

ZONING BOARD OF ADJUSTMENT, PANEL A  
TUESDAY, SEPTEMBER 22, 2015  
AGENDA

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BRIEFING	6ES, 1500 MARILLA STREET DALLAS CITY HALL	11:00 A.M
PUBLIC HEARING	6ES 1500 MARILLA STREET DALLAS CITY HALL	1:00 P.M.

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**Donna Moorman, Chief Planner**  
**Steve Long, Board Administrator**  
**Danielle Lerma, Current Planner**

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**MISCELLANEOUS ITEM**

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Approval of the August 25, 2015 Board of Adjustment Panel A Public Hearing Minutes	M1
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**UNCONTESTED CASES**

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<b>BDA145-091(SL)</b>	5547 Merrimac Avenue <b>REQUEST:</b> Application of Lesley Hamilton for special exceptions to the visual obstruction regulations	1
<b>BDA145-101(SL)</b>	4520 Cherokee Trail <b>REQUEST:</b> Application of Peter Kavanagh for a special exception to the fence height regulations	2

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**REGULAR CASES**

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<b>BDA145-089(SL)</b>	5638 Merrimac Avenue <b>REQUEST:</b> Application of Kevin James Firkus for special exceptions to the visual obstruction regulations	3
<b>BDA145-094(SL)</b>	1694 Kings Highway <b>REQUEST:</b> Application of Jose Lara for a special exception to the off-street parking regulations	4

**BDA145-095(DL)**

1031 N. Jim Miller Road

**REQUEST:** Application of Juan S. Gonzalez for special exceptions to the fence height and visual obstruction regulations

5

## EXECUTIVE SESSION NOTICE

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

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

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

**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel A August 25, 2015 public hearing minutes.

**FILE NUMBER:** BDA 145-091(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Lesley Hamilton for special exceptions to the visual obstruction regulations at 5547 Merrimac Avenue. This property is more fully described as Lot 13, Block 6/2198, and is zoned CD-9, which requires a 20 foot visibility triangle at driveway and alley approaches. The applicant proposes to locate and/or maintain items in required visibility triangles, which will require a special exception to the visual obstruction regulations.

**LOCATION:** 5547 Merrimac Avenue

**APPLICANT:** Lesley Hamilton

**REQUESTS:**

Requests for special exceptions to the visual obstruction regulations are made to replace and maintain an existing 6' high solid wood fence and/or swinging gate in the following same locations on a site developed with a single family home:

- in the 20' visibility triangles on both sides of the driveway into the site from Worcola Avenue; and
- in the 20' visibility triangle where the alley on the north side of the site meets Worcola Avenue.

**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:**

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Project Engineer had no objections to these requests.
- The applicant had substantiated how the location of the replacement fence in the 20' visibility triangles on both sides of the driveway into the site from Worcola Avenue and in the 20' visibility triangle where the alley on the north side of the site meets Worcola Avenue does not constitute a traffic hazard.

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: CD 9 (Conservation District)  
North: CD 9 (Conservation District)  
South: CD 9 (Conservation District)  
East: CD 9 (Conservation District)  
West: CD 9 (Conservation District)

### **Land Use:**

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

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

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

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

- These requests focus on replacing and maintaining a 6' high solid wood fence and/or swinging gate in the same locations in the 20' visibility triangles on both sides of the driveway into the site from Worcola Avenue and in the 20' visibility triangle where the alley on the north side of the site meets Worcola Avenue on a site developed with a single family home.
- 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).
- A site plan and elevation have been submitted indicating portions of a fence located in the 20' visibility triangles on both sides of the driveway into the site from Worcola Avenue and in the 20' visibility triangle where the alley on the north side of the site meets Worcola Avenue.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."

- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to replace and maintain portions of a 6' high solid wood fence and/or swinging gate located in the same locations in the 20' visibility triangles on both sides of the driveway into the site from Worcola Avenue and in the 20' visibility triangle where the alley on the north side of the site meets Worcola Avenue does not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the items located in the 20' drive approach visibility triangles into the site from Worcola Avenue and in the 20' visibility triangle where the alley on the north side of the site meets Worcola Avenue to that what is shown on these documents – a 6' high solid wood fence/gate.
- Note that if the Board were to grant the applicant's request for a special exception to the visual obstruction regulations, and impose the submitted site plan and elevation as a condition, no additional relief would be provided to the applicant regarding any existing/proposed noncompliance on the subject site to any code provision.

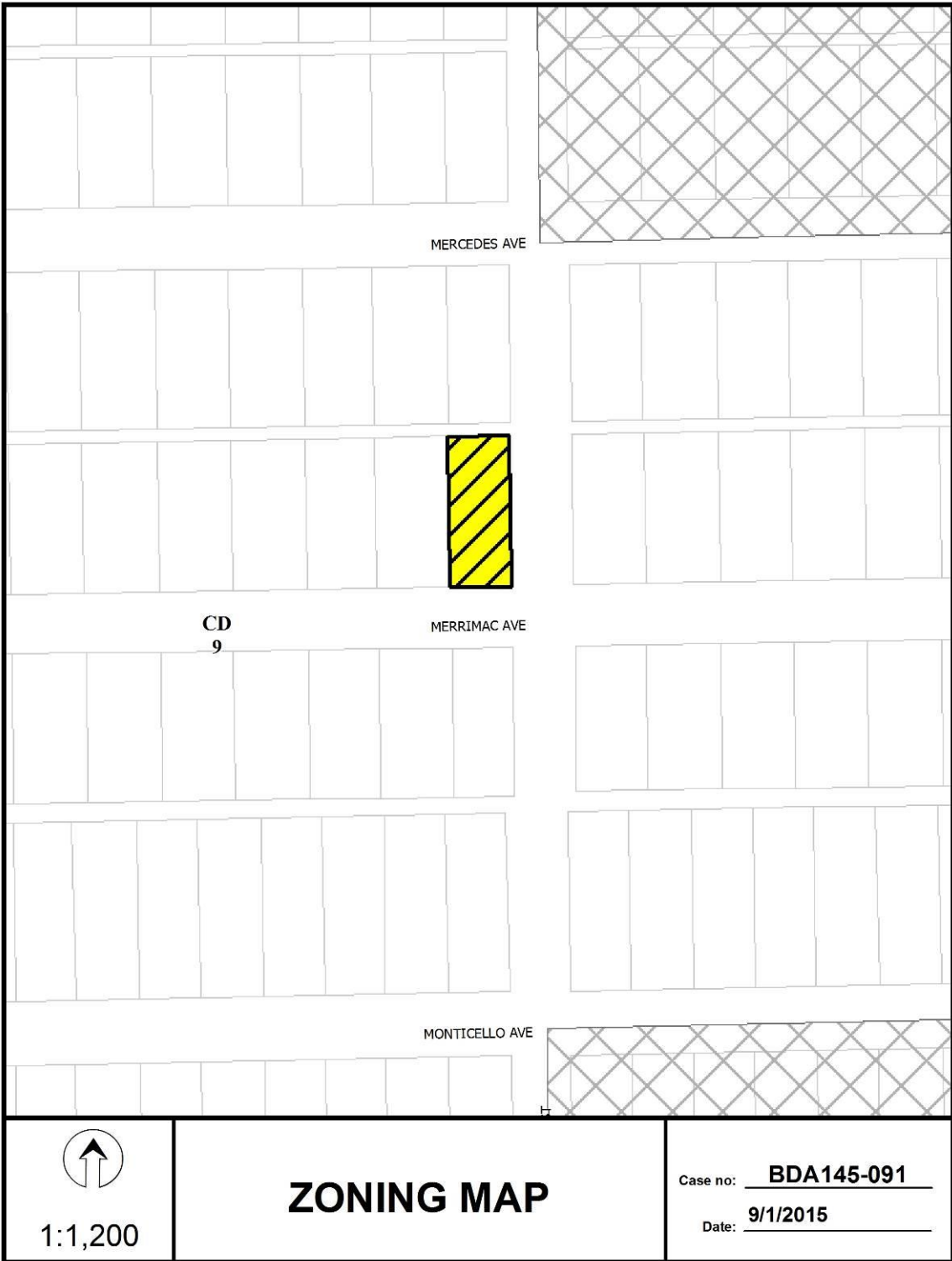
**Timeline:**

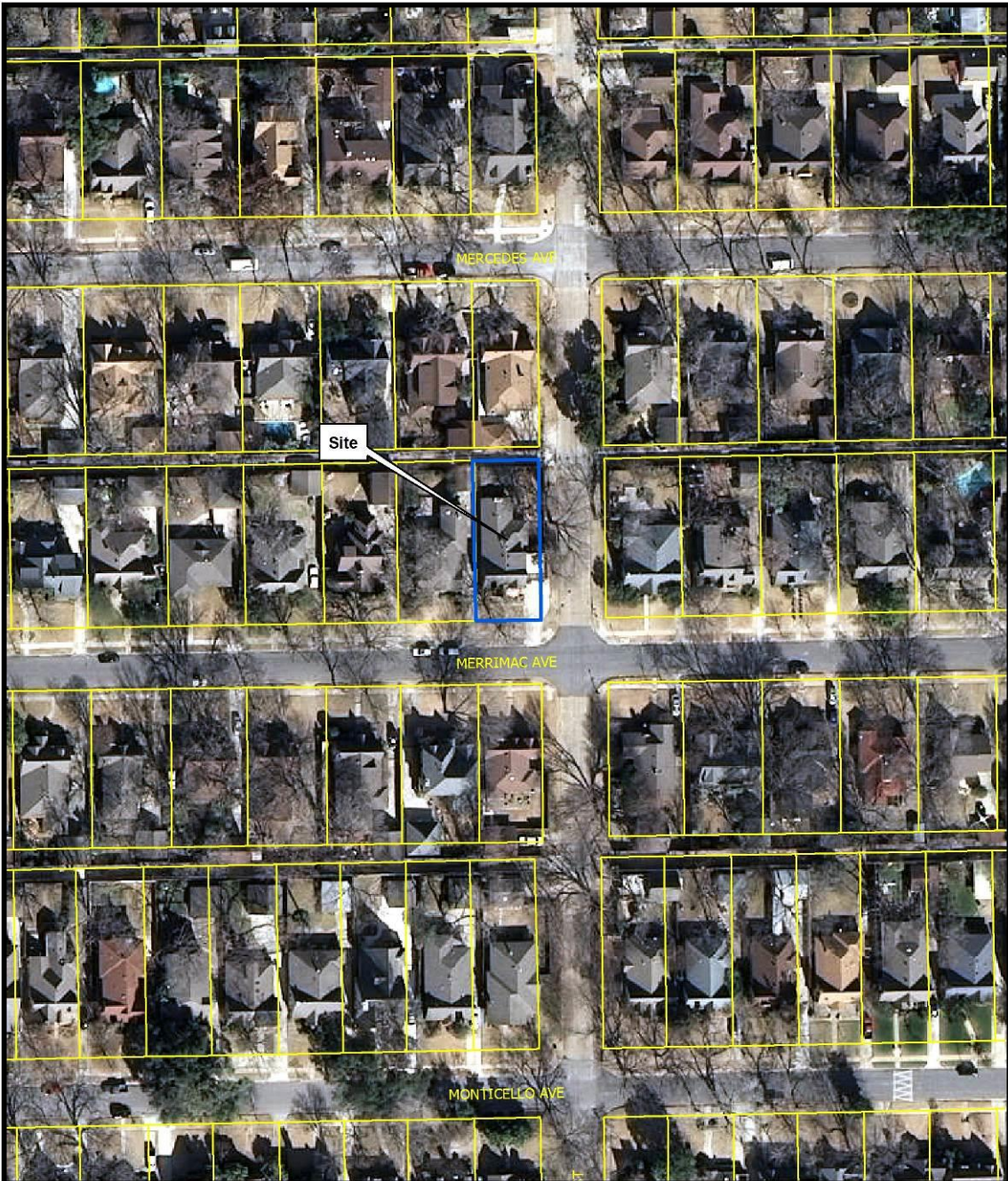
- June 12, 2015: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 19, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- August 19, 2015: The Board Administrator contacted the applicant 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 September 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 11<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- September 8, 2015: 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 Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and

Construction Department Project Engineer, and the Assistant City Attorney to the Board.

September 11, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."







1:1,200

# AERIAL MAP

Case no: BDA145-091

Date: 9/1/2015



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-091

Data Relative to Subject Property:

Date: 6-24-15

Location address: 5547 Merrimac Avenue Zoning District: CD #9

Lot No.: 13 Block No.: 6/2198 Acreage: 0.15 Census Tract: 3.00

Street Frontage (in Feet): 1) 50'x130' 2) 130' 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_ SE24

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Lesley Hamilton

Applicant: Lesley Hamilton Telephone: 214.476.5126

Mailing Address: 5547 Merrimac Avenue Zip Code: 75206

E-mail Address: lesleyphamilton@gmail.com

Represented by: Lesley Hamilton Telephone: \_\_\_\_\_

Mailing Address: See information above Zip Code: \_\_\_\_\_

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

Affirm that an appeal has been made for a Variance \_\_\_\_\_, or Special Exception  of a visibility triangle exception for an alley and driveway on the side street Warcola.

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:  
Granting a special exception for the visibility triangle would in no way adversely affect the neighborhood or residents. No one uses that alley. The trash is picked up out front not in the back alley. There are no schools or parks nearby and leaving the fence in the same area would not be a safety hazard.

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.

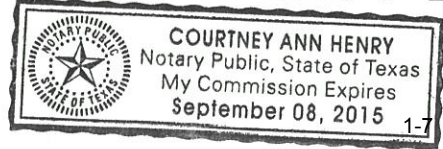
Affidavit

Before me the undersigned on this day personally appeared Lesley Hamilton  
(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 18 day of JUNE, 2015



\_\_\_\_\_  
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 Lesley Hamilton

did submit a request for special exceptions to the visibility obstruction regulations  
at 5547 Merrimac Avenue

BDA145-091. Application of Lesley Hamilton for special exceptions to the visibility obstruction regulations at 5547 Merrimac Avenue. This property is more fully described as Lot 13, Block 6/2198, and is zoned CD-9, which requires a 20 foot visibility triangle at driveway and alley approaches. The applicant proposes to construct and maintain a single family residential fence structure in required visibility obstruction triangles, which will require a special exception to the visibility obstruction regulation.

Sincerely,

  
Larry Holmes, Building Official

24	23	22	21	20	19	18	17	16	15	14	13	50
50	60	60	60	60	60	60	60	60	60	60	60	50

2199/7

20	19	18	17	16	15	50
60	60	60	60	60	60	50

2194/1

MERCEDES

5500

5600

24	23	22	21	20	19	18	17	16	15	14	13	12	11	10	9	8	7	6	5	4	3	2	50	
50	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	50

2198/6

20	19	18	17	16	15	50
60	60	60	60	60	60	50

2195/1

MERRIMAC

5500

WORCOLA

5600

24	23	22	21	20	19	18	17	16	15	14	13	12	11	10	9	8	7	6	5	4	3	2	50
50	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	50

2197/5

20	19	18	17	16	15	50
60	60	60	60	60	60	50

2195/4

MC MILLAN

7.5

7.5

50

50

60

2174

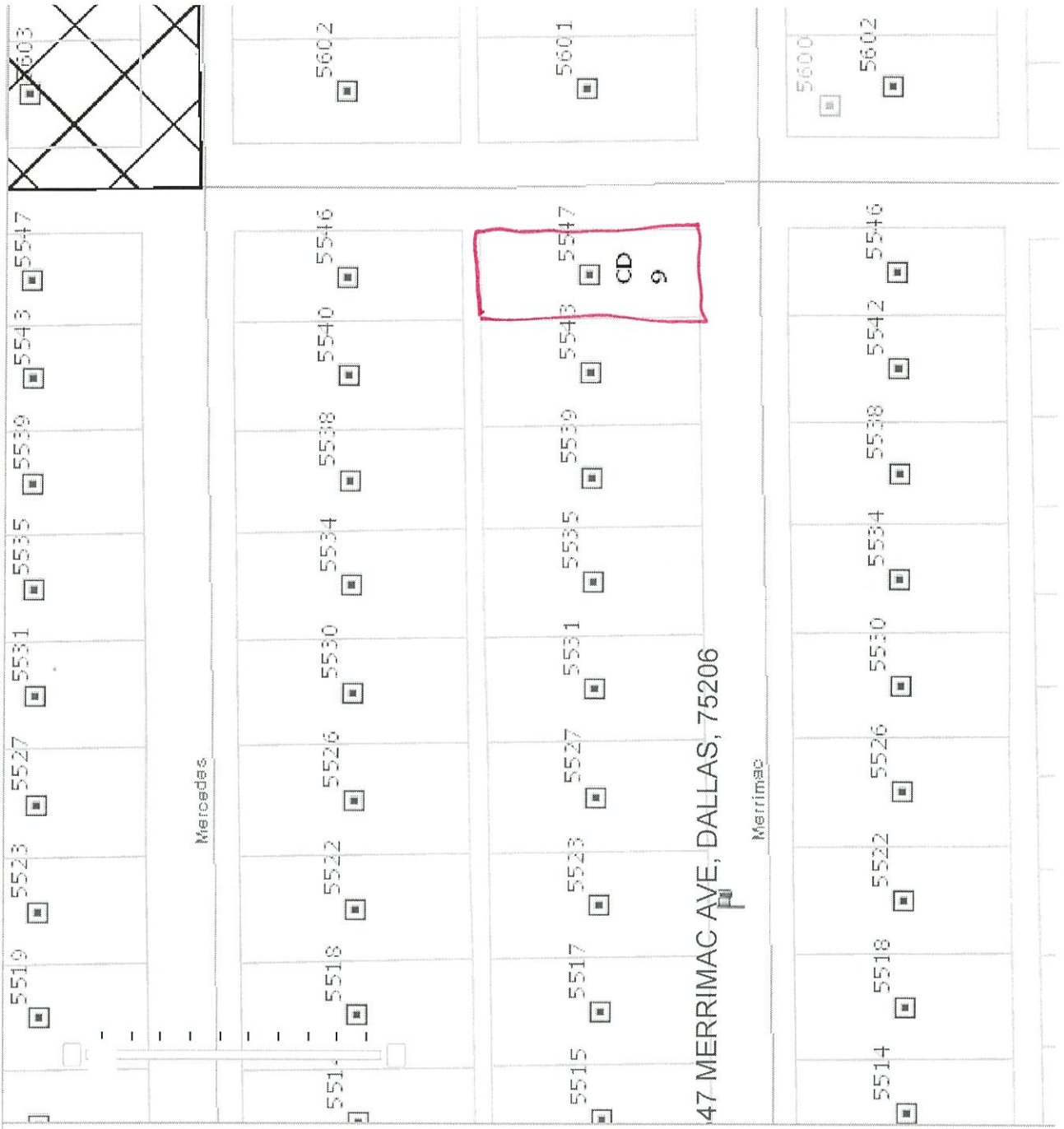
2169A

# City of Dallas

Internal Development Research Site

Legend

Locate Property

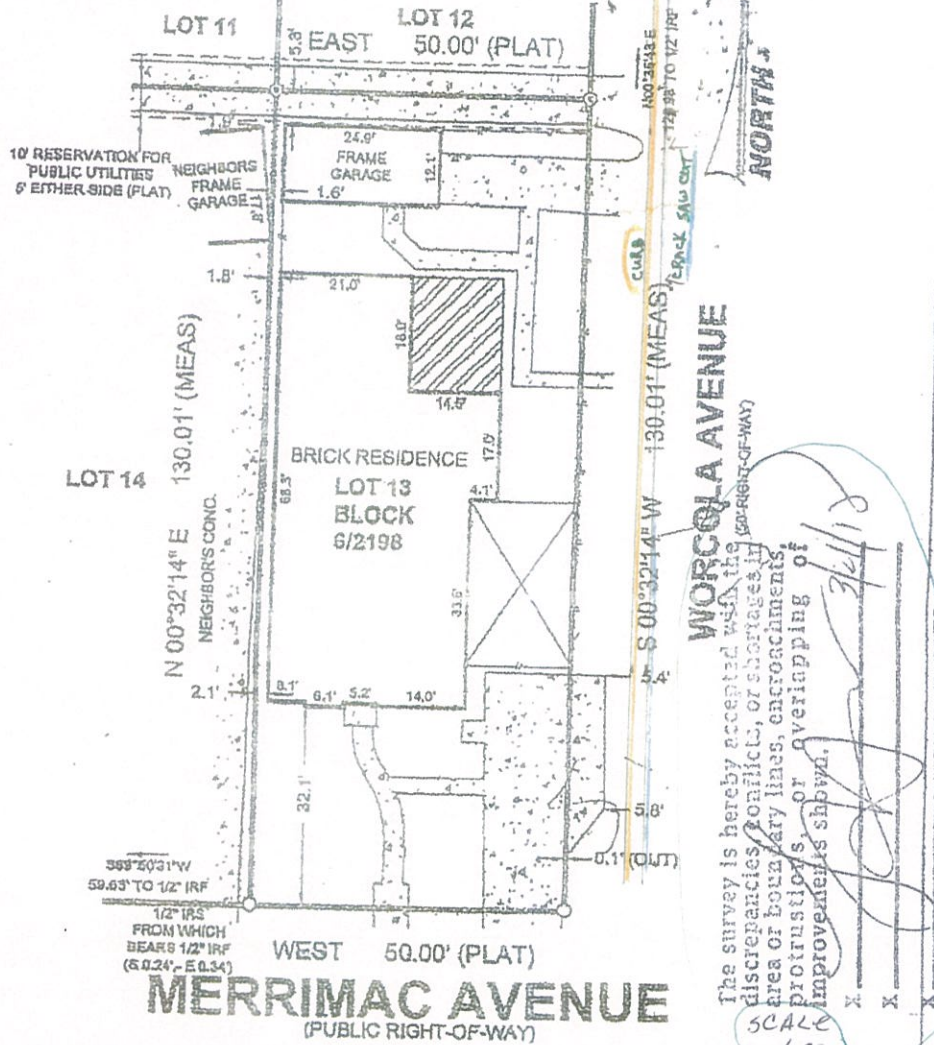


### SURVEY PLAT

This is to certify that I have made a careful and accurate survey, on the ground, of property located at 6547 MERRIMAC AVENUE: Being Lot 13, in Block 6/2198, of SIXTY FOOT SECTION OF GREENLAND HILLS, an Addition to the City of Dallas, Texas, according to the Map thereof recorded in Volume 3, Page 364, of the Map Records of Dallas County, Texas.

