

ZONING BOARD OF ADJUSTMENT, PANEL A  
TUESDAY, APRIL 17, 2018  
AGENDA

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

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

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**MISCELLANEOUS ITEMS**

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	Approval of the March 20, 2018 Panel A Public Hearing Minutes	M1
<b>BDA178-050(SL)</b>	7103 Mumford Court <b>REQUEST:</b> Of Yaakov Rich, represented by Grant K. Schmidt, to reimburse the filing fee for a variance to the off-street parking regulations	M2

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**REGULAR CASES**

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<b>BDA178-050(SL)</b>	7103 Mumford Court <b>REQUEST:</b> Application of Yaakov Rich, represented by Grant K. Schmidt, for a variance to the off-street parking regulations	1
<b>BDA178-051(SL)</b>	660 Fort Worth Avenue <b>REQUEST:</b> Application of DRW Planning Studio, represented by David Whitley, for a special exception to the off-street parking regulations	2

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## EXECUTIVE SESSION NOTICE

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

1. seeking the advice of its attorney about pending or contemplated litigation, settlement offers, or any matter in which the duty of the attorney to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act. [Tex. Govt. Code §551.071]
2. deliberating the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.072]
3. deliberating a negotiated contract for a prospective gift or donation to the city if deliberation in an open meeting would have a detrimental effect on the position of the city in negotiations with a third person. [Tex. Govt. Code §551.073]
4. deliberating the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing. [Tex. Govt. Code §551.074]
5. deliberating the deployment, or specific occasions for implementation, of security personnel or devices. [Tex. Govt. Code §551.076]
6. discussing or deliberating commercial or financial information that the city has received from a business prospect that the city seeks to have locate, stay or expand in or near the city and with which the city is conducting economic development negotiations; or deliberating the offer of a financial or other incentive to a business prospect. [Tex Govt. Code §551.087]
7. deliberating security assessments or deployments relating to information resources technology, network security information, or the deployment or specific occasions for implementations of security personnel, critical infrastructure, or security devices. [Tex. Govt. Code §551.089]

**MISCELLANEOUS ITEM NO. 2**

**FILE NUMBER:** BDA178-050(SL)

**REQUEST:** To reimburse the filing fee submitted in conjunction with a request variance to the off-street parking regulations.

**LOCATION:** 7103 Mumford Court

**APPLICANT:** Rabbi Yaakov Rich  
Represented by Grant Schmidt

**STANDARD FOR A FEE WAIVER OR A FEE REIMBURSEMENT:**

The Dallas Development Code states that the board may waive the filing fee for a board of adjustment application if the board finds that payment of the fee would result in substantial financial hardship to the applicant.

The Dallas Development Code further states:

- The applicant may either pay the fee and request reimbursement at the hearing on the matter or request that the issue of financial hardship be placed on the board's miscellaneous docket for predetermination.
- In making this determination, the board may require the production of financial documents.

**Timeline:**

February 26, 2018: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

March 13, 2018: 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".

March 13, 2018: The Board Administrator emailed the applicant's representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the March 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and April 6<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

March 29, 2018: The Board Administrator emailed the applicant's representative the information regarding the applicant's request for reimbursement of the filing fee (see Attachment A). This information included:

- the code provision as it relates to fee waivers/reimbursements (Sec 51A-1.105(b)(6)) to the applicant, and informed him that typically when this type of request is made, the applicant will submit documentation that shows how payment of the filing fee results in substantial financial hardship to the applicant (i.e. additional financial documents as in but not limited to copies of 1040's, W-4's, bank statements - *all with account numbers redacted*);
- the deadline to submit information to be included in the Board's docket, and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence".



Long, Steve

M2  
Attach A pg 1

**From:** Long, Steve  
**Sent:** Thursday, March 29, 2018 1:32 PM  
**To:** 'Schmidt, Grant K.'  
**Cc:** Trammell, Charles; Nevarez, David; Aguilera, Oscar E; Dean, Neva; Cossum, David T; Monkhouse, Kristen; Gilbert, Andrew; Kay, Kiesha; Wimer, Megan  
**Subject:** FW: Fee Reimbursement for BDA178-050, Property at 7103 Mumford Court  
**Attachments:** 050 application materials.pdf; Panel A hearing date and deadlines.doc; documentary evidence.pdf; fees.pdf

Dear Mr. Schmidt,

Please be advised that the request of the applicant (Rabbi Yaakov Rich) for a reimbursement of the filing fee made in conjunction with the application to the board of adjustment referenced above is scheduled for the Tuesday, Board of Adjustment Panel A April 17<sup>th</sup> agenda along with the request for a variance to the off-street parking regulations.

Attached is the code provision as it relates to requests for the board of adjustment to consider reimbursements of filing fees made in conjunction with submitted board of adjustment applications: Sec 51A-1.105(b)(6).

Please be advised that typically when an applicant makes a request for the board to consider reimbursing the filing fee, the applicant will submit documentation that shows how payment of the filing fee results in substantial financial hardship to them (i.e. additional financial documents as in but not limited to copies of 1040's, W-4's, bank statements - *all with account numbers redacted*)).

I will call to your attention the attachments the I sent to you earlier this month - a document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board, and the board's rule on documentary evidence.

Please let me know if I can assist you in any other way on the applicant's fee reimbursement request.

Thank you,

Steve

PS: Please feel free to send any documents related to Rabbi Yaakov Rich's fee reimbursement request to [steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com) or mail it to me at the following address:



**Steve Long**  
*Board of Adjustment Chief Planner*  
City of Dallas | [www.dallascityhall.com](http://www.dallascityhall.com)  
Current Planning Division  
Sustainable Development and Construction  
1500 Marilla Street, 5BN  
Dallas, TX 75201  
O: 214-670-4666  
[steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com)



**\*\*OPEN RECORDS NOTICE:** This email and responses may be subject to the Texas Open Records Act and may be disclosed to the public upon request. Please respond accordingly.\*\*

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**From:** Long, Steve  
**Sent:** Wednesday, March 28, 2018 6:25 AM  
**To:** 'Schmidt, Grant K.' <GSchmidt@winston.com>  
**Subject:** FW: BDA178-050, Property at 7103 Mumford Court

Another, FYI.

S.

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**From:** Long, Steve  
**Sent:** Friday, March 23, 2018 6:07 AM  
**To:** 'Schmidt, Grant K.' <GSchmidt@winston.com>  
**Cc:** Aguilera, Oscar E <oscar.aguilera@dallascityhall.com>  
**Subject:** FW: BDA178-050, Property at 7103 Mumford Court

Another, FYI.

S.

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**From:** Long, Steve  
**Sent:** Thursday, March 22, 2018 7:09 AM  
**To:** 'Schmidt, Grant K.' <GSchmidt@winston.com>  
**Subject:** FW: BDA178-050, Property at 7103 Mumford Court

Another, FYI.

S.

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**From:** Long, Steve  
**Sent:** Monday, March 19, 2018 9:40 AM  
**To:** 'Schmidt, Grant K.' <GSchmidt@winston.com>  
**Cc:** Aguilera, Oscar E <oscar.aguilera@dallascityhall.com>  
**Subject:** FW: BDA178-050, Property at 7103 Mumford Court

Another, FYI.

S.

**From:** Long, Steve  
**Sent:** Monday, March 19, 2018 9:22 AM  
**To:** 'Schmidt, Grant K.' <GSchmidt@winston.com>  
**Cc:** Aguilera, Oscar E <oscar.aguilera@dallascityhall.com>  
**Subject:** FW: BDA178-050, Property at 7103 Mumford Court

Dear Mr. Schmidt,

Attached FYI is an email sent to me regarding the application referenced above. This email and any other email/fax/letter/petition that I receive before your tentatively scheduled April 17<sup>th</sup> public hearing will be forwarded to the board members for their consideration on this application.

Please write or call me at 214/670-4666 if I can assist you in any way on this application.

Thank you,

Steve



**Steve Long**  
Board of Adjustment Chief Planner  
City of Dallas | [www.dallascityhall.com](http://www.dallascityhall.com)  
Current Planning Division  
Sustainable Development and Construction  
1500 Marilla Street, 5BN  
Dallas, TX 75201  
O: 214-670-4666  
[steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com)



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**From:** Long, Steve  
**Sent:** Tuesday, March 13, 2018 12:44 PM  
**To:** 'Schmidt, Grant K.' <GSchmidt@winston.com>  
**Cc:** Trammell, Charles <charles.trammell@dallascityhall.com>; Nevarez, David <david.nevarez@dallascityhall.com>; Aguilera, Oscar E <oscar.aguilera@dallascityhall.com>; Dean, Neva <neva.dean@dallascityhall.com>; Cossum, David T <david.cossum@dallascityhall.com>; Monkhouse, Kristen <kristen.monkhouse@dallascityhall.com>; Gilbert, Andrew <andrew.gilbert@dallascityhall.com>; Kay, Kiesha <kiesha.kay@dallascityhall.com>; Wimer, Megan <megan.wimer@dallascityhall.com>  
**Subject:** BDA178-050, Property at 7103 Mumford Court

Dear Mr. Schmidt,

Here is information regarding the board of adjustment application referenced above that you are representing for Rabbi Yaakov Rich:

m2 Attach A  
#54

1. The submitted application materials - all of which will be emailed to you, city staff, and the board members in a docket report about a week ahead of your tentatively scheduled April 17<sup>th</sup> Board of Adjustment Panel A public hearing.
2. The provision from the Dallas Development Code allowing the board to consider a *variance* to the off-street parking regulations (51A-3.102(d)(10)).
3. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board.
4. The board's rule pertaining to documentary evidence.

Please carefully review the attached application materials to make sure they are complete, and within these materials, the Building Official's Report/second page of the application (page 2 of 11 in these attached materials). Please contact Charles Trammell at 214/948-4618 or [charles.trammell@dallascityhall.com](mailto:charles.trammell@dallascityhall.com) no later than noon, Wednesday, March 28<sup>th</sup> with regard to any information you feel is missing from your submittal or with regard to any amendment that you feel is necessary to address the issue at hand, specifically if for any reason you feel that the statement in his Building Official's report stating that the applicant proposes to construct/maintain a structure with a church use and provide a 6 of the required 12 off-street parking spaces which will require a 6 space *variance*\* to the off-street parking regulations, or any other part of this report is incorrect. (Note that the discovery of any additional appeal needed beyond your requested off-street parking *variance* will result in postponement of the appeal until the panel's next regularly scheduled public hearing).

Please be advised that you may want to contact David Nevarez, City of Dallas Sustainable Development Department Senior Engineering at 214/671-5115 or [david.nevarez@dallascityhall.com](mailto:david.nevarez@dallascityhall.com) to determine if there is any additional information that he may need from you in making a favorable recommendation to the board on your request.

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

Thank you,

Steve

\* Note that the request to the board in BDA178-050 is for a VARIANCE to the off-street parking regulations, and that the reference in the Building Official's report (page 2 in the attached application materials) as a special exception is only made due to the data base not allowing staff to populate the request as such.

PS: If there is anything that you want to submit to the board beyond what you have included in your attached application materials, please feel free to email it to [steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com) or mail it to me at the following address by the deadlines attached in this email:



**Steve Long**  
 Board of Adjustment Chief Planner  
 City of Dallas | [www.dallascityhall.com](http://www.dallascityhall.com)  
 Current Planning Division  
 Sustainable Development and Construction  
 1500 Marilla Street, 5BN  
 Dallas, TX 75201  
 O: 214-670-4666  
[steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com)



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City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-050

Data Relative to Subject Property:

Date: 2/26/2018

Location address: 7103 Mumford Ct, Dallas, TX 75252

Zoning District: R-7.5(A)

Lot No.: 45 Block No.: 10/8758 Acreage: .29

Census Tract: 317.19

Street Frontage (in Feet): 1) 100 2) 126 3) 90 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Congregation Toras Chaim, Inc.

Applicant: Rabbi Yaakov Rich Telephone: (972) 835-6016

Mailing Address: 7103 Mumford Ct, Dallas, TX Zip Code: 75252

E-mail Address: rabbi@toraschaimdallas.org

Represented by: Grant K. Schmidt Telephone: (214) 453-6469

Mailing Address: 2501 N. Harwood St, Dallas, TX Zip Code: 75201

E-mail Address: gschmidt@winston.com

Affirm that an appeal has been made for a Variance X, or Special Exception   , of     
a 50% variance / reduction in required off street parking spaces (6 out of 12).

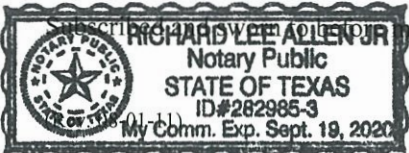
Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: We are pursuing a 50% variance. The restrictive area, shape, and slope prevents Congregation Toras Chaim from developing the land in a manner commensurate with the development upon other parcels of land in the district with the same zoning classification. There are essentially three front yards (with a brick wall surrounding two sides) and no car could enter in back due to alley screening.

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 Rabbi Yaakov Rich  
(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)



I, the undersigned, do hereby certify that the above is a true and correct copy of the original as filed in my office on this 26<sup>th</sup> day of February, 2018  
Richard Lee Allen, Jr.  
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

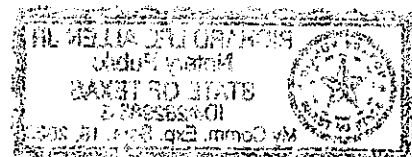
**Building Official's Report**

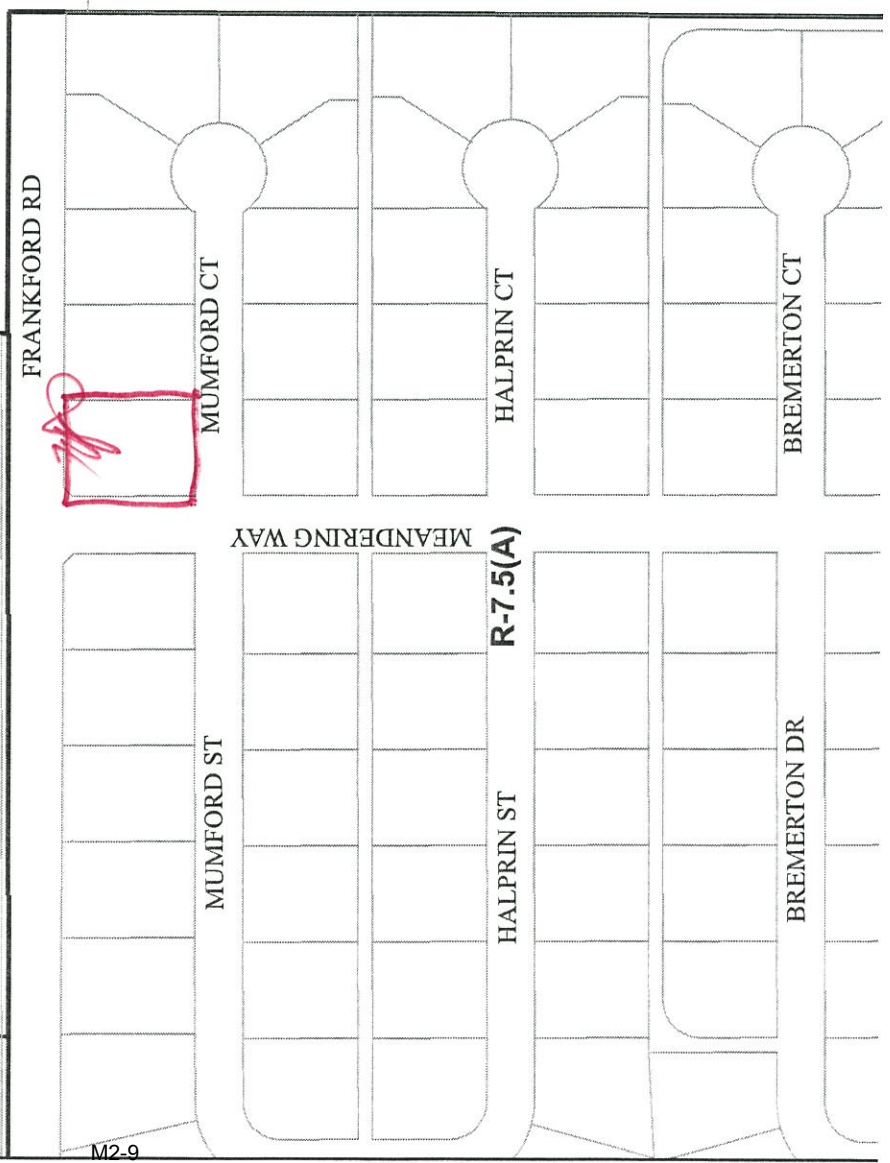
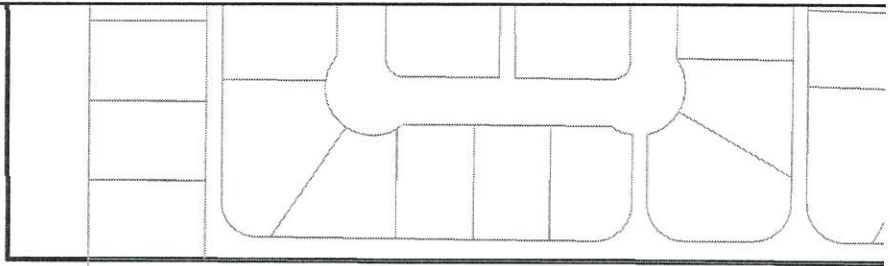
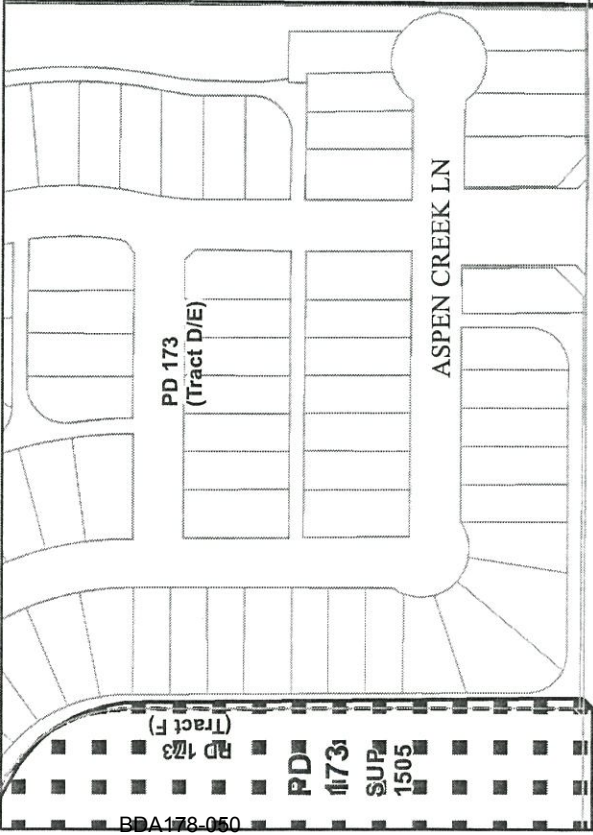
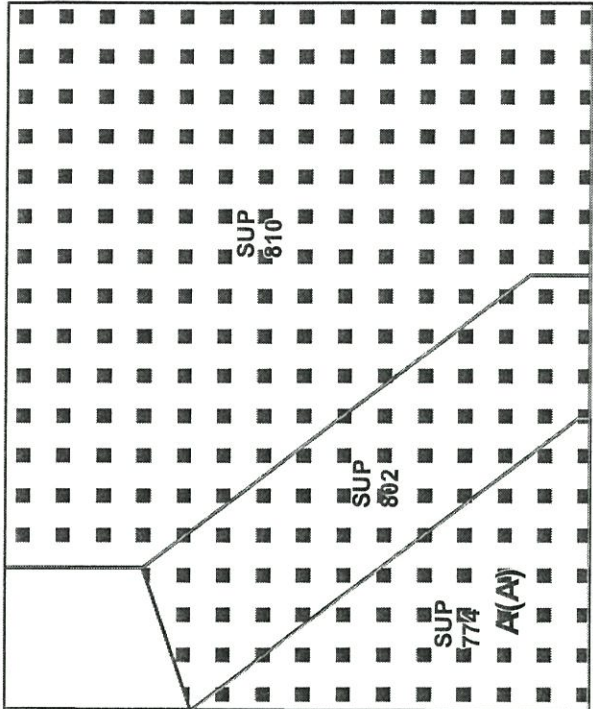
I hereby certify that Yaakov Rich  
represented by Grant Schmidt  
did submit a request for a special exception to the parking regulations  
at 7103 Mumford Court

BDA178-050. Application of Yaakov Rich represented by Grant Schmidt for a special exception to the parking regulations at 7103 Mumford Court. This property is more fully described as Lot 45, Block 10/8758 and is zoned R-7.5(A), which requires parking to be provided . The applicant proposes to construct a nonresidential structure for a church use, and provide 6 of the required 12 parking spaces, which will require a 6 space special exception or (50% reduction) to the parking regulation.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official







GIVEN UNDER MY HAND AND SEAL OF OFFICE, This 27th day of Sept.  
 Notary Public in  
 State of Texas  
 My Comm. Expires 02/0  
 Notary Public in

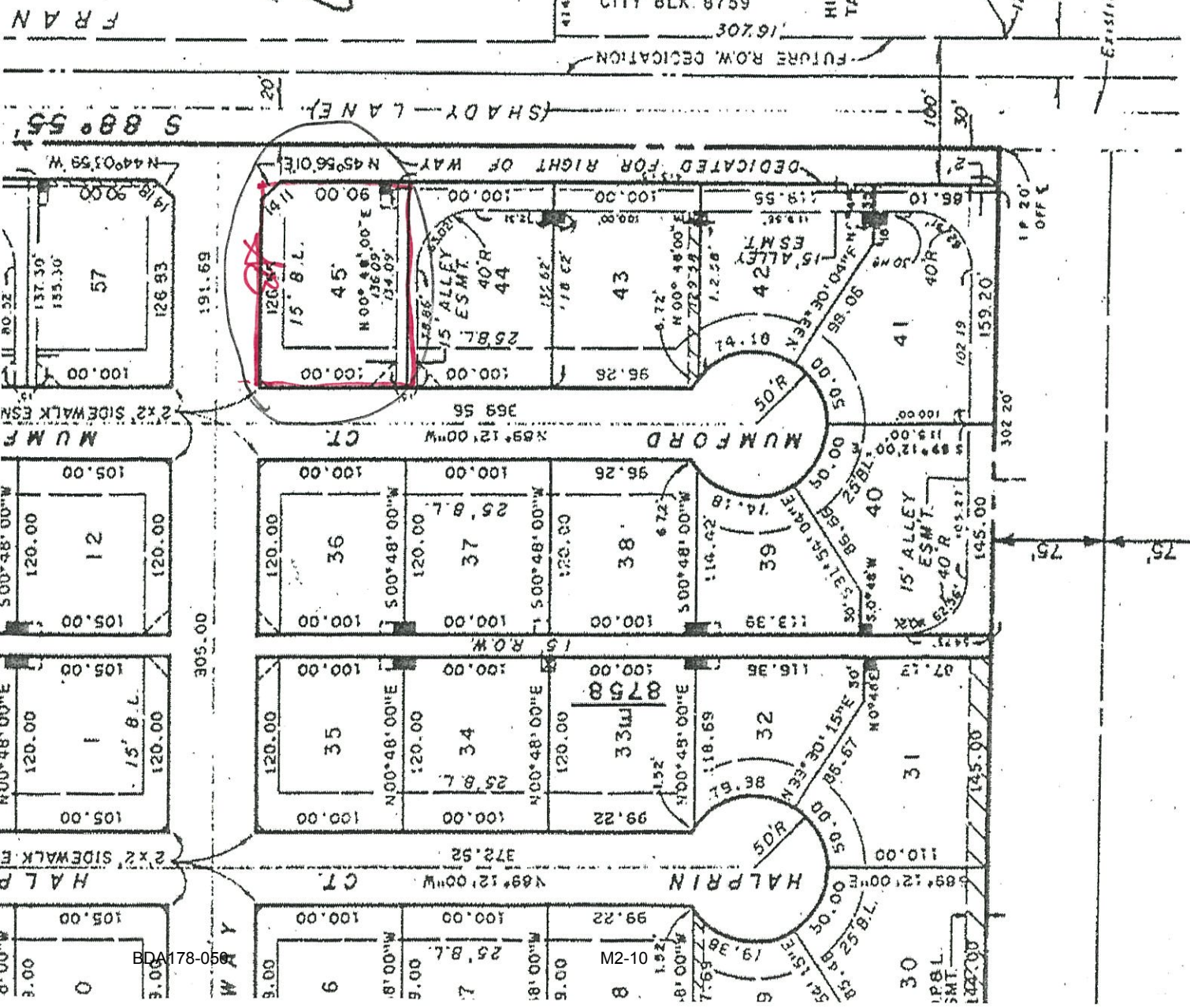
CERTIFICATE OF APPROVAL:  
 Approved this 20 day of Sept.  
 Commission of the City of Dallas, Texas  
 Chairman  
 City Plan Commission

# FINAL PLAT HIGHLANDS OF N

An Addition to the City of Dallas  
 PART OF LOT 3 OF THE D  
 COLLIN COUNTY SCHOOL L  
 ABSTRACT N 2 16  
 OND  
 PART OF CITY BLOCK NO.  
 DALLAS, COLLIN COUNTY  
 CITY PLAN FILE NO. S-7

HIGHLANDS ELEVATED  
 TANK ADDITION

OWNER - DEVELOPER  
**MCKAMY DEVELOPMENT CO**  
 8950 One Northpark E  
 Suite 318  
 Dallas, Texas 75231  
 214 / 361-7175



MAINTENANCE OF SCREENING WALL  
 SHALL BE THE RESPONSIBILITY OF





North America Europe Asia

2501 N. Harwood Street  
17th Floor  
Dallas, TX 75201  
T +1 214 453 6500  
F +1 214 453 6400

**GRANT SCHMIDT**  
Associate  
214-453-6469  
gschmidt@winston.com

February 23, 2018

Steve Long  
Administrator – Board of Adjustment  
City Hall  
1500 Marilla St., 5BN  
Dallas, TX 75201

Charles Trammell  
Senior Plans Examiner  
320 E. Jefferson Blvd., Room 105  
Dallas, TX 75203

**Re:** *City of Dallas v. Mark B. Gothelf, Judith D. Gothelf and Congregation Toras Chaim, Inc. dba Congregation Toras Chaim*

Dear Mr. Long and Mr. Trammell:

I represent Congregation Toras Chaim, Inc. (“CTC”) in the above-referenced action brought by the City of Dallas (the “City”). CTC is a small Orthodox Jewish congregation that meets at 7103 Mumford Court, Dallas, TX 75252 (the “Property”), where about twenty-five neighborhood congregants walk to gather for worship on Saturdays, and a smaller number of congregants gather throughout the week. CTC is pursuing a variance regarding parking requirements for the Property. In particular, CTC intends to seek a variance of 6 off street parking spaces. CTC is required to have 12 off street parking spaces. After a significant amount of effort, CTC has entered a shared parking agreement with Torah Day School, which covers 6 of the 12 required spaces. The shared parking agreement is signed by both parties but still needs the appropriate signatures from the City of Dallas. This is a cover letter for the variance application. This packet includes (a) 2 Application forms; (b) 2 Affidavit forms; (c) 1 Warranty Deed; (d) a copy of the certified subdivision plot; (e) 1 lien statement; (f) 4 copies of the site plan; (g) 4 copies of the elevation drawings; (h) 4 copies of the floor plan; (i) a check for \$1,500.00 for this application (\$900 + (6 x \$100)); (j) \$30 in cash for the signage (3 x \$10); and (k) a smaller copy of each drawing as requested.

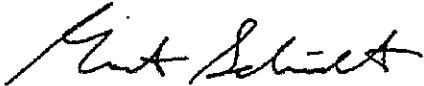
Regarding the parking analysis and/or traffic study, CTC does not have any parking analysis or traffic study to offer because CTC members generally do not drive to worship. Orthodox Jews are prohibited from driving on the Sabbath; these families therefore must live within walking distance of a synagogue to attend prayer services on the Sabbath. Therefore, CTC would be unable to provide a parking analysis or traffic study. This is consistent with CTC’s request to reduce the 12 parking space requirement.

CTC is pursuing a variance because the area, shape, and slope prevents CTC from developing the land in a manner commensurate with the development upon other parcels of land in the district with the same zoning classification. Second, there are essentially three front yards given the location of CTC's property. Third, there are two brick walls owned by the Homeowners' Association on two sides of the property. Furthermore, CTC has been instructed by the City that no car could enter the back of the home due to the alley screening issues. For these reasons, CTC requires a reduction in the required off street parking requirements (12 spaces). The implementation of this variance would not be contrary to the public interest (in fact, it would be consistent with the public interest) and would otherwise result in an unnecessary hardship for CTC. This variance is not being pursued to relieve a self-created or personal hardship.

CTC intends to seek a fee reimbursement as the filing fee has resulted in a substantial financial hardship for CTC. CTC is a non-profit religious organization. CTC generates no profit, and any money that CTC spends must come from donations or fundraising efforts. Furthermore, the application fee constitutes a significant percentage of CTC's monthly operating expenses, and it already struggles to meet those obligations, often failing to pay the salary of its one full-time employee, Rabbi Rich.

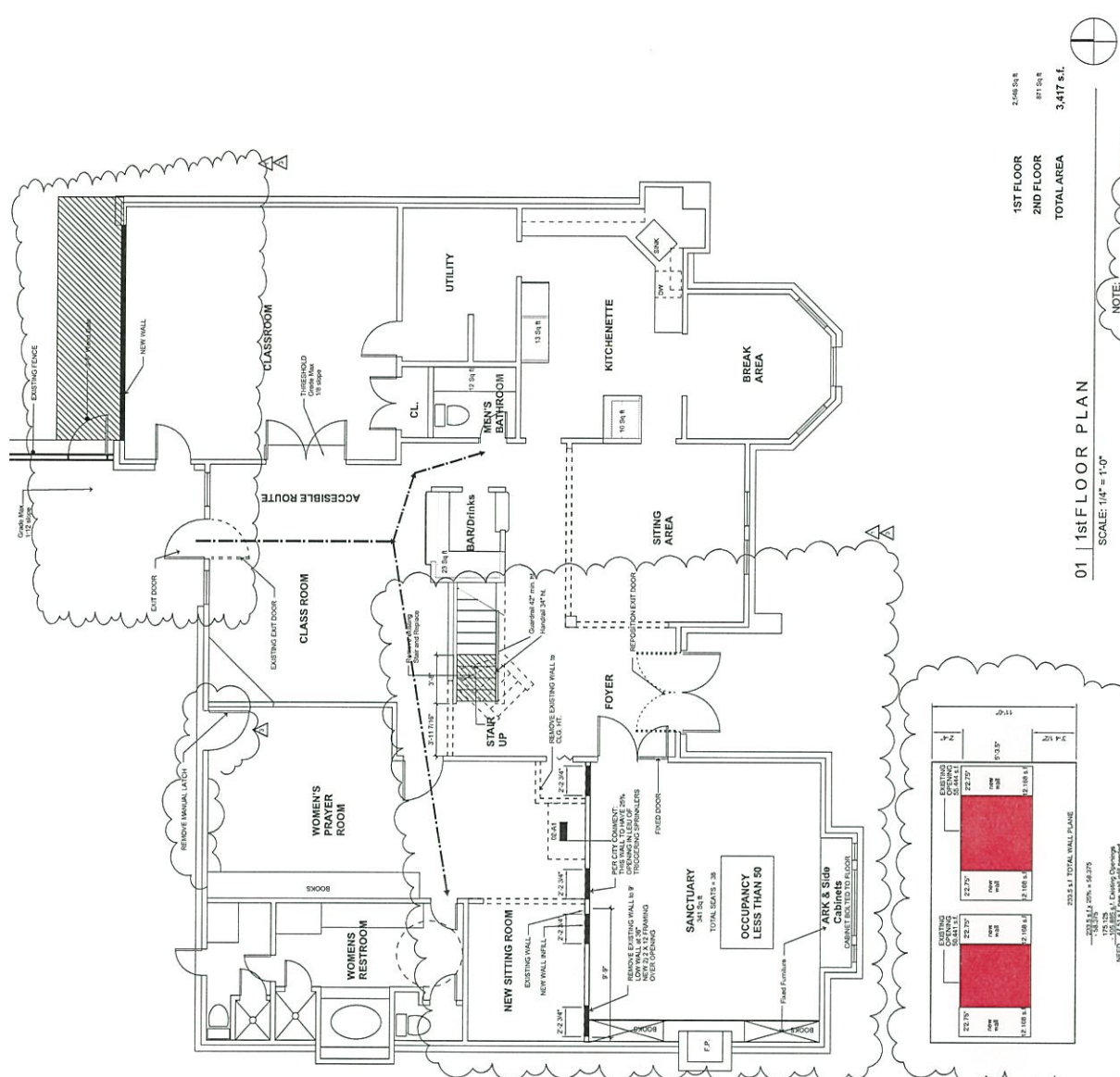
Please contact me if you have any questions or if I may provide any additional information regarding the variance application.

Respectfully,



Grant K. Schmidt

cc: Andrew Gilbert, Assistant City Attorney  
Kristen Monkhouse, Assistant City Attorney  
Chelsey Youman, First Liberty



1ST FLOOR	2,546 SQR
2ND FLOOR	871 SQR
<b>TOTAL AREA</b>	<b>3,417 S.F.</b>

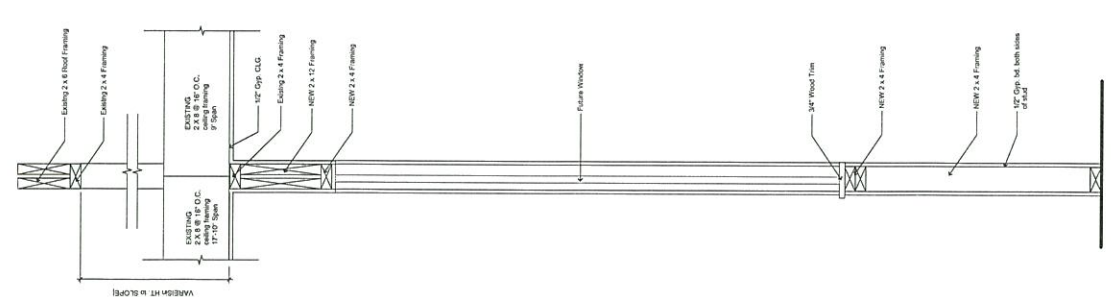
**NOTE:**

1. CODE COMPLIANT EXIT LIGHTING AT EACH EXIT DOORS
2. HANDRAILS AT STAIRS REQUIRED ON ONE SIDE.
3. ALL EXIT DOORS TO OPENING TO THE OUTSIDE

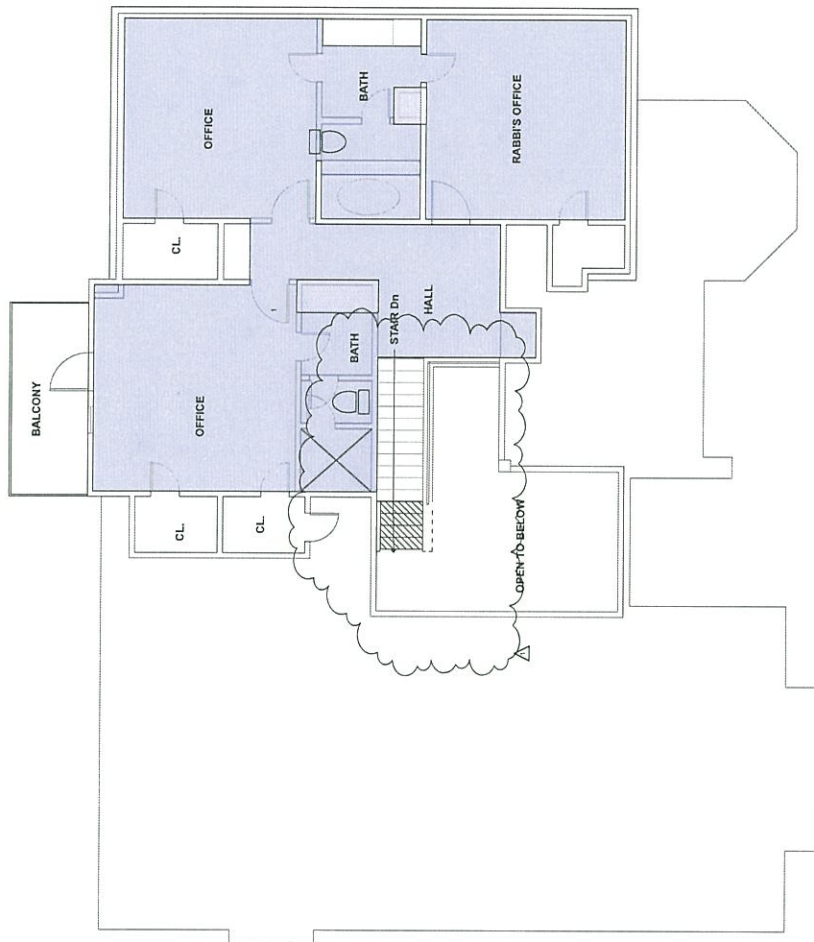
**01 | 1st FLOOR PLAN**  
SCALE: 1/4" = 1'-0"

2023 S.I. TOTAL WALL FRAME	
EXISTING	22,777
NEW	2,108 S.F.
<b>TOTAL</b>	<b>24,885 S.F.</b>

**02 | WALL SCREEN RATIO**  
SCALE: 1/4" = 1'-0"



**02 | WALL DETAIL**  
SCALE: 1 1/2" = 1'-0"



01 | 2nd FLOOR PLAN  
 SCALE: 1/4" = 1'-0"  
 OCCUPANCY 5

7103 Mumford Ct Dallas Texas 75252

**TORAS CHIAM CONGREGATION**

PROJECT NO. 1315FC09  
2nd FLOOR PLAN

gregory hightower ARCHITECT  
 1041 Perimeter Ln.  
 Marietta, Texas 75090  
 972.382.1234  
 ghigh@llparchitect.com

PERMISSION:

REVISED: 02/15  
 DATE: 02/15/16  
 AUGUST 08, 2018  
 FEBRUARY 18, 2017

REVISION:



7103 Munford Ct Dallas Texas 75252

**TORAS CHIAM CONGREGATION**

PROJECT NO: 15110100  
1st FLOOR PLAN

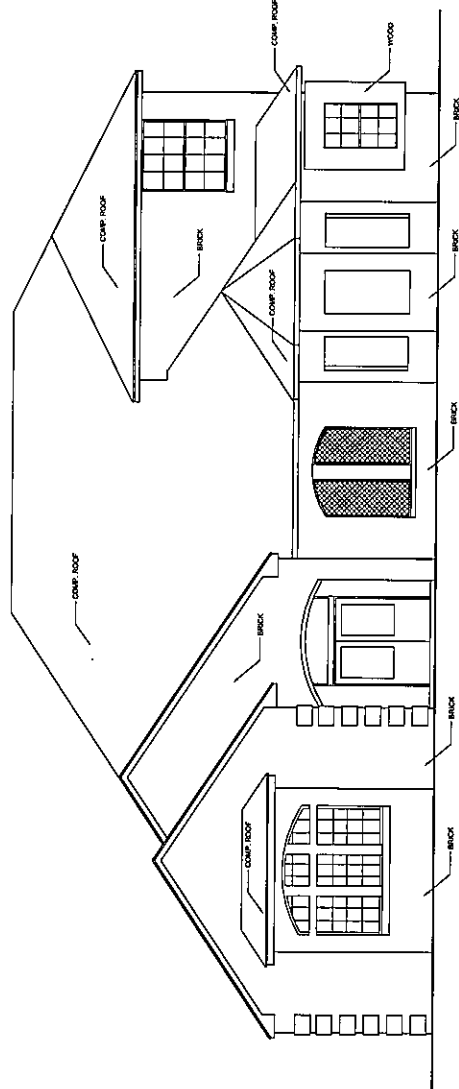
Affect

15

PROJECT ARCHITECT  
104 Perryman Ln  
Newport News, VA 23606  
Tel: 757-255-2750  
www.affectva.com

DATE: 01.15.15  
DRAWN BY: J. B. B. B.  
CHECKED BY: J. B. B. B.  
PROJECT NO: 15110100

REVISION:



01 | FRONT ELEVATION  
SCALE: 1/4" = 1'-0"



CITY OF DALLAS

AFFIDAVIT

Appeal number: BDA 178-050

I, Congregation Toras Chaim, Inc., Owner of the subject property  
(Owner of "Grantee" of property as it appears on the Warranty Deed)

at: 7103 Mumford Court, Dallas, TX 75252  
(Address of property as stated on application)

Authorize: Rabbi Yaakov Rich  
(Applicant's name as stated on application)

To pursue an appeal to the City of Dallas Zoning Board of Adjustment for the following request(s)

Variance (specify below)

Special Exception (specify below)

Other Appeal (specify below)

Specify: A variance to reduce the number of required  
off street parking spaces.

