

ZONING BOARD OF ADJUSTMENT, PANEL B
WEDNESDAY, JANUARY 18, 2017
AGENDA

BRIEFING	5ES 1500 MARILLA STREET DALLAS CITY HALL	11:30 A.M.
PUBLIC HEARING	COUNCIL CHAMBERS 1500 MARILLA STREET DALLAS CITY HALL	1:00 P.M.

Donna Moorman, Chief Planner
Steve Long, Board Administrator

MISCELLANEOUS ITEMS

	Approval of the November 16, 2016 Board of Adjustment Panel B Public Hearing Minutes	M1
BDA156-083(SL)	901 Pearl Street REQUEST: Of Maxwell Fisher to extend the time in which to file an application for a building permit or certificate of occupancy an additional 12 months beyond the 180 days from the Board of Adjustment Panel B's favorable action in August of 2016 for a special exception to the Flora Street height restrictions	M2

UNCONTESTED CASES

BDA167-001(SL)	4004 Lemmon Avenue REQUEST: Application of Pete Frey, represented by Paul Coggins, for a special exception to the landscape regulations	1
BDA167-003(SL)	9520 Hathaway Street REQUEST: Application of Darren Aschaffenburg for special exceptions to the fence standards	2
BDA167-008(SL)	4407 W. Lovers Lane REQUEST: Application of Ryan Bellomy, represented by Robert R. Harris, for a special exception to the landscape regulations	3

EXECUTIVE SESSION NOTICE

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

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

MISCELLANEOUS ITEM NO. 2

FILE NUMBER: BDA156-083(SL)

REQUEST: To extend the time period in which to file an application for a building permit or certificate of occupancy an additional 12 months beyond the 180 days from the Board of Adjustment Panel B's favorable action on a request for a special exception to the to the Flora Street height restrictions granted (with conditions) on August 17, 2016.

LOCATION: 901 Pearl Street

APPLICANT: Maxwell Fisher

STANDARD FOR EXTENDING THE TIME PERIOD IN WHICH TO APPLY FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY:

- The Dallas Development Code states:
 - The applicant shall file an application for a building permit or certificate of occupancy within 180 days for the date of the favorable action of the board, unless the applicant files for and is granted (by the Board of Adjustment) an extended time period prior to the expiration of the 180 days. The filing of a request for an extended time period does not toll the 180 day time period. If the applicant fails to file an application within the time period, the request is automatically denied without prejudice and the applicant must begin the process to have his request heard again.
- The *Board of Adjustment Working Rules of Procedure* state the following with regard to extensions of the time period for making application for a building permit or certificate of occupancy:
 - A panel may not extend the time period for making application for a building permit or certificate of occupancy beyond 180 days from the date of its favorable action unless it makes a *specific finding* based on evidence presented at a public hearing that there are no substantially changed conditions or circumstances regarding the property to the satisfaction of the panel. In no event, however, may the board extend the time period beyond 18 months from the date of its favorable action.

Timeline:

August 17, 2016: The Board of Adjustment Panel B granted a request for a special exception to the Flora Street building height requirements of 11' and imposed the following conditions: 1) Compliance with submitted development plan, and the submitted building elevations is required; and 2) The portion of the building exceeding the

maximum height permitted is occupied exclusively by multiple-family uses.

The case report stated that this request was made to construct and maintain an approximately 600,000 square foot, 40-story mixed use structure/development (multifamily and retail) on a site developed as a surface parking lot, part of which would not fully comply with PD 145 height restrictions on Flora Street which restricts the maximum building height within the Flora Street frontage area to the height of any portion of a structure must be equal to or less than the shortest distance from the vertical plan extending through the Flora Street centerline. (See Attachment A for documents related to this application).

December 5, 2016: The applicant sent a letter to the Board Administrator requesting an extension of the time period in which to make application for a building permit or certificate of occupancy (see Attachment B).

December 6, 2016: The Board Administrator emailed the applicant acknowledging his request for the Board to extend the time period in which to file an application for a building permit or certificate of occupancy an additional 12 months beyond the 180 days that the applicant had to do so from the August 17th favorable action (see Attachment C). The applicant was emailed the following additional information:

- an attachment that provided the public hearing date of the request; and deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- an attachment of materials related to BDA156-083; and
- The Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."



M2
Attach A B
PS1

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-083

Data Relative to Subject Property: Date: July 22, 2015
Location address: 901 Pearl Street Zoning District: PD 145

Lot No.: 1 Block No.: 528 Acreage: 1.03 Census Tract: 21.00

Street Frontage (in Feet): 1 243' on Flora 2 196' on Olive 3) 272' Woodall Rogers Freeway Off-Ramp 4) 194' Pearl 5) _____

To the Honorable Board of Adjustment:

5827

Owner of Property/or Principal Arts District Properties, LTD & ~~Greene, Richard Graham,~~

Applicant: Maxwell Fisher & Dallas Cothran, Masterplan Telephone: 214.761.9197

Mailing Address 900 Jackson Street, Suite 640, Dallas, TX Zip Code: 75202

Represented by: Same as applicant. Telephone: _____

Mailing Address: _____ Zip Code: _____

Affirm that a request has been made for a Variance , or Special Exception X, of an 11-foot encroachment into the Flora Street height restricted frontage area set forth in Section 51P-145.104(d)(3) of Article 145 (Planned Development District No. 145). Refer to the attached statement of request for more information.

Application is now made to the Honorable Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described request for the following reason: The minimal encroachment will allow for greater ceiling heights for the affordable Flora artist lofts and workspace. With greater vertical spatial dimensions, the ground floor retail space will be more marketable, which will support an activated Flora streetscape in accordance with the goals of the Sasaki Plan. Refer to the enclosed Masterplan memorandum for additional information.

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

Respectfully submitted: Maxwell Fisher [Signature]

IN THE OFFICE OF THE BOARD OF ADJUSTMENT
Affidavit
THIS THE DAY OF
APPLICANT'S NAME AND ADDRESS
APPLICANT'S SIGNATURE

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

[Signature] ADMINISTRATOR [Signature] Affiant (Applicant's signature)

Subscribed and sworn to before me this 20th day of JUNE, 2016



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

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Attach A
P22

**BOARD OF ADJUSTMENT
CITY OF DALLAS, TEXAS**

WEDNESDAY, AUGUST 17, 2016

FILE NUMBER: BDA156-083(SL)

BUILDING OFFICIAL'S REPORT: Application of Maxwell Fisher for a special exception to the Flora Street height restrictions at 901 Pearl Street. This property is more fully described as Lot 1, Block 528, and is zoned PD-145, which limits the maximum building height within the Flora Street frontage area, the height of any portion of a structure must be equal to or less than the shortest distance of that portion of the structure from the vertical plane extending through the Flora Street centerline. The applicant proposes to construct and maintain a multifamily residential structure with a building height that exceeds the setback by 11 feet, which will require an 11 foot special exception to the Flora Street height restrictions.

LOCATION: 901 Pearl Street

APPLICANT: Maxwell Fisher

REQUEST:

A request for a special exception to the Flora Street building height requirements of 11' is made to construct and maintain a mixed use structure/development (multifamily/retail) on a site developed as a surface parking lot, and not fully complying with PD 145 height restrictions on Flora Street which restricts the maximum building height within the Flora Street frontage area to the height of any portion of a structure must be equal to or less than the shortest distance from the vertical plan extending through the Flora Street centerline.

STANDARD FOR A SPECIAL EXCEPTION TO THE HEIGHT RESTRICTIONS ON FLORA STREET IN THE FLORA STREET FRONTAGE AREA OF PD 145:

The board may grant a special exception to the height restrictions of Flora Street in the Flora Street frontage area of PD 145 if the special exception will not adversely affect appropriate development of the Dallas Arts District: The Flora Street height restrictions contained in Section 51P-145.104(d)(3), but only if the portion of the building exceeding the maximum building height permitted in that section is occupied exclusively by multiple-family uses.

STAFF RECOMMENDATION:

Denial

Rationale:

- The Manager in Sustainable Development and Construction Department recommended denial of the request where he concluded that if the structure were

M2
Attach A
B3

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing Aug. 17, 2016

Appeal was--Granted OR Denied

Remarks Granted -

1. Compliance with the submitted development plan and the submitted building elevation is required.
2. The portion of the building exceeding the the maximum height permitted is occupied exclusively by multiple-family uses.

Scott Herz
Chairman

Building Official's Report

I hereby certify that Maxwell Fisher

did submit a request for a variance to the building height regulation
at 901 Pearl Street

BDA156-083. Application of Maxwell Fisher for a special exception to the building height regulation at 901 Pearl Street This property is more fully described as Lot 1, Block 528, ar is zoned PD-145, which limits the maximum building height within the Flora Street frontage area, the height of any portion of a structure must be equal to or less than the shortest distance of that portion of the structure from the vertical plane extending through the Flora Street centerline. The applicant proposes to construct a multifamily residential structure wi a building height which will require a 11 foot special exception to the maximum building height regulation. Per Section 51P-145.106(a)(2) The board of adjustment may grant a special exception to the requirements of the Flora Street height restrictions contained in Section 51P-145.104(d)(3) if the special exception will not adversely affect appropriate development of the Dallas Arts District, and only if the portion of the building exceeding the maximum height permitted in that section is occupied exclusively by multiple-family uses.

BOARD OF ADJUSTMENT DECISION FILED
IN THE OFFICE OF THE BOARD OF ADJUSTMENT
THIS THE 16 DAY OF

August, 20 16

Steve Long
ADMINISTRATOR

Sincerely,

Philip Sikes
Philip Sikes, Building Official



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Attach A
Pg 4

August 19, 2016

Maxwell Fisher
Masterplan
900 Jackson Street, Suite 640
Dallas, TX 75202

Re: BDA156-083(SL), Property at 901 Pearl Street

Dear Mr. Fisher:

The Board of Adjustment Panel B, at its public hearing held on Wednesday, August 17, 2016, granted your request for a special exception to the building height regulations of 11 feet, subject to the following conditions:

- Compliance with submitted development plan and building elevations is required.
- The portion of the building exceeding the maximum height permitted is occupied exclusively by multiple-family uses.

Contact Building Inspection at 320 E. Jefferson, Room 118 to file an application for a building permit or certificate of occupancy within 180 days from the date of the favorable action of the board.

Should you have any further questions regarding the Board's action, please contact me at (214) 670-4666.

A handwritten signature in black ink that reads 'Steve Long'.

Steve Long, Board Administrator
Board of Adjustment
Sustainable Development and Construction

c: Ben Collins, Code Enforcement, 3112 Canton, Room 100
Todd Duerksen, Bldg. Inspection, 320 E. Jefferson #105

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Attach A
p56
7.27

REVISED DATE: 12/18/11 ARCHITECT: KOKALAKIS		DEVELOPMENT PLAN REV. 12/18/11	 ADD Inc Stantec 1111 RIVER STREET SUITE 200 ANN ARBOR, MI 48106 TEL: 734.769.1234 FAX: 734.769.1235 WWW.ADDINC.COM DATE: 12/18/11	BUILDING ELEVATIONS NORTH-WEST & NORTH-EAST Drawing Title: DP-3.1 Drawing No.: 1111111111 Date: 12/18/11
				BDA 156-083 PLANS APPROVED FOR THE SUBJECT BOARD ACTION DATE: 8-18-11 ADMINISTRATOR:
				BDA 156-083 PLANS APPROVED FOR THE SUBJECT BOARD ACTION DATE: 8-18-11 ADMINISTRATOR:

M2
Attach A
PS 7

ATTENTION: OWNER ONLY

DEVELOPER PLAN
AUGUST 2011

rom
LIVING

ADD Inc
Stantec

BUILDING
ELEVATIONS
SOUTH-WEST &
SOUTH-EAST

OWNER: [REDACTED]

DATE: 8-18-16

ADMINISTRATOR: [Signature]

DP-3.2

1. ELEVATION OF SOUTH-WEST SIDE OF BLDG.

2. ELEVATION OF SOUTH-EAST FRONT PORCH, ELEV.

1. ELEVATION OF SOUTH-WEST SIDE OF BLDG.

2. ELEVATION OF SOUTH-EAST FRONT PORCH, ELEV.

M2
Attach B



05 December 2016

Steve Long, Board of Adjustment Administrator
City of Dallas Sustainable Development and Construction
1500 Marilla Street, Room 5BN
Dallas, TX 75201

RE: 901 Pearl Street – File BDA156-083(SL)

Dear Mr. Long,

On August 17, 2016, the Dallas Board of Adjustment, Panel B approved an application for a special exception to the Flora Street height restrictions, File BDA156-083(SL). On behalf of ZOM Inc., Masterplan requests a 1-year extension of the City's 6-month deadline to secure a building permit. There are no substantially changed conditions or circumstances regarding 901 Pearl Street. The design and development team simply needs additional time to make final draft modifications to the design plans before securing a building permit to begin construction. If agreeable, we kindly ask that the request for extension of the Board's authorization be placed on Panel B's January 18th agenda so that the request is evaluated before the 180-day deadline of February 13, 2017.

Thank you for your time and consideration. We look forward to working with you and the board on this matter. Should you have any questions or need additional, don't hesitate to call me or Dallas Cothrum at 214.761.9197.

Regards,

A handwritten signature in black ink, appearing to read "Maxwell J. Fisher".

Maxwell J. Fisher, AICP

MZ
Altman C
p 9 |

Long, Steve

From: Long, Steve
Sent: Tuesday, December 06, 2016 8:46 AM
To: 'Maxwell Fisher'
Cc: Moorman, Donna; Duerksen, Todd; Law, Trena; Morrison, Laura
Subject: FW: Miscellaneous Item Time Extension Request: BDA156-083(SL), Property at 901 Pearl Street
Attachments: Extension request letter.pdf; BDA156-083 history.pdf; documentary evidence.pdf; time extension.PDF; Panel B hearing date and deadlines.doc

Dear Maxwell,

Please consider this email as official notice that the miscellaneous item request for a time extension in which to file for a building permit or certificate of occupancy beyond the 180 days you have to do so from the August 17th favorable action by Board of Adjustment Panel B in conjunction with the board of adjustment application referenced above has been scheduled for the Wednesday, January 18th Panel B public hearing to be held in Dallas City Hall at 1:00 p.m. (room location still to be determined).

