



CITY OF DALLAS

**BOARD OF ADJUSTMENT, PANEL C
MONDAY, MAY 18, 2020
AGENDA**

BRIEFING	Video Conference	11:00 A.M.
PUBLIC HEARING	Video Conference	1:00 P.M.

**Neva Dean, Assistant Director
Jennifer Muñoz, Chief Planner/Board Administrator
Oscar Aguilera, Senior Planner
LaTonia Jackson, Board Secretary**

PUBLIC TESTIMONY

Minutes

MISCELLANEOUS ITEM

Approval of the February 20, 2020 Board of Adjustment Panel C Public Hearing Minutes	M1
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REGULAR CASES

BDA190-031(JM) 2212 Worthington St. REQUEST: Application of Danny Sipes for a variance to the front yard setback regulations	1
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BDA190-034(JM) 4806 Huey St. 2
REQUEST: Application of Rajesh Singh for a variance to the front yard setback regulations, and for a variance to the off-street parking regulations

BDA190-039(JM) 5230 Alcott St. 3
REQUEST: - Application of Phillip Thompson represented by Alison Ashmore for a variance to the building height regulations

HOLDOVER CASE

BDA190-020(OA) 2803 W. Illinois Avenue 4
REQUEST: Application of Ramin Amini for a special exception to the landscape regulations

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: BDA190-031(JM)

BUILDING OFFICIAL'S REPORT: Application of Danny Sipes for a variance to the front yard setback regulations at 2212 Worthington Street. This property is more fully described as Lot 12H, Block H/573, and is zoned PD No. 225 (Interior Neighborhood Mid-Rise Residential), which requires a front yard setback of eight feet. The applicant proposes to construct and/or maintain a structure and provide a seven-foot, three-inch front yard setback, which will require a nine-inch variance to the front yard setback regulations.

LOCATION: 2212 Worthington Street

APPLICANT: Danny Sipes

REQUEST:

A request for a variance to the front yard setback regulations of nine inches is made to maintain a single family home structure located seven feet, three inches from the site's front property line or nine inches into the eight-foot front yard setback.

STANDARD FOR A VARIANCE¹:

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:

- 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;
- 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
- 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.

¹ Reference Section 51(A)-3.102(d)(10) of the Dallas Development Code.

STAFF RECOMMENDATION:

Denial

Rationale:

- Staff concluded that while granting this variance request for one floor of a four-story townhome to encroach nine inches into an eight-foot front yard setback would not appear to be contrary to public interest, the request should be denied because the applicant had not provided documentation to the other components of the variance standard:
 1. how the variance was necessary to permit development of this parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope (in this case, the subject site is flat, rectangular in shape, and is, according to the application, 0.036 acres or approximately 1,600 square feet in area), that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same PD No. 225 zoning district (the applicant provided no information related to this); and
 2. how granting this request would not be to relieve a self-created or personal hardship, nor for financial reasons only.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 225 (Interior Neighborhood Mid-Rise Residential)

North: PD No. 225 (Interior Neighborhood Mid-Rise Residential)

South: PD No. 225 (Interior Neighborhood Mid-Rise Residential)

East: PD No. 225 (Interior Neighborhood Mid-Rise Residential) with SUP No. 835

West: PD No. 225 (Interior Neighborhood Mid-Rise Residential)

Land Use:

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

Zoning/BDA History:

1. BDA189-122, Property at 2212 Worthington Street (the subject site)

On November 18, 2019, the Board of Adjustment Panel C denied a request for a variance to the front yard setback regulations without prejudice. The request has not changed. Additional details about the stone have been provided.

GENERAL FACTS /STAFF ANALYSIS:

The subject site is zoned PD No. 225² (Interior Neighborhood Mid-Rise Residential) which states the following: All structures must have a minimum setback of eight feet. Trellises, screens, awnings, and canopies may intrude into the required minimum front yard a distance of up to five feet.

The purpose of this request for variance to the front yard setback regulations of nine inches is to maintain the southwestern facade of a portion of the third floor of the four-story, 4,530-square-foot single family townhome structure located seven feet, three inches from the site's southwest front property line, as most clearly identified on the submitted floor plan, "Third Floor Plan 'H'". According to permit records, a building permit was issued for the structure on December 7, 2017. At the time of this report, a revised site plan properly identifying the third level encroachment into the eight-foot front yard was pending. The site plan provided indicated the first floor setback of 10 feet, one-inch, which exceeds the existing requirement of eight feet for the front yard.

The property is flat, rectangular in shape, and is, according to the application, 0.036 acres (or approximately 1,600 square feet) in area. The site is zoned PD No. 225 (Interior Neighborhood Mid-Rise Residential) which has no minimum lot size requirements.

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,

² Refer to [Section 51P-225.116\(f\)\(A\)](#).

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 No. 225 (Interior Neighborhood Mid-Rise Residential) 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.

On February 24, 2020, the applicant submitted a statement noting how the owner is “unable to meet the setback due to the previously used stone which was a thin stone facade that had been discontinued. The substituted stone that met the current architecture style with installation made it unable for us to meet the required setback due to the thickness of the material.” Staff did not find this evidence to support the remaining variance standards.

If the board were to grant the variance request, and impose compliance with a site plan as a condition, the structure in the front yard setback would be limited to what is shown on the plan. At this time, the site plan does not properly identify the request, which in this case is a portion of the third floor of the four-story townhome that is located nine inches into the required eight-foot front yard setback. If the board were to grant this request, staff urges the board to require an updated site plan clarifying the setback provided at the third level of the unit, subject of this request.

Timeline:

November 18, 2019: The Board of Adjustment Panel C denied a request for a variance to the front yard setback regulations without prejudice at the subject site. The request has not changed. Additional details about the stone have been provided.

January 10, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 11, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

February 14, 2020: The Board of Adjustment Chief Planner/Board Administrator emailed the applicant’s representative the public hearing date and panel that will consider the application; the February 25th deadline to submit additional evidence for staff to factor into their

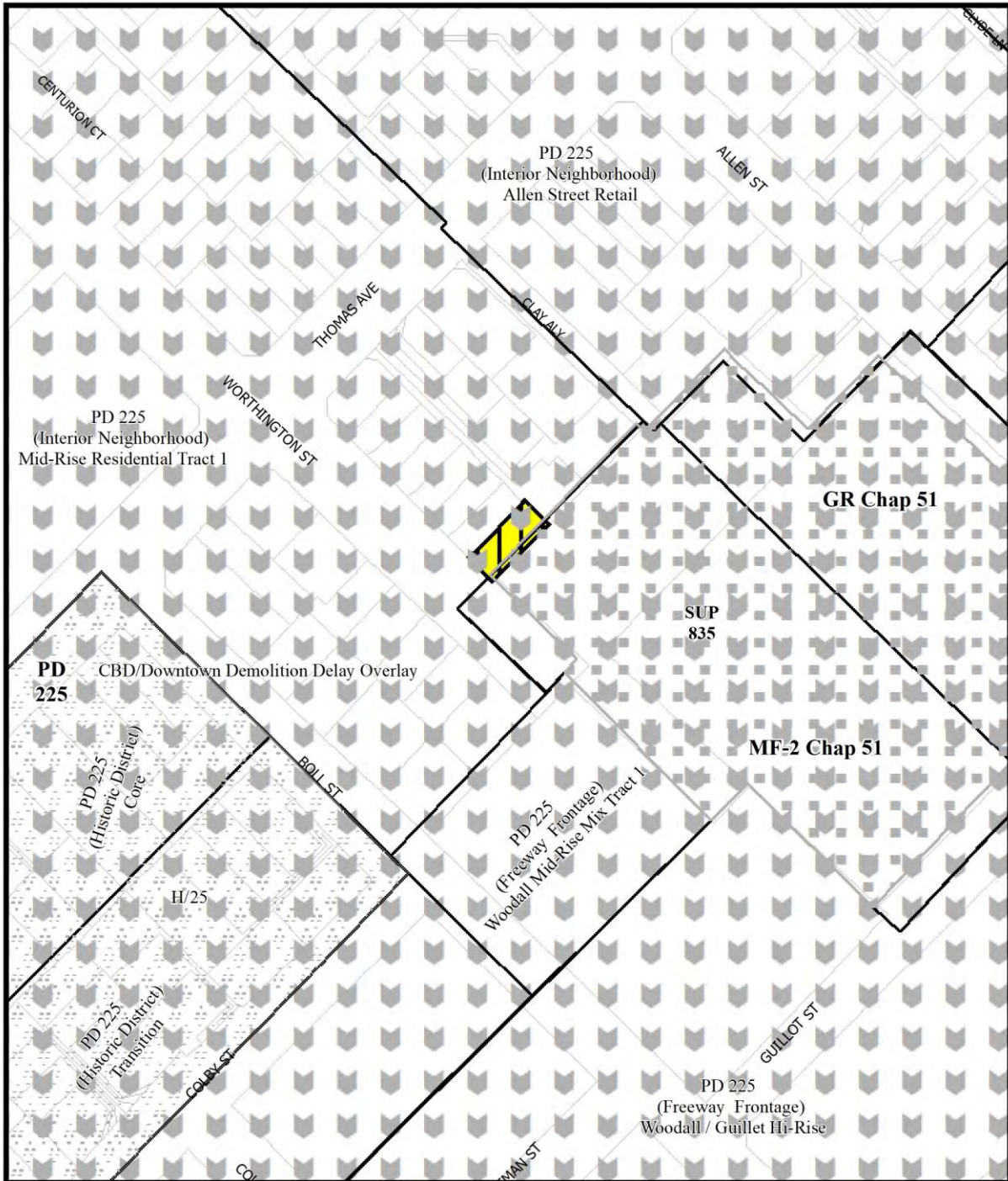
analysis; and the March 6th deadline to submit additional evidence to be incorporated into the board's docket materials and the following information:

- a copy of the application materials including the Building Official's report on the application;
- 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 24, 2020: The applicant submitted an additional statement regarding the stone façade material (Attachment A).

February 27, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included the Assistant City Attorney to the board and the following from the Sustainable Development and Construction Department: Board of Adjustment staff including the Chief Planner/Board Administrator, the Senior Planner, and the Assistant Director; Building Inspection Division staff including the Chief Planner, Building Official, and Assistant Building Official; and Engineering Division staff including the Senior Engineer.

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



1:1,200

ZONING MAP

Case no: BDA190-031

Date: 2/21/2020



1:1,200

AERIAL MAP

Case no: **BDA190-031**

Date: **2/21/2020**

RECEIVED
JAN 10 2020
BY:



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 190-031

Data Relative to Subject Property:

Date: 1-10-20

Location address: 2212 Worthington

Zoning District: PD 225 (Int. neighborhood)

Lot No.: 124 Block No.: H/573 Acreage: .036 Census Tract: 17.03

Street Frontage (in Feet): 1) 26.31 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Thomas Worthington Capital LTD

Applicant: Danny Sipes Telephone: 214-794-0213

Mailing Address: PO Box 3293 Forney TX Zip Code: 75126

E-mail Address: danny@txpermit.com

Represented by: Danny Sipes Telephone: 214-794-0213

Mailing Address: PO Box 3293 Forney TX Zip Code: 75126

E-mail Address: danny@txpermit.com

Affirm that an appeal has been made for a Variance or Special Exception of Front yard setback - Variance of 9' into the required 8ft FYSB and provide 7'3" setback

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

Plans erroneously approved

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 _____ (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: Danny Sipes (Affiant/Applicant's signature)

9th day of January, 2020
Vickie L Rader
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

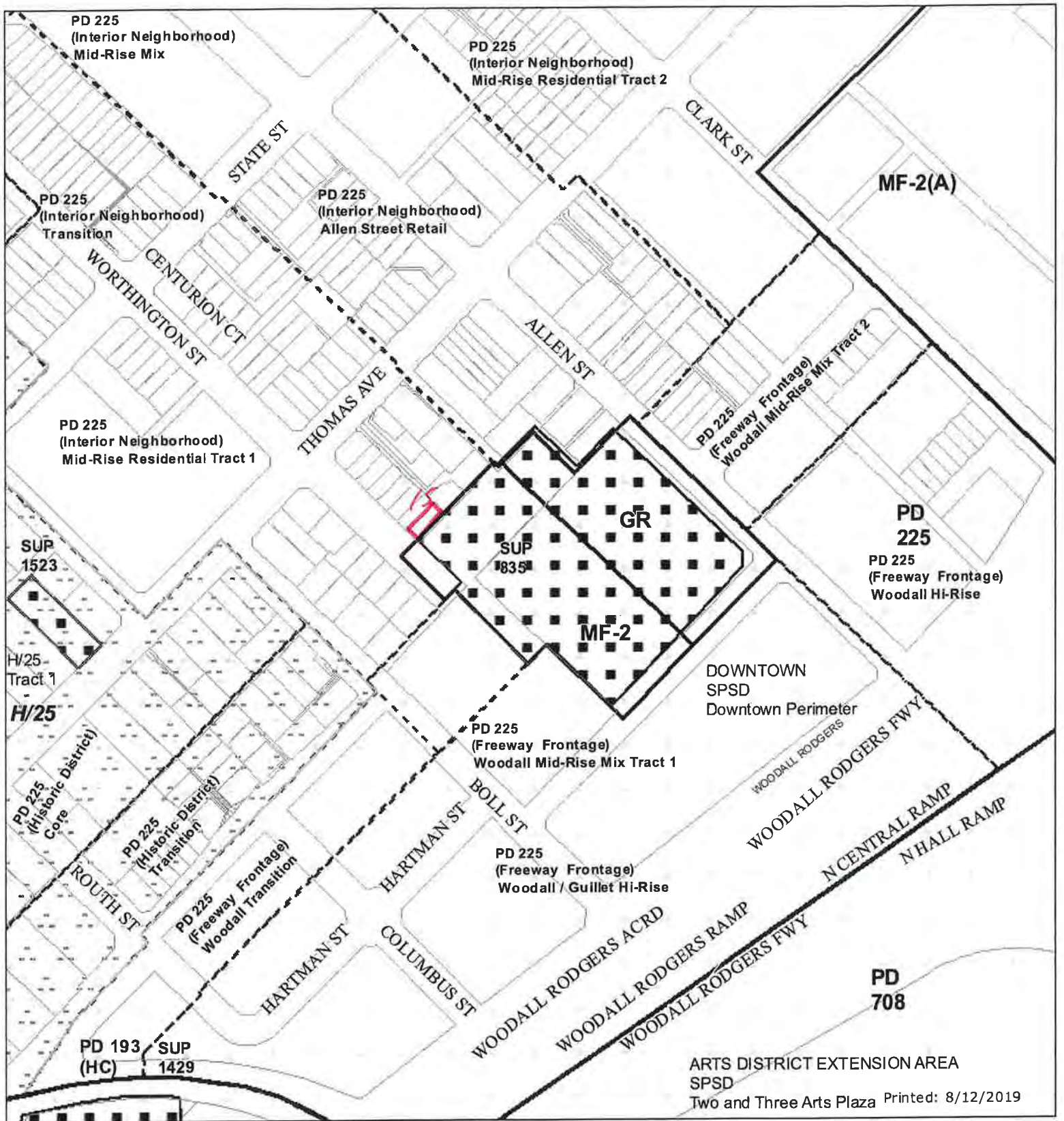
I hereby certify that Danny Sipes

did submit a request for a variance to the front yard setback regulations
at 2212 Worthington Street

BDA190-031. Application of Danny Sipes for a variance to the front yard setback regulations at 2212 WORTHINGTON ST. This property is more fully described as Lot 12H Block H/573, and is zoned PD-225 (Interior Neighborhood), which requires a front yard setback of 8 feet. The applicant proposes to construct a single family residential structure and provide a 7 foot 3 inch front yard setback, which will require a 9 inch variance to the front yard setback regulations.

Sincerely,

Philip Sikes
Philip Sikes, Building Official

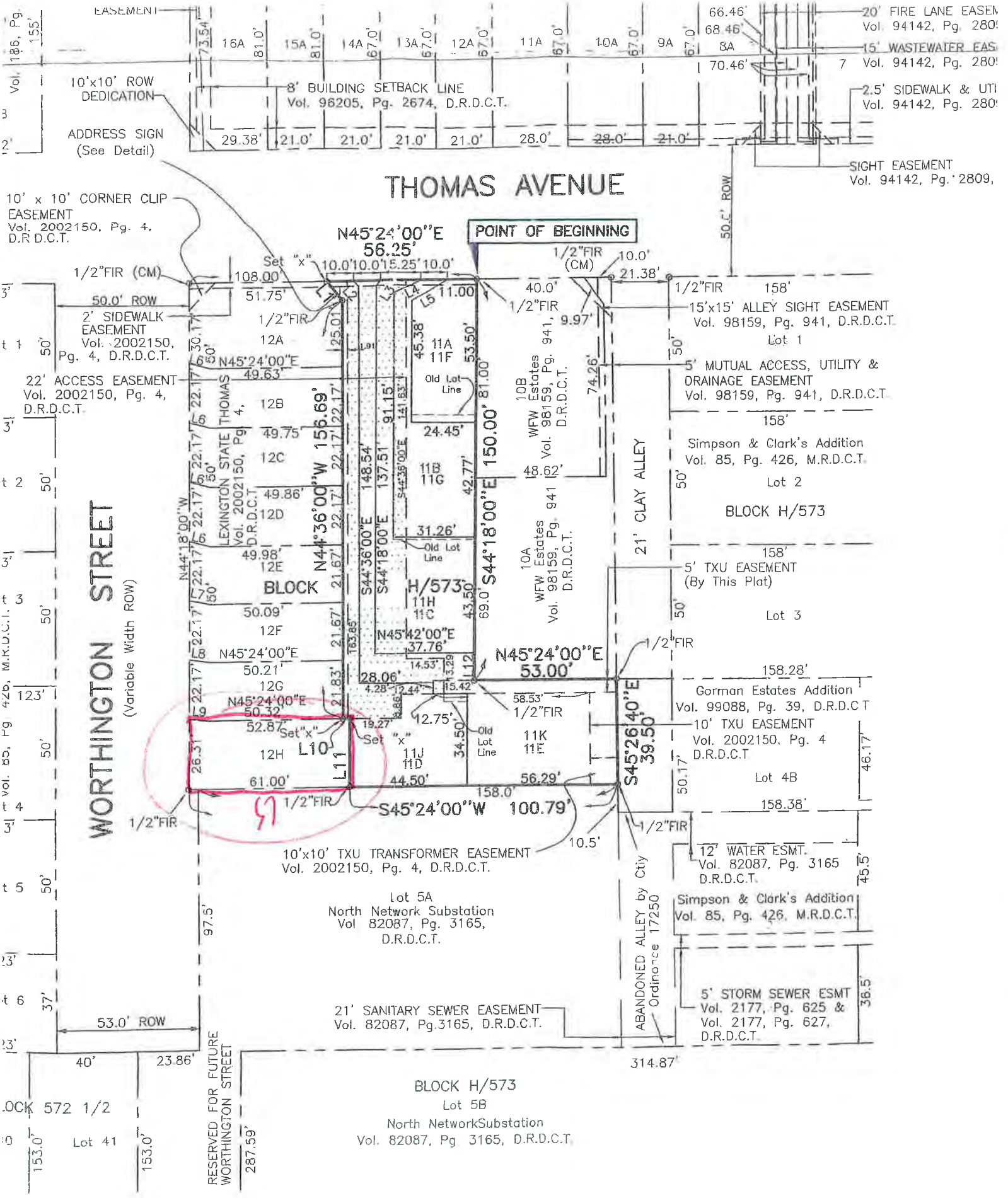


Legend

- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits | railroad | Dry Overlay | CD Sub districts |
| School | Certified Parcels | D | PD Sub districts |
| Floodplain | Base Zoning | D-1 | PDS Sub districts |
| 100 Year Flood Zone | PD193 Oak Lawn | CP | NSO Sub districts |
| 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 | 1-10 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)





186, Pg. 155'
 Vol. 2002150, Pg. 4, D.R.D.C.T.
 10'x10' ROW DEDICATION
 ADDRESS SIGN (See Detail)

10' x 10' CORNER CLIP EASEMENT
 Vol. 2002150, Pg. 4, D.R.D.C.T.

50.0' ROW
 2' SIDEWALK EASEMENT
 Vol. 2002150, Pg. 4, D.R.D.C.T.
 22' ACCESS EASEMENT
 Vol. 2002150, Pg. 4, D.R.D.C.T.

WORTHINGTON STREET
 (Variable Width ROW)

RESERVED FOR FUTURE WORTHINGTON STREET

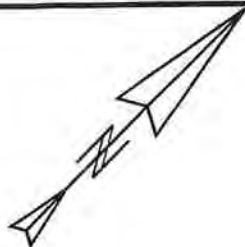
THOMAS AVENUE

POINT OF BEGINNING

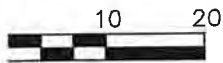
66.46'
 68.46'
 70.46'
 20' FIRE LANE EASEMENT
 Vol. 94142, Pg. 280'
 15' WASTEWATER EASEMENT
 Vol. 94142, Pg. 280'
 2.5' SIDEWALK & UTILITY
 Vol. 94142, Pg. 280'
 SIGHT EASEMENT
 Vol. 94142, Pg. 2809,

N45°24'00"E 56.25'
 10.0' 10.0' 15.25' 10.0'
 1/2" FIR (CM) 10.0'
 40.0'
 21.38'
 158'
 15'x15' ALLEY SIGHT EASEMENT
 Vol. 98159, Pg. 941, D.R.D.C.T.
 Lot 1
 5' MUTUAL ACCESS, UTILITY & DRAINAGE EASEMENT
 Vol. 98159, Pg. 941, D.R.D.C.T.
 158'
 Simpson & Clark's Addition
 Vol. 85, Pg. 426, M.R.D.C.T.
 Lot 2
BLOCK H/573
 158'
 5' TXU EASEMENT (By This Plat)
 Lot 3
 158.28'
 Gorman Estates Addition
 Vol. 99088, Pg. 39, D.R.D.C.T.
 10' TXU EASEMENT
 Vol. 2002150, Pg. 4, D.R.D.C.T.
 Lot 4B
 158.38'
 12' WATER ESMT.
 Vol. 82087, Pg. 3165, D.R.D.C.T.
 Simpson & Clark's Addition
 Vol. 85, Pg. 426, M.R.D.C.T.
 5' STORM SEWER ESMT
 Vol. 2177, Pg. 625 & Vol. 2177, Pg. 627, D.R.D.C.T.
 36.5'
 314.87'
 10x10' TXU TRANSFORMER EASEMENT
 Vol. 2002150, Pg. 4, D.R.D.C.T.
 Lot 5A
 North Network Substation
 Vol. 82087, Pg. 3165, D.R.D.C.T.
 21' SANITARY SEWER EASEMENT
 Vol. 82087, Pg. 3165, D.R.D.C.T.
 ABANDONED ALLEY by City Ordinance 17250
 10.5'
 53.0' ROW

BLOCK H/573
 Lot 5B
 North Network Substation
 Vol. 82087, Pg. 3165, D.R.D.C.T.



SCALE: 1"=20'



Jqb No. 99014-12H

LOT 12 H

NUMBER	DIRECTION	DISTANCE
L1	N 50°11'36" E	8.02'
L2	N 44°18'00" W	26.31'

LEGEND

- FIR Found Iron Rod
- FIP Found Iron Pipe
- TP Telephone Pedestal
- WM Water Meter
- EM Electric Meter
- GM Gas Meter
- FH Fire Hydrant
- P Planter

WORTHINGTON STREET
 Variable Width ROW, Concrete Pavement

THOMAS AVENUE

50' Public ROW, Asphalt Pavement

1/2" FIR

163.19'

NTS

PUBLIC UTILITY EASEMENT
 Vol. 2001095, Pg. 6377
 D.R.D.C.T.

BLOCK H/573

Lot 12G

Four Story Stone

Building at
 Property Line

N45°24'00"E 52.87'

#2212 Worthington St.
 Four Story Stone
 (Limits of First Floor)
 Lot 12H
 Lexington State Thomas
 Vol. 2002150, Pg. 4
 D.R.D.C.T.

