

ZONING BOARD OF ADJUSTMENT, PANEL B
WEDNESDAY, SEPTEMBER 21, 2016
AGENDA

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

MISCELLANEOUS ITEM

Approval of the August 17, 2016 Board of Adjustment Panel B Public Hearing Minutes	M1
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UNCONTESTED CASES

BDA156-086(JM) 9823 Kilarney Drive REQUEST: Application of Terry France for a special exception to the fence height regulations	1
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BDA156-094(JM) 9221 Midway Road (aka: 4255 W. Northwest Highway) REQUEST: Application of Gregory Griffith, represented by Trey Crews, for a special exception to the landscape regulations	2
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REGULAR CASE

BDA156-096(SL) 4815 Brookview Drive REQUEST: Application of Robert Baldwin of Baldwin and Associates for a variance to the front yard setback regulations and a special exception to the fence height regulations	3
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EXECUTIVE SESSION NOTICE

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

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

FILE NUMBER: BDA156-086(JM)

BUILDING OFFICIAL'S REPORT: Application of Terry France for a special exception to the fence height regulations at 9823 Kilarney Drive. This property is more fully described as Lot 8, Block 8/5371, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain an 8 foot high fence, which will require a 4 foot special exception to the fence height regulations.

LOCATION: 9823 Kilarney Drive

APPLICANT: Terry France

REQUEST:

A request for special exceptions to the fence height regulations of up to 4' are made to construct and/or maintain an 8' wooden fence along the west boundary of the site, and a 7' wooden fence along Tranquilla Drive.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

STAFF RECOMMENDATION:

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

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

The subject site is developed with a single family home. Properties in all directions are developed with single family uses.

Zoning/BDA History:

- | | |
|---|--|
| 1. BDA123-108,
Property at 1067
Tranquilla Drive (lot
west of the subject
site) | On November 20, 2013, the Board of Adjustment Panel A granted a request for a variance to the front yard setback regulations of 6' 6" in conjunction with constructing and maintaining an approximately 400 square foot two-vehicle garage addition to an existing one-story single family home with an approximately 1,700 square foot building footprint, part of which would be located in the site's 25' front yard setback. |
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GENERAL FACTS/STAFF ANALYSIS:

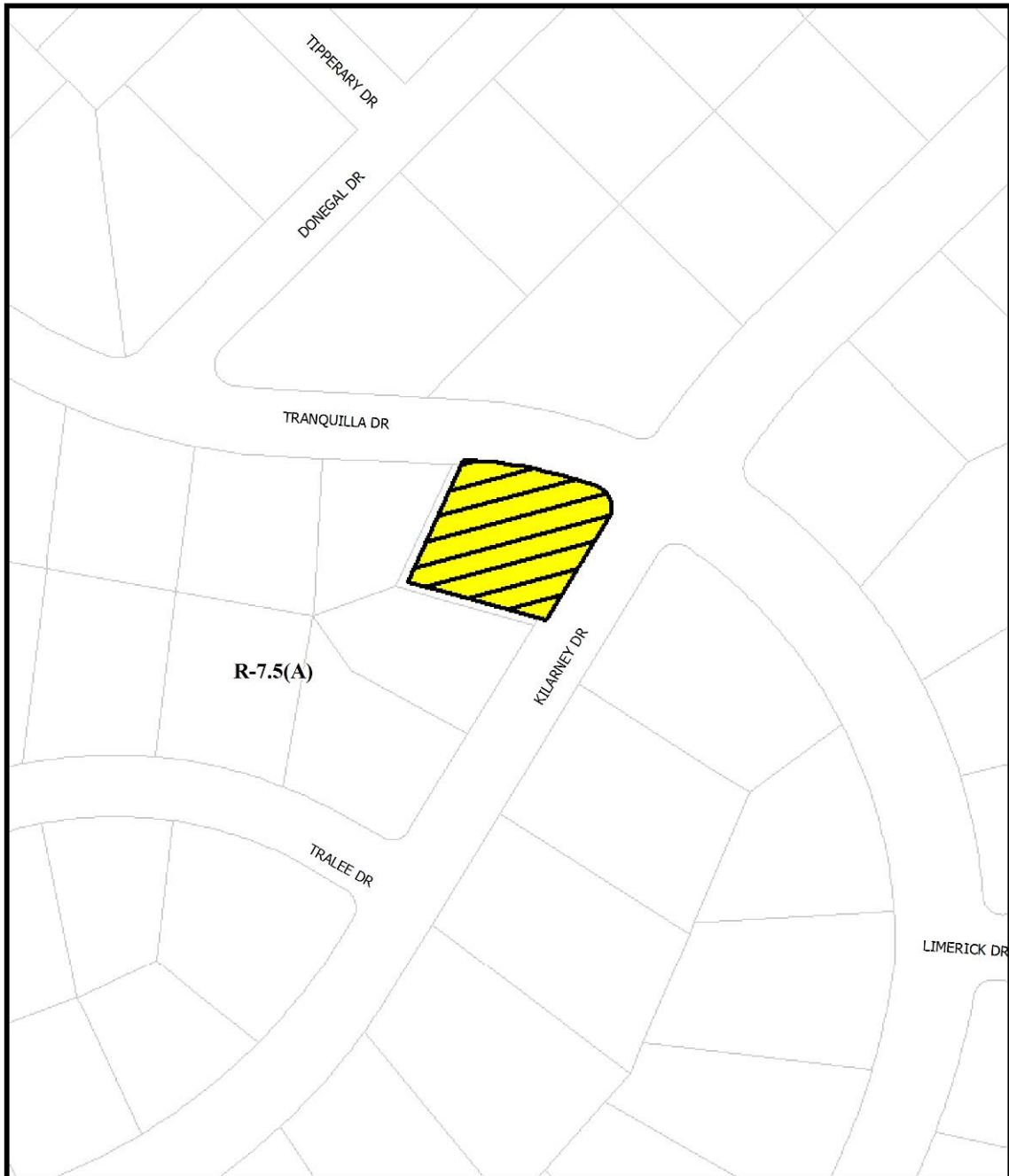
- The current request is for up to an 8' high wooden board-on-board privacy fence within the 25' front yard building setback along Tranquilla Drive.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The subject site is a corner lot in an R-7.5(A) single family district which has a 25' front yard setback. This site is considered to have two front yard setbacks – a 25' front yard setback along Kilarney Drive (the shorter of the two frontages of the subject site and generally considered the front yard) and a 25' front yard setback along Tranquilla Drive (the longer of the two frontages which is typically considered a side yard requiring a 5' side yard setback). This site has a 25' front yard setback along Tranquilla Drive given that while it is the longer of the two frontages and usually considered a side yard, it is a front yard notwithstanding in order to maintain continuity of the established front yard setback along this street frontage because homes/lots to the west "front" to Tranquilla Drive.
- The applicant has submitted a site plan/elevation of the request with notations indicating that the fence reaches a maximum height of 8'.
- The following additional information was gleaned from the submitted site plan:
 - The fence protrudes up to 19' into the 25' setback along Tranquilla Drive.
 - The request section begins at the northeast corner of the property along Kilarney Drive for 8'. This section of the fence is 7' high.
 - The fence then turns west down Tranquilla Drive for about 44' before providing 20' corner clips for the gated driveway entrance, and continuing 40' to the northwest corner of the property. A total of 84' of fencing runs along Tranquilla Drive, all within the 25' setback. This section of the fence is also 7' high.
 - Finally, the fence turns south down the shared property line to the west for 11' within the 25' setback. This portion of the fence is 8' high.

- The entire request section is either within the property boundaries, or located on the property line (to the west, southwest).
- No part of the 25' setback on Kilarney Drive is encroached upon.
- Some properties in the immediately surrounding areas have fences higher than the 4' maximum. Some would seem to require a special exception, but do not have the double front yard issue, therefore are in compliance.
- As of September 9, 2016, no letters have been submitted in support/opposition to the request.
- 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 of 4' with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding 4' in height in the front yard setback to be modified and maintained in the location and of the heights and materials as shown on this document.

TIMELINE:

- June 15, 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 assigned this case to Board of Adjustment Panel B.
- August 12, 2016: The Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the August 31st deadline to submit additional evidence for staff to factor into their analysis; and the September 1st 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.

