

ZONING BOARD OF ADJUSTMENT, PANEL A  
TUESDAY, JANUARY 20, 2015  
AGENDA

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|                |   |            |
|----------------|---|------------|
| BRIEFING       | COUNCIL CHAMBERS, 1500 MARILLA STREET<br>DALLAS CITY HALL | 11:00 A.M. |
| PUBLIC HEARING | COUNCIL CHAMBERS, 1500 MARILLA STREET<br>DALLAS CITY HALL | 1:00 P.M.  |

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

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**MISCELLANEOUS ITEMS**

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|--------------------|--|----|
|                    | Approval of the November 18, 2014 Board of Adjustment<br>Panel A Public Hearing Minutes  | M1 |
| <b>BDA 134-042</b> | 100 Crescent Court<br><b>REQUEST:</b> Application of Robert Reeves to waive the two<br>year limitation on a request for a special exception to the<br>landscape regulations granted by Board of Adjustment<br>Panel A on June 24, 2014 | M2 |

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**UNCONTESTED CASES**

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|--------------------|---|---|
| <b>BDA 134-116</b> | 10011 N. Central Expressway<br><b>REQUEST:</b> Application of Brian Bergersen, represented<br>by Michael Kendall, for a special exception to the<br>landscape regulations | 1 |
| <b>BDA 134-117</b> | 2363 Reagan Street<br><b>REQUEST:</b> Application of Ed Simons for special<br>exceptionsto the landscape and visual obstruction<br>regulations                            | 2 |
| <b>BDA 134-118</b> | 2359 Reagan Street<br><b>REQUEST:</b> Application of Ed Simons for special<br>exceptionsto the landscape and visual obstruction<br>regulations                            | 3 |

|                    |   |   |
|--------------------|---|---|
| <b>BDA 134-122</b> | 5100 Park Lane<br><b>REQUEST:</b> Application of Ed Simons for special Exceptions to the fence height regulations                                   | 4 |
| <b>BDA 145-001</b> | 1215 Hartsdale Drive<br><b>REQUEST:</b> Application Jose R. Villatoro, Jr. for a special exception to the landscape regulations                     | 5 |
| <b>BDA 145-008</b> | 9246 Sunnybrook Lane<br><b>REQUEST:</b> Application of Robert Baldwin of Baldwin Associates for a special exception to the fence height regulations | 6 |

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**REGULAR CASES**

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|--------------------|---|---|
| <b>BDA 145-006</b> | 6310 Mercedes Avenue<br><b>REQUEST:</b> Application of Danny Sipes for a variance to the front yard setback regulations   | 7 |
| <b>BDA 145-011</b> | 1909 Greenville Avenue<br><b>REQUEST:</b> Application of Ed Simons of Masterplan for a special exception to the Modified Delta Overaly District No. 1 regulations | 8 |

## EXECUTIVE SESSION NOTICE

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

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

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

**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel A November 18, 2014 public hearing minutes.

**MISCELLANEOUS ITEM NO. 2**

**FILE NUMBER:** BDA 134-042

**REQUEST:** To waive the two year limitation on a final decision reached by Board of Adjustment Panel A on June 24, 2014 - a request for a special exception to the landscape regulations granted subject to compliance with the applicant's submitted revised landscape plan.

**LOCATION:** 100 Crescent Court

**APPLICANT:** Robert Reeves of Robert Reeves and Associates, Inc.

**STANDARD FOR WAIVING THE TWO YEAR TIME LIMITATION ON A FINAL DECISION REACHED BY THE BOARD:**

The Dallas Development Code states that the board may waive the two year time limitation on a final decision reached by the board if there are changed circumstances regarding the property sufficient to warrant a new hearing.

**GENERAL FACTS/TIMELINE:**

June 24, 2014: The Board of Adjustment Panel A granted a request for special exception to the landscape regulations regulations and imposed the applicant's submitted revised landscape plan as a condition to the request. The case report stated that the request was made to construct/maintain an approximately 1,400 square foot addition to an approximately 1,450,000 square foot mixed use development (The Crescent), and not fully provide required landscaping.

December 31, 2014: The applicant submitted a letter (along with related materials) to staff requesting that the Board waive the two year limitation on waive the two year limitation on the request for a special exception to the landscape regulations granted by Board of Adjustment Panel A on June 24, 2014 (see Attach A). This miscellaneous item request to waive the two year limitation was made in order for the applicant to file a new application for a side yard setback variance on the property.

M2  
Attach A  
P31

ROBERT REEVES  
& Associates, Inc.

PLANNING AND ZONING CONSULTANTS

December 31, 2014

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

RE: Waiver of Two-Year Waiting Period  
BDA 134-042, Crescent

Dear Mr. Long:

This is a request to waive the two-year waiting period relating to Case BDA 134-042. The Board of Adjustment, Panel A approved an alternate Landscape Plan for the Crescent on June 24, 2014. Please schedule this request for Panel A on January 20, 2015.

A key element of the approved alternative Landscape Plan focuses on enhancing the existing park area located at the intersection of McKinney Ave. and N. Pearl St. The goal is to make the park more accessible to pedestrians and encourage folks to come into the park. A key component of this strategy is to construct a restaurant venue, which will compliment the park and attract folks into the park. Therefore, the Crescent would like to construct a restaurant in an area where there is an existing vacant drive-thru bank facility, which is located adjacent to the park, see attached photographs.

There is no proposed landscaping shown on the approved Landscape Plan in the area where the existing drive-thru bank is located, which is where the restaurant will be built, see attached plan. There has never been landscaping proposed for this area. Since the Landscape Plan is not a building plan, the Crescent understandably thought it could demolish the drive-thru bank and construct a restaurant in its place. However, the Building Inspection staff has determined that since a structure was not shown on the approved Landscape Plan, an amendment is required in order to build the restaurant. This interpretation by Building Inspection constitutes a change in circumstances we did not anticipate and justifies this request for a waiver of the two-year waiting period.

M2  
Attach A  
pg 2

If the board approves a waiver, the Crescent intends to modify the term "New Public Park" on the plan. This term is confusing, since it is not the intent to dedicate this park to the City, but make it more accessible to the public. We will delete the term "Public" from the plan. In addition, the construction of a new restaurant may also require an amendment to a few of the site trees located adjacent to the restaurant.

We respectfully request that the board approve this request.

Sincerely:



Robert Reeves





M2  
Attachment A  
P34



M2  
Attach A  
Pg 5

Note that The Dallas Development Code states the following with regard to board action:

- Except as provided below, after a final decision is reached by the board, no further request on the same or related issues may be considered for that property for two years from the date of the final decision.
- If the board renders a final decision of denial without prejudice, the two year limitation is waived.
- The applicant may apply for a waiver of the two year limitation in the following manner:
  - The applicant shall submit his request in writing to the director. The director shall inform the applicant of the date on which the board will consider the request and shall advise the applicant of his right to appear before the board.
  - The board may waive the two year time limitation if there are changed circumstances regarding the property sufficient to warrant a new hearing. A simple majority vote by the board is required to grant the waiver. If a rehearing is granted, the applicant shall follow the process outlined in the code.

January 6, 2015: The Board Administrator emailed the applicant information regarding his miscellaneous item request (see Attachment B).

**Long, Steve**

M2  
Attach B

**From:** Long, Steve  
**Sent:** Tuesday, January 06, 2015 9:39 AM  
**To:** 'Robert Reeves'  
**Cc:** Law, Trena; Duerksen, Todd; Way, Jamilah; Moorman, Donna; Erwin, Philip  
**Subject:** RE: Miscellaneous Item Request: Two year time limitation waiver regarding BDA 134-042, Property at 100 Crescent Court  
**Attachments:** 2 year waiver request letter and materials.pdf; 2 year waiver.pdf; BDA 134-042 history.pdf; Panel A hearing date and deadlines.doc; documentary evidence.pdf

pg 1

Dear Robert,

Please consider this email as official notice that the miscellaneous item request for a waiver of the two year time limitation to refile another application for a special exception to the landscape regulations on the property referenced above granted by Board of Adjustment Panel A on June 24, 2014 has been scheduled for the Tuesday, January 20<sup>th</sup> Panel A public hearing to be held in the Council Chambers of Dallas City Hall at 1:00 p.m. Attached are documents related to this request:

1. Your letter requesting the waiver of the two-year limitation and related materials- which will be emailed to you and the board members about a week ahead of your January 20<sup>th</sup> public hearing.
2. The provisions/standard from the Dallas Development Code allowing the board to waive the two year time limitation on a final decision reached on an application on the same matter (other than a decision of denial without prejudice) (51A-4.703(e)(3)) - which in your case, is a waiver of the two year time limitation in place with regard to BDA 134-042- a request for a special exception to landscape regulations granted (with a certain condition imposed) by Board of Adjustment Panel A in June of 2014.
3. Materials related to BDA 134-042.
4. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board. (Please be advised that you will not receive a written notice of this hearing in the mail - your attendance or someone who can speak on your behalf at the January 20<sup>th</sup> public hearing is strongly encouraged).
5. The board's rule pertaining to documentary evidence.

Please write or call me at 214/670-4666 if you have any questions/concerns, or if I can be of any additional assistance to you on this request.

Thank you,

Steve

PS: If there is anything that you want to submit to the board on this application beyond what has been included in the attached application materials, please feel free to email it to [steve.long@dallascityhall.com](mailto:steve.long@dallascityhall.com) or mail it to me at the following address:

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

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**From:** Robert Reeves [<mailto:rob.reeves@sbcglobal.net>]  
**Sent:** Wednesday, December 31, 2014 10:37 AM  
**To:** Long, Steve  
**Subject:** Waiver Request BDA 134-042, Crescent

MZ Attach B  
MZ

Steve:

Attached is a request for a waiver of the two-year waiting period for the Crescent's approved alternate landscape plan in order to build a restaurant.

Please schedule this for the January 20 Panel A hearing. I will deliver a hard copy to you next week.

Happy New Year.

**Robert Reeves**

*Robert Reeves & Associates, Inc.  
900 Jackson Street, Suite 160  
Dallas, Texas 75202  
214-749-0530  
FAX: 214-749-5605  
[rob.reeves@sbcglobal.net](mailto:rob.reeves@sbcglobal.net)*



City of Dallas

history M2  
Attach B  
Pg 3

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-042

Data Relative to Subject Property:

Date: 3/13/14

Location address: 100 Crescent Court Zoning District: PD193\_SUP 925, HC Heavy Commercial Subdistrict

Lot No.: 1A Block No.: 2/948 Acreage: 9.9414 acres Census Tract: 18.00

Street Frontage (in Feet): (1) Cedar Spr. 958' (2) Maple 1,082' (3) Pearl 559' 4) McKinney 300'

SW 22

To the Honorable Board of Adjustment:

Owner of Property (per Warranty Deed): Crescent TC Investors LP

Applicant: Robert Reeves Telephone: (214) 749-0530

Mailing Address: 900 Jackson St., Suite 160, Dallas, Texas Zip Code: 75202

E-mail Address: rob.reeves@sbcglobal.net

Represented by: Robert Reeves & Associates, Inc. Telephone: (214) 749-0530

Mailing Address: 900 Jackson St., Suite 160 Dallas, Texas Zip Code: 75202

E-mail Address: rob.reeves@sbcglobal.net

Affirm that a request has been made for a Variance \_\_, or Special Exception X of  
An alternate landscape plan for 100 Crescent Ct.

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

To enhance the streetscape and pedestrian experience throughout the site with less emphasis on the automobile.

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 G. Reeves Jr  
(Affiant/Applicant's signature)

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 13 day of March 2014  
JULIA O'CONNELL  
Notary Public, State of Texas  
My Commission Expires  
January 28, 2017  
Notary Public in and for Dallas County, Texas

M2  
Attach B  
Pg 4

**BOARD OF ADJUSTMENT  
CITY OF DALLAS, TEXAS**

**TUESDAY, JUNE 24, 2014**

**FILE NUMBER:** BDA 134-042

**BUILDING OFFICIAL'S REPORT:** Application of Robert Reeves for a special exception to the landscape regulations at 100 Crescent Court. This property is more fully described as Lot 1A, Block 2/948, and is zoned PD-193(HC), which requires mandatory landscaping. The applicant proposes to construct/maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 100 Crescent Court

**APPLICANT:** Robert Reeves

**REQUEST:**

A special exception to the landscape regulations is made to construct and maintain an approximately 1,400 square foot addition to an approximately 1,450,000 square foot mixed use development (The Crescent), 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 revised landscape plan is required.

Rationale:

- The City of Dallas Chief Arborist supports the applicant's request in that the submitted revised alternate landscape proposal meets the spirit and intent of the PD 193 landscape requirements.

**BACKGROUND INFORMATION:**

**Site:** PD 193(HC) (Planned Development, Heavy Commercial)  
**North:** PD 193(HC) (Planned Development, Heavy Commercial)  
**South:** PD 193 (PDS 334) (Planned Development, Planned Development)  
**East:** PD 193(PDS 64) (Planned Development, Planned Development)

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

Hold to June 24, 2014

Date of Hearing June 24, 2014

Appeal was--Granted OR Denied

Remarks Granted -  
Compliance with the  
revised submitted  
alternate landscape  
plan is required.

Clark W. Mc  
Chairman

**Building Official's Report**

I hereby certify that

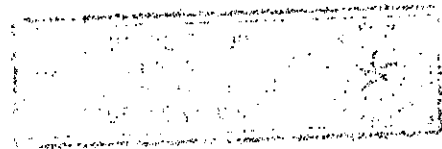
did submit a request for a special exception to the landscaping regulations  
at 100 Crescent Court

BDA134-042. Application of Robert Reeves for a special exception to the landscaping regulations at 100 Crescent Court. This property is more fully described as Lot 1A, Block 2/948, and is zoned PD-193(HC), 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.

**BOARD OF ADJUSTMENT DECISION FILED  
IN THE OFFICE OF THE BOARD OF ADJUSTMENT  
THIS THE 24 DAY OF  
June, 20 14.**  
Steve Hoff  
ADMINISTRATOR

Sincerely,

Larry V. Holmes  
Larry Holmes, Building Official







City of Dallas

MZ  
Attach B  
PJ 6

June 24, 2014

Robert Reeves  
Reeves and Associates  
900 Jackson Street, Suite 160  
Dallas, Texas 75202

Re: BDA 134-042, Property at 100 Crescent Court

Dear Mr. Reeves:

The Board of Adjustment Panel A, at its public hearing held on Tuesday, June 24, granted your request for a special exception to the landscape regulations, subject to the following condition:

- Compliance with the submitted revised landscape plan is required.

Contact Building Inspection at 320 E. Jefferson, Room 118 to file an application for a building permit or certificate of occupancy within 180 days from the date of the favorable action of the board.

Should you have any further questions regarding the Board's action, please contact me at (214) 670-4666.

A handwritten signature in cursive script that reads "Steve Long".

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

c: James Martin, Code Enforcement, 3112 Canton, RM 100  
Todd Duerksen, Bldg. Inspection, 320 E. Jefferson #105



**FILE NUMBER:** BDA 134-116

**BUILDING OFFICIAL'S REPORT:** Application of Brian Bergersen, represented by Michael Kendall, for a special exception to the landscape regulations at 10011 N. Central Expressway. This property is more fully described as Lot 31A, Block 7294, and is zoned MU-3(SAH), which requires mandatory landscaping. The applicant proposes to construct and maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 10011 N. Central Expressway

**APPLICANT:** Brian Bergersen  
Represented by Michael Kendall

**REQUEST:**

A request for a special exception to the landscape regulations is made to complete and maintain a multifamily residential structure/use (The Fountain Apartments), and not fully meet the landscape regulations.

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REGULATIONS:**

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

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

In determining whether to grant a special exception, the Board shall consider the following factors:

- the extent to which there is residential adjacency;
- the topography of the site;
- the extent to which landscaping exists for which no credit is given under this article; and
- the extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted alternate landscape plan is required.

Rationale:

- The City’s Chief Arborist supports the request because he feels the applicant has demonstrated how strict compliance with the requirements of Article X would unreasonably burden the use of the property, and has favorably demonstrated the special exception would not negatively affect neighboring property. The Chief Arborist has also concluded that the applicant has given reasonable effort to comply with the intent of the standard ordinance provisions while working with the site restrictions placed on the property.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: MU-3(SAH) (Mixed Use, Standard Affordable Housing)  
North: GO (A) (General Office)  
South: GO (A) (General Office)  
East: GO (A) (General Office)  
West: MU-3(SAH) (Mixed Use, Standard Affordable Housing)

**Land Use:**

The subject site is under development. The area to the north is developed with a communications use (Channel 11); the area immediately east is the North Central Expressway; the area to the south is developed with a hotel; and the area to the west is developed with multifamily use.

**Zoning/BDA History:**

1. BDA 001-193, Property located at 10011 N. Central Expressway (the subject site)

On April 26, 2001, the Board of Adjustment Panel A took the following actions: 1) denied without prejudice a request for a parking special exception of 2 spaces; 2) granted a request for a variance to the front yard (urban form) setback regulations of 9’ (subject to compliance with the submitted site plan and elevations); and 3) granted a request for a variance to the side yard (tower spacing) setback regulations (subject to compliance with the submitted site plan and elevation). The case report stated that these requests were made in conjunction with constructing/maintaining a four-story, 60’ high apartment building (Park Fountain Apartments).

2. BDA 078-071, Property located at 10011 N. Central Expressway (the subject site)

On May 20, 2008, the Board of Adjustment Panel A granted a request for a variance to the front yard (urban form) setback regulations of 17' and imposed the submitted site plan and elevation as conditions to the request. The case report stated that these requests were made in conjunction with constructing and maintaining a 60' high multifamily residential structure (Parc Fountains Apartments) on a site that is undeveloped.
3. BDA 089-075, Property located at 10011 N. Central Expressway (the subject site)

On June 16, 2009, the Board of Adjustment Panel A granted a request for a variance to the front yard (urban form) setback regulations of 17' and imposed the submitted site plan and elevation as conditions to the request. The case report stated that this request was made in conjunction with constructing and maintaining an approximately 54' high multifamily residential structure (The Fountains Apartments) on a site that is undeveloped.
4. BDA 112-095, Property located at 10011 N. Central Expressway (the subject site)

On October 16, 2012, the Board of Adjustment Panel A granted a request for a variance to the front yard (urban form) setback regulations of 17' and imposed the submitted site plan and elevation as conditions to the request. The case report stated that this request was made in conjunction with constructing and maintaining an approximately 54' high multifamily residential structure (The Fountains Apartments) on a site that is undeveloped.
5. BDA 112-122, Property located at 10011 N. Central Expressway (the subject site)

On January 15, 2013, the Board of Adjustment Panel A granted a request for a special exception to the landscape regulations and imposed the submitted revised landscape plan as a condition to this request. The case report stated that this request was made in conjunction with constructing/maintaining a multifamily residential structure (The Fountain Apartments).

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

- This request focuses on completing and maintaining a multifamily residential structure/use (The Fountain Apartments), and not fully meeting the landscape regulations. More specifically, according to the City of Dallas Chief Arborist, the submitted alternate landscape plan does not fully comply with requirements for site trees, street trees, and parking lot trees.
- 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.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment A). The memo states how this request is triggered by the new construction.
- The Chief Arborist's memo lists landscape deficiencies:
  1. The site requires 7 site trees and provides 6 trees on the property. The street frontage requires 3 large trees but 4 small trees are provided.
  2. All required parking must be within 120 feet of the stem of a large canopy tree where in this case, the property has two large canopy trees and two small trees.
- The Chief Arborist's memo lists the following factors for consideration:
  1. The lot limitations include restrictive underground and overhead utilities and utility easements. The extensive level of pavement for parking and maneuvering, the amount of structure with floor area, and the utility restrictions limit available ground-level planting areas within the property.
  2. The property does not have Article X residential adjacency requirements.
  3. In contrast to the previously board approved plan from 2013, this new plan provides for screening of off-street parking and enhanced pedestrian pavement. A significant amendment for the revised plan is the removal of vertical landscape elements along the front of the structure. This was not a mandatory or design standard component of Article X.
  4. The applicant has worked to find ways to adequately place appropriate trees in ground locations not in full conflict with underground or overhead utilities. In doing so, above-ground containers have been removed in favor of placing trees in the soil which is favorable for tree conditions.
- The City of Dallas Chief Arborist recommends approval of the alternate landscape plan because the applicant has demonstrated strict compliance with the requirements of Article X would unreasonably burden the use of the property, and has favorably demonstrated the special exception would not negatively affect neighboring property. He also believes the applicant has given reasonable effort to comply with the intent of the standard ordinance provisions while working with the site restrictions placed on the property.

- The applicant has the burden of proof in establishing the following:
  - Strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property; and the special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted alternate landscape plan as a condition to the request, the site would be provided exception from full compliance with the site tree, street tree, and parking lot tree requirements of Article X: The Landscape Regulations.

**Timeline:**

September 23, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

November 11, 2014: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C. 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.”

November 11, 2014: The Board Administrator emailed the applicant’s representative that this application was tentatively scheduled to be heard by Board of Adjustment Panel A at their next available public hearing to be held on Tuesday, January 20, 2015 because this application had history with Board of Adjustment Panel A on the same request previously heard by them.

December 10, 2014: The Board Administrator emailed the applicant’s representative the following information:

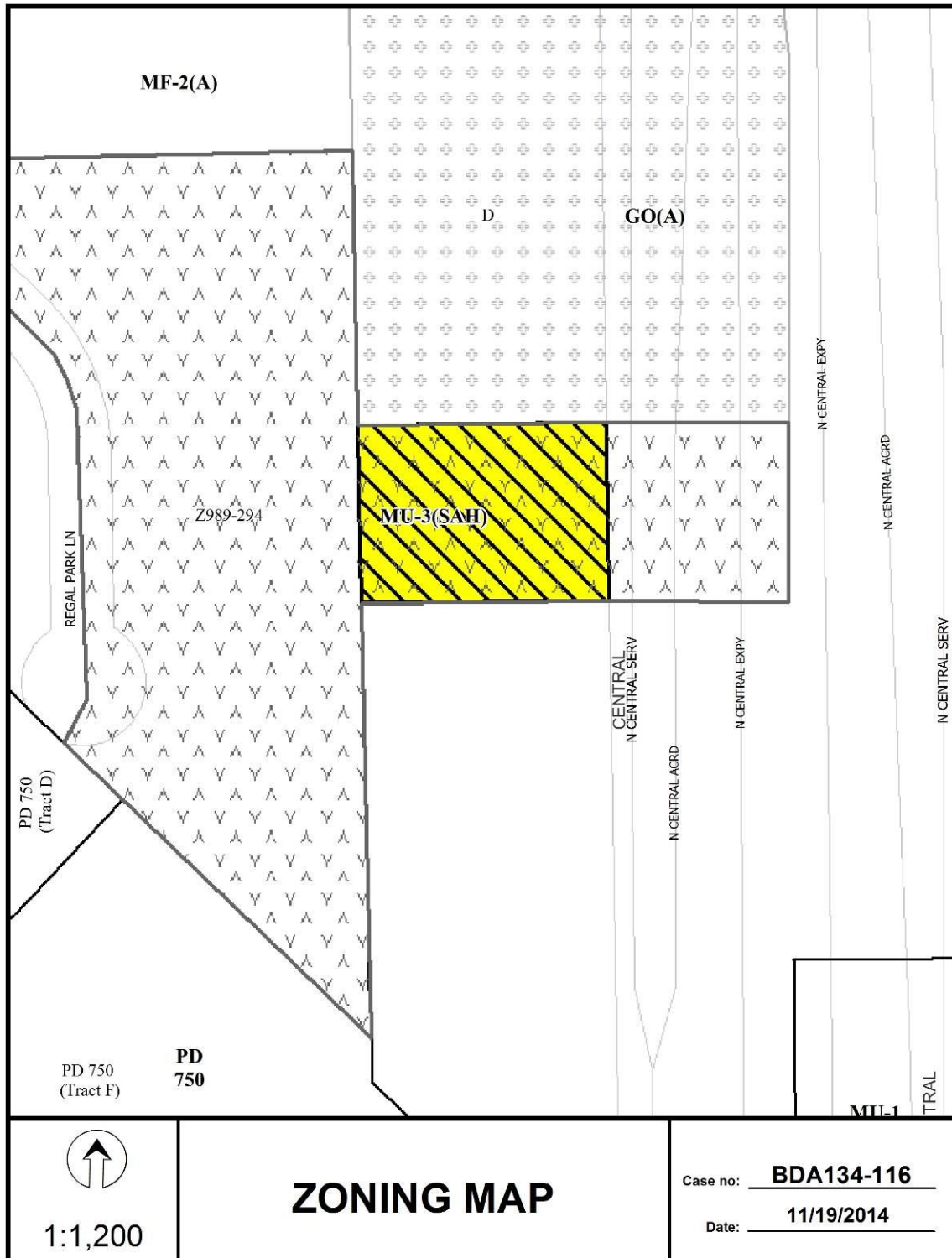
- an attachment that provided the public hearing date and panel that will consider the application; the December 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the January 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

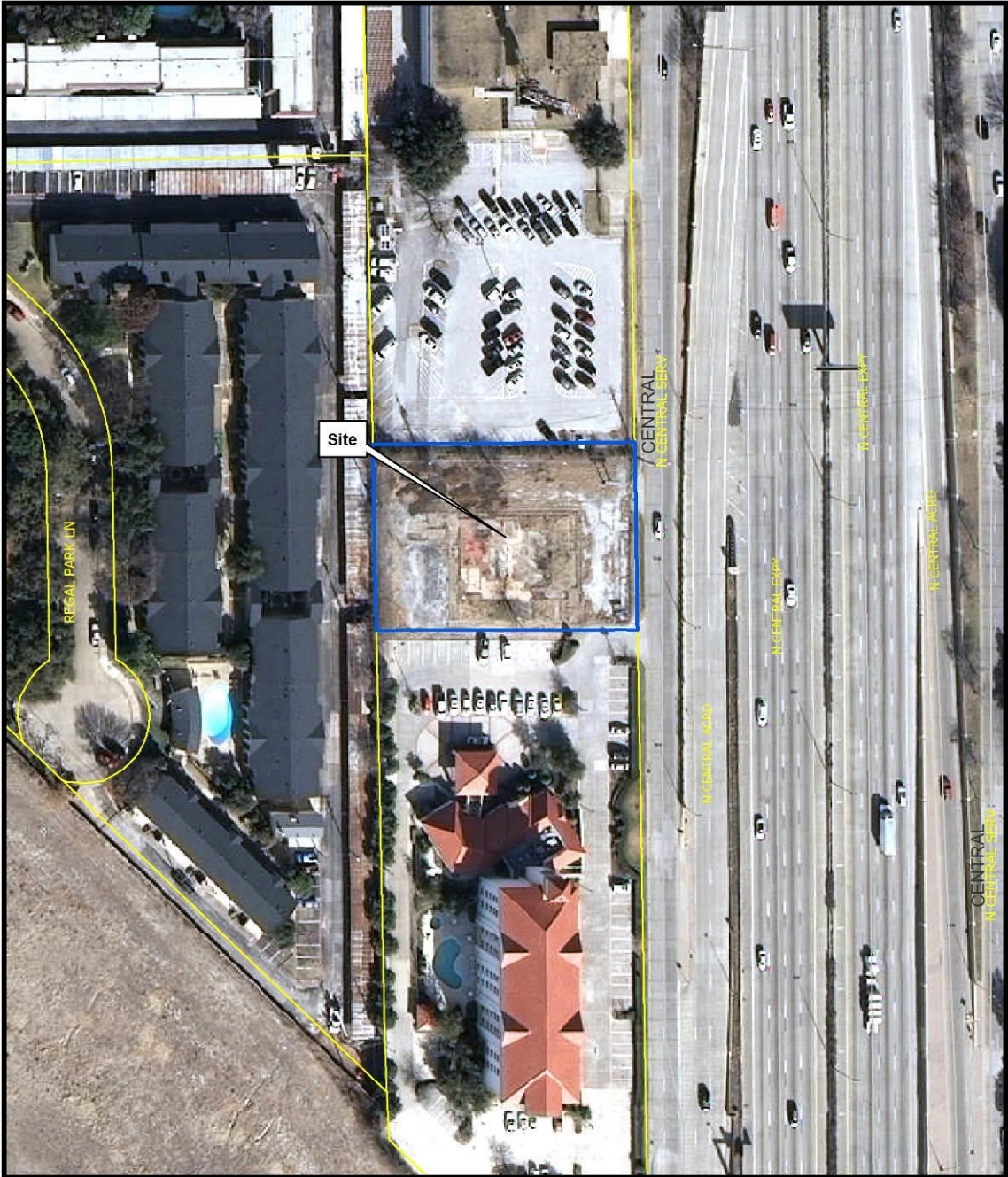
January 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for January public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, the Sustainable Development and 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.

January 9, 2014: The City of Dallas Chief Arborist submitted a memo regarding the request (see Attachment A).







1:1,200

# AERIAL MAP

Case no: BDA134-116

Date: 11/19/2014

# Memorandum



CITY OF DALLAS

DATE January 9, 2015

TO

Steve Long, Board of Adjustment Administrator

SUBJECT # BDA 134 · 116

10011 N Central Expressway

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

### Trigger

New construction.

### Deficiencies

The proposed alternative landscape plan does not fully comply with requirements for Section 51A-10.125(b)(3) Site Trees, (b)(4) Street Trees, and (b)(5) Parking Lot Trees.

The site requires 7 site trees and provides 6 trees on the property. The street frontage has a requirement of 3 large street trees, whereas the property provides 4 yaupon holly (small) trees. Under ordinance, all required parking must be within 120 feet of the stem of a large canopy tree. In this case, the property has two large canopy trees at the southeast corner of the structure but provides two small trees in the western corners of the lot due.

### Factors

The lot limitations include restrictive underground and overhead utilities and utility easements to the east and west. The extensive level of pavement for parking and maneuvering, the amount of structure with floor area, and the utility restrictions, limit available ground-level planting areas within the property.

The property does not have Article X residential adjacency requirements.

In contrast to the previously approved plan from 2013, this new alternative plan does provide for 1) screening of off-street parking and 2) enhanced pedestrian pavement as two design standards, in compliance with Article X requirements.

A significant amendment for the revised plan is the removal of the vertical landscape elements along the front of the structure. The vertical landscape element is not a mandatory or design standard component of Article X but was originally introduced in 2013 as a voluntary landscape feature offered by the applicant for the property. The

BDA 134 -116  
Attach A Pg 2

applicant has requested to no longer consider this technically complicated landscape feature for the site in the new proposal.

The applicant has worked to find ways to adequately place appropriate trees in ground locations not in full conflict with underground or overhead utilities. In doing so, above-ground containers have been removed in favor of placing the trees in the soil, which is favorable for tree conditions.

### Recommendation

The chief arborist recommends approval of the proposed alternative landscape plan because, in my opinion, it is demonstrated that strict compliance with Article X will unreasonably burden the use of the property, and the exception will not adversely affect neighboring property. I also believe the applicant has given reasonable effort to comply with intent of the standard ordinance provisions while working with the site restrictions placed on the property.

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



A

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-116

Data Relative to Subject Property:

Date: 23 September 2014

Location address: 10011 North Central, Dallas, Texas Zoning District: MU-3(SAH)

Lot No.: 31A Block 7294 Acreage: .6595 Census Tract: 131.04

Street Frontage (in Feet): 1) 142 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

NEAS

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Park Fountains, L.P.

Applicant: Brian Bergersen Telephone: 214-379-8618

Mailing Address: 1414 Elm Street, Suite 200, Dallas, Texas Zip Code: 75202

E-mail Address: brian@spectrumprop.com

Represented by: Michael S. Kendall – KENDALL + Landscape Arch. Telephone: 214-729-3226

Mailing Address: 8150 North Central Exp, Suite M2025, Dallas Zip Code: 75206

E-mail Address: mike@kendall7.com

Affirm that an appeal has been made for a Variance X , or Special Exception \_\_ , of Article 10 landscape 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:

Utility easement prevent placement of sufficient quantity of site and right of way trees. Smaller trees acceptable to the utility companies are placed in lieu of large trees.