Rabbi Yaakov Rich  
Print name of property owner or registered agent

[Signature]  
Signature of property owner or registered agent

Date FEBRUARY 21, 2018

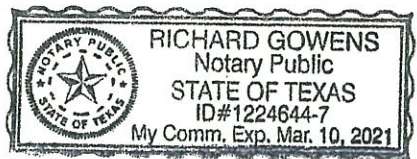
Before me, the undersigned, on this day personally appeared Jordan Rich

Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 21 day of FEBRUARY, 2018

Richard Gowens  
Notary Public for Dallas County, Texas

Commission expires on 03/10/2021



**FILE NUMBER:** BDA178-050(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Rabbi Yaakov Rich, represented by Grant K. Schmidt, for a variance to the off-street parking regulations at 7103 Mumford Court. This property is more fully described as Lot 45, Block 10/8758 and is zoned R-7.5(A), which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure for a church use, and provide 6 of the required 12 off-street parking spaces, which will require a 6 space variance to the off-street parking regulations.

**LOCATION:** 7103 Mumford Court

**APPLICANT:** Rabbi Yaakov Rich  
Represented by Grant K. Schmidt

**REQUEST:**

A request for a variance to the off-street parking regulations of 6 spaces is made to obtain a Certificate of Occupancy for an existing church use (Congregation Toras Chaim), and provide 6 of the 12 required off-street parking spaces.

**STANDARD FOR A VARIANCE:**

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

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



## **STAFF RECOMMENDATION:**

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the April 3<sup>rd</sup> staff review team meeting that the applicant had not substantiated the following:
  - how granting this variance to the off-street parking regulations of 6 spaces was not contrary to public interest (the Sustainable Development Department Senior Engineer has submitted a review comment sheet marked “Recommends denial”);
  - how the variance to the off-street parking regulations was necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning district, and
  - how, if granted, it would not be to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same R-7.5(A) zoning.
- While staff recognized from the information submitted by the applicant at the time of the April staff review team meeting that the subject site has two front yard setbacks atypical of most lots zoned R-7.5(A), staff concluded this unique feature does not preclude the applicant from developing the flat, rectangular-shaped, approximately 12,500 square foot subject site (where lots are typically 7,500 square feet in area) in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning.

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: R-7.5(A) (Single family residential 7,500 square feet)  
North: PD 173 (Planned Development)  
South: R-7.5(A) (Single family residential 7,500 square feet)  
East: R-7.5(A) (Single family residential 7,500 square feet)  
West: R-7.5(A) (Single family residential 7,500 square feet)

### **Land Use:**

The subject site is developed with an existing church use (Congregation Toras Chaim). The areas to the north, south, east, and west are developed with single family residential uses.

**Zoning/BDA History:**

- |  |   |
|--|---|
| 1. Miscellaneous Item 2, BDA178-050, Property at 7103 Mumford Court (the subject site) | On April 16, 2018, the Board of Adjustment Panel A will consider a request to reimburse filing fee made in conjunction with this application.   |
| 2. Miscellaneous Item 2, BDA167-072, Property at 7103 Mumford Court (the subject site) | On June 20, 2017, the Board of Adjustment Panel A denied a request to reimburse filing fee made in conjunction with this application.   |
| 3. BDA167-072, Property at 7103 Mumford Court (the subject site)                       | On October 17, 2017, the Board of Adjustment Panel A denied a request for a variance to the off-street parking regulations of 27 spaces without prejudice. The case report stated that the request was made to obtain a Certificate of Occupancy/maintain an existing approximately 3,000 square foot church use (Congregation Toras Chaim), and provide 0 of the 27 required off-street parking spaces |

**GENERAL FACTS/STAFF ANALYSIS:**

- This request for a variance to the off-street parking regulations of 6 spaces focuses on obtaining a Certificate of Occupancy for an existing approximately church use (Congregation Toras Chaim), and providing 6 of the 12 required off-street parking spaces.
- The site is zoned R-7.5(A) and is bounded by three streets: Frankford Road on the north, Mumford Court on the south, and Meandering Way on the west. The site has two 25' front yard setbacks since the code states that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets.
- The Dallas Development Code requires the following off-street parking requirement for "church" use:
  - One space per 333 square feet in floor area if a church has less than 5,000 square feet of floor area and is located in a shopping center with more than 20,000 square feet in floor area, otherwise one space for each four fixed seats in the sanctuary or auditorium. If fixed benches or pews are provided, each 18 inches of length of the fixed bench or pew constitutes one fixed seat for purposes of this paragraph. If portions of seating areas in the sanctuary or auditorium are not equipped with fixed seats, benches, or pews, the parking requirement for those portions is one space for each 28 square feet of floor area.

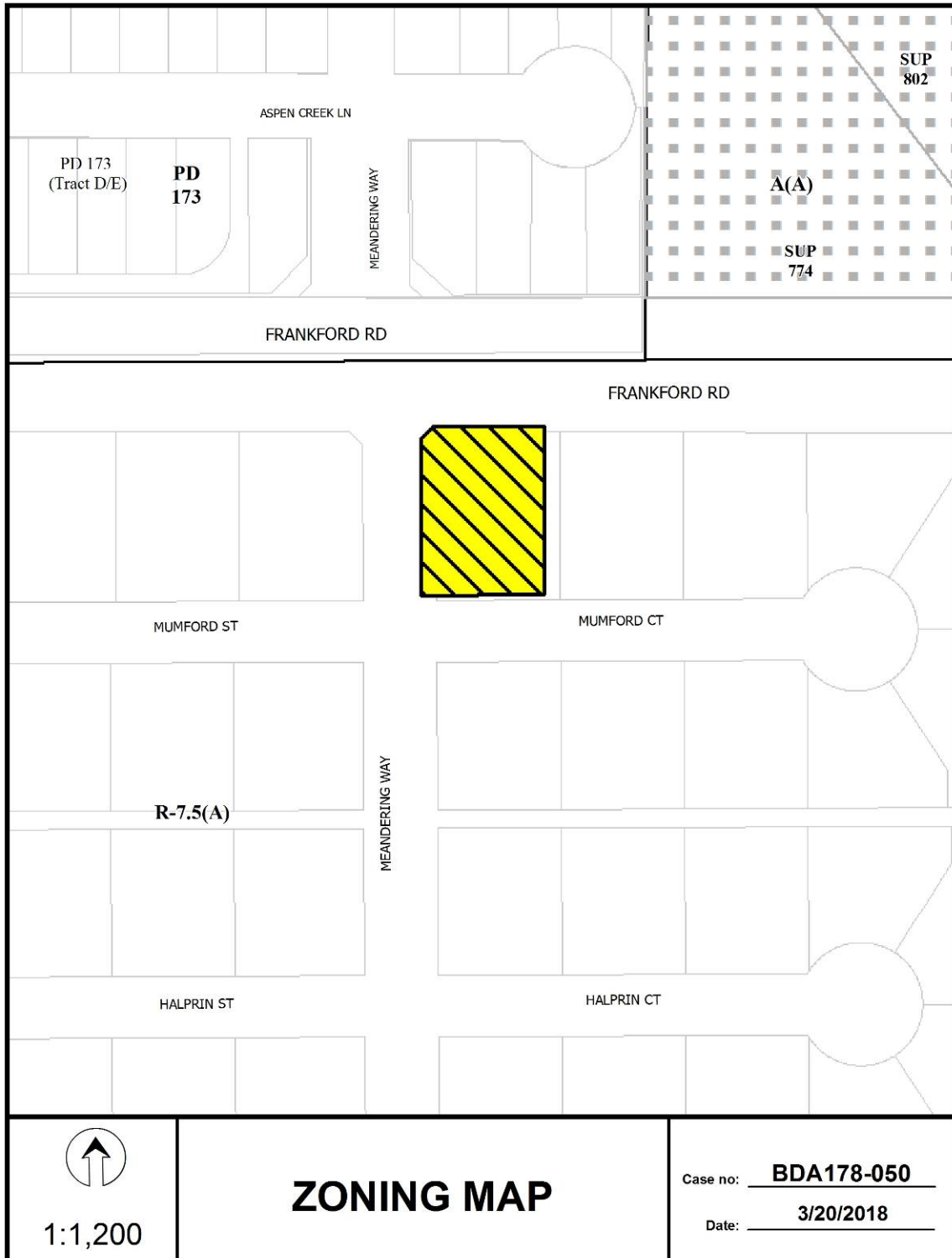
- Definitions. For purposes of this subsection, “remote parking” means required off-street parking provided on a lot not occupied by the main use. “Shared parking” means the use of the same off-street parking stall to satisfy the off-street parking requirements for two or more uses.
- Reconciliation with Divisions 51A-4.300 et seq. Except as otherwise expressly provided in this subsection, the off-street parking regulations in Divisions 51A-4.300 et seq. apply to this use. In the event of a conflict between this subsection and Divisions 51A-4.300 et seq., this subsection controls.
- Remote and shared parking. A church may use remote and/or shared parking to satisfy up to 50 percent of its off-street parking requirement, provided that the remote and/or shared parking is on a lot that is:
  - (aa) dedicated to parking use by an instrument filed with the building official and approved by the city attorney’s office;
  - (bb) located in a non-residential district; and
  - (cc) located within 600 feet (including streets and alleys) of the lot occupied by the church. The distance measured is the shortest distance between the lots.
- Distance extension with shuttle service. A remote parking lot for a church may be located up to one and one-half miles (including streets and alleys) from the lot occupied by the church if a shuttle service is provided to transport persons between the church and the remote parking lot. The shuttle service route must be approved by the traffic engineer.
- Remote parking agreement. An agreement authorizing a church to use remote parking may be based on a lease of the remote parking spaces if:
  - (aa) the lease is for a minimum term of three years; and
  - (bb) the agreement provides that both the owner of the lot occupied by the church and the owner of the remote lot shall notify the city of Dallas in writing if there is a breach of any provision of the lease, or if the lease is modified or terminated.
- A site plan and floor plans have been submitted with this application. The application and Building Officials’ Report both state that a 50 percent variance is made where the applicant proposes to provide 6 of the required 12 off-street parking spaces.
- According to a document submitted with the application, the 6 off-street parking spaces to be provided in this case is through a shared parking agreement signed by both parties “but still needs the appropriate signatures from the City of Dallas”.
- The applicant must seek this parking reduction request as a variance since the maximum reduction authorized by this code for a special exception to off-street parking regulations is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A).
- According to Collin CAD records, the “total improvement main area” for property addressed at 7103 Mumford Court is a “residential” improvement with 3,572 square feet constructed in 1986.
- The subject site is flat, rectangular in shape, and (according to the application) is 0.29 acres (or approximately 12,500 square feet) in area. The site is zoned R-7.5(A) where most lots in this zoning district are 7,500 square feet in area.

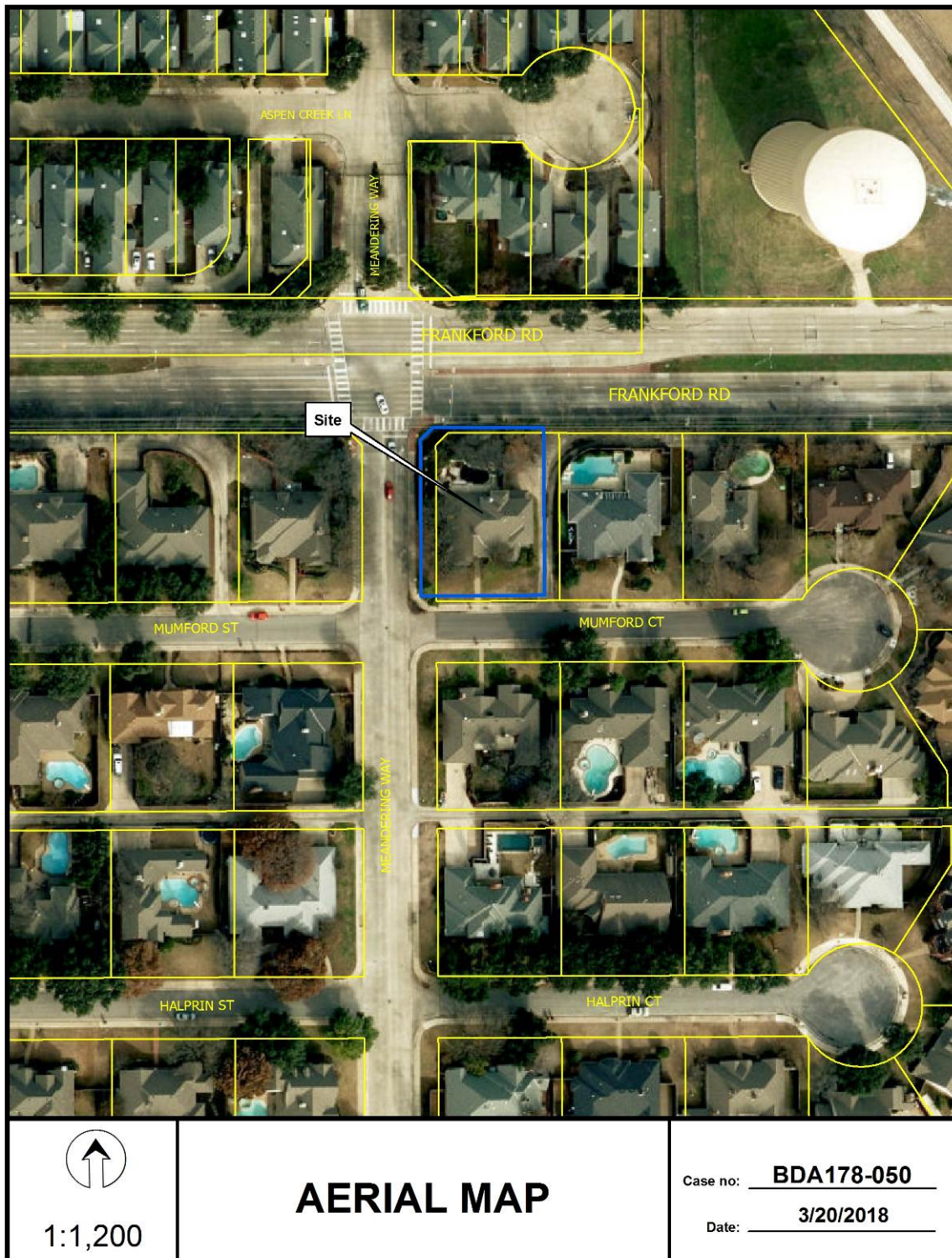
- The site has two front yard setbacks and two side yard setbacks. Most lots in this zoning district have one front yard setback, one rear yard setback, and two side yard setbacks.
- On April 4, 2018, the Sustainable Development Department Senior Engineer submitted a review comment sheet marked “Recommends denial”.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
  - If the Board were to grant the variance, it would not be to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant this request for a variance to the off-street parking regulations of 6 spaces, the applicant would be meeting one aspect of obtaining a Certificate of Occupancy for a church use on the subject site.

**Timeline:**

- February 26, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- March 13, 2018: 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”.

- March 13, 2018: The Board Administrator emailed the applicant's representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the March 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and April 6<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- March 29, 2018: The applicant's representative submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).
- April 3, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- April 4, 2018: The Sustainable Development Department Senior Engineer submitted a review comment sheet marked "Recommends denial".
- April 6, 2018: The applicant's representative submitted additional documentation to staff (see Attachment B). Note that this information was not factored into the staff recommendation since it was submitted after the April 3<sup>rd</sup> staff review team meeting.





1:1,200

# AERIAL MAP

Case no: BDA178-050

Date: 3/20/2018



**Long, Steve**

**From:** Schmidt, Grant K. <GSchmidt@winston.com>  
**Sent:** Wednesday, March 28, 2018 1:01 PM  
**To:** Long, Steve  
**Cc:** Trammell, Charles; Nevarez, David; Aguilera, Oscar E; Dean, Neva; Cossum, David T; Monkhouse, Kristen; Gilbert, Andrew; Kay, Kiesha; Wimer, Megan; Walker, Chad B.; Chelsey Youman; Lathan Watts  
**Subject:** RE: BDA178-050, Property at 7103 Mumford Court

Mr. Long – last note for the staff. The below supplemental language will be for Section 4 of the letter (not Section 5).

Thank you very much for your consideration,  
 Grant

**Grant K. Schmidt**

Winston &amp; Strawn LLP

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M: +1 214-507-5042

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**WINSTON  
 & STRAWN**  
 LLP

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**From:** Schmidt, Grant K.  
**Sent:** Wednesday, March 28, 2018 1:00 PM  
**To:** 'Long, Steve' <steve.long@dallascityhall.com>  
**Cc:** 'Trammell, Charles' <charles.trammell@dallascityhall.com>; 'Nevarez, David' <david.nevarez@dallascityhall.com>; 'Aguilera, Oscar E' <oscar.aguilera@dallascityhall.com>; 'Dean, Neva' <neva.dean@dallascityhall.com>; 'Cossum, David T' <david.cossum@dallascityhall.com>; 'Monkhouse, Kristen' <kristen.monkhouse@dallascityhall.com>; 'Gilbert, Andrew' <andrew.gilbert@dallascityhall.com>; 'Kay, Kiesha' <kiesha.kay@dallascityhall.com>; 'Wimer, Megan' <megan.wimer@dallascityhall.com>; Walker, Chad B. <CBWalker@winston.com>; 'Chelsey Youman' <cyouman@firstliberty.org>; 'Lathan Watts' <LWatts@firstliberty.org>  
**Subject:** RE: BDA178-050, Property at 7103 Mumford Court

Mr. Long – one more addition. We would like the below language to be considered in regards to Section 5 of our letter (regarding the applicable federal and state legal requirements):

The Religious Freedom Restoration Act (“RFRA”), the Texas Religious Freedom Restoration Act (“TRFRA”), the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), and the First Amendment of the U.S. and Texas Constitutions require the Board to grant CTC’s variance if the Board grants variances under similar circumstances for any non-religious uses. The Board has previously noted that their consideration of this variance application “has nothing to do with religion.” The Board’s intent, however, is irrelevant to the question whether the law has been violated.



First, unequal governmental regulation of this sort, where religious institutions are singled out or disfavored compared with secular institutions, violates federal and state statutes. Regardless of intent, the Board must treat religious uses as favorably as it would treat any other non-religious use. Specifically, RLUIPA, 42 U.S.C. § 2000cc et seq., prohibits governments from imposing a land use regulation “that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution,” 42 U.S.C. § 2000cc(b)(1), or “that discriminates against any assembly or institution on the basis of religion or religious denomination,” § 2000cc(b)(2). Where the differential treatment cannot be justified by any compelling regulatory purpose or zoning criterion, it is unlawful. In other words, the law requires not only that religious uses are not discriminated against, but that if this Board would grant the variance for a non-religious use (e.g., for historical concerns), it must also grant them for this religious use. *Id.* at § 2000cc(b)(1). In this manner, the law mandates religious accommodation in society, not mere tolerance.

Second, in addition to requiring governments to regulate churches on an even-handed basis, RLUIPA, and the First Amendment of the U.S. and Texas Constitutions protect religious assemblies from suffering “a substantial burden on [their] religious exercise,” unless such a burden is narrowly tailored to serve a compelling governmental interest. *Id.* at § 2000cc(a)(1); Tex. Civ. Prac. & Rem. Code § 110. 001 et seq. TRFRA provides the same under Texas law, prohibiting the government from “substantially burden[ing] a person’s free exercise of religion,” unless doing so “is in furtherance of a compelling governmental interest; and is the least restrictive means of furthering that interest.” *Id.* at § 110. 003.

If the Board exercises its authority to deny CTC’s parking variance application, it would prevent CTC members from worshipping and from attending CTC on the Sabbath and other religious events throughout the week. Further, this outcome would result in individuals moving because, according to their sincerely held religious beliefs, they must worship within a certain geographic distance of their homes. A literal enforcement of the parking requirements would severely and substantially burden CTC, violating the previously cited constitutions and statutory provisions, including RLUIPA and TRFRA.

It is imperative that the Board understand it must grant religious use this favored status, regardless of the Board’s sincere intentions not to discriminate against religious uses. As the Supreme Court held, “[the Constitution] affirmatively mandates accommodation, not merely tolerance, of all religions, and forbids hostility toward any.” *Lynch v. Donnelly*, 465 U.S. 668, 673 (1984); see, e. g., *Zorach v. Clauson*, 343 U.S. 306, 314, 315 (1952); *Illinois ex rel. McCollum v. Board of Education*, 333 U.S. 203, 211 (1948).

Respectfully,  
Grant Schmidt

**Grant K. Schmidt**

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**WINSTON  
& STRAWN**  
LLP

BDA178-050 Attach A ps 3

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**From:** Schmidt, Grant K.

**Sent:** Wednesday, March 28, 2018 12:57 PM

**To:** 'Long, Steve' <[steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com)>

**Cc:** Trammell, Charles <[charles.trammell@dallascityhall.com](mailto:charles.trammell@dallascityhall.com)>; Nevarez, David <[david.nevarez@dallascityhall.com](mailto:david.nevarez@dallascityhall.com)>; Aguilera, Oscar E <[oscar.aguilera@dallascityhall.com](mailto:oscar.aguilera@dallascityhall.com)>; Dean, Neva <[neva.dean@dallascityhall.com](mailto:neva.dean@dallascityhall.com)>; Cossum, David T <[david.cossum@dallascityhall.com](mailto:david.cossum@dallascityhall.com)>; Monkhouse, Kristen <[kristen.monkhouse@dallascityhall.com](mailto:kristen.monkhouse@dallascityhall.com)>; Gilbert, Andrew <[andrew.gilbert@dallascityhall.com](mailto:andrew.gilbert@dallascityhall.com)>; Kay, Kiesha <[kiesha.kay@dallascityhall.com](mailto:kiesha.kay@dallascityhall.com)>; Wimer, Megan <[megan.wimer@dallascityhall.com](mailto:megan.wimer@dallascityhall.com)>; Walker, Chad B. <[CBWalker@winston.com](mailto:CBWalker@winston.com)>; 'Chelsey Youman' <[cyouman@firstliberty.org](mailto:cyouman@firstliberty.org)>; Lathan Watts <[LWatts@firstliberty.org](mailto:LWatts@firstliberty.org)>

**Subject:** RE: BDA178-050, Property at 7103 Mumford Court

Mr. Long –

On behalf of CTC and Rabbi Rich, attached is a letter for the Staff's consideration at its upcoming team meeting. Please let us know if we can provide any additional information.

Respectfully,  
Grant Schmidt

**Grant K. Schmidt**

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**WINSTON  
& STRAWN**  
LLP

---

**From:** Long, Steve [<mailto:steve.long@dallascityhall.com>]

**Sent:** Tuesday, March 13, 2018 12:45 PM

**To:** Schmidt, Grant K. <[GSchmidt@winston.com](mailto:GSchmidt@winston.com)>

**Cc:** Trammell, Charles <[charles.trammell@dallascityhall.com](mailto:charles.trammell@dallascityhall.com)>; Nevarez, David <[david.nevarez@dallascityhall.com](mailto:david.nevarez@dallascityhall.com)>; Aguilera, Oscar E <[oscar.aguilera@dallascityhall.com](mailto:oscar.aguilera@dallascityhall.com)>; Dean, Neva <[neva.dean@dallascityhall.com](mailto:neva.dean@dallascityhall.com)>; Cossum, David T <[david.cossum@dallascityhall.com](mailto:david.cossum@dallascityhall.com)>; Monkhouse, Kristen <[kristen.monkhouse@dallascityhall.com](mailto:kristen.monkhouse@dallascityhall.com)>; Gilbert, Andrew <[andrew.gilbert@dallascityhall.com](mailto:andrew.gilbert@dallascityhall.com)>; Kay, Kiesha <[kiesha.kay@dallascityhall.com](mailto:kiesha.kay@dallascityhall.com)>; Wimer, Megan <[megan.wimer@dallascityhall.com](mailto:megan.wimer@dallascityhall.com)>

**Subject:** BDA178-050, Property at 7103 Mumford Court

Dear Mr. Schmidt,

Here is information regarding the board of adjustment application referenced above that you are representing for Rabbi Yaakov Rich:

1. The submitted application materials - all of which will be emailed to you, city staff, and the board members in a docket report about a week ahead of your tentatively scheduled April 17<sup>th</sup> Board of Adjustment Panel A public hearing.
2. The provision from the Dallas Development Code allowing the board to consider a *variance* to the off-street parking regulations (51A-3.102(d)(10)).
3. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board.
4. The board's rule pertaining to documentary evidence.

Please carefully review the attached application materials to make sure they are complete, and within these materials, the Building Official's Report/second page of the application (page 2 of 11 in these attached materials). Please contact Charles Trammell at 214/948-4618 or [charles.trammell@dallascityhall.com](mailto:charles.trammell@dallascityhall.com) no later than noon, Wednesday, March 28<sup>th</sup> with regard to any information you feel is missing from your submittal or with regard to any amendment that you feel is necessary to address the issue at hand, specifically if for any reason you feel that the statement in his Building Official's report stating that the applicant proposes to construct/maintain a structure with a church use and provide a 6 of the required 12 off-street parking spaces which will require a 6 space *variance*\* to the off-street parking regulations, or any other part of this report is incorrect. (Note that the discovery of any additional appeal needed beyond your requested off-street parking *variance* will result in postponement of the appeal until the panel's next regularly scheduled public hearing).

Please be advised that you may want to contact David Nevarez, City of Dallas Sustainable Development Department Senior Engineering at 214/671-5115 or [david.nevarez@dallascityhall.com](mailto:david.nevarez@dallascityhall.com) to determine if there is any additional information that he may need from you in making a favorable recommendation to the board on your request.

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

Thank you,

Steve

\* Note that the request to the board in BDA178-050 is for a VARIANCE to the off-street parking regulations, and that the reference in the Building Official's report (page 2 in the attached application materials) as a special exception is only made due to the data base not allowing staff to populate the request as such.

PS: If there is anything that you want to submit to the board beyond what you have included in your attached application materials, please feel free to email it to [steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com) or mail it to me at the following address by the deadlines attached in this email:



**Steve Long**  
 Board of Adjustment Chief Planner  
 City of Dallas | [www.dallascityhall.com](http://www.dallascityhall.com)  
 Current Planning Division  
 Sustainable Development and Construction  
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 O: 214-670-4666  
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BDA178-050

Attach A

P55

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BDA178-050  
Attach A

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GRANT SCHMIDT  
Associate  
214-453-6469  
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March 28, 2018

Steve Long  
Administrator – Board of Adjustment  
City Hall  
1500 Marilla St., 5BN  
Dallas, TX 75201

Re: Board of Adjustment – Congregation Toras Chaim – Parking Variance (BDA178-050)

Dear Steve:

On behalf of Congregation Toras Chaim (“CTC”) and Rabbi Rich, I respectfully write this letter to the Board so that it may be considered at the upcoming staff team meeting.

CTC is a small Orthodox Jewish congregation that meets at 7103 Mumford Court, Dallas, TX 75252 (the “Property”), where about twenty-five neighborhood congregants walk to gather for worship on Saturdays, and a smaller number of congregants gather throughout the week. CTC is currently in the process of obtaining a Certificate of Occupancy (for purposes of its religious use), and the last requirement it must meet for purposes of obtaining a Certificate of Occupancy is the required number of off-street parking spaces.

Since the last Board hearing, and at the Board’s urging, CTC has executed a shared parking agreement that counts for half of the required 12 spaces. CTC has also redoubled its efforts to *eliminate* on-street parking on Saturdays, the primary concern expressed by neighbors at the previous hearing. CTC took this step not because it was required to do so, but because it is going above and beyond what is required to accommodate any concerns of neighbors. During the week, CTC is also utilizing the shared parking spaces to reduce the number of on-street cars. The Board should grant this application because: (1) CTC meets all the requirements under the variance standard; (2) religious liberty statutes require that this Board grant CTC the most favorable treatment that it would grant for any *non*-religious use; and (3) granting the variance will benefit the neighborhood and the public interest.

### I. Procedural History

CTC previously filed an application for a variance with the Board of Adjustment in February 2017. In that application, CTC requested a reduction of twenty-seven (27) required parking spaces, because that was the number of required spaces it understood the City was requiring at that time. CTC presented its variance application to the Board in June 2017. At the June 2017 hearing, the Board recommended that CTC work with the City to submit the appropriate permitting applications which might ultimately impact the number of required spaces. CTC and the City subsequently continued their discussions and worked collaboratively to reduce the number of required spaces. At the August 2017 hearing, CTC obtained a continuance so that

it could await the permitting decisions of the City. The Board of Adjustment granted CTC's request for continuance and set the next hearing for October 2017.

At the October 2017 hearing, CTC updated the Board of Adjustment regarding the facts that: (1) CTC recently received feedback from city officials David Session and Ann Hamilton that its permit application should be approved shortly and that the number of required spaces is twelve (12); and (2) CTC was continuing to pursue a remote shared parking agreement with the Torah Day School ("TDS"). CTC explained that since the walking distance between TDS and CTC is beyond 600 feet (but less than the codified maximum), the remote shared parking agreement with CTC can satisfy fifty percent (50%) of CTC's required spaces. In other words, the remote shared parking agreement with TDS can cover 6 of CTC's required 12 spaces. At the hearing, the Board explained that it was not inclined to grant a variance without an executed Shared Parking Agreement. Unfortunately at that time, CTC was still finalizing logistical and legal details with TDS, and the Shared Parking Agreement was not yet executed. Thus, the Board explained that it was going to deny CTC's request for variance *without prejudice* and encouraged CTC to re-submit its variance application once a shared parking agreement was executed.

The shared parking agreement has since been executed between CTC and TDS, and CTC accordingly submits this variance application for the Board's review.

**II. Shared Parking Agreement**

The number of required off-street parking spaces CTC must provide is twelve (12). After a significant amount of work by both parties, CTC and TDS have executed a shared parking agreement for twelve (12) spaces. *See Remote/Shared Parking Agreement*, attached hereto as Exhibit A. As stated above, CTC may only count the shared parking agreement to cover 50% of its required spaces. Therefore, even though the Shared Parking Agreement is for 12 spaces (and 12 spaces may be actually used), it may only account for 6 of CTC's required 12 spaces.<sup>1</sup> Accordingly, CTC seeks a variance on the remaining six (6) spaces.

The Shared Parking Agreement was executed in February 2018. Since the execution of the agreement, CTC has parked cars at the TDS property in an effort to alleviate any of the neighborhood's concerns. Counsel for CTC has taken numerous photos of the Property, demonstrating CTC's compliance with all parking requirements surrounding their home. *See Photos of the Property* (October 21, 2017, November 29, 2017, November 30, 2017, January 20, 2018, January 27, 2018, February 17, 2018, March 8, 2018, and March 26, 2018), attached hereto as Exhibit B. In particular, the major concern expressed by neighbors at the prior hearing was cars parked on the street on Saturdays, CTC's Sabbath day. In an effort to address this concern, CTC has been diligently enforcing a requirement that *no* congregants park on the street on Saturdays, even though on-street parking would be proper (provided it does not violate other requirements). The attached photos demonstrate CTC's efforts to go above and beyond what it is required to do to alleviate the concerns of neighbors concerning on-street parking on Saturdays, the only day when all CTC congregants generally gather for worship. Additionally, the photos also demonstrate that, just as any other neighborhood, there are cars (belonging to other neighbors, not CTC) parked on the street that would pose the same concern referenced by some neighbors.

---

<sup>1</sup> Ann Hamilton, Senior Plans Examiner for the City of Dallas, explained that she would need to wait for the variance approval before the City would formally sign off on the parking agreement.

### III. Variance Standard

CTC seeks a variance because the restrictive area, shape, and slope prevents CTC from developing the land in a manner commensurate with the development upon other parcels of land in the district with the same zoning classification.

As the Board is very familiar, it has the power to grant variances related to off-street parking as long as: (1) the variance is not contrary to the public interest when a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done; (2) the variance is necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and (3) the variance is not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

#### A. Factor #1

As to factor #1, a variance in this instance is not contrary to the public interest as this issue operates at the core of what it means to live under the Constitution in the United States. We should all be able to practice our faith in our private homes. Many individuals in this neighborhood rely on this location for worship. In fact, if this variance is denied and the individuals are not allowed to worship at this location, they would be forced to move because they have to worship within a certain geographic distance of their homes. A literal enforcement of the parking requirements would result in unnecessary hardship for CTC, and it is never in the public interest to violate religious liberty rights. *See Opulent Life Church v. City of Holly Springs Miss.*, 697 F.3d 279 (5th Cir. 2012).

Additionally, CTC's parking practices not only pose no safety risks for the neighborhood, they go above and beyond what is allowable even for other citizens by parking no cars on the street on Saturdays, the day when the most CTC congregants gather. At least one staff member previously expressed concern with the fact that if the variance is granted, CTC would not have a least two-off-street parking spaces. With the shard parking agreement, however, this concern is vitiated because CTC now has 12 available off-street parking spaces (6 of which are counted for the requirement), in addition to other spaces in the back that do not count towards the total required spaces. Thus, factor one militates in favor of a variance.

#### B. Factor #2

As to factor #2, if the parking variance is granted, the property will be developed in a manner that is commensurate with the development of parcels of land with the same zoning because religious use (even in this residential zone) is allowed as a matter of right. 7103 Mumford Court is in the City of Dallas' R-7.5(A) zoning district (which is a single-family residential district). In Section 51A-4.204(4) of the Dallas City Code, the City states that a church ("a facility principally used for people to gather together for public worship, religious training, or other religious activities") is permitted "by right in all residential and nonresidential districts except the P(A) district."

This factor essentially poses the question: is the land so unique that you cannot develop or use it for a proper purpose? We know that religious use is a proper purpose. So the question becomes whether the land is so unique that it cannot be developed for that proper purpose. The answer to that question is yes given (1) the two front yards, (2) the HOA brick walls on both sides of the home, and (3) the location of the home on the alley preventing any parking spaces behind the home from being included in the number of proper spaces given screening requirements. Thus, factor 2 militates in favor of a variance.

### C. Factor #3

As to factor #3, this variance would not relieve a self-created or personal hardship. The need to worship is never a self-created hardship given that religious use is proper as a matter of right. Some may make the following argument: "You want to use this space for religious use. You knew this wasn't the best place for it given the parking arrangement. Therefore, it's a self-created hardship." That is not the standard, and courts have rejected that argument. A self-created hardship requires an affirmative action by the landowner that brings an otherwise conforming property into non-conformity. This principle is illustrated by a Texas appellate case where an individual purchased a property on a pie-shaped lot. When he bought the property, he knew that he wanted to build a tennis court on it and that the property was not ideally suited for a tennis court. He sought a variance. The court found that the variance was proper because the individual had not committed an affirmative action that brought an otherwise conforming property into non-conformity. *See Currey v. Kimple*, 577 S.W.2d 508 (Tex. Civ. App – Dallas, 1978). Thus, factor 3 militates in favor of a variance.

## IV. Applicable Federal Law Requirements

The Religious Freedom Restoration Act ("RFRA") and the Religious Land Use and Institutionalized Persons Act ("RLUIPA") require granting CTC's variance if the Board had granted a variance under similar circumstances to any non-religious use. The Board has previously noted that their consideration of this variance application "has nothing to do with religion." The Board's intent, however, is irrelevant to the question of whether the law has been violated. The Board must treat religious uses as favorably as it would treat *any other non-religious use*. In other words, the law requires not only that religious uses are not discriminated against, but that if this Board would grant the variance for a *non-religious use* (e.g., for historical concerns), it must also grant them for this religious use. It is imperative that the Board understands it must grant religious use this favored status, regardless of the Board's sincere intentions not to discriminate against religious uses.

## V. CTC's Positive Impact on the Neighborhood

CTC's members care deeply about their neighborhood. They live in community with each other and their neighbors, and, given that this neighborhood is the home to their place of worship, they have tremendous respect for those around them. While some neighbors might not want a religious use to be present in their neighborhood, CTC is allowed to pursue a religious use as a matter of right (as explained above), as required by both local zoning ordinances and by the religious liberty statutes discussed above.

As the Board is aware, several individuals have submitted letters for consideration. The letters present several arguments that do not comport with the reality of CTC's situation and do not bear on the variance standard. Additionally, these individuals only represent a small subset of the neighbors living near CTC.



CTC is a small Orthodox Jewish congregation. To say that CTC poses any type of safety concern flies in the face of reality. The only alleged safety concern set forth by some of the individuals relates to parking; however, members of CTC are prohibited from driving on the Sabbath and must therefore *walk* to worship. Cars were at previous times driven to CTC on Fridays and left on the street during Saturdays, but that is no longer the case, as the attached evidence demonstrates. *See* Exhibit B. During the week, some members arrive in the morning or evening to worship (similar to, for example, a nanny, babysitter, friend, or family member stopping by to visit, or numerous bible study or small groups that meet throughout the City each week). CTC has attached pictures demonstrating its compliance with parking requirements.

It is important to note that the Highlands of McKamy Homeowners Association (the authors of some of the letters) previously brought a lawsuit against Congregation Toras Chaim alleging the same concerns cited in their letters. When asked to offer examples of the alleged safety concerns, neighbors cited, for example: (1) the barking of their two Labrador retrievers when the dogs see members of CTC and therefore the waking up of the neighbor's twin seventeen year olds; (2) "a young lady trying to push a baby carriage across the street that I had to stop and let her go;" and (3) a blind man who was crossing the street to worship. The Court dismissed this lawsuit, finding that the Texas Religious Freedom Restoration Act and the Religious Land use and Institutionalized Persons Act protected CTC from the HOA's deed restrictions. CTC poses no safety concerns to its neighborhood and community.

If one were to drive down Mumford Court, CTC (7103 Mumford Court) appears to be an attractive, nicely landscaped, and well-maintained residence, like any other on the street. Despite its limited resources, CTC congregants spend substantial resources and time to maintain the exterior appearance of the residence in a way that will benefit the overall appearance of the neighborhood and home values. If, however, the variance is denied, CTC might be forced to pursue a parking lot and screening arrangement so that it can meet the off-street parking requirements. This outcome would harm, rather than help, the appearance of the neighborhood and attendant home values.

There is no evidence that CTC's presence in the neighborhood has negatively impacted home values. In fact, there are several neighbors who often seek to locate closer to places of worship so that they can have a place to walk to on the Sabbath.

## VI. Fee Reimbursement

CTC intends to seek a fee reimbursement as the filing fee has resulted in a substantial financial hardship for CTC. CTC is a non-profit religious organization. CTC generates no profit, and any money that CTC spends must come from donations or fundraising efforts. Furthermore, the application fee constitutes a significant percentage of CTC's monthly operating expenses, and it already struggles to meet those obligations, often failing to pay the salary of its one full-time employee, Rabbi Rich. If the Staff and Board deem it appropriate, CTC would respectfully request the opportunity to pursue a fee reimbursement at the appropriate time.

## VII. Conclusion

In conclusion, my client, CTC, simply wishes to maintain its place of worship without having to make significant changes to its property that are not feasible financially and which would harm the neighborhood, not help it.

BDA178-050  
Attachment A

PS 11

WINSTON  
& STRAWN  
LLP

March 28, 2018  
Page 6

CTC brings this application so that it may achieve, through the proper channels, full compliance with the City's requirements and expectations of each property. While some individuals may not like the idea of CTC worshipping at 7103 Mumford Court, there is no doubt that CTC poses no safety risks to its surrounding community members, and, instead, seeks to only benefit the community and neighborhood.

I look forward to meeting with you in April. Please let me know if we can provide any additional information.

Respectfully,



Grant Schmidt

Cc: Andrew Gilbert (Counsel for City of Dallas)  
Kristen Monkhouse (Counsel for City of Dallas)  
Chad B. Walker (Counsel for CTC)  
Chelsey Youman (Counsel for CTC; First Liberty Institute)

BDA178-050  
Attachment A  
PS 12

# Exhibit A

### REMOTE/SHARED PARKING AGREEMENT

(Mutually Exclusive/Compatibly Overlapping Hours)  
(including church uses)

STATE OF TEXAS        )  
                                  ) KNOW ALL PERSONS BY THESE PRESENTS:  
COUNTY OF COLLIN    )

I.