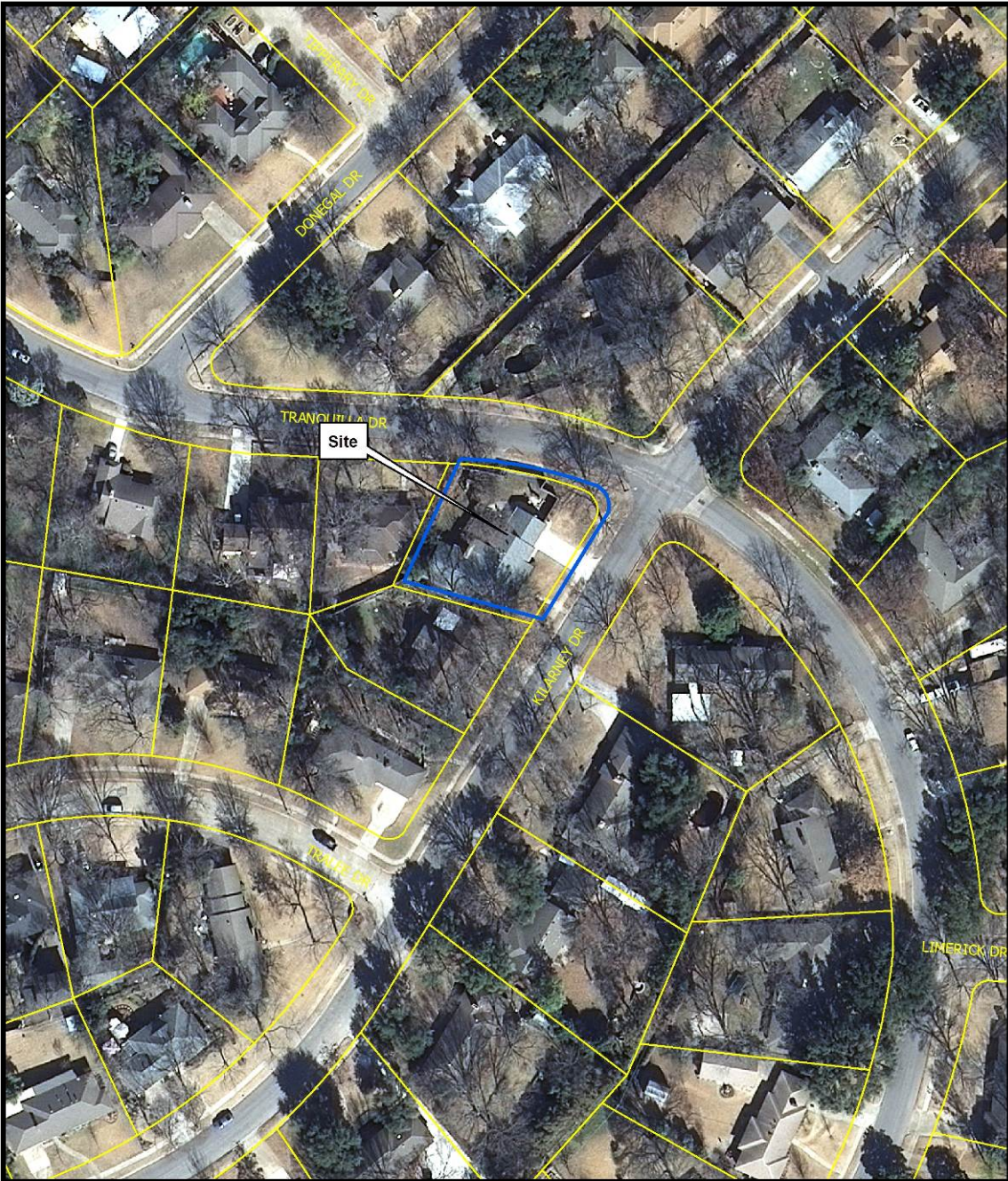


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ZONING MAP

Case no: BDA156-086

Date: 8/11/2016



1:1,200

AERIAL MAP

Case no: BDA156-086

Date: 8/11/2016



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-086

Data Relative to Subject Property:

Date: 15 June 2016

Location address: 9823 Kilarney Drive Zoning District: R7.5 (A)

Lot No.: 8 Block No.: 8/5371 Acreage: .290 Census Tract: 82.00

Street Frontage (in Feet): 1) 127.41 2) 124.95 3) 4) 5) get

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Terry M. France, Lea Ann France

Applicant: Terry France Telephone: 214-803-7200

Mailing Address: 9823 Kilarney Drive, Dallas, Texas Zip Code: 75218

E-mail Address: tmfrance@swbell.net

Represented by: NA Telephone:

Mailing Address: Zip Code:

E-mail Address:

Affirm that an appeal has been made for a Variance, or Special Exception X, of 1, an 8 foot fence at the back of the property. 2, a 7 foot fence beyond the 25 foot set back on the north side (double fronted property)

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: The fence has been in place since march 2003. The fence provides safety and security for our residence. Prior to installation we had issues with vendors and sales people not only at the front door but at the side and back. The fence fits into the neighborhood and was installed in conjunction of our neighbor, 1067 Tranquilla Drive.

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 Terry France (Affiant/Applicant's name printed)

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

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

Subscribed and sworn to before me this 21 day of June, 2016

(Rev. 08-01-11)



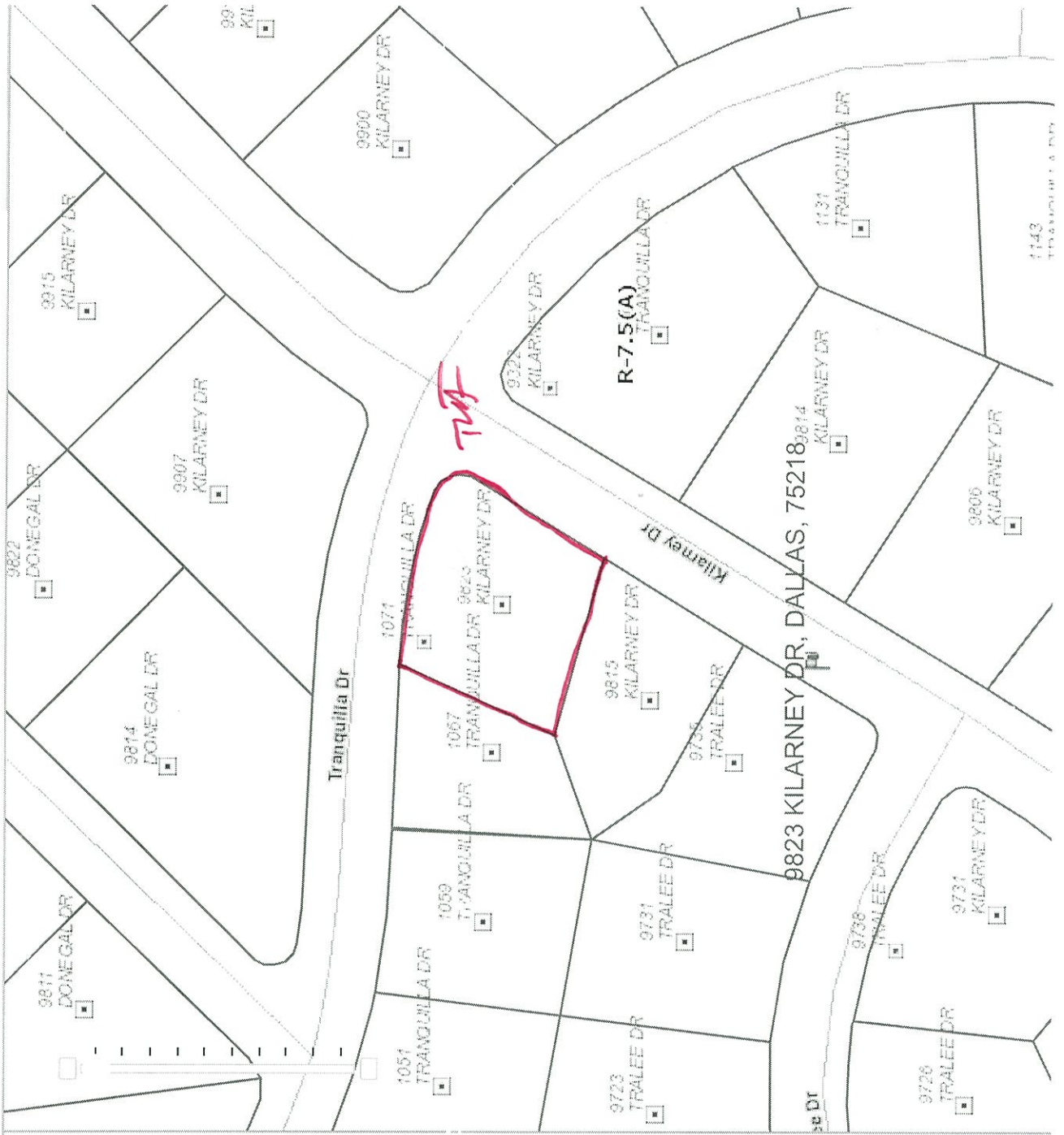
[Signature] Notary Public in and for Dallas County, Texas

