

ZONING BOARD OF ADJUSTMENT, PANEL A
TUESDAY, AUGUST 15, 2017
AGENDA

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

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

MISCELLANEOUS ITEM

Approval of the June 20, 2017 Panel A Public Hearing Minutes	M1
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UNCONTESTED CASES

BDA167-082(JM)	13729 N. Central Expressway REQUEST: Application of John A. Moore, represented by Pov Chin, for a special exception to the landscape regulations and a special exception to the off-street parking regulations	1
BDA167-087(JM)	7504 Westbend Drive REQUEST: Application of James A. Enderby for special exceptions to the fence standards	2
BDA167-092(SL)	5445 La Sierra Drive REQUEST: Application of Robert Baldwin of Baldwin and Associates for a special exception to the off-street parking regulations	3

HOLDOVER CASES

BDA167-049(SL)	8907 Sorrento Street REQUEST: Application of Juan G Trejo for special exceptions to the fence standards and visual obstruction regulations	4
BDA167-072(SL)	7103 Mumford Court REQUEST: Application of Grant Schmidt for a variance to the off-street parking regulations	5

REGULAR CASE

BDA167-086(SL)	10727 Midway Road REQUEST: Application of Robert Baldwin of Baldwin and Associates for variances to the front yard setback and off-street parking regulations	6
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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: BDA162-82(JM)

BUILDING OFFICIAL'S REPORT: Application of John A. Moore, represented by Pov Chin, for a special exception to the landscape regulations and a special exception to the off-street parking regulations at 13729 N. Central Expressway. This property is more fully described as Lot 1.1, Block B/7763, and is zoned MU-3, which requires mandatory landscaping and requires off-street parking to be provided. 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, and to construct and/or maintain a structure for a general merchandise or food store 3500 square feet or less use, and a motor vehicle fueling station use, and provide 6 of the 8 required parking spaces which will require a 2 space special exception to the off-street parking regulations.

LOCATION: 13729 N. Central Expressway

APPLICANT: John A. Moore
Represented by Pov Chin

REQUEST:

The following requests have been made on a site that is developed with a commercial structure including a motor vehicle fueling station:

1. A request for a special exception to the landscape regulations to construct and maintain a structure and provide an alternate landscape plan, not fully meeting the landscape regulations.
2. A request for a special exception to the off-street parking regulations of 2 spaces is made to construct a 1,200 square foot building for a general merchandise or food store 3,500 square feet or less and a motor vehicle fueling station on a site that is currently developed with a motor vehicle fueling station use, and provide 6 of the required 8 off-street parking spaces.

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.

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 (special exception to the landscape regulations):

Approval, subject to the following condition:

- Compliance with the submitted revised 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.

STAFF RECOMMENDATION (special exception to the off-street parking regulations):

Approval, subject to the following condition:

- The special exception of 2 spaces shall automatically and immediately terminate if and when the general merchandise or food store 3,500 square feet or less and motor vehicle fueling station uses are 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:

<u>Site:</u>	MU-3 Mixed Use District
<u>North:</u>	MU-3 Mixed Use District; SUP No. 1818
<u>East:</u>	IR Industrial Research District
<u>South:</u>	IR Industrial Research District
<u>West:</u>	MU-3 Mixed Use District

Land Use:

The subject site is currently a motor vehicle fueling station. To the immediate north is a general merchandise or food store 100,000 square feet or more use. North Central Expressway lies to the east and south with an office use across the expressway. A restaurant without drive-in or drive-through service exists to the west.

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 (special exception to the landscape regulations):

- This request focuses on the new construction of a proposed commercial project on a lot currently developed with a motor vehicle fueling station use, and not fully providing 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 design standards.
- The new construction of a proposed commercial project triggers compliance with Article X landscape regulations. The applicant plans to tear down the existing structure. In order to build a new structure, they must comply with current codes, including landscaping (Article X).
- The proposed revised alternate landscape plan is deficient in the following:
 - a. Design standards – Sec 51A-10.126 – One design standard is provided where two are required. Screening of parking is provided.
- The City of Dallas Chief Arborist states in a memo (see Attachment B) that the request in this case is triggered by the new construction of a commercial project.
- The Chief Arborist listed one factor for consideration:
 - a. The plan calls for the removal of one protected tree adjacent to Mid Park Road.

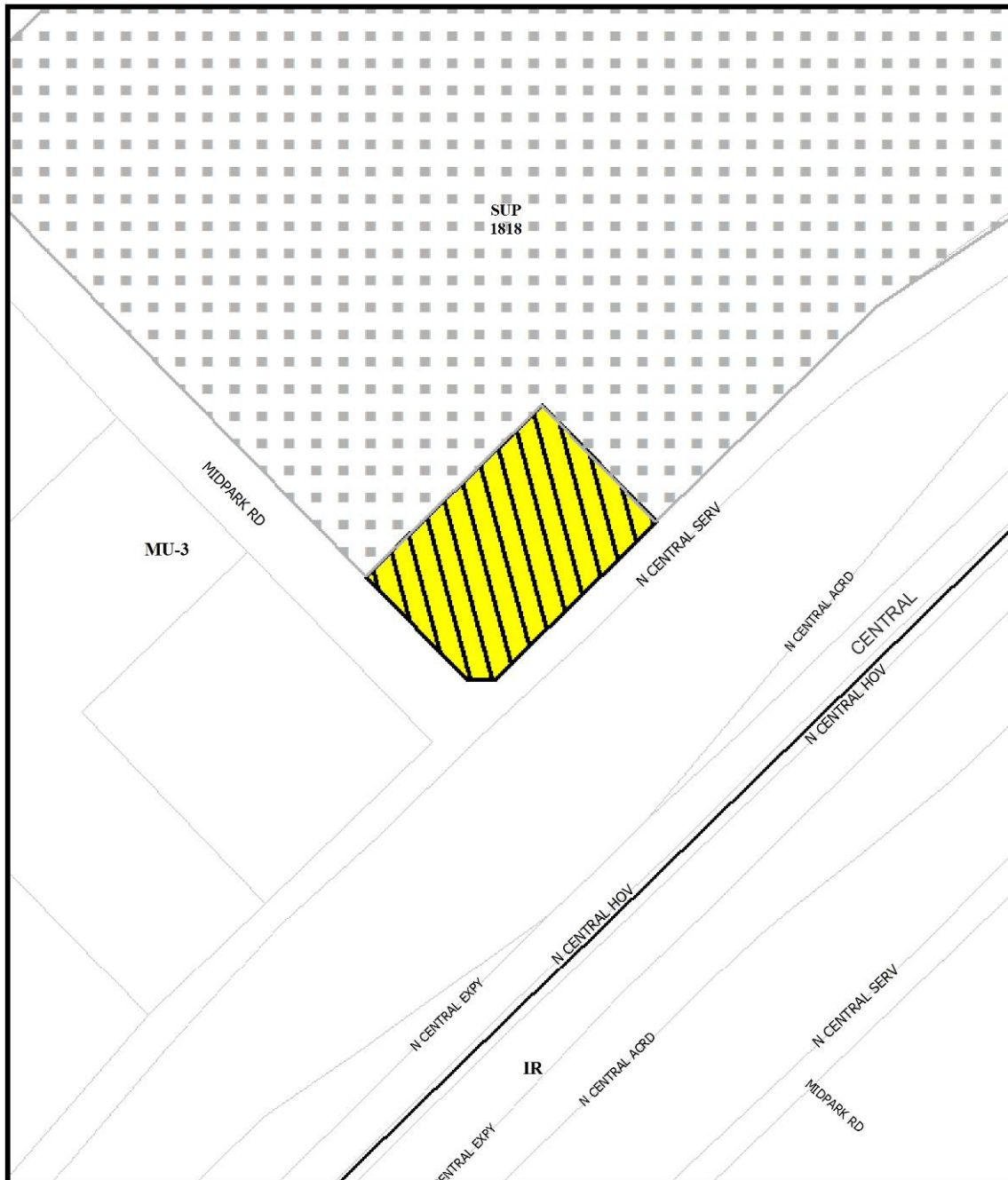
- The chief arborist recommends approval of this revised alternate landscape plan because the special exception would not adversely affect neighboring property.
- The applicant has the burden of proof in establishing the following:
 - The special exception complies with Section 51(A) 10.110.
- If the 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.

GENERAL FACTS/STAFF ANALYSIS (special exception to the off-street parking regulations):

- This request focuses on constructing and maintaining a 1,200 square foot structure for a proposed general merchandise or food store 3,500 square feet or less and motor vehicle fueling station uses on a site that is developed with a motor vehicle fueling station use, and providing 6 of the required 8 off-street parking spaces.
- The Dallas Development Code requires the following off-street parking requirements:
 - General merchandise or food store 3,500 square feet or less use: 1 space per 200 square feet.
 - Motor vehicle fueling station use: 2 spaces
- The Sustainable Development Department Project Engineer has indicated that he has no objections to the request (Attachment A).
- The applicant has the burden of proof in establishing the following:
 - The parking demand expected to be generated by the “general merchandise or food store 3,500 square feet or less and motor vehicle fueling station” uses on the site does not warrant the number of off-street parking spaces required, and
 - The special exception of 2 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 2 spaces shall automatically and immediately terminate if and when the general merchandise or food store 3,500 square feet or less and motor vehicle fueling station uses are changed or discontinued; the applicant would be allowed to construct and maintain the structure on the site with this specific use (“general merchandise or food store 3,500 square feet or less and motor vehicle fueling station”) with the specified square footage, and provide 6 of the 8 code required off-street parking spaces.

TIMELINE:

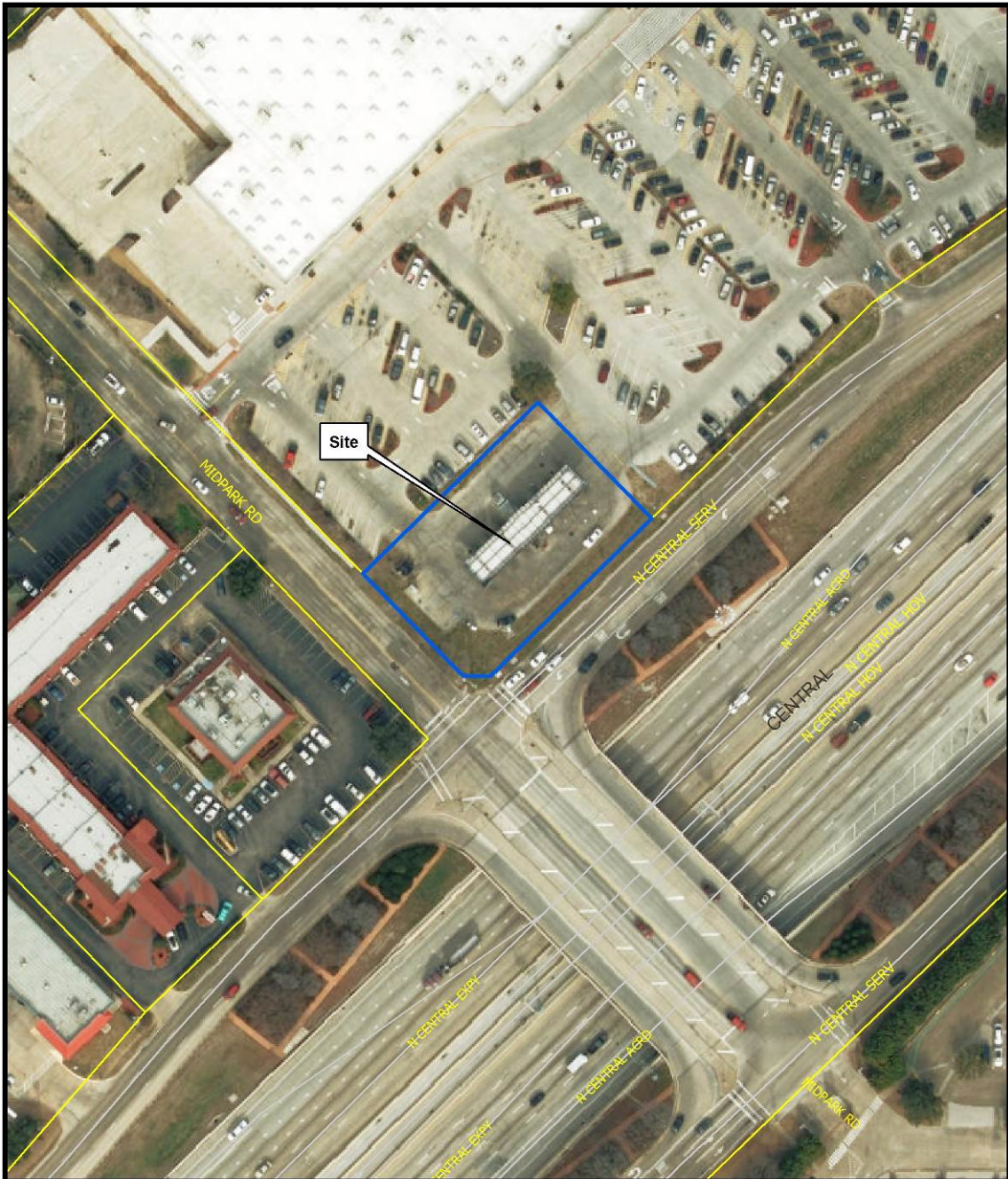
- April 17, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- July 11, 2017: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case".
- July 14, 2017: The Senior Planner emailed the applicant the following information:
- a copy of the application materials including the Building Official's report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th 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."
- August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- August 2, 2017: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections," (see Attachment A).
- August 3, 2017: The City of Dallas Chief Arborist submitted a memo regarding the request for a special exception to the front yard setback regulations of up to 19' 3.5" for tree preservation (see Attachment B).



1:1,200

ZONING MAP

Case no: BDA167-082
 Date: 7/17/2017



1:1,200

AERIAL MAP

Case no: BDA167-082

Date: 7/17/2017

Memorandum



Date August 3, 2017

To Jennifer Munoz, Senior Planner
Steve Long, Board Administrator

Subject BDA #167-082 arborist report – 13729 N Central Expressway

Request

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

Provision

The applicant is creating new floor area for a fueling facility. The plan provides the required number of street trees, site trees, parking lot trees, and one of two required design standards, which includes screening of off-street parking. The plan is a revision of a revised alternate landscape plan approved in November of 2016.

Deficiency

The proposed plan does not provide a second design standard. The applicant has stated enhanced pavements (hardscapes) are not an option because of clear concrete surface preferences.

The plan allows for a wide street buffer along the highway frontage but is reduced to a narrow 3' width along Mid Park Road. Therefore, the street buffer option is not applicable.

Six street trees are shown for the property, including three trees which are in the parkway along Mid Park. However, three new landscape trees are measured at 2.5 inches caliper which does not attain the 3-inch Article X standard. It is not indicated if the off-site parkway trees will need to be removed for sidewalk installation.

Factors

The plan calls for the removal of one protected tree adjacent to Mid Park Road.

Recommendation

The chief arborist recommends approval of the revised alternate landscape plan because the special exception would not adversely affect neighboring property.

Philip Erwin
Chief Arborist
Building Inspection



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-082

Data Relative to Subject Property:

Date: 4-17-17

Location address: 13729 North Central Expressway Zoning District: MU-3

Lot No.: 1.1 Block No.: B/7763 Acreage: 0.537 ac. Census Tract: 192.13

Street Frontage (in Feet): 1) 173 FT 2) 110 FT 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Murphy Oil USA, Inc.

Applicant: John A. Moore, Murphy Oil USA, Inc. Telephone: 870-875-7517

Mailing Address: 200 Peach St., El Dorado, AR Zip Code: 71730

E-mail Address: John.Moore@murphyusa.com

Represented by: Pov Chin, GreenbergFarrow Telephone: 404-601-3673

Mailing Address: 6520 Stage Road, Suite 108, Memphis, TN Zip Code: 38134

E-mail Address: pchin@greenbergfarrow.com

Affirm that an appeal has been made for a Variance __, or Special Exception X, of (A) Landscaping design to allow 1 design requirement of the 2 required and (B) to allow 6 of the 8 parking spaces required. General use of this site is a Convenience store will food and fuel sales with motor vehicle access.

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: (A) Due to the size of the site and limited area, only the parking lot screening requirement can be satisfied, as proposed by the landscape plan. The other design options are not able to be fulfilled because Murphy there is not room for a landscape buffer along all street frontages, and Murphy desires a concrete driving surface instead of enhanced pavement. (B) Due to the limited size and layout of the site to provide proper traffic circulation and separation of activities from each other, only 6 parking spaces can be provided instead of 8 parking spaces as required by code.

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

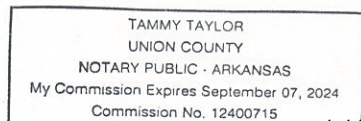
Before me the undersigned on this day personally appeared John A. Moore (Affiant/Applicant's name printed)

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: John A. Moore (Affiant/Applicant's signature)

Subscribed and sworn to before me this 20th day of April, 2017

(Rev. 08-01-11)



Tammy Taylor Notary Public in and for Dallas County, Texas Union Arkansas

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

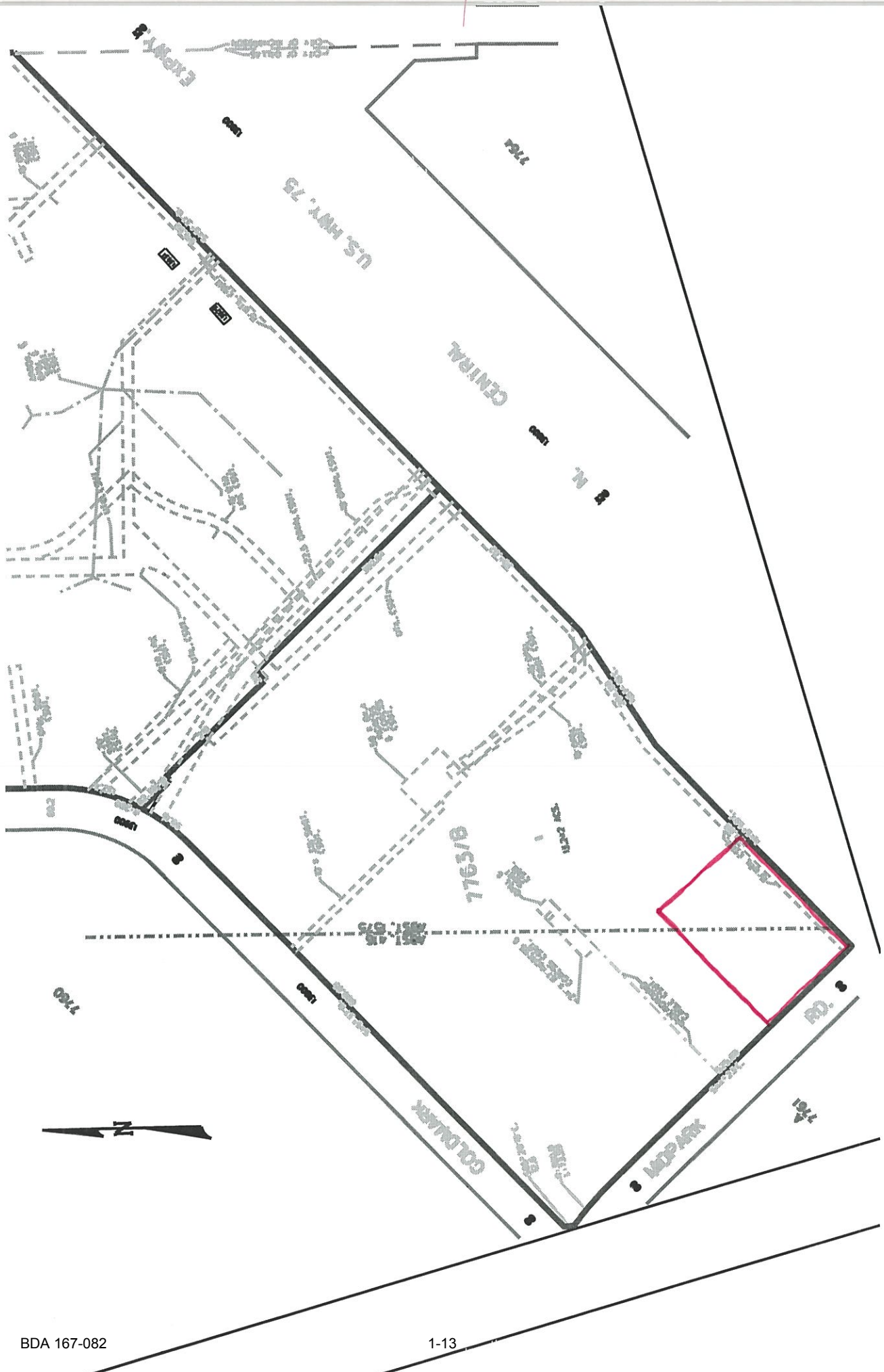
Building Official's Report

I hereby certify that John A. Moore
represented by Pov Chin
did submit a request for a special exception to the landscaping regulations, and for a special
exception to the parking regulations
at 13729 N. Central Expressway

BDA167-082. Application of John A. Moore represented by Pov Chin for a special
exception to the landscaping regulations and a special exception to the parking regulation
at 13729 N. Central Expressway. This property is more fully described as Lot 1.1, Block
B/7763, and is zoned MU-3, which requires mandatory landscaping and requires parking to
be provided. The applicant proposes to construct a nonresidential structure and provide an
alternate landscape plan, which will require a special exception to the landscape regulation
and to construct a nonresidential structure for a general merchandise or food store 3500
square feet or less use, and a motor vehicle fueling station use, and provide 6 of the 8
required parking spaces which will require a 2 space special exception (25% reduction) to
the parking regulation.

Sincerely,


Philip Sikes, Building Official



City of Dallas

Internal Development Research Site

BDA 167-082

Legend

Locate Property

Search by:

GIS Account #

Locate

OR

Street address.

13729 n central

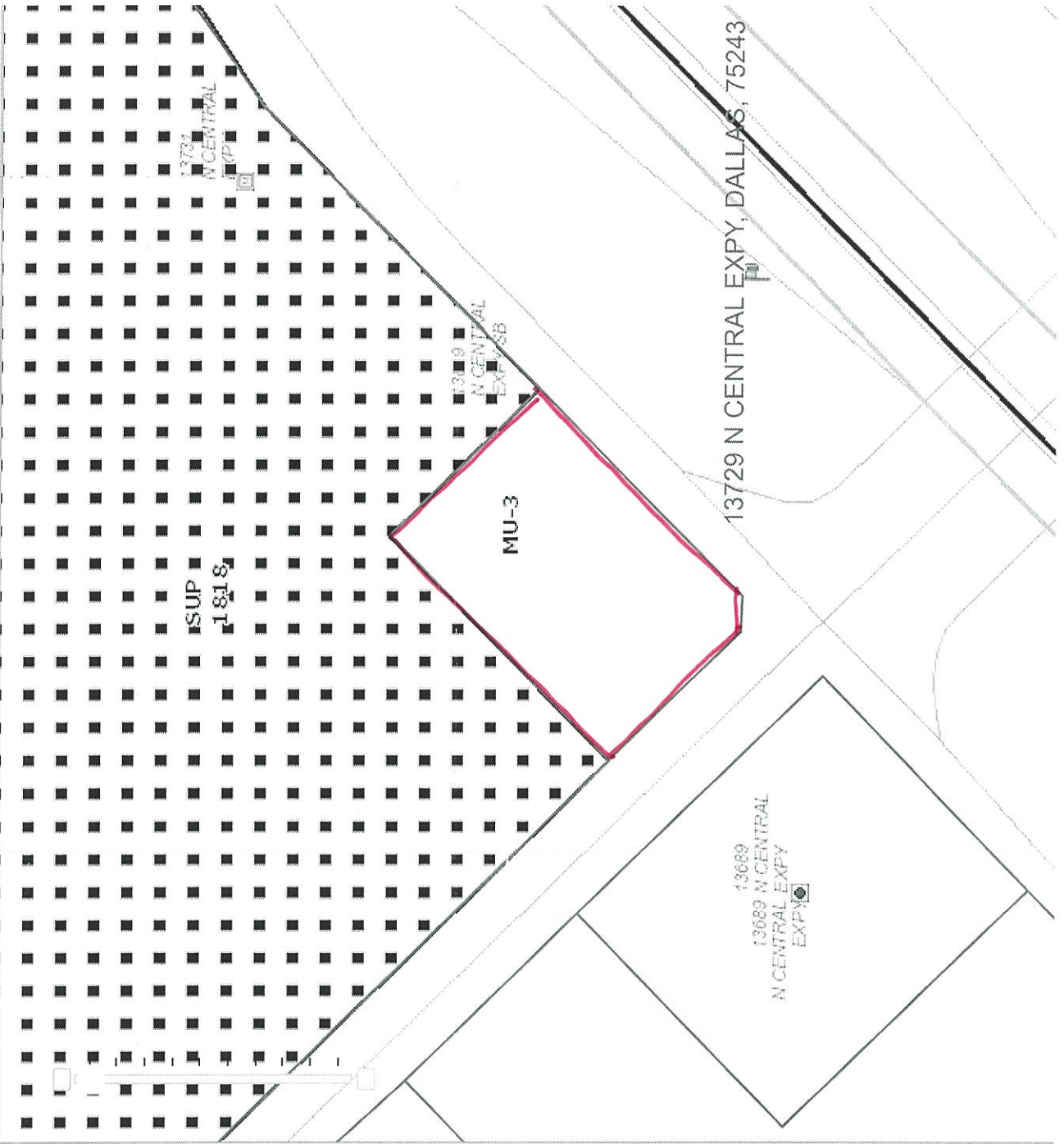
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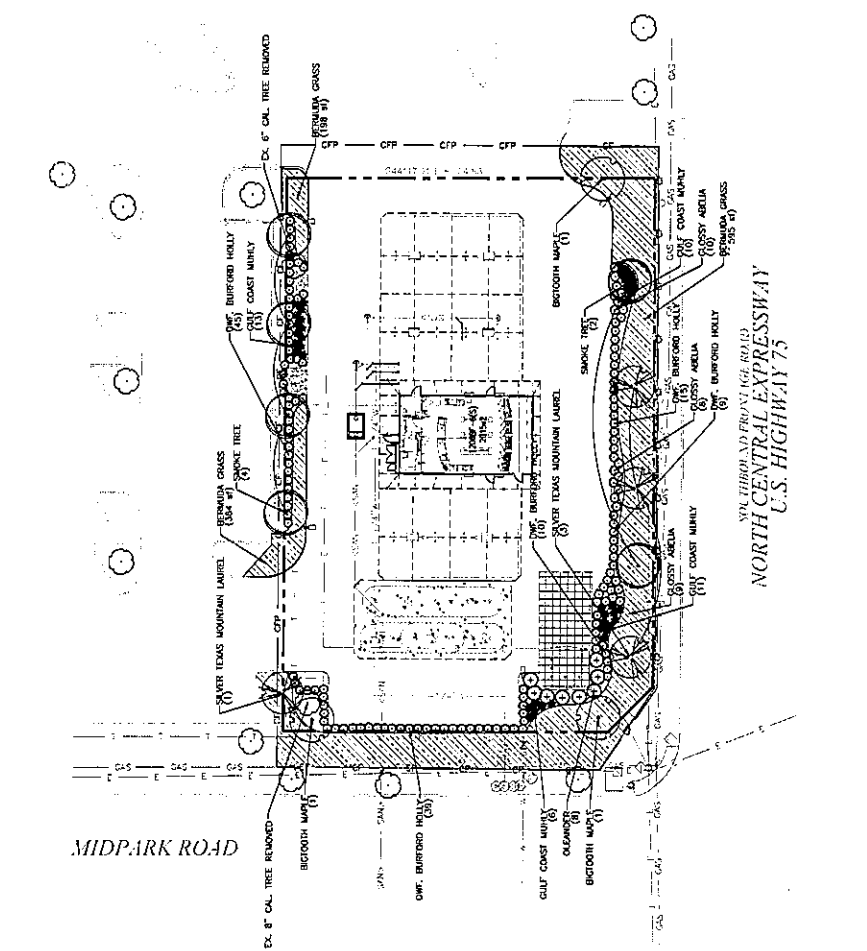
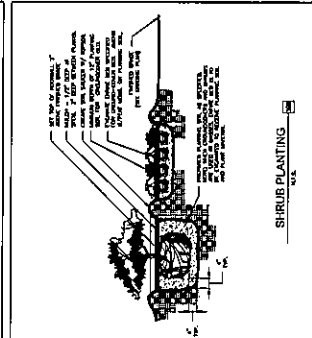
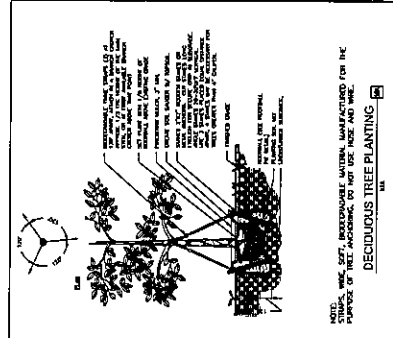
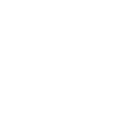
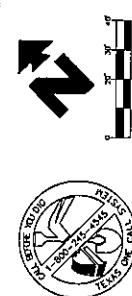
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LEGEND

