

**BOARD OF ADJUSTMENT, PANEL B  
PUBLIC HEARING MINUTES  
CITY HALL, L1FN CONFERENCE CENTER AUDITORIUM  
WEDNESDAY, MARCH 16, 2005**

MEMBERS PRESENT AT BRIEFING: Alice Cox, Vice-Chair, Taylor Brannon, regular member, Kathleen Cope, regular member, Samuel Gillespie, regular member and Dovie Jaffe, alternate member

MEMBERS ABSENT FROM BRIEFING: None

MEMBERS PRESENT AT HEARING: Alice Cox, Vice-Chair, Taylor Brannon, regular member, Kathleen Cope, regular member, Samuel Gillespie, regular member and Dovie Jaffe, alternate member

MEMBERS ABSENT FROM HEARING: None

STAFF PRESENT AT BRIEFING: T.J. Okwubanego, Asst. City Attorney, Donnie Moore, Chief Planner, Steve Long, Board Administrator, Danny Sipes, Development Code Specialist, Michael Sultan, Chief Arborist and Trena Law, Board Secretary

STAFF PRESENT AT HEARING: T.J. Okwubanego, Asst. City Attorney, Donnie Moore, Chief Planner, Steve Long, Board Administrator, Danny Sipes, Development Code Specialist, Michael Sultan, Chief Arborist and Trena Law, Board Secretary

\*\*\*\*\*  
**10:10 AM. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's March 16, 2005 docket.**

\*\*\*\*\*  
**1:10 P.M.**  
The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.  
\*\*\*\*\*

**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel B February 16, 2005 hearing minutes.

**MOTION:** Cope

I move **approval** of the **Wednesday, February 16, 2005** Board of Adjustment Public Hearing minutes.

**SECONDED:** Jaffe

**AYES:** 5–Cox, Brannon, Cope, Gillespie, Jaffe

**NAYS:** 0 - None

**MOTION PASSED** 5 – 0 (Unanimously)

\*\*\*\*\*

**MISCELLANEOUS ITEM NO. 2**

**FILE NUMBER:** Unassigned

**REQUEST:** To waive the filing fee to be submitted in conjunction with a potential Board of Adjustment application

**LOCATION:** 1831 Conner Drive

**APPLICANT:** Jose Ledezma

**STANDARD FOR A FEE WAIVER OR A FEE REIMBURSEMENT:**

The Dallas Development Code states that the board may waive the filing fee if the board finds that payment of the fee would result in substantial financial hardship to the applicant.

**GENERAL FACTS:**

- The Dallas Development Code states the following with regard to requests for Board of Adjustment fee waiver/s reimbursements:
  - The board may waive the filing fee if the board finds that payment of the fee would result in substantial financial hardship to the applicant.
  - The applicant may either pay the fee and request reimbursement at the hearing on the matter or request that the issue of financial hardship be placed on the board’s miscellaneous docket for predetermination.
  - If the issue is placed on the miscellaneous docket, the applicant may not file the application until the merits of the request for a waiver have been determined by the board.
  - In making this determination, the board may require the production of financial documents.

- The applicant submitted a letter to staff requesting a waiver of a filing fee to be submitted in conjunction with a possible Board of Adjustment issue (see Attachment A).

**Timeline:**

February 18, 2005 The applicant submitted a letter requesting a fee waiver for a Board of Adjustment application that may be requested at the address referenced above (see Attachment A).

February 22, 2005: The Board of Adjustment Secretary randomly assigned this request to Board of Adjustment Panel B.

February 22, 2005: The Board Administrator wrote the applicant a letter that conveyed the following information:

- the public hearing date and panel that will consider the request (where her attendance is strongly encouraged);
- the criteria/standard that the Board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the Board’s decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board; and
- the Board will take action on the matter at the March public hearing after all information/evidence and testimony presented by the applicant and all other interested parties.

**BOARD OF ADJUSTMENT ACTION: March 16, 2005**

APPEARING IN FAVOR: Victor Ledezma, 1831 Conner Drive, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Cope**

I move that the Board of Adjustment **deny** the fee waiver requested in the above referenced case.

SECONDED: **Jaffe**

AYES: 4– Cox, Brannon, Cope, Jaffe

NAYS: 1 –Gillespie

MOTION FAILED - 4 – 1

\*\*\*\*\*

**FILE NUMBER:** BDA 045-159

**BUILDING OFFICIAL'S REPORT:**

Application of Little Heroes Baseball Foundation, represented by David Taylor and Angela Turf, for a special exception to the landscape regulations at 2807 Harry Hines Blvd. This property is more fully described as Lots 3 and 4 in City Block 927 and is zoned PD 193 (MF-2 Subdistrict, H-96) which requires landscaping to be provided with new construction. The applicant proposes to re-construct a park facility and provide an alternate landscape plan which would require a special exception to the landscape regulations. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

**LOCATION:** 2807 Harry Hines Blvd

**APPLICANT:** Little Heroes Baseball Foundation  
Represented by David Taylor and Angela Turf

**REQUEST:**

- A special exception to the landscape regulations is requested/triggered in conjunction with reconstructing an existing baseball field with bleachers, restrooms and concession facilities on a site developed as a park (Pike Park Plaza).

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

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

**GENERAL FACTS:**

- The Dallas Development Code requires full compliance with the Landscape Regulations with new construction.
- The applicant is proposing an alternate landscape plan that does not fully comply with the landscape regulations, specifically a landscape plan where the applicant is specifically requesting relief from the sidewalk and street tree requirements along Harry Hines Boulevard, and the designated planting area requirement.
- The City of Dallas Chief Arborist identified the following ways in which the alternate landscape plan does not comply with the landscape regulations:
  - The applicant is required to provide a 4'-wide sidewalk between 5' and 10' from the back of curb.

The applicant is *proposing* to retain a 3.5'-wide sidewalk located between 3' – 7' from the back of curb.

- The applicant is required to provide one street tree for every 25' of street frontage (which in this case would be 20 trees)

The applicant is *proposing* to retain five mature Live Oak trees and states that the existing sidewalk and retaining wall preclude their ability to plant new trees in the required location.

- The applicant is required to maintain 17,500 square feet of the site as general planting area (an area that must contain living trees, shrubs, vines or groundcover).

The applicant is *proposing* to maintain the 4,020 square feet that exists and to add 4,920 square feet of additional materials along the east side of the property (480 linear feet) and vines on the outfield wall (500 linear feet).

- The City of Dallas Chief Arborist identified the following “Factors for Consideration:”
  - The requested relief from the sidewalk requirements is due to a desire to maintain an existing sidewalk due to the need to remove and replace an existing retaining wall if the sidewalk were to be removed.
  - The request to not plant additional street trees is self-explanatory.
  - The deficiency of the general planting area is due to the desire to utilize as much of the property for open playing fields.

