

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
TUESDAY, May 19, 2020**

MEMBERS PRESENT AT BRIEFING: Cheri Gambow, Vice Chair, Taylor Adams, regular member Sarah Lamb, regular member, Lawrence Halcomb, regular member, Phil Sahuc, alternate member

MEMBERS ABSENT FROM BRIEFING: Jay Narey, regular member

STAFF PRESENT AT BRIEFING: Jennifer Munoz, Chief Planner/Board Administrator, Theresa Pham, Asst. City Atty., Oscar Aguilera, Senior Planner, LaTonia Jackson, Board Secretary, Robyn Gerard, Senior Public Information Officer, David Nevarez, Senior Engineer, Charles Trammell, Development Code Specialist, Sarah May, Chief Planner, Phil Erwin, Arborist, Lloyd Denman, Assistant Director-Engineering, Neva Dean, Assistant Director, Kris Sweckard, Director.

MEMBERS PRESENT AT HEARING: Cheri Gambow, Vice Chair, Taylor Adams, regular member Sarah Lamb, regular member, Lawrence Halcomb, regular member, Phil Sahuc, alternate member

MEMBERS ABSENT FROM HEARING: Jay Narey, regular member

STAFF PRESENT AT HEARING: Jennifer Munoz, Chief Planner/Board Administrator, Theresa Pham, Asst. City Attorney, Oscar Aguilera, Senior Planner, Sarah May, Chief Planner, David Nevarez, Senior Engineer, Robyn Gerard, Senior Public Information Officer, LaTonia Jackson, Board Secretary, Charles Trammell, Development Code Specialist, Phil Erwin, Arborist, Lloyd Denman, Assistant Director- Engineering Div., Neva Dean, Assistant Director, Kris Sweckard, Director.

11:17 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **May 19, 2020** docket.

1:18 P.M.

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

MISCELLANEOUS ITEM NO. 1

Approval of the Board of Adjustment Panel A, February 18, 2020 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: May 19, 2020

MOTION: Adams

Approval of the Board of Adjustment Panel A, February 18, 2020 public hearing minutes.

SECONDED: Lamb

AYES: 5 – Gambow, Lamb, Adams, Halcomb, Sahuc

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA190-037(OA)

BUILDING OFFICIAL'S REPORT: Application of Sarah Alexander for a special exception to the single family use regulations at 1606 Rio Vista Drive. This property is more fully described as Lot 14, Block 2/4634 1/2, and is zoned an R-7.5(A) Single Family District, which limits the number of dwelling units to one. The applicant proposes to construct and/or maintain an additional dwelling non-rental unit, which will require a special exception to the single family use regulations.

LOCATION: 1606 Rio Vista Drive

APPLICANT: Sarah Alexander

REQUEST:

A request for a special exception to the single family use regulations is made to construct and maintain a one-story additional dwelling unit structure on a site developed with a one-story single family structure.

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE FAMILY USE REGULATIONS TO AUTHORIZE AN ADDITIONAL DWELLING UNIT:

The board may grant a special exception to the single family use regulations of the Dallas Development Code to authorize an additional dwelling unit on a lot when, in the opinion of the board, the additional dwelling unit will not: (1) be used as rental accommodations; or, (2) adversely affect neighboring properties.

In granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to authorize an additional dwelling unit since the basis for this type of appeal is when, in the opinion of the board, the structure or portion of the structure will be used by bonafide servants or caretakers and will not be rental accommodations.

BACKGROUND INFORMATION:

Zoning:

- Site:** R-7.5(A) (Single Family District)
- North:** R-7.5(A) (Single Family District)
- East:** PD 468 (Planned Development District)
- South:** PD 468 (Planned Development District)
- West:** R-7.5(A) (Single Family District)

Land Use:

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

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

This request for a special exception to the single family use regulations focuses on constructing and maintaining a one-story additional dwelling unit on a site developed with a one-story single family structure.

The site is zoned an R-7.5(A) Single Family District where the Dallas Development Code permits one dwelling unit per lot.

The single family use regulations of the Dallas Development Code state that only one dwelling unit may be located on a lot and that the Board of Adjustment may grant a special exception to this provision and authorize an additional dwelling unit on a lot when, in the opinion of the board, the special exception will not: (1) be use as a rental accommodations; or (2) adversely affect neighboring properties.