EXISTING	PROPOSED
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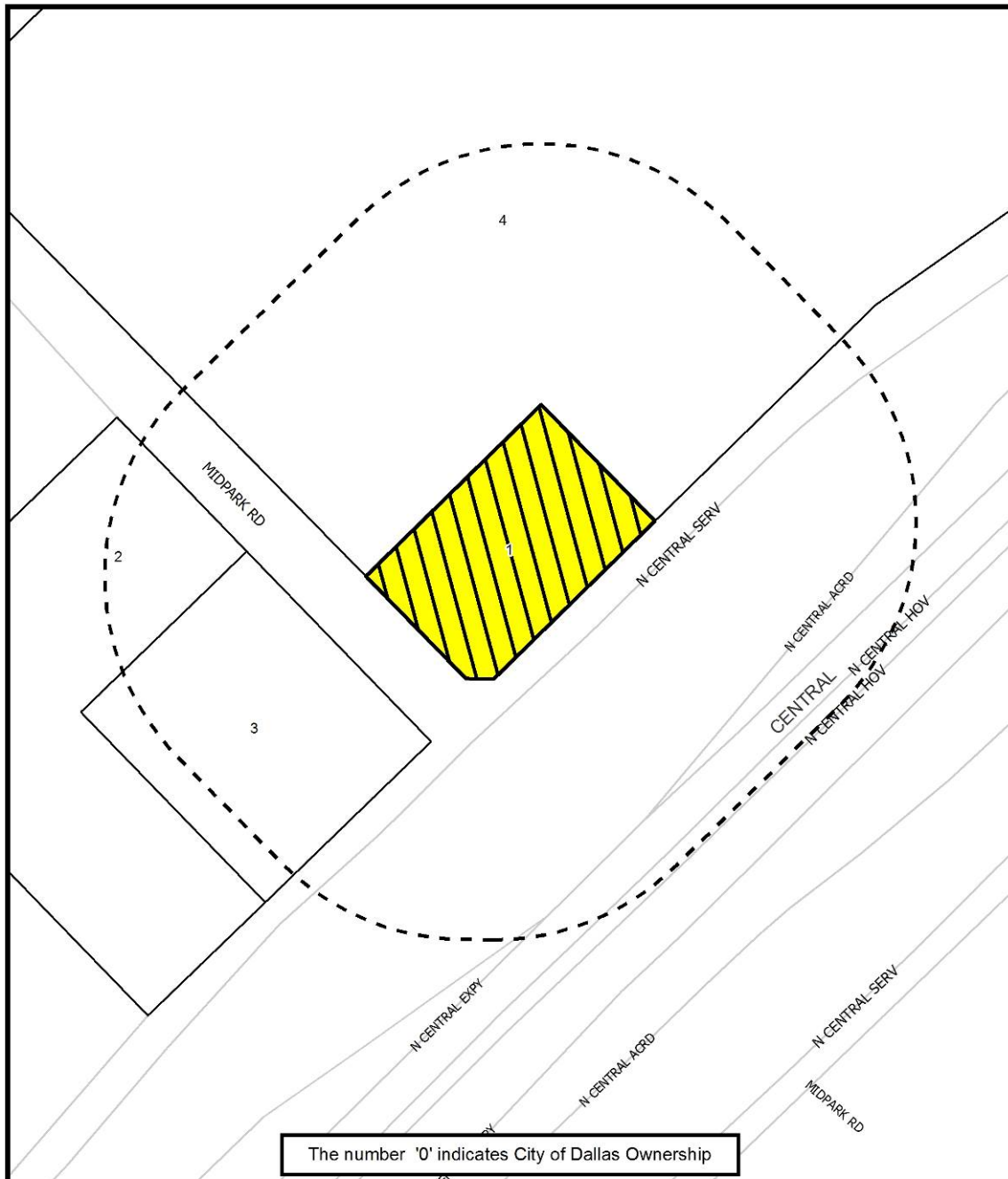


PLANT SCHEDULE

SYMBOL	QTY	BOTANICAL NAME / COMMON NAME	DBH	HT	REMARKS
1	3	Acer grandidentatum / English Maple	4.5 gal	2.5' Tol	10'-12' HT Straight Trunk Well Rooted
2	6	Codinus corymbosa 'Golden Spark' / Smoke Tree	B & B	3' Cal	10'-12' HT Full Well Branched
3	4	Sophora secundiflora 'Silver Siam' TM / Silver Texas Mountain Laurel	B & B	3' Cal	10'-12' HT
4	27	Abelia x grandiflora 'Convent Creek' / Chassy Abelia	7-9 gal	3/8" MIN.	REMARKS: Full Well Rooted
5	118	Ilex cornuta 'Burfordi Nova' / Duff Burford Holly	7-9 gal	3/8" MIN.	Full Well Rooted
6	42	Muhlenbergia capillaris 'Duff Coast' / Duff Coast Muly	1 gal		Full Well Rooted
7	8	Nerium oleander 'Honey Pink' / Oleander	15 gal	8" MIN.	Full Dense Bushy
8	QTY	BOTANICAL NAME / COMMON NAME			REMARKS
9	5,172 sf	Cynodon dactylon 'TIF 419' / Bermuda Grass			Certified Pure, Weed Free

LANDSCAPE CALCULATIONS

REMOVED	PROVIDED
STREET TREES ALONG FRONTAGE - 3' CAL INCH	
CENTRAL DRIVE (INCL. / SW = 5X8 TREES)	4
ADJACENT ROAD (INCL. / SW = 2X3 TREES)	3
SITE TREES IN TREE PER BANK OF LOT AREA (P. CAL INCH)	
2X3W 5' / 1800 SF - 1.6 TREES	6
TREE REMOVAL CALCULATIONS	
TREE REMOVED (UNPROTECTED)	# TREES
P. CAL	1
TREE REMOVED (PROTECTED)	
P. CAL	3
TOTAL CALCULATIONS REMOVED	
TOTAL TREES TO BE MITIGATED = P. ACHIEVED BY INCREASING THE TREE CALIBER FROM 3" TO 4" CAL	8



 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="0"> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center;">4</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	4	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u>BDA167-082</u> Date: <u>7/17/2017</u>
200'	AREA OF NOTIFICATION					
4	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA167-082

4 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	13739 N CENTRAL EXPY	MURPHY OIL USA INC
2	13685 N CENTRAL EXPY	MPH GROUP LLC
3	13689 N CENTRAL EXPY	DMS DENNYS CENTRAL MIDPARK LLC
4	13739 N CENTRAL EXPY	WAL MART REAL ESTATE BUSINESS TRUST

FILE NUMBER: BDA167-087(JM)

BUILDING OFFICIAL'S REPORT: Application of James A. Enderby for special exceptions to the fence standards at 7504 Westbend Drive. This property is more fully described as Lot 20, Block D/8140, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires a fence panel with a surface area that is less than 50 percent open may not be located less than 5 feet from the front lot line. The applicant proposes to construct and/or maintain an 8 foot 2 inch high fence in a required front yard, which will require a 4 foot 2 inch special exception to the fence standards, and to construct and/or maintain fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line, which will require a special exception to the fence standards.

LOCATION: 7504 Westbend Drive

APPLICANT: James A. Enderby

REQUEST:

The following requests for special exceptions to the fence standards have been made on a site that is developed with a single family home:

- 1) A special exception related to fence height of 4' 2" is made to complete and maintain a fence higher than 4' in height in the front yard setback (a fence with a 2' retaining wall base and 6' 2" solid horizontal wooden slats—total height of 8' 2");); and
- 2) A special exception related to fence materials is made to complete and maintain a fence with panels with surface areas that are less than 50 percent open (the aforementioned fence type) located as close as on the front lot line (or less than 5' from this front lot line).

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single family district 7,500 square feet)
North: R-7.5(A) (Single family district 7,500 square feet)
South: R-7.5(A) (Single family district 7,500 square feet)
East: R-7.5(A) (Single family district 7,500 square feet)
West: R-7.5(A) (Single family district 7,500 square feet)

Land Use:

The subject site is developed with a single family home. The areas to the north, east, south, 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:

- The requests for special exceptions to the fence standards focus on completing and maintaining: 1) a fence higher than 4' in height in the front yard setback (a fence with a 2' retaining wall base and 6' 2" solid horizontal wooden slats—total height of 8' 2"); and, 2) a fence with panels with surface areas that are less than 50 percent open (the aforementioned fence type) located as close as on the front lot line (or less than 5' from this front lot line).
- The subject site is zoned R-7.5(A).
- Note the following with regard to the request for special exceptions to the fence standards pertaining to the **height** of the proposed fence in the front yard setback:
 - The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
 - The applicant has submitted a site plan and elevation of the proposal in the front yard setback with notations indicating that the proposal reaches a maximum height of 8' 2".
 - The following additional information was gleaned from the submitted site plan:

- The proposal over 4' in height is represented as being approximately 15' to the west, parallel to Westbend Drive; 75' at the south, parallel to Fairglen Drive; 23' at the southeast corner of the alley and Fairglen Drive; and, parallel to the alleyway for 10'—all within the front yard setback.
- Note the following with regard to the request for special exception to the fence standards pertaining to the **location and materials** of the proposed fence:
 - The Dallas Development Code states that in single family districts, a fence panel with a surface area that is less than 50 percent open may not be located less than five feet from the front lot line.
 - With regard to the special exception to the fence standards pertaining to the location and materials of the proposed fence, the applicant has submitted a site plan and elevation of the fence with fence panels with surface areas that are less than 50 percent open (a fence with a 2' retaining wall base and 6' 2" solid horizontal wooden slats—total height of 8' 2") located as close as on the front lot line (or less than 5' from this front lot line).
- The Board Senior Planner conducted a field visit of the site and surrounding area within the same block facing Westbend Drive, Fairglen Drive, Mapleglen Drive, and Arborgate Street and noted **no other fences** that appeared to be above 4' in height and located in a front yard setback.
- As of August 4, 2017, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exceptions to the fence standards related to height over 4' in the front yard setback and materials/height/location of the proposed fence will not adversely affect neighboring property.
- Granting these special exceptions with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the front yard setback and with fence panels with surface areas less than 50 percent open located less than 5' from the front lot line to be constructed and maintained in the location and of the heights and materials as shown on these documents.

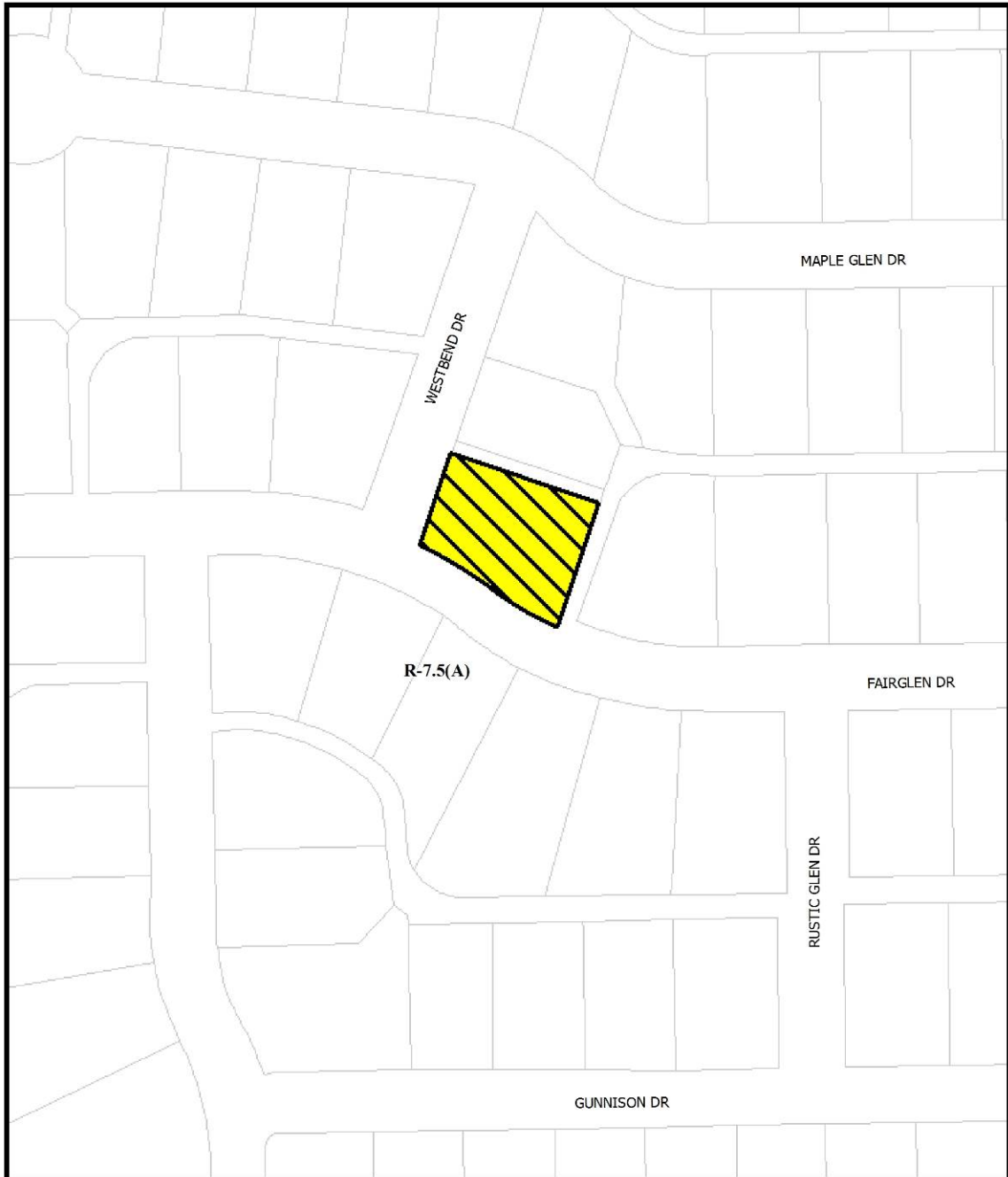
Timeline:

- June 6, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- July 11, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- July 14, 2017: The Board Administrator emailed the following information to the applicant's representative:

- 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 July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th 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."

August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

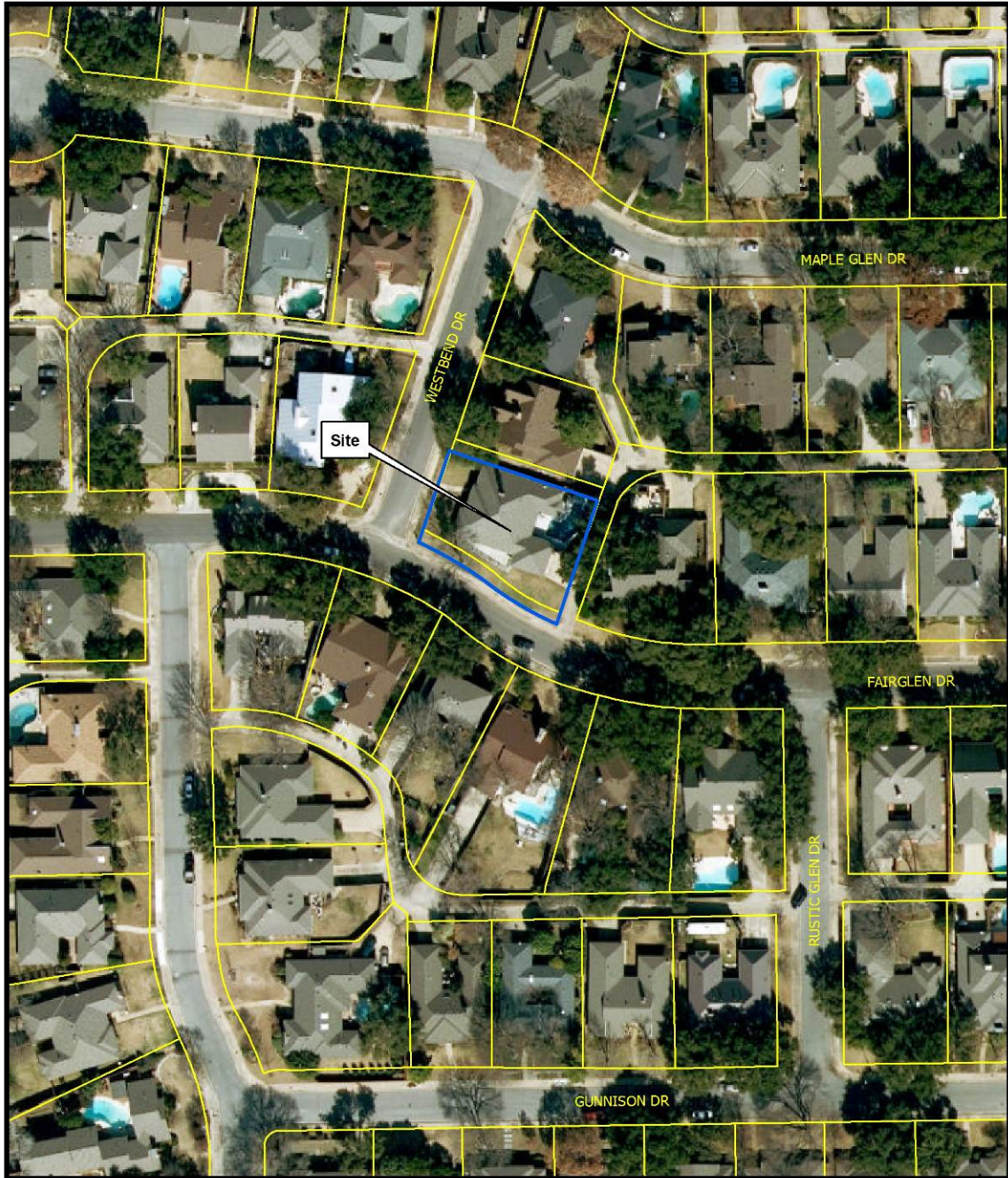


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ZONING MAP

Case no: BDA167-087

Date: 7/17/2017



1:1,200

AERIAL MAP

Case no: BDA167-087

Date: 7/17/2017



APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-087

Data Relative to Subject Property:

Date: 6-6-17

Location address: 7504 Westbend Dr. Zoning District: R-7.5(A)

Lot No.: 20 Block No.: D/8140 Acreage: .24 Census Tract: 78.24

Street Frontage (in Feet): 1) 74' 2) 120' 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): James A. Enderby and Lindsey S. Enderby

Applicant: James A. Enderby Telephone: (214) 803-6163

Mailing Address: 7504 Westbend Dr., Dallas, TX Zip Code: 75231

E-mail Address: jenderby@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 4'2" to a fence in a front yard, and fence panel within 5' of lot line less than 50% open panel surface 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:

Our side yard currently is considered a front yard but serves as a side yard. Building a fence down the south side of our property would have no adverse effect within our neighborhood as several other corner lots have their side yard fenced in. Furthermore, we have visited with several neighbors who have no objection to a fence being built. Last, this would be a very nice fence and help improve property value which is beneficial to the neighborhood.

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

Affidavit

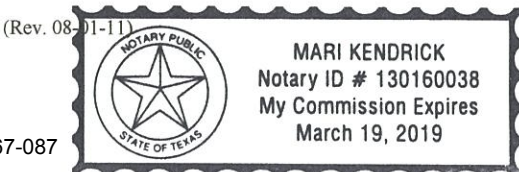
Before me the undersigned on this day personally appeared James A. Enderby (Affiant/Applicant's name printed)

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 01 day of June, 2017

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



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that James Enderby

did submit a request for a special exception to the fence height regulations, and for a special exception to the fence regulations at 7504 Westbend Drive

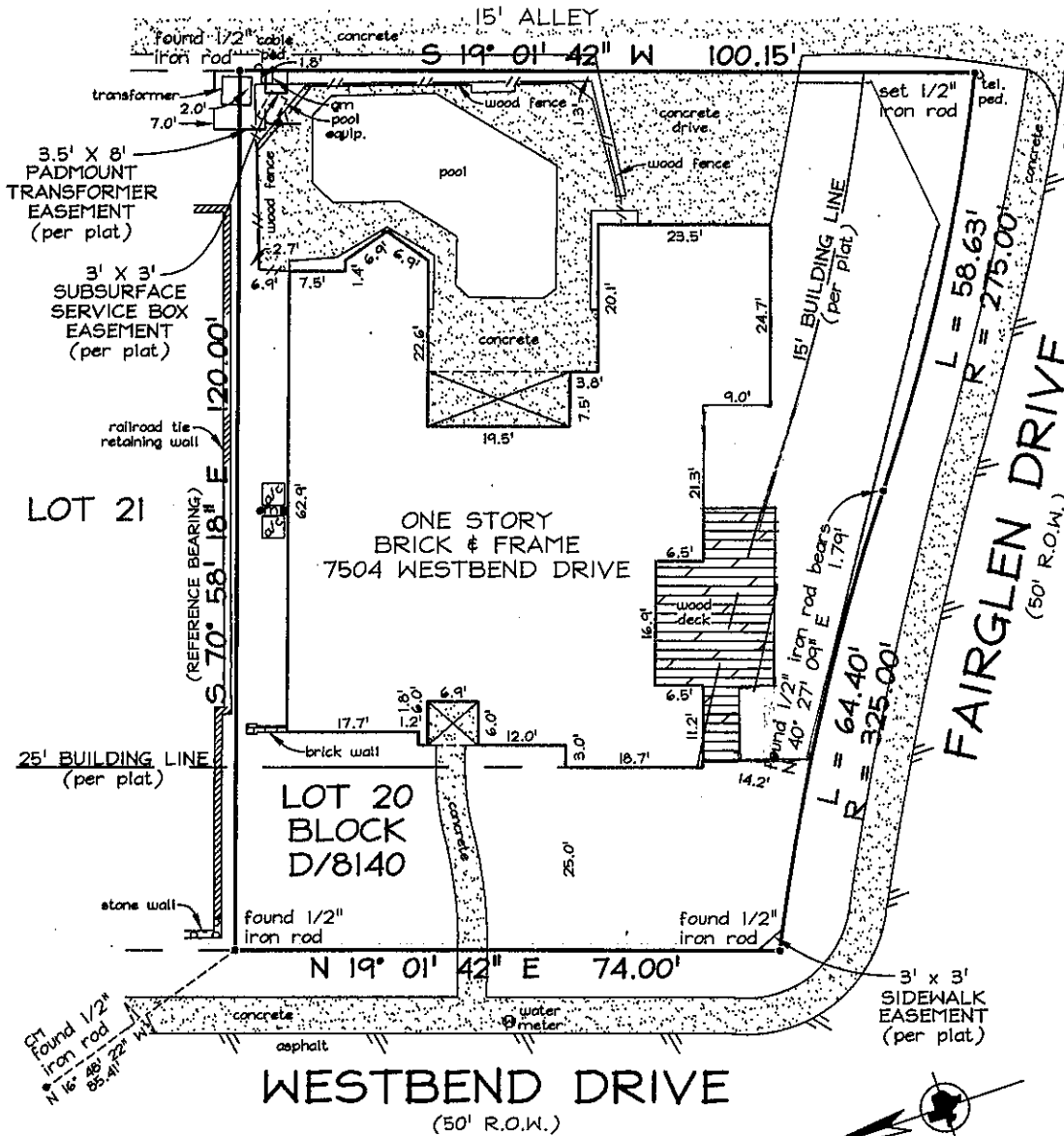
BDA167-087. Application of James Enderby for special exceptions to the fence regulations at 7504 Westbend Drive. This property is more fully described as Lot 20, Block D/8140, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires a fence panel with a surface area that is less than 50 percent open may not be located less than 5 feet from the front lot line. The applicant proposes to construct an 8 foot 2 inch high fence in a required front yard, which will require a 4 foot 2 inch special exception to the fence regulation, and to construct a fence in a required front yard with a fence panel having less than 50 percent open surface area located less than 5 feet from the front lot line which will require a special exception to the fence regulation.

Sincerely,

Philip Sikes
Philip Sikes, Building Official

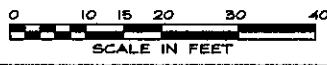


Jan



THIS PROPERTY IS AFFECTED BY THE FOLLOWING:
 (10h)-AGREEMENT, VOL 77118, PG. 1496, R.P.R.D.C.T.
 HOUSE EXTENDS BEYOND 15' BUILDING LINE AS SHOWN ABOVE.

NOTES:
 CM = CONTROLLING MONUMENT.
 BEARINGS ARE BASED ON THE RECORDED PLAT REFERENCED BELOW.
 THIS SURVEY IS VALID ONLY WITH ORIGINAL SIGNATURE IN BLACK INK.



THIS IS TO DECLARE that on this date a survey was made on the ground, under my direction and supervision of the property located at 7604 WESTBEND DRIVE, and Being Lot 20, Block D/8140, of High Meadows No. 2, an Addition to the City of Dallas, Texas, according to the Map thereof recorded in Volume 77059, Page 1597, of the Map Records of Dallas County, Texas, together with Certificate of Correction dated April 20, 1977, recorded in Volume 77090, Page 1426, and dated June 23, 1977, recorded in Volume 77123, Page 2797, of the Deed Records of Dallas County, Texas.

The subject property does not appear to lie within the limits of a 100-year flood hazard zone according to the map published by the Federal Emergency Management Agency, and has a Zone "X" Rating as shown by Map No. 48113C0215 J, dated AUGUST 23, 2001. The statement that the property does or does not lie within a 100-year flood zone is not to be taken as a representation that the property will or will not flood. This survey is not to be used for construction purposes and is for the exclusive use of the hereon named purchaser, mortgage company, and title company only and this survey is made pursuant to that one certain title commitment under the GF number shown hereon, provided by the title company named hereon and that on this date the easements, rights-of-way or other locatable matters of record of which the undersigned has knowledge or has been advised are as shown or noted hereon. This survey is subject to any and all covenants and restrictions of record pertaining to the recorded plat.

DATE: _____
 ACCEPTED BY: _____



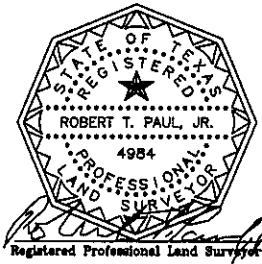
BDA 167-087

DATE: 04/10/12
 FIELD DATE: 04/09/12
 REVISED: _____

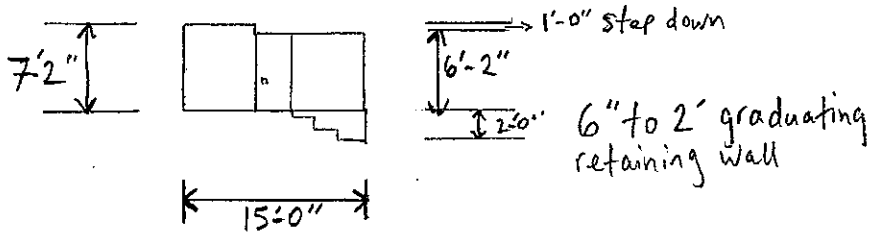
TECH: WTH FIELD: WV
 JOB NO: 112-0924



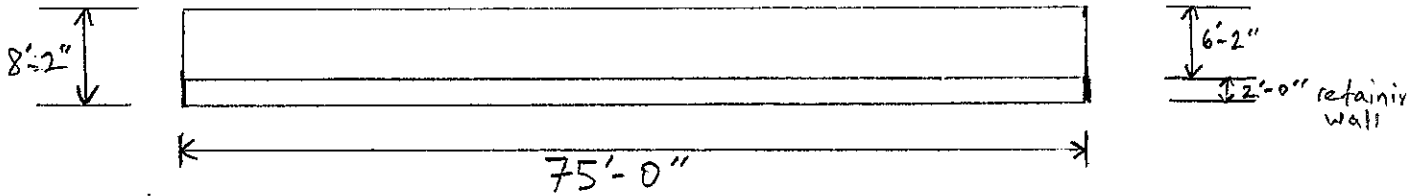
GF NO. 123244
 MAPSCO NO 2-27-J
 LEGACY TEXAS TITLE



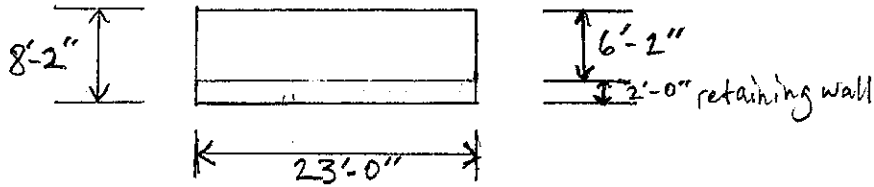
Front Elevation



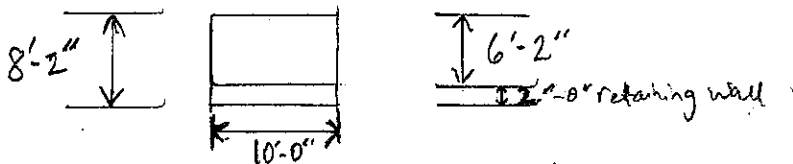
South Elevation (side)



Southeast Elevation (side to back)



Back Elevation (alley)



KEY

1/16" = 1'-0"



 1:1,200	NOTIFICATION		Case no: BDA167-087
	<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;">22</div> NUMBER OF PROPERTY OWNERS NOTIFIED		Date: 7/17/2017

Notification List of Property Owners

BDA167-087

22 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	7504 WESTBEND DR	ENDERBY JAMES A & LINDSEY S FAMILY TRUST
2	9026 MAPLE GLEN DR	LUCZYCKI DENNIS J &
3	9030 MAPLE GLEN DR	LAINSON THOMAS E &
4	9029 FAIRGLEN DR	BLETTNER DOUGLAS A &
5	9025 FAIRGLEN DR	PORTER JAMES H
6	7428 CROFTON DR	AVERYT JERRY W &
7	8924 FAIRGLEN DR	WOMACK JAMES R & SARAH W
8	8926 FAIRGLEN DR	RUFFNER MATTHEW E & SARAH C
9	8928 FAIRGLEN DR	HENNEBERGER DWIGHT &
10	9006 FAIRGLEN DR	AMAN MATTHEW T & KRISTA HOLYFIELD
11	9010 FAIRGLEN DR	ODDY DEBORAH
12	9014 FAIRGLEN DR	BEZUCHA ROBERT H &
13	9021 FAIRGLEN DR	MILLER W CRAIG
14	7510 WESTBEND DR	TAYLOR BRYAN & JENNIFER
15	7514 WESTBEND DR	HOWELL DOUGLAS A
16	9020 MAPLE GLEN DR	BATTLE WILLIAM D &
17	8922 MAPLE GLEN DR	MCCONNELL ADAM & LAURA
18	8916 MAPLE GLEN DR	STAFFORD JOHN T
19	8912 MAPLE GLEN DR	MARSHALL PEGGY
20	8909 FAIRGLEN DR	SAMUEL JAMES H &
21	8915 FAIRGLEN DR	HERSEY CAROLYN M
22	8919 FAIRGLEN DR	UTTER JAMES DAVID

FILE NUMBER: BDA167-092(SL)

BUILDING OFFICIAL'S REPORT: Application of Robert Baldwin of Baldwin and Associates for a special exception to the off-street parking regulations at 5445 La Sierra Drive. This property is more fully described as Lot 3A, Block A/5461, and is zoned GO(A), which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure for an office use and a medical clinic or ambulatory surgical center use, and provide 175 of the required 221 off-street parking spaces, which will require a 46 space special exception to the off-street parking regulations.

LOCATION: 5445 La Sierra Drive

APPLICANT: Robert Baldwin of Baldwin and Associates

REQUEST:

A request for a special exception to the off-street parking regulations of 46 spaces is made to occupy and lease an existing multi-story structure on the subject site (some of which is vacant) with office and medical clinic or ambulatory surgical center uses, and provide 175 (or 79 percent) of the 221 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 46 spaces shall automatically and immediately terminate if and when the office and medical clinic or ambulatory surgical center uses are changed or discontinued.

Rationale:

- The Sustainable Development Department Assistant Director of Engineering indicated that he has no objections to the applicant's request.

BACKGROUND INFORMATION:

Zoning:

Site: GO(A) (General office)
North: GO(A) (General office)
South: NO(A) (Neighborhood office)
East: MF-4(A) (Multifamily)
West: GO(A) (General office)

Land Use:

The subject site is developed with an existing approximately 58,500 square foot multi-story structure. The areas to the north, south, and west are developed with office use; and the area to the east is developed with a multifamily use.

