

NOTICE FOR POSTING
MEETING OF
BOARD OF ADJUSTMENT, PANEL A
TUESDAY, JANUARY 19, 2016

Briefing:	11:30 A.M.	L1FN CONFERENCE CENTER AUDITORIUM
Training:	11.30 A.M.	L1FN CONFERENCE CENTER AUDITORIUM
Public Hearing:	1:00 P.M.	L1FN CONFERENCE CENTER AUDITORIUM

Purpose: To take action on the attached agenda, which contains the following:

- 1) Zoning Board of Adjustment appeals of cases the Building Official has denied.
- 2) And any other business that may come before this body and is listed on the agenda.

***All meeting rooms and chambers are located in Dallas City Hall, 1500 Marilla, Dallas, Texas 75201**

"Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun."

"De acuerdo con la sección 30.06 del código penal (ingreso sin autorización de un titular de una licencia con una pistola oculta), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola oculta."

"Pursuant to Section [30.07](#), Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly."

"De acuerdo con la sección 30.07 del código penal (ingreso sin autorización de un titular de una licencia con una pistola a la vista), una persona con licencia según el subcapítulo h, capítulo 411, código del gobierno (ley sobre licencias para portar pistolas), no puede ingresar a esta propiedad con una pistola a la vista."

ZONING BOARD OF ADJUSTMENT, PANEL A
TUESDAY, JANUARY 19, 2016
AGENDA

BRIEFING	L1FN CONFERENCE CENTER AUDITORIUM 1500 MARILLA STREET DALLAS CITY HALL	11:30 A.M.
TRAINING	L1FN CONFERENCE CENTER AUDITORIUM 1500 MARILLA STREET DALLAS CITY HALL	11:30 A.M.
PUBLIC HEARING	L1FN CONFERENCE CENTER AUDITORIUM 1500 MARILLA STREET DALLAS CITY HALL	1:00 P.M.

Donna Moorman, Chief Planner
Steve Long, Board Administrator

MISCELLANEOUS ITEM

Approval of the November 17, 2015 Panel Public Hearing Minutes	M1
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REGULAR CASES

BDA156-001(SL)	2225 N. Harwood Street REQUEST: Application of James B. Reeder, represented by Tim Hoch, to appeal the decision of an administrative official	1
BDA156-002(SL)	1900 Cedar Springs Road REQUEST: Application of James B. Reeder, represented by Tim Hoch, to appeal the decision of an administrative official	2
BDA156-003(SL)	4520 Cherokee Trail REQUEST: Application of Peter Kavanagh of Zone Systems for a special exception to the fence height 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]

(Rev. 6-24-02)

FILE NUMBER: BDA156-001(SL)

BUILDING OFFICIAL'S REPORT: Application of James B. Reeder, represented by Tim Hoch, to appeal the decision of an administrative official on property at 2225 N. Harwood Street. This property is more fully described as Lot 2B, Block A/358, and is zoned PD 193, PDS 50 (Tract 1). The applicant proposes to appeal the decision of an administrative official in the issuance of a temporary certificate of occupancy.

LOCATION: 2225 N. Harwood Street

APPLICANT: James B. Reeder
Represented by Tim Hoch

REQUEST:

The submitted application states that the applicant is appealing the 10/22/2015 decision made by the City of Dallas building official to approve the issuance of a Temporary Certificate of Occupancy TCO #1510134002 for property located at 2225. N. Harwood Street developed as a mixed use development, specifically in this case, a multifamily use (Miro) and related parking garage.

STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:

Dallas Development Code Sections 51A-3.102(d)(1) and 51A-4.703(a)(2) state that any aggrieved person may appeal a decision of an administrative official when that decision concerns issues within the jurisdiction of the Board of Adjustment.

The Board of Adjustment may hear and decide an appeal that alleges error in a decision made by an administrative official. Tex. Local Gov't Code Section 211.009(a)(1).

Administrative official means that person within a city department having the final decision-making authority within the department relative to the zoning enforcement issue. Dallas Development Code Section 51A-4.703(a)(2).

BACKGROUND INFORMATION:

Zoning:

Site: PD 193 (PDS 50) Planned Development, Planned Development
North: PD 193 (HC) Planned Development, Heavy Commercial
South: PD 193 (HC) Planned Development, Heavy Commercial
East: PD 193 (PDS 50) Planned Development, Planned Development
West: PD 193 (HC) Planned Development, Heavy Commercial

Land Use:

The subject site is developed with a mixed use structure and parking garage that includes property at 2225 N. Harwood Street, the specific address that is the focus of this request which is a multifamily structure/use (Miro). The areas to the north, south, east and west are developed with a mix of residential, office, and retail uses.

Zoning/BDA History:

- 1. BDA 156-002, Property at 1900 Cedar Springs Road (the subject site)

On January 19, 2016, the Board of Adjustment Panel A will consider an application appealing the 10/26/2015 decision made by the City of Dallas building official D. Sullivan to approve the issuance of a Temporary Certificate of Occupancy TCO #1510264002 for property located at 1900 Cedar Springs Road on property developed a mixed use development, specifically in this case, a restaurant use (Ruth’s Chris Steak House) and related parking garage.

GENERAL FACTS/STAFF ANALYSIS:

- The board shall have all the powers of the administrative official on the action appealed. The board may in whole or in part affirm, reverse, or amend the decision of the official.

Timeline:

November 5, 2015: 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, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

December 7, 2015: The Board Administrator contacted the applicant’s representative and emailed the following information:

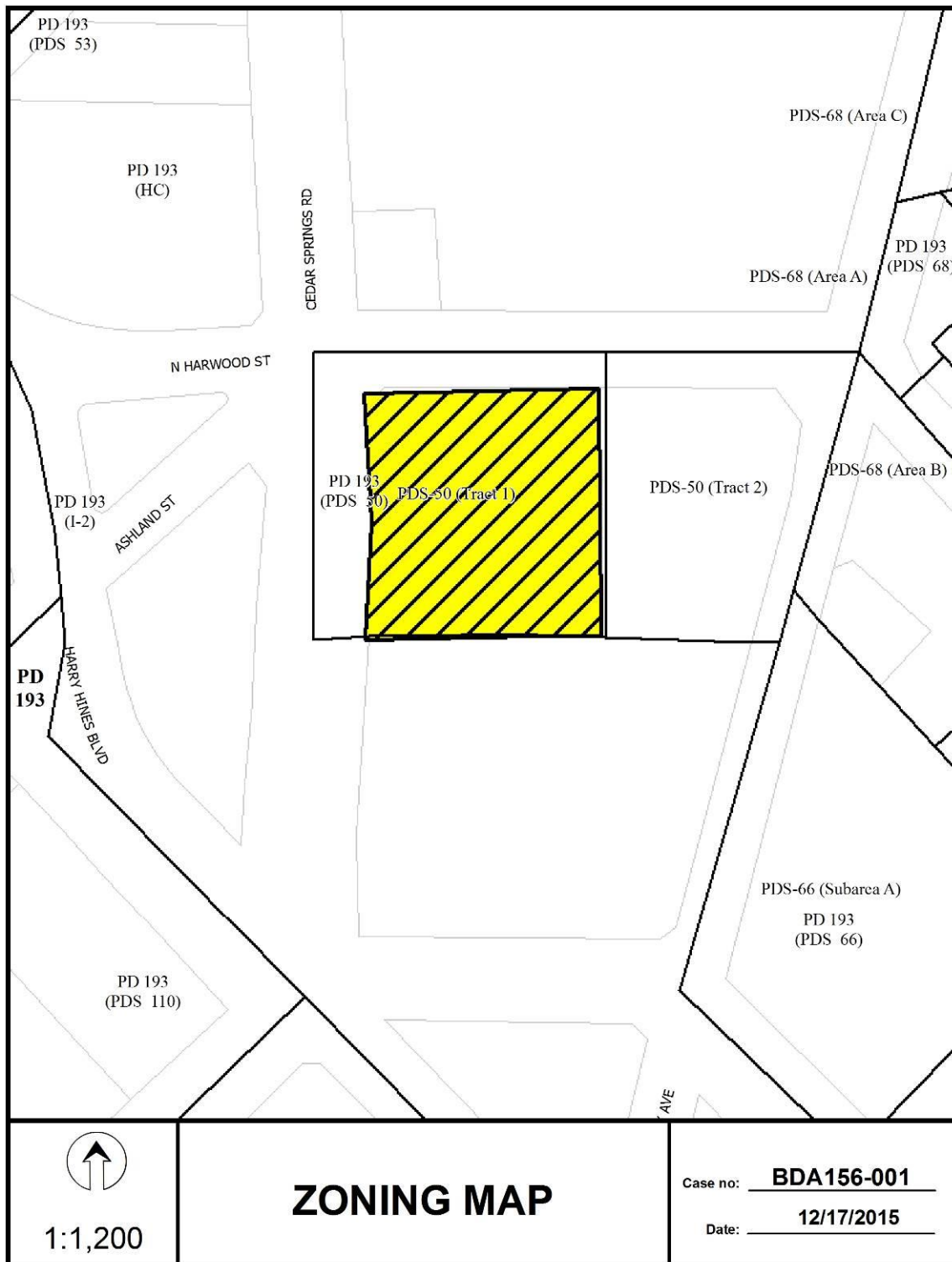
- an attachment that provided the public hearing date and panel that will consider the application; the December 30th deadline to submit additional evidence for staff to factor into their analysis (with a notation that staff does not form a recommendation on this type of application); and the January 8th deadline to submit additional evidence to be incorporated into the Board’s docket materials;

- the outline of procedure for appeals from decisions of the building official to the board of adjustment; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

January 5, 2016: 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 Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

January 7, 2015: The applicant’s representative emailed the Board Administrator that his client would not be seeking a reimbursement of the filing fee in conjunction with this application.





1:1,200

AERIAL MAP

Case no: BDA156-001

Date: 12/17/2015



A

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-001

Data Relative to Subject Property:

Date: November 5, 2015

Location address: 2225 N, Harwood Street Zoning District: PD193/PD550 *PDS 50 (Tr. 1)*

Lot No.: 2B Block No.: A/358 Acreage: 0.868 Census Tract: 19.00

Street Frontage (in Feet): 1) 193.35 2) 191.08 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

SW22

Owner of Property (per Warranty Deed): 1900 CS-A LLC

Applicant: James B. Reeder Telephone: 214-707-2421

Mailing Address: 1925 Cedar Springs Road, Dallas Texas Zip Code: 75201

E-mail Address: jreeder@techenablers.com

Represented by: Tim Hoch Telephone: 817-731-9703

Mailing Address: 5616 Malvey Avenue, Fort Worth, Texas Zip Code: 76107

E-mail Address: tim@hochlawfirm.com

Affirm that an appeal has been made for a Variance __, or Special Exception __, of the 10/22/2015 decision made by City of Dallas building official to approve the issuance of a Temporary Certificate of Occupancy TCO #1510134002.

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 parking garage for the entire structure is in violation of Sec. 51P-193.113(e)(2)(B); Sec. 51P-193.113(e)(2)(C)(iii); Sec. 51P-193.127; Sec. 51A-6.104(a); and Sec. 51A-6.104(B), and other code sections and the City is required to suspend or revoke all permits under Sec. 52-302.6.1.

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.

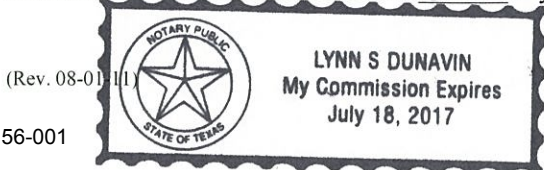
Affidavit

Before me the undersigned on this day personally appeared James B. Reeder
(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: James B. Reeder
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 5th day of November 2015



Lynn S Dunavin
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

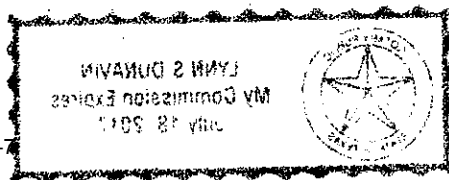
Building Official's Report

I hereby certify that James B. Reeder
represented by Tim Hoch
did submit a request to appeal the decision of the administrative official
at 2225 N. Harwood Street

BDA156-001. Application of James B. Reeder represented by Tim Hoch to appeal the decision of an administrative official at 2225 N. Harwood Street. This property is more fully described as Lot 2B, Block A/358, and is zoned PD 193, PDS 50 (Tract 1). The applicant proposes to appeal the decision of an administrative official in the issuance of a temporary certificate of occupancy.