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 BRIAN BERGENSEN  
(Affiant/Applicant's name printed)

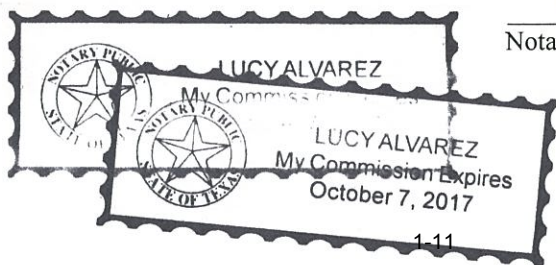
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

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

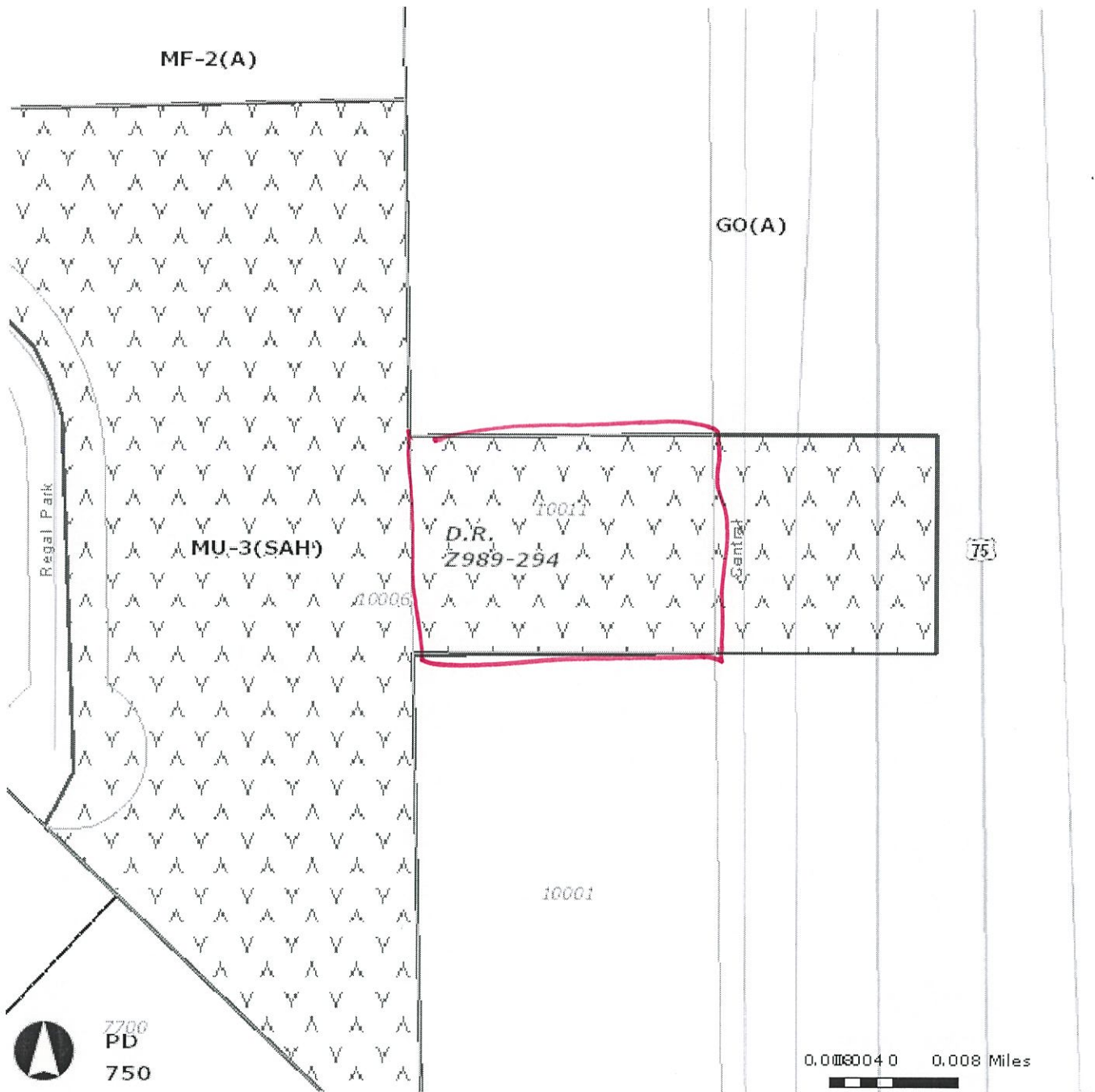
Subscribed and sworn to before me this 22 day of September, 2014

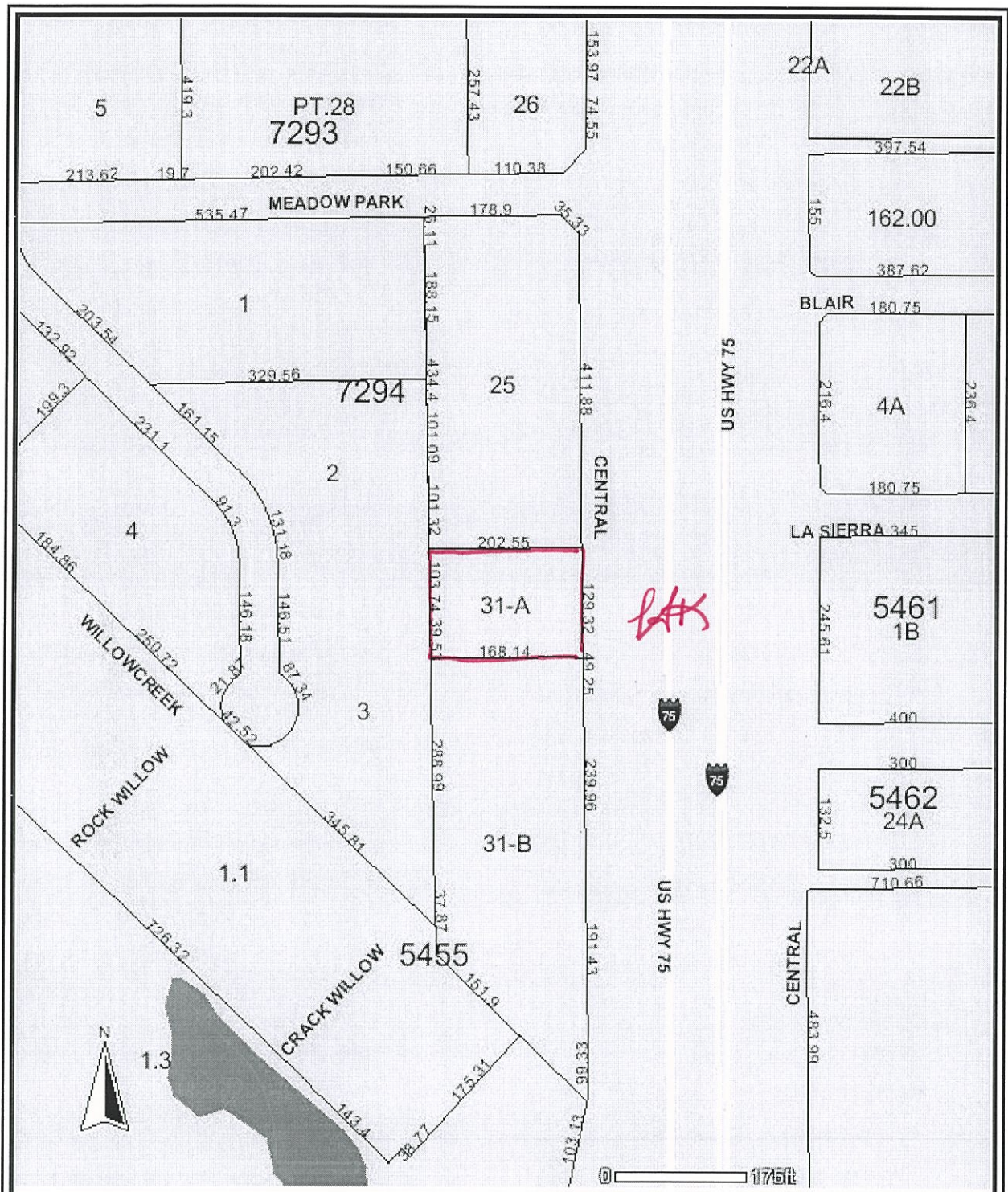
Lucy Alvarez  
Notary Public in and for Dallas County, Texas

(Rev. 08-01-11)









*LAH*

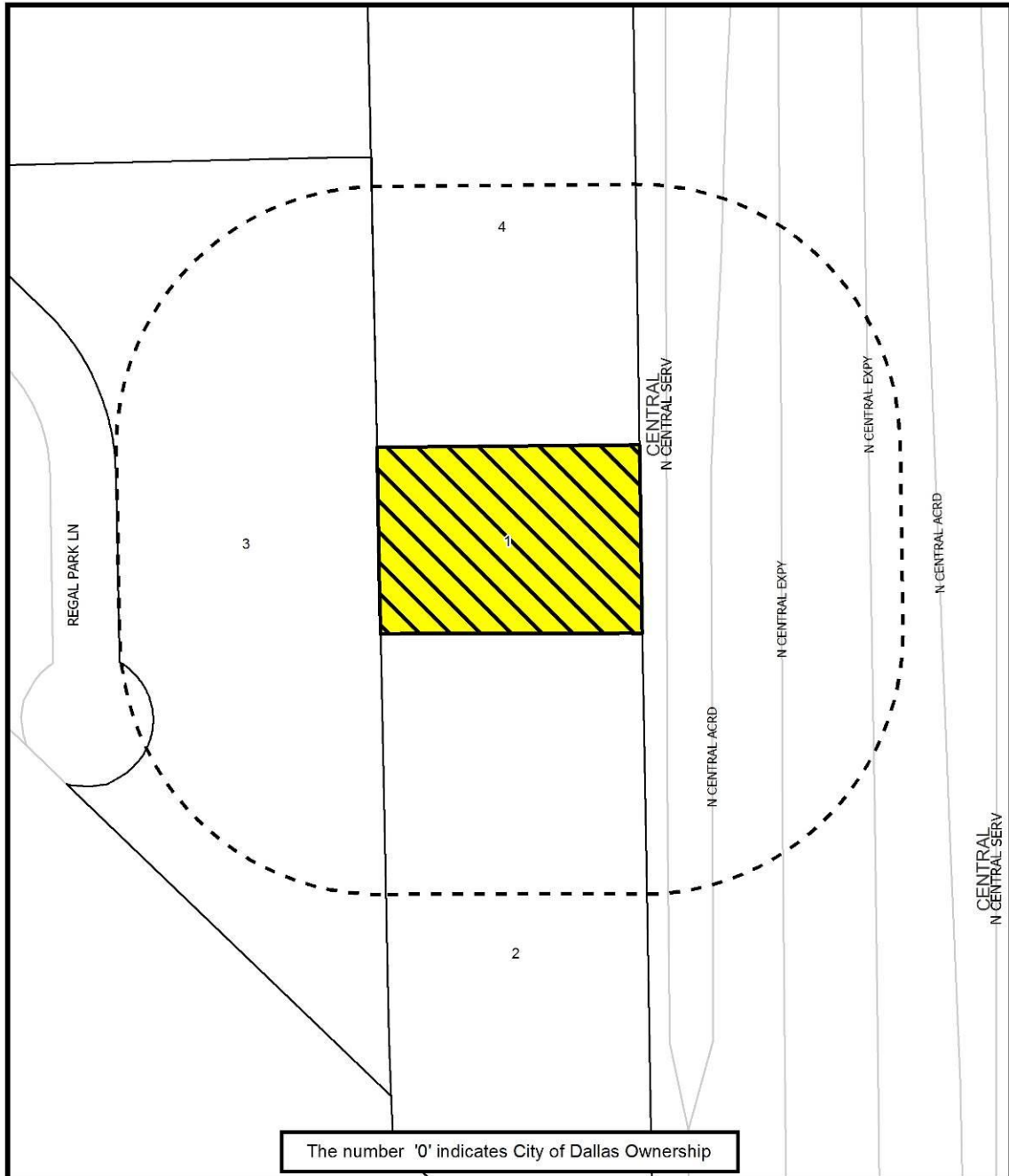


**Dallas Central  
Appraisal District**  
www.dallascad.org

**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.







|  |   |                         |                            |
|--|---|-------------------------|----------------------------|
| <br>1:1,200 | <b>NOTIFICATION</b>   |                         | Case no: <b>BDA134-116</b> |
|  | <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;">4</div> NUMBER OF PROPERTY OWNERS NOTIFIED | Date: <b>11/19/2014</b> |                            |

11/19/2014

## *Notification List of Property Owners*

***BDA134-116***

### ***4 Property Owners Notified***

| <b><i>Label #</i></b> | <b><i>Address</i></b> | <b><i>Owner</i></b>    |
|-----------------------|-----------------------|------------------------|
| 1                     | 10011 CENTRAL EXPY    | PARK FOUNTAINS LP      |
| 2                     | 10001 CENTRAL EXPY    | BRE LQ TX PPTIES LP    |
| 3                     | 10006 REGAL PARK LN   | REGAL PARK FOUNTAINS   |
| 4                     | 10111 CENTRAL EXPY    | DECKER DEVELOPMENT LTD |

**FILE NUMBER:** BDA 134-117

**BUILDING OFFICIAL'S REPORT:** Application of Ed Simons for special exceptions to the landscape and visual obstruction regulations at 2363 Reagan Street. This property is more fully described as Lot 9. Block 29/2281, and is zoned PD-193 (LC), which requires a 20 foot visibility triangle at driveway approaches and mandatory landscaping. The applicant proposes to increase nonpermeable coverage of a lot and provide an alternate landscape plan, which will require a special exception to the landscape regulations, and to locate and maintain items in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

**LOCATION:** 2363 Reagan Street

**APPLICANT:** Ed Simons

**REQUESTS:**

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

1. A special exception to the landscape regulations is made to pave/increase the nonpermeable coverage of the lot, and not fully providing required landscaping.
2. A special exception to the visual obstruction regulations is made to locate and maintain a 6' high open iron fence in the 20' visibility triangle at the driveway approach into the site from Reagan Street.

Note that this application:

- abuts a property to the southwest where the same applicant seeks similar landscape and visual obstruction special exceptions from Board of Adjustment Panel A on January 20th: BDA 134-118, and
- is the same matter regarding an application filed on this property and granted by the Board of Adjustment Panel A in February of 2014 where the applicant re-filed the current application since a building permit or certificate of occupancy was not filed within 180 days from the Board's favorable action.

**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.

**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 (landscape):**

Approval, subject to the following condition:

- Compliance with the submitted landscape plan is required.

Rationale:

- The applicant has substantiated how granting this request would not compromise the spirit and intent of the landscaping requirements of PD 193.
- The City of Dallas Chief Arborist supports the request because the applicant has demonstrated the unified plan reasonably complies with the spirit and intent of PD 193.

**STAFF RECOMMENDATION (visual obstruction):**

Approval, subject to the following condition:

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

Rationale:

- The applicant has substantiated how granting this request to locate/maintain an open iron fence in in the 20' visibility triangle at the driveway approach into the site from Reagan Street would not constitute a traffic hazard.
- The Sustainable Development and Construction Department Project Engineer has no objections to this request.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 193 (LC) (Planned Development, Light Commercial)  
North: PD 193 (TH-3) (Planned Development, Townhouse)  
South: PD 193 (I-2) (Planned Development, Industrial)  
East: PD 193 (LC) (Planned Development, Light Commercial)  
West: PD 193 (LC) (Planned Development, Light Commercial)

**Land Use:**

The subject site is undeveloped. The areas to the north, south, and west appear to be mostly undeveloped land; and the area to the east is the Dallas North Tollway.

## Zoning/BDA History:

1. BDA 134-012, Property at 2363 Reagan Street (the subject site)

On February 18, 2014, the Board of Adjustment Panel A granted requests for special exceptions to the landscape and visual obstruction regulations requested in conjunction with increasing nonpermeable coverage on an undeveloped lot and not fully providing required landscaping, and locating items in the 20' visibility triangle at the driveway approach into the site from Reagan Street.
2. BDA 134-118, Property at 2359 Reagan Street (the lot immediately southwest of subject site)

On January 20, 2015, the Board of Adjustment Panel A will consider requests for special exceptions to the landscape and visual obstruction regulations requested in conjunction with constructing a structure on an undeveloped lot and not fully providing required landscaping, and locating items in the 20' visibility triangle at the driveway approach into the site from Reagan Street.
3. BDA 134-011, Property at 2359 Reagan Street (the lot immediately southwest of subject site)

On February 18, 2014, the Board of Adjustment Panel A granted requests for special exceptions to the landscape and visual obstruction regulations requested in conjunction with constructing a structure on an undeveloped lot and not fully providing required landscaping, and locating items in the 20' visibility triangle at the driveway approach into the site from Reagan Street.
4. BDA 101-001, Property at 2345 Reagan Street (two lots immediately southwest of subject site)

On March 14, 2011, the Board of Adjustment Panel C granted a special exception to the landscape regulations requested in conjunction with constructing and maintaining a "proposed building expansion" on a site developed with an institutional use/structure (Phoenix House). The board imposed the following conditions to this request: Compliance with the submitted alternate landscape plan is required; If a sidewalk is required by the City, a sidewalk waiver must be approved for Sylvester Street. If a waiver is not required, a sidewalk with a minimum width of four feet (or as

required by the Director of Sustainable Development and Construction) must be provided along Sylvester Street; Any tree on the landscape plan that dies must be replaced with at least one tree with a minimum of 3.5" caliper and in close proximity to the original established tree; and no new landscaping may be located in required visibility triangles.

**GENERAL FACTS/ STAFF ANALYSIS (Landscape):**

- This request focuses on paving/increasing the nonpermeable coverage of an undeveloped lot, and not fully providing required landscaping.
- 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 A) that the request in this case, and the related adjacent case (BDA 134-118) is triggered by new construction on both vacant properties.
- The Chief Arborist notes that the submitted landscape plan is deficient in that the combined properties (BDA 134-117 and BDA 134-118), do not fully provide the Landscape Site Area (LSA) in the front yard, that street trees along Reagan Street are not in the required tree planting zoned of 2.5' – 5' from back of curb, and specific to BDA 134-117, there are no street trees or a sidewalk provided along the Dallas Tollway street frontage.
- The Chief Arborists listed several factors for consideration on this request and to the related adjacent case (BDA 134-118):
  1. the plan is presented as a single, unified development but the project is to be built on two separate properties with their own landscape requirements;
  2. the plan provides for the required number of trees along Sylvester Street and Reagan Street and screens all off-street parking; all other standards apply;
  3. trees along Reagan Street are set back to lessen the conflict with overhead utility lines;
  4. the plan calls for screening vines to grow along the Tollway frontage; and
  5. there is no pedestrian access to the Tollway.
- The Chief Arborist recommends approval of the landscape special exceptions for this application and the adjacent application (BDA 134-118) because the applicant has demonstrated the unified plan reasonably complies with the spirit and intent of PD 193, Part 1.
- The applicant has the burden of proof in establishing the following:

- The special exception (where a site plan has been submitted that is deficient in meeting the sidewalk, tree, and landscape site area requirements 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, the site would be granted exception from full compliance to sidewalk, tree, and landscape site area requirements of the landscape requirements of the Oak Lawn PD 193 landscape ordinance.

**GENERAL FACTS/STAFF ANALYSIS (Visual obstruction):**

- This request focuses on locating and maintaining a 6' high open iron fence in the 20' visibility triangle at the driveway approach into the site from Reagan Street.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
  - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
  - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- PD 193 defines "visibility triangle" as
  1. where a street designated on the city's thoroughfare plan intersects another street, the portion of a corner lot within a triangular area formed by connecting together the point of intersection of adjacent curb lines (or, if there are no street curbs, what would be the normal street curb lines) and points on each of the street curb lines 45 feet from the intersection;
  2. where two streets not designated on the city's thoroughfare plan intersect, the portion of a corner lot within a triangular area formed by connecting together the point of intersection of adjacent curb lines (or, if there are no street curbs, what would be the normal street curb lines) and points on each of the street curb lines 30 feet from the intersection;
  3. where an alley or driveway intersects with a street, the portion of a lot within a triangular area formed by connecting together the point of intersection of the edge of a driveway or alley and adjacent street curb line (or, if there are no street curbs, what would be the normal street curb line) and points on the driveway or alley edge and the street curb line 20 feet from the intersection.
- A site/landscape plan has been submitted indicating locating and maintaining a 6' high open iron fence in the 20' visibility triangle at the driveway approach into the site from Reagan Street.
- An elevation has been submitted indicating that the fence is 6' high and comprised of open metal rails.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet regarding the applicant's request for a special exception to the visual obstruction regulations marked "Has no objections."
- The applicant has the burden of proof in establishing how granting the request for special exception to the visual obstruction regulations to locate/maintain a 6' high



open iron fence in the 20' visibility triangle at the driveway approach into the site from Reagan Street does not constitute a traffic hazard.

- Granting this request with a condition imposed that the applicant complies with the submitted site/landscape plan and elevation would limit the item located in the 20' visibility triangle at the driveway into the site from Reagan Street to that what is shown on these documents - a 6' high open iron fence.

### **Timeline:**

October 1, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

November 11, 2014: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. 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."

November 11, 2014: The Board Administrator emailed the applicant that this application was tentatively scheduled to be heard by Board of Adjustment Panel A at their next available public hearing to be held on Tuesday, January 20, 2015 because this application had history with Board of Adjustment Panel A on the same request previously heard by them.

December 10, 2014: The Board Administrator emailed the applicant the following information:

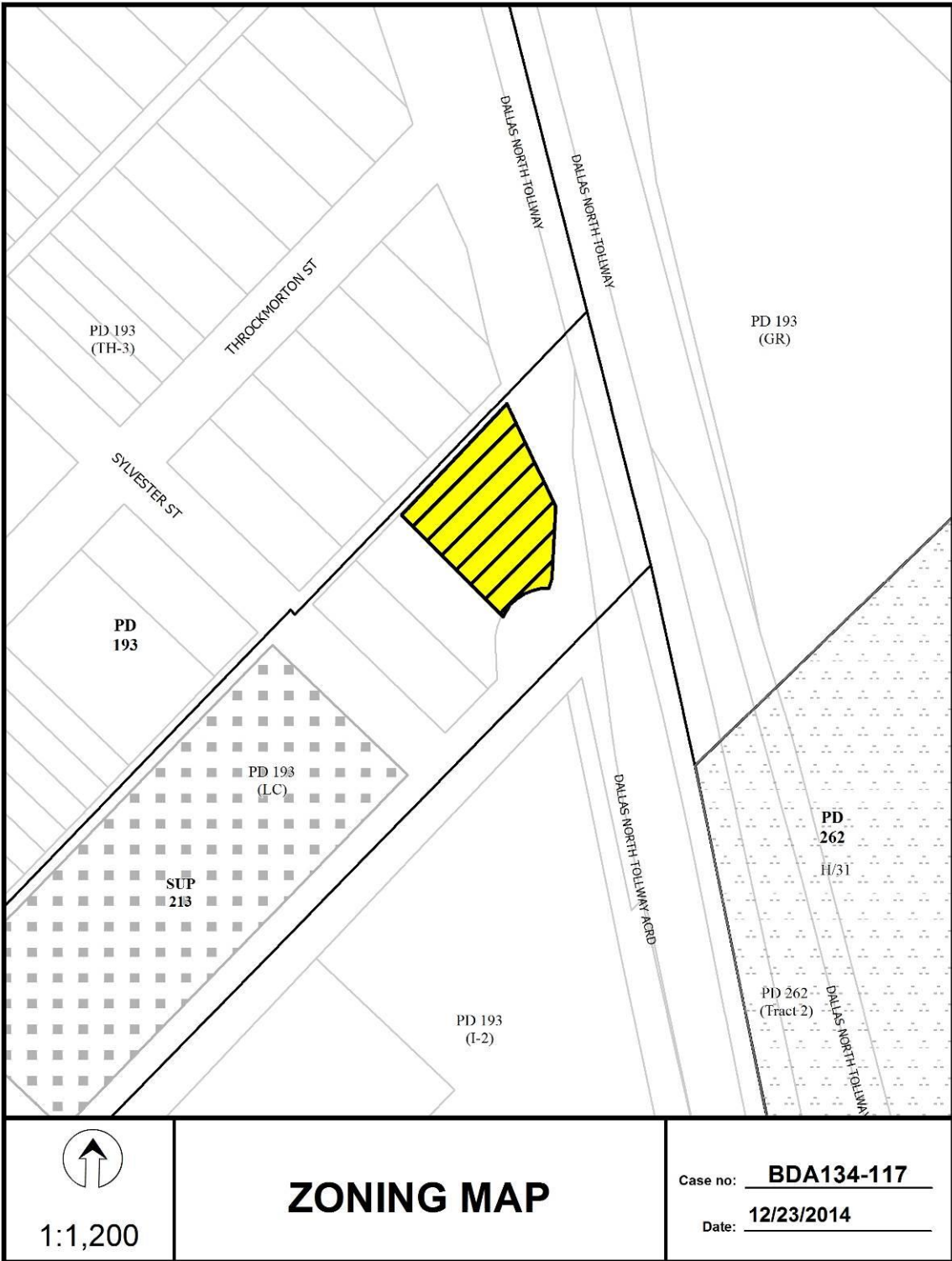
- an attachment that provided the public hearing date and panel that will consider the application; the December 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the January 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

January 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for January public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, 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.

January 7, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet regarding the applicant's request for a special exception to the visual obstruction regulations marked "Has no objections."

January 8, 2015: The City of Dallas Chief Arborist submitted a memo regarding the landscape special exception request within this application (see Attachment A).



1:1,200

# ZONING MAP

Case no: BDA134-117

Date: 12/23/2014



1:1,200

# AERIAL MAP

Case no: BDA134-117

Date: 12/23/2014

# Memorandum



CITY OF DALLAS

DATE January 7, 2015  
 TO Steve Long, Board of Adjustment Administrator  
 SUBJECT # BDA 134 - 118 2359 Reagan Street  
 # BDA 134 - 117 2363 Reagan Street

The applicant is requesting a special exception to the landscape requirements of PD 193, Part 1 (LC district) for both adjoining properties.

### Trigger

New construction on both vacant properties.

### Deficiencies

2359 and 2363 Reagan – The combined properties are deficient Landscape Site Area (LSA) in the front yard, and street trees along Reagan Street are not in the tree planting zone (2.5-5' from back of curb). Specific to 2363 Reagan, there are no street trees (tree planting zone) or sidewalk provided along the Dallas Tollway street frontage.

### Factors

The plan is presented as a single, unified development. The project is to be built on two separate properties with their own landscape requirements.

The plan provides for the required number of trees along Sylvester and Reagan Streets and screens all off-street parking. All other standards comply. Trees along Reagan are set back to lessen the conflict with overhead utility lines. The plan calls for screening vines to grow along the Tollway frontage. There is no pedestrian access to the Tollway.

### Recommendation

The chief arborist recommends approval of the landscape special exceptions for both 2359 Reagan Street and 2363 Reagan Street, because the applicant has demonstrated the unified plan reasonably complies with the spirit and intent of PD 193, Part 1.

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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-117

Data Relative to Subject Property:

Date: October 1, 2014

Location address: 2363 Reagan St. Zoning District: PD 193 (LC)

Lot No.: 9 Block No.: 29/2281 Acreage: .425 Census Tract: 4.01

Street Frontage (in Feet): 1 47' 2 \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_ *SW 22*

To the Honorable Board of Adjustment:

Owner of Property/or Principal Prescott Interests LLC

Applicant: Ed Simons Telephone: 214-914-9646

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

Represented by: Same Telephone: Same

Mailing Address: Same Zip Code: Same

Affirm that a request has been made for a Variance   , or Special Exception X, of Alternante landscape plan and a special exception for an open steel gate in the visibility corner clip at the drive.

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: This property has grade issues and is part of a redevelopment that is on 2 lots. Our alternate plan meets the spirit of and intent of PD 193. There is such limited traffic at the approach and the gate can be seen through.

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: Ed Simons  
Applicant's name printed

*[Signature]*  
Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Ed Simons 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 1 day of October, 2014

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



(Rev. 08-20-09)

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 Ed Simons

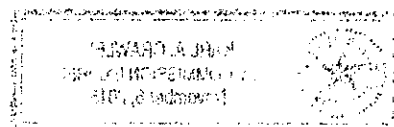
did submit a request for a special exception to the landscaping regulations, and for a special exception to the visibility obstruction regulations

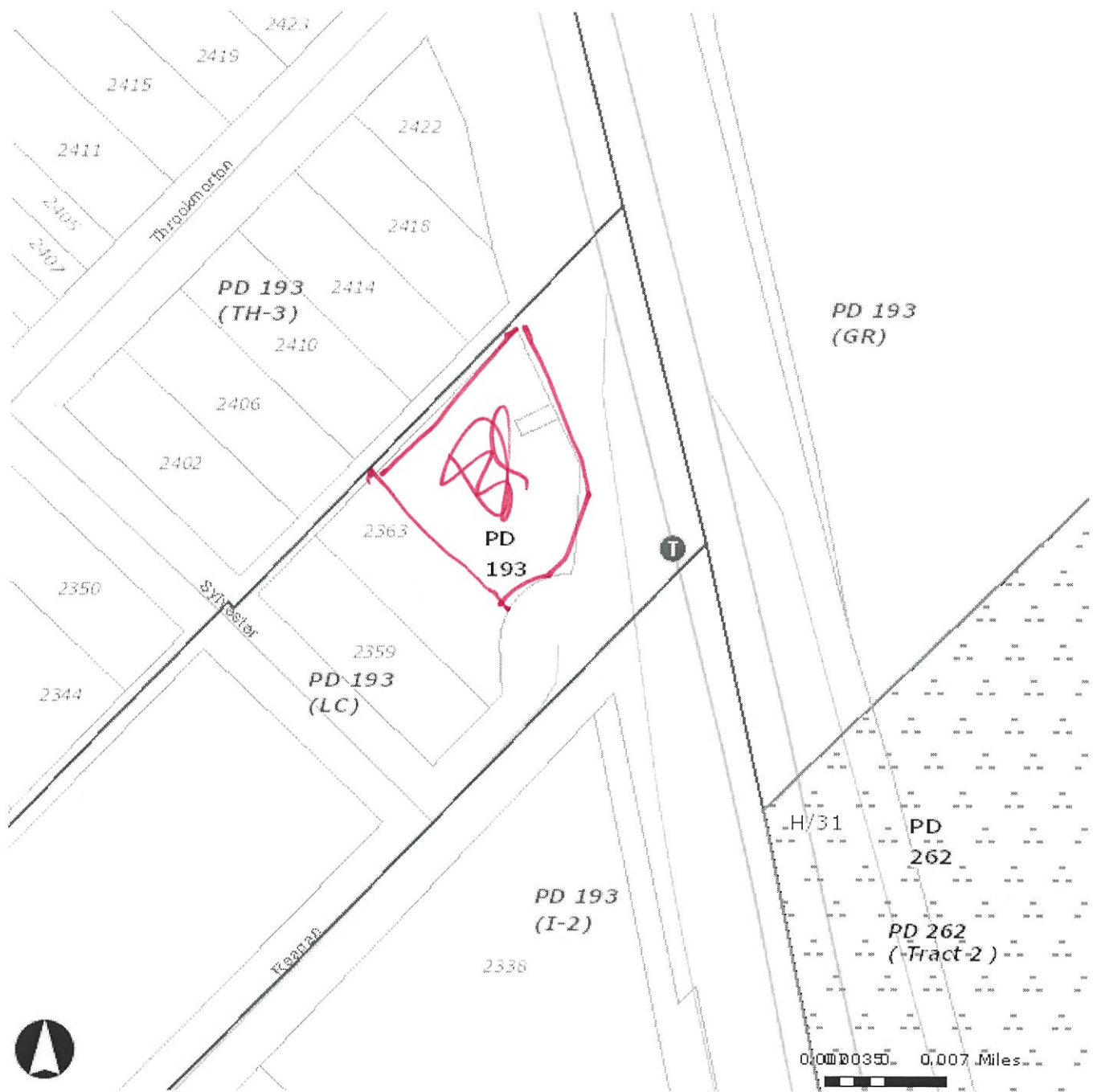
at 2363 Reagan Street

BDA134-117. Application of Ed Simons for a special exception to the landscaping regulations and a special exception to the visibility obstruction regulations at 2363 Reagan Street. This property is more fully described as Lot 9, Block 29/2281, and is zoned PD-193 (LC), which requires a 20 foot visibility triangle at driveway approaches and 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 landscaping regulations, and to construct a nonresidential 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