Zoning/BDA History:

1. BDA123-096, Property at 5444 La Sierra Drive (the property south of the subject site)

On October 22, 2013, the Board of Adjustment Panel A granted a request for a special exception to the off-street parking regulations of 7 spaces and imposed the following condition: That the fence on the site is of open metal/iron material; and 2) That visibility triangles remain open on the sit The special exception of 7 off street parking spaces automatically and immediately terminates if and when the medical clinic or ambulatory surgical center use is changed or discontinued.

The case report stated that the request was made in conjunction with leasing and maintaining an existing approximately 6,800 square foot vacant structure with medical clinic or ambulatory surgical center use and providing 27 (or 79 percent) of the 34 required off-street parking spaces).

GENERAL FACTS/STAFF ANALYSIS:

- This request for a special exception to the off-street parking regulations of 46 spaces focuses on occupying and leasing an existing multi-story structure on the subject site (some of which is vacant) with office and medical clinic or ambulatory surgical center uses, and providing 175 (or 79 percent) of the 221 required off-street parking spaces.

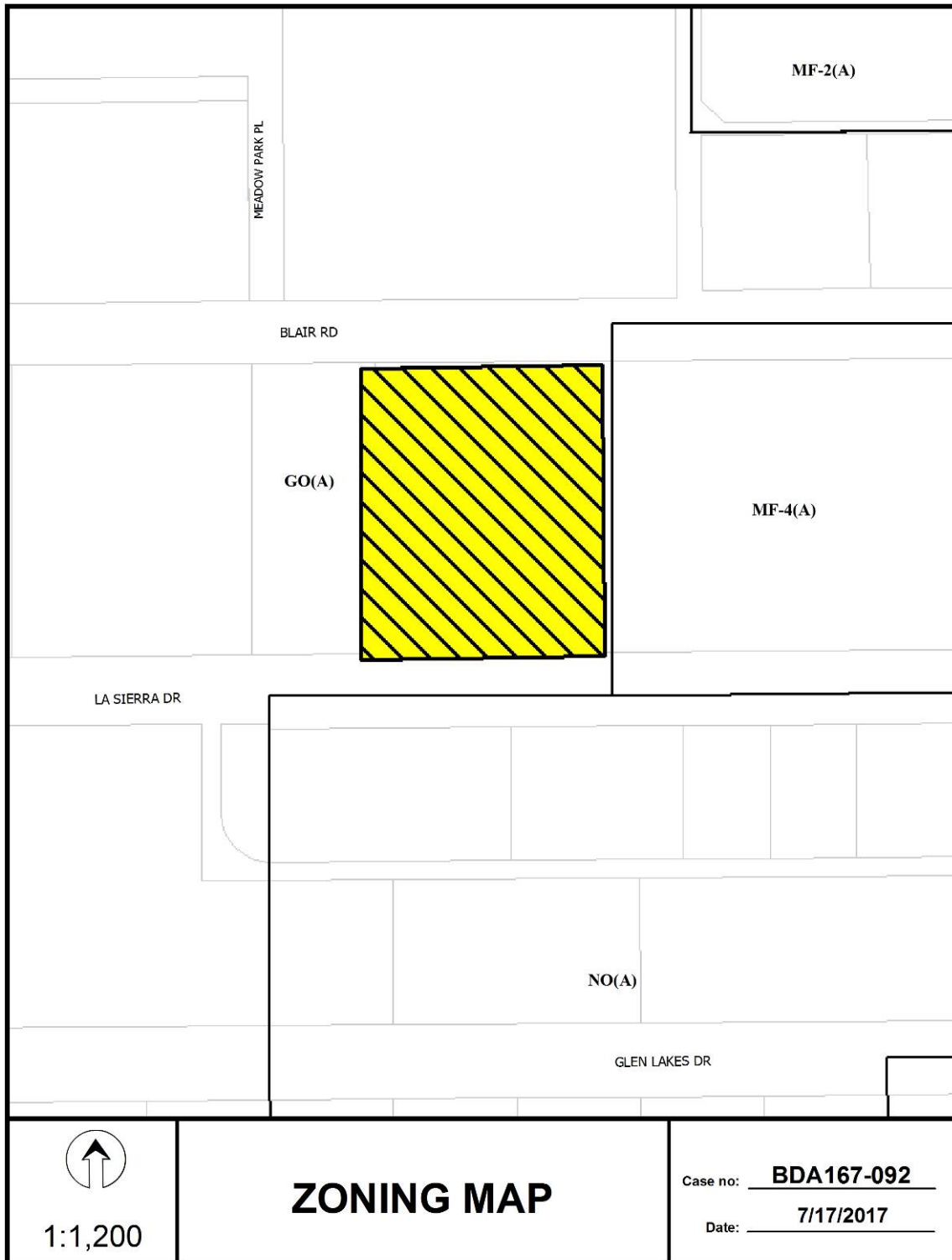
- The Dallas Development Code requires the following off-street parking requirement:
 - Medical clinic or ambulatory surgical center use: 1 space per 200 square feet of floor area.
 - Office use: 1 space per 333 square feet of floor area.
- The applicant has submitted a study that states among other things that the existing building on the subject site is currently 43 percent vacant, and that the projected peak parking demand based upon industry-published parking demand rates at project peak conditions at full occupancy is 175 spaces.
- The Sustainable Development Department Assistant Director of Engineering has submitted a review comment sheet marked “Has no objections.”
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the “office” and “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 46 spaces (or a 21 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 46 spaces shall automatically and immediately terminate if and when the office and medical clinic uses are changed or discontinued, the applicant could occupy and lease the existing multi-story structure on the subject site with office and medical clinic or ambulatory surgical center uses, and provide 175 (or 79 percent) of the 221 required off-street parking spaces.

Timeline:

- June 15, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- July 11, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- July 11, 2017: 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 July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th 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.”

August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

August 2, 2017: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."



1:1,200

ZONING MAP

Case no: BDA167-092

Date: 7/17/2017





APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-092

Data Relative to Subject Property:

Date: June 15 2017

Location address: 5445 La Sierra Drive Zoning District: GO(A)

Lot No.: 3A Block No.: A/5461 Acreage: 1.045 acres Census Tract: 78.22

Street Frontage (in Feet): 1) 192 ft 2) 192 ft 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Dallas La Sierra Group, LLC

Applicant: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Represented by: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance __, or Special Exception X, of 46 spaces (20.8% reduction) to the off-street parking regulations for office and medical office uses From the 221 spc's req'd.

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 proposed mix of office and medical office uses does not warrant the full number of off-street parking spaces required. The property has vacant suites and intends to add additional medical office uses. The property has frontage on two local streets with on-street parking available and within 1,200 feet walking distance to the Walnut Hill DART rail station, but the existing sidewalks are not the minimum 6 ft width to qualify for an administrative parking reduction.

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.

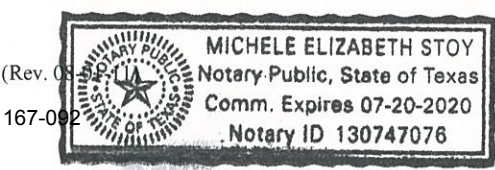
Affidavit

Before me the undersigned on this day personally appeared Robert Baldwin
(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 15 day of June, 2017



Michele Elizabeth Stoy
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

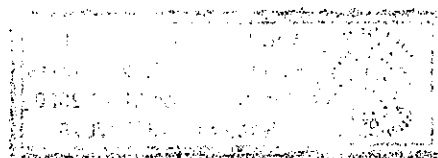
I hereby certify that Robert Baldwin

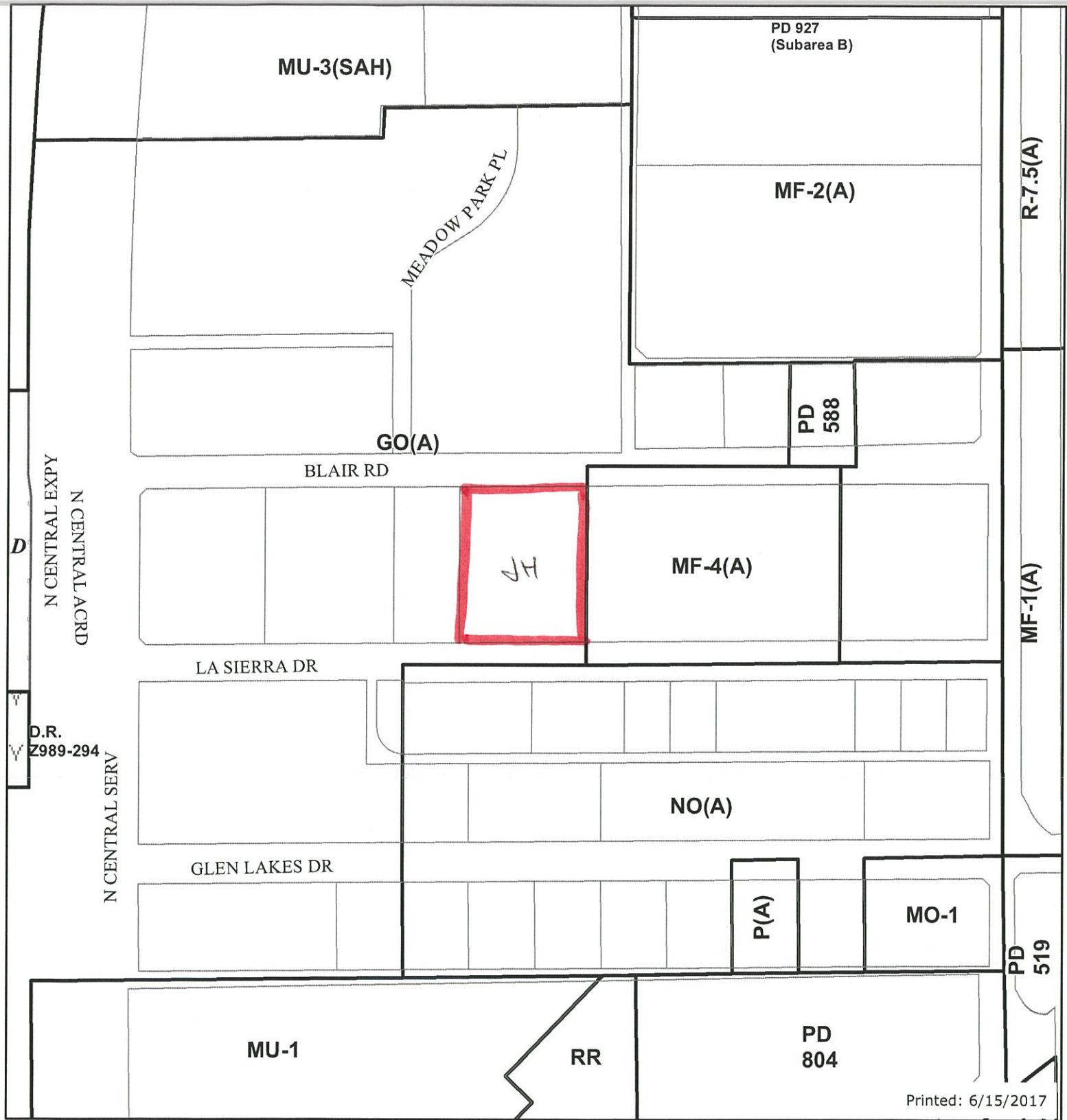
did submit a request for a special exception to the parking regulations
at 5445 La Sierra Drive

BDA167-092. Application of Robert Baldwin for a special exception to the parking regulations at 5445 La Sierra Drive. This property is more fully described as Lot 3A, Block A/5461, and is zoned GO(A), which requires parking to be provided. The applicant proposes to construct a nonresidential structure for an office use and a medical clinic or ambulatory surgical center use, and provide 175 of the required 221 parking spaces, which will require a 46 space special exception (20.8% reduction) to the parking regulation.

Sincerely,

Philip Sikes
Philip Sikes, Building Official





Printed: 6/15/2017

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 | SPD Overlay | MD Overlay | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions | Historic Subdistricts | Parking Management Overlay |
| Parks | Height Map Overlay | Historic Overlay | 3-10 Front Overlay |

BDA 167-092-SUP

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)



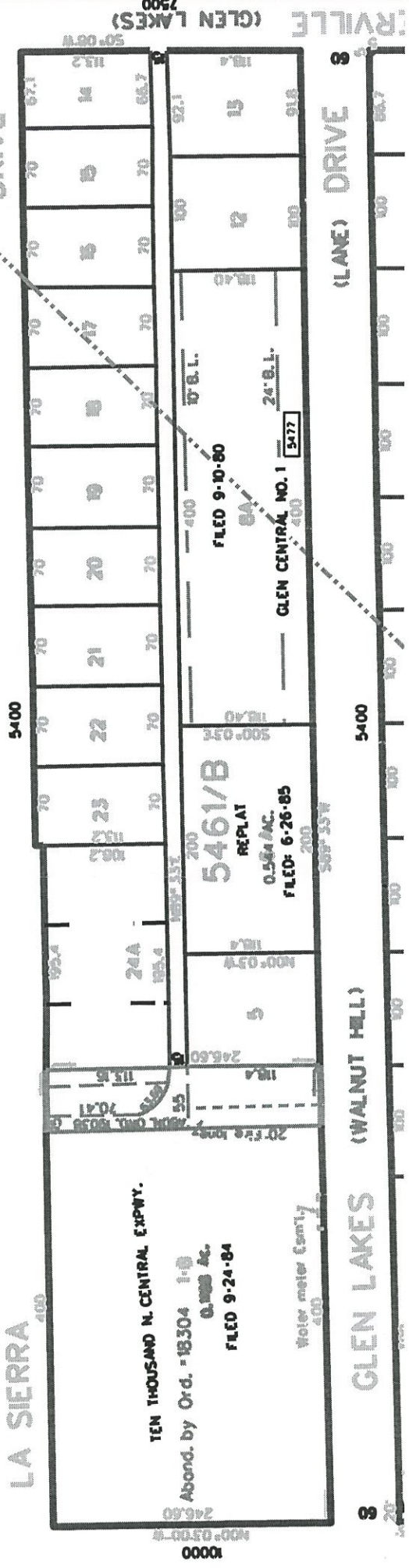
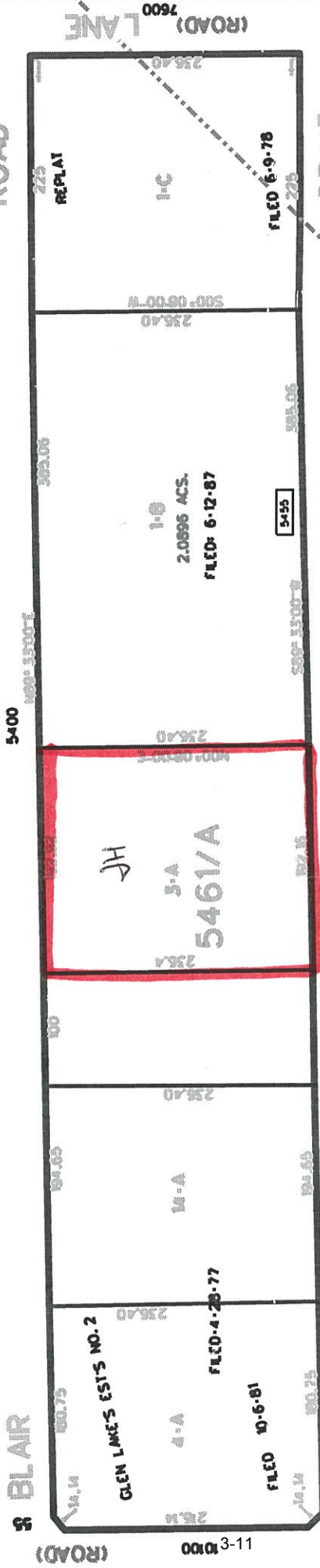
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(SUBLEY) (SUBDIV) (ADDITION) (ACRES)

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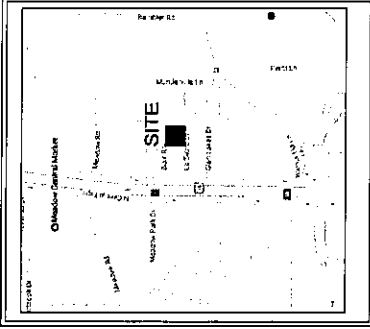


CITY OF DALLAS, TEXAS
5445 LA SIERRA

Baldwin
Associates

BALDWIN
ASSOCIATES
3904 Elm Street, Suite B
Dallas, Texas 75226
OFFICE: 214.729.7949
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rob@baldwinplanning.com

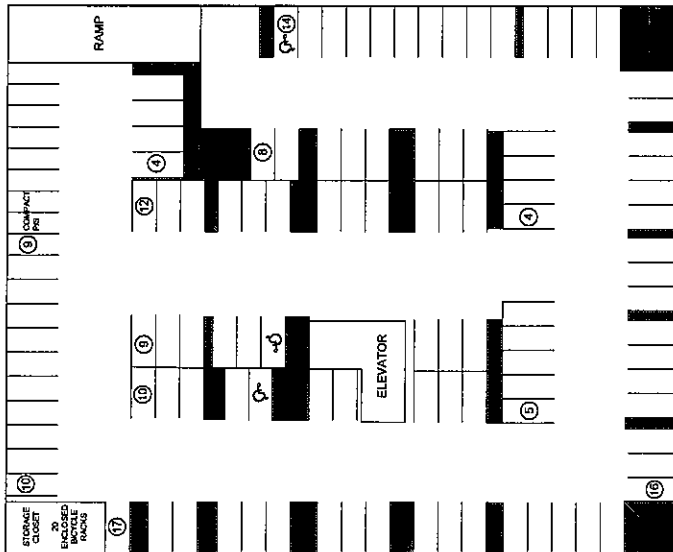
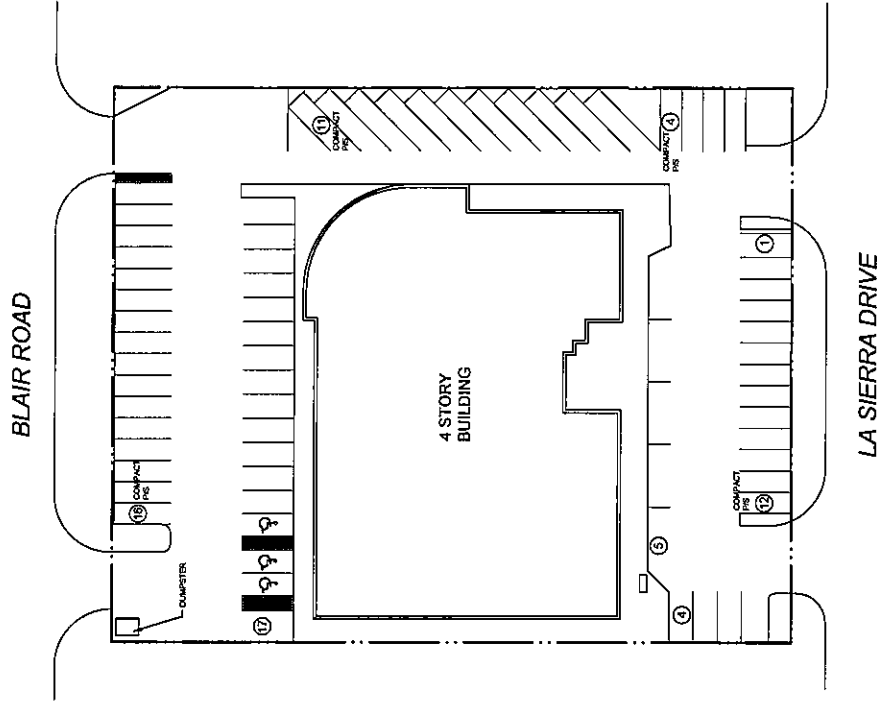
06/08/2017



VICINITY MAP
NTS



PARKING PROVIDED: 179 P/S



1 BOA PARKING/SITE PLAN EXHIBIT
SCALE: 1" = 20'-0"



June 13, 2017

PK# 2290-17.175

PARKING DEMAND ANALYSIS

Project:

5445 La Sierra Drive

In Dallas, Texas

Prepared for:

City of Dallas

On behalf of:

Dallas La Sierra Group, LLC

Prepared by:

Steve E. Stoner

Steve E. Stoner, P.E., PTOE



7557 Rambler Road, Suite 1400
Dallas, Texas 75231-2388
(972) 235-3031 www.pkce.com
TX. REG: ENGINEERING FIRM F-14439
TX. REG. SURVEYING FIRM LS-10193805-00

PARKING DEMAND ANALYSIS
5445 La Sierra Drive
Dallas, Texas

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PARKING SPECIAL EXCEPTION CONSIDERATIONS..... 6

APPENDIX: ON-SITE PARKING ACCUMULATION

LIST OF EXHIBITS:

- Exhibit 1. Site Location Map
- Exhibit 2. Proposed Parking Plan

LIST OF TABLES:

- Table 1. Development Program Summary
- Table 2. Base Code Parking Requirement
- Table 3. Projected Peak Parking Generation Summary Based Upon
Published Data
- Table 4. Parking Analysis Summary

INTRODUCTION

The services of **Pacheco Koch (PK)** were retained by **Dallas La Sierra Group, LLC** to conduct a Parking Demand Analysis (PDA) for the existing office development located at 5445 La Sierra Drive in Dallas, Texas. A site location map (**Exhibit 1**) and a site parking plan provided by **Baldwin Associates (Exhibit 2)** are provided at the end of this report.

Dallas La Sierra Group, LLC is seeking to convert all currently-vacant leasable space from general office use to medical office use. Since the parking requirement for medical office use is higher than that for traditional office use, the property's code parking requirement would increase. Based upon existing utilization of the on-site parking supply, the Owner is seeking a reduction in the parking requirement via a Special Exception to the standard parking requirement. Special Exceptions require approval by the City of Dallas Board of Adjustments.

Submittal of a PDA, prepared by a skilled professional is one of the requirements of the City's process. This PDA was prepared in accordance with industry and local standards by registered professional engineers employed by Pacheco Koch. Pacheco Koch is a licensed engineering firm based in Dallas, Texas, that provides professional services in traffic engineering, transportation planning, parking analysis, and related fields.

Purpose

A PDA is an investigation of actual and/or published parking demand characteristics for a specific site with specific land use(s). The analysis is designed to take into consideration any site-specific factors that may affect parking demand. Therefore, the results presented in this analysis may not apply to other examples of the same land use.

Parking demand is theoretically represented by local zoning ordinances. However, in many cases, these ordinances are overly-simplified and/or over-generalized and do not sufficiently reflect actual parking needs. The purpose of this PDA is to compare the actual parking needs with the corresponding code requirements to illustrate the differences and provide justification for a potential reduction in the code parking requirement for the property.

Project Description

Based upon development program data provided by Owner representatives, the existing building contains approximately 52,837 square feet of leasable area. (The gross building area is assumed to be 58,493 square feet based upon data from the Dallas Central Appraisal District website). **Table 1** provides a summary of the existing and proposed building occupancy by land use.

Table 1. Development Program Summary

USE	CURRENT OCCUPANCY	PROPOSED OCCUPANCY
Office, General	27,483 SF*	27,483 SF*
Medical Office	2,687 SF*	25,354 SF*
Vacancy	22,667 SF*	0 SF
Common Area	5,656 SF	5,656 SF
TOTAL	58,493 SF**	58,493 SF**

NOTE: The development program provided above is based upon the most current and complete information available at the time of this study publication.

* Obtained from Owner representatives.

** Obtained from Dallas County Central Appraisal District data.

Based upon the parking plan provided by **Baldwin Associates**, shown in **Exhibit 2**, the site has an available parking supply of 179 on-site parking spaces (including 70 on-grade and 109 underground). Twenty (20), proposed, Class II bicycle parking spaces are also proposed. Pursuant to Section 51A-4.314 of the Dallas Development Code, the code parking requirement may be reduced by one space for each four Class II bicycle spaces (with a minimum of 20 Class II bicycle spaces).

PARKING CODE REVIEW

The study site is currently zoned GO(A) for general office uses. Parking requirements for Office Uses are outlined in Section 51A-4.207 of the Dallas Development Code. Specifically:

- *General Office* uses require 1 parking space per 333 square feet of floor area, and
- *Medical Clinic or Ambulatory Surgical Center* uses (includes medical office) require 1 parking space per 200 square feet of floor area.

A summary of the resulting net parking requirements for existing and proposed scenarios are summarized in **Table 2**.

Table 2. Base Code Parking Requirement

LAND USE	EXISTING CONDITIONS		PROPOSED CONDITIONS	
	Amount and Ratio	Spaces Required	Amount and Ratio	Spaces Required
Office, General	55,806 SF* @ 1 per 333 SF	167.6	33,139 SF* @ 1 per 333 SF	99.5
Medical Office	2,687 SF @ 1 per 200 SF	13.4	25,354 SF @ 1 per 200 SF	126.8
SUBTOTAL PARKING SPACES REQUIRED	--	181.0	--	226.3
BICYCLE PARKING REDUCTION	--	--	--	-5
TOTAL PARKING SPACES REQUIRED	--	--	--	221

* Includes common area and all vacancies.

The Client is seeking a Parking Special Exception based upon a parking supply of 175 spaces. For this scenario, the site will have a code deficiency of forty-six (46) parking spaces. Therefore, the Special Exception request would be for 46 parking spaces, or 20.8% of the required spaces.

NOTE: Pursuant to Section 51A-4.313 of the Dallas Development Code, 'Office Uses' and certain other uses that are within 1,200 feet of a rail station platform, are eligible for an 'Administrative Parking Reduction' of up to 20% if those properties are connected by a six-foot-minimum sidewalk and are not within 600 feet of a single-family or duplex residential district. While the subject site is within the prescribed distance of the DART Walnut Hill Light Rail Station, portions of the existing sidewalk between the site and the rail platform are less than six feet. Hence, the site is not eligible for the Administrative Parking Reduction.

PARKING DEMAND ANALYSIS

Submittal of a Parking Demand Analysis is required as part of the review process for the Parking Special Exception. The Staff review of the analysis are provided to the Board of Adjustment for consideration.

Approach

To validate the requested parking reduction, parking demand for the subject site was evaluated based upon published parking demand data from industry sources. The resulting data point was then compared to the base code parking requirement to provide the basis for the proposed Parking Special Exception.

PARKING SPECIAL EXCEPTION CONSIDERATIONS

A Special Exception to the code parking requirement for the property located at 5445 La Sierra Drive is requested from the City of Dallas Board of Adjustments. Based upon the findings of this analysis, the proposed parking supply of 190 spaces will be sufficient to serve the peak parking needs of the subject site at full occupancy under the proposed conditions, and the reduction of 31 required parking spaces is warranted.

Pursuant to Section 51A-4.311(a)(2) of the Dallas Development Code, the Board of Adjustment shall consider the following factors in determining whether to grant a Special Exception for parking demand:

- (A) *The extent to which the parking spaces provided will be remote, shared, or packed.*

The proposed condition does not rely on remote, shared, or packed parking.

- (B) *The parking demand and trip generation characteristics of all uses for which the special exception is requested.*

Based upon the parking demand analysis provided herein, the parking characteristics of the proposed uses will be satisfied by the proposed, on-site parking supply. Trip generation of all proposed uses are consistent with the land uses allowed under the current zoning classification.

- (C) *Whether or not the subject property or any property in the general area is part of a modified delta overlay district.*

The subject property and surrounding properties are not part of a modified delta overlay district.

- (D) *The current and probably future capacities of adjacent and nearby streets based upon the city's thoroughfare plan.*

All designated thoroughfares in the vicinity of the subject site, including Walnut Hill Lane, Meadow Road, and Greenville Avenue, are constructed to their respective, ultimate cross-section and operate below capacity.

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

The site is located within 900 feet (approximately 1,200 feet walking distance) of the DART Walnut Hill Light Rail Station, and within 750 feet of two DART Bus Routes (502 and 506). It is likely that some portion of site generated trips will be conducted via transit, which would commensurately reduce parking demand.

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

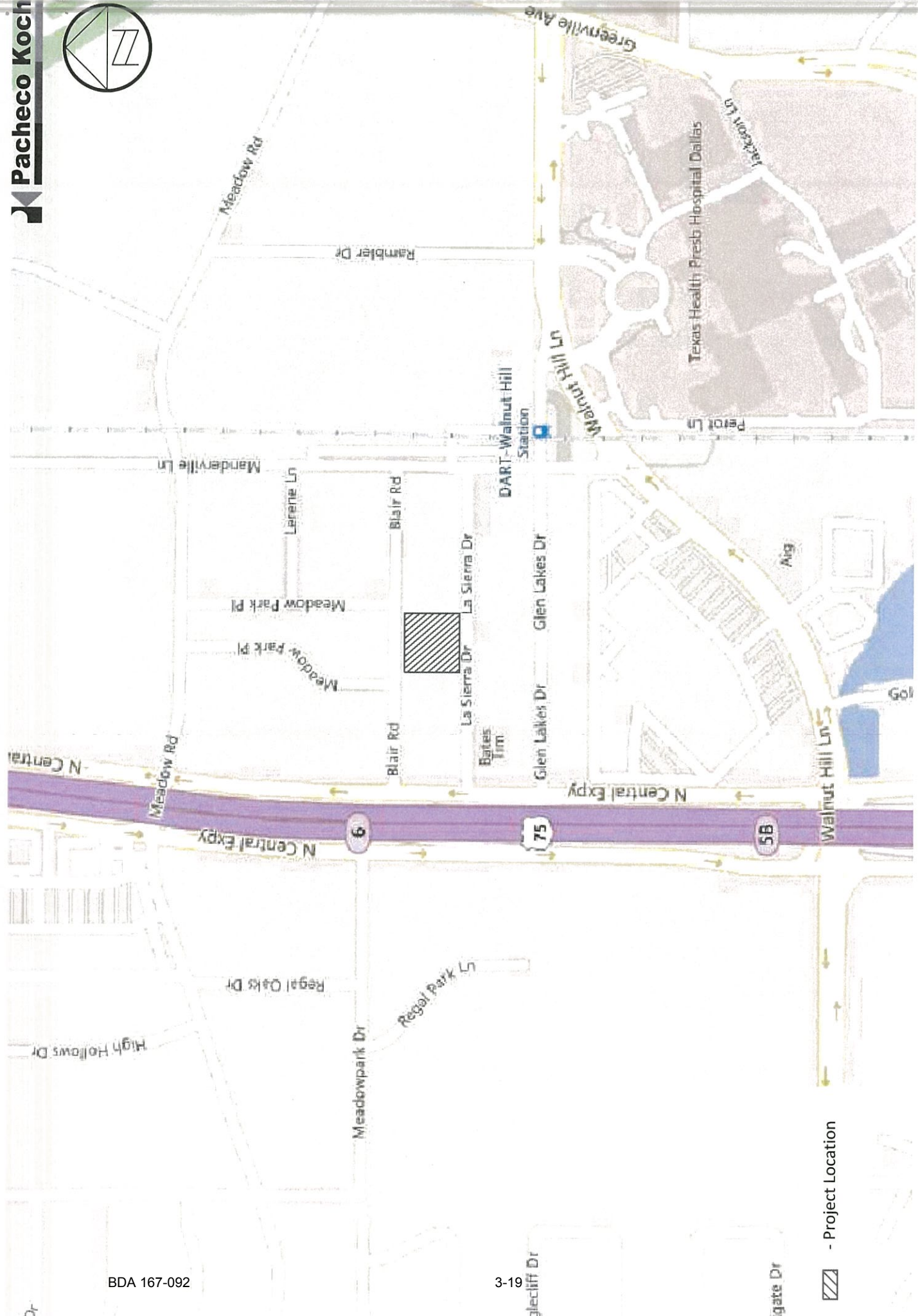
The property provides dedicated parking for building tenants and visitors. In the unlikely event that parking mitigation is needed, on-site property management is available to manage, enforce, and/or create parking policies as needed. On-street public parking is also available on the adjacent streets immediately north and south of the building on La Sierra Drive and Blair Road.

