

ZONING BOARD OF ADJUSTMENT, PANEL A  
TUESDAY, SEPTEMBER 20, 2016  
AGENDA

---

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

---

**Donna Moorman, Chief Planner**  
**Steve Long, Board Administrator**

---

**MISCELLANEOUS ITEMS**

---

	Approval of the August 16, 2016 Panel A Public Hearing Minutes	M1
<b>BDA156-093(SL)</b>	10715 Wyatt Street <b>REQUEST:</b> Of Karen Leger to reimburse the filing fees submitted for special exceptions to the fence height and visual obstruction regulations	M2

---

**UNCONTESTED CASE**

---

<b>BDA156-095(SL)</b>	17610 Midway Road <b>REQUEST:</b> Application of Lee Morris, represented by Elaine Pickering of Adams Engineering, for a special exception to the off-street parking regulations	1
-----------------------	---	---

---

**REGULAR CASES**

---

<b>BDA156-087(SL)</b>	611 Largent Avenue <b>REQUEST:</b> Application of Toby Gray for special exceptions to the fence height and visual obstruction regulations	2
-----------------------	--	---

<b>BDA156-091(SL)</b>	5017 W. Lovers Lane <b>REQUEST:</b> Application of Thomas Barnhart for a variance to the off-street parking regulations	3
<b>BDA156-093(SL)</b>	10715 Wyatt Street <b>REQUEST:</b> Application of Karen Leger for special exceptions to the fence height and visual obstruction regulations	4

## **EXECUTIVE SESSION NOTICE**

---

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

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

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

**MISCELLANEOUS ITEM NO. 2**

**FILE NUMBER:** BDA156-093

**REQUEST:** To reimburse the filing fee submitted in conjunction with requests for special exceptions to the fence height and visual obstruction regulations

**LOCATION:** 10715 Wyatt Street

**APPLICANT:** Karen Leger

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

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

The Dallas Development Code further states:

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

**Timeline:**

June 24, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

August 4, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

August 9, 2016: The applicant emailed a letter requesting a waiver of the filing fee regarding this application (see Attachment A).

August 10, 2016: The Board Administrator forwarded the code provision as it related to the board of adjustment considering fee waiver and fee reimbursement requests, and given these provisions and the fact that the applicant had submitted the application, that the applicant consider redrafting a letter to request a *reimbursement* of the filing fee (see Attachment A).

- August 11, 2016: The applicant emailed the Board Administrator requesting the he place the fee reimbursement request on the docket, and that she would get the needed documents together to request the reimbursement (see Attachment A).
- August 12, 2016: The Board Administrator forwarded the code provision as it relates to fee reimbursements (Sec 51A-1.105(b)(6)) to the applicant, and informed her that typically when this type of request is made, the applicant will submit any additional documentation that shows how payment of the filing fee results in substantial financial hardship to the applicant (i.e. additional financial documents as in but not limited to copies of 1040's, W-4's, bank statements - *all with account numbers redacted*). The Board Administrator also emailed the applicant that the deadline to submit information to be included in the Board's docket was 1 p.m., September 9<sup>th</sup>.
- September 9, 2016: The Board Administrator spoke with the applicant and confirmed with her that the only information that she had submitted to be included in the Board's docket was the email that she had sent on August 11<sup>th</sup>. The applicant informed the Board Administrator that she would consider bringing any written documents to the public hearing with the documentary evidence rule in mind.

**Long, Steve**

---

**From:** Long, Steve  
**Sent:** Wednesday, September 07, 2016 1:13 PM  
**To:** 'Karen Barton Leger'  
**Subject:** FW: Fee REIMBURSEMENT request in conjunction withh BDA156-093, Property at 10715 Wyatt Street  
**Attachments:** fee waiver and reimbursement.pdf; documentary evidence.pdf; Panel A hearing date and deadlines.doc

Dear Ms. Leger,

This is to remind you that the deadline to submit any information on your fee reimbursement request for me to include in the board's docket is this Friday at 1 p.m.

To date, the only thing I have from you on this fee reimbursement request is the email that you sent me below on August 11<sup>th</sup>. (I am not including the original letter you sent me regarding a fee WAIVER request given it was my understanding from you that you had planned to redraft/resubmit a letter to the fee REIMBURSEMENT request).

Please write or call me if you have questions: 214/670-4666.

Thank you,

Steve

---

**From:** Long, Steve  
**Sent:** Friday, August 12, 2016 6:05 AM  
**To:** 'Karen Barton Leger'  
**Cc:** Duerksen, Todd; Moorman, Donna; McCullough, Mary  
**Subject:** RE: Fee REIMBURSEMENT request in conjunction withh BDA156-093, Property at 10715 Wyatt Street

Dear Ms. Leger,

Please be advised that your request for a reimbursement of the filing fee made in conjunction with the application to the board of adjustment at the address referenced above will be put on the Tuesday, September 20<sup>th</sup> agenda per your request below.

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

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

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

Thank you,

Steve

M2  
Attach A  
PS 2

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

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

---

**From:** Karen Barton Leger [<mailto:karenbartonleger@gmail.com>]  
**Sent:** Thursday, August 11, 2016 10:53 PM  
**To:** Long, Steve  
**Cc:** Duerksen, Todd  
**Subject:** Re: Potential Fee REIMBURSEMENT request in conjunction withh BDA156-093, Property at 10715 Wyatt Street

Hi Steve,

My husband will get the needed documents together to request the reimbursement. When do we need to have the information to you?

Thank you,

Karen Barton Léger  
Sent from my iPhone. Please excuse any spelling errors.

On Aug 10, 2016, at 7:48 AM, Long, Steve <[steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com)> wrote:

Dear Ms. Leger,

As you know from the email that I sent you on August 5<sup>th</sup>, your board of adjustment application referenced above for requests for special exceptions to the fence height and visual obstruction regulations is scheduled for Tuesday, September 20<sup>th</sup>.

But in response to your email below and letter attached, I am forwarding for your review the code provision as it relates to requests for the board of adjustment to consider reimbursements of filing fees made in conjunction with submitted board of adjustment applications: Sec 51A-1.105(b)(6).

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

Upon review of the filing fee reimbursement code standard would you please let me know by this Friday, August 12<sup>th</sup> whether you want to make this filing fee reimbursement request to the board. If you do wish to proceed with a request for the board to consider reimbursing the filing fee, please be advised it will be heard on the same day as your application for special exceptions to fence height and visual obstruction regulations: Tuesday, September 20<sup>th</sup>.

On the assumption that you would want to make this filing fee reimbursement request to the board, I am attaching the same documents I emailed you on August 5<sup>th</sup> – a document that

provides your public hearing date and other deadlines for submittal of additional information to staff/the board, and the board's rule on documentary evidence.

Please write or call me at 214/670-4666 if I can assist you in any other way on reimbursements of board of adjustment filing fees.

Thank you,

Steve

**From:** Karen Barton Leger [<mailto:karenbartonleger@gmail.com>]  
**Sent:** Tuesday, August 09, 2016 9:20 PM  
**To:** Long, Steve  
**Subject:** Filing Fee Waiver Request: BDA156-093, Property at 10715 Wyatt Street

Dear Mr. Long,

Please see attached letter requesting the filing fee be waived regarding our appeal. Any help and assistance would be greatly appreciated.

If you would, please confirm receipt and advise approximately how long until a decision is made regarding the fee waiver.

If you need further information from me, please let me know.

Kind regards,

Karen Leger  
469-693-0768 cell

<fee waiver and reimbursement.pdf>

<documentary evidence.pdf>

<Panel A hearing date and deadlines.doc>

<Letter to Mr. Steve Long 1.pdf>



**FILE NUMBER:** BDA156-095(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Lee Morris, represented by Elaine Pickering of Adams Engineering, for a special exception to the off-street parking regulations at 17610 Midway Road. This property is more fully described as Lot 1, Block V/8705, and is zoned CR, which requires parking to be provided. The applicant proposes to construct and/or maintain a structure for a restaurant with drive-in or drive-through service, restaurant without drive-in or drive-through service, general merchandise or food store 3500 square feet or less, personal service, dry cleaning or laundry store, motor vehicle fueling station, medical clinic or ambulatory surgical center, and office uses, and provide 250 of the required 288 parking spaces, which will require a 38 space special exception to the off-street parking regulations.

**LOCATION:** 17610 Midway Road

**APPLICANT:** Lee Morris  
Represented by Elaine Pickering of Adams Engineering

**REQUEST:**

A request for a special exception to the off-street parking regulations of 38 spaces is made to:

1. maintain the existing structure/tenant mix/uses (restaurant with drive-in or drive-through service; restaurant without drive-in or drive-through service; general merchandise or food store 3,500 square feet or less; personal service; dry cleaning or laundry store; motor vehicle fueling station; medical clinic or ambulatory surgical center; and office uses) on a site developed with a retail center (Bent Tree Midway Village Shopping Center); and
2. remodel one of the existing structures/uses within the center (McDonald's) by adding approximately 100 square feet of building area and a drive-through lane to it, and in the process eliminating approximately 10 existing off-street parking spaces.

The applicant proposes to provide 250 (or 87 percent) of the total 288 off-street parking spaces required to maintain the uses within the existing center and to make the minimal proposed improvements as described above to one of the structures/ uses on the subject site.

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

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and

nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(A). For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 75 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). For the office use, the maximum reduction authorized by this section is 35 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to delta credits, as defined in Section 51A-4.704(b)(4)(A). Applicants may seek a special exception to the parking requirements under this section and an administrative parking reduction under Section 51A-4.313. The greater reduction will apply, but the reduction may not be combined.

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

(B) the regulations governing that specific district expressly authorize the board to grant the special exception.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- The special exception of 38 spaces shall automatically and immediately terminate if and when the restaurant with drive-in or drive-through service; restaurant without drive-in or drive-through service; general merchandise or food store 3,500 square feet or less; personal service; dry cleaning or laundry store; motor vehicle fueling station; medical clinic or ambulatory surgical center; and office uses on the subject site are changed or discontinued

Rationale:

- Staff concurs with the Sustainable Development and Construction Department Project Engineer who recommended approval of the applicant's request.
- Staff concluded that the applicant had substantiated that the parking demand generated by the restaurant with drive-in or drive-through service; restaurant without drive-in or drive-through service; general merchandise or food store 3,500 square feet or less; personal service; dry cleaning or laundry store; motor vehicle fueling station; medical clinic or ambulatory surgical center; and office uses on the subject site does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

**Zoning:**

Site: CR (Community retail)  
North: R-7.5A) (Single family district 7,500 square feet)  
South: City of Carrollton  
East: D(A) (Duplex)  
West: CR (Community retail)

**Land Use:**

The subject site is developed with an existing shopping center (Bent Tree Midway Village Shopping Center). The area to the north is developed with single family uses; the area to the east is developed with duplex uses; the area to the south is the City of Carrollton (retail uses); and the area to the west is developed with retail uses.

**Zoning/BDA History:**

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

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

- This special exception to the off-street parking special exception regulations of 38 spaces focuses on: 1) maintaining the existing structure/tenant mix/uses (restaurant with drive-in or drive-through service; restaurant without drive-in or drive-through service; general merchandise or food store 3,500 square feet or less; personal service; dry cleaning or laundry store; motor vehicle fueling station; medical clinic or ambulatory surgical center; and office uses) on a site developed with a retail center (Bent Tree Midway Village Shopping Center); and 2) remodeling one of the existing structures/uses within the center (McDonald's) by adding approximately 100 square feet of building area and a drive-through lane to it, and in the process eliminating approximately 10 existing off-street parking spaces.
- The applicant proposes to provide 250 (or 87 percent) of the total 288 off-street parking spaces required to maintain the uses within the existing center and to make the minimal proposed improvements as described above to one of the structures/uses on the subject site.
- The Dallas Development Code requires the following off-street parking requirements:
  - Restaurant with drive-in or drive-through service: 1 space per 100 square feet of floor area with a minimum of 4 spaces.
  - Restaurant without drive-in or drive-through service: 1 space per 100 square feet with a minimum of 4 spaces.
  - General merchandise or food store 3,500 square feet or less: 1 space per 200 square feet of floor area. If more than 10 off-street parking spaces are required, handicapped parking must be provided.
  - Personal service: 1 space per 200 square feet of floor area. If more than 10 off-street parking spaces are required, handicapped parking must be provided.
  - Dry cleaning or laundry store: 1 space per 200 square feet of floor area. If more than 10 off-street parking spaces are required, handicapped parking must be provided.
  - Motor vehicle or fueling station: 2 spaces.
  - Medical clinic or ambulatory surgical center: 1 space per 200 square feet of floor area. Handicapped parking must be provided.
  - Office use: 1 space per 333 square feet of floor area. If more than 10 off-street parking spaces are required, handicapped parking must be provided.
- The applicant has submitted a site plan that lists the uses and square footages of each business in the existing shopping center, and that the total number of spaces to be provided is 250 and that the total number of spaces required is 288.
- The applicant has submitted a study showing that the maximum observed parking demand for the shopping center (Bent Tree Midway Village) and the restaurant with drive-in service (McDonald's) on the subject site was 146 parking spaces. (The applicant proposes to provide 250 off-street parking spaces).
- The applicant states there are no proposed tenant or use changes for the property; and that while it was originally assessed that the existing shopping center has an excess of parking, it was later discovered when plans proceeded with adding the

small addition and drive-through lane that the existing shopping center did not meet code hence the application for 38 spaces (10 spaces that will be lost with a new drive-through lane to an existing restaurant with drive-through service use on the site along with 28 spaces to remedy the existing shopping center and its tenants/uses that are not parked to code).

- The Sustainable Development Department Project Engineer submitted a review comment sheet marked “Has no objections”.
- The applicant has the burden of proof in establishing the following:
  - The parking demand generated by the restaurant with drive-in or drive-through service; restaurant without drive-in or drive-through service; general merchandise or food store 3,500 square feet or less; personal service; dry cleaning or laundry store; motor vehicle fueling station; medical clinic or ambulatory surgical center; and office uses on the site does not warrant the number of off-street parking spaces required, and
  - The special exception of 38 would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 38 spaces shall automatically and immediately terminate if and when the restaurant with drive-in or drive-through service; restaurant without drive-in or drive-through service; general merchandise or food store 3,500 square feet or less; personal service; dry cleaning or laundry store; motor vehicle fueling station; medical clinic or ambulatory surgical center; and office uses are changed or discontinued, the applicant would be allowed to maintain the existing uses in the center, and construct and maintain a small addition and drive-through lane to the existing restaurant with drive-through service use on the site with these specific uses and with the specified square footages, and provide 250 of the 288 code required off-street parking spaces.

### **Timeline:**

July 19, 2016: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

August 4, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

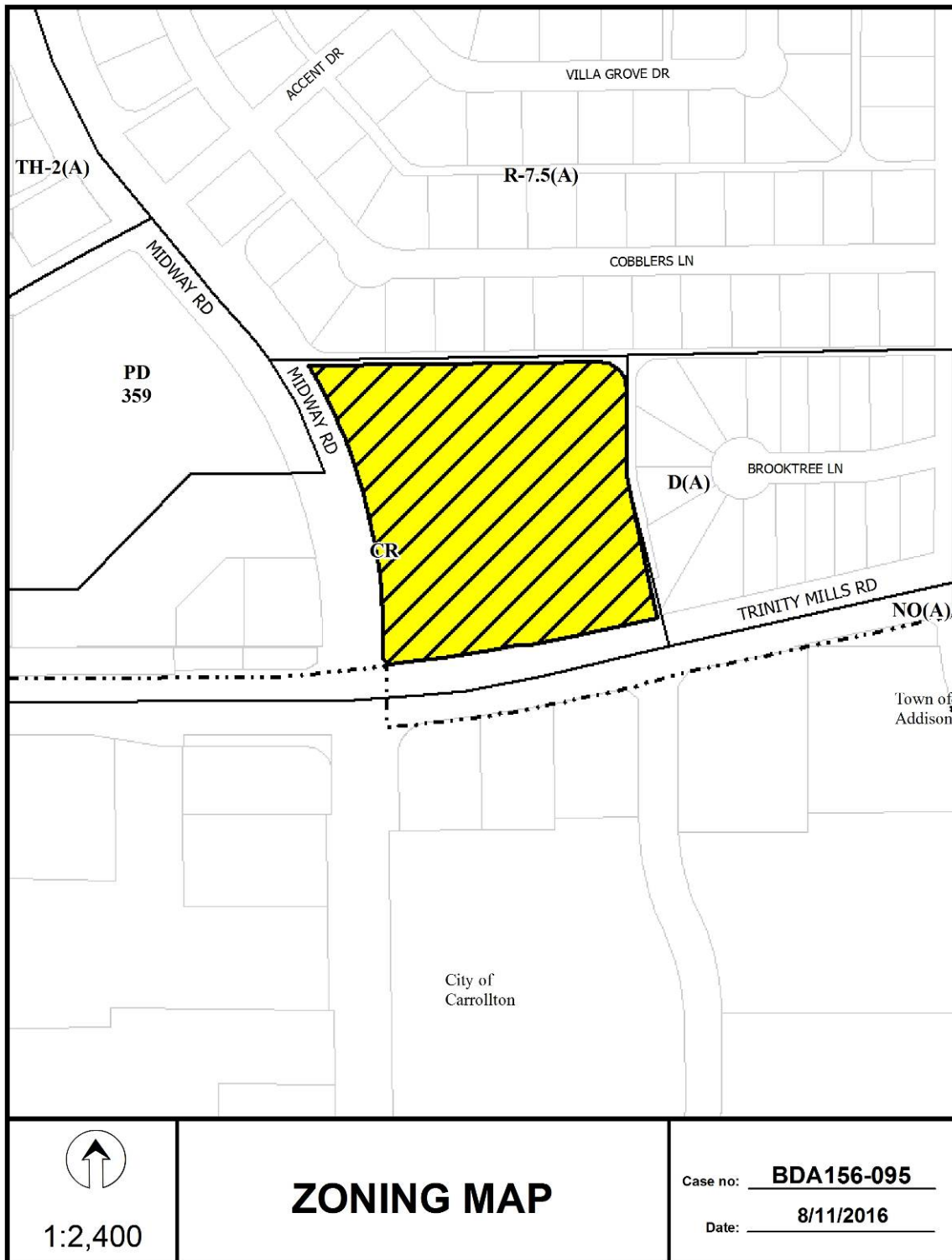
August 5, 2016: The Board Administrator contacted the applicant’s representative and emailed the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the August 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 9<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.”

September 6, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

September 7, 2016: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections”.

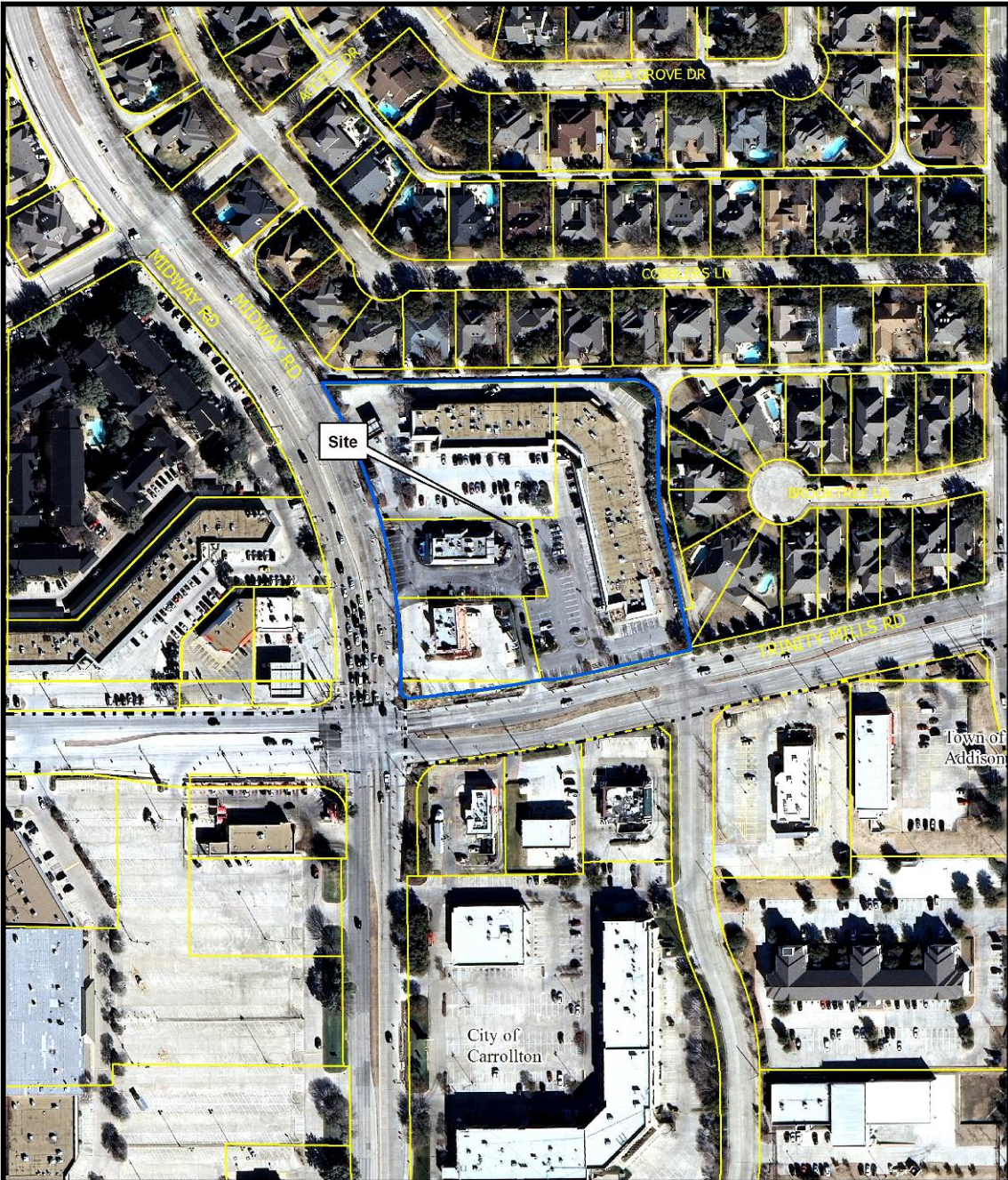


1:2,400

# ZONING MAP

Case no: BDA156-095

Date: 8/11/2016



1:2,400

# AERIAL MAP

Case no: BDA156-095

Date: 8/11/2016





A

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-095  
Date: 7/19/16

Data Relative to Subject Property:

Location address: 17610 Midway Rd. (17602 Midway, 17606 Midway) Zoning District: CR  
Lot No.: 1 Block No.: V/8705 Acreage: 4.74 Census Tract: 137.27  
317.04  
Street Frontage (in Feet): 1) 509.27' 2) 454.98' 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

NETR

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Bent Tree Midway S/C, LTD.

Applicant: Lee Morris Telephone: 817.487.1253

Mailing Address: 511 E John Carpenter Frwy Suite 375 Irving, TX Zip Code: 75062

E-mail Address: lee.morris@us.mcd.com

Represented by: Adams Engineering - Elaine Pickering Telephone: 817.328.3200

Mailing Address: 8951 Cypress Waters Blvd., Ste. 150, Dallas, TX Zip Code: 75019

E-mail Address: elaine.pickering@adams-engineering.com

Affirm that an appeal has been made for a Variance \_\_, or Special Exception , of 38 parking space reduction from the 292 spaces required for various uses. See attached parking analysis.  
288

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

The parking demand generated by the use doesn't warrant the number of off-street parking spaces required. 70% of McDonald's business is drive thru traffic, and adding a second drive thru lane and order point to this site will reduce the time it takes cars to go through the drive thru, thus reducing the amount of time spent in queuing. In order to add a second drive-thru lane and order point, 10 parking spaces need to be removed, and the full site is already deficient by 31 spaces, with a building addition of 100 SF, another parking space is required. Based on the parking study analysis, the maximum parking demand for this site is 114 spaces. After construction, there will be 250 spaces left, therefore no traffic hazard or increase in traffic congestion on adjacent or nearby streets is anticipated.

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 Lee Morris  
(Affiant/Applicant's name printed)

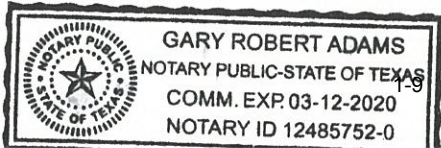
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

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

Subscribed and sworn to before me this 19<sup>th</sup> day of July, 2016

(Rev. 08-01-11)

BDA 156-095



[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     Lee Morris  
                                   represented by     Elaine Pickering  
 did submit a request     for a special exception to the parking regulations  
                                   at             17610 Midway Road

BDA156-095. Application of Lee Morris represented by Elaine Pickering for a special exception to the parking regulations at 17610 Midway Road. This property is more fully described as Lot 1, Block V/8705, and is zoned CR, which requires parking to be provided. The applicant proposes to construct and maintain a nonresidential structure for a restaurant with drive-in or drive-through service, restaurant without drive-in or drive-through service, general merchandise or food store 3500 square feet or less, personal service, dry cleaning or laundry store, motor vehicle fueling station, medical clinic or ambulatory surgical center and office uses, and provide 250 of the required 288 parking spaces, which will require a space special exception (13.2% reduction) to the parking regulation.

