

ZONING BOARD OF ADJUSTMENT, PANEL B  
WEDNESDAY, SEPTEMBER 23, 2015  
AGENDA

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|----------------|--|------------|
| BRIEFING       | L1FN CONFERENCE CENTER AUDITORIUM<br>1500 MARILLA STREET | 11:00 A.M. |
| PUBLIC HEARING | L1FN CONFERENCE CENTER AUDITORIUM<br>1500 MARILLA STREET | 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 ITEMS**

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|--------------------|--|----|
|                    | Approval of the August 26, 2015 Board of Adjustment<br>Panel B Public Hearing Minutes  | M1 |
| <b>BDA 145-040</b> | 4734 Tremont Street<br><b>REQUEST:</b> Of Elaine Hewlett to extend the time to file<br>an application for a building permit or certificate<br>of occupancy an additional 12 months beyond the 180<br>days from the Board of Adjustment Panel B's favorable<br>action for a variance to the front yard setback regulations  | M2 |
| <b>BDA 145-049</b> | 6939 Blackwood Drive<br><b>REQUEST:</b> Of Carl Baggett to extend the time to file<br>an application for a building permit or certificate<br>of occupancy an additional 12 months beyond the 180<br>days from the Board of Adjustment Panel B's favorable<br>action for variances to the front yard<br>setback regulations | M3 |

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### UNCONTESTED CASES

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|-----------------------|---|---|
| <b>BDA145-092(SL)</b> | 7743 Goforth Circle<br><b>REQUEST:</b> Application of Robert Baldwin of Baldwin and Associates for a variance to the front yard setback regulations and for special exceptions to the fence height and visual obstruction regulations | 1 |
| <b>BDA145-093(DL)</b> | 1212 Tavaros Avenue<br><b>REQUEST:</b> Application of Steve Gibson for a variance to the side yard setback regulations  | 2 |

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### REGULAR CASES

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|------------------------|--|---|
| <b>BDA 134-072(DL)</b> | 332 W. Commerce Street<br><b>REQUEST:</b> Application of Houshang Jahvani for variances to the minimum and maximum front yard setback regulations and to the landscape regulations       | 3 |
| <b>BDA145-090(SL)</b>  | 3403 N. Fitzhugh Avenue<br><b>REQUEST:</b> Application of Mike Backlund for a special exception to the landscape regulations   | 4 |
| <b>BDA145-096(SL)</b>  | 9008 San Benito Way<br><b>REQUEST:</b> Application of Eric W. Johnson for a variance to the front yard setback regulations and a special exception to the visual obstruction regulations | 5 |
| <b>BDA145-100(SL)</b>  | 901 Pearl Street<br><b>REQUEST:</b> Application of Maxwell Fisher and Dallas Cothrum of Masterplan for a special exception to the Flora Street height restrictions                       | 6 |

## 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]

**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel B August 26, 2015 public hearing minutes.



**MISCELLANEOUS ITEM NO. 2**

**FILE NUMBER:** BDA 145-040(SL)

**REQUEST:** To extend the time period in which to file an application for a building permit or certificate of occupancy an additional 12 months beyond the 180 days from the Board of Adjustment Panel B's favorable action on a request for a variance to the front yard setback regulations granted (with a condition) by Board of Adjustment Panel B on April 22, 2015.

**LOCATION:** 4734 Tremont Street

**APPLICANT:** Elaine Hewlett

**STANDARD FOR EXTENDING THE TIME PERIOD IN WHICH TO APPLY FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY:**

- The Dallas Development Code states:
  - The applicant shall file an application for a building permit or certificate of occupancy within 180 days for the date of the favorable action of the board, unless the applicant files from and is granted an extended time period prior to the expiration of the 180 days. The filing of a request for an extended time period does not toll the 180 day time period. If the applicant fails to file an application within the time period, the request is automatically denied without prejudice and the applicant must begin the process to have his request heard again.
- The *Board of Adjustment Working Rules of Procedure* state the following with regard to extensions of the time period for making application for a building permit or certificate of occupancy:
  - A panel may not extend the time period for making application for a building permit or certificate of occupancy beyond 180 days from the date of its favorable action unless it makes a *specific finding* based on evidence presented at a public hearing that there are no substantially changed conditions or circumstances regarding the property to the satisfaction of the panel. In no event, however, may the board extend the time period beyond 18 months from the date of its favorable action.

**Timeline:**

April 22, 2015: The Board of Adjustment Panel B granted a request for a variance to front yard setback regulations of 20'. The Board imposed the following condition: Compliance with the submitted revised site plan is required. The case report stated that this request was made to replace an existing one-story nonconforming single family home structure on the subject site with a two-story single family

home with (according to the submitted revised site plan) a building footprint of about 2,000 square feet and a total living area of about 2,600 square feet, part of which was to be located 5' from one of the site's two front property lines (N. Prairie Avenue) or 20' into this 25' front yard setback

September 2, 2015: The applicant sent a letter to the Board Administrator requesting an extension of the time period in which to make application for a building permit or certificate of occupancy (see Attachment A).

September 2, 2015: The Board Administrator emailed the applicant acknowledging her request for the Board to extend the time period in which to file an application for a building permit or certificate of occupancy an additional 12 months beyond the 180 days that the applicant had to do so from the April 22, 2015 favorable action. The applicant was emailed the following additional information:

- an attachment that provided the public hearing date of the request; and 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;
- an attachment of materials related to BDA 145-040; and
- The Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

M2  
Attach A

**Long, Steve**

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**From:** Elaine Hewlett <info@vowtodance.com>  
**Sent:** Wednesday, September 02, 2015 10:11 AM  
**To:** Long, Steve  
**Subject:** BDA 145-040, Property at 4734 Tremont Street

Dear Mr. Long,

I would like to request from the Board of Adjustments a 12-month extension to the variance granted to 4734 Tremont St. on April 22, 2015.

Please let the records show that I, the applicant, will attest there are no substantially changed conditions or circumstances regarding the property. I am not going to deviate from the imposed conditions of the decision of the Board concerning BDA 145-040, Property at 4734 Tremont Street.

Our builder, who was working for himself at the time, took a position in a company and was unable to build independently any longer. We have been busy trying to find a builder and it has taken longer than expected. While the builder will be different, the plans for the house at 4734 Tremont St. will remain the same.

Thank you for your time.

Sincerely,  
Elaine Hewlett

214-228-4454

**MISCELLANEOUS ITEM NO. 3**

**FILE NUMBER:** BDA 145-049(SL)

**REQUEST:** To extend the time period in which to file an application for a building permit or certificate of occupancy an additional 12 months beyond the 180 days from the Board of Adjustment Panel B's favorable action on a request for variances to the front yard setback regulations granted (with a condition) by Board of Adjustment Panel B on April 22, 2015.

**LOCATION:** 6939 Blackwood Drive

**APPLICANT:** Carl Baggett

**STANDARD FOR EXTENDING THE TIME PERIOD IN WHICH TO APPLY FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY:**

- The Dallas Development Code states:
  - The applicant shall file an application for a building permit or certificate of occupancy within 180 days for the date of the favorable action of the board, unless the applicant files from and is granted an extended time period prior to the expiration of the 180 days. The filing of a request for an extended time period does not toll the 180 day time period. If the applicant fails to file an application within the time period, the request is automatically denied without prejudice and the applicant must begin the process to have his request heard again.
- The *Board of Adjustment Working Rules of Procedure* state the following with regard to extensions of the time period for making application for a building permit or certificate of occupancy:
  - A panel may not extend the time period for making application for a building permit or certificate of occupancy beyond 180 days from the date of its favorable action unless it makes a *specific finding* based on evidence presented at a public hearing that there are no substantially changed conditions or circumstances regarding the property to the satisfaction of the panel. In no event, however, may the board extend the time period beyond 18 months from the date of its favorable action.

**Timeline:**

April 22, 2015: The Board of Adjustment Panel B granted requests for variances to front yard setback regulations of up to 30'. The Board imposed the following condition: Compliance with the submitted revised site plan is required. The case report stated that this requests were made maintain the following structures on a site developed with a single family home use/structure: In the Hyde Park Drive 30' front yard

setback: retaining walls ranging from 14" – 42"; a portion of an 8" high concrete porch; a gable roof, concrete porch, and stairs; and a variable height stone landscape terrace up to 12"; and in the Blackwood Drive 30' front yard setback: variable height stone landscape terraces ranging from 21" – 38"; stairs; and portion of concrete front porch 39".

September 2, 2015: The applicant sent a letter to the Board Administrator requesting an extension of the time period in which to make application for a building permit or certificate of occupancy (see Attachment A).

September 3, 2015: The Board Administrator emailed the applicant acknowledging his request for the Board to extend the time period in which to file an application for a building permit or certificate of occupancy an additional 12 months beyond the 180 days that the applicant had to do so from the April 22, 2015 favorable action. The applicant was emailed the following additional information:

- an attachment that provided the public hearing date of the request; and 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;
- an attachment of materials related to BDA 145-049; and
- The Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

**Long, Steve**

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**From:** Eric Johnson <e.w.johnson@sbcglobal.net> Pg 1  
**Sent:** Tuesday, September 08, 2015 11:28 AM  
**To:** Long, Steve  
**Subject:** San Benito Apartments variance application  
**Attachments:** Progressive Waste Letter RE Dumpster Variance.pdf; ATT00001.htm; A.Vail and V.Fasset letter of support.jpg; ATT00002.htm

Mr. Long,

I am sending two additional documents that I would like you to please include in your packet for the adjustment board staff.

One is a letter from Progressive Waste Solutions, from our representative Michelle Seely.

I asked her to provide additional information & more details as to why they would not be able to service a container located in the back of the property.

It is very specific & lists several reasons.

The second document is a personal letter from Amy Ewell & Vail Fassett. This is the letter from the LFHNA copresidents personally that was referenced in my previous email. I have another 20+ letters similar to this one. I am only sending you this one at the present time, because I referenced in my earlier email, but forgot to include it then.

Thank you for your time. I appreciate your help attention to detail.

Eric

BOA145-090

Attach B

P 2



August 20, 2015

Mr. Eric Johnson  
San Benito Apartments  
9008 San Benito Way  
Dallas, TX 75218

REF: Trash Container Placement

Dear Mr. Johnson,

Progressive Waste Solutions has completed the site survey regarding your request to move the container to the back of the building.

It has been determined that we are NOT able to complete this request because of the many operational issues this would cause.

If we service from the back of the complex, the driver would have to back the truck blindly across an intersection which is completely unacceptable because there is not enough room for the truck to turn around.

The driveways are far too narrow for the trucks to navigate and the turning radius from the side street into the alley will be almost impossible, without backing up and re-negotiating the turn. The alley access is also limited by private fences utility poles gas meters etc. Normally there are 20+ vehicles parked in the parking lot as well. It will be in everybody's best interest to continue service from the street in front.

Regards,

Michelle Seely  
Progressive Waste Solutions  
469-816-3343 cell  
michelle.seely@progressivewaste.com

BOA 145-096

Attach B

pg 3

Date: 8/23/2015

To Whom It May Concern:

This letter is in regards to a variance that has been filed for the San Benito Apartments, 9008 San Benito Way Dallas, TX 75218. The issue is the dumpster which is currently in the front of the building. Vail and I have lived 2 streets directly behind these apartments for 20 yrs and have always been impressed with the care of the apartments and the tenants that live here. I frequently drive, run, walk and bike in front of this dwelling and it is always well taken care of and the trash is always contained where it is supposed to be. My understanding is that there is a code issue with the placement of the dumpster. It has been reported to me that the only viable option is to have rolling cans for each apartment. (Due to lack of space behind the apartments as well as City power lines and gas meters that are near the entrance.) I would hate to see the addition of 46 rolling trash cans each week to the small area on this block. There is also some parking at the street level on this block which would further make the addition of 46 cans an eyesore, and would increase noise and smell. The apartments currently have their trash picked up 2x per week which limits the odor and amount of accumulation. (The city would only come 1x weekly to empty the 46 rolling trash cans.) I also have known the owner to request additional pick ups during busy times.

I hope that you consider approving this variance for the sake of the surrounding neighbors. The current way his trash is being handled is working well, with little disturbance to the immediate area.

Sincerely,

Amy Ewell and Vail Fassett

9019 Eustis Ave.

Dallas, TX 75218

972-742-8580

Dino9@swbell.net



**FILE NUMBER:** BDA 145-092(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Robert Baldwin of Baldwin and Associates for a variance to the front yard setback regulations and for special exceptions to the fence height and visual obstruction regulations at 7743 Goforth Circle. This property is more fully described as Lot 1, Block A/5446, and is zoned R-7.5(A), which requires a front yard setback of 25 feet, limits the height of a fence in the front yard to 4 feet and requires a 45 foot visibility triangle at street intersections. The applicant proposes to construct and/or maintain structures and provide a 5 foot front yard setback, which will require a 20 foot variance to the front yard setback regulation, to construct and/or maintain a 12 foot high fence, which will require an 8 foot special exception to the fence regulation, and to locate and maintain items in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

**LOCATION:** 7743 Goforth Circle

**APPLICANT:** Robert Baldwin of Baldwin and Associates

**REQUESTS:**

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

- Variances to the front yard setback regulations of up to 20' are made to construct and maintain a pool and spa "structures" which will be located in the site's Goforth Circle 30' required front yard, and to construct and/or maintain a new arbor, pool equipment, and existing air conditioning unit structures which will be/are located in the site's Goforth Road 25' front yard setback\*;
- Requests for special exceptions to the fence height regulations of 8' are made to maintain a 6' 2" - 8' high board on board cedar fence some of which is located atop a stone retaining wall as high as 3' 10 1/4" in the site's Goforth Circle and Goforth Road front yard setbacks; and
- A request for special exceptions to the visual obstruction regulations is made to maintain the 8' high board on board cedar fence some of which is located atop a stone retaining wall as high as 3' 10 1/4" in the 45' visibility triangle at the intersection of Goforth Circle and Goforth Road.

\* Note that while a portion of the existing single family home is located in the Goforth Road front yard setback, the Board of Adjustment Panel B granted a variance to the front yard setback regulations of 12' 9" in 2013 to construct and maintain it in this front yard setback- one of three front yard setbacks on the subject site: BDA 123-051.

**STANDARD FOR A VARIANCE:**

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

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

**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 (variances):**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- Staff had concluded that the subject site is unique and different from most lots zoned R-7.5(A) in that it is a lot with a restrictive area due to its three front yard setbacks. The atypical lot with three front yard setbacks precludes the applicant from developing it in a manner commensurate with development on other similarly zoned R-7.5(A) properties with the typical one front yard setback, two side yard setbacks, and one rear yard setback.

**STAFF RECOMMENDATION (fence height special exceptions):**

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

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

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Project Engineer had indicated that he has no objections to the request.
- The applicant had substantiated how the location and maintenance a 6' 2" - 8' high board on board cedar fence some of which is atop a stone retaining wall as high as 3' 10 ¼" in the 45' visibility triangle at the intersection of Goforth Circle and Goforth Road 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) (SUP 972) (Single family district 7,500 square feet)(Specific Use Permit)  
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 use/structure. The area to the north is developed with an institutional/water utilities use; and the areas to the east, south, and west are developed with single family uses.

**Zoning/BDA History:**

1. BDA 123-051, Property located at 7743 Goforth Circle (the subject site)  
On May 22, 2015, the Board of Adjustment Panel B granted a request for a variance to the front yard setback regulations of 12' 9" imposing the submitted site plan as a condition to the request.  
The case report stated that the request was made to construct and maintain a two-story single family structure, part of which was to be located in one of the three front yard setbacks (Goforth Road).

## **GENERAL FACTS/STAFF ANALYSIS (variances):**

- This request focuses on constructing and maintaining an approximately 480 square foot pool “structure” and an approximately 45 square foot spa “structure” which will be located in the site’s Goforth Circle 30’ required front yard, and to construct and/or maintain a new approximately 140 square foot arbor structure, a new approximately 18 square foot pool equipment structure, and an existing approximately 9 square foot air conditioning unit structure which will be/are located in the site’s Goforth Road 25’ front yard setbacks on a site developed with a single family home/use.
- Structures on lots zoned R-7.5(A) are required to provide a minimum front yard setback of 25’.
- The subject site is located at the east corner of Goforth Road and Goforth Circle. Regardless of how the single-family structure is oriented to Goforth Circle, the site has three front yard setbacks since the code states that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets.
- The subject site has two 30’ required front yards along Goforth Circle created by a platted building line, and a 25’ required front yard setback along Goforth Road per the Dallas Development Code.
- A scaled site plan has been submitted indicating that the existing single family home is located in the Goforth Road 25’ front yard setback. The Board of Adjustment Panel B granted a variance to the front yard setback regulations of 12’ 9” in 2013 to construct and maintain it in this front yard setback.
- This application is made to construct/locate/maintain additional structures (as shown on the submitted site plan) in the two of the three front yards: a pool and spa in the Goforth Circle required front yard on the southwest side of the site; and a new arbor, pool equipment, and existing air conditioning unit structures in the Goforth Road front yard setback on the northwest side of the subject site.
- No part of this application has been made for any structure to encroach into the Goforth Circle 30’ required front yard on the southeast side of the subject site.
- According to DCAD records, the “main improvement” at 7743 Goforth Circle is a structure built in 2013 with 4,385 square feet of living/total area. According to DCAD records, the “additional improvements” at 7743 Goforth Circle is a 484 square foot attached garage and a 144 square foot storage space.
- The subject site is flat, somewhat irregular in shape, and according to the application is 0.263 acres (or approximately 11,500 square feet) in area. The site is zoned R-7.5(A) where lots typically are 7,500 square feet in area.
- The site has three front yards (two 30’ required front yards per a platted building line, one 25’ front yard setback per the R-7.5(A) zoning district provision); and one 5’ side yard setback; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.
- The submitted site plan shows that all of the pool and spa structures are proposed to be located in the 30’ Goforth Circle front yard, and that over half of the arbor and all of the pool equipment and air conditioning unit structures would be/are located in the 25’ Goforth Road front yard setback.

- The applicant states that only 39 percent of the lot is buildable given the three front yard setbacks where a more typical sized lot with one front yard setback would have 64 percent of buildable area.
- The applicant has the burden of proof in establishing the following:
  1. That granting the variances to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  2. The variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
  3. The variances would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant the variance requests, and impose the submitted site plan as a condition, the structures in the front yard setbacks would be limited to what is shown on this document– which in this case are structures located/to be located as close as 5’ from a front property line (or as much as 20’ into the 25’ front yard setback).

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

- These requests focus on maintaining a 6’ 2” - 8’ high board on board cedar fence some of which is located atop a stone retaining wall as high as 3’ 10 ¼” in the site’s Goforth Circle and Goforth Road front yard setbacks on a site developed with a single family home.
- 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 east corner of Goforth Road and Goforth Circle. Regardless of how the single-family structure is oriented to Goforth Circle, the site has three front yard setbacks since the code states that if a lot runs from one street to another and has double frontage, a required front yard must be provided on both streets.
- The subject site has two 30’ required front yards along Goforth Circle created by a platted building line, and a 25’ required front yard setback along Goforth Road per the Dallas Development Code.
- The applicant has submitted a site plan/elevation of the proposal in the front yard setbacks that reaches a maximum height of 11’ 10 ¼”.
- The following additional information was gleaned from the submitted site plan/elevation:

- The portion of the fence that exceeds 4' in height on the subject site is about 72' in length in the Goforth Circle required front yard and about 85' in length in the Goforth Road front yard setback.
- The fence over 4' in height in the front yard setbacks is located approximately 3' from the property lines or 13' from the Goforth Circle pavement line/20' from the Goforth Road pavement line.
- The Board Administrator conducted a field visit of the site and surrounding area and noted four other fences above 4 feet high which appeared to be located in a front yard setback, 3 of which are solid fences approximately 6' high located immediately northeast of the subject site, none of which have recorded BDA history; and the other of which is a solid fence approximately 6' high located immediately northwest of the subject site.
- One home fronts the existing fence along Goforth Circle— a property with no fence in its front yard setback; no home fronts the existing fence along Goforth Road- a property with an approximately 6' high solid fence in its front yard.
- 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 exceptions to the fence height regulations of 8' will not adversely affect neighboring property.
- Granting these special exceptions of 8' with a condition imposed that the applicant complies with the submitted site plan/elevation would require the existing fence exceeding 4' in height in the front yard setbacks to be maintained in the location and of the heights and materials as shown on this document.

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

- This request focuses on maintaining a 6' 2" - 8' high board on board cedar fence some of which is located atop a stone retaining wall as high as 3' 10 ¼" in the 45' visibility triangle at the intersection of Goforth Circle and Goforth Road.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
  - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
  - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The applicant submitted a site plan/elevation denoting a 6' 2"- 8' high board on board cedar fence some of which is located atop a stone retaining wall as high as 3' 10 ¼" in the 45' visibility triangle at the intersection of Goforth Circle and Goforth Road.
- 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 request for a special exception to the visual obstruction regulations to maintain a 6' 2" - 8' high

board on board cedar fence some of which is located atop a stone retaining wall as high as 3' 10 ¼" in the 45' visibility triangle at the intersection of Goforth Circle and Goforth Road does not constitute a traffic hazard.

- Granting this request with the condition that the applicant complies with the submitted site plan/elevation would require the items in the visibility triangle to be limited to and maintained in the locations, height and materials as shown on this document.

### **Timeline:**

June 16, 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 B. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."

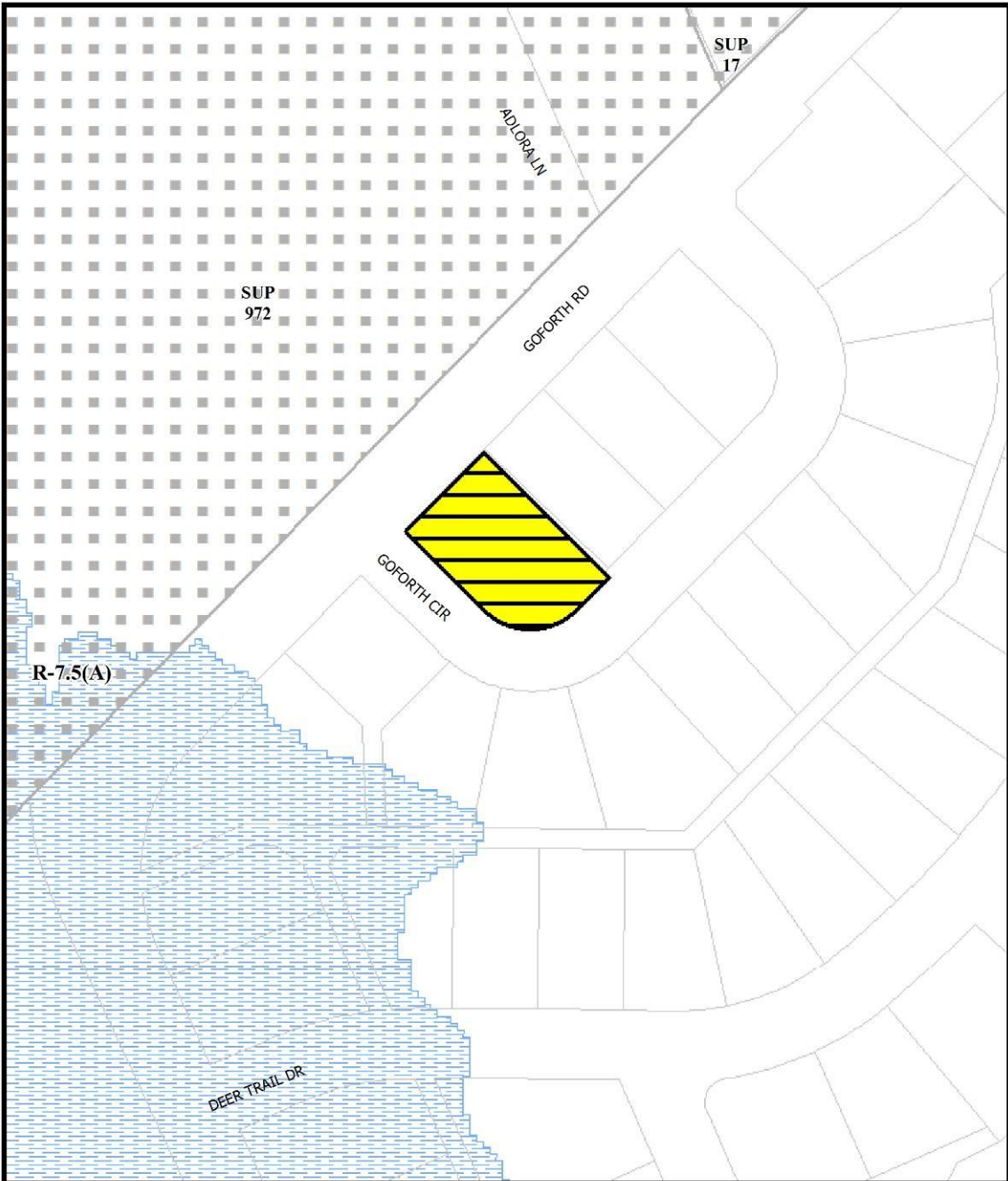
August 19, 2015: The Board Administrator emailed the following information to the applicant:

- 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 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.”



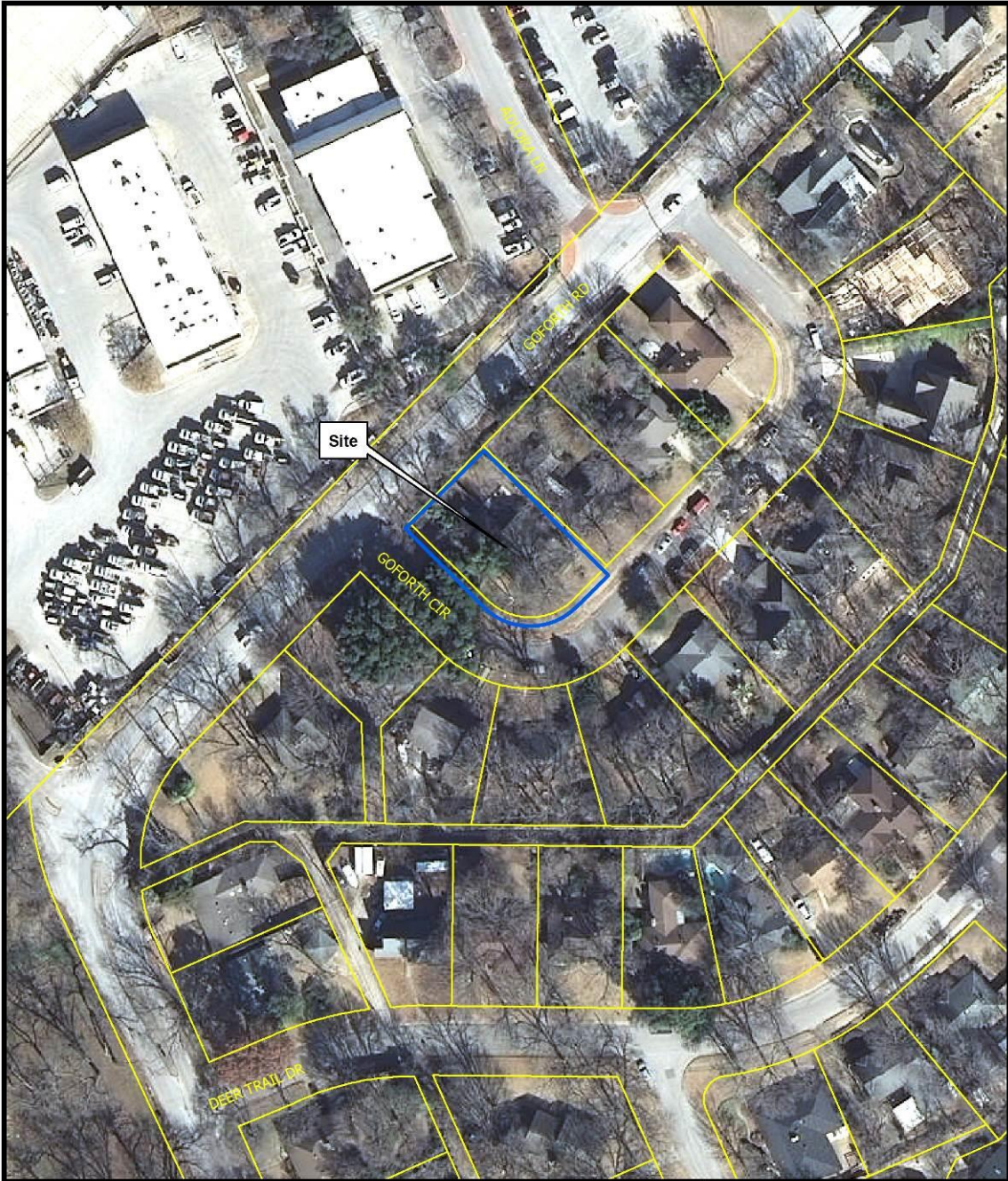


1:1,200

# ZONING MAP

Case no: BDA145-092

Date: 9/4/2015



1:1,200

# AERIAL MAP

Case no: BDA145-092

Date: 9/4/2015





APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-092

Data Relative to Subject Property:

Date: June 16, 2015

Location address: 7743 Goforth Cir Zoning District: R-7.5(A)

Lot No.: 1 Block No.: A/5446 Acreage: 0.263 acres Census Tract: 134.04

Street Frontage (in Feet): 1) 81.54 ft 2) 187 ft 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

*NES*

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Matthew and Jamie Miller

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

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

E-mail Address: rob@baldwinplanning.com

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

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

E-mail Address: rob@baldwinplanning.com

Affirm that an appeal has been made for a Variance X, or Special Exception     of      
20 feet to the front yard regulations, a special exception to the visibility triangle  
regulations and a special exception to the fence height regulations of 8 feet  
at a street intersection

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

The property has front yards along both Goforth Road and Goforth Circle. We are requesting the variance to provide a 5' setback to allow the construction of a pool and spa on the west side and to allow a new arbor, pool equipment, and existing air conditioning units in the Goforth Road front yard with an 8'7" setback. The fence special exception is requested to legitimize existing fencing along Goforth Road in a street intersection visibility triangle that was present on the property prior to construction and an 8' tall fence on a 4' retaining wall around the pool.