The Dallas Development Code defines:

- a “single family” use as “one dwelling unit located on a lot;” and a “dwelling unit” as “one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens, one or more bathrooms, and one or more bedrooms.”
- a “kitchen” as “any room or area used for cooking or preparing food and containing one or more ovens, stoves, hot plates, or microwave ovens; one or more refrigerators; and one or more sinks. This definition does not include outdoor cooking facilities.”
- a “bathroom” as “any room used for personal hygiene and containing a shower or bathtub or containing a toilet and sink.”
- a “bedroom” as “any room in a dwelling unit other than a kitchen, dining room, living room, bathroom, or closet. Additional dining rooms and living rooms, and all dens, game rooms, sunrooms, and other similar rooms are considered bedrooms.”

The submitted site plan denotes the locations of two building footprints, the larger of the two with what appears to be the existing single family main structure and the smaller of the two denoted as a “proposed granny flat”.

This request centers on the function of what is proposed to be inside the smaller structure on the site – the “proposed granny flat” structure, specifically its collection of rooms/features shown on the floor plan.

According to DCAD records, the “main improvement” for the property at 1606 Rio Vista Drive is a structure built in 1959 with 2,603 square feet of total living area with the following “additional improvements”: a 528-square-foot detached garage and a 240-square-foot detached garage.

According to the submitted site plan the main structure contains 2,603 square feet of total living area and the proposed additional dwelling unit contains 494 square feet of living area (with garage and porches 830 square feet).

The applicant has the burden of proof in establishing that the additional dwelling unit will not be used as rental accommodations (by providing deed restrictions, if approved) and will not adversely affect neighboring properties.

As of May 14, 2020, no letters have been submitted in support of or in opposition to the request

If the board were to approve this request, the board may choose to impose a condition that the applicant complies with the site plan if they feel it is necessary to ensure that the special exception will not adversely affect neighboring properties. However, granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e. development on the site must meet all required code requirements).

The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant to deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

If the board were to grant this request, building inspection would view the structure denoted on the submitted site plan as a “proposed granny flat” as an “additional dwelling unit”.

Timeline:

January 29, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

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

February 14, 2020: The Board Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided 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;
- 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 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.

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

BOARD OF ADJUSTMENT ACTION: May 19, 2020

APPEARING IN FAVOR: Sarah Alexander 1606 Rio Vista Dr. Dallas, TX.
Brian Alexander 1606 Rio Vista Dr. Dallas, TX.

APPEARING IN OPPOSITION: None

MOTION: **Sahuc**

I move that the Board of Adjustment, in request No. BDA 190-037 on application of Sarah Alexander, **grant** the request to construct and maintain an additional dwelling unit on a site developed with a single family structure as a special exception to the single family use regulations requirements in the Dallas Development Code, because our

evaluation of the property and the shows that this special exception will not be used as rental accommodations, and will not adversely affect neighboring properties.

I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

The applicant must deed restrict the subject property to prevent the use of the additional dwelling unit as rental accommodations.

SECONDED: Halcomb

AYES: 4 – Gambow, Adams, Halcomb, Sahuc

NAYS: 1 - Lamb

MOTION PASSED: 4 – 1

FILE NUMBER: BDA190-043(OA)

BUILDING OFFICIAL’S REPORT: Application of Mark Brinkerhoff for a special exception to the single family use regulations and to provide an additional electrical meter at 6833 Prosper Street. This property is more fully described as Lot 8, Block C/5048 and is zoned an R-7.5(A) Single Family District, which limits the number of dwelling units to one and requires that single family dwelling use in a single family, duplex, or townhouse may be supplied by not more than one electrical utility service and metered by no more than one electrical meter. The applicant proposes to construct and/or maintain an accessory dwelling unit for rent, which will require a special exception to the single family use regulations and to add an additional electrical utility service and metered, which will require a special exception to the single family zoning regulations.

LOCATION: 6833 Prosper Street

APPLICANT: Mark Brinkerhoff

REQUEST:

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

1. A request for a special exception to the single family use regulations is made to construct and maintain a two-story accessory dwelling unit structure for rent on a site developed with a two-story single family structure.
2. A request to install and maintain an additional electrical utility service and electrical meter on a site that is currently developed with a single family use

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE FAMILY USE REGULATIONS TO AUTHORIZE AN ACCESSORY DWELLING UNIT:

The board may grant a special exception to the single family use regulations of the Dallas Development Code to authorize a rentable accessory dwelling unit on a lot when, in the opinion of the board, the accessory dwelling unit will not adversely affect neighboring properties.

In granting this type of special exception, the board shall require the applicant to:

1. deed restrict the subject property to require owner-occupancy on the premises; and,
2. annually register the rental property with the city's single family non-owner occupied rental program.