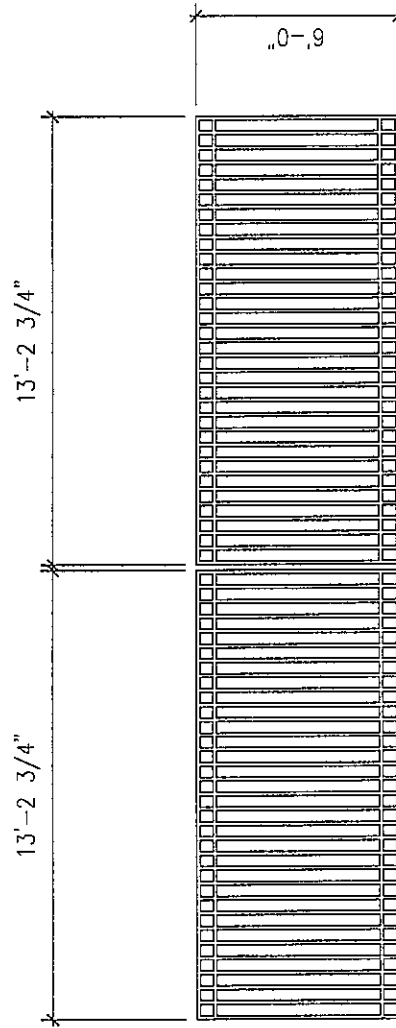






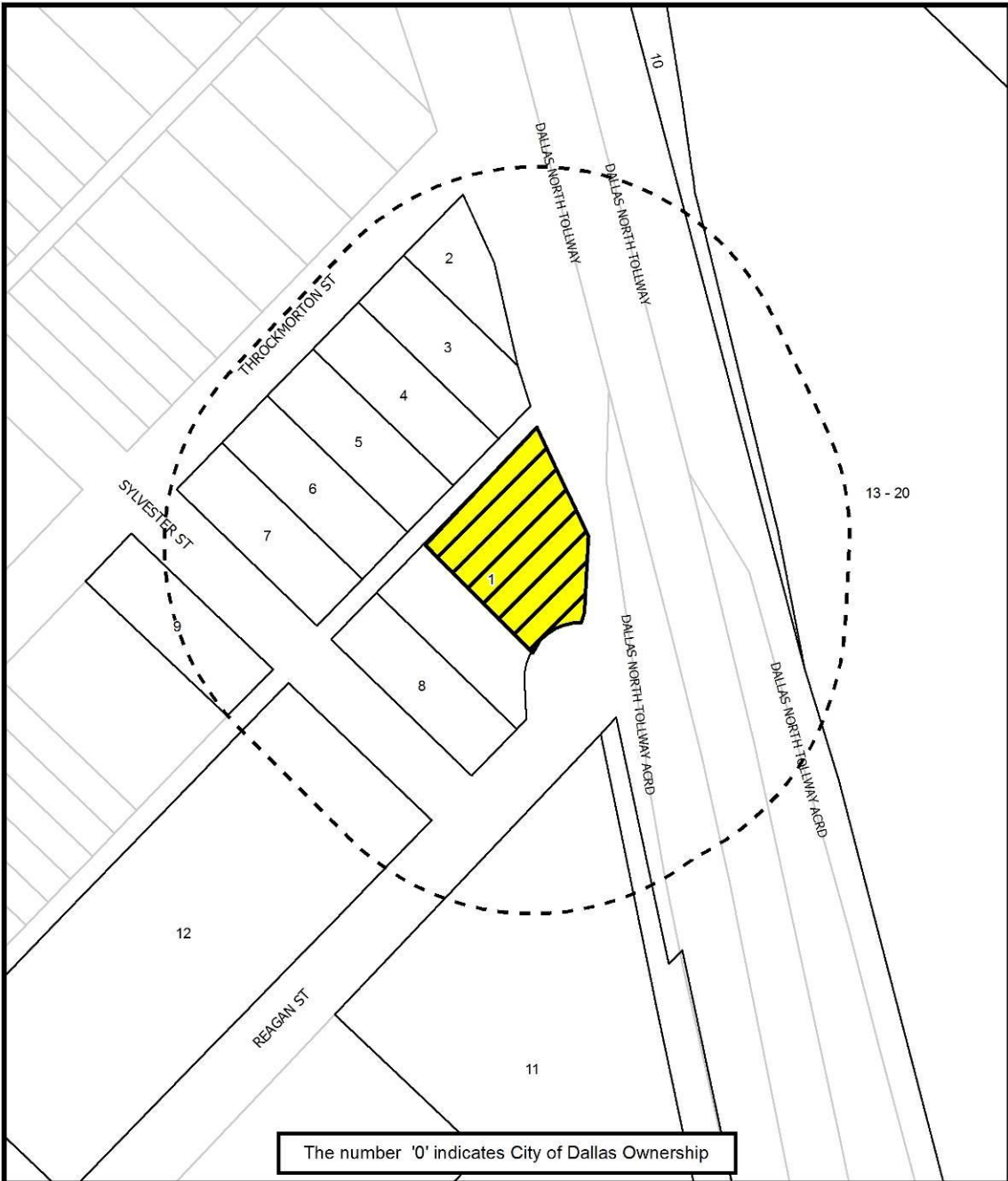






ENTRANCE GATES  
& TYP. FENCE PANEL





|  |  |             |                      |           |                                    |   |
|--|--|-------------|----------------------|-----------|------------------------------------|---|
| <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>20</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table> | <b>200'</b> | AREA OF NOTIFICATION | <b>20</b> | NUMBER OF PROPERTY OWNERS NOTIFIED | Case no: <u><b>BDA134-117</b></u><br>Date: <u><b>12/23/2014</b></u> |
| <b>200'</b>  | AREA OF NOTIFICATION   |             |                      |           |                                    |   |
| <b>20</b>  | NUMBER OF PROPERTY OWNERS NOTIFIED   |             |                      |           |                                    |   |

## *Notification List of Property Owners*

### *BDA134-117*

#### *20 Property Owners Notified*

| <i>Label #</i> | <i>Address</i>       | <i>Owner</i>            |
|----------------|----------------------|-------------------------|
| 1              | 2363 REAGAN ST       | PRESCOTT INTERESTS LTD  |
| 2              | 2422 THROCKMORTON ST | GARRISON RICHARD T      |
| 3              | 2418 THROCKMORTON ST | MEDRANO JOE N           |
| 4              | 2414 THROCKMORTON ST | RAMOS CLEMENTINA M      |
| 5              | 2410 THROCKMORTON ST | MANZANARES MARY L       |
| 6              | 2406 THROCKMORTON ST | PINEDA JOSEPHINE EST OF |
| 7              | 2402 THROCKMORTON ST | BALLAS BARRY BULL INC   |
| 8              | 2359 REAGAN ST       | PRESCOTT INTERESTS LC   |
| 9              | 2350 THROCKMORTON ST | LEE ANNIE D             |
| 10             | 3819 MAPLE AVE       | OLD PARKLAND UNIT K LLC |
| 11             | 2338 REAGAN ST       | NORTH TEXAS TOLLWAY     |
| 12             | 2345 REAGAN ST       | DALLAS CITY OF          |
| 13             | 3819 MAPLE AVE       | OLD PARKLAND UNIT A LLC |
| 14             | 3949 OAK LAWN AVE    | OLD PARKLAND UNIT B LLC |
| 15             | 3953 MAPLE AVE       | OLD PARKLAND UNIT C LLC |
| 16             | 3963 MAPLE AVE       | OLD PARKLAND UNIT D LLC |
| 17             | 4001 MAPLE AVE       | TRT OLD PARKLAND LLC    |
| 18             | 2215 OAK LAWN AVE    | OLD PARKLAND UNIT G LLC |
| 19             | 2215 OAK LAWN AVE    | OLD PARKLAND UNIT H LLC |
| 20             | 3819 MAPLE AVE       | OLD PARKLAND UNIT K LLC |

**FILE NUMBER:** BDA 134-118

**BUILDING OFFICIAL'S REPORT:** Application of Ed Simons for special exceptions to the landscape and visual obstruction regulations at 2359 Reagan Street. This property is more fully described as Lot 7 and part of Lot 8 to be re-platted as Lot 7A, Block 29/2281, and is zoned PD-193 (LC), which requires a 20 foot visibility triangle at driveway approaches and requires mandatory landscaping. The applicant proposes to construct and maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations, and to locate and maintain items in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

**LOCATION:** 2359 Reagan Street

**APPLICANT:** Ed Simons

**REQUESTS:**

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

1. A special exception to the landscape regulations is made to construct and maintain a "building"/structure, and not fully providing required landscaping.
2. A special exception to the visual obstruction regulations is made to locate and maintain a 6' high open iron fence in the 20' visibility triangle at the driveway approach into the site from Reagan Street.

Note that this application:

- abuts a property to the northeast where the same applicant seeks similar landscape and visual obstruction special exceptions from Board of Adjustment Panel A on January 20th: BDA 134-117, and
- is the same matter regarding an application filed on this property and granted by the Board of Adjustment Panel A in February of 2014 where the applicant re-filed the current application since a building permit or certificate of occupancy was not filed within 180 days from the Board's favorable action.

**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.

**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 (landscape):**

Approval, subject to the following condition:

- Compliance with the submitted landscape plan is required.

Rationale:

- The applicant has substantiated how granting this request would not compromise the spirit and intent of the landscaping requirements of PD 193.
- The City of Dallas Chief Arborist supports the request because the applicant has demonstrated the unified plan reasonably complies with the spirit and intent of PD 193.

**STAFF RECOMMENDATION (visual obstruction):**

Approval, subject to the following condition:

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

Rationale:

- The applicant has substantiated how granting this request to locate/maintain an open iron fence in in the 20' visibility triangle at the driveway approach into the site from Reagan Street would not constitute a traffic hazard.
- The Sustainable Development and Construction Department Project Engineer has no objections to this request.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 193 (LC) (Planned Development, Light Commercial)  
North: PD 193 (TH-3) (Planned Development, Townhouse)  
South: PD 193 (I-2) (Planned Development, Industrial)  
East: PD 193 (LC) (Planned Development, Light Commercial)  
West: PD 193 (LC) (Planned Development, Light Commercial)

**Land Use:**

The subject site is undeveloped. The areas to the north, south, and west appear to be mostly undeveloped land; and the area to the east is the Dallas North Tollway.

**Zoning/BDA History:**



1. BDA 134-011, Property at 2359 Reagan Street (the subject site)

On February 18, 2014, the Board of Adjustment Panel A granted requests for special exceptions to the landscape and visual obstruction regulations requested in conjunction with constructing a structure on an undeveloped lot and not fully providing required landscaping, and locating items in the 20' visibility triangle at the driveway approach into the site from Reagan Street.

2. BDA 134-117, Property at 2363 Reagan Street (the lot immediately northeast of subject site)

On January 20, 2015, the Board of Adjustment Panel A will consider requests for special exceptions to the landscape and visual obstruction regulations requested in conjunction with paving/increasing the nonpermeable coverage and not fully providing required landscaping, and locating items in the 20' visibility triangle at the driveway approach into the site from Reagan Street.

3. BDA 134-012, Property at 2363 Reagan Street (the lot immediately northeast of subject site)

On February 18, 2014, the Board of Adjustment Panel A granted requests for special exceptions to the landscape and visual obstruction regulations requested in conjunction with paving/increasing the nonpermeable coverage on an undeveloped lot and not fully providing required landscaping, and locating items in the 20' visibility triangle at the driveway approach into the site from Reagan Street.

4. BDA 101-001, Property at 2345 Reagan Street (the lot immediately southwest of subject site)

On March 14, 2011, the Board of Adjustment Panel C granted a special exception to the landscape regulations requested in conjunction with constructing and maintaining a "proposed building expansion" on a site developed with an institutional use/structure (Phoenix House). The board imposed the following conditions to this request: Compliance with the submitted alternate landscape plan is required; If a sidewalk is required by the City, a sidewalk waiver must be approved for Sylvester Street. If a waiver is not required, a sidewalk with a minimum width of four feet (or as required by the Director of Sustainable Development and Construction) must be provided along Sylvester Street; Any tree on

the landscape plan that dies must be replaced with at least one tree with a minimum of 3.5" caliper and in close proximity to the original established tree; and no new landscaping may be located in required visibility triangles.

**GENERAL FACTS/ STAFF ANALYSIS (Landscape):**

- This request focuses on constructing and maintaining a “building”/structure” on an undeveloped lot, and not fully providing required landscaping.
- 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 A) that the request in this case, and the related adjacent case (BDA 134-117), is triggered by new construction on both vacant properties.
- The Chief Arborist notes that the submitted landscape plan is deficient in that the combined properties (BDA 134-117 and BDA 134-118) do not fully provide the Landscape Site Area (LSA) in the front yard, that street trees along Reagan Street are not in the required tree planting zoned of 2.5’ – 5’ from back of curb, and specific to BDA 134-117, there are no street trees or a sidewalk provided along the Dallas Tollway street frontage.
- The Chief Arborists listed several factors for consideration on this request and to the related adjacent case (BDA 134-117):
  1. the plan is presented as a single, unified development but the project is to be built on two separate properties with their own landscape requirements;
  2. the plan provides for the required number of trees along Sylvester Street and Reagan Street and screens all off-street parking; all other standards apply;
  3. trees along Reagan Street are set back to lessen the conflict with overhead utility lines;
  4. the plan calls for screening vines to grow along the Tollway frontage; and
  5. there is no pedestrian access to the Tollway.
- The Chief Arborist recommends approval of the landscape special exceptions for this application and the adjacent application (BDA 134-117) because the applicant has demonstrated the unified plan reasonably complies with the spirit and intent of PD 193, Part 1.
- The applicant has the burden of proof in establishing the following:
  - The special exception (where a site plan has been submitted that is deficient in meeting the sidewalk, tree, and landscape site area requirements 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, the site would be granted exception from full compliance to sidewalk, tree, and landscape site area requirements of the landscape requirements of the Oak Lawn PD 193 landscape ordinance.

**GENERAL FACTS/STAFF ANALYSIS (Visual obstruction):**

- This request focuses on locating and maintaining a 6’ high open iron fence in the 20’ visibility triangle at the driveway approach into the site from Reagan Street.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
  - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
  - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- PD 193 defines “visibility triangle” as
  1. where a street designated on the city’s thoroughfare plan intersects another street, the portion of a corner lot within a triangular area formed by connecting together the point of intersection of adjacent curb lines (or, if there are no street curbs, what would be the normal street curb lines) and points on each of the street curb lines 45 feet from the intersection;
  2. where two streets not designated on the city’s thoroughfare plan intersect, the portion of a corner lot within a triangular area formed by connecting together the point of intersection of adjacent curb lines (or, if there are no street curbs, what would be the normal street curb lines) and points on each of the street curb lines 30 feet from the intersection;
  3. where an alley or driveway intersects with a street, the portion of a lot within a triangular area formed by connecting together the point of intersection of the edge of a driveway or alley and adjacent street curb line (or, if there are no street curbs, what would be the normal street curb line) and points on the driveway or alley edge and the street curb line 20 feet from the intersection.
- A site/landscape plan has been submitted indicating locating and maintaining a 6’ high open iron fence in the 20’ visibility triangle at the driveway approach into the site from Reagan Street.
- An elevation has been submitted indicating that the fence is 6’ high and comprised of open metal rails.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet regarding the applicant’s request for a special exception to the visual obstruction regulations marked “Has no objections.”
- The applicant has the burden of proof in establishing how granting the request for special exception to the visual obstruction regulations to locate/maintain a 6’ high open iron fence in the 20’ visibility triangle at the driveway approach into the site from Reagan Street does not constitute a traffic hazard.
- Granting this request with a condition imposed that the applicant complies with the submitted site/landscape plan and elevation would limit the item located in the 20’

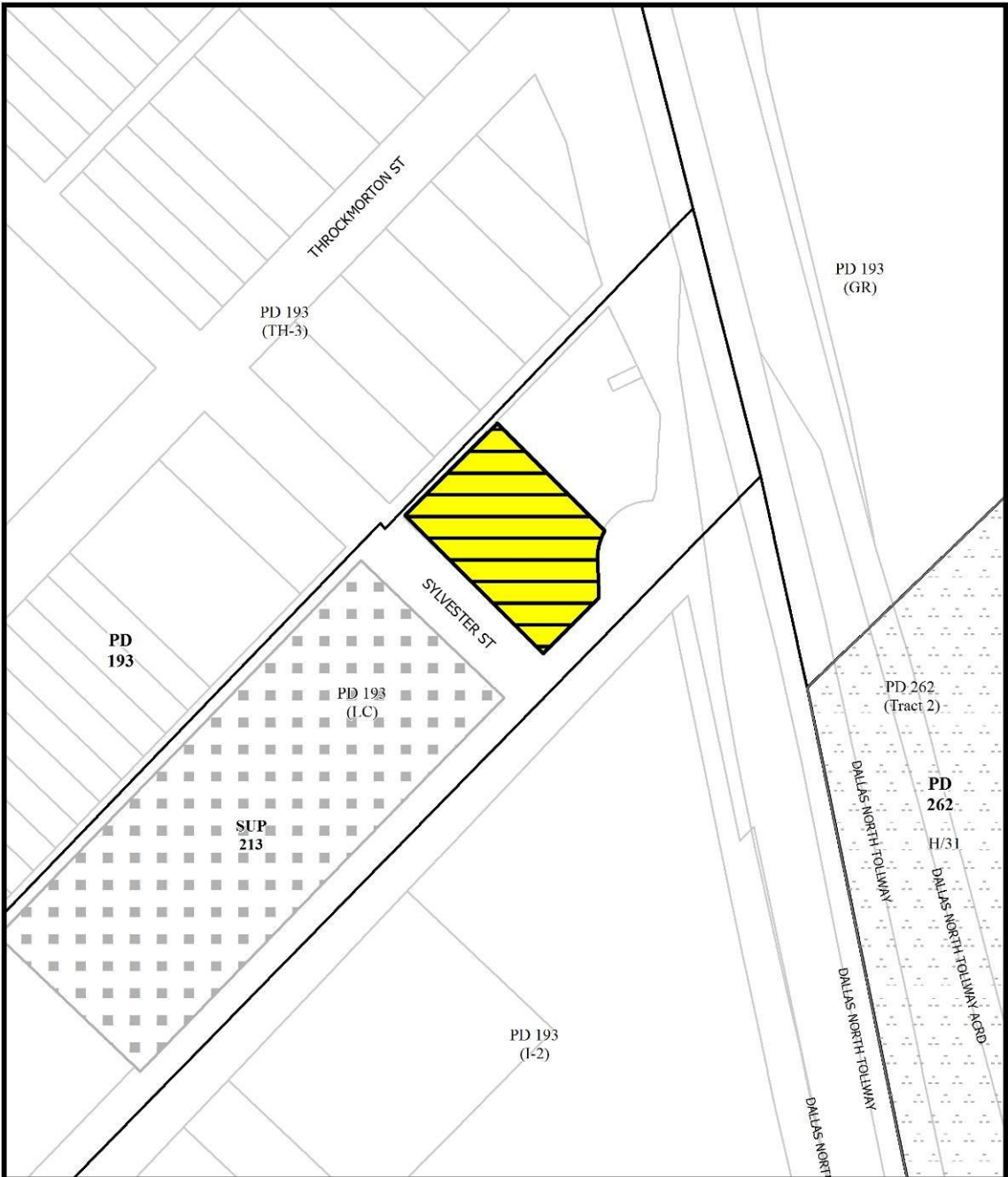
visibility triangle at the driveway into the site from Reagan Street to that what is shown on these documents - a 6' high open iron fence.

**Timeline:**

- October 1, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- November 11, 2014: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. 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."
- November 11, 2014: The Board Administrator emailed the applicant that this application was tentatively scheduled to be heard by Board of Adjustment Panel A at their next available public hearing to be held on Tuesday, January 20, 2015 because this application had history with Board of Adjustment Panel A on the same request previously heard by them.
- December 10, 2014: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the December 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the January 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
  - the criteria/standard that the board will use in their decision to approve or deny the requests; and
  - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- January 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for January public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, 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.

January 7, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet regarding the applicant's request for a special exception to the visual obstruction regulations marked "Has no objections."

January 8, 2015: The City of Dallas Chief Arborist submitted a memo regarding the landscape special exception request within this application (see Attachment A).

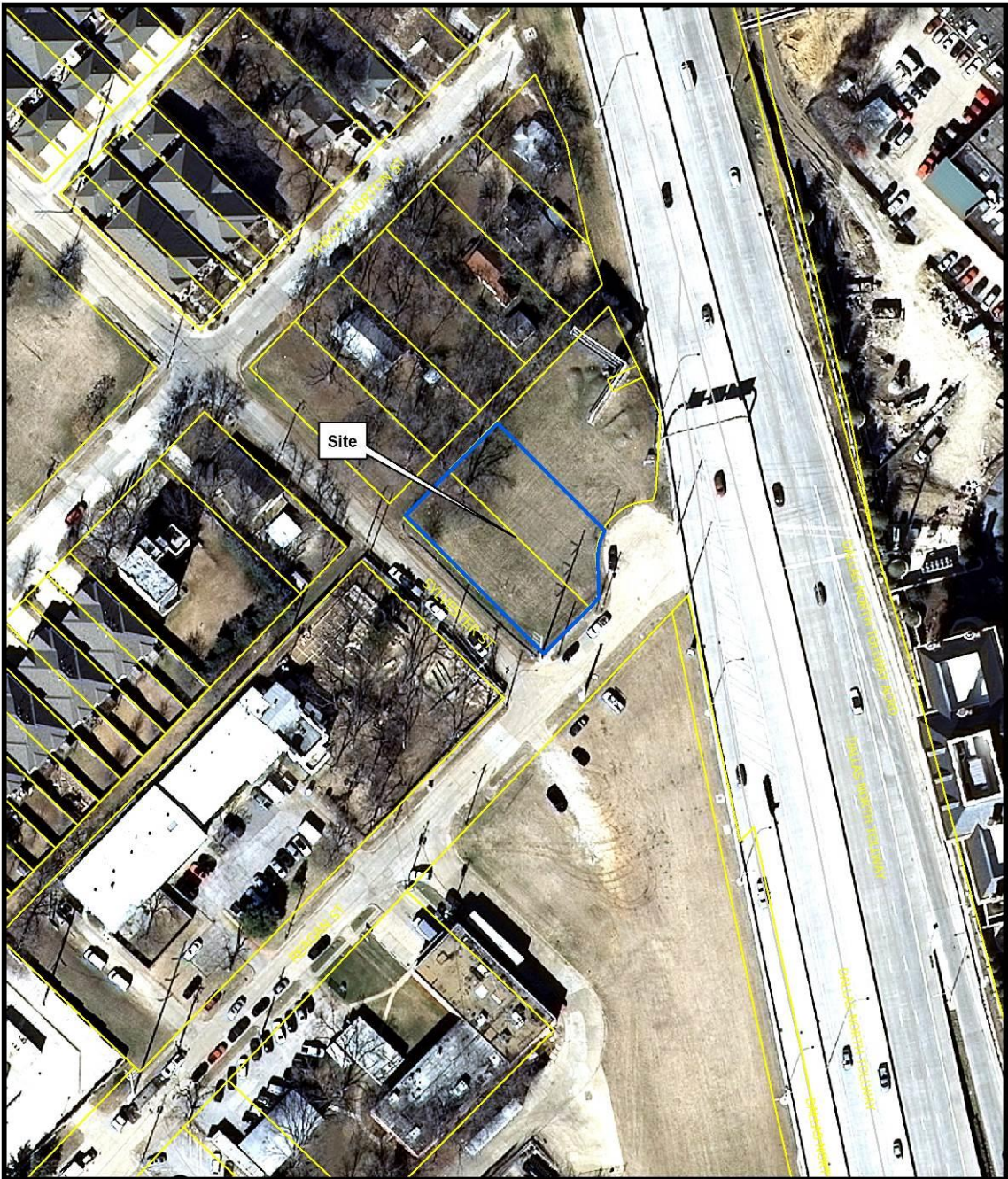


1:1,200

# ZONING MAP

Case no: BDA134-118

Date: 12/23/2014



1:1,200

# AERIAL MAP

Case no: BDA134-118

Date: 12/23/2014

# Memorandum



CITY OF DALLAS

DATE January 7, 2015  
 TO Steve Long, Board of Adjustment Administrator  
 SUBJECT # BDA 134 - 118 2359 Reagan Street  
 # BDA 134 - 117 2363 Reagan Street

The applicant is requesting a special exception to the landscape requirements of PD 193, Part 1 (LC district) for both adjoining properties.

### Trigger

New construction on both vacant properties.

### Deficiencies

2359 and 2363 Reagan – The combined properties are deficient Landscape Site Area (LSA) in the front yard, and street trees along Reagan Street are not in the tree planting zone (2.5-5' from back of curb). Specific to 2363 Reagan, there are no street trees (tree planting zone) or sidewalk provided along the Dallas Tollway street frontage.

### Factors

The plan is presented as a single, unified development. The project is to be built on two separate properties with their own landscape requirements.

The plan provides for the required number of trees along Sylvester and Reagan Streets and screens all off-street parking. All other standards comply. Trees along Reagan are set back to lessen the conflict with overhead utility lines. The plan calls for screening vines to grow along the Tollway frontage. There is no pedestrian access to the Tollway.

### Recommendation

The chief arborist recommends approval of the landscape special exceptions for both 2359 Reagan Street and 2363 Reagan Street, because the applicant has demonstrated the unified plan reasonably complies with the spirit and intent of PD 193, Part 1.

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





City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-118

Data Relative to Subject Property:

Date: October 1, 2014

Location address: 2359 Reagan St. Zoning District: PD 193 (LC)

Lot No.: 7 and PT 8 Block No.: 29/2281 Acreage: .18 Census Tract: 4.01  
Street Frontage (in Feet): 1 150 2 48 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

*SW22*

To the Honorable Board of Adjustment:

Owner of Property/or Principal Prescott Interests LLC

Applicant: Ed Simons Telephone: 214-914-9646

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

Represented by: Same Telephone: Same

Mailing Address: Same Zip Code: Same

Affirm that a request has been made for a Variance \_\_, or Special Exception X, of Alternante landscape plan and a special exception for an open steel gate in the visibility corner clip at the drive.

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: This property has grade issues and is part of a redevelopment that is on 2 lots. Our alternate plan meets the spirit of and intent of PD 193. There is such limited traffic at the approach and the gate can be seen through.

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: Ed Simons

Applicant's name printed

*[Signature]*  
Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Ed Simons 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 1 day of October, 2014

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



(Rev. 08-10)

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 Ed Simons

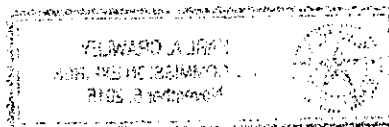
did submit a request for a special exception to the landscaping regulations, and for a special exception to the visibility obstruction regulations

at 2359 Reagan Street

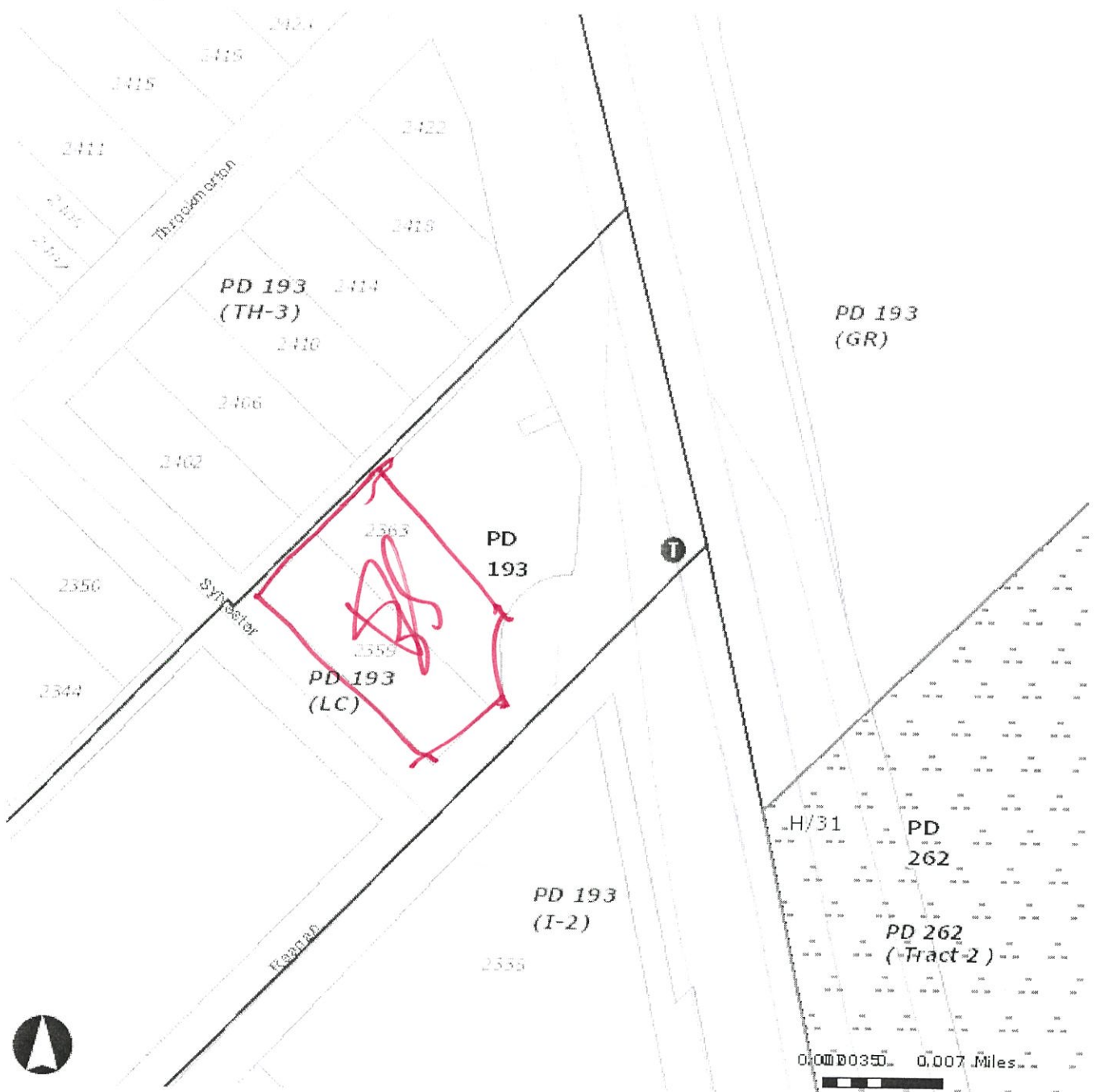
BDA134-118. Application of Ed Simons for a special exception to the landscaping regulations and a special exception to the visibility obstruction regulations at 2359 Reagan Street. This property is more fully described as Lot 7 and part of Lot 8 to be re-platted as Lot 7A, Block 29/2281, and is zoned PD-193 (LC), which requires a 20 foot visibility triangle at driveway approaches and requires mandatory landscaping. The applicant proposes to construct a nonresidential use and provide an alternate landscape plan, which will require special exception to the landscape regulations, and to construct a nonresidential use in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

Sincerely,

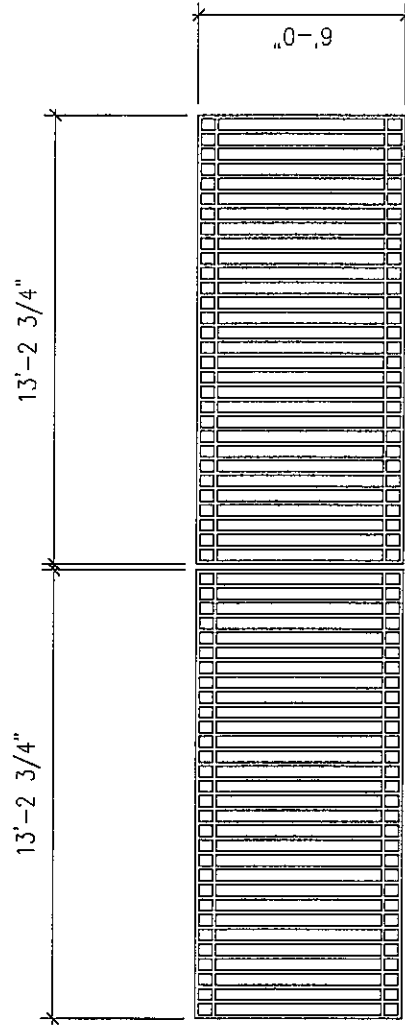
  
Larry Holmes, Building Official











ENTRANCE GATES  
 † TYP. FENCE PANEL



BDA Case Number: 134-117

I, Sandy Owens, SVP of Carlisle Acquisitions, Inc, sole General Partner of Prescott Interests, Ltd, Owner of property at \_\_\_\_\_,

(Address of Subject Property)

authorize MASTERPLAN to pursue an appeal to the City of Dallas Board (Applicant)

of Adjustment for the following request(s):

         Variance (please specify type(s)) \_\_\_\_\_

Special Exception (please specify type(s)) ADEQUATE LANDSCAPE PLAN AND VISIBILITY RESTRICTION REGULATIONS

         Other (please specify) \_\_\_\_\_

Prescott Interests, Ltd.