4 Story Stone

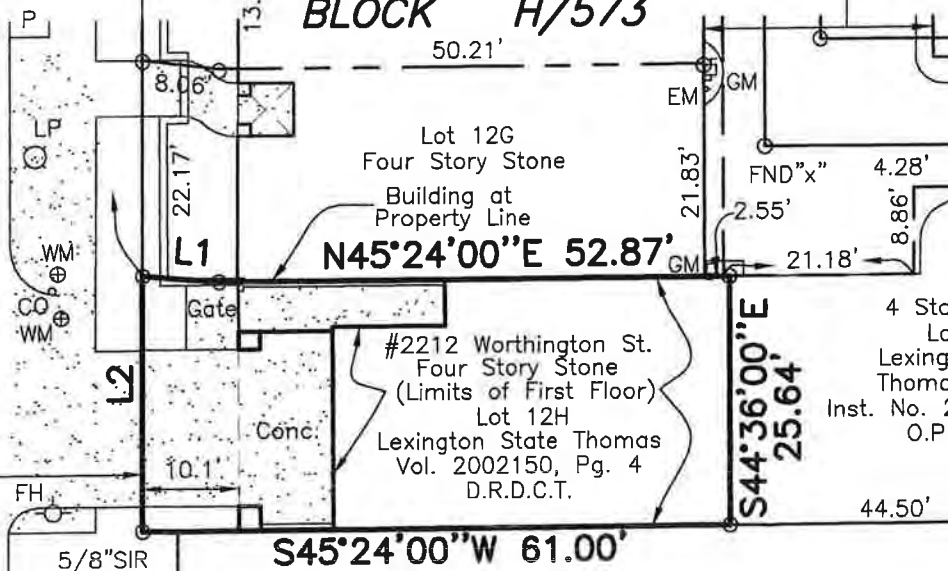
Lot 11J

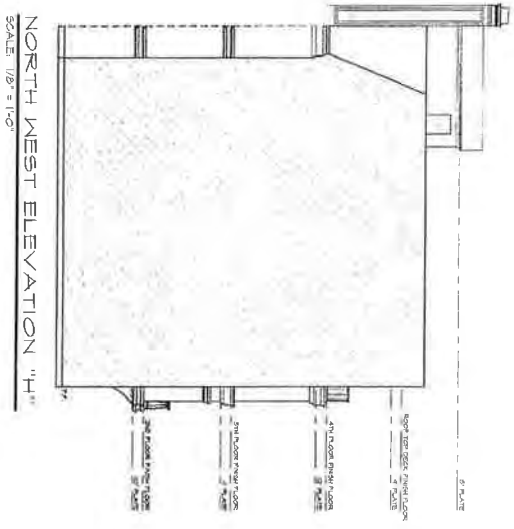
Lexington State

Thomas Revised

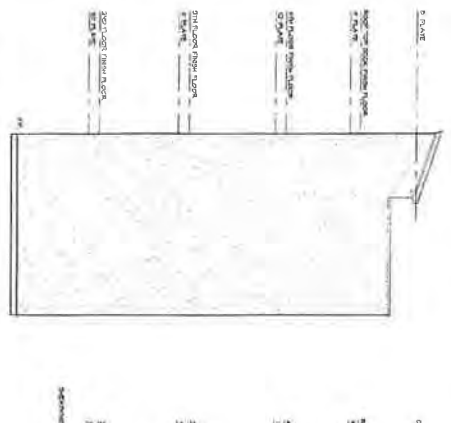
Inst. No. 200503523037

O.P.R.D.C.T.

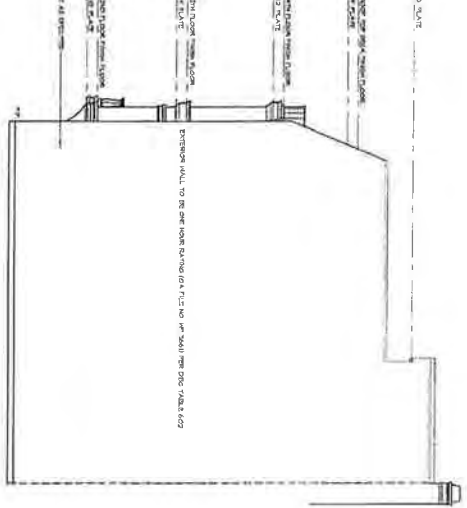




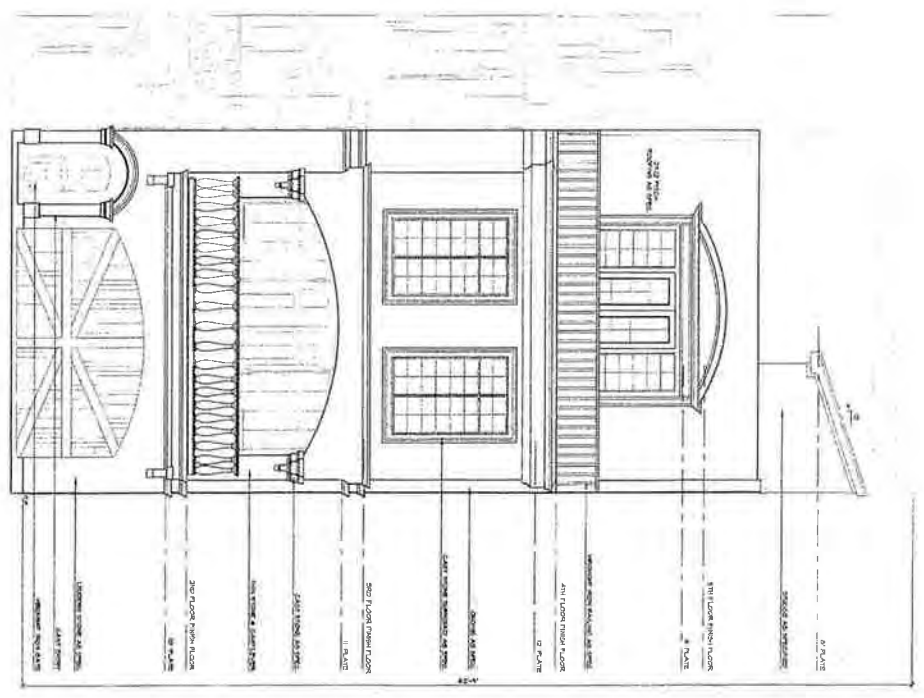
NORTH WEST ELEVATION "H"
SCALE 1/8" = 1'-0"



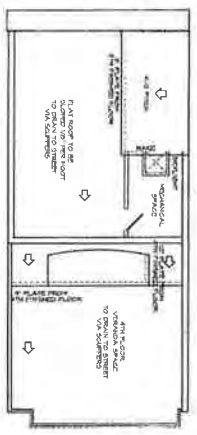
NORTH EAST ELEVATION "H"
SCALE 1/8" = 1'-0"



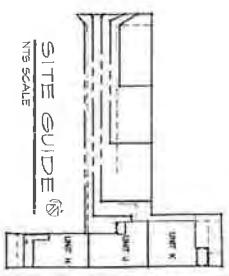
SOUTH EAST ELEVATION "H"
SCALE 1/8" = 1'-0"



SOUTH WEST ELEVATION "H"
SCALE 1/4" = 1'-0"



ROOF W/ 5TH FLR DECK "H"
SCALE 1/8" = 1'-0"



SITE GUIDE
N/S SCALE



RELEASE 11.20.17

JOHN LIVELY
A. ARCHITECT
11111 DALLAS STREET
DALLAS, TEXAS 75243

STATE-THOMAS HISTORIC DISTRICT
2212 NORTH UNION STREET
DALLAS, TEXAS

6356
A-3
OF

Texas Permit & Development

BDA190-031_Attachment_A

February 24, 2020

To the City of Dallas Board of Adjustment Members

Re: 2212 Worthington
BDA190-031

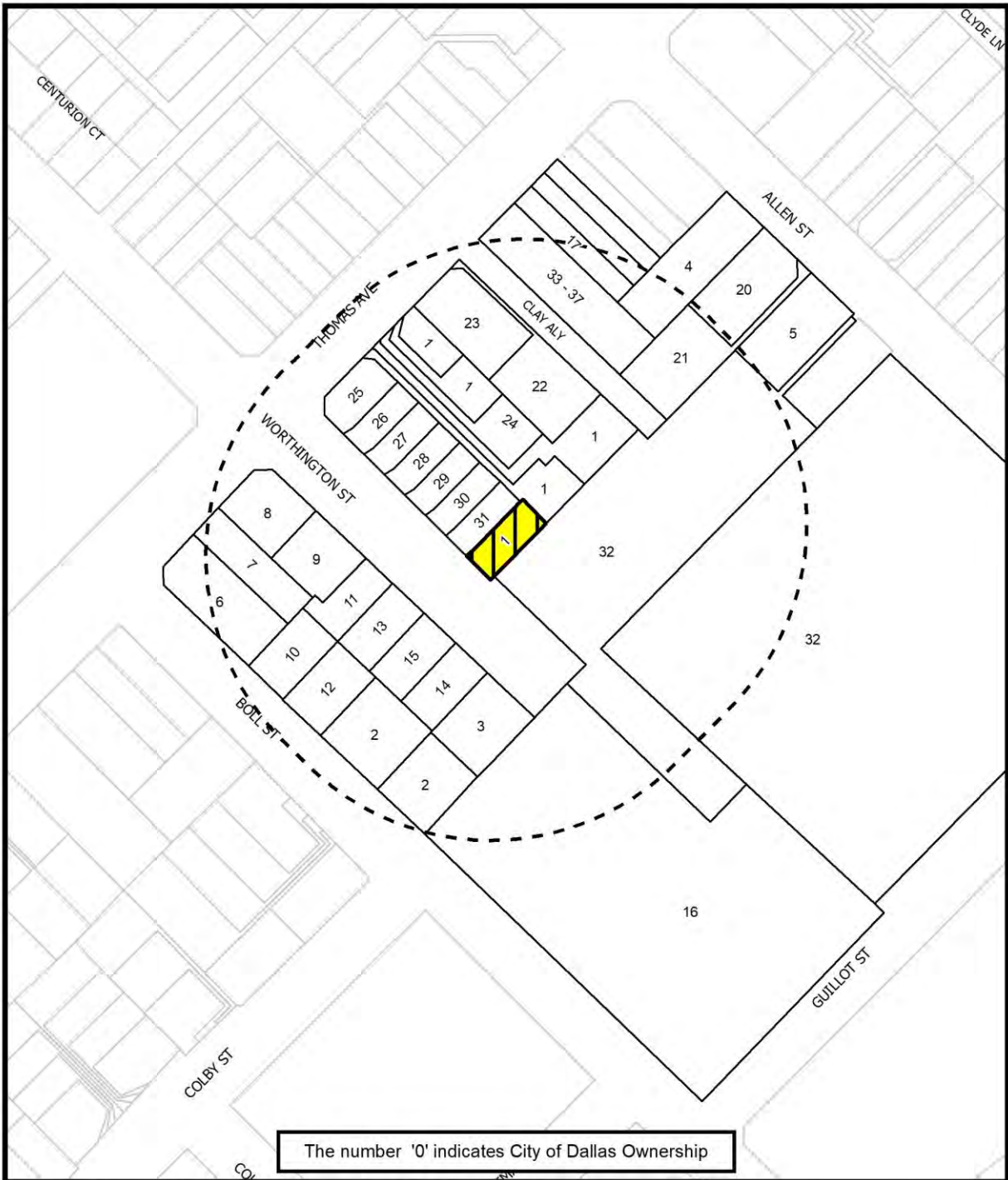
We are here before you requesting a special exception to allow for a 7'3 ¼ front yard setback instead of the 8' that is required by code. Requesting a 8'3/4 exception to the setback. The setback request is for the third floor only.

They were unable to meet the setback due to the previously used stone which was a thin stone facade that had been discontinued. The substituted stone that met the current architecture style with installation made it unable for us to meet the required setback due to the thickness of the material.

We thank you for your consideration in these matters.



Danny Sipes
Texas Permit



 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <p> 200' AREA OF NOTIFICATION 37 NUMBER OF PROPERTY OWNERS NOTIFIED </p>	Case no: <u> BDA190-031 </u> Date: <u> 2/21/2020 </u>
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02/20/2020

Notification List of Property Owners

BDA190-031

37 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	2802 THOMAS AVE	THOMAS WORTHINGTON CAPITAL LTD
2	2202 BOLL ST	BECKER ALEX O
3	2201 WORTHINGTON ST	KIRVEN JOE W
4	2215 ALLEN ST	SANDERS RUTH MAE
5	2207 ALLEN ST	PEETERS TERRI J
6	2700 THOMAS AVE	2700 THOMAS TRUST
7	2704 THOMAS AVE	GANNON HUGH DAVID &
8	2706 THOMAS AVE	BROWN JOHNNY L &
9	2219 WORTHINGTON ST	BERRY LINDA
10	2214 BOLL ST	HALL DOUGLAS K
11	2215 WORTHINGTON ST	OU JERRY
12	2210 BOLL ST	STROMBERG WILLIAM M
13	2211 WORTHINGTON ST	JAMROZ MARCIN
14	2207 WORTHINGTON ST	KUMAR SAI & POONAM
15	2209 WORTHINGTON ST	LAPIETRA TRACY
16	2106 BOLL ST	ALAMO MANHATTAN UPTOWN LLC
17	2816 THOMAS AVE	ALLEY JESSICA J
18	2816 THOMAS AVE	MOSELY ANDRE G &
19	2816 THOMAS AVE	CHIQUITO GILBERTO
20	2211 ALLEN ST	FOREMAN DANIEL A
21	2209 ALLEN ST	THOMAS TOM &
22	2810 THOMAS ST	LGA REAL ESTATE LP
23	2806 THOMAS ST	HALIMMAN ROMI &
24	2804 THOMAS AVE	DT PARTNERSHIP
25	2226 WORTHINGTON ST	LGA REAL ESTATE LP
26	2224 WORTHINGTON ST	SCOTT CYNTHIA LYNN &

02/20/2020

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	2222 WORTHINGTON ST	BAKER WILLIAM KIRK &
28	2220 WORTHINGTON ST	BMJ REALTY GROUP LLC
29	2218 WORTHINGTON ST	AKASS MARK &
30	2216 WORTHINGTON ST	STEVENSON PAUL
31	2214 WORTHINGTON ST	BUETHER ERIC W
32	2836 GUILLOT ST	ONCOR ELECRTIC DELIVERY COMPANY
33	2812 THOMAS AVE	SANTHANAM ANAND &
34	2812 THOMAS AVE	QUIGLEY THOMAS JAMES &
35	2812 THOMAS AVE	FELKER MARSHA
36	2812 THOMAS AVE	MCGINNIS OLIN DAVID &
37	2812 THOMAS AVE	OBENSHAIN SCOTT ALAN &

FILE NUMBER: BDA190-034(JM)

BUILDING OFFICIAL'S REPORT: Application of Baij Nath Singh for a variance to the front yard setback regulations, and for a variance to the off-street parking regulations at **4806 Huey Street**. This property is more fully described as a tract of land in Block 4458, and is zoned PD-595 (R-5(A)), which requires a front yard setback of 20 feet 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. The applicant proposes to construct a single family residential structure and provide a nine-foot three-inch front yard setback, which will require a 10-foot nine-inch variance to the front yard setback regulations, and to construct a single family residential structure with a setback of nine feet three inches, which will require a 10-foot nine-inch variance to the off-street parking regulations.

LOCATION: 4806 Huey Street

APPLICANT: Baij Nath Singh

REQUESTS:

Two requests are made to construct a one-story single family structure with a total 1,765 square feet of floor area with an attached garage that would be entered directly from the street:

1. A request for a variance to the front yard setback regulations of 10 feet nine inches is made to construct a one-story single family structure with a total 1,765 square feet of floor area, which is proposed to be located nine feet three inches from the site's front property line or 10 feet nine inches into the 20-foot front yard setback on an undeveloped site.
2. A request for a variance to the off-street parking regulations of 10 feet nine inches is made to construct an attached garage that would be entered directly from the street. The enclosed parking space is proposed to be located nine feet three inches from the street right-of-way line, which requires a variance of 10 feet nine inches to the off-street parking regulations.

STANDARD FOR A VARIANCE¹:

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:

- 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;
- 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
- 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 (front yard variance):

Denial

Rationale:

The request should be denied because the applicant did not provide documentation to the components of the variance standard:

1. The unnecessary hardship was unclear. The applicant claims that the request will maintain the character of the neighborhood, which is largely nonconforming;
2. Staff concluded that while the lot, with 3,800 square feet of floor area located in an R-5(A) Subdistrict of PD No. 595, which requires a minimum lot size of 5,000 square feet, is restrictive in area, the parcel is generally flat and rectangular (50 feet by 76 feet). Ultimately, it could not be determined that the property cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning district (the applicant provided no information related to this comparison); and,
3. How granting this request would not be to relieve a self-created or personal hardship, nor for financial reasons only.

STAFF RECOMMENDATION (parking variance):

¹ Reference §51(A)-3.102(d)(10) of the Dallas Development Code for the variance standard.

Denial

Rationale:

Staff recommends denial because the applicant did not provide documentation to prove the following components of the variance standards were met:

1. The request was found contrary to public interest (the Sustainable Development and Construction Senior Engineer has submitted a Review Comment Sheet marked “recommends denial”). The engineer found that the “proposed garage would provide sufficient space to accommodate a car encroaching into the sidewalk and forcing pedestrians onto travel lanes of Huey Street.” Additionally, “Per Texas Transportation Code, a vehicle may not stop, stand or park, whether attended or unattended, while obstructing any portion of a sidewalk.”;
2. While the lot, with 3,800 square feet of floor area located in an R-5(A) Subdistrict of PD No. 595, which requires a minimum lot size of 5,000 square feet, is restrictive in area, the parcel is generally flat and rectangular (50 feet by 76 feet). Ultimately, it could not be determined that the property cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning district (the applicant provided no information related to this comparison); and,
3. How granting this request would not be to relieve a self-created or personal hardship, nor for financial reasons only.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	R-5(A) (Single Family Subdistrict within PD No. 595)
<u>Northwest:</u>	R-5(A) (Single Family Subdistrict within PD No. 595)
<u>Northeast:</u>	R-5(A) (Single Family Subdistrict within PD No. 595)
<u>Southeast:</u>	R-5(A) (Single Family Subdistrict within PD No. 595)
<u>Southwest:</u>	R-5(A) (Single Family Subdistrict within PD No. 595)

Land Use:

The subject site is undeveloped. The areas to the northwest, northeast, and southwest are also undeveloped. The properties to the southeast are developed with single family uses.

Zoning/BDA History:

There have not been any related board or zoning cases near the subject site within the last five years.

GENERAL FACTS /STAFF ANALYSIS :

The subject site is zoned an R-5(A) Single Family Residential Subdistrict within PD No. 595. The minimum lot size in this district is 5,000 square feet. There are no minimum lot dimensions. The property is 50 feet wide and 76 feet deep with approximately 3,800 square feet of area. An R-5(A) Subdistrict requires a minimum front yard of 20 feet². Additionally, a 20-foot setback is required from the right-of-way line for enclosed parking spaces with direct access to a street or alley³.

The purpose of these requests for variances of 10 feet nine inches to the front yard setback and off-street parking requirements is to construct a 1,765-square-foot one-story single family structure with an attached one-car garage located nine feet three inches from the property line along Huey Street or 10 feet nine inches into the 20-foot front yard. This is an encroachment upon the required front yard and the off-street parking setback of 20 feet (concurrent setbacks).

Overall, the subject site is flat and rectangular in shape, and while restrictive in lot area, the lot pattern seems consistent with the remainder of the street.

On March 3, 2020, the applicant submitted an email stating that the reasons for the variances requested pertain to the restrictive lot area; built environment of other nonconforming structures on Huey Street; that Huey Street is not a major thoroughfare; and, a need for creativity in design.

On March 4, 2020, the applicant submitted a presentation as evidence with photos of surrounding properties and statements relating to how the variance standard is being met and/or the requests are in character for the neighborhood.

As of March 6, 2020, no letters have been submitted in support/opposition to the request.

Relating to the requested **front yard variance**, the applicant has the burden of proof in establishing that the request for a variance to the front yard setback meets the variance standard completely. If the board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the front yard setbacks would be limited to what is shown on this document– which is a structure that would be located nine feet three inches from the site’s front property line along Huey Street.

² Reference §51A-4.112(g)(4)(G)(i) of the Dallas Development Code for lot size provisions in an R-5(A) District.

³ Reference §51A-4.301(a)(9) of the Dallas Development Code for parking setback requirements for enclosed spaces.

Additionally, the Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “recommends denial.” The engineer found that the “proposed garage would provide sufficient space to accommodate a car encroaching into the sidewalk and forcing pedestrians onto travel lanes of Huey Street.” Additionally, “Per Texas Transportation Code, a vehicle may not stop, stand or park, whether attended or unattended, while obstructing any portion of a sidewalk.”

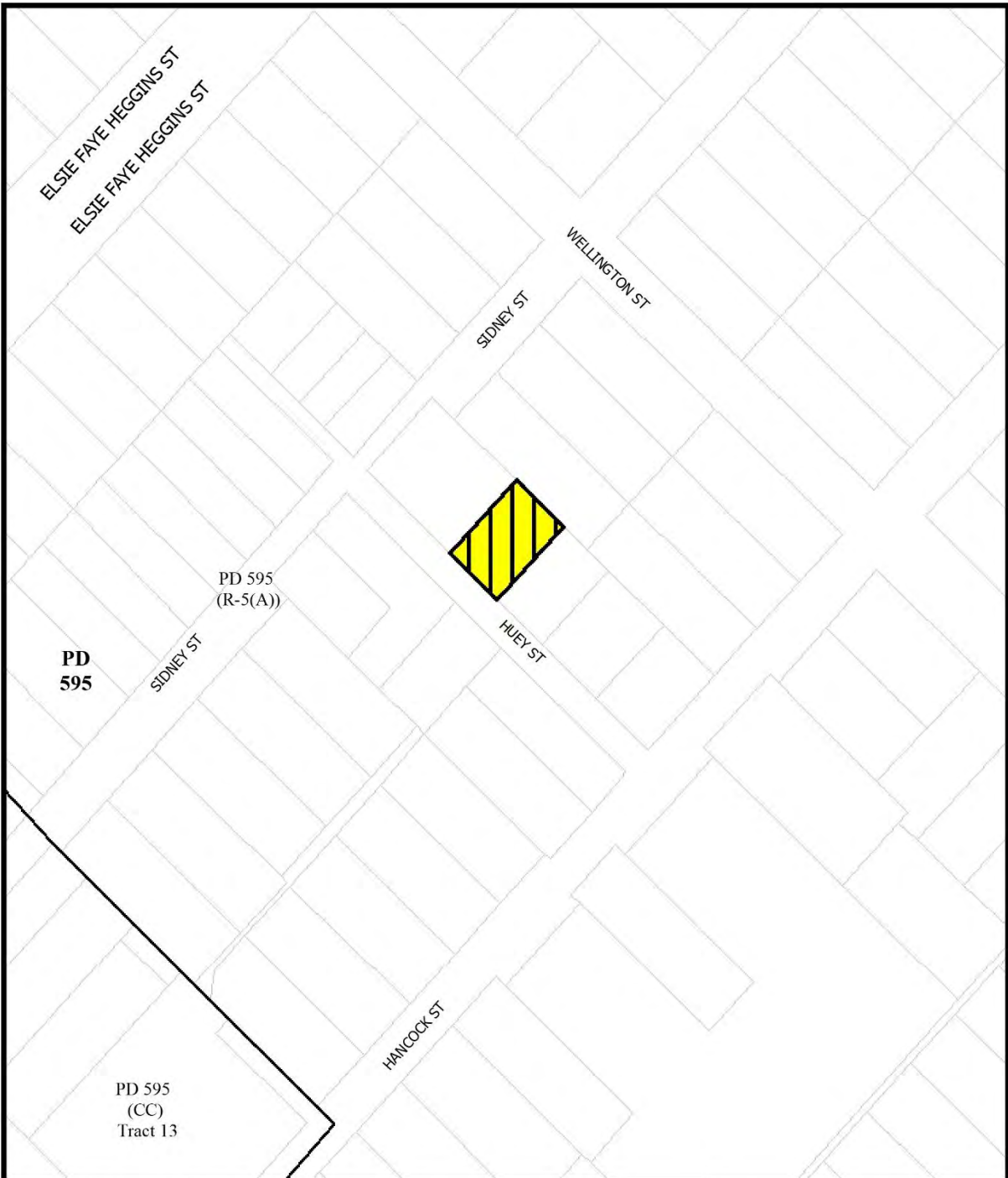
Relating to the requested **off-street parking variance**, the applicant has the burden of proof in establishing that the request for a variance to the off-street parking regulations meets the variance standard completely. If the board were to grant the variance request, staff recommends imposing the following conditions which are suggested to help assure that the variance will not be contrary to the public interest:

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.

Timeline:

- January 16, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- February 11, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- February 14, 2020: The Board of Adjustment Chief Planner/Board Administrator emailed the applicant’s representative the public hearing date and panel that will consider the application; the February 25th deadline to submit additional evidence for staff to factor into their analysis; and the March 6th deadline to submit additional evidence to be incorporated into the board’s docket materials and the following information:
- a copy of the application materials including the Building Official’s report on the application;
 - 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 27, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included the Assistant City Attorney to the board and the following from the Sustainable Development and Construction Department: Board of Adjustment staff including the Chief Planner/Board Administrator, the Senior Planner, and the Assistant Director; Building Inspection Division staff including the Chief Planner, Building Official, and Assistant Building Official; and Engineering Division staff including the Senior Engineer.
- February 28, 2020: The Sustainable Development and Construction Senior Engineer submitted a review comment sheet marked "Recommends Denial" (Attachment A).
- March 3, 2020: The applicant submitted an additional statement regarding the neighborhood and request (Attachment B).
- March 4, 2020: The applicant submitted a copy of a presentation with photos and descriptions of how the request will fit into the neighborhood (Attachment C).