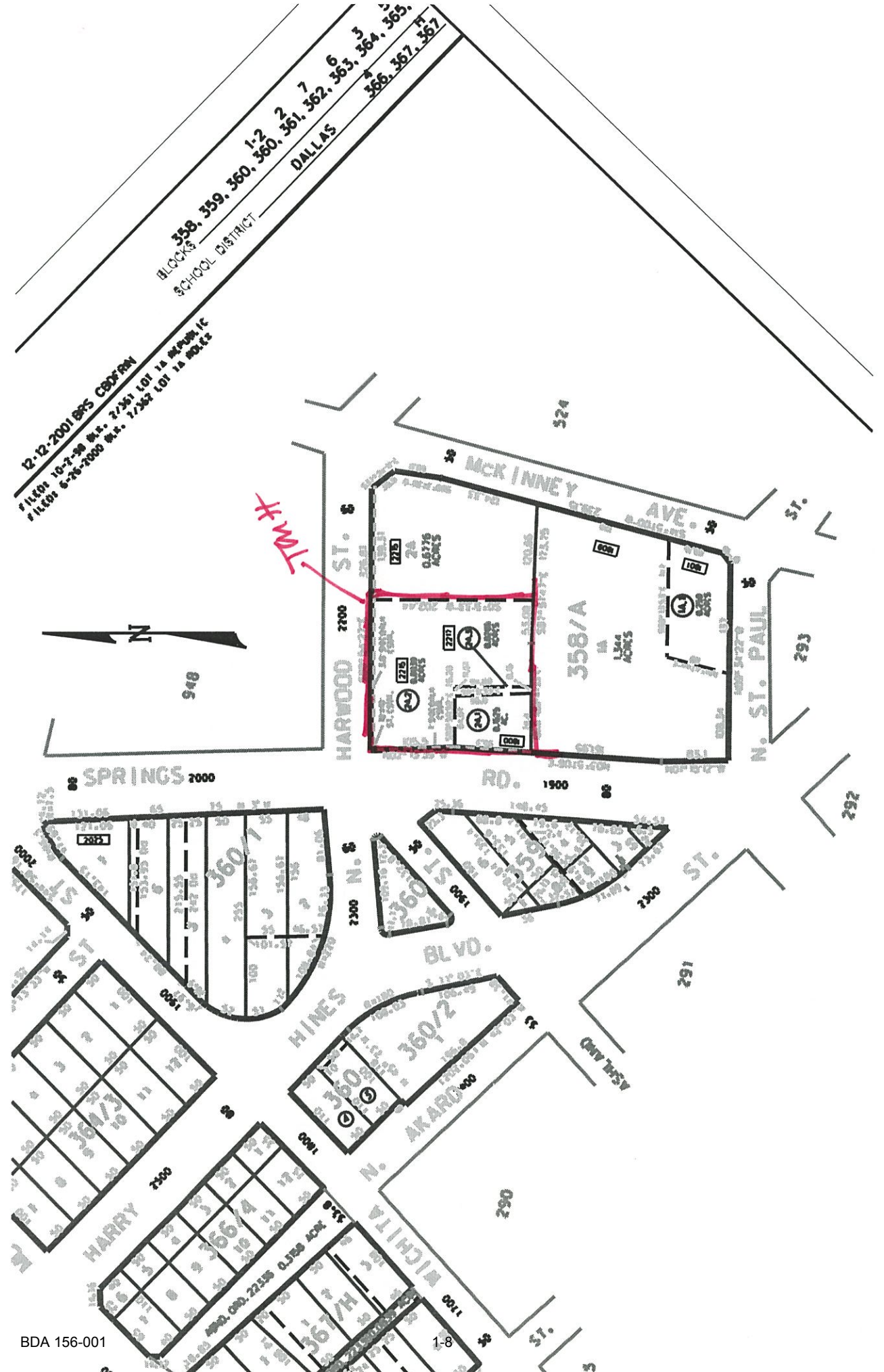
Sincerely,

Larry V. Holmes
Larry Holmes, Building Official



12-12-2001 BRS CSD/FRM
 #11401 10-1-98 H.S. 2/361 LOT 1A #PUBLIC
 #11401 6-28-2000 H.S. 1/362 LOT 1A #PUBLIC

358, 359, 360, 1-2, 2, 7, 6, 3, 3
 BLOCKS
 SCHOOL DISTRICT
 DALLAS 362, 363, 364, 365,
 366, 367, 367

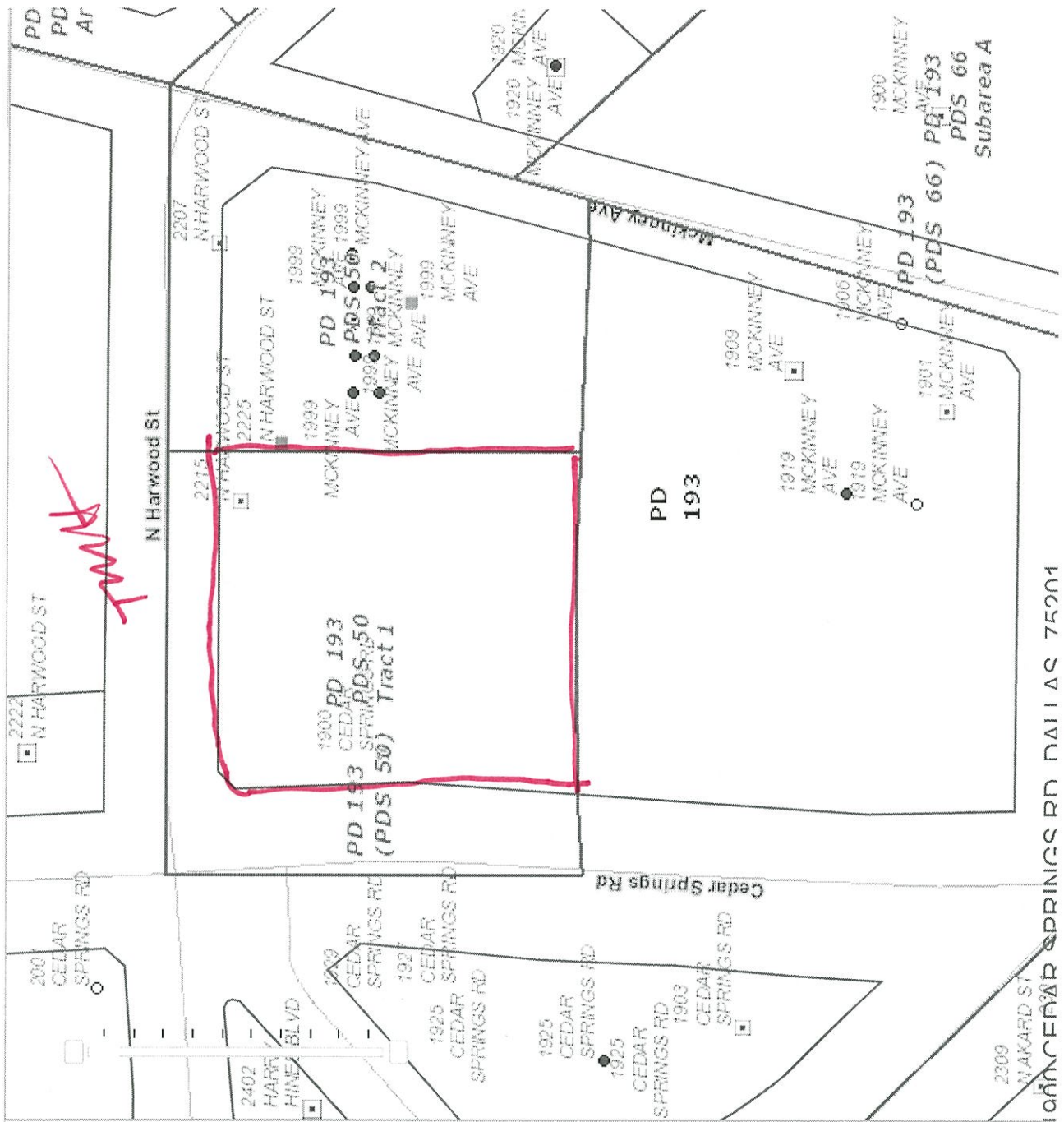


City of Dallas

Internal Development Research Site

Legend

Locate Property



BDA CASE NO. _____

CEDAR SPRINGS LOFTS	§	IN THE
CONDOMINIUM ASSOCIATION,	§	
	§	BOARD OF ADJUSTMENT
Aggrieved Party	§	
	§	
with respect to:	§	
	§	OF THE
1900 CEDAR SPRINGS ROAD,	§	
real property located within the	§	
	§	
CITY OF DALLAS,	§	
TEXAS,	§	
	§	
The Property	§	CITY OF DALLAS, TEXAS

**AGGRIEVED PARTY'S ORIGINAL PETITION
(ADDENDUM TO APPLICATION/APEAL TO THE
BOARD OF ADJUSTMENT)**

TO THE HONORABLE BOARD OF ADJUSTMENT:

COMES NOW, Aggrieved Party, Cedar Springs Lofts Condominium Association ("CSLCA"), for its appeal of a decision made by an administrative official of the City of Dallas Building Inspection Division with respect to 1900 Cedar Springs Road and 2225 N. Harwood, Dallas, Texas (the "Property"), and alleges and states as follows:

PARTIES, JURISDICTION, AND VENUE

1. Aggrieved Party CSLCA represents the owners of condominiums located at 1925 Cedar Springs Road, Dallas, Texas, which is located directly across the street from 1900 Cedar Springs Road/2225 N, Harwood, Dallas, Texas.

2. On information and belief, on or about October 26, 2015, an administrative official of the City of Dallas, D Sullivan, made a decision with respect to the Property (the "Decision"), which the Aggrieved Party alleges to be in error. [See *POSSE database, City*

of Dallas, Dept. of Sustainable Development & Construction, Building Inspection Division (TCO 1510264002). An unknown City Official issued a Temporary Certificate of Occupancy on October 22, 2015 (also referred to as the “Decision”) for levels 1-7 of the same structure located at 2225 N. Harwood (TCO 1510134002). The Aggrieved Party appeals herein the issuance of all decisions and actions by any building official regarding the structures located at 1900 Cedar Springs and 2225 North Harwood.

3. Due to the close proximity and visibility of the Property, the Aggrieved Party’s property is subject to unique harm as a result of the Decision. [See *Lazarides v. Farris*, 2012 Tex. Appeal. LEXIS 2948 (Tex. App.—Houston [14th Dist.]2012)]

4. Venue is proper in the Board of Adjustment, City of Dallas for the reason that the Property is located within the municipal limits of the City of Dallas. Furthermore, the Board of Adjustment has jurisdiction because the Aggrieved Party is appealing the decision of an administrative official made in the enforcement of the zoning ordinances of the City of Dallas within 15 days from the date of the Decision. [See §211.009 of the Texas Local Government Code, §1(a) of the City of Dallas Board of Adjustment Working Rules of Procedure, and “Information About Appeals to the Board of Adjustment (City of Dallas)”].]

FACTUAL BACKGROUND

5. PD193 (the Oak Lawn Special Purpose District) was established via Ordinance #18580 and (as subsequently amended and re-established) presently comprises the entirety of Chapter 51P, Article 193 of the City Code (the “Oak Lawn Ordinance”). [See Sec. 51P-193.101]

6. The Property is located at 1900 Cedar Springs Road and 2225 North Harwood, entirely within zoning district PD193, O-2 and contains a multi-level parking structure. [See *City of Dallas Zoning Map*; website: gis.dallascityhall.com/zoningweb/]. The property may also be known as having an address at 2225 North Harwood.

7. Aggrieved Party CSLCA's property at 1925 Cedar Springs Road, is located entirely within zoning district PD193, MF-2 and is occupied by a residential use. [See *City of Dallas Zoning Map*; website: gis.dallascityhall.com/zoningweb/]

8. The nighttime view from 1925 Cedar Springs Road (the Aggrieved Party's property) is shown in the following photographs:





9. The Oak Lawn Plan is the planning guide for the area covered by PD193.

[See City Council Resolution No. 83-4034.]

10. The Oak Lawn Plan's goals include: discouraging above grade open

parking structures and inappropriate building materials; making improvements to the aesthetic quality of parking areas; and providing stability for residential neighborhoods with changes to the zoning ordinance which create a more appropriate transition between residential and commercial areas. [*See Oak Lawn Plan, p.3*]

11. The Oak Lawn Plan notes that a consensus was reached that surface parking and large parking structures detract from the attractiveness of the area as a whole. [*See Oak Lawn Plan, p.8*]

12. The objectives of the Oak Lawn Plan “with regard to parking” include to discourage at grade and above grade parking; to screen at grade and above grade parking where it exists; and to encourage below grade parking. [*See Oak Lawn Plan, p.9*]

13. The objectives of the Oak Lawn Plan “with regard to improvement of standards for commercial development” include ensuring that: commercial development uses materials which are appropriate to their context; commercial development contributes to the landscaped character of the area; and parking to serve commercial development is not an intrusion in appearance or scale on surrounding development as well as discouraging above grade open parking structures. [*See Oak Lawn Plan, p.8*]

14. The objectives of the Oak Lawn Plan “with regard to... multifamily areas” include improving the landscaping and physical character of the area and protecting these areas from parking and loss of natural light, view and privacy due to development of adjacent commercial properties. [*See Oak Lawn Plan, p.6*]

15. The recommendation of the Oak Lawn Plan with respect to O-2 zoning, specifically, is that above grade parking structures must have façades of compatible material and comparable quality as the façades of the remainder of the building, with

openings not to exceed 50% of the façades and that all surface parking must be screened by walls, landscaping or a combination of both, to a minimum height of 3 ½ feet. [*See Oak Lawn Plan, p.26-27*]

16. With respect to the Oak Lawn Special Purpose District, in its entirety, the recommendation was to **screen cars from view by locating underground, behind commercial or residential uses, or within aesthetically pleasing structures or landscaping.** [*See Oak Lawn Plan, p.57*]

17. **The Oak Lawn Plan's goal for parking design in Oak Lawn is to hide the automobile.** The Oak Lawn Plan states that underground parking is seen as most desirable so that space and grade may be preserved for commercial, residential, pedestrian, and recreational activities, which enhance the quality of life of the city, and for landscaping, which serves to enhance the beauty of the city. [*See Oak Lawn Plan, p.70*]

18. On October 27, 1983, the City Plan Commission unanimously adopted the Oak Lawn Plan as the predecessor to PD193. [*See Council Communication #1099-83 from Assistant City Manager Jim Reid to the Honorable Mayor and Members of City Council dated December 14, 1983.*]

19. On December 14, 1983, the City Council unanimously accepted “the Oak Lawn Plan as the planning guide for the Oak Lawn community” and referred “the specifics of the proposals concerning code and policy revision back to the City Plan Commission for detailed analysis and the formulation of implementation recommendations.” [*See City Council Resolution No. 83-4034.*]

20. On February 8, 1985, following detailed analysis of the Oak Lawn Plan and the formulation of implementation recommendations by the City Plan Commission,

Ordinance #18580 (the Oak Lawn Ordinance) was adopted, the purpose of which was to amend Chapter 51 of the City Code by adding PD193, the implementation of the Oak Lawn Plan. [*See City Council Ordinance No. 18580.*]

21. Some of the purposes of the Oak Lawn Ordinance include:

a. “To encourage the placement of off-street parking underground or within buildings similar in appearance to non-parking buildings.” [*See Sec. 51P-193.103.(a)(3)*]

b. “To promote development appropriate to the character of nearby neighborhood uses by imposing standards sensitive to scale and adjacency issues.” [*See Sec. 51P-193.103.(a)(4)*]

c. “To provide visual buffering and enhance the beautification of the city.” [*See Sec. 51P-193.103.(a)(9)*]

d. “To safeguard and enhance property values and to protect public and private investment.” [*See Sec. 51P-193.103.(a)(10)*]

e. “To discourage variances or zoning changes which would... fail to adhere to the standards for multiple-family neighborhoods and commercial areas, or would fail to comply with the overall objectives of the Oak Lawn Plan accepted and endorsed by the city council on December 14, 1983, by Resolution No. 83-4034.” [*See Sec. 51P-193.103.(a)(6)*]

22. The Oak Lawn Ordinance requires that “(a)ll permanent parking structures must be either underground or concealed in a building with a facade that is similar in appearance to the facade of the main non-parking building for which the parking is accessory.” [*See Sec. 51P-193.127*]

23. The phrasing of Sec. 51P-193.127: “parking structures must be... concealed

in a building with a façade...” clearly indicates that the terms “parking structure” and “building with a façade” are two separate architectural elements. In other words, the Oak Lawn Ordinance makes no provision for counting the side of a parking structure as a “façade” when, in fact, no such façade has been installed on the side of the parking structure.

The term “concealed” is not defined in the Oak Lawn Ordinance; however, the common meaning of “conceal” is: “to prevent disclosure or recognition of” or “to place out of sight.” [See *Merriam-Webster Dictionary*; website: <http://www.merriam-webster.com/dictionary/conceal>].

24. As is clearly illustrated in the above photographs, the Property’s permanent parking structure is not underground nor is it concealed in a building with a façade that is similar in appearance to the façade of the main non-parking building for which the parking is accessory.

25. The Oak Lawn Ordinance requires that “(a)t least 12 percent of the parking structure facade (including openings, if any) must be covered with the same material used predominantly on the first 24 feet of height of the main non-parking building.” [See *Sec. 51P-193.127*]

26. The photographs further reveal that the structure is substantially devoid of facades. Where facades do exist, they are constructed of neither red brick nor stone.

27. The Oak Lawn Ordinance requires that “(o)penings in the parking structure facade may not exceed 52 percent of the total facade area” [See *Sec. 51P-193.127*]

28. As stated above, the parking structure’s “side” and “façade” are two separate architectural elements.

29. In addition, the Oak Lawn Ordinance contains no provision allowing for the façade of a non-parking structure or an opening in a parking structure to count as the façade of a parking structure for purposes of satisfying the requirement to limit openings in the parking structure's façades.

30. Photographs of the parking structure reveal that it is substantially devoid of facades and contains openings that are well in excess of 52% of the total façade area.

31. The Oak Lawn Ordinance requires that light sources associated with off-street parking "not be visible from property this is occupied by a residential use and located within 600 feet of the light source." [See Sec. 51P-193.113(e)(2)(C)(iii)]

32. Light sources are defined as flames or bulbs, mantles, or other devices that produce light. [See Sec. 51P-193.104(a)(15)]

33. CSLCA also protests the anticipated illumination from the parking structure.

34. The Dallas Development Code prohibits any use that has a visible source of illumination that produces glare or direct illumination across a property line of an intensity that creates a nuisance or detracts from the use or enjoyment of adjacent property. [See Sec. 51A-6.104(a)]

35. The intensity of the Property parking structure's sources of illumination will very likely produce glare and direct illumination across the property line to surrounding property that results in certain nearby residents being required to close their blinds at night and to reorient their patio chairs away from the sources of illumination, creating a nuisance and detracting from their enjoyment of the property.

36. The Dallas Development Code prohibits any outside lights that direct a light

beam across a property line. [See Sec. 51A-6.104(b)]. The Property's outside lights that illuminate the parking structure and surface parking area will likely direct light beams across several property lines.

37. On December 12, 2012, representatives of the Owner of the Property made a presentation to City Council. The following renderings of the project were presented to Council:







A Council member specifically inquired as to whether the renderings were exact renderings of the project as it will look when completed. This was answered in the affirmative.

FIRST CAUSE OF ACTION
(FAILURE TO CONCEAL THE PARKING STRUCTURE)

38. The allegations of Paragraphs 1 – 37 are re-alleged and incorporated by reference.

39. The Aggrieved Party is entitled to a ruling that the parking structure must either be relocated underground or concealed in a building with a façade that is similar in appearance to the façade of the main non-parking building for which the parking is accessory, as required by Sec. 51P-193.127 of the Dallas City Code.

SECOND CAUSE OF ACTION
(PARKING STRUCTURE'S FAILURE TO MATCH GROUND ELEVATION OF PRIMARY STRUCTURE)

40. The allegations of Paragraphs 1 – 39 are re-alleged and incorporated by

reference.

41. The Aggrieved Party is entitled to a ruling that at least 12% of the parking structure facades (including openings) be covered with the same material used predominantly on the first 24 feet of height of the main non-parking building, as required by Sec. 51P-193.127 of the Dallas City Code.

THIRD CAUSE OF ACTION
(FAILURE TO LIMIT OPENINGS IN PARKING STRUCTURE FACADE)

42. The allegations of Paragraphs 1 – 41 are re-alleged and incorporated by reference.

43. The Aggrieved Party is entitled to a ruling that openings in the parking structure façade be limited to 52% or less of the of the total facade areas, as required by Sec. 51P-193.127 of the Dallas City Code.

FOURTH CAUSE OF ACTION
(FAILURE TO SHIELD OFF-STREET PARKING LIGHT SOURCES)

44. The allegations of Paragraphs 1 – 43 are re-alleged and incorporated by reference.

45. The Aggrieved Party is entitled to a ruling that light sources associated with off-street parking not be visible from property that is occupied by a residential use and located within 600 feet of the light source, as required by Sec. 51P-193.113(e)(2)(C)(iii) of the Dallas City Code.

FIFTH CAUSE OF ACTION
(PRODUCTION OF GLARE AND DIRECT ILLUMINATION)

46. The allegations of Paragraphs 1 – 45 are re-alleged and incorporated by reference.

47. The Aggrieved Party is entitled to a ruling that the Property's unenclosed

parking structure is a prohibited use because it produces glare and direct illumination across property lines, as dictated by Section 51A-6.104(a) of the Dallas City Code.

SIXTH CAUSE OF ACTION
(DIRECTION OF LIGHT BEAMS ACROSS PROPERTY LINES)

48. The allegations of Paragraphs 1 – 47 are re-alleged and incorporated by reference.

49. The Aggrieved Party is entitled to a ruling that the Property's outdoor lights be removed or modified in the event they illegally direct light beams across property lines, as required by Section 51A-6.104(b) of the Dallas City Code.

SEVENTH CAUSE OF ACTION
(FAILURE TO LIMIT THE INTENSITY OF SPILLOVER LIGHT)

50. The allegations of Paragraphs 1 – 49 are re-alleged and incorporated by reference.

51. The Aggrieved Party is entitled to a ruling that the intensity of spillover light on neighboring residential lots, measured at a point five feet inside the residential lot line and five feet above the ground surface, be reduced to a level of 0.1 footcandle or less, as required by Section 51P-193.113(e)(2)(B) of the Dallas City Code.

EIGHTH CAUSE OF ACTION
(VOID CERTIFICATE OF OCCUPANCY – PARKING STRUCTURE)

52. The allegations of Paragraphs 1 – 51 are re-alleged and incorporated by reference.

53. City of Dallas building officials have no jurisdiction to allow uses that violate City ordinances. Moreover, building permit applicants are held to notice of applicable regulations and the limits of permit officers' power. [*See Zachry v. City of San Antonio, 296 S.W.2d 299, 305 (Tex. Civ. App. San Antonio 1956), aff'd 157 Tex. 551, 305*

S.W.2d 558 (1957), for a statement of the general rule.]

