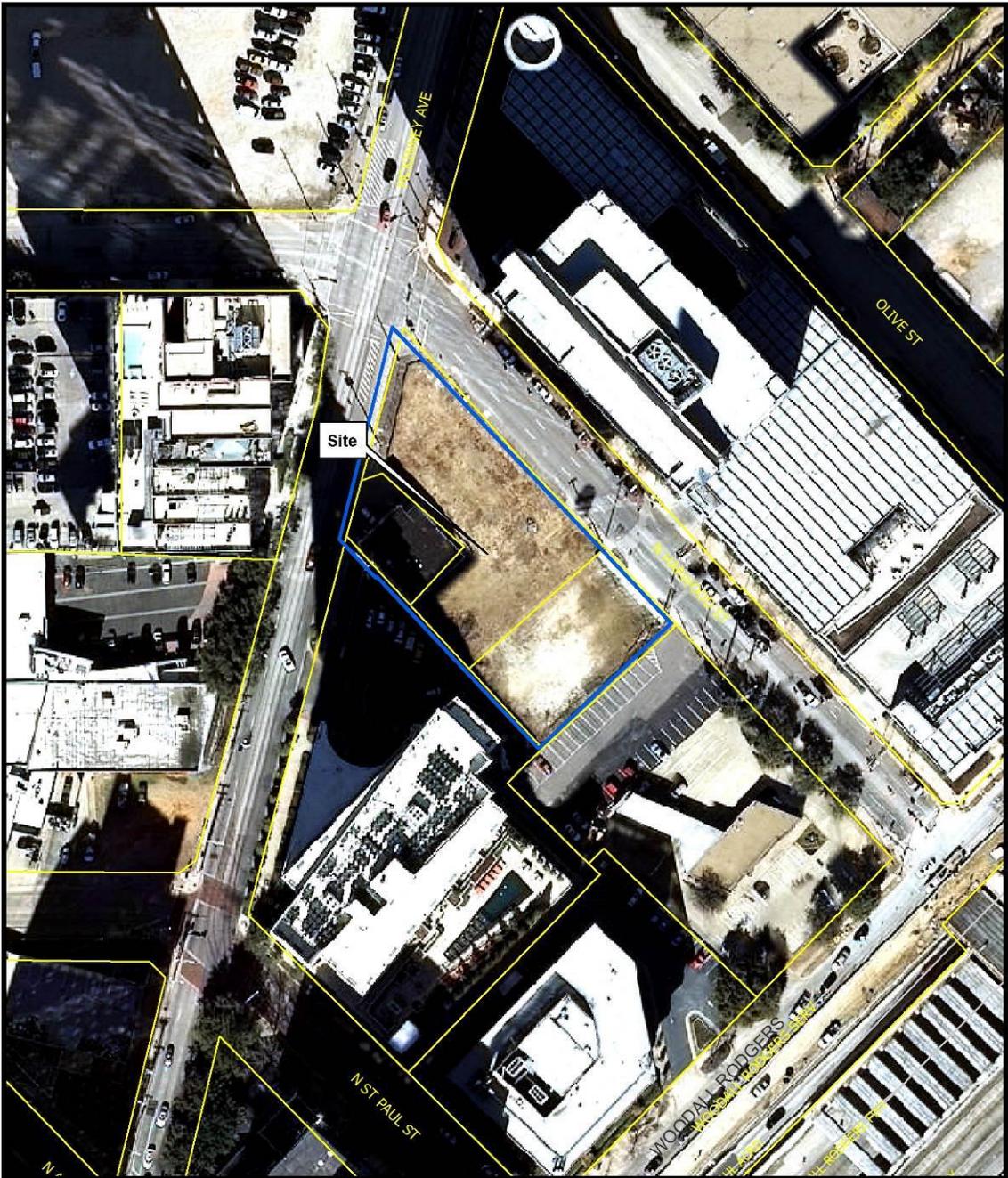
- an attachment that provided the public hearing date and panel that will consider the application; the November 26th deadline to submit additional evidence for staff to factor into their analysis; and the December 4th deadline to submit additional evidence to be incorporated into the Board’s docket 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.

December 2, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for December public hearing. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

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

December 5, 2014: The City of Dallas Chief Arborist submitted a memo regarding this application (see Attachment A).





1:1,200

AERIAL MAP

Case no: BDA134-124

Date: 11/19/2014

BDA134-124
Attach A
pg 1

Memorandum



CITY OF DALLAS

DATE December 5, 2014
TO Steve Long, Board of Adjustment Administrator
SUBJECT # BDA 134 · 124 1920 McKinney

The applicant is requesting a special exception to the landscape requirements of PD 193 (HC).

Trigger

New construction.

Deficiencies

The proposed alternate landscape plan would reduce the required trees in the tree planting zone from 12 trees to 10 trees (193.126(b)(5)). In addition, the plan does not present a minimum 10-foot wide garage screening buffer on the sides of the building facing the streets (193.126(b)(3)(D)).

Factors

PD 193 (HC) does not have requirements for landscape site area, but only specifies street trees, sidewalks and screening.

A portion of this property is regulated in PDS 66. This ordinance requires a minimum 10-foot wide sidewalk and two pedestrian-scale lighting fixtures within that area along Harwood Street. These provisions are not subject to a special exception with this request and the site can comply with these measures.

The standard requirements for street tree planting would provide 19 trees by the calculation of 1 tree per 25' of frontage. However, to accommodate this requirement on this property, the density of planting would place the trees from 12 to 15' on center due to wide driveway entries to the garage, and due to the location of visibility triangles and utility vault conflicts. The applicant proposes to plant 10 total trees, to be spaced about 30 feet on center along Harwood (6 trees to mirror the species and spacing of trees across the street for symmetry), and 24 feet on center (4 trees) along McKinney.

The street trees proposed are 6 to 8" diameter large canopy trees. The planting area for the trees will be wide planting strips (not tree wells), which is better to accommodate for long-term growing conditions, and is amended with other ground cover plant materials. Aerial growth conditions in the canopies, and the soil volume

for the root systems, would be more favorable for the long-term health, and expansive growth, of the fewer large trees to be planted.

PD 193 states "aboveground parking structures must have a 10-foot landscaping buffer on any side facing a public right-of-way" and "the buffer must contain one tree for every 25 feet of frontage and evergreen shrubs planted three feet on center."

In this particular design, the majority of the aboveground parking structure within the non-residential building is above the street-level retail units, and hidden behind an enhanced facade that rises for several levels. Additional garage levels are below grade and have no landscape requirement or site impact. All street-level garage frontage with Harwood and McKinney is exposed primarily at the garage entryways only, being where no buffer strip would be required.

The building, and paved exterior, were designed for the purpose of safe and direct pedestrian access from the street to street-level retail uses and other pedestrian entryways. Placement of buffer landscaping could conflict with accessing the retail uses in this heavy commercial district. The sidewalk to the storefront doors and street-level facade is designed with an enhanced grid pattern which should provide a visual appeal.

Recommendation

The chief arborist recommends approval of the alternate landscape plan because the applicant has reasonably demonstrated the proposed plan will not compromise the spirit and intent of PD 193 landscape requirements for HC districts.

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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-124

Data Relative to Subject Property:

Date: 10-14-14

Location address: 1920 MCKINNEY AVE Zoning District: PD 193 (H.C.)

Lot No.: 3B Block No.: 524 Acreage: .86 Census Tract: 17.04

Street Frontage (in Feet): 1) 168.09' 2) 312.69' 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

5E27

Owner of Property (per Warranty Deed): 1900 McKinney Harwood LLC

Applicant: Ron Ragsdale Telephone: 972-715-7424

Mailing Address: 2001 Ross Avenue, Dallas, TX. Zip Code: 75201

E-mail Address: Ron.Ragsdale@invesco.com

Represented by: Jeff Innmon Telephone: 214-696-1700

Mailing Address: 8115 Preston Road, Suite 700, Dallas Zip Code: 75225

E-mail Address: jeff.innmon@kdc.com

Affirm that an appeal has been made for a Variance __, or Special Exception X, of LANDSCAPE OR TREE PRESERVATION.

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:

DRIVEWAYS & SIGHT TRIANGLES DON'T ALLOW FOR TREES, MAKING REQUIRED TREE SPACING AVERAGE TOO DENSE FOR THE HEALTH AND SPECIES OF TREES REQUIRED. CLIENT REQUESTS USING DOUBLE REQUIRED SIZE OF TREE BE PLANTED, BUT MATCHING APPROPRIATE SPACING OF ADJACENT STREETS.

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 Ron Ragsdale

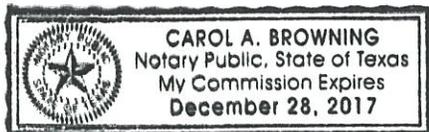
(Affiant/Applicant's name printed)

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. 1900 McKinney Harwood LLC / By: Invesco Adviser, Inc.

Respectfully submitted: [Signature]

(Affiant/Applicant's signature)

Subscribed and sworn to before me this 29th day of September, 2014

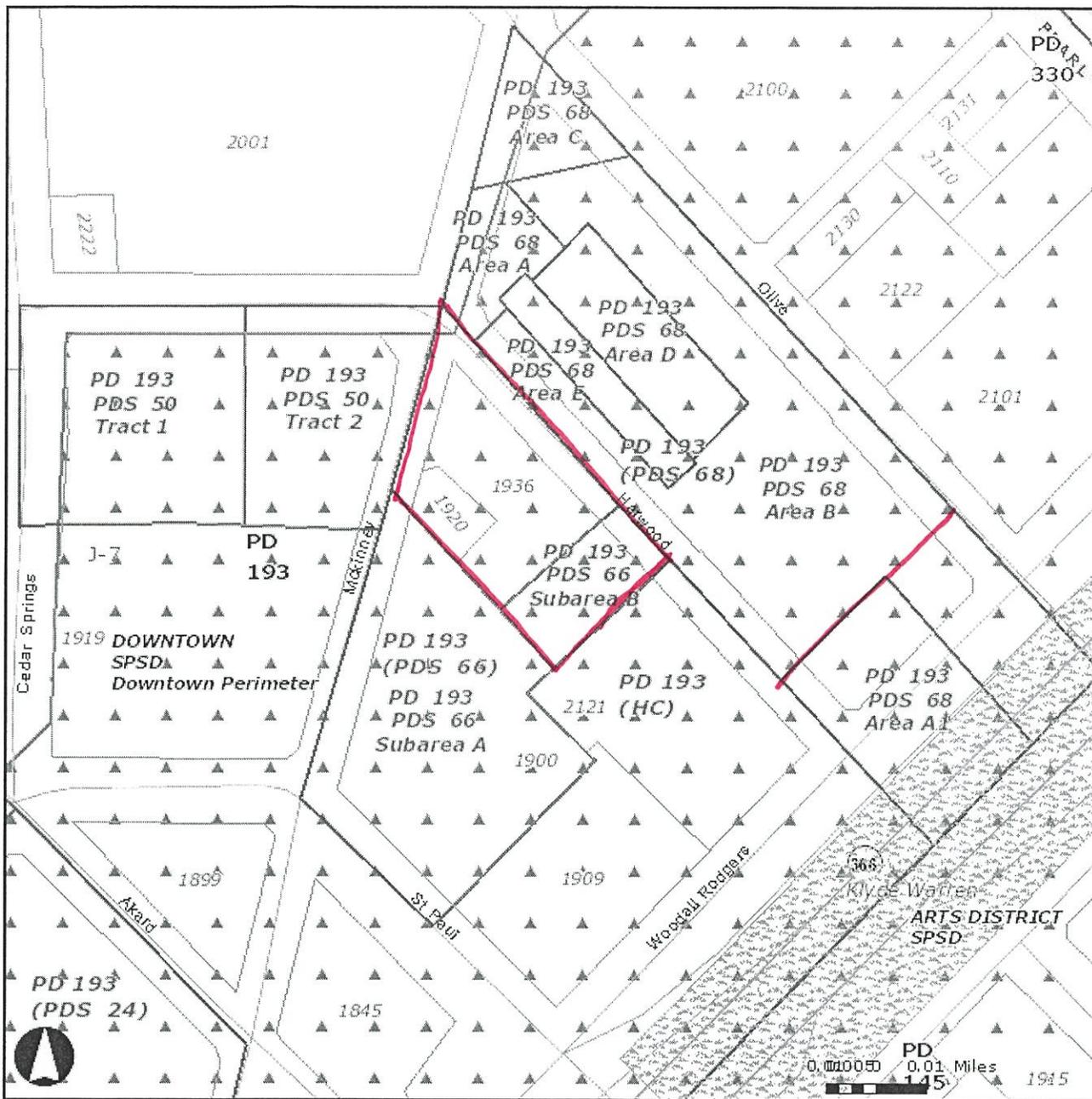


Carol A. Browning
Notary Public in and for Dallas County, Texas



ROGERS

City of Dallas Zoning



City Boundaries

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

SUP

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

PDS Subdistricts

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

UP



October 20, 2014
PK No.: 3421-14.201

Mr. Todd Duerksen
Senior Plans Examiner – Zoning Code Consultant
CITY OF DALLAS
Building Inspection Division
Department of Sustainable Development & Construction
Oak Cliff Municipal Center
320 East Jefferson Boulevard, Room 105
Dallas, Texas 75203

Re: **1920 McKinney**
Dallas, Texas

Dear Mr. Duerksen:

Per prior agreement, this memorandum is to formally amend the application for a SPECIAL EXCEPTION of an Alternate Landscape Plan for the 1920 McKinney Avenue project.

The submitted application discusses an alternative spacing of required trees to match what is across the street. The spacing is proposed to allow the project to fit within the context of existing streetscape design on the surrounding parcels.

In addition, we formally request that the 10' landscape garage buffer requirement be waived as a part of the Alternate Landscape Plan. This request is based on:

- There is no garage on the 1st floor of the structure, making a landscape buffer useless at ground level.
- Ground level is retail use, and is better served with wide, accessible sidewalks that match the surrounding community.
- The garage on upper stories has been completely concealed behind an architectural façade, making it indistinguishable as a parking garage.

Please call with any questions or clarifications.

Sincerely,

A handwritten signature in black ink that reads 'Wade Peterson'.

Wade C. Peterson, R.L.A.
Director of Landscape Architecture

WCP/mrm
3421-14.201_Landscape Exception

enc.

cc: Jeff Innmon – KDC Real Estate Development & Investments
Philip W. Erwin – City of Dallas
Andrew R. Bennett, AIA – BOKA Powell, LLC



architects | interior | landscape | graphics
 4019 West Loop, Ste. 100 | Dallas, Texas 75211
 Tel: 972.701.9000 | Fax: 972.981.3000
 www.bokapowell.com

These documents are based on field and aerial photos and are not for regulatory approval, permitting or construction.

Architect: B. Powell, Inc., Reg. No. 127294
 4019 West Loop, Ste. 100 | Dallas, TX 75211
 Address: Austin: Reg. No. 111119
 18.06.2014

client
 RDC
 8115 Preston Road, Suite 700
 Dallas, TX 75225

site engineer
 Schmidt & Stacy
 408 City Place
 Dallas, TX 75201

structural engineer
 The Structural Group
 12718 West Olympic
 Dallas, TX 75254

MEP engineer
 Parsons Brinckerhoff
 8150 North Central Expressway, Suite 1000
 Dallas, TX 75206

landscape architect
 Parsons Brinckerhoff
 8150 North Central Expressway, Suite 1000
 Dallas, TX 75206

project
 1218 McKinney
 1218 McKinney
 Dallas, TX 75201

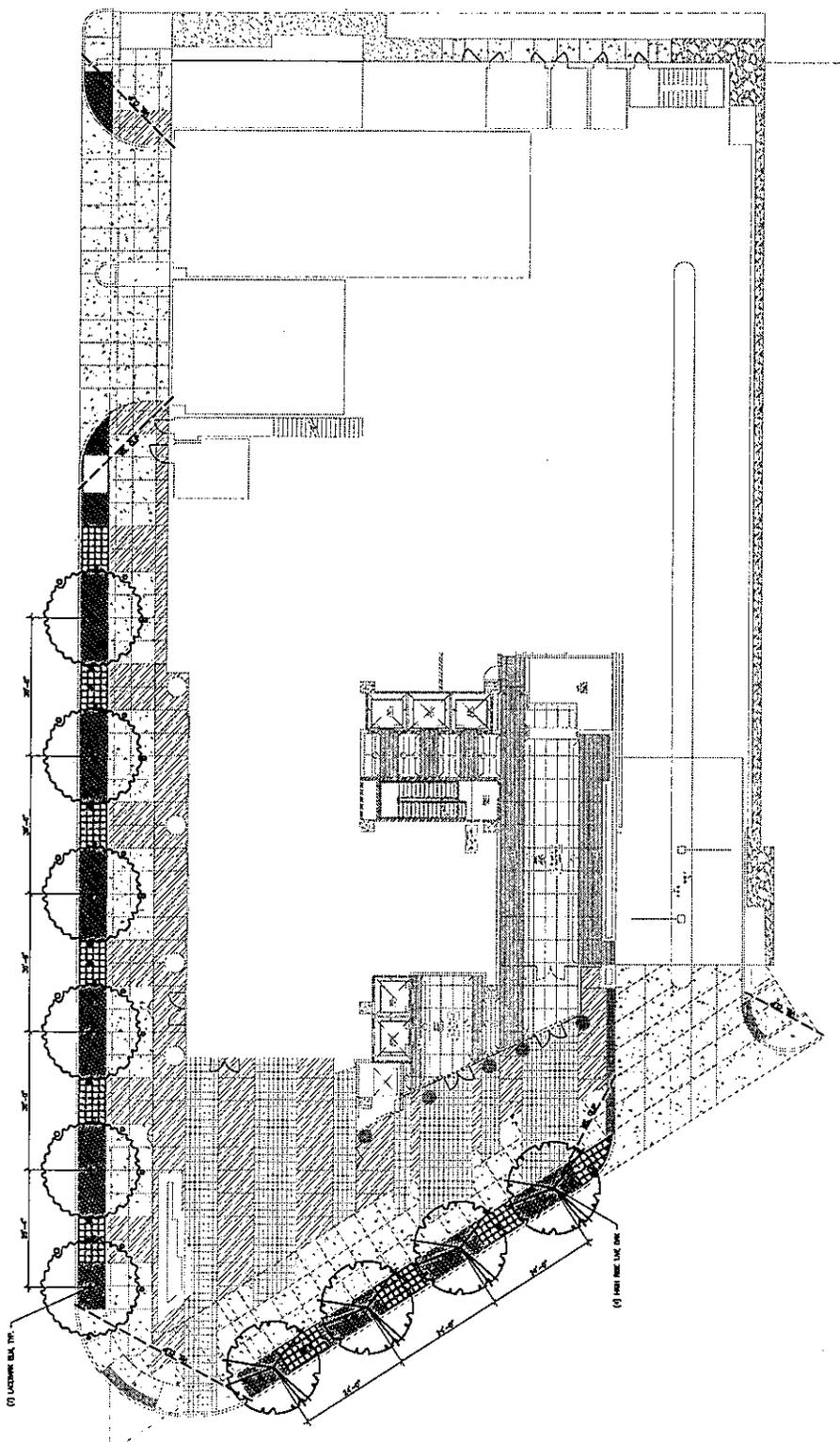
The holder of this plan shall be responsible for the accuracy of the information provided and shall be liable for any errors or omissions. The holder of this plan shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities. The holder of this plan shall be responsible for the accuracy of the information provided and shall be liable for any errors or omissions.

ISSUE FOR PERMIT 18.06.2014

revision

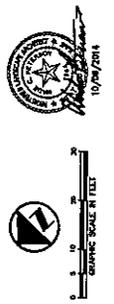
Site
 PLANTING PLAN
 project number: 13032.100
 date: 18.06.2014
 sheet

L2.01



PLANTING LEGEND

- LANDSCAPE DP
- NOI PRE LDC OK
- PLANT UNITS
- DRIVE SPREAD GRASS





architecture | interior | planning | graphics
 8609 Park Lane, Suite 300 | Dallas, Texas 75201
 Tel: 972.701.5000 | Fax: 972.991.3008
 www.bokapowerll.com

These drawings are the work of the architect and are not to be reproduced without the architect's written consent.

Architect: BOKA Powerll
 8609 Park Lane, Suite 300
 Dallas, Texas 75201
 Tel: 972.701.5000

client
 XDC
 8115 Preston Road, Suite 700
 Dallas, TX 75225

mechanical engineer
 400 Oak Ridge
 7711 North Buckle Ave
 Dallas, TX 75204

structural engineer
 Thornton Tomasetti
 7000 North Central Expressway
 Dallas, TX 75204

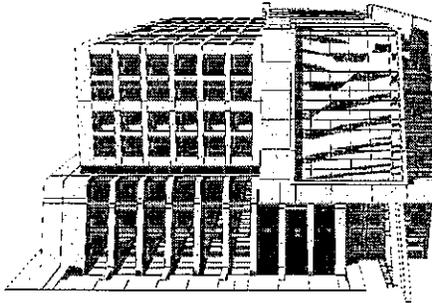
electrical engineer
 Prohaska Koch
 8250 North Central Expressway, Suite 1000
 Dallas, TX 75206

landscape architect
 8350 North Central Expressway, Suite 1000
 Dallas, TX 75206

project
 1500 MOOREY
 1500 Moorey
 Avenue
 Dallas, TX 75201

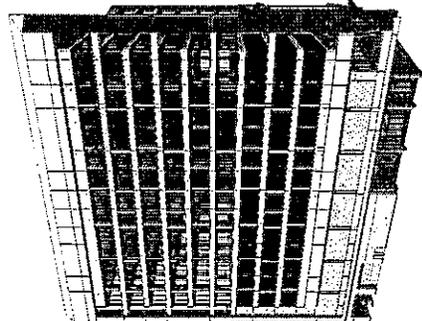
The Project is to be used for the purpose of the permit only. It is not to be used for any other purpose without the written consent of the architect. The Project is to be used for the purpose of the permit only. It is not to be used for any other purpose without the written consent of the architect.