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: PD No. 193 (MF-2 Subdistrict, H/96) (Planned Development District, Multifamily, Historic)

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

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

East: PD No. 193 (I-2 Subdistrict) (Planned Development District, Industrial)

West: PD No. 193 (MF-2 Subdistrict, H/64) (Planned Development District, Multifamily, Historic)

### **Land Use:**

The approximately 4 acre subject site is a park (Pike Park Plaza) The areas to the north and west are developed with residential uses; the area to the east is developed with office uses; and the area to the south is developed as parking uses.

### **Zoning/BDA History:**

1. BDA 012-143, 2722-2728 Akard and 2721-2727 Harry Hines Boulevard (the lot immediately south of the subject site) On August 27, 2002, the Board of Adjustment Panel A followed the staff recommendation and granted an appeal for a landscape special exception requested in conjunction with developing a surface parking lot on a site that was undeveloped. The board imposed a condition whereby the applicant had to fully comply with the submitted revised landscape plan.

## **Timeline:**

January 28, 2005: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

February 18, 2005: The Board Administrator contacted the applicant's representative and shared the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the February 25<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis;
- that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the March public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

February 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the City of Dallas Chief Arborist; and the Assistant City Attorney to the Board.

Although no review comments sheets (with comments) were submitted in conjunction with this application, the City of Dallas Chief Arborist submitted a memo regarding this appeal (see Attachment A).

**STAFF ANALYSIS:**

- The submitted landscape plan is deficient from fully complying with the landscape regulations of PD No. 193 primarily on the eastern side of the site along Harry Hines Boulevard.
- Granting this request (subject to a condition that the applicant complies with the submitted landscape plan) will result in allowing the site to deviate from the PD No. 193 landscape regulations in the following three ways:
  - the applicant could retain the existing sidewalk (and retaining wall) along Harry Hines Boulevard that is 0.5' narrower than what is required, and located between 2' – 3' closer to the street than what is required;
  - the applicant would be allowed to maintain 5 mature street trees along Harry Hines Boulevard when 20 new street trees would be required; and
  - the applicant would be allowed to only provide a total of 8,940 square feet of planting area when 17,500 square feet of planting area is required.

**BOARD OF ADJUSTMENT ACTION: March 16, 2005**

**APPEARING IN FAVOR:** David Taylor, 3424 Hilltop Road, Ft. Worth, TX 76109  
David Strueber, 3631 Ingleside, Dallas, TX

**APPEARING IN OPPOSITION:** Bennett Miller, 5709 Over Downes, Dallas, TX  
David Demarest, 2903 Magnolia Hill Ct., Dallas, TX  
Horaito Lonsdale-Hands, 2919 Magnolia Hill Ct., Dallas, TX  
Roxane Rose, 2951 Magnolia Hill Ct., Dallas, TX  
Ken Rose, 2951 Magnolia Hill Ct., Dallas, TX  
Doug Unger, 2975 Magnolia Hill Ct., Dallas, TX

**MOTION#1: Jaffe**

I move that the Board of Adjustment in **Appeal No. BDA 045-159**, on application of Little Heros Baseball Foundation, **deny** the relief requested by this applicant **without prejudice**, because our evaluation of the property and testimony shows that granting the application would compromise the spirit and intent of Section 26 of Ordinance Number 21859.

**SECONDED: Cope**

**AYES:** 2–Jaffe, Cope

**NAYS:** 3 – Cox, Brannon, Gillespie

**MOTION FAILED** - 2 – 3

**MOTION#2: Brannon**

I move that the Board of Adjustment in **Appeal No. BDA 045-159**, hold this matter under advisement until **April 20, 2005**.

**SECONDED: Gillespie**  
**AYES:** 4– Cox, Brannon, Gillespie, Cope  
**NAYS:** 1 – Jaffe  
**MOTION PASSED** - 4 –1

**Break: 2:55 PM**  
**Resume: 3:00P.M.**

\*\*\*\*\*

**FILE NUMBER:** BDA 045-166

**BUILDING OFFICIAL'S REPORT:**

Application of Richard Hale for a variance to the lot coverage regulations at 7416 Coronado Avenue, Unit #5. This property is more fully described as Lot 16 in City Block A/2698 and is zoned MF-2 (A) which allows a maximum 60% lot coverage. The applicant proposes to construct a single family dwelling and provide a lot coverage of 68.35% which would require a variance of 8.35%. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

**LOCATION:** 7416 Coronado Avenue, Unit #5

**APPLICANT:** Richard Hale

**REQUEST:**

- A variance to the lot coverage regulations of 8.35% is requested in conjunction with constructing a single family home on a site that is under development.

**STANDARD FOR A VARIANCE:**

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done. The variance must be necessary to permit development of a specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification. A variance may not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

**GENERAL FACTS:**



- The maximum lot coverage allowed in the MF-2 (Multifamily residential) zoning district is 60%.
- The single family structure is proposed to cover 68.35% (or 785.35 square feet) of the 1149 square foot site.
- The site is flat, rectangular in shape (50.5' x 22.75'), and approximately 1,150 square feet in area.
- The subject site is a lot that is part of a proposed “shared access development” which includes 19 lots that will be accessed from two driveways off of Coronado Avenue. Four of the 19 lots in the proposed “shared access development” are seeking variances to the lot coverage regulations since each of these lots viewed as individual lots exceed the 60% maximum lot coverage requirement for lots zoned MF-2(A). (See the “Zoning/BDA History” section of this case report for further details).
- The Dallas Development Code describes the purpose of a “shared access development” as follows:
  - “Traditional single family lots front onto a street and have a rectangular shape. New developments have been platted with a minimal frontage on a street, and have access to the street from a shared driveway. This section is designed to address the issues specific to these non-traditional lots.”
- The Dallas Development Code states defines “shared access area” as follows:
  - “Shared access area means that portion of a shared access development that fronts on a public or private street and provides access to individual lots within the shared access development.”
- The Dallas Development Code states defines “shared access development” as follows:
  - “Shared access development means a development that meets all of the requirements in this section.”
- The Dallas Development Code states that “All code requirements must be met individually by each lot in the shared access development, unless otherwise specified in the subsection.” Although the subsection states that property in shared access developments is treated as one lot for purposes of compliance with front, side, and rear yard regulations, applicable landscape regulations, and parking in some instances, the lot coverage requirements are not specified. As a result, each of the individual 19 lots in the proposed “shared access development” must adhere to the 60% maximum lot coverage requirement of the MF-2(A) zoning district. The site and three other lots in the proposed 19-lot development exceed this maximum lot coverage requirement.
- The applicant’s representative has submitted documentation that compares the maximum lot coverage provisions of a “shared access development” that would apply to the site and any lot located in a zoning district listed in the Dallas Development Code mentioned above, with maximum lot coverage provisions set forth for “residential development tracts” that apply for similar types of development in PD (Planned Development) No. 193: The Oak Lawn Special Purpose District zoning district (see Attachment A).
- A “residential development tract” is a type of development provided for and defined in PD No. 193. The “residential development tract” is defined in this specific PD

zoning district as “A development of three or more individually platted lots in an MF-1, MF-2, or MF-3 Subdistrict in which the dwelling units, whether attached or detached, are accessed from a shared driveway, and the dwelling units do not have any other dwelling units above or below them.”