54. Building permits issued by building officials based upon an unnatural construction of city zoning ordinances are void. [*See Davis v. City of Abilene, 250 S.W.2d 685 (Tex. Civ. Appeal. Eastland 1952, writ refused)*]

55. Allowing building officials to grant permits for forbidden uses in protected districts would thwart and completely destroy the power and authority given by the enabling act of the legislature to the city council as the legislative body of the city. [*See Harrington v. City of Alamo Heights, 124 S.W.2d 401 (Tex. Civ. Appeal. Amarillo 1939, writ refused)*]

56. Administrative actions that violate the fundamental commands or limitations established by ordinance are void and cannot bind the City of Dallas by contract or estoppel. [*See Black & Daniel, The Texas Rule of Estoppel in Zoning Cases, 33 Baylor L. Review 241 (1981)*]

57. Long and uncontested use under invalid permits do not legitimate the permits which are void *ab initio*, and do not estop the City of Dallas from enforcing its ordinances as written. [*See Swain v. Board of Adjustment of University Park, 433 S.W. 2d 733 (Tex. Civ. Appeal. Dallas 1968, writ refused n.r.e.)*]

58. The building official shall deny an application for a certificate of occupancy if the certificate of occupancy requested does not comply with the codes, the *Dallas Development Code*, or other City of Dallas ordinances, rules or regulations. (emphasis added) [*See Sec. 52.306.5.1*]

59. The Aggrieved Party is entitled to a ruling overturning the decision to award a temporary certificate of occupancy and, instead, denying any applications for the parking

structure located on the Property.

NINTH CAUSE OF ACTION
(VOID BUILDING/CERTIFICATE OF OCCUPANCY PERMIT(S) –
PARKING STRUCTURE)

60. The allegations of Paragraphs 1 – 59 are re-alleged and incorporated by reference.

61. The building official shall suspend or revoke a permit issued under this chapter if he or she determines that the permit is issued in error or on the basis of incorrect information supplied, or in violation of any city ordinance or regulation or any provision of Chapter 52 or the codes. (emphasis added) [*See. Sec. 52-302.6.1*]

62. The Aggrieved Party is entitled to a determination that any and all building permit(s) relating to the parking structure are void and should be suspended or revoked.

TENTH CAUSE OF ACTION
(VOID CERTIFICATE OF OCCUPANCY/BUILDING PERMIT(S) –
MULTI-FAMILY STRUCTURES)

63. The allegations of Paragraphs 1 – 62 are re-alleged and incorporated by reference.

64. Multiple-family structures such as the ones under construction at the Property require one off-street parking space for each 500 square feet of dwelling unit floor area. [*See 51P-193.107(a)(3)(C)(i)*].

65. Because the parking structure and surface parking lot upon which the Property's multiple-family structures are dependent is illegal and therefore ineligible for a certificate of occupancy, no parking spaces are available to satisfy the multi-family parking requirement. This inability to satisfy the parking requirement renders the multi-family

structures illegal.

66. The Aggrieved Party is entitled to a determination that any and all building permit(s) pertaining to the multi-family structures are void and should be suspended or revoked.

ELEVENTH CAUSE OF ACTION
(VOID CERTIFICATES OF OCCUPANCY – MULTI-FAMILY STRUCTURES)

67. The allegations of Paragraphs 1 – 66 are re-alleged and incorporated by reference.

68. The Aggrieved Party is entitled to a determination that any and all certificate(s) of occupancy pertaining to the multi-family structures are void and should be suspended or revoked.

WHEREFORE, PREMISES CONSIDERED, Aggrieved Party CSLCA respectfully prays that the Honorable Board of Adjustment enter judgment in its favor on each count of the Petition, as follows:

- a. That the Board determine that the Property is in violation of the Dallas City Code, including the Dallas Construction Code, the Dallas Development Code, and the Oak Lawn Ordinance;
- b. That the Board suspend or revoke all temporary certificates of occupancy and building permits relating to the Property;
- c. That the Board employ any and all enforcement remedies at the Board's disposal to compel the Property's owner to immediately abate all existing violations of the Dallas City Code through repair, rehabilitation, demolition or removal;

- d. That the Board reimburse the Applicant's filing fee due to financial hardship for the reason that the Applicant, a neighboring private citizen, is a reluctant and innocent party to these proceedings, who has already suffered substantial damage as a result of the matters which are the subject of this hearing;
- e. Injunctive relief; and
- f. For such other and further relief as the Board deems just and proper.

Respectfully submitted,

/s/ Timothy M. Hoch

Timothy M. Hoch
State Bar No. 09744950
HOCH LAW FIRM, P.C.
5616 Malvey Avenue
Fort Worth, Texas 76107
Telephone: (817) 731-9703
Telecopier: (817) 731-9706
E-mail: tim@hochlawfirm.com

**ATTORNEY FOR AGGRIEVED
PARTY**
CEDAR SPRINGS LOFTS
CONDOMINIUM ASSOCIATION



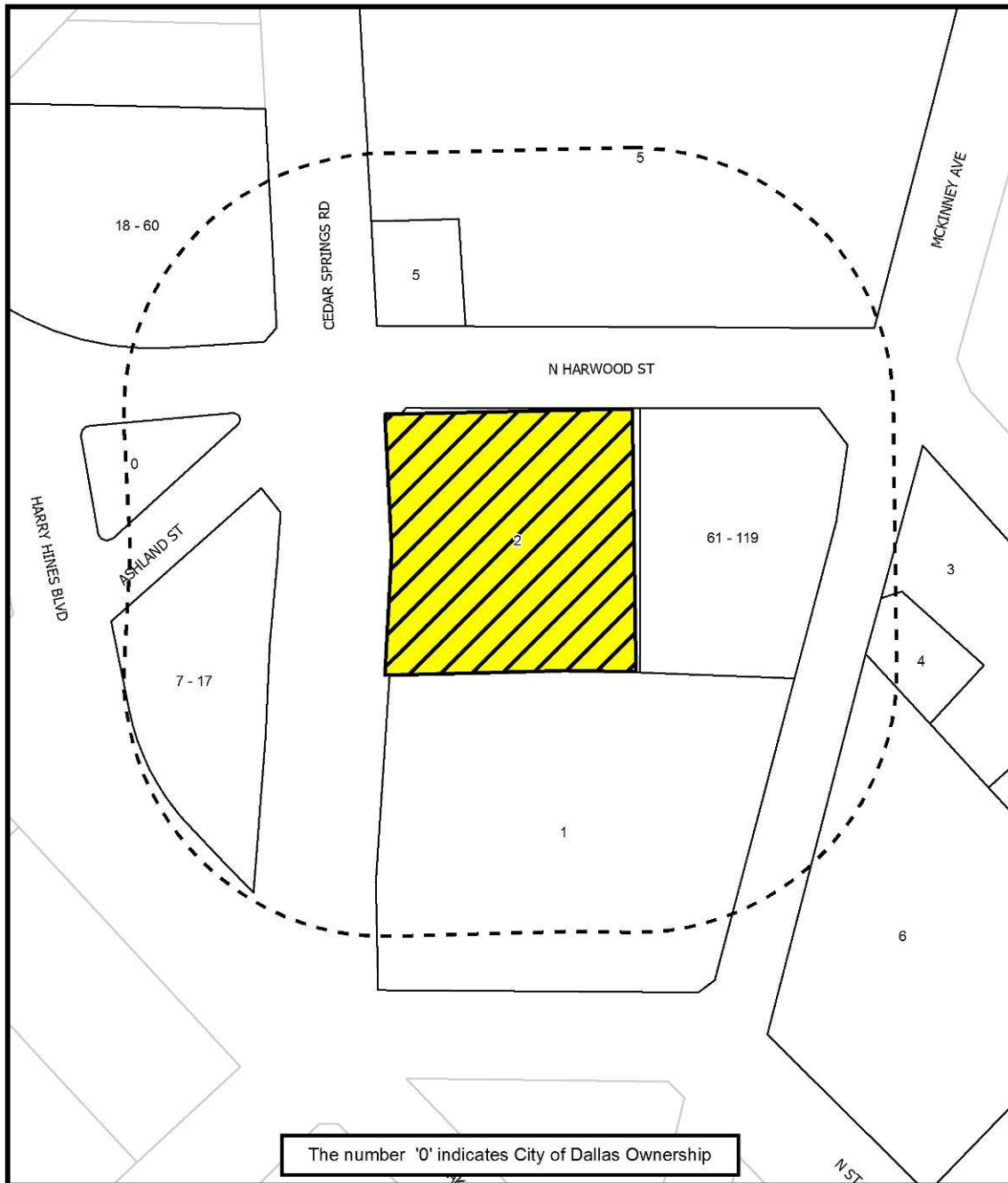
CITY OF DALLAS

Outline of Procedure for Appeals from Decisions of an Administrative Official

An appeal of an administrative official's decision may have very structured procedures that resemble a court hearing, or it may have more informal procedures that resemble a typical case brought before the Board of Adjustment. The parties can decide how they want to present their case. This document accounts for both scenarios. Please note that although there are time limits listed in this outline, the presiding officer reserves the right to alter these time limitations to promote fairness and efficiency.

- I. Explanation of the procedures by the presiding officer
- II. Swearing in of all persons who will testify in the case
- III. Applicant's case: 20 minute limit
 - a. This may resemble a typical Board case where the applicant merely presents his argument to the Board. It may also resemble a court hearing where the applicant gives an opening statement, calls witnesses, and offers evidence.
 - b. If the applicant calls a witness, the administrative official is able to cross examine the witness.
 - c. The applicant may conduct a redirect of his witness.
 - d. The applicant may submit documents to the Board Secretary as long as they comply with the documentary evidence rules set forth in the Board's Rules of Procedures.
 - e. The Board may ask questions at any time. Board member questions will not count towards the time limitation.
- IV. The Administrative Official's case: 20 minute limit
 - a. This may resemble a typical Board case where the administrative official presents his argument to the Board. It may also resemble a court hearing where the administrative official gives an opening statement, calls witnesses, and offers evidence.

- b. If the administrative official calls a witness, the applicant is able to cross examine the witness.
 - c. The administrative official may conduct a redirect of his witness.
 - d. The administrative official may submit documents to the Board Secretary as long as they comply with the documentary evidence rules set forth in the Board's Rules of Procedures.
 - e. The Board may ask questions at any time. Board member questions will not count towards the time limitation.
- V. Rebuttal by the applicant (optional): 3 minutes
- VI. Closing Statements
- a. Applicant's closing statement (optional): 3 minutes
 - b. The administrative official's closing statement (optional): 3 minutes
- VII. Move and second to either affirm, reverse, or amend the administrative official's decision.
- VIII. Open discussion of the case by Board members
- IX. Voting: Four concurring votes are required to reverse or amend the administrative official's decision.



The number '0' indicates City of Dallas Ownership

 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">119</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	119	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: BDA156-001 Date: 12/17/2015
200'	AREA OF NOTIFICATION					
119	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA156-001

119 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1919 MCKINNEY AVE	HKS BUILDINGS LP
2	1900 CEDAR SPRINGS RD	1900 CS A LLC
3	1936 MCKINNEY AVE	1900 MCKINNEY HARWOOD LLC
4	1920 MCKINNEY AVE	1900 MCKINNEY HARDWOOD LLC
5	2222 N HARWOOD ST	CRESCENT MCKINNEY OLIVE LP
6	1900 MCKINNEY AVE	MCP 1900 MCKINNEY LLC
7	1925 CEDAR SPRINGS RD	KIRK JAMES R
8	1925 CEDAR SPRINGS RD	1933 CEDAR SPRINGS LLC
9	1925 CEDAR SPRINGS RD	WARPAINT HQ LLC
10	1925 CEDAR SPRINGS RD	ROMANO PHILIP J
11	1925 CEDAR SPRINGS RD	THREE BRIDS PROPERTY LP
12	1925 CEDAR SPRINGS RD	ROLLINS PROPERTIES LP
13	1925 CEDAR SPRINGS RD	ROLLIN PROPERTIES LP
14	1925 CEDAR SPRINGS RD	DAWSON WILLIAM B &
15	1925 CEDAR SPRINGS RD	SMITH THOMAS L
16	1925 CEDAR SPRINGS RD	REEDER JAMES B
17	1925 CEDAR SPRINGS RD	BALDRIDGE JERALD TR ETAL
18	2011 CEDAR SPRINGS RD	HUFFMAN HENRY T
19	2011 CEDAR SPRINGS RD	POLLAK MICHAEL & KAREN
20	2011 CEDAR SPRINGS RD	HERMAN JOHN H
21	2011 CEDAR SPRINGS RD	HOME BRIAN LEE
22	2011 CEDAR SPRINGS RD	TOLER KATHY A
23	2011 CEDAR SPRINGS RD	WIGMORE ANDREW & MARILU BUSTAMANTE
24	2011 CEDAR SPRINGS RD	SBORLINI DIANE M
25	2011 CEDAR SPRINGS RD	LAVENDER CHAD
26	2011 CEDAR SPRINGS RD	RODINE LIVING TRUST

Label #	Address	Owner
27	2011 CEDAR SPRINGS RD	RAHHAL STEVEN
28	2011 CEDAR SPRINGS RD	BRIGGS CHARLES A &
29	2011 CEDAR SPRINGS RD	BHARDWAJ ANTONIO VERSACE
30	2011 CEDAR SPRINGS RD	IVANOVSKIS GEORGE & RHONDA DUWAJI
31	2011 CEDAR SPRINGS RD	GRAY BRENDA RICHARDS
32	2011 CEDAR SPRINGS RD	ROBERTS RANDY C & JACKIE
33	2011 CEDAR SPRINGS RD	RODMAN ADAM R
34	2011 CEDAR SPRINGS RD	CADWALLADER PAUL DAVID
35	2011 CEDAR SPRINGS RD	FLORI CHRISTOPHER G
36	2011 CEDAR SPRINGS RD	DAVIDOW JOAN C
37	2011 CEDAR SPRINGS RD	SMARTT MICHAEL A & STEVA
38	2011 CEDAR SPRINGS RD	NILSEN CHRISTOPHER CARL
39	2011 CEDAR SPRINGS RD	TALBOT ENTERPRISES LLC
40	2011 CEDAR SPRINGS RD	KORENVAES MAX
41	2011 CEDAR SPRINGS RD	HOWARD RICHARD J
42	2011 CEDAR SPRINGS RD	COIL JOHN A
43	2011 CEDAR SPRINGS RD	LEVITAN DANIEL S
44	2011 CEDAR SPRINGS RD	HELLER ALAN W & SHIRLEY
45	2011 CEDAR SPRINGS RD	SHAH MONAL B
46	2011 CEDAR SPRINGS RD	WASHBURN SHANNON
47	2011 CEDAR SPRINGS RD	SANCHEZ MAURICIO
48	2011 CEDAR SPRINGS RD	SMITH JAMES B TRUSTEE OF JAMES B SMITH REV TRUST
49	2011 CEDAR SPRINGS RD	TAYLOR LARRY W
50	2011 CEDAR SPRINGS RD	KEEP GARY D & ELIZABETH R
51	2011 CEDAR SPRINGS RD	LONTOS DEAN J
52	2011 CEDAR SPRINGS RD	SOLOMON GERALD
53	2011 CEDAR SPRINGS RD	MARTINDUARTE PAMELA HAGERTY
54	2011 CEDAR SPRINGS RD	MARTIN DAREN K
55	2011 CEDAR SPRINGS RD	PAJAK FRASER D & MARGARET A
56	2011 CEDAR SPRINGS RD	NESS LARRY E &
57	2011 CEDAR SPRINGS RD	CRUZ PONCIANO D JR

Label #	Address	Owner
58	2011 CEDAR SPRINGS RD	TAYLOR SHANE & LESHIA
59	2011 CEDAR SPRINGS RD	WESTCOTT CHART H LIVING TRUST THE
60	2011 CEDAR SPRINGS RD	WESTCOTT CHART H TRUSTEE
61	1999 MCKINNEY AVE	WAGNER JONATHAN
62	1999 MCKINNEY AVE	MOORE F DAVID
63	1999 MCKINNEY AVE	ARROYO DEANNE ALYSSA
64	1999 MCKINNEY AVE	CHEN PHILIP
65	1999 MCKINNEY AVE	SMITH WALTER G &
66	1999 MCKINNEY AVE	KALIL STEPHEN A &
67	1999 MCKINNEY AVE	GARRETT MICHAEL L &
68	1999 MCKINNEY AVE	FOX JAMES P & KATHLEEN K
69	1999 MCKINNEY AVE	JAIN ANISH K &
70	1999 MCKINNEY AVE	HENDRICKSON DWIGHT ETAL
71	1999 MCKINNEY AVE	SHABAN ALI HUSSAIN
72	1999 MCKINNEY AVE	CURTIS AUDREY A
73	1999 MCKINNEY AVE	STALEY MARY
74	1999 MCKINNEY AVE	HUTCHINSON WILLIAM L & SUZANNE S
75	1999 MCKINNEY AVE	SHARP THOMAS L
76	1999 MCKINNEY AVE	DEANE BELINDA
77	1999 MCKINNEY AVE	BUGG ROBERT C
78	1999 MCKINNEY AVE	SALES SUSAN CAROLINE
79	1999 MCKINNEY AVE	MEDINA MICHAEL A
80	1999 MCKINNEY AVE	STEHNEY JEFFREY ALLEN & JOYCE KAY
81	1999 MCKINNEY AVE	TILLERY BRYCE
82	1999 MCKINNEY AVE	STUVE OLAF &
83	1999 MCKINNEY AVE	WERBNER MARK
84	1999 MCKINNEY AVE	DUFOUR FRANK & KRISTIN LEE
85	1999 MCKINNEY AVE	HOUSE JAMES A &
86	1999 MCKINNEY AVE	HALBERT LINDSEY &
87	1999 MCKINNEY AVE	BARTLETT CHARLES M & MELISSA S
88	1999 MCKINNEY AVE	STRONG BRENDA L

Label #	Address	Owner
89	1999 MCKINNEY AVE	MOORE LARRY H & DORRINE B
90	1999 MCKINNEY AVE	SCHUBERT FRANK B &
91	1999 MCKINNEY AVE	DOWLING MAUREEN F
92	1999 MCKINNEY AVE	SEBRA GEORGE J
93	1999 MCKINNEY AVE	CASSIDY THOMAS P & ARLEEN D
94	1999 MCKINNEY AVE	HAINES CAPITAL GROUP LLC
95	1999 MCKINNEY AVE	KISBERG PAMELA
96	1999 MCKINNEY AVE	ROY JOHN PARKER
97	1999 MCKINNEY AVE	BRINK RICHARD R &
98	1999 MCKINNEY AVE	OBERING MIHOKO K
99	1999 MCKINNEY AVE	BRADFORD TED R
100	1999 MCKINNEY AVE	BRUNT WILLIAM B
101	1999 MCKINNEY AVE	WOMACK STEVEN W
102	1999 MCKINNEY AVE	CAIRE MARY
103	1999 MCKINNEY AVE	MALONE MICHAEL W
104	1999 MCKINNEY AVE	EDMISTON ANGIE L
105	1999 MCKINNEY AVE	LESZINSKI SLAWOMIR LIVING TRUST &
106	1999 MCKINNEY AVE	ABINGTON TOM E & GLYNDA C
107	1999 MCKINNEY AVE	MILLER JAMES H & ROSANNE T
108	1999 MCKINNEY AVE	NAIK SURAJ
109	1999 MCKINNEY AVE	WINTER F DAVID JR & RENEE
110	1999 MCKINNEY AVE	PRENTISS MICHAEL & STEFANIE K
111	1999 MCKINNEY AVE	BALDOR JORGE L
112	1999 MCKINNEY AVE	FRENCH ROBERT P & MARSHA B
113	1999 MCKINNEY AVE	WUNDERLICK JOHN ROBERT
114	1999 MCKINNEY AVE	HORTON EMILY
115	1999 MCKINNEY AVE	PRITCHARD JOHNNY G &
116	1999 MCKINNEY AVE	ASHMORE GLEN A
117	1999 MCKINNEY AVE	EISENSTEIN ABRAM &
118	1999 MCKINNEY AVE	KAYE JONATHAN DAVID
119	1999 MCKINNEY AVE	LEDBETTER FINLEY & JONI

FILE NUMBER: BDA156-002(SL)

BUILDING OFFICIAL'S REPORT: Application of James B. Reeder, represented by Tim Hoch, to appeal the decision of an administrative official on property at 1900 Cedar Springs Road. This property is more fully described as Lot 2B, Block A/358, and is zoned PD 193, PDS 50 (Tract 1). The applicant proposes to appeal the decision of an administrative official in the issuance of a temporary certificate of occupancy.