Here is additional information regarding your miscellaneous item time extension request:

1. Your letter of request - which will be included in a docket that is emailed to you and the board members about a week ahead of your January 18th public hearing.
2. Related documents to BDA156-083.
3. The provision from the Board's Working Rules of Procedure allowing the board to extend the time period in which to make application for a building permit or certificate of occupancy (Section 9.(j)).
4. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board.
5. The board's rule pertaining to documentary evidence.

Please write or call me at 214/670-4666 if you have any questions/concerns, or if I can be of any additional assistance to you on this matter.

Thank you,

Steve

From: Long, Steve
Sent: Tuesday, December 06, 2016 5:52 AM
To: 'Maxwell Fisher'
Subject: RE: Extension of BDA Authorization - File BDA156-083(SL)

Very good.

Steve

From: Maxwell Fisher [<mailto:maxwell@masterplanconsultants.com>]
Sent: Monday, December 05, 2016 3:53 PM
To: Long, Steve
Cc: Law, Trena
Subject: RE: Extension of BDA Authorization - File BDA156-083(SL)

I am happy to do so. Thanks for reminding me about that statement.

MZ
AHC

Pg 2

From: Long, Steve [<mailto:steve.long@dallascityhall.com>]
Sent: Monday, December 05, 2016 3:43 PM
To: Maxwell Fisher <maxwell@masterplanconsultants.com>
Cc: Law, Trena <trena.law@dallascityhall.com>
Subject: RE: Extension of BDA Authorization - File BDA156-083(SL)

Dear Maxwell,

Attached is the standard from the board's rules regarding an extension to the time period for making applications for a building permit or CO. Would you want to redraft your letter to include how there are no substantially changed conditions or circumstances regarding the property?

Steve

From: Maxwell Fisher [<mailto:maxwell@masterplanconsultants.com>]
Sent: Monday, December 05, 2016 11:34 AM
To: Long, Steve; Law, Trena
Cc: dallas@masterplanconsultants.com
Subject: Extension of BDA Authorization - File BDA156-083(SL)

Steve and Trena,

Greetings. Please let me know if the attached letter is sufficient to consider and place a request for extension on the BOA, Panel B's agenda in January 2017.

Sincerely,

Maxwell

Maxwell J. Fisher, AICP
Masterplan -|- Land Use Consultants
900 Jackson Street, Suite 640
Dallas, TX 75202
(O): 214.761.9197 (C): 214.470.3972



FILE NUMBER: BDA167-001(SL)

BUILDING OFFICIAL'S REPORT: Application of Pete Frey, represented by Paul Coggins, for a special exception to the landscape regulations at 4004 Lemmon Avenue. This property is more fully described as Lot 1A, Block D/1056, and is zoned PD 193 (GR), 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: 4004 Lemmon Avenue

APPLICANT: Pete Frey
Represented by Paul Coggins

REQUEST:

A request for a special exception to the landscape regulations is made to maintain an existing structure/automobile service use (Take 5 Oil Change) on a site, and not fully provide required landscaping.

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

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

STAFF RECOMMENDATION:

Approval, subject to the following conditions:

1. Compliance with the submitted alternate landscape plan is required.
2. An automatic irrigation system must be installed and maintained on the subject site.

Rationale:

- The City of Dallas Chief Arborist supports the applicant's request because the applicant has reasonably demonstrated the proposed alternate landscape plan does not compromise the spirit and intent of the PD 193 landscape requirements for GR districts.
- In this case, the Chief Arborist notes among other things how the alternative landscape plan identifies: 1) new unspecified evergreen shrubs at the required height and spacing, and a screening fence, to be installed adjacent to the surface

parking locations on the property, and 2) new trees based on the availability of space for visibility triangles for driveways and the street corner.

BACKGROUND INFORMATION:

Site: PD 193 (GR) (Planned Development, General Retail)
North: PD 193 (MF-2) (Planned Development, Multifamily)
South: PD 193 (GR) (Planned Development, General Retail)
East: PD 193 (GR) (Planned Development, General Retail)
West: PD 193 (GR) (Planned Development, General Retail)

Land Use:

The subject site is developed with an automobile service structure/use (Take 5 Oil Change) that according to a City of Dallas Arborist has been on the property since 1987. The area to the north is developed with residential use; the area to the east is undeveloped; and the areas to the south and west are developed with retail uses.

Zoning/BDA History:

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

GENERAL FACTS/ STAFF ANALYSIS:

- This request for a special exception to the landscape regulations focuses on maintaining an existing structure/automobile service use (Take 5 Oil Change) on a site, and not fully providing required landscaping.
- More specifically, according to the City of Dallas Chief Arborist, the applicant seeks a special exception to the landscape requirements related to street trees, sidewalks, and irrigation.
- A City of Dallas Arborist emailed in Board Administrator information about this property in November of 2016. The City Arborist stated that the property originally came to his attention as a Code Compliance case in July of 2015 - a citizen complaint about missing street trees and landscaping. The old building was demolished in 1987 and the new one constructed that same year. As PD 193 came into being in February, 1985, the new building would have triggered a landscape review and inspection under PD 193 regulations at that time. There was an approved landscape plan in City archives, but the sidewalk location was very unclear on the drawing and the inspector (whomever that was) may not have even known to check for its location and width, as per the ordinance. The existing sidewalks on the property do not currently meet code for location and would either need to be replaced or if kept, it will force the placement of their three street trees along the Throckmorton frontage back behind it which are not code compliant.
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in

detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.

- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment A). The memo states how this request is triggered the enforcement of compliance with requirements of PD 193 zoning regulations.
- The Chief Arborist's memo states the following with regard to deficiencies:
 - Street trees – Minimum of 3 required and provided; required from 2.5' – 5' from back of curb but provided at 10' from back of curb (193.126(b)(5)).
 - Sidewalks – Minimum of 6 feet width and between 5' – 12' from back of curb required, but provided existing 4 feet sidewalk between 2.5' and 6,5' from back of curb (193.126(b)(4)).
 - All required landscaping must be irrigated and drained by automatic irrigation and permanent drainage systems installed to comply with industry standards. An irrigation system was not located on site during review, or indicated on the plan (193.126(b)(2)).
- The Chief Arborist's memo lists the following factors for consideration:
 - The structure was built in 1987 after the PD 193 special purpose district was formed.
 - Recent investigations into landscape compliance issues in the area discovered the property to not be in compliance with mandatory landscape requirements imposed with the 1987 construction of the site. The installed sidewalk location in the right-of-way does not conform to PD 193 standards for new construction.
 - The plan identifies new unspecified evergreen shrubs at the required height and spacing, and a screening fence, to be installed adjacent to the surface parking locations on the property. Other existing shrubs along the Throckmorton and Lemmon frontages do not screen for parking spaces. New trees are provided based on the availability of space for visibility triangles for driveways and the street corner. The location of the existing sidewalk prohibits the planting of the trees within the required distance from back of curb. The groundcover border will provide an additional decorative edge.
- The City of Dallas Chief Arborist recommends approval of this request, subject to the applicant complying with the submitted alternate landscape plan and the added condition that an automatic irrigation system for the continued maintenance of landscaping be provided because the applicant has reasonably demonstrated the proposed alternate landscape plan does not compromise the spirit and intent of the PD 193 landscape requirements for GR districts.
- The applicant has the burden of proof in establishing the following:
 - The special exception (where the applicant seeks a special exception to the landscape requirements related to street trees, sidewalks, and irrigation) will not compromise the spirit and intent of Section 51P-193-126: Landscape, streetscape, screening, and fencing standards".
- If the Board were to grant this request and impose the submitted alternate landscape plan and that an automatic irrigation system are required as conditions, the site

would be granted exception from full compliance to street tree and sidewalk requirements of the Oak Lawn PD 193 landscape ordinance.

Timeline:

October 25, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

December 7, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

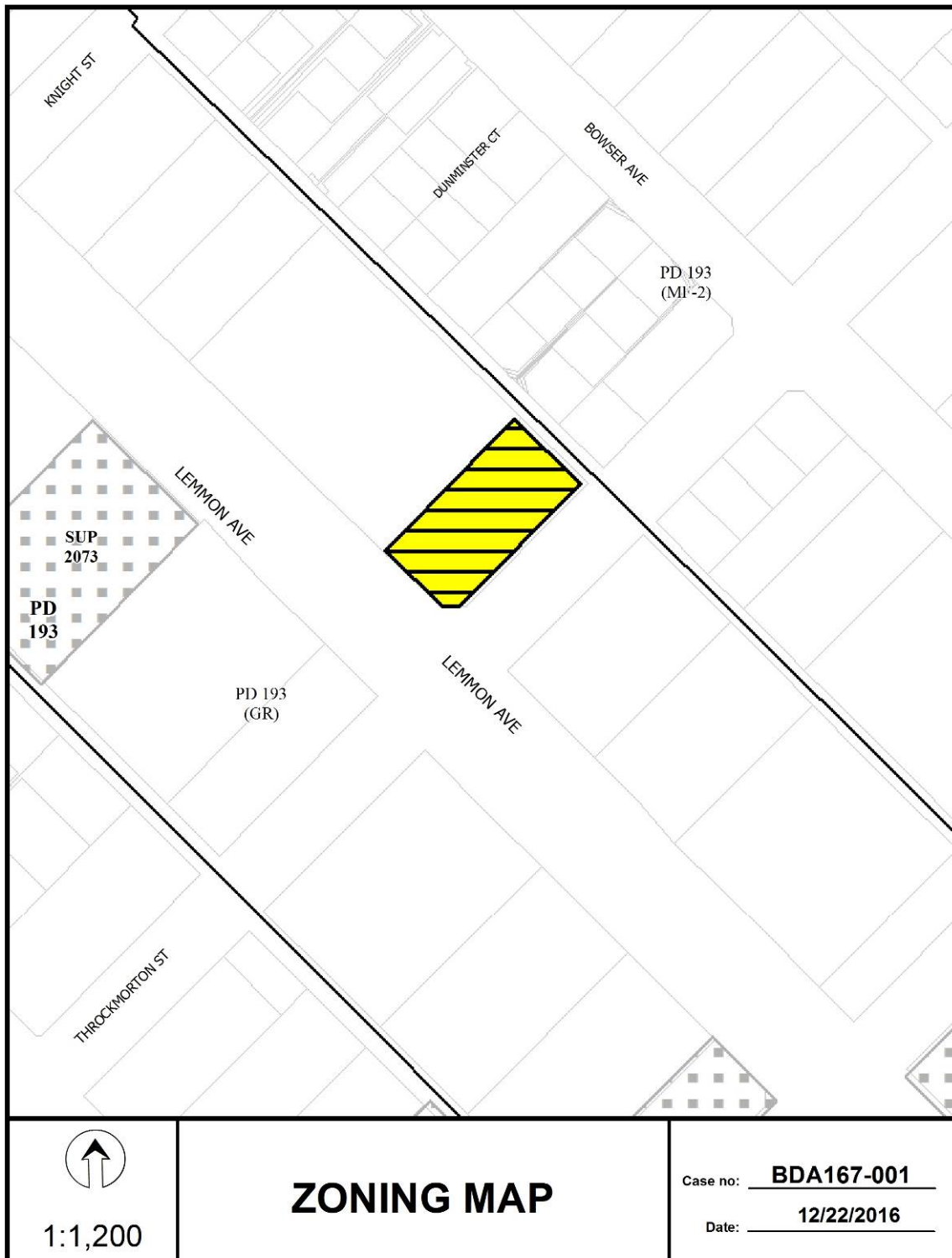
December 7, 2016: The Board Administrator emailed the applicant's representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 28th deadline to submit additional evidence for staff to factor into their analysis; and the January 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.

January 3, 2017: 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 Sustainable Development and Construction Assistant Director, the Sustainable Development and Construction Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

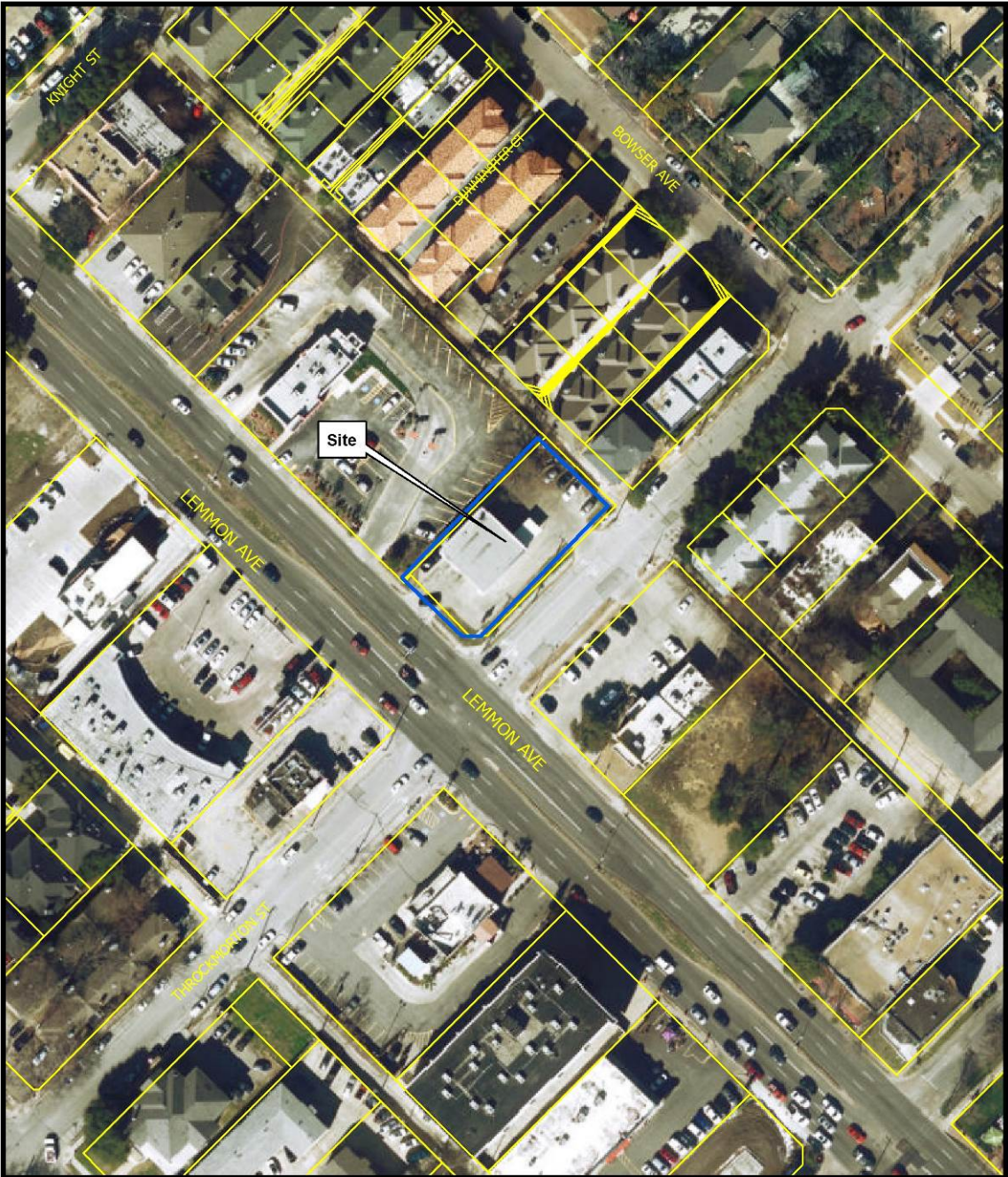
January 9, 2017: The City of Dallas Chief Arborist submitted a memo regarding this application (see Attachment A).