Sincerely,

*Philip Sikes*  
 Philip Sikes, Building Official

# City of Dallas

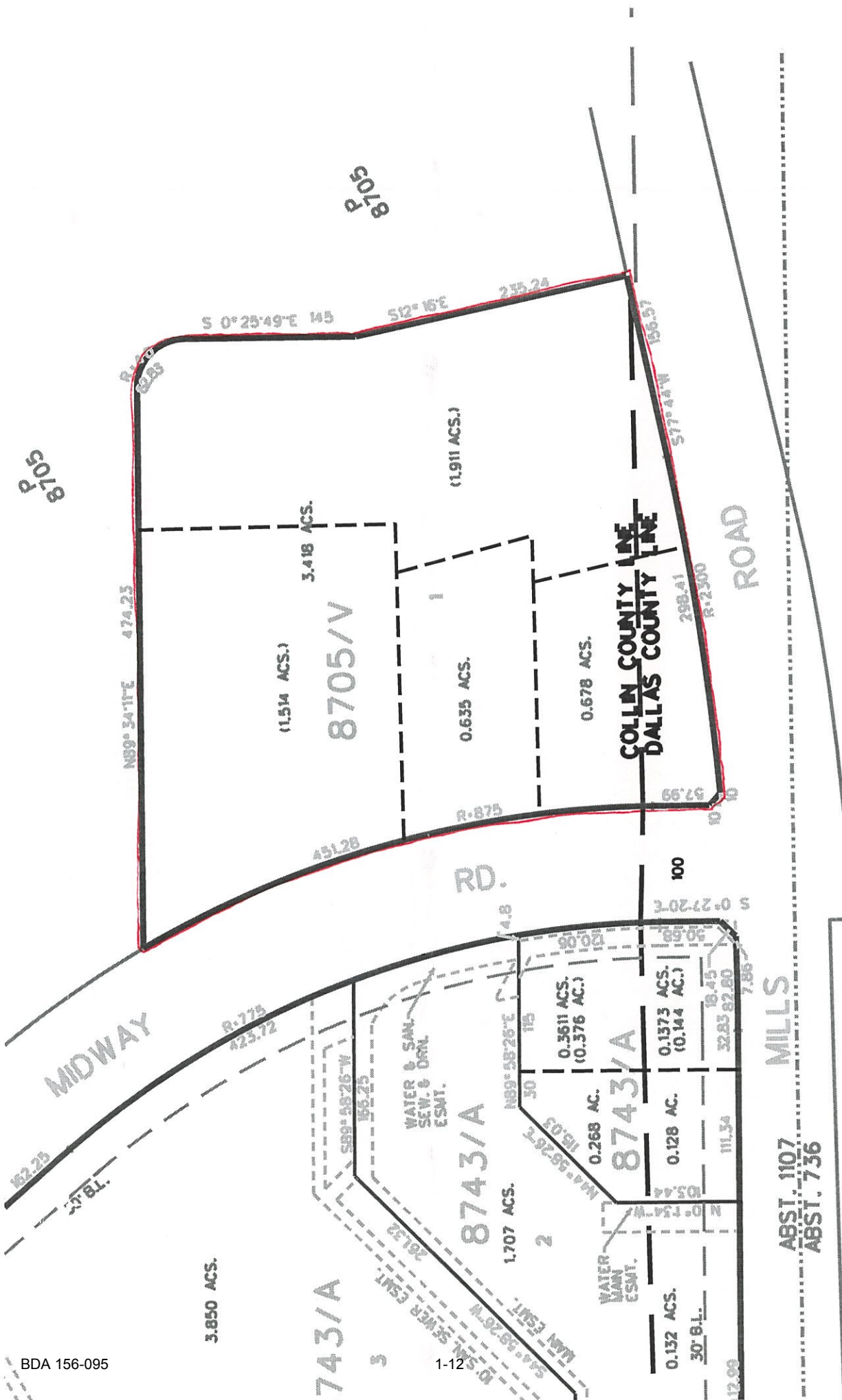
Internal Development Research Site

Legend

Locate Property



*Handwritten signature*



Hjm





ARIZONA  
TEXAS  
NEW MEXICO  
OKLAHOMA

April 7, 2016

Ms. Heather Macomber  
Adams Engineering & Development Consultants  
8951 Cypress Waters Blvd., Ste. 150  
Dallas, Texas 75019

Dear Ms. Macomber:

Lee Engineering has completed the parking analysis for the expansion of the existing McDonald's located at 17610 Midway Road Dallas, Texas. The McDonald's is a part of the Bent Tree Midway Village shopping center, shown in the site plan on the first page of attachments to this letter. This report documents the study procedures and findings.

The existing McDonald's is 3,905 square feet and has 32 on-site parking spaces surrounding the restaurant on the south, east, and west sides within the limits of the leased area. Additionally, 52 other parking spaces are part of the shopping center's common area and available to all tenants in the shopping center. Of these 52 shared parking spaces, 21 are located just north of the McDonald's building. Thus, there are a total of 53 parking spaces available surrounding McDonalds (=32 + 21).

Including all tenant-specific and common areas, the Bent Tree Midway Village has 257 regular parking stalls and 10 handicap spots, for a total of 267 parking spaces. Note that the site plan indicates 257 spaces, but Lee Engineering has field verified that 267 is the correct number.

Based on the property data provided by the Bent Tree Midway Village site plan, there are a total of 21 tenant suites in the development. Total Gross Floor Area (GFA) of the development is estimated at 43,835 square feet of which 13,955 square feet is occupied by restaurants and 29,880 square feet is occupied by retail businesses. It should be noted that 3,521 square feet is noted as the existing McDonald's floor area in the Bent Tree Midway Village site plan. However, it was confirmed with the applicant that the actual floor area of the existing McDonald's is 3,905 square feet.

The Dallas City Code Section 51A-4.210 "*Retail and Personal Service Uses*" requires one parking space per 100 square feet of floor area for restaurants without and with drive through windows (Land Use Code 24 and 25) and one parking space per 200 square feet of floor area for retail uses (Land Use Code 27). Table 1 summarizes the parking needs for Bent Tree Midway Village based on the City Code.

**Table 1: Bent Tree Midway Village Existing Parking Needs per City Code**

Land Use Type	Parking Ratio	Total Square Feet	Required Number of Spaces
Restaurants	1 space per 100 sq ft	13,955	140
Retail	1 space per 200 sq ft	29,880	150
Total			290

Based on Table 1, it can be inferred that the Bent Tree Midway Village has 23 less parking spaces (=290-267) than required by the City Code.

The existing McDonald's has plans for expansion of the existing building and the drive through facility. A second drive-through lane and ordering station will be added outside the building, along with building expansion of 99 square feet for a second drive-through window. The site plan for the proposed development has been developed by Adams Engineering and it is provided with the attachments. Based on this document, the total new floor area for the McDonald's building is proposed to be 4,004 square feet. Ten existing parking stalls east of the existing McDonald's building will be removed to expand the existing drive-through facility. It should be noted that the proposed expansion will add drive through capacity but will not increase the restaurant's 'dine in' capacity.

The proposed McDonald's expansion will reduce the overall available parking in the shopping center from 267 spaces to 257. Table 2 summarizes the parking needs for Bent Tree Midway Village based on City Code with the proposed changes to the McDonald's facility.

**Table 2: Bent Tree Midway Village Proposed Parking Needs per City Code**

Land Use Type	Parking Ratio	Total Square Feet	Required Number of Spaces
Restaurants	1 space per 100 sq ft	14,054	141
Retail	1 space per 200 sq ft	29,880	150
Total			291

Based on Table 2, it can be inferred that the Bent Tree Midway Village will have 34 less parking spaces (=291-257) than required by the City Code under proposed conditions.

The applicant is proposing to apply for a parking requirement reduction under the following section of the City Code:

**1. Section 51A-4.311 Special Exception: Parking Demand**

This special exception enables the board to permit 25% parking reduction after a public hearing. The exception is granted if the board determines that the parking demand generated by the use does not warrant the number of off-street parking spaces required and the special exception will not create a traffic hazard or increase traffic congestion on adjacent or nearby streets.

**2. Section 51A-4.320 Special Reduction: Shared Parking**

This special exception allows two different land uses to share parking if their peak demands have been observed at different times and the available parking can satisfy the peak demand of the development.

Based on information provided in the *ITE Parking Generation (4<sup>th</sup> Edition)*, peak hour parking demands for a fast food restaurant with drive through occur between 11:30 AM – 1:30 PM and between 5:00 PM – 7:00 PM on a weekday. Over the weekend, the peak hour parking demands for such land use occur between 11:30 AM – 1:30 PM.

*ITE Parking Generation* was also used to determine peak hour parking demands for a High-Turnover (Sit-Down) Restaurant. The peak hour demands for such land use occur between 11:30 AM – 1:30 PM and between 5:00 PM – 7:00 PM on a weekday. Over the weekend the peak hour parking demands for a High-Turnover (Sit-Down) Restaurant occur between 11:30 AM – 1:30 PM and between 6:00 PM – 8:00 PM. Peak hour operations timing for High-Turnover (Sit-Down) Restaurant were considered to factor in the effect of Panda Express which is located next to the subject McDonald's facility and has similar peak demand characteristics.

Based on the above-indicated peak hours for typical parking demand, Lee Engineering performed parking occupancy counts for peak times on a typical weekday and Saturday. Parking data for Bent Tree Midway Village was collected on Thursday, March 31, 2016 and on Saturday April 2, 2016 to determine the current peak parking demand.

The number of vehicles in the parking lot was documented every 15 minutes. The raw data is provided as an attachment to this letter. The maximum weekday number of cars observed on-site was 114 vehicles from 12:15 PM – 12:30 PM, and the maximum weekend parking peak was observed to be 99 spaces from 12:45 PM – 1:00 PM. At no time did the parking demand exceed the available on-site parking (257+10=267 stalls). **Table 3** and **Table 4** summarize the existing parking demand for weekday and weekend conditions, respectively.

**Table 3: Weekday Parking Demand**

Lunch Peak Time	Parked Cars near McDonalds (53 spaces avail.)	Total Parked Cars for the Entire Shopping Center (267 spaces avail.)	PM Peak Time	Parked Cars near McDonalds (53 spaces avail.)	Total Parked Cars for the Entire Shopping Center (267 spaces avail.)
11:30 AM	19	76	5:00 PM	23	84
11:45 AM	20	93	5:15 PM	25	88
12:00 PM	25	110	5:30 PM	26	92
<b>12:15 PM</b>	<b>30</b>	<b>114</b>	5:45 PM	23	94
12:30 PM	26	111	6:00 PM	20	101
12:45 PM	27	108	6:15 PM	24	95
1:00 PM	19	98	6:30 PM	25	99
1:15 PM	20	89	<b>6:45 PM</b>	<b>27</b>	<b>104</b>
<b>Maximum</b>	<b>30</b>	<b>114</b>	<b>Maximum</b>	<b>27</b>	<b>104</b>



**Table 4: Weekend Parking Demand**

Lunch Peak Time	Parked Cars near McDonalds (53 spaces avail.)	Total Parked Cars for the Entire Shopping Center (267 spaces avail.)	PM Peak Time	Parked Cars near McDonalds (53 spaces avail.)	Total Parked Cars for the Entire Shopping Center (267 spaces avail.)
11:30 AM	24	92	5:00 PM	5	57
11:45 AM	25	79	5:15 PM	5	57
12:00 PM	23	85	5:30 PM	5	55
12:15 PM	24	89	5:45 PM	3	63
12:30 PM	29	91	6:00 PM	7	53
12:45 PM	32	99	6:15 PM	3	45
1:00 PM	20	86	6:30 PM	3	52
1:15 PM	16	86	6:45 PM	3	51
<b>Maximum</b>	<b>32</b>	<b>99</b>	<b>Maximum</b>	<b>7</b>	<b>63</b>

Tables 3 and 4 show that in the 53 parking spaces immediately surrounding McDonald's, the highest observed quantity of parked vehicles was 32. That is, about 39% (21) spaces were unutilized. With the proposed McDonald's expansion, there will not be any increase in dine-in capacity, but 10 spaces east of the building will be removed. With the reduction of 10 parking spaces, total available parking spaces surrounding McDonald's would be 43, which is 10 more than the observed peak demand. Based on the observed parking demand, no traffic hazard or traffic congestion on adjoining streets is predicted with the proposed McDonald's expansion if there is no significant change in surrounding land use or traffic pattern. Hence, the special exception based on parking demand is applicable.

With the proposed McDonald's expansion, the 52 shared parking spaces will remain unchanged. It was also observed that 57% of the shopping center's parking spaces are unutilized under weekday peak conditions, and 62% are unoccupied under weekend peak conditions. This clearly indicates that adjoining retail businesses' have spare parking capacity. While a 5- to 10-percent upward adjustment to parking demand might be assumed to account for seasonal variations, the strip-commercial type stores currently occupying the shopping center do not typically experience the type of seasonal variation seen in December at larger shopping centers such as malls and big box stores. Hence, the special reduction based on shared parking is also applicable.

Based on the collected traffic data presented in this report, the following conclusions can be made:

1. The existing McDonald's is 3,905 square feet and will expand 4,004 square feet. The proposed expansion will not add any 'dine in' capacity of the restaurant but improve drive through capacity. Thus, the proposed expansion is not expected to increase parking demand.
2. The maximum observed parking demand for Bent Tree Midway Village was 114 parking spaces from 12:15 PM to 12:30 PM on a weekday. During the peak operations about 57% of parking spaces were not occupied.
3. The maximum observed parking demand for McDonald's was 32 parking spaces from 12:45 PM to 1:30 PM on Saturday. During the peak demand, about 39% of parking spaces

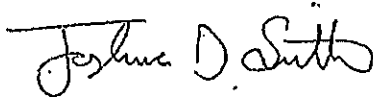
immediately surrounding McDonald's were not occupied.

4. The new McDonald's will provide 22 on-site parking spaces. It will also remove 10 parking spaces on the east side of the facility. This will reduce the total parking capacity of Bent Tree Midway Village to 257 spaces. Based on the observed parking demand and proposed total parking supply, it is predicted that 55% spaces will be unoccupied if there is no change in parking demand.

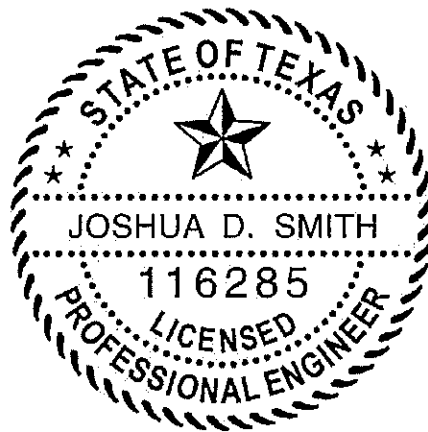
**Recommendation:** This study recommends that the parking reduction be granted based on the low observed existing parking demand.

If you have any additional questions, please feel free to contact me.

Sincerely,



Joshua D Smith, P.E., PTOE  
Project Manager  
Lee Engineering  
Firm No. F-450



4-7-2016

Attachments:

1. Bent Tree Midway Village site plan
2. Shared parking agreement map
3. Proposed site plan for McDonald's improvement/expansion
4. Observed parking demand data

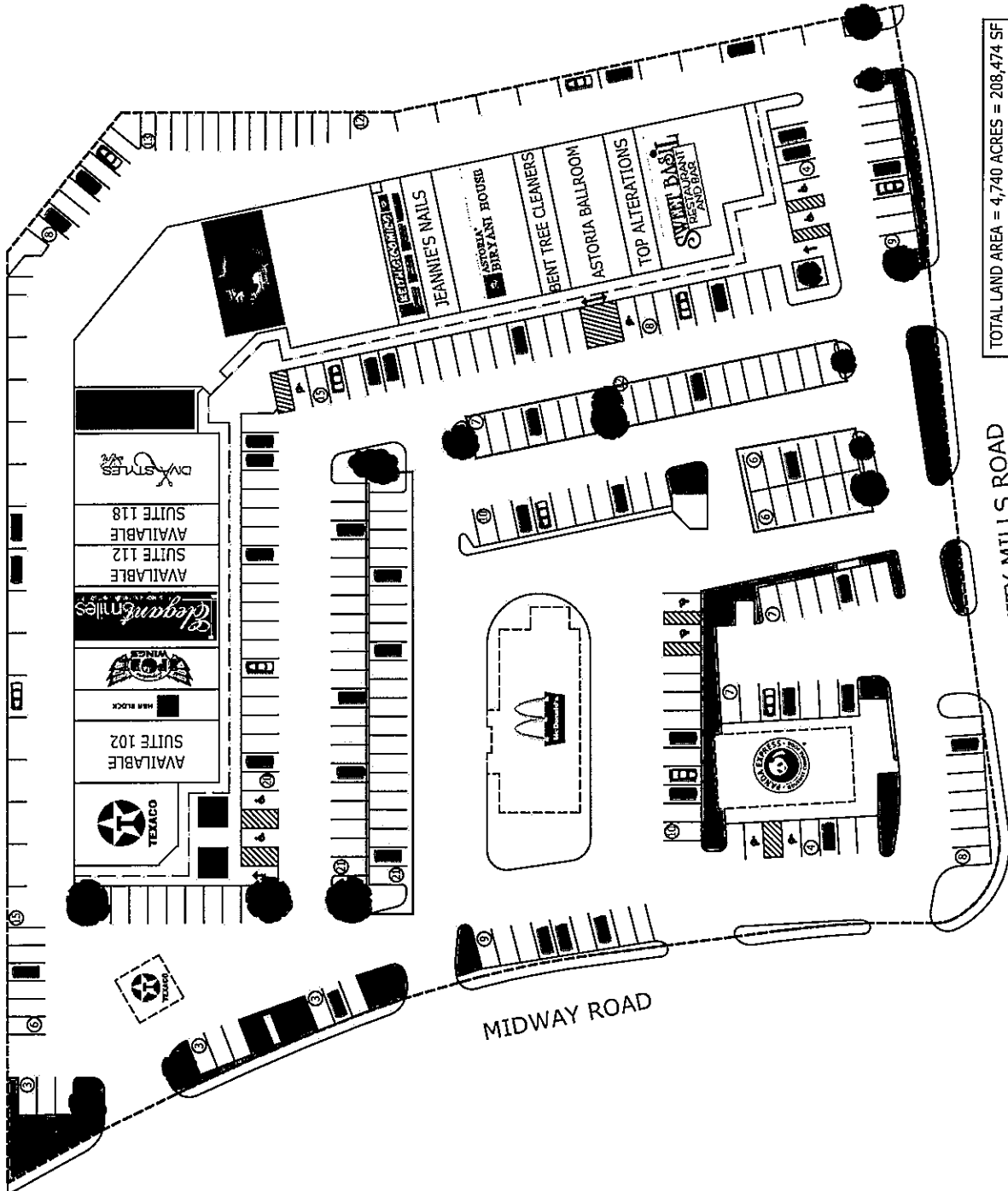
# BENT TREE MIDWAY VILLAGE

17610 MIDWAY ROAD  
DALLAS, TX 75287

## PROPERTY DATA

Suite	Tenant	SF
101	TEXACO	2000
102	AVAILABLE	2100
106	H&R BLOCK	1050
108	SPORT WINGS	1400
110	ELEGANT SMILES DENTIST	2100
112	AVAILABLE	1400
118	AVAILABLE	1400
122	DIVA STYLES SALON	2450
124	TRINITY MILLS CHIROPRACTIC	1380
128	PHYSIOFIT GYM	9700
136	KEITH'S COMICS	1027.5
136CR	CAMERA ROOM	22.5
138	JEANNIE'S NAILS	1050
140	ASTORIA BIRYANI HOUSE	2800
142	BENT TREE CLEANERS	1050
143	ASTORIA BALLROOM	2100
144	TOP ALTERATIONS	1050
150	SWEET BASIL	3350
17606	MCDONALDS	3531
17602	PANDA EXPRESS	2500
TOTAL		43461

52 Shared Parking Spaces

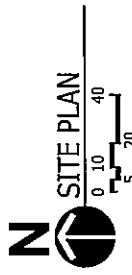


TOTAL LAND AREA = 4.740 ACRES = 208,474 SF	
BUILDING A:	3,000 SF
BUILDING B:	11,900 SF
BUILDING C:	7,580 SF
BUILDING D:	15,850 SF
TOTAL:	37,430 SF
MCDONALDS:	3,531 SF
SERVICE STATION:	845.64 SF
TOTAL BUILDING AREA:	41,806.64 SF
PARKING TOTALS	347
STANDARD:	60
HANDICAPP:	257
TOTAL:	257



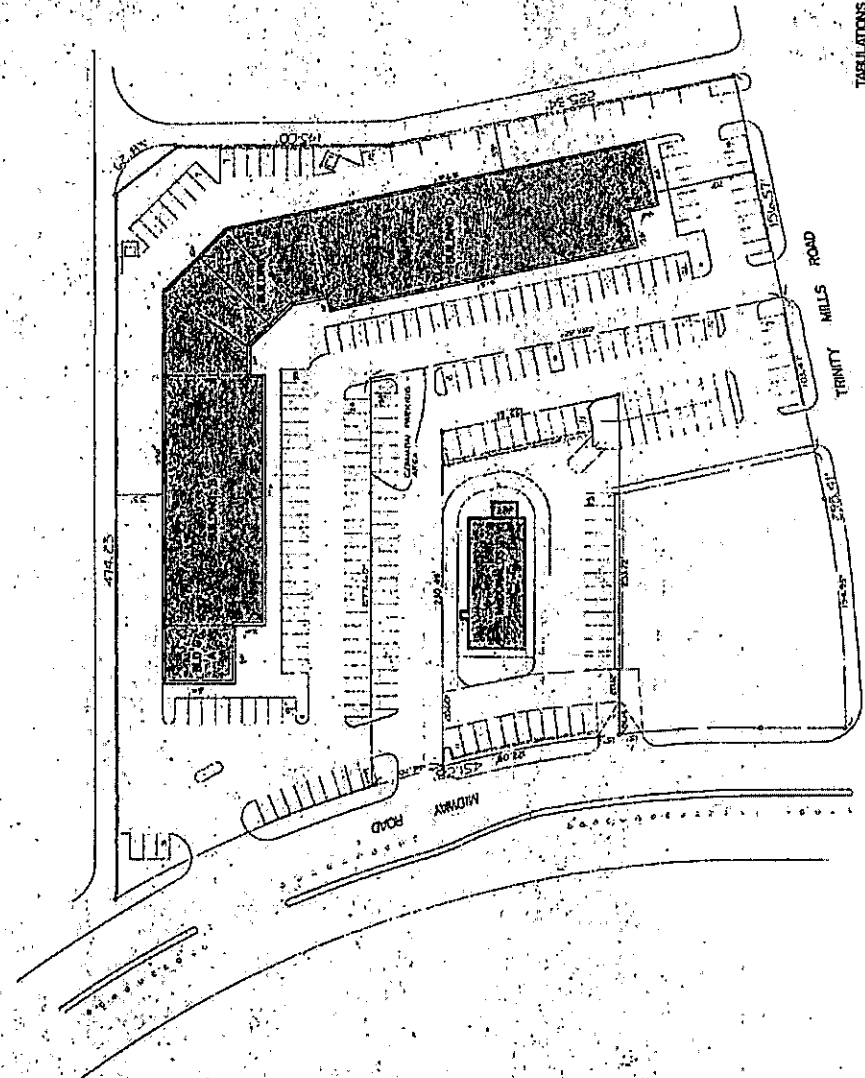
JOHN R. WEST  
LEASING AGENT  
972.931.7400 EXT. 213  
JWEST@SABREREALTY.COM

CARLA GILBERT  
PROPERTY MANAGER  
972.931.7400 EXT. 215  
CARLA@SABREREALTY.COM



THIS SITE PLAN IS PREPARED FOR THE PURPOSE OF ILLUSTRATING THE APPROXIMATE LOCATION AND SIZE OF THE BUILDING, INCLUDING THE BUILDING CODE, SITE DRAINAGE, ACCESS AND PARKING AREAS, EXISTING UTILITIES, AND UTILITIES ARE SUBJECT TO CHANGE AT THE OWNER'S DISCRETION. EXCEPT AS OTHERWISE EXPRESSLY RESTRICTED HEREIN.

