

ZONING BOARD OF ADJUSTMENT, PANEL B  
WEDNESDAY, AUGUST 16, 2017  
AGENDA

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BRIEFING	L1FN CONFERENCE CENTER AUDITORIUM 1500 MARILLA STREET DALLAS CITY HALL	11:00 A.M.
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PUBLIC HEARING	L1FN CONFERENCE CENTER AUDITORIUM 1500 MARILLA STREET DALLAS CITY HALL	1:00 P.M.
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**Donna Moorman, Chief Planner**  
**Steve Long, Board Administrator**

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**MISCELLANEOUS ITEM**

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Approval of the June 21, 2017 Board of Adjustment Panel B Public Hearing Minutes	M1
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**UNCONTESTED CASES**

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<b>BDA167-080(SL)</b>	402 Pecan Drive <b>REQUEST:</b> Application of Fred Brown for variances to the front and side yard setback regulations	1
<b>BDA167-085(SL)</b>	1610 Melbourne Avenue <b>REQUEST:</b> Application of Rufina Villareal, represented by Carlos Vega, for a variance to the side yard setback regulations	2
<b>BDA167-089(SL)</b>	7323 Barney Street <b>REQUEST:</b> Application of Misael Gil for a special exception to the side yard setback regulations for a carport	3
<b>BDA167-091(SL)</b>	4611 Walnut Hill Lane <b>REQUEST:</b> Application of James F. Nadeau, Jr. for a special exception to the fence standards	4

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**REGULAR CASE**

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**BDA167-084(SL)** 17787 Waterview Parkway  
**REQUEST:** Application of Santos T. Martinez for a  
variance to the rear yard setback regulations

5

## 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]

**FILE NUMBER:** BDA167-080(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Fred Brown for variances to the front and side yard setback regulations at 402 Pecan Drive. This property is more fully described as Lot 2, Block 6/7679, and is zoned R-5(A), which requires a 5 foot side yard setback and requires a front yard setback of 20 feet. The applicant proposes to construct and maintain a structure and provide a 10 foot front yard setback measured at the foundation, which will require a 10 foot variance to the front yard setback regulations, and provide a 2 foot 6 inch side yard setback measured at the foundation, which will require a 2 foot 6 inch variance to the side yard setback regulations.

**LOCATION:** 402 Pecan Drive

**APPLICANT:** Fred Brown

**REQUESTS:**

The following requests are made on a site that is undeveloped:

1. A variance to the front yard setback regulations of 10' is made to construct and maintain a 1 ½ -story single family home structure to be located 10' from the site's front property line or 10' into this 20' front yard setback.
2. A variance to the side yard setback regulations of 2' 6" is made to construct and maintain the aforementioned structure to be located 2' 6" from the site's northern side property line or 2' 6" into this 5' required side yard setback.

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION (front and side yard variances):**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the variances should be granted because of the restrictive area of the subject site at only 4,000 square feet in the R-5(A) zoning district where lots are typically 5,000 square feet. Furthermore, the applicant had substantiated how this feature precludes the lot from being developed in a manner commensurate with the development upon other parcels of land with the same R-5(A) zoning. The applicant submitted a list of 10 other properties in the zoning district where the average “livable area” is approximately 2,300 square feet – larger than that was proposed on the site at approximately 2,000 square feet.

**BACKGROUND INFORMATION:**

**Zoning:**

<u>Site:</u>	R-5(A) (Single family district 5,000 square feet)
<u>North:</u>	R-5(A) (Single family district 5,000 square feet)
<u>South:</u>	R-5(A) (Single family district 5,000 square feet)
<u>East:</u>	R-5(A) (Single family district 5,000 square feet)
<u>West:</u>	R-5(A) (Single family district 5,000 square feet)

**Land Use:**

The subject site is undeveloped. The areas to the north, east, and south are undeveloped; and the area to the west is a combination of undeveloped land and single family use.

**Zoning/BDA History:**

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

**GENERAL FACTS/STAFF ANALYSIS (front yard variance):**

- The request for a variance to the front yard setback regulations of 10’ focuses on constructing and maintaining a 1 ½ -story single family home structure with an approximately 1,500 square foot building footprint to be located 10’ from the site’s front property line or 10’ into the 20’ required front yard setback on a site that is undeveloped.
- A 20’ front yard setback is required in the R-5(A) zoning district.
- The submitted site plan represents that the proposed structure is located 10’ from the front property line or 10’ into the 20’ required front yard setback.

- According to DCAD records, there are “no main or additional improvements” for property addressed at 402 Pecan Drive.
- The subject site is flat, rectangular in shape (100’ x 40’), and 4,000 square feet in area. The site is zoned R-5(A) where lots are typically 5,000 square feet in area.
- The applicant submitted a document (Attachment A) that denoted that the “livable area” of the proposed home on the subject site was approximately 2,000 square feet, and that the average “livable area” of 10 other properties zoned R-5(A) was approximately 2,300 square feet.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance 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 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-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-5(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which in this case is a structure that would be located 10’ from the site’s front property line (or 10’ into the 20’ required front yard setback).

**GENERAL FACTS/STAFF ANALYSIS (side yard variance):**

- The request for a variance to the side yard setback regulations of 2’ 6” focuses on constructing and maintaining a 1 ½ -story single family home structure with an approximately 1,500 square foot building footprint to be located 2’ 6” from the site’s northern side property line or 2’ 6” into this 5’ required side yard setback on a site that is undeveloped.
- A 5’ side yard setback is required in the R-5(A) zoning district.
- The submitted site plan represents that the proposed structure is located 2’ 6” from the northern side property line or 2’ 6” into this 5’ required side yard setback.
- The submitted site plan represents that a detached garage accessory structure is located approximately 1’ away from the northern side property line or 4’ into the 5’ side yard setback, however the Dallas Development Code states that in a residential district, a person need not provide a side yard setback for a structure accessory to a residential use if the structure does not exceed 15’ in height and is located in the rear 30 percent of the lot.
- According to DCAD records, there are “no main or additional improvements” for property addressed at 402 Pecan Drive.

- The subject site is flat, rectangular in shape (100' x 40'), and 4,000 square feet in area. The site is zoned R-5(A) where lots are typically 5,000 square feet in area.
- The applicant submitted a document (Attachment A) that denoted that the “livable area” of the proposed home on the subject site was approximately 2,000 square feet, and that the average “livable area” of 10 other properties zoned R-5(A) was approximately 2,300 square feet.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the side 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 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-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-5(A) zoning classification.
- If the Board were to grant the side yard variance request, and impose the submitted site plan as a condition, the structure in the side yard setback would be limited to what is shown on this document– which in this case is a structure that would be located 2' 6" from the site's northern side property line or 2' 6" into this 5' required side yard setback.

**Timeline:**

- April 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.
- July 11, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- 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 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 4<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

August 1, 2017: The applicant submitted additional documentation on this application to the Board Administrator 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.





  
 1:1,200

# ZONING MAP

Case no: BDA167-080  
 Date: 7/17/2017



1:1,200

# AERIAL MAP

Case no: BDA167-080

Date: 7/17/2017

## 402 Pecan Drive

The subject property, 402 Pecan Drive is zoned R5(A), which states that the minimum lot area for residential use is 5,000/sf. Contrary to the 5,000/sf requirement, 402 Pecan Drive is 4,068/sf and has been wrongly designated R5(A) zoning. It is approximately 1000/sf less than the specified minimum square footage to be considered R5(A) zoning. In lieu of the inappropriate zoning designation and significant lot area deficiency, we are asking for relief to existing 20' front and 5' side yard setback requirements, and asking for a variance for the front yard of 10' and 2'6" for the side yard to mitigate building limitations for 402 Pecan Drive and build a reasonably sized R5(A) house on an unreasonably zoned R5(A) lot. The requested variance is consistent with the spirit, purpose and intent of our effort to deliver commensurate development to the revitalization of The Bottom neighborhood that is commensurate of other R5(A) zoning in the city of Dallas.

Below is a chart of randomly selected R5(A) zoned lots and housing stock in the city of Dallas. Please note that the livable area and improvements of the subject property, 402 Pecan Drive are commensurate of other R5(A) zoning in the city of Dallas.

R5(A) Zoned Lots & Housing					
Zoning	Lot Size	Street Address	Livable Area	Improvements	A.U.R.
R5(A)	5,000/SF (50x100)	2542 Friendly Lane	2,274/SF	409/SF	2,683/SF
R5(A)	5,000/SF (50x100)	2560 Pilgrim Rest	2,274/SF	409/SF	2,683/SF
R5(A)	5,000/SF (50x100)	7927 Peaceful Bend Drive	2,324/SF	429/SF	2,753/SF
R5(A)	5,000/SF (50x100)	2826 Gospel Drive	2,363/SF	424/SF	2,787/SF
R5(A)	5,000/SF (50x100)	2838 Gospel Drive	2,679/SF	400/SF	3,079/SF
R5(A)	5,000/SF (50x100)	2850 Gospel Drive	2,358/SF	424/SF	2,782/SF
R5(A)	5,000/SF (50x100)	2903 Gospel Drive	2,394/SF	420/SF	2,814/SF
R5(A)	5,000/SF (50x100)	119 Idlewheat Lane	2,028/SF	400/SF	2,428/SF
R5(A)	5,000/SF (50x100)	116 Idlewheat Lane	2,428/SF	462/SF	2,890/SF
R5(A)	5,000/SF (50x100)	148 Triumph Road	2,076/SF	484/SF	2,560/SF

402 Pecan Drive					
Zoning	Lot Size	Street Address	Livable Area	Improvements	A.U.R.
R5(A)	4,068/SF (40x100)	402 Pecan Drive	2,050/SF	400/SF	2,450/SF

In addition to delivering commensurate development to The Bottom that is commensurate of other R5(A) zoning in the city of Dallas, this variance request strives to ensure that the standard of housing options in The Bottom meet the intent of the design guidelines adopted for the neighborhood in 2015 (The Bottom Urban Structure) and establish a benchmark for single-family housing that define the community's vision and prioritizes a framework to realize the potential for the area. As such, this is one of the first of the twenty lots that we are in partnership with the City of Dallas, or have purchased from the City of Dallas that will be submitted for variances this year. The fundamental objective is to provide a more sustainable and equitable redevelopment approach while we work on a comprehensive zoning plan for the entirety of The Bottom. These are the bones from which we will begin the transformation of this once strong and vital single-family neighborhood and build a diverse, sustainable community, reviving the original spirit of The Bottom - a place for new beginnings and greater opportunity.



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-080

Data Relative to Subject Property:

Date: 4/21/2017

Location address: 402 Pecan Drive Zoning District: R5(A)

Lot No.: 2 Block No.: 6/7679 Acreage: Census Tract: 41.00

Street Frontage (in Feet): 1) 40 2) 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): B & J Custom Homes dba Redline Development Group

Applicant: Fred Brown Telephone: 817.658.0179

Mailing Address: P.O. Box 3578, Cedar Hill, Texas Zip Code: 75104

E-mail Address: brownfred@bjcustomhomes.com

Represented by: Fred Brown Telephone: 817.658.0179

Mailing Address: P.O. Box 3578, Cedar Hill, Texas Zip Code: 75104

E-mail Address: brownfred@bjcustomhomes.com

Affirm that an appeal has been made for a Variance X, or Special Exception, of Front Yard Setback (10') Side Yard Setback (2'6")

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 subject property, 402 Pecan Drive is zoned R5A, which states that the minimum lot area for residential use is 5000/sf. Contrary to the 5000/sf requirement, 402 Pecan Drive is 4068/sf, approximately 1000/sf less than the square footage minimum. In lieu of the the significant lot area deficiency, we are asking for relief to existing 20' front and 5' side yard setback requirements, and asking for a variance for the front yard of 10' and 2'6" for the side yard to mitigate building limitations for 402 Pecan Drive. The requested variance is consistent with the spirit, purpose and intent of our effort to deliver commensurate development to the revitalization of The Bottom neighborhood.

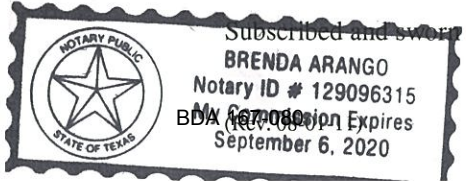
Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

Before me the undersigned on this day personally appeared Fred Brown (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 21 day of April, 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

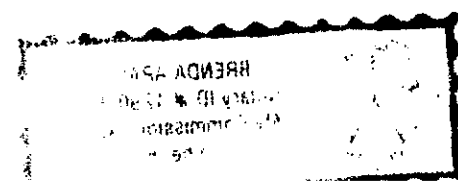
I hereby certify that Fred Brown

did submit a request for a variance to the front yard setback regulations, and for a variance to the side yard setback regulations  
at 402 Pecan Drive

BDA167-080. Application of Fred Brown for a variance to the front yard setback regulations and a variance to the side yard setback regulations at 402 Pecan Drive. This property is more fully described as Lot 2, Block 6/7679, and is zoned R-5(A), which requires a 5 foot side yard setback and requires a front yard setback of 20 feet. The applicant proposes to construct a single family residential structure and provide a 10 foot front yard setback measured at the foundation, which will require a 10 foot variance to the front yard setback regulation, and provide a 2 foot 6 inch side yard setback measured at the foundation, which will require a 2 foot 6 inch variance to the side yard setback regulation.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official



# City of Dallas

## Internal Development Research Site

Legend

Locate Property

Search by:

GIS Account #

Locate

OR

Street address.  
402 pecan

Locate

OR

Parcel address.  
Use street type for better re

Locate



*Handwritten signature*



MEADOWCREAK

ADDITION

7679

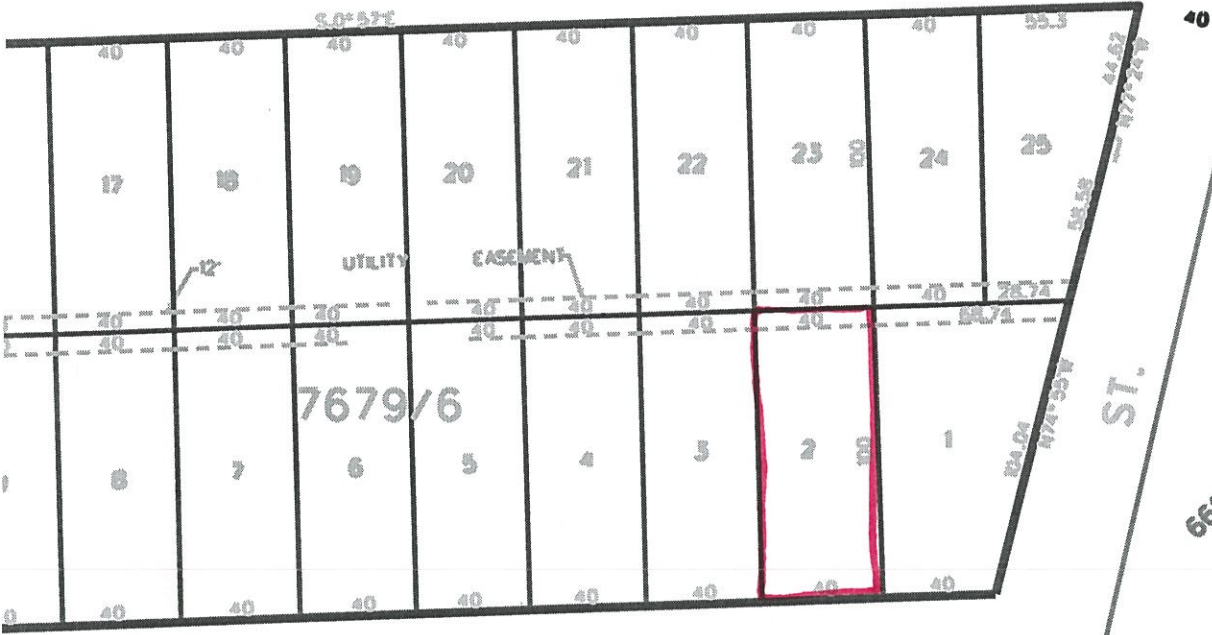
NO.

3

BOBBIE ST.

400

40

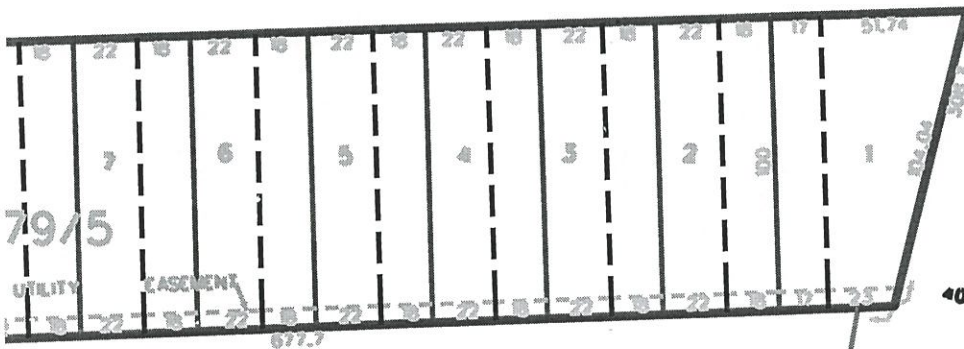


7679/6

400

PECAN ST. (RD.)

40



79/5

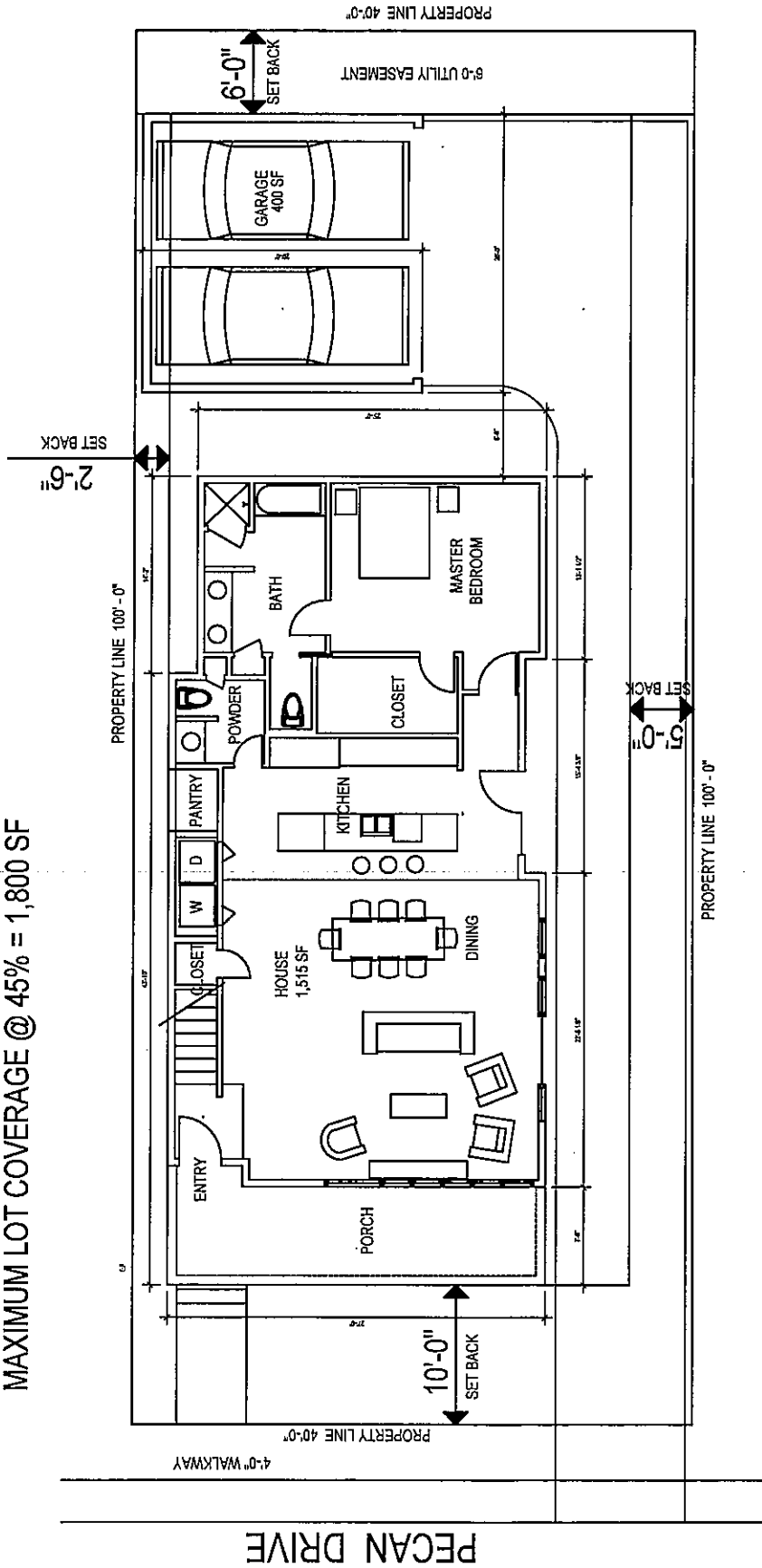
7677

NO.

2

Handwritten signature or initials in red ink.