 1:1,200

ZONING MAP

Case no: BDA167-001
 Date: 12/22/2016



1:1,200

AERIAL MAP

Case no: BDA167-001

Date: 12/22/2016

BDA 167-001
Attach A Pg 1

Memorandum



CITY OF DALLAS

DATE January 9, 2017
TO Steve Long, Board of Adjustment Administrator

SUBJECT # BDA 167 · 001 4004 Lemmon Avenue

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

Trigger

Enforcement of compliance with requirements of PD 193 zoning regulations.

Deficiencies

Street trees – Minimum of 3 required and provided; required from 2.5' – 5' from back of curb but provided at 10' from back of curb (193.126(b)(5)).

Sidewalks – Minimum of 6 feet width and between 5' – 12' from back of curb required, but provided existing 4 feet sidewalk between 2.5' and 6.5' from back of curb (193.126(b)(4)).

All required landscaping must be irrigated and drained by automatic irrigation and permanent drainage systems installed to comply with industry standards. An irrigation system was not located on site during review, or indicated on the plan (193.126(b)(2)).

Factors

The structure was built in 1987 after the PD 193 special purpose district was formed.

Recent investigations into landscape compliance issues in the area discovered the property to not be in compliance with mandatory landscape requirements imposed with the 1987 construction of the site. The installed sidewalk location in the right-of-way does not conform to PD 193 standards for new construction.

The plan identifies new unspecified evergreen shrubs at the required height and spacing, and a screening fence, to be installed adjacent to the surface parking locations on the property. Other existing shrubs along the Throckmorton and Lemmon frontages do not screen for parking spaces. New trees are provided based on the availability of space for visibility triangles for driveways and the street corner. The location of the existing sidewalk prohibits the planting of the trees within the

required distance from back of curb. The groundcover border will provide an additional decorative edge.

Recommendation

The chief arborist recommends approval of the alternate landscape plan, subject to the provision of an automatic irrigation system for the continued maintenance of landscaping, because the applicant has reasonably demonstrated the proposed plan will not compromise the spirit and intent of PD 193 landscape requirements for GR districts.

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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-001

Data Relative to Subject Property:

Date: 10-25-16

Location address: 4004 Lemmon Ave, Dallas, TX 75219

Zoning District: PD193(GR)

Lot No.: 1A Block No.: D/1056 Acreage: 0.267

Census Tract: 6.06

Street Frontage (in Feet): 1) 75' 2) 155' 3) _____ 4) _____ 5) _____

SN22

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Dallas Lube Venture, LLC

Applicant: Pete Frey Telephone: 504-837-0670

Mailing Address: 2450 Severn Ave, Suite 308, Metairie, LA Zip Code: 70001

E-mail Address: Henry@Take5oilchange.com

Represented by: Paul Coggins Telephone: 972-510-8511

Mailing Address: 1925 Bailey View Lane, Farmers Branch, TX Zip Code: 75234

E-mail Address: P.Coggins@Westernlandscapecompany.com

Affirm that an appeal has been made for a Variance , or Special Exception X, of an alternate landscaping 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:
To maintain the existing sidewalk in line with sidewalks on adjacent property. Please see the attached for explanation of the exception request.

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 Pete Frey, President, Take 5 Oil Change
(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 23rd day of August, 2016

(Rev. 08-01-11)

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

**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 Pete Frey
represented by Paul Coggins
did submit a request for a special exception to the landscaping regulations
at 4004 Lemmon Avenue

BDA167-001. Application of Pete Frey represented by Paul Coggins for a special exception to the landscaping regulations at 4004 Lemmon Avenue. This property is more fully described as Lot 1A, Block D/1056, and is zoned PD-193 (GR), which requires mandatory landscaping. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscaping regulations.

Sincerely,

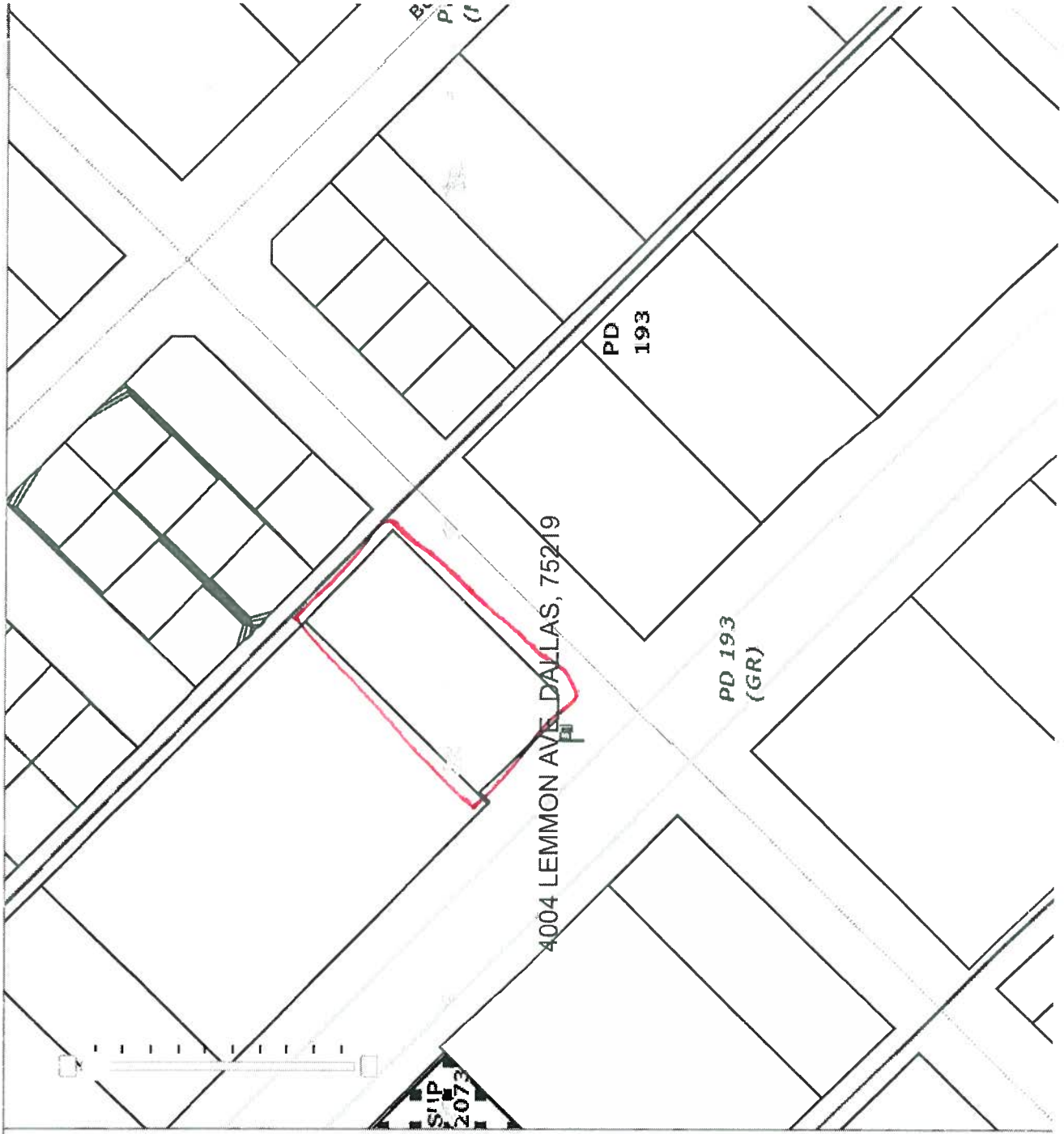
Philip Sikes
Philip Sikes, Building Official