STANDARD FOR A SPECIAL EXCEPTION TO THE SINGLE FAMILY USE REGULATIONS TO AUTHORIZE MORE THAN ONE ELECTRICAL UTILITY SERVICE OR MORE THAN ONE ELECTRICAL METER:

The board may grant a special exception to authorize more than one electrical utility service or more than one electrical meter for a single family use on a lot in a single family zoning, duplex, or townhouse district when, in the opinion of the board, the special exception will:

1. not be contrary to the public interest;
2. not adversely affect neighboring properties; and,
3. not be used to conduct a use not permitted in the zoning district.

STAFF RECOMMENDATION ACCESSORY DWELLING UNIT :

No staff recommendation is made on this or any request for a special exception to authorize a rentable accessory dwelling unit since the basis for this type of appeal is when in the opinion of the board, the accessory dwelling unit will not adversely affect neighboring properties.

STAFF RECOMMENDATION ADDITIONAL ELECTRICAL METER:

No staff recommendation is made on this or any request for a special exception to authorize more than one electrical utility service or more than one electrical meter for a single family use on a lot in a single family zoning district since the basis for this type of appeal is when in the opinion of the board, the standards described above are met.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single Family District)
North: R-7.5(A) (Single Family District)
East: R-7.5(A) (Single Family District)
South: R-7.5(A) (Single Family District)
West: R-7.5(A) (Single Family District)

Land Use:

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

Zoning/BDA History:

There have been no related board or zoning cases near the subject site within the last five years.

GENERAL FACTS/STAFF ANALYSIS::

This request for a special exception to the single family use regulations focuses on constructing and maintaining a two-story additional dwelling unit and installing and maintaining a second electrical utility service and electrical meter on a site that is currently developed a two-story single family structure.

The site is zoned an R-7.5(A) Single Family District where the Dallas Development Code permits one dwelling unit per lot.

The single family use regulations of the Dallas Development Code state that only one dwelling unit may be located on a lot and that the Board of Adjustment may grant a special exception to this provision and authorize a rentable accessory dwelling unit on a lot when, in the opinion of the board, the accessory dwelling unit will not adversely affect neighboring properties.

In addition, the Dallas Development Code states that in a single family, duplex, or townhouse district, a lot for a single family use may be supplied by not more than one electrical service, and metered by not more than one electrical meter; and that the Board of Adjustment may grant a special exception to authorize more than one electrical utility service or more than one electrical meter for a single family use on a lot in a single family zoning district when in the opinion of the board, the special exception will: 1) not be contrary to the public interest; 2) not adversely affect neighboring properties; and 3) not be used to conduct a use not permitted in the zoning district

The Dallas Development Code states that *single family* means one dwelling unit located on a lot and that a *dwelling unit* means one or more rooms to be a single housekeeping unit to accommodate one family and containing one or more kitchens¹, one or more bathrooms², and one or more bedrooms³.

The submitted site plan denotes the locations of two building footprints, the larger of the two with what appears to be the existing single family main structure and the smaller of the two denoted as a “new two-story guest house with two-car garage”.

These requests center on the function of what is proposed to be inside the smaller structure on the site – the accessory dwelling unit-- specifically its collection of rooms/features shown on the floor plan. The site plan that does not indicate the location of the two electrical meters on the subject site.

According to DCAD records and the submitted site plan, the “main improvement” for the property at 6833 Prosper Street is a structure built in 2015 with 2,012 square feet of total living area with no additional improvements. Furthermore, the site plan indicates the proposed accessory dwelling unit contains 400 square feet of living area.

The applicant has the burden of proof in establishing that the accessory dwelling unit will not adversely affect neighboring properties. In addition, the applicant has the burden of proof in establishing that the additional electrical meter to be installed on the site will: 1) not be contrary to the public interest; 2) not adversely affect neighboring properties; and, 3) not be used to conduct a use not permitted in the zoning district.

If the board were to approve this request, the board may choose to impose a condition that the applicant complies with the site plan if they feel it is necessary to ensure that the special exception will not adversely affect neighboring properties. However, granting this special exception request will not provide any relief to the Dallas Development Code regulations other than allowing an additional dwelling unit on the site (i.e. development on the site must meet all required code requirements).

The Dallas Development Code states that in granting this type of special exception, the board shall require the applicant deed restrict the subject property to require owner-occupancy on the premises and to annually register the rental property with the city’s single family non-owner occupied rental program.

¹ KITCHEN means any room or area used for cooking or preparing food and containing one or more ovens, stoves, hot plates, or microwave ovens; one or more refrigerators; and one or more sinks. This definition does not include outdoor cooking facilities. Reference §51A-2.102(57.1) of the Dallas Development Code, as amended.

² BATHROOM means any room used for personal hygiene and containing a shower or bathtub, or containing a toilet and sink. Reference §51A-2.102(8.1) of the Dallas Development Code, as amended.