EXTERIOR ELEVATIONS - WEST & NORTH
 project number 15002.100
 date 08.08.2014
 sheet A4.00

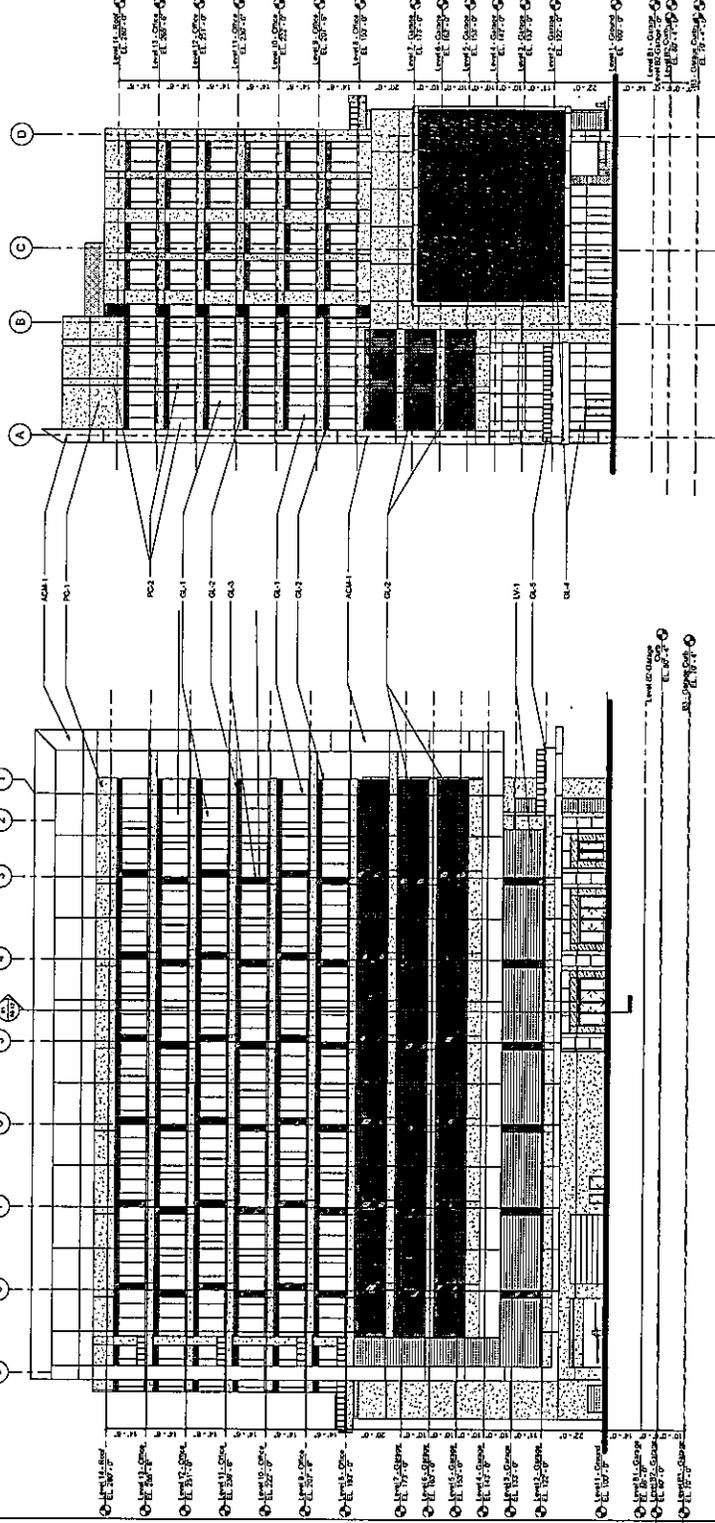


02 BUILDING PERSPECTIVE - WEST
 SCALE 1/8"=1'-0"

EXTERIOR MATERIALS SCHEDULE	
01A	DESCRIPTION
01A	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01B	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01C	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01D	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01E	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01F	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01G	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01H	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01I	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01J	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01K	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01L	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01M	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01N	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01O	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01P	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01Q	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01R	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01S	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01T	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01U	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01V	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01W	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01X	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01Y	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM
01Z	1" POLISHED GRANITE, HUNG GYPSUM, WHITE GRAY, VALERIUM



04 BUILDING PERSPECTIVE - NORTH
 SCALE 1/8"=1'-0"



01 OVERALL WEST ELEVATION
 SCALE 1/8"=1'-0"

03 OVERALL NORTH ELEVATION
 SCALE 1/8"=1'-0"



architecture | interiors | planning | graphics
 8079 Hall Lane, Suite 300 | Dallas, Texas 75221
 Tel: 972.701.9000 | Fax: 972.991.3008
 www.bokapowell.com

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 AEC: David J. Davis, J., Reg. No. 7201
 AIA: Chris V. Bowers, Reg. No. 10127
 Architect/Engineer: Reg. No. 18129

CLIENT
 XDC
 8115 Preston Road, Suite 700
 Dallas, TX 75225

MEP ENGINEER
 MCKEY
 400 CAY PLACE
 DALLAS, TX 75204

STRUCTURAL ENGINEER
 MCKEY
 12750 W. GILBERT
 DALLAS, TX 75244

OLD ENGINEER
 PACHECO KIRCH
 8250 North Central Expressway, Suite 1000
 Dallas, TX 75206

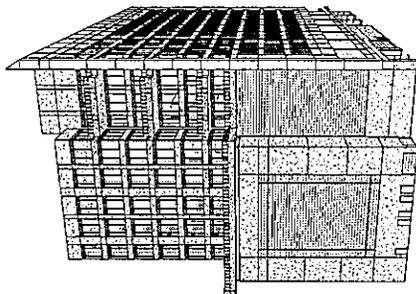
LANDSCAPE ARCHITECT
 MCKEY
 8250 North Central Expressway, Suite 1000
 Dallas, TX 75206

PROJECT
 1500 MCJORITY
 1500 MCJORITY
 AVENUE
 DALLAS, TX 75201

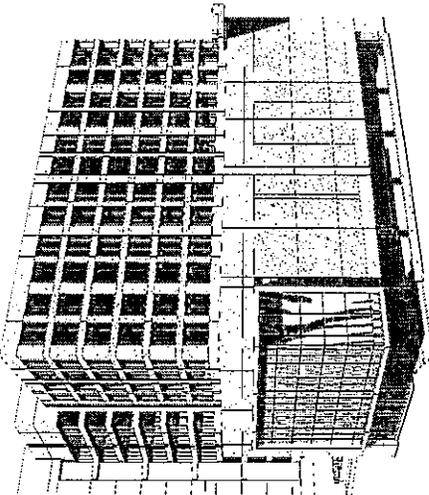
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 ISSUE FOR RECORD (GRADE PERMIT)
 08.08.2014

MEP
 EXTERIOR ELEVATIONS -
 EAST & SOUTH
 preparation 13.02.100
 date 08.08.2014
 sheet

A4.01

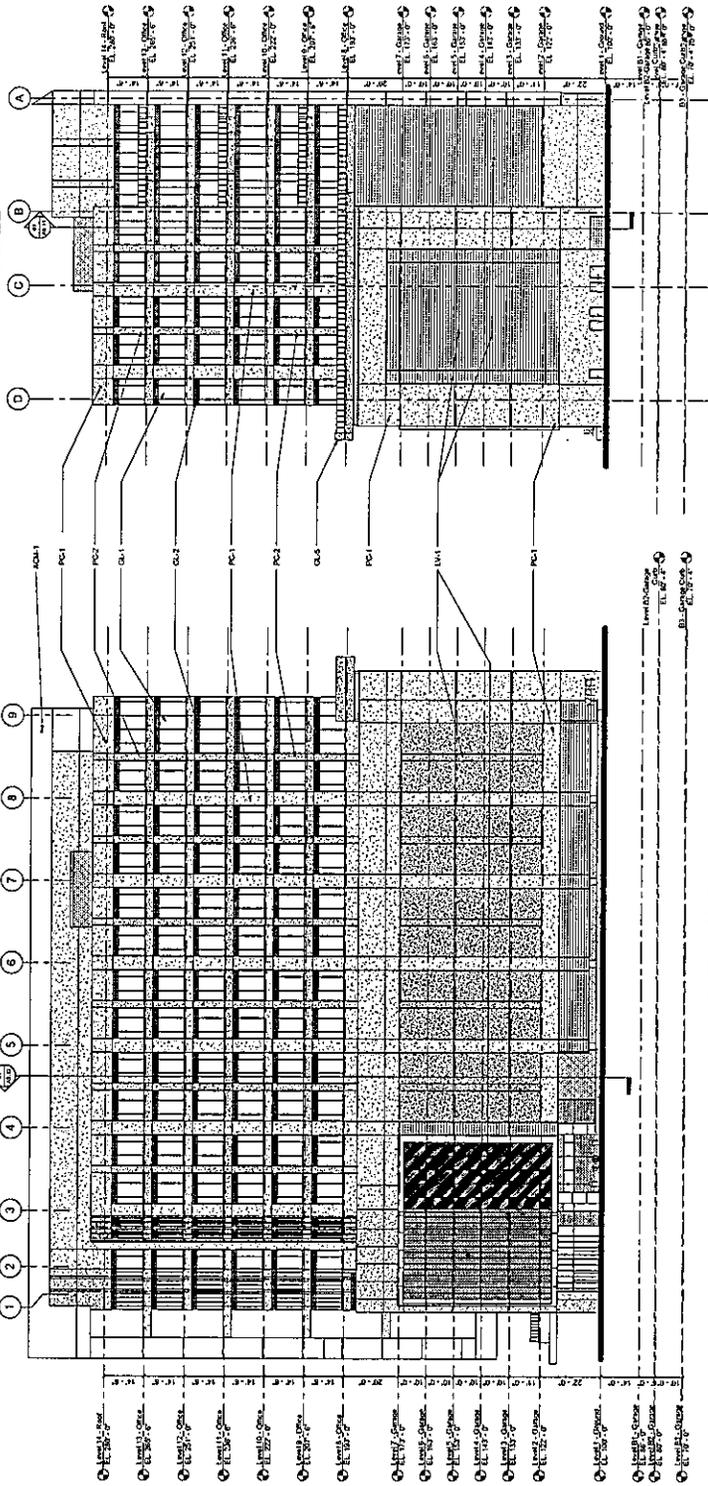


EXTERIOR MATERIALS SCHEDULE	
TAG	DESCRIPTION
GL-1	1" INSULATED GLAZING; TYPICAL GLASS; TINTED GLASS; LOW-E MIRROR REFLECTIVE 17%.
GL-2	1" INSULATED GLAZING; TYPICAL GLASS; TINTED GLASS; LOW-E MIRROR GLASS; MIRRORING 17% REFLECTIVE.
GL-3	1" INSULATED GLAZING; TYPICAL GLASS; AGENT FINISH WITH LAMINATE 17% GLASS; MIRRORING 17% REFLECTIVE.
GL-4	1" INSULATED GLAZING; TYPICAL GLASS; LOW-E TINTED GLASS; MIRRORING 17% REFLECTIVE.
GL-5	1" INSULATED GLAZING; TYPICAL GLASS; LOW-E TINTED GLASS; MIRRORING 17% REFLECTIVE.
PC-1	PRECAST CONCRETE FINISH; SMOOTH; UNFINISHED.
PC-2	PRECAST CONCRETE FINISH; SMOOTH; UNFINISHED; PAINT TO MATCH STANDARD COLOR ACCORDANT.
AM-1	ALUMINUM COMPANEL; 4x8x1/4; UNFINISHED.
FF-1	FRY TANK SYSTEM; 1/2" THICK; UNFINISHED.
IF-1	INTERIOR FINISH; 1/2" THICK; UNFINISHED.
IS-1	INTERIOR SILLING; 1/2" THICK; UNFINISHED.
CS-1	STANDARD CONCRETE; 4x8x1/4; UNFINISHED.
CM-1	MORTAR; 1/2" THICK; UNFINISHED.



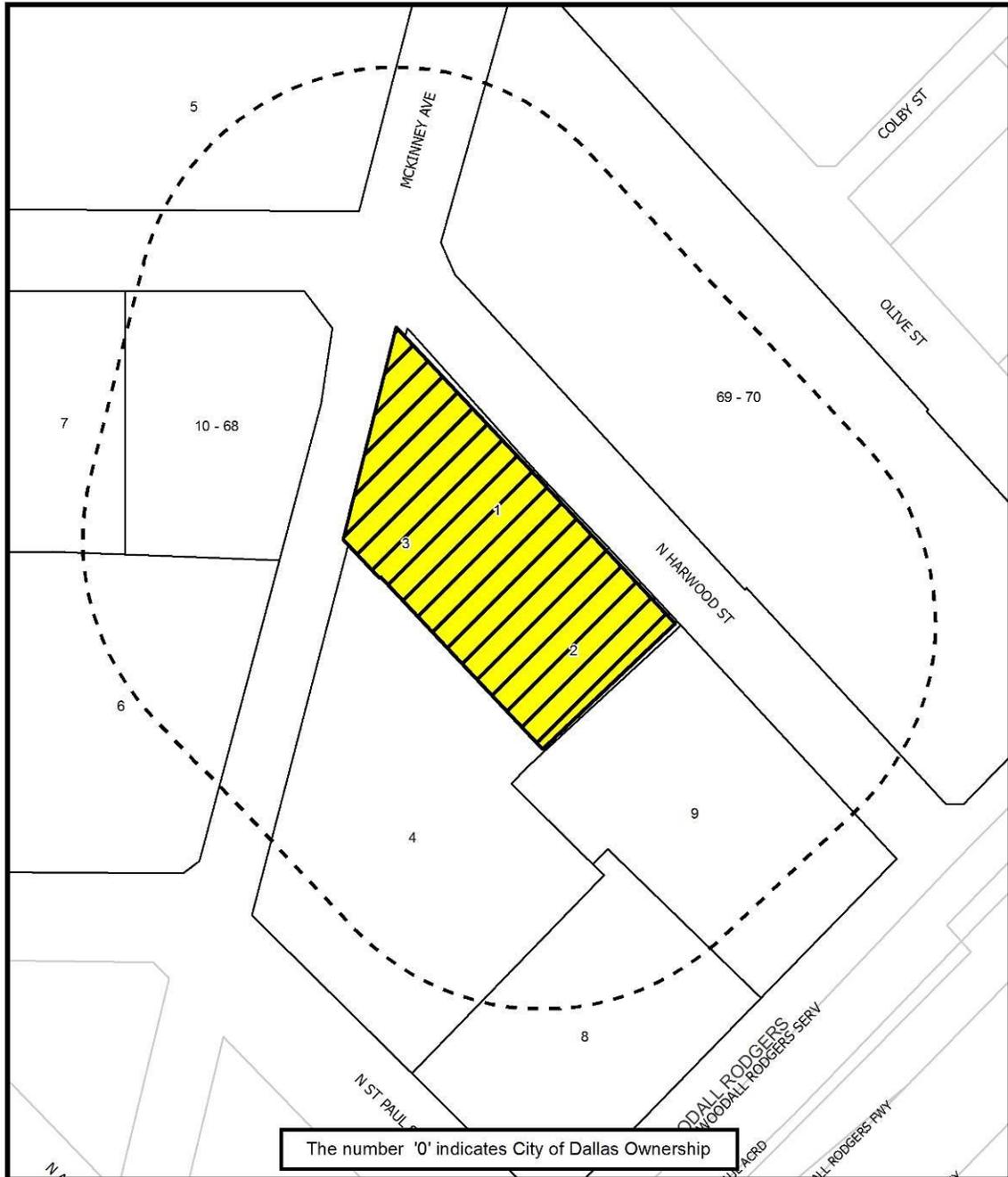
02 BUILDING PERSPECTIVE - EAST
 SCALE 1/8" = 1'-0"

04 BUILDING PERSPECTIVE - SOUTH
 SCALE 1/8" = 1'-0"



01 OVERALL EAST ELEVATION
 SCALE 1/8" = 1'-0"

03 OVERALL SOUTH ELEVATION
 SCALE 1/8" = 1'-0"



 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">70</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	70	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: BDA134-124 Date: 11/19/2014
200'	AREA OF NOTIFICATION					
70	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA134-124

70 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1936 MCKINNEY AVE	1900 MCKINNEY HARWOOD LLC
2	2125 HARWOOD ST	1900 MCKINNEY HARWOOD LLC
3	1920 MCKINNEY AVE	1900 MCKINNEY HARDWOOD LLC
4	1900 MCKINNEY AVE	MCP 1900 MCKINNEY LLC
5	2001 MCKINNEY AVE	CRESCENT CROWN LAND HOLDINGS SPV LLC
6	1919 MCKINNEY AVE	HKS BUILDINGS LP
7	1900 CEDAR SPRINGS RD	1900 CS A LLC
8	1909 WOODALL RODGERS FWY	L & W REAL ESTATE LLC
9	2121 HARWOOD ST	L & W REAL ESTATE LLC
10	1999 MCKINNEY AVE	WAGNER JONATHAN
11	1999 MCKINNEY AVE	MOORE F DAVID
12	1999 MCKINNEY AVE	ARROYO DEANNE ALYSSA
13	1999 MCKINNEY AVE	CHEN PHILIP
14	1999 MCKINNEY AVE	SMITH WALTER G &
15	1999 MCKINNEY AVE	KALIL STEPHEN A &
16	1999 MCKINNEY AVE	GARRETT MICHAEL L &
17	1999 MCKINNEY AVE	FOX JAMES P & KATHLEEN K
18	1999 MCKINNEY AVE	JAIN ANISH K &
19	1999 MCKINNEY AVE	HENDRICKSON DWIGHT ETAL
20	1999 MCKINNEY AVE	SHABAN ALI HUSSAIN
21	1999 MCKINNEY AVE	CURTIS AUDREY A
22	1999 MCKINNEY AVE	STALEY MARY
23	1999 MCKINNEY AVE	HUTCHINSON WILLIAM L & SUZANNE S
24	1999 MCKINNEY AVE	SHARP THOMAS L
25	1999 MCKINNEY AVE	DEANE BELINDA
26	1999 MCKINNEY AVE	BUGG ROBERT C

Label #	Address	Owner
27	1999 MCKINNEY AVE	SALES SUSAN CAROLINE
28	1999 MCKINNEY AVE	MEDINA MICHAEL A
29	1999 MCKINNEY AVE	KAYE JONATHAN D
30	1999 MCKINNEY AVE	HSBC BANK US NA
31	1999 MCKINNEY AVE	STUVE OLAF &
32	1999 MCKINNEY AVE	WERBNER MARK
33	1999 MCKINNEY AVE	DUFOUR FRANK & KRISTIN LEE
34	1999 MCKINNEY AVE	HOUSE JAMES A &
35	1999 MCKINNEY AVE	HALBERT LINDSEY &
36	1999 MCKINNEY AVE	BARTLETT CHARLES M & MELISSA S
37	1999 MCKINNEY AVE	STRONG BRENDA L
38	1999 MCKINNEY AVE	MOORE LARRY H & DORRINE B
39	1999 MCKINNEY AVE	SCHUBERT FRANK B &
40	1999 MCKINNEY AVE	DOWLING MAUREEN F
41	1999 MCKINNEY AVE	SEBRA GEORGE J
42	1999 MCKINNEY AVE	DAWSON G STEVEN & KAY M
43	1999 MCKINNEY AVE	HAINES CAPITAL GROUP LLC
44	1999 MCKINNEY AVE	KISBERG PAMELA
45	1999 MCKINNEY AVE	ROY JOHN PARKER
46	1999 MCKINNEY AVE	BRINK RICHARD R &
47	1999 MCKINNEY AVE	OBERING MIHOKO K
48	1999 MCKINNEY AVE	BRADFORD TED R
49	1999 MCKINNEY AVE	BRUNT WILLIAM B
50	1999 MCKINNEY AVE	WOMACK STEVEN W
51	1999 MCKINNEY AVE	CAIRE MARY
52	1999 MCKINNEY AVE	MALONE MICHAEL W
53	1999 MCKINNEY AVE	EDMISTON ANGIE L
54	1999 MCKINNEY AVE	CLB PARTNERS, LTD.
55	1999 MCKINNEY AVE	ABINGTON TOM E & GLYNDA C
56	1999 MCKINNEY AVE	MILLER JAMES H & ROSANNE T
57	1999 MCKINNEY AVE	MYERSCOUGH DAVID TRUSTEE

11/19/2014

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
58	1999 MCKINNEY AVE	WINTER F DAVID JR & RENEE
59	1999 MCKINNEY AVE	PRENTISS MICHAEL & STEFANIE K
60	1999 MCKINNEY AVE	LOMAT INVESTMENTS INC
61	1999 MCKINNEY AVE	FRENCH ROBERT P & MARSHA B
62	1999 MCKINNEY AVE	TABBAL GEORGES
63	1999 MCKINNEY AVE	HORTON EMILY
64	1999 MCKINNEY AVE	PRITCHARD JOHNNY G &
65	1999 MCKINNEY AVE	ASHMORE GLEN A
66	1999 MCKINNEY AVE	EISENSTEIN ABRAM &
67	1999 MCKINNEY AVE	KAYE JONATHAN DAVID
68	1999 MCKINNEY AVE	LEDBETTER FINLEY & JONI
69	2000 MCKINNEY AVE	2000 MCKINNEY INVESTMENT
70	2000 MCKINNEY AVE	PARKSIDE RESIDENTIAL LP

FILE NUMBER: BDA 134-126

BUILDING OFFICIAL'S REPORT: Application of Lorri Davis, represented by John Dwyre, to appeal the decision of the administrative official at 8500 N. Stemmons Freeway, Suite 4040. This property is more fully described as Lot 3, Block 7941, and is zoned MU-3, which requires that the building official shall deny a certificate of occupancy if the building official determines that the certificate of occupancy being applied for is in violation of the Dallas Development Code, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations. The applicant proposes to appeal the decision of an administrative official in the denial of a certificate of occupancy.

LOCATION: 8500 N. Stemmons Freeway, Suite 4040

APPLICANT: Lorri Davis
Represented by John Dwyre

REQUEST:

The submitted application states that the applicant is appealing the denial of a certificate of occupancy on a site developed with a multi-story office structure that includes Suite 4040, the specific suite that is the focus of this request.

STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:

Dallas Development Code Sections 51A-3.102(d)(1) and 51A-4.703(a)(2) state that any aggrieved person may appeal a decision of an administrative official when that decision concerns issues within the jurisdiction of the Board of Adjustment.

The Board of Adjustment may hear and decide an appeal that alleges error in a decision made by an administrative official. Tex. Local Gov't Code Section 211.009(a)(1).

Administrative official means that person within a city department having the final decision-making authority within the department relative to the zoning enforcement issue. Dallas Development Code Section 51A-4.703(a)(2).

BACKGROUND INFORMATION:

Zoning:

Site: MU-3 (Mixed Use)
North: MU-3 (Mixed Use)
South: MU-3 (Mixed Use)
East: IR (Industrial Research)
West: MU-3 (Mixed Use)

Land Use:

The subject site is developed with a multi-story office structure that includes Suite 4040, the specific suite that is the focus of this request. The areas to the north and south appear to be developed with retail uses; the area to the east is developed with a private country club use (Brook Hollow Golf Club), and to the west is Stemmons Freeway.

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.