By: Carlisle Acquisitions, Inc., its GP

By: Sandy Owens, SVP

Printed Name of Property Owner

Sandy Owens  
Signature of Property Owner

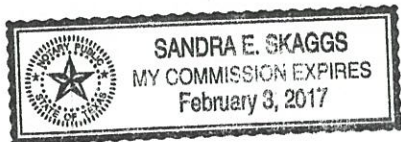
9/22/14

Date

Before me the undersigned on this day personally appeared SANDY OWENS,  
(Print name of Property Owner)

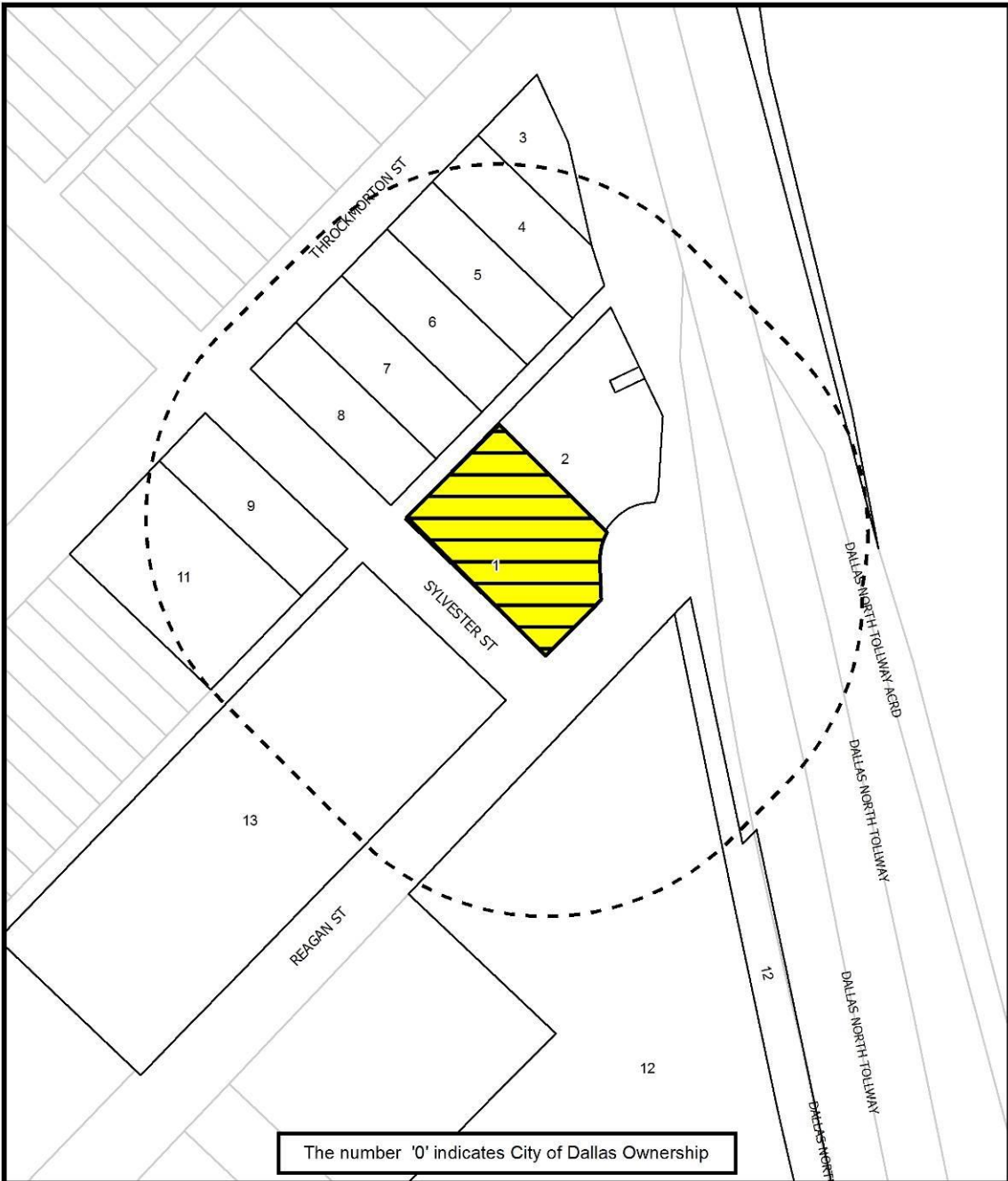
who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 22<sup>ND</sup> day of SEPTEMBER,



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

Commission expires on 2/3/17



|  |  |  |                            |
|--|--|--|----------------------------|
| <br>1:1,200 | <b>NOTIFICATION</b>  |  | Case no: <b>BDA134-118</b> |
|  | <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;">13</div> NUMBER OF PROPERTY OWNERS NOTIFIED |  | Date: <b>12/23/2014</b>    |



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

### ***BDA134-118***

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

| <b><i>Label #</i></b> | <b><i>Address</i></b> | <b><i>Owner</i></b>     |
|-----------------------|-----------------------|-------------------------|
| 1                     | 2359 REAGAN ST        | PRESCOTT INTERESTS LC   |
| 2                     | 2363 REAGAN ST        | PRESCOTT INTERESTS LTD  |
| 3                     | 2422 THROCKMORTON ST  | GARRISON RICHARD T      |
| 4                     | 2418 THROCKMORTON ST  | MEDRANO JOE N           |
| 5                     | 2414 THROCKMORTON ST  | RAMOS CLEMENTINA M      |
| 6                     | 2410 THROCKMORTON ST  | MANZANARES MARY L       |
| 7                     | 2406 THROCKMORTON ST  | PINEDA JOSEPHINE EST OF |
| 8                     | 2402 THROCKMORTON ST  | BALLAS BARRY BULL INC   |
| 9                     | 2350 THROCKMORTON ST  | LEE ANNIE D             |
| 10                    | 3819 MAPLE AVE        | OLD PARKLAND UNIT K LLC |
| 11                    | 2344 THROCKMORTON ST  | LEWIS JACK V &          |
| 12                    | 2338 REAGAN ST        | NORTH TEXAS TOLLWAY     |
| 13                    | 2345 REAGAN ST        | DALLAS CITY OF          |

**FILE NUMBER:** BDA 134-122

**BUILDING OFFICIAL'S REPORT:** Application of Ed Simons for special exceptions to the fence height regulations at 5100 Park Lane. This property is more fully described as Lot 1G, Block 5/5595, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain a 12 foot 6 inch high fence, which will require an 8 foot 6 inch special exceptions to the fence height regulations.

**LOCATION:** 5100 Park Lane

**APPLICANT:** Ed Simons

**REQUESTS:**

Requests for special exceptions to the fence height regulations of up to 8' 6" are made to maintain the following on a site developed with a single family home:

- In the Park Lane front yard setback: an 8' high solid stucco fence with 9' high stone columns parallel to this street, and entry feature that includes a 12' 6" high open iron gate with approximately 12' high stone columns.
- In the Inwood Road front yard setback: an 8' high stucco wall with 9' high stone columns parallel to this street and perpendicular to this street on the south side of the subject site in this front yard setback.

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

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

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

West: R-1ac (A) (Single family district 1 acre)

**Land Use:**

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

**Zoning/BDA History:**

1. BDA 101-020, Property at 5100 Park Lane (the subject site)

On February 15, 2011, the Board of Adjustment Panel A granted requests for special exceptions to the fence height regulations of 8' 8" and imposed the submitted site plan and elevation to the requests. The case report stated that the requests were made to construct and maintain in the Park Lane front yard setback an 8' high open wrought iron fence with 9' high stone columns and an approximately 11.5' high open wrought iron gate with 12' 8" high entry gate columns parallel to Park Lane, and an 8' high stucco wall with 9' high stone columns perpendicular to Park Lane on the east side of the subject site ; and in the Inwood Road front yard setback an 8' high stucco wall with 9' high stone columns parallel and perpendicular to Inwood Road on the west and south sides of the subject site.

2. BDA 001-118, Property at 5100 Park Lane (the subject site)

On December 12, 2000, the Board of Adjustment Panel A granted a request for a special exception to the fence regulations of 4', subject to conditions including: compliance with a modified elevation indicating a maximum 6' fence and 7.5' high pilasters/columns and gate, and site/landscape plan. This request was needed in conjunction with constructing and maintaining a maximum 8' high solid masonry wall with 8' high wrought iron gates along Park Lane and Inwood Road.

3. BDA 001-129, Property at 5205 Park Lane (two lots northeast of the site)

On December 12, 2000, the Board of Adjustment Panel A denied a request for a special exception to the fence regulations of 6' 3" without prejudice, needed in conjunction with constructing and maintaining a maximum 7' 8" high open wrought iron fence, 10' high masonry columns and a 10' 3" high entry gate. Staff had recommended that the request should be approved, subject to compliance with the submitted site/landscape plan and elevation.

4. BDA 001-230, Property at 5110 Park Lane (the lot immediately east of the subject site)

On August 20, 2001, the Board of Adjustment Panel C granted a request for a special exception to the fence regulations of 4', subject to the submitted site/landscape plan. The case report stated that this request was made in conjunction constructing and maintaining an approximately 6' high black vinyl chain link and ornamental open metal fence approximately 25' long parallel to Park Lane; and an approximately 6' high black vinyl chain link fence approximately 250' long parallel to Ravine Drive.

5. BDA 967-258, Property at 5121 Park Lane (the lot immediately northeast of the subject site)

On June 24, 1997, the Board of Adjustment Panel A granted requests for special exceptions to the fence regulations of 5' 10' and to the visual obstruction regulations, subject to the submitted site/elevation plan. The case report stated that the requests were made in conjunction constructing and maintaining an approximately 7' 10" high open metal fence with 9' 10' high entry gates in the Park Lane and Ravine Drive front yard setbacks and in drive approach visibility triangles into the site from Ravine Drive.

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

- These requests focus on maintaining the following in the two front yard setbacks on a site developed with a single family home located at the southeast corner of Park Lane and Inwood Road:
  - In the Park Lane front yard setback: an 8' high solid stucco fence with 9' high stone columns parallel to this street, and entry feature that includes a 12' 6" high open iron gate with approximately 12' high stone columns.
  - In the Inwood Road front yard setback: an 8' high stucco wall with 9' high stone columns parallel to this street and perpendicular to this street on the south side of the subject site in this front yard setback.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The subject site is located at the southeast corner of Park Lane and Inwood Road. Even though the Park Lane frontage of the site appears to function as the site's front yard and the Inwood Road frontage appears to function as one of the site's two side yards, the site has front yard setbacks along both street frontages. The site has a front yard setback along Park Lane given that this frontage is the shorter of the two street frontages which is always deemed a front yard on a corner lot, and a front yard setback along Inwood Road the longer of the two frontages usually deemed a side yard on a corner lot but a front yard in this case nonetheless in order to maintain the continuity of the established front yard setback of lots immediately south that front westward onto Inwood Road.
- The applicant submitted a revised site plan and revised elevation of the proposal in the front yard setbacks dated 12/11/2014 that reaches a maximum height of 12' 6".
- The applicant also submitted a partial site/landscape plan/full elevations document dated 6 Jan. 2015 that (according to the applicant) is the same representation of the proposal made on revised plans dated 12/11/2014 but with adding certain landscape materials.
- The following additional information was gleaned from the revised site plan for the proposal *along Park Lane*:
  - The proposal is shown to be approximately 170' in length parallel to the street.
  - The fence is shown to be located approximately on the property line and approximately 16' from the pavement line. (The gate is shown to be located approximately 8' from the property line and approximately 24' from the pavement line).
- The following additional information was gleaned from the revised site plan for the proposal *along Inwood Road*:
  - The proposal is shown to be approximately 330' in length parallel to the street, and approximately 37' perpendicular on the south side of the site in the front yard setback.
  - The fence is shown to be located approximately 3' from the property line and approximately 14' from the pavement line. (The gate is shown to be located approximately 12' from the property line and approximately 30' from the pavement line).

- The existing fence *along Park Lane* is located on the site where one single family home has direct frontage – a property with an approximately 9’ high open metal fence with 11’ high masonry columns with no recorded BDA history.
- The existing fence *along Inwood Road* is located on the site where one single family home has direct frontage – a home/lot with an approximately 5’ high open chain link fence in its front yard setback with no recorded BDA history.
- The Board Administrator conducted a field visit of the site and surrounding area along Park Lane (generally from Inwood Road approximately 500 feet to the east) and along Inwood Road (approximately 500 feet north and south of the site) and noted the following additional visible fences beyond what has been described above four feet high which appeared to be located in the front yard setback beyond the two fences mentioned above. (Note that these locations and dimensions are approximations):
  - An approximately 6’ high ornamental open metal fence immediately east of the site on Park Lane that appears to be the result of an approved fence height special exception in 2001: BDA001-230.
  - An approximately 8’ high open metal fence with 8.5’ high columns northeast of the site on Park Lane that appears to be the result of an approved fence height special exception in 1997: BDA 967-258.
  - On the lot immediately north, an approximately 10’ high solid concrete wall on Inwood Road and an approximately 6’ high open iron picket fence on Park Lane with no recorded BDA history.
- As of January 12, 2015, 6 emails/letters had been submitted in support of the request, and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exceptions to the fence height regulations of 8’ 6” will not adversely affect neighboring property.
- Granting these special exceptions of up to 8’ 6” with a condition imposed that the applicant complies with the submitted revised site plan and revised elevation would require the proposal exceeding 4’ in height in the front yard setbacks to be maintained in the location and of the heights and materials as shown on these documents. Note that the City cannot enforce any landscape materials shown on the applicant’s partial site/landscape plan/full elevations document dated 6 Jan. 2015 that are located in the public right-of-way if the Board were to impose this document as a condition to these requests.

**Timeline:**

October 13, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

November 11, 2014: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. 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.”

November 11, 2014: The Board Administrator emailed the applicant that this application was tentatively scheduled to be heard by Board of Adjustment Panel A at their next available public hearing to be held on Tuesday, January 20, 2015 because this application had history with Board of Adjustment Panel A on the same request previously heard by them.

December 10, 2014: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the January 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

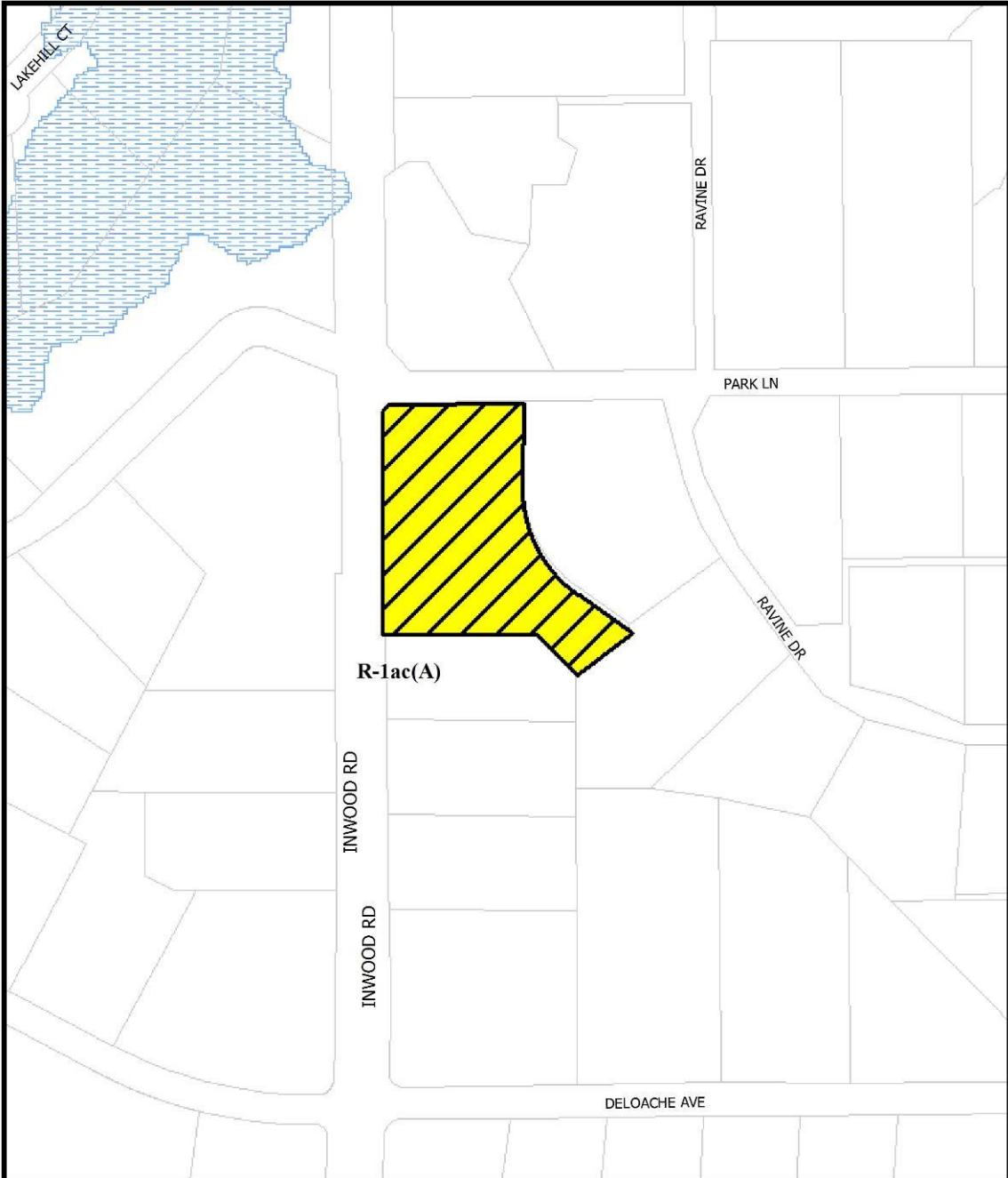
December 29, 2014: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

January 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for January public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, 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.

January 7, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment B).

January 9, 2014: The newly designated representative submitted additional information to staff beyond what was submitted with the original application (see Attachment C).



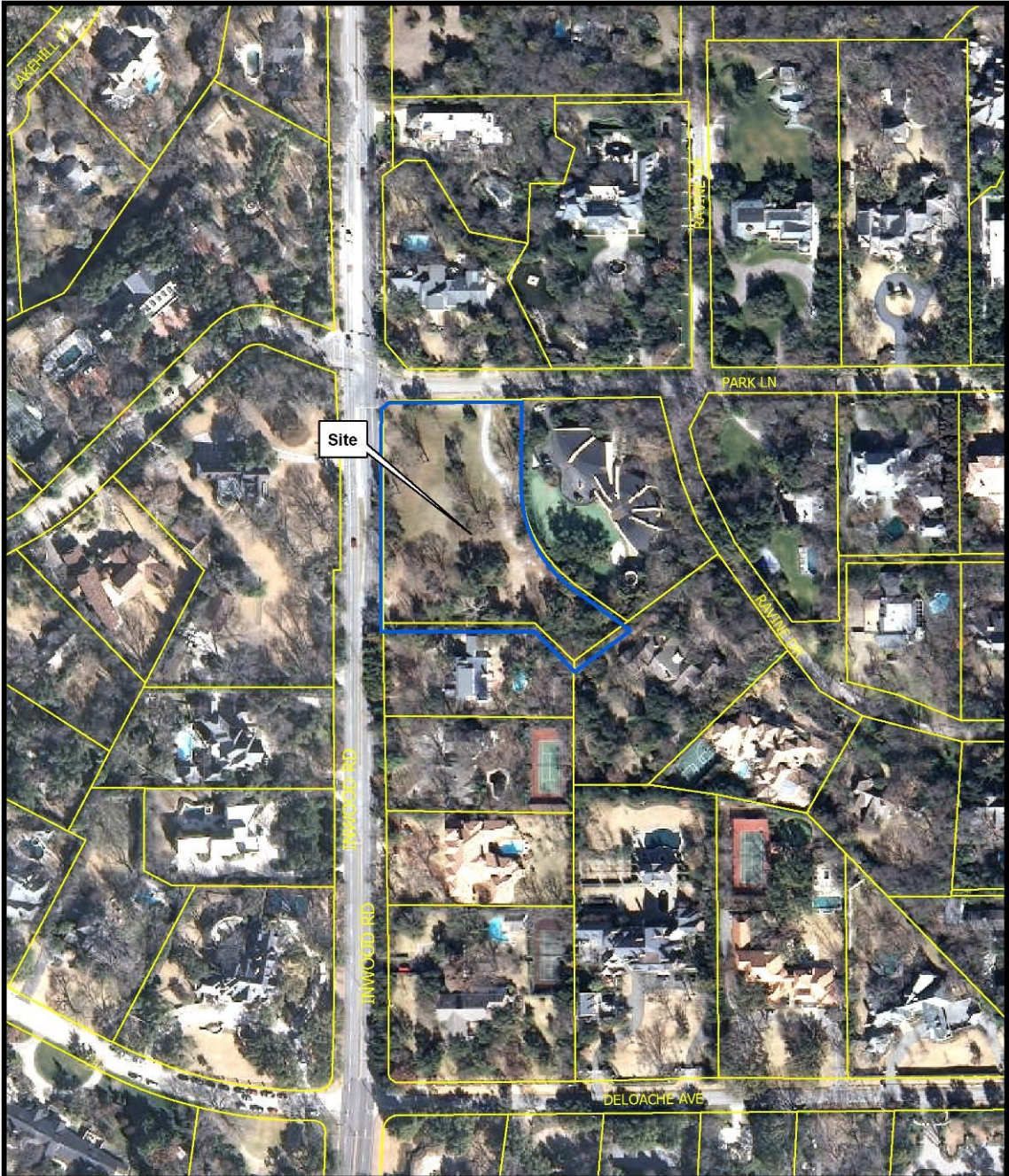
1:2,400

# ZONING MAP

Case no: BDA134-122

Date: 11/19/2014





1:2,400

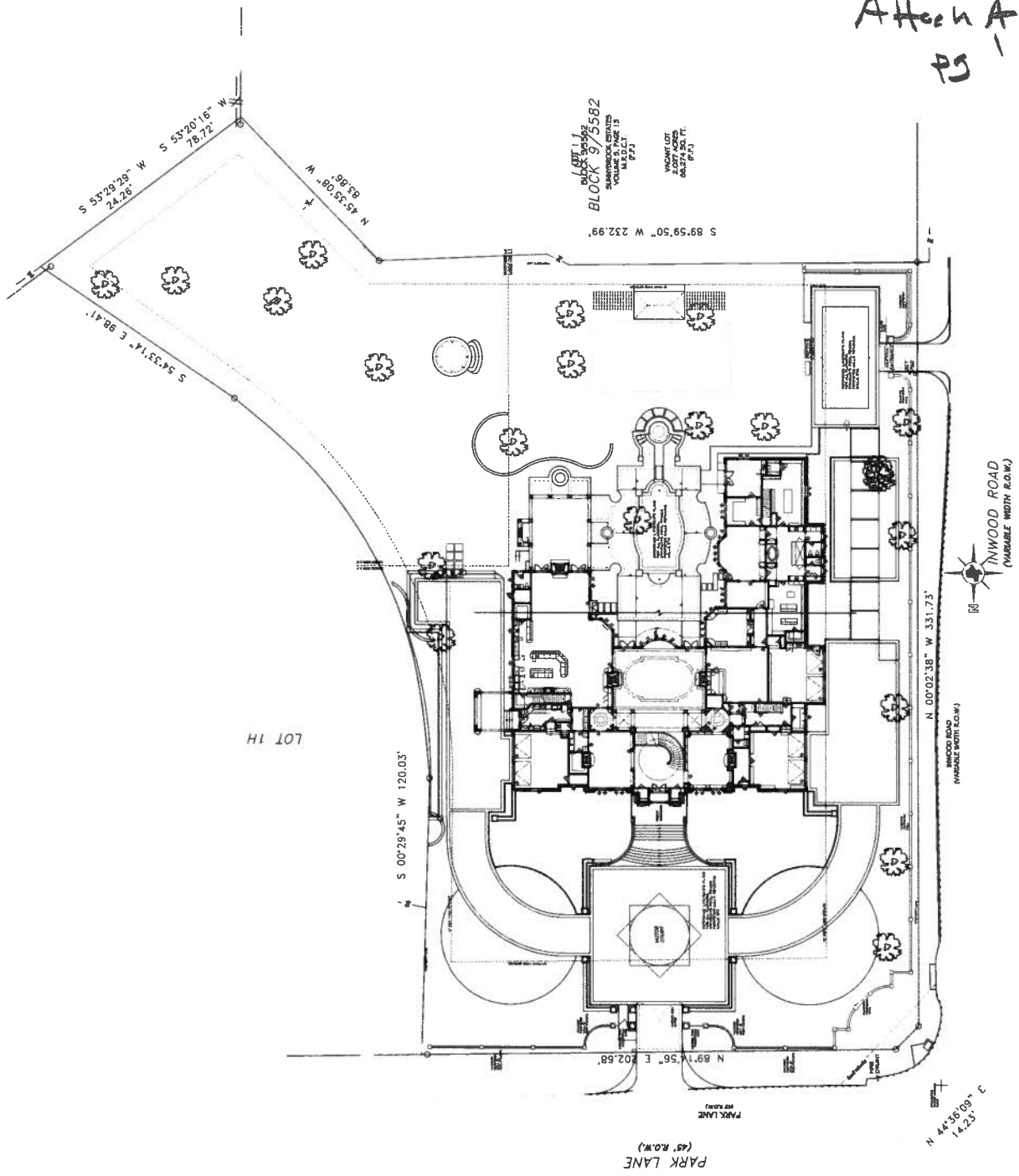
# AERIAL MAP

Case no: BDA134-122

Date: 11/19/2014

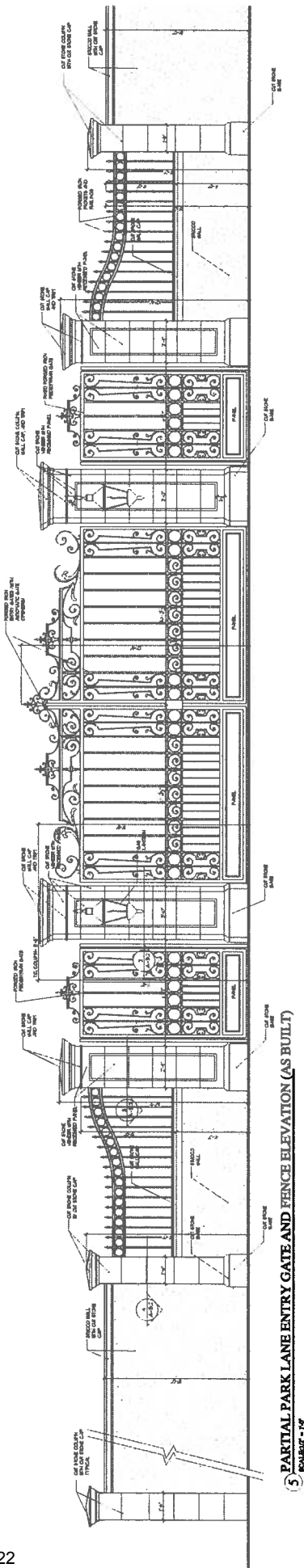


BDA 134-122  
Attach A  
PS

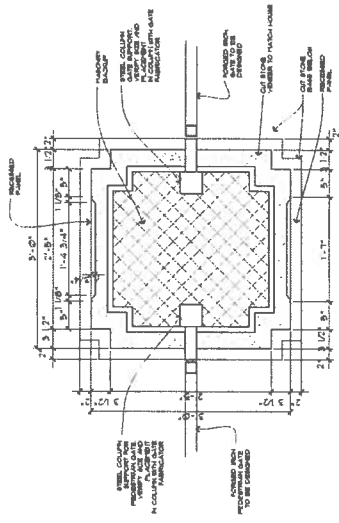


① SITE PLAN  
SCALE: 1/8" = 1'-0"

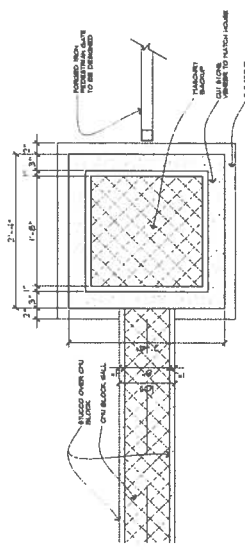
BDA 134-122  
 Attach A  
 pg 2



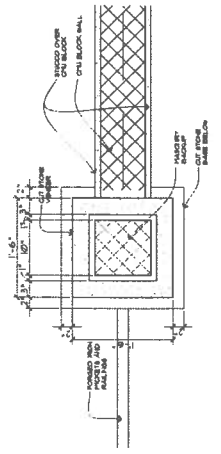
5 PARTIAL PARK LANE ENTRY GATE AND FENCE ELEVATION (AS BUILT)  
 SCALE: 1/8" = 1'-0"



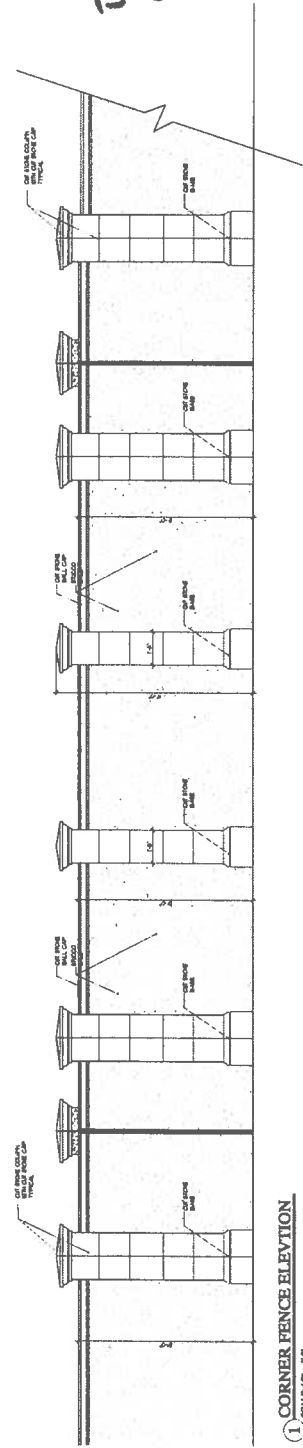
2 ENTRY GATE PLAN SECTION  
 SCALE: 1/8" = 1'-0"



3 ENTRY COLUMN PLAN SECTION  
 SCALE: 1/8" = 1'-0"



4 FENCE COLUMN PLAN SECTION  
 SCALE: 1/8" = 1'-0"



1 CORNER FENCE ELEVATION  
 SCALE: 1/8" = 1'-0"

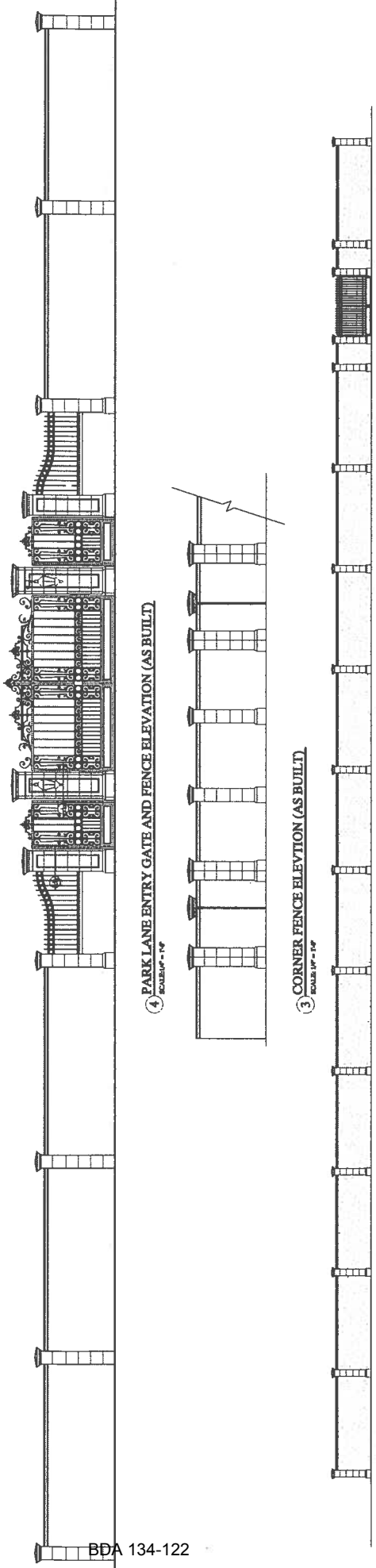
BDA 134-122  
 Attachment A  
 P33

A NEW RESIDENCE FOR  
 JOHN AND GAIL HISSLEB

RICHARD DRUMMOND DAVIS

|             |   |
|-------------|---|
| DATE        | 12/11/17                                |
| PROJECT     | NEW RESIDENCE FOR JOHN AND GAIL HISSLEB |
| DESIGNED BY | RICHARD DRUMMOND DAVIS                  |
| CHECKED BY  |   |
| DATE        |   |

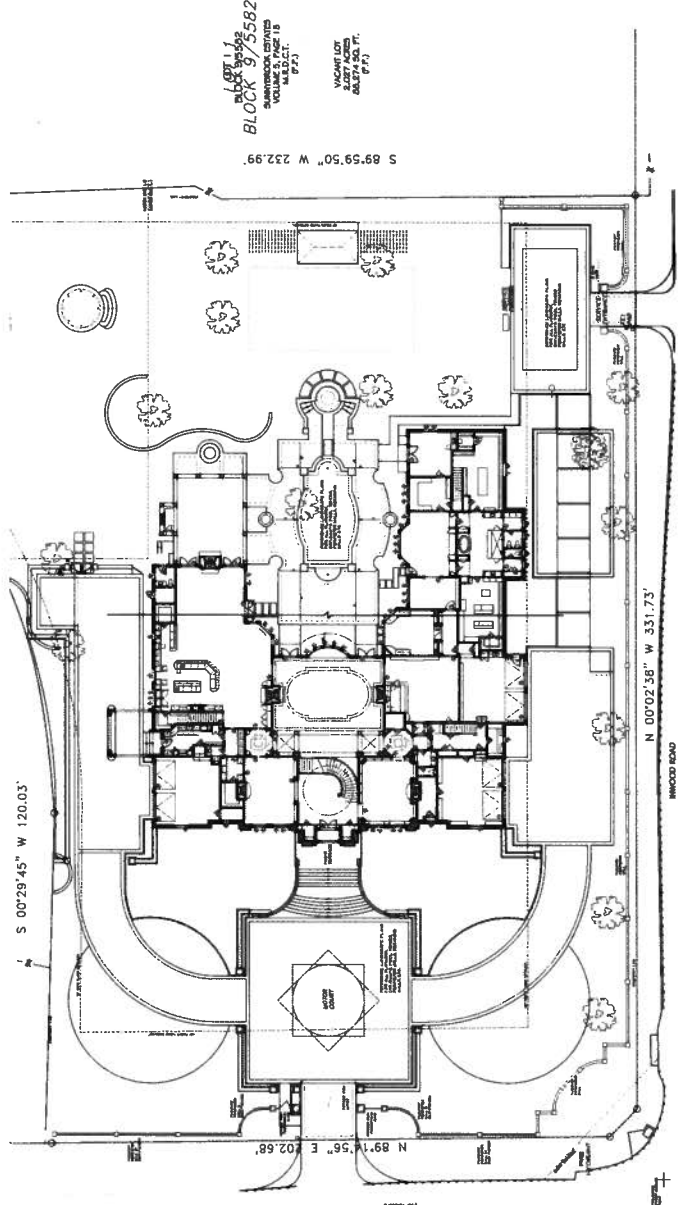
A-3



4 PARK LANE ENTRY GATE AND FENCE ELEVATION (AS BUILT)  
 SCALE: 1/8" = 1'-0"

3 CORNER FENCE ELEVATION (AS BUILT)  
 SCALE: 1/8" = 1'-0"

2 INWOOD ROAD FENCE ELEVATION (AS BUILT)  
 SCALE: 1/8" = 1'-0"



PLAT 111  
 BLOCK 9, 555582  
 INWOOD ROAD  
 VOLUME 5, PAGE 18  
 PLAT 111  
 VACATED LOT  
 AREA 30.00 FT.  
 PLAT 111

S 89°59'50" W 232.99'

INWOOD ROAD  
 (VARIABLE WIDTH R.O.W.)