According to Community-Panel No. 40140C 0336J of the Federal Emergency Management Agency Flood Insurance Rate Map or Flood Hazard Boundary Map Dated August 23, 2003 the property shown hereon is not located in Zone "A" (Area of 100 Year Flood Plain). The property is in Zone "X".

This survey was performed exclusively for the parties in connection with the G.P. Number shown hereon and is licensed for a single use. This survey remains the property of the Surveyor. Unauthorized reuse is not permitted without the expressed written permission of the Surveyor. This survey is an original work protected by United States Copyright law and International treaties. All rights reserved. Do not make illegal copies.



To Republic Title Company in connection with the transaction described in GF No. 07R12265 TC0. The plat shown hereon is a correct and accurate representation of the property, lines and dimensions are shown; and EXCEPT AS SHOWN, all improvements are located within the boundaries the distances indicated, and EXCEPT AS SHOWN, there are no visible and apparent easements, encroachments or protrusions on the ground.

THESE PLANS HAVE BEEN REVIEWED BY THE BUILDING INSPECTION DIVISION AND ARE APPROVED FOR THE START OF CONSTRUCTION, ANY DEVIATION FROM THESE PLANS SHALL BE APPROVED BY THE BUILDING OFFICIAL.

ZO DATE: 4-11-15  
 BU DATE: 4-11-15  
 BY: [Signature]  
 BY: [Signature]

THIS APPROVAL DOES NOT PERMIT THE VIOLATION OF ANY CITY ORDINANCE OR STATE LAW

SUBJECT TO FIELD INSPECTORS APPROVAL

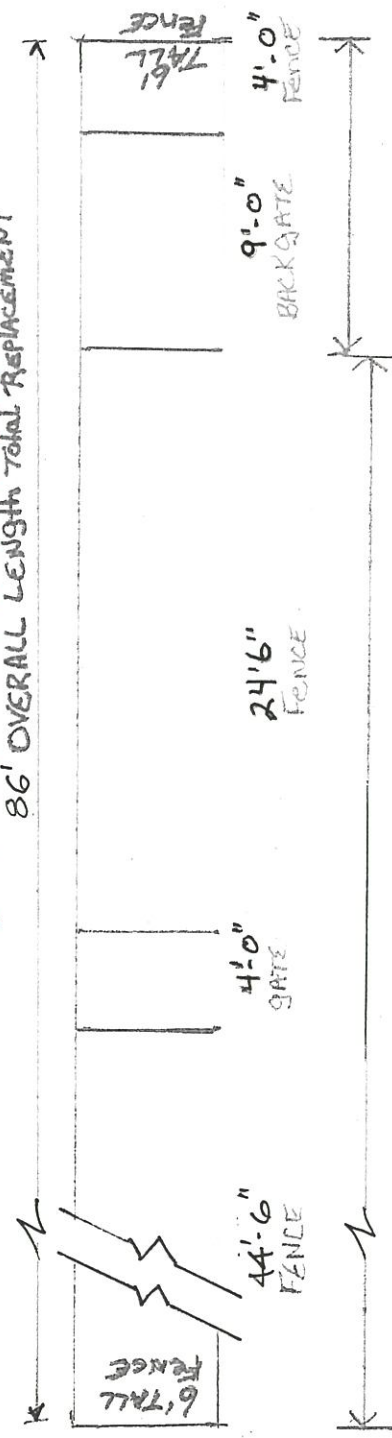
\*NOTE  
THIS SHOWING ONLY  
BACK HALF OF HOUSE  
FOR NEW FENCE

5549 MARIOTT AVE

HOUSE  
\*SEE NOTE



6' TALL  
(STAINED BOARD ON BOARD FENCE)  
86' OVERALL LENGTH TOTAL REPLACEMENT



1-12

FENCE TO CURB  
11'

↓ CURB ↓

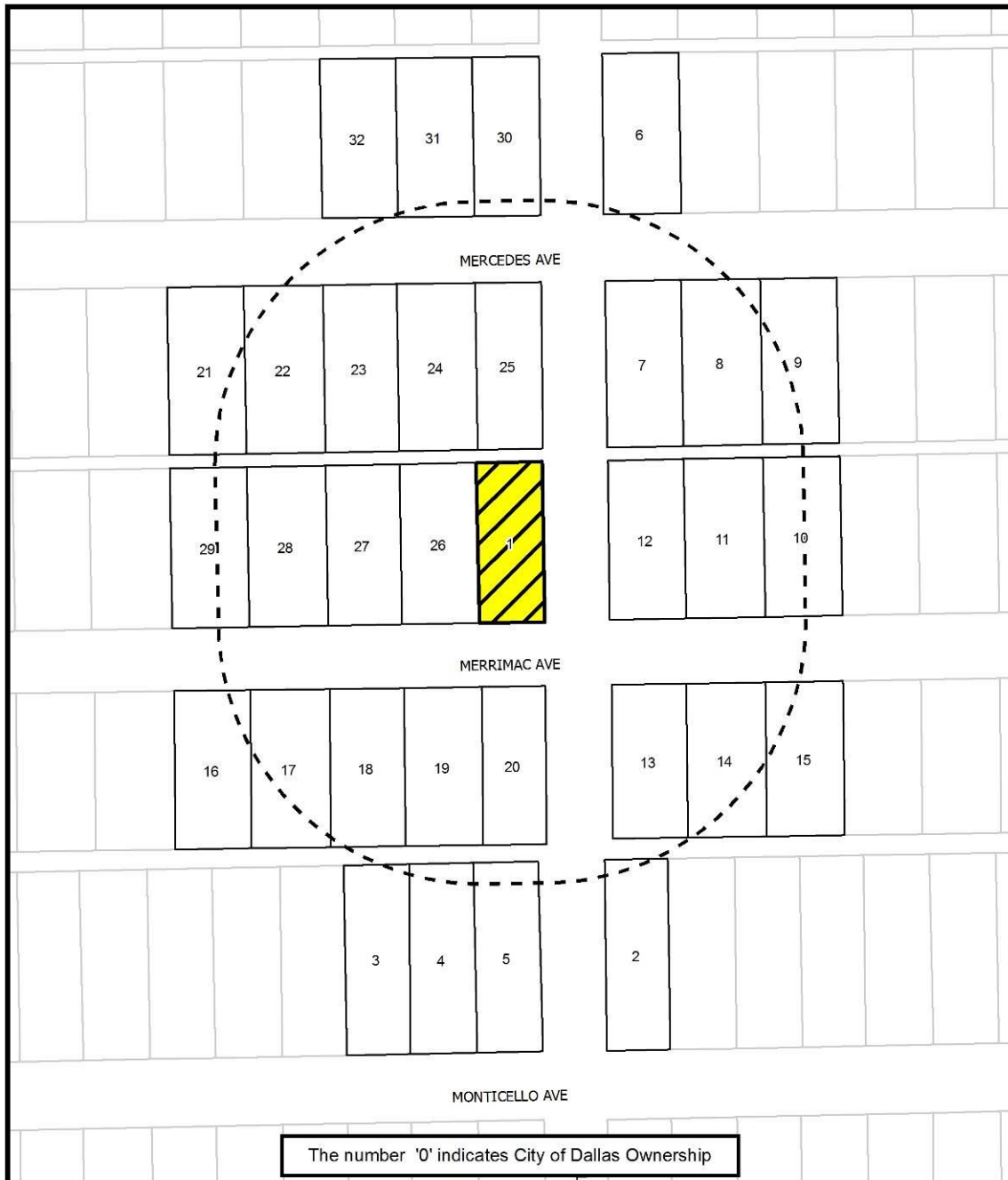
14" off CURB

SAWCUT ON CONCRETE 14" off CURB

1/8  
SCALE

WORCOLA AVE.





1:1,200

# NOTIFICATION

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

Case no: **BDA145-091**

Date: **9/1/2015**

# *Notification List of Property Owners*

## *BDA145-091*

### *32 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5547 MERRIMAC AVE	HAMILTON LESLEY P
2	5603 MONTICELLO AVE	MONCREIFF SCOTT NORMAN
3	5549 MONTICELLO AVE	DUVALL ERIC G & LISA L
4	5551 MONTICELLO AVE	CAO JING
5	5555 MONTICELLO AVE	PARRISH THOMAS COLLIS &
6	5603 MERCEDES AVE	CLAYTON CHRISTINA
7	5602 MERCEDES AVE	BOWLINE ASHLEY D &
8	5606 MERCEDES AVE	GOFORTH WALTER MACK & SUSAN H
9	5610 MERCEDES AVE	BENHORIN JONATHAN JOSEPH
10	5611 MERRIMAC AVE	LEECOCK ASHLEY & RYAN D LEECOCK
11	5607 MERRIMAC AVE	SHERMAN MARK JAY
12	5601 MERRIMAC AVE	BLANKS DAVID E
13	5602 MERRIMAC AVE	MEADOWS PHILIP O JR &
14	5606 MERRIMAC AVE	BAKER JEFFREY &
15	5610 MERRIMAC AVE	UDASHEN ROBERT N
16	5530 MERRIMAC AVE	DUHME WERNER H &
17	5534 MERRIMAC AVE	BREAUX KAY BETH
18	5538 MERRIMAC AVE	DOBBS CYNTHIA &
19	5542 MERRIMAC AVE	HECKER JAMES & JENNIFER
20	5546 MERRIMAC AVE	BARNES SCOTT A
21	5530 MERCEDES AVE	DANIELS TIMOTHY A & LORI D
22	5534 MERCEDES AVE	DANIELS TIMOTHY & LORI
23	5538 MERCEDES AVE	STOKES STEPHANIE ELISE
24	5540 MERCEDES AVE	GAIR DAVID C & ASHLEY BR
25	5546 MERCEDES AVE	LOW EVA
26	5543 MERRIMAC AVE	ASHTON THOMAS MCCLURE

09/01/2015

<b>Label #</b>	<b>Address</b>	<b>Owner</b>
27	5539 MERRIMAC AVE	PATIN MITZI M
28	5535 MERRIMAC AVE	BIDDLE JOHN ROYDEN
29	5531 MERRIMAC AVE	EATON SAMUEL D
30	5547 MERCEDES AVE	POPP JENNIFER M
31	5543 MERCEDES AVE	WINWOOD ERIC
32	5539 MERCEDES AVE	STURGEON RALPH & ERINA

**FILE NUMBER:** BDA 145-101(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Peter Kavanagh for a special exception to the fence height regulations at 4520 Cherokee Trail. This property is more fully described as Lot 6, Block O/4984, and is zoned PD-455, 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:** 4520 Cherokee Trail

**APPLICANT:** Peter Kavanagh

**REQUEST:**

A request for a special exception to the fence height regulations of 4' is made to: 1) replace an existing 8' high, approximately 90' long wood fence with a new 8' high wood fence; and 2) to continue the new 8' high wood fence approximately 60' further in length northward in the site's 30' front yard setback along Pomona Road on a site that is currently vacant.

**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: PD 455 (Planned Development)  
North: PD 455 (Planned Development)  
South: PD 455 (Planned Development)  
East: PD 455 (Planned Development)  
West: PD 455 (Planned Development)

## **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 developed with a park and a school (Bluff View Park and the Sudie L. Williams Elementary School).

## **Zoning/BDA History:**

1. BDA 145-076, Property at 4519 Cherokee Trail (the lot north of the subject site) On August 25, 2015, the Board of Adjustment Panel A denied a request for a special exception to the fence height regulations of 1' without prejudice. The case report stated the request was made to maintain an open picket/post fence that ranges in height given grade variations on the property from 4' 2 ½" – 4' 6 ½" on a site developed with a single family home.
2. BDA 990-201, Property at 4501 Cherokee Trail (three lots northwest of the subject site) On February 15, 2000, the Board of Adjustment Panel B denied a request for a special exception to the fence height regulations of 4.5' without prejudice. The case report stated the request was made to construct and maintain a 6' high open wrought iron picket fence with 6.5' high stone/brick columns, an 8' high open wrought iron gate with 8.5' high columns.

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

- This request focuses on replacing an existing 8' high, approximately 90' long wood fence with a new 8' high wood fence; and to continuing the new 8' high wood fence approximately 60' further in length northward in the site's 30' front yard setback along Pomona Road on a site that is currently vacant.
- 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 southwest corner of Cherokee Trail and Pomona Road in PD 455.

- Given the single family zoning and location of the corner lot subject site, it has two 30' front yard setbacks – a 30' front yard setback along Pomona Road (the shorter of the two frontages of the subject site) and a 30' front yard setback along Cherokee Trail (the longer of the two frontages that while usually is considered a side yard is a front yard notwithstanding in order to maintain continuity of the established front yard setback along this street frontage where homes to the west that “front” northward to Cherokee Trail).
- The applicant has submitted a site plan and elevation of the proposal in the front yard setback indicating that it reaches a maximum height of 8'.
- The submitted site plan and elevation only represents a fence to exceed 4' in height in the site's Pomona Road front yard setback.
- The following additional information was gleaned from the submitted site plan:
  - The proposal is represented as being approximately 240' in length parallel to the Pomona Road and approximately 6' perpendicular to this street on the north side of the site in the Pomona Road 30' front yard setback.
  - The fence is represented to be located at a range of on the Pomona Road front property line to 30' from this front property line or at a range of about 25' to 55' from the Pomona Road pavement line.
- The 8' high Pomona Road wood fence proposal is located on the site where no single family home has direct frontage – a park (Bluff View Park) fronts the fence on the subject site and has an approximately 4' high chain link fence in its front yard setback.
- The Board Administrator conducted a field visit of the site and surrounding area along Pomona Road (approximately 400 feet north and south of the site) and noted one other visible fences above 4 feet high which appeared to be located in a front yard setback – an approximately 6' high chain link fence south of the site at the Sudie L. Williams Elementary School.
- As of September 11, 2015, no letters had been submitted in support of or in 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 and elevation would require the proposal exceeding 4' in height in the front yard setback to be constructed and maintained in the location and of the heights and materials as shown on these documents.

**Timeline:**

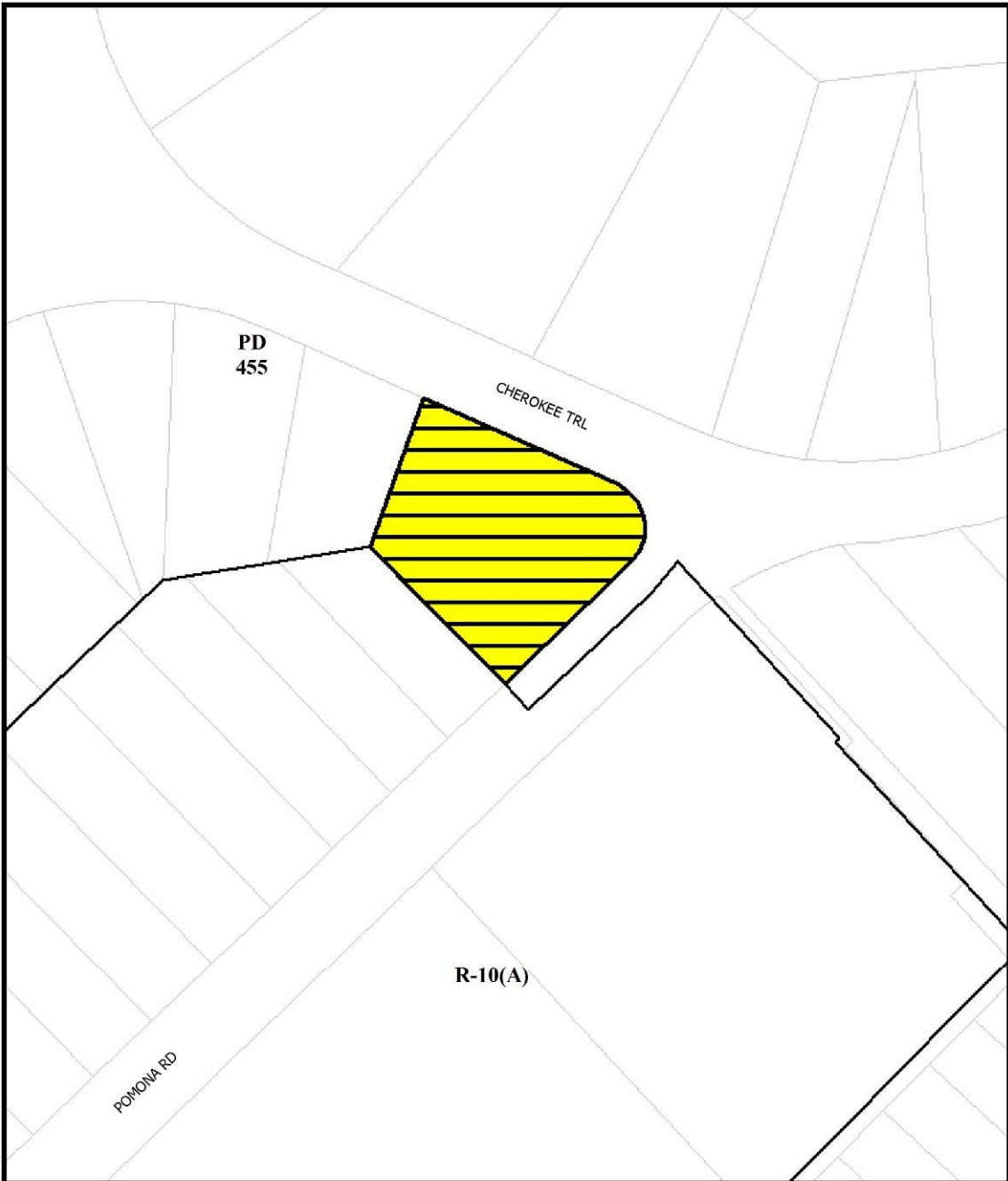
- July 24, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- August 19, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

August 19, 2015: The Board Administrator contacted the applicant 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 September 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 11<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

September 8, 2015: 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 Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current 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.



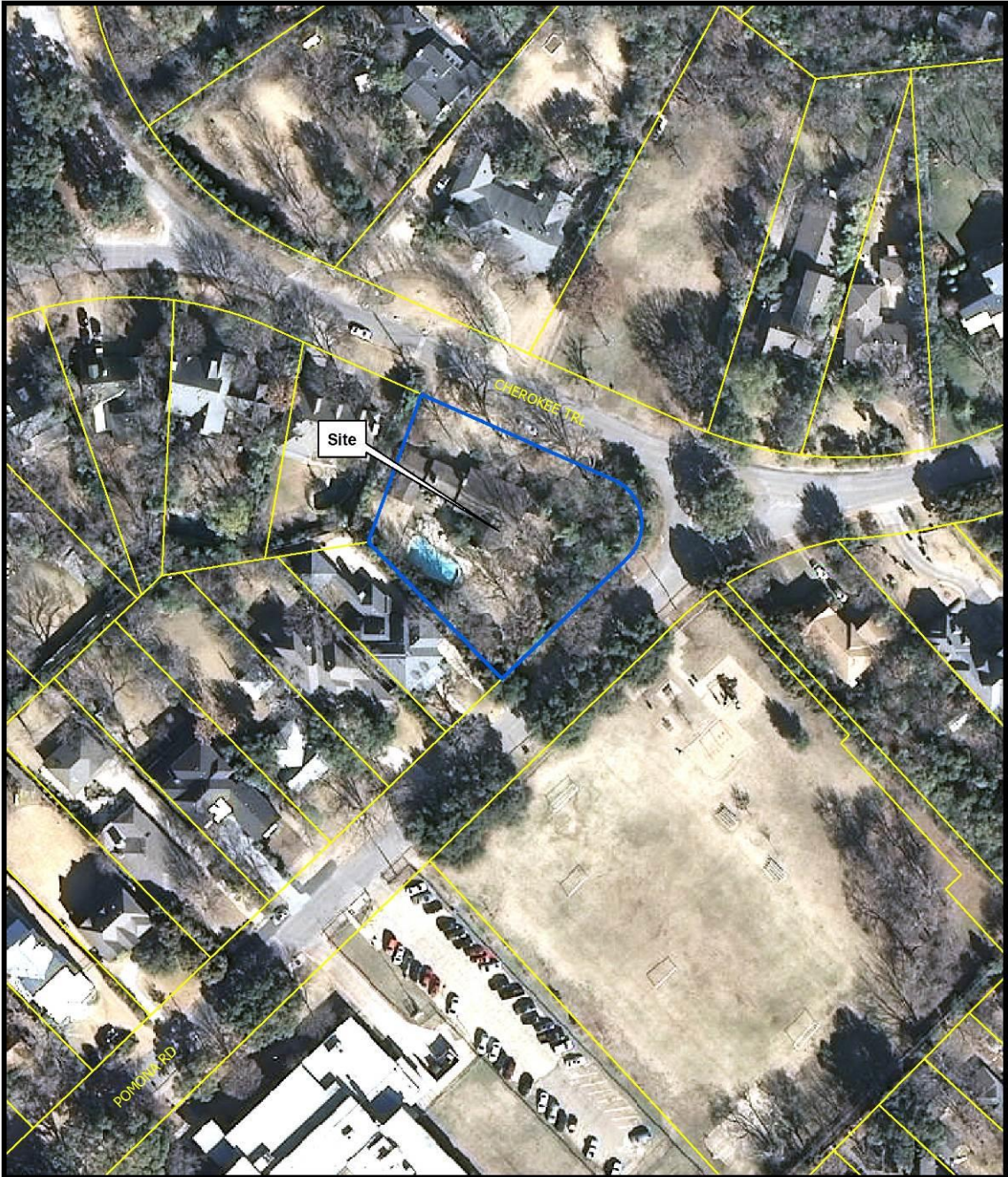
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# ZONING MAP

Case no: BDA145-101

Date: 9/1/2015





1:1,200

# AERIAL MAP

Case no: BDA145-101

Date: 9/1/2015



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-101

Date: 7-24-15

Data Relative to Subject Property:

Location address: 4520 Cherokee Trail Zoning District: PD 455

Lot No.: 6 Block No.: 0/4984 Acreage: .62 Census Tract: 0073.02

Street Frontage (in Feet): 1) 204.5 2) 174.3 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_ NW 21A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Gregory Weldon Beasley and Alex Burmeister

Applicant: Peter Kavanagh/Zone Systems, Inc. Telephone: 214-941-4440

Mailing Address: 1620 Handley Drive, Suite A, Dallas Zip Code: 75208

E-mail Address: peterk@zonesystems.com

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

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

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

Affirm that an appeal has been made for a Variance, or Special Exception X, of 4' to fence in FYSB  
~~Per Dallas Development Code 51A-4.602(A)(6) request is made for~~  
~~special exception for an 8' fence in the front yard.~~

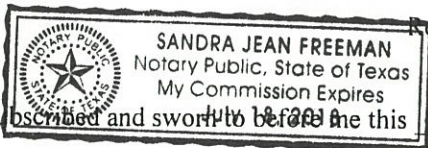
Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:  
Property is a corner lot. Rear yard is exposed to park across street. An 8 foot fence is there now. It is 112 feet long. We are replacing 88.5 feet of the fence with a more modern fence. The benefit is privacy for the rear yard and pool area.