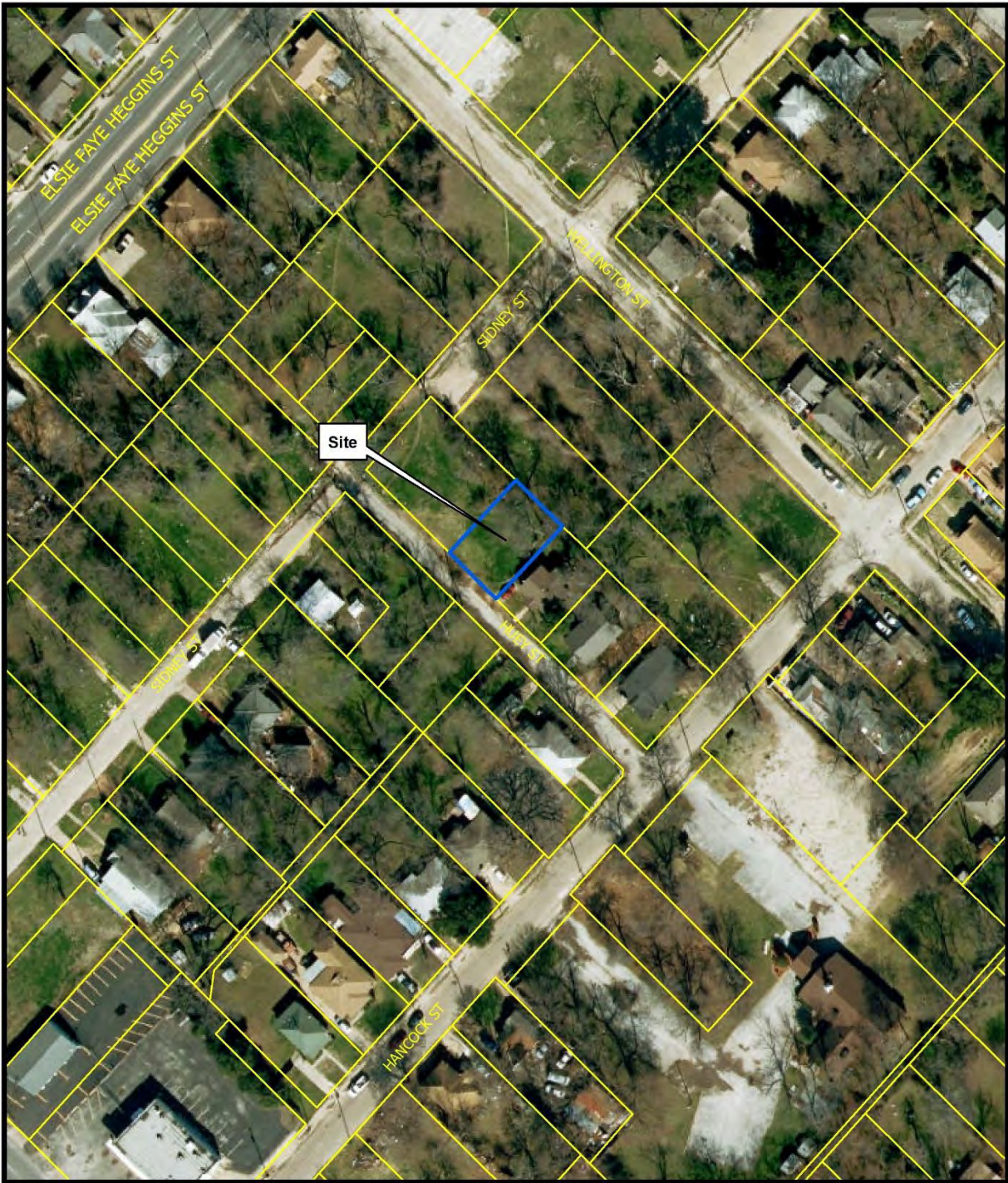


1:1,200

ZONING MAP

Case no: BDA190-034

Date: 2/21/2020



1:1,200

AERIAL MAP

Case no: BDA190-034

Date: 2/21/2020



City of Dallas

RECEIVED
JAN 16 2020
BY:

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 190-034

Date: 1-16-20

Data Relative to Subject Property:

Location address: 4806 Huey St Zoning District: PD595(R-5A)

~~Lot~~ Lot No.: 20 Block No.: B/4458 Acreage: .087 Census Tract: 39.01

Street Frontage (in Feet): 1) 50' 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): KUNWAR ABKA LLC/ Baij Nath Singh

Applicant: Baij Nath Singh Telephone: 817 705 8972
214 601 5297

Mailing Address: 2890 Nottingham Dr Trophy Club Zip Code: 76262

E-mail Address: bnsingh@gmail.com

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance , or Special Exception , of Front yard setback variance of 10'6" to the required 20' FYSB
And provide a 9'6" FYSB + to the 20' enclosed structure parking requirement.

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:
lot size is 3800 sq-ft which is smaller than 5000 sq-ft requirement.

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

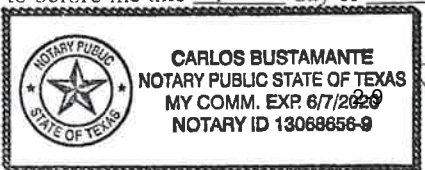
Before me the undersigned on this day personally appeared Baij Singh
(Affiant/Applicant's name printed)

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: BT Singh
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 14th day of JANUARY, 2020

(Rev. 08-01-11)



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

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that Baij Nath Singh
did submit a request for a variance to the front yard setback regulations, and for a variance to the
off-street parking regulations
at 4806 Huey Street

BDA190-034. Application of Baij Nath Singh for a variance to the front yard setback regulations, and for a variance to the off-street parking regulations at 4806 HUEY ST. This property is more fully described as a Tract of land, Block 4458, and is zoned PD-595 (R-5A), which requires a front yard setback of 20 feet 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. The applicant proposes to construct a single family residential structure and provide a 9 foot 3 inch front yard setback, which will require a 10 foot 9 inch variance to the front yard setback regulations, and to construct a single family residential structure with a setback of 9 feet 3 inches, which will require a variance of 10 feet 9 inches to the off-street parking regulations.

Sincerely,

Philip Sikes
Philip Sikes, Building Official

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

GF# 1010-289815 /RTT meb

GENERAL WARRANTY DEED

MARIA SCHNEIDER

(hereinafter called "Grantor," whether one or more, masculine, feminine or neuter) for and in consideration of the sum of TEN and no/100 DOLLARS and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, paid by

KUNWAR ABKA LLC

(hereinafter called "Grantee," whether one or more, masculine, feminine or neuter), for which no lien is retained either express or implied, has Granted, Sold and Conveyed, and by these presents does hereby Grant, Sell and Convey, unto the said Grantee all that certain real property described as follows:

A 50 x 89 FOOT TRACT OUT OF THE THOMAS LAGOW LEAGUE SITUATED IN THE CITY OF DALLAS, DALLAS COUNTY, TEXAS AS SHOWN BY DEED RECORDED IN VOLUME 4601 PAGE 567 OF THE DEED RECORDS OF DALLAS COUNTY, TEXAS AND MORE FULLY DESCRIBED BY METES AND BOUNDS ON EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN FOR ALL PURPOSES,

together with all improvements thereon, if any, and all rights, privileges, tenements, hereditaments, rights of way, easements, appendages and appurtenances, in anyway appertaining thereto, and all right, title and interest of Grantor in and to any streets, ways, alleys, strips or gores of land adjoining the above-described property or any part thereof (hereinafter, the "Property").

This deed is executed and delivered subject to all easements, reservations, conditions, covenants and restrictive covenants as the same appear of record, to the extent such are valid and subsisting, in the office of the County Clerk of the county in which the Property is located, and property taxes for the current year and subsequent years, the payment of which Grantee assumes.

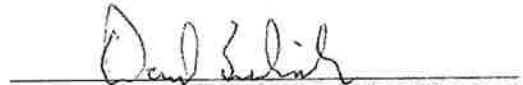


TO HAVE AND TO HOLD the above described Property, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said Grantee, his, her or its successors, heirs and assigns, as the case may be, forever; and Grantor does hereby bind Grantor and Grantor's successors, heirs, executors and administrators, as the case may be, to Warrant and Forever Defend all and singular the said Property unto the said Grantee and Grantee's successors, heirs and assigns, as the case may be, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof.

EXECUTED THE 12 DAY OF November, 2019



MARIA SCHNEIDER



DAVID ALLEN SCHNEIDER

Pro forma joinder to alleviate homestead rights, if any
Alan B.



ACKNOWLEDGMENT

THE STATE OF Texas
COUNTY OF Dallas

Before me, the undersigned authority, on this day personally appeared **MARIA SCHNEIDER** and **DAVID ALLEN SCHNEIDER**, known to me or proved to me through 1x DL's Alleged (description of identity card) to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that said person executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 12 day of November 2019.

Notary Public, State of Texas

Grantee's address:

KUNWAR ABKA LLC
4806 Huey St
Dallas, Texas

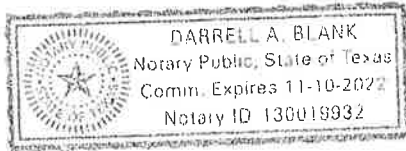


EXHIBIT "A"

File Number: 1010-289815-RTT

A 50 x 89 FOOT TRACT OUT OF THE THOMAS LAGOW LEAGUE SITUATED IN THE CITY OF DALLAS, DALLAS COUNTY, TEXAS AS SHOWN BY DEED RECORDED IN VOLUME 4601 PAGE 567 OF THE DEED RECORDS OF DALLAS COUNTY, TEXAS AND MORE FULLY DESCRIBED AS FOLLOWS:

LOT, TRACT OR PARCEL OF LAND situated in Dallas County, Texas, and being 50 X 89 feet MORE OR LESS, out of the THOMAS LAGOW LEAGUE in the City and County of Dallas, State of Texas, and being part of Share No. 1 set aside to Mrs. I. S. Cantrell, who is the same as S. I. Cantrell in Decree or Partition in Cause No. 23800 in the District Court of the 14th Judicial District of Texas, styled N.A. Vaughan et al Vs. H.A. Stevens et al, more particularly described as follows:

BEGINNING at a stake in the center of Huey Avenue, 214.67 feet Northwest of the Northwest line of Hancock Street, being the South corner of the lot conveyed by J. W. Coker et ux to LeRoy J. Prewitt by Deed dated June 16, 1944, recorded in Volume 2483, Page 621, Deed Records, Dallas County, Texas:

THENCE Southeast along the center line of Huey Avenue, 50 feet to point for corner;

THENCE Northeast parallel with Hancock Street 89 feet to point for corner;

THENCE Northwest parallel with Huey Street, 50 feet to point for corner;

THENCE Southwest parallel with Hancock Street 89 feet to the PLACE OF BEGINNING, and being the same property conveyed to John Patton by Warranty Deed dated October 8, 1956, executed by Frank C. Slay, filed for record in Deed Records, Dallas County, Texas.

**Filed and Recorded
Official Public Records
John F. Warren, County Clerk
Dallas County, TEXAS
11/19/2019 11:13:40 AM
\$38.00
201900311666**



BDA190-034_Attachment_A

REVIEW COMMENT SHEET
BOARD OF ADJUSTMENT
HEARING OF **MARCH 16, 2020 (C)**

Has no objections

Has no objections if certain conditions
are met (see comments below or attached)

Recommends denial
(see comments below or attached)

No comments

BDA 190-027

BDA 190-029

BDA 190-031

BDA 190-034

BDA 190-039

COMMENTS:

**Proposed garage would provide
sufficient space to accommodate a car
encroaching sidewalk and forcing
pedestrians onto travel lanes of Huey
Street.**

**Per Texas Transportation Code, a
vehicle may not stop, stand or park,
whether attended or unattended,
while obstructing any portion of a
sidewalk.**

David Nevarez, PE, PTOE, DEV - Engineering

2/27/2020

Name/Title/Department

Date

Please respond to each case and provide comments that justify or elaborate on your response. Dockets distributed to the Board will indicate those who have attended the review team meeting and who have responded in writing with comments.

From: [Munoz, Jennifer](#)
To: [Munoz, Jennifer](#)
Subject: RE: Panel assignment and deadlines for BDA190-034, Property at 4806 Huey Street
Date: Monday, March 09, 2020 10:13:28 PM

From: Rajesh Singh <[REDACTED]>
Sent: Tuesday, March 03, 2020 8:21 AM
To: Munoz, Jennifer <jennifer.munoz@dallascityhall.com>
Cc: [REDACTED]; Nevarez, David <david.nevarez@dallascityhall.com>; Trammell, Charles <charles.trammell@dallascityhall.com>
Subject: Re: Panel assignment and deadlines for BDA190-034, Property at 4806 Huey Street

External Email!

Greeting Jennifer,

Below is what I wrote David. I would also like to add...it is hard for me to find out who is asking what variance for their development...which city should be aware off. I would stress this kind of development will bring improvement to neighborhood. This is off street property with hardly 4 to 5 house. I doubt there is any walking trail...I am not asking a lot...

I would request you to please reconsider my variance request..why?
The lot size is very small compared to other lots..it is less than 5000 sq ft..
Neighbor house does not even has 10ft from the Huey St. He has been allowed to built his or her house...
This is not a major thoroughfare of the city. Only couple of house will use this street.
Most of houses there do not meet current development criteria.
We want to make something that is not just four walls but something people can come, live and enjoy.
I am trying to be creative in every sense. Bring some development to the city so that garbage is not thrown in the neighborhood. And not ask too much from city in form of variance.

Appreciate your help...

Please reply..

Respected Board of Adjustment,

We are requesting variance to offset requirement due to following reason

Section 1



This is the lot that is subject of development. As you can see, the depth of this lot is very unique compared to most of the lots in the neighborhood. This lot depth is (on an average) minimum 15ft smaller. This leads to the challenge of development and hence the reason for variance.

Due to less depth, the square foot of the lot is 3804 sq. ft. as compared to 5000 sq ft of most of the lot under the same zoning classification.



Neighborhood lot ----- 48ft X 143ft. Total square footage is 6926 sq ft. This lot **MAY** have side 5ft offset requirement concern.

Section 2



Garbage on land – in the neighbor land of 4716 Frank St.

Do we want land that has garbage on the property or land that has new house with someone living in the house? That will be dependent on Board of Adjustment decision. Developing a lot is not an easy task as you can see the procedure we have to follow to get permit. Obviously, this procedure has been put to safeguard public interest and should be respected.



Boarded house on Frank St

Do we need a Dallas that has old boarded house sitting on lot inviting people to do illegal activity?

This house has been vandalized. All the copper from the house has been stolen. You can see city violation stuck on the building.

It is dependent on decision of Board of Adjustment.

Board of Adjustment can see house does not meet offset requirement. And I understand it is grandfathered.



Garbage on Huey St.

It is Board of Adjustment decision that will decide what will happen. Garbage or Development that will bring good neighborhood and tax dollar to city I get notice from city for Garbage on my land all the time. And Board will agree this is common problem in the neighborhood.



Vehicle Parked in neighbor lot.

Car parked in neighbor's lot. Board of Adjustment can see there is no walking trail or sidewalk. The concern brought in by City Engineer (attached below) is not valid as we speak now. And I do not think so we can have a sidewalk on this lot due to depth of the lot. And may be this is why city does not require sidewalk to this part of Huey st.

The distance from Huey st to car front was hardly 2ft.

Huey st does not have walking trail or side walk and it is not a through fare. It can only accommodate hardly 3 to 4 house. Thus the variance, if allowed, will have no or minimal affect as highlighted by the City Engineer.

BDA190-034_Attachment_C

REVIEW COMMENT SHEET
BOARD OF ADJUSTMENT
HEARING OF **MARCH 16, 2020 (C)**

- | | |
|---|---|
| <input type="checkbox"/> Has no objections | <input type="checkbox"/> BDA 190-027 |
| <input type="checkbox"/> Has no objections if certain conditions are met (see comments below or attached) | <input type="checkbox"/> BDA 190-029 |
| <input checked="" type="checkbox"/> Recommends denial (see comments below or attached) | <input type="checkbox"/> BDA 190-031 |
| <input type="checkbox"/> No comments | <input checked="" type="checkbox"/> BDA 190-034 |

COMMENTS:

Proposed garage would provide sufficient space to accommodate a car encroaching sidewalk and forcing pedestrians onto travel lanes of Huey Street.

Per Texas Transportation Code, a vehicle may not stop, stand or park, whether attended or unattended, while obstructing any portion of a sidewalk.

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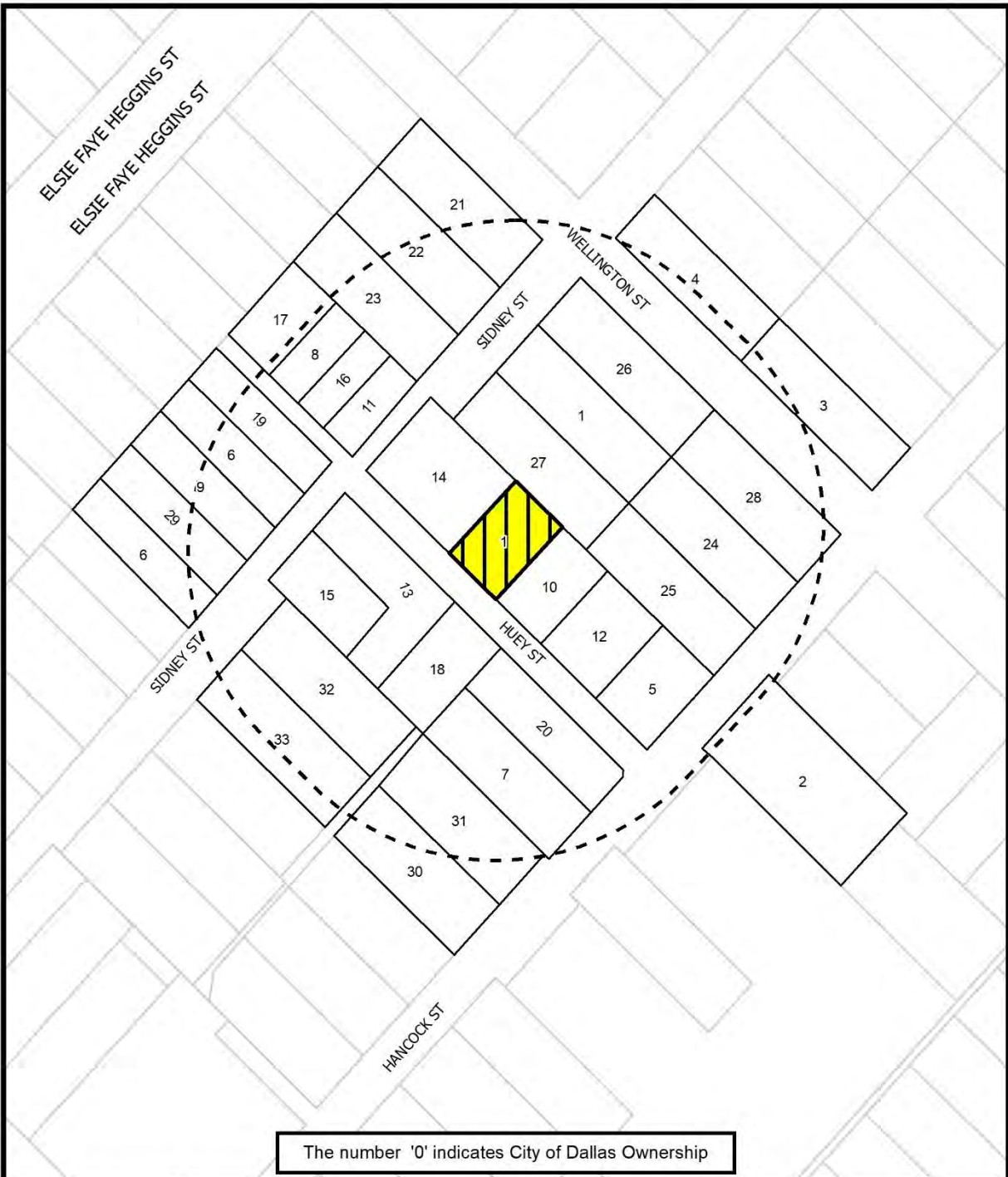
David Nevarez, PE, PTOE, DEV - Engineering

2/27/2020

City Engineer recommendation

In the end, I can only request Board of Adjustment to approve this variance as it is not going to harm anyone. The variance will help bring development in area and help city in tax revenue, solving dumping problem.

Again, I would request Board of Adjustment to approve this variance seeing the evidence above.



The number '0' indicates City of Dallas Ownership


 1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
33 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: BDA190-034
 Date: 2/21/2020

2/20/2020

Notification List of Property Owners

BDA190-034

33 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4806 HUEY ST	SCHNEIDER MARIA
2	3614 HANCOCK ST	BEGINNERS MISSIONARY BAPTIST CHURCH
3	3701 HANCOCK ST	CHEN WENDY
4	3702 SIDNEY ST	WILLIAMS HARRIET EST OF
5	3615 HANCOCK ST	LAGOW DEVELOPMENT PROJECT LLC
6	3603 SIDNEY ST	DAVIS LARRY
7	3601 HANCOCK ST	DAVIS KATIE A
8	4712 HUEY ST	ELMORE J B
9	3601 SIDNEY ST	TAYLOR RUTH L
10	4808 HUEY ST	GREGGS RUTHIE MAE
11	4718 HUEY ST	COOK LEWIS
12	4810 HUEY ST	GONZLES JUAN
13	4807 HUEY ST	LOWE SHERRI RACHELLE
14	4802 HUEY ST	JOHNSON PATSY R
15	3602 SIDNEY ST	DICKERSON ARBIE LEE
16	4716 HUEY ST	WRIGHT GARLAND
17	4702 HUEY ST	ONEAL ROBIN J
18	4811 HUEY ST	BARNETT NICHOLAS A
19	3607 SIDNEY ST	THURMAN DORA M ESTATE
20	3607 HANCOCK ST	TATE SHERRI CAY
21	3627 SIDNEY ST	WHITE MARY ANN
22	3621 SIDNEY ST	SCHNEIDER MARIA
23	3617 SIDNEY ST	LOPEZ CESAR
24	3621 HANCOCK ST	PLEASANTWOOD PLEASANT
25	3617 HANCOCK ST	KENNEDY LEBERTHA
26	3626 SIDNEY ST	WHEELER RENE M

02/20/2020

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	3618 SIDNEY ST	THE HOUSE OF LANE
28	3625 HANCOCK ST	WATKINS HATTIE ESTATE OF
29	3533 SIDNEY ST	EDMOND COMMODORE
30	3529 HANCOCK ST	MADDOX MRS JOHNNY B
31	3533 HANCOCK ST	MANCINI LUIS VEGA &
32	3534 SIDNEY ST	TAYLOR JOHN E
33	3526 SIDNEY ST	CRUZ MARIA

FILE NUMBER: BDA190-039(JM)

BUILDING OFFICIAL'S REPORT: Application of Phillip Thompson, represented by Alison Ashmore, for a variance to the building height regulations at **5230 Alcott Street**. This property is more fully described as Lot 15, Block C/1997, and is zoned an MF-2(A) Multifamily District, which limits the maximum building height to 26 feet due to a residential proximity slope. The applicant proposes to construct a residential structure with a building height of 36 feet, which will require a 10-foot variance to the maximum building height regulation.

LOCATION: 5230 Alcott Street

APPLICANT: Phillip Thompson

Represented by Alison Ashmore

REQUEST:

A request for a variance to the height regulations (specifically to the residential proximity slope¹) of up to ten feet is made to complete and maintain a three-story duplex structure to a height of 36 feet—a height that exceeds the maximum structure height of 26 feet permitted by the residential proximity slope that begins at the single family residentially-zoned property from the south and west zoned an R-5(A) Single Family District by up to 10 feet.

STANDARD FOR A VARIANCE²:

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:

- 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;

¹ Reference §51(A)-4.412 of the Dallas Development Code for information on residential proximity slope.

² Reference §51(A)-3.102(d)(10) of the Dallas Development Code for the variance standard.

- 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
- 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:

Approval, subject to the following conditions:

- Compliance with the submitted site plan and sections/elevations are required.

Rationale:

- Staff concluded that the lot’s irregular shape and restrictive area caused by: **1)** a relatively small property zoned MF-2(A) of approximately 6,000 square feet (the lot appears smaller than any other lot zoned MF-2(A) within 300 feet), and **2)** a 28-foot required front yard setback (a setback eight feet more restrictive than lots zoned R-5(A) where the typical minimum front yard setback without the NSO is 20 feet and 13 feet more restrictive than lots zoned MF-2(A) where the minimum front yard setback would be 15 feet if the block were not divided by two zoning districts, one of which is in an NSO) preclude it from being developed in a manner commensurate with the development upon other parcels of land on similarly-zoned MF-2(A) that are regular in shape, and more typical/larger in size, and with the typical 15-foot front yard setback.

BACKGROUND INFORMATION:

Zoning:

Site: MF-2(A) (Multifamily District)

North: PD 462 (Planned Development)

South: MF-2(A) & R-5(A)(NSO 6)(Multifamily and Single Family Districts) with Neighborhood Stabilization Overlay)

East: MF-2(A) (Multifamily District)

West: PD 325 & R-5(A)(NSO 6) (Planned Development District and Single Family District with Neighborhood Stabilization Overlay)

Land Use:

The subject site is being developed with a duplex structure. The area to the north is developed with retail uses; and the areas to the east, south, and west are developed with residential uses.

Zoning/BDA History:

1. BDA178-094, Property at 5230 Alcott Street (the subject site)

On June 18, 2018, the Board of Adjustment Panel C denied a request for variance to the height regulations of 10' without prejudice.

The case report stated that the request was made to complete and maintain a 2 - 3 story duplex structure to a height of 36' - a height that exceeds the maximum 26' in height permitted by the residential proximity slope that begins at the single family residentially-zoned property from the south and west zoned R-5(A) by up to 10'.

2. BDA178-080, Property at 5230 Alcott Street (the subject site)

On May 21, 2018, the Board of Adjustment Panel C denied a request for variance to the height regulations of 10' without prejudice.

The case report stated that the request was made to complete and maintain a 2 - 3 story duplex structure to a height of 36' - a height that exceeds the maximum 26' in height permitted by the residential proximity slope that begins at the single family residentially-zoned property from the south and west zoned R-5(A) by up to 10'.

GENERAL FACTS /STAFF ANALYSIS:

The property is zoned an MF-2(A) Multifamily District, which limits the maximum building height to 26 feet due to a residential proximity slope that begins at the single family residentially-zoned property from the south and west zoned an R-5(A) Single Family District. The applicant proposes to complete and maintain a three-story duplex structure to a height of 36 feet—a height that exceeds the maximum structure height of 26 feet and will require a 10-foot variance to the maximum building height regulation.

The subject site is located within a block that is divided by two or more zoning districts. The 5200 block of Alcott Street between N. Garrett Avenue and Henderson Avenue includes properties zoned an MF-2(A) District and properties zoned an R-5(A)(NSO 6) District.