- In this specific PD 193 zoning district, the maximum lot coverage that applies to the residential development tracts is 60%, but for purposes of this provision, the residential development tract is treated as a single lot (verses a 60% lot coverage requirement for each individual lot in “shared access development” on land zoned MF-2(A).
- The applicant states that if the proposed “shared access development” (encompassing the site and 18 other lots) could be viewed as single lot as in PD No. 193’s “residential development tracts,” the overall coverage for the entire proposal is only 47.3% (even though four of the 19 lots exceed the 60% maximum lot coverage requirement viewed individually).
- The applicant submitted information to staff beyond what was submitted with the original application. This information is included in this case report (see Attachment A), and includes the following:
  - A letter that further explains the request and why it should be granted
  - A site plan of the site (and the 3 other sites that need a variance)
  - A plan showing a summary of lot coverage
  - A plan showing a row of townhomes with the middle townhome having the same individual slab size but exceeding coverage since the end lots have side yards
  - Ordinance language pertaining to PD 193’s “development tracts” and Dallas Development Code Chapter 51A’s “shared access developments”
  - A plan showing an alternate lot layout
  - A plan showing an approved plat (which according to Subdivision staff was approved by the City Plan Commission in preliminary stage in September of 2004, and in a final stage in January of 2005)
  - Elevations
  - A plan showing the overall “shared access development”

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: MF-2 (A) (Multifamily residential)  
North: MF-2 (A) (Multifamily residential)  
South: R-5 (A) (Single family residential 5,000 square feet)  
East: MF-2 (A) (Multifamily residential)  
West: R-7.5 (A) (Single family residential 7,500 square feet)

### **Land Use:**

The subject site is under development. The areas to the north and south are developed with multifamily uses; and the areas to the east and west are developed with single family uses.

## **Zoning/BDA History:**

1. BDA 034-190, 7416 Coronado Avenue (the subject site and 18 other lots that comprise the proposed “shared access development”) 

On August 16, 2004, the Board of Adjustment Panel C followed the staff recommendation and granted a request for a special exception to the landscape regulations. The board imposed the submitted landscape plan as a condition to this approval. The case report states this appeal was requested in conjunction with developing the site as a 19-lot “shared access development” at a density permitted in the MF-2(A) zoning district. The applicant was seeking relief from the site tree requirement by providing 23 of the required 57 site trees. An attachment in this case report prepared by the applicant stated that “our lot sizes are 565 s.f. larger than the minimum allowed and our lot coverage is 12.4% less than the maximum allowed.”
2. BDA 045-167, 7416 Coronado Avenue, Unit 13 (one of the 19 lots that comprise the proposed “shared access development”) 

On March 16, 2005, the Board of Adjustment Panel B will consider a variance to the lot coverage regulations of 9.99% requested in conjunction with constructing single family home on a site that is under development.
3. BDA 045-168, 7416 Coronado Avenue, Unit 14 (one of the 19 lots that comprise the proposed “shared access development”) 

On March 16, 2005, the Board of Adjustment Panel B will consider a variance to the lot coverage regulations of 9.23% requested in conjunction with constructing single family home on a site that is under development.
4. BDA 045-169, 7416 Coronado Avenue, Unit 15 (one of the 19 lots that comprise the proposed “shared access development”) 

On March 16, 2005, the Board of Adjustment Panel B will consider a variance to the lot coverage regulations of 7.23% requested in conjunction with constructing single family home on a site that is under development.

## **Timeline:**

- February 14, 2005: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- February 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- February 18, 2005: The Board Administrator contacted the applicant’s representative and shared the following information:
- the public hearing date and panel that will consider the application;

- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the February 25<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis;
- that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the March public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

February 25, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A). This information included a series of information including a letter explaining the request and why it should be granted, copies of plans, plats, and ordinances.

February 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the City of Dallas Chief Arborist; and the Assistant City Attorney to the Board.

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

**STAFF ANALYSIS:**

- The site is flat, rectangular in shape (50.5' x 22.75') and 1,149 square feet in area.
- In January of 2005, the City Plan Commission approved the plat, submitted by the applicant, that established the current lot size and configuration requirements for this site.
- If the Board were to grant the request, imposing a condition whereby the applicant must comply with the submitted site plan, this site could be developed with a single family home exceeding the 60% maximum lot coverage requirement by 8.35% and of relatively the same size as the other 18 homes that are proposed to be located in the "shared access development."
- If the Board were to deny the request, the applicant could construct a single family home with a lot coverage of 60% or 8.35% smaller than proposed on the submitted site plan and consistent with Dallas Development Code regulations for lot coverage in "shared access developments" in the MF-2 zoning classification.

**BOARD OF ADJUSTMENT ACTION: March 16, 2005**

**APPEARING IN FAVOR:** Barbara Tenant, P.O Box 34306, Houston, TX 77234

**APPEARING IN OPPOSITION:** No one

**MOTION:** Gillespie

I move that the Board of Adjustment **grant** application **No. BDA 045-166**, because it appears from our evaluation of the property and all relevant evidence that the application satisfies all the requirements of the Dallas Development Code or the appropriate planned development district and is consistent with the general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

**SECONDED:** Brannon

**AYES:** 5–Cox, Brannon, Gillespie, Cope, Jaffe

**NAYS:** 0 –

**MOTION PASSED** - 5 – 0 (Unanimously)

\*\*\*\*\*

**FILE NUMBER:** BDA 045-167

**BUILDING OFFICIAL'S REPORT:**

Application of Richard Hale for a variance to the lot coverage regulations at 7416 Coronado Avenue, Unit #13. This property is more fully described as Lot 20 in City Block A/2698 and is zoned MF-2 (A) which allows a maximum 60% lot coverage. The applicant proposes to construct a single family dwelling and provide a lot coverage of 69.99% which would require a variance of 9.99%. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

**LOCATION:** 7416 Coronado Avenue, Unit #13

**APPLICANT:** Richard Hale

**REQUEST:**

- A variance to the lot coverage regulations of 9.99% is requested in conjunction with constructing a single family home on a site that is under development.