GENERAL FACTS/STAFF ANALYSIS:

- The board shall have all the powers of the administrative official on the action appealed from. The board may in whole or in part affirm, reverse, or amend the decision of the official.

Timeline:

September 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.

November 12, 2014: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

November 12, 2014: The Board Administrator emailed the applicant's representative the following information:

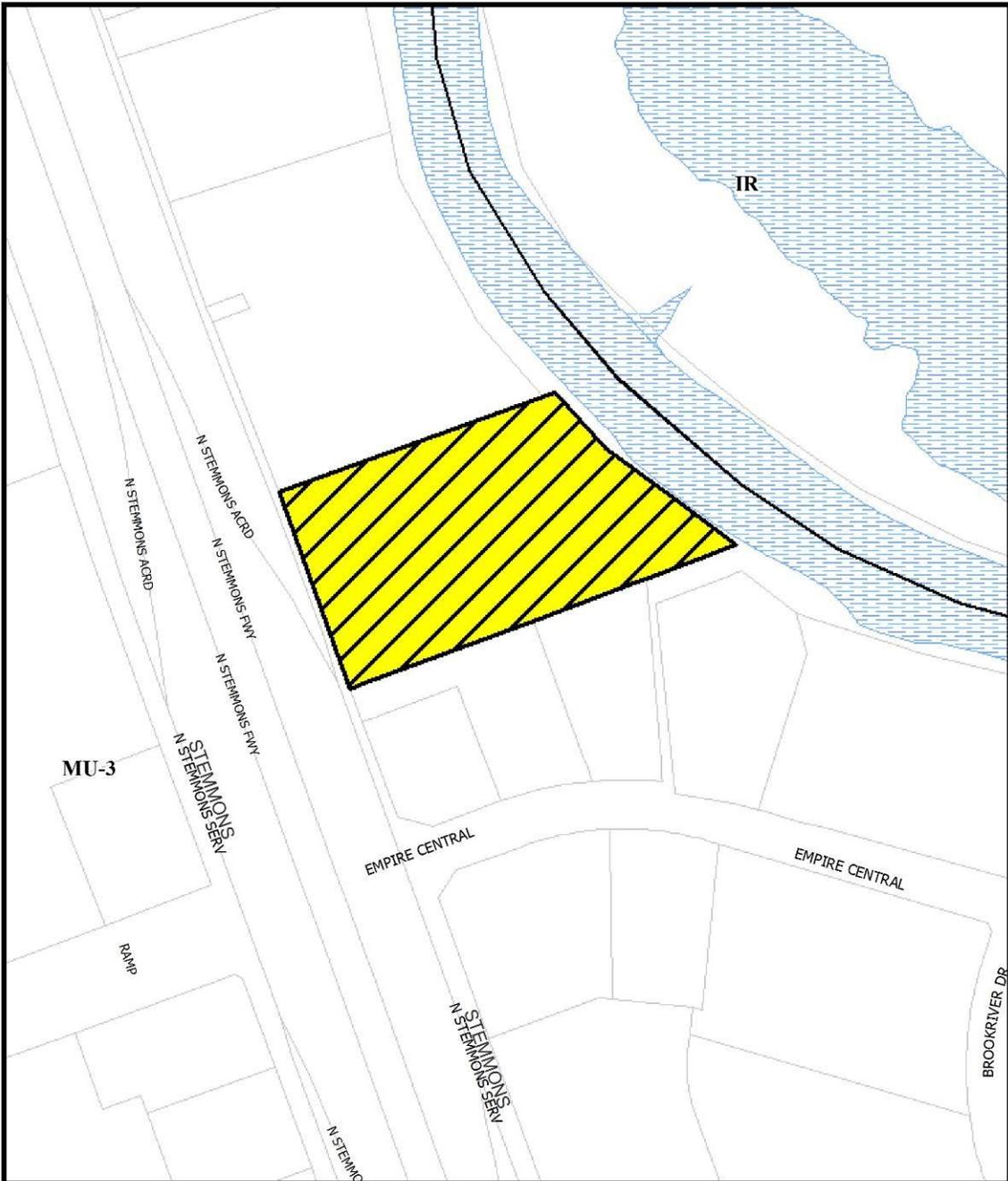
- an attachment that provided the public hearing date and panel that will consider the application; the November 26th deadline to submit additional evidence for staff to factor into their analysis (with a notation that staff does not form a recommendation on this type of application); and the December 5th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the outline of procedure for appeals from decisions of the building official to the board of adjustment; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

December 1, 2014: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded additional information that the applicant had submitted to him to the Board Administrator (see Attachment A).

December 2, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for December public hearing. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

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

December 5, 2014: The Assistant City Attorney assisting the Building Official on this application submitted additional documentation to the Board Administrator beyond what was submitted with the original application (see Attachment B).



1:2,400

ZONING MAP

Case no: BDA134-126

Date: 11/19/2014

Long, Steve

From: Duerksen, Todd
Sent: Monday, December 01, 2014 9:04 AM
To: Long, Steve
Subject: FW: Documents for Appeal Hearing
Attachments: Appeal Docs.pdf

Steve,

At the request of the applicant, please add these documents to the **BDA134-126, 8500 Stemmons Freeway, Suite 4040**, appeal file.

-----Original Message-----

From: Christy Sasser [<mailto:christy.sasser@powerfinancetexas.com>]
Sent: Wednesday, November 26, 2014 12:00 PM
To: Duerksen, Todd
Cc: Lorri Davis
Subject: Documents for Appeal Hearing

Mr. Duerksen:

I came by your office today to drop off documents for our appeals hearing. Unfortunately, you were out of the office. I left the paperwork with Ms. Ethel Green. I am also attaching digital copies to this email. Please let me know if you have any questions.

Thanks,

Christy Sasser
Power Finance

JOHN STEVEN DWYRE
Board Certified Civil Trial
Board Certified Consumer &
Commercial Law

ANDREW E. SATTLER



JOHN DWYRE & ASSOCIATES, PLLC
Attorneys at Law
4207 Gardendale, Suite 104-B
San Antonio, Texas 78229

11:09am
NOV 26 2014
By: R Keller
(210) 736-1772
FAX (888) 736-4543

July 22, 2014

Board of Adjustment Panel
City of Dallas Department of Sustainable
Development & Construction
320 E. Jefferson Blvd. Rm. 105
Dallas, TX 75203

Sent via Hand Delivery

BDA 134-126
Attach A
Pg 2

Re: Submission of Information by CBA Leasing Ltd, d/b/a Power Finance of Texas,
BDA 134-126

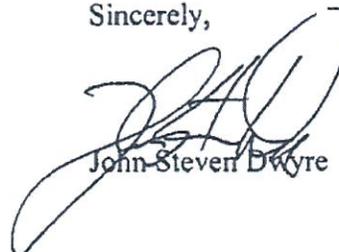
Dear Board Members:

Attached to this letter please find the following documents that are submitted to you in the above identified case before the board regarding an appeal of the decision of an administrative official of the property located at 8500 N. Stemmons Freeway, Suite 4040. The provided documents include the following:

1. Copy of Credit Access Business License issued by the Texas Office of the Consumer Credit Commissioner;
2. Copies of current and past Credit Services Organization registrations from the Texas Secretary of State;
3. Copies of the four criminal complaints made against CBA Leasing, Ltd by the City of Dallas in the Dallas Municipal Court;
4. Copies of the four Not Guilty Orders from the Dallas Municipal Court; and
5. Excerpts from chapter 393 of the Texas Finance Code.

Thank you for your consideration of these matters.

Sincerely,



John Steven Dwyre

AMENDED COMPLAINT NO: Z13-000856

STATE OF TEXAS
COUNTY OF DALLAS
CITY OF DALLAS

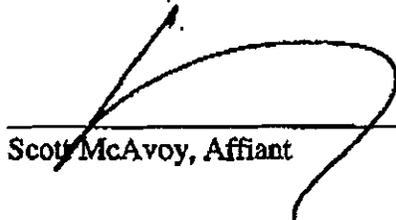
IN THE MUNICIPAL COURT
CITY OF DALLAS, TEXAS

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:

Personally appeared before me, the undersigned authority, this affiant, Scott McAvoy, Inspector, who after being by me duly sworn, deposes and says he has good reason to believe and does believe based on personal investigation of such offense, that CBA Leasing Ltd. d/b/a Power Finance, hereinafter called actor, on or about October 18, 2013, and before the making and filing of this complaint, in the City of Dallas, Dallas County, State of Texas, did then and there unlawfully:

and knowingly conduct an alternative financial establishment use without a specific use permit in a building or portion of a building located at 8500 North Stemmons Freeway, Suite 4040, a location within the territorial limits of the City of Dallas, Texas;

AGAINST THE PEACE AND
DIGNITY OF THE STATE.



Scott McAvoy, Affiant

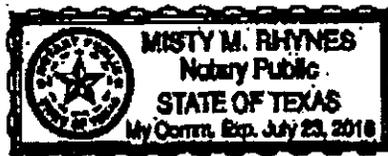
Subscribed and sworn to before me by affiant, this the 24th day of October 2014.



Notary Public in and for Dallas, County, Texas



OCT 09 2014



AMENDED COMPLAINT NO: Z13-000857

STATE OF TEXAS
COUNTY OF DALLAS
CITY OF DALLAS

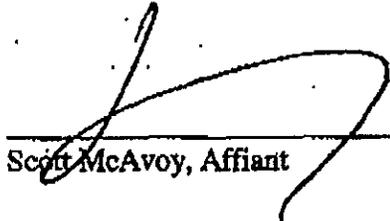
IN THE MUNICIPAL COURT
CITY OF DALLAS, TEXAS

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:

Personally appeared before me, the undersigned authority, this affiant, **Scott McAvoy**, Inspector, who after being by me duly sworn, deposes and says he has good reason to believe and does believe based on personal investigation of such offense, that **CBA Leasing Ltd. d/b/a Power Finance**, hereinafter called actor, on or about **October 18, 2013**, and before the making and filing of this complaint, in the City of Dallas, Dallas County, State of Texas, did then and there unlawfully:

and knowingly conduct an alternative financial establishment use in a structure with other uses; said offense occurred at **8500 North Stemmons Freeway, Suite 4040**, a location within the territorial limits of the City of Dallas, Texas;

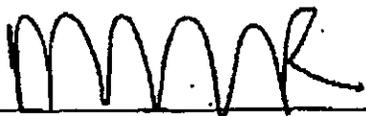
AGAINST THE PEACE AND
DIGNITY OF THE STATE.



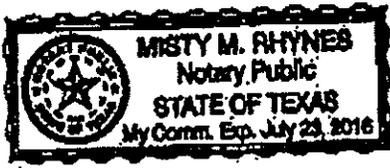
Scott McAvoy, Affiant

Subscribed and sworn to before me by affiant, this the 18th day of October, 2014.



OCT 09 2014


Notary Public in and for Dallas, County, Texas



AMENDED COMPLAINT NO: Z13-000858

STATE OF TEXAS
COUNTY OF DALLAS
CITY OF DALLAS

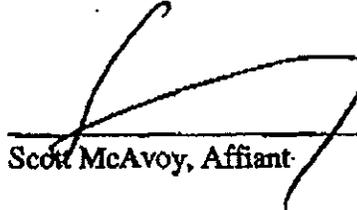
IN THE MUNICIPAL COURT
CITY OF DALLAS, TEXAS

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS:

Personally appeared before me, the undersigned authority, this affiant, Scott McAvoy, Inspector, who after being by me duly sworn, deposes and says he has good reason to believe and does believe based on personal investigation of such offense, that CBA Leasing Ltd. d/b/a Power Finance, hereinafter called actor, on or about October 18, 2013, and before the making and filing of this complaint, in the City of Dallas, Dallas County, State of Texas, did then and there unlawfully:

and knowingly conduct an alternative financial establishment use within 500 feet of an expressway or new expressway as defined in Section 51A-7.102; said offense occurring at 8500 North Stemmons Freeway, Suite 4040, a location within the territorial limits of the City of Dallas, Texas;

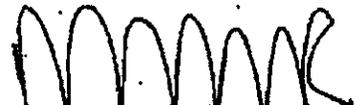
AGAINST THE PEACE AND
DIGNITY OF THE STATE.



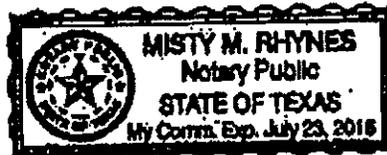
Scott McAvoy, Affiant

Subscribed and sworn to before me by affiant, this the 8th day of October, 2014.



OCT 09 2014


Notary Public in and for Dallas, County, Texas



Cause No: Z13000856 01

Docket:
13041341

Defendant: CBA LEASING LTD
Offense: ORDINANCE VIOLATION WITH
MAXIMUM FINE OF 2000.

=====

THE STATE OF TEXAS
VS
CBA LEASING LTD

IN THE MUNICIPAL COURT

CITY OF DALLAS, TEXAS

ORDER

On this day the Court called the above cause for trial and the Defendant, charged by sworn complaint, and acting

pro se through counsel entered his plea of not guilty

and the Court, the Defendant having waived in writing a right to a jury trial, after considering the evidence and argument of counsel,

and the jury, having been lawfully empanelled and sworn,

finds the Defendant not guilty.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that the Defendant is not guilty and is discharged.



Signed this the 6th day of November, 2014.

JUDGE PRESIDING

Cause No: Z13000857 01

Docket:
13041339

BDA 134-126
Attach A
Pg 7

Defendant: CBA LEASING LTD
Offense: ORDINANCE VIOLATION WITH
MAXIMUM FINE OF 2000.

=====

THE STATE OF TEXAS
VS
CBA LEASING LTD

IN THE MUNICIPAL COURT

CITY OF DALLAS, TEXAS

ORDER

On this day the Court called the above cause for trial and the Defendant, charged by sworn complaint, and acting

pro se through counsel entered his plea of not guilty

and the Court, the Defendant having waived in writing a right to a jury trial, after considering the evidence and argument of counsel,

and the jury, having been lawfully empanelled and sworn,

finds the Defendant not guilty.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that the Defendant is not guilty and is discharged.



Signed this the 6th day of November, 2014.

JUDGE PRESIDING

Cause No: Z13000858 01

Docket:
13041342

Defendant: CBA LEASING LTD
Offense: ORDINANCE VIOLATION WITH
MAXIMUM FINE OF 2000.

=====

THE STATE OF TEXAS
VS
CBA LEASING LTD

IN THE MUNICIPAL COURT

CITY OF DALLAS, TEXAS

ORDER

On this day the Court called the above cause for trial and the Defendant, charged by sworn complaint, and acting

pro se through counsel entered his plea of not guilty

and the Court, the Defendant having waived in writing a right to a jury trial, after considering the evidence and argument of counsel,

and the jury, having been lawfully empanelled and sworn,

finds the Defendant not guilty.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that the Defendant is not guilty and is discharged.



Signed this the 6th day of November, 2014.

JUDGE PRESIDING

Cause No: Z13000859 01

Docket:
13041343

Defendant: CBA LEASING LTD
Offense: CONSUMER AFFAIRS/GENERAL

=====

THE STATE OF TEXAS
VS
CBA LEASING LTD

IN THE MUNICIPAL COURT
CITY OF DALLAS, TEXAS

ORDER

On this day the Court called the above cause for trial and the Defendant, charged by sworn complaint, and acting

pro se through counsel entered his plea of not guilty

and the Court, the Defendant having waived in writing a right to a jury trial, after considering the evidence and argument of counsel,

and the jury, having been lawfully empanelled and sworn,

finds the Defendant not guilty.

IT IS THEREFORE ORDERED, ADJUDGED and DECREED that the Defendant is not guilty and is discharged.



Signed this the 6th day of November, 2014.

A handwritten signature in black ink, appearing to read "Jay R. Rubin".

JUDGE PRESIDING

Texas Finance Code Sec. 393.603 provides: "A credit services organization must obtain a license under this subchapter for each location at which the organization operates as a credit access business in performing services described by Section 393.602(a)."

Texas Finance Code Sec. 393.602(a) provides: "This subchapter applies only to a credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit in the form of: (1) a deferred presentment transaction; or (2) a motor vehicle title loan."

Texas Finance Code Sec. 393.607(a)(1) provides: "The commissioner shall approve the application and issue to the applicant a license to operate as a credit access business for purposes of engaging in the activity to which this subchapter applies if the commissioner finds that: (1) the financial responsibility, experience, character, and general fitness of the applicant are sufficient to: (A) command the confidence of the public; and (B) warrant the belief that the business will be operated lawfully and fairly, within the purposes of this subchapter"

Texas Finance Code Sec. 393.609 provides: (a) A license issued under this subchapter must state: (1) the name of the license holder; and (2) the address of the office from which the business is to be conducted, except as provided by Subsection (c). (b) A license holder may not conduct business under this subchapter under a name other than the name stated on the license. (c) A license holder may not conduct business at a location other than the address stated on the license,"

Texas Finance Code Sec. 393.601(1) provides: "Commissioner" means the consumer credit commissioner.

Texas Finance Code Sec. 393.609(c) provides: "(c) A license holder may not conduct business at a location other than the address stated on the license, except that a license holder: (1) is not required to have an office in this state; and (2) may operate using e-commerce methods, including the Internet."

Cathel Green
214948 5398

BDA 134-126
Attach A
Pg 11

89911.14



The State of Texas
Secretary of State

FILE NO. 2000-0013

CREDIT SERVICES ORGANIZATION REGISTRATION

BE IT KNOWN THAT:

CBA LEASING, LTD.
d.b.a. STAR FINANCIAL SERVICES
8500 NORTH STEMMONS FRWY STE 4040
DALLAS, TX

has filed a registration statement and the required security to operate as a Credit Services Organization pursuant to Title 5, Texas Finance Code, Sec. 393.001 et seq.

THE SECRETARY OF STATE hereby issues this Certificate of Renewal to be effective for one year from the date below.

(The issuance of this certificate does not constitute approval of or endorsement by the Secretary of State of the operations of the business nor does the issuance verify that the information contained in the registration is accurate or complete.)

Issued this 24th day of October A D, 2006

A handwritten signature in black ink that reads "Roger Williams".

Roger Williams
Secretary of State



ST/ta



BDA 134-126
Attach A
Pg 13

The State of Texas
Secretary of State

#2000-0013

CREDIT SERVICES ORGANIZATION REGISTRATION

BE IT KNOWN THAT:

CBA LEASING LTD.
d.b.a. STAR FINANCIAL SERVICES
8500 N STEMMONS FRWY STE 4040
DALLAS, TX

has filed a registration statement to operate as a Credit Services Organization pursuant to Title 5, Texas Finance Code, Sec. 393.001 et seq.

THE SECRETARY OF STATE hereby issues this Additional Location Certificate to be effective until October 24, 2008.

(The issuance of this certificate does not constitute approval of or endorsement by the Secretary of State of the operations of the business nor does the issuance verify that the information contained in the registration is accurate or complete.)

Issued this 11th day of October A D, 2007



A handwritten signature in black ink that reads "Phil Wilson".

Phil Wilson
Secretary of State

ST/ta



The State of Texas
Secretary of State

#2000-0013

CREDIT SERVICES ORGANIZATION REGISTRATION

BE IT KNOWN THAT:

CBA LEASING, LTD.
d.b.a. STAR FINANCIAL SERVICES
8500 N STEMMONS FRWY STE 4040
DALLAS, TX

has filed a registration statement to operate as a Credit Services Organization pursuant to Title 5, Texas Finance Code, Sec. 393.001 et seq.

THE SECRETARY OF STATE hereby issues this Certificate of Renewal to be effective until October 24, 2009.

(The issuance of this certificate does not constitute approval of or endorsement by the Secretary of State of the operations of the business nor does the issuance verify that the information contained in the registration is accurate or complete.)

Issued this 21st day of October A D, 2008



A handwritten signature in black ink, appearing to read "Hope Andrade".

Hope Andrade
Secretary of State

ST/ta



BDA 134-126
Attach A
Pg 15

The State of Texas
Secretary of State

#2000-0013

CREDIT SERVICES ORGANIZATION REGISTRATION

BE IT KNOWN THAT:

CBA LEASING, LTD.
d.b.a. STAR FINANCIAL SERVICES
8500 N STEMMONS FREEWAY STE 4040
DALLAS, TX

has filed a registration statement to operate as a Credit Services Organization pursuant to Title 5,
Texas Finance Code, Sec. 393.001 et seq.

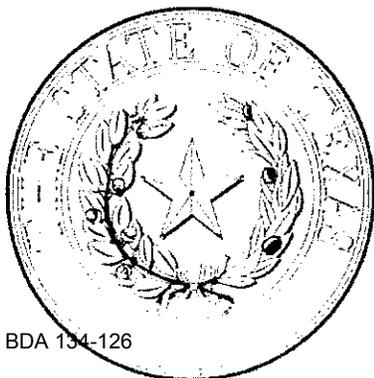
THE SECRETARY OF STATE hereby issues this Certificate of Registration to be
effective until October 20, 2011.

**(The issuance of this certificate does not constitute approval of or endorsement by the
Secretary of State of the operations of the business nor does the issuance verify that the
information contained in the registration is accurate or complete.)**

Issued this 2nd day of November 2010

A handwritten signature in black ink, appearing to read "Hope Andrade".

Hope Andrade
Secretary of State





The State of Texas
Secretary of State

#2000-0013

CREDIT SERVICES ORGANIZATION REGISTRATION

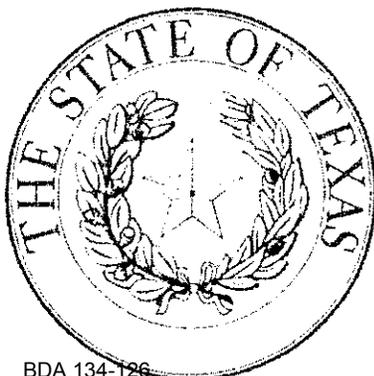
BE IT KNOWN THAT:

**CBA LEASING, LTD.
d.b.a. STAR FINANCIAL SERVICES
8500 N STEMMONS FRWY STE 4040
DALLAS, TX**

has filed a registration statement to operate as a Credit Services Organization pursuant to Title 5, Texas Finance Code, Sec. 393.001 et seq.

THE SECRETARY OF STATE hereby issues this Certificate of Renewal to be effective until October 20, 2012.

(The issuance of this certificate does not constitute approval of or endorsement by the Secretary of State of the operations of the business nor does the issuance verify that the information contained in the registration is accurate or complete.)



Issued this 3rd day of October 2011

A handwritten signature in black ink, appearing to read "Hope Andrade".