The Dallas Development Code states, “If street frontage within a block is divided by two or more zoning districts, the front yard for the entire block must comply with the requirements of the district with the greatest front yard requirement”³.

While the subject site is zoned an MF-2(A) District which typically requires a 15-foot front yard, other properties within the 5200 block of Alcott Street between Garrett Avenue and Henderson Avenue are zoned an R-5(A)(NSO 6). The front yard setback for these properties is 28 feet, eight feet more restrictive than other properties zoned an R-5(A) District without the NSO where the typical minimum front yard setback is 20 feet.

The required front yard setback for the subject site is 28 feet given its location in this block divided by two or more zoning districts. This setback is eight feet more restrictive than lots zoned an R-5(A) District where the typical minimum front yard setback without the NSO is 20 feet. The 28-foot setback is also 13 feet more restrictive than lots zoned an MF-2(A) District where the minimum front yard setback would be 15 feet if the block were not divided by two zoning districts, one of which is in an NSO.

The maximum height for a structure in a MF-2(A) zoning district is 36 feet, however, any portion of a structure over 26 feet-in-height cannot be located above a residential proximity slope without providing an additional setback.

In this case, given that the subject site is immediately adjacent to properties zoned low-density, single family districts to the north, south, and west, the height of a structure must comply with a 1:3-slope (or for structures above 26 feet-in-height, every additional foot-in-height requires an additional setback of three feet away from protected property in an R, R(A), D, D(A), TH, or TH(A) residential zoning district).

³ Reference §51(A)-4.401(a)(6) of the Dallas Development Code for front yard requirements with split zoning on a blockface.

The applicant submitted two section/elevation documents that represent a 1:3-slope (or a foot-in-height for every three feet away from property in an R(A) residential zoning district on the structure seeking variance). These documents represent a variance need of nine feet six inches.

The Building Official's Report states that a variance to the height regulations of 10 feet is requested since a structure is proposed to reach 36 in height or 10 feet higher than/beyond the 26-foot height allowed for the structure as it is located on the subject site.

According to DCAD records, the "main improvement" at 5230 Alcott Street is a structure built in 2017 with 4,500 square feet of living/total area; and with "additional improvements" listed as two attached garages at 552 and 528 square feet.

The site is flat, somewhat irregular in shape, and according to the application is 0.137 acres (or approximately 6,000 square feet) in area.

The subject site is approximately 139 feet in length on the north, approximately 135 feet in length on the south, approximately 30 feet in width on the east, and approximately 60 feet in width on the west.

The relatively small MF-2(A) zoned subject site at approximately 6,000 square feet in area has a lesser amount of developable space when a 28-foot front yard setback must be accounted for on this site as opposed to a more typical 15-foot front yard setback. The site has a 13-foot greater front yard setback than most lots in the same zoning in a block not divided by two zoning districts one of which is a single family zoning district with an additional setback set forth in an NSO.

The applicant has the burden of proof in establishing the following:

- That granting the variance to the height 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 to height regulations 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 MF-2(A) zoning classification.
- The variance to height setback regulations 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 MF-2(A) zoning classification.

On February 28, 2020, the representative submitted additional evidence relating to the variance to height (RPS). The evidence includes specific examples of how the property and situation have met the variance standard (Attachment A). On March 6, 2020, the representative submitted additional evidence to support the variance request including a timeline of events, four letters of support, and a statement from one of the property owners (Attachment B). As of March 11, 2020, seven letters of opposition had been submitted.

If the Board were to grant the request and impose the submitted site plan and elevations as a condition, the structure exceeding the height limit or the RPS would be limited to what is shown on these three documents – which, in this case, is a structure that would be exceed the height limit/RPS by up to 10 feet.

Timeline:

- May 21, 2018: The Board of Adjustment, Panel C, recommended denial of this request.
- June 14, 2018: The Board of Adjustment, Panel C, recommended denial of this request.
- June 28, 2018: The applicant/representative appealed the decision of the board to District Court.
- May 2, 2019: The court recommended mediation.
- July 30, 2019: The City and applicant filed an agreed motion to abate the lawsuit and remand to the Board of Adjustment.
- January 28, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- February 11, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case”.

February 14, 2020: The Board of Adjustment Chief Planner/Board Administrator emailed the applicant's representative the public hearing date and panel that will consider the application; the February 25th deadline to submit additional evidence for staff to factor into their analysis; and the March 6th deadline to submit additional evidence to be incorporated into the board's docket materials and the following information:

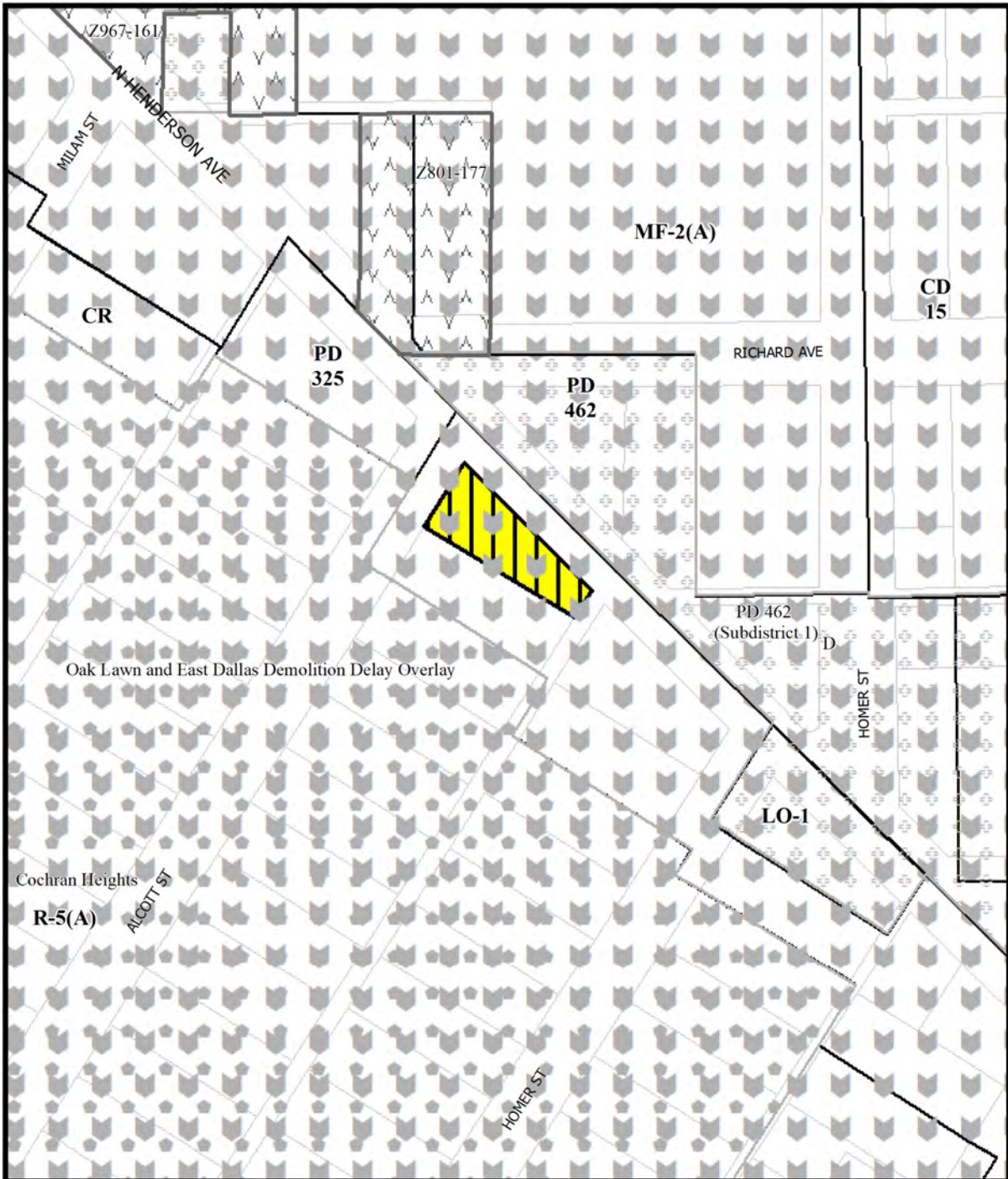
- a copy of the application materials including the Building Official's report on the application;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

February 27, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included the Assistant City Attorney to the board and the following from the Sustainable Development and Construction Department: Board of Adjustment staff including the Chief Planner/Board Administrator, the Senior Planner, and the Assistant Director; Building Inspection Division staff including the Chief Planner, Building Official, and Assistant Building Official; and Engineering Division staff including the Senior Engineer.

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

February 28, 2020: The applicant submitted additional information to staff beyond what was submitted with the original application (Attachment A).

March 6, 2020: The applicant submitted additional information to staff beyond what was submitted with the original application (Attachment B).

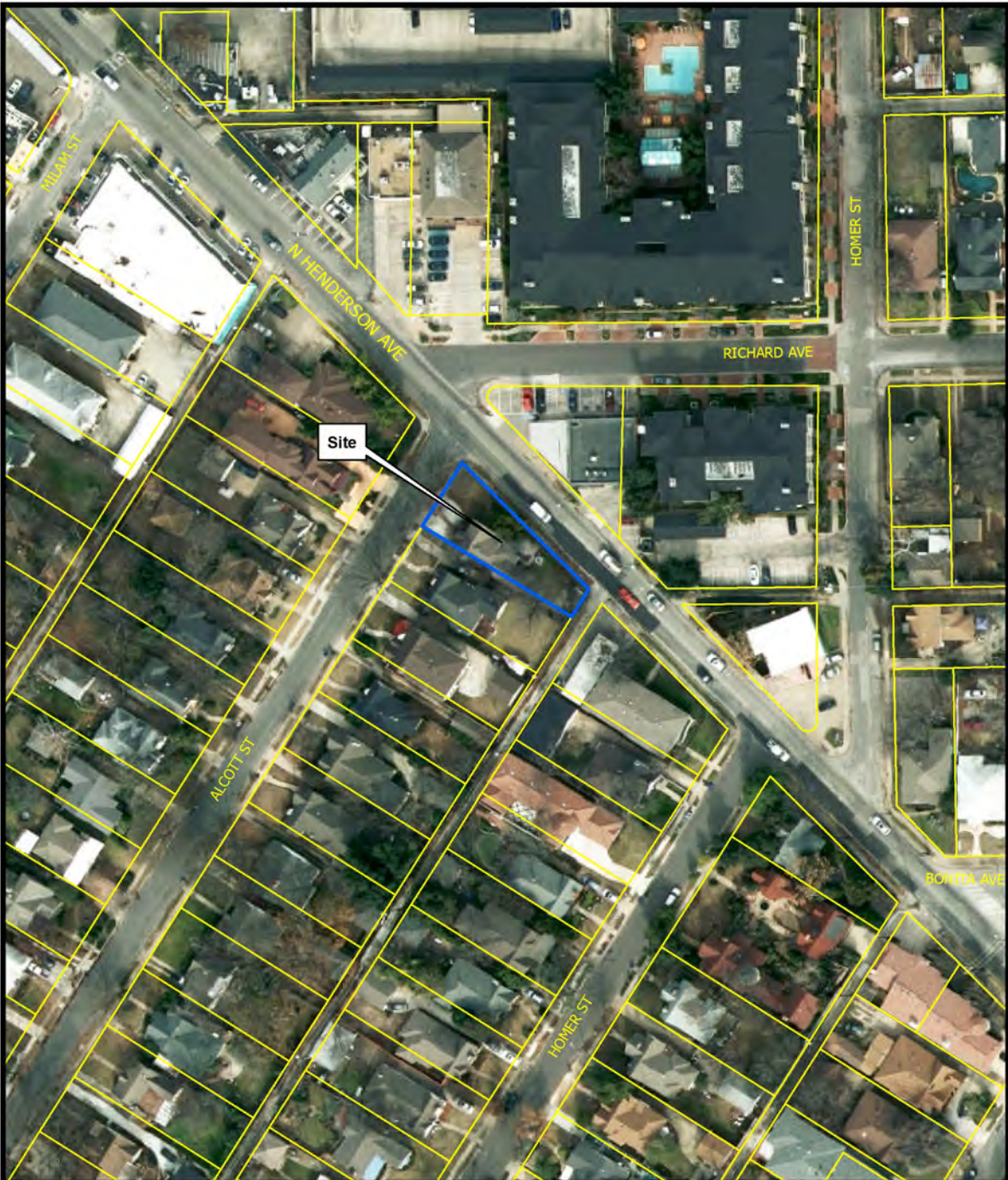


1:1,200

ZONING MAP

Case no: BDA190-039

Date: 2/21/2020

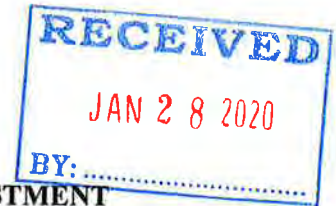


1:1,200

AERIAL MAP

Case no: BDA190-039

Date: 2/21/2020



APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 190-039
Date: 01/23/2020 / 1-28-20
Zoning District: MFA(A) pt

Data Relative to Subject Property:

Location address: 5230 Alcott St.
Lot No.: 15 Block No.: C/1997 Acreage: .137 Census Tract: 900
Street Frontage (in Feet): 1) 57' 2) 138' 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): PDT Holdings, Inc.
Applicant: Phillip D. Thompson, on behalf of PDT Holdings, Inc. Telephone: 214-909-8158
Mailing Address: 6950 TPC Drive #160, McKinney, TX Zip Code: 75070
E-mail Address: phillip@ptcustomhomes.com
Represented by: Alison Ashmore Telephone: 214-462-6400
Mailing Address: 1717 Main Street, Suite 4200, Dallas, TX Zip Code: 75201 PT
E-mail Address: AAshmore@dykema.com

Affirm that an appeal has been made for a Variance X, or Special Exception, of Residential Slope Proximity.

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:
Hearing is requested pursuant to Court Order Granting Agreed Motion to Abate and Remand to Board of Adjustment, and the variance should be granted because Applicant will provide evidence of elements required by City of Dallas Development Code Section 51A-3.102(10).

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 Phillip D. Thompson (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 23 day of January, 2020

[Signature] 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 PHILLIP THOMPSON
represented by Alison Ashmore
did submit a request for a variance to the building height regulations
at 5230 Alcott Street

BDA190-039. Application of PHILLIP THOMPSON represented by Alison Ashmore for a variance to the building height regulations at 5230 ALCOTT ST. This property is more fully described as Lot 15, BlockC/1997, and is zoned MF-2(A), which limits the maximum buliding height to 26 feet due to a residenial proximity slope. The applicant proposes to construct a residential structure with a building height of 36 feet, which will require a 10 foot variance to the maximum building height regulation.

Sincerely,

Philip Sikes
Philip Sikes, Building Official



Printed: 5/24/2018

Legend

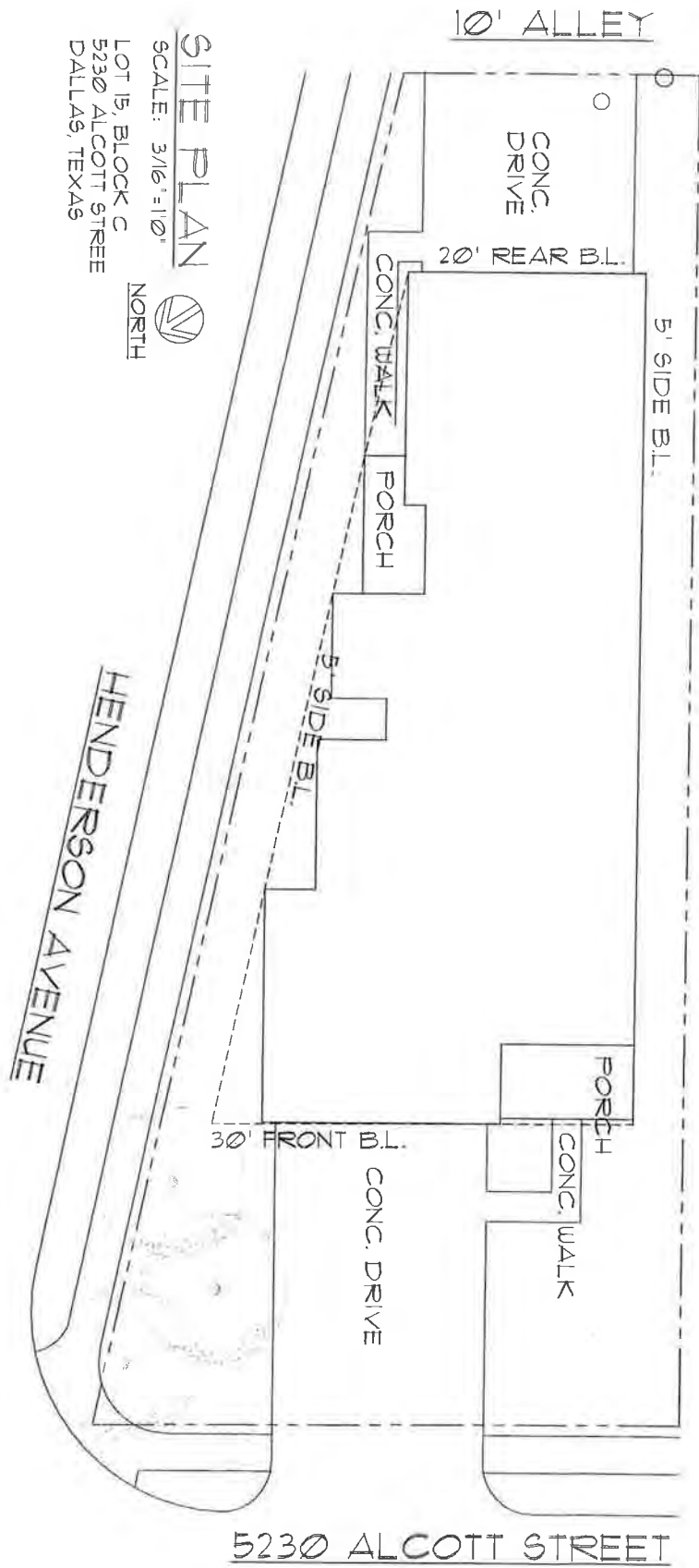
- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits | railroad | Dry Overlay | CD Subdistricts |
| School | Certified Parcels | D | PD Subdistricts |
| Floodplain | Base Zoning | D-1 | PDS Subdistricts |
| 100 Year Flood 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 | 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)



1:2,400





SITE PLAN

SCALE: 3/16" = 1'-0"



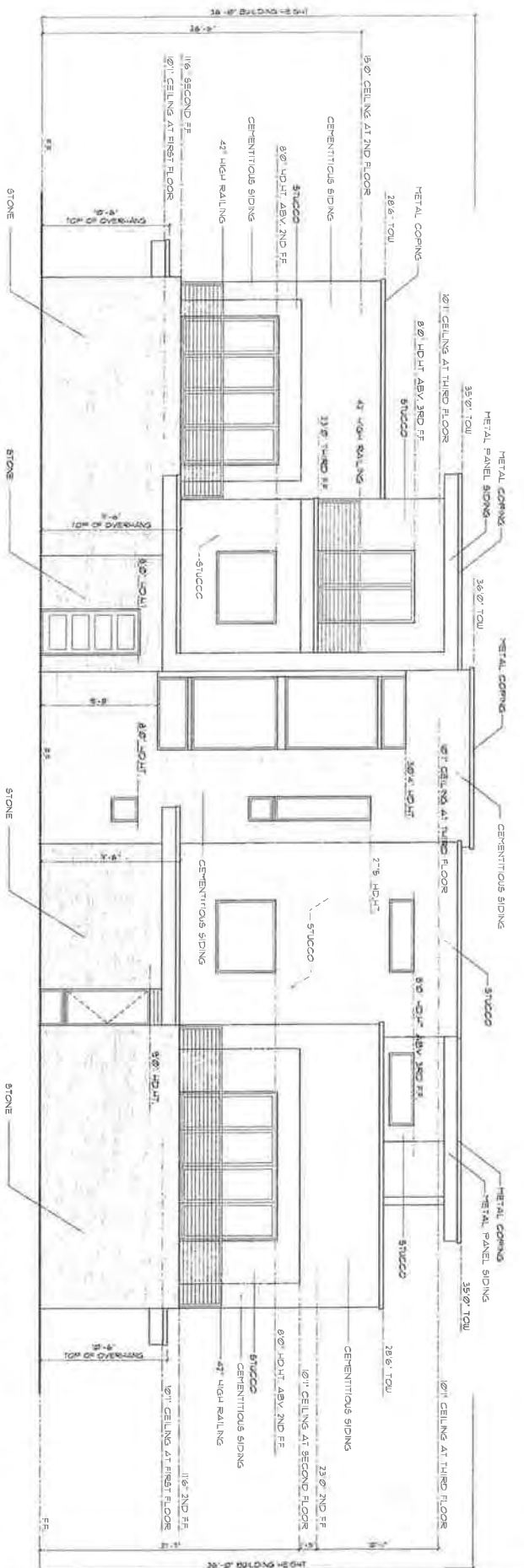
NORTH

LOT 15, BLOCK C
5230 ALCOTT STREET
DALLAS, TEXAS

CONTRACTOR TO VERIFY ALL DIMENSIONS
ON-SITE PRIOR TO CONSTRUCTION AND
REPORT TO ARCHITECT/ENGINEER OF ANY
DISCREPANCIES

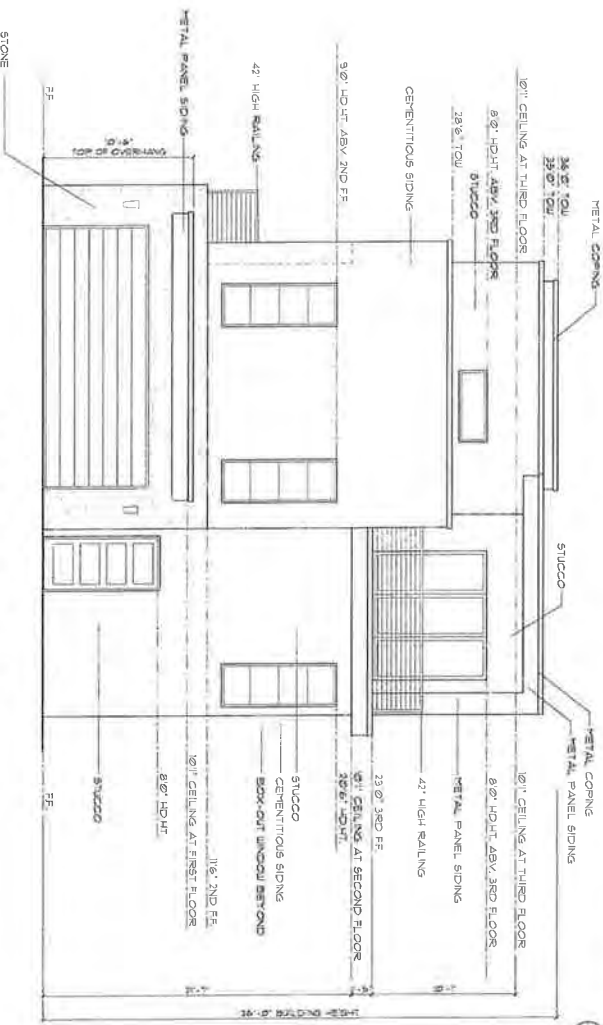
5230 ALCOTT STREET

<p>SITE</p>	<p>PROJECT Dallas Multi-Family Housing</p>	<p>DATE 8/28/16</p>	<p>REVISIONS</p> <p>1. DATE 2. DATE 3. DATE 4. DATE</p>	<p>DALLAS MULTI-FAMILY HOUSING LOT 15, BLOCK C DALLAS, TEXAS 5230 ALCOTT STREET</p>	<p>y</p>	<p>yoohostudio</p>	<p>3-14</p>	<p><small>THESE DOCUMENTS ARE THE PROPERTY OF YOOHOOSTUDIO AND ARE NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF YOOHOOSTUDIO. THESE DOCUMENTS ARE NOT TO BE USED FOR ANY OTHER PROJECTS WITHOUT THE WRITTEN PERMISSION OF YOOHOOSTUDIO. THESE DOCUMENTS ARE NOT TO BE USED FOR ANY OTHER PROJECTS WITHOUT THE WRITTEN PERMISSION OF YOOHOOSTUDIO.</small></p>
	<p>DESIGNER J. Austin Fleming CHECK BY Phillip Thompson</p>	<p>DESIGN B.Y. J. Austin Fleming CHECK B.Y. Phillip Thompson</p>						



HENDERSON AVE. ELEVATION
1/4" = 1'

CONTRACTOR TO VERIFY ALL DIMENSIONS
ON-SITE PRIOR TO CONSTRUCTION AND
REPORT TO YOOHOOSTUDIO OF ANY
DISCREPANCIES



ALCOTT ST. ELEVATION
1/4" = 1'

DALLAS MULTI-FAMILY HOUSING
LOT 15, BLOCK C
5230 ALCOTT STREET
2199 N HENDERSON
DALLAS, TEXAS

yoohoostudio

100% GREEN RATED
LEED GOLD
WELL-BEING
WELL-BEING
WELL-BEING

REVISIONS	<ol style="list-style-type: none"> 1. DATE 4/26/21 2. DATE 5/20/21 3. DATE 4. DATE
DATE:	1/7/2021
DESIGNER:	DR. BAIN, B.S.
CHECKER:	J. AUSTIN FLEMING
PROJECT:	PHILIP THOMPSON
CLIENT:	Dallas Multi-Family Housing

SHEET NUMBER
A7

3-15

100% GREEN RATED
LEED GOLD
WELL-BEING
WELL-BEING
WELL-BEING

POINT OF ORIGIN

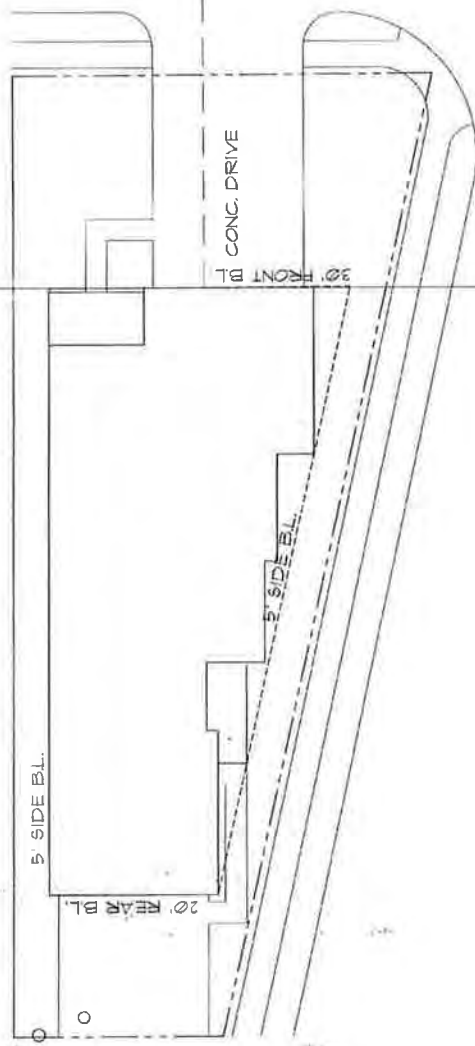
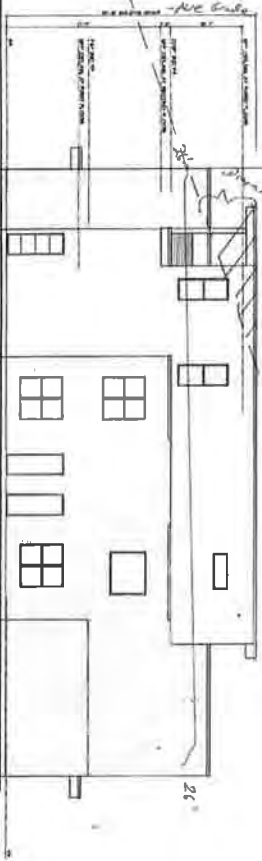
LOT

22' 0" (existing) (width)

1/3 R25

1/1 R25

HENDERSONWOOD ELEVATION



yoohoostudio

DALLAS MULTI-FAMILY HOUSING
 LOT 1B, BLOCK C
 5230 ALCOTT STREET
 2166 N. HENDERSON
 DALLAS, TEXAS

1. DATE
2. DATE
3. DATE
4. DATE
5. DATE

DESIGNER
 PHILLIPS THOMPSON

DATE: 4/25/18
 DESIGNER: PHILLIPS THOMPSON
 CHECK BY: PHILLIPS THOMPSON

PROJECT: "Multi-Family" Housing

SHEET NUMBER: RPS

3-17

Board of Adjustment
City of Dallas, Texas

Friday, February 28, 2020
File No. **BDA190-039**

FILE NO. BDA190-039

LOCATION: 5230 Alcott Street (more fully described as Lot 15, Block C/1997)

APPLICANT: Phillip D. Thompson, represented by Alison Ashmore and Christopher Kratovil

REQUEST: Applicant requests a variance to the height regulation of 26 feet, specific to the Residential Proximity Slope (RPS), of up to 10 feet be allowed to complete the existing construction of the 3-story duplex structure to a total height of 36 feet.