**STANDARD FOR A VARIANCE:**

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done. The variance must be necessary to permit development of a specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification. A variance may not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

### **GENERAL FACTS:**

- The maximum lot coverage allowed in the MF-2 (Multifamily residential) zoning district is 60%.
- The single family structure is proposed to cover 69.99% (or 793.81 square feet) of the 1149 square foot site.
- The site is flat, rectangular in shape (50.5' x 22.46'), and approximately 1,134 square feet in area.
- The subject site is a lot that is part of a proposed "shared access development" which includes 19 lots that will be accessed from two driveways off of Coronado Avenue. Four of the 19 lots in the proposed "shared access development" are seeking variances to the lot coverage regulations since each of these lots viewed as individual lots exceed the 60% maximum lot coverage requirement for lots zoned MF-2(A). (See the "Zoning/BDA History" section of this case report for further details).
- The Dallas Development Code describes the purpose of a "shared access development" as follows:
  - "Traditional single family lots front onto a street and have a rectangular shape. New developments have been platted with a minimal frontage on a street, and have access to the street from a shared driveway. This section is designed to address the issues specific to these non-traditional lots."
- The Dallas Development Code states defines "shared access area" as follows:
  - "Shared access area means that portion of a shared access development that fronts on a public or private street and provides access to individual lots within the shared access development."
- The Dallas Development Code states defines "shared access development" as follows:
  - "Shared access development means a development that meets all of the requirements in this section."
- The Dallas Development Code states that "All code requirements must be met individually by each lot in the shared access development, unless otherwise

specified in the subsection.” Although the subsection states that property in shared access developments is treated as one lot for purposes of compliance with front, side, and rear yard regulations, applicable landscape regulations, and parking in some instances, the lot coverage requirements are not specified. As a result, each of the individual 19 lots in the proposed “shared access development” must adhere to the 60% maximum lot coverage requirement of the MF-2(A) zoning district. The site and three other lots in the proposed 19-lot development exceed this maximum lot coverage requirement.

- The applicant’s representative has submitted documentation that compares the maximum lot coverage provisions of a “shared access development” that would apply to the site and any lot located in a zoning district listed in the Dallas Development Code mentioned above, with maximum lot coverage provisions set forth for “residential development tracts” that apply for similar types of development in PD (Planned Development) No. 193: The Oak Lawn Special Purpose District zoning district (see Attachment A).
- A “residential development tract” is a type of development provided for and defined in PD No. 193. The “residential development tract” is defined in this specific PD zoning district as “A development of three or more individually platted lots in an MF-1, MF-2, or MF-3 Subdistrict in which the dwelling units, whether attached or detached, are accessed from a shared driveway, and the dwelling units do not have any other dwelling units above or below them.”
- In this specific PD 193 zoning district, the maximum lot coverage that applies to the residential development tracts is 60%, but for purposes of this provision, the residential development tract is treated as a single lot (verses a 60% lot coverage requirement for each individual lot in “shared access development” on land zoned MF-2(A).
- The applicant states that if the proposed “shared access development” (encompassing the site and 18 other lots) could be viewed as single lot as in PD No. 193’s “residential development tracts,” the overall coverage for the entire proposal is only 47.3% (even though four of the 19 lots exceed the 60% maximum lot coverage requirement viewed individually).
- The applicant submitted information to staff beyond what was submitted with the original application. This information is included in this case report (see Attachment A), and includes the following:
  - A letter that further explains the request and why it should be granted
  - A site plan of the site (and the 3 other sites that need a variance)
  - A plan showing a summary of lot coverage
  - A plan showing a row of townhomes with the middle townhome having the same individual slab size but exceeding coverage since the end lots have side yards
  - Ordinance language pertaining to PD 193’s “development tracts” and Dallas Development Code Chapter 51A’s “shared access developments”
  - A plan showing an alternate lot layout
  - A plan showing an approved plat (which according to Subdivision staff was approved by the City Plan Commission in preliminary stage in September of 2004, and in a final stage in January of 2005)
  - Elevations
  - A plan showing the overall “shared access development”

## **BACKGROUND INFORMATION:**

### **Zoning:**

<u>Site:</u>	MF-2 (A) (Multifamily residential)
<u>North:</u>	MF-2 (A) (Multifamily residential)
<u>South:</u>	R-5 (A) (Single family residential 5,000 square feet)
<u>East:</u>	MF-2 (A) (Multifamily residential)
<u>West:</u>	R-7.5 (A) (Single family residential 7,500 square feet)

### **Land Use:**

The subject site is under development. The areas to the north and south are developed with multifamily uses; and the areas to the east and west are developed with single family uses.

### **Zoning/BDA History:**

1. BDA 034-190, 7416 Coronado Avenue (the subject site and 18 other lots that comprise the proposed "shared access development")

On August 16, 2004, the Board of Adjustment Panel C followed the staff recommendation and granted a request for a special exception to the landscape regulations. The board imposed the submitted landscape plan as a condition to this approval. The case report states this appeal was requested in conjunction with developing the site as a 19-lot "shared access development" at a density permitted in the MF-2(A) zoning district. The applicant was seeking relief from the site tree requirement by providing 23 of the required 57 site trees. An attachment in this case report prepared by the applicant stated that "our lot sizes are 565 s.f. larger than the minimum allowed and our lot coverage is 12.4% less than the maximum allowed."
2. BDA 045-166, 7416 Coronado Avenue, Unit 5 (one of the 19 lots that comprise the proposed "shared access development")

On March 16, 2005, the Board of Adjustment Panel B will consider a variance to the lot coverage regulations of 8.35% requested in conjunction with constructing single family home on a site that is under development.
3. BDA 045-168, 7416 Coronado Avenue, Unit 14 (one of the 19 lots that comprise the proposed "shared access development")

On March 16, 2005, the Board of Adjustment Panel B will consider a variance to the lot coverage regulations of 9.23% requested in conjunction with constructing single family home on a site that is under development.
4. BDA 045-169, 7416 Coronado Avenue, Unit 15 (one of the 19



lots that comprise the proposed “shared access development”)

coverage regulations of 7.23% requested in conjunction with constructing single family home on a site that is under development.

**Timeline:**

February 14, 2005: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

February 18, 2005: The Board Administrator contacted the applicant’s representative and shared the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board’s decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the February 25<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis;
- that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the March public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

February 25, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A). This information included a series of information including a letter explaining the request and why it should be granted, copies of plans, plats, and ordinances.

February 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the City of Dallas Chief Arborist; and the Assistant City Attorney to the Board.

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

**STAFF ANALYSIS:**

- The site is flat, rectangular in shape (50.5' x 22.46'), and approximately 1,134 square feet in area.
- In January of 2005, the City Plan Commission approved the plat, submitted by the applicant, that established the current lot size and configuration requirements for this site.
- If the Board were to grant the request, imposing a condition whereby the applicant must comply with the submitted site plan, this site could be developed with a single family home exceeding the 60% maximum lot coverage requirement by 9.99% and of relatively the same size as the other 18 homes that are proposed to be located in the "shared access development."
- If the Board were to deny the request, the applicant could construct a single family home with a lot coverage of 60% or 9.99% smaller than proposed on the submitted site plan and consistent with Dallas Development Code regulations for lot coverage in "shared access developments" in the MF-2 zoning classification.