³ BEDROOM means any room in a dwelling unit other than a kitchen, dining room, living room, bathroom, or closet. Additional dining rooms and living rooms, and all dens, game rooms, sun rooms, and other similar rooms are considered bedrooms. Reference §51A-2.102(9) of the Dallas Development Code, as amended.

Timeline:

- February 5, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.
- March 17, 2020: The Board of Adjustment Secretary randomly assigned this case to the Board of Adjustment Panel A.
- March 23, 2020: The Sustainable Development and Construction Department Senior Planner emailed the applicant’s representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the April 28th deadline to submit additional evidence for staff to factor into their analysis; and the May 8th deadline to submit additional evidence to be incorporated into the board’s docket materials;
 - the criteria/standards that the board will use in their decision to approve or deny the requests; and
 - The Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- April 2, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the public hearings. Review team members in attendance included the following: Board of Adjustment Chief Planner/Board Administrator, Building Inspection Senior Plans Examiner, Senior Engineer, Board of Adjustment Senior Planner, and Assistant City Attorney to the Board.

BOARD OF ADJUSTMENT ACTION: May 19, 2020

APPEARING IN FAVOR: Mark Brinkerhoff 6833 Prosper St. Dallas, TX

APPEARING IN OPPOSITION: None

MOTION: Lamb

I move that the Board of Adjustment in request No. BDA 190-043, **hold** this matter under advisement until June 23, 2020.

SECONDED: Gambow

AYES: 5 – Gambow, Adams, Lamb, Halcomb, Sahuc
NAYS: 0
MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA190-046(OA)

BUILDING OFFICIAL’S REPORT: Application of Verizon Wireless, represented by Vincent G. Huebinger, for a variance to the side yard (tower spacing) setback regulations at 7817 Forest Lane. This property is more fully described as Lot 1, Block A/7740, and is zoned an MU-3 Mixed Use District,, which requires a side yard setback of 30 feet for tower spacing. The applicant proposes to construct and/or maintain a structure and provide a 15-foot side yard setback, which will require a 15-foot variance to the side yard (tower spacing) setback regulations.

LOCATION: 7817 Forest Lane

APPLICANT: Verizon Wireless
Represented by Vincent G. Huebinger

REQUEST:

A request for a variance to the “tower spacing” side yard setback regulations of 15 feet is made to construct and maintain a 125-foot-high cellular communications tower “structure” 15 feet from the site’s eastern side property line or 15 feet into the 30-foot side yard setback on a site developed with a commercial use.

STANDARD FOR A VARIANCE:

Section 51(A)-3.102(d)(10) of the Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, lot coverage, floor area for structures accessory to single family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that the variance is:

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

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

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

Rationale:

- Staff concluded that this request should be granted because the width of the subject site where the proposed 125’ high cellular communications tower “structure” is to be located 57 feet, and the height of this structure requires two 30’ side yard (tower spacing) setbacks.
- Staff concluded that granting this variance would not be contrary to public interest in that if the board were to grant this request and impose the submitted site plan/elevation as a condition, the side yard (tower spacing) encroachment would be limited to that what is shown on this document a 125’ high cellular communications tower “structure” located 15’ from the site’s eastern side property line or 15’ into this 30’ side yard setback.

BACKGROUND INFORMATION:

Zoning:

Site: MU-3 (Mixed Use District)
North: MU-3 (Mixed Use District)
East: MU-3 (Mixed Use District)
South: MU-1 (Mixed Use District)
West: MU-3 (Mixed Use District)

Land Use:

The subject site is developed with a commercial use. The areas to the north, east, south, and west are developed with a mix of residential and nonresidential uses.

Zoning/BDA History:

1. BDA189-124, Property located at 7817 Forest Lane (the subject site) The Board of Adjustment Panel A, at its public hearing held on Tuesday, January 21, 2020, denied your request for a request for the eight-foot variance to the side yard setback regulations for tower spacing without prejudice.

The case report stated that the request was made to maintain a construct and maintain a 5-foot wide, 125-foot-high cellular communications tower “structure” located 22 feet from the site’s eastern side property line or 8 feet into this 30-foot side yard setback on a site developed with a commercial use.

GENERAL FACTS /STAFF ANALYSIS:

This request for a variance to the side yard setback regulations of 15 feet focuses on constructing and maintaining a 125-foot-high cellular communications tower “structure” located 15 feet from the site’s eastern side property line or 15 feet into this 30-foot side yard setback, as confirmed by the submitted site/elevation plan. The property is developed with a commercial use.

The property is zoned an MU-3 Mixed Use District which requires no minimum side and rear yard except when adjacent to or directly across an alley from residential district, a 20-foot setback is required.