N 00°02'38" W 331.73'



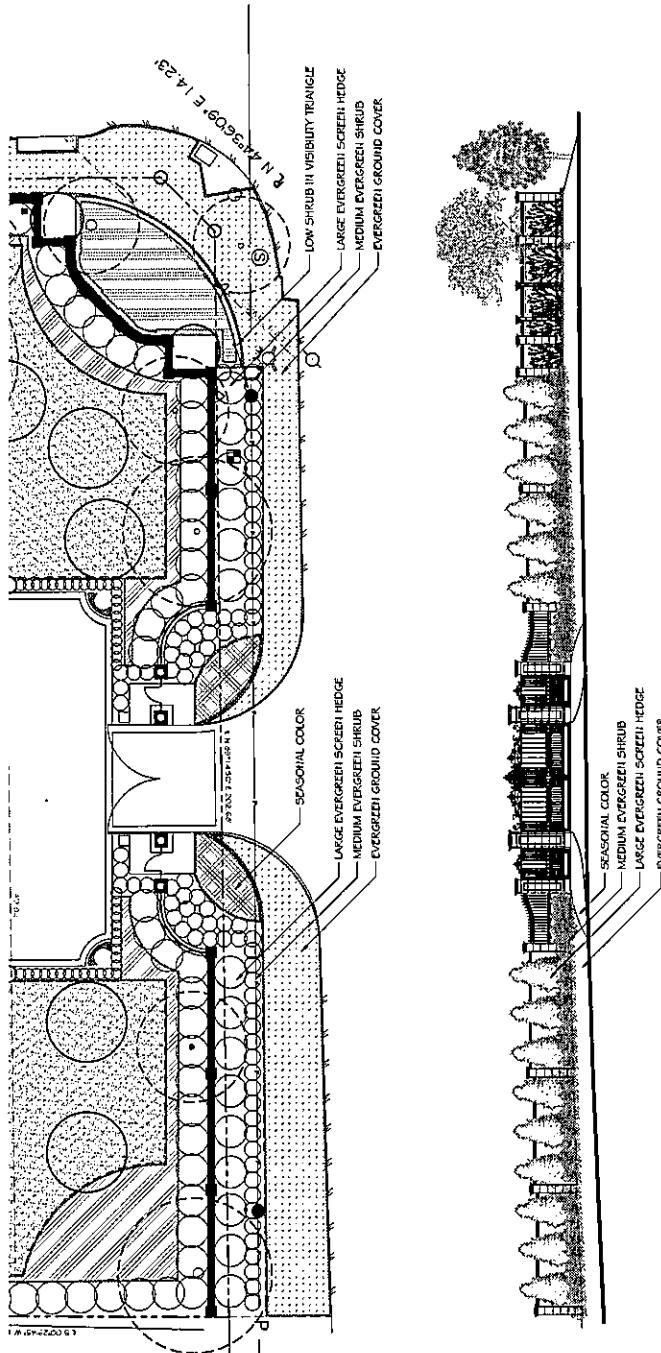
PARK LANE  
 (45' R.O.W.)



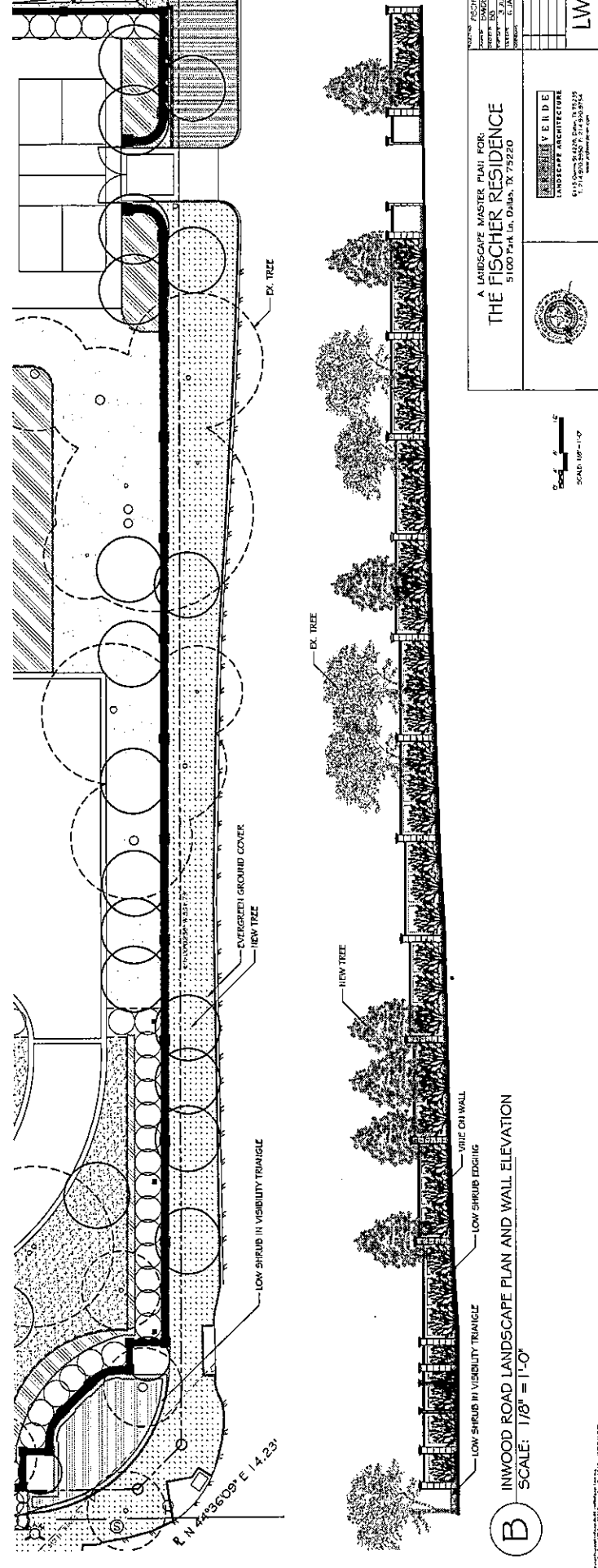
N 44°36'09" E 142.31'



1 SITE PLAN (FOR REFERENCE)  
 SCALE: 1/8" = 1'-0"



**A** PARK LANE LANDSCAPE PLAN AND WALL ELEVATION  
SCALE: 1/8" = 1'-0"



**B** INWOOD ROAD LANDSCAPE PLAN AND WALL ELEVATION  
SCALE: 1/8" = 1'-0"

A LANDSCAPE MASTER PLAN FOR:  
**THE FISCHER RESIDENCE**  
 5100 Park Ln. Dallas, TX 75220

DATE: 05/15/15  
 DRAWN BY: J. B. BROWN  
 CHECKED BY: J. B. BROWN  
 SCALE: 1/8" = 1'-0"

**VERDE**  
 LANDSCAPE ARCHITECTURE  
 4115 Green Station, Suite 10, 95219  
 11740 Green Station, Suite 10, 95219  
 www.verdelandscape.com

LW-1



JACKSON WALKER L.L.P.  
ATTORNEYS & COUNSELORS

BDA 134-122  
Attach C  
Pg 1

Jonathan G. Vinson  
(214) 953-5941 (Direct Dial)  
(214) 661-6809 (Direct Fax)  
jvinson@jw.com

January 9, 2015

Hon. Chair and Members  
Board of Adjustment, Panel A  
c/o Mr. Steve Long, Board Administrator  
City of Dallas  
1500 Marilla Street, Room 5BN  
Dallas, Texas 75201

Re: BDA 134-122; 5100 Park Lane

Dear Members of the Board of Adjustment:

**I. Introduction.** We represent the property owners, Mr. and Mrs. Cliff Fischer, on this application for a fence height special exception for their home at 5100 Park Lane, at the southeast corner of Park Lane and Inwood Road. This special exception is requested to allow the maintenance of an existing 8 foot stucco fence with 9 foot stone columns, and one 11.5 foot wrought iron gate with 12 foot 8 inch gate columns, which requires a special exception, at a maximum due to the gate column height, of 8 feet 8 inches, in the required front yard on Park Lane and Inwood Road.

I have provided a highlighted site plan, fence elevation, and detail drawing (*attached*) to show you the exact location and nature of this request. We would like to give you some additional facts on this request, discuss with you how our request clearly meets the applicable standard for approval, and provide you with a series of aerial and site photographs (*also attached*) to aid in your understanding of our request.

**II. Background of Request.** The gate and fence at this location are necessary to mitigate the impact on the homeowners, Mr. and Mrs. Fischer, of the traffic noise and traffic safety issues given the high volume and speed of the traffic on immediately adjacent Inwood Road, and for security reasons. Most properties in this neighborhood have tall fences and gates close to the adjacent streets for the same reasons.

It will be informative for you to have some additional background on this particular site. This request has been previously heard and approved by the Board of Adjustment on February 15, 2011 (*copy attached*). As you know, unless an extension is granted, a permit to effect a special exception must be applied for within 180 days after Board approval is granted, or the approval expires. For reasons unknown, the Fence Permit was issued on November 11, 2011, but not within that 180 day period, and the applicant's representative in the 2011 case, Don Caldera, is deceased. The fence was then built on the basis of the Fence Permit as issued. Therefore, we are now before the Board simply, in essence, to re-do the previous approval and cure this technical timing and Fence Permit issuance error on the basis of the fence and gate as actually built.

11920085v.1

901 Main Street, Suite 6000 • Dallas, Texas 75202 • (214) 953-6000 • fax (214) 953-5822

BDA 134-122

4-13

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**III. Special Exception for Fence Height.** The requested special exception to the fence height regulations is to be able to maintain the existing fence and gate within the front yard setback on both frontages of this corner lot. The Code already permits 4-foot fences in a required front yard, even though one might argue that the Inwood Road side should actually be treated as a side yard.

As you know, the standard for approval of a fence height special exception is whether, in the opinion of the Board, *it will not adversely affect neighboring property*. None of the other neighbors in the area are at all affected by this existing fence and gate; in fact, almost all of the homes in the area already have such fences. Further, except for Inwood Road, streets in the area are narrow, and all of them, including Inwood, lack curbs and sidewalks, so this is not a highly pedestrian-oriented environment, thus rendering the impact of tall fences much less than in other areas. I have included with this letter a map and copies of support letters from our neighbors. It is clear that they see no adverse effects of the fence at all, especially given that they can already see the fence as it is built.

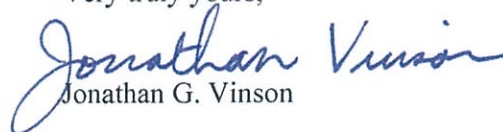
As you can see on the color aerial photo included, Park Lane is lined on both sides with estate-type homes, which are set well back from the street, and there is landscaping and mature trees up and down Park Lane, both on the private properties adjacent to Park Lane as well as in portions of the right-of-way itself.

Further, there already exists very heavy and high quality landscaping and large trees on the site to soften and beautify the fence, which Mr. and Mrs. Fischer installed at considerable expense and to beautify the appearance of their home and fence, as an obvious benefit for their neighbors. We have included a landscape plan showing the landscape as installed, including both recently-installed trees as well as preserved previously-existing trees.

This request clearly meets the standard for the granting of a fence height special exception, that being that *there is no adverse effect at all on any neighboring properties*. The reasons for this gate and fence are simply to allow for a fence very similar to others in the area, to provide a buffer from the heavy traffic and noise on Inwood Road, and for security reasons, the same as Mr. and Mrs. Fisher's neighbors.

**IV. Conclusion.** To conclude, our request is simply for the special exception described above to maintain the existing gate and fence adjacent to Park Lane and Inwood Road. The gate and fence are not in any way a detriment to, nor do they have any adverse effect on, any nearby property owners or others, as evidenced by our letters of support; nor is there any other adverse impact in any way. We look forward to appearing at the public hearing to further discuss this case with you and to answer any questions you may have, and to respectfully ask for your approval. Thank you very much.

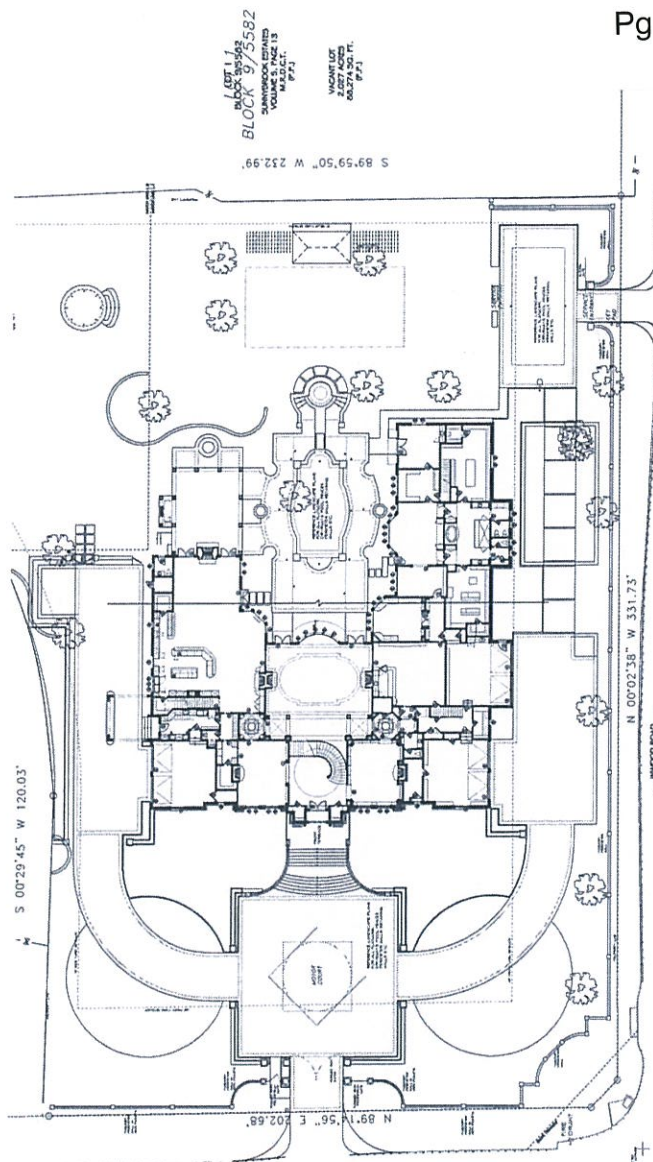
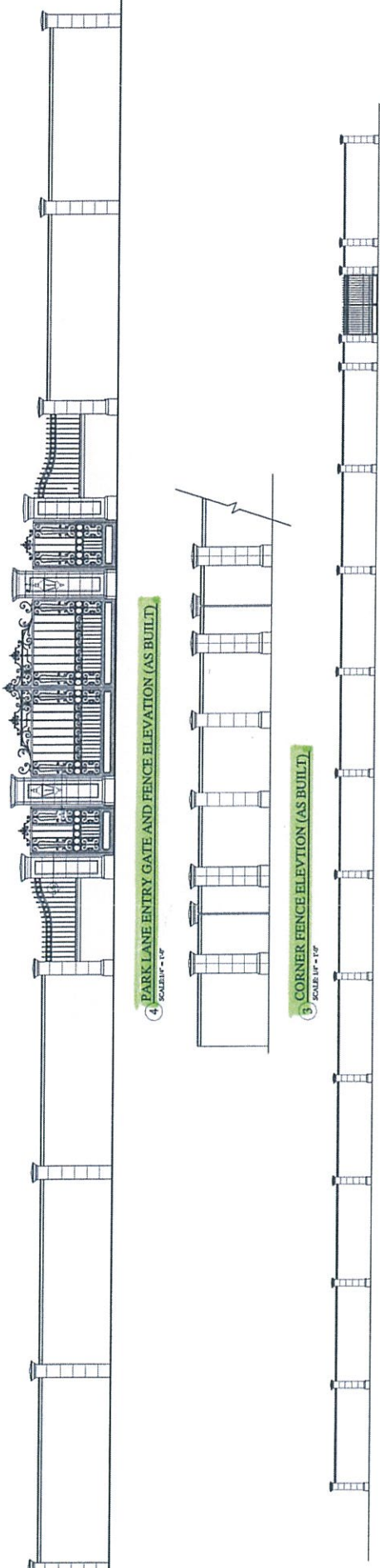
Very truly yours,

  
Jonathan G. Vinson

cc: Mr. and Mrs. Cliff Fischer  
Ed Simons  
Susan Mead



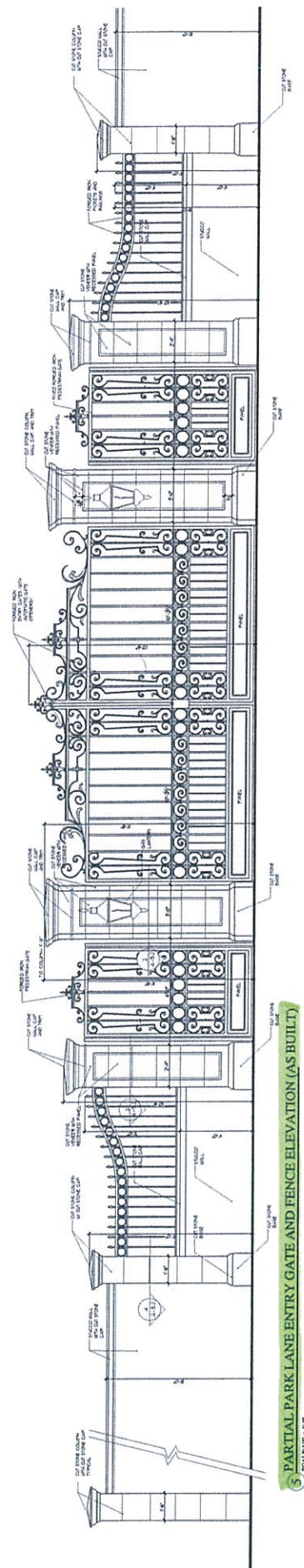




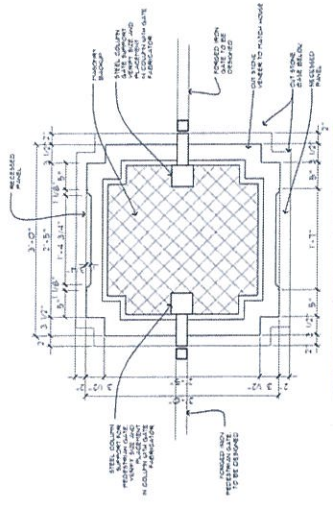
### 2. Fence Elevation as Built

1 SITE PLAN (FOR REFERENCE)  
SCALE: 1/8" = 1'-0"

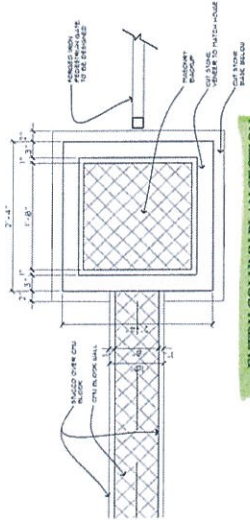




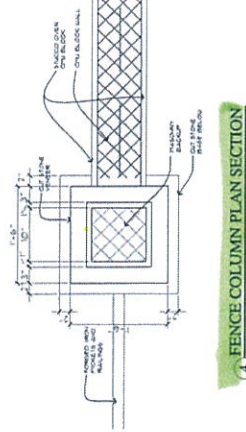
5 PARTIAL PARK LANE ENTRY GATE AND FENCE ELEVATION (AS BUILT)  
SCALE: 1/8" = 1'-0"



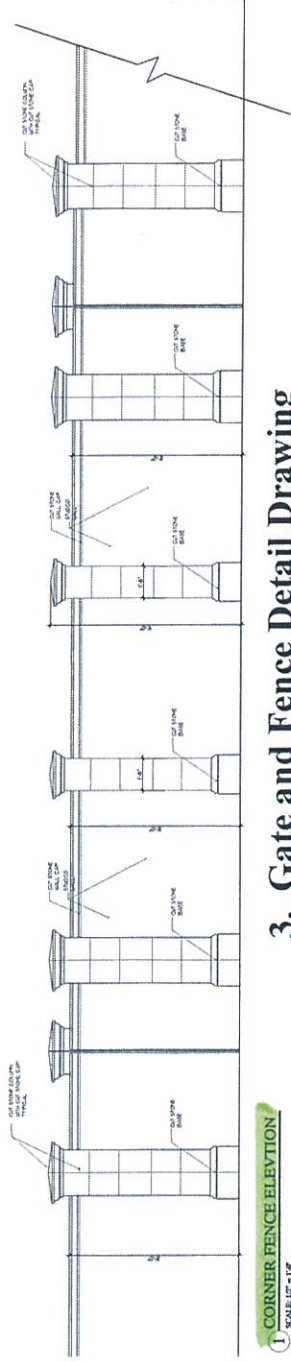
2 ENTRY GATE PLAN SECTION  
SCALE: 1/8" = 1'-0"



3 ENTRY COLUMN PLAN SECTION  
SCALE: 1/8" = 1'-0"

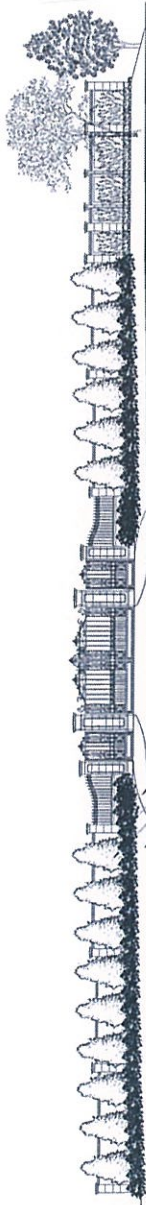
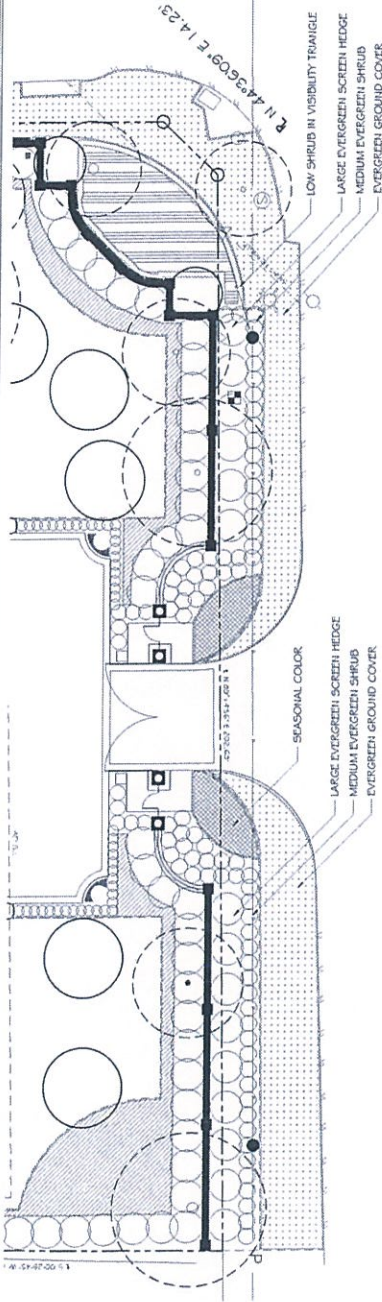


4 FENCE COLUMN PLAN SECTION  
SCALE: 1/8" = 1'-0"

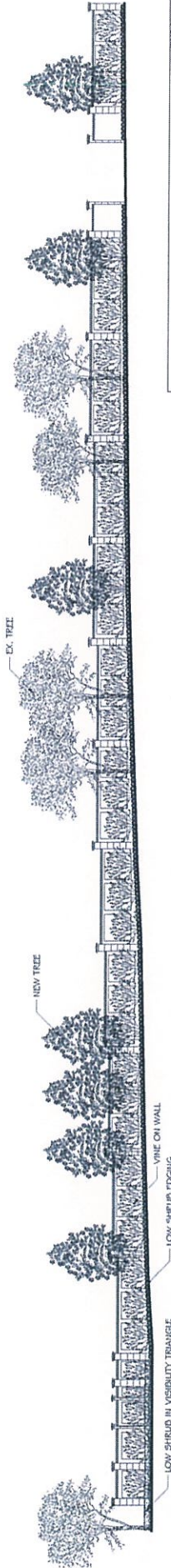
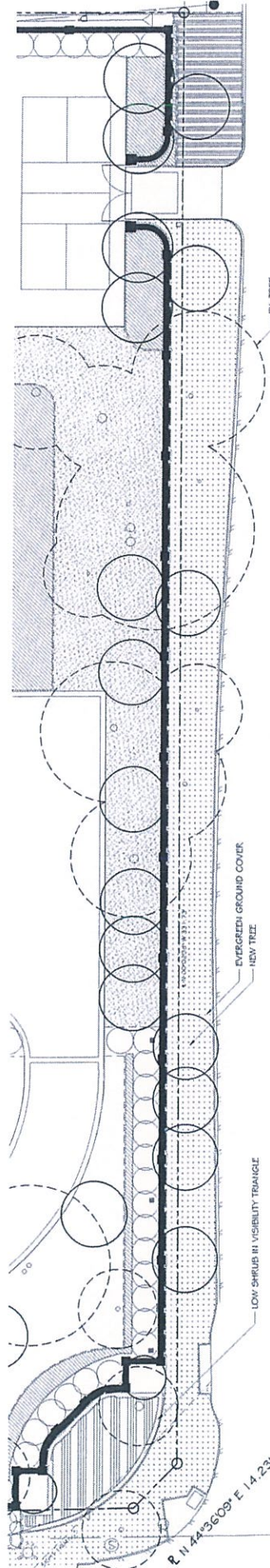


1 CORNER FENCE ELEVATION  
SCALE: 1/8" = 1'-0"

### 3. Gate and Fence Detail Drawing



**A** PARK LANE LANDSCAPE PLAN AND WALL ELEVATION  
 SCALE: 1/8" = 1'-0"



**B** INWOOD ROAD LANDSCAPE PLAN AND WALL ELEVATION  
 SCALE: 1/8" = 1'-0"

**4. Landscape Plan as Installed**

A LANDSCAPE MASTER PLAN FOR:  
**THE FISCHER RESIDENCE**  
 5100 Park Ln, Dallas, TX 75220

DATE: 2 JAN 2011  
 PROJECT: EX  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]

**LANDSCAPE VERDE**  
 LANDSCAPE ARCHITECTURE  
 4115 RICHMOND AVE. SUITE 200  
 DALLAS, TEXAS 75206  
 WWW.LANDSCAPEVERDE.COM

SCALE: 1/8" = 1'-0"

LW-1



CITY OF DALLAS

BDA 134-122  
Attach C  
Pg 7

February 23, 2011

Don Caldera  
930 Indian Gap  
Quitman, TX 75783

Re: BDA 101-020, Property at 5100 Park Lane

Dear Mr. Caldera:

The Board of Adjustment Panel A, at its public hearing held on Tuesday, February 15, 2011 granted your request for a special exception to the fence height regulations of 8 feet, 8 inches, subject the following conditions:

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

Contact Building Inspection at 320 E. Jefferson, Room 105 to file an application for a building permit or certificate of occupancy within 180 days from the date of the favorable action of the board.

Should you have any further questions regarding the Board's action, please contact me at (214) 670-4666.

A handwritten signature in black ink, appearing to read 'Steve Long'.

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

SL/tl

c: Larry Loftis, 4310 Westside Dr., #11, Dallas, TX 75209  
James Martin, Code Enforcement, 3112 Canton, Rm 100  
Todd Duerksen, Bldg. Inspection, 320 E. Jefferson #105  
File

## 5. 2011 Board Approval



City of Dallas

BDA 134-122  
Attach C  
Pg 8

A

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-020

Data Relative to Subject Property:

Date: 12-17-10

Location address: 5100 Park Lane

Zoning District: R-100(A)

Lot No.: 1G Block No.: 5/5595 Acreage: 2.027

Census Tract: 75.00

Street Frontage (in Feet): 1) 331.73 2) 202.68

4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment:

Owner of Property/or Principal:

Cliff Fischer

NE 25

Applicant:

Larry Loftis

Telephone: 214-521-8764

Mailing Address:

4310 Westside Dr. #11

Zip Code: 75209

Represented by:

Dan Caldera

Telephone: 972-310-3302

Mailing Address:

930 Indian Gap, Quitman, TX 75783

Affirm that a request has been made for a Variance  or Special Exception  of 8'-8" to the fence height in a front yard

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:

Both fence walls are designed to be in keeping with other existing fences of similar materials and shall help maintain uniformity in the neighborhood.

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, Larry Loftis  
IN THE OFFICE OF THE BOARD OF ADJUSTMENT  
THIS THE 17th DAY OF December 2010  
Affiant

Before me the undersigned on this day personally appeared Larry Loftis 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.

Affiant (Applicant's signature)

Subscribed and sworn to before me this 17th day of December 2010.