**BOARD OF ADJUSTMENT ACTION: March 16, 2005**

APPEARING IN FAVOR: Barbara Tenant, P.O Box 34306, Houston, TX 77234

APPEARING IN OPPOSITION: No one

**MOTION: Gillespie**

I move that the Board of Adjustment **grant** application **No. BDA 045-167**, because it appears from our evaluation of the property and all relevant evidence that the application satisfies all the requirements of the Dallas Development Code or the appropriate planned development district and is consistent with the general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

**SECONDED: Brannon**

**AYES:** 5—Cox, Brannon, Gillespie, Cope, Jaffe

**NAYS:** 0 –

**MOTION PASSED** - 5 – 0 (Unanimously)

\*\*\*\*\*

**FILE NUMBER:** BDA 045-168

**BUILDING OFFICIAL'S REPORT:**

Application of Richard Hale for a variance to the lot coverage regulations at 7416 Coronado Avenue, Unit #14. This property is more fully described as Lot 21 in City Block A/2698 and is zoned MF-2 (A) which allows a maximum 60% lot coverage. The applicant proposes to construct a single family dwelling and provide a lot coverage of 69.23% which would require a variance of 9.23%. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

**LOCATION:** 7416 Coronado Avenue, Unit #14

**APPLICANT:** Richard Hale

**REQUEST:**

- A variance to the lot coverage regulations of 9.23% is requested in conjunction with constructing a single family home on a site that is under development.

**STANDARD FOR A VARIANCE:**

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done. The variance must be necessary to permit development of a specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification. A variance may not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

**GENERAL FACTS:**

- The maximum lot coverage allowed in the MF-2 (Multifamily residential) zoning district is 60%.
- The single family structure is proposed to cover 69.23% (or 785.24 square feet) of the 1134 square foot site.
- The site is flat, rectangular in shape (50.5' x 22.46'), and approximately 1,134 square feet in area.
- The subject site is a lot that is part of a proposed "shared access development" which includes 19 lots that will be accessed from two driveways off of Coronado Avenue. Four of the 19 lots in the proposed "shared access development" are seeking variances to the lot coverage regulations since each of these lots viewed as

individual lots exceed the 60% maximum lot coverage requirement for lots zoned MF-2(A). (See the “Zoning/BDA History” section of this case report for further details).

- The Dallas Development Code describes the purpose of a “shared access development” as follows:
  - “Traditional single family lots front onto a street and have a rectangular shape. New developments have been platted with a minimal frontage on a street, and have access to the street from a shared driveway. This section is designed to address the issues specific to these non-traditional lots.”
- The Dallas Development Code states defines “shared access area” as follows:
  - “Shared access area means that portion of a shared access development that fronts on a public or private street and provides access to individual lots within the shared access development.”
- The Dallas Development Code states defines “shared access development” as follows:
  - “Shared access development means a development that meets all of the requirements in this section.”
- The Dallas Development Code states that “All code requirements must be met individually by each lot in the shared access development, unless otherwise specified in the subsection.” Although the subsection states that property in shared access developments is treated as one lot for purposes of compliance with front, side, and rear yard regulations, applicable landscape regulations, and parking in some instances, the lot coverage requirements are not specified. As a result, each of the individual 19 lots in the proposed “shared access development” must adhere to the 60% maximum lot coverage requirement of the MF-2(A) zoning district. The site and three other lots in the proposed 19-lot development exceed this maximum lot coverage requirement.
- The applicant’s representative has submitted documentation that compares the maximum lot coverage provisions of a “shared access development” that would apply to the site and any lot located in a zoning district listed in the Dallas Development Code mentioned above, with maximum lot coverage provisions set forth for “residential development tracts” that apply for similar types of development in PD (Planned Development) No. 193: The Oak Lawn Special Purpose District zoning district (see Attachment A).
- A “residential development tract” is a type of development provided for and defined in PD No. 193. The “residential development tract” is defined in this specific PD zoning district as “A development of three or more individually platted lots in an MF-1, MF-2, or MF-3 Subdistrict in which the dwelling units, whether attached or detached, are accessed from a shared driveway, and the dwelling units do not have any other dwelling units above or below them.”
- In this specific PD 193 zoning district, the maximum lot coverage that applies to the residential development tracts is 60%, but for purposes of this provision, the residential development tract is treated as a single lot (verses a 60% lot coverage requirement for each individual lot in “shared access development” on land zoned MF-2(A).
- The applicant states that if the proposed “shared access development” (encompassing the site and 18 other lots) could be viewed as single lot as in PD No.

193's "residential development tracts," the overall coverage for the entire proposal is only 47.3% (even though four of the 19 lots exceed the 60% maximum lot coverage requirement viewed individually).

- The applicant submitted information to staff beyond what was submitted with the original application. This information is included in this case report (see Attachment A), and includes the following:
  - A letter that further explains the request and why it should be granted
  - A site plan of the site (and the 3 other sites that need a variance)
  - A plan showing a summary of lot coverage
  - A plan showing a row of townhomes with the middle townhome having the same individual slab size but exceeding coverage since the end lots have side yards
  - Ordinance language pertaining to PD 193's "development tracts" and Dallas Development Code Chapter 51A's "shared access developments"
  - A plan showing an alternate lot layout
  - A plan showing an approved plat (which according to Subdivision staff was approved by the City Plan Commission in preliminary stage in September of 2004, and in a final stage in January of 2005)
  - Elevations
  - A plan showing the overall "shared access development"

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: MF-2 (A) (Multifamily residential)  
North: MF-2 (A) (Multifamily residential)  
South: R-5 (A) (Single family residential 5,000 square feet)  
East: MF-2 (A) (Multifamily residential)  
West: R-7.5 (A) (Single family residential 7,500 square feet)

### **Land Use:**

The subject site is under development. The areas to the north and south are developed with multifamily uses; and the areas to the east and west are developed with single family uses.

### **Zoning/BDA History:**

1. BDA 034-190, 7416 Coronado Avenue (the subject site and 18 other lots that comprise the proposed "shared access development")

On August 16, 2004, the Board of Adjustment Panel C followed the staff recommendation and granted a request for a special exception to the landscape regulations. The board imposed the submitted landscape plan as a condition to this approval. The case report states this appeal was requested in conjunction with developing the site as a 19-lot "shared access development" at a density permitted in the MF-2(A) zoning district. The

2. BDA 045-166, 7416 Coronado Avenue, Unit 5 (one of the 19 lots that comprise the proposed “shared access development”)
3. BDA 045-167, 7416 Coronado Avenue, Unit 13 (one of the 19 lots that comprise the proposed “shared access development”)
4. BDA 045-169, 7416 Coronado Avenue, Unit 15 (one of the 19 lots that comprise the proposed “shared access development”)

applicant was seeking relief from the site tree requirement by providing 23 of the required 57 site trees. An attachment in this case report prepared by the applicant stated that “our lot sizes are 565 s.f. larger than the minimum allowed and our lot coverage is 12.4% less than the maximum allowed.”

On March 16, 2005, the Board of Adjustment Panel B will consider a variance to the lot coverage regulations of 8.35% requested in conjunction with constructing single family home on a site that is under development.

On March 16, 2005, the Board of Adjustment Panel B will consider a variance to the lot coverage regulations of 9.99% requested in conjunction with constructing single family home on a site that is under development.

On March 16, 2005, the Board of Adjustment Panel B will consider a variance to the lot coverage regulations of 7.23% requested in conjunction with constructing single family home on a site that is under development.

**Timeline:**

February 14, 2005: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

February 18, 2005: The Board Administrator contacted the applicant’s representative and shared the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board’s decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the February 25<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis;
- that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and

- that the board will take action on the matter at the March public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

February 25, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A). This information included a series of information including a letter explaining the request and why it should be granted, copies of plans, plats, and ordinances.