END OF SECTION



BDA 167-092

3-19

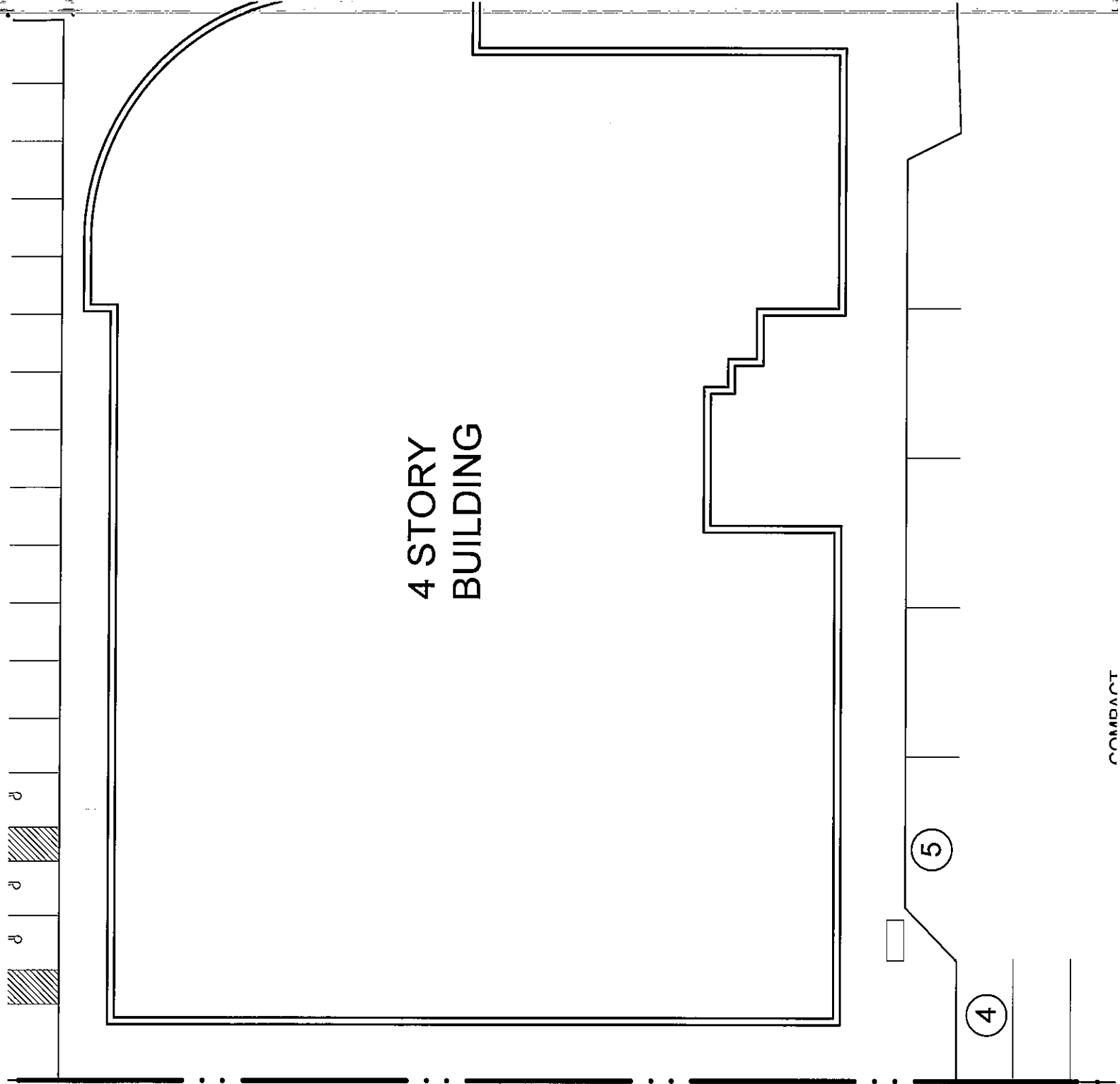


▨ - Project Location

Site Location Map

5445 La Sierra Drive, Dallas, Texas

PK #2290-17.175 (HWL: 05/26/17)



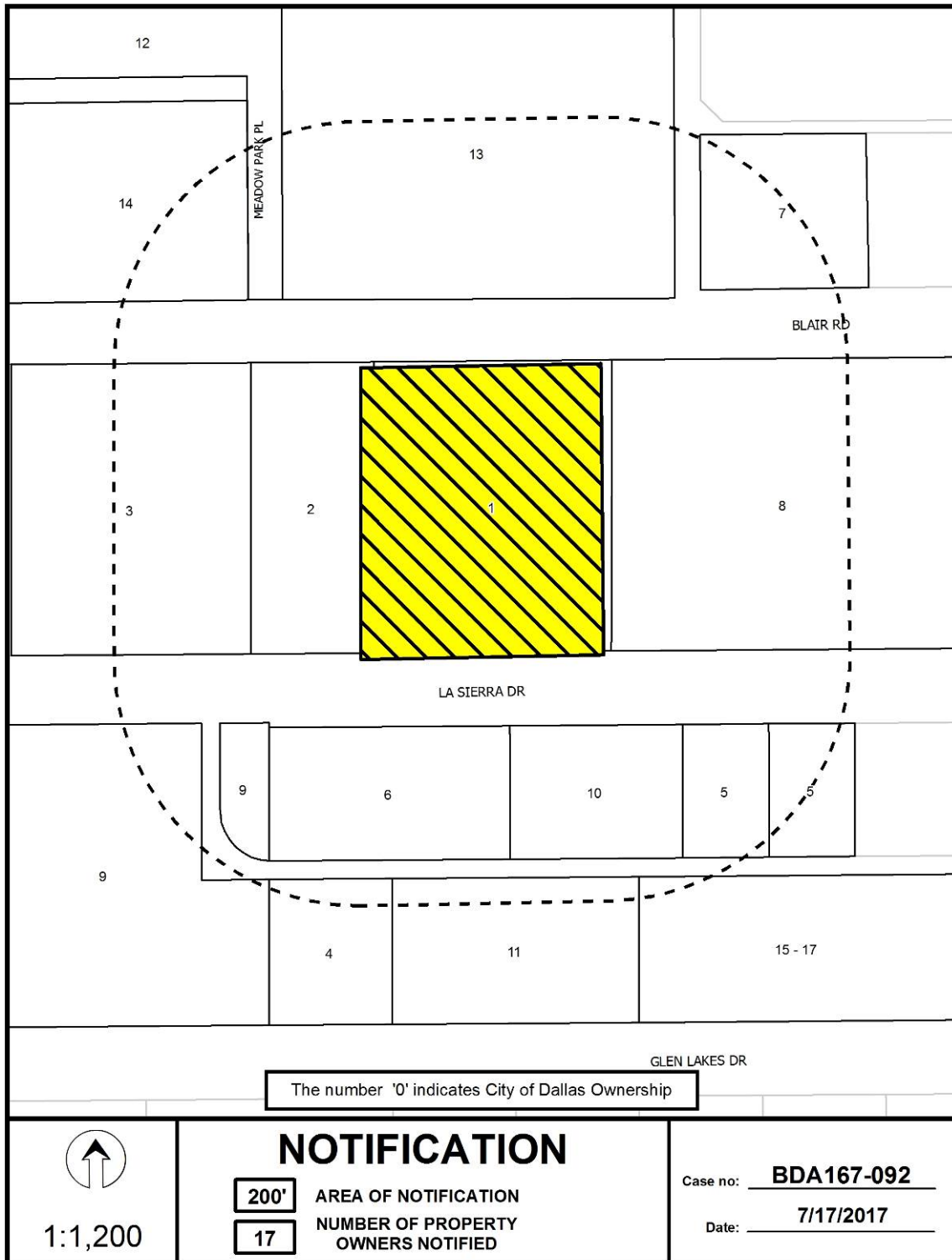
COMPACT

APPENDIX: ON-SITE PARKING ACCUMULATION

Actual, observed parking utilization counts are considered to be the best representation of site-specific parking demand characteristics. Factors affecting parking demand such as travel mode, tenant occupancy, etc. can be accounted for in this approach. For this reason, Pacheco Koch conducted on-site parking accumulation counts at various times on Thursday May 4, 2017. A summary of those parking occupancy data is summarized in **Table A**.

Table A: Existing On-Site Parking Accumulation Data

DATA POINT	ON-SITE PARKED VEHICLES AT CURRENT OCCUPANCY			UTILIZATION OF PARKING SUPPLY <i>(175-space Supply)</i>
	On-grade	Below-grade	Total	
<i>(May 4, 2017)</i>				
9:15 AM	25	27	52	29.7%
11:00 AM	35	34	<u>69</u>	39.4%
1:30 PM	24	35	59	33.7%
3:30 PM	31	37	68	38.9%



Notification List of Property Owners

BDA167-092

17 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5445 LA SIERRA DR	DALLAS LA SIERRA GROUP LLC
2	5433 LA SIERRA DR	LASIERRA 5433 LLC
3	5421 LA SIERRA DR	EYECARE REAL PPTIES LLC
4	5439 GLEN LAKES DR	NOLAM LP
5	5468 LA SIERRA DR	5468 LA SIERRA PARTNERS LLC
6	5442 LA SIERRA DR	MED SPACE INC
7	5465 BLAIR RD	WILSON THOMAS G JR
8	5455 LA SIERRA DR	SNH IL PROPERTIES TRUST
9	10000 N CENTRAL EXPY	WESTDALE 10000 NCX LP
10	5454 LA SIERRA DR	5454 LA SIERRA
11	5447 GLEN LAKES DR	NEARBURG PRODUCING CO
12	10300 N CENTRAL EXPY	10300 NORTH CENTRAL LLC
13	10260 N CENTRAL EXPY	10300 NORTH CENTRAL LLC
14	10210 N CENTRAL EXPY	NCX 10210 OFFICE LP
15	5477 GLEN LAKES DR	FIRST 5477 LTD
16	5477 GLEN LAKES DR	DALLAS FORT WORTH IVF REALTY LP
17	5477 GLEN LAKES DR	NT PSYCHIATRIC ALLIANCE

FILE NUMBER: BDA167-049(SL)

BUILDING OFFICIAL'S REPORT: Application of Juan G Trejo for special exceptions to the fence standards and visual obstruction regulations at 8907 Sorrento Street. This property is more fully described as Lot 16, Block 1/7379, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and/or maintain a 6 foot 6 inch high fence in a required front yard, which will require a 2 foot 6 inch special exception to the fence standards, and to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 8907 Sorrento Street

APPLICANT: Juan G Trejo

REQUESTS:

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

1. A request for a special exception to the fence standards related to height of 2' 6" is made to maintain a fence (a 6' 6" high solid cedar board-on-board fence and sliding gate) higher than 4' in height in one of the site's two required front yards (Gross Road); and
2. Requests for special exceptions to the visual obstruction regulations are made to maintain portions of the aforementioned 6' 6" high solid board-on-board fence/sliding gate in two 20' visibility triangles at the driveway into the site on Gross Road.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:

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

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

The Board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION (fence standards):

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

ORIGINAL STAFF RECOMMENDATION (visual obstruction special exceptions) :

Denial

Rationale:

- Staff concurred with the Sustainable Development Department Assistant Director of Engineering who recommends that these requests be denied.
- Staff concluded that requests for special exceptions to the visual obstruction regulations should be denied because the applicant had not substantiated how the 6’ 6” high solid board-on-board fence/sliding gate in two 20’ visibility triangles at the driveway into the site on Gross Road do not constitute a traffic hazard.

UPDATED STAFF RECOMMENDATION (visual obstruction special exceptions) :

Denial

Rationale:

- The Sustainable Development Department Assistant Director of Engineering recommends that these requests be denied commenting “Mirrors are not reliable. Visibility is especially important at this location due to proximity to school children.”
- Staff concluded that requests for special exceptions to the visual obstruction regulations should be denied because the applicant had not substantiated how the 6’ 6” high solid board-on-board fence/sliding gate in two 20’ visibility triangles at the driveway into the site on Gross Road do not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single family district 7,500 square feet)
North: R-7.5(A) (Single family district 7,500 square feet)
South: R-7.5(A) (Single family district 7,500 square feet)
East: R-7.5(A) (Single family district 7,500 square feet)
West: R-7.5(A) (Single family district 7,500 square feet)

Land Use:

The subject site is developed with a single family home. The areas to the north, south, east are developed with single family uses; and the area to the west is a school (George W. Truett Elementary School).

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 (fence standards):

- The request for a special exception to the fence standards related to height of 2' 6" focuses on maintaining a 6' 6" high solid cedar board-on-board fence and sliding gate in one of the site's two required front yards (Gross Road) on a site developed with a single family home.
- The subject site is zoned R-7.5(A) which requires a 25' front yard setback.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The site is located at the northwest corner of Sorrento Street and Gross Road.
- Given the single family zoning and location of the corner lot subject site, it has two required front yards. The site has a 30' required front yard caused by a platted building line along Sorrento Street (the shorter of the two frontages of the subject site which is always a front yard in this case) and a 20' required front yard caused by a 20' platted building line along Gross Road, (the longer of the two frontages which is typically considered a side yard where on this R-7.5(A) zoned property a 9' high fence could be erected by right). However the site has a required front yard along Gross Road in order to maintain continuity of the established front yard setback along this street frontage where a lot to the west of the subject site (developed with an elementary school) "fronts" on Gross Road.
- The applicant has submitted a site plan and an elevation of the proposal/existing fence in the Gross Road required front yard indicating that the proposal reaches a maximum height of 6' 6". (The submitted site plan only denotes a fence higher than 4' in the Gross Road required front yard).
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 70' in length parallel to Gross Road and approximately 15' perpendicular to Gross Road on the east and west sides of the site in this front yard setback.
 - The proposal is represented as being located approximately 5' – 7' from Gross Street front property line or approximately 13' – 15' from the pavement line.
- Two single family lots front the existing fence, neither with fences in the front yard setbacks.
- The Board Administrator conducted a field visit of the site and surrounding area approximately 300 feet east and west of the site and noted no other fences that appeared to be above 4' in height and located in a front yard setback.
- As of April 7, 2017, no letters had been submitted in support of the request, and one letter has been submitted in opposition. But as of August 4, 2017, two letters had been submitted in support of the request, and one letter had been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence standards of 2' 6" will not adversely affect neighboring property.

- Granting this special exception of 2' 6" with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal/existing fence exceeding 4' in height in the Gross Street required front yard to be maintained in the location and of the heights and materials as shown on these documents.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exceptions):

- The requests for special exceptions to the visual obstruction regulations focus on maintaining portions of a 6' 6" high solid board-on-board fence/sliding gate in two 20' visibility triangles at the driveway into the site on Gross Road.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
 - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The applicant submitted a site plan and an elevation representing a 6' 6" high solid board-on-board fence in two, 20' visibility triangles at the driveway into the site on Gross Road.
- On April 7, 2017, the Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Recommends that this be denied" with the following additional comment: "Visibility is especially important at this location due to the proximity of school children".
- On July 2, 2017, the applicant submitted additional information to staff (see Attachment A). The additional information included photos the applicant had taken on the property showing the installation of mirrors atop the fence along Gross Road on either side of the driveway.
- On August 2, 2017, the Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Recommends that this be denied" with the following additional comment: "Mirrors are not reliable. Visibility is especially important at this location due to proximity to school children."
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain portions of a 6' 6" high solid board-on-board fence/sliding gate in two 20' visibility triangles at the driveway into the site on Gross Road do not constitute a traffic hazard.
- Granting these requests with the condition that the applicant complies with the submitted site plan and elevation would require the items in the visibility triangles to be limited to and maintained in the locations, height and materials as shown on these documents.

Timeline:

- February 21, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- March 15, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- March 15, 2017: 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 March 29th deadline to submit additional evidence for staff to factor into their analysis; and the April 7th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standards that the board will use in their decision to approve or deny the requests; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- April 4, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director Engineering, the Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- April 7, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked “Recommends that this be denied” with the following additional comment: “Visibility is especially important at this location due to the proximity of school children.”
- April 18, 2017: The Board of Adjustment Panel A conducted a public hearing on this application. The Board delayed action on this application until their public hearing to be held on August 15, 2017.
- April 25, 2017: The Board Administrator wrote the applicant a letter of the board’s action; the July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th deadline to submit additional evidence to be incorporated into the Board’s docket materials.

July 2, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application and at the April 18th public hearing (see Attachment A).

August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

August 2, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Recommends that this be denied" with the following additional comment: "Mirrors are not reliable. Visibility is especially important at this location due to the proximity of school children."

BOARD OF ADJUSTMENT ACTION: APRIL 18, 2017

APPEARING IN FAVOR: Juan Trejo, 8907 Sorrento St., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Agnich**

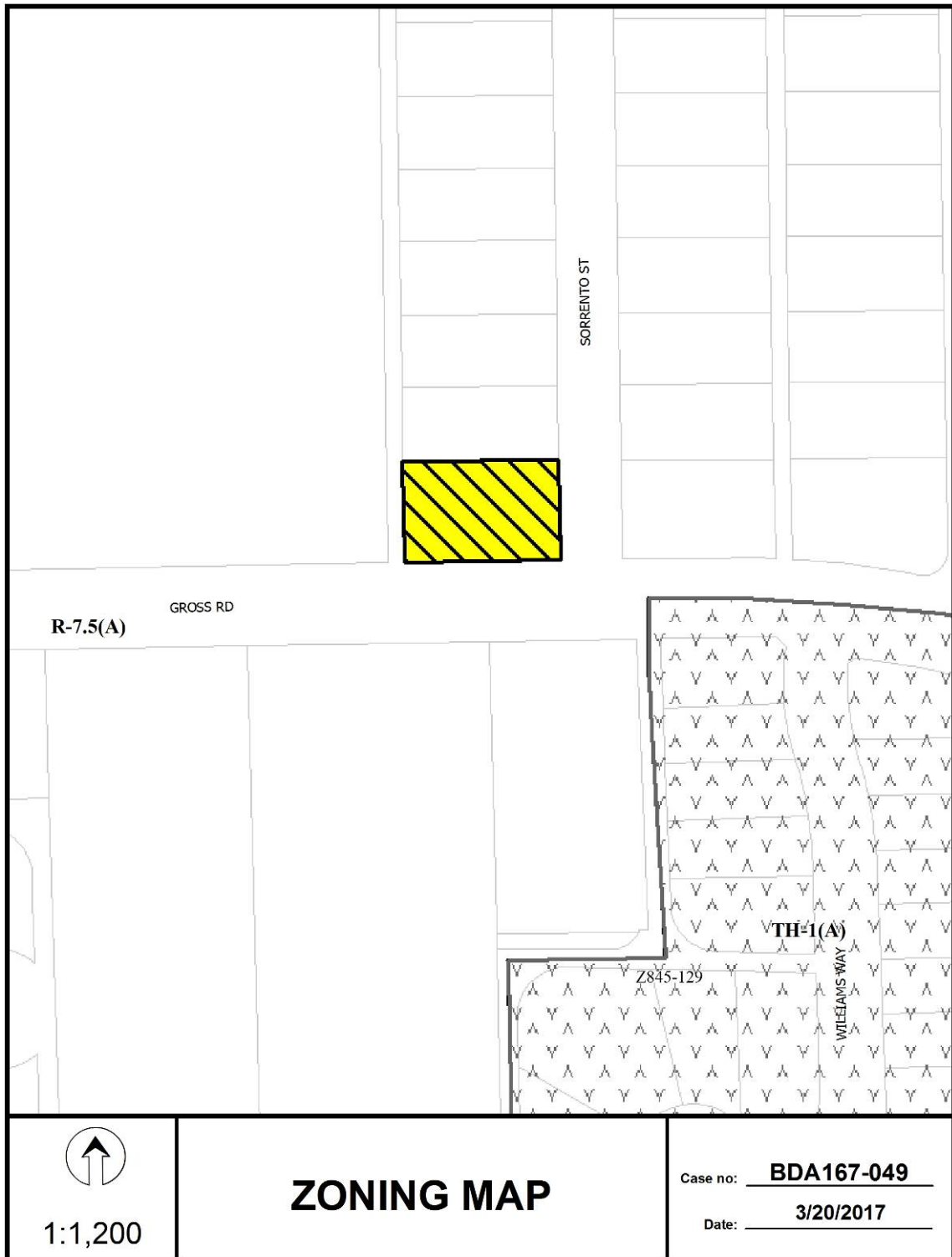
I move that the Board of Adjustment in Appeal No. **BDA 167-049**, hold this matter under advisement until **August 15, 2017**.

SECONDED: **Schulte**

AYES: 5 – Schulte, Nelson, Dutia, Bartos, Agnich

NAYS: 0 -

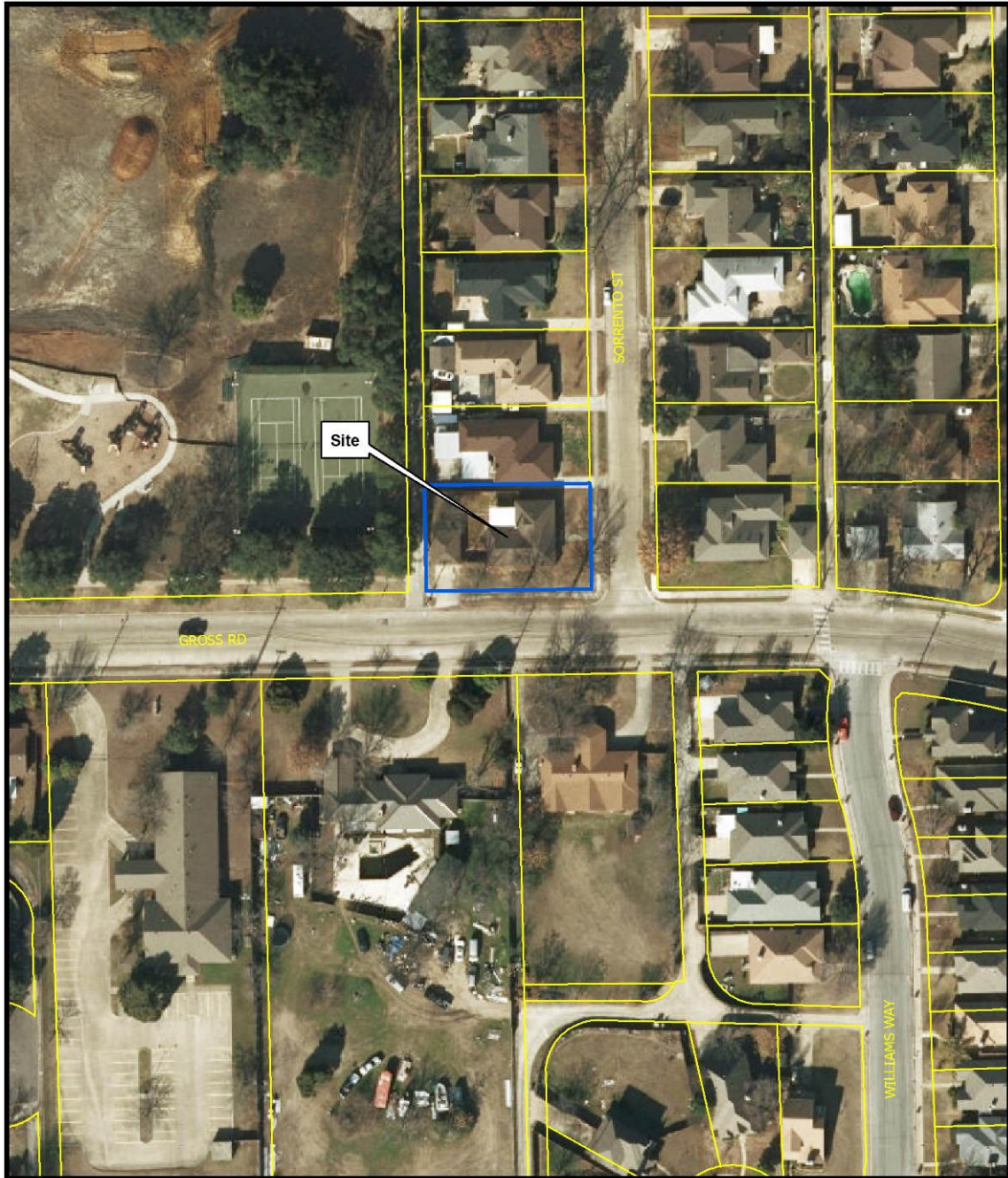
MOTION PASSED: 5 – 0 (unanimously)




 1:1,200

ZONING MAP

Case no: BDA167-049
 Date: 3/20/2017



1:1,200

AERIAL MAP

Case no: BDA167-049

Date: 3/20/2017

Long, Steve

BDA167-049

From: juan trejo <jgtrejo89@gmail.com>
Sent: Sunday, July 02, 2017 3:50 PM
To: Long, Steve
Subject: Case#bda-167-049
Attachments: Doc - Jul 2 2017 - 3-47 PM.pdf

Attach A
Pg 1

Good afternoon, sorry for sending the pictures so late. I have attached the pictures. Thank you

From: Jltrejo0713 <jltrejo0713@gmail.com>
Date: July 2, 2017 at 3:47:00 PM CDT
To: juan trejo <jgtrejo89@gmail.com>
Subject: Document - Jul 2, 2017

Scanned with TurboScan.

Sent from my iPhone

BDA-167-049

Attach A pg 2



BDA 167-049
Attach 4 pg 3





City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-049

Data Relative to Subject Property:

Date: 2-21-17

Location address: 8907 Sorrento St

Zoning District: R-7.5 A

Lot No.: 16 Block No.: 1/7379 Acreage: .23

Census Tract: 123.01

Street Frontage (in Feet): 1) 80.00 2) 125.00 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): JUAN G. TREJO - LAURA Escutia

Applicant: JUAN G. TREJO Telephone: 469-254-2331

Mailing Address: 8907 Sorrento St Zip Code: 75228

E-mail Address: Jgtrejo@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 of 2'-6" Front yard For a Fence on the Side of the house Facing Gross Rd. The fence will measure 6'-6" in height, and a special exemption to the driveway visibility obstruction triangle.

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

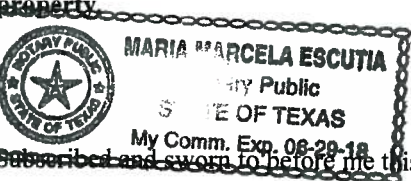
WE ARE requesting a Special Exemption to place a fence on the yard that faces Gross Rd. with a fence will not have any effect on the neighborhood. The yard that faces Gross is considered and used as a side/backyard by all the neighbors.

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 JUAN G. TREJO (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



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

16 day of February, 2017

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

(Rev. 08-01-11)

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 Juan G Trejo

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

at 8907 Sorrento Street

BDA167-049. Application of Juan G Trejo for a special exception to the fence height regulations and a special exception to the visibility obstruction regulations at 8907 Sorrento Street. This property is more fully described as Lot 16, Block 1/7379, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct a 6 foot 6 inch high fence in a required front yard, which will require a 2 foot 6 inch special exception the fence regulation, and to construct and maintain a residential fence structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

Sincerely,

Philip Sikes
Philip Sikes, Building Official

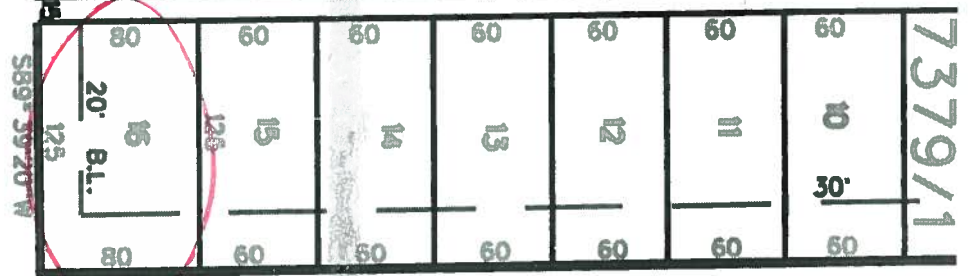
C.I.

JT

7378

425

N 0° 20' 40"

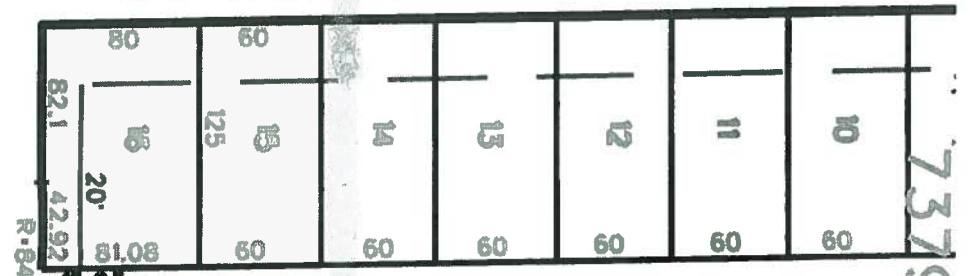


S89° 39' 20" W

8900

SORRENTO

9000



S82.1° 42.92' W

R-848.51

8900

HOPE LUTHERN CHURCH

EXEMPT - 68 B.L.