LOCATION: 1900 Cedar Springs Road

APPLICANT: James B. Reeder
Represented by Tim Hoch

REQUEST:

The submitted application states that the applicant is appealing the 10/26/2015 decision made by the City of Dallas building official to approve the issuance of a Temporary Certificate of Occupancy TCO #1510264002 for property located at 1900 Cedar Springs Road developed as a mixed use development, specifically in this case, a restaurant use (Ruth's Chris Steak House) and related parking garage.

STANDARD FOR APPEAL FROM DECISION OF AN ADMINISTRATIVE OFFICIAL:

Dallas Development Code Sections 51A-3.102(d)(1) and 51A-4.703(a)(2) state that any aggrieved person may appeal a decision of an administrative official when that decision concerns issues within the jurisdiction of the Board of Adjustment.

The Board of Adjustment may hear and decide an appeal that alleges error in a decision made by an administrative official. Tex. Local Gov't Code Section 211.009(a)(1).

Administrative official means that person within a city department having the final decision-making authority within the department relative to the zoning enforcement issue. Dallas Development Code Section 51A-4.703(a)(2).

BACKGROUND INFORMATION:

Zoning:

Site: PD 193 (PDS 50) Planned Development, Planned Development
North: PD 193 (HC) Planned Development, Heavy Commercial
South: PD 193 (HC) Planned Development, Heavy Commercial
East: PD 193 (PDS 50) Planned Development, Planned Development
West: PD 193 (HC) Planned Development, Heavy Commercial

Land Use:

The subject site is developed with a mixed use structure and parking garage that includes property at 1900 Cedar Springs Road, the specific address that is the focus of this request which is a restaurant structure/use (Ruth's Chris Steak House). The areas to the north, south, east and west are developed with a mix of residential, office, and retail uses.

Zoning/BDA History:

1. BDA156-001, Property at 2225 N. Harwood Street (the subject site) On January 19, 2016, the Board of Adjustment Panel A will consider an application appealing the 10/22/2015 decision made by the City of Dallas building official to approve the issuance of a Temporary Certificate of Occupancy TCO #1510134002 for property located at 2225 N. Harwood Street on property developed a mixed use development, specifically in this case, a multifamily use (Miro) and related parking garage.

GENERAL FACTS/STAFF ANALYSIS:

- The board shall have all the powers of the administrative official on the action appealed. The board may in whole or in part affirm, reverse, or amend the decision of the official.

Timeline:

November 5, 2015: 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, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

December 7, 2015: The Board Administrator contacted the applicant's representative and emailed the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 30th deadline to submit additional evidence for staff to factor into their analysis (with a notation that staff does not form a recommendation on this type of application); and the January 8th deadline to submit

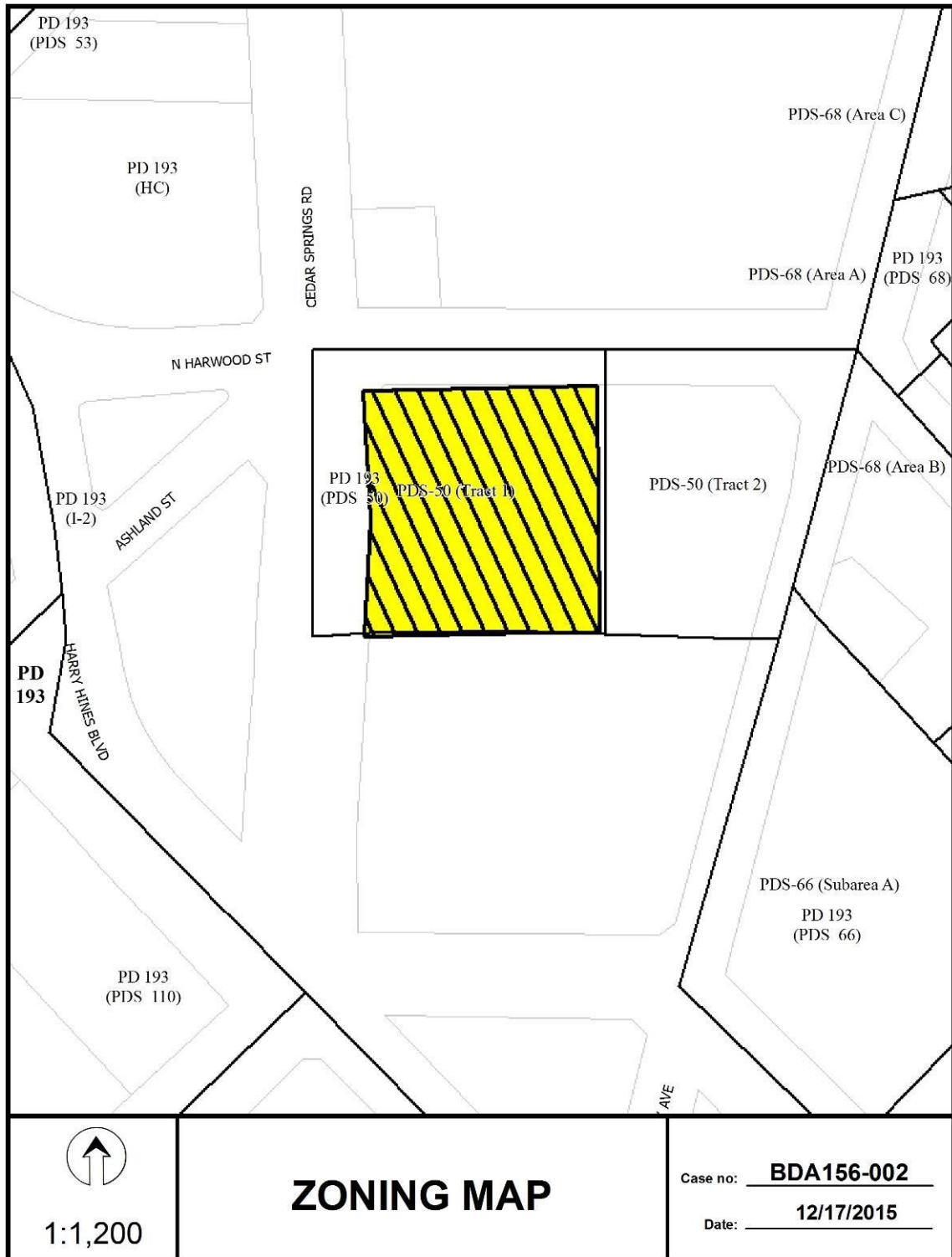
additional evidence to be incorporated into the Board's docket materials;

- the outline of procedure for appeals from decisions of the building official to the board of adjustment; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

January 5, 2016: 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 Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

January 7, 2015: The applicant's representative emailed the Board Administrator that his client would not be seeking a reimbursement of the filing fee in conjunction with this application.





1:1,200

AERIAL MAP

Case no: BDA156-002

Date: 12/17/2015



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-002

Data Relative to Subject Property:

Date: November 5, 2015

Location address: 1900 Cedar Springs Road Zoning District: PD193/PD550 (Tr. 1)

Lot No.: 2B Block No.: A/358 Acreage: 0.868 Census Tract: 19,00

Street Frontage (in Feet): 1) 193.35 2) 191.08 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): 1900 CS-A LLC

Applicant: James B. Reeder Telephone: 214-707-2421

Mailing Address: 1925 Cedar Springs Road, Dallas Texas Zip Code: 75201

E-mail Address: jreeder@techenablers.com

Represented by: Tim Hoch Telephone: 817-731-9703

Mailing Address: 5616 Malvey Avenue, Fort Worth, Texas Zip Code: 76107

E-mail Address: tim@hochlawfirm.com

Affirm that an appeal has been made for a Variance __, or Special Exception __, of the 10/26/2015 decision made by City of Dallas building official D Sullivan to approve the issuance of a Temporary Certificate of Occupancy TCO #1510264002.

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 parking garage for the entire structure is in violation of Sec. 51P-193.113(e)(2)(B); Sec. 51P-193.113(e)(2)(C)(iii); Sec. 51P-193.127; Sec.51A-6.104(a); and Sec. 51A-6.104(B), and other code sections and the City is required to suspend or revoke all permits under Sec. 52-302.6.1.

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 James B. Reeder (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: James B Reeder (Affiant/Applicant's signature)

Subscribed and sworn to before me this 5th day of November, 2015.

(Rev. 08-01-11) LYNN S DUNAVIN My Commission Expires July 18, 2017 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

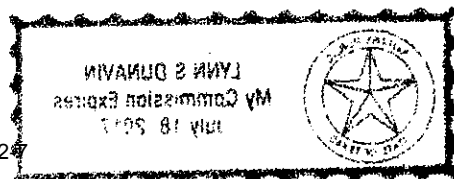
Building Official's Report

I hereby certify that James B. Reeder
represented by Tim Hoch
did submit a request to appeal the decision of the administrative official
at 1900 Cedar Springs Road

BDA156-002. Application of James B. Reeder represented by Tim Hoch to appeal the decision of an administrative official at 1900 Cedar Springs Road. This property is more fully described as Lot 2B, Block A/358, and is zoned PD 193, PDS 50 (Tract 1). The applicant proposes to appeal the decision of an administrative official in the issuance of a temporary certificate of occupancy.

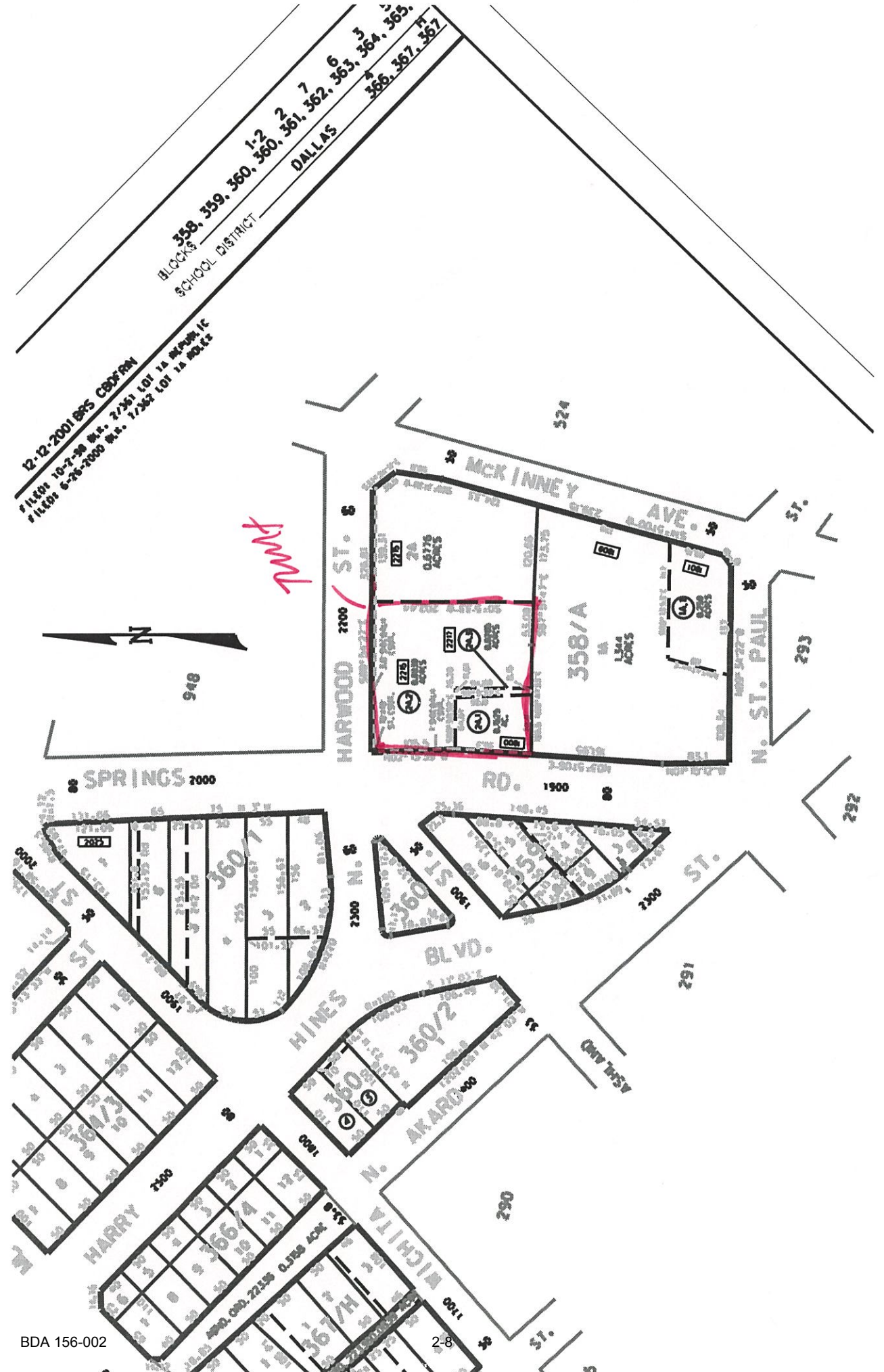
Sincerely, *Larry V. Holmes*

Larry V. Holmes
Larry Holmes, Building Official



12-12-2001 BRS CSD FROM
 #11401 10-7-99 M.S. 27361 LOT 1A M.P. 1C
 #11401 6-26-2000 M.S. 17362 LOT 1A M.P. 1C

358, 359, 360, 1-2, 2, 7, 6, 3, 4
 BLOCKS
 SCHOOL DISTRICT
 DALLAS
 362, 363, 364, 365, 366, 367, 367

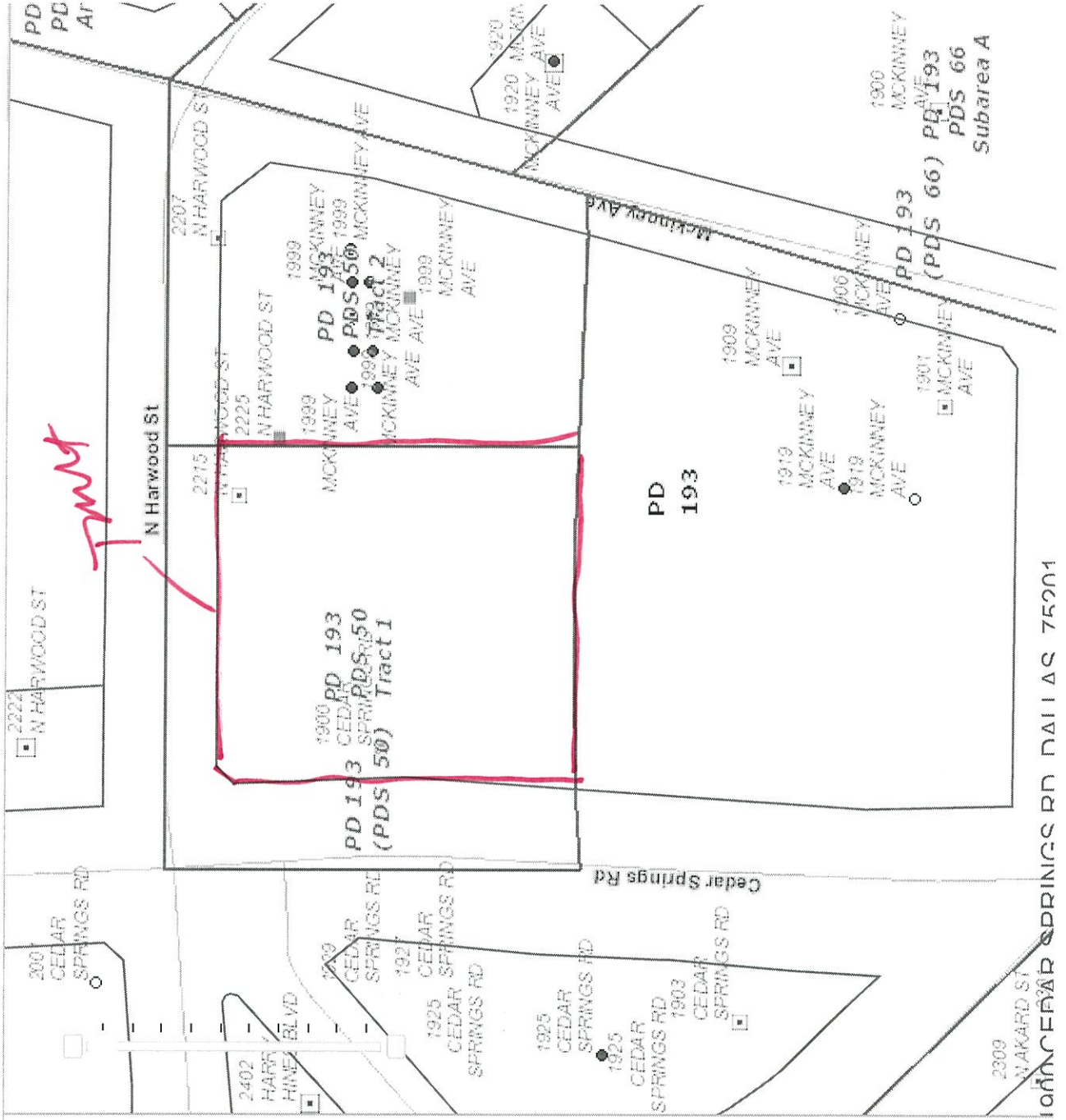


City of Dallas

Internal Development Research Site

Legend

Locate Property



BDA CASE NO. _____

CEDAR SPRINGS LOFTS	§	IN THE
CONDOMINIUM ASSOCIATION,	§	
	§	BOARD OF ADJUSTMENT
Aggrieved Party	§	
	§	
with respect to:	§	
	§	OF THE
1900 CEDAR SPRINGS ROAD,	§	
real property located within the	§	
	§	
CITY OF DALLAS,	§	
TEXAS,	§	
	§	
The Property	§	CITY OF DALLAS, TEXAS