Congregation Toras Chaim, Inc. ("Owner(s) of Tract A") is the owner(s) of the below described property ("Tract A"), which is the recipient of parking spaces:

Street Address 7103 Mumford Court, Dallas, Texas 75252; Property Description: Lot 45, Block 10/8758, Addition Highlands of McKamy #5, Zoning District A, more particularly described in Instrument # 20130610000796820 or Volume \_\_\_\_\_, Page \_\_\_\_\_, in the Deed Records of Collin County, Texas. The below described use(s) ("Use A") is located on Tract A: Church Use. Floor area of Use(s) on Tract A: 3,417 square feet (total); 2,546 (first floor). Total number of off-street parking spaces located on Tract A: \_\_\_\_\_. Number of off-street parking spaces on Tract A provided for Use(s) on Tract A to meet the parking requirement: 0. Days and hours of operation of Use A: Monday through Thursday from: 6:40 am to 7:30 am and from 15 minutes before sunset (ranging from 5:00 pm to 8:20 pm) until 105 minutes after such time. On Friday from 6:40 am to 7:30 am and from 2 hours before sunset to 2 hours after sunset. On Saturday from 8:30 am to 12:00 pm, and from two hours before sunset to two hours after sunset. On Sunday, from 8:00 am to 9:00 am and from 15 minutes before sunset (ranging from 5:00 pm to 8:20 pm) until 105 minutes after such time. Also, all hours encompassed in any Jewish Holiday when synagogue observance takes place.

II.

Torah Day School of Dallas ("Owner(s) of Tract B") is the owner(s) of the below described property ("Tract B"), which is providing the parking spaces:

Street Address 6921 Frankford Road, Dallas, Texas 75252; Property Description: Lot 4, Block 21/8734, Addition Pagenet, Zoning District SUP No. 1505, more particularly described in Instrument # \_\_\_\_\_ or Volume 5345, Page 001435, in the Deed Records of Collin County, Texas. The below described use(s) ("Use B") is located on Tract B: Private School. Floor area of Use(s) on Tract B: 42,264. Total number of off-street parking spaces required for Use(s) on Tract B: 163. Total number of off-street parking spaces located on Tract B: 184. Number of off-street special parking spaces on Tract B to be shared with Use(s) on Tract A: 12. Days and hours of operation of Use B: All hours not specified above for Use A.

III.

In order that all uses governed by this agreement may operate in compliance with the off-street parking regulations in the Dallas Development Code of the Dallas City Code ("Code"), as amended, and derive all the benefits from

such compliance, and for such other good and valuable consideration as Owner A and Owner B have agreed upon, Owner A and Owner B agree that those uses shall share parking spaces pursuant to this agreement.

IV.

Owner A and Owner B agree that Use A and Use B shall share 12 required off-street parking spaces on Tract B to comply with the Code. Owner A and Owner B agree that Use A and Use B shall maintain mutually exclusive or compatibly overlapping hours of operation. The walking distance between Tract A and Tract B is 847 feet.

V.

Owner(s) of Tract A and Tract B agree to comply with the off-street parking regulations in the Code.

VI.

The location of the off-street parking spaces on Tract B is shown on a site plan that is attached to and made a part of this agreement. The site plan must provide sufficient information to demonstrate compliance with the Code and all other applicable ordinances and regulations of the City of Dallas ("City").

VII.

This agreement may be amended or terminated only upon the filing, in the Deed Records of the county or counties in which Tract A and B are located, of an instrument approved by the building official of the City and approved as to form by the city attorney. The building official shall approve an instrument amending or terminating this agreement if:

- (1) all uses providing parking and all uses on the property for which parking is provided under this agreement fully comply with the off-street parking regulations in the Code, as amended, by a means other than this parking agreement; or
- (2) all uses on the property for which parking is provided under this agreement cease to operate and terminate their certificates of occupancy.

Owner(s) of Tract A or B shall file the amending or terminating instrument in the Deed Records of the county or counties in which Tract A and Tract B are located at the sole cost and expense of Owner(s) of Tract A or B. After filing the amending or terminating instrument in the Deed Records, Owner(s) of Tract A or B shall file two copies of the instrument with the building official. No amendment or termination of this agreement is effective until the amending or terminating instrument is filed in accordance with this paragraph.

## VIII.

This agreement inures to the benefit of, and is enforceable by, the parties to the agreement and the City. If a use is being operated in violation of this agreement, the building official shall revoke the certificate of occupancy for that use. Owner(s) of Tract A and B acknowledge that the City has the right to enforce this agreement by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against any person violating or attempting to violate this agreement, either to prevent the violation or to require its correction. If the City substantially prevails in a legal proceeding to enforce this agreement against a person, Owner(s) of Tract A and B agree that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs from that person.

## IX.

**OWNER A AND OWNER B AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY FROM AND AGAINST ALL CLAIMS OR LIABILITIES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND THE CITY GRANTING, REVOKING, OR WITHHOLDING A BUILDING PERMIT AND/OR CERTIFICATE OF OCCUPANCY BY REASON OF THIS AGREEMENT.**

## X.

Owner(s) of Tract A and B understand and agree that this agreement shall be governed by the laws of the State of Texas.

## XI.

Prior to the issuance of the building permit and/or certificate of occupancy for Use(s) on Tract A, Owner(s) of Tract A and B shall file this agreement in the Deed Records of the county or counties in which Tracts A and B are located at the sole cost and expense of the Owner of Tract A or B. After filing this agreement in the Deed Records, Owner A or Owner B shall file two copies of this agreement with the building official.

## XII.

Owner(s) of Tract A and B understand and agree that this agreement shall be a covenant running with the land with respect to both Tract A and Tract B, and that this agreement shall fully bind any and all successors, heirs, and assigns of Owner(s) of Tract A or B who acquire any right, title, or interest in or to Tract A or Tract B, or any part of those tracts. Any person who acquires any right, title, or interest in or to Tract A or Tract B, or any part of those tracts, thereby agrees and covenants to abide by and fully perform this agreement.

XIII.

Unless stated otherwise in this agreement, the definitions and provisions of the Dallas Development Code, of the Dallas City Code, as amended, apply and are incorporated into this agreement as if recited in this agreement.

XIV.

In the event that Tract A and Tract B are or ever become owned by the same person or entity, then this person or entity intends this agreement to be construed as a deed restriction, and that the Doctrine of Merger not apply.

XV.

If the building official places any conditions upon the approval of this parking agreement, those conditions shall be attached to and made a part of this agreement. If conditions are placed upon the approval of this agreement, Owner(s) of Tract A and B agree that they shall comply with each condition and understand that a failure to so comply shall constitute a violation of this agreement.

XVI.

Owner(s) of Tract A and B each certify and represent that there are no liens or mortgages, other than liens for ad valorem taxes, against their respective tracts if there are no signatures of lienholders or mortgagees subscribed below.

XVII.

The invalidation of any provision of this agreement by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

XVIII.

The undersigned lienholders/mortgagees consent to the above agreement, as amended, and subordinate its liens to the rights and interests provided under this agreement, such that a foreclosure of the liens do not extinguish the rights and interests provided under this agreement, as amended.

EXECUTED at \_\_\_\_\_, \_\_\_\_\_ County, \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BDA178-050  
Attach A

PS 17

Congregation Toras Chaim, Inc.  
Owner A  
By: Josh Rothstein  
Printed Name: Josh Rothstein  
Title: Secretary

Torah Day School of Dallas  
Owner B  
By: ~~Deon Nathan~~  
Printed Name: Deon Nathan  
Title: CFO/COO

CONSENT TO SUBORDINATION OF LIEN(S), LIENHOLDERS, OR MORTGAGEES:

Legacy Texas Bank  
Tract A Lienholder/Mortgagee  
By: M. Deull  
Printed Name: Matt Deull  
Title: Commercial Banker

Regions Bank  
Tract B Lienholder/Mortgagee  
By: Oscar Davis  
Printed Name: Oscar Davis  
Title: Commercial Banker

APPROVED:

APPROVED AS TO FORM:  
LARRY E. CASTO,  
City Attorney

\_\_\_\_\_  
Building Official  
(or authorized representative)

\_\_\_\_\_  
Assistant City Attorney

ATTACH THE APPROPRIATE ACKNOWLEDGMENTS FOR ALL SIGNATORIES, INCLUDING OWNERS, AND LIENHOLDERS/MORTGAGEES (IF APPLICABLE).



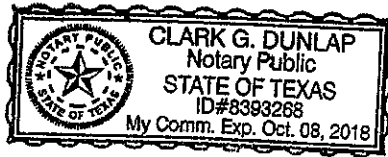
ACKNOWLEDGMENT

THE STATE OF TEXAS        )  
  )  
COUNTY OF Denton        )

This instrument was acknowledged before me on February 7<sup>th</sup>, 2018, by  
February of Congregation Toras Chaim, Inc., on behalf of said entity.

*Clark G. Dunlap*

Notary Public In and For  
Said County and State



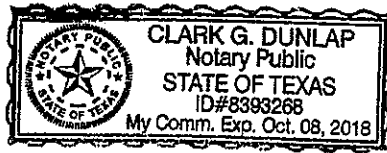
ACKNOWLEDGMENT

THE STATE OF TEXAS        )  
  )  
COUNTY OF Dallas        )

This instrument was acknowledged before me on February 7, 2018, by DEON NATHAN COLE of Torah Day School of Dallas, a Texas non-profit corporation, on behalf of said corporation.

*Clark G. Dunlap*

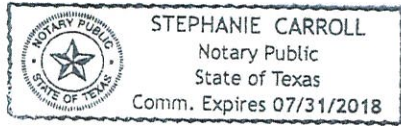
Notary Public In and For  
Said County and State



ACKNOWLEDGMENT

THE STATE OF TEXAS        )  
  )  
COUNTY OF Tarrant        )

This instrument was acknowledged before me on February 5, 2018, by Matt Doull of Legacy Texas Bank on behalf of said bank.



Stephanie Carroll  
Notary Public In and For  
Said County and State

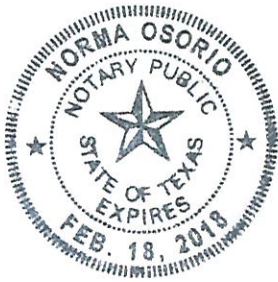
ACKNOWLEDGMENT

THE STATE OF TEXAS            )  
  )  
COUNTY OF Dallas            )

This instrument was acknowledged before me on February 8, 2018, by Oscar  
Davis of Regions Bank on behalf of said bank.

*Norma Osorio*

Notary Public In and For  
Said County and State



BDA178-050  
Attachment A

ps 22

# Exhibit B

# October 21, 2017

BDA178-050  
Attach A

ps 24





BDA178-050  
Attch A

PS 25





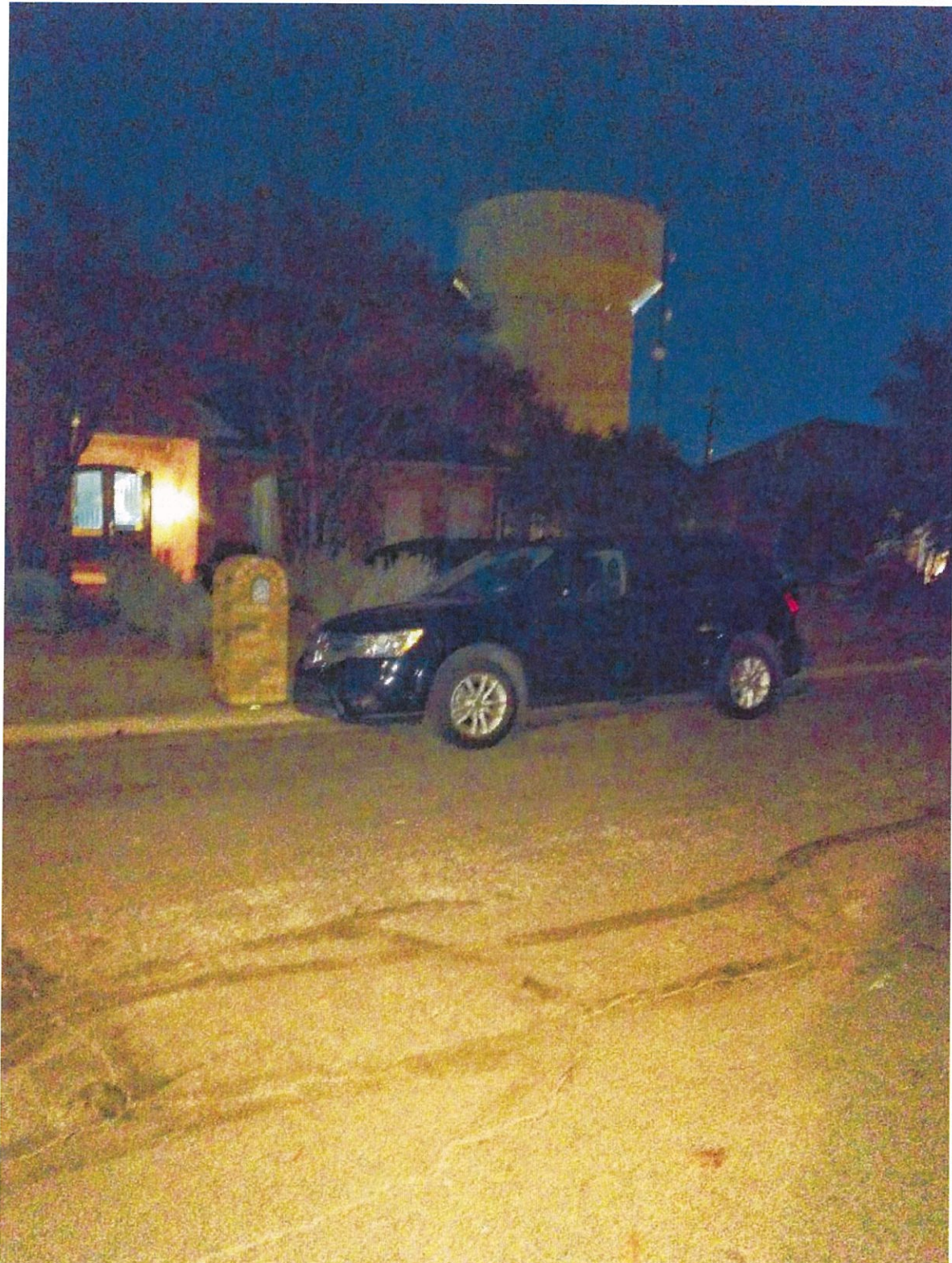
BDA178-050  
Attach A

PS26

# November 29, 2017

BDA178-050  
Attr'n A

PS 27



BDA178-050  
ATTN: A

PS 28

# November 30, 2017





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Attn A

ps 30

# January 20, 2018



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ATTEN A

Pg 31





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ATTEN A

PS 32





BDA178-050  
ATTN: A

ps 33



**(Cars unaffiliated with CTC)**



BDA178-050  
Attach A

PS 34



**(Cars unaffiliated with CTC)**

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Attn: A

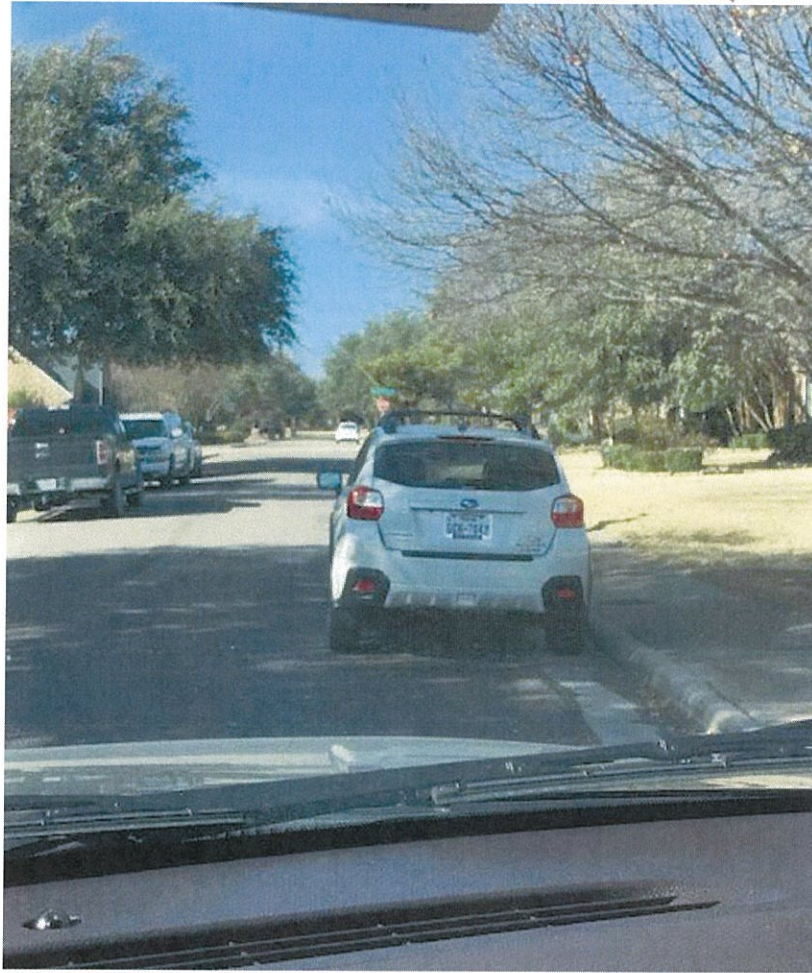
Ps 35





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Atecu A

PS 24



**(Cars unaffiliated with CTC)**

BDA178-050  
Attach A

pg 37



**(Cars unaffiliated with CTC)**



# January 27, 2018



BDA178-050  
Attach A

PS 40





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A Hook A

P 5 41



**(Cars unaffiliated with CTC)**





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Attach A

PS 44

# February 17, 2018

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Attach A

ps 45





BDA178-050  
Attach A

PS 46



**(Cars unaffiliated with CTC)**



**(Cars unaffiliated with CTC)**



BDA178050  
Area A

PS 4B



BDA178-050

Attorn A

ps 49

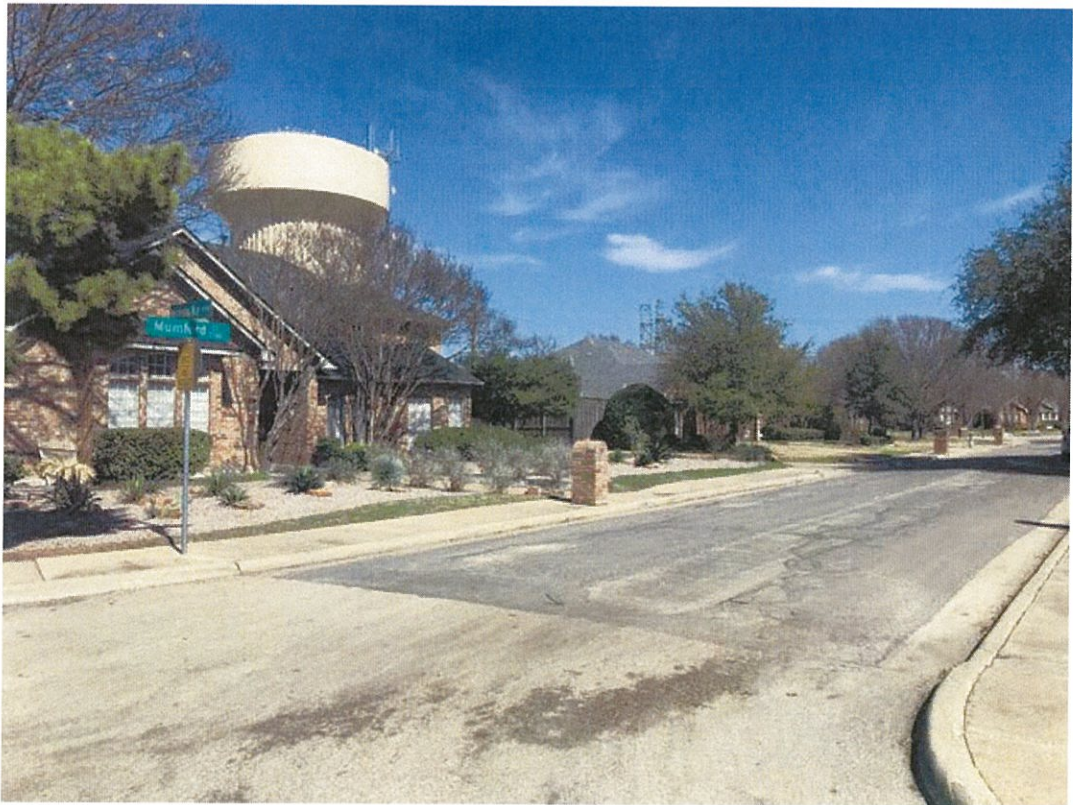




BDA178-090  
Attach A

P350

**March 8, 2018**









BDA-78-050

Atten A

ps 53







**(Cars unaffiliated with CTC)**

**March 26, 2018**



BDA178-050  
Attch A

P556









BDA178-050  
Attach B  
pg 1

**Long, Steve**

---

**From:** Schmidt, Grant K. <GSchmidt@winston.com>  
**Sent:** Friday, April 06, 2018 12:54 PM  
**To:** Long, Steve  
**Cc:** Trammell, Charles; Nevarez, David; Aguilera, Oscar E; Dean, Neva; Cossum, David T; Monkhouse, Kristen; Gilbert, Andrew; Kay, Kiesha; Wimer, Megan; Walker, Chad B.; Chelsey Youman; Lathan Watts  
**Subject:** RE: BDA178-050, Property at 7103 Mumford Court  
**Attachments:** 2018-04-05 - Rabbi Rich Ltr to Board.pdf; 2018-04-06 Letter to Board of Adjustment - FINAL.pdf; City of Dallas - Remote-Shared Parking Agreement.pdf; 2018-04-06 CTC Presentation to BOA - FINAL.pdf

Mr. Long –

On behalf of CTC and Rabbi Rich, attached are (1) a letter from me to the Board; (2) a letter from Rabbi Rich to the Board; (3) a copy of our Shared Parking Agreement; and (4) a set of slides CTC plans to present to the Board at the April 17 hearing. We would like for this information to be included on the Board's docket.

Please let us know if we can provide any additional information.

Respectfully,  
Grant Schmidt

**Grant K. Schmidt**

Winston & Strawn LLP

D: +1 214-453-6469

M: +1 214-507-5042

winston.com

**WINSTON  
& STRAWN  
LLP**

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**From:** Long, Steve [<mailto:steve.long@dallascityhall.com>]  
**Sent:** Tuesday, March 13, 2018 12:45 PM  
**To:** Schmidt, Grant K. <[GSchmidt@winston.com](mailto:GSchmidt@winston.com)>  
**Cc:** Trammell, Charles <[charles.trammell@dallascityhall.com](mailto:charles.trammell@dallascityhall.com)>; Nevarez, David <[david.nevarez@dallascityhall.com](mailto:david.nevarez@dallascityhall.com)>; Aguilera, Oscar E <[oscar.aguilera@dallascityhall.com](mailto:oscar.aguilera@dallascityhall.com)>; Dean, Neva <[neva.dean@dallascityhall.com](mailto:neva.dean@dallascityhall.com)>; Cossum, David T <[david.cossum@dallascityhall.com](mailto:david.cossum@dallascityhall.com)>; Monkhouse, Kristen <[kristen.monkhouse@dallascityhall.com](mailto:kristen.monkhouse@dallascityhall.com)>; Gilbert, Andrew <[andrew.gilbert@dallascityhall.com](mailto:andrew.gilbert@dallascityhall.com)>; Kay, Kiesha <[kiesha.kay@dallascityhall.com](mailto:kiesha.kay@dallascityhall.com)>; Wimer, Megan <[megan.wimer@dallascityhall.com](mailto:megan.wimer@dallascityhall.com)>  
**Subject:** BDA178-050, Property at 7103 Mumford Court

Dear Mr. Schmidt,

Here is information regarding the board of adjustment application referenced above that you are representing for Rabbi Yaakov Rich:

1. The submitted application materials - all of which will be emailed to you, city staff, and the board members in a docket report about a week ahead of your tentatively scheduled April 17<sup>th</sup> Board of Adjustment Panel A public hearing.
2. The provision from the Dallas Development Code allowing the board to consider a *variance* to the off-street parking regulations (51A-3.102(d)(10)).
3. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board.
4. The board's rule pertaining to documentary evidence.

Please carefully review the attached application materials to make sure they are complete, and within these materials, the Building Official's Report/second page of the application (page 2 of 11 in these attached materials). Please contact Charles Trammell at 214/948-4618 or [charles.trammell@dallascityhall.com](mailto:charles.trammell@dallascityhall.com) no later than noon, Wednesday, March 28<sup>th</sup> with regard to any information you feel is missing from your submittal or with regard to any amendment that you feel is necessary to address the issue at hand, specifically if for any reason you feel that the statement in his Building Official's report stating that the applicant proposes to construct/maintain a structure with a church use and provide a 6 of the required 12 off-street parking spaces which will require a 6 space *variance*\* to the off-street parking regulations, or any other part of this report is incorrect. (Note that the discovery of any additional appeal needed beyond your requested off-street parking *variance* will result in postponement of the appeal until the panel's next regularly scheduled public hearing).

Please be advised that you may want to contact David Nevarez, City of Dallas Sustainable Development Department Senior Engineering at 214/671-5115 or [david.nevarez@dallascityhall.com](mailto:david.nevarez@dallascityhall.com) to determine if there is any additional information that he may need from you in making a favorable recommendation to the board on your request.

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

Thank you,

Steve

\* Note that the request to the board in BDA178-050 is for a VARIANCE to the off-street parking regulations, and that the reference in the Building Official's report (page 2 in the attached application materials) as a special exception is only made due to the data base not allowing staff to populate the request as such.

PS: If there is anything that you want to submit to the board beyond what you have included in your attached application materials, please feel free to email it to [steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com) or mail it to me at the following address by the deadlines attached in this email:



**Steve Long**  
 Board of Adjustment Chief Planner  
 City of Dallas | [www.dallascityhall.com](http://www.dallascityhall.com)  
 Current Planning Division  
 Sustainable Development and Construction  
 1500 Marilla Street, 5BN  
 Dallas, TX 75201  
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**\*\*OPEN RECORDS NOTICE:** This email and responses may be subject to the Texas Open Records Act and may be disclosed to the public upon request. Please respond accordingly.\*\*

BDA178-050 Attch B

pg 3

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BDA178-050  
Attach B  
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**GRANT SCHMIDT**  
Associate  
214-453-6469  
gschmidt@winston.com

April 6, 2018

Steve Long  
Administrator – Board of Adjustment  
City Hall  
1500 Marilla St., 5BN  
Dallas, TX 75201

Re: Board of Adjustment – Congregation Toras Chaim – Parking Variance (BDA178-050)

Dear Steve:

On behalf of Congregation Toras Chaim (“CTC”) and Rabbi Rich, I respectfully write this letter to the Board so that it may be considered by the Board.

CTC is a small Orthodox Jewish congregation that meets at 7103 Mumford Court, Dallas, TX 75252 (the “Property”), where about twenty-five neighborhood congregants walk to gather for worship on Saturdays, and a smaller number of congregants gather throughout the week. CTC is currently in the process of obtaining a Certificate of Occupancy (for purposes of its religious use), and the last requirement it must meet for purposes of obtaining a Certificate of Occupancy is the required number of off-street parking spaces.

Since the last Board hearing, and at the Board’s urging, CTC has executed a shared parking agreement that counts for half of the required 12 spaces. CTC has also redoubled its efforts to *eliminate* on-street parking on Saturdays, the primary concern expressed by neighbors at the previous hearing. CTC took this step not because it was required to do so, but because it is going above and beyond what is required to accommodate any concerns of neighbors. During the week, CTC is also utilizing the shared parking spaces to reduce the number of on-street cars. The Board should grant this application because: (1) CTC meets all the requirements under the variance standard; (2) religious liberty statutes require that this Board grant CTC the most favorable treatment that it would grant for any *non*-religious use; and (3) granting the variance will benefit the neighborhood and the public interest.

**I. Procedural History**

CTC previously filed an application for a variance with the Board of Adjustment in February 2017. In that application, CTC requested a reduction of twenty-seven (27) required parking spaces, because that was the number of required spaces it understood the City was requiring at that time. CTC presented its variance application to the Board in June 2017. At the June 2017 hearing, the Board recommended that CTC work with the City to submit the appropriate permitting applications which might ultimately impact the number of required spaces. CTC and the City subsequently continued their discussions and worked collaboratively to reduce the number of required spaces. At the August 2017 hearing, CTC obtained a continuance so that

it could await the permitting decisions of the City. The Board of Adjustment granted CTC's request for continuance and set the next hearing for October 2017.

At the October 2017 hearing, CTC updated the Board of Adjustment regarding the facts that: (1) CTC recently received feedback from city officials David Session and Ann Hamilton that its permit application should be approved shortly and that the number of required spaces is twelve (12); and (2) CTC was continuing to pursue a remote shared parking agreement with the Torah Day School ("TDS"). CTC explained that since the walking distance between TDS and CTC is beyond 600 feet (but less than the codified maximum), the remote shared parking agreement with CTC can satisfy fifty percent (50%) of CTC's required spaces. In other words, the remote shared parking agreement with TDS can cover 6 of CTC's required 12 spaces. At the hearing, the Board explained that it was not inclined to grant a variance without an executed Shared Parking Agreement. Unfortunately at that time, CTC was still finalizing logistical and legal details with TDS, and the Shared Parking Agreement was not yet executed. Thus, the Board explained that it was going to deny CTC's request for variance *without prejudice* and encouraged CTC to re-submit its variance application once a shared parking agreement was executed.

The shared parking agreement has since been executed between CTC and TDS, and CTC accordingly submits this variance application for the Board's review.

## II. Shared Parking Agreement

The number of required off-street parking spaces CTC must provide is twelve (12). After a significant amount of work by both parties, CTC and TDS have executed a shared parking agreement for twelve (12) spaces. As stated above, CTC may only count the shared parking agreement to cover 50% of its required spaces. Therefore, even though the Shared Parking Agreement is for 12 spaces (and 12 spaces may be actually used), it may only account for 6 of CTC's required 12 spaces.<sup>1</sup> Accordingly, CTC seeks a variance on the remaining six (6) spaces.

The Shared Parking Agreement was executed in February 2018. Since the execution of the agreement, CTC has parked cars at the TDS property in an effort to alleviate any of the neighborhood's concerns. Counsel for CTC has taken numerous photos of the Property, demonstrating CTC's compliance with all parking requirements surrounding their home, which are included in the presented slides. In particular, the major concern expressed by neighbors at the prior hearing was cars parked on the street on Saturdays, CTC's Sabbath day. In an effort to address this concern, CTC has been diligently enforcing a requirement that *no* congregants park on the street on Saturdays, even though on-street parking would be proper (provided it does not violate other requirements). The attached photos demonstrate CTC's efforts to go above and beyond what it is required to do to alleviate the concerns of neighbors concerning on-street parking on Saturdays, the only day when all CTC congregants generally gather for worship. Additionally, the photos also demonstrate that, just as any other neighborhood, there are cars (belonging to other neighbors, not CTC) parked on the street that would pose the same concern referenced by some neighbors.

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<sup>1</sup> Ann Hamilton, Senior Plans Examiner for the City of Dallas, explained that she would need to wait for the variance approval before the City would formally sign off on the parking agreement.



### III. Variance Standard

CTC seeks a variance because the restrictive area, shape, and slope prevents CTC from developing the land in a manner commensurate with the development upon other parcels of land in the district with the same zoning classification.

As the Board is very familiar, it has the power to grant variances related to off-street parking as long as: (1) the variance is not contrary to the public interest when a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done; (2) the variance is necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and (3) the variance is not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

#### A. Factor #1

As to factor #1, a variance in this instance is not contrary to the public interest as this issue operates at the core of what it means to live under the Constitution in the United States. We should all be able to practice our faith in our private homes. Many individuals in this neighborhood rely on this location for worship. In fact, if this variance is denied and the individuals are not allowed to worship at this location, they would be forced to move because they have to worship within a certain geographic distance of their homes. A literal enforcement of the parking requirements would result in unnecessary hardship for CTC, and it is never in the public interest to violate religious liberty rights. *See Opulent Life Church v. City of Holly Springs Miss.*, 697 F.3d 279 (5th Cir. 2012).

Additionally, CTC's parking practices not only pose no safety risks for the neighborhood, they go above and beyond what is allowable even for other citizens by parking no cars on the street on Saturdays, the day when the most CTC congregants gather. At least one staff member previously expressed concern with the fact that if the variance is granted, CTC would not have a least two-off-street parking spaces. With the shard parking agreement, however, this concern is vitiated because CTC now has 12 available off-street parking spaces (6 of which are counted for the requirement), in addition to other spaces in the back that do not count towards the total required spaces. Thus, factor one militates in favor of a variance.

#### B. Factor #2

As to factor #2, if the parking variance is granted, the property will be developed in a manner that is commensurate with the development of parcels of land with the same zoning because religious use (even in this residential zone) is allowed as a matter of right. 7103 Mumford Court is in the City of Dallas' R-7.5(A) zoning district (which is a single-family residential district). In Section 51A-4.204(4) of the Dallas City Code, the City states that a church ("a facility principally used for people to gather together for public worship, religious training, or other religious activities") is permitted "by right in all residential and nonresidential districts except the P(A) district."

This factor essentially poses the question: is the land so unique that you cannot develop or use it for a proper purpose? We know that religious use is a proper purpose. So the question becomes whether the land is so unique that it cannot be developed for that proper purpose. The answer to that question is yes given (1) the two front yards, (2) the HOA brick walls on both sides of the home, and (3) the location of the home on the alley preventing any parking spaces behind the home from being included in the number of proper spaces given screening requirements. Thus, factor 2 militates in favor of a variance.

### C. Factor #3

As to factor #3, this variance would not relieve a self-created or personal hardship. The need to worship is never a self-created hardship given that religious use is proper as a matter of right. Some may make the following argument: "You want to use this space for religious use. You knew this wasn't the best place for it given the parking arrangement. Therefore, it's a self-created hardship." That is not the standard, and courts have rejected that argument. A self-created hardship requires an affirmative action by the landowner that brings an otherwise conforming property into non-conformity. This principle is illustrated by a Texas appellate case where an individual purchased a property on a pie-shaped lot. When he bought the property, he knew that he wanted to build a tennis court on it and that the property was not ideally suited for a tennis court. He sought a variance. The court found that the variance was proper because the individual had not committed an affirmative action that brought an otherwise conforming property into non-conformity. See *Currey v. Kimple*, 577 S.W.2d 508 (Tex. Civ. App – Dallas, 1978). Thus, factor 3 militates in favor of a variance.

## IV. Applicable Federal Law Requirements

The Religious Freedom Restoration Act ("RFRA") and the Religious Land Use and Institutionalized Persons Act ("RLUIPA") require granting CTC's variance if the Board had granted a variance under similar circumstances to any non-religious use. The Board has previously noted that their consideration of this variance application "has nothing to do with religion." The Board's intent, however, is irrelevant to the question of whether the law has been violated. The Board must treat religious uses as favorably as it would treat *any other non-religious use*. In other words, the law requires not only that religious uses are not discriminated against, but that if this Board would grant the variance for a *non-religious use* (e.g., for historical concerns), it must also grant them for this religious use. It is imperative that the Board understands it must grant religious use this favored status, regardless of the Board's sincere intentions not to discriminate against religious uses.

## V. CTC's Positive Impact on the Neighborhood

CTC's members care deeply about their neighborhood. They live in community with each other and their neighbors, and, given that this neighborhood is the home to their place of worship, they have tremendous respect for those around them. While some neighbors might not want a religious use to be present in their neighborhood, CTC is allowed to pursue a religious use as a matter of right (as explained above), as required by both local zoning ordinances and by the religious liberty statutes discussed above.

As the Board is aware, several individuals have submitted letters for consideration. The letters present several arguments that do not comport with the reality of CTC's situation and do not bear on the variance standard. Additionally, these individuals only represent a small subset of the neighbors living near CTC.

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CTC is a small Orthodox Jewish congregation. To say that CTC poses any type of safety concern flies in the face of reality. The only alleged safety concern set forth by some of the individuals relates to parking; however, members of CTC are prohibited from driving on the Sabbath and must therefore *walk* to worship. Cars were at previous times driven to CTC on Fridays and left on the street during Saturdays, but that is no longer the case, as the attached evidence demonstrates. *See Exhibit B.* During the week, some members arrive in the morning or evening to worship (similar to, for example, a nanny, babysitter, friend, or family member stopping by to visit, or numerous bible study or small groups that meet throughout the City each week). CTC has attached pictures demonstrating its compliance with parking requirements.

It is important to note that the Highlands of McKamy Homeowners Association (the authors of some of the letters) previously brought a lawsuit against Congregation Toras Chaim alleging the same concerns cited in their letters. When asked to offer examples of the alleged safety concerns, neighbors cited, for example: (1) the barking of their two Labrador retrievers when the dogs see members of CTC and therefore the waking up of the neighbor's twin seventeen year olds; (2) "a young lady trying to push a baby carriage across the street that I had to stop and let her go;" and (3) a blind man who was crossing the street to worship. The Court dismissed this lawsuit, finding that the Texas Religious Freedom Restoration Act and the Religious Land use and Institutionalized Persons Act protected CTC from the HOA's deed restrictions. CTC poses no safety concerns to its neighborhood and community.

If one were to drive down Mumford Court, CTC (7103 Mumford Court) appears to be an attractive, nicely landscaped, and well-maintained residence, like any other on the street. Despite its limited resources, CTC congregants spend substantial resources and time to maintain the exterior appearance of the residence in a way that will benefit the overall appearance of the neighborhood and home values. If, however, the variance is denied, CTC might be forced to pursue a parking lot and screening arrangement so that it can meet the off-street parking requirements. This outcome would harm, rather than help, the appearance of the neighborhood and attendant home values.

There is no evidence that CTC's presence in the neighborhood has negatively impacted home values. In fact, there are several neighbors who often seek to locate closer to places of worship so that they can have a place to walk to on the Sabbath.

## VI. Fee Reimbursement

CTC intends to seek a fee reimbursement as the filing fee has resulted in a substantial financial hardship for CTC. CTC is a non-profit religious organization. CTC generates no profit, and any money that CTC spends must come from donations or fundraising efforts. Furthermore, the application fee constitutes a significant percentage of CTC's monthly operating expenses, and it already struggles to meet those obligations, often failing to pay the salary of its one full-time employee, Rabbi Rich. If the Staff and Board deem it appropriate, CTC would respectfully request the opportunity to pursue a fee reimbursement at the appropriate time.

## VII. Conclusion

In conclusion, my client, CTC, simply wishes to maintain its place of worship without having to make significant changes to its property that are not feasible financially and which would harm the neighborhood, not help it.



# CONGREGATION TORAS CHAIM

AN INTIMATE SPACE. . . GROW AT YOUR PACE

RABBI YAAKOV RICH

April 5, 2018

To the members of the Dallas Board of Adjustment,

Thank you for taking the time to read this letter in which I share my thoughts, hopes and concerns for Congregation Toras Chaim, the residents of Highlands of McKamy (of which I am one) and the City of Dallas.

Freedom to practice one's religion is a cornerstone of this country and the first amendment to our Constitution. We recognize that with this freedom comes the responsibility to not infringe on the rights of others. It is in this spirit that I write this letter.

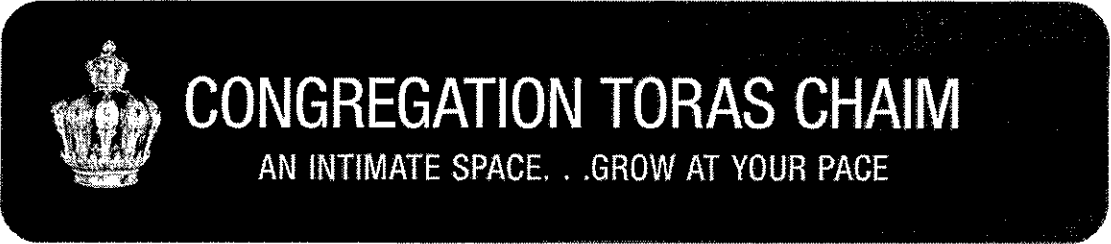
As Orthodox Jews we are fortunate to observe the Sabbath once each week. Included in that observance is the requirement to restrict or curtail 39 major categories of activities, (which are beyond the scope of this letter to explain). Therefore, driving a car on the Sabbath is problematic for us, and we need to live within walking distance of our synagogues.

The 75252 and 75248 ZIP codes are among the most densely populated Jewish areas in the city. Two of the biggest Jewish private schools in the city are located within a .25 mile of the Congregation Toras Chaim or CTC. There is a Jewish bookstore and kosher restaurant within 400 ft of the synagogue. This neighborhood is an ideal location for Jewish people to live and raise their families. We searched for a location for CTC as close to edge of the neighborhood as possible in order to minimize the impact to the neighborhood, yet still be within walking distance of its members. We will not and cannot grow the congregation by attracting participants from outside the community. This goes against our religious values.