February 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the City of Dallas Chief Arborist; and the Assistant City Attorney to the Board.

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

**STAFF ANALYSIS:**

- The site is flat, rectangular in shape (50.5' x 22.46'), and approximately 1,134 square feet in area.
- In January of 2005, the City Plan Commission approved the plat, submitted by the applicant, that established the current lot size and configuration requirements for this site.
- If the Board were to grant the request, imposing a condition whereby the applicant must comply with the submitted site plan, this site could be developed with a single family home exceeding the 60% maximum lot coverage requirement by 9.23% and of relatively the same size as the other 18 homes that are proposed to be located in the "shared access development."
- If the Board were to deny the request, the applicant could construct a single family home with a lot coverage of 60% or 9.23% smaller than proposed on the submitted site plan and consistent with Dallas Development Code regulations for lot coverage in "shared access developments" in the MF-2 zoning classification.

**BOARD OF ADJUSTMENT ACTION: March 16, 2005**

**APPEARING IN FAVOR:** Barbara Tenant, P.O Box 34306, Houston, TX 77234

**APPEARING IN OPPOSITION:** No one

**MOTION:** Gillespie

I move that the Board of Adjustment **grant** application **No. BDA 045-168**, because it appears from our evaluation of the property and all relevant evidence that the application satisfies all the requirements of the Dallas Development Code or the appropriate planned development district and is consistent with the general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

**SECONDED: Brannon**

**AYES:** 5–Cox, Brannon, Gillespie, Cope, Jaffe

**NAYS:** 0 –

**MOTION PASSED** - 5 – 0 (Unanimously)

\*\*\*\*\*

**FILE NUMBER:** BDA 045-169

**BUILDING OFFICIAL'S REPORT:**

Application of Richard Hale for a variance to the lot coverage regulations at 7416 Coronado Avenue, Unit #15. This property is more fully described as Lot 26 in City Block A/2698 and is zoned MF-2 (A) which allows a maximum 60% lot coverage. The applicant proposes to construct a single family dwelling and provide a lot coverage of 67.23% which would require a variance of 7.23%. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

**LOCATION:** 7416 Coronado Avenue, Unit #15

**APPLICANT:** Richard Hale

**REQUEST:**

- A variance to the lot coverage regulations of 7.23% is requested in conjunction with constructing a single family home on a site that is under development.

**STANDARD FOR A VARIANCE:**

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area ratios, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations that will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done. The variance must be necessary to permit development of a specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development



upon other parcels of land in districts with the same zoning classification. A variance may not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

### **GENERAL FACTS:**

- The maximum lot coverage allowed in the MF-2 (Multifamily residential) zoning district is 60%.
- The single family structure is proposed to cover 67.23% (or 741.87 square feet) of the 1103 square foot site.
- The site is flat, rectangular in shape (48.50' x 22.75'), and approximately 1103 square feet in area.
- The subject site is a lot that is part of a proposed "shared access development" which includes 19 lots that will be accessed from two driveways off of Coronado Avenue. Four of the 19 lots in the proposed "shared access development" are seeking variances to the lot coverage regulations since each of these lots viewed as individual lots exceed the 60% maximum lot coverage requirement for lots zoned MF-2(A). (See the "Zoning/BDA History" section of this case report for further details).
- The Dallas Development Code describes the purpose of a "shared access development" as follows:
  - "Traditional single family lots front onto a street and have a rectangular shape. New developments have been platted with a minimal frontage on a street, and have access to the street from a shared driveway. This section is designed to address the issues specific to these non-traditional lots."
- The Dallas Development Code states defines "shared access area" as follows:
  - "Shared access area means that portion of a shared access development that fronts on a public or private street and provides access to individual lots within the shared access development."
- The Dallas Development Code states defines "shared access development" as follows:
  - "Shared access development means a development that meets all of the requirements in this section."
- The Dallas Development Code states that "All code requirements must be met individually by each lot in the shared access development, unless otherwise specified in the subsection." Although the subsection states that property in shared access developments is treated as one lot for purposes of compliance with front, side, and rear yard regulations, applicable landscape regulations, and parking in some instances, the lot coverage requirements are not specified. As a result, each of the individual 19 lots in the proposed "shared access development" must adhere to the 60% maximum lot coverage requirement of the MF-2(A) zoning district. The site and three other lots in the proposed 19-lot development exceed this maximum lot coverage requirement.
- The applicant's representative has submitted documentation that compares the maximum lot coverage provisions of a "shared access development" that would

apply to the site and any lot located in a zoning district listed in the Dallas Development Code mentioned above, with maximum lot coverage provisions set forth for “residential development tracts” that apply for similar types of development in PD (Planned Development) No. 193: The Oak Lawn Special Purpose District zoning district (see Attachment A).

- A “residential development tract” is a type of development provided for and defined in PD No. 193. The “residential development tract” is defined in this specific PD zoning district as “A development of three or more individually platted lots in an MF-1, MF-2, or MF-3 Subdistrict in which the dwelling units, whether attached or detached, are accessed from a shared driveway, and the dwelling units do not have any other dwelling units above or below them.”
- In this specific PD 193 zoning district, the maximum lot coverage that applies to the residential development tracts is 60%, but for purposes of this provision, the residential development tract is treated as a single lot (verses a 60% lot coverage requirement for each individual lot in “shared access development” on land zoned MF-2(A).
- The applicant states that if the proposed “shared access development” (encompassing the site and 18 other lots) could be viewed as single lot as in PD No. 193’s “residential development tracts,” the overall coverage for the entire proposal is only 47.3% (even though four of the 19 lots exceed the 60% maximum lot coverage requirement viewed individually).
- The applicant submitted information to staff beyond what was submitted with the original application. This information is included in this case report (see Attachment A), and includes the following:
  - A letter that further explains the request and why it should be granted
  - A site plan of the site (and the 3 other sites that need a variance)
  - A plan showing a summary of lot coverage
  - A plan showing a row of townhomes with the middle townhome having the same individual slab size but exceeding coverage since the end lots have side yards
  - Ordinance language pertaining to PD 193’s “development tracts” and Dallas Development Code Chapter 51A’s “shared access developments”
  - A plan showing an alternate lot layout
  - A plan showing an approved plat (which according to Subdivision staff was approved by the City Plan Commission in preliminary stage in September of 2004, and in a final stage in January of 2005)
  - Elevations
  - A plan showing the overall “shared access development”

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: MF-2 (A) (Multifamily residential)  
North: MF-2 (A) (Multifamily residential)  
South: R-5 (A) (Single family residential 5,000 square feet)  
East: MF-2 (A) (Multifamily residential)  
West: R-7.5 (A) (Single family residential 7,500 square feet)

## **Land Use:**

The subject site is under development. The areas to the north and south are developed with multifamily uses; and the areas to the east and west are developed with single family uses.