LOT AREA = 4,000.00 SF  
 MAXIMUM LOT COVERAGE @ 45% = 1,800 SF



PROPOSED MODIFIED RESIDENTIAL LOT - R5-A ZONING

DATE:  
 APRIL 18, 2017

SCALE:  
 1/4" = 1'-0"

THE BOTTOM  
 402 PECAN DRIVE  
 DALLAS, TEXAS

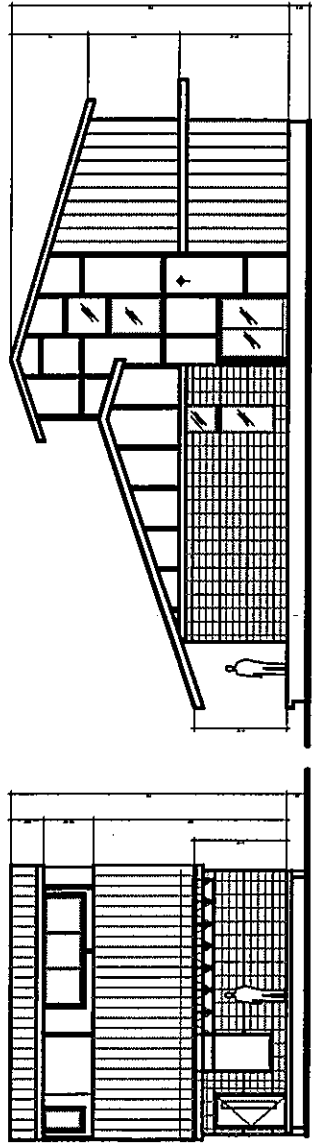
PROJ. NO.:

DRAWING NO.:



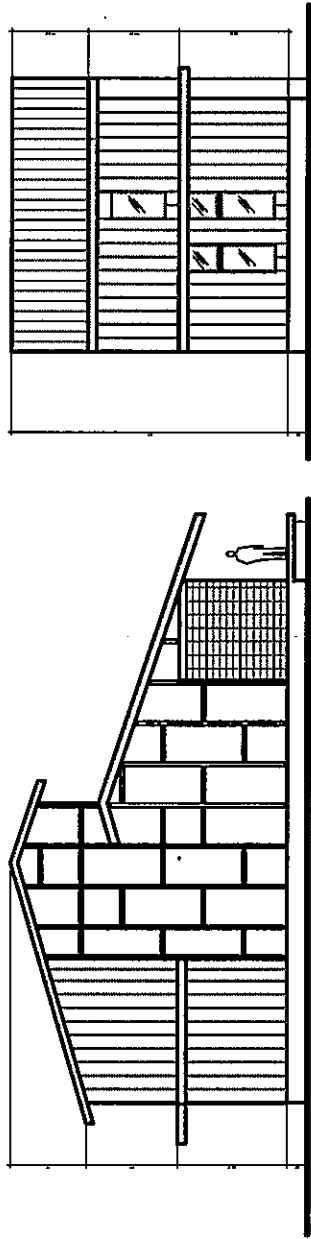
ARCHITECTUR  
 INTERIOR DESIGN  
 GRAPHIC DESIGN





FRONT ELEVATION

SIDE ELEVATION



BACK ELEVATION

SIDE ELEVATION

DATE:  
APRIL 18, 2017

SCALE:  
1/4" = 1'-0"

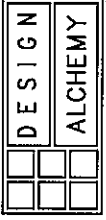
THE BOTTOM  
402 PECAN DRIVE  
DALLAS, TEXAS

PROJ. NO.:

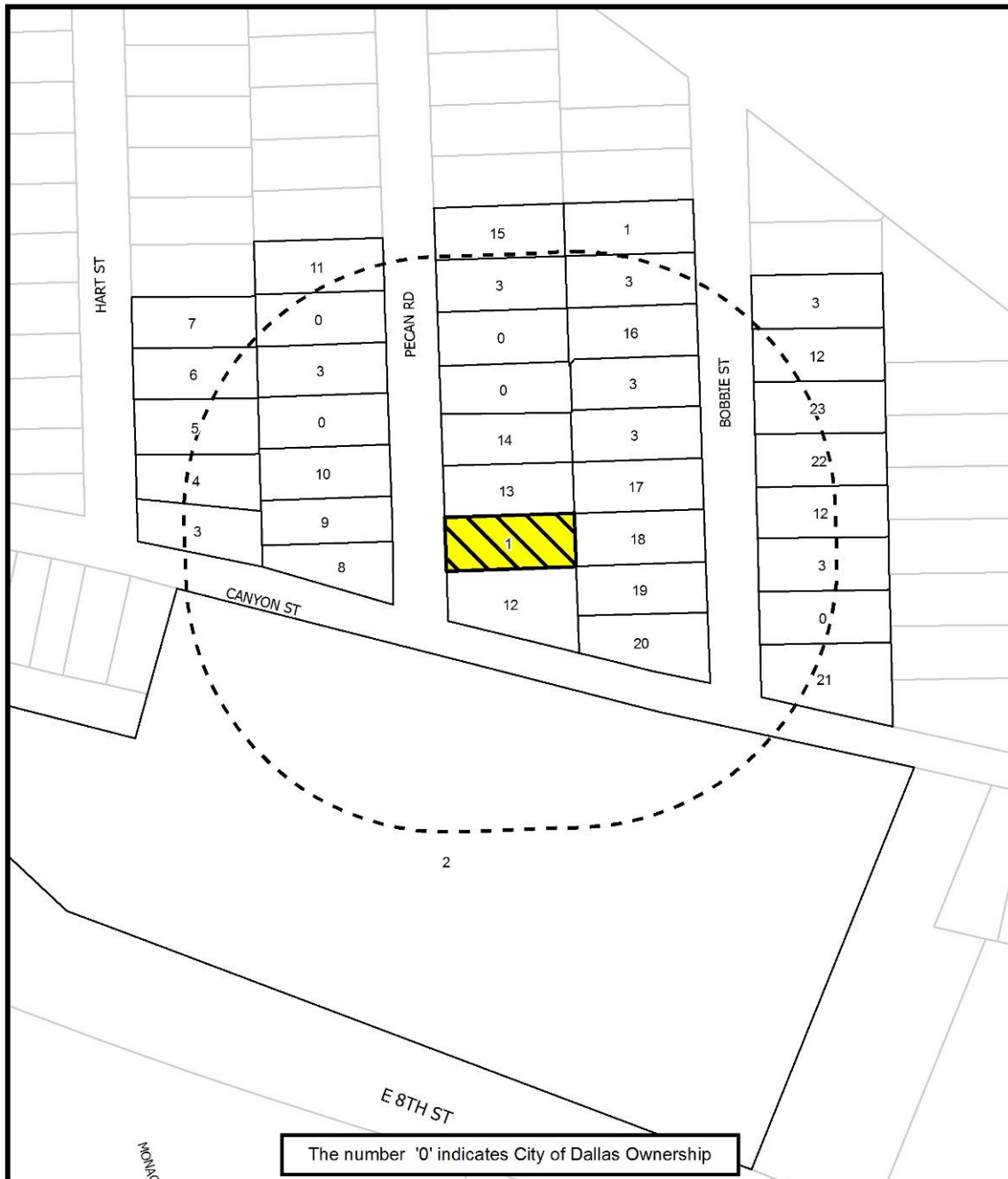
DRAWING NO.:

DESIGN ALCHEMY, L.L.C.  
214.893.7543

426 W. Davis St., Studio 3  
Dallas, Texas 75208



ARCHITECTURE  
INTERIOR DESIGN  
GRAPHIC DESIGN



 1:1,200	<b>NOTIFICATION</b>	Case no: <b>BDA167-080</b>			
	<table border="1"> <tr> <td style="text-align: center;"><b>200'</b></td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;"><b>23</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	<b>200'</b>	AREA OF NOTIFICATION	<b>23</b>	NUMBER OF PROPERTY OWNERS NOTIFIED
<b>200'</b>	AREA OF NOTIFICATION				
<b>23</b>	NUMBER OF PROPERTY OWNERS NOTIFIED				

## *Notification List of Property Owners*

***BDA167-080***

### ***23 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	402 PECAN DR	DALLAS HOUSING ACQUISITION & DEV CORP
2	1515 E 8TH ST	EAST EIGHTS STREET GROUP LLC
3	400 HART ST	TEXAS HEAVENLY HOMES LTD
4	402 HART ST	MARQUEZ ENRIQUE & MARTHA L
5	404 HART ST	ROBERSON TOMMY EUGENE &
6	408 HART ST	ROBERSON TOMMY E
7	412 HART ST	HMK LTD
8	401 PECAN DR	HILL MRS FANNIE
9	403 PECAN DR	MARTINEZ ISMAEL &
10	405 PECAN DR	DYER DEWEY G
11	413 PECAN DR	HAYNES ROBERT & MAGIE A
12	400 PECAN DR	TEXAS HEAVENLY HOME BUILDERS LTD
13	404 PECAN DR	PARKER DE LAWRENCE
14	406 PECAN DR	MERCADO FRANCISCA
15	414 PECAN DR	ARMENTA MARIA ELSA
16	413 BOBBIE ST	CHACKO THOMAS
17	407 BOBBIE ST	MCFARLAND GLADYS MARIE
18	405 BOBBIE ST	CANYON O C & DELMA
19	403 BOBBIE ST	FAIRCHILD M E
20	401 BOBBIE ST	SMITH NAOMI JOE
21	400 BOBBIE ST	PAYNE DORA EST
22	408 BOBBIE ST	TEXAS HEAVENLY HOMES
23	410 BOBBIE ST	NELSON GEORGE W

**FILE NUMBER:** BDA167-085(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Rufina Villareal, represented by Carlos Vega, for a variance to the side yard setback regulations at 1610 Melbourne Avenue. This property is more fully described as Lot 6, Block 10/4750, and is zoned R-7.5(A), which requires side yard setback of 5 feet. The applicant proposes to construct and maintain a structure and provide a 4 foot 4 inch side yard setback, which will require an 8 inch variance to the side yard setback regulations.

**LOCATION:** 1610 Melbourne Avenue

**APPLICANT:** Rufina Villareal  
Represented by Carlos Vega

**REQUEST:**

A request for a variance to the side yard setback regulations of 8" is made maintain an addition to a 1940's single family home nonconforming structure, located 4' 4" from the site's western side property line or 8" into this 5' side yard setback.

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff concluded that the variance of 8” should be granted because of the restrictive area of the subject site at approximately 7,200 square feet in the R-7.5(A) zoning district where lots are typically 7,500 square feet. Furthermore, the applicant had substantiated how this feature precludes the lot from being developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning. The applicant submitted a list of 10 other properties in the zoning district where the average square footage of development is approximately 2,000 square feet – slightly larger than that was is proposed to be retained on the site at approximately 1,800 square feet.
- Granting the variance would not be contrary to public interest given that the structure that the applicant seeks variance aligns with the existing nonconforming structure on the site built in the 40’s, and that the new addition encroaching into the setback is only 8” into the required 5’ setback and approximately 27.5’ in length.

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

The subject site is developed with a single family home. The area 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 request for a variance to the side yard setback regulations of 8” focuses on maintaining a 660 square foot addition that aligns with a one-story single family home structure constructed (according to DCAD) in 1940, located 4’ 4” from the site’s western side property line or 8” into this 5’ required side yard setback.
- A 5’ side yard setback is required in the R-7.5(A) zoning district.
- The submitted site plan denotes the “existing single story addition 660 SF” and the “existing single story frame house” is located 4’ 4” from the site’s western side

property line. The submitted site plan also denotes an “existing garage” structure located approximately 4’ from the site’s eastern side yard setback.

- According to DCAD records, the “main improvement” for property addressed at 1610 Melbourne Avenue is structure built in 1940 with 1,157 square feet of living/total area, and that “additional improvements” is a 200 square foot detached garage. Because records show that the main improvement/structure on this site was built in the 40’s, it is assumed that the “existing single story frame house” and the “existing garage” are nonconforming structures.
- 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 side yard setback regulations for only the “existing single story addition” in the western side yard setback, and not to remedy/address the nonconforming aspect of the “existing single story frame house” and “existing garage” in the side yard setbacks.
- The addition in the side yard setback that the applicant is seeking variance is approximately 18 square feet (approximately 8” x approximately 27.8’).
- The subject site is flat, rectangular in shape (approximately 145’ x 50’), and according to the submitted application is 0.166 acres (or approximately 7,230 square feet) in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area.
- The applicant’s representative has submitted documentation that denotes that the square footage on the subject site is 1,817 and that the average of 10 other properties in the area zoned R-7.5(A) is 2,035.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the side 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 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 the request, and impose the submitted site plan as a condition, the structure in the side yard setback would be limited to what is shown on

this document– which in this case is a structure is located 4’ 4” from the western side property line or 8” into this 5’ required side yard setback.

- Note that the applicant is aware that granting the request for a variance to the side yard setback regulations will not provide any relief to the existing nonconforming structures in the side yard setbacks since the applicant did not request that the Board consider this aspect as part of this application.

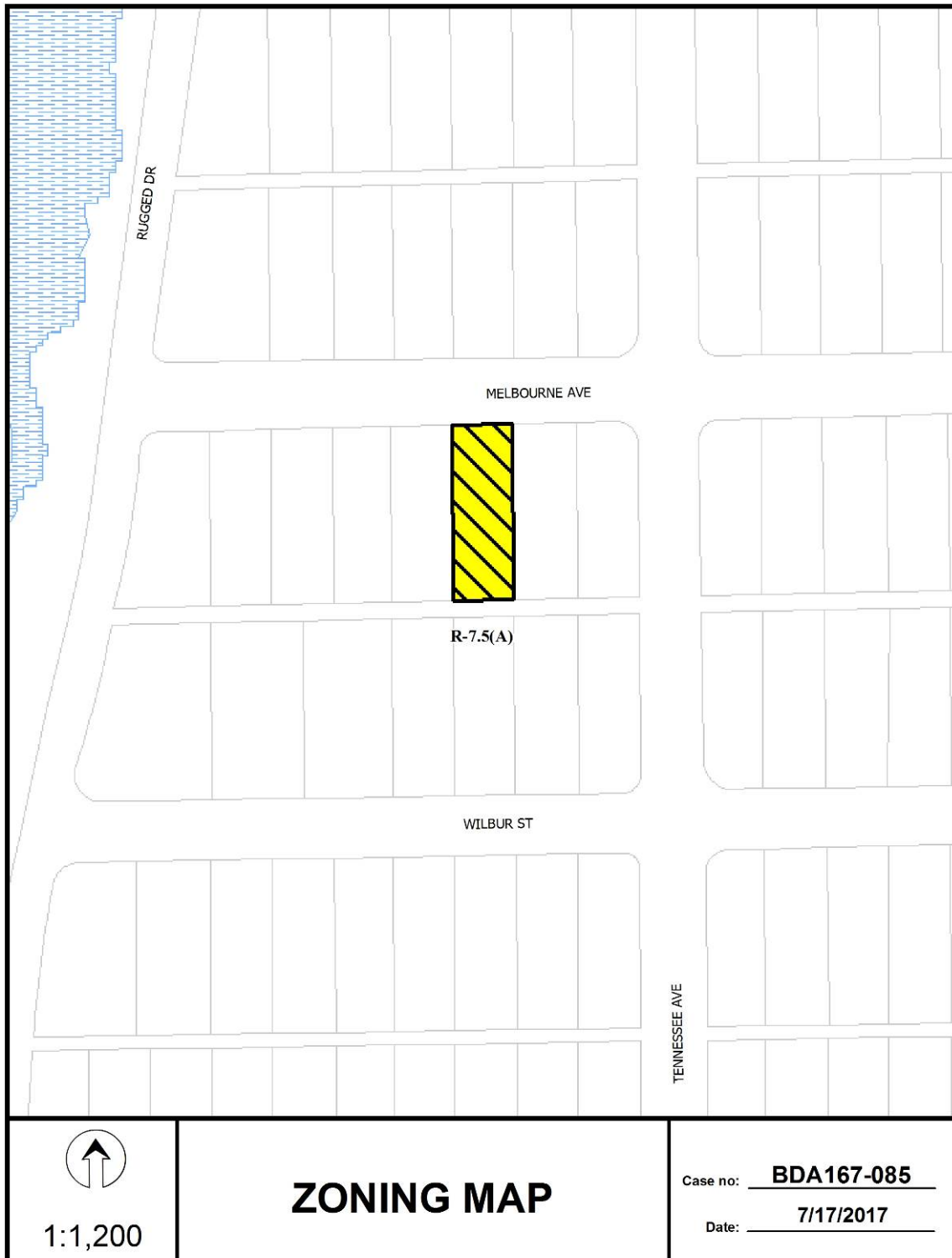
### **Timeline:**

- May 25, 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 B.
- July 11, 2017: The Board Administrator emailed the applicant’s representative the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the July 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 4<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- July 18, 2017: The Board Administrator emailed the applicant’s representative the definition of nonconforming structure and the provision from the Dallas Development Code related to nonconforming structures (51A-4.704(c)) to which the applicant’s representative responded by stating that the request was to be limited to the recent addition made to the decades old home on the property.
- July 25, 2017: The applicant’s representative submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).
- 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 with comments were submitted in conjunction with this application.



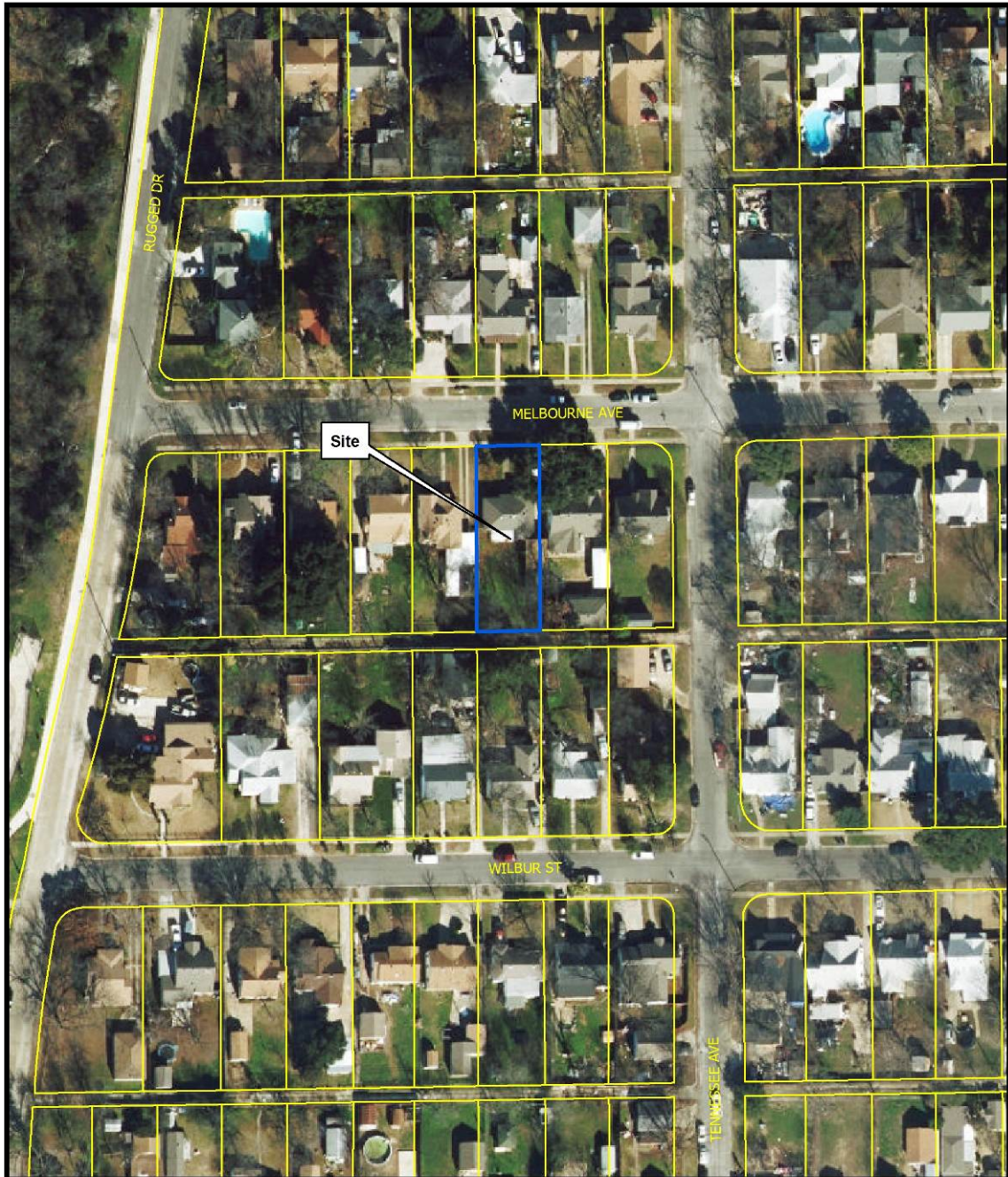


1:1,200

# ZONING MAP

Case no: BDA167-085

Date: 7/17/2017



1:1,200

## AERIAL MAP

Case no: BDA167-085

Date: 7/17/2017

BDA167-085

Attach A

**Long, Steve**

---

**From:** Carlos Vega <cvega@vegaarchitects.com>  
**Sent:** Tuesday, July 25, 2017 3:02 PM  
**To:** Long, Steve  
**Cc:** 'Robles, Alondra'; rufinarobles@yahoo.com  
**Subject:** RE: BDA167-085, Property at 1610 Melbourne Avenue  
**Attachments:** 1610MelbourneAve.jpg

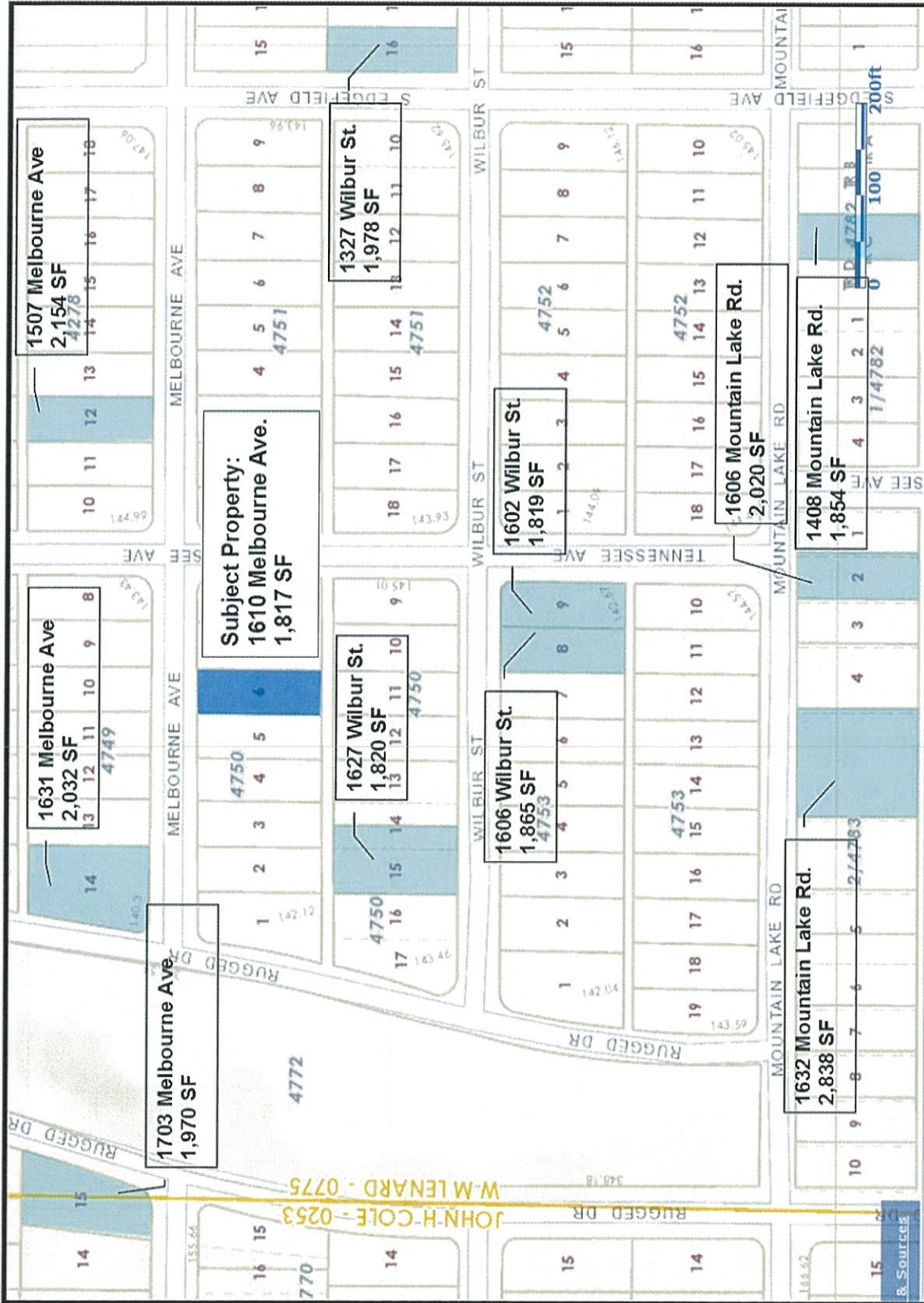
PS1

Mr. Long,

Per your recent suggestion, I am attaching a map of the area immediately surrounding the subject property, (1610 Melbourne Ave.), showing a number of homes having an area greater than ours. These homes are all located within the same R7.5 zoning district. The intent of this map, is to show that even with the 660 sf addition, the final square footage of the property is commensurate with others within this zoning district and the neighborhood.

Best Regards,

Carlos Vega



**BDA167-085**  
**1610 Melbourne Ave.**  
**Dallas, Texas**

408 W. 8th Street.  
 Suite 201  
 Dallas, Texas 75208  
 972-898-7558





City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-085

Data Relative to Subject Property:

Date: 5/25/17

Location address: 1610 MELBOURNE AVE. Zoning District: R7.5

Lot No.: 6 Block No.: 10/4750 Acreage: .166 Census Tract: 63.02

Street Frontage (in Feet): 1) 50' 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): RUFINA VILAREAL

Applicant: RUFINA VILAREAL Telephone: 214-864-9986

Mailing Address: 1610 MELBOURNE AVE. Zip Code: 75224

E-mail Address: RUFINA ROBLES@YAHOO.COM

Represented by: CARLOS VEGA Telephone: 972-898-7558

Mailing Address: 408 W. 8TH STREET #201 Zip Code: 75208

E-mail Address: CVEGA@VEGAARCHITECTS.COM

Affirm that an appeal has been made for a Variance , or Special Exception , of \_\_\_\_\_

8" ENCROACHMENT OF SIDE YARD SETBACK

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 AREA OF THE SITE IS 200' LESS THAN THE MINIMUM 1,500 SF REQUIRED IN A R7.5 DISTRICT AND THIS A RESTRICTIVE CONDITION ON THE PROPERTY THAT HINDERS DEVELOPMENT OF THE PROPERTY IN A MANNER THAT IS COMMENSURATE WITH OTHER PARCELS IN THE DISTRICT

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.