R-20

102.14

75.42

LINDARO

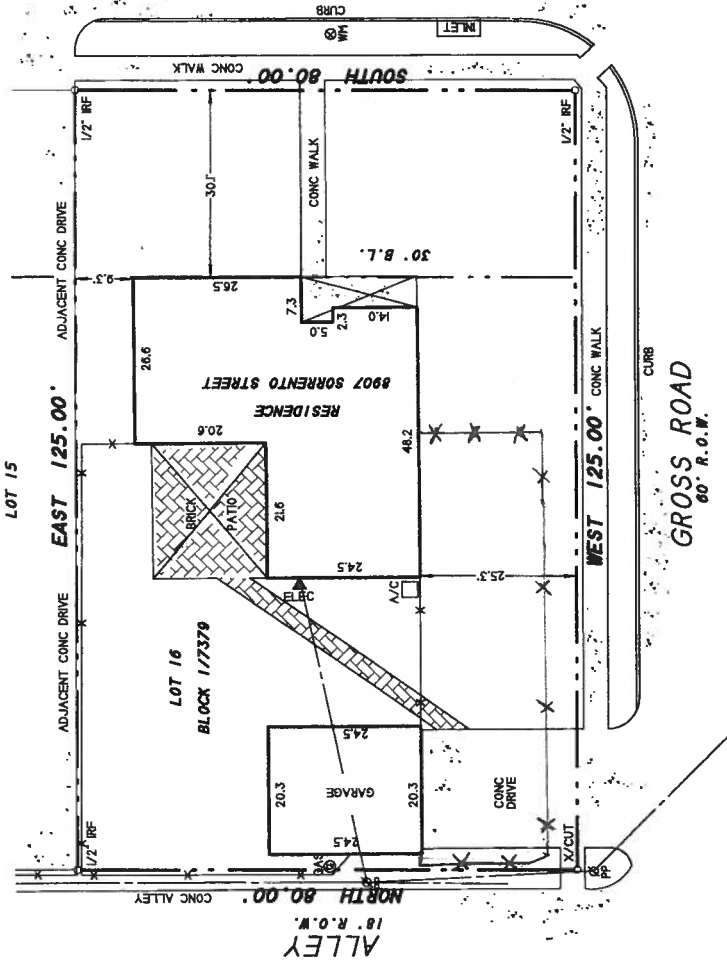
9000

RD. 9

CASA

LINDA

PLAT OF SURVEY



SORENTO STREET
50' R.O.W.



DESCRIPTION

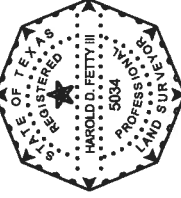
Lot 16, Block 17379, CASA LINDA PARK ADDITION, an Addition to the City of Dallas, Dallas County, Texas, according to the Map recorded in Volume 30, Page 153, Map Records, Dallas County, Texas.

NOTES

- 1) According to F.E.M.A. Flood Insurance Rate Map, Community Panel No 48113C0360 K dated Feb. 5, 2003, this property lies in Zone X. This property does not appear to lie within a 100-year flood plain.
- 2) BEARING SOURCE: RECORDED PLAT.
- 3) ALL 1/2" IRS ARE CAPPED WITH YELLOW PLASTIC CAPS *RPLS 5034.*

SURVEYOR'S CERTIFICATE

I, Harold D. Fetty, III, Registered Professional Land Surveyor No. 5034, do hereby certify that the above plat of the property surveyed for ADOBE TITLE, LLC and JUAN GERMAN TREJO & LAURA ESCUTIA at 8907 SORENTO STREET, DALLAS, DALLAS COUNTY, TEXAS, is the result of a careful collection of the best evidence available to me and my opinion is based on the facts as found at the time of survey. This survey meets the requirements of the Minimum Standards of Practice as approved and published by the Texas Board of Professional Land Surveying, effective September 1, 1992, and subsequent revisions, and the same was surveyed under my supervision on the ground this the 3rd day of September, 2013.



Harold D. Fetty III, R.P.L.S. No. 5034

H.D. Fetty Land Surveyor, LLC

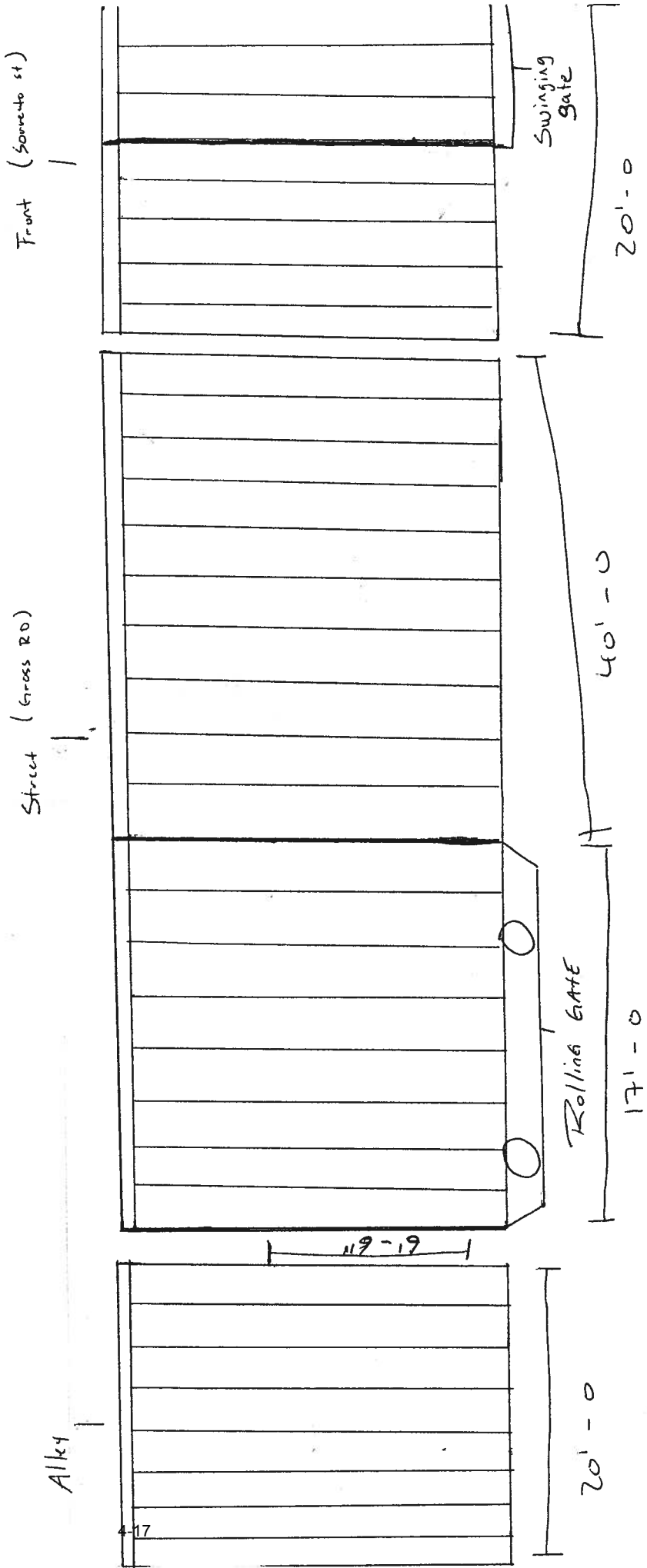
6770 FM 1565 ROYSE CITY, TX 75189 972-635-2255 PHONE 972-635-9979 FAX

SYMBOL LEGEND		SURVEY DATE	
○	IRON PEG	SEPTEMBER 3, 2013	
○	WOOD PEG	SCALE 1" = 20'	FILE # 20130294
○	ALUMINUM PEG	CLIENT TREJO/ESCUTIA	OF # 13080674RW
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- CEDAR FENCE

Board on Board

. 2x3 Cedar toppler





Notification List of Property Owners

BDA167-049

19 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	8907 SORRENTO ST	TREJO JUAN GERMAN &
2	2002 GROSS RD	GUTIERREZ FERNANDO
3	2010 GROSS RD	BORREGO SANTIAGO V
4	9009 SORRENTO ST	KING SIDNEY W
5	9003 SORRENTO ST	YOUNG CLAUDELL &
6	8915 SORRENTO ST	ESCUTIA NICOLAS R
7	8911 SORRENTO ST	NGUYEN DUC ANH &
8	9010 SORRENTO ST	DUKE AMY C
9	9004 SORRENTO ST	GARCIA MARIO &
10	8916 SORRENTO ST	GIROUX DAVID &
11	8912 SORRENTO ST	BRANNAN DAVID F
12	8908 SORRENTO ST	CHILDRESS JOHN W &
13	8907 LINDARO LN	CARDOSO JESUS &
14	8911 LINDARO LN	HURTADO LAURO
15	8915 LINDARO LN	PARK JENNIFER L
16	1920 GROSS RD	FIRST PRIMITIVE BAPTIST
17	2043 WILLIAMS WAY	NGUYEN MINH THI &
18	2047 WILLIAMS WAY	HERRERA JUVENTINO
19	2051 WILLIAMS WAY	TORRES PEDRO C

FILE NUMBER: BDA167-072(SL)

BUILDING OFFICIAL'S REPORT: Application of Grant Schmidt for a variance to the off-street parking regulations at 7103 Mumford Court. This property is more fully described as Lot 45, Block 10/8758, and is zoned R-7.5(A), which requires off-street parking to be provided. The applicant proposes to construct and/or maintain a structure for a church use, and provide 0 of the required 27 off-street parking spaces, which will require a 27 space variance to the off-street parking regulations.

LOCATION: 7103 Mumford Court

APPLICANT: Grant Schmidt

REQUEST:

A request for a variance to the off-street parking regulations of 27 spaces is made to obtain a Certificate of Occupancy/maintain an existing approximately 3,000 square foot church use (Congregation Toras Chaim), and provide 0 of the 27 required off-street parking spaces.

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.

ORIGINAL STAFF RECOMMENDATION (June 20, 2017):

Denial

Rationale:

- Staff had concluded that the applicant had not substantiated how granting this variance to the off-street parking regulations of 27 spaces was not contrary to public

interest (the Sustainable Development Department Assistant Director of Engineering has submitted a review comment sheet marked “Recommends that this be denied”), had not substantiated how the variance to the off-street parking regulations was necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning district, and had not substantiated how granting this variance to the off-street parking regulation is not needed to relieve a self-created hardship.

- While staff had recognized that the subject site has two front yard setbacks atypical of most lots zoned R-7.5(A), staff concluded this unique feature does not preclude the applicant from developing the flat, rectangular in shape, approximately 12,500 square foot subject site (where lots are typically 7,500 square feet in area) in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning.

UPDATED STAFF RECOMMENDATION (August 15, 2017):

Denial

Rationale:

- Staff concluded after factoring the new information submitted by the applicant at the June 20th public hearing that the applicant had not substantiated how granting this variance to the off-street parking regulations of 27 spaces was not contrary to public interest (the Sustainable Development Department Assistant Director of Engineering has submitted a review comment sheet marked “Recommends that this be denied”), had not substantiated how the variance to the off-street parking regulations was necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning district, and had not substantiated how granting this variance to the off-street parking regulation is not needed to relieve a self-created hardship.
- While staff recognized that the subject site has two front yard setbacks atypical of most lots zoned R-7.5(A), staff concluded this unique feature does not preclude the applicant from developing the flat, rectangular in shape, approximately 12,500 square foot subject site (where lots are typically 7,500 square feet in area) in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning.

BACKGROUND INFORMATION:

Zoning:

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

West: R-7.5(A) (Single family residential 7,500 square feet)

Land Use:

The subject site is developed with an existing approximately 3,000 square foot church use (Congregation Toras Chaim). The areas to the north, south, east, and west are developed with single family residential uses.

Zoning/BDA History:

- | | |
|--|---|
| 1. Miscellaneous Item 2, BDA167-072, Property at 7103 Mumford Court (the subject site) | On June 20, 2017, the Board of Adjustment Panel A denied a request to reimburse filing fee made in conjunction with this application. |
|--|---|

GENERAL FACTS/STAFF ANALYSIS:

- This request for a variance to the off-street parking regulations of 27 spaces focuses on obtaining a Certificate of Occupancy/maintaining an existing approximately 3,000 square foot church use (Congregation Toras Chaim), and providing 0 of the 27 required off-street parking spaces.
- The site is zoned R-7.5(A) and is bounded by three streets: Frankford Road on the north, Mumford Court on the south, and Meandering Way on the west. The site has two 25' front yard setbacks since the code states that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets.
- The Dallas Development Code requires the following off-street parking requirement for "church" use:
 - One space per 333 square feet in floor area if a church has less than 5,000 square feet of floor area and is located in a shopping center with more than 20,000 square feet in floor area, otherwise one space for each four fixed seats in the sanctuary or auditorium. If fixed benches or pews are provided, each 18 inches of length of the fixed bench or pew constitutes one fixed seat for purposes of this paragraph. If portions of seating areas in the sanctuary or auditorium are not equipped with fixed seats, benches, or pews, the parking requirement for those portions is one space for each 28 square feet of floor area.
 - Definitions. For purposes of this subsection, "remote parking" means required off-street parking provided on a lot not occupied by the main use. "Shared parking" means the use of the same off-street parking stall to satisfy the off-street parking requirements for two or more uses.
 - Reconciliation with Divisions 51A-4.300 et seq. Except as otherwise expressly provided in this subsection, the off-street parking regulations in Divisions 51A-4.300 et seq. apply to this use. In the event of a conflict between this subsection and Divisions 51A-4.300 et seq., this subsection controls.

- Remote and shared parking. A church may use remote and/or shared parking to satisfy up to 50 percent of its off-street parking requirement, provided that the remote and/or shared parking is on a lot that is:
 - (aa) dedicated to parking use by an instrument filed with the building official and approved by the city attorney's office;
 - (bb) located in a non-residential district; and
 - (cc) located within 600 feet (including streets and alleys) of the lot occupied by the church. The distance measured is the shortest distance between the lots.
- Distance extension with shuttle service. A remote parking lot for a church may be located up to one and one-half miles (including streets and alleys) from the lot occupied by the church if a shuttle service is provided to transport persons between the church and the remote parking lot. The shuttle service route must be approved by the traffic engineer.
- Remote parking agreement. An agreement authorizing a church to use remote parking may be based on a lease of the remote parking spaces if:
 - (aa) the lease is for a minimum term of three years; and
 - (bb) the agreement provides that both the owner of the lot occupied by the church and the owner of the remote lot shall notify the city of Dallas in writing if there is a breach of any provision of the lease, or if the lease is modified or terminated.
- The Building Inspection Senior Plans Examiner/Development Code Specialist stated that a plan review of the seating areas in the sanctuary or auditorium that are not equipped with fixed seats, benches, or pews, was conducted on the property whereby it was determined with the parking requirement for those portions being 1 space for each 28 square feet of floor area that 27 off-street parking spaces were required for the use on the subject site.
- The applicant submitted a document that states among other things that no parking analysis or traffic study has been provided because church members generally do not drive to worship.
- The applicant must seek this parking reduction request as a variance since the maximum reduction authorized by this code for a special exception to off-street parking regulations is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A).
- According to Collin CAD records, the "total improvement main area" for property addressed at 7103 Mumford Court is a "residential" improvement with 3,572 square feet constructed in 1986.
- The subject site is flat, rectangular in shape, and (according to the application) is 0.29 acres (or approximately 12,500 square feet) in area. The site is zoned R-7.5(A) where most lots in this zoning district are 7,500 square feet in area.
- The site has two front yard setbacks and two side yard setbacks. Most lots in this zoning district have one front yard setback, one rear yard setback, and two side yard setbacks.
- On June 9, 2017, the Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Recommends that this be

denied” commenting “Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces.”

- The Board of Adjustment Panel A conducted a public hearing on this application on June 20, 2017. The applicant submitted additional written documentation to the Board at this public hearing which in this case was a paper copy of the applicant’s power point show presented to the board at this hearing (see Attachment B). The Board delayed action on this application until their next public hearing to be held on August 15, 2017.
- On July 28, 2017, the applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application and at the June 20th public hearing (see Attachment C). The new documentation included a letter that stated among other things: 1) “we respectfully request a continuance beyond the August meeting, so that we may obtain the proper permits, discuss and respond to the City’s forthcoming proposals, recommendations, or suggestions, and determine whether the variance application is still necessary”; and 2) “we would like to submit a new request for reimbursement of the filing fee given the procedural issue/technical error that arose at the June hearing.” (Included in Attachment C is the Board Administrator’s August 1st response to the applicant on these two issues).
- On August 2, 2017, the Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked “Recommends that this be denied” commenting “Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces.”
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant this request, the applicant would be able to obtain a Certificate of Occupancy for a church use on the subject site, and provide 0 of the 27 required off-street parking spaces.

Timeline:

February 24, 2017: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

- May 9, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- May 9, 2017: 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 May 31st deadline to submit additional evidence for staff to factor into their analysis; and the June 9th 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 31, 2017: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).
- June 6, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.
- June 9, 2017: The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Recommends that this be denied" commenting "Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces".
- June 20, 2017: The Board of Adjustment Panel A conducted a public hearing on this application. The applicant submitted additional written documentation to the Board at the public hearing which in this case was a paper copy of the applicant's power point show presented to the board at this hearing (see Attachment B). The Board delayed action on this application until their next public hearing to be held on August 15, 2017.
- June 22, 2017: The Board Administrator wrote the applicant a letter of the board's action; the July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th deadline to submit

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

July 28 & August 1, 2017:

The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application and at the June 20th public hearing (see Attachment C). The new documentation included a letter that stated among other things: 1) "we respectfully request a continuance beyond the August meeting, so that we may obtain the proper permits, discuss and respond to the City's forthcoming proposals, recommendations, or suggestions, and determine whether the variance application is still necessary"; and 2) "we would like to submit a new request for reimbursement of the filing fee given the procedural issue/technical error that arose at the June hearing." (Attachment C includes the Board Administrator's response to the applicant on these two issues).

August 1, 2017:

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

August 2, 2017:

The Sustainable Development Department Assistant Director of Engineering submitted a review comment sheet marked "Recommends that this be denied" commenting "Original use had two off-street parking spaces. The other home lots also have two off-street parking spaces."

BOARD OF ADJUSTMENT ACTION: JUNE 20, 2017

APPEARING IN FAVOR:

Grant Schmidt, 2501 N Harwood St., Dallas, TX
Chulsey Youman, 1000 Plano Pkwy, Plano, TX

APPEARING IN OPPOSITION:

David Schneider, 7035 Mumford, Dallas, TX
Robert Colmery, 7123 Mumford, Dallas, TX
Kevin Arligton, 7003 Mumford, Dallas, TX

MOTION #1: Schulte

I move that the Board of Adjustment suspend its rules and accept the evidence that is being presented today.

SECONDED: Agnich

AYES: 4 – Schulte, Gibson, Nelson, Agnich

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)

2:51 P.M.: Executive Session Begins

3:08 P.M.: Executive Sessions Ends

MOTION #2: Agnich

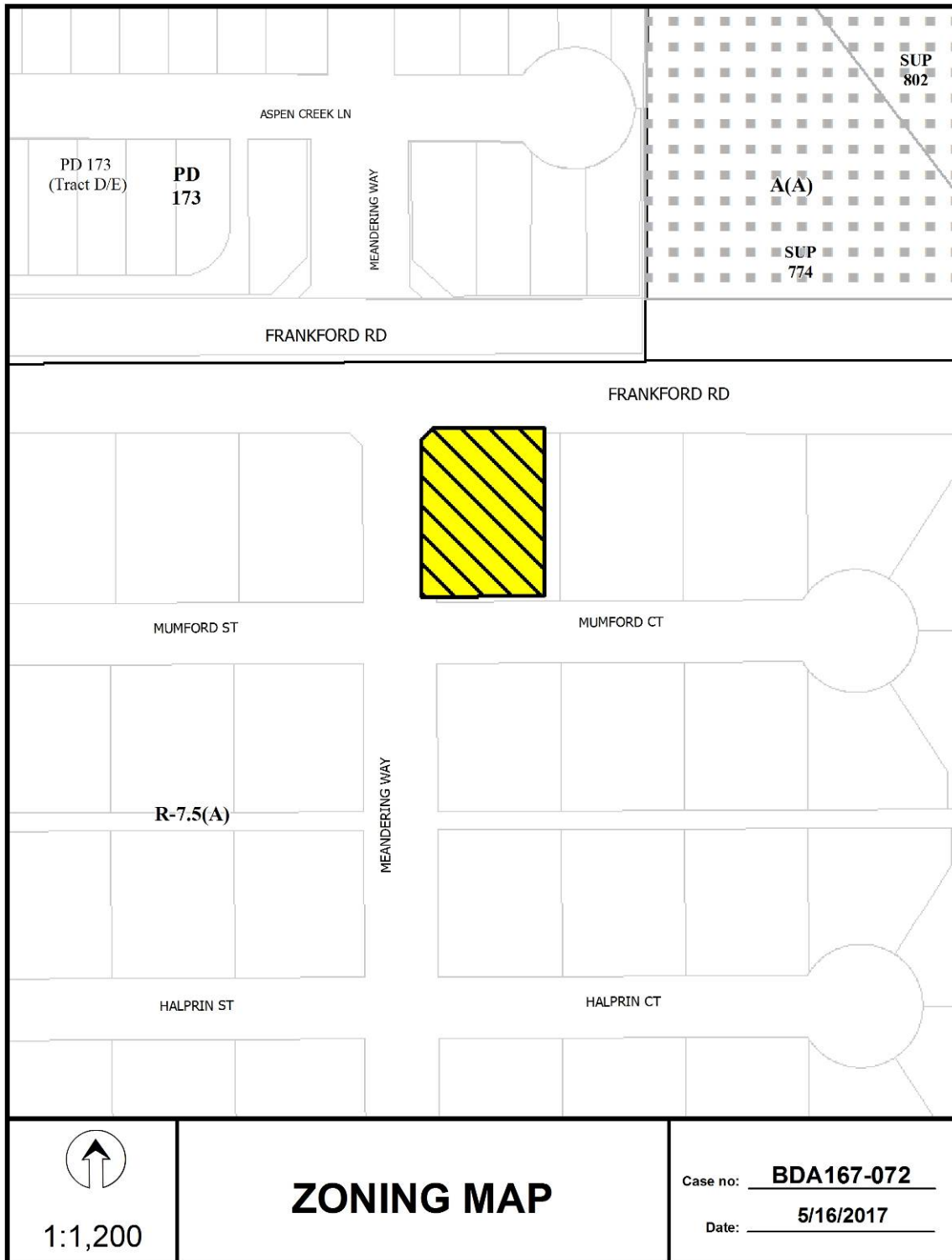
I move that the Board of Adjustment, in request No. **BDA 167-072(SL)**, hold this matter under advisement until **August 15, 2017**.

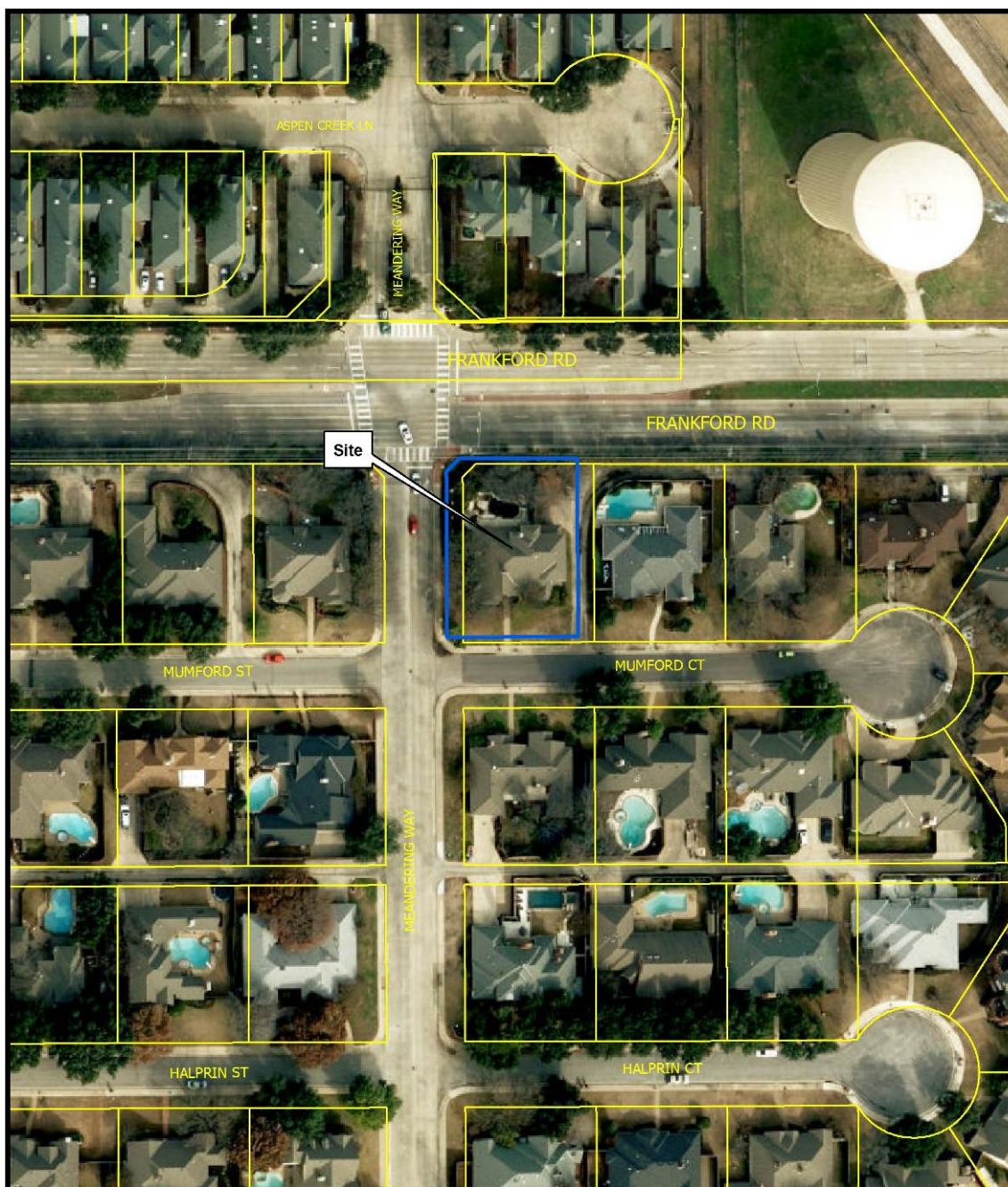
SECONDED: Nelson

AYES: 4 – Schulte, Gibson, Nelson, Agnich

NAYS: 0 -

MOTION PASSED: 4 – 0 (unanimously)





1:1,200

AERIAL MAP

Case no: BDA167-072

Date: 5/16/2017

Long, Steve

From: Schmidt, Grant K. <GSchmidt@winston.com>
Sent: Wednesday, May 31, 2017 11:47 AM
To: Long, Steve
Cc: Duerksen, Todd; Law, Trena; Denman, Lloyd; Gilbert, Andrew; Monkhouse, Kristen; Walker, Chad B.; Justin Butterfield; Chelsey Youman
Subject: RE: BDA167-072, Property at 7103 Mumford Court
Attachments: 2017-05-31 CTC Letter to Board of Adjustment.pdf; 2017-02-24 Ltr fr GS to City Hall.pdf

Steve –

Attached is a letter on behalf of Congregation Toras Chaim, Rabbi Rich, Mark Gothelf, and Judith Gothelf for the Board's consideration at the staff meeting. (I also attached the February 24 letter for reference).

Thank you for your consideration. Please let us know if we can provide any additional information.

Grant

Grant K. Schmidt

Winston & Strawn LLP

D: +1 214-453-6469

M: +1 214-507-5042

winston.com

WINSTON
& STRAWN
LLP

From: Long, Steve [mailto:steve.long@dallascityhall.com]
Sent: Tuesday, May 09, 2017 10:09 AM
To: Schmidt, Grant K. <GSchmidt@winston.com>
Cc: Duerksen, Todd <todd.duerksen@dallascityhall.com>; Law, Trena <trena.law@dallascityhall.com>; Denman, Lloyd <lloyd.denman@dallascityhall.com>
Subject: BDA167-072, Property at 7103 Mumford Court

Dear Mr. Schmidt,

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

1. The submitted application materials - all of which will be emailed to you, city staff, and the board members in a docket report about a week ahead of your tentatively scheduled June 20th Board of Adjustment Panel A public hearing.
2. The provision from the Dallas Development Code allowing the board to grant a variance to the off-street parking regulations (51A-3.102(d)(10)).
3. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board.
4. The board's rule pertaining to documentary evidence.

Please carefully review the attached application materials to make sure they are complete, and within these materials, the Building Official's Report/second page of the application (page 2 of 10 in these attached materials). Contact Todd Duerksen at 214/948-4475 or at todd.duerksen@dallascityhall.com no later than 1 p.m., Wednesday, May 31st with regard to any information you feel is missing from your submittal or with regard to any amendment that you feel is necessary to address the issue at hand, specifically if for any reason you feel that the statement in his Building Official's report stating that the applicant proposes to construct/maintain a structure for a church use and provide 0 of the required 27 off-street parking spaces which will require a 27 space variance to the off-street parking regulations, or any other part of this report is incorrect. (Note that the discovery of any additional appeal needed beyond your requested off-street parking variance will result in postponement of the appeal until the panel's next regularly scheduled public hearing).

You may want to contact Lloyd Denman, City of Dallas Sustainable Development Department Assistant Director Engineering at 214/948-4354 or at Lloyd.Denman@DallasCityHall.com to determine if there is any additional information that may be needed from you in making a favorable recommendation to the board on your request.

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

Thank you,

Steve

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

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

The contents of this message may be privileged and confidential. If this message has been received in error, please delete it without reading it. Your receipt of this message is not intended to waive any applicable privilege. Please do not disseminate this message without the permission of the author. Any tax advice contained in this email was not intended to be used, and cannot be used, by you (or any other taxpayer) to avoid penalties under applicable tax laws and regulations.

May 31, 2017

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

Re: Board of Adjustment – Congregation Toras Chaim – Parking Variance

Dear Steve:

On behalf of Congregation Toras Chaim (“CTC”), Rabbi Rich, Mark Gothelf, and Judith Gothelf, I respectfully write this letter to the Board so that a few additional points may be considered at the staff team meeting. For your reference, I am also incorporating and attaching the letter that I sent to the Board on February 24, 2017 (which was included in the application). First, I want to briefly respond to the concerns raised by the letters submitted by individuals, particularly as they relate to the public interest impact of granting a variance. Second, I want to clarify the number of required parking spaces and the number of available spaces.

Letters Received from Individuals

As the Board is aware, several individuals have submitted letters for consideration. The letters present several arguments that do not comport with the reality of CTC’s situation and do not bear on the variance standard. Additionally, these individuals only represent a small subset of the neighbors living near CTC (in fact, only *one* of the authors lives on Mumford Court).