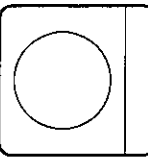
PROJECT NO. 156-095 SHEET NO. 1-20	<b>MICHAEL F TWICHELL</b> Architect Dallas, Texas	PROJECT FOLSOM INVESTMENTS INC. DALLAS, TEXAS	SITE PLAN 1" = 40'-0"
--	---	---	--------------------------



**TABULATIONS**

BLDG. A	2000 SF
BLDG. B	11900 SF
BLDG. C	7550 SF
BLDG. D	6950 SF
ACCOMMOD.	3030 SF
<b>TOTAL</b>	<b>28330 SF</b>

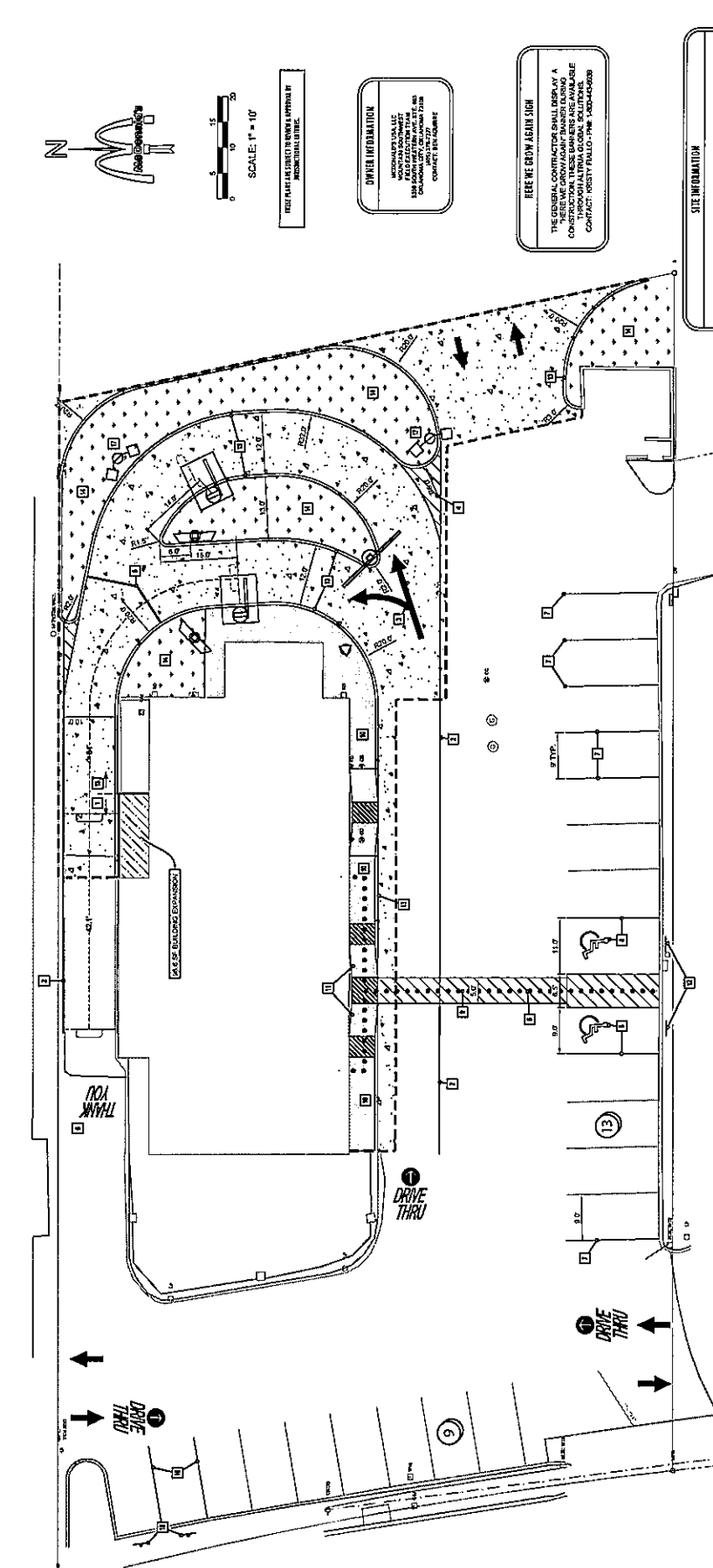
MARKING INDICATED FOR  
 PARKING REQUIRED BY 167-17203



**SEE THE BIDDING ADAMS JOB**  
 THE GENERAL CONTRACTOR SHALL DISPLAY A "SEE THE BIDDING ADAMS JOB" SIGNAGE THROUGHOUT THE PROJECT TO INDICATE THE LOCATION OF THE BIDDING ADAMS JOB. CONTACT: ROBERT FALLO - PH: 1-800-445-6888

**SITE INFORMATION**  
 LAND AREA: 27,867 SF (0.635 AC)  
 CURBENT FORM: C-1 COMMUNITY RETAIL  
 PROPOSED USE: RESTAURANT  
 BUILDING AREA (APPROXIMATE): 4,000 SF  
 BUILDING LOT COVERAGE: 14.47%  
 PARKING REQUIRED: 40 SPACES  
 20 ON LOT (10' X 20' SPACES)  
 20 OFF LOT (10' X 20' SPACES)  
 PARKING PROVIDED: WITH SHOPPING CENTER  
 HANDICAP PARKING REQUIRED: 2  
 HANDICAP PARKING PROVIDED: 2  
 IMPERVIOUS AREA: 20,000 SF  
 LANDSCAPE PERCENTAGE: 2,000 SF (7.2%)

**LEGEND**  
 HEAVY DUTY REINFORCED CONCRETE & DRIVEWAY AREAS, SEE PAVING SPECIFICATIONS.  
 REINFORCED CONCRETE SIDEWALK, MINIMUM 4" CONCRETE TO BE ADDED TO 2" SLAB & REINFORCED.  
 LANDSCAPE AREA.  
 LEVEL LANDING - 2% MAX IN ALL DIRECTIONS  
 SHOULDER TIME  
 ACCESSIBLE ROUTE  
 TORQUE THRU WITH CURB/CURB/ARROW - COLOR: YELLOW  
 ARROW PATH DIRECTION - COLOR: WHITE



**KEY NOTE LEGEND**

MARK	DESCRIPTION
1	CONCRETE VERTICAL CURB DRIVE-THRU (SEE CALL STANDARD DETAILS)
2	5" DRIVE THRU SIDEWALK - COLOR: YELLOW
3	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
4	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
5	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
6	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
7	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
8	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
9	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
10	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
11	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
12	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
13	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
14	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
15	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
16	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
17	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
18	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
19	4" DRIVE THRU SIDEWALK - COLOR: YELLOW
20	4" DRIVE THRU SIDEWALK - COLOR: YELLOW

**STANDARD ACCESSIBILITY REQUIREMENTS**

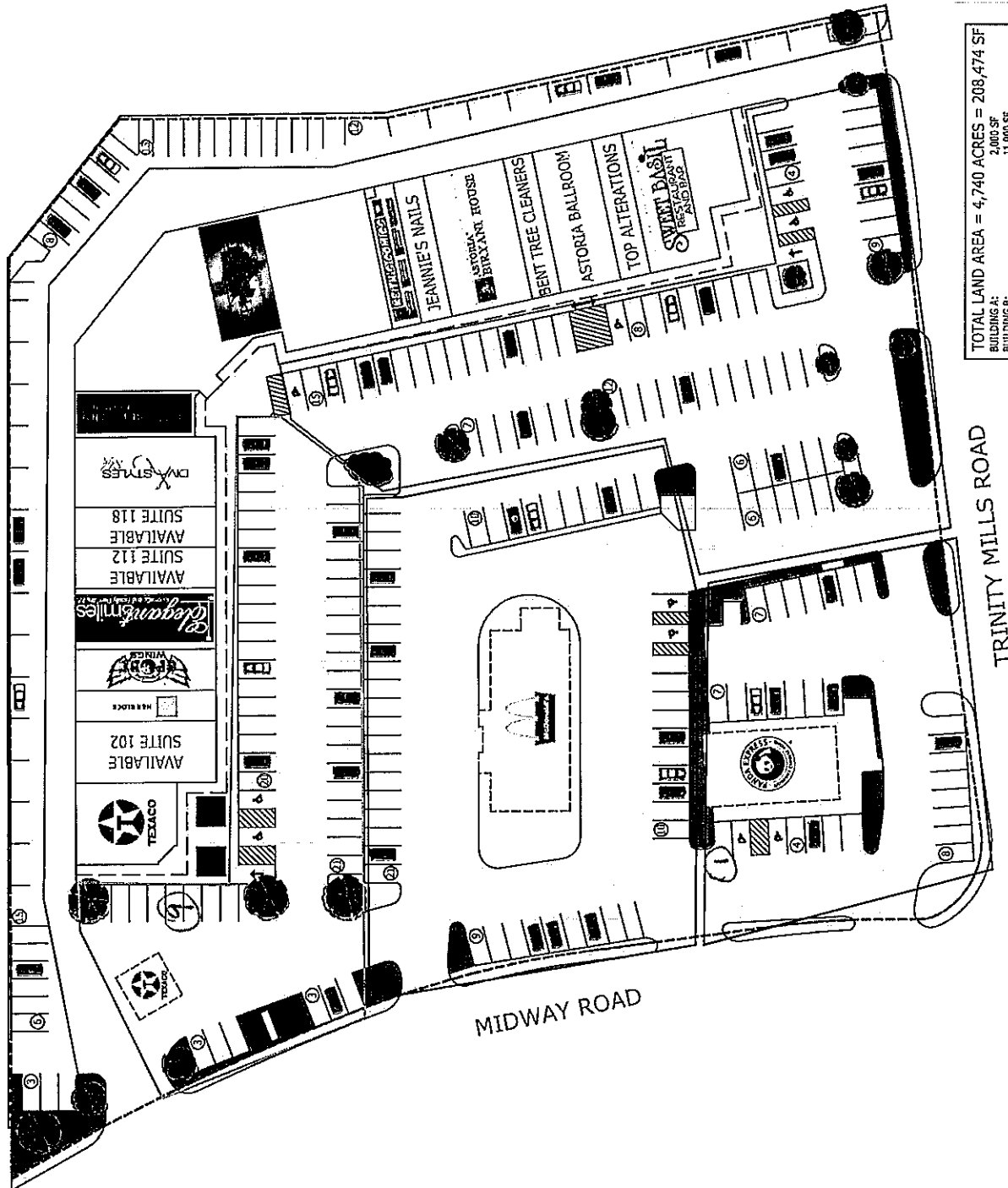
- ACCESSIBLE PARKING SPACES SHALL BE AS NOTED TO A MAXIMUM OF 2% OF ALL SPACES. ALL BUILDINGS SHALL HAVE AT LEAST ONE VAN ACCESSIBLE SPACE.
- ACCESSIBLE PARKING SPACES SHALL HAVE A SIGNAGE IN THE SPACES. SIGNAGE SHALL BE 48" HIGH AND 18" WIDE. SIGNAGE SHALL BE PLACED IN THE CENTER OF THE SPACE AND SHALL BE LEGIBLY READABLE. SIGNAGE SHALL BE PLACED IN THE CENTER OF THE SPACE AND SHALL BE LEGIBLY READABLE.
- ALL ACCESSIBLE SPACES SHALL BE AS NOTED TO A MAXIMUM OF 2% OF ALL SPACES.
- RAMP SLOPES SHALL NOT EXCEED 1:12 RUNNING SLOPE OR 30° VERTICAL RISE.
- RAMP AND LANDING SHALL NOT EXCEED 1:48 (2% CROSS SLOPE).
- SIDEWALKS AND ACCESSIBLE ROUTES SHALL BE AS NOTED.
- SIDEWALKS SHALL BE AT LEAST 36" WIDE WITH A CROSS SLOPE THAT SHALL NOT EXCEED 1:48 (2%).
- CONSTRUCTION SLOPE OF ANY SIDEWALK ACCESSIBLE ROUTE SHALL NOT EXCEED 1:20 (5%).



Data Collection Sub-Areas: Red - McDonald's; Blue - Panda Express; Green - North; Orange - East; Pink - Rear

# BENT TREE MIDWAY VILLAGE

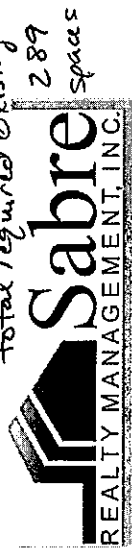
17610 MIDWAY ROAD  
DALLAS, TX 75287



## PROPERTY DATA

Suite	Tenant	SF
101	TEXACO	2000
102	AVAILABLE	2100
106	H&R BLOCK	1050
108	SPORT WINGS	1400
110	ELEGANT SMILES DENTIST	2100
112	AVAILABLE	1400
118	AVAILABLE	1400
122	DIVA STYLES SALON	2450
124	TRINITY MILLS CHIROPRACTIC	1380
128	PHYSIOFIT GYM	9700
136	KEITH'S COMICS	1027.5
136CR	CAMERA ROOM	22.5
138	JEANNIE'S NAILS	1050
140	ASTORIA BIRYANI HOUSE	2800
142	BENT TREE CLEANERS	1050
143	ASTORIA BALLROOM	2100
144	TOP ALTERATIONS	1050
150	SWEET BASIL	3350
17606	MCDONALDS	3531
17602	PANDA EXPRESS	2500
TOTAL		43461

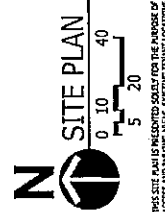
Restaurant = 13,581 SF @ 100  
Retail = 29,880 SF @ 200  
Actual Mod SF = 3905 SF  
total required existing = 289 spaces



JOHN R. WEST  
LEASING AGENT  
972.931.7400 EXT. 213  
JWEST@SABREREALTY.COM

CARLA GILBERT  
PROPERTY MANAGER  
972.931.7400 EXT. 215  
CARLA@SABREREALTY.COM

TOTAL LAND AREA = 4,740 ACRES = 208,474 SF
BUILDING A: 2,000 SF
BUILDING B: 11,900 SF
BUILDING C: 7,500 SF
BUILDING D: 25,500 SF
TOTAL: 47,900 SF
MCDONALDS: 3,531 SF
SERVICE STATIONS: 848.64 SF
TOTAL BUILDING AREA: 41,806.64 SF
PARKING TOTALS
STANDARD: 247
HAZARDOUS: 257
TOTAL: 504



THIS SITE PLAN IS PREPARED EXCLUSIVELY FOR THE PURPOSE OF MAINTAINING THE PRESENTED LOCATION AND USE OF THE BUILDING PROPERTY AND IS NOT TO BE CONSIDERED AS A CONTRACT. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT AND OTHER AFFECTED AGENCIES.

# BENT TREE MIDWAY VILLAGE - PARKING STUDY

Thursday (3/31/16) Occupancy

## TOTAL PARKING SPACES:

	McD'S - RED	PANDA - BLUE	NORTH - GREEN	EAST - ORANGE	REAR - PINK	TOTALS
SPACES	50	27	56	67	57	257
HC SPACES	2	2	2	4		10
<b>TOTAL SPACES:</b>	<b>52</b>	<b>29</b>	<b>58</b>	<b>71</b>	<b>57</b>	<b>267</b>

TIME	McD'S - RED	PANDA - BLUE	NORTH - GREEN	EAST - ORANGE	REAR - PINK	15-MIN TOTALS
11:30 AM	19	8	25	21	3	76
11:45 AM	20	17	25	28	3	93
12:00 PM	25	25	26	33	1	110
12:15 PM	30	21	25	34	4	114
12:30 PM	26	21	28	32	4	111
12:45 PM	27	22	28	30	1	108
1:00 PM	19	23	29	26	1	98
1:15 PM	20	10	28	29	2	89
<b>Max</b>	<b>30</b>	<b>25</b>	<b>29</b>	<b>34</b>	<b>4</b>	<b>122</b>
5:00 PM	23	4	28	27	2	84
5:15 PM	25	5	28	28	2	88
5:30 PM	26	6	29	29	2	92
5:45 PM	23	10	29	30	2	94
6:00 PM	20	16	30	33	2	101
6:15 PM	24	13	28	28	2	95
6:30 PM	25	10	31	31	2	99
6:45 PM	27	15	33	27	2	104
<b>Max</b>	<b>27</b>	<b>16</b>	<b>33</b>	<b>33</b>	<b>2</b>	<b>111</b>

# BENT TREE MIDWAY VILLAGE - PARKING STUDY

Saturday (4/2/16) Occupancy

## TOTAL PARKING SPACES:

	McD'S - RED	PANDA - BLUE	NORTH - GREEN	EAST - ORANGE	REAR - PINK	TOTALS
SPACES	50	27	56	67	57	257
HC SPACES	2	2	2	4		10
<b>TOTAL SPACES:</b>	<b>52</b>	<b>29</b>	<b>58</b>	<b>71</b>	<b>57</b>	<b>267</b>

TIME	McD'S - RED	PANDA - BLUE	NORTH - GREEN	EAST - ORANGE	REAR - PINK	15-MIN TOTALS
11:30 AM	24	9	33	24	2	92
11:45 AM	25	6	28	18	2	79
12:00 PM	23	8	30	22	2	85
12:15 PM	24	14	30	19	2	89
12:30 PM	29	11	27	22	2	91
12:45 PM	32	9	30	26	2	99
1:00 PM	20	12	27	25	2	86
1:15 PM	16	11	31	26	2	86
Max	<b>32</b>	<b>14</b>	<b>33</b>	<b>26</b>	<b>2</b>	<b>107</b>
6:00 PM	5	14	13	24	1	57
6:15 PM	5	11	13	28	0	57
6:30 PM	5	9	12	28	1	55
6:45 PM	3	13	15	32	0	63
7:00 PM	7	9	9	28	0	53
7:15 PM	3	6	8	28	0	45
7:30 PM	3	10	9	29	1	52
7:45 PM	3	11	10	26	1	51
Max	<b>7</b>	<b>14</b>	<b>15</b>	<b>32</b>	<b>1</b>	<b>69</b>



**PARKING ANALYSIS FOR 17610 MIDWAY RD.**

SUITE	DBA	USE	AREA (SF)	RATIO	REQUIRED
101	TEXACO	GENERAL MERCHANDISE OR FOOD STORE 3,500 SF OR LESS	2,000	200	10.00
101	TEXACO	MOTOR VEHICLE FUELING STATION			2.00
102	UNOCCUPIED	GENERAL MERCHANDISE OR FOOD STORE 3,500 SF OR LESS	2,100	200	10.50
106	H&R BLOCK	PERSONAL SERVICE	1,050	200	5.25
108	SPORT WINGS	RESTAURANT WITHOUT DRIVE-THROUGH SERVICE	1,400	200	7.00
110	ELEGANT SMILES DENTIST	MEDICAL CLINIC	2,100	200	10.50
112	UNOCCUPIED	GENERAL MERCHANDISE OR FOOD STORE 3,500 SF OR LESS	1,400	200	7.00
118	UNOCCUPIED	GENERAL MERCHANDISE OR FOOD STORE 3,500 SF OR LESS	1,400	200	7.00
122	DIVA STYLES SALON	PERSONAL SERVICE	2,450	200	12.25
124	TRINITY MILLS CHIROPRACTIC	MEDICAL CLINIC	1,380	200	6.90
128	PHYSIOFIT GYM	PERSONAL SERVICE	9,700	200	48.50
136	KEITH'S COMICS	GENERAL MERCHANDISE OR FOOD STORE 3,500 SF OR LESS	1,050	200	5.25
138	JEANNIE'S NAILS	PERSONAL SERVICE	1,050	200	5.25
140	ASTORIA BIRYANI HOUSE	RESTAURANT WITHOUT DRIVE-THROUGH SERVICE	2,800	100	28.00
142	BENT TREE CLEANERS	DRY CLEANING OR LAUNDRY STORE	1,050	200	5.25
143	ASTORIA BALLROOM	<del>COMMUNITY SERVICE CENTER</del> OFFICE	2,100	<del>333</del> 200	<del>10.50</del> 6.3
144	TOP ALTERATIONS	PERSONAL SERVICE	1,050	200	5.25
150	SWEET BASIL	RESTAURANT WITHOUT DRIVE-THROUGH SERVICE	3,350	100	33.50
17606	McDONALD'S	RESTAURANT WITH DRIVE-THROUGH SERVICE	4,004	100	40.04
17602	PANDA EXPRESS	RESTAURANT WITHOUT DRIVE-THROUGH SERVICE	2,500	100	25.00
SUB-TOTAL		GENERAL MERCHANDISE OR FOOD STORE 3,500 SF OR LESS	7,950	200	39.75
SUB-TOTAL		MOTOR VEHICLE FUELING STATION			2.00
SUB-TOTAL		PERSONAL SERVICE	15,300	200	76.50
SUB-TOTAL		RESTAURANT WITHOUT DRIVE-THROUGH SERVICE	10,050	100	100.50
SUB-TOTAL		MEDICAL CLINIC	3,480	200	17.40
SUB-TOTAL		DRY CLEANING OR LAUNDRY STORE	1,050	200	5.25
SUB-TOTAL		<del>COMMUNITY SERVICE CENTER</del> OFFICE	2,100	<del>333</del> 200	<del>10.50</del> 6.3
SUB-TOTAL		RESTAURANT WITH DRIVE-THROUGH SERVICE	4,004	100	40.04
TOTAL REQUIRED			43,934		288 292
TOTAL PROVIDED					250

## Long, Steve

---

**From:** Elaine Pickering <elaine.pickering@adams-engineering.com>  
**Sent:** Wednesday, August 03, 2016 4:15 PM  
**To:** Long, Steve  
**Subject:** RE: BDA156-095, Property at 17610 Midway Road  
**Attachments:** 2016-08-03 BOA cover letter.pdf; Overall Site Plan.pdf

Steve,

Please review the attached letter and let me know if this is what you're needing. I think I covered everything we discussed this morning, but I may have missed something. I included a cleaner copy of the overall site plan. The only difference between this one and the one in the packet is that the hand-written info is incorporated.

Elaine Pickering, PE (VA, TX, AL, AR, FL, LA, MS & TN)  
Program Manager

**Adams** | Engineering & Development Consultants  
Tyler | Dallas | Austin | Tampa

**fb** | **in** | [Website](#) | [Map](#)

---

**From:** Long, Steve [<mailto:steve.long@dallascityhall.com>]  
**Sent:** Wednesday, August 03, 2016 9:30 AM  
**To:** Elaine Pickering <[elaine.pickering@adams-engineering.com](mailto:elaine.pickering@adams-engineering.com)>  
**Subject:** BDA156-095, Property at 17610 Midway Road

Dear Ms. Pickering,

Would you please give me a call on the board of adjustment application referenced above that you are representing for Lee Morris? My phone number is 214/670-4666.

Thank you,

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



August 3, 2016

Mr. Steve Long  
City of Dallas  
Department of Sustainable Development and Construction  
1500 Marilla Street  
5DN  
Dallas, TX 75201

RE: McDonald's/Bent Tree Midway Village  
17602, 17606, 17610 Midway Rd  
Case No.: BDA 156-095

Dear Mr. Long:

The purpose of this letter is to serve as an introduction/additional information for the above-referenced Special Exception request to the Board of Adjustment. The request as written is for a reduction of 38 parking spaces from the code-required 288 parking spaces for the entire Bent Tree shopping center, which is made up of a strip center, McDonald's restaurant and Panda Express restaurant. However, the proposed construction project will only eliminate ten parking spaces from the shopping center. There are no proposed tenant or use changes from the existing conditions. The proposed remodel of the McDonald's (which uncovered the existing non-compliance of the shopping center parking) will add 99 SF of building area (on the drive thru side of the building for an expansion of the cash booth) and a side-by-side drive thru to improve the response time for drive thru customers. The construction of the side-by-side drive thru lanes will require the removal of the ten parking spaces at the rear of the McDonald's.

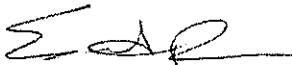
Nationally, McDonald's generates two-thirds of their business from drive thru sales. As such, they often find that their restaurants don't need as much parking as may be required by code. At single-lane drive thrus, a backup in the drive thru lane may cause some customers to park and go inside for a carry-out order. Construction of the side-by-side drive thru increases the volume of customers able to be served and further reduces the need for parking.

This has been a bit of a process to get to this point. The plans for the proposed remodel of the McDonald's were initially prepared in December 2015. At that time, information from the landlord indicated the shopping center had an excess of available parking, which we did not independently verify. In the process of working with them on the reduction needed for the McDonald's, it was discovered that the shopping center did not currently meet code. There had not been any code compliance issues or tenant complaints about a lack of parking, it just didn't meet the current city standards. A parking study was commissioned to document the actual parking needs. This study, prepared by Lee Engineering, was completed on April 7, 2016. During the process of working through the submission process for the special exception with

city staff, the number of parking spaces required and provided were adjusted as the requirements for each use in the shopping center were verified and some existing parking spaces were identified as obstructing the line of sight visibility triangles, and therefore not valid for the parking count. This is the source of the discrepancies between the traffic study and final submission and the changes to the submission paperwork. The Overall Site Plan included in the submission shows a detailed breakdown of each use and the code-required parking for that use. A cleaner copy of the site plan is attached for your use since the reduction of the full-size drawing submitted with the package is difficult to read.

I hope that you will find this additional information useful in your presentation to the Board and explanations to concerned citizens. In short summary, this is a request to remove ten parking spaces and provide a remedy to an existing non-compliant, but fully functioning, shopping center parking lot. Should you need any additional information, please do not hesitate to reach out to me.