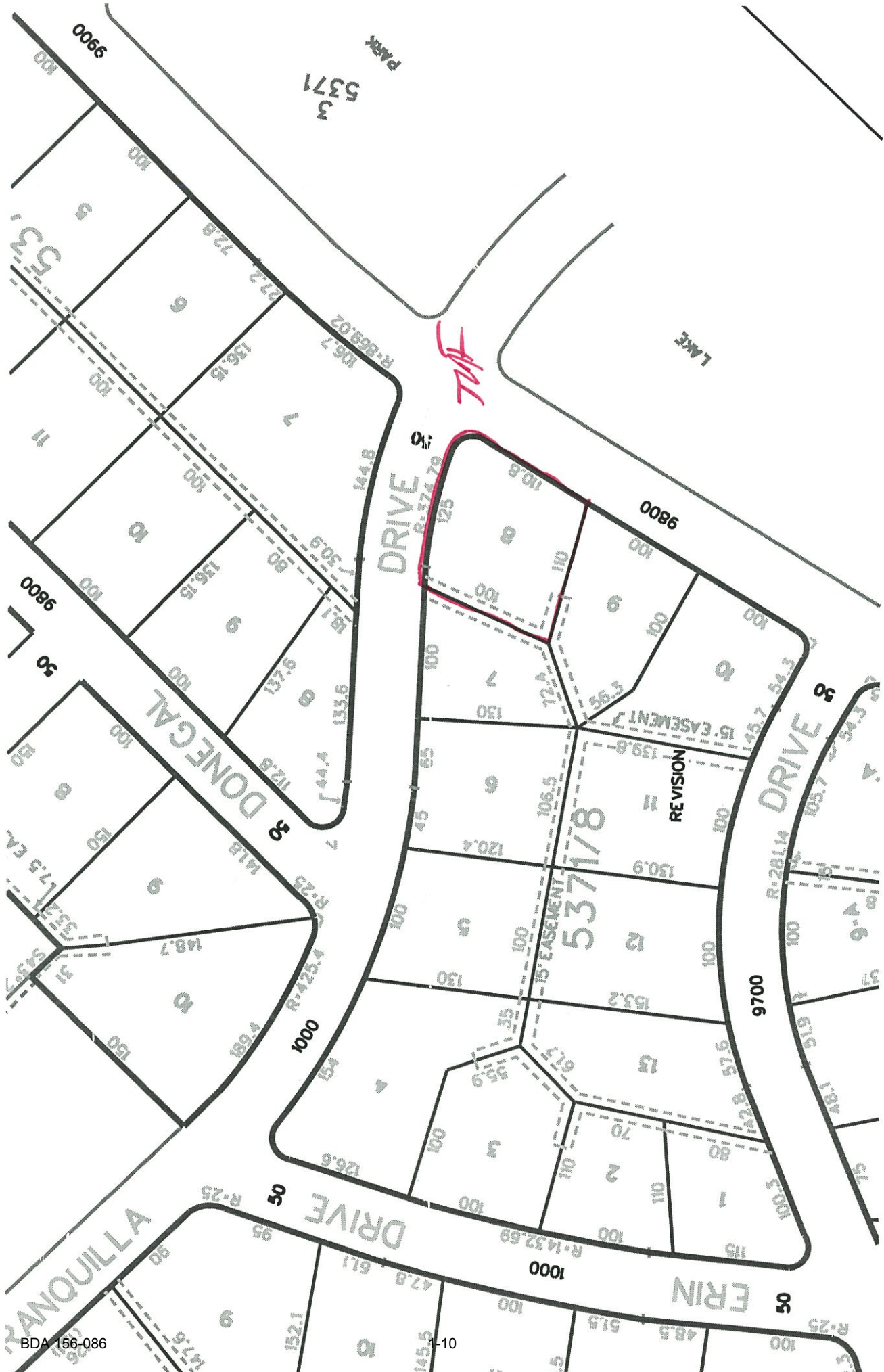
City of Dallas

Internal Development Research Site

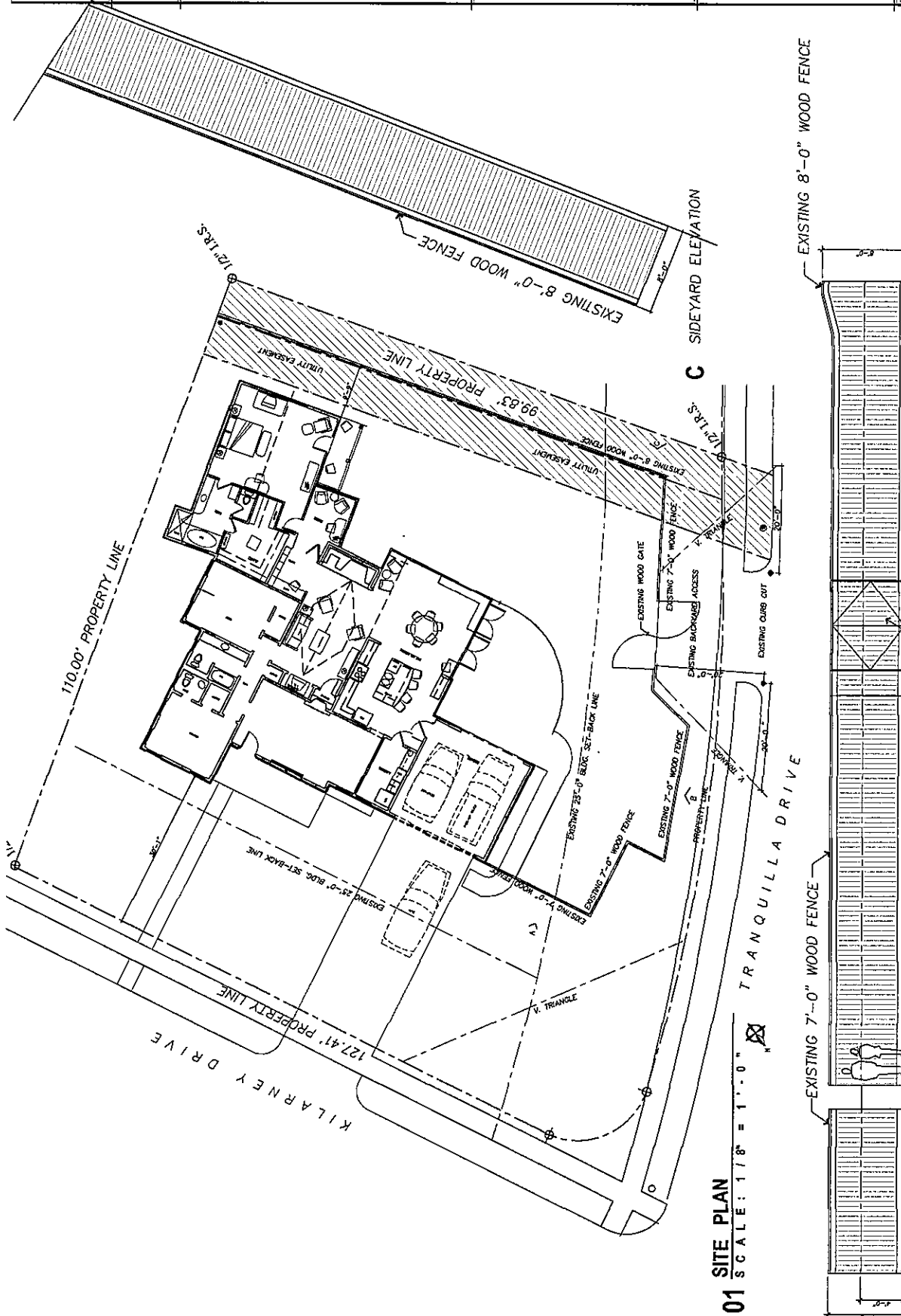
Legend

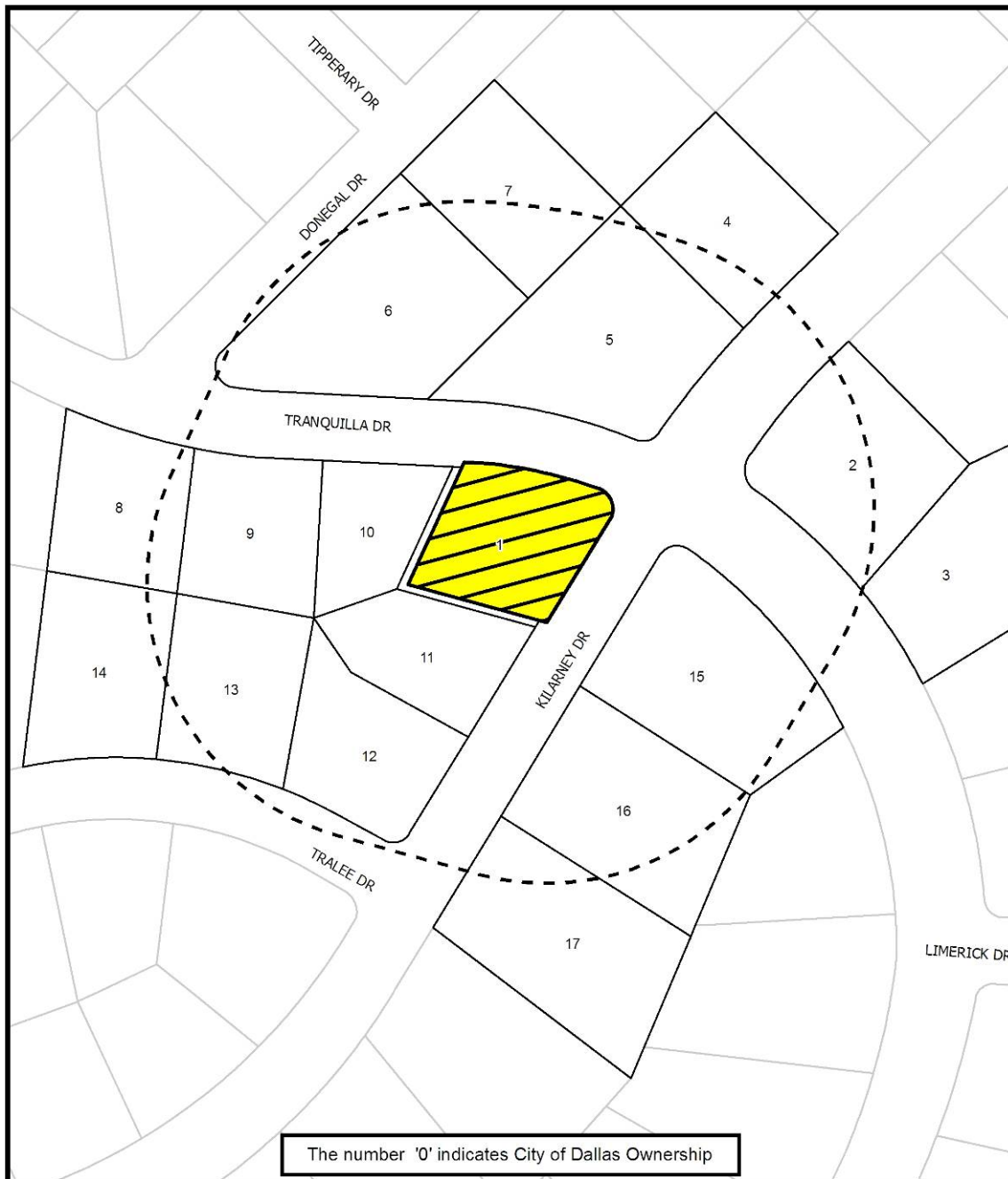
Locate Property





REV. NO.	DATE	DESCRIPTION





1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
17 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA156-086**