CTC is a small Orthodox Jewish congregation. To say that CTC poses any type of safety concern flies in the face of reality. The only alleged safety concern set forth by some of the individuals relates to parking; however, members of CTC are prohibited from driving on the Sabbath and must therefore *walk* to worship. During the week, some members arrive in the morning or evening to worship (similar to, for example, a nanny, babysitter, friend, or family member stopping by to visit, or numerous bible study or small groups that meet throughout the City each week).

It is important to note that the Highlands of McKamy Homeowners Association (the authors of some of the letters) previously brought a lawsuit against Congregation Toras Chaim alleging the same concerns cited in their letters. When asked to offer examples of the alleged safety concerns, neighbors cited, for example: (1) the barking of their two Labrador retrievers when the dogs see members of CTC and therefore the waking up of the neighbor’s twin seventeen year olds; (2) “a young lady trying to push a baby carriage across the street that I had to stop and let her go;” and (3) a blind man who was crossing the street to

worship. The Court dismissed this lawsuit, finding that the Texas Religious Freedom Restoration Act and the Religious Land use and Institutionalized Persons Act protected CTC from the HOA's deed restrictions. CTC poses no safety concerns to its neighborhood and community.

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

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

As the Board well knows, the standard that it must consider is whether the variance "is necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning." CTC is faced with three front yards (as well as a HOA brick wall on one side of the property). This layout is restrictive in that it would be essentially impossible to achieve the requisite parking spaces without tearing down a portion of the property and constructing a parking lot. It is in the public interest for CTC to be provided a variance, so that no significant or intrusive steps must be taken.

The Number of Required Off Street Parking and Available Off Street Parking

We also seek to provide additional context for the number of off street parking space reductions sought in the application. Although the current application seeks a 27 parking spot reduction, we have reason to believe that the number will be lowered to 13 given that CTC is making the proper adjustments to the square footage of its worship space.

Additionally, CTC has land immediately off of the alley where it can park two to three vehicles. These three spots do not count towards the 13 required spaces due to a screening requirement as explained by the City of Dallas. CTC, however, can still use these spaces for a maintenance truck, a visitor, etc.

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

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

WINSTON
& STRAWN
LLP

BDA 167-072

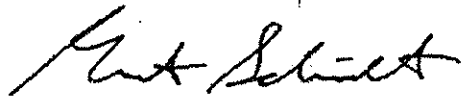
Attach A P S

May 31, 2017

Page 3

I look forward to meeting with you on June 20. Please let me know if we can provide any additional information.

Respectfully,



Grant Schmidt

FISH.
FISH & RICHARDSON

BDA 167-072
Attach A pg 6

Fish & Richardson P.C.
1717 Main Street
Suite 5000
Dallas, TX 75201
214 747 5070 main
214 747 2091 fax

February 24, 2017

Grant K. Schmidt
Associate
gschmidt@fr.com
214 760 6128 direct

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

Todd Duerksen
320 E. Jefferson Blvd., Room 105
Dallas, TX 75203

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

Dear Mr. Long and Mr. Duerksen:

I represent Congregation Toras Chaim ("CTC") in the above-referenced action brought by the City of Dallas (the "City"). CTC is a small Orthodox Jewish congregation that meets at 7103 Mumford Court, Dallas, TX 75252 (the "Property"), where about twenty-five neighborhood congregants walk to gather for worship on Saturdays, and a smaller number of congregants gather throughout the week. CTC is pursuing a variance regarding parking requirements for the Property. In particular, CTC intends to seek a variance on all 27 required off street parking spaces. This is a cover letter for the variance application. This packet includes (a) 2 Application forms; (b) 2 Affidavit forms; (c) 1 Warranty Deed; (d) a copy of the certified subdivision plot; (e) 1 lien statement; (f) 4 copies of the site plan; (g) 4 copies of the elevation drawings; (h) 4 copies of the floor plan; (i) a check for \$3630.00 in this application (\$900 + (27 x \$100) + (3 x \$10)); and (j) a smaller copy of each drawing as requested.

Regarding the parking analysis and/or traffic study, CTC does not have any parking analysis or traffic study to offer because CTC members generally do not drive to worship. Orthodox Jews are prohibited from driving on the Sabbath; these families therefore must live within walking distance of a synagogue to attend prayer services on the Sabbath. Therefore, CTC would be unable to provide a parking analysis or traffic study. This is consistent with CTC's request to reduce the 27 parking space requirement.

CTC is pursuing a variance because the area, shape, and slope prevents CTC from developing the land in a manner commensurate with the development upon other parcels of land in the district with the same zoning classification. Second, there are essentially three front yards given the location of CTC's property. Third, there are two brick walls owned by the Homeowners' Association on two

fr.com



February 24, 2017

sides of the property. Furthermore, CTC has been instructed by the City that no car could enter the back of the home due to the alley screening issues. For these reasons, CTC requires a reduction in the required off street parking requirements (27 spaces). The implementation of this variance would not be contrary to the public interest (in fact, it would be consistent with the public interest) and would otherwise result in an unnecessary hardship for CTC. This variance is not being pursued to relieve a self-created or personal hardship.

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

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

Respectfully,

Grant K. Schmidt

- cc: Andrew Gilbert, Assistant City Attorney
- Justin Butterfield, First Liberty
- Chad Walker, Fish & Richardson

City of Dallas Board of Adjustment

June 20, 2017

7103 Mumford Court

Off-Street Parking



Background

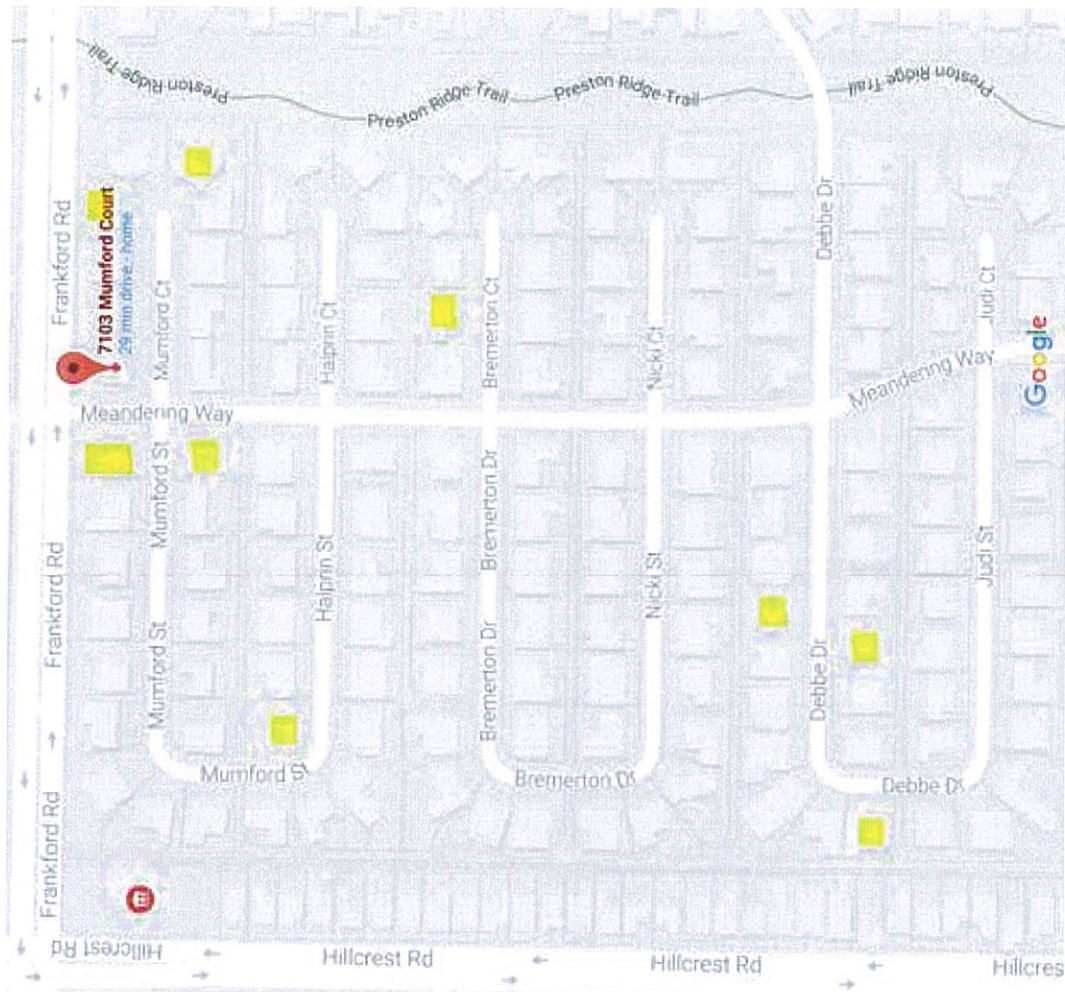
Congregation Toras Chaim

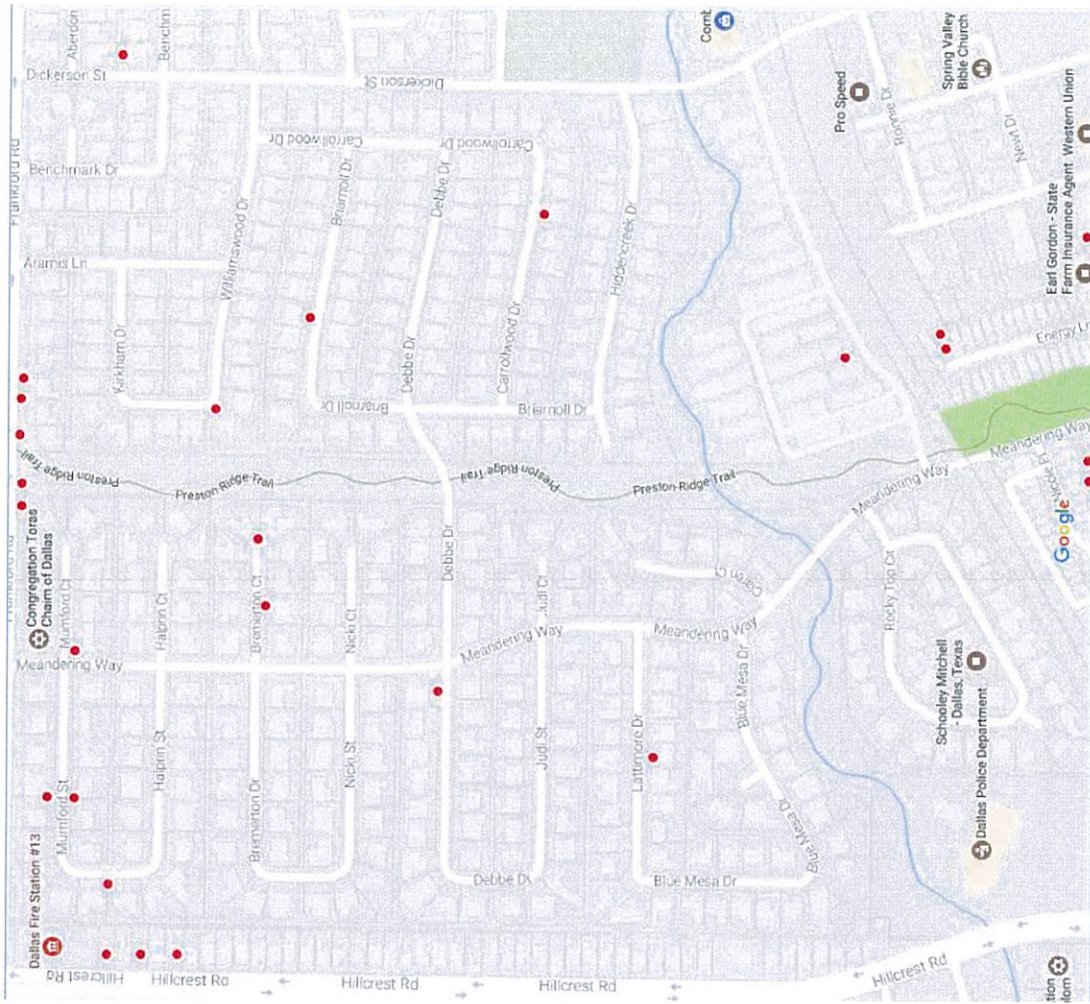
- **2007** – CTC, a small community of Orthodox Jews, is founded.
 - Led by Rabbi Yaakov Rich
- **2013** – CTC is located at 7103 Mumford Court
- **Overall mission:** provide access to prayer and scripture study.

Congregation Toras Chaim

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

Letters Submitted to BOA





BDA167-072 Attach B Pg. 9



Current Litigation

Current Litigation

- **March 2015** – City of Dallas files a petition in state court against CTC.
 - City acknowledged that religious uses may operate in **all** zoning districts (including residential zones) as a matter of right.
 - Certificate of Occupancy needed.
- CTC and City of Dallas have worked closely for over two years to reach a mutually beneficial solution.

Requirements for Certificate of Occupancy

- **Handicap Accessibility**
 - All requirements are met.
- **Fire Safety**
 - Completing final steps – all requirements will be met.
- **Parking**
 - This is the last remaining requirement – and we worked with the City to ultimately reach *this* (parking variance) proposal

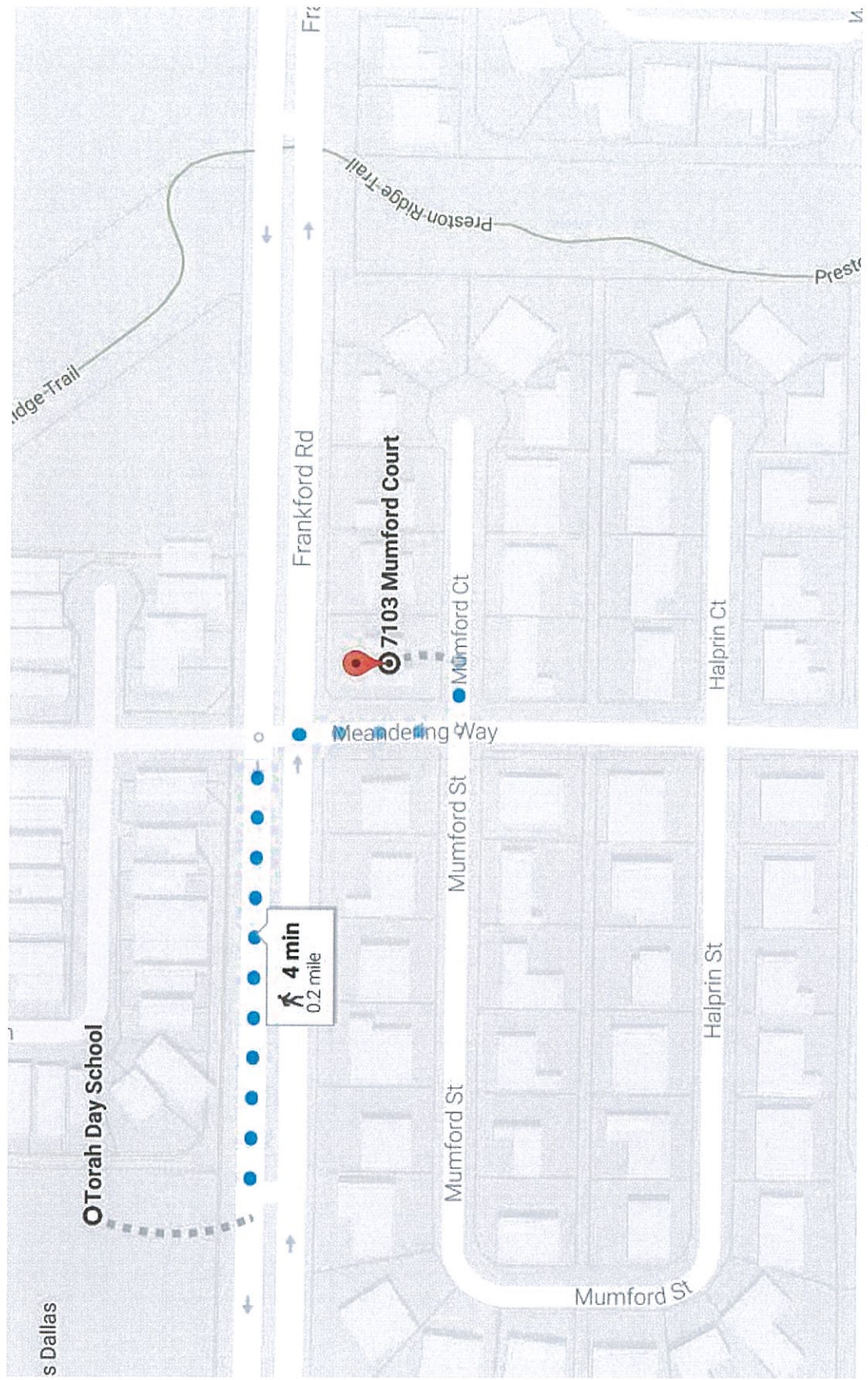
Parking – Number of Required Spaces

- Based on current square footage of worship space, **27 off-street parking spaces** are required.
- Based on a joint plan with the City, CTC anticipates that the required number will be lowered to **13 off-street parking spaces**.

Solutions

Parking – Shared Parking Agreement

- For months, at the City's suggestion, CTC worked diligently with the City and a nearby school to enter into a Shared Parking Agreement
- The distance between CTC and the school ended up being too far.



Parking Lot

- CTC considered structuring a parking lot in the front and/or backyard; however:
 - (1) Seek to retain the consistent look and feel of the property (and benefit home values in neighborhood);
 - (2) Expensive;
 - (3) Area, shape, and slope create significant difficulty; and
 - (4) The only entrance to the backyard is through the alley, which is prevented by screening requirement.

Screening Issue







Screening Requirement

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



Screening Requirement

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

Variance Factors

Standard for Variance Application

• The Board has the power to grant variances related to off-street parking as long as:

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

Factor #1

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



Factor #2

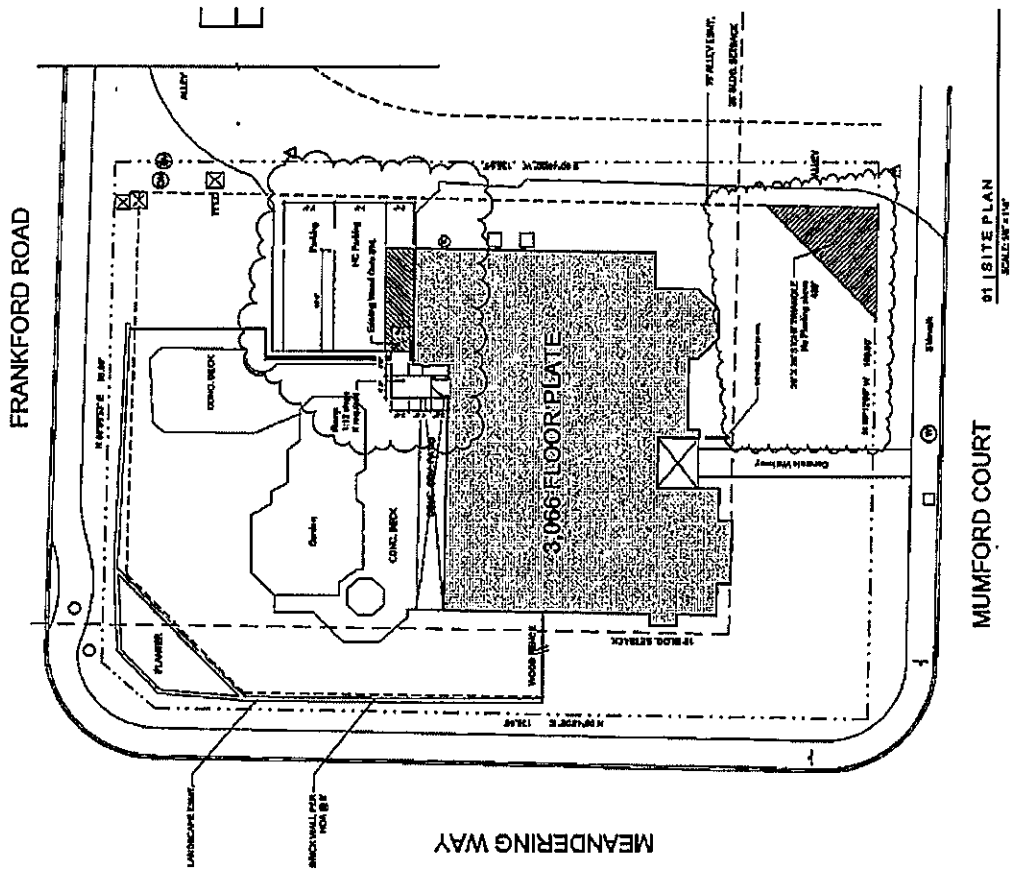
- “necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning”
- More clearly stated: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











Factor #3

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

Alternative Solutions

Request for Variance

- We request that the BOA grant full relief from the 27 off-street parking space requirement.
- Alternatively, we request that the BOA grant a variance on the screening requirement (so that CTC may fulfill at least 2 required spaces) as well as a variance on the 25 remaining spaces.

Reimbursement of Filing Fee



Thank You

Long, Steve

From: Long, Steve
Sent: Tuesday, August 01, 2017 9:24 AM
To: 'Schmidt, Grant K.'
Cc: Duerksen, Todd; Denman, Lloyd; Gilbert, Andrew; Monkhouse, Kristen; Moorman, Donna; Williams, Kanesia; Burgess, Casey; Dean, Neva
Subject: RE: BDA167-072, Property at 7103 Mumford Court
Attachments: 2017-07-28 Letter to Board of Adjustment - final.pdf; action letter.pdf; fee exemptions and refunds.pdf; documentary evidence.pdf; Panel A hearing date and deadlines.doc

Dear Mr. Schmidt,

As you know, the Board of Adjustment denied your request for a reimbursement of the filing fee and delayed action on your request for a variance to the off-street parking regulations at their June 20th public hearing until their next public hearing scheduled for August 15th. Attached is the decision letter that I sent you shortly after the June hearing that provided deadlines for the submittal of any additional information you want staff and/or the Board to consider beyond what is already in your board of adjustment application file for the parking variance.

Please be advised of the following in response to our conversation last week and your attached letter that you emailed me on Friday with regard to your request for a continuance on your off-street parking variance request beyond the August 15th public hearing:

While your July 28th letter will be forwarded to staff and the Board in a docket approximately a week prior to the August 15th public hearing, the application will be called at this hearing where testimony will be heard by you and anyone else wishing to speak to your request, and where the Board will have the option to delay/continue the request for variance, grant the request for variance, or deny the request for variance. As we discussed last week, it is important for you to understand that there is no provision in the Dallas Development Code for staff to administratively postpone a Board of Adjustment application, and with this in mind, it would be beneficial for you or someone on your behalf to attend the August 15th public hearing to provide testimony, answer any questions the Board members may have, and rebut anyone who may appear to oppose your variance request.

Please be advised that in response to your attached letter with regard to a new request for reimbursement of the filing fee that would involve amending your application from you being the applicant to some other party (CTC), an amendment can be made to your application with Todd Duerksen in Building Inspection no later than the end of the day tomorrow, (4:00 p.m., Wednesday), August 2nd.

If you amend your application with Todd Duerksen in this time frame, you must let me know in writing no later than 1:00 p.m., Friday, August 4th that you request a reimbursement of the filing fee on behalf of a new applicant, and submit anything to the code standard attached with regard to reimbursement of the filing fee. (Attached once again is the deadline for submittal of new information and the board's rule on documentary evidence).

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

Thank you,

Steve



Steve Long
 Board of Adjustment Administrator
 City of Dallas | www.dallascityhall.com
 Current Planning Division
 Sustainable Development and Construction
 1500 Marilla Street, 5BN
 Dallas, TX 75201
 O: 214-670-4666
steve.long@dallascityhall.com



BDA167-072
 Attach C
 P32

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

From: Schmidt, Grant K. [<mailto:GSchmidt@winston.com>]
Sent: Friday, July 28, 2017 11:48 AM
To: Long, Steve <steve.long@dallascityhall.com>
Cc: Duerksen, Todd <todd.duerksen@dallascityhall.com>; Law, Trena <trena.law@dallascityhall.com>; Denman, Lloyd <lloyd.denman@dallascityhall.com>; Gilbert, Andrew <andrew.gilbert@dallascityhall.com>; Monkhouse, Kristen <kristen.monkhouse@dallascityhall.com>; Walker, Chad B. <CBWalker@winston.com>; 'Justin Butterfield' <jbutterfield@firstliberty.org>; 'Chelsey Youman' <cyouman@firstliberty.org>
Subject: BDA167-072, Property at 7103 Mumford Court

Steve –

Attached is a letter on behalf of Congregation Toras Chaim for the Board’s consideration at the staff meeting.

Thank you for your consideration. Please let us know if we can provide any additional information.

Grant

Grant K. Schmidt

Winston & Strawn LLP
 D: +1 214-453-6469
 M: +1 214-507-5042
winston.com



From: Long, Steve [<mailto:steve.long@dallascityhall.com>]
Sent: Tuesday, May 09, 2017 10:09 AM
To: Schmidt, Grant K. <GSchmidt@winston.com>
Cc: Duerksen, Todd <todd.duerksen@dallascityhall.com>; Law, Trena <trena.law@dallascityhall.com>; Denman, Lloyd

<lloyd.denman@dallascityhall.com>

Subject: BDA167-072, Property at 7103 Mumford Court

BDA 167-072

Attach C

pg 3

Dear Mr. Schmidt,

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

1. The submitted application materials - all of which will be emailed to you, city staff, and the board members in a docket report about a week ahead of your tentatively scheduled June 20th Board of Adjustment Panel A public hearing.
2. The provision from the Dallas Development Code allowing the board to grant a variance to the off-street parking regulations (51A-3.102(d)(10)).
3. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board.
4. The board's rule pertaining to documentary evidence.

Please carefully review the attached application materials to make sure they are complete, and within these materials, the Building Official's Report/second page of the application (page 2 of 10 in these attached materials). Contact Todd Duerksen at 214/948-4475 or at todd.duerksen@dallascityhall.com no later than 1 p.m., Wednesday, May 31st with regard to any information you feel is missing from your submittal or with regard to any amendment that you feel is necessary to address the issue at hand, specifically if for any reason you feel that the statement in his Building Official's report stating that the applicant proposes to construct/maintain a structure for a church use and provide 0 of the required 27 off-street parking spaces which will require a 27 space variance to the off-street parking regulations, or any other part of this report is incorrect. (Note that the discovery of any additional appeal needed beyond your requested off-street parking variance will result in postponement of the appeal until the panel's next regularly scheduled public hearing).

You may want to contact Lloyd Denman, City of Dallas Sustainable Development Department Assistant Director Engineering at 214/948-4354 or at Lloyd.Denman@DallasCityHall.com to determine if there is any additional information that may be needed from you in making a favorable recommendation to the board on your request.

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

Thank you,

Steve

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

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

The contents of this message may be privileged and confidential. If this message has been received in error, please delete it without reading it. Your receipt of this message is not intended to waive any applicable privilege. Please do not disseminate this message without the permission of the author. Any tax advice contained in this email was not intended to be used, and cannot be used, by you (or any other taxpayer) to avoid penalties under applicable tax laws and regulations.



North America Europe Asia

BDA167-072
Attention C PS 4

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

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

July 28, 2017

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

Re: Board of Adjustment – Congregation Toras Chaim – Parking Variance

Dear Steve:

On behalf of Congregation Toras Chaim (“CTC”), Rabbi Rich, Mark Gothelf, and Judith Gothelf, I respectfully write this letter to the Board so that it may be considered at the upcoming staff team meeting. As the Board is aware, based on the suggestion of the Board at its most recent hearing on June 20, 2017, CTC requested a continuance. CTC requested a continuance as the Board suggested that it might have identified a solution that would avoid the need for a variance.

During the week of July 12, I spoke with Assistant City Attorneys Andrew Gilbert and Kristen Monkhouse. Mr. Gilbert and Ms. Monkhouse suggested that CTC first submit permitting applications because those applications would ultimately impact the number of required spaces and would impact the recommendation and suggestions of the City. Mr. Gilbert and Ms. Monkhouse also suggested that I reach out to the Board to request an additional continuance – as the permitting applications will not be processed by August 14 (the date of the upcoming Board of Adjustment hearing).

Given that CTC is working closely with the City to avoid any potential conflict (and to resolve the variance issue), we respectfully request a further continuance beyond the August meeting, so that we may obtain the proper permits, discuss and respond to the City’s forthcoming proposals, recommendations, or suggestions, and determine whether the variance application is still necessary.

Please let us know if the staff and Board would be amenable to placing CTC on the September docket (rather than the August docket). By that time, we should have a much clearer understanding about what the City intends to propose as a potential solution to the requirements.

Additionally, we would like to submit a new request for reimbursement of the filing fee given the procedural issue / technical error that arose at the June hearing. It is my understanding that the problem can be cured by ensuring CTC is accurately listed as the applicant for the variance. Please let me know the best way to procedurally re-submit that request.

WINSTON
& STRAWN
LLP

July 28, 2017
Page 2

Thanks very much for your time and consideration of this request for an additional continuance, and as always, please do not hesitate to contact me if we can provide any additional helpful information.

Respectfully,



Grant Schmidt

Cc: Andrew Gilbert
Kristen Monkhouse



North America Europe Asia

BDA 167-072

Attach C PS 6

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

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

July 28, 2017

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

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WINSTON
& STRAWN
LLP

Thanks very much for your time and consideration of this request for an additional continuance, and as always, please do not hesitate to contact me if we can provide any additional helpful information.

Respectfully,



Grant Schmidt

Cc: Andrew Gilbert
Kristen Monkhouse



BDA167-072
Attach C B B

June 22, 2017

Grant Schmidt
1717 Main Street, Suite 5000
Dallas, TX 75201

Re: BDA167-072(SL), Property at 7103 Mumford Court

Dear Mr. Schmidt:

The Board of Adjustment Panel A, at its public hearing held on Tuesday, June 20, 2017 took the following actions:

1. denied your request for a reimbursement of the filing fee submitted in conjunction with your request for a variance to the off-street parking regulations; and
2. held your request for a variance to the off-street parking regulations under advisement until August 15, 2017.

Please be aware of the 1:00 p.m., July 26th deadline to submit any additional information for staff review, and 1:00 p.m., August 4th deadline to submit any additional information that you want incorporated into the board's docket.

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

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

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

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

22004; 22026; 22206; 22392; 22738; 22920; 24051; 24542; 24843; 25047; 25048; 25384; 26001; 26161; 26529; 26530; 26536; 26730; 26920; 27069)

SEC. 51A-1.105.1. FEE EXEMPTIONS AND REFUNDS.

(a) No fee is required for applications filed under this chapter by the U.S. Government, the State of Texas, the county of Dallas, the city of Dallas, or a political subdivision of the state if the property that is the subject of the application is devoted exclusively to governmental use.

(b) No fee is required for applications made to the board of adjustment pursuant to Section 51A-1.107, requesting a special exception to a regulation in this chapter based on a handicap.