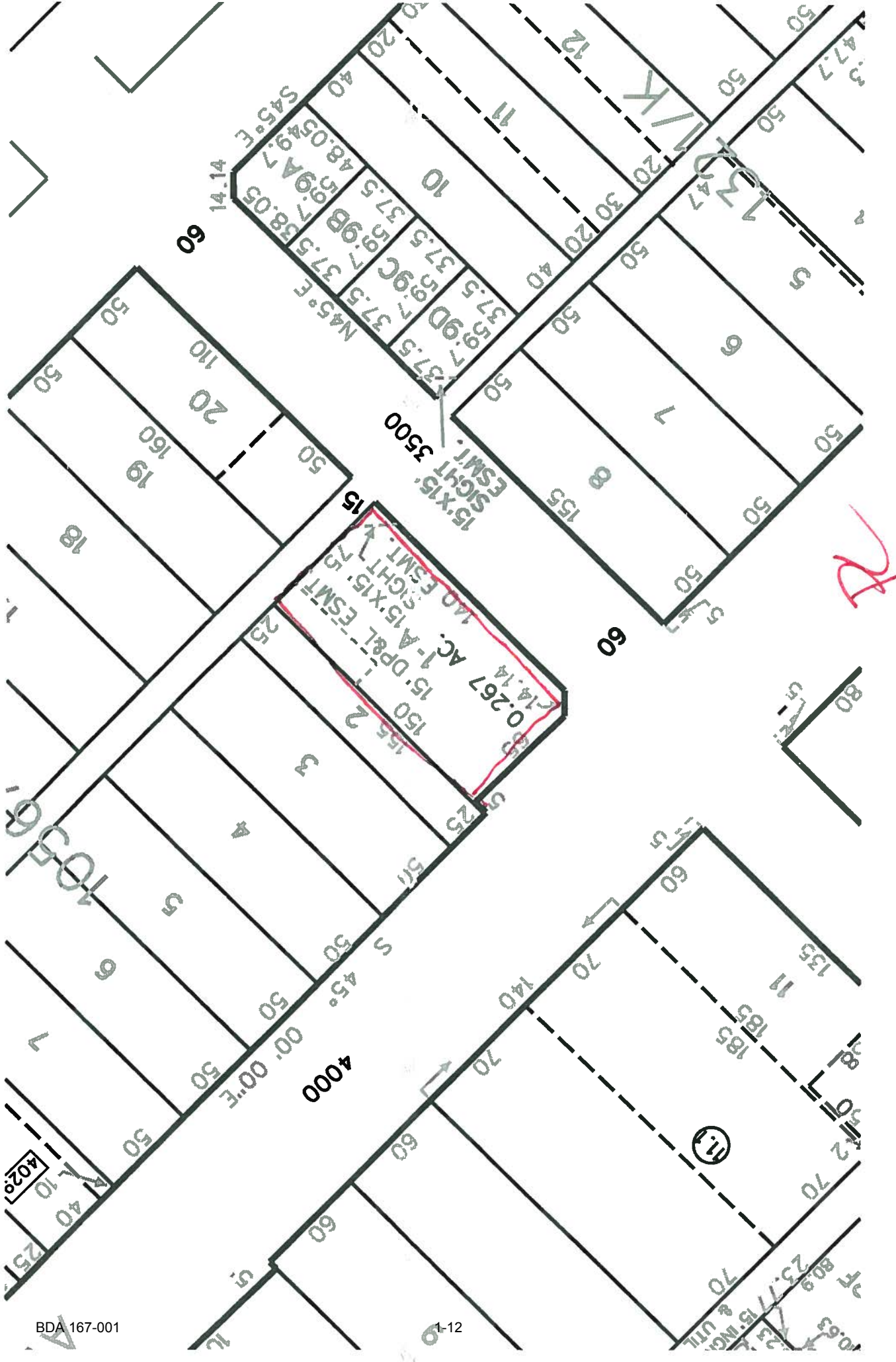
City of Dallas

Zoning Website

Legend

Locate Property







LOCATION MAP



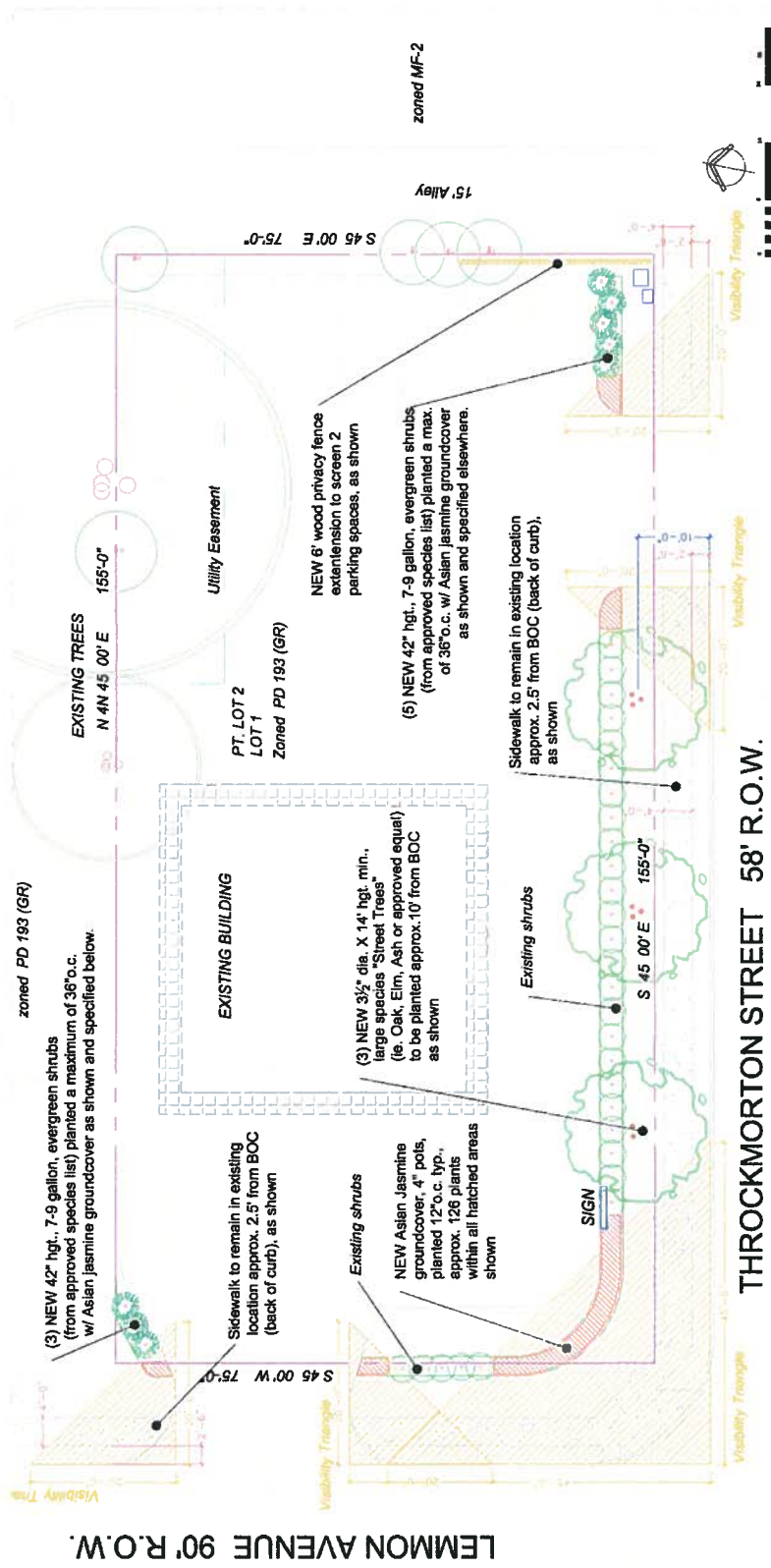
EXISTING SITE CONDITIONS

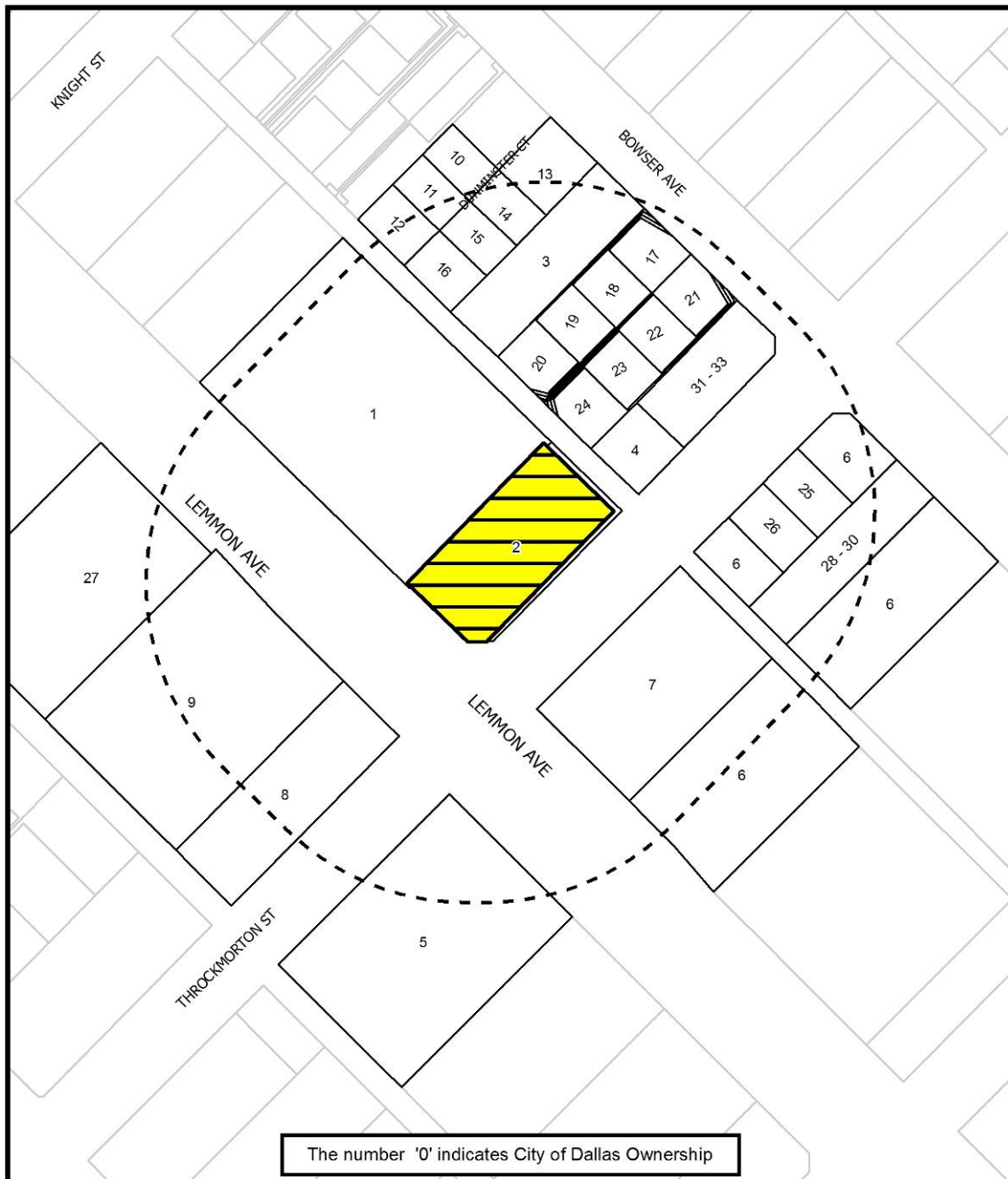
OWNER CONTACT INFO:
 Take Five Oil Change
 4004 Lemmon Avenue
 Dallas, TX
 504.837.2238

WESTERI
 Design Representative
 WESTERISUBSTITUTION CORP.
 16111 West Loop West, Suite 100
 Dallas, TX 75244
 Phone: 214-352-0000
 Fax: 214-352-0007
 www.westerisubstitution.com

Take 5 Oil
 4004 Lemmon Avenue
 Dallas, TX

L1.1
 SHEET





 1:1,200	NOTIFICATION		Case no: BDA167-001
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">33</div> NUMBER OF PROPERTY OWNERS NOTIFIED		Date: 12/22/2016

Notification List of Property Owners

BDA167-001

33 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4018 LEMMON AVE	ROSSMORE ENTERPRISES
2	4004 LEMMON AVE	DALLAS LUBE VENTURE LLC
3	4015 BOWSER AVE	PURI SUNIL &
4	3515 THROCKMORTON ST	WRIGHT WILLIAM JR
5	3923 LEMMON AVE	BLUE PROPERTIES LLC
6	3922 LEMMON AVE	OGM GROUP LLC
7	3950 LEMMON AVE	OGM GROUP LLC
8	4001 LEMMON AVE	OLIVERIE DOMINICK
9	4003 LEMMON AVE	4015 LEMMON LP
10	3581 DUNMINSTER CT	HOPSON KAYLAN BROOKE
11	3561 DUNMINSTER CT	KRASKIN ANTON
12	3541 DUNMINSTER CT	KREFT PAUL JOSEF
13	4017 BOWSER AVE	LE CHRISTIAN &
14	3580 DUNMINSTER CT	NA MATTHEW
15	3560 DUNMINSTER CT	GRASSANO ANDREW
16	3540 DUNMINSTER CT	LESLIE CHERYL
17	4007 BOWSER AVE	OSLICK LAURA
18	4007 BOWSER AVE	HOFKER BEATRIX
19	4007 BOWSER AVE	RAKER TODD & JUDY
20	4007 BOWSER AVE	GEREW SHANNON
21	4007 BOWSER AVE	ESCH MATTHEW
22	4007 BOWSER AVE	CLENNEY LAURA B
23	4007 BOWSER AVE	ADAMES KATHERINE M & MERVIN
24	4007 BOWSER AVE	KALEV SAGI
25	3520 THROCKMORTON ST	OGM GROUP LLC
26	3516 THROCKMORTON ST	OGM GROUP LLC

12/22/2016

Label #	Address	Owner
27	4023 LEMMON AVE	4015 LEMMON LP
28	3927 BOWSER AVE	OGM GROUP LLC
29	3927 BOWSER AVE	OGM GROUP LLC
30	3927 BOWSER AVE	OGM GROUP LLC
31	4001 BOWSER AVE	DELACRUZ ROBERTO
32	4001 BOWSER AVE	HINOJOSA ARNOLD
33	4001 BOWSER AVE	FRANZEN JASON A & LAURA M

FILE NUMBER: BDA167-003(SL)

BUILDING OFFICIAL'S REPORT: Application of Darren Aschaffenburg for special exceptions to the fence standards at 9520 Hathaway Street. This property is more fully described as Lot 7A, Block 7/5597, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a fence panel with a surface area that is less than 50 percent open be located a minimum of 5 feet from the front lot line. The applicant proposes to construct and maintain a 10 foot high fence in a required front yard, which will require a 6 foot special exception to the fence standards, and to construct and maintain a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line, which will require a special exception to the fence standards.

LOCATION: 9520 Hathaway Street

APPLICANT: Darren Aschaffenburg

REQUESTS:

The following requests are made on a site that is developed with a single family home:

- 1) A special exception of to the fence standards of 6' is made to construct and maintain a fence higher than 4' in height (a 6' high solid masonry fence with stucco finish with an approximately 7' high masonry columns with stucco finish, a 10' high wood gate with 9' 8" high masonry columns with stucco finish flanked by 7' high solid masonry entry gate wing walls with stucco finish) in the front yard setback;
- 2) A special exception to the fence standards is made to construct and maintain the aforementioned fence with fence panels with surface areas that are less than 50 percent open (solid masonry fence with stucco finish) located approximately 3' from the front lot line (or less than 5' from the front lot line).

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-1ac(A) (Single family district 1 acre)
North: R-1ac(A) (Single family district 1 acre)
South: R-1ac(A) (Single family district 1 acre)
East: R-1ac(A) (Single family district 1 acre)
West: R-1ac(A) (Single family district 1 acre)

Land Use:

The subject site is developed with a single family home. The areas to the north, south, and west are developed with single family uses; and the area to the east is the Dallas North Tollway.

Zoning/BDA History:

1. BDA056-012, Property located at 9520 Hathaway Street (the subject site)
On November 16, 2005, the Board of Adjustment Panel B granted a request for special exception to the fence height regulations of 6', and imposed the following condition to the request: Compliance with the submitted revised site plan and revised elevation plan is required.
The case report stated that the requests were made in conjunction with maintaining a 6' high chain link fence with approximately 5.5' – 6' high entry wing walls with 6' high columns and a 10' high arched wood vehicular gate with 7' high entry columns on a site developed with a single family home.
2. BDA156-119, Property located at 5600 Park Lane (the lot immediately north of the subject site)
On November 16, 2016, the Board of Adjustment Panel B granted requests for special exceptions to the fence standards and imposed the following condition to the request: Compliance with the submitted site plan and elevation plan is required.
The case report stated that the requests were made to complete and maintain a fence higher than 4' in height in the Park Lane front yard setback (an 8' high solid stone fence with an approximately 7' high gate) and in the Hathaway Street front yard setback (an entry feature with solid stone wing walls ranging from 4' – 6' in height); and complete

and maintain fence panels with surface areas that are less than 50 percent open (solid stone fences/wing walls) located about 2' from the Park Lane and Hathaway Street front lot lines (or less than 5' from these front lot lines).

3. BDA 88-129, 9446 Hathaway Street (the lot immediately south of the subject site)

On December 13, 1988, the Board of Adjustment granted a request to the fence height special regulations of 11'. The board imposed the following condition with this request: "That the fence shall be built in accordance to the site plan and fence elevation plan submitted." The case report does not specify the features of the proposal.