Hope Andrade
Secretary of State



The State of Texas

Secretary of State

#2000-0013

CREDIT SERVICES ORGANIZATION REGISTRATION

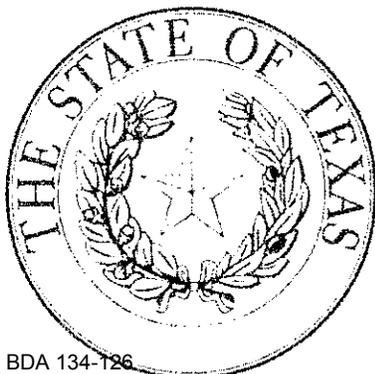
BE IT KNOWN THAT:

**CBA LEASING, LTD.
d.b.a. STAR FINANCIAL SERVICES; POWER FINANCE
8500 N STEMMONS FRWY STE 4040
DALLAS, TX**

has filed a registration statement to operate as a Credit Services Organization pursuant to Title 5, Texas Finance Code, Sec. 393.001 et seq.

THE SECRETARY OF STATE hereby issues this Certificate of Renewal to be effective for one year from the date below.

(The issuance of this certificate does not constitute approval of or endorsement by the Secretary of State of the operations of the business nor does the issuance verify that the information contained in the registration is accurate or complete.)



Issued this 20th day of October 2012

A handwritten signature in black ink, appearing to read "Hope Andrade".

Hope Andrade
Secretary of State



The State of Texas
Secretary of State

#2000-0013

CREDIT SERVICES ORGANIZATION REGISTRATION

BE IT KNOWN THAT:

CBA LEASING LTD.
d.b.a. POWER FINANCE
8500 N STEMMONS FRWY STE 4040
DALLAS, TX

has filed a registration statement to operate as a Credit Services Organization pursuant to Title 5, Texas Finance Code, Sec. 393.001 et seq.

THE SECRETARY OF STATE hereby issues this Certificate of Registration to be effective until October 20, 2014.

(The issuance of this certificate does not constitute approval of or endorsement by the Secretary of State of the operations of the business nor does the issuance verify that the information contained in the registration is accurate or complete.)

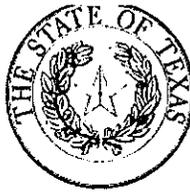
Issued this 24th day of September 2013

A handwritten signature in black ink, appearing to read "John Steen", written over a horizontal line.

John Steen
Secretary of State

ta





The State of Texas
Secretary of State

20000013

**CREDIT SERVICES ORGANIZATION REGISTRATION
CERTIFICATE**

BE IT KNOWN THAT:

**CBA Leasing Ltd dba Power Finance Texas
8500 N Stemmons Frwy Ste 4040, Dallas, TX 77247**

has filed a registration statement to operate as a Credit Services Organization pursuant to Title 5, Texas Finance Code, Sec. 393.001 et seq.

THE SECRETARY OF STATE hereby issues this Registration Certificate to be effective until **10/20/2015**.

(The issuance of this certificate does not constitute approval of or endorsement by the Secretary of State of the operations of the business nor does the issuance verify that the information contained in the registration is accurate or complete.)



Issued on October 20, 2014

NANDITA BERRY

Nandita Berry
Secretary of State

rb



STATE OF TEXAS

Credit Access Business License

License Number: 16300-59226

Active

Office of

Consumer

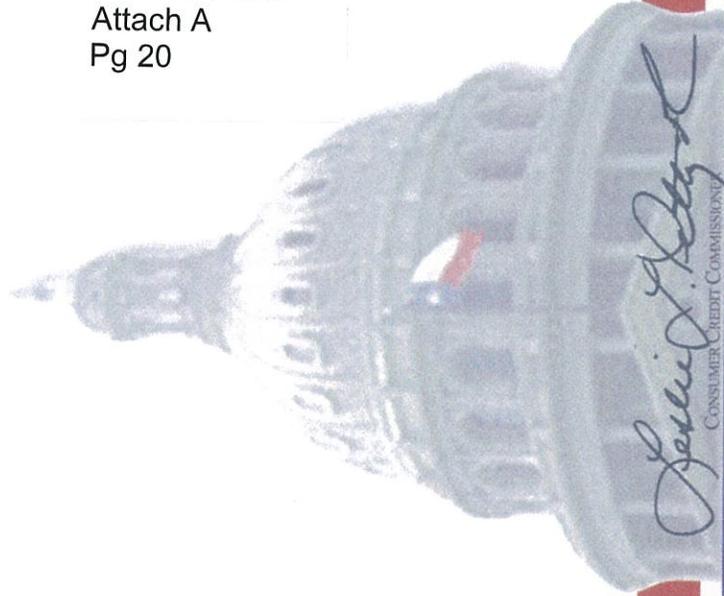
Credit

Commissioner

CBA LEASING LTD
POWER FINANCE
8500 N STEMMONS FWY STE 4040
DALLAS, TX 75247

2601 N Lamar Blvd
Austin TX 78705
www.occc.state.tx.us
(512)936-7600
Consumer Helpline:
(800) 538-1579

BDA 134-126
Attach A
Pg 20



BDA134-126

APPLICANT	§	BOARD OF ADJUSTMENT
LORRI DAVIS	§	
	§	PANEL C
	§	
ADMINISTRATIVE OFFICIAL	§	DALLAS COUNTY, TEXAS
BUILDING INSPECTION		

APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL

Hearing 1 p.m., December 15, 2014

Building Inspection Exhibits

1. Building Inspection Application for certificate of occupancy
2. Denial of certificate of occupancy application, letter to Ms. Davis
3. Express Business Center Metered Postage Requisition
4. Key Plan, 1980, hard layout of floorplan, 8500 N. Stemmons Freeway
5. Key Plan, 1980, showing furniture, 8500 N. Stemmons Freeway
6. Key Plan, 2014, 8500 N. Stemmons Freeway
7. Suite Floor Plan, 2014, 8500 Stemmons Freeway, Ste. 4040
8. Dallas City Ordinance No. 26579, Certificate of Occupancy
9. Dallas City Code Sec. 51A-2.102, Nonconforming Use definition
10. Dallas City Ordinance No. 28214, Alternative Financial Establishment
11. Dallas City Code Sec. 51A-4.704, Nonconforming Uses and Structures

DATE: 6/13/14

APPLICATION TYPE

PERMIT CO

OTHER EXPRESS



BDA 134-126
Attach B
Pg 2

City of Dallas

JOB NO. (OFFICE USE ONLY)
08062037

PERMIT NO. (OFFICE USE ONLY)
1406131115

HEALTH REVIEW (Restaurants/Food Service)

BUILDING INSPECTION APPLICATION

STREET ADDRESS OF PROPOSED PROJECT: **8500 N Stemmons Frwy**

SUITE/BLDG/FLOOR NO: **4040**

USE OF PROPERTY: **Credit Access Business**

OWNER/TENANT: **CBA Leasing, LTD**

ADDRESS: **8500 N Stemmons Frwy, Ste 4040**

CITY: **Dallas**

STATE: **Texas**

ZIP CODE: **77040**

SA (IF APPLICABLE): **Power Finance**

E-MAIL ADDRESS (OPTIONAL):

APPLICANT: **Lorri Davis**

CONTR NO:

COMPANY NAME: **Power Finance**

ADDRESS: **8500 N Stemmons Fry, Ste 4040**

CITY: **Dallas**

STATE: **Texas**

ZIP CODE: **75247**

PHONE NO: **2146372274**

FAX NO: **2146372283**

DESCRIPTION OF PROPOSED PROJECT

NO construction is being performed, as company has occupied this space since 2005

CONST AREA (sq ft)	NEW CONST		VALUATION (\$)	NEW CONST	
	REMODEL			REMODEL	
	LEASE			TOTAL VALUATION	
	TOTAL AREA	1577			

ALL FOOD SERVICE ESTABLISHMENTS REQUIRE A GREASE INTERCEPTOR INSTALLED ONSITE. CHECK BOX IF THERE IS ONE LOCATED ON THE PROPERTY.

LEASE INDICATE ALL TYPES OF WORK THAT WILL BE PART OF THIS PROJECT BY CHECKING THE APPROPRIATE BOX AND PROVIDE CONTRACTOR/SUBCONTRACTOR INFORMATION ON THE BACK OF THIS FORM. NOTE: AN AFFIDAVIT IS REQUIRED FOR THE SALE OR SERVING OF ALCOHOL.

- BUILDING
- PLUMBING
- FENCE
- DRIVE APPROACH
- BACKFLOW
- BARRICADE
- ELECTRICAL
- FIRE SPRKLR
- SIGN
- SWIMMING POOL
- CUSTOMER SVC
- GREEN BUILDING/LEED
- MECHANICAL
- FIRE ALARM
- LANDSCAPE
- LAWN SPRINKLER
- FLAMMABLE LIQUID
- OTHER:

WILL ALCOHOL BE SOLD/SERVED? YES NO

PERSONAL SERVICE LICENSE REQUIRED FOR THE PROPOSED USE? YES NO

WILL THERE BE A DANCE FLOOR? YES NO

ARE POTENTIALLY HAZARDOUS FOODS/OPEN FOODS BEING SOLD? YES NO

HAVE CAREFULLY READ THE COMPLETED APPLICATION AND KNOW THE SAME IS TRUE AND CORRECT AND HEREBY AGREE THAT A PERMIT IS ISSUED ALL PROVISIONS OF THE CITY ORDINANCES AND STATE LAWS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT. I AM THE OWNER OF THE PROPERTY OR THE DULY AUTHORIZED AGENT. PERMISSION IS HEREBY GRANTED TO ENTER PREMISES AND MAKE ALL INSPECTIONS.

APPLICANT SIGNATURE: *[Signature]*

FOR OFFICE USE ONLY

ZONING				BUILDING		MISCELLANEOUS	
LAND USE: 0114	TYPE OF WORK: 7941	BASE ZONING: MU-3	PD:	CONSTRUCTION TYPE: IB	OCCUPANCY: B	ACTIVITY: B	PLAN: A
LOT: 3	BLOCK: 7941	REQUIRED PARKING:	PROPOSED PARKING:	SPRINKLER: ALL	OCCUPANT LOAD:	FLOOD PLAIN:	AIRPORT:
LOT AREA:	BDA:	SUP:	RAR:	STORIES: 06	DWELLING UNITS:	SPECIAL INSPECTIONS:	HISTORICAL:
DIR:	EARLY RELEASE:	DEED RESTRICTION:	PARKING AGREEMENT:	NUMBER BEDROOMS:	NUMBER BATHROOMS:	DRY:	LL:

ROUTE TO PRE-SCREEN	REVIEWER	DATE	APPLICATION REMARKS	FEE CALCULATIONS (\$)
ZONING	DATE	7/7/14	take IN money	PERMIT FEE 215,00
BUILDING	BY	[Signature]	Estes	SURCHARGE
ELECTRICAL	PHONE	948-5388	Route to Darrin Ruston	PLAN REVIEW FEE
UMBING/MECHANICAL	REASON	SEC. 51A 4.207		EXPRESS ACCEPT FEE
GREEN BUILDING				EXPRESS PLAN REVIEW
HEALTH				HOURLY FEE TOTAL
STORICAL/CONS DIST				HEALTH PERMIT FEE
PUBLIC WORKS				OTHER FEES 65,00
WATER				OTHER FEES
FIRE				OTHER FEES
LANDSCAPING				TOTAL FEES 280,00
AVIATION				\$
OTHER:				

6-27



CITY OF DALLAS

BDA 134-126
Attach B
Pg 3

July 7, 2014

CERTIFIED MAIL NO. 7002 2410 0005 0303 7156
RETURN RECEIPT REQUESTED

Lorri Davis
8500 N. Stemmons Freeway, Suite 4040
Dallas, Texas 75247

Re: Denial of certificate of occupancy application No. CO1406131115 ("application") for alternative financial establishment use at 8500 N. Stemmons Freeway, Suite 4040 (the "Property")

Dear Ms. Davis:

This letter is to inform you that the certificate of occupancy application for the Property is hereby denied and any use operating on the Property without a certificate of occupancy is an illegal land use that must immediately cease operating.¹

The building official is required to deny an application for a certificate of occupancy if the building official determines that the certificate of occupancy request does not comply with the codes, the Dallas Development Code, or other city ordinances, rules, or regulations.²

From the information provided in the application, subsequent conversations with you, and additional research, the building official has determined that the proposed use for the Property is an alternative financial establishment³. The Property is zoned MU-3 Mixed Use District. Alternative financial establishment is a permitted use in this zoning district by Specific Use Permit (SUP) only.⁴ The Property does not have an SUP for an alternative financial establishment use. Additionally, an alternative financial establishment use is prohibited at the

¹ Subsection 306.5, "Denial," of Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas City Code; Section 51A-1.104, "Certificate of Occupancy," of Chapter 51A of the Dallas Development Code; Subsection 306.1, "Use or Occupancy," of Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas City Code.

² Paragraph 1 of Subsection 306.5, "Denial," of Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas City Code.

³ See Subsection (1), "Alternative Financial Establishment," of Section 51A-4.207, "Office Uses," of Chapter 51A of the Dallas Development Code.

⁴ See Paragraph (B) of Subsection (1), "Alternative Financial Establishment," of Section 51A-4.207, "Office Uses," of Chapter 51A of the Dallas Development Code.



CITY OF DALLAS

Property because the proposed alternative financial establishment use is within 500 feet of an expressway and is not being operated within a freestanding building with no other uses.⁵

Any determination made by the building official shall be final unless appealed within 15 days after receipt of this letter.⁶

Sincerely,

A handwritten signature in cursive script, appearing to read 'Larry V. Holmes'.

Larry V. Holmes, CBO
Building Official
Sustainable Development & Construction

- C: David Cossum, Interim Director, Sustainable Development & Construction
Maureen Milligan, Executive Assistant City Attorney
Jennifer Wang, Assistant City Attorney

⁵ See Paragraphs (E)(iii) and (E)(iv), of Subsection (1), "Alternative Financial Establishment," of Section 51A-4.207, "Office Uses," of Chapter 51A of the Dallas Development Code.

⁶ Paragraph 2 of Section 306.15, "Appeals of Actions and Determinations," of Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas City Code; and Section 51A-4.703(a)(2), "Board of Adjustment Hearing Procedures," of Chapter 51A of the Dallas Development Code.



CITY OF DALLAS

HOLD FOR ~~XXXXXXXXXX~~ / month

Express Business Center
METERED POSTAGE REQUISITION

BDA 134-126
Attach B
Pg 5

Date: 7/7/14 Dept. name: SDC

Fund: 150 Agency: DEV Org: 3141 Object 2252

Person submitting requisition: Daunte Rushton Phone #: (214) 948-5330

Number of pieces in mailing: 1

Any mail not meeting the applicable standards must be

by a metered postage until these is met.

7002 2410 0005 0303 7163

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.

CERTIFIED MAIL™

7002 2410 0005 0303 7163
7002 2410 0005 0303 7163

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com.

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark Here

Sent To Lorri Davis
Street, Apt. No., or PO Box No. 8500 N. Stemmons Frey Suite 4040
City, State, ZIP+4 Dallas, Texas 75247

PS Form 3800, June 2002 See Reverse for Instructions

center for incoming Service and must be

Metered Postage

artment's mail pickup C located in L2ES. eceived at the EBC

onal packages to the

1. All inter-office mail must be addressed



SUSTAINABLE DEVELOPMENT AND CONSTRUCTION
BUILDING INSPECTION DIVISION
320 E. JEFFERSON BOULEVARD
DALLAS, TEXAS 75203

LORRI DAVIS
8500 N. STEMMONS FREEWAY, SUITE 4040
DALLAS, TEXAS 75247

RIVERPLACE - MEPSI
 DALLAS, TEXAS

4B

DOOR SCHEDULE		SYMBOL	DESCRIPTION
1	SW	SW	SW
2	SW	SW	SW
3	SW	SW	SW
4	SW	SW	SW
5	SW	SW	SW
6	SW	SW	SW
7	SW	SW	SW
8	SW	SW	SW
9	SW	SW	SW
10	SW	SW	SW
11	SW	SW	SW
12	SW	SW	SW
13	SW	SW	SW
14	SW	SW	SW
15	SW	SW	SW
16	SW	SW	SW
17	SW	SW	SW
18	SW	SW	SW
19	SW	SW	SW
20	SW	SW	SW
21	SW	SW	SW
22	SW	SW	SW
23	SW	SW	SW
24	SW	SW	SW
25	SW	SW	SW
26	SW	SW	SW
27	SW	SW	SW
28	SW	SW	SW
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100	SW	SW	SW



FLOOR 4

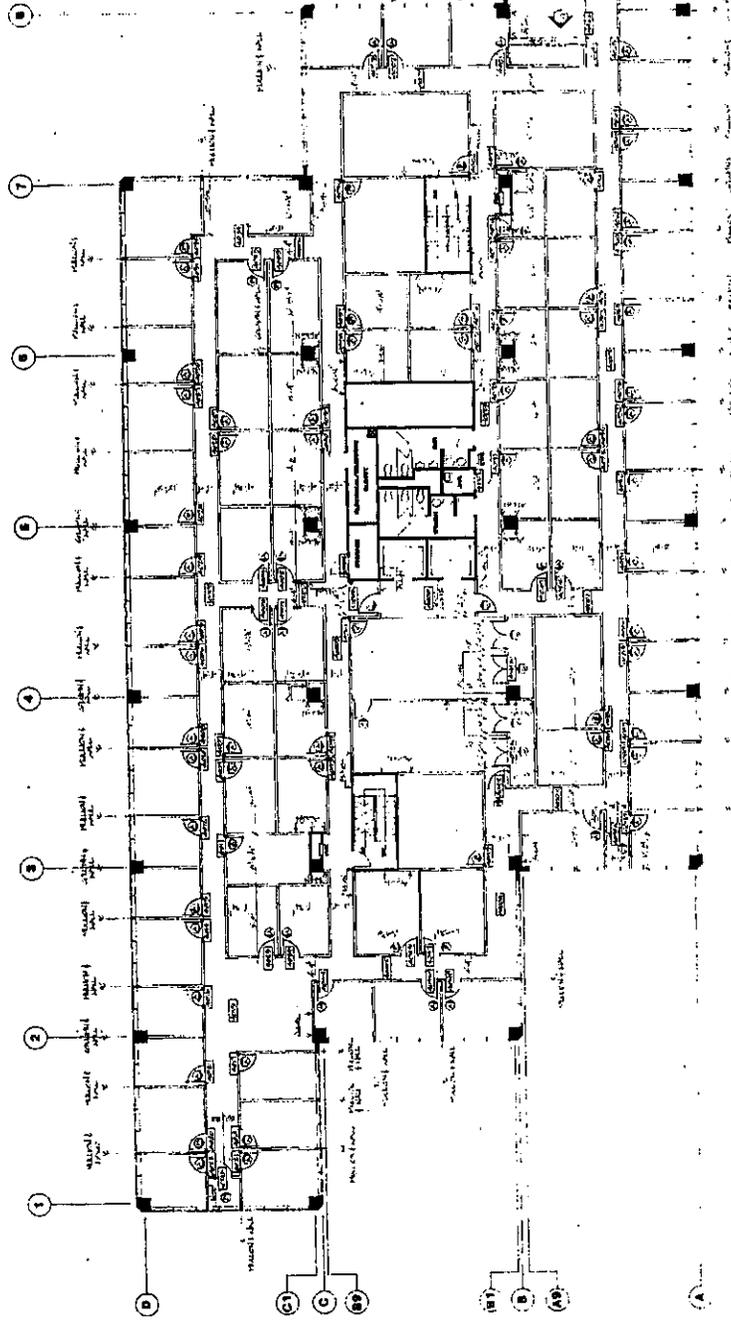
APPROVED BY _____
 DATE _____

FOR INFORMATION ONLY
 NO ACTION REQUIRED
 DATE: _____
 BY: _____

8500 N. STEWARTS Pkwy
 10 ST 80

7

15



8500 STEMMONS FREEWAY

BDA 134-126

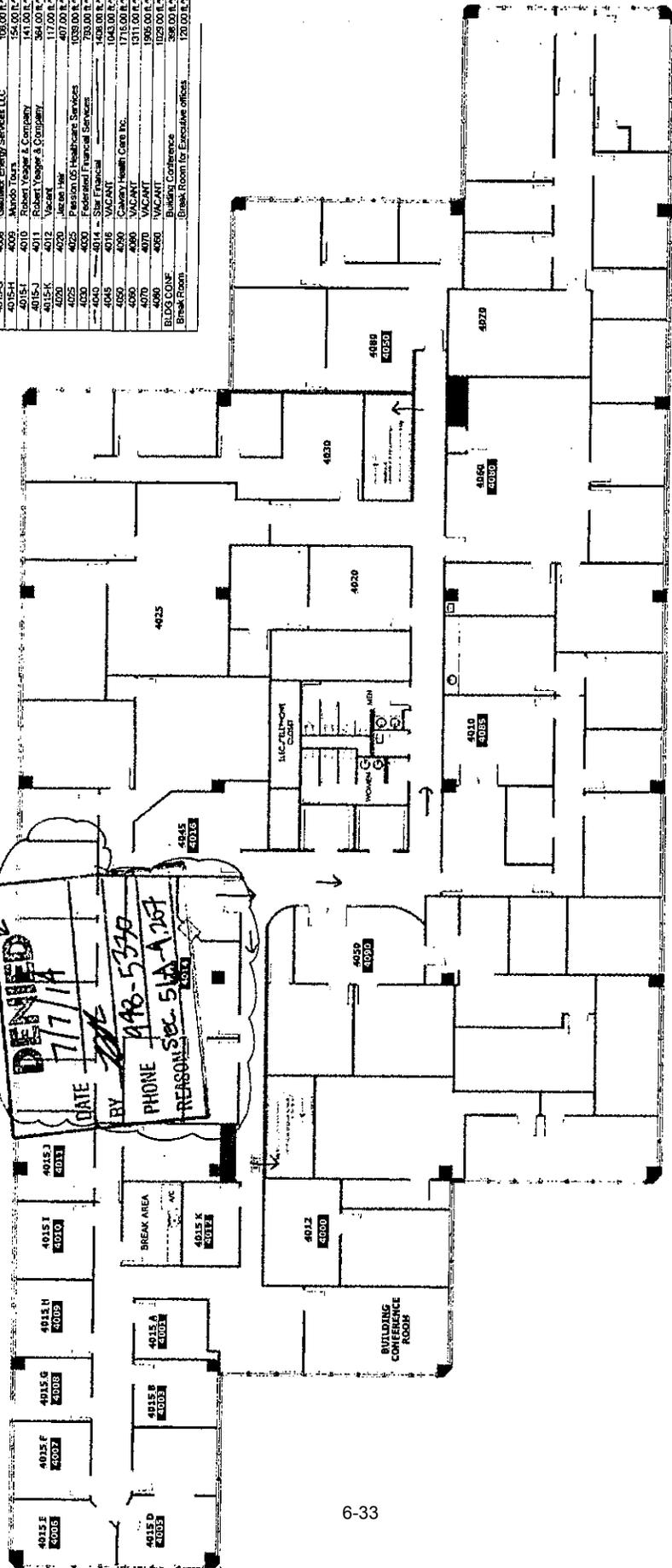
Existing Suite Number	New Suite Number	Tenant Name	Area
4010	4085	1st Beverage LP	1374.00 R/2
4011	4000	Dallas DDCS LLC	1199.00 R/2
4012	4001	North Hills	132.00 R/2
4013	4002	North Hills	372.00 R/2
4014	4003	VACANT	137.00 R/2
4015	4004	X-TERRA Acad Youth LLC	146.00 R/2
4016	4005	VACANT	109.00 R/2
4017	4006	Glendex Energy Services LLC	141.00 R/2
4018	4007	Armando Tours	54.00 R/2
4019	4008	Robert Veager & Company	394.00 R/2
4020	4009	Robert Veager & Company	117.00 R/2
4021	4010	North Hills	177.00 R/2
4022	4011	North Hills	1039.00 R/2
4023	4012	Passion Of Healthcare Services	728.00 R/2
4024	4013	Federated Financial Services	428.00 R/2
4025	4014	Star Financial	1043.00 R/2
4026	4015	VACANT	1715.00 R/2
4027	4016	Canary Health Care Inc.	1911.00 R/2
4028	4017	VACANT	1995.00 R/2
4029	4018	VACANT	1029.00 R/2
4030	4019	Blacks Conference	386.00 R/2
BLDG COAF	4020	Break Room for Executive offices	128.00 R/2

