

ZONING BOARD OF ADJUSTMENT, PANEL C  
MONDAY, MAY 16, 2016  
AGENDA

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

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**Donna Moorman, Chief Planner**  
**Steve Long, Board Administrator**  
**Jennifer Munoz, Senior Planner**

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**MISCELLANEOUS ITEM**

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Approval of the April 18, 2016 Board of Adjustment Panel C Public Hearing Minutes	M1
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**UNCONTESTED CASES**

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<b>BDA156-042(SL)</b>	3492 E. Rosemeade Parkway <b>REQUEST:</b> Application of Mina Haghiri for a special exception to the off-street parking regulations	1
<b>BDA156-043(JM)</b>	10770 Bekay Street <b>REQUEST:</b> Application of Louise Elam for a special exception to the landscape regulations	2
<b>BDA156-044(JM)</b>	3209 Wendover Road <b>REQUEST:</b> - Application of Dan Patterson, represented by Wendy Millsap, for a special exception to the fence height regulations	3
<b>BDA156-048(SL)</b>	218 W. 10 <sup>th</sup> Street <b>REQUEST:</b> - Application of David E. Capps, represented by Audra Buckley of Permitted Development, for a special exception to restore a nonconforming use	4

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**HOLDOVER CASE**

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**BDA156-027(SL)**

1015 N. Carroll Avenue

5

**REQUEST:** Application of Allan R. Brown, represented by Steven Dimitt, for a variances to the front yard setback regulations and building height regulations

## EXECUTIVE SESSION NOTICE

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

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

**(Rev. 6-24-02)**

**FILE NUMBER:** BDA156-042(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Mina Haghiri for a special exception to the off-street parking regulations at 3492 E. Rosemeade Parkway. This property is more fully described as Lot 12, Block Q/8751, and is zoned CR, which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure for a medical clinic or ambulatory surgical center use and provide 15 of the required 20 parking spaces, which will require a 5 space special exception to the off-street parking regulations.

**LOCATION:** 3492 E. Rosemeade Parkway

**APPLICANT:** Mina Haghiri

**REQUEST:**

A request for a special exception to the off-street parking regulations of 5 spaces is made to transition the use within an existing approximately 3,900 square foot one-story structure on the subject site from office to medical clinic or ambulatory surgical center use, and provide 15 (or 75 percent) of the 20 required off-street parking spaces.

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

- 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:**

Approval, subject to the following condition:

- The special exception of 5 spaces shall automatically and immediately terminate if and when the medical clinic or ambulatory surgical center use is changed or discontinued.

Rationale:

- The Sustainable Development and Construction Department Project Engineer indicated that he has no objections to the applicant's request.

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: CR (Community retail)  
North: City of Carrollton  
South: MF-1 (Multifamily residential)  
East: CR (Community retail)  
West: CR (Community retail)

### **Land Use:**

The subject site is developed with an existing one-story structure that has approximately 3,900 square feet of floor area that the applicant intends to retain on the site and lease with medical clinic use which requires a greater number of off-street parking spaces than the previous use on the subject site (office), and a greater number than what the applicant proposes to provide. The areas to the north, east, and west are developed with commercial/retail uses; and the area to the south is developed with multifamily uses.

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

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

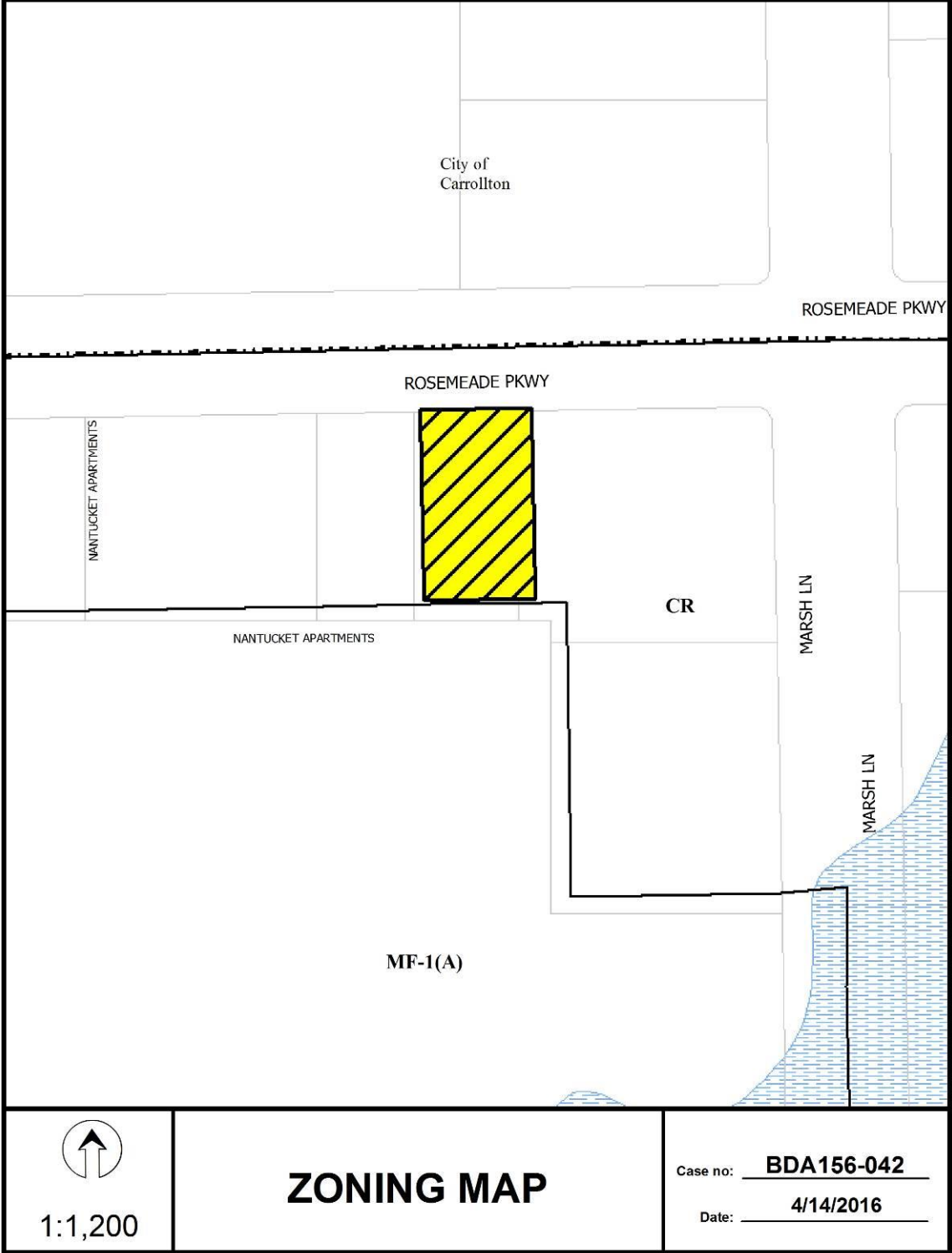
## **GENERAL FACTS/STAFF ANALYSIS:**

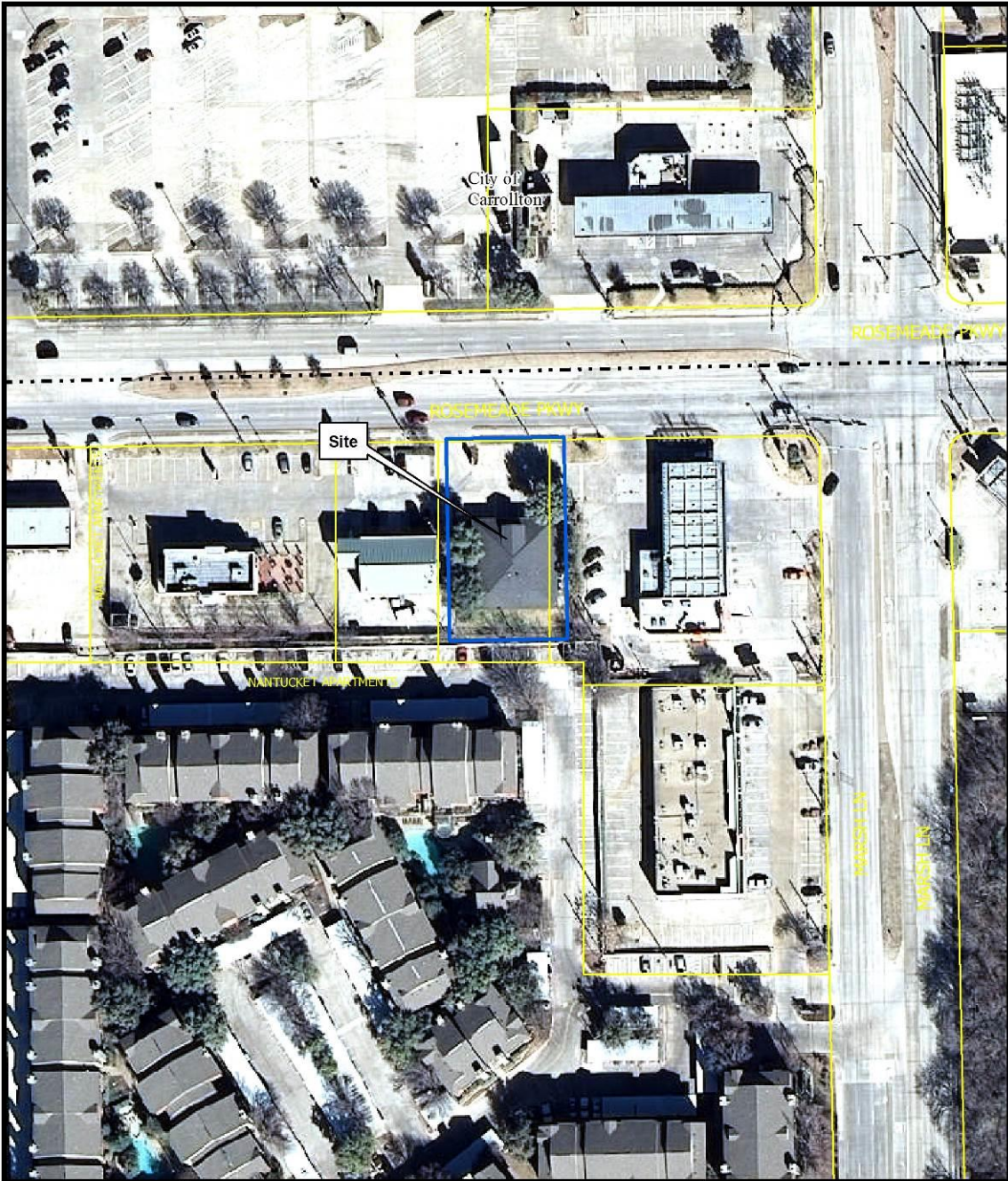
- This request focuses on transitioning the use within an existing approximately 3,900 square foot one-story structure on the subject site from office to medical clinic or ambulatory surgical center use, and providing 15 (or 75 percent) of the 20 required off-street parking spaces.
- The Dallas Development Code requires the following off-street parking requirement:
  - Medical clinic or ambulatory surgical center use: 1 space per 200 square feet of floor area. (Office use is required to provide 1 space per 333 square feet of floor area).
- The Sustainable Development Department Project Engineer has indicated that he has no objections to the request.
- The applicant has the burden of proof in establishing the following:
  - The parking demand generated by the “medical clinic or ambulatory surgical center” use on the site does not warrant the number of off-street parking spaces required, and
  - The special exception of 5 spaces (or a 25 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 5 spaces shall automatically and immediately terminate if and when the medical clinic use is changed or discontinued, the applicant would be allowed to lease and maintain the structure on the site with this specific use (“medical clinic or ambulatory surgical center”) with the specified square footage, and provide 15 of the 20 code required off-street parking spaces.

**Timeline:**

- February 26, 2016: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- April 12, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- April 12, 2016: The Board Administrator emailed the applicant the following information:
- a copy of the application materials including the Building Official’s report on the application;
  - an attachment that provided the public hearing date and panel that will consider the application; the April 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the May 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.”
- May 3, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Sustainable Development and Construction Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Board of Adjustment Senior Planner, and the Assistant City Attorneys to the Board.
- May 5, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objection.”





1:1,200

# AERIAL MAP

Case no: BDA156-042

Date: 4/14/2016





City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-042

Data Relative to Subject Property:

Date: 2-26-2016

Location address: 3492 E. ROSEMEADE PARKWAY Zoning District: CR

Lot No.: 12 Block No.: 9/8751 Acreage: 0.3208 Census Tract: 216.16

Street Frontage (in Feet): 1) 90 2) 3) 4) 5) NEIR

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): MINA HAGHIRI & KHASHAYAR KHOSRAVI.

Applicant: MINA HAGHIRI Telephone: 214-680-2824

Mailing Address: 5203 LINCOLNSHIRE CT. DALLAS TX Zip Code: 75287

E-mail Address: KASHKHOSRAVAN@GMAIL.COM / MINA HAGHIRI@GMAIL.COM.

Represented by: Telephone:

Mailing Address: Zip Code:

E-mail Address:

Affirm that an appeal has been made for a Variance , or Special Exception X, of 5 PARKING SPACES FROM 20 REQUIRED FOR MEDICAL CLINIC & AMBULATORY SURGICAL CENTER USE.

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:

IE DENTAL CLINIC TO BE ESTABLISHED IN THE ABOVE PROPERTY DOES NOT NEED THE REQUIRED PARKING SPACES DUE TO: THE NUMBER OF EMPLOYEES WORKING IN THE CLINIC DOES NOT EXCEED 15, NON ARE HANDICAP. THE NUMBER OF PATIENTS THE CLINIC WILL BE ABLE TO SERVICE, AT ONE TIME WILL NOT BE MORE THAN 4 SUPPORTING DOCUMENTS ATTACHED). BASED ON ABOVE REASONS, WE ALREADY HAVE MORE PARKING SPACES THAN WE NEED, AND WILL NOT OCCUPY ANY OF THE NEIGHBORING PROPERTY PARKING SPACES.

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.

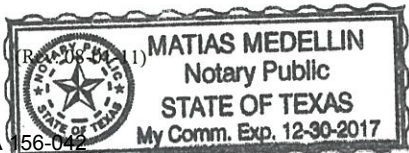
Affidavit

Before me the undersigned on this day personally appeared Mina Haghiri (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: Mina Haghiri (Affiant/Applicant's signature)

Subscribed and sworn to before me this 26 day of February, 2016



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: Mina Haghiri

did submit a request for a special exception to the parking regulations  
at 3492 E. Rosemeade Parkway

BDA156-042. Application of Mina Haghiri for a special exception to the parking regulation at 3492 E. Rosemeade Parkway. This property is more fully described as Lot 12, Block Q/8751, and is zoned CR, which requires parking to be provided. The applicant proposes construct a nonresidential structure for a medical clinic or ambulatory surgical center use and provide 15 of the required 20 parking spaces, which will require a 5 space special exception (25% reduction) to the parking regulation.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official

Dear City of Dallas Board of Adjustment:

This letter is intended to clarify the supporting document submitted with the appeal application to receive special exception for 5 parking spaces out of 20 required by the city of Dallas.

The property located at 3492 E. Rosemeade Parkway is going to be used for a single dental office. I have been in the business of dentistry for the past 16 years. Over the years, I have never had more than 5 Employees at one time including myself, and never had more than 4 patients at one time.

I have attached a random actual appointment schedule sheets from the last 6 months of 2015 showing that I have not had more than 3 patients during a 1 hour work time; I have also attached the list of my employees for the last five years.

Based on the above facts we will need 5 parking spaces for me and my employees, and maximum of 4 parking spaces at any given time. Therefore we will have 5 extra parking spaces that will probably never be used.

Thank You for your consideration,

Sincerely

Mina Haghiri,

Cell: 214-680-2824

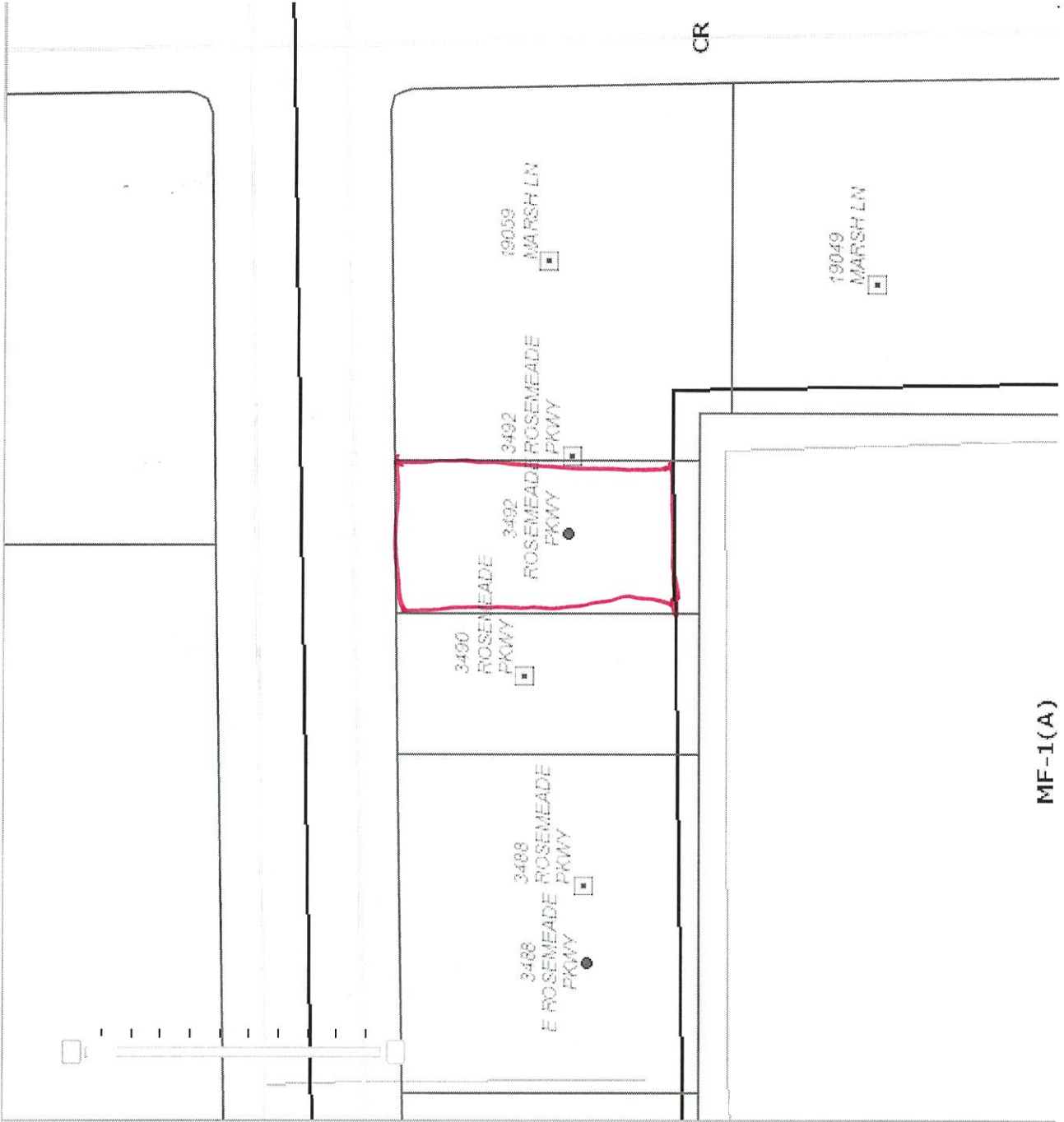


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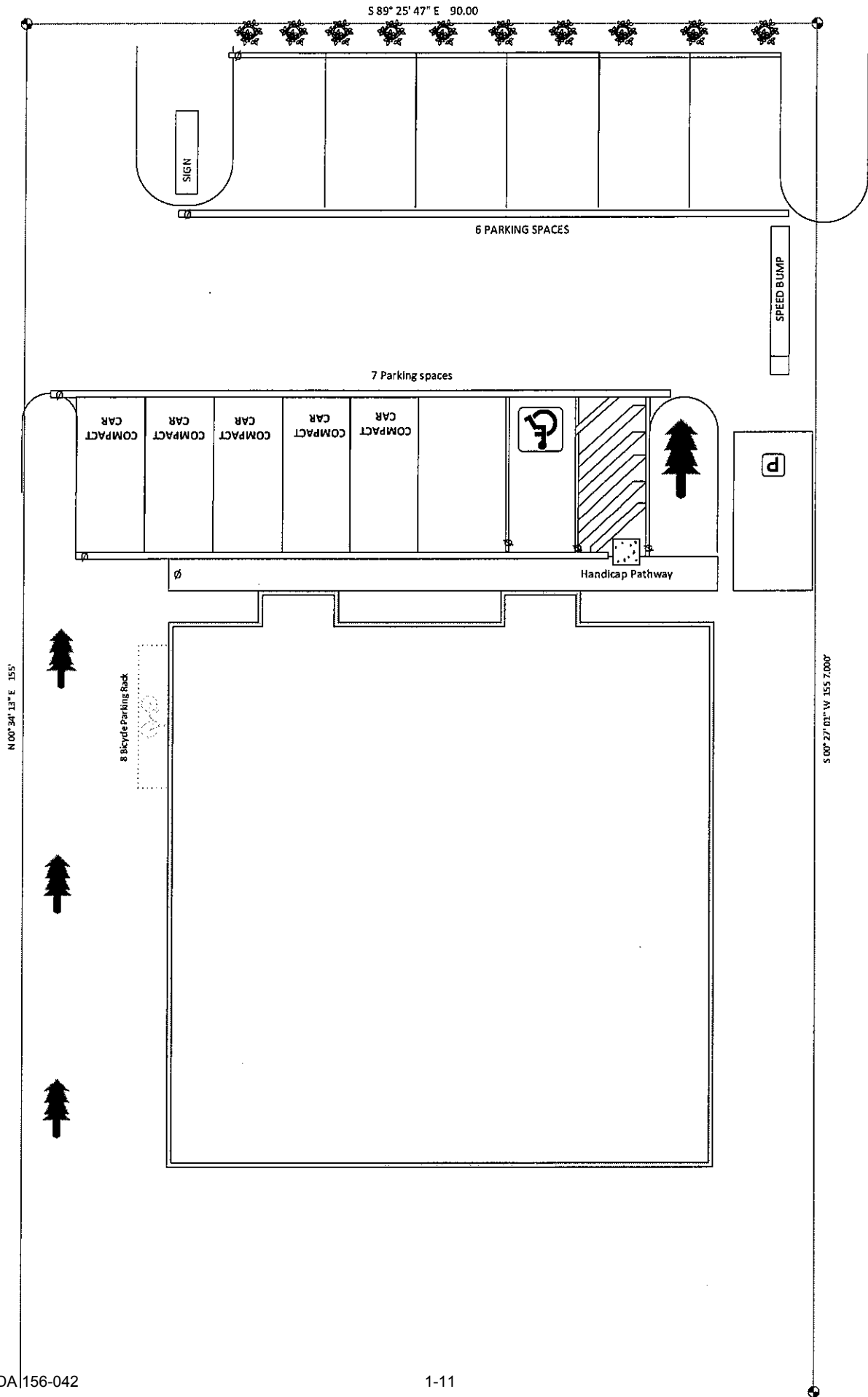
# City of Dallas

## Internal Development Research Site

### Legend



MF-1(A)



**VEHICULAR INGRESS AND EGRESS EASEMENT AGREEMENT**

I.

MADISON PARTNERSHIP, LTD. (hereinafter referred to as "Madison") is the owner of the following described property in Denton County, Texas, to-wit:

"Tract A"

Lot 13A, Block Q/8751 of the Replat of Lots 13 and 14, Block Q/8751 of Madison Partnership No. 3 Addition, an Addition to the City of Dallas, Denton County, Texas, according to the Replat thereof, recorded in Cabinet I, Slide 132, Plat Records, Denton County, Texas; and

RODNEY M. SHUFFIELD and wife, SALLY S. SHUFFIELD (hereinafter referred to as "Shuffield") are the owners of the following described property in Denton County, Texas, to-wit:

"Tract B"

Lot 12, Block Q/8751, Madison Partnership No. 3 Addition, an Addition to the City of Dallas, Denton County, Texas, according to the plat thereof, recorded in Cabinet H, Slide 363, Plat Records, Denton County, Texas;

Madison and Shuffield, pursuant to the terms hereinafter set out, in order to furnish a vehicular ingress and egress easement for the benefit of both Tract A and Tract B, do hereby declare and grant such easement in, over, under and across the following described tract of land, to-wit:

A tract of land 24 feet in width, the center line of which lies along the Northern 44 feet of the common lot line of Tract A and Tract B, and abuts the south right of way line of Rosemeade Boulevard.

II.

In order that all uses governed by this agreement and the easement which it creates, may operate in compliance with the Dallas Development Code ("Code"), as amended, and derive all the benefits from such compliance, and for such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Madison and Shuffield impose this easement agreement on the two tracts of land owned by them, Tract A is the benefitted tract as to that portion of this easement which lies on Tract B; and similarly, Tract B is the beneficiary of the benefitted tract as to that portion of the easement which lies on Tract A. Among the benefits conferred on such tracts, by this agreement, including but are not limited to, access from the public right-of-way in Rosemeade Boulevard, and the off street vehicle parking spaces which are presently, and in the future will be, located on one or both of the two subject properties.

III.

This grant of vehicular ingress and egress easement and the right and interest which it creates, may be amended or terminated only upon the filing in the Deed Records of Denton County of an instrument approved by the building official of the City of Dallas, or such official's designee, and further approved as to form by the City Attorney for the City of Dallas. The building official shall approve an instrument amending or terminating this grant of easement only if access to the required off street parking has been provided in accordance with the Code and all other applicable ordinances and regulations of the City of Dallas.

IV.

Either the then owner of Tract A or Tract B, individually, or them together, shall file the amending or terminating instrument in the Deed Records of Denton County, Texas, at the sole cost and expense of the party benefitting by such amendment. After filing the amending or terminating instrument in such Deed Records, the owner desiring the amendment or termination shall file two copies of the instrument with the building officials of the City of Dallas. No amendment or termination of this instrument is effective until the amending or terminating instrument is filed in accordance with this paragraph.

V.

It is the intention, in whole or in part, on the part of Madison and Shuffield, to satisfy the requirements of the City of Dallas for off street parking on Tract A and Tract B, and it is understood and stipulated that in the absence of such provision for ingress and egress to the required off street parking spaces, the City of Dallas shall have the right to either withhold the issuance of a building permit, or to revoke same and/or a Certificate of Occupancy. It is further acknowledged that the City of Dallas has the right to enforce all ordinances or regulations of the City by any lawful means, including but not limited to, filing an action in a Court of competent jurisdiction, at law or in equity, against any person violating or attempting to violate the ordinance or regulation, to prevent the violation or to require the correction. If the City substantially prevails in a legal proceedings to enforce an ordinance or regulation against a person, Madison and Shuffield agree that the City shall be entitled to damages, including reasonable attorney's fees and court costs. Madison and Shuffield agree to defend, indemnify and hold harmless the City of Dallas 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 as to either Tract A or Tract B.

VI.

Madison and Shuffield understand and agree that this agreement shall be governed by the laws of the State of Texas.

VII.

Prior to the issuance of a building permit and/or a Certificate of Occupancy as to either Tract A or Tract B, Madison and Shuffield shall file this agreement in the Deed Records of Denton County, Texas, at its sole cost and expense, and after such filing of this agreement, Madison and Shuffield shall file two copies of this agreement with the building official of the City of Dallas.

VIII.

Madison and Shuffield 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 Madison and Shuffield 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.

IX.

Madison and Shuffield stipulate and agree that, as the owners at this time of both Tract A and Tract B, there shall be no merger of title and that this agreement is to be construed as a deed restriction and covenant running with the land as to both Tract A and Tract B.

X.

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.


EXECUTED at Dallas, Denton County, Texas, this 12<sup>th</sup> day of April, 1993.


OWNER OF TRACT A:

MADISON PARTNERSHIP, LTD.

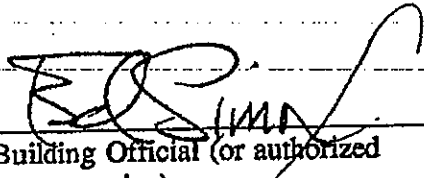
BY: [Signature]

OWNERS OF TRACT B:

  
\_\_\_\_\_  
Rodney M. Shuffield

  
\_\_\_\_\_  
Sally S. Shuffield

APPROVED:

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

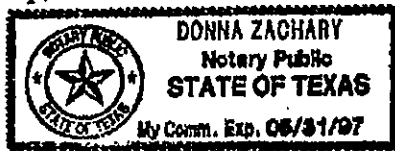
APPROVED AS TO FORM:

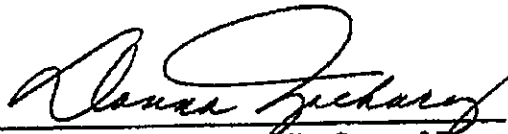
  
\_\_\_\_\_  
City Attorney

THE STATE OF TEXAS

COUNTY OF

This instrument was acknowledged before me the 12<sup>th</sup> day of April, 1993  
by Matthew F. Madison, General Partner of MADISON PARTNERSHIP, LTD., a Texas limited  
partnership, on behalf of said limited partnership.



  
\_\_\_\_\_  
Notary Public, State of Texas

VEHICULAR INGRESS AND EGRESS EASEMENT AGREEMENT

PAGE 4

THE STATE OF TEXAS

COUNTY OF

This instrument was acknowledged before me on the 30 day of April,  
1992 by Rodney M. Shuffield and Sally S. Shuffield.



*Martie Barnhart*  
Notary Public, State of Texas

Filed for Record in:  
DENTON COUNTY, TX  
HONORABLE TIM HODGES  
/COUNTY CLERK

On 1993/06/11

At 8:57A

Number: 93-R0036851  
Type : EAS 17.00



EAS/8/15  
Copies 5  
wt. 1

**VEHICULAR INGRESS AND EGRESS EASEMENT AGREEMENT**

**I.**

MADISON PARTNERSHIP, LTD. (hereinafter referred to as "Madison") is the owner of the below described two tracts of real estate in Denton County, Texas:

"Tract A"

Lot 13A, Block Q/8751 of the Replat of Lots 13 and 14, Block Q/8751 of Madison Partnership No. 3 Addition, an Addition to the City of Dallas, Denton County, Texas, according to the Replat thereof, recorded in Cabinet I, Slide 132, Plat Records, Denton County, Texas; and

"Tract B"

Lot 14A, Block Q/8751 of the Replat of Lots 13 and 14, Block Q/8751 of Madison Partnership No. 3 Addition, an Addition to the City of Dallas, Denton County, Texas, according to the Replat thereof, recorded in Cabinet I, Slide 132, Plat Records, Denton County, Texas;

and Madison, pursuant to the terms hereinafter set out, in order to furnish a vehicular ingress and egress easement for the benefit of both Tract A and Tract B, does hereby declare and grant such easement in, over and across the following described tract of land, to-wit:

A tract of land 25 feet in width, the center line of which lies along the Northern 57 feet feet of the common lot line of Tract A and Tract B, and abuts the south right of way line of Rosemeade Boulevard.

**II.**

In order that all uses governed by this agreement and the easement which it creates, may operate in compliance with the Dallas Development Code ("Code"), as amended, and derive all the benefits from such compliance, and for such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Madison imposes this easement agreement on the two tracts of land owned by it, Tract A is the benefitted tract as to that portion of this easement which lies on Tract B; and similarly, Tract B is the beneficiary of the benefitted tract as to that portion of the easement which lies on Tract A. Among the benefits conferred on such tracts, by this agreement, including but are not limited to, access from the public right-of-way in Rosemeade Boulevard, and the off street vehicle parking spaces which are presently, and in the future will be, located on one or both of the two subject properties.

**III.**

This grant of vehicular ingress and egress easement and the right and interest which it creates, may be amended or terminated only upon the filing in the Deed Records of Denton County of

an instrument approved by the building official of the City of Dallas, or such official's designee, and further approved as to form by the City Attorney for the City of Dallas. The building official shall approve an instrument amending or terminating this grant of easement only if access to the required off street parking has been provided in accordance with the Code and all other applicable ordinances and regulations of the City of Dallas.

#### IV.

Either the then owner of Tract A or Tract B, individually, or them together, shall file the amending or terminating instrument in the Deed Records of Denton County, Texas, at the sole cost and expense of the party benefitting by such amendment. After filing the amending or terminating instrument in such Deed Records, the owner desiring the amendment or termination shall file two copies of the instrument with the building officials of the City of Dallas. No amendment or termination of this instrument is effective until the amending or terminating instrument is filed in accordance with this paragraph.

#### V.

It is the intention, in whole or in part, on the part of Madison, to satisfy the requirements of the City of Dallas for off street parking on Tract A and Tract B, and it is understood and stipulated that in the absence of such provision for ingress and egress to the required off street parking spaces, the City of Dallas shall have the right to either withhold the issuance of a building permit, or to revoke same and/or a Certificate of Occupancy. It is further acknowledged that the City of Dallas has the right to enforce all ordinances or regulations of the City by any lawful means, including but not limited to, filing an action in a Court of competent jurisdiction, at law or in equity, against any person violating or attempting to violate the ordinance or regulation, to prevent the violation or to require the correction. If the City substantially prevails in a legal proceedings to enforce an ordinance or regulation against a person, Madison agrees that the City shall be entitled to damages, including reasonable attorney's fees and court costs. Madison agrees to defend, indemnify and hold harmless the City of Dallas 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 as to either Tract A or Tract B.

#### VI.

Madison understands and agrees that this agreement shall be governed by the laws of the State of Texas.

#### VII.

Prior to the issuance of a building permit and/or a Certificate of Occupancy as to either Tract A or Tract B, Madison shall file this agreement in the Deed Records of Denton County,

Texas, at its sole cost and expense, and after such filing of this agreement, Madison shall file two copies of this agreement with the building official of the City of Dallas.

VIII.

Madison understands and agrees 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 Madison 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.

IX.

Madison stipulates and agrees that, as the owner at this time of both Tract A and Tract B, there shall be no merger of title and that this agreement is to be construed as a deed restriction and covenant running with the land as to both Tract A and Tract B.

X.

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.

EXECUTED at Dallas, Denton County, Texas, this 4<sup>th</sup> day of March, 1993.

OWNER OF TRACT A AND TRACT B:

MADISON PARTNERSHIP, LTD.

BY: [Signature]

APPROVED:

*Ed Simms*  
Building Official (or authorized  
representative)

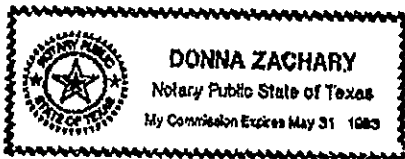
APPROVED AS TO FORM:

*John Rogers*  
City Attorney

THE STATE OF TEXAS

COUNTY OF

This instrument was acknowledged before me the 4<sup>th</sup> day of March, 1993  
by Matthew F. Madison, General Partner of MADISON PARTNERSHIP, LTD., a Texas limited  
partnership, on behalf of said limited partnership.