THE STANDARD FOR A VARIANCE IS MET: Pursuant to Section 51(A)-3.102(d)(10) of the Dallas Development Code, the board has the power to grant variances from the height requirements 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

1. Prior to construction of the structure, the applicant submitted all plans to the City of Dallas Planning and Zoning department and received approval, with the 36 foot height as part of the plans. The applicant relied on the diligence and knowledge of the building code from the staff of the Planning and Zoning department to correct or not approve any discrepancies regarding the compliance of all building codes. It is in the public interest that persons submitting plans to the City of Dallas Planning and Zoning department be able to rely on the department and its approval.
2. During the first week of January, 2018, during the framing of the structure, Code Enforcement field inspector, Jennifer Allgaier, cited that the structure was out of compliance regarding the 36 foot height maximum. She measured the top of the parapet wall instead of the top of the roof. She issued a red tag that halted construction until the applicant made an adjustment and amendment to the building plans' parapet wall height that then created a space issue for the HVAC placement. This resulted in an additional \$7,500 fees for having the plans redrawn, the relocation of the HVAC units and having to upgrade to smaller condenser units in order to comply

with the property line setbacks for the units. Amended plans with a total structure height of 35 feet from finished floor were approved by the Planning and Zoning department on January 23, 2018. Dallas City Code Section 51A-4:408(a)(2)Maximum Building Height provides special height provisions stating, “In a district in which a building height is limited to 36 ft or less, the following structures may project a maximum of 12 ft above the maximum structure height specified in the district regulations (Division 51A-40100 et seq.): . . . (xi) Parapet wall, limited to a height of four feet.” The applicant attests that the Code Enforcement Field Inspector failed to comply with the Dallas City Code and did not find the height of the structure to be out of compliance in regards to the Residential Proximity Slope (“RPS”) at that time resulting in continued building construction that could have been adjusted early on.

3. It was not until the structure was 90% complete that Code Enforcement questioned the building height as being out of compliance with the RPS and then issued a stop work order citation that halted construction on April 13, 2018, more than 90 days after the stop work order in January of 2018. The applicant attests that if Code Enforcement and Planning and Zoning had found the structure to be out of compliance with regard to RPS in either January of 2018 or at the original submission of the building plans, he could have made amendments and adjustments to the building plans and would not have continued to build with the existing plans, as during the framing stage of construction it would have been much easier and cost effective to make adjustments to the building plans at that time, rather than at 90% completion. As a result, hundreds of thousands of dollars in construction and material costs have occurred at the applicant’s expense. If the variance is not granted, additional costs of reconfiguration of the building plans, re-construction materials and labor in excess of \$500,000 could occur.

4. Applicant attests that a contract of purchase was executed on 11/22/2017 with Robert and Justin Martinez-Harrison for unit #1 on the said property. The home buyers and the applicant

worked closely on building the home for over six months, during which time they sold their existing home to finance the new purchase and uprooted their family to live in temporary housing until the completion of their new home. At this time, the family that contracted to purchase the home suffered great inconvenience and ultimately had to find somewhere else to purchase a home and applicant lost that contract to purchase.

(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

1. The property is the smallest residential lot in the area and is a restrictive size and shape. The site is MF-2(A) zoned and an irregular shaped lot that is approximately 5,503 sq. ft. in area with the back lot width of only 25' accessible by a narrow alleyway. The lot is smaller than any other lot zoned MF-2(A) within 300 ft. The neighboring MF-2 lots at 5226 Alcott St. and 2727 N. Henderson Ave., are much larger (6,652 & 7,494 sq. ft.) and have rear widths of 51' and 42'. Both the size and shape of the site lot create a restrictive area that limits both construction of the allowed MF-2 duplex, as well as ease of access.

2. The site is located within a block that is divided by two or more zoning districts with properties zoned MF-2(A) and R-5(A)(NSO 6). The building restrictions include a 28' setback in the front (Alcott St.) and a 20 foot setback build line in the rear (alley entry). The front yard setback is 8' more restrictive than lots zoned R-5(A) where the typical minimum front yard setback without the NSO is 20', and 13' more restrictive than lots zoned MF-2(A) where the minimum front yard setback would be 15' if the block were not divided by two zoning districts, one of which is in an NSO. The setbacks preclude this lot from being developed in a manner commensurate with the development upon other parcels of land on similarly-zoned MF-2(A) that are regular in shape and more typical/larger in size, and with the typical 15' front yard setback.

3. The maximum height for a structure in a MF-2(A) zoning district is 36' and the building plans for a structure of that height were approved. However, after construction was substantially complete, it was found by a Code official that a residential proximity slope applied to the property, which would restrict the height to 26'. A structure height of 36' would be commensurate with the development upon other parcels of land with the same zoning.

4. With the significantly smaller lot size and being zoned MF-2, utilizing the entirety of the allowed building area on the site lot creates a space challenge. Adding a third floor to the building plans was and is the best possible way to offer efficient and appealing housing in the compact space. The property is a residential property located on a commercial corridor, which is unusual along Henderson Ave.

(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.

1. Applicant attests that the duplex construction and subsequent approved building plans were never presented without regard to the existing zoning and the City of Dallas building codes. Prior to presenting any plans, the applicant, his representing Broker, Elaine Harper, and his Architect, Austin Fleming, all inquired with the City of Dallas Planning and Zoning on numerous occasions to verify the codes and interpretations of said codes. The applicant depended on the reliability of the Planning and Zoning department to give accurate code information, as well to make sure the submitted plans were in compliance with all construction and building guidelines issued by the City of Dallas.

2. No special variance or privileges were requested or expected at any time during the process of approval. Instead, the variance is now being requested based on the occurrence of events, mishaps, and missed opportunities to resolve this issue prior to construction of the structure as

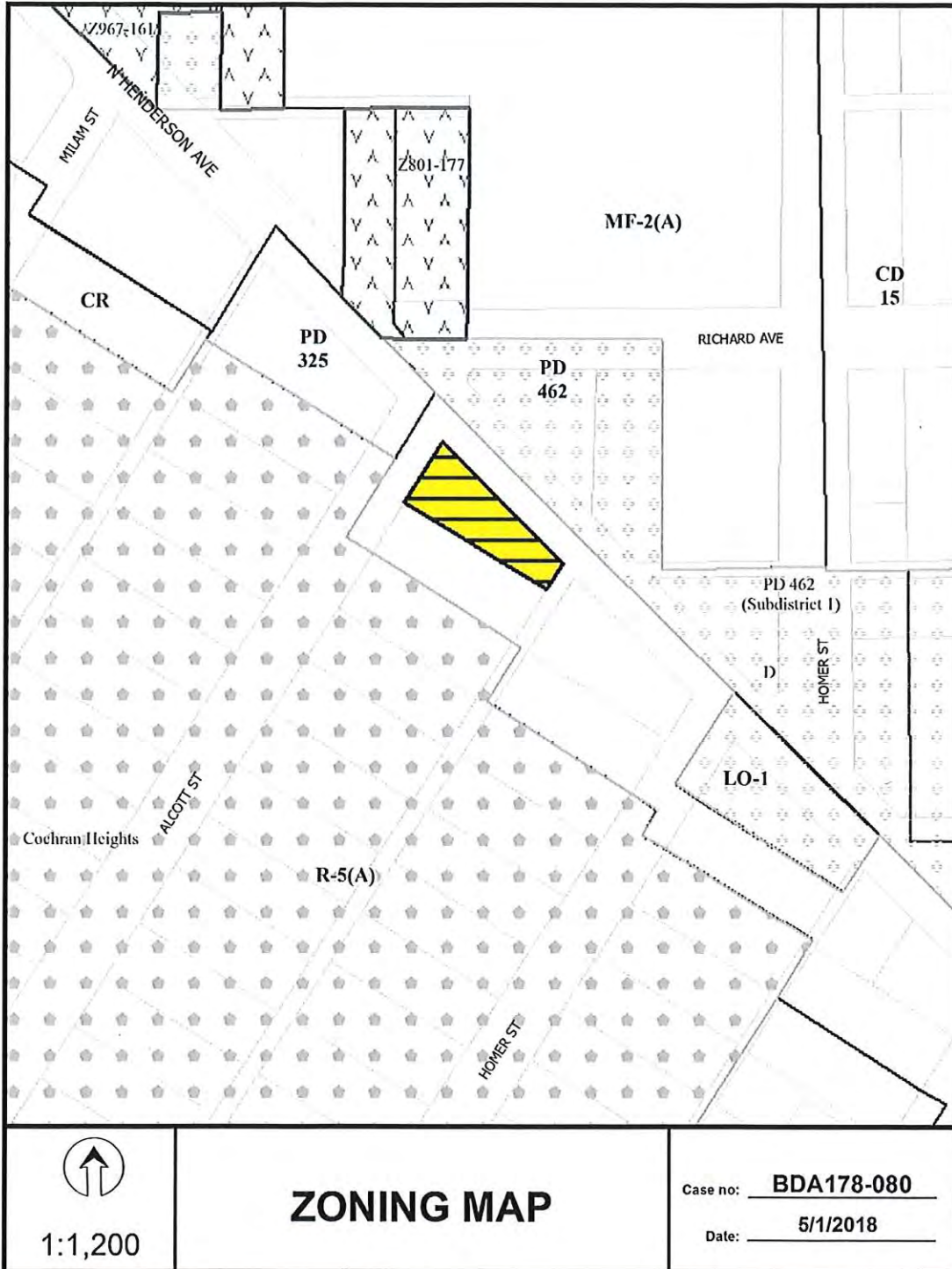
described above and in the attached timeline. Applicant is not seeking a privilege in developing this parcel of land not permitted by the code.

3. The current situation and request for variance is not the result of a self-created or personal hardship nor for financial reasons only. The City of Dallas approved the building plans for this property *twice* – at heights of 36 ft. and 35 ft. – and applicant relied on those approvals when building. The construction of a three story duplex provides a benefit to the City of Dallas. This residential lot that presents building challenges due to its irregular shape and restrictive access, would be difficult to otherwise develop and would have sat empty and attracted crime and illegal dumping. What would be a nuisance property will instead have well-built and beautiful housing for families.

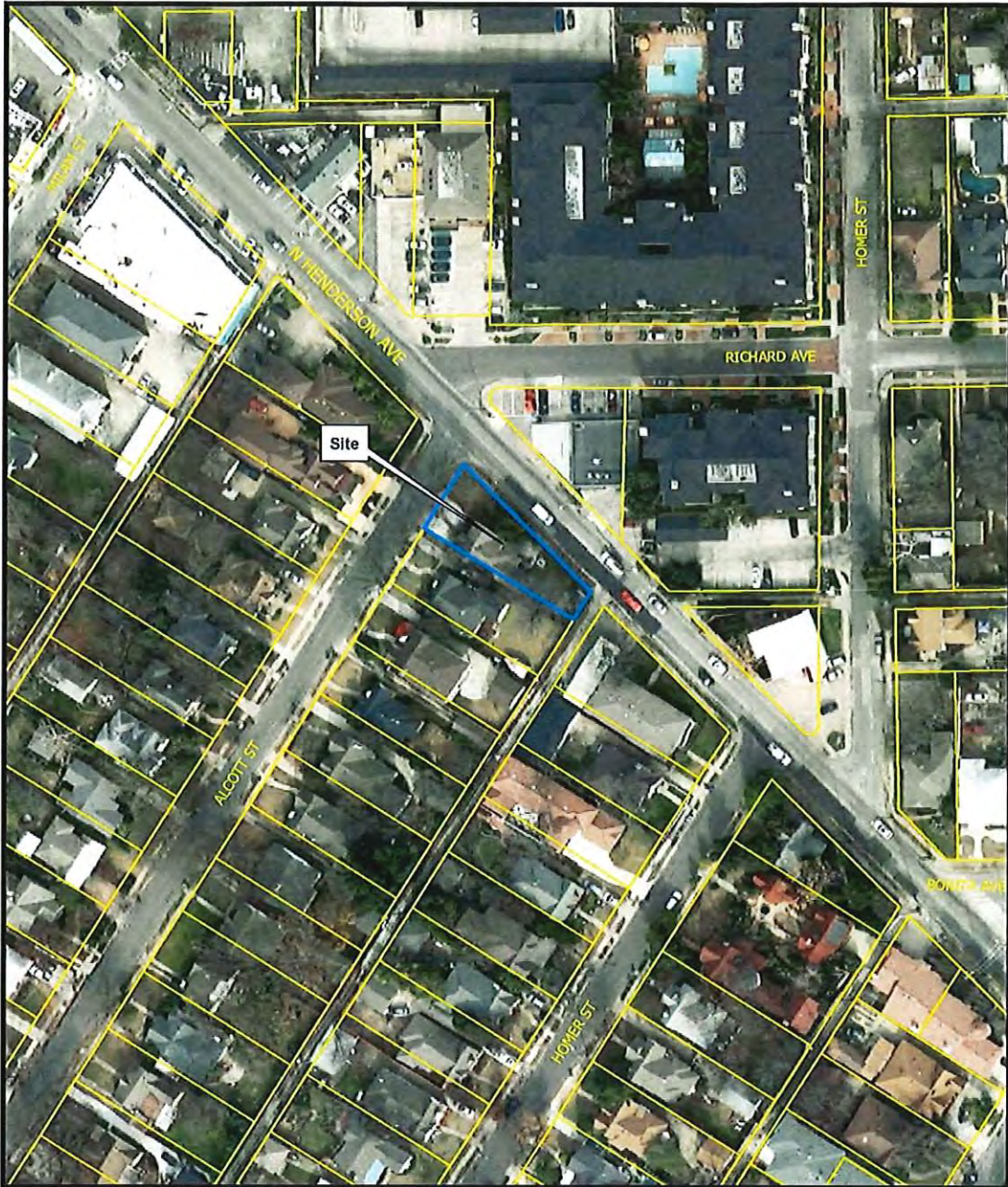
ADDITIONAL CONSIDERATIONS: Applicant attests that the quality of workmanship and expertise of construction has been his focus throughout building. The integrity in the design consideration and an open line of communication with neighbors has been held in the utmost regard. Unfortunately, in March of 2018, the Cochran Heights Neighborhood Association held a meeting to discuss code compliance and the construction on the property without alerting applicant or inviting him to attend and discuss any concerns. Contrary to neighbors’ assumptions, at no time did applicant ignore zoning or building codes and applicant would have been happy to discuss that with them at the time.

CONCLUSION: The applicant respectfully asks for issuance of a variance. The Standards for a Variance in Section 51(A)-3.102(d)(10) of the Dallas Development Code Standards for a Variance because (A) granting a variance is not contrary to the public interest and enforcement would result in an unnecessary hardship, (B) the specific parcel of land differs from other parcels of lands by being of such a restrictive area and shape, and (C) the hardship was not self-created.

BDA190-039 Attachment A



BDA190-039_Attachment_A



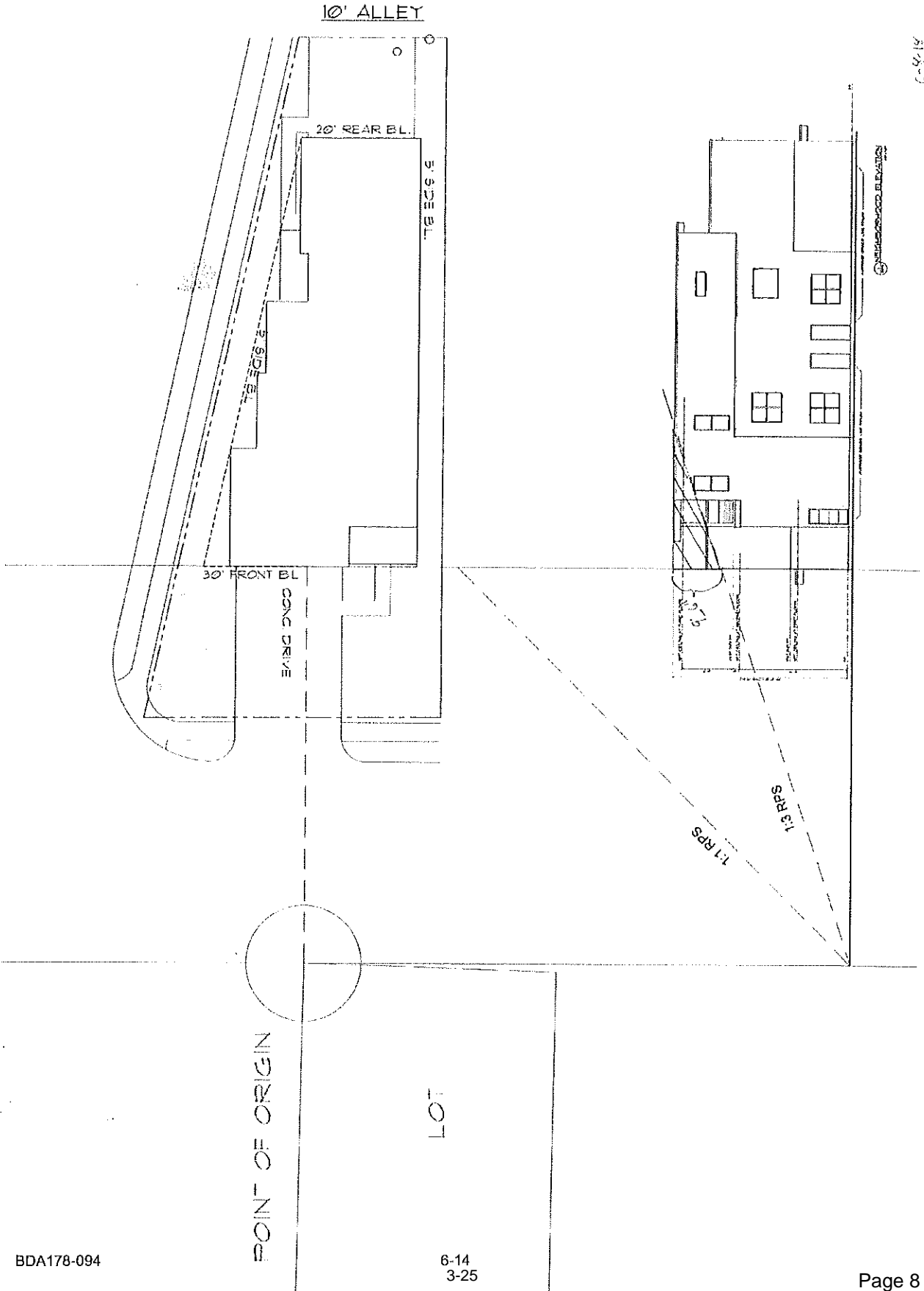
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AERIAL MAP

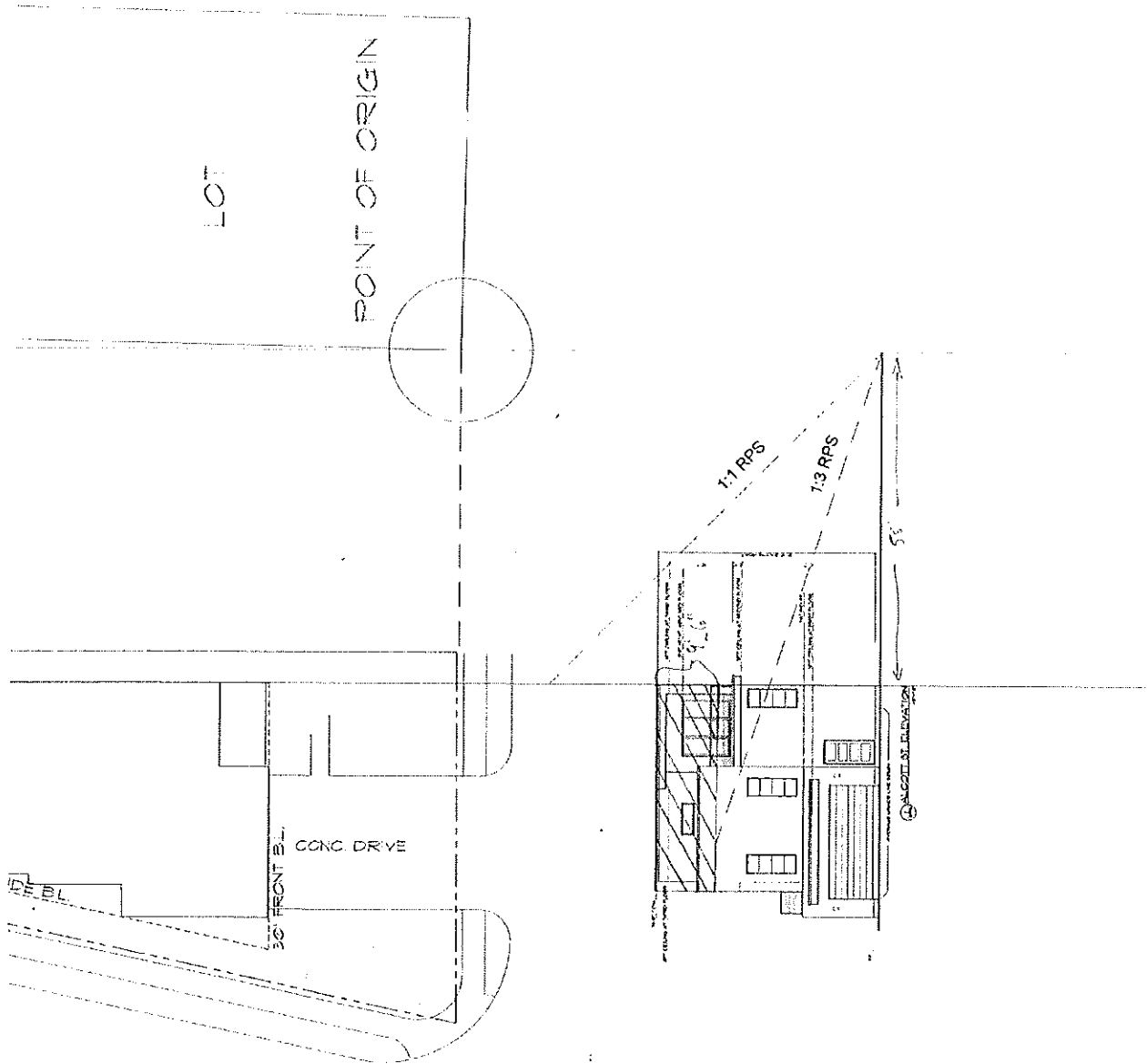
Case no: **BDA178-094**

Date: **6/1/2018**

	6000 1234 N. BROADWAY SUITE 100 DALLAS, TEXAS 75201 TEL: 214.766.8888 WWW.YOHOOSTUDIO.COM	DALLAS METROPOLITAN HOUSING DEPARTMENT 5000 ALBERT STREET 13TH FLOOR DALLAS, TEXAS 75201 TEL: 214.670.7273 WWW.DALLASMETRO.ORG	SUBMITTER DATE FILE NO. PROJECT NO. DATE	PROJECT NO. DATE PROJECT NAME ADDRESS CITY STATE ZIP	SUBMITTER NAME ADDRESS CITY STATE ZIP	PROJECT NO. DATE PROJECT NAME ADDRESS CITY STATE ZIP
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	DALLAS TEXAS 1100 W. LOOP STREET SUITE 1000 DALLAS, TEXAS 75201 TEL: 214.760.1100 WWW.YOOHOOSTUDIO.COM	REVISIONS 1 DATE 2 DATE 3 DATE 4 DATE 5 DATE	DATE 7/20/10 PROJECT 178-094 178-094-001 178-094-001	PROJECT 178-094 178-094-001 178-094-001	SHEET NUMBER 178-094-001	RPS

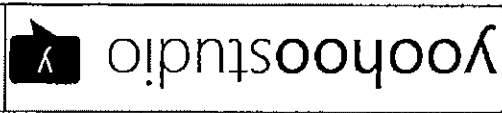


6-5-18

BDA190-039_Attachment_A

THIS PLAN IS A PRELIMINARY DESIGN AND IS SUBJECT TO CHANGE WITHOUT NOTICE. IT IS NOT TO BE USED FOR CONSTRUCTION OR AS A BASIS FOR OBTAINING PERMITS OR OTHER REGULATORY APPROVALS. THE DESIGNER ASSUMES NO LIABILITY FOR THE ACCURACY OR COMPLETION OF THIS PLAN.