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 Peter Kavanagh  
(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 30 day of July, 2015

Sandra Jean Freeman  
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**

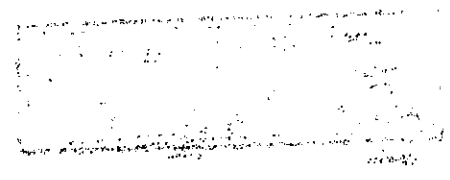
I hereby certify that Peter Kavanagh

did submit a request for a special exception to the fence height regulations  
at 4520 Cherokee Trail

BDA145-101. Application of Peter Kavanagh for a special exception to the fence height regulations at 4520 Cherokee Trail. This property is more fully described as Lot 6, Block O/4984, and is zoned PD-455, which limits the height of a fence in the front yard to 4 feet. 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.

Sincerely,

  
Larry Holmes, Building Official



# City of Dallas

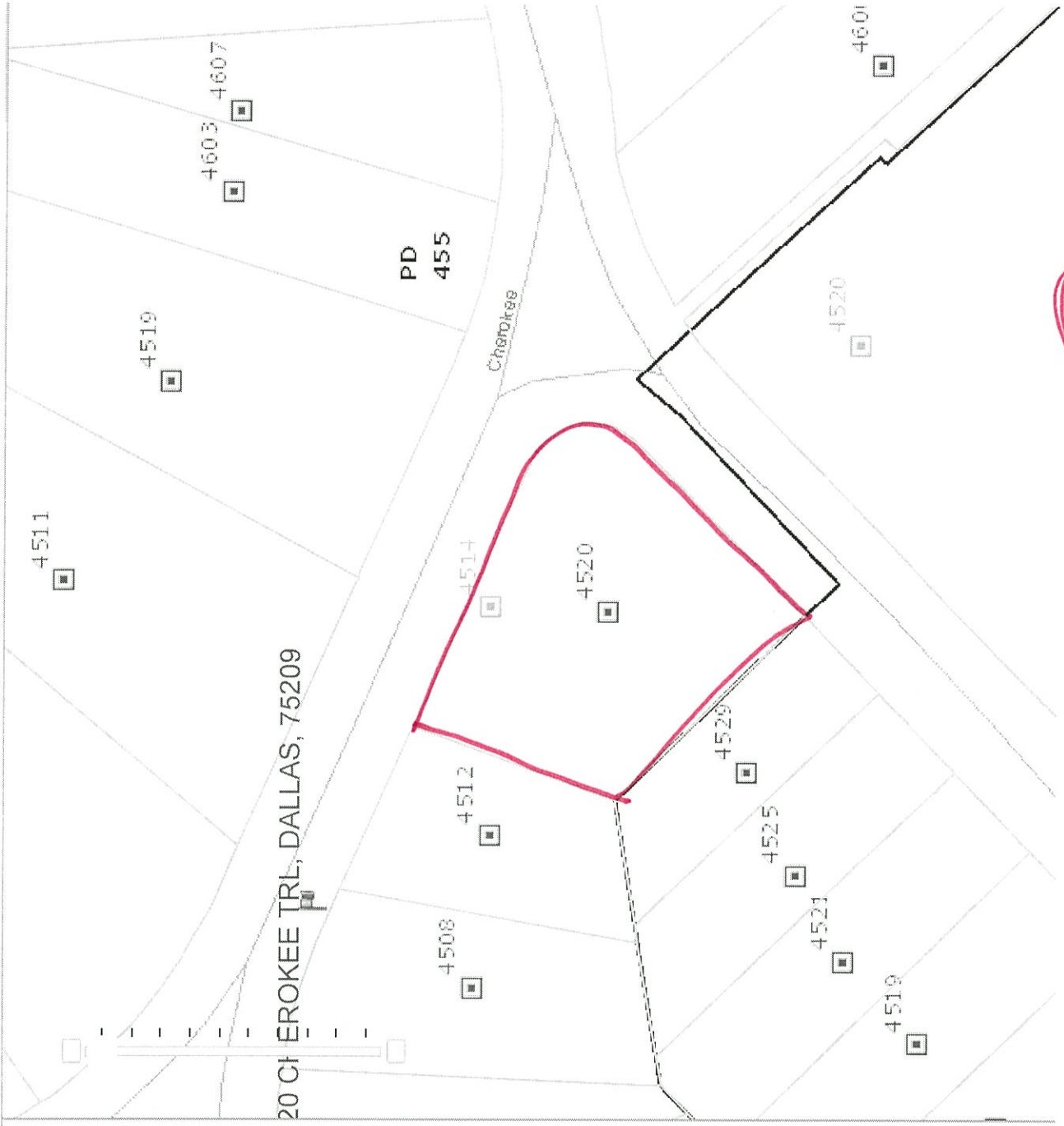
Internal Development Research Site

Legend

Locate Property

BDA 145-101

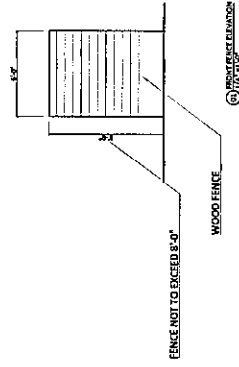
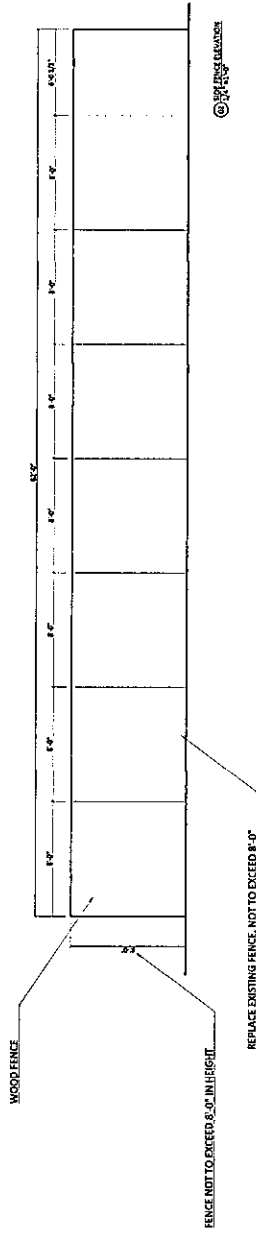
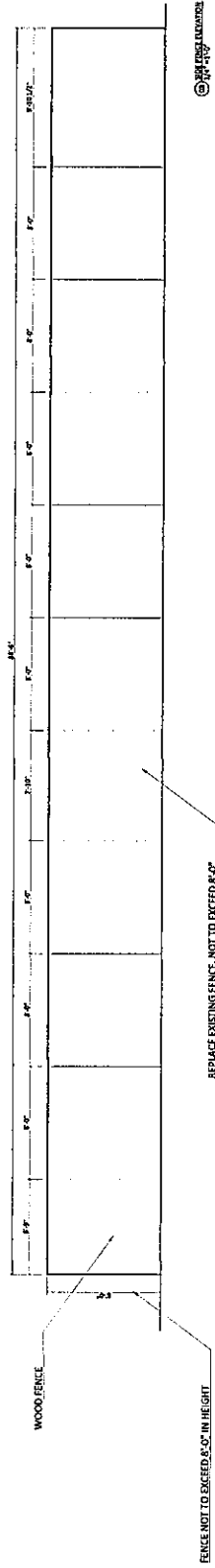
2-9



SF

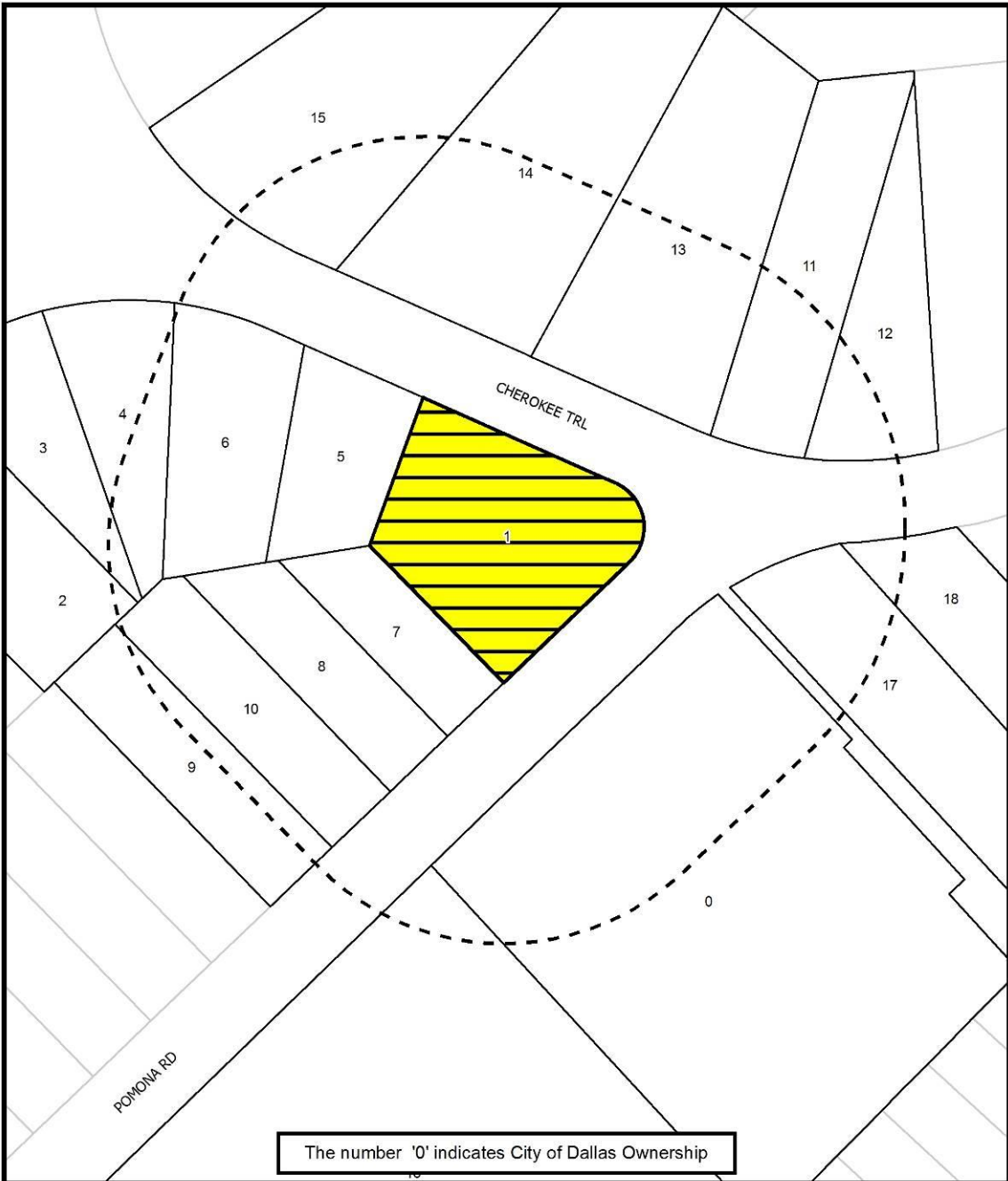






DATE/REVISED

No.	Description	Date



 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;"><b>200'</b></td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;"><b>18</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	<b>200'</b>	AREA OF NOTIFICATION	<b>18</b>	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u><b>BDA145-101</b></u> Date: <u><b>9/1/2015</b></u>
<b>200'</b>	AREA OF NOTIFICATION					
<b>18</b>	NUMBER OF PROPERTY OWNERS NOTIFIED					



# *Notification List of Property Owners*

## *BDA145-101*

### *18 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4520 CHEROKEE TRL	REES J RICHARD & KRISTIN
2	4520 BLUFFVIEW BLVD	WHEELER MICHAEL W &
3	4524 BLUFFVIEW BLVD	BARNES STEVEN M &KELLY A
4	4506 CHEROKEE TRL	MCCARVELL SUSAN LR
5	4512 CHEROKEE TRL	SHAPIRA ADAM ROSS & DEBRA
6	4508 CHEROKEE TRL	ANDERSON LARS C & SUSAN I
7	4529 POMONA RD	ROYBAL MICHAEL
8	4525 POMONA RD	PATRIDGE SUSAN LIVING TRUST
9	4519 POMONA RD	STEWART CHRISTOPHER R & DENISE M
10	4521 POMONA RD	BONDS HARRIET LYN
11	4603 CHEROKEE TRL	HARRIS JAMES C
12	4607 CHEROKEE TRL	RUTLEDGE DAVID &
13	4519 CHEROKEE TRL	FERRE DAVID J & ESTHER J
14	4511 CHEROKEE TRL	YU YUNG L &
15	4505 CHEROKEE TRL	DEYOUNG EDWIN R &
16	4518 POMONA RD	Dallas ISD
17	4600 POMONA RD	MANION BRIAN
18	4606 CHEROKEE TRL	SHIWACH RAJINDER S &

**FILE NUMBER:** BDA 145-089(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Kevin James Firkus for special exceptions to the visual obstruction regulations at 5638 Merrimac Avenue. This property is more fully described as Lot 10, Block 4/2196, and is zoned CD-9, which requires 20 foot visibility triangles where a driveway or an alley intersects a street. The applicant proposes to locate and/or maintain a items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

**LOCATION:** 5638 Merrimac Avenue

**APPLICANT:** Kevin James Firkus

**REQUESTS:**

Requests for special exceptions to the visual obstruction regulations are made to maintain an 8' high solid fence and/or sliding gate in the following locations on a site developed with a single family home:

- in the 20' visibility triangles on both sides of the driveway into the site from Greenville Avenue; and
- in the 20' visibility triangle where the alley on the south side of the site meets Greenville Avenue.

**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:**

Denial

Rationale:

- The Sustainable Development and Construction Department Project Engineer had recommended that these requests be denied commenting "property is located adjacent to Greenville Avenue which includes sidewalks and heavy vehicular and pedestrian traffic; the gated fence and its visual obstruction may pose traffic hazards."
- The applicant had not substantiated how the location of the fence located in the 20' visibility triangles on both sides of the driveway into the site from Greenville Avenue and in the 20' visibility triangle where the alley on the south side of the site meets Greenville Avenue does not constitute a traffic hazard.

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: CD 9 (Conservation District)  
North: CD 9 (Conservation District)  
South: CD 9 (Conservation District)  
East: CD 11 (Conservation District)  
West: CD 9 (Conservation District)

### **Land Use:**

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

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

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

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

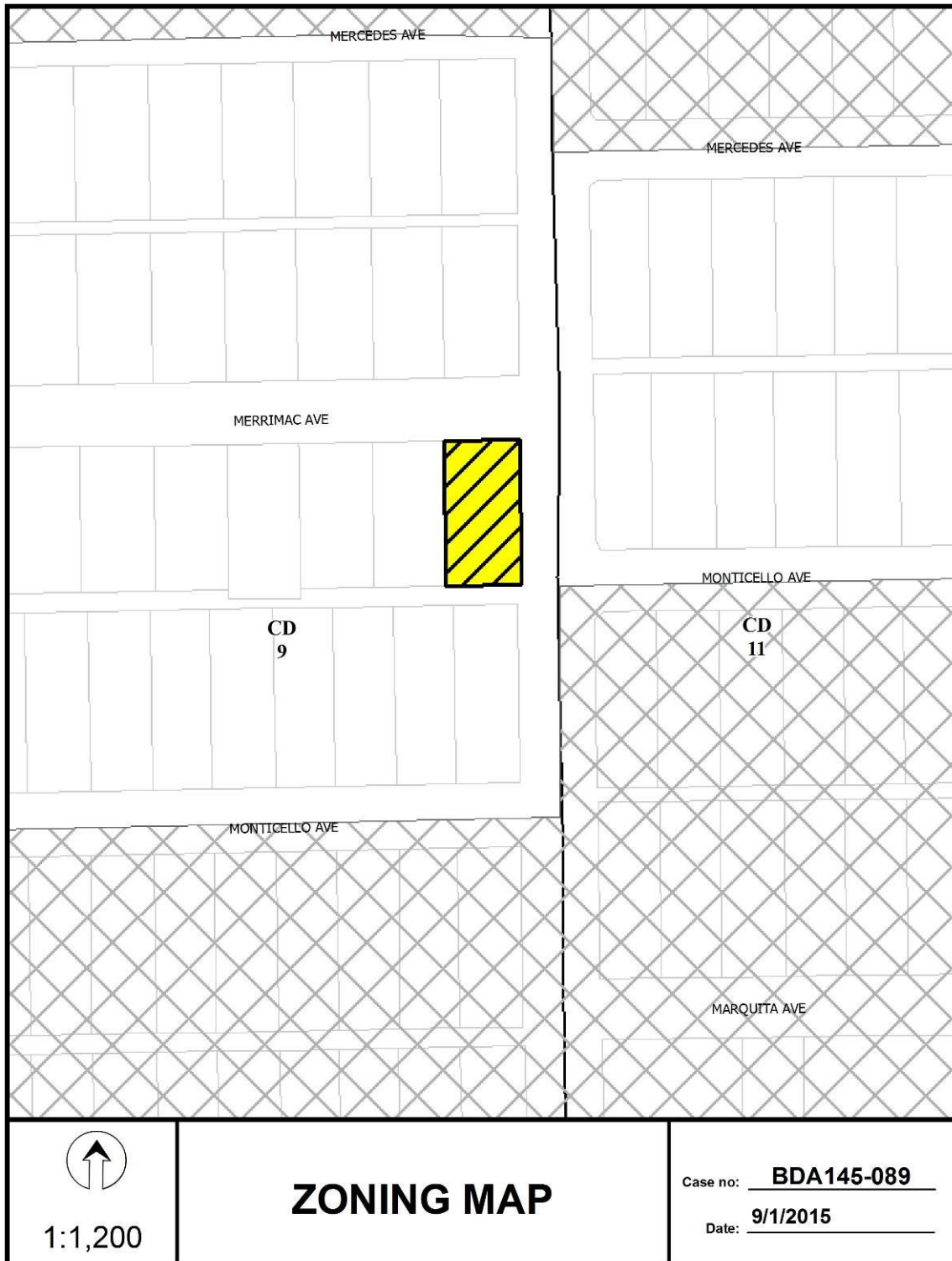
- These requests focus on maintaining an 8' high solid fence in the 20' visibility triangles on both sides into the site from Greenville Avenue and in the 20' visibility triangle where the alley on the south side of the site meets Greenville Avenue, on a site developed with a single family home.
- The 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).
- A site plan and elevation have been submitted indicating portions of a fence located in the 20' visibility triangle on both sides into the site from Greenville Avenue and in the 20' visibility triangle where the alley on the south side of the site meets Greenville Avenue.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Recommends that this be denied" commenting: "Property is located adjacent to Greenville Avenue which includes sidewalks and has heavy vehicular and pedestrian traffic. The gated fence and its visual obstruction may pose traffic hazards."

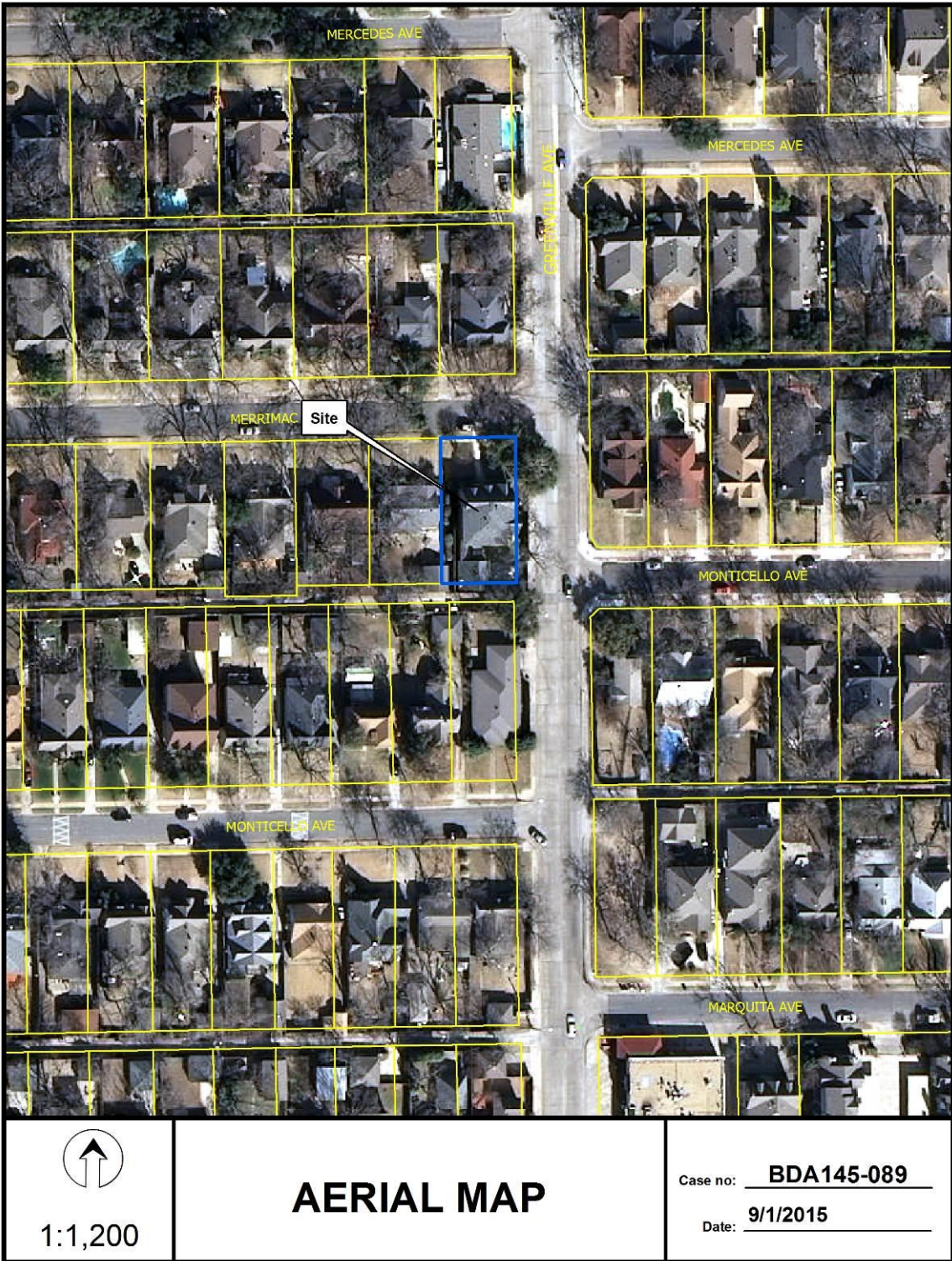
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain portions of an 8' high solid fence/gate located in the 20' visibility triangles on both sides of the driveway into the site from Greenville Avenue and in the 20' visibility triangle where the alley on the south side of the site meets Greenville Avenue does not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would limit the items located in the 20' drive approach visibility triangles into the site from Greenville Avenue and in the 20' visibility triangle where the alley on the south side of the site meets Greenville Avenue to that what is shown on these documents – an 8' high solid fence/gate.

