

ZONING BOARD OF ADJUSTMENT, PANEL A  
TUESDAY, FEBRUARY 19, 2019  
AGENDA

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BRIEFING	5ES 1500 MARILLA STREET DALLAS CITY HALL	11:00 A.M.
PUBLIC HEARING	COUNCIL CHAMBERS 1500 MARILLA STREET DALLAS CITY HALL	1:00 P.M.

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**Neva Dean, Assistant Director**  
**Steve Long, Board Administrator/ Chief Planner**  
**Oscar Aguilera, Senior Planner**

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**MISCELLANEOUS ITEM**

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Approval of the January 15, 2019 Board of Adjustment  
Panel A Public Hearing Minutes M1

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**REGULAR CASES**

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<b>BDA189-013(SL)</b>	1475 McKee Street <b>REQUEST:</b> Application of Darryl Evans, represented by Michael Forbes, for a special exception to the visibility obstruction regulations, and for variances to the side yard setback regulations and off-street parking regulations	1
<b>BDA189-014(SL)</b>	1467 McKee Street <b>REQUEST:</b> Application of Darryl Evans, represented by Michael Forbes, for variances to the rear yard setback regulations and off-street parking regulations	2
<b>BDA189-015(SL)</b>	1459 McKee Street <b>REQUEST:</b> Application of Darryl Evans, represented by Michael Forbes, for variances to the rear yard setback and off-street parking regulations	3

<b>BDA189-016(SL)</b>	1451 McKee Street <b>REQUEST:</b> Application of Darryl Evans represented by Michael Forbes for variances to the rear yard setback regulations and off-street parking regulations	4
<b>BDA189-022(OA)</b>	3956 Frontier Lane <b>REQUEST:</b> Application of Travis McElroy, represented by Erik Thornton, for a variance to the front yard setback regulations, and for a special exception to the fence standards regulations	5

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## EXECUTIVE SESSION NOTICE

A closed executive session may be held if the discussion of any of the above agenda items concerns one of the following:

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 City Council 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 §551.087]
7. deliberating security assessments or deployments relating to information resources technology, network security information, or the deployment or specific occasions for implementations of security personnel, critical infrastructure, or security devices. [Tex. Govt. Code §551.089]

**FILE NUMBER:** BDA189-013(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Darryl Evans, represented by Michael Forbes, for variances to the side yard setback regulations and off-street parking regulations, and a special exception to the visual obstruction regulations, and at 1475 McKee Street. This property is more fully described as Lot 4, Block A/448, and is zoned PD 317 (Subdistrict 1), which requires a side yard setback of 10 feet, a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley, and a 45 foot visibility triangle at street intersections. The applicant proposes to construct and/or maintain a structure and provide a 3 foot side yard setback, which will require a 7 foot variance to the side yard setback regulations, to locate and maintain parking spaces in an enclosed structure with a setback of 17 feet, which will require a variance of 3 feet to the off-street parking regulations, and to locate items in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

**LOCATION:** 1475 McKee Street

**APPLICANT:** Darryl Evans  
Represented by Michael Forbes

**REQUESTS:**

The following requests have been made on a property that is currently one building site (approximately 102' in length and approximately 48' in width) developed a vacant single family home that the applicant intends to demolish and subdivide into four individual lots:

1. A request for a variance to the side yard setback regulations of 7' is made to construct and maintain a single family home with an approximately 620 square foot building footprint located 3' from the site's northwestern side property line or 7' into this required 10' side yard setback.
2. A request for a variance to the off-street parking regulations of 3' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of the aforementioned single family home that is proposed on the undeveloped subject site where spaces in this enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.
3. A request for a special exception to the visual obstruction regulations is made to construct and maintain the aforementioned single family home structure in the 45' visibility triangle at the intersection of McKee Street and Browder Street.

(Note that this application is similar to three others filed by the same applicant on properties adjacent to this site and scheduled to be heard by Board of Adjustment Panel A on February 19, 2019: BDA189-014, 015, and 016).

**STANDARD FOR A VARIANCE:**

Section 51(A)-3.102(d)(10) of 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, lot coverage, floor area for structures accessory to single family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

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

**STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:**

Section 51A-4.602(d)(3) of the Dallas Development Code states that the Board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

**STAFF RECOMMENDATION (setback variance):**

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the February 5<sup>th</sup> staff review team meeting that the applicant had not substantiated how the variance to the side yard setback regulations is necessary to permit development of this flat, virtually rectangular in shaped, approximately 1,200 square foot site (once/if replatted) in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same PD 317 (Subdistrict 1) zoning. In addition, staff concluded that the applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with setback regulations.
- Staff concluded from the information submitted by the applicant at the time of the February 5<sup>th</sup> staff review team meeting that the applicant had not substantiated how granting the variance is not to relieve a self created or personal hardship, nor for financial reasons, particularly when this request focuses on dividing what is currently one building site into four separate lots, one of which is the subject site.

**STAFF RECOMMENDATION (parking variance):**

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the February 5<sup>th</sup> staff review team meeting that while granting this request did not appear to be contrary to public interest in that the Sustainable Development and Construction Senior Engineer has no objections to the request with certain conditions being met, the applicant had not substantiated how the variance to the off-street parking regulations is necessary to permit development of this flat, virtually rectangular in shaped, approximately 1,200 square foot site (once/if replatted) in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same PD 317 (Subdistrict 1) zoning. The applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with off-street parking regulations.
- Staff concluded from the information submitted by the applicant at the time of the February 5<sup>th</sup> staff review team meeting that the applicant had not substantiated how granting the variance is not to relieve a self created or personal hardship, nor for financial reasons, particularly when this request focuses on dividing what is currently one building site into four separate lots, one of which is the subject site.

**STAFF RECOMMENDATION (visual obstruction special exception):**

Approval, subject to the following condition:

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

(Note that approval of this request with these conditions imposed will not in itself provide any relief to the regulations that the applicant is requesting a variance on this site – side yard setback and off-street parking regulations).

Rationale:

- The Sustainable Development Department Senior Engineer has submitted a review comment sheet marked “Has no objections if certain conditions are met” which in this case is compliance with the submitted site plan showing a 36’ x 36’ visibility triangle at the Browder Street/McKee Street intersection.
- Staff concluded that the request should be granted (with the suggested conditions imposed) because the item to be located in the Browder Street/McKee Street intersection visibility triangle would not constitute a traffic hazard.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 317 (Planned Development)  
North: PD 317 (Planned Development)

South: PD 317 (Planned Development)  
East: PD 317 (Planned Development)  
West: PD 317 (Planned Development)

**Land Use:**

The subject site is currently one building site (approximately 102' in length and approximately 48' in width) developed a single family home that the applicant intends to demolish and subdivide into four individual lots. The areas to the north, south, east and west are undeveloped.

**Zoning/BDA History:**

1. BDA189-014, Property at 1467 McKee Street (the lot to the south of the subject site)  
On February 19, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.
  
2. BDA189-015, Property at 1459 McKee Street (two lots to the south of the subject site)  
On January 15, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.
  
3. BDA189-016, Property at 1451 McKee Street (three lots to the south of the subject site)  
On January 15, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

south of the subject site)

the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

**GENERAL FACTS/STAFF ANALYSIS (side yard setback variance):**

- This request for a variance to the side regulations of 7' focuses on constructing and maintaining a single family home with an approximately 620 square foot building footprint located 3' from the site's northwestern side property line or 7' into this required 10' side yard setback on property that is currently one building site (approximately 102' in length and approximately 48' in width) developed a vacant single family home that the applicant intends to demolish and subdivide into four individual lots.
- The subject site is zoned PD 317 (Subdistrict 1) where the side and rear yard setback is no side or rear yard is required; however, if a side or rear yard is provided, it must be a minimum of 10 feet.
- The applicant has submitted a site plan that represents that the proposed single family home provides a 3' side yard setback from the side property line on the northwest.
- DCAD records indicate "main improvements" for the property at 1611 Browder Street (which is the area that includes the subject site and the three other properties to be a "converted residence" with 1,302 square feet built in 1940.
- The subject site is flat, virtually rectangular in shape (approximately 48' x 25'). While the application states the site is 0.11 acres in area or approximately 4,800 square feet in area, this appears to reflect the area of the existing building site and not the area of the subject site once it is subdivided into four lots. While this site is located at the corner of Browder Street and McKee Street and has two front yard setbacks, this feature is typical of any lot on a corner that is not zoned single family, duplex, or agricultural district.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.



- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 317 (Subdistrict 1) zoning classification.
- The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 317 (Subdistrict 1) zoning classification.
- If the Board were to grant the request for a variance of 7' and impose the submitted site plan as a condition, the structure in the side yard would be limited to that what is shown on this document.

**GENERAL FACTS/STAFF ANALYSIS (parking variance):**

- This request for a variance to the off-street parking regulations of 3' focuses on locating parking spaces in an enclosed structure (an attached garage) of proposed single family home where these parking spaces entered from the street right-of-way line would be located 17' from the McKee Street right-of-way line or 3' into the required 20' distance from this right-of-way line.
- The subject site is zoned PD 317 (Subdistrict 1) where no minimum front yard setback is required.
- The applicant has submitted a site plan that represents that the proposed single family home provides an approximately 14' front yard setback on McKee Street.
- Section 51(A)-4.301(a)(9) of the Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.
- The submitted site plan denotes the location of parking spaces in the enclosed structure 17' from the McKee Street street right-of-way line or 3' into the 20' setback line that an enclosed parking space must be from this right-of-way line. (The submitted site plan represents that the parking spaces in the enclosed structure are approximately 23' from the McKee Street pavement line).
- DCAD records indicate "main improvements" for the property at 1611 Browder Street (which is the area that includes the subject site and the three other properties) to be a "converted residence" with 1,302 square feet built in 1940.
- The subject site is flat, virtually rectangular in shape (approximately 48' x 25'). While the application states the site is 0.11 acres in area or approximately 4,800 square feet in area, this appears to reflect the area of the existing building site and not the area of the subject site once it is subdivided into four lots. While this site is located at the corner of Browder Street and McKee Street and has two front yard setbacks, this feature is typical of any lot on a corner that is not zoned single family, duplex, or agricultural district.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met".

- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 317 (Subdistrict 1) zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 317 (Subdistrict 1) zoning classification.
- If the Board were to grant the request for a variance of 3', staff recommends imposing the following conditions:
  1. Compliance with the submitted site plan is required.
  2. An automatic garage door must be installed and maintained in working order at all times.

(These conditions are imposed to help assure that the variance will not be contrary to the public interest).
- If the Board were to deny this variance request, the applicant could construct and maintain the single family home as represented on the site plan without enclosing the parking spaces in it.

**GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exception):**

- The request for special exception to the visual obstruction regulations focuses on locating and maintaining single family home structure in the 45' visibility triangle at the intersection of McKee Street and Browder Street on a property that is currently one building site (approximately 102' in length and approximately 48' in width) developed a vacant single family home that the applicant intends to demolish and subdivide into four individual lots.
- Section 51A-4.602(d) of the Dallas Development Code states the following: a person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
  - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
  - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The property is located in PD 317 which requires a 45 foot visibility triangle at the intersection of two streets.

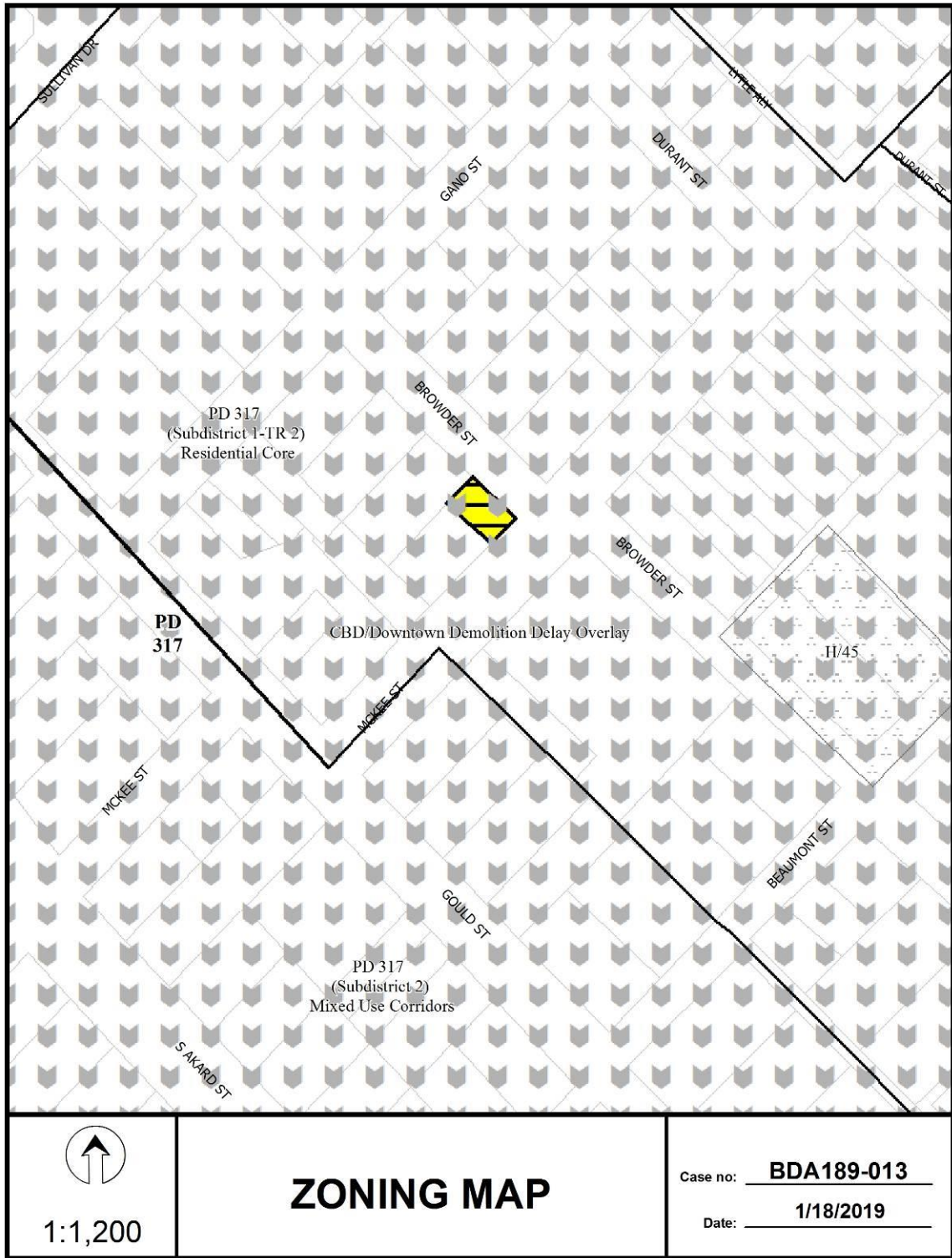
- A site plan and an elevation have been submitted a single family home structure to be located in the 45' visibility triangle at the intersection of McKee Street and Browder Street.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met".
- The applicant has the burden of proof in establishing how granting this request to locate and maintain a structure in the 45' visibility triangle at the intersection of McKee Street and Browder Street does not constitute a traffic hazard.
- Granting this request with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the item to be located and maintained in the 45' intersection visibility triangle to that what is shown on these documents – a a single family home structure.
- Note that approval of this request with these conditions imposed will not in itself provide any relief to the regulations that the applicant is requesting a variance on this site – side yard setback and off-street parking regulations.

**Timeline:**

- October 13, 2018: 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 7, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- January 7, 2019: 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 January 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 8<sup>th</sup> 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.
- February 5, 2019: 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 Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction

Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

- February 5, 2019: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked “Has no objections if certain conditions are met” with the following additional comments: “No objection subject to compliance with site plan showing proposed 17-foot setback for all four enclosed parking from property line. (i.e. 3-ft exception). No objection, subject to compliance with site plan showing proposed 36’ x 36’ visibility triangle based on evaluation of site plan and adjacent intersection of Brower Street at McKee Street”.
- February 8, 2019: The applicant’s representative submitted additional documentation to staff (see Attachment A). Note that this information was not factored into the staff recommendation since it was submitted after the February 5<sup>th</sup> staff review team meeting.





1:1,200

# AERIAL MAP

Case no: BDA189-013

Date: 1/18/2019

**1611 Browder St.**

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**Variance Hearing Case Plan**

## Project Site Description

### 1611 Browder St. (NW corner of McKee)

- Currently a boarded up old house in the Cedars
- 4,940 sf Corner Lot
- Lot dimensions: **48'** x 103'
- Zoned PD317 - 1





1611 Browder Street  
Dallas, Texas  
2018

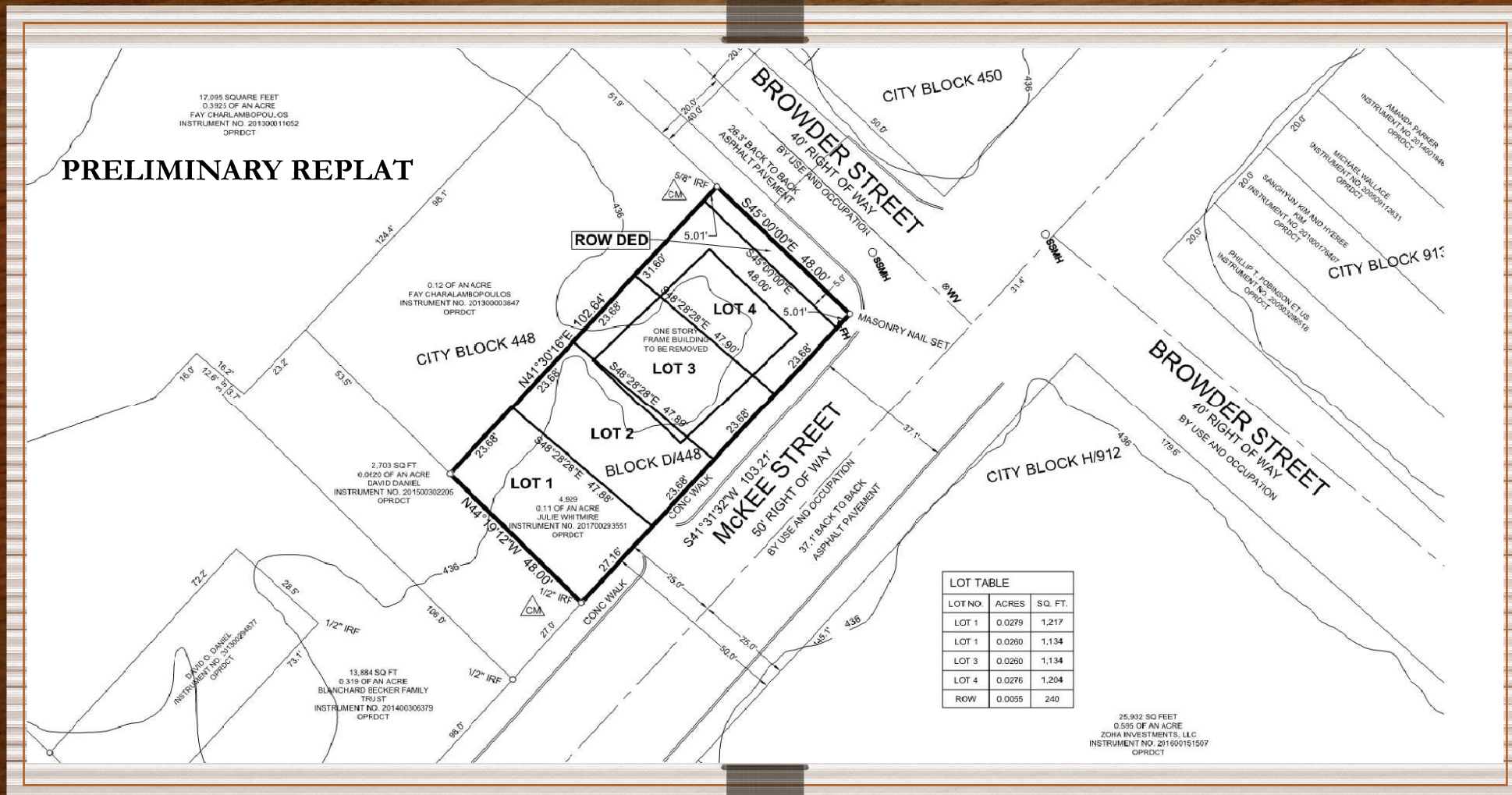
## Proposed project

For Sale:

- (4) New 3 story Modern Luxury Townhomes
- Fee Simple Individually Platted - Not Condos
- 3 bed, 3.5 bath, 2 Car Garage
- Covered Roof Top Lounge
- Downtown Dallas Skyline Views

**The proposed project even though limited by site area and shape proposes the highest and best use for this small lot in PD 317.**





## The Request

We are hereby requesting the same (2) variances for each lot in our four lot re-platted subdivision plus (1) special exception for the corner lot.

**Regardless of re-platting – even with the original single platted lot this site will require the same (2) variances and (1) special exception**

## Variations

### **(8) Variations & (1) special exception**

- Variance to allow for a 3' rear yard setback per lot
- Variance to allow for a 17' driveway setback per lot
- Special Exception to allow a 36 degree visibility triangle

## Issue

What made this site attractive is the area zoning which encourages high density development

- allowing zero setbacks;
- building to the property line and
- promoting high density residential development

**Main Issue** The (e) **48'** lot dimension

Re-platting has no effect on this dimension

## Rear set back

- **0' or 10' rear set back rule is the catalyst to all 8 variances b/c of the 48' dimension**
  - **0' setback works but windows are not allowed if 0' rear setback**
    - Project not feasible with out bedroom windows along back of building
    - Large 3 story wall 100 ft. long wall with no windows is allowed by right
    - Without windows middle units would only have egress at front of the building
  - **10' setback is not feasible –18' building just doesn't work**
    - 20' driveway set back leaves only 18' b/c of **48'** lot dimension
    - 3' set back is deemed sufficient for FLS & windows



## Driveway set back

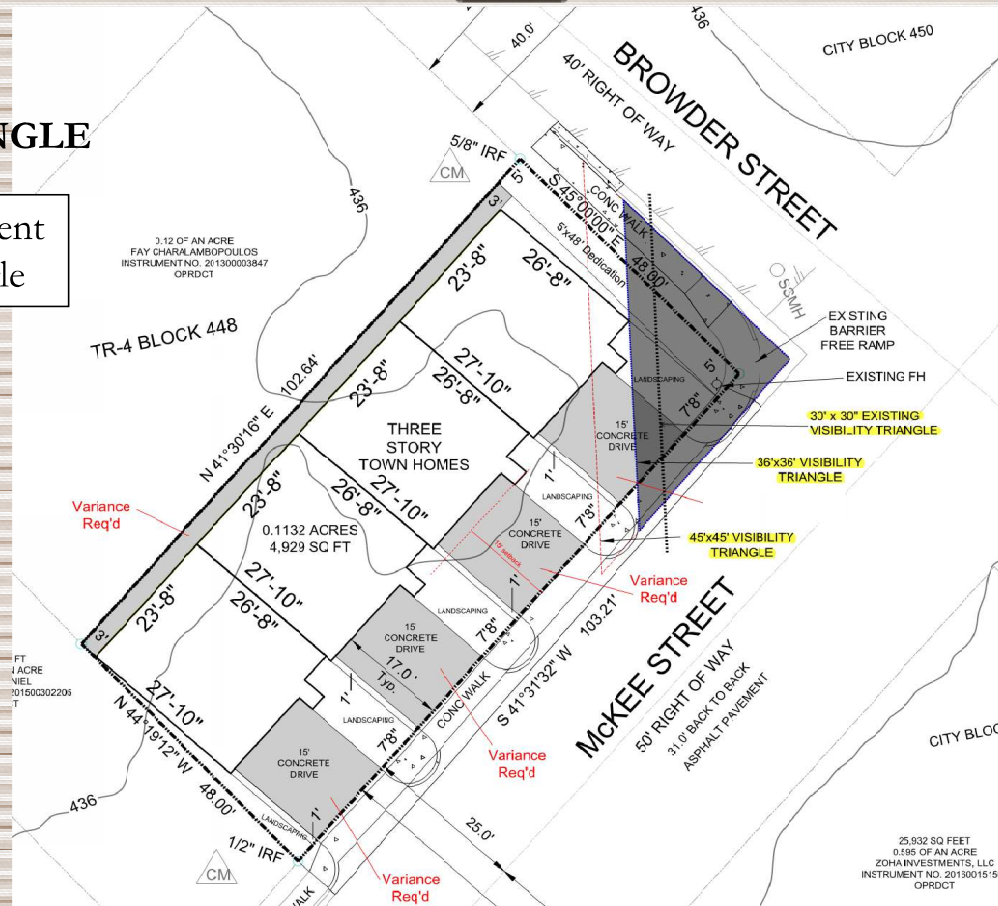
- **20' driveway set back**
  - City Traffic Engineer concedes the 17' driveway + 18' deep garage is sufficient for (4) off street parking spaces
  - Required because of the rear setback

## Visibility Triangle

- **Rule requires a 45 deg Visibility Triangle**
  - 45 degrees would take another 505 SF or 10+% of area from the site
  - (e) home has had a 30 degree triangle since being built in 1940s
  - **proposed 36 degree triangle improves existing 30 degree triangle**
    - Does not create nor increase any traffic hazards or concerns per City Traffic Engineer

# VISIBILITY TRIANGLE

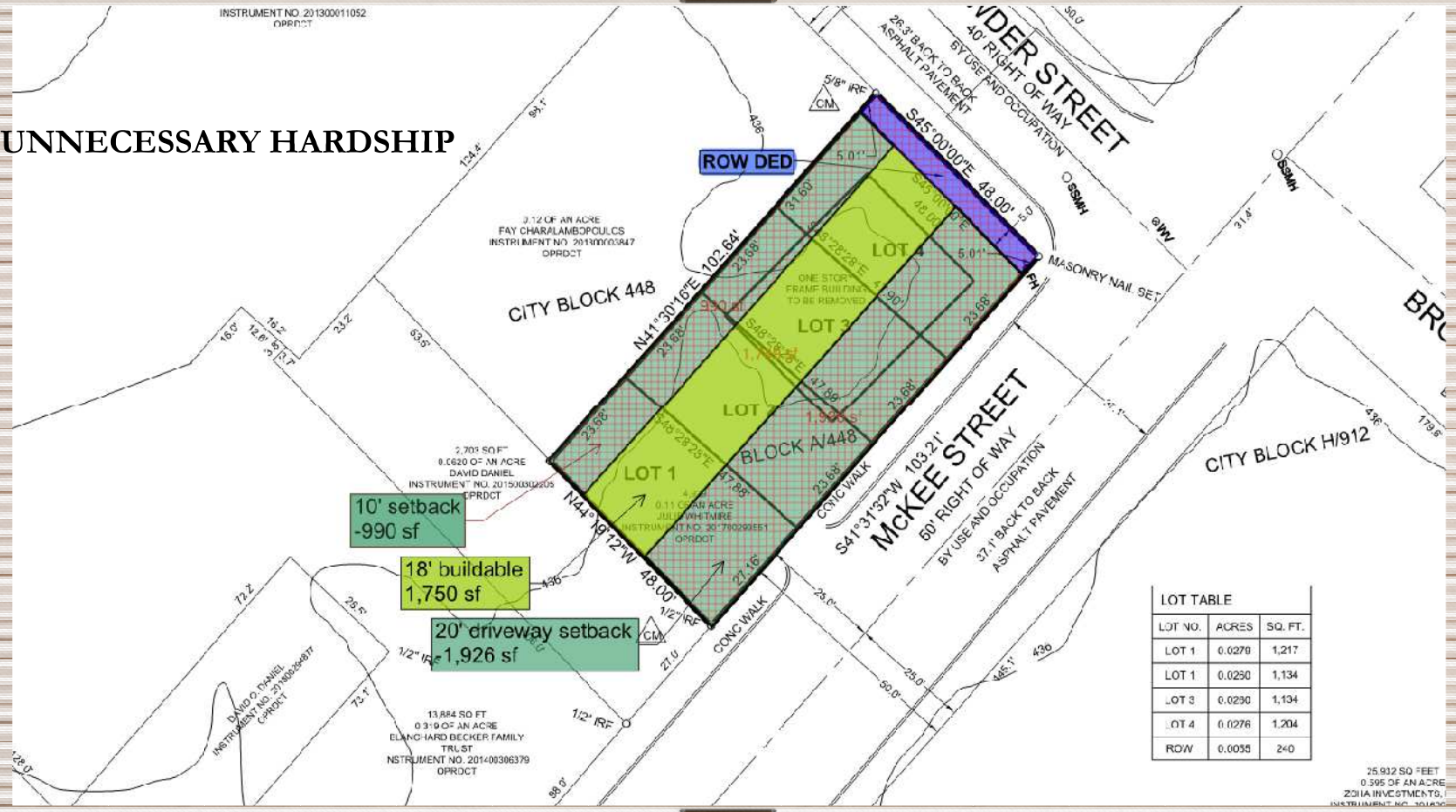
6 degree improvement  
from existing triangle



## Unnecessary Hardship

- Existing site presents an Unnecessary Hardship
  - **48'** wide lot
    - Minus 10' setback off rear property line (0 or 10)
    - Minus 20' driveway setback
    - Leaves 18' deep buildable area due to mandated setbacks  
**not feasible** (high priced area – allowable design would negatively impact the community)

**UNNECESSARY HARDSHIP**



## Lot is Restrictive b/c of Area

Max allowed lot coverage in PD317-1 is 80% allowing 3,955 sf of buildable area but **only 35% or 1,750 sf is actually allowed** due to small lot size and area lost to requirements

- Purchased as 48 x 103 platted corner lot with (e) 70 year old duplex
  - Area lost due to PD 317 requirements
    - 505 sf loss due to 45 degree visibility triangle
    - 240 sf loss due to 5' right of way dedication
    - 2,916 sf loss due to 10' rear and 20' driveway setbacks
  - **3,661 sf of area lost due to PD 317 requirements**

## Lot is Restrictive b/c of Shape

- **Double frontage**
  - 5' dedication lost on Browder
  - 20' driveway set back on McKee
- **48' dimension**
  - Too shallow to allow 20' shared alley off Browder
  - Too shallow to allow 20' driveways off McKee w/a 10' rear setback
  - Non square lot i.e., not 90 deg. angles
  - Window requirement & FLS at back of building

## Not self inflicted

- Purchased a platted **48'** corner lot with a 70 year old duplex
  - Max 18' deep building w/mandated setback requirements
- Any similar development on this **48'** platted corner lot will be faced with the same issues whether re-platted or not
  - Fewer units will not be a feasible project at land costs tied to high density uses
- No other design strategies work

**Re-platting does not change the 48' dimension so the problem exist independent of re-platting**



## Market Analysis

### Comparing proposed project to neighboring PD317 townhome development projects

- **Other lots are bigger**
  - None as small as 48'
- **Most have shared alley drive**
- See supporting data below

## Recently built townhome projects in PD 317

Address	Lot Dimensions	Lot Size	No. of Units
1611 Browder	48 x 102	4,896	4
1803 Richardson Ave	135 x 75	10,125	6
1803 S Ervay St	110 x 190	20,900	11
1533 Seegar St	113 x 160	18,080	7
1224 Hyde Court	100 x 110	11,000	8
1354 Romano Place	90.48 x 187	16,919	8
1213 Silver Mill Drive	94.32 x 216	20,347	6
1310 Fitts Place	91.6 x 164.08	15,030	7
1625 Hickory Street	65 x 165	10,725	?