**AGGRIEVED PARTY'S ORIGINAL PETITION
(ADDENDUM TO APPLICATION/APPEAL TO THE
BOARD OF ADJUSTMENT)**

TO THE HONORABLE BOARD OF ADJUSTMENT:

COMES NOW, Aggrieved Party, Cedar Springs Lofts Condominium Association (“CSLCA”), for its appeal of a decision made by an administrative official of the City of Dallas Building Inspection Division with respect to 1900 Cedar Springs Road and 2225 N. Harwood, Dallas, Texas (the “Property”), and alleges and states as follows:

PARTIES, JURISDICTION, AND VENUE

1. Aggrieved Party CSLCA represents the owners of condominiums located at 1925 Cedar Springs Road, Dallas, Texas, which is located directly across the street from 1900 Cedar Springs Road/2225 N, Harwood, Dallas, Texas.
2. On information and belief, on or about October 26, 2015, an administrative official of the City of Dallas, D Sullivan, made a decision with respect to the Property (the “Decision”), which the Aggrieved Party alleges to be in error. [See *POSSE database, City*

of Dallas, Dept. of Sustainable Development & Construction, Building Inspection Division (TCO 1510264002]. An unknown City Official issued a Temporary Certificate of Occupancy on October 22, 2015 (also referred to as the “Decision”) for levels 1-7 of the same structure located at 2225 N. Harwood (TCO 1510134002). The Aggrieved Party appeals herein the issuance of all decisions and actions by any building official regarding the structures located at 1900 Cedar Springs and 2225 North Harwood.

3. Due to the close proximity and visibility of the Property, the Aggrieved Party’s property is subject to unique harm as a result of the Decision. [See *Lazarides v. Farris*, 2012 Tex. Appeal. LEXIS 2948 (Tex. App.—Houston [14th Dist.]2012)]

4. Venue is proper in the Board of Adjustment, City of Dallas for the reason that the Property is located within the municipal limits of the City of Dallas. Furthermore, the Board of Adjustment has jurisdiction because the Aggrieved Party is appealing the decision of an administrative official made in the enforcement of the zoning ordinances of the City of Dallas within 15 days from the date of the Decision. [See §211.009 of the Texas Local Government Code, §1(a) of the City of Dallas Board of Adjustment Working Rules of Procedure, and “Information About Appeals to the Board of Adjustment (City of Dallas)”].]

FACTUAL BACKGROUND

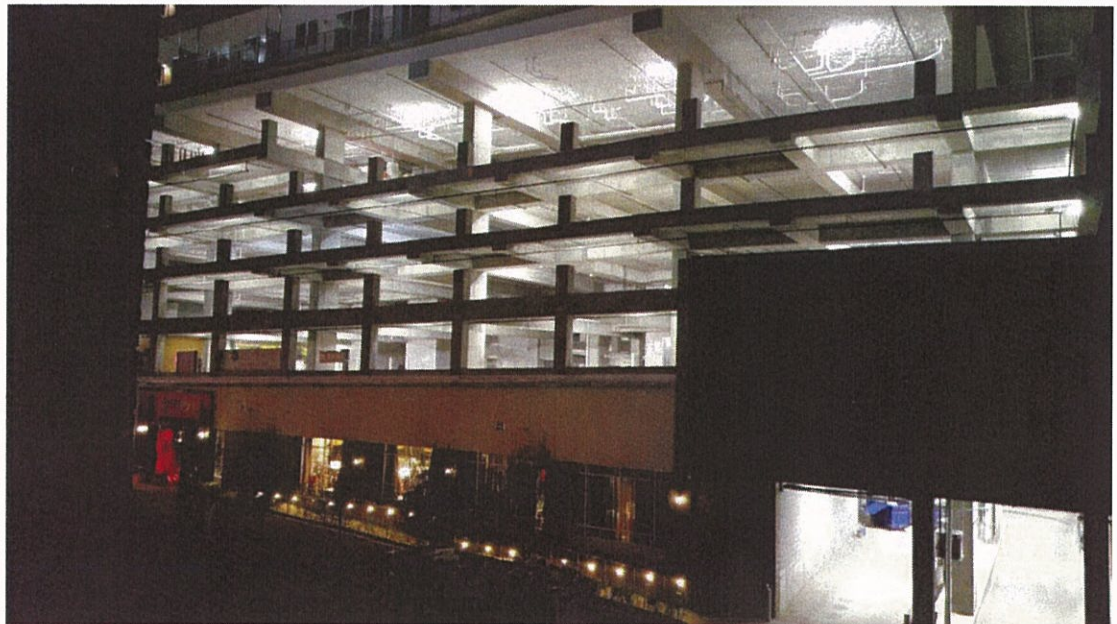
5. PD193 (the Oak Lawn Special Purpose District) was established via Ordinance #18580 and (as subsequently amended and re-established) presently comprises the entirety of Chapter 51P, Article 193 of the City Code (the “Oak Lawn Ordinance”). [See Sec. 51P-193.101]

6. The Property is located at 1900 Cedar Springs Road and 2225 North Harwood, entirely within zoning district PD193, O-2 and contains a multi-level parking structure. [See *City of Dallas Zoning Map*; website: gis.dallascityhall.com/zoningweb/]. The property may also be known as having an address at 2225 North Harwood.

7. Aggrieved Party CSLCA's property at 1925 Cedar Springs Road, is located entirely within zoning district PD193, MF-2 and is occupied by a residential use. [See *City of Dallas Zoning Map*; website: gis.dallascityhall.com/zoningweb/]

8. The nighttime view from 1925 Cedar Springs Road (the Aggrieved Party's property) is shown in the following photographs:





9. The Oak Lawn Plan is the planning guide for the area covered by PD193.
[See City Council Resolution No. 83-4034.]

10. The Oak Lawn Plan's goals include: discouraging above grade open

parking structures and inappropriate building materials; making improvements to the aesthetic quality of parking areas; and providing stability for residential neighborhoods with changes to the zoning ordinance which create a more appropriate transition between residential and commercial areas. [*See Oak Lawn Plan, p.3*]

11. The Oak Lawn Plan notes that a consensus was reached that surface parking and large parking structures detract from the attractiveness of the area as a whole. [*See Oak Lawn Plan, p.8*]

12. The objectives of the Oak Lawn Plan “with regard to parking” include to discourage at grade and above grade parking; to screen at grade and above grade parking where it exists; and to encourage below grade parking. [*See Oak Lawn Plan, p.9*]

13. The objectives of the Oak Lawn Plan “with regard to improvement of standards for commercial development” include ensuring that: commercial development uses materials which are appropriate to their context; commercial development contributes to the landscaped character of the area; and parking to serve commercial development is not an intrusion in appearance or scale on surrounding development as well as discouraging above grade open parking structures. [*See Oak Lawn Plan, p.8*]

14. The objectives of the Oak Lawn Plan “with regard to... multifamily areas” include improving the landscaping and physical character of the area and protecting these areas from parking and loss of natural light, view and privacy due to development of adjacent commercial properties. [*See Oak Lawn Plan, p.6*]

15. The recommendation of the Oak Lawn Plan with respect to O-2 zoning, specifically, is that above grade parking structures must have façades of compatible material and comparable quality as the façades of the remainder of the building, with

openings not to exceed 50% of the façades and that all surface parking must be screened by walls, landscaping or a combination of both, to a minimum height of 3 ½ feet. [*See Oak Lawn Plan, p.26-27*]

16. With respect to the Oak Lawn Special Purpose District, in its entirety, the recommendation was to **screen cars from view by locating underground, behind commercial or residential uses, or within aesthetically pleasing structures or landscaping.** [*See Oak Lawn Plan, p.57*]

17. **The Oak Lawn Plan's goal for parking design in Oak Lawn is to hide the automobile.** The Oak Lawn Plan states that underground parking is seen as most desirable so that space and grade may be preserved for commercial, residential, pedestrian, and recreational activities, which enhance the quality of life of the city, and for landscaping, which serves to enhance the beauty of the city. [*See Oak Lawn Plan, p.70*]

18. On October 27, 1983, the City Plan Commission unanimously adopted the Oak Lawn Plan as the predecessor to PD193. [*See Council Communication #1099-83 from Assistant City Manager Jim Reid to the Honorable Mayor and Members of City Council dated December 14, 1983.*]

19. On December 14, 1983, the City Council unanimously accepted “the Oak Lawn Plan as the planning guide for the Oak Lawn community” and referred “the specifics of the proposals concerning code and policy revision back to the City Plan Commission for detailed analysis and the formulation of implementation recommendations.” [*See City Council Resolution No. 83-4034.*]

20. On February 8, 1985, following detailed analysis of the Oak Lawn Plan and the formulation of implementation recommendations by the City Plan Commission,

Ordinance #18580 (the Oak Lawn Ordinance) was adopted, the purpose of which was to amend Chapter 51 of the City Code by adding PD193, the implementation of the Oak Lawn Plan. [See *City Council Ordinance No. 18580.*]

21. Some of the purposes of the Oak Lawn Ordinance include:

a. “To encourage the placement of off-street parking underground or within buildings similar in appearance to non-parking buildings.” [See *Sec. 51P-193.103.(a)(3)*]

b. “To promote development appropriate to the character of nearby neighborhood uses by imposing standards sensitive to scale and adjacency issues.” [See *Sec. 51P-193.103.(a)(4)*]

c. “To provide visual buffering and enhance the beautification of the city.” [See *Sec. 51P-193.103.(a)(9)*]

d. “To safeguard and enhance property values and to protect public and private investment.” [See *Sec. 51P-193.103.(a)(10)*]

e. “To discourage variances or zoning changes which would... fail to adhere to the standards for multiple-family neighborhoods and commercial areas, or would fail to comply with the overall objectives of the Oak Lawn Plan accepted and endorsed by the city council on December 14, 1983, by Resolution No. 83-4034.” [See *Sec. 51P-193.103.(a)(6)*]

22. The Oak Lawn Ordinance requires that “(a)ll permanent parking structures must be either underground or concealed in a building with a facade that is similar in appearance to the facade of the main non-parking building for which the parking is accessory.” [See *Sec. 51P-193.127*]

23. The phrasing of *Sec. 51P-193.127*: “parking structures must be... concealed

in a building with a façade...” clearly indicates that the terms “parking structure” and “building with a façade” are two separate architectural elements. In other words, the Oak Lawn Ordinance makes no provision for counting the side of a parking structure as a “façade” when, in fact, no such façade has been installed on the side of the parking structure.

The term “concealed” is not defined in the Oak Lawn Ordinance; however, the common meaning of “conceal” is: “to prevent disclosure or recognition of” or “to place out of sight.” [See *Merriam-Webster Dictionary*; website: <http://www.merriam-webster.com/dictionary/conceal>].

24. As is clearly illustrated in the above photographs, the Property’s permanent parking structure is not underground nor is it concealed in a building with a façade that is similar in appearance to the façade of the main non-parking building for which the parking is accessory.

25. The Oak Lawn Ordinance requires that “(a)t least 12 percent of the parking structure facade (including openings, if any) must be covered with the same material used predominantly on the first 24 feet of height of the main non-parking building.” [See *Sec. 51P-193.127*]

26. The photographs further reveal that the structure is substantially devoid of facades. Where facades do exist, they are constructed of neither red brick nor stone.

27. The Oak Lawn Ordinance requires that “(o)penings in the parking structure facade may not exceed 52 percent of the total facade area” [See *Sec. 51P-193.127*]

28. As stated above, the parking structure’s “side” and “façade” are two separate architectural elements.

29. In addition, the Oak Lawn Ordinance contains no provision allowing for the façade of a non-parking structure or an opening in a parking structure to count as the façade of a parking structure for purposes of satisfying the requirement to limit openings in the parking structure's façades.

30. Photographs of the parking structure reveal that it is substantially devoid of facades and contains openings that are well in excess of 52% of the total façade area.

31. The Oak Lawn Ordinance requires that light sources associated with off-street parking "not be visible from property this is occupied by a residential use and located within 600 feet of the light source." [See Sec. 51P-193.113(e)(2)(C)(iii)]

32. Light sources are defined as flames or bulbs, mantles, or other devices that produce light. [See Sec. 51P-193.104(a)(15)]

33. CSLCA also protests the anticipated illumination from the parking structure.

34. The Dallas Development Code prohibits any use that has a visible source of illumination that produces glare or direct illumination across a property line of an intensity that creates a nuisance or detracts from the use or enjoyment of adjacent property. [See Sec. 51A-6.104(a)]

35. The intensity of the Property parking structure's sources of illumination will very likely produce glare and direct illumination across the property line to surrounding property that results in certain nearby residents being required to close their blinds at night and to reorient their patio chairs away from the sources of illumination, creating a nuisance and detracting from their enjoyment of the property.

36. The Dallas Development Code prohibits any outside lights that direct a light

beam across a property line. [See Sec. 51A-6.104(b)]. The Property's outside lights that illuminate the parking structure and surface parking area will likely direct light beams across several property lines.

37. On December 12, 2012, representatives of the Owner of the Property made a presentation to City Council. The following renderings of the project were presented to Council:







A Council member specifically inquired as to whether the renderings were exact renderings of the project as it will look when completed. This was answered in the affirmative.

FIRST CAUSE OF ACTION
(FAILURE TO CONCEAL THE PARKING STRUCTURE)

38. The allegations of Paragraphs 1 – 37 are re-alleged and incorporated by reference.

39. The Aggrieved Party is entitled to a ruling that the parking structure must either be relocated underground or concealed in a building with a façade that is similar in appearance to the façade of the main non-parking building for which the parking is accessory, as required by Sec. 51P-193.127 of the Dallas City Code.

SECOND CAUSE OF ACTION
(PARKING STRUCTURE’S FAILURE TO MATCH GROUND ELEVATION OF PRIMARY STRUCTURE)

40. The allegations of Paragraphs 1 – 39 are re-alleged and incorporated by

reference.

41. The Aggrieved Party is entitled to a ruling that at least 12% of the parking structure facades (including openings) be covered with the same material used predominantly on the first 24 feet of height of the main non-parking building, as required by Sec. 51P-193.127 of the Dallas City Code.

THIRD CAUSE OF ACTION
(FAILURE TO LIMIT OPENINGS IN PARKING STRUCTURE FACADE)

42. The allegations of Paragraphs 1 – 41 are re-alleged and incorporated by reference.

43. The Aggrieved Party is entitled to a ruling that openings in the parking structure façade be limited to 52% or less of the of the total facade areas, as required by Sec. 51P-193.127 of the Dallas City Code.

FOURTH CAUSE OF ACTION
(FAILURE TO SHIELD OFF-STREET PARKING LIGHT SOURCES)

44. The allegations of Paragraphs 1 – 43 are re-alleged and incorporated by reference.

45. The Aggrieved Party is entitled to a ruling that light sources associated with off-street parking not be visible from property that is occupied by a residential use and located within 600 feet of the light source, as required by Sec. 51P-193.113(e)(2)(C)(iii) of the Dallas City Code.

FIFTH CAUSE OF ACTION
(PRODUCTION OF GLARE AND DIRECT ILLUMINATION)

46. The allegations of Paragraphs 1 – 45 are re-alleged and incorporated by reference.

47. The Aggrieved Party is entitled to a ruling that the Property's unenclosed

parking structure is a prohibited use because it produces glare and direct illumination across property lines, as dictated by Section 51A-6.104(a) of the Dallas City Code.

SIXTH CAUSE OF ACTION
(DIRECTION OF LIGHT BEAMS ACROSS PROPERTY LINES)

48. The allegations of Paragraphs 1 – 47 are re-alleged and incorporated by reference.

49. The Aggrieved Party is entitled to a ruling that the Property's outdoor lights be removed or modified in the event they illegally direct light beams across property lines, as required by Section 51A-6.104(b) of the Dallas City Code.

SEVENTH CAUSE OF ACTION
(FAILURE TO LIMIT THE INTENSITY OF SPILLOVER LIGHT)

50. The allegations of Paragraphs 1 – 49 are re-alleged and incorporated by reference.

51. The Aggrieved Party is entitled to a ruling that the intensity of spillover light on neighboring residential lots, measured at a point five feet inside the residential lot line and five feet above the ground surface, be reduced to a level of 0.1 footcandle or less, as required by Section 51P-193.113(e)(2)(B) of the Dallas City Code.