GENERAL FACTS/STAFF ANALYSIS):

- These requests for special exceptions to the fence standards focus on a site developed with a single family home and constructing and maintaining a 6' high solid masonry fence with stucco finish with an approximately 7' high masonry columns with stucco finish, a 10' high wood gate with 9' 8" high masonry columns with stucco finish flanked by 7' high solid masonry entry gate wing walls with stucco finish; and constructing and maintaining fence panels with surface areas that are less than 50 percent open (solid masonry fence with stucco finish) located approximately 3' from the front lot line (or less than 5' from this front lot line).
- The subject site is zoned R-1ac(A).
- Note the following with regard to the request for special exception to the fence standards pertaining to the **height** of the proposed fence in the front yard setback:
 - The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
 - The applicant has submitted a site plan and elevation of the proposal in the front yard setback with notations indicating that the proposal reaches a maximum height of 10'.
 - The following additional information was gleaned from the submitted site plan:
 - The proposal over 4' in height is represented as being approximately 240' in length parallel the street.
 - The proposal is represented as being located approximately 3' from front property line or approximately 19' from the pavement line. (The gate proposal is represented as being located approximately 12' from front property line or approximately 28' from the pavement line).
- Note the following with regard to the request for special exception to the fence standards pertaining to the **location and materials** of the proposed fence:

- The Dallas Development Code states that in single family districts, a fence panel with a surface area that is less than 50 percent open may not be located less than five feet from the front lot line. (This does not apply to retaining walls).
- With regard to the special exceptions to the fence standards pertaining to the location and materials of the proposed fences, the applicant has submitted a site plan and elevation of the fence panels with surface areas that are less than 50 percent open (solid masonry with stucco finish) located approximately 3' from the front lot line or less than 5' from this front lot line.
- The following additional information was gleaned from the submitted site plan:
 - The fence panel with a surface area less than 50 percent open located less than 5' from the front lot line is a 6' high solid masonry fence with stucco finish an 8' high solid stone fence with an approximately 7' high gate that is represented as being approximately 240' in length parallel to the street, and as being located on the approximately 3' from the front property line or approximately 19' from the pavement line.
- No single family lot fronts the proposed fence. The lots immediately west of the site have side yards along Hathaway Street, and front yards on Park Lane and Kemper Court.
- The Board Administrator conducted a field visit of the site and surrounding area and noted one other fence being constructed that appeared to be above 4' in height, of solid material less than 5' from the front lot line, and located in a front yard setback. This fence is located immediately north and appears to be a result of a granted fence height special exception in 2016 (BDA156-119).
- As of January 6, 2017, 4 letters have been submitted in support of the request, and no letters have been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to height over 4' in the front yard setback and materials/height/location of the proposed fence will not adversely affect neighboring property.
- Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the front yard setbacks and with fence panels with surface areas less than 50 percent open located less than 5' from the front lot lines to be constructed maintained in the location and of the heights and materials as shown on these documents.

Timeline:

October 19, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

December 7, 2016: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. 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.”

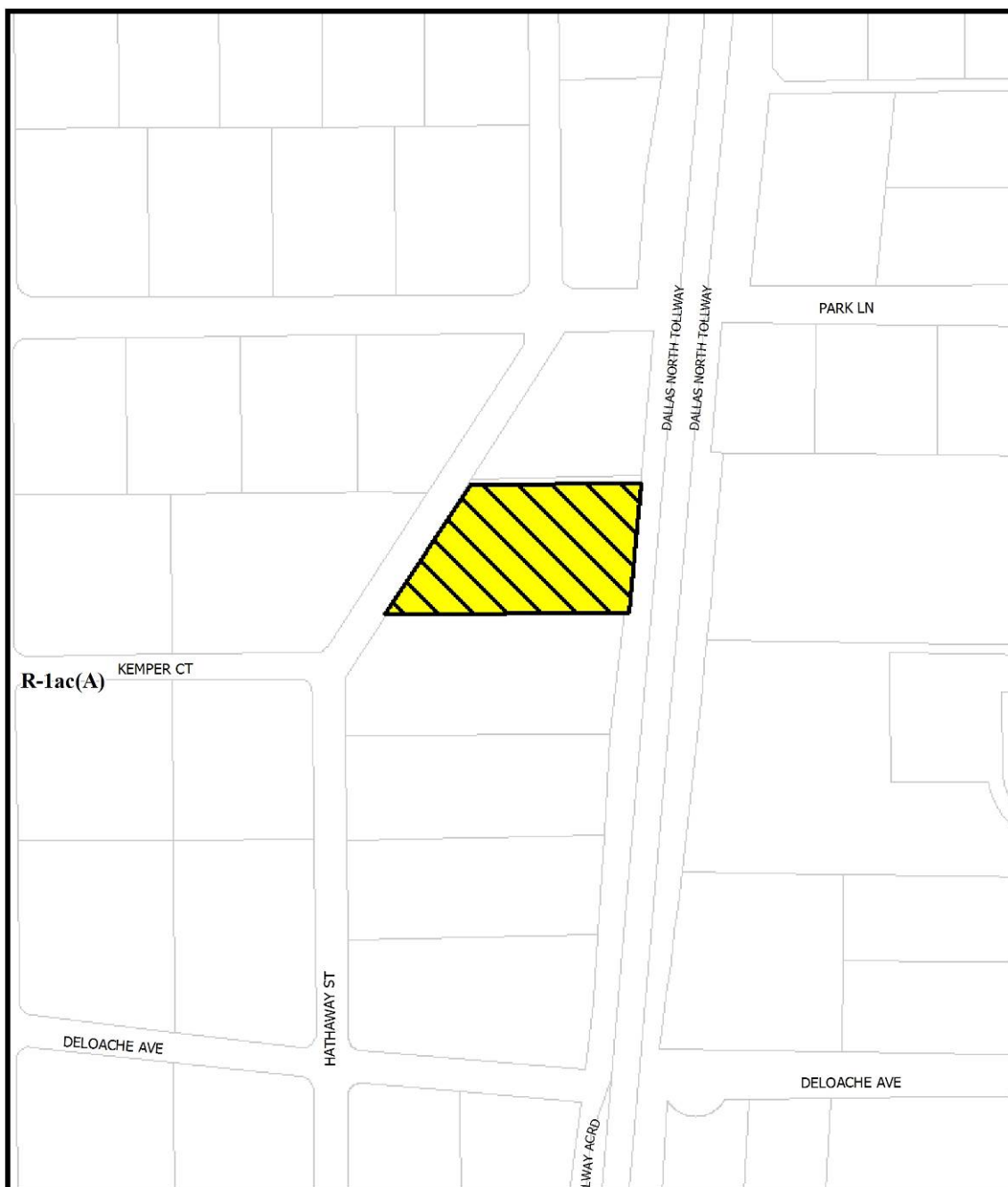
December 7, 2016: The Board Administrator emailed the applicant the following information:


- an attachment that provided the public hearing date and panel that will consider the application; the December 28th deadline to submit additional evidence for staff to factor into their analysis; and the January 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.

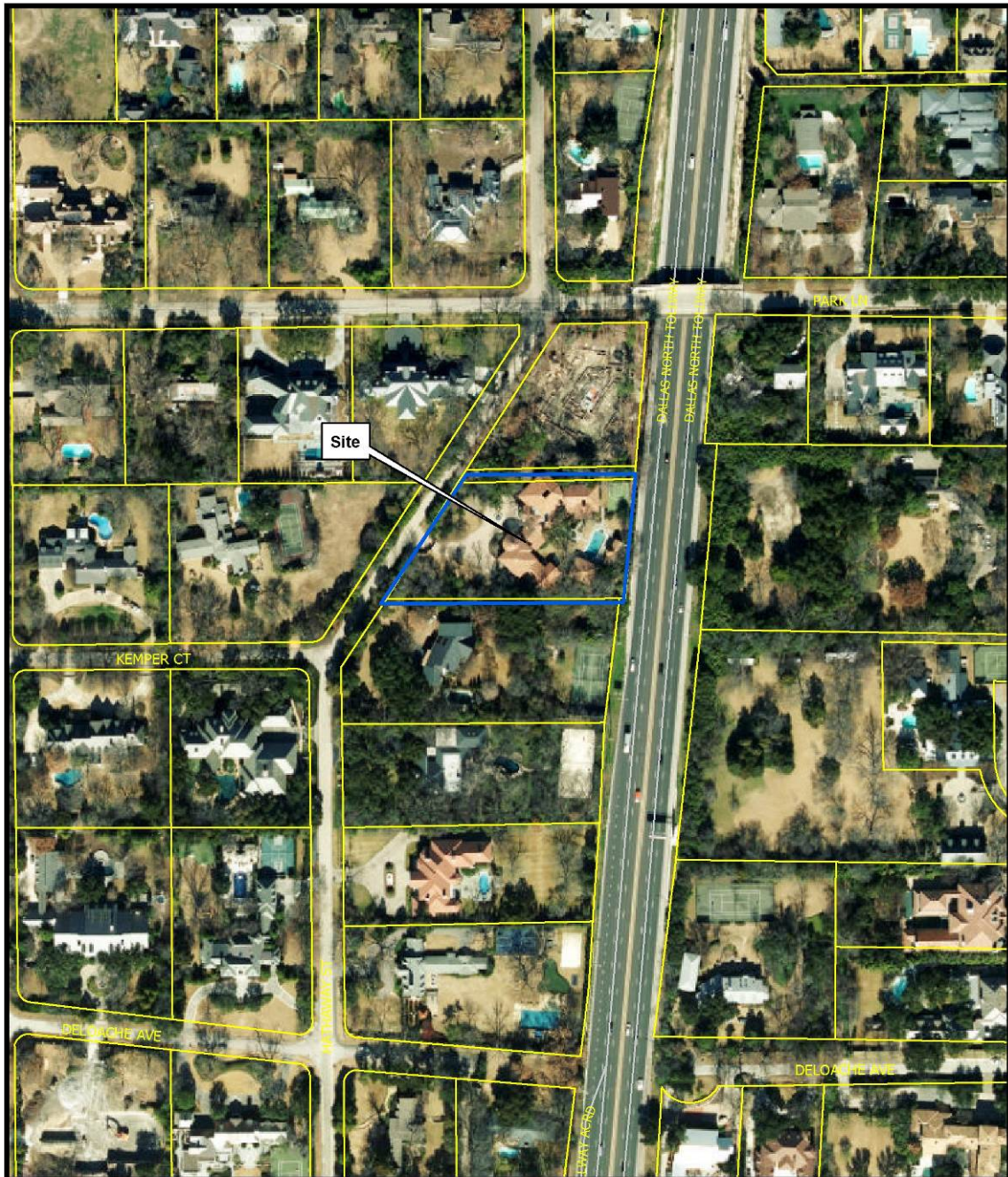
January 3, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the January public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Sustainable Development and Construction Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

January 4, 2017: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).



 1:2,400	<h1>ZONING MAP</h1>	Case no: <u>BDA167-003</u> Date: <u>12/22/2016</u>
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1:2,400

AERIAL MAP

Case no: BDA167-003

Date: 12/22/2016

BDA167-003

Attach A

Pa



Darren Aschaffenburg <darren.dka@gmail.com>

Hello!

Zoe LaRose

Wed, Dec 14, 2016 at 1:47 PM

To: Darren Aschaffenburg <darren.dka@gmail.com>

Cc: "c" <[redacted]@[redacted].com>

Darren,

We have no problem with you all wanting to do your fence at 9520 Hathaway St 6' tall with a 10' entrance. Please let us know if you need anything else from us!

Thank you!

Zoe L Heinsch
9446 Hathaway St
Dallas, TX 75220
[Quoted text hidden]

BDA167-003
Attach A pg 2



Darren Aschaffenburg <darren.dka@gmail.com>

New Fence , Great New Neighbor at 9520 Hathaway Street, Dallas , Texas

1 message

John Weber <...any.com>
To: "Darren.dka@gmail.com" <Darren.dka@gmail.com>

Thu, Dec 15, 2016 at 11:13 AM

Darren and Catherine,

Welcome to the Hood! I have been watching the beautiful improvements taking place at your home and Thank You for the beatification of Hathaway.

I certainly approve of your intention to install a new six foot ,earth tone fence and a ten foot drive thru gate at your entrance to your home.

Please do not to hesitate to request any further help on any city matters required to get you completed.

My wife's name is Sharyl and we live on the corner at 5530 Kemper Ct.

Happy Holidays



John P. Weber
Chief Executive Officer
Weber & Company
Real Estate Development/Investments
16000 Dallas Parkway, Suite 300
Dallas, TX 75248

BDA167-003
Attach A pg 3



Darren Aschaffenburg <darren.dka@gmail.com>

approval for variance for 9520 Hathaway Street

v p <

Tue, Nov 15, 2016 at 3:38 PM

Reply-To: v p <

To: Steve Long <steve.long@dallascityhall.com>, Darren Aschaffenburg <darren.dka@gmail.com>

Mr. Long,

This letter is to express strong support for the fence variance for Darren and Catherine Aschaffenburg at 9520 Hathaway. We believe this fence will be an asset to the neighborhood and not a detriment. Please forward our support on to the Board.

Thank you so very much. Have a wonderful and blessed day!

Victoria and Malcolm Perry

5544 Park Lane

BDA167-003
Attach A ps 4



Darren Aschaffenburg <darren.dka@gmail.com>

Fence Variance

Charlton C Holmes <

Mon, Dec 12, 2016 at 12:59 AM

To: Darren Aschaffenburg <darren.dka@gmail.com>

Cc: m>

Darren

As your next door neighbor, we have no objection to you installing a 6 foot fence with a 10 foot gate. We believe it will actually enhance our neighborhood.

Thank you

Charlton Holmes

mobile



City of Dallas

B

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-003

Data Relative to Subject Property:

Date: 10/19/16

Location address: 9520 Hathaway St Zoning District: R-12c(A)

Lot No.: 7A Block No.: 7/55-97 Acreage: 1.4 Census Tract: 206.00

Street Frontage (in Feet): 1) 238' 2) 3) 4) 5) NE25

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): CATHERINE WALL Darren Aschaffenburg

Applicant: Darren Aschaffenburg Telephone: 5044000084

Mailing Address: 9520 Hathaway St Dallas Zip Code: 75220

E-mail Address: darren.dka@gmail.com

Represented by: Darren Aschaffenburg Telephone: 5044000084

Mailing Address: 9520 Hathaway St Dallas Zip Code: 75220

E-mail Address: darren.dka@gmail.com

Affirm that an appeal has been made for a Variance, or Special Exception, of 6' for 2

Front yard FENCE AT 9520 Hathaway St. A SPECIAL EXCEPTION OF THE 50% OPEN SURFACE AREA WITHIN 5' OF PPTY LINE

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

THE 6' over height (10' total GATE) WILL NOT ADVERSELY AFFECT AREA BECAUSE IT IS REPLACING A EXISTING FENCE THAT IS SAME HEIGHT AS WHAT IS PROPOSED. NO NEIGHBORS OBJECTING TO IT CAUSE THEIR FENCE SAME HEIGHT.

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.