**Timeline:**

- June 12, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- August 19, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- August 19, 2015: The Board Administrator contacted the applicant 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 September 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 11<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the request; and
  - the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”
- September 8, 2015: 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 Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

September 11, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Recommends that this be denied" commenting: "Property is located adjacent to Greenville Avenue which includes sidewalks and has heavy vehicular and pedestrian traffic. The gated fence and its visual obstruction may pose traffic hazards."







City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-089

Data Relative to Subject Property:

Date: 6-12-15

Location address: 5638 Merrimac Avenue Zoning District: CD9

Lot No.: 10 Block No.: 4/2196 Acreage: .166 Census Tract: 3.00

Street Frontage (in Feet): 1) 60 2) 121 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_ 5824

To the Honorable Board of Adjustment:

Owner of Property (per Warranty Deed): Kevin James Firkus and Prairie Mathews Firkus

Applicant: Kevin James Firkus Telephone: 214-507-4167

Mailing Address: 5638 Merrimac Avenue Zip Code: 75206

E-mail Address: kevin.firkus@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 Visibility triangle obstructions at a driveway and alley.

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:

Alley rarely used. Alley isn't used to access garages for neighbors. Trash on this block is picked up in the front of the house, so trash trucks don't utilize the alley. Since the fence was installed (05), no reported accidents. We have only seen utility vehicles use the alley.

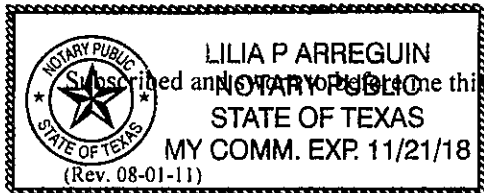
Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

Before me the undersigned on this day personally appeared Kevin James Firkus  
(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)



12 day of June, 2015  
[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**

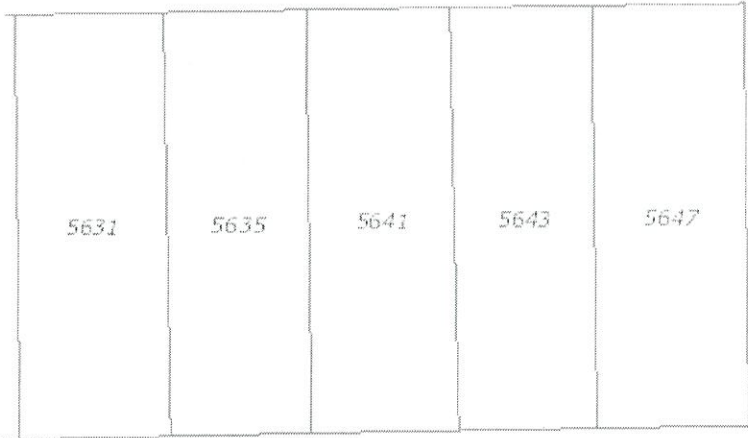
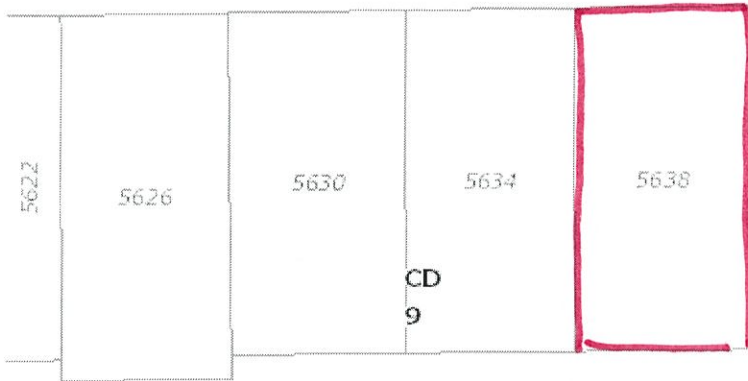
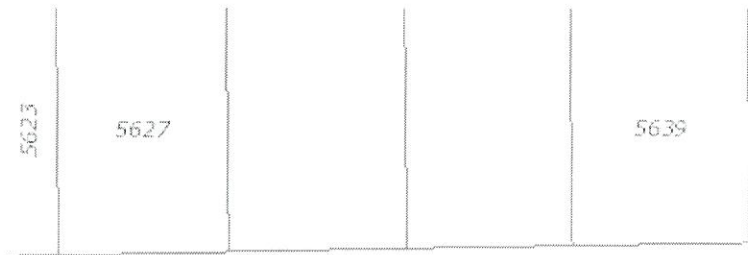
I hereby certify that Kevin Firkus

did submit a request for special exceptions to the visibility obstruction regulations  
at 5638 Merrimac Avenue

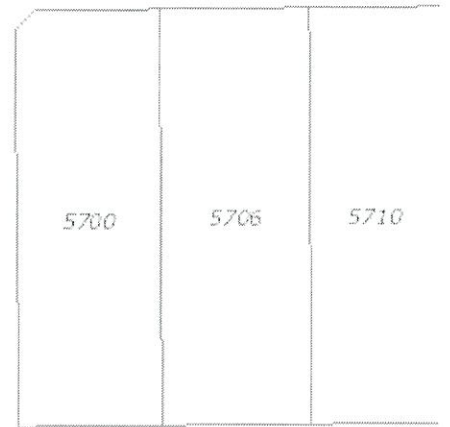
BDA145-089. Application of Kevin Firkus for special exceptions to the visibility obstruction regulations at 5638 Merrimac Avenue. This property is more fully described as Lot 10, Block 4/2196, and is zoned CD-9, which requires 20 foot visibility triangles where a driveway or an alley intersects a street. The applicant proposes to construct and maintain single family residential fence structure in required visibility obstruction triangles, which will require special exceptions to the visibility obstruction regulation.

Sincerely,

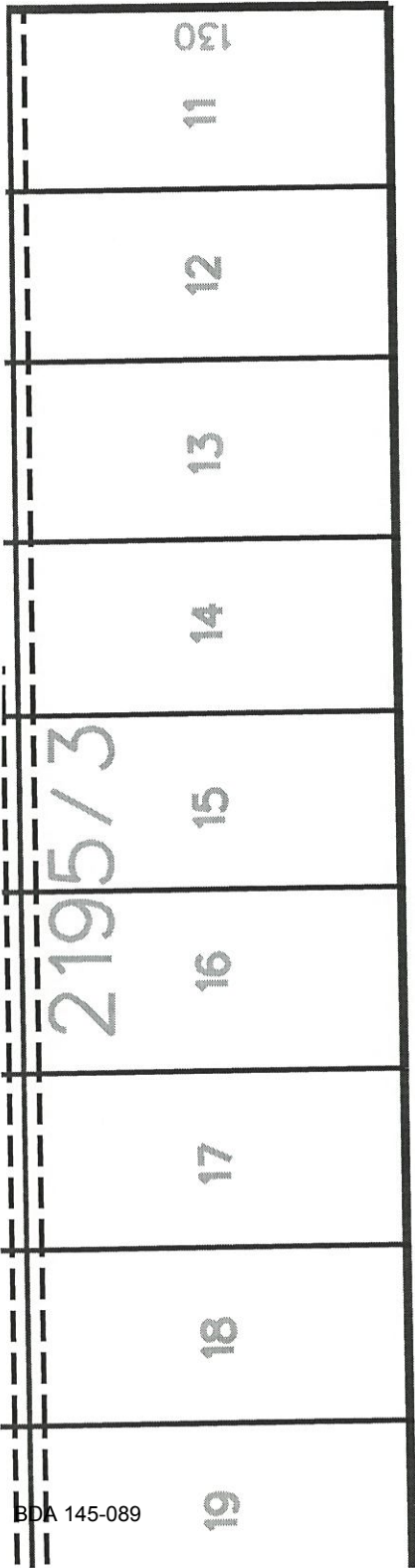
  
Larry Holmes, Building Official



CD  
11

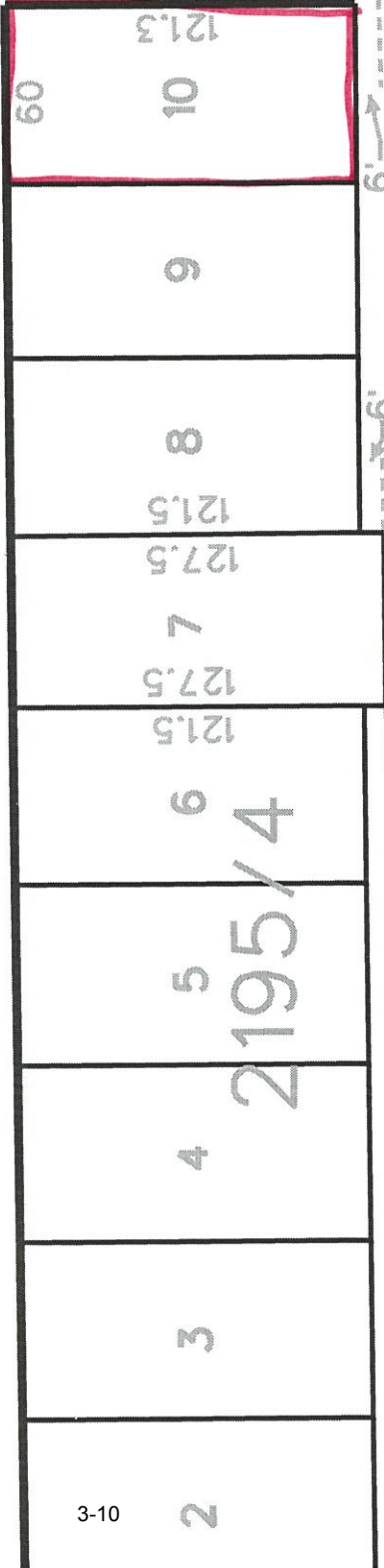


BDA 145-089



50 AVE.

5600



RF

3200 GREENVILLE

2147

2146

2169

60

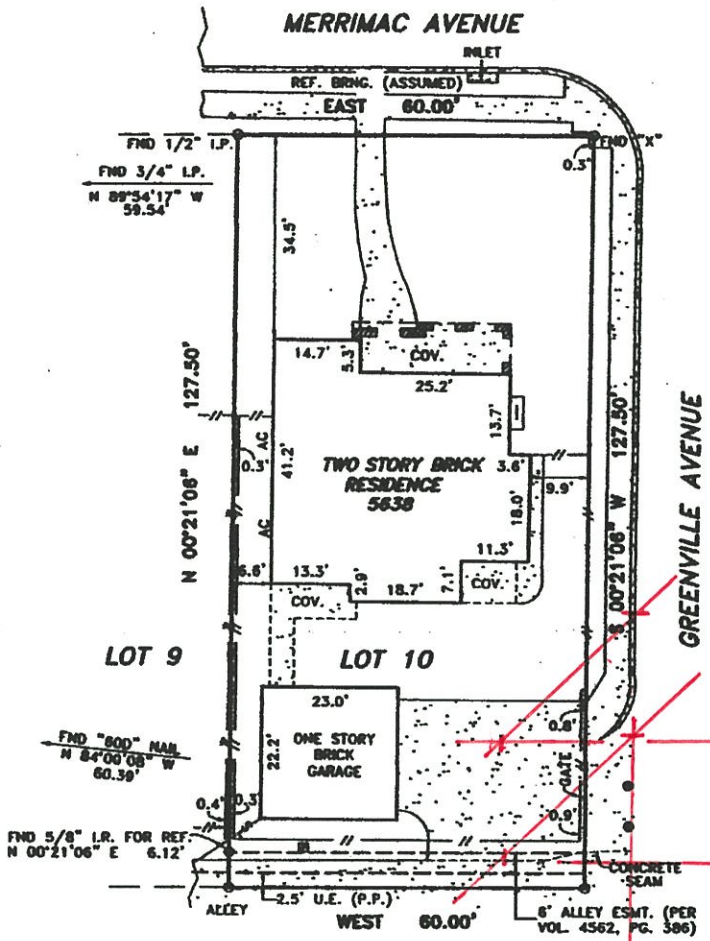
7.5

6

6

**"LAND TITLE SURVEY"**

BEING LOT 10, IN BLOCK 4/2196, OF SIXTY FOOT SECTION OF GREENLAND HILLS, AN ADDITION TO THE CITY OF DALLAS, DALLAS COUNTY, TEXAS, ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 3, PAGE 364, OF THE MAP RECORDS OF DALLAS COUNTY, TEXAS.



LEGEND	
●	POWER POLE
⊕	GAS METER
⊕	WATER METER
—	POWERLINE
—	OVERHEAD SERVICE LINE
—	WOOD FENCE
—	CHAIN LINK FENCE
—	WIRE FENCE
—	WINDMILL IRON FENCE
—	BUILDING LINE
—	EASEMENT LINE
⊠	BRICK COLUMN
⊠	TRANSFORMER AND PAD
⊕	S.W.S. MAN HOLE
⊕	CONCRETE

- NOTES:**
- 1) ALL 1/2" IRON BOBS SET FOR CORNER AS SHOWN HEREON HAVE A YELLOW CAP STAMPED R.P.L.S. NO. 3983.
  - 2) (P.P.) INDICATES THAT BUILDING LINES, EASEMENTS, R.O.W.'S, ETC. AS SHOWN ON THIS SURVEY ARE PER PLAT REFERENCED IN LEGAL DESCRIPTION HEREON.
  - 3) ALL BOUNDARY DIMENSIONS SHOWN HEREON ARE PER PLAT UNLESS OTHERWISE NOTED.

THIS IS TO CERTIFY THAT THE PORTION OF THE ABOVE SHOWN PROPERTY IS WITHIN THE 100 YEAR FLOOD HAZARD AREA AS PUBLISHED IN COUNTY FLOOD NO. 480171 0335J ZONE X MAP DATED 8-23-01 OF THE FLOOD INSURANCE RATE MAP.

I, JOHN S. TURNER, REGISTERED PROFESSIONAL LAND SURVEYOR OF THE STATE OF TEXAS, DO CERTIFY THAT THE PLAT HEREON IS A TRUE, CORRECT AND ACCURATE REPRESENTATION OF THE PROPERTY SHOWN HEREON AS DESCRIBED BY SURVEY OR THE GRANTOR UNDER BY SUPERSEDED, THE LINES AND ENDPOINTS OF SAID PROPERTY BEING DESCRIBED BY THE PLAT, THE APPROPRIATE ARE WITHIN THE BOUNDARIES OF THE PROPERTY OWNED BY THE BUSINESS INDICATED AND THERE ARE NO UNRECORDED AND APPROPRIATE EASEMENTS, ENCUMBRANCES, COVENANTS OR PROVISIONS, EXCEPT AS SHOWN ON THE ABOVE PLAT, THIS SURVEY MEETS OR EXCEEDS THE STANDARD CONTAINED IN THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYING.

*John S. Turner*  
 JOHN S. TURNER  
 R.P.L.S. NO. 5310



THIS SURVEY WAS PERFORMED FOR:  
**REPUBLIC TITLE**  
 USE OF THIS SURVEY BY ANY OTHER PARTY SHALL BE AT THEIR OWN RISK AND THE UNDERSIGNED IS NOT RESPONSIBLE TO OTHERS FOR ANY LOSS RESULTING THEREFROM.  
 NAME: FORCLUM  
 JOB NO. 80264-05  
 DATE 09-20-05  
 OFF# 05818778 LWS  
 DRN. BY SLJ

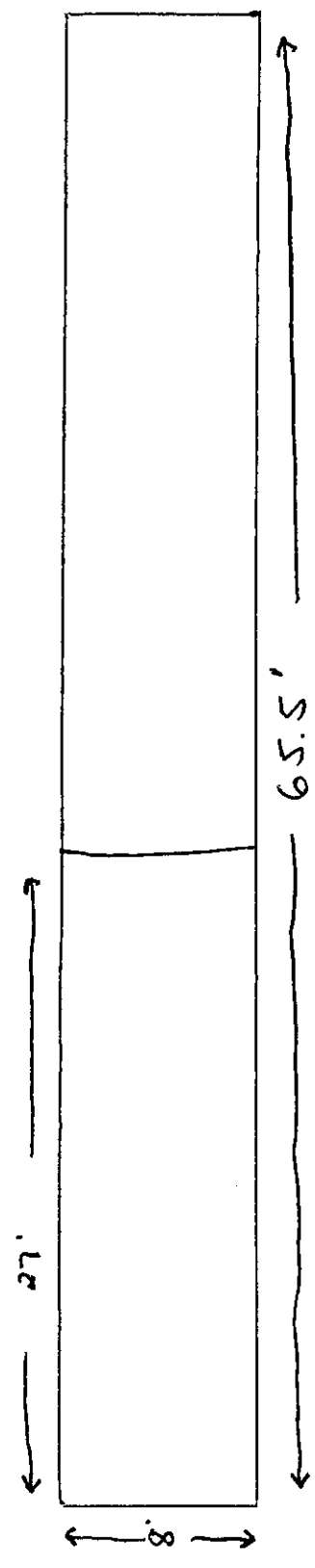
JOHN S. TURNER  
 (972) 272-6287  
 (972) 272-8487(FAO)

**Analytical Surveys, Inc.**  
 "A PROFESSIONAL COMPANY OPERATING IN YOUR BEST INTEREST"

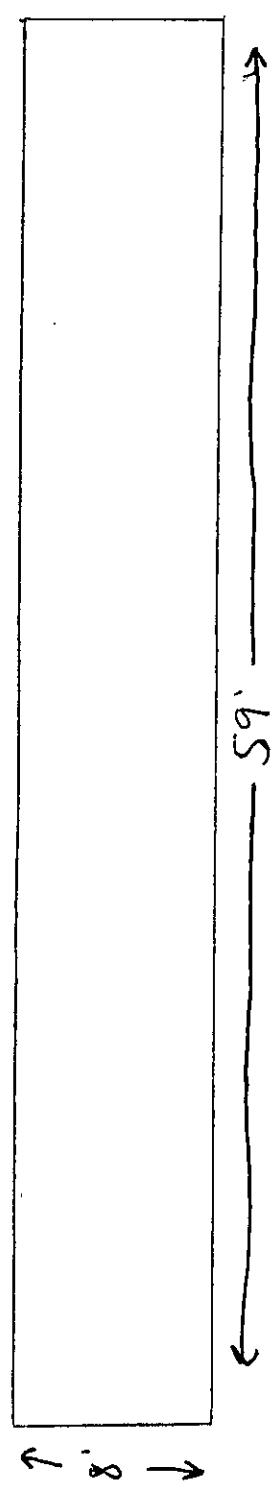
707 EAST STREET  
 GARLAND, TEXAS  
 75042

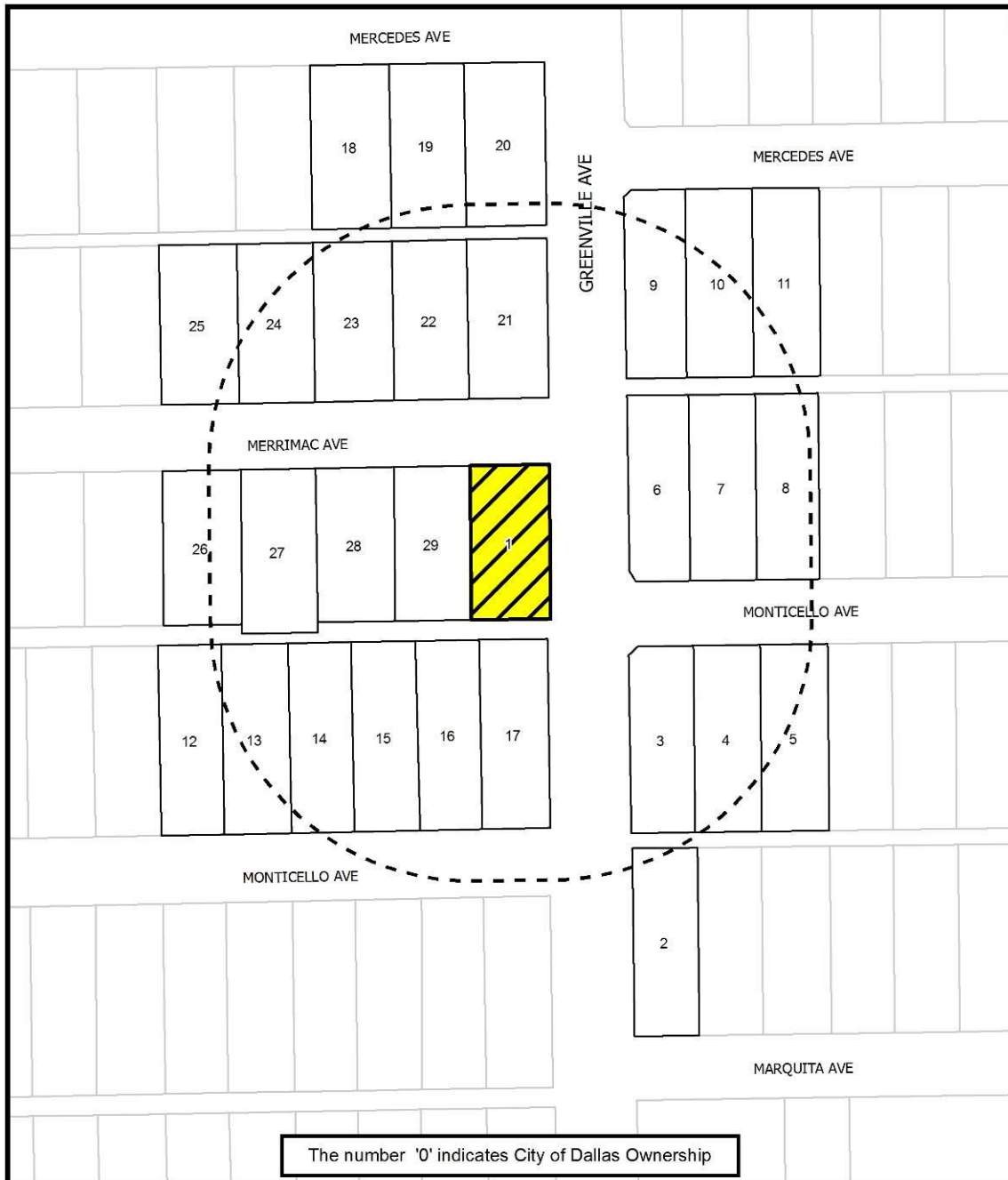
Elevation View  
Scale: 1/8" = 1'  
Wood-Board on board