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

Affidavit

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

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

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



Subscribed and sworn to before me this 12<sup>th</sup> day of June, 2015  
Vickie L. Raeder  
Notary Public in and for Dallas County, Texas

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

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

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

Building Official's Report

I hereby certify that Robert Baldwin

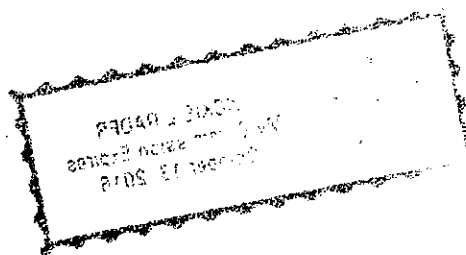
did submit a request for a variance to the front yard setback regulations, and for a special exception to the fence height regulations, and for a special exception to the visibility obstruction regulations

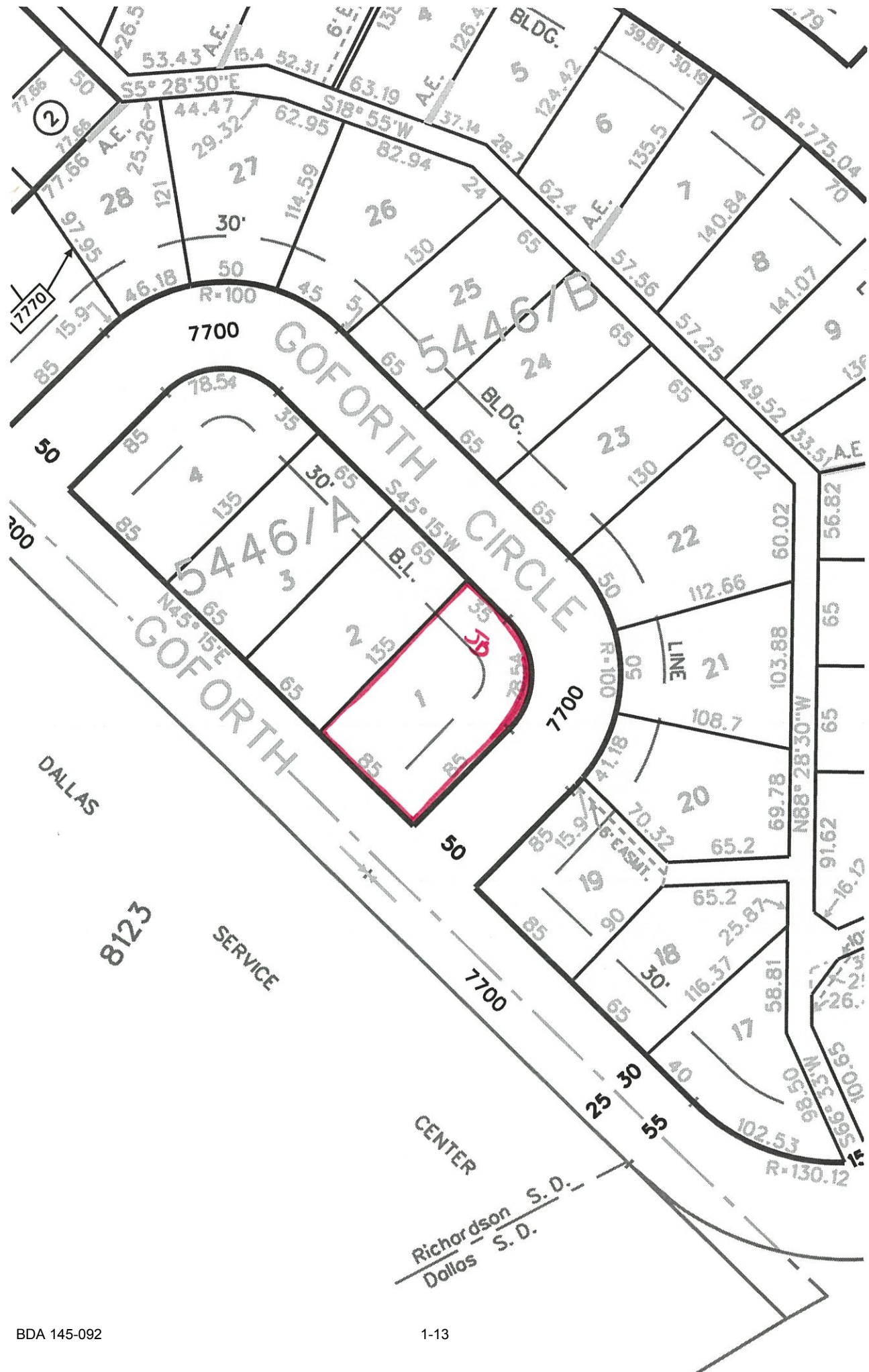
at 7743 Goforth Circle

BDA145-092. Application of Robert Baldwin for a variance to the front yard setback regulations, a special exception to the fence height regulations, and a special exception to the visibility obstruction regulations at 7743 Goforth Circle. This property is more fully described as Lot 1, Block A/5446, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires a 45 foot visibility triangle at street intersections and requires a front yard setback of 25 feet. The applicant proposes to construct and maintain single family residential structure and provide a 5 foot front yard setback, which will require 20 foot variance to the front yard setback regulation, and to construct a 12 foot high fence in a required front yard, which will require an 8 foot special exception to the fence regulation and to construct and maintain a single family residential fence structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

Sincerely,

*Larry V. Holmes*  
Larry Holmes, Building Official







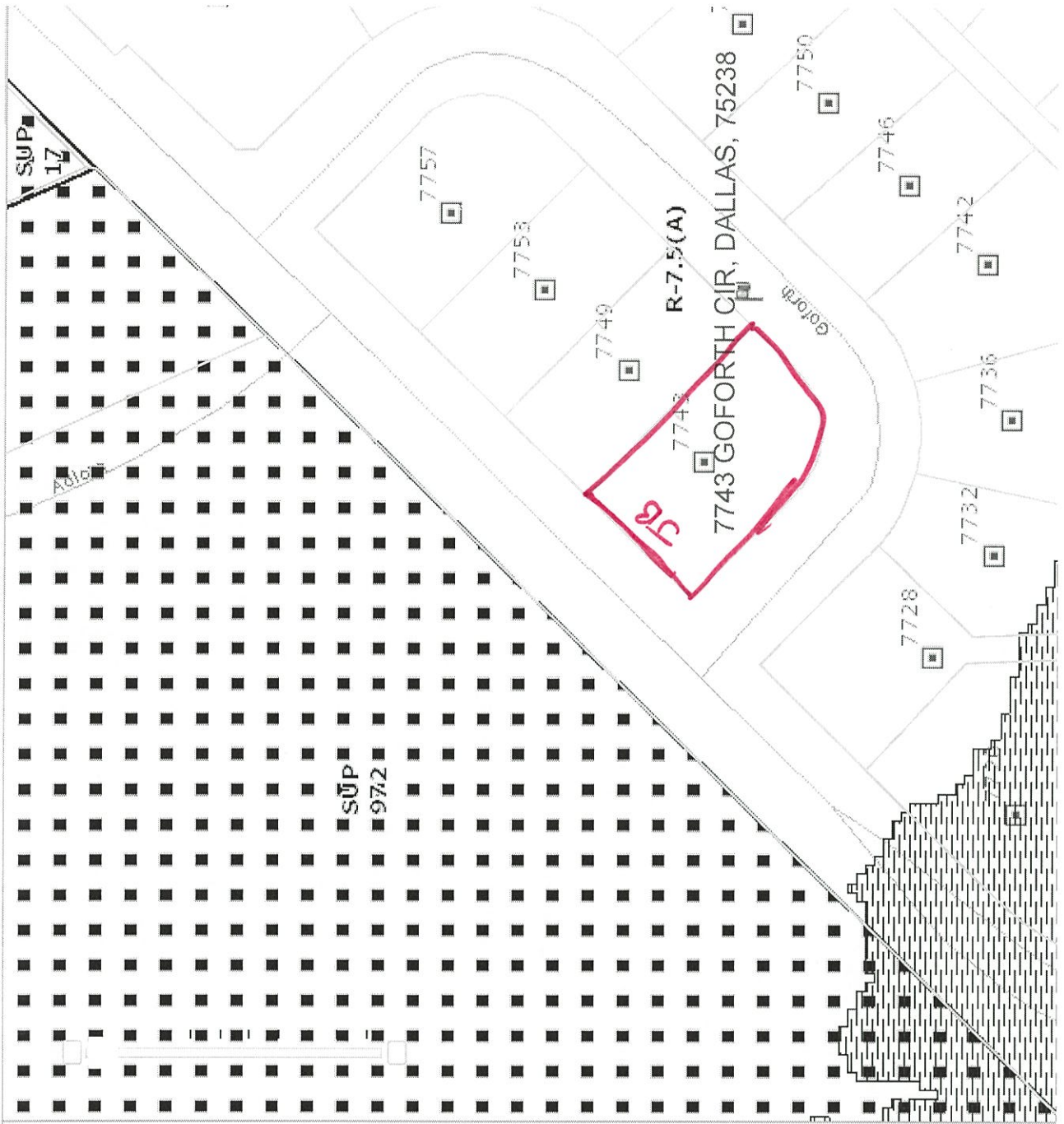
# City of Dallas

Internal Development Research Site

Legend

BDA 145-092

1-14



# Baldwin Associates

August 6, 2015

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

RE: BDA145-092  
7743 Goforth Circle

Dear Mr. Long:

Our firm is helping Matt and Jamie Miller with their request to the Board of Adjustment to construct a pool and fencing on the Miller's property. The Millers are proposing to use a portion of the long side of their property along Goforth Circle as their "back yard", but zoning rules considers all street frontages of the Miller's property as a front yard. In order to allow the Miller's requested pool and fencing, we are requesting the City Plan Commission to remove a portion of the platted building line and three requests to the Board of Adjustment. The site plan shows where we are proposing the building line to stop and is reflected in the plat we filed on July 23, 2015 (S145-244). The building line will continue to be in place at 30 feet along the front of the home.

Our requests to the Board of Adjustment consist of (1) a front yard variance to allow for the proposed pool, arbor and outdoor kitchen, pool equipment, and air conditioning units; (2) a special exception to allow the existing fences to remain and be modified near the front of the house; and (3) a special exception to allow the existing fence and retaining walls to remain in the visibility triangle at the street intersection of Goforth Road and Goforth Circle.

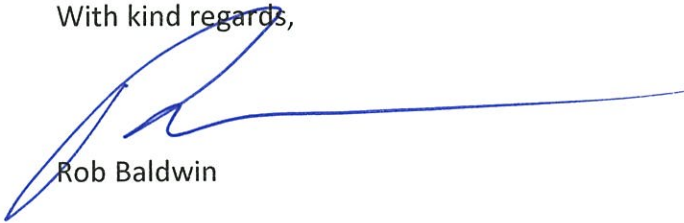
As I mentioned, the property has three front yard setbacks. This is unusual for single family properties. If Goforth Circle were an intersection of two streets rather than a curved street, the proposed location of the pool and new fencing would be considered in a side yard. While the property is somewhat larger than the minimum lot size for an R-7.5(A) district, the buildable area is only 4,000 square feet or 39% of the lot area whereas a typical 50' x 150' R-7.5(A) lot would have 4,800 square feet of buildable area or 64% of the lot area. The restrictive size and irregular shape of the lot led to the Board of Adjustment's favorable decision in 2013 for a front yard variance to allow the home to provide a 12 foot 9 inch setback along Goforth Road. We believe our request for a front yard variance for a pool and accessory structure would allow this property to be developed consistent with other R-7.5(A) zoned properties.

The fencing along Goforth Road was existing prior to the home's construction but we understand the City has no record of it being approved by the Board of Adjustment. We are including this fence in our special exception request. We do not believe it is a hazard because a vehicle has room to approach the intersection to look for on-coming traffic out of view of the fence and must do so to see around existing mature trees that are in the Goforth Road parkway along our property and to the south. The fence height and material on the property is consistent with the other homes on Goforth Road and the City facility across the street.

The wood fencing along Goforth Circle is located on top of a retaining wall and was issued a fence permit when the house was constructed. The permit appears to have been revoked after the fence was constructed. The site plan indicates a new location for a portion of this wood fence to allow for the construction of the proposed pool.

I hope you will find these three requests to meet all of the standards for the Board of Adjustment and that these are reasonable requests for the Millers to enjoy their property. Please do not hesitate to contact me if I can answer any questions or concerns.

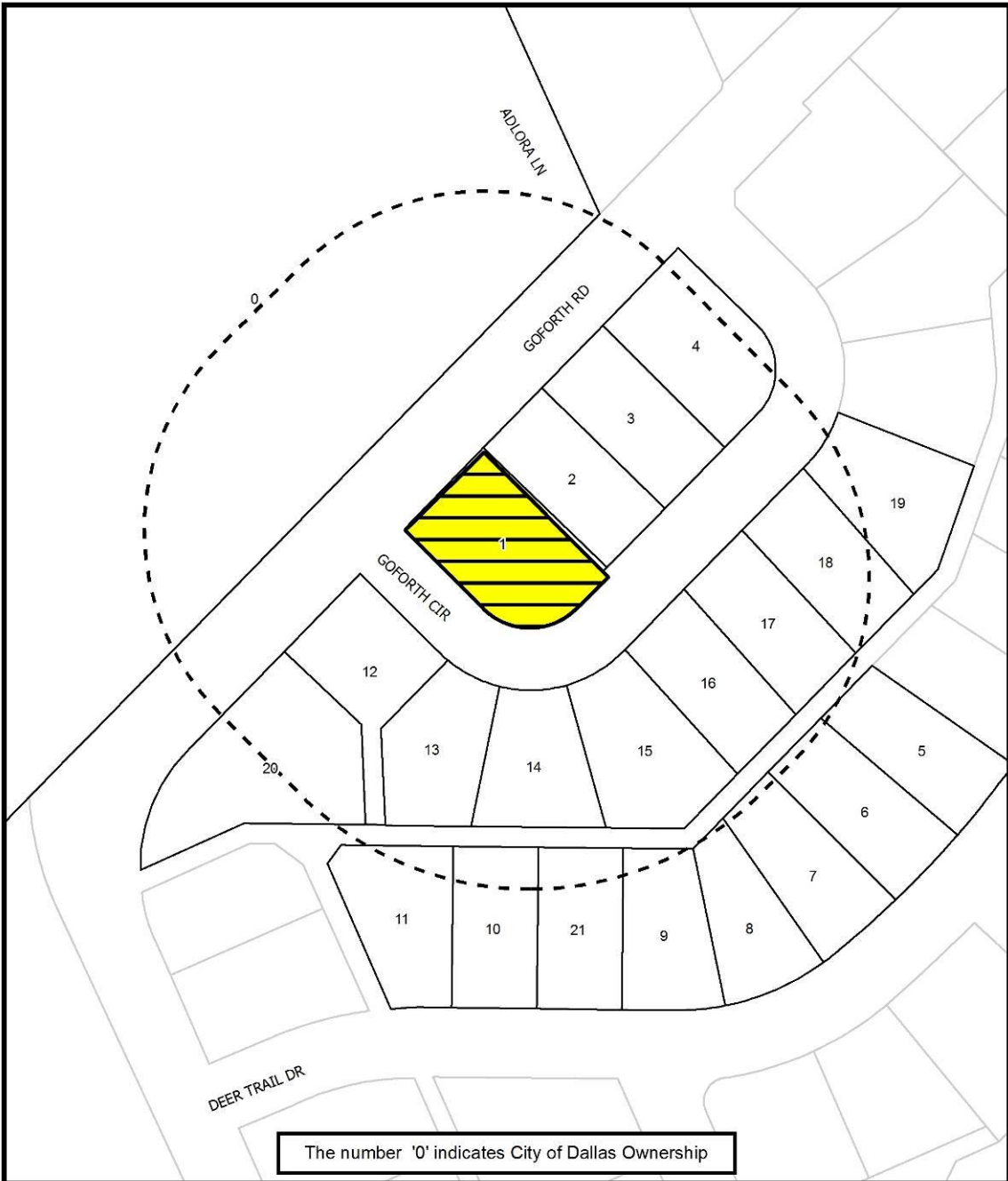
With kind regards,



Rob Baldwin







1:1,200

# NOTIFICATION

**200'**

AREA OF NOTIFICATION

**21**

NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA145-092**

Date: **9/4/2015**

## *Notification List of Property Owners*

### *BDA145-092*

#### *21 Property Owners Notified*

| <i>Label #</i> | <i>Address</i>     | <i>Owner</i>                    |
|----------------|--------------------|---------------------------------|
| 1              | 7743 GOFORTH CIR   | MILLER MATTHEW &                |
| 2              | 7749 GOFORTH CIR   | BALDWIN ADAM K & SUMMER L       |
| 3              | 7753 GOFORTH CIR   | WILSON ROBERT JOSEPH II         |
| 4              | 7757 GOFORTH CIR   | MCCULLOUGH SARAH K & STEPHEN W  |
| 5              | 7805 DEER TRAIL DR | WANK RICHARD B &                |
| 6              | 7741 DEER TRAIL DR | EAVAN RHYS A & MARK E KNUSSMANN |
| 7              | 7735 DEER TRAIL DR | BONDY ROBERT &                  |
| 8              | 7729 DEER TRAIL DR | BONDY ROBERT C III              |
| 9              | 7723 DEER TRAIL DR | WALKER VERNON W                 |
| 10             | 7715 DEER TRAIL DR | VASSAUR JOHN LEWIS II           |
| 11             | 7711 DEER TRAIL DR | OSBORN PATRICIA J &             |
| 12             | 7728 GOFORTH CIR   | SMITH ALEXANDER GEORGE          |
| 13             | 7732 GOFORTH CIR   | GONZALES ANTONIO C              |
| 14             | 7736 GOFORTH CIR   | MCELROY VENTURES LLC            |
| 15             | 7742 GOFORTH CIR   | MOORHEAD ROBERT J &             |
| 16             | 7746 GOFORTH CIR   | RASMUSSEN ANNE REILLY           |
| 17             | 7750 GOFORTH CIR   | NUTT TERRY L & STEPHANIE L      |
| 18             | 7754 GOFORTH CIR   | KEATOR TODD DENISON             |
| 19             | 7758 GOFORTH CIR   | HILL MICHELLE M & KRISTOPHER D  |
| 20             | 7720 GOFORTH RD    | SOLOMON SAMUEL                  |
| 21             | 7719 DEER TRAIL DR | SCHMID CAROL A &                |

**FILE NUMBER:** BDA 145-093

**BUILDING OFFICIAL'S REPORT:** Application of Steve Gibson for a variance to the side yard setback regulations at 1212 Tavaros Avenue. This property is more fully described as Lot 1, Block B/5284, and is zoned CR, which requires a side yard setback of 20 feet. The applicant proposes to construct a nonresidential structure and provide a 10 foot side yard setback, which will require a 10 foot variance to the side yard setback regulation.

**LOCATION:** 1212 Tavaros Avenue

**APPLICANT:** Texas Telcom Credit Union  
Represented by Steve Gibson, President/CEO of Texas Telcom  
Credit Union

**REQUEST:**

A request for a variance to the side yard setback regulations of 10' is made to construct and maintain a  $\pm$ 1,620-square feet, nonresidential structure, part of which is located 10' into the 20' side yard setback at the southern border of the property.

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

Approval

Rationale:

- This specific parcel of land is of a restrictive area that precludes the applicant from developing it in a manner commensurate with the development of other parcels of land in the same CR Community Retail District zoning. The subject site abuts an R-7.5(A) Residential District, which encumbers the lot with a 20' side yard setback. The site is 40' x 125'. A side yard setback of 20' at the southern border of the property leaves the applicant with a lot that has a buildable width of 20'. Had the site not been adjacent to an R-7.5(A), the site would have no minimum side yard setback.
- Note that the applicant has submitted a site plan that is not in compliance with current Chapter 51A regulations of the Dallas Development Code. Should the board grant approval of this application, it will not, in any way, provide relief for other aspects of the proposed development that are not in compliance with Chapter 51A regulations.

**BACKGROUND INFORMATION:**

**Zoning:**

- Site: CR (Community Retail)
- North: MF-1(A) (Multifamily residential)
- South: R-7.5(A) (Single family residential 7,500-square feet)
- East: CR (Community Retail) and R-7.5(A) (Single family residential 7,500-square feet)
- West: CR (Community Retail) and R-7.5(A) (Single family residential 7,500-square feet)

**Land Use:**

The subject site is undeveloped. The area to the north is developed with a general merchandise or food store and a multifamily complex. The area to the east is developed with auto service centers and personal service/retail uses. The area to the south is developed with parking lots, a church, and single family residential uses. The area to the west is developed with office uses, an auto service center, and undeveloped land.

**Zoning/BDA History:**

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

**GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on constructing and maintaining an  $\pm 1,620$ - square foot, nonresidential structure, part of which is located 10' into the 20' side yard setback.
- Structures on lots zoned CR are required to provide no minimum side or rear yard setbacks, unless the lot is adjacent to or directly across an alley from an R, R(A), D, D(A), TH, TH(A), CH, MF, or MF(A) district, in which case the structures must provide a 20' side yard setback.

- This site, zoned CR, is directly across an alley from an R-7.5(A) Single Family Residential District to the southeast.
- A scaled site plan has been submitted indicating that a portion of the proposed nonresidential structure is to be located 10' from the alley to accommodate portions of a break room, offices, and a conference room.
- On September 8, 2015, the Current Planner contacted the applicant's representative and then confirmed via e-mail that the applicant does not wish to amend the site plan submitted with his application, even though the applicant risks being denied building permits due to non-compliance with current Chapter 51A regulations regarding landscaping regulations and off-street parking regulations.
- According to DCAD records, there are two "improvements" for property addressed at 1212 Tavaros Avenue, though the site is currently undeveloped:
  1. A free standing retail store of approximately 2,000-square feet.
  2. An office building of approximately 273-square feet.
- The subject site is rectangular in shape (40'x 125'), 0.115 acres in area, and flat.
- Most lots in CR Community Retail Districts have one 15' front yard setback and, when not adjacent to or directly across an alley from an R, R(A), D, D(A), TH, TH(A), CH, MF, or MF(A) district, no minimum side or rear yard setbacks. When a lot is adjacent to or directly across from the above-referenced zoning districts, the minimum side yard and/or rear yard setback is 20'. This site has one 15' front yard setback, one 20' side yard setback at the property's southern border because it is directly across an alley from an R-7.5(A) zoning district, no minimum side yard setback towards the northern border of the property, and no minimum rear yard setback.
- The 40' wide subject site has approximately 20' of developable width available once a 20' side yard setback is accounted for on the south and a 0' side yard setback is accounted for on the north. If the lot were more typical to others in the same zoning district with no minimum side yard setbacks, the 40' wide site would have 40' of developable width.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same CR zoning classification.
  - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same CR zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan, floor plan, and elevations as a condition, the structure in the side yard setback would be limited to what is shown on this document– which in this case is a portion of a

structure located as close as 10' from an alley at the southern border of the lot (or 10' into this 20' side yard setback).

- Note that granting the applicant's request for a variance to the side yard setback regulations will not provide any relief to any existing or proposed noncompliance on the site related to various Chapter 51A regulations of the Dallas Development Code.

### **Timeline:**

June 19, 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 B.

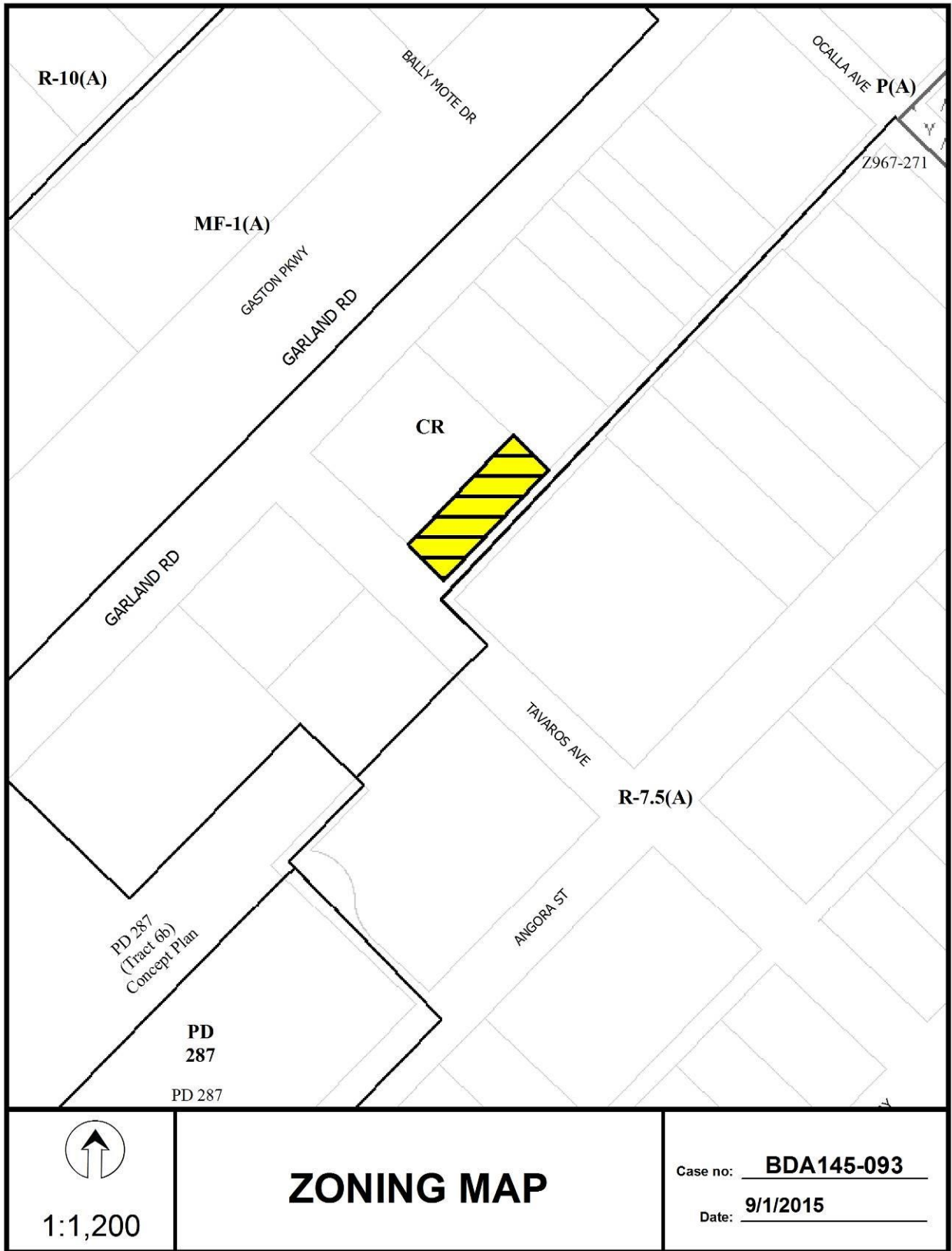
August 27, 2015: The Current Planner emailed the following information to the applicant:

- 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 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 8, 2015: The Current Planner advised the applicant that the submitted site plan was not in compliance with off-street parking regulations and landscaping regulations. He replied, via e-mail, that he wished to continue forward with his application and not revise the submitted site plan.

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







1:1,200

# AERIAL MAP

Case no: BDA145-093

Date: 9/1/2015



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-093

Data Relative to Subject Property:

Date: 6-30-15

Location address: 1212 Tavaros Ave. Zoning District: CR

Lot No.: 1 Block No.: B/5284 Acreage: 0.115 Census Tract: 81.00

Street Frontage (in Feet): 1) 40' 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) 967

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): ~~Steve Gibson~~ Texas Telecom Credit Union

Applicant: [Signature] President/CEO Telephone: 214-320-8818

Mailing Address: 8818 Garland Rd. Zip Code: 75218

E-mail Address: sgibson@textelcu.org

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

Mailing Address: SAME AS ABOVE Zip Code: \_\_\_\_\_

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

Affirm that an appeal has been made for a Variance , or Special Exception \_\_\_\_\_, of 11'-9" 10'-0"  
TO THE SIDE YARD SETBACK

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason: UNDERSIZED LOT W/40' DEPTH ENCLUMBERED W/ 20' SIDE YARD SETBACK REQUIREMENT FOR "CR" ZONED PROPERTY WITH RESIDENTIAL ADJACENCY. CURRENT "R" ZONED PROPERTY ADJACENT USE IS PARKING LOT. ADJACENT & NEIGHBORING "CR" ZONED LOTS HAVE DEPTHS OF 150' VS. 40'. WHEN 20' SETBACK APPLIED, A NARROW 20' BUILDABLE AREA REMAINS.

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 Steve Gibson  
(Affiant/Applicant's name printed)

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

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

Subscribed and sworn to before me this 19 day of June, 2015.

Anna Leigh Argumaniz  
Notary Public in and for Dallas County, Texas









*Amf*

RESUBDIVISION  
FILED: 8-7-68

7  
4413

94

68.74

15

200.85

2

39.75

63.25

118

100.25

100

116

269

545°05'E

205.6

8800

8800

APARTMENT

5284

AVE. 50

5284

8900

50

50

1200

8900

A  
5290

ST. 50

MANNIG SU.

REC'D. 6-7-60

284

ALLEY

120

180

OCALLA ST. 40

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S18°03'50"W

30'

67.30

B.L.

15'

156.54

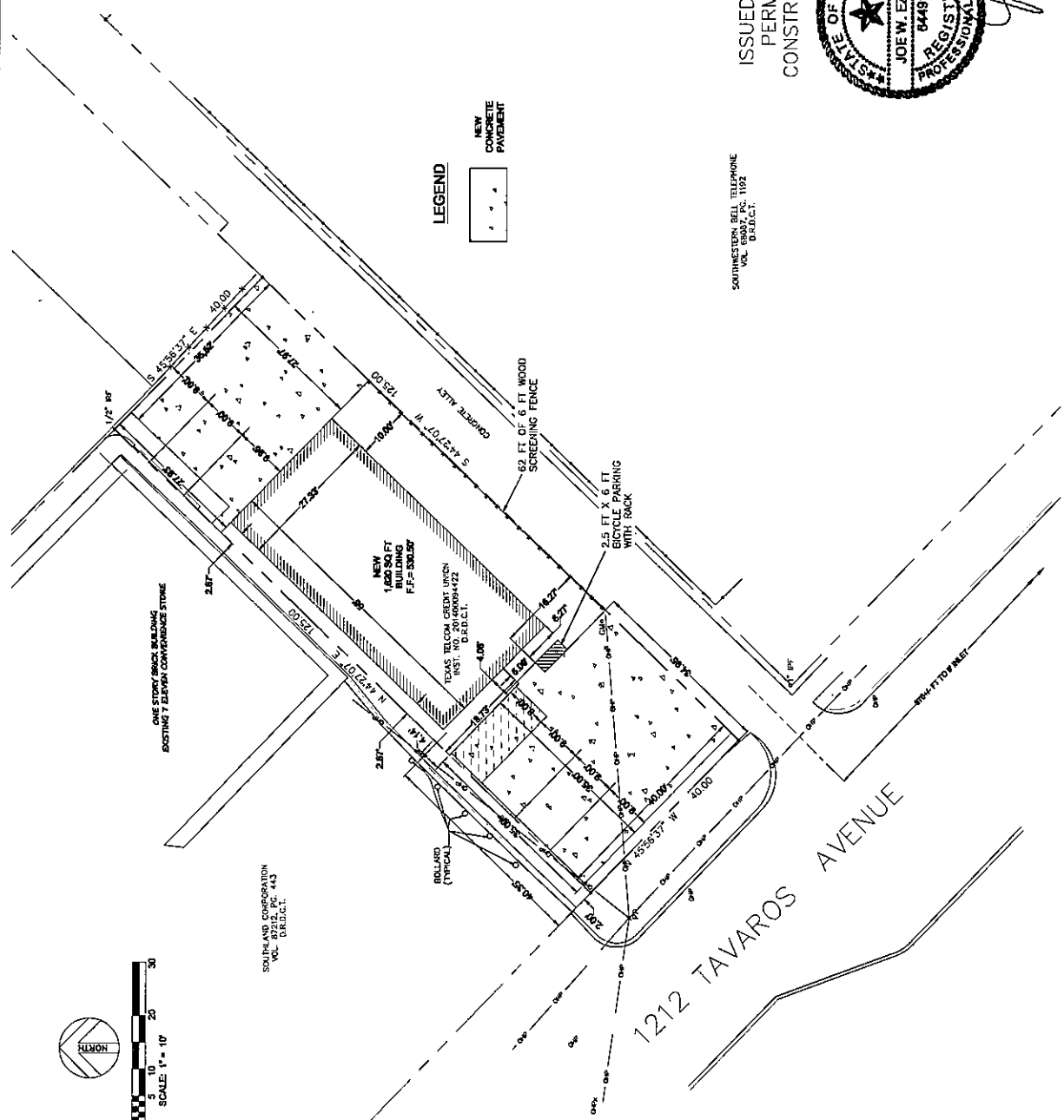
S45°E



- GENERAL NOTES**
- All materials and construction shall conform to the City of Dallas standards and specifications.
  - It shall be the responsibility of the Contractor to protect all public utilities in the area. The location of all utilities shall be shown on the plan. All utilities must be adjusted to proper line and grade by the Contractor prior to and after the placing of permanent paving. Utilities must be maintained to proper line and grade during construction of this project.
  - Contractor shall be responsible for coordinating with all the appropriate utility companies for the location of all utilities within the construction area.
  - The Paving Contractor shall coordinate with the Utility Contractor to insure all shoring for irrigation has been installed prior to placement of permanent pavement.
  - All cement, earthwork and any lime stabilized sub-grade preparation operations shall conform to the recommendations per the Geotechnical Report.
  - Traffic Barrieraes will be required for Paving and Storm Sewer within the construction area. Traffic Barrieraes shall conform to the installation shown in the 1980 Texas Manual of Traffic Control Devices, as Currently Amended, Texas Department of Transportation.
  - All dimensions are to the face of curb or face of building, unless otherwise noted.
  - All curb radii are 2' or 5' unless otherwise noted.