DATE: 07/20/16
 PROJECT: 1500 ALCOTT STREET
 CLIENT: YOOHOOSTUDIO



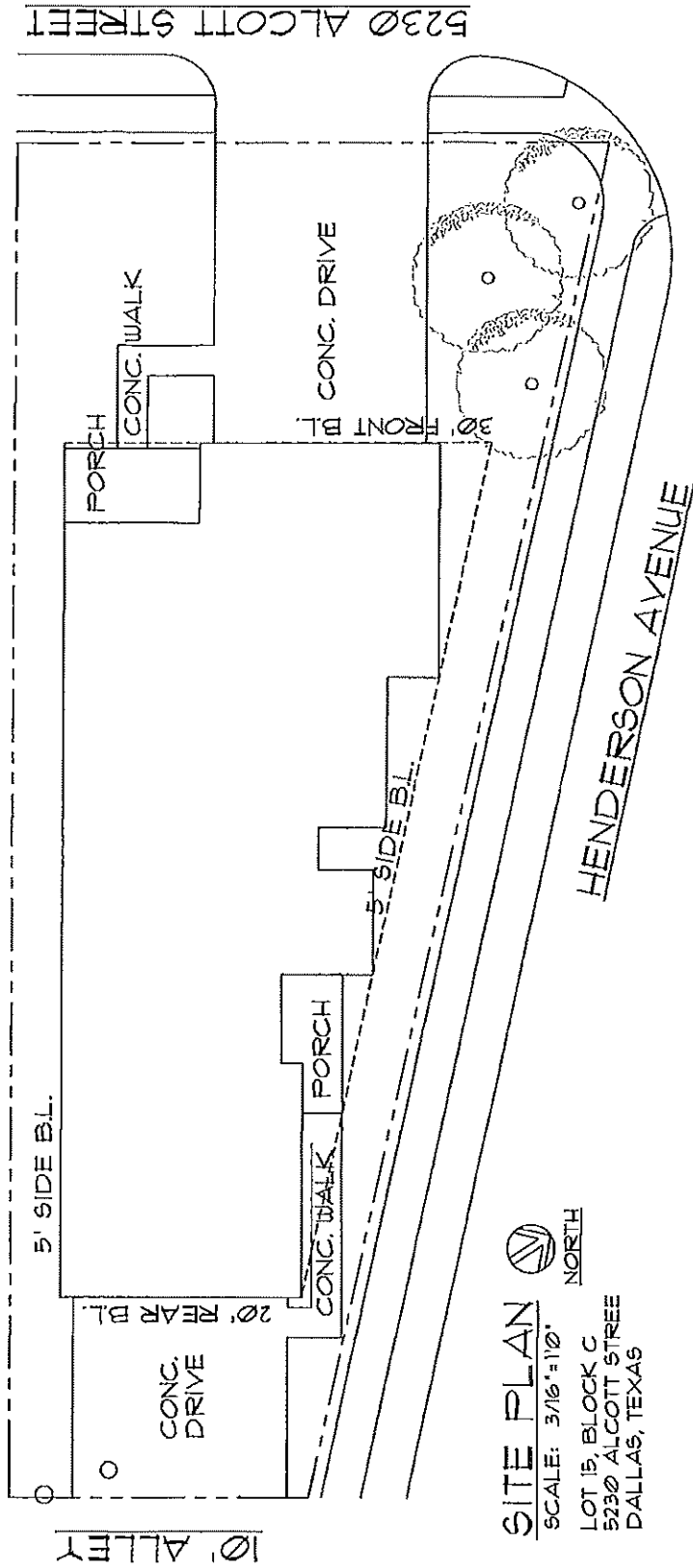
DALLAS MULTI-FAMILY
 1500 ALCOTT STREET
 DALLAS, TEXAS
 LOT 15, BLOCK C

REVISIONS
 1. DATE
 2. DATE
 3. DATE
 4. DATE

DATE: 07/20/16
 PROJECT: 1500 ALCOTT STREET
 CLIENT: YOOHOOSTUDIO
 PHILIP THOMPSON

PROFESSIONAL
 ARCHITECT
 PHILIP THOMPSON

SITE



SITE PLAN
 SCALE: 3/16" = 1'-0"
 NORTH
 LOT 15, BLOCK C
 5230 ALCOTT STREET
 DALLAS, TEXAS

CONTRACTOR TO VERIFY ALL CONDITIONS ON-SITE PRIOR TO CONSTRUCTION AND REPORT DISCREPANCIES TO ARCHITECT.

NOTES:
 1. ALL DIMENSIONS UNLESS OTHERWISE NOTED.
 2. FINISHES TO BE SHOWN ON FINISH SCHEDULE.
 3. MATERIALS TO BE SHOWN ON MATERIAL SCHEDULE.
 4. CONTRACTOR TO VERIFY ALL DIMENSIONS BEFORE CONSTRUCTION AND REPORT TO ARCHITECT OF ANY DISCREPANCIES.
 5. CONTRACTOR TO VERIFY ALL DIMENSIONS BEFORE CONSTRUCTION AND REPORT TO ARCHITECT OF ANY DISCREPANCIES.
 6. CONTRACTOR TO VERIFY ALL DIMENSIONS BEFORE CONSTRUCTION AND REPORT TO ARCHITECT OF ANY DISCREPANCIES.

Legend:
 [Symbol] Finish
 [Symbol] Material
 [Symbol] Note
 [Symbol] Section Line

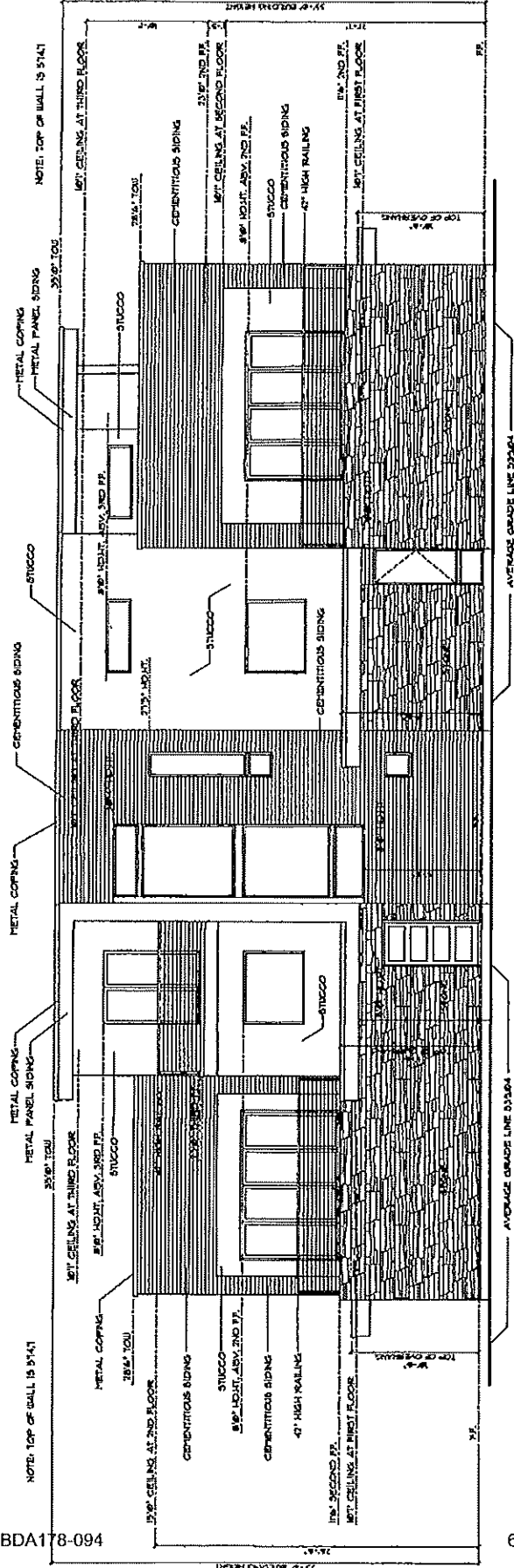


CLIENT:
 DALLAS MULTI-FAMILY
 5140 ALCOTT STREET
 2ND FLOOR
 LOT D, BLOCK C
 DALLAS, TEXAS

DESIGNER:
 1. DATE: 4/24/21
 2. DATE: 5/27/21
 3. DATE: 11/18/21
 4. DATE: 1/22/22
 5. DATE: 4/15/22

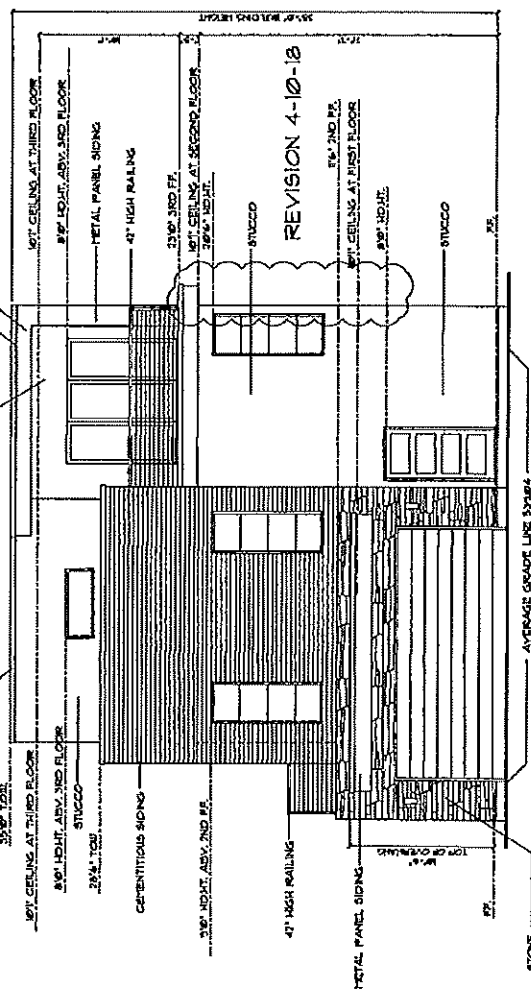
DATE:
 1/27/22
DESIGNED BY:
 J. Austin Fleming
PROJECT NO.:
 190301021

REVISIONS:
 1. DATE: 4/24/21
 2. DATE: 5/27/21
 3. DATE: 11/18/21
 4. DATE: 1/22/22
 5. DATE: 4/15/22



HENDERSON AVE. ELEVATION
 1/21/22

CONTRACTOR TO VERIFY ALL DIMENSIONS BEFORE CONSTRUCTION AND REPORT TO ARCHITECT OF ANY DISCREPANCIES.



ALCOTT ST. ELEVATION
 1/21/22

NOTES:
 1. ALL DIMENSIONS ARE UNLESS OTHERWISE NOTED.
 2. FINISHES ARE TO BE AS SHOWN ON THIS SET.
 3. ALL MATERIALS AND METHODS OF CONSTRUCTION SHALL BE APPROVED BY THE CITY OF DALLAS.
 4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS.
 5. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
 6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES.
 7. THE CONTRACTOR SHALL MAINTAIN THE SITE IN A SAFE AND SOUND CONDITION AT ALL TIMES.
 8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR REMEDIATION OF ANY DAMAGE TO ADJACENT PROPERTIES.
 9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE.
 10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY BONDS.
 11. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY REFERENCES.
 12. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY REFERENCES.
 13. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY REFERENCES.
 14. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY REFERENCES.
 15. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY REFERENCES.



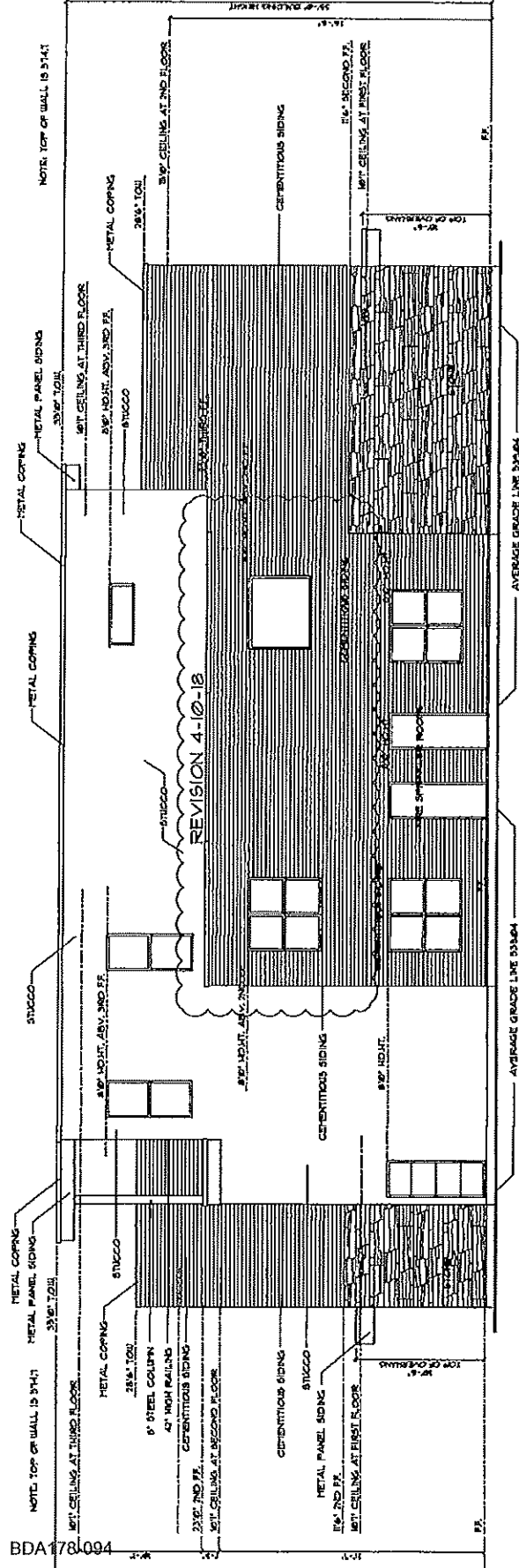
yoohoostudio

DALLAS REALTY
 LOT B, BLOCK C
 3130 N. HENDERSON
 DALLAS, TEXAS

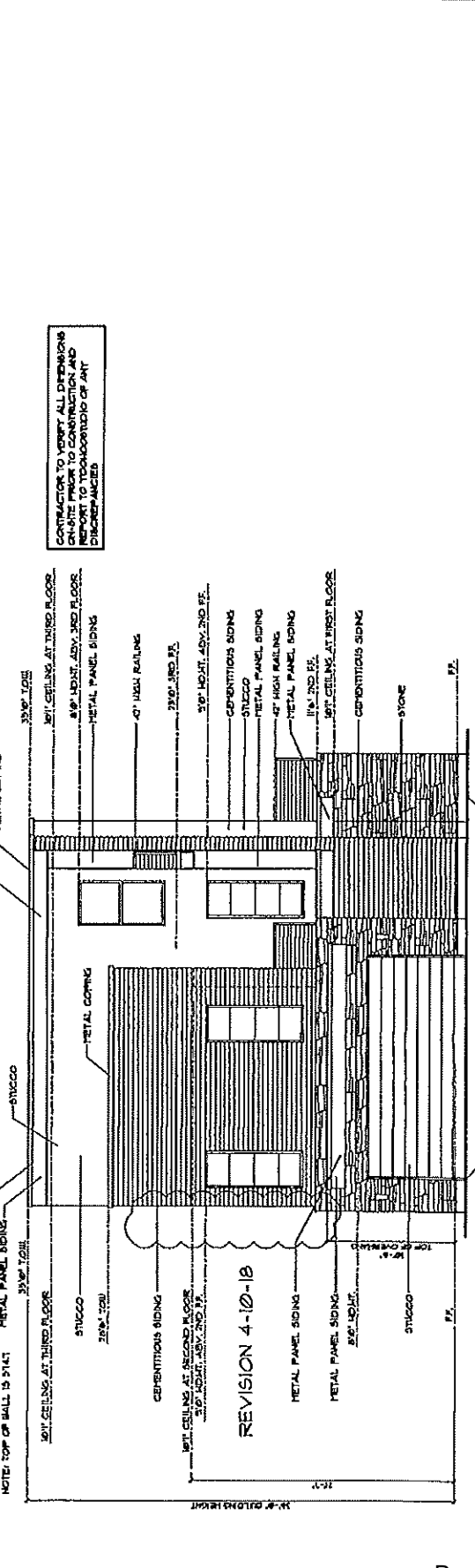
REVISIONS:
 1. DATE 4/26/17
 2. DATE 5/1/17
 3. DATE 5/1/17
 4. DATE 4/26/16

DATE: 3/27/16
DRAWN BY: J. Austin Fleming
CHECKED BY: J. Austin Fleming
PROJECT: PHILIP Thompson

PROJECT:
 Philip Thompson
DATE:
 3/27/16
DRAWN BY:
 J. Austin Fleming
CHECKED BY:
 J. Austin Fleming
PROJECT:
 PHILIP Thompson



1 NEIGHBORHOOD ELEVATION 1/4"=1'-0"



2 BACK ALLEY ELEVATION 1/4"=1'-0"

CONTRACTOR TO VERIFY ALL DIMENSIONS BEFORE CONSTRUCTION AND REPORT TO THE ARCHITECT OR ANY DISCREPANCIES.

DOOR SCHEDULE

NO.	SIZE	DESCRIPTION
1	3'0" X 7'0"	ENTRY
2	3'0" X 7'0"	DOOR
3	3'0" X 7'0"	DOOR
4	3'0" X 7'0"	DOOR
5	3'0" X 7'0"	DOOR
6	3'0" X 7'0"	DOOR
7	3'0" X 7'0"	DOOR
8	3'0" X 7'0"	DOOR
9	3'0" X 7'0"	DOOR
10	3'0" X 7'0"	DOOR
11	3'0" X 7'0"	DOOR
12	3'0" X 7'0"	DOOR
13	3'0" X 7'0"	DOOR
14	3'0" X 7'0"	DOOR
15	3'0" X 7'0"	DOOR
16	3'0" X 7'0"	DOOR
17	3'0" X 7'0"	DOOR
18	3'0" X 7'0"	DOOR
19	3'0" X 7'0"	DOOR
20	3'0" X 7'0"	DOOR
21	3'0" X 7'0"	DOOR
22	3'0" X 7'0"	DOOR
23	3'0" X 7'0"	DOOR
24	3'0" X 7'0"	DOOR
25	3'0" X 7'0"	DOOR
26	3'0" X 7'0"	DOOR
27	3'0" X 7'0"	DOOR
28	3'0" X 7'0"	DOOR
29	3'0" X 7'0"	DOOR
30	3'0" X 7'0"	DOOR
31	3'0" X 7'0"	DOOR
32	3'0" X 7'0"	DOOR
33	3'0" X 7'0"	DOOR
34	3'0" X 7'0"	DOOR
35	3'0" X 7'0"	DOOR
36	3'0" X 7'0"	DOOR
37	3'0" X 7'0"	DOOR
38	3'0" X 7'0"	DOOR
39	3'0" X 7'0"	DOOR
40	3'0" X 7'0"	DOOR
41	3'0" X 7'0"	DOOR
42	3'0" X 7'0"	DOOR
43	3'0" X 7'0"	DOOR
44	3'0" X 7'0"	DOOR
45	3'0" X 7'0"	DOOR
46	3'0" X 7'0"	DOOR
47	3'0" X 7'0"	DOOR
48	3'0" X 7'0"	DOOR
49	3'0" X 7'0"	DOOR
50	3'0" X 7'0"	DOOR

WINDOW SCHEDULE

NO.	SIZE	DESCRIPTION
1	3'0" X 7'0"	ENTRY
2	3'0" X 7'0"	DOOR
3	3'0" X 7'0"	DOOR
4	3'0" X 7'0"	DOOR
5	3'0" X 7'0"	DOOR
6	3'0" X 7'0"	DOOR
7	3'0" X 7'0"	DOOR
8	3'0" X 7'0"	DOOR
9	3'0" X 7'0"	DOOR
10	3'0" X 7'0"	DOOR
11	3'0" X 7'0"	DOOR
12	3'0" X 7'0"	DOOR
13	3'0" X 7'0"	DOOR
14	3'0" X 7'0"	DOOR
15	3'0" X 7'0"	DOOR
16	3'0" X 7'0"	DOOR
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18	3'0" X 7'0"	DOOR
19	3'0" X 7'0"	DOOR
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21	3'0" X 7'0"	DOOR
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24	3'0" X 7'0"	DOOR
25	3'0" X 7'0"	DOOR
26	3'0" X 7'0"	DOOR
27	3'0" X 7'0"	DOOR
28	3'0" X 7'0"	DOOR
29	3'0" X 7'0"	DOOR
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39	3'0" X 7'0"	DOOR
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41	3'0" X 7'0"	DOOR
42	3'0" X 7'0"	DOOR
43	3'0" X 7'0"	DOOR
44	3'0" X 7'0"	DOOR
45	3'0" X 7'0"	DOOR
46	3'0" X 7'0"	DOOR
47	3'0" X 7'0"	DOOR
48	3'0" X 7'0"	DOOR
49	3'0" X 7'0"	DOOR
50	3'0" X 7'0"	DOOR

AREAS

NO.	DESCRIPTION	SQ. FT.
1	UNIT #	836
2	UNIT #	836
3	UNIT #	836
4	UNIT #	836
5	UNIT #	836
6	UNIT #	836
7	UNIT #	836
8	UNIT #	836
9	UNIT #	836
10	UNIT #	836
11	UNIT #	836
12	UNIT #	836
13	UNIT #	836
14	UNIT #	836
15	UNIT #	836
16	UNIT #	836
17	UNIT #	836
18	UNIT #	836
19	UNIT #	836
20	UNIT #	836
21	UNIT #	836
22	UNIT #	836
23	UNIT #	836
24	UNIT #	836
25	UNIT #	836
26	UNIT #	836
27	UNIT #	836
28	UNIT #	836
29	UNIT #	836
30	UNIT #	836
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36	UNIT #	836
37	UNIT #	836
38	UNIT #	836
39	UNIT #	836
40	UNIT #	836
41	UNIT #	836
42	UNIT #	836
43	UNIT #	836
44	UNIT #	836
45	UNIT #	836
46	UNIT #	836
47	UNIT #	836
48	UNIT #	836
49	UNIT #	836
50	UNIT #	836

YOOHOOSTUDIO

LOT 2, BLOCK C
DALLAS MULTIFAMILY
500 ALCOTT STREET
DALLAS, TEXAS

REVISIONS

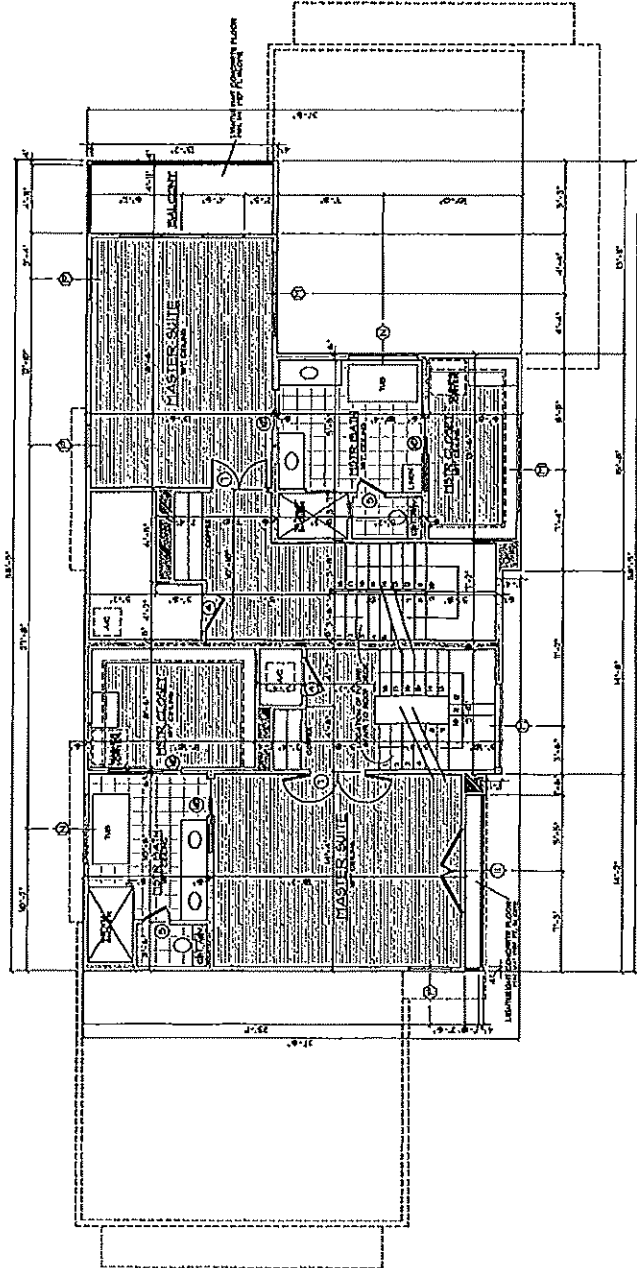
NO.	DATE	DESCRIPTION
1		
2		
3		
4		

DATE
DRAWN BY
CHECKED BY
PHILIP THOMPSON

PROJECT
PROJECT NO.
SHEET NO.