Date: **8/11/2016**

Notification List of Property Owners

BDA156-086

17 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	9823 KILARNEY DR	FRANCE TERRY M &
2	9900 KILARNEY DR	BOOME KENNETH D & BETTY
3	1114 TRANQUILLA DR	SWANSON ERIK G &
4	9915 KILARNEY DR	LANDIS SUSAN R
5	9907 KILARNEY DR	NELSON MARY LUAN &
6	9814 DONEGAL DR	BANNON THOMAS J
7	9822 DONEGAL DR	BARNES LESLIE J
8	1051 TRANQUILLA DR	HIFLER MARY ANNE
9	1059 TRANQUILLA DR	HUNN MARVIN & DEBBIE
10	1067 TRANQUILLA DR	JEHLE STEPHANIE
11	9815 KILARNEY DR	CARPENTER AMY L
12	9735 TRALEE DR	MULLANE MICHAEL J & DEBORAH
13	9731 TRALEE DR	ENRIQUEZ PAUL V
14	9723 TRALEE DR	SLAUGHTER PATRICK W
15	1115 TRANQUILLA DR	STURGESS SHARON M & GAYLORD A
16	9814 KILARNEY DR	MCGREGOR KARI L &
17	9806 KILARNEY DR	MORRIS ANITA &

FILE NUMBER: BDA156-094(JM)

BUILDING OFFICIAL'S REPORT: Application of Gregory Griffith, represented by Trey Crews, for a special exception to the landscape regulations at 9221 Midway Road (aka: 4255 W. Northwest Highway). This property is more fully described as Lot 8A, Block 5082, and is zoned CR, which requires mandatory landscaping. The applicant proposes to construct and maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 9221 Midway Road (aka: 4255 W. Northwest Highway)

APPLICANT: Gregory Griffith
Represented by Trey Crews

REQUEST:

A request for a special exception to the landscape regulations to construct and maintain a structure and provide an alternate landscape plan, not fully meeting the landscape regulations.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS:

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

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

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

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required.

Rationale for approval:

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

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	Community Retail with D-1 Overlay, CR-D1
<u>North:</u>	R-10(A), Single Family Residential
<u>Northeast & East:</u>	PD No. 70 for Community Retail Uses
<u>Southeast:</u>	TH-3(A), Townhome
<u>Southwest & West:</u>	Community Retail with D Overlay, CR-D

Land Use:

The subject site is currently a retail center. To the immediate north are single family uses. To the northeast and east are more retail and personal services uses. There are higher density residential structures to the southeast (either townhomes or multifamily uses). An institutional use is found to the south, across West Northwest Highway (church). There are more retail uses and vacant land to the southwest and west.

Zoning/BDA History:

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

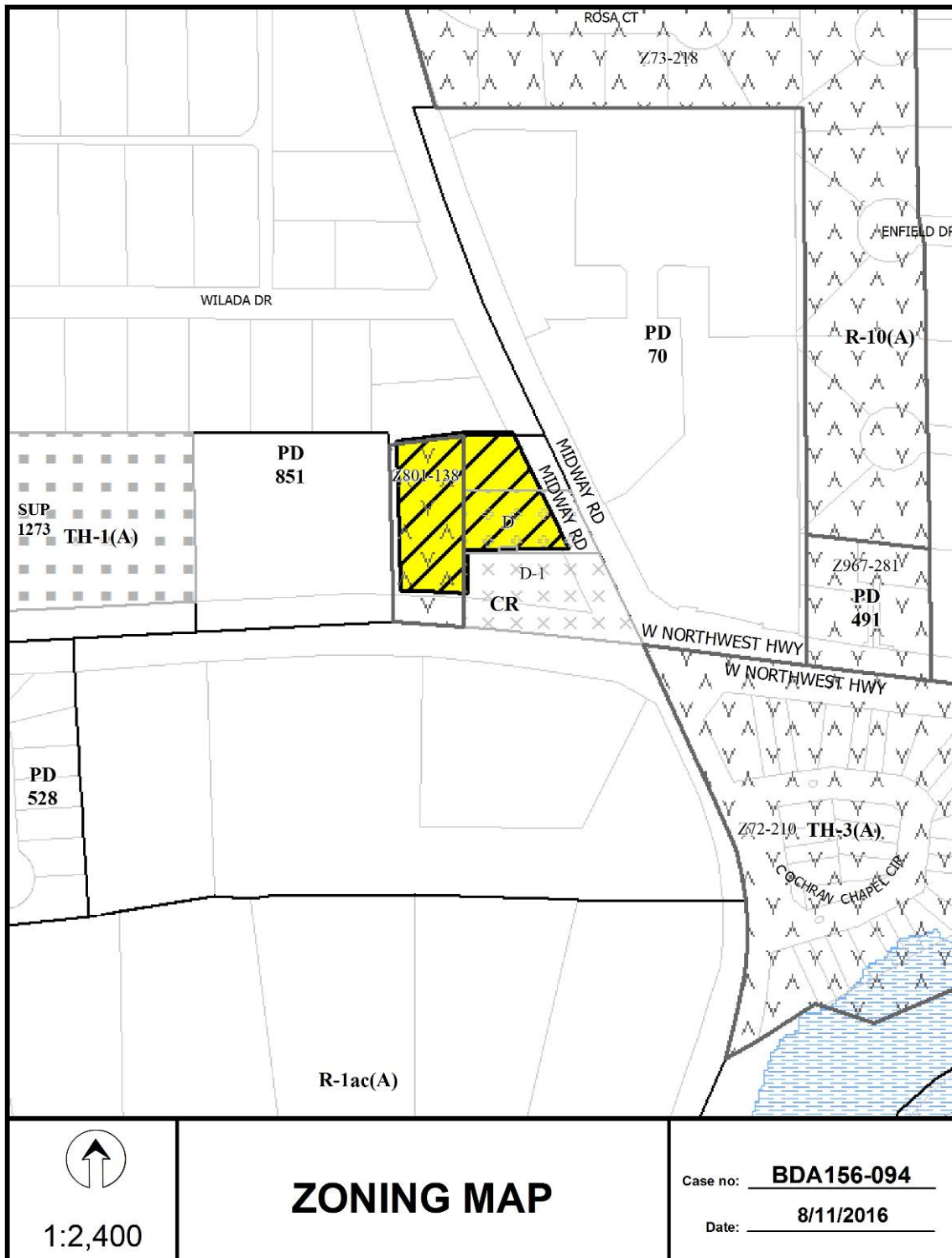
GENERAL FACTS/ STAFF ANALYSIS:

- This request focuses on constructing/maintaining structures on a lot currently developed, and not fully providing required landscaping. More specifically, according to the City of Dallas Chief Arborist, the features shown on the submitted alternate landscape plan would not conform to Article X landscape regulation standards related to mandatory landscaping requirements and design standards.
- The new construction of a proposed retail development triggers compliance with Article X landscape regulations. The applicant plans to tear down the existing structure. In order to build a new structure, they must comply with current codes, including landscaping (Article X).
- The proposed revised alternate landscape plan is deficient in the following:
 - a. Street trees – Sec 51A-10.125(b)(4) – 6 street trees required; 3 trees provided

- b. Buffer plant materials – Sec 51A-10.125(b)(7) – 4 large trees are required within the perimeter landscape buffer strip for residential adjacency. Two trees are provided, which includes one existing 16” tree.
 - c. Design standard – Sec 51A-10.126(i) – the 2nd design standard (enhanced pedestrian walkway) is, by the applicant’s calculation, short of full compliance with minimum area requirements by 78 square feet.
- The City of Dallas Chief Arborist states in a memo (see Attachment A) that the request in this case is triggered by the new construction of a retail development.
- The Chief Arborist listed several factors for consideration:
 - a. The property will be two combined lots which have a sanitary sewer easement in the northern portion extending across the lots, with the landscape buffer set above a retaining wall which is to remain for a portion of the distance. Recent review has suggested the sanitary sewer is set far enough south within the eastern half of the site to qualify the additional north perimeter tree in the buffer.
 - b. An existing fence and an underground sanitary sewer easement along the north perimeter impacts permeable planting space on the western section of the buffer. The fence runs through the center of the perimeter buffer and crosses the property boundary into the residential lot to the north, and protects a large shrub on that property. It has been stated by the applicant the fence will remain intact. A new sidewalk will project through a portion of the buffer for safe walkable passage from Midway Road to the retail site away from the busy street front. The perimeter buffer area is in compliance.
 - c. The small lot size, parking, safe vehicular maneuvering, and the building’s floor area, have restricted landscape area in the street front area. The existing drive entries will remain open and this leaves limited distance for planting. The applicant has adjusted the design for Midway Road to place two large trees in the space for street trees which will be set away from the drive entries and the visibility triangles. Any shrubs in the visibility triangle will be required to be kept below 18 inches in height. One additional similar large tree species is provided along the narrow stretch at Northwest Highway. Additional small trees are also provided along that frontage. Interior crepe myrtles will also add as suitable ornamental plants with color.
- The chief arborist recommends approval of the proposed revised alternate landscape plan because full compliance with the requirements of Article X will unreasonably burden the use of the property. Furthermore, the chief arborist believes that the reduced landscape design will not negatively impact neighboring properties, but will enhance this corner area.
- The applicant has the burden of proof in establishing the following:
 - The special exception complies with Section 51(A) 10.110.
- If the board were to grant this request and impose the submitted alternate landscape plan as a condition, the site would be granted exception from full compliance to the landscape regulations.