Greenville Ave. View



Alley View





 1:1,200	<h2>NOTIFICATION</h2>	Case no: <u>BDA145-089</u>			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">29</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	29	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
29	NUMBER OF PROPERTY OWNERS NOTIFIED				

## *Notification List of Property Owners*

**BDA145-089**

### *29 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5638 MERRIMAC AVE	FORCUM ANTHONY D &
2	5701 MARQUITA AVE	PASHA & SINA INC
3	5700 MONTICELLO AVE	BRUCE GORDON
4	5706 MONTICELLO AVE	PERKINS LANNY E
5	5710 MONTICELLO AVE	RANGEL MANUEL R EST OF
6	5703 MONTICELLO AVE	GARCIA EVANGELINE R
7	5709 MONTICELLO AVE	SCHECTMAN MARK
8	5711 MONTICELLO AVE	PARSONS DAVID J & LINDSAY G
9	5702 MERCEDES AVE	FRANCIS JOHN & REAGAN
10	5704 MERCEDES AVE	DUNNE JAMES E III
11	5710 MERCEDES AVE	HILL REID JENNINGS &
12	5627 MONTICELLO AVE	FERREIRA AMY
13	5631 MONTICELLO AVE	VAN CLEAVE ROBERT C & SHARON L
14	5635 MONTICELLO AVE	FEGALE ELMER GABRIEL & KRISTEN WEEKS
15	5641 MONTICELLO AVE	JENKINS RICHARD C
16	5643 MONTICELLO AVE	NEWMAN JAMES KYLE &
17	5647 MONTICELLO AVE	SIMCOE DAVID J
18	5630 MERCEDES AVE	KOLODNY KATHERINE A
19	5634 MERCEDES AVE	JONES WILLIAM OWEN III
20	5638 MERCEDES AVE	BRIDGE THOMAS E &
21	5639 MERRIMAC AVE	BRYANT ALLISON LEIGH
22	5635 MERRIMAC AVE	ADERHOLD JOHN C
23	5631 MERRIMAC AVE	ESPOSITO LILIANA M & SHAWN C KICHLINE
24	5627 MERRIMAC AVE	GORCZYCA MARCIA R
25	5623 MERRIMAC AVE	SUTHERLAND BRYON &
26	5622 MERRIMAC AVE	GRAGG PERRY O &

09/01/2015

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	5626 MERRIMAC AVE	WRIGHT CHARLES A &
28	5630 MERRIMAC AVE	SMITH JOHN HARRY
29	5634 MERRIMAC AVE	WALKER ALISON M



**FILE NUMBER:** BDA 145-094(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Jose Lara for a special exception to the off-street parking regulations at 1694 Kings Highway. This property is more fully described as Lot 5B, Block 2/4622, and is zoned CD-1 (Subarea 6), which requires off-street parking to be provided. The applicant proposes to construct a structure for single family use, and provide one of the required two off-street parking spaces, which will require a one space special exception to the off-street parking regulations.

**LOCATION:** 1694 Kings Highway

**APPLICANT:** Jose Lara

**REQUEST:**

A request for a special exception to the off-street parking regulations of 1 space is made to construct and maintain a single family home structure/use and provide 1 of the 2 required parking spaces on a site that is under development.

**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:**

Denial

Rationale:

- The Sustainable Development and Construction Department Project Engineer recommended denial of the request concluding: 1) although tandem parking is a possibility to allow up to 2 off-street parking spaces, tandem parking is not recognized by the City of Dallas as an effective means of addressing parking concerns; 2) City of Dallas zoning requirements are comparable to the Institute of Transportation Engineer's Parking Generation guideline's determination that single family residential has a parking demand of 2 parking spaces per dwelling unit; 3) subject property is located in Conservation District 1; 4) there is no alternative on-street parking along the adjacent streets for any deficient parking spaces. King Street and Mary Cliff Road, adjacent to the subject site, do not allow for on-street

parking and have signage indicating so. Mary Cliff Road contains a shared bicycle lane as evident through signage, and striping does not allow for on-street parking; 5) the nearest Public Transit stop is along W. Davis Street approximately 1,900 linear feet from the subject site; and 6) the subject site may allow for an alternative site layout that would be compliant in providing for 2 parking spaces.

- The applicant had not substantiated how 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.

## **BACKGROUND INFORMATION:**

### **Zoning:**

<u>Site:</u>	CD 1 (Conservation District)
<u>North:</u>	CD 1 (Conservation District)
<u>South:</u>	CD 1 (Conservation District)
<u>East:</u>	CD 1 (Conservation District)
<u>West:</u>	CD 1 (Conservation District)

### **Land Use:**

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

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

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

## **GENERAL FACTS/STAFF ANALYSIS (parking special exception):**

- This request focuses on constructing and maintaining a single family home structure/use and providing 1 of the 2 required parking space.
- The Dallas Development Code requires the following off-street parking requirement:
  - Single family use: one space in R-7.5(A), R-5(A), and TH districts; two spaces in all other districts. No handicapped parking is required.
- The subject site is zoned CD 1 (Conservation District) therefore the single family use on this site is requires two spaces.
- The zoning on the subject site before CD 1 was created in 1998 was MF-2.
- A submitted site plan shows an approximately 12' wide detached garage with an area in front of it that would appear, given its 20' length between it and the property line, to accommodate the length of most vehicles that would be parked in tandem to the one required space provided in the garage.

- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “recommends denial of the request” and supplemental comments stating the following:
  1. Although tandem parking is a possibility to allow up to 2 off-street parking spaces, tandem parking is not recognized by the City of Dallas as an effective means of addressing parking concerns.
  2. City of Dallas zoning requirements are comparable to the Institute of Transportation Engineer’s Parking Generation guideline’s determination that single family residential has a parking demand of 2 parking spaces per dwelling unit.
  3. Subject property is located in Conservation District 1.
  4. There is no alternative on-street parking along the adjacent streets for any deficient parking spaces. King Street and Mary Cliff Road, adjacent to the subject site, do not allow for on-street parking and has signage indicating so. Mary Cliff Road contains a shared bicycle lane, as evident through signage, and striping does not allow for on-street parking.
  5. The nearest Public Transit stop is along W. Davis Street approximately 1,900 linear feet from the subject site; and
  6. The subject site may allow for an alternative site layout that would be compliant in providing for 2 parking spaces.
- The applicant has the burden of proof in establishing the following:
  - The parking demand generated single family use on the site does not warrant the number of off-street parking spaces required, and
  - The special exception of 1 space 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 1 space shall automatically and immediately terminate if and when the single family use is changed or discontinued, the applicant would be allowed to construct and maintain the single family use/structure on the site, and provide 1 of the 2 code required off-street parking spaces.

**Timeline:**

- July 1, 2015:           The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- August 19, 2015:       The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.
- August 19, 2015:       The Board Administrator emailed the following information to the applicant:
  - 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 September 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis;

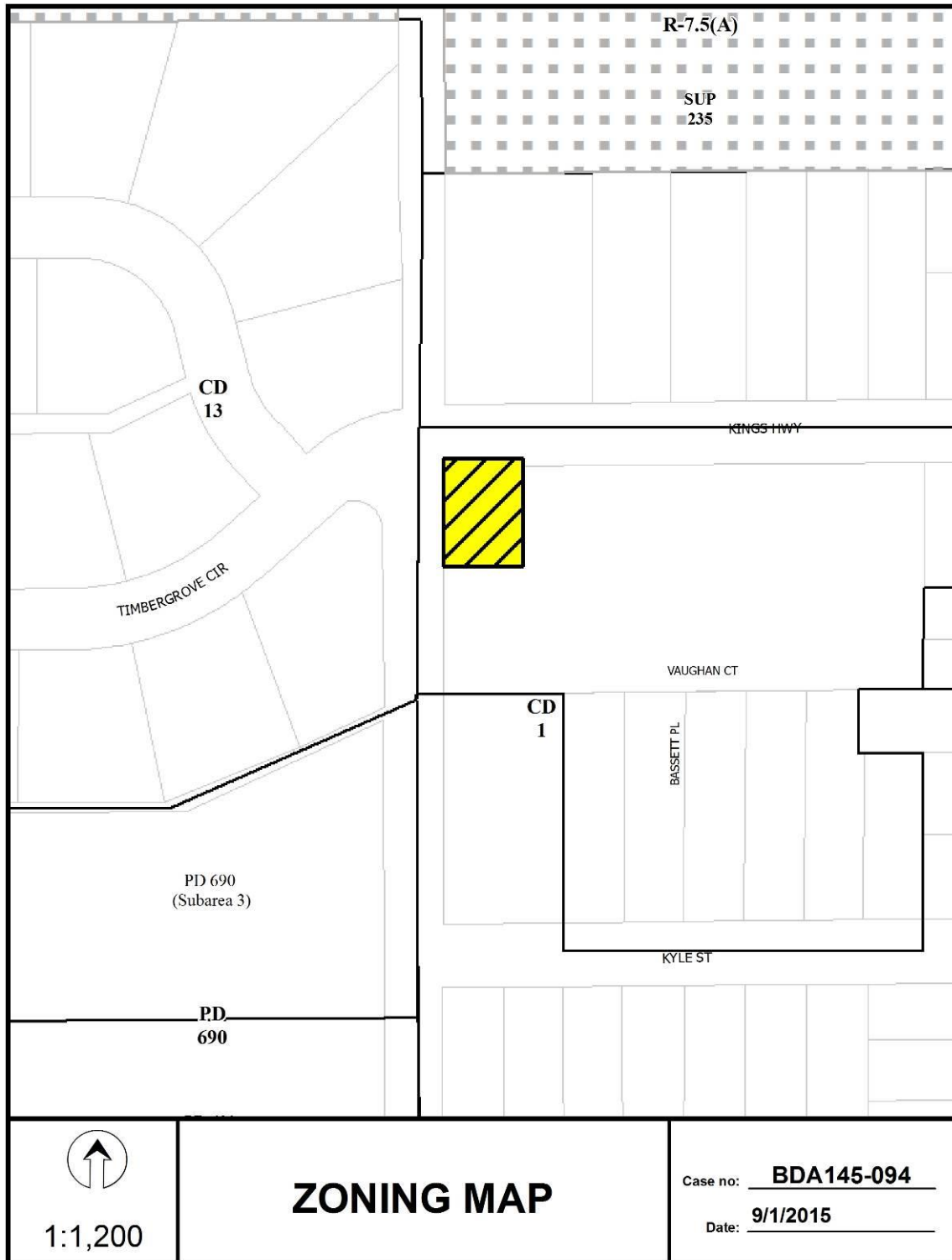
and the September 11<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;

- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

September 4, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

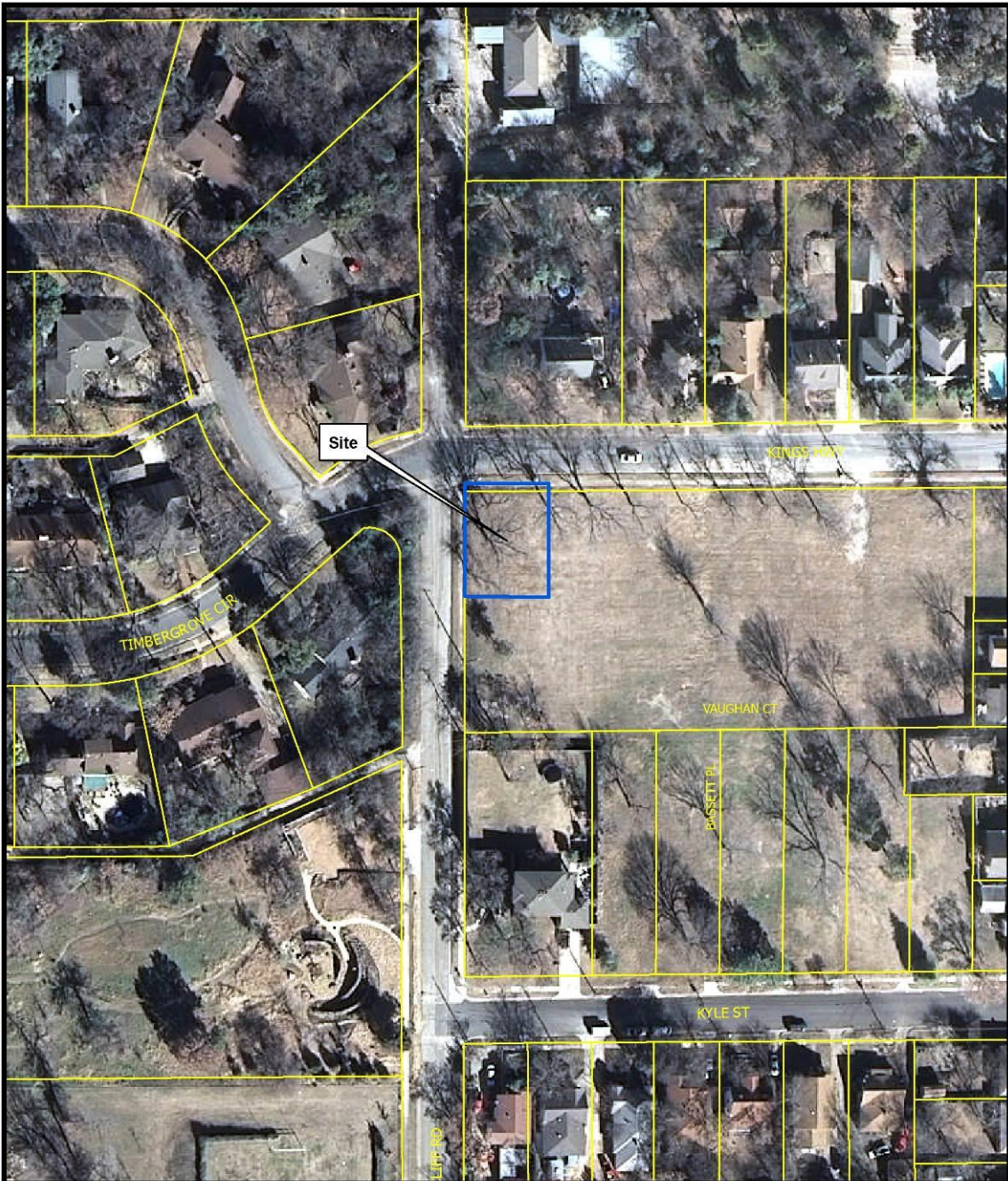
September 8, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

September 11, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Recommends that this be denied" and supplemental comments (see Attachment B).



# ZONING MAP

Case no: BDA145-094  
 Date: 9/1/2015



1:1,200

# AERIAL MAP

Case no: BDA145-094

Date: 9/1/2015

**Long, Steve**

---

**From:** Jose Lara <jose.lara@pswrealestate.com>  
**Sent:** Friday, September 04, 2015 2:17 PM  
**To:** Long, Steve  
**Subject:** Re: FW: BDA 145-094, Property at 1694 Kings Highway  
**Attachments:** BOA Case #145-094.pdf

Steve,

Attached are a few more documents to go along with BOA Case # 145-094.

1. Clearer site plan than what was submitted with the initial application. It identifies a few items pointed out in the application:
  - a. The tree we are trying to preserve (32" dia. pecan tree). We are trying to keep as much as the structure out of the critical root zone.
  - b. It shows how there is room for another car in front of the garage so realistically a reduction in the off-street parking will not have an impact on the neighborhood.
  - c. The double frontage (two 15 foot front yard setbacks) which reduces the buildable area on the lot.
2. I've also attached a tree survey provided by our arborist that identifies the 32" dia. pecan tree and it's condition, along with a few pictures of it.

Thank you and let me know if you have any questions...



**JOSE LARA**  
project manager

214-538-3181



On Tue, Sep 1, 2015 at 9:17 AM, Long, Steve <[steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com)> wrote:

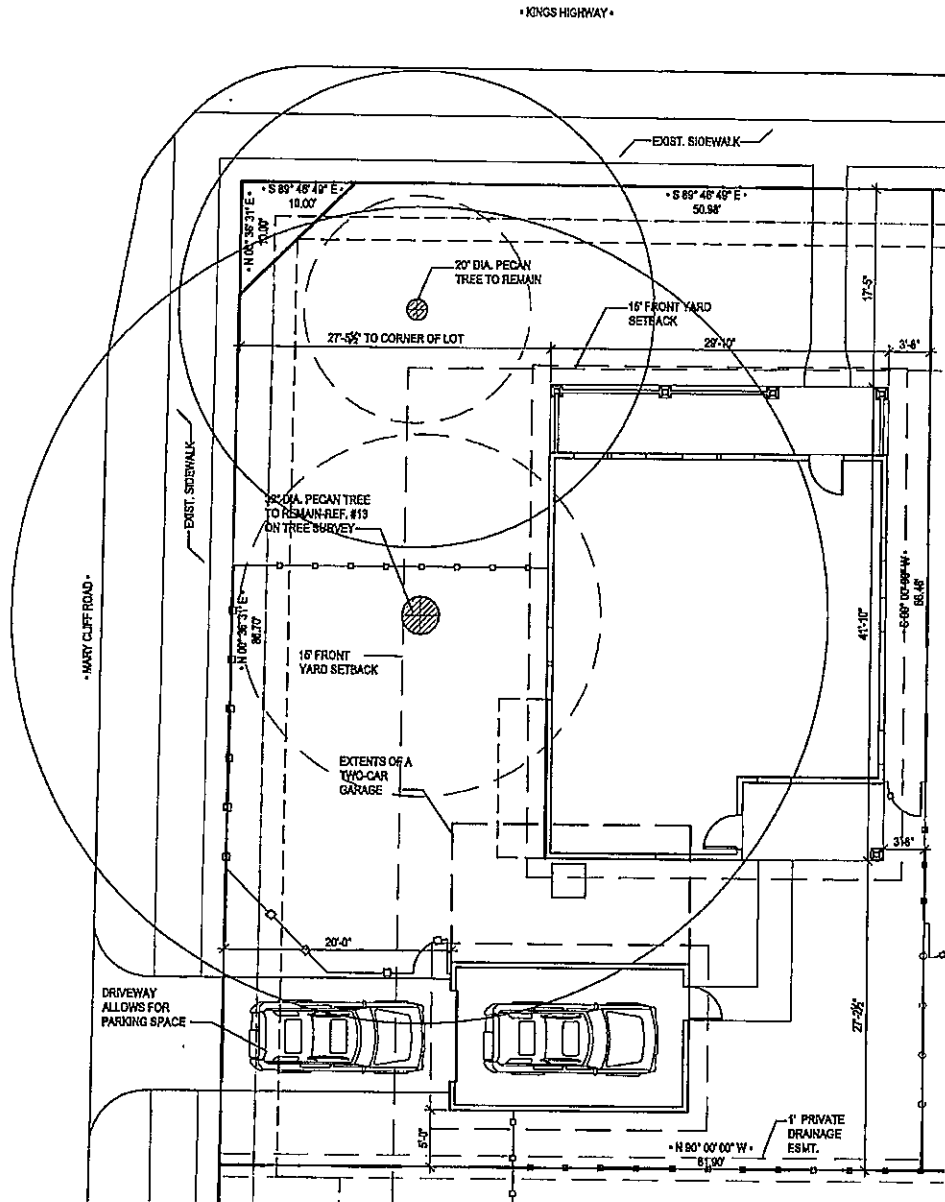
Dear Mr. Lara,


I just left you a message with the answers I believe you are looking for.

But feel free to call me at [214/670-4666](tel:2146704666) if I can assist you in any other way on this application.