BDA 134-126
Attach B
Pg 8



DATE	BY	SCALE
		1/4\"/>

DENIED
7/7/14
DATE
BY
PHONE 480-5378
REASON: Sec 51A-A.207

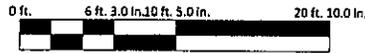
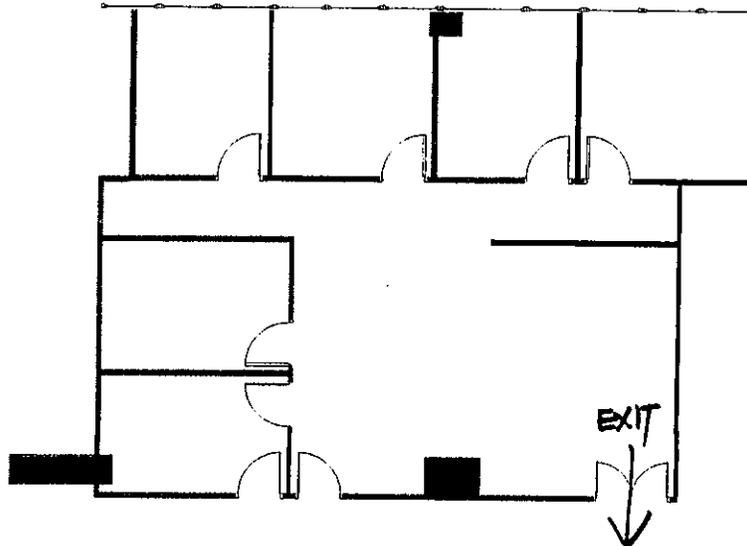


KEY NOTES
UPON SUITE AVAILABILITY, THE EXISTING SUITE NUMBERS IN BLACK SHALL BE REVISED TO NEW SUITE NUMBERS IN RED

1025 EXISTING SUITE NUMBER (TYPICAL)
1022 NEW SUITE NUMBER (TYPICAL)

AB-4.0

8500 N Stemmons Freeway
 Suite 4040 - 1,573



scale - 1/8" = 1'-0"

These plans have not been reviewed for compliance with any state or federal regulations.

Type IB construction
ALL sprinklered
B occupancy
2012 Dallas Building Code

Ved Gupta
 Manager I
 Building Code
 214-948-4463

THESE PLANS HAVE BEEN REVIEWED BY THE BUILDING INSPECTION DIVISION AND ARE APPROVED FOR THE START OF CONSTRUCTION ANY DEVIATION FROM THESE PLANS SHALL BE APPROVED BY THE BUILDING OFFICE.
 ZO DATE _____ BY _____
 BU DATE 6-19-14 BY VG
 THIS APPROVAL DOES NOT PERMIT THE VIOLATION OF ANY CITY ORDINANCE OR STATE LAW.

CODE SECTIONS AND TABLE REFERENCES REFER TO:
 THE 2012 DALLAS BUILDING CODE (DBC)
 WITH CITY OF DALLAS AMENDMENTS,
 AND THE 2006 DALLAS FIRE CODE (DFC)
 WITH CITY OF DALLAS AMENDMENTS

NO ADDITIONS OR STRUCTURAL ALTERATIONS

SUBJECT TO FIELD INSPECTOR'S APPROVAL

6-34
 2014 JUN 19 10:11 AM
 2014 JUN 19 10:11 AM



STATE OF TEXAS §
COUNTY OF DALLAS §
CITY OF DALLAS §

I, **BILIERAE JOHNSON**, Assistant City Secretary, of the City of Dallas, Texas, do hereby certify that the attached is a true and correct copy of:

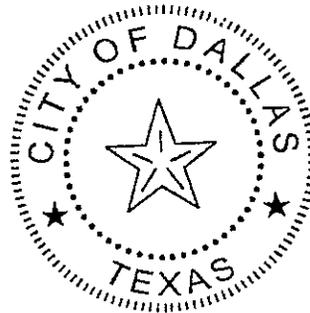
ORDINANCE NO. 26579

Which was passed by the Dallas City Council on **February 14, 2007**.

WITNESS MY HAND AND THE SEAL OF THE CITY OF DALLAS, TEXAS, this the 5th day of **December, 2014**.



BILIERAE JOHNSON
ASSISTANT CITY SECRETARY
CITY OF DALLAS, TEXAS



Prepared By: PB

2-8-07

ORDINANCE NO. 26579

An ordinance amending Chapters 51 and 51A, "Dallas Development Code, as amended," and Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas City Code, by amending the certificate of occupancy regulations; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, has given the required notices and has held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 51-1.104, "Certificate of Occupancy," of Article I, "General Provisions," of Chapter 51, "Dallas Development Code: Ordinance No. 10962, as amended," of the Dallas City Code is amended to read as follows:

"SEC. 51-1.104. CERTIFICATE OF OCCUPANCY.

This section incorporates by reference the language in Section 51A-1.104 of Chapter 51A of the Dallas Development Code, as amended.

~~[(a) Certificate of occupancy required.~~

~~(1) Except for the single family and duplex uses, a person shall not use or change the use of a building, a portion of a building, or land without obtaining a certificate of occupancy from the building official.~~

~~(2) A person shall submit an application for a certificate of occupancy on a form approved by the building official either:~~

- (A) ~~at the time of application for a building permit if there is new construction; or~~
(B) ~~before occupancy and connection of utilities if there is a change of use.~~

(3) ~~The building official shall not issue a certificate of occupancy until all applicable codes and ordinances have been complied with.~~

(4) ~~Any person applying for a certificate of occupancy for an establishment that will sell or serve alcoholic beverages as defined in the Texas Alcoholic Beverage Code must file an affidavit with the building official stating whether the establishment will derive 75 percent or more of its gross quarterly (three month) revenue from the sale of alcoholic beverages for on-premise consumption. Any person owning or operating an establishment that sells or serves alcoholic beverages shall, upon request, supply the building official with any records needed to document the percentage of gross revenue on a quarterly (three month) basis derived from the sale of alcoholic beverages.~~

(b) Record of certificates of occupancy.

(1) ~~The building official shall maintain a record of all certificates of occupancy.~~

(2) ~~Upon request and payment of the fee, a person may obtain copies of the certificate of occupancy issued for a building or land.]”~~

SECTION 2. That Section 51A-1.104, “Certificate of Occupancy,” of Article I, “General Provisions,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“SEC. 51A-1.104. CERTIFICATE OF OCCUPANCY.

~~[(a) Certificate of occupancy required.~~

~~(1) Except for [the] single family, handicapped group dwelling unit, and duplex uses, a person shall not use or occupy or change the use or occupancy of a building, a portion of a building, or land without obtaining a certificate of occupancy from the building official in compliance with Section 306, “Certificate of Occupancy,” of Chapter 52, “Administrative Procedures for the Construction Codes,” of the Dallas City Code.~~

~~[(2) A person shall submit an application for a certificate of occupancy on a form approved by the building official either:~~

~~(A) at the time of application for a building permit if there is new construction; or~~

~~(B) before occupancy and connection of utilities if there is a change of use.~~

~~(3) The building official shall not issue a certificate of occupancy until all applicable codes and ordinances have been complied with.~~

~~(4) Any person applying for a certificate of occupancy for an establishment that will sell or serve alcoholic beverages as defined in the Texas Alcoholic Beverage Code must file an affidavit with the building official stating whether the establishment will derive 75 percent or more of its gross quarterly (three month) revenue from the sale of alcoholic beverages for on-premise consumption. Any person owning or operating an establishment that sells or serves alcoholic beverages shall, upon request, supply the building official with any records needed to document the percentage of gross revenue on a quarterly (three month) basis derived from the sale of alcoholic beverages.~~

~~(b) Record of certificates of occupancy.~~

~~(1) The building official shall maintain a record of all certificates of occupancy.~~

~~(2) Upon request and payment of the fee, a person may obtain copies of the certificate of occupancy issued for a building or land.]”~~

SECTION 3. That Section 306, “Certificate of Occupancy,” of Subchapter 3, “Permits and Inspections,” of Chapter 52, “Administrative Procedures for the Construction Codes,” of the Dallas City Code is amended to read as follows:

**“SECTION 306
CERTIFICATE OF OCCUPANCY**

306.1 Use or occupancy. Except for single family uses, handicapped group dwelling unit uses, duplex uses, U occupancies accessory to single family or duplex uses, and tenant changes to individual dwelling units in Group R, Division 2 apartment houses, n[N]o structure or land shall be used or occupied, no change in the existing occupancy classification, zoning use, or the tenant or occupant of a structure or portion of a structure shall be made, and no floor area increases or decreases of any existing tenancy area of a structure shall be used or occupied, until the building official has issued a certificate of occupancy and a fee has been paid as required in Section 303 of this chapter. [This subsection does not apply to any Group R, Division 3 or M Occupancy or to a change in the tenant or occupant of any Group R, Division 2 apartment houses.]

306.2 Change in use or occupancy. A change in the character, ~~or~~ use, or occupancy of a building shall not be made except as specified in Chapter 34 [8] of the *Dallas [Existing] Building Code*.

306.3 Application for a certificate of occupancy.

306.3.1 Application requirements. A person seeking a certificate of occupancy shall submit an application to the building official on a form approved by the building official. The application must include the following information:

1. The name and address of the use or occupancy.
2. The name, address, and telephone number of the owner of the structure and land.
3. The name, address, and telephone number of the operator of the use or occupancy.
4. A description of the use or occupancy that will be operated.
5. Any other information, plans, diagrams, computations, specifications, or other data or supporting documents the building official deems necessary, including an affidavit containing a detailed description of the use or occupancy that will be operated, the goods or services offered or produced, the hours of operation, and whether a city, county, state, or federal license, permit, or registration is required to operate the use or occupancy.

306.3.2 Establishment selling or serving alcoholic beverages. Any person applying for a certificate of occupancy for an establishment that will sell or serve alcoholic beverages as defined in the *Texas Alcoholic Beverage Code* shall file an affidavit with the building official stating whether the establishment will derive less than 50 percent, 50 percent or more, or 75 percent or more of its gross quarterly (three-month) revenue from the sale or service of alcoholic beverages for on-premise consumption. Any person owning or operating an establishment that sells or serves alcoholic beverages shall, upon request, supply the building official, within 30 days of the date of the request, with all records needed to document the percentage of gross revenue on a quarterly (three-month) basis derived from the sale or service of alcoholic beverages, including all sales tax returns for the period filed with the Texas Comptroller of Public Accounts and all applications for a permit or license for the period filed with the Texas Alcoholic Beverage Commission. The building official may grant one extension of time for a period not to exceed 30 days upon good cause shown.

306.5 Denial. The building official shall deny an application for a certificate of occupancy if the building official determines:

1. The certificate of occupancy requested does not comply with the codes, the Dallas Development Code, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations;
2. The information, plans, diagrams, computations, specifications, or other data or supporting documents submitted with the application clearly show that the use or occupancy will be operated in violation of the codes, the Dallas Development Code, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations;
3. The application contains false, incomplete, or incorrect information and the applicant has failed to correct or supplement the false, incomplete, or incorrect information within a reasonable time after the building official requests that the information be corrected or supplemented; or
4. The applicant does not possess a required city, county, state, or federal license, permit, or registration to operate the use or occupancy.

306.6[4] Issuance. Unless the application for the certificate of occupancy has expired under Section 306.4[3] or has been denied under Section 306.5, the building official shall issue a certificate of occupancy after a [an] complete application has been filed, a true and correct copy of any required city, county, state, or federal license, permit, or registration to operate has been provided to the building official, and [after] every necessary inspection has been made to determine compliance with the codes, the Dallas Development Code, [and] other [applicable] city ordinances, rules, or regulations, or any county, state, or federal laws or regulations.

306.7 Certificate of occupancy. A certificate of occupancy must contain the following information:

1. The address of the structure or land.
2. The name and address of the owner of the structure and land [or tenant].
3. The name and address of the operator of the use or occupancy.
4. The use and occupancy, in accordance with the provisions of the Dallas Building Code or the Dallas Existing Building Code, whichever applies, and the Dallas Development Code.
5. The certificate of occupancy number.
6. The zoning district where the structure or land is located.

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7. Identification of any required city, county, state, or federal license, permit, or registration to operate the use or occupancy.

306.8[5] Partial certificate of occupancy. A partial certificate of occupancy may be issued by the building official for the use or occupancy of a portion of a structure prior to the completion of the entire structure.

306.9[6] Temporary certificate of occupancy. A temporary certificate of occupancy may be issued by the building official for the temporary use or occupancy of a portion of a structure. The building official shall set a time period during which the temporary certificate of occupancy is valid. When the temporary certificate of occupancy expires, the holder must obtain a certificate of occupancy authorizing the use or occupancy or cease the use or occupancy. The building official may grant one or more extensions of the temporary certificate of occupancy for periods not to exceed 30 days. If a request for extension is made by the applicant or the applicant's agent, the request must be in writing and made within the time period sought to be extended.

306.10[7] Posting. The certificate of occupancy shall be posted in a conspicuous place in the premises and shall not be removed except by the building official.

306.11[8] Validity. The issuance [~~or granting~~] of a certificate of occupancy does not grant any vested right or [~~and is not to be construed to~~] give authority to violate [~~cancel, alter, or set aside~~] any provision of the codes, the Dallas Development Code, [or any] other [applicable] city ordinances, rules, or regulations, or any county, state, or federal laws or regulations. Any certificate of occupancy presuming to give authority to violate [~~or cancel~~] any provision of the codes, the Dallas Development Code, [or any] other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations shall be void *ab initio* [~~not be valid~~]. The issuance of a certificate of occupancy [~~based on plans, specifications, computations, and other data~~] shall not prevent the building official from later requiring the correction of errors in any information, plans, diagrams, computations, specifications, or [computations, and] other data or supporting documents, or from preventing [~~the operation of~~] a use or occupancy in violation of the codes, the Dallas Development Code, [or of any] other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations.

306.12[9] Voiding [Expiration] of certificate of occupancy.

306.12.1[9-1] Void ab initio [General]. A certificate of occupancy shall [~~expire and~~] be void *ab initio* if the use or occupancy authorized by that certificate of occupancy is not commenced before the 120th day after the date of its issuance unless one or more extensions are granted under Subsection [Section] 306.12.2[9-2], in which case the certificate of occupancy shall be void *ab initio* if the use or occupancy is not commenced during the extended time period(s).

306.12.2[9.2] Extensions of time. The building official may grant one or more extensions of time for periods not exceeding 120 days each if the building official [~~he or she~~] finds that circumstances beyond the control of the holder of the certificate of occupancy have prevented the use or occupancy from being commenced. If a request for extension is made by the applicant or the applicant's [~~his or her~~] agent, the request must be in writing and made within the time period sought to be extended.

306.12.3 Void. A certificate of occupancy shall be void if:

1. A specific use permit required by the Dallas Development Code to operate the use or occupancy expires; or
2. A compliance date for the use or occupancy set by ordinance or the board of adjustment in accordance with the Dallas Development Code has passed.

~~[306.9.3 Written notice. If the building official determines that a certificate of occupancy has expired, he or she shall give written notice of that fact in accordance with Section 306.12.]~~

306.13[10] [Suspension or] R[ev]ocation of certificate of occupancy. ~~[306.10.1 General.]~~ The building official shall [~~suspend or~~] revoke a certificate of occupancy [~~issued under the codes~~] if the building official [~~he or she~~] determines that:

1. the certificate of occupancy is issued in error; [or]
2. the certificate of occupancy is issued on the basis of false, incomplete, or incorrect information supplied; [or that]
3. a use or occupancy is being operated in a manner that is a substantial danger of injury or an adverse health impact to any person or property and is in violation of the codes, the Dallas Development Code, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations;
4. the structure or portion of the structure is a substantial danger of injury or an adverse health impact to any person or property and is in violation of the codes, the Dallas Development Code, [or any] other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations;[-]
5. a required city, county, state, or federal license, permit, or registration to operate the use or occupancy has not been issued, has been revoked, or has expired;
6. the holder of the certificate of occupancy has refused, upon request, to supply the building official with records needed to document the percentage of gross revenue on a quarterly (three-month) basis derived from the sale or service of alcoholic beverages within the required time period; or

7. the use or occupancy authorized by the certificate of occupancy has been discontinued for six months or more.

~~306.10.2 Use discontinued.~~ The building official shall revoke a certificate of occupancy if he or she determines that the use authorized by the certificate has been discontinued for six months or more and is no longer in operation.

~~306.10.3 Written notice.~~ If the building official suspends or revokes a certificate of occupancy, he or she shall mail a written notice of that fact to the holder of the certificate in accordance with Section 306.12.]

306.14 Written notice. Written notice of any action taken or determination made by the building official under this section must be given to the owner of the structure and land and to the operator of the use or occupancy at the address shown on the certificate of occupancy by certified mail with a five-day return requested or by hand-delivery. Except when a compliance date has been set in accordance with the *Dallas Development Code*, the notice must state that the action taken or determination made by the building official is final unless appealed. The fact that the notice is returned undelivered or that the return receipt is not signed by the addressee shall not affect the validity of the notice.

306.15[11] Appeal [Finality] of actions and determinations. Any action taken or determination made by the building official under this section shall be final unless appealed as follows:

1. If the action taken or determination made was pursuant to the codes, an appeal must be made to the building inspection advisory, examining, and appeals board in accordance with Section 208 before the 15[30]th day after written notice of the action taken or determination made is given in accordance with Section 306.14; or [12]
2. Except as provided in Paragraph 3, if the action taken or determination made was pursuant to the *Dallas Development Code*, an appeal must be made to the board of adjustment in accordance with the *Dallas Development Code*.
3. A certificate of occupancy that is void because a compliance date for the use or occupancy set by ordinance or the board of adjustment in accordance with the *Dallas Development Code* has passed may not be appealed under this subsection.

306.16 Stay pending appeal. An appeal of an action taken or determination made by the building official under this section stays all proceedings in furtherance of the action taken or determination made that is appealed unless the building official certifies in writing to the appropriate board facts supporting the building official's opinion that a stay would cause imminent peril to life or property. Then, the proceedings may be stayed only by a restraining order granted by the district court, after notice to the building official, if due cause is shown.

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~~[306.12 Written notice. The written notice required by this section must be sent to the address of the applicant or permittee shown on the most recent application for the permit or certificate of occupancy by certified mail with a five-day return requested. The notice must state that the action or determination made by the building official may be appealed to the building inspection advisory, examining, and appeals board, and that any request for an appeal must be made not later than the 30th day after the date on which the notice was mailed. The fact that the notice is returned undelivered or that the return receipt is not signed by the addressee shall not affect the validity of the notice.]”~~

SECTION 4. That a person who violates a provision of this ordinance is punishable by a fine not to exceed \$2,000.

SECTION 5. That Chapters 51, 51A and 52 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance. Any existing structure, system, development project, or registration that is not required to come into compliance with a requirement of this ordinance will be governed by the requirement as it existed in the former law last applicable to the structure, system, development project, or registration, and all former laws will continue in effect for this purpose. Further, no offense committed and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the effective date of this ordinance will be discharged or affected by this ordinance. Prosecutions and suits for such offenses, liabilities, penalties, and forfeitures may be instituted, and causes of action pending on the effective date of this ordinance may proceed, as if the former laws applicable at the time the offense, liability, penalty, or forfeiture was committed or incurred had not been amended, repealed, reenacted, or superseded, and all former laws will continue in effect for these purposes.

SECTION 6. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

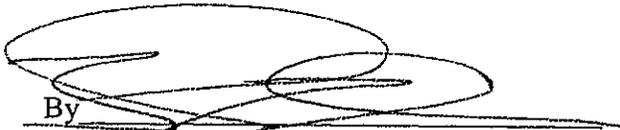
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SECTION 7. That this ordinance will take effect immediately from and after its passage and publication in accordance with the Charter of the City of Dallas and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney


By _____
Assistant City Attorney

Passed FEB 14 2007



The Dallas City Code

ARTICLE II. INTERPRETATIONS AND DEFINITIONS.

SEC. 51A-2.101. INTERPRETATIONS.

Unless the context clearly indicates otherwise, the following rules apply in interpreting this chapter:

- (1) Words used in the present tense include the future tense.
- (2) Words in the singular include the plural, and words in the plural include the singular.
- (3) The word "building" includes the word "structure", and the word "structure" includes the word "building."
- (4) The word "lot" includes the words "building site," "site," "plot" or "tract."
- (5) The word "shall" is mandatory and not discretionary.
- (6) If there is a conflict:
 - (A) the text of this chapter controls over the charts or any other graphic display in this chapter;
 - (B) the use regulations (Division 51A-4.200) control over the district regulations (Division 51A-4.100, et seq.) in this chapter; and
 - (C) the text, charts, or other graphic display in Article XIII control over the text, charts, or other graphic display in other articles of this chapter. (Ord. Nos. 19455; 27495)

SEC. 51A-2.102. DEFINITIONS.