TIMELINE:

- July 21, 2016: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- August 4, 2016: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.
- August 12, 2016: The Senior Planner emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the August 31st deadline to submit additional evidence for staff to factor into their analysis; and the September 1st 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.



1:2,400

ZONING MAP

Case no: **BDA156-094**

Date: **8/11/2016**



1:2,400

AERIAL MAP

Case no: BDA156-094

Date: 8/11/2016

Memorandum



CITY OF DALLAS

DATE September 9, 2016

TO

Steve Long, Board of Adjustment Administrator
Jennifer Munoz

SUBJECT # BDA 156 · 094

9221 Midway Road & 4255 Northwest Highway

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

Trigger

New construction of a retail development.

Deficiencies

The proposed revised alternate landscape plan is deficient in the following:

Street trees – Sec 51A-10.125(b)(4) – 6 street trees required; 3 trees provided
Buffer plant materials – Sec 51A-10.125(b)(7) – 4 large trees are required within the perimeter landscape buffer strip for residential adjacency. Two trees are provided, including one 16” tree which is existing.
Design standard – Sec 51A-10.126(i) – the 2nd design standard (enhanced pedestrian walkway) is, by the applicant’s calculation, short of full compliance with minimum area requirements by 78 square feet.

Factors

The property will be two combined lots which has a sanitary sewer easement in the northern portion extending across the lots, with the landscape buffer set above a retaining wall which is to remain for a portion of the distance. Recent review has suggested the sanitary sewer is set far enough south within the eastern half of the site to qualify the additional north perimeter tree in the buffer.

An existing fence and an underground sanitary sewer easement along the north perimeter impacts permeable planting space on the western section of the buffer. The fence runs through the center of the perimeter buffer and crosses the property boundary into the residential lot to the north, and protects a large shrub on that property. It has been stated by the applicant the fence will remain intact. A new sidewalk will project through a portion of the buffer for safe walkable passage from Midway Road to the retail site away from the busy street front. The perimeter buffer area is in compliance.

The small lot size, parking, safe vehicular maneuvering, and the building’s floor area, have restricted landscape area in the street front area. The existing drive entries will remain open and this leaves limited distance for planting. The applicant has adjusted the design for Midway Road to place two large trees in the space for street trees

which will be set away from the drive entries and the visibility triangles. Any shrubs in the visibility triangle will be required to keep shrubs below 18 inches in height in the visibility triangles. One additional similar large tree species is provided along the narrow stretch at Northwest Highway. Additional small trees are also provided along that frontage. Interior crepe myrtles will also add as suitable ornamental plants with color.

Recommendation

The chief arborist recommends approval of the proposed revised alternate landscape plan because full compliance with the requirements of Article X will unreasonably burden the use of the property. It is my perception that the reduced landscape design will not negatively impact neighboring properties but will enhance this corner area.

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



APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-094

Data Relative to Subject Property:

Date: 07-21-16

Location address: 9221 Midway Rd & 4255 Northwest Hwy., Dallas, TX 75220 Zoning District: CR

Lot No.: 8/A Block No.: 5082 Acreage: 1.1607 Census Tract: 0094.02

Street Frontage (in Feet): 1) 210.79' 2) 107.68' 3) _____ 4) _____ 5) _____ *NW2*

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Constance Midway, Ltd. & N.W. Midway Land Holdings, Ltd.

Applicant: Gregory Griffith – Orange Development, Inc. Telephone: (205) 408-3443

Mailing Address: 1200 Corporate Dr., Suite G-50, Birmingham, AL Zip Code: 35242

E-mail Address: ggriffith@orangedevinc.com

Represented by: Matthew Pitts – Carlson Consulting Engineers, Inc. Telephone: (901) 384-0404

Mailing Address: 7068 Ledgestone Commons, Bartlett, TN Zip Code: 38133

E-mail Address: matthewpitts@carlsonconsulting.net

Affirm that an appeal has been made for a Variance __, or Special Exception X, of, an alternate landscape plan.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: To provide relief from the landscape buffer requirements along the shared property line with residential. Due to the presence of a public sanitary sewer easement along the north line of said property, trees cannot be installed within the required landscape buffer without creating maintenance and interference issues with the sewer line.

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 GREGORY GRIFFITH
(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.

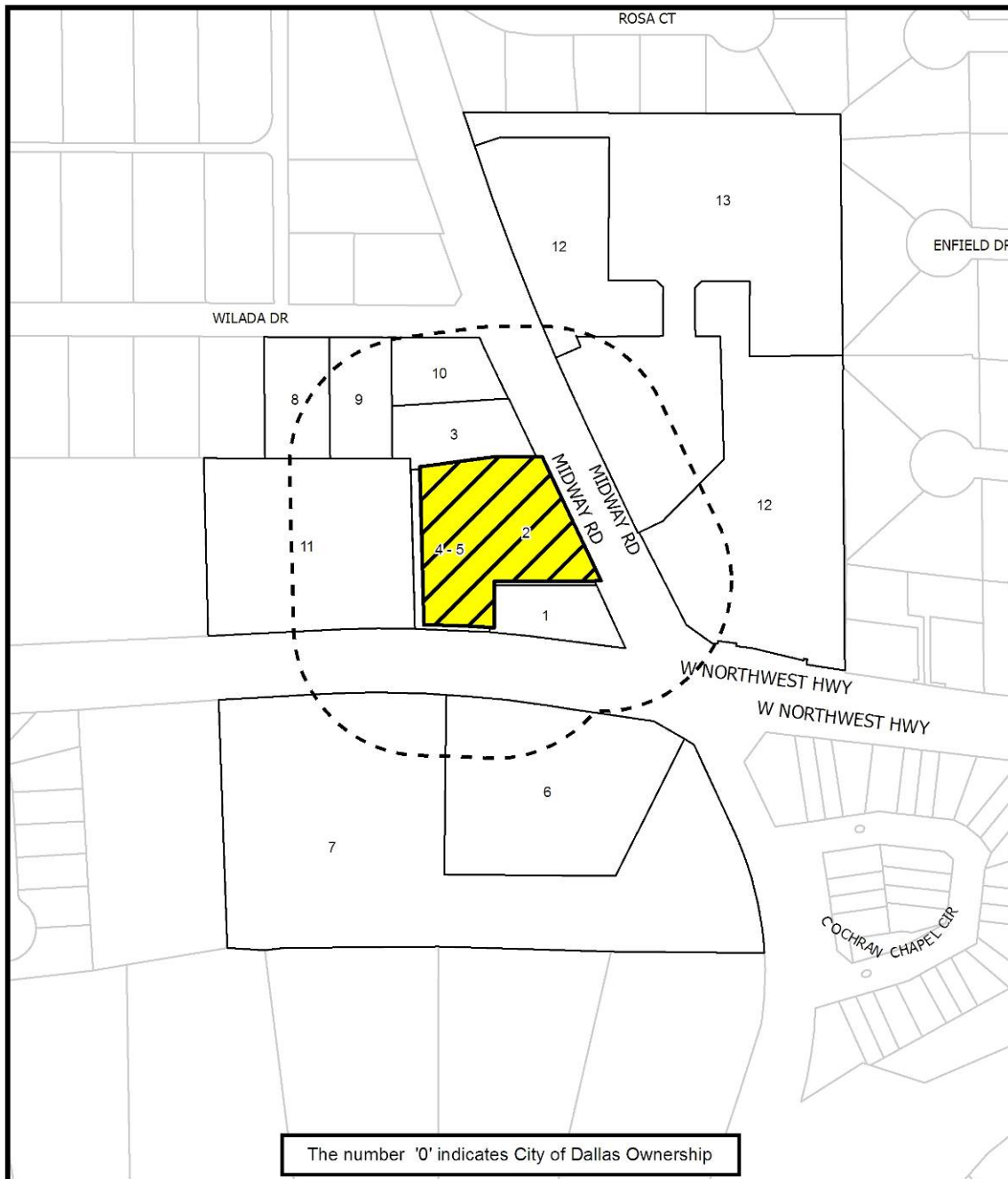
Respectfully submitted: [Signature]
(Affiant/Applicant's signature)

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

(Rev. 08-01-11)

KIMBERLY W. CUTCLIFF
Notary Public, Alabama State At Large
My Commission Expires March 30, 2019

Kimberly W. Cutcliff
Notary Public in and for Dallas County, Texas
Alabama State at Large



1:2,400

NOTIFICATION

200' AREA OF NOTIFICATION
13 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA156-094**
 Date: **8/11/2016**

Notification List of Property Owners

BDA156-094

13 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4275 W NORTHWEST HWY	AIRPORT FREEWAY FUEL CENTER LP
2	9221 MIDWAY RD	CONSTANCE MIDWAY LTD
3	9227 MIDWAY RD	MCGILL MANDY
4	4255 W NORTHWEST HWY	N W MIDWAY LAND HOLDINGS
5	4255 W NORTHWEST HWY	N W MIDWAY LAND HOLDINGS
6	9101 MIDWAY RD	COCHRAN CHAPEL
7	9027 MIDWAY RD	COCHRAN CHAPEL METHODIST
8	4188 WILADA DR	MOORE NICKY N
9	4194 WILADA DR	MORADI MASOUD &
10	9241 MIDWAY RD	ARNOLD H DAVID
11	4235 W NORTHWEST HWY	MIDWAY NORTHWEST HIGHWAY SHOPPING CENTER LLC
12	4343 W NORTHWEST HWY	PRESTON HOLLOW INDIAN SCH
13	4343 W NORTHWEST HWY	LAS ACQUISITIONS LLC

FILE NUMBER: BDA156-096(SL)

BUILDING OFFICIAL'S REPORT: Application of Robert Baldwin of Baldwin and Associates for a variance to the front yard setback regulations and a special exception to the fence height regulations at 4815 Brookview Drive. This property is more fully described as part of Lot 1, Block 11/5584, and is zoned R-1ac(A), which requires a front yard setback of 40 feet and limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a structure and provide a 15 foot front yard setback, which will require a 25 foot variance to the front yard setback regulations, and to construct and maintain a 10 foot high fence, which will require a 6 foot special exception to the fence height regulations.