Thank you,





 **01 SITE PLAN**  
 1/16"=1'-0"

**BILL SEAMAN, B.S. HORTICULTURE**  
 BSEAMAN@arborlogical.com  
 I.S.A. CERTIFIED ARBORIST, TX-1153A  
 Dallas: (972) 442-1524 ext. 229 or Toll Free: (866) 55 ARBOR  
 Fax: (972) 429-0012

Tree survey for Kings Highway Project for PSW Homes LLC. Project site located at  
 1600 Kings Highway, Dallas, Texas. Conducted by Bill Seaman  
 I.S.A. certified Arborist TX-1153A. Arborlogical Services Inc.  
 Trees were surveyed on 08-20-2013 REVISED 09-06-2013

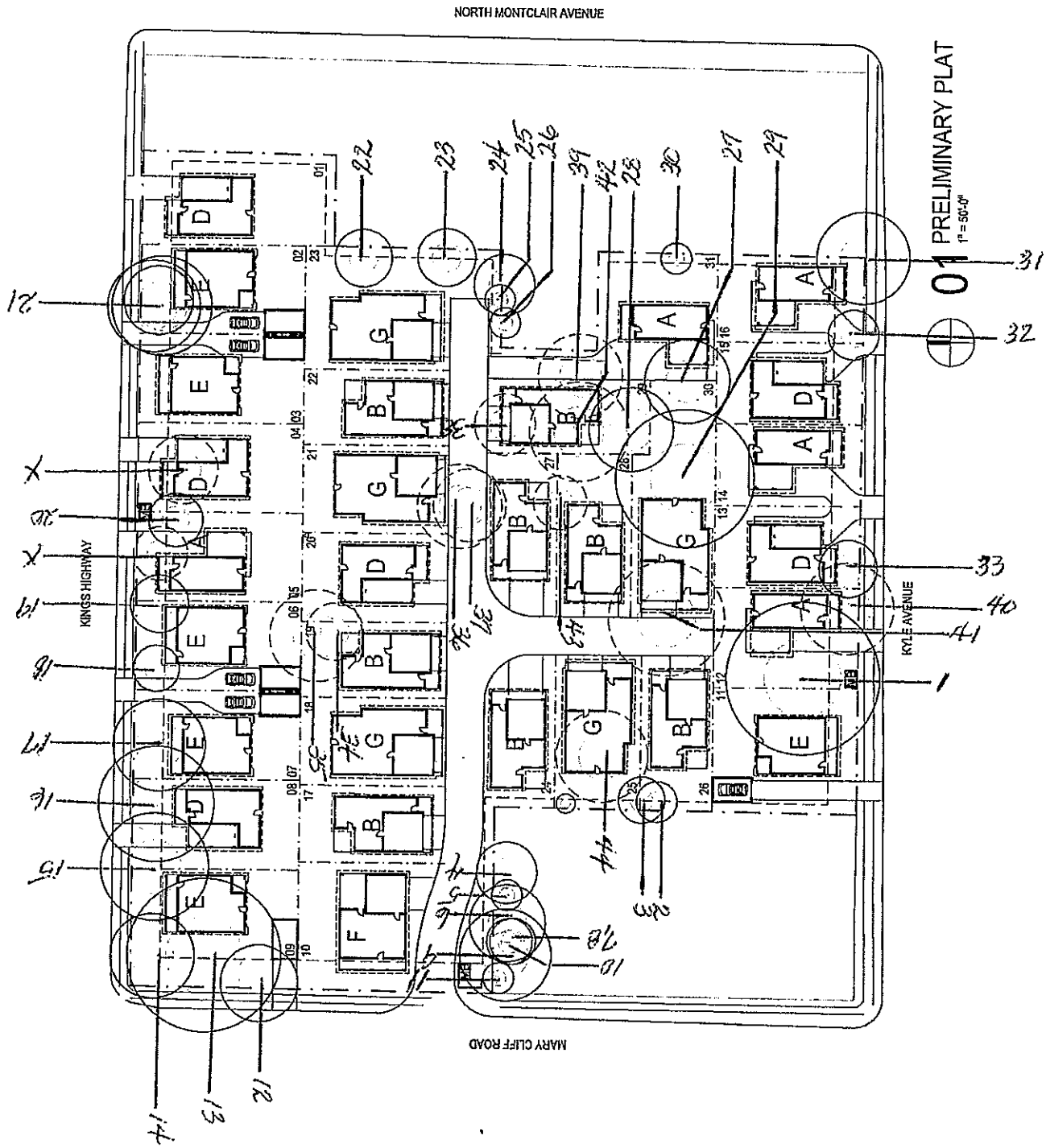


TREE NUMBER	LOT NUMBER	COMMON NAME	SCIENTIFIC NAME	DIAMETER (PER INCH)	CONDITION	NOTES
1	12	Shumard Red Oak	Quercus shumardi	36	2	
2	26	Shumard Red Oak	Quercus shumardi	9	1	
3	26	Cedar Elm	Ulmus crassifolia	12	3	
4	A*	Hackberry	Celtis occidentalis	18	3	
5	A	Hackberry	Celtis occidentalis	14	3	
6	A	Hackberry	Celtis occidentalis	9	4	
7	A	Chinaberry	Melia azedarach	16	4	
8	A	Hackberry	Celtus occidentalis	11, 10	4	Two trunks
9	A	Eastern Red Cedar	Juniperus virginiana	14	4	Large cavity
10	A	Chinaberry	Melia azedarach	8, 7	4	Two trunks
11	A	Hackberry	Celtis occidentalis	10	4	Conflicts with utilities/sidewalk
12	9	Pecan	Carya illinoensis	15	3	Conflicts with utilities
13	9	Pecan	Carya illinoensis	32	2	
14	9	Pecan	Carya illinoensis	20	3	
15	8	Pecan	Carya illinoensis	24	3	
16	8	Pecan	Carya illinoensis	26	2	
17	7	Pecan	Carya illinoensis	20	2	
18	6	Pecan	Carya illinoensis	12	3	
19	6	Pecan	Carya illinoensis	14	4	
20	5	Pecan	Carya illinoensis	12	4	
21	2	Post Oak	Quercus stellata	12	2	
22	23	Pecan	Carya illinoensis	20, 22	2	Two trunks
23	23	Hackberry	Celtis occidentalis	12	4	Decay at base
24	B*	American Elm	Ulmus americana	8, 10	2	Two trunks
				14	3	

PROJECT NAME:  
 3D  
 PROJECT NUMBER:  
 SWXXXX  
 PROJECT ADDRESS:  
 XXX AWESOME STREET  
 JUSTIN, TX 787XX

PSW HOMES LLC  
 2003 S 1st Street  
 Austin, TX 78704  
 P: 512.737.0295  
 F: 512.737.0295  
 WWW.PSWHOMES.COM

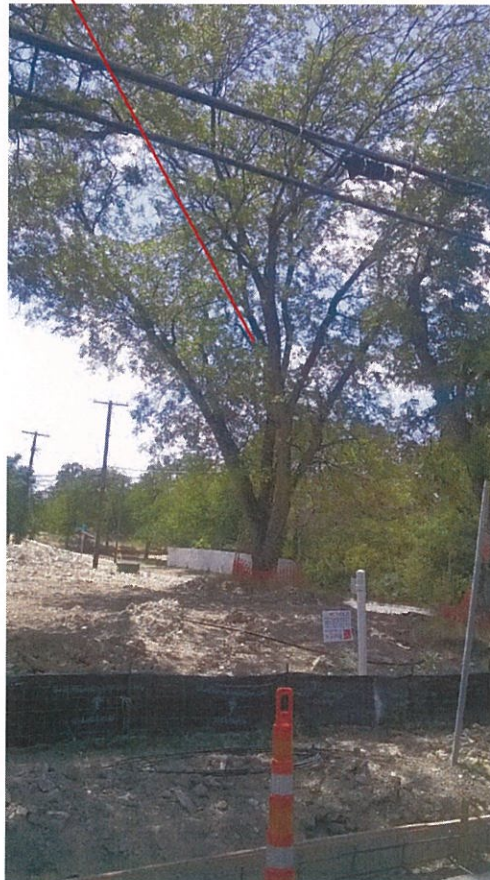
2013-08-01



20" PECAN TREE TO REMAIN



32" PECAN TREE TO REMAIN



REVIEW COMMENT SHEET  
BOARD OF ADJUSTMENT  
HEARING OF SEPTEMBER 22, 2015 (A)

Has no objections

Has no objections if certain conditions are met (see comments below or attached)

Recommends that this be denied (see comments below or attached)

No comments

BDA 145-089(S)

BDA 145-091(S)

BDA 145-094(S)

BDA 145-095(D)

BDA 145-101(S)

COMMENTS:

PLEASE SEE SUPPLEMENTAL  
ENGINEERING REVIEW COMMENT  
SHEET  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DAVID LAM/ENG/SDC  
Name/Title/Department

9/11/15  
Date

Please respond to each case and provide comments that justify or elaborate on your response. Dockets distributed to the Board will indicate those who have attended the review team meeting and who have responded in writing with comments.

**SUPPLEMENTAL ENGINEERING REVIEW COMMENT SHEET  
BOARD OF ADJUSTMENT  
BDA 145-094(S)  
HEARING SEPTEMBER 22, 2015 (A)**

- A) Although tandem parking is a possibility to allow up to 2 off-street parking spaces, tandem parking is not recognized by the City of Dallas standards as an effective means of addressing parking concerns.
- B) City of Dallas zoning requirements are comparable to the Institute of Transportation Engineers Parking Generation guideline's determination that single family residential has a parking demand of two (2) parking spaces per dwelling unit.
- C) Subject project is located in the Conservation District – 1 zoning.
- D) There are no alternative on-street parking relief along the adjacent streets for any deficient parking spaces. King Street and Mary Cliff Road adjacent to the subject property does not allow for on-street parking and has signage indicating so. Mary Cliff Road contains a shared bicycle lane as evident through signage and striping and does not allow for on-street parking.
- E) The nearest Public Transit stop is located along W. Davis Street, approximately 1,900 LF from the subject site.
- F) The subject lot may allow for an alternative site layout that would be compliant in providing for two parking spaces.

D.LAM – BDA145-094(S)  
9/11/2015



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-094

Data Relative to Subject Property:

Date: 7-1-15

Location address: 1694 KINGS HWY.

Zoning District: CD-1(SA-6)

Lot No.: 5B Block No.: 2/4622 Acreage: 0.12 Census Tract: 42.02

Street Frontage (in Feet): 1) 61 2) 97 3) 4) 5) SW 16

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): BISHOP ARTS DEVELOPMENT, L.P.

Applicant: JOSE LARA Telephone: 2145383181

Mailing Address: 512 W. DAVIS ST., DALLAS, TX. Zip Code: 75208

E-mail Address: JOSE.LARA@PSWREALESTATE.COM

Represented by: JOSE LARA Telephone: 2145383181

Mailing Address: 512 W. DAVIS ST., DALLAS, TX. Zip Code: 75208

E-mail Address: JOSE.LARA@PSWREALESTATE.COM

Affirm that an appeal has been made for a Variance, or Special Exception of THE REQUIREMENT OF TWO OFF-STREET PARKING SPACES A REDUCTION OF ONE SPACE FOR SINGLE-FAMILY 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:

- ALLOW ONLY ONE PARKING SPACE DUE TO: 1) DOUBLE FRONTAGE - REDUCES BUILDABLE AREA 2) TREE PRESERVATION OF 40" DIA. PECAN TREE 3) REDUCTION OF ONE PARKING SPACE WILL NOT ADVERSELY AFFECT NEIGHBORING BECAUSE THERE IS SUFFICIENT SPACE ON SITE

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

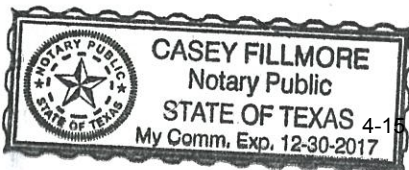
Before me the undersigned on this day personally appeared JOSE LARA (Affiant/Applicant's name printed)

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 1 day of July, 2015

(Rev. 08-01-11)



Casey Fillmore 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 JOSE LARA

did submit a request for a special exception to the parking regulations  
at 1694 King's Highway

BDA145-094. Application of Jose Lara for a special exception to the parking regulations :  
1630 Kings Highway. This property is more fully described as Lot 5B, Block 2/4622, and is  
zoned CD-1 (Subarea 6), which requires parking to be provided. The applicant proposes to  
construct a residential structure for single family use, and provide one of the required two  
parking spaces, which will require a one space special exception to the parking regulation.

Sincerely,

  
Larry Holmes, Building Official

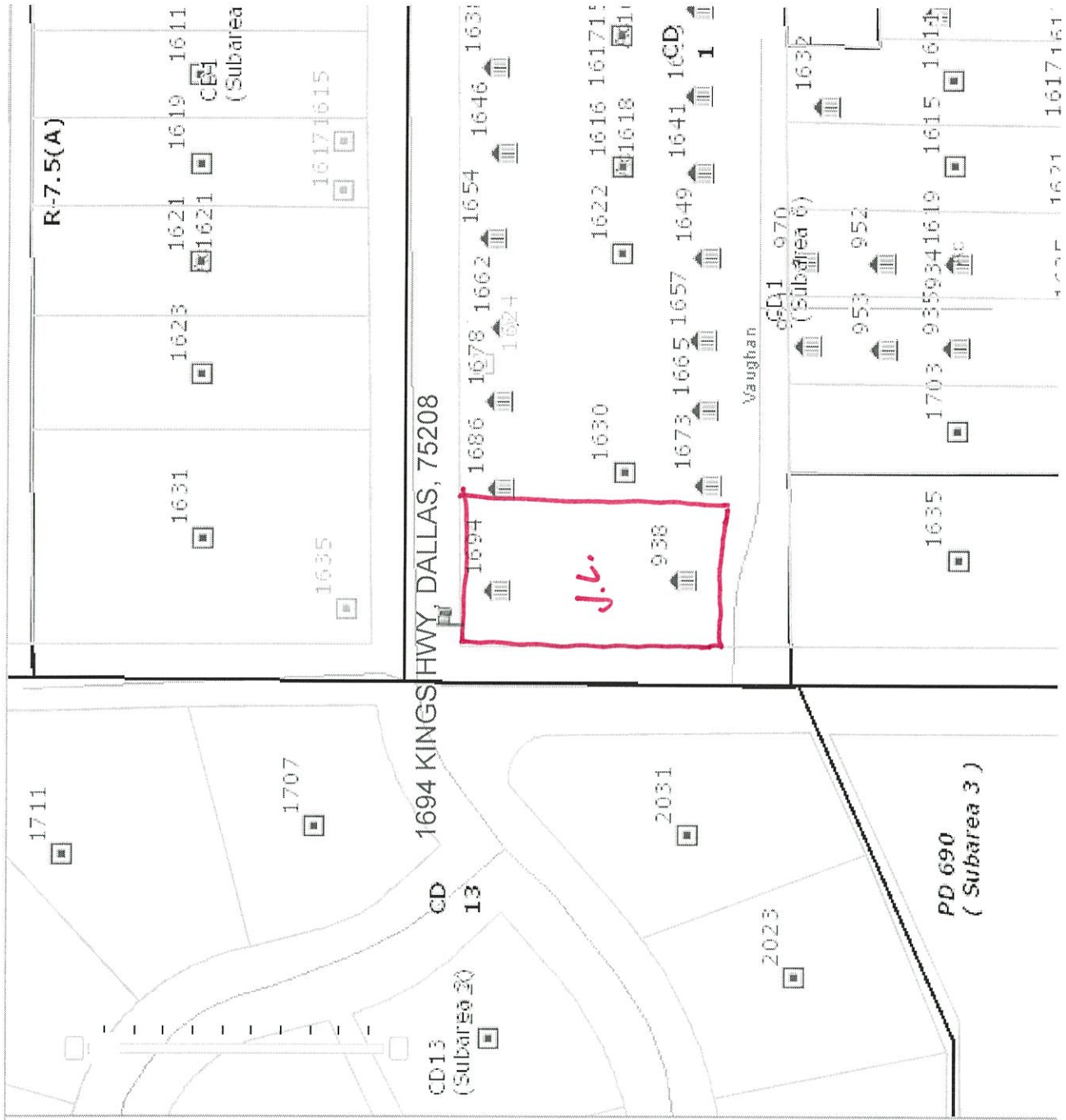


# City of Dallas

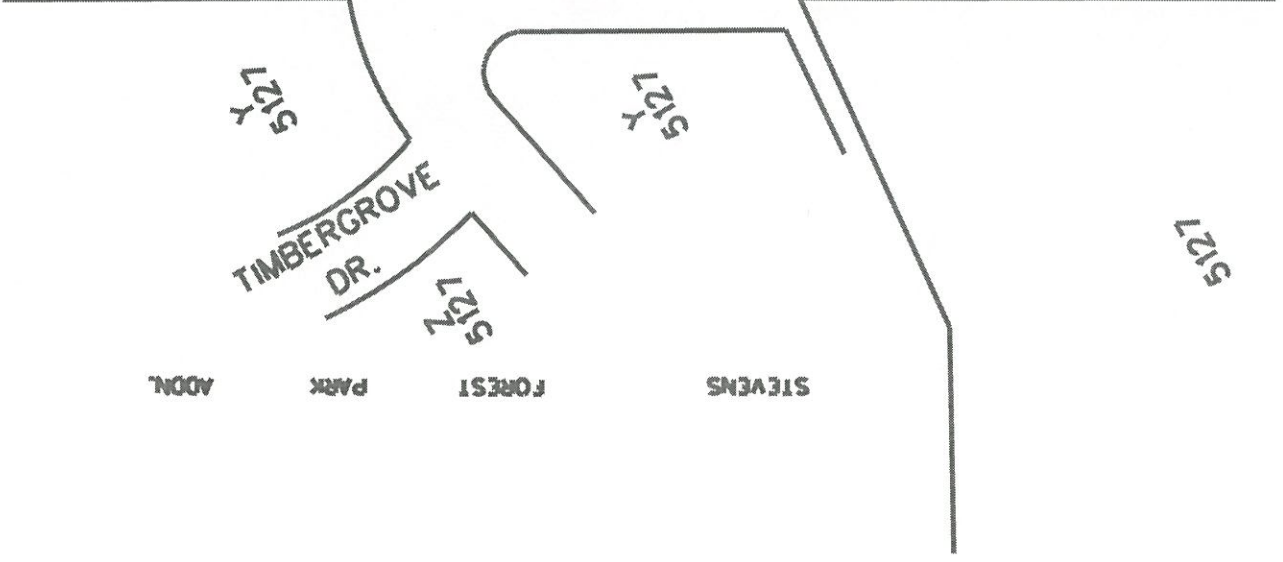
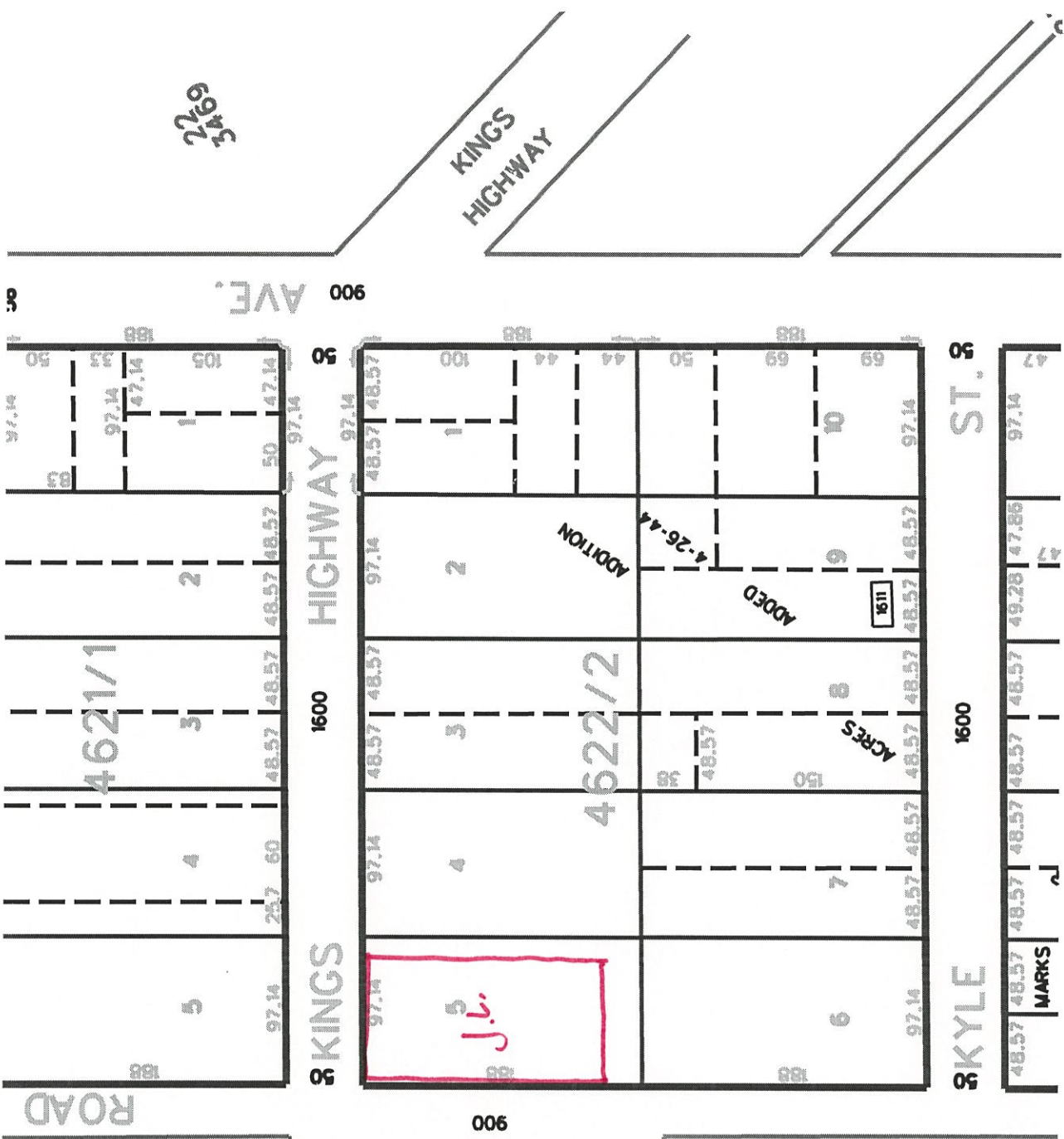
## Internal Development Research Site