*Donna Zachary*  
Notary Public, State of Texas

**VEHICULAR  
INGRESS AND EGRESS  
EASEMENT AGREEMENT**

**MADISON PARTNERSHIP, LTD.**

**AFTER RECORDING RETURN TO:**

**WILLIAM N. GARRISON, P.C.  
309 West 7th Street, Suite 702  
Fort Worth, Texas 76102**

**Filed for Record in:  
DENTON COUNTY, TX  
HONORABLE TIM HODGES  
/COUNTY CLERK**

**On 1993/04/01**

**At 3:53P**

**Number: 93-R0018033  
Type : EAS 15.00**



# MINA HAGHIRI P.A. Employee List

Employee	SS No.	Notes	At...
Bianca D Garcia	[REDACTED]	No notes	No
Elida Ramos	[REDACTED]	No notes	No
ELVIA J. ANDRADE	[REDACTED]	No notes	No
Mina Haghiri	[REDACTED]	No notes	No
Samantha M Gonzalez Garcia	[REDACTED]	No notes	No

**MINA HAGHIRI P.A.**  
**Paychecks for All Employees**  
January through December 2016

Employee	Date	Num	Memo	Account	Amount
<b>Jan - Dec 16</b>					
Blanca D Garcia	02/16/2016	5677		United Texas Bank	7.27
ELVIA J. ANDRADE	02/16/2016	5678		United Texas Bank	7.86
Samantha M Gonza...	02/16/2016	5679		United Texas Bank	4.92
Blanca D Garcia	02/01/2016	5670		United Texas Bank	2.26
ELVIA J. ANDRADE	02/01/2016	5671		United Texas Bank	1.88
Samantha M Gonza...	02/01/2016	5672		United Texas Bank	10.40
Blanca D Garcia	01/19/2016	5665		United Texas Bank	1.78
ELVIA J. ANDRADE	01/19/2016	5666		United Texas Bank	1.95
Samantha M Gonza...	01/19/2016	5667		United Texas Bank	1.03
Blanca D Garcia	01/04/2016	5659		United Texas Bank	1.29
Elida Ramos	01/04/2016	5660		United Texas Bank	1.51
ELVIA J. ANDRADE	01/04/2016	5661		United Texas Bank	1.36
Samantha M Gonza...	01/04/2016	5662		United Texas Bank	10.66
<b>Jan - Dec 16</b>					<b>5,691.17</b>



MINA HAGHIRI P.A.  
Paychecks for All Employees  
January through December 2015

Employee	Date	Num	Memo	Account	Amount
Jan - Dec 15					
Blanca D Garcia	12/21/2015	5654		United Texas Bank	94
Elida Ramos	12/21/2015	5655		United Texas Bank	11
ELVIA J. ANDRADE	12/21/2015	5656		United Texas Bank	10
Samantha M Gonza...	12/21/2015	5657		United Texas Bank	76
Blanca D Garcia	12/08/2015	5648		United Texas Bank	33
Elida Ramos	12/08/2015	5649		United Texas Bank	72
ELVIA J. ANDRADE	12/08/2015	5650		United Texas Bank	96
Samantha M Gonza...	12/08/2015	5651		United Texas Bank	29
Blanca D Garcia	11/24/2015	5641		United Texas Bank	88
Elida Ramos	11/24/2015	5642		United Texas Bank	87
ELVIA J. ANDRADE	11/24/2015	5643		United Texas Bank	06
Samantha M Gonza...	11/24/2015	5644		United Texas Bank	53
Blanca D Garcia	11/09/2015	5633		United Texas Bank	47
Elida Ramos	11/09/2015	5634		United Texas Bank	97
ELVIA J. ANDRADE	11/09/2015	5635		United Texas Bank	10
Samantha M Gonza...	11/09/2015	5636		United Texas Bank	33
Blanca D Garcia	10/27/2015	5627		United Texas Bank	25
Elida Ramos	10/27/2015	5628		United Texas Bank	99
ELVIA J. ANDRADE	10/27/2015	5629		United Texas Bank	27
Samantha M Gonza...	10/27/2015	5630		United Texas Bank	52
Blanca D Garcia	10/13/2015	5621		United Texas Bank	53
Elida Ramos	10/13/2015	5622		United Texas Bank	61
ELVIA J. ANDRADE	10/13/2015	5623		United Texas Bank	76
Samantha M Gonza...	10/13/2015	5624		United Texas Bank	18
Blanca D Garcia	09/29/2015	5614		United Texas Bank	53
Elida Ramos	09/29/2015	5615		United Texas Bank	59
ELVIA J. ANDRADE	09/29/2015	5616		United Texas Bank	94
Samantha M Gonza...	09/29/2015	5617		United Texas Bank	72
Blanca D Garcia	09/14/2015	5607		United Texas Bank	59
Elida Ramos	09/14/2015	5608		United Texas Bank	37
ELVIA J. ANDRADE	09/14/2015	5609		United Texas Bank	26
Samantha M Gonza...	09/14/2015	5610		United Texas Bank	02
Blanca D Garcia	08/31/2015	5598		United Texas Bank	67
Elida Ramos	08/31/2015	5599		United Texas Bank	75
ELVIA J. ANDRADE	08/31/2015	5600		United Texas Bank	47
Samantha M Gonza...	08/31/2015	5601		United Texas Bank	32
Blanca D Garcia	08/17/2015	5593		United Texas Bank	35
Elida Ramos	08/17/2015	5594		United Texas Bank	21
ELVIA J. ANDRADE	08/17/2015	5595		United Texas Bank	63
Samantha M Gonza...	08/17/2015	5596		United Texas Bank	49
Blanca D Garcia	08/03/2015	5586		United Texas Bank	02
Elida Ramos	08/03/2015	5587		United Texas Bank	92
ELVIA J. ANDRADE	08/03/2015	5588		United Texas Bank	44
Samantha M Gonza...	08/03/2015	5589		United Texas Bank	95
Blanca D Garcia	07/20/2015	5581		United Texas Bank	75
Elida Ramos	07/20/2015	5582		United Texas Bank	62
ELVIA J. ANDRADE	07/20/2015	5583		United Texas Bank	03
Samantha M Gonza...	07/20/2015	5584		United Texas Bank	99
Elida Ramos	07/08/2015	5573		United Texas Bank	29
ELVIA J. ANDRADE	07/08/2015	5574		United Texas Bank	61
Samantha M Gonza...	07/08/2015	5575		United Texas Bank	49
Blanca D Garcia	07/08/2015	5576		United Texas Bank	10
Blanca D Garcia	06/22/2015	5568		United Texas Bank	91
Elida Ramos	06/22/2015	5569		United Texas Bank	65
ELVIA J. ANDRADE	06/22/2015	5570		United Texas Bank	70
Samantha M Gonza...	06/22/2015	5571		United Texas Bank	87
Blanca D Garcia	06/08/2015	5563		United Texas Bank	64
Elida Ramos	06/08/2015	5564		United Texas Bank	02
ELVIA J. ANDRADE	06/08/2015	5565		United Texas Bank	79
Samantha M Gonza...	06/08/2015	5566		United Texas Bank	16
Blanca D Garcia	05/26/2015	5555		United Texas Bank	86
Elida Ramos	05/26/2015	5556		United Texas Bank	85
ELVIA J. ANDRADE	05/26/2015	5557		United Texas Bank	70
Samantha M Gonza...	05/26/2015	5558		United Texas Bank	69
Blanca D Garcia	05/13/2015	5548		United Texas Bank	48
Elida Ramos	05/13/2015	5549		United Texas Bank	53
ELVIA J. ANDRADE	05/13/2015	5550		United Texas Bank	45

12:56 PM  
02/17/16

**MINA HAGHIRI P.A.**  
**Paychecks for All Employees**  
January through December 2015

Employee	Date	Num	Memo	Account	Amount
Samantha M Gonza...	05/13/2015	5551		United Texas Bank	25.60
Blanca D Garcia	04/27/2015	5541		United Texas Bank	1.57
Elida Ramos	04/27/2015	5542		United Texas Bank	1.42
ELVIA J. ANDRADE	04/27/2015	5543		United Texas Bank	1.44
Samantha M Gonza...	04/27/2015	5545		United Texas Bank	1.53
Blanca D Garcia	04/14/2015	5536		United Texas Bank	1.93
ELVIA J. ANDRADE	04/14/2015	5538		United Texas Bank	1.62
Elida Ramos	04/14/2015	5537		United Texas Bank	1.47
Samantha M Gonza...	04/14/2015	5539		United Texas Bank	1.11
Blanca D Garcia	03/30/2015	5528		United Texas Bank	1.65
Elida Ramos	03/30/2015	5529		United Texas Bank	1.59
ELVIA J. ANDRADE	03/30/2015	5530		United Texas Bank	1.87
Samantha M Gonza...	03/30/2015	5531		United Texas Bank	1.22
Blanca D Garcia	03/16/2015	5522		United Texas Bank	1.13
Elida Ramos	03/16/2015	5523		United Texas Bank	1.75
ELVIA J. ANDRADE	03/16/2015	5524		United Texas Bank	1.79
Samantha M Gonza...	03/16/2015	5525		United Texas Bank	1.16
Blanca D Garcia	03/02/2015	5515		United Texas Bank	1.60
Elida Ramos	03/02/2015	5516		United Texas Bank	1.19
ELVIA J. ANDRADE	03/02/2015	5517		United Texas Bank	1.38
Samantha M Gonza...	03/02/2015	5518		United Texas Bank	1.60
Blanca D Garcia	02/16/2015	5511		United Texas Bank	1.66
Elida Ramos	02/16/2015	5512		United Texas Bank	1.79
ELVIA J. ANDRADE	02/16/2015	5513		United Texas Bank	1.06
Samantha M Gonza...	02/16/2015	5510		United Texas Bank	1.20
Blanca D Garcia	02/02/2015	5503		United Texas Bank	1.06
Elida Ramos	02/02/2015	5504		United Texas Bank	1.79
ELVIA J. ANDRADE	02/02/2015	5505		United Texas Bank	1.28
Samantha M Gonza...	02/02/2015	5506		United Texas Bank	1.33
Blanca D Garcia	01/19/2015	5498		United Texas Bank	1.18
Elida Ramos	01/19/2015	5500		United Texas Bank	1.16
ELVIA J. ANDRADE	01/19/2015	5499		United Texas Bank	1.87
Samantha M Gonza...	01/19/2015	5501		United Texas Bank	1.86
Blanca D Garcia	01/05/2015	5491		United Texas Bank	1.52
Elida Ramos	01/05/2015	5492		United Texas Bank	1.49
ELVIA J. ANDRADE	01/05/2015	5493		United Texas Bank	1.15
Samantha M Gonza...	01/05/2015	5494		United Texas Bank	20.18
<b>Jan - Dec 15</b>					<b>45,001.45</b>

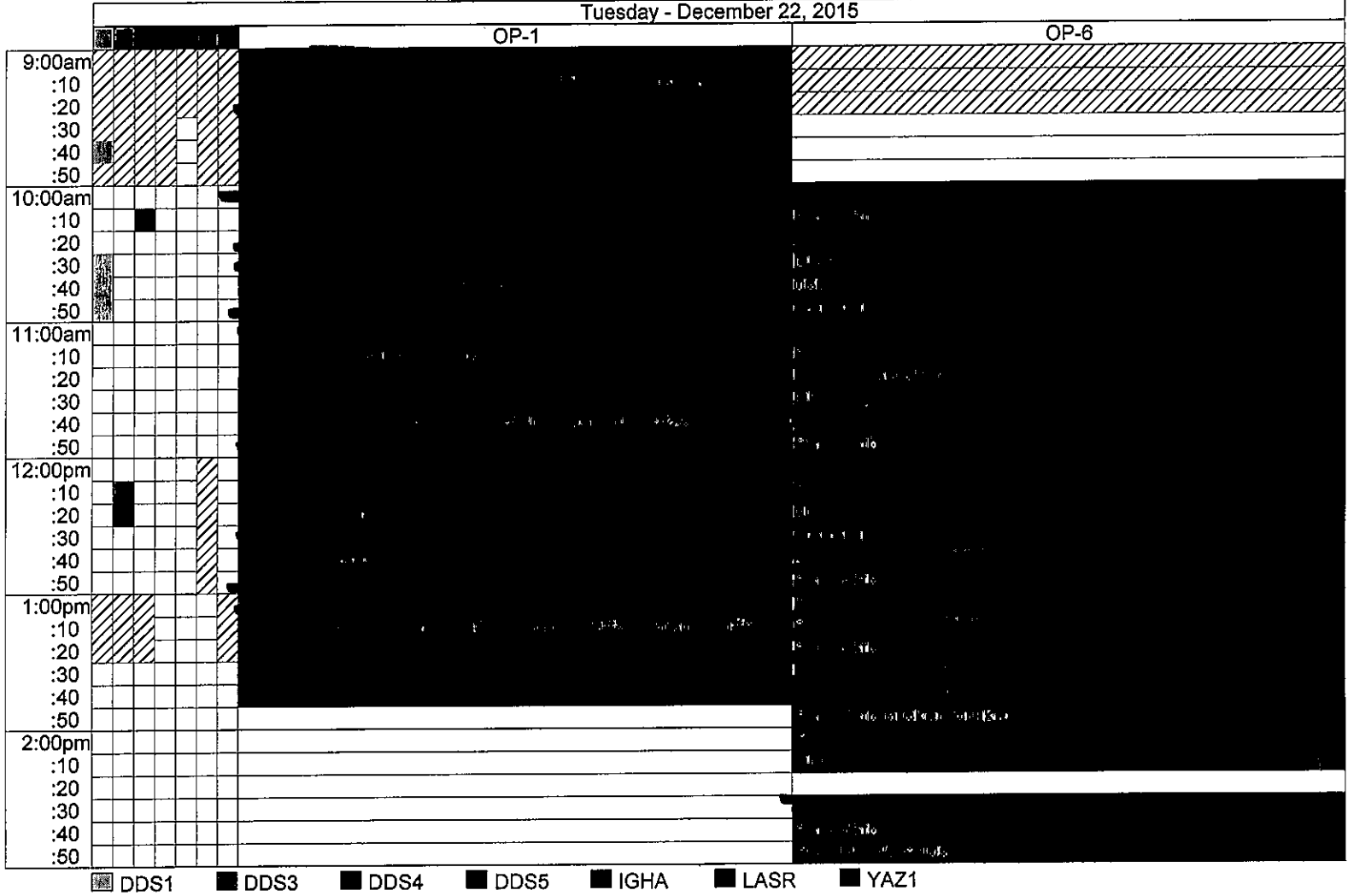
# APPOINTMENT BOOK VIEW (12/22/2015)

American Dental Center

Date: 02/11/2016

Page: 1

Tuesday - December 22, 2015



# APPOINTMENT BOOK VIEW (12/07/2015)

American Dental Center

Date: 02/11/2016

Page: 1

		Monday - December 7, 2015	
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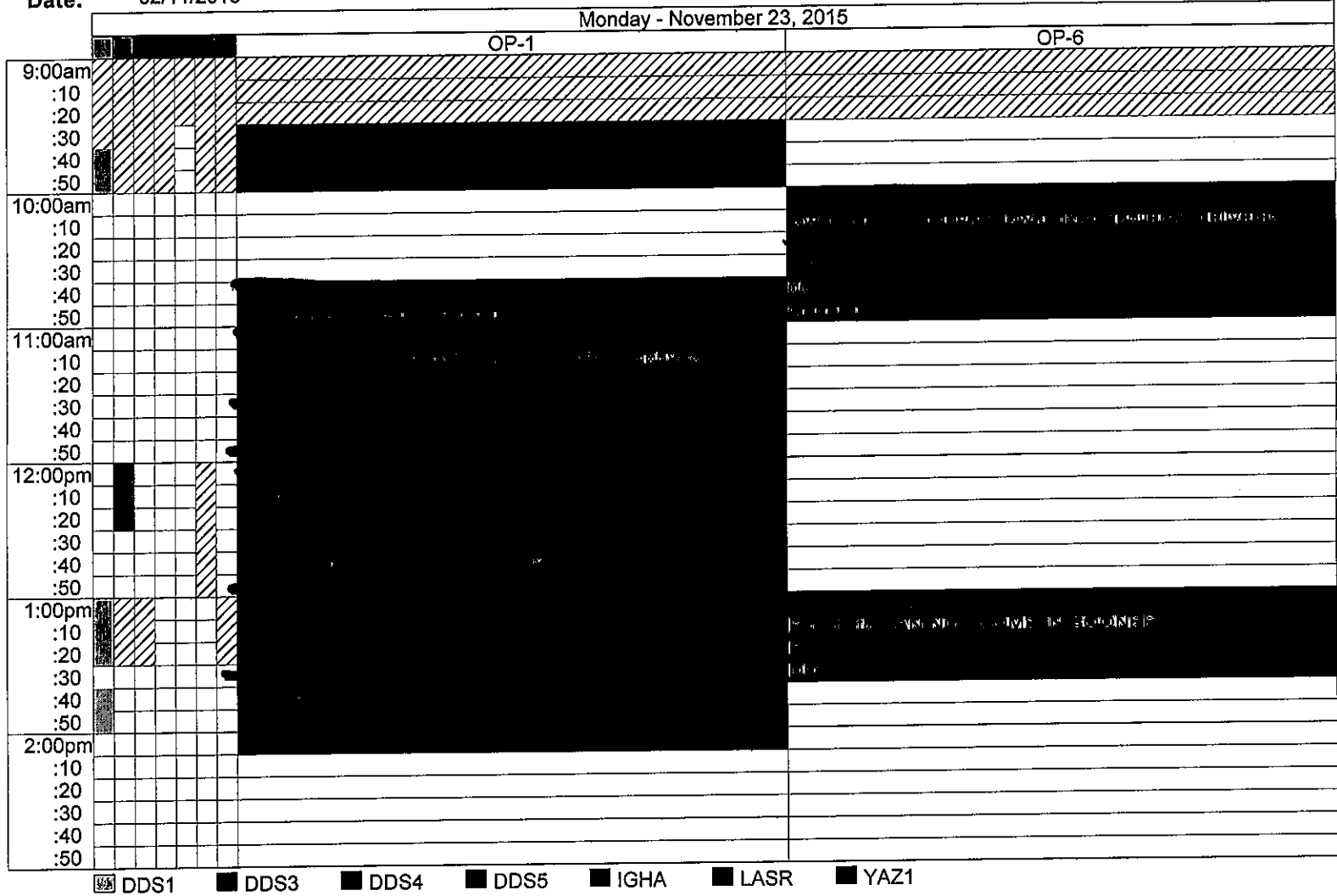
■ DDS1 ■ DDS3 ■ DDS4 ■ DDS5 ■ IGHA ■ LASR ■ YAZ1

# APPOINTMENT BOOK VIEW (11/23/2015)

American Dental Center

Date: 02/11/2016

Page: 1



# APPOINTMENT BOOK VIEW (11/11/2015)

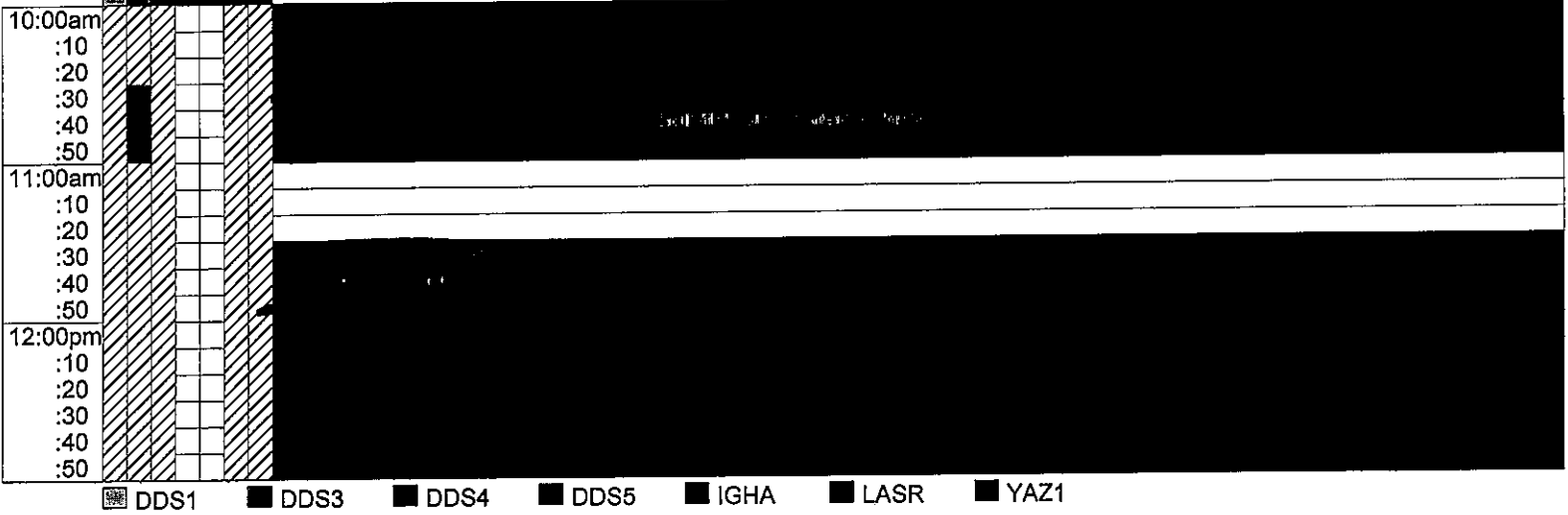
American Dental Center

Date: 02/11/2016

Page: 1

Wednesday - November 11, 2015

OP-1



# APPOINTMENT BOOK VIEW (10/28/2015)

American Dental Center

Date: 02/11/2016

Page: 1

Wednesday - October 28, 2015

		OP-1	OP-2	OP-6
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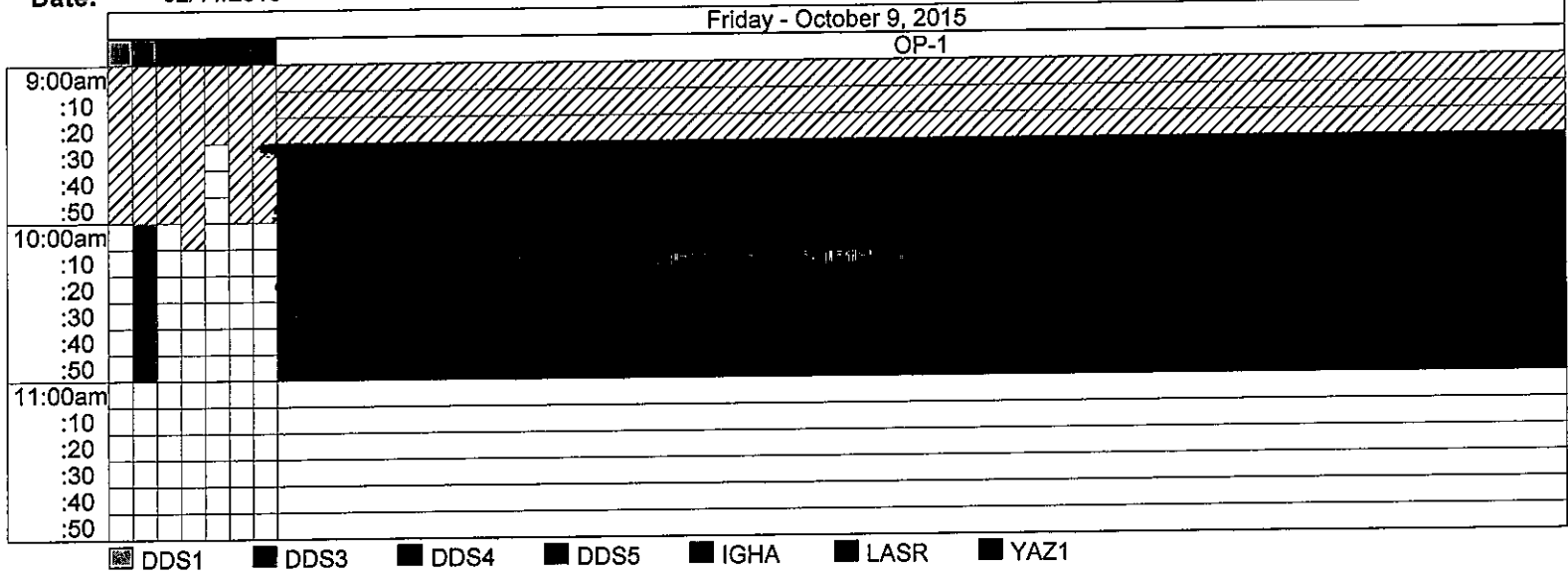
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# APPOINTMENT BOOK VIEW (10/09/2015)

American Dental Center

Date: 02/11/2016

Page: 1



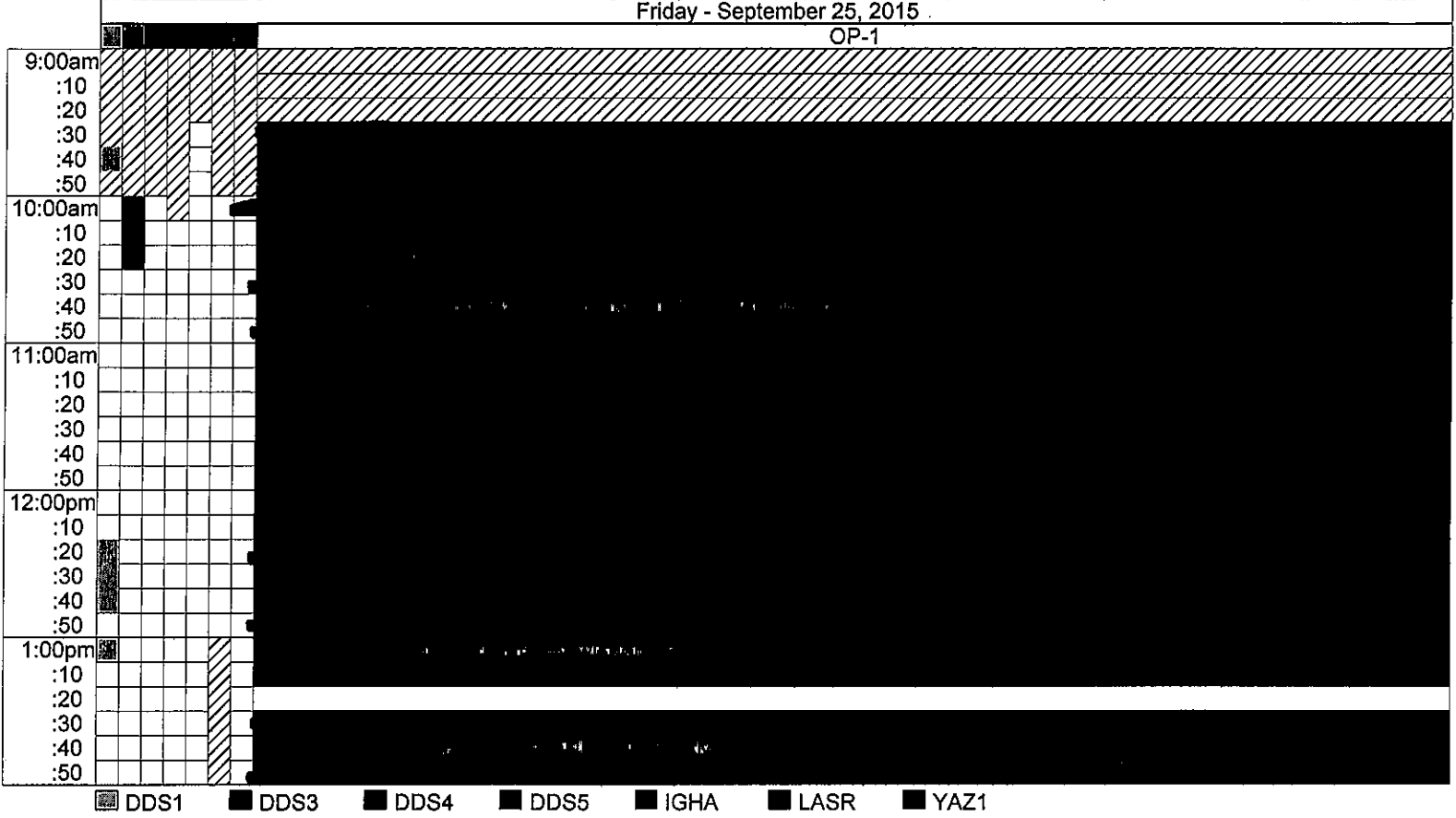


# APPOINTMENT BOOK VIEW (09/25/2015)

American Dental Center

Date: 02/11/2016

Page: 1



# APPOINTMENT BOOK VIEW (09/08/2015)

American Dental Center

Date: 02/11/2016

Page: 1

Tuesday - September 8, 2015  
OP-1

Time	DDS1	DDS3	DDS4	DDS5	IGHA	LASR	YAZ1
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# APPOINTMENT BOOK VIEW (08/27/2015)

American Dental Center

Date: 02/11/2016

Page: 1

Thursday - August 27, 2015

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# APPOINTMENT BOOK VIEW (08/15/2015)

American Dental Center

Date: 02/11/2016

Page: 1

		Saturday - August 15, 2015	
		OP-1	
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■ DDS1 ■ DDS3 ■ DDS4 ■ DDS5 ■ IGHA ■ LASR ■ YAZ1

# APPOINTMENT BOOK VIEW (07/25/2015)

American Dental Center

Date: 02/11/2016

Page: 1

		Saturday - July 25, 2015											
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# APPOINTMENT BOOK VIEW (07/09/2015)

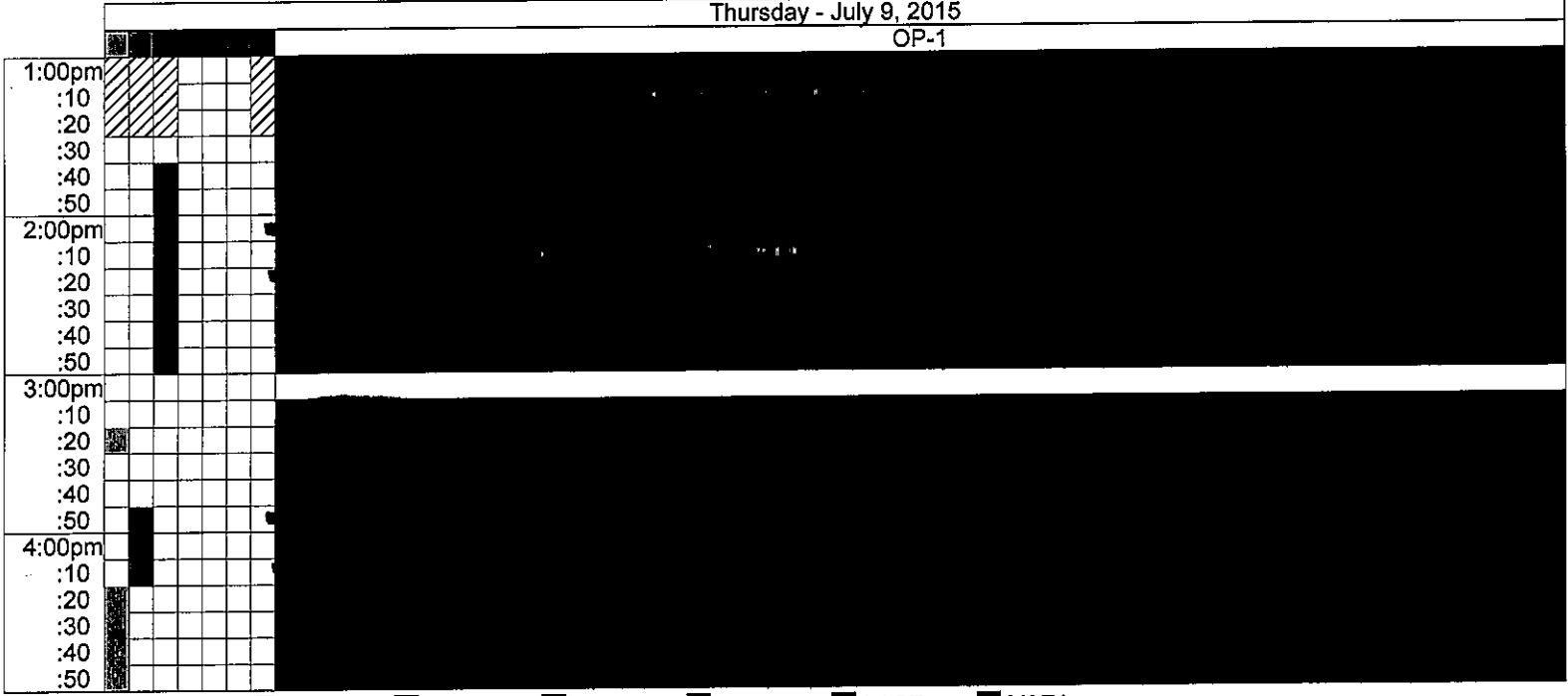
American Dental Center

Date: 02/11/2016

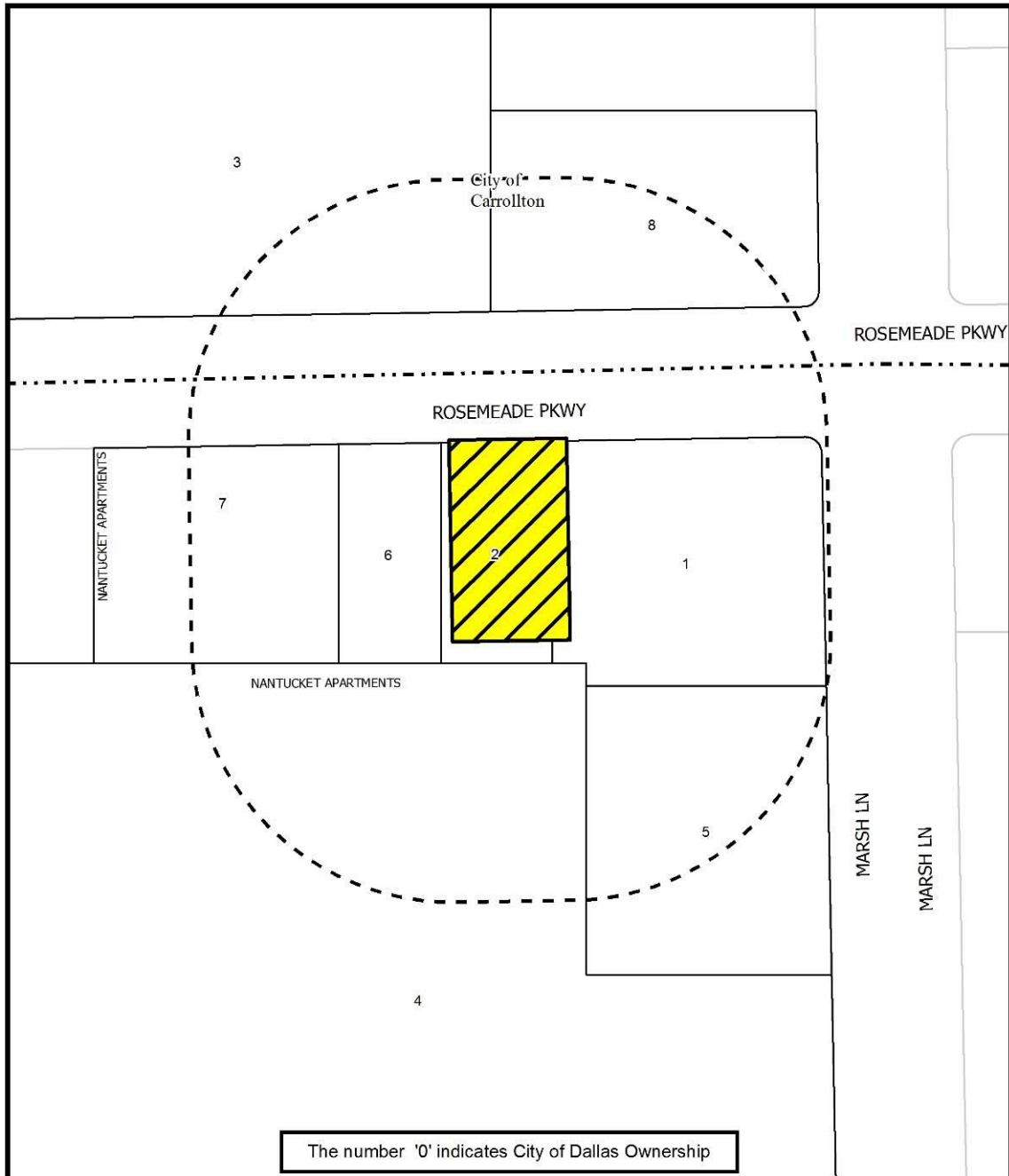
Page: 1

Thursday - July 9, 2015

OP-1



DDS1 DDS3 DDS4 DDS5 IGHA LASR YAZ1



1:1,200

## NOTIFICATION

200'

AREA OF NOTIFICATION

8

NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA156-042**

Date: **4/14/2016**

## *Notification List of Property Owners*

***BDA156-042***

### ***8 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	19059 MARSH LN	KAUSER ENERGY INC
2	3492 ROSEMEADE PKWY	MOUNCE, STEVEN
3	2515 ROSEMEADE #2	VLR-CARROLTON LLC
4	18949 MARSH LN	NANTUCKET APARTMENTS LLC
5	19049 MARSH LN	YON INVESCO INC
6	3490 ROSEMEADE PKWY	LEE BAEK ENTERPRISES, INC
7	3488 ROSEMEADE PKWY	EVANS, MERRILL E & LOIS E, TRUSTEES OF THE EVANS FAMILY
TRUST		
8	2525 E ROSEMEADE PKWY	MDT MARSH LTD



**FILE NUMBER:** BDA156-043(JM)

**BUILDING OFFICIAL'S REPORT:** Application of Louise Elam for a special exception to the landscape regulations at 10770 Bekay Street. This property is more fully described as Lot 1C, Block 2/8059, and is zoned IR, which requires mandatory landscaping. The applicant proposes to construct and/or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 10770 Bekay Street

**APPLICANT:** Louise Elam

**REQUEST:**

A request to provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS:**

The board may grant a special exception to the requirements of this article upon making a special finding from the evidence presented that:

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

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

1. The extent to which there is residential adjacency.
2. The topography of the site.
3. The extent to which landscaping exists for which no credit is given under this article.
4. The extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required.