We recognize that parking is an issue to those families who live on Mumford Ct. We constantly exhort our members to use only the two spots in front of our building and five spots on our driveway in the back. On the Sabbath we make sure no one ever parks on the street. We have been remarkably successful at keeping the street completely clear of CTC cars from sundown Friday through 8 AM Sunday each week. On all other days there are only two cars in front of the synagogue, from 6:00-7:30 AM and for 30 minutes in the evening.

We have recently been able to obtain a shared parking agreement with Torah Day School of Dallas. Overflow traffic always parks there, without exception.

At the last meeting before the BOA, one of the residents on Mumford Ct. showed pictures of cars filling the street. I was at a loss for words because I knew that only two of those in the picture belonged to participants of CTC, i.e. those directly in front of our building. The others belonged to the residents on the street, their visitors, or others whom I did not know. At that meeting, the claim was also made that because our cars park on both sides of the street emergency vehicles are physically restricted from being able to drive down Mumford Ct. This is patently false. For the longest time we have allowed our participants to park only on the north side of the street directly in front of our building. In fact, the residents to our east regularly park on both sides of the street, all day and night long. Either they don't



RABBI YAAKOV RICH

really care about blocking emergency vehicles, or the claim that it blocks these vehicles is false. In fact, by code, all streets are built to allow an ambulance to park on both sides with enough space for a third ambulance to comfortably pass in between.

Not being able to pray at 7103 Mumford Ct. would literally force all the Jewish residents of Highlands of McKamy to sell their homes and relocate, a major financial, emotional and family disruption, to say the least. We have already spent much money and time to modify our property to meet city requirements. We only want to do what is right and good for all.

Not all our neighbors take exception to our presence. I have personally met with a lovely couple asking if they would speak on our behalf at the upcoming hearing. They explained to me that they would like to but were feeling intimidated by the very vocal minority on the street and in the neighborhood. They feared they would be a target of retribution by those who oppose the synagogue.

Emails are sent from the HOA board to the HOA email list at least once, if not twice a week, explaining how they want to "maintain the residential status" of the neighborhood. One can't help but interpret the actions of the HOA board as actively campaigning against the presence of the synagogue, making many of the Jewish residents within the HOA feel unwelcome and isolated.

Any freedom guaranteed by our Constitution, by its very nature, demands compromise as well, in order not to trample on the rights of others. We don't expect to be able to use Mumford Ct. as our personal parking lot. That would be morally and societally unjust. But we do want to exercise our freedom of religion to pray where we live, and live where we pray. We try our utmost to be mindful of our neighbors and the community. Two cars in front and five in the back. Just this morning our president asked a visitor to move his car from the south side of the street to our driveway. On the Sabbath, no cars are ever on the street. I am constantly, to the best of my ability as a congregational leader, reminding our members to be considerate and protective of the rights of our neighbors.

It is my fervent hope and prayer that the BOA will find Congregation Toras Chaim worthy of the variance we are requesting, and if granted, I pledge to uphold, as evidenced by our actions, not only the letter of the law but the spirit of the law as well.

Yours truly,

*Yaakov Rich*

Rabbi Yaakov Rich  
Congregation Toras Chaim



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Att. - B  
PS 12

**REMOTE/SHARED PARKING AGREEMENT**

(Mutually Exclusive/Compatibly Overlapping Hours)  
(including church uses)

STATE OF TEXAS        )  
                                  ) KNOW ALL PERSONS BY THESE PRESENTS:  
COUNTY OF COLLIN )

I.

Congregation Toras Chaim, Inc. ("Owner(s) of Tract A") is the owner(s) of the below described property ("Tract A"), which is the recipient of parking spaces:

Street Address 7103 Mumford Court, Dallas, Texas 75252; Property Description: Lot 45, Block 10/8758, Addition Highlands of McKamy #5, Zoning District A, more particularly described in Instrument # 20130610000796820 or Volume \_\_\_\_\_, Page \_\_\_\_\_, in the Deed Records of Collin County, Texas. The below described use(s) ("Use A") is located on Tract A: Church Use. Floor area of Use(s) on Tract A: 3,417 square feet (total); 2,546 (first floor). Total number of off-street parking spaces located on Tract A: \_\_\_\_\_. Number of off-street parking spaces on Tract A provided for Use(s) on Tract A to meet the parking requirement: 0. Days and hours of operation of Use A: Monday through Thursday from: 6:40 am to 7:30 am and from 15 minutes before sunset (ranging from 5:00 pm to 8:20 pm) until 105 minutes after such time. On Friday from 6:40 am to 7:30 am and from 2 hours before sunset to 2 hours after sunset. On Saturday from 8:30 am to 12:00 pm, and from two hours before sunset to two hours after sunset. On Sunday, from 8:00 am to 9:00 am and from 15 minutes before sunset (ranging from 5:00 pm to 8:20 pm) until 105 minutes after such time. Also, all hours encompassed in any Jewish Holiday when synagogue observance takes place.

II.

Torah Day School of Dallas ("Owner(s) of Tract B") is the owner(s) of the below described property ("Tract B"), which is providing the parking spaces:

Street Address 6921 Frankford Road, Dallas, Texas 75252; Property Description: Lot 4, Block 21/8734, Addition Pagenet, Zoning District SUP No. 1505, more particularly described in Instrument # \_\_\_\_\_ or Volume 5345, Page 001435, in the Deed Records of Collin County, Texas. The below described use(s) ("Use B") is located on Tract B: Private School. Floor area of Use(s) on Tract B: 42,264. Total number of off-street parking spaces required for Use(s) on Tract B: 163. Total number of off-street parking spaces located on Tract B: 184. Number of off-street special parking spaces on Tract B to be shared with Use(s) on Tract A: 12. Days and hours of operation of Use B: All hours not specified above for Use A.

III.

In order that all uses governed by this agreement may operate in compliance with the off-street parking regulations in the Dallas Development Code of the Dallas City Code ("Code"), as amended, and derive all the benefits from

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A Tract B  
PS 13

such compliance, and for such other good and valuable consideration as Owner A and Owner B have agreed upon, Owner A and Owner B agree that those uses shall share parking spaces pursuant to this agreement.

IV.

Owner A and Owner B agree that Use A and Use B shall share 12 required off-street parking spaces on Tract B to comply with the Code. Owner A and Owner B agree that Use A and Use B shall maintain mutually exclusive or compatibly overlapping hours of operation. The walking distance between Tract A and Tract B is 847 feet.

V.

Owner(s) of Tract A and Tract B agree to comply with the off-street parking regulations in the Code.

VI.

The location of the off-street parking spaces on Tract B is shown on a site plan that is attached to and made a part of this agreement. The site plan must provide sufficient information to demonstrate compliance with the Code and all other applicable ordinances and regulations of the City of Dallas ("City").

VII.

This agreement may be amended or terminated only upon the filing, in the Deed Records of the county or counties in which Tract A and B are located, of an instrument approved by the building official of the City and approved as to form by the city attorney. The building official shall approve an instrument amending or terminating this agreement if:

- (1) all uses providing parking and all uses on the property for which parking is provided under this agreement fully comply with the off-street parking regulations in the Code, as amended, by a means other than this parking agreement; or
- (2) all uses on the property for which parking is provided under this agreement cease to operate and terminate their certificates of occupancy.

Owner(s) of Tract A or B shall file the amending or terminating instrument in the Deed Records of the county or counties in which Tract A and Tract B are located at the sole cost and expense of Owner(s) of Tract A or B. After filing the amending or terminating instrument in the Deed Records, Owner(s) of Tract A or B shall file two copies of the instrument with the building official. No amendment or termination of this agreement is effective until the amending or terminating instrument is filed in accordance with this paragraph.

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VIII.

This agreement inures to the benefit of, and is enforceable by, the parties to the agreement and the City. If a use is being operated in violation of this agreement, the building official shall revoke the certificate of occupancy for that use. Owner(s) of Tract A and B acknowledge that the City has the right to enforce this agreement by any lawful means, including filing an action in a court of competent jurisdiction, at law or in equity, against any person violating or attempting to violate this agreement, either to prevent the violation or to require its correction. If the City substantially prevails in a legal proceeding to enforce this agreement against a person, Owner(s) of Tract A and B agree that the City shall be entitled to recover damages, reasonable attorney's fees, and court costs from that person.

IX.

**OWNER A AND OWNER B AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY FROM AND AGAINST ALL CLAIMS OR LIABILITIES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND THE CITY GRANTING, REVOKING, OR WITHHOLDING A BUILDING PERMIT AND/OR CERTIFICATE OF OCCUPANCY BY REASON OF THIS AGREEMENT.**

X.

Owner(s) of Tract A and B understand and agree that this agreement shall be governed by the laws of the State of Texas.

XI.

Prior to the issuance of the building permit and/or certificate of occupancy for Use(s) on Tract A, Owner(s) of Tract A and B shall file this agreement in the Deed Records of the county or counties in which Tracts A and B are located at the sole cost and expense of the Owner of Tract A or B. After filing this agreement in the Deed Records, Owner A or Owner B shall file two copies of this agreement with the building official.

XII.

Owner(s) of Tract A and B understand and agree that this agreement shall be a covenant running with the land with respect to both Tract A and Tract B, and that this agreement shall fully bind any and all successors, heirs, and assigns of Owner(s) of Tract A or B who acquire any right, title, or interest in or to Tract A or Tract B, or any part of those tracts. Any person who acquires any right, title, or interest in or to Tract A or Tract B, or any part of those tracts, thereby agrees and covenants to abide by and fully perform this agreement.

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Pg 15

XIII.

Unless stated otherwise in this agreement, the definitions and provisions of the Dallas Development Code, of the Dallas City Code, as amended, apply and are incorporated into this agreement as if recited in this agreement.

XIV.

In the event that Tract A and Tract B are or ever become owned by the same person or entity, then this person or entity intends this agreement to be construed as a deed restriction, and that the Doctrine of Merger not apply.

XV.

If the building official places any conditions upon the approval of this parking agreement, those conditions shall be attached to and made a part of this agreement. If conditions are placed upon the approval of this agreement, Owner(s) of Tract A and B agree that they shall comply with each condition and understand that a failure to so comply shall constitute a violation of this agreement.

XVI.

Owner(s) of Tract A and B each certify and represent that there are no liens or mortgages, other than liens for ad valorem taxes, against their respective tracts if there are no signatures of lienholders or mortgagees subscribed below.

XVII.

The invalidation of any provision of this agreement by any court shall in no way affect any other provision, which shall remain in full force and effect, and to this end the provisions are declared to be severable.

XVIII.

The undersigned lienholders/mortgagees consent to the above agreement, as amended, and subordinate its liens to the rights and interests provided under this agreement, such that a foreclosure of the liens do not extinguish the rights and interests provided under this agreement, as amended.

EXECUTED at \_\_\_\_\_, \_\_\_\_\_ County, \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.



BDA17B050

ATTACH B

PS 16

Congregation Toras Chaim, Inc.  
Owner A  
By: Josh Rothstein  
Printed Name: Josh Rothstein  
Title: Secretary

Torah Day School of Dallas  
Owner B  
By: [Signature]  
Printed Name: DEON NATHAN  
Title: CFO/COO

CONSENT TO SUBORDINATION OF LIEN(S), LIENHOLDERS, OR MORTGAGEES:

Legacy Texas Bank  
Tract A Lienholder/Mortgagee  
By: [Signature]  
Printed Name: Matt Duvall  
Title: Commercial Banker

Regions Bank  
Tract B Lienholder/Mortgagee  
By: [Signature]  
Printed Name: Oscar Davis  
Title: Commercial Banker

APPROVED:

APPROVED AS TO FORM:  
LARRY E. CASTO,  
City Attorney

\_\_\_\_\_  
Building Official  
(or authorized representative)

\_\_\_\_\_  
Assistant City Attorney

ATTACH THE APPROPRIATE ACKNOWLEDGMENTS FOR ALL SIGNATORIES, INCLUDING OWNERS, AND LIENHOLDERS/MORTGAGEES (IF APPLICABLE).

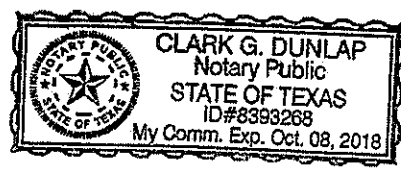
BDA178050  
A-H-4-B  
PS 17

ACKNOWLEDGMENT

THE STATE OF TEXAS        )  
  )  
COUNTY OF Denton        )

This instrument was acknowledged before me on February 2<sup>th</sup>, 2018, by February of Congregation Toras Chaim, Inc., on behalf of said entity.

Clark G. Dunlap  
Notary Public In and For  
Said County and State

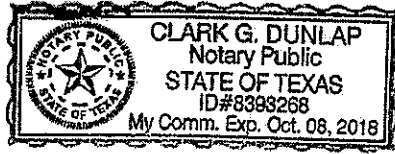


BDA178-050  
ATTN B  
PS 18

ACKNOWLEDGMENT

THE STATE OF TEXAS        )  
  )  
COUNTY OF Dallas        )

This instrument was acknowledged before me on February 7, 2018, by DEON NATHAN CFO of Torah Day School of Dallas, a Texas non-profit corporation, on behalf of said corporation.



*Clark G. Dunlap*

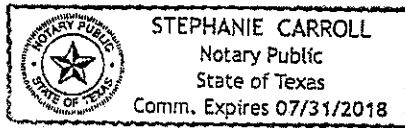
Notary Public In and For  
Said County and State

ACKNOWLEDGMENT

THE STATE OF TEXAS )

COUNTY OF Tarrant )

This instrument was acknowledged before me on February 5, 2018, by Matt Doull of Legacy Texas Bank on behalf of said bank.



Stephanie Carroll  
 Notary Public In and For  
 Said County and State



BDA178-050

ATTN: ~~B~~

PS 20

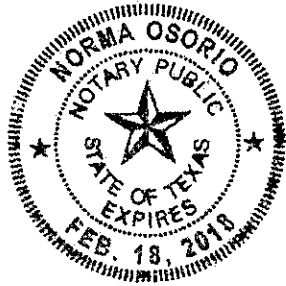
ACKNOWLEDGMENT

THE STATE OF TEXAS )  
 )  
COUNTY OF Dallas )

This instrument was acknowledged before me on February 8, 2018, by Oscar  
Davis of Regions Bank on behalf of said bank.

*Norma Osorio*

Notary Public In and For  
Said County and State



BDA178-050 ATTACH **B**  
P. 21

# City of Dallas Board of Adjustment

April 17, 2018

**BDA178-050**  
**7103 Mumford Court**

**Off-Street Parking**

WINSTON  
& STRAWN

FIRST  LIBERTY  
1

BDA178-050 ATTACH B

P 22



2

## R-7.5(a) Zoning District

A church (“a facility principally used for people to gather together for public worship, religious training, or other religious activities”) is permitted **“by right in all residential and nonresidential districts except the P(A) district.”**

“Homeowners [] rightfully expect  
a community of residential  
property.”

-Letter from Homeowner



**12** parking spaces are required.

**6** spaces are provided through a shared parking agreement.

CTC seeks a variance of **6** parking spaces.

BDA178-050 ATTACH B

p26

# Background

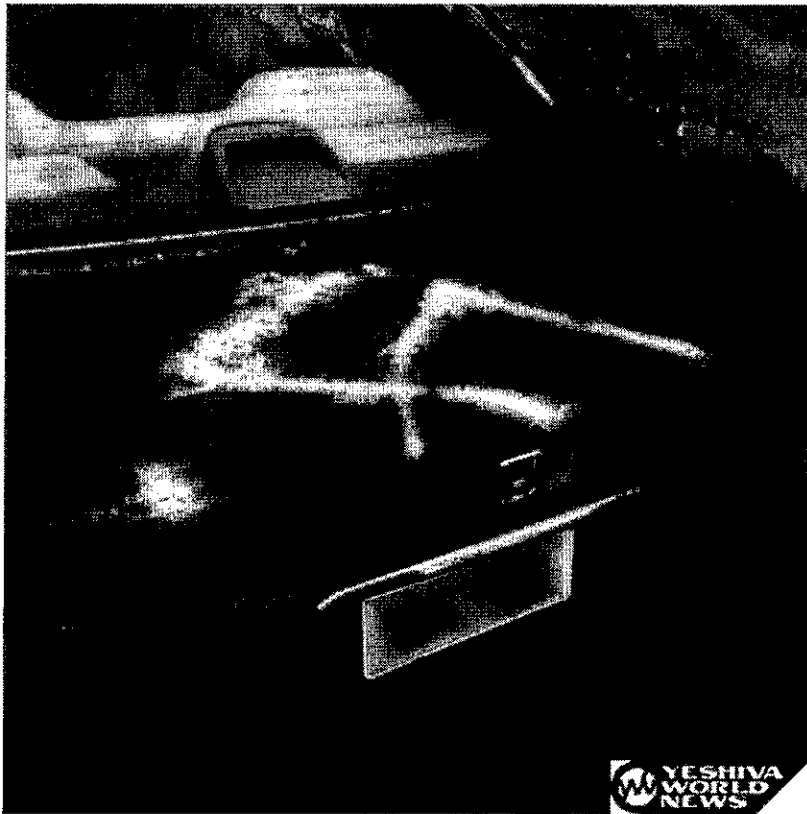
## Congregation Toras Chaim

- **2007** – CTC, a small community of Orthodox Jews, is founded.
  - Led by Rabbi Yaakov Rich
- **2013** – CTC is located at 7103 Mumford Court
- **Overall mission:** provide access to prayer and scripture study.

## Congregation Toras Chaim

- 25 total members
- Sabbath (Saturday)
  - Orthodox Jews are not allowed to drive on the Sabbath.
  - All members must therefore (1) live within close proximity to their place of worship and (2) walk to their place of worship on Saturdays.
  - The number of members will always be small for this reason.
- Prayer meetings during the week
  - Often 5-10 people
  - Since all members live within walking distance, most walk or bike to CTC for these meetings.

BDA178-050 ATTACH B PS 29





BDA178-050 ATTACH B ps 30

# Shared Parking Agreement

10

REMOTE/SHARED PARKING AGREEMENT

(Mutually Exclusive/Compatibly Overlapping Hours)
(including church uses)

BDA178-050 ATTACH

B ps 31

STATE OF TEXAS )
) KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF COLLIN )

I.

Congregation Torah Chaim, Inc. ("Owner(s) of Tract A") is the owner(s) of the below described property ("Tract A"), which is the recipient of parking spaces:

Street Address 7101 Mumford Court, Dallas, Texas 75252; Property Description: Lot 45, Block 10/S738, Addition Highlands of McKinney #3, Zoning District A, more particularly described in Instrument # 2013061000798820 or Volume \_\_\_\_\_, Page \_\_\_\_\_, in the Deed Records of Collin County, Texas. The below described use(s) ("Use A") is located on Tract A: Church Use. Floor area of Use(s) on Tract A: 3,412 square feet (total); 2,546 (first floor). Total number of off-street parking spaces located on Tract A: \_\_\_\_\_. Number of off-street parking spaces on Tract A provided for Use(s) on Tract A to meet the parking requirement: 0. Days and hours of operation of Use A: Monday through Thursday from 6:40 am to 7:30 am and from 15 minutes before sunset (ranging from 5:00 pm to 6:20 pm) until 105 minutes after sunset from 6:40 am to 7:30 am and from 2 hours before sunset to 2 hours after sunset. On Saturday from 8:00 am to 12:00 pm, and from two hours before sunset to two hours after sunset. On Sunday from 8:00 am and from 15 minutes before sunset (ranging from 5:00 pm to 6:20 pm) until 105 minutes after sunset all hours encompassed in any Jewish Holiday when synagogue observance takes place.

Congregation Torah Chaim, Inc.
Owner A
By: Josh Ralston
Printed Name: Josh Ralston
Title: Secretary

Torah Day School of Dallas
Owner B
By: [Signature]
Printed Name: Dean Miriam
Title: CEO/COO

II.

Torah Day School of Dallas ("Owner(s) of Tract B") is the owner(s) of the below described property which is providing the parking spaces:

Street Address 6921 Frankford Road, Dallas, Texas 75252; Property Description: Lot 4, Block 21/87 Pagena, Zoning District SUP No. 1505, more particularly described in Instrument # Volume 5345, Page 091435, in the Deed Records of Collin County, Texas. The below described use(s) ("Use B") is located on Tract B: Private School. Floor area of Use(s) on Tract B: 42,261. Total number parking spaces required for Use(s) on Tract B: 163. Total number of off-street parking spaces located on Tract B: 184. Number of off-street special parking spaces on Tract B to be shared with Use(s) on Tract A: \_\_\_\_\_. Hours of operation of Use B: All hours not specified above for Use A.

CONSENT TO SUBORDINATION OF LIEN(S), LIENHOLDERS, OR MORTGAGEES:

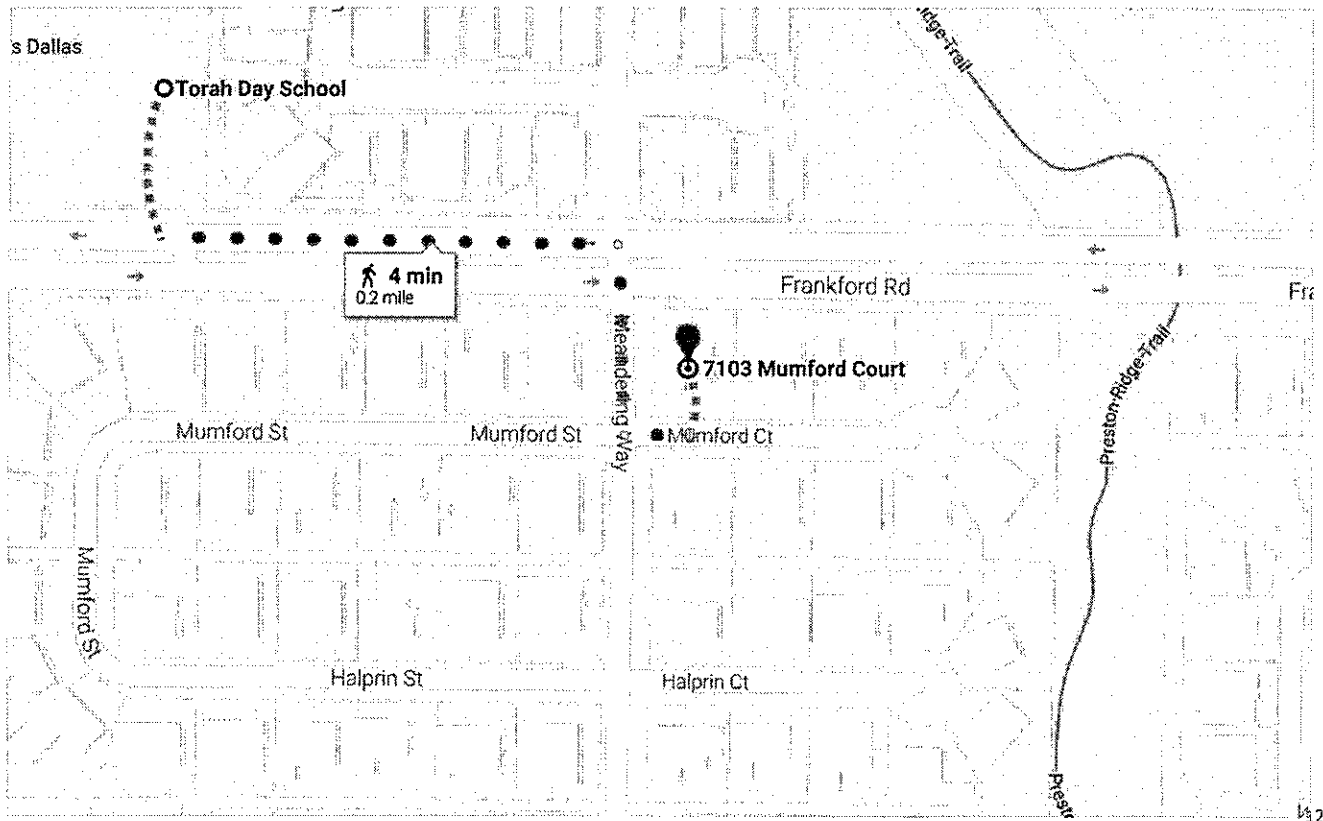
Legacy Texas Bank
Tract A Lienholder/Mortgagee
By: [Signature]
Printed Name: Matt Howell
Title: Commercial Banker

Regions Bank
Tract B Lienholder/Mortgagee
By: [Signature]
Printed Name: Dean Davis
Title: Commercial Banker

III.

In order that all uses governed by this agreement may operate in compliance with the off-street parking in the Dallas Development Code of the Dallas City Code ("Code"), as amended, and derive all the

REMOTE/SHARED PARKING AGREEMENT (Instrument) - PAGE 1 OF 3
(rev. 2-2-17)



BDA178-050 ATTACH

B p. 33

# Variance Factors

## Standard for Variance Application

- The Board has the power to grant variances related to off-street parking as long as:
  - **FACTOR #1:** The variance is “not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.”
  - **FACTOR #2:** The variance is “necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning;” and
  - **FACTOR #3:** The variance is “not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.”

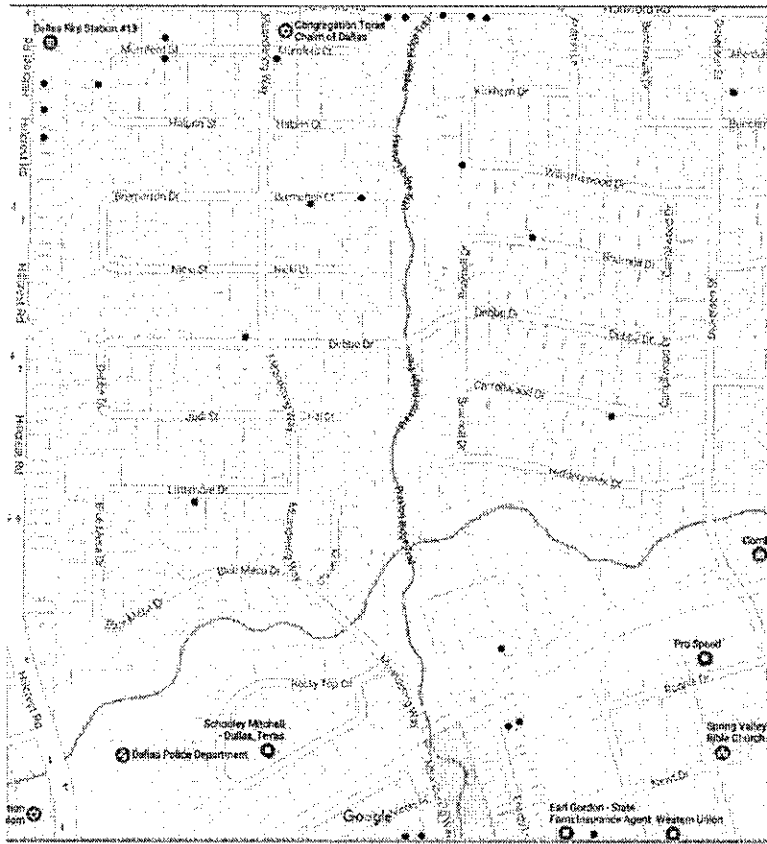


## Factor #1

BDA178-050 ATTACH B pg 35

- **“not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship”**
- Variance is not contrary to public interest as this issue operates at the core of what it means to live under the Constitution in the United States.
  - We should all be able to practice our faith in our private homes.
  - Many individuals in this neighborhood rely on this location for worship.
- Impact must be weighed:
  - **If variance is denied:** we are putting in jeopardy the ability for a group of individuals to worship freely with their families. We are also risking the addition of a parking lot that would significantly impact neighborhood.
  - **If variance is granted:** potential for continuance of (at most) 3-4 cars on street at certain times during week.
- Literal enforcement would result in unnecessary hardship for CTC
  - Never in public interest to violate religious liberty rights
    - *Opulent Life Church v. City of Holly Springs Miss.*, 697 F.3d 279 (5th Cir. 2012).

15



## Factor #2

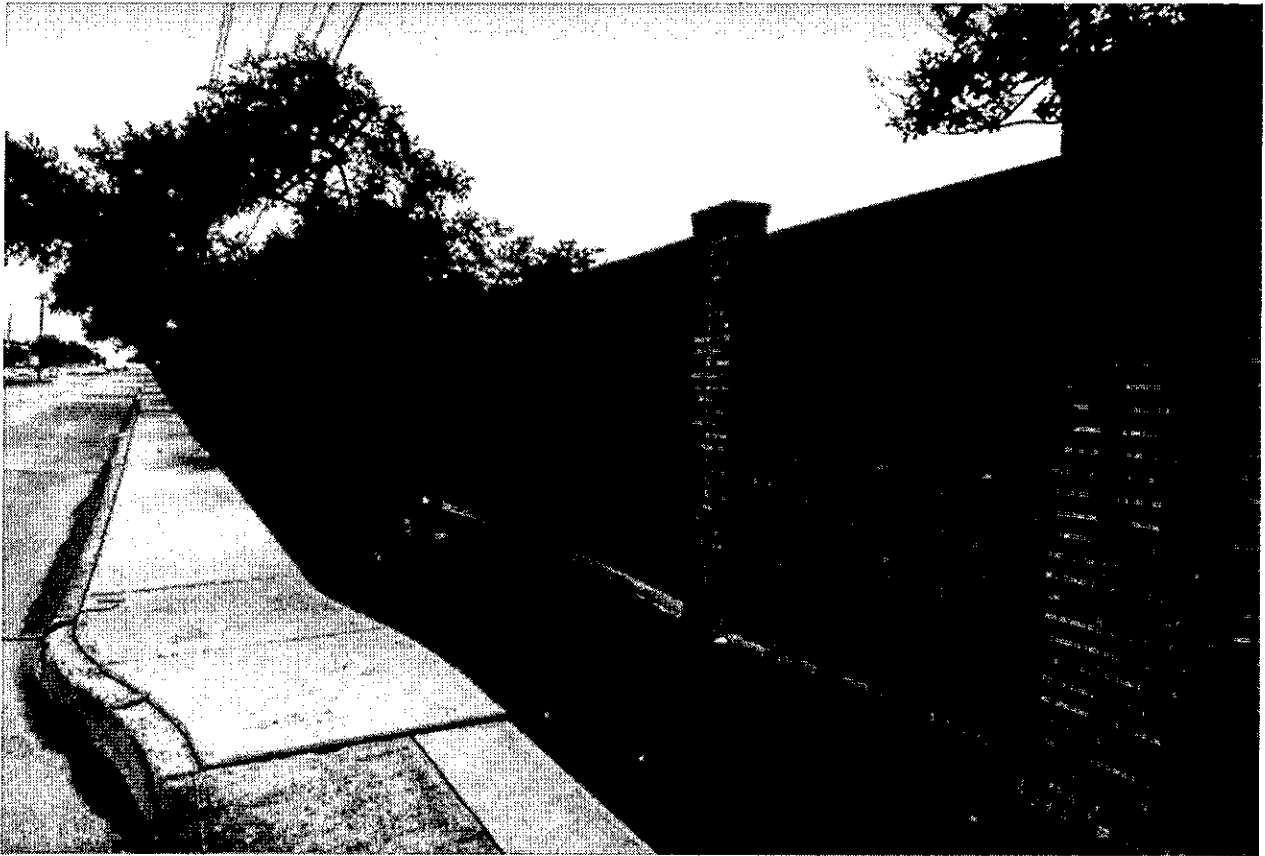
- **“necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning”**
- More clearly stated: is the land so unique that you cannot develop/use it for a proper purpose?
  - Two front yards
  - HOA brick walls on both sides
  - Offset
  - Alley / Screening issue
  - Limited square footage



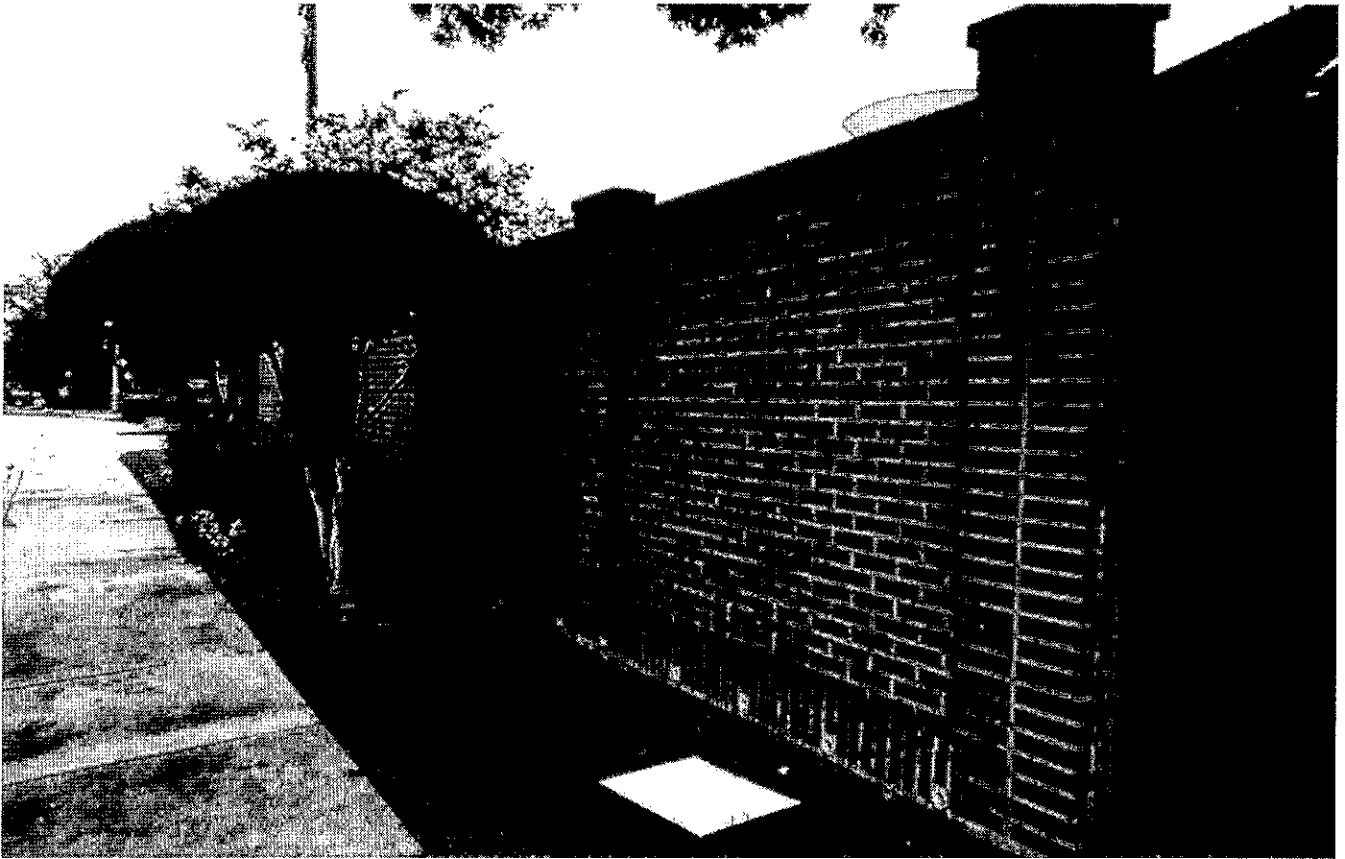




BDA178-050 ATTACH B P 40

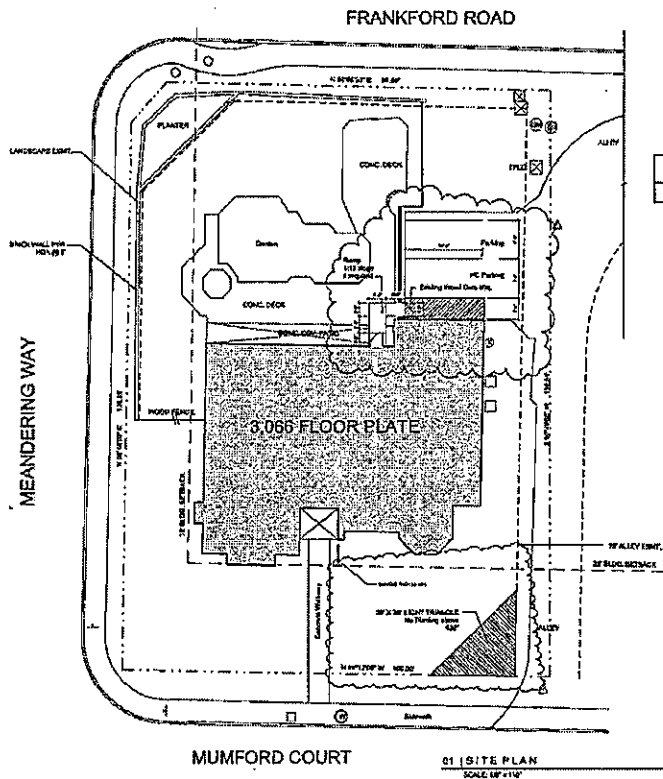


BDA178-050 ATTACH B 05 41



BDA178-050 ATTACH

B P542



BDA178-050 ATTACH

B ps43

# Screening Issue

BDA178-050 ATTACH 3 PS 44





BDA178-050 ATTACH B

03 45



# Screening Requirement

BDA178-050 ATTACH *B* p.44

- Using backyard or any portion in the back is challenging/impossible due to the screening requirement:
  - The owner of off-street parking must provide screening to separate the parking area from a contiguous residential lot if the parking area serves a nonresidential use.
  - The screening wall or fence may not contain any openings or gates for vehicular access.
  - Therefore, according to the City, the rear parking could not be accessed from the alley.

# Screening Requirement

BDA178-050 ATTACH *B* 03 47


- Reasons we did not seek a screening variance:
  - 1) Worked with City and decided that one variance was simpler (advised to seek full relief)
  - 2) Even with screening variance, would still need variance on required spaces (would lower requirement from 27 to 25)
  - 3) Two spaces in back may still be used without screening variance – but they can't count towards total required spaces.
  - 4) CTC's understanding that some individuals would rather CTC not park on side of alley

## Factor #3

BDA178-050 ATTACH B

P-4B

- **“not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning”**
- This variance would not relieve a “self-created or personal hardship”
  - The need to worship is never a self-created hardship (religious use proper as a matter of right).
  - Case where owner wanted to build a tennis court on a pie shaped residential lot.
    - Owner bought the house knowing that he wanted tennis court and knowing that lot was pie shaped.
    - Court held that a variance was proper.
  - A self-created hardship requires an affirmative action by the landowner that brings an otherwise conforming property into non-conformity.
- The variance would not be for financial reasons only.

BDA178-050 ATTACH 

PS 49

# Applicable Federal and State Laws

## Applicable Federal and State Laws

- Religious Freedom Restoration Act (“RFRA”)
- Texas Religious Freedom Restoration Act (“TRFRA”)
- Religious Land Use and Institutionalized Persons Act (“RLUIPA”)
- First Amendment of the United States and Texas Constitutions



## Applicable Federal and State Laws

- Under federal and state law, the Board must grant CTC's variance if the Board grants variances under similar circumstances for any non-religious uses.
  - RLUIPA, 42 U.S.C. § 2000cc(b)(1).
- The United States Supreme Court "affirmatively mandates accommodation, not merely tolerance, of all religions . . ."
  - *Lynch v. Donnelly*, 465 U.S. 668, 673 (1984).

## Applicable Federal and State Laws

- RLUIPA and Constitutions protect religious assemblies from suffering “a substantial burden on [their] religious exercise,” unless such a burden is narrowly tailored to serve a compelling state interest.
- TRFRA provides the same – prohibiting the government from “substantially burden[ing] a person’s free exercise of religion,” unless doing so “is in furtherance of a compelling governmental interest; and is the least restrict means of furthering that interest.”

## Applicable Federal and State Laws

- “A restriction need not be completely prohibitive to be substantial; it is enough that alternatives for the religious exercise are severely restricted.”