Additionally, tower spacing, an additional side and rear yard setback of one foot for each two feet in height above 45 feet is required for that portion of a structure above 45 feet in height, up to a total setback of 30 feet.

According to DCAD records, the “main improvement” listed for property addressed at 7817 Forest Lane is an “automotive service” structure built in 2016 with 1,082 square feet of total area.

The subject site contains 0.46 acres, is flat, and slightly irregular in shape (approximately 59 feet wide to the north, 80 feet wide to the south, 329 feet long to the east, and 318 feet long to the west). The lot is 57’ wide where the monopole is proposed.

As of May 14, 2020, no letters have been submitted in support of or in opposition to the request.

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

1. That granting the variance to the front yard setback regulations will not be contrary to the public interest when owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed, and substantial justice done.
2. The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be

developed in a manner commensurate with the development upon other parcels of land in districts with the same MU-3 zoning classification.

3. 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 MU-3 zoning classification.

If the Board were to grant the variance request and impose the submitted site/elevation plan as a condition, the structure in the side yard setback would be limited to what is shown on this document which in this case is a 125-foot-high cellular communications tower “structure” located 15 feet from the site’s eastern side property line or 15 feet into this 30-foot side yard setback.

Timeline:

March 18, 2020: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents that have been included as part of this case report.

April 6, 2020: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. 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”.

April 17, 2020: The Board of Adjustment Chief Planner/Board Administrator emailed the applicant’s representative the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the April 30th deadline to submit additional evidence for staff to factor into their analysis; and the May 8th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and

- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

April 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the May public hearings. Review team members in attendance included the following: the Assistant Director of Sustainable Development and Construction Current Planning Division, the Assistant Director of Sustainable Development and Construction Engineering Division, the Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Department Building Inspection Chief Planner, the Sustainable Development and Construction Senior Engineer, the Chief Arborist, Sustainable Development and Construction Department Board of Adjustment Senior Planners, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: May 19, 2020

APPEARING IN FAVOR: Vincent Huebinger 1715 Capital TX Hwy. Austin, TX.

APPEARING IN OPPOSITION: None

MOTION: Lamb

I move that the Board of Adjustment, in Appeal No. BDA 190-046, **hold** this matter under advisement until June 23, 2020.

SECONDED: Adams

AYES: 5 – Gambow, Adams, Lamb, Halcomb, Sahuc

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA190-053(OA)

BUILDING OFFICIAL’S REPORT: Application of Rob Baldwin of Baldwin Associates for a special exception to the height fence standards regulations at 6023 Orchid Lane. This property is more fully described as Lot 3, Block 4/5499, and is zoned an R-16(A) Single Family District, which limits the height of a fence in the rear yard to nine feet. The applicant proposes to construct a 12-foot high fence in a required rear yard, which will require a three-foot special exception to the fence standards regulations.

LOCATION: 6023 Orchid Lane

APPLICANT: Baldwin Associates

REQUESTS:

A request for a special exception to the fence standards regulations related to the height of three feet is made to construct and maintain a 12-foot-high solid wood fence in the site's rear yard on a site developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

Site: R-16(A) (Single Family District)

North: CR (Community Retail District)

East: R-16(A) (Single Family District)

South: PD No. 553 (Planned Development District)

West: R-16(A) (Single Family District)

Land Use:

The subject site is being developed with a single-family home. Surrounding land uses include retail to the north; a private school to the south; and, single family to the east and west.

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded either on or near the subject site.

GENERAL FACTS/STAFF ANALYSIS:

The purpose of this request for a special exception to the fence height standards is to construct a solid wood fence with a maximum height of 12 feet within the rear yard of a property developed with a single family home.

Section 51A-4.602(a) (2) of the Dallas Development Code states that in all residential districts except multifamily districts, a person shall not erect or maintain a fence in a required yard more than nine feet above grade.

The submitted site/elevation plan shows the proposed fence in the rear yard reaches a maximum height of 12 feet. The proposed fence is approximately 100 feet long parallel to the public alley on the east side of the site.

The Board of Adjustment Senior Planner conducted a field visit of the site and surrounding area and noted two other fences that appeared to be above nine feet in height in the area in a rear yard setback.

As of May 14, 2020, no letters have been received regarding the request.

The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach 12 feet-in-height) will not adversely affect neighboring property.

Granting these special exceptions with a condition imposed that the applicant complies with the submitted site/elevation plan would require the proposal exceeding three feet-in-height in the rear yard setback to be constructed in the location and heights as shown on these documents.

Timeline:

February 27, 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.