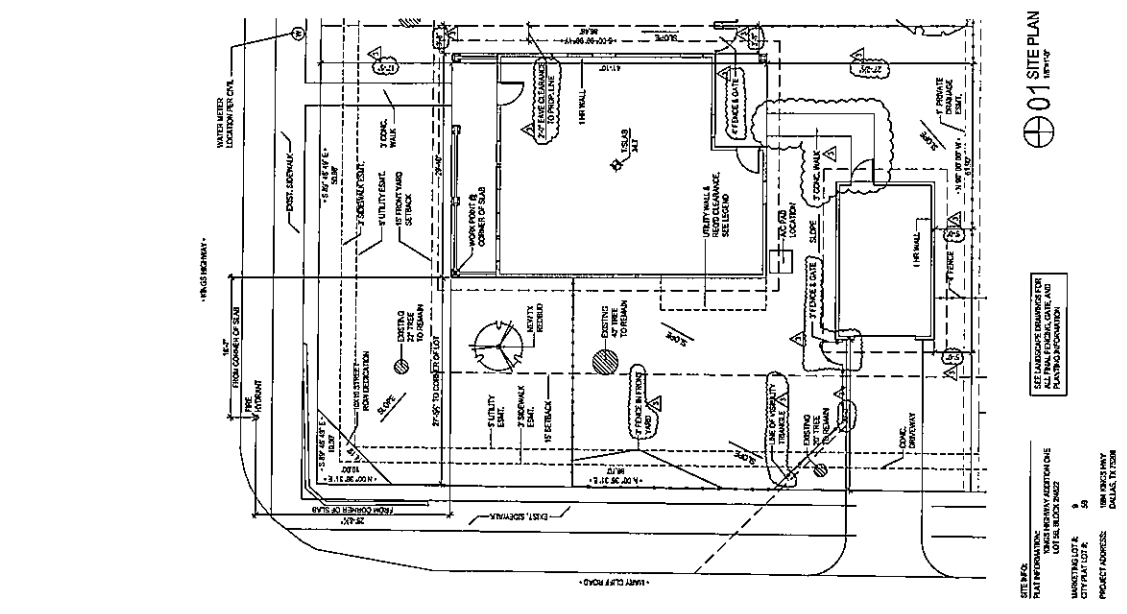
### Legend

BDA 145-094



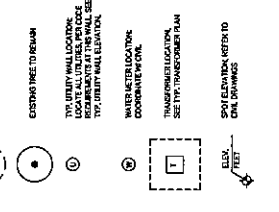
4-17

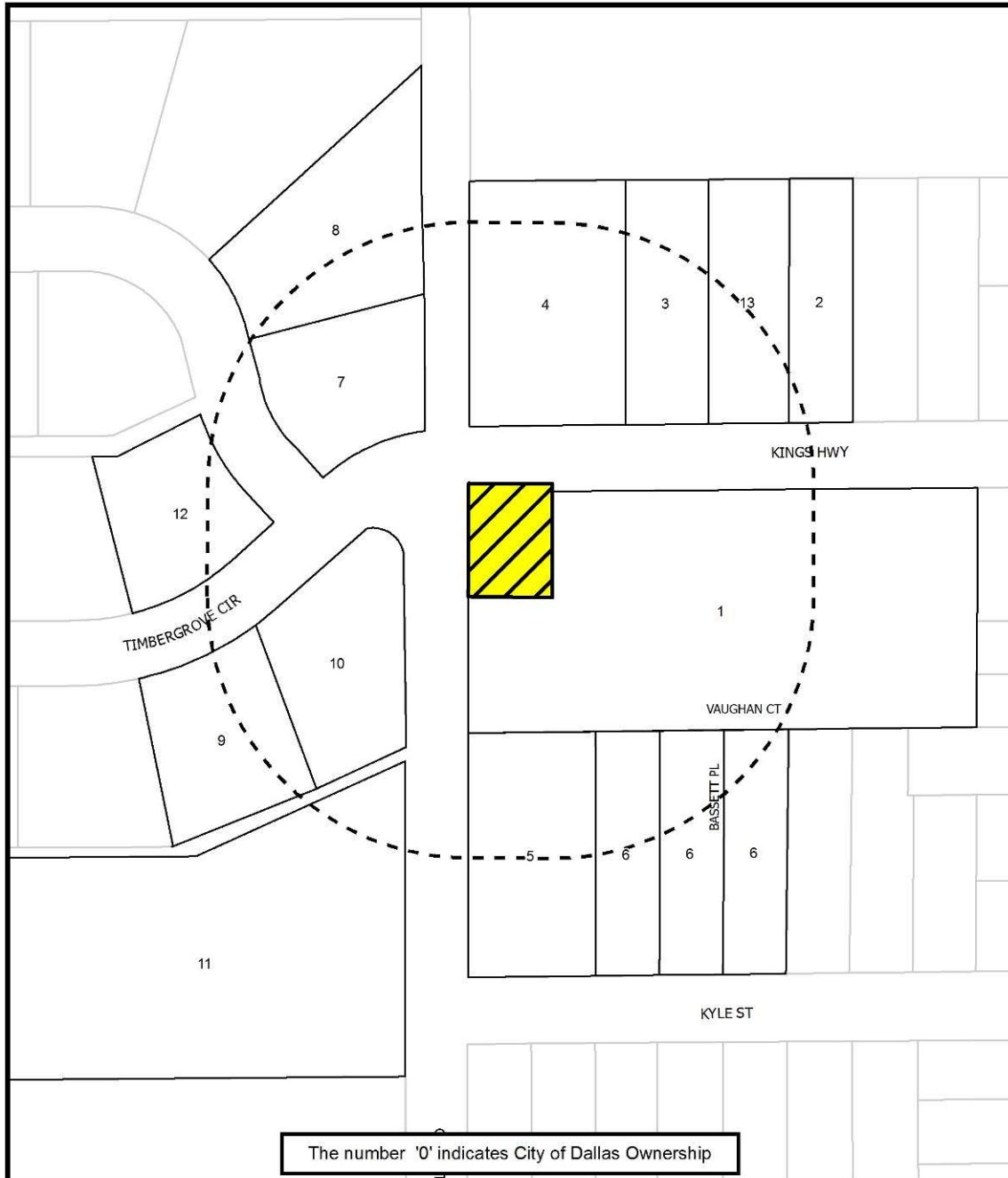




**01 SITE PLAN**  
 1/2\"/>

**NOTES:**  
 1. SEE ALL NOTES ON ALL PLAN SHEETS FOR PERMITTING INFORMATION.  
 2. ALL UTILITIES TO BE LOCATED AND DEPTH NOTED.  
 3. ALL UTILITIES TO BE DEPTHS TO BE NOTED.  
 4. ALL UTILITIES TO BE DEPTHS TO BE NOTED.  
 5. ALL UTILITIES TO BE DEPTHS TO BE NOTED.  
 6. ALL UTILITIES TO BE DEPTHS TO BE NOTED.  
 7. ALL UTILITIES TO BE DEPTHS TO BE NOTED.  
 8. ALL UTILITIES TO BE DEPTHS TO BE NOTED.  
 9. ALL UTILITIES TO BE DEPTHS TO BE NOTED.  
 10. ALL UTILITIES TO BE DEPTHS TO BE NOTED.





The number '0' indicates City of Dallas Ownership

 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;"><b>200'</b></td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;"><b>13</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	<b>200'</b>	AREA OF NOTIFICATION	<b>13</b>	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u><b>BDA145-094</b></u> Date: <u><b>9/1/2015</b></u>
<b>200'</b>	AREA OF NOTIFICATION					
<b>13</b>	NUMBER OF PROPERTY OWNERS NOTIFIED					

## *Notification List of Property Owners*

***BDA145-094***

### ***13 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	1610 KINGS HWY	BISHOP ARTS DEVELOPMENT LP
2	1619 KINGS HWY	HASKELL VALERIE J &
3	1623 KINGS HWY	SADLEK MARK J &
4	1631 KINGS HWY	LECLERC FRANCOIS J &
5	1635 KYLE AVE	NASH HORACE R JR &
6	1621 KYLE AVE	BISHOP ARTS DEVELOPMENT LP
7	1707 TIMBERGROVE CIR	MEACHUM H WAYNE
8	1711 TIMBERGROVE CIR	SUPERIOR ACQUISITIONS LLC
9	2023 TIMBERGROVE CIR	BARROW ROBERT &
10	2031 TIMBERGROVE CIR	LEACH RYAN E & MELISSA M
11	817 MARY CLIFF RD	TWELVE HILLS NATURE
12	2020 TIMBERGROVE CIR	DEWITT JOHN & LYNN B
13	1621 KINGS HWY	DERDEYN STEVEN J

**FILE NUMBER:** BDA 145-095(DL)

**BUILDING OFFICIAL'S REPORT:** Application of Juan Salvador Gonzalez for a special exception to the fence height regulations and special exceptions to the visibility obstruction regulations at 1031 N. Jim Miller Road. This property is more fully described as Lot 4, Block 1/6247, 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 and alley approaches and requires a 45 foot visibility triangle at street intersections. The applicant proposes to construct a 7 foot high fence in a required front yard, which will require a 3 foot special exception to the fence regulation, and to locate and/or maintain items in required visibility triangles, which will require special exceptions to the visibility obstruction regulations.

**LOCATION:** 1031 N. Jim Miller Road

**APPLICANTS:** Juan Salvador Gonzalez  
Salvador Gonzalez

**REQUESTS:**

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

1. A request for a special exception to the fence height regulations of 3' is made to maintain a 7' high wooden fence parallel to Rosalinda Lane and parallel to the alley approach from Rosalinda Lane.
2. Requests for special exceptions to the visual obstruction regulations are made to locate and/or maintain items in four visibility triangles:
  - one 20' visibility triangle located at the alley approach from Rosalinda Lane;
  - one 45' visibility triangle located at the street intersection of N. Jim Miller Road and Rosalinda Lane; and
  - two 20' visibility triangles located on both sides of the driveway approach on N. Jim Miller Road.

**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):**

Approval.

Rationale:

- The Sustainable Development and Construction Department Senior Engineer has indicated that he has no objections to these requests.
- The applicant has substantiated how the location of the wrought iron fence and columns in the two 20' visibility triangles at the driveway approach and the one 45' visibility triangle at the street intersection, along with the location of the wooden fence in the one 20' visibility triangle at the alley approach, as denoted on his submitted site plan, does not constitute a traffic hazard.

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

The subject site is developed with a single family home. The areas to the north, south, east, and west are developed with single family residential 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 focuses on maintaining a 7' high wooden fence in one of two required front yards on a site developed with a single family residential use.
- 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 northwest corner of N. Jim Miller Road and Rosalinda Lane. Regardless of how the existing structure is oriented to front N. Jim Miller Road, the subject site has two front yard setbacks along both streets. The site has a 30' required front yard along N. Jim Miller Road, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in this zoning district. The site also has a 15' required front yard along Rosalinda Lane, the longer of the two frontages of this corner lot, which is typically regarded as a side yard. But the site's Rosalinda Lane frontage that functions as a side yard is treated as a front yard setback to maintain the continuity of the front yard setback established by the lot to the west zoned R-7.5(A) that fronts/is oriented southward towards Rosalinda Lane.
- An R-7.5(A) Single Family Residential District requires the minimum front yard setback to be 25'. However, the site has both a 30' platted build line along N. Jim Miller Road and a 15' platted build line along Rosalinda Lane, both of which supersede the 25' minimum front yard setback.
- No special exception to the N. Jim Miller Road 30' required front yard is requested.
- The following additional information was gleaned from the submitted site plan:
  - Concerning the 15' required front yard along Rosalinda Lane, the proposal is represented as being approximately 93' in length parallel to the street, and approximately 16' in length parallel to the alley approach at Rosalinda Lane.
  - The proposal is represented as being located approximately 0' from the southern property line, and approximately 0' from the western property line.
- The Current Planner conducted a field visit of the site and surrounding area and noted no other visible fences above 4 feet high which appeared to be located in a front yard setback.
- Two homes front the proposal.
- As of September 11<sup>th</sup>, no letters have been submitted in support of the request, and one (1) letter has been submitted in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 3' will not adversely affect neighboring property.
- Granting this special exception of 3' with a condition imposed that the applicant complies with the submitted revised site plan and elevation would require the proposal exceeding 4' in height in the front yard setback to be maintained in the location and of the heights and materials as shown on these documents.
- Note that granting the applicant's request for this item and special exceptions to the visual obstruction regulations will not provide any relief to any existing noncompliance that may be on the site related to the front yard setback regulations.



## **GENERAL FACTS/STAFF ANALYSIS (VISUAL OBSTRUCTION):**

- This request focuses on maintaining portions of the wooden fence, wrought iron fence, and columns within the visibility triangles located at the site.
- 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).
- According to an e-mail from the Building Inspection Senior Plans Examiner/Development Code Specialist, the applicant intends to remove the offending vegetation in the 45' visibility triangle located at the street intersection of N. Jim Miller Road and Rosalinda Lane.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked "Has no objections."
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain portions of a wooden fence, wrought iron fence, and columns within the visibility triangles located at the site does not constitute a traffic hazard.
- Granting these requests would require the items as described above to be limited to and maintained in the locations, height and materials as shown on these documents.
- Note that granting the applicant's request for this item and a special exception to the fence height regulations will not provide any relief to any existing noncompliance that may be on the site related to the front yard setback regulations.

### **Timeline:**

- June 05, 2015: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 19, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- August 27, 2014: The Current Planner emailed the following information to the applicant:
- an attachment that provided the public hearing date and panel that will consider the application; the September 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 11<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the requests; and

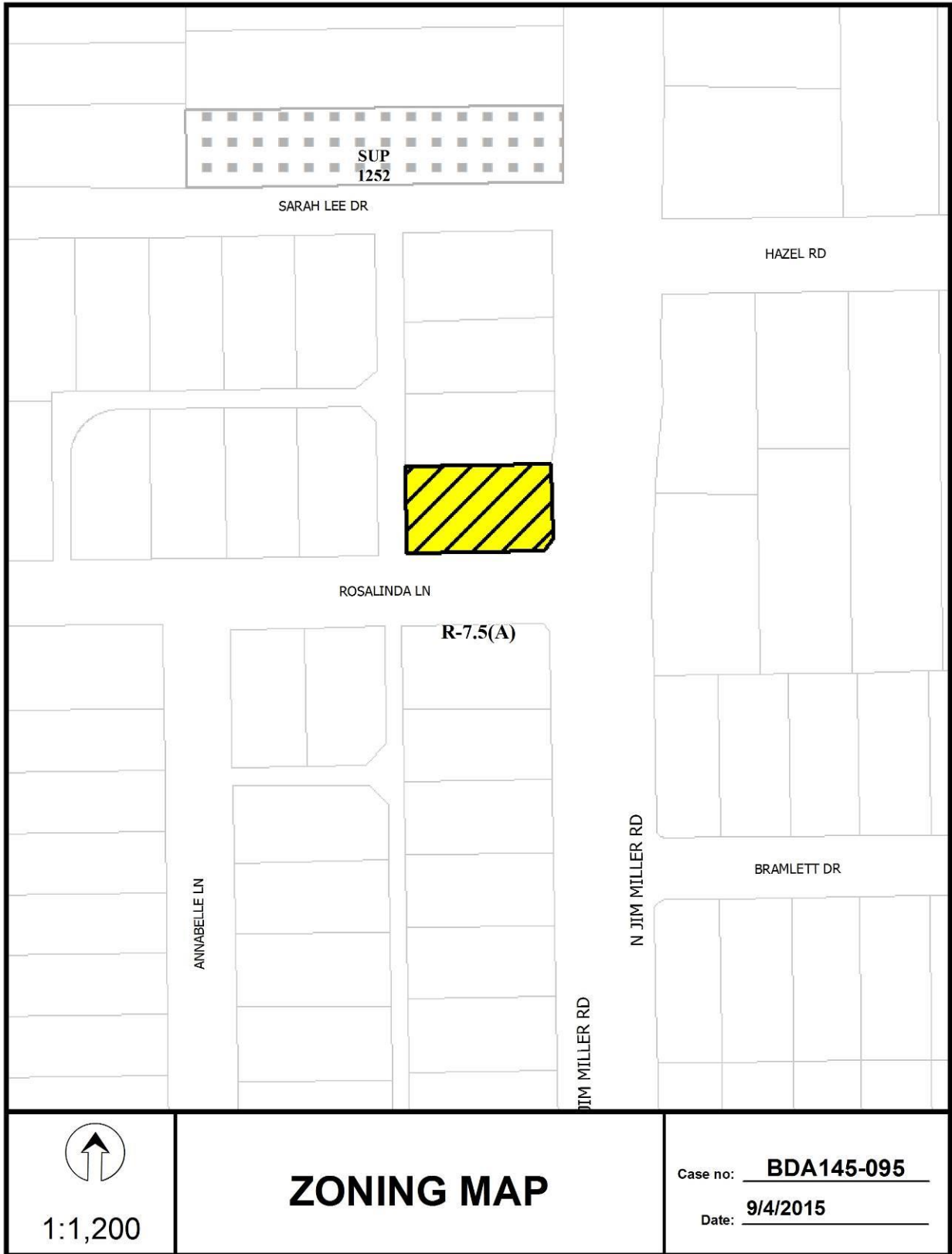
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

September 8, 2015: 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 Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

September 9, 2015: The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked, “Has no objections.”

September 9, 2015: The Code Compliance Department Manager submitted a review comment sheet marked, “Recommends that this be denied (see comments below or attached)” and added the following comments: “Location currently contains an unpermitted pavilion that was constructed within the front yard setback on south side of this lot. Owner was issued citation but failed to appear, issue remains unresolved.”

September 11, 2015: The Building Inspection Senior Plans Examiner/Development Code Specialist sent an e-mail to the Current Planner to advise her that the applicant intends to remove the offending vegetation in the 45’ visibility triangle located at the street intersection of N. Jim Miller Road and Rosalinda Lane.

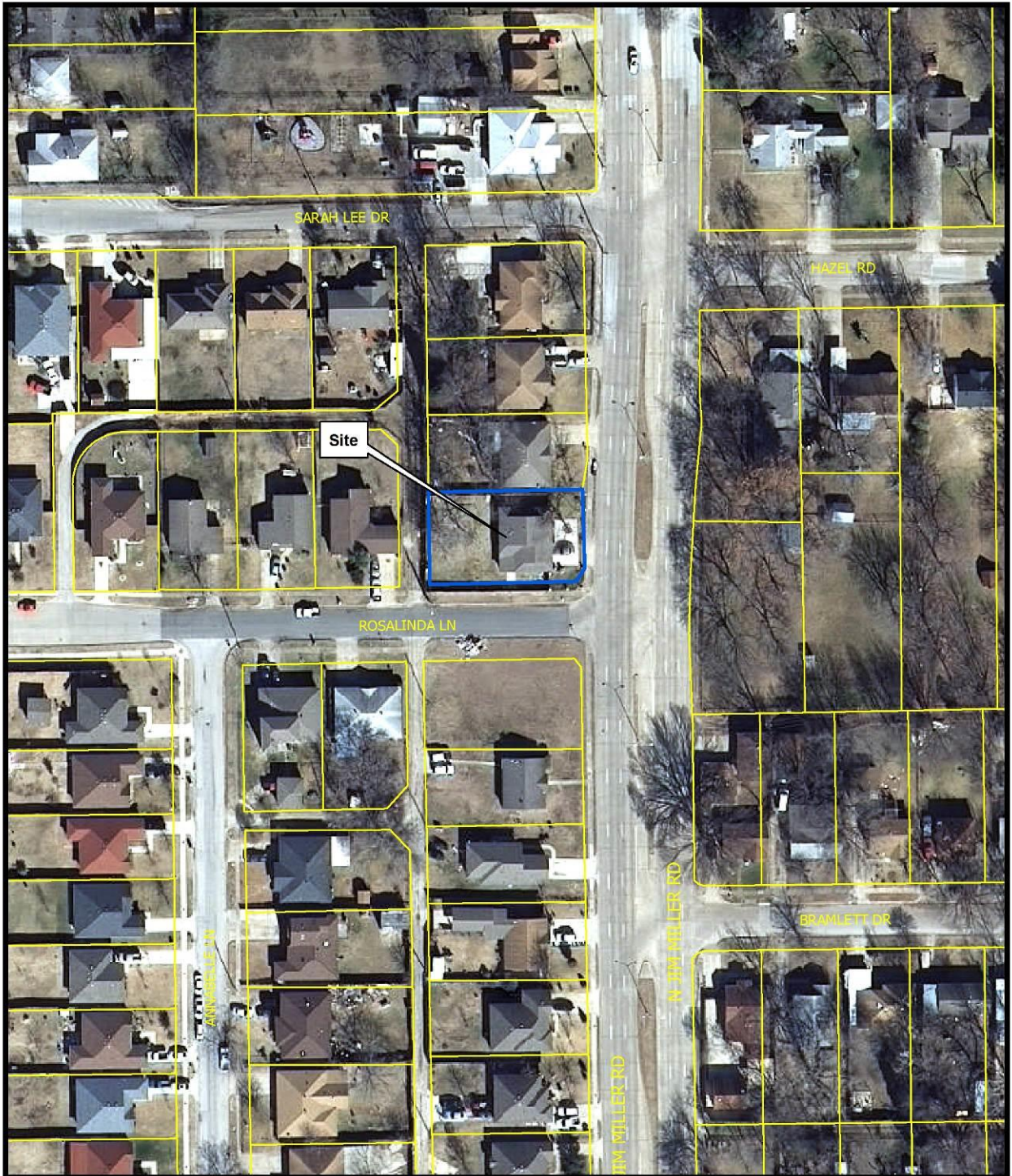


1:1,200

# ZONING MAP

Case no: BDA 145-095

Date: 9/4/2015



  
 1:1,200

# AERIAL MAP

Case no: BDA145-095  
 Date: 9/4/2015



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-095

Date: 6-5-2015

Data Relative to Subject Property:

Location address: 1031 N Jim Miller Rd

Zoning District: R-7.5(A)

Lot No.: 4 Block No.: 116247 Acreage: .21

Census Tract: 93.01

Street Frontage (in Feet): 1) 73.79 2) 125.85 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) 5210

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Juan Salvador Gonzalez / Salvador Gonzalez

Applicant: Juan S. Gonzalez / SALVADOR GONZALEZ Telephone: 214-574-0272

Mailing Address: 1031 N Jim Miller Rd Zip Code: 75217

E-mail Address: gabrielanueza0623@gmail.com

Represented by: Juan S. Gonzalez Telephone: 214 574 02 72

Mailing Address: 1031 N Jim Miller Rd Zip Code: 75217

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

Affirm that an appeal has been made for a Variance \_\_\_\_\_, or Special Exception  of 3 Foot Fence for a front yard and visibility triangles at street intersection, alley, and 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:

Old Fence that has been there over 20 years  
Neighbors not making any complaints and safety for home

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

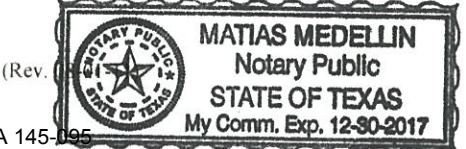
Affidavit

Before me the undersigned on this day personally appeared Juan S. Gonzalez  
(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 5 day of JUNE, 2015