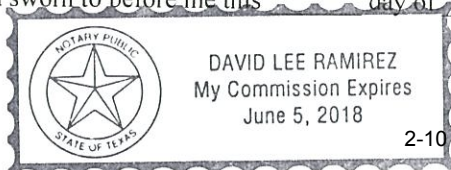
Affidavit

Before me the undersigned on this day personally appeared Rosina Vilareal  
(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 May, 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 Rufina Villareal  
represented by Carlos Vega  
did submit a request for a variance to the side yard setback regulations  
at 1610 Melbourne Avenue

BDA167-085. Application of Rufina Villareal represented by Carlos Vega for a variance to the side yard setback regulations at 1610 Melbourne Avenue. This property is more fully described as Lot 6, Block 10/4750, and is zoned R-7.5(A), which requires side yard setback of 5 feet. The applicant proposes to construct a single family residential structure and provide a 4 foot 4 inch side yard setback, which will require an 8 inch variance to the side yard setback regulation.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official

# City of Dallas

## Internal Development Research Site

BDA 167-085

Legend

Locate Property

Search by:

GIS Account #

Locate

OR

Street address.

1610 melbourne

Locate

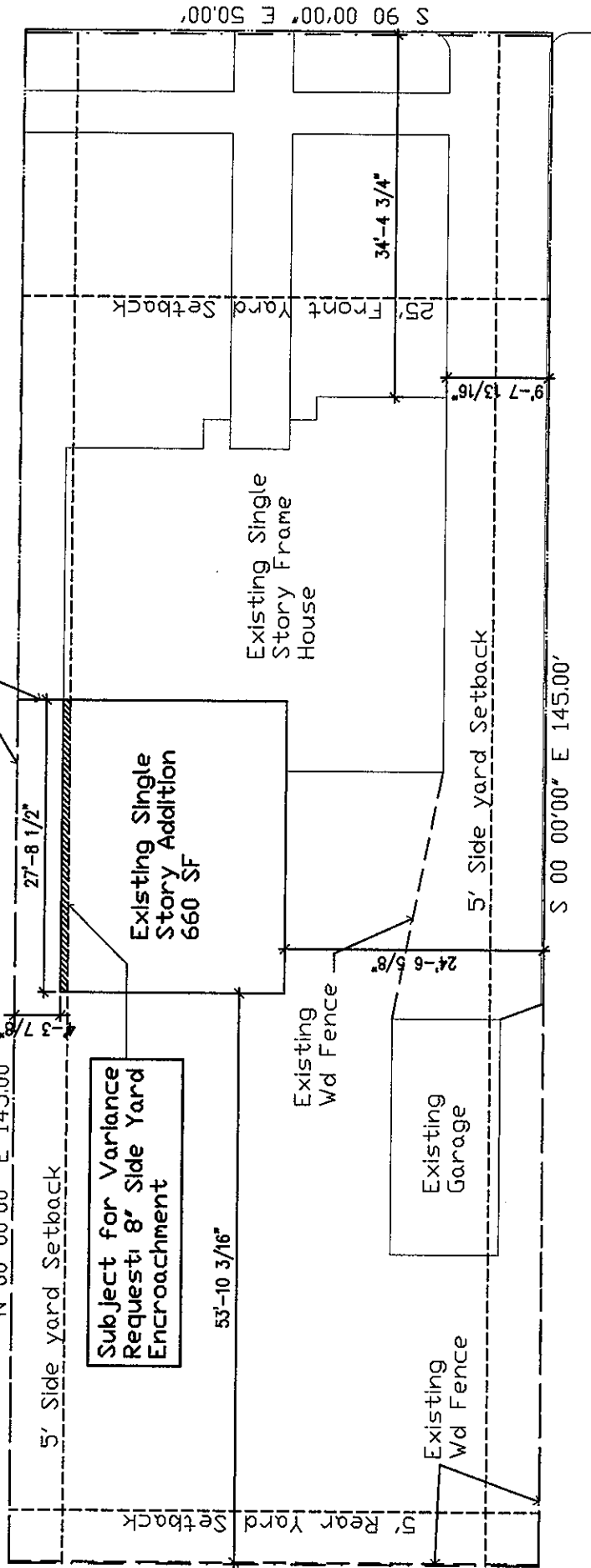
OR

Parcel address.

Use street type for better re

Locate





Site Plan

1" = 10'-0"

Notes:

1. Lot 6, Block 10 / 4750 Elmwood Addition no, 3
2. Current Zoning: R7.5, Minimum Site Area Required, 7,500sf.
3. Existing Site Area: 7,250 sf

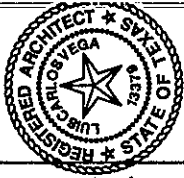
428 West Davis Street  
 Studio Three  
 Dallas, Texas.  
 75208  
 T. 972.898.7558



1610 Melbourne Ave.  
 Dallas, Texas

May 23, 2017

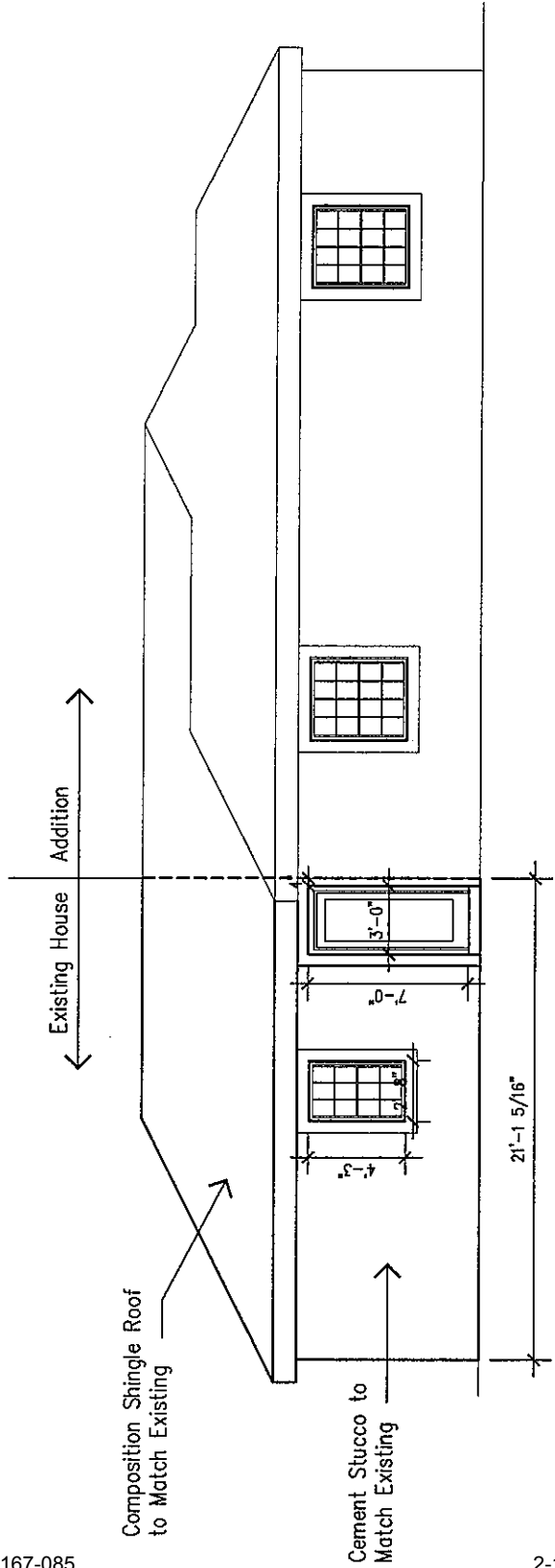




May 23, 2017

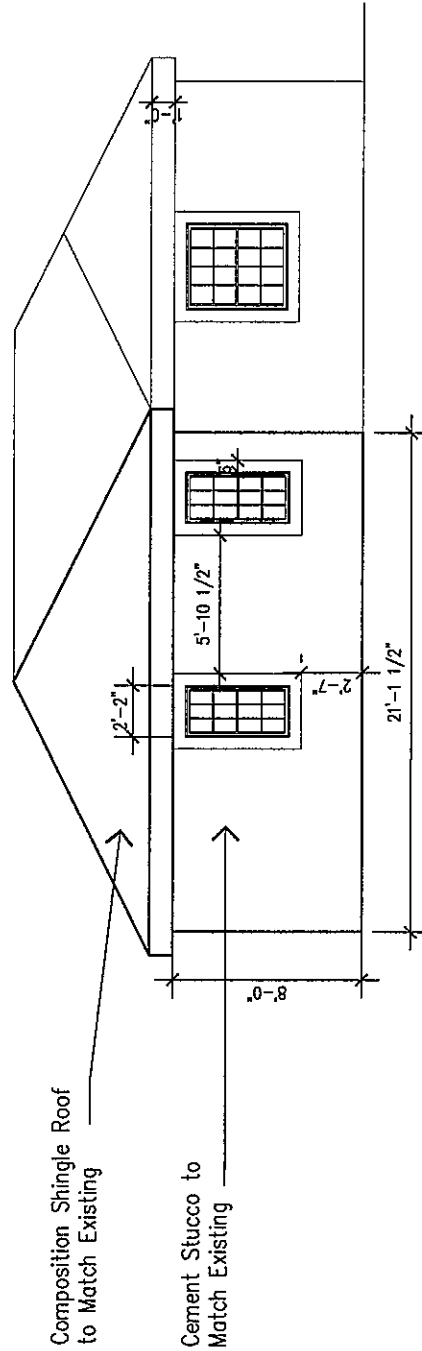
1610 Melbourne Avenue  
Dallas, Texas

428 West Davis Street  
Studio Three  
Dallas, Texas  
75208  
1.972.898.7558



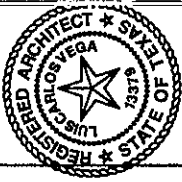
**West Elevation**

$3/16'' = 1' - 0''$



**South Elevation**

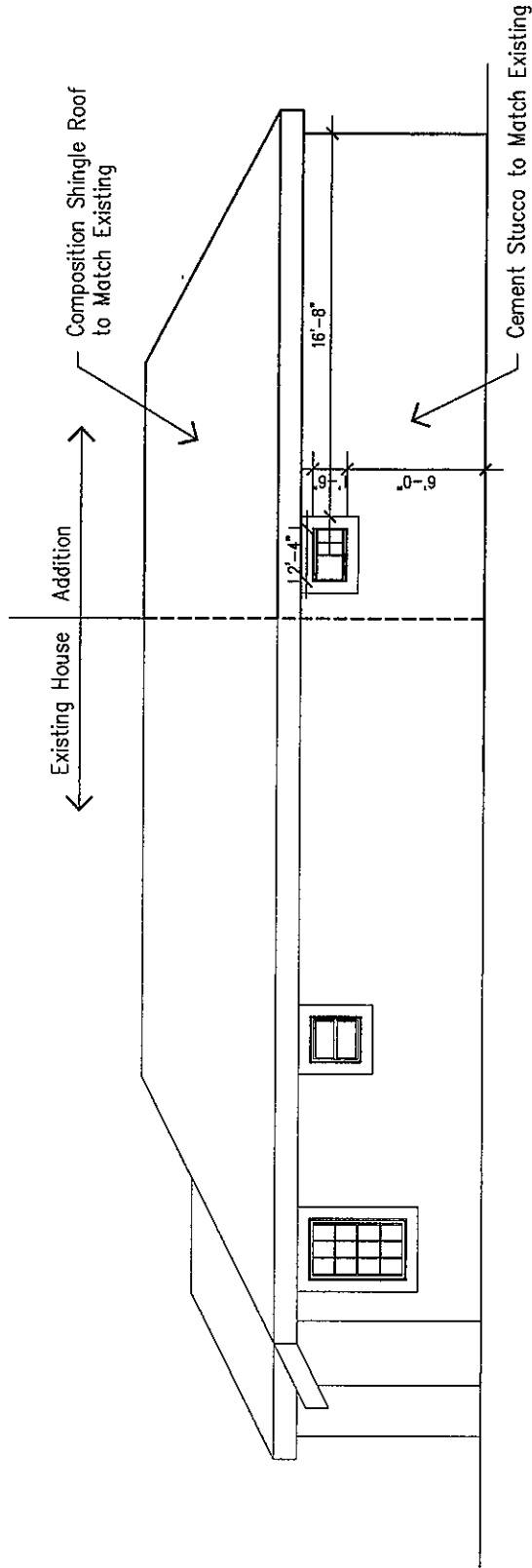
$3/16'' = 1' - 0''$



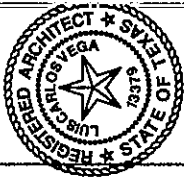
May 23, 2017

# 1610 Melbourne Avenue Dallas, Texas

429 West Davis Street  
Studio Three  
Dallas, Texas  
75208  
T. 972.898.7558

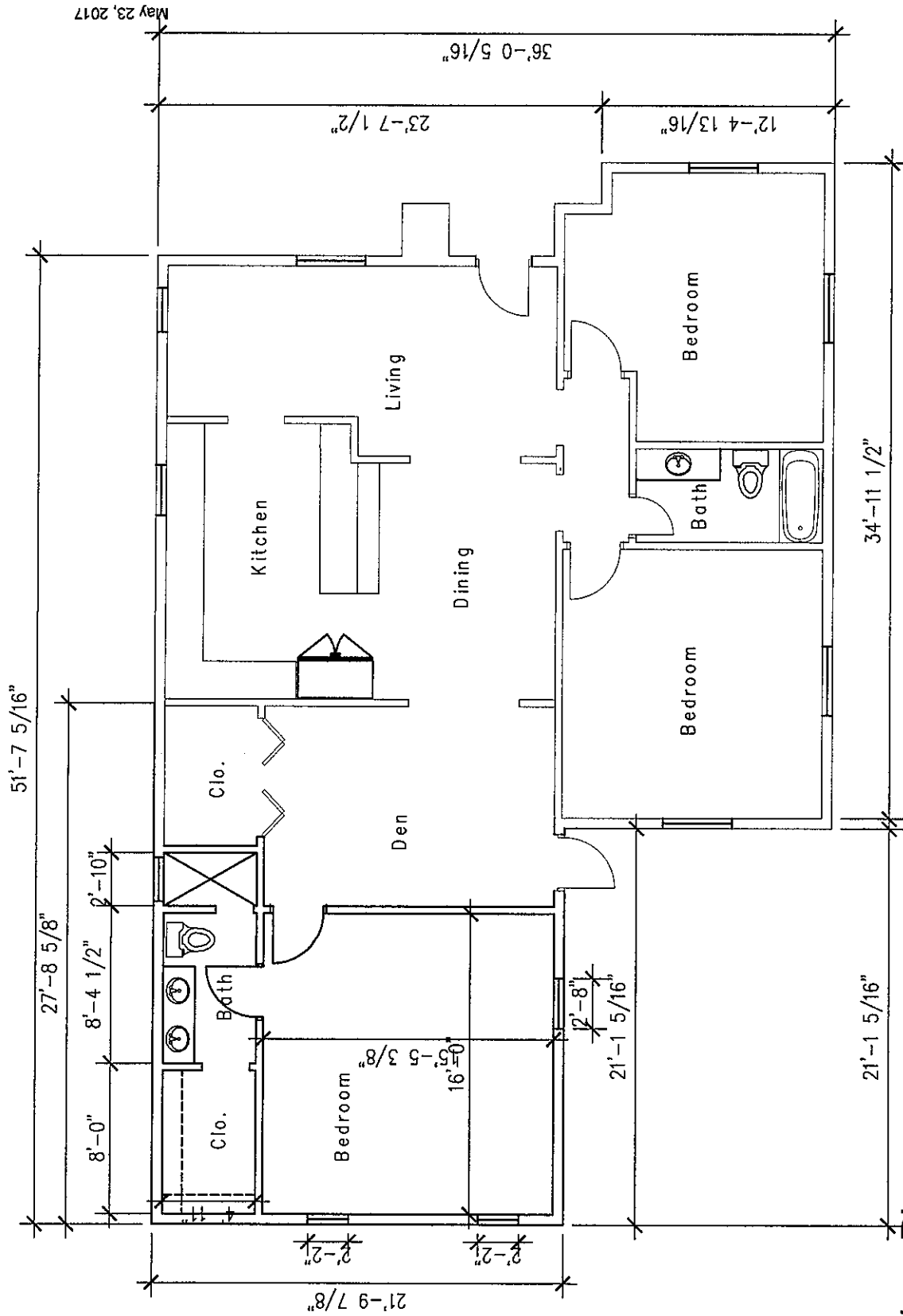


**East Elevation**  
3/16" = 1' - 0"



1610 Melbourne Avenue  
Dallas, Texas

428 West Davis Street  
Studio Three  
Dallas, Texas  
75208  
T. 972.898.7558



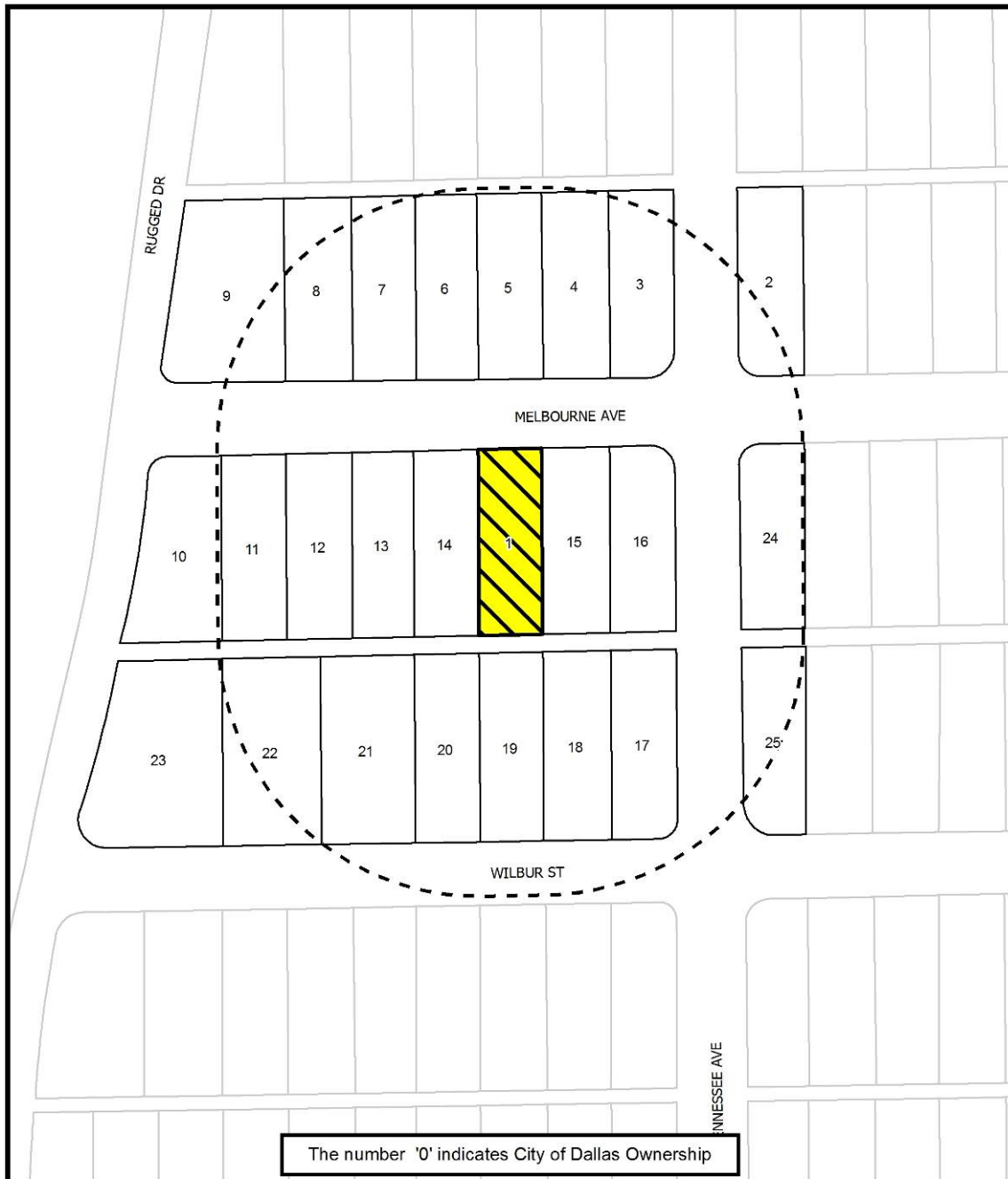
May 23, 2017

Area Addition: 560 SF  
Area Existing House: 1,056 SF  
Total Area: 1,616 SF

**Floor Plan**

3/16" = 1' - 0"





 1:1,200	<b>NOTIFICATION</b>		Case no: <b>BDA167-085</b>
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">25</div> NUMBER OF PROPERTY OWNERS NOTIFIED		Date: <b>7/17/2017</b>

## *Notification List of Property Owners*

**BDA167-085**

**25 Property Owners Notified**

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1610 MELBOURNE AVE	VILLAREAL RUFINA
2	1519 MELBOURNE AVE	REYES RICARDO
3	1601 MELBOURNE AVE	PENA MARGARITA M
4	1607 MELBOURNE AVE	MONGE SERAFIN & ISABEL
5	1611 MELBOURNE AVE	ESPINOZA EDUARDO & LUZ E
6	1615 MELBOURNE AVE	MARTINEZ MARIA ANTONIA
7	1619 MELBOURNE AVE	MORENO ROSA I
8	1623 MELBOURNE AVE	HALL PATRICK
9	1631 MELBOURNE AVE	RODRIGUEZ LAURA
10	1630 MELBOURNE AVE	JARAMILLO LEONOR
11	1626 MELBOURNE AVE	HOOVER RICHARD R
12	1622 MELBOURNE AVE	EDWARDS JOHN RANDOLPH
13	1618 MELBOURNE AVE	HAGLER MOLLY
14	1614 MELBOURNE AVE	WILLIAMS VAUGHN C
15	1606 MELBOURNE AVE	MORALES ALICK J
16	1602 MELBOURNE AVE	ADKINS CARLA ANN CENATIEMPO & BRYAN GREGORY ADKINS
17	1603 WILBUR ST	YOUNG KENNETH E
18	1607 WILBUR ST	GOMEZ AURORA E
19	1611 WILBUR ST	ONTIVEROS MARIO
20	1615 WILBUR ST	ESQUIVEL JESUS M EST OF
21	1619 WILBUR ST	TOMLIN JACK D
22	1627 WILBUR ST	YOUNG MIRANDA CONSUELA KEIRNS &
23	1631 WILBUR ST	RIVERA RAMON G &
24	1514 MELBOURNE AVE	RODRIGUEZ JESUS &
25	1515 WILBUR ST	CONWAY JOHN R & RUTH A

**FILE NUMBER:** BDA167-089(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Misael Gil for a special exception to the side yard setback regulations for a carport at 7323 Barney Street. This property is more fully described as Lot 4, Block 28/6237, and is zoned R-7.5(A), which requires a side yard setback of 5 feet. The applicant proposes to construct and/or maintain a carport in a required side yard and provide a 1 foot setback, which will require a 4 foot special exception to the side yard setback regulations.

**LOCATION:** 7323 Barney Street

**APPLICANT:** Misael Gil

**REQUEST:**

A request for a special exception to the side yard setback regulations of 4' is made to maintain a carport located 1' from the site's western side property line or 4' into this 5' required side yard setback on a site developed with a single family home structure/use.

**STANDARD FOR A SPECIAL EXCEPTION TO ALLOW A CARPORT IN THE SIDE YARD:**

The Board of Adjustment may grant a special exception to the minimum side yard requirements to allow a carport for a single-family or duplex use when, in the opinion of the Board, the carport will not have a detrimental impact on surrounding properties. In determining whether to grant a special exception, the Board shall consider the following:

- (1) Whether the requested special exception is compatible with the character of the neighborhood.
- (2) Whether the value of surrounding properties will be adversely affected.
- (3) The suitability of the size and location of the carport.
- (4) The materials to be used in construction of the carport.

(Storage of items other than motor vehicles is prohibited in a carport for which a special exception is granted in this section of the Code).

**STAFF RECOMMENDATION:**

No staff recommendation is made on this or any request for a special exception to the side yard setback regulations since the basis for this type of appeal is, when in the opinion of the board, the carport will not have a detrimental impact on surrounding properties.