GENERAL PAVING SHALL BE 5" 3,500 PSI CONCRETE PAVEMENT W/ #3 @ 18" O.C.E.W.

**NOTE:**  
Prior to beginning any construction or construction staking, it shall be the Contractor's responsibility to advise the Civil Engineer to insure that all parties are in possession of the most current set of construction documents.

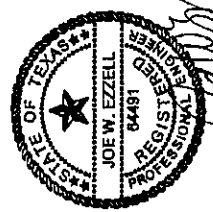


**LEGEND**



SOUTHWESTERN BELL TELEPHONE VOL. 69837, P.C. 1192 SUBJECT

ISSUED FOR PERMIT & CONSTRUCTION

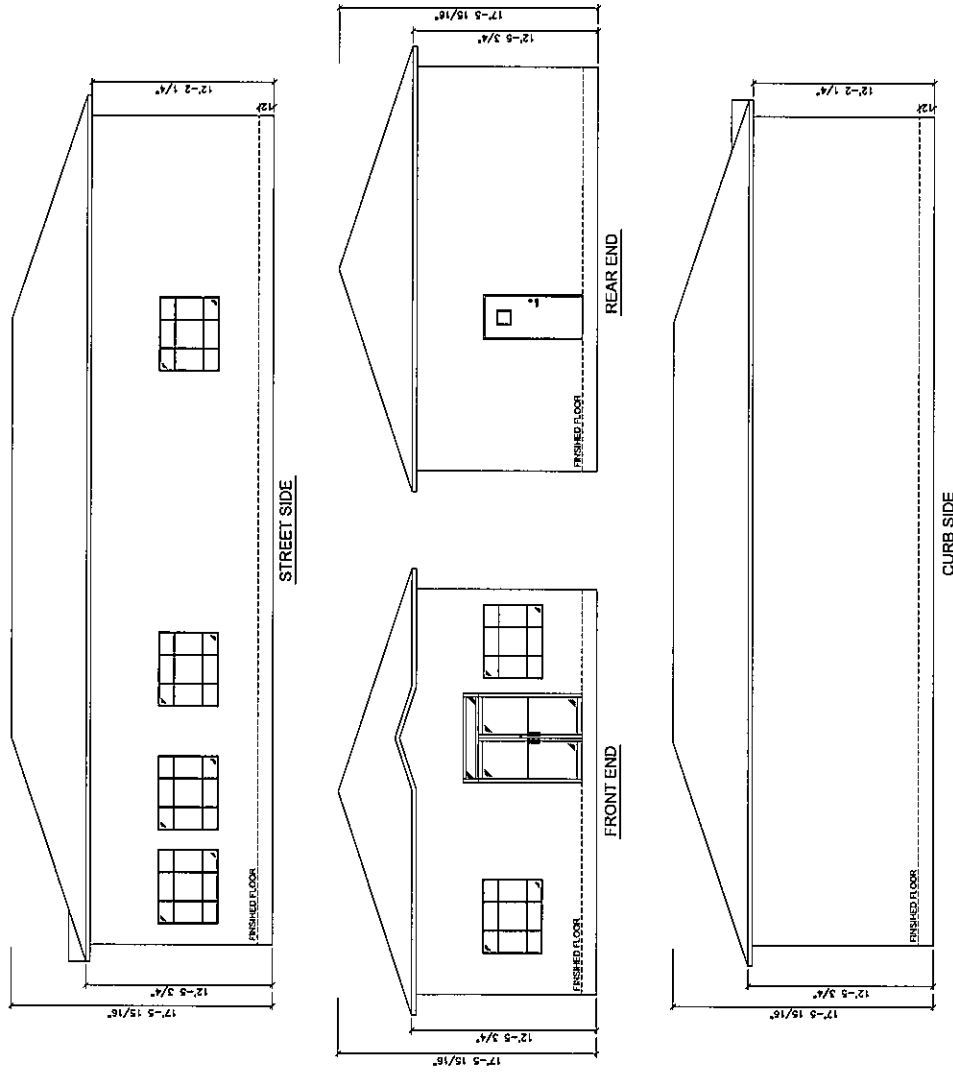


*Joe W. Ezzell*  
2/16/15

|     |          |     |                                  |
|-----|----------|-----|----------------------------------|
| REV | DATE     | BY  | DESCRIPTION                      |
| JWE | 08/08/15 | JWE | ISSUED FOR PERMIT & CONSTRUCTION |

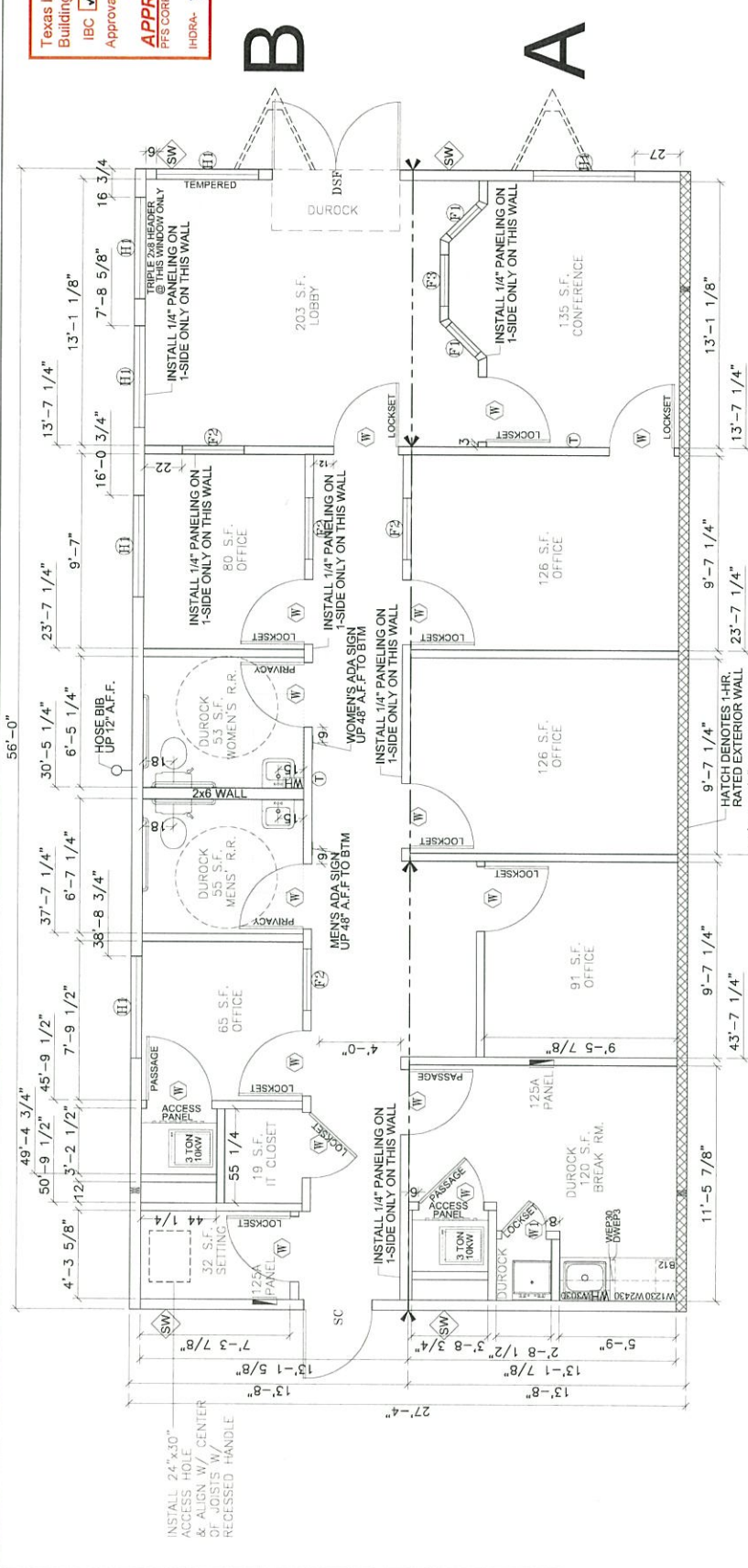
  

|   |   |
|---|---|
| <b>SITE PLAN</b>  |   |
| TEXAS TELCOM CREDIT UNION<br>1212 TAVAROS AVENUE<br>DALLAS, TEXAS 75218 |   |
| PROJECT   | C-1   |
| ENGINEER  | EZZELL & ASSOCIATES<br>2111 TEXAS DRIVE<br>IRVING, TEXAS 75062<br>972/786-0781<br>FAX: 972/786-1475 |



|  |               |                                   |                    |                           |  |
|--|---------------|-----------------------------------|--------------------|---------------------------|--|
| THIS DRAWING IS PROPERTY OF AMTEX CORP. AND CANNOT BE DISTRIBUTED WITHOUT MANUFACTURERS CONSENT. |               | PROJECT: NORTH AMERICAN BUILDINGS |                    | TITLE: EXTERIOR ELEVATION |  |
| DRAWN BY: M.L.S.   | DATE: 3/27/15 | SCALE: 1/8"=1'-0"                 | DWG. NO. NAB2860-1 | SHEET A-6                 | CORP.  |
| LTR  | BY            | REVISION                          | DATE               | AMTEX                     | MARK STEELE, P.E.<br>5730 N. MURRAY AVE.<br>GLENDALE, AZ 85301<br>P: 602.385.2173<br>832 EAST WALNUT<br>GARLAND, TX 75040<br>P: 972.276.7626 / F: 972.596.0457 |





**TYPICAL 1-HOUR EXT. WALL DETAIL**  
 MAXI-PANEL EXTERIOR SIDING  
 HOUSE WRAP OVER 1/2" OSB  
 5/8" TYPE 'X' GYPSUM SHEATHING  
 R-19 FACED INSULATION  
 5/8" TYPE 'X' GYP.  
 2x6 #2 SYP @ 16" O.C.  
 WALL STUDS  
 1-LAYER 5/8" TYPE X GYPSUM, 4" WIDE, APPLIED VERTICALLY OR HORIZONTALLY WITH 2-1/4" TYPE S DRYWALL SCREWS, SPACED 12" O.C.  
 EXL. SIDE: 1-LAYER 5/8" TYPE X GYP. SHEATHING, 4" WIDE, APPLIED VERTICALLY OR HORIZONTALLY WITH VERTICAL JOINTS OVER STUDS, AND FASTENED WITH 2-1/4" TYPE S DRYWALL SCREWS, SPACED 12" O.C.  
 INSULATION CAVITY TO BE FILLED WITH 5-1/2" MINERAL WOOL.

**NOTE:**  
 1. R-11 UNFACED INSULATION IN ALL INTERIOR WALLS.  
 = MINIMUM (3) 2x4 STUD SYP No. 2 COLUMNS WITH MIN. (2) SIMPSON CS-18 COIL STRAPS FASTENED WITH MINIMUM (8) #8 SCREWS EACH END OF EACH STRAP.

**SCHEDULE \ LEGEND**

| KEY  | ITEM DESCRIPTION   | SIZE    | ROUGH OPENING                                      |
|------|--|---------|--|
| SC   | 36" X 80" INSULATED METAL W/ 12x12 PANE                          | 36x80   | 40 1/2" X 82 1/2"                                  |
| DSF  | DBL. 36" X 84" STOREFRONT - MILL/TINTED W/ 12" TRANSOM WINDOW    | 72x84   | T.S.D.   |
| (W)  | 36" X 80" PAINTED 6-PANEL SOLID CORE                             | 36x80   | 38 1/4" X 82 1/2"                                  |
| (W)  | 24" X 80" PAINTED 6-PANEL SOLID CORE                             | 24x80   | 26 1/4" X 82 1/2"                                  |
| (H)  | 50 X 4/0 KRESTMARK - FIXED VINYL / LOW E / DUAL INSULATED / GRID | 50X40   | 60" X 48" UP 32"                                   |
| (F)  | 2/0 X 6/4 FIXED TEMPERED GLASS                                   | 2/0X6/4 | 24 1/4" X 26 3/4" UP 19 3/4" HEADER @ 4'-0" A.F.F. |
| (F)  | 3/0 X 4/0 FIXED TEMPERED GLASS                                   | 3/0X4/0 | 36 1/4" X 48 1/4" UP 31 3/4"                       |
| (F)  | 2/6 X 6/4 FIXED TEMPERED GLASS                                   | 2/6X6/4 | 30 1/4" X 26 3/4" UP 19 3/4" HEADER @ 4'-0" A.F.F. |
| (SW) | = SHEARWALL  |         |  |

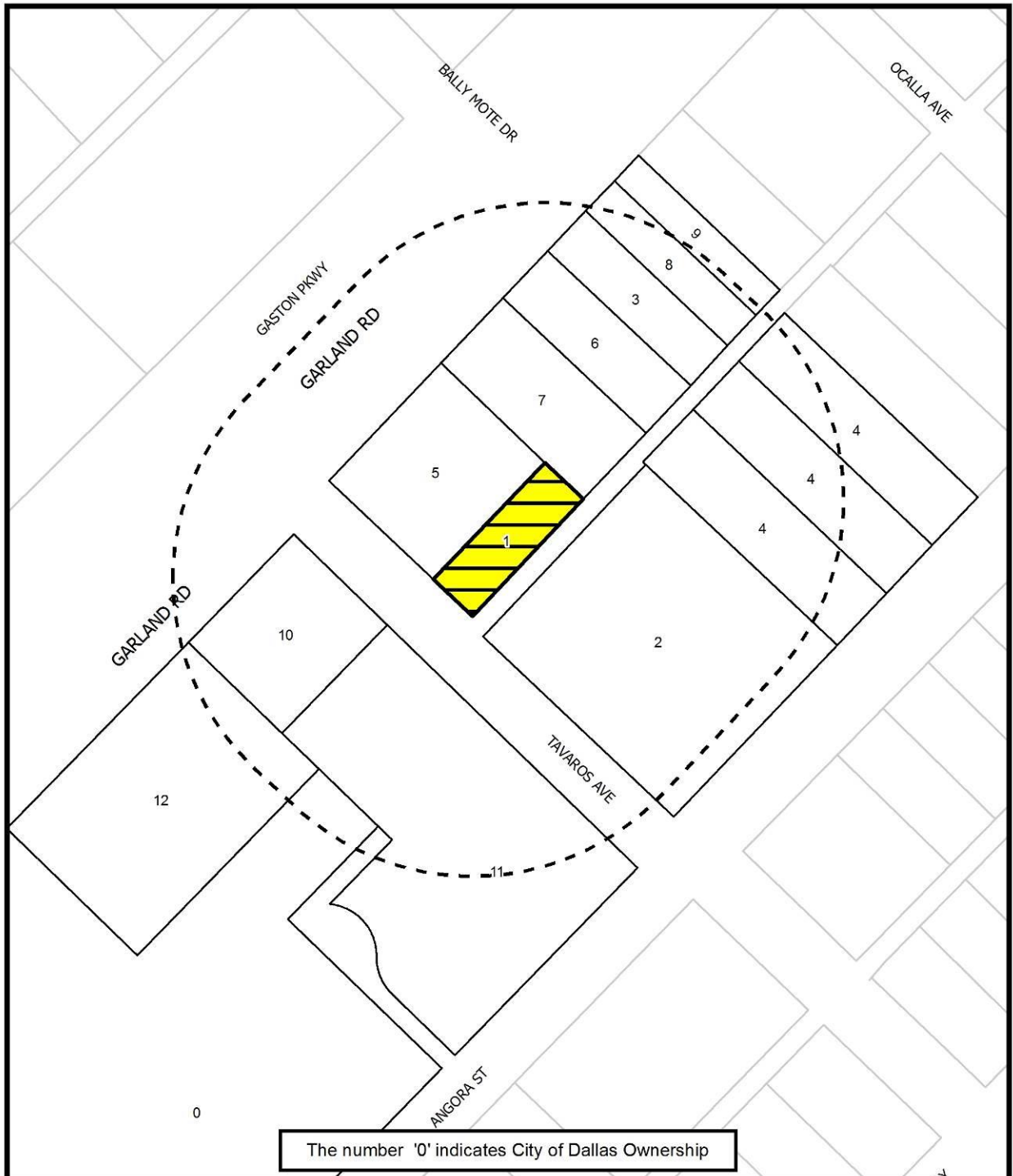
**THIS DRAWING IS PROPERTY OF AMTEx CORP. AND CANNOT BE DISTRIBUTED WITHOUT MANUFACTURERS CONSENT.**

PROJECT: NORTH AMERICAN BUILDINGS  
 TITLE: FLOOR PLAN  
 DRAWING NO.: NAB2860-1  
 SCALE: 3/16"=1'-0"  
 SHEET: A-2

DATE: 12/12/14  
 DRAWN BY: M.L.S.  
 REVISION:

AMTEx  
 MARK STEELE, P.E., M. E. RAY, AVE.  
 GLENDALE, AZ 85301  
 832 EAST WALNUT  
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|  |   |             |                      |           |                                    |   |
|--|---|-------------|----------------------|-----------|------------------------------------|---|
| <br>1:1,200 | <h2 style="text-align: center;">NOTIFICATION</h2> <table border="0"> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center;"><b>200'</b></td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center;"><b>12</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table> | <b>200'</b> | AREA OF NOTIFICATION | <b>12</b> | NUMBER OF PROPERTY OWNERS NOTIFIED | Case no: <b>BDA145-093</b><br>Date: <b>9/1/2015</b> |
| <b>200'</b>  | AREA OF NOTIFICATION  |             |                      |           |                                    |   |
| <b>12</b>  | NUMBER OF PROPERTY OWNERS NOTIFIED  |             |                      |           |                                    |   |

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

***BDA145-093***

### ***12 Property Owners Notified***

| <b><i>Label #</i></b> | <b><i>Address</i></b> | <b><i>Owner</i></b>                 |
|-----------------------|-----------------------|-------------------------------------|
| 1                     | 1212 TAVAROS AVE      | TEXAS TELCOM CREDIT UNION           |
| 2                     | 8903 ANGORA ST        | SOUTHWESTERN BELL                   |
| 3                     | 8920 GARLAND RD       | ROSS JACK G & NINA M                |
| 4                     | 8927 ANGORA ST        | JLD CUSTOM HOMES LP                 |
| 5                     | 8902 GARLAND RD       | SEJ ASSET MGMT & INVESTMENT COMPANY |
| 6                     | 8916 GARLAND RD       | LOVING THOMAS E JR                  |
| 7                     | 8912 GARLAND RD       | STUCKEY PPTIES LLC                  |
| 8                     | 8922 GARLAND RD       | STEPHENSON J R                      |
| 9                     | 8924 GARLAND RD       | HALLIBURTON SWIMMING POOL           |
| 10                    | 8818 GARLAND RD       | AT&T CREDIT UNION                   |
| 11                    | 8819 ANGORA ST        | SOUTHWESTERN BELL                   |
| 12                    | 8810 GARLAND RD       | KWIK KAR BY THE LAKE LLC            |

**FILE NUMBER:** BDA 134-072(DL)

**BUILDING OFFICIAL'S REPORT:** Application of Houshang Jahvani for a variance to the minimum and maximum front yard setback regulations and a variance to the landscaping regulations at 332 W. Commerce Street. This property is more fully described as Lot 1, Block 3/6813, and is zoned PD-714 (Subdistrict 1A), which requires a minimum front yard setback of 6 feet with at least 50 percent of the front façade at the minimum front yard setback and a maximum front yard setback of 15 feet, and which requires mandatory landscaping. The applicant proposes to construct and maintain a nonresidential structure and provide a 99 foot front yard setback, which will require a 93 foot variance to the minimum front yard setback regulation and an 84 foot variance to the maximum front yard setback regulation, and provide an alternate landscape plan, which will require a variance to the landscape regulations.

**LOCATION:** 332 W. Commerce Street

**APPLICANT:** Houshang Jahvani

**REQUEST:**

The following requests have been made on a site currently developed with a motor vehicle fueling station of approximately 670-square feet:

1. A variance to the minimum front yard setback regulations of 93' is requested to allow the expansion of an existing nonresidential structure, built circa 1961, and not fully meet the 6' minimum front yard setback with at least 50% of the front facade at the minimum front yard setbacks along W. Commerce Street, Sulphur Street, Harbin Street, and Haslett Street.
2. A variance to the maximum front yard setback regulations of 84' is requested to allow the expansion of an existing nonresidential structure, built circa 1961, and not fully meet the 15' maximum front yard setbacks along W. Commerce Street, Sulphur Street, Harbin Street, and Haslett Street.
3. A variance to the landscape regulations is requested to allow the expansion of a nonresidential structure, built circa 1961, and not fully meet the landscape regulations.

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION (MINIMUM/MAXIMUM FRONT YARD SETBACK ON W. COMMERCE STREET):**

Approval.

Rationale:

- The applicant has substantiated how the site cannot be developed according to PDD No. 714, Subdistrict 1A, regulations. The site, while not sloped, is of a restrictive area and shape that precludes it from being developed in a manner commensurate with the development of other parcels of land within the same planned development district. Furthermore, the hardship is not self-created. City Council approved Ordinance No. 25898 on February 23, 2005, which made the existing structure, built circa 1961, nonconforming. PDD No. 714, modeled after form districts, encumbers the structure with four minimum/maximum front yard setbacks and does not allow for legal nonconforming structures to expand without meeting the requirements of the planned development district.

**STAFF RECOMMENDATION (MINIMUM/MAXIMUM FRONT YARD SETBACK ON SULPHUR STREET):**

Approval.

Rationale:

- The applicant has substantiated how the site cannot be developed according to PDD No. 714, Subdistrict 1A, regulations. The site, while not sloped, is of a restrictive area and shape that precludes it from being developed in a manner commensurate with the development of other parcels of land within the same planned development district. Furthermore, the hardship is not self-created. City Council approved Ordinance No. 25898 on February 23, 2005, which made the existing structure, built circa 1961, nonconforming. PDD No. 714, modeled after form districts, encumbers the structure with four minimum/maximum front yard setbacks and does not allow for legal nonconforming structures to expand without meeting the requirements of the planned development district.

**STAFF RECOMMENDATION (MINIMUM/MAXIMUM FRONT YARD SETBACK ON HARBIN STREET):**

Approval.

Rationale:

- The applicant has substantiated how the site cannot be developed according to PDD No. 714, Subdistrict 1A, regulations. The site, while not sloped, is of a restrictive area and shape that precludes it from being developed in a manner commensurate with the development of other parcels of land within the same planned development district. Furthermore, the hardship is not self-created. City Council approved Ordinance No. 25898 on February 23, 2005, which made the existing structure, built circa 1961, nonconforming. PDD No. 714, modeled after form districts, encumbers the structure with four minimum/maximum front yard setbacks and does not allow for legal nonconforming structures to expand without meeting the requirements of the planned development district.

**STAFF RECOMMENDATION (MINIMUM/MAXIMUM FRONT YARD SETBACK ON HASLETT STREET):**

Approval.

Rationale:

- The applicant has substantiated how the site cannot be developed according to PDD No. 714, Subdistrict 1A, regulations. The site, while not sloped, is of a restrictive area and shape that precludes it from being developed in a manner commensurate with the development of other parcels of land within the same planned development district. Furthermore, the hardship is not self-created. City Council approved Ordinance No. 25898 on February 23, 2005, which made the existing structure, built circa 1961, nonconforming. PDD No. 714, modeled after form districts, encumbers the structure with four minimum/maximum front yard setbacks and does not allow for legal nonconforming structures to expand without meeting the requirements of the planned development district.

**STAFF RECOMMENDATION (LANDSCAPE REGULATIONS):**

Denial.

Rationale:

- The City of Dallas Chief Arborist does not support this landscape variance request. The applicant has not provided enough information to show that the proposed street trees along Commerce Street will not be denied at the permitting stage due to the trees' close proximity to a water or sewer main line. Furthermore, the Chief Arborist feels that the applicant could provide certain pedestrian amenities within visibility triangles and utility locations that inhibit otherwise suitable planting arrangements. While the Chief Arborist agrees that the application passes the variance test, he

feels “a more comprehensive landscape design” would ensure the “spirit of the ordinance” was met.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PDD No. 714 (Planned Development, Subdistrict 1A)  
North: PDD No. 714 (Planned Development, Subdistrict 1A)  
South: PDD No. 714 (Planned Development, Subdistrict 1A)  
East: PDD No. 714 (Planned Development, Subdistrict 1A)  
West: PDD No. 714 (Planned Development, Subdistrict 1A)

**Land Use:**

The site is currently developed with a motor vehicle fueling station that according to DCAD was built in 1961. The area to the north and west is developed with office uses; the area to the east is developed with a multifamily residential use; and the area to the south is undeveloped.

**Zoning/BDA History:**

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

**GENERAL FACTS/STAFF ANALYSIS (FRONT YARD VARIANCES):**

- This request focuses on constructing and maintaining an addition to an existing motor vehicle fueling station, and providing a 99’ front yard setback.
- Structures on lots zoned PDD No. 714, Subdistrict 1A, are required to provide a minimum front yard setback of 6’ and a maximum front yard setback of 15’.
- A scaled site plan has been submitted indicating the location of the structure in relation to the minimum/maximum front yard setbacks:
  1. Along W. Commerce Street, the existing structure and/or proposed addition are located approximately 43’ from the 15’ maximum front yard setback, and approximately 52’ from the 6’ minimum front yard setback.
  2. Along Sulphur Street, the existing structure and/or proposed addition are located approximately 54’ from the 15’ maximum front yard setback, and approximately 63’ from the 6’ minimum front yard setback.
  3. Along Harbin Street, the existing structure and/or proposed addition are located approximately 1’ from the 15’ maximum front yard setback, and approximately 10’ from the 6’ minimum front yard setback.
  4. Along Haslett Street, the existing structure and/or proposed addition are located approximately 82’ from the 15’ maximum front yard setback, and approximately 91’ from the 6’ minimum front yard setback.

- According to DCAD records, the “improvement” at 332 W. Commerce Street is a 600-square foot “bayless service station” built in 1961.
- The site is flat, irregular in shape, and is approximately 0.4524 acres (or approximately 19,706.5-square feet) in area. The site is zoned PDD No. 714, Subdistrict 1A.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the landscape regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PDD No. 714, Subdistrict 1A, zoning classification.
  - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PDD No. 714, Subdistrict 1A, zoning classification.
- If the Board were to grant the variance request, and impose the submitted site/landscape plan as a condition, the proposed addition to the existing structure would be limited to what is shown on this document, which in this case, is located as much as 84’ from the 15’ maximum front yard setback, and as much as 93’ from the 6’ minimum front yard setback.

**GENERAL FACTS/STAFF ANALYSIS (LANDSCAPE VARIANCE):**

- This request focuses on completing and maintaining an expansion to an existing circa 1961 nonresidential structure, and not fully meeting the landscape regulations. More specifically, according to the City of Dallas Chief Arborist, the proposed plan does not fully comply with the required landscape standards of PDD No. 714, Subdistrict 1A, for a project that increases the floor area of all buildings on site by 310.45%.
- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- Given specific provisions of the landscape provisions of PDD No. 714, Subdistrict 1A, the applicant can only seek these leniencies from the board of adjustment by requesting a *variance* to the landscape regulations within this PDD as opposed to the more typical *special exception* to the landscape regulations.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant’s request (see Attachment A). The memo states this request is triggered because the owner intends to increase the combined floor area of all buildings on site.

- The Chief Arborist’s memo lists the following deficiencies, as stated in Section 714.114, Landscaping, 714.115, Street and Sidewalk Standards, and 714.116 Screening Regulations, in this case:
  - Landscaping of streets in compliance with Exhibit 714F for Subdistrict 1;
  - street trees;
  - site trees;
  - parking lot trees;
  - landscape plan; and
  - screening regulations.
- The Chief Arborist’s memo lists the following factors for consideration:
  1. PDD No. 714, Subdistrict 1A, landscape requirements include the following:
    - Landscaping of streets in compliance with Exhibit 714F for Subdistrict 1: The site cannot provide the required 15’ sidewalk.
    - Street trees:
      - In Subdistricts 1A and 1B, trees must be placed in a 16’ square tree grates. The alternate site/landscape plan only provides for tree grates along the W. Commerce Street frontage.
      - One street tree per 30 feet of street frontage with a minimum of two trees must be provided. While the property requires 22 street trees, the alternate site/landscape plan provides for 12.
    - Site trees: One site tree per 3,000 square feet with a minimum of 4 trees is required, but 3 trees are being provided on the alternate site/landscape plan.
    - Parking lot trees: Each required parking space must be within 75’ of the trunk of a large canopy tree. One handicap parking space does not meet this requirement. Furthermore, street trees may not qualify for this measurement.
    - Landscape Plan: A landscape plan must earn at least 75 points (of a total possible 125 points). The submitted alternate site/landscape plan does not specify how it meets the criteria.
    - Screening regulations: The alternate site/landscape plan provides for screening regulations along W. Commerce Street, but not along Sulphur Street or Harbin Street. A surface parking lot requires a “low screen” when new construction begins on the site. A “low screen” is when shrubs form a three-foot high screen that is 95% opaque within three years of planting.
  2. PDD No. 714 additional standards for non-compliance on-site:
    - PDD No. 714 also provides for an “open space fund” for if a property owner cannot plant all of the required trees on the building site – in these situations, the property owner shall comply with this requirement for no more than 50 percent of the required trees. The owner must make a payment into the West Commerce Street/Fort Worth Avenue Open Space Fund. This measure would account for only a portion of the overall landscape deficiency for the property. As of September 15, 2015, the applicant has not stated intention to pay or plant, per this ordinance, in order to help mitigate for the lack of required site trees on the property.
  3. Additional items to consider in evaluation of this case:



- According to Sec. 714.114(h)(5), “Except as provided in this subsection, trees and shrubs must be planted at least 10’ from the centerline of any water or sewer main.” While the submitted alternate site/landscape plan does not identify the location of the known water line along W. Commerce Street, it appears the proposed trees along W. Commerce are too close to the known water line, and the trees may not be allowed.
- The property has landscaping proposed in visibility triangles. The store sign and vacuum/air system are located in the northwest visibility triangle, but are not identified on the submitted alternate site/landscape plan.
- The proposed canopies will provide a “significant shade structure” for the site.
- The Chief Arborist recommends denial of the alternate site/landscape plan. The Chief Arborist states that, while the applicant has met the conditions for approval of the variance, the proposed alternate site/landscape plan does not address the spirit of the ordinance that states, “Development should support West Commerce Street as the gateway from downtown into the area...” The Chief Arborist recommends that, should the board choose to support the variance, to condition the approval with a provision that allows for the removal of the trees along Commerce Street if street and sidewalk standards prohibit their installation.
- The site is flat, irregular in shape, and is approximately 0.4524 acres (or approximately 19,706.5-square feet) in area. The site is zoned PDD No. 714, Subdistrict 1A.
- According to DCAD records, the “improvement” at 332 W. Commerce Street is a 600-square foot “bayless service station” built in 1961.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the landscape regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PDD No. 714, Subdistrict 1A, zoning classification.
  - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PDD No. 714, Subdistrict 1A, zoning classification.
- If the Board were to grant this request and impose a condition that the applicant must comply with the submitted alternate site/landscape plan, the site would be “varied” from certain landscape standards of PDD No. 714, Subdistrict 1A, as shown on this submitted alternate site/landscape plan.

**Timeline:**

July 9, 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 B.