*Barr v. City of Sinton*, 295 S.W.3d 287, 305 (Tex. 2009)

BDA178-050 ATTACH B P 54

# CTC's Significant Efforts Since Last Hearing

34

## Photos

- October 21, 2017 (Saturday)
- November 29, 2017 (Wednesday)
- November 30, 2017 (Thursday)
- January 20, 2018 (Saturday)
- January 27, 2018 (Saturday)
- February 17, 2018 (Saturday)
- March 3, 2018 (Saturday)
- March 26, 2018 (Monday)
- April 2, 2018 (Monday)

BDA178-050 ATTACH <sup>B</sup> p 56

October 21, 2017

Saturday



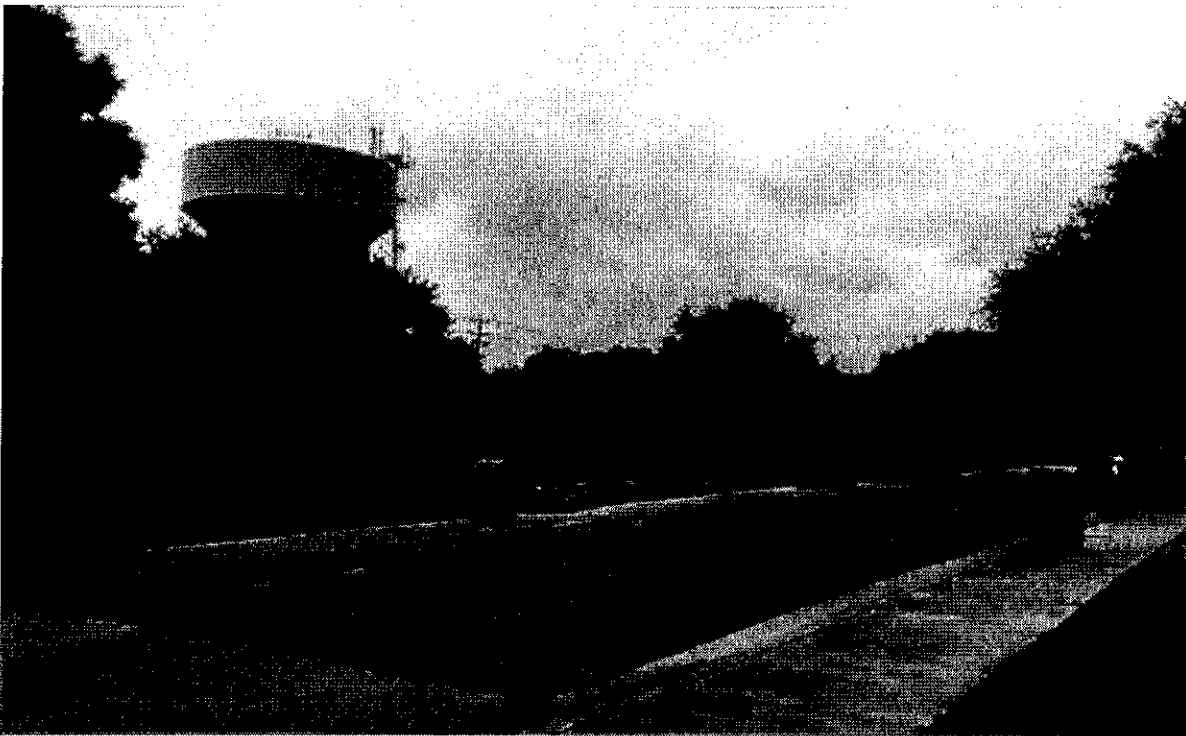
BDA178-050 ATTACH B 257



37

BDA178-050 ATTACH B

→ 58



BDA178-050 ATTACH B PS 59



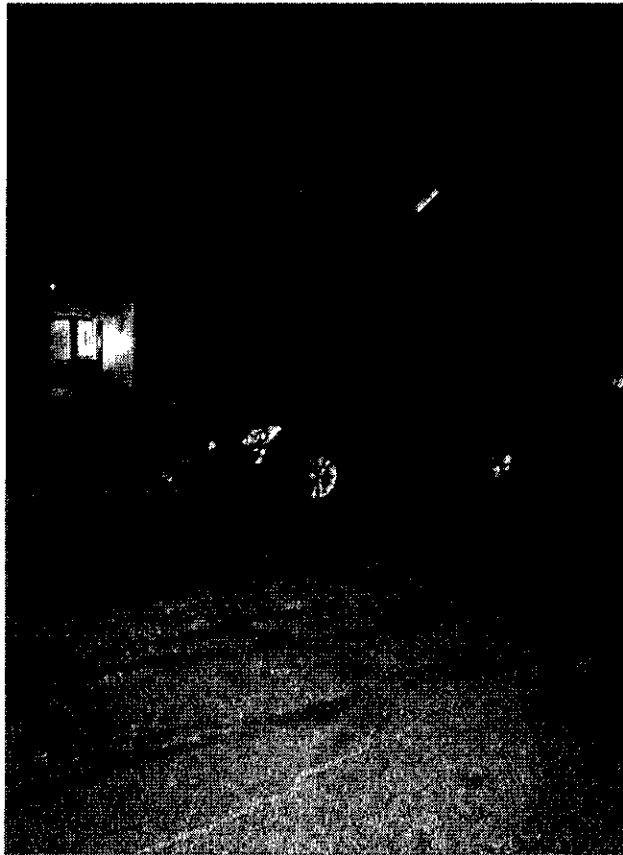
BDA178-050 ATTACH B pg 100

November 29, 2017

Wednesday

BDA178-050 ATTACH B

41



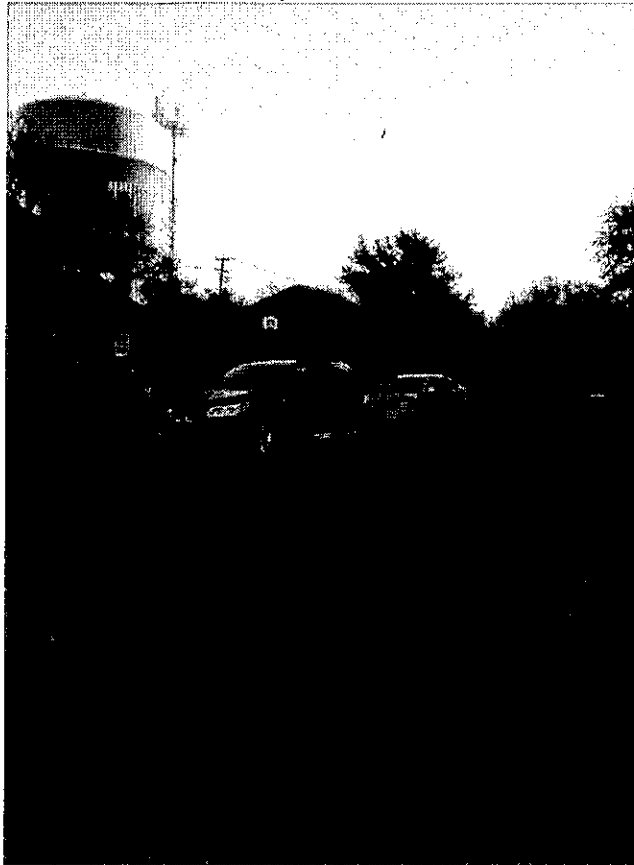
BDA178-050 ATTACH *B* *pg 62*

November 30, 2017

Thursday



BDA178-050 ATTACH *R* \* 43

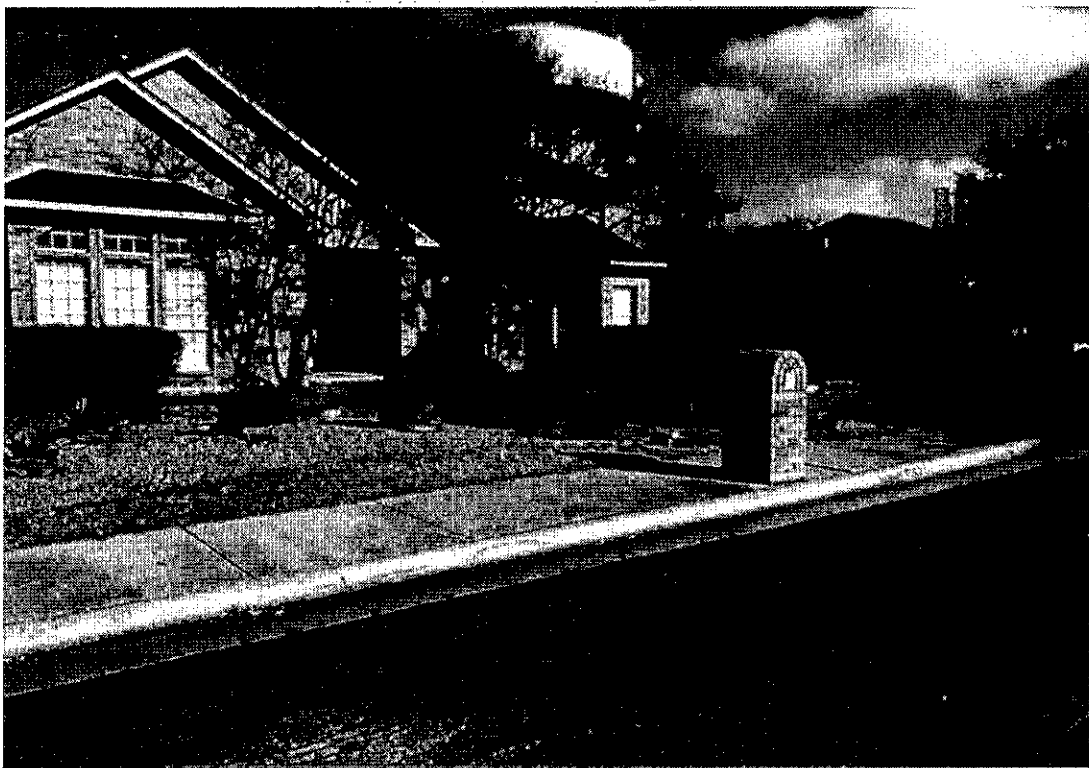


BDA178-050 ATTACH B p.64

January 20, 2018

**Saturday**

BDA178-050 ATTACH *b* p *45*



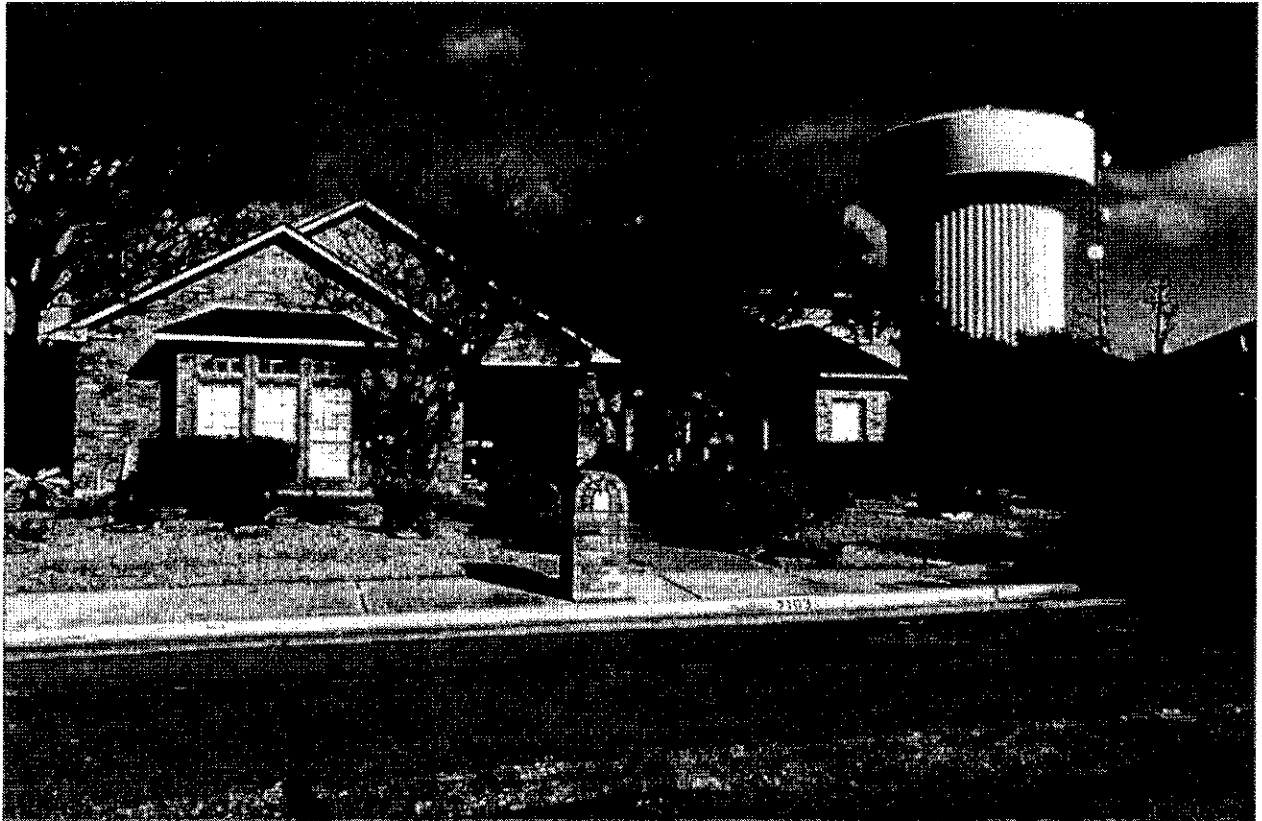
BDA178-050 ATTACH *B* p 64



BDA178-050 ATTACH

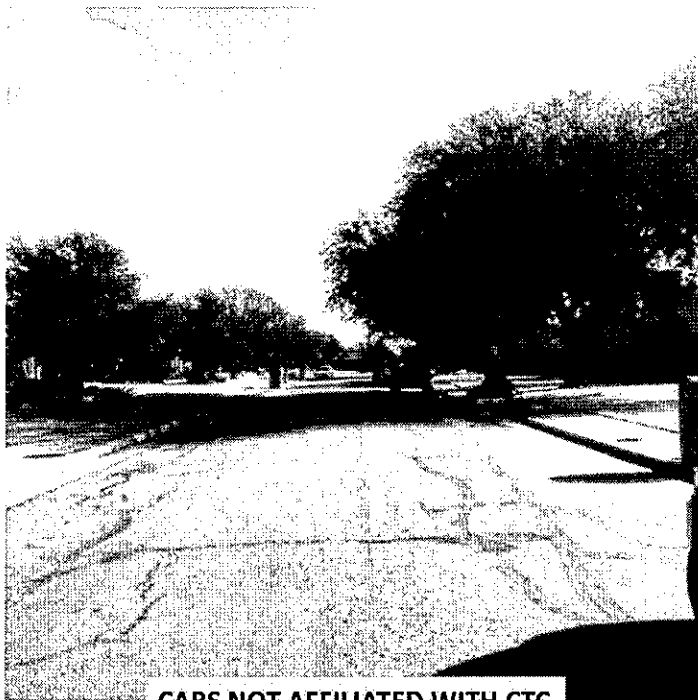
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P 67



47

BDA178-050 ATTACH *R p 2 B*

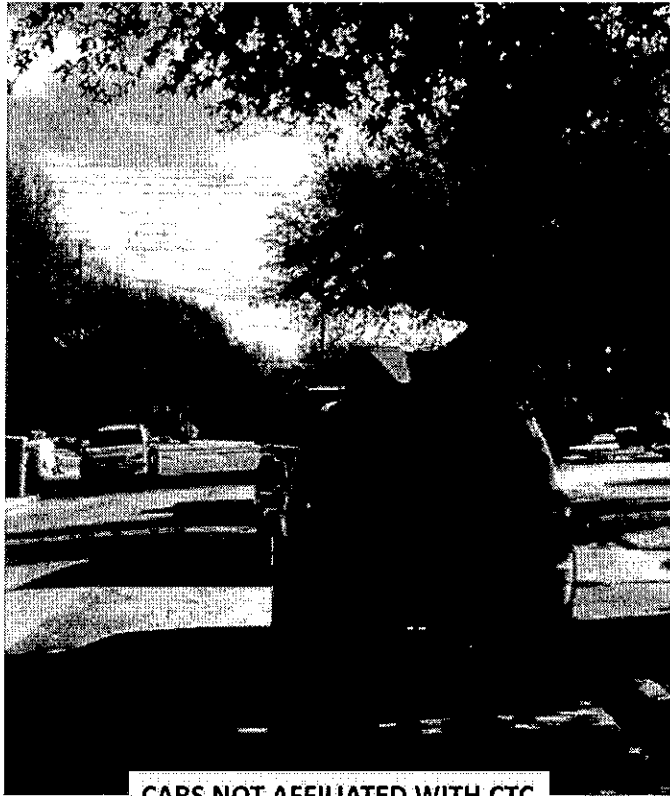


**CARS NOT AFFILIATED WITH CTC**



BDA178-050 ATTACH

B P 6A

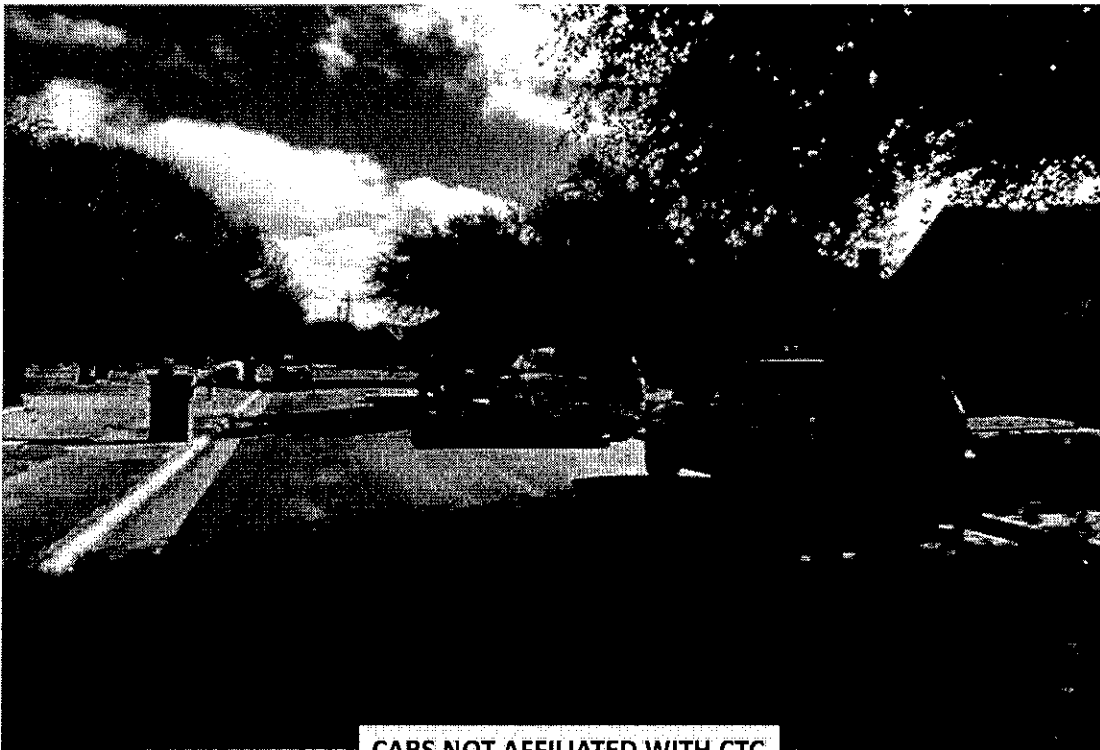


CARS NOT AFFILIATED WITH CTC

BDA178-050 ATTACH B p 70

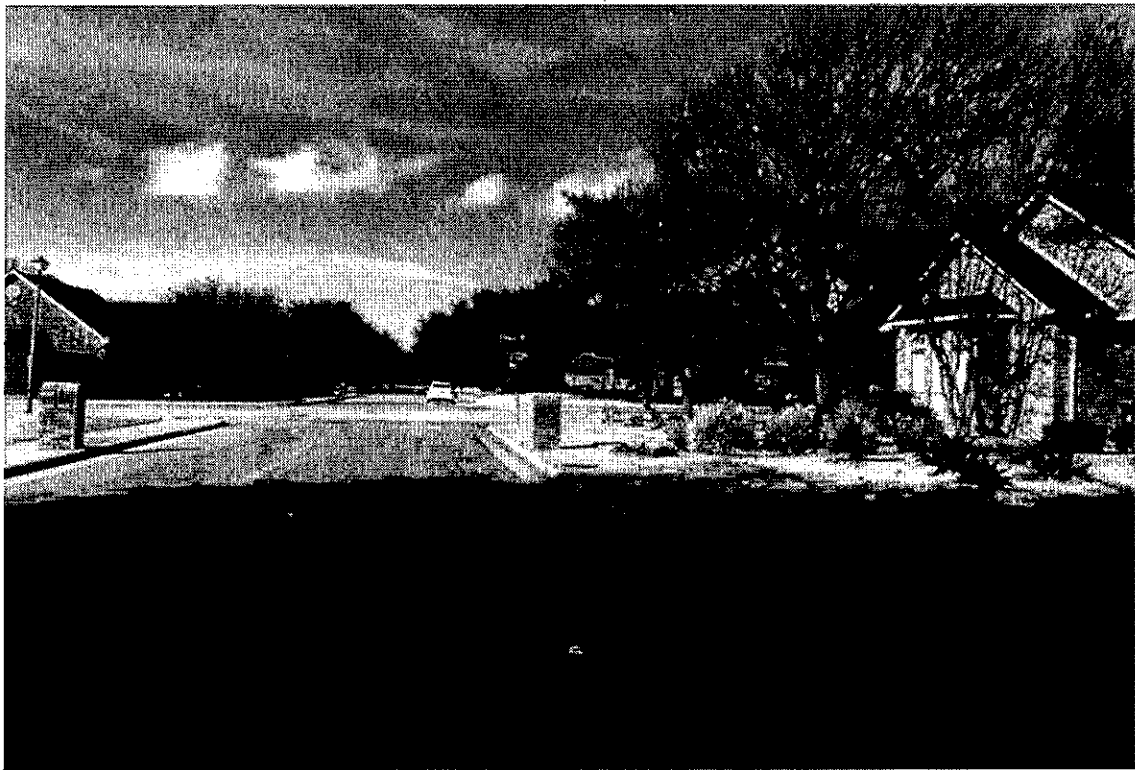


BDA178-050 ATTACH B PS 76



CARS NOT AFFILIATED WITH CTC

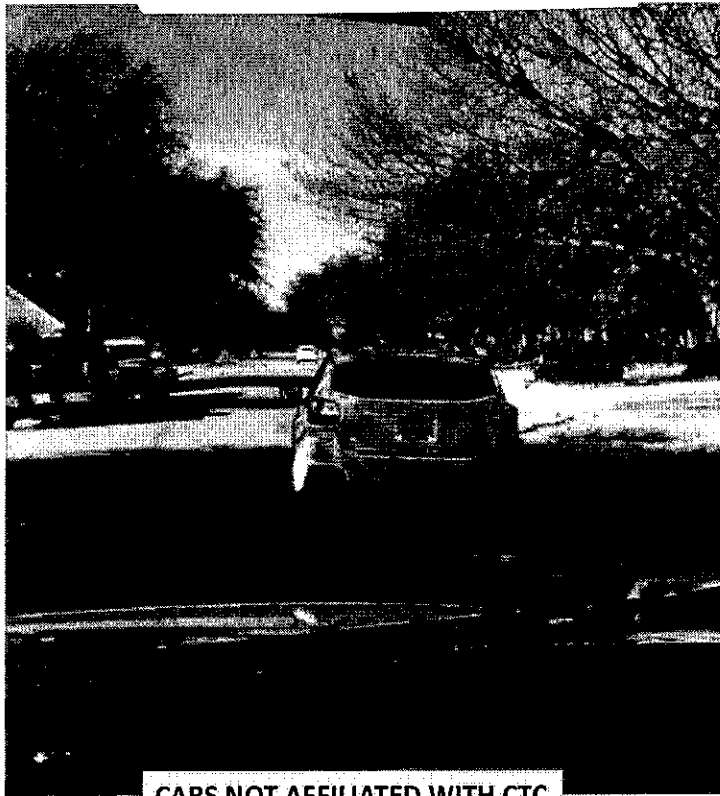
BDA178-050 ATTACH B P 72



BDA178-050 ATTACH

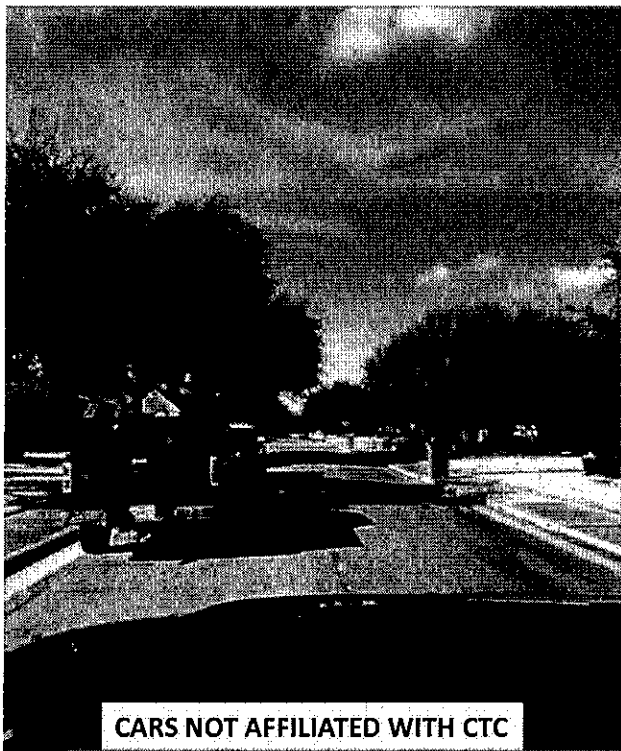
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73



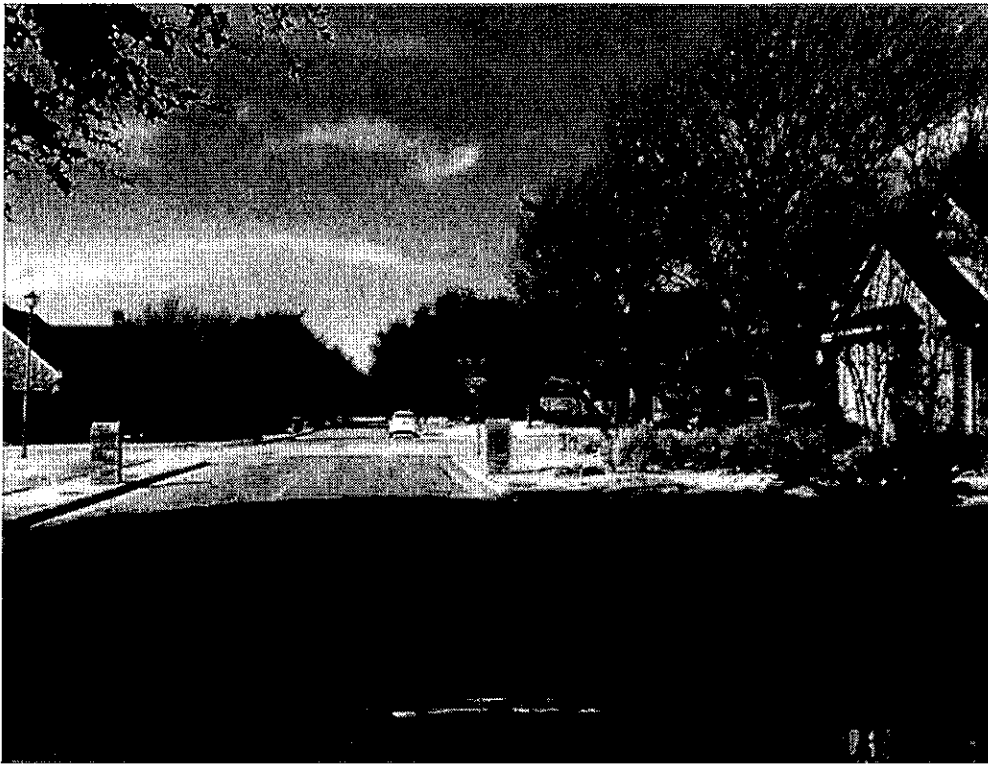
CARS NOT AFFILIATED WITH CTC

BDA178-050 ATTACH B PS 74





BDA178-050 ATTACH *B* p 75



BDA178-050 ATTACH B 05 126

January 27, 2018

**Saturday**

BDA178-050 ATTACH **B**

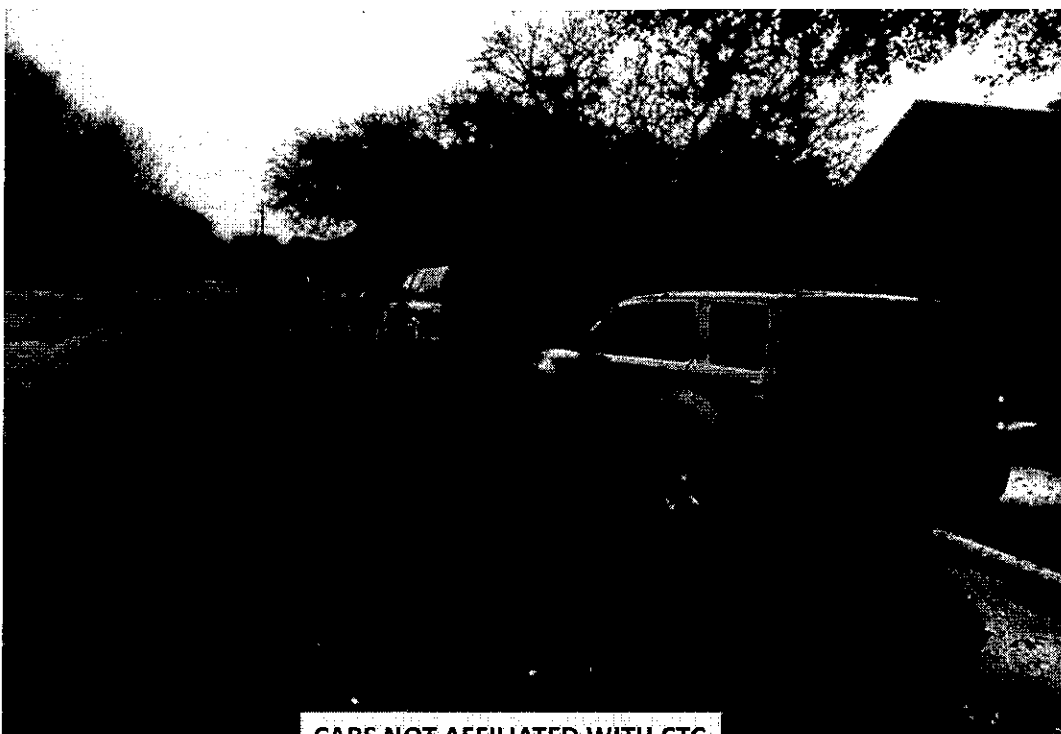
P 77



BDA178-050 ATTACH B PS 79

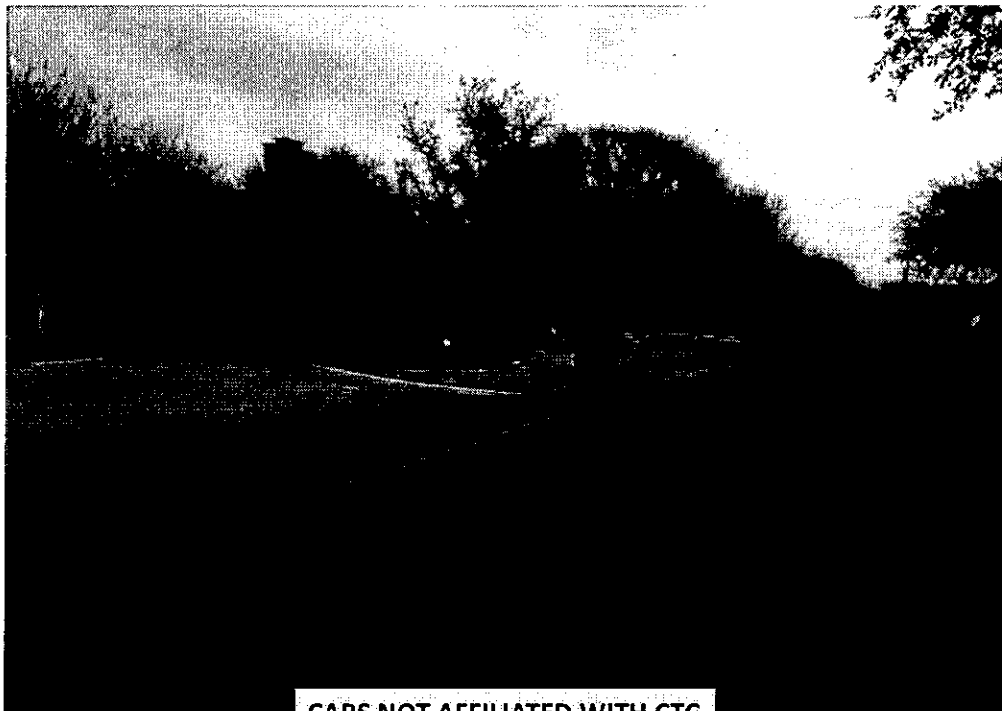


BDA178-050 ATTACH ps 80



CARS NOT AFFILIATED WITH CTC

BDA178-050 ATTACH B P 81



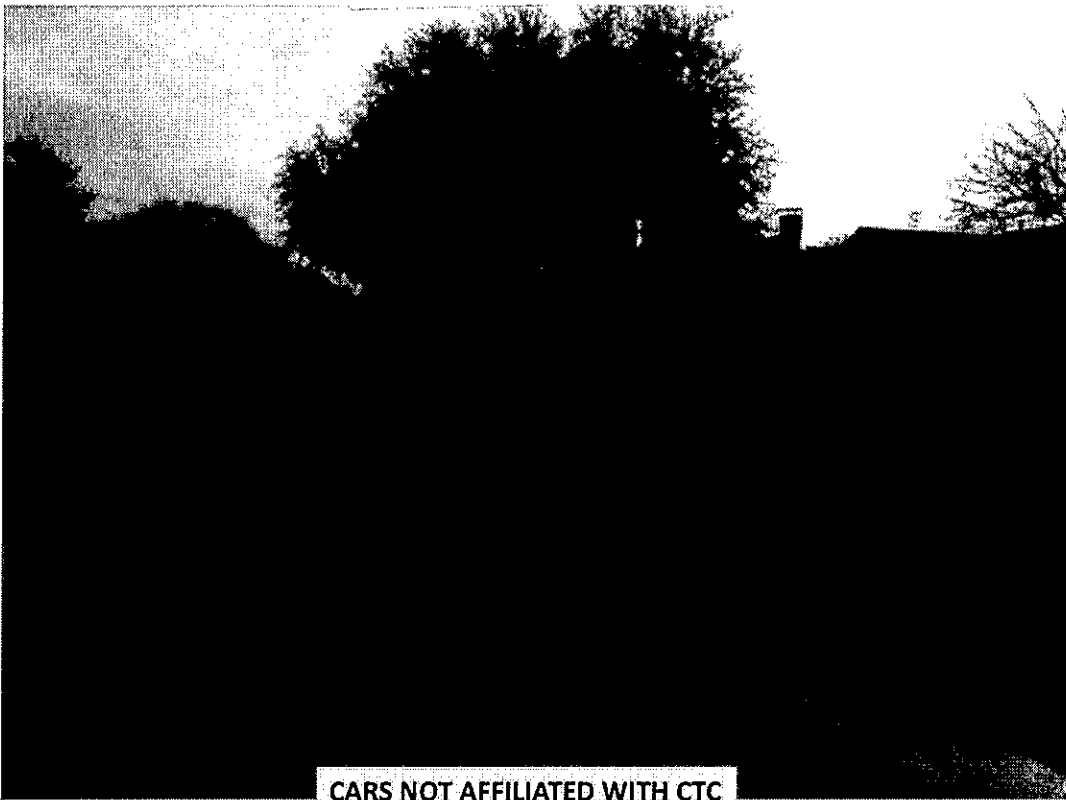
CARS NOT AFFILIATED WITH CTC

BDA178-050 ATTACH B P 82



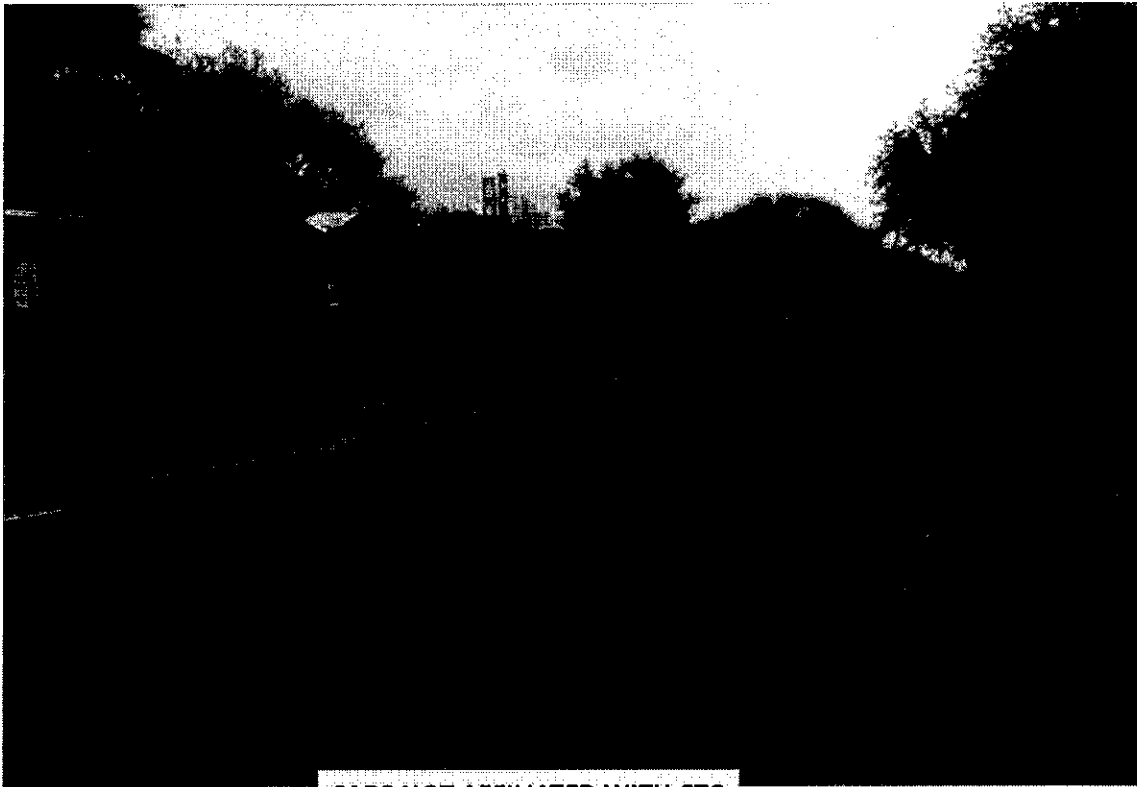


BDA178-050 ATTACH B p 83



BDA178-050 ATTACH *B*

*PS BY*



CARS NOT AFFILIATED WITH CTC

BDA178-050 ATTACH B P. 05



BDA178-050 ATTACH B pg 64

February 17, 2018

Saturday

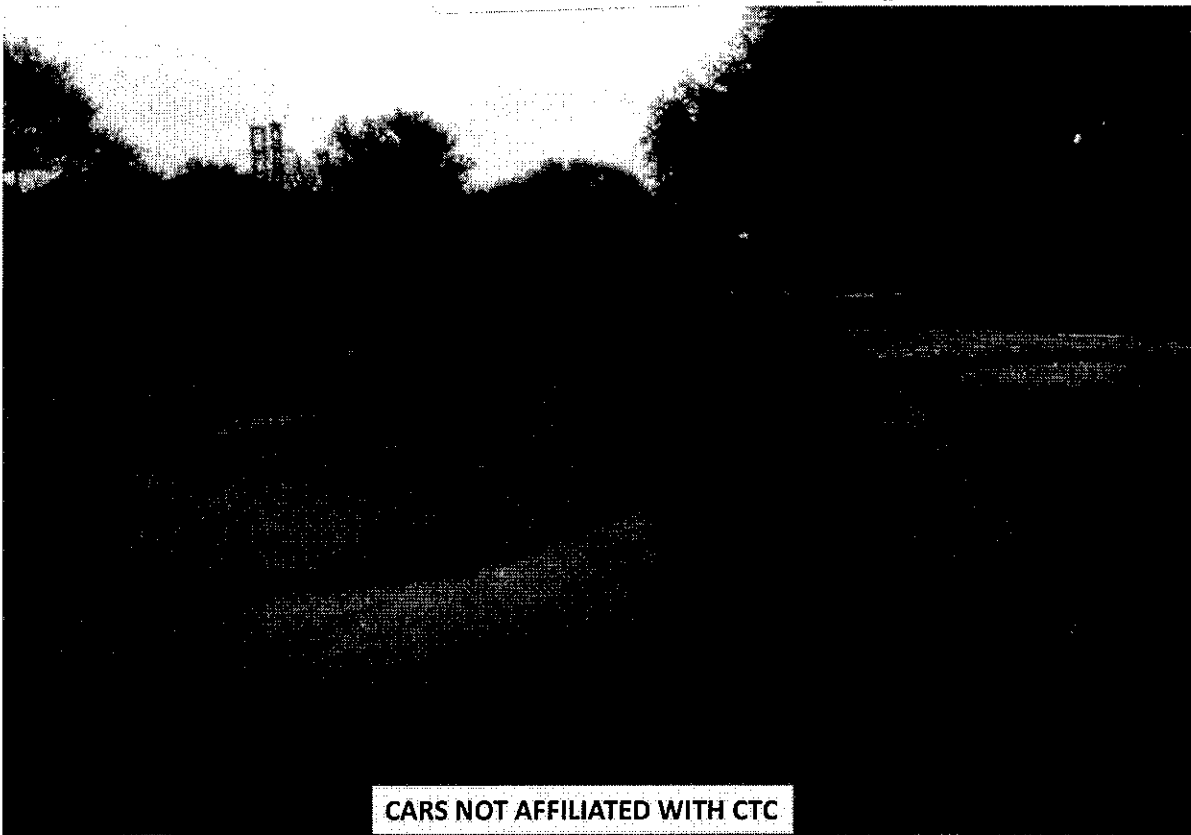
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BDA178-050 ATTACH