## Conclusion

Pursuant to our request, the above arguments and comparable projects please serve the public's best interest and:

- Grant (2) variances for each lot (total of 8)
- Grant (1) special exception for corner lot

**RESPECTFULLY SUBMITTED**



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 189-013

Data Relative to Subject Property:

Date: 10/13/18

Location address: ~~4611 Browder Street~~ 1475 McKee St. Zoning District: PD-317

Lot No.: 4 Block No.: A/448 Acreage: .11 Census Tract: \_\_\_\_\_

Street Frontage (in Feet): 1) 23.68 2) 48 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Julie Whitmire

Applicant: Darryl Evans Telephone: 469-831-7111

Mailing Address: 8726 S Sepulveda Blvd. Suite DD131, Los Angeles, CA Zip Code: 90045

E-mail Address: darryl@devanscommercial.com

Represented by: Michael Forbes Telephone: 682-401-4955

Mailing Address: P.O. Box 172725 Arlington TX Zip Code: 76003

E-mail Address: michael@trinitecm.com

Affirm that an appeal has been made for a Variance , or Special Exception , of 45 degree visual obstruction / visibility triangle at intersecting streets of Browder and McKee to all for a 36 degree visibility triangle. + 3' to the required 20' required + provide 17' to garage door + 7' to the rear yard setback providing a 3' rear setback

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas residential, provided Development Code, to grant the described appeal for the following reason: + 11' side yard

1. Granting this special exception will serve the public interest by improving the existing 30 degree visual obstruction triangle. 2. The parcel size is smaller than other developed lots in the community. The 45 degree visibility triangle would make 75% of the lot unusable, leaving only approx. 300 build-able sf thereby a hardship. Other similarly zoned parcels that have been developed have been larger and therefore able to satisfy the regulation or granted a special exception. 3. The parcel was purchased as a part of a platted lot in a prime area that garnered a premium price. Without the variance the parcel is not developable and will leave the existing dilapidated home with an existing visibility triangle at 30 degrees. So granting this special exception will improve the traffic conditions at this corner and not create any type of traffic hazard.

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 Darryl Evans  
(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 \_\_\_\_\_ day of \_\_\_\_\_

SEE ATTACHED  
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

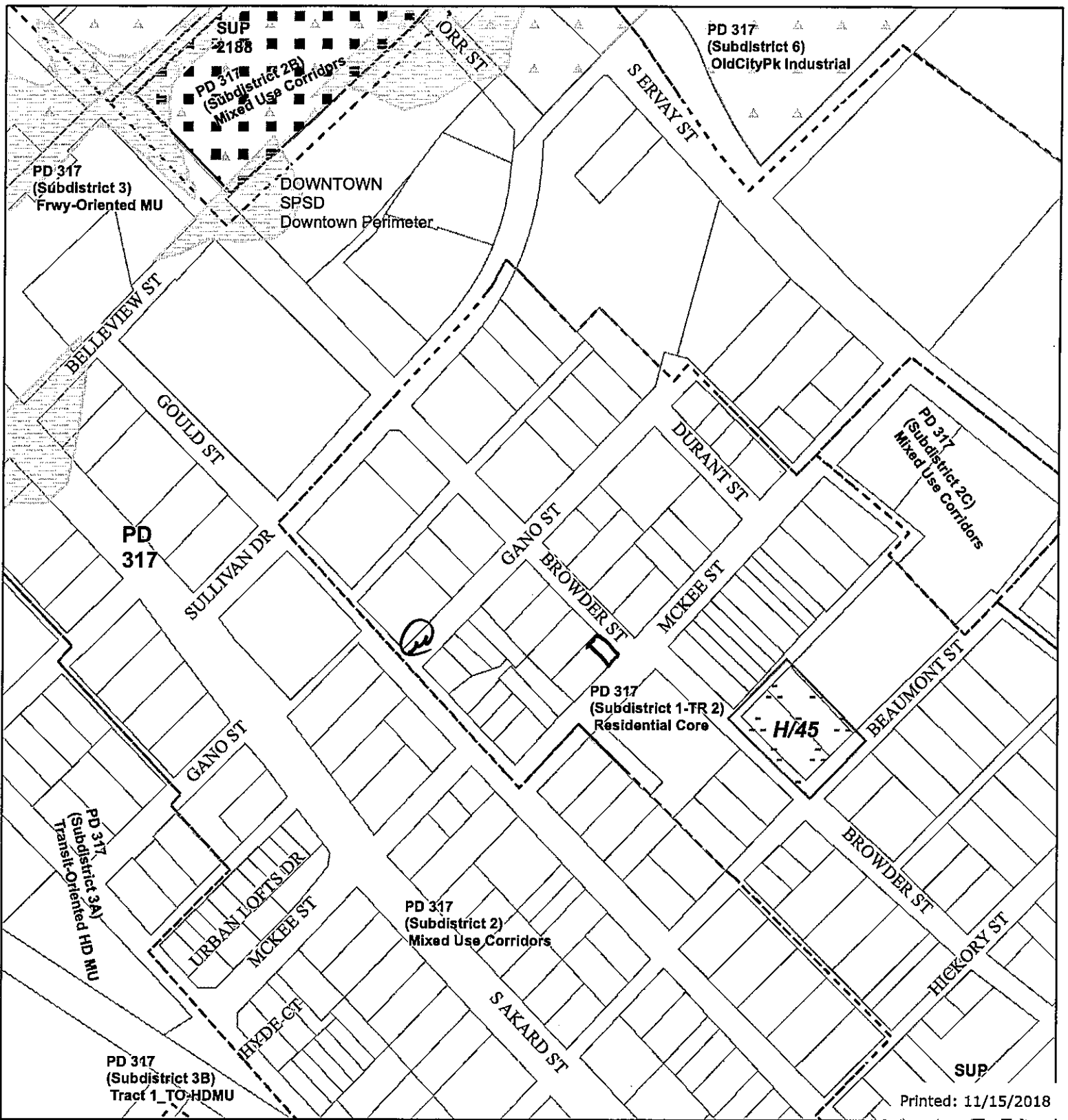
**Building Official's Report**

I hereby certify that Darryl Evans  
 represented by MICHAEL FORBES  
 did submit a request for a special exception to the visibility obstruction regulations, and for a  
 variance to the side yard setback regulations, and for a variance to the  
 off-street parking regulations  
 at 1475 McKee Street

BDA189-013. Application of Darryl Evans represented by MICHAEL FORBES for a special exception to the visibility obstruction regulations, and for a variance to the side yard setback regulations, and for a variance to the off-street parking regulations, at 1475 McKee St. This property is more fully described as Lot 4, Block A/448, and is zoned PD-317 Subdistrict 1, which requires a 45 foot visibility triangle at street intersections and requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley and requires side yard setback of 10 feet. The applicant proposes to construct a residential structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulations, and to construct a single family residential structure and provide a 3 foot side yard setback, which will require a 7 foot variance to the side yard setback regulations, and to construct a single family residential structure with a setback of 17 feet, which will require a variance of 3 feet to the off-street parking regulations.

Sincerely,

*Philip Sikes*  
 Philip Sikes, Building Official



Printed: 11/15/2018

### Legend

- |                      |                                |                       |                            |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits          | railroad                       | Dry Overlay           | CD Subdistricts            |
| School               | Certified Parcels              | D                     | PD Subdistricts            |
| Floodplain           | Base Zoning                    | D-1                   | PDS Subdistricts           |
| 100 Year Flood Zone  | PD193 Oak Lawn                 | CP                    | NSO Subdistricts           |
| Mill's Creek         | Dallas Environmental Corridors | SP                    | NSO_Overlay                |
| Peak's Branch        | SPSP Overlay                   | MD Overlay            | Escarpment Overlay         |
| X Protected by Levee | Deed Restrictions              | Historic Subdistricts | Parking Management Overlay |
| Parks                | SUP                            | Historic Overlay      | Shop Front Overlay         |

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102)

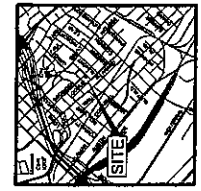


Panel A

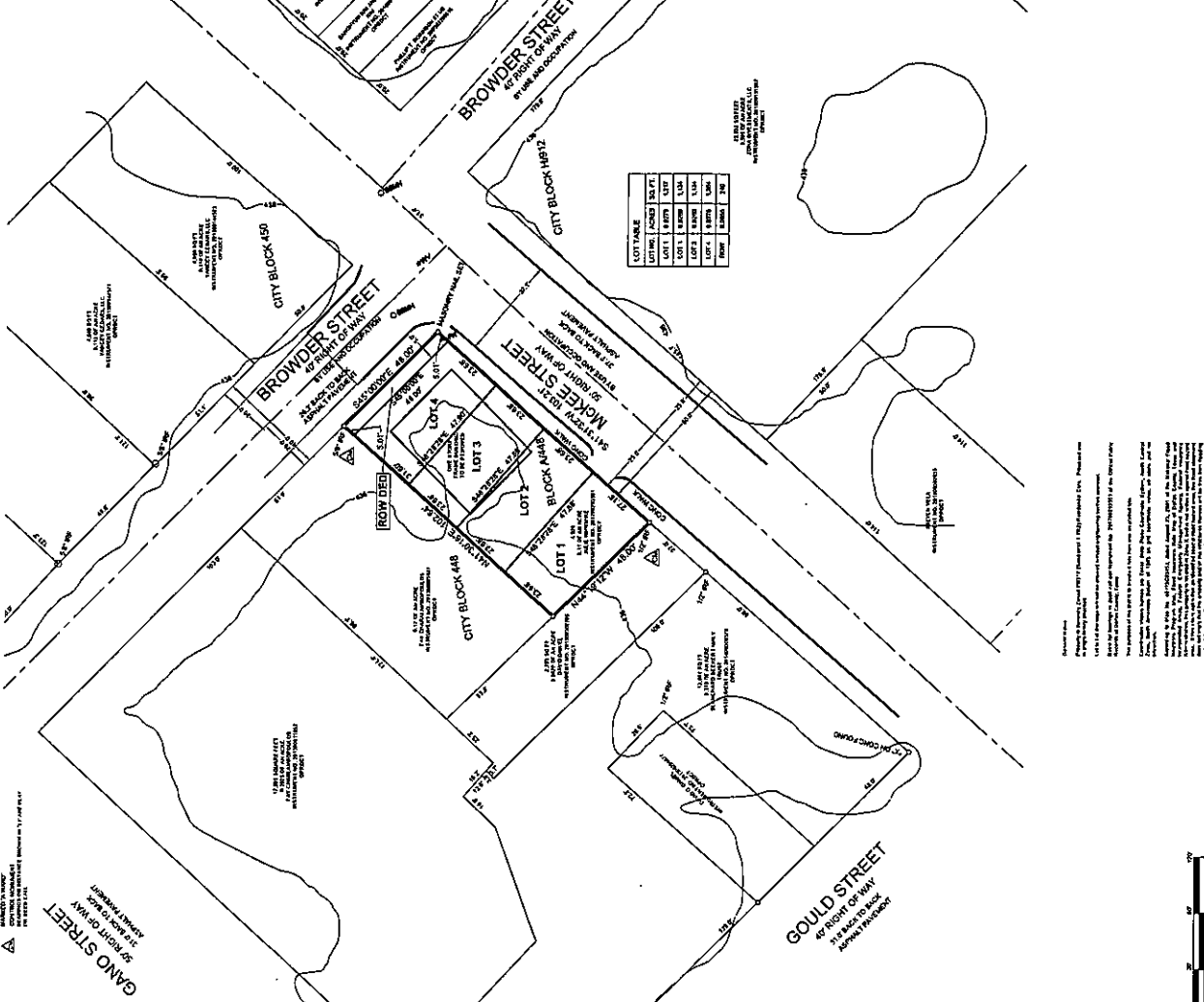
1:2,400



(W)



**LEGEND**  
GAND STREET  
30' RIGHT OF WAY  
3/4" SCALE PER FOOT



LOT TABLE

LOT	AREA (SQ FT)
LOT 1	1,800.00
LOT 2	1,800.00
LOT 3	1,800.00
LOT 4	1,800.00
Row	540.00

DA189-013  
1 - 37

Panel A  
COMPILED BY: JERRY L. HARRIS  
DATE: 10/16/2018  
SCALE: 1" = 100'

WARRANTY: THE SURVEYOR warrants that the plat is a true and correct representation of the field work performed by the surveyor and that the measurements were taken from natural or artificial monuments of known position and that the plat was prepared in accordance with the laws and rules of this State and the rules of the Surveying and Mapping Board of this State.

THESE SURVEY INSTRUMENTS were prepared by the Surveyor and the Surveyor warrants that the measurements were taken from natural or artificial monuments of known position and that the plat was prepared in accordance with the laws and rules of this State and the rules of the Surveying and Mapping Board of this State.

THESE SURVEY INSTRUMENTS were prepared by the Surveyor and the Surveyor warrants that the measurements were taken from natural or artificial monuments of known position and that the plat was prepared in accordance with the laws and rules of this State and the rules of the Surveying and Mapping Board of this State.

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PRELIMINARY INSTRUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR RELIED UPON AS A FINAL SURVEY INSTRUMENT

CITY FILE NO. S189-025

PRELIMINARY PLAT  
BROWDER PLACE  
LOTS 1-4, BLOCK M448

being a replat of a part of City Block 448, and being a part of one JOHN CRISBY SURVEY, Abstract No. 485, situated in the County of Tarrant, Texas, 4,928 square feet of an acre.

October 16, 2018

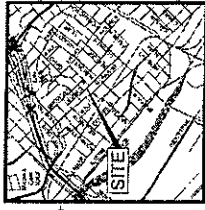
CITY FILE NO. S189-025

WARD SURVEYING COMPANY  
252 WEST MAP STREET, SUITE 100  
DALLAS, TEXAS 75201  
PH: 214-761-1100  
www.wardsurveying.com

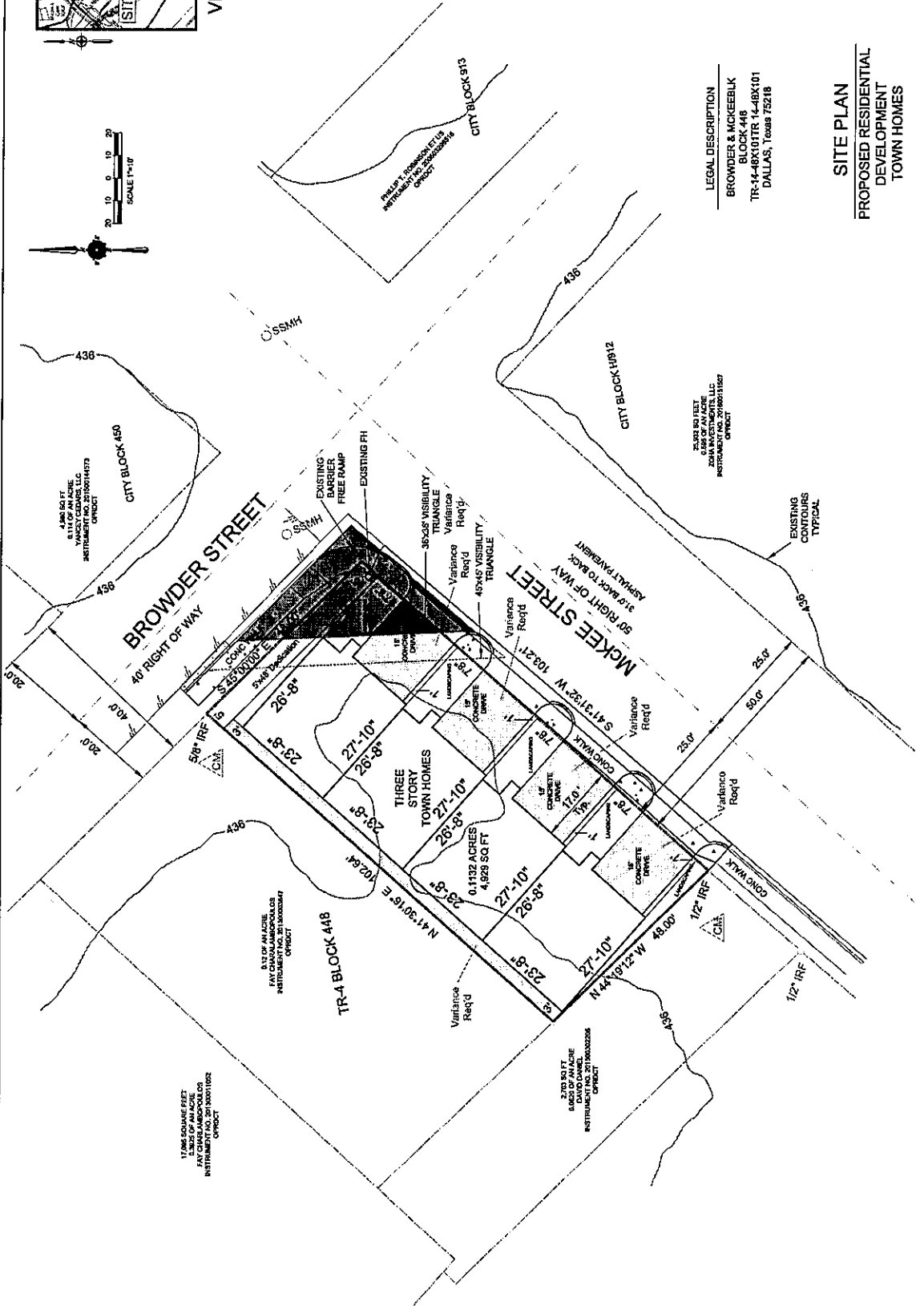
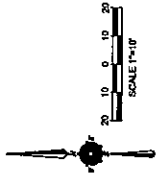
JERRY L. HARRIS, L.S. 17401  
2222 W. LAKOTA BLVD., SUITE 100  
DALLAS, TEXAS 75201  
PH: 214-761-1100

2018 OCT 16 10 11 AM  
COUNTY CLERK





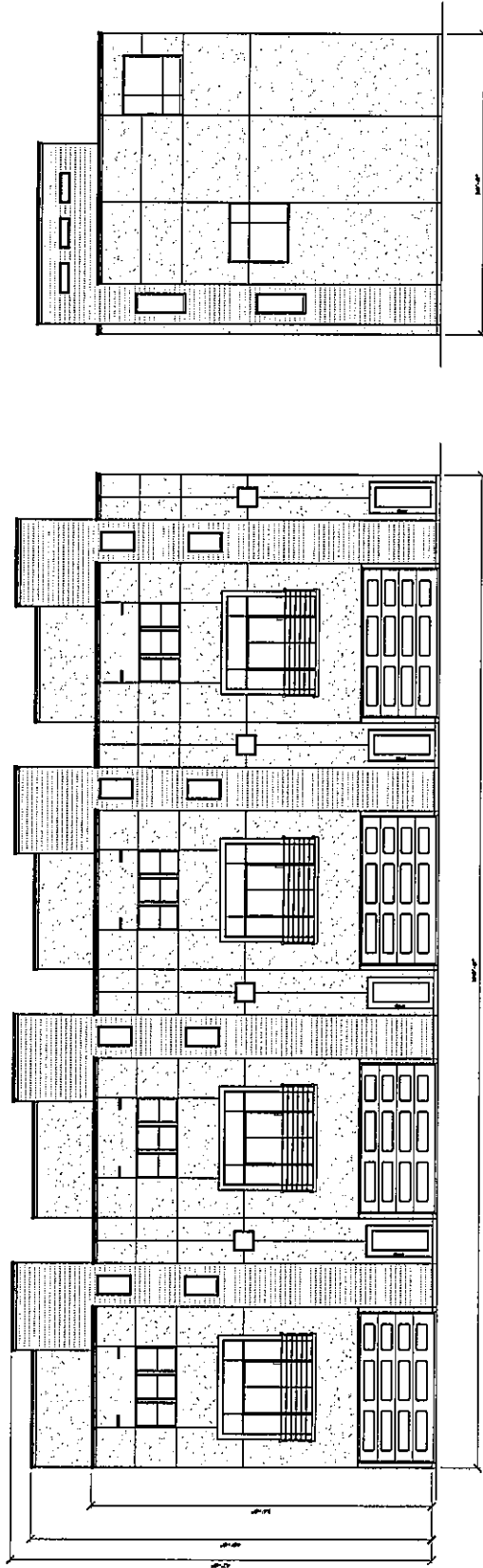
VICINITY MAP



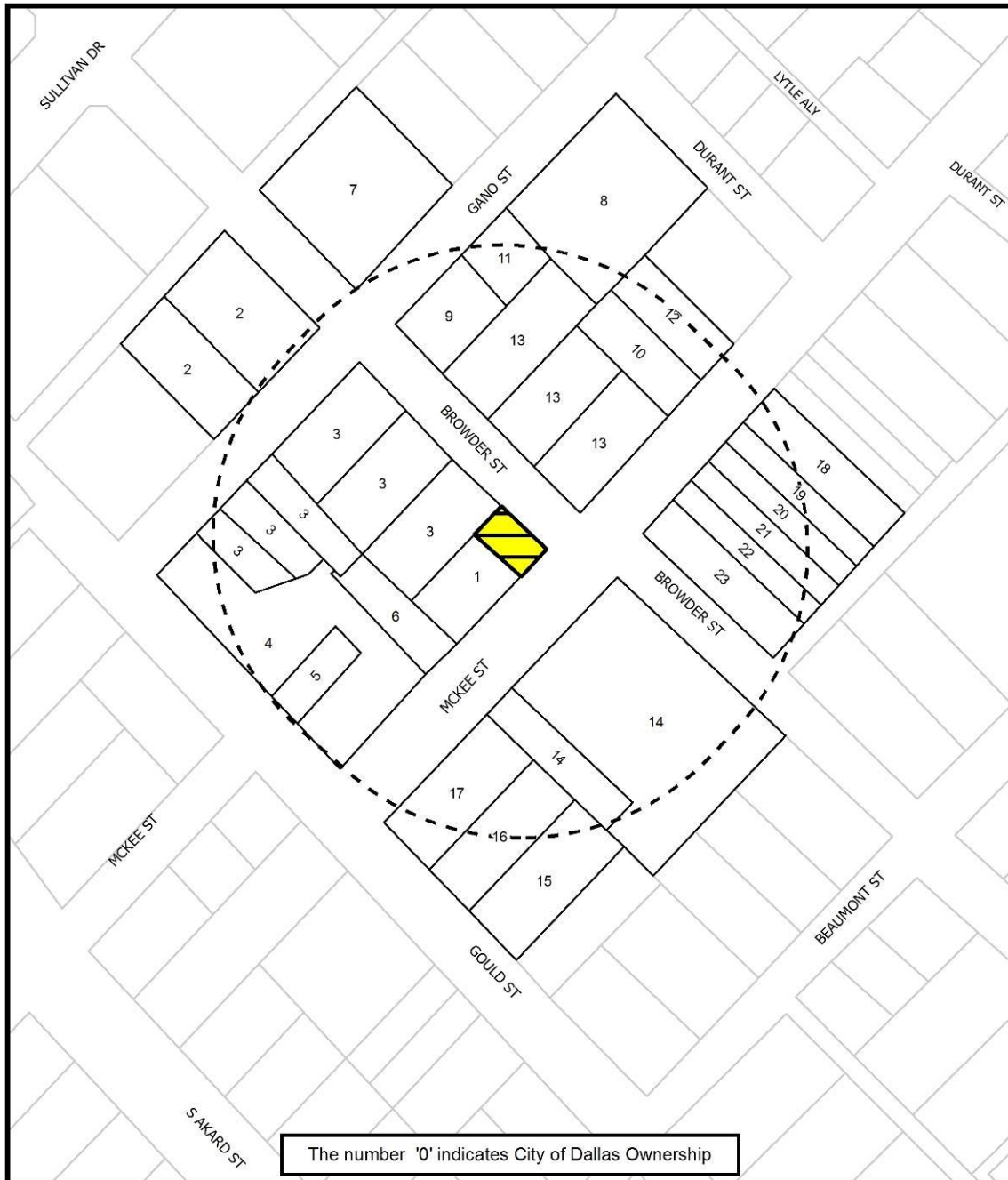
**LEGAL DESCRIPTION**  
 BROWDER & MCKEEBLK  
 BLOCK 448  
 TR-14-48X101TR 1-4-48X101  
 DALLAS, Texas 75218

**SITE PLAN**  
 PROPOSED RESIDENTIAL  
 DEVELOPMENT  
 TOWN HOMES  
 1611 BROWDER ST  
 DALLAS, TX 75215

EXISTING PROPERTY MAPS INSTRUMENT NO. 2013000102 OBJECT	EXISTING CONCRETE DRIVE INSTRUMENT NO. 2013000102 OBJECT	EXISTING CONCRETE DRIVE INSTRUMENT NO. 2013000102 OBJECT	EXISTING CONCRETE DRIVE INSTRUMENT NO. 2013000102 OBJECT
DATE 10/18/18	DATE 10/18/18	DATE 10/18/18	DATE 10/18/18
DRAWN BY [Signature]	CHECKED BY [Signature]	APPROVED BY [Signature]	TITLE SITE PLAN
PROJECT NO. 1611 BROWDER ST DALLAS, TX 75215	SHEET NO. C-1	DATE OCTOBER 18, 2018	SCALE 1" = 10'



**FRONT + ELEVATION**  
SCALE: 1/8" = 1'-0"



 1:1,200	<b>NOTIFICATION</b>		Case no: <b>BDA189-013</b>
	<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;">23</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: <b>1/18/2019</b>	

## *Notification List of Property Owners*

### *BDA189-013*

#### *23 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1611 BROWDER ST	WHITMIRE JULIE
2	1409 GANO ST	KAPLAN HARRY L
3	1408 GANO ST	CHARALAMBOPOULOS FAY
4	1400 GANO ST	BLANCHARD BECKER FAMILY TRUST
5	1610 GOULD ST	DANIEL DAVID O
6	1407 MCKEE ST	DANIEL DAVID
7	1501 GANO ST	MARTINEK MARK
8	1605 DURANT ST	HERNDON SUSAN W &
9	1602 BROWDER ST	BANOWSKY BRITTON B
10	1509 MCKEE ST	SHIPBUILD LLC
11	1508 GANO ST	BANOWSKY BRITTON B
12	1513 MCKEE ST	SHIPBUILD PARTNERS LP
13	1608 BROWDER ST	YANCEY CEDARS LLC
14	1701 BROWDER ST	ZOHA INVESTMENTS LLC
15	1708 GOULD ST	FEIGENSON JEFFREY &
16	1704 GOULD ST	DIJKMAN CELIA MARIA TRUST
17	1400 MCKEE ST	VELA STEVEN
18	1510 MCKEE ST	FREEMAN RICHARD H SR &
19	1508 MCKEE ST	REMUS PATRICK L
20	1506 MCKEE ST	PARKER AMANDA
21	1504 MCKEE ST	WALLACE MICHAEL
22	1502 MCKEE ST	KIM SANGHYUN D & HYEREE
23	1500 MCKEE ST	ROBINSON PHILLIP T & STEPHANIE

**FILE NUMBER:** BDA189-014(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Darryl Evans, represented by Michael Forbes, for variances to the rear yard setback regulations and off-street parking regulations at 1467 McKee Street. This property is more fully described as Lot 3, Block A/448, and is zoned PD 317 (Subdistrict 1), which requires a rear yard setback of 10 feet, and a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley and The applicant proposes to construct and/or maintain a structure and provide a 3 foot rear yard setback, which will require a 7 foot variance to the rear yard setback regulations, and to locate and maintain parking spaces in an enclosed structure with a setback of 17 feet, which will require a variance of 3 feet to the off-street parking regulations.