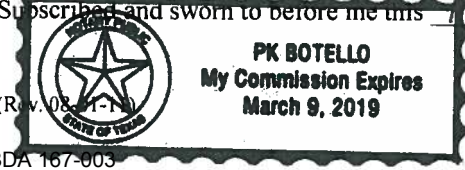
Affidavit

Before me the undersigned on this day personally appeared Darren Aschaffenburg (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 19th day of October, 2016



[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 Darren Aschaffenburg

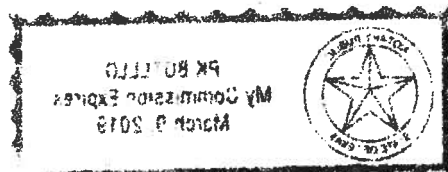
did submit a request for a special exception to the fence height regulations, and for a special exception to the fence regulations

at 9520 Hathaway Street

BDA167-003. Application of Darren Aschaffenburg for special exceptions to the fence regulations at 9520 Hathaway Street. This property is more fully described as Lot 7A, Bloc 7/5597, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a fence panel with a surface area that is less than 50 percent open may not be located less than 5 feet from the front lot line. The applicant proposes to construct a 10 foot high fence in a required front yard, which will require a 6 foot special exception to the fence regulation, and to construct a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line, which will require a special exception to the fence regulation

Sincerely,

Philip Sikes
Philip Sikes, Building Official



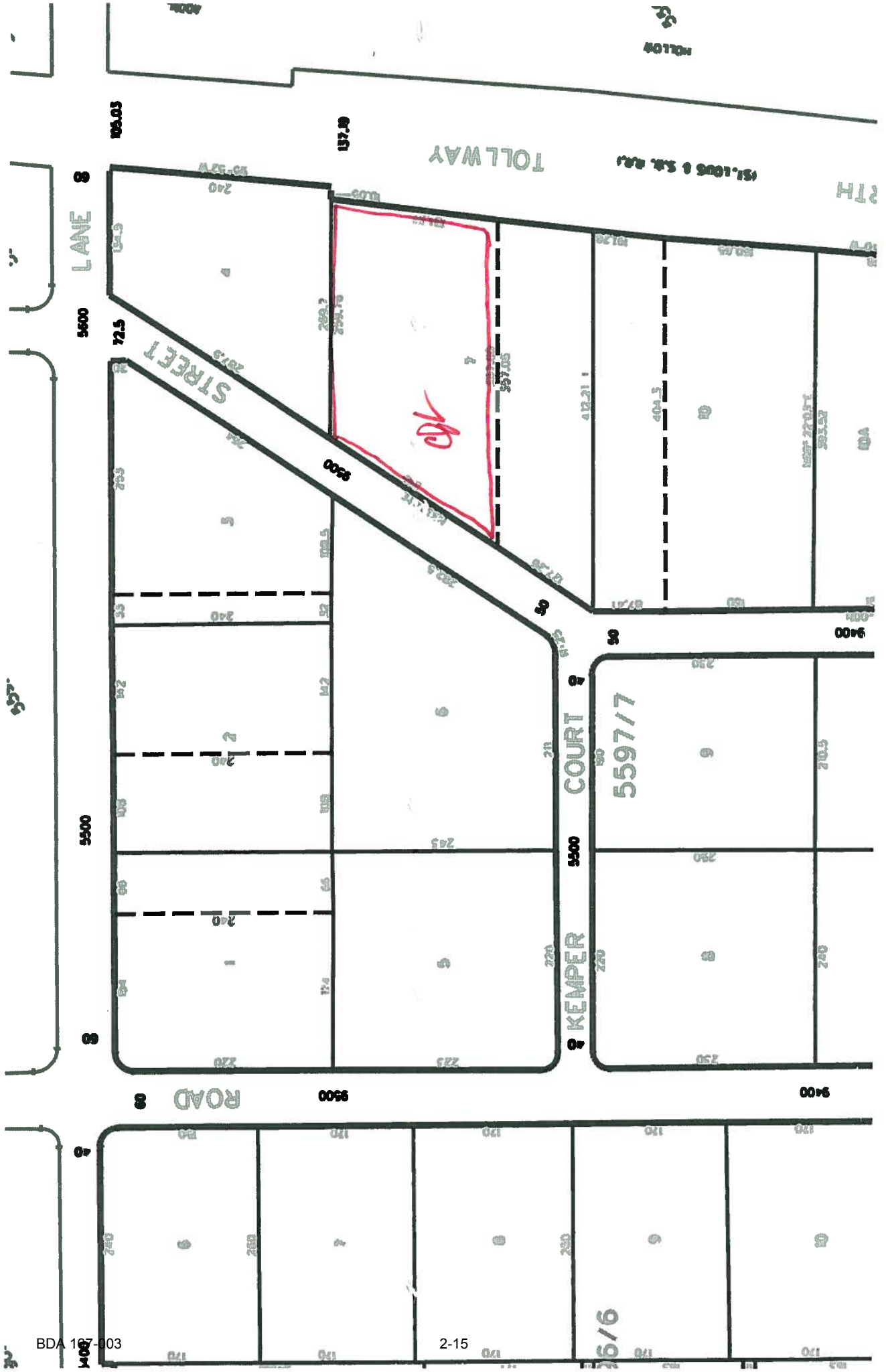
City of Dallas

Internal Development Research Site

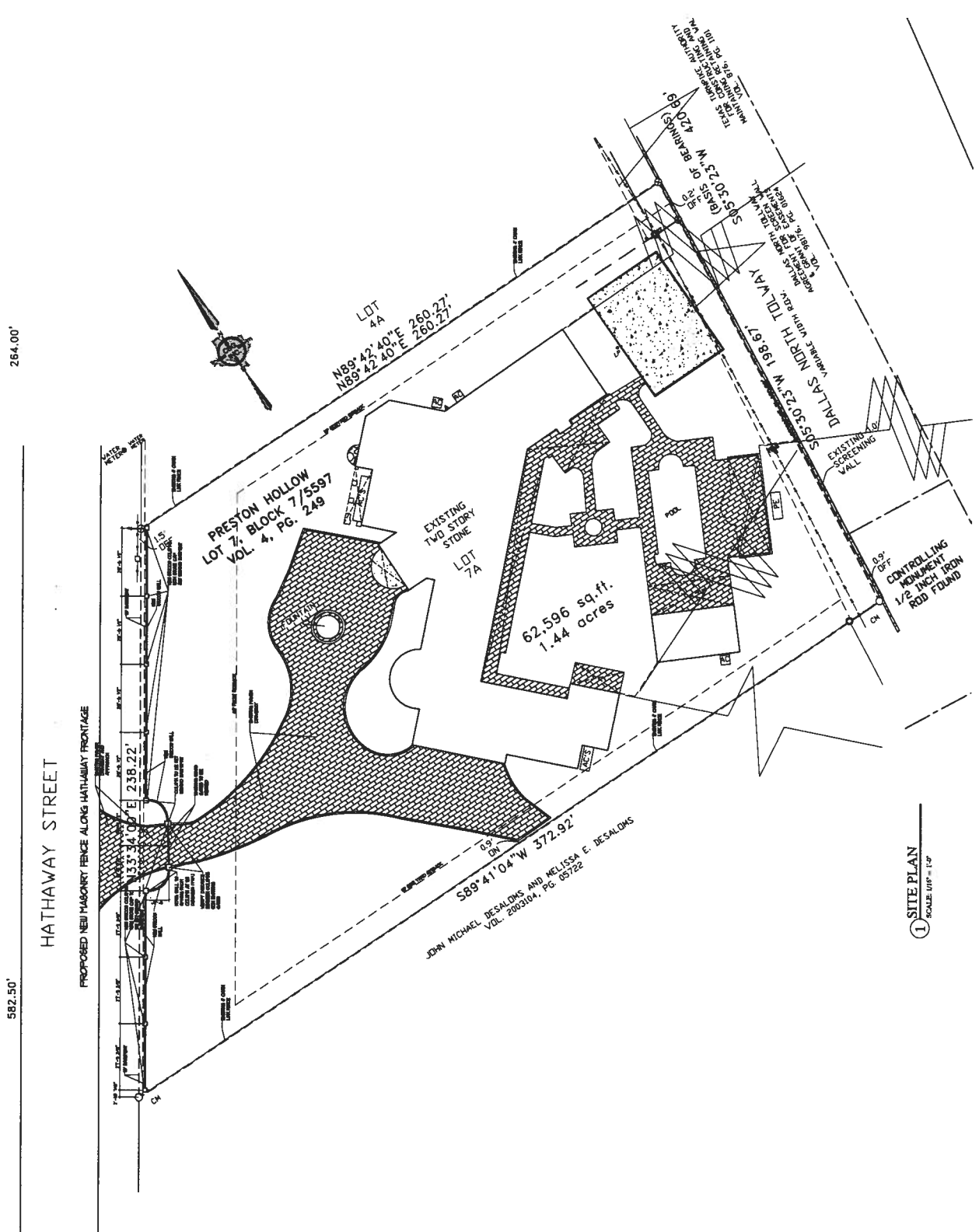
Legend

Locate Property





559717

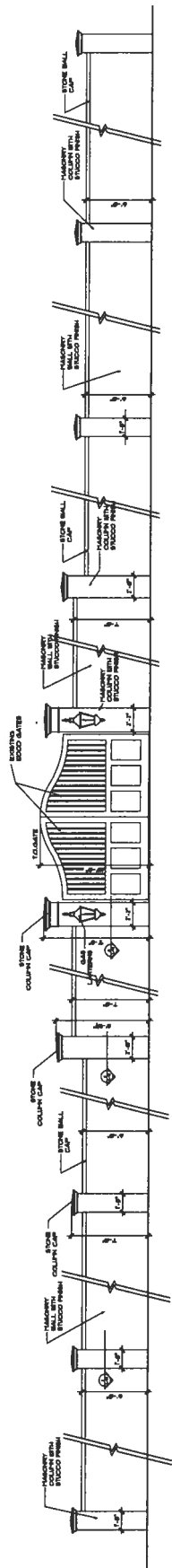


1 SITE PLAN
SCALE: 1/8" = 1'-0"

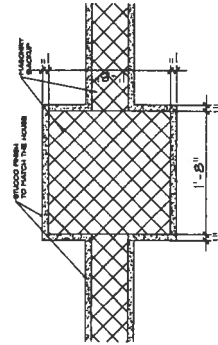


Date:	11-20-2011
By:	RICHARD DRUMMOND DAVIS
Checked by:	B.G.L.L.
Scale:	AS SHOWN

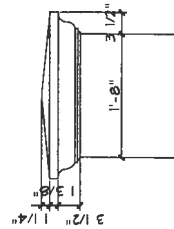
Sheet Number
L-1.2



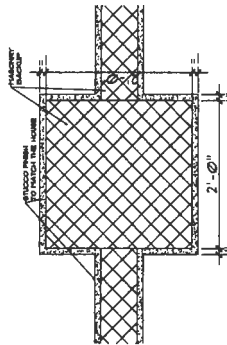
1 ENTRY GATE AND FENCE ELEVATION
SCALE: 1/4" = 1'-0"



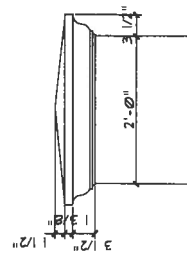
2 FENCE COLUMN PLAN SECTION
SCALE: 1/4" = 1'-0"



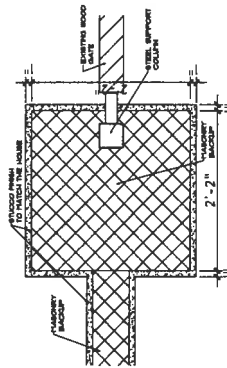
2 FENCE COLUMN CAP DETAIL
SCALE: 1/4" = 1'-0"



3 ENTRY COLUMN PLAN SECTION
SCALE: 1/4" = 1'-0"



3 ENTRY COLUMN CAP DETAIL
SCALE: 1/4" = 1'-0"



2 ENTRY GATE COLUMN PLAN SECTION
SCALE: 1/4" = 1'-0"



2 ENTRY GATE COLUMN CAP DETAIL
SCALE: 1/4" = 1'-0"



 1:2,400	NOTIFICATION		Case no: BDA167-003
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">12</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 12/22/2016	

Notification List of Property Owners

BDA167-003

12 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	9446 HATHAWAY ST	HEINSCH ROBERT RHYS & ZOE LAROSE
2	9520 HATHAWAY ST	ASCHAFFENBURG DARREN &
3	5600 PARK LN	POTOMAC RIVER HOLDINGS LLC
4	5532 PARK LN	SZELC LIVING TRUST
5	5544 PARK LN	PERRY MALCOLM O III & VICTORIA L
6	5535 KEMPER CT	DOCKERY HARVA R
7	5530 KEMPER CT	WEBER JOHN P
8	9430 HATHAWAY ST	REYES JOSE
9	5706 PARK LN	KAISER RICHARD L &
10	8933 DOUGLAS AVE	BRINKMANN J BAXTER
11	9015 DOUGLAS AVE	TRINITY RIVER MITIGATION BANK LP
12	5600 PARK LN	HOLMES CHARLETON C

FILE NUMBER: BDA167-008(SL)

BUILDING OFFICIAL'S REPORT: Application of Ryan Bellomy, represented by Robert R. Harris, for a special exception to the landscape regulations at 4407 W. Lovers Lane. This property is more fully described as Lot 1A, Block E/4975, and is zoned PD 326, Area A, which requires mandatory landscaping. The applicant proposes to construct and maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 4407 W. Lovers Lane

APPLICANT: Ryan Bellomy
Represented by Robert R. Harris

REQUEST:

A special exception to the landscape regulations is made to construct and maintain an office use/structure on a site currently undeveloped, and not fully meet the landscape regulations.

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; and
- the extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required.

Rationale:

- The City of Dallas Chief Arborist recommends approval of the request because strict compliance with the requirements of this article will unreasonably burden the use of the property, and the special exception will not adversely affect neighboring property. More specifically, the only way in which the alternate plan is deficient is on the western portion of the property where a 5’ wide perimeter landscape buffer strip as opposed to 10’ wide strip. However, the submitted alternate landscape plan provides an 8’ high masonry wall to separate the use on the site from the residences to the north, and meets all other landscape requirements per Article X and PD 326, including screening of off-street parking and foundation planting.