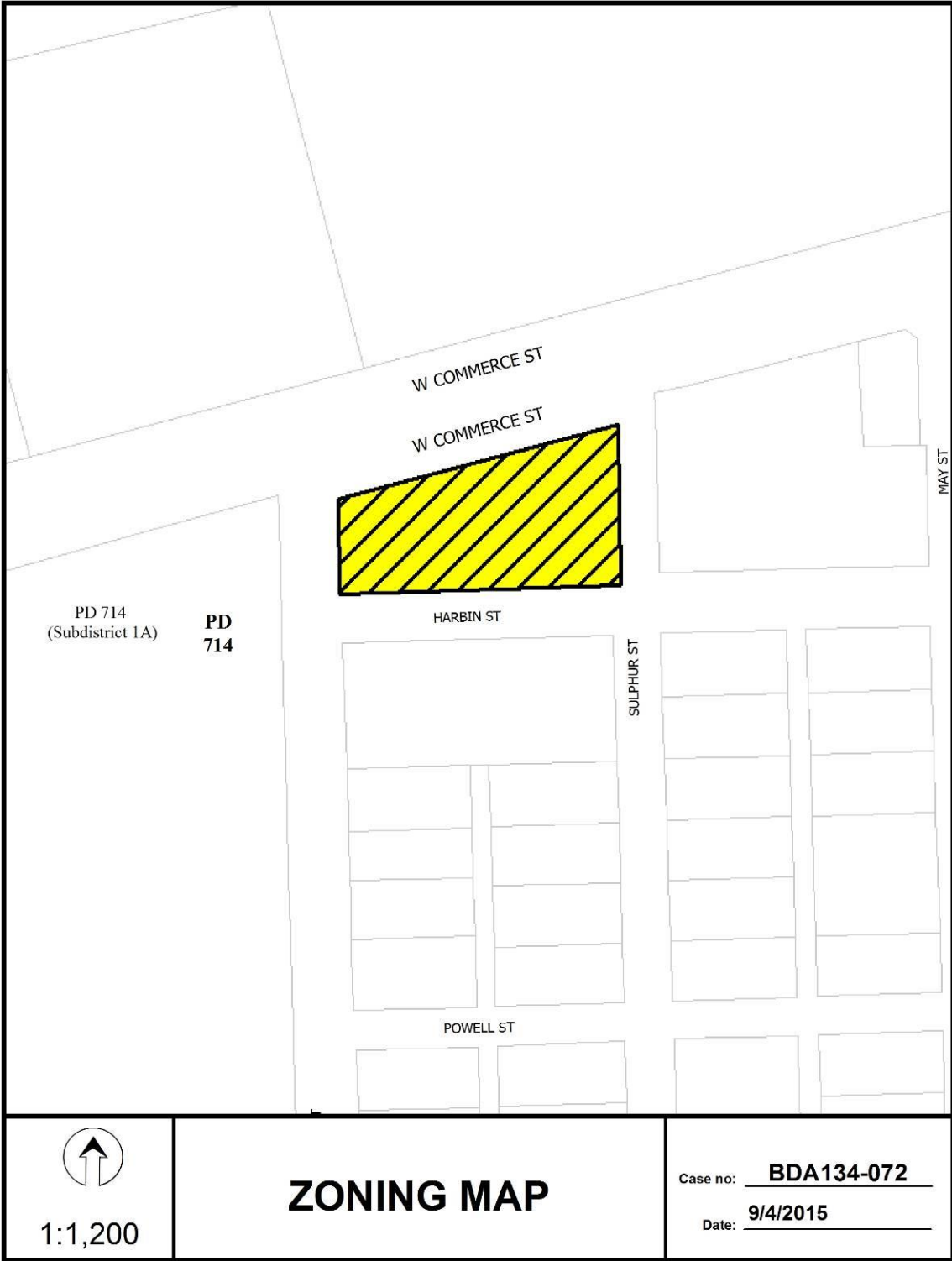
August 27, 2015: The Current Planner emailed the following information to the applicant:

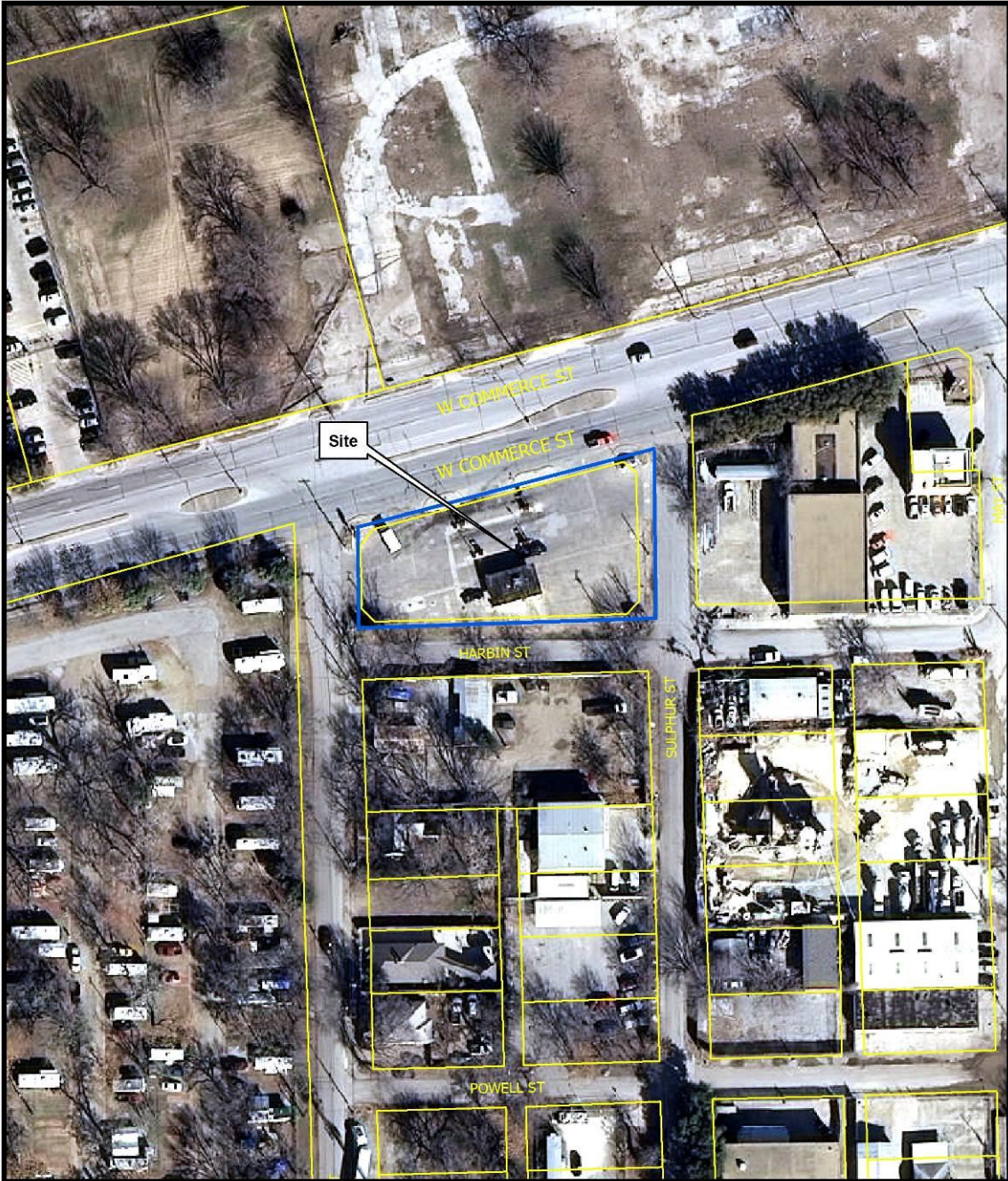
- a copy of the application materials including the Building Official's report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the September 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis; 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 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 with comments were submitted in conjunction with this application.

September 10, 2015: The City of Dallas Chief Arborist submitted a memo regarding the request (see Attachment A).





1:1,200

# AERIAL MAP

Case no: BDA134-072

Date: 9/4/2015

# Memorandum



CITY OF DALLAS

DATE September 10, 2015

TO

Danielle Lerma, City Planner  
Steve Long, Board of Adjustment Administrator

SUBJECT # BDA 134 · 072 332 W Commerce Street

The applicant is requesting a variance to the landscape requirements of PD 714, Subdistrict 1A.

### Trigger

New building construction or major modification increasing the combined floor area of all buildings on the site.

### Deficiencies

The proposed alternate landscape plan is not able to comply with multiple requirements of the ordinance, as stated in Section 714.114, Landscaping, 714.115, Street and Sidewalk Standards, and 714.116 Screening Regulations.

Deficiencies include the following:

Landscaping of streets in compliance with Exhibit 714F for Subdistrict 1. Property cannot provide 15-foot wide sidewalk required under Section 714.115, Street and Sidewalk Standards.

#### Street Trees:

All street trees are required to be in a 16-foot square tree grate. Grates are provided only for the Commerce Street frontage.

Twelve street trees are provided. The property requires twenty-two trees along all street frontages.

#### Site Trees:

Site trees are required at 1 tree per 3,000 square feet of lot area, with a minimum of four site trees. The plan shows three site trees within the property.

#### Parking lot trees:

The handicap parking space is at the edge of, but beyond, the 75 feet required distance from the trunk of a large canopy tree. Street trees may not qualify for this measurement.

#### Landscape Plan:



A landscape plan must earn at least 75 points (of a total possible of 125 points). None of the five design point options have been specified. Options include provisions for lighting, foundation planting strip, seasonal color, native or adapted xeriscape landscaping, and creation of open space.

#### Screening Regulations:

The screening regulations of Section 714.116 are provided for in this landscape plan only along Commerce Street, in a planting bed which appears to be two feet wide, and not along Sulphur Street or Harbin Street. A surface parking lot requires a 'low screen' for when the surface parking lot is provided with 'new construction.' In a low screen, shrubs form a three-foot-high screen that is 95 percent opaque within three years of planting.

#### Factors

The property is a 19,708 square feet lot with four street frontages. The site currently has an existing use with a proposal to add to the original structure. Existing vegetation only occurs in the parkway with two poor conditioned trees and groundcover.

Harbin Street and Sulphur Street frontages are unimproved without sidewalk or curb.

According to ordinance, street trees may not be counted as site trees.

"If a property owner cannot plant all of the required trees on the building site, the property owner shall make a payment into the West Commerce Street/Fort Worth Avenue Open Space Fund for no more than 50 percent of the required trees." – 714.114(f).

Trees and shrubs must be planted at least 10 feet from the centerline of any water or sewer main. The plan does not identify the location of the known Commerce Street water line and its proximity to the tree location. Based on review of an adjacent project, and the water line relocation which occurred for that project, it appears the water line alignment would place the proposed trees to within 10 feet of the line. If the proposed trees are too close to the line, they may not be allowed for installation.

The property has multiple drive entries on three street frontages. The central drive entry on Commerce is proposed for closure. Visibility triangles for the driveways and the street corners prohibit any landscaping above 2.5 feet in height within those zones. The store sign and vacuum/air system is located in the northwest visibility triangle and not identified on the plan.

The proposed canopy will provide a significant shade structure over the paved surface.

#### Recommendation

The chief arborist recommends denial of the proposed alternate landscape plan because insufficient information is provided to determine that the placement of street trees along Commerce Street will not be denied with a building permit. Furthermore, in addressing that the 'spirit of the ordinance will be observed' with this improvement in the 'gateway' district, certain mitigating factors for pedestrian amenities may be considered where visibility triangle and utility locations inhibit suitable planting for compliance.

Recommendations for improvement *may* include increased planting areas on the property for 1) seasonal color or 'xeriscape' landscape beds with low-level shrubs and groundcover at the Harbin/Haslett and Commerce/Sulphur street corners, with improved depth of landscape design and reduction of width of drive entries, 2) screening of parking along Sulphur Street, and 3) improved landscaping along Harbin Street building façade, or screening, by adding a landscape bed into the lot adjacent to the parkway.

But, it is also my opinion a literal enforcement of the regulations would result in unnecessary hardship, the variance is necessary to permit development based on the combination of restrictive area and shape with street regulation restrictions, and the variance does not relieve a self-created hardship, but is also bound by the other restrictive factors. On this basis, I would favor a more comprehensive landscape design solution on the property to support the spirit of the ordinance as it applies to this existing use.

If the board chooses to support the variance for the proposed plan, I recommend to condition the approval with a provision to allow for the removal of Commerce Street trees if street and sidewalk standards prohibit their installation.

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



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-072

Data Relative to Subject Property:

Date: 7-13-2015

Location address: 332 W. COMMERCE ST. Zoning District: PD 714 (1A)

Lot No.: 1 Block No.: 316813 Acreage: 0.4524 Census Tract: \_\_\_\_\_

Street Frontage (in Feet): 1) 230.67 2) 131.20 3) 224.00 4) 77.91 5) \_\_\_\_\_ 5217

To the Honorable Board of Adjustment :

X Owner of Property (per Warranty Deed): MALCOM A. AGESHEN

Applicant: HOUSHANG JAHVANI Telephone: 214-718-9469

Mailing Address: 2121 N. JOSEY LANE, SUITE #100 Zip Code: 75006

E-mail Address: JAHVANI@HOTMAIL.COM

Represented by: HOUSHANG JAHVANI Telephone: 214-718-9469

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

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

Affirm that an appeal has been made for a Variance , or Special Exception , of AN ALTERNATE LANDSCAPE PLAN, AND A VARIANCE OF 15' FOR REQUIRED FRONT YARD SETBACK MAXIMUM.

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:

BASED ON AREA AND EXISTING FEATURES AND LOCATION, THE PROPERTY CAN NOT BE DEVELOPED ACCORDING TO PD-714

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 HOUSHANG JAHVANI  
(Affiant/Applicant's name printed)

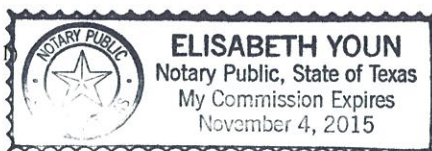
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

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

Subscribed and sworn to before me this 09<sup>th</sup> day of July, 2015

(Rev. 08-01-11)

BDA 134-072



3-14

[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**

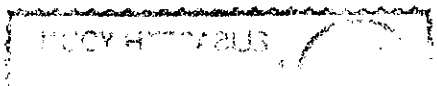
I hereby certify that Houshang Jahvani

did submit a request for a variance to the front yard setback regulations, and for a special exception to the landscaping regulations  
at 332 W. Commerce Street

BDA134-072. Application of Houshang Jahvani for a variance to the minimum and maximum front yard setback regulations and a variance to the landscaping regulations at 332 W. Commerce Street. This property is more fully described as Lot 1, Block 3/6813, and is zoned PD-714 (Subdistrict 1A), which requires a minimum front yard setback of 6 feet with at least 50 percent of the front facade at the minimum front yard setback and a maximum front yard setback of 15 feet, and which requires mandatory landscaping. The applicant proposes to construct and maintain a nonresidential structure and provide a 99 foot front yard setback, which will require a 93 foot variance to the minimum front yard setback regulation and an 84 foot variance to the maximum front yard setback regulation, and provide an alternate landscape plan, which will require a variance to the landscape regulations.

Sincerely,

  
Larry Holmes, Building Official







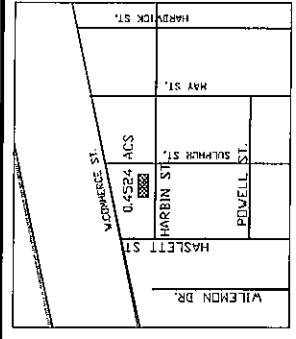
**MALCOM C-STORE & GAS**  
332 W. COMMERCE STREET  
DALLAS, TEXAS 75208

**JAHVANI CONSULTING ENGINEERS, INC.**  
2121 N. JOSEY LANE, #100  
CARROLLTON, TEXAS 75006  
TEL: (214) 716-9489  
johvanj@hotmail.com

**ENGINEERS, INC.**  
TYPE REGISTRATION NO. F-10198

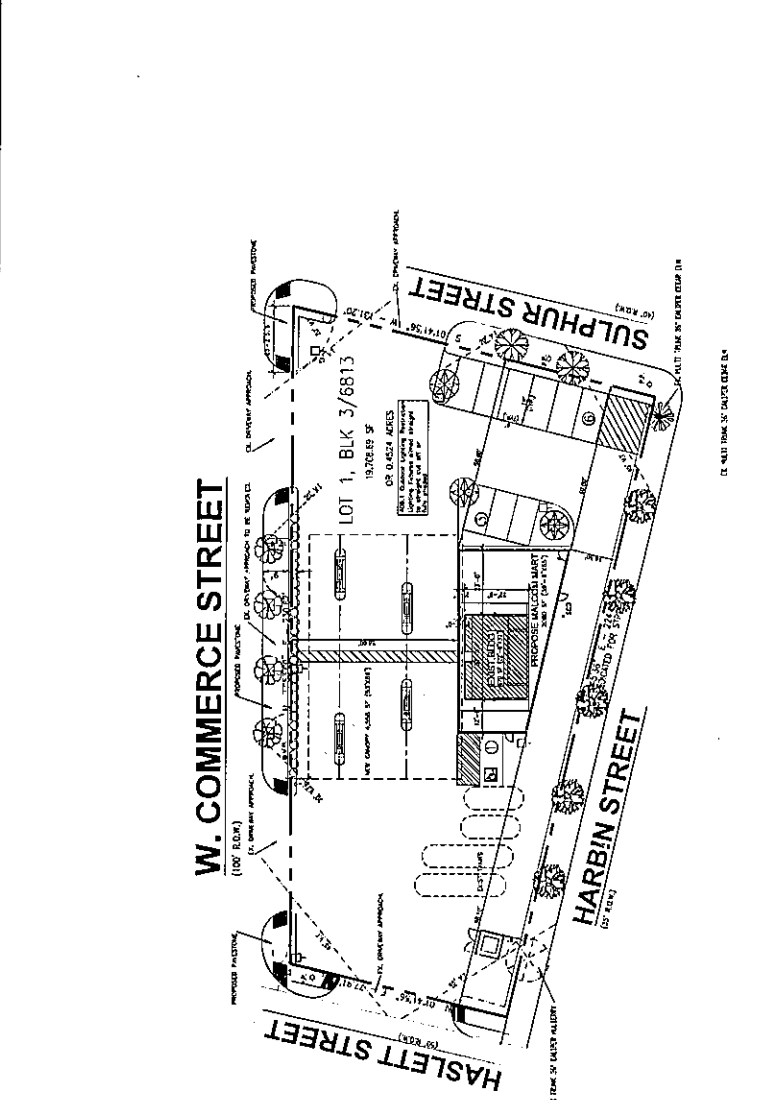
DATE: \_\_\_\_\_  
REVISIONS: \_\_\_\_\_

DATE: 7-15-2015  
DRAWN BY: JHJ  
SCALE: 1" = 20'  
SHEET NUMBER: 1 OF 1



**SITE DATA SUMMARY TABLE**

|                              |                        |
|------------------------------|------------------------|
| ZONING                       | FD-741                 |
| EXISTING USE                 | CONVENIENCE STORE      |
| PROPOSED USE OF ADJN         | MALCOM MART            |
| SITE                         | .4524 ACRES            |
| BUILDING SQ.FTG.             | 2990 SF                |
| BUILDING HEIGHT              | 1-STORY, 20 FEET       |
| LOT COVERAGE                 | 19,708 SQ.FT.          |
| FLOOR AREA RATIO             | 0.10 (10.0%)           |
| PARKING REQ'D :              | 10 (1 SPACE PER 200 SF |
| HANDICAPPED PARKING REQ'D    | 1 SPACE                |
| PARKING PROVIDED             | 07                     |
| HANDICAPPED PARKING PROVIDED | 1 SPACE                |



**PLANTING SCHEDULE (LARGE TREES)**

| SYMBOL   | QUANTITY | COMMON NAME    | ESTIMATED NAME | SIZE/ CAL. | HEIGHT  | SPACING     |
|----------|----------|----------------|----------------|------------|---------|-------------|
| (Symbol) | 2        | CHERRY PRUNING | PRUNUS SPINOSA | 3"         | 5' DIA. | 15-20' DIA. |
| (Symbol) | 4        | SMALL YEW      | YEW            | 2"         | 8' DIA. | 15-20' DIA. |
| (Symbol) | 3        | GLAZED YEW     | YEW            | 2"         | 8' DIA. | 15-20' DIA. |
| (Symbol) | 5        | BALL CYPRESS   | YEW            | 1"         | 6' DIA. | 15-20' DIA. |

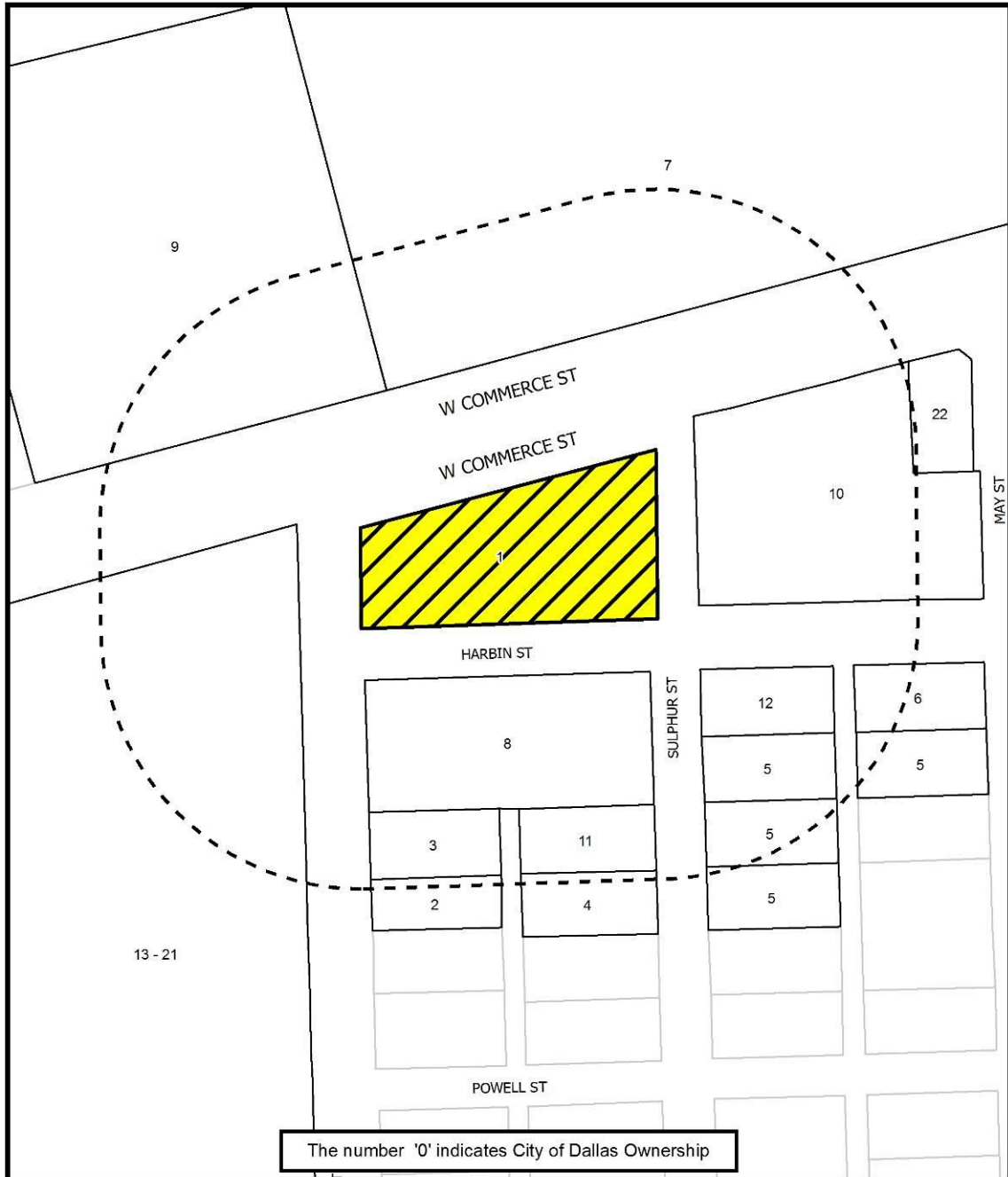
**EXISTING TREE SCHEDULE (LARGE TREES)**

| SYMBOL   | QUANTITY | COMMON NAME | ESTIMATED NAME | SIZE/ CAL. | HEIGHT   | SPACING     |
|----------|----------|-------------|----------------|------------|----------|-------------|
| (Symbol) | 6        | CL          | CL             | 2"         | 20' DIA. | 15-20' DIA. |
| (Symbol) | 3        | SMALL YEW   | YEW            | 2"         | 20' DIA. | 15-20' DIA. |

**PLANTING SCHEDULE (SHRUBS)**

| SYMBOL   | QUANTITY | COMMON NAME    | ESTIMATED NAME | SIZE/ CAL. | HEIGHT | SPACING |
|----------|----------|----------------|----------------|------------|--------|---------|
| (Symbol) | 179      | CHERRY PRUNING | PRUNUS SPINOSA | 2.5 DIA.   | 24"    | 5' DIA. |





|  |  |  |                            |
|--|--|--|----------------------------|
| <br>1:1,200 | <b>NOTIFICATION</b>  |  | Case no: <u>BDA134-072</u> |
|  | <div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION<br><div style="border: 1px solid black; padding: 2px; display: inline-block;">22</div> NUMBER OF PROPERTY OWNERS NOTIFIED |  | Date: <u>9/4/2015</u>      |

## *Notification List of Property Owners*

**BDA134-072**

### *22 Property Owners Notified*

| <i>Label #</i> | <i>Address</i>  | <i>Owner</i>                       |
|----------------|-----------------|------------------------------------|
| 1              | 332 COMMERCE ST | AGESHEN MALCOM                     |
| 2              | 2310 HASLETT ST | HERNDON N M                        |
| 3              | 2314 HASLETT ST | MARTINEZ ISIDORO G                 |
| 4              | 2311 SULPHUR ST | VAFEE ABDOL H                      |
| 5              | 2310 SULPHUR ST | RAMOS SAMUEL                       |
| 6              | 2323 MAY ST     | D & A ALVAREZ GROUP LLC            |
| 7              | 449 COMMERCE ST | COMMERCE PPTIES WEST LC            |
| 8              | 2322 HASLETT ST | VAFEE ABDOL H                      |
| 9              | 425 COMMERCE ST | STEMMONS J M JR ETAL               |
| 10             | 310 COMMERCE ST | BROWN GUY III                      |
| 11             | 2315 SULPHUR ST | VAFEE ABDOL H                      |
| 12             | 314 HARBIN ST   | NINO ISMAEL                        |
| 13             | 2319 FAMOUS DR  | ALTA WEST COMMERCE APARTMENTS      |
| 14             | 2319 FAMOUS DR  | HINTERGARDT BARBARA                |
| 15             | 2319 FAMOUS DR  | RODRIGUEZ, JORGE                   |
| 16             | 2319 FAMOUS DR  | RAMIREZ IDA                        |
| 17             | 2319 FAMOUS DR  | AYUAR DINERA                       |
| 18             | 2319 FAMOUS DR  | HERNANDEZ MARCIANO                 |
| 19             | 2319 FAMOUS DR  | VEGA LEONARDO                      |
| 20             | 2319 FAMOUS DR  | GOODWIN GLENDA                     |
| 21             | 2319 FAMOUS DR  | MCCUIN WILFORD                     |
| 22             | 302 COMMERCE ST | RESIDENTIAL PROPERTY INVENTORY LLC |

**FILE NUMBER:** BDA 145-090(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Mike Backlund for a special exception to the landscape regulations at 3403 N. Fitzhugh Avenue. This property is more fully described as Lot 14, Block 2/1521, and is zoned PD-193 (GR), which requires mandatory landscaping. The applicant proposes to construct and/or maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 3403 N. Fitzhugh Avenue

**APPLICANT:** Mike Backlund

**REQUEST:**

A request for a special exception to the landscape regulations is made in conjunction with transitioning/enlarging an existing vacant 2-story medical office use/structure to a restaurant use, and not fully providing required landscaping.

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS IN OAK LAWN:**

Section 51P-193-126(a)(4) of the Dallas City Code specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required.

Rationale:

- The Chief Arborist recommended approval of the submitted alternate landscape plan because he had concluded that the proposal did not appear to compromise the spirit and intent of the PD 193 (GR) landscape requirements.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 193 (GR) (Planned Development District, General Retail)

North: PD 193 (GR) (Planned Development District, General Retail)  
South: PD 193 (GR) (Planned Development District, General Retail)  
East: PD 193 (GR) (Planned Development District, General Retail)  
West: PD 193 (R-7.5) (Planned Development District, Single family)

### **Land Use:**

The subject site is developed with a vacant office structure. The areas to the north, east, and south are developed with nonresidential uses; and the area to the west is the Katy Trail.

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

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

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

- This request focuses on transitioning/enlarging an existing vacant 2-story medical office use/structure to a restaurant use, and not fully providing required landscaping. More specifically, according to the City of Dallas Chief Arborist, the features shown on the submitted alternate landscape plan does not conform to PD 193 landscape regulation standards related to tree planting zone, sidewalk location/width, and surface parking area screening.
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.
- The City of Dallas Chief Arborist states in a memo (see Attachment B) that the request in this case is triggered by new building addition resulting in increased floor area ratio on the property.
- The Chief Arborist notes that the submitted alternate landscape site plan is deficient in the following ways:
  1. The plan provides for 8 maple trees within the front yard of the property along both Buena Vista Street and Fitzhugh Avenue. (A tree planting zoned between 2.5' and 5' from back of curb with a minimum of 7 trees is required).
  2. The Fitzhugh Avenue sidewalk is generally 4.5' wide measured 2' from back of curb. The Buena Vista frontage will retain the existing sidewalk to the curb at the Fitzhugh intersection and will be modified and expanded to 6' wide south of the driveway while maintaining continuity with the adjacent property. (A six foot sidewalk from 5' – 12" from back of curb is required).
  3. The off-street parking screening is typically required to be at 42" in height. The plan proposal identifies the planting of a perimeter of 5 gallon boxwoods adjacent



to 5 gallon Indian Hawthorne. A height specification is not provided but is expected will naturally be maintained at 3' or higher. (All off-street surface parking areas require screening at a minimum height of 3.5' above the parking surface).

- The Chief Arborist listed several factors for consideration:
  1. The alternative landscape plan identifies the tall “retainer wall” along the entire Fitzhugh Avenue frontage. The property is elevated behind the wall over the street elevation.
  2. The site complies with other landscape, general, and special planting requirements.
  3. The tree planting zoned and required sidewalk width cannot be both included in the space provided along the Fitzhugh frontage. It is recommended the street sidewalk conditions remain as originally constructed.
  4. An overhead utility structure restricts planting any trees in the tree planting zone along Buena Vista south of the driveway. Ordinance allows for this tree to be placed in the front yard due to conflict.
  5. The landscape yard within the Katy Trail is not part of a building permit for the lot and is not subject to this Board action. Any improvements placed in this area to connect to the trail must be authorized through the Parks and Recreation Department.
- The Chief Arborist recommends approval of the submitted alternate landscape plan because the proposal does not appear to compromise the spirit and intent of the PD 193 (GR) landscape requirements.
- The applicant has the burden of proof in establishing the following:
  - The special exception (where an alternate landscape plan has been submitted that is deficient in meeting the tree planting zone, sidewalk location/width, and surface parking area screening of the PD 193 landscape regulations) will not compromise the spirit and intent of Section 51P-193-126: “Landscape, streetscape, screening, and fencing standards”.
- If the Board were to grant this request and impose the submitted alternate landscape plan as a condition, the site would be granted exception from full compliance to the tree planting zone, sidewalk location/width; and surface parking area screening requirements of the PD 193 landscape regulations.

**Timeline:**

June 22, 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 B.