EIGHTH CAUSE OF ACTION
(VOID CERTIFICATE OF OCCUPANCY – PARKING STRUCTURE)

52. The allegations of Paragraphs 1 – 51 are re-alleged and incorporated by reference.

53. City of Dallas building officials have no jurisdiction to allow uses that violate City ordinances. Moreover, building permit applicants are held to notice of applicable regulations and the limits of permit officers' power. [*See Zachry v. City of San Antonio, 296 S.W.2d 299, 305 (Tex. Civ. App. San Antonio 1956), aff'd 157 Tex. 551, 305*

S.W.2d 558 (1957), for a statement of the general rule.]

54. Building permits issued by building officials based upon an unnatural construction of city zoning ordinances are void. [*See Davis v. City of Abilene, 250 S.W.2d 685 (Tex. Civ. Appeal. Eastland 1952, writ refused)*]

55. Allowing building officials to grant permits for forbidden uses in protected districts would thwart and completely destroy the power and authority given by the enabling act of the legislature to the city council as the legislative body of the city. [*See Harrington v. City of Alamo Heights, 124 S.W.2d 401 (Tex. Civ. Appeal. Amarillo 1939, writ refused)*]

56. Administrative actions that violate the fundamental commands or limitations established by ordinance are void and cannot bind the City of Dallas by contract or estoppel. [*See Black & Daniel, The Texas Rule of Estoppel in Zoning Cases, 33 Baylor L. Review 241 (1981)*]

57. Long and uncontested use under invalid permits do not legitimate the permits which are void *ab initio*, and do not estop the City of Dallas from enforcing its ordinances as written. [*See Swain v. Board of Adjustment of University Park, 433 S.W. 2d 733 (Tex. Civ. Appeal. Dallas 1968, writ refused n.r.e.)*]

58. The building official shall deny an application for a certificate of occupancy if the certificate of occupancy requested does not comply with the codes, the *Dallas Development Code*, or other City of Dallas ordinances, rules or regulations. (emphasis added) [*See Sec. 52.306.5.1*]

59. The Aggrieved Party is entitled to a ruling overturning the decision to award a temporary certificate of occupancy and, instead, denying any applications for the parking

structure located on the Property.

NINTH CAUSE OF ACTION
(VOID BUILDING/CERTIFICATE OF OCCUPANCY PERMIT(S) –
PARKING STRUCTURE)

60. The allegations of Paragraphs 1 – 59 are re-alleged and incorporated by reference.

61. The building official shall suspend or revoke a permit issued under this chapter if he or she determines that the permit is issued in error or on the basis of incorrect information supplied, or in violation of any city ordinance or regulation or any provision of Chapter 52 or the codes. (emphasis added) [*See. Sec. 52-302.6.1*]

62. The Aggrieved Party is entitled to a determination that any and all building permit(s) relating to the parking structure are void and should be suspended or revoked.

TENTH CAUSE OF ACTION
(VOID CERTIFICATE OF OCCUPANCY/BUILDING PERMIT(S) –
MULTI-FAMILY STRUCTURES)

63. The allegations of Paragraphs 1 – 62 are re-alleged and incorporated by reference.

64. Multiple-family structures such as the ones under construction at the Property require one off-street parking space for each 500 square feet of dwelling unit floor area. [*See 51P-193.107(a)(3)(C)(i)*].

65. Because the parking structure and surface parking lot upon which the Property's multiple-family structures are dependent is illegal and therefore ineligible for a certificate of occupancy, no parking spaces are available to satisfy the multi-family parking requirement. This inability to satisfy the parking requirement renders the multi-family

structures illegal.

66. The Aggrieved Party is entitled to a determination that any and all building permit(s) pertaining to the multi-family structures are void and should be suspended or revoked.

ELEVENTH CAUSE OF ACTION
(VOID CERTIFICATES OF OCCUPANCY – MULTI-FAMILY STRUCTURES)

67. The allegations of Paragraphs 1 – 66 are re-alleged and incorporated by reference.

68. The Aggrieved Party is entitled to a determination that any and all certificate(s) of occupancy pertaining to the multi-family structures are void and should be suspended or revoked.

WHEREFORE, PREMISES CONSIDERED, Aggrieved Party CSLCA respectfully prays that the Honorable Board of Adjustment enter judgment in its favor on each count of the Petition, as follows:

- a. That the Board determine that the Property is in violation of the Dallas City Code, including the Dallas Construction Code, the Dallas Development Code, and the Oak Lawn Ordinance;
- b. That the Board suspend or revoke all temporary certificates of occupancy and building permits relating to the Property;
- c. That the Board employ any and all enforcement remedies at the Board's disposal to compel the Property's owner to immediately abate all existing violations of the Dallas City Code through repair, rehabilitation, demolition or removal;

- d. That the Board reimburse the Applicant's filing fee due to financial hardship for the reason that the Applicant, a neighboring private citizen, is a reluctant and innocent party to these proceedings, who has already suffered substantial damage as a result of the matters which are the subject of this hearing;
- e. Injunctive relief; and
- f. For such other and further relief as the Board deems just and proper.

Respectfully submitted,

/s/ Timothy M. Hoch

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**ATTORNEY FOR AGGRIEVED
PARTY**
CEDAR SPRINGS LOFTS
CONDOMINIUM ASSOCIATION



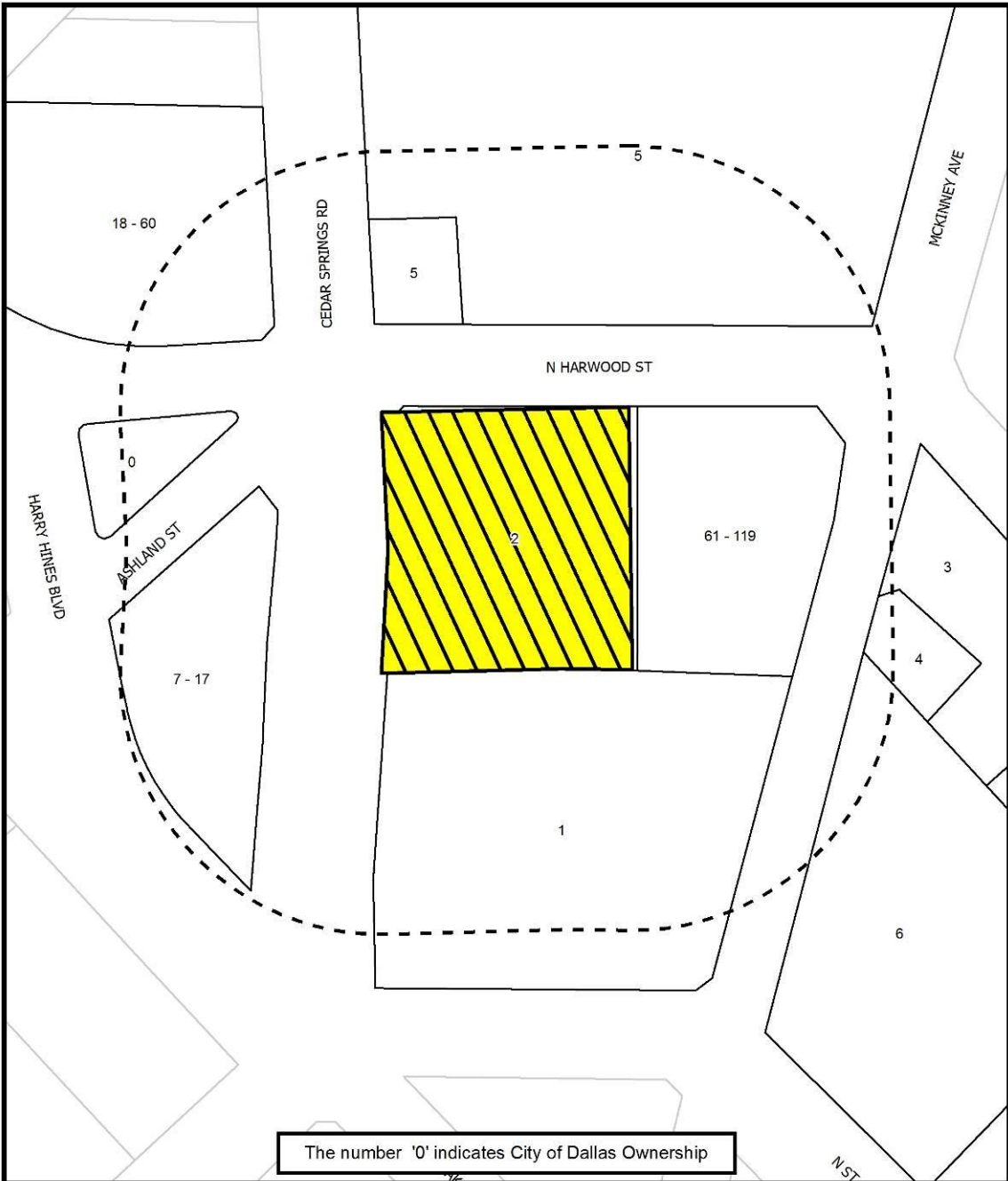
CITY OF DALLAS

Outline of Procedure for Appeals from Decisions of an Administrative Official

An appeal of an administrative official's decision may have very structured procedures that resemble a court hearing, or it may have more informal procedures that resemble a typical case brought before the Board of Adjustment. The parties can decide how they want to present their case. This document accounts for both scenarios. Please note that although there are time limits listed in this outline, the presiding officer reserves the right to alter these time limitations to promote fairness and efficiency.

- I. Explanation of the procedures by the presiding officer
- II. Swearing in of all persons who will testify in the case
- III. Applicant's case: 20 minute limit
 - a. This may resemble a typical Board case where the applicant merely presents his argument to the Board. It may also resemble a court hearing where the applicant gives an opening statement, calls witnesses, and offers evidence.
 - b. If the applicant calls a witness, the administrative official is able to cross examine the witness.
 - c. The applicant may conduct a redirect of his witness.
 - d. The applicant may submit documents to the Board Secretary as long as they comply with the documentary evidence rules set forth in the Board's Rules of Procedures.
 - e. The Board may ask questions at any time. Board member questions will not count towards the time limitation.
- IV. The Administrative Official's case: 20 minute limit
 - a. This may resemble a typical Board case where the administrative official presents his argument to the Board. It may also resemble a court hearing where the administrative official gives an opening statement, calls witnesses, and offers evidence.

- b. If the administrative official calls a witness, the applicant is able to cross examine the witness.
 - c. The administrative official may conduct a redirect of his witness.
 - d. The administrative official may submit documents to the Board Secretary as long as they comply with the documentary evidence rules set forth in the Board's Rules of Procedures.
 - e. The Board may ask questions at any time. Board member questions will not count towards the time limitation.
- V. Rebuttal by the applicant (optional): 3 minutes
- VI. Closing Statements
- a. Applicant's closing statement (optional): 3 minutes
 - b. The administrative official's closing statement (optional): 3 minutes
- VII. Move and second to either affirm, reverse, or amend the administrative official's decision.
- VIII. Open discussion of the case by Board members
- IX. Voting: Four concurring votes are required to reverse or amend the administrative official's decision.



 1:1,200	NOTIFICATION	Case no: BDA156-002			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">119</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	119	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
119	NUMBER OF PROPERTY OWNERS NOTIFIED				

Notification List of Property Owners

BDA156-002

119 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1919 MCKINNEY AVE	HKS BUILDINGS LP
2	1900 CEDAR SPRINGS RD	1900 CS A LLC
3	1936 MCKINNEY AVE	1900 MCKINNEY HARWOOD LLC
4	1920 MCKINNEY AVE	1900 MCKINNEY HARDWOOD LLC
5	2222 N HARWOOD ST	CRESCENT MCKINNEY OLIVE LP
6	1900 MCKINNEY AVE	MCP 1900 MCKINNEY LLC
7	1925 CEDAR SPRINGS RD	KIRK JAMES R
8	1925 CEDAR SPRINGS RD	1933 CEDAR SPRINGS LLC
9	1925 CEDAR SPRINGS RD	WARPAINT HQ LLC
10	1925 CEDAR SPRINGS RD	ROMANO PHILIP J
11	1925 CEDAR SPRINGS RD	THREE BRIDS PROPERTY LP
12	1925 CEDAR SPRINGS RD	ROLLINS PROPERTIES LP
13	1925 CEDAR SPRINGS RD	ROLLIN PROPERTIES LP
14	1925 CEDAR SPRINGS RD	DAWSON WILLIAM B &
15	1925 CEDAR SPRINGS RD	SMITH THOMAS L
16	1925 CEDAR SPRINGS RD	REEDER JAMES B
17	1925 CEDAR SPRINGS RD	BALDRIDGE JERALD TR ETAL
18	2011 CEDAR SPRINGS RD	HUFFMAN HENRY T
19	2011 CEDAR SPRINGS RD	POLLAK MICHAEL & KAREN
20	2011 CEDAR SPRINGS RD	HERMAN JOHN H
21	2011 CEDAR SPRINGS RD	HOME BRIAN LEE
22	2011 CEDAR SPRINGS RD	TOLER KATHY A
23	2011 CEDAR SPRINGS RD	WIGMORE ANDREW & MARILU BUSTAMANTE
24	2011 CEDAR SPRINGS RD	SBORLINI DIANE M
25	2011 CEDAR SPRINGS RD	LAVENDER CHAD
26	2011 CEDAR SPRINGS RD	RODINE LIVING TRUST

Label #	Address	Owner
27	2011 CEDAR SPRINGS RD	RAHHAL STEVEN
28	2011 CEDAR SPRINGS RD	BRIGGS CHARLES A &
29	2011 CEDAR SPRINGS RD	BHARDWAJ ANTONIO VERSACE
30	2011 CEDAR SPRINGS RD	IVANOVSKIS GEORGE & RHONDA DUWAJI
31	2011 CEDAR SPRINGS RD	GRAY BRENDA RICHARDS
32	2011 CEDAR SPRINGS RD	ROBERTS RANDY C & JACKIE
33	2011 CEDAR SPRINGS RD	RODMAN ADAM R
34	2011 CEDAR SPRINGS RD	CADWALLADER PAUL DAVID
35	2011 CEDAR SPRINGS RD	FLORI CHRISTOPHER G
36	2011 CEDAR SPRINGS RD	DAVIDOW JOAN C
37	2011 CEDAR SPRINGS RD	SMARTT MICHAEL A & STEVA
38	2011 CEDAR SPRINGS RD	NILSEN CHRISTOPHER CARL
39	2011 CEDAR SPRINGS RD	TALBOT ENTERPRISES LLC
40	2011 CEDAR SPRINGS RD	KORENVAES MAX
41	2011 CEDAR SPRINGS RD	HOWARD RICHARD J
42	2011 CEDAR SPRINGS RD	COIL JOHN A
43	2011 CEDAR SPRINGS RD	LEVITAN DANIEL S
44	2011 CEDAR SPRINGS RD	HELLER ALAN W & SHIRLEY
45	2011 CEDAR SPRINGS RD	SHAH MONAL B
46	2011 CEDAR SPRINGS RD	WASHBURN SHANNON
47	2011 CEDAR SPRINGS RD	SANCHEZ MAURICIO
48	2011 CEDAR SPRINGS RD	SMITH JAMES B TRUSTEE OF JAMES B SMITH REV TRUST
49	2011 CEDAR SPRINGS RD	TAYLOR LARRY W
50	2011 CEDAR SPRINGS RD	KEEP GARY D & ELIZABETH R
51	2011 CEDAR SPRINGS RD	LONTOS DEAN J
52	2011 CEDAR SPRINGS RD	SOLOMON GERALD
53	2011 CEDAR SPRINGS RD	MARTINDUARTE PAMELA HAGERTY
54	2011 CEDAR SPRINGS RD	MARTIN DAREN K
55	2011 CEDAR SPRINGS RD	PAJAK FRASER D & MARGARET A
56	2011 CEDAR SPRINGS RD	NESS LARRY E &
57	2011 CEDAR SPRINGS RD	CRUZ PONCIANO D JR

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
58	2011 CEDAR SPRINGS RD	TAYLOR SHANE & LESHIA
59	2011 CEDAR SPRINGS RD	WESTCOTT CHART H LIVING TRUST THE
60	2011 CEDAR SPRINGS RD	WESTCOTT CHART H TRUSTEE
61	1999 MCKINNEY AVE	WAGNER JONATHAN
62	1999 MCKINNEY AVE	MOORE F DAVID
63	1999 MCKINNEY AVE	ARROYO DEANNE ALYSSA
64	1999 MCKINNEY AVE	CHEN PHILIP
65	1999 MCKINNEY AVE	SMITH WALTER G &
66	1999 MCKINNEY AVE	KALIL STEPHEN A &
67	1999 MCKINNEY AVE	GARRETT MICHAEL L &
68	1999 MCKINNEY AVE	FOX JAMES P & KATHLEEN K
69	1999 MCKINNEY AVE	JAIN ANISH K &
70	1999 MCKINNEY AVE	HENDRICKSON DWIGHT ETAL
71	1999 MCKINNEY AVE	SHABAN ALI HUSSAIN
72	1999 MCKINNEY AVE	CURTIS AUDREY A
73	1999 MCKINNEY AVE	STALEY MARY
74	1999 MCKINNEY AVE	HUTCHINSON WILLIAM L & SUZANNE S
75	1999 MCKINNEY AVE	SHARP THOMAS L
76	1999 MCKINNEY AVE	DEANE BELINDA
77	1999 MCKINNEY AVE	BUGG ROBERT C
78	1999 MCKINNEY AVE	SALES SUSAN CAROLINE
79	1999 MCKINNEY AVE	MEDINA MICHAEL A
80	1999 MCKINNEY AVE	STEHNEY JEFFREY ALLEN & JOYCE KAY
81	1999 MCKINNEY AVE	TILLERY BRYCE
82	1999 MCKINNEY AVE	STUVE OLAF &
83	1999 MCKINNEY AVE	WERBNER MARK
84	1999 MCKINNEY AVE	DUFOUR FRANK & KRISTIN LEE
85	1999 MCKINNEY AVE	HOUSE JAMES A &
86	1999 MCKINNEY AVE	HALBERT LINDSEY &
87	1999 MCKINNEY AVE	BARTLETT CHARLES M & MELISSA S
88	1999 MCKINNEY AVE	STRONG BRENDA L