BACKGROUND INFORMATION:

Zoning:

- Site: PD 326 (Area A) (Planned Development)
- North: R-10(A) (Single family residential 10,000 square feet)
- South: PD 326 (Area C) (Planned Development)
- East: PD 326 (Area B) (Planned Development)
- West: PD 326 (Area A) (Planned Development)

Land Use:

The subject site is undeveloped. The area to the north is developed with single family uses; the area to the east is developed with retail use; and the areas to the south and west are developed with office uses.

Zoning/BDA History:

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. BDA156-036, Property at 4407 W. Lovers Lane (the subject site) | <p>On April 20, 2016, the Board of Adjustment Panel B granted a request for special exception to the landscape regulations and imposed the submitted alternate landscape plan as a condition.</p> <p>The case report stated the request was made to construct and maintain an office use/structure on a site currently undeveloped, and not fully meet the landscape regulations. (Note that the Board of Adjustment Panel B granted the applicant’s request to waive the two year time limitation to refile a new application on this site on October 19, 2016).</p> |
|---|---|

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses constructing and maintaining an office use/structure on a site currently undeveloped, and not fully meeting the landscape regulations, more specifically not fully providing the required 10' wide perimeter landscape buffer strip on the western portion of the subject site.
- The subject site is zoned PD 326 which states that landscaping must be provided on all property in accordance with Article X, "Landscape Regulations," when an application is made for a building permit for construction work that: 1) increases by more than 10 percent the floor area of any structure; 2) increases the number of stories of any structure on a lot; or 3) increases the number of structures on the lot.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment A). The memo states how this request is triggered by a new construction.
- The Chief Arborist's memo states the following with regard to deficiencies:
 - The mandatory perimeter landscape buffer strip (10.125(b)(1)) for residential adjacency is designed to be 5 feet wide on the western portion of the property where 10 feet is required by Article X. Plant groups (10.125(b)(7)), required to be 1 large tree per 50 linear feet of adjacency, include small trees based on the reduced planting area where large trees are required.
- The Chief Arborist's memo lists the following factors for consideration:
 1. All other landscape requirements per Article X and PD 326 are met, including screening of off-street parking and foundation planting. PD 326 requires one tree per 40 feet of street frontage when parking is included in the front yard.
 2. An 8' tall masonry wall separates the use from the residences to the north.
- The City of Dallas Chief Arborist recommends approval of the alternate landscape plan because strict compliance with the requirements of this article will unreasonably burden the use of the property, and the special exception will not adversely affect neighboring property.
- The applicant has the burden of proof in establishing the following:
 - Strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property; and the special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted landscape plan as a condition to the request, the site would be provided exception from full compliance with the required perimeter landscape buffer strip on the subject site.

Timeline:

September 23, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

December 7, 2016: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. 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."

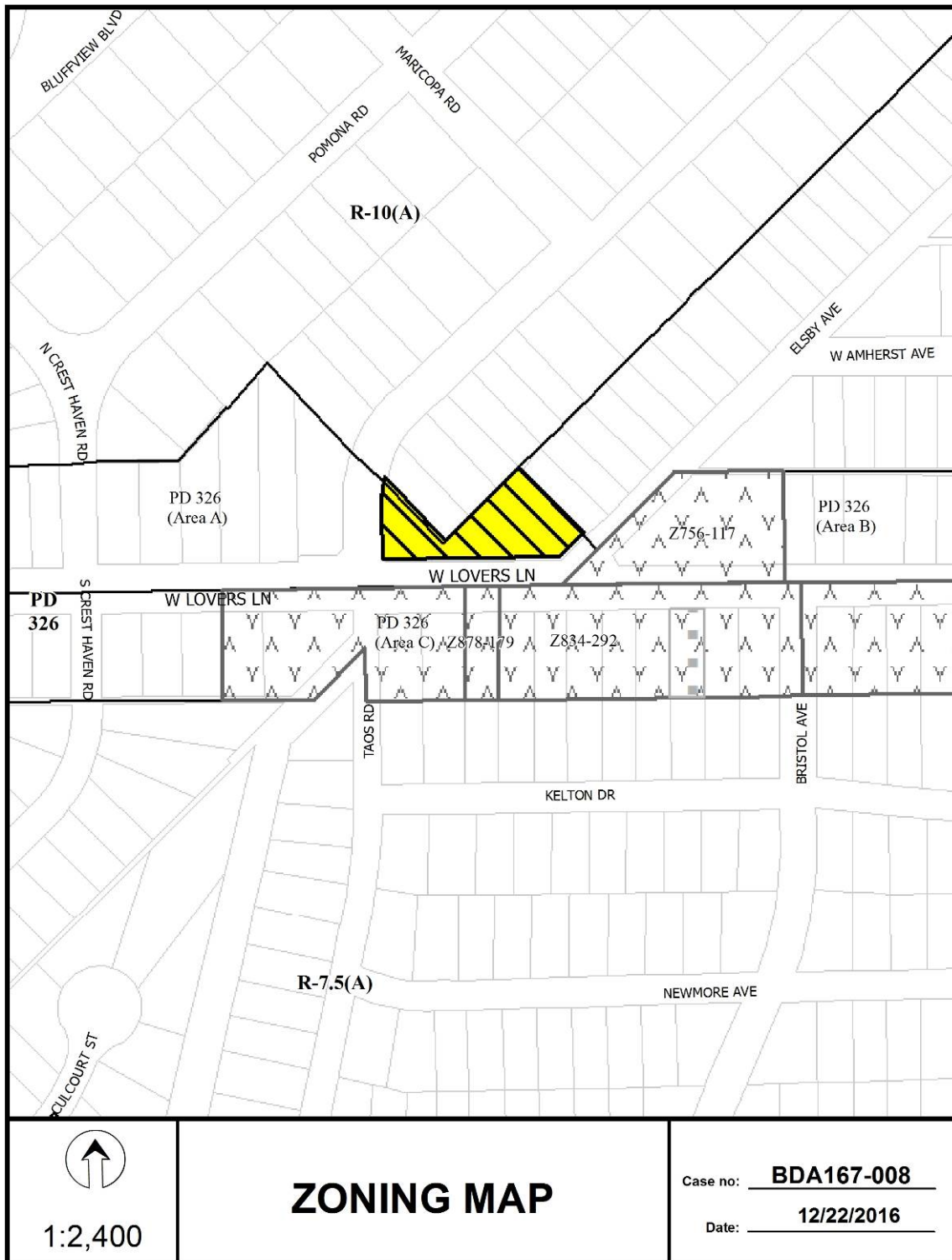
December 7, 2016: The Board Administrator emailed the applicant the following information:

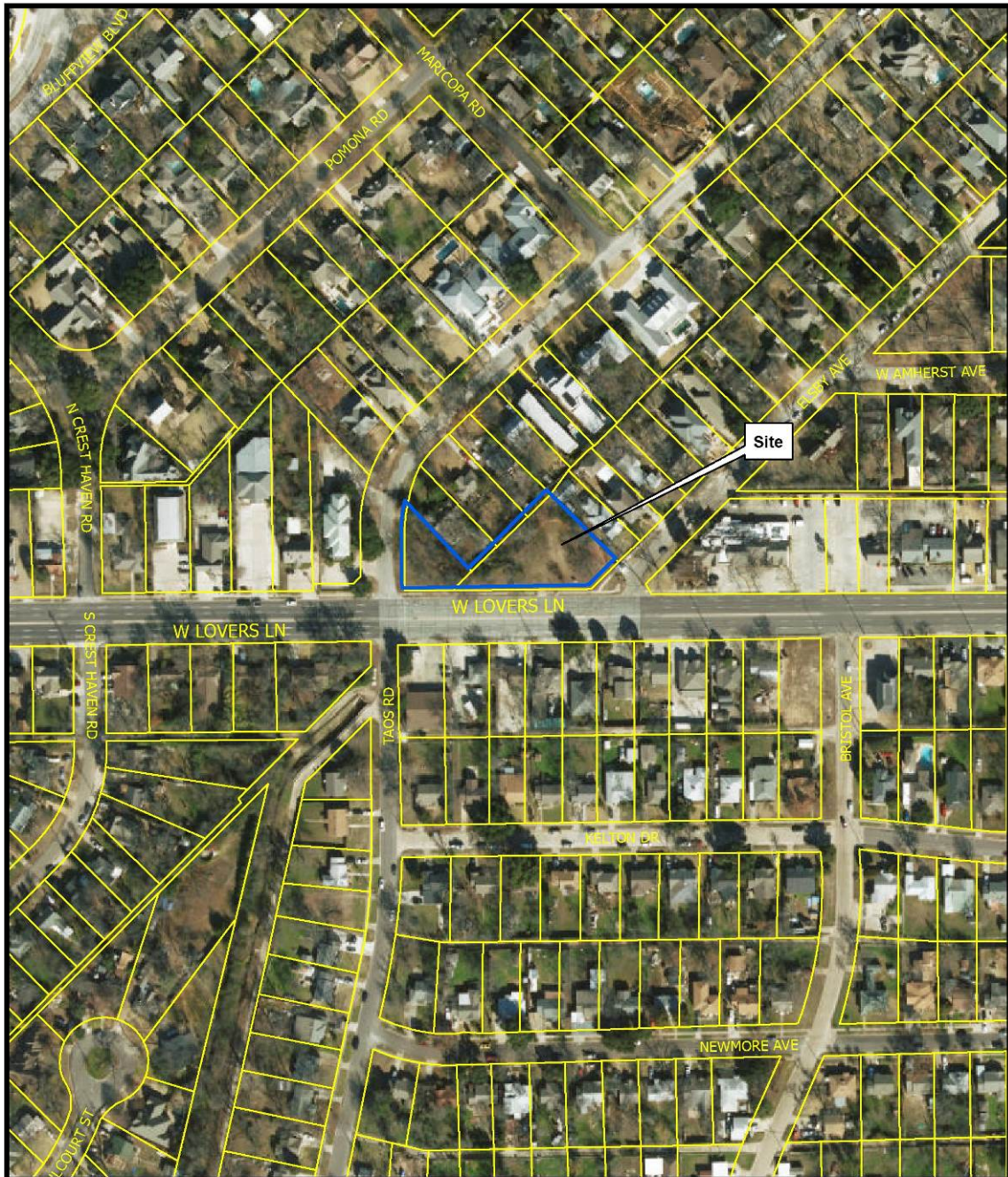
- an attachment that provided the public hearing date and panel that will consider the application; the December 28th deadline to submit additional evidence for staff to factor into their analysis; and the January 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- 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.


January 3, 2017: 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 Sustainable Development and Construction Assistant Director, the Sustainable Development and Construction Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

January 9, 2017: The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment A).






 1:2,400

AERIAL MAP

Case no: BDA167-008
 Date: 12/22/2016

Memorandum



CITY OF DALLAS

DATE January 9, 2017
TO Steve Long, Board of Adjustment Administrator

SUBJECT # BDA 167 · 008 4407 W Lovers Lane

The applicant is requesting a special exception to the landscape requirements of PD 326, Area A, including Article X.

Trigger

New construction.

Deficiencies

The mandatory perimeter landscape buffer strip (10.125(b)(1)) for residential adjacency is designed to be 5 feet wide on the western portion of the property where 10 feet is required by Article X. Plant groups (10.125(b)(7)), required to be 1 large tree per 50 linear feet of adjacency, include small trees based on the reduced planting area where large trees are required.

Factors

All other landscape requirements per Article X and PD 326 are met, including screening of off-street parking and foundation planting. PD 326 requires one tree per 40 feet of street frontage when parking is included in the front yard.

An 8-foot tall masonry wall separates the use from the residences to the north.

Recommendation

The chief arborist recommends approval of the alternate landscape plan because strict compliance with the requirements of this article will unreasonably burden the use of the property, and the special exception will not adversely affect neighboring property.

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



B

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-008

Data Relative to Subject Property:

Date: September 23, 2016

Location address: 4407 W. Lovers Lane

Zoning District: PD 326 Area A

Lot No. 1A

Block No.: E/4975

Acreage: 0.01

Census Tract: 73.02

Street Frontage (in Feet): 1) 82 2) 285.8 3) 58.24 4) _____ 5) _____ NW21A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Bellomy Minerals, LLC

Applicant: Ryan Bellomy Telephone: (214)-953-0188

Mailing Address: 1700 Pacific Ave., Suite 2220 Zip Code: 75201

E-mail Address: ryan@thebellomygroup.com

Represented by: Robert R. Harris Telephone: (214)-953-0188

Mailing Address: 1700 Pacific Ave., Suite 2220 Zip Code: 75201

E-mail Address: rob@thebellomygroup.com

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

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: PD 326 requires a solid fence along property lines adjacent to residential uses; the irregular share of 4401 W. Lovers Ln. creates a conflict with Article X's ten foot buffer requirement; property owner seeks alternate plan that allows the solid fence with trees without a ten foot dedicated buffer.

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 Ryan Bellomy

(Affiant/Applicant's name printed)

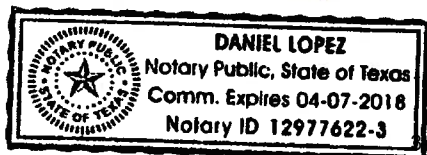
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted:

[Signature]
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 23 day of September

(Rev. 08-01-11)



Notary Public in and for Dallas County, Texas

**MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT**

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that Ryan Bellomy
represented by Robert R. Harris
did submit a request for a special exception to the landscaping regulations
at 4407 W. Lovers Lane

BDA167-008. Application of Ryan Bellomy represented by Robert R. Harris for a special exception to the landscaping regulations at 4407 W. Lovers Lane. This property is more fully described as Lot 1A, Block E/4975, and is zoned PD-326, Area A, which requires mandatory landscaping. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscaping regulations.