Rationale for approval:

- Staff concurs with the Chief Arborist and recommends approval of this request with the condition imposed above because strict compliance with this article will unreasonably burden the use of this property and this special exception will not adversely affect neighboring property.

**BACKGROUND INFORMATION:**

**Zoning:**

<u>Site:</u>	Industrial Research, IR
<u>North:</u>	Industrial Research, IR
<u>South:</u>	Industrial Research, IR
<u>East:</u>	Industrial Research, IR
<u>West:</u>	Industrial Research, IR

**Land Use:**

The subject site is developed, but currently vacant. Previously, it was occupied as a building material site. Surrounding properties are similarly consistent with industrial uses including offices, heavy machinery, and outdoor storage of materials in all directions. The applicant is planning to redevelop an existing structure to provide new office and storage space.

**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 focuses on constructing/maintaining structures on a lot currently vacant, and not fully provide required landscaping. More specifically, according to the City of Dallas Chief Arborist, the features shown on the submitted alternate landscape plan would not conform to Article X landscape regulation standards related to mandatory landscaping requirements.
- Section 51(A) 10.125. states the following requirements:
  - (3) Site trees.
    - (A) One tree having a caliper of at least two inches must be provided for each 4,000 square feet of lot area, or fraction thereof, with a minimum of four trees being provided, *except for industrial uses in IM and IR districts, where one tree having a caliper of at least two inches must be provided for each 6,000 square feet of lot area, or fraction thereof, with a minimum of four trees being provided.* *Emphasis added.*

- The proposed landscape plan reduces the tree count from the 79 site tree requirement for a 7.2 acre property, to 22 site trees concentrated around the office facility and Bekay Street frontage.
- The City of Dallas Chief Arborist states in a memo (see Attachment A) that the request in this case is triggered by the new construction of new office floor space to an existing facility in an IR district with improved fire lane access.
- The Chief Arborist listed several factors for consideration:
  1. The facility will have storage and maintenance applications which limit the landscaping area potential for the southern half of the property. Maintaining isolated landscape locations in an expansive and a currently impervious developed area, with a limited potential for tree shade, is costly and difficult to sustain. The primary public function of the site will be near Bekay Street and with the main office operations to the north end of the site where all landscaping will be installed.
  2. The site is an old facility in an IR district surrounded by many other industrial uses. The southern and eastern portions of the property surrounding the building have never been landscaped but have remained open for the general uses of the property.
  3. All other Article X requirements are met, including a street buffer and screening of off-street parking.
- The Chief Arborist recommends approval of the proposed landscape plan because strict compliance with the site tree requirements will unreasonably burden the use of the property, and the special exception will not adversely affect neighboring property.
- The applicant has the burden of proof in establishing the following:
  - The special exception complies with Section 51(A) 10.110.
- If the board were to grant this request and impose the submitted alternate landscape plan as a condition, the site would be granted exception from full compliance to the landscape regulations.

**Timeline:**

December 18, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

April 12, 2016: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.

April 15, 2016: The Board Administrator emailed the applicant the following information:

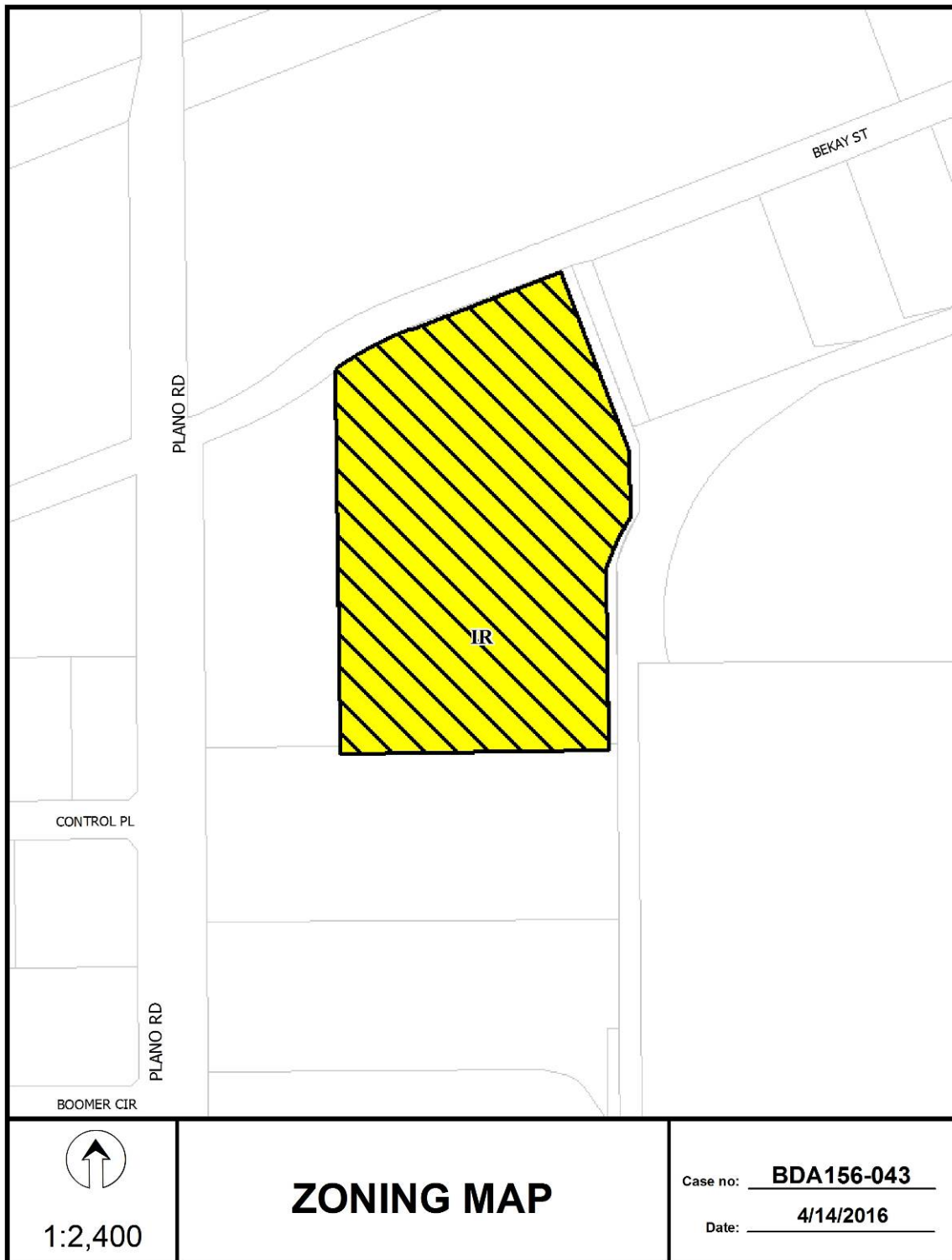
- an attachment that provided the public hearing date and panel that will consider the application; the April 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the May 6<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s 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.”

May 3, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Sustainable Development and Construction Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Board of Adjustment Senior Planner, and the Assistant City Attorneys to the Board.

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

May 9, 2016: The City of Dallas Chief Arborist submitted a memo regarding the request (see Attachment A).





1:2,400

# AERIAL MAP

Case no: BDA156-043

Date: 4/14/2016



BDA 156-043  
"Attachment A"

## Memorandum



CITY OF DALLAS

DATE May 9, 2016

TO Jennifer Munoz, Senior Planner

Steve Long, Board of Adjustment Administrator

SUBJECT # BDA 056 · 043 10770 Bekay Street

The applicant is requesting a special exception to the landscape requirements of Article X.

### Trigger

New construction of new office floor space to an existing facility in an IR district with improved fire lane access.

### Deficiencies

The proposed landscape plan reduces the tree count from the 79 site tree requirement for a 7.2 acre property, to 22 site trees concentrated around the office facility and Bekay Street frontage.

### Factors

The facility will have storage and maintenance applications which limit the landscaping area potential for the southern half of the property. Maintaining isolated landscape locations in an expansive and a currently impervious developed area, with a limited potential for tree shade, is costly and difficult to sustain. The primary public function of the site will be near Bekay Street and with the main office operations to the north end of the site where all landscaping will be installed.

The site is an old facility in an IR district surrounded by many other industrial uses. The southern and eastern portions of the property surrounding the building have never been landscaped but have remained open for the general uses of the property.

All other Article X requirements are met, including a street buffer and screening of off-street parking.

### Recommendation

The chief arborist recommends approval of the special exception because strict compliance with the site tree requirements will unreasonably burden the use of the property, and the special exception will not adversely affect neighboring property.

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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-043

Data Relative to Subject Property:

Date: 10-20-2015

Location address: 10770 Bekay Street, Dallas, Texas 75228 Zoning District: IR

Lot No.: 1c Block No.: 2/8059 Acreage: 7.2177 Census Tract: 105.06

Street Frontage (in Feet): 1) 399'-0 3/4" 2) 3) 4) 5)

NE5A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): City of Dallas

Applicant: Louise Elam Telephone: 214-670-5275

Mailing Address: 1500 Marilla, Room 6FS Zip Code: 75201

E-mail Address: louise.elam@dallascityhall.com

Represented by: Telephone:

Mailing Address: Zip Code:

E-mail Address:

Affirm that an appeal has been made for a Variance \_\_, or Special Exception X, of 51A-10.125 (b)(3) site tree requirement having to plant approximately 80 site trees due to the code requiring one tree per 4000 square feet of lot area.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: The project is located in an industrial (IR) area with virtually no existing vegetation/trees. The remainder of the project site will incorporate landscape requirements per code and will also have landscaping around the proposed building.

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

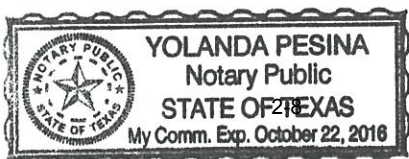
Before me the undersigned on this day personally appeared LOUISE ELAM (Affiant/Applicant's name printed)

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: Louise Elam (Affiant/Applicant's signature)

Subscribed and sworn to before me this 18th day of December, 2015

(Rev. 08-01-11)



Yolanda Pesina Notary Public in and for Dallas County, Texas





# City of Dallas

Internal Development Research Site

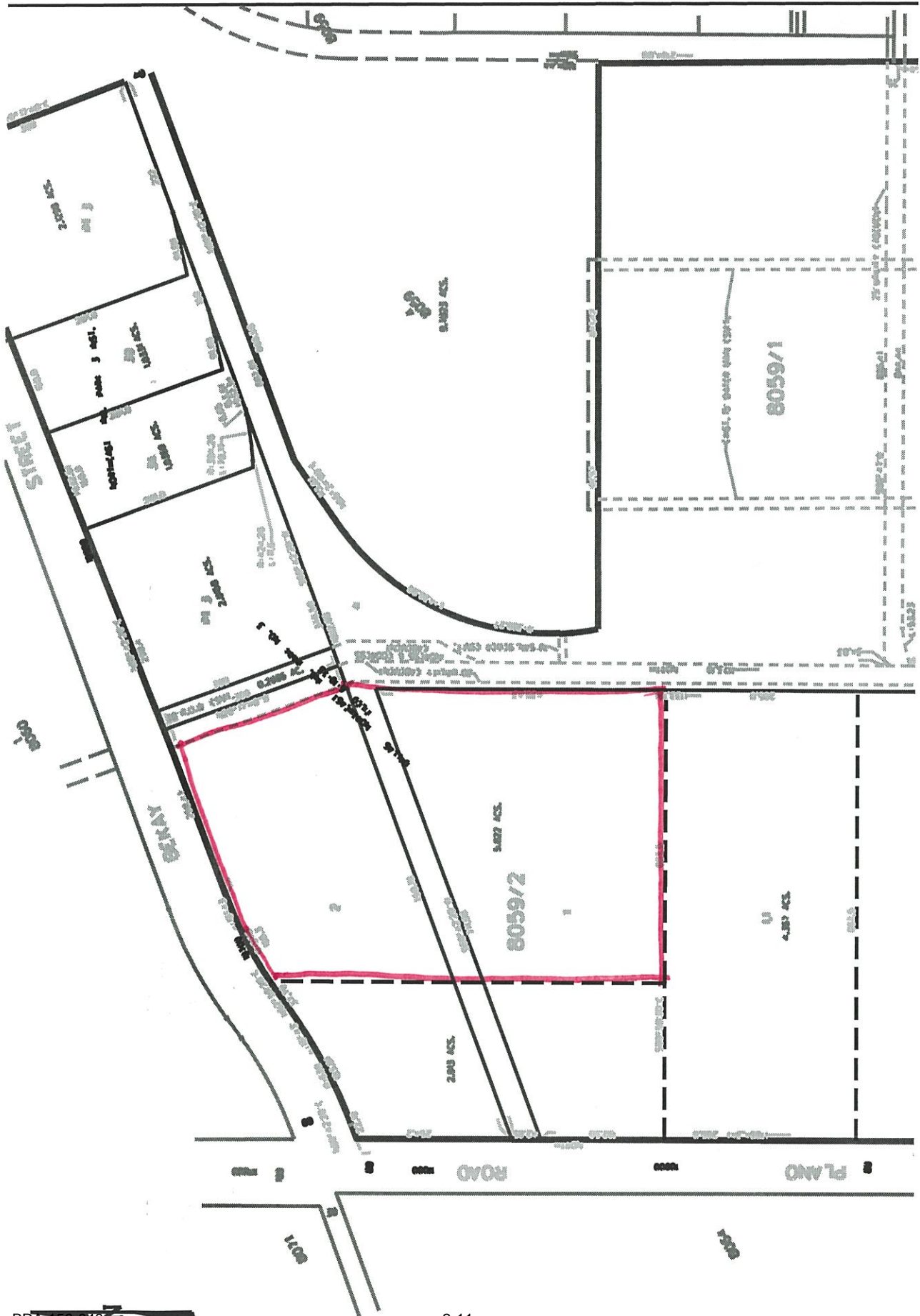
Legend

Locate Property

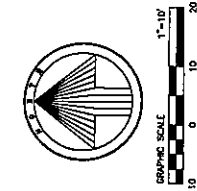


*Handwritten signature or initials in red ink.*

*h.f.*







**LEGEND**

LARGE CANOPY TREE AS NOTED  
SMALLER TREE AS NOTED

A LIVE OAK  
B RED OAK  
C CHINESE PISTACHE

LARGE NON-CANOPY TREE AS NOTED

SHRUBS OR ORNAMENTAL GRASS AS NOTED

GROUND COVER AS NOTED

TURF AS NOTED  
(COMMON BERMUDA OR BUFFALO GRASS)

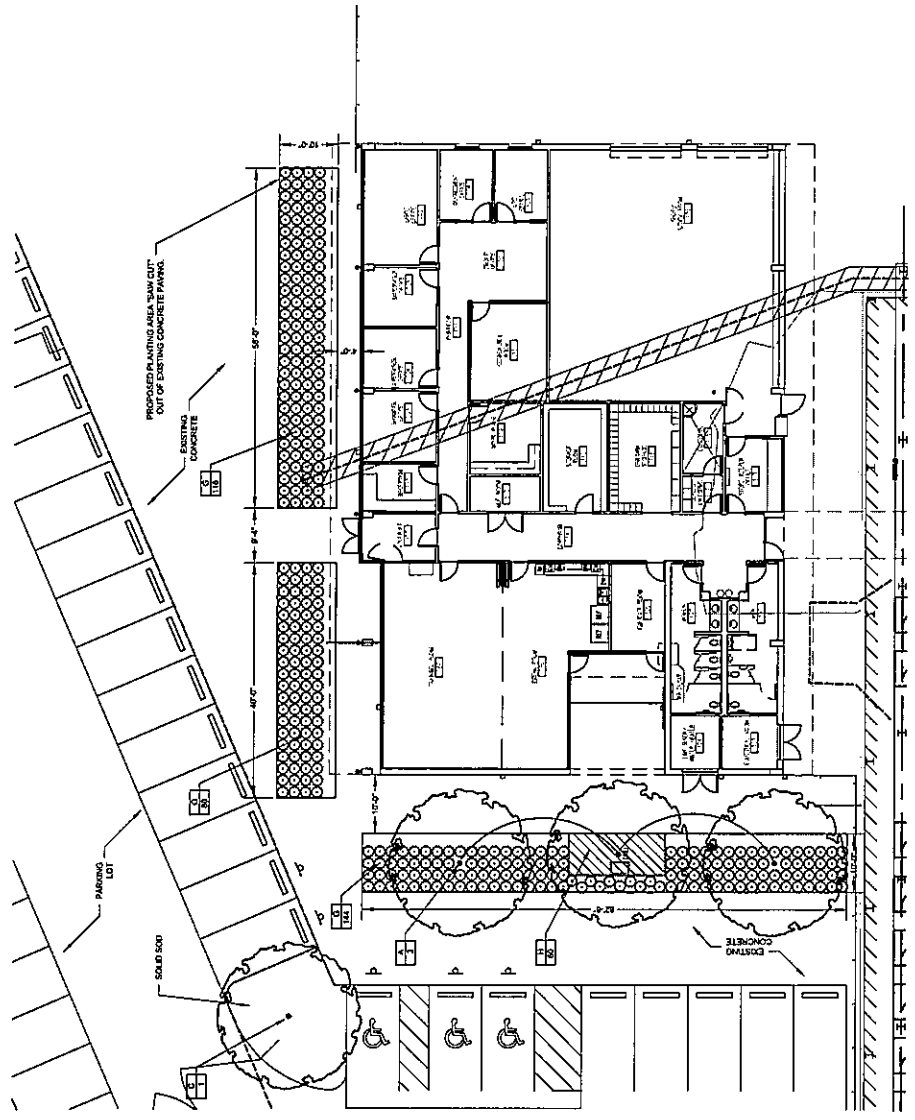
PLANT MATERIAL SPECIES  
PLANT MATERIAL QUANTITY

**PLANT LEGEND**

SYMBOL	COMMON/BOTANICAL NAME	SIZE
A	LIVE OAK / QUERCUS VIRGINIANA	3" CAL
B	RED OAK / QUERCUS SP. SUMM.	2" CAL
C	CHINESE PISTACHE / PISTACHIA CHINENSIS	4" CAL
D	CHASTE TREE / WICKI WILLOW / GASTRIS	17" MIN. HEIGHT
E	SPYRUS BURFORD HOLLY / ILEX CORNUTA IMPERIAL NANA	7 GALLON
F	MEXICAN FEATHER GRASS / PANSETTIA TENNESSEANA	1 GALLON
G	BIG BLUE LUNGFE / EUROPE MASCAGOUS BIG BLUE	1 GALLON
H	BERMUDA GRASS / CYNODON DACTYLON	HYDROMULCH
I		

\*\* SEE COMPLETE PLANT LIST AND PLANTING DETAILS ON SHEET L3 \*\*

- LANDSCAPE PLAN NOTES:**
- ALL TREE SPECIES TO BE IDENTIFIED BY THE CONTRACTOR.
  - ALL LANDSCAPE MATERIALS TO BE IDENTIFIED BY APPROVED LANDSCAPE DRAWING.
  - THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF DALLAS.
  - THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF DALLAS.
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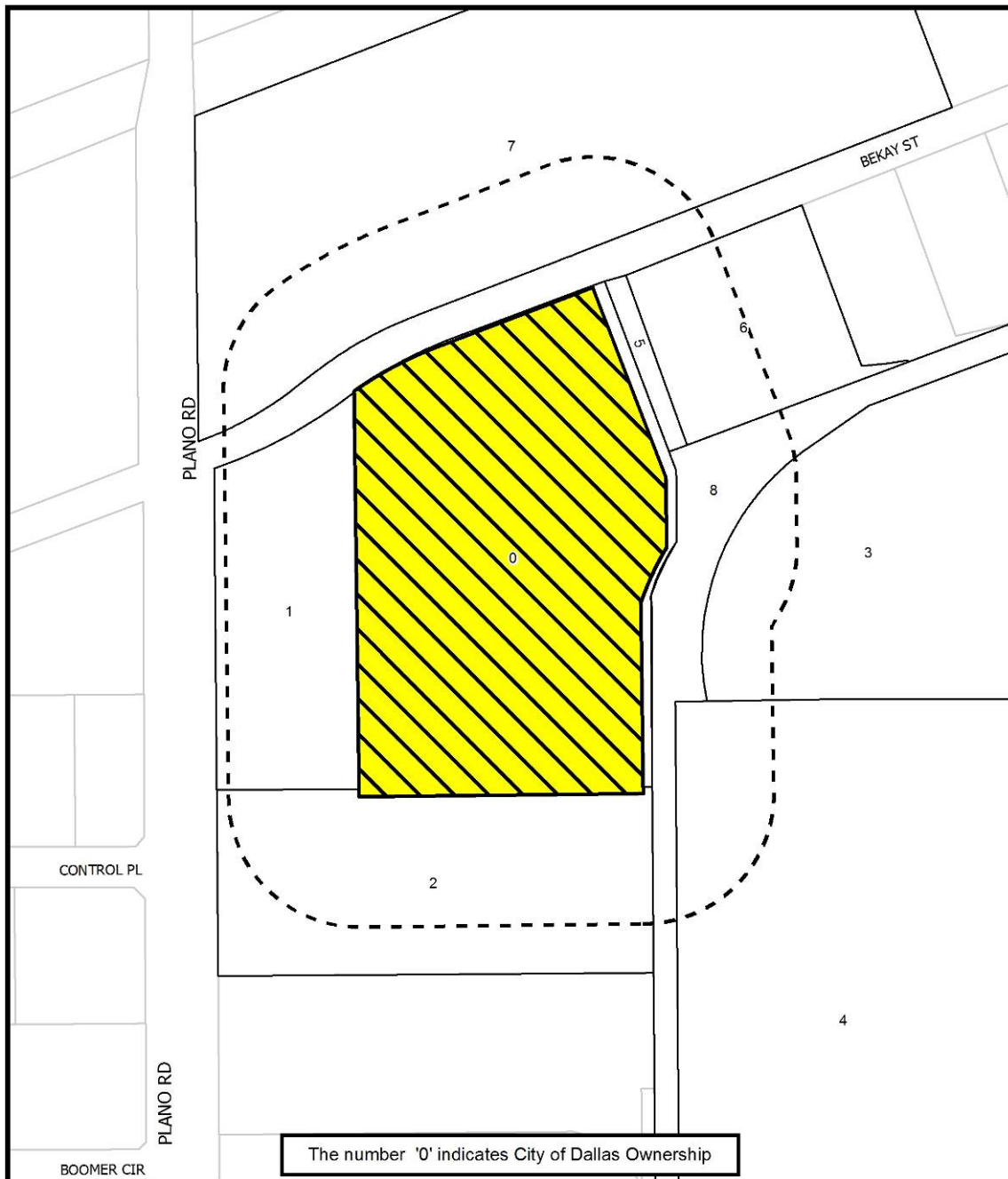


ENLARGED LANDSCAPE PLANTING PLAN  
SCALE: 1" = 10'-0"

**JBI PARTNERS**

18201 Ocean Drive  
Suite 100  
Houston, TX 77057  
Phone: 281.241.1010  
www.jbi.com

TYPE No. P-138 TPL'S No. 10075000



 1:2,400	<b>NOTIFICATION</b>		Case no: <b>BDA156-043</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;">8</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: <b>4/14/2016</b>	

## *Notification List of Property Owners*

***BDA156-043***

### ***8 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	11050 PLANO RD	BALFOUR ENTERPRISES INC
2	10950 PLANO RD	HOLT TEXAS PROPERTIES INC
3	99999 SANDEN DR	MVT TRANSPORTATION LLC
4	10851 MILLER RD	STEPHENS PIPE & STEEL LLC
5	10800 BEKAY ST	SLAUGHTER INDUSTRIES INC
6	10808 BEKAY ST	COMMERCIAL FIREPROOFING & INSULATION LP
7	11100 PLANO RD	CAMERON WM & CO
8	401 S BUCKNER BLVD	DART

**FILE NUMBER:** BDA156-044(JM)

**BUILDING OFFICIAL'S REPORT:** Application of Dan Patterson, represented by Wendy Millsap, for a special exception to the fence height regulations at 3209 Wendover Road. This property is more fully described as Lot 2, Block 2976, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain a 6 foot high fence, which will require a 2 foot special exception to the fence height regulations.

**LOCATION:** 3209 Wendover Road

**APPLICANT:** Dan Patterson  
Represented by Wendy Millsap

**REQUEST:**

A request for a special exception to the fence height regulations of up to 2' is made to construct and maintain the following fences:

- Maintain an existing 6' high chain-link fence from the north point of the property facing Wendover Rd., for 220 feet curving southbound, along the property line within the front yard building setback towards the new gates;
- Construct and maintain a new 6' high chain-link fence from the north point of the property facing Wendover Rd., for 340 feet curving southbound, along the property line within the front yard building setback towards the new gates;
- Construct and maintain a new custom metal mesh fence with solid columns ranging in height from 5' in height to a maximum of 6' height along the entire property line and gated entry within the front yard building setback for about 688 feet, facing the street on Wendover Rd.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:**

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

**STAFF RECOMMENDATION:**

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



## **BACKGROUND INFORMATION:**

### **Zoning:**

<u>Site:</u>	R-7.5(A) (Single family district 7,500 sq. ft.)
<u>North:</u>	R-7.5(A) (Single family district 7,500 sq. ft.)
<u>South:</u>	R-7.5(A) (Single family district 7,500 sq. ft.)
<u>East:</u>	R-7.5(A) (Single family district 7,500 sq. ft.)
<u>West:</u>	R-7.5(A) (Single family district 7,500 sq. ft.)

### **Land Use:**

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

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

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

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

- This request provides for different options and phasing of fences for the site.
- The current request includes a fence which was seemingly erected without permits before the applicant took ownership. It is approximately 220' long and 6' high beginning at the north end of the property. The applicant would like to maintain that fence while they consider other fencing options including either replacing that chain-link fence with a vinyl-coated chain-link fence of the same 6' height, or continuing the custom metal mesh fencing they plan to install at the new gated entryway and along the south end of the property.
- The existing 6' chain-link fence (220' long) requires a special exception to remain.
- The proposed replacement of that fence with a vinyl-coated chain-link fence with an expanded length total of 340' long from the north end of the property line, down to the new gated entryway, requires a special exception.
- They plan to install 182' of custom metal mesh fencing on the south end of the property northbound to the new entryway. They may choose to replace all front yard fencing with the 5'-6' high custom metal mesh fencing with solid columns for a combined total of 688' along Wendover Rd.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The subject site is zoned R-7.5(A), has a 25' front yard setback, and contains approximately 1.86 acres.

- The applicant has submitted a site plan/elevation of the proposal with notations indicating that the existing and proposed fences reach a maximum height of approximately 6’.
- The following additional information was gleaned from the submitted site plan:
  - The proposal is represented as being approximately 688’ in length parallel to the street, and including the gated entryway fencing, in the 25’ front yard setback.
  - The proposal is represented as being located behind the property line, with no specific measurement noted.
- There are no houses directly facing the site. Mostly side yards front this lot. Surrounding homes do not seem to have front yard fences.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences higher than 4’ in front yard setbacks.
- As May 6, 2016, no letters have been submitted in opposition to the request. One letter in support was submitted on May 5, 2016 (Attachment A).
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 2’ will not adversely affect neighboring property.
- Granting this special exception of 2’ with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding 4’ in height in the front yard setback to be modified and maintained in the location and of the heights and materials as shown on this document.

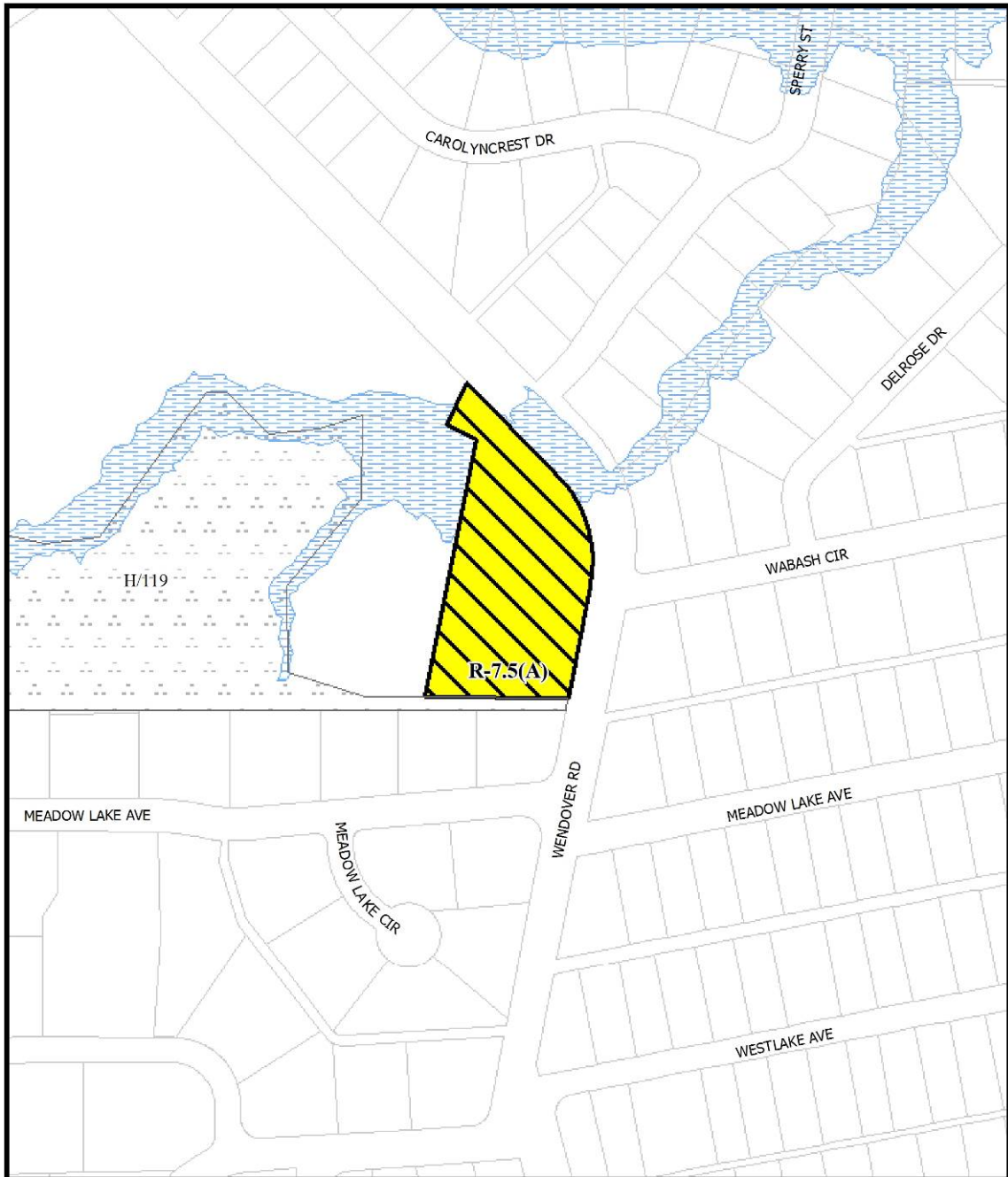
**Timeline:**

- June 3, 2015:           The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- April 12, 2016:        The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- April 15, 2016:        The Board Administrator emailed the applicant the following information:
  - an attachment that provided the public hearing date and panel that will consider the application; the April 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the May 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.”
- May 2, 2016:           Revised plans were submitted according to staff direction (Attachment A).

May 3, 2016:

The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Sustainable Development and Construction Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Board of Adjustment Senior Planner, and the Assistant City Attorneys to the Board.