Sincerely,



Elaine S. Pickering, PE  
Program Manager

attachment

H-2-26

ADAMS JOB NO. 2014.12

DATE 11/11/14

DESCRIPTION

ISSUE FOR PERMIT

DATE 11/11/14

BY

**Adams**

REGISTERED PROFESSIONAL ENGINEER

NO. 111111

STATE OF TEXAS

REGISTERED PROFESSIONAL ENGINEER

NO. 111111

STATE OF TEXAS

MCDONALD'S USA, LLC

17808 MIDWAY RD.

DALLAS, TX

ADDRESS 17808 MIDWAY RD. - DALLAS, TX 75244

DATE

DESIGNED BY

CHECKED BY

DATE

PLAN APPROVALS

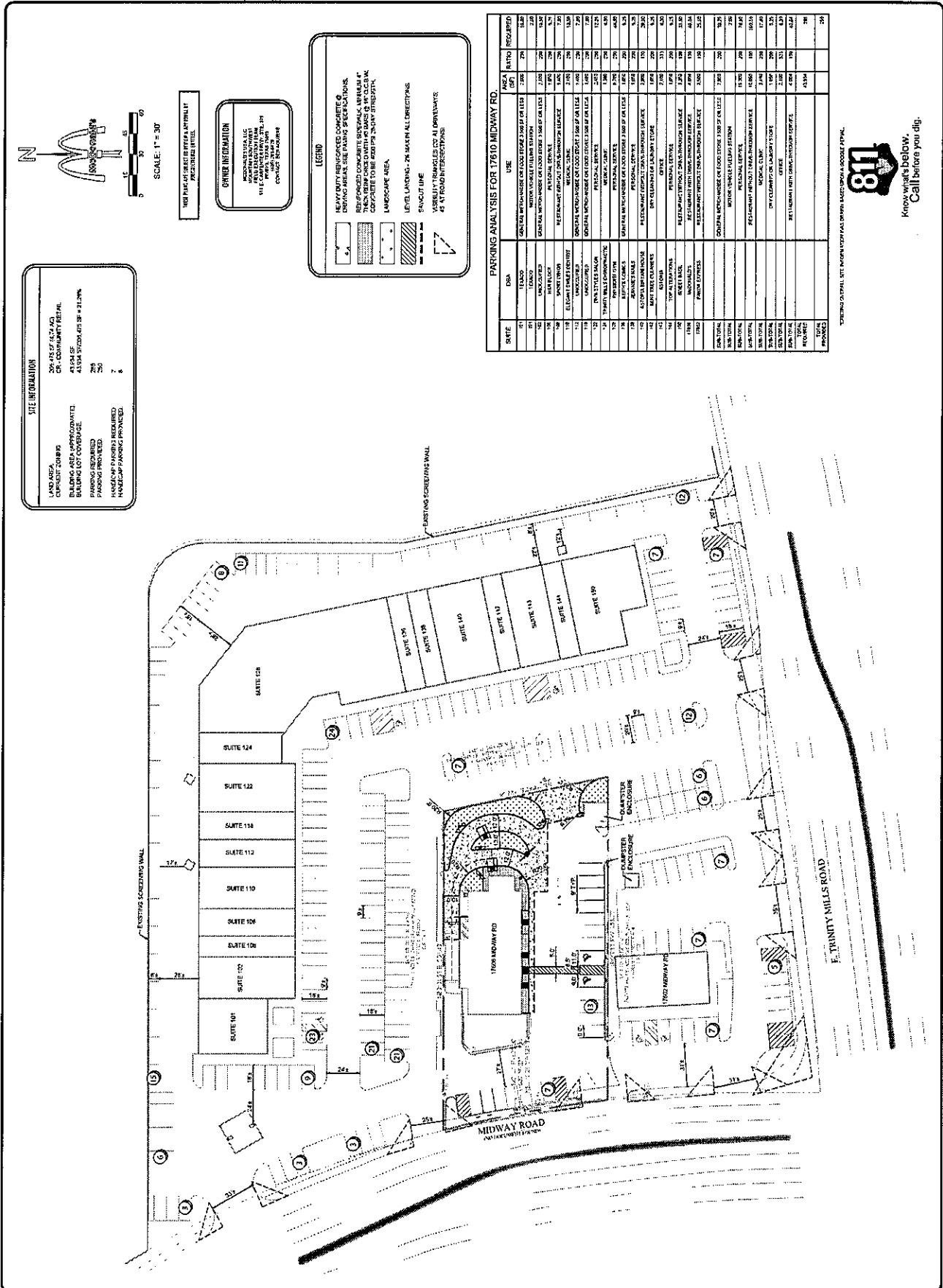
SIGNATURE (IF REQUIRED)

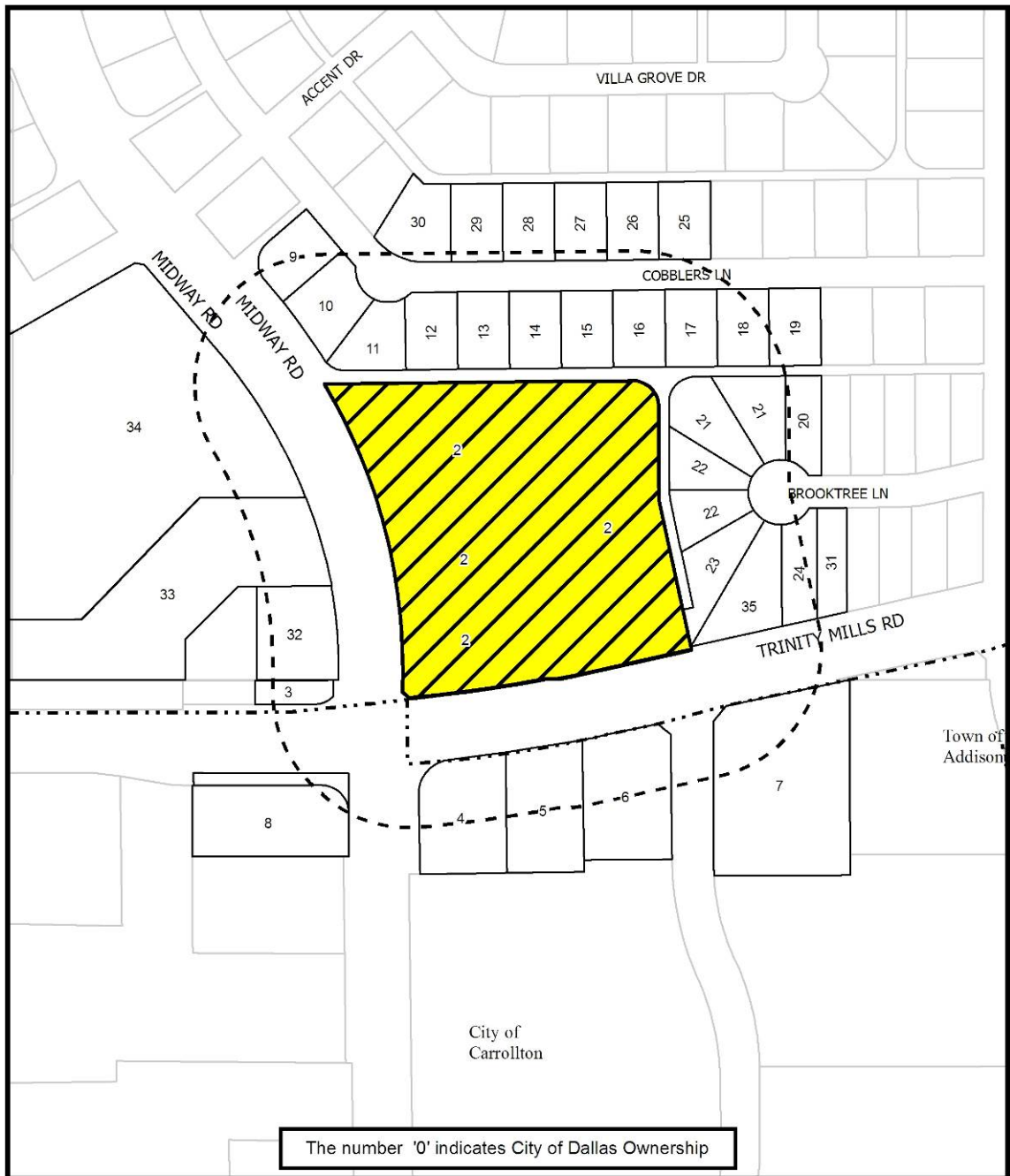
DATE

CO-OWNER SIGNATURES

SIGNATURE

DATE





 1:2,400	<b>NOTIFICATION</b>		Case no: <b>BDA156-095</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;">35</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: <b>8/11/2016</b>	

# *Notification List of Property Owners*

## *BDA156-095*

### *35 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	17602 MIDWAY RD	BENT TREE MIDWAY SC LTD
2	17610 MIDWAY RD	BENT TREE MIDWAY S/C LTD
3	17605 MIDWAY RD	SOUTHLAND CORP
4	2670 MIDWAY RD	KIC PROP-8 LLC
5	3320 E TRINITY MILLS RD	KIVCO INC
6	3330 E TRINITY MILLS RD	ARC CAFEHLD001 LLC
7	3400 E TRINITY MILLS RD	RETAIL BUILDINGS INC
8	3240 E TRINITY MILLS RD	DOPKINS DOUGLAS &
9	4106 COBBLERS LN	SER TEXAS LLC DBA HYPERION HOMES TEXAS LLC
10	4110 COBBLERS LN	BULLINS DUANA LYNN
11	4114 COBBLERS LN	BLOMFIELD BRITTANY
12	4118 COBBLERS LN	HALL BLAKE C & BEVERLY
13	4120 COBBLERS LN	MCELRATH DANIEL J & LISA
14	4124 COBBLERS LN	REESE JOSEPH NEAL &
15	4128 COBBLERS LN	KANSO AYMAN
16	4132 COBBLERS LN	LANG JAMES D & BARBARA J
17	4136 COBBLERS LN	BOYD SETH M & STACEY L
18	4140 COBBLERS LN	KELLY STEPHEN J
19	4144 COBBLERS LN	NORIEGA HAYDEN B
20	4105 BROOKTREE LN	SOUTHEAST INVESTMENTS INC
21	4101 BROOKTREE LN	BEADLE ROSALYND CAMPISI-LE
22	4104 BROOKTREE LN	BRILLIANT ENTERPRISES INC
23	4106 BROOKTREE LN	HARTT CATHRYN
24	4110 BROOKTREE LN	KOCEK LAURA KRANZ &
25	4131 COBBLERS LN	GLASS CARSON M REV TR
26	4127 COBBLERS LN	HINOJOSA ALFREDO & CLAUDIA

08/11/2016

<b>Label #</b>	<b>Address</b>	<b>Owner</b>
27	4123 COBBLERS LN	NEUBERT BOBBIE-JEANNE
28	4119 COBBLERS LN	DAVIS RICHARD EARL &
29	4115 COBBLERS LN	VAN HOUTEN KENT J &
30	4111 COBBLERS LN	ANGER SANDRA L
31	4112 BROOKTREE LN	BUSH GARY & CRISTIN
32	17605 MIDWAY RD	SOUTHLAND CORPORATION THE
33	4043 TRINITY MILLS RD	WW TRINITY OAKS LTD
34	17617 MIDWAY RD	ADDISON APARTMENTS LLC
35	4108 BROOKTREE LN	TRUAX ELLEN



**FILE NUMBER:** BDA156-087(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Toby Gray for special exceptions to the fence height and visual obstruction regulations at 611 Largent Avenue. This property is more fully described as Lots 1, 2, and part of Lot 9, Block C/2777, and is zoned R-10(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and/or maintain an 8 foot high fence, which will require a 4 foot special exception to the fence height regulations, and to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

**LOCATION:** 611 Largent Avenue

**APPLICANT:** Toby Gray

**REQUESTS:**

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

1. A request for a special exception to the fence height regulations of up to 4' is made to maintain an existing cedar board-on-board fence (ranging from 5' 6" – 8' in height given grade changes on the property) in the site's Junius Street 30' front yard setback.
2. Requests for special exceptions to the visual obstruction regulations are made to maintain the aforementioned solid cedar board-on-board fence in the two, 20' visibility triangles on the both sides of the driveway into the site from Junius Street.

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

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

**STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:**

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

**STAFF RECOMMENDATION (fence height):**

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

**STAFF RECOMMENDATION (visual obstruction special exceptions):**

Denial

Rationale:

- Staff concurs with the Sustainable Development and Construction Department Project Engineer who had recommended denial of these requests from the information the applicant had submitted at the time of the September 6<sup>th</sup> staff review team meeting stating that the fence encroachment into the visibility triangles creates a safety hazard to pedestrian traffic.
- The applicant had not substantiated from the information that he had submitted at the time of the September 6h staff review team meeting how the location and maintenance of a 5' 6" – 8' cedar board-on-board fence in the two 20' drive approach visibility triangles into the site from Junius Street do not constitute a traffic hazard.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-10(A) (Single family district 10,000 square feet)  
North: R-10(A) (Single family district 10,000 square feet)  
South: R-10(A) (Single family district 10,000 square feet)  
East: R-10(A) (Single family district 10,000 square feet)  
West: PD 397 (Planned Development)

**Land Use:**

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

**Zoning/BDA History:**

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

**GENERAL FACTS/STAFF ANALYSIS (fence height):**

- This request for a special exception to the fence height regulations of up to 4' focuses on maintaining an existing cedar board-on-board fence (ranging from 5' 6"– 8' in height given grade changes on the property) in the site's Junius Street 30' front yard setback.
- The subject site is zoned R-10(A) which requires a minimum front yard setback of 30'.

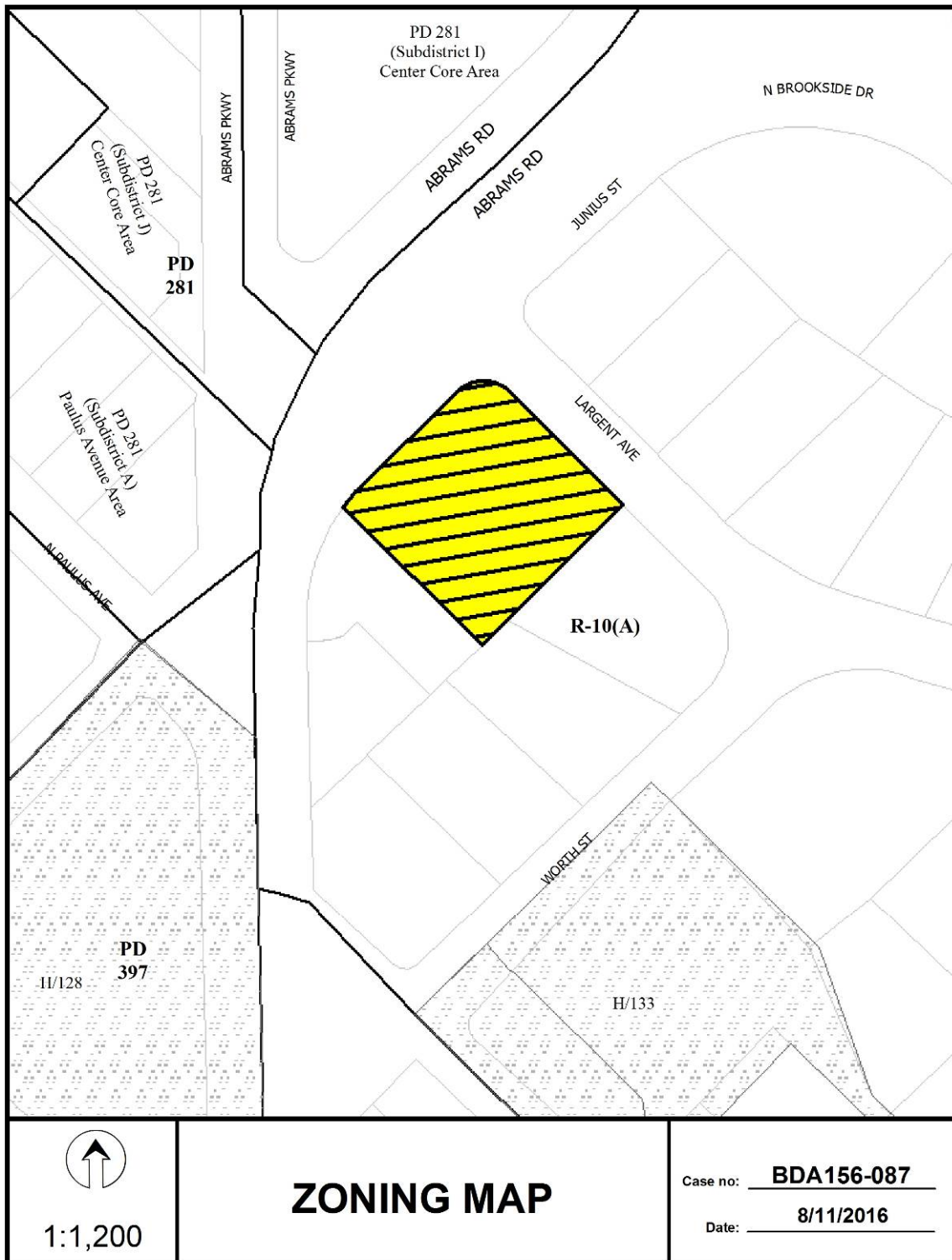
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The subject site is located at the south corner of Largent Avenue and Junius Street.
- Given the single family zoning and location of the corner lot subject site, it has two 30' front yard setbacks – a front yard setback along Largent Avenue (the shorter of the two frontages of the subject site which is always a front yard in this case) and a front yard setback along Junius Street, (the longer of the two frontages which is typically considered a side yard where on this R-10(A) zoned property a 9' high fence could be erected by right). However the site has a front yard setback along Junius Street in order to maintain continuity of the established front yard setback along this street frontage where homes/lots to the southwest “front” on Junius Street.
- A scaled site plan and fence elevations have been submitted indicating a fence proposal that will reach 8' in height in the 30' Junius Street front yard setback.
- The submitted site plan represents only a fence to exceed 4' in height in the Junius Street front yard setback and not into the site's Largent Avenue front yard setback.
- The following information was gleaned from the submitted site plan:
  - The proposal is represented as being approximately 110' in length parallel to the Junius Street, and approximately 30' in length perpendicular to this street on the northeast and southwest sides of the site in this front yard setback.
  - The proposal is represented as being located mostly on the Junius Street front property line or approximately 11' from the pavement line. (Note that a small portion/length of the fence is noted to be located in the public right-of-way. While the site plan denotes “area of possible right-of-way widening (no documentation provided)”, the request to the board of adjustment for the special exception to the fence height regulations will not remedy or address any portion of any item that is located in a right-of-way or easement. Any item located in a public right-of-way or easement will require a license from City Council or written approval by the agencies having interest in the easement).
- The proposal is located across from a properties developed with a nonresidential uses with no fence in the front yard setbacks.
- The Board Administrator conducted a field visit of the site and surrounding area along Junius Street (approximately 200' northeast and southwest of the subject site) and noted a no other fences that appeared to be above 4' in height in front yards.
- As of September 9, 2016, three letters had been submitted in support of the request, and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4' will not adversely affect neighboring property.
- Granting this special exception request of 4' with a condition imposed that the applicant complies with the submitted site plan and elevations would require the proposal exceeding 4' in height in the Junius Street front yard setback to be maintained in the location and of the heights and material as shown on these documents.
- Note that no part of this application to the Board will provide any relief to any item that may be located in a public right-of-way or easement.

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

- These requests for special exceptions to the visual obstruction regulations focus on maintain an existing cedar board-on-board fence (ranging from 5' 6" – 8' in height given grade changes on the property) in the two, 20' visibility triangles on the both sides of the driveway into the site from Junius Street.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
  - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
  - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The applicant submitted a site plan and elevations representing a solid cedar fence (ranging from 5' 6" – 8' in height given grade changes on the property) in the two, 20' visibility triangles on the both sides of the driveway into the site from Junius Street.
- The proposal is represented as being located mostly on the Junius Street front property line or approximately 11' from the pavement line. (Note that a small portion/length of the fence is noted to be located in the public right-of-way. While the site plan denotes "area of possible right-of-way widening (no documentation provided)", the request to the board of adjustment for the special exception to the visual obstruction regulations will not remedy or address any portion of any item that is located in a right-of-way or easement. (Any item located in a public right-of-way or easement will require a license from City Council or written approval by the agencies having interest in the easement).
- On September 7<sup>th</sup>, the Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Recommends that this be denied" with the following additional comment: "The fence encroachment into the visibility triangle creates a safety hazard to pedestrian traffic".
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations existing cedar board-on-board fence (ranging from 5' 6" – 8' in height given grade changes on the property) in the two, 20' visibility triangles on the both sides of the driveway into the site from Junius Street do not constitute a traffic hazard.
- Granting these requests with the condition that the applicant complies with the submitted site plan and elevations would require the items in the visibility triangles to be limited to and maintained in the locations, height and materials as shown on these documents.
- Note that no part of this application to the Board will provide any relief to any item that may be located in public right-of-way or easement.

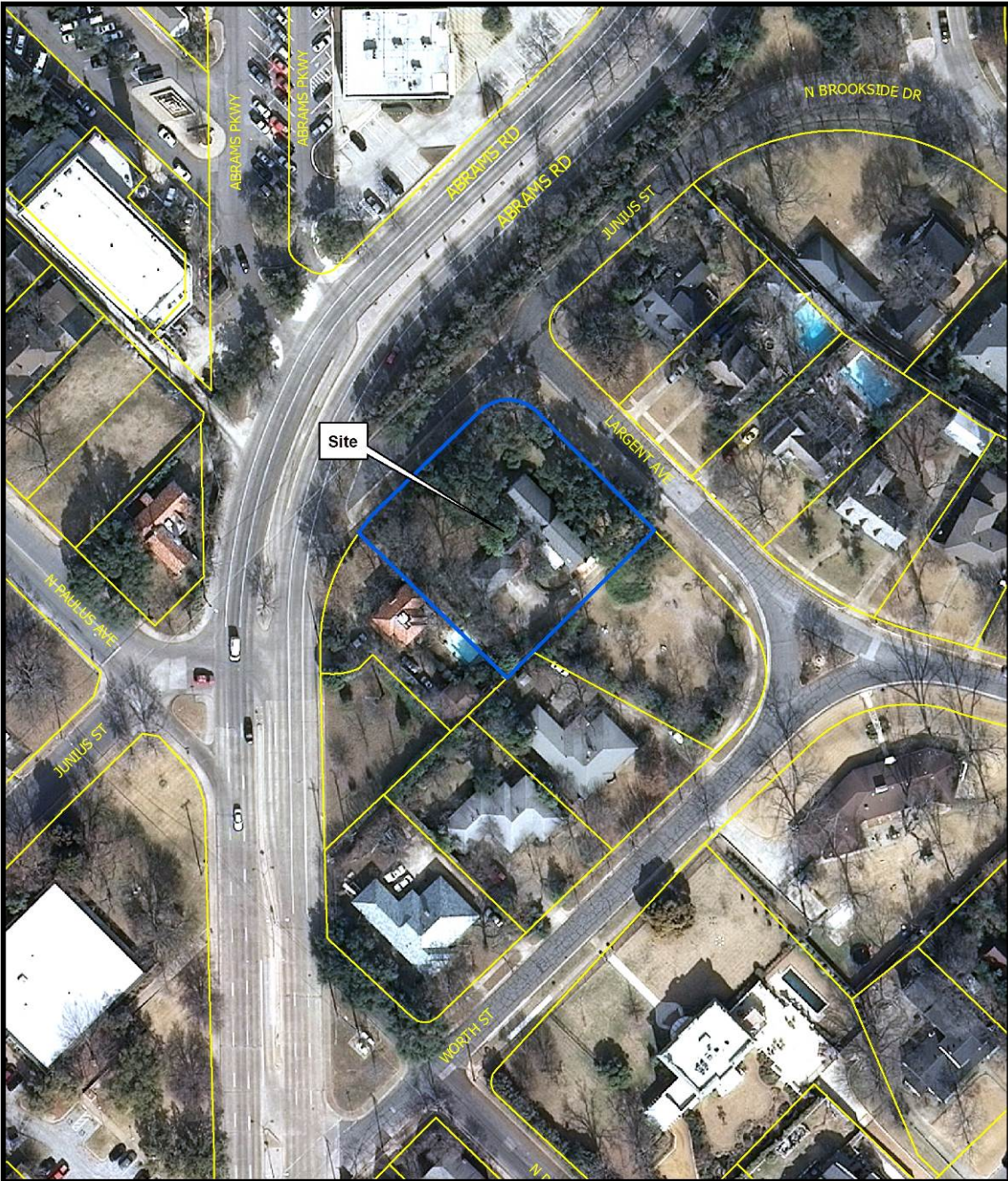
## **Timeline:**

- May 10, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 4, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- August 5, 2016: The Board Administrator emailed the applicant the following information:
- a copy of the application materials including the Building Official's report on the application;
  - an attachment that provided the public hearing date and panel that will consider the application; the August 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 9<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 requests; and
  - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- September 6, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.
- September 7, 2016: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Recommends that this be denied" with the following additional comment: "The fence encroachment into the visibility triangle creates a safety hazard to pedestrian traffic".
- September 9, 2016: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A). Note that this information was not factored into the staff recommendation since it was submitted after the September 6<sup>th</sup> staff review team meeting.



# ZONING MAP

Case no: **BDA156-087**  
 Date: **8/11/2016**



1:1,200

# AERIAL MAP

Case no: BDA156-087

Date: 8/11/2016

**Long, Steve**

BDA156-087  
Attach A

**From:** Toby Gray <tobygray5@gmail.com>  
**Sent:** Friday, September 09, 2016 9:13 AM  
**To:** Long, Steve  
**Subject:** Re: BDA156-087, Property at 611 Largent Avenue

pg 1

The provided attachment shows the following items:

1. Images taken from street view of Google maps of Junius street in June of 2014 and the corner of Junius and Largent in May of 2015. These images are included for comparison with the current images in order to show the condition of the property line along Junius and visibility along the property line prior to the construction of the fence.
2. Emails from the neighbors at 614, 618/622, and 626 Largent indicating that they have no objections to the fence.
3. Diagrams of convex mirrors we are adding to the fence post at each side of the driveway in order to provide for pedestrians on the sidewalk to have increased visibility of the driveway when the gate is open.

Thank you,  
Toby Gray

On Fri, Sep 9, 2016 at 7:08 AM, Long, Steve <[steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com)> wrote:

Dear Dr. Gray,

I printed your attachment but I'm wondering if you want to "cover" the attachment with a letter or email that says what the attachment is – particularly an explanation of what the last two pages are – pages that show the convex mirrors. While one may deduce certain things from these elevations, it may be easy for you to do a very quick explanation as to what those elevations are – I have reason to believe they are convex mirrors that you are offering to install on your property at the Junius Street driveway. Are they?

If I don't have anything else from you by 1 o'clock today, I will just go with what you have sent me.