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;

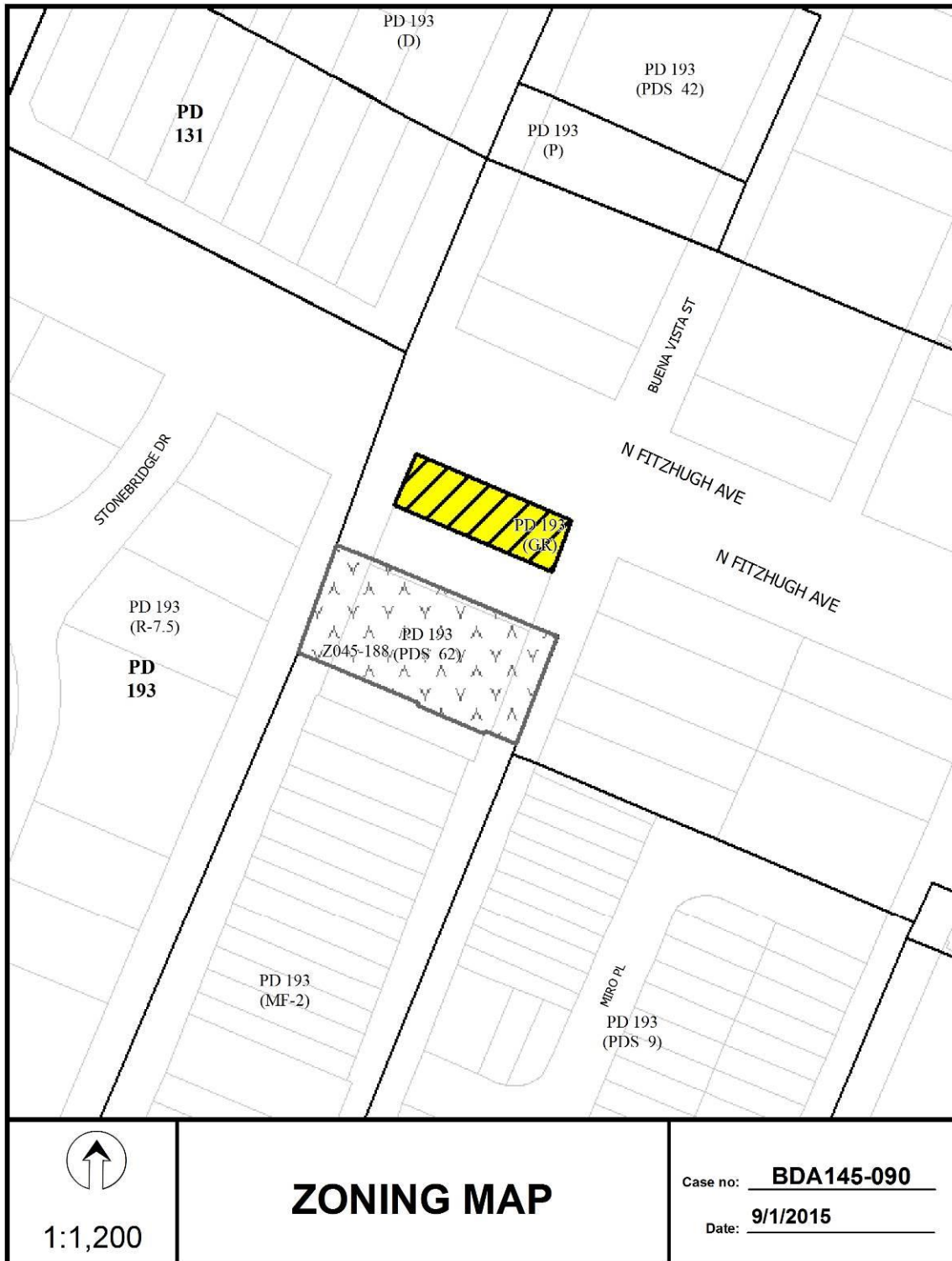
- an attachment that provided the public hearing date and panel that will consider the application; the September 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the September 11<sup>th</sup> deadline to submit additional evidence to be incorporated 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 2, 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.

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

September 10, 2015: The City of Dallas Chief Arborist submitted a memo regarding the request (see Attachment B).



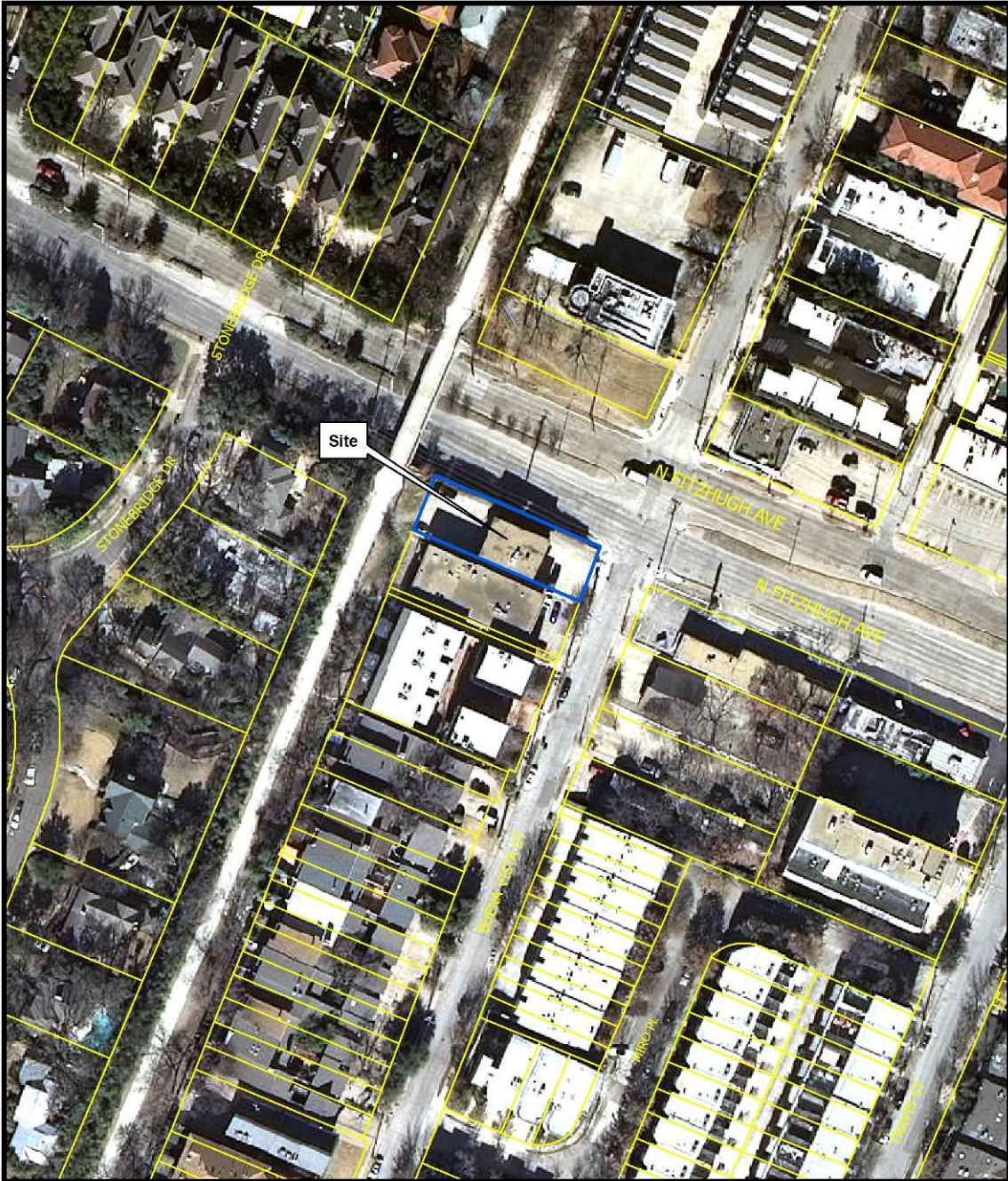
1:1,200

# ZONING MAP

Case no: BDA145-090

Date: 9/1/2015





1:1,200

# AERIAL MAP

Case no: BDA145-090

Date: 9/1/2015

Bucky's Restaurant Group Landscape Exception Request

Bucky's Restaurant Group (Bucky's) is working with the City of Dallas to secure permits to transition an existing, vacant 2 story medical office building to a restaurant. This restaurant use is permitted by right within the PD193GR sub-district associated with the site. Further, the building is located at 3403 N. Fitzhugh, at the intersection of N. Fitzhugh and Buena Vista.

We are proposing to add approximately 700 square feet to the existing building and as such, the landscape requirements for PD 193 apply. This 700 square foot addition is needed for several purposes including additional commercial kitchen space, a bus station, 2 bathrooms, a 10 seat outdoor bar and a dry storage area.

We are able to comply with many facets and the general spirit of PD193's landscape requirements. As such, the proposed landscape plan includes the appropriate lot coverage for designated planting areas as well as compliant sidewalk and tree planting on the site's Buena Vista frontage. However, the property's frontage on Fitzhugh is creating the need for a landscape exception. Due to a decades old retaining wall that runs the entire length of the site's Fitzhugh frontage, the PD193 landscape ordinance created in the late 1980s cannot be fully complied with. Full compliance is not possible because there is not sufficient space for a 5 foot wide landscape area from the back of the curb and a 6 foot wide sidewalk. Finally, there is no room for a tree planting area at street level due to the retaining wall.

What Bucky's is proposing that requires an exception is as follows: leave the existing back of curb grass area and sidewalk on Fitzhugh as is and plant the required trees on the property, above the retaining wall.

The property currently has no trees, no turf beyond a small patch on Buena Vista and a small hedge draped on a chain link fence bordering Fitzhugh. By granting us our landscape exception, the property will enjoy a major landscape upgrade. Our proposal will place 8 trees on the property as well as adorn the site with a significant amount of turf and shrubbery. Finally we will also create a trellised, live planting covering the site's Fitzhugh fence line.

Your consideration of our proposal is greatly appreciated.

# Memorandum



CITY OF DALLAS

DATE September 10, 2015  
 TO Steve Long, Board of Adjustment Administrator  
 SUBJECT # BDA 145 · 090 3403 N Fitzhugh

The applicant is requesting a special exception to the landscape requirements of PD 193, Part 1 for an GR district.

### Trigger

New building addition resulting in increased floor area ratio on the property.

### Deficiencies

The district requires 1) a tree planting zone between 2.5' and 5' from back of curb with a minimum of 7 trees, 2) a six feet wide sidewalk is required from 5' to 12' from back of curb, and 3) all off-street surface parking areas require screening at a minimum height of 3.5 feet above the parking surface.

The proposed plan provides for eight maple trees within the front yard of the property along both Buena Vista Street and Fitzhugh Avenue.

The Fitzhugh Avenue sidewalk is generally 4.5 feet wide measured from 2 feet from back of curb. The Buena Vista frontage will retain the existing sidewalk to the curb at the Fitzhugh intersection and will be modified and expanded to six feet wide south of the driveway while maintaining continuity with the adjacent property.

The off-street parking screening is typically required to be at 42-inches in height. The plan proposal identifies the planting of a perimeter of 5 gallon boxwoods adjacent to 5 gallon Indian Hawthorne. A height specification is not provided but is expected will naturally be maintained at three feet or higher.

### Factors

The alternative landscape plan identifies the tall 'retainer wall' along the entire Fitzhugh Avenue frontage. The property is elevated behind the wall over the street elevation.

The site complies with other landscape, general, and special planting requirements.

The tree planting zone and required sidewalk width cannot both be included in the space provided along the Fitzhugh frontage. It is recommended the street sidewalk conditions remain as originally constructed.

An overhead utility structure restricts planting any trees in the tree planting zone along Buena Vista south of the driveway. Ordinance allows for this tree to be placed in the front yard due to the conflict.

The landscape yard within the Katy Trail is not part of a building permit for the lot and not subject to this Board action. Any improvements placed in this area to connect to the trail must be authorized through the Parks and Recreation Department.

#### Recommendation

The chief arborist recommends approval of the alternate landscape plan because the revisions do not appear to compromise the spirit and intent of landscape requirements of PD 193 (GR).

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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-090

Date: 6/22/2015

Data Relative to Subject Property:

Location address: 3403 N. Fitzhugh Zoning District: PD193(GR)

Lot No.: 14 Block No.: 2/1521 Acreage: 65337 Census Tract: 7.01

Street Frontage (in Feet): 1) 47 2) 139 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

5823

Owner of Property (per Warranty Deed): Greenway Fitzhugh LP

Applicant: MIKE BACKLUND Telephone: 408 499 8989

Mailing Address: 709 Edward Ct. Southlake TX Zip Code: 76092

E-mail Address: mikeabacklund@gmail.com

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

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

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

Affirm that an appeal has been made for a Variance \_\_\_\_\_, or Special Exception X, of landscape plans ~~no~~ requirements

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: retaining wall on Fitzhugh side of property prevents full compliance with PD193 landscape requirements. All 8 trees required are planted, many "on top" of retaining wall. sidewalk on Fitzhugh cannot be altered, this is due to retaining wall as well.

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

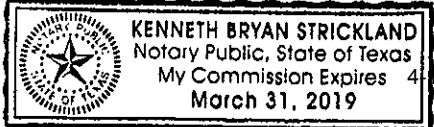
Before me the undersigned on this day personally appeared MIKE BACKLUND  
(Affiant/Applicant's name printed)

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 20 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 Mike Backlund

did submit a request for a special exception to the landscaping regulations  
at 3403 N. Fitzhugh Avenue

BDA145-090. Application of Mike Backlund for a special exception to the landscaping regulations at 3403 N. Fitzhugh Avenue. This property is more fully described as Lot 14, Block 2/1521, and is zoned PD-193 (GR), which requires mandatory landscaping. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

Sincerely,

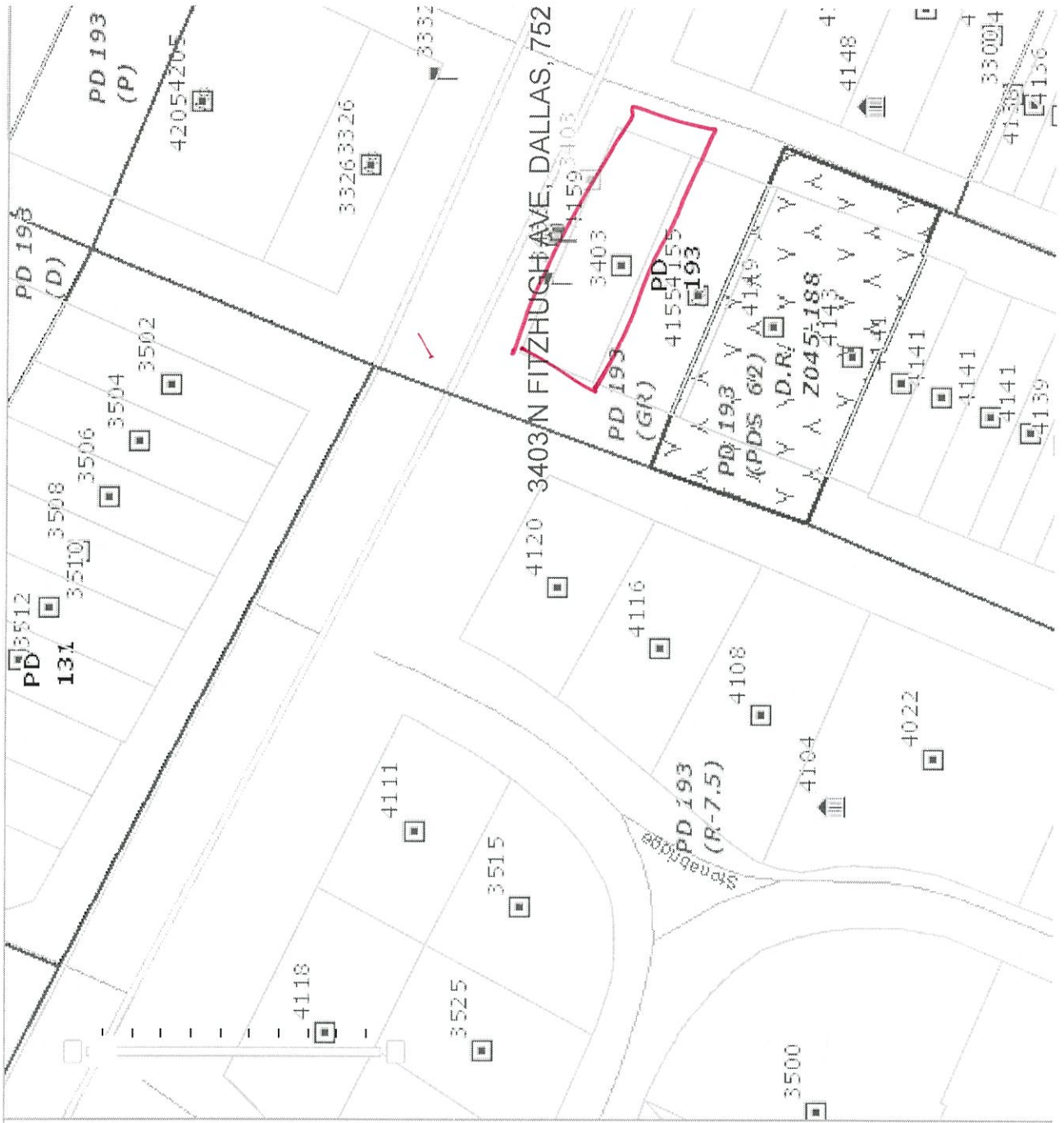
  
Larry Holmes, Building Official

# City of Dallas

## Internal Development Research Site

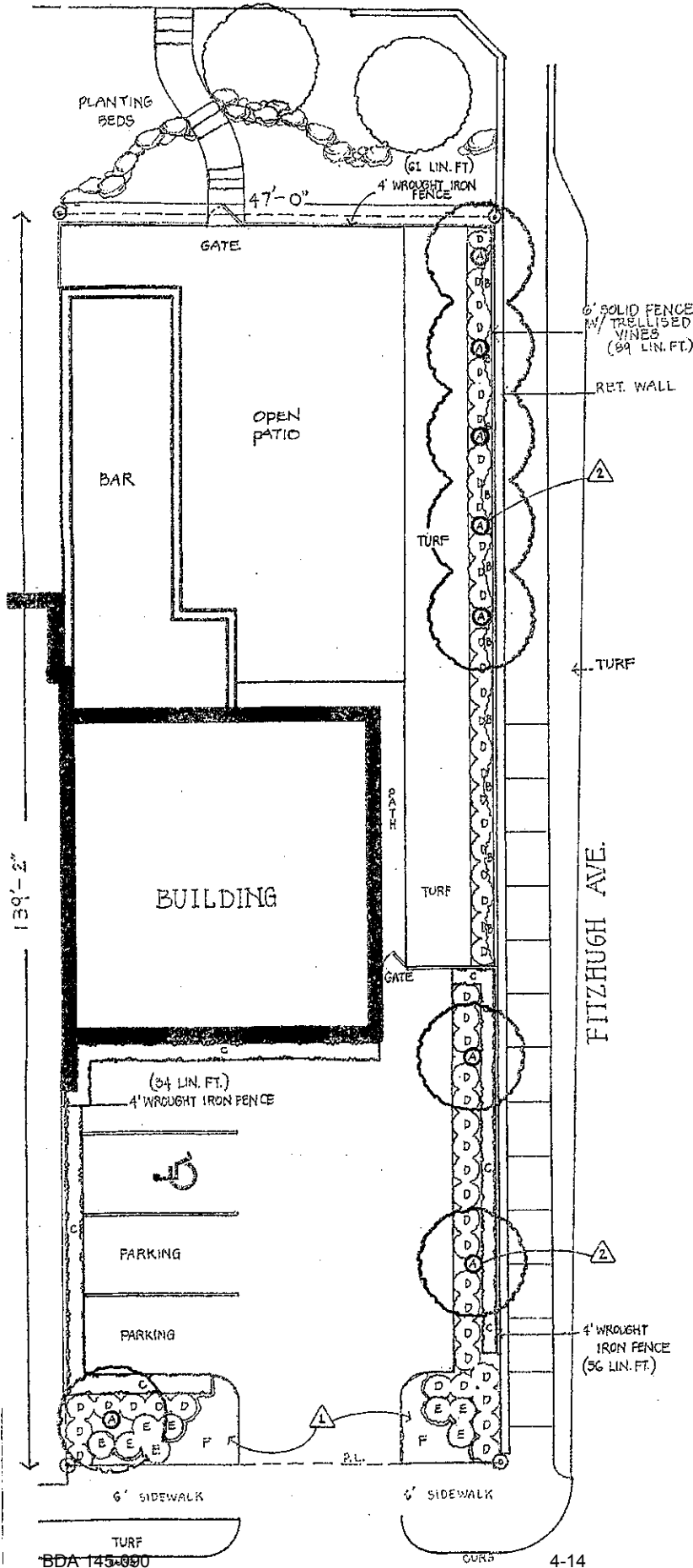
Legend

Locate Property





KATY TRAIL



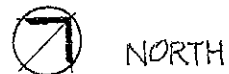
| KEY | QTY | DESCRIPTION                 | SIZE    |
|-----|-----|-----------------------------|---------|
| A   | 8   | Maple 'October Glory'       | 3.5" C  |
| B   | 10  | Tangerine Crossvine         | 5 g     |
| C   | 56  | Wintergreen Boxwood         | 5 g     |
| D   | 67  | Indian Hawthorn 'Boybrezza' | 5 g     |
| E   | 8   | Coral Drift Rose            | 3 g     |
| F   | 200 | Seasonal Color              | 4" pots |

**ROYAL 38**  
 3403 N. Fitzhugh Avenue  
 Dallas, Texas  
 SCALE: 1/8" = 1' - 0"

LANDSCAPE SITE AREA (L.S.A.): 653 SQ. FT.

▲ GENERAL PLANTING AREA: 78 SQ. FT. (12% OF L.S.A.)  
 (area covers seasonal color beds)

▲ SPECIAL PLANTING AREA: 37 SQ. FT. (6% OF L.S.A.)  
 (area covers 5 sq. ft. per each tree)





|  |  |             |                      |           |                                    |   |
|--|--|-------------|----------------------|-----------|------------------------------------|---|
| <br>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>32</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table> | <b>200'</b> | AREA OF NOTIFICATION | <b>32</b> | NUMBER OF PROPERTY OWNERS NOTIFIED | Case no: <u><b>BDA145-090</b></u><br>Date: <u><b>9/1/2015</b></u> |
| <b>200'</b>  | AREA OF NOTIFICATION   |             |                      |           |                                    |   |
| <b>32</b>  | NUMBER OF PROPERTY OWNERS NOTIFIED   |             |                      |           |                                    |   |



## *Notification List of Property Owners*

***BDA145-090***

***32 Property Owners Notified***

| <b><i>Label #</i></b> | <b><i>Address</i></b> | <b><i>Owner</i></b>                       |
|-----------------------|-----------------------|---|
| 1                     | 3403 FITZHUGH AVE     | GREENWAYFITZHUGH LP                       |
| 2                     | 4144 BUENA VISTA ST   | 4152 BUENA VISTA LTD                      |
| 3                     | 4146 BUENA VISTA ST   | STILLWATER TRAVIS LP                      |
| 4                     | 4141 BUENA VISTA ST   | HAYES PATRICK J                           |
| 5                     | 4141 BUENA VISTA ST   | LAFERSOUSA LUIS                           |
| 6                     | 4141 BUENA VISTA ST   | AUSTRY MICHAEL                            |
| 7                     | 4108 STONEBRIDGE DR   | SHARMA AMIT                               |
| 8                     | 4116 STONEBRIDGE DR   | CARTER FRANK P &                          |
| 9                     | 4120 STONEBRIDGE DR   | MILLER FRANK H                            |
| 10                    | 3300 MIRO PL          | PARKWOOD TOWNHOMES HOMEOWNERS ASSOCIATION |
| 11                    | 4134 BUENA VISTA ST   | WHARTON AMY COLE                          |
| 12                    | 4136 BUENA VISTA ST   | RATSIU JOANA MARIA                        |
| 13                    | 4138 BUENA VISTA ST   | DO TUAN A & THUY LAM                      |
| 14                    | 4205 BUENA VISTA ST   | WESTDALE BUENA VISTA LP                   |
| 15                    | 3502 FITZHUGH AVE     | BENNETT BENJAMIN J IV &                   |
| 16                    | 3504 FITZHUGH AVE     | MULLICAN MARY ANN                         |
| 17                    | 3506 FITZHUGH AVE     | LOWERY MARY SEWARD                        |
| 18                    | 3337 FITZHUGH AVE     | RENFRO PROP MGMT LLC                      |
| 19                    | 4152 BUENA VISTA ST   | 4152 BUENA VISTA LTD                      |
| 20                    | 4155 BUENA VISTA ST   | WOLTER DALE ROBERT                        |
| 21                    | 3326 FITZHUGH AVE     | 3326 NORTH FITZHUGH LP                    |
| 22                    | 4206 BUENA VISTA ST   | WOHLSTADTER MARK                          |
| 23                    | 4206 BUENA VISTA ST   | MILLER ADRIAN & ASHLEY WILSON             |
| 24                    | 4206 BUENA VISTA ST   | LAPP MARCIAL                              |
| 25                    | 4206 BUENA VISTA ST   | FOLK NICHOLAS A                           |
| 26                    | 4206 BUENA VISTA ST   | KIA KEVIN F & NIDA                        |

09/01/2015

| <i>Label #</i> | <i>Address</i>      | <i>Owner</i>          |
|----------------|---------------------|-----------------------|
| 27             | 4206 BUENA VISTA ST | AMIN RAVI             |
| 28             | 4143 BUENA VISTA ST | HIRSHMAN BRIAN K      |
| 29             | 4143 BUENA VISTA ST | FRANCO MARIA A        |
| 30             | 4143 BUENA VISTA ST | BESHORE BLAKE LEGGETT |
| 31             | 4143 BUENA VISTA ST | SHADLE JEFFREY M      |
| 32             | 4143 BUENA VISTA ST | RAO SARITA D          |



**FILE NUMBER:** BDA 145-096(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Eric W. Johnson for a variance to the front yard setback regulations and a special exception to the visual obstruction regulations at 9008 San Benito Way. This property is more fully described as Lots 16, 17, 18, & 19, Block 12/5239, and is zoned MF-2(A), which requires a front yard setback of 25 feet, and a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and/or maintain a structure and provide a 3 foot front yard setback, which will require a 22 foot variance to the front yard setback regulations, and to locate and maintain items in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

**LOCATION:** 9008 San Benito Way

**APPLICANT:** Eric W. Johnson

**REQUESTS:**

The following requests have been made on a site that is developed with a multifamily development use (San Benito Apartments):

- A variance to the front yard setback regulations of 22' is made to relocate and maintain an existing dumpster "structure" in the 25' front yard setback to a new location to the southwest of its current location 3' from the front property line or 22' into in the site's 25' front yard; and
- A request for special exception to the visual obstruction regulations is made to relocate and maintain the existing dumpster structure (and 6' high wood fence/enclosure) in a driveway to the northeast in a 20' driveway visibility triangle into the site from San Benito Way.

**STANDARD FOR A VARIANCE:**

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

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and

(C) not granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

**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 (variance):**

Denial

Rationale:

- Staff concluded that there was no property hardship to the site that warranted a front yard variance in this case made to relocate and maintain an existing dumpster “structure” in the front yard setback.
- The applicant had not substantiated how the physical features of the flat, rectangular in shape, and 32,000 square foot (200’ x 160’) subject site preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same MF-2(A) zoning classification while simultaneously complying with code provisions including front yard setback regulations.

**STAFF RECOMMENDATION (visual obstruction):**

Denial

Rationale:

- The Sustainable Development and Construction Department Project Engineer had submitted a review comment sheet marked “recommends that this be denied” commenting that the proposed location conflicts with visibility triangle, and that various alternatives for waste disposal are available that do not require placing a trash receptacle in the visibility triangle.
- The applicant had not substantiated how the relocation and maintenance of a dumpster structure (and 6’ high wood fence/enclosure) in a 20’ driveway visibility triangle into the site from San Benito Way does not constitute a traffic hazard.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: MF-2(A) (Multifamily)  
North: CR & R-7.5(A) (Community retail and Single family district 7,500 square feet)  
South: MF-2(A) & R-7.5(A) (Multifamily and Single family district 7,500 square feet)  
East: R-7.5(A) (Single family district 7,500 square feet)

West: CR (Community retail)

**Land Use:**

The subject site is developed with a multifamily development use (San Benito Apartments). The area to the north is developed with a mix of single family and retail/commercial uses; and the areas to the 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 (variance):**

- This request focuses on relocating and maintaining an existing dumpster “structure” in the 25’ front yard setback to a new location to the southwest of its current location 3’ from the front property line or 22’ into in the site’s 25’ front yard.
- The subject site is located on a block that is divided by two zoning districts- MF-2(A) and R-7.5(A). While the subject site is zoned MF-2(A) where structures in this zoning are required to provide a minimum front yard setback of 15’, the front yard setback on the subject site is 25’ because the remaining part of the block is zoned R-7.5(A) and the Dallas Development Code states that if street frontage within a block is divided by two or more zoning districts, the front yard for the entire block must comply with the requirements of the district with the greatest front yard requirement.
- A scaled site plan has been submitted indicating that the “proposed trash enclosure” and trash container within it (approximately 30 square feet in area) is located 3’ from the front property line or 22’ into the 25’ front yard setback.
- According to DCAD records, the “main improvement” at 9008 San Benito Way is an “apartment” built in 1961 with 16,356 square feet in area.
- The subject site is flat, rectangular in shape, and 32,000 square feet (200’ x 160’) in area.
- The applicant has the burden of proof in establishing the following:
  1. That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  2. The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
  3. The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing

this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.

- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which in this case is a structure to be located as close as 3’ from the front property line (or 22’ into the 25’ front yard setback).
- Note that if the Board denies this request for variance to the front yard setback regulations to relocate and maintain the existing “dumpster” structure in the front yard setback, the other request in this application (a special exception to the visual obstruction regulations to relocate and maintain this structure in a drive approach visibility triangle) becomes moot.

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

- This request focuses on relocating and maintaining an existing dumpster structure (and 6’ high wood fence/enclosure) in a driveway to the northeast in a 20’ driveway visibility triangle into the site from San Benito Way.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
  - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
  - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- The applicant submitted a site plan and an elevation denoting a 6’ wood enclosure (with “trash container” in it) which is located in a 20’ visibility triangle at a driveway into the site from San Benito Way.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Recommends that this be denied” with the following additional comment: “Proposed location conflicts with visibility triangle. Various alternatives for waste disposal are available that do not require placing receptacle in visibility triangle.”
- The applicant has the burden of proof in establishing how granting the request for a special exception to the visual obstruction regulations to relocate and maintain the existing dumpster structure (and 6’ high wood fence/enclosure) in a driveway to the northeast in a 20’ driveway visibility triangle into the site from San Benito Way does not constitute a traffic hazard.
- Granting this request with the condition that the applicant complies with the submitted site plan and elevation would require the items in the visibility triangle to be limited to and maintained in the locations, height and materials as shown on these documents.
- Note that if the Board denies the request for other request in this application (a variance to the front yard setback regulations to relocate and maintain an existing “dumpster” structure in the front yard setback), this request for a special exception to

the visual obstruction regulations made to relocate and maintain this structure in a drive approach visibility triangle becomes moot.

**Timeline:**

July 20, 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 B.