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



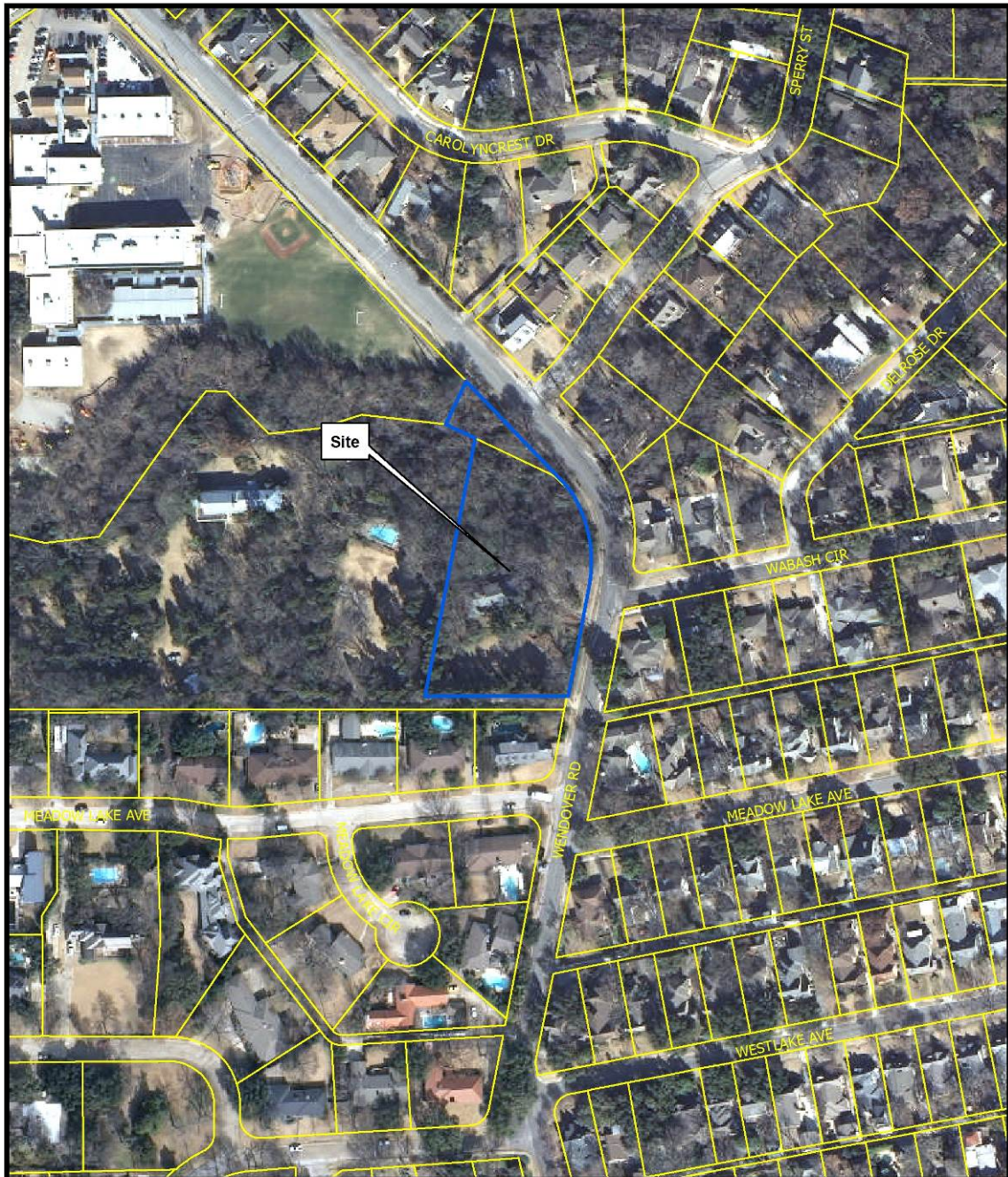
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# ZONING MAP

Case no: BDA156-044

Date: 4/14/2016





1:2,400

# AERIAL MAP

Case no: BDA156-044

Date: 4/14/2016

BDA 156-044  
"Attachment A"

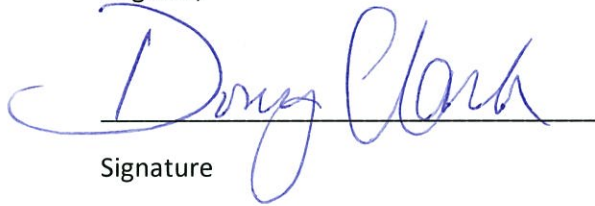
Dorcy Clark  
2532 Cambria Blvd  
Dallas, Texas 75214

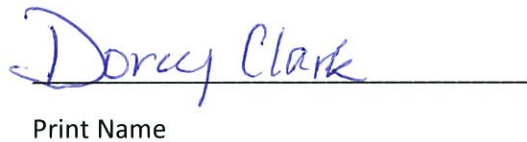
May 5, 2016

To Steve Long,

I live at 2532 Cambria Blvd, and am the President of Lakewood Elementary Expansion Foundation (LEEF). Dan Patterson has shown me the design for the new metal fence he wants to build along Wendover. I am in support of a variance to allow for a 5' fence in front of the meadow areas and an increase to 6' by the creek down to where it will connect with Lakewood Elementary's 6' fence.

Regards,

  
Signature

  
Print Name





City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-044

Data Relative to Subject Property:

Date: 6/3/15

Location address: 3209 Wendover Rd, Dallas TX 75246 Zoning District: R-7.5(A)

Lot No.: 2 Block No.: 2976 Acreage: 1.6960 Census Tract: 80.00

Street Frontage (in Feet): 1) 565.8 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

*GC5B*

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): DAN PATTERSON, LP

Applicant: DAN PATTERSON Telephone: 214-824-6525

Mailing Address: PO Box 140627, DALLAS TX Zip Code: 75214

E-mail Address: clan@pattersonthoma.com

Represented by: Wendy Millsap Telephone: 214-476-1369

Mailing Address: 4530 Reiger Ave, DALLAS TX Zip Code: 75246

E-mail Address: wendover@pattersonthoma.com

Affirm that an appeal has been made for a Variance \_\_, or Special Exception , of 2'  
6' foot fence along the front boundary of 3209 Wendover

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:

1. Safety - location is next to an elementary school and very large ravine on the property is within 10 feet of the public sidewalk
2. 3209 Wendover is the only property facing Wendover
3. Adjoining property has an existing 6' fence.

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.

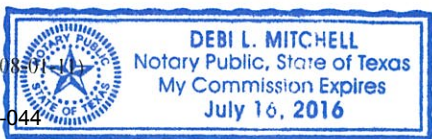
Affidavit

Before me the undersigned on this day personally appeared DAN E PATTERSON  
(Affiant/Applicant's name printed)

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

Respectfully submitted: [Signature]  
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 4th day of June, 2015



Debi L. Mitchell  
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 Dan Patterson  
represented by Wendy Millsap  
did submit a request for a special exception to the fence height regulations  
at 3209 Wendover Road

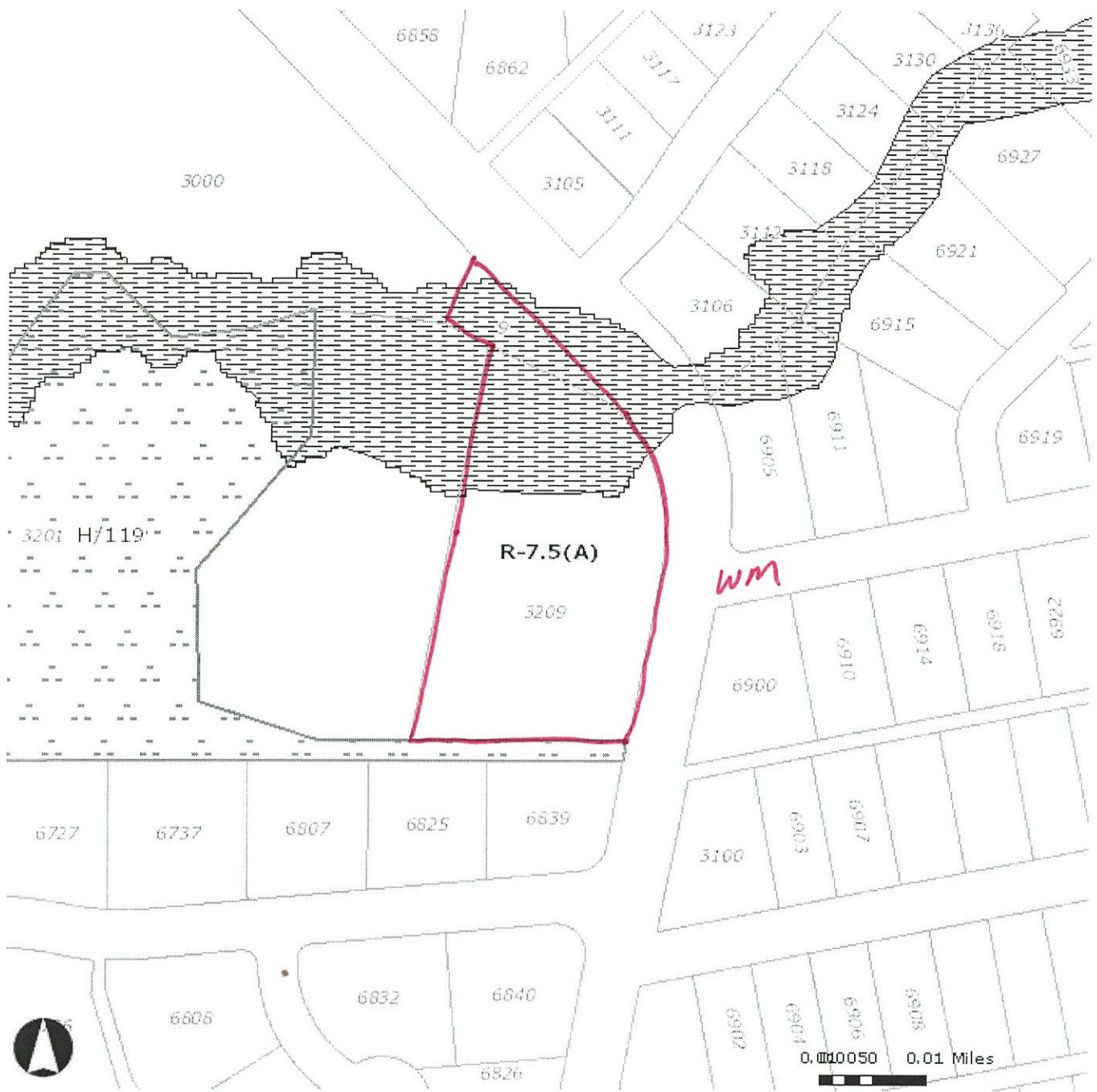
BDA156-044. Application of Dan Patterson represented by Wendy Millsap for a special exception to the fence height regulations at 3209 Wendover Road. This property is more fully described as Lot 2, Block 2976, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 6 foot high fence in required front yard, which will require a 2 foot special exception to the fence regulation.

Sincerely,

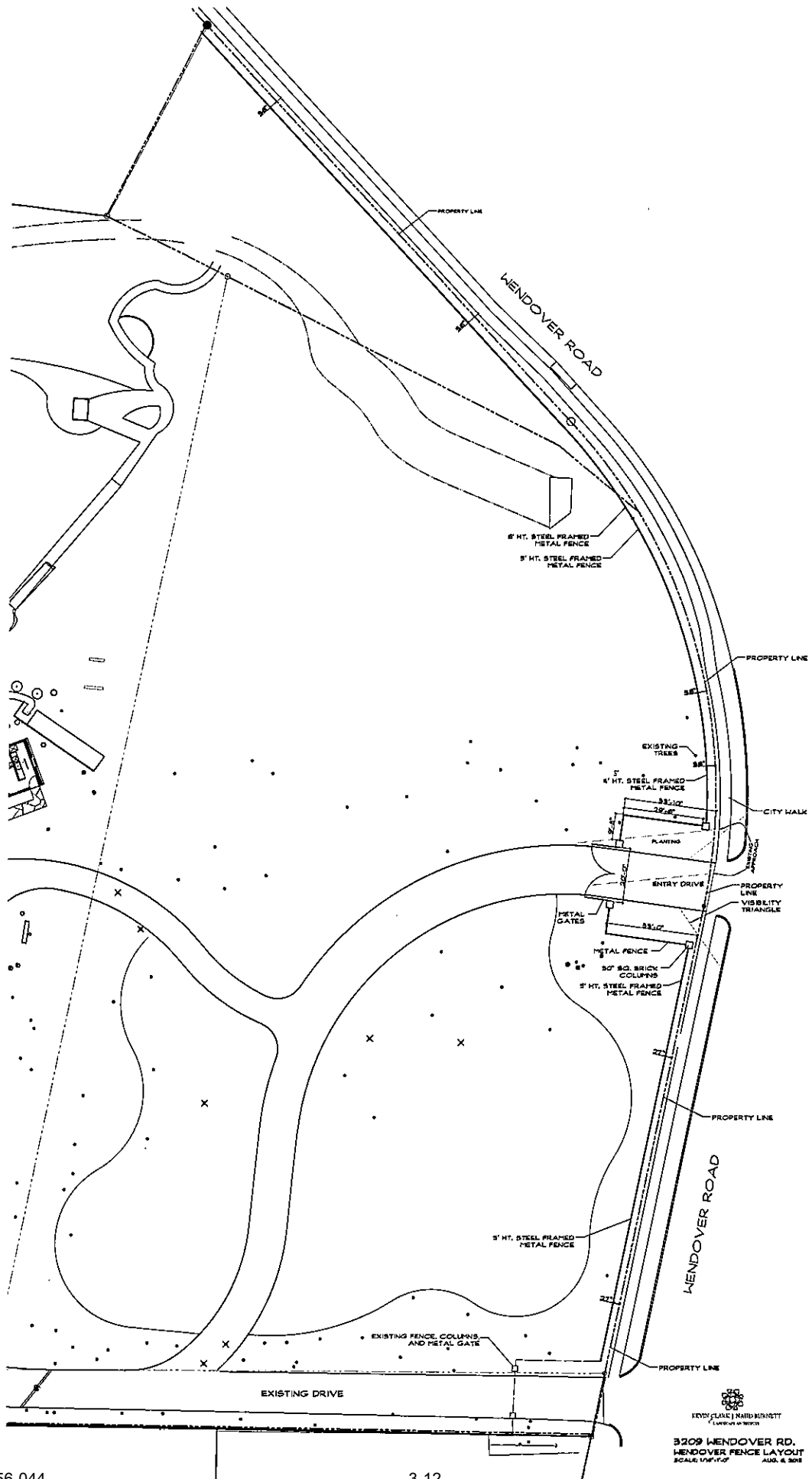
*Philip Sikes*  
Philip Sikes, Building Official

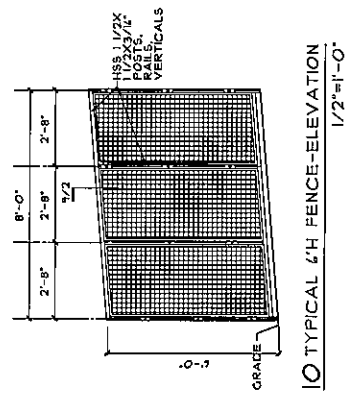
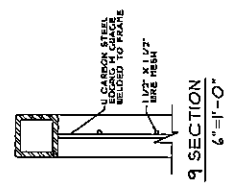
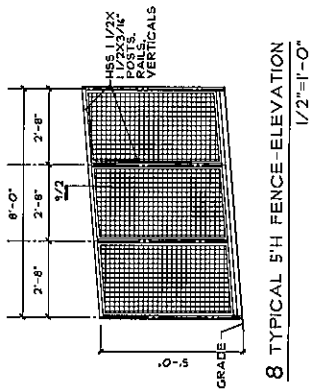
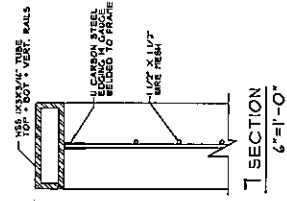
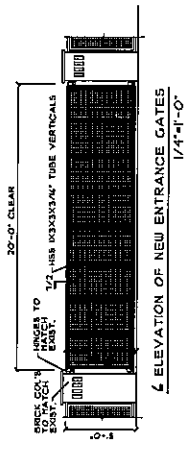
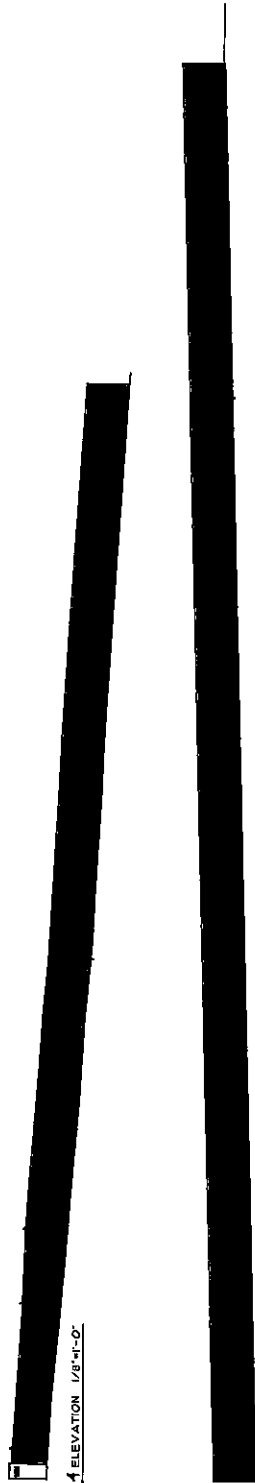
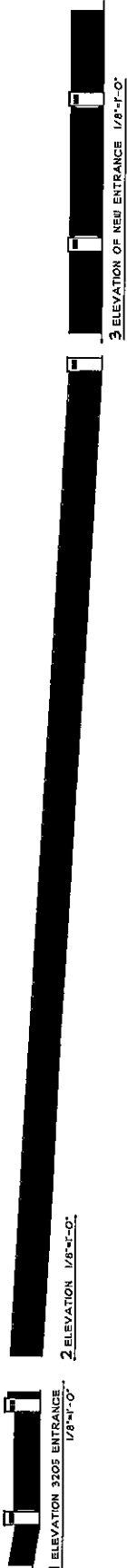












HOWARD GLAZBROOK ARCHITECTS  
5342 MORNINGSIDE AVENUE  
DALLAS, TEXAS 75201  
(214) 821-6188

KEVIN CLARK/NAUD BURETT  
LANDSCAPE ARCHITECTS

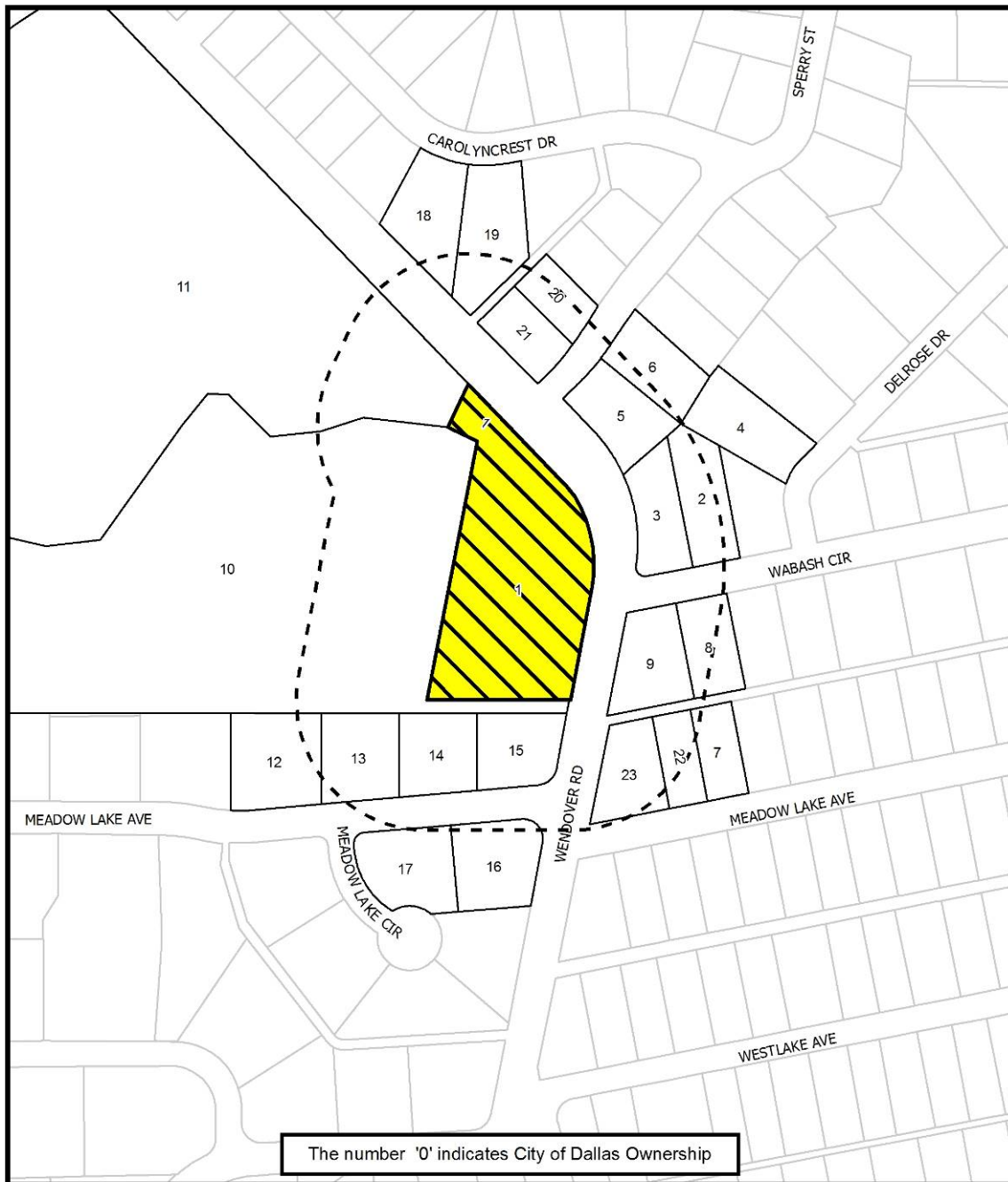
A FENCE ALONG WENDOVER ROAD  
PATTERSON THOMA CO.  
3205 WENDOVER ROAD  
DALLAS, TEXAS 7524

DATE: 24 FEB 2004

SHEET TITLE  
ELEVATIONS  
& DETAILS

SHEET  
2  
OF 2

NOT FOR REGULATORY, CONSTRUCTION, OR PERMITTING



1:2,400

# NOTIFICATION

**200'**

AREA OF NOTIFICATION

**23**

NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA156-044**

Date: **4/14/2016**

## *Notification List of Property Owners*

### *BDA156-044*

#### *23 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3209 WENDOVER RD	PATTERSON DAN E
2	6911 WABASH CIR	FITZGERALD PATRICK F &
3	6905 WABASH CIR	BRYAN JAMES L &
4	6915 DELROSE DR	SOLARES BEATRICE
5	3106 SPERRY ST	WEARDEN LAWRENCE A &
6	3112 SPERRY ST	INGALLS CHARLES S III
7	6907 MEADOW LAKE AVE	TAYLOR WILLIAM R
8	6910 WABASH CIR	MATUSEWICZ SUSAN BASCOMB
9	6900 WABASH CIR	MCDANALD CONWAY L ETAL
10	3201 WENDOVER RD	PATTERSON DAN E
11	3000 HILLBROOK ST	Dallas ISD
12	6737 MEADOW LAKE AVE	FRANKENFELD ROBERT PAUL &
13	6807 MEADOW LAKE AVE	COFFEY SPENCER & NANCY
14	6825 MEADOW LAKE AVE	BURGARD EDWIN F &
15	6839 MEADOW LAKE AVE	MARSAN THOMAS J &
16	6840 MEADOW LAKE AVE	HOSN VALERIE C & NICHOLAS A
17	6832 MEADOW LAKE AVE	LUECKE PERCY E JR
18	6858 CAROLYNCREST DR	HARDIE GEORGE W III
19	6862 CAROLYNCREST DR	SCRUGGS GRANGER R
20	3111 SPERRY ST	MCWHORTER ALTON G &
21	3105 SPERRY ST	VARKER BRIAN ALAN
22	6903 MEADOW LAKE AVE	ALEXANDER ROBERT BENJAMIN &
23	3100 WENDOVER RD	MURRAY MARK D & DEBRA B

**FILE NUMBER:** BDA156-048(SL)

**BUILDING OFFICIAL'S REPORT:** Application of David E. Capps, represented by Audra Buckley of Permitted Development, for a special exception to restore a nonconforming use at 218 W. 10TH Street. This property is more fully described as Lot 15A, Block 41/3161, and is zoned PD-830 (Subdistrict 3), which limits the legal uses in the zoning district. The applicant proposes to restore a nonconforming medical clinic or ambulatory surgical center use, which will require a special exception to the nonconforming use regulations.

**LOCATION:** 218 W. 10TH Street

**APPLICANT:** David E. Capps  
Represented by Audra Buckley of Permitted Development

**REQUEST:**

A request for a special exception to restore/reinstate nonconforming use rights for a medical clinic or ambulatory surgical center use on the subject site that was discontinued for a period of six months or more is made to obtain a Certificate of Occupancy (CO) for this use.

**STANDARD FOR A SPECIAL EXCEPTION TO OPERATE A NONCONFORMING USE IF THAT USE IS DISCONTINUED FOR SIX MONTHS OR MORE:** The Dallas Development Code states that the Board may grant a special exception to operate a nonconforming use that has been discontinued for six months or more if the owner can show that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

**STAFF RECOMMENDATION:**

No staff recommendation is made on this or any request for a special exception to operate a nonconforming use if that use is discontinued for six months or more since the basis for this type of appeal is based on whether the board determines that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

## **BACKGROUND INFORMATION:**

### **Zoning:**

<u>Site:</u>	PD 830 (Subdistrict 3) (Planned Development)
<u>North:</u>	PD 830 (Subdistrict 3) (Planned Development)
<u>South:</u>	PD 316 (Subarea 4) (Planned Development)
<u>East:</u>	PD 830 (Subdistrict 3) (Planned Development)
<u>West:</u>	PD 830 (Subdistrict 3) (Planned Development)

### **Land Use:**

The subject site is developed with a vacant structure. The areas to the north, east, and west are developed with what appears to be office or medical clinic uses, and the area to the south is developed with retail uses.

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

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

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

- This request focuses on restoring/reinstating nonconforming use rights for a medical clinic or ambulatory surgical center use that has been discontinued for six months or more in order for the applicant to obtain a Certificate of Occupancy (CO) for this use.
- The Dallas Development Code defines “nonconforming use” as “a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time”.
- The nonconforming use regulations state it is the declared purpose of the nonconforming use section of the code that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.
- The nonconforming use regulations also state that the right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more, and that the board of adjustment may grant a special exception to operate a nonconforming use that has been discontinued for six months or more if the owner can show that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.
- The subject site is zoned PD 830 (Subdistrict 3) – a zoning district that does not permit a medical clinic or ambulatory surgical center use at this location.



- A document has been included in the case file that states the medical clinic or ambulatory surgical center use at 218. W. 10<sup>th</sup> Street has been identified by Building Inspection to be a nonconforming use.
- Building Inspection has stated that these types of special exception requests originate from when an owner/officer related to the property applies for a CO and Building Inspection sees that the use is a nonconforming use. Before a CO can be issued, the City requires the owner/officer related to the property to submit affidavits stating that the use was not abandoned for any period in excess of 6 months since the issuance of the last valid CO. The owners/officers must submit documents and records indicating continuous uninterrupted use of the nonconforming use, which in this case, they could not.
- If the Board were to grant this request, the nonconforming medical clinic or ambulatory surgical center use on the site would be subject to the possibility of an application that could be brought to the Board of Adjustment requesting that the board establish a compliance date as is the case with any other nonconforming use in the city.
- The applicant could achieve conforming use status for the medical clinic or ambulatory surgical center use on the site with a change in zoning from the City Council.
- The owner could develop the site with any use that is permitted by right in the site's existing PD 830 (Subdistrict 3) zoning classification.
- The applicant has the burden of proof in establishing the following related to the special exception request:
  - There was a clear intent not to abandon the nonconforming medical clinic or ambulatory surgical center use on the subject site even though the use was discontinued for six months or more.
- Granting this request would reinstate/restore the nonconforming medical clinic or ambulatory surgical center use rights that were lost when the use was abandoned for a period of six months or more.
- If restored/reinstated, the nonconforming use would be subject to compliance with use regulations of the Dallas Development Code by the Board of Adjustment as any other nonconforming use in the city. (The applicant has been advised by staff of Section 51A-4.704 which is the provision in the Dallas Development Code pertaining to "Nonconforming Uses and Structures").

**Timeline:**

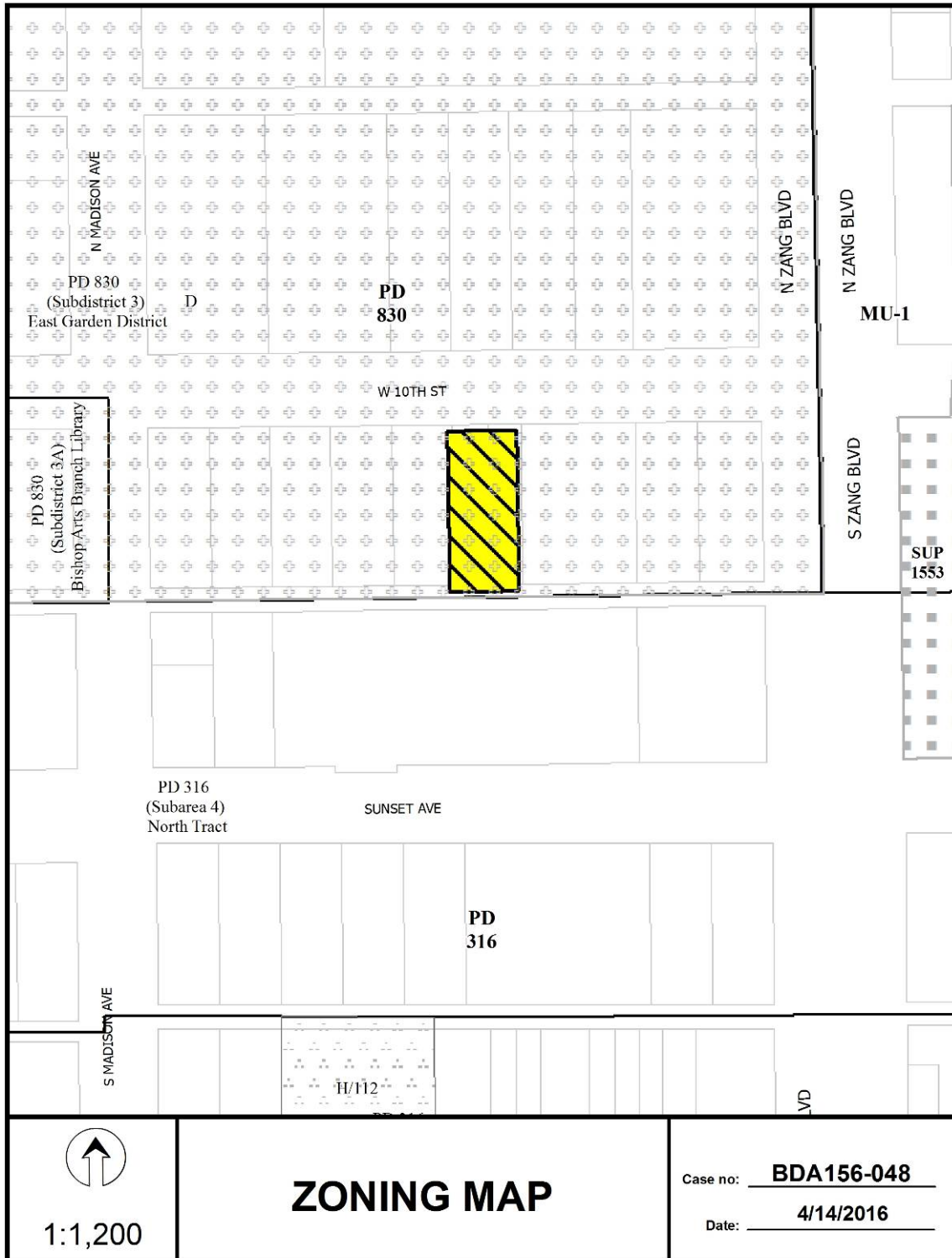
February 29, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

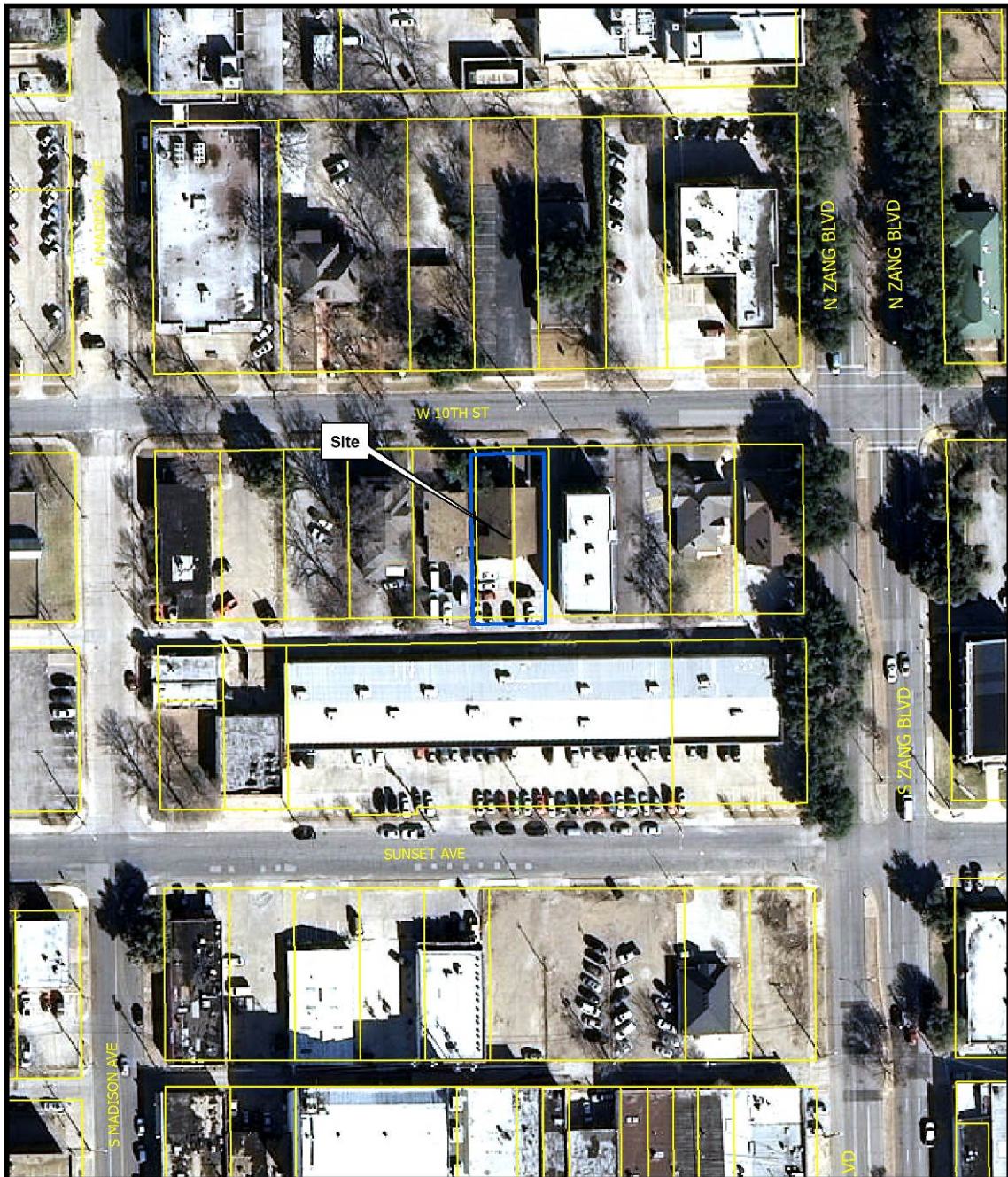
April 12, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

- April 12, 2016: The Board Administrator emailed the applicant's representative and emailed the following information:
- a copy of the application materials including the Building Official's report on the application;
  - an attachment that provided the public hearing date and panel that will consider the application; the April 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the May 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;
  - the section from the Dallas Development Code pertaining to nonconforming uses and structures; and
  - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

May 3, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Sustainable Development and Construction Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Board of Adjustment Senior Planner, and the Assistant City Attorneys to the Board.