Thank you,

Steve

**From:** Toby Gray [mailto:[tobygray5@gmail.com](mailto:tobygray5@gmail.com)]  
**Sent:** Thursday, September 08, 2016 8:55 PM  
**To:** Long, Steve  
**Subject:** Re: BDA156-087, Property at 611 Largent Avenue



BDA 156-087  
Attach A  
p 2

Gmail - Fw: fence at 611 Largent Ave

9/8/16, 7:40 PM



Toby Gray <tobygray5@gmail.com>

---

## Fw: fence at 611 Largent Ave

---

**Toby Gray** <tobygray5@gmail.com>  
To: "Long, Steve" <steve.long@dallascityhall.com>

Wed, Sep 7, 2016 at 2:58 PM

Email from 614 Largent

----- Forwarded message -----

From: **Collin OHara** <cjw0918@yahoo.com>  
Date: Tue, Sep 6, 2016 at 2:00 PM  
Subject: Fw: fence at 611 Largent Ave  
To: Toby Gray <tobygray5@gmail.com>

On Saturday, August 27, 2016 12:19 PM, Jim Lindsley <wpjim@sbcglobal.net> wrote:

Collin, I am Kandace Lindsey and my husband, Jim, and I live at 614 Largent; the red brick house across the street from you. We will agree to anything you want to do, so you have our permission to finish your house and yard however you see fit. I know you are so busy, but if you ever have a few minutes I would love to meet you and your boys. I have 7 grandchildren...all girls! Sorry this is so late, but welcome to our wonderful neighborhood!

Sent from my iPhone

On Aug 27, 2016, at 12:07 PM, Collin OHara <cjw0918@yahoo.com> wrote:

Hi Jim,

I'm Collin O'Hara and my husband Toby Gray and I live at 611 Largent (Mr. Alford's old house) with our two young boys. As you may have seen the signs in our yard, we are in the process of obtaining permission to keep our fence along Junius street (the northwest side of our house) the way it is. I wanted to reach out to you and ask you if you have any objections to this. The builder did not obtain the proper permit to build at that fence height along that side of the house, so that is why we are doing this now. Please let me know if this is ok with you or if you have concerns. I would have come to your door and asked you directly, but I didn't want to catch you at a bad time or put you on the spot.

Also, I apologize for all of the pool/backyard construction that has been prolonged. Several rain delays have pushed the project way behind schedule. So sorry for any inconvenience this has caused.

BDA156-087

Attach A

P53

9/8/16, 7:43 PM

Gmail - Fw: fence at 611 Largent



Toby Gray <tobygray5@gmail.com>

---

## Fw: fence at 611 Largent

**Toby Gray** <tobygray5@gmail.com>  
To: "Long, Steve" <steve.long@dallascityhall.com>

Wed, Sep 7, 2016 at 2:59 PM

Email from 618 Largent which includes response from 622 Largent

----- Forwarded message -----  
From: **Collin OHara** <cjw0918@yahoo.com>  
Date: Tue, Sep 6, 2016 at 1:59 PM  
Subject: Fw: fence at 611 Largent  
To: Toby Gray <tobygray5@gmail.com>

On Saturday, August 27, 2016 3:40 PM, Ed Cloutman <ecloutman@lawoffices.email> wrote:

Hi, Collin-

This is Ed Cloutman across the street at 618 Largent.

In response to your e-mail and the fence height issue before the City's Board of Adjustment, my wife, Betsy Julian, and I have no objection to the fence height along Junius, and especially so because it faces a cul-de-sac and then tapers back and down as it joins the back fence paralleling Abrams Road.

I just mentioned this to Gill (H. Gill-King) at 622 Largent, and he authorized me to indicate our position as his view on the fence height. I don't know whether you need this stated by him directly or not (you know, the pesky hearsay problem).

On the pool construction, we all understand the delays and hassles of pool construction and maintenance, as both our homes have them. Not to worry about this temporary issue, as you two and your boys will enjoy the heck out of the pool as they grow up.

Ed, Betsy and Gill.

Sent from my iPhone

On Aug 27, 2016, at 12:11 PM, Collin OHara <cjw0918@yahoo.com> wrote:

Hi Ed,

I'm Collin O'Hara and my husband Toby Gray and I live at 611 Largent (Mr. Alford's old house) with our two young boys. As you may have seen the signs in our yard, we are in the process of obtaining permission to keep our fence along Junius street (the northwest side of our house) the way it is. I wanted to reach out to you and ask you if you have any objections to this. The builder did not obtain the proper permit to build at that fence height along that side of the house, so that is why we are doing this now. Please let me know if this is ok with you or if you have concerns. I would have come to your door and asked you directly, but I didn't want to catch you at a bad time or put you on the spot.

Also, I apologize for all of the pool/backyard construction that has been prolonged. Several rain delays have pushed the project way behind schedule. So sorry for any inconvenience this has caused.

Thank you,  
Collin O'Hara  
214-923-9584

BDA56-087  
Attach A  
PS 4

Gmail - Fw: fence at 611 Largent

9/8/16, 7:44 PM



Toby Gray <tobygray5@gmail.com>

---

**Fw: fence at 611 Largent**

---

**Toby Gray** <tobygray5@gmail.com>  
To: "Long, Steve" <steve.long@dallascityhall.com>

Wed, Sep 7, 2016 at 3:01 PM

Email from 626 Largent

----- Forwarded message -----  
From: **Collin OHara** <cjw0918@yahoo.com>  
Date: Tue, Sep 6, 2016 at 2:00 PM  
Subject: Fw: fence at 611 Largent  
To: Toby Gray <tobygray5@gmail.com>

On Sunday, August 28, 2016 10:50 AM, Jeff Stroh <JStroh@aguirreroden.com> wrote:

We don't have an issue with the fence

Sent from my iPhone

On Aug 27, 2016, at 12:17 PM, Collin OHara <cjw0918@yahoo.com> wrote:

Hi Jeff,

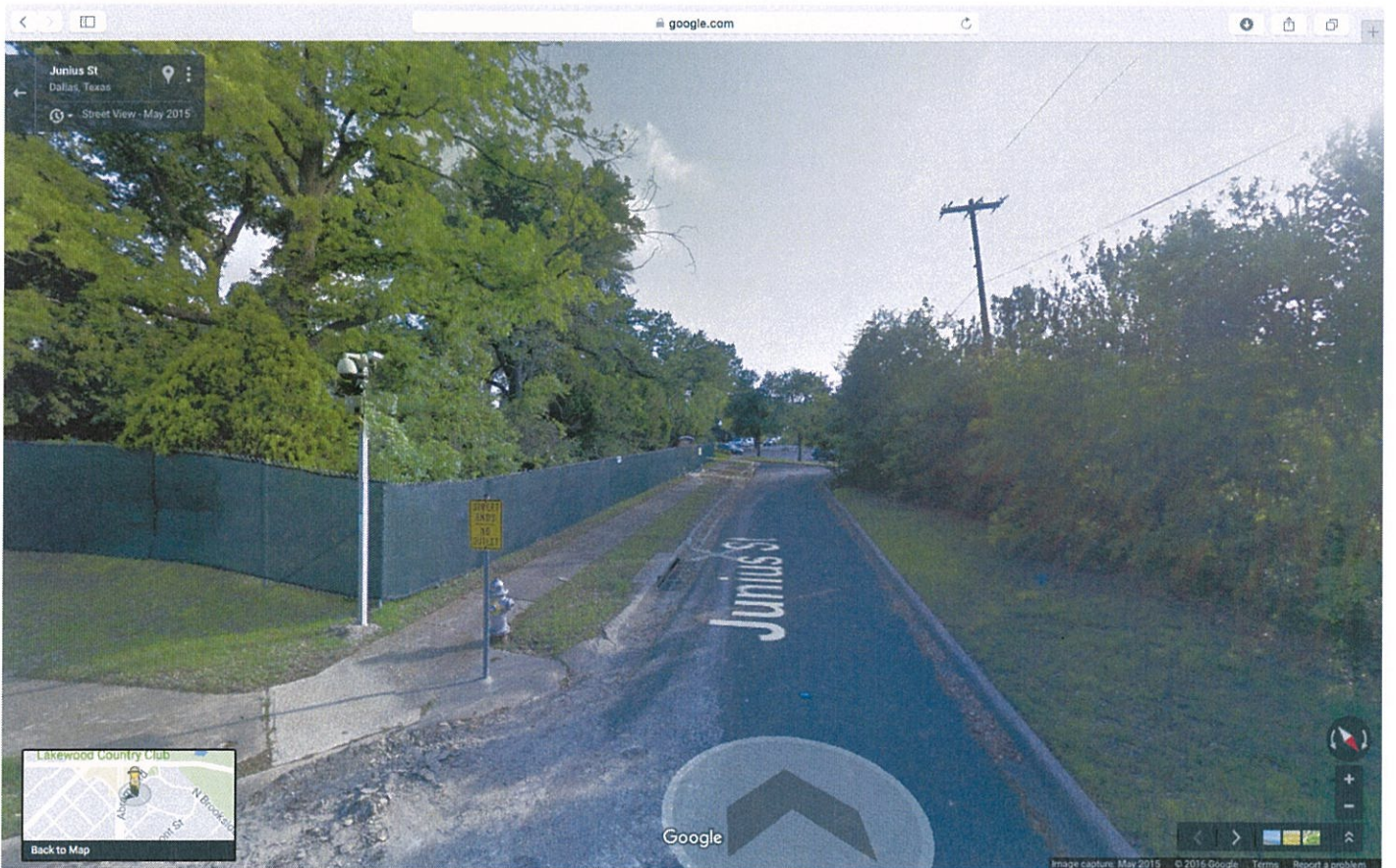
As you may have seen the signs in our yard, we are in the process of obtaining permission to keep our fence along Junius street (the northwest side of our house) the way it is. I wanted to reach out to you and ask you if you have any objections to this. The builder did not obtain the proper permit to build at that fence height along that side of the house, so that is why we are doing this now. Please let me know if this is ok with you or if you have concerns. I would have come to your door and asked you directly, but I didn't want to catch you at a bad time or put you on the spot.

Thank you,  
Collin O'Hara  
[214-923-9584](tel:214-923-9584)

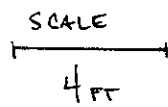
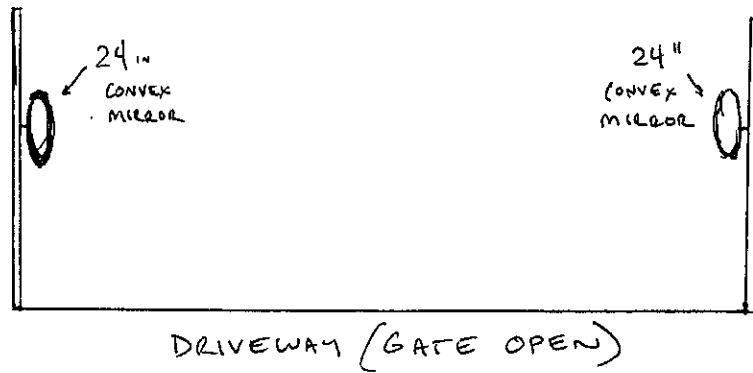
<https://mail.google.com/mail/u/0/?ui=2&ik=d4bad646bc&view=pt&search=inbox&msg=157063d877817dbc&dsqt=1&siml=157063d877817dbc>

Page 1 of 1

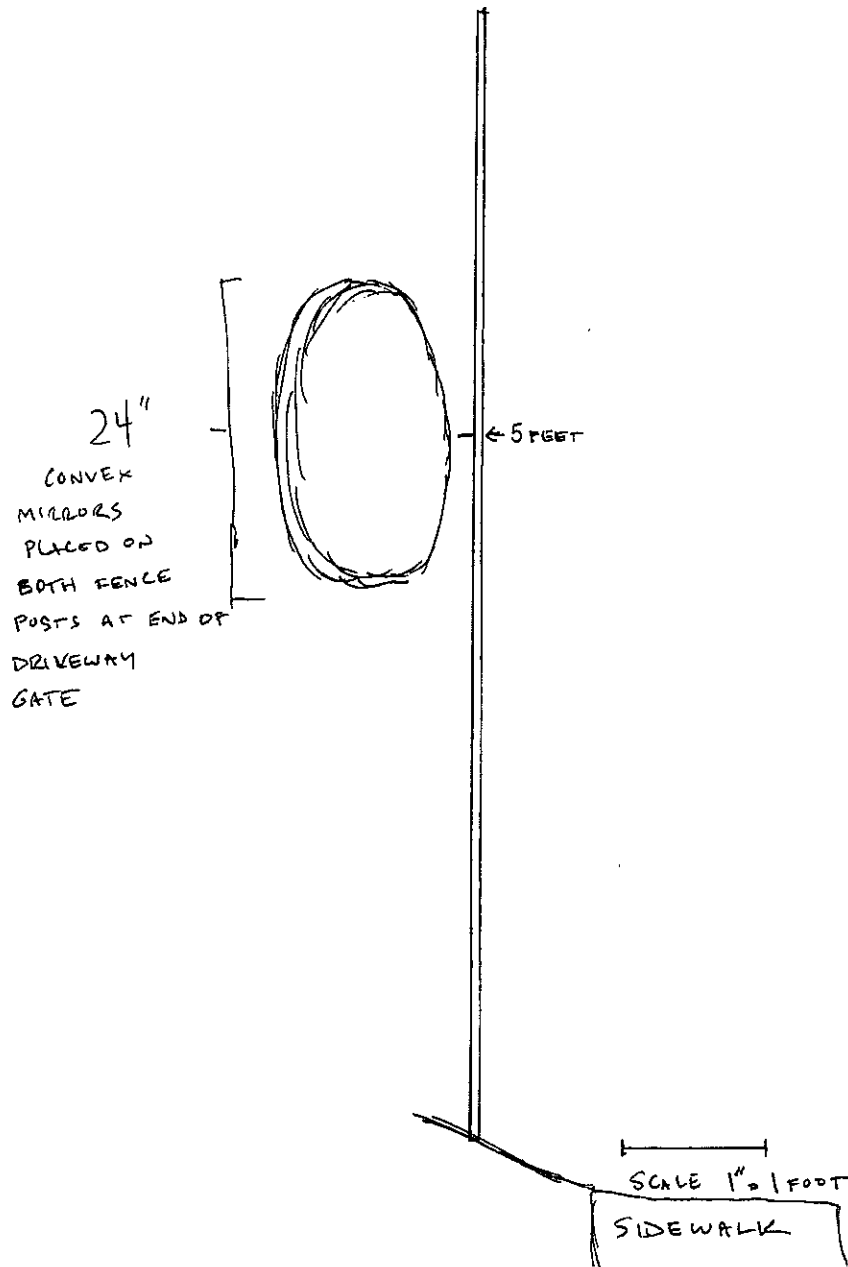
BDA156-087  
Attach A pg 5



CONVEX MIRROR ADDITION



### CONVEX MIRROR ADDITION





City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-087

Data Relative to Subject Property:

Date: 5/10/16

Location address: 611 LARGENT AVE Zoning District: R-10(A)

Lot No.: 42<sup>PORTION</sup> Block No.: C/2777 Acreage: 0.596 Census Tract: 13.01

Street Frontage (in Feet): 1) 145.82' 2) ~~22.41'~~ 3) 145.04' 4) \_\_\_\_\_ 5) 5024

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): TOBY GRAY AND COLIN O'HARA

Applicant: TOBY GRAY Telephone: 214-927-9155

Mailing Address: 611 LARGENT AVE, DALLAS TX Zip Code: 75214

E-mail Address: tobygray5@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 4 FEET OF FENCING FOR A FRONT YARD PLACEMENT OF FENCE IN A VISIBILITY TRIANGLE AT DRIVEWAY.

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:  
FENCE IS PRESENT ALONG DEAD END STREET WITH ONLY THE DRIVEWAY ACCESSIBLE FROM JUNIUS ROAD, AND DOES NOT CAUSE VISUAL OBSTRUCTION FOR PEDESTRIAN OR MOTOR TRAFFIC. FENCE WAS IN PLACE PRIOR TO PURCHASE OF PROPERTY.

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.

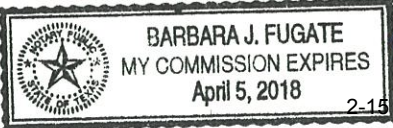
Affidavit

Before me the undersigned on this day personally appeared TOBY GRAY  
(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 11 day of May, 2016



Barbara J. Fugate  
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 Toby Gray

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

at 611 Largent Avenue

BDA156-037. Application of Toby Gray for a special exception to the fence height regulations and a special exception to the visibility obstruction regulations at 611 Largent Avenue. This property is more fully described as Lots 1, 2, and part of Lot 9, Block C/2777 and is zoned R-10(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulation, and to construct a residential fence structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

Sincerely,

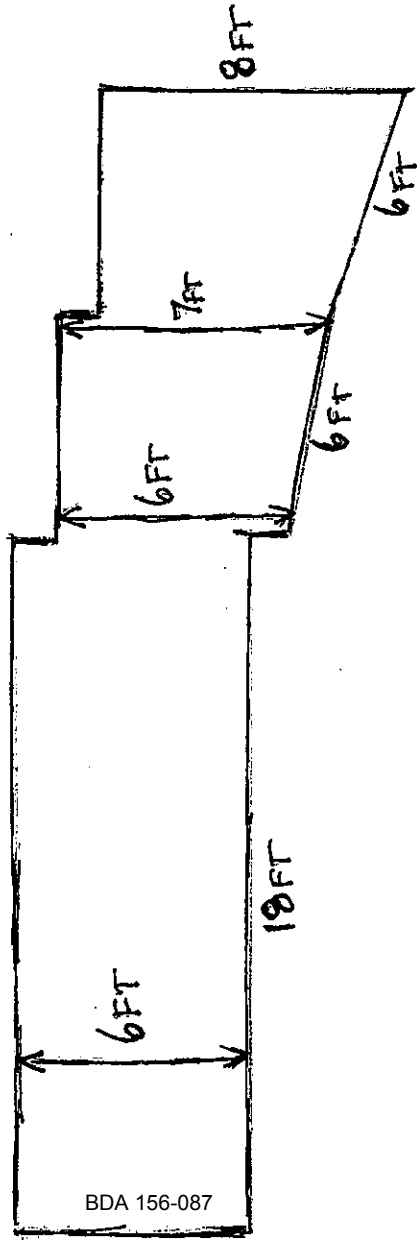
*Philip Sikes*  
Philip Sikes, Building Official







FRONT (FACING LARGENT)



BDA 156-087

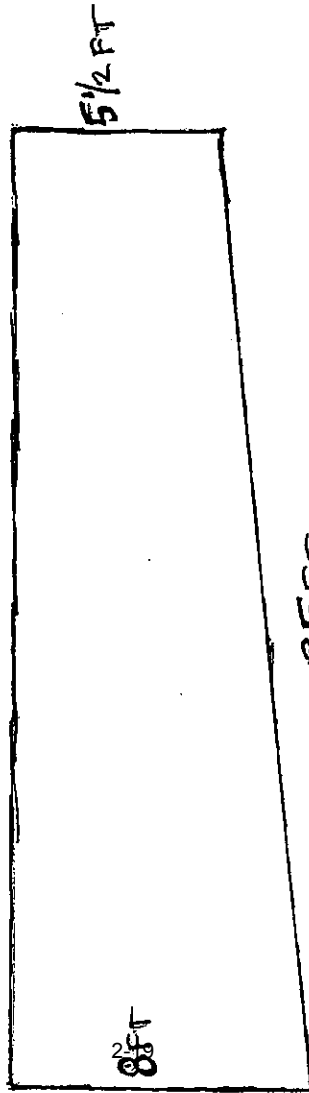
CEDAR BOARD ON BOARD

SCALE

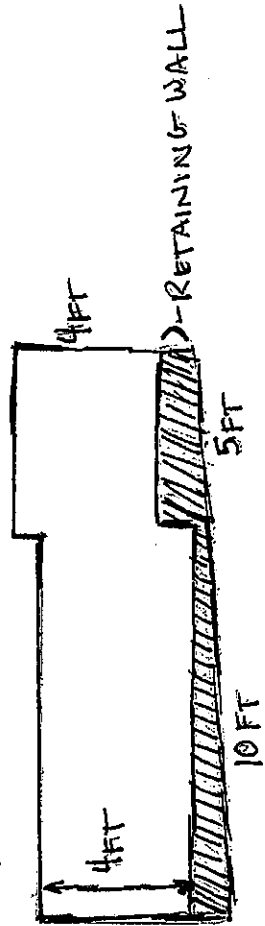


1 INCH = 5 FEET

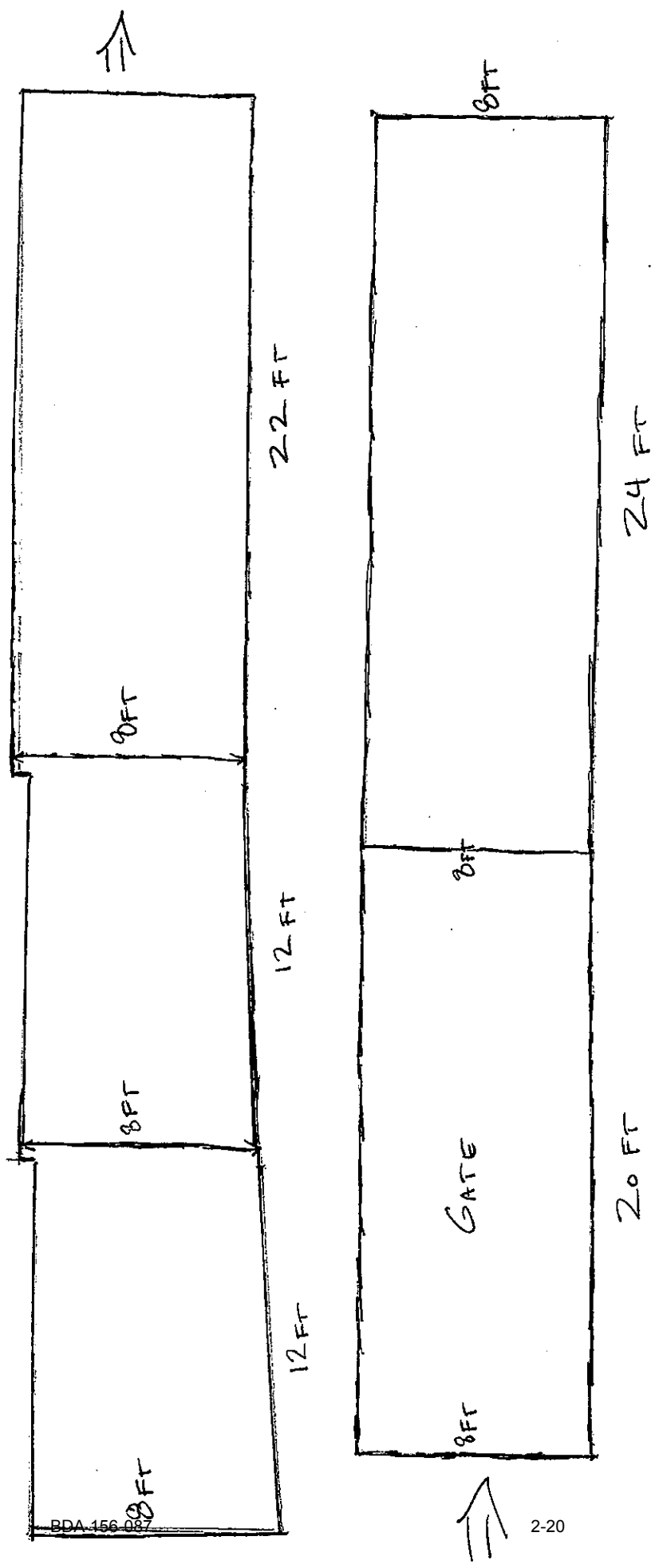
REAR ANGLED PORTION (FACING LOT 9)



REAR STRAIGHT PORTION (FACING LOT 9)



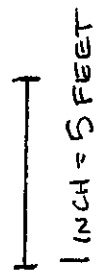
LONG PORTION WITH GATE (FACING JUNIUS)