**LOCATION:** 1467 McKee Street

**APPLICANT:** Darryl Evans  
Represented by Michael Forbes

**REQUESTS:**

The following requests have been made on a property that is currently one building site (approximately 102' in length and approximately 48' in width) developed a vacant single family home that the applicant intends to demolish and subdivide into four individual lots:

1. A request for a variance to the rear yard setback regulations of 7' is made to construct and maintain a single family home with an approximately 620 square foot building footprint located 3' from the site's rear property line or 7' into this required 10' rear yard setback.
2. A request for a variance to the off-street parking regulations of 3' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of the aforementioned single family home that is proposed on the undeveloped subject site where spaces in this enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

(Note that this application is similar to three others filed by the same applicant on properties adjacent to this site and scheduled to be heard by Board of Adjustment Panel A on February 19, 2019: BDA189-013, 015, and 016).

**STANDARD FOR A VARIANCE:**

Section 51(A)-3.102(d)(10) of 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, lot coverage, floor area for structures accessory to single family uses, height,

minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

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

**STAFF RECOMMENDATION (setback variance):**

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the February 5<sup>th</sup> staff review team meeting that the applicant had not substantiated how the variance to the rear yard setback regulations is necessary to permit development of this flat, virtually rectangular in shaped, approximately 1,200 square foot site (once/if replatted) in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same PD 317 (Subdistrict 1) zoning. In addition, staff concluded that the applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with setback regulations.
- Staff concluded from the information submitted by the applicant at the time of the February 5<sup>th</sup> staff review team meeting that the applicant had not substantiated how granting the variance is not to relieve a self created or personal hardship, nor for financial reasons, particularly when this request focuses on dividing what is currently one building site into four separate lots, one of which is the subject site.

**STAFF RECOMMENDATION (parking variance):**

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the February 5<sup>th</sup> staff review team meeting that while granting this request did not appear to be contrary to public interest in that the Sustainable Development and Construction Senior Engineer has no objections to the request with certain conditions being met, the applicant had not substantiated how the variance to the off-street parking regulations is necessary to permit development of this flat, virtually rectangular in shaped, approximately 1,200 square foot site (once/if replatted) in order for it to be developed in a manner commensurate with the development upon

other parcels of land with the same PD 317 (Subdistrict 1) zoning. The applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with off-street parking regulations.

- Staff concluded from the information submitted by the applicant at the time of the February 5<sup>th</sup> staff review team meeting that the applicant had not substantiated how granting the variance is not to relieve a self created or personal hardship, nor for financial reasons, particularly when this request focuses on dividing what is currently one building site into four separate lots, one of which is the subject site.

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: PD 317 (Planned Development)  
North: PD 317 (Planned Development)  
South: PD 317 (Planned Development)  
East: PD 317 (Planned Development)  
West: PD 317 (Planned Development)

### **Land Use:**

The subject site is currently one building site (approximately 102' in length and approximately 48' in width) developed a single family home that the applicant intends to demolish and subdivide into four individual lots. The areas to the north, south, east and west are undeveloped.

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

1. BDA189-013, Property at 1475 McKee Street (the lot to the north of the subject site)

On February 19, 2019, the Board of Adjustment Panel A will consider variances to the side yard setback regulations of 7', the off-street parking regulations of 3', and a special exception to the visual obstruction regulations. These requests are made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street, and to locate and maintain the single family home in the 45' visibility triangle at the intersection of McKee Street and Browder

Street.

2. BDA189-015, Property at 1459 McKee Street (one lot to the south of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

3. BDA189-016, Property at 1451 McKee Street (two lots to the south of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

**GENERAL FACTS/STAFF ANALYSIS (rear yard setback variance):**

- This request for a variance to the side regulations of 7' focuses on constructing and maintaining a single family home with an approximately 620 square foot building footprint located 3' from the site's rear property line or 7' into this required 10' rear yard setback on property that is currently one building site (approximately 102' in length and approximately 48' in width) developed a vacant single family home that the applicant intends to demolish and subdivide into four individual lots.
- The subject site is zoned PD 317 (Subdistrict 1) where the side and rear yard setback is no side or rear yard is required; however, if a side or rear yard is provided, it must be a minimum of 10 feet.



- The applicant has submitted a site plan that represents that the proposed single family home provides a 3' side yard setback from the side property line on the northwest.
- DCAD records indicate "main improvements" for the property at 1611 Browder Street (which is the area that includes the subject site and the three other properties to be a "converted residence" with 1,302 square feet built in 1940.
- The subject site is flat, virtually rectangular in shape (approximately 48' x 25'). While the application states the site is 0.11 acres in area or approximately 4,800 square feet in area, this appears to reflect the area of the existing building site and not the area of the subject site once it is subdivided into four lots.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the rear yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 317 (Subdistrict 1) zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 317 (Subdistrict 1) zoning classification.
- If the Board were to grant the request for a variance of 7' and impose the submitted site plan as a condition, the structure in the rear yard would be limited to that what is shown on this document.

**GENERAL FACTS/STAFF ANALYSIS (parking variance):**

- This request for a variance to the off-street parking regulations of 3' focuses on locating parking spaces in an enclosed structure (an attached garage) of proposed single family home where these parking spaces entered from the street right-of-way line would be located 17' from the McKee Street right-of-way line or 3' into the required 20' distance from this right-of-way line.
- The subject site is zoned PD 317 (Subdistrict 1) where no minimum front yard setback is required.
- The applicant has submitted a site plan that represents that the proposed single family home provides an approximately 14' front yard setback on McKee Street.
- Section 51(A)-4.301(a)(9) of the Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.
- The submitted site plan denotes the location of parking spaces in the enclosed structure 17' from the McKee Street street right-of-way line or 3' into the 20' setback line that an enclosed parking space must be from this right-of-way line. (The

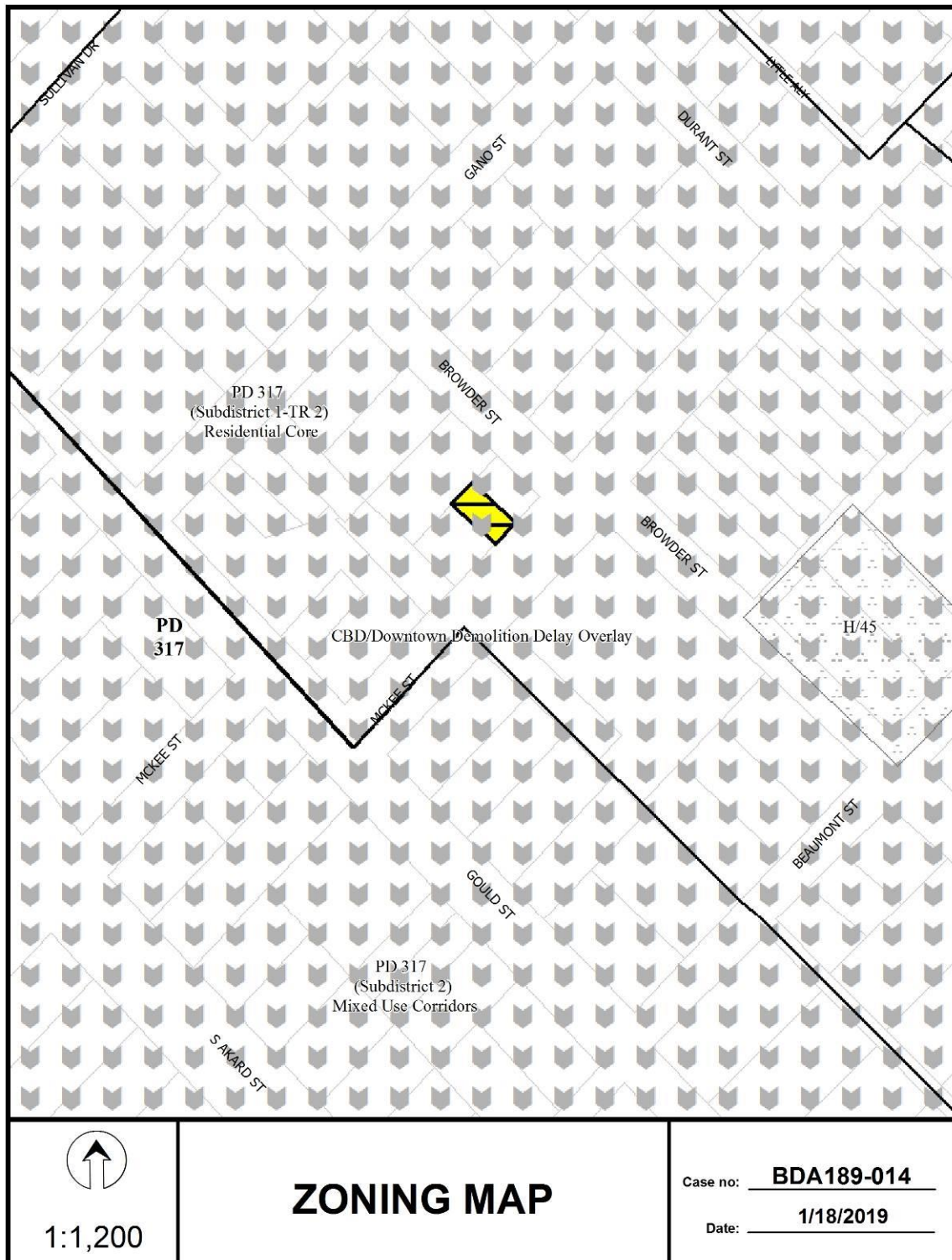
submitted site plan represents that the parking spaces in the enclosed structure are approximately 23' from the McKee Street pavement line).

- DCAD records indicate “main improvements” for the property at 1611 Browder Street (which is the area that includes the subject site and the three other properties to be a “converted residence” with 1,302 square feet built in 1940.
- The subject site is flat, virtually rectangular in shape (approximately 48' x 25'). While the application states the site is 0.11 acres in area or approximately 4,800 square feet in area, this appears to reflect the area of the existing building site and not the area of the subject site once it is subdivided into four lots. While this site is located at the corner of Browder Street and McKee Street and has two front yard setbacks, this feature is typical of any lot on a corner that is not zoned single family, duplex, or agricultural district.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “Has no objections if certain conditions are met”.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 317 (Subdistrict 1) zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 317 (Subdistrict 1) zoning classification.
- If the Board were to grant the request for a variance of 3', staff recommends imposing the following conditions:
  1. Compliance with the submitted site plan is required.
  2. An automatic garage door must be installed and maintained in working order at all times.(These conditions are imposed to help assure that the variance will not be contrary to the public interest).
- If the Board were to deny this variance request, the applicant could construct and maintain the single family home as represented on the site plan without enclosing the parking spaces in it.

### **Timeline:**

November 15, 2018: 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 7, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- January 7, 2019: 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 January 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 8<sup>th</sup> 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.
- February 5, 2019: 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 Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.
- February 5, 2019: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following additional comments: "No objection subject to compliance with site plan showing proposed 17-foot setback for all four enclosed parking from property line. (i.e. 3-ft exception). No objection, subject to compliance with site plan showing proposed 36' x 36' visibility triangle based on evaluation of site plan and adjacent intersection of Brower Street at McKee Street".
- February 8, 2019: The applicant's representative submitted additional documentation to staff (see Attachment A). Note that this information was not factored into the staff recommendation since it was submitted after the February 5<sup>th</sup> staff review team meeting.



1:1,200

# ZONING MAP

Case no: BDA189-014

Date: 1/18/2019



1:1,200

# AERIAL MAP

Case no: BDA189-014

Date: 1/18/2019

**1611 Browder St.**

---

**Variance Hearing Case Plan**

## Project Site Description

### 1611 Browder St. (NW corner of McKee)

- Currently a boarded up old house in the Cedars
- 4,940 sf Corner Lot
- Lot dimensions: **48'** x 103'
- Zoned PD317 - 1



1611 Browder Street  
Dallas, Texas  
2018



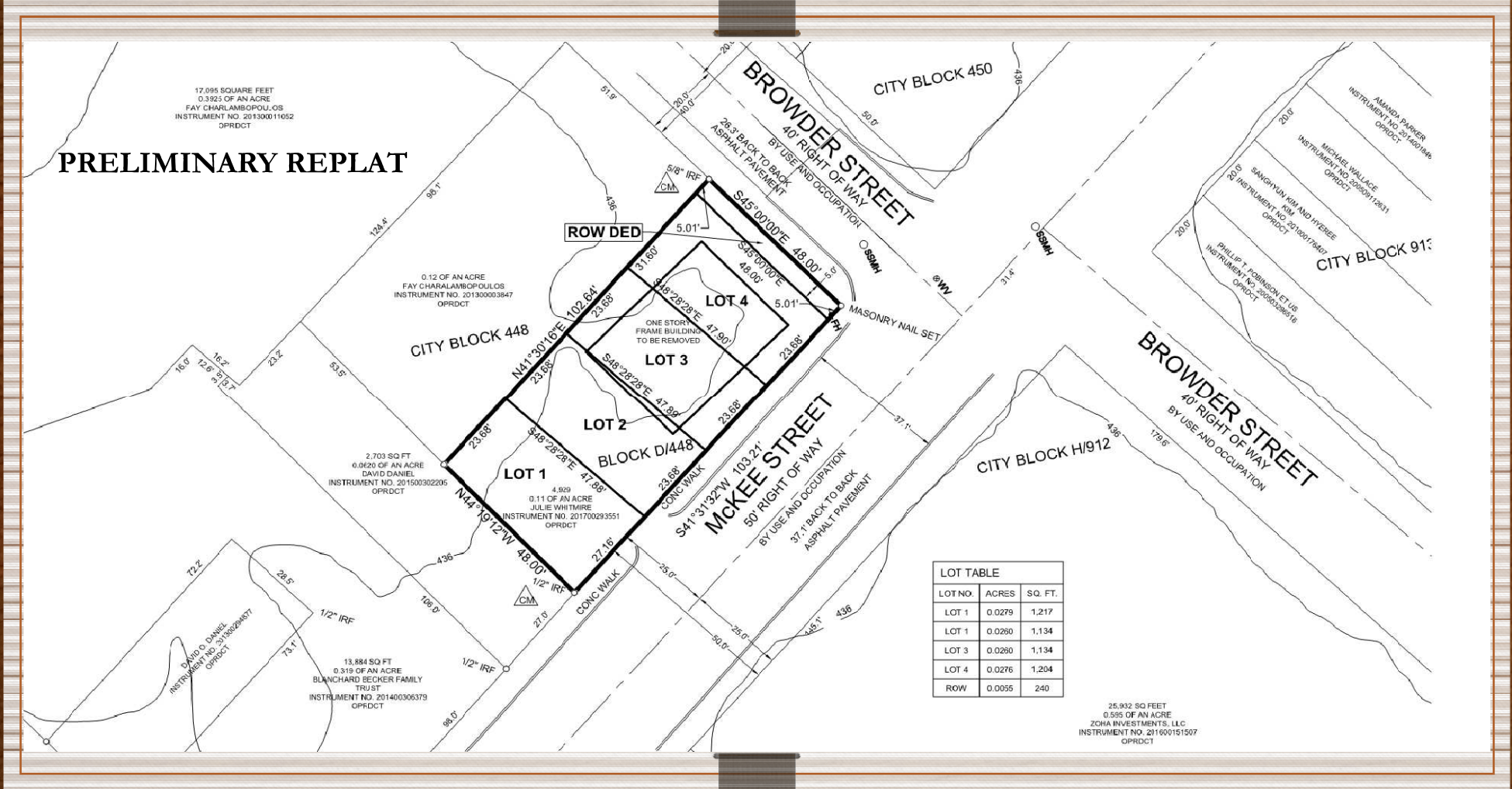
## Proposed project

For Sale:

- (4) New 3 story Modern Luxury Townhomes
- Fee Simple Individually Platted - Not Condos
- 3 bed, 3.5 bath, 2 Car Garage
- Covered Roof Top Lounge
- Downtown Dallas Skyline Views

**The proposed project even though limited by site area and shape proposes the highest and best use for this small lot in PD 317.**





## The Request

We are hereby requesting the same (2) variances for each lot in our four lot re-platted subdivision plus (1) special exception for the corner lot.

**Regardless of re-platting – even with the original single platted lot this site will require the same (2) variances and (1) special exception**

## Variations

### **(8) Variations & (1) special exception**

- Variance to allow for a 3' rear yard setback per lot
- Variance to allow for a 17' driveway setback per lot
- Special Exception to allow a 36 degree visibility triangle

## Issue

What made this site attractive is the area zoning which encourages high density development

- allowing zero setbacks;
- building to the property line and
- promoting high density residential development

**Main Issue** The (e) **48'** lot dimension

Re-platting has no effect on this dimension

## Rear set back

- **0' or 10' rear set back rule is the catalyst to all 8 variances b/c of the 48' dimension**
  - **0' setback works but windows are not allowed if 0' rear setback**
    - Project not feasible with out bedroom windows along back of building
    - Large 3 story wall 100 ft. long wall with no windows is allowed by right
    - Without windows middle units would only have egress at front of the building
  - **10' setback is not feasible –18' building just doesn't work**
    - 20' driveway set back leaves only 18' b/c of **48'** lot dimension
    - 3' set back is deemed sufficient for FLS & windows

## Driveway set back

- **20' driveway set back**
  - City Traffic Engineer concedes the 17' driveway + 18' deep garage is sufficient for (4) off street parking spaces
  - Required because of the rear setback

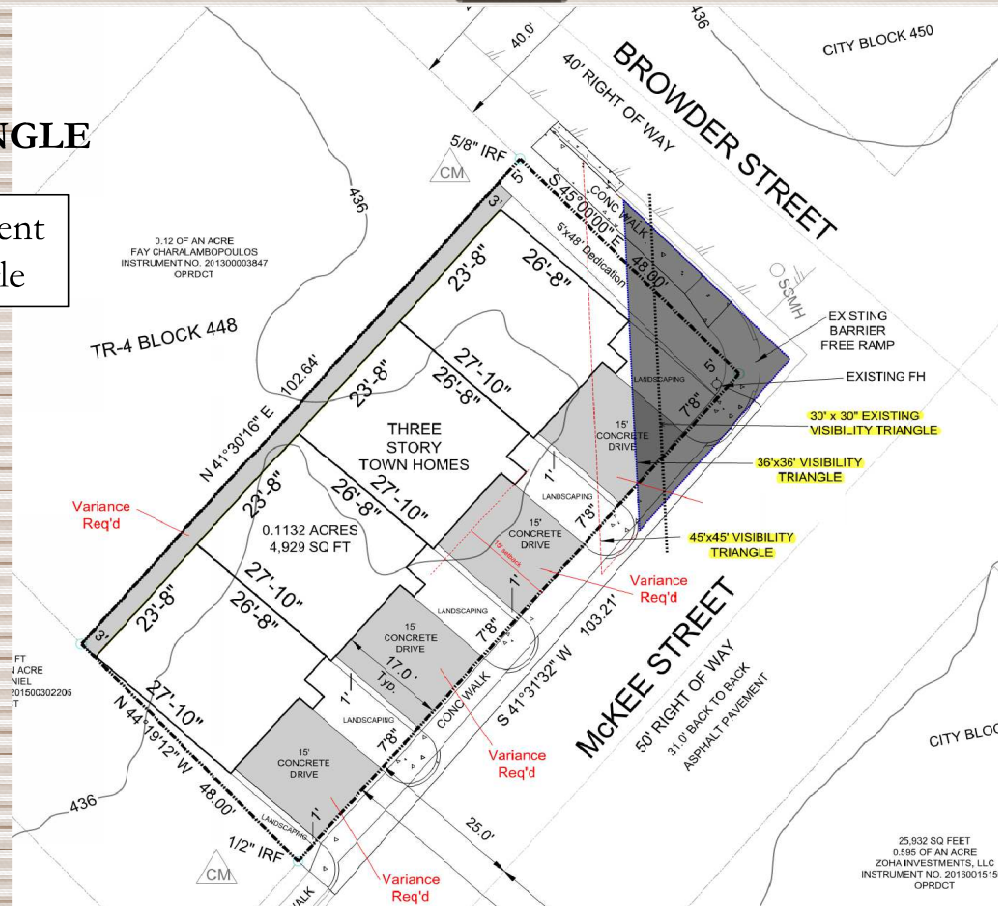


## Visibility Triangle

- **Rule requires a 45 deg Visibility Triangle**
  - 45 degrees would take another 505 SF or 10+% of area from the site
  - (e) home has had a 30 degree triangle since being built in 1940s
  - **proposed 36 degree triangle improves existing 30 degree triangle**
    - Does not create nor increase any traffic hazards or concerns per City Traffic Engineer

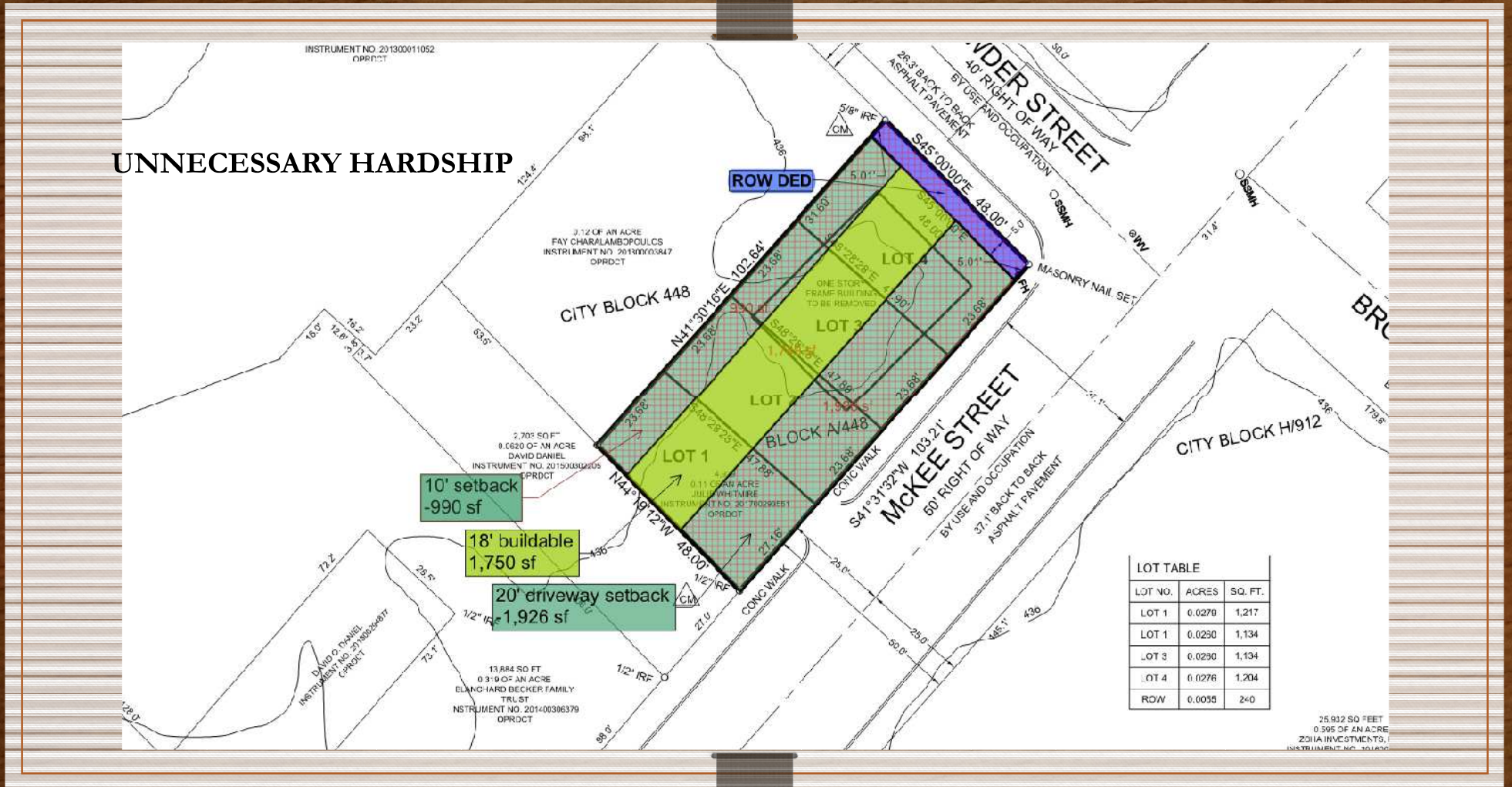
# VISIBILITY TRIANGLE

6 degree improvement  
from existing triangle



## Unnecessary Hardship

- Existing site presents an Unnecessary Hardship
  - **48'** wide lot
    - Minus 10' setback off rear property line (0 or 10)
    - Minus 20' driveway setback
    - Leaves 18' deep buildable area due to mandated setbacks  
**not feasible** (high priced area – allowable design would negatively impact the community)



## Lot is Restrictive b/c of Area

Max allowed lot coverage in PD317-1 is 80% allowing 3,955 sf of buildable area but **only 35% or 1,750 sf is actually allowed** due to small lot size and area lost to requirements

- Purchased as 48 x 103 platted corner lot with (e) 70 year old duplex
  - Area lost due to PD 317 requirements
    - 505 sf loss due to 45 degree visibility triangle
    - 240 sf loss due to 5' right of way dedication
    - 2,916 sf loss due to 10' rear and 20' driveway setbacks
  - **3,661 sf of area lost due to PD 317 requirements**

## Lot is Restrictive b/c of Shape

- **Double frontage**
  - 5' dedication lost on Browder
  - 20' driveway set back on McKee
- **48' dimension**
  - Too shallow to allow 20' shared alley off Browder
  - Too shallow to allow 20' driveways off McKee w/a 10' rear setback
  - Non square lot i.e., not 90 deg. angles
  - Window requirement & FLS at back of building

## Not self inflicted

- Purchased a platted **48'** corner lot with a 70 year old duplex
  - Max 18' deep building w/mandated setback requirements
- Any similar development on this **48'** platted corner lot will be faced with the same issues whether re-platted or not
  - Fewer units will not be a feasible project at land costs tied to high density uses
- No other design strategies work

**Re-platting does not change the 48' dimension so the problem exist independent of re-platting**

## Market Analysis

### Comparing proposed project to neighboring PD317 townhome development projects

- **Other lots are bigger**
  - None as small as 48'
- **Most have shared alley drive**
- See supporting data below



## Recently built townhome projects in PD 317

Address	Lot Dimensions	Lot Size	No. of Units
1611 Browder	48 x 102	4,896	4
1803 Richardson Ave	135 x 75	10,125	6
1803 S Ervay St	110 x 190	20,900	11
1533 Seegar St	113 x 160	18,080	7
1224 Hyde Court	100 x 110	11,000	8
1354 Romano Place	90.48 x 187	16,919	8
1213 Silver Mill Drive	94.32 x 216	20,347	6
1310 Fitts Place	91.6 x 164.08	15,030	7
1625 Hickory Street	65 x 165	10,725	?

## Conclusion

Pursuant to our request, the above arguments and comparable projects please serve the public's best interest and:

- Grant (2) variances for each lot (total of 8)
- Grant (1) special exception for corner lot

**RESPECTFULLY SUBMITTED**



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 189-014

Date: ~~10/13/18~~ 11-15-18

Data Relative to Subject Property:

Location address: ~~4611 Browder Street~~ 1467 McKee St. Zoning District: PD-317

Lot No.: 3 Block No.: A/448 Acreage: .11 Census Tract: 204.00

Street Frontage (in Feet): 1) 23.68 2) ~~48~~ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Julie Whitmire

Applicant: Darryl Evans Telephone: 469-831-7111

Mailing Address: 8726 S Sepulveda Blvd. Suite DD131, Los Angeles, CA Zip Code: 90045

E-mail Address: darryl@devanscommercial.com

Represented by: Michael Forbes Telephone: 682-401-4955

Mailing Address: P.O. Box 172725 Arlington TX Zip Code: 76003

E-mail Address: michael@trinitecm.com

Affirm that an appeal has been made for a Variance X , or Special Exception , of 20 foot driveway approach requirement 3'-0" to the REQUIRED 20'-0" Parking Regulation + Providing 17'-0" to Garage Door + 7'-0" to the REAR YARD SET BACK + Providing A 3'-0" REAR YARD SET BACK

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:

- 1. Granting this variance will serve the public interest by allowing the building to sit 3' off of the rear property line to allow room for emergency egress from rear windows necessary for fire life & safety concerns. 2. The parcel size is much smaller than other developed lots in the community so meeting the 20ft garage drive regulation is not feasible. Other similarly zoned parcels that have been developed have been larger and therefore able to satisfy the regulation or locate their drives in the rear. 3. The parcel was purchased as a part of a platted 48' lot in a prime area that garnered a premium price. Without the variance the parcel is not developable since meeting the 10' rear setback and 20' garage driveway will leave only 18' of buildable area making the project unfeasible creating both a design and financial hardship.