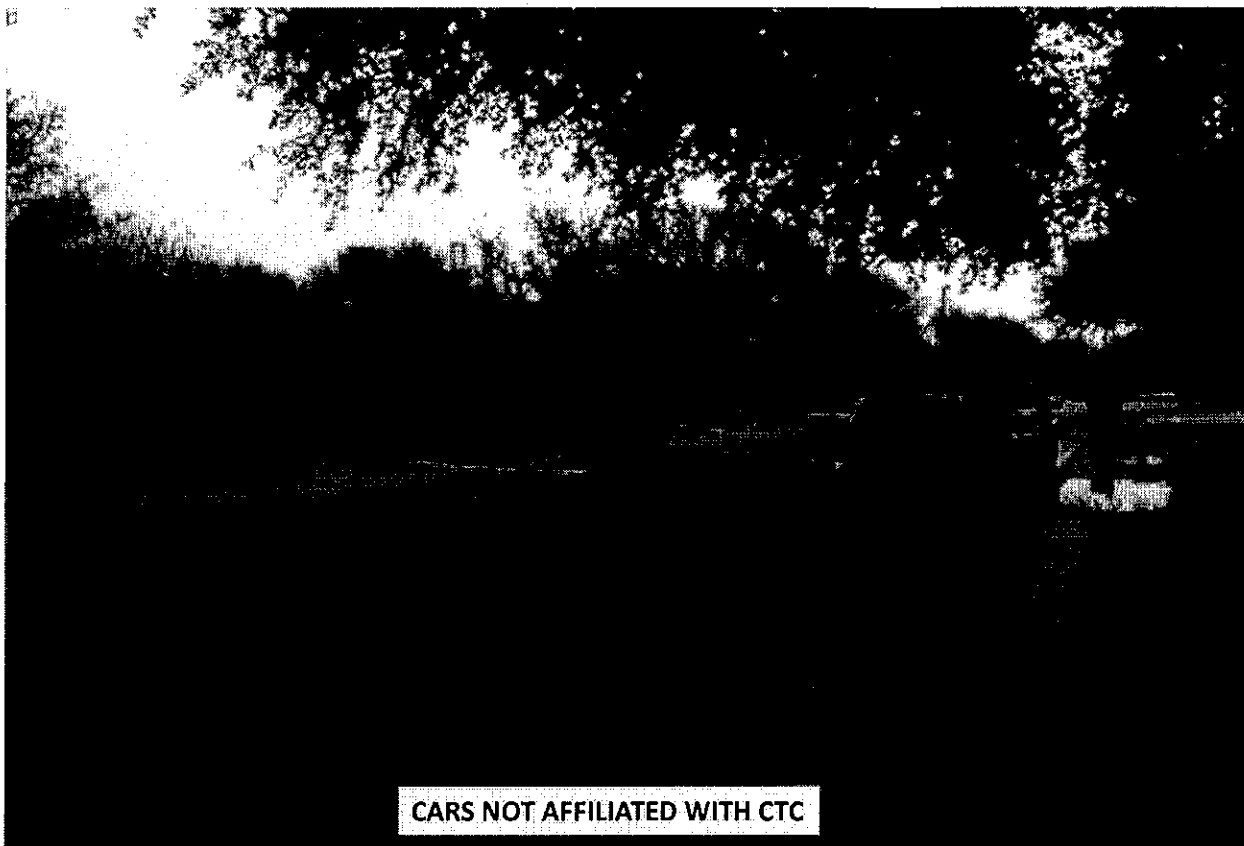
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CARS NOT AFFILIATED WITH CTC

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BDA178-050 ATTACH B PS 9D



BDA178-050 ATTACH B

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BDA178-050 ATTACH B p 92

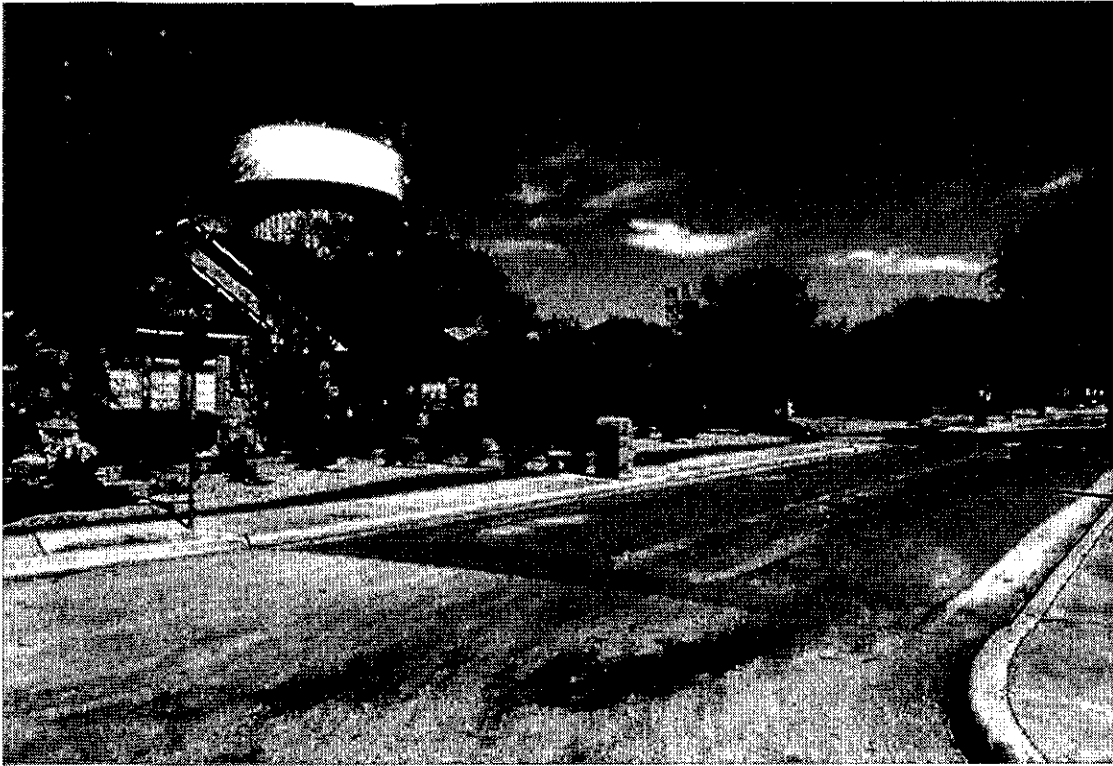
March 3, 2018

Saturday

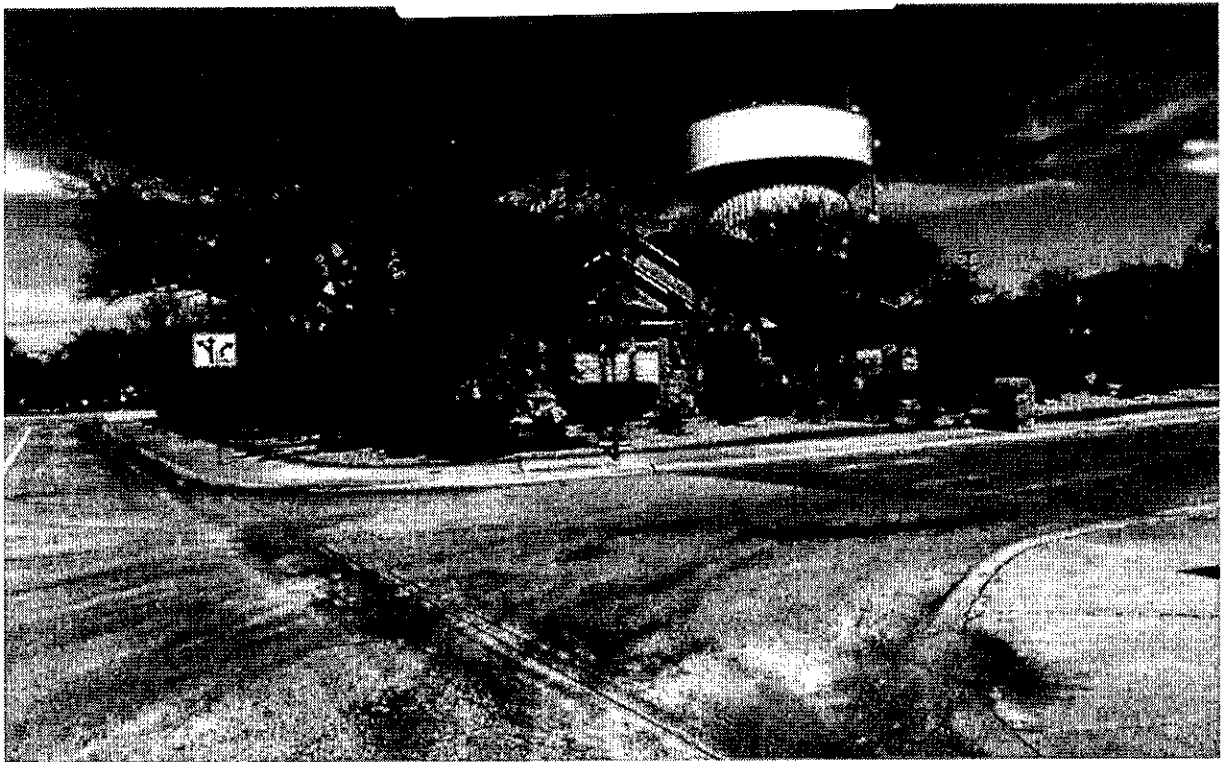
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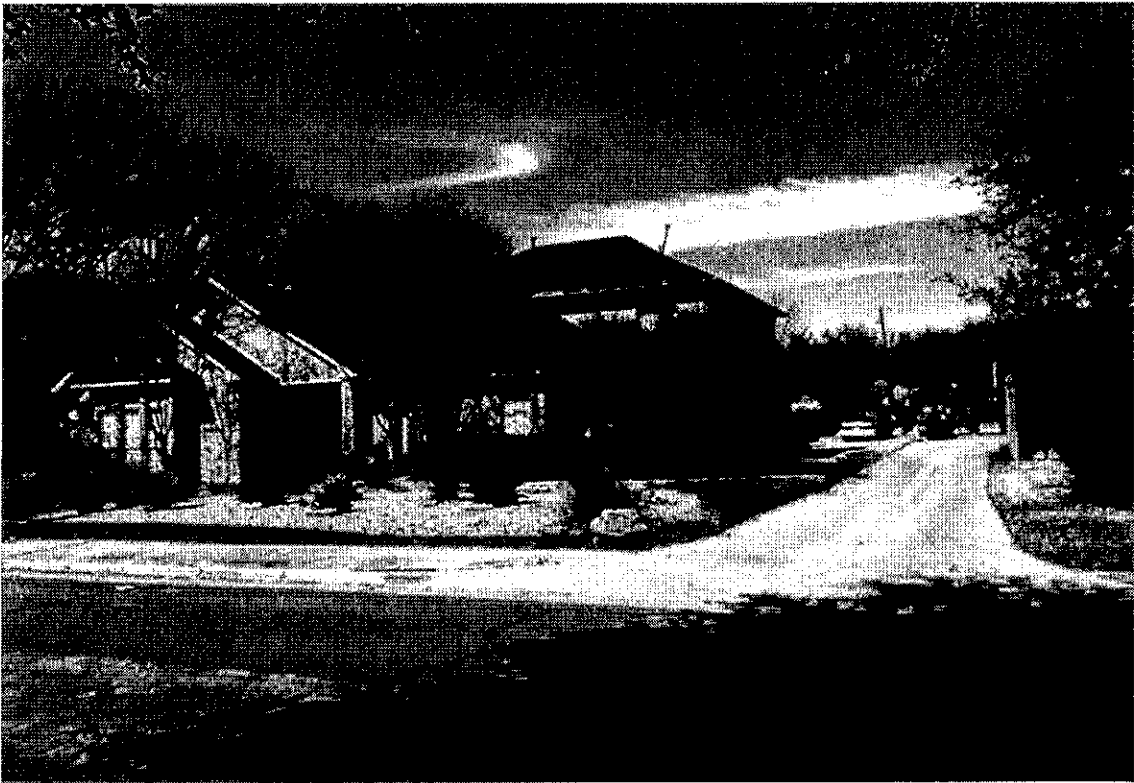
BDA178-050 ATTACH R P T 4



BDA178-050 ATTACH B P 95



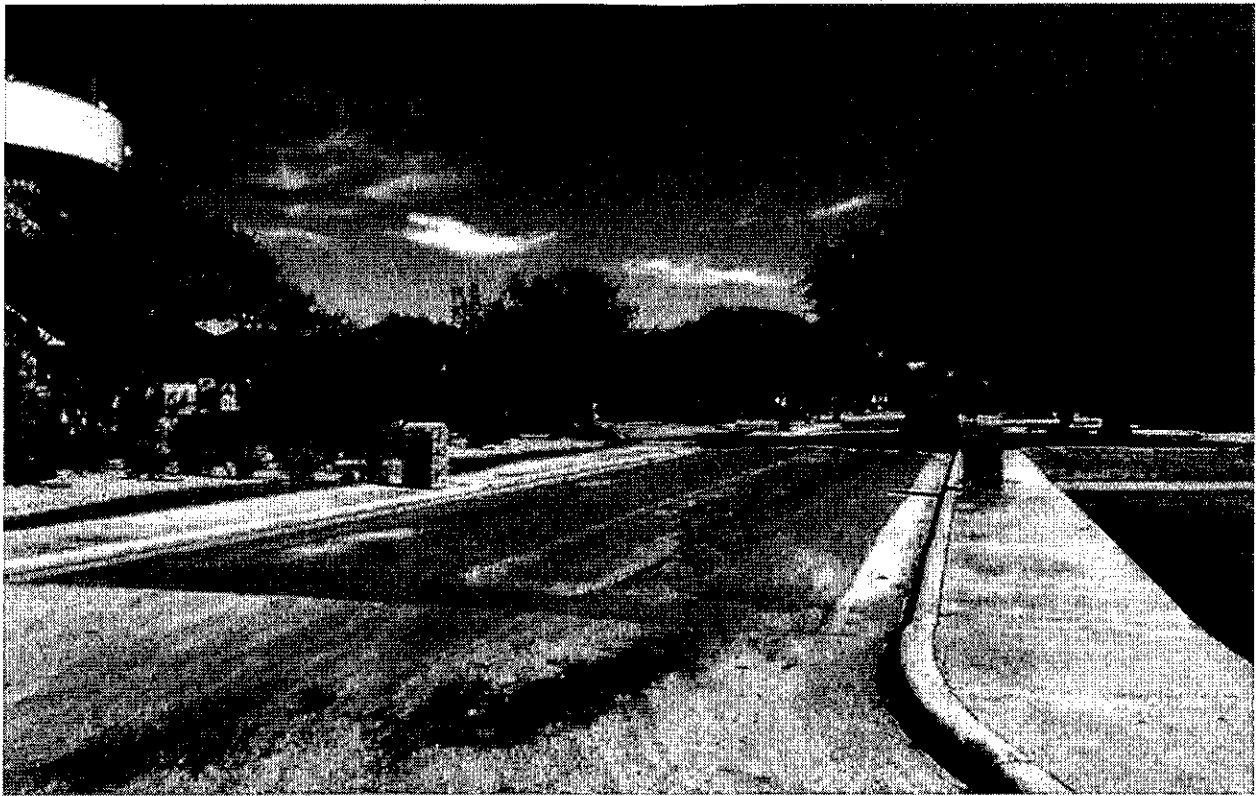
BDA178-050 ATTACH B PS 90





BDA178-050 ATTACH

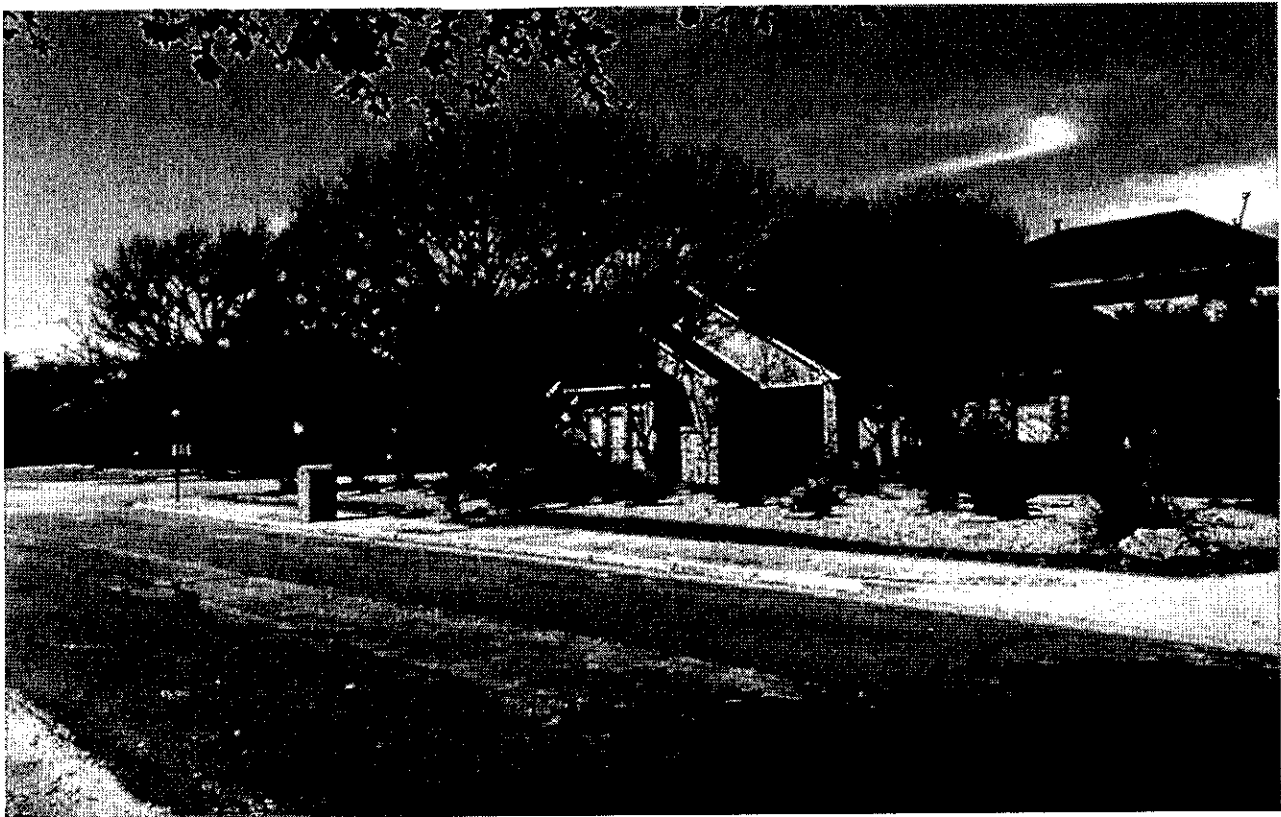
B P 97



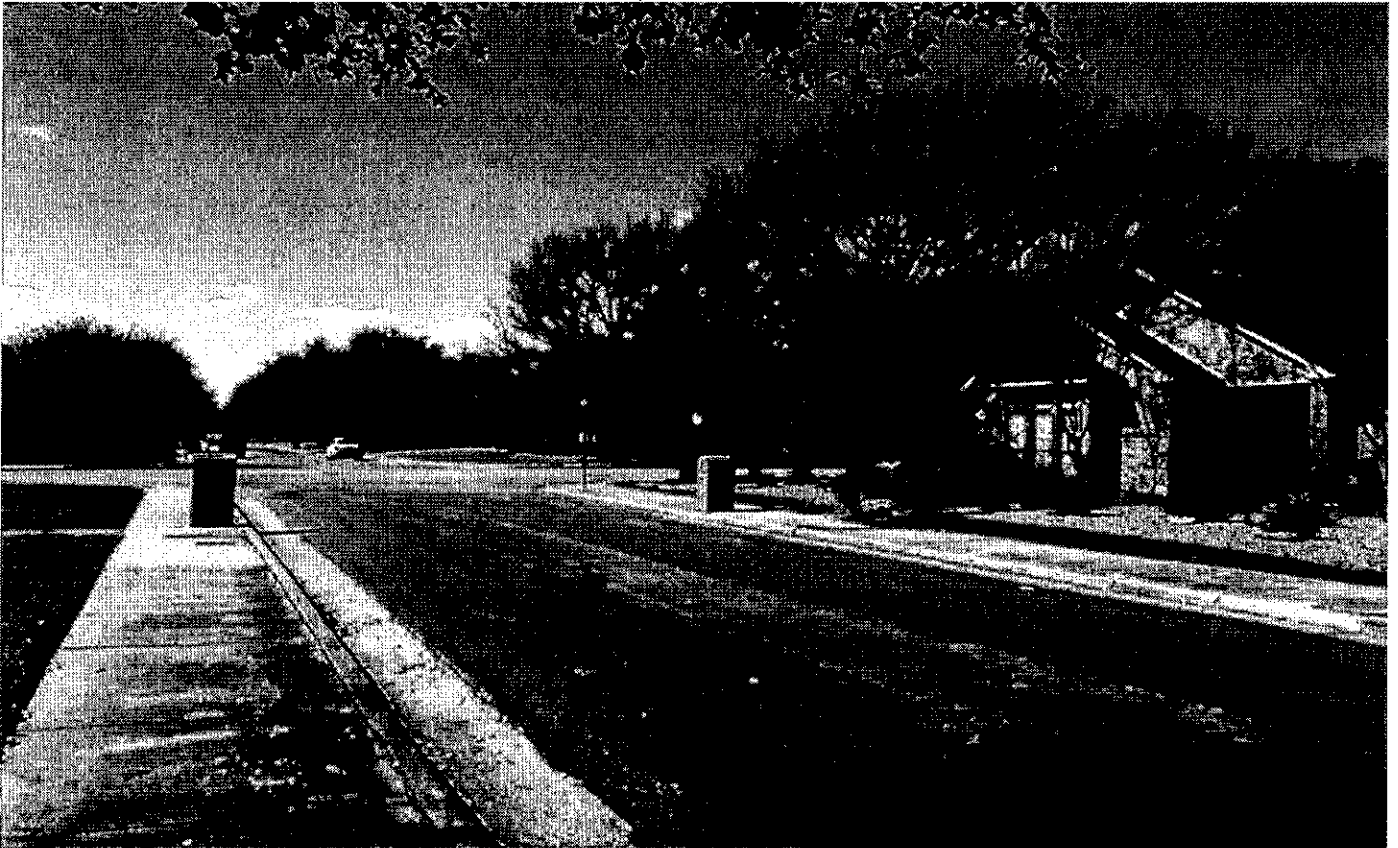
BDA178-050 ATTACH

B

P 98



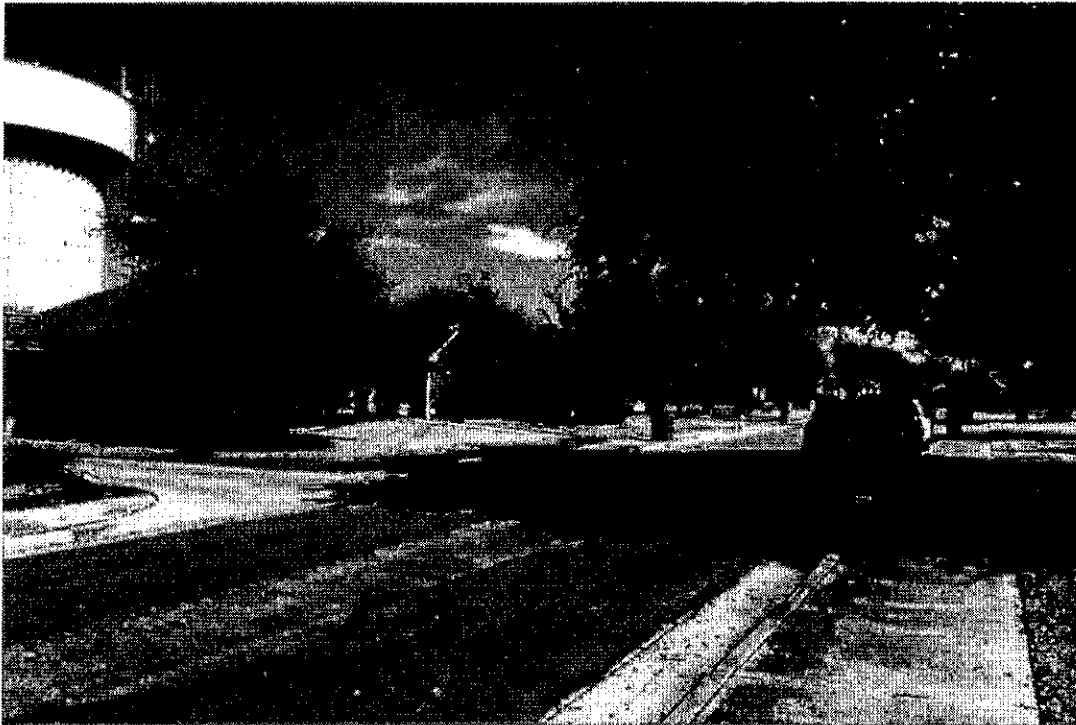
BDA178-050 ATTACH B 199



BDA178-050 ATTACH

B

P 105



CARS NOT AFFILIATED WITH CTC

BDA178-050 ATTACH *P* *P101*

March 26, 2018

Monday

80

BDA178-050 ATTACH

8

P 102



BDA178-050 ATTACH

B

P. 103



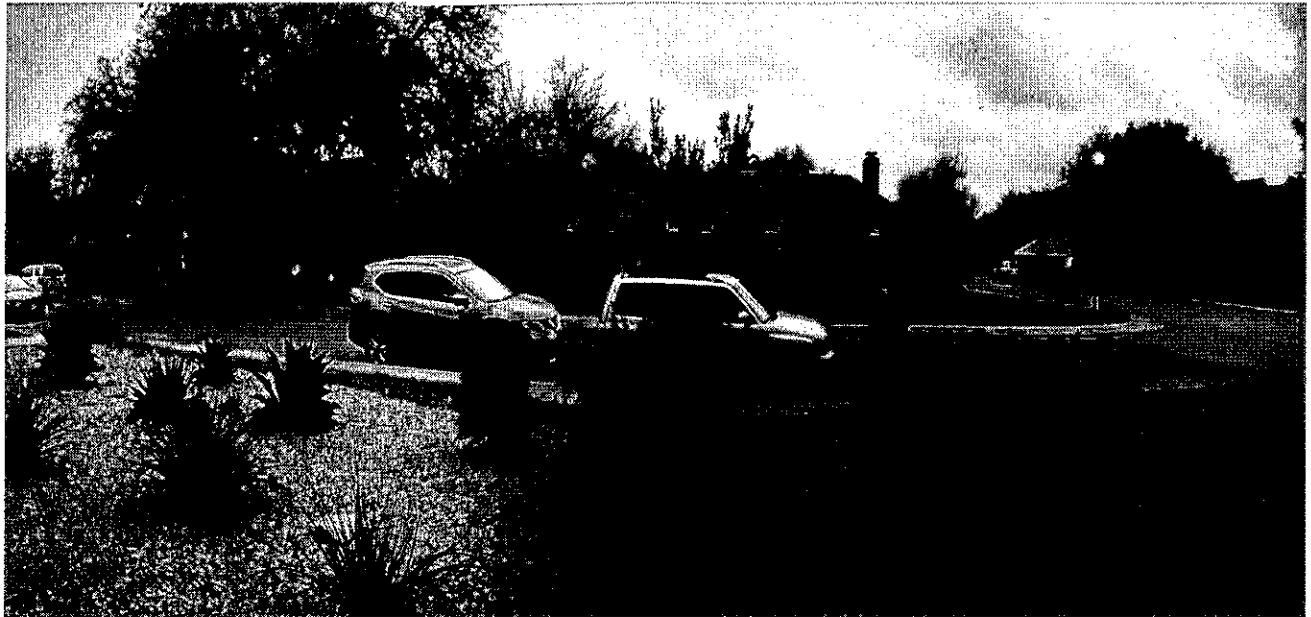


BDA178-050 ATTACH *B*

*A 107H*



BDA178-050 ATTACH B P105



BDA178-050 ATTACH B P 10~~6~~

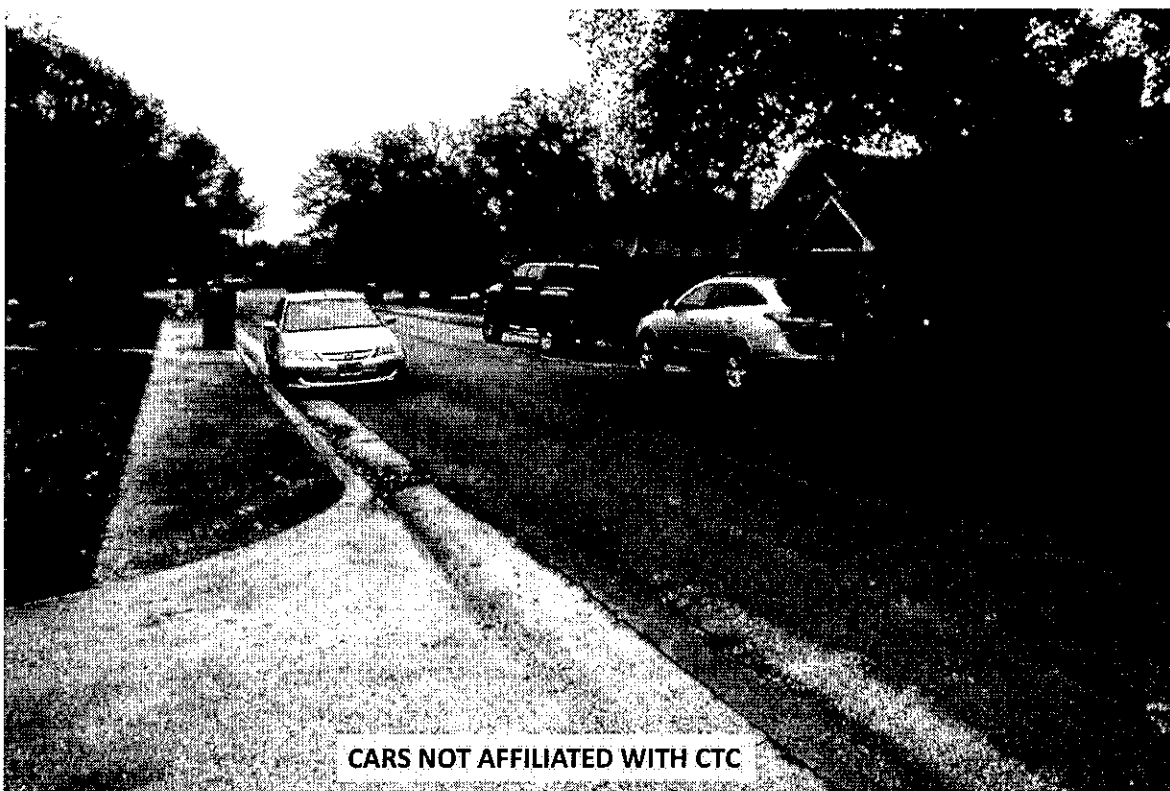
April 2, 2018

Monday

BDA178-050 ATTACH

P

P 107



CARS NOT AFFILIATED WITH CTC

BDA178-050 ATTACH

B P 108

# CTC's Positive Impact on Neighborhood

BDA178-050 ATTACH

B

P 109



BDA178-050 ATTACH B P 110





APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-050

Data Relative to Subject Property:

Date: 2/26/2018

Location address: 7103 Mumford Ct, Dallas, TX 75252

Zoning District: R-7.5(A)

Lot No.: 45 Block No.: 10/8758 Acreage: .29

Census Tract: 317.19

Street Frontage (in Feet): 1) 100 2) 126 3) 90 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Congregation Toras Chaim, Inc.

Applicant: Rabbi Yaakov Rich Telephone: (972) 835-6016

Mailing Address: 7103 Mumford Ct, Dallas, TX Zip Code: 75252

E-mail Address: rabbi@toraschaimdallas.org

Represented by: Grant K. Schmidt Telephone: (214) 453-6469

Mailing Address: 2501 N. Harwood St, Dallas, TX Zip Code: 75201

E-mail Address: gschmidt@winston.com

Affirm that an appeal has been made for a Variance X, or Special Exception   , of \_\_\_\_\_  
a 50% variance / reduction in required off street parking spaces (6 out of 12).

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: We are pursuing a 50% variance. The restrictive area, shape, and slope prevents Congregation Toras Chaim from developing the land in a manner commensurate with the development upon other parcels of land in the district with the same zoning classification. There are essentially three front yards (with a brick wall surrounding two sides) and no car could enter in back due to alley screening.

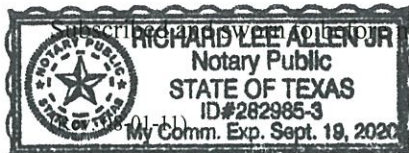
Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

Before me the undersigned on this day personally appeared Rabbi Yaakov Rich  
(Affiant/Applicant's name printed)

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

Respectfully submitted: \_\_\_\_\_  
(Affiant/Applicant's signature)



I, the undersigned, do hereby certify that I am a Notary Public in and for Dallas County, Texas, and that I am duly qualified to perform the duties of my office. I have this 26<sup>th</sup> day of February, 2018.  
Richard Lee Allen, Jr.  
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

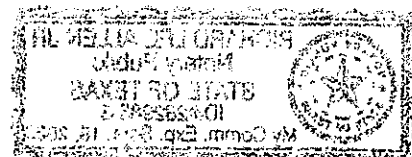
**Building Official's Report**

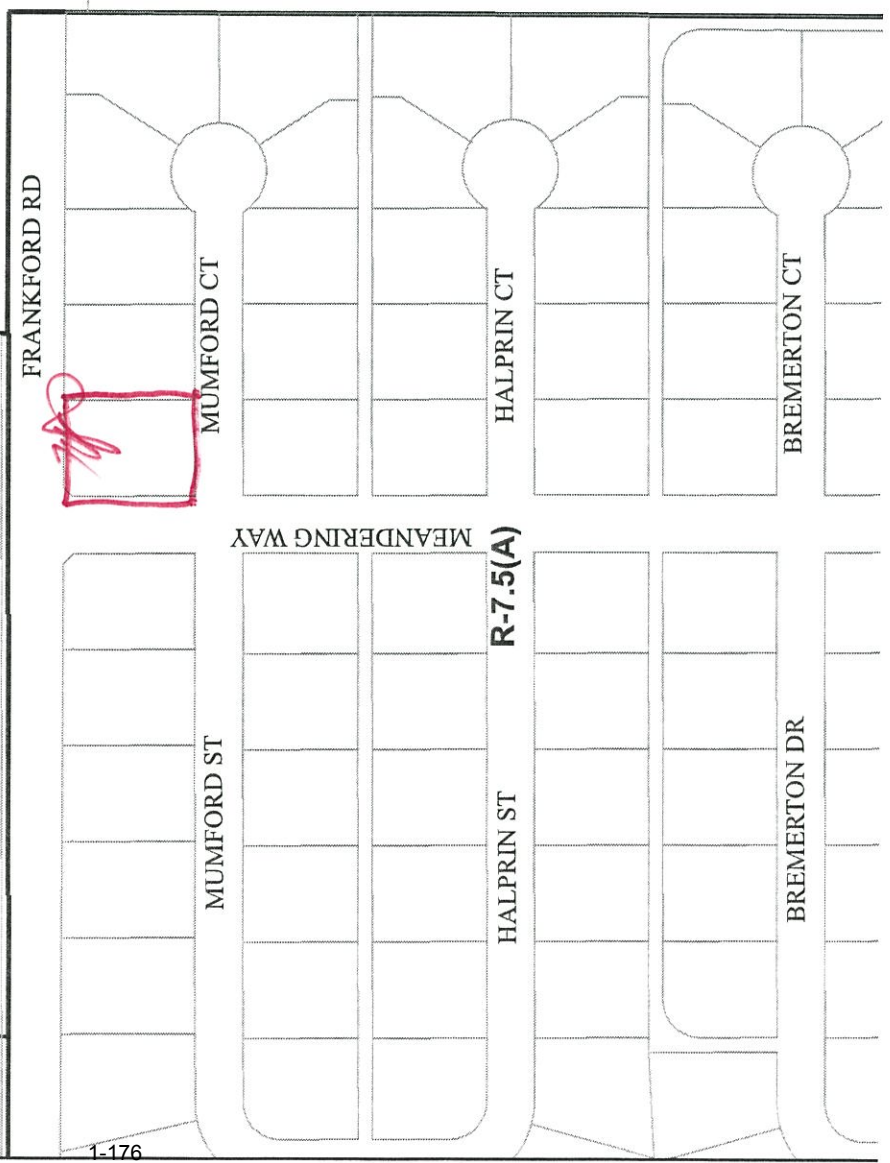
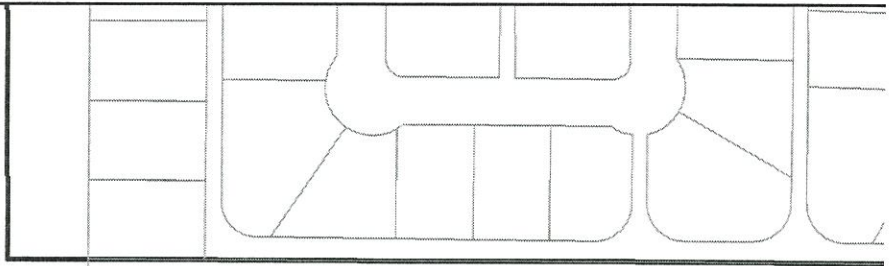
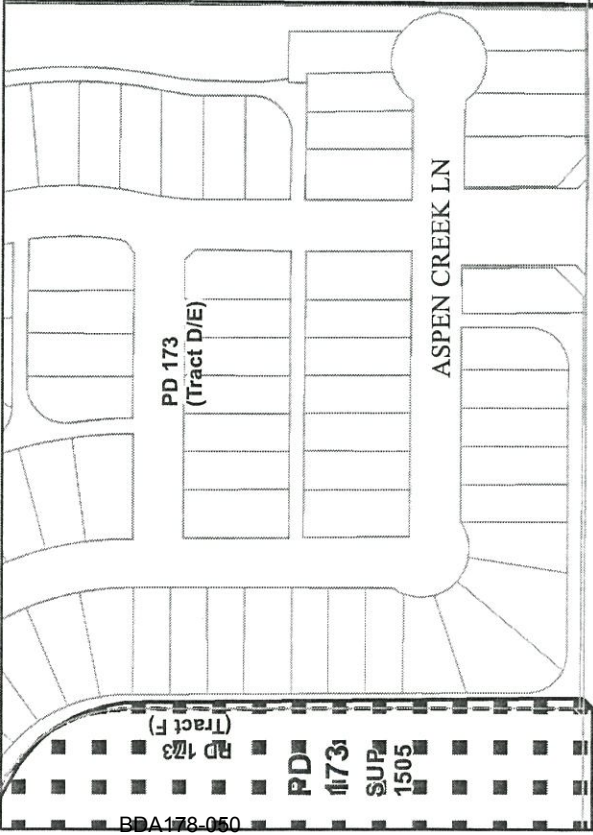
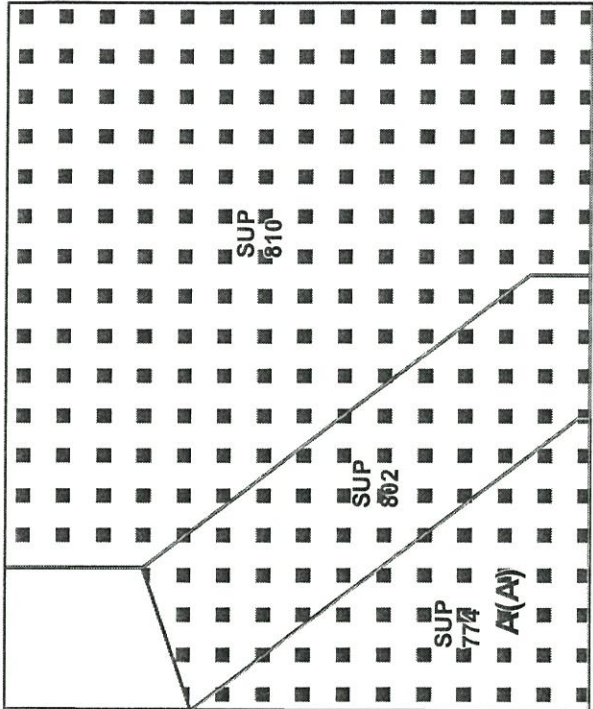
I hereby certify that      Yaakov Rich  
 represented by              Grant Schmidt  
 did submit a request      for a special exception to the parking regulations  
 at                                  7103 Mumford Court

BDA178-050. Application of Yaakov Rich represented by Grant Schmidt for a special exception to the parking regulations at 7103 Mumford Court. This property is more fully described as Lot 45, Block 10/8758 and is zoned R-7.5(A), which requires parking to be provided . The applicant proposes to construct a nonresidential structure for a church use, and provide 6 of the required 12 parking spaces, which will require a 6 space special exception or (50% reduction) to the parking regulation.