BDA 156 887

CEDAR BOARD ON BOARD

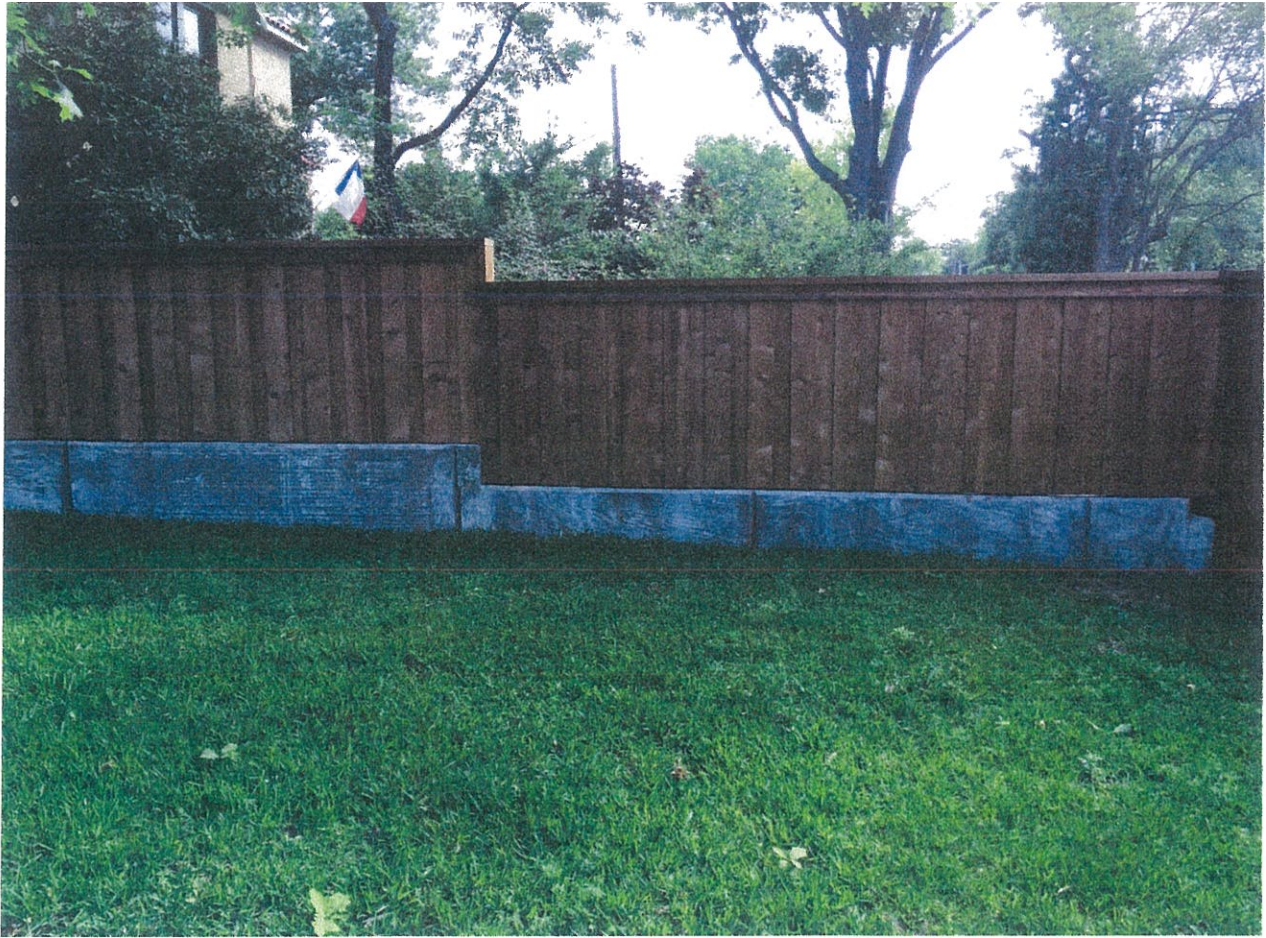
SCALE















1:1,200

# NOTIFICATION

**200'**

AREA OF NOTIFICATION

**17**

NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA156-087**

Date: **8/11/2016**

## *Notification List of Property Owners*

***BDA156-087***

### *17 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	611 LARGENT AVE	A & A RESIDENTIAL DESIGN LLC
2	6312 LA VISTA DR	WILLINGHAM W W III ET AL
3	700 PAULUS AVE	SLOCUM WILLIAM C III
4	708 PAULUS AVE	WILLINGHAM WW 3 TRUSTEE &
5	714 PAULUS AVE	WILLINGHAM W W III TR &
6	1824 ABRAMS RD	1924 ABRAMS LTD
7	522 LARGENT AVE	SPIVEY CRAIG G &
8	614 LARGENT AVE	LINDSEY JAMES D
9	618 LARGENT AVE	CLOUTMAN E B III
10	622 LARGENT AVE	KING HARRELL GILL
11	626 LARGENT AVE	STROH DENA DENOYER &
12	6223 WORTH ST	ADAMS RONALD B II & ANN A
13	6211 WORTH ST	TESFAY SEIFU T &
14	6201 WORTH ST	CAMPBELL EUGENE W
15	6216 JUNIUS ST	LAKE DONNA M
16	6228 WORTH ST	STRAUGHN CHRISTOPHER J &
17	6220 WORTH ST	ROGERS MARK A

**FILE NUMBER:** BDA156-091(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Thomas Barnhart for a variance to the off-street parking regulations at 5017 W. Lovers Lane. This property is more fully described as Lot 34, Block A/5006, and is zoned CR, which requires that the owner of off-street parking must provide screening to separate the parking area from a contiguous residential use or vacant lot if either is in an A, A(A), R, R(A), D, D(A), TH, TH(A), CH, MF, MF(A), MH, or MH(A) district and the parking area serves a nonresidential use. The applicant proposes to construct and/or maintain a structure and not provide the required screening, which will require a variance to the off-street parking regulations.

**LOCATION:** 5017 W. Lovers Lane

**APPLICANT:** Thomas Barnhart

**REQUEST:**

A request for a variance to the off-street parking regulations, more specifically the screening provisions for off-street parking, is made to lease and maintain a general merchandise or food store less than 3,500 square foot use on the subject site that is developed with a vacant nonresidential structure, and with no screening between the required off-street parking on the site for this proposed use and the property to the north across an alley zoned R-7.5(A) and single family residential in use.

**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, 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:

- The applicant had not substantiated how the physical features of the flat, rectangular in shape (59'x 25'), 0.8 acres (or approximately 3,500 square feet) site preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same CR zoning classification.
- Staff concluded that any hardship in this case is self-created in that the required screening that the applicant seeks variance for is prompted by the applicant's proposal/choice to obtain a certificate of occupancy (CO) for a new general merchandise or food store less than 3,500 square foot use that requires a greater number of off-street parking spaces than the original use, and that the City could issue a new CO to the applicant for the same use that had occupied the site with no screening required or variance to the off-street parking regulations related to screening required.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: CR (Community retail)
- North: R-7.5(A) (Single family residential 7,500-square feet)
- South: PD 771 & MC-1 (Planned Development and Multiple commercial)
- East: CR (Community retail)
- West: CR (Community retail)

**Land Use:**

The subject site is developed with a vacant nonresidential structure. The area to the north is developed with a single family residential; the areas to the east and west are developed with retail uses; and the area to the south appears to be developed with office 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 (screening of off-street parking variance):**

- This request for a variance to the off-street parking regulations focuses on leasing and maintaining a general merchandise or food store less than 3,500 square foot use on the subject site that is developed with a vacant nonresidential structure, and with no screening between the required off-street parking on the site for this

proposed use and the property to the north across an alley zoned R-7.5(A) and single family residential in use.

- The Dallas Development Code states the following related to the screening of off-street parking:
  - (1) The owner of off-street parking must provide screening to separate the parking area from:
    - (A) a contiguous residential use or vacant lot if either is in an A, A(A), R, R(A), D, D(A), TH, TH(A), CH, MF, MF(A), MH, or MH(A) district and the parking area serves a nonresidential use; or
    - (B) a contiguous single family or duplex use or a vacant lot if any of these are in an R, R(A), D, D(A), TH, TH(A), or CH district and the parking area serves a multifamily use.
  - (2) If an alley separates a parking area from another use, the use is considered contiguous to the parking area. If a street separates a parking area from another use, the use is not considered contiguous to the parking area.
- The Dallas Development Code states that the screening for off-street parking required under Subsection (f)(1) must be a brick, stone, or concrete masonry, stucco, concrete, or wood wall or fence that is not less than six feet in height. The wall or fence may not have more than ten square inches of open area for each square foot of surface area, and may not contain any openings or gates for vehicular access. The owner of off-street parking must maintain the screening in compliance with these standards.
- The applicant submitted a site plan that indicates no screening to be provided between the off-street parking on the site and the property to the north across an alley zoned R-7.5(A) and single family residential in use.
- Building Inspection has stated that the required screening that the applicant seeks variance for is prompted by the applicant's proposal/choice to obtain a certificate of occupancy (CO) for a new use that requires a greater number of off-street parking spaces than the original use, and that the City could issue a new CO to the applicant for the same use that had occupied the site with no screening required or variance to the off-street parking regulations related to screening required.
- According to DCAD records, the "improvements" for property addressed at 5017 W. Lovers Lane is a 1,500 square foot "free standing retail store" constructed in 1946.
- The subject site is flat, rectangular in shape (59'x 25'), and according to the application, 0.8 acres (or approximately 3,500 square feet) in area.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the off-street parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same CR 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 CR zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the applicant would be able to lease the vacant nonresidential structure on the site as a general merchandise or food store less than 3,500 square foot use with no screening between the required off-street parking for this proposed use on the site and the property to the north across an alley zoned R-7.5(A) and single family residential in use.

**Timeline:**

July 12, 2016: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

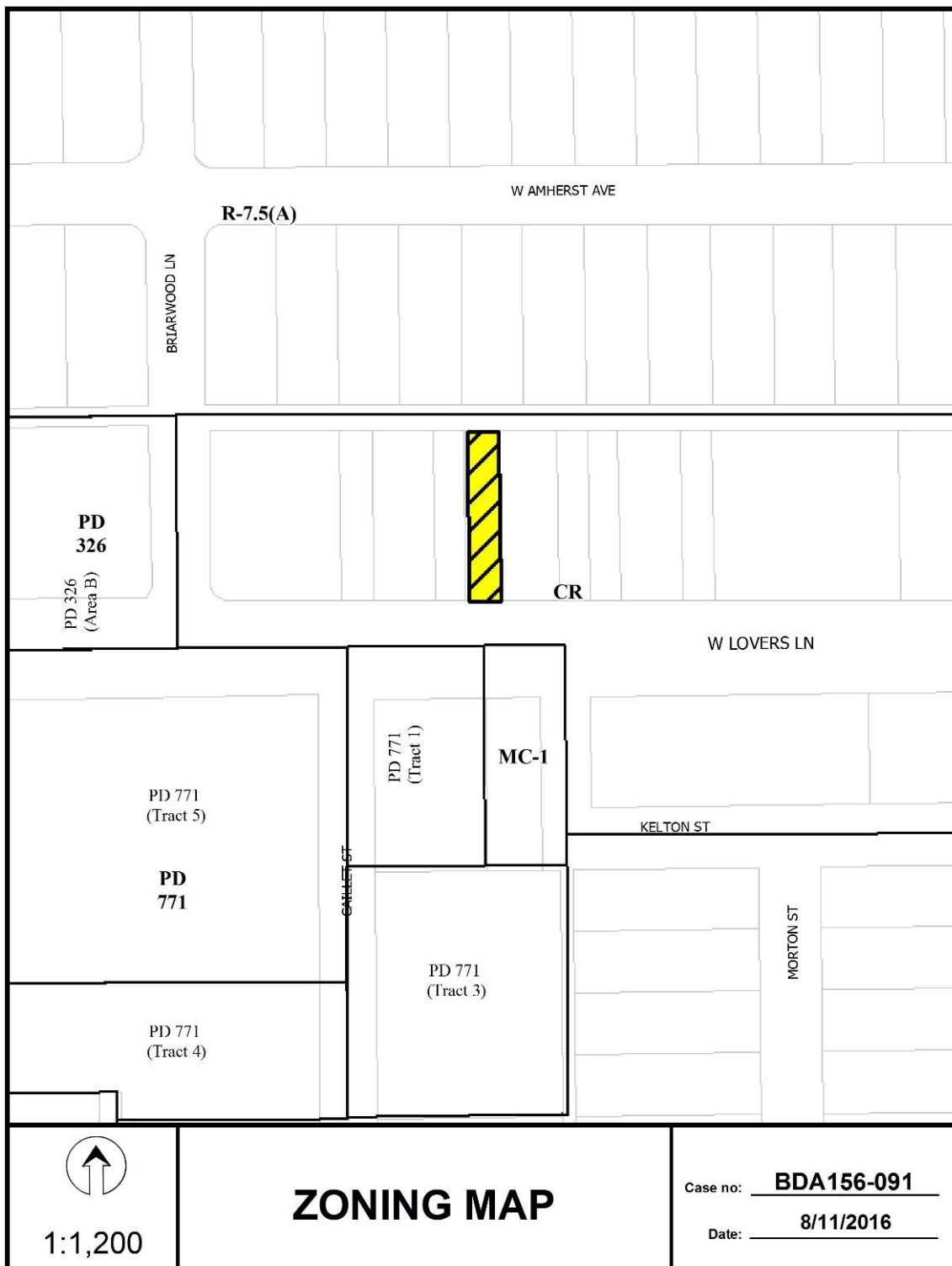
August 4, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

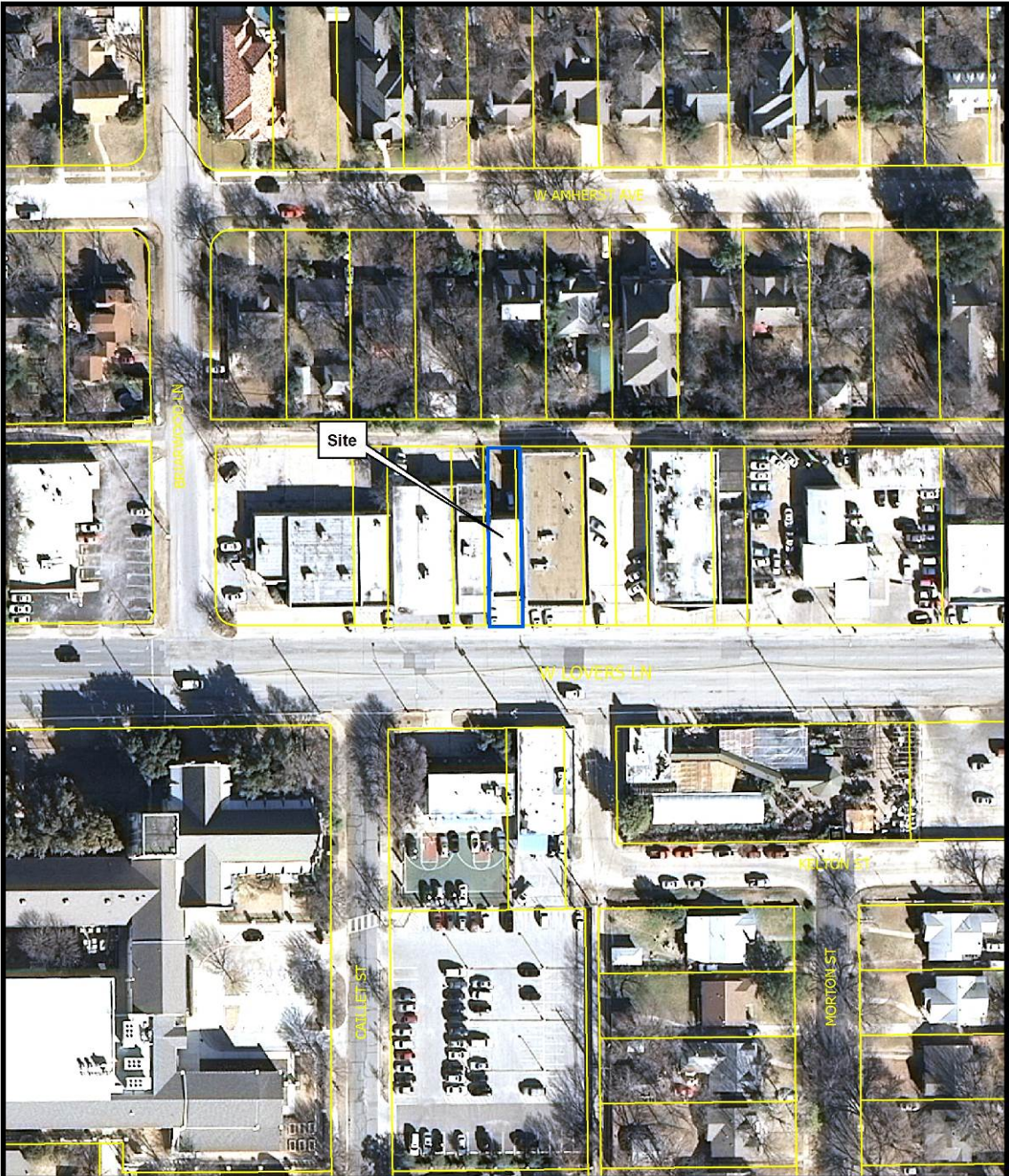
August 5, 2016: The Board Administrator emailed the applicant the following information:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the August 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 9<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.”
- 

September 6, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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





1:1,200

# AERIAL MAP

Case no: BDA156-091

Date: 8/11/2016





City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-091

Data Relative to Subject Property:

Date: 7-12-16

Location address: 5017 W LOVEDS LANE Zoning District: CR

Lot No.: 34 Block No.: A/5006 Acreage: .08 Census Tract: 73.02

Street Frontage (in Feet): 1) 25 2) 3) 4) 5) NW21A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): JOSLYN NICOLE BARNHART

Applicant: THOMAS BARNHART Telephone: 214 924 9112

Mailing Address: 4515 GLOSTER RD Zip Code: 75220

E-mail Address: tombarhart@sbcglobal.net

Represented by: THOMAS BARNHART Telephone:

Mailing Address: 4515 GLOSTER RD Zip Code: 75220

E-mail Address: tombarhart@sbcglobal.net

Affirm that an appeal has been made for a Variance  or Special Exception  of SEC. 51A-4.301 (4)(1)(A) ~~STRONG THE OWNER MUST PROVIDE SCREENING FOR OFF STREET PARKING TO SEPARATE THE PARKING AREA FROM CONTIGUOUS RESIDENTIAL USE R DISTRICT AND THE PARKING AREA SERVES A NONRESIDENTIAL USE.~~

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

~~DUE TO SIZE OF PROPERTY - PRIMARILY 25 FEET WIDTH - ENGINEERING STUDIES HAVE FAILED TO DERIVE A PLAN TO PROVIDE BOTH SCREENING AND ACCESS TO OFF STREET PARKING. ALTHOUGH ZONED COMMUNITY RETAIL THE PROPERTY HAS ONLY 4 DEDICATED CREDITS AND THREE ADDITIONAL OFF STREET PARKING SPACES ARE REQUIRED FOR USE IN ITS ZONED PURPOSE.~~

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 THOMAS BARNHART (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 12 day of July, 2016

(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 Thomas Barnhart

did submit a request for a variance to the off-street parking regulation  
at 5017 W. Lovers Lane

BDA156-091. Application of Thomas Barnhart for a variance to the off-street parking regulation at 5017 W. Lovers Lane. This property is more fully described as Lot 34, Block A/5006, and is zoned CR, which requires that the owner of off-street parking must provide screening to separate the parking area from a contiguous residential use or vacant lot if either is in an A, A(A), R, R(A), D, D(A), TH, TH(A), CH, MF, MF(A), MH, or MH(A) district and the parking area serves a nonresidential use. The applicant proposes to construct and maintain a nonresidential structure and not provide the required screening, which will require a variance to the off-street parking regulation.