Notary Public in and for Dallas County, Texas



(Rev. 08-20-09)

**BOARD OF ADJUSTMENT  
CITY OF DALLAS, TEXAS**

**TUESDAY, FEBRUARY 15, 2011**

**FILE NUMBER: BDA 101-020**

**BOARDING OFFICIAL'S REPORT:**

Application of Larry Loffis, represented by Don Caldera, for a special exception to the fence height regulations at 5100 Park Lane. This property is more fully described as Lot 1G in City Block 5/5595 and is zoned R-1ac(A) which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 12-foot 8-inch high fence which will require a special exception of 8 feet 8 inches.

**LOCATION:** 5100 Park Lane

**APPLICANT:** Larry Loffis  
Represented by Don Caldera

**REQUESTS:**

- Special exceptions to the fence height regulations of up to 8' 8" are requested in conjunction with constructing and maintaining the following on a site that is undeveloped:
  1. In the site's 40' Park Lane front yard setback: an 8' high open wrought iron fence with 9' high stone columns and an approximately 11.5' high open wrought iron gate with 12' 8" high entry gate columns parallel to Park Lane, and an 8' high stucco wall with 9' high stone columns perpendicular to Park Lane on the east side of the subject site ; and
  2. In the site's 40' Inwood Road front yard setback: an 8' high stucco wall with 9' high stone columns parallel and perpendicular to Inwood Road on the west and south sides of the subject site.

**STAFF RECOMMENDATION:**

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

**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.

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

Date of Hearing Feb. 15, 2011

Appeal was--Granted OR Denied

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

Chairman

*MA Runkle*

**Building Official's Report**

**I hereby certify that**  
**represented by**  
**did submit a request**  
**at**

Larry Loftis  
Don Caldera  
for a special exception to the fence height regulations  
5100 Park Lane

BDA 134-122  
Attach C  
Pg 10

BDA101-020. Application of Larry Loftis represented by Don Caldera for a special exception to the fence height regulations at 5100 Park Lane. This property is more fully described as Lot 1G in city block 5/ 5595 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 12 foot 8 inch high fence in a required front yard setback, which will require an 8 foot 8 inch special exception to the fence regulation.

**BOARD OF ADJUSTMENT DECISION FILED**  
**IN THE OFFICE OF THE BOARD OF ADJUSTMENT**  
**THIS THE** 16 **DAY OF**

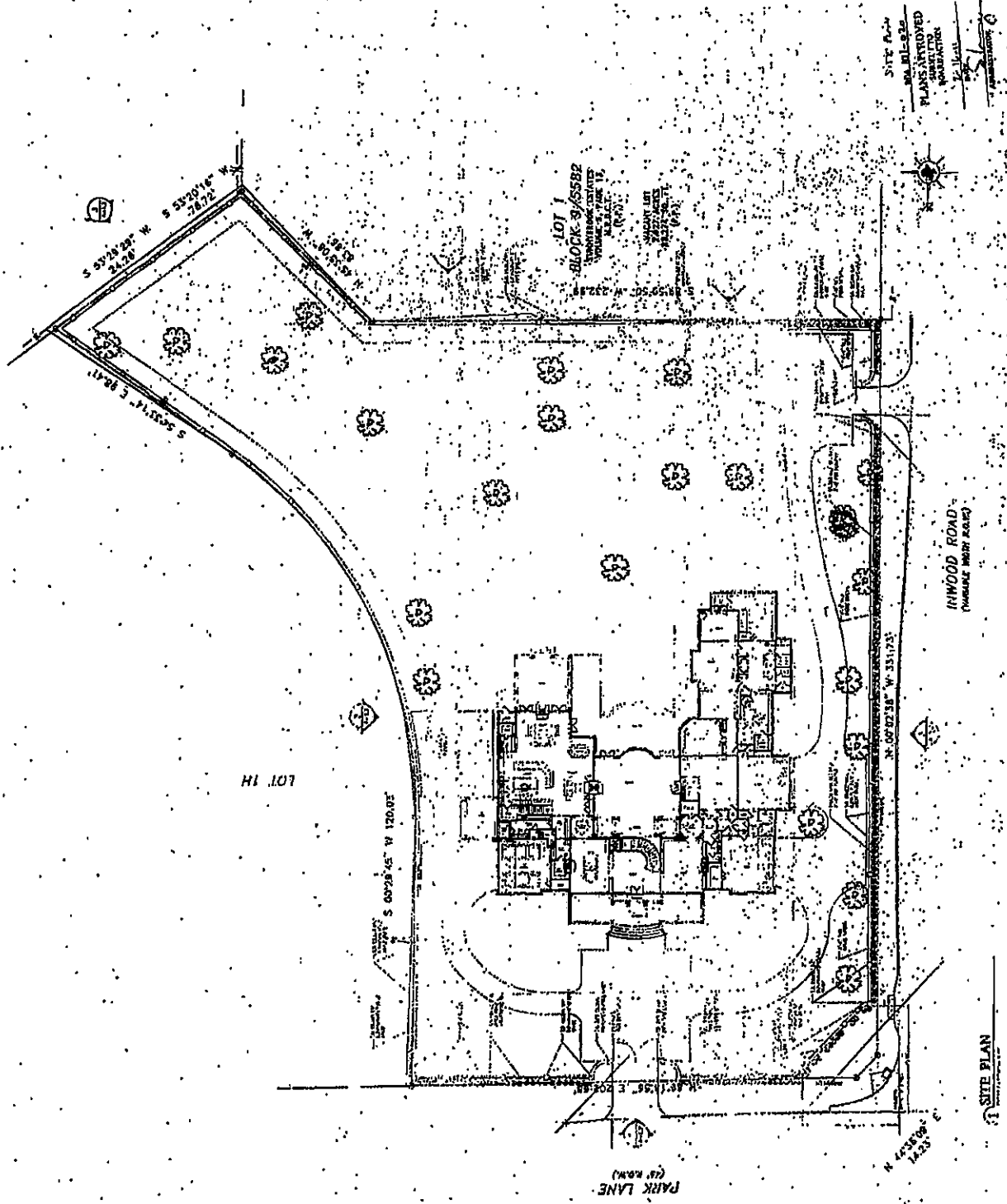
February, 20 11

*S. Wong*  
ADMINISTRATOR

Sincerely,

*Batsheba Antebi*  
Batsheba Antebi, Building Official

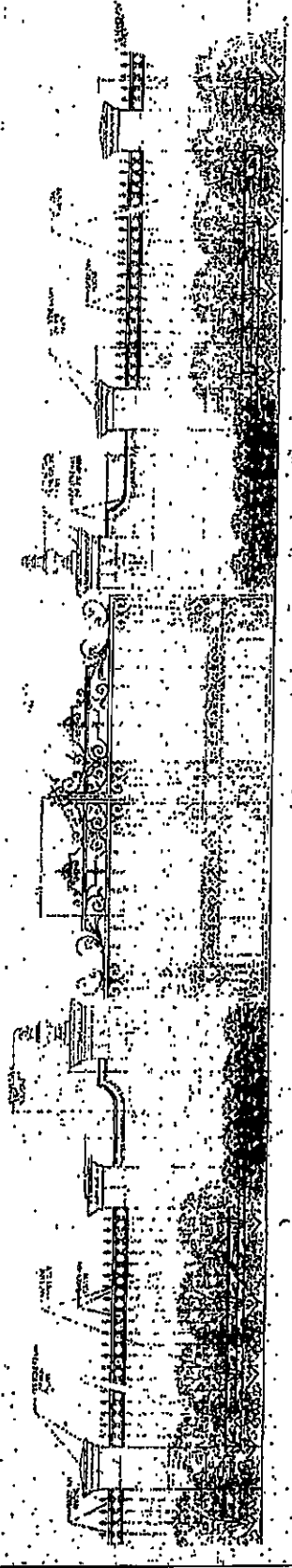
|  |  |   |
|--|--|---|
| A1<br>DATE: 11/11/14<br>DRAWN BY: J. J. JONES<br>CHECKED BY: J. J. JONES<br>PROJECT: BDA 134-122 | RICHARD D. DUNN & ASSOCIATES<br>ARCHITECTS<br>1000 N. W. 10th St.<br>Ft. Lauderdale, FL 33304<br>TEL: 954-561-1111<br>FAX: 954-561-1112<br>WWW: RICHARD-DUNN.COM | A NEW RESOURCE FOR:<br>CLIFF AND GAIL FISCHER |
|--|--|---|



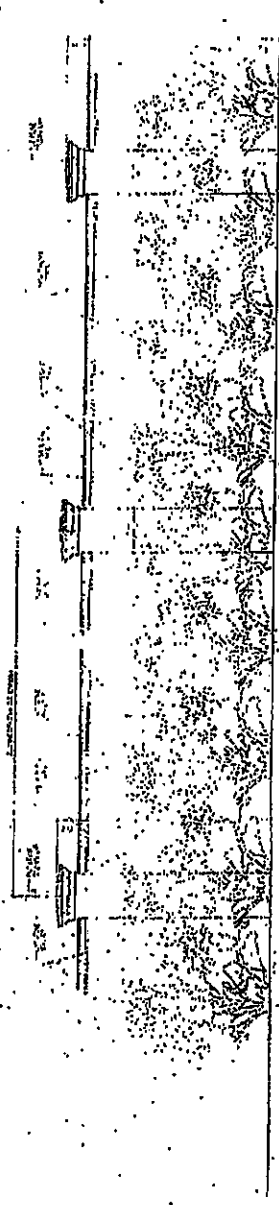


|              |                       |
|--------------|-----------------------|
| Project      | Richard Dreyfuss Park |
| Phase        | Final                 |
| Scale        | 1/8" = 1'-0"          |
| Sheet        | A1.2                  |
| Author       | ...                   |
| Check        | ...                   |
| Drawn        | ...                   |
| Reviewed     | ...                   |
| Approved     | ...                   |
| Construction | ...                   |
| Background   | ...                   |
| Preliminary  | ...                   |

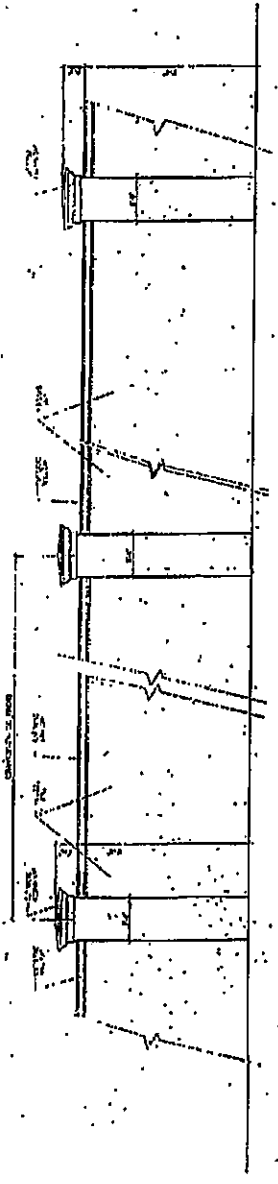
ELECTRICIAN  
 WA 12-1-12  
 PLANS APPROVED  
 SUBJECT TO  
 MODIFICATION  
 SUBJECT-11  
 [Signature]



1 ENTRY GATES AND WALL ELEVATION- PARK LANE



2 TYPICAL WALL ELEVATION ALONG INWOOD RD.



3 TYPICAL WALL ELEVATION- EAST AND SOUTH WALLS



Esp

BDA 134-122  
Attach C  
Pg 13

[Home](#) [News](#) [Services](#) [Community](#) [Business](#) [Government](#) [Visitors](#) [Info](#) [Dallas Kids](#) [Search](#)

Master Permit - 1111091131

**Details** **Trades** **Documents** **Zoning Info**

**Property**

Street Address

View

5100 PARK LN

Status: Permit Issued

Application Date: Nov 9, 2011

Issue Date: Nov 10, 2011

Completed Date:

**Applicant**

DON CALDERA

**Contractor**

REILLY HOMES INC  
P O BOX 671165  
DALLAS, TX 75367  
214/528-2645

Owner Category: PRIVATE

Fee Web Contractor:

Work Description: 110-INSTALL FENCE

Land Use Description: SINGLE FAMILY DWELLING

**Project**

Doing business as:

Activity: (B) Renovation

Occupancy: R3

Constr. Type: VB

Selling Alcohol:

Dance Floor:

Dwelling Units:

Stories:

Bedrooms:

Bathrooms:

Sprinkler: (None)

Required Parking:

Proposed Parking:

Sq Ft

Cost

New:

New:

Remodel:

Remodel:

Total:

Job Value:

\$20,000.00

\$20,000.00

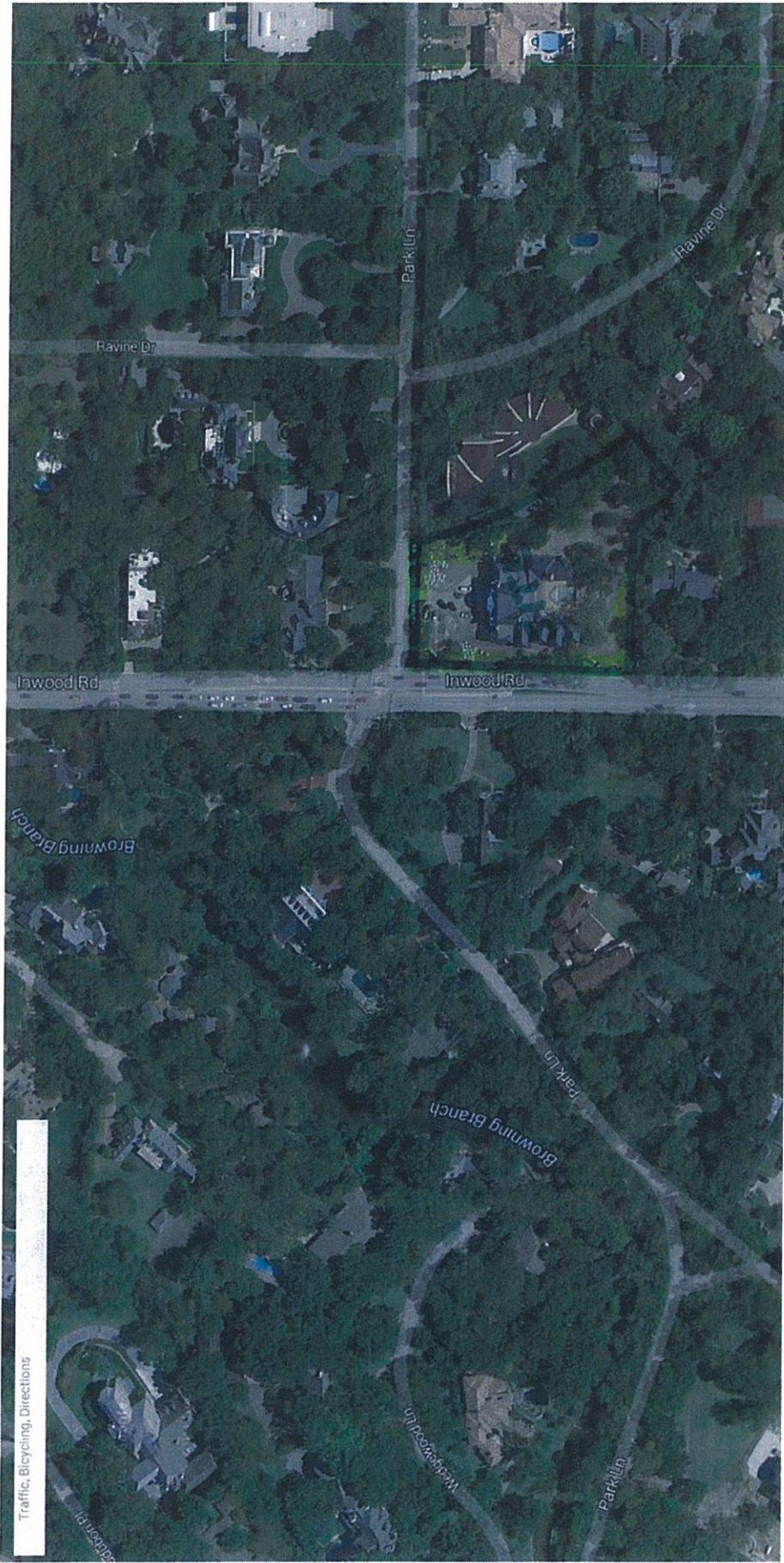
CA Not Required:

Subdivision not Required:

Sustainable Construction and Development | Building Inspection Division | 214/948-4480|www.dallascityhall.com

Main Menu

## 6. Record of 2011 Fence Permit Issuance



BDA 134-122  
 Attach C  
 Pg 14

**7. Aerial Photo; Site Outlined in Green**

Imagery ©2015 DigitalGlobe, Sanborn; Texas Orthomageery Program; U.S. Geological Survey, Map data ©2015 Google 100 ft



**8. Park Lane Frontage**

BDA 134-122  
Attach C  
Pg 15

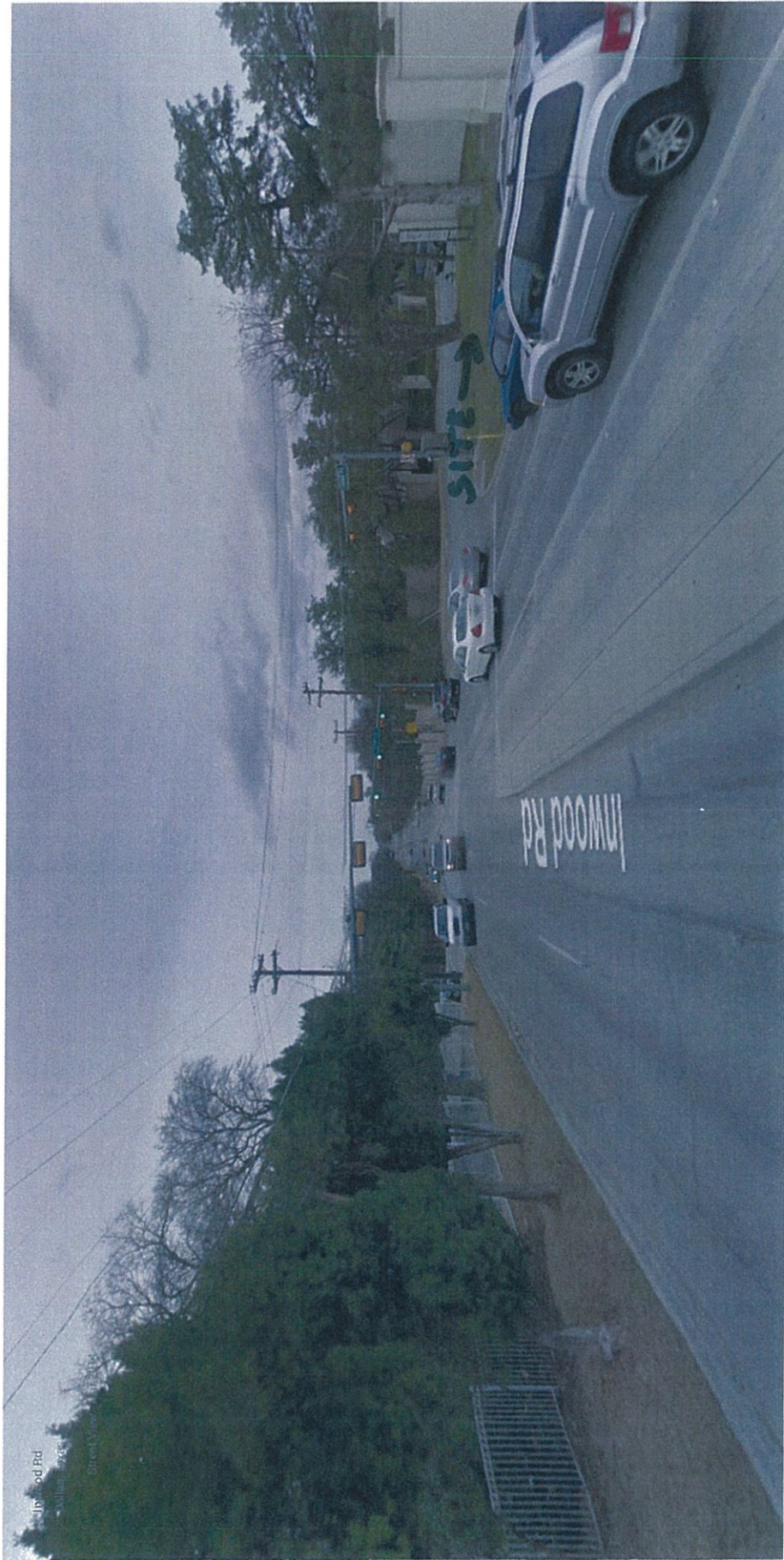
Image capture: Mar 2012 © 2015 Google



9. Inwood Road Looking South

BDA 134-122  
Attach C  
Pg 16

Image capture: Mar 2012

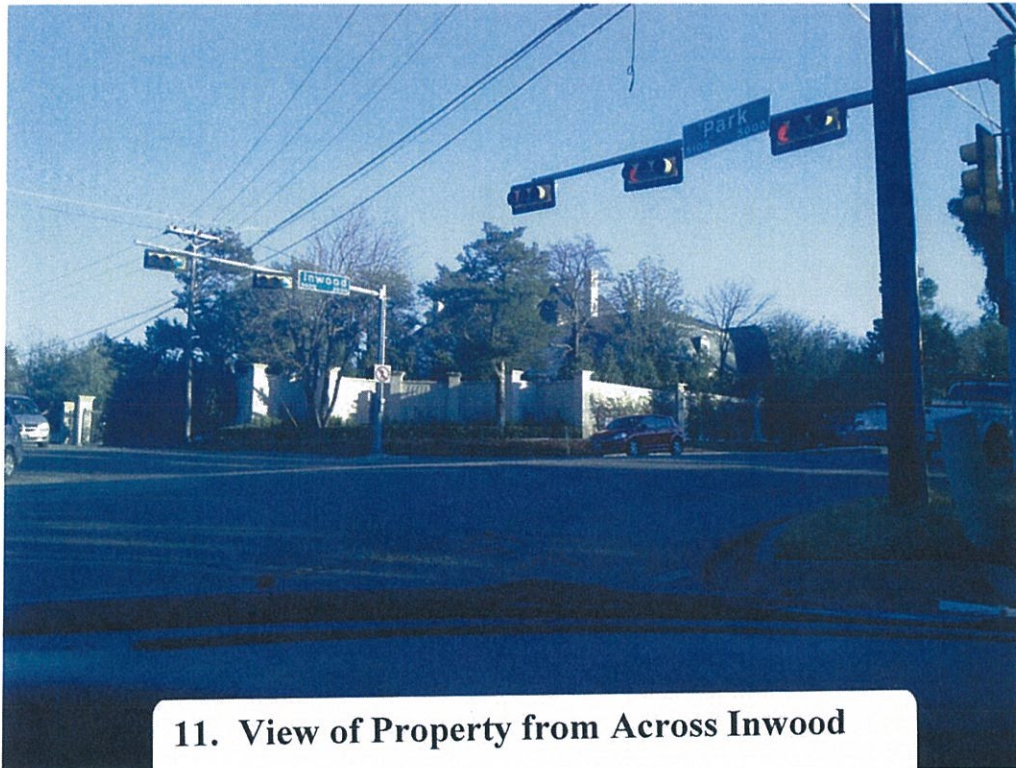


10. Inwood Road Looking North

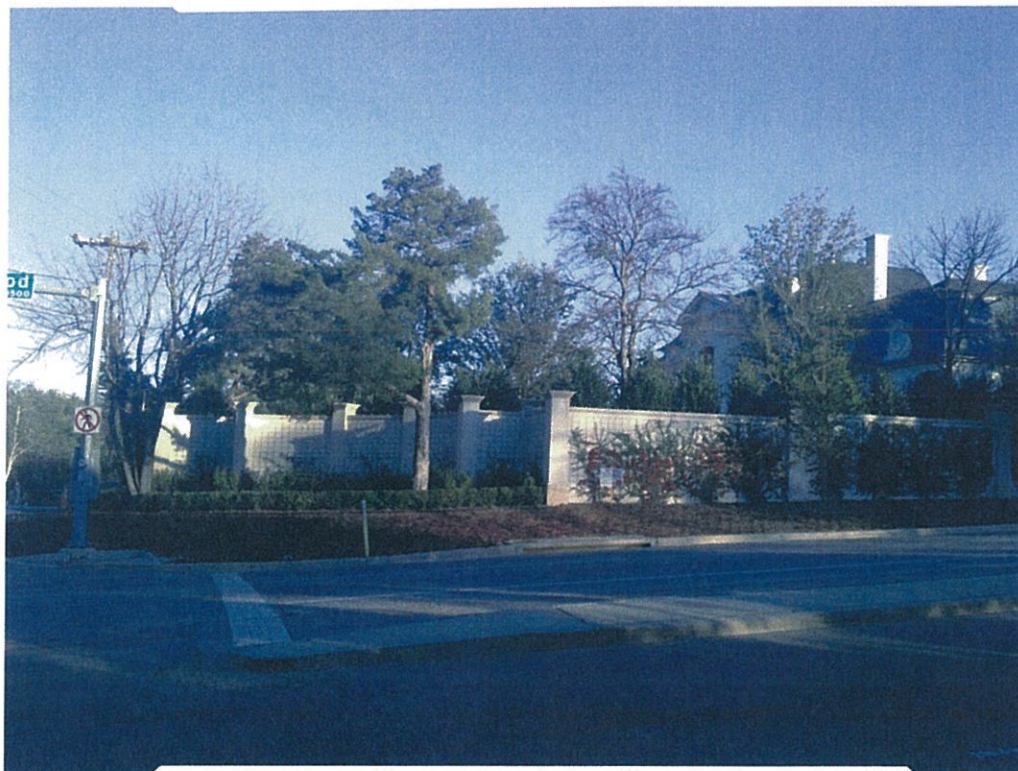
BDA 134-122  
Attach C  
Pg 17

Image capture: Mar 2014 © 2015 Google

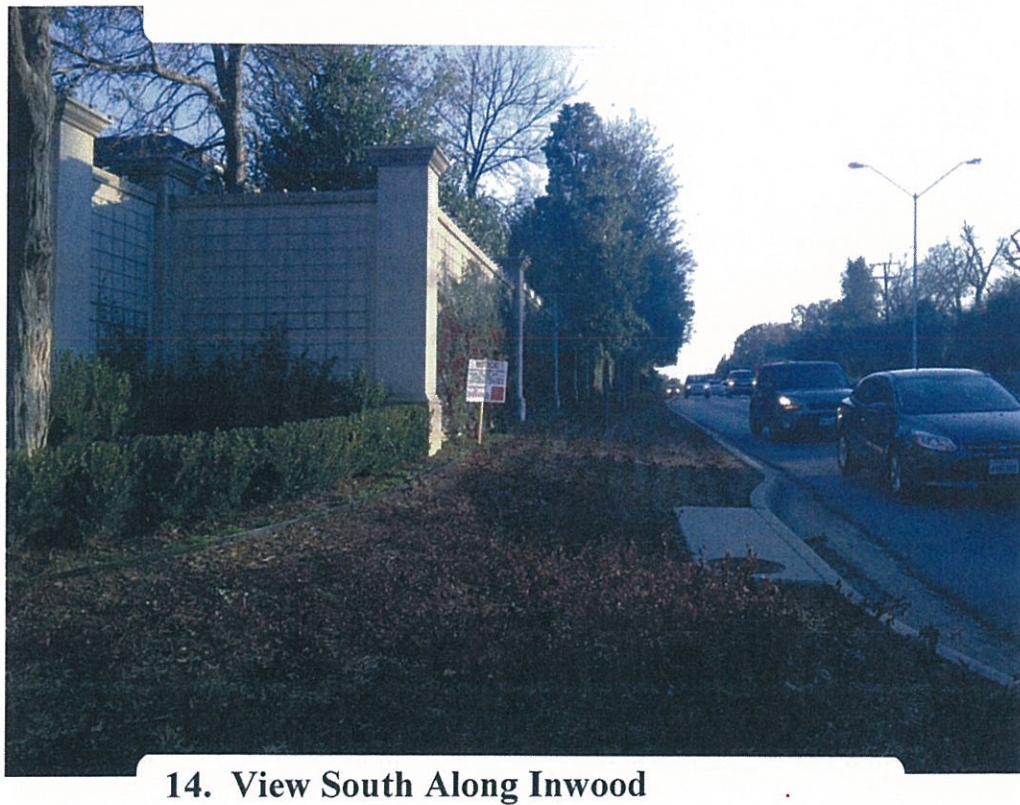
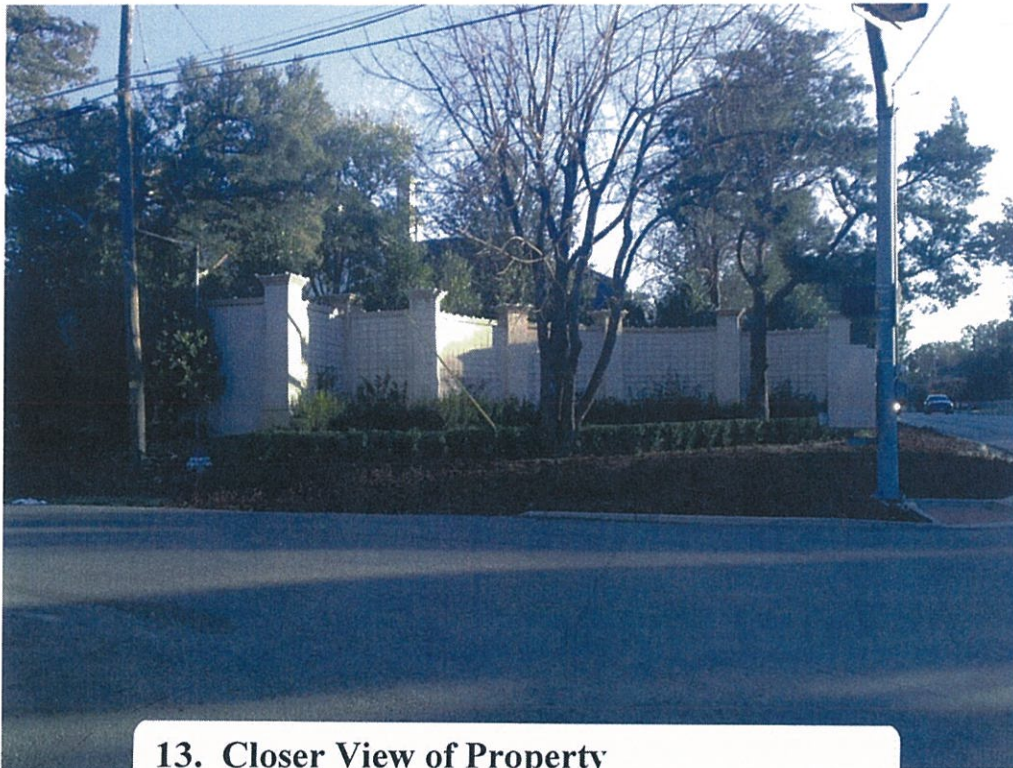
<https://www.google.com/maps/@32.873736,-96.8212654,3a,75y,8.5h,90.6t/data=!3m4!1e1!3m2!1sXtUWVMVGgFQ9syMzv2yj...> 1/9/2015



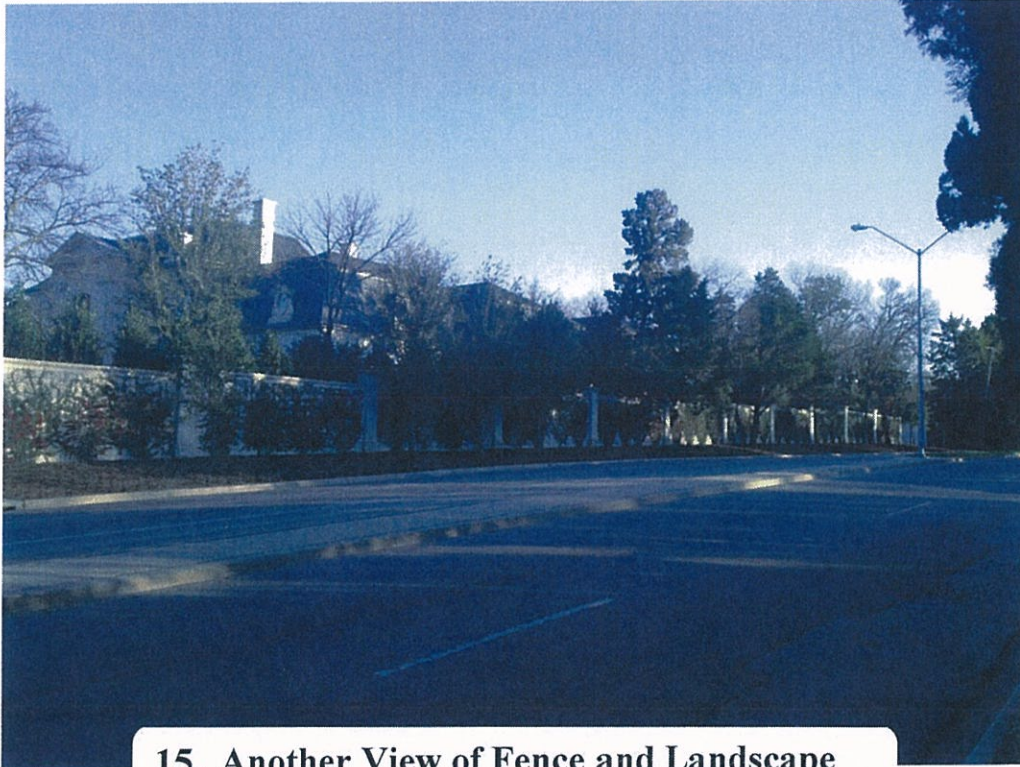
**11. View of Property from Across Inwood**