LOCATION: 4815 Brookview Drive

APPLICANT: Robert Baldwin of Baldwin and Associates

REQUESTS:

The following requests have been made on a site that is undeveloped:

1. A request for a variance to the front yard setback regulations of up to 25' is made to construct and maintain a single family structure and spa structure, part of which would be located as close as 15' from the one of the site's two front property lines (Sunnybrook Lane) or as much as 25' into this 40' front yard setback.
2. A request for a special exception to the fence height regulations of 6' is made to construct and maintain a 10' high solid "CMU garden wall with stucco finish" fence in the 40' Sunnybrook Lane front yard setback.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, 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.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

STAFF RECOMMENDATION (variance):

Denial

Rationale:

- Staff concluded that there was no property hardship to the site that warranted a front yard variance. While staff recognized that the site was slightly irregular in shape with two front yard setbacks, these features did not appear to preclude it from being developed in a manner commensurate with the development upon other parcels of land with the same R-1ac(A) zoning, particularly since the subject site is over 2 acres in area or over twice the size as most lots in an R-1ac(A) zoning district.
- The applicant had not substantiated how the physical features of the flat, somewhat irregularly shaped, 2.2 acre site with two front yard setbacks preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same R-1ac(A) zoning classification while simultaneously complying with code provisions including front yard setback regulations.

STAFF RECOMMENDATION (special exception):

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

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA145-008, Property at 9246 Sunnybrook Lane (the property south of the subject site)

On January 20, 2015, the Board of Adjustment Panel A granted a request for a special exception to fence height regulations of 4' and imposed the submitted revised site plan and revised elevation as a condition to the request.

The case report stated that the request was made to construct and maintain an 8' high limestone veneer masonry fence towards the northwest of the property, a 6'-2" high painted steel fence between 2 evergreen hedges towards the west and south sides of the property, one 6'-2" high painted steel service gate towards the south of the property, and one 8' high painted steel vehicular gate towards the northwest of the property, parallel and perpendicular to Sunny Brook Lane, in the 40' required front yard on a site developed with a single family home/use.

2. BDA88-054, Property at 9346 Sunnybrook Lane (the property north of the subject site)

On May 10, 1998, the Board of Adjustment granted a request for a special exception to fence height regulations of 6' and imposed the following condition: "subject to a revised elevation and landscape plan and site plan to be approved."

The case report stated that the request was made to construct and maintain a wrought iron picket fence with 8' high gates and columns with light fixtures on top.

GENERAL FACTS/STAFF ANALYSIS (variance):

- This request for a variance to the front yard setback regulations of up to 25' focuses on constructing and maintaining single family home and spa structures, part of which are proposed to be located as close as 15' from one of the site's two front property lines (Sunnybrook Lane) or as much as 25' into this 40' front yard setback.
- The site is zoned R-1ac(A) which requires a minimum front yard setback of 40'.
- The subject site is located at the northeast corner of Brookview Drive and Sunnybrook Lane.
- Given the single family zoning and location of the corner lot subject site, it has two 40' front yard setbacks. The site has a front yard setback along Brookview Drive (the shorter of the two frontages of the subject site which is always a front yard in this zoning), and the along Sunnybrook Lane (the longer of the two frontages which is typically considered a side yard but is a front yard notwithstanding) in order to maintain continuity of the established front yard setback along this street frontage where homes/lots to the north "front" on Sunnybrook Lane.
- A scaled site plan has been submitted indicating that portions of the proposed single family home and spa structures are located as close as 15' from the Sunnybrook Lane front property line or as much as 25' into this 40' front yard setback.
- The submitted site plan represents structures to encroach only into the site's Sunnybrook Lane front yard setback and not into the site's Brookview Drive front yard setback.
- The applicant has not provided the square footage of the proposed structures on the site.
- The applicant has not provided a floor plan of the proposed structures on the site.
- According to DCAD records, there are "no main improvement" for the property addressed at 4815 Brookview Drive and "no additional improvements".
- The subject site is flat, irregular in shape, and according to the submitted application is 2.242 acres in area. The site is zoned R-1ac(A) where lots are typically 1 acre in area.
- Most lots in the R-1ac(A) zoning district have one 40' front yard setback, two 10' side yard setbacks, and one 10' rear yard setback; this site has two, 40' front yard setbacks, and two, 10' side yard setbacks.
- The subject site that ranges in width from approximately 80' on the north to approximately 280' on the south has 30' – 230' of width left for development once a 40' front yard setback is accounted for on the west and a 10' side yard setback is accounted for on the east. If this lot were more typically with one front yard, two side yards, and one rear yard, the lot would have 60' – 260' of width left for development.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.

- The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-1ac(A) zoning classification.
- The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-1ac(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structures in the front yard setback would be limited to what is shown on this document– which in this case is a structure that is located as close as 15’ from the site’s Sunnybrook Lane front property line (or as much as 25’ into this 40’ front yard setback).

GENERAL FACTS/STAFF ANALYSIS (special exception):

- This request for a special exception to the fence height regulations of 6’ focuses on constructing and maintaining a 10’ high solid “CMU garden wall with stucco finish” fence in the site’s Sunnybrook Lane front yard setback.
- The subject site is zoned R-1ac(A) which requires a 40’ front yard setback.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4’ above grade when located in the required front yard.
- The subject site is located at the northeast corner of Brookview Drive and Sunnybrook Lane.
- Given the single family zoning and location of the corner lot subject site, it has two 40’ front yard setbacks. The site a front yard setback along Brookview Drive (the shorter of the two frontages of the subject site which is always a front yard in this zoning), and a front yard setback along Sunnybrook Lane (the longer of the two frontages which is typically considered a side yard where a 9’ high fence can be erected by right). However the site has a front yard setback along Sunnybrook Lane in order to maintain continuity of the established front yard setback along this street frontage where homes/lots to the north “front” on Sunnybrook Lane.
- A scaled site plan and fence elevation has been submitted indicating a fence proposal that will reach 10’ in height in the 40’ Sunnybrook Lane front yard setback.
- The submitted site plan and fence elevation represents only a fence to exceed 4’ in height in the Sunnybrook Lane front yard setback and not into the site’s Brookview Drive front yard setback.
- Note that while the Board Administrator noted an existing solid brick fence over 4’ high in what appeared to be the Sunnybrook Lane front yard setback, there is no notation of this existing fence on the applicant’s submitted plans, and, as a result, this application will not provide any relief to any noncompliance this fence may have with code.

- The following information was gleaned from the submitted site plan:
 - The proposal is represented as being two sections of fence that are oriented diagonally to Sunnybrook Lane. The two fence sections proposed to be located in the Sunnybrook Lane front yard setback are approximately 14' – 15' in length, approximately 26' – 30' from the property line or 30' – 31' from the pavement line.
- The proposal is located across from two lots developed with single family homes, neither of which have visible fences over 4' in height in the front yard setback.
- The Board Administrator conducted a field visit of the site and surrounding area along Sunnybrook Lane (from Brookview Drive approximately 400 feet to the north of the subject site) and noted two other fences that appeared to be above 4' in height: an approximately 6' high open wrought iron picket fence was noted to the west of the site with no recorded BDA history, and an approximately 6 high open wrought iron picket fence was noted directly north that appeared to be a result of a fence height special exception granted by the Board in 1998: BDA88-054 (see the "Zoning/BDA History" section of this case report for further details).
- As of September 9th, 2016, one letter had been submitted in support of the request, and one petition with 15 signatures and seven 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 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 and elevation would require the proposal exceeding 4' in height in the Sunnybrook Lane front yard setback to be constructed and maintained in the location and of the heights and material as shown on these documents.