## **BACKGROUND INFORMATION:**

### **Zoning:**

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

### **Land Use:**

The subject site is developed with a single family home. The area 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:**

- This request for a special exception to the side yard setback of 4' focuses on maintaining an approximately 260 square foot carport 1' from the site's western side property line or 4' into the site's western 5' required side yard setback, on a site developed with a single family home structure/use.
- A 5' side yard setback is required in the R-7.5(A) zoning district.
- The applicant has submitted a document (a site plan/elevation) indicating the size and materials of the carport, and its location 1' from the site's western side property line.
- The submitted site plan/elevation represents the following:
  - The carport is approximately 26' in length and approximately 10' in width (approximately 260 square feet in total area) of which approximately 40 percent is located in the western 5' side yard setback.
  - Roof line of carport aligns with roof line of single family home.
  - Composition shingle roof.
  - Horizontal siding over 2x4 studs.
- The Board Administrator conducted a field visit of the area approximately 500 feet east and west of the subject site and noted one other carport that appeared to be located in a side yard setback. A carport that appeared to be located in a side yard was noted immediately south of the subject site with no recorded BDA history.
- As of August 4, 2017, no letters had been submitted in support of or in opposition to this application.
- The applicant has the burden of proof in establishing the following:
  - that granting this special exception to the side yard setback regulations of 4' will not have a detrimental impact on surrounding properties.

- Granting this request and imposing the following conditions would require the carport to be maintained in the location and of the heights and materials as shown on these documents:
  1. Compliance with the submitted site plan/elevation is required.
  2. The carport structure must remain open at all times.
  3. No lot-to-lot drainage is permitted in conjunction with this carport special exception.
  4. All applicable building permits must be obtained.
  5. No item (other than a motor vehicle) may be stored in the carport.

**Timeline:**

June 8, 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 B.

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 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 4<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

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 with comments were submitted in conjunction with this application.



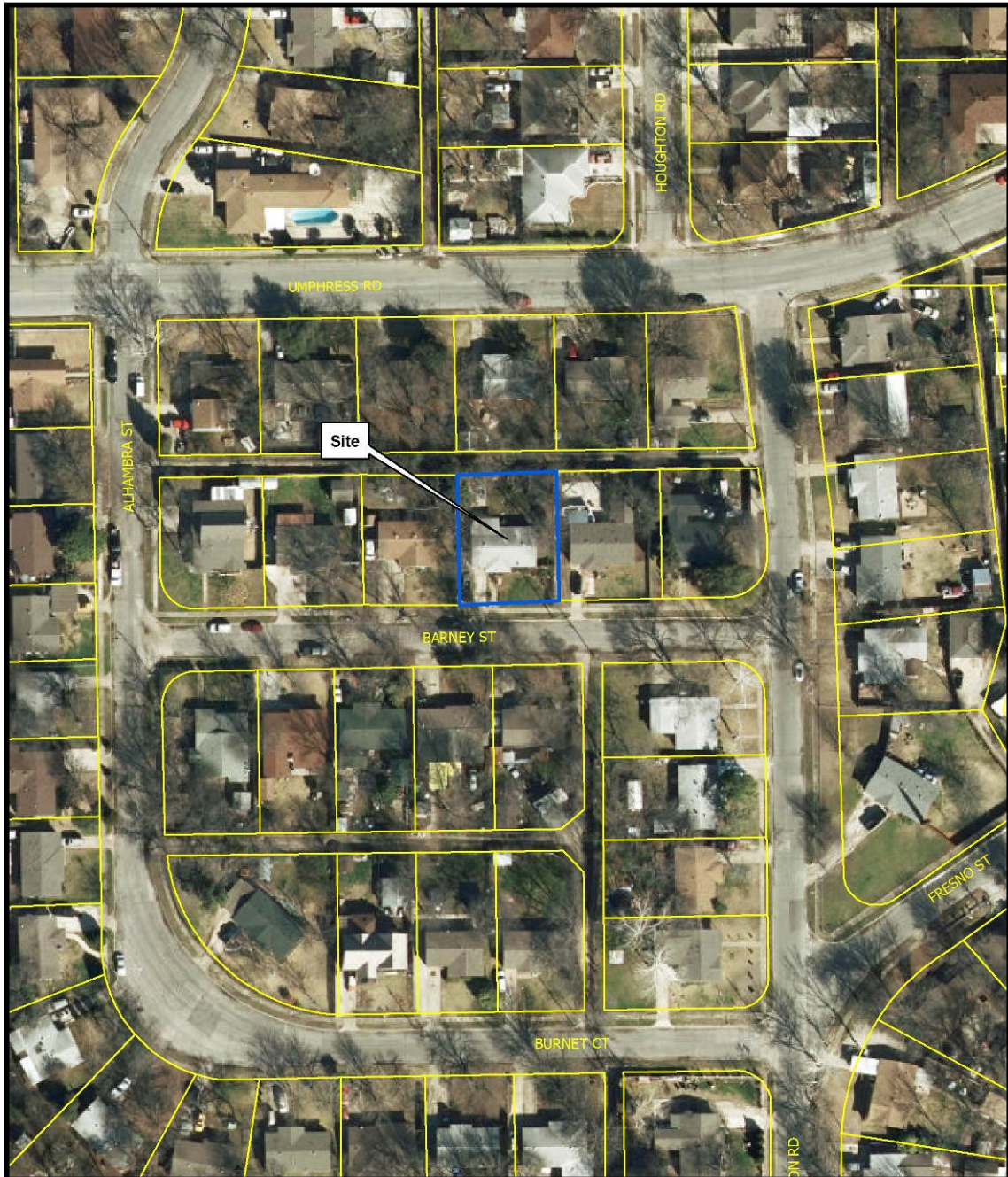


1:1,200

# ZONING MAP

Case no: BDA167-089

Date: 7/17/2017



1:1,200

# AERIAL MAP

Case no: BDA167-089

Date: 7/17/2017



City of Dallas

B

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-089

Data Relative to Subject Property:

Date: 6-8-17

Location address: 7323 Barney St Zoning District: R-7.5(A)

Lot No.: 4 Block No.: 2816237 Acreage: .17 Census Tract: 91.05

Street Frontage (in Feet): 1) 75 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Misael Gil / Juan Gil

Applicant: Misael Gil Telephone: 214-728-8486

Mailing Address: 7323 Barney St Dallas TX Zip Code: 75217

E-mail Address: misael9813@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 A carport over the 5' set back by 4 feet.

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:

It makes my house look beautiful and my neighbors are going to want to have one.  
It will make my house value increase.  
It will make my neighborhood look beautiful.

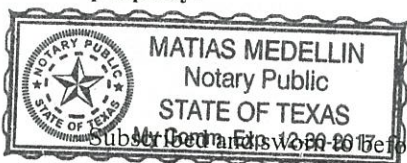
Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

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



Subscribed and sworn to before me this 8 day of June, 2017

Notary Public in and for Dallas County, Texas

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

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

Appeal was---Granted OR Denied

Remarks \_\_\_\_\_

Chairman

Building Official's Report

I hereby certify that Misael Gil

did submit a request for a special exception to the side yard setback regulations  
at 7323 Barney Street

BDA167-089. Application of Misael Gil for a special exception to the side yard setback regulations at 7323 Barney Street. This property is more fully described as Lot 4, Block 28/6237, and is zoned R-7.5(A), which requires a side yard setback of 5 feet. The applicar proposes to construct a carport for a single family residential dwelling in a required side yard and provide a 1 foot setback, which will require a 4 foot special exception to the side yard setback regulation.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official

# City of Dallas

Internal Development Research Site

*MG*

## Legend

### Locate Property

Search by:

GIS Account #

Locate

OR

Street address.

7323 barney

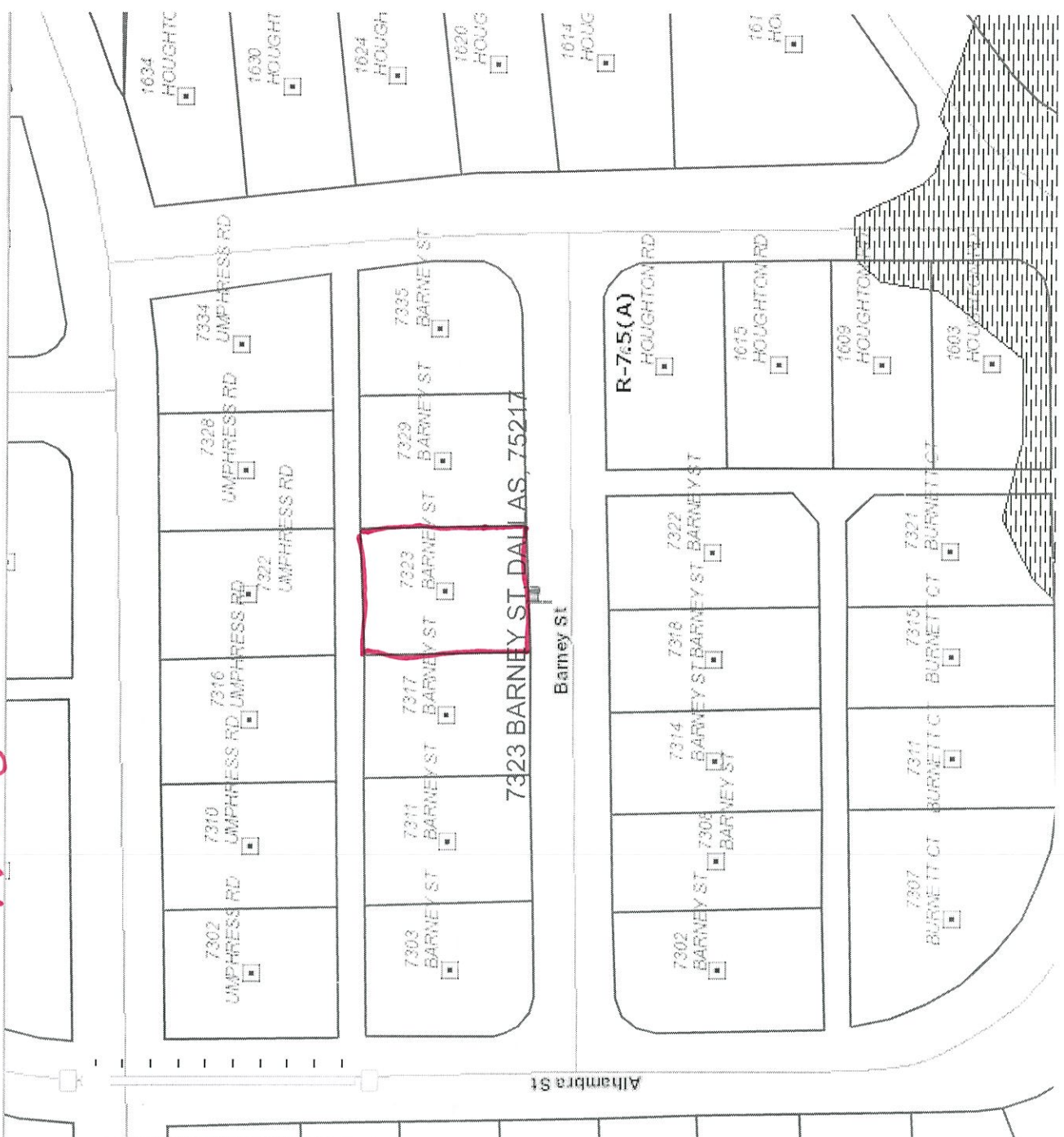
Locate

OR

Parcel address.

Use street type for better re

Locate



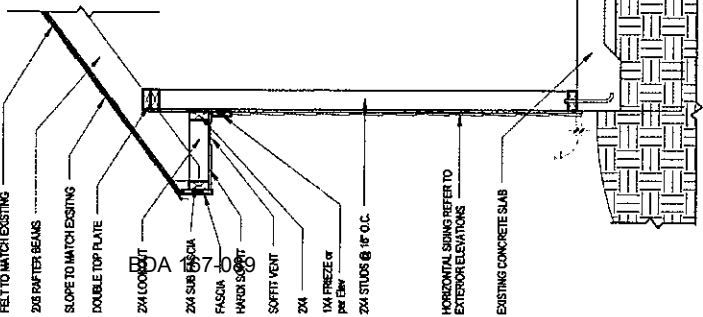
7400  
L-200.96  
4-17-16

7200 UMPHRESS ROAD 7300 ROAD 7400

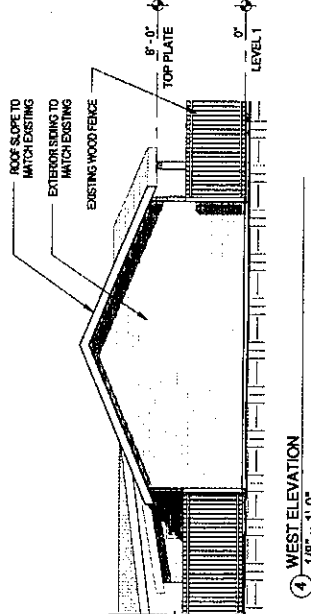
MG



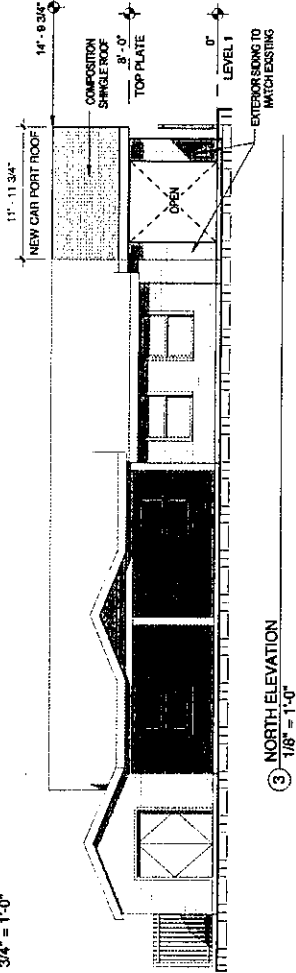
COMPOSITION SHINGLES  
 SOLD SHEATHING OVER 1/4"  
 FELT TO MATCH EXISTING  
 2x6 RAFTER BEAMS  
 SLOPE TO MATCH EXISTING  
 DOUBLE TOP PLATE  
 2x4 JOIST @ 16" O.C.  
 2x4 SUB FLOOR  
 FASZIA  
 HARD SOFT  
 SOFTLY VENT  
 2x4  
 1/4" FRIEZE or  
 per Elev  
 2x4 STUDS @ 16" O.C.  
 HORIZONTAL SINGLES REFER TO  
 EXTERIOR ELEVATIONS  
 EXISTING CONCRETE SLAB



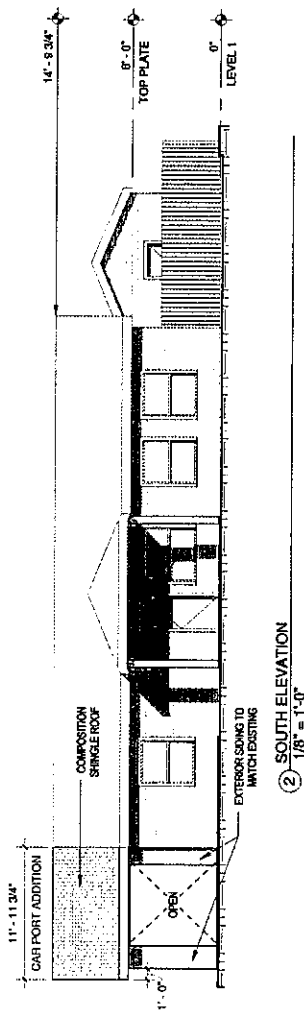
1 TYP WALL SECTION  
 3/4" = 1'-0"



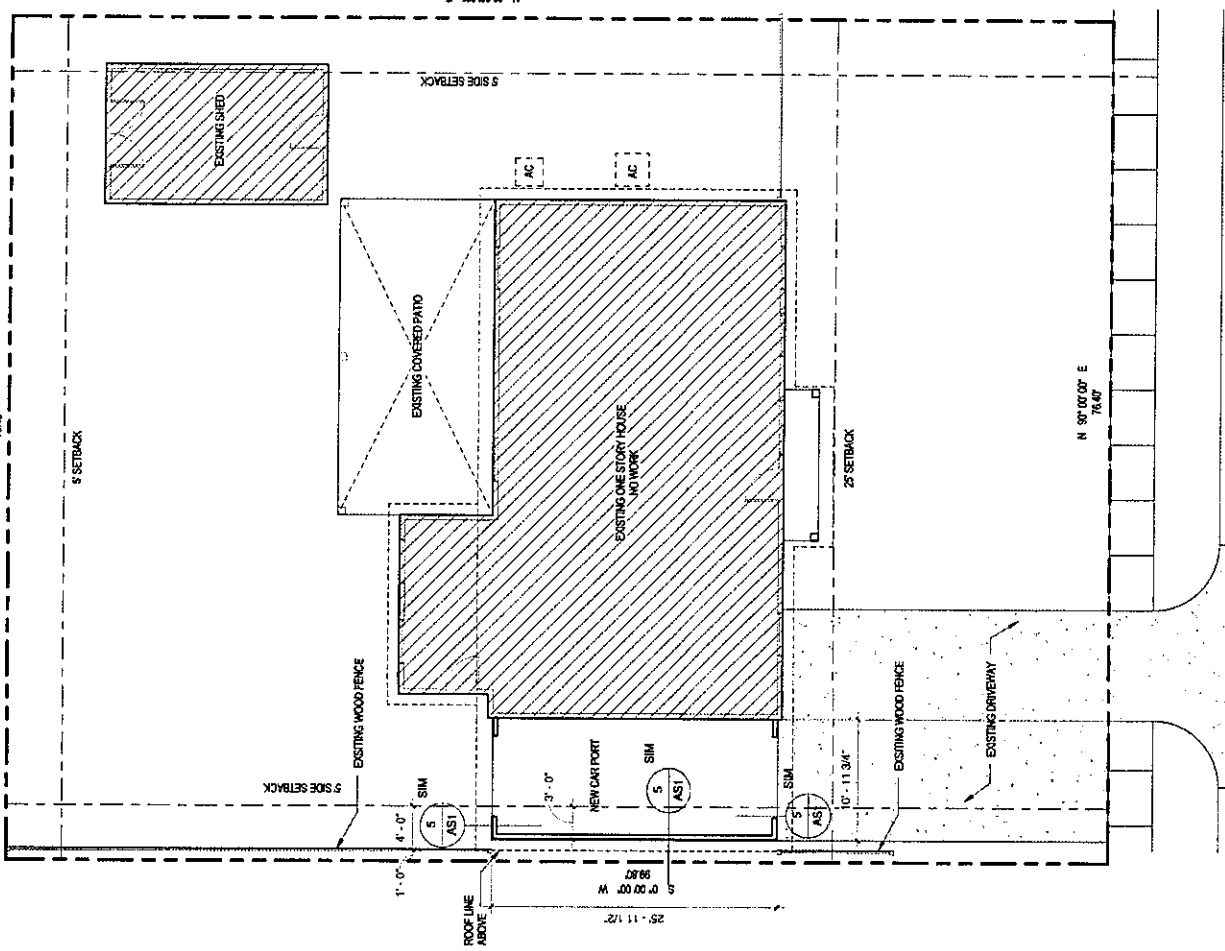
4 WEST ELEVATION  
 1/8" = 1'-0"



3 NORTH ELEVATION  
 1/8" = 1'-0"



2 SOUTH ELEVATION  
 1/8" = 1'-0"



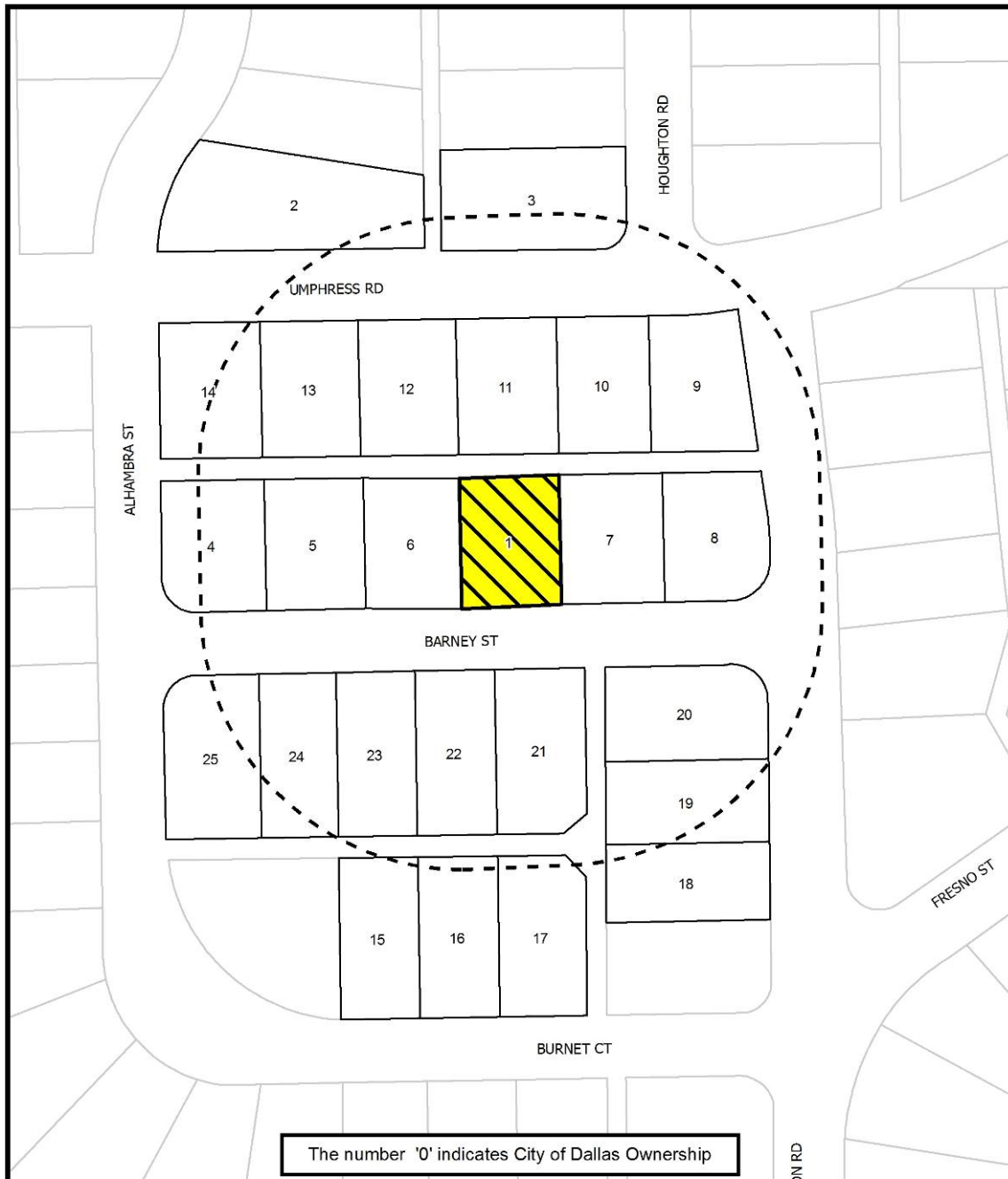
1 SITE PLAN  
 1/8" = 1'-0"

BARNEY STREET

**MISAEIL GIL**  
**CAR PORT ADDITION**  
 7323 BARNEY ST  
 DALLAS, TX 75217  
 LOT 4 BLOCK 28/6237

ZONING INFO			
DISTRICT	SETBACKS	HEIGHT	LOT COVERAGE
R-7.5(A)	FRONT 20' BACK 5'	30'	45%
			PRIMARY USE
			SINGLE FAMILY

**AS1**  
**SITE PLAN**  
 05.28.17 - Scale: Varied



 1:1,200	<h2>NOTIFICATION</h2>	Case no: <b>BDA167-089</b>			
	<table border="1"> <tr> <td style="text-align: center;"><b>200'</b></td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;"><b>25</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	<b>200'</b>	AREA OF NOTIFICATION	<b>25</b>	NUMBER OF PROPERTY OWNERS NOTIFIED
<b>200'</b>	AREA OF NOTIFICATION				
<b>25</b>	NUMBER OF PROPERTY OWNERS NOTIFIED				



## *Notification List of Property Owners*

**BDA167-089**

### *25 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	7323 BARNEY ST	GIL MISAEL & JUAN
2	1704 ALHAMBRA ST	RUIZ MONICA &
3	1705 HOUGHTON RD	CATALAN EBENCIO &
4	7303 BARNEY ST	DOMINGREZ MARCOS
5	7311 BARNEY ST	CASTILLO RIGOBERTO
6	7317 BARNEY ST	BAILON MARCOS &
7	7329 BARNEY ST	PORTILLO VICENTE
8	7335 BARNEY ST	VENEGAS MARCELO
9	7334 UMPHRESS RD	FREEMAN WILLIAM R
10	7328 UMPHRESS RD	ORTIZ MATIAS M &
11	7322 UMPHRESS RD	JAIMES MIGUEL ANGEL
12	7316 UMPHRESS RD	HENRY JAMES M & MARY A RECOVERABLE LIVING TRUST
13	7310 UMPHRESS RD	PEREZ ADAN
14	7302 UMPHRESS RD	COOKS VERNON &
15	7311 BURNETT CT	HERNANDEZ SALVADOR A &
16	7315 BURNETT CT	LIMONES JUAN
17	7321 BURNETT CT	LIMONES JUAN F &
18	1609 HOUGHTON RD	MOSCREY FRANK P JR ETAL
19	1615 HOUGHTON RD	VELA MARICELA &
20	1619 HOUGHTON RD	AGUILAR CLAUDIA BERENICE HERNANDEZ &
21	7322 BARNEY ST	MARTINEZ CRUZ &
22	7318 BARNEY ST	CORTEZ FABIOLA
23	7314 BARNEY ST	GOMEZ MATILDE &
24	7308 BARNEY ST	FEMAT MANUEL A & HILDA P
25	7302 BARNEY ST	GONZALEZ NORBERTO

**FILE NUMBER:** BDA167-091(SL)

**BUILDING OFFICIAL'S REPORT:** Application of James F. Nadeau, Jr. for a special exception to the fence standards at 4611 Walnut Hill Lane. This property is more fully described as Lot 1, Block A/5540, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a 9 foot 6 inch high fence in a required front yard, which will require a 5 foot 6 inch special exception to the fence standards.