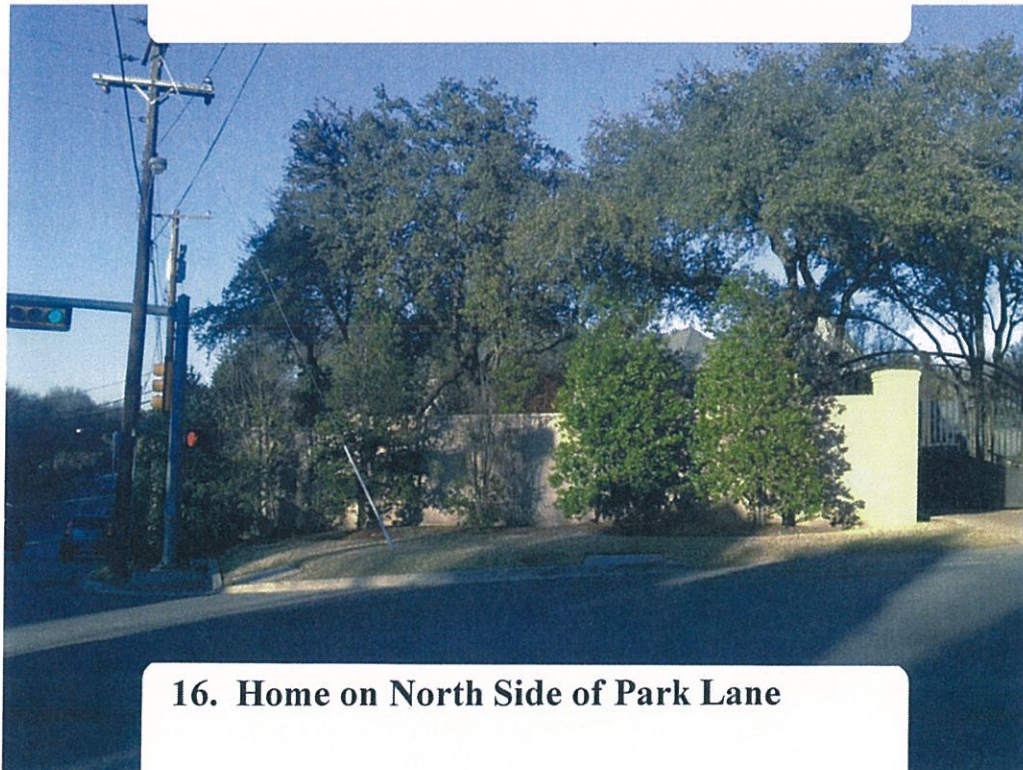
**12. Closer View of Property – Note trees and Landscape**



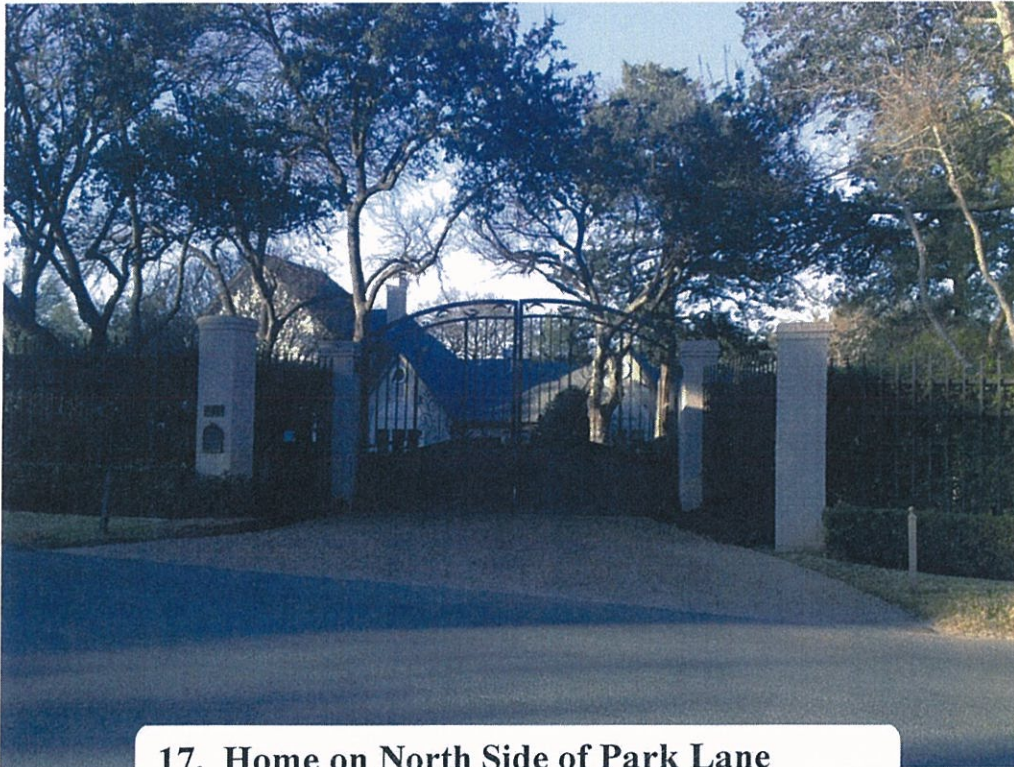




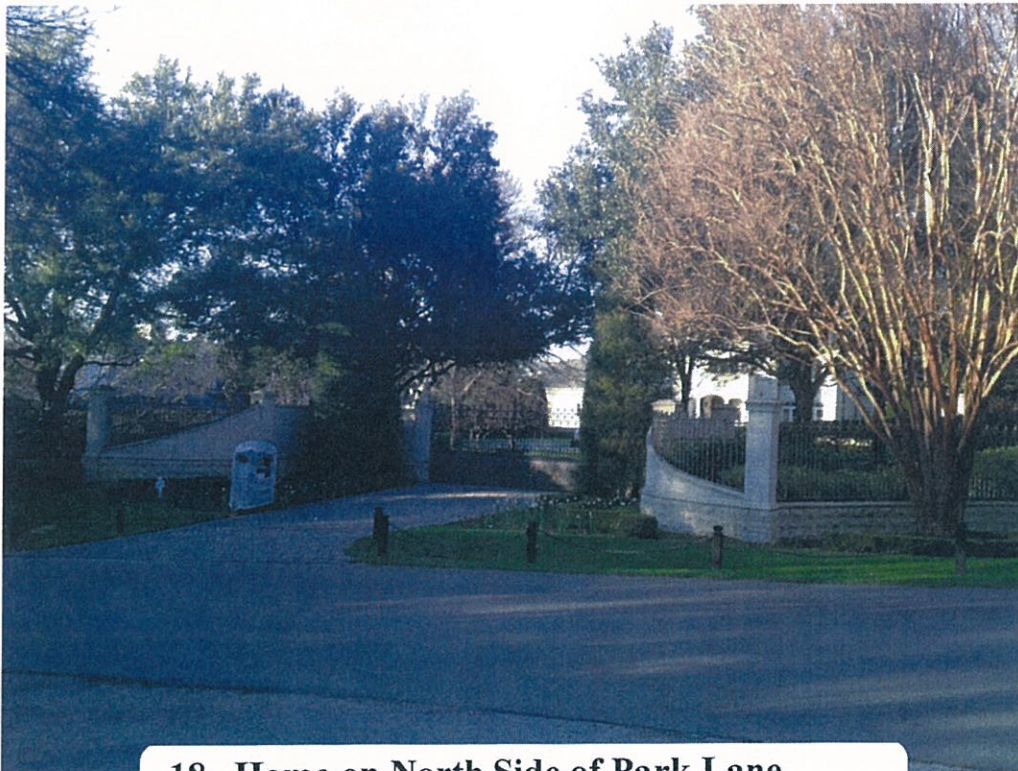
**15. Another View of Fence and Landscape**



**16. Home on North Side of Park Lane**



**17. Home on North Side of Park Lane**



**18. Home on North Side of Park Lane**

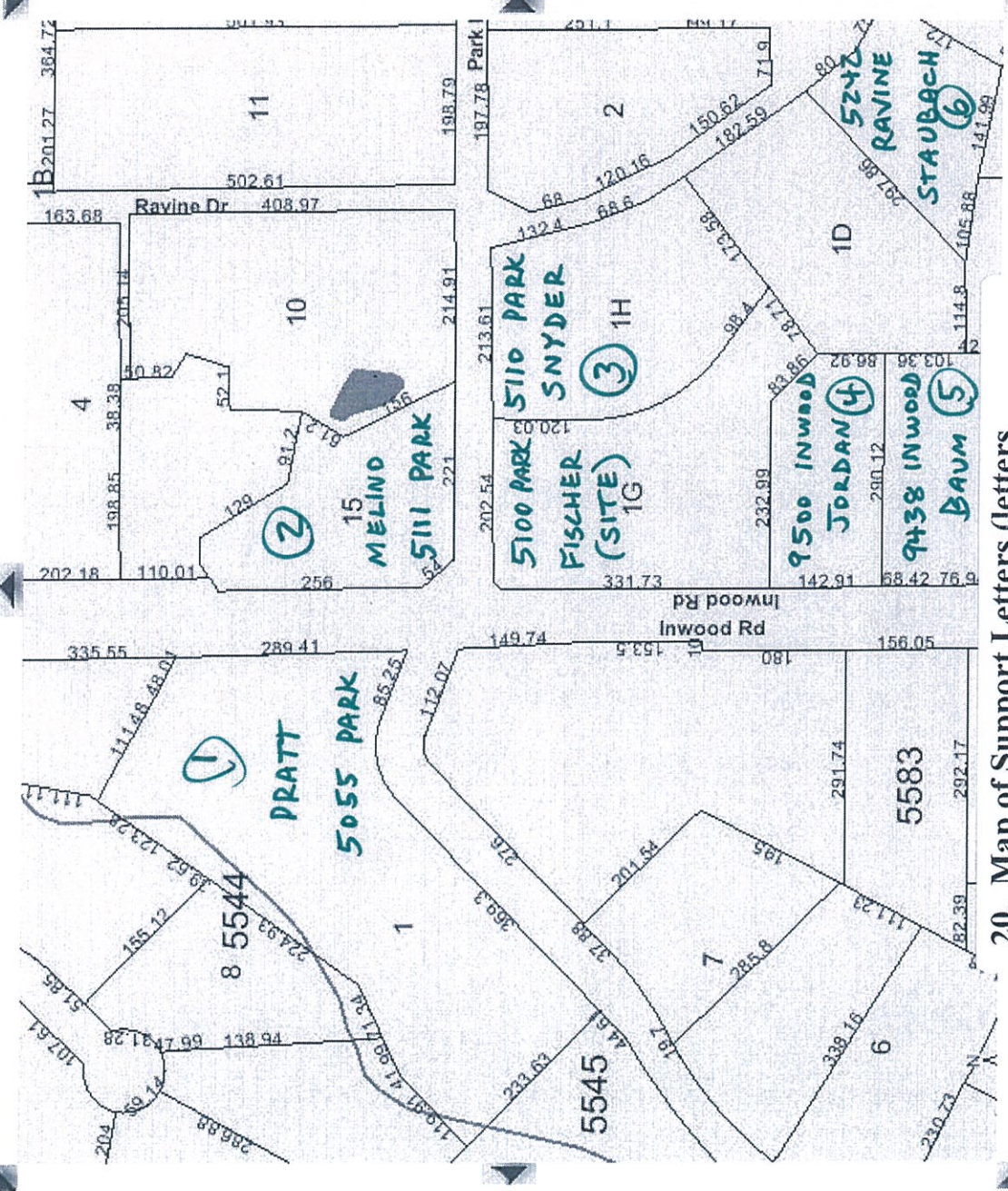


**19. Home Across Inwood/Park Intersection**



\*\*DISCLAIMER: This product is for informational purposes and may not have been prepared for surveying purposes. It does not represent an on-the-ground survey and represents only boundaries.\*\*

Zoom In Zoom Out Pan Identify Current Year Measure Clear Selection



Layers Legend Print Find

- Parcel Current Year
- Parcel 2014
- Parcel 2013
- Parcel 2012
- Parcel 2011
- Parcel 2010
- Parcel Dimensions
- Lot Number
- Block Number
- Flood Plain (DFIRM 2014)
- Contours (2 Foot)
- Aerial Photo (Feb. 2013)
- Freeways
- Road Name
- Railroad
- Streams
- County
- Lakes
- Neighborhood
- Dallas Block
- Abstract Boundary
- Subdivision Boundary
- City Boundary
- ISD Boundary
- Tax Increment Zone

20. Map of Support Letters (letters following)

Click map to Pan \*\*Not a legal document

(CIRCLED NUMBERS IN GREEN ARE KEYED TO LETTERS, FOLLOWING)

© 2003 Dallas Central Appraisal District.

http://dcadmaps.dallascad.org/website/dcad/viewer.htm

**JACK E. PRATT, SR.**  
**5055 PARK LANE**  
**DALLAS, TEXAS 75220**

December 18, 2014

Mr. Steve Long, Board Administrator  
Zoning Board of Adjustment  
City of Dallas  
1500 Marilla Street, Room 5BN  
Dallas, Texas 75201

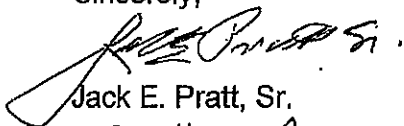
Re: BDA No. 134-122; 5100 Park Lane

Dear Mr. Long:

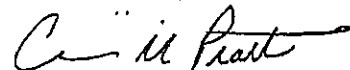
We are neighbors of Cliff and Gail Fisher, the homeowners residing at 5100 Park Lane. We understand that they have applied to the Board of Adjustment for approval of a special exception to the fence height regulations of eight feet, six inches. We have reviewed the site plan and fence elevation drawings with them and have viewed the fence and gate. We believe that there will no adverse effect on our property or on any other nearby properties, and we support their request.

We understand that this request was previously heard and was approved without opposition on February 15, 2011; however, it must be heard again to properly secure a permit. Please inform the Board of Adjustment that we support their application to the Board of Adjustment for a special exception of eight feet, six inches to the fence height regulations for their home at 5100 Park Lane.

Sincerely,



Jack E. Pratt, Sr.



Aileen M. Pratt  
5055 Park Lane  
Dallas, Texas 75220

**Long, Steve**

---

**From:** Jim Melino <  
**Sent:** Friday, January 02, 2015 5:18 PM  
**To:** Long, Steve  
**Cc:** cfischer@fischercompany.com  
**Subject:** 5100 Park Lane; Clifford Fischer Fence Variance Request

Mr. Long,

I am a neighbor of Mr. and Mrs. Clifford Fischer who live at 5100 Park Lane, Dallas, Texas. I live directly north of the Fischer's home at 5111 Park Lane. I am aware that they are requesting a variance for their fence and I wanted to let you know that we are in support of the Fischer's plans and their request for the variance for the fence for 5100 Park Lane.

Please advise with any questions or if you need anything further in this regard.

Thank you,  
James J. Melino

James J. Melino  
The Cambridge Companies, Inc.  
Northpark Central  
8750 N. Central Expressway  
Suite 1735  
Dallas, Texas 75231  
P: 214-691-2556 Ext. 206  
F: 214-691-0682  
C: 214-532-3924

**Long, Steve**

---

**From:** Snyder, Bobbi <  
**Sent:** Monday, January 05, 2015 11:04 AM  
**To:** Long, Steve  
**Subject:** 5100 Park Lane, Clifford Fischer Fence Variance Request

Steve,

I am the adjacent neighbor to the east of Mr. and Mrs. Clifford Fischer who live at 5100 Park Lane, Dallas, Texas. I am aware that they are requesting a variance for their fence. Please let the board of adjustment know that I enthusiastically support the variance that they are requesting. It is a considerate design and enhancement for our neighborhood.

Roberta Snyder  
5100 Park Lane

214-358-4736

**Long, Steve**

---

**From:** Andrew Aoi  
**Sent:** Monday, January 05, 2015 11:40 AM  
**To:** Long, Steve  
**Subject:** 5100 Park Lane Fischer Fence

Dear Mr. Long,

We are neighbors directly to the south of Mr. and Mrs. Clifford Fischer, who live at 5100 Park Lane. We have reviewed Mr. and Mrs. Fischer's fence and we are in support of their variance request.

Sincerely,

Andrew Jordan  
9500 Inwood Road  
Dallas, TX. 75220

Sent from my iPhone



**Long, Steve**

---

**From:** Doug Baum <>  
**Sent:** Monday, January 05, 2015 12:39 PM  
**To:** Long, Steve  
**Subject:** 5100 Park Lane - Fisher Fence Variance

Dear Mr. Long,

I am a neighbor to Mr. and Mrs. Fischer who live at 5100 Park Lane. We live to the south on Inwood Road. I have reviewed the plans of their fence and request for variance and I am in support of their request. They have done everything in a first class way and believe that they have greatly improved what was an empty lot for many years. Please inform the Board of Adjustment of my support.

Sincerely,

Doug Baum

**Long, Steve**

---

**From:** Staubach, Roger <  
**Sent:** Monday, January 05, 2015 1:48 PM  
**To:** Long, Steve  
**Cc:** cfischer@fischercompany.com  
**Subject:** 5100 Park Lane - Fischer Fence Variance Request

Dear Mr. Long,

We are neighbors of Cliff and Gail Fischer, who recently moved in at 5100 Park Lane. We understand that they are applying for a variance for their fence. We have reviewed their fence plans and are in support of their variance request. Please let the appropriate parties know of our support. Thank you.

Sincerely,

Roger Staubach

Roger Staubach  
Executive Chairman - Americas  
JLL  
tel +1 214 438 6112 fax +1 312 470 5373  
[roger.staubach@am.jll.com](mailto:roger.staubach@am.jll.com)  
[www.jll.com](http://www.jll.com)



This email is for the use of the intended recipient(s) only. If you have received this email in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not keep, use, disclose, copy or distribute this email without the author's prior permission. We have taken precautions to minimize the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this message. We cannot accept liability for any loss or damage caused by software viruses. The information contained in this communication may be confidential and may be subject to the attorney-client privilege. If you are the intended recipient and you do not wish to receive similar electronic messages from us in the future then please respond to the sender to this effect.



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-122

Data Relative to Subject Property:

Date: October 13, 2014

Location address: 5100 Park Lane Zoning District: R-1ac.(A)

Lot No.: 1G Block No.: 5/5595 Acreage: 2.027 Census Tract: 206.00

Street Frontage (in Feet): 1 202 2 331 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

NE2S

To the Honorable Board of Adjustment:

Owner of Property/or Principal Clifford R. Fischer and Gail C. Fischer

Applicant: Ed Simons (Masterplan) Telephone: 214-761-9197

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

Represented by: Same Telephone: Same

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

Affirm that a request has been made for a Variance \_\_, or Special Exception X, of fence height regulation of eight feet six inches.

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 front yard fence height is 12 feet six inches at the highest part of the gate. It will not have an adverse impact on surrounding properties. The property is on the corner of Inwood and Park and needs protection from traffic sound.

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: Ed Simons  
Applicant's name printed

Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Ed Simons 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.

Affiant (Applicant's signature)

Subscribed and sworn to before me this 13 day of October, 2014

  
Notary Public in and for Dallas County, Texas

(Rev. 08-20-09)

MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

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

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

Building Official's Report

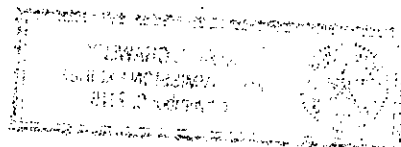
I hereby certify that Ed Simons

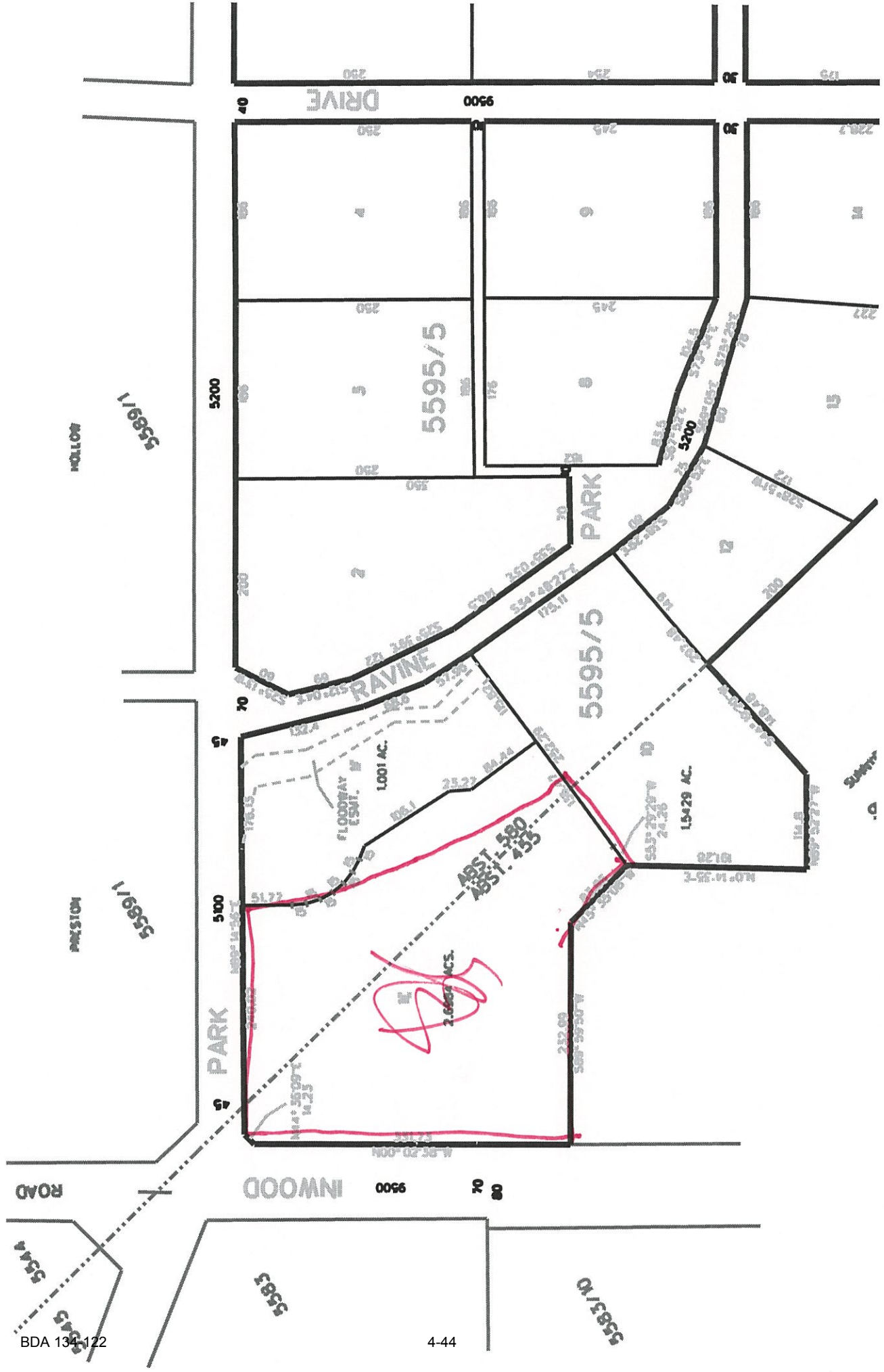
did submit a request for a special exception to the fence height regulations  
at 5100 Park Lane

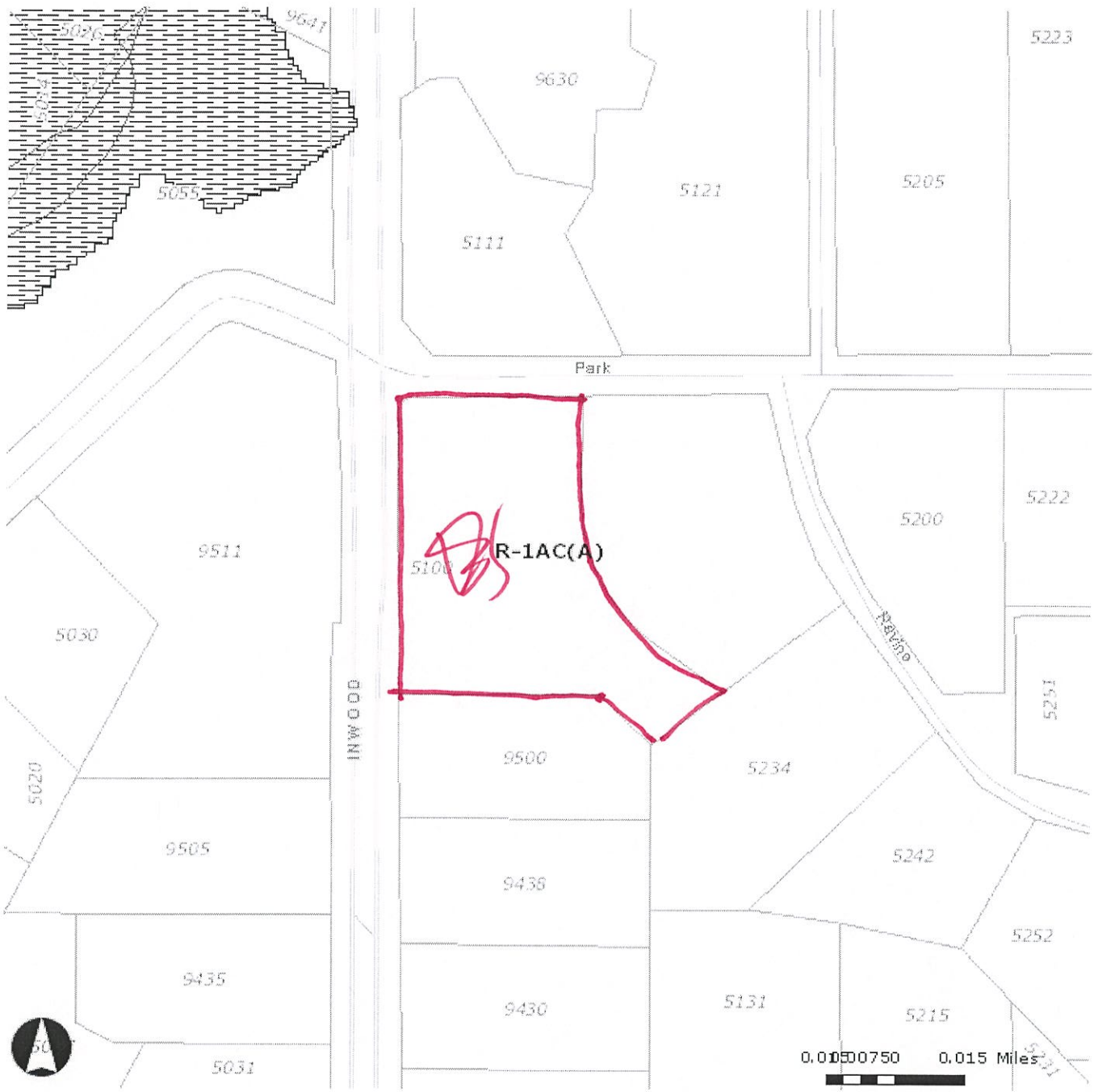
BDA134-122. Application of Ed Simons for a special exception to the fence height regulations at 5100 Park Lane. This property is more fully described as Lot 1G, Block 5/5595, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 12 foot 6 inch high fence in a required front yard, which will require an 8 foot 6 inch special exception to the fence regulation.