Label #	Address	Owner
89	1999 MCKINNEY AVE	MOORE LARRY H & DORRINE B
90	1999 MCKINNEY AVE	SCHUBERT FRANK B &
91	1999 MCKINNEY AVE	DOWLING MAUREEN F
92	1999 MCKINNEY AVE	SEBRA GEORGE J
93	1999 MCKINNEY AVE	CASSIDY THOMAS P & ARLEEN D
94	1999 MCKINNEY AVE	HAINES CAPITAL GROUP LLC
95	1999 MCKINNEY AVE	KISBERG PAMELA
96	1999 MCKINNEY AVE	ROY JOHN PARKER
97	1999 MCKINNEY AVE	BRINK RICHARD R &
98	1999 MCKINNEY AVE	OBERING MIHOKO K
99	1999 MCKINNEY AVE	BRADFORD TED R
100	1999 MCKINNEY AVE	BRUNT WILLIAM B
101	1999 MCKINNEY AVE	WOMACK STEVEN W
102	1999 MCKINNEY AVE	CAIRE MARY
103	1999 MCKINNEY AVE	MALONE MICHAEL W
104	1999 MCKINNEY AVE	EDMISTON ANGIE L
105	1999 MCKINNEY AVE	LESZINSKI SLAWOMIR LIVING TRUST &
106	1999 MCKINNEY AVE	ABINGTON TOM E & GLYNDA C
107	1999 MCKINNEY AVE	MILLER JAMES H & ROSANNE T
108	1999 MCKINNEY AVE	NAIK SURAJ
109	1999 MCKINNEY AVE	WINTER F DAVID JR & RENEE
110	1999 MCKINNEY AVE	PRENTISS MICHAEL & STEFANIE K
111	1999 MCKINNEY AVE	BALDOR JORGE L
112	1999 MCKINNEY AVE	FRENCH ROBERT P & MARSHA B
113	1999 MCKINNEY AVE	WUNDERLICK JOHN ROBERT
114	1999 MCKINNEY AVE	HORTON EMILY
115	1999 MCKINNEY AVE	PRITCHARD JOHNNY G &
116	1999 MCKINNEY AVE	ASHMORE GLEN A
117	1999 MCKINNEY AVE	EISENSTEIN ABRAM &
118	1999 MCKINNEY AVE	KAYE JONATHAN DAVID
119	1999 MCKINNEY AVE	LEDBETTER FINLEY & JONI

12/17/2015

Label # Address

Owner

FILE NUMBER: BDA156-003(SL)

BUILDING OFFICIAL'S REPORT: Application of Peter Kavanagh of Zone Systems for a special exception to the fence height regulations at 4520 Cherokee Trail. This property is more fully described as Lot 6, Block O/4984, and is zoned PD 455, which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a 7 foot 6 inch high fence in a required front yard, which will require a 3 foot 6 inch special exception to the fence height regulations.

LOCATION: 4520 Cherokee Trail

APPLICANT: Peter Kavanagh of Zone Systems

REQUEST:

A request for a special exception to the fence height regulations of 3' 6" is made to replace an existing 8' high wood fence with a new 7' 6" high wood fence with 7' 6" high brick columns in the site's 30' front yard setback along Pomona Road on a site that is currently undeveloped.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

Section 51A-4.602 of the Dallas Development Code states that the board may grant a special exception to the height requirement for fences 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 height regulations 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: PD 455 (Planned Development)
North: PD 455 (Planned Development)
South: PD 455 (Planned Development)
East: PD 455 (Planned Development)
West: PD 455 (Planned Development)

Land Use:

The subject site is undeveloped. The areas to the north, south, and west are developed with single family uses, and the area to the east is developed with a park and a school (Bluff View Park and the Sudie L. Williams Elementary School).

Zoning/BDA History:

1. BDA 145-101, Property at 4520 Cherokee Trail (the subject site) On October 20, 2015, the Board of Adjustment Panel A denied a request for a special exception to the fence height regulations of 4' without prejudice. The case report stated the request was made to 1) replace an existing 8' high, approximately 90' long wood fence with a new 8' high wood fence; and 2) to continue the new 8' high wood fence approximately 60' further in length northward in the site's 30' front yard setback along Pomona Road on a site that was vacant.

2. BDA 145-076, Property at 4519 Cherokee Trail (the lot north of the subject site) On August 25, 2015, the Board of Adjustment Panel A denied a request for a special exception to the fence height regulations of 1' without prejudice. The case report stated the request was made to maintain an open picket/post fence that ranges in height given grade variations on the property from 4' 2 1/2" – 4' 6 1/2" on a site developed with a single family home.

3. BDA 990-201, Property at 4501 Cherokee Trail (three lots northwest of the subject site) On February 15, 2000, the Board of Adjustment Panel B denied a request for a special exception to the fence height regulations of 4.5' without prejudice. The case report stated the request was made to construct and maintain a 6' high open wrought iron picket fence with 6.5' high stone/brick columns, an 8' high open wrought iron gate with 8.5' high columns.

GENERAL FACTS/STAFF ANALYSIS:

- The request focuses on replacing an existing 8' high wood fence with a new 7' 6" high wood fence with 7' 6" high brick columns in the site's 30' front yard setback along Pomona Road on a site that is currently undeveloped.
- 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 subject site is located at the southwest corner of Cherokee Trail and Pomona Road in PD 455. Regardless of how a home would be oriented on the site (that is to front either Cherokee Trail or Pomona Road), it has two 30' front yard setbacks. The site has a 30' front yard setback along Pomona Road (the shorter of the two frontages of the subject site) and a 30' front yard setback along Cherokee Trail (the longer of the two frontages that while usually would be considered a side yard is a front yard notwithstanding in order to maintain continuity of the established front yard setback along this street frontage where homes to the west that "front" northward to Cherokee Trail).
- The submitted site plan and elevation of the fence proposal indicates that it is located in the site's Pomona Road 30' front yard setback and that it reaches a maximum height of 7' 6".
- The submitted site plan and elevation represents a fence to exceed 4' in height only in the site's Pomona Road front yard setback, and not in the Cherokee Trail front yard setback.
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 107' in length parallel to the Pomona Road and approximately 25' and 30' perpendicular to this street on the northeast and southwest sides of the site in the Pomona Road 30' front yard setback.
 - The fence is represented to be located on the Pomona Road front property line or at a range of about 25' from the Pomona Road pavement line.
- The fence proposal is located on the site where no single family home has direct frontage – a park (Bluff View Park) fronts the fence on the subject site and has an approximately 4' high chain link fence in its front yard setback.
- The Board Administrator conducted a field visit of the site and surrounding area along Pomona Road (approximately 400 feet north and south of the site) and noted one other visible fence above 4 feet high which appeared to be located in a front yard setback – an approximately 6' high chain link fence south of the site at the Sudie L. Williams Elementary School.
- As of January 8, 2016, 1 letter had been submitted in support/no issue, and 2 letters had been submitted in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 3' 6" will not adversely affect neighboring property.
- Granting this special exception of 3' 6" 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 setback to be constructed and maintained in the location and of the heights and materials these documents.

Timeline:

November 13, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

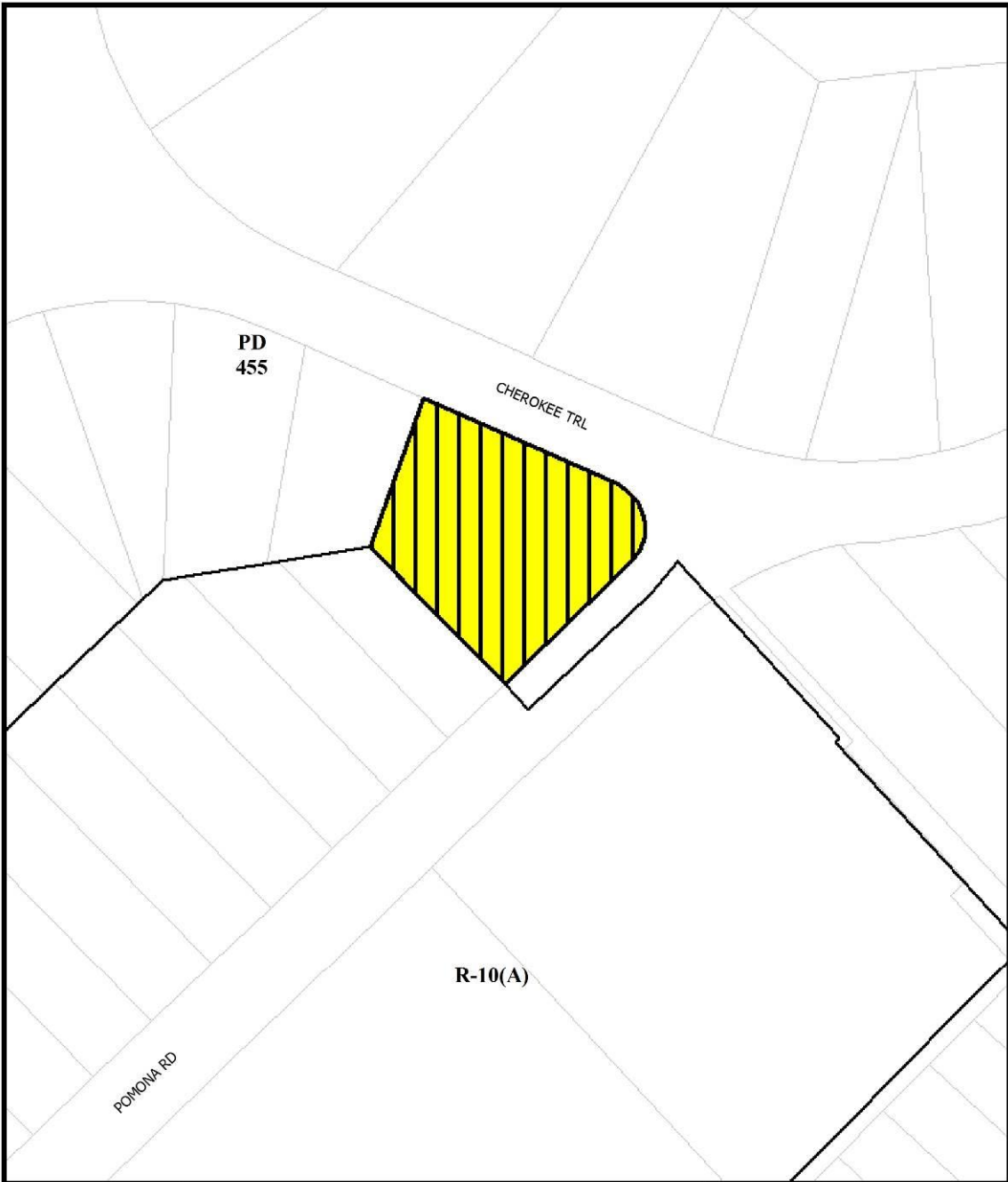
December 7, 2015: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case.”

December 7, 2015: The Board Administrator contacted the applicant and emailed 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 December 30th deadline to submit additional evidence for staff to factor into their analysis; and the January 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.”

January 5, 2016: 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 Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

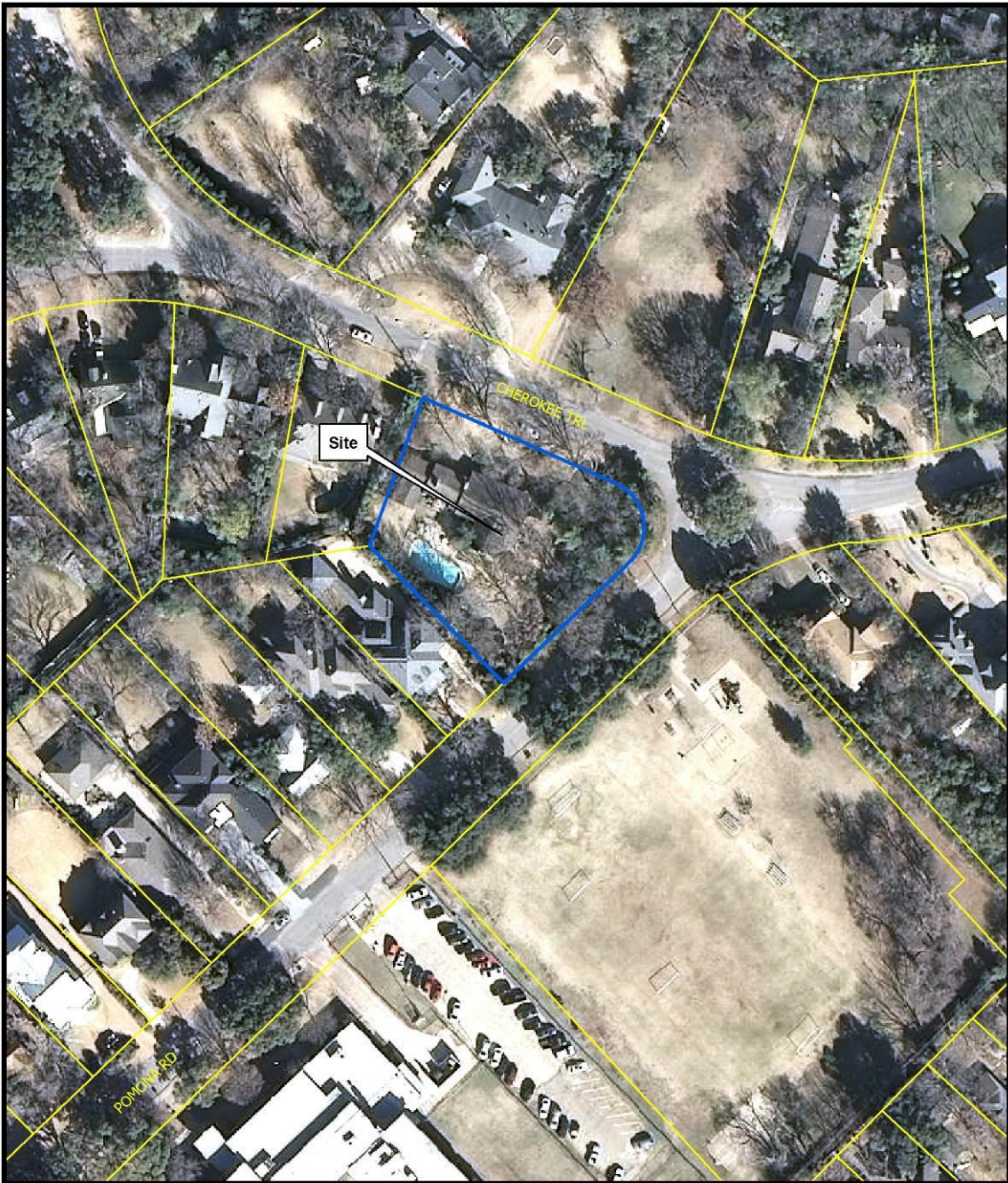


1:1,200

ZONING MAP

Case no: BDA156-003

Date: 12/17/2015



1:1,200

AERIAL MAP

Case no: BDA156-003

Date: 12/17/2015



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-003

Data Relative to Subject Property:

Date: 11-13-15

Location address: 4520 Cherokee Trail Zoning District: PD 455

Lot No.: 6 Block No.: 0/4984 Acreage: 0.62 Census Tract: 0073.02

Street Frontage (in Feet): 1) 159 2) 201 3) _____ 4) _____ 5) _____

NW21A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Gregary Weldon Beasley and Alex Burmeister

Applicant: Peter Kavanagh/Zone Systems, Inc Telephone: 214 941-4440

Mailing Address: 1620 Handley Dr. Suite A Dallas Zip Code: 75208

E-mail Address: peterk@zonesystems.com

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance __, or Special Exception X, of 3'-6"
~~Per Dallas Development Code 51A-4.602 (A) (6) request is made for special exception for a 7'6" fence in the front yard.~~

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 property is a corner lot. The side of the property that includes the back yard of the house faces a public park. Patrons of the park park on both sides of the street. The 7'6" fence will provide security and privacy from the park and the patrons who park adjacent to the fence. The new fence design will match~~

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

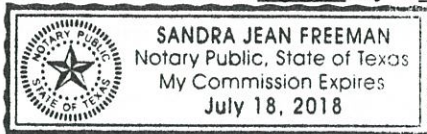
Before me the undersigned on this day personally appeared Peter Kavanagh
(Affiant/Applicant's name printed)

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 13th day of November, 2015

(Rev. 08-01-11)



Sandra Jean Dennis Freeman
Notary Public in and for Dallas County, Texas

the new home. This special exception will provide the same privacy enjoyed from the previous fence.

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

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

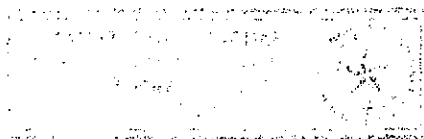
I hereby certify that Peter Kavanagh

did submit a request for a special exception to the fence height regulations
at 4520 Cherokee Trail

BDA156-003. Application of Peter Kavanagh for a special exception to the fence height regulations at 4520 Cherokee Trail. This property is more fully described as Lot 6, Block O/4984, and is zoned PD 455, which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 7 foot 6 inch high fence in a required front yard, which will require a 3 foot 6 inch special exception to the fence regulation.