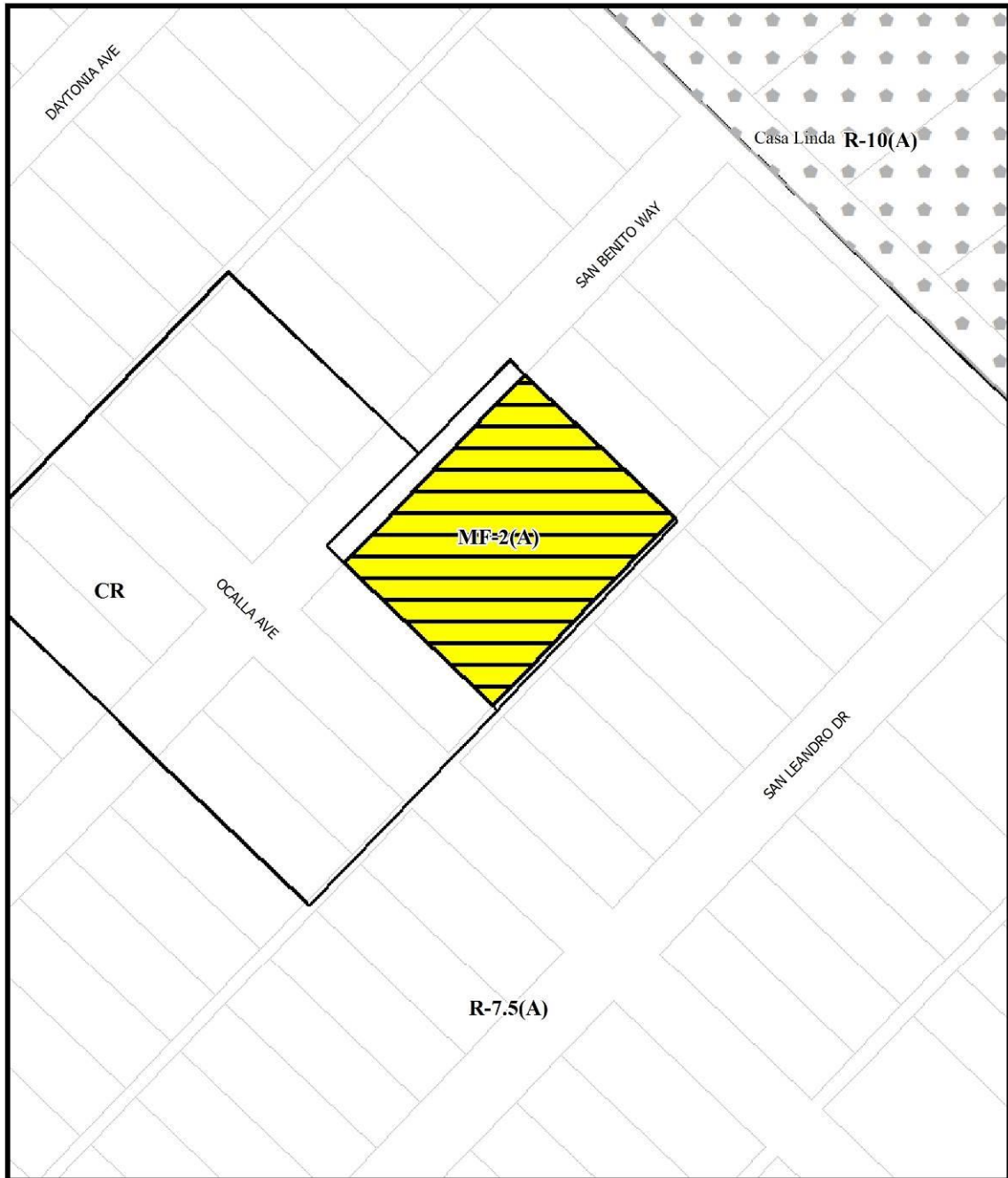
August 19, 2015: The Board Administrator emailed the following information to the applicant:

- 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 5 & 8, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachments A and B).

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” with the following additional comment: “Proposed location conflicts with visibility triangle. Various alternatives for waste disposal are available that do not require placing receptacle in visibility triangle.”



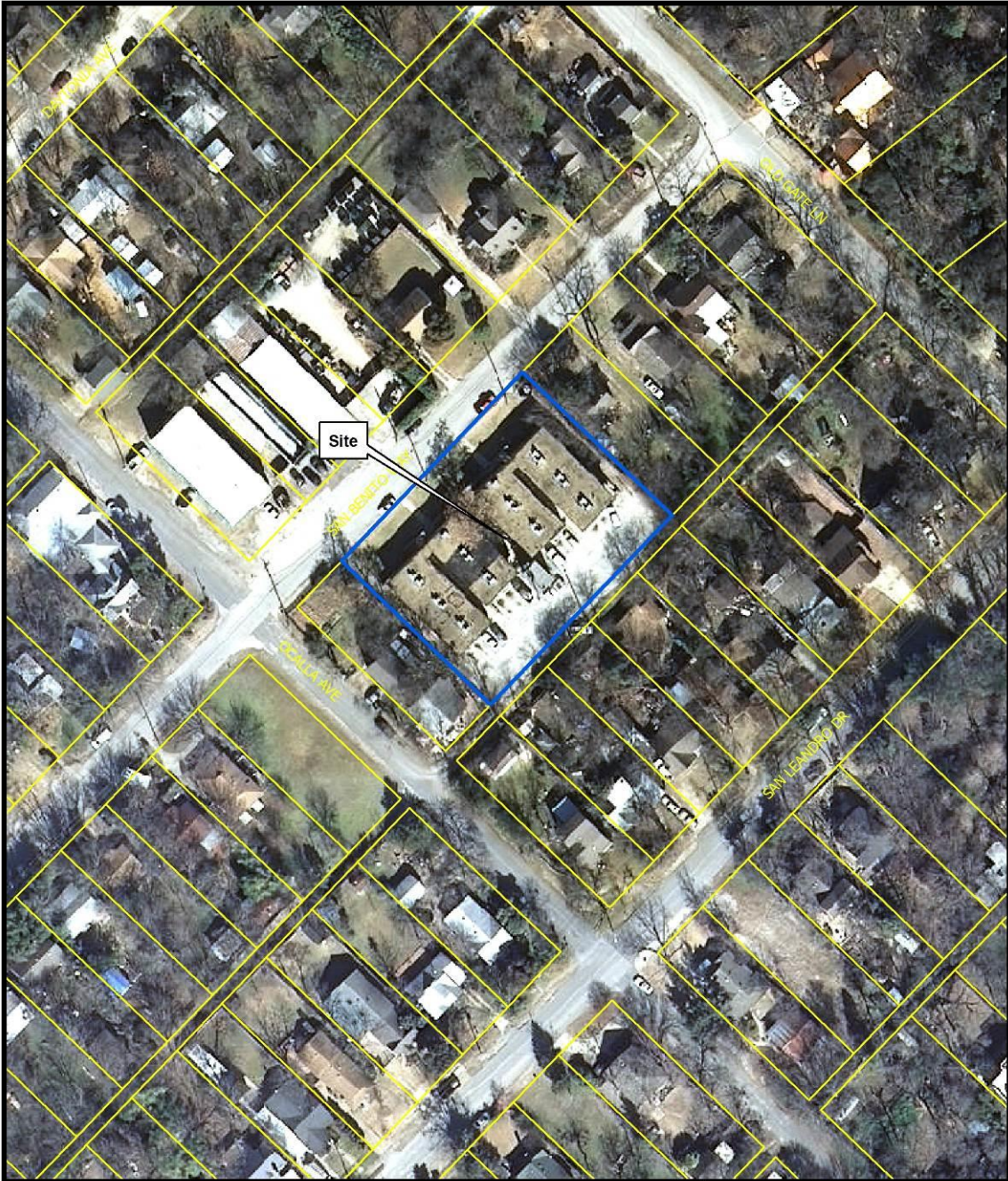
1:1,200

# ZONING MAP

Case no: BDA145-096

Date: 9/1/2015





1:1,200

# AERIAL MAP

Case no: BDA145-096

Date: 9/1/2015



**Long, Steve**

---

**From:** Eric Johnson <e.w.johnson@sbcglobal.net>  
**Sent:** Saturday, September 05, 2015 1:12 PM  
**To:** Long, Steve  
**Subject:** Variance Support - Dumpster.PDF  
**Attachments:** Variance Support - Dumpster.PDF; ATT00001.txt

Hello Mr. Long!

Attached below in a PDF are four documents.

Please call me when you have a chance to look at this. I'm sorry for the confusion. I hope that my lengthy explanation below does not compound the problem.

Unfortunately, I reversed the order of the first two pages.

Page 1 is my reply to the letter of support that begins on page 2.

Please consider page 2 first. It is an email from the Little Forest Hills neighborhood association co-presidents.

In their email they reference their personal recommendation letter, as well as the fact that their board voted on and approved support for my variance application.

They also asked that I not use this document as a recommendation for variance approval from the LFHNA. I am only sharing this letter with you in my request for guidance from you. Please do not share this letter with the board.

I want to respect the wishes of the co-presidents.

Their letter says that approval from LFHNA will come separately if needed, and that they are concerned about setting a precedence for getting involved in zoning and code issues. However in this case they feel that approval of the variance" is the only thing that really makes sense".

I want to use this document to show the intent of the LFHNA to support the variance application.

I ALSO WANT TO RESPECT THEIR REQUEST THAT I NOT USE THIS SPECIFIC LETTER AS AN ENDORSEMENT. THEREFORE I HAVE REMOVED ALL PERSONAL REFERENCE AND EMAIL INFORMATION FROM THE DOCUMENT.

Please do not share this letter with the board of adjustment.

If necessary I will ask the LFHNA for an official letter of endorsement supporting the variance application.

Page 3 is an email from January 10, 2014 from our dumpster service provider.

The letter states that Bluebonnet Waste Control, Inc. is "unable to service the container located in the parking lot area of the complex", etc.

Page 4 is a letter from Progressive Waste Solutions, our current dumpster service provider, dated August 20 2015.

Two weeks ago at my request they came out and did a site survey to determine if they could or could not move the container to the back of the buildings.

They determined that they are NOT able to service a container located in the back and that they "will be required to leave the container where it sits at the present time in front of the building".

Please call me to discuss this, and any additional information that you feel we should add to the packet that the board members receive concerning my variance application.

Thank you for your help. Sincerely,

Eric

EDA145-096

Attach A

PS 2

Subject: [REDACTED]  
From: Eric Johnson (e.w.johnson@sbcglobal.net)  
To: lfhneighborhood@swbell.net;  
Cc: [REDACTED]1950@gmail.com, [REDACTED]well@yahoo.com;  
Date: Monday, August 24, 2015 11:49 AM

[REDACTED]  
Thank you very much for your support. I understand exactly where you are coming from when you say you don't want to set some sort of precedent. I appreciate and respect the position that you are in and know that this is a delicate issue for you, and the neighborhood association.

I assure you that I will continue to press forward with getting this variance approved without making direct reference to any one specific letter of support.

If there is dissension from a citizen that cannot be overcome through discussion with the city staff, I may again want to consult with you personally. At no point, will I ever start just throwing peoples names out, claiming endorsement and support.

I am going to try to do this as tactfully as possible and stay as far under the radar as I can. I don't want this to be a big issue, but businesswise it is. I just need this giant headache that the city has created to go away so we can return to preserving the integrity of our community.

If possible, I would like to get a letter of support from the neighborhood association, to be used only if necessary, for my presentation at the hearing.

I don't need this anytime soon. The hearing for the variance is on September 23rd, and I may not need it at all, but would like to have it if I am required to make a presentation. We should know long before then if this is going to be a rubber stamp of approval process or if there will be dissension from one or more "interested parties".

Thank you for your help! Please feel free to call me anytime, day or night, with any questions you have  
214-534-4040

Sincerely,  
Eric

Eric Johnson  
214-534-4040  
Box 141021  
Dallas  
Texas  
75214

On Aug 23, 2015, at 8:30 PM, lfh <lfhneighborhood@sanbenito.org> wrote:

BDA145-016  
Attach A  
p33

Hi Eric, I am attaching a personal recommendation letter for [REDACTED]. We also put the issue before the board for a vote and we did get a majority vote for the variance however there is some concern of setting a precedence for getting involved in zoning and code issues. We would appreciate if you could save the "big guns" (neighborhood support) to use only if needed. It seems that the variance is the only thing that really makes sense for you and this property but we know the city doesn't always do things the logical way.

You may use the letter from [REDACTED] however you wish as long as it is from a close by neighbor and not as co-presidents of LFHNA. That will have to come separately if needed. Let us know how the process is going please and if you get any push back from neighbors.

[REDACTED]  
[REDACTED]  
<san benito apts.docx>

Begin forwarded message.

**From:** [REDACTED] <[REDACTED]@gmail.com>  
**Subject:** Fwd: Neighborhood Flyer  
**Date:** August 23, 2015 at 11:28:16 AM CDT  
**To:** [REDACTED] <lfhneighborhood@sanbenito.org>  
**Cc:** [REDACTED] <[REDACTED]@gmail.com>

A/V,

Just FYI,

Regards,  
[REDACTED]

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

**From:** Eric Johnson <e.w.johnson@sbcglobal.net>  
**Date:** Sun, Aug 23, 2015 at 9:52 AM  
**Subject:** Re: Neighborhood Flyer  
**To:** [REDACTED] <[REDACTED]@gmail.com>

[REDACTED]  
Thank you very much for your prompt reply!

I greatly appreciate you contacting [REDACTED] on my behalf.

In the interest of keeping everyone in the loop, I will await their opportunity to comment before I deliver these.

I also spoke with Kevin yesterday. He and Kim are going to review the same docs that I left with you and get back to me with their comments.

Please feel free to forward this and any other info to [REDACTED] and anyone else in your group that you feel needs to be included.

Bluebonnet Waste  
Control Inc.  
P.O. Box 223845  
Dallas Texas 75222-3845  
Phone: 214-748-5221  
Fax: 214-748-6886

Facsimile Transmittal

To: Eric Johnson Fax: 214-279-0191

San Benito Apts

From: Laura Rivera *Laura Rivera* Date: January 10, 2014

Re: Trash Pick-up Pages: 01 Including cover

9008 San Benito Way,

Dallas TX

Urgent  For Review  Please Comment  Please Reply  Please Recycle

Notes:

We are unable to service the container located in the parking lot area of the complex. Driveway is too narrow and the turning ways are too tight and the clearance isn't available for our trucks to perform services. The current location is the only spot where services can be performed.

Please do not hesitate to contact us with any questions.

Thank you!

Front-load Dispatching department

.....



August 20, 2015

Mr. Eric Johnson  
San Benito Apartments  
9008 San Benito Way  
Dallas, TX 75218

REF: Trash Container Placement

Dear Mr. Johnson,

Progressive Waste Solutions has completed the site survey regarding your request to move the container to the back of the building.

It has been determined that we are NOT able to complete this request because of the many operational issues this would cause. We will be required to leave the container where it sits at the present time in front of the building.

Regards,

Michelle Seely  
Progressive Waste Solutions  
469-816-3343 cell  
michelle.seely@progressivewaste.com

**Long, Steve**

---

**From:** Eric Johnson <e.w.johnson@sbcglobal.net> Pg 1  
**Sent:** Tuesday, September 08, 2015 11:28 AM  
**To:** Long, Steve  
**Subject:** San Benito Apartments variance application  
**Attachments:** Progressive Waste Letter RE Dumpster Variance.pdf; ATT00001.htm; A.Vail and V.Fasset letter of support.jpg; ATT00002.htm

Mr. Long,

I am sending two additional documents that I would like you to please include in your packet for the adjustment board staff.

One is a letter from Progressive Waste Solutions, from our representative Michelle Seely.

I asked her to provide additional information & more details as to why they would not be able to service a container located in the back of the property.

It is very specific & lists several reasons.

The second document is a personal letter from Amy Ewell & Vail Fassett. This is the letter from the LFHNA copresidents personally that was referenced in my previous email. I have another 20+ letters similar to this one. I am only sending you this one at the present time, because I referenced in my earlier email, but forgot to include it then.

Thank you for your time. I appreciate your help attention to detail.

Eric

BDA 145-096

Attach B

pg 2



August 20, 2015

Mr. Eric Johnson  
San Benito Apartments  
9008 San Benito Way  
Dallas, TX 75218

REF: Trash Container Placement

Dear Mr. Johnson,

Progressive Waste Solutions has completed the site survey regarding your request to move the container to the back of the building.

It has been determined that we are NOT able to complete this request because of the many operational issues this would cause.

If we service from the back of the complex, the driver would have to back the truck blindly across an intersection which is completely unacceptable because there is not enough room for the truck to turn around.

The driveways are far too narrow for the trucks to navigate and the turning radius from the side street into the alley will be almost impossible, without backing up and re-negotiating the turn. The alley access is also limited by private fences utility poles gas meters etc. Normally there are 20+ vehicles parked in the parking lot as well. It will be in everybody's best interest to continue service from the street in front.

Regards,

Michelle Seely  
Progressive Waste Solutions  
469-816-3343 cell  
michelle.seely@progressivewaste.com



Date: 8/23/2015

To Whom It May Concern:

This letter is in regards to a variance that has been filed for the San Benito Apartments, 9008 San Benito Way Dallas, TX 75218. The issue is the dumpster which is currently in the front of the building. Vail and I have lived 2 streets directly behind these apartments for 20 yrs and have always been impressed with the care of the apartments and the tenants that live here. I frequently drive, run, walk and bike in front of this dwelling and it is always well taken care of and the trash is always contained where it is supposed to be. My understanding is that there is a code issue with the placement of the dumpster. It has been reported to me that the only viable option is to have rolling cans for each apartment. (Due to lack of space behind the apartments as well as City power lines and gas meters that are near the entrance.) I would hate to see the addition of 46 rolling trash cans each week to the small area on this block. There is also some parking at the street level on this block which would further make the addition of 46 cans an eyesore, and would increase noise and smell. The apartments currently have their trash picked up 2x per week which limits the odor and amount of accumulation. (The city would only come 1x weekly to empty the 46 rolling trash cans.) I also have known the owner to request additional pick ups during busy times.

I hope that you consider approving this variance for the sake of the surrounding neighbors. The current way his trash is being handled is working well, with little disturbance to the immediate area.

Sincerely,

Amy Ewell and Vail Fassett  
9019 Eustis Ave.  
Dallas, TX 75218  
972-742-8580  
Dino9@swbell.net



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-096

Date: 7-20-15

Data Relative to Subject Property:

Location address: 9008 San Benito Way Zoning District: MF2 (A)

Lot No.: 16-19 Block No.: 12/5239 Acreage: \_\_\_\_\_ Census Tract: 81.00

Street Frontage (in Feet): 1) 50 200' 2) 50 3) 50 4) 50 5) \_\_\_\_\_

507

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): GMAN, Ltd.

Applicant: Eric W. Johnson Telephone: 214-534-4040

Mailing Address: PO Box 141021, Dallas, TX Zip Code: 75214

E-mail Address: e.w.johnson@sbcglobal.net

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

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

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

Affirm that an appeal has been made for a Variance X, or Special Exception -, of 22 feet to the required 25 foot front yard setback.

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

\*See attached\*  
Subject Property is restricted by the adjacent R-7.5 zoning requiring a 25 foot setback. Subject Property is restricted by inadequate access to the rear portion of the property.

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

Affidavit

Before me the undersigned on this day personally appeared Eric Johnson  
(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 20th day of July, 2015

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

(Rev. 03/01/11)



MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

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

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

**Building Official's Report**

I hereby certify that Eric W. Johnson

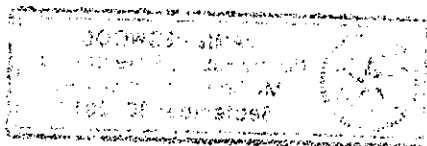
did submit a request for a variance to the front yard setback regulations, and for a special exception to the visibility obstruction regulations

at 9008 San Benito Way

BDA145-096. Application of Eric W. Johnson for a variance to the front yard setback regulations and a special exception to the visibility obstruction regulations at 9008 San Benito Way. This property is more fully described as Lots 16, 17, 18, & 19, Block 12/5239, and is zoned MF-2(A), which requires a 20 foot visibility triangle at driveway approaches and requires a front yard setback of 25 feet. The applicant proposes to construct a multifamily residential accessory structure and provide a 3 foot front yard setback, which will require a 22 foot variance to the front yard setback regulation, and to construct and maintain a multifamily residential accessory structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

Sincerely,

  
Larry Holmes, Building Official







LAT BOX  
1/4" = 1 FT. EQUALS 1 INCH



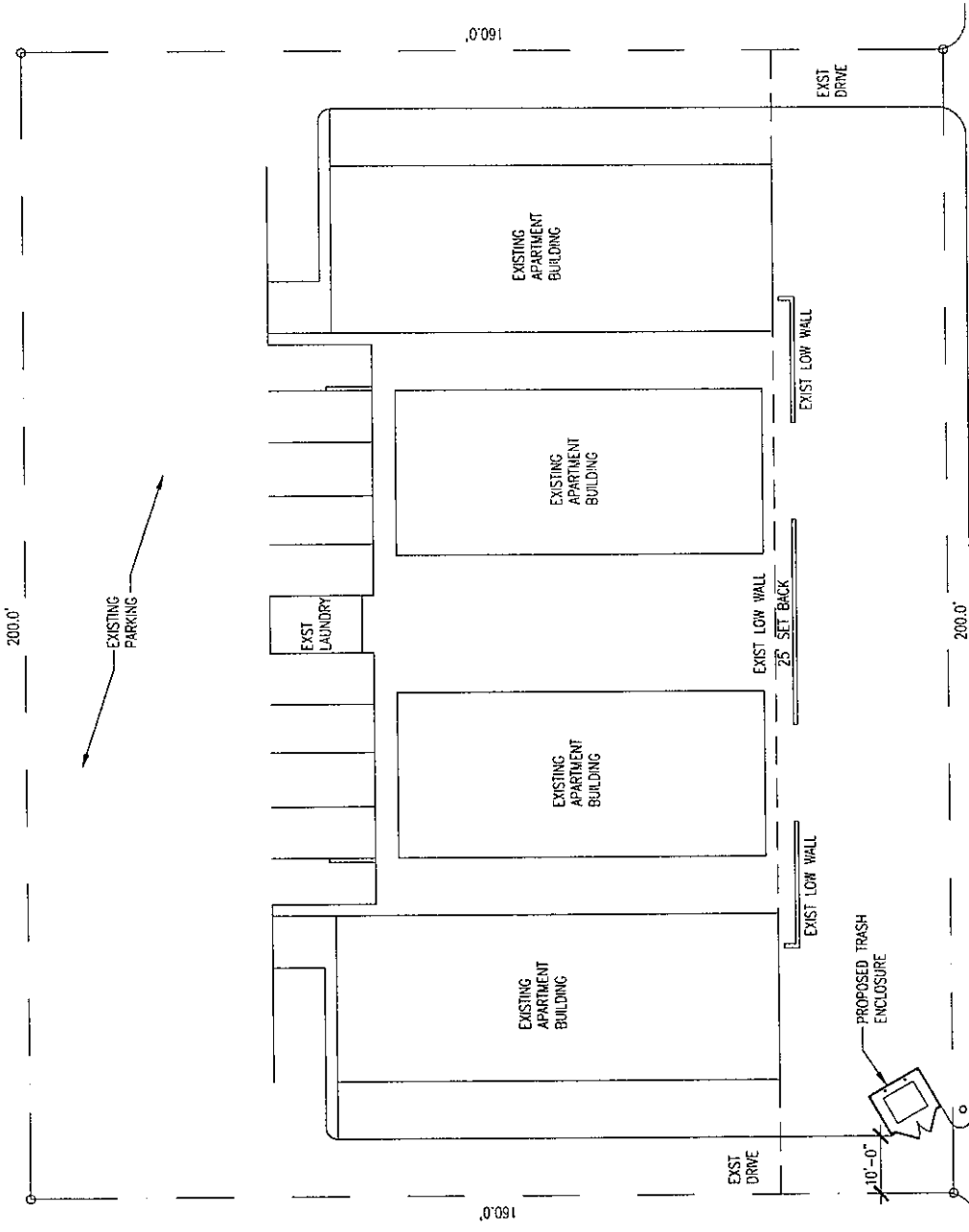
## Application/Appeal to the Board of Adjustment

This 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 reasons:

1. This variance is not contrary to the public interest and a literal enforcement would result in an unnecessary hardship because there is no other location accessible by a commercial garbage dumpster truck.
2. The subject is restricted in area for locating a trash receptacle because the adjacent single family R-7.5 zoning requires a 25'ft front yard setback.
3. This variance is not requested to relieve a self-created hardship.

G M A N L I M I T E D  
 S A N B E N I T O A P A R T M E N T S  
 9 0 0 8 S A N B E N I T O W A Y  
 D A L L A S , T E X A S

20 JUL 15  
 DATE  
**A1**  
 SHEET NO.

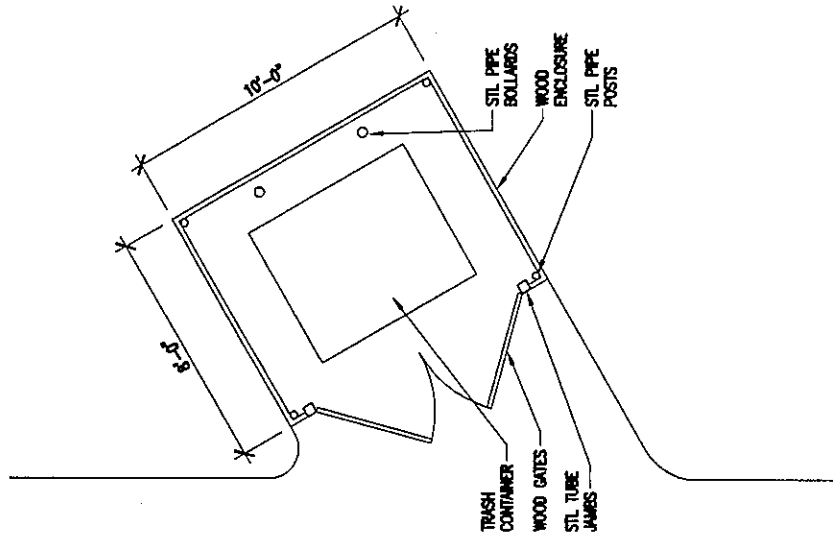


SAN BENITO WAY

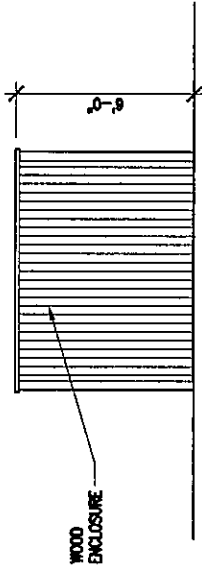
**01** SITE PLAN  
 1" = 20'-0"



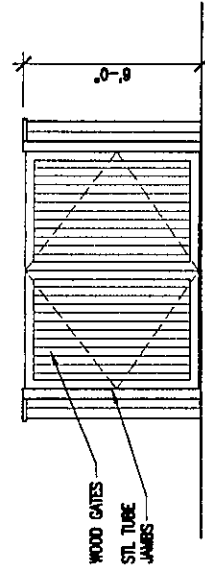




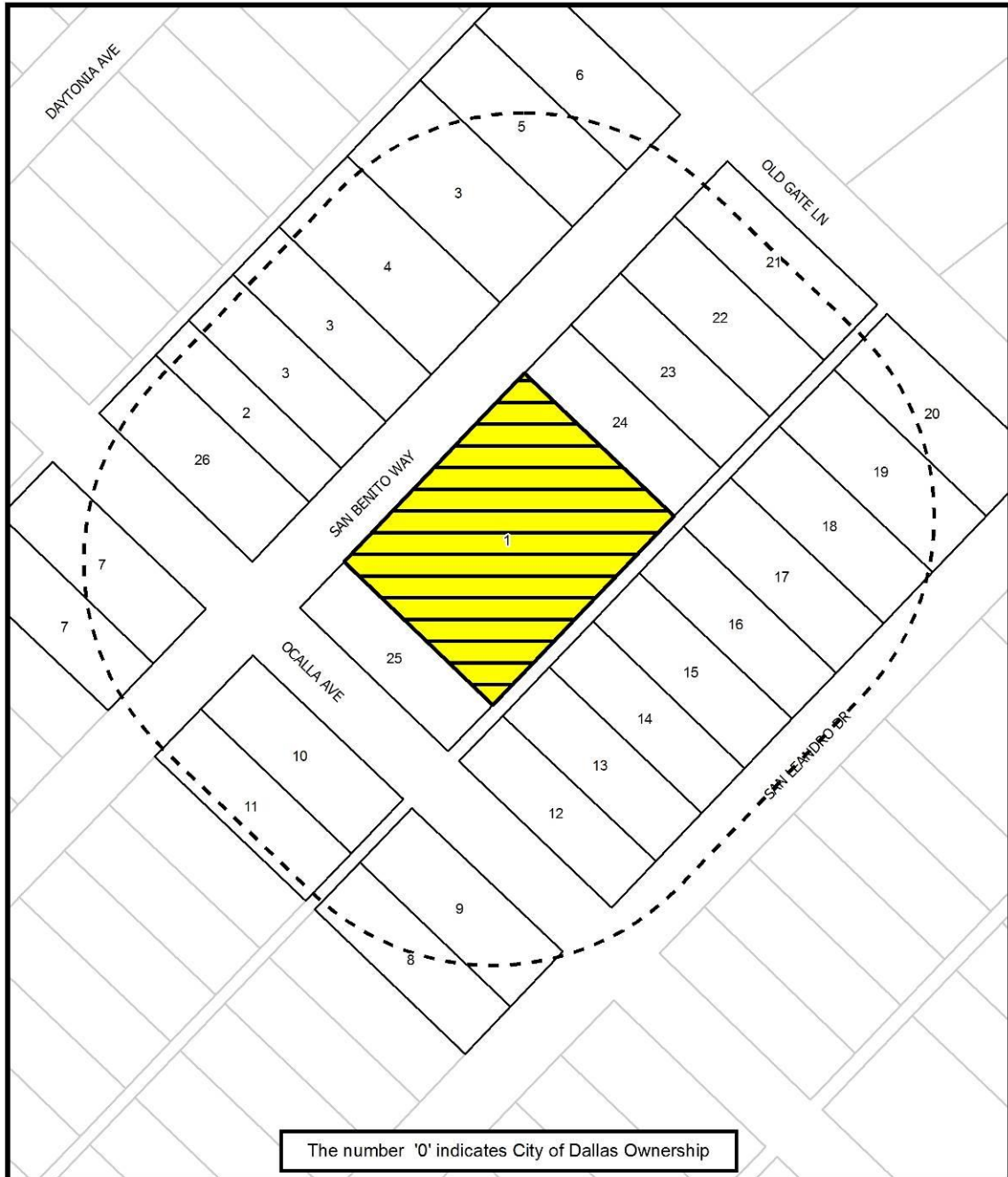
**01 ENCLOSURE PLAN**  
 1/4" = 1'-0"



**03 SIDE ELEVATION**  
 1/4" = 1'-0"



**02 FRONT ELEVATION**  
 1/4" = 1'-0"



|  |  |             |                      |           |                                    |   |
|--|--|-------------|----------------------|-----------|------------------------------------|---|
| <br>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>26</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table> | <b>200'</b> | AREA OF NOTIFICATION | <b>26</b> | NUMBER OF PROPERTY OWNERS NOTIFIED | Case no: <u><b>BDA145-096</b></u><br>Date: <u><b>9/1/2015</b></u> |
| <b>200'</b>  | AREA OF NOTIFICATION   |             |                      |           |                                    |   |
| <b>26</b>  | NUMBER OF PROPERTY OWNERS NOTIFIED   |             |                      |           |                                    |   |

## *Notification List of Property Owners*

**BDA145-096**

### *26 Property Owners Notified*

| <i>Label #</i> | <i>Address</i>      | <i>Owner</i>                         |
|----------------|---------------------|--------------------------------------|
| 1              | 9008 SAN BENITO WAY | GMAN LTD                             |
| 2              | 9007 SAN BENITO WAY | GANTER KEVIN &                       |
| 3              | 9011 SAN BENITO WAY | GANTER KEVIN &                       |
| 4              | 9019 SAN BENITO WAY | GANTER KEVIN                         |
| 5              | 9031 SAN BENITO WAY | NOVAK HOWARD JAY                     |
| 6              | 9035 SAN BENITO WAY | MITCHELL BEAU L                      |
| 7              | 8935 SAN BENITO WAY | G MAN LTD PS                         |
| 8              | 8935 SAN LEANDRO DR | PUTNAM MICHAEL J                     |
| 9              | 8939 SAN LEANDRO DR | AYDT CHARLES S &                     |
| 10             | 8938 SAN BENITO WAY | G MAN LIMITED                        |
| 11             | 8934 SAN BENITO WAY | SWIRCZYNSKI ERIC & LISA              |
| 12             | 9003 SAN LEANDRO DR | STILES NATALIE J & CURT G STILES     |
| 13             | 9007 SAN LEANDRO DR | JOHNSON JENNIFER J &                 |
| 14             | 9011 SAN LEANDRO DR | VOWELL KEVIN                         |
| 15             | 9015 SAN LEANDRO DR | MORRIS AMY                           |
| 16             | 9019 SAN LEANDRO DR | HOOD THOMAS R &                      |
| 17             | 9023 SAN LEANDRO DR | SMITH KELLY MUELLER & JON PAUL SMITH |
| 18             | 9027 SAN LEANDRO DR | WASHBURN JENNIFER L & VERNON P       |
| 19             | 9031 SAN LEANDRO DR | HANSEN JERRY D                       |
| 20             | 9035 SAN LEANDRO DR | BRITTON CHRISTOPHER L                |
| 21             | 9034 SAN BENITO WAY | GANTER KEVIN &                       |
| 22             | 9030 SAN BENITO WAY | QUALLS KRISTEN BROOKE &              |
| 23             | 9026 SAN BENITO WAY | JOHNSON ERIC W                       |
| 24             | 9022 SAN BENITO WAY | SPICA PROPERTIES LP                  |
| 25             | 1808 OCALLA AVE     | G MAN LTD                            |
| 26             | 1720 OCALLA AVE     | AMERICAN BAKERS &                    |

09/01/2015

***Label # Address***

***Owner***

**FILE NUMBER:** BDA 145-100(SL)

**BUILDING OFFICIAL'S REPORT:** Application of Maxwell Fisher and Dallas Cothrum of Masterplan for a special exception to the Flora Street height restrictions at 901 Pearl Street. This property is more fully described as Lot 1, Block 528, and is zoned PD-145, which limits the height restrictions on Flora Street to within the Flora Street frontage area, the height of any portion of a structure must be equal to or less than the shortest distance of that portion of the structure from the vertical plane extending through the Flora Street centerline. The applicant proposes to construct and/or maintain a structure with a height that exceeds the setback by 11 feet, which will require an 11 foot special exception to the Flora Street height restrictions.