Sincerely,

*Philip Sikes*  
Philip Sikes, Building Official

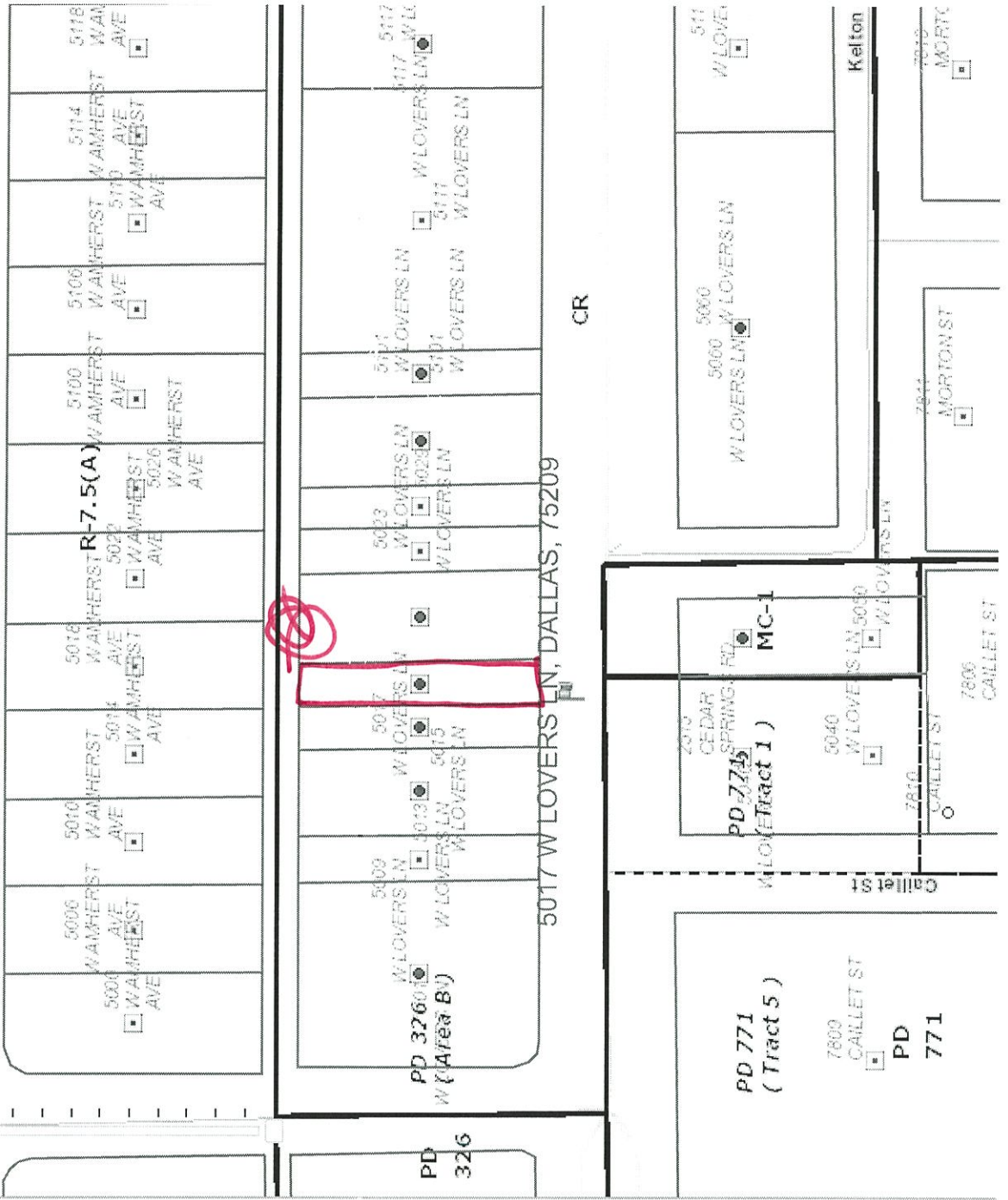
# City of Dallas

## Internal Development Research Site

Legend

Locate Property

W Amherst Ave



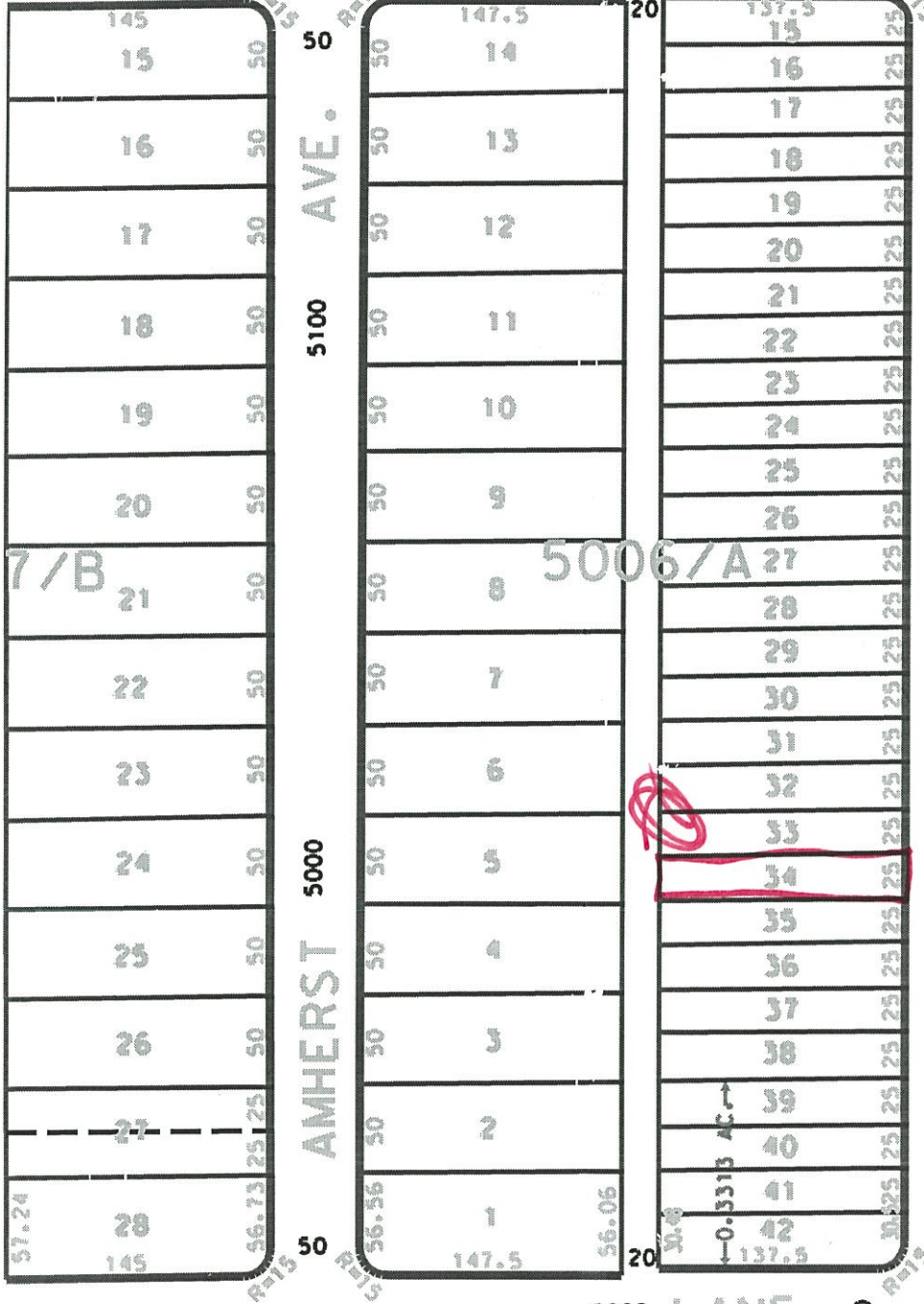


ADDITION

8100

8000

ST. 25



65

LANE

5100

5000

LOVERS

65

60

4834

ADDITION

HEIGHTS

4833

LANE

4832

LOVERS

4827

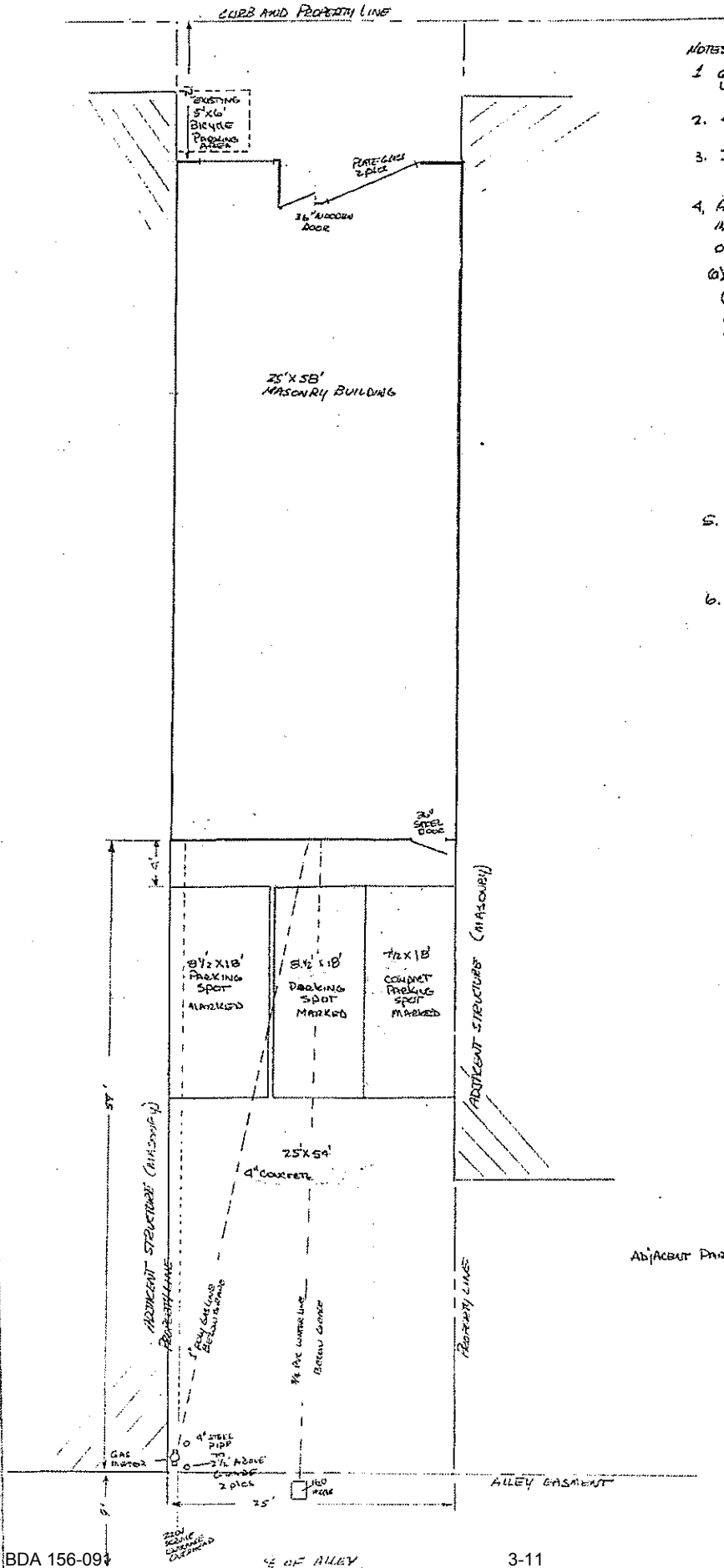
00

8000

LANE

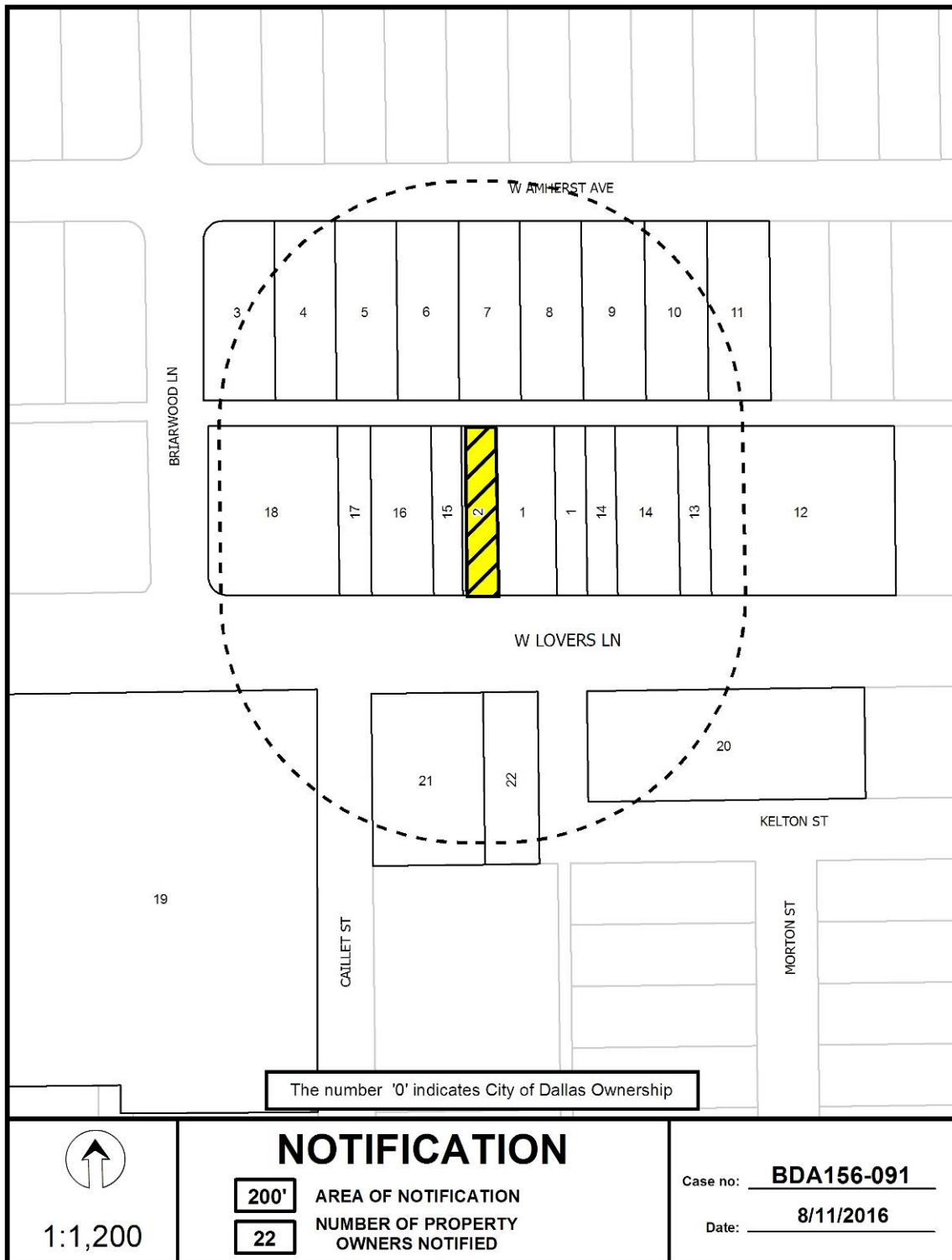
50

W LOVERS LANE



- NOTES:
1. GENERAL MERCHANDISE OR FOOD STORES LESS THAN 3500 SF
  2. 4 DELTA CREDITS FOR PARKING
  3. 3 ADDITIONAL PARKING SPOTS DESIGNATED IN ZONE OF BUILDING
  4. ACCESS TO PARKING FROM ALLEY IN ACCORDANCE WITH SEC. 51A-303 OFF STREET PARKING REGULATIONS
    - (A) GENERAL PROVISIONS
    - (B) IN AN AGRICULTURAL, MULTIFAMILY, MH(A), OR NON RESIDENTIAL DISTRICT, A PERMIT SHALL NOT BE GRANTED OR MAINTAIN A PARKING LOT OR GARAGE THAT HAS ACCESS TO A PUBLIC ALLEY OR ACCESS EASEMENT THAT ABUTS OR IS IN AN R, R(A), D, D(A), TH, TH(A), OR CH DISTRICT UNLESS THE DIRECTOR APPROVES THE MEANS OF ACCESS
  5. A 5'x6' BICYCLE PARKING SPACE IS DESIGNATED BETWEEN LOVERS LANE SIDEWALK AND FRONT OF BUILDING
  6. BICYCLE PARKING RACK CONSTRUCTED OF 2" DIAMETER STEEL TUBING SHAPED IN A U BEND WITH LEGS 22" ON CENTER AND A HEIGHT OF 36"

5017 W LOVERS LANE  
 PLOT PLAN  
 - 1 Foot  
 TOM BARNHART  
 2149249112



The number '0' indicates City of Dallas Ownership



1:1,200

# NOTIFICATION

**200'** AREA OF NOTIFICATION  
**22** NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA156-091**  
 Date: **8/11/2016**

## *Notification List of Property Owners*

### *BDA156-091*

#### *22 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5023 W LOVERS LN	CROFT T GEORGE
2	5017 W LOVERS LN	BARNHART JOSLYN NICOLE
3	5000 W AMHERST AVE	JONES LAUREL
4	5006 W AMHERST AVE	MENDOZA MARIA DEL ROSARIO
5	5010 W AMHERST AVE	BRANAM DAWN M
6	5014 W AMHERST AVE	MILLER EMILY D
7	5018 W AMHERST AVE	ROLLINS CHESTER BOLTON &
8	5022 W AMHERST AVE	5022 W AMHERST LLC
9	5026 W AMHERST AVE	BLANCHARD FRANCES A TRUSTEE OF THE
10	5100 W AMHERST AVE	GUGENHEIM NANCY GENE
11	5106 W AMHERST AVE	WHITEHEAD JOHN RANDALL
12	5111 W LOVERS LN	MATUS WITOLD &
13	5101 W LOVERS LN	CHANTILIS ANGELO S
14	5027 W LOVERS LN	JOE F G
15	5015 W LOVERS LN	5013 15 LOVERS LANE PS
16	5013 W LOVERS LN	5013 15 LOVERS LANE PS
17	5009 W LOVERS LN	WALDMAN FLORENCE A &
18	5001 W LOVERS LN	LOVERS LANE ANTIQUE
19	5002 W LOVERS LN	PROVIDENCE CHRISTIAN
20	5060 W LOVERS LN	BRACKEN LINDA B FAMILY TRUST
21	5040 W LOVERS LN	PROVIDENCE CHRISTIAN
22	5050 W LOVERS LN	A & D HARRIS FMLY LTD PS

**FILE NUMBER:** BDA156-093(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Karen Leger for special exception to the fence height and visual obstruction regulations at 10715 Wyatt Street. This property is more fully described as Lot 17, Block 8/5364, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches and requires a 45 foot visibility triangle at street intersections. The applicant proposes to construct and maintain a 9 foot high fence, which will require a 5 foot special exception to the fence height regulations, and to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

**LOCATION:** 10715 Wyatt Street

**APPLICANT:** Karen Leger

**REQUESTS:**

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

1. A request for a special exception to the fence height regulations of 5' is made to replace an existing 6' high open wrought iron picket fence with a solid cedar fence (ranging from 5' 8" – 5' 9" in height) to be located atop a proposed concrete retaining wall (ranging from 2' 2" – 3' 4" in height) in the site's Maplegrove Lane 30' required front yard.
2. Requests for special exceptions to the visual obstruction regulations are made to replace and maintain the aforementioned open wrought iron picket fence with a solid cedar fence in: 1) the 20' visibility triangle on the south side of the driveway into the site from Maplegrove Lane, and 2) the 45' visibility triangle at the intersection of Maplegrove Lane and Wyatt Street.

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

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

**STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:**

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



**STAFF RECOMMENDATION (fence height):**

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

**STAFF RECOMMENDATION (visual obstruction special exceptions):**

1. Denial of the request for a special exception to the visual obstruction regulations related to locating and maintaining a solid cedar fence in the 20' visibility triangle on the south side of the driveway into the site from Maplegrove Lane

Rationale:

- Staff concurs with the Sustainable Development and Construction Department Project Engineer who recommended denial of this request stating that the proposed fence in this triangle would create a safety hazard to pedestrian traffic.
- The applicant had not substantiated how the location and maintenance of the proposed fence in this 20' drive approach visibility triangle does not constitute a traffic hazard.

2. Approval of the request for a special exception to the visual obstruction regulations related to locating and maintaining a solid cedar fence in the 45' visibility triangle at the intersection of Maplegrove Lane and Wyatt Street, subject to the following condition:

- Compliance with the submitted site plan/elevation is required.

Rationale:

- Staff concurs with the Sustainable Development and Construction Department Project Engineer who has no objection to that the proposed fence in this triangle.

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

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

**Zoning/BDA History:**

1. Miscellaneous Item #2, BDA 156-093, Property at 10715 Wyatt Street ( the subject site) On September 20, 2016, the Board of Adjustment Panel A will consider reimbursing the filing fee made in conjunction with this application.

**GENERAL FACTS/STAFF ANALYSIS (fence height):**

- This request for a special exception to the fence height regulations of 5' focuses on replacing an existing 6' high open wrought iron picket fence with a solid cedar fence (ranging from 5' 8" – 5' 9" in height) to be located atop a proposed concrete retaining wall (ranging from 2' 2" – 3' 4" in height) in the site's Maplegrove Lane 30' required front yard.
- The subject site is zoned R-7.5(A) which requires a minimum front yard setback of 25'. The subject site has a 30' platted building line on both Maplegrove Lane and Wyatt Street.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The subject site is located at the northeast corner of Maplegrove Avenue and Wyatt Street.
- Given the single family zoning and location of the corner lot subject site, it has two required front yards. The site has a 30' required front yard along Maplegrove Lane (the shorter of the two frontages of the subject site which is always a front yard), and a 30' required front yard along Wyatt Street, (the longer of the two frontages which is typically considered a side yard where on this R-7.5(A) zoned property a 9' high fence could be erected by right). However the site has a required front yard along Wyatt Street in order to maintain continuity of the established front yard setback along this street frontage where homes/lots to the east "front" on Wyatt Street.
- A scaled site plan/fence elevation has been submitted indicating a fence proposal that will reach 9' in height in the 30' Maplegrove Lane required front yard.
- The applicant has stated that the proposed solid cedar fence would be in approximately the same location as the existing open wrought iron picket fence on the property.
- The following information was gleaned from the submitted site plan/elevation:
  - The proposal is represented as being approximately 56' in length parallel to the Maplegrove Lane, and 30' in length perpendicular to this street on the north and south sides of the site in this required front yard.
  - The proposal is represented as being located approximately on the Maplegrove Lane front property line or 12' from this pavement line.
- The proposal is located across from a lot developed with a single family home that fronts south to Wyatt Street with no fence in the front yard setback.
- The Board Administrator conducted a field visit of the site and surrounding area along Maplewood Lane (approximately 200' north and south of the subject site) and noted a no other fences that appeared to be above 4' in height in front yards.

- As of September 9, 2016, a petition with 14 signatures and two letters has been submitted in support of the request, and no letters have been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 5' will not adversely affect neighboring property.
- Granting this special exception request of 5' with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding 4' in height in the Maplegrove Lane required front yard to be constructed and maintained in the location and of the heights and material as shown on this document.

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

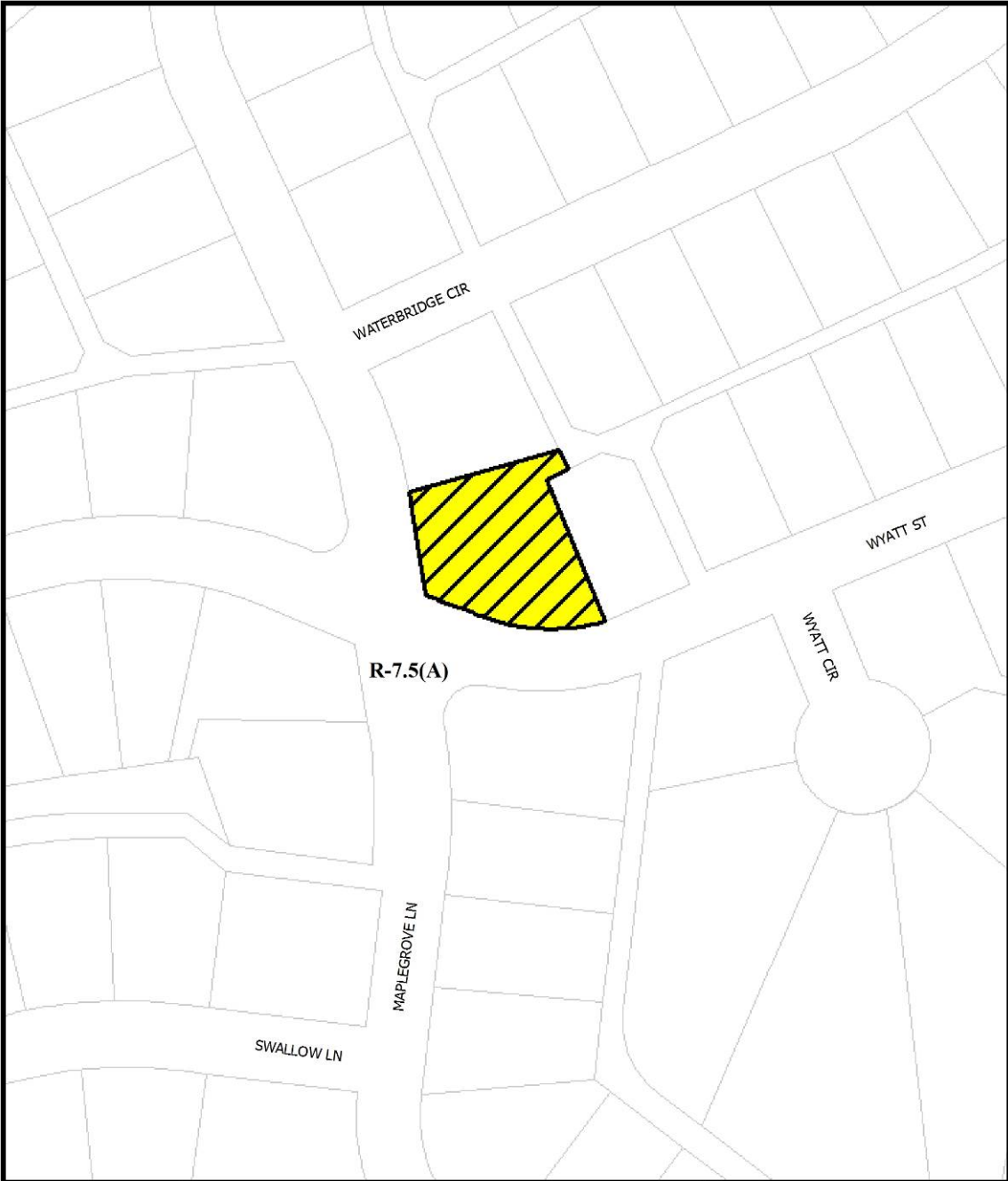
- These requests for special exceptions to the visual obstruction regulations focus on replacing an existing 6' high open wrought iron picket fence with a solid cedar fence (ranging from 5' 8" – 5' 9" in height) to be located atop a proposed concrete retaining wall (ranging from 2' 2" – 3' 4" in height) in: 1) the 20' visibility triangle on the south side of the driveway into the site from Maplegrove Lane, and 2) the 45' visibility triangle at the intersection of Maplegrove Lane and Wyatt Street.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
  - in a visibility triangle as defined in the Code (45 foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
  - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The applicant has submitted a site plan/elevation representing a solid cedar fence (ranging from 5' 8" – 5' 9" in height) to be located atop a proposed concrete retaining wall (ranging from 2' 2" – 3' 4" in height) in: 1) the 20' visibility triangle on the south side of the driveway into the site from Maplegrove Lane, and 2) the 45' visibility triangle at the intersection of Maplegrove Lane and Wyatt Street.
- The applicant has stated that the proposed solid cedar fence would be in approximately the same location as the existing open wrought iron picket fence on the property.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following additional comment: "There are no objections to the proposed fence encroachment into the intersection visibility triangle. Engineering recommends denial of the proposed fence into the driveway visibility triangle as this would create a safety hazard to pedestrian traffic".
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to locate and maintain a solid cedar fence (ranging from 5' 8" – 5' 9" in height) to be located atop a proposed concrete retaining wall (ranging from 2' 2" – 3' 4" in height) in: 1) the 20' visibility triangle on the south side of the driveway into the site from Maplegrove Lane, and 2)

the 45' visibility triangle at the intersection of Maplegrove Lane and Wyatt Street do not constitute a traffic hazard.

- The Board can make a separate determination of the requests for special exceptions to the visual obstruction regulation in this application. Granting both or one of these requests with the condition that the applicant complies with the submitted site plan/elevation would require the items in the visibility triangles to be limited to and maintained to the locations, height and materials as shown on this document.

**Timeline:**

- June 24, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 4, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- August 5, 2016: The Board Administrator emailed the applicant the following information:
- a copy of the application materials including the Building Official's report on the application;
  - an attachment that provided the public hearing date and panel that will consider the application; the August 31<sup>st</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 9<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 requests; and
  - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- September 6, 2016: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, the Sustainable Development and Construction Department Senior Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.
- September 7, 2016: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following additional comment: "There are no objections to the proposed fence encroachment into the intersection visibility triangle. Engineering recommends denial of the proposed fence into the driveway visibility triangle as this would create a safety hazard to pedestrian traffic".



1:1,200

# ZONING MAP

Case no: BDA156-093

Date: 8/11/2016



1:1,200

# AERIAL MAP

Case no: BDA156-093

Date: 8/11/2016



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-093

Data Relative to Subject Property:

Date: 6-24-16

Location address: 10715 Wyatt Street

Zoning District: R-7.5(A)

Lot No.: 17 Block No.: 815364 Acreage: .3190

Census Tract: 128.00

Street Frontage (in Feet): 1) 95.35' 2) 136.51' 3) 4) 5) 306A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Justin and Karen Leger

Applicant: Karen Leger Telephone: 469-693-0768

Mailing Address: 10715 Wyatt Street Dallas, TX Zip Code: 75218

E-mail Address: karenbartonleger@gmail.com

Represented by: Telephone:

Mailing Address: Zip Code:

E-mail Address:

Affirm that an appeal has been made for a Variance, or Special Exception X, of 5 feet allowed over fence height and driveway visibility triangle. As well as street visibility triangle.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: The request and design has no bearing on the neighbors or traffic visibility. This is solely for the safety of our children and integrity of our land as it falls into the sidewalk. The majority of neighbors have also signed approval plans - attached.