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





1:1,200

# AERIAL MAP

Case no: BDA156-048

Date: 4/14/2016





APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-048

Date: February 29, 2016

Data Relative to Subject Property:

Location address: 218 W 10th Street Zoning District: PD 830/Sub 3

Lot No.: 15A Block No.: 41/3161 Acreage: .13 Census Tract: 0047.00

Street Frontage (in Feet): 1) 56.2 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property/or Principal: DDB Properties, LLC

Applicant: DAVID E CAPPS Telephone: 469-223-3062

Mailing Address: 8555 John Carpenter FRWY Zip Code: 75247

Represented by: Audra Buckley - Permitted Development Telephone: 214-686-3635

Mailing Address: 416 S Ervay Street, Dallas, TX Zip Code: 75201

Affirm that a request has been made for a Variance  or Special Exception  of \_\_\_\_\_  
To reinstate nonconforming use rights is requested in conjunction with obtaining a Certificate of Occupancy  
for a "medical office" use on the subject site even though this nonconforming use was discontinued  
for a period of six months or more.

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

- The request will not adversely impact surrounding properties.
- The owner can show that there was a clear intent not to abandon the nonconforming use.

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

Respectfully submitted: DAVID E CAPPS Applicant's name printed [Signature] Applicant's signature

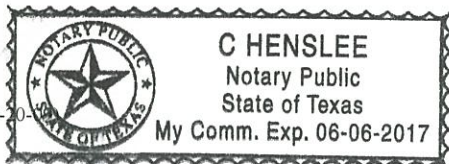
Affidavit

Before me the undersigned on this day personally appeared David E. Capps 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.

[Signature]  
Affiant (Applicant's signature)

Subscribed and sworn to before me this 14 day of March, 2016

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



(Rev. 08-20-05)





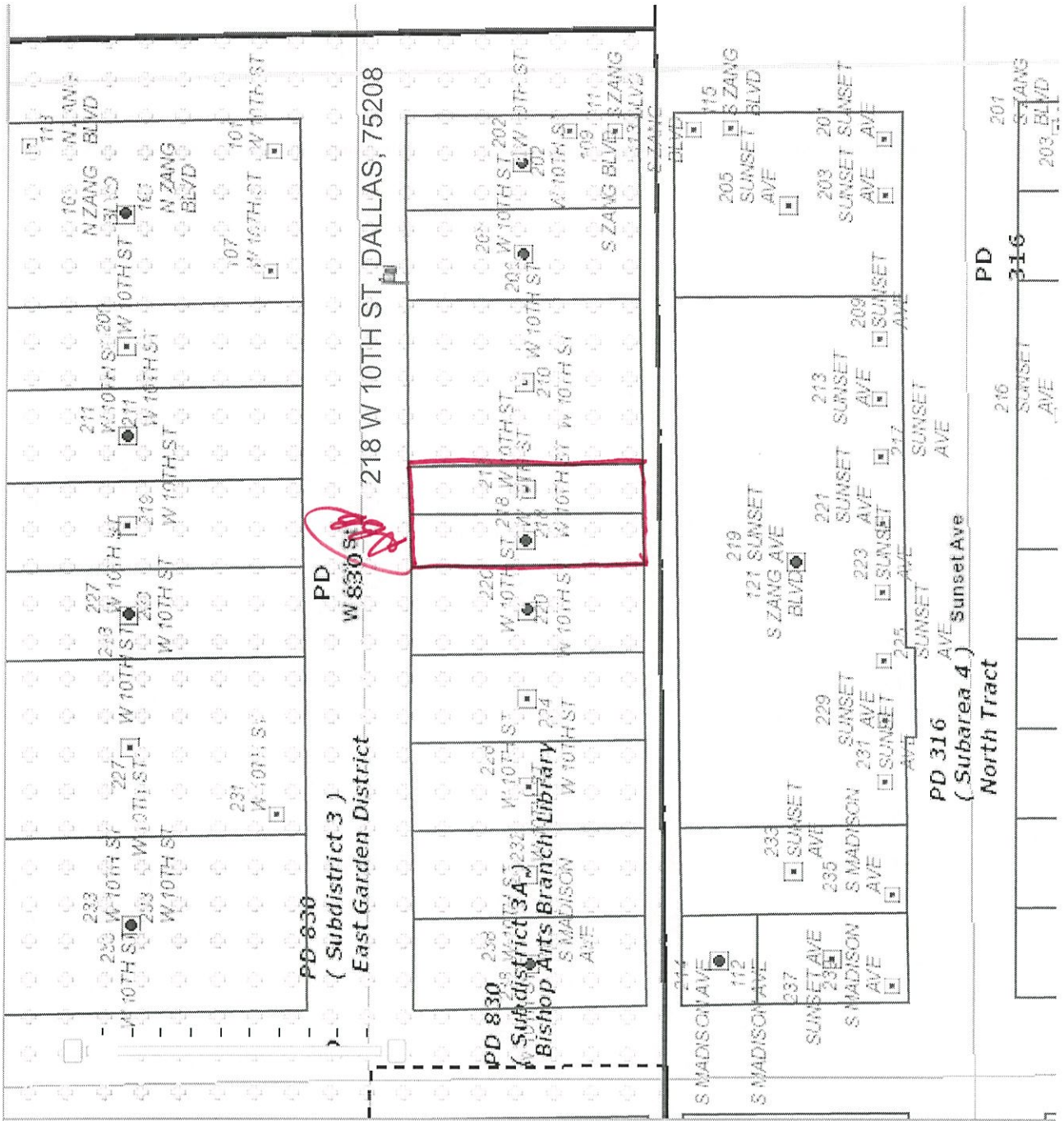


# City of Dallas

## Internal Development Research Site

Legend

Locate Property





Board of Adjustment Appeal BDA 156-048

Property address: 218 W. 10<sup>th</sup> Street

The use in the above appeal,

Medical clinic or ambulatory surgical center,

has been identified by Building Inspection to be a nonconforming use.

***Appeal for a special exception to enlarge a nonconforming use per Sec. 51A-4.704(b)(5)***

Section 51A-4.704. Nonconforming uses and structures.

(b) Changes to nonconforming uses.

(5) Enlargement of a nonconforming use.

(A) In this subsection, enlargement of a nonconforming use means any enlargement of the physical aspects of a nonconforming use, including any increase in height, floor area, number of dwelling units, or the area in which the nonconforming use operates.

(B) The board may allow the enlargement of a nonconforming use when, in the opinion of the board, the enlargement:

- (i) does not prolong the life of the nonconforming use;
- (ii) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and
- (iii) will not have an adverse effect on the surrounding area.

***Appeal to establish a compliance date for a nonconforming use per Sec. 51A-4.704(a)(1)(A)***

or

***Appeal to reinstate a nonconforming use per Sec. 51A-4.704(a)(2)***

SECTION 51A-4.704. NONCONFORMING USES AND STRUCTURES.

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

(1) Amortization of nonconforming uses.

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

(2) The right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more. The board may grant a special exception to this provision only if the owner can show that there was a clear intent not to abandon the use even though the use was discontinued for six months or more.

## Reason for the Request

### LAND USE:

The subject site is developed with a 1772 sq. ft. medical clinic use with surface parking. The areas immediately adjacent to the site are also medical clinics.

Zoning:

Site and Surrounding Zoning: PDD 830, Subdistrict 3 and PDD 316 Subarea 4.

Previous Zoning: LO-1

Property does not lie within any flood zone.

### THE REQUEST:

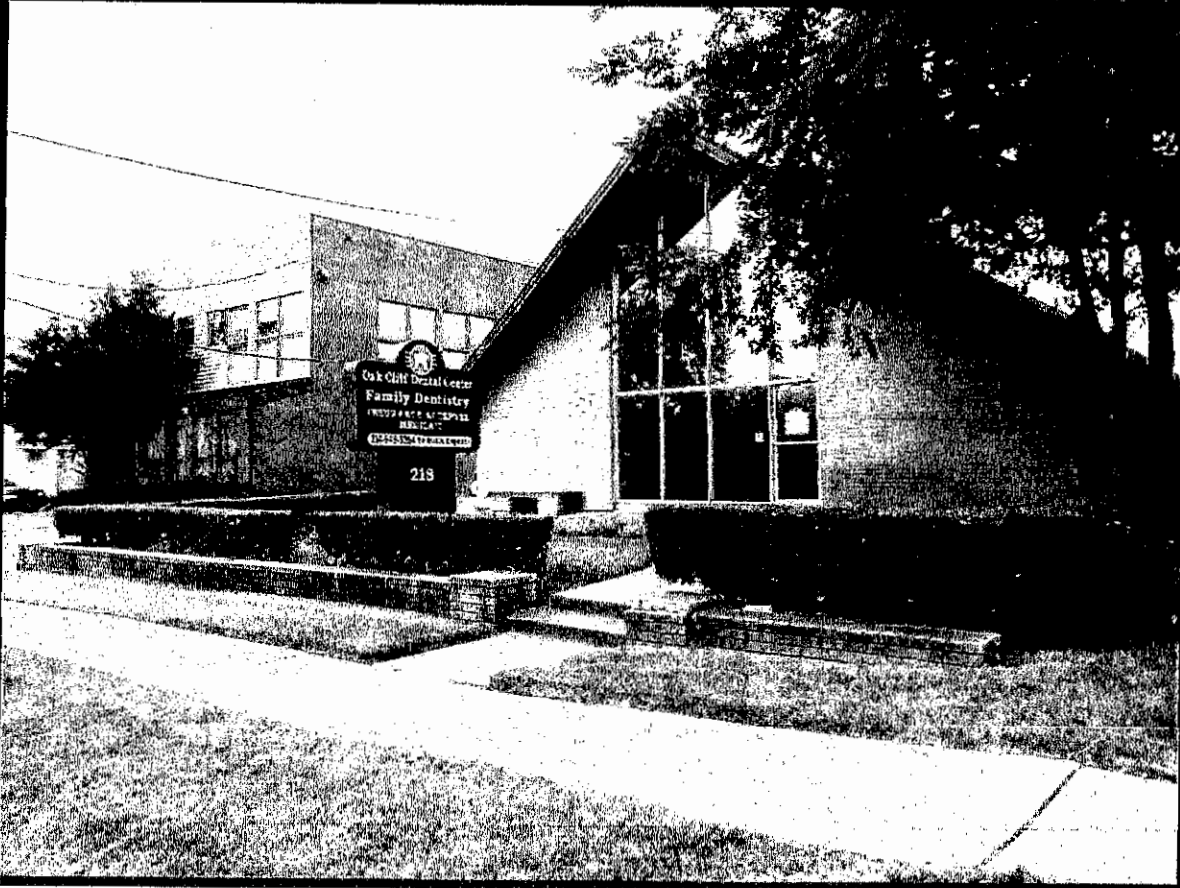
A special exception to reinstate the nonconforming use is requested in conjunction with obtaining a Certificate of Occupancy (CO) for a "medical clinic" use. The use would have been permitted by right under zoning regulations that existed prior to the adoption of PDD 830 in August 2010. The owner never had any intention of discontinuing the medical clinic use.

### GENERAL FACTS:

- The Dallas Development Code defines "nonconforming use" as "a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time.
- The subject site is zoned PDD 830, Subdistrict 3, which does not permit office uses such as medical clinics on 10<sup>th</sup> Street – currently office uses are only allowed on Zang Boulevard and Bishop Avenue.
- This site has been in existence as a medical clinic since 2003 (CO#0302141041) under LO-1 zoning, according to city records. The use was allowed by right under that zoning.
- The most recent CO was issued for the Oak Cliff Dental Center in 2007/2008 (CO#0705021112) as a medical clinic. The business moved out and relocated to a larger facility in June 2015.
- The existing building has been vacant since June 2015. Therefore, since the building has been vacant for more than 6 months, it has lost its non-conforming rights as a medical clinic.
- Buildings on either side of the subject site also contain non-conforming medical clinics: a mental health clinic to the east and a chiropractic clinic to the west. PDD 316 Subarea 4, immediately adjacent to the site on the south side, allows medical clinics by right. A medical clinic is located across the alley directly behind the subject site. Therefore, reinstating the medical clinic use would not adversely impact the surrounding area as it would be compatible with surrounding uses.
- The property owner is aware that granting this request would restore the "medical clinic" use as legal nonconforming use but not as a legal conforming use.

# North Oak Cliff Dental Office

218 W 10th Street | Dallas, TX 75208



Offered at \$249,000



Brad Crumpecker, MBA, CPA, CCIM  
[BCrumpecker@RobinsonClay.com](mailto:BCrumpecker@RobinsonClay.com)

Robinson Clay KW Commercial • 8201 Preston Road, Suite 300 • Dallas, TX 75225 • 972.960.8200

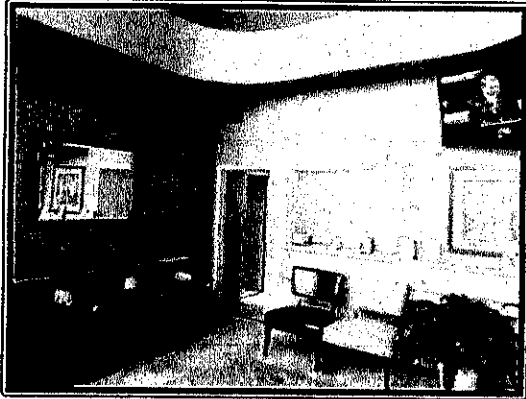
Description

Dental office with five (5) patient rooms. Approximately 2,557 square feet per Appraisal District. Attractive, updated interior. Extensive remodeling includes foundation repair and asbestos abatement. Equipment not included.

*2,557 correct*

Interior

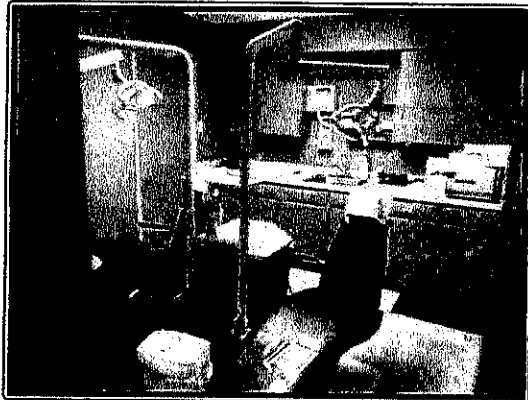
Waiting Room



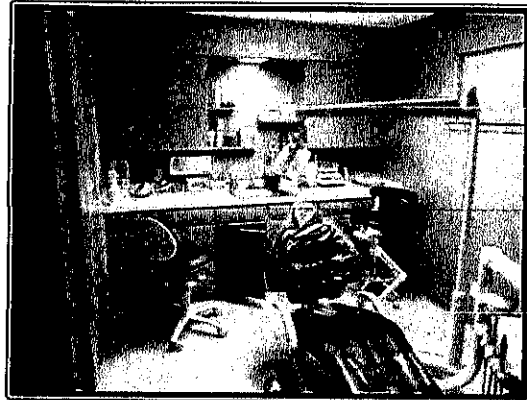
Office



Patient Room 1



Patient Room 2



Patient Room 3



Reception





## Location

North Oak Cliff, geocode 32.744823,-96.825423

## Nearby Amenities

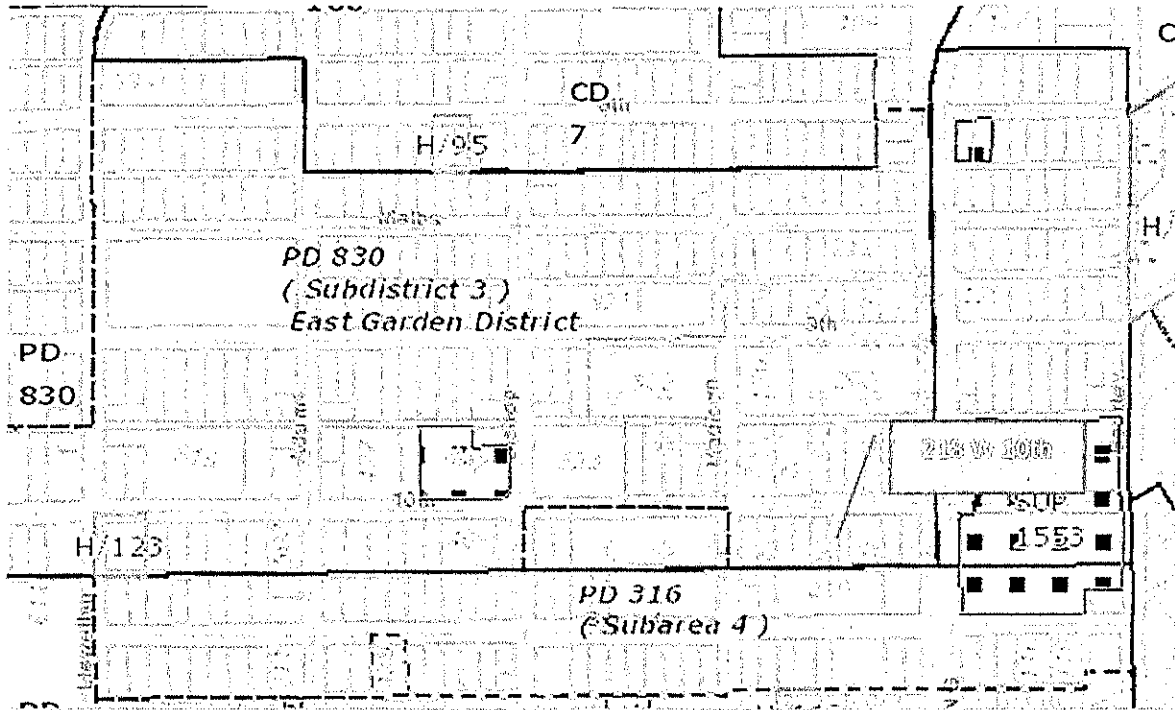
Bishop Arts District; Dallas Zoo

## Maps

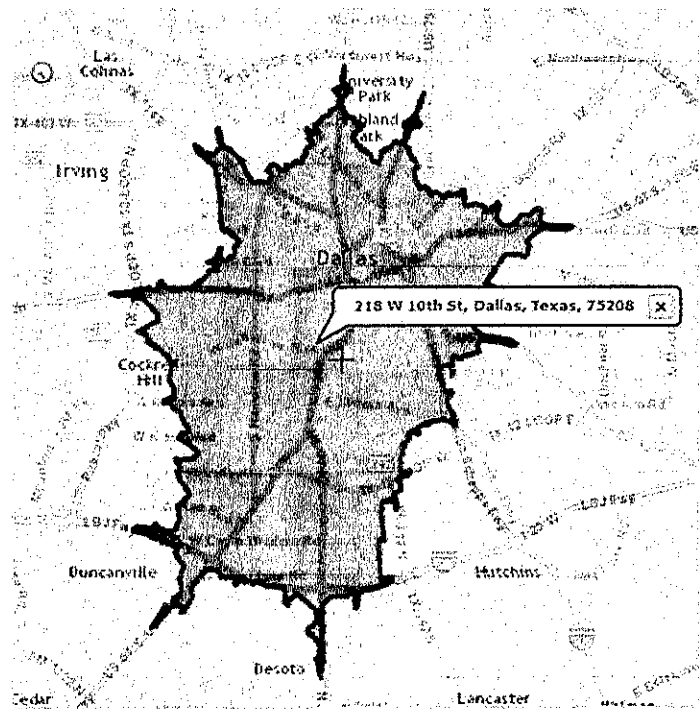


Dallas Zoning Map

Zoning is PD 830, East Garden District (subdistrict 3).



Ten-Minute Drive Time





Approved by the Texas Real Estate Commission for Voluntary Use  
 Texas law requires all real estate licensees to give the following information about  
 brokerage services to prospective buyers, tenants, sellers and landlords.

## Information About Brokerage Services

**B**efore working with a real estate broker, you should know that the duties of a broker depend on whom the broker represents. If you are a prospective seller or landlord (owner) or a prospective buyer or tenant (buyer), you should know that the broker who lists the property for sale or lease is the owner's agent. A broker who acts as a subagent represents the owner in cooperation with the listing broker. A broker who acts as a buyer's agent represents the buyer. A broker may act as an intermediary between the parties if the parties consent in writing. A broker can assist you in locating a property, preparing a contract or lease, or obtaining financing without representing you. A broker is obligated by law to treat you honestly.

### IF THE BROKER REPRESENTS THE OWNER:

The broker becomes the owner's agent by entering into an agreement with the owner, usually through a written - listing agreement, or by agreeing to act as a subagent by accepting an offer of subagency from the listing broker. A subagent may work in a different real estate office. A listing broker or subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first. The buyer should not tell the owner's agent anything the buyer would not want the owner to know because an owner's agent must disclose to the owner any material information known to the agent.

### IF THE BROKER REPRESENTS THE BUYER:

The broker becomes the buyer's agent by entering into an agreement to represent the buyer, usually through a written buyer representation agreement. A buyer's agent can assist the owner but does not represent the owner and must place the interests of the buyer first. The owner should not tell a buyer's agent anything the owner would not want the buyer to know because a buyer's agent must disclose to the buyer any material information known to the agent.

### IF THE BROKER ACTS AS AN INTERMEDIARY:

A broker may act as an intermediary between the parties if the broker complies with The Texas Real Estate License Act. The broker must obtain the written consent of each party to the transaction to act as an

intermediary. The written consent must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. The broker is required to treat each party honestly and fairly and to comply with The Texas Real Estate License Act. A broker who acts as an intermediary in a transaction:

- (1) shall treat all parties honestly;
- (2) may not disclose that the owner will accept a price less than the asking price unless authorized in writing to do so by the owner;
- (3) may not disclose that the buyer will pay a price greater than the price submitted in a written offer unless authorized in writing to do so by the buyer; and
- (4) may not disclose any confidential information or any information that a party specifically instructs the broker in writing not to disclose unless authorized in writing to disclose the information or required to do so by The Texas Real Estate License Act or a court order or if the information materially relates to the condition of the property.

With the parties' consent, a broker acting as an intermediary between the parties may appoint a person who is licensed under The Texas Real Estate License Act and associated with the broker to communicate with and carry out instructions of one party and another person who is licensed under that Act and associated with the broker to communicate with and carry out instructions of the other party.

**If you choose to have a broker represent you**, you should enter into a written agreement with the broker that clearly establishes the broker's obligations and your obligations. The agreement should state how and by whom the broker will be paid. You have the right to choose the type of representation, if any, you wish to receive. Your payment of a fee to a broker does not necessarily establish that the broker represents you. If you have any questions regarding the duties and responsibilities of the broker, you should resolve those questions before proceeding.

Real estate licensee asks that you acknowledge receipt of this information about brokerage services for the licensee's records.

Buyer, Seller, Landlord or Tenant

Date

Texas Real Estate Brokers and Salespersons are licensed and regulated by the Texas Real Estate Commission (TREC). If you have a question or complaint regarding a real estate licensee, you should contact TREC at P.O. Box 12188, Austin, Texas 78711-2188, 512-936-3000 (<http://www.trec.texas.gov>)

TREC No. OP-K

KW Commercial Dallas Park Cities, 8201 Preston Road, Suite 300 Dallas, TX 75225  
 Phone: 972.960.8200



The material contained in this Memorandum is confidential, furnished solely for the purpose of considering an investment in the properties described herein, and is not to be used for any other purpose, or made available to any other person without the express written consent of the Robinson Clay KW Commercial. The material is based, in part, upon information obtained from third party sources, which Robinson Clay KW Commercial deems to be reliable. However, no warranty or representation is made by Robinson Clay KW Commercial or its affiliates, agents, or representations as to the accuracy or completeness of the information contained herein. Prospective investors should make their own investigations, projections, and conclusions regarding this investment.

*Previous  
Occupant  
-relocated  
June 1, 2015*



# Certificate of Occupancy

City of Dallas

**Address:** 218 W 10TH ST 75208 **Issued Date:** 11/10/2008

**Owner:** ANGELA L. JONES, D.D.S  
218 W. 10TH  
DALLAS, TX 75208

**DBA:** OAK CLIFF DENTAL CENTER

**Land Use:** (6517) MEDICAL CLINIC OR AMBULATORY SURGICAL CENTER

**C.O.#:** 0705021112

Lot:	15A	Block:	41/3161	Zoning:	LO-1	PDD:	SUP:
Historic Dist:		Consrv Dist:		Pro Park:		Req Park:	Park Agrmt: N
Dwlg Units:		Stories:		Occ Code:	B	Lot Area:	Total Area: 0
Type Const:	UNK	Sprinkler:	None	Occ Load:		Alcohol:	Dance Floor: N

**Remarks:** SAME USE

*Zaida Basora*

Zaida Basora, Building Official

**This certificate shall be displayed on the above premise at all times.**

Development Services Department | Building Inspection Division | 214/948-4480 | www.dallascityhall.com

*Previous  
Occupants  
new CO*



# Certificate of Occupancy

City of Dallas

Address:

820 N ZANG BLVD, Suite 110 75208

Issued: 05/19/2015

Owner:

ANGELA JONES  
2701 LAKE RIDGE RD GLENN HEIGHT

DBA:

OAK CLIFF DENTAL CENTER

Land Use:

(6517) MEDICAL CLINIC OR AMBULATORY SURGICAL CENTER

Occupied Portion:

C.O.#: 1505141235

Lot:

2A

Block:

F/3372

Zoning:

LO-1

PDD:

SUP:

Historic Dist:

Consrv Dist:

Pro Park:

Req Park:

Park Agrmt: N

Dwlg Units:

Stories:

Occ Code: MIX

Lot Area: 13952

Total Area: 2397

Type Const: UNK

Sprinkler:

Occ Load:

Alcohol: N

Dance Floor:N

Remarks: SAME USE CO 0309101092

*Larry V. Holmes*

Larry Holmes, Building Official

This certificate shall be displayed on the above premise at all times.

Sustainable Development and Construction | Building Inspection Division | 214/948-4480 | www.dallascityhall.com



PROJECT NUMBER  
03/15/2016

CASE NUMBER

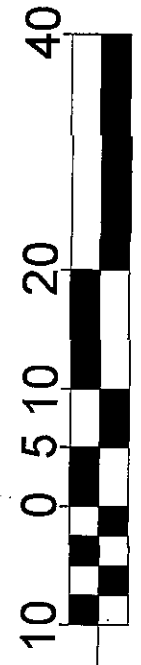
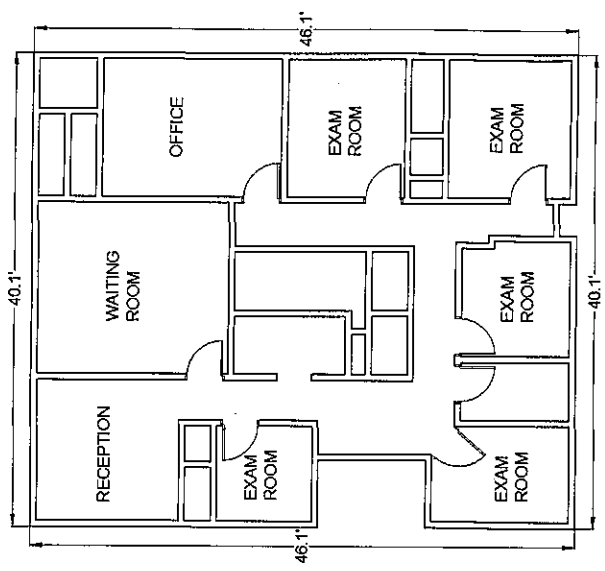
E. BROOKE ASSOCIATES  
8624 Ferguson Rd #570527  
Dallas, Texas 75228  
PHONE: 817-219-2655  
EMAIL: em@ebrooke.com

E. Brooke Associates

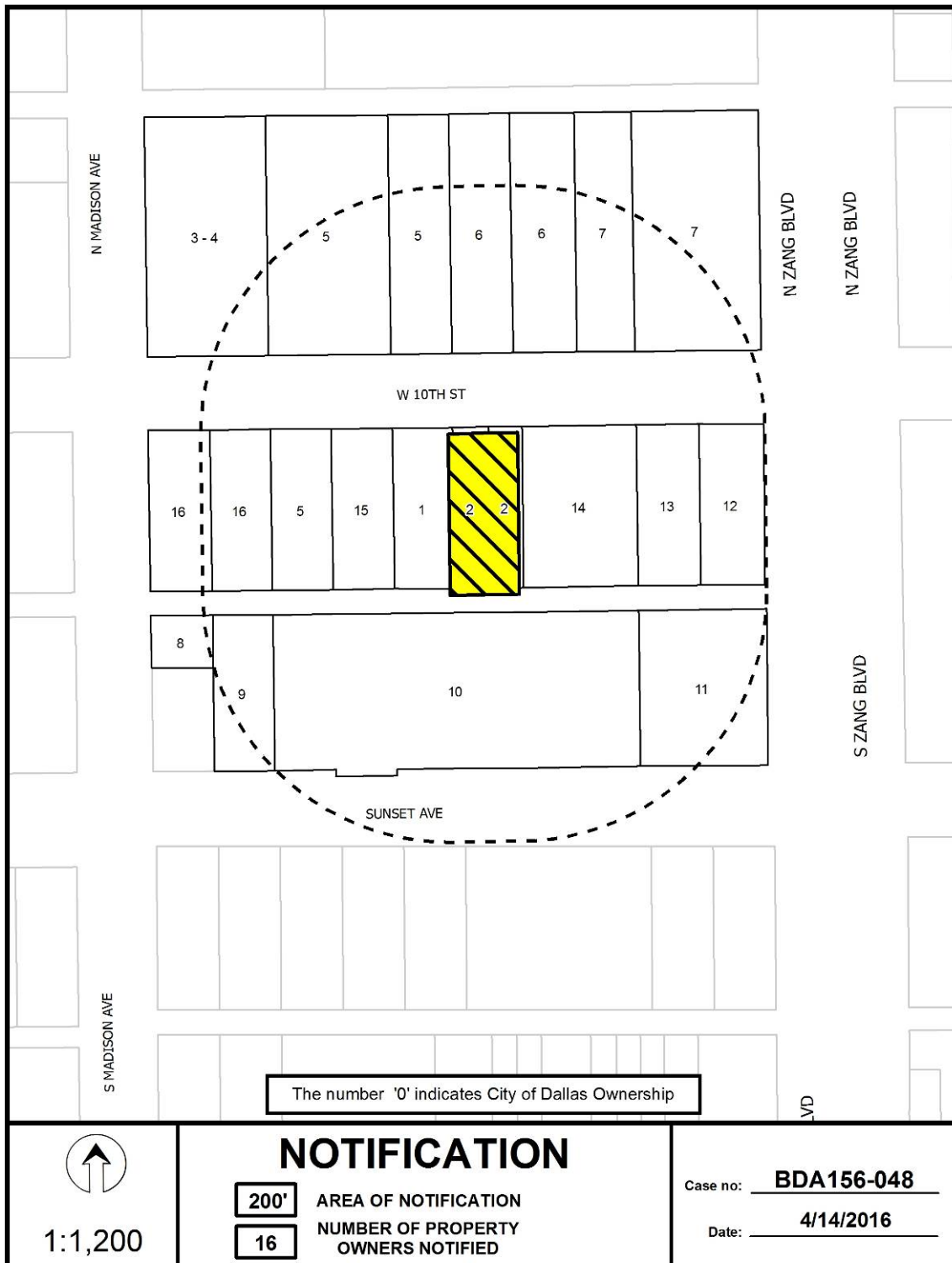
218 West 10th Street  
CITY OF DALLAS, TEXAS

SITE INFORMATION:  
ZONING DISTRICT: PD 830  
SUBDISTRICT 3  
USE: MEDICAL CLINIC  
FLOOR AREA: 1,772 SF

CASE NUMBER: XX - XXX



1 MEDICAL CLINIC FLOOR PLAN  
SCALE: 1" = 10'-0"



## ***Notification List of Property Owners***

### ***BDA156-048***

#### ***16 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	220 W 10TH ST	PERALTA CHIROPRACTIC INC
2	218 W 10TH ST	OCD PPTIES LLC
3	233 W 10TH ST	KENSINGTON RIVERFALL LLC
4	233 W 10TH ST	HOMeward BOUND INC
5	227 W 10TH ST	CMWOC PROPERTIES I LLC
6	219 W 10TH ST	JIVE INVESTMENTS LLC
7	209 W 10TH ST	EXC VENTURES LLC
8	112 S MADISON AVE	SALA JASON BRANDON
9	233 SUNSET AVE	DERASAUGH MARGARET SUE
10	219 SUNSET AVE	PJ PPTIES LLC
11	205 SUNSET AVE	L G PAWN SHOP INC
12	202 W 10TH ST	DUTTON ALLAN M D
13	206 W 10TH ST	MERCADO FRANCISCA M
14	210 W 10TH ST	FIVE NINE SEVEN LP
15	224 W 10TH ST	HIGGINBOTHAM LONNIE
16	232 W 10TH ST	PEREZ ARMINDA

**FILE NUMBER:** BDA156-027(SL)

**ORIGINAL BUILDING OFFICIAL'S REPORT:** Application of Allan R. Brown, represented by Steven Dimitt, for variances to the front yard setback and height regulations at 1015 N. Carroll Avenue. This property is more fully described as Lot 5, Block 8/768, and is zoned PD 298 (Subarea 9), which requires a front yard setback of 30 feet and limits the maximum building height to 36 feet. The applicant proposes to construct and maintain a structure and provide a 12 foot front yard setback, which will require an 18 foot variance to the front yard setback regulations, and to construct and maintain a structure with a building height of 45 feet, which will require a 9 foot variance to the maximum building height regulations.

**REVISED BUILDING OFFICIAL'S REPORT:** Application of Allan R. Brown, represented by Steven Dimitt, for variances to the front yard setback regulations and building height regulations at 1015 N. Carroll Avenue. This property is more fully described as Lot 5, Block 8/768, and is zoned PD 298 (Subarea 9), which requires a front yard setback of 24 feet 4 inches and limits the maximum building height to 36 feet. The applicant proposes to construct and maintain a structure and provide a 0 foot front yard setback, which will require a 24 foot 4 inch variance to the front yard setback regulations, and with a building height of 45 feet, which will require a 9 foot variance to the maximum building height regulations.

**LOCATION:** 1015 N. Carroll Avenue

**APPLICANT:** Allan R. Brown  
Represented by Steven Dimitt

**ORIGINAL REQUESTS (March 21, 2016):**

The following requests were originally made on a site that is in part undeveloped and in part developed with multifamily and office uses:

1. A variance to the front yard setback regulations of 18' had been made to construct and maintain an 8-unit townhome development that would be located in the site's two front yard setbacks on Swiss Avenue and North Carroll Avenue; and
2. A variance to the height regulations of 9' had been made to construct and maintain the aforementioned townhome development that would be 45' in height.