**LOCATION:** 901 Pearl Street

**APPLICANT:** Maxwell Fisher and Dallas Cothrum of Masterplan

**REQUEST:**

A request for a special exception to the Flora Street building height requirements of 11' is made to construct and maintain a mixed use structure/development (multifamily/retail) on a site developed as a surface parking lot, and not fully complying with PD 145 height restrictions on Flora Street which restricts the maximum building height within the Flora Street frontage area to the height of any portion of a structure must be equal to or less than the shortest distance from the vertical plan extending through the Flora Street centerline.

**STANDARD FOR A SPECIAL EXCEPTION TO THE HEIGHT RESTRICTIONS ON FLORA STREET IN THE FLORA STREET FRONTAGE AREA OF PD 145:**

The board may grant a special exception to the height restrictions of Flora Street in the Flora Street frontage area of PD 145 if the special exception will not adversely affect appropriate development of the Dallas Arts District: The Flora Street height restrictions contained in Section 51P-145.104(d)(3), but only if the portion of the building exceeding the maximum building height permitted in that section is occupied exclusively by multiple-family uses.

**STAFF RECOMMENDATION:**

Denial

Rationale:

- The Manager in Sustainable Development and Construction Department recommended denial of the request where he concluded that if the structure were

built as proposed, it would adversely affect appropriate development in the Arts District, and would not be consistent with all previous development along Flora Street in the Arts District. The Manager stated among other things that the distinctiveness of Flora Street as the primary spine of the Dallas Arts District, including the height and setback regulations allowing additional light and openness along this corridor, was a key design consideration in the creation of this District; and that to date, all development that has occurred along Flora Street has complied with the Flora Street height restrictions.

- The applicant had not substantiated how the special exception will not adversely affect appropriate development of the Dallas Arts District.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 145 (Planned Development District)  
North: PD 145 (Planned Development District)  
South: PD 145 (Planned Development District)  
East: PD 145 (Planned Development District)  
West: PD 145 (Planned Development District)

**Land Use:**

The subject site is developed as a surface parking lot. The areas to the east and west are developed with cultural uses (The Morten Myerson Symphony Center, and The Nasher Sculpture Center, respectively); the area the south is developed as the Belo Mansion and Pavilion, and the area to the north is developed with a high-rise multifamily development (The Museum Tower).

**Zoning/BDA History:**

1. BDA 990-315, Property located at 2121 Flora Street (the subject site)

On August 15, 2000, the Board of Adjustment Panel B granted a request for a special exception to the Flora Street height regulations imposing the following conditions to the request: 1) compliance with the submitted elevation is required, and 2) the portion of the building exceeding the maximum permitted height in that section must be occupied exclusively for multiple-family uses.

The case report stated that the request was made to construct and maintain an approximately 680,000 square foot mixed use project (residential/parking/hotel/commercial).

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

- This request focuses on constructing and maintaining an approximately 600,000 square foot, 40-story mixed use structure/development (multifamily and retail) on a site developed as a surface parking lot, part of which would not fully comply with PD 145 height restrictions on Flora Street which restricts the maximum building height within the Flora Street frontage area to the height of any portion of a structure must be equal to or less than the shortest distance from the vertical plan extending through the Flora Street centerline.
- The subject site is located in PD 145.
- PD 145 states that the Board of Adjustment may grant a special exception to the following requirements of the PD if the special exception will not adversely affect appropriate development of the Dallas Arts District:
  1. The Flora Street frontage area use requirements contained in Section 51P-145.104(d)(2), except that the board may not allow a use not permitted in Section 51P-145.104(c).
  2. The Flora Street height restrictions contained in Section 51P-145.104(d)(3), but only if the portion of the building exceeding the maximum height permitted in that section is occupied exclusively by multiple-family uses.
- Section 51P-145.104(d)(3) provides the following height restrictions on Flora Street: “Within the Flora Street frontage area, the height of any portion of a structure must be equal to or less than the shortest distance of that portion of the structure from the vertical plane extending through the Flora Street centerline.”
- PD 145 was established in 1983. Its development standards state that the Dallas Arts District Design Plan prepared by Sasaki Associates, Inc. in August, 1982 (“Sasaki Plan”) shall serve as a guideline for development in the Dallas Arts District. (See Attachment A for parts of this plan). The Sasaki Plan has been approved by the property owners and the city plan commission and is made part of the PD ordinance.
- The “Objectives” set forth in the Sasaki Plan states among other things:
  1. “The consortium wishes the district to reflect a multinational atmosphere, and contain mixed uses- arts facilities, office, retail and residential space, and cultural events – and feature Flora Street as a physical and visual link within the district.
  2. Also requested have been outdoor/indoor spaces of sufficient size and versatility to accommodate various art groups, integrating them as much as possible with the streetscape. Provision of a human scale pedestrian environment through the use of planting, street furniture, building heights and setbacks, and façade design is seen as essential.”
- The “Plan for the Dallas Arts District” set forth in the Sasaki Plan states among other things:
  1. “The Flora Street urban design plan is a physical development scenario that utilizes the street as a major pedestrian corridor and unifying element for the various uses within the Dallas Arts District. The right-of-way includes two moving traffic lanes (one in each direction), two drop-off lanes, and 30’ wide sidewalks.

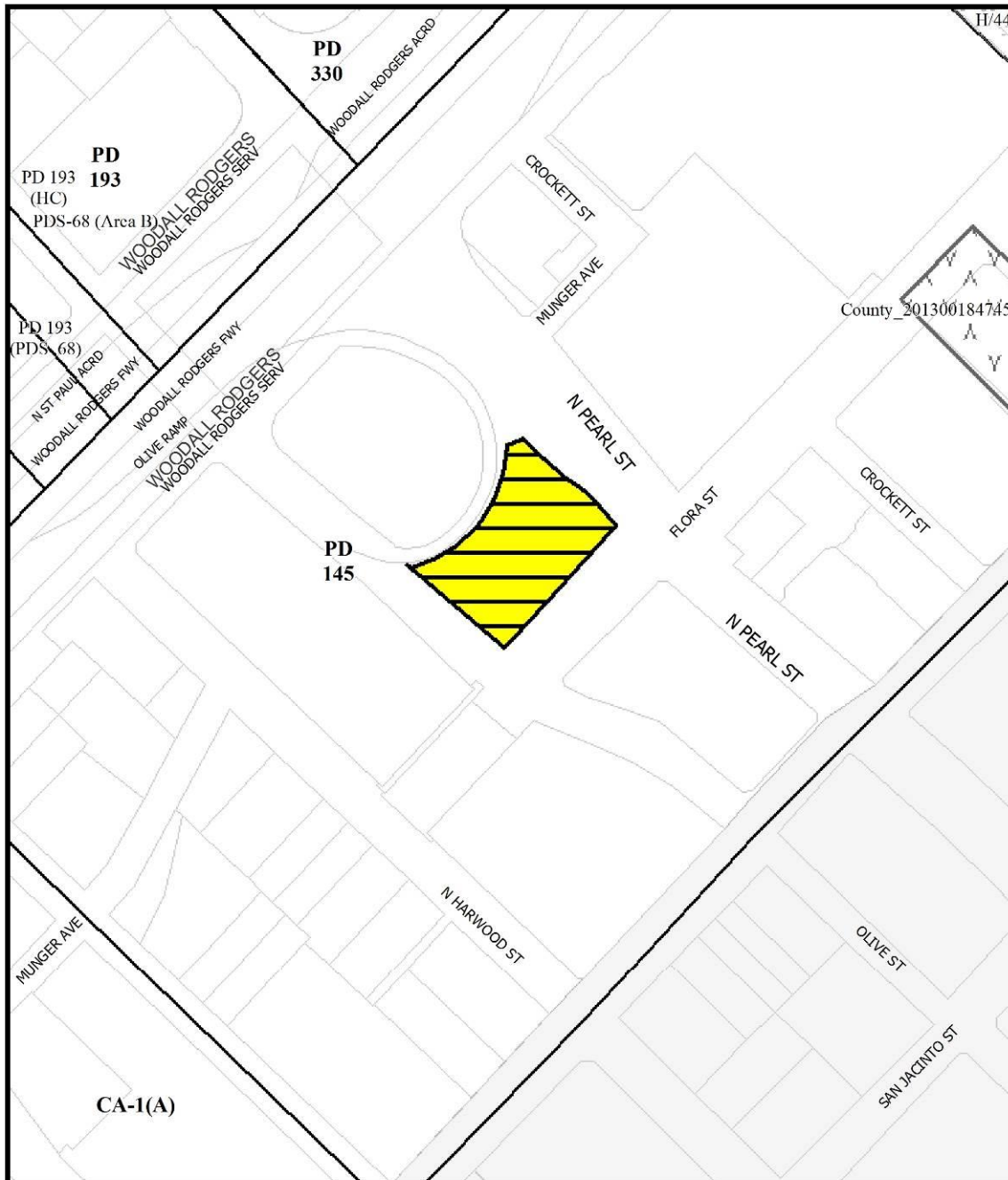


2. Distinctive paving patterns distinguish the three zones, and bollards separate vehicular and pedestrian traffic.
  3. Closure of Flora Street for special events or on weekends or at noontime would extend this pedestrian orientation.
  4. Flora Street is lined with triple rows of trees. Benches, kiosks, and sidewalk cafes are located in the pedestrian area beneath the trees. Illuminate bollards, up-and-down lighting of trees, and illumination of special features and landmark building facades create the desired ambiance while ensuring pedestrian safety.”
- The “setback/height regulations” set forth in the Sasaki Plan states among other things
    1. “Height limit of 50 feet at Flora Street property line to maintain scale appropriate to pedestrian environment and encourage low base podiums for building development along Flora Street.
    2. Height limit of 100 feet at 50 feet from Flora Street property line.
    3. Beyond 50 feet from property line, unlimited height; FAA or City of Dallas restrictions apply.
    4. Suggested crenelation of streetwall along Flora Street to create entries, sitting alcoves, planting areas or places for cafes. Crenelation should not extend more than 30 feet so that activity will remain visible from Flora Street.
    5. At least 50% of Flora Street frontage built with two story base or podium.”
  - The applicant has submitted a site/development plan and a building elevation that the applicant has described as follows: “The portions of building planned for encroachment into the Flora Street frontage are limited to two building corners of Floors 5 and 6. The degree of encroachment varies from 6 to 11 feet as shown on enclosed exhibit of the building, while other portions of the building have a greater setback than required...The building profile is such that those areas set farther back from Flora Street off-set the minimal sections that encroach to the good of 51 square feet.”
  - The Manager in Sustainable Development and Construction Department submitted a review comment sheet marked “Recommends that this be denied” and additional comments to support his conclusion (see Attachment C).
  - The applicant has the burden of proof in establishing that the special exception will will not adversely affect appropriate development of the Dallas Arts District.
  - If the Board was to grant this request and impose conditions that the submitted site/development plan and a building elevation is required, and that the building exceeding the maximum building height permitted in that section is to be occupied exclusively by multiple-family uses, the building encroaching beyond the maximum building height within the Flora Street frontage area would be limited to that what is shown on these documents.

**Timeline:**

July 22, 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 B. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."
- 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 2, 2015: The Board Administrator added portions of the Sasaki Plan to the case file (see Attachment A).
- September 3, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B).
- 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 Manager in Sustainable Development and Construction Department submitted a review comment sheet marked "Recommends that this be denied" and additional comments to support his conclusion (see Attachment C).



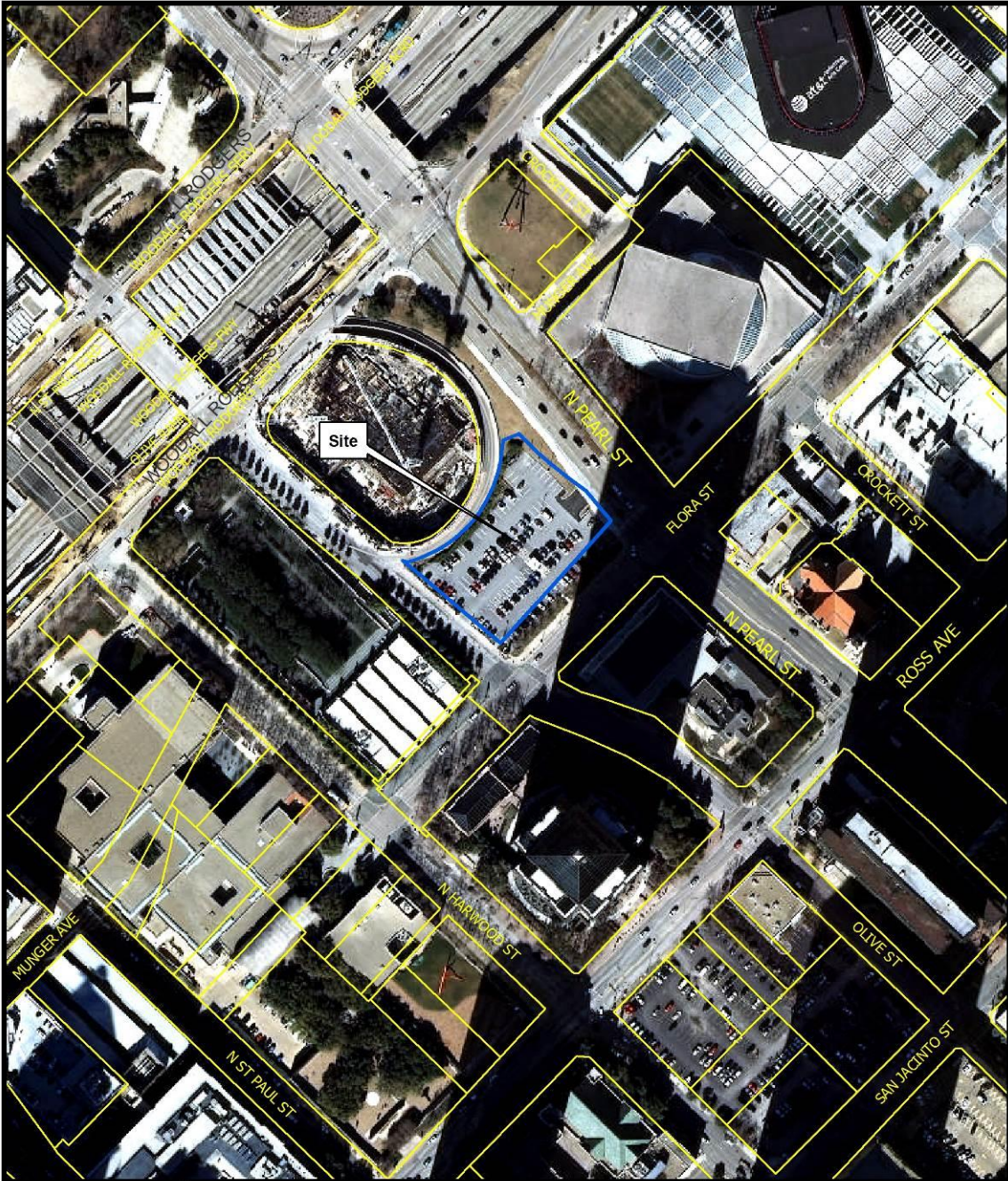
1:2,400

# ZONING MAP

Case no: BDA145-100

Date: 9/1/2015





1:2,400

# AERIAL MAP

Case no: BDA145-100

Date: 9/1/2015

★

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# Dallas Arts District Urban Design Plan Dallas, Texas

Submitted to

**Dr. Philip O'Bryan Montgomery**  
Arts District Coordinator  
**Dallas Arts District Consortium**  
and  
**The City of Dallas**

Prepared by

**Sasaki Associates, Inc.**  
64 Pleasant Street  
Watertown, Massachusetts 02172

Planning/Architecture/Landscape Architecture  
Urban Design/Civil Engineering/Environmental Services

**Halcyon Ltd.**

55 High Street  
Hartford, Connecticut 06103

Commercial Concepts

**Lockwood, Andrews & Newnam, Inc.**

2710 North Stemmons Freeway  
Suite 306  
Dallas, Texas 75207

Civil Engineering

August 1982

BDA 145-100

Attach A

PS 1

## Executive Summary

This summary presents a synopsis of the plan for the Dallas Arts District, which is detailed in this report.

### Objectives

The formation of the Dallas Arts District Consortium comprised of district property owners, arts groups, and other interested parties, signalled the first coordinated efforts to advance the concept of an "arts district" for Dallas. The consortium wishes the district to reflect a multinational atmosphere, and contain mixed uses--arts facilities, office, retail and residential spaces, and cultural events--and feature Flora Street as a physical and visual link within the district.

Also requested have been outdoor/indoor spaces of sufficient size and versatility to accommodate various arts groups, integrating them as much as possible with the streetscape. Provision of a human scale pedestrian environment through use of planting, street furniture, building heights and setbacks, and facade design is seen as essential.

### Planning Process

The plan for the Dallas Arts District has been formulated in response to the Dallas Arts District Consortium objectives, and is the result of a participatory planning/design process. At crucial decision-making points in the formulation of the plan, the Consultant Team held workshop sessions and review meetings

with the consortium and other interested parties to build a consensus for, and understanding of, the plan.

### Urban Design Context

As one of six major land-use districts in downtown Dallas, the Dallas Arts District represents redevelopment of a significant portion of downtown. The district is a 17-block area in the northeast section of Dallas, bounded by the Woodall Rodgers Freeway, Ross Street, and St. Paul Street. The relationship of the Dallas Arts District to the rest of downtown is illustrated in the Dallas Arts District location Map, which follows.

Growth and expansion in downtown Dallas is occurring primarily on a northeast/southwest axis, indicating that eventually most of the district will be surrounded by high-rise development. This extension of a more dense urban fabric will integrate the Dallas Arts District physically and visually into the area perceived as "downtown."

Traffic and circulation issues have been resolved in initial planning stages to provide a suitable transportation framework. The need for parking spaces is estimated at 10,000 to 12,000, which will be distributed in garages throughout the district.

The plan provides for the accommodation of transit bus stops, as well as a possible underground station at Pearl Street for a proposed light rail transit system.



BDA145-100  
Attach A  
B2

Service/vehicular access as well as driveways should be prohibited from Flora Street. An extension of public transit service will be necessary to serve the increased employment densities associated with new development in the district.

### Plan for the Dallas Arts District

The design plan is based on district-wide design and land-use concepts, which include the creation of a green, pedestrian-oriented environment, and the provision of a distinctive visual image for the district.

The Flora Street urban design plan is a physical development scenario that utilizes the street as the major pedestrian corridor and unifying element for the various uses within the Dallas Arts District. The right-of-way includes two moving traffic lanes (one in each direction), two drop-off lanes, and 30' wide sidewalks. Distinctive paving patterns distinguish the three zones, and bollards separate vehicular and pedestrian traffic. Closure of Flora Street for special events or on weekends and at noontime would extend this pedestrian orientation.

Flora Street is lined with triple rows of trees. Benches, kiosks, and sidewalk cafes are located in the pedestrian area beneath the trees. Illuminated bollards, up-and-down lighting of trees, and illumination of special features and landmark building facades create the desired ambiance while ensuring pedestrian safety.

Three zones, "Museum Crossing," "Concert Lights," and "Fountain Plaza," each associated with major attractions in the district, provide a point of reference and space for art, cultural, and entertainment activities.

Museum Crossing is the area associated with the Museum of Art and the Harwood/Flora intersection reflects the Museum's presence by echoing the canopy trees, circular fountain, and bollards at its entry.

Concert Lights is the area related to the Concert Hall, "The Arbor," and the section of Flora Street up to the Fairmount intersection. The Arbor, a park at Flora Street on the Santurio de Guadalupe site, features a lawn, water garden, and rows of trees, and with Crockett Street (which is tree-lined), provides a formal entry for the Concert Hall. The Electric Agora, an electronic information board, is part of an arcade that runs along the periphery of The Arbor along Flora Street.

The Electric Agora presents a range of display devices, from backlit photos and posters and a message signband to state-of-the-art video technology introducing events and participatory activities.

With unique capabilities, the Electric Agora holds opportunities for corporate and public support of components such as The Event Horizon, Dallas Adventurer, World-wide Cities Spotlight, The World Board, In Texas Now: The Opinion Poll, immediate interactive communication, and artistic display.

BD4145-100  
Attach A  
Pg 3



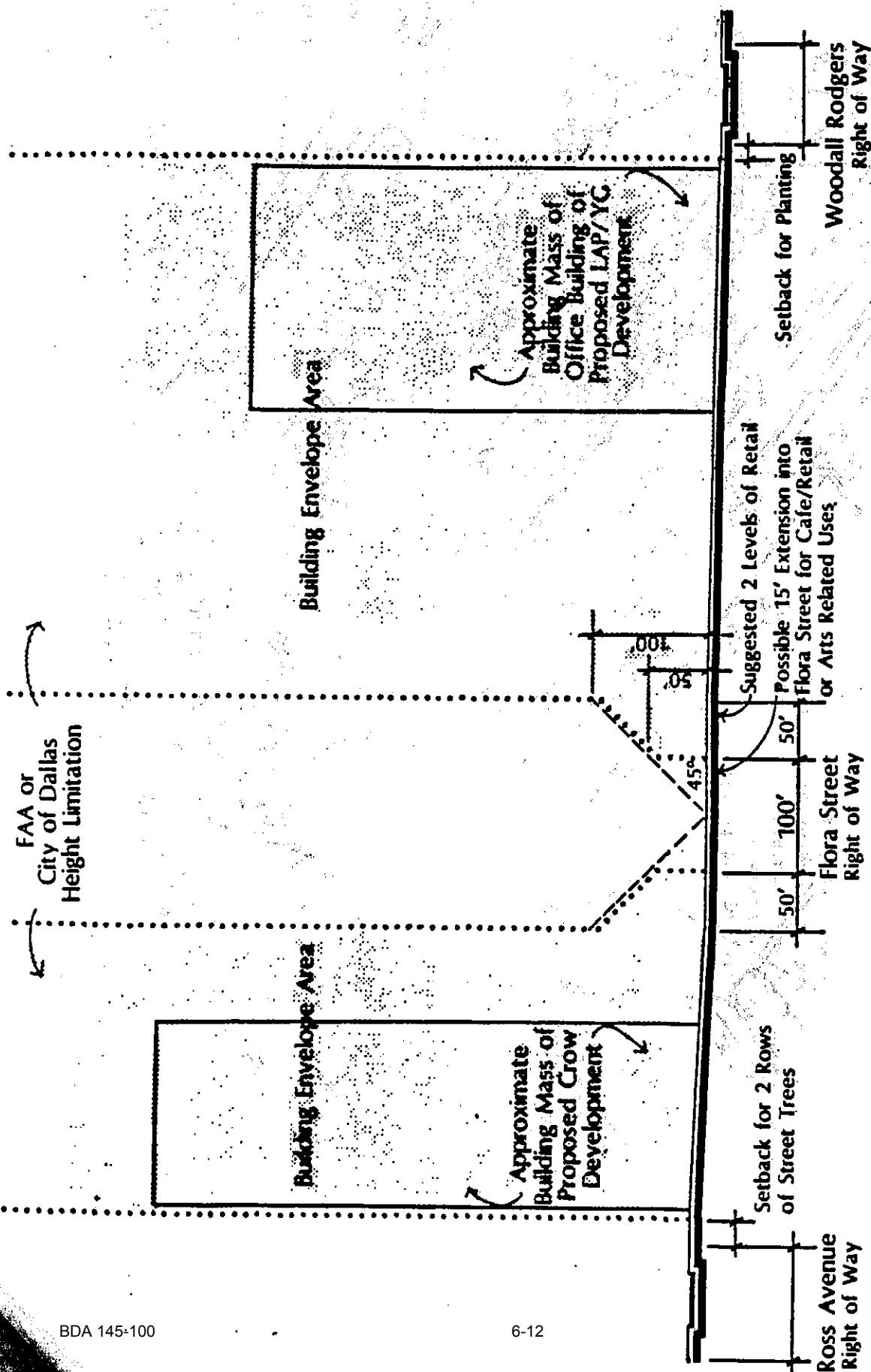
Setback/Height Regulations

- 1 Height limit of 50 feet at Flora Street property line to maintain scale appropriate to pedestrian environment and encourage low base podiums for building development along Flora Street.
- 2 Height limit of 100 feet at 50 feet from Flora Street property line.
- 3 Beyond 50 feet from property line, unlimited height; FAA or City of Dallas restrictions apply.
- 4 Suggested crenelation of streetwall along Flora Street to create entries, sitting alcoves, planting areas or places for cafes. Crenelation should not extend more than 30 feet so that activity will remain visible along Flora Street.
- 5 At least 50% of Flora Street frontage built with two story base or podium.
- 6 Suggested retail above and below street level, with entrances 1/2 level above and 1/2 level below street level.
- 7 Variety and enrichment of pedestrian environment by numerous small shops. At least 50% of the streetwall on Flora Street for the first two levels should be transparent material, used for creative display and merchandising. Awnings or canopies are encouraged for weather protection and add color and pedestrian scale to the street.
- 8 Extension of retail around corners on cross streets, particularly on entry corridors from downtown. This will increase visibility of retail for pedestrians and motorists.

- 9 Location of active uses or common spaces such as cafeterias, meeting rooms, and lounges of mixed use projects on terraces that overlook Flora Street.
- 10 Orientation of residential and/or hotel uses to Flora Street with balconies or terraces.
- 11 Continuance of visibility of second level retail through use of signs in windows, but not extending into street. Signs for street level retail should be in sign band on face of building or in zone diagrammed in typical Flora Street Section.
- 12 Through block pedestrian connection to lobbies and parking garage elevators to provide weather protected pedestrian access. Retail uses front on pedestrian connections where possible.
- 13 Selection of building materials, that consider the scale, color, and texture to reflect regional character: the use of stone, stucco, concrete in light earth tones recommended.

Public Improvements

- A Small scale modular pavers in tree planting zone. Zone for cafe vendors, street sales, artists, and performers.
- B Paving pattern to indicate pedestrian zone.
- C Drop-off lane (transition zone) paving.
- D Vehicular zone paving pattern.
- E Masonry bollard, flush with curb, with incandescent illumination.
- F Street furniture in planting zone: information kiosk, benches, trash receptacles, drinking fountains, etc.