Sincerely,

*Philip Sikes*  
 Philip Sikes, Building Official







GIVEN UNDER MY HAND AND SEAL OF OFFICE, This 27th day of Sept.  
 Notary Public in  
 State of Texas  
 Notary Public in

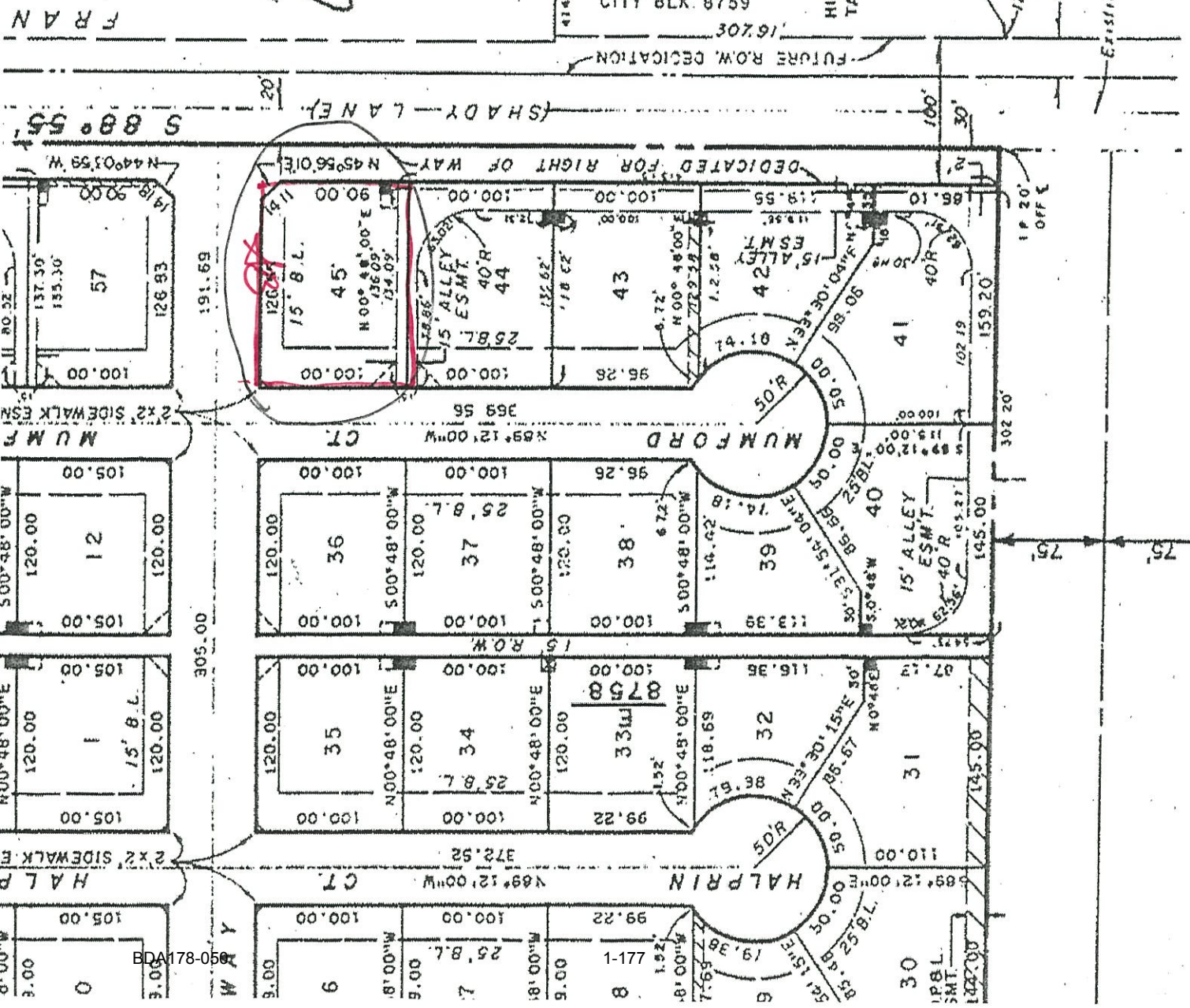
CERTIFICATE OF APPROVAL:  
 Approved this 20 day of Sept.  
 Commission of the City of Dallas, Texas  
 Chairman  
 City Plan Commission

# FINAL PLAT HIGHLANDS OF N

An Addition to the City of Dallas  
 PART OF LOT 3 OF THE D  
 COLLIN COUNTY SCHOOL L  
 ABSTRACT N 2 16  
 OND  
 PART OF CITY BLOCK NO.  
 DALLAS, COLLIN COUNTY  
 CITY PLAN FILE NO. S-7

HIGHLANDS ELEVATED  
 TANK ADDITION

OWNER - DEVELOPER  
 MCKAMY DEVELOPMENT CO  
 8950 One Northpark E  
 Suite 318  
 Dallas, Texas 75231  
 214 / 361-7175



MAINTENANCE OF SCREENING WALL  
 SHALL BE THE RESPONSIBILITY OF



North America Europe Asia

2501 N. Harwood Street  
17th Floor  
Dallas, TX 75201  
T +1 214 453 6500  
F +1 214 453 6400

**GRANT SCHMIDT**  
Associate  
214-453-6469  
gschmidt@winston.com

February 23, 2018

Steve Long  
Administrator – Board of Adjustment  
City Hall  
1500 Marilla St., 5BN  
Dallas, TX 75201

Charles Trammell  
Senior Plans Examiner  
320 E. Jefferson Blvd., Room 105  
Dallas, TX 75203

**Re:** *City of Dallas v. Mark B. Gothelf, Judith D. Gothelf and Congregation Toras Chaim, Inc. dba Congregation Toras Chaim*

Dear Mr. Long and Mr. Trammell:

I represent Congregation Toras Chaim, Inc. (“CTC”) in the above-referenced action brought by the City of Dallas (the “City”). CTC is a small Orthodox Jewish congregation that meets at 7103 Mumford Court, Dallas, TX 75252 (the “Property”), where about twenty-five neighborhood congregants walk to gather for worship on Saturdays, and a smaller number of congregants gather throughout the week. CTC is pursuing a variance regarding parking requirements for the Property. In particular, CTC intends to seek a variance of 6 off street parking spaces. CTC is required to have 12 off street parking spaces. After a significant amount of effort, CTC has entered a shared parking agreement with Torah Day School, which covers 6 of the 12 required spaces. The shared parking agreement is signed by both parties but still needs the appropriate signatures from the City of Dallas. This is a cover letter for the variance application. This packet includes (a) 2 Application forms; (b) 2 Affidavit forms; (c) 1 Warranty Deed; (d) a copy of the certified subdivision plot; (e) 1 lien statement; (f) 4 copies of the site plan; (g) 4 copies of the elevation drawings; (h) 4 copies of the floor plan; (i) a check for \$1,500.00 for this application (\$900 + (6 x \$100)); (j) \$30 in cash for the signage (3 x \$10); and (k) a smaller copy of each drawing as requested.


Regarding the parking analysis and/or traffic study, CTC does not have any parking analysis or traffic study to offer because CTC members generally do not drive to worship. Orthodox Jews are prohibited from driving on the Sabbath; these families therefore must live within walking distance of a synagogue to attend prayer services on the Sabbath. Therefore, CTC would be unable to provide a parking analysis or traffic study. This is consistent with CTC’s request to reduce the 12 parking space requirement.

CTC is pursuing a variance because the area, shape, and slope prevents CTC from developing the land in a manner commensurate with the development upon other parcels of land in the district with the same zoning classification. Second, there are essentially three front yards given the location of CTC's property. Third, there are two brick walls owned by the Homeowners' Association on two sides of the property. Furthermore, CTC has been instructed by the City that no car could enter the back of the home due to the alley screening issues. For these reasons, CTC requires a reduction in the required off street parking requirements (12 spaces). The implementation of this variance would not be contrary to the public interest (in fact, it would be consistent with the public interest) and would otherwise result in an unnecessary hardship for CTC. This variance is not being pursued to relieve a self-created or personal hardship.

CTC intends to seek a fee reimbursement as the filing fee has resulted in a substantial financial hardship for CTC. CTC is a non-profit religious organization. CTC generates no profit, and any money that CTC spends must come from donations or fundraising efforts. Furthermore, the application fee constitutes a significant percentage of CTC's monthly operating expenses, and it already struggles to meet those obligations, often failing to pay the salary of its one full-time employee, Rabbi Rich.

Please contact me if you have any questions or if I may provide any additional information regarding the variance application.

Respectfully,



Grant K. Schmidt

cc: Andrew Gilbert, Assistant City Attorney  
Kristen Monkhouse, Assistant City Attorney  
Chelsey Youman, First Liberty





7103 Mumford Ct Dallas Texas 75252

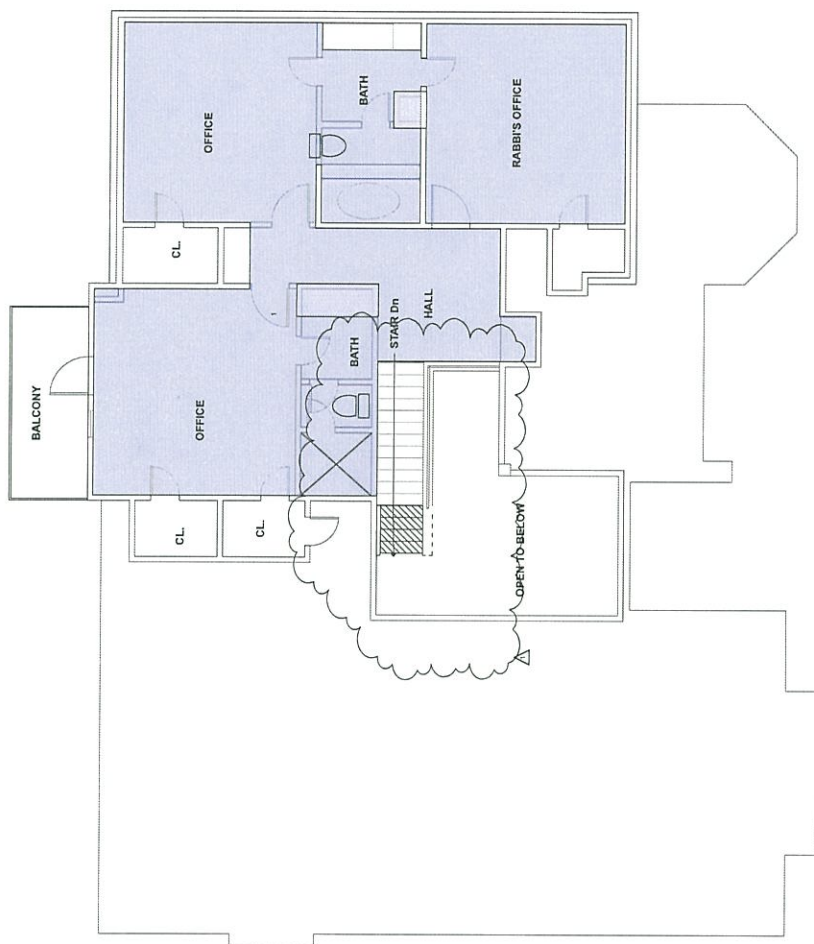
**TORAS CHIAM CONGREGATION**

PROJECT NO: 1315FC09  
2ND FLOOR PLAN

Gregory Hightower ARCHITECT  
1041 Perimeter Ln.  
Houston, Texas 77060  
gregoryh@gha.com

REVISED:  
 1. 02/15  
 2. 05/10  
 3. AUGUST 08, 2018  
 4. FEBRUARY 18, 2017

REVISION:



01 | 2nd FLOOR PLAN  
 SCALE: 1/4" = 1'-0"  
 OCCUPANCY 5





7103 Munford Ct Dallas Texas 75252

**TORAS CHIAM CONGREGATION**

PROJECT NO: 15110100  
1st FLOOR PLAN

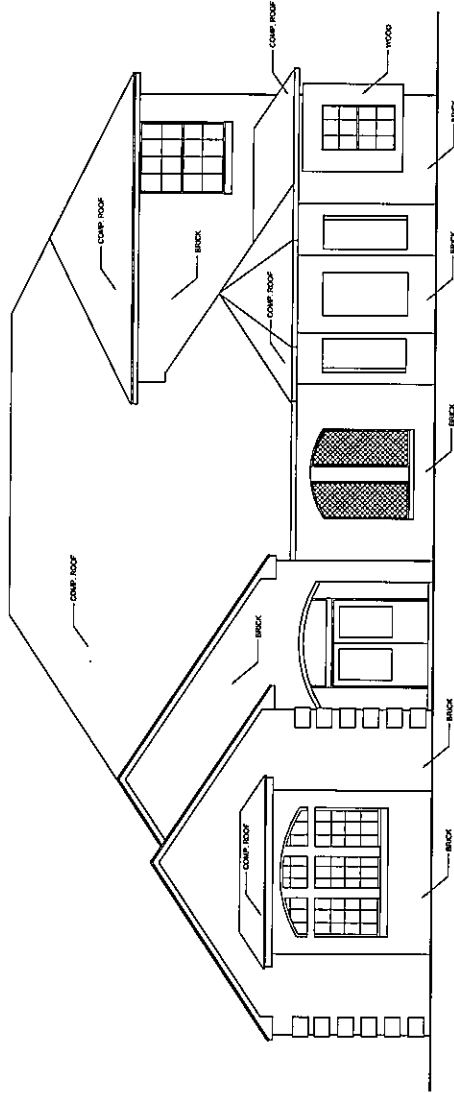
Affect

15

ARCHITECT  
104 Perryman Ln  
Newport News, VA 23606  
757-246-2725  
www.affectva.com

DATE: 01.15.15  
DRAWN BY: JTB  
CHECKED BY: JTB  
PROJECT NO: 15110100

REVISION:



01 | FRONT ELEVATION  
SCALE: 1/4" = 1'-0"



CITY OF DALLAS

AFFIDAVIT

Appeal number: BDA 178-050

I, Congregation Toras Chaim, Inc., Owner of the subject property  
(Owner of "Grantee" of property as it appears on the Warranty Deed)

at: 7103 Mumford Court, Dallas, TX 75252  
(Address of property as stated on application)

Authorize: Rabbi Yaakov Rich  
(Applicant's name as stated on application)

To pursue an appeal to the City of Dallas Zoning Board of Adjustment for the following request(s)

Variance (specify below)

Special Exception (specify below)

Other Appeal (specify below)

Specify: A variance to reduce the number of required off street parking spaces.

Rabbi Yaakov Rich  
Print name of property owner or registered agent

[Signature]  
Signature of property owner or registered agent

Date FEBRUARY 21, 2018

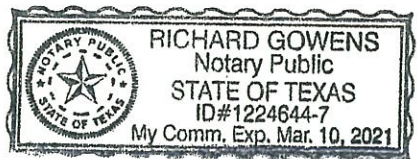
Before me, the undersigned, on this day personally appeared Jordan Rich

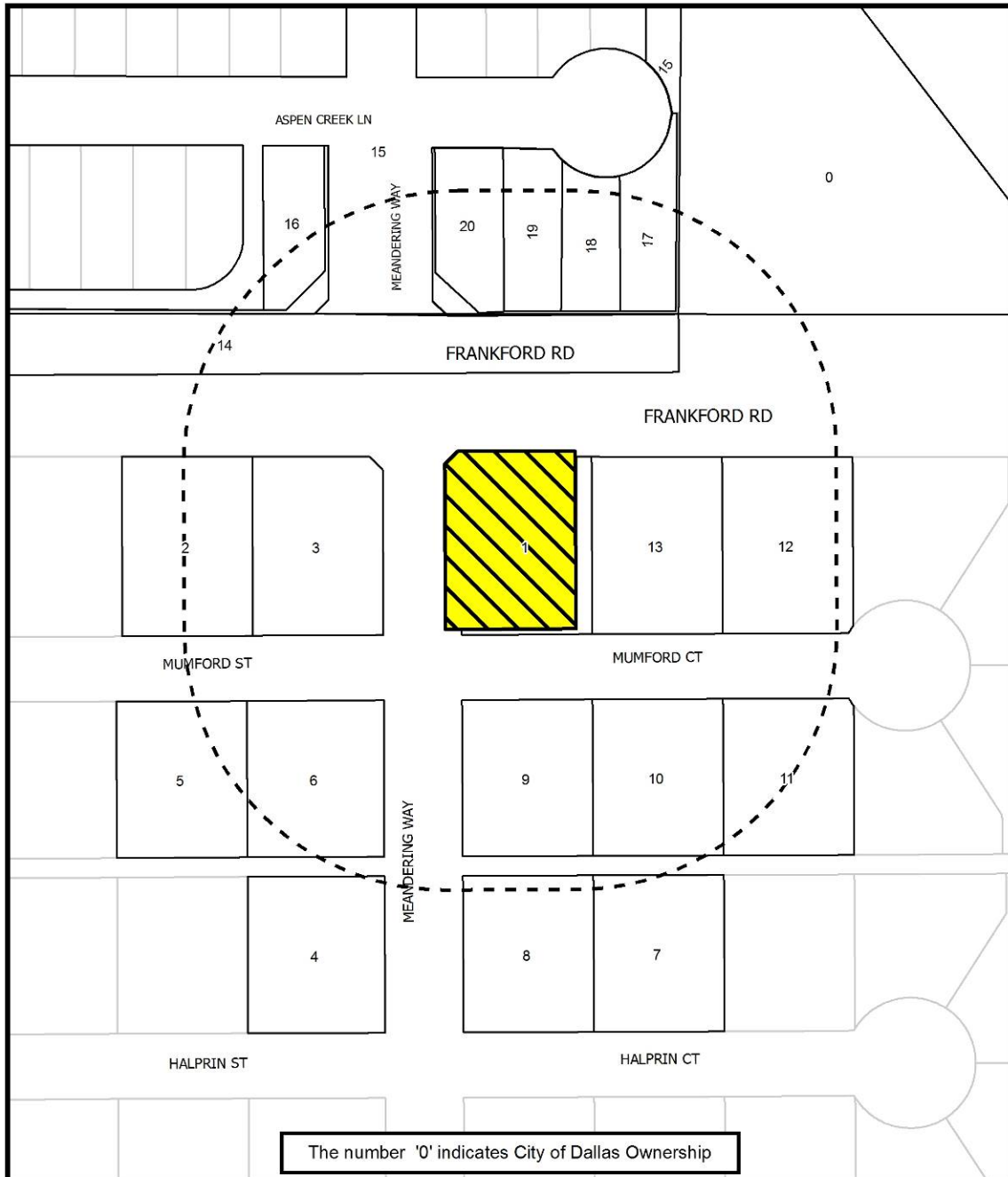
Who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 21 day of FEBRUARY, 2018

Richard Gowens  
Notary Public for Dallas County, Texas

Commission expires on 03/10/2021





 1:1,200	<h2>NOTIFICATION</h2>	Case no: <u>BDA178-050</u>			
	<table border="0"> <tr> <td style="border: 1px solid black; padding: 2px;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="border: 1px solid black; padding: 2px;">20</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	20	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
20	NUMBER OF PROPERTY OWNERS NOTIFIED				

# *Notification List of Property Owners*

***BDA178-050***

***20 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	7103 MUMFORD CT	GOTHELF MARK B &
2	7031 MUMFORD ST	MCKENZIE MICHELLE L LEVESQUE & STEVEN N
3	7035 MUMFORD ST	SCHNEIDER DAVID R & LAURA H
4	7035 HALPRIN ST	JOHNSON JAMES W ETUX
5	7032 MUMFORD ST	DAVID NATALIE E & JOSEPH D
6	7036 MUMFORD ST	NGUYEN VU DANG
7	7107 HALPRIN CT	BEISWANGER JOHN P
8	7103 HALPRIN CT	YANCEY BARRY & MARYBETH
9	7104 MUMFORD CT	RINGELHEIM ABRAHAM & MINNA
10	7108 MUMFORD CT	COLMERY ROBERT D JR ETUX
11	7112 MUMFORD CT	COATES DAWN E
12	7111 MUMFORD CT	NEELY JANETTE & JOHN
13	7107 MUMFORD CT	FORD DALVIN WAYNE SR &
14	FRANKFORD RD	CHURCHILL GLEN LP
15		HIGHLAND CREEK MANOR
16	7048 ASPEN CREEK LN	SHERMAN HILARY & SHERMAN GALE ALLEN LIVING TRUST
17	7124 ASPEN CREEK LN	STONE HOLLY NANETTE
18	7118 ASPEN CREEK LN	SCHIRATO JUDITH A
19	7112 ASPEN CREEK LN	RUBY RED RESOURCES LP
20	7106 ASPEN CREEK LN	WATERS KAYLA M

**FILE NUMBER:** BDA178-051(SL)

**BUILDING OFFICIAL'S REPORT:** Application of DRW Planning Studio, represented by David Whitley, for a special exception to the off-street parking regulations at 660 Fort Worth Avenue. This property is more fully described as Lot 2, Block A/6816, and is zoned MU-3, which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure for a commercial amusement (inside), and a restaurant without drive-in or drive-through service use, and provide 74 of the required 97 parking spaces, which will require a 23 space special exception to the off-street parking regulations.

**LOCATION:** 660 Fort Worth Avenue

**APPLICANT:** DRW Planning Studio  
Represented by David Whitley

**REQUEST:**

A request for a special exception to the off-street parking regulations of 23 spaces is made to lease an approximately 9,700 square foot vacant non-residential structure with "commercial amusement (inside)" and "restaurant without drive-in or drive-through service" uses and to provide 74 (or 76 percent) of the 97 required off-street parking spaces on the subject site.

**STANDARD FOR A SPECIAL EXCEPTION TO THE OFF-STREET PARKING REGULATIONS:**

Section 51A-4.311(a) of the Dallas Development Code states the following with regard to special exception: parking demand:

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 75 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). For the office use, the maximum reduction authorized by this section is 35 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). Applicants may seek a special

exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.

- 2) In determining whether to grant a special exception, the board shall consider the following factors:
  - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
  - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
  - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
  - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
  - (E) The availability of public transit and the likelihood of its use.
  - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
  - (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
  - (B) Impose restrictions on access to or from the subject property; or
  - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
  - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
  - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

## **STAFF RECOMMENDATION:**

Denial

Rationale:

- Staff concluded from the information submitted by the applicant at the time of the April 3<sup>rd</sup> staff review team meeting that the applicant had not substantiated how the parking demand generated by the proposed “commercial amusement (inside)” and “restaurant without drive-in or drive-through service” uses did not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- On April 5, 2018, the Sustainable Development Department Senior Engineer submitted a review comment sheet marked “Recommends denial” commenting “Pending review of supporting technical report to justify request including field observations of comparable land uses”.

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: MU-3 (Deed restricted) \* (Mixed use)  
North: PD 714 (Planned Development)  
South: MU-3 (Deed restricted) (Mixed use)  
East: IR (Industrial/research)  
West: PD 714 (Planned Development)

- \* Note that on March 13, 2018, the applicant’s representative has represented in an email to the Board Administrator/Chief Planner that this request does not violate these restrictions since there is nothing in the restrictions that prohibits granting a special exception to parking requirements. The applicant’s representative stated that the restrictions identify prohibited uses, cap dwelling unit density, cap the floor area for non-residential uses at 10,000 sf, limit height to 60’, address ingress/egress requirements, limit the use of outdoor speakers, and require nonresidential uses to cease operating at 2:00 a.m.

### **Land Use:**

The subject site is developed with a vacant nonresidential structure. The areas to the north and west are developed with mixed uses; and the area to the south is undeveloped; and the area to east is developed with office/warehouse use.

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

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



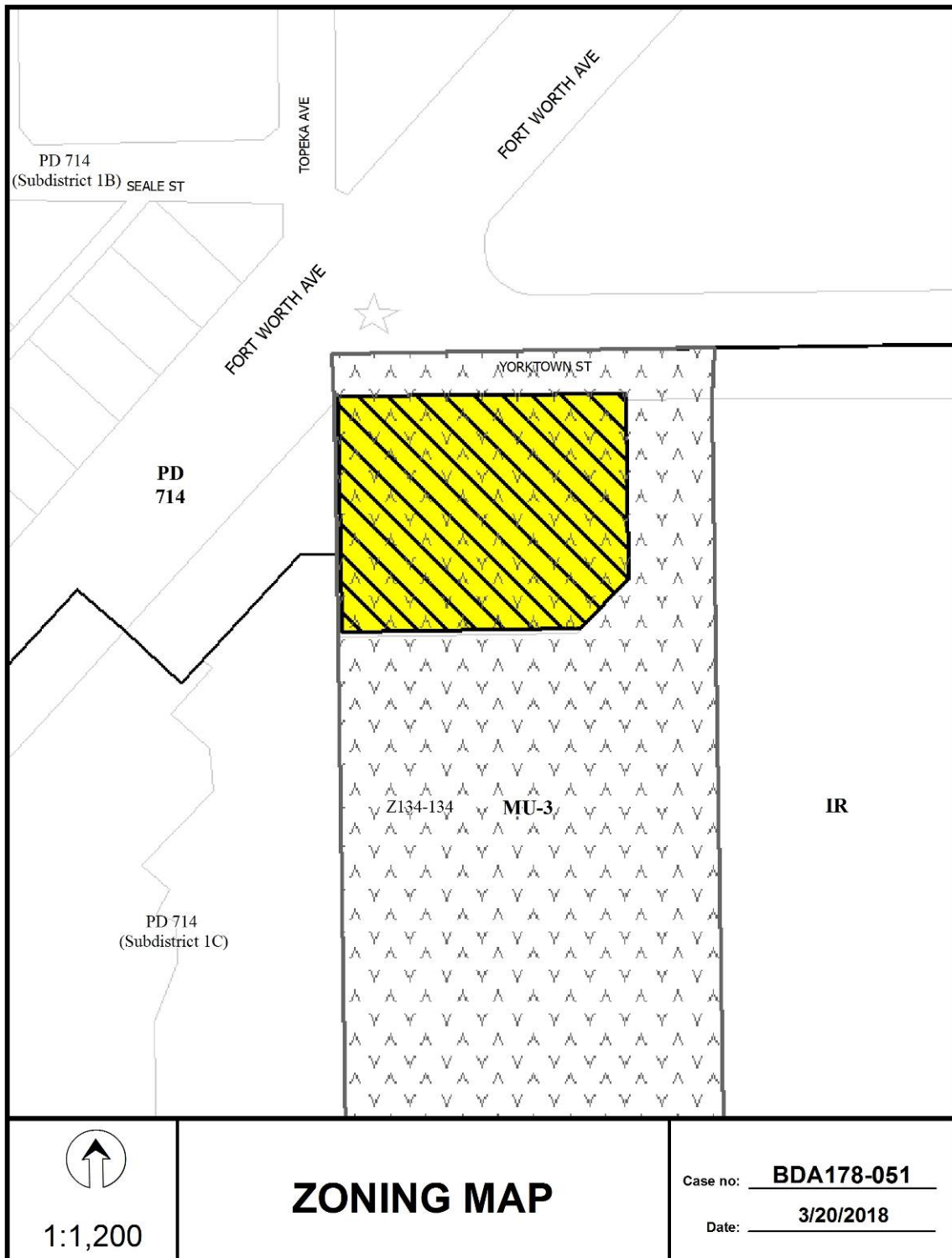
## **GENERAL FACTS/STAFF ANALYSIS:**

- This request for a special exception to the off-street parking regulations of 23 spaces focuses on leasing an approximately 9,700 square foot vacant non-residential structure with “commercial amusement (inside)” and “restaurant without drive-in or drive-through service” uses and providing 74 (or 76 percent) of the 97 required off-street parking spaces on the subject site.
- The Dallas Development Code requires the following off-street parking requirements:
  - Restaurant without drive-in or drive through service: As a main use, 1 space per 100 square feet of floor area. As a limited or accessory use, 1 space per 200 square feet of floor area.
  - Commercial amusement (inside): 1 space per 100 square feet of floor area for any of these uses other than bingo parlor, bowling alley, children’s amusement center, dance hall, motor track, or skating rink.
- On April 5, 2018, the Sustainable Development Department Senior Engineer submitted a review comment sheet marked “Recommends denial” commenting “Pending review of supporting technical report to justify request including field observations of comparable land uses”.
- The applicant has the burden of proof in establishing the following:
  - The parking demand generated by the “commercial amusement (inside)” and “restaurant without drive-in or drive-through service” uses on the site does not warrant the number of off-street parking spaces required, and
  - The special exception of 23 spaces (or 24 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 23 spaces shall automatically and immediately terminate if and when the “commercial amusement (inside)” and “restaurant without drive-in or drive-through service” uses are changed or discontinued, the applicant could lease the vacant structure with these uses, and provide 74 (or 76 percent) of the 97 required off-street parking spaces.

## **Timeline:**

- March 2, 2018: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- March 13, 2018: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

- March 13, 2018: The Board Administrator emailed the applicant's representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the March 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and April 6<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- April 3, 2018: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director, the Building Official, the Assistant Building Official, the Board of Adjustment Chief Planner/Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- April 5, 2018: The Sustainable Development Department Senior Engineer submitted a review comment sheet marked "Recommends denial" commenting "Pending review of supporting technical report to justify request including field observations of comparable land uses".
- April 6, 2018: The applicant submitted additional documentation to staff (see Attachment A). Note that this information was not factored into the staff recommendation since it was submitted after the April 3<sup>rd</sup> staff review team meeting.





1:1,200

## AERIAL MAP

Case no: BDA178-051

Date: 3/20/2018

**Aguilera, Oscar E**

BDA178-051  
Attachment PSI

**From:** David Whitley <david@drwplanning.com>  
**Sent:** Friday, April 06, 2018 12:52 PM  
**To:** Long, Steve; Dean, Neva; Aguilera, Oscar E; Trammell, Charles; Williams, Kanesia; Nevarez, David  
**Cc:** christy  
**Subject:** Re: BDA178-051, Property at 660 Fort Worth Avenue  
**Attachments:** ZBOA 178-051 - 660 Fort Worth Avenue Pkg Analysis 4.6.18 b[1].pdf  
**Categories:** Red Category

Steve and David –

I have attached the engineer's report supporting the requested 23 space reduction for the abovementioned BDA case. Please include this in the Board packet and let us know if you have any questions or need anything further. This should hopefully address David's comment on the case as well and support a recommendation of "no objection." We would be happy to discuss further if needed.

Thank you,  
David Whitley  
214.458.3919



400 North St. Paul Street  
Suite 1212  
Dallas, Texas 75201

[www.drwplanning.com](http://www.drwplanning.com)

---

**From:** DAVID WHITLEY <david@drwplanning.com>  
**Date:** Thursday, April 5, 2018 at 10:50 AM  
**To:** "Long, Steve" <steve.long@dallascityhall.com>, Neva Dean <neva.dean@dallascityhall.com>, "Aguilera, Oscar E" <oscar.aguilera@dallascityhall.com>, "Trammell, Charles" <charles.trammell@dallascityhall.com>, "Williams, Kanesia" <kanesia.williams@dallascityhall.com>  
**Cc:** "Nevarez, David" <david.nevarez@dallascityhall.com>  
**Subject:** Re: BDA178-051, Property at 660 Fort Worth Avenue

Thanks, Steve. I anticipate having the engineer's report back today supporting the request. I will pass that along as soon as I get it to address David's comment.

Thanks,  
David Whitley  
214.458.3919



BDA 178 -051

Attach A  
p32

400 North St. Paul Street  
Suite 1212  
Dallas, Texas 75201

www.drwplanning.com

**From:** "Long, Steve" <steve.long@dallascityhall.com>  
**Date:** Thursday, April 5, 2018 at 9:27 AM  
**To:** Neva Dean <neva.dean@dallascityhall.com>, "Aguilera, Oscar E" <oscar.aguilera@dallascityhall.com>, "Trammell, Charles" <charles.trammell@dallascityhall.com>, "Williams, Kanesia" <kanesia.williams@dallascityhall.com>, DAVID WHITLEY <david@drwplanning.com>  
**Cc:** "Nevarez, David" <david.nevarez@dallascityhall.com>  
**Subject:** FW: BDA178-051, Property at 660 Fort Worth Avenue

Attached is the review comment sheet from David Nevarez, Sustainable Development and Construction Senior Engineer, regarding the application referenced above. This will be incorporated into the case report/docket that is emailed to you and the board members next week.

Please write, call, or see me if you have any concerns or questions.

Thank you,

Steve



**Steve Long**  
*Chief Planner*  
City of Dallas | [www.dallascityhall.com](http://www.dallascityhall.com)  
Current Planning Division  
Sustainable Development and Construction  
1500 Marilla Street, 5BN  
Dallas, TX 75201  
O: 214-670-4666  
[steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com)



**\*\*OPEN RECORDS NOTICE:** This email and responses may be subject to the Texas Open Records Act and may be disclosed to the public upon request. Please respond accordingly.\*\*

**From:** Long, Steve  
**Sent:** Thursday, March 29, 2018 10:03 AM  
**To:** 'David Whitley' <david@drwplanning.com>  
**Cc:** Trammell, Charles <charles.trammell@dallascityhall.com>; Aguilera, Oscar E <oscar.aguilera@dallascityhall.com>; Nevarez, David <david.nevarez@dallascityhall.com>  
**Subject:** RE: BDA178-051, Property at 660 Fort Worth Avenue

BDA178051  
Attachment  
PS 3

Dear David,

This is to follow up on the conversation we just had. Among other things that we spoke about, yes, the deadline for the board docket is next Friday the 6<sup>th</sup> at 1 p.m.

Please let me know if I can assist you in any other way on this application.

Thank you,

Steve



**Steve Long**  
Board of Adjustment Chief Planner  
City of Dallas | [www.dallascityhall.com](http://www.dallascityhall.com)  
Current Planning Division  
Sustainable Development and Construction  
1500 Marilla Street, 5BN  
Dallas, TX 75201  
O: 214-670-4666  
[steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com)



**\*\*OPEN RECORDS NOTICE:** This email and responses may be subject to the Texas Open Records Act and may be disclosed to the public upon request. Please respond accordingly. \*\*

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**From:** David Whitley [<mailto:david@drwplanning.com>]  
**Sent:** Thursday, March 29, 2018 9:52 AM  
**To:** Nevarez, David <[david.nevarez@dallascityhall.com](mailto:david.nevarez@dallascityhall.com)>; Long, Steve <[steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com)>  
**Cc:** Trammell, Charles <[charles.trammell@dallascityhall.com](mailto:charles.trammell@dallascityhall.com)>; Aguilera, Oscar E <[oscar.aguilera@dallascityhall.com](mailto:oscar.aguilera@dallascityhall.com)>; christy <[christy@lambethengineering.com](mailto:christy@lambethengineering.com)>  
**Subject:** Re: BDA178-051, Property at 660 Fort Worth Avenue

Thanks, David. We are working with Christy Lambeth on the requested study. She should be reaching out to you to confirm what all is needed. Steve – just to confirm the deadline for the Board packet is 1pm on April 6<sup>th</sup>, correct?

David Whitley  
214.458.3919



400 North St. Paul Street  
Suite 1212  
Dallas, Texas 75201

[www.drwplanning.com](http://www.drwplanning.com)



**From:** "Nevarez, David" <david.nevarez@dallascityhall.com>  
**Date:** Wednesday, March 28, 2018 at 3:38 PM  
**To:** DAVID WHITLEY <david@drwplanning.com>, "Long, Steve" <steve.long@dallascityhall.com>  
**Cc:** "Trammell, Charles" <charles.trammell@dallascityhall.com>, "Aguilera, Oscar E" <oscar.aguilera@dallascityhall.com>  
**Subject:** RE: BDA178-051, Property at 660 Fort Worth Avenue

David,

Please contact Steve Long to confirm your deadline to include any documentation as part of your application to the Board.

Staff review comments are due next week but I will gladly review additional documentation leading into the briefing/hearing.

**David Nevarez, P.E., PTOE**

City of Dallas | Sustainable Development & Construction | (214) 671.5115

---

**From:** David Whitley [mailto:david@drwplanning.com]  
**Sent:** Wednesday, March 28, 2018 3:00 PM  
**To:** Nevarez, David <david.nevarez@dallascityhall.com>; Long, Steve <steve.long@dallascityhall.com>  
**Cc:** Trammell, Charles <charles.trammell@dallascityhall.com>; Aguilera, Oscar E <oscar.aguilera@dallascityhall.com>  
**Subject:** Re: BDA178-051, Property at 660 Fort Worth Avenue

Thanks, David. I appreciate the feedback. By when would we need to provide the study?

Thanks,  
David Whitley  
214.458.3919



400 North St. Paul Street  
Suite 1212  
Dallas, Texas 75201

[www.drwplanning.com](http://www.drwplanning.com)

---

**From:** "Nevarez, David" <david.nevarez@dallascityhall.com>  
**Date:** Wednesday, March 28, 2018 at 1:24 PM  
**To:** "Long, Steve" <steve.long@dallascityhall.com>  
**Cc:** "Trammell, Charles" <charles.trammell@dallascityhall.com>, "Aguilera, Oscar E" <oscar.aguilera@dallascityhall.com>, DAVID WHITLEY <david@drwplanning.com>  
**Subject:** RE: BDA178-051, Property at 660 Fort Worth Avenue

Steve,

I have no objection to the request subject to a parking study describing the traffic operations and projected parking demand needs of the proposed land uses. The study must be prepared by a professional engineer licensed in the State of Texas with expertise in transportation and traffic engineering, preferably certified as a Professional Traffic Operations Engineer.

**David Nevarez, P.E., PTOE**

City of Dallas | Sustainable Development & Construction | (214) 671.5115

---

**From:** Long, Steve

**Sent:** Tuesday, March 13, 2018 12:28 PM

**To:** [david@drwplanning.com](mailto:david@drwplanning.com)

**Cc:** Trammell, Charles <[charles.trammell@dallascityhall.com](mailto:charles.trammell@dallascityhall.com)>; Nevarez, David <[david.nevarez@dallascityhall.com](mailto:david.nevarez@dallascityhall.com)>; Aguilera, Oscar E <[oscar.aguilera@dallascityhall.com](mailto:oscar.aguilera@dallascityhall.com)>; Dean, Neva <[neva.dean@dallascityhall.com](mailto:neva.dean@dallascityhall.com)>; Cossum, David T <[david.cossum@dallascityhall.com](mailto:david.cossum@dallascityhall.com)>

**Subject:** BDA178-051, Property at 660 Fort Worth Avenue

Dear David,

Here is information regarding your board of adjustment application referenced above:

1. Your submitted application materials - all of which will be emailed to you, city staff, and the board members in a docket report about a week ahead of your tentatively scheduled April 17<sup>th</sup> Board of Adjustment Panel A public hearing.
2. The provision from the Dallas Development Code allowing the board to grant a special exception to the off-street parking regulations (51A-4.311(a)).
3. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board.
4. The board's rule pertaining to documentary evidence.