(c) Whenever affordable housing units are provided as a part of a project in accordance with Division 51A-4.900, the director shall authorize a refund of a percentage of the total zoning and platting application fees paid for the project equal to the percentage of standard affordable housing units provided in the project. (Ord. Nos. 20037; 21176; 21183; 21663)

SEC. 51A-1.106. NOTIFICATION SIGNS REQUIRED TO BE OBTAINED AND POSTED.

(a) Signs required to be obtained from the city. An applicant is responsible for obtaining the required number of notification signs and posting them on the property that is the subject of the application. Notification signs must be obtained from the director or the building official. An application will not be processed until the fee for the signs has been paid. For purposes of this section, an applicant is one who makes a request:

- (1) for a change in a zoning classification or boundary;
- (2) to the board of adjustment;
- (3) for a certificate of appropriateness for a sign that is to be located in a special provision sign district and is either a detached sign or an

attached sign that has more than 100 square feet of effective area; or

(4) to the landmark commission for a certificate for demolition or removal.

(b) Number of signs required. A minimum of one notification sign is required for every 500 feet or less of street frontage, with one additional notification sign required for each additional 500 feet or less of street frontage. For tracts without street frontage, a minimum of one notification sign is required for every five acres or less, with one additional notification sign required for each additional five acres or less. A maximum of five notification signs are required.

(c) Posting of signs. Except as provided in Subsection 51A-1.106(d), the applicant shall post the required number of notification signs on the property within 14 days after an application is filed. The signs must be legible and remain posted until a final decision is made on the application. For tracts with street frontage, signs must be evenly spaced over the length of every street frontage, posted at a prominent location adjacent to a public street, and be easily visible from the street. For tracts without street frontage, signs must be evenly posted in prominent locations most visible to the public.

(d) Failure to comply. If the city plan commission, landmark commission, or board of adjustment determines that the applicant has failed to comply with the provisions of this section, it shall take no action on the application other than to postpone the public hearing for at least four weeks or deny the applicant's request, with or without prejudice. If the hearing is postponed, the required notification signs must be posted within 24 hours after the case is postponed and comply with all other requirements of this section.

(e) Illegal removal of signs. A person commits an offense if he intentionally or knowingly removes a notification sign that has been posted pursuant to this section. It is a defense to prosecution under this subsection that the sign was no longer required to be posted pursuant to this section at the time of its removal.

(f) Posting of signs by the director. When the city council or city plan commission authorizes a hearing on a change in zoning district classification or

lack of appearance at the first call at its discretion. If no one appears the second time, the case must be denied.

- (h) If, after a public hearing on a request, the presiding officer duly calls for, but does not receive a motion, the request is deemed denied with prejudice.
- (i) A public hearing must be conducted for compliance proceedings on a nonconforming use. Prior to the hearing, the presiding officer may direct that a subpoena duces tecum and interrogatories be served on the owner(s) and/or operators of the use requesting that certain information and documents be produced to the board administrator within a reasonable time. The owner(s) and/or operators may supply the board administrator with any additional information or documents that are necessary for the panel to make its decision. At the hearing, the panel shall review the information and documents and set a date by which the nonconforming use must come into compliance with the current zoning regulations.
- (j) The board administrator may place cases which are recommended for approval without opposition on an uncontested docket. When the board administrator calls the uncontested docket, he shall state the case number, the applicant, the location, the nature of the case and the staff recommendation, and shall ask if there is any opposition. A case on the uncontested docket must be considered individually as a regular docket item if there is any opposition or a panel member so requests. Any cases remaining on the uncontested docket shall be approved as a group without the need for testimony from the applicants.
- (k) Documentary evidence.
 - (1) All typewritten documentary evidence including reduced-size copies of conceptual plans, development plans, landscape plans, and site plans must conform to the standard 8.5 x 11-inch letter-sized pages on a size 12 font or larger. Each page must be serially numbered and double-spaced.
 - (2) All printed and typewritten documentary evidence in excess of five pages tendered by a party shall not be considered by the board unless such documentary evidence is submitted to the

board administrator no later than 10 days prior to the scheduled hearing date at which the matter is to be considered. Upon oral request made by the party at the scheduled hearing, a panel of the board may, for good cause, suspend the operation of this rule and consider the excluded evidence or postpone the hearing on the application to a date certain to allow the panel sufficient time to consider the tendered evidence prior to the next scheduled hearing date.

- (3) For purposes of this subsection, DOCUMENTARY EVIDENCE means anything printed or written on paper and relied upon to record or prove something, but signed petitions shall not be considered documentary evidence.
- (4) For purposes of this subsection, PARTY means the applicant or any person or entity that appears in favor of or against the request.

Section 11. Executive Sessions.

- (a) The board or a panel may remove itself from an open meeting by moving to go into an executive session. Only matters authorized under the Texas Open Meetings Act to be discussed in executive session may be addressed in the executive session. All communication in an executive session is privileged information. The privilege can only be waived by a member by formal waiver. Members are cautioned that discussing the privileged communication with a member of the public, the media, or any other person not privy to the executive session may damage the privilege. The board or a panel shall not hold an executive session except when discussing complaints about or evaluations of individual staff members, or seeking the advice of its attorney on the following matters:
 - (1) Pending or contemplated litigation.
 - (2) Settlement offers.
 - (3) Risk or liability of the board, a panel or individual members thereof for taking an action.

BDA 167-072
Attach C
Pg 12

Board of Adjustment Panel:
Public hearing date/time:
Deadline to submit information for staff team meeting:
Deadline to submit information for board's docket:

Panel A
1 p.m., Tuesday, August 15th
1 p.m., Wednesday, July 26th
1 p.m., Friday, August 4th



A

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-072

Data Relative to Subject Property:

Date: 2/24/17

Location address: 7103 Mumford Ct., Dallas, TX 75252 Zoning District: R-7.5(A)

Lot No.: 45 Block No.: 8788¹⁰/8758 Acreage: .29 Census Tract: 317.19

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

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Mark Gotthelf + Judith Gotthelf

Applicant: ~~Congregation Texas Chalm~~ Telephone: ~~472-835-6016~~

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

E-mail Address: ~~fabbie@brascchalm.dallas.org~~

Represented by: Grant Schmidt Telephone: 214-507-5042

Mailing Address: 1717 Main St., Suite 1000 Zip Code: 75201

E-mail Address: ~~grantschmidt12@gmail.com~~ gschmidt@winston.com

Affirm that an appeal has been made for a Variance , or Special Exception , of a reduction in required off street parking spaces (27)

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 restrictive area, shape, + slope prevents Mark Gotthelf (and Congregation Texas Chalm) from developing the land in a manner commensurate with the development upon other parcels of land in the district with the same zoning classification. There are essentially three front yards (with a brick wall subboundary 2 sides) and no car could enter back due to alley screening.

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

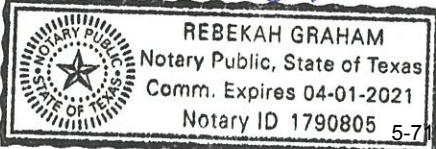
Affidavit

Before me the undersigned on this day personally appeared Grant Schmidt (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 24th day of February, 2017



Rebekah Graham Notary Public in and for Dallas County, Texas

(Rev. 08-01-11)

City of Dallas

Internal Development Research Site

Legend

Locate Property

Search by:

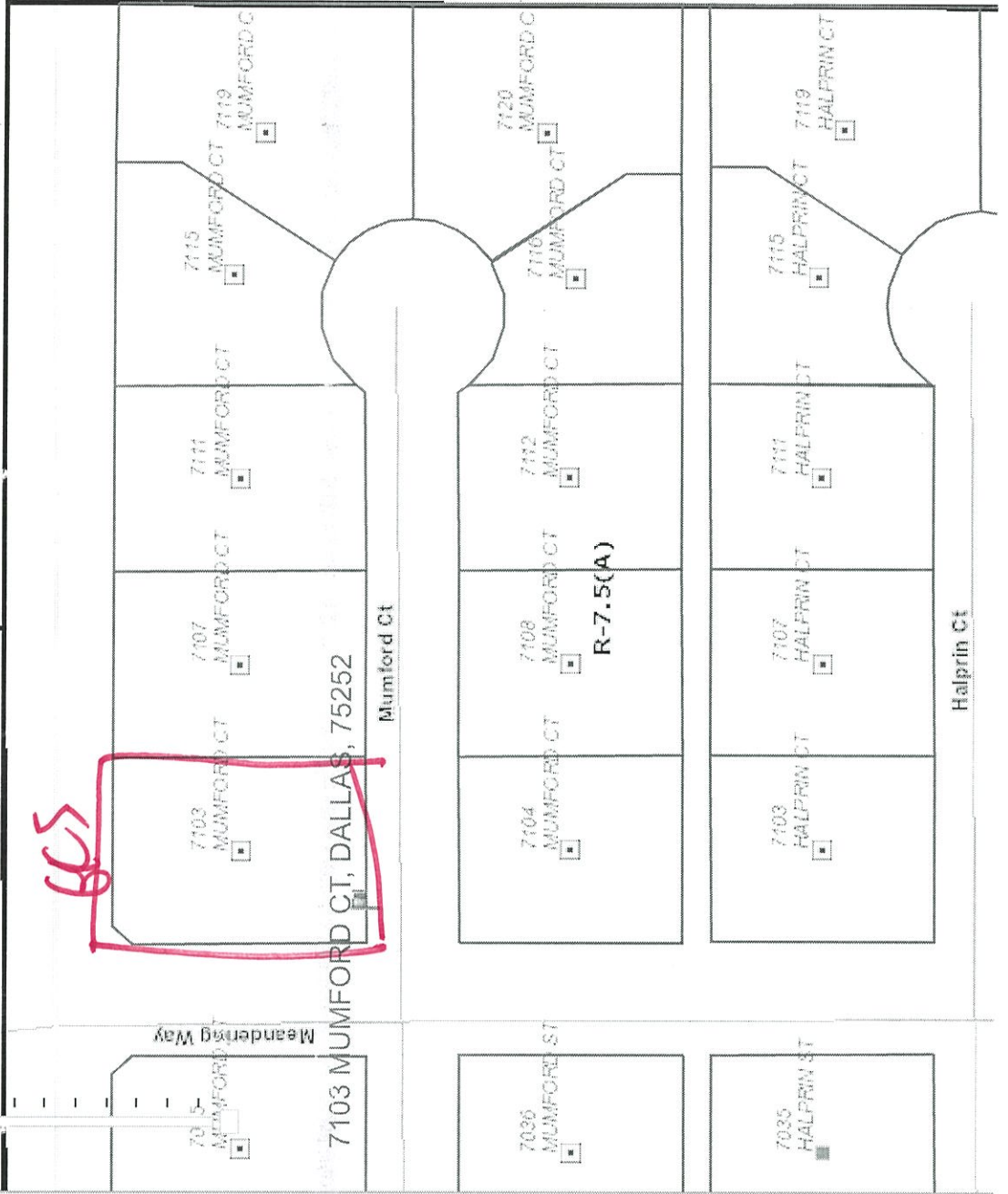
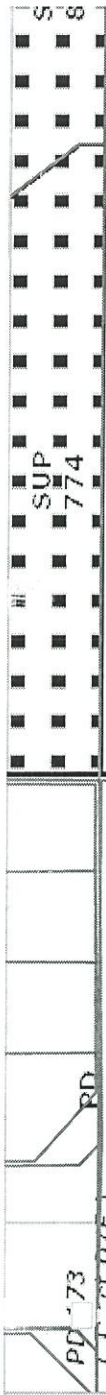
GIS Account #

OR

Street address.
7103 mumford

OR

Parcel address.
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2104 FLOOR PLAN - 2nd Floor 7/20/17

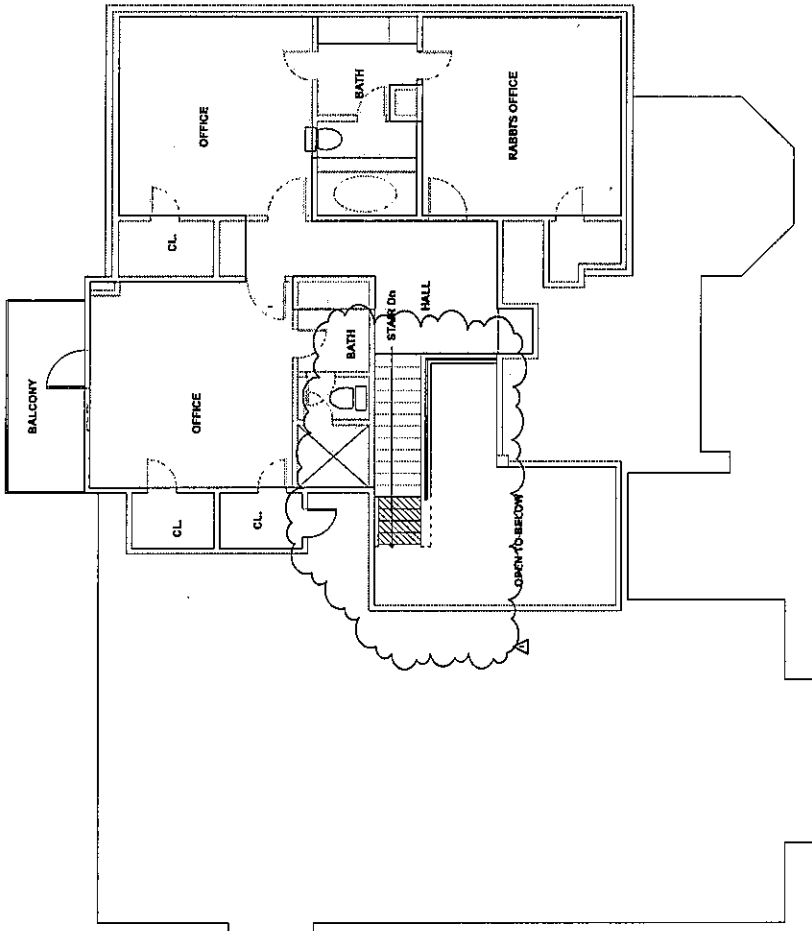
TORAS CHIAM CONGREGATION

PROJECT NO. 167-072
2nd FLOOR PLAN

DATE: 7/20/17
DRAWN BY: [Signature]
CHECKED BY: [Signature]

PROJECT PROGRAM ARCHITECT
167-072
167-072
167-072
167-072

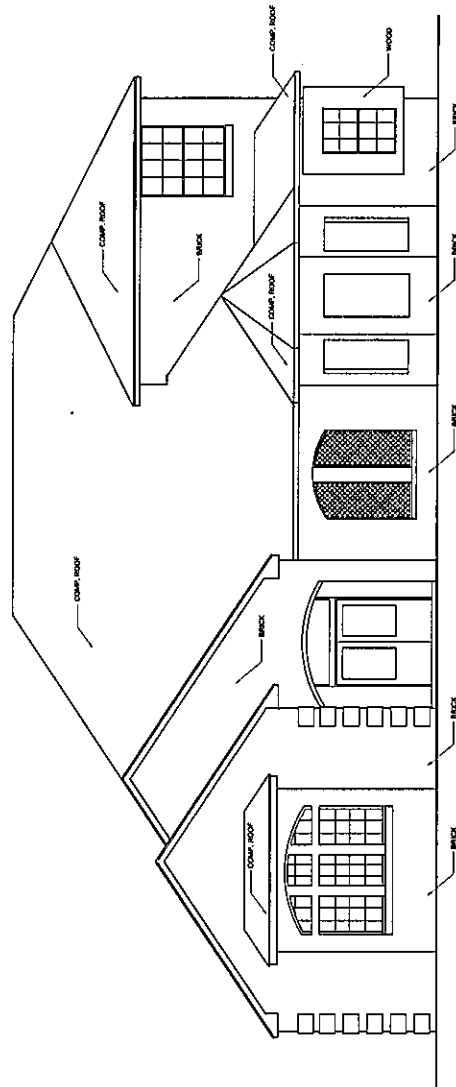
A-2



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

ARCHITECT
 Gregory Magnus Architects
 10000 Park Road, Suite 200
 Raleigh, NC 27617
 Tel: 919.876.9725
 gma@gregmagnus.com

REGISTERED ARCHITECTS
 Gordon H. Smith
 License No. 22123
 Matthew J. Smith
 License No. 22117
 Registered Professional Seal



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

Fish & Richardson P.C.
1717 Main Street
Suite 5000
Dallas, TX 75201
214 747 5070 main
214 747 2091 fax

February 24, 2017

Grant K. Schmidt
Associate
gschmidt@fr.com
214 760 6128 direct

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

Todd Duerksen
320 E. Jefferson Blvd., Room 105
Dallas, TX 75203

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

Dear Mr. Long and Mr. Duerksen:

I represent Congregation Toras Chaim (“CTC”) in the above-referenced action brought by the City of Dallas (the “City”). CTC is a small Orthodox Jewish congregation that meets at 7103 Mumford Court, Dallas, TX 75252 (the “Property”), where about twenty-five neighborhood congregants walk to gather for worship on Saturdays, and a smaller number of congregants gather throughout the week. CTC is pursuing a variance regarding parking requirements for the Property. In particular, CTC intends to seek a variance on all 27 required off street parking spaces. This is a cover letter for the variance application. This packet includes (a) 2 Application forms; (b) 2 Affidavit forms; (c) 1 Warranty Deed; (d) a copy of the certified subdivision plot; (e) 1 lien statement; (f) 4 copies of the site plan; (g) 4 copies of the elevation drawings; (h) 4 copies of the floor plan; (i) a check for \$3630.00 in this application (\$900 + (27 x \$100) + (3 x \$10)); and (j) a smaller copy of each drawing as requested.

Regarding the parking analysis and/or traffic study, CTC does not have any parking analysis or traffic study to offer because CTC members generally do not drive to worship. Orthodox Jews are prohibited from driving on the Sabbath; these families therefore must live within walking distance of a synagogue to attend prayer services on the Sabbath. Therefore, CTC would be unable to provide a parking analysis or traffic study. This is consistent with CTC’s request to reduce the 27 parking space requirement.

CTC is pursuing a variance because the area, shape, and slope prevents CTC from developing the land in a manner commensurate with the development upon other parcels of land in the district with the same zoning classification. Second, there are essentially three front yards given the location of CTC’s property. Third, there are two brick walls owned by the Homeowners’ Association on two

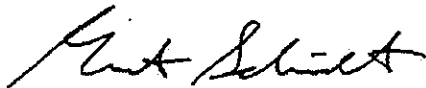
February 24, 2017

sides of the property. Furthermore, CTC has been instructed by the City that no car could enter the back of the home due to the alley screening issues. For these reasons, CTC requires a reduction in the required off street parking requirements (27 spaces). The implementation of this variance would not be contrary to the public interest (in fact, it would be consistent with the public interest) and would otherwise result in an unnecessary hardship for CTC. This variance is not being pursued to relieve a self-created or personal hardship.

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

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

Respectfully,



Grant K. Schmidt

cc: Andrew Gilbert, Assistant City Attorney

Justin Butterfield, First Liberty

Chad Walker, Fish & Richardson



CITY OF DALLAS

AFFIDAVIT

Appeal number: BDA 167-072

I, Judith Gothelf, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

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

Authorize: Grant Schmidt
(Applicant's name as stated on application)

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

- Variance (specify below)
- Special Exception (specify below)
- Other Appeal (specify below)

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

Judith Gothelf
Print name of property owner or registered agent

Judith A Gothelf
Signature of property owner or registered agent

Date 3/21/17

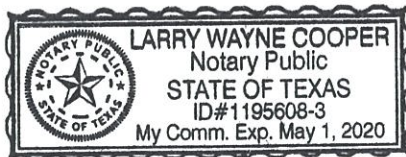
Before me, the undersigned, on this day personally appeared Judith Gothelf

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

Subscribed and sworn to before me this 21th day of March, 2017

Larry Cooper
Notary Public for Dallas County, Texas

Commission expires on 05-01-2020





AFFIDAVIT

Appeal number: BDA 167-072

I, Mark Gothelf, Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

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

Authorize: Grant Schmidt
(Applicant's name as stated on application)

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

- Variance (specify below)
- Special Exception (specify below)
- Other Appeal (specify below)

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

Mark Gothelf
Print name of property owner or registered agent

Mark B Gothelf
Signature of property owner or registered agent

Date 2/23/17

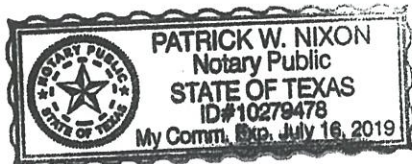
Before me, the undersigned, on this day personally appeared MARK B Gothelf

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

Subscribed and sworn to before me this 23 day of FEBRUARY, 2017

Patrick Nixon
Notary Public for Dallas County, Texas

Commission expires on 7-16-2019



Notification List of Property Owners

BDA167-072

20 Property Owners Notified

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

FILE NUMBER: BDA167-086(SL)

BUILDING OFFICIAL'S REPORT: Application of Robert Baldwin of Baldwin and Associates for variances to the front yard setback and off-street parking regulations at 10727 Midway Road. This property is more fully described as an unplatted 4.28 acre parcel in Block C/6154, and is zoned R-16(A), which requires a front yard setback of 35 feet, requires that in residential districts, any off-street parking for nonresidential uses must comply with the minimum front yard requirements, and that the owner of off-street parking must provide screening to separate the parking area from a contiguous residential use or vacant lot if either is in an R(A) district and the parking area serves a nonresidential use. The applicant proposes to construct and maintain a structure and provide a 20 foot front yard setback, which will require 15 foot variances to the front yard setback regulations, to locate and maintain off-street parking in the front yard setbacks, which will require variances to the off-street parking regulations, and to locate and maintain a parking area and not provide the required screening, which will require a variance to the off-street parking regulations.

LOCATION: 10727 Midway Road

APPLICANT: Robert Baldwin of Baldwin and Associates

REQUESTS:

The following requests are made on a site that is developed with church use/ structure (Providence Presbyterian Church):

1. Variances to the front yard setback regulations of up to 15' is made to:
 - a) construct and maintain structures (dumpster, sanctuary, and classroom) to be located as close as 20' from the site's front property line on the north (Royal Lane) or as much as 15' into this 35' required front yard setback; and
 - b) maintain an existing nonconforming structure located 23' 10" from the site's other front property line on the south (Brookport Drive) or 11' 2" into this required front yard setback.
2. Variances to the off-street parking regulations are made to:
 - a) locate and maintain off-street parking spaces in the site's two 35' front yard setbacks on the north along Royal Lane and on the south along Brookport Drive;
 - b) construct and maintain a surface parking area/lot, and not fully meet off-street parking regulations related to required screening of the off-street parking area on the west side of the subject site that is contiguous to residential uses and adjacent to property zoned R-16(A).

STANDARD FOR A VARIANCE:

The Dallas Development Code Section 51A-3.102(d)(10) 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 (front yard and parking variances):

Denial

- While staff recognized at the time of the August 1st staff review team meeting that subject site was unique from most R-16(A) zoned lots with 2 front yard setbacks, and was somewhat irregular in shape, and with easements that limited area that could be further developed beyond the existing church use on the property, staff concluded from the facts submitted by the applicant from the time in which the application was submitted on May 31st to what had been added by the applicant at the time of this staff review team meeting that these features/characteristics on the approximately 186,000 square foot lot zoned R-16(A) did not preclude the applicant from developing it with an expanded church use that could comply with the front setbacks and off-street parking regulations.
- From the facts that the applicant had submitted between when the application was submitted on May 31st and added to by the applicant at the time of the August 1st staff review team meeting, staff had concluded that the applicant had not demonstrated how the features of the site (which is relatively flat, irregular in shape, and according to the application is 4.28 acres in area) preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same R-16(A) zoning classification – the site is currently developed a church use/structure most of which complies with the Dallas Development Code other than the nonconforming structure aspect of the structure built (according to DCAD) in the 40's located in the 35' Brookport Drive front yard setback.

BACKGROUND INFORMATION:

Zoning:

Site: R-16(A) (Single family district 16,000 square feet)
North: R-16(A) (Single family district 16,000 square feet)
South: R-16(A) (Single family district 16,000 square feet)

East: R-16(A) (Single family district 16,000 square feet)
West: R-16(A) (Single family district 16,000 square feet)

Land Use:

The subject site is developed with a church use (Providence Presbyterian Church). The area to the north is developed with a church use, the areas to the east and west are developed with single family uses, and the area to the south is undeveloped.

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 (front yard variance):

- The requests for variances to the front yard setback regulations of up to 15' focus on constructing and maintaining an approximately 40 square foot dumpster structure, an approximately 18,500 square foot "future sanctuary" structure, and an approximately 8,900 square foot "new classroom building" structure as close as 20 from one of the site's two front property lines (Royal Lane) or as much as 15' into this 35' required front yard setback, and maintaining an existing nonconforming structure located 23' 10" from the site's other front property line on the south (Brookport Drive) or 11' 2" into this required front yard setback.
- The subject site is zoned R-16(A) which requires a minimum 35' front yard setback.
- The subject site is located at the southwest corner of Royal Lane and Midway Road. The site is bounded by Royal Lane on the north, Midway Road on the east, and Brookport Drive on the south. The site has two 35' front yard setbacks (one on the north along Royal Lane, the other on the south along Brookport Drive) since the code states that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets. (Midway Road is a side yard where the minimum setback is 15').
- The applicant has submitted site plan denoting the dumpster, future sanctuary, and new classroom structures to be located in the 35' required front yard setback on the north along Royal Lane, and an "existing one story brick" structure in the 35' front yard setback on the south along Brookport Drive.
- According to DCAD records, the "improvement" for property addressed at 10727 Midway Road is structure built in 1941 with 15,735 square feet. Because records show that the main improvement/structure on this site was built in the 40's, it is assumed that the existing "one-story brick building" structure located in the 35' required front yard setback on the south along Brookport Drive is a nonconforming structure.
- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.

- The code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.
- The code states that a person may renovate, remodel, repair, rebuild, or enlarge a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations.
- The applicant has chosen to seek variance to the front yard setback regulations for both the proposed structures to be located in the 35' required front yard setback on the north along Royal Lane, and the nonconforming existing one-story brick" nonconforming structure in the site's 35' required front yard setback on the south along Brookport Drive.
- The site is relatively flat, irregular in shape, and according to the application is 4.28 acres (or approximately 186,000 square feet) in area. The site is R-16(A) where lots are typically 16,000 square feet. The site developed with a church use has two 35' front yard setbacks and two 15' side yard setbacks. Most lots in this zoning district developed with single family structures have one 35' front yard setback, two 10' side yard setbacks, and one 10' rear yard setback.
- The applicant has submitted a document indicating an existing storm detention area and three easements for storm drainage which along with setbacks creates a buildable area of the property at 61 percent.
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variances to front yard setback regulations are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-16(A) zoning classification.
 - The variances to front yard setback regulations would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-16(A) zoning classification.
- If the Board were to grant the requests, and impose the submitted site plan as a condition, the structures in the front yard setbacks would be limited to what is shown on this document– which, in this case, are proposed structures located as close as 20' from the Royal Lane front property line or as much as 15' into this 35' required front yard setback, and an existing nonconforming structure located 23' 10" from the site's other front property line on the south (Brookport Drive) or 11' 2" into this required front yard setback.

GENERAL FACTS /STAFF ANALYSIS (off-street parking variances):

- The requests for variances to the off-street parking regulations focus on: 1) locating and maintaining off-street parking spaces in the site's two front yard setbacks (Royal

Lane on the north and Brookport Drive on the south); and 2) constructing and maintaining a surface parking area/lot, and not fully meeting off-street parking regulations related to required screening of the off-street parking area/lot on the west side of the subject site that is contiguous to residential uses and adjacent to property zoned R-16(A).

- The subject site is zoned R-16(A) which requires a minimum 35' front yard setback.
- The subject site is located at the southwest corner of Royal Lane and Midway Road. The site is bounded by Royal Lane on the north, Midway Road on the east, and Brookport Drive on the south. The site has two 35' front yard setbacks (one on the north along Royal Lane, the other on the south along Brookport Drive) since the code states that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets. (Midway Road is a side yard where the minimum setback is 15').
- The subject site is a church or nonresidential use located in a residential zoning district where there are residential uses to the west on property zoned R-16(A).
- The Off-Street Parking Regulations of the Dallas Development Code states the following with regard to off-street parking provisions for residential uses:
 - In residential districts, any off-street parking for nonresidential uses must comply with the minimum front yard requirements.
- The submitted site plan denotes a row of off-street parking spaces located in the 35' required front yard setbacks on the north side of the site along Royal Lane and on the south side of the site along Brookport Drive.
- The Off-Street Parking Regulations of the Dallas Development Code states the following with regard to "screening provisions for off-street parking":
 - The owner of off-street parking must provide screening to separate the parking area from a contiguous residential use or vacant lot if either is in an agricultural, single family, or multifamily district and the parking area serves a nonresidential use.
 - Screening for off-street parking required must be a brick, stone, or concrete masonry, stucco, concrete, or wood wall that is not less than six feet in height.
- The submitted site plan denotes no screening between the surface parking area/lot and the contiguous residential use zoned R-16(A) to the west of the subject site.
- According to DCAD records, the "improvement" for property addressed at 10727 Midway Road is structure built in 1941 with 15,735 square feet.
- The site is relatively flat, irregular in shape, and according to the application is 4.28 acres (or approximately 186,000 square feet) in area. The site is R-16(A) where lots are typically 16,000 square feet. The site developed with a church use has two 35' front yard setbacks and two 15' side yard setbacks. Most lots in this zoning district developed with single family structures have one 35' front yard setback, two 10' side yard setbacks, and one 10' rear yard setback.
- The applicant has submitted a document indicating an existing storm detention area and three easements for storm drainage which along with setbacks creates a buildable area of the property at 61 percent.
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal

enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.

- The variances to off-street parking regulations is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-16(A) zoning classification.
- The variances to off-street parking regulations would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-16(A) zoning classification.
- If the Board were to grant the requests, and impose the submitted site plan as a condition, the applicant would be permitted to locate and maintain off-street parking spaces in the 35' required front yard setbacks on the north along Royal Lane and on the south along Brookport Drive, and to not provide required screening of the off-street parking area/lot on the west side of the subject site that is contiguous to residential uses and adjacent to property zoned R-16(A).