Sincerely,


Larry Holmes, Building Official

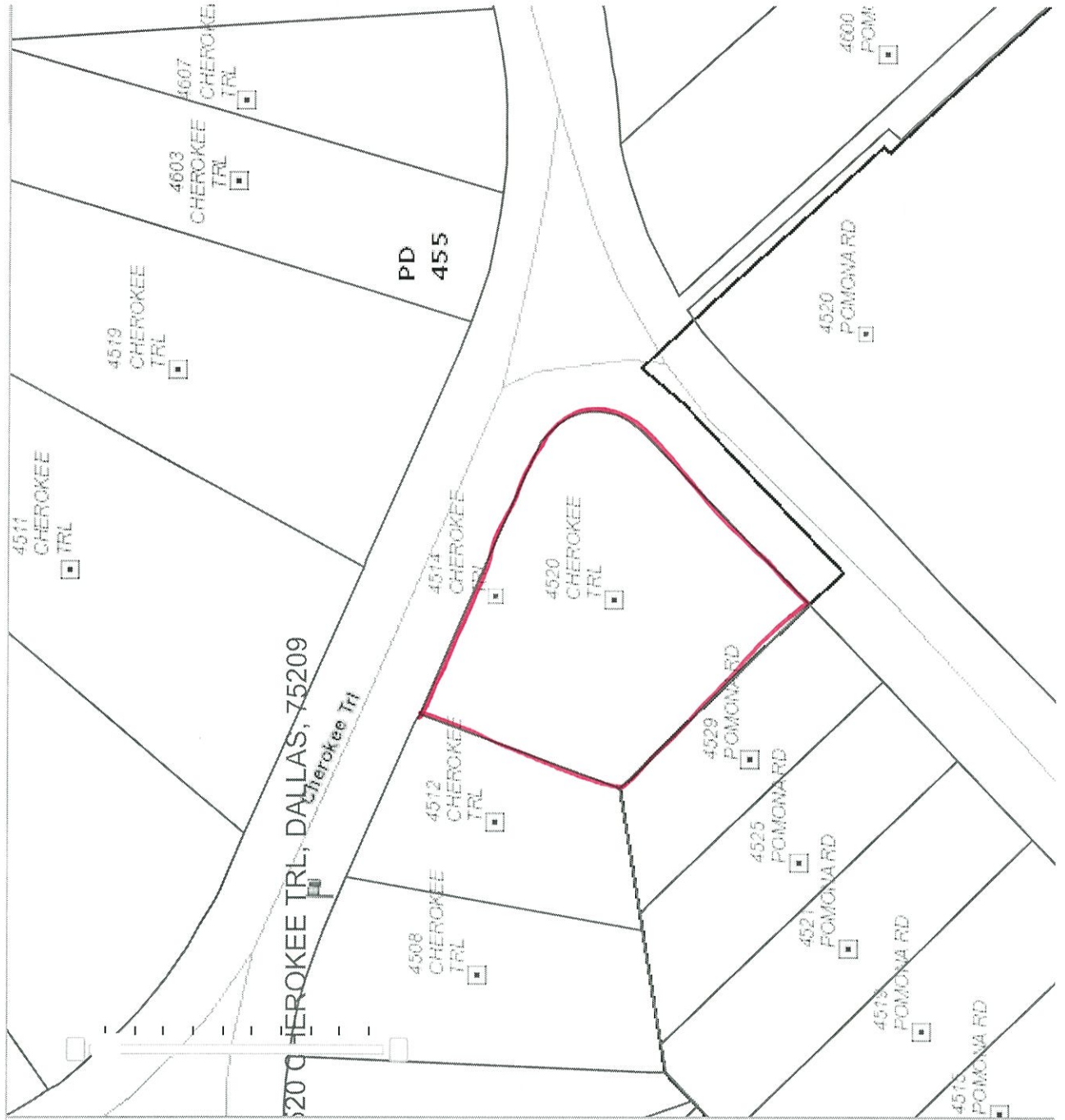


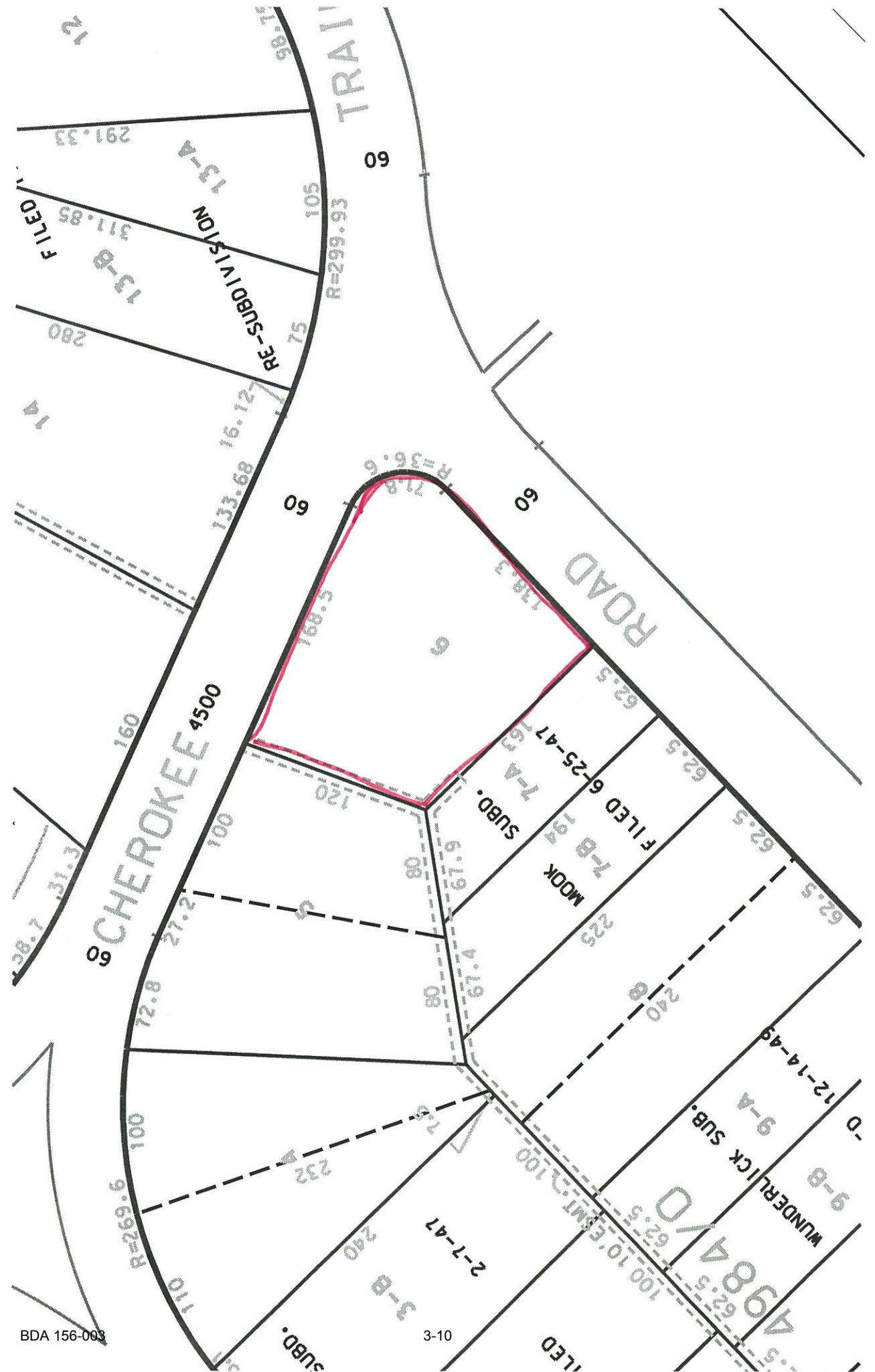
City of Dallas

Internal Development Research Site

Legend

Locate Property

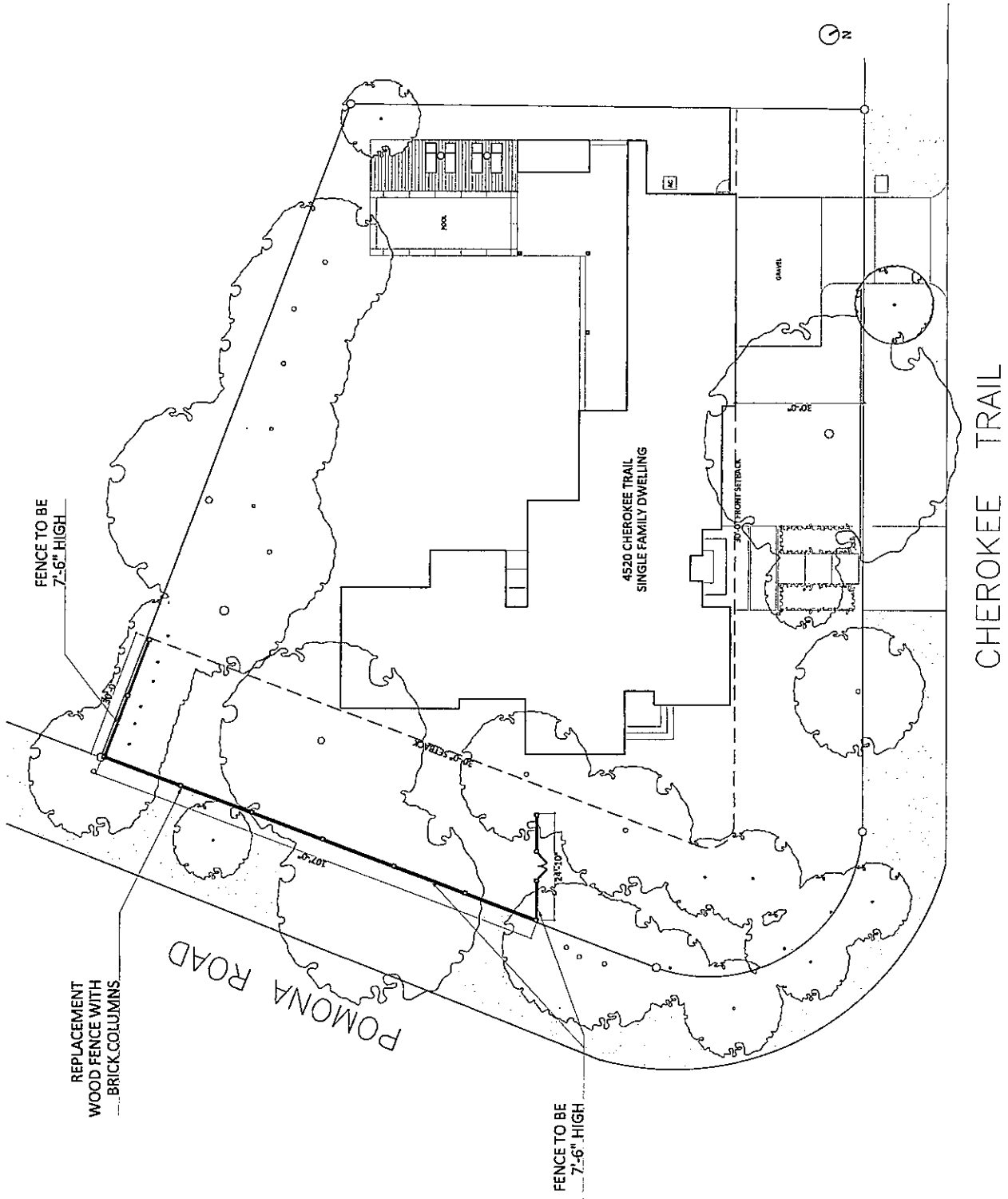


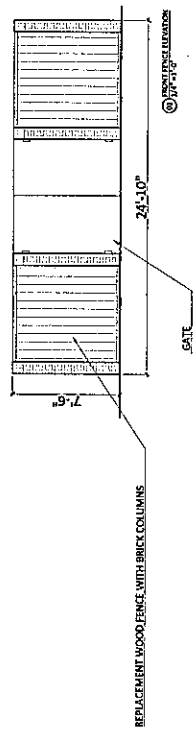
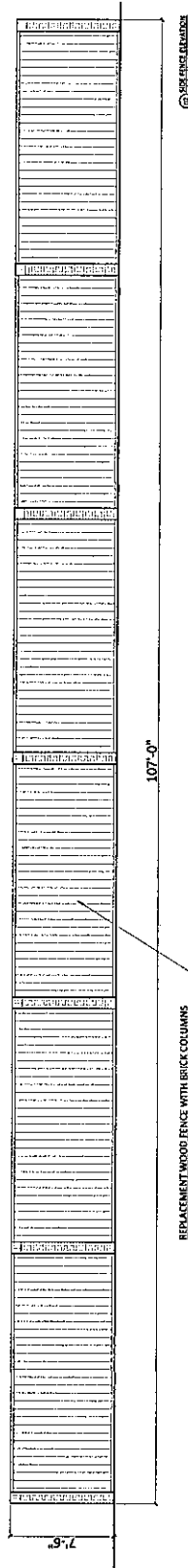
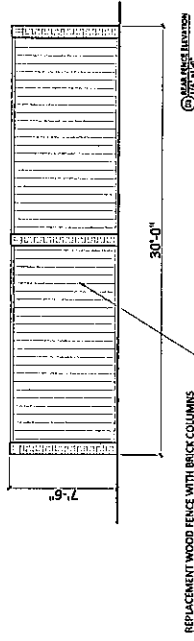


FS

DRAWING SET

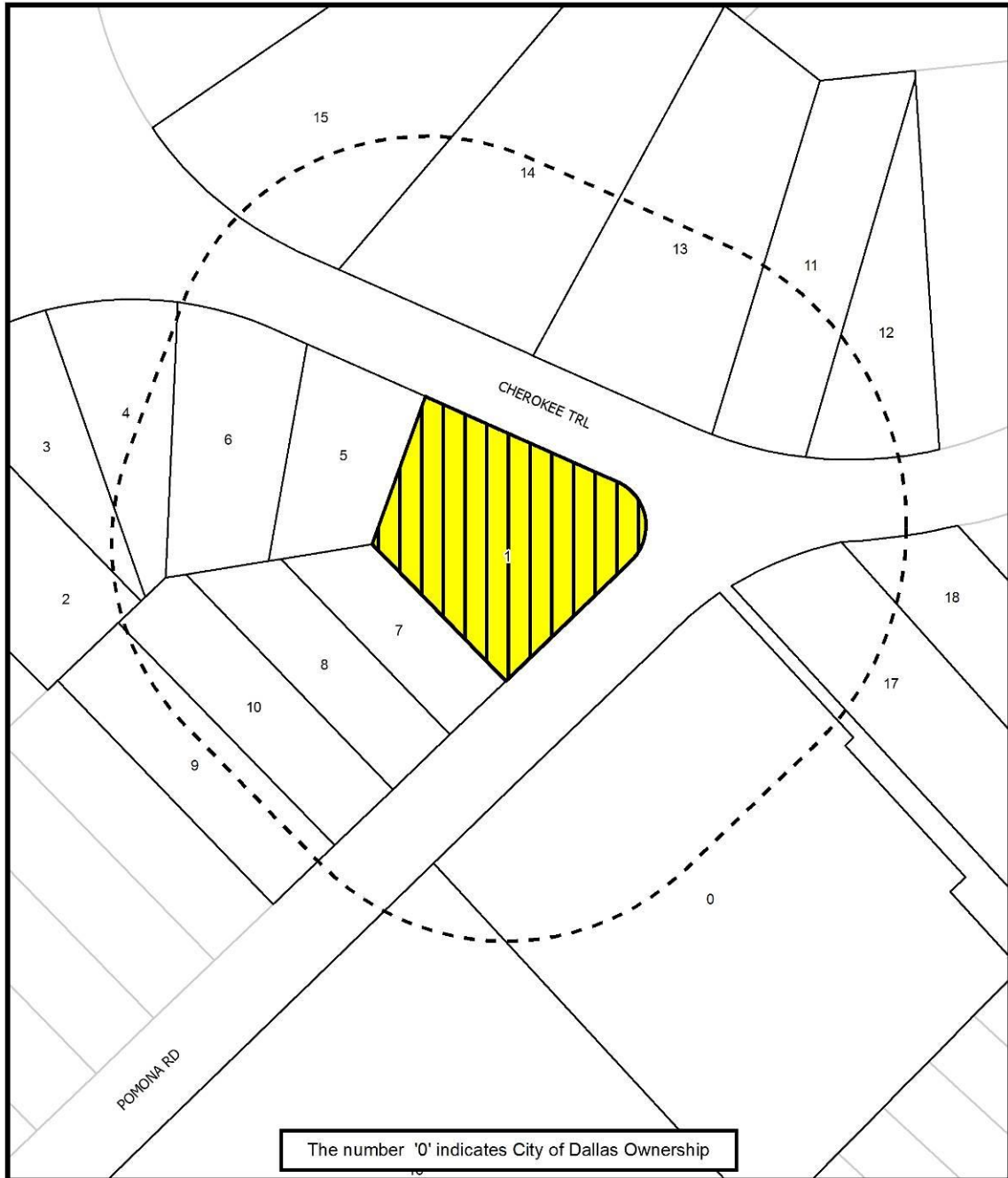
No.	Description	Date





DRAWING SET

No.	Description	Date



 1:1,200	NOTIFICATION		Case no: BDA156-003
	<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;">18</div> NUMBER OF PROPERTY OWNERS NOTIFIED		Date: 12/17/2015

Notification List of Property Owners

BDA156-003

18 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4520 CHEROKEE TRL	BEASLEY GREGORY WELDON &
2	4520 BLUFFVIEW BLVD	WHEELER MICHAEL W &
3	4524 BLUFFVIEW BLVD	BARNES STEVEN M &KELLY A
4	4506 CHEROKEE TRL	MCCARVELL SUSAN LR
5	4512 CHEROKEE TRL	SHAPIRA ADAM ROSS & DEBRA
6	4508 CHEROKEE TRL	ANDERSON LARS C & SUSAN I
7	4529 POMONA RD	ROYBAL MICHAEL
8	4525 POMONA RD	PATRIDGE SUSAN LIVING TRUST
9	4519 POMONA RD	STEWART CHRISTOPHER R & DENISE M
10	4521 POMONA RD	BONDS HARRIET LYN
11	4603 CHEROKEE TRL	HARRIS JAMES C
12	4607 CHEROKEE TRL	RUTLEDGE DAVID &
13	4519 CHEROKEE TRL	FERRE DAVID J & ESTHER J
14	4511 CHEROKEE TRL	YU YUNG L &
15	4505 CHEROKEE TRL	DEYOUNG EDWIN R &
16	4518 POMONA RD	Dallas ISD
17	4600 POMONA RD	MANION BRIAN
18	4606 CHEROKEE TRL	SHIWACH RAJINDER S &