**LOCATION:** 4611 Walnut Hill Lane

**APPLICANT:** James F. Nadeau, Jr.

**REQUEST:**

A request for a special exception to the fence standards related to fence height of 5' 6" is made to maintain a fence higher than 4' in the front yard setback (an 8' high combination solid cedar wood slat fence with stone base with 9' 2" high stone columns and two, 7' 2" high gates parallel to the street; a 7' 11" high solid cedar wood slat fence with 9' 4" high stone columns on the east side of the site perpendicular to the street in the front yard setback, and a 7' 2" high solid cedar wood slat fence with 7' 10" high stone columns on the west side of the site perpendicular to the street in the front yard setback) on a site that is developed with a single family home.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE STANDARDS:**

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

**STAFF RECOMMENDATION:**

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

## **BACKGROUND INFORMATION:**

### **Zoning:**

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

### **Land Use:**

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

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

1. BDA145-031, Property located at 4686 Meadowood Road (the property approximately three lots southeast of the subject site)

On March 18, 2015, the Board of Adjustment Panel B granted a request for special exception to the fence height regulations of 5' and imposed the submitted revised site plan and elevation dated March 18, 2015 as a condition.

The case report stated that the constructing and maintaining a 9' high solid brick fence to replace an approximately 7' high solid brick fence parallel to Walnut Hill Lane on the north, and an 8' high solid brick to replace an 8' high open picket perpendicular to Walnut Hill Lane on the west adjacent to Meadowood Road on a site developed with a single family home use.

2. BDA 990-271, Property at 9963 Rockbrook Lane (the property south of the subject site)

On May 15, 2000, the Board of Adjustment Panel C granted requests for special exceptions to the single family use and fence height regulations of 2' and imposed the following conditions: to the single family use special exception: compliance with the submitted site plan is required; and applicant must submit a valid deed restriction prohibiting the additional dwelling unit of the site from being used as a rental accommodation; and to fence height special exception: 1) In conjunction with retaining the 6 foot high brick/masonry wall, a tree survey or a landscape plan documenting the trees to be retained adjacent to the existing wall must be submitted, and 2) a landscape plan documenting the retention of ivy vines on the existing wall must be submitted.

The case report stated the requests were made to maintain an existing 6' high brick wall along Walnut Hill Lane and construct/maintain an extension of this wall an additional 90 feet westward along Walnut Hill Lane, and to construct/maintain a pool house/dwelling unit structure on the site.

3. BDA167-025, Property at 4707 Walnut Hill Lane (two lots east of the subject site)

On August 27, 2005, the Board of Adjustment Panel B granted a request for a special exception to the fence height regulations of 4' 30" and imposed the submitted site plan and elevation as a condition.

The case report stated the request was made to construct and maintain a fence 8' high solid wood fence with front yard (a 5' 0" high soaped steel pipe gate with 6' 3" set back stone pillars, and a 5' 7" high persistent picket gates with 6' 3" high stone columns topped with 2' high decorative lamps parallel to the street, and an 8' high solid wood fence on the east side of the site perpendicular to the street in the required front yard) on a site that is being developed with a single family home.

4. BDA 145-098, Property at 4606 Walnut Hill Lane (two lots southwest of the subject site)
- On September 21, 2015, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of 4' 6" and imposed the submitted site plan and partial site plan/elevation as a condition.
- The case report stated that the request was made to construct and maintain a 7' high stone wall with 7' 6" high stone columns, and an approximately 6' 6" – 8' 6" high gate flanked with 8' 6" high entry columns on a site developed with a single family home.

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

- The request for a special exception to the fence standards related to fence height of 5' 6" focuses on maintaining an 8' high combination solid cedar wood slat fence with stone base with 9' 2" high stone columns and two, 7' 2" high gates parallel to the street; a 7' 11" high solid cedar wood slat fence with 9' 4" high stone columns on the east side of the site perpendicular to the street in the front yard setback, and a 7' 2" high solid cedar wood slat fence with 7' 10" high stone columns on the west side of the site perpendicular to the street in the front yard setback) on a site that is developed with a single family home.
- The subject site is zoned R-1ac(A) which requires a 40' 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 elevations of the proposal with notations indicating that the proposal reaches a maximum height of 9' 4".
- The submitted site plan denotes the following:
  - The proposal over 4' in height in the front yard setback is represented as being approximately 170' in length parallel to the street, approximately 10' from the front easement line, and an approximately 30' in length perpendicular to the street on the east and west sides of the site in the 40' front yard setback.
  - The proposal is represented as being located approximately 4' from the front easement line or approximately 15' from the pavement line; the gate proposal is represented as being located approximately 12' from the front property line or approximately 23' from the pavement line.
- Two single family lots are to the south of the subject site. Each of these lots has a fence in what appears to be the front yard setback over 4' in height. One of the fences appears to be the result of a fence special exception granted by the Board in 2000: BDA990-271 (see the BDA history section of this case report for further details, and the other (an approximately 5' high solid brick fence) has no recorded BDA history.

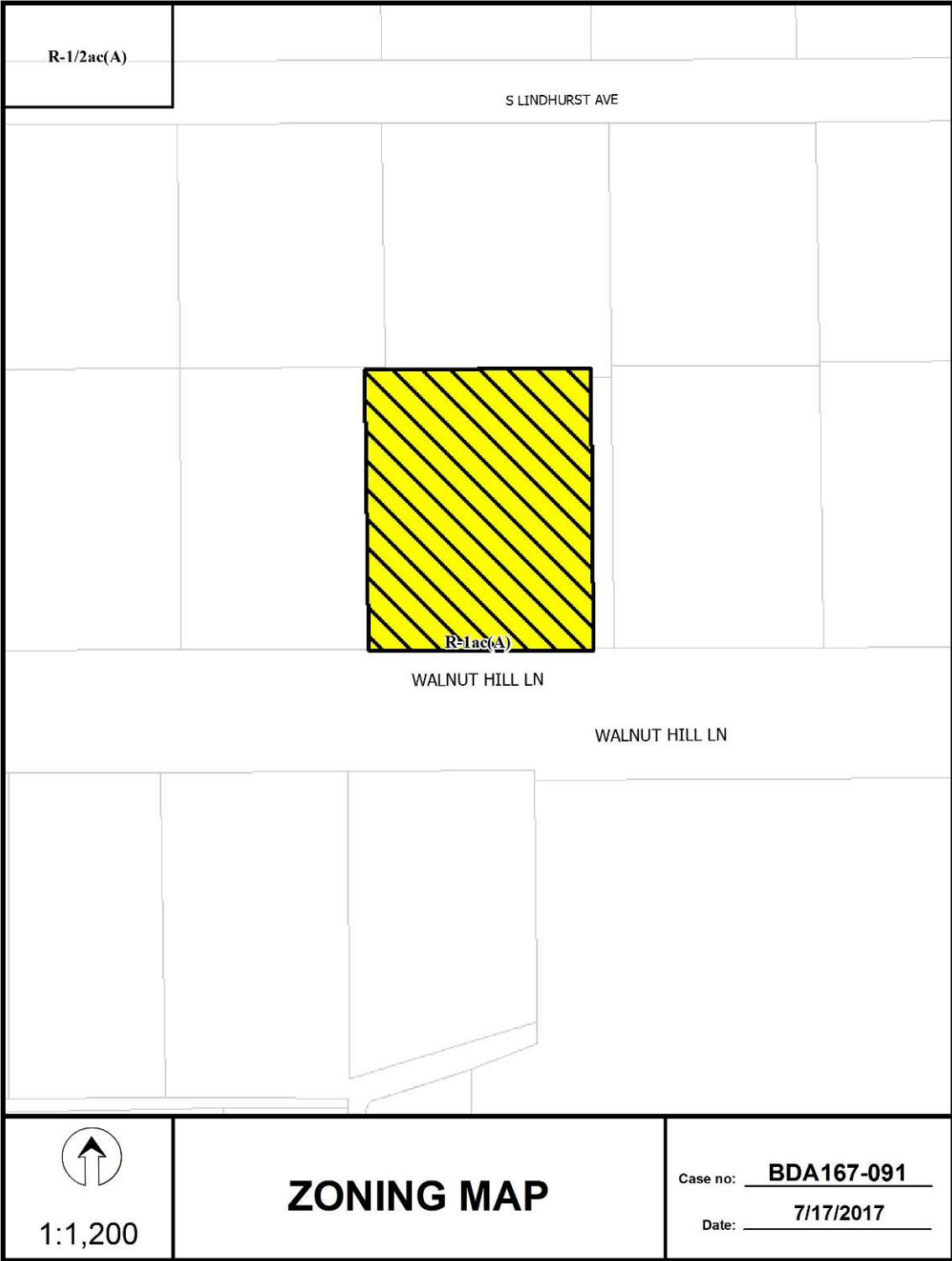
- The Board Administrator conducted a field visit of the site and surrounding area (approximately 400' east and west of the subject site) and noted a number of fences above 4 feet high which appeared to be located in a front yard setback. In addition to the fences mentioned above and in the BDA history section, an approximately 5' high solid wood fence was noted immediately east of the subject site.
- As of August 4, 2017, 4 letters had been submitted in support of the application, and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence standards related to fence height of 5' 6" will not adversely affect neighboring property.
- Granting this special exception with a condition imposed that the applicant complies with the submitted site plan and elevations would require the proposal exceeding 4' in height to be maintained in the location and of the heights and materials as shown on these documents.

**Timeline:**

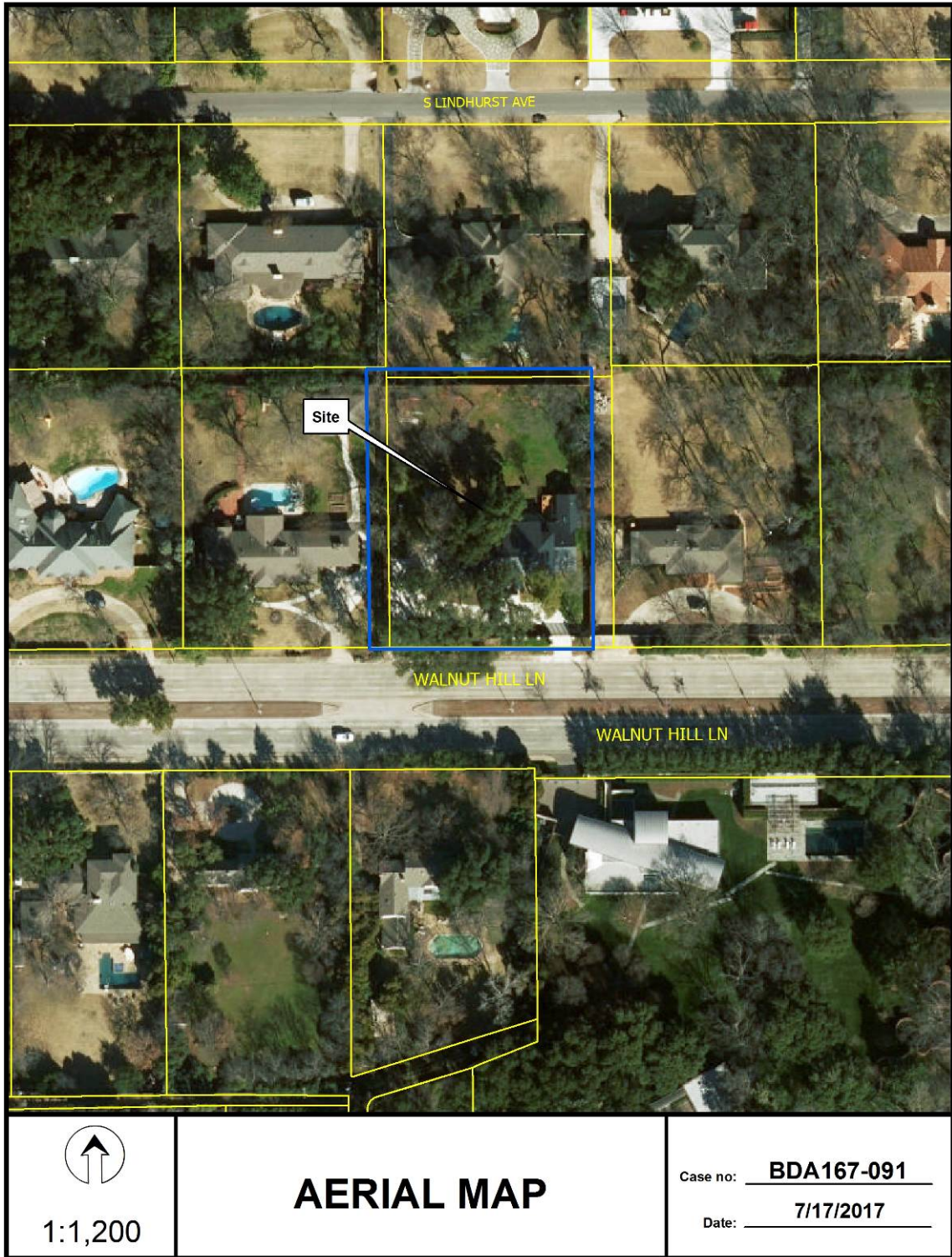
- June 15, 2017: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- July 11, 2017: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- July 11, 2017: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the July 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 4<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- July 17, 2017: The applicant submitted additional documentation on this application to the Board Administrator 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.







4611 Walnut Hill Lane – Fence Chronology

I purchased the property in question in May 2012

Accede Inc. was hired as General Contractor (GC) in Nov. 2012 to renovate the property  
Accede Inc. applied for and was granted a Fence permit in Feb. 2013 – I as the owner was unaware that this permit was only valid for the fence at the rear of the property. The permit was not specific, under work description it said only 110 – INSTALL FENCE

In August 2013 the property was burglarized and appliances and other items were stolen. I filed a police report. I requested that the contractor work quickly to complete the fence to protect the property from further damage.

The fence was completed Nov. 2013 – Accede informed me that the fence was “Approved” in April 2014.

The renovation stalled in June 2014 when the contractor informed me that he was hospitalized because of cancer. I told him that I would wait for him to go through treatment and we could continue the renovation when he was better. It took almost 11 months before we were able to renew the renovation.

Sometime in early 2015 I was made aware that there was a problem with the permit for the fence, although I was unable to get clarity as to exactly what was wrong. I subsequently visited the Dallas Building Department and was verbally informed that the fence was in compliance. However, in hindsight I realized that the compliance statement was relevant only to the fence along the rear of the property.

After receiving another notice of non-compliance I went into the Dallas Building Department myself and met with Todd Duerksen. He informed me that the fence required a “Special Exception” permit. I began the process and gathered all of the materials, including tax, plat, lien etc. I provided the material to my GC and he said that he would get it resolved.

I subsequently sold a small piece of the property to the neighbor that bordered the property in the rear. During the sale nothing was uncovered that indicated that there was still a problem with permitting.

In September 2015 I officially fired Accede Inc. as GC because of issues with non-payment to subcontractors and material providers, permits, dishonesty etc.

After interviewing numerous General Contractors unwilling to take over a partially completed project with permits in various phases, I finally found a General Contractor willing to complete the project. In November 2016 I hired Hartley Remodeling to complete the project. Hartley Remodeling hired Construction Concepts LLC in January 2017 to review and resolve the permit issues. I was informed after 6 weeks that they were unable/unwilling to complete the process because of complexities with “revoked and expired” permits.

I then attempted to contact Robert Reeves and Assoc. as I was aware that they had worked with the owners at 4606 Walnut Hill Ln. on a similar issue. Mr. Reeves did not return numerous calls.

I was then issued another non-compliance in February 2017. In May 2017 I personally took on the responsibility of resolving the fence permit issue. I met with Todd Duerksen again after finding an

architect willing to develop elevations/drawings to submit as part of the BOA process. In June 2017, I finally had all of the required materials to file my request for a "Special Exception" with the Dallas Board of Adjustments.

I never intended to try to circumvent any permit or process requirement with the City of Dallas. As a matter of fact, to the dismay of the GC, I was adamant that any work performed on the property that required a permit must go through the permitting process. I understand fully that the permitting process is there for the safety of the homeowner and to ensure compliance with city building codes. I do apologize for this taking so unusually long, but I was trying to get this resolved since I was made aware of the problem.

In an attempt to keep in compliance and avoid any misunderstanding, I was in regular contact with Code Compliance Officer Nadine Davis, keeping her informed of the progress of the project.



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-091

Data Relative to Subject Property:

Date: 6-15-17

Location address: 4611 Walnut Hill Ln, Dallas, Texas 75229 Zoning District: R-1ac(A)

Lot No.: 1 Block No.: A/5540 Acreage: .927 Census Tract: .76.01

Street Frontage (in Feet): 1) 170.6 2) 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): JFN Real Estate Ltd.

Applicant: James F. Nadeau Jr. Telephone: 214-215-5699

Mailing Address: 6057 Cypress Cove Dr., The Colony, TX Zip Code: 75056

E-mail Address: James@jmb-nadeau.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 Fence Height OF 5'6" to a total maximum column height of 9.5 feet and a total fence height not to exceed 8 feet.

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

To make the property more appealing and to conform to the other R1ac properties in this neighborhood I am requesting a Special Exception to build a stone and cedar fence in the front of the property and a board on board cedar fence on the sides of the property. I will be using high end, natural materials and will add professional landscaping. The fence will be aesthetically pleasing and will provide safe ingress and egress.

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

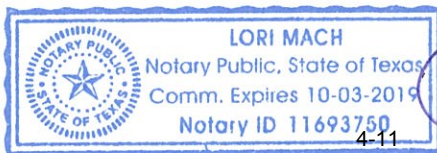
Before me the undersigned on this day personally appeared James F. Nadeau Jr. (Affiant/Applicant's name printed)

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

Respectfully submitted: (Affiant/Applicant's signature)

Subscribed and sworn to before me this 6 day of June, 2017

(Rev. 08-01-11)



Notary Public in and for Dallas County, Texas Collin

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 Nadeau

did submit a request for a special exception to the fence height regulations  
at 4611 Walnut Hill Lane.

BDA167-091. Application of James Nadeau for a special exception to the fence height regulations at 4611 Walnut Hill Lane. This property is more fully described as Lot 1, Block A/5540, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 9 foot 6 inch high fence in a required front yard, which will require a 5 foot 6 inch special exception to the fence regulation.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official

# City of Dallas

## Internal Development Research Site

### Legend

### Locate Property

Search by:

GIS Account #

Locate

OR

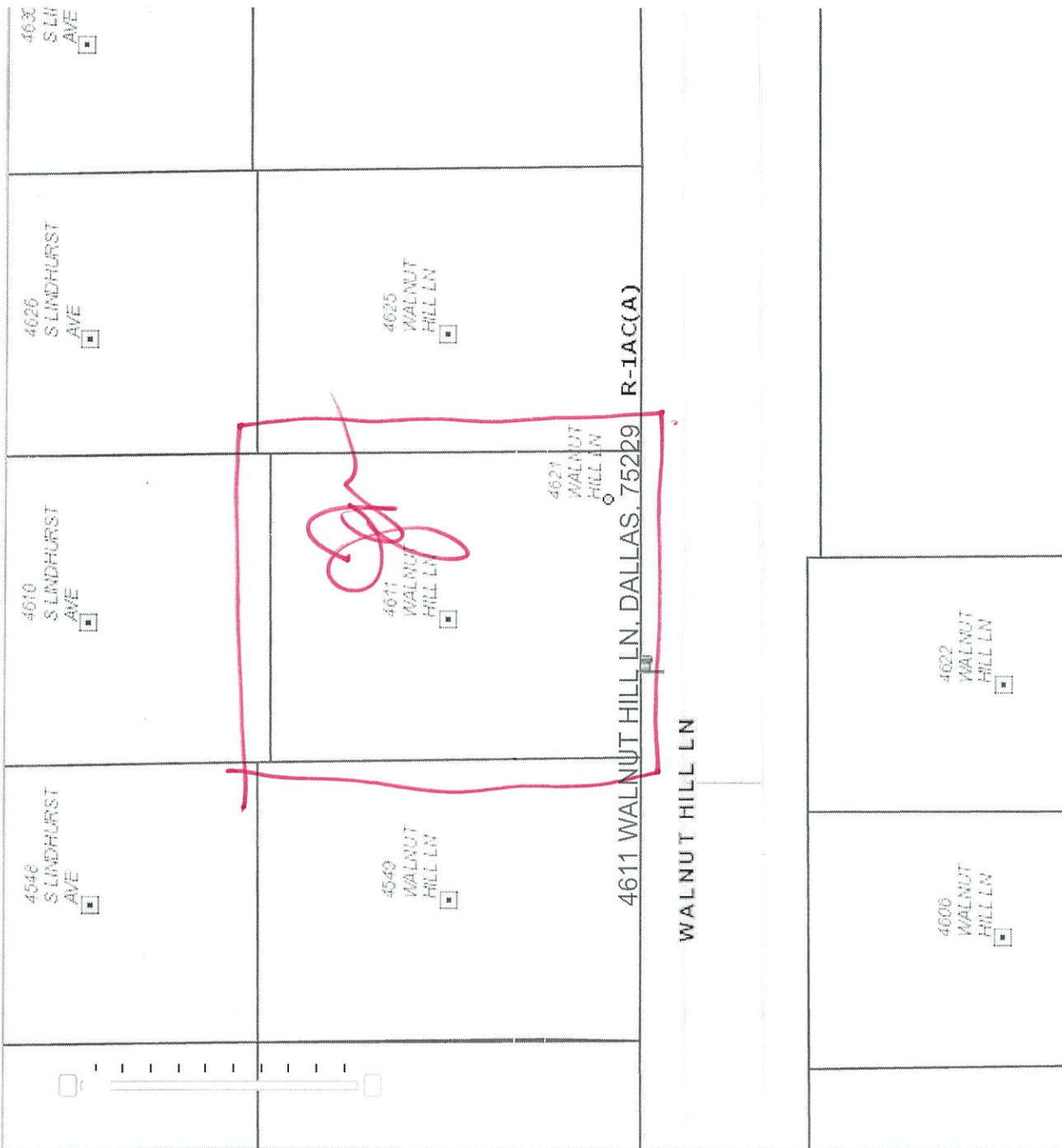
Street address.  
4611 walnut hill

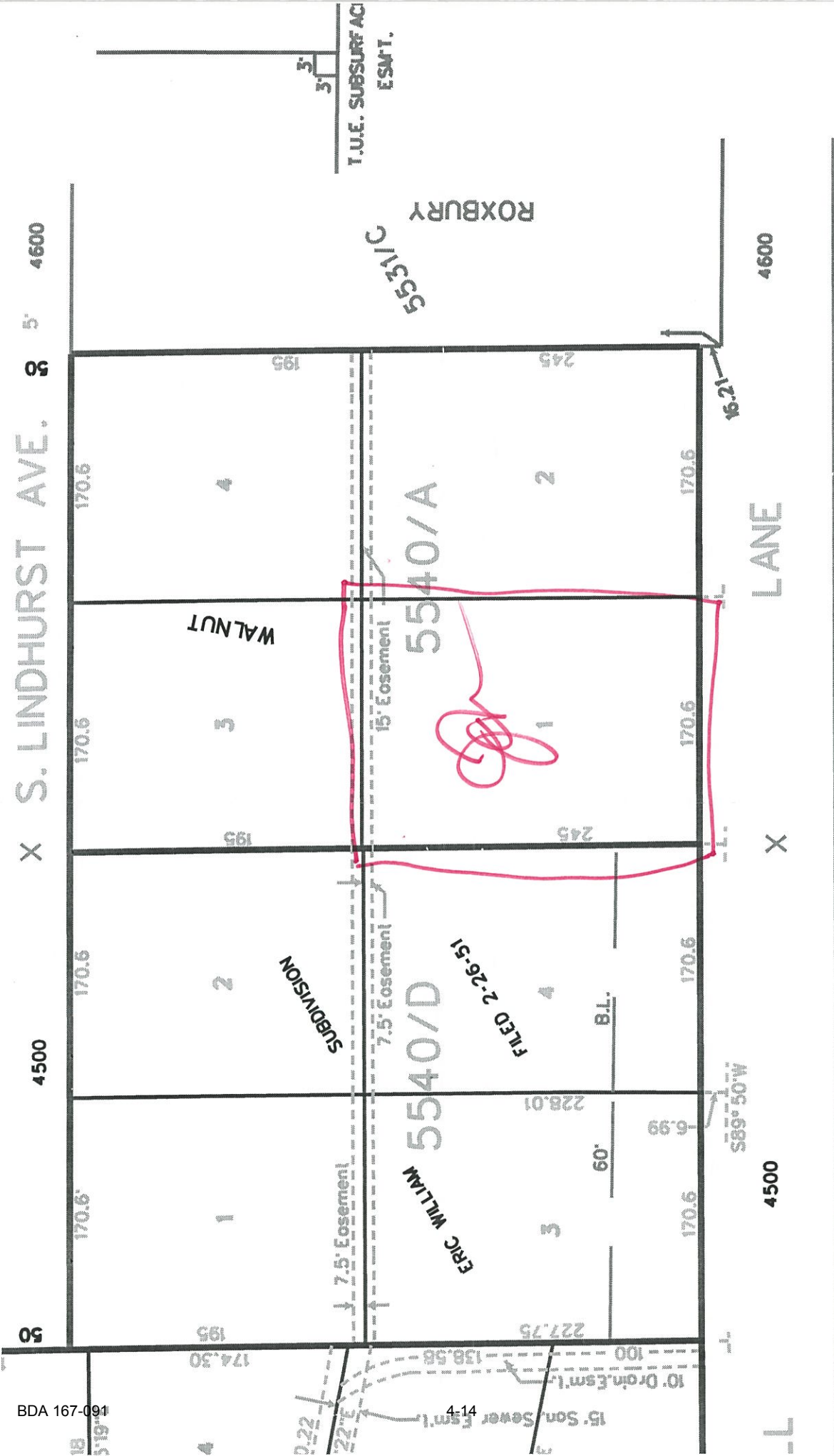
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OR