April 6, 2020: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

April 16, 2020: The Board of Adjustment Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the April 28th deadline to submit additional evidence for staff to factor into their analysis; and the May 8th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

April 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearings. Review team members in attendance included the following: the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Senior Engineer, the Board of Adjustment Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: May 19, 2020

APPEARING IN FAVOR: Rob Baldwin, 3904 Elm St. #B, Dallas, TX.

APPEARING IN OPPOSITION: None.

MOTION: Lamb

I move that the Board of Adjustment, in Appeal No. BDA 190-053, on application of Rob Baldwin of Baldwin Associates, **grant** the request of this applicant to construct and/or maintain a 12-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

Compliance with the submitted site/elevation plan is required.

SECONDED: Sahuc

AYES: 5 – Gambow, Adams, Lamb, Halcomb, Sahuc

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA190-054(OA)

BUILDING OFFICIAL’S REPORT: Application of Rob Baldwin of Baldwin Associates for a special exception to the height fence standards regulations at 6031 Orchid Lane. This property is more fully described as Lot 4, Block 4/5499, and is zoned an R-16(A) Single Family District, which limits the height of a fence in the rear yard to nine feet. The applicant proposes to construct a 12-foot high fence in a required rear yard, which will require a three-foot special exception to the fence standards regulations.

LOCATION: 6031 Orchid Lane

APPLICANT: Baldwin Associates

REQUESTS:

A request for a special exception to the fence standards regulations related to the height of three feet is made to construct and maintain a 12-foot-high solid wood fence in the site’s rear yard on a site developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

Site: R-16(A) (Single Family District)

North: CR (Community Retail District)

East: R-16(A) (Single Family District)

South: PD No. 553 (Planned Development District)

West: R-16(A) (Single Family District)

Land Use:

The subject site is developed with a singlefamily home. Surrounding land uses include retail to the north; a private school to the south; and, single family to the east and west.

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded either on or near the subject site.

GENERAL FACTS/STAFF ANALYSIS:

The purpose of this request for a special exception to the fence height standards is to construct a solid wood fence with a maximum height of 12 feet within the rear yard of a property developed with a single family home.

Section 51A-4.602(a) (2) of the Dallas Development Code states that in all residential districts except multifamily districts, a person shall not erect or maintain a fence in a required yard more than nine feet above grade.

The submitted site/elevation plan shows the proposed fence in the rear yard reaches a maximum height of 12 feet. The proposed fence is approximately 100 feet long parallel to the public alley on the east side of the site.

The Board of Adjustment Senior Planner conducted a field visit of the site and surrounding area and noted two other fences that appeared to be above nine feet in height in the area in a rear yard setback.

As of May 8, 2020, no letters have been received regarding the request.

The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach 12 feet-in-height) will not adversely affect neighboring property.

Granting these special exceptions with a condition imposed that the applicant complies with the submitted site/elevation plan would require the proposal exceeding three feet-in-height in the rear yard setback to be constructed in the location and heights as shown on these documents.

Timeline:

February 27, 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.

April 6, 2020: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

April 16, 2020: The Board of Adjustment Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the April 28th deadline to submit additional evidence for staff to factor into their analysis; and the May 8th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

April 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearings. Review team members in attendance included the following: the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Senior Engineer, the Board of Adjustment Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: May 19, 2020

APPEARING IN FAVOR: Rob Baldwin 3904 Elm St. #B Dallas, TX.

APPEARING IN OPPOSITION: None

MOTION: Lamb

I move that the Board of Adjustment, in Appeal No. BDA 190-054, on application of Rob Baldwin of Baldwin Associates, **grant** the request of this applicant to construct and/or maintain a 12-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

Compliance with the submitted site/elevation plan is required.

SECONDED: Halcomb

AYES: 5 – Gambow, Adams, Lamb, Halcomb, Sahuc

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA190-055(OA)

BUILDING OFFICIAL’S REPORT: Application of Rob Baldwin of Baldwin Associates for a special exception to the height fence standards regulations at 6039 Orchid Lane. This property is more fully described as Lot 5, Block 4/5499, and is zoned R-16(A), which limits the height of a fence in the rear yard to nine feet. The applicant proposes to construct a 12-foot high fence in a required rear yard, which will require a three-foot special exception to the fence standards regulations.

LOCATION: 6039 Orchid Lane

APPLICANT: Baldwin Associates

REQUESTS:

A request for a special exception to the fence standards regulations related to the height of three feet is made to construct and maintain a 12-foot-high solid wood fence in the site’s rear yard on a site developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

Site: R-16(A) (Single Family District)

North: CR (Community Retail District)

East: R-16(A) (Single Family District)

South: PD No. 553 (Planned Development District)

West: R-16(A) (Single Family District)

Land Use:

The subject site is developed with a singlefamily home. Surrounding land uses include retail to the north; a private school to the south; and, single family to the east and west.