Please carefully review the attached application materials to make sure they are complete, and within these materials, the Building Official's Report/second page of the application (page 2 of 10 in these attached materials). Please contact Charles Trammell at 214/948-4618 or [charles.trammell@dallascityhall.com](mailto:charles.trammell@dallascityhall.com) no later than noon, Wednesday, March 28<sup>th</sup> with regard to any information you feel is missing from your submittal or with regard to any amendment that you feel is necessary to address the issue at hand, specifically if for any reason you feel that the statement in his Building Official's report stating that the applicant proposes to construct/maintain a structure with restaurant without drive-in and commercial amusement (inside) uses and provide a 74 of the required 97 off-street parking spaces which will require a 23 space special exception to the off-street parking regulations, or any other part of this report is incorrect. (Note that the discovery of any additional appeal needed beyond your requested off-street parking special exception will result in postponement of the appeal until the panel's next regularly scheduled public hearing).

Please be advised that you may want to contact David Nevarez, City of Dallas Sustainable Development Department Senior Engineering at 214/671-5115 or [david.nevarez@dallascityhall.com](mailto:david.nevarez@dallascityhall.com) to determine if there is any additional information that he may need from you in making a favorable recommendation to the board on your request.

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

Thank you,

Steve

PS: If there is anything that you want to submit to the board beyond what you have included in your attached

application materials, please feel free to email it to [steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com) or mail it to me at the following address by the deadlines attached in this email:



**Steve Long**

*Board of Adjustment Chief Planner*

**City of Dallas | [www.dallascityhall.com](http://www.dallascityhall.com)**

Current Planning Division

Sustainable Development and Construction

1500 Marilla Street, 5BN

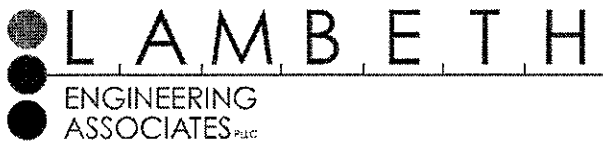
Dallas, TX 75201

O: 214-670-4666

[steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com)



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BDA 178-051  
ATTN: A  
P 97  
STATE OF TEXAS  
CHRISTY H. LAMBETH  
91036  
LICENSED PROFESSIONAL ENGINEER  
Christy Lambeth  
April 6, 2018

# Technical Memorandum

**To:** Mr. David Whitley, DRW Planning Studio LLC  
**From:** Christy Lambeth, PE,  
Lambeth Engineering Associates, PLLC, F-19508  
**Date:** April 6, 2018  
**Re:** Parking Analysis for Proposed Mini Golf and Restaurant at 660 Fort Worth Avenue in Dallas, TX  
ZBOA 178-051 (LEAP #18102)

## Introduction

Indoor mini golf and a restaurant and are planned for to occupy the currently vacant building at 660 Fort Worth Avenue in Dallas, Texas. The property is zoned Mixed Use 3 (MU3) with deed restrictions.

Dallas City Code defines miniature golf under *outside commercial amusement* with a parking requirement of one space per 200 SF of floor area plus one space per 400 SF of site area exclusive of parking area. However, the code does not specify indoor miniature golf as a use, therefore its parking requirement defaults to *inside commercial amusement* with a parking requirement of one space per 100 SF. A parking special exception has been filed, case ZBOA 178-051, requesting a reduction of 23-spaces (24% reduction) from the code requirement.

The purpose of this study is to evaluate the projected parking demand considering both the indoor mini golf and restaurant uses to determine if approving the requested parking reduction will provide adequate parking supply to satisfy the projected demand for the entire development. As shown in this analysis, the development is projected to provide sufficient parking taking into consideration the requested 23-space parking reduction. Approval of the parking reduction is recommended.

## Proposed Development Program

The proposed development program includes 5,989 SF indoor mini golf with 12 holes and 3,696 SF restaurant.

## Parking Supply

The development will provide 74 parking spaces as summarized in **Table 1**. In addition to the parking supply below, on-street parking is available on York Town Street and Fort Worth Avenue.

**Table 1. Parking Supply Summary**

Parking Location	Parking Spaces
On Site	57
Remote	17
Total Parking Supply:	74

## Code Parking Requirement

City of Dallas code parking requirement is summarized below in Table 2. Code requires 97 parking spaces for indoor mini golf and restaurant uses (considering indoor mini golf as *inside commercial amusement*).

**Table 2. Code Parking Requirement (As required, with Indoor Mini Golf)**

Use	SF	Code	Requirement	Required Parking
Indoor Comm Amusement (Mini Golf)	5,989	Sect 51A-4.210(b)(7)(C.)	1 space per 100 SF	59.9 Spaces
Restaurant	3,696	Sect 51A-4.210(b)(24)(C.)	1 space per 100 SF	37.0 Spaces
Total	9,685			96.9 Spaces
<b>Total Required Parking:</b>				<b>97 Spaces</b>

For comparison purposes, if this mini golf were outdoors, a rate of 1 space per 200 SF would apply resulting in a parking requirement of 30 spaces for mini golf and 67 spaces for the entire development.

## Projected Parking Demand

### Indoor Mini Golf

*Parking Generation*, 4<sup>th</sup> Edition by Institute of Transportation Engineers (ITE) provides rates for multipurpose recreational facility. The ITE study site contained two 18-hole miniature golf courses, batting cages, clubhouse, arcades, food service, trampoline and skateboard areas. The Friday and Saturday rates are noted as 1.06 and 1.78 vehicles per hole, respectively, for the entire facility. It is likely that less than half of the parking demand of the entire recreational facility would be only for mini golf. If that were the case, then the parking rate for a facility with only mini golf may be one space per 2.12 hole on Friday and one space per 3.56 hole on Saturday.

Since sufficient data is not published to support an indoor mini golf facility, Lambeth Engineering Associates, PLLC (herein Lambeth) observed patron usage at an Lunar Golf, an existing indoor mini golf location at Firewheel Town Center in Garland, Texas, on Friday and Saturday, March 30-31, 2018. Lunar Golf is approximately 7,500 SF with 18 holes. Observations were conducted during peak periods of Friday evening, Saturday afternoon and Saturday evening. Conversation with employee verified the peak time is typically Saturday afternoon around 2:00 – 3:00 PM. Lunar Golf is in a shopping center, therefore, to track parking demand, patrons were observed entering/leaving facility and converted to parked vehicles. Observation summary is attached.

During Friday observations, the employee said they were more busy than normal due to the Good Friday holiday. The peak demand early Friday evening was 7 vehicles. Friday evening a birthday party was hosted. Pizza, cake and beverages were provided. The peak demand Friday evening was 13 vehicles.

Saturday observations showed a steady flow with a peak demand of 5 spaces.

The mini golf peak demand observed was 13 vehicles, or one vehicle per 1.38 hole on Friday evening and 5 vehicles, or one vehicle per 3.6 holes on Saturday. A parking demand of one space per 1.38 hole is used for this analysis.

Pizza and beverages were brought into Lunar Golf for a birthday party Friday evening during the observations, which would account for a concession area. However, in order to present a worst-case scenario, approximately 10% of the mini golf is considered as concession area using the peak parking ratio of restaurant – in addition to the parking rate observed on Friday evening at mini golf.



**Restaurant**

*Parking Generation*, 4<sup>th</sup> Edition by ITE provides an average peak period parking rate of 13.3 vehicles per 1,000 SF for restaurant (Use 932), or one space per 75 SF.

*Shared Parking*, 2<sup>nd</sup> Edition by Urban Land Institute (ULI) recommends a parking ratio of 10.5 spaces per 1,000 SF (one space per 95 SF) on weekday and 15 spaces per 1,000 SF (one space per 67 SF) on weekend.

While the code only requires one space per 100 SF, restaurants can have a higher demand during peak periods. To be conservative, a parking demand of one space per 67 SF is applied for restaurant uses to account for a worst case scenario.

**Total Projected Demand**

The total peak projected demand for indoor mini golf and restaurant are summarized below in Table 4. It is important to note these are the peak demands for each use considered independent of one another.

**Table 3. Total Projected Peak Parking Demand**

Use	Area	Recommended Rate	Required Parking
Indoor Mini Golf	5,389 SF 12 Holes	1 space per 1.38 Hole	8.7 Spaces
Mini Golf Concession Area	600 SF --	1 space per 67 SF	9.0 Spaces
Restaurant	3,696 SF --	1 space per 67 SF	55.2 Spaces
Total	9,685 SF 12 Holes		72.8 Spaces
Projected Parking Demand:			73 Spaces

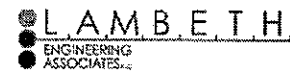
Concession areas are commonly included in mini golf and amusement type facilities. It is presented separately within this table to represent a worst-case scenario for parking demand. Without a concession area, the parking reduction is justified even further. This parking study support parking reduction with or without a concession area.

**Parking Analysis**

Based upon observations, ITE and ULI publications, a peak parking demand of 73 vehicles is projected. This demand considers the peak demand for mini golf (which accounted for a birthday party), additional parking for concession area at the mini golf, and peak restaurant demand. The maximum peak demand is less than the proposed requirement/supply of 74 spaces (97 required spaces less 23-space reduction = 74 spaces).

In addition, the following were not taken into consideration and will further support the requested parking reduction.

- Restaurant and mini golf will have shared users, thereby resulting in less demand than shown.
- Bus stop for DART route 12 is within 100 feet of the building, providing alternative transportation to the site.
- On-street parking spaces are available on Fort Worth Avenue.
- On-street parking spaces are available on York Town Street.
- Over 1,000 multifamily units are located within walking distance of less than 1,000 feet (less than a 5-minute walk) to the property.
  - Sylvan Thirty – 201 units
  - Alta Yorktown – 226 units
  - Alexan West Dallas – 340 units
  - Pike West Commerce Apartments – 252 units
- City of Dallas Planning policies for the area (PD 714 and the West Dallas Urban Structure and Guidelines) are geared toward creating pedestrian oriented, walkable mixed-use environments.



## Parking Special Exception

Dallas City Code does not specify mini golf use under *inside commercial amusement*, mini golf is only specified under *outside commercial amusement*. Outdoor mini golf, indoor childrens amusement center and skating rink all require one parking space per 200 SF per code. Indoor mini golf will have generally the same demand as those uses noted at one space per 200 SF. However, since the code does not specify indoor mini golf, it falls under the general "*commercial amusement inside - other uses*" category at a rate of one space per 100 SF. Therefore a parking special exception is needed to allow the City to permit less than the required one space per 100 SF.

If indoor mini golf was required to provide one space per 200 SF, then only 67 spaces would be required for the development and a special exption would not be needed. However, the code requires 97 parking spaces for the proposed indoor mini golf and restaurant development, a 23-space reduction is being requested resulting in a requierement of 74 parking spaces.

Based upon the parking analysis, the **23-space reduction is supported** since the peak parking demand of 73 spaces will be less than the new requirement of 74 spaces.

The Dallas City Code specifies the Zoning Board of Adjustments consider the following factors in determining whether to grant the special exception request.

- (A) ***The extent to which the parking spaces provided will be remote, shared, or packed parking.***  
 Parking spaces will be provided on-site and remotely. On-street parking was not accounted for in the parking analysis but is available on York Town Street and Fort Worth Avenue. Bicycle parking was also not considered in this analysis. Considering on-street and bicycle parking provides additional supply which was not accounted for in this analysis and further supports the requested reduction.
- (B) ***The parking demand and trip generation characteristics of all uses for which the special exception is requested.***  
 The study considered ITE *Parking Generation*, ULI *Shared Parking*, Lambeth's field observations over three peak periods and Lambeth's professional engineering judgement and experience to project the peak parking demand of 73 vehicles for the mini golf and restaurant uses. This demand considers both uses independent of one another, and both at the highest peak at the same time. This analysis also conservatively accounts for an additional concession area, even though pizza and beverages were served during observations at the study mini golf site and is therefore already accounted for in the demand for mini golf use. The actual demand is expected to be less than projected due to the walkable, urban environment within an area of over 1,000 multifamily units nearby.
- (C) ***Whether or not the subject property or any property in the general area is part of a modified delta overlay district.***  
 The property is zoned MU-3, the request is based upon the site's parking demand and supply. The site is adjacent to PD 714 and within the West Dallas Urban area, which both have planning policies for geared toward creating pedestrian oriented, walkable mixed-use environments. The parking analysis did not account for the pedestrian oriented area, which will further support the parking reduction.
- (D) ***The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.***  
 Site access is provided on York Town Street, a two-lane divided roadway. Fort Worth Avenue is a six-lane divided roadway. The roadway network will accommodate the proposed project.





**(E) The availability of public transit and the likelihood of its use.**

DART bus stop #17318 on route 12 is located less than 100 feet from the building on Fort Worth Avenue. Transit reduction was not accounted for in the parking analysis and may further support the parking reduction.

**(F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.**

Ride sharing such as Uber and Lyft, bicycle parking, synergy between uses, and location of the development among 1,000 multifamily units were not accounted for in the parking analysis. These will all further reduce the parking demand.

Based upon the outdoor code requirement for mini golf, ITE parking rates, ULI parking rates, and observations, **the 23-parking space reduction is warranted**. The reduction will not create a traffic hazard or increase traffic congestion on adjacent or nearby streets. Lambeth Engineering Associates, PLLC recommends approval of the 23-space reduction for the proposed indoor mini golf and restaurant development.

**END**

# Parking Accumulation Counts



Date: Friday, March 30, 2018

Location: Lunar Golf  
Firewheel Town Center, Garland, TX

Description: Indoor mini golf facility with 18 holes  
Sunny both Friday and Saturday, Good Friday, active pedestrian activity at Town Center

Observed by: Christy Lambeth

Project: Parking Analysis for Indoor Mini Golf at 660 Fort Worth Avenue in Dallas, TX  
LEAP# 18102

## Friday, March 30, 2018

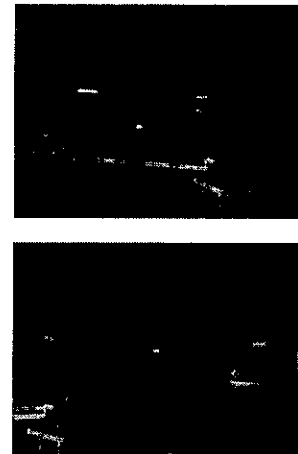
Time	Parked Vehicles
5:00 AM	7
5:10 AM	6
5:12 AM	5
5:17 AM	4
5:28 AM	3
5:32 AM	4
5:35 AM	5
5:36 AM	4
5:37 AM	3
5:58 AM	1
6:29 AM	2
6:34 AM	3
6:54 AM	5
6:56 AM	6
7:00 AM	7
7:01 AM	8
7:02 AM	9
7:06 AM	13
7:21 AM	11
7:33 AM	12
<b>7:34 AM</b>	<b>13</b>
7:46 AM	11
7:56 AM	9
8:01 AM	11
8:18 AM	10
8:19 AM	9
8:21 AM	8
8:22 AM	7
8:23 AM	6
8:25 AM	5

Max Vehicles Observed: 13  
Holes per Vehicle: 1.38

## Saturday, March 31, 2018

Time	Parked Vehicles
1:40	1
1:50	2
2:14	3
2:26	4
2:40	3
2:46	4
4:30	3
5:00	2
5:35	3
5:46	3
<b>6:15</b>	<b>5</b>
6:16	4
6:45	3
<b>7:20</b>	<b>5</b>

Max Vehicles Observed: 5  
Holes per Vehicle: 3.60



**Notes:** Observed patrons and employees entering and leaving.  
Friday went inside a couple of time to spot check, primarily sat on bench outside store and counted as groups of typically 2-4 went in/out of Lunar Golf.

Friday Early Evening: Employee said larger than normal crowd due to Good Friday holiday.

Friday Evening: Birthday party - pizza, cake and beverages were provided.

Saturday: No parties scheduled, steady flow throughout the day. Primarily observed from inside (played golf a couple times while observing) and came in/out of facility to check patrons.



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 178-051

Data Relative to Subject Property:

Date: 03.02.2018

Location address: 660 Fort Worth Avenue Zoning District: MU-3 with Deed Restrictions

Lot No.: 2 Block No.: A/6816 Acreage: 1.0 Census Tract: 0043.00

Street Frontage (in Feet): 1) 233 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): PB & J Land Partners LP

Applicant: DRW Planning Studio LLC, DAVID WHITLEY Telephone: 214.458.3919

Mailing Address: 400 N. St. Paul Street, Suite 1212 Dallas, TX Zip Code: 75201

E-mail Address: david@drwplanning.com

Represented by: David Whitley Telephone: 214.458.3919

Mailing Address: 400 N. St. Paul Street, Suite 1212 Dallas, TX Zip Code: 75201

E-mail Address: david@drwplanning.com

Affirm that an appeal has been made for a Variance \_\_, or Special Exception , of a special exception to parking requirements for a Commercial Amusement (inside) use for a reduction of 23 parking spaces, or 24% of the 97 spaces required for this property.

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

To occupy and lease an existing approximately 10,000 square foot vacant structure. 5,066 sf of the building is proposed to be occupied with an inside commercial amusement (mini-golf) use. 74 (or 76 percent) of the 97 off-street parking spaces required by code are provided. 57 of the provided spaces will be provided on-site and 17 of the provided spaces will be provided remotely. If the mini-golf were outdoors, it would be required to be parked at a ratio of 1:200. For the 5,066 sf use plus pro-rata share of common area, a 1:200 ratio would result in 30 fewer required spaces. On-street parking is also publicly available nearby along Yorktown, Fort Worth Avenue, and Sylvan.

**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

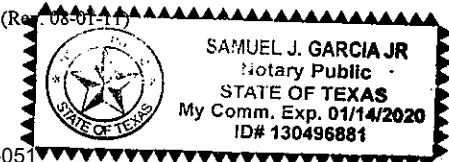
Before me the undersigned on this day personally appeared DAVID WHITLEY (Affiant/Applicant's name printed)

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: David Whitley (Affiant/Applicant's signature)

Subscribed and sworn to before me this 2 day of March, 2018

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



MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

Date of Hearing \_\_\_\_\_

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

**Building Official's Report**

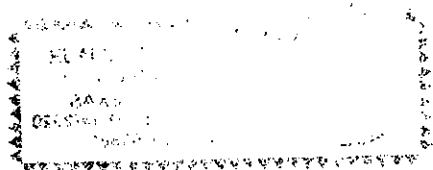
I hereby certify that David Whitley

did submit a request for a special exception to the parking regulations  
at 660 Fort Worth Avenue

BDA178-051. Application of David Whitley for a special exception to the parking regulations at 660 Fort Worth Avenue. This property is more fully described as Lot 2, Bloc A/6816, and is zoned MU-3, which requires parking to be provided . The applicant proposes to construct a nonresidential structure for a commercial amusement (inside), and a restaurant without drive-in or drive-through service use, and provide 74 or (76%) of the required 97 parking spaces, which will require a 23 space special exception or (24% reduction) to the parking regulation.

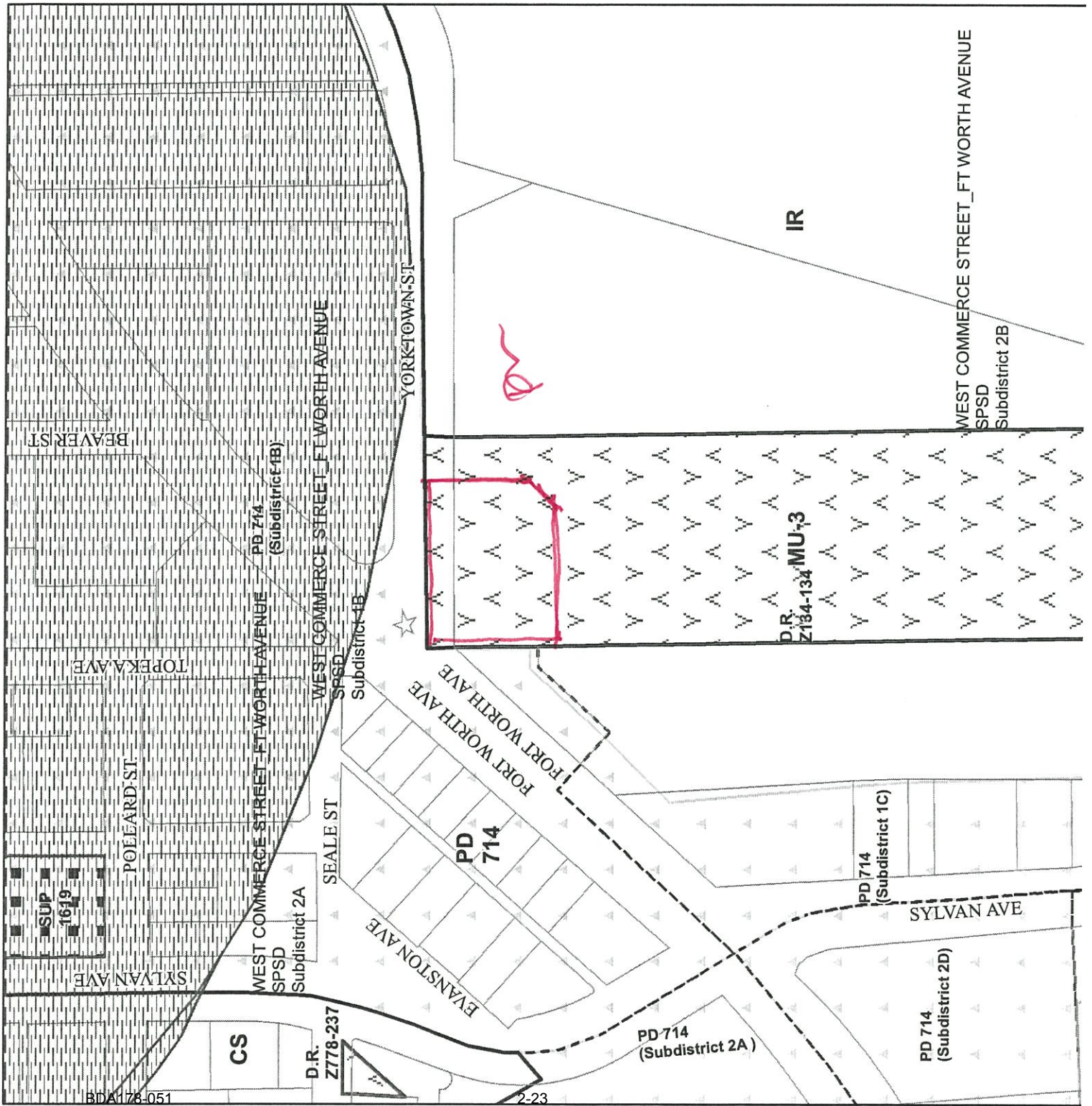
Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official



Parking Analysis for 660 Ft. Worth Avenue

	Floor area	Use	Parking Ratio	Parking Required
Suite 100	5,066	Comm. Amuse inside	100	50.66
Suite 200	3,115	Restaurant	100	31.15
Common area	943	Comm. Amuse inside	100	9.43
Common area	581	Restaurant	100	5.81
	9,705			97.05
			Total Required	97
			Total Provided On Site	57
			Restaurant parking to be provided remotely	17
			Deficiency	23
				24%









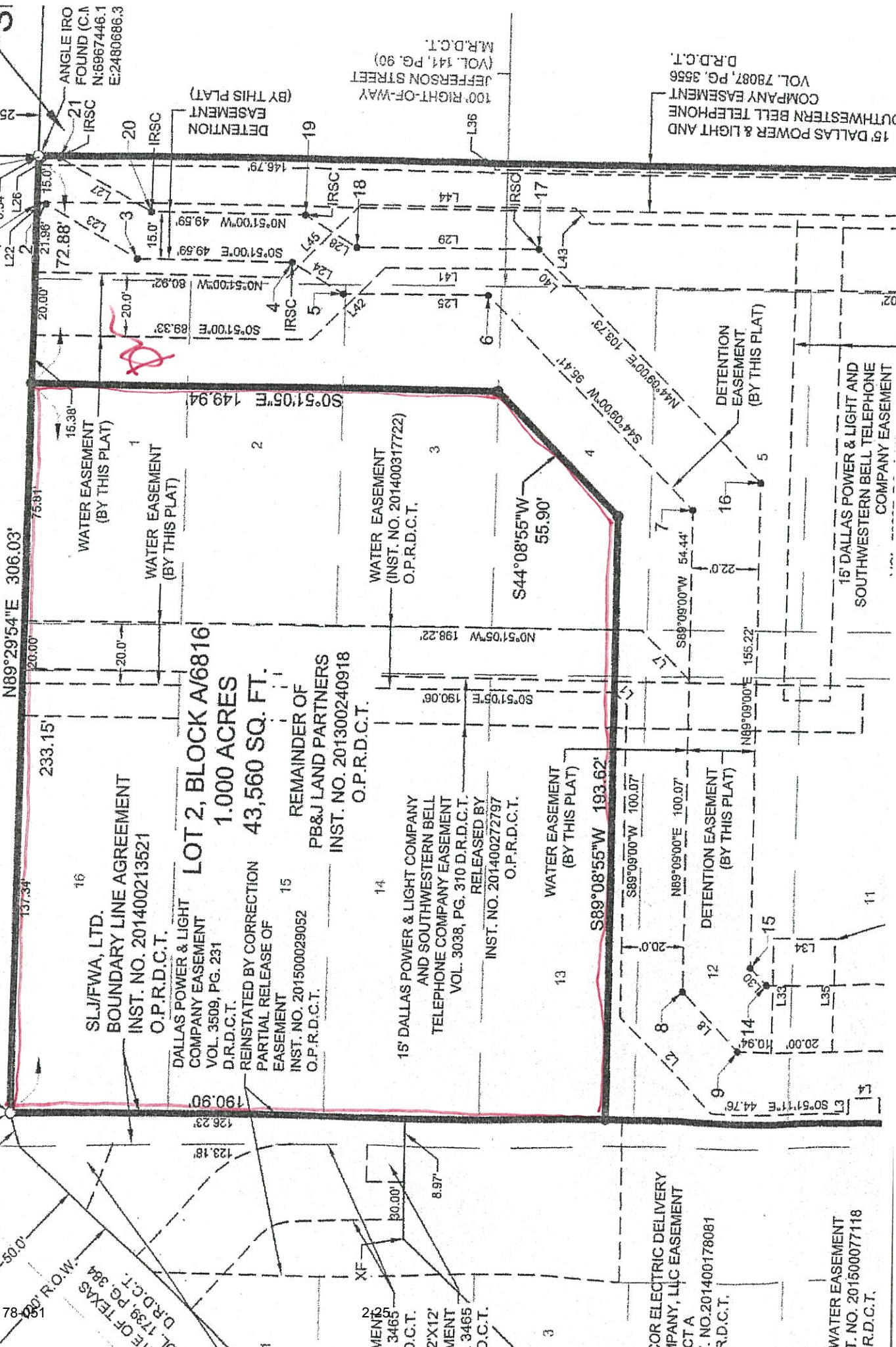
# YORKTOWN STREET

(FORMERLY OAK STREET)  
VOL. 141, PG. 90  
M.R.D.C.T.

## P.O.B.

N71°59'32"E  
10.67'

BDA178



16  
SLJ/FWA, LTD.  
BOUNDARY LINE AGREEMENT  
INST. NO. 201400213521  
O.P.R.D.C.T.

LOT 2, BLOCK A/6816  
1.000 ACRES  
43,560 SQ. FT.

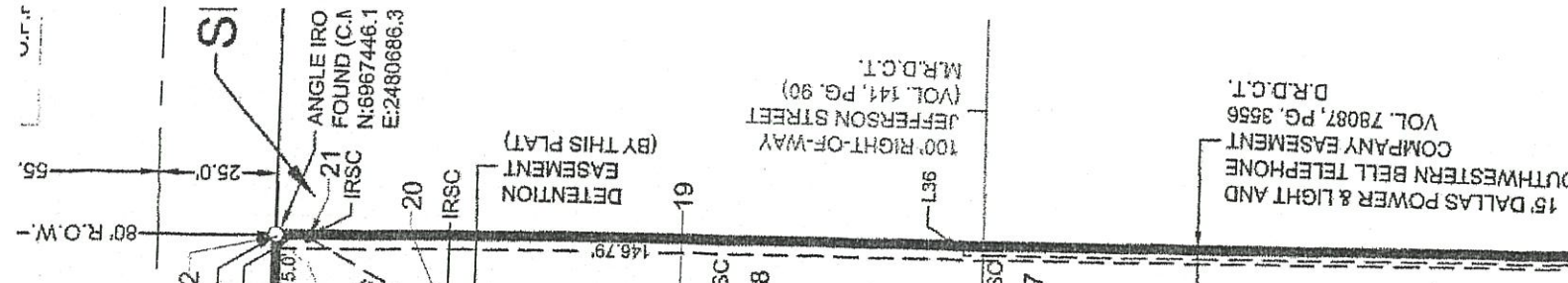
DALLAS POWER & LIGHT  
COMPANY EASEMENT  
VOL. 3509, PG. 231  
D.R.D.C.T.  
REINSTATED BY CORRECTION  
PARTIAL RELEASE OF  
EASEMENT  
INST. NO. 201500029052  
O.P.R.D.C.T.

REMAINDER OF  
PB&J LAND PARTNERS  
INST. NO. 201300240918  
O.P.R.D.C.T.

14  
15' DALLAS POWER & LIGHT COMPANY  
AND SOUTHWESTERN BELL  
TELEPHONE COMPANY EASEMENT  
VOL. 3038, PG. 310 D.R.D.C.T.  
RELEASED BY  
INST. NO. 201400272797  
O.P.R.D.C.T.

FOR ELECTRIC DELIVERY  
COMPANY, LLC EASEMENT  
INST. NO. 201400178081  
D.R.D.C.T.

WATER EASEMENT  
INST. NO. 201500077118  
D.R.D.C.T.



15' DETENTION AREA  
ACCESS EASEMENT  
INST. NO. 201500196483

CENTERLINE

N89°29'54"E 306.03'

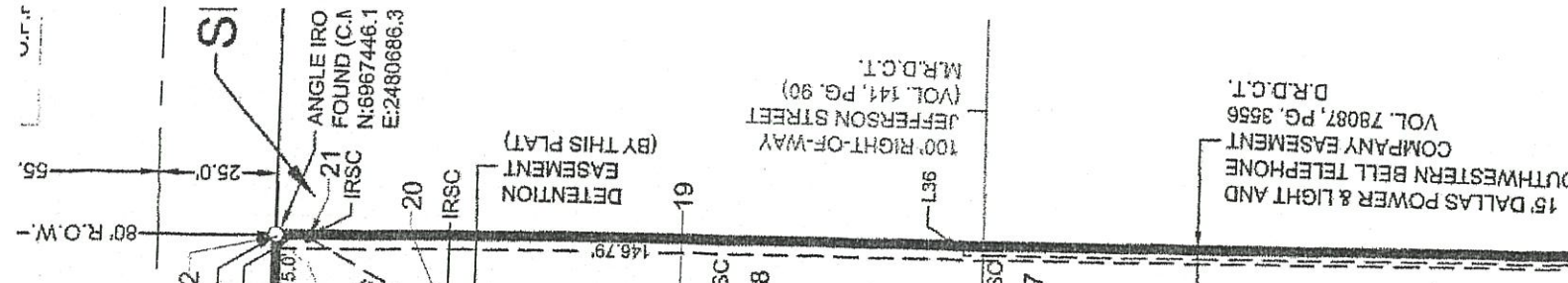
1  
WATER EASEMENT  
(BY THIS PLAT)

2  
WATER EASEMENT  
(BY THIS PLAT)

3  
WATER EASEMENT  
(INST. NO. 201400317722)  
O.P.R.D.C.T.

5  
DETENTION EASEMENT  
(BY THIS PLAT)

15' DALLAS POWER & LIGHT AND  
SOUTHWESTERN BELL TELEPHONE  
COMPANY EASEMENT



80' R.O.W.

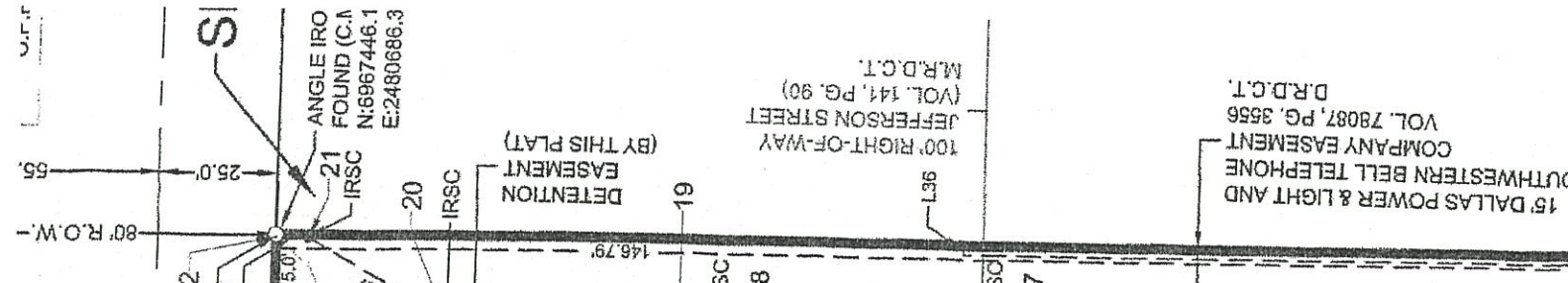
S

ANGLE IRO  
FOUND (C.A.  
N:6967446.1  
E:2480686.3

DETENTION  
EASEMENT  
(BY THIS PLAT)

100' RIGHT-OF-WAY  
JEFFERSON STREET  
M.R.D.C.T.

15' DALLAS POWER & LIGHT AND  
SOUTHWESTERN BELL TELEPHONE  
COMPANY EASEMENT  
VOL. 78087, PG. 3556  
D.R.D.C.T.



80' R.O.W.

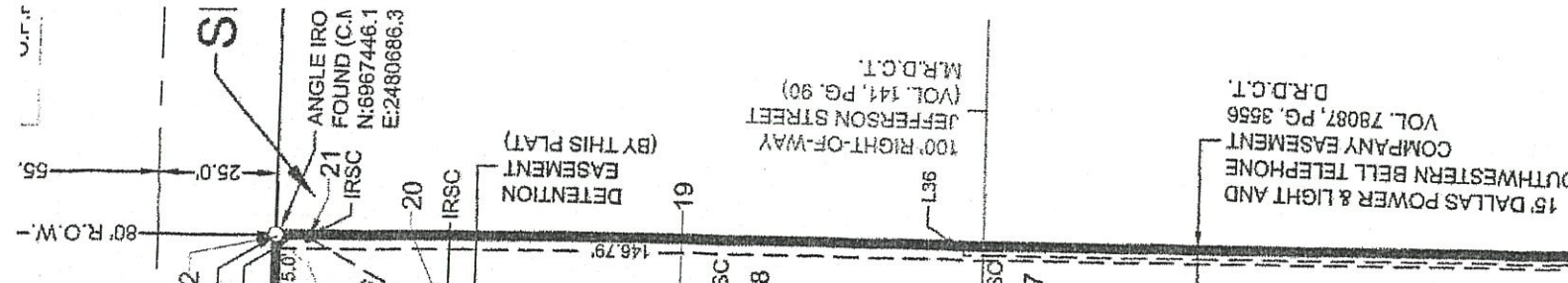
S

ANGLE IRO  
FOUND (C.A.  
N:6967446.1  
E:2480686.3

DETENTION  
EASEMENT  
(BY THIS PLAT)

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VOL. 78087, PG. 3556  
D.R.D.C.T.



80' R.O.W.

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DETENTION  
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VOL. 78087, PG. 3556  
D.R.D.C.T.

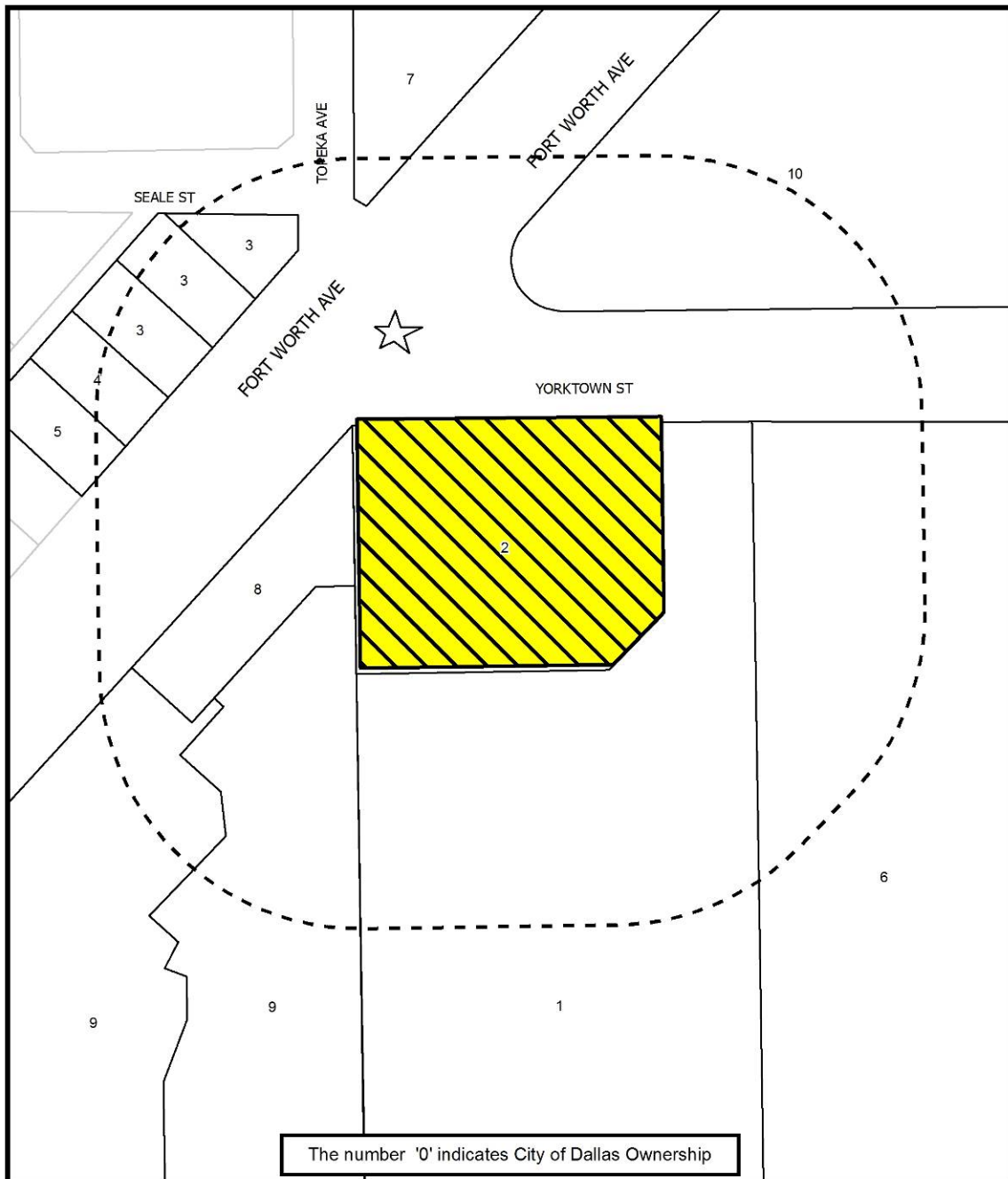












 1:1,200	<b>NOTIFICATION</b>		Case no: <b>BDA178-051</b>
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">11</div> NUMBER OF PROPERTY OWNERS NOTIFIED		Date: <b>3/20/2018</b>

# *Notification List of Property Owners*

## *BDA178-051*

### *11 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	660 YORKTOWN ST	ALTA YORKTOWN OWNER LP
2	660 FORT WORTH AVE	PB & J LAND PARTNERS LP
3	705 FORT WORTH AVE	YAZDCHI KHANOM
4	715 FORT WORTH AVE	CUIN JOHNNY
5	719 FORT WORTH AVE	739 FORT WORTH AVENUE LLC
6	620 YORKTOWN ST	ANG III LLC
7	649 FORT WORTH AVE	LODOR ENTERPRISES INC
8	710 FORT WORTH AVE	SLI/FWA LTD
9	750 FORT WORTH AVE	LYNXETTE EXPLORATION LLC
10	604 FORT WORTH AVE	604 FORT WORTH AVE APTS INVESTORS LLC
11	11111 MAIN ST	DALLAS TIF#210 FORT WORTH AVE