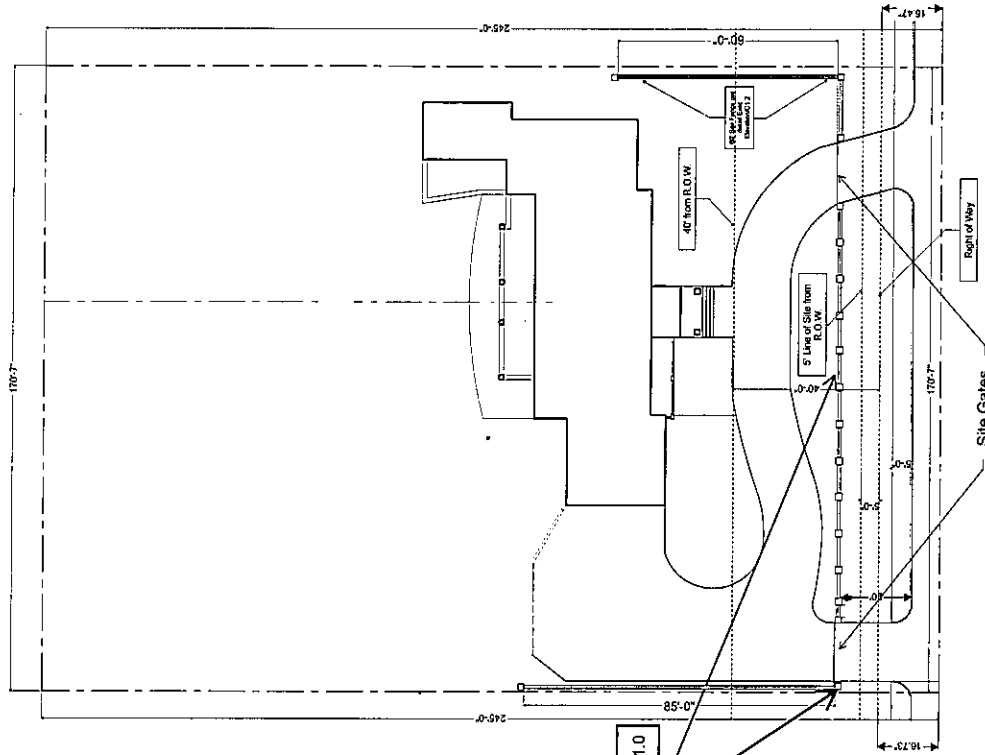
Parcel address.  
Use street type for better re

Locate

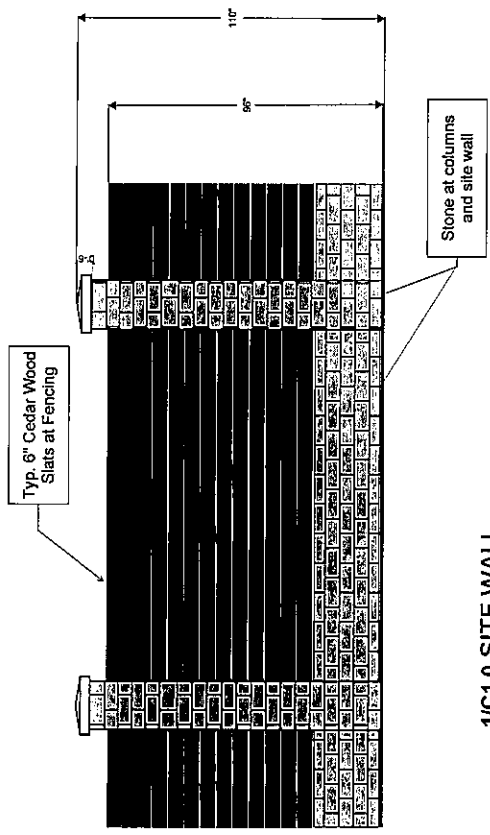




5543



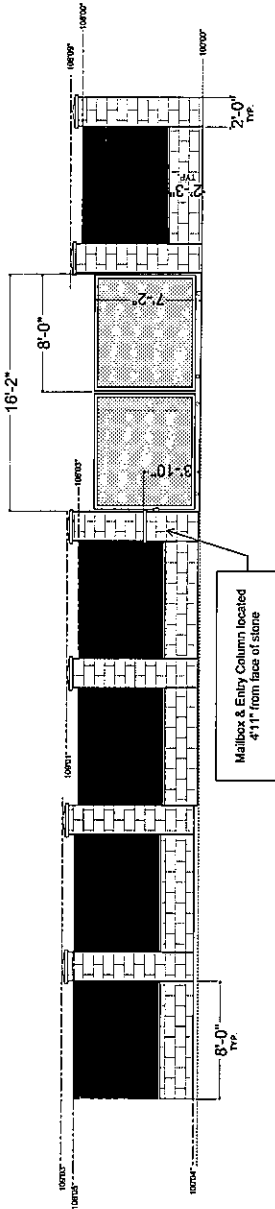
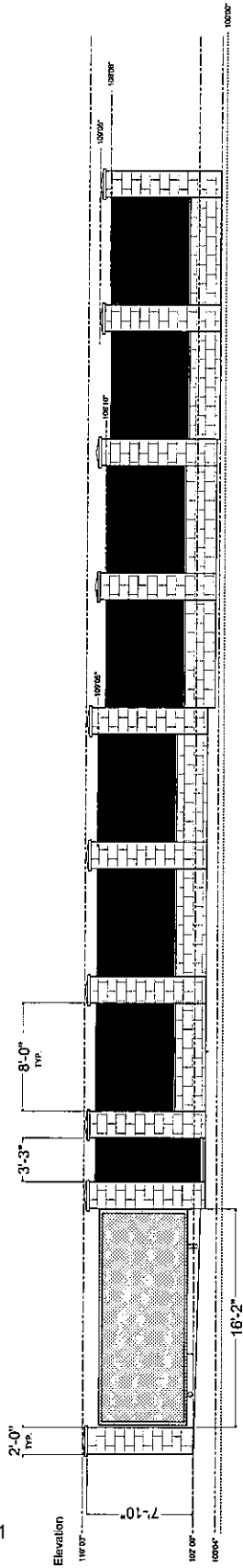
SITE FENCE LAYOUT  
SCALE: 1" = 16'



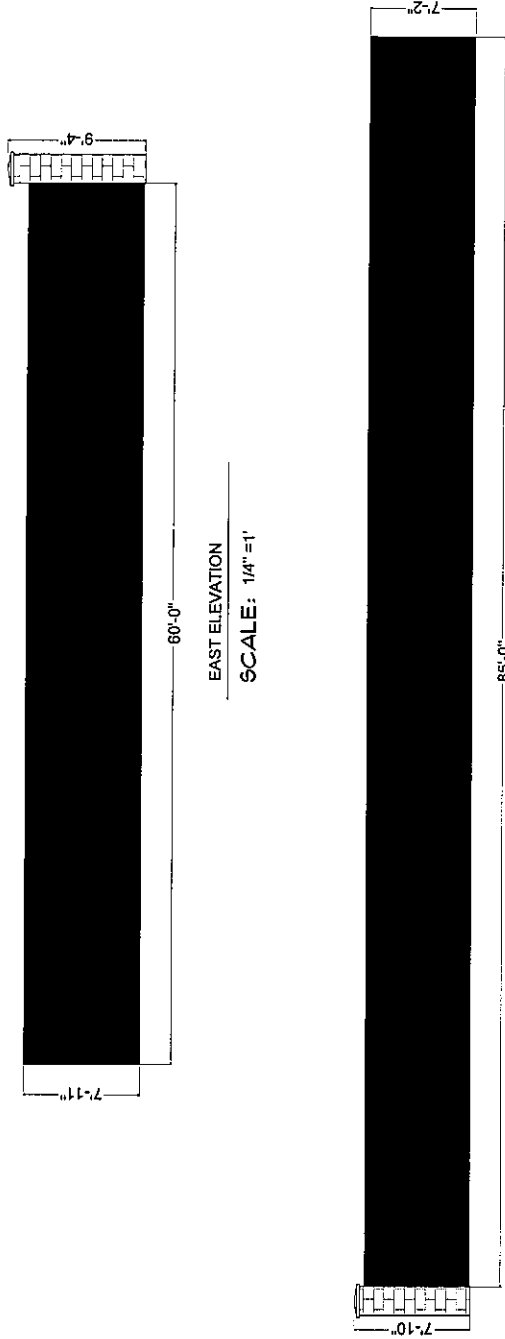
1/4" SITE WALL  
SCALE: 1/2" = 1'

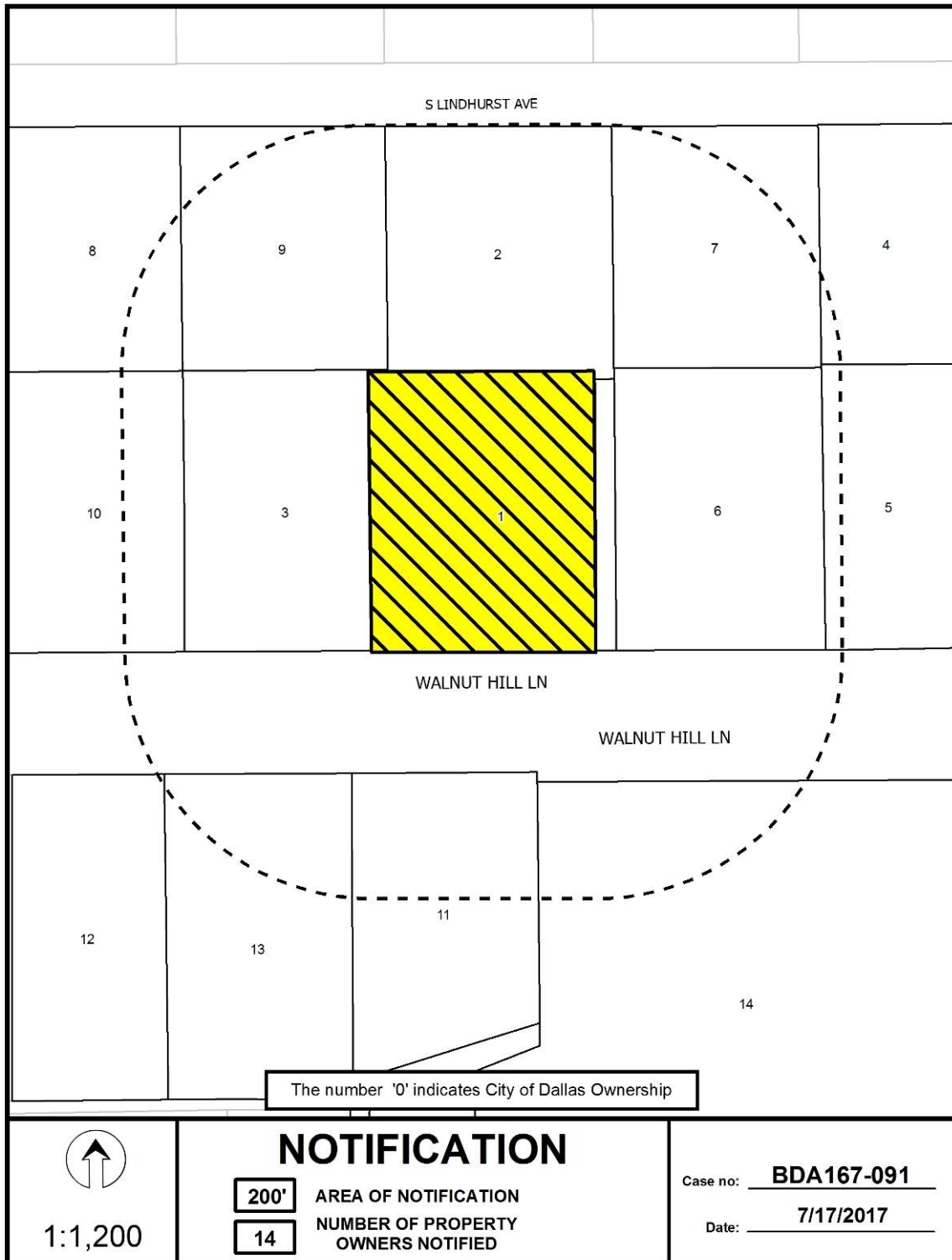
Site Fence 1/C1.0





FENCE ELEVATION  
 SCALE: 1/4" = 1'





## *Notification List of Property Owners*

### *BDA167-091*

#### *14 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4611 WALNUT HILL LN	JFN REAL ESTATE LTD
2	4610 S LINDHURST AVE	4610 LINDHURST LLC
3	4549 WALNUT HILL LN	BLAKELELOCK DAVID &
4	4630 S LINDHURST AVE	CHOY HAK & SUNJUN KANG
5	4707 WALNUT HILL LN	FRANKLIN JOHN C ETUX
6	4625 WALNUT HILL LN	BAKER KIRK & ELLENORE
7	4626 S LINDHURST AVE	BAKER KIRK & ELLENORE
8	4536 S LINDHURST AVE	BENDER SAMUEL PETER &
9	4548 S LINDHURST AVE	PLUNKET PAUL W III &
10	4535 WALNUT HILL LN	ADAMS SUSAN E &
11	4622 WALNUT HILL LN	WALNUT HILL LLC
12	4534 WALNUT HILL LN	LENGYEL CRAIG S &
13	4606 WALNUT HILL LN	PENG KATHIE & JIMMY D BAUGH II
14	9963 ROCKBROOK DR	HOFFMAN MARGUERITE

**FILE NUMBER:** BDA167-084(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Santos T. Martinez for a variance to the rear yard setback regulations at 17787 Waterview Parkway. This property is more fully described as Lot 1F, Block A/8735, and is zoned LI, which requires a rear yard setback of 30 feet. The applicant proposes to construct and maintain a structure and provide a 14 foot rear yard setback, which will require a 16 foot variance to the rear yard setback regulations.

**LOCATION:** 17787 Waterview Parkway

**APPLICANT:** Santos T. Martinez

**REQUEST:**

A request for a variance to the rear yard setback regulations of 16' is made to construct and maintain a ramp structure to the existing parking garage structure that, according to the application, would be located 16' into the site's 30' rear yard setback on a site that is developed with office use/ structure (Convergys).

**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:**

Denial

Rationale:

- Staff concluded there was no property hardship to the site that warranted a variance to the rear yard setback regulations. The applicant had not substantiated how the features of the site (which is flat, rectangular in shape, and according to the application is 5.25 acres in area) have precluded it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same LI zoning classification (the site is currently developed an office structure and parking garage that complies with the Dallas Development Code), nor how granting this variance would not be to relieve a self-created hardship.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: LI (Light industrial)  
North: PD 780 (Planned Development)  
South: LI (Light industrial)  
East: City of Richardson  
West: PD 921 (Subarea 3)(SUP 764)  
(Planned Development, Specific Use Permit)

**Land Use:**

The subject site is developed with an office structure/use. The area to the north is developed with a private school (The Dallas International School); the area to the east is the City of Richardson; the area to the south is developed with office use; and the area to the west is developed with open space (Texas A & M University Research Center).

**Zoning/BDA History:**

1. BDA167-071, Property located at 17787 Waterview Parkway (the subject site)

On May 17, 2017, the Board of Adjustment Panel B denied a request for a variance to the rear yard setback regulations of 16' without prejudice, and granted a request for a special exception to the landscape regulations and imposed the following condition: Compliance with the submitted second revised landscape plan is required. The case report stated that the variance request was made to construct and maintain construct and maintain a ramp structure to the existing parking garage structure that according to the application is proposed to be located 14' from the site's rear property line or 16' into the site's 30' rear yard setback; and that the landscape special exception was made to construct and maintain the aforementioned ramp structure and increase nonpermeable coverage, and not fully meet the landscape regulations, more specifically to the required perimeter landscape buffer strip and plant group requirements.

(Note that on July 26, 2017, the applicant emailed the Board Administrator the following: "With respect to this application, the only element of this request is for relief to the rear yard setback requirement. We do not need any exceptions to the required landscape provisions. I was only hoping to point out that this proposed ramp is compatible with the previously approved plan. We do not need any amendments to the landscape plan that was previously approved for this property.")

**GENERAL FACTS /STAFF ANALYSIS:**

- The request for a variance to the rear yard setback regulations of 16' focuses on constructing and maintaining an approximately 1,900 square foot ramp structure to the existing parking garage structure that, according to the application, would be located 16' into the required 30' rear yard setback on a site developed with an office use/structure (Convergys).

- The minimum side and rear yard for lots zoned LI is:
  - 30 feet where adjacent to or directly across and alley from an R, R(A), D, D(A), TH, TH(A), CH, MF, or MF(A) district; and
  - No minimum in all other cases.
- The subject site abuts PD 921 to the west where uses defined in the ordinance are those permitted in R-7.5(A) hence the subject site is required to provide a 30' rear yard setback.
- The submitted site plan represents that the "proposed ramp" structure is located approximately 16' from the rear property line or approximately 14' into the 30' required rear yard setback. However, the submitted application states a request is made of 16' to the required rear yard setback which would imply that a structure is proposed to be 14' from the rear property line or 16' into the 30' required rear yard setback.
- The Building Inspection Senior Plans Examiner/Development Code Specialist stated that the 14' dimension denoted on the submitted site plan is the interior dimension of the ramp, the width of the driveway surface, not the exterior dimension; and that the easement encroachment (whereby it appears that 1' of the proposed 16' wide ramp as described in a letter from the applicant would be located into a 15' wide DP & L and SWBT easement that borders the western boundary of the subject site) will be addressed by the applicant with the easement holder, not with the Board; and that if the applicant cannot get the easement abandoned or reduced, the ramp will not be issued a building permit.
- The application states that "Property owner seeks to utilize the second level of an existing parking garage. The installation of a new ramp is limited to one side of the structure due to existing topography, easements, and structures. Previous access to second level has been converted into playground and recreational area for school by new owner." (The applicant's reference to access to the second level that has been converted into a playground by the new owner refers to the structure immediately north of the subject site that has since been converted from an office use to a school use). According to Collin CAD records, "Improvement #1" at 17787 Waterview Parkway is a "commercial" improvement built in 1993 with 150,000 square feet of area; and "Improvement #2 is a parking garage built in 1993 with 33,120 square feet.
- The site is flat, rectangular in shape, and according to the application is 5.25 acres in area. The site is zoned LI (Light Industrial).
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the rear 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 variance to rear yard setback 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 LI zoning classification.



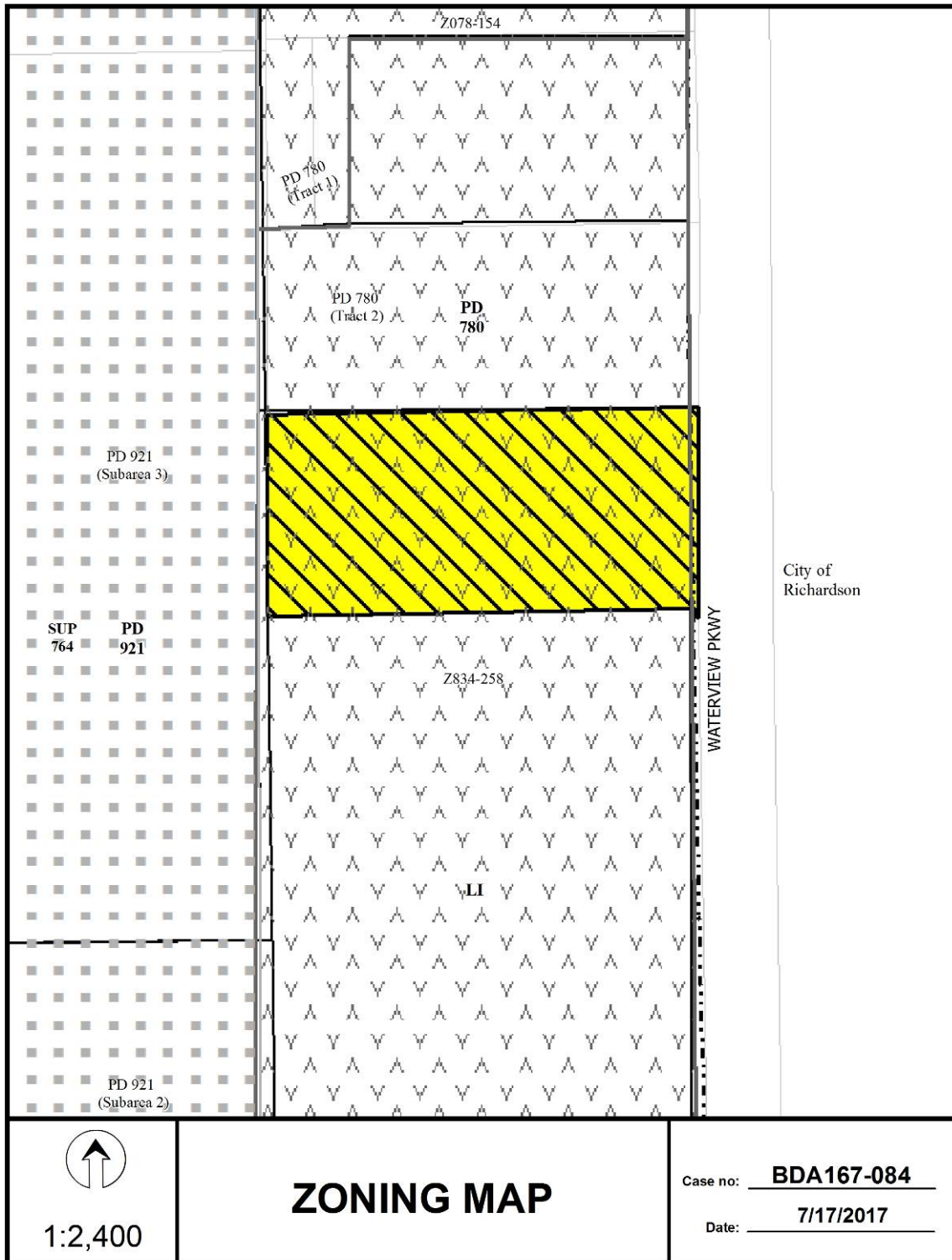
- The variance to rear yard setback regulations would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same LI zoning classification.
- If the Board were to grant the request, and impose the submitted site plan as a condition, the structure in the rear yard setback would be limited to what is shown on this document – which, in this case, is a structure that appears to be located 16’ from the rear property line or 14’ into this 30’ rear yard setback.
- Note that the applicant would be required to address any structure over an easement with the easement holder, whereby if the applicant cannot get the easement abandoned or reduced, the ramp will not be issued a building permit even if the Board were to grant this request and impose the submitted site plan as a condition to this request.