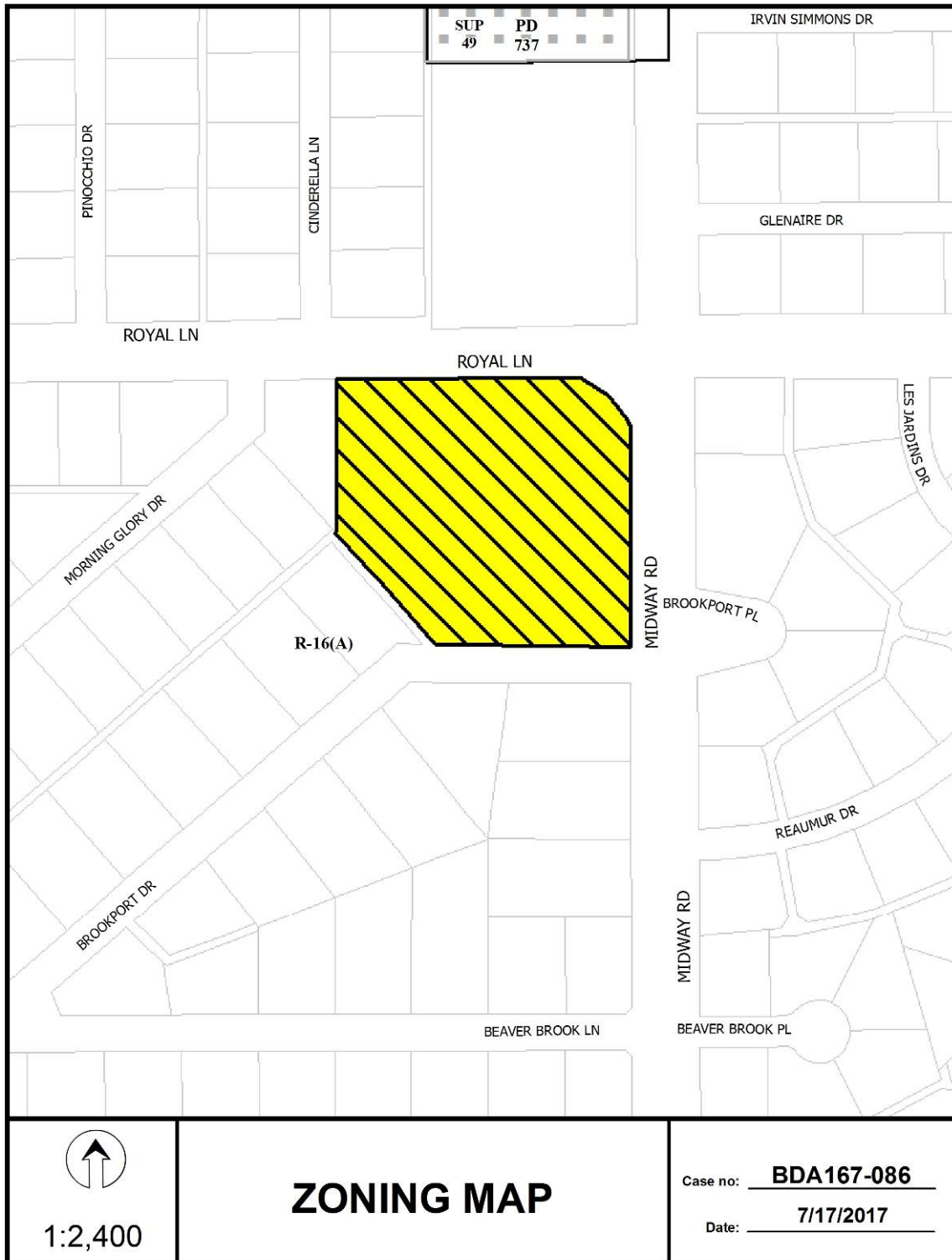
Timeline:

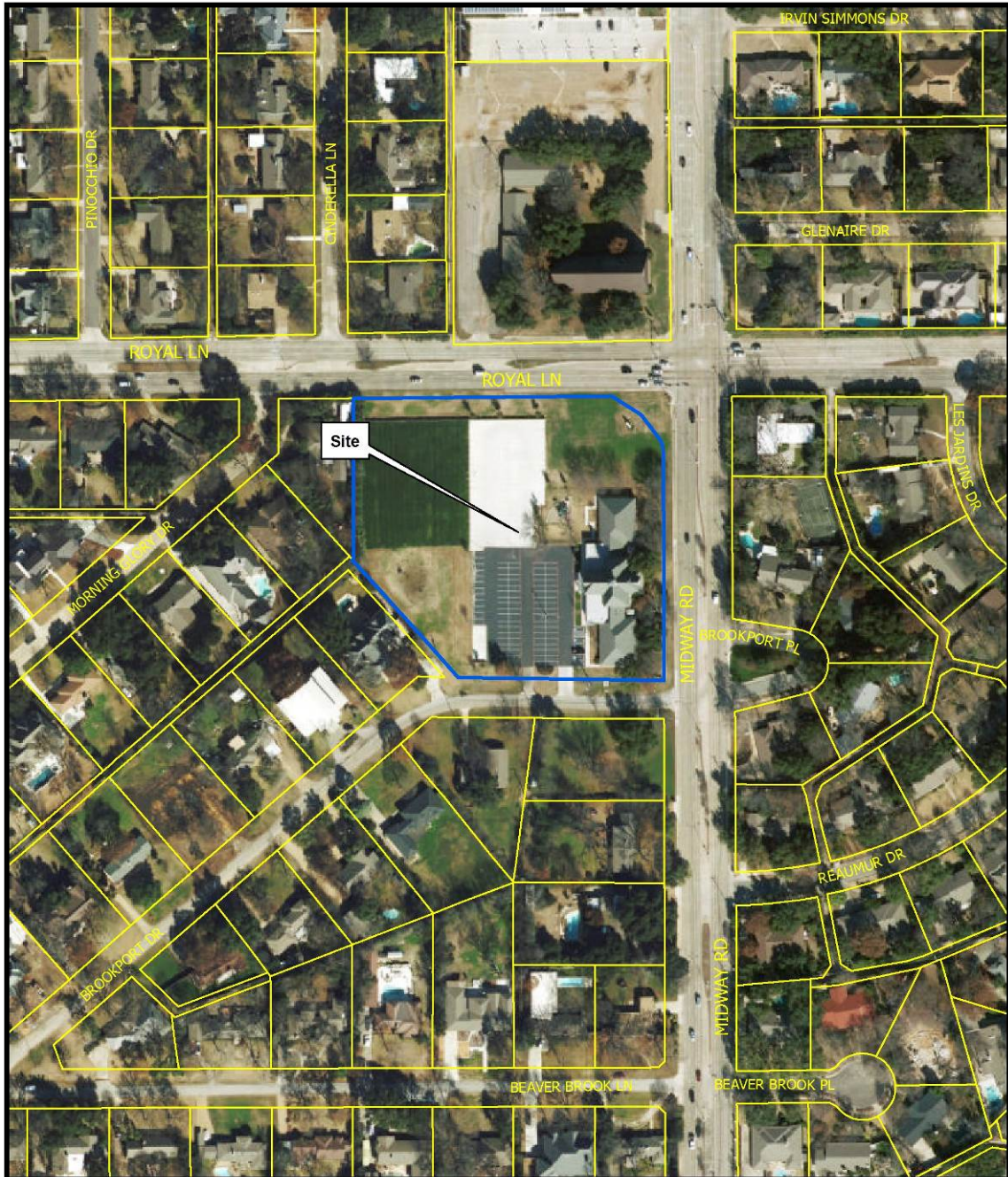
- May 31, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- July 11, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- July 11, 2017: The Board 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 July 26th deadline to submit additional evidence for staff to factor into their analysis; and the August 4th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the definition of nonconforming structure and the provision from the Dallas Development Code related to nonconforming structures (51A-4.704(c));
 - 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."
- July 26, 2017: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

August 1, 2017: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Assistant Director of Engineering, the Board of Adjustment Chief Planner, the Sustainable Development and Construction Interim Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, and the Assistant City Attorney to the Board.

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

August 4, 2017: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B). Note that this information was not factored into the staff recommendation for the variances since it was submitted after the August 1st staff review team meeting.





1:2,400

AERIAL MAP

Case no: BDA167-086

Date: 7/17/2017

Baldwin
Associates

July 26, 2017

Steve Long
Board Administrator
City of Dallas Board of Adjustment
1500 Marilla 5BN
Dallas, TX 75201

RE: BDA 167-086, Royal Lane & Midway Road, southwest corner
Providence Presbyterian Church

Dear Mr. Long:

Our firm is assisting Providence Presbyterian Church in their variance requests to the Board of Adjustment. The Church is proposing a building addition on the north side of the existing building. The work will also expand the parking lot, which will help relieve parking on neighborhood streets during church services and events.

The Church's property is zoned an R-16(A) Single Family District, which has a greater front yard setback (35 feet) than the existing Church building provides today (23 feet) and restricts parking spaces from being in a front yard setback. The Property has front yard setback requirements on both Brookport Drive and Royal Lane.

The Church participated in a predevelopment meeting with City staff prior to completing the design of the proposed additions. In that meeting, the Church was instructed to treat Royal Lane as a side yard since the property's narrowest frontage is along Brookport Drive. This information was erroneous since the front yard regulations call for both yards to be considered front yards when a property runs from one street to another (51A-4.401(a)(5)). Design of the additions proceeded based on the erroneous information, which was learned at time of building permit submittal.

We are requesting to the Board of Adjustment to provide a 20-foot setback along Royal Lane for the proposed building additions and to maintain the 23-foot setback for the existing building on Brookport Drive. We are also requesting approval of the location of parking spaces in both front yard setbacks and to allow the required landscaping buffer to serve as the parking lot screening. These are all variance requests.

The property has an irregular shape and has three street frontages, two of which are front yards per zoning. The property's topography falls about six feet from the northeast corner near the Royal/Midway intersection towards the southwest. There is an existing storm detention area that slopes down another 10 feet. The property also has three easements for storm drainage that encumber the property, making the western side of the property unbuildable except for parking. An existing 15-foot drainage easement will be expanded to 30-feet and a new 20-foot drainage easement will be provided by platting and engineering requirements. This drives the location of the church expansion to the northeast corner of the property. Our architect calculates approximately 61% of the property is buildable due to the site restrictions from easements and required setbacks.

Currently, parking for church services and events overflows onto the residential streets. The site plan shows that there will be more parking than what the Dallas Development Code requires for the number of seats in the sanctuary; this is in order to provide the amount of parking spaces that are expected as demanded by the church with the proposed building additions. In the Church's conversations with immediate neighbors, the additional parking is needed for the public interest. In order to accommodate the demand, parking spaces are provided on the site plan within the front yard setback.

Parking spaces require screening when abutting residential uses and must be a 6-foot solid screening fence. This requirement will apply on the western side of the property between the parking lot and the west property line. We are requesting to vary this requirement for a few reasons. Due to the previously mentioned site fall, there will be a 4-foot retaining wall at the edge of the southwest line of the parking lot. If we did provide the 6-foot screening fence, it would appear as either 2-feet of screening if it is placed on the property line or 10-feet if it is placed on the retaining wall, neither of which are desirable for the neighbors or the Church. The abutting neighbor on the southwest has an existing 8-foot tall privacy fence on their property line abutting the Church property behind the front façade of their home; the neighbor has requested of the Church to not provide a screening fence for the Church's parking lot. The neighbor on the northwest has dense landscaping and open fencing.

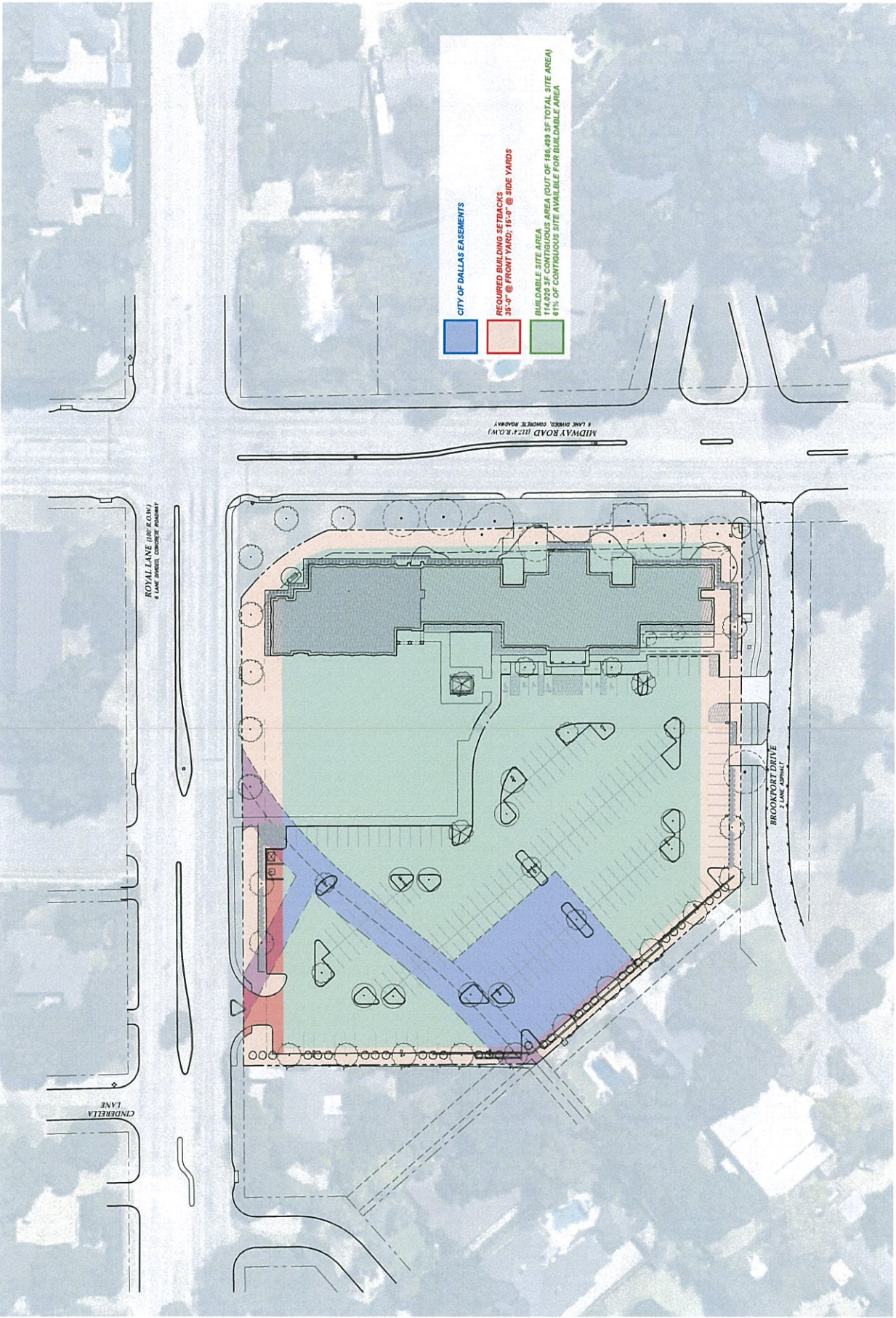
The property's R-16(A) zoning district is primarily for single family uses on 16,000 square foot lots. On a typical single family lot, the maximum lot coverage for a home is 40% but the buildable area (lot area minus setbacks) is 57% of the lot area. This allows for flexibility on the location of where the home can be placed outside of setbacks. It is most common for public utility and drainage easements to be located along boundary lines and preserves flexibility for where buildings can be placed within the buildable area. In researching three nearby churches in the immediate area and zoned R-16(A), we found that public and private easements were either neatly located along a property line or only about 700 square feet in the case of Midway Hills Christian Church. The area of the easements on the subject property is 26,067 square feet. These easements create a property hardship by reducing the possible locations for buildings.

We believe the proposed site plan balances the needs of the Church with reasonable protections for the neighbors. The proposed site plan also makes the best use of the land given the easements that are restricting building locations. We hope staff can support our request. Please contact me if you have any questions or concerns.

With kind regards,



Rob Baldwin



Long, Steve

From: Jennifer Hiromoto <jennifer@baldwinplanning.com>
Sent: Friday, August 04, 2017 12:41 PM
To: Long, Steve
Subject: RE: BDA167-086 , Property at 10727 Midway Road

Yes sir. Thank you.

Jennifer Hiromoto
 Baldwin Associates
 3904 Elm Street Suite B
 Dallas, TX 75226
 Office: 214-824-7949
 Cell: 469-275-2414

From: Long, Steve [mailto:steve.long@dallascityhall.com]
Sent: Friday, August 4, 2017 12:39 PM
To: Jennifer Hiromoto <jennifer@baldwinplanning.com>
Cc: Moorman, Donna <donna.moorman@dallascityhall.com>; Duerksen, Todd <todd.duerksen@dallascityhall.com>; Williams, Kanesia <kanesia.williams@dallascityhall.com>; Rob Baldwin <rob@baldwinplanning.com>
Subject: RE: BDA167-086 , Property at 10727 Midway Road

Dear Jennifer,

Please be advised that your email below and attached documents will be included in the board's docket seeing that they were submitted before the 1 p.m. deadline today. From your experience with the board of adjustment, I believe you know that staff will note that the information in this newly submitted document was not factored into the staff recommendation given that it was submitted past the August 1st staff review team meeting that you and Rob were made aware of on or near July 11th.

Thank you,

Steve



Steve Long
 Board of Adjustment Administrator
 City of Dallas | www.dallascityhall.com
 Current Planning Division
 Sustainable Development and Construction
 1500 Marilla Street, 5BN
 Dallas, TX 75201
 O: 214-670-4666
steve.long@dallascityhall.com



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

From: Jennifer Hiromoto [<mailto:jennifer@baldwinplanning.com>]
Sent: Friday, August 04, 2017 12:32 PM
To: Long, Steve <steve.long@dallascityhall.com>
Cc: Rob Baldwin <rob@baldwinplanning.com>
Subject: BDA167-086 Midway - exhibits for Board docket

Attach B
Pg 2

Good afternoon Steve,

Attached please find additional materials for our case at Midway & Royal. We hope this helps demonstrate the variance requests and existing challenges we are proposing to improve with these additions to the Church. Please note that these exhibits show the proposed building addition (in yellow) because that is the immediate addition we are seeking to permit. I want to be clear that the other building footprint and courtyard/playground shown on the site plan are a future expansion included in this application.

Thanks,
Jennifer

Jennifer Hiromoto
Baldwin Associates
3904 Elm Street Suite B
Dallas, TX 75226
Office: 214-824-7949
Cell: 469-275-2414



EASEMENT/SETBACK ANALYSIS

TOTAL LOT AREA
196,500 SQUARE FEET

FRONT YARD SETBACKS (35)

SIDE YARD SETBACKS (15)

STORM WATER/UTILITY EASEMENTS
26,067 SQUARE FEET

TOTAL BUILDABLE AREA (CONTIGUOUS)
114,020 SQUARE FEET (61% OF LOT)

STOCKER HOESTERY MONTENEGRO





STOCKER HOESTERY MONTENEGRO





City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-086

Data Relative to Subject Property:

Date: May 31, 2017

Location address: 10727 Midway Road Zoning District: R-16(A)

Lot No.: _____ Block No.: C/6154 Acreage: 4.28 acres Census Tract: 75.00

Street Frontage (in Feet): 1) 314' 2) 359' 3) 520' 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Providence Presbyterian Church PCA

Applicant: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Represented by: Rob Baldwin, Baldwin Associates Telephone: 214-824-7949

Mailing Address: 3904 Elm Street Suite B Dallas TX Zip Code: 75226

E-mail Address: rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance X, or Special Exception _____, of _____ 15' to the 35-foot front yard requirement along Royal Lane and Brookport Drive and a variance to the parking regulations to allow parking within a front yard setback and a variance to the off-street parking screening requirements. (SH)

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 existing church provides a 23' setback along Brookport Drive today. The proposed addition to the church must be pushed up to Royal Lane due the the site's topography and flow of storm drainage for the site. The proposed new parking is necessary to provide adequate parking for the church's patrons on Sunday and reduce the impact on the neighborhood streets. The site has an irregular shape, three street frontages, two front yards, and the location of drainage easements also contribute to the property hardship.

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.

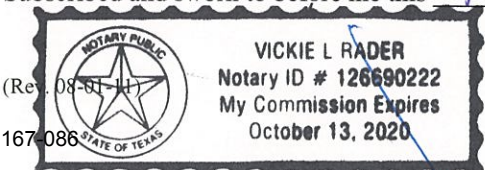
Affidavit

Before me the undersigned on this day personally appeared Robert Baldwin (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 15th day of June, 2017



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

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that Robert Baldwin

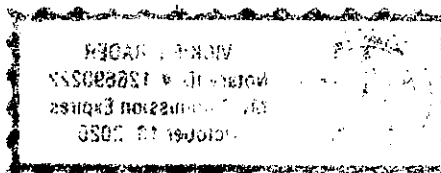
did submit a request for a variance to the front yard setback regulations, and for a variance to the off-street parking regulations, and for a variance to the off-street parking regulations

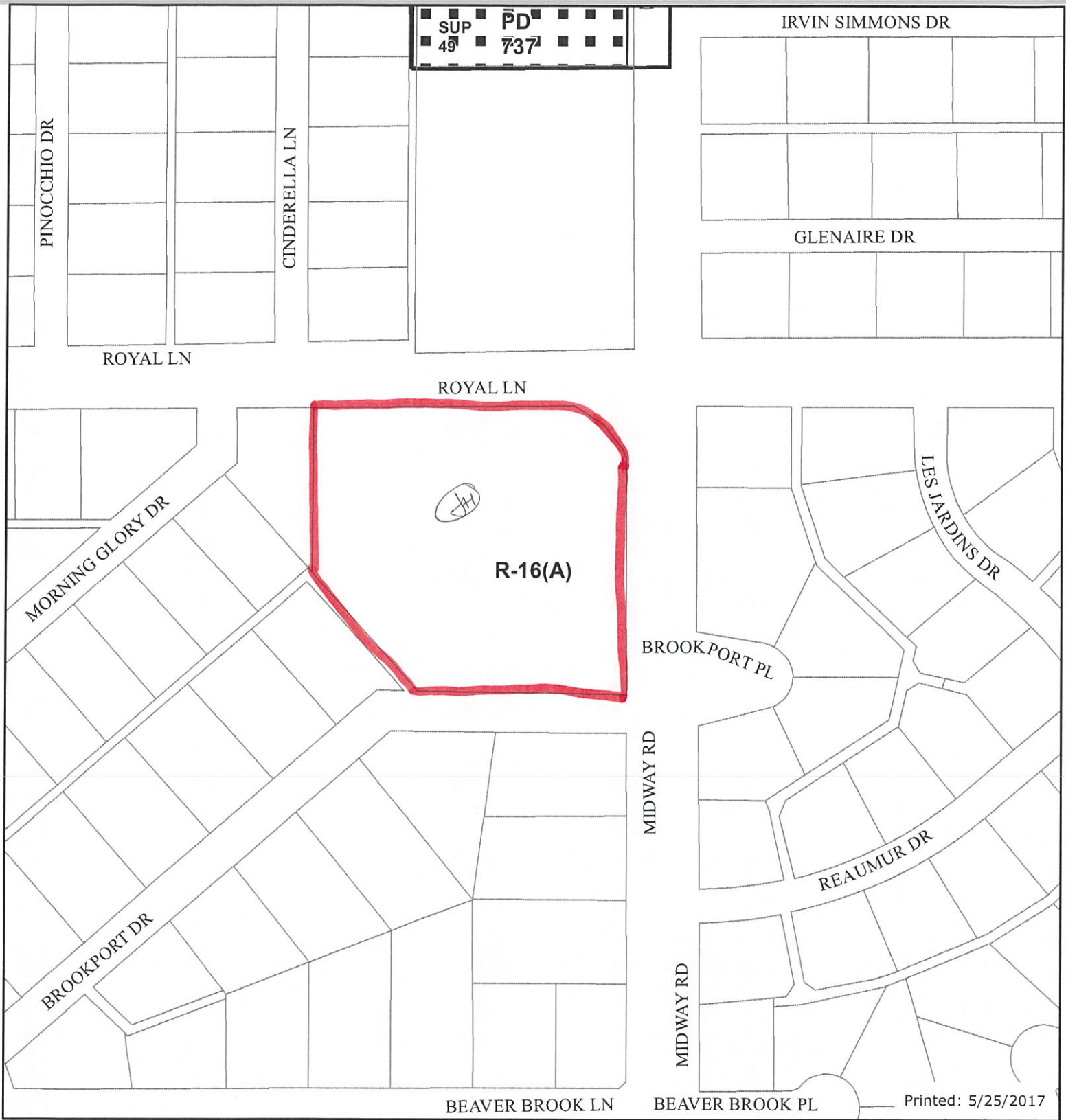
at 10727 Midway Road

BDA167-086. Application of Robert Baldwin for a variance to the front yard setback regulations and variances to the off-street parking regulations at 10727 Midway Road. This property is more fully described as an unplatted 4.28 acre parcel in Block C/6154, and is zoned R-16(A), which requires a front yard setback of 35 feet, and requires that in residential districts, any off-street parking for nonresidential uses must comply with the minimum front yard requirements, and that the owner of off-street parking must provide screening to separate the parking area from a contiguous residential use or vacant lot if either is in an R(A) district and the parking area serves a nonresidential use. The applicant proposes to construct a nonresidential structure and provide a 20 foot front yard setback, which will require a 15 foot variance to the front yard setback regulation, and to construct a nonresidential use with parking in the front yard setback, which will require a variance to the off-street parking regulation, and to construct a nonresidential use and not provide the required screening, which will require a variance to the off-street parking screening regulation.

Sincerely,

Philip Sikes
Philip Sikes, Building Official



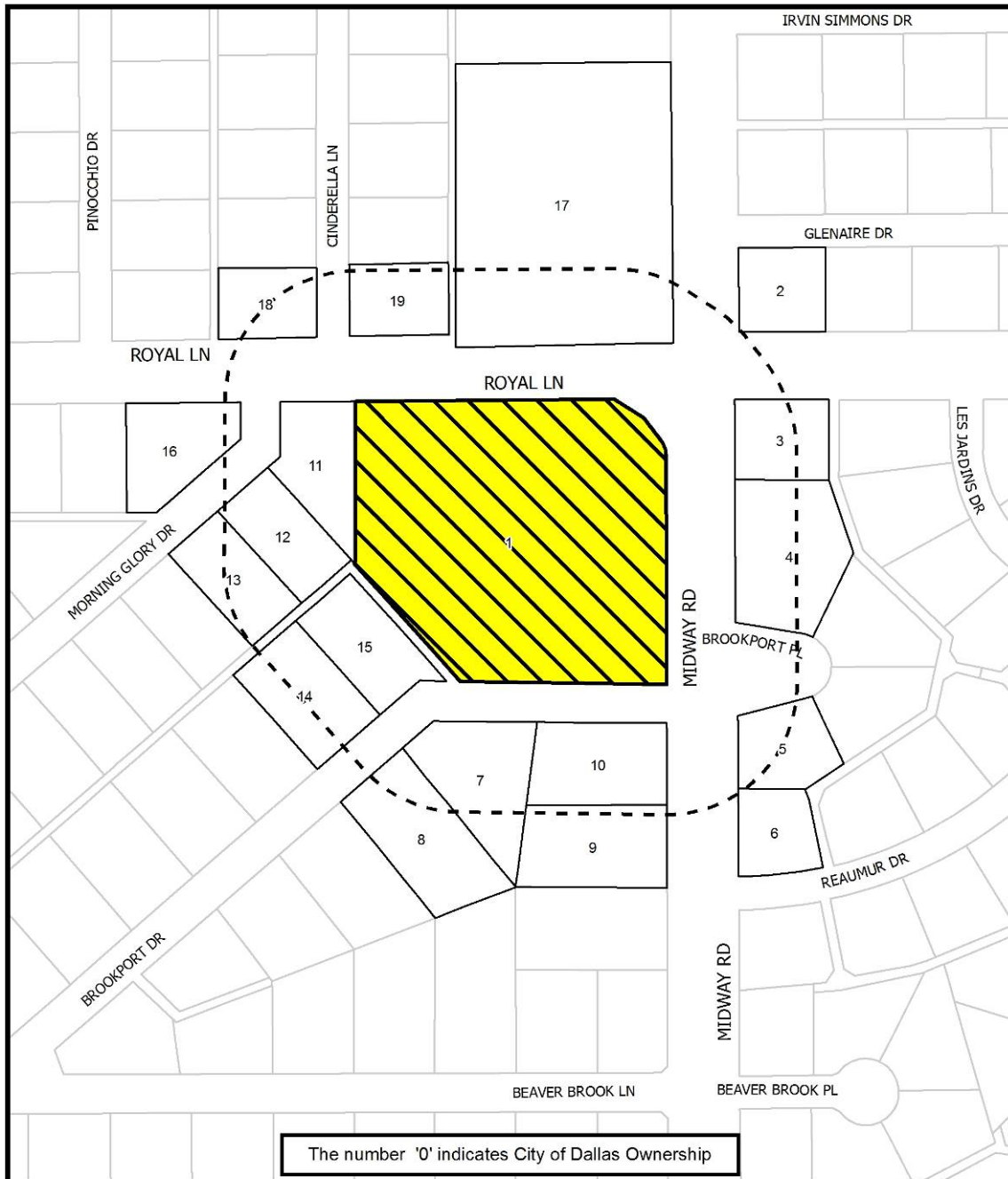


Legend

- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| 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 | BDA 167-086 SUP | Historic Overlay | 6-22 |
| | | Height Map Overlay | Front 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)





 1:2,400	NOTIFICATION		Case no: BDA167-086
	<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;">19</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 7/17/2017	

Notification List of Property Owners

BDA167-086

19 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	10727 MIDWAY RD	PROVIDENCE PRESBYTERIAN
2	4208 GLENAIRE DR	HUNT BETTY JEAN LIFE ESTATE
3	4202 ROYAL LN	TSAI DENIS & SUZIE
4	10728 BROOKPORT PL	WILSON RALPH & EUGENIA
5	10710 BROOKPORT PL	MILLER GAYLE T
6	4207 REAUMUR DR	TUCKER GREGORY B &
7	4170 BROOKPORT DR	FOER S PHYLLIS
8	4154 BROOKPORT DR	REYNOLDS DIANE I &
9	10709 MIDWAY RD	JOUANA JOSEPH R & DIANE C
10	10719 MIDWAY RD	SEYFFERT ANA
11	10796 MORNING GLORY DR	WRIGHT KENNETH PATRICK &
12	10794 MORNING GLORY DR	CHEVALIER KRISTI LYNN
13	10784 MORNING GLORY DR	MATHEWS JOSEPH L &
14	4163 BROOKPORT DR	TOMETICH GEORGE B
15	4171 BROOKPORT DR	CARDINALE JOSEPH A
16	4098 ROYAL LN	ANDER STUART DALE &
17	4151 ROYAL LN	JOHN CALVIN PRES CHURCH
18	10807 CINDERELLA LN	STUBEL BRENDA
19	10808 CINDERELLA LN	VITALE ROCCO J III & SELENA