Sincerely,

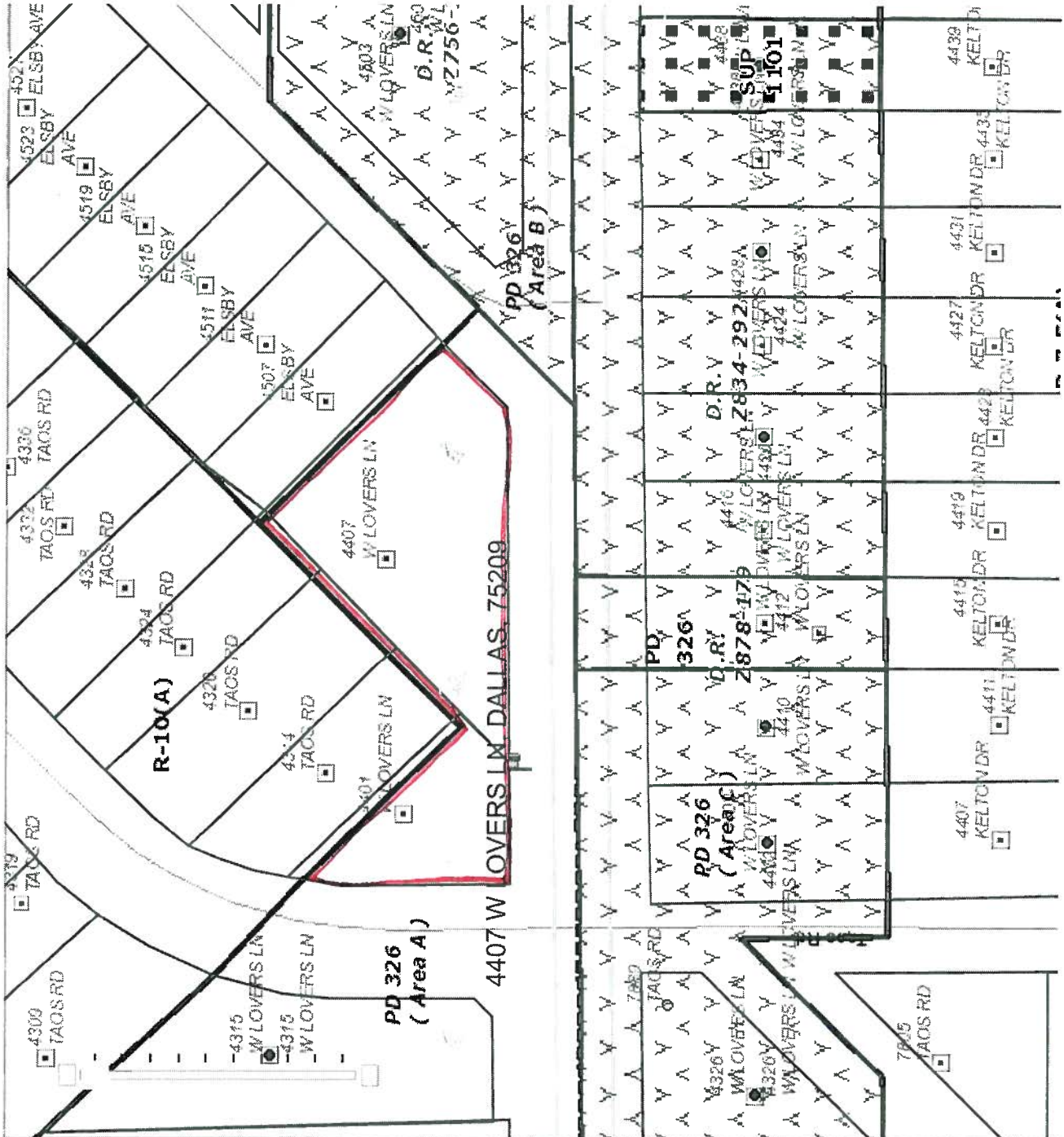
Philip Sikes
Philip Sikes, Building Official

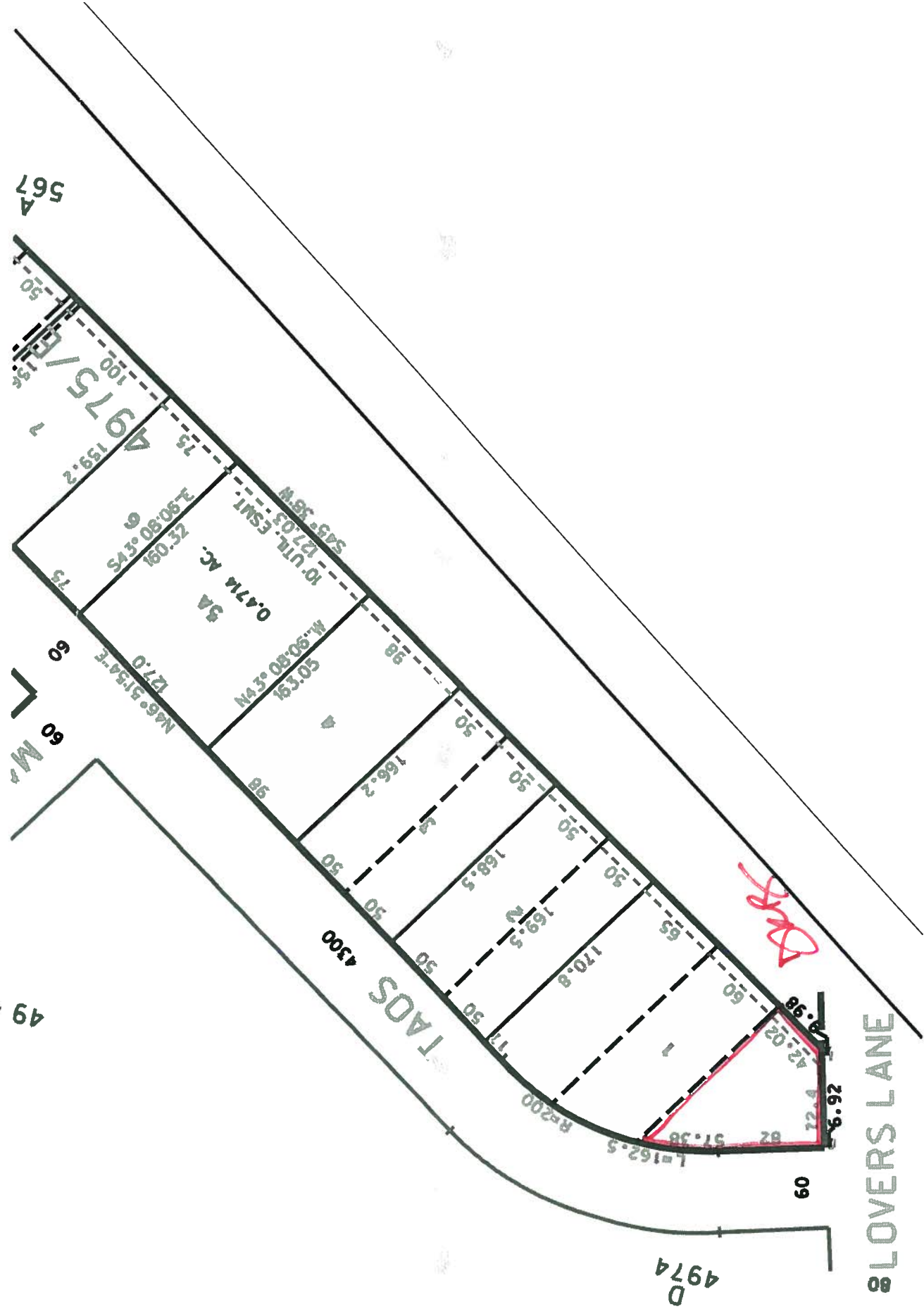
City of Dallas

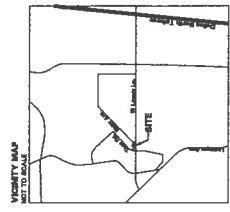
Internal Development Research Site

Legend

Locate Property







VICINITY MAP
NOT TO SCALE

GENERAL NOTES

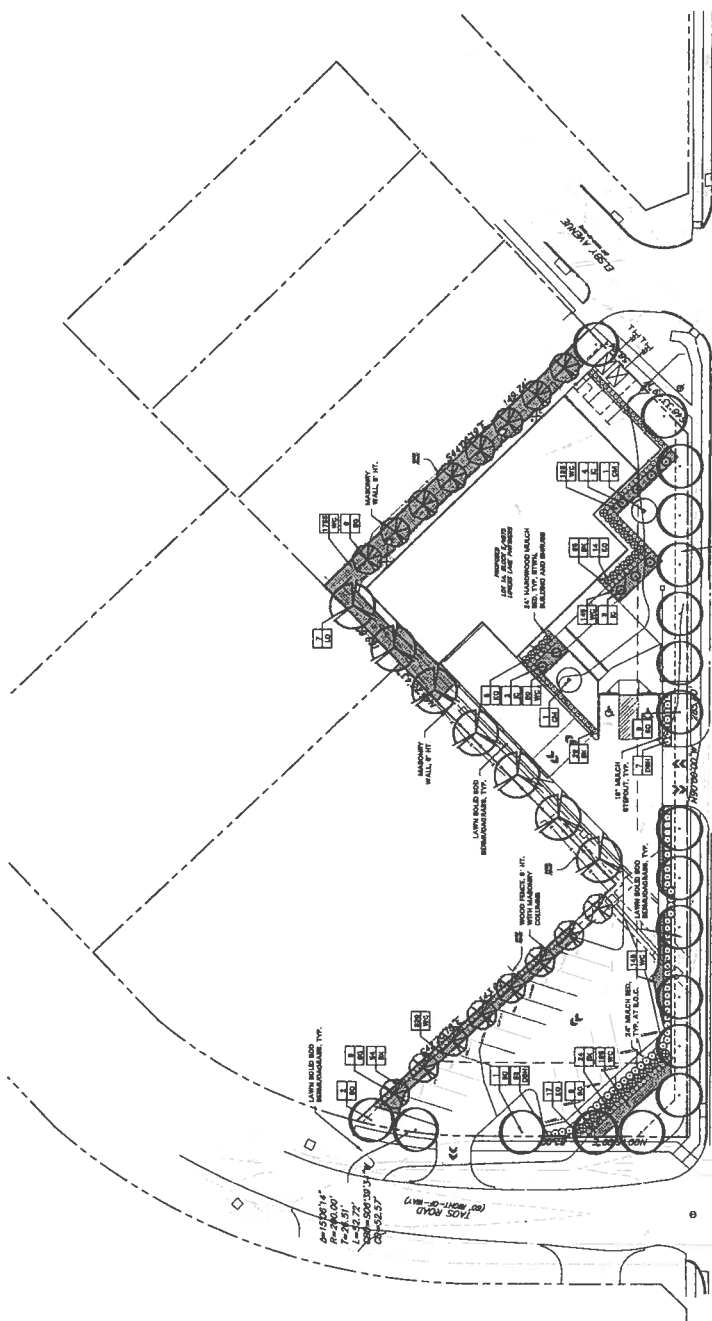
1. CONTRACTOR SHALL VERIFY ALL UTILITIES AND AVAILABILITY OF UTILITIES TOPSOIL WITH OWNER AND CONTRACTOR BEFORE ANY CONSTRUCTION.
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LANDSCAPE NOTES

1. CONTRACTOR SHALL VERIFY ALL UTILITIES AND AVAILABILITY OF UTILITIES TOPSOIL WITH OWNER AND CONTRACTOR BEFORE ANY CONSTRUCTION.
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MAINTENANCE NOTES

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LANDSCAPE PLAN
NOT TO SCALE

WEST LOVERS LANE

PLANT LIST

SYMBOL	BOTANICAL NAME	COMMON NAME	QTY.	SIZE	REMARKS
CL	2	48" gal.	...
LD	7	24"	...
LS	18	36"	...
BT	172	8 gal.	...
BT	50	8 gal.	...
BT	2778	4 pps	...

NOTE: ALL TREES SHALL HAVE STAKING FRAMES AND BE MAINTAINED WITHIN VARIATIONS PLANT LIST IS PROVIDED FOR INFORMATION ONLY. CONTRACTOR SHALL VERIFY ALL QUANTITIES ON PLAN. ALL UTILITIES AND AVAILABILITY OF UTILITIES TOPSOIL WITH OWNER AND CONTRACTOR BEFORE ANY CONSTRUCTION.

BELLE FIRMA

4246 North Central Expressway
Suite 101
Dallas, Texas 75206
214.625.7992

SCALE: 1" = 10'-0"

PROJECT NO. 08.23.2016
DATE 08.23.2016

Notification List of Property Owners

BDA167-008

29 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4320 TAOS RD	GREENWELL HOLDINGS LLC
2	4314 TAOS RD	SITTON KAY
3	4401 W LOVERS LN	4401 WEST LL PARTNERS LP
4	4324 TAOS RD	DAVIS JENNIFER L & JOHN F DAVIS IV
5	4333 TAOS RD	SCHWARTZ JOHN &
6	4329 TAOS RD	HODGE KELLY STEPHAN &
7	4325 TAOS RD	GOODING THOMAS J & YOLANDA S
8	4309 TAOS RD	ROGERS BRAD & RACHELLE
9	4313 W LOVERS LN	EM COR LLC
10	4311 W LOVERS LN	DFW/MLA OPPORTUNITY FUND LTD
11	4328 TAOS RD	POMPA HARRISON LYNN GAYLE
12	4336 TAOS RD	COSTANTINO THOMAS V &
13	4332 TAOS RD	MCCOLLUM THOMAS GERALD &
14	4342 TAOS RD	RAIN THOMAS E & JUNE T
15	4326 W LOVERS LN	YBARRA CARLO LLC
16	4402 W LOVERS LN	4402 LOVERS LN PARTNERS LP
17	4412 W LOVERS LN	4412 LOVERS LANE LLC
18	4416 W LOVERS LN	LOVERS LANE PPTIES LLC
19	4420 W LOVERS LN	HORNE FAMILY LIVING TRUST
20	4424 W LOVERS LN	LOLL INC
21	4428 W LOVERS LN	JC JUNKER LLC
22	4438 W LOVERS LN	BARROW DURRETT LLC
23	4507 ELSBY AVE	STANTON SAME
24	4511 ELSBY AVE	BURTON ERIKA & CHRISTOPHER D
25	4515 ELSBY AVE	REID THOMAS MICHAEL
26	4519 ELSBY AVE	MEHRA KAPIL

12/22/2016

Label #	Address	Owner
27	4523 ELSBY AVE	SHING KEITH &
28	4503 W LOVERS LN	CELEBRATION INC
29	4315 W LOVERS LN	204 WD LTD