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 Darryl Evans (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 \_\_\_\_\_ day of \_\_\_\_\_,

(Rev. 08-01-11) SEE ATTACHED 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

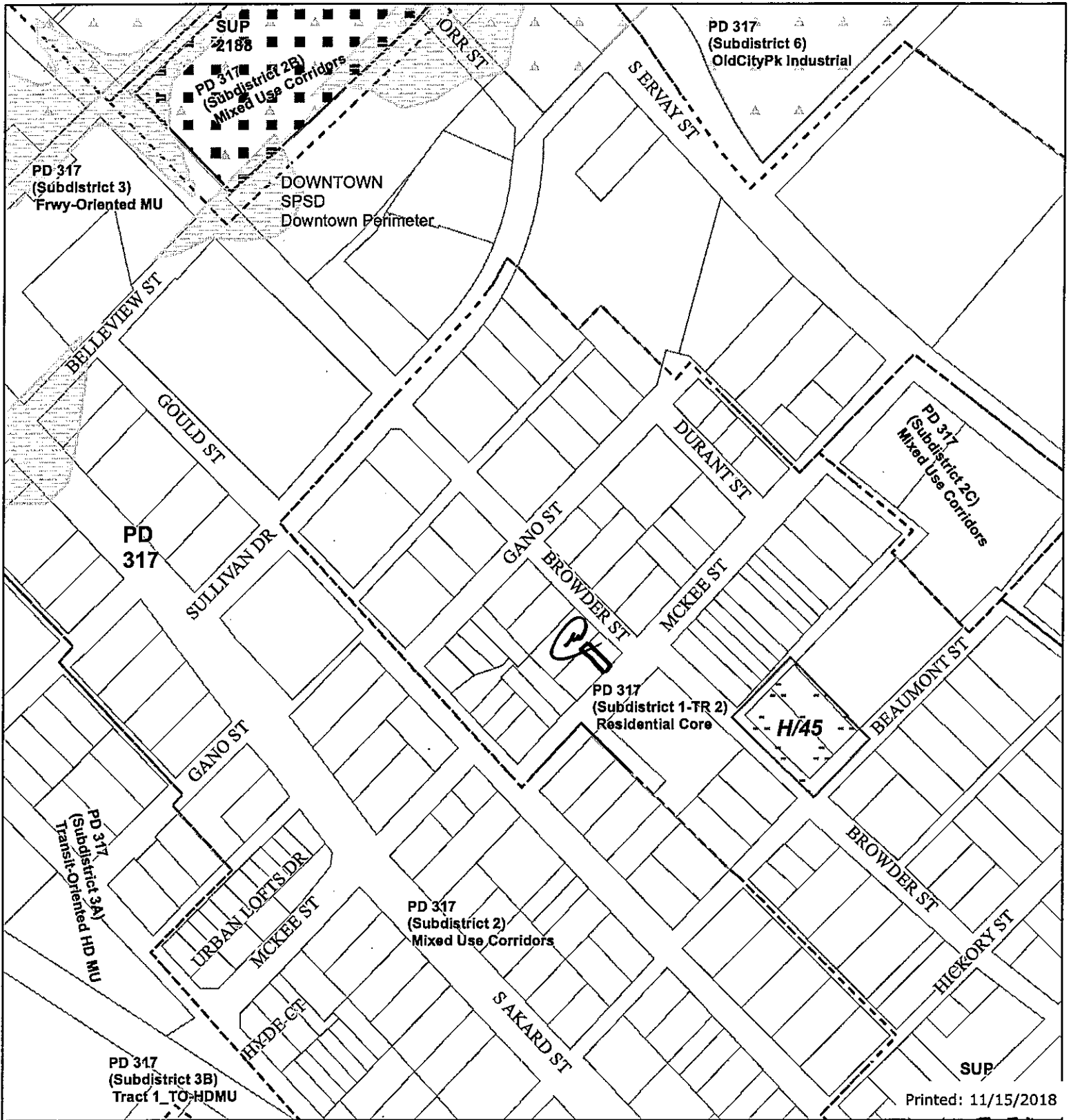
**Building Official's Report**

I hereby certify that Darryl Evans  
represented by MICHAEL FORBES  
did submit a request for a variance to the rear yard setback regulations, and for a variance to the  
off-street parking regulations  
at 1467 McKee Street

BDA189-014. Application of Darryl Evans represented by MICHAEL FORBES for a variance to the rear yard setback regulations, and for a variance to the off-street parking regulations at 1467 McKee St. This property is more fully described as Lot 3, Block A/448, and is zoned PD-317 Subdistrict 1, which requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley and requires rear yard setback of 10 feet. The applicant proposes to construct a single family residential structure and provide a 3 foot rear yard setback, which will require a 7 foot variance to the rear yard setback regulations, and to construct a single family residential structure with a setback of 17 feet, which will require a variance of 3 feet to the off-street parking regulations.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official



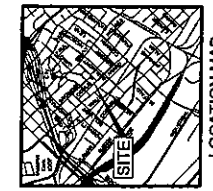
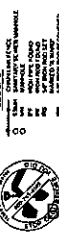
Printed: 11/15/2018

### Legend

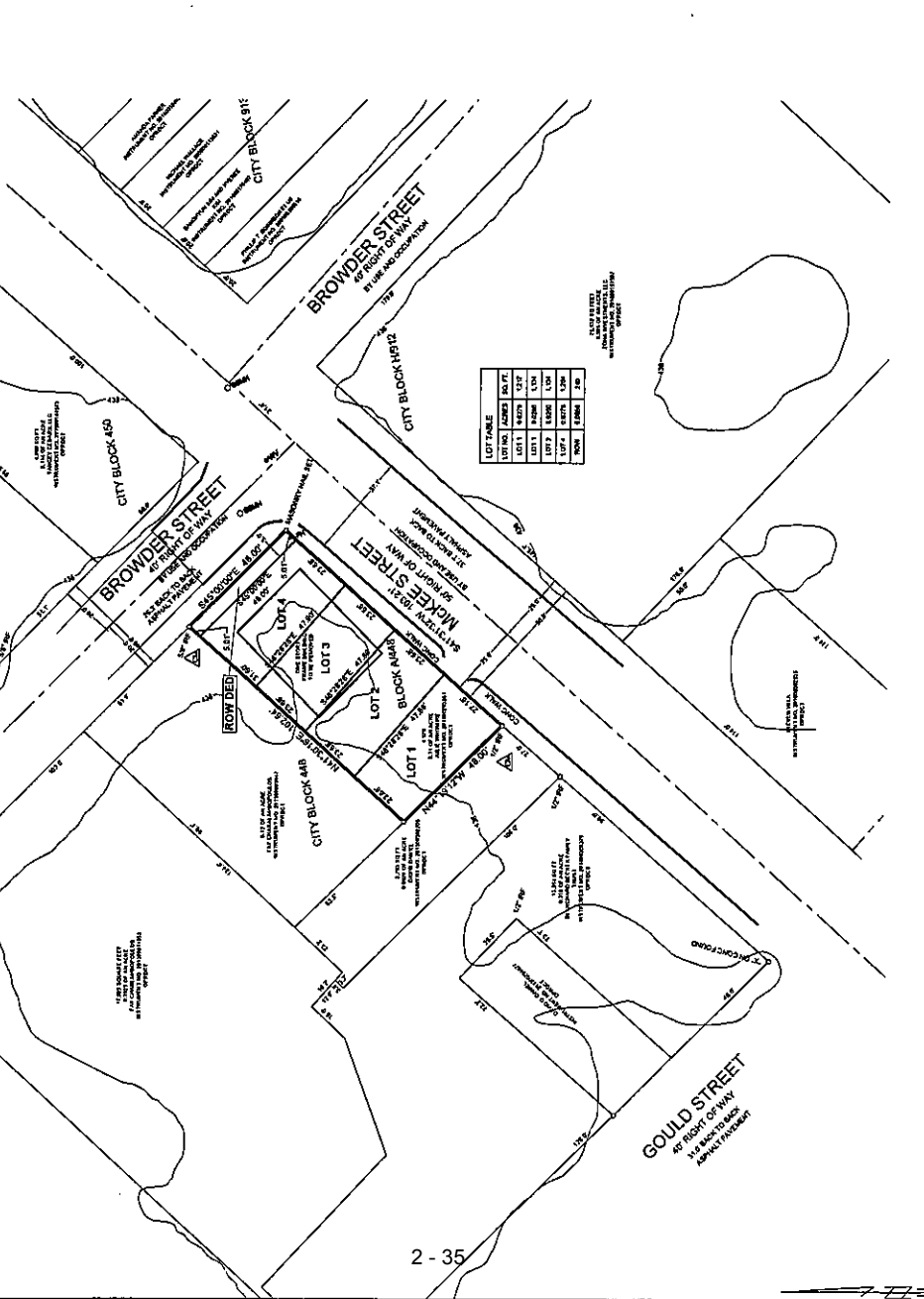
- |                      |                                |                       |                                   |
|----------------------|--------------------------------|-----------------------|-----------------------------------|
| City Limits          | railroad                       | Dry Overlay           | CD Subdistricts                   |
| School               | Certified Parcels              | D                     | PD Subdistricts                   |
| Floodplain           | Base Zoning                    | D-1                   | PDS Subdistricts                  |
| 100 Year Flood Zone  | PD193 Oak Lawn                 | CP                    | NSO Subdistricts                  |
| Mill's Creek         | Dallas Environmental Corridors | SP                    | NSO_Overlay                       |
| Peak's Branch        | SPSD Overlay                   | MD Overlay            | Escarpment Overlay                |
| X Protected by Levee | Deed Restrictions              | Historic Subdistricts | Parking Management Overlay 2 - 33 |
| Parks                | SUP                            | Historic Overlay      | Shop Front Overlay                |
|                      |                                | Height Map Overlay    |                                   |

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102) Panel A





LOCATION MAP  
COURTESY OF THE CITY OF DALLAS



**LOT TABLE**

LOT	ACRES	SQ. FT.
LOT 1	0.200	13,608
LOT 2	0.200	13,608
LOT 3	0.200	13,608
TOTAL	0.600	40,824

**DEFINITIONS**

**PLAT** - means the instrument in which the subject land is described and which is filed in the public records of the County of Dallas, Texas, in accordance with the provisions of the Texas Public Land Act, Chapter 201, of the Texas Statutes.

**BOUNDARIES** - means the lines, whether natural or artificial, which define the limits of the subject land, and which are shown on the plat and are intended to be permanent and unchangeable.

**CONVEYANCE** - means the instrument in which the subject land is transferred or conveyed to the grantee, and which is filed in the public records of the County of Dallas, Texas.

**WITNESSES**

Notary Public in and for the State of Texas, my commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**Notary Public**

Name: \_\_\_\_\_ Title: \_\_\_\_\_

**STATE OF TEXAS**

COUNTY OF DALLAS

**PRELIMINARY**

**THIS INSTRUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR REPLIED UPON AS A FINAL SURVEY INSTRUMENT**

Notary Public in and for the State of Texas, my commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

PRELIMINARY PLAT  
BROWDER PLACE  
LOTS 1-4, BLOCK A/448  
being a replat of a part of City Block 448, and being a part of the JOHN GRISBY SURVEY, Abstract No. 495, situated in the City of Dallas, Dallas County, Texas.

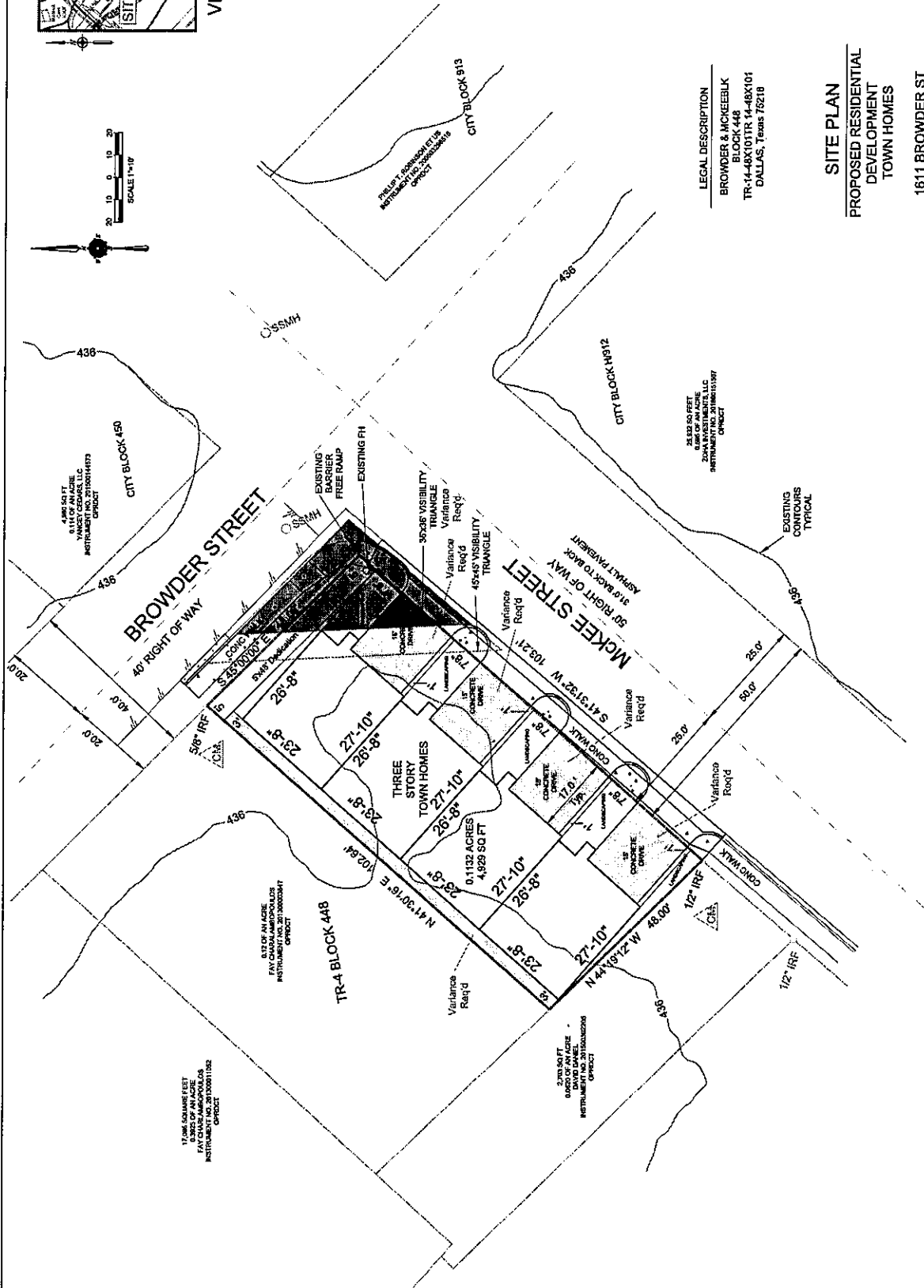
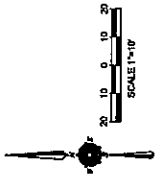
October 18, 2018

CITY FILE NO. S185-025

**M AND SURVEYING COMPANY**  
851 WEST MAIN STREET, SUITE 100, DALLAS, TEXAS 75201  
P.O. BOX 154350, DALLAS, TEXAS 75215  
PHONE: 214.933.3300 FAX: 214.933.3301



VICINITY MAP

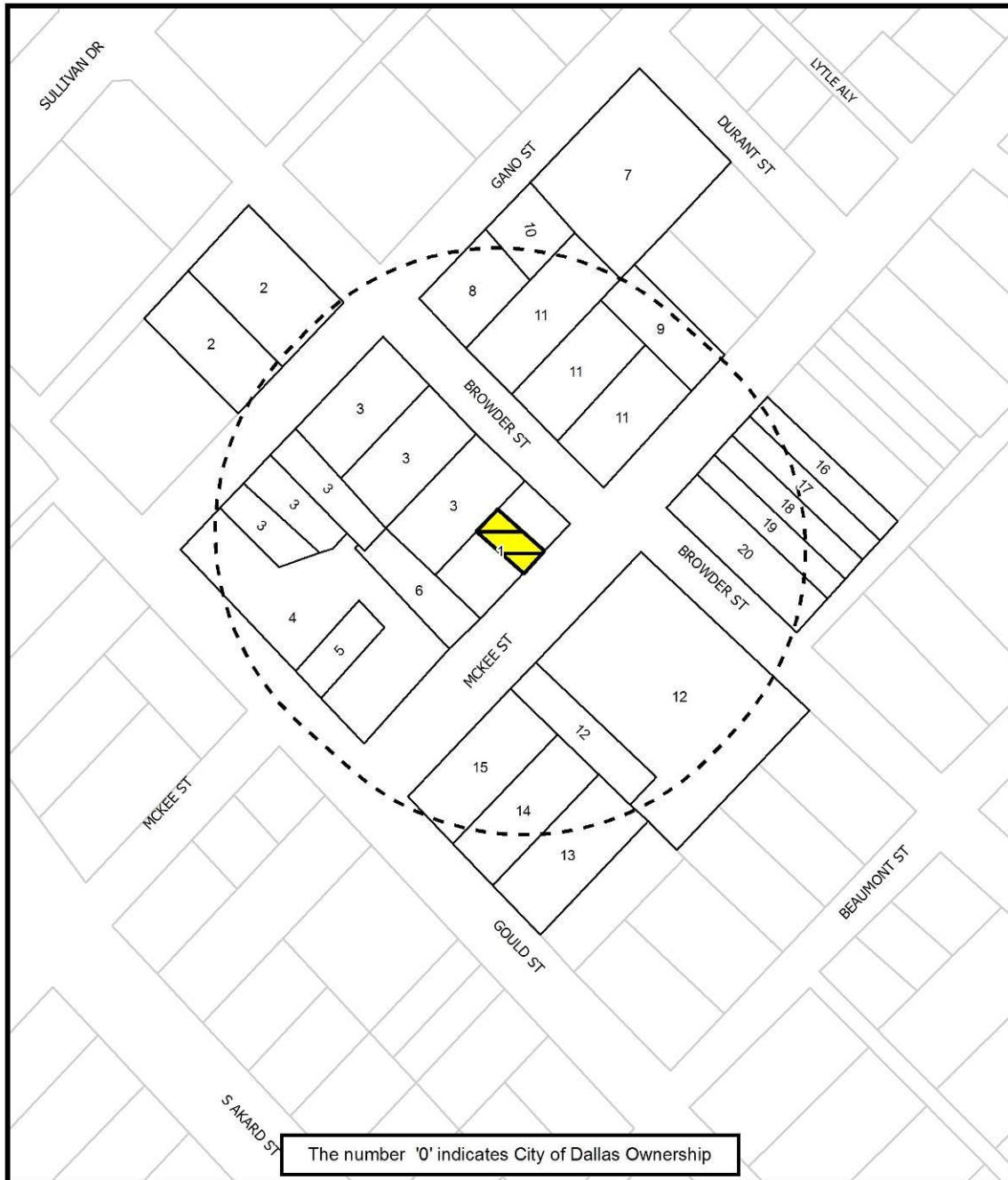


DALLAS BROWDER & MCKEEBLK TR-14-48X101TR 14-48X101 DALLAS, TEXAS 75218		Project Name & Address PROPOSED RESIDENTIAL DEVELOPMENT TOWN HOMES 1611 BROWDER ST DALLAS, TX 75215	Date OCTOBER 16, 2018 Sheet No. C-1
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LEGAL DESCRIPTION  
 BROWDER & MCKEEBLK  
 BLOCK 448  
 TR-14-48X101TR 14-48X101  
 DALLAS, Texas 75218

**SITE PLAN**  
 PROPOSED RESIDENTIAL  
 DEVELOPMENT  
 TOWN HOMES  
 1611 BROWDER ST  
 DALLAS, TX 75215





 1:1,200	<b>NOTIFICATION</b>		Case no: <b>BDA189-014</b>
	<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;">20</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: <b>1/18/2019</b>	

## *Notification List of Property Owners*

***BDA189-014***

***20 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	1611 BROWDER ST	WHITMIRE JULIE
2	1409 GANO ST	KAPLAN HARRY L
3	1408 GANO ST	CHARALAMBOPOULOS FAY
4	1400 GANO ST	BLANCHARD BECKER FAMILY TRUST
5	1610 GOULD ST	DANIEL DAVID O
6	1407 MCKEE ST	DANIEL DAVID
7	1605 DURANT ST	HERNDON SUSAN W &
8	1602 BROWDER ST	BANOWSKY BRITTON B
9	1509 MCKEE ST	SHIPBUILD LLC
10	1508 GANO ST	BANOWSKY BRITTON B
11	1608 BROWDER ST	YANCEY CEDARS LLC
12	1701 BROWDER ST	ZOHA INVESTMENTS LLC
13	1708 GOULD ST	FEIGENSON JEFFREY &
14	1704 GOULD ST	DIJKMAN CELIA MARIA TRUST
15	1400 MCKEE ST	VELA STEVEN
16	1508 MCKEE ST	REMUS PATRICK L
17	1506 MCKEE ST	PARKER AMANDA
18	1504 MCKEE ST	WALLACE MICHAEL
19	1502 MCKEE ST	KIM SANGHYUN D & HYEREE
20	1500 MCKEE ST	ROBINSON PHILLIP T & STEPHANIE

**FILE NUMBER:** BDA189-015(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Darryl Evans, represented by Michael Forbes, for variances to the rear yard setback regulations and off-street parking regulations at 1459 McKee Street. This property is more fully described as Lot 2, Block A/448, and is zoned PD 317 (Subdistrict 1), which requires a rear yard setback of 10 feet, and a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley and The applicant proposes to construct and/or maintain a structure and provide a 3 foot rear yard setback, which will require a 7 foot variance to the rear yard setback regulations, and to locate and maintain parking spaces in an enclosed structure with a setback of 17 feet, which will require a variance of 3 feet to the off-street parking regulations.

**LOCATION:** 1459 McKee Street

**APPLICANT:** Darryl Evans  
Represented by Michael Forbes

**REQUESTS:**

The following requests have been made on a property that is currently one building site (approximately 102' in length and approximately 48' in width) developed a vacant single family home that the applicant intends to demolish and subdivide into four individual lots:

1. A request for a variance to the rear yard setback regulations of 7' is made to construct and maintain a single family home with an approximately 620 square foot building footprint located 3' from the site's rear property line or 7' into this required 10' rear yard setback.
2. A request for a variance to the off-street parking regulations of 3' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of the aforementioned single family home that is proposed on the undeveloped subject site where spaces in this enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

(Note that this application is similar to three others filed by the same applicant on properties adjacent to this site and scheduled to be heard by Board of Adjustment Panel A on February 19, 2019: BDA189-013, 014, and 016).

**STANDARD FOR A VARIANCE:**

Section 51(A)-3.102(d)(10) of 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, lot coverage, floor area for structures accessory to single family uses, height,

minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

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

**STAFF RECOMMENDATION (setback variance):**

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the February 5<sup>th</sup> staff review team meeting that the applicant had not substantiated how the variance to the rear yard setback regulations is necessary to permit development of this flat, virtually rectangular in shaped, approximately 1,200 square foot site (once/if replatted) in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same PD 317 (Subdistrict 1) zoning. In addition, staff concluded that the applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with setback regulations.
- Staff concluded from the information submitted by the applicant at the time of the February 5<sup>th</sup> staff review team meeting that the applicant had not substantiated how granting the variance is not to relieve a self created or personal hardship, nor for financial reasons, particularly when this request focuses on dividing what is currently one building site into four separate lots, one of which is the subject site.

**STAFF RECOMMENDATION (parking variance):**

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the February 5<sup>th</sup> staff review team meeting that while granting this request did not appear to be contrary to public interest in that the Sustainable Development and Construction Senior Engineer has no objections to the request with certain conditions being met, the applicant had not substantiated how the variance to the off-street parking regulations is necessary to permit development of this flat, virtually rectangular in shaped, approximately 1,200 square foot site (once/if replatted) in order for it to be developed in a manner commensurate with the development upon

other parcels of land with the same PD 317 (Subdistrict 1) zoning. The applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with off-street parking regulations.

- Staff concluded from the information submitted by the applicant at the time of the February 5<sup>th</sup> staff review team meeting that the applicant had not substantiated how granting the variance is not to relieve a self created or personal hardship, nor for financial reasons, particularly when this request focuses on dividing what is currently one building site into four separate lots, one of which is the subject site.

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: PD 317 (Planned Development)  
North: PD 317 (Planned Development)  
South: PD 317 (Planned Development)  
East: PD 317 (Planned Development)  
West: PD 317 (Planned Development)

### **Land Use:**

The subject site is currently one building site (approximately 102' in length and approximately 48' in width) developed a single family home that the applicant intends to demolish and subdivide into four individual lots. The areas to the north, south, east and west are undeveloped.

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

1. BDA189-013, Property at 1475 McKee Street (two lots to the north of the subject site)

On February 19, 2019, the Board of Adjustment Panel A will consider variances to the side yard setback regulations of 7', the off-street parking regulations of 3', and a special exception to the visual obstruction regulations. These requests are made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street, and to locate and maintain the single family home in the 45' visibility triangle at the intersection of McKee Street and Browder

Street.

2. BDA189-014, Property at 1467 McKee Street (one lot to the north of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

3. BDA189-016, Property at 1451 McKee Street (one lot to the south of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

**GENERAL FACTS/STAFF ANALYSIS (rear yard setback variance):**

- This request for a variance to the side regulations of 7' focuses on constructing and maintaining a single family home with an approximately 620 square foot building footprint located 3' from the site's rear property line or 7' into this required 10' rear yard setback on property that is currently one building site (approximately 102' in length and approximately 48' in width) developed a vacant single family home that the applicant intends to demolish and subdivide into four individual lots.
- The subject site is zoned PD 317 (Subdistrict 1) where the side and rear yard setback is no side or rear yard is required; however, if a side or rear yard is provided, it must be a minimum of 10 feet.

- The applicant has submitted a site plan that represents that the proposed single family home provides a 3' side yard setback from the side property line on the northwest.
- DCAD records indicate "main improvements" for the property at 1611 Browder Street (which is the area that includes the subject site and the three other properties to be a "converted residence" with 1,302 square feet built in 1940.
- The subject site is flat, virtually rectangular in shape (approximately 48' x 25'). While the application states the site is 0.11 acres in area or approximately 4,800 square feet in area, this appears to reflect the area of the existing building site and not the area of the subject site once it is subdivided into four lots.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the rear yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 317 (Subdistrict 1) zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 317 (Subdistrict 1) zoning classification.
- If the Board were to grant the request for a variance of 7' and impose the submitted site plan as a condition, the structure in the rear yard would be limited to that what is shown on this document.

**GENERAL FACTS/STAFF ANALYSIS (parking variance):**

- This request for a variance to the off-street parking regulations of 3' focuses on locating parking spaces in an enclosed structure (an attached garage) of proposed single family home where these parking spaces entered from the street right-of-way line would be located 17' from the McKee Street right-of-way line or 3' into the required 20' distance from this right-of-way line.
- The subject site is zoned PD 317 (Subdistrict 1) where no minimum front yard setback is required.
- The applicant has submitted a site plan that represents that the proposed single family home provides an approximately 14' front yard setback on McKee Street.
- Section 51(A)-4.301(a)(9) of the Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.
- The submitted site plan denotes the location of parking spaces in the enclosed structure 17' from the McKee Street street right-of-way line or 3' into the 20' setback line that an enclosed parking space must be from this right-of-way line. (The

submitted site plan represents that the parking spaces in the enclosed structure are approximately 23' from the McKee Street pavement line).

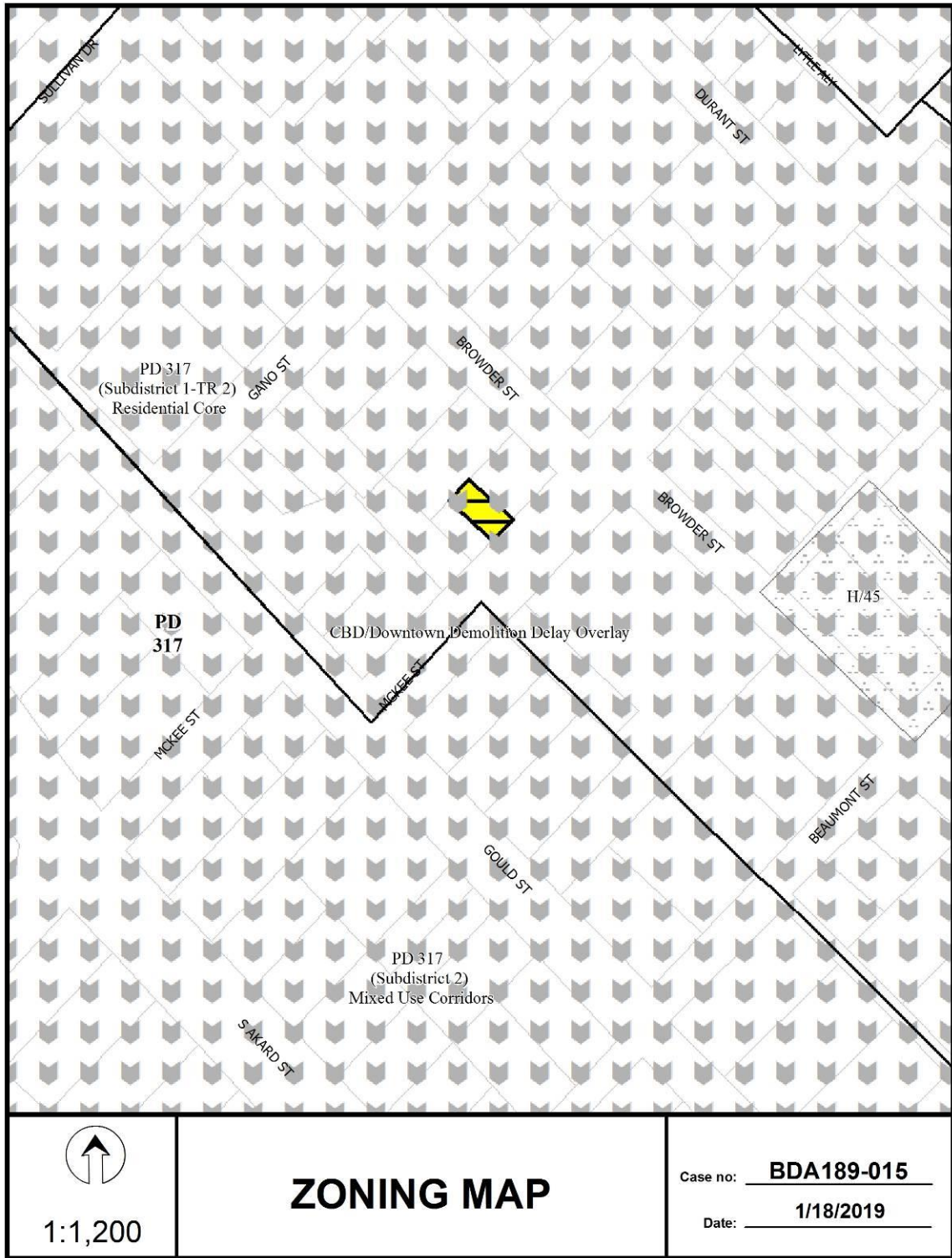
- DCAD records indicate “main improvements” for the property at 1611 Browder Street (which is the area that includes the subject site and the three other properties to be a “converted residence” with 1,302 square feet built in 1940.
- The subject site is flat, virtually rectangular in shape (approximately 48' x 25'). While the application states the site is 0.11 acres in area or approximately 4,800 square feet in area, this appears to reflect the area of the existing building site and not the area of the subject site once it is subdivided into four lots. While this site is located at the corner of Browder Street and McKee Street and has two front yard setbacks, this feature is typical of any lot on a corner that is not zoned single family, duplex, or agricultural district.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “Has no objections if certain conditions are met”.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 317 (Subdistrict 1) zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 317 (Subdistrict 1) zoning classification.
- If the Board were to grant the request for a variance of 3', staff recommends imposing the following conditions:
  1. Compliance with the submitted site plan is required.
  2. An automatic garage door must be installed and maintained in working order at all times.(These conditions are imposed to help assure that the variance will not be contrary to the public interest).
- If the Board were to deny this variance request, the applicant could construct and maintain the single family home as represented on the site plan without enclosing the parking spaces in it.