However on March 4, 2016, the applicant's representative submitted a letter (see Attachment A) that stated among other things that he had met with the neighborhood association and other neighbors since the filing of the application, and that in order to address some comments and concerns, he was significantly revising the entire development.



The Board was advised at the March 21<sup>st</sup> public hearing that as a result, the applicant no longer was seeking a variance to the front yard setback on Swiss Avenue or a variance to the height regulations but would seek variance to the front yard setback on North Carroll Avenue and a special exception to the off-street parking regulations. Lastly, the applicant had requested that the Board not consider the previously submitted plans or the variance requests that he submitted in January at the March hearing but requested that the Board delay consideration of this case until April.

**UPDATED REQUESTS (April 18 and May 16, 2016):**

An updated request for a variance to the front yard setback regulations of 24' 4" is made on a site that is in part undeveloped and in part developed with multifamily and office uses in order to construct and maintain a two, two-unit multifamily development to be located on the N. Carroll Avenue front property line or 24' 4" into this 24' 4" front yard setback.

While the applicant submitted revised plans that eliminated the need for variances to the front yard setback regulations along Swiss Avenue, to the off-street parking regulations, and to the height regulations, the request for the variance to the height regulations remains part of the application only for the fact that it was advertised and noticed for both the March and April public hearings, therefore must be acted upon by the Board at the April 18<sup>th</sup> public hearing.

**STANDARD FOR A VARIANCE:**

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 (March 21, 2016):**

Delay action until April 18, 2016

Rationale:

- Staff was not able to reach conclusions on the applicant's requests for variances to the front yard setback and height regulations given that the applicant had written that since he filed the application and plans in January of 2016, he was in the process of significantly revising the entire development, and requested that the Board not consider the originally submitted plans or variance requests.

**STAFF RECOMMENDATION (April 18 and May 16, 2016) front yard variance:**

Denial without prejudice

Rationale:

- Staff concluded that the applicant had not substantiated how the variance 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 PD 298 (Subarea 9, MF-2 and CR), H/72 zoning district.

**STAFF RECOMMENDATION (April 18 and May 16, 2016) height variance:**

Denial without prejudice

Rationale:

- The applicant had revised his proposed development so that the height satisfies applicable zoning requirements therefore there is no longer a need for a variance to the height regulations.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 298 (Subarea 9, MF-2 and CR), H/72 (Planned Development, Historic)  
North: PD 298 (Subarea 9, R-7.5 & P), H/72 (Planned Development, Historic)  
South: PD 298 (Subarea 9, MF-2), H/72 (Planned Development, Historic)  
East: PD 298 (Subarea 13), H/72 (Planned Development, Historic)  
West: PD 298 (Subarea 9, MF-1), H/72 (Planned Development, Historic)

**Land Use:**

The subject site is in part undeveloped and in part developed with multifamily and office uses. The areas to the north and west are developed with multifamily uses; the area to the east is undeveloped; and the area to the south is developed with an office 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 (variances):**

- The original request filed in January of 2016 focused on constructing and maintaining an 8-unit townhome development that would be located in the site's two front yard setbacks on Swiss Avenue and North Carroll Avenue, and that would be 45' in height.
- The Building Official had provided the following information relevant to this appeal prior to the March 21<sup>st</sup> public hearing:
  - The site is zoned PD 298 (Subarea 9, MF-2 and CR), H/72. PD 298, Subarea 9 conditions state the following: Subarea 9 is subject to regulations governing the R-7.5(A), TH-2(A), MF-2(A), MU-1, MU-1-D, and CR districts of Chapter 51(A). The zoning district category applicable to each tract in Subarea 9 is shown on Exhibit 298B. The MF-2(A) required front yard setback is 15' and the CR required front yard setback is 15'.
  - The zoning of the adjoining property on the N. Carroll Street frontage is PD 298 (Subarea 13) H/72 (Tract 1).
  - The appeal application references a required 30' front yard setback ("...set forth in the Peak's Suburban Ordinance #22352...") and requests an 18' variance to allow a 12' setback.
  - The following Historic Overlay 72 (H/72) requirement appears to be the basis for the required 30' front yard setback.
- On March 28, 2016, the Building Inspection Senior Plans Examiners/Development Code Specialist forwarded a revised Building Official's report to the Board Administrator on this application (see Attachment D). This report stated the this property is required to provide a front yard setback of 24' 4" where the applicant proposes to provide a 0 foot front yard setback which will require a 24' 4" variance to the front yard setback regulations.
- The applicant has submitted a revised site plan indicating that the proposed structure is located 40' from the Swiss Avenue front property line (represented by the applicant to be in compliance with this front yard setback), and located on the N. Carroll Avenue front property line (or represent by the applicant and in the Building Official's report as being 24' 4" into this 24' 4" front yard setback).
- According to DCAD records, the "main improvement" at 1015 N. Carroll Avenue is a "medical office building" with 24,618 square feet built in 1955.
- The subject site is flat, rectangular in shape, and according to the application is 1.79 acres in area.
- The site has two front yard setbacks given that it fronts two streets as any corner property would that is not zoned a single family, duplex, or agricultural district.
- The applicant has the burden of proof in establishing the following:
  1. That granting the variance to the front yard setback 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.
  2. The variance would be 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 PD 298 (Subarea 9, MF-2 and CR), H/72 zoning classification.

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 this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same PD 298 (Subarea 9, MF-2 and CR), H/72 zoning classification.
- With regard to request for variance to the front yard setback regulations, if the Board were to grant this request, and impose the submitted revised site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document – which in this case a structure located on the N. Carroll Avenue the front property line or 24’ 4” into this 24’ 4” front yard setback.
  - With regard to the request for variance to the height regulations, staff suggests that the Board deny this request without prejudice given that this request is no longer needed given revised plans that were submitted to staff after the March 21<sup>st</sup> public hearing.
  - It was determined at the May 3<sup>rd</sup> staff review team meeting that part of one of the proposed structures shown on the submitted revised site plan is located in a 20’ visibility triangle at a drive approach into the site from N. Carroll Avenue. The applicant has been advised that if the Board were to grant the request for a variance to the front yard setback regulations and impose the submitted revised site plan as a condition, no relief would be provided as it relates to visual obstruction regulations.

**Timeline:**

- January 21, 2016: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- February 9, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- February 9, 2016: The Board Administrator emailed the applicant’s representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the March 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 11<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 4, 2016: The applicant's representative submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).
- March 8, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Interim Building Official, the Sustainable Development and Construction Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, and the Assistant City Attorneys to the Board.
- No review comment sheets were submitted in conjunction with this application.
- March 21, 2016: The Board of Adjustment Panel C conducted a public hearing on this application. The Board delayed action on this application until their next public hearing to be held on April 18, 2016.
- March 22, 2016: The Board Administrator wrote the applicant a letter that provided the board's action; and the March 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the April 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials.
- March 28, 2016: The applicant submitted additional documentation on this application beyond what was submitted with the original application and beyond what was submitted at the March 21<sup>st</sup> public hearing (see Attachment C).
- March 29, 2016: The Building Inspection Senior Plans Examiners/Development Code Specialist forwarded a revised Building Official's report to the Board Administrator on this application (see Attachment D).
- April 5, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and Construction Board of Adjustment Chief Planner, the Sustainable Development and Construction Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Project Engineers, the City of Dallas Chief Arborist, the Sustainable Development and Construction Board of Adjustment Senior Planner, and the Assistant City Attorneys to the Board.

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

April 7, 2016: The applicant submitted additional documentation on this application beyond what was submitted with the original application and beyond what was submitted at the March 21<sup>st</sup> public hearing (see Attachment E).

April 18, 2016: The Board of Adjustment Panel C conducted a public hearing on this application. The Board delayed action on this application until their next public hearing to be held on May 16, 2016.

April 20, 2016: The Board Administrator wrote the applicant a letter that provided the board's action; and the April 27<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the May 6<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials.

April 27, 2016: The applicant submitted additional documentation on this application beyond what was submitted with the original application and beyond what was submitted at the March 21<sup>st</sup> public hearing (see Attachment F).

May 3, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Sustainable Development and Construction Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the Sustainable Development and Construction Project Engineer, the Sustainable Development and Construction Board of Adjustment Senior Planner, and the Assistant City Attorneys to the Board.

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

**BOARD OF ADJUSTMENT ACTION: MARCH 21, 2016**

APPEARING IN FAVOR: Steve Dimitt, 2323 Ross Ave., Dallas, TX

APPEARING IN OPPOSITION: Michael Yucon, 4511 Swiss, Dallas, TX

MOTION: **Schulte**

I move to grant that the Board of Adjustment, in Appeal No. **BDA 156-027** hold this matter under advisement until **April 18, 2016**.

SECONDED: **Carreon**

AYES: 3 – Richardson, Coulter, Carreon

NAYS: 2 - Schulte, Beikman

MOTION PASSED: 3 – 2

**BOARD OF ADJUSTMENT ACTION: APRIL 18, 2016**

APPEARING IN FAVOR:

Steve Dimitt, 2323 Ross Ave., Dallas, TX  
Wendy Millsap, 4530 Reiger Ave., Dallas, TX  
Beth Anschuetz, 5953 Bryan Parkway, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Sibley**

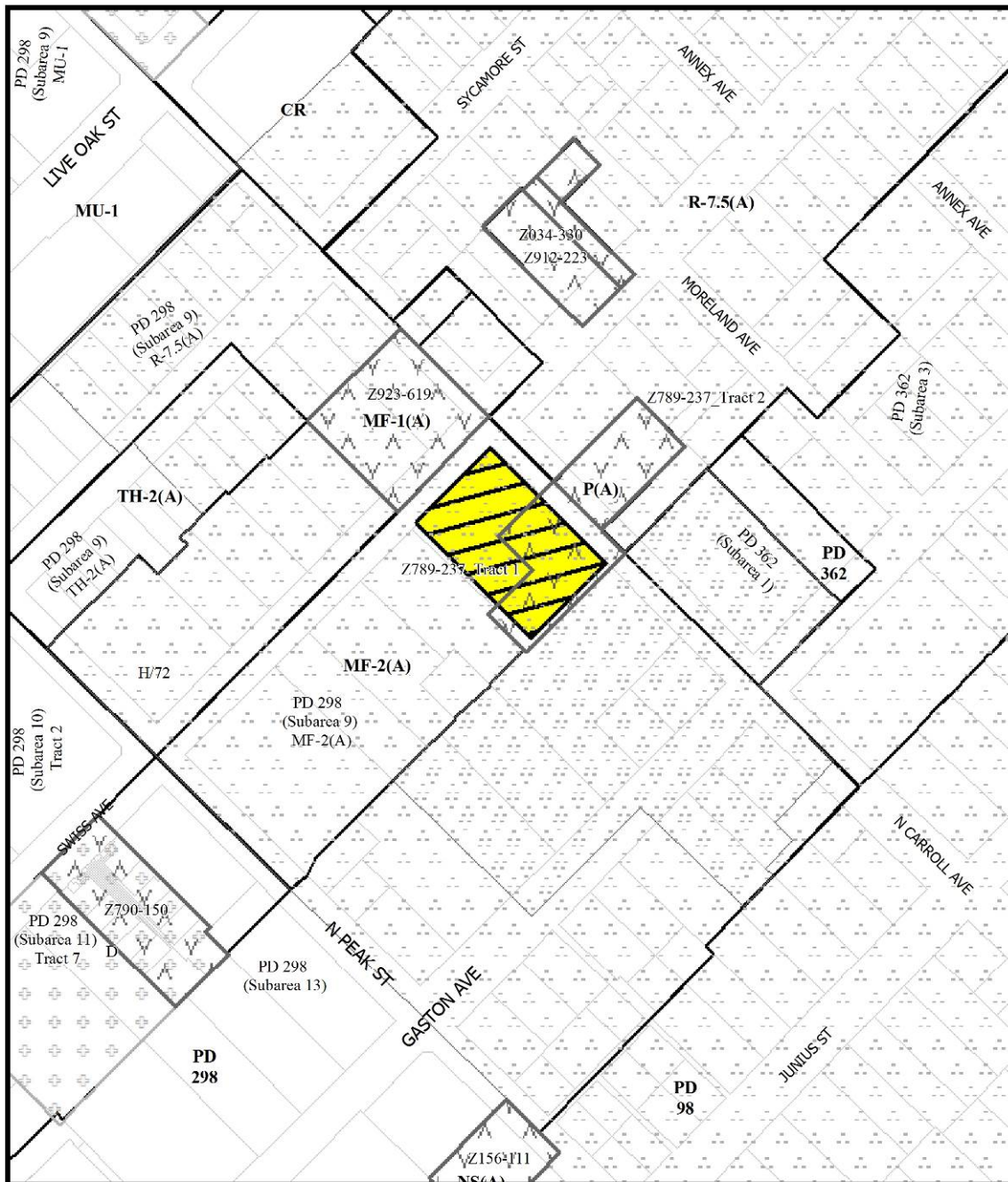
I move to grant that the Board of Adjustment, in Appeal No. **BDA 156-027** hold this matter under advisement until **May 16, 2016**.

SECONDED: **Beikman**

AYES: 4 – Carreon, Schulte, Beikman, Sibley

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)



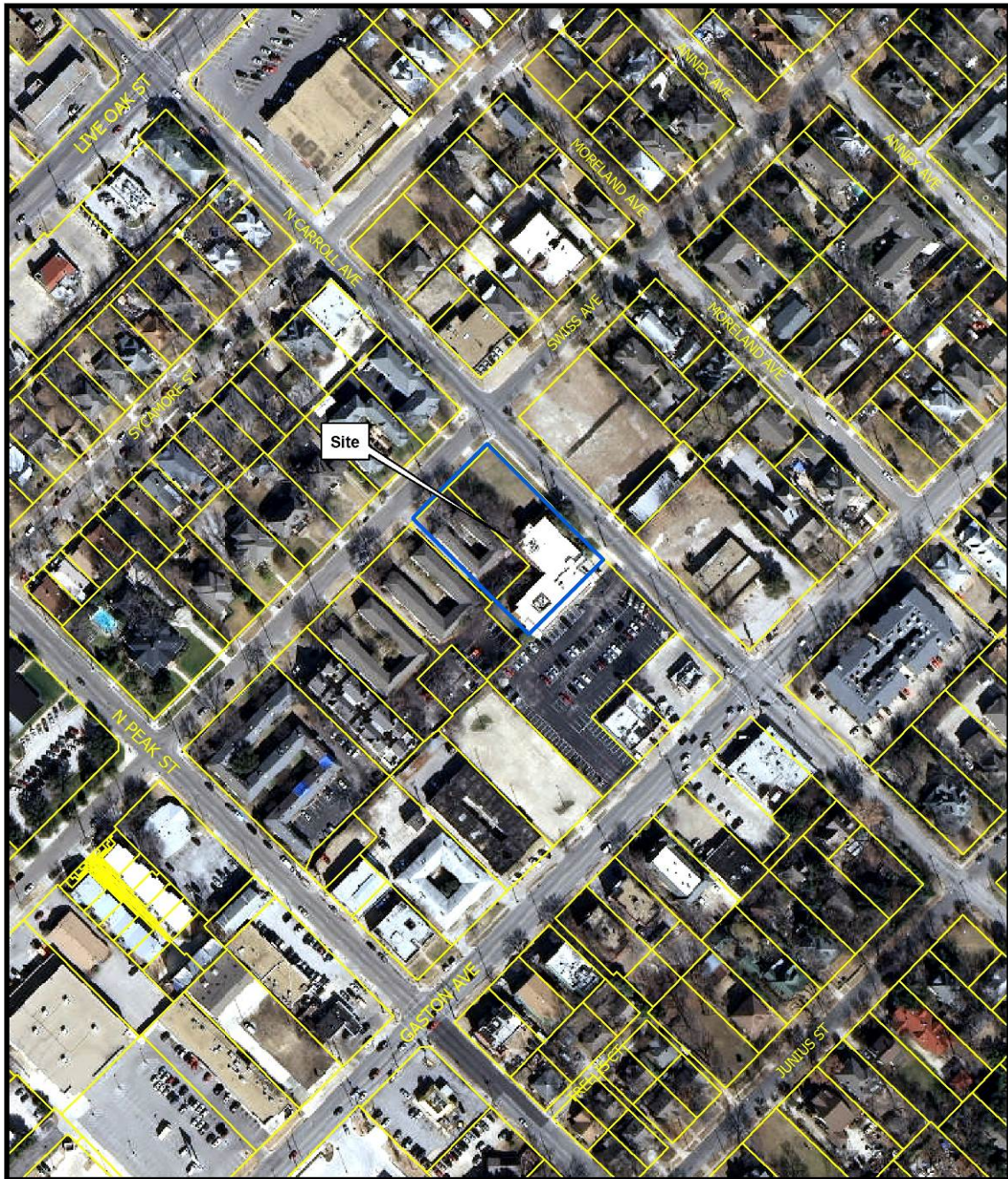
1:2,400

# ZONING MAP

Case no: **BDA156-027**

Date: **3/1/2016**





1:2,400

# AERIAL MAP

Case no: BDA156-027

Date: 3/1/2016



Steven W. Dimitt  
(214) 953-6182 (Direct Dial)  
(214) 661-6882 (Direct Fax)  
sdimitt@jw.com

March 4, 2016

Mr. Steve Long  
Board Administrator  
Zoning Board of Adjustment  
Department of Sustainable Development Inc. Construction  
City of Dallas  
1500 Marilla Street, Room 5BN  
Dallas, Texas 75201

Re: ***BDA 156-027; 1015 N. Carroll Avenue***

Dear Mr. Long:

As you know, Jackson Walker L.L.P. represents the Applicant with respect to the above-referenced board of adjustment case. This case is currently scheduled for a public hearing with Board of Adjustment Panel C on March 21, 2016.

Since the filing of our application, the Applicant has met with the Peaks Suburban Neighborhood Association and other neighbors regarding our application and the proposed variance requests. In order to address some comments and concerns from the neighbors and neighborhood association, the Applicant has significantly revised its entire development. As a result, the Applicant will no longer seek a height variance or a variance to the front yard setback on Swiss Avenue. The Applicant will, however, seek a variance to the front yard setback on the North Carroll Avenue blockface and will seek a special exception to the parking requirements.

Based upon the changes to the site plan to address the neighbors' comments, the Applicant requests that the Board of Adjustment not consider the previously submitted plans or variance requests during the upcoming hearing. Moreover, the Applicant requests that the Board of Adjustment postpone its consideration of this case until April 2016 to ensure that the Applicant's current plans and requests are considered.

Very truly yours,

A handwritten signature in black ink that reads 'Steven W. Dimitt'.

Steven W. Dimitt







Steven W. Dimitt  
(214) 953-6182 (Direct Dial)  
(214) 661-6882 (Direct Fax)  
sdimitt@jw.com

March 28, 2016

Mr. Steve Long  
Board Administrator  
Zoning Board of Adjustment  
Department of Sustainable Development Inc. Construction  
City of Dallas  
1500 Marilla Street, Room 5BN  
Dallas, Texas 75201

Re: ***BDA 156-027; 1015 N. Carroll Avenue***

Dear Mr. Long:

As you know, I represent the Applicant with respect to the above-referenced board of adjustment case. In preparation for the Staff team meeting on this case, I am sending you this letter to explain how our request meets the required variance standards and to respectfully ask for a Staff recommendation of approval. Since the filing of our application, the Applicant has conducted several meetings with the surrounding neighbors and has significantly revised its entire development to address the neighbors' previous comments and concerns. Enclosed herein are revised site plans, elevations, and floor plans, which depict the revised proposed development. See **Exhibit A**.

The Applicant's proposed development was revised so that the front yard setback along Swiss Avenue and the height both satisfy the applicable zoning requirements. Therefore, the Applicant is no longer seeking a height variance or a variance to the front yard setback along Swiss Avenue. Based on conversations with the City, the Applicant has also withdrawn his request for a parking variance. Therefore, the Applicant is **only** seeking a 24 foot and 4 inch variance to the front yard setback on the North Carroll Avenue blockface, which would result in no front yard setback along North Carroll Avenue.

**I. Property Description**

The property at issue is located on Lot 5, Block 8/768, which consists of approximately 1.019 acres of land. This variance request only pertains to the approximate 11,607 square feet of undeveloped land, which is located at the south corner of North Carroll Avenue and Swiss Avenue (the "Property"). Accompanying this letter is an aerial photograph to orient you with the Property. See **Exhibit B**.

Mr. Steve Long  
March 28, 2016  
Page 2

## **II. Applicable Zoning**

The zoning regulations pertaining to the Property are somewhat complex, therefore, we have set forth the applicable zoning standards. According to the zoning map from the City of Dallas Zoning Website, which is attached hereto as **Exhibit C**, the Property is zoned P.D. 298, Subarea 9 (MF-2(A)), and is also subject to Historic Overlay District No. 72, as specified in Ordinance No. 22352, passed on March 8, 1995, for the Peak Suburban Addition Historic District (the "Peak Suburban Addition Ordinance").

P.D. 298, also known as the Bryan Area Special Purpose District, was originally established by Ordinance No. 20049, passed by the Dallas City Council on August 24, 1988. Section 51P-298.105 of P.D. 298 specifies the following:

### **SEC. 51P-298.105. SUBAREA 9 CONDITIONS.**

Subarea 9 is subject to the regulations governing the R-7.5(A), TH-2(A), MF-2(A), MU-1, MU-1- D, and CR districts of Chapter 51A. The zoning district category applicable to each tract in Subarea 9 is shown on Exhibit 298B. The conditions contained in Sections 298.103 and 298.106 through 298.117 do not apply to Subarea 9. (Ord. Nos. 20049; 24914)

Therefore, in accordance with the designations shown on Exhibit 298B of P.D. 298 and on the Zoning Map excerpt, we must look to the current MF-2(A) regulations under the *Dallas Development Code* for permitted uses and other regulations. Section 51A-4.116(b)(4)(B) provides that the minimum front yard setback under MF-2(A) is 15 feet.

More importantly, the Property is also subject to the regulations set forth in the Peak Suburban Addition Ordinance. While the majority of the Peak Suburban Addition Ordinance addresses design standards, it also regulates front yard setbacks. Specifically, Section 4.8(b) of the Peak Suburban Addition Ordinance states that "[a] main building on a corner lot must have a front yard setback that is within one foot of that of the closest main building on the same blockface."

## **III. Variance Request**

The Property is located at the corner of Swiss Avenue and North Carroll Avenue. Therefore, the Property has two front yards. Under the Peak Suburban Addition Ordinance, the front yard setback distance is dictated by the closest main building on the same blockface. The closest main building on the Swiss Avenue blockface has a front yard setback of 40 feet. The Applicant is not requesting a variance from this setback requirement. The closest main building on the North Carroll Avenue blockface has a front yard setback of 24 feet and 4 inches. The Applicant is requesting a variance from this front yard setback requirement. Specifically, the Applicant seeks a 24 foot and 4 inch front yard setback variance to the North Carroll Avenue blockface.

Mr. Steve Long  
March 28, 2016  
Page 3

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**IV. Reasons for Variance Request**

The Applicant seeks to construct four townhomes on the Property, which are depicted in the enclosed site plan, elevations, and floor plans. The Peak Suburban Addition Ordinance states that the front yard setback must be within one foot of the adjacent main building; however, due to the setbacks of the neighboring properties, this would leave very little room to place a structure. As a result, the Applicant seeks this variance request.

**V. Variance Standards**

**A. The Property's unusual front yard setback requirements impose an unnecessary hardship on the Property.**

The front yard setback requirements in the Dallas Development Code require that a building be erected a certain number of feet away from a street, alley, or lot line. The front yard setback requirement for the Property is not set forth in terms of distance from a street, alley, or lot line. Rather, the front yard setback requirement for the Property is established by the front yard setback of the closest main building in the same blockface. Therefore, the Property's front yard setbacks are based solely on an unrelated third-party's decision of how far to setback its property from the street or lot line. As depicted in **Exhibit D**, a literal enforcement of the front yard setback requirements would unreasonably restrict any development on the Property.

**B. The front yard setback requirements on the Property create an unreasonably restrictive area.**

The variance is necessary to permit development of the Property that differs from other parcels of land by being of such a restrictive area that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning. As previously stated, the front yard setback requirement set forth in the Peak Suburban Addition Ordinance results in an unreasonably restrictive area to develop. While the Peak Suburban Addition Ordinance requires corner lots to have a setback within one foot of the closest main building on the same blockface, some corner lots subjected to this ordinance do not meet this requirement. *See Exhibit E*. Additionally, other parcels along North Carroll Avenue that are zoned P.D. 298 have little to no front yard setbacks. *See id.* The Applicant's variance request would, therefore, be commensurate with other parcels subjected to the same zoning regulations.

**C. The variance request is not contrary to the public interest.**

The Applicant previously also requested a height variance and a variance to the front yard setback along the Swiss Avenue block face. However, the Applicant has significantly revised its site plan and elevations to address the previous concerns expressed from surrounding neighbors. The majority of the properties along Swiss Avenue have large front yard setbacks. In meeting with surrounding neighbors, the Applicant discovered that the neighbors wanted to keep the same feel with large setbacks along Swiss Avenue. As a result, the Applicant revised its site plan to provide a 40 foot setback to the front yard of the Swiss Avenue blockface. This is in line with

Mr. Steve Long  
March 28, 2016  
Page 4

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the adjacent multifamily development on Swiss Avenue. The Applicant also reduced the height of the proposed development to address the neighbors' concerns. The Applicant's remaining variance only pertains to the front yard setback along North Carroll Avenue. As you can see from the aerial photographs, the other developments near the Property along North Carroll Avenue have little or no front yard setback. *See Exhibits B & E.*

Finally, this request also meets the other standards for the granting of a variance, that is, it is not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit a person a privilege in developing a parcel of land not permitted to other parcels of land with the same zoning.

Thank you very much for your consideration of these points. If you have any questions, please let us know. Otherwise, we respectfully ask that the Staff make a recommendation of approval for our setback variance request. Thank you very much.

Very truly yours,



Steven W. Dimitt

Enclosures

cc: Suzan Kedron

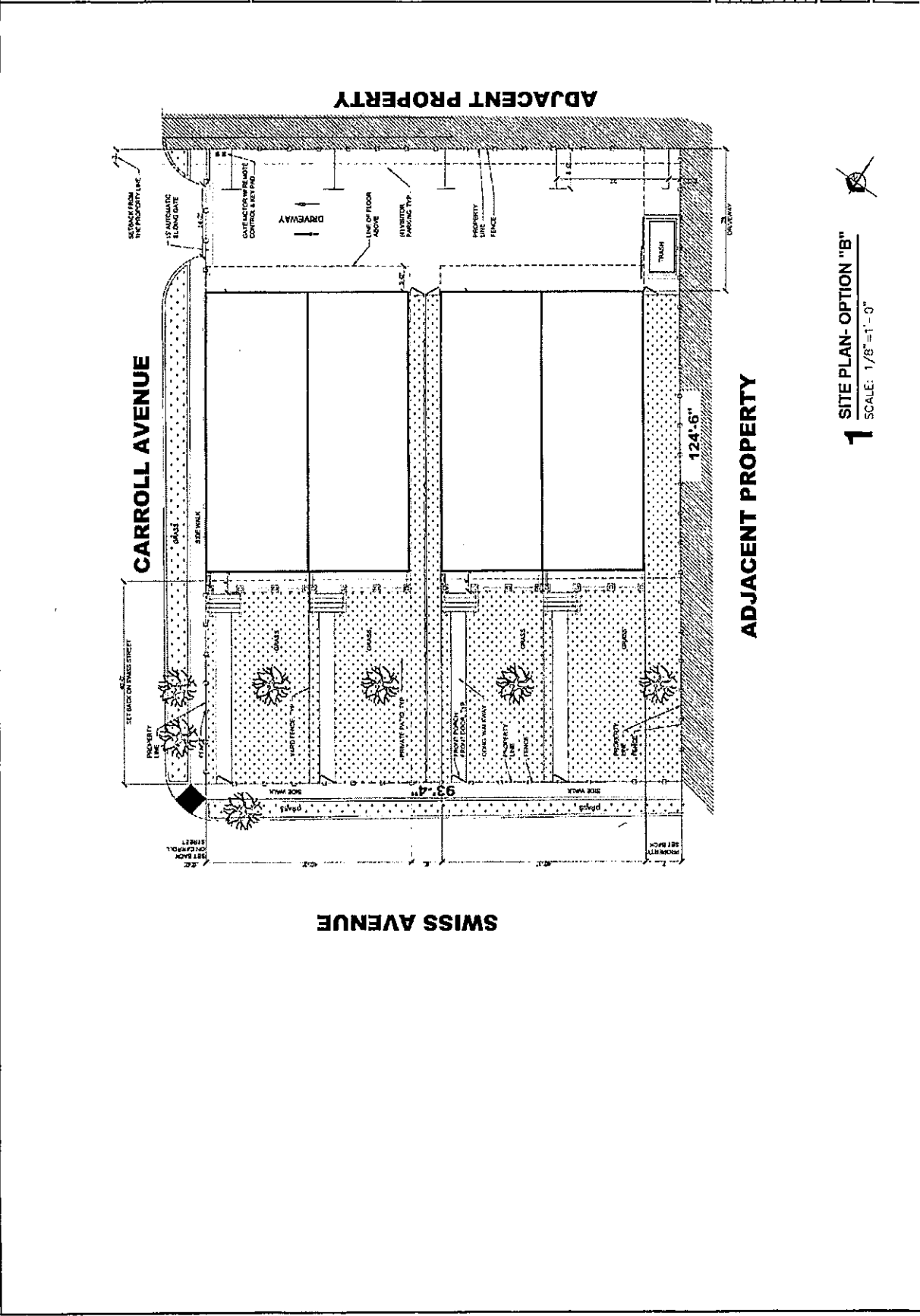
# **EXHIBIT A**



ISSUE LOG	NO.	REVISION/DATE	BY

JOB NO.  
 SHEET TITLE  
**SITE PLAN**

SHEET NO.  
**A1.0**



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



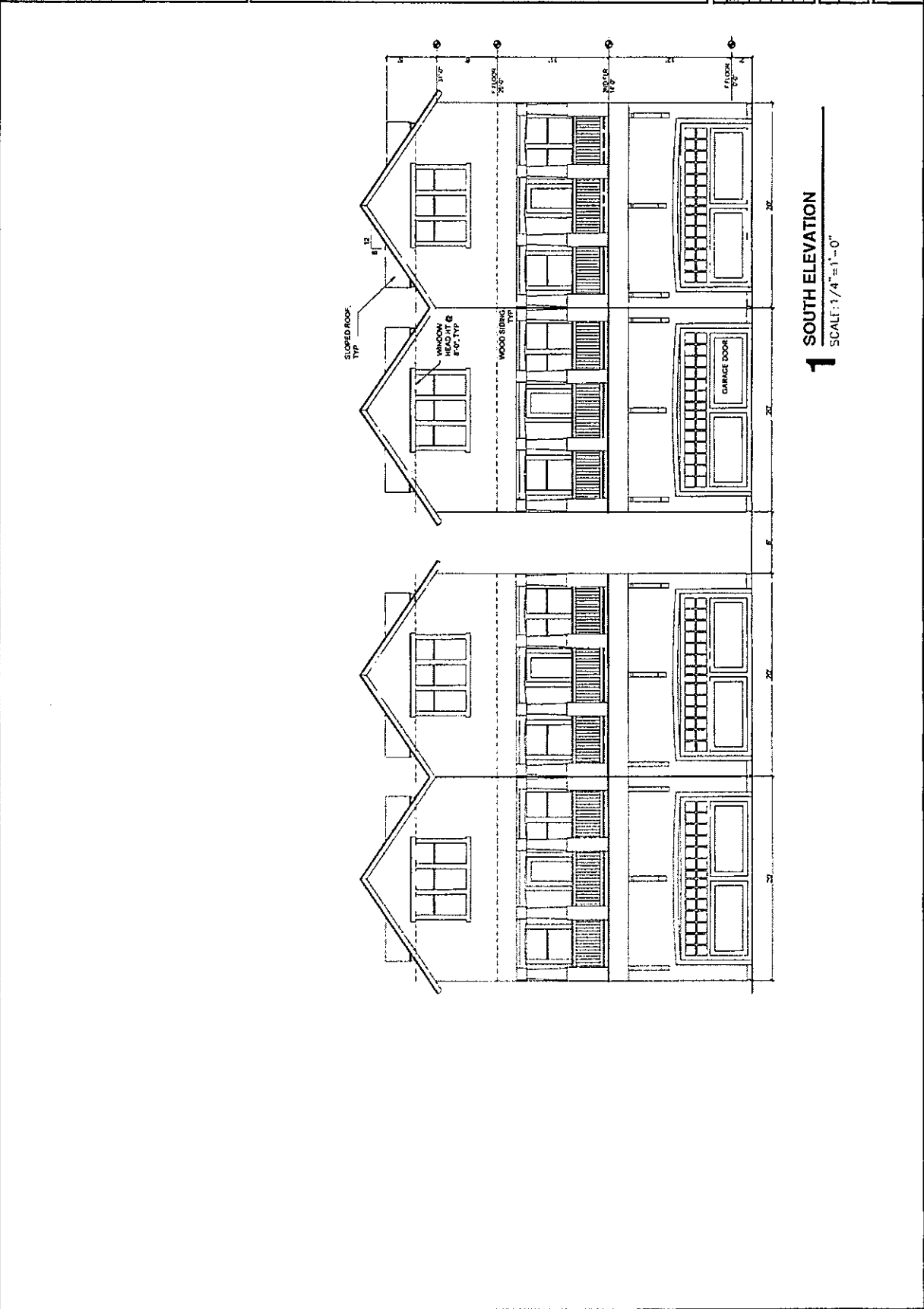
**EMTE**  
 ARCHITECTURE  
 Architecture  
 Interiors  
 Space Planning