Zoning/BDA History:

There have not been any recent related board or zoning cases recorded either on or near the subject site.

GENERAL FACTS/STAFF ANALYSIS:

The purpose of this request for a special exception to the fence height standards is to construct a solid wood fence with a maximum height of 12 feet within the rear yard of a property developed with a single family home.

Section 51A-4.602(a) (2) of the Dallas Development Code states that in all residential districts except multifamily districts, a person shall not erect or maintain a fence in a required yard more than nine feet above grade.

The submitted site/elevation plan shows the proposed fence in the rear yard reaches a maximum height of 12 feet. The proposed fence is approximately 57 feet long parallel to the public alley on the east side of the site.

The Board of Adjustment Senior Planner conducted a field visit of the site and surrounding area and noted two other fences that appeared to be above nine feet in height in the area in a rear yard setback.

As of May 8, 2020, no letters have been received regarding the request.

The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach 12 feet-in-height) will not adversely affect neighboring property.

Granting these special exceptions with a condition imposed that the applicant complies with the submitted site/elevation plan would require the proposal exceeding three feet-in-height in the rear yard setback to be constructed in the location and heights as shown on these documents.

Timeline:

February 27, 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.

April 6, 2020: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

April 16, 2020: The Board of Adjustment Senior Planner emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the April 28th deadline to submit additional evidence for staff to factor into their analysis; and the May 8th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

April 30, 2020: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the December public hearings. Review team members in attendance included the following: the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Chief Arborist, the Senior Engineer, the Board of Adjustment Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, and the Assistant City Attorney to the Board.

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

BOARD OF ADJUSTMENT ACTION: May 19, 2020

APPEARING IN FAVOR: Rob Baldwin 3904 Elm St. #B Dallas, TX.

APPEARING IN OPPOSITION: None

MOTION: Lamb

I move that the Board of Adjustment, in Appeal No. BDA 190-055, on application of Rob Baldwin of Baldwin Associates, **grant** the request of this applicant to construct and/or maintain a 12-foot high fence as a special exception to the height requirement for fences contained in the Dallas Development Code, as amended, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property.

I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

Compliance with the submitted site/elevation plan is required.

SECONDED: Halcomb

AYES: 5 – Gambow, Adams, Lamb, Halcomb, Sahuc

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 190-001

BUILDING OFFICIAL’S REPORT: Application of the Dallas City Council, pursuant to Resolution 19-0916, represented by Keisha Crane and Zinzi Bonilla, to require compliance of a nonconforming use at 1101 S Haskell Avenue. This property is more fully described as parts of Lots 14 and 15, Block 24/1270, and is zoned CS, which limits the legal uses in a zoning district. The applicant proposes to request that the Board establish a compliance date for a nonconforming alcoholic beverage establishment.

LOCATION: 1101 S Haskell Avenue

APPLICANT: Dallas City Council Resolution 19-0916
Represented by Keisha Crane and Zinzi Bonilla

REQUEST:

A request is made for the Board of Adjustment to establish a compliance date for a nonconforming alcoholic beverage establishment use (Club Linares Bar) on the subject site.

COMPLIANCE REGULATIONS FOR NONCONFORMING USES: SEC. 51A-4.704. NONCONFORMING USES AND STRUCTURES of the Dallas Development Code provides the following provisions:

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

(1) Amortization of nonconforming uses.

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

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

- (i) The character of the surrounding neighborhood.
- (ii) The degree of incompatibility of the use with the zoning district in which it is located.
- (iii) The manner in which the use is being conducted.
- (iv) The hours of operation of the use.
- (v) The extent to which continued operation of the use may threaten public health or safety.
- (vi) The environmental impacts of the use's operation, including but not limited to the impacts of noise, glare, dust, and odor.
- (vii) The extent to which public disturbances may be created or perpetuated by continued operation of the use.
- (viii) The extent to which traffic or parking problems may be created or perpetuated by continued operation of the use.
- (ix) Any other factors relevant to the issue of whether continued operation of the use will adversely affect nearby properties.

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

(D) Determination of amortization period.

- (i) If the board determines that continued operation of the nonconforming use will have an adverse effect on nearby properties, it shall, in accordance with the law, provide a compliance date for the nonconforming use under a plan whereby the owner's actual investment in the use before the time that the use became nonconforming can be amortized within a definite time period.
- (ii) The following factors must be considered by the board in determining a reasonable amortization period:
 - (aa) The owner's capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) on the property before the time the use became nonconforming.
 - (bb) Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages.
 - (cc) Any return on investment since inception of the use, including net income and depreciation.
 - (dd) The anticipated annual recovery of investment, including net income and depreciation.
- (E) Compliance requirement. If the board establishes a compliance date for a nonconforming use, the use must cease operations on that date and it may not operate thereafter unless it becomes a conforming use.
- (F) For purposes of this paragraph, "owner" means the owner of the nonconforming use at the time of the board's determination of a compliance date for the nonconforming use.