### **Timeline:**

October 13, 2018: 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 7, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- January 7, 2019: 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 January 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 8<sup>th</sup> 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.
- February 5, 2019: 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 Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.
- February 5, 2019: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following additional comments: "No objection subject to compliance with site plan showing proposed 17-foot setback for all four enclosed parking from property line. (i.e. 3-ft exception). No objection, subject to compliance with site plan showing proposed 36' x 36' visibility triangle based on evaluation of site plan and adjacent intersection of Brower Street at McKee Street".
- February 8, 2019: The applicant's representative submitted additional documentation to staff (see Attachment A). Note that this information was not factored into the staff recommendation since it was submitted after the February 5<sup>th</sup> staff review team meeting.



1:1,200

# ZONING MAP

Case no: BDA189-015

Date: 1/18/2019



1:1,200

# AERIAL MAP

Case no: BDA189-015

Date: 1/18/2019

**1611 Browder St.**

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**Variance Hearing Case Plan**

## Project Site Description

### 1611 Browder St. (NW corner of McKee)

- Currently a boarded up old house in the Cedars
- 4,940 sf Corner Lot
- Lot dimensions: **48'** x 103'
- Zoned PD317 - 1



1611 Browder Street  
Dallas, Texas  
2018

## Proposed project

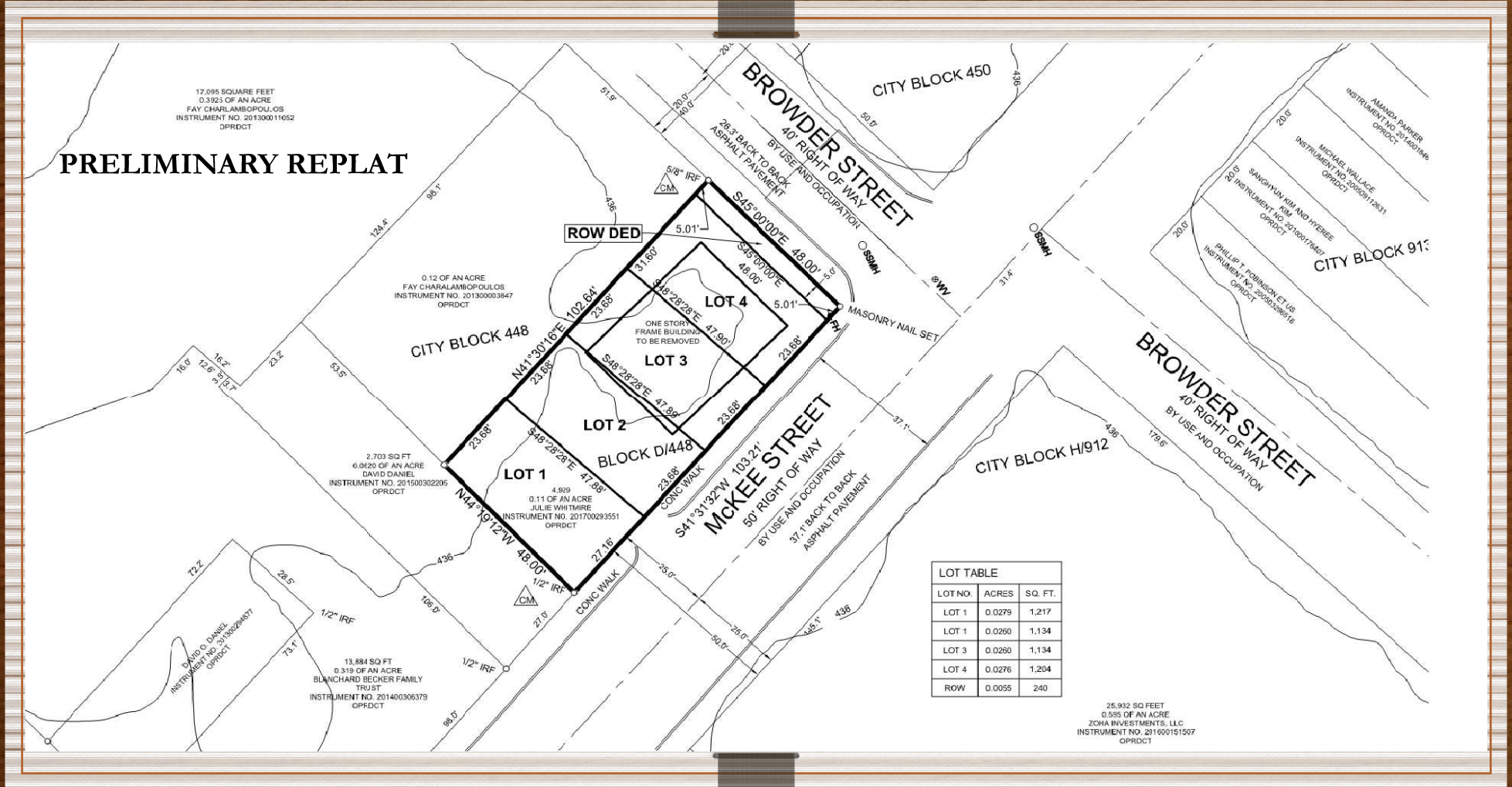
For Sale:

- (4) New 3 story Modern Luxury Townhomes
- Fee Simple Individually Platted - Not Condos
- 3 bed, 3.5 bath, 2 Car Garage
- Covered Roof Top Lounge
- Downtown Dallas Skyline Views

**The proposed project even though limited by site area and shape proposes the highest and best use for this small lot in PD 317.**







## The Request

We are hereby requesting the same (2) variances for each lot in our four lot re-platted subdivision plus (1) special exception for the corner lot.

**Regardless of re-platting – even with the original single platted lot this site will require the same (2) variances and (1) special exception**

## Variations

### **(8) Variations & (1) special exception**

- Variance to allow for a 3' rear yard setback per lot
- Variance to allow for a 17' driveway setback per lot
- Special Exception to allow a 36 degree visibility triangle

## Issue

What made this site attractive is the area zoning which encourages high density development

- allowing zero setbacks;
- building to the property line and
- promoting high density residential development

**Main Issue** The (e) **48'** lot dimension

Re-platting has no effect on this dimension

## Rear set back

- **0' or 10' rear set back rule is the catalyst to all 8 variances b/c of the 48' dimension**
  - **0' setback works but windows are not allowed if 0' rear setback**
    - Project not feasible with out bedroom windows along back of building
    - Large 3 story wall 100 ft. long wall with no windows is allowed by right
    - Without windows middle units would only have egress at front of the building
  - **10' setback is not feasible –18' building just doesn't work**
    - 20' driveway set back leaves only 18' b/c of **48'** lot dimension
    - 3' set back is deemed sufficient for FLS & windows

## Driveway set back

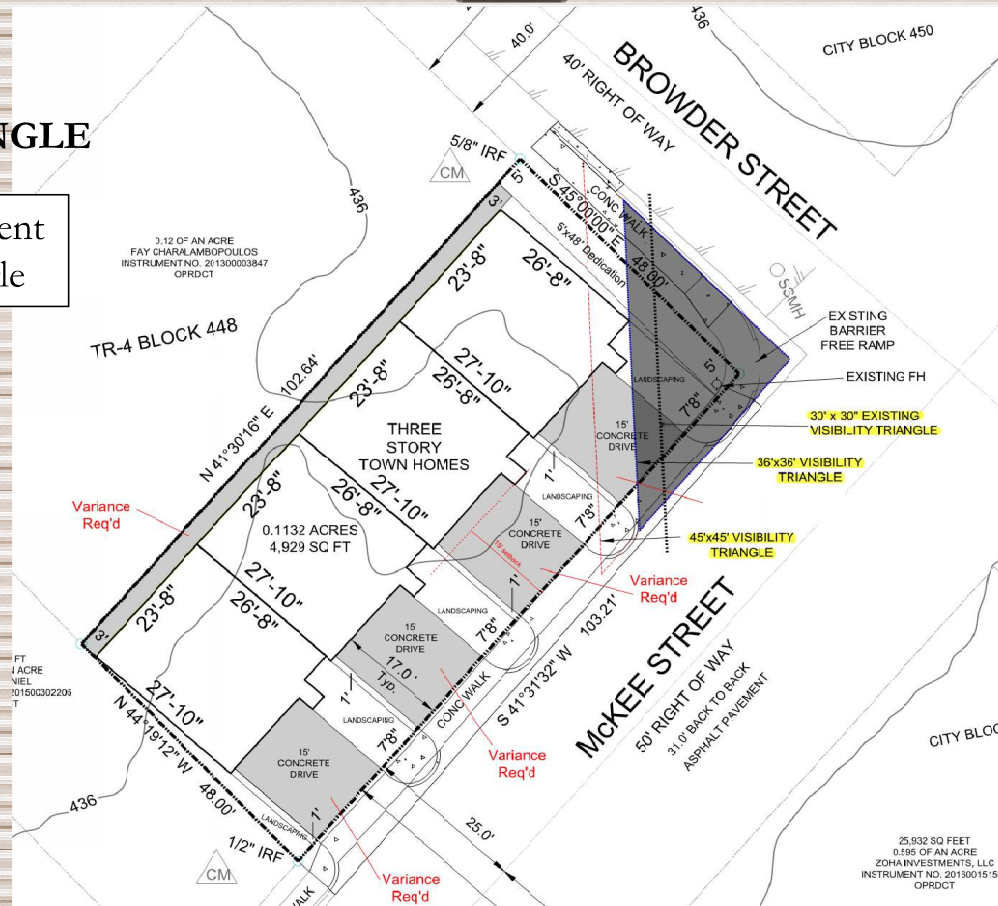
- **20' driveway set back**
  - City Traffic Engineer concedes the 17' driveway + 18' deep garage is sufficient for (4) off street parking spaces
  - Required because of the rear setback

## Visibility Triangle

- **Rule requires a 45 deg Visibility Triangle**
  - 45 degrees would take another 505 SF or 10+% of area from the site
  - (e) home has had a 30 degree triangle since being built in 1940s
  - **proposed 36 degree triangle improves existing 30 degree triangle**
    - Does not create nor increase any traffic hazards or concerns per City Traffic Engineer

# VISIBILITY TRIANGLE

6 degree improvement  
from existing triangle





## Unnecessary Hardship

- Existing site presents an Unnecessary Hardship
  - **48'** wide lot
    - Minus 10' setback off rear property line (0 or 10)
    - Minus 20' driveway setback
    - Leaves 18' deep buildable area due to mandated setbacks  
**not feasible** (high priced area – allowable design would negatively impact the community)

**UNNECESSARY HARDSHIP**



## Lot is Restrictive b/c of Area

Max allowed lot coverage in PD317-1 is 80% allowing 3,955 sf of buildable area but **only 35% or 1,750 sf is actually allowed** due to small lot size and area lost to requirements

- Purchased as 48 x 103 platted corner lot with (e) 70 year old duplex
  - Area lost due to PD 317 requirements
    - 505 sf loss due to 45 degree visibility triangle
    - 240 sf loss due to 5' right of way dedication
    - 2,916 sf loss due to 10' rear and 20' driveway setbacks
  - **3,661 sf of area lost due to PD 317 requirements**

## Lot is Restrictive b/c of Shape

- **Double frontage**
  - 5' dedication lost on Browder
  - 20' driveway set back on McKee
- **48' dimension**
  - Too shallow to allow 20' shared alley off Browder
  - Too shallow to allow 20' driveways off McKee w/a 10' rear setback
  - Non square lot i.e., not 90 deg. angles
  - Window requirement & FLS at back of building

## Not self inflicted

- Purchased a platted **48'** corner lot with a 70 year old duplex
  - Max 18' deep building w/mandated setback requirements
- Any similar development on this **48'** platted corner lot will be faced with the same issues whether re-platted or not
  - Fewer units will not be a feasible project at land costs tied to high density uses
- No other design strategies work

**Re-platting does not change the 48' dimension so the problem exist independent of re-platting**

## Market Analysis

### Comparing proposed project to neighboring PD317 townhome development projects

- **Other lots are bigger**
  - None as small as 48'
- **Most have shared alley drive**
- See supporting data below

## Recently built townhome projects in PD 317

Address	Lot Dimensions	Lot Size	No. of Units
1611 Browder	48 x 102	4,896	4
1803 Richardson Ave	135 x 75	10,125	6
1803 S Ervay St	110 x 190	20,900	11
1533 Seegar St	113 x 160	18,080	7
1224 Hyde Court	100 x 110	11,000	8
1354 Romano Place	90.48 x 187	16,919	8
1213 Silver Mill Drive	94.32 x 216	20,347	6
1310 Fitts Place	91.6 x 164.08	15,030	7
1625 Hickory Street	65 x 165	10,725	?

## Conclusion

Pursuant to our request, the above arguments and comparable projects please serve the public's best interest and:

- Grant (2) variances for each lot (total of 8)
- Grant (1) special exception for corner lot

**RESPECTFULLY SUBMITTED**





City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 189-015

Data Relative to Subject Property:

Date: 10/13/18

Location address: ~~1011 Browder Street~~ 1459 McKee St Zoning District: PD-317

Lot No.: 2 Block No.: A/448 Acreage: .11 Census Tract: \_\_\_\_\_

Street Frontage (in Feet): 1) 23.68 2) 48 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Julie Whitmire

Applicant: Darryl Evans Telephone: 469-831-7111

Mailing Address: 8726 S Sepulveda Blvd. Suite DD131, Los Angeles, CA Zip Code: 90045

E-mail Address: darryl@devanscommercial.com

Represented by: Michael Forbes Telephone: 682-401-4955

Mailing Address: P.O. Box 172725 Arlington TX Zip Code: 76003

E-mail Address: michael@trinitecm.com

Affirm that an appeal has been made for a Variance X, or Special Exception \_\_\_\_\_, of 20 foot driveway approach requirement 3'-0" to the required 20'-0" parking Regulation + Provide 17'-0", the the rear yard set back Prohibiting A 3'-0" Rear set back

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:

- 1. Granting this variance will serve the public interest by allowing the building to sit 3' off of the rear property line to allow room for emergency egress from rear windows necessary for fire life & safety concerns. 2. The parcel size is much smaller than other developed lots in the community so meeting the 20ft garage drive regulation is not feasible. Other similarly zoned parcels that have been developed have been larger and therefore able to satisfy the regulation or locate their drives in the rear. 3. The parcel was purchased as a part of a platted 48' lot in a prime area that garnered a premium price. Without the variance the parcel is not developable since meeting the 10' rear setback and 20' garage driveway will leave only 18' of buildable area making the project unfeasible creating both a design and financial hardship.

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 Darryl Evans

(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 \_\_\_\_\_ day of \_\_\_\_\_,

SEE ATTACHED

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

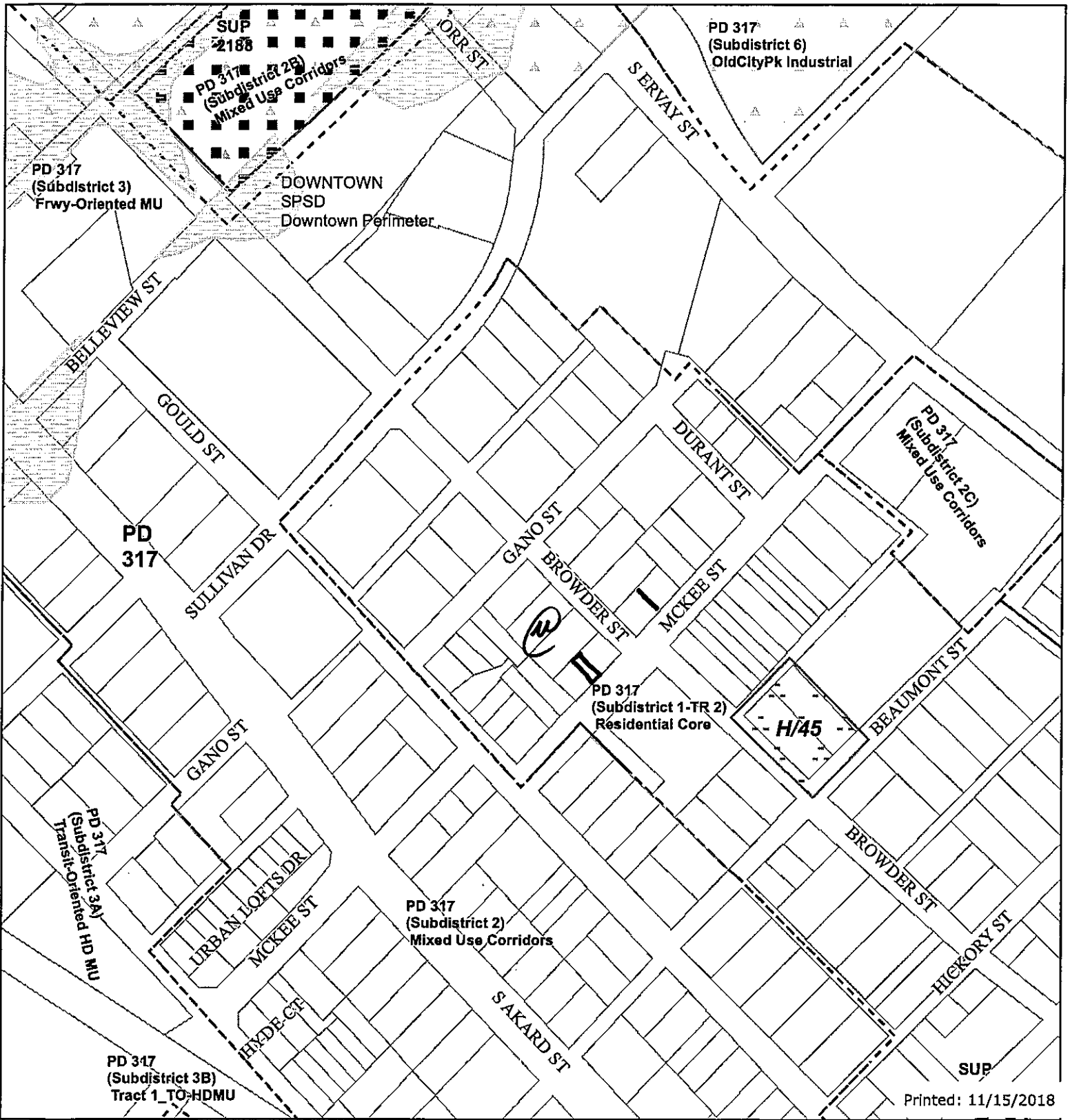
**Building Official's Report**

I hereby certify that Darryl Evans  
 represented by MICHAEL FORBES  
 did submit a request for a variance to the rear yard setback regulations, and for a variance to the  
 off-street parking regulations  
 at 1459 McKee Street

BDA189-015. Application of Darryl Evans represented by MICHAEL FORBES for a variance to the rear yard setback regulations, and for a variance to the off-street parking regulations at 1459 McKee St. This property is more fully described as Lot 2, Block A/448, and is zoned PD-317 Subdistrict 1, which requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley and requires a rear yard setback of 10 feet. The applicant proposes to construct a single family residential structure and provide a 3 foot rear yard setback, which will require a 7 foot variance to the rear yard setback regulations, and to construct a single family residential structure with a setback of 17 feet, which will require a variance of 3 feet to the off-street parking regulations.

Sincerely,

*Philip Sikes*  
 Philip Sikes, Building Official

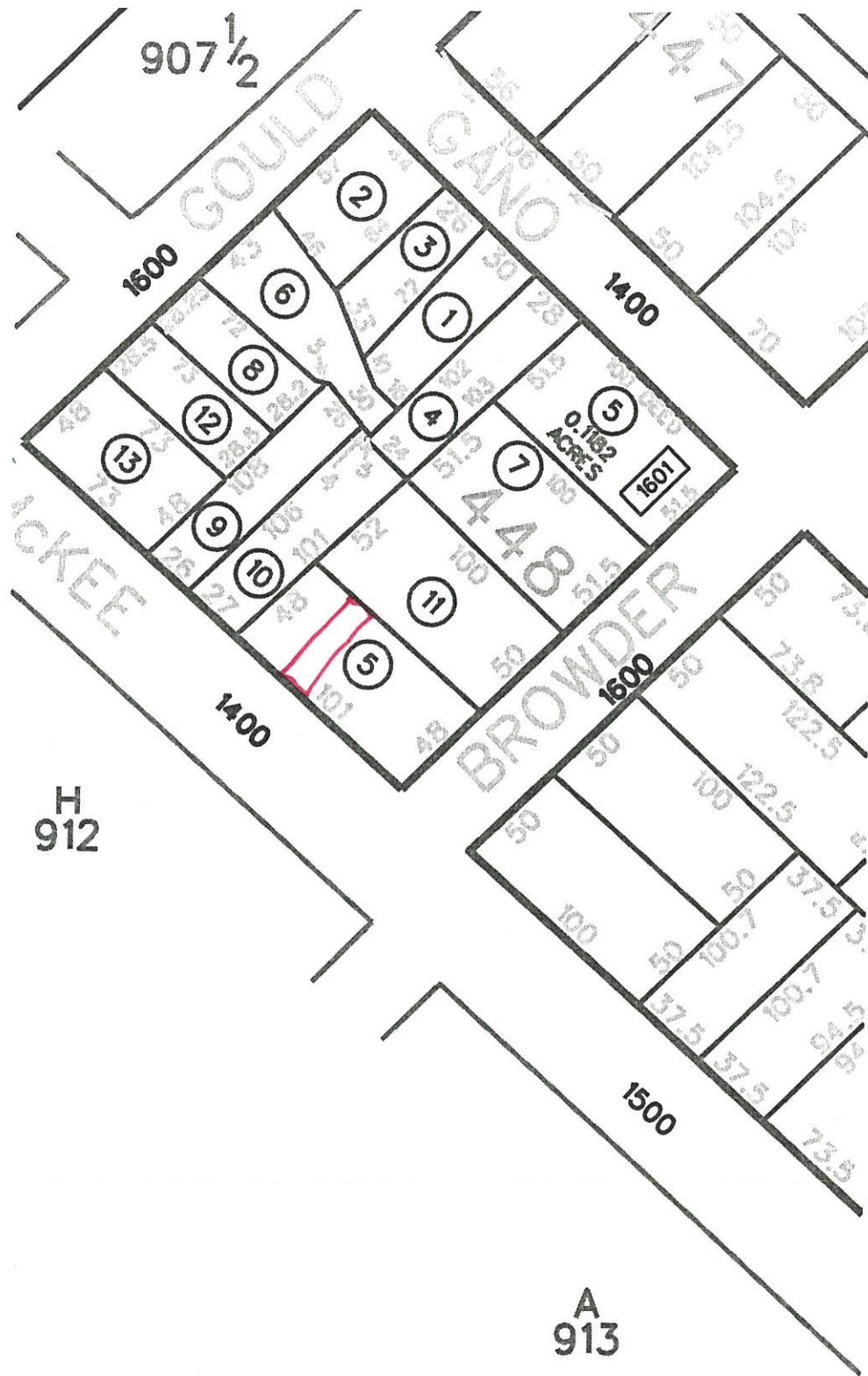


**Legend**

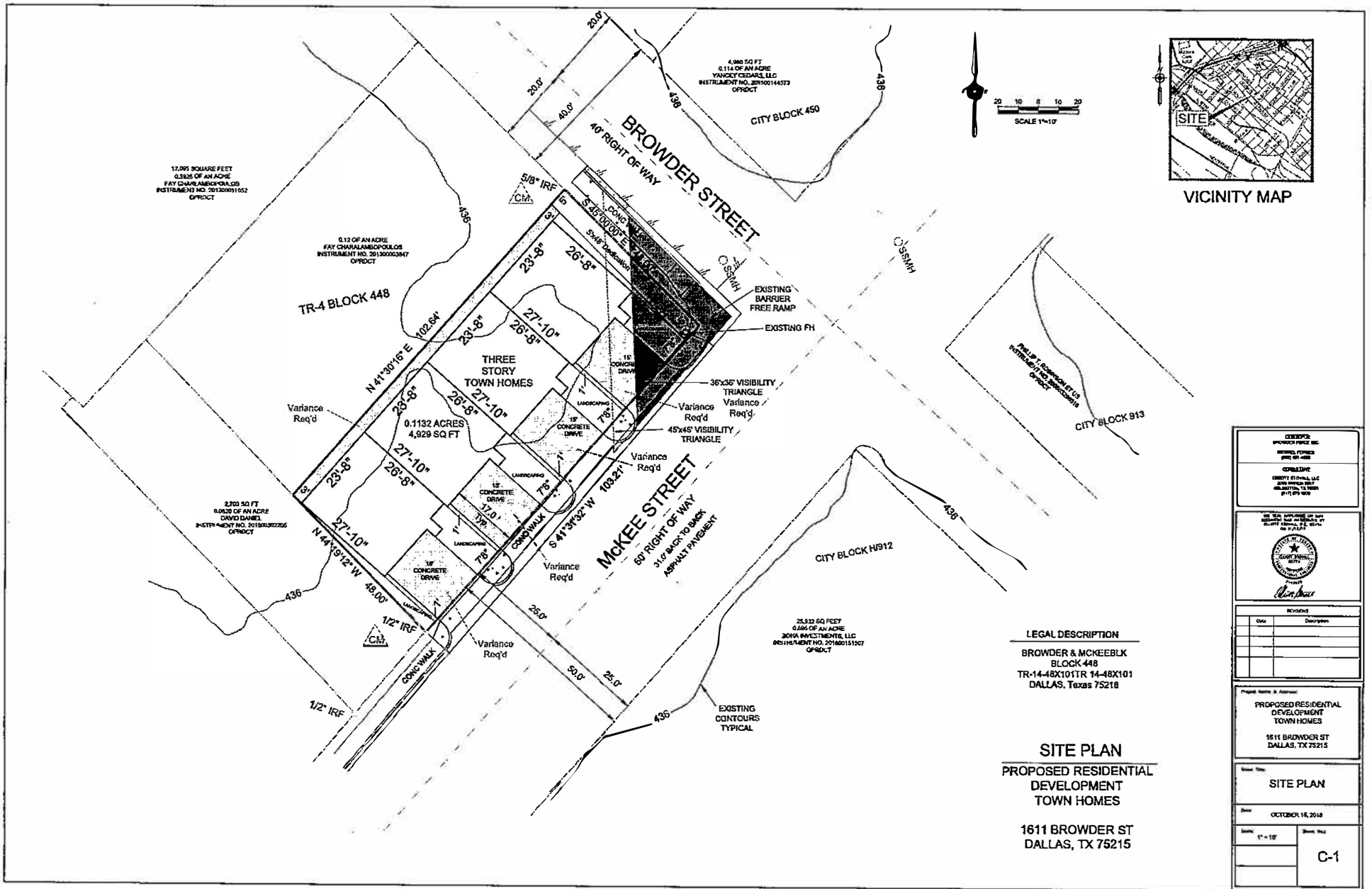
- |                      |                                |                       |  |
|----------------------|--------------------------------|-----------------------|--|
| City Limits          | railroad                       | Dry Overlay           | CD Subdistricts                                      |
| School               | Certified Parcels              | D                     | PD Subdistricts                                      |
| Floodplain           | Base Zoning                    | D-1                   | PDS Subdistricts                                     |
| 100 Year Flood Zone  | PD193 Oak Lawn                 | CP                    | NSO Subdistricts                                     |
| Mill's Creek         | Dallas Environmental Corridors | SP                    | NSO_Overlay  |
| Peak's Branch        | SPSP Overlay                   | MD Overlay            | Escarpment Overlay                                   |
| X Protected by Levee | Deed Restrictions              | Historic Subdistricts | Parking Management Overlay 3 - 33 Shop Front Overlay |
| Parks                | BDA189-015 SUP                 | Historic Overlay      |  |
|                      |                                | Height Map Overlay    |  |