In this chapter, unless the context requires otherwise:

- (1) "A" DISTRICT means the agricultural district established under Chapter 51.
- (2) "A(A)" DISTRICT means the agricultural district established under this chapter.
- (2.1) ACCESSORY STRUCTURE means a structure located on the same lot as the main building that is subordinate in floor area, location, and purpose to the main building and used for a permitted accessory use.
- (3) ACCESSORY USES means those uses defined in Section 51A-4.217.
- (4) AGRICULTURAL DISTRICT means the A(A) district established under this chapter.
- (5) AGRICULTURAL USES means those uses defined in Section 51A-4.201.
- (6) AIRPORT HAZARD means any structure, tree, sign, vehicle or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport, or is otherwise hazardous to the landing or taking off of aircraft.
- (7) ALLEY means a right-of-way which provides secondary access to adjacent property.
- (7.1) ARTERIAL means a street designated as either a principal or minor arterial in the city's thoroughfare plan.
- (8) BASEMENT means any level of a building where more than one half of the vertical distance between floor and ceiling is below grade.
- (8.1) BATHROOM means any room used for personal hygiene and containing a shower or bathtub, or containing a toilet and sink.
- (9) BEDROOM means any room in a dwelling unit other than a kitchen, dining room, living room, bathroom, or closet. Additional dining rooms and living rooms, and all dens, game rooms, sun rooms, and other similar rooms are considered bedrooms.
- (9.1) BICYCLE PARKING means Class I bicycle parking and Class II bicycle parking.
- (10) ~~BLOCK~~ means:

- (A) an area bounded by streets on all sides; and
- (B) as a measurement term, the distance along one side of a street between the two nearest intersecting streets, or where a street deadends, the distance along one side of a street between the nearest intersecting street and the end of the deadend street.
- (11) BOARD means the board of adjustment.
- (11.1) BREEZEWAY means an unenclosed passage connecting two buildings or portions of a building.
- (12) BUILDING means a structure for the support or shelter of any use or occupancy.
- (13) BUILDING LINE means a line marking the minimum distance a building may be erected from a street, alley, or lot line. (Also called the "setback line.")
- (14) BUILDING OFFICIAL means the person designated by the city manager as the building official of the city, or the building official's authorized representative.
- (15) BUILDING SITE means property that meets the requirements of Section 51A-4.601. BDA 134-126
- (16) "CA-1" DISTRICT means the CA-1 district established under Chapter 51. Attach B
- (17) "CA-1(A)" DISTRICT means the CA-1(A) district established under this chapter. Pg 22
- (18) "CA-2" DISTRICT means the CA-2 district established under Chapter 51.
- (19) "CA-2(A)" DISTRICT means the CA-2(A) district established under this chapter.
- (20) CENTER LINE means a line running midway between the bounding right-of-way lines of a street or alley. Where the bounding right-of-way lines are irregular, the center line shall be determined by the director of public works.
- (21) CENTRAL AREA DISTRICTS means the CA-1(A) and CA-2(A) districts established under this chapter.
- (22) CENTRAL BUSINESS DISTRICT means the area of the city within Woodall Rodgers Freeway, Central Expressway (elevated bypass), R. L. Thornton Freeway, and Stemmons Freeway.
- (23) CITY COUNCIL means the governing body of the city.
- (23.1) CLASS I BICYCLE PARKING means unenclosed parking spaces intended for bicycles where one or both wheels and the frame of a bicycle can be secured to a rack with a user-supplied lock.
- (23.2) CLASS II BICYCLE PARKING means enclosed parking spaces intended for bicycles within a building or structure designed for increased security from theft and vandalism, such as locked bicycle storage rooms, bicycle check-in systems, and bicycle lockers.
- (23.3) COLLECTOR means a street designated as either a community or residential collector in the city's thoroughfare plan.
- (24) COMMERCIAL AND BUSINESS SERVICE USES means those uses defined in Section 51A-4.202.
- (25) COMMISSION or CITY PLAN COMMISSION means the city plan and zoning commission.
- (26) COVERAGE means the percentage of lot area covered by a roof, floor, or other structure, except that roof eaves up to 24 inches and other ordinary building projections up to 12 inches are excluded.
- (27) DENSITY means the ratio of dwelling units to lot area.
- (28) DEPARTMENT means the department of sustainable development and construction. The department of sustainable development and construction was formerly named the department of development services, the department of planning and development, the department of urban design, and the city plan department. Any reference to these departments is a reference to the department of sustainable development and construction.
- (29) "D" DISTRICT means the duplex district established under Chapter 51.
- (30) "D(A)" DISTRICT means the duplex district established under this chapter.
- (31) DIR means "development impact review" (See Division 51A-4.800).
- (32) DIRECTOR means the director of the department of sustainable development and

construction or the director's representative.

(33) **DUPLEX DISTRICT** means the D(A) district established under this chapter.

(34) **DWELLING UNIT** means one or more rooms designed to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.

(35) **EAVES** means the lowest border of a roof, including any overhang.

(35.1) **EXACTION** means, for purposes of Section 51A-1.109 and Texas Local Government Code Section 212.904, dedications, fees, or construction costs for municipal infrastructure additions or improvements that the city requires a developer to bear a portion of as a condition for approval of a property development project.

(36) **FAMILY** means individuals living together as a single housekeeping unit in which not more than four individuals are unrelated to the head of the household by blood, marriage, or adoption.

(37) **FENCE** means a structure that provides a physical barrier.

(38) **FLOOR AREA** means the total square feet of floor space in a building measured to the outside faces of exterior walls or to the omitted wall lines, whichever produces the larger area, excluding the following:

(A) Area used solely for off-street parking.

(B) Area between an omitted wall line and the structural wall when the area is used solely for foot or vehicular traffic or landscaping.

(C) Area of a private balcony that is not accessible to the public and does not provide a means of ingress or egress.

(D) Area of a breezeway or an unenclosed stairway located within the first three stories, excluding any basement, of a residential use.

(39) **FLOOR AREA RATIO** means the ratio of floor area to lot area. (Note: A 1:1 FAR is stated as "1.0," 2:1 is stated as "2.0," 2.5:1 is stated as "2.5," etc.)

(39.1) **FORM DISTRICTS** means the RTN, WMU-3, WMU-5, WMU-8, WMU-12, WMU-20, WMU-40, WR-3, WR-5, WR-8, WR-12, WR-20, and WR-40 districts and the planned form districts established under Article XIII of this chapter.

(40) **FRONTAGE** means the length of property along one side of a street between property or lease boundary lines.

(41) **FRONT YARD** means that portion of a lot which abuts a street and extends across the width of the lot between the street and the setback line.

(41.1) **GARBAGE** means solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food. This includes such waste materials from markets and storage facilities where handling or sale of produce and other food products is conducted.

(42) **"GO" DISTRICTS** means the general office matrix districts established under Chapter 51.

(43) **"GO(A)" DISTRICT** means the general office district established under this chapter.

(44) **"GR" DISTRICT** means the general retail district established under Chapter 51.

(45) **GRADE** means the average of the finished ground surface elevations measured at the highest and lowest exterior corners of a structure. For purposes of this definition, **FINISHED GROUND SURFACE ELEVATION** means the ground surface elevation of the building site before any construction or the ground surface elevation as altered in accordance with grading plans approved by the building official. Finished ground surface elevation does not include:

(A) fill material not necessary to make the site developable;

(B) berms; or

(C) landscape features.

(45.1) **HAZARDOUS WASTE** means solid waste identified or listed as hazardous waste by the administrator of the United States Environmental Protection Agency under the Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42

U.S.C. Section 6901 et seq.).

(46) "HC" DISTRICT means the heavy commercial district established under Chapter 51.

(47) HEIGHT means the vertical distance measured from grade to:

(A) for a structure with a gable, hip, or gambrel roof, the midpoint of the vertical dimension between the lowest eaves and the highest ridge of the structure;

(B) for a structure with a dome roof, the midpoint of the vertical dimension of the dome; and

(C) for any other structure, the highest point of the structure.

(47.1) Reserved.

(Repealed by Ord. 20478).

(48) Reserved.

(Repealed by Ord. 24163).

(48.1) HUD-CODE MANUFACTURED HOME means a structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(49) "I-1" DISTRICT means the I-1 district established under Chapter 51.

(50) "I-2" DISTRICT means the I-2 district established under Chapter 51.

(51) "I-3" DISTRICT means the I-3 district established under Chapter 51.

(52) INDUSTRIAL DISTRICTS means LI, IR, and IM districts.

(52.1) INDUSTRIAL SOLID WASTE means solid waste generated by manufacturing or industrial processes, excluding mining or oil and gas, that is not hazardous waste regulated under Subtitle C of the Resource Conservation and Recovery Act of 1976. Such waste may include, but is not limited to, waste resulting from:

(A) Electric power generation.

(B) Foundries or the manufacturing of nonferrous metals.

(C) Water treatment.

(D) The manufacturing of textiles; transportation equipment; plastics; resins; rubber; miscellaneous plastic products; concrete products; iron; steel; clay; glass; stone; organic chemicals; inorganic chemicals; leather; leather products; fertilizers and agricultural chemicals; pulp and paper; food; and food-related products and by-products.

(53) INDUSTRIAL USES means those uses defined in Section 51A-4.203.

(54) INNER COURT means an open space bounded on all sides by the walls of a building.

(55) INSTITUTIONAL USES means the post office; community service center; foster home; child-care facility; halfway house; church; convent or monastery; cemetery or mausoleum; overnight general purpose shelter; public or private school; business school; technical school; college, university, or seminary; college dormitory, fraternity, or sorority house; library, art gallery, or museum; hospital; and convalescent and nursing homes, hospice care, and related institutions uses.

(56) INSTITUTIONAL AND COMMUNITY SERVICE USES means those uses defined in Section 51A-4.204.

(57) INTERIOR LOT LINE means a lot line not adjacent to a street or alley.

(57.1) KITCHEN means any room or area used for cooking or preparing food and containing one or more ovens, stoves, hot plates, or microwave ovens; one or more refrigerators; and one or more sinks. This definition does not include outdoor cooking facilities.

(57.2) KNOWINGLY means a person acts knowingly, or with knowledge, with respect to the nature of their conduct or to circumstances surrounding their conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly, or with

knowledge, with respect to a result of their conduct when the person is aware that the conduct is reasonably certain to cause the result.

(58) **LANDING AREA** means the area of an airport used for the landing, take off or taxiing of aircraft.

(59) **LANDSCAPE AUTHORITY** means:

(A) a landscape architect licensed or registered by the state; or

(B) a professional horticulturist or nurseryman.

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(60) **"LC" DISTRICT** means the light commercial district established under Chapter 51.

(61) **LEGAL HEIGHT** means the maximum building height allowed under Federal Aviation Administration regulations or any other ordinance or regulation in effect, whichever is most restrictive.

(61.1) **"LI" DISTRICT** means the light industrial district established under this chapter.

(61.2) **LIGHT SOURCE** means a flame or a bulb, mantle, or other device that produces light. The term "light source" does not include a device or fixture that serves to cover, direct or control the distribution of light.

(61.3) **LIMITED ACCESSORY USE** means an accessory use that is subject to the restrictions in Section 51A-4.218 governing limited uses.

(62) **LIMITED USE** means a use restricted under Section 51A-4.218.

(63) **"LO" DISTRICTS** means the limited office matrix districts established under Chapter 51.

(64) **"LO-1" DISTRICT** means the LO-1 district established under this chapter.

(65) **"LO-2" DISTRICT** means the LO-2 district established under this chapter.

(65.1) **"LO-3" DISTRICT** means the LO-3 district established under this chapter.

(65.2) **LO(A) DISTRICTS** means the LO-1, LO-2, and LO-3 districts established under this chapter.

(66) **LODGING USES** means those uses defined in Section 51A-4.205.

(67) **LOT** means a building site that fronts on a public or private street, except that in the case of a planned development district, the building site may front on an access easement, and in the case of a shared access development, the building site may front on a shared access area.

(68) **LOT AREA** means the total square feet contained within lot lines.

(69) **LOT DEPTH** means the average distance between the front and rear lot lines.

(70) **LOT LINE** means a property line bounding a lot, excluding any street or alley dedicated in fee simple.

(71) **LOT WIDTH** means the distance between side lot lines measured along the front setback line.

(72) **MAIN BUILDING** means a building on a lot intended for occupancy by the main use.

(73) **MAIN USE** means those uses defined in Sections 51A-4.201 through 51A-4.216.

(73.1) **MANUFACTURED HOME** means a structure transportable in one or more sections, which is built on a permanent chassis and which is designed for use with or without a permanent foundation when connected to the required utilities. In this chapter, the term "manufactured home" includes, but is not limited to, HUD-code manufactured homes and mobile homes.

(73.2) **MANUFACTURED HOME DISTRICT** means the MH(A) district established under this chapter.

(73.3) **"MC" DISTRICTS** means the MC-1, MC-2, MC-3, and MC-4 districts established under this chapter (also called "multiple commercial districts").

(74) **"MF" DISTRICTS** means the MF-1, MF-2, MF-3, and MF-4 districts established under Chapter 51.

(75) **"MF(A)" DISTRICTS** means the MF-1(A), MF-1(SAH), MF-2(A), MF-2(SAH), MF-3(A), and MF-4(A) districts established under this chapter (also called "multifamily districts").

(76) **"MH" DISTRICT** means the manufactured home district established under Chapter 51.

(77) **"MH(A)" DISTRICT** means the manufactured home district established under this chapter.

(77.1) **MINOR ARTERIAL** means a street designated as a minor arterial in the city's thoroughfare plan.

(77.2) **MINOR STREET** means a street not designated in the city's thoroughfare plan.

(78) **MISCELLANEOUS USES** means those uses defined in Section 51A-4.206.

(79) **MIXED USE DISTRICTS** means the MU-1, MU-1(SAH), MU-2, MU-2(SAH), MU-3, and MU-3(SAH) districts established under this chapter (also called "MU" districts).

(80) **"MO" DISTRICTS** means the mid-range office matrix districts established under Chapter 51.

(81) **"MO-1" DISTRICT** means the MO-1 district established under this chapter.

(82) **"MO-2" DISTRICT** means the MO-2 district established under this chapter.

(82.1) **MO(A) DISTRICTS** means the MO-1 and MO-2 districts established under this chapter.

(83) **MOBILE HOME** means a structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(84) **"MU" DISTRICTS** means the MU-1, MU-1(SAH), MU-2, MU-2(SAH), MU-3, and MU-3(SAH) districts established under this chapter (also called "mixed use districts").

(85) **MULTIFAMILY DISTRICTS** means the MF-1(A), MF-1(SAH), MF-2(A), MF-2(SAH), MF-3(A), and MF-4(A) districts established under this chapter [also called "MF(A)" districts].

(85.1) **MULTIPLE COMMERCIAL DISTRICTS** means the MC-1, MC-2, MC-3, and MC-4 districts established under this chapter (also called "MC" districts).

(86) **NET ACRE** means an acre of land that does not include public rights-of-way.

(87) **"NO" DISTRICTS** means the neighborhood office matrix districts established under Chapter 51.

(88) **"NO(A)" DISTRICT** mean the neighborhood office district established under this chapter.

(89) **NONCONFORMING STRUCTURE** means a structure which does not conform to the regulations (other than the use regulations) of this chapter, but which was lawfully constructed under the regulations in force at the time of construction.

(90) **NONCONFORMING USE** means a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time.

(91) **NONRESIDENTIAL DISTRICTS** means the office, retail, CS, industrial, central area, mixed use, multiple commercial, P(A), urban corridor, walkable urban mixed use, and walkable urban residential districts.

(92) **NONRESIDENTIAL USE** means any main use that is not listed in Section 51A-4.209.

(93) **"NS" DISTRICT** means the neighborhood service district established under Chapter 51.

(94) **"NS(A)" DISTRICT** means the neighborhood service district established under this chapter.

(95) **"O-1" DISTRICT** means the O-1 district established under Chapter 51.

(96) **"O-2" DISTRICT** means the O-2 district established under Chapter 51.

(97) **OCCUPANCY** means the purpose for which a building or land is used.

(98) **OFFICE DISTRICTS** means the NO(A), LO-1, LO-2, LO-3, MO-1, MO-2, and GO(A) districts established under this chapter.

(99) **OFFICE USES** means those uses defined in Section 51A-4.207.

(99.1) **OFF-STREET PARKING** means parking spaces provided for a motor vehicle that are not located on a public right-of-way or private street. Off-street parking does not include bicycle parking spaces.

(100) **OMITTED WALL LINE** means a line on the ground determined by a vertical plane from:

(A) the overhang or outermost projection of a structure; or

(B) the outer edge of the roof of a structure without walls; or

(C) two feet inside the eave line of a structure with roof eaves.

(101) OPEN SPACE means an area that is unobstructed to the sky and contains no structures except for ordinary projections of cornices and eaves.

(102) OPENINGS FOR LIGHT OR AIR means any windows, window walls, or glass panels in an exterior wall of a building, excluding doors used for access.

(103) OUTER COURT means an open space bounded on all sides except one by the walls of a building, and opening upon a street, alley or a permanent open space.

(104) OUTSIDE DISPLAY means the placement of a commodity outside for a period of time less than 24 hours.

(105) "P" DISTRICT means the parking district established under Chapter 51.

(106) "P(A)" DISTRICT means the parking district established under this chapter.

(107) PARKING means the standing of a vehicle, whether occupied or not. Parking does not include the temporary standing of a vehicle when commodities or passengers are being loaded or unloaded.

(108) PARKING DISTRICT means the "P(A)" district established under this chapter.

(109) PARKING BAY WIDTH means the width of one or two rows of parking stalls and the access aisle between them.

(110) PARTY WALL means a wall built on an interior lot line used as a common support for buildings on both lots.

(111) PERSON means any individual, firm, partnership, corporation, association, or political subdivision.

(111.1) PRINCIPAL ARTERIAL means a street designated as a principal arterial in the city's thoroughfare plan.

(112) PRIVATE STREET means a street or an alley built to the same specifications as a street or alley dedicated to the public use, whose ownership has been retained privately.

(113) QUASI-PUBLIC AGENCY means an institution obtaining more than 51 percent of its funds from tax revenue.

(114) RAR means "residential adjacency review" (See Division 51A-4.800).

(115) "R" DISTRICTS means the R-1ac, R-1/2ac, R-16, R-13, R-10, R-7.5, and R-5 districts established under Chapter 51.

(116) "R(A)" DISTRICTS means the R-1ac(A), R-1/2ac(A), R-16(A), R-13(A), R-10(A), R-7.5(A), and R-5(A) districts established under this chapter (also called "single family districts").

(117) REAR YARD means that portion of a lot between two side lot lines that does not abut a street and that extends across the width of the lot between the rear setback line and the rear lot line.

(118) RECREATION USES means those uses defined in Section 51A-4.208.

(118.1) REFUSE means waste principally composed of trash and rubbish and containing no more than 50 percent by weight garbage or 50 percent by weight moisture, and no more than seven percent by weight noncombustible solids.

(119) RESIDENTIAL DISTRICTS means the A(A), R-1ac(A), R-1/2ac(A), R-16(A), R-13(A), R-10(A), R-7.5(A), R-5(A), D(A), TH-1(A), TH-2(A), TH-3(A), CH, MF-1(A), MF-1(SAH), MF-2(A), MF-2(SAH), MF-3(A), MF-4(A), MH(A), and RTN districts established under this chapter.

(120) RESIDENTIAL PROXIMITY SLOPE means "residential proximity slope" as defined in Section 51A-4.412.

(121) RESIDENTIAL USES means those uses defined in Section 51A-4.209.

(121.1) RESIDENTIAL TRANSITION DISTRICT means the RTN district established under Article XIII of this chapter.

(122) RETAIL AND PERSONAL SERVICE USES means those uses defined in Section 51A-4.210.

(122.1) RETAIL DISTRICTS means the NS(A), CR, and RR districts established under this

chapter.

(123) RIDGE means the line of intersection at the top between the opposite slopes or sides of a roof.

(124) RIGHT-OF-WAY means an area dedicated to public use for pedestrian and vehicular movement.

(125) RIGHT-OF-WAY LINE means the dividing line between a right-of-way and an adjacent lot.

(125.1) RTN DISTRICT means the residential transition district established under Article XIII of this chapter.

(125.2) RUBBISH means nonputrescible solid waste, excluding ashes, consisting of both combustible and noncombustible materials. Combustible rubbish includes, but is not limited to, paper, rags, cartons, wood, excelsior, rubber, plastics, non-metal furniture, leaves, and yard trimmings. Noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and similar items or materials which will not burn at ordinary incinerator temperatures. For purposes of this paragraph, temperatures from 1600 to 1800 degrees Fahrenheit are considered ordinary incinerator temperatures.

(126) "SC" DISTRICT means the shopping center district established under Chapter 51.

(127) SCREENING means a structure that provides a visual barrier.

(128) SETBACK LINE means a line marking the minimum distance a building may be erected from a street, alley, or lot line (also called the "building line").

(128.1) SHARED ACCESS DEVELOPMENT means a development that meets all of the requirements of Section 51A-4.411.

(129) SIDE YARD means:

(A) that portion of a lot extending from the front setback line to the rear setback line between the side setback line and the side lot line; or

(B) that portion of a lot which is between a lot line and a setback line but is not a front or rear yard.

(130) SINGLE FAMILY DISTRICTS means the R-1ac(A), R-1/2ac(A), R-16(A), R-13(A), R-10(A), R-7.5(A), and R-5(A) districts established under this chapter (also called "R(A)" districts).

(131) SITE AREA means that portion of a building site occupied by a use and not covered by a building or structure. For purposes of determining required off-street parking, site area does not include that area occupied by off-street parking, landscaped areas, and open space not used for storage or sales.

(131.1) SOLID WASTE means garbage; refuse; sludge from waste treatment plants, water supply treatment plants, and air pollution control facilities; and other discarded material, including solid, liquid, semisolid, or contained gaseous material, resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities. Solid waste does not include:

(i) Solid or dissolved material in domestic sewage, solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued pursuant to Chapter 26, Water Code.

(ii) Soil, dirt, rock, sand, and other natural or manmade inert solid materials used to fill land to make it suitable for the construction of surface improvements.

(iii) Waste materials resulting from activities associated with the exploration, development, or production of oil or gas which are subject to control by the Texas Railroad Commission.

(131.2) SPECIAL WASTE means solid waste from health-care-related activities which if improperly treated or handled may serve to transmit infectious disease, and which is comprised of the following: animal waste, bulk blood and blood products, microbiological waste, pathological waste, and sharps.

(132) STACKING SPACE means a space for one motor vehicle to line up in while waiting to

enter or use a parking lot, garage, drive-in, or drive-through facility.

(133) STORY means that portion of a building between any two successive floors or between the top floor and the ceiling above it.