A3

CONTRACTOR TO VERIFY ALL DIMENSIONS
AND REPORT TO YOOHOOSTUDIO OF ANY
DISCREPANCIES



THIRD FLOOR PLAN
NORTH

FILE NO. BDA190-039

LOCATION: 5230 Alcott Street (more fully described as Lot 15, Block C/1997) (the “Property)

APPLICANT: Phillip D. Thompson, represented by Alison Ashmore and Christopher Kratovil

REQUEST: Applicant requests a variance to the height regulation of 26 feet, specific to the Residential Proximity Slope (RPS), of up to 10 feet be allowed to complete the existing construction of the 3-story duplex structure to a total height of 36 feet.

TIMELINE OF EVENTS PERTAINING TO FILE NO. BDA190-039

1. August 2017—Prior to purchasing the Property and formally presenting any development plans for the Property, Applicant inquired with the City on numerous occasions to verify the effect of certain provisions of the Dallas Development Code and their applicability to the Property.

2. September 2017—Prior to beginning construction on the Property, Applicant submitted all detailed plans for development of the Property to the City Planning and Zoning Department and received approval, along with permits.

3. October 2017—Applicant relied on the issuance of the permits, and began construction.

4. November 22, 2017—Applicant executed a contract for purchase of Unit #1 of the Property.

5. January 2018—Three months after construction began and during the framing phase of construction, the City issued a stop-work order citing a violation of the *maximum height restriction*. Notably the City did not raise an issue with the RPS.

6. January 23, 2018—Amended plans are approved by the Planning and Zoning department. Construction resumed.

7. April 13, 2018—Over six months after the City issued the building permits and the project was 90% complete, the City raised for the first time the issue of RPS, and issued a stop-work order on the basis that the project did not comply with RPS.

8. May 21, 2018—After a hearing the Board of Adjustment denied Applicant's first variance application.

9. May 27, 2018—Applicant filed a second application for variance with the Board of Adjustment.

10. June 18, 2018—City Staff recommended that the variance be granted. The Board of Adjustment denied the application for a variance, despite of the City's recommendation for approval.

11. June 28, 2018—Applicant timely filed a lawsuit appealing the Board of Adjustment's denial of the application for a variance, raising issues of estoppel, and seeking damages as an alternative remedy.

12. May 2, 2019—the City's Plea to the Jurisdiction and No-Evidence and Traditional Motion for Summary Judgment were heard by the Honorable Eric Moyé. The Court clearly indicated that the Plea to the Jurisdiction would be denied, and took the City's Motion under advisement, but not before stating its displeasure with the City's actions and encouraging the parties to reach a resolution.

13. May 27, 2019—pursuant to Court order, the parties mediated the dispute.

14. July 2, 2019—Applicant filed its first amended petition, asserting the doctrines of Laches and Waiver.

15. July 30, 2019—Applicant and the City filed an Agreed Motion to Abate Lawsuit and Remand to Board of Adjustment.

16. July 31, 2019—Honorable Eric Moyé entered an order granting the parties' Agreed Motion to Abate Lawsuit and Remand to Board of Adjustment.

17. January 2020—Applicant filed application for rehearing pursuant to the Court's Order granting the Agreed Motion to Abate Lawsuit and Remand to Board of Adjustment.

Long, Steve

BDA190-039_Attachment_B

From: Jeff Jensen <jensenj@att.net>
Sent: Sunday, June 17, 2018 7:56 AM
To: Long, Steve
Subject: BDA 178-0945230 Alcott Street

Hello,

Please accept this email as my support of a height variance waiver for BDA 178-094 located at 5230 Alcott Street.

As a homeowner in Cochran Heights I appreciate that the board looks after the best interests of our neighborhood. I also appreciate each homeowner's desire to define their own best interests for their home.

Since the sight line modifications would be detrimental to this property, I think that these modifications would therefore be detrimental to our neighborhood.

Thanks in advance for considering my input.

Best regards,

Jeff Jensen
5227 Alcott Street

Long, Steve

From: Ricky John <rjohn@landmarktitle.com>
Sent: Tuesday, May 29, 2018 12:01 PM
To: Long, Steve
Cc: rdmjwh8280@gmail.com
Subject: BDA 178-094

To Whom it May Concern,

RE: BDA 178-094

Please accept this email as acknowledgement that Cush Family Holdings, LLC has **no opposition** to the request for a height variance for the property at 5230 Alcott.

Best regards,
Cush Family Holdings, LLC
Owner - 2772 N. Henderson Ave.

**Richard M. John
Smith & John
Attorneys at Law
Landmark Title Group, LLC
3646 Youree Drive
Shreveport, Louisiana 71105**

CONFIDENTIALITY STATEMENT

This electronic message contains information from Richard M. John and the Smith & John Law Firm and is confidential or privileged. The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this message is prohibited. If you have received this electronic message in-error, please notify us immediately by telephone at 318-219-1001.

Long, Steve

From: Ramano Sprueil
Sent: Monday, May 28, 2018 7:10 PM
To: Long, Steve
Subject: BDA 178-094

To Whom it May Concern,

RE: BDA 178-094

Please accept this email as my acknowledgement that I support the request for a height variance for the property at 5230 Alcott. I think this property will have a positive impact on the neighborhood.

Best regards,

Ramano A. Sprueil
5223 Homer St. 75206

BDA190-039_Attachment_B

May 17, 2018

To Whom It May Concern:

Over the last year we have been working with the builder to design and customize our dream home at 5230 Alcott. This home is our chance to relocate our family back into Dallas after a move to Plano.

We put our house on the market in Plano late last year and sold our home prior to Christmas. We have been in temporary housing since the end of December and are eager to get settled in our new home. Throughout this lengthy build process, we felt defeated when this RPS issue came up during the home stretch. After already accommodating delays in the build process due to city approvals, this last minute issue has impacted us the most. The uncertainty that we will be able to move into this home has caused undo stress both mentally and financially on our family.

We are continuing to incur storage fees, we are now renting month to month at a premium, and our original interest rate lock expired and we have spent additional money to lock our rate again but at a higher rate. In addition to the financial implications of this decision, our 5 year old daughter has already been accepted into Geneva Heights dual language program and our 3 year old has locked in her spot at a local daycare.

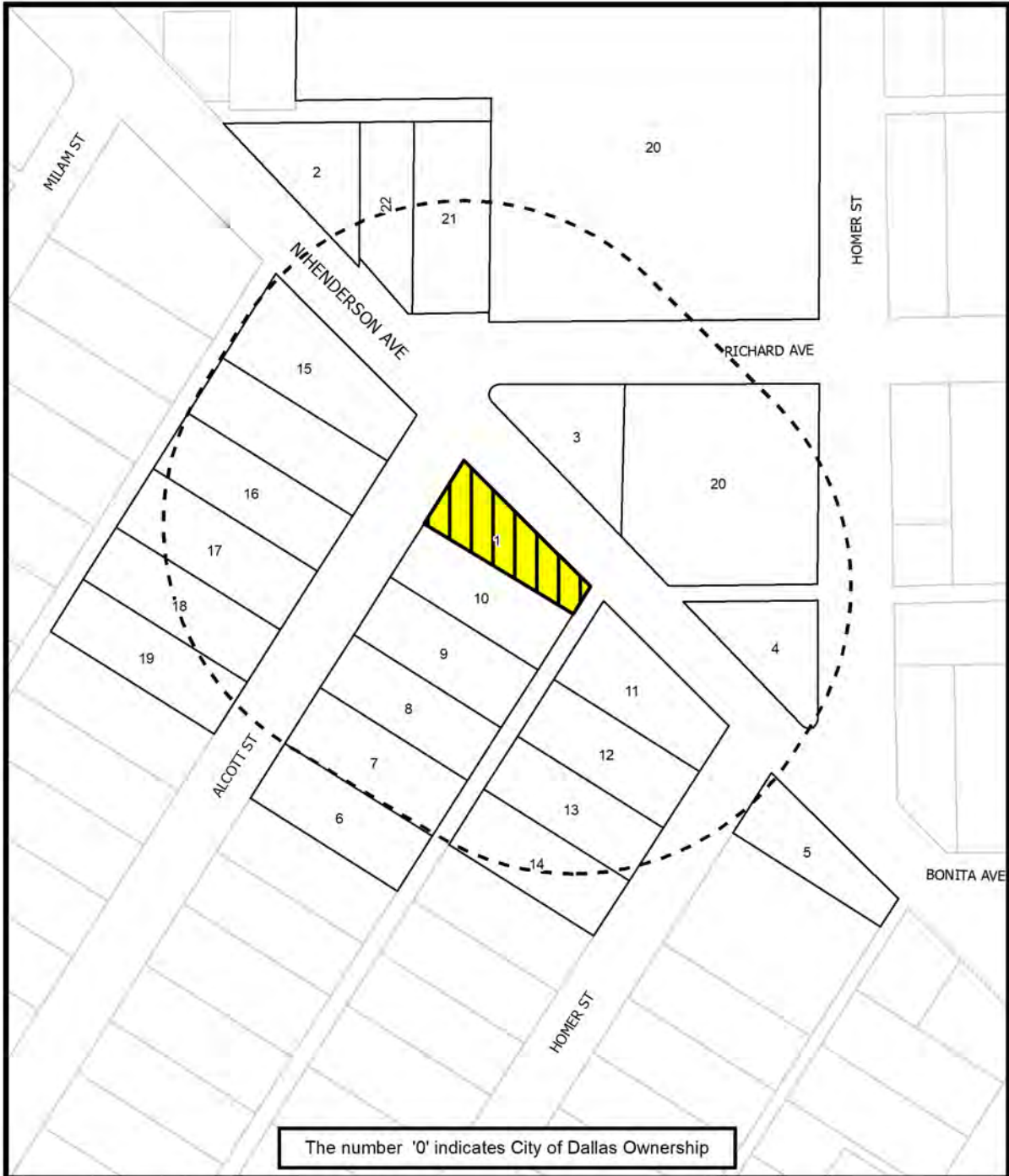
Overall, we were excited to not only build this home but optimistic about the opportunity of our girls growing up in such a dynamic diverse neighborhood.

We sincerely hope this board will review this decision carefully and understand the full impact this decision will have on not only the builder but on us as a family.

Best regards,



Justin and Robert Martinez-Harrison



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
22 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA190-039**
 Date: **2/21/2020**

02/21/2020

Notification List of Property Owners

BDA190-039

22 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5230 ALCOTT ST	PDT HOLDINGS INC
2	2810 N HENDERSON AVE	GOLDBERG R J ET AL
3	2772 N HENDERSON AVE	TEXAS MCFARLIN LTD PS &
4	2730 N HENDERSON AVE	SCOTT LULIE M
5	5230 HOMER ST	ARMSTRONG GREGORY J &
6	5210 ALCOTT ST	LOBO KELLY P
7	5214 ALCOTT ST	BIRKELBACH CATHY C
8	5218 ALCOTT ST	GUALTIERI SAVERIO
9	5222 ALCOTT ST	GHOSH PIYA
10	5226 ALCOTT ST	MELOTH DOUG &
11	2727 N HENDERSON AVE	CLEARWATER PROPERTIES LLC
12	5227 HOMER ST	THEERINGER SCOTT
13	5223 HOMER ST	SPRUEIL RAMANO
14	5217 HOMER ST	SULLIVAN JOHN H & JUDY K
15	2809 N HENDERSON AVE	PATE LAURA E
16	5223 ALCOTT ST	BRADLEY RICHARD R
17	5219 ALCOTT ST	PHILLIPS KAYLYNNE R & RYAN D
18	5215 ALCOTT ST	CHONG JULIAN M & CATHY F
19	5211 ALCOTT ST	FLORIAN ROBERT J &
20	5140 WILLIS AVE	EASTBRIDGE APARTMENTS PO LTD PS
21	2800 N HENDERSON AVE	2800 HENDERSON LP
22	2802 N HENDERSON AVE	2800 HENDERSON LP

FILE NUMBER: BDA190-020(OA)

BUILDING OFFICIAL'S REPORT: Application of Ramin Amini for a special exception to the landscape regulations at 2803 W. Illinois Avenue. This property is more fully described as Tract 13, Block 5966, and is zoned an MF-1(A) Multifamily District, which requires mandatory landscaping. The applicant proposes to construct and/or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 2803 W. Illinois Avenue

APPLICANT: Ramin Amimi

REQUEST:

A request for a special exception to the landscape regulations is made to maintain a multifamily use and not fully meet the landscape regulations or, more specifically, to not provide the required site trees, landscape design points, street buffer zone requirements, parking lot landscaping, and the residential adjacency buffer requirements on the subject site.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE AND TREE PRESERVATION REGULATIONS:

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

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

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

- the extent to which there is residential adjacency;
- the topography of the site;

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

REVISED MARCH 16, 2020 STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted revised alternate landscape plan is required.

Rationale:

- The chief arborist recommends approval of the special exception of the revised alternate landscape plan of February 20, 2020 with the four added conditions stating specific landscape requirements for the property. The four conditions are listed on the revised alternate landscape plan.

FEBRAURY 20, 2020 STAFF RECOMMENDATION:

Denial

Rationale:

- Although the chief arborist does agree that full compliance with the requirements of Article X will unreasonably burden the use of the established use on the property, the chief arborist recommends denial of the special exception because additional landscape elements could be applied to the street buffer zone to enhance the aesthetic and buffering aspects along the street frontage and further landscape improvements along the public right-of-way could reduce negative impacts to neighboring properties.

BACKGROUND INFORMATION:

Zoning

- Site: MF-1(A) (Multifamily District)
- North: PD No. 831(Planned Development District)
- East: R-7.5 (A) (Single Family District)
- South: L1 (Light Industrial District)
- West: CR (Community Retail District)

Land Use:

The subject site is developed with multifamily use. The area to the north is developed with school use; the areas to the east is develop with single family homes; the area to the south, and west are developed with light industrial and retail uses.

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded in the vicinity of the subject site within the last five years.

GENERAL FACTS/STAFF ANALYSIS:

This request for a special exception to the landscape regulations focuses on maintaining a multifamily use and not fully meeting the landscape regulations, or more specifically, not providing the required site trees, landscape design points, street buffer zone requirements, parking lot landscaping, and the residential buffer zone requirements on the subject site.

The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.

The City of Dallas chief arborist submitted a memo regarding the applicant’s request (see Attachment A).

The chief arborist’s memo states the following with regard to “request”:

The applicant is requesting a special exception to Article X landscape regulations required with the addition of new impervious surface exceeding 2.000 square feet.

The chief arborist’s memo states the following with regard to “provision”:

- The property has an existing multifamily use (MF-1(A)) developed prior to city zoning regulations for landscaping. According to a 2003 certificate of occupancy for Oakridge Apartments, the property has been renovated and maintained since 1958. Existing landscape trees are primarily along the fence line perimeter of the lot with a few planted trees along the street front façade of the structure. A large elm is at the southeast corner (street front) of the lot.
- In response to site complaints by the City for various code matters, the owner recently removed the lawn turf in the front and interior court area to establish new parking spaces with an impervious surface but had not done so by permit. In the process of seeking a new permit for a small addition, the permit violation was

discovered, and the owner moved to seek a special exception for an alternative landscape plan.

- The property is subject to compliance with the 2018 amendments to Article X. The property has residential adjacency (R-7.5(A)) to the east of the lot. The property exceeds the 17 site tree requirement with existing tree credits on the lot and near the boundary

The chief arborist's memo states the following with regard to "deficiencies":

- The proposed landscape plan is deficient 1) the required street buffer zone and 2) residential buffer zone requirements. The 3) interior landscape requirements for lots with 101 or more parking spaces are not met (10.125).
- The 1.53 acre lot requires 20 landscape design points (10.126). Up to 10 points may be provided for building façade landscape design grouping of small/medium trees. Additional landscaping could be provided for screening of off-street parking for 5 points, or a maximum of 10 points but no landscape improvement is indicated on the plan. Irrigation is not identified for the landscape area on the plan.
- The street buffer zone described on the plan would meet the minimum requirements for buffer zone dimensions (minimum of 5 feet and average of 10 feet depth) but does not provide the sufficient number of street buffer zone trees and plants.
- The residential buffer zone does not provide appropriate buffering function with insufficient vegetation and provides no fence screening element from the residences across the alley. However, it is recognized there are concerns for public safety along this buffer and a reduced buffer element as currently provided may be appropriate for security purposes both on the property and for the adjacent residential lots.

The chief arborist's revised memo states the following with regard to the "recommendation":

- The chief arborist recommends approval of the special exception of the revised alternate landscape plan of February 20, 2020 with the four added conditions stating specific landscape requirements for the property. The four conditions listed on the revised alternate landscape plan are as follows; a minimum of 31 Texas sage shrubs must be installed in a row in a dedicated planting bed between the off-street parking and the street, the shrub row must be installed at a minimum height of two feet and maintained after one year as a hedge to a height of no less than three feet, the street front landscape area must be located a maximum of 100 feet from an irrigation source with a permanently installed

threaded hose connection, and all established landscape areas must be maintained with existing landscape plants in a healthy growing condition.

In response to site complaints by the City for various code matters, the owner recently removed the lawn turf in the front and interior court area to establish The applicant has the burden of proof in establishing the following:

- Strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property; and
- The special exception will not adversely affect neighboring property.

If the board were to grant this request and impose the submitted revised alternate landscape plan as a condition to the request, the site would be provided an exception from providing the site trees in the required location and the residential adjacency buffer requirements on the subject site.

Timeline:

December 16, 2019: 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 13, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

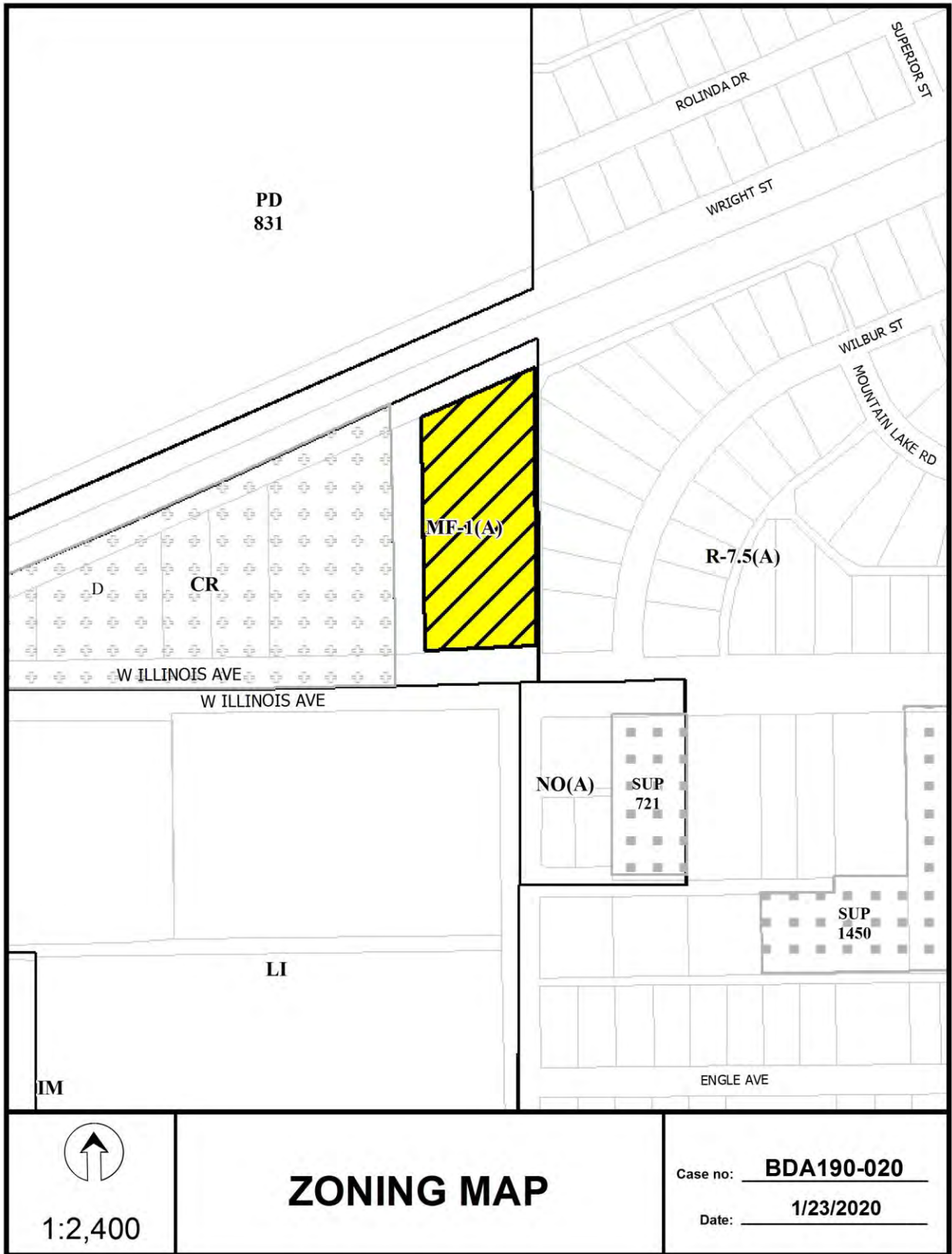
January 17, 2020: The Sustainable Development and Construction Department Senior Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the January 30th deadline to submit additional evidence for staff to factor into their analysis; and the February 7th 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.

January 30, 2020: 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 Assistant City Attorney to the board and the following from the Sustainable Development and Construction Department: Board of Adjustment staff including the Interim Chief Planner/Board Administrator, the Senior Planner, and the Assistant Director; Building Inspection Division staff including the Senior Plans Examiner, Building Official, and Assistant Building Official; and Engineering Division staff including the Senior Engineer and Assistant Director.

- February 5, 2020: The City of Dallas chief arborist submitted a memo regarding this request (see Attachment A).
- February 20, 2020: The Board of Adjustment Panel C conducted a public hearing on this application, and delayed action on this application until the next public hearing to be held on March 16, 2020 to allow the applicant to modify his site plan per the arborist specifications.
- February 21, 2019: The Dallas chief arborist submitted additional documentation on this appeal to the Board Administrator beyond what was submitted with the original application (see Attachment B).
- February 24, 2020: The Board Senior Planner wrote the applicant a letter of the board's action; the February 25th deadline to submit additional evidence for staff to factor into their analysis, and the March 6th deadline to submit additional evidence to be incorporated into the Board's docket materials.
- February 27, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the March public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Senior Engineer, the Board of Adjustment Senior Planner, and the Assistant City Attorney to the Board.
- March 2, 2020: The City of Dallas chief arborist submitted a memo regarding this request (see Attachment C).



1:2,400

ZONING MAP

Case no: **BDA190-020**

Date: **1/23/2020**



1:2,400

AERIAL MAP

Case no: **BDA190-020**

Date: **1/23/2020**

RECEIVED
DEC 16 2019
BY: *col*



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 190-020

Data Relative to Subject Property:

Date: 12-14-19

Location address: 2803 W. ILLINOIS AVE. Zoning District: MF 2(A)

TRACT
Lot No.: 13 Block No.: 5966 Acreage: 1.53 Census Tract: 108.04

Street Frontage (in Feet): 1) 192' 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): AHOURAMAZDA LLC / RAMIN AMINI

Applicant: RAMIN AMINI Telephone: 214-682-2999

Mailing Address: 2803 W. Illinois ave # 114 Zip Code: 75233

E-mail Address: Raminthebuilder@gmail.com

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance __, or Special Exception , of Alternate Landscape Plan.

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

By asking city if permite was needed + told no owner added additional concrete to prevent parking in fire lane + on grass. We fill the request will NOT adversely affect neighboring property, In fact it will make the property more attractive.