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102) Panel A









17,099 SQUARE FEET  
0.3925 OF AN ACRE  
FAY CHARALAMBOPOULOS  
INSTRUMENT NO. 201300011552  
OBJECT

0.13 OF AN ACRE  
FAY CHARALAMBOPOULOS  
INSTRUMENT NO. 20130003347  
OBJECT

TR-4 BLOCK 448

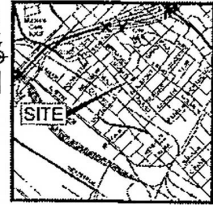
THREE  
STORY  
TOWN HOMES

0.1132 ACRES  
4,929 SQ FT

2,703 SQ FT  
0.0625 OF AN ACRE  
DAVID DANIEL  
INSTRUMENT NO. 20150032205  
OBJECT

4,980 SQ FT  
0.114 OF AN ACRE  
YANCEY CEDARS, LLC  
INSTRUMENT NO. 201500144573  
OBJECT

CITY BLOCK 450



VICINITY MAP

SCALE 1"=10'

EXISTING  
BARRIER  
FREE RAMP

EXISTING FH

36'x36' VISIBILITY  
TRIANGLE  
Variance  
Req'd

45'x45' VISIBILITY  
TRIANGLE  
Variance  
Req'd

60' RIGHT OF WAY  
51'0" BACK TO BACK  
ASPHALT PAVEMENT

CITY BLOCK HB12

25,932 SQ FEET  
0.596 OF AN ACRE  
2006 INVESTMENTS, LLC  
INSTRUMENT NO. 20140151507  
OBJECT

EXISTING  
CONTOURS  
TYPICAL

LEGAL DESCRIPTION

BROWDER & MCKEEBLK  
BLOCK 448  
TR-14-48X101TR 14-48X101  
DALLAS, Texas 75218

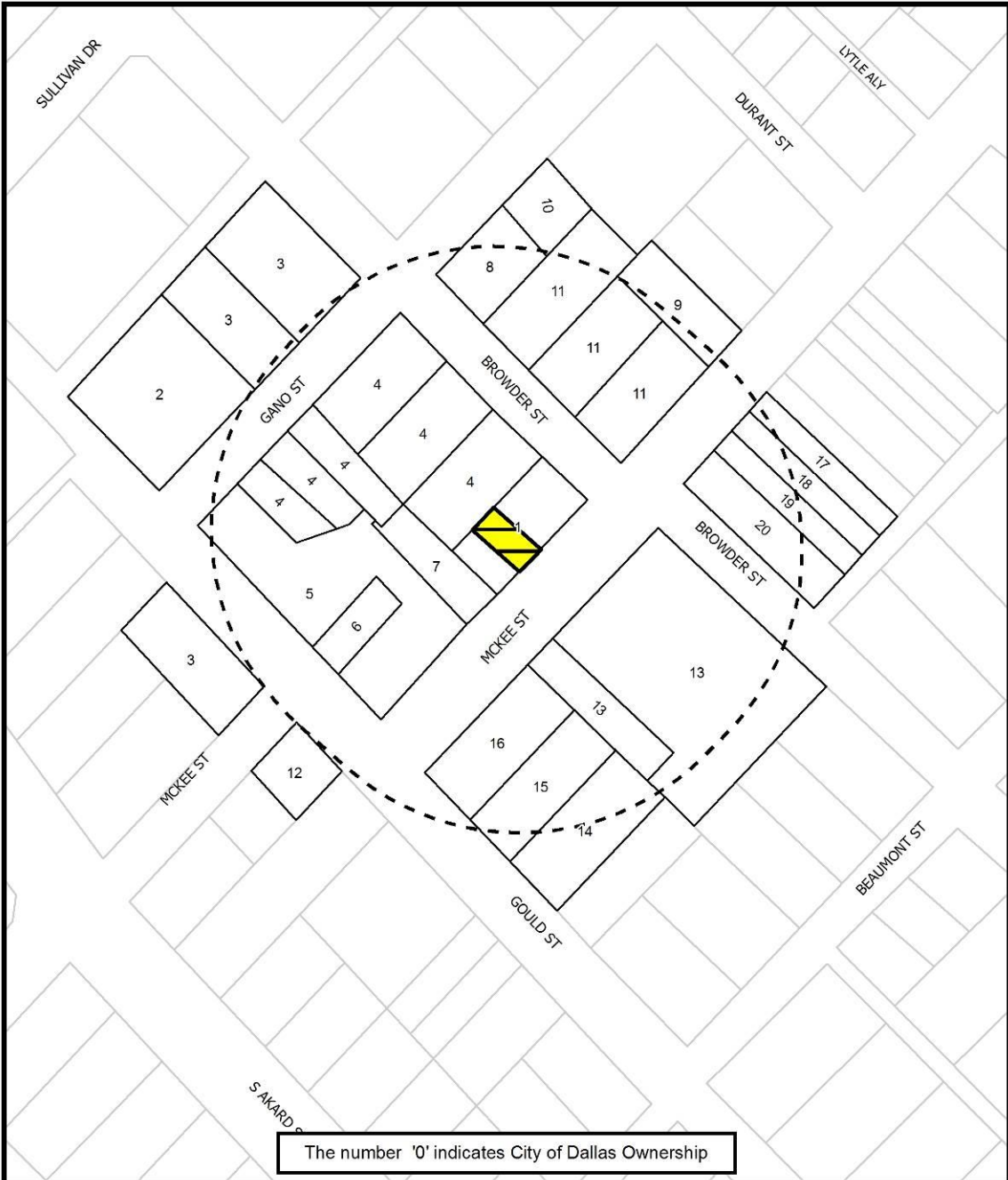
SITE PLAN  
PROPOSED RESIDENTIAL  
DEVELOPMENT  
TOWN HOMES

1611 BROWDER ST  
DALLAS, TX 75215

CONCEPT FINANCIAL PRICE SET REVIEW, FORNEX PREP BY FORNEX	
CONSTRUCTION SHERIFF STUBBS, LLC 2006 INVESTMENTS, LLC 2014-10-15 2014-10-15	
REVISIONS	

Code	Description

Proposed Name & Address: PROPOSED RESIDENTIAL DEVELOPMENT TOWN HOMES 1611 BROWDER ST DALLAS, TX 75215	
Sheet Title: SITE PLAN	
Date: OCTOBER 16, 2014	
Scale: 1" = 10'	Sheet No.: C-1



 1:1,200	<b>NOTIFICATION</b>		Case no: <b>BDA189-015</b>
	<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;">20</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: <b>1/18/2019</b>	

## *Notification List of Property Owners*

### *BDA189-015*

#### *20 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1611 BROWDER ST	WHITMIRE JULIE
2	1401 GANO ST	KAPLAN HARRY L ESTATE
3	1409 GANO ST	KAPLAN HARRY L
4	1408 GANO ST	CHARALAMBOPOULOS FAY
5	1400 GANO ST	BLANCHARD BECKER FAMILY TRUST
6	1610 GOULD ST	DANIEL DAVID O
7	1407 MCKEE ST	DANIEL DAVID
8	1602 BROWDER ST	BANOWSKY BRITTON B
9	1509 MCKEE ST	SHIPBUILD LLC
10	1508 GANO ST	BANOWSKY BRITTON B
11	1608 BROWDER ST	YANCEY CEDARS LLC
12	1312 MCKEE ST	RITETRACK BUILDER INC
13	1701 BROWDER ST	ZOHA INVESTMENTS LLC
14	1708 GOULD ST	FEIGENSON JEFFREY &
15	1704 GOULD ST	DIJKMAN CELIA MARIA TRUST
16	1400 MCKEE ST	VELA STEVEN
17	1506 MCKEE ST	PARKER AMANDA
18	1504 MCKEE ST	WALLACE MICHAEL
19	1502 MCKEE ST	KIM SANGHYUN D & HYEREE
20	1500 MCKEE ST	ROBINSON PHILLIP T & STEPHANIE



**FILE NUMBER:** BDA189-016(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Darryl Evans, represented by Michael Forbes, for variances to the rear yard setback regulations and off-street parking regulations at 1451 McKee Street. This property is more fully described as Lot 1, Block A/448, and is zoned PD 317 (Subdistrict 1), which requires a rear yard setback of 10 feet, and a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley and The applicant proposes to construct and/or maintain a structure and provide a 3 foot rear yard setback, which will require a 7 foot variance to the rear yard setback regulations, and to locate and maintain parking spaces in an enclosed structure with a setback of 17 feet, which will require a variance of 3 feet to the off-street parking regulations.

**LOCATION:** 1451 McKee Street

**APPLICANT:** Darryl Evans  
Represented by Michael Forbes

**REQUESTS:**

The following requests have been made on a property that is currently one building site (approximately 102' in length and approximately 48' in width) developed a vacant single family home that the applicant intends to demolish and subdivide into four individual lots:

1. A request for a variance to the rear yard setback regulations of 7' is made to construct and maintain a single family home with an approximately 620 square foot building footprint located 3' from the site's rear property line or 7' into this required 10' rear yard setback.
2. A request for a variance to the off-street parking regulations of 3' is made to locate and maintain parking spaces in an enclosed structure (an attached garage) of the aforementioned single family home that is proposed on the undeveloped subject site where spaces in this enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

(Note that this application is similar to three others filed by the same applicant on properties adjacent to this site and scheduled to be heard by Board of Adjustment Panel A on February 19, 2019: BDA189-013, 014, and 015).

**STANDARD FOR A VARIANCE:**

Section 51(A)-3.102(d)(10) of 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, lot coverage, floor area for structures accessory to single family uses, height,

minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

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

**STAFF RECOMMENDATION (setback variance):**

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the February 5<sup>th</sup> staff review team meeting that the applicant had not substantiated how the variance to the rear yard setback regulations is necessary to permit development of this flat, virtually rectangular in shaped, approximately 1,200 square foot site (once/if replatted) in order for it to be developed in a manner commensurate with the development upon other parcels of land with the same PD 317 (Subdistrict 1) zoning. In addition, staff concluded that the applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with setback regulations.
- Staff concluded from the information submitted by the applicant at the time of the February 5<sup>th</sup> staff review team meeting that the applicant had not substantiated how granting the variance is not to relieve a self created or personal hardship, nor for financial reasons, particularly when this request focuses on dividing what is currently one building site into four separate lots, one of which is the subject site.

**STAFF RECOMMENDATION (parking variance):**

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the February 5<sup>th</sup> staff review team meeting that while granting this request did not appear to be contrary to public interest in that the Sustainable Development and Construction Senior Engineer has no objections to the request with certain conditions being met, the applicant had not substantiated how the variance to the off-street parking regulations is necessary to permit development of this flat, virtually rectangular in shaped, approximately 1,200 square foot site (once/if replatted) in order for it to be developed in a manner commensurate with the development upon

other parcels of land with the same PD 317 (Subdistrict 1) zoning. The applicant had not established how features of the site restricts it from being developed with a use/structure that can comply with off-street parking regulations.

- Staff concluded from the information submitted by the applicant at the time of the February 5<sup>th</sup> staff review team meeting that the applicant had not substantiated how granting the variance is not to relieve a self created or personal hardship, nor for financial reasons, particularly when this request focuses on dividing what is currently one building site into four separate lots, one of which is the subject site.

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: PD 317 (Planned Development)  
North: PD 317 (Planned Development)  
South: PD 317 (Planned Development)  
East: PD 317 (Planned Development)  
West: PD 317 (Planned Development)

### **Land Use:**

The subject site is currently one building site (approximately 102' in length and approximately 48' in width) developed a single family home that the applicant intends to demolish and subdivide into four individual lots. The areas to the north, south, east and west are undeveloped.

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

1. BDA189-013, Property at 1475 McKee Street (three lots to the north of the subject site)

On February 19, 2019, the Board of Adjustment Panel A will consider variances to the side yard setback regulations of 7', the off-street parking regulations of 3', and a special exception to the visual obstruction regulations. These requests are made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street, and to locate and maintain the single family home in the 45' visibility triangle at the intersection of McKee Street and Browder

Street.

2. BDA189-014, Property at 1467 McKee Street (two lots to the north of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

3. BDA189-015, Property at 1459 McKee Street (one lot to the north of the subject site)

On January 15, 2019, the Board of Adjustment Panel A will consider variances to the rear yard setback regulations of 7' and to off-street parking regulations of 3' made to construct and maintain a single family home in the rear yard setback, and to locate and maintain parking spaces in an enclosed structure (an attached garage) proposed on the undeveloped subject site – spaces in an enclosed structure that would be located 17' from the right-of-way line adjacent to the street or 3' into the required 20' distance from the right-of-way line adjacent to McKee Street.

**GENERAL FACTS/STAFF ANALYSIS (rear yard setback variance):**

- This request for a variance to the side regulations of 7' focuses on constructing and maintaining a single family home with an approximately 620 square foot building footprint located 3' from the site's rear property line or 7' into this required 10' rear yard setback on property that is currently one building site (approximately 102' in length and approximately 48' in width) developed a vacant single family home that the applicant intends to demolish and subdivide into four individual lots.
- The subject site is zoned PD 317 (Subdistrict 1) where the side and rear yard setback is no side or rear yard is required; however, if a side or rear yard is provided, it must be a minimum of 10 feet.

- The applicant has submitted a site plan that represents that the proposed single family home provides a 3' side yard setback from the side property line on the northwest.
- DCAD records indicate "main improvements" for the property at 1611 Browder Street (which is the area that includes the subject site and the three other properties to be a "converted residence" with 1,302 square feet built in 1940.
- The subject site is flat, virtually rectangular in shape (approximately 48' x 25'). While the application states the site is 0.11 acres in area or approximately 4,800 square feet in area, this appears to reflect the area of the existing building site and not the area of the subject site once it is subdivided into four lots.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the rear yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 317 zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 317 (Subdistrict 1) zoning classification.
- If the Board were to grant the request for a variance of 7' and impose the submitted site plan as a condition, the structure in the rear yard would be limited to that what is shown on this document.

**GENERAL FACTS/STAFF ANALYSIS (parking variance):**

- This request for a variance to the off-street parking regulations of 3' focuses on locating parking spaces in an enclosed structure (an attached garage) of proposed single family home where these parking spaces entered from the street right-of-way line would be located 17' from the McKee Street right-of-way line or 3' into the required 20' distance from this right-of-way line.
- The subject site is zoned PD 317 (Subdistrict 1) where no minimum front yard setback is required.
- The applicant has submitted a site plan that represents that the proposed single family home provides an approximately 14' front yard setback on McKee Street.
- Section 51(A)-4.301(a)(9) of the Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.
- The submitted site plan denotes the location of parking spaces in the enclosed structure 17' from the McKee Street street right-of-way line or 3' into the 20' setback line that an enclosed parking space must be from this right-of-way line. (The

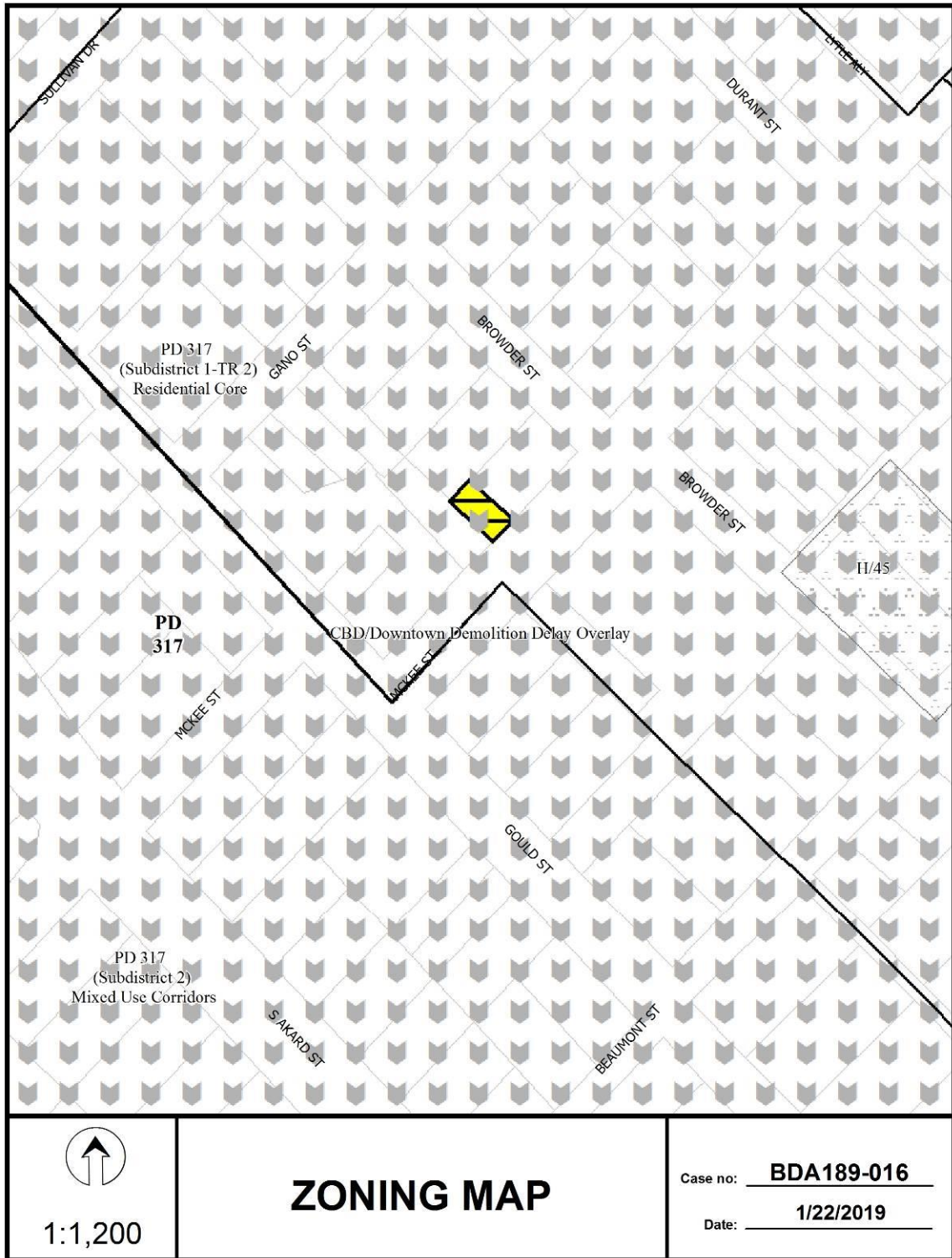
submitted site plan represents that the parking spaces in the enclosed structure are approximately 23' from the McKee Street pavement line).

- DCAD records indicate “main improvements” for the property at 1611 Browder Street (which is the area that includes the subject site and the three other properties to be a “converted residence” with 1,302 square feet built in 1940.
- The subject site is flat, virtually rectangular in shape (approximately 48' x 25'). While the application states the site is 0.11 acres in area or approximately 4,800 square feet in area, this appears to reflect the area of the existing building site and not the area of the subject site once it is subdivided into four lots. While this site is located at the corner of Browder Street and McKee Street and has two front yard setbacks, this feature is typical of any lot on a corner that is not zoned single family, duplex, or agricultural district.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “Has no objections if certain conditions are met”.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 317 (Subdistrict 1) zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 317 (Subdistrict 1) zoning classification.
- If the Board were to grant the request for a variance of 3', staff recommends imposing the following conditions:
  1. Compliance with the submitted site plan is required.
  2. An automatic garage door must be installed and maintained in working order at all times.(These conditions are imposed to help assure that the variance will not be contrary to the public interest).
- If the Board were to deny this variance request, the applicant could construct and maintain the single family home as represented on the site plan without enclosing the parking spaces in it.

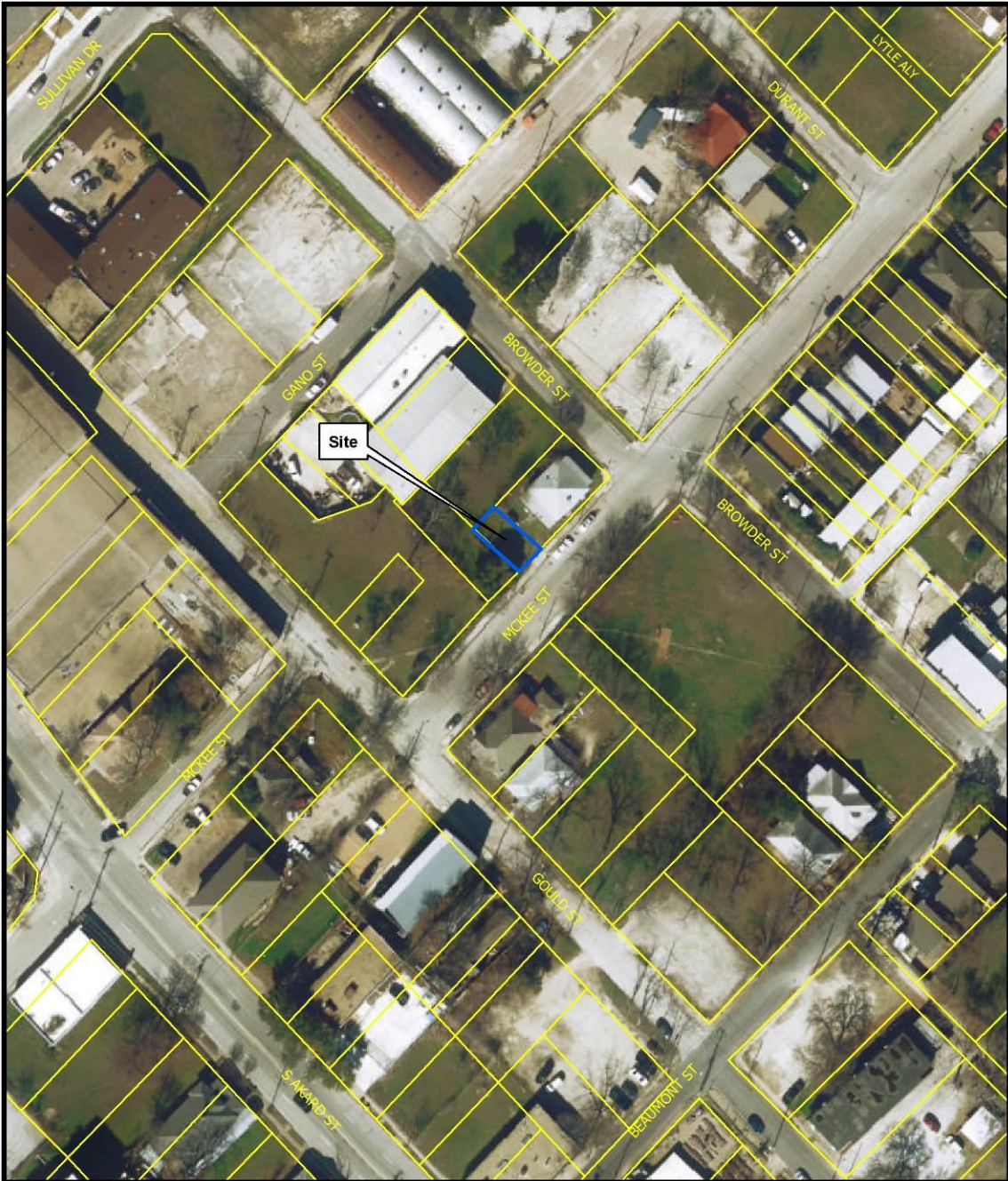
### **Timeline:**

November 15, 2018: 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 7, 2019: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- January 7, 2019: 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 January 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 8<sup>th</sup> 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.
- February 5, 2019: 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 Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.
- February 5, 2019: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following additional comments: "No objection subject to compliance with site plan showing proposed 17-foot setback for all four enclosed parking from property line. (i.e. 3-ft exception). No objection, subject to compliance with site plan showing proposed 36' x 36' visibility triangle based on evaluation of site plan and adjacent intersection of Brower Street at McKee Street".
- February 8, 2019: The applicant's representative submitted additional documentation to staff (see Attachment A). Note that this information was not factored into the staff recommendation since it was submitted after the February 5<sup>th</sup> staff review team meeting.







1:1,200

# AERIAL MAP

Case no: BDA189-016

Date: 1/22/2019

**1611 Browder St.**

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**Variance Hearing Case Plan**

## Project Site Description

### 1611 Browder St. (NW corner of McKee)

- Currently a boarded up old house in the Cedars
- 4,940 sf Corner Lot
- Lot dimensions: **48'** x 103'
- Zoned PD317 - 1



1611 Browder Street  
Dallas, Texas  
2018

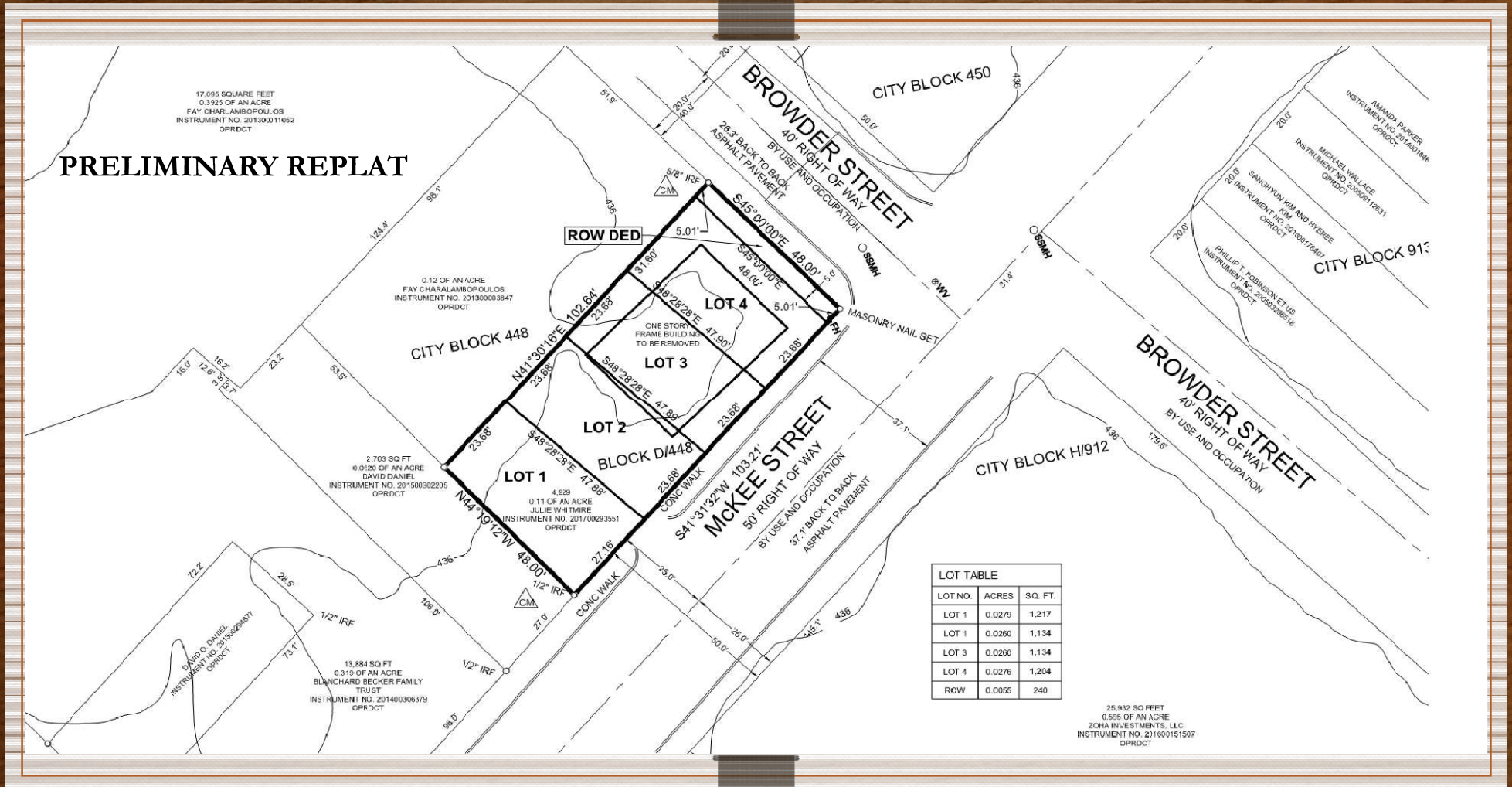
## Proposed project

For Sale:

- (4) New 3 story Modern Luxury Townhomes
- Fee Simple Individually Platted - Not Condos
- 3 bed, 3.5 bath, 2 Car Garage
- Covered Roof Top Lounge
- Downtown Dallas Skyline Views

**The proposed project even though limited by site area and shape proposes the highest and best use for this small lot in PD 317.**





## The Request

We are hereby requesting the same (2) variances for each lot in our four lot re-platted subdivision plus (1) special exception for the corner lot.