## **Zoning/BDA History:**

1. BDA 034-190, 7416 Coronado Avenue (the subject site and 18 other lots that comprise the proposed “shared access development”) 

On August 16, 2004, the Board of Adjustment Panel C followed the staff recommendation and granted a request for a special exception to the landscape regulations. The board imposed the submitted landscape plan as a condition to this approval. The case report states this appeal was requested in conjunction with developing the site as a 19-lot “shared access development” at a density permitted in the MF-2(A) zoning district. The applicant was seeking relief from the site tree requirement by providing 23 of the required 57 site trees. An attachment in this case report prepared by the applicant stated that “our lot sizes are 565 s.f. larger than the minimum allowed and our lot coverage is 12.4% less than the maximum allowed.”
2. BDA 045-166, 7416 Coronado Avenue, Unit 5 (one of the 19 lots that comprise the proposed “shared access development”) 

On March 16, 2005, the Board of Adjustment Panel B will consider a variance to the lot coverage regulations of 8.35% requested in conjunction with constructing single family home on a site that is under development.
3. BDA 045-167, 7416 Coronado Avenue, Unit 13 (one of the 19 lots that comprise the proposed “shared access development”) 

On March 16, 2005, the Board of Adjustment Panel B will consider a variance to the lot coverage regulations of 9.99% requested in conjunction with constructing single family home on a site that is under development.
4. BDA 045-168, 7416 Coronado Avenue, Unit 14 (one of the 19 lots that comprise the proposed “shared access development”) 

On March 16, 2005, the Board of Adjustment Panel B will consider a variance to the lot coverage regulations of 9.23% requested in conjunction with constructing single family home on a site that is under development.

## **Timeline:**

February 14, 2005: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 17, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

February 18, 2005: The Board Administrator contacted the applicant's representative and shared the following information:

- the public hearing date and panel that will consider the application;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the February 25<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis;
- that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the March public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

February 25, 2005 The applicant submitted additional information to staff regarding the request (see Attachment A). This information included a series of information including a letter explaining the request and why it should be granted, copies of plans, plats, and ordinances.

February 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the City of Dallas Chief Arborist; and the Assistant City Attorney to the Board.

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

### **STAFF ANALYSIS:**

- The site is flat, rectangular in shape (48.5' x 22.75'), and approximately 1,103 square feet in area.
- In January of 2005, the City Plan Commission approved the plat, submitted by the applicant, that established the current lot size and configuration requirements for this site.

- If the Board were to grant the request, imposing a condition whereby the applicant must comply with the submitted site plan, this site could be developed with a single family home exceeding the 60% maximum lot coverage requirement by 7.23% and of relatively the same size as the other 18 homes that are proposed to be located in the “shared access development.”
- If the Board were to deny the request, the applicant could construct a single family home with a lot coverage of 60% or 7.23% smaller than proposed on the submitted site plan and consistent with Dallas Development Code regulations for lot coverage in “shared access developments” in the MF-2 zoning classification.

**BOARD OF ADJUSTMENT ACTION: March 16, 2005**

**APPEARING IN FAVOR:** Barbara Tenant, P.O Box 34306, Houston, TX 77234

**APPEARING IN OPPOSITION:** No one

**MOTION: Gillespie**

I move that the Board of Adjustment **grant** application **No. BDA 045-169**, because it appears from our evaluation of the property and all relevant evidence that the application satisfies all the requirements of the Dallas Development Code or the appropriate planned development district and is consistent with the general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

**SECONDED: Brannon**

**AYES:** 5–Cox, Brannon, Gillespie, Cope, Jaffe

**NAYS:** 0 –

**MOTION PASSED** - 5 – 0 (Unanimously)

\*\*\*\*\*

**FILE NUMBER:** BDA 045-137

**BUILDING OFFICIAL'S REPORT:**

Application of Frank Geis for a special exception to the tree preservation regulations at 7020 Scyene Road. This property is more fully described as 53 lots in City Blocks H/6118 & J/6118 and is zoned R 7.5 (A) which requires mitigation for every protected tree removed. The applicant proposes to construct a residential development and provide an alternate tree mitigation plan which would require a special exception to the tree preservation regulations. Referred to the Board of Adjustment in accordance with Section 51A-3.102(d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

**LOCATION:** 7020 Scyene Road

**APPLICANT:** Frank Geis

**REQUEST:**

- A special exception to the tree preservation regulations is requested in conjunction with completing the development of a 53-lot subdivision.

**STANDARD FOR A SPECIAL EXCEPTION TO THE TREE PRESERVATION REGULATIONS:**

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

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

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

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

**GENERAL FACTS:**

- The Tree Preservation Regulations of the Dallas Development Code includes a division pertaining to tree preservation, removal, and replacement. This division applies to all property in the city except for:
  - (a) lots smaller than two acres in size that contain single family or duplex uses; and
  - (b) lots in a planned development district with landscaping and tree preservation regulations that vary appreciably from those in this article X, as determined by the building official.
- The subject site is an approximately 9-acre tract of land that is proposed to be developed into a 53-lot single family subdivision. According to the applicant, 20 homes have been built and sold.
- The Dallas Development Code's Tree Preservation Regulations state the following with regard to the timing of replacement trees to be planted on a site:
  - (A) Except as otherwise provided in Subparagraphs (B) and (C), all replacement trees must be planted within 30 days after the removal or serious injury of the protected trees.
  - (B) If the property owner provides the building official with an affidavit that all replacement trees will be planted within six months, the building official may

permit the property owner to plant the replacement trees during the six-month period.

(C) If the property owner provides the building official with a performance bond or a letter of credit in the amount of the total cost of purchasing and planting replacement trees, the building official may permit the property owner up to 18 months to plant the replacement trees, with the following restrictions:

- (i) for single family or multifamily developments, at least 50 percent of the total caliper of replacement trees must be planted before 65 percent of the development has received a final building inspection or a certificate of occupancy, and all replacement trees must be planted prior to the completion of the development; and
  - (ii) in all other cases, the replacement trees must be planted prior to the issuance of a certificate of occupancy.
- The applicant is proposing an alternate tree mitigation plan that does not fully comply with regulations mentioned above pertaining to the timing of replacement trees to be planted on the site.
  - The applicant has submitted a letter beyond what was originally submitted with the application that further explains the request and why it should be granted (see Attachment A). The applicant makes the following points in this letter:
    - The 1<sup>st</sup> phase of residential development (the installation of infrastructure and utilities) can take anywhere from 6-8 months, which leaves 10-12 months to construct all the homes in a subdivision and to have all trees replanted with the homes in order to be in compliance with the ordinance.
    - Unless the residential development is of 20 homes or less, the 18-month time frame provided in the Tree Preservation Regulations is not a reasonable time frame.
    - The grading permit for this 53-lot development was issued on July 19, 2003.
    - The first phase of development was completed 7 months later with the first lots being ready for construction on January 30, 2004.
    - 20 homes have been built and 33 lots are under contract to a single homebuilder.
    - Full compliance with ordinance provisions related to the timing of replacement trees would require for all replacement trees to be planted on the site by December 10, 2004.
  - The City of Dallas Chief Arborist stated that the applicant is proposing to extend the time allowed to complete the required tree mitigation to 18 months from the date of the board's action or 38 months from the date of the removal.
  - The applicant has specifically stated of his intent "to fully adhere with the tree mitigation plan that has been agreed to by the City of Dallas and with Article X, Section 51A-10.100 with one exception: that being the timing aspect of replanting of the trees."
  - Specifically, the applicant has requested that the time limit to fulfill their obligations of the approved tree mitigation plan be extended "30 days following receipt of the "final" permit from the City of Dallas of the last home built in the subdivision, but in no event shall this extension period extend beyond 18 months from February 16, 2005."
  - Both the applicant and the City Chief Arborist have stated that the extension request is due to the applicant's proposal to plant replacement trees on the site upon the completion of all of the 53 homes that are intended to be built on the site.