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 Ramin Dezeki Amini

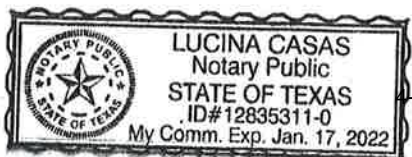
(Affiant/Applicant's name printed)

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

Respectfully submitted: _____

(Affiant/Applicant's signature)

Subscribed and sworn to before me this 9th day of December, 2019



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

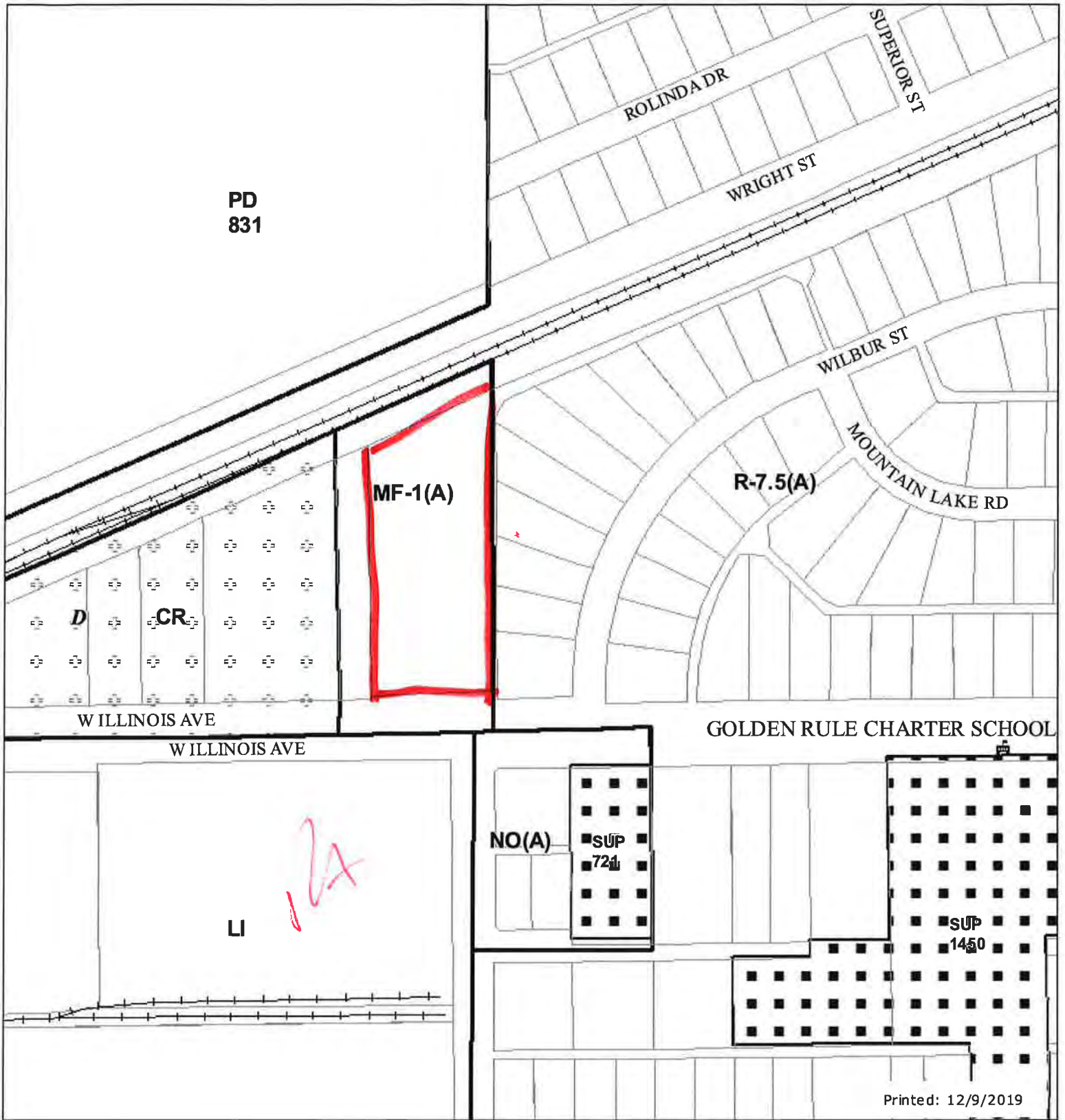
I hereby certify that Ramin Amini

did submit a request for a special exception to the landscaping regulations
at 2803 W. Illinois Avenue

BDA190-020. Application of Ramin Amini for a special exception to the landscaping regulations at 2803 W ILLINOIS AVE. This property is more fully described as Tract 13, Block 5966, and is zoned MF-1(A), which requires mandatory landscaping. The applicant proposes to maintain a multi-family residential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

Sincerely,

Philip Sikes
Philip Sikes, Building Official



Printed: 12/9/2019

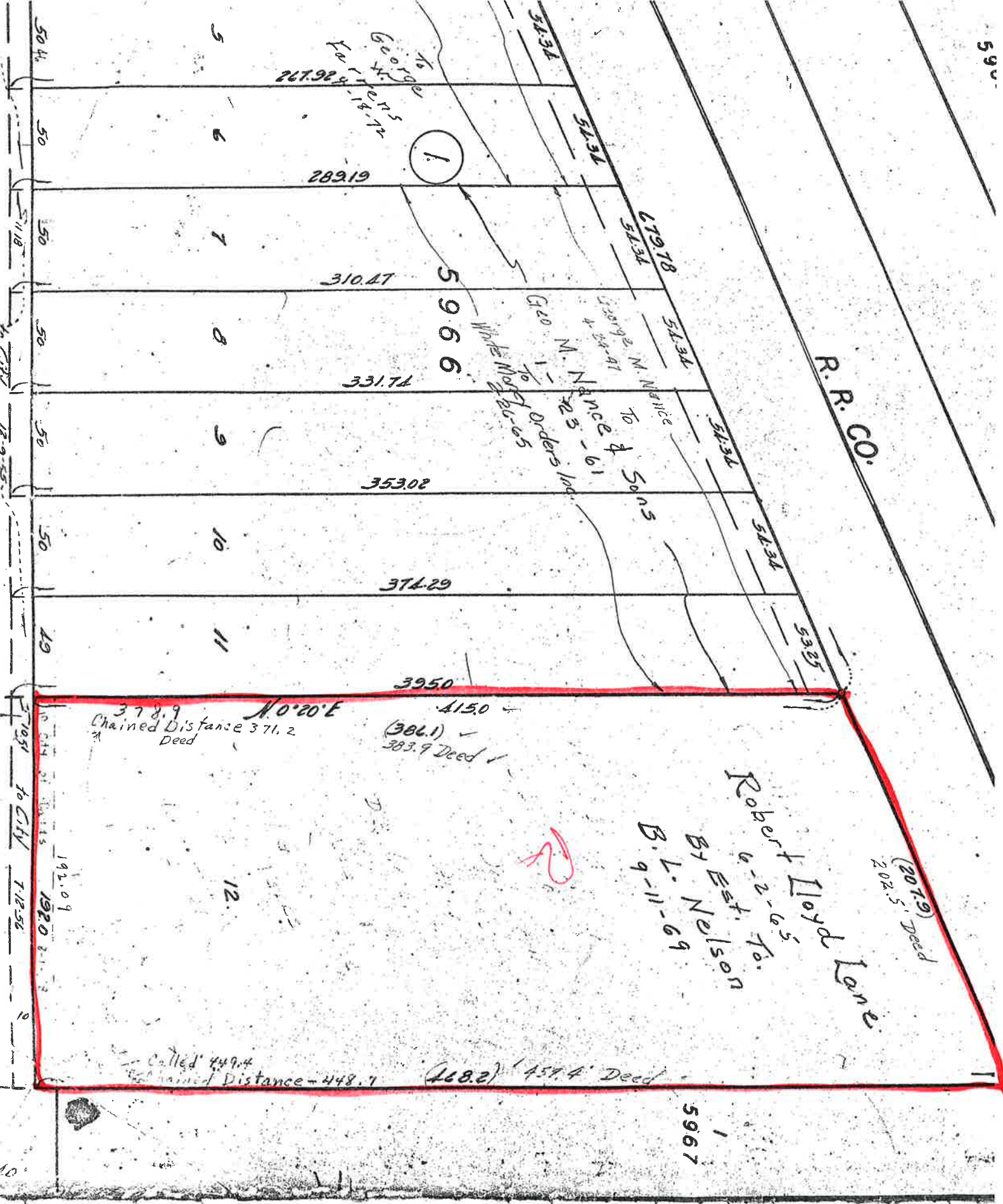
Legend

- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| 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 | 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)



590



To George & Sons
 For 1-18-72
 267.92

1

289.19

310.47

5966

331.74

353.02

374.29

395.0

378.9
 Chained Distance 371.2
 Deed

415.0
 (386.1) ✓
 383.9 Deed ✓

R

Robert & Lloyd Lane
 B. Est. Nelson
 B. L. Nelson
 6-2-65
 9-11-69

(2019) Deed
 202.5

Called 449.4
 Chained Distance - 448.7
 (482) 457.4 Deed

5967

Memorandum



Date February 5, 2020

To Oscar Aguilera, Sr. Planner
Sarah May, interim Board Administrator

Subject BDA #190-020 2803 W Illinois Avenue Arborist report

Request

The applicant is requesting a special exception to Article X landscape regulations required with the addition of new impervious surface exceeding 2,000 square feet.

Provision

- The property has an existing multifamily use (MF-1(A)) developed prior to city zoning regulations for landscaping. According to a 2003 certificate of occupancy for Oakridge Apartments, the property has been renovated and maintained since 1958. Existing landscape trees are primarily along the fence line perimeter of the lot with a few planted trees along the street front façade of the structure. A large elm is at the southeast corner (street front) of the lot.
- In response to site complaints by the City for various code matters, the owner recently removed the lawn turf in the front and interior court area to establish new parking spaces with an impervious surface but had not done so by permit. In the process of seeking a new permit for a small addition, the permit violation was discovered and the owner moved to seek a special exception for an alternative landscape plan.
- The property is subject to compliance with the 2018 amendments to Article X. The property has residential adjacency (R-7.5(A)) to the east of the lot. The property exceeds the 17 site tree requirement with existing tree credits on the lot and near the boundary.

Deficiency

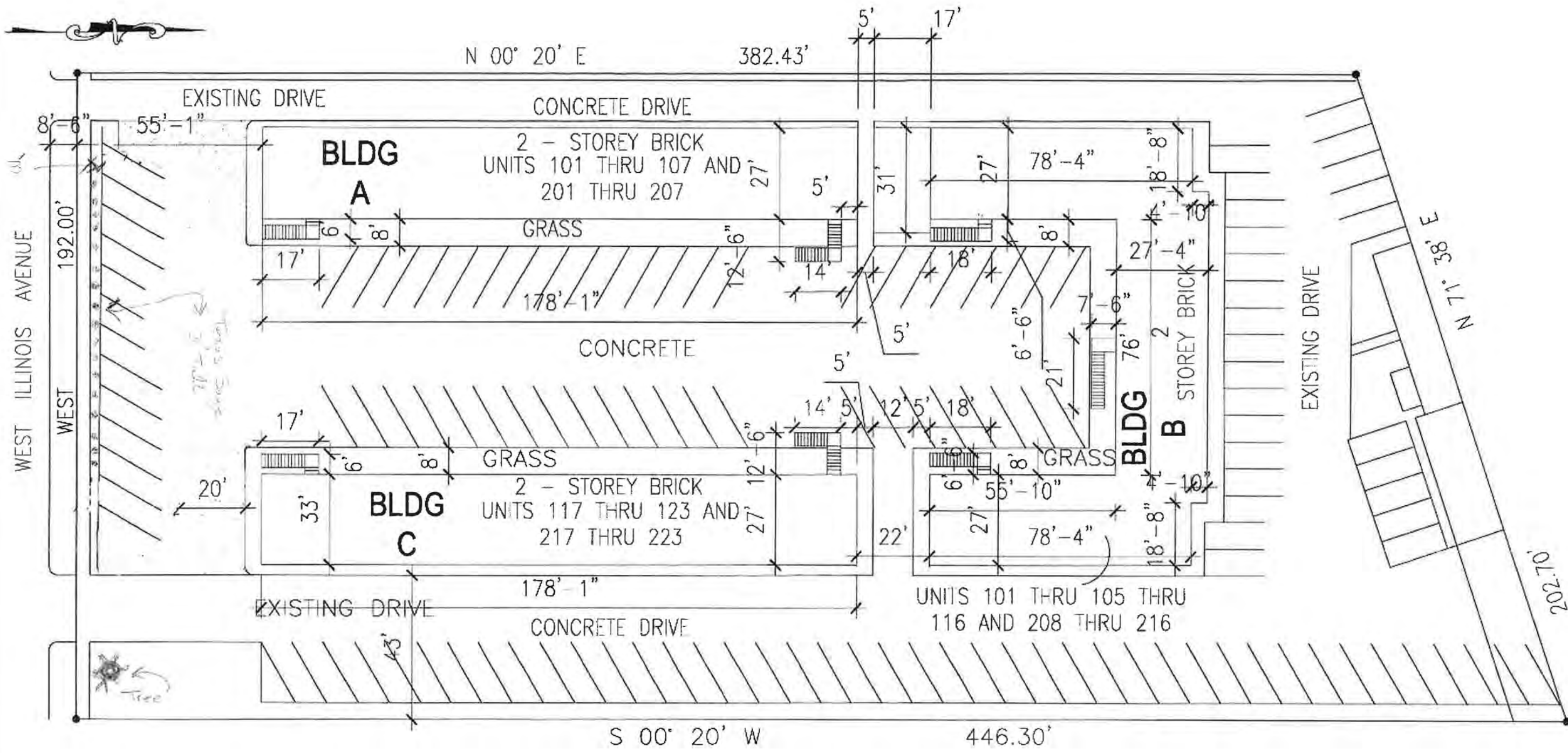
- The proposed landscape plan is deficient 1) the required street buffer zone and 2) residential buffer zone requirements. The 3) interior landscape requirements for lots with 101 or more parking spaces are not met (10.125).
- The 1.53 acre lot requires 20 landscape design points (10.126). Up to 10 points may be provided for building façade landscape design grouping of small/medium trees. Additional landscaping could be provided for screening of off-street parking for 5 points, or a maximum of 10 points but no landscape improvement is indicated on the plan. Irrigation is not identified for the landscape area on the plan.
- The street buffer zone described on the plan would meet the minimum requirements for buffer zone dimensions (minimum of 5 feet and average of 10 feet depth) but does not provide the sufficient number of street buffer zone trees and plants.
- The residential buffer zone does not provide appropriate buffering function with insufficient vegetation and provides no fence screening element from the residences across the alley.

However, it is recognized there are concerns for public safety along this buffer and a reduced buffer element as currently provided may be appropriate for security purposes both on the property and for the adjacent residential lots.

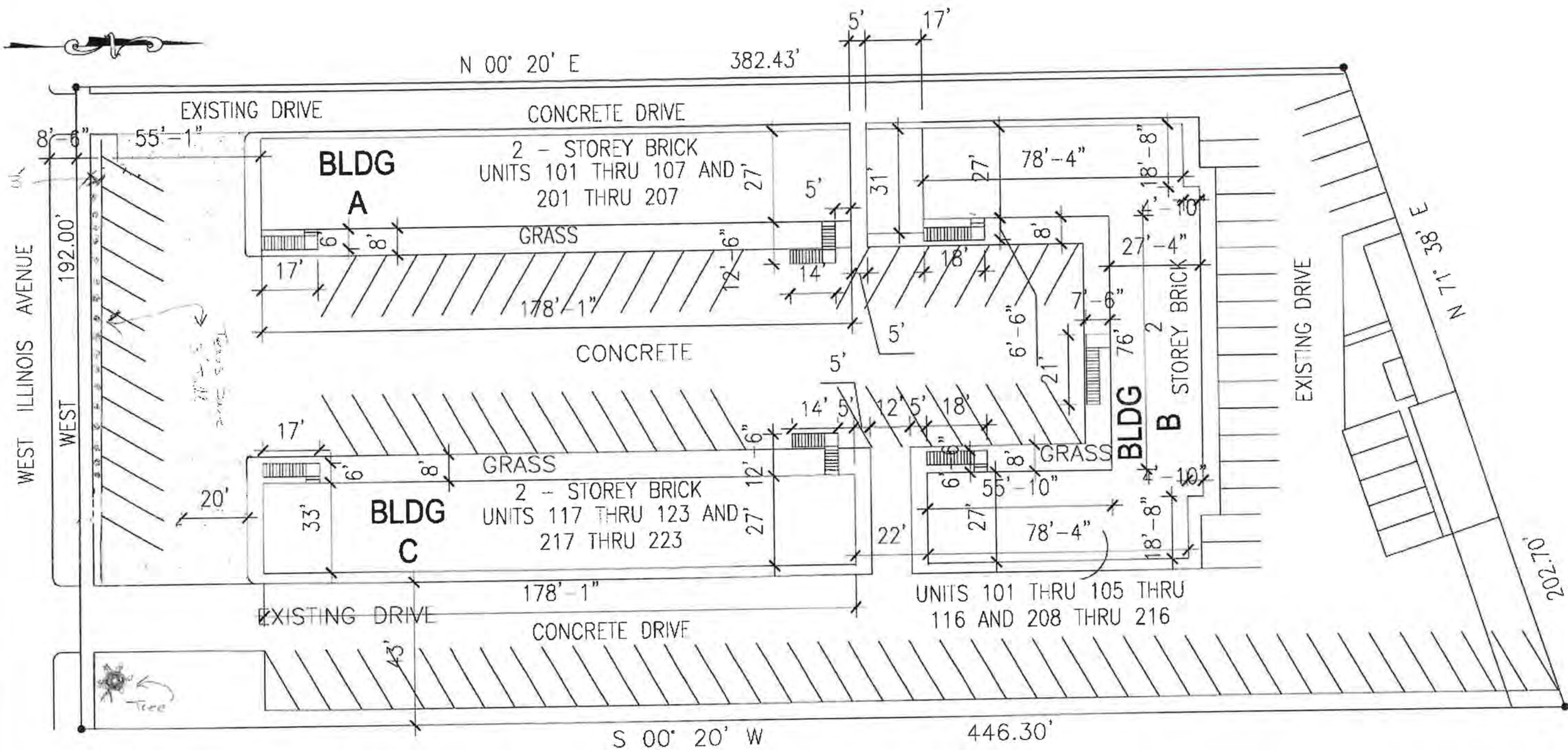
Recommendation

The chief arborist recommends denial of the special exception in that additional landscape elements could be applied to the street buffer zone to enhance the aesthetic and buffering aspects along the street frontage. I do agree that full compliance with the requirements of Article X will unreasonably burden the use of the established use on the property. Further landscape improvements along the public right-of-way could reduce negative impacts to neighboring properties.

Philip Erwin
Chief Arborist
Building Inspection



01 LOCATION PLAN
1" = 30'



1. A minimum of 31 Texas sage shrubs must be installed in a row in a dedicated planting bed between the off-street parking and the street.
2. The shrub row must be installed at a minimum height of two feet and maintained after one year as a hedge to a height of no less than three feet.
3. The street front landscape area must be located a maximum of 100 feet from an irrigation source with a permanently installed threaded hose connection.
4. All established landscape areas must be maintained with existing landscape plants in a healthy growing condition.

01 LOCATION PLAN
1" = 30'

Memorandum



Date March 2, 2020

To Oscar Aguilera, Sr. Planner
Jennifer Munoz, Board Administrator

Subject BDA #190-020 2803 W Illinois Avenue Arborist – 2nd report

Request

The applicant is requesting a special exception to Article X landscape regulations required with the addition of new impervious surface exceeding 2,000 square feet.

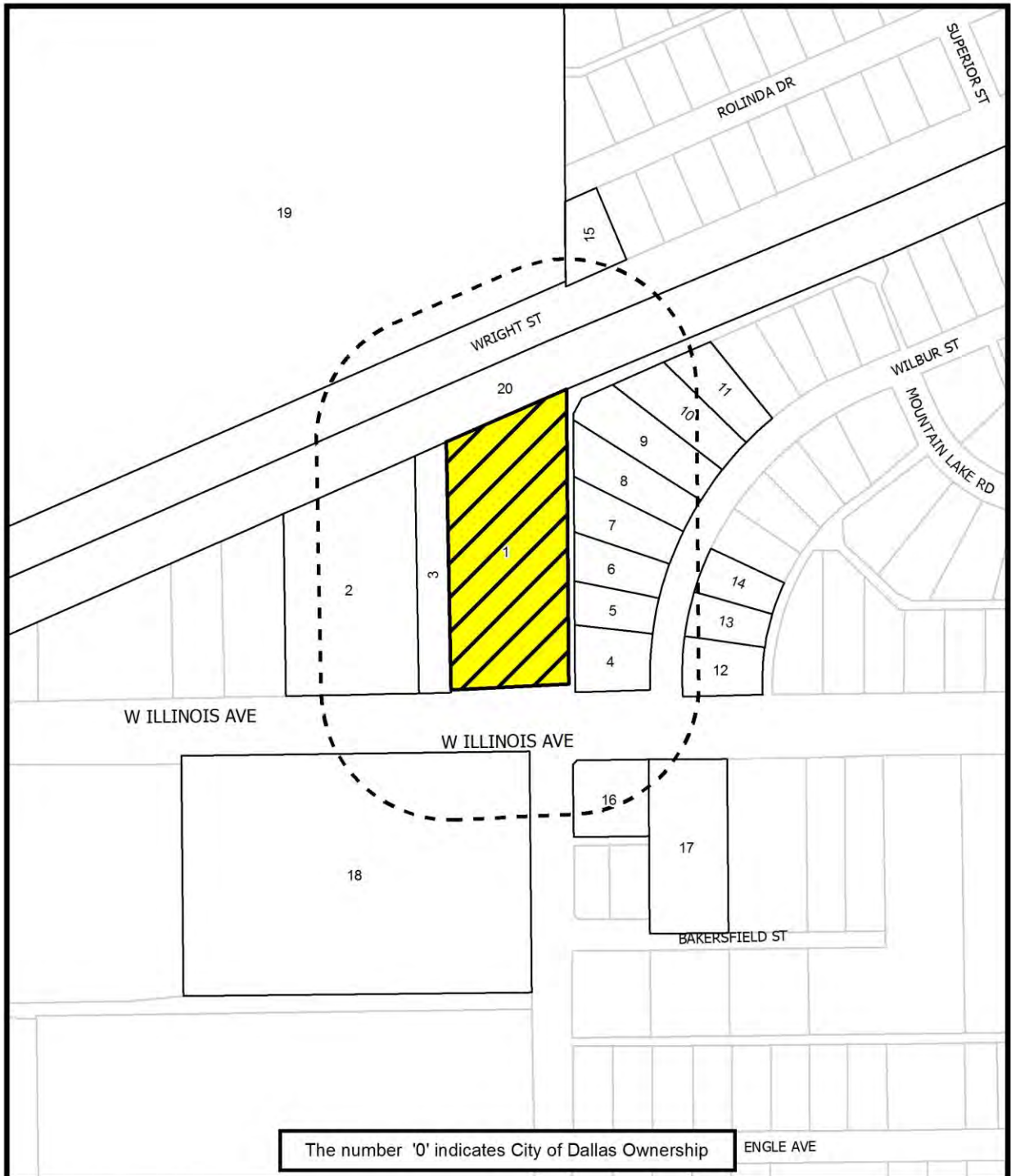
Recommendation

The chief arborist recommends approval of the special exception of the revised alternate landscape plan of February 20, 2020 with the four added conditions stating specific landscape requirements for the property. The four conditions listed on the revised alternate landscape plan are as follows:

1. A minimum of 31 Texas sage shrubs must be installed in a row in a dedicated planting bed between the off-street parking and the street.
2. The shrub row must be installed at a minimum height of two feet and maintained after one year as a hedge to a height of no less than three feet.
3. The street front landscape area must be located a maximum of 100 feet from an irrigation source with a permanently installed threaded hose connection.
4. All established landscape areas must be maintained with existing landscape plants in a healthy growing condition.

I do agree that full compliance with the requirements of Article X will unreasonably burden the use of the established use on the property.

Philip Erwin
Chief Arborist
Building Inspection



The number '0' indicates City of Dallas Ownership

 1:2,400	<h2>NOTIFICATION</h2> <table border="1"> <tr> <td>200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td>20</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	20	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: BDA190-020 Date: 1/23/2020
200'	AREA OF NOTIFICATION					
20	NUMBER OF PROPERTY OWNERS NOTIFIED					

01/23/2020

Notification List of Property Owners

BDA190-020

20 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	2803 W ILLINOIS AVE	AHOURAMAZDA LLC
2	2819 W ILLINOIS AVE	KHOJA REAL ESTATE INVESTMENTS
3	2807 W ILLINOIS AVE	KHOJA REAL ESTATE
4	2757 WILBUR ST	JACKSON SIDNEY B SR
5	2751 WILBUR ST	CARDOZA ALFONSO G
6	2747 WILBUR ST	NORRELL MARILYN KAY &
7	2741 WILBUR ST	GAMEZ LIBORIO & IRMA
8	2737 WILBUR ST	GAMEZ LIBORIO
9	2731 WILBUR ST	PRICE BROOKE E
10	2727 WILBUR ST	MARTINEZ GERARDO
11	2721 WILBUR ST	CALZADA PABLO
12	2754 WILBUR ST	CASTILLEJO CELESTINO &
13	2746 WILBUR ST	MONTERO GUILLERMINA
14	2740 WILBUR ST	ESCOBEDOROSALES JAVIER ALEJANDRO &
15	2740 ROLINDA DR	DELAROSA JOSE LUIS
16	2736 W ILLINOIS AVE	KANASE HEENA N &
17	2726 W ILLINOIS AVE	CHAPMAN BEVERLY D
18	2800 W ILLINOIS AVE	462 THOMAS FAMILY PROPERTIES LP
19	2300 S RAVINIA DR	Dallas ISD
20	401 S BUCKNER BLVD	DART