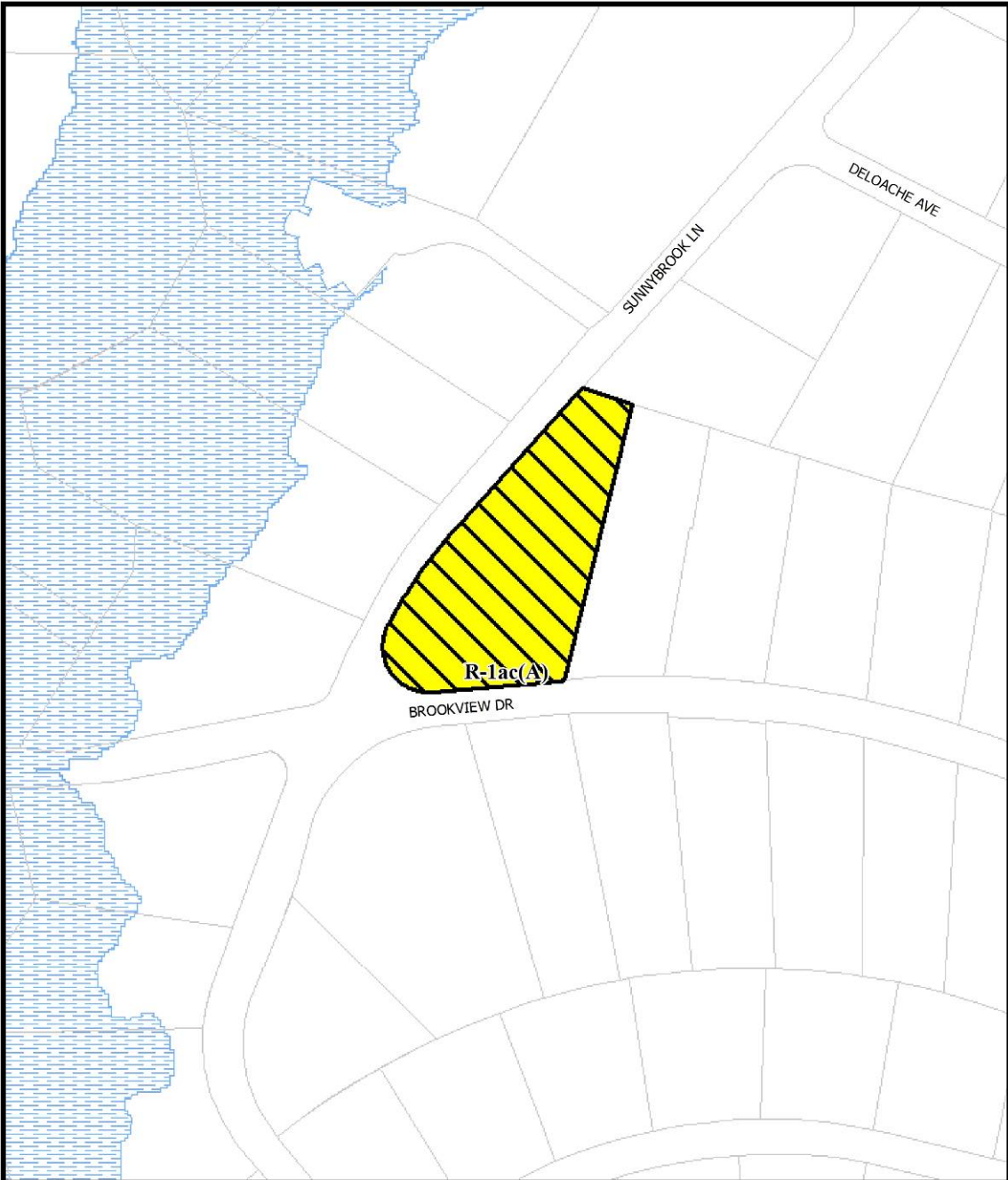
Timeline:

- July 21, 2016: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 4, 2016: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- 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 31st deadline to submit additional evidence for staff to factor into their analysis; and the September 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the 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.

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

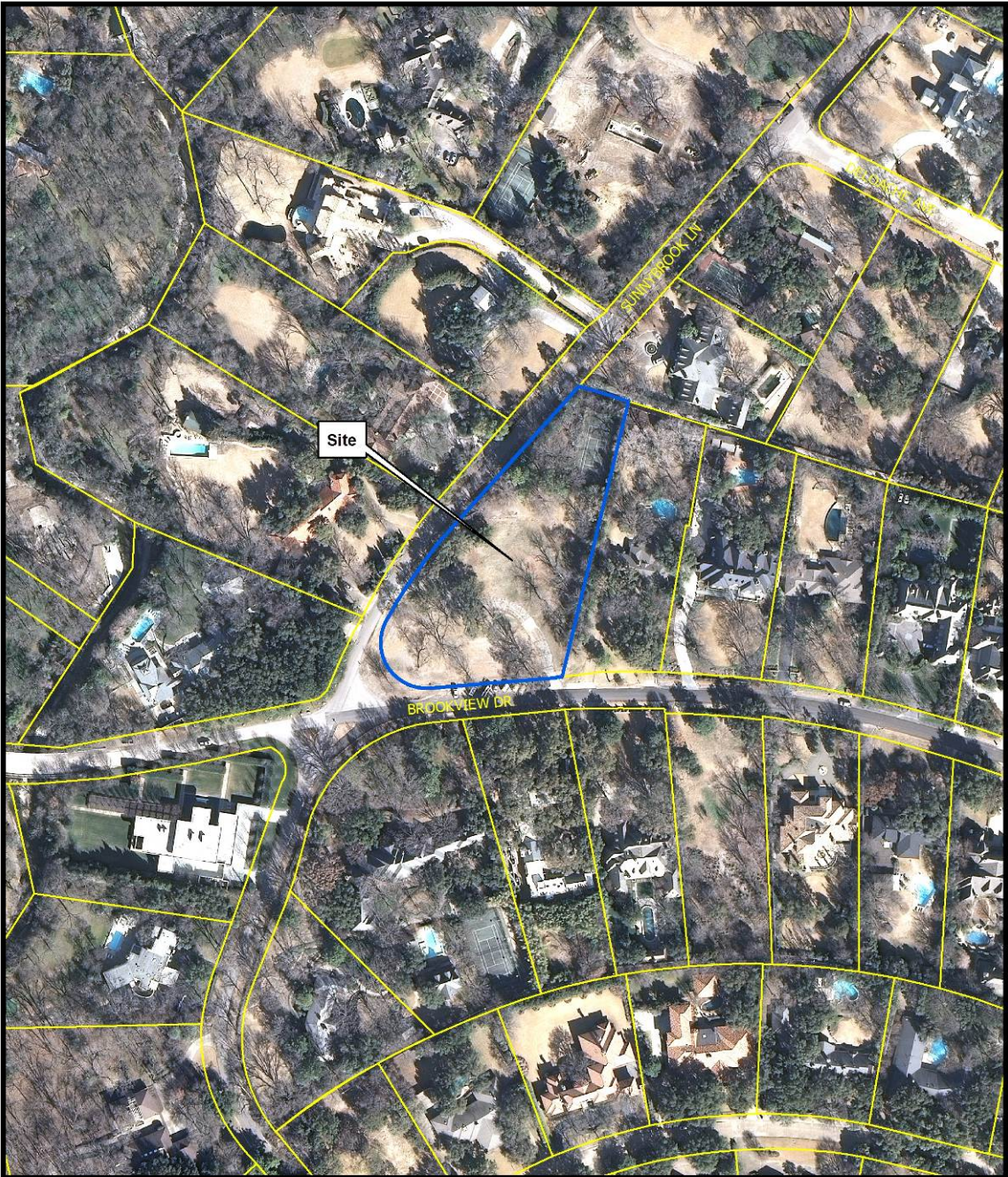


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ZONING MAP

Case no: BDA156-096

Date: 8/11/2016



1:2,400

AERIAL MAP

Case no: BDA156-096

Date: 8/11/2016



B

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 156-096

Data Relative to Subject Property:

Date: July 21, 2016

Location address: 4815 Brookview Dr. Zoning District: R-1ac(A)

Lot No.: Pt 1 Block No.: 11/5584 Acreage: 2.242 acres Census Tract: 206.00

Street Frontage (in Feet): 1) 270 ft 2) 520 ft 3) _____ 4) _____ 5) _____

NE2A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): David and Ann Sutherland Living Trust

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

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

E-mail Address: rob@baldwinplanning.com

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

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

E-mail Address: rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance X, or Special Exception _____, of 25'
30 feet to the required front yard setback along Sunnybrook Lane and a special
exception of 6 feet for a fence in a front yard.

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 property is a corner lot with two 40-foot front yard setbacks required. The property is also irregularly shaped. The placement and design of the home will preserve existing trees and follows the footprint of the previous structure. A portion of the single family home and a small portion of the swimming pool will also encroach into the 40' Sunnybrook Lane front yard.

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

Affidavit

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

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

Respectfully submitted: _____
(Affiant/Applicant's signature)