- On February 16, 2005, the Board of Adjustment heard testimony from the applicant's representative and interested parties, and delayed action on this matter until March 16, 2005. The board encouraged the applicant's representative and the neighbors who opposed the request to meet and determine if any resolution could be reached on the matter at hand.
- On March 3, 2005, the applicant forwarded a copy of a letter the he had sent to the person who had spoken in opposition to the request at the February 15<sup>th</sup> public hearing (see Attachment B). The letter provided information about the request and extended an invitation to meet with the person to discuss her concerns.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-7.5 (A) (Single family residential 7,500 square feet)  
North: CR-D-1 (Community retail, dry)  
South: R-7.5 (A) (FP) (Single family residential 7,500 square feet, Flood plain)  
East: R-7.5 (A) (Single family residential 7,500 square feet, Flood plain)  
West: R-7.5 (A) (Single family residential 7,500 square feet)

**Land Use:**

The 8.7-acre subject site is partially developed with single family homes. (According to the applicant, 20 of the 53 homes have been built and sold). The area to the north is developed with commercial uses; the area to the east is developed with a park (Scyene Trail Park); and the areas to the south and west are developed with single family uses

**Zoning/BDA History:**

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

**Timeline:**

- Dec. 3, 2004: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- January 21, 2005: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- January 21, 2005: The Board Administrator contacted the applicant and shared the following information:
- the public hearing date and panel that will consider the application;
  - the criteria/standard that the board will use in their decision to approve or deny the request;



- the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the January 28th deadline to submit additional evidence for staff to factor into their analysis;
- that additional evidence submitted past this date should be brought to the public hearing, and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the February public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

January, 26, 2005: The applicant's representative submitted a letter that further explained the scope and merits of this appeal beyond what was submitted with the original application (see Attachment A).

January 31, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Development Services Department Assistant Director of Predevelopment, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the Development Services Transportation Planner; and the Assistant City Attorney to the Board.

Although no review comments sheets (with comments) were submitted in conjunction with this application, the City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment B).

February 16, 2005: The Board of Adjustment held a public hearing on this matter and delayed action on this appeal until March 16<sup>th</sup>. The board encouraged the applicant's representative and the neighbors who opposed the request to meet and determine if any resolution could be reached on the matter at hand.

February 28, 2005: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Development Code Specialist, the Subdivision and Plats Chief Planner, the City of Dallas Chief Arborist; and the Assistant City Attorney to the Board.

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

**STAFF ANALYSIS:**

- Granting this request (subject to a condition that the applicant must fully comply with Article X: The Tree Preservation Regulations with the exception to timing of planting replacement trees on the site) would allow the applicant to plant replacement trees on the site after construction of homes on the site has been completed. Denying the applicant's request would result in the replacement trees to be planted on the site before and/or during the construction of the remaining 33 homes which, in turn, could jeopardize the livelihood of the replacement trees.

**BOARD OF ADJUSTMENT ACTION: February 16, 2005**

**APPEARING IN FAVOR:** Dayton Macatee, 4237 Unive, Dallas, TX

**APPEARING IN OPPOSITION:** Casie Pierce, 6047 Parkdale, Dallas, TX

**MOTION#1: Cope**

I move that the Board of Adjustment in **Appeal No. BDA 045-137**, on application of Frank Geis, **deny** the special exception to the tree preservation requirements requested by this applicant **without prejudice**, because our evaluation of the property and testimony presented to us, and the facts that we have determined show that strict compliance with the requirements of Article X will not unreasonably burden the use of the property and that the special exception will adversely affect neighboring property.

**SECONDED: Brannon**

**AYES:** 2–Brannon, Cope

**NAYS:** 3 – Cox, Gillespie, Jaffe

**MOTION FAILED** - 2 – 3

**MOTION#2: Gillespie**

I move that the Board of Adjustment in **Appeal No. BDA 045-137**, hold this matter under advisement until **March 16, 2005**.

**SECONDED: Brannon**

**AYES:** 5– Cox, Brannon, Cope, Gillespie, Jaffe

**NAYS:** 0 –

**MOTION PASSED** – 5-0 (Unanimously)

**SECONDED: Jaffe**

**AYES:** 5 – Cox, Brannon, Cope, Gillespie, Jaffe

**NAYS:** 0 - None

**MOTION PASSED:** 5– 0 (Unanimously)

**BOARD OF ADJUSTMENT ACTION: March 16, 2005**

APPEARING IN FAVOR: Frank Geis, 7217 Blairview, Dallas, TX  
Gloria Hogg, 7741 Bearden Lane, Dallas, TX  
Jerry Hogg, 7741 Bearden Lane, Dallas, TX

APPEARING IN OPPOSITION: Linda Pelon, 3015 Nutting, Dallas, TX

MOTION: **Brannon**

I move that the Board of Adjustment in **Appeal No. BDA 045-137**, on application of Frank Geis, **grant** the request of this applicant to provide an alternate mitigation plan as a special exception to the tree preservation requirements in the Dallas Development Code because our evaluation of the property and testimony shows that strict compliance with the requirements will unreasonably burden the use of the property and that the special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Full compliance with the tree preservation regulations is required with one exception: the time period to fully mitigate all removed trees is extended to **15** days following receipt of the final permit from the City of Dallas for the last home built in the subdivision, but this extended time period must expire on or before **June 16, 2006**.

SECONDED: **Cope**

AYES: 5—Cox, Brannon, Cope, Gillespie, Jaffe

NAYS: 0 –

MOTION PASSED - 5 – 0 (Unanimously)

\*\*\*\*\*

MOTION: **Brannon**

I move to adjourn this meeting.

SECONDED: **Jaffe**

AYES: 5 – Cox, Brannon, Cope, Gillespie, Jaffe

NAYS: 0 - None

MOTION PASSED: 5– 0 (Unanimously)

**5:00 P.M.** - Board Meeting adjourned for March 16, 2005.

\_\_\_\_\_  
CHAIRPERSON

\_\_\_\_\_  
BOARD ADMINISTRATOR

\_\_\_\_\_  
BOARD SECRETARY

\*\*\*\*\*

**Note:** For detailed information on testimony, refer to the tape retained on file in the Department of Planning and Development.