(133.1) STREET LEVEL means, in a multi-level building, the level having the floor closest in elevation to the adjacent street; if the floors of two levels are equally close in elevation to the adjacent street, the level with the higher elevation is the street level.

(134) STREET means a right-of-way which provides primary access to adjacent property.

(135) STRUCTURE means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

(136) SUP means "specific use permit" (See Section 51A-4.219).

(137) "TH" DISTRICTS means the TH-1, TH-2, TH-3, and TH-4 districts established under Chapter 51.

(138) "TH(A)" DISTRICTS means the TH-1(A), TH-2(A), and TH-3(A) districts established under this chapter (also called townhouse districts).

(138.1) THOROUGHFARE means a street designated in the city's thoroughfare plan.

(139) TOWNHOUSE DISTRICTS means the TH-1(A), TH-2(A), and TH-3(A) districts established under this chapter [also called "TH(A)" districts].

(139.1) TRAFFIC ENGINEER means the person designated by the city manager as the traffic engineer of the city, or the traffic engineer's authorized representative.

(140) TRANSIENT STAND means a site for the placing and use of a manufactured home, recreational vehicle, or tent.

(141) TRANSPORTATION USES means those uses defined in Section 51A-4.211.

(141.1) "UC" DISTRICTS means the UC-1, UC-2, and UC-3 districts established under this chapter (also called "urban corridor districts").

(141.2) URBAN CORRIDOR DISTRICTS means the UC-1, UC-2, and UC-3 districts established under this chapter (also called "UC" districts). *[Note: Section 1 of Ordinance No. 24718 adds 51A-2.102 (141.2), providing a definition for the term "street level." Section 4 of Ordinance No. 24718 adds 51A-2.102(141.2), providing a definition for the term "urban corridor districts."]*

(142) UTILITY AND PUBLIC SERVICE USES means those uses defined in Section 51A-4.212.

(142.1) WALKABLE URBAN MIXED USE DISTRICTS means the WMU-3, WMU-5, WMU-8, WMU-12, WMU-20, and WMU-40 districts established under Article XIII of this chapter.

(142.2) WALKABLE URBAN RESIDENTIAL DISTRICTS means the WR-3, WR-5, WR-8, WR-12, WR-20, and WR-40 districts established under Article XIII of this chapter.

(143) WHOLESALE, DISTRIBUTION, AND STORAGE USES means those uses defined in Section 51A-4.213.

(143.1) WMU DISTRICTS means the WMU-3, WMU-5, WMU-8, WMU-12, WMU-20, and WMU-40 districts established under Article XIII of this chapter (also called "walkable urban mixed use districts").

(143.2) WR DISTRICTS means the WR-3, WR-5, WR-8, WR-12, WR-20, and WR-40 districts established under Article XIII of this chapter (also called "walkable urban residential districts").

(144) ZONING DISTRICT means a classification assigned to a particular area of the city within which zoning regulations are uniform.

(145) ZONING DISTRICT MAP means the official map upon which the zoning districts of the city are delineated. (Ord. Nos. 19455; 19786; 19806; 20272; 20360; 20361; 20383; 20411; 20478; 20673; 20902; 20920; 21002; 21186; 21663; 22018; 24163; 24718; 24731; 24843; 25047; 25977; 26286; 26530; 27334; 27495; 27572; 28072; 28073; 28424; 29128)

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STATE OF TEXAS §
COUNTY OF DALLAS §
CITY OF DALLAS §

I, **BILIERAE JOHNSON**, Assistant City Secretary, of the City of Dallas, Texas, do hereby certify that the attached is a true and correct copy of:

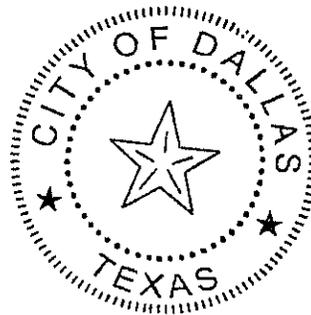
ORDINANCE NO. 28214

Which was passed by the Dallas City Council on **May 24, 2011**.

WITNESS MY HAND AND THE SEAL OF THE CITY OF DALLAS, TEXAS, this the **4th** day of **November, 2014**.



BILIERAE JOHNSON
ASSISTANT CITY SECRETARY
CITY OF DALLAS, TEXAS



Prepared By: PB

5-24-11

ORDINANCE NO. 28214

An ordinance amending Chapter 51, "Dallas Development Code: Ordinance No. 10962, as amended," and Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code by amending Sections 51-4.210, 51A-4.121, 51A-4.122, 51A-4.123, 51A-4.124, 51A-4.125, 51A-4.126, 51A-4.127 and 51A-4.207; creating a new alternative financial establishment use; providing appropriate standards and regulations for alternative financial establishments; requiring a specific use permit, spacing requirements, and other regulations for the use; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, a clustering of alternative financial establishments can have a detrimental effect on neighborhoods and create the appearance of an area in decline; and

WHEREAS, a proliferation of alternative financial establishments at particular locations can overwhelm a neighborhood and can be a disincentive for other business to locate in these neighborhoods; and

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 51-4.210, "Professional, Personal Service, and Custom Crafts Uses," of Division 51-4.200, "Use Regulations," of Article IV, "Zoning Regulations," of Chapter 51, "Dallas Development Code: Ordinance No. 10962, as amended," of the Dallas City Code is amended by adding new Paragraph (25), "Alternative Financial Establishment," to read as follows:

“(25) Alternative financial establishment.

(A) Definitions: In this paragraph:

(i) ALTERNATIVE FINANCIAL ESTABLISHMENT means a car title loan business, check cashing business, or money transfer business. An alternative financial establishment does not include state or federally chartered banks, community development financial institutions, savings and loans, and credit unions. An alternative financial establishment does not include an establishment that provides financial services that are accessory to another main use.

(ii) CAR TITLE LOAN BUSINESS means an establishment that makes small, short-term consumer loans secured by a title to a motor vehicle.

(iii) CHECK CASHING BUSINESS means a business that provides check cashing, payday cash advance, payroll advance, short-term cash loan, short term cash advance, instant payday cash advance, short-term money loan services, or similar services to individuals for a specified fee.

(iv) MONEY TRANSFER BUSINESS means an establishment that transmits funds for a fee.

(B) Districts permitted: By SUP only in all nonresidential districts except the NO, NS, and P districts.

(C) Required off-street parking: One space per 333 square feet of floor area.

(D) Required off-street loading:

<u>SQUARE FEET OF FLOOR AREA IN STRUCTURE</u>	<u>TOTAL REQUIRED SPACES OR BERTHS</u>
<u>0 to 50,000</u>	<u>NONE</u>
<u>50,000 to 150,000</u>	<u>1</u>
<u>Each additional 100,000 or fraction thereof</u>	<u>1 additional</u>

(E) Additional provisions:

(i) No alternative financial establishment may be located within 1,500 feet, measured from property line to property line, of any other alternative financial establishment.

(ii) No alternative financial establishment may be located within 300 feet, measured from property line to property line, from a lot in a residential district.

(iii) No alternative financial establishment may be located within 500 feet of an expressway or new expressway as defined in Section 51A-7.102, measured from the property line of the alternative financial establishment to the nearest expressway or new expressway travel lane.

(iv) An alternative financial establishment may only operate within a freestanding building and may not operate in the same structure as any other use.

SECTION 2. That Subparagraph (G), "Office Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (b), "LO(A) Districts (LO-1, LO-2, and LO-3)," of Section 51A-4.121, "Office Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(G) Office uses.

- Alternative financial establishment. [SUP]
- Financial institution without drive-in window.
- Financial institution with drive-in window. [SUP]
- Medical clinic or ambulatory surgical center.
- Office."

SECTION 3. That Subparagraph (G), "Office Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (c), "MO(A) Districts (MO-1 and MO-2)," of Section 51A-4.121, "Office Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(G) Office uses.

- Alternative financial establishment. [SUP]
- Financial institution without drive-in window.
- Financial institution with drive-in window. [DIR]
- Medical clinic or ambulatory surgical center.
- Office."

SECTION 4. That Subparagraph (G), "Office Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (d), "General Office [GO(A)] District," of Section 51A-4.121, "Office Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(G) Office uses.

- Alternative financial establishment. [SUP]
- Financial institution without drive-in window.
- Financial institution with drive-in window. [DIR]
- Medical clinic or ambulatory surgical center.
- Office."

SECTION 5. That Subparagraph (G), "Office Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (b), "Community Retail (CR) District," of Section 51A-4.122, "Retail Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(G) Office uses.

- Alternative financial establishment. [SUP]
- Financial institution without drive-in window.
- Financial institution with drive-in window. [DIR]
- Medical clinic or ambulatory surgical center.
- Office."

SECTION 6. That Subparagraph (G), "Office Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (c), "Regional Retail (RR) District," of Section 51A-4.122, "Retail Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

“(G) Office uses.

- Alternative financial establishment. [SUP]
- Financial institution without drive-in window.
- Financial institution with drive-in window. [DIR]
- Medical clinic or ambulatory surgical center.
- Office.”

SECTION 7. That Subparagraph (G), “Office Uses,” of Paragraph (2), “Main Uses Permitted,” of Subsection (a), “Commercial Service (CS) District,” of Section 51A-4.123, “Commercial Service and Industrial Districts,” of Division 51A-4.120, “Nonresidential District Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(G) Office uses.

- Alternative financial establishment. [SUP]
- Financial institution without drive-in window.
- Financial institution with drive-in window. [RAR]
- Medical clinic or ambulatory surgical center.
- Office.”

SECTION 8. That Subparagraph (G), “Office Uses,” of Paragraph (2), “Main Uses Permitted,” of Subsection (b), “Light Industrial (LI) District,” of Section 51A-4.123, “Commercial Service and Industrial Districts,” of Division 51A-4.120, “Nonresidential District Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(G) Office uses.

- Alternative financial establishment. [SUP]
- Financial institution without drive-in window.
- Financial institution with drive-in window. [RAR]
- Medical clinic or ambulatory surgical center.
- Office.”

SECTION 9. That Subparagraph (G), "Office Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (c), "Industrial/Research (IR) District," of Section 51A-4.123, "Commercial Service and Industrial Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(G) Office uses.

- Alternative financial establishment. [SUP]
- Financial institution without drive-in window.
- Financial institution with drive-in window. [RAR]
- Medical clinic or ambulatory surgical center.
- Office."

SECTION 10. That Subparagraph (G), "Office Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (d), "Industrial Manufacturing (IM) District," of Section 51A-4.123, "Commercial Service and Industrial Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(G) Office uses.

- Alternative financial establishment. [SUP]
- Financial institution without drive-in window.
- Financial institution with drive-in window. [RAR]
- Medical clinic or ambulatory surgical center.
- Office."

SECTION 11. That Subparagraph (G), "Office Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (a), "CA-1(A) District," of Section 51A-4.124, "Central Area Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

“(G) Office uses.

- ~~—~~ ~~Alternative financial establishment. [SUP]~~
- Financial institution without drive-in window.
- Financial institution with drive-in window. [DIR]
- Medical clinic or ambulatory surgical center.
- Office.”

SECTION 12. That Subparagraph (G), “Office Uses,” of Paragraph (2), “Main Uses Permitted,” of Subsection (b), “CA-2(A) District,” of Section 51A-4.124, “Central Area Districts,” of Division 51A-4.120, “Nonresidential District Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(G) Office uses.

- Alternative financial establishment. [SUP]
- Financial institution without drive-in window.
- Financial institution with drive-in window. [DIR]
- Medical clinic or ambulatory surgical center.
- Office.”

SECTION 13. That Subparagraph (G), “Office Uses,” of Paragraph (2), “Main Uses Permitted,” of Subsection (e), “MU-2 and MU-2(SAH) Districts,” of Section 51A-4.125, “Mixed Use Districts,” of Division 51A-4.120, “Nonresidential District Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(G) Office uses.

- Alternative financial establishment. [SUP] [Ambulatory surgical center.]
- Financial institution without drive-in window.
- Financial institution with drive-in window. [DIR]
- Medical clinic or ambulatory surgical center.
- Office.”

SECTION 14. That Subparagraph (G), "Office Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (f), "MU-3 and MU-3(SAH) Districts," of Section 51A-4.125, "Mixed Use Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(G) Office uses.

- Alternative financial establishment. [SUP] [Ambulatory surgical center.]
- Financial institution without drive-in window.
- Financial institution with drive-in window. [DIR]
- Medical clinic or ambulatory surgical center.
- Office."

SECTION 15. That Subparagraph (G), "Office Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (d), "MC-1 District," of Section 51A-4.126, "Multiple Commercial Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(G) Office uses.

- Alternative financial establishment. [SUP]
- Financial institution without drive-in window.
- Financial institution with drive-in window. [DIR]
- Medical clinic or ambulatory surgical center.
- Office."

SECTION 16. That Subparagraph (G), "Office Uses," of Paragraph (2), "Main Uses Permitted," of Subsection (e), "MC-2 District," of Section 51A-4.126, "Multiple Commercial Districts," of Division 51A-4.120, "Nonresidential District Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

“(G) Office uses.

- Alternative financial establishment. [SUP]
- Financial institution without drive-in window.
- Financial institution with drive-in window. [DIR]
- Medical clinic or ambulatory surgical center.
- Office.”

SECTION 17. That Subparagraph (G), “Office Uses,” of Paragraph (2), “Main Uses Permitted,” of Subsection (f), “MC-3 and MC-4 Districts,” of Section 51A-4.126, “Multiple Commercial Districts,” of Division 51A-4.120, “Nonresidential District Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(G) Office uses.

- Alternative financial establishment. [SUP]
- Financial institution without drive-in window.
- Financial institution with drive-in window. [DIR]
- Medical clinic or ambulatory surgical center.
- Office.”

SECTION 18. That Subparagraph (G), “Office Uses,” of Paragraph (2), “Main Uses Permitted,” of Subsection (c), “UC Districts,” of Section 51A-4.127, “Urban Corridor Districts,” of Division 51A-4.120, “Nonresidential District Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(G) Office uses.

- Alternative financial establishment. [SUP in UC-2 and UC-3 only.]
- Financial institution without drive-in window.
- Medical clinic or ambulatory surgical center.
- Office.”

SECTION 19. That Paragraph (1), "Reserved," of Section 51A-4.207, "Office Uses," of Division 51A-4.200, "Use Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(1) Alternative financial establishment.

(A) Definitions: In this paragraph:

(i) ALTERNATIVE FINANCIAL ESTABLISHMENT means a car title loan business, check cashing business, or money transfer business. An alternative financial establishment does not include state or federally chartered banks, community development financial institutions, savings and loans, and credit unions. An alternative financial establishment does not include an establishment that provides financial services that are accessory to another main use.

(ii) CAR TITLE LOAN BUSINESS means an establishment that makes small, short-term consumer loans secured by a title to a motor vehicle.

(iii) CHECK CASHING BUSINESS means a business that provides check cashing, payday cash advance, payroll advance, short-term cash loan, short term cash advance, instant payday cash advance, short-term money loan services, or similar services to individuals for a specified fee.

(iv) MONEY TRANSFER BUSINESS means an establishment that transmits funds for a fee.

(B) Districts permitted: By SUP only in all nonresidential districts except the NO(A), NS(A), MU-1, MU-1(SAH), UC-1, and P(A) districts.

(C) Required off-street parking: One space per 333 square feet of floor area.

(D) Required off-street loading:

SQUARE FEET OF
FLOOR AREA IN STRUCTURE

0 to 50,000
50,000 to 150,000
Each additional 100,000
or fraction thereof

TOTAL REQUIRED
SPACES OR BERTHS

NONE
1
1 additional

(E) Additional provisions:

(i) No alternative financial establishment may be located within 1,500 feet, measured from property line to property line, of any other alternative financial establishment.

(ii) No alternative financial establishment may be located within 300 feet, measured from property line to property line, of a lot in a residential district.

(iii) No alternative financial establishment may be located within 500 feet of an expressway or new expressway as defined in Section 51A-7.102, measured from the property line of the alternative financial establishment to the nearest expressway or new expressway travel lane.

(iv) An alternative financial establishment may only operate within a freestanding building and may not operate in the same structure as any other use.

[Reserved.]”

SECTION 20. That the director of sustainable development and construction shall revise the use charts in Chapters 51 and 51A to reflect the change in use regulations made by this ordinance, and shall provide these charts for publication in the Dallas Development Code.

SECTION 21. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 22. That Chapters 51 and 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 23. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

28214

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SECTION 24. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By 
Assistant City Attorney

Passed MAY 25 2011



The Dallas City Code

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

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

(1) Amortization of nonconforming uses.

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

(B) Factors to be considered. The board shall consider the following factors when determining whether continued operation of the nonconforming use will have an adverse effect on nearby properties:

- (i) The character of the surrounding neighborhood.
- (ii) The degree of incompatibility of the use with the zoning district in which it is located.
- (iii) The manner in which the use is being conducted.
- (iv) The hours of operation of the use.
- (v) The extent to which continued operation of the use may threaten public health or safety.
- (vi) The environmental impacts of the use's operation, including but not limited to the impacts of noise, glare, dust, and odor.
- (vii) The extent to which public disturbances may be created or perpetuated by continued operation of the use.

(viii) The extent to which traffic or parking problems may be created or perpetuated by continued operation of the use.

(ix) Any other factors relevant to the issue of whether continued operation of the use will adversely affect nearby properties.

(C) Finality of decision. A decision by the board to grant a request to establish a compliance date is not a final decision and cannot be immediately appealed. A decision by the board to deny a request to establish a compliance date is final unless appealed to state court within 10 days in accordance with Chapter 211 of the Local Government Code.

(D) Determination of amortization period.

(i) If the board determines that continued operation of the nonconforming use will have an adverse effect on nearby properties, it shall, in accordance with the law, provide a compliance date for the nonconforming use under a plan whereby the owner's actual investment in the use before the time that the use became nonconforming can be amortized within a definite time period.

(ii) The following factors must be considered by the board in determining a reasonable amortization period:

(aa) The owner's capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) on the property before the time the use became nonconforming.

(bb) Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages.

(cc) Any return on investment since inception of the use, including net income and depreciation.

(dd) The anticipated annual recovery of investment, including net income and depreciation.

(E) Compliance requirement. If the board establishes a compliance date for a nonconforming use, the use must cease operations on that date and it may not operate thereafter unless it becomes a conforming use.

(F) For purposes of this paragraph, "owner" means the owner of the nonconforming use at the time of the board's determination of a compliance date for the nonconforming use.

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

(3) Reserved.

(4) The right to operate a nonconforming use ceases when the use becomes a conforming use. The issuance of an SUP does not confer any nonconforming rights. No use authorized by the issuance of an SUP may operate after the SUP expires.

(5) The right to operate a nonconforming use ceases when the structure housing the use is destroyed by the intentional act of the owner or his agent. If a structure housing a nonconforming use is damaged or destroyed other than by the intentional act of the owner or his agent, a person may restore or reconstruct the structure without board approval. The structure must be restored or reconstructed so as to have the same approximate height, floor area, and location that it had immediately prior to the damage or destruction. A restoration or reconstruction in violation of this paragraph immediately terminates the right to operate the nonconforming use.

(6) The nonconformity of a use as to parking, loading, or an "additional provision" (except for a requirement that a use be located a minimum distance from a structure, use, or zoning district) in Division 51A-4.200 does not render that use subject to the regulations in this subsection.

(b) Changes to nonconforming uses.

(1) Changing from one nonconforming use to another. The board may allow a change from one nonconforming use to another nonconforming use when, in the opinion of the board, the change is to a new use that:

(A) does not prolong the life of the nonconforming use;

(B) would have been permitted under the zoning regulations that existed when the current use was originally established by right;

(C) is similar in nature to the current use; and

(D) will not have an adverse effect on the surrounding area.

(2) Remodeling a structure housing a nonconforming use. A person may renovate, remodel, or repair a structure housing a nonconforming use if the work does not enlarge the nonconforming use.

(3) Accessory structure for a nonconforming residential use. An accessory structure for a nonconforming residential use may be constructed, enlarged, or remodeled in accordance with the requirements of Sections 51A-4.209(b)(6)(E)(vii) and 51A-4.217(a) without board approval.

(4) Nonconformity as to parking or loading.

(A) Increased requirements. A person shall not change a use that is nonconforming as to parking or loading to another use requiring more off-street parking or loading unless the additional required off-street parking and loading spaces are provided.

(B) Delta theory. In calculating required off-street parking or loading, the number of nonconforming parking or loading spaces for a use may be carried forward when the use is

converted or expanded. Nonconforming rights as to parking or loading are defined in the following manner:

Required parking or loading for existing use

BDA 134-126

- Number of existing parking or loading spaces for existing use

Attach B

Nonconforming rights as to parking or loading.

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(C) Decreased requirements. When a use is converted to a new use having a lesser parking or loading requirement, the rights to any portion of the nonconforming parking or loading that are not needed to meet the new requirements are lost.

(5) Enlargement of a nonconforming use.

(A) In this subsection, enlargement of a nonconforming use means any enlargement of the physical aspects of a nonconforming use, including any increase in height, floor area, number of dwelling units, or the area in which the nonconforming use operates.

(B) The board may allow the enlargement of a nonconforming use when, in the opinion of the board, the enlargement:

(i) does not prolong the life of the nonconforming use;

(ii) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and

(iii) will not have an adverse effect on the surrounding area.

(C) Structures housing a nonconforming single family or duplex use may be enlarged without board approval.

(c) Nonconforming structures.

(1) Except as provided in Subsection (c)(2), a person may renovate, remodel, repair, rebuild, or enlarge a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations.

(2) The right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.

(3) A person may, without board approval, cause a structure to become nonconforming as to the yard, lot, and space regulations by converting the use of the structure, except that no person may convert its use to a residential use or to one of the nonresidential uses listed below:

- Airport or landing field.
- Animal production.
- Commercial amusement (inside).
- Commercial amusement (outside).
- Country club with private membership.
- Crop production.
- Drive-in theater.
- Dry cleaning or laundry store.
- General merchandise or food store 3,500 square feet or less.
- General merchandise or food store greater than 3,500 square feet.
- Helicopter base.
- Heliport.
- Helistop.
- Nursery, garden shop, or plant sales.
- Personal service use.
- Private recreation center, club, or area.
- Public park, playground, or golf course.
- Restaurant without drive-in or drive-through service.
- Restaurant with drive-in or drive-through service.
- Sand, gravel, or earth sales and storage.
- Sanitary landfill.

- STOL (short takeoff or landing) port.
- Stone, sand, or gravel mining.
- Temporary construction or sales office.
- Theater.
- Transit passenger shelter.