**Regardless of re-platting – even with the original single platted lot this site will require the same (2) variances and (1) special exception**



## Variations

### **(8) Variations & (1) special exception**

- Variance to allow for a 3' rear yard setback per lot
- Variance to allow for a 17' driveway setback per lot
- Special Exception to allow a 36 degree visibility triangle

## Issue

What made this site attractive is the area zoning which encourages high density development

- allowing zero setbacks;
- building to the property line and
- promoting high density residential development

**Main Issue** The (e) **48'** lot dimension

Re-platting has no effect on this dimension

## Rear set back

- **0' or 10' rear set back rule is the catalyst to all 8 variances b/c of the 48' dimension**
  - **0' setback works but windows are not allowed if 0' rear setback**
    - Project not feasible with out bedroom windows along back of building
    - Large 3 story wall 100 ft. long wall with no windows is allowed by right
    - Without windows middle units would only have egress at front of the building
  - **10' setback is not feasible –18' building just doesn't work**
    - 20' driveway set back leaves only 18' b/c of **48'** lot dimension
    - 3' set back is deemed sufficient for FLS & windows

## Driveway set back

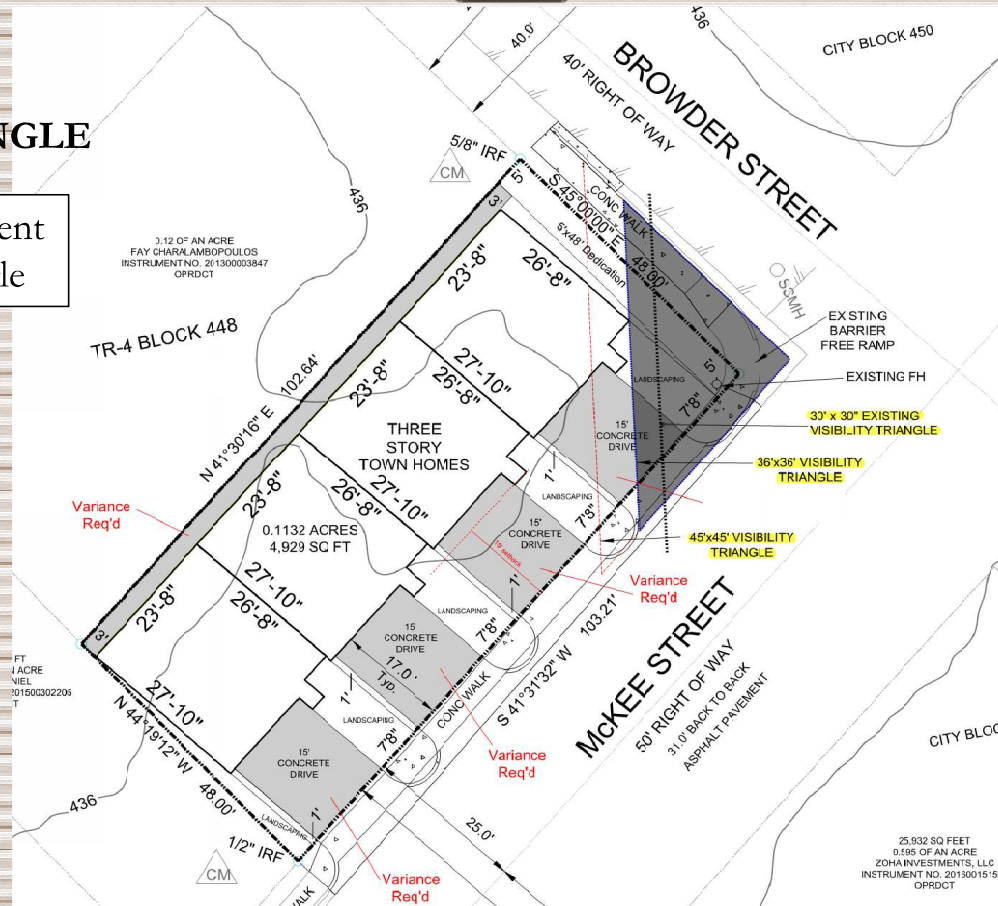
- **20' driveway set back**
  - City Traffic Engineer concedes the 17' driveway + 18' deep garage is sufficient for (4) off street parking spaces
  - Required because of the rear setback

## Visibility Triangle

- **Rule requires a 45 deg Visibility Triangle**
  - 45 degrees would take another 505 SF or 10+% of area from the site
  - (e) home has had a 30 degree triangle since being built in 1940s
  - **proposed 36 degree triangle improves existing 30 degree triangle**
    - Does not create nor increase any traffic hazards or concerns per City Traffic Engineer

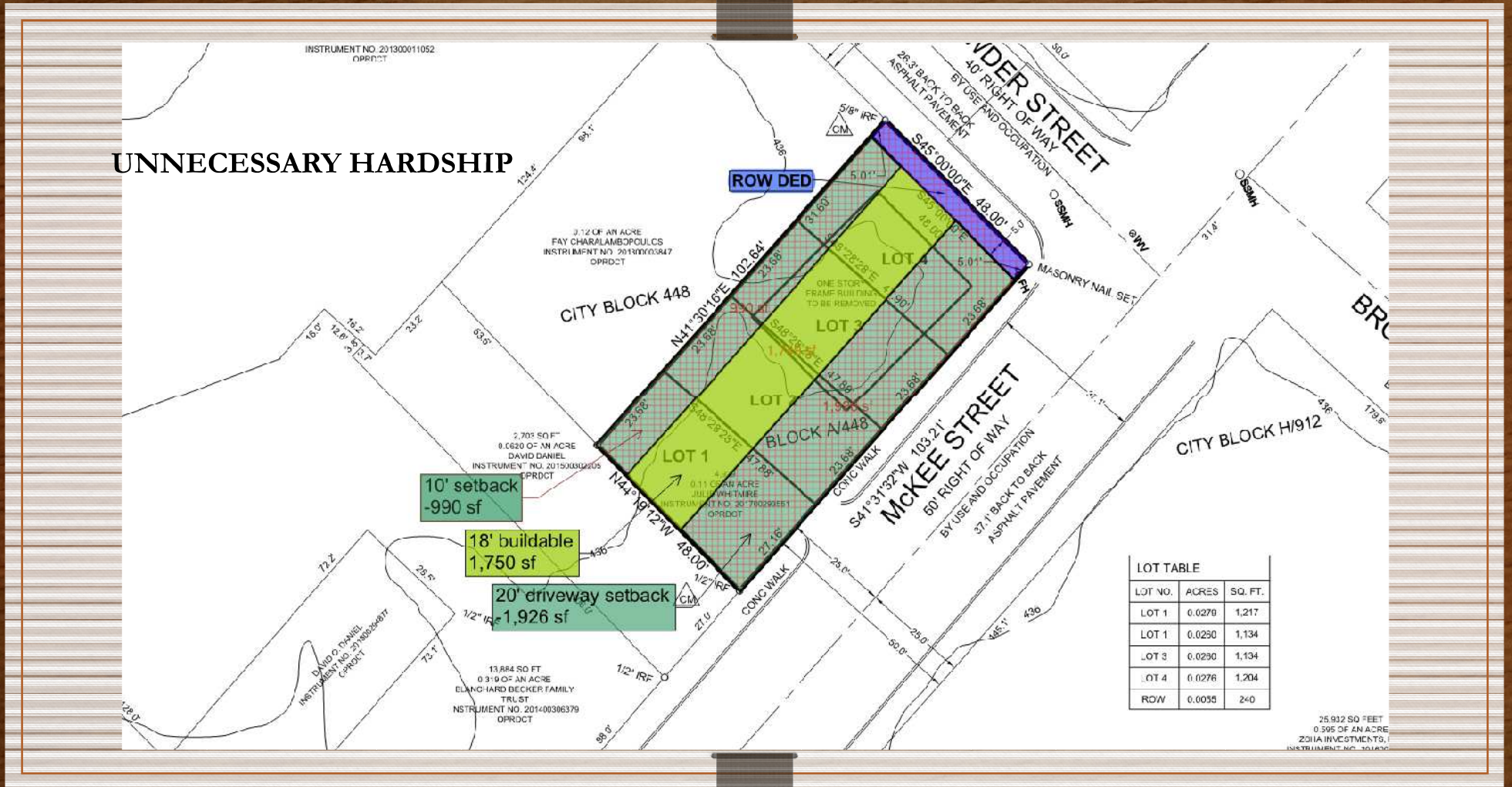
# VISIBILITY TRIANGLE

6 degree improvement  
from existing triangle



## Unnecessary Hardship

- Existing site presents an Unnecessary Hardship
  - **48'** wide lot
    - Minus 10' setback off rear property line (0 or 10)
    - Minus 20' driveway setback
    - Leaves 18' deep buildable area due to mandated setbacks  
**not feasible** (high priced area – allowable design would negatively impact the community)





## Lot is Restrictive b/c of Area

Max allowed lot coverage in PD317-1 is 80% allowing 3,955 sf of buildable area but **only 35% or 1,750 sf is actually allowed** due to small lot size and area lost to requirements

- Purchased as 48 x 103 platted corner lot with (e) 70 year old duplex
  - Area lost due to PD 317 requirements
    - 505 sf loss due to 45 degree visibility triangle
    - 240 sf loss due to 5' right of way dedication
    - 2,916 sf loss due to 10' rear and 20' driveway setbacks
  - **3,661 sf of area lost due to PD 317 requirements**

## Lot is Restrictive b/c of Shape

- **Double frontage**
  - 5' dedication lost on Browder
  - 20' driveway set back on McKee
- **48' dimension**
  - Too shallow to allow 20' shared alley off Browder
  - Too shallow to allow 20' driveways off McKee w/a 10' rear setback
  - Non square lot i.e., not 90 deg. angles
  - Window requirement & FLS at back of building

## Not self inflicted

- Purchased a platted **48'** corner lot with a 70 year old duplex
  - Max 18' deep building w/mandated setback requirements
- Any similar development on this **48'** platted corner lot will be faced with the same issues whether re-platted or not
  - Fewer units will not be a feasible project at land costs tied to high density uses
- No other design strategies work

**Re-platting does not change the 48' dimension so the problem exist independent of re-platting**

## Market Analysis

### Comparing proposed project to neighboring PD317 townhome development projects

- **Other lots are bigger**
  - None as small as 48'
- **Most have shared alley drive**
- See supporting data below

Recently built townhome projects in PD 317

Address	Lot Dimensions	Lot Size	No. of Units
1611 Browder	48 x 102	4,896	4
1803 Richardson Ave	135 x 75	10,125	6
1803 S Ervay St	110 x 190	20,900	11
1533 Seegar St	113 x 160	18,080	7
1224 Hyde Court	100 x 110	11,000	8
1354 Romano Place	90.48 x 187	16,919	8
1213 Silver Mill Drive	94.32 x 216	20,347	6
1310 Fitts Place	91.6 x 164.08	15,030	7
1625 Hickory Street	65 x 165	10,725	?

## Conclusion

Pursuant to our request, the above arguments and comparable projects please serve the public's best interest and:

- Grant (2) variances for each lot (total of 8)
- Grant (1) special exception for corner lot

**RESPECTFULLY SUBMITTED**



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 189-016

Date: 10/13/18 11-15-18

Data Relative to Subject Property:

Location address: 1611 Browder Street 1451 McKee St. Zoning District: PD-317
Lot No.: 1 Block No.: A/448 Acreage: .11 Census Tract:
Street Frontage (in Feet): 1) 27.16 2) 48 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Julie Whitmire
Applicant: Darryl Evans Telephone: 469-831-7111
Mailing Address: 8726 S Sepulveda Blvd. Suite DD131, Los Angeles, CA Zip Code: 90045
E-mail Address: darryl@devanscommercial.com
Represented by: Michael Forbes Telephone: 682-401-4955
Mailing Address: P.O. Box 172725 Arlington TX Zip Code: 76003
E-mail Address: michael@trinitecm.com

Affirm that an appeal has been made for a Variance X, or Special Exception, of 10 foot rear yard set back 3' to the required 20' - Parking regulations + Provide 17'-0" to Garage + 7' to the rear yard set Back + Providing A 3'-0" Rear set Back

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:

- 1. Granting this variance will serve the public interest by allowing the building to sit 3' off of the rear property line to allow room for emergency egress from rear windows necessary for fire life & safety concerns. 2. The parcel size is much smaller than other developed lots in the community so meeting the 10ft setback would make over 25% of the lot unbuildable plus push the building into the front setback. Other similarly zoned parcels that have been developed have been larger and therefore able to satisfy the setback rules. 3. The parcel was purchased as a part of a platted 48' lot in a prime area that garnered a premium price. Without the variance the parcel is not developable since meeting the 10' rear setback and 15' front setback will leave only 23' of buildable area making the project unfeasible creating both a design and financial hardship.

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 Darryl Evans (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 \_\_\_ day of \_\_\_\_\_,

SEE ATTACHED 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**

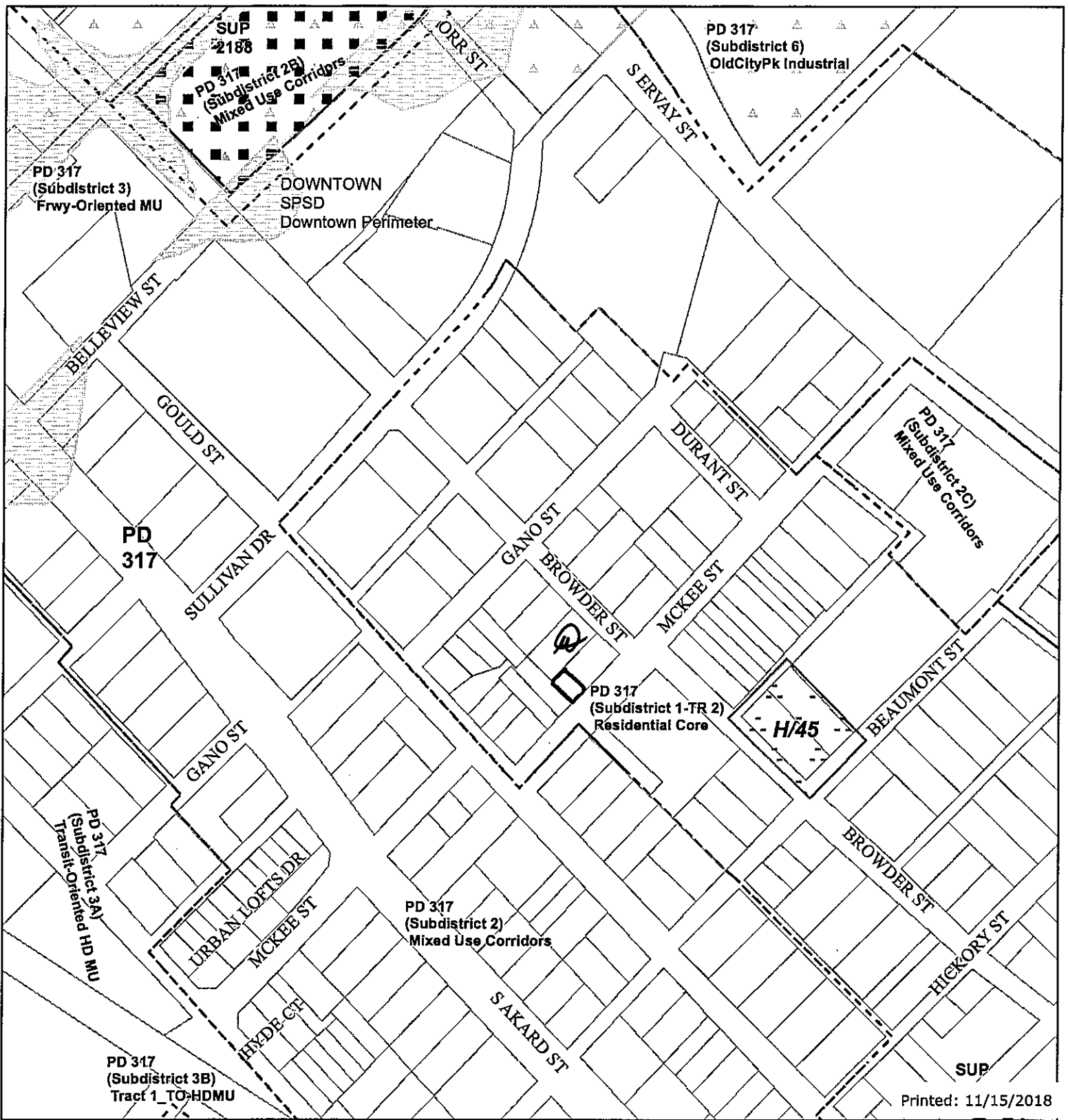
I hereby certify that      Darryl Evans  
    represented by      MICHAEL FORBES  
 did submit a request      for a variance to the rear yard setback regulations, and for a variance to the  
    off-street parking regulations  
    at      1451 McKee Street

BDA189-016. Application of Darryl Evans represented by MICHAEL FORBES for a variance to the rear yard setback regulations, and for a variance to the off-street parking regulations at 1451 McKee St. This property is more fully described as Lot 1, Block A/448, and is zoned PD-317 Subdistrict 1, which requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley and requires a rear yard setback of 10 feet. The applicant proposes to construct a single family residential structure and provide a 3 foot rear yard setback, which will require a 7 foot variance to the rear yard setback regulations, and to construct a single family residential structure with a setback of 17 feet, which will require a variance of 3 feet to the off-street parking regulations.

Sincerely,

*Philip Sikes*  
 Philip Sikes, Building Official





Printed: 11/15/2018

### Legend

- |                      |                                |                       |                            |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits          | railroad                       | Dry Overlay           | CD Subdistricts            |
| School               | Certified Parcels              | D                     | PD Subdistricts            |
| Floodplain           | Base Zoning                    | D-1                   | PDS Subdistricts           |
| 100 Year Flood Zone  | PD193 Oak Lawn                 | CP                    | NSO Subdistricts           |
| Mill's Creek         | Dallas Environmental Corridors | SP                    | NSO_Overlay                |
| Peak's Branch        | SPSD Overlay                   | MD Overlay            | Escarpment Overlay         |
| X Protected by Levee | Deed Restrictions              | Historic Subdistricts | Parking Management Overlay |
| Parks                | BDA180-016 SUP                 | Historic Overlay      | 4 - 33 Shop Front Overlay  |
|                      |                                | Height Map Overlay    |                            |

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102)

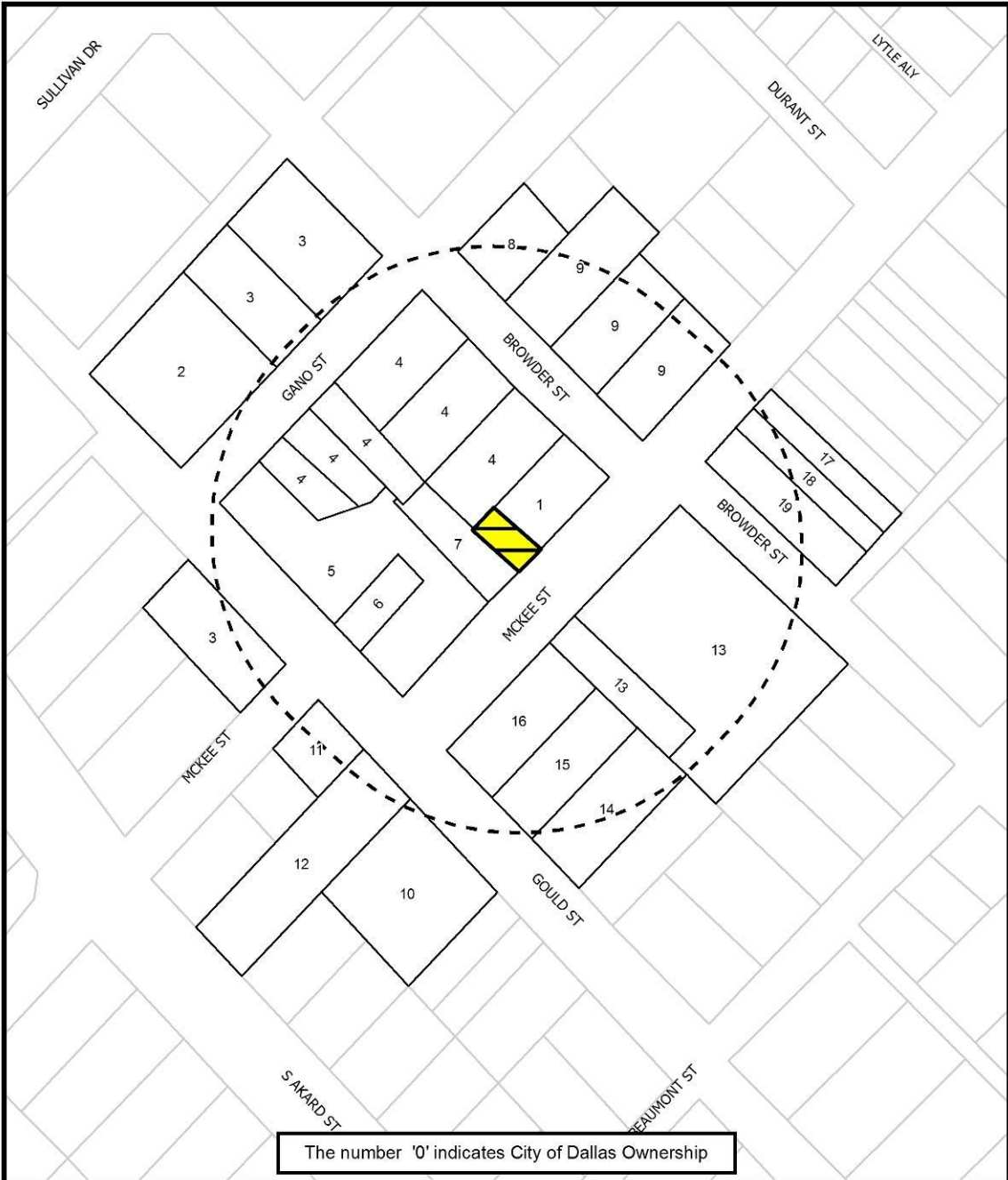
Panel A











 1:1,200	<b>NOTIFICATION</b>		Case no: <b>BDA189-016</b>
	<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;">19</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: <b>1/22/2019</b>	

# *Notification List of Property Owners*

## *BDA189-016*

### *19 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1611 BROWDER ST	WHITMIRE JULIE
2	1401 GANO ST	KAPLAN HARRY L ESTATE
3	1409 GANO ST	KAPLAN HARRY L
4	1408 GANO ST	CHARALAMBOPOULOS FAY
5	1400 GANO ST	BLANCHARD BECKER FAMILY TRUST
6	1610 GOULD ST	DANIEL DAVID O
7	1407 MCKEE ST	DANIEL DAVID
8	1602 BROWDER ST	BANOWSKY BRITTON B
9	1608 BROWDER ST	YANCEY CEDARS LLC
10	1709 GOULD ST	SHIPBUILD LLC
11	1312 MCKEE ST	RITETRACK BUILDER INC
12	1704 S AKARD ST	AMORY STREET PPTIES LLC SERIES A
13	1701 BROWDER ST	ZOHA INVESTMENTS LLC
14	1708 GOULD ST	FEIGENSON JEFFREY &
15	1704 GOULD ST	DIJKMAN CELIA MARIA TRUST
16	1400 MCKEE ST	VELA STEVEN
17	1504 MCKEE ST	WALLACE MICHAEL
18	1502 MCKEE ST	KIM SANGHYUN D & HYEREE
19	1500 MCKEE ST	ROBINSON PHILLIP T & STEPHANIE

**FILE NUMBER:** BDA189-022(OA)

**BUILDING OFFICIAL'S REPORT:** Application of Travis McElroy, represented by Erik Thornton, for a variance to the front yard setback regulations, and for a special exception to the fence standards regulations at 3956 Frontier Lane. This property is more fully described as Lot 16, Block 2/2972, and is zoned R-7.5(A), which requires a front yard setback of 25 feet, and limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain a structure and provide an 11 foot 3 inch front yard setback, which will require a 13 foot 9 inch variance to the front yard setback regulations, and to construct and/or maintain an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence standards regulations..

**LOCATION:** 3956 Frontier Lane

**APPLICANT:** Travis McElroy  
Represented by Erik Thornton

**REQUESTS:**

The following requests have been made on a site developed with a single-family home:

1. A variance request to the front yard setback regulations is made to construct/maintain a pool structure part of which is to be located 11' 3" from one of the site's two front property lines (Williamson Road) or 13' 9" into this 25' front yard setback; and
2. A request for special exception to the fence standards regulations related to fence height of 4' is made to maintain a fence (an 8' high solid board-on-board wood fence) higher than 4' in height in one of the site's two required front yards (Williamson Road).

**STANDARD FOR A VARIANCE:**

Section 51(A)-3.102(d) (10) of 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, lot coverage, floor area for structures accessory to single-family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

- (A) not contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be

developed in a manner commensurate with the development upon other parcels of land with the same zoning; and  
(C) not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:**

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

**STAFF RECOMMENDATION:**

Denial

Rationale:

- While staff recognized that the site had two front yard setbacks, was slightly sloped and slightly irregular in shape, staff concluded that the applicant had not substantiated how these features of the site that is over 5,000 square feet larger than most lots in the zoning district preclude it from being developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning district.

**STAFF RECOMMENDATION (fence standards):**

No staff recommendation is made on this or any request for a special exception to the fence standards 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-7.5(A) (Single family district 7,500 square feet)  
North: R-7.5(A) (Single family district 7,500 square feet)  
South: R-7.5(A) (Single family district 7,500 square feet)  
East: R-7.5(A) (Single family district 7,500 square feet)  
West: R-7.5(A) (Single family district 7,500 square feet)

**Land Use:**

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

**Zoning/BDA History:**



There have 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 (front yard variance):**

- The request for variance to the front yard setback regulations of 13' 9" focuses on constructing and maintaining a pool structure part of which is to be located 11' 3" from one of the site's two front property lines (Williamson Road) or 13' 9" into this 25' front yard setback on a site developed with a single-family home.
- The property is located in an R-7.5 (A) zoning district which requires a minimum front yard setback of 25'.
- The subject site has two front yard setbacks (a 30' front yard setback along Frontier Lane, and a 25' front yard setback along Williamson Road) since the code states that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets.
- The submitted plan represents that a "pool and equipment" structure is proposed to be located as close as 11' 3" from one of the site's two front property lines (Williamson Road) or 20' 6" into this 25' front yard setback.
- The subject site is slightly sloped, slightly irregular in shape and according to the submitted application is 0.31 acres (or approximately 12,800 square feet) in area. The site is zoned R-7.5 (A) where lots are typically 7,500 square feet in area.
- Most lots in the R-7.5(A) zoning district have one 25' front yard setback, two 5' side yard setbacks, and one 5' rear yard setback; this site has a 30' front yard setback a 25' front yard setback, one 30' side yard setback, and a 5' side yard setback.
- According to DCAD records, the "main improvement" for property addressed at 3956 Frontier Lane is a structure built in 2015 with 3,400 square feet of total living area with the following "additional improvement": a 650 square foot attached garage.
- The following additional information was gleaned from the submitted site plan/elevation:
  - The pool structure is represented as being 28' in length parallel to Williamson Road Street and 14' in width or approximately 400 square feet in area.
  - The pool structure is represented as being located approximately 11' 3" from the property line fronting Williamson Road.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the front yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
  - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing

this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.

- If the Board were to grant this request and impose the submitted site plan/elevation as a condition, the structure in the front yard setback would be limited to what is shown on this document which is a pool structure to be located 11' 3" from one of the site's two front property lines (Williamson Road) or 13' 9" into this 25' front yard setback.

### **GENERAL FACTS/STAFF ANALYSIS (fence standards):**

- This request for a special exception to the fence height of 4' focuses on maintaining an 8' high solid board-on-board wood fence in one of the site's two required front yards (Williamson Road) on a site developed with a single-family home.
- The property is located in an R-7.5 (A) (Single family district 7,500 square-feet) zoning district which requires a minimum front yard setback of 25 feet.
- The Dallas Development Code Sec. 4.602 (a) states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant submitted a site plan/elevation representing the proposed fence in the front yard setback with notations indicating that the proposal reaches a maximum height of 8'.
- The following additional information was gleaned from the submitted site plan/elevation:
  - The proposal is represented as being approximately 65' in length parallel to Williamson Road and approximately 19' perpendicular to Williamson Road on the east and west side of the site in this front yard setback.
  - The proposal is represented as being located approximately 6' from the front property line. (The distance between the fence and the pavement line is approximately 7').
- The Sustainable Development and Construction Department Senior Planner conducted a field visit of the site and surrounding area from Williamson Road to Huff Trail and noted similar fences that appeared to be over 4' in height and in a front yard setback – several solid wood fences that appeared to be above 8' in height located southeast of subject site all with no recorded BDA history.
- The applicant has the burden of proof in establishing that the special exception to the fence standards regulations related to fence height of 8' will not adversely affect neighboring property.
- As of February 8<sup>th</sup>, no letters have been submitted in support of or in opposition to this request.
- Granting this special exception with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding 4' in height to be located in the front yard setback (Williamson Road) to be maintained in the location and of the heights as shown on this document.