[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 Juan Salvador Gonzalez

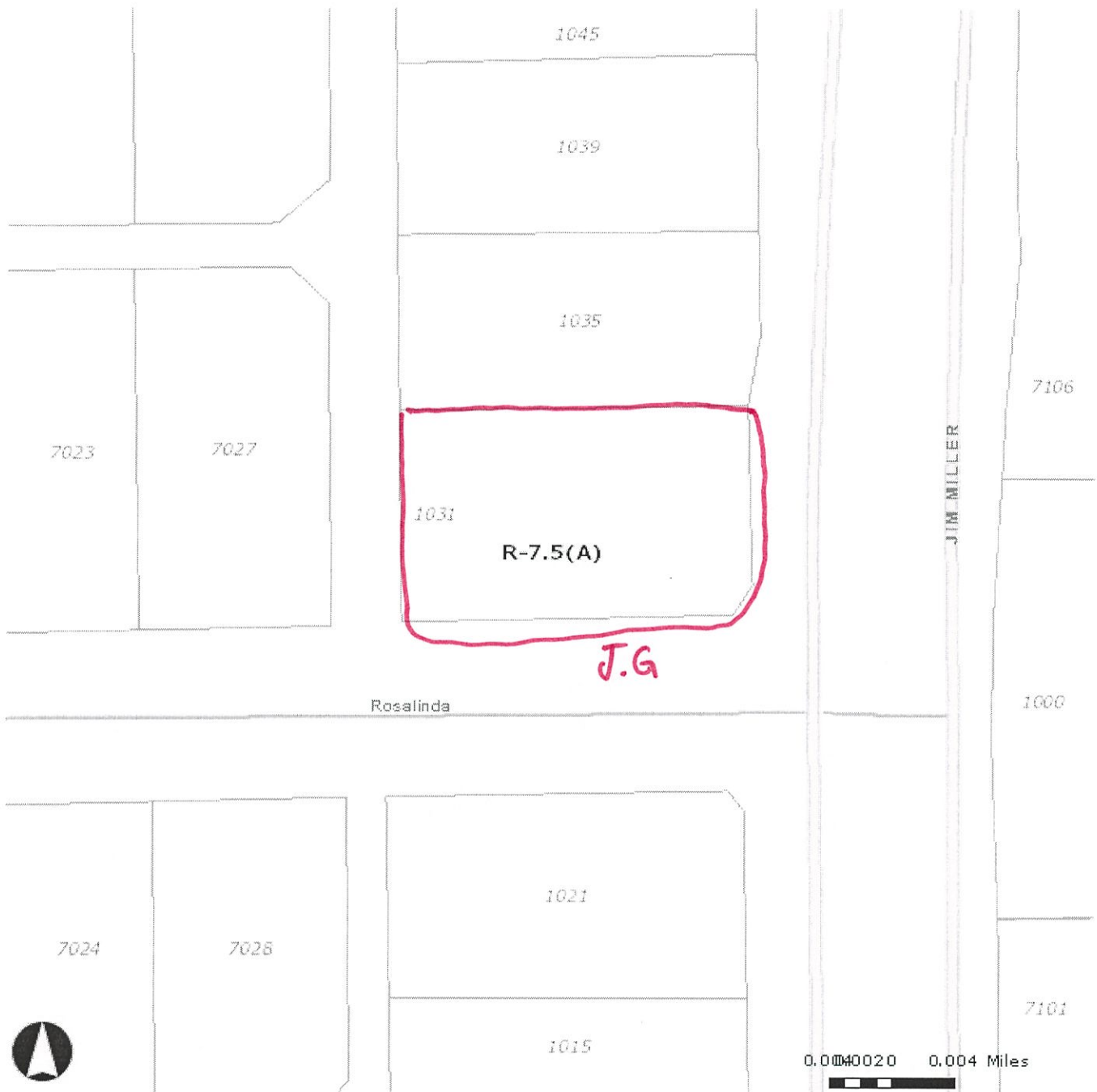
did submit a request for a special exception to the fence height regulations, and for special exceptions to the visibility obstruction regulations

at 1031 N. Jim Miller Road

BDA145-095. Application of Juan Salvador Gonzalez for a special exception to the fence height regulations and special exceptions to the visibility obstruction regulations at 1031 Ji Miller Road. This property is more fully described as Lot 4, Block 1/6247, 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 alley approaches and requires a 45 foot visibility triangle at street intersections. The applicant proposes to construct a 7 foot high fence in a required front yard, which will require a 3 foot special exception to the fence regulation, and to construct and maintain a single family residential fence structure in required visibility obstruction triangles, which will require special exceptions to the visibility obstruction regulations.

Sincerely,

  
Larry Holmes, Building Official



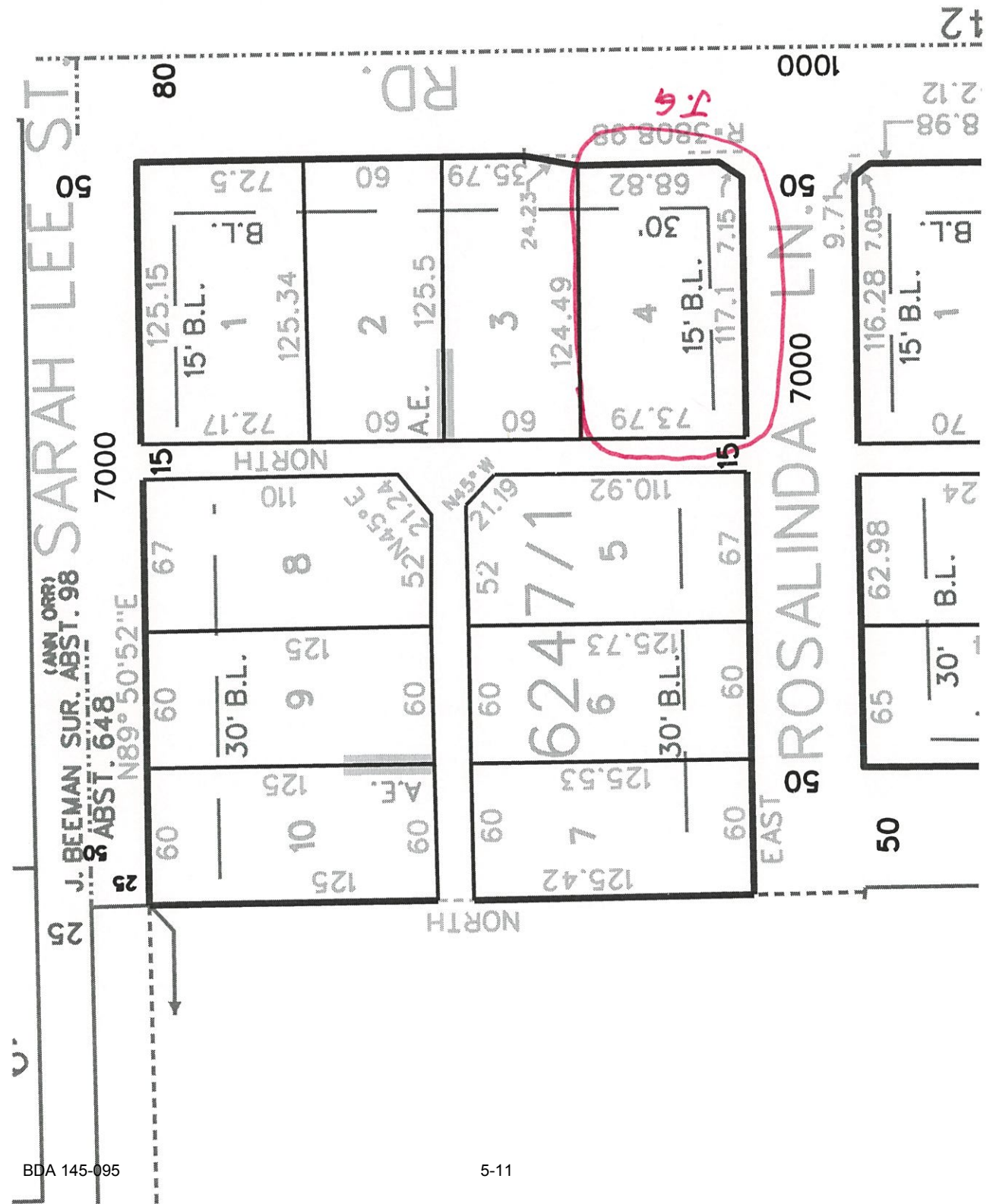
629'1  
SUBI

5 HAZEL RD.  
7100

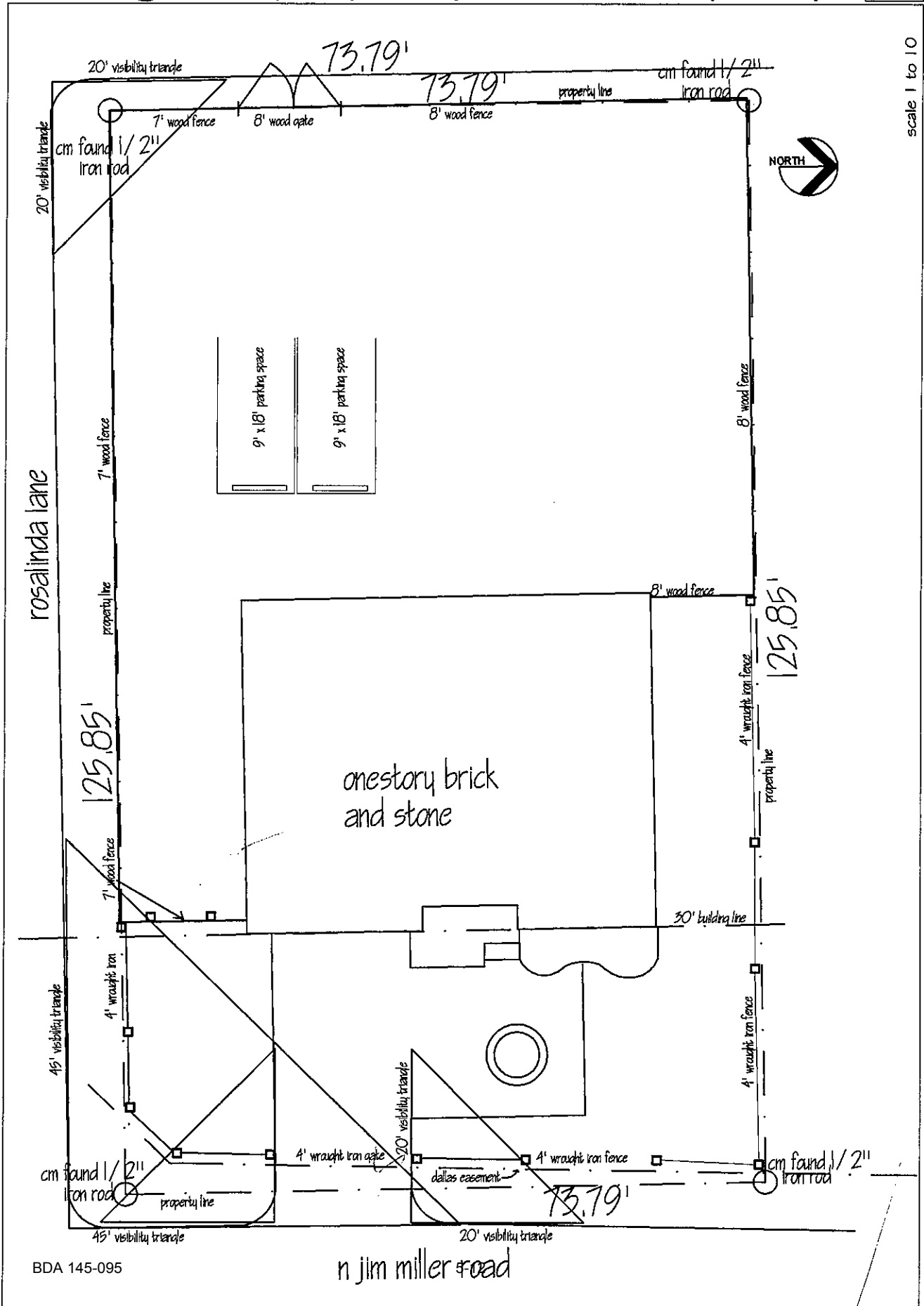
LAWN

CLOVER

629'1







scale 1 to 10

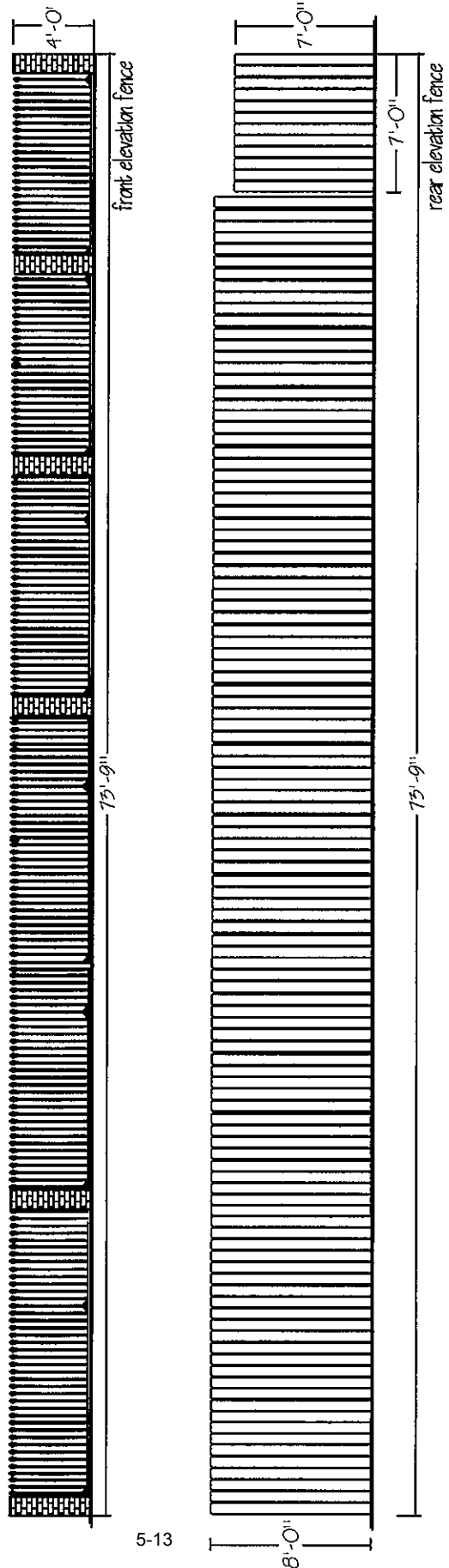
CONTRACTOR  
 DOCUMENTS  
 PERMIT  
 FENCE  
 CONSTRUCTION

GONZALEZ FAMILY RESIDENCE  
 FENCE CONSTRUCTION  
 1091 Jim Miller Road, Dallas, Texas

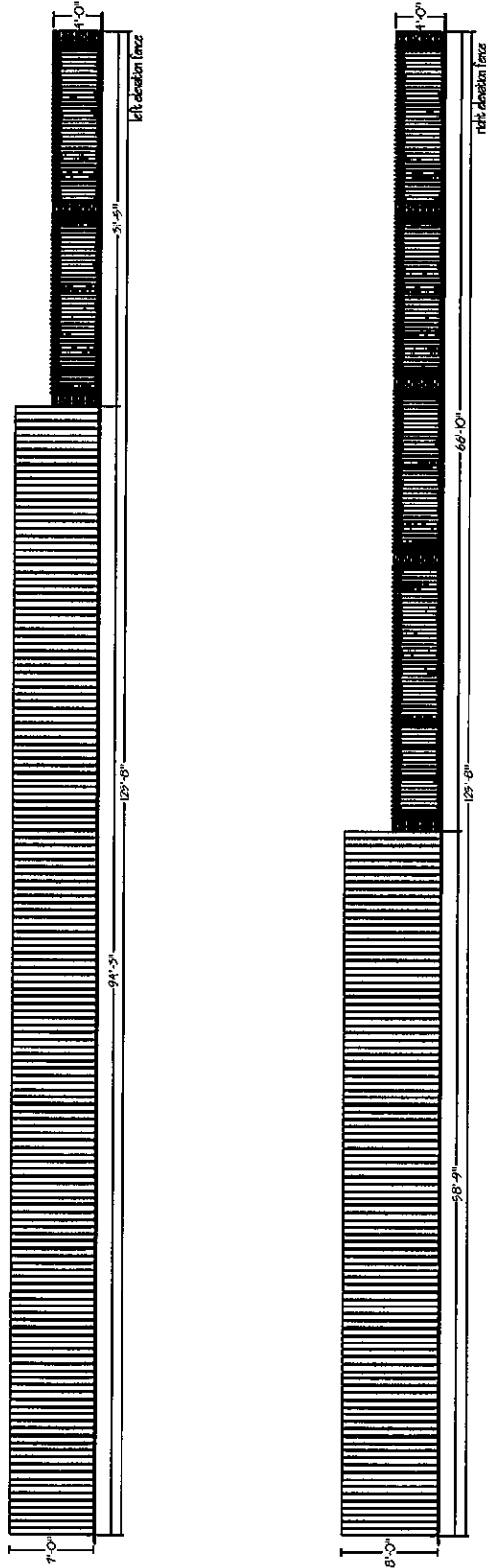
PROJECT: T15084  
 DRAWN BY: E  
 REVISION 1: 5/11/15  
 REVISION 2: 5/11/15  
 DATE: 6-3-2015  
 PHASE: CONSTRUCTION  
 DESCRIPTION: FENCE

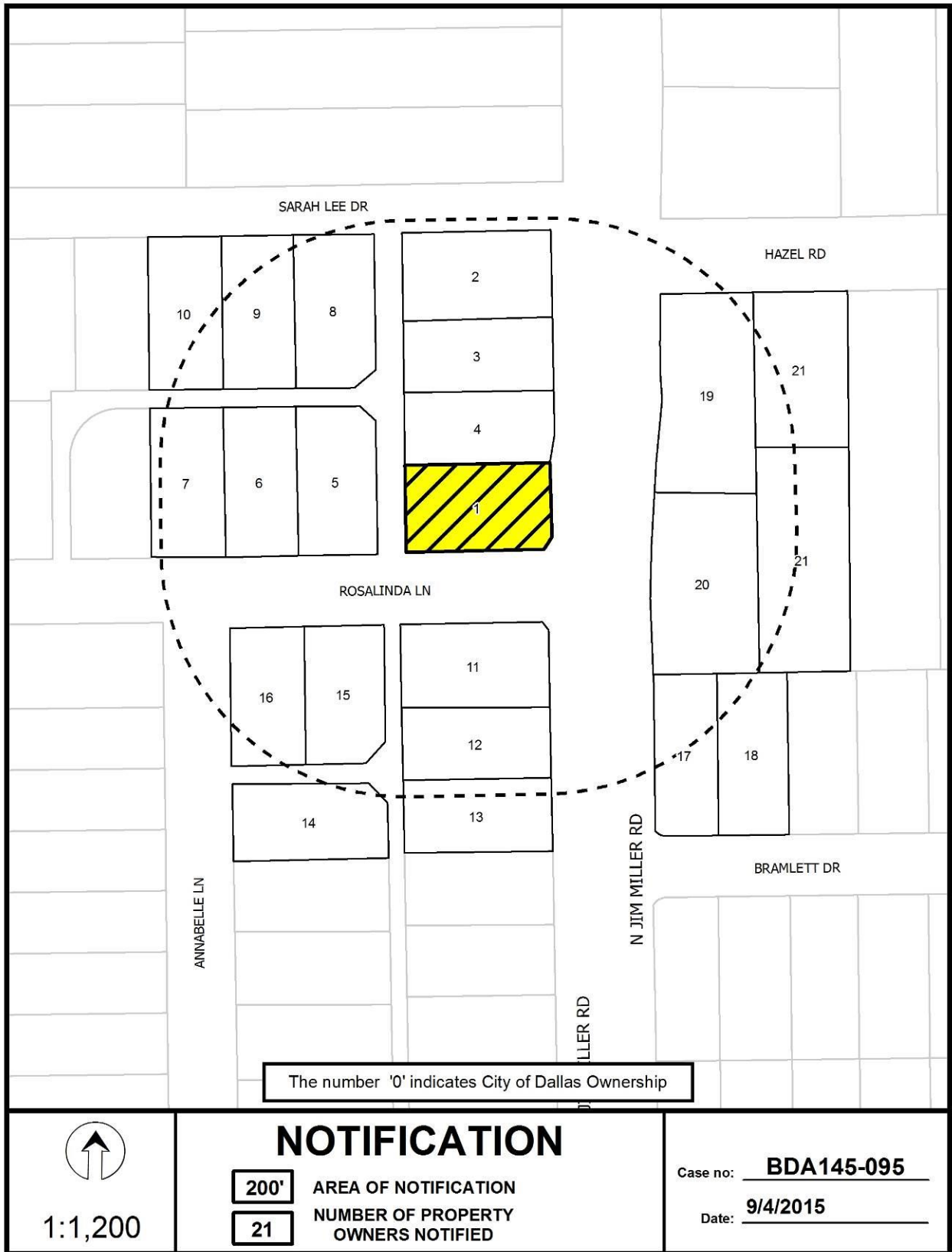
fence elevation  
 plan

elv. 1



3/16" = 1'-0"





## *Notification List of Property Owners*

### *BDA145-095*

#### *21 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1031 JIM MILLER RD	GONZALEZ JUAN SALVADOR &
2	1045 JIM MILLER RD	CRUZ MIGUEL
3	1039 JIM MILLER RD	CLUCK ELMER L
4	1035 JIM MILLER RD	ROWLETT BERTHA
5	7027 ROSALINDA LN	1G CAPITAL LLC
6	7023 ROSALINDA LN	RENTAL EQUITY LLC
7	7019 ROSALINDA LN	JAUREGUI EXEQUIEL &
8	7028 SARAH LEE DR	ARMENDARIZ GUILLERMO &
9	7024 SARAH LEE DR	KNOX SHARON
10	7020 SARAH LEE DR	GOMEZSILLAS RAMON
11	1021 JIM MILLER RD	GONZALEZ MARIA D
12	1015 JIM MILLER RD	PENN HERBERT &
13	1009 JIM MILLER RD	BUTLER CARL & GWENDOLYN
14	1026 ANNABELLE LN	EDWARDS FREDDIE
15	7028 ROSALINDA LN	RAMIREZ FELIX
16	7024 ROSALINDA LN	PRUITT LAGRAN D & ETHEL D
17	7101 BRAMLETT DR	MA LEG PARTNERS 1
18	7105 BRAMLETT DR	MORALES JESUS & DEBRA L
19	7106 HAZEL RD	PIEDRA JOSE O &
20	1000 JIM MILLER RD	PIEDRA JOSE O &
21	7112 HAZEL RD	SEGOVIA JOSE T