BDA 134-126
Attach B
Pg 47

The board may grant a special exception to this provision if the board finds that the conversion would not adversely affect the surrounding properties. (Ord. Nos. 19455; 19786; 20307; 20412; 21553; 22412; 25092; 26511)



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-126

Data Relative to Subject Property:

Date: 9-25-14

Location address: 8500 N. Stemmons Frwy Zoning District: MU-3

Lot No.: 3 Block No.: 7941 Acreage: 5,828 Census Tract: 100.00

Street Frontage (in Feet): 1) 326' 2) 3) 4) 5)

SW21

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Galt II LP

Applicant: Lorri Davis Telephone: 713-728-7142

Mailing Address: 8500 N. Stemmons Frwy, Ste 4040 Dallas Zip Code: 75247

E-mail Address: Lorri @ corporatemanaging . com

Represented by: John Dwyre Telephone: 210-736-1772

Mailing Address: 4207 Gardendale, Ste 104-B San Antonio, TX Zip Code: 78229

E-mail Address: office @ dwyre . com

Affirm that an appeal has been made for a Variance appeal of a of Special Exception of Certificate of occupancy denial

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: to continue the state licensed and regulated credit access business at this location

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

Affidavit

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

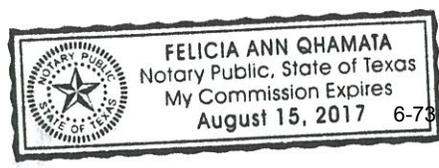
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: Lorri Davis (Affiant/Applicant's signature)

Subscribed and sworn to before me this 21st day of August 2014

Felicia Ann Thomata Notary Public in and for Dallas County, Texas

(Rev. 08-01-11)



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

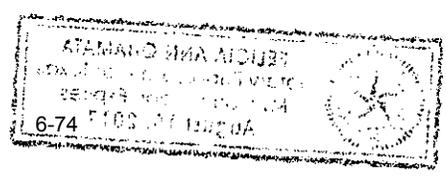
Building Official's Report

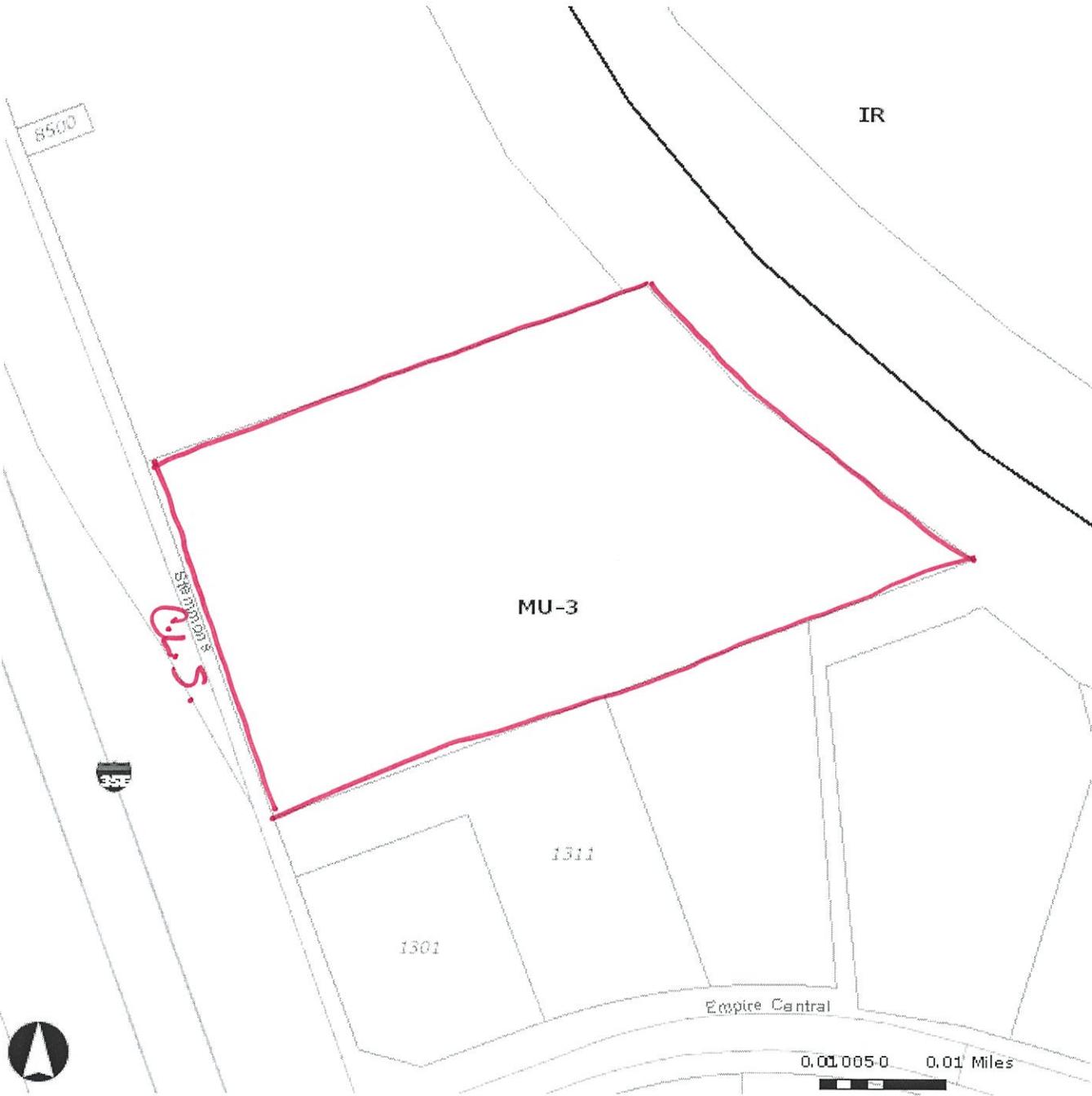
I hereby certify that Lorri Davis
represented by John Dwyre
did submit a request to appeal the decision of the administrative official
at 8500 N. Stemmons Frwy.

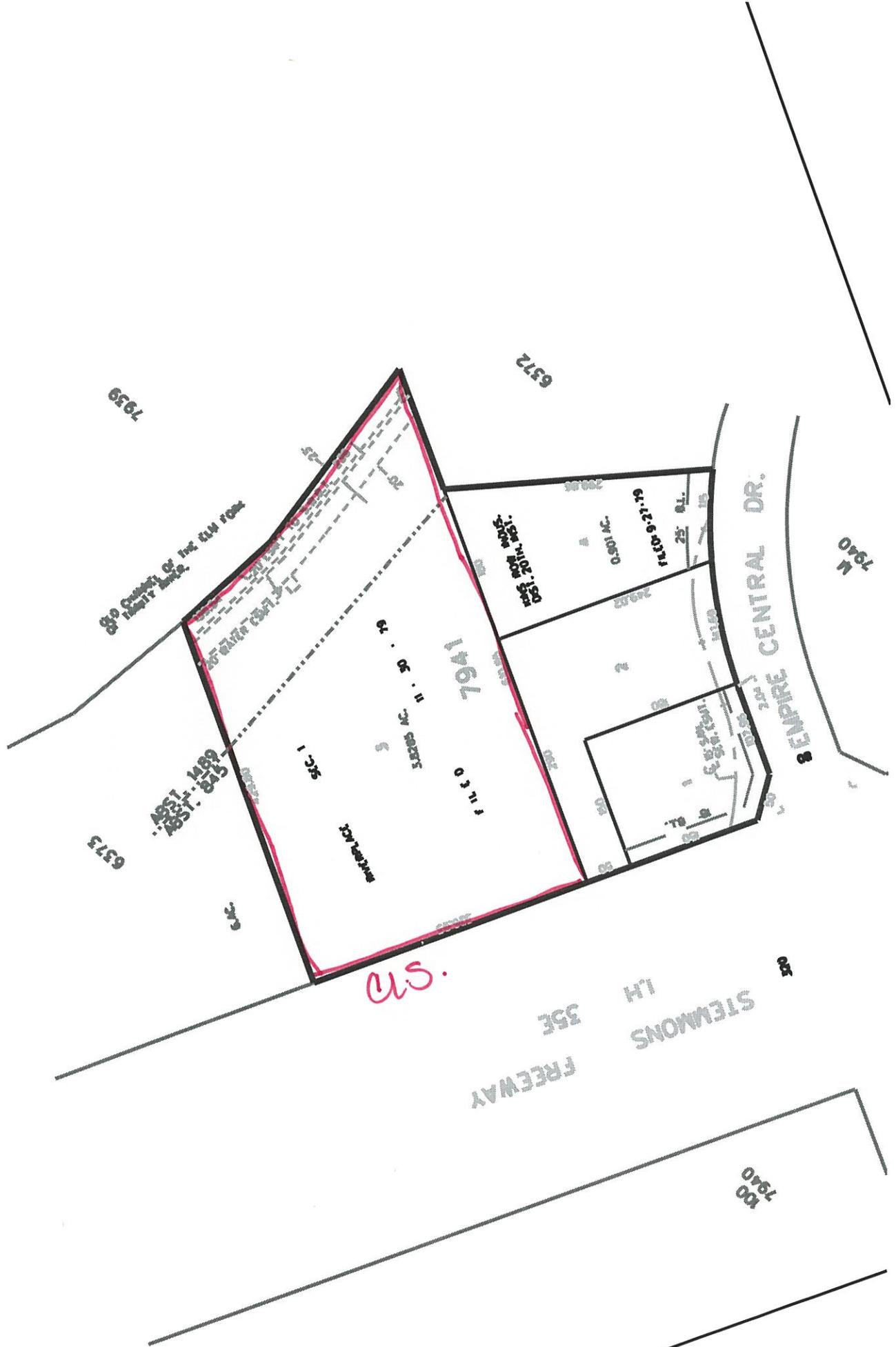
BDA134-126. Application of Lorri Davis represented by John Dwyre to appeal the decision of the administrative official at 8500 N. Stemmons Freeway, Suite 4040. This property is more fully described as Lot 3, Block 7941, and is zoned MU-3, which requires that the building official shall deny a certificate of occupancy if the building official determines that the certificate of occupancy being applied for is in violation of the Dallas Development Code, other city ordinances, rules, or regulations, or any county, state, or federal laws or regulations. The applicant proposes to appeal the decision of an administrative official in the denial of a certificate of occupancy.

Sincerely,


Larry Holmes, Building Official









CITY OF DALLAS

July 7, 2014

CERTIFIED MAIL NO. 7002 2410 0005 0303 7156
RETURN RECEIPT REQUESTED

Lorri Davis
8500 N. Stemmons Freeway, Suite 4040
Dallas, Texas 75247

Re: Denial of certificate of occupancy application No. CO1406131115 ("application") for alternative financial establishment use at 8500 N. Stemmons Freeway, Suite 4040 (the "Property")

Dear Ms. Davis:

This letter is to inform you that the certificate of occupancy application for the Property is hereby denied and any use operating on the Property without a certificate of occupancy is an illegal land use that must immediately cease operating.¹

The building official is required to deny an application for a certificate of occupancy if the building official determines that the certificate of occupancy request does not comply with the codes, the Dallas Development Code, or other city ordinances, rules, or regulations.²

From the information provided in the application, subsequent conversations with you, and additional research, the building official has determined that the proposed use for the Property is an alternative financial establishment³. The Property is zoned MU-3 Mixed Use District. Alternative financial establishment is a permitted use in this zoning district by Specific Use Permit (SUP) only.⁴ The Property does not have an SUP for an alternative financial establishment use. Additionally, an alternative financial establishment use is prohibited at the

¹ Subsection 306.5, "Denial," of Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas City Code; Section 51A-1.104, "Certificate of Occupancy," of Chapter 51A of the Dallas Development Code; Subsection 306.1, "Use or Occupancy," of Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas City Code.

² Paragraph 1 of Subsection 306.5, "Denial," of Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas City Code.

³ See Subsection (1), "Alternative Financial Establishment," of Section 51A-4.207, "Office Uses," of Chapter 51A of the Dallas Development Code.

⁴ See Paragraph (B) of Subsection (1), "Alternative Financial Establishment," of Section 51A-4.207, "Office Uses," of Chapter 51A of the Dallas Development Code.



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Property because the proposed alternative financial establishment use is within 500 feet of an expressway and is not being operated within a freestanding building with no other uses.⁵

Any determination made by the building official shall be final unless appealed within 15 days after receipt of this letter.⁶

Sincerely,

Larry V. Holmes, CBO
Building Official
Sustainable Development & Construction

- C: David Cossum, Interim Director, Sustainable Development & Construction
Maureen Milligan, Executive Assistant City Attorney
Jennifer Wang, Assistant City Attorney

⁵ See Paragraphs (E)(iii) and (E)(iv), of Subsection (1), "Alternative Financial Establishment," of Section 51A-4.207, "Office Uses," of Chapter 51A of the Dallas Development Code.

⁶ Paragraph 2 of Section 306.15, "Appeals of Actions and Determinations," of Chapter 52, "Administrative Procedures for the Construction Codes," of the Dallas City Code; and Section 51A-4.703(a)(2), "Board of Adjustment Hearing Procedures," of Chapter 51A of the Dallas Development Code.



JOHN STEVEN DWYRE
Board Certified Civil Trial
Board Certified Consumer &
Commercial Law

JOHN DWYRE & ASSOCIATES, PLLC

Attorneys at Law
4207 Gardendale, Suite 104-B
San Antonio, Texas 78229

(210) 736-1772
FAX (888) 736-4543

ANDREW E. SATTLER

July 22, 2014

Larry V. Holmes, CBO
Building Official
City of Dallas Department of Sustainable
Development & Construction
320 E. Jefferson Blvd. Rm. 105
Dallas, TX 75203

Sent via Hand Delivery

Re: Appeal of denial of certificate of occupancy application (No. CO1406131115) for alternative financial establishment use at 8500 N. Stemmons Freeway, Suite 4040 by CBA Leasing, LTD d/b/a Power Financial

Dear Mr. Holmes:

In accordance with the Administrative Procedures for the Construction of Codes of the Dallas City Code, appeal to the Advisory, Examining, and Appeals Board is hereby made with the filing of this letter and tender of the cost of appeal in the amount of \$600, which is attached to this letter.

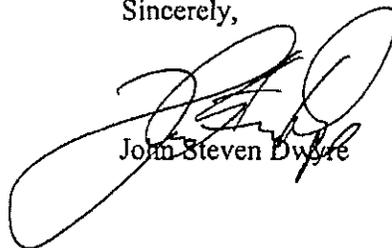
As grounds for the appeal CBA Leasing, LTD (Appellant) would show that it has a valid state issued license to engage in its activity issued by the Texas Office of the Consumer Credit Commissioner and the license is for the address at issue; Appellant has been engaged in its business at the location at issue for many years and that its use of the property predates the recent additions to the Dallas ordinances regarding alternative financial establishments; and thus its use should be grand-fathered; that there is no legitimate purpose behind the alternative financial establishment ordinances other than to hamper lawfully licensed activity and impede the uniform application of credit laws that blanket the state of Texas and are regulated by the Texas Credit Commissioner; and if there is a legitimate purpose to the financial establishment ordinances then Appellant should be granted variance.

In support of this appeal, Appellant attaches a copy of its state license, its application, and the denial of its application.



Appeal to Dallas Advisory, Examining, and Appeals Board
July 22, 2014
Page 2

Sincerely,



John Steven Dwyre



CITY OF DALLAS

AFFIDAVIT

Appeal number: BDA 134-126

I, Galt II, L.P., Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 8500 N. Stemmons Frwy. Ste 4040 Dallas, TX 75247
(Address of property as stated on application)

Authorize: Lorri Davis
(Applicant's name as stated on application)

To pursue an appeal to the City of Dallas Zoning Board of Adjustment for the following request(s)

 Variance (specify below)

 Special Exception (specify below)

X Other Appeal (specify below)

Denial of Certificate of Occupancy

By: Boxer Property Management Corp.
Management Company for Landlord

Galt II, L.P.
Print name of property owner/agent

John Rantz
Signature of property owner/agent
Vice President

10/6/14
Date

Before me, the undersigned, on this day personally appeared John Rantz, Vice-President

Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 6th day of October, 2014



Chasity Martinez
Notary Public for Dallas County, Texas

Commission expires on 2-25-17



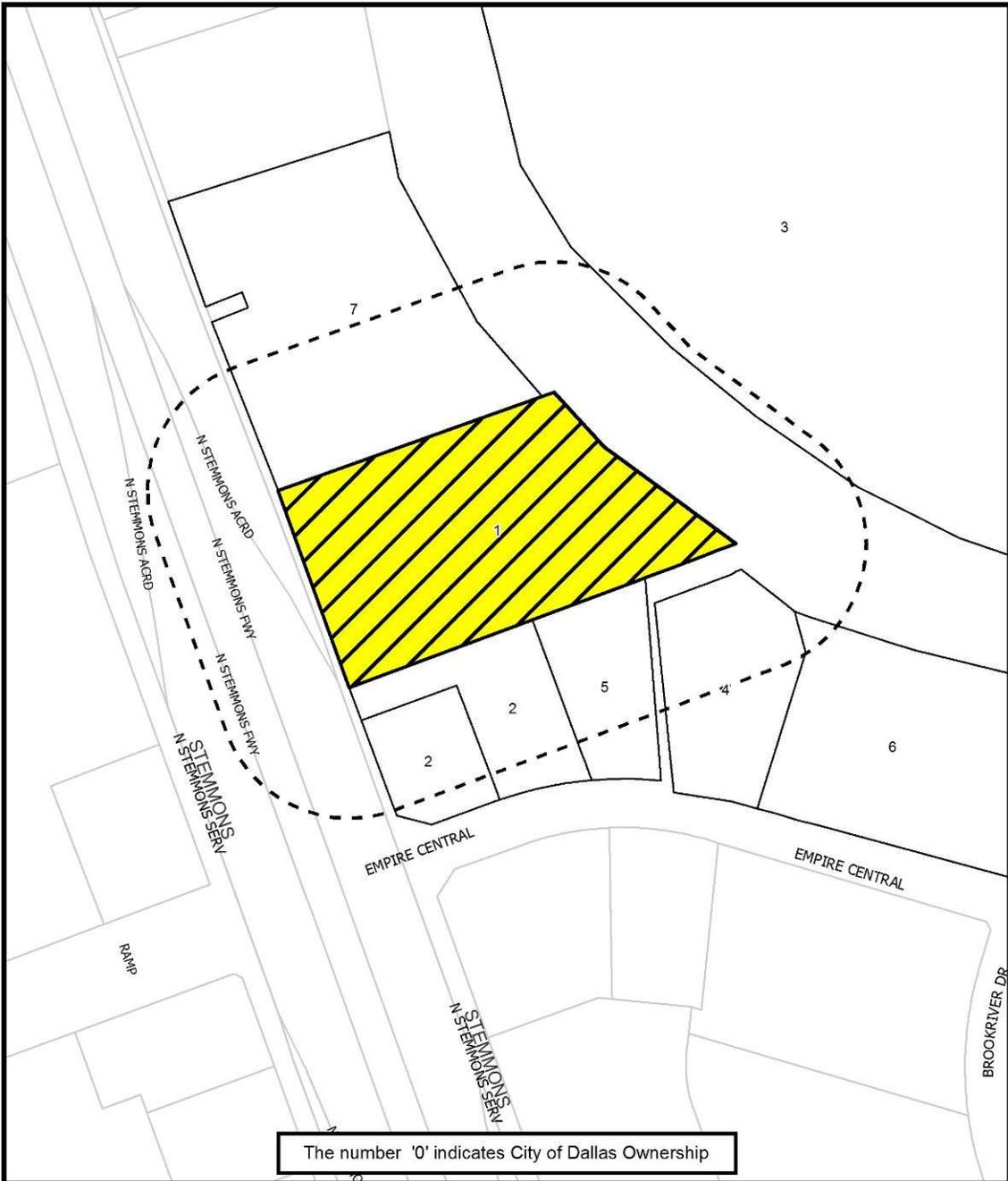
CITY OF DALLAS

Outline of Procedure for Appeals from Decisions of an Administrative Official

An appeal of an administrative official's decision may have very structured procedures that resemble a court hearing, or it may have more informal procedures that resemble a typical case brought before the Board of Adjustment. The parties can decide how they want to present their case. This document accounts for both scenarios. Please note that although there are time limits listed in this outline, the presiding officer reserves the right to alter these time limitations to promote fairness and efficiency.

- I. Explanation of the procedures by the presiding officer
- II. Swearing in of all persons who will testify in the case
- III. Applicant's case: 20 minute limit
 - a. This may resemble a typical Board case where the applicant merely presents his argument to the Board. It may also resemble a court hearing where the applicant gives an opening statement, calls witnesses, and offers evidence.
 - b. If the applicant calls a witness, the administrative official is able to cross examine the witness.
 - c. The applicant may conduct a redirect of his witness.
 - d. The applicant may submit documents to the Board Secretary as long as they comply with the documentary evidence rules set forth in the Board's Rules of Procedures.
 - e. The Board may ask questions at any time. Board member questions will not count towards the time limitation.
- IV. The Administrative Official's case: 20 minute limit
 - a. This may resemble a typical Board case where the administrative official presents his argument to the Board. It may also resemble a court hearing where the administrative official gives an opening statement, calls witnesses, and offers evidence.

- b. If the administrative official calls a witness, the applicant is able to cross examine the witness.
 - c. The administrative official may conduct a redirect of his witness.
 - d. The administrative official may submit documents to the Board Secretary as long as they comply with the documentary evidence rules set forth in the Board's Rules of Procedures.
 - e. The Board may ask questions at any time. Board member questions will not count towards the time limitation.
- V. Rebuttal by the applicant (optional): 3 minutes
- VI. Closing Statements
- a. Applicant's closing statement (optional): 3 minutes
 - b. The administrative official's closing statement (optional): 3 minutes
- VII. Move and second to either affirm, reverse, or amend the administrative official's decision.
- VIII. Open discussion of the case by Board members
- IX. Voting: Four concurring votes are required to reverse or amend the administrative official's decision.



 1:2,400	NOTIFICATION		Case no: BDA134-126
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">7</div> NUMBER OF PROPERTY OWNERS NOTIFIED		Date: 11/19/2014

11/19/2014

Notification List of Property Owners

BDA134-126

7 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	8500 STEMMONS FWY	GALT II LP
2	1301 EMPIRE CENTRAL	HEIDARI ALI
3	8301 HARRY HINES BLVD	BROOK HOLLOW GOLF CLUB
4	1327 EMPIRE CENTRAL	JJJ EMPIRE CENTRAL LLC
5	1317 EMPIRE CENTRAL	GREATER TEXAS FEDERAL
6	1349 EMPIRE CENTRAL PL	SASKAWAY FOUR LP
7	8550 STEMMONS FWY	RCI HOLDINGS INC