100 S. JAMM  
 1100 W. CALLE  
 FORT WORTH, TEXAS 76102  
 TEL: 817.335.3333  
 FAX: 817.335.3333  
 WWW.EMTE.COM

**SWISS AVE. HISTORICAL TOWNHOMES**  
 LUXURY TOWNHOMES  
 4422 SWISS AVENUE, DALLAS, TX 75204

ISSUE	LOC	DATE

JOB NO.  
 SHEET TITLE  
**SOUTH ELEV**  
 SHEET NO.  
**A1.10**

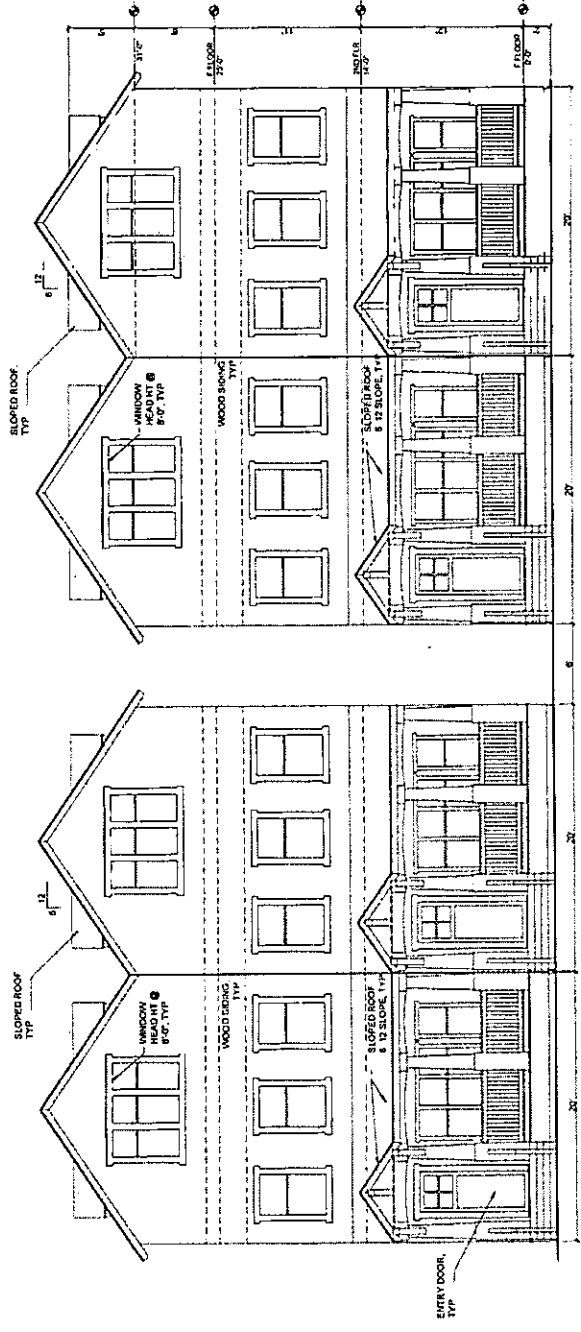




ISSUE LOG	DESCRIPTION	DATE

JOB NO.  
 SHEET TITLE  
 NORTH ELEV

SHEET NO.  
**A1.9**



**1** NORTH ELEVATION  
 SCALE: 1/4" = 1'-0"



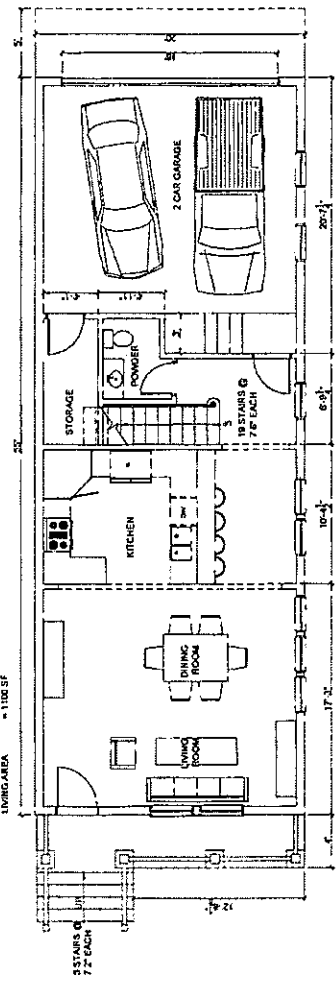
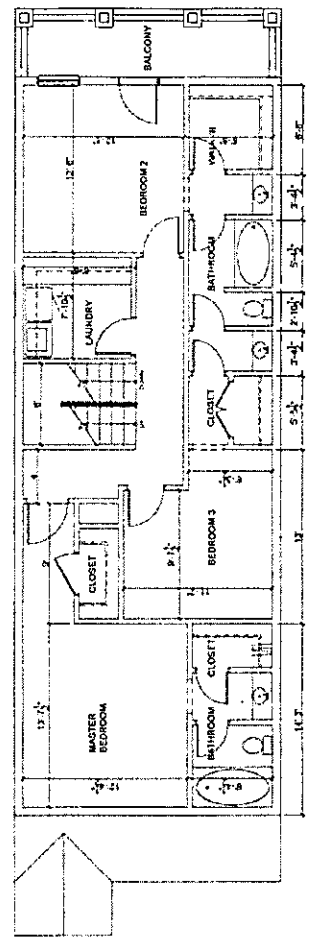
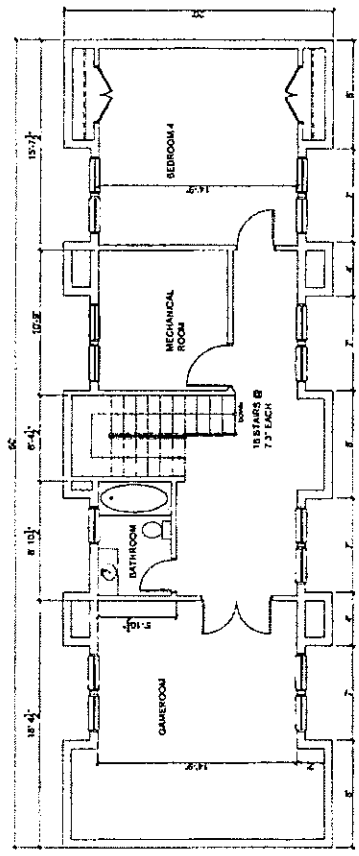
1100 S. AVENUE  
 SUITE 1000  
 FORT WORTH, TEXAS 76104  
 TEL: (817) 339-9229  
 FAX: (817) 339-9230  
 WWW.BMEBUILDERS.COM

**SWISS AVE. HISTORICAL TOWNHOMES**  
 LUXURY TOWNHOMES  
 4222 SWISS AVENUE, DALLAS, TX 75204

ISSUE LOG	REVISION	DATE
1	ISSUE	7/22
2	REVISION	
3	REVISION	
4	REVISION	
5	REVISION	
6	REVISION	
7	REVISION	
8	REVISION	
9	REVISION	
10	REVISION	

JOB NO.  
 SHEET TITLE  
**FLOOR PLANS**

SHEET NO.  
**A1.2**



**1 FLOOR PLANS**  
 SCALE: 1/4" = 1'-0"

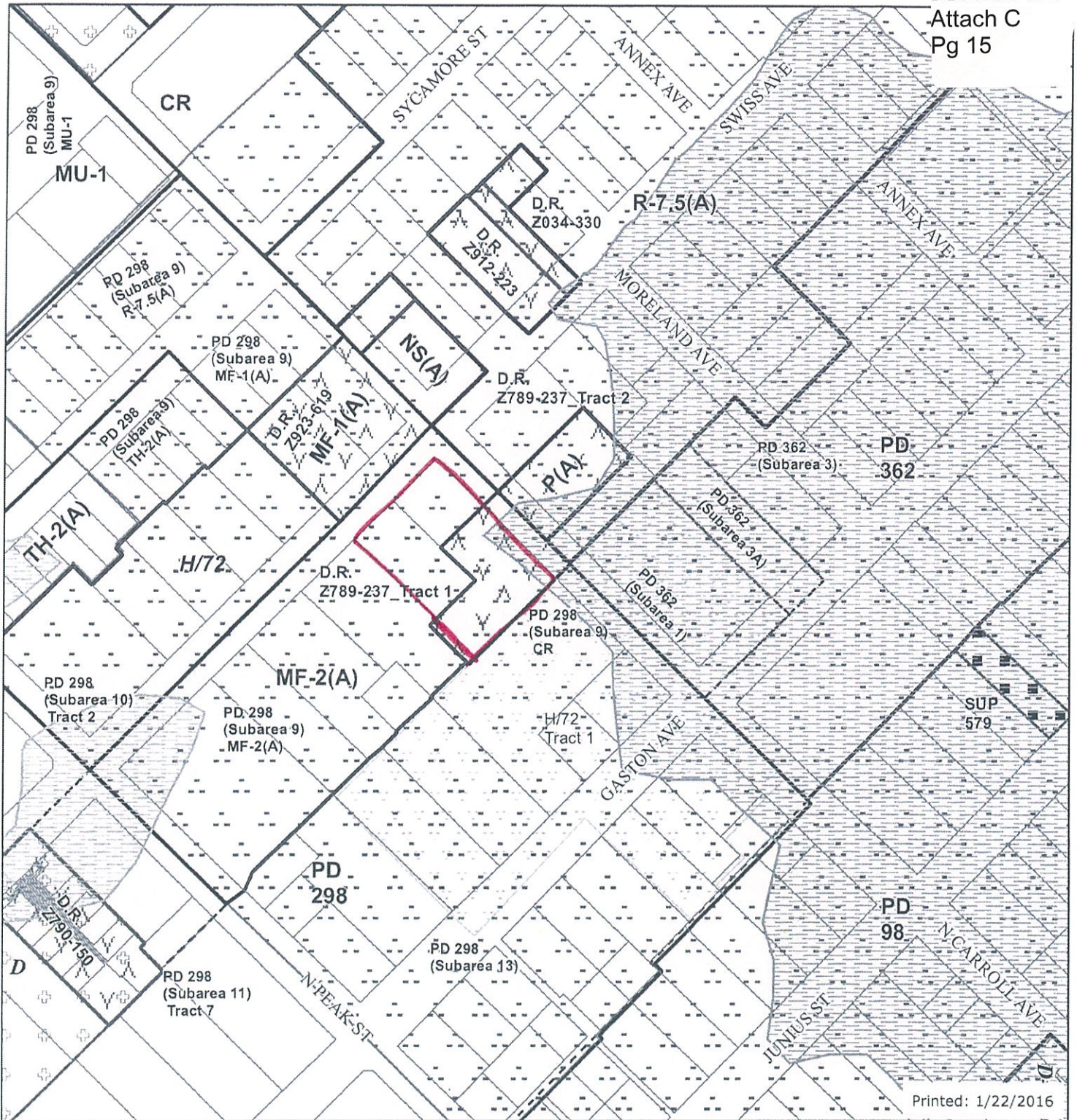
# **EXHIBIT B**





# **EXHIBIT C**





Printed: 1/22/2016

### Legend

- |                      |                                |                       |                            |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits          | railroad                       | Dry Overlay           | CD Subdistricts            |
| School               | Certified Parcels              | D                     | PD Subdistricts            |
| Floodplain           | Base Zoning                    | D-1                   | PDS Subdistricts           |
| 100 Year Flood Zone  | PD193 Oak Lawn                 | CP                    | NSO Subdistricts           |
| Mill's Creek         | Dallas Environmental Corridors | SP                    | NSO_Overlay                |
| Peak's Branch        | SPSP Overlay                   | MD Overlay            | Escarpment Overlay         |
| X Protected by Levee | Deed Restrictions              | Historic Subdistricts | Parking Management Overlay |
| Parks                | SUP                            | Historic Overlay      | Shop Front Overlay         |
| BDA 156-027          |                                | Height Map Overlay    | 5-27                       |

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102)





# **EXHIBIT D**

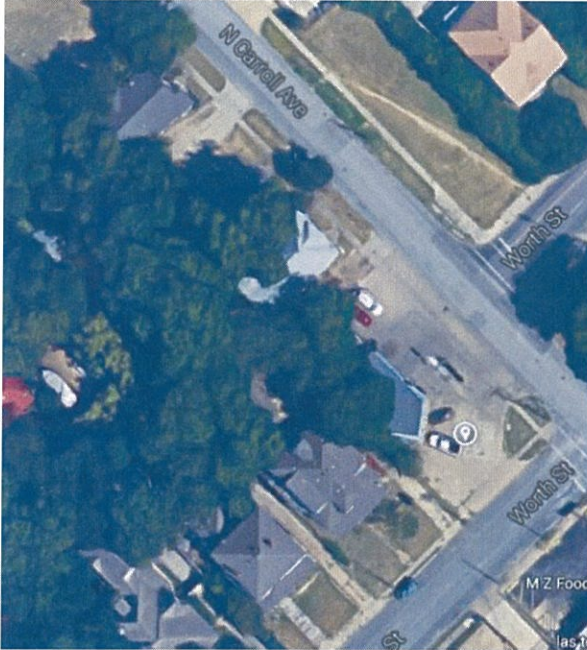


# **EXHIBIT E**

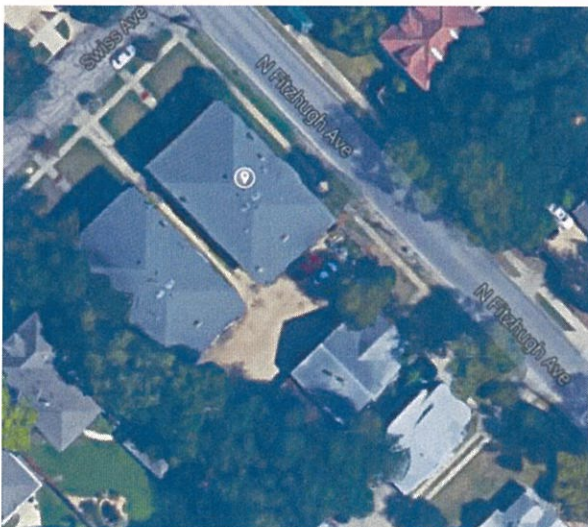


**Other Corner Lot Developments subject to the Peak Suburban Addition Ordinance**

4423 Worth Street



4846 Swiss Avenue

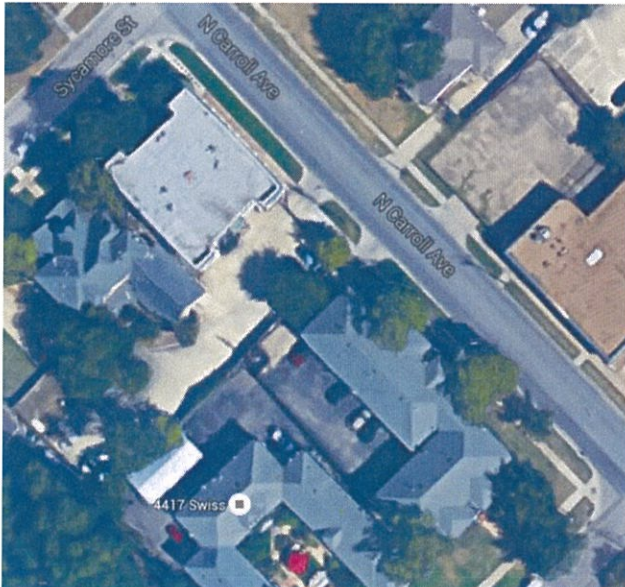


4501 Swiss



**Other Similar Lots Located on North Carroll Avenue Zoned P.D. 298**

4425 Swiss Avenue & 4422 Sycamore Street



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 Allan R. Brown  
represented by Steven Dimitt  
did submit a request for a variance to the front yard setback regulations, and for a variance to the  
building height regulation  
at 1015 N. Carroll Avenue

BDA156-027. Application of Allan R. Brown represented by Steven Dimitt for a variance to the front yard setback regulations and a variance to the building height regulations at 1015 N. Carroll Avenue. This property is more fully described as Lot 5, Block 8/768, and is zone PD 298 (Subarea 9), which requires a front yard setback of 24 feet 4 inches and limits the maximum building height to 36 feet. The applicant proposes to construct a multifamily residential structure and provide a 0 foot front yard setback, which will require a 24 foot 4 inch variance to the front yard setback regulation, and to construct a multifamily residential structure with a building height of 45 feet, which will require a 9 foot variance to the maximum building height regulations.

Sincerely,

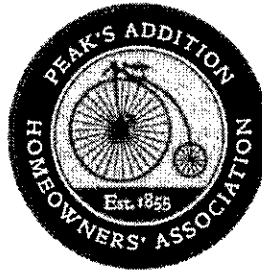
*Philip Sikes*  
Philip Sikes, Building Official



BDA156-027

Attach E

PJ1



April 5, 2016

Re: Case BDA 156-207

IN SUPPORT: Variance on Carroll Ave

Dear Board of Adjustments Members:

The applicant previously proposed a site plan that included variances to the front yard setbacks along Swiss Avenue and North Carroll Avenue, as well as an increase in allowed height. The Peak's Addition Neighborhood Association ("Association") was not in favor of the variance requests for the front yard setback along Swiss Avenue or the increase in allowed height. As a result of the Association's comments regarding the Applicant's initial site plan, the Applicant revised its site plan to address our concerns.

The Applicant's revised site plan, which is attached hereto, includes four units facing Swiss Avenue. The Applicant's revised site plan no longer seeks a variance to the front yard setback along Swiss Avenue or to the height of the development. The only variance the Applicant seeks is to the front yard setback along North Carroll Avenue.

On March 1, 2016, the Association held a general neighborhood meeting where the membership voted to support the Applicant's request for a twenty-four feet and four inch variance to the front yard setback requirement along North Carroll Avenue, which would result in no front yard setback.

We welcome the Applicant's proposed development, support their front yard variance request along North Carroll Avenue, and look forward to their development being part of our neighborhood.

Regards,

A handwritten signature in black ink, appearing to read "Jim Anderson". The signature is stylized and cursive.

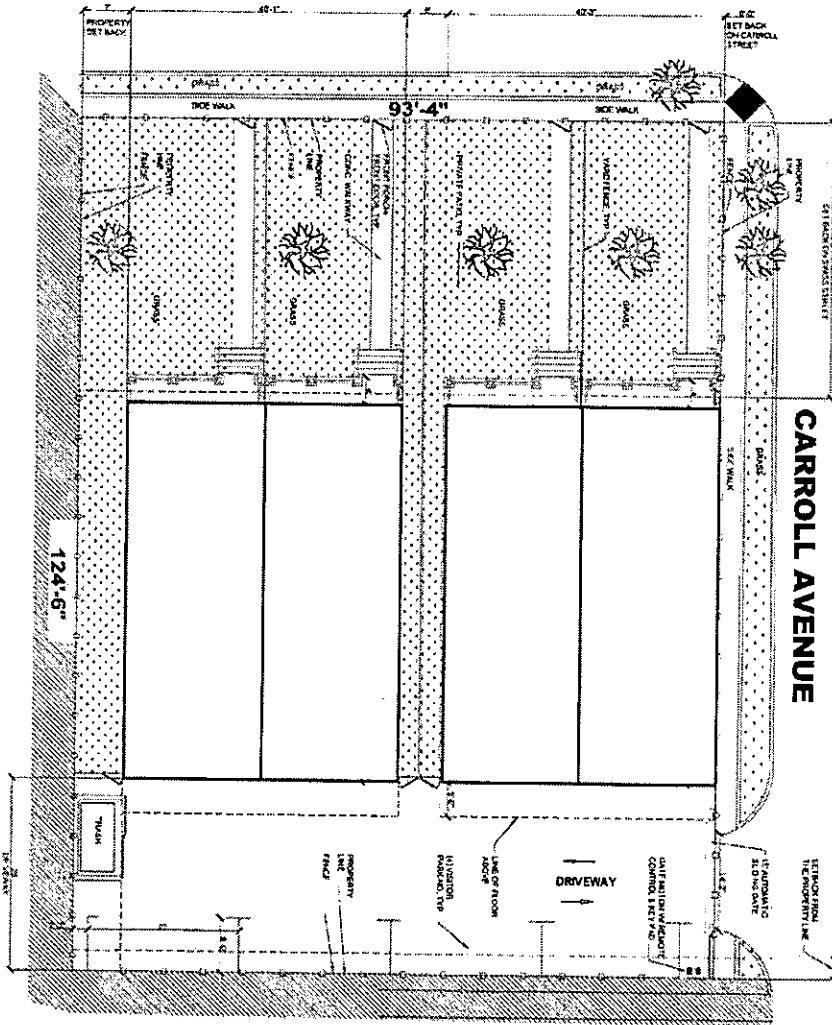
Jim Anderson  
President  
Peak's Addition Homeowner's Association

**SWISS AVENUE**

**ADJACENT PROPERTY**

**CARROLL AVENUE**

**ADJACENT PROPERTY**



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



ISSUE LOG NO. DESCRIPTION DATE REVISION 12/17/15	<b>SWISS AVE. HISTORICAL TOWNHOMES</b> LUXURY TOWNHOMES 4422 SWISS AVENUE, DALLAS, TX 75204		1102 S. SHAW SUITE 200 DALLAS, TEXAS 75204 TEL: 214.760.1100 WWW.PLANETSPACE.COM
	JOB NO. SHEET TITLE SITE PLAN	PROJECT NUMBER INTERIOR Space Planning	



Steven W. Dimitt  
(214) 953-6182 (Direct Dial)  
(214) 661-6882 (Direct Fax)  
sdimitt@jw.com

April 27, 2016

Mr. Steve Long  
Board Administrator  
Zoning Board of Adjustment  
Department of Sustainable Development Inc. Construction  
City of Dallas  
1500 Marilla Street, Room 5BN  
Dallas, Texas 75201

Re: ***BDA 156-027; 1015 N. Carroll Avenue***

Dear Mr. Long:

As you know, I represent the Applicant with respect to the above-referenced board of adjustment case. In preparation for the Staff team meeting on this case, I am sending you supplemental information pertaining to how the Applicant's property differs from other parcels of land by being of such a restrictive area that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning.

**A. The Property's Restrictive Area Prevents Development Commensurate with the Same Zoning.**

The Applicant's variance request pertains to 11,607 square feet of undeveloped land located at the south corner of North Carroll Avenue and Swiss Avenue (the "Property"). The Property is zoned PD 298, Subarea 9 (MF(2)(A)), H/72. The entirety of PD 298, Subarea 9 (MF-2(A)), H/72, consists of six lots located on Swiss Avenue between North Carroll Avenue and North Peak Street. Below is a depiction of the zoning area:

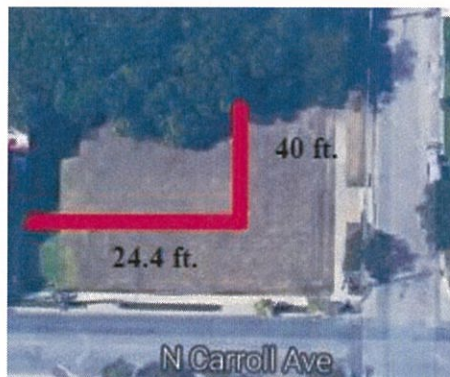


Mr. Steve Long  
April 27, 2016  
Page 2

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The Applicant's Property is considerably smaller than the other lots with the same zoning. Based on DCAD, the average lot size of the other five lots zoned PD 298, Subarea 9 (MF-2(A)), H/72 is 18,285 square feet. The Applicant's Property is only 11,607 square feet, which is approximately 36% smaller than the average of the other lots within the same zoning.

Additionally, the Peaks Suburban Addition Historic Overlay Ordinance (i.e., H/72) significantly reduces the amount of land that may be developed by imposing large front yard setbacks that do not apply to the other parcels of land with the same zoning. Specifically, Peaks Suburban Addition Historic Overlay Ordinance (H/72) states that "a main building on a corner lot must have a front yard setback that is within one foot of that of the closest building on the closest main building in the same blockface." This results in the Property having a 40 foot front yard setback requirement on Swiss Avenue and a 24 foot 4 inch front yard setback requirement along North Carroll Avenue. Below is a depiction of the front yard setback requirements required under the Peaks Suburban Addition Historic Overlay Ordinance (H/72):



After imposing the front yard setback requirements set forth in the Peaks Suburban Historic Overlay Ordinance (H/72), the amount of developable land on the Applicant's 11,607 square feet piece of property is **reduced by more than half** to only 5,419 square feet.

The Property's restrictive area prevents it from being developed in a manner commensurate with the other developments within PD 298 Subarea 9 (MF-2(A)), H/72. Specifically, based on DCAD, the average multifamily development within PD 298 Subarea 9 (MF-2(A)), H/72 is 16,985 square feet. Without the Applicant's proposed variance request, the Applicant's development could only be 8,826 square feet.<sup>1</sup> This is almost half the size of the average of the other developments within the same zoning.

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<sup>1</sup> Currently the Applicant's site plan includes two separate units of two townhomes. If the variance request was not granted then the Applicant would have to reconfigure the development to include three townhomes, all attached. This would result in the middle townhome not having any side exterior windows, which is not preferable to buyers and is **not** commensurate with the other properties within the same zoning.

Mr. Steve Long  
April 27, 2016  
Page 3

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The Applicant's 24'4" variance request to the front yard setback along North Carroll Avenue would allow it to develop its Property in a way that is more commensurate with the other developments in its same zoning. With the variance request, the Applicant would be able to develop two separate units of two townhomes totaling 11,768 square feet.<sup>2</sup> While the Applicant's development with the variance request would still be smaller than the average development size within the same zoning (i.e., 16,985 sq. ft.), it is more in line with the surrounding developments. Additionally, this development is supported by the Peak's Addition Neighborhood Association.

**B. The Variance Request is Commensurate with Zoning.**

The Applicant's variance request, which would result in no front yard setback along North Carroll Avenue, is commensurate with the development of other nearby parcels of land within PD 298, Subarea 9.<sup>3</sup> We have enclosed depictions of other corner lots with little to no front yard setbacks on properties located within PD 298, Subarea 9.

We hope this further illustrates how the Applicant's variance request satisfies the variance standards. Thank you very much for your consideration of these points. If you have any questions, please let us know. Otherwise, we respectfully ask that the Staff make a recommendation of approval for our setback variance request. Thank you very much.

Very truly yours,



Steven W. Dimitt

Enclosures

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<sup>2</sup> The square footage of the Applicant's development is based upon the livable area and does not include the garages. The other multifamily developments in PD 298 Subarea 9 (MF-2(A)), H/72 do not have garages; therefore, the square footage of the Applicant's garages were excluded from the calculation so that the calculations would be consistent.

<sup>3</sup> Due to the minimal size of PD 298, Subarea 9 (MF-2(A)), H/72 (i.e., one blockface), we compared the Applicant's Property to other similar nearby corner lots within PD 298 Subarea 9.



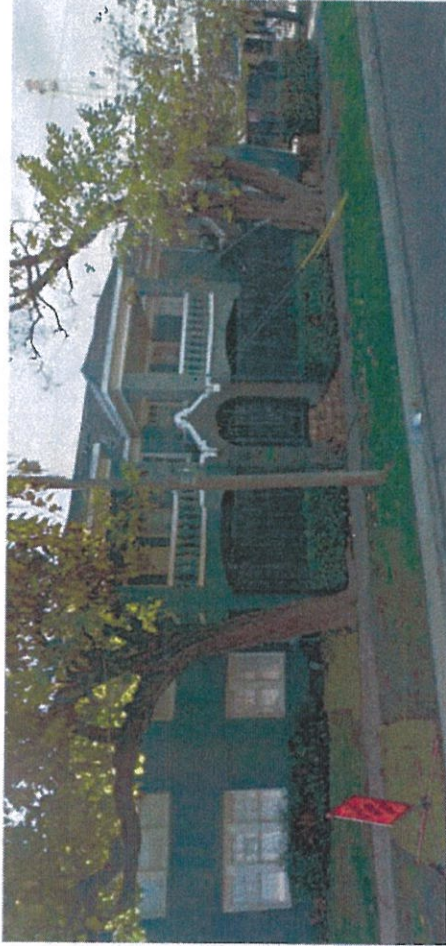
## Applicant's Request is Commensurate with Zoning

Applicant's Property



This red line represents the required 24' 4" FYSB along North Carroll Avenue

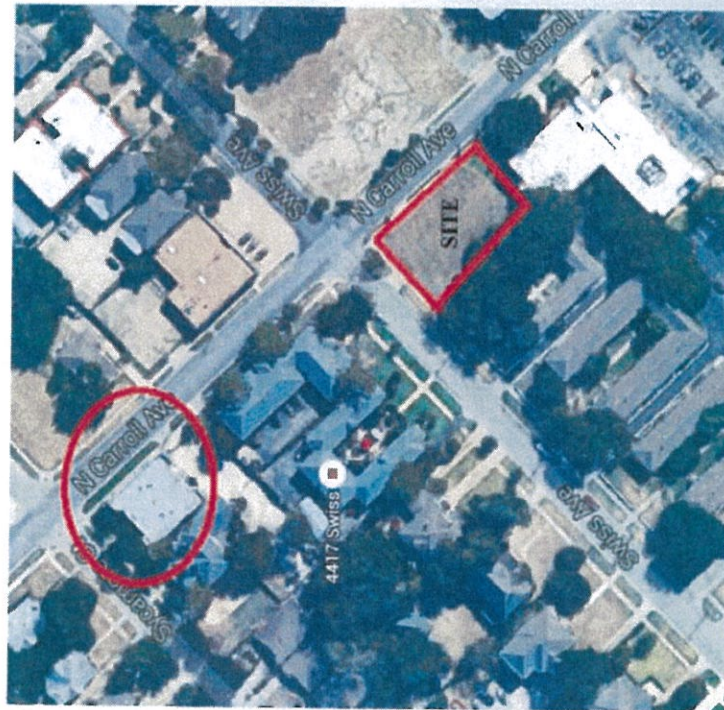
4425 Swiss Avenue (Zoned PD 298, Subarea 9) H/72



This property is located directly across Swiss Avenue from the Applicant's Property. This illustrates no front yard setback along North Carroll Avenue



4422 Sycamore Street (PD 298, Subarea 9), H/72





1000 North Peak Street (PD 298, Subarea 9 (MF-2(A)), H/72



# 4304 Sycamore Street (PD 298, Subarea 9)





# 4302 Bryan Street (PD 298, Subarea 9)





APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-027

Data Relative to Subject Property:

Date: 1/21/2016

Location address: 1015 N. Carroll Avenue Zoning District: PD 298 (subarea 9)

Lot No.: 5 Block No.: 8/768 Acreage: 1.791 Census Tract: 15.04

Street Frontage (in Feet): 1) 93.36 2) 175 3) 4) 5) 5823

To the Honorable Board of Adjustment :

Owner of Property/or Principal: PHP Carroll MOB Partners, LP

Applicant: Allan R. Brown Telephone: 214-736-7003

Mailing Address: 8214 Westchester Drive #600, Dallas, Texas Zip Code: 75225

Represented by: Jackson Walker L.L.P., Suzan Kedron, Steven Dimitt Telephone: 214-953-6182

Mailing Address: 2323 Ross Avenue, Suite 600, Dallas Texas Zip Code: 75201

Affirm that a request has been made for a Variance [checked], or Special Exception [ ], of (1) increase the allowable building height from thirty-six (36) feet to forty-five (45) feet, and (2) decrease the setback requirement set forth in the Peak's Suburban Ordinance #22352 from thirty (30) feet, established by neighboring buildings, to twelve (12) feet.

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

The variance should be granted because it is not contrary to the public interest and owing to special conditions, to be described further in supplementary materials to be provided to City Staff, literal enforcement would result in unnecessary hardship.

Further the variance is necessary to permit development of this specific parcel of land.

9' to max bldg ht., & 18' to FYSIB

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

Respectfully submitted: Allan Brown Applicant's name printed [Signature] Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Allan Brown 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.