# Building Envelope Guidelines





PERSPECTIVE

West Aerial Perspective



Atelier - Dallas, TX

2015-02-25

ADD Inc

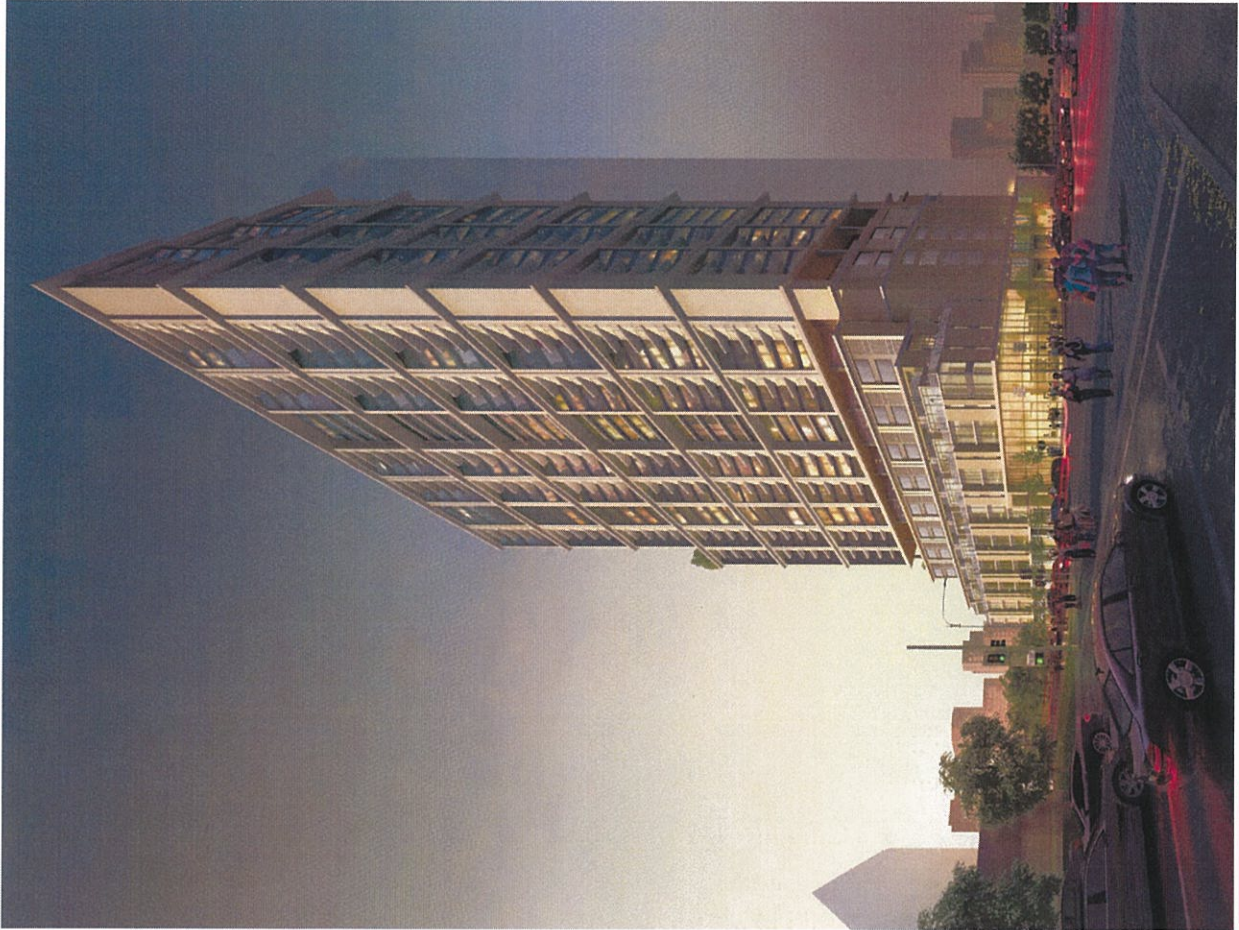






PERSPECTIVE

East Ground Perspective



Atelier - Dallas, TX

2015-02-25

ADD Inc



PERSPECTIVE

North Ground Perspective



Atelier - Dallas, TX

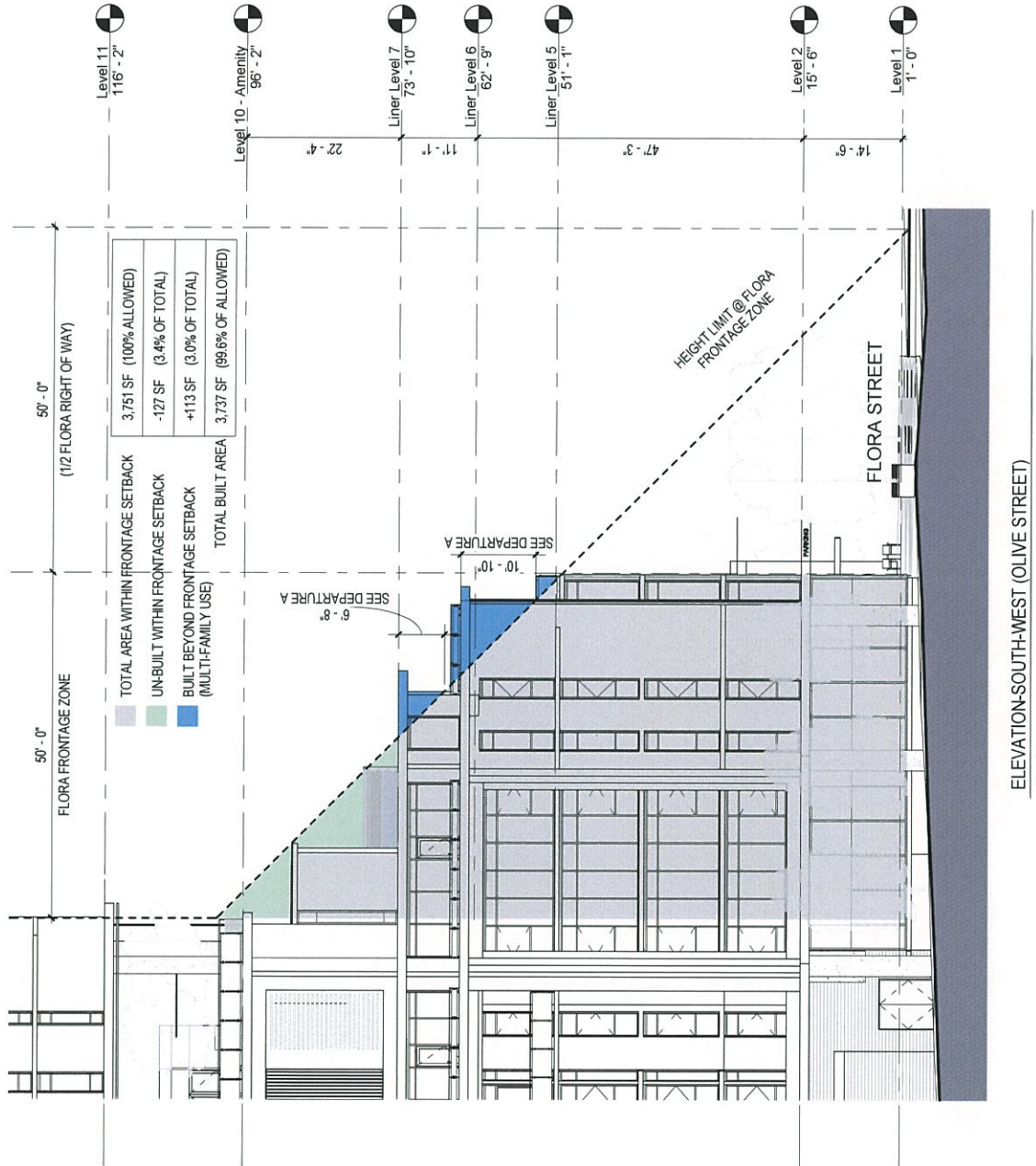
2015-02-25

ADD Inc









A-02A

Frontage Zone - Sectional Diagram  
 1/16" = 1'-0"

219420179



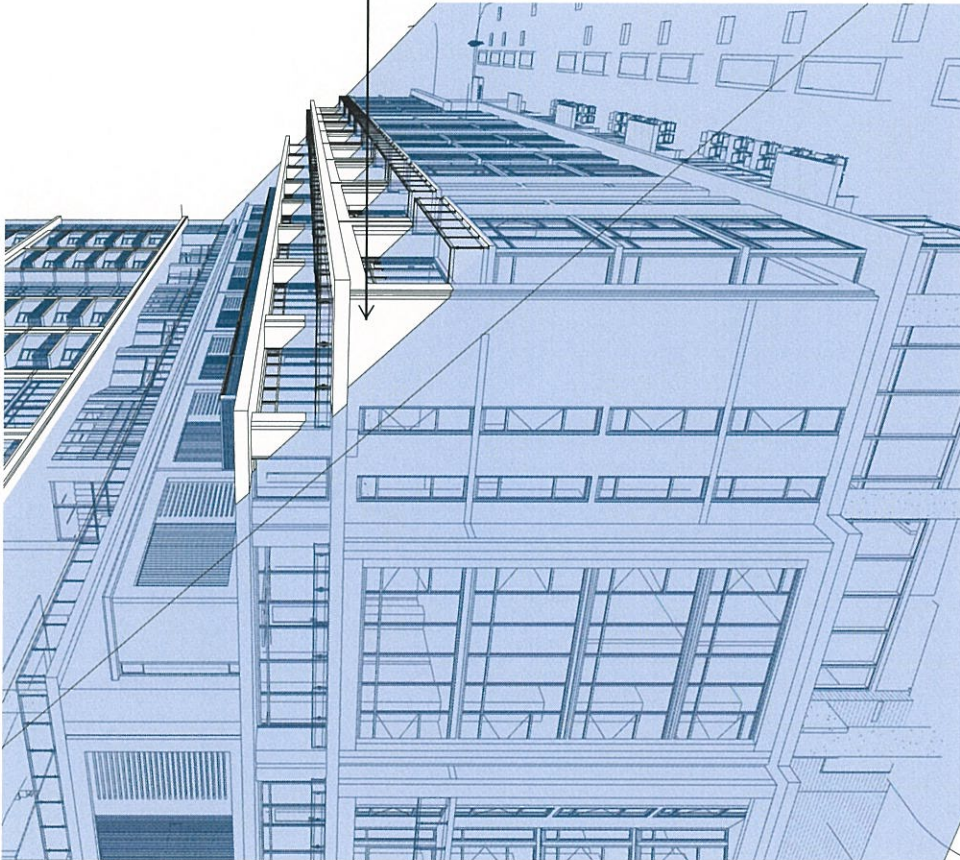
ATELIER | FLORA LOFTS

09/02/15



ELEVATION-SOUTH-WEST (OLIVE STREET)  
 1/8" = 1'-0"

AREA EXTENDING PAST BLUE  
ZONE EXCEEDS THE FLORA  
FRONTAGE ZONE HEIGHT  
RESTRICTION



Frontage Zone - 3D Diagram  
1/4" = 1'-0"

219420179



ATELIER | FLORA LOFTS

09/02/15



BDA 145-100  
Attach C  
931

REVIEW COMMENT SHEET  
BOARD OF ADJUSTMENT  
HEARING **SEPTEMBER 23, 2015 (B)**

- |   |   |
|---|---|
| <input type="checkbox"/> Has no objections  | <input type="checkbox"/> BDA 134-072(D) |
| <input type="checkbox"/> Has no objections if certain conditions are met (see comments below or attached)   | <input type="checkbox"/> BDA 145-090(S) |
| <input checked="" type="checkbox"/> Recommends that this be denied (see <u>comments below or attached</u> ) | <input type="checkbox"/> BDA 145-092(S) |
| <input type="checkbox"/> No comments  | <input type="checkbox"/> BDA 145-093(D) |

COMMENTS:

PLEASE SEE ATTACHED  
COMMENTS -  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- |                                     |                |
|-------------------------------------|----------------|
| <input type="checkbox"/>            | BDA 145-096(S) |
| <input checked="" type="checkbox"/> | BDA 145-100(S) |
| <input type="checkbox"/>            |                |
| <input type="checkbox"/>            |                |
| <input type="checkbox"/>            |                |
| <input type="checkbox"/>            |                |
| <input type="checkbox"/>            |                |
| <input type="checkbox"/>            |                |
| <input type="checkbox"/>            |                |

LEIF SAVIDBERG / MANAGER      9/11/15  
Name/Title/Department (S.D.C.)      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.

REVIEW COMMENT SHEET  
BOARD OF ADJUSTMENT  
HEARING **SEPTEMBER 23, 2015 (B)**

**BDA 145-100(S)**  
901 Pearl Street

Comments from:

Leif Sandberg, Manager  
Sustainable Development and Construction

Standard for consideration:

The standard for consideration of a special exception to the requirements of the Flora Street height restrictions reads as follows:

(51P-145-106(a)):

"The board of adjustment may grant a special exception to the following requirements of this article if the special exception will not adversely affect appropriate development of the Dallas Arts District:

(1) The for a Street frontage area use requirements contained in Section 51P-145.104(d)(2), except that the board may not allow a use not permitted in Section 51P-145.104(c).

(2) The Flora Street height restrictions contained in Section 51P-145.104(d)(3), but only if the portion of the building exceeding the maximum height permitted in that section is occupied exclusively by multiple-family uses."

Recommendation:

The subject application for a special exception to the building height regulations should be denied because, if built, it would adversely affect appropriate development in the Arts District, and would not be consistent with all previous development along Flora Street in the Arts District.

Rationale:

Establishing what constitutes "appropriate development of the Arts District" is necessary in order to determine whether a special exception should be approved.

"Appropriate development of the Arts District" was first defined in the Dallas Design District Design Plan (aka: the Sasaki Plan) which was completed and presented to the City of Dallas in August, 1982. The first paragraph of the executive summary for this document makes several points:

- "The formation of the Dallas Arts District Consortium was comprised of district property owners, arts groups, and other interested parties..."

- It "...signaled the first coordinated effort to advance the concept of an "arts district" for Dallas."
- "The consortium wishes the district to reflect a multinational atmosphere, and contain mixed uses...and feature Flora Street as a physical and visual link within the district." (emphasis added)

The Design/Development Guidelines section of the Sasaki Plan includes the following:

- "To ensure a consistency of design and maintenance of the district as a pedestrian-oriented environment, design and development guidelines have been established."
- "The guidelines diagram and list on the following pages summarize guidelines necessary to ensure that future development is consistent with the district theme."
- "Controlling scale and openness along the Flora Street corridor will ensure that the street remains a pedestrian-oriented environment." (emphasis added)

The Sasaki Plan is identified in the planned development district ordinance (PDD#145) which was adopted in February 1983. The Flora Street height/setback restrictions from this Plan were also specifically incorporated as a requirement in the City Council-adopted ordinance that formally designated the Dallas Arts District.

#### Background:

The distinctiveness of Flora Street as the primary spine of the Dallas Arts District, including the height and setback regulations allowing for additional light and openness along this corridor, was a key design consideration in the creation of this District. To date, all development that has occurred along Flora Street has complied with the Flora Street height restrictions.

M:\ARTS DISTRICT\PDD REVIEWS\901 Pearl Street (Greene lot)\BDA 145-100 S attached comments sheet w DC edits 091515.docx





APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-100

Data Relative to Subject Property:

Location address: 901 Pearl Street Zoning District: PD 145 Date: July 22, 2015

Lot No.: 1 Block No.: 528 Acreage: 1.03 Census Tract: 21.00

SE 27

Street Frontage (in Feet): 1 243' on Flora 2 196' on Olive 3) 272' Woodall Rogers Freeway Off-Ramp 4) 194' Pearl 5)

To the Honorable Board of Adjustment:

Owner of Property/or Principal Arts District Properties, LTD & Greene, Richard Graham & Kathryn D.

Applicant: Maxwell Fisher & Dallas Cothrum, Masterplan Telephone: 214.761.9197

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

Represented by: Same as applicant. Telephone:

Mailing Address: Zip Code:

Affirm that a request has been made for a Variance, or Special Exception X, of an 11-foot encroachment into the Flora Street height restricted frontage area set forth in Section 51P-145.104(d)(3) of Article 145 (Planned Development District No. 145). Refer to the attached statement of request for more information.

Application is now made to the Honorable Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described request for the following reason: The minimal encroachment will allow for greater ceiling heights for the affordable Flora artist lofts and workspace. Moreover, the encroachment will allow greater vertical spatial dimensions of the ground floor retail space. Greater spatial dimensions will be more marketable and will help activate the Flora Street streetscape, in accordance with the goals of the Sasaki Plan. Refer to the enclosed Masterplan memorandum for additional information.

Note to Applicant: If the relief requested in this application is granted by the Board of Adjustment, said 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.

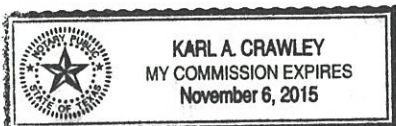
Respectfully submitted: Maxwell Fisher Applicant's name printed [Signature] Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Maxwell Fisher who on (his/her) oath certifies that the above statements are true and correct to his best knowledge and that he is the owner/or principal/or authorized representative of the subject property.

[Signature] Affiant (Applicant's signature)

Subscribed and sworn to before me this 24 day of July, 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 Maxwell Fisher

did submit a request for a special exception to the building height regulation  
at 901 Pearl Street

BDA145-100. Application of Maxwell Fisher for a special exception to the building height regulation at 901 Pearl Street This property is more fully described as Lot 1, Block 528, ar is zoned PD-145, which limits the maximum building height within the Flora Street frontage area, the height of any portion of a structure must be equal to or less than the shortest distance of that portion of the structure from the vertical plane extending through the Flora Street centerline. The applicant proposes to construct a multifamily residential structure wi a building height which will require a 11 foot special exception to the maximum building height regulation. Per Section 51P-145.106(a)(2) The board of adjustment may grant a special exception to the requirements of the Flora Street height restrictions contained in Section 51P-145.104(d)(3) if the special exception will not adversely affect appropriate development of the Dallas Arts District, and only if the portion of the building exceeding the maximum height permitted in that section is occupied exclusively by multiple-family uses.

Sincerely,

  
Larry Holmes, Building Official



## FLORA LOFTS / ATELIER – SPECIAL EXCEPTION

### STATEMENT OF REQUEST

Masterplan, as a special agent of the Flora Lofts development seeks special exception from the Board of Adjustment to allow a minimal building encroachment into the Flora Street frontage provided in Planned Development District No. 145. The proposed development, consisting of Flora Lofts and ZOM / Atelier, will deliver approximately 400 residential units comprised of a combination of market rate residential and affordable artist lofts as well as ground floor commercial/retail and neighborhood services facing Flora Street. The development would activate street life in accordance with the Sasaki Plan while eliminating a non-contributing surface parking lot.

The portions of building planned for encroachment into the Flora Street frontage are limited to two building corners of Floors 5 and 6. The degree of encroachment varies from 6 to 11 feet as shown on the enclosed exhibit of the building, while other portions of the building have a greater setback than required. When evaluating this request, please consider the following:

- The development concept Flora Lofts, means “an artist or designer studio or workroom.” This concept of creating affordable housing and live work spaces for artists is specifically stated in the Sasaki Plan and is in concert with the spirit and intent of the goals of the Dallas Arts District.
- No artist housing has yet been achieved in the District.
- In order to achieve this concept, a minimal floor to ceiling height must be provided for the lofts. The encroachment will allow a greater floor to ceiling height for the lofts/workspace, without regard to rental price.
- Likewise, in order to provide a marketable commercial retail space, the ceiling heights of the commercial retail spaces and lofts will need to be of a marketable height to be economically sustainable.
- The corner sections extending beyond the Flora Street building restriction line will amount to less than 82 square feet of encroachment from a profile perspective looking down Flora Street.
- There are sections of the building that do not extend to the maximum height limit/Flora frontage line amounting to an underage of 132 square feet.
- The net difference between the underage and overage is a negative 51 square feet.
- Thus the development is constructing 51 square feet less massing than is permitted within the building area on Flora Street.
- As such, the building profile complies with both the spirit and intent of the Flora Street height provisions of PD145 and the Sasaki Plan.
- Pedestrians and motorists will not discern the encroachment at street view, and is therefore inconsequential from an experiential standpoint.

As opposed to the strict criteria set forth to evaluate and make a determination on a request for a variance, such as proving there is a unique physical characteristic of the site that would result in unnecessary hardship if literal enforcement is upheld, a special exception may be granted provided it doesn't adversely affect neighboring property. This request would have no appreciable impact on



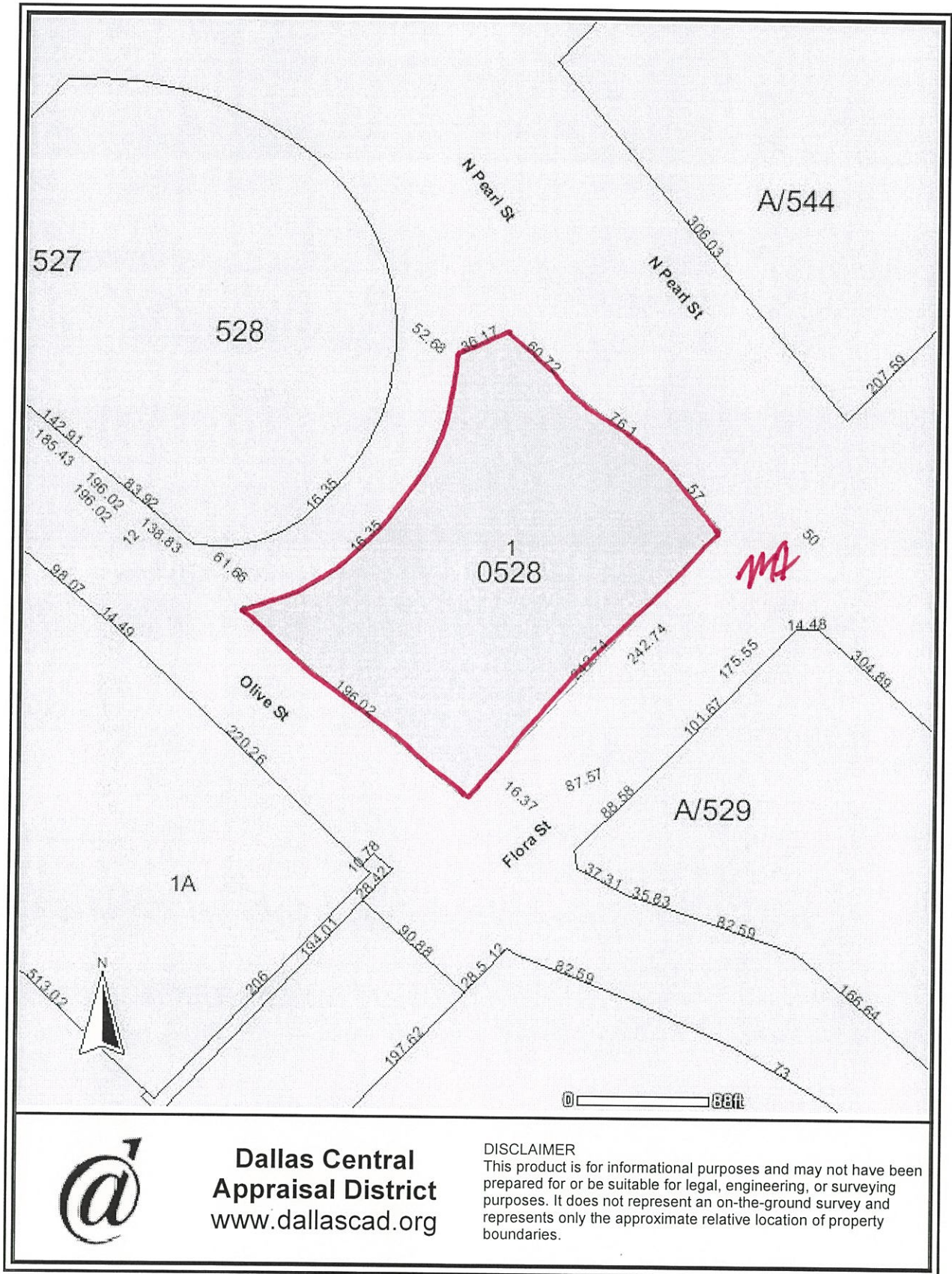
neighboring properties given the substantive setback from Flora Street will be maintained. The building profile is such that those areas set farther back from Flora Street off-set the minimal sections that encroach to the good of 51 square feet.











**Dallas Central  
Appraisal District**  
www.dallascad.org

**DISCLAIMER**

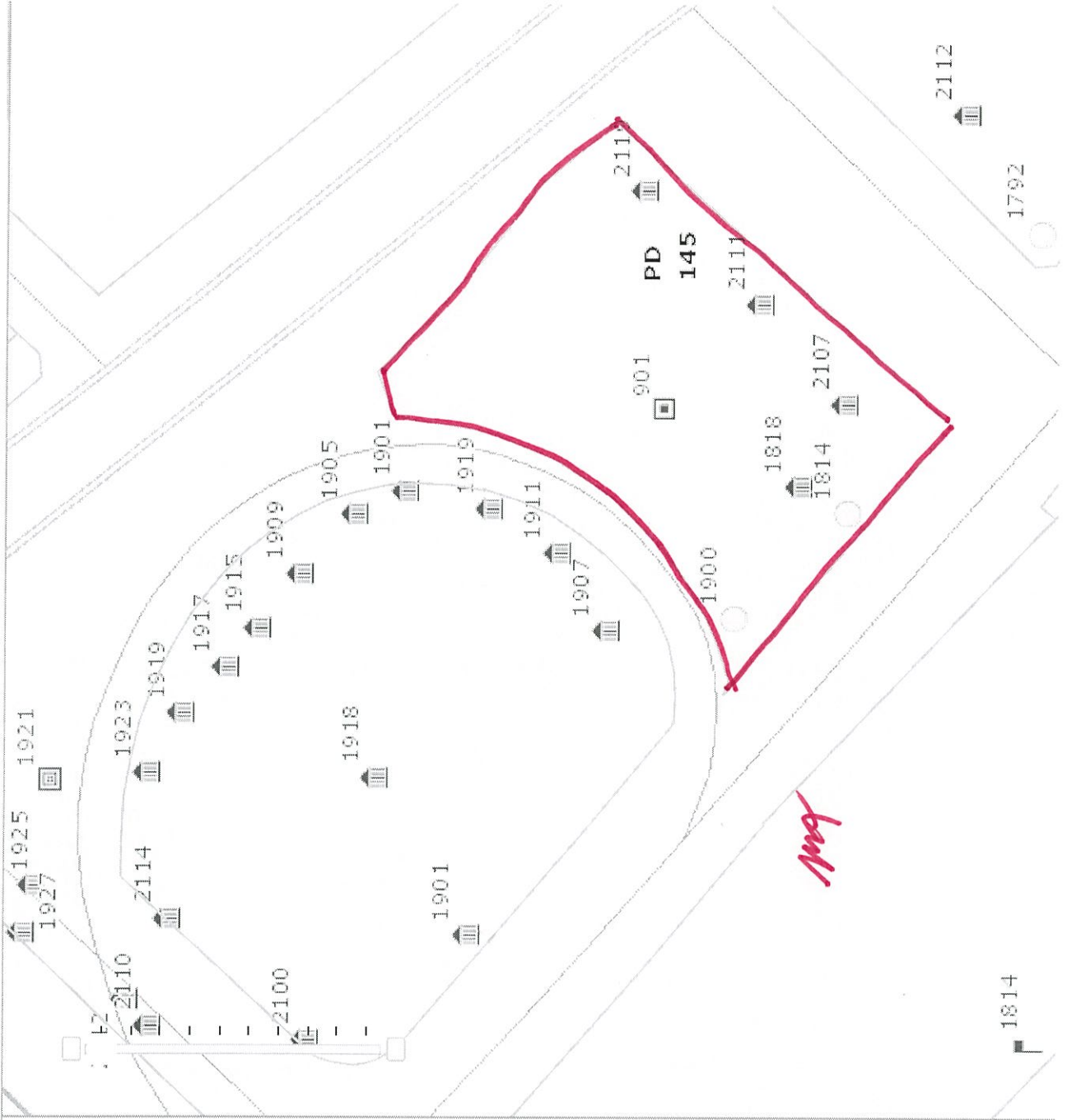
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

# City of Dallas

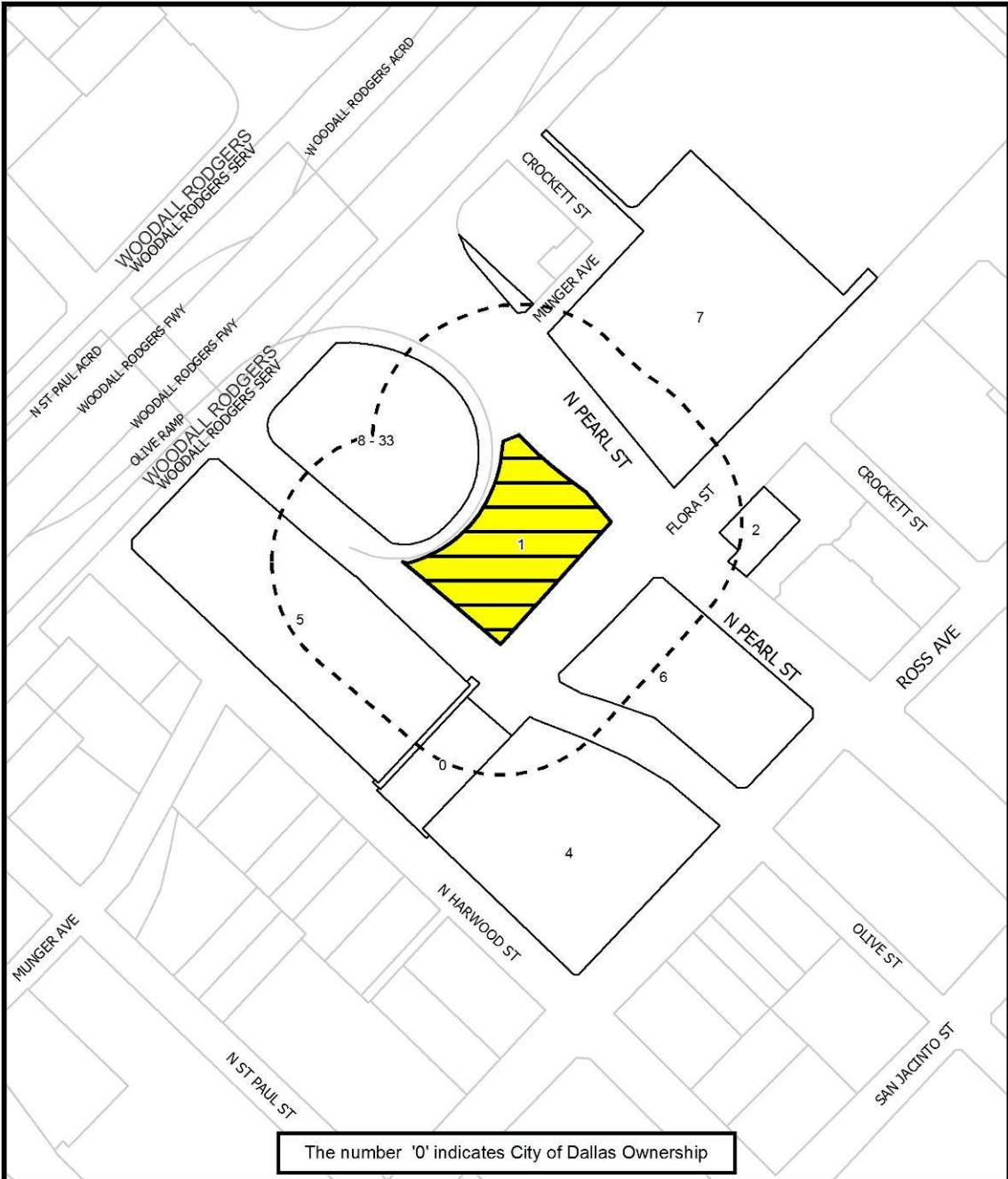
## Internal Development Research Site

Legend

Locate Property







The number '0' indicates City of Dallas Ownership

|  |   |      |                      |    |                                    |   |
|--|---|------|----------------------|----|------------------------------------|---|
| <br>1:2,400 | <h2>NOTIFICATION</h2> <table border="1"> <tr> <td style="padding: 2px;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="padding: 2px;">33</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table> | 200' | AREA OF NOTIFICATION | 33 | NUMBER OF PROPERTY OWNERS NOTIFIED | Case no: <u>BDA145-100</u><br>Date: <u>9/1/2015</u> |
| 200'   | AREA OF NOTIFICATION  |      |                      |    |                                    |   |
| 33   | NUMBER OF PROPERTY OWNERS NOTIFIED  |      |                      |    |                                    |   |

# *Notification List of Property Owners*

## *BDA145-100*

### *33 Property Owners Notified*

| <i>Label #</i> | <i>Address</i>  | <i>Owner</i>                             |
|----------------|-----------------|--|
| 1              | 901 PEARL ST    | ARTS DISTRICT PPTIES LTD                 |
| 2              | 1726 PEARL ST   | ROMAN CATH DIOCESE DALLAS                |
| 3              | 2201 MUNGER AVE | DALLAS SYMPHONY                          |
| 4              | 2001 ROSS AVE   | CRESCENT ROSS AVE INVESTORS LLC          |
| 5              | 2021 FLORA ST   | NASHER FOUNDATION THE                    |
| 6              | 2101 ROSS AVE   | DALLAS BAR FOUNDATION                    |
| 7              | 1800 PEARL EXPY | DALLAS CITY OF                           |
| 8              | 1918 OLIVE ST   | MUSEUM TOWER LP                          |
| 9              | 1918 OLIVE ST   | KHOURY ELIE                              |
| 10             | 1918 OLIVE ST   | PALLADINO JOSEPH J & YINZU A             |
| 11             | 1918 OLIVE ST   | WHITE TOWER 703 LLC                      |
| 12             | 1918 OLIVE ST   | NAVIAS CRAIG & ESTHER TRUST THE          |
| 13             | 1918 OLIVE ST   | OLIVE ST LLC                             |
| 14             | 1918 OLIVE ST   | WEBBER REVOCABLE TRUST                   |
| 15             | 1918 OLIVE ST   | PARK & PEARL LLC                         |
| 16             | 1918 OLIVE ST   | SHORT DONALD W & ANN M                   |
| 17             | 1918 OLIVE ST   | LMR FAMILY TRUST                         |
| 18             | 1918 OLIVE ST   | FISCHER BENNO JOHN &                     |
| 19             | 1918 OLIVE ST   | FISCHER BENNO JOHN &                     |
| 20             | 1918 OLIVE ST   | CHEATHAM RICHARD M & TRACY B             |
| 21             | 1918 OLIVE ST   | GARTNER JAY S & MARY JO HERNANDEZGARTNER |
| 22             | 1918 OLIVE ST   | BASS RICHARD                             |
| 23             | 1918 OLIVE ST   | SEAY GEORGE E III                        |
| 24             | 1918 OLIVE ST   | B 29 PROPERTIES LLC                      |
| 25             | 1918 OLIVE ST   | SADDINGTON ROD                           |
| 26             | 1918 OLIVE ST   | SINGH ASHIT & KIRTI                      |

09/01/2015

| <b>Label #</b> | <b>Address</b> | <b>Owner</b>                |
|----------------|----------------|-----------------------------|
| 27             | 1918 OLIVE ST  | GOLDFARB IRA                |
| 28             | 1918 OLIVE ST  | RODRIGUEZ JOSELITA          |
| 29             | 1918 OLIVE ST  | OOSTERVEER PETRUS W B       |
| 30             | 1918 OLIVE ST  | FITZGERALD SCOTT R & ROSE M |
| 31             | 1918 OLIVE ST  | JOHNSON STEPHEN &           |
| 32             | 1918 OLIVE ST  | GRYPHONS GATE LP            |
| 33             | 1918 OLIVE ST  | CHRIST JOHN J & ILENE H     |