**Timeline:**

- May 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 B. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case”.
- 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 26<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 4<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”
- July 25, 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.

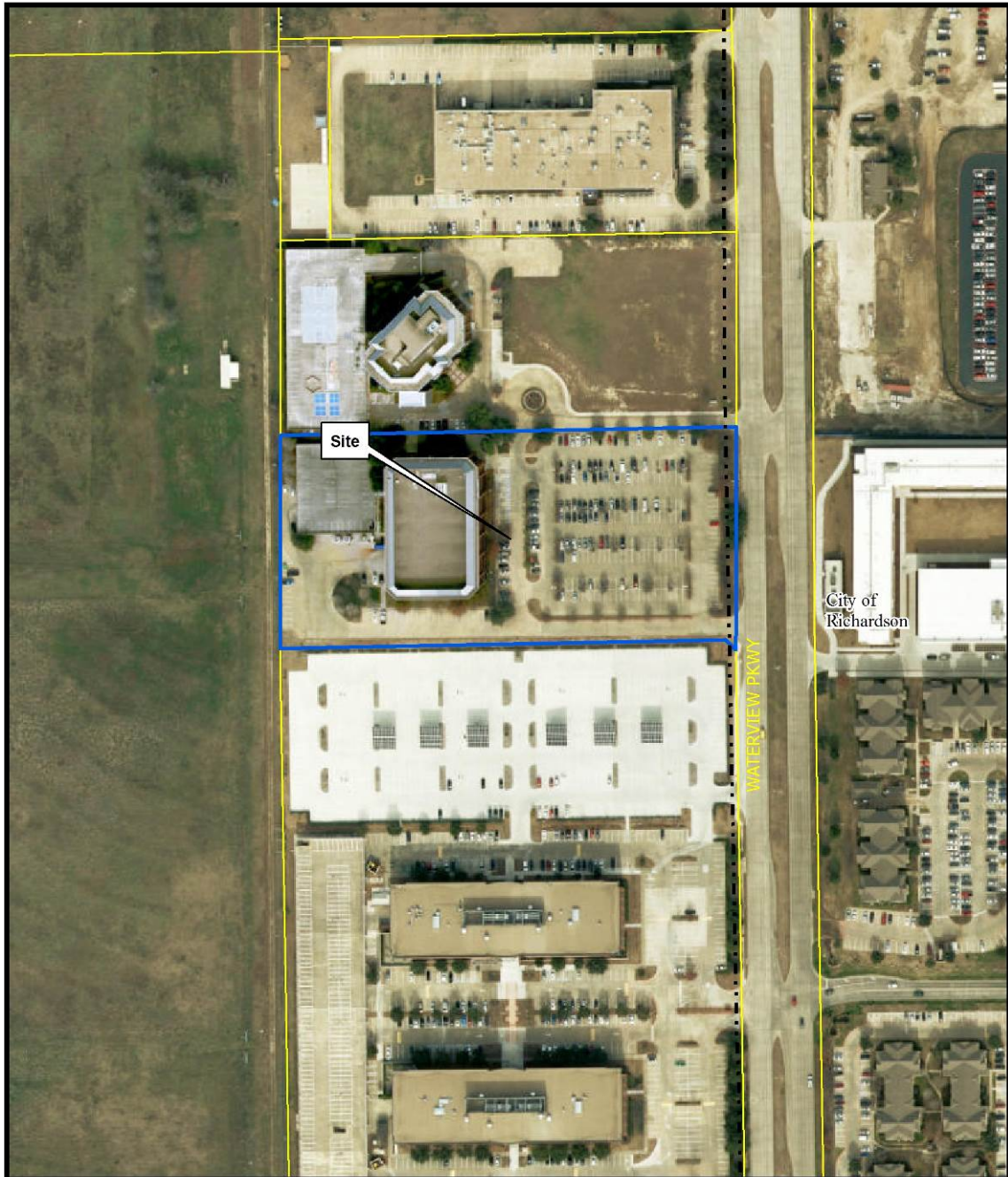


1:2,400

# ZONING MAP

Case no: **BDA167-084**

Date: **7/17/2017**



1:2,400

# AERIAL MAP

Case no: BDA167-084

Date: 7/17/2017



BDA 167-084  
Attach A  
PS 1

July 25, 2017

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

RE: BDA 167-084; 17787 Waterview Parkway,

Mr. Long:

The current property owner seeks to utilize the existing second level of an on-site parking garage. The property was originally developed when it was owned by the University of Texas at Dallas. The office building and parking garage located to the north of this site were built by the University in 1985. The property was platted in the same time period.

In 1993, the University sold the property and the new owner constructed a new office building and matching parking garage. They constructed a pedestrian bridge to connect the two structures and shared the access onto the second level of the parking garage. The ingress and egress for the second level was maintained by the office building to the north. Article X standards were not triggered along the western property line because the property to the west was still owned by the State of Texas. The attached exhibits will show that the northern parking garage has a setback less restrictive than the newer garage.

The property owner sold the northern portion of the property to the Dallas International School in 2011. The Dallas International School secured zoning from the city council that included a concept plan for the property. This plan demonstrates that the second level of the parking garage to the north would be used for playground space and parking. It also shows that access to the adjoining parking garage would not be allowed. So, all of the parking that is shown on a platted lot no longer matches the ownership of the buildings or parking garages. This new zoning district also limits the development of office uses to certain portions of the property. Institutional uses are allowed throughout this new district.

The property located to the west of the site, although zoned residential, was owned by the State of Texas. It was granted a specific use permit (number 764) in 1985 for a permanent time frame as a college or university. This property was sold and rezoned in the summer of 2015. It was placed within a planned development district (number 921). At such time it was designated as a residential zoning district for the purposes of adjacency issues. Initially, when the property owner sought to construct a ramp to the second level, they submitted a case for the Board of Adjustment to consider. It was determined that the original application could be withdrawn because the property

to the west did not trigger a more restrictive rear yard setback. Subsequently, when they submitted for their building permit, that decision was changed and an application was submitted for the Board to consider.

The office building and parking garage on the south has subsequently been sold two times since the northern half was sold in 2011. The current owner has a tenant that requires the additional parking spaces located on the second level of the existing parking garage. Attempts to locate a new ramp to access these spaces are limited for a variety of reasons.

The new ramp needs a dimension of sixteen feet in width. The area to the north of the parking garage adjacent to the northern property line is only fifteen feet wide. Placing a ramp on the east would impact existing building equipment, pedestrian access, landscaping, and other amenities for tenants. It would also impact access to the built in loading docks and compactor located on the southwest corner of the building. Existing utility easements and utility equipment along the south façade restrict placement of a ramp in this location. Likewise, the run of a ramp would block the existing entrance to the first level of the garage if it was located along the south façade. Trying to construct a ramp that is perpendicular to the southern façade is hindered by the utility easements, utility equipment, or access to the loading docks and compactor.

The western façade of the existing structure is the only area that allows for the placement of this proposed ramp. This also removes any limitation to the functionality of the existing building, its utility equipment, or easements.

The current owner seeks to utilize the property as it was originally intended with office tenants. In order to do so, they must be able to access the second level of parking that is currently on site. A literal interpretation of city code inhibits the current owner from the usage of their existing facilities. The owner would have had to construct a ramp either in 1993 when it was originally developed, in 2010 prior to the sale of the northern half to Dallas International School, or prior to 2015 when the western properties were designated residential.

All other two story parking garages within this zoning district maintain setbacks that would not comply with current standards. In addition, the residential zoning to the west has yet to begin construction of any single family units. Although the property was rezoned in 2015, only one phased plat for this property has been recorded. This is for the far northwest portion of the property along Coit Road and the DART Line. There are currently no roads on the tract to the west that enable homes to be built yet adjacent to this site. The buildout for this portion in question may still take years to complete. Yet, today the property owner is faced with a limitation on their property regardless if the vacant portions get developed or not. This is an unnecessary hardship for the owner to manage due to the fact that as of today, no permits have been submitted for the property immediately adjacent to this site. The phased plat for this portion of the property (or any along the eastern boundary of PDD 921) has yet to be recorded either.

The property owner cannot maintain the existing parking garage in a manner commensurate with others developed within this zoning district. This rear yard setback along vacant property creates an undue burden for them to satisfy required parking on site for the occupancy of the fifth floor of an office building constructed in 1993. Without the allowance of a ramp to access these spaces, the property owner would have to leave an entire floor vacant from occupancy. Another consideration would be to construct a new parking garage on another portion of the property outside of the required setbacks. Both of these options are unreasonable and unnecessary hardships for the owner to endure for conditions that occurred prior to their ownership of the property. It is also unreasonable for any property owner to consider in order to maintain existing structures on their property.

The construction of a new ramp, with previously approved landscaping that includes new screening materials, maintains the spirit of the ordinance. It will enable the owner full enjoyment of their property as other owners of two story parking garages do in this district.

I have included exhibits for your consideration of this case. They include:

- Exhibit A: copy of 1993 approved permit site plan for construction of office building and parking garage
- Exhibit B: copy of PDD plan for Dallas International School
- Exhibit B1: copy of PDD detail for usage of second level parking (reveals use for play areas, and limitation of access to south)
- Exhibit B2: aerial showing usage of second level parking garage for Dallas International School
- Exhibit C: proposed ramp location with utility easements highlighted in red
- Exhibit D: Elevation of proposed ramp with previously approved landscaping
- Exhibit E: aerial of existing parking garages; those with less restrictive rear yard setbacks identified in red
- Exhibit F: photo of existing utility structures along the south façade of existing parking garage
- Exhibit G: photo of loading docks, compactor, and utility equipment located to the east of existing parking garage (looking north)
- Exhibit G1: photo of same elements (looking south)
- Exhibit H: photo from southernmost pavement to the west of site (reveals no development adjacent to request site; existing garage identified in photo)

We appreciate staff efforts with this case. Please let me know if you need any items clarified or additional information.

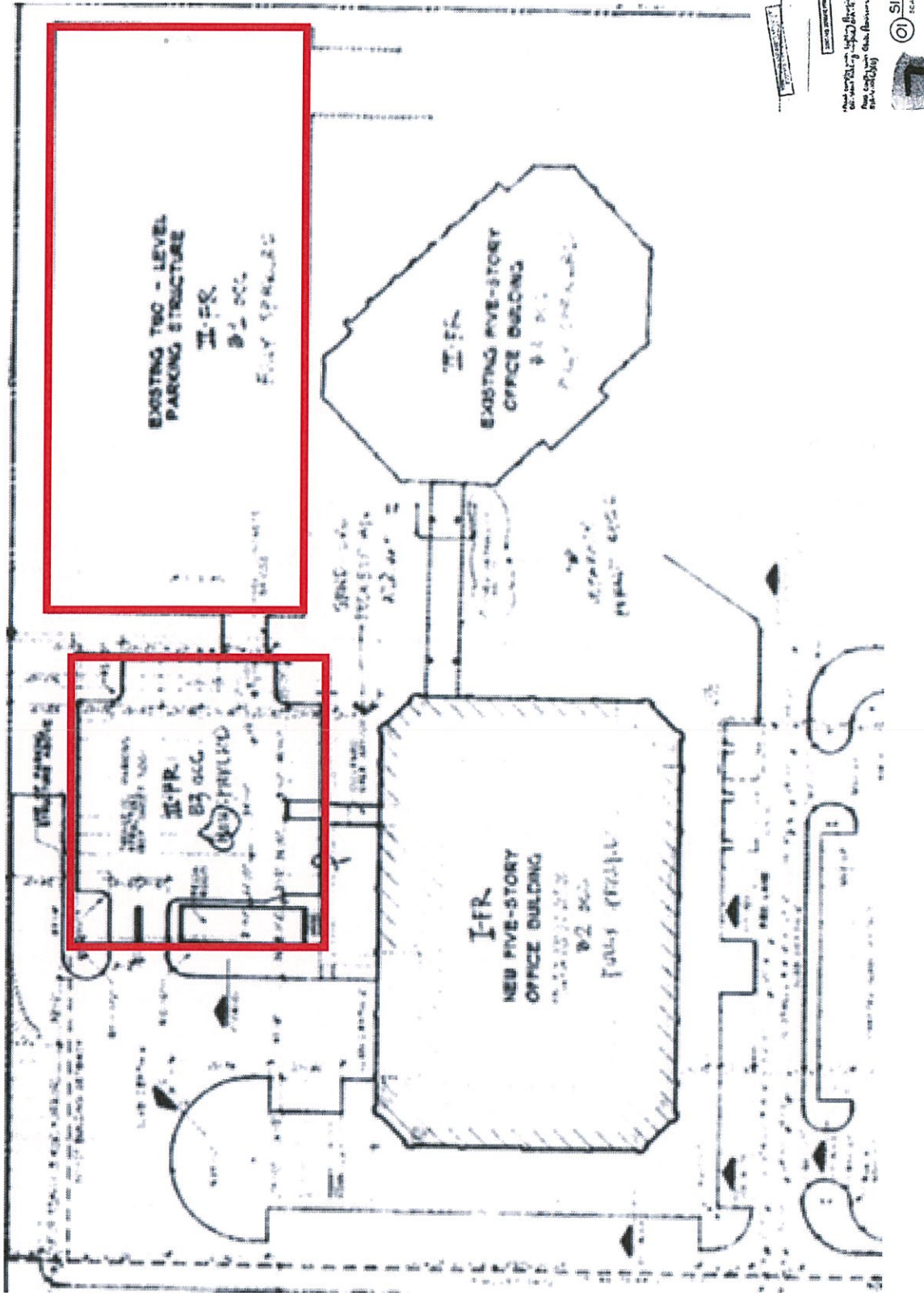
Sincerely,



Santos T. Martinez  
Authorized representative

Exhibit A

BDA 167-084  
Attach A  
PS 4  
1993





28259

BDA167-08  
Attach A  
PSS

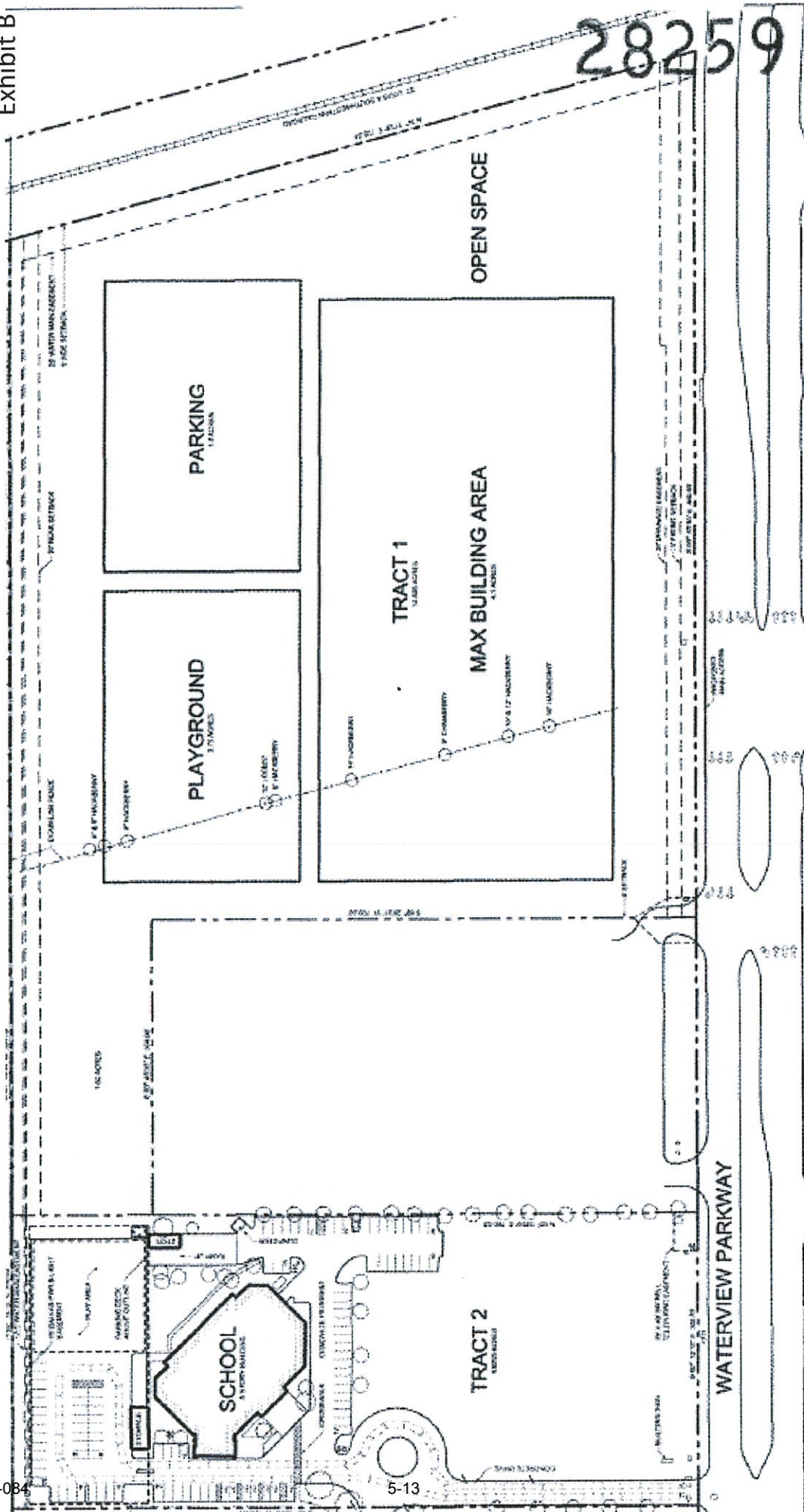
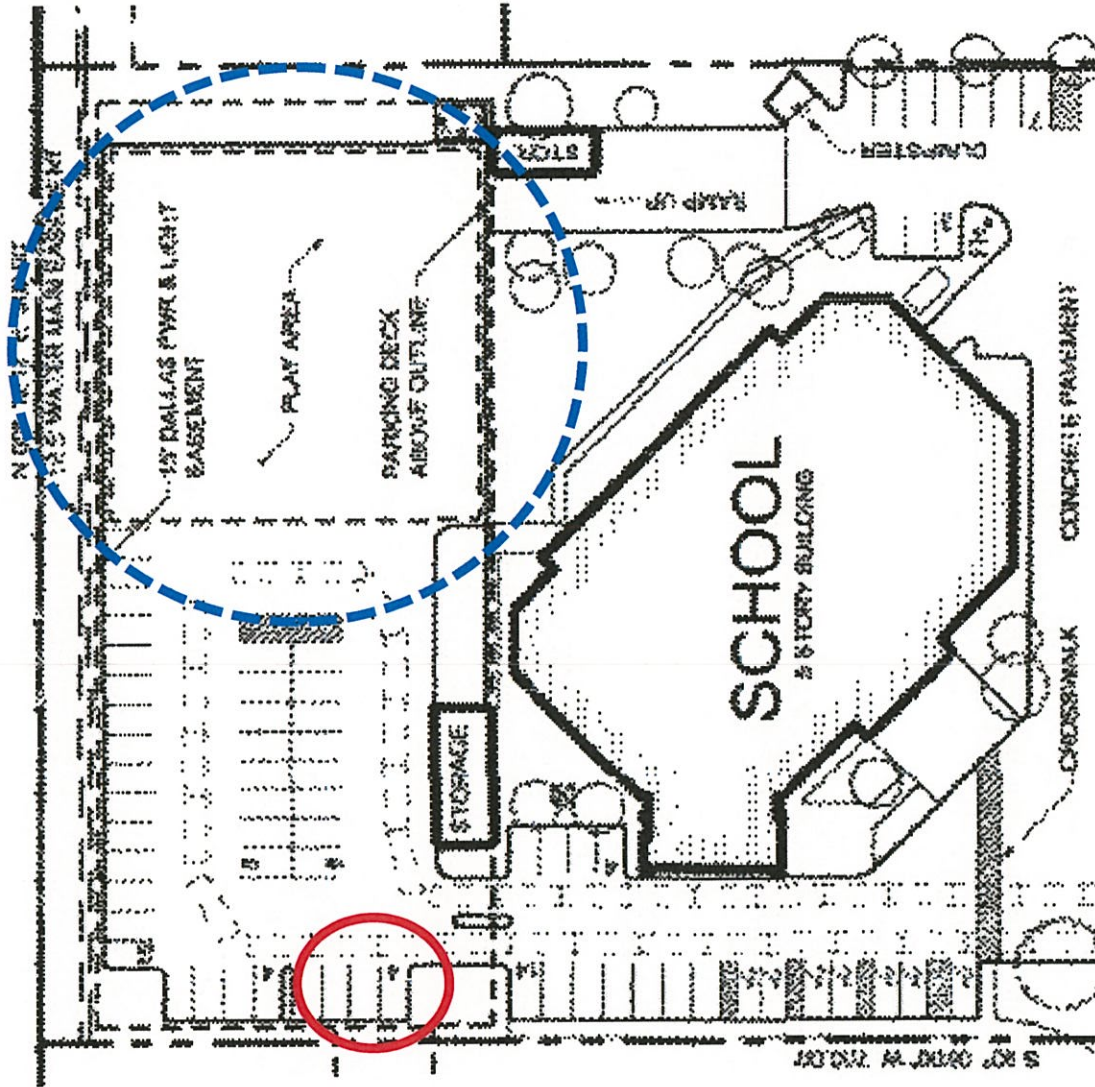