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 Karen Leger (Affiant/Applicant's name printed)

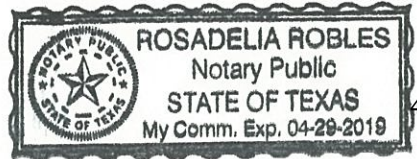
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

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

Subscribed and sworn to before me this 19 day of July, 2016

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

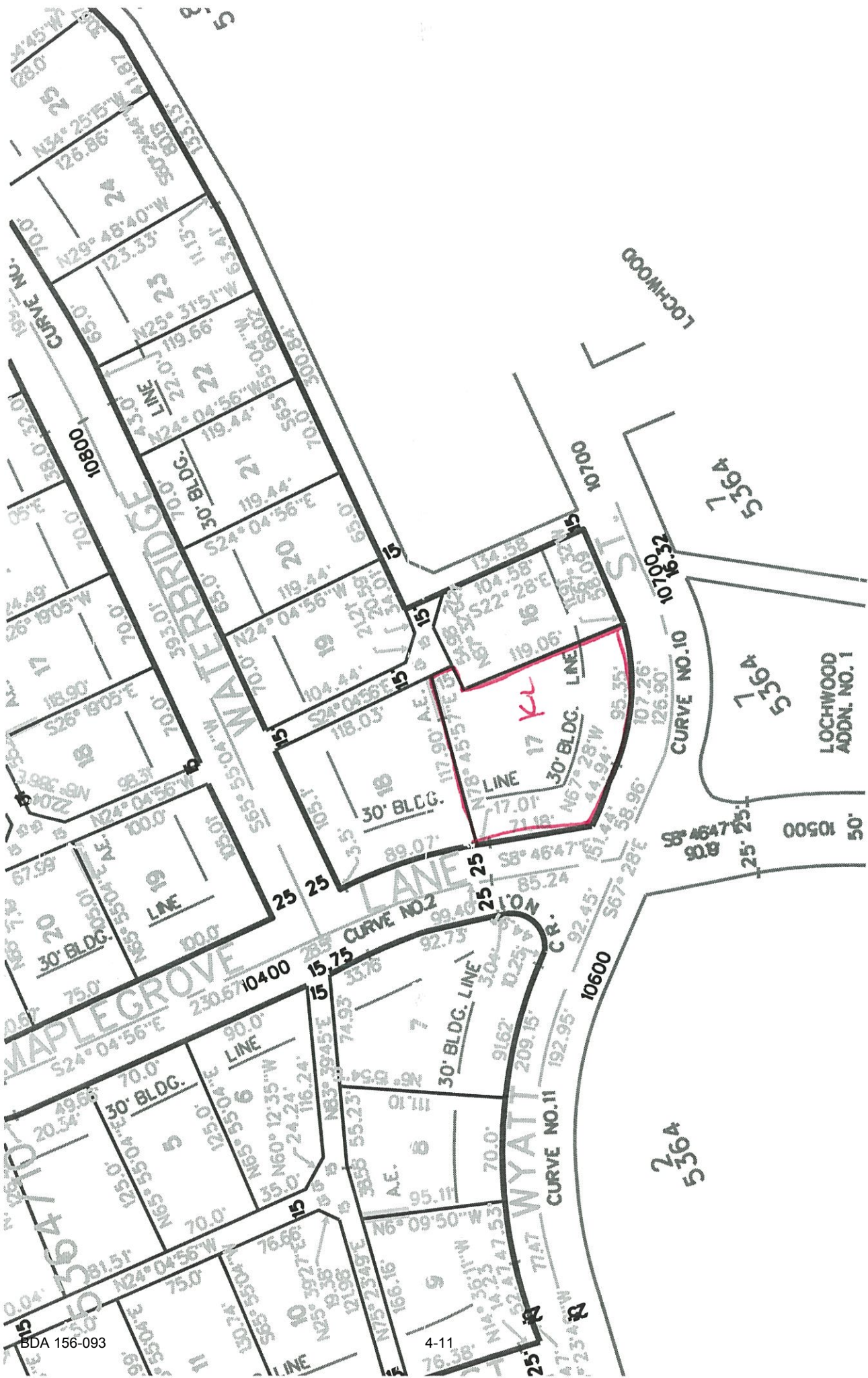
(Rev. 08-01-11)





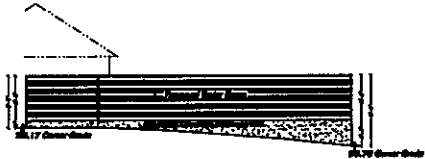
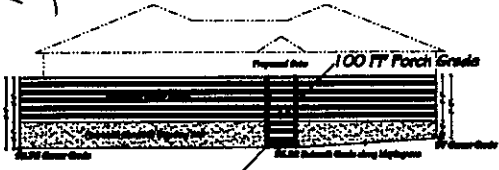
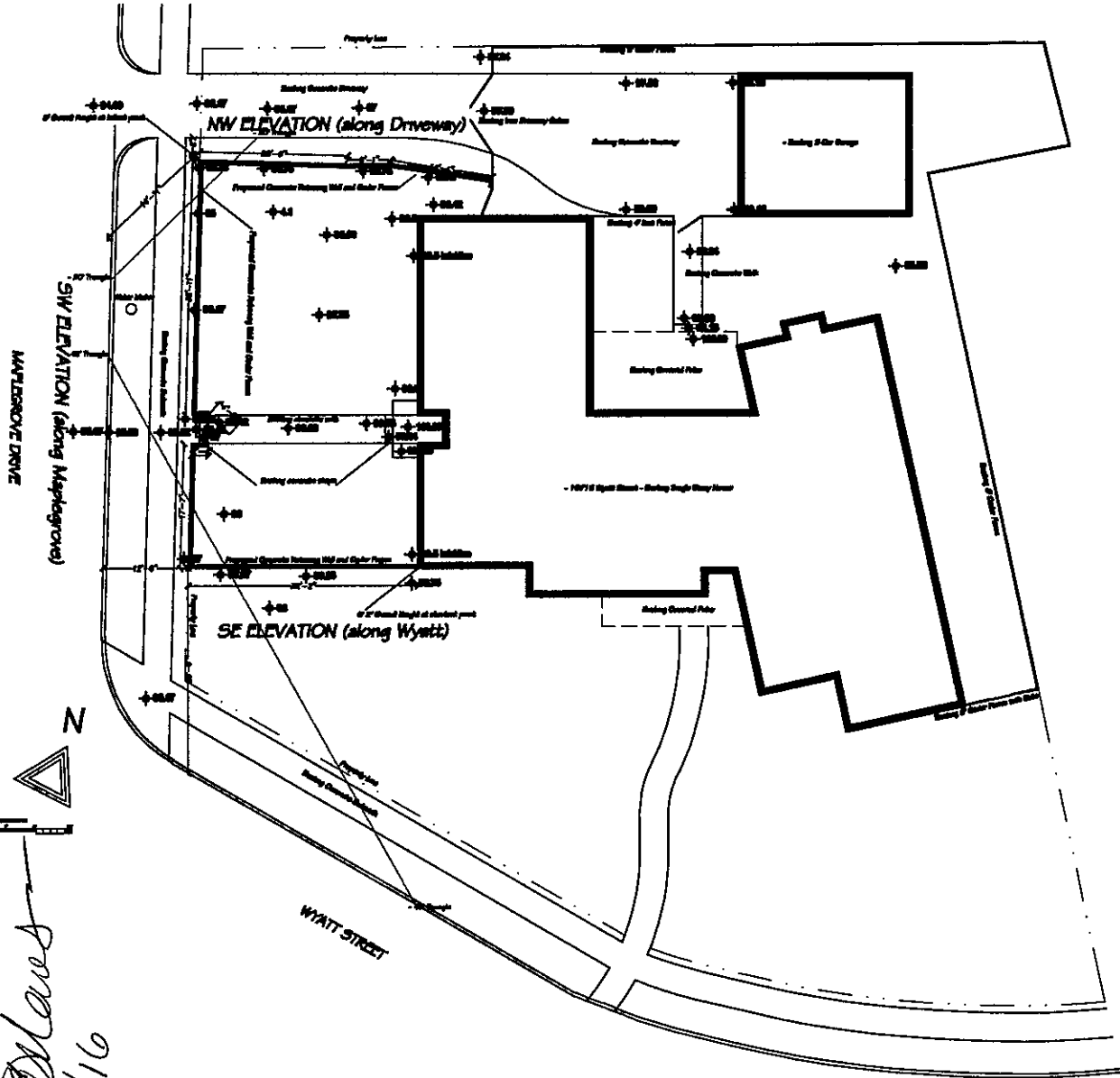






I, Rita M. Lawson; owner of 10744 Wyatt Cir Dallas TX 75218;  
 Am in favor of the plans Karen and Justin Lege have shared with me  
 regarding a new fence and retaining walls on their property  
 at 10715 Wyatt Street.

*Rita Lawson*  
 7/18/16



FENCE HEIGHT SPECIAL EXCEPTION APPEAL  
 VISIBILITY TRIANGLE OBSTRUCTION SPECIAL EXCEPTION APPEAL

PROPOSED SITE PLAN AND IMPROVEMENTS

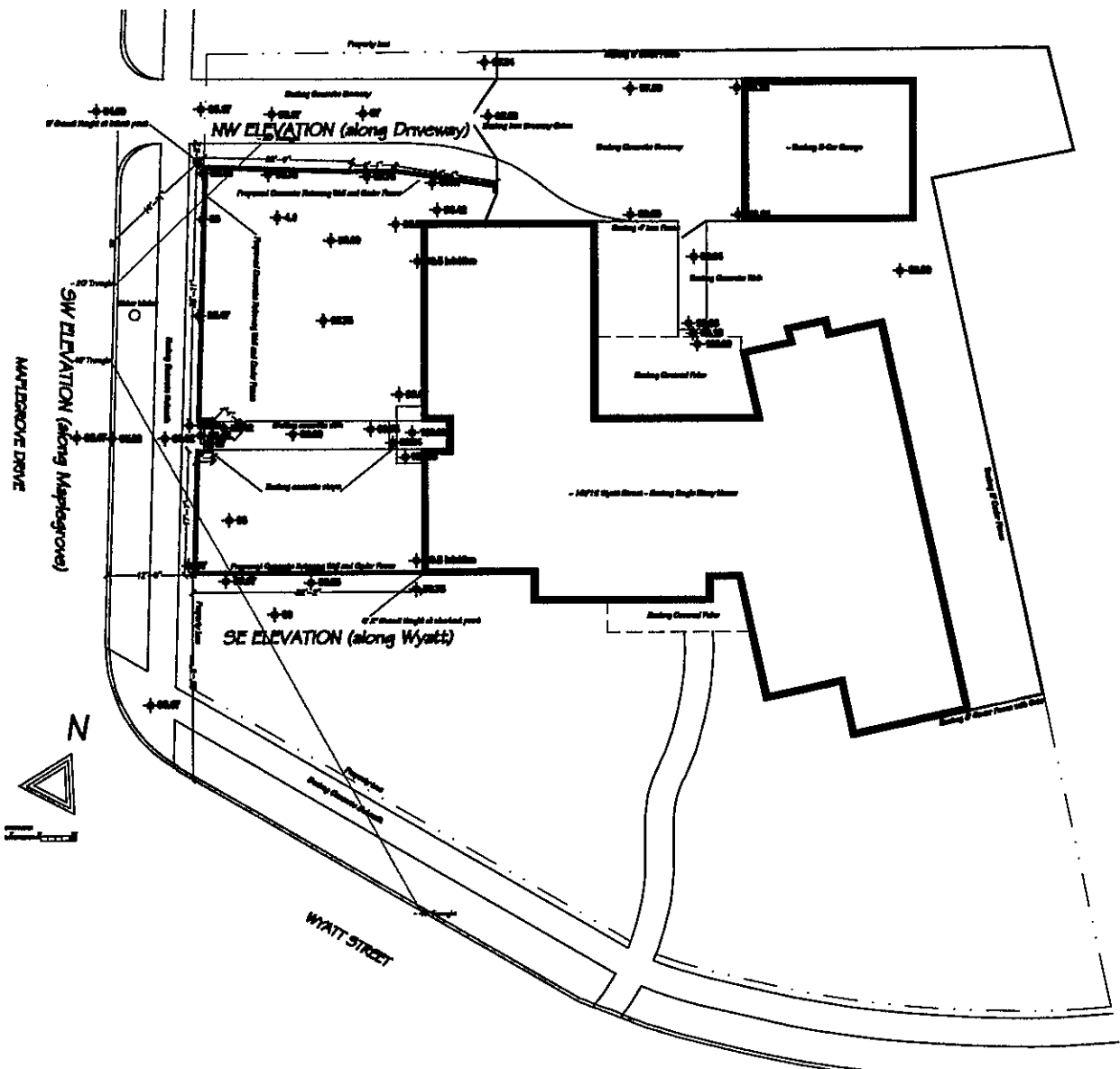


**SMITH AND JONES ARCHITECTURE**  
 10715 WYATT STREET  
 DALLAS TX 75218

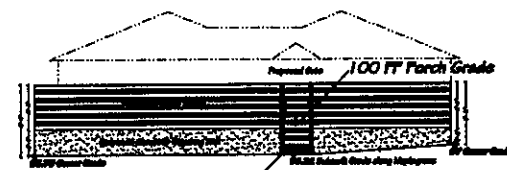


**TRACER MORRIS DESIGN**  
 4-12  
 580 PENNY ROAD  
 DALLAS TX 75218  
 214-540-0904

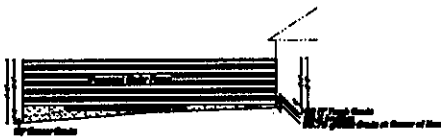
Scale: 1/8" = 1'-0"  
 Date: JUNE 10 - 2016  
 Revisor:



FB



SW ELEVATION (along Maple Grove)



SE ELEVATION (along Wyatt)



NW ELEVATION (along Driveway)

FENCE HEIGHT SPECIAL EXCEPTION APPEAL  
 VISIBILITY TRIANGLE OBSTRUCTION SPECIAL EXCEPTION APPEAL  
 PROPOSED SITE PLAN AND IMPROVEMENTS

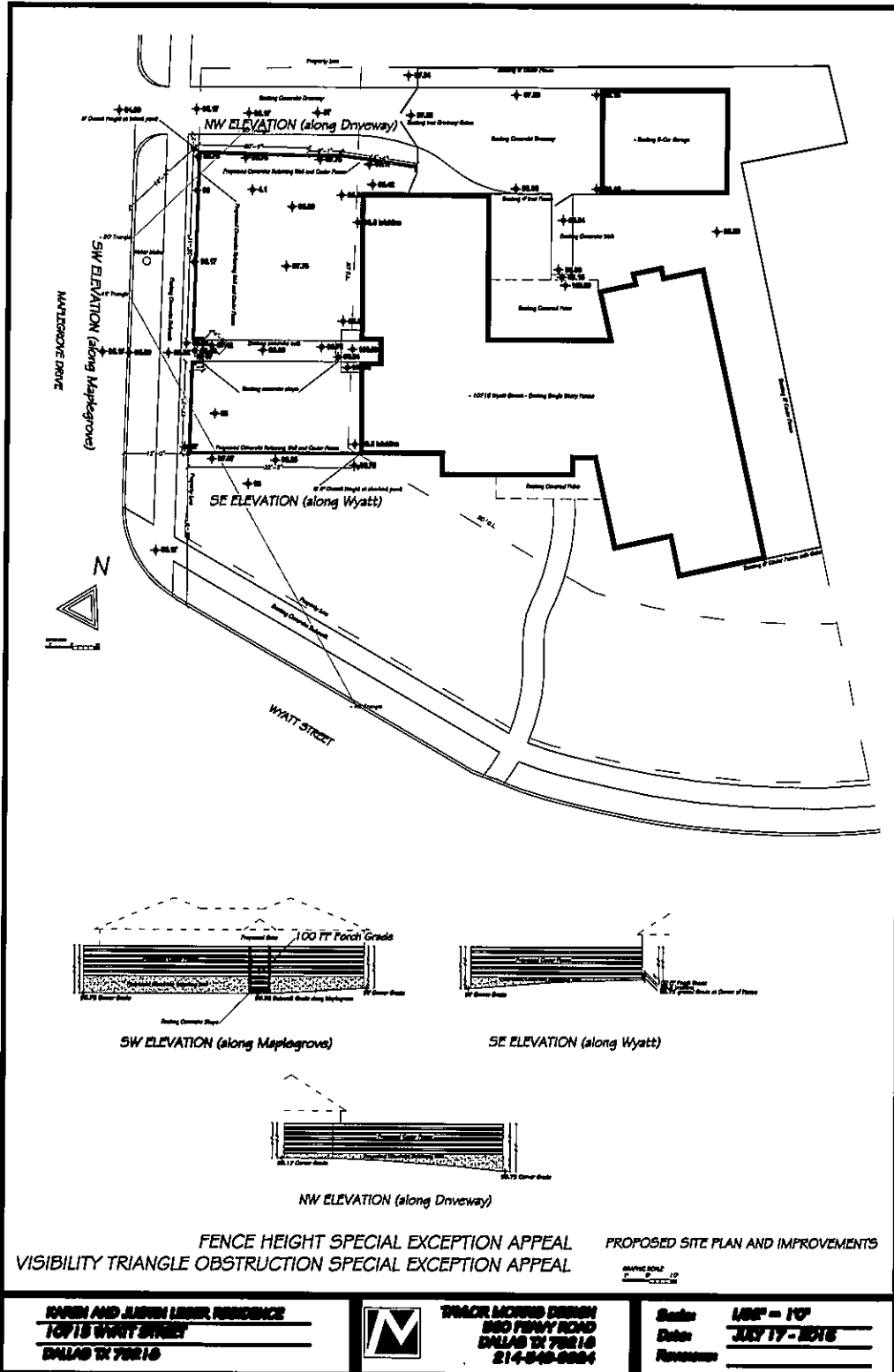


EVAN AND JAWN LINDER RESIDENCE  
 10715 WYATT STREET  
 DALLAS TX 75216



TRACER MOORE DESIGN  
 4-13  
 580 FERRY ROAD  
 DALLAS TX 75216  
 214-549-9984

Scale: 1/8" = 1'-0"  
 Date: JUNE 20, 2015  
 Revision:



July 16, 2016

Karen and Justin Léger  
10715 Wyatt Street  
Dallas TX 75218  
469-693-0768

Dear Neighbors,

Please allow us to introduce ourselves if we have not yet formally met. Our names are Karen and Justin Leger, we are your neighbors on the corner house of Wyatt St. and Maplegrove Ln. We are in the process of getting permits to replace our wrought iron side yard fence with a new one. The city informed us that we will need to file for an exception in order for the permits to be issued as the previous owner did not build the fence to code or on the property line.

Our reason to replace the fence is to clean up the corner look and appeal. We want to add a retaining wall to hold the earth from falling on the sidewalk. As well as a wood fence on top to allow for more privacy for our growing children's playground.

We are attaching an illustration of the plans for the new fence. It was suggested from the city to aid in the process of the approval by having all neighbors, who are in view of the new construction, sign a petition stating that they are okay with the plans. If you would kindly review, and sign your approval, with the date and your address, on the attached diagram. Please give us a call at the number above if you have any questions regarding this request, we would be more than happy to discuss this with you. We are asking that you return this to us as soon as possible as we are trying to submit everything for the next hearing and the due date is July 22<sup>nd</sup>.

Thank you for your time and consideration! We greatly appreciate you working with us.

Best regards,

Karen and Justin Leger

JEFF KINSEY

10435 MAPLE GROVE LANE 75218

J. Kinsey

Your signature signifies that you agree to the attached plan design for a new fence to be constructed at 10715 Wyatt Street Dallas, Texas 75218. We will be showing the signed petition to the Board of Appeals at a hearing anticipated for August 15, 2016.

	Print Name	Signature	Date
<b>Wyatt St</b>			
	10619 Wyatt St Dallas, TX 75218	K. Fontes	7/16
left	10622 Wyatt St Dallas, TX 75218		
	10625 Wyatt St Dallas, TX 75218	Cynthia J. Ray	7/16
	10632 Wyatt St Dallas, TX 75218	Michael Brund	7/16
left	10735 Wyatt St Dallas, TX 75218		
left	10745 Wyatt St Dallas, TX 75218		
	10803 Wyatt St Dallas, TX 75218	J. S. Fennig	7/16
left	10804 Wyatt St Dallas, TX 75218	A E D W A P P S	7/17
	10809 Wyatt St Dallas, TX 75218		
<b>Wyatt Cir</b>			
left	10744 Wyatt Cir Dallas, TX 75218	R. L. Lawson	7/18
	10748 Wyatt Cir Dallas, TX 75218	Kevin Gay	7/17
<b>Maple Grove Ln</b>			
	10423 Maple Grove Ln Dallas, TX 75218	Troy Bruce	7/17
	10424 Maple Grove Ln Dallas, TX 75218	MATHEW MCLURE	7/16
left	10435 Maple Grove Ln Dallas, TX 75218	Jeff Kinsler	7/18/16
	10507 Maple Grove Ln Dallas, TX 75218	Rebecca A. Gonzalez Guadalupe Morfiez	7/16
	10508 Maple Grove Ln Dallas, TX 75218	Nancy Clarke	7/16
left	10511 Maple Grove Ln Dallas, TX 75218		
	10517 Maple Grove Ln Dallas, TX 75218	Sherry James	7/17

Print Name

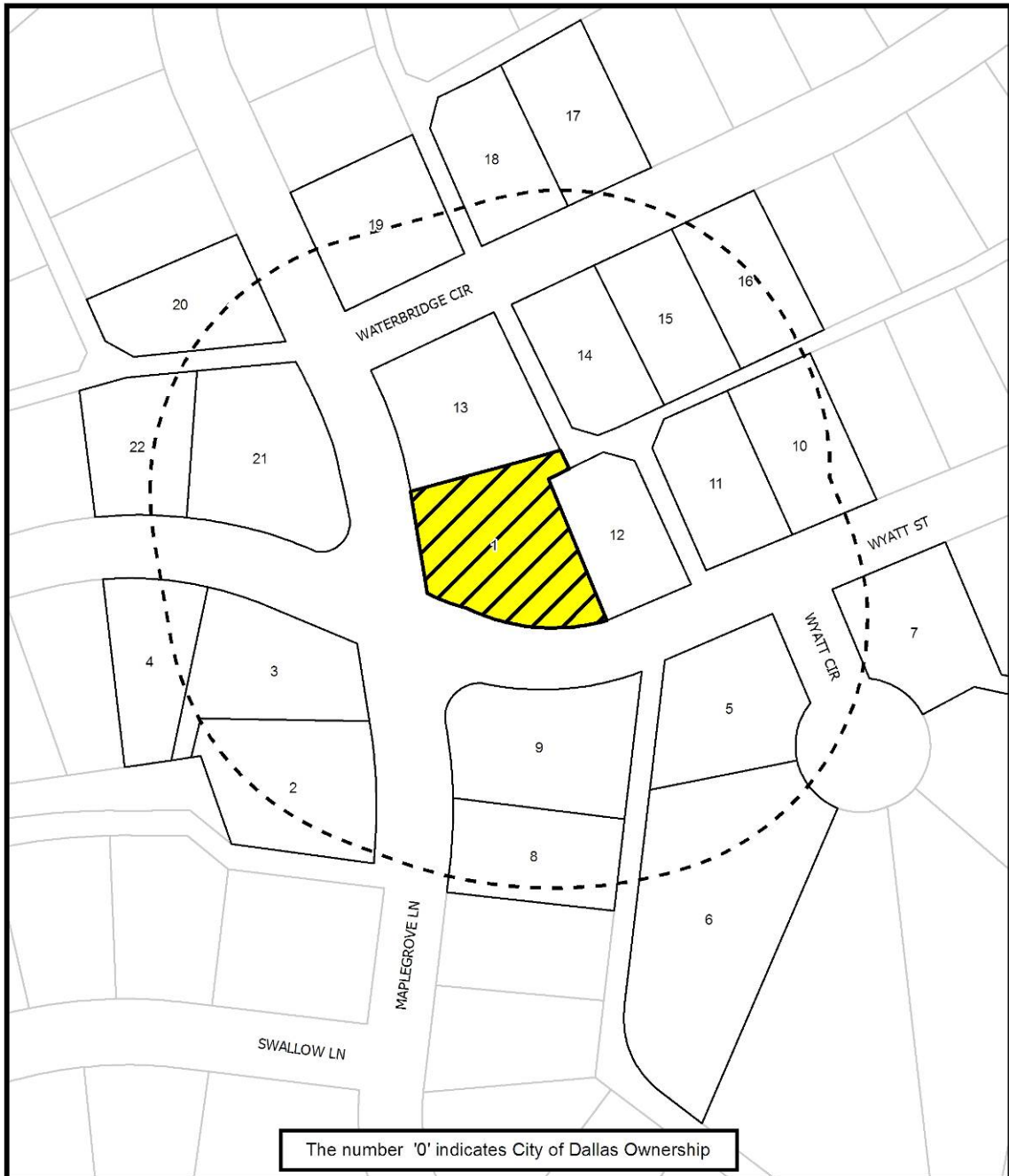
Signature


Date

Waterbridge Cir			
10814 Waterbridge Cir Dallas, TX 75218	Nolley, F.E	Molley, fe	7/16
10815 Waterbridge Cir Dallas, TX 75218	Wilson, Joanne	Wilson, Joanne	7/16
10820 Waterbridge Cir Dallas, TX 75218			
10821 Waterbridge Cir Dallas, TX 75218			
10824 Waterbridge Cir Dallas, TX 75218	Judy Lowe Judy Lowe	Judy Lowe	7/16

Left  
Left





  
 1:1,200

**NOTIFICATION**

200' AREA OF NOTIFICATION  
22 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: BDA156-093  
 Date: 8/11/2016

## *Notification List of Property Owners*

**BDA156-093**

### *22 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	10715 WYATT ST	LEGER JUSTIN & KAREN
2	10508 MAPLEGROVE LN	SCHERER NANCY CLARKE
3	10632 WYATT ST	BRANDT MICHAEL DEAN
4	10622 WYATT ST	NAZARI MEHDI G
5	10744 WYATT ST	LAWSON RITA M
6	10748 WYATT ST	POLING REBECCA J &
7	10804 WYATT ST	ELLISON AMBER &
8	10511 MAPLEGROVE LN	ASFOUR CECIL
9	10507 MAPLEGROVE LN	GONZALEZ REBECCA B
10	10803 WYATT ST	FENNIG JACK STANLEY & MILDRED
11	10745 WYATT ST	VILLAGRANA EDUARDO & KELLY
12	10735 WYATT ST	VULK JOSEPH P
13	10435 MAPLEGROVE LN	KINSER JEFFERY
14	10814 WATERBRIDGE CIR	NOLLEY FRANCES EMILY
15	10820 WATERBRIDGE CIR	BARACANI LORI ELLEN &
16	10824 WATERBRIDGE CIR	LOWE JUDY A REVOCABLE LIVING TRUST
17	10821 WATERBRIDGE CIR	HARDING STEPHEN &
18	10815 WATERBRIDGE CIR	WILSON JOANNE MILLER
19	10423 MAPLEGROVE LN	BEVER TROY D & JULIEANN
20	10424 MAPLEGROVE LN	COLLINS DOROTHY EST OF
21	10625 WYATT ST	RAY CYNTHIA J
22	10619 WYATT ST	PHILLIP KYLE R & BETHANY K