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



Janelle Renae Baker
Notary Public in and for Dallas County, Texas

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was---Granted OR Denied

Remarks _____

Chairman

Building Official's Report

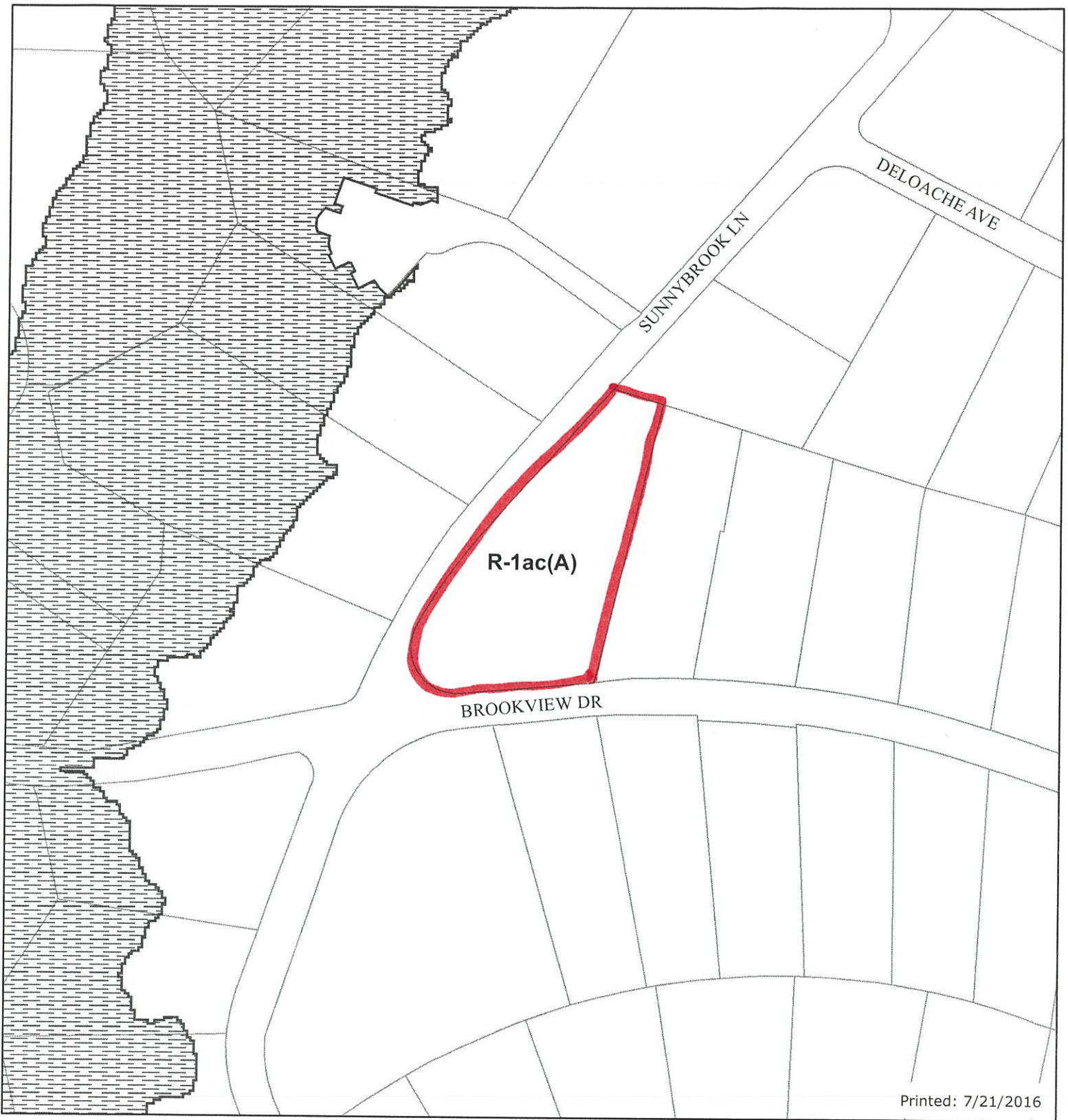
I hereby certify that Robert Baldwin

did submit a request for a variance to the front yard setback regulations, and for a special exception to the fence height regulations
at 4815 Brookview Drive

BDA156-096. Application of Robert Baldwin for a variance to the front yard setback regulations and a special exception to the fence height regulations at 4815 Brookview Drive. This property is more fully described as part of Lot 1, Block 11/5584, and is zoned R-1ac(A), which requires a front yard setback of 40 feet and limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a single family residential structure and provide a 15 foot front yard setback, which will require a 25 foot variance to the front yard setback regulation, and to construct a 10 foot high fence in a required front yard, which will require a 6 foot special exception to the fence regulation.

Sincerely,


Philip Sikes, Building Official



Printed: 7/21/2016

Legend

- | | | | |
|----------------------|--------------------------------|-----------------------|----------------------------|
| City Limits | railroad | Dry Overlay | CD Subdistricts |
| School | Certified Parcels | D | PD Subdistricts |
| Floodplain | Base Zoning | D-1 | PDS Subdistricts |
| 100 Year Flood Zone | PD193 Oak Lawn | CP | NSO Subdistricts |
| Mill's Creek | Dallas Environmental Corridors | SP | NSO_Overlay |
| Peak's Branch | SPSD Overlay | MD Overlay | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions | Historic Subdistricts | Parking Management Overlay |
| Parks | Height Map Overlay | Historic Overlay | 3-12 |
| | | Shop Front Overlay | |

BDA 156-096

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



1:2,400

SATHERLAND RESIDENCE

MICHELE BROWN + WALLS
 ARCHITECTS
 1000 W. BROADWAY, SUITE 1000
 DENVER, CO 80202
 TEL: 303.733.1111
 WWW.MICHELEBROWN+WALLS.COM
 BROWN ENGINEERING INC.
 1500 17TH AVENUE, SUITE 300
 DENVER, CO 80202
 TEL: 303.733.1111
 WWW.BROWNENGINEERING.COM

LEGEND
 EXISTING TREE

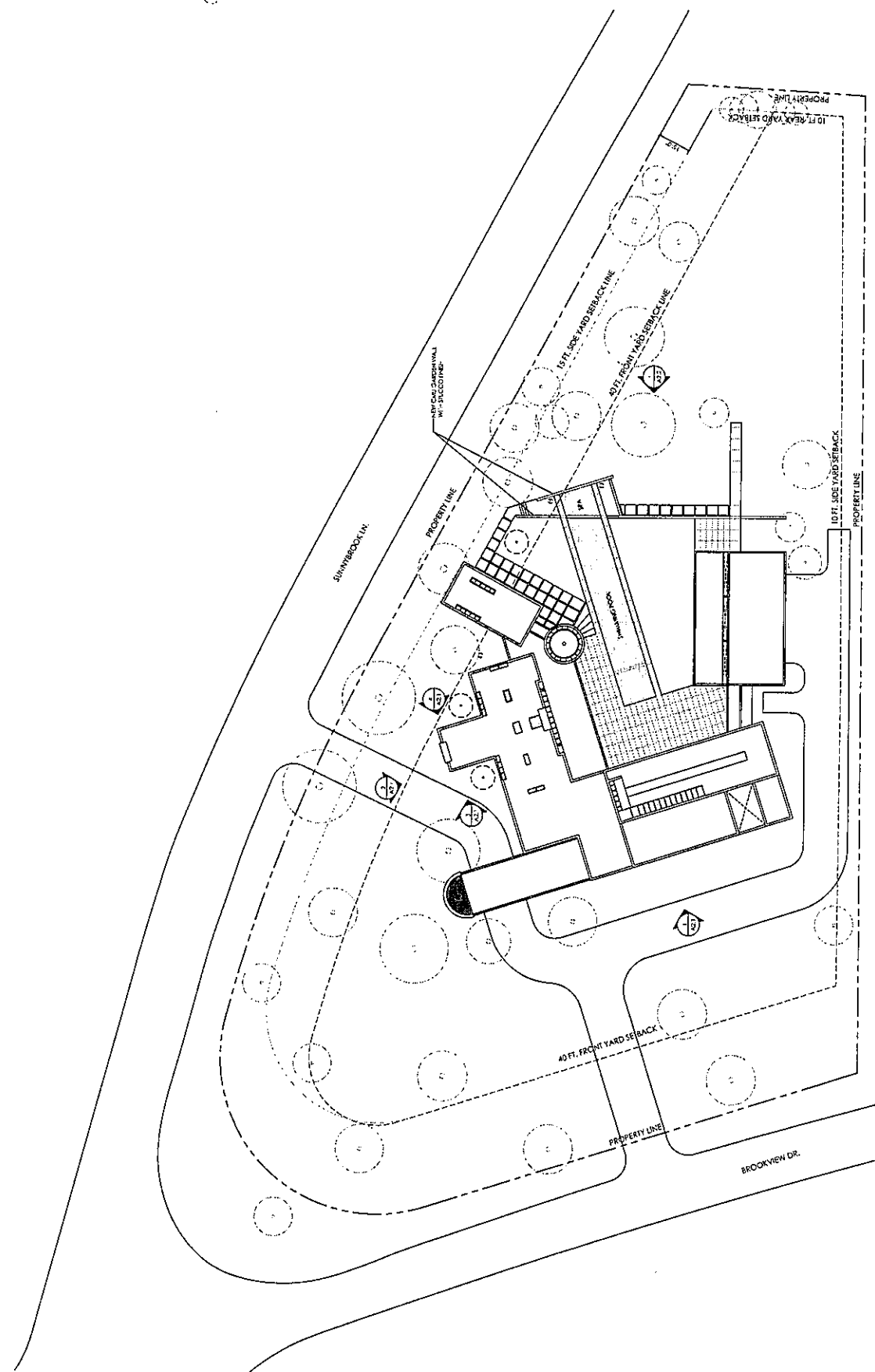
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 DRAWN BY: J. LOPKIN
 CHECKED BY: J. LOPKIN
 DATE: 04-AUGUST-2016

NO. SHEETS	02
S.D.A. PACKAGE	

SITE PLAN
 04 AUGUST 2016

A1.0

MICHELE BROWN + WALLS
 ARCHITECTS



1 SITE PLAN
 SCALE: 1"=20'



 1:2,400	NOTIFICATION		Case no: BDA156-096
	<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;">14</div> NUMBER OF PROPERTY OWNERS NOTIFIED		Date: 8/11/2016

Notification List of Property Owners

BDA156-096

14 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4815 BROOKVIEW DR	SHRAMAN SOUTH ASIAN MUSEUM & LEARNING CENTER
2	4831 BROOKVIEW DR	HARMON ERIC P & STEPHANIE G
3	4907 BROOKVIEW DR	GILMORE JOHN R & LINDA LB
4	4842 BROOKVIEW DR	TROWN ROBERT C & YVONNE F FAMILY TRUST
5	4818 BROOKVIEW DR	ORR DOUGLAS W &
6	9301 SUNNY BROOK LN	POTTS DONALD C & SARA SUE
7	9323 SUNNY BROOK LN	STOOL GERALD H &
8	9335 SUNNY BROOK LN	LYNCH HARRY H
9	9345 SUNNY BROOK LN	KANE MARK E & SHARON L
10	9355 SUNNY BROOK LN	GILBERT DAVID W TR &
11	9346 SUNNY BROOK LN	AUGUST THOMAS F & MARILYN J
12	4830 BROOKVIEW DR	BREKKE RAYMOND &
13	9246 SUNNY BROOK LN	MCCARTHY STEPHEN JR &
14	4930 PARK LN	DEDMAN ROBERT H JR