GENERAL FACTS:

- City records indicate the following:
 - The nonconforming use at 1101 S. Haskell Avenue is an alcoholic beverage establishment.
 - Reason the use is classified as nonconforming: On June 23, 1993, City Council passed Ordinance No. 21735 which added a requirement that alcoholic beverage establishment uses must obtain a Specific Use Permit (SUP).
 - Date that the use became nonconforming: June 23, 1993
 - Date the nonconforming use was discontinued: June 5, 2019
 - Current zoning of the property on which the use is located: CS
 - A Certificate of Occupancy was issued on 05-05-2008 for property at 1101 S Haskell Avenue to owner Edgar Romano land use (5821) alcoholic beverage establishment with remarks: "Alcoholc [sic] beverage est. nonconforming per last CO#0401091101. See attached TABC records & letter. No change in ownership. Added square footage per record 3-23-15 BW."

- The Dallas Development Code defines a “nonconforming use” as “a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time.”
- The subject site is zoned CS Commercial Service district, which does not permit an alcoholic beverage establishment use without a Specific Use Permit (SUP).

BACKGROUND INFORMATION:

Zoning:

Site: CS (Commercial Service)
North: CS (Commercial Service)
East: CS (Commercial Service)
South: IR (Industrial Research)
West: IR (Industrial Research)

Land Use:

The site is currently developed with a vacant structure. Surrounding land uses include a warehouses to the north, south, and west and undeveloped land separates the subject site from a retail business to the east.

Zoning/BDA History:

There have been no recent Board of Adjustment or zoning cases on or in the immediate vicinity of the subject site.

TIMELINE:

- October 18, 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.
- October 31, 2019: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.
- November 14, 2019: The Interim Board Administrator wrote/sent the record owner of the property and use (Fermin and Gloria Lopez) a letter (with a copy to Keisha Crane) informing them that a Board of Adjustment case had been filed against the nonconforming

alcoholic beverage establishment use. The letter included following enclosures:

1. A copy of the Board of Adjustment application and related materials.
2. Dallas Development Code Section 51A-3.102 describing the Board of Adjustment.
3. Dallas Development Code Section 51A-2.102(90), which defines a nonconforming use.
4. Dallas Development Code Section 51A-4.704, provisions for nonconforming uses and structures.
5. Dallas Development Code Section 51A-4.703, Board of Adjustment hearing procedures.
6. City of Dallas Board of Adjustment Working Rules of Procedures.
7. The hearing procedures for board of adjustment amortization of a nonconforming use.

The letter also informed Mr. and Mrs. Lopez of the date, time, and location of the public hearing, and provided a deadline of January 10th to submit any information that would be incorporated into the board's docket.

December 24, 2019: The US Postal Service returned the above unopened letter with a note that the letter was unclaimed and unable to forward.

December 30, 2019: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included the following: the Interim Board of Adjustment Chief Planner/Board Administrator, the Sustainable Development and Construction Department Building Inspection Senior Plans Examiner, the Sustainable Development and Construction Senior Engineer, Sustainable Development and Construction Department Board of Adjustment Senior Planner, and the Assistant City Attorney to the board.

January 8, 2020: The applicant requested the case be held under advisement until March 17, 2020 (Attachment A).

January 21, 2020: The Board of Adjustment Panel A conducted a public hearing on this application, and delayed action on this application until the next public hearing to be held under advisement until March 17, 2020.

February 28, 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 Senior Plans Examiner, Building Official, Assistant Building Official, and Chief Planner; and Engineering Division staff including the Senior Engineer and Assistant Director.

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

March 10, 2020: The representative, on behalf of the applicant, requested to withdraw the application (Attachment B).

BOARD OF ADJUSTMENT ACTION: May 19, 2020

APPEARING IN FAVOR: Keisha Crane 1500 Marilla St. 7DN Dallas, TX

APPEARING IN OPPOSITION: None

MOTION: **Sahuc**

I move that the Board of Adjustment in Appeal No. BDA 190-001 **grant** the request to withdraw the application as requested by the applicant.

SECONDED: **Halcomb**

AYES: 5 – Gambow, Adams, Lamb, Halcomb, Sahuc

NAYS: 0

MOTION PASSED: 5 – 0 (unanimously)

2:35 P.M. Board Meeting adjourned for **May 19, 2020.**

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

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