Affiant (Applicant's signature)

Subscribed and sworn to before me this 22nd day of January, 2016

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

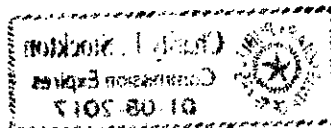
**Building Official's Report**

I hereby certify that Allan R. Brown  
represented by Steven Dimitt  
did submit a request for a variance to the front yard setback regulations, and for a variance to the  
building height regulation  
at 1015 N. Carroll Avenue

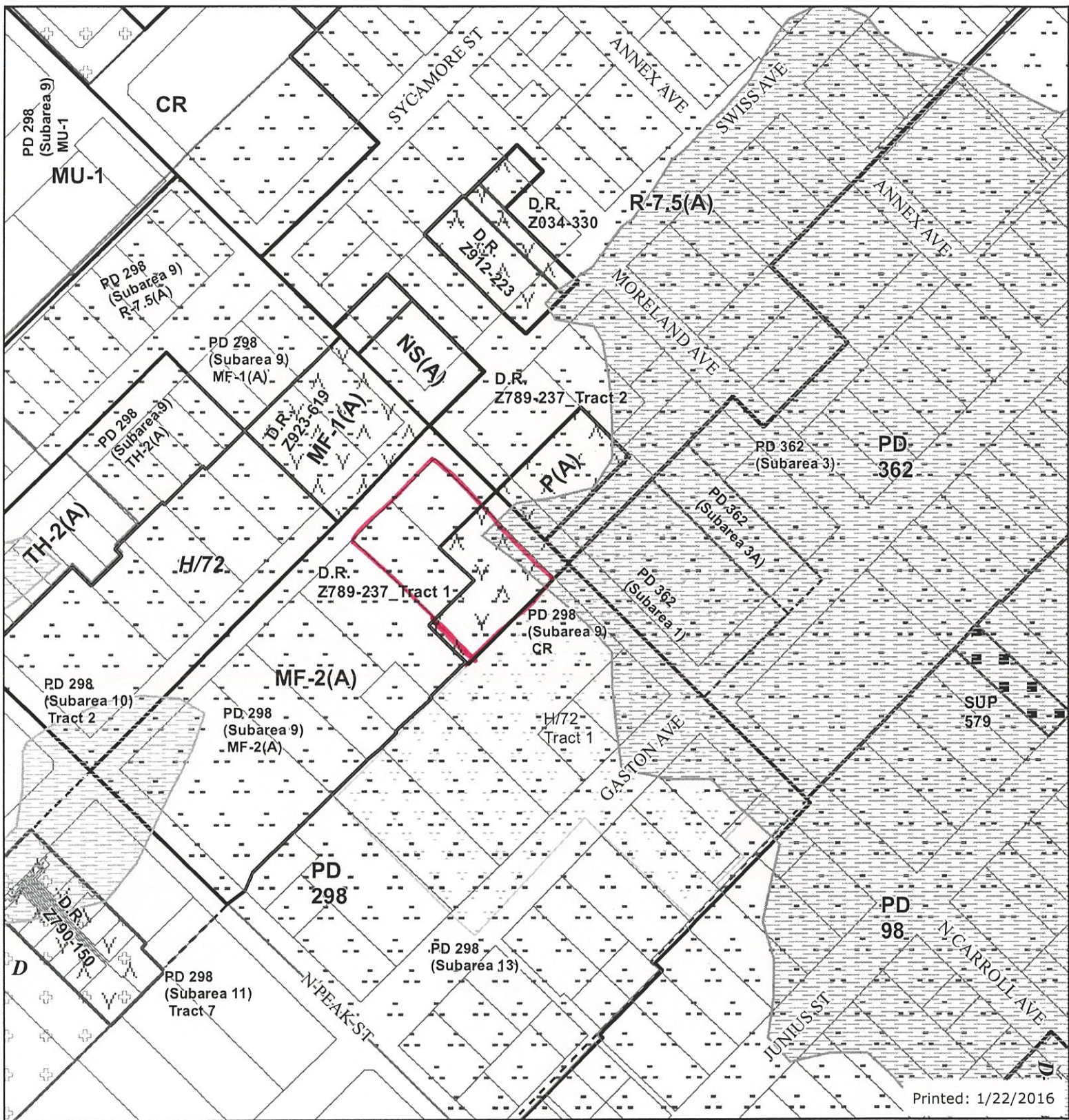
BDA156-027. Application of Allan R. Brown represented by Steven Dimitt for a variance to the front yard setback regulations and a variance to the building height regulation at 1015 Carroll Avenue. This property is more fully described as Lot 5, Block 8/768, and is zoned PD 298 (Subarea 9), which limits the maximum building height to 36 feet and requires a front yard setback of 30 feet. The applicant proposes to construct a multifamily residential structure and provide a 12 foot front yard setback, which will require an 18 foot variance to the front yard setback regulation, and to construct a multifamily residential structure with a building height of 45 feet, which will require a 9 foot variance to the maximum building height regulation.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official







### Legend

- |                      |                                |                       |                            |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits          | railroad                       | Dry Overlay           | CD Subdistricts            |
| School               | Certified Parcels              | D                     | PD Subdistricts            |
| Floodplain           | Base Zoning                    | D-1                   | PDS Subdistricts           |
| 100 Year Flood Zone  | PD193 Oak Lawn                 | CP                    | NSO Subdistricts           |
| Mill's Creek         | Dallas Environmental Corridors | SP                    | NSO_Overlay                |
| Peak's Branch        | SPSP Overlay                   | MD Overlay            | Escarpment Overlay         |
| X Protected by Levee | Deed Restrictions              | Historic Subdistricts | Parking Management Overlay |
| Parks                | SUP                            | Historic Overlay      | 546 Front Overlay          |
| BDA 156-027          |                                | Height Map Overlay    |                            |

This data is to be used for graphical representation only. The accuracy is not to be taken/used as data produced by a Registered Professional Land Surveyor (RPLS) for the State of Texas. 'This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.' (Texas Government Code § 2051.102)



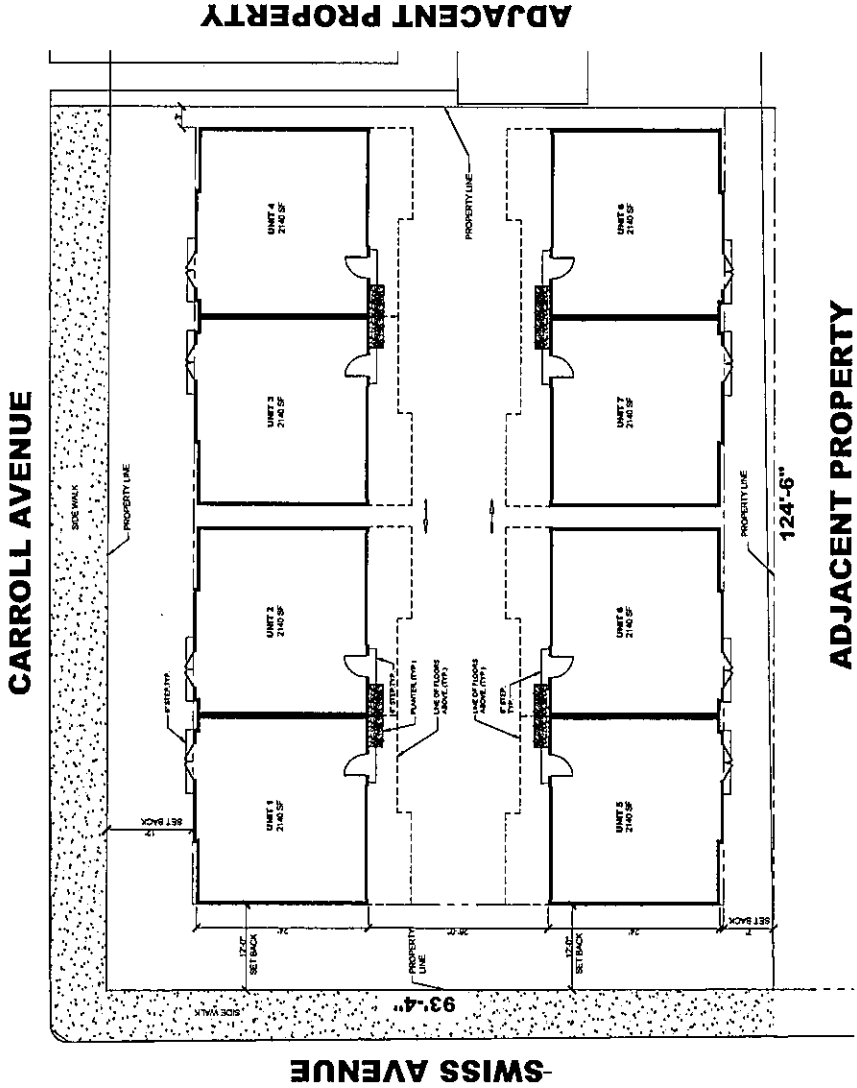






ISSUE LOG	DESCRIPTION	DATE

JOB NO.	
SHEET TITLE	SITE PLAN
SHEET NO.	A1.1

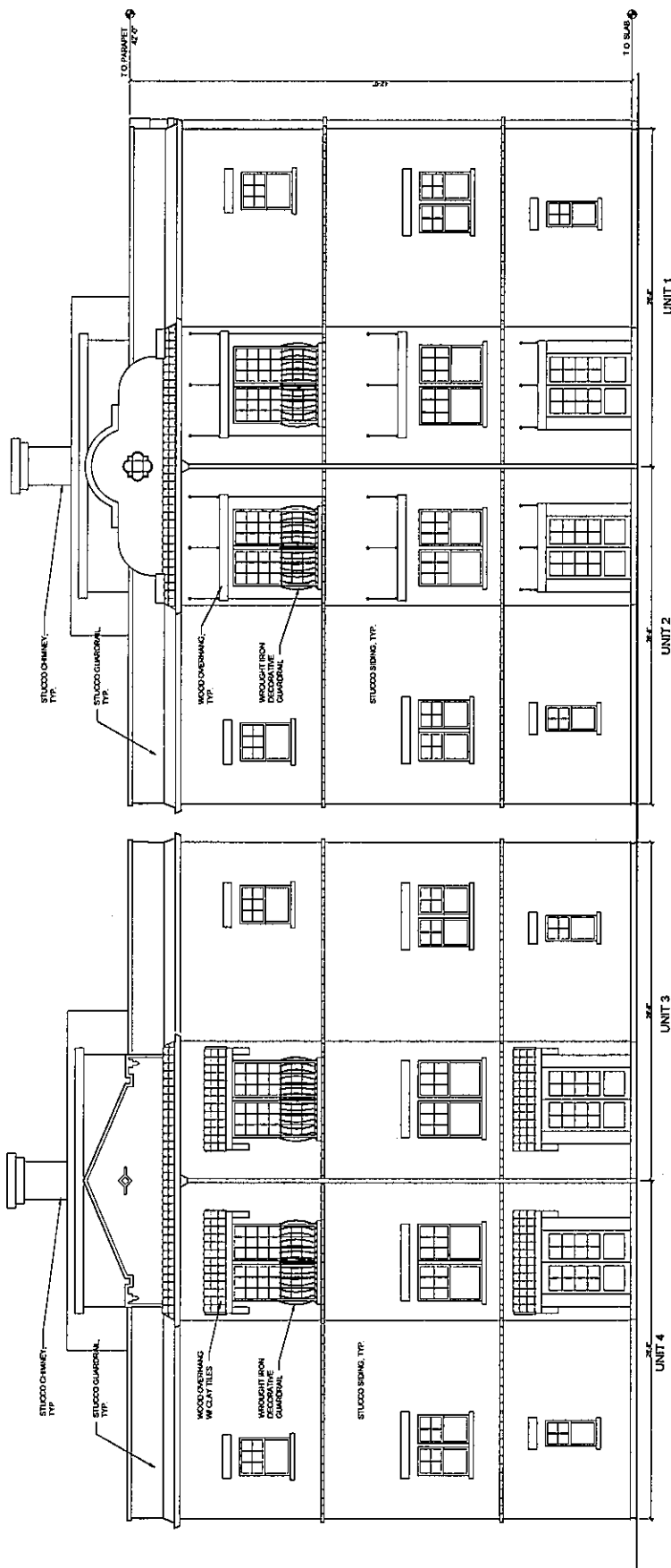


**1** SITE PLAN  
 SCALE: 1/8"=1'-0"

ISSUE LOG	DESCRIPTION	DATE

JOB NO.  
 SHEET TITLE  
**EAST ELEV.**

SHEET NO.  
**A1.7**

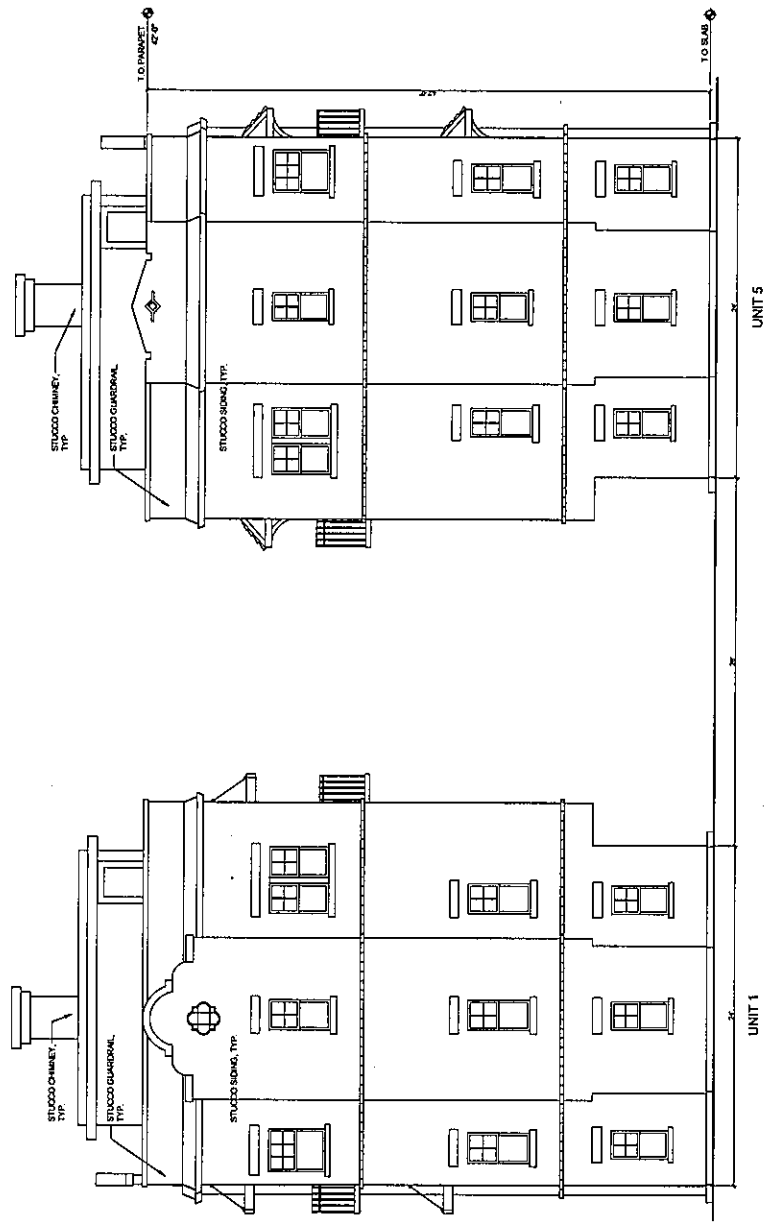


**1 EAST ELEVATION**  
 SCALE: 1/4"=1'-0"

ISSUE LOG	DESCRIPTION	DATE

JOB NO.  
 SHEET TITLE  
 NORTH ELEV.

SHEET NO.  
**A1.9**

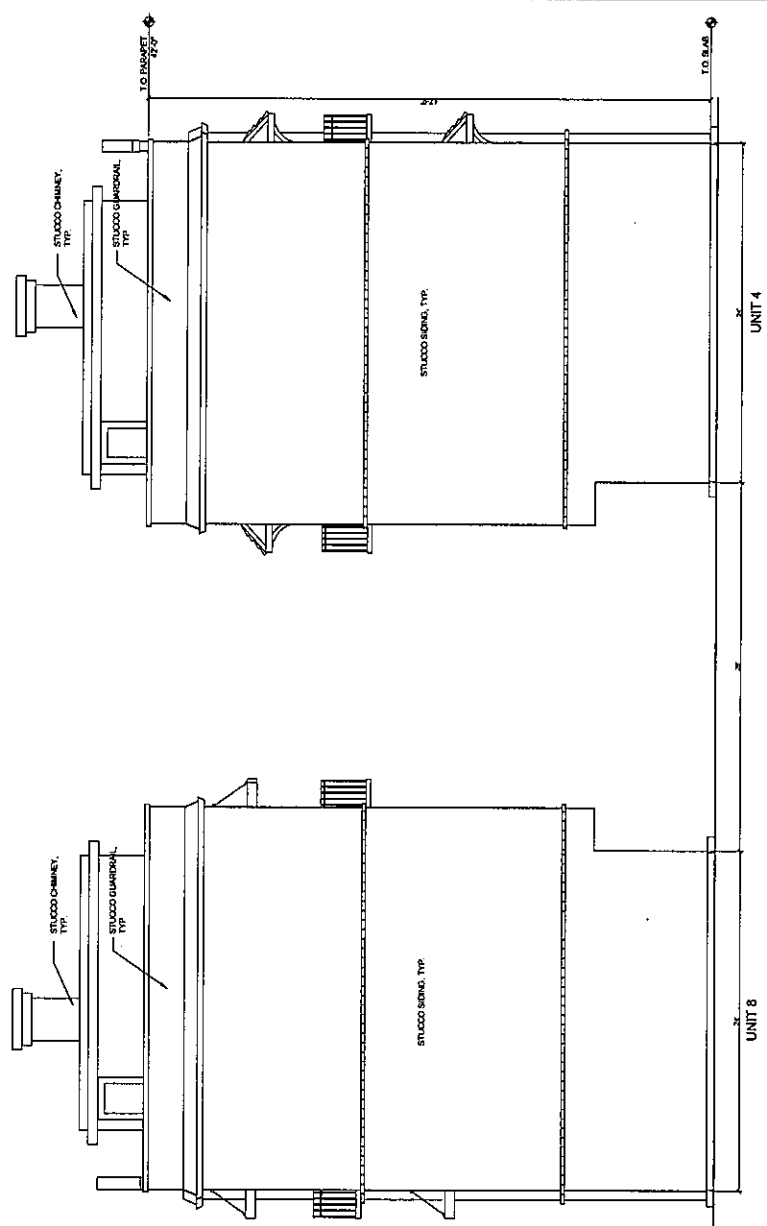


**1 NORTH ELEVATION**  
 SCALE: 1/4" = 1'-0"

ISSUE LOG	DATE

JOB NO.  
 SHEET TITLE  
**SOUTH ELEV.**  
 SHEET NO.

**A1.10**

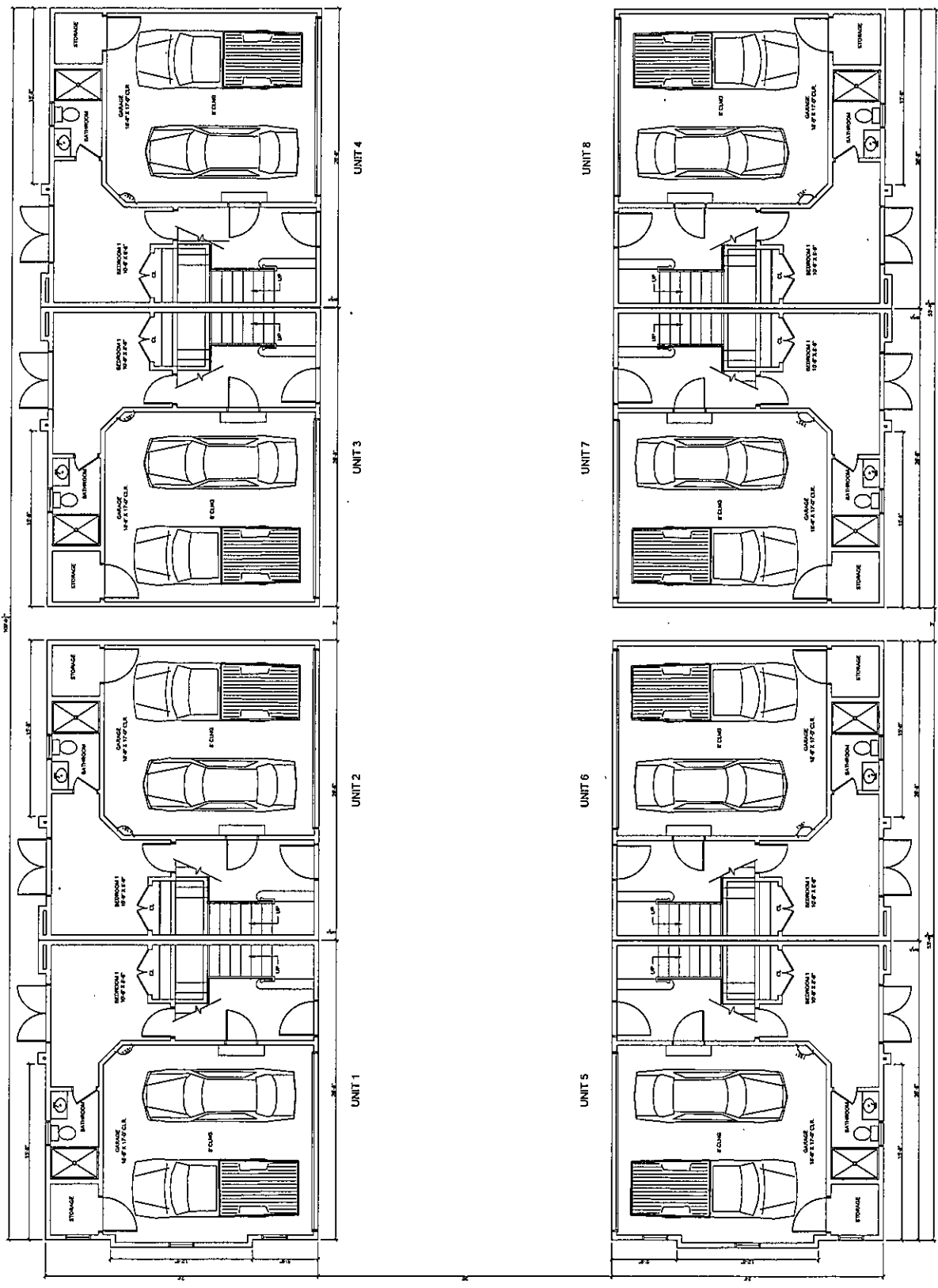


**1 SOUTH ELEVATION**  
 SCALE: 1/4" = 1'-0"

ISSUE NO.	DESCRIPTION	DATE

JOB NO.  
 SHEET TITLE  
**FIRST FLOOR**

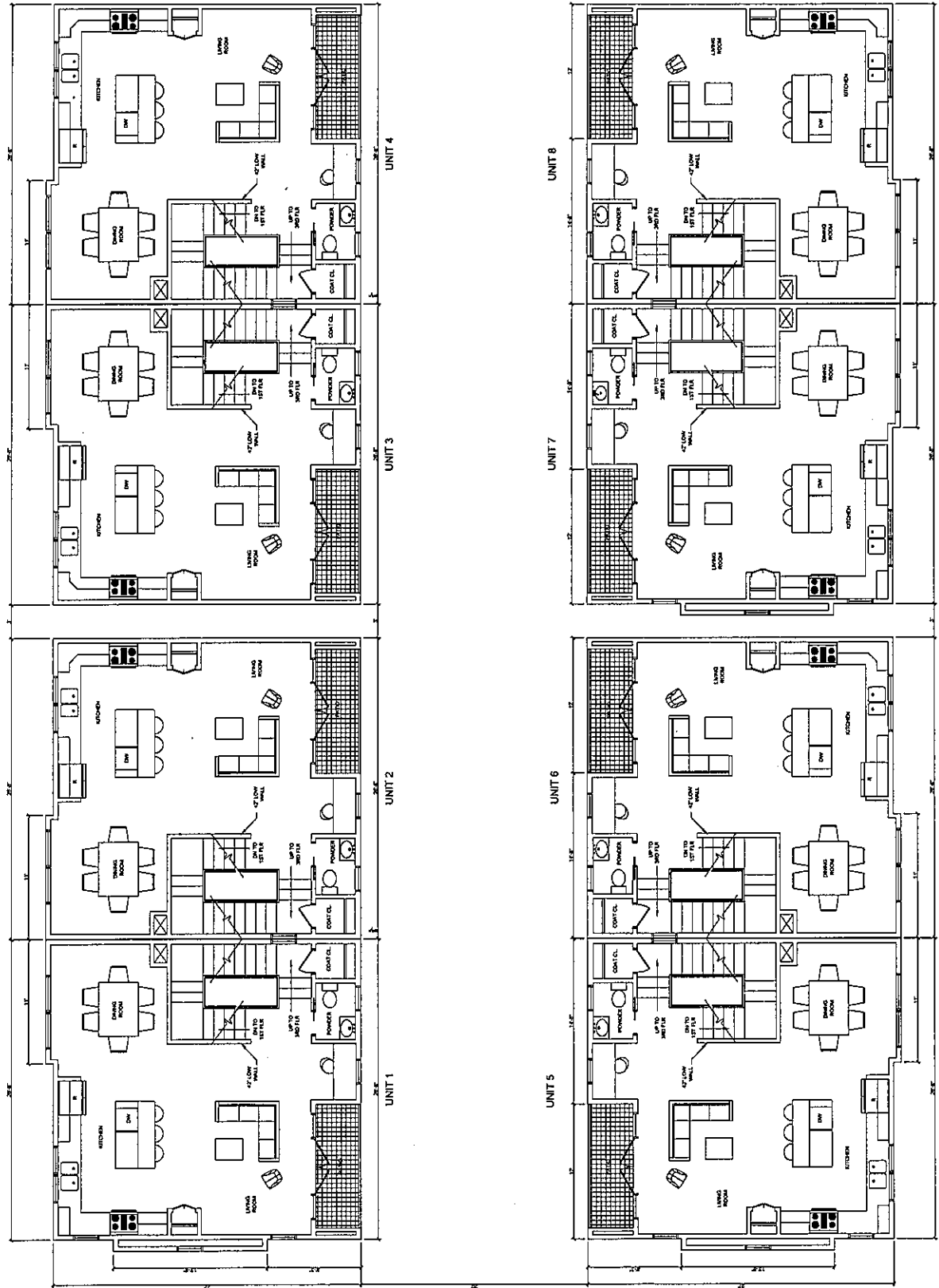
SHEET NO.  
**A1.2**



**1** FIRST FLOOR PLAN - GARAGE  
 SCALE: 1/4" = 1'-0"

ISSUE LOG		
NO.	DESCRIPTION	DATE

JOB NO.	
SHEET TITLE	SECOND FLR.
SHEET NO.	A1.3



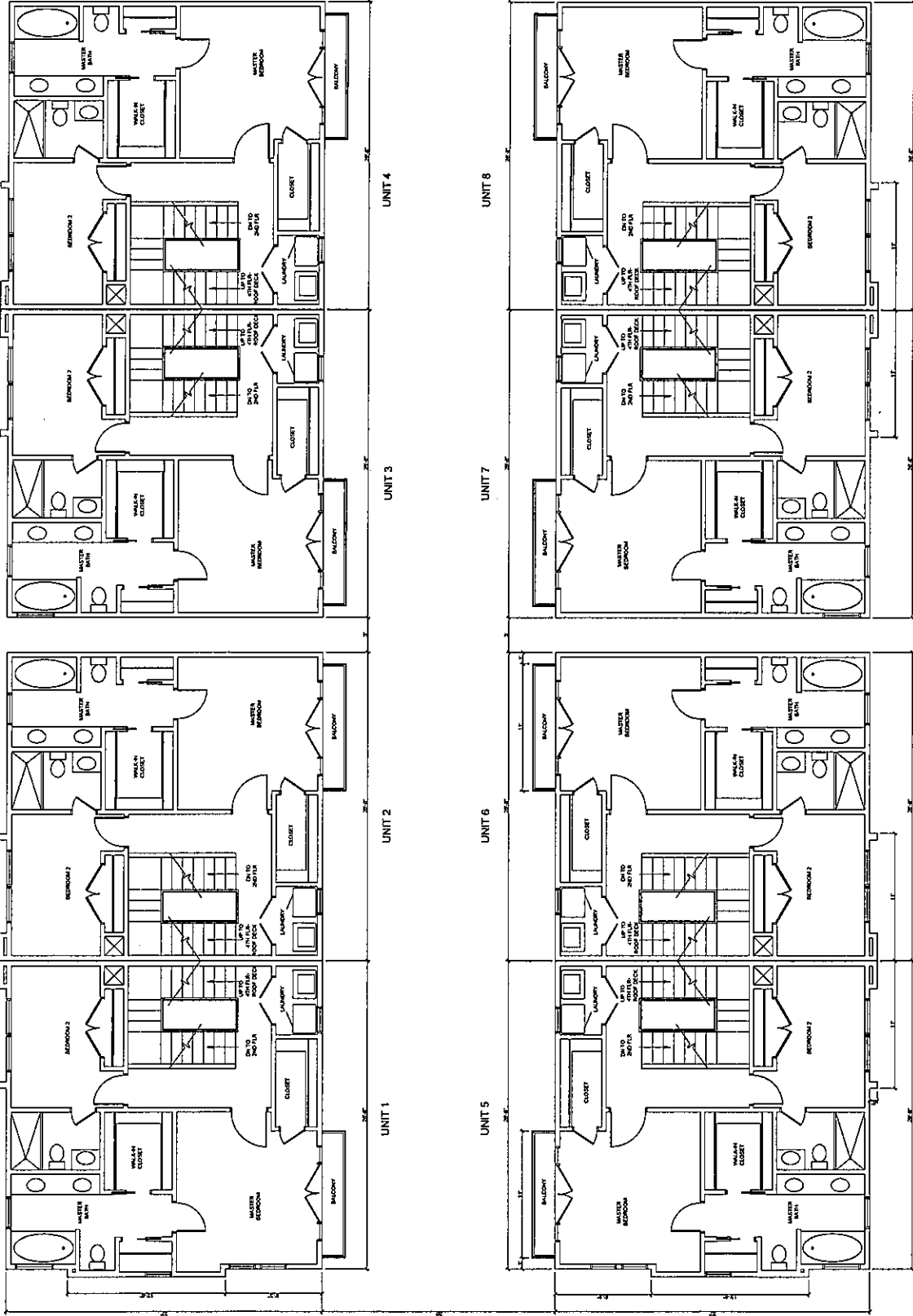
**1** SECOND FLOOR PLAN  
 SCALE: 1/4" = 1'-0"



ISSUE LOG	DESCRIPTION	DATE

T003 NO.  
 SHEET TITLE  
**THIRD FLOOR**

SHEET NO.  
**A1.4**

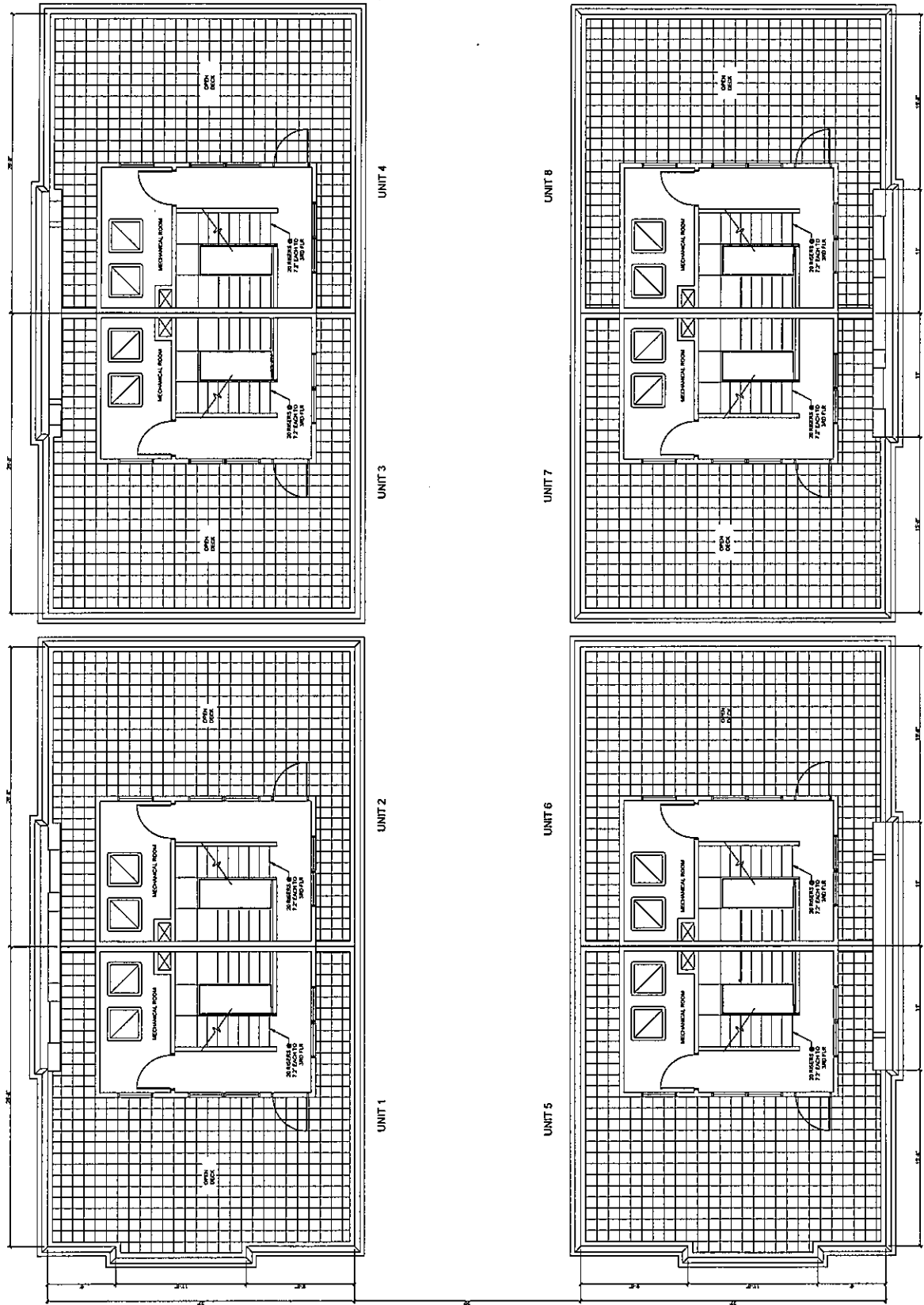


**1** THIRD FLOOR PLAN  
 SCALE: 1/4" = 1'-0"

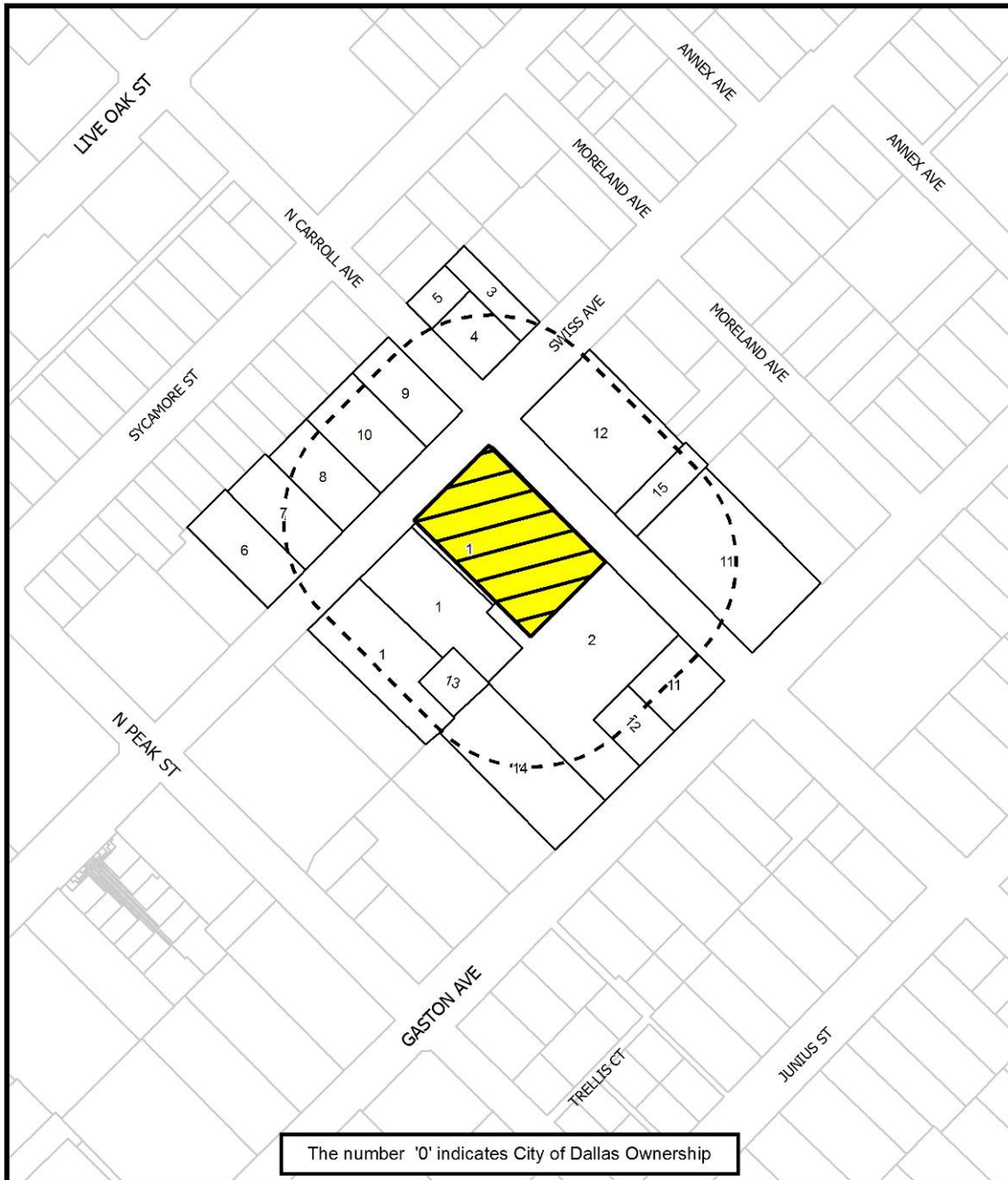
ISSUE	LOC	DESCRIPTION	DATE

JOB NO.  
 SHEET TITLE  
**FOURTH FLR.**

SHEET NO.  
**A1.5**



**1** **FOURTH FLOOR- ROOF PLAN**  
 SCALE: 1/4" = 1'-0"



 1:2,400	<b>NOTIFICATION</b>		Case no: <b>BDA156-027</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;">15</div> NUMBER OF PROPERTY OWNERS NOTIFIED		Date: <b>3/1/2016</b>

## *Notification List of Property Owners*

***BDA156-027***

### *15 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4414 SWISS AVE	MORNINGSIDE PROPERTY CO
2	1015 N CARROLL AVE	PHP CARROLL MOB PARTNERS LP
3	4509 SWISS AVE	YUAN TERRY & MICHAEL
4	4501 SWISS AVE	4501 SWISS AVENUE INC
5	1110 N CARROLL AVE	4501 SWISS AVE INC
6	4321 SWISS AVE	MILLER MARVIN D & CLAUDIA M MILLER
7	4405 SWISS AVE	XAYASENG HIENG
8	4409 SWISS AVE	WALLACE BEN J
9	4425 SWISS AVE	CPP 5X5 TRUST
10	4417 SWISS AVE	BRP 5X5 TRUST
11	4425 GASTON AVE	CHHOR ANNIE LUU
12	4415 GASTON AVE	MDT GASTON LTD
13	4402 SWISS AVE	NTFN INC
14	4403 GASTON AVE	MSC 1 LTD
15	1000 N CARROLL AVE	STANLEY MABLE &