### **Timeline:**

December 10, 2018: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

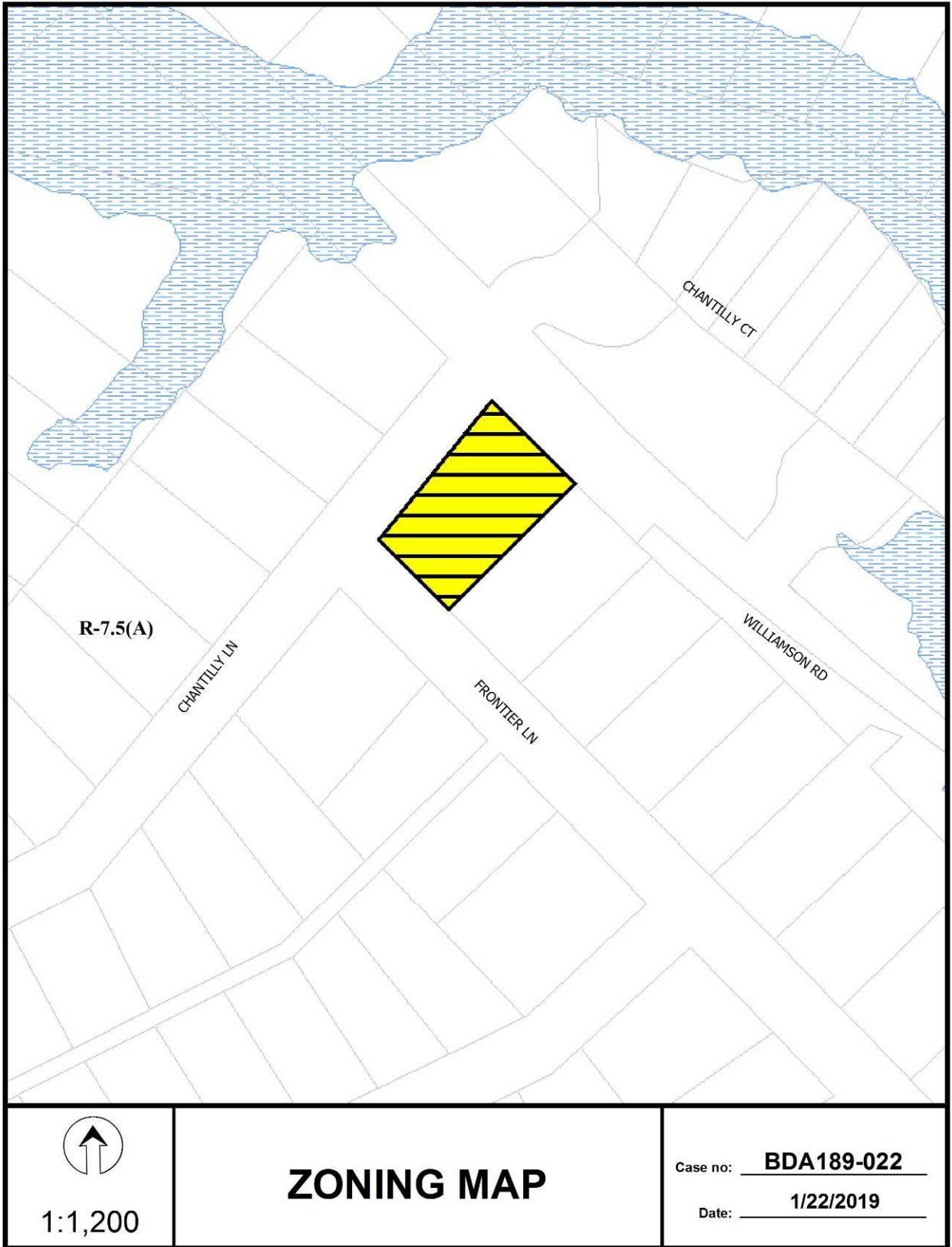
January 16, 2019: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel A.

January 17, 2019: 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 January 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 8<sup>th</sup> 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.

February 5, 2019: 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 Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Senior Engineer, the Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.

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





 1:1,200	<h1>AERIAL MAP</h1>	Case no: <u>BDA189-022</u> Date: <u>1/22/2019</u>
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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 Travis McElroy represented by Erik Thornton did submit a request for a variance to the front yard setback regulations, and for a special exception to the fence height regulations at 3956 Frontier Ln

BDA189-022. Application of Travis McElroy represented by Erik Thornton for a variance to the front yard setback regulations, and for a special exception to the fence height regulations at 3956 FRONTIER LN. This property is more fully described as Lot 16, Block 2/2972, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet, and requires a front yard setback of 25 feet. The applicant proposes to construct a single family residential structure and provide a 11 foot 3 inch front yard setback, which will require a 13 foot 9 inch variance to the front yard setback regulations, and to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulations.

Sincerely,

Philip Sikes, Building Official



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 189-022

Data Relative to Subject Property:

Date: 12-10-18

Location address: 3956 FRONTIER LANE Zoning District: R-7.5A

Lot No.: 16 Block No.: 2/2972 Acreage: 0.31 Census Tract:

Street Frontage (in Feet): 1) 84' 2) 102.11' 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): TRAVIS McELROY & STEPHANIE McELROY

Applicant: TRAVIS McELROY Telephone: 469-688-9558

Mailing Address: 3956 FRONTIER LANE, DALLAS, TX Zip Code: 75214

E-mail Address: TRAVIS@THEOLDSTATE.COM

Represented by: ERIC THORNTON Telephone: 214-769-7054

Mailing Address: 4016 W. PLANO PLUM, PLANO TX Zip Code: 75093

E-mail Address: ETHORNTON@RIVERBENDSAMPLER.COM

Affirm that an appeal has been made for a Variance [checked], or Special Exception [checked], of 20 FEET 6 INCHES OF THE 25 FOOT FRONT YARD SET BACK AND A SPECIAL EXCEPTION OF 4 FEET TO THE 4 FOOT FRONT YARD FENCE HEIGHT AND A SPECIAL EXCEPTION TO THE FENCE PANEL OR SPECIAL SURFACE AREA.

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

THE VARIANCE AND SPECIAL EXCEPTIONS ARE SOUGHT FOR THE COMMENSURATE DEVELOPMENT OF A 13,712 SQUARE FOOT LOT; WHICH IS SEVERELY ENCLUMBERED WITH THE DENSE FRONTAGE. THE DEVELOPMENT AND FENCE WILL NOT ADVERSELY AFFECT NEIGHBORING LOTS. THE DEVELOPMENT AND FENCE WILL COMPLY AND BE SIMILAR TO OTHER LOTS NEIGHBORING THE PROPERTY.

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

Affidavit

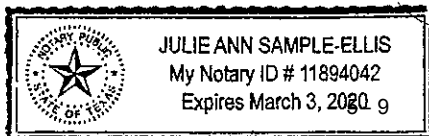
Before me the undersigned on this day personally appeared Travis McElroy (Affiant/Applicant's name printed)

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 17 day of April 2018

(Rev. 08-01-11)



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 Travis McElroy  
represented by Erik Thornton  
did submit a request for a variance to the front yard setback regulations, and for a special  
exception to the fence height regulations  
at 3956 Frontier Ln

BDA189-022. Application of Travis McElroy represented by Erik Thornton for a variance to the front yard setback regulations, and for a special exception to the fence height regulations at 3956 FRONTIER LN. This property is more fully described as Lot 16, Block 2/2972, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet, and requires a front yard setback of 25 feet. The applicant proposes to construct a single family residential structure and provide a 4 foot 6 inch front yard setback, which will require a 20 foot 6 inch variance to the front yard setback regulations, and to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulations.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official





Printed: 12/31/2018

### Legend

- |                      |                                |                       |                            |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits          | railroad                       | Dry Overlay           | CD Subdistricts            |
| School               | Certified Parcels              | D                     | PD Subdistricts            |
| Floodplain           | Base Zoning                    | D-1                   | PDS Subdistricts           |
| 100 Year Flood Zone  | PD193 Oak Lawn                 | CP                    | NSO Subdistricts           |
| Mill's Creek         | Dallas Environmental Corridors | SP                    | NSO_Overlay                |
| Peak's Branch        | SPSP Overlay                   | MD Overlay            | Escarpment Overlay         |
| X Protected by Levee | Deed Restrictions              | Historic Subdistricts | Parking Management Overlay |
| Parks                | SUP                            | Historic Overlay      | 5-11 Shop Front Overlay    |
|                      |                                | Height Map Overlay    |                            |

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102)



Panel A

1:2,400

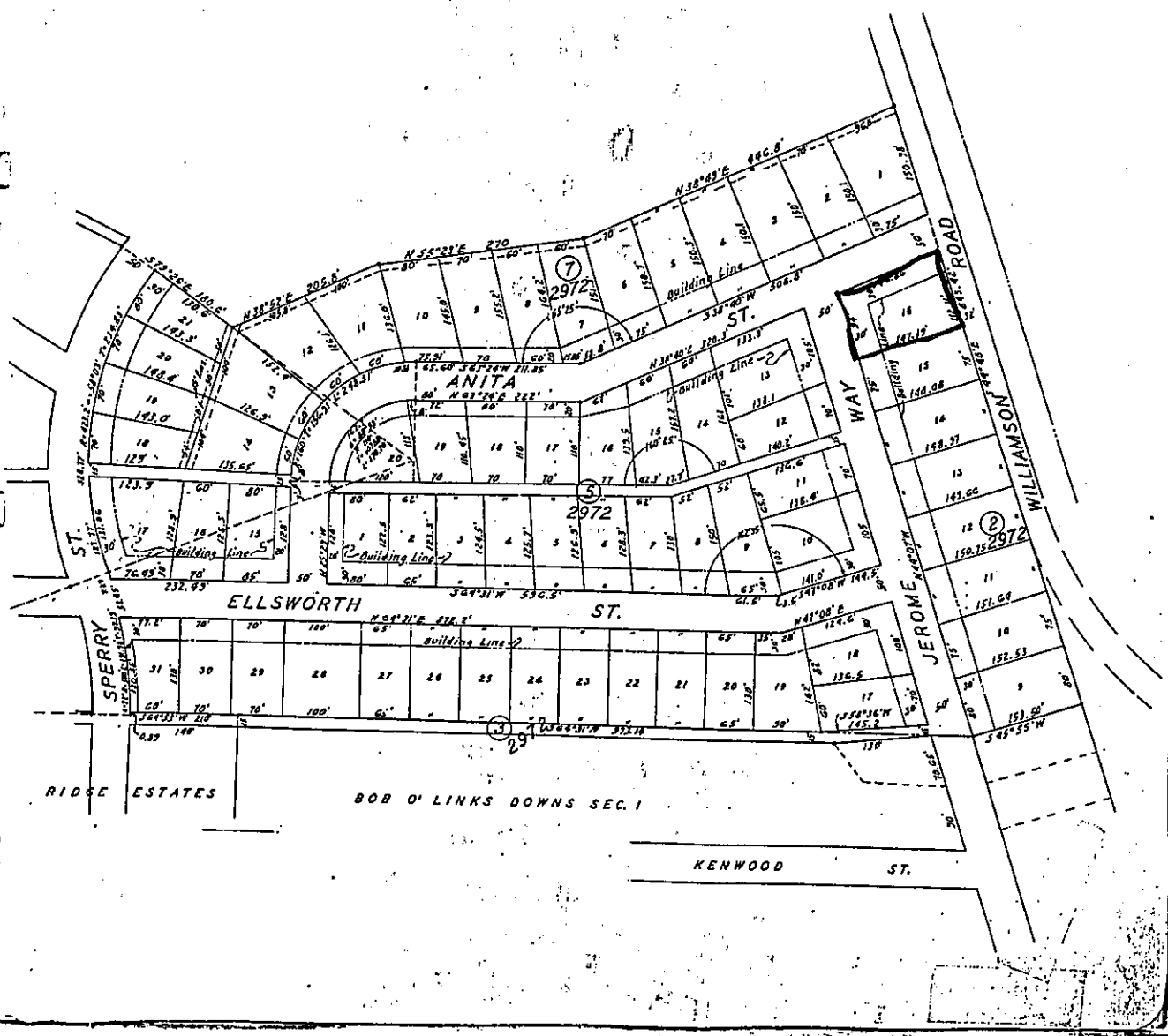
# BOB O'LINKS DOWNS

SECTION 2

A. G. HYDE SUR. A-552 DALLAS TEX.

SCALE: 1"=100' JUNE 26, 1950

PREPARED BY:  
E E ENDREY



RIDGE ESTATES

BOB O'LINKS DOWNS SEC. 1

KENWOOD ST.

**3956 Frontier Lane**

Being a part of Lot 15, Block 2/2972, of Bob-O-Links Downs Addition #2, an Addition to the City of Dallas, Dallas County, Texas, according to the map or plat thereof recorded in Volume 15, Page 408, Map Records, Dallas County, Texas, and being the same tract of land conveyed to Travis Michum McElroy and Stephanie Featon McElroy, by Warranty Deed recorded in County Clerk's File No. 201400328109, Deed Records, Dallas County, Texas, and being more particularly described as follows:

**BEGINNING** a 1/2 inch iron rod found for corner, said corner being in the intersection of the Northeast line of Frontier Lane (50 foot right-of-way) and the Southeast line of Chantilly Lane (50 foot right-of-way);

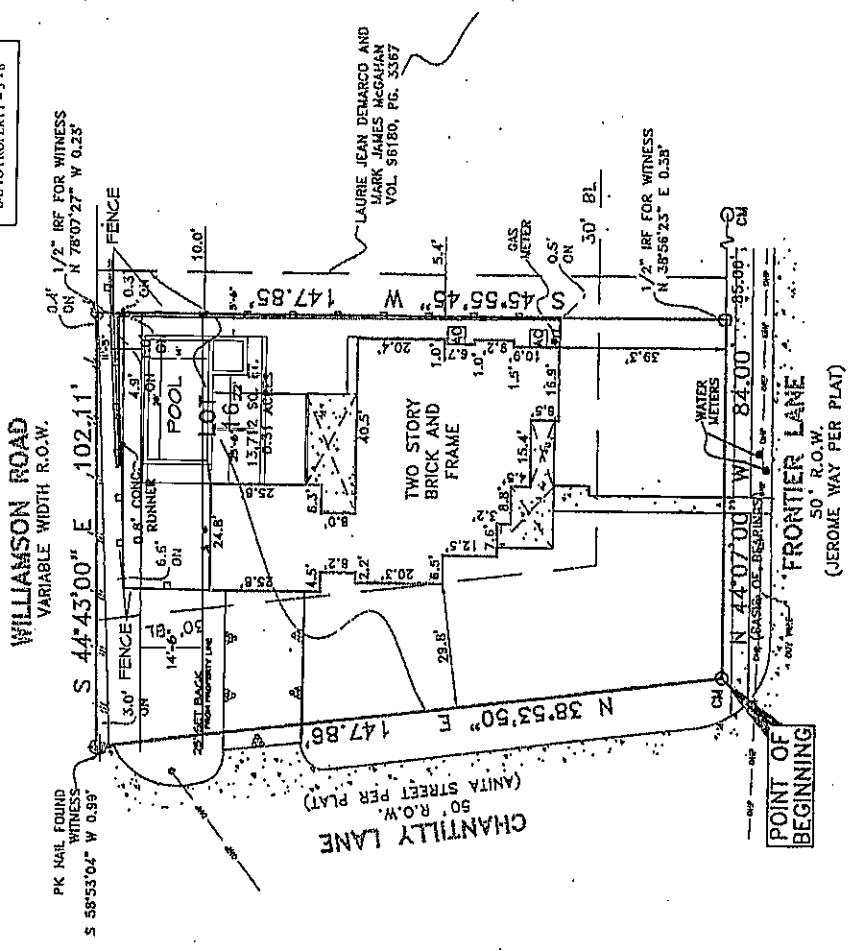
**THENCE** North 38 degrees 53 minutes 50 seconds East, along the Southeast line of said Chantilly Lane, a distance of 147.86 to a 1/2 inch iron rod set for corner with a yellow plastic cap stamped "CBG Surveying, from which a pk nail found bears South 58 degrees 53 minutes 04 seconds West, a distance of 0.99 feet, said corner being the Southwest line of Williamson Road (variable width right-of-way);

**THENCE** South 44 degrees 43 minutes 00 seconds East, along said Southwest line of said Williamson Road, a distance of 102.11 feet to a 1/2 inch iron rod set for corner with a yellow plastic cap stamped "CBG Surveying, from which a 1/2 inch iron rod found bears North 78 degrees 07 minutes 27 seconds West, a distance of 0.23 feet, said corner being the North Corner of a tract of land conveyed to Laurie Jean Demarco and Mark James McGahan, by deed recorded in Volume 96180, Page 3367, Deed Records, Dallas County, Texas;

**THENCE** South 45 degrees 55 minutes 45 seconds West, along said Demarco tract, a distance of 147.85 feet to a 1/2 inch iron rod set for corner with a yellow plastic cap stamped "CBG Surveying, from which a 1/2 inch iron rod found bears North 38 degrees 56 minutes 23 seconds East, a distance of 0.38 feet;

**THENCE** North 44 degrees 07 minutes 00 seconds West, along the Northeast line of said Frontier Lane, a distance of 84.00 feet to the **POINT OF BEGINNING** and containing 13,712 square feet or 0.31 acres of land.

POOL DISTANCES:  
 N-E TO POOL LINE = 11'-3"  
 S-W TO HOUSE = 23'-6"  
 N-W TO HOUSE = 23'-6"  
 S-E TO PROPERTY = 5'-6"



This survey is made in compliance with the information provided by Republic Title Company. Use of this plat by any other parties and/or for other purposes shall be at user's own risk and the surveyor shall not be held responsible for any errors or omissions. This is in full and complete satisfaction of the responsibility of the surveyor on this ground of the subject property. The surveyor is a correct and accurate representation of the property lines and dimensions as shown and as indicated. Location and type of buildings are shown and EXCEPT AS SHOWN, there are no visible and apparent encroachments or protrusions on this ground.

Accepted by: \_\_\_\_\_  
 Purchaser

Date: \_\_\_\_\_  
 Purchaser

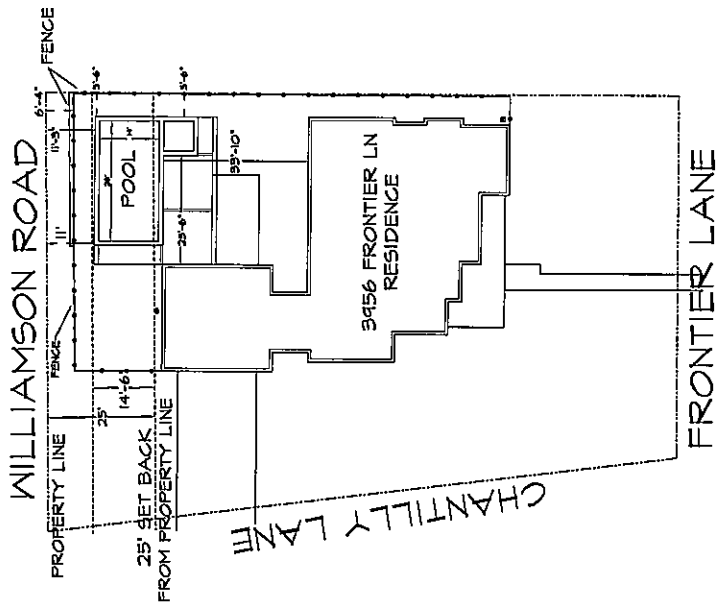
ASSESSMENTS AND BUILDING LINES ARE BY RECORDED PLAT UNLESS NOTED.  
 According to the E.L.R.M. No. 481(303555) K, this property Zone X and does not lie within the 100 year flood zone.

Drawn By: C.C.  
 Scale: 1" = 30'  
 Date: 01/11/16  
 GF NO.: 1007-173358-RIT  
 Job No. 1600197

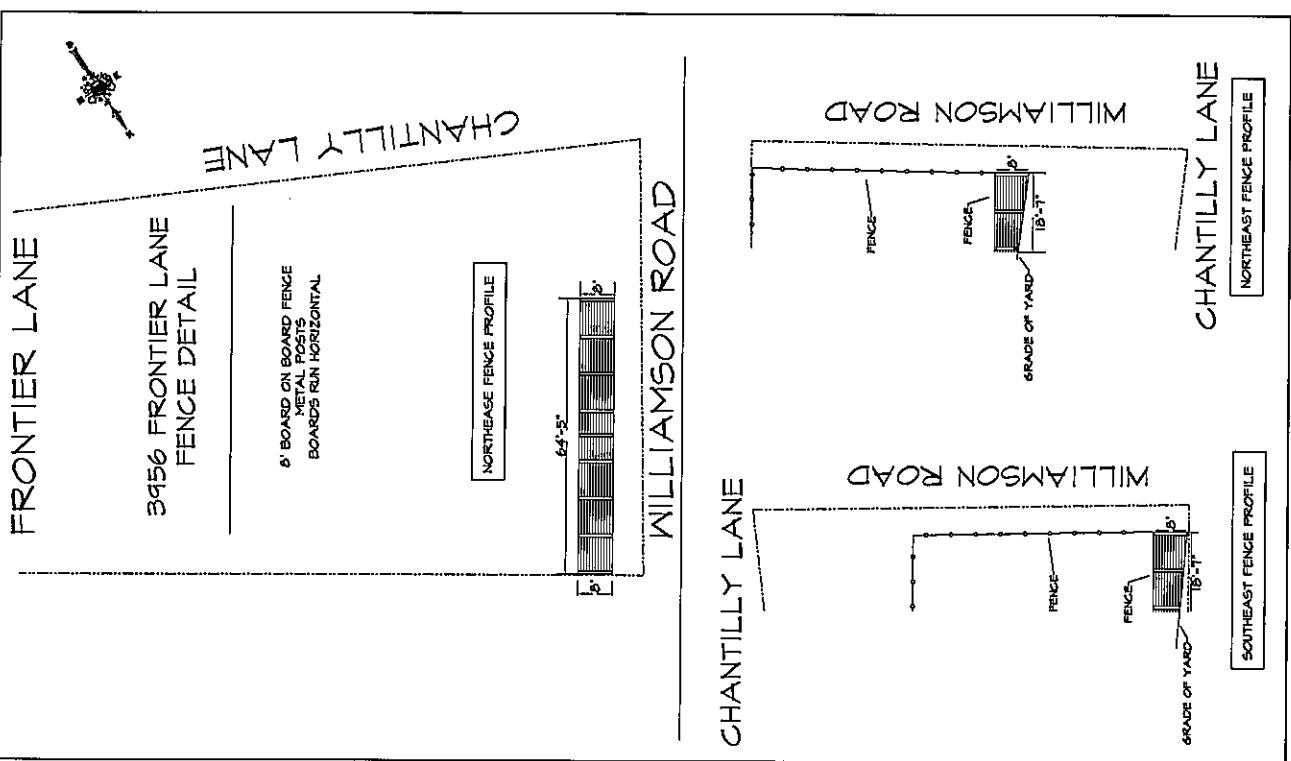
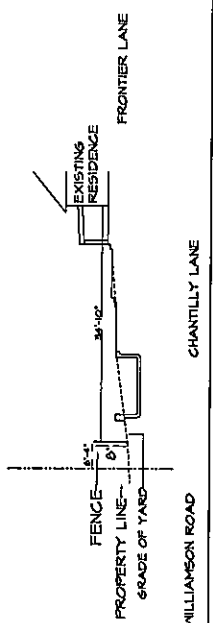
**C.B.G. Surveying, Inc.**  
 12025 Shiloh Road, Sta. 230  
 Dallas, TX 75228  
 P. 214.349.9485  
 F. 214.349.2216  
 www.cbgsurvey.com

3456 FRONTIER LANE  
SIDE PROFILE  
ELEVATION VIEW

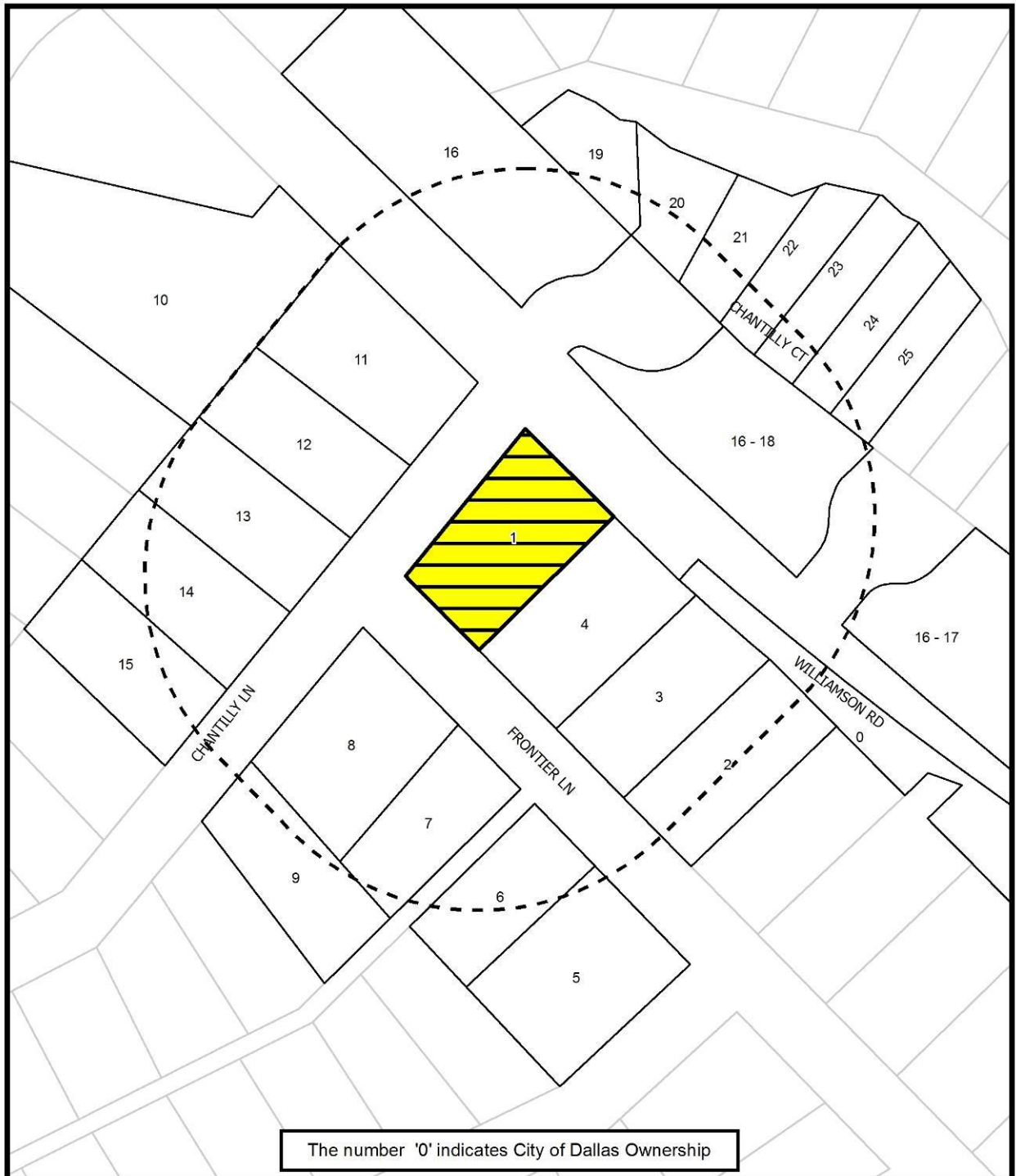
POOL DISTANCES:  
N.E. TO HOUSE = 31'-10 1/2"  
S.W. TO HOUSE = 23'-6"  
S.E. TO PROPERTY = 5'-6"



SIDE PROFILE ELEVATION



SCALE 1" = 20'



The number '0' indicates City of Dallas Ownership

 1:1,200	<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;">25</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	25	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <b>BDA189-022</b> Date: <b>1/22/2019</b>
200'	AREA OF NOTIFICATION					
25	NUMBER OF PROPERTY OWNERS NOTIFIED					

# *Notification List of Property Owners*

## *BDA189-022*

### *25 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3956 FRONTIER LN	MCELROY TRAVIS MITCHUM &
2	3938 FRONTIER LN	STOREY SHANNON J &
3	3944 FRONTIER LN	HAINES STEPHEN P & HAYLEY
4	3950 FRONTIER LN	DEMARCO LAURIE J
5	3933 FRONTIER LN	WILSON JAMES F &
6	3939 FRONTIER LN	LANG CHARLES PARKER & MOLLY PATE
7	3945 FRONTIER LN	HENDRICKSE WILLIAM &
8	3953 FRONTIER LN	MELTON JOSEPH
9	6856 CHANTILLY LN	LANGDOC HOLLIS B &
10	4136 SPERRY ST	KRAUSE JOHN R
11	6911 CHANTILLY LN	LOVE DAVID Z
12	6903 CHANTILLY LN	GLADYSZ JACOB S & FAYE WRIGHT
13	6877 CHANTILLY LN	BACON SHEILA MARIE
14	6871 CHANTILLY LN	ROSE CHRISTOPHER B & ELIZABETH A
15	6867 CHANTILLY LN	CROSS TERRY I & RUTH A
16	6700 HUFF TRL	TEXAS UTILITIES ELEC CO
17	6700 HUFF TRL	TEXAS UTILITIES ELEC CO
18	6700 HUFF TRL	TEXAS UTILITIES ELEC CO
19	6902 CHANTILLY CT	MAYACONNER HOLDINGS LLC
20	6908 CHANTILLY CT	BLANCHARD VENTURES LLC
21	6912 CHANTILLY CT	MARTINEZ JORGE &
22	6916 CHANTILLY CT	WILLIAMS SHERILYN CHRISTIAN
23	6920 CHANTILLY CT	GRIFFITH JOSEPH PATRICK & JULIE
24	6924 CHANTILLY CT	HARRISON CARL M & ERIN A
25	6928 CHANTILLY CT	GOLNABI NEIMA & ROSITA SORORIAN