Exhibit B1

Planned Development  
District No. 780

Approved  
City Plan Commission  
May 19, 2011

PDA 107-084  
Attach A  
P. 6

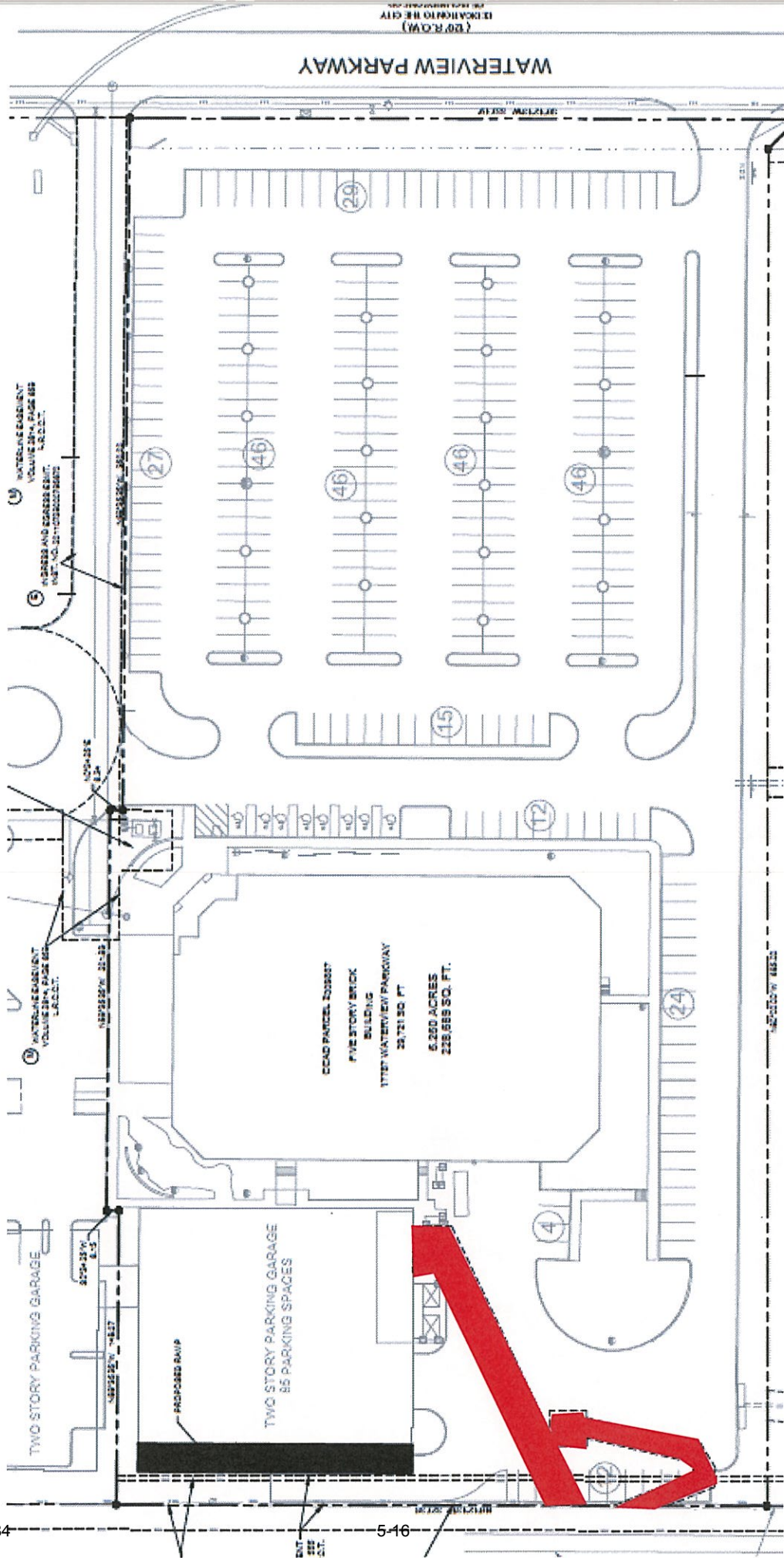


BDA 167-084  
Atch A  
Pg 7

Exhibit B2

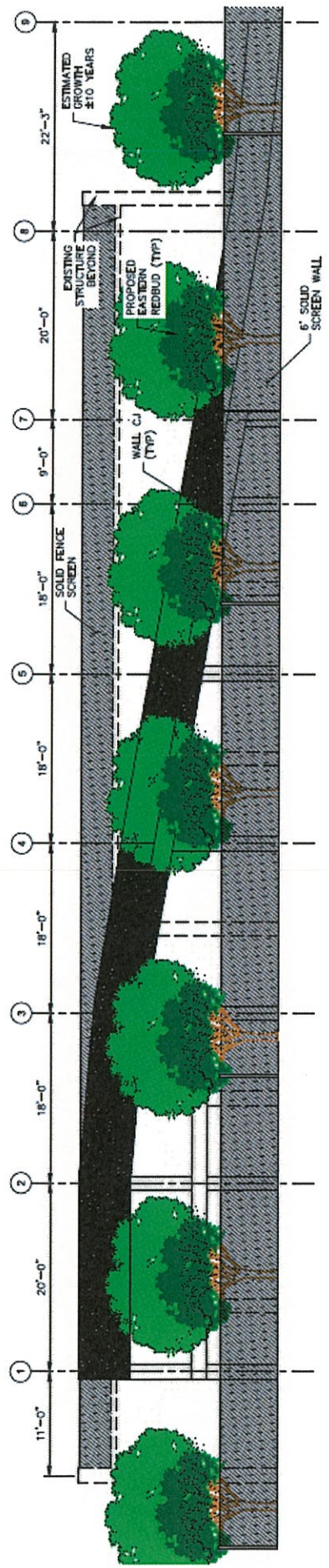


Exhibit C



BDA  
167-  
084  
Attach A  
Pg B

Exhibit D

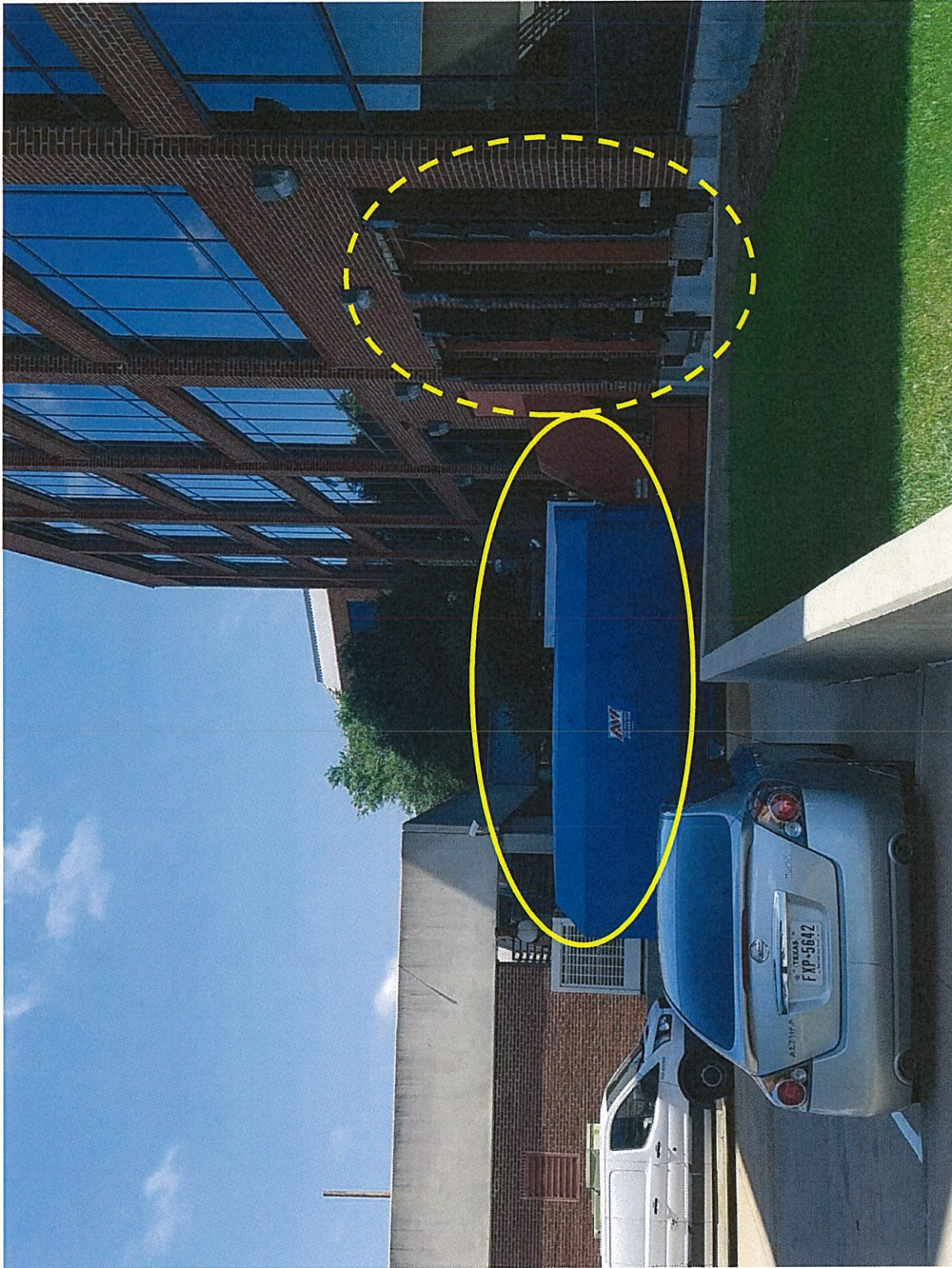






BDA167-084  
Attach A  
Pg 12

Exhibit G











City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 167-084

Date: 5-17-17

Data Relative to Subject Property:

Location address: 17787 Waterview Parkway Zoning District: LI

Lot No.: 1F Block No.: A/8735 Acreage: 5.25 Census Tract: 318.04

Street Frontage (in Feet): 1) 337.19' 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): CFT NV Developments LLC

Applicant: Santos T. Martinez Telephone: 214-761-9197

Mailing Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Represented by: \_\_\_\_\_ Telephone: \_\_\_\_\_

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

E-mail Address: santos@masterplanconsultants.com

Affirm that an appeal has been made for a Variance x , or Special Exception x , of 16 feet into a required rear yard setback.

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: property owner seeks to utilize the second level of an existing parking garage. The installation of a new ramp is limited to one side of the structure due to existing topography, easements, and structures. Previous access to second level has been converted into playground and recreational area for school by new owner.

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 Santos T. Martinez (Affiant/Applicant's name printed)

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

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

Subscribed and sworn to before me this 23 day of May, 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**

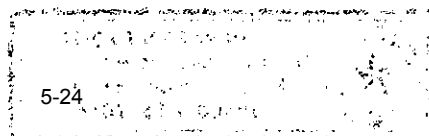
I hereby certify that Santos Martinez

did submit a request for a variance to the rear yard setback regulations  
at 17787 Waterview Parkway

BDA167-084. Application of Santos Martinez for a variance to the rear yard setback regulations at 17787 Waterview Parkway. This property is more fully described as Lot 1F, Block A/8735, and is zoned LI, which requires a rear yard setback of 30 feet. The applicar proposes to construct a nonresidential structure and provide a 14 foot rear yard setback, which will require a 16 foot variance to the rear yard setback regulation.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official

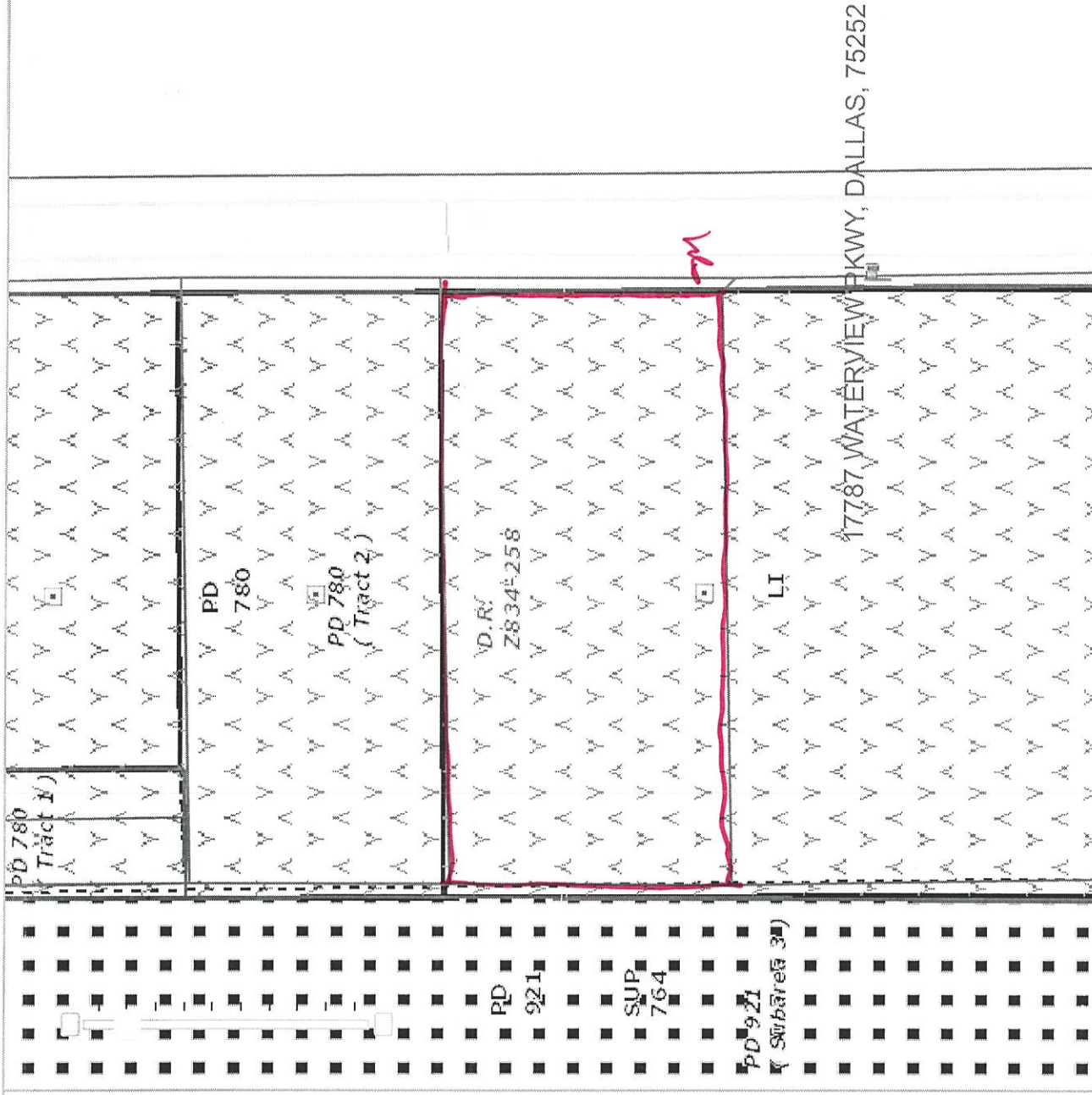


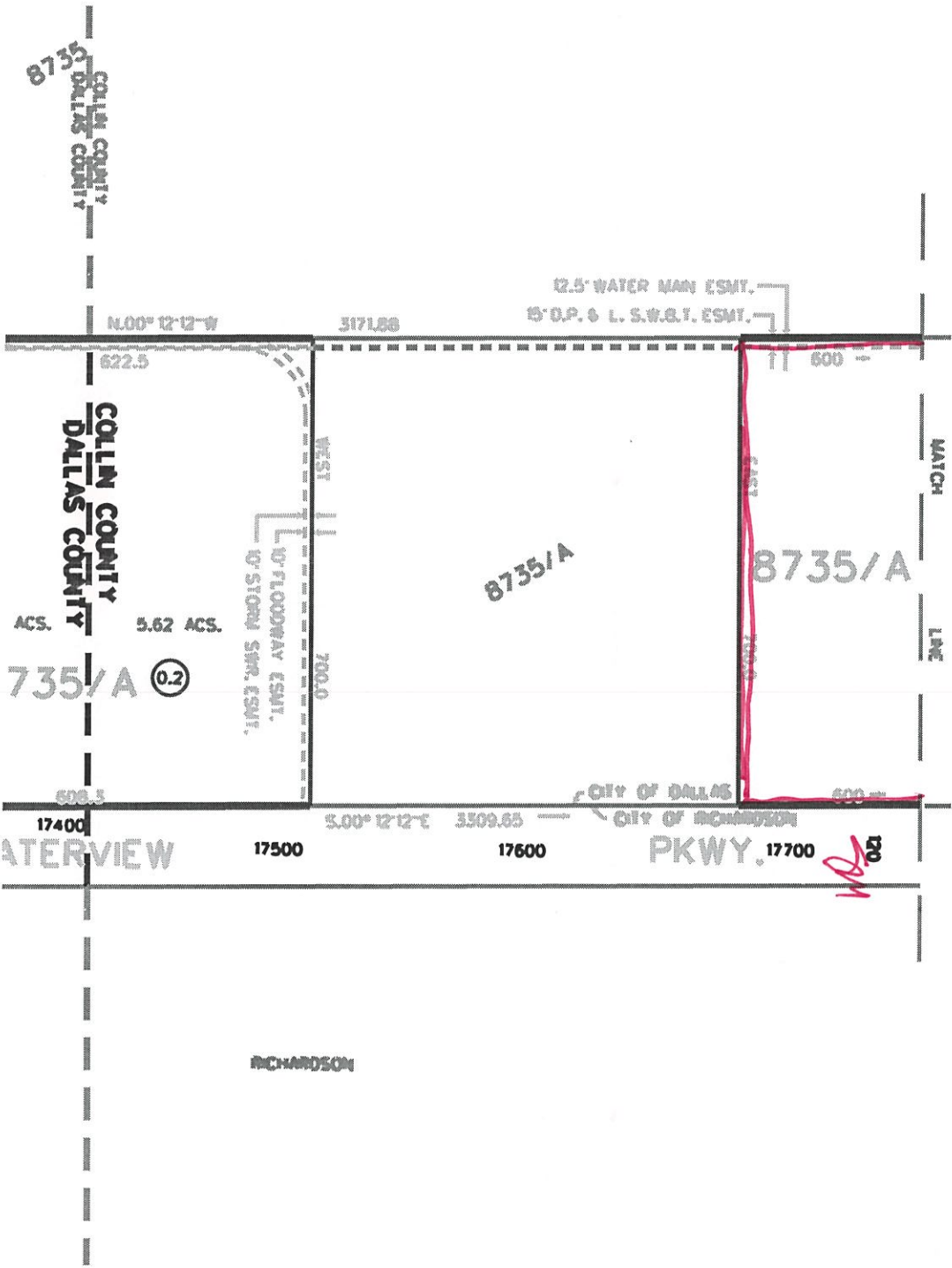
# City of Dallas

## Internal Development Research Site

### Legend

- Dallas Zoning
- Floodplain
- Building Inspection
- DART
- Real Estate
- Alcohol
- Plats
- Areas of Request
- Thoroughfare Plan
- Long Range Plans
- Capital Improvement Program
- Council and Census
- Roads
- Tax Parcels
- Zoning Grid
- Stormwater
- Water Distribution
- Waste Water

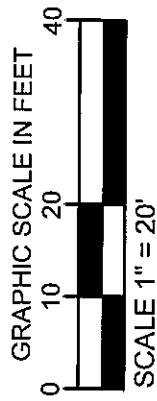
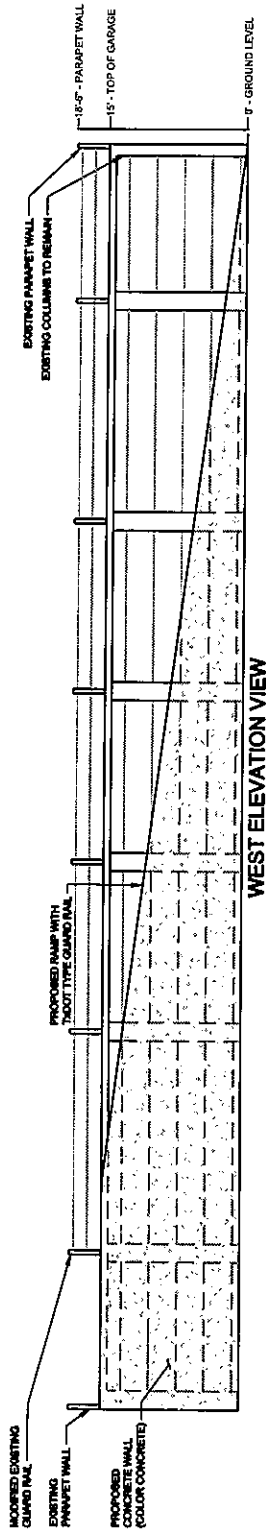






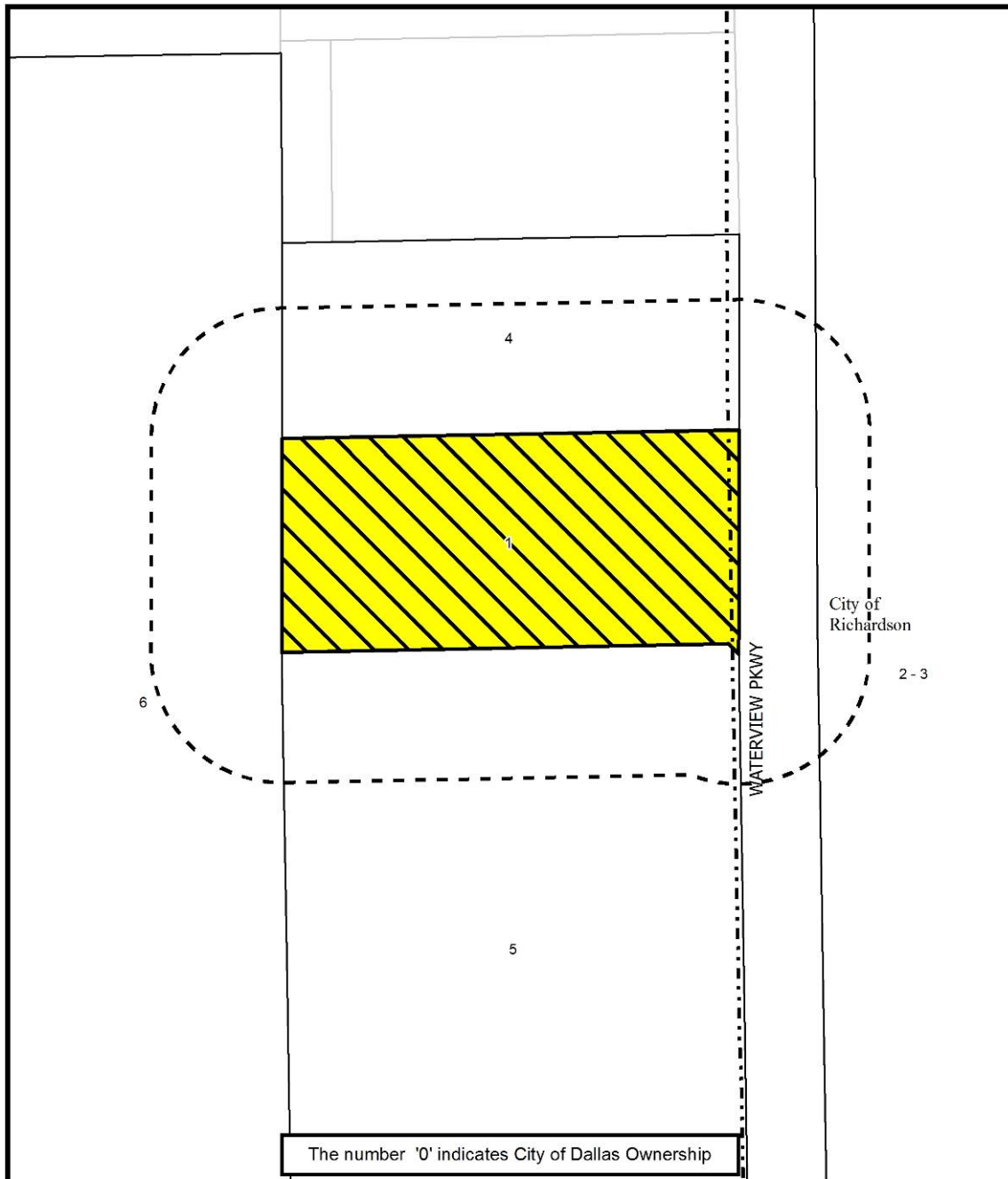






# PROPOSED ACCESS RAMP

DALLAS, TEXAS  
10/20/2016



1:2,400

# NOTIFICATION

**200'**

AREA OF NOTIFICATION

**6**

NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA167-084**

Date: **7/17/2017**

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

***BDA167-084***

### ***6 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	17787 WATERVIEW PKWY	CFT NV DEVELOPMENTS LLC
2	2801 RUTFORD AVE	U T D
3	2200 WATERVIEW PKWY	BOARD OF REGENTS OF THE
4	17811 WATERVIEW PKWY	DALLAS INTERNATIONAL SCHOOL
5	17655 WATERVIEW PKWY	KOHL'S DEPARTMENT STORES INC
6	COIT RD	CADG DALLAS 163 LLC