Sincerely,

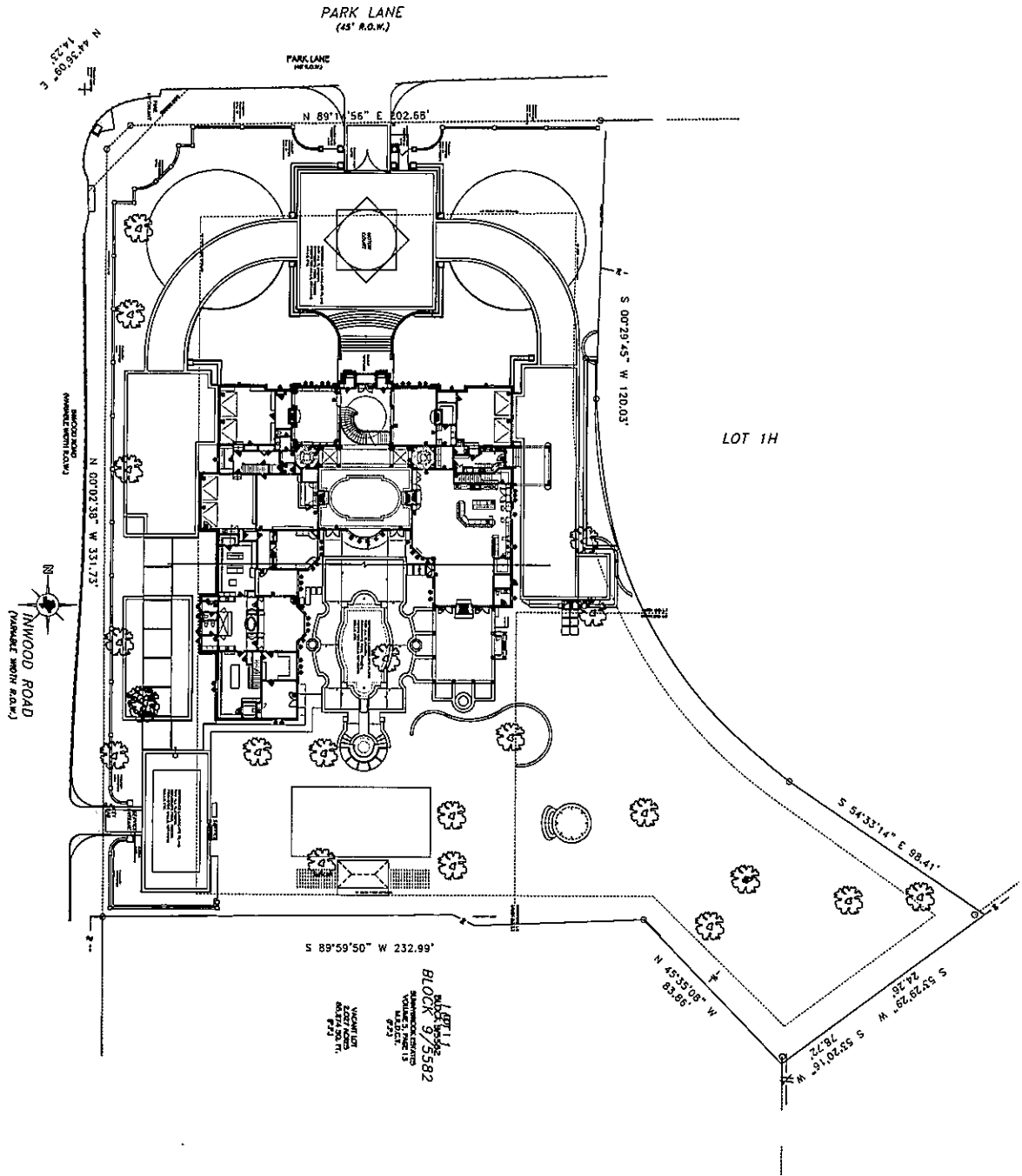
*Larry V. Holmes*  
Larry Holmes, Building Official



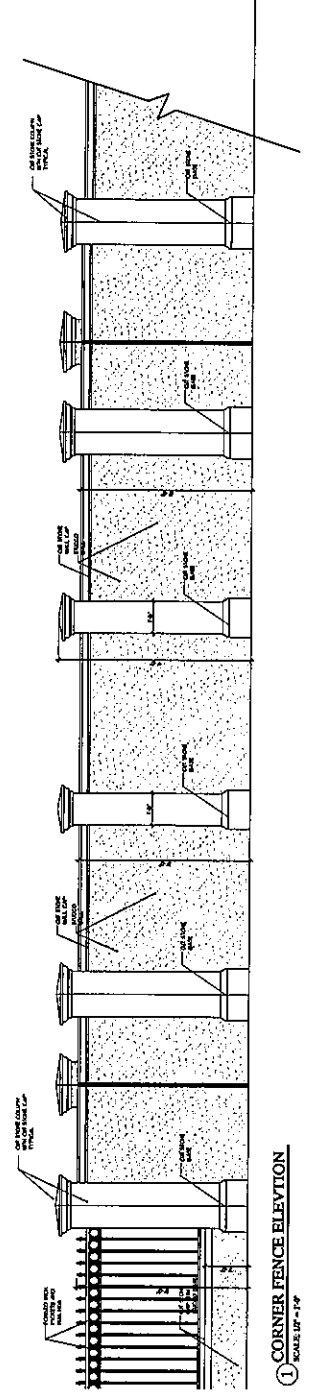
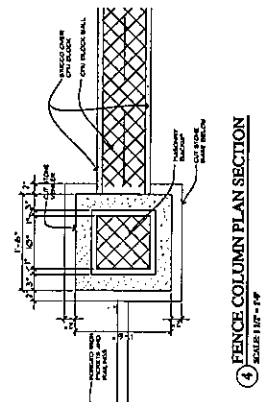
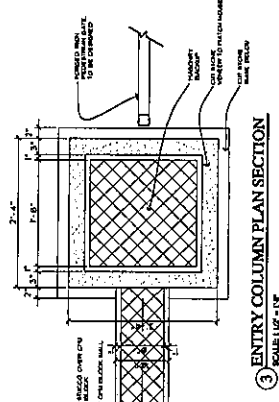
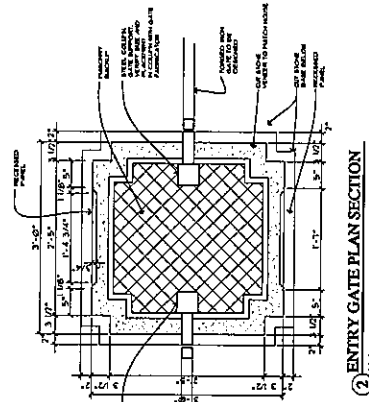
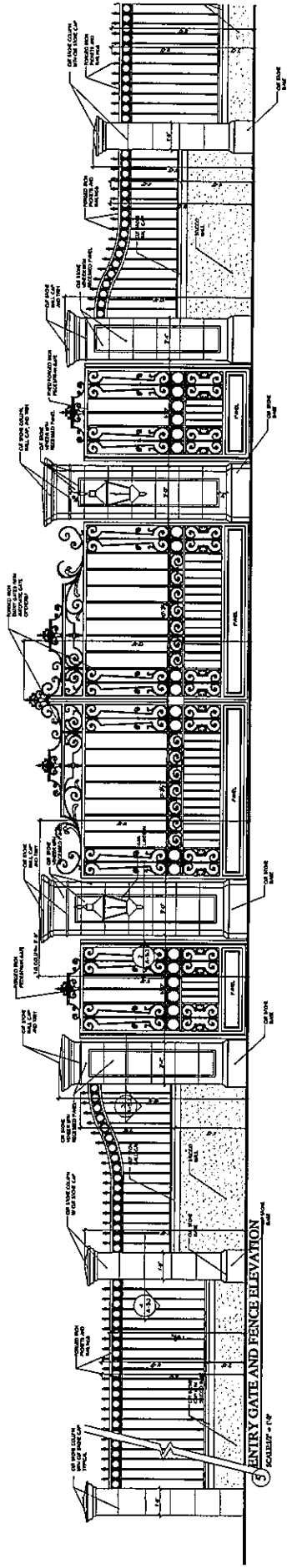




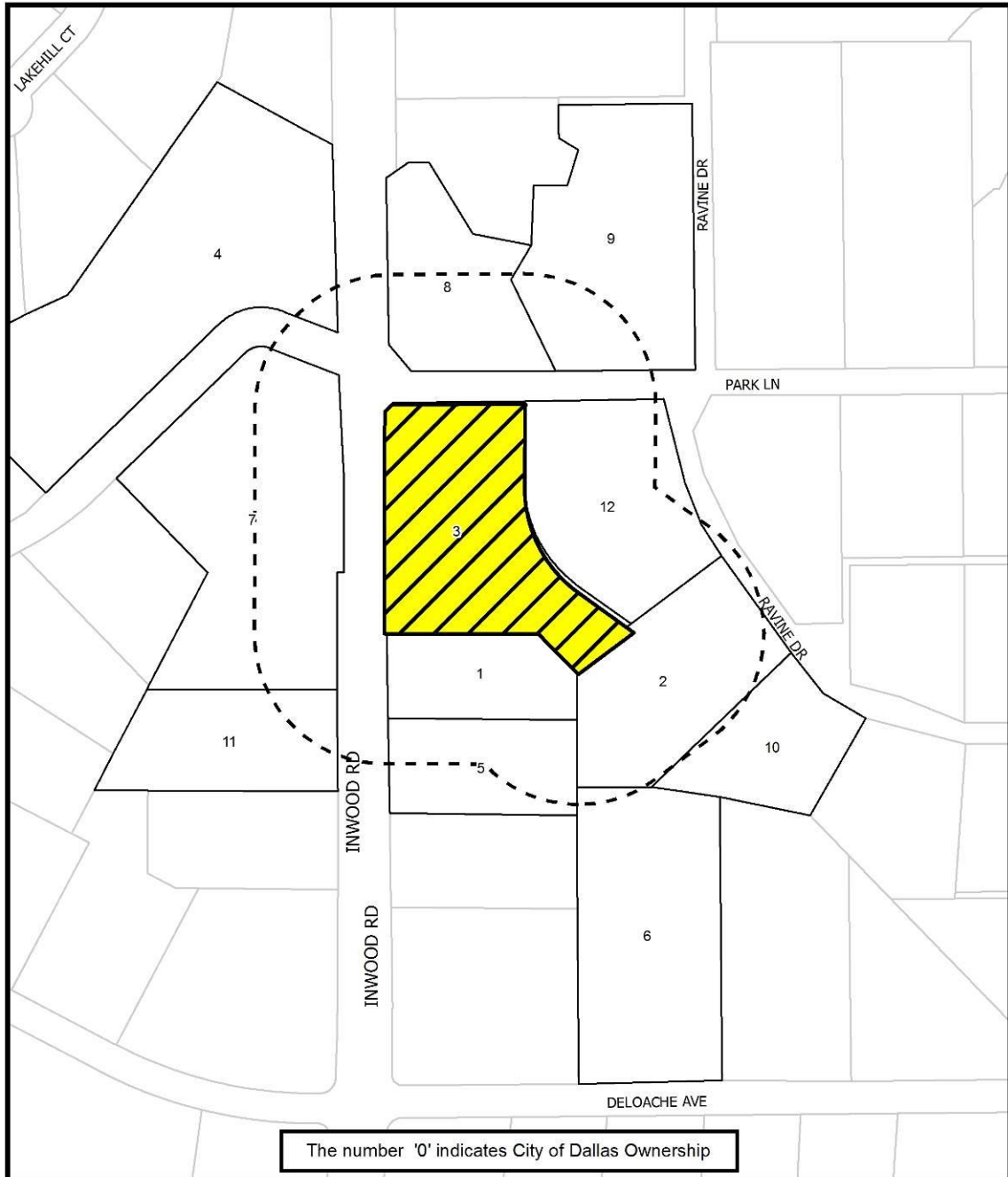
① SITE PLAN  
SCALE: 1/8" = 1'-0"



VACANT LOT  
 4,227 SQ. FT.  
 97.23  
 BLOCK 9/5582  
 SUBDIVISION  
 13  
 13







|  |  |                         |                            |
|--|--|-------------------------|----------------------------|
| <br>1:2,400 | <b>NOTIFICATION</b>  |                         | Case no: <b>BDA134-122</b> |
|  | <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;">12</div> NUMBER OF PROPERTY OWNERS NOTIFIED | Date: <b>11/19/2014</b> |                            |

## *Notification List of Property Owners*

### *BDA134-122*

#### *12 Property Owners Notified*

| <i>Label #</i> | <i>Address</i>    | <i>Owner</i>                  |
|----------------|-------------------|-------------------------------|
| 1              | 9500 INWOOD RD    | JORDAN ANDREW M               |
| 2              | 5234 RAVINE DR    | HOWLEY CHARLES L &            |
| 3              | 5100 PARK LN      | FISCHER CLIFFORD R &          |
| 4              | 5055 PARK LN      | PRATT AILEEN MEJIA &          |
| 5              | 9438 INWOOD RD    | BAUM DOUGLAS ANTHONY & ANNE E |
| 6              | 5131 DELOACHE AVE | CARONA JOHN J & HELEN EDEN    |
| 7              | 9511 INWOOD RD    | MARR RAY H                    |
| 8              | 5111 PARK LN      | MELINO JAMES J                |
| 9              | 5121 PARK LN      | SKOKOS THEODORE C & SHANNON B |
| 10             | 5242 RAVINE DR    | STAUBACH ROGER T &            |
| 11             | 9505 INWOOD RD    | VERGNEMARINI PEDRO &          |
| 12             | 5110 PARK LN      | SNYDER RICHARD W &            |

**FILE NUMBER:** BDA 145-001

**BUILDING OFFICIAL'S REPORT:** Application of Jose R. Villatoro, Jr. for a special exception to the landscape regulations at 1215 Hartsdale Drive. This property is more fully described as Lot 1, Block 1/6171, and is zoned MF-2(A), which requires mandatory landscaping. The applicant proposes to construct and/or maintain a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

**LOCATION:** 1215 Hartsdale Drive

**APPLICANT:** Jose R. Villatoro, Jr.

**REQUEST:**

A request for a special exception to the landscape regulations is made for the following two reasons:

1. To not maintain a portion of the 10' wide required landscape buffer strip or the required buffer trees along the northern portion of the site where there is residential adjacency with a multifamily use.
2. To maintain a number of parking spaces not in compliance with parking lot tree requirements.

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REGULATIONS:**

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

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

In determining whether to grant a special exception, the Board shall consider the following factors:

- the extent to which there is residential adjacency;
- the topography of the site;
- the extent to which landscaping exists for which no credit is given under this article; and
- the extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

## **STAFF RECOMMENDATION:**

Approval, subject to the following conditions:

- Compliance with the submitted alternate landscape plan is required with the following additional provisions.
  - (1) One additional large canopy tree must be planted within a minimum of 50 square feet landscape area, and being located west of, and no more than 200 feet from, the new building addition, and within 60 feet distance from the southern property line.
  - (2) Any required perimeter buffer strip tree, or parking lot tree, to be removed must be replaced with a minimum of one large canopy tree.

Rationale:

- The City's Chief Arborist conditionally recommends approval of the applicant's request. Concerning the 10' wide landscape buffer strip and buffer trees required along the 502.30 linear feet defining the northern perimeter of the property, of which approximately 241 linear feet is a non-permeable surface, the applicant has demonstrated that strict compliance with the requirements of Article X would unreasonably burden the use of the property, and he has favorably demonstrated the special exception would not negatively affect neighboring property. However, the alternate landscape plan does not fully meet the requirements for parking lot trees, and the City's Chief Arborist recommends the addition of one tree, in proximity to the deficient parking lot area, would appropriately help mitigate this deficiency.

## **BACKGROUND INFORMATION:**

### **Zoning:**

- Site: MF-2(A) (Multifamily Residential District)  
North: MF-2(A) (Multifamily Residential District) and TH-3(A) (Townhouse Residential District)  
South: PD714 (Subdistrict 5) (Mixed Use District Balanced With Residential, Commercial, and Retail Uses)  
East: PD 714 (Subdistrict 5) (Mixed Use District Balanced With Residential, Commercial, and Retail Uses) and R-7.5(A) (Single Family Residential District)  
West: MF-2(A) (Multifamily Residential District)

### **Land Use:**

The subject site is developed with a church. The area to the north is developed with multifamily residential units and single family housing; the area to the east is developed with a church and a car wash; the area to the south is developed with a retail use; and the area to the west is developed with multifamily and single-family uses.

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

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

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

- This request focuses on constructing and maintaining an addition to the existing floor area of the church (Iglesia Evangelica Apostoles y Profetas), and not fully meeting the landscape regulations. More specifically, according to the City of Dallas Chief Arborist, the submitted alternate landscape plan does not fully comply with requirements for a 10' wide landscape buffer strip or required buffer trees needed when adjacent to residential zoning. In addition, the plan does not comply with requirements for parking lot trees.
- 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.
- The City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment A). The memo states how this request is triggered by the new construction.
- The Chief Arborist's memo lists landscape deficiencies:
  1. Because of residential adjacencies with multifamily uses, the site requires a 10' wide landscape buffer strip and required buffer trees along the northern and western perimeters of the property. The proposed landscape plan shows the 10' wide landscape buffer strip and required buffer trees along the western edge of the site, but it does not fully provide the strip and trees along the northern perimeter of the site.
  2. A parking lot tree for approximately 20 parking spaces, located at the southern portion of the property, adjacent to the commercial district, is not provided for.
- The Chief Arborist's memo lists the following factors for consideration:
  1. In June of 2001, a landscape inspection was not completed on the property in conjunction with new construction.
  2. A new permit has been applied for, which has triggered a review of the landscaping.
  3. The property does not meet Article X residential adjacency requirements along the northern and western perimeters of the site.
  4. The submitted alternate landscape plan reduces the paved surface along the western perimeter to create a 10' landscape buffer with the minimum required trees. This is not the case with the northern perimeter of the site, where the existing fire lane creates a non-permeable portion within the area for the required 10' wide landscape buffer strip and required buffer trees.
  5. The applicant has established landscaping along the front yard of the property, including screening shrubs, a street buffer, foundation plantings, additional

hardship amenities, and a row of live oak street trees which exceed the minimum number required.

- The City of Dallas Chief Arborist recommends conditional approval of the alternate landscape plan because the applicant has identified one area where strict compliance with the requirements of Article X would unreasonably burden the use of the property, and has favorably demonstrated the special exception would not negatively affect neighboring property. The City's Chief Arborist also believes the applicant has given reasonable effort to comply with the intent of the standard ordinance provisions while working with the site restrictions placed on the property. However, the City's Chief Arborist recommends the addition of one tree to help mitigate the deficiency of a parking lot tree required in the southern portion of the property, a portion where at least 20 required parking spaces are not located within 120' from the stem of a large canopy tree.
- The applicant has the burden of proof in establishing the following:
  - Strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property; and the special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted alternate landscape plan as a condition to the request, the site would be provided exception from full compliance with the required landscape buffer strip and the required buffer trees as required per Article X: The Landscape Regulations.

### **Timeline:**

September 23, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

December 10, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

December 10, 2014: The Current Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the January 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the section from the Dallas Development Code pertaining to landscape variances and special exceptions; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

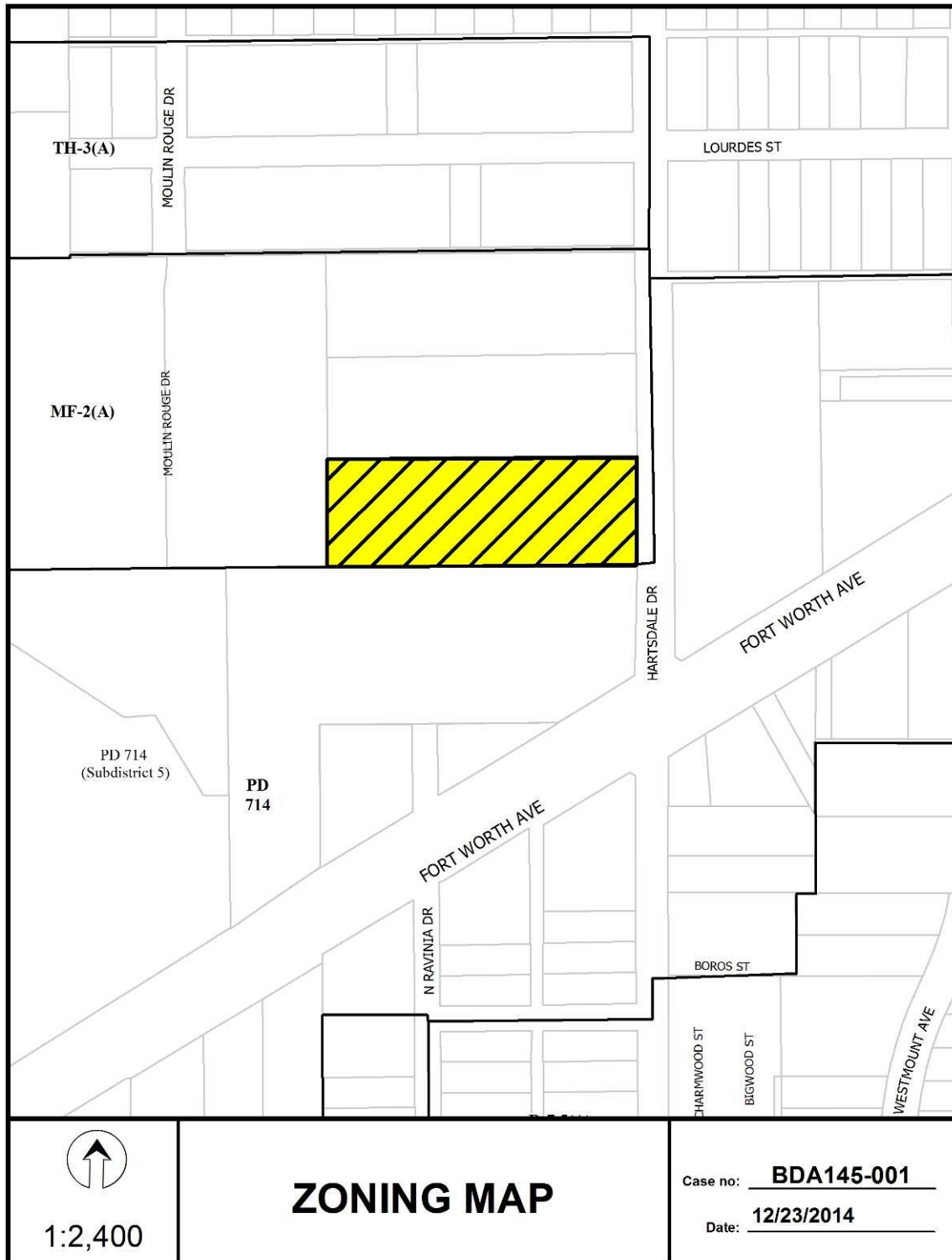
January 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for January public

hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, 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.

January 6, 2015: The Current Planner e-mailed the applicant to ask whether or not he would like to amend his application from a landscape variance request, which staff could not support, to a special exception request, which staff could support. The applicant informed the Current Planner that he wanted to amend his application.

January 8, 2015: The City of Dallas Chief Arborist submitted a memo regarding the request (see Attachment A).







1:2,400

# AERIAL MAP

Case no: BDA145-001

Date: 12/23/2014

# Memorandum



DATE January 8, 2015

TO

Danielle Jimenez, Planner  
Steve Long, Board of Adjustment Administrator

SUBJECT # BDA 145 · 001 1215 Hartsdale Drive

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

### Trigger

New construction of an addition which exceeds 35% of existing floor area.

### Deficiencies

The proposed landscape plan does not provide a 10-foot landscape buffer strip (51A-10.125(b)(1)), or the required buffer trees (51A-10.125(b)(7)), along more than a 250' portion of the north perimeter, where there is residential adjacency with a multifamily use.

The plan does not provide for a parking lot tree for about 20 parking spaces located in the southern portion of the property adjacent to the commercial district and adjacent to the new addition.

### Factors

The owner began construction of the church on the property about June, 2001. For reasons unclear, a landscape inspection was not completed on this property with the new construction. The property does have a Certificate of Occupancy since 2002. A new permit has been submitted for review for the addition and renovation to the original structure.

Aside from the fire lane section adjacent to the structure, the property currently does not maintain a 10' landscape buffer, with required trees, on the western edge of the site. However, the proposed plan would reduce the paved surface to create a 10' landscape buffer with the minimum required trees.

The front yard of the property has established landscaping, including screening shrubs, a street buffer, foundation plantings, additional hardscape amenities, and a row of live oak street trees which exceed the minimum number required. The required number of site trees is provided with existing and new trees.

## Recommendation

The chief arborist conditionally recommends approval of the proposed landscape plan because, in my opinion, the applicant has identified one area where strict compliance to the code would unreasonably burden the use of the property as it is developed, and the exception does not adversely affect the neighboring property.

In approving this plan, I recommend the following conditions be supported:

One additional large canopy tree must be planted within a minimum of 50 square feet landscape area, and being located west of, and no more than 200 feet from, the new building addition, and within 60 feet distance from the southern property line.

Any required perimeter buffer strip tree, or parking lot tree, to be removed must be replaced with a minimum of one large canopy tree.

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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-001

Data Relative to Subject Property:

Date: 9/23/2014

Location address: 1215 Hartsdale Dr Dallas Tx 75211

Zoning District: MF-2(A)

Lot No.: 1 Block No.: 1/6171 Acreage: 2.010

Census Tract: 69.00 SW 19A

Street Frontage (in Feet): 1) 174.30 2) 1 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Iglesia Evangelica Apostoles y Profetas

Applicant: Jose R. Villatoro Jr. Telephone: 214-687-7803

Mailing Address: 1215 Hartsdale Dr Dallas TX 75211 Zip Code: 75211

E-mail Address: josejr@ruweb.tv

Represented by: Jose R. Villatoro Jr Telephone: 214-687-7803

Mailing Address: 5455 San Patricio Dr - Grandprairie TX 75052 Zip Code: 75052

E-mail Address: josejr@ruweb.tv

Affirm that an appeal has been made for a Variance [checked], or Special Exception, of an alternate landscape plan.

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

We cannot provide due to the 24 ft for the fire lane of the North side of the Property between the existing building on the North Property line.

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

Affidavit

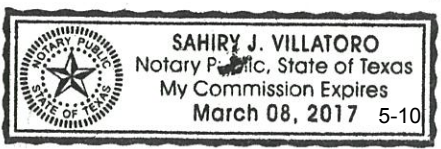
Before me the undersigned on this day personally appeared Jose R. Villatoro Jr (Affiant/Applicant's name printed)

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

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

Subscribed and sworn to before me this 23 day of September, 2014

(Rev. 08-01-11)



[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

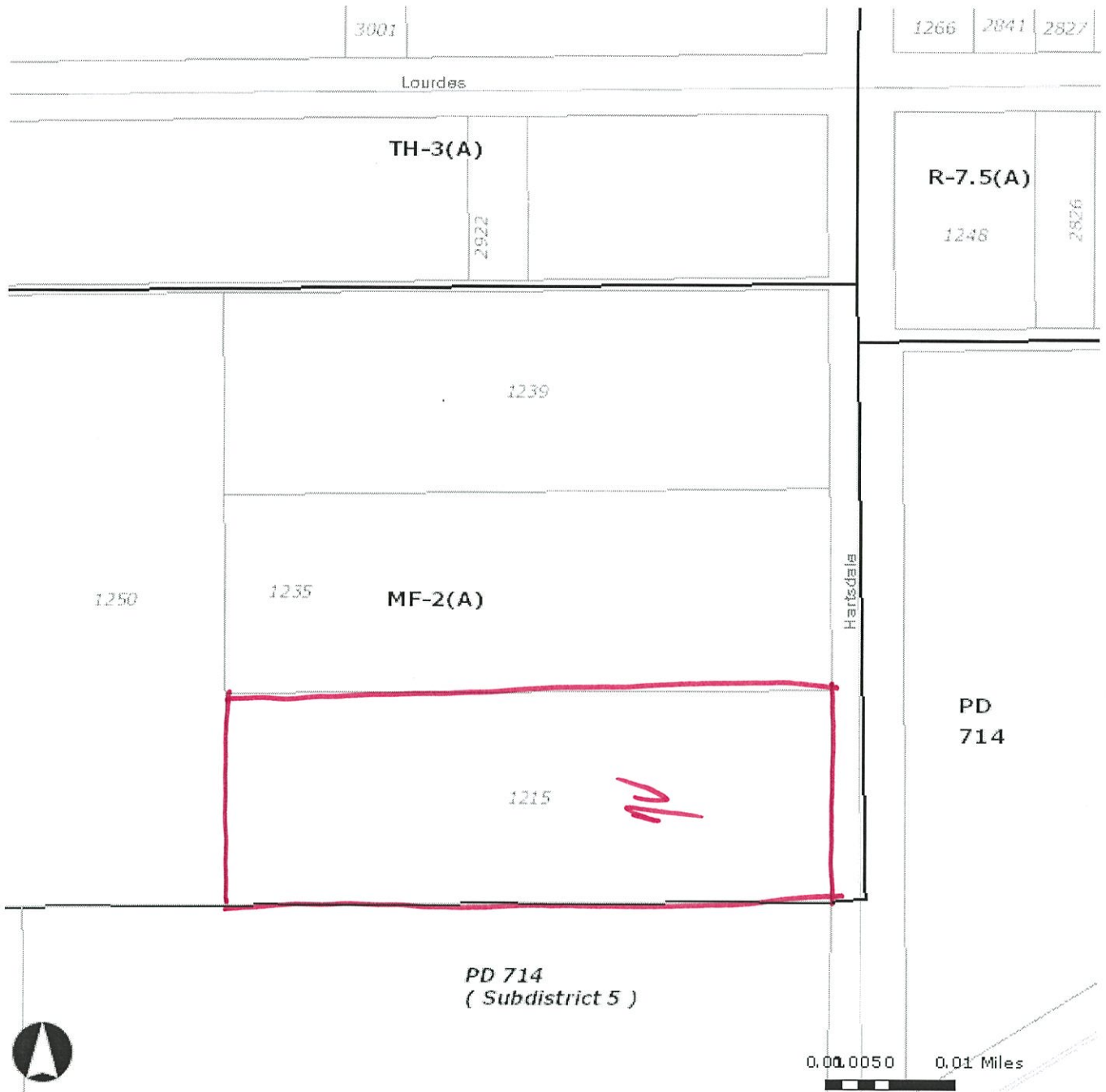
**Building Official's Report**

I hereby certify that Jose R. Villatoro, Jr.  
represented by Jose R. Villatoro, Jr.  
did submit a request for a variance to the landscaping regulations  
at 1215 Hartsdale Drive

BDA145-001. Application of Jose R. Villatoro, Jr. for a variance to the landscaping regulations at 1215 Hartsdale Drive. This property is more fully described as Lot 1, Block 1/6171, and is zoned MF-2(A), which requires mandatory landscaping. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a variance to the landscape regulations.

Sincerely,

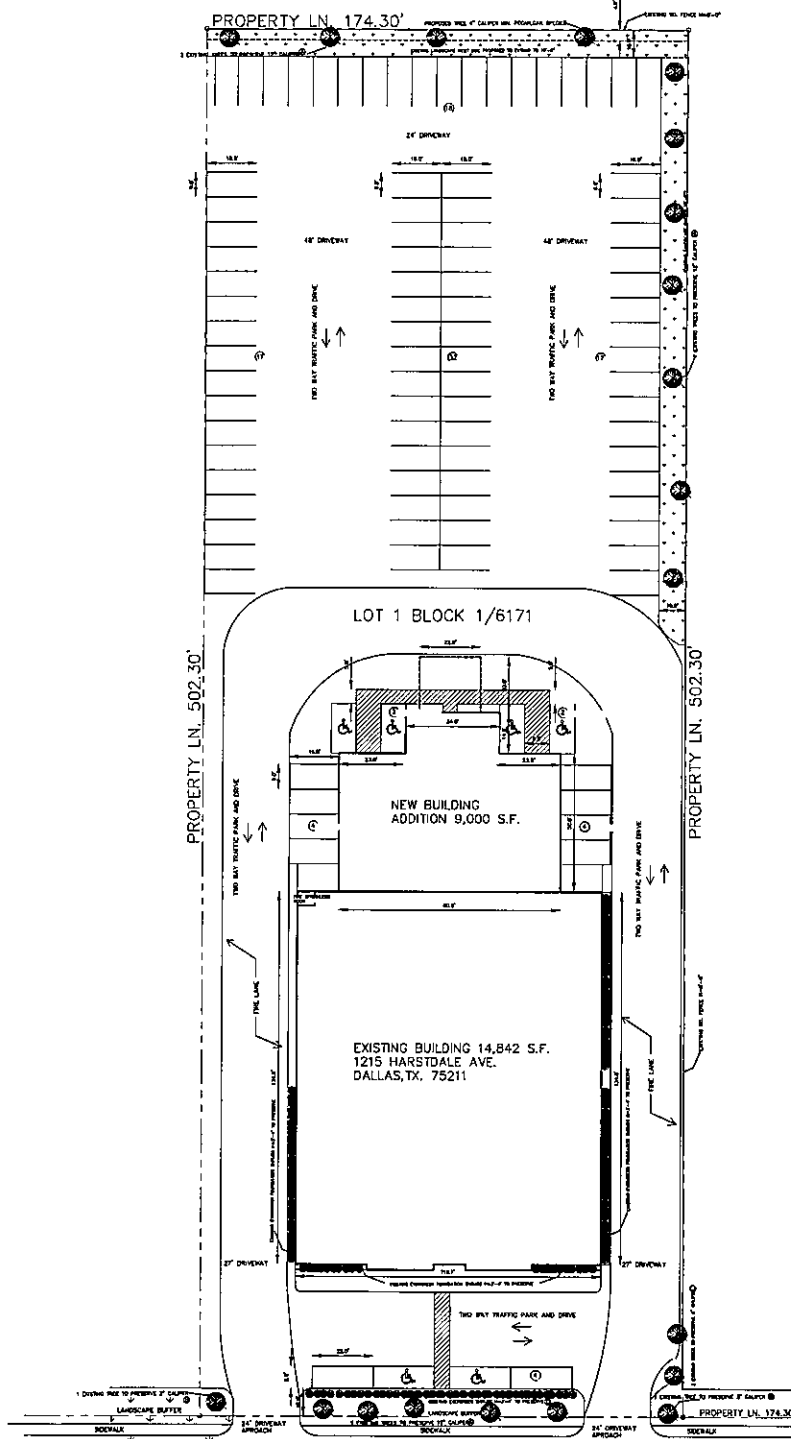
  
Larry Holmes, Building Official





**EXISTING TREES TO PRESERVE**

| NUMBER OF TREES | MARK | CALIPER  | SCIENTIFIC NAME/Common Name Species |
|-----------------|------|----------|-------------------------------------|
| 15              | A    | 12"-14"  | PECAN, GADDO MAPLE, LIVE OAK        |
| 2               | B    | 3"-4"    | CREPE MYRTLE                        |
| 2               | C    | 6"       | PINE                                |
| VARIES          | D    | 3' EIGHT | EVERGREEN SHRUBS                    |



**LEGEND**

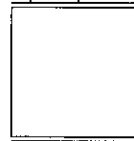
- EXISTING GRAVEL
- EXISTING ASPHALT PAVEMENT
- EXISTING BLDG.
- NO PARKING AREA
- GRASS AREA
- PROPERTY LINE
- PROVIDE 3' HIGH RECTANGULAR WOOD BOX TO PRESERVE TREE
- TOP OF CURB ELEVATION
- TELEPHONE PEDIESTAL
- POWER POLE
- SIGN
- EXISTING SAN. SEWER MANHOLE
- FIRE HYDRANT
- TOP OF WALL
- BOTTOM OF WALL

**SITE DATA**

|                                     |         |
|-------------------------------------|---------|
| TOTAL SITE AREA = 87,550            | SQ. FT. |
| EXISTING BLDG. AREA = 14,842        | SQ. FT. |
| PROP. NEW BUILDING ADDITION = 9,000 | SQ. FT. |
| NEW BUILDING AREA = 23,842          | SQ. FT. |

PROJECT NAME AND ADDRESS  
**MINISTERIO INTERNACIONAL LIROS DEL VALLE**  
 NEW FELLOWSHIP HALL OFFICES  
 9,000 S.F.  
 1215 HARSDALE DR.  
 DALLAS, TEXAS 75211  
 SCALE: AS SHOWN

| # | DATE       | REVISION/NOTATION |
|---|------------|-------------------|
| 1 | 08-10-2014 | ISSUE FOR PERMIT  |
|   |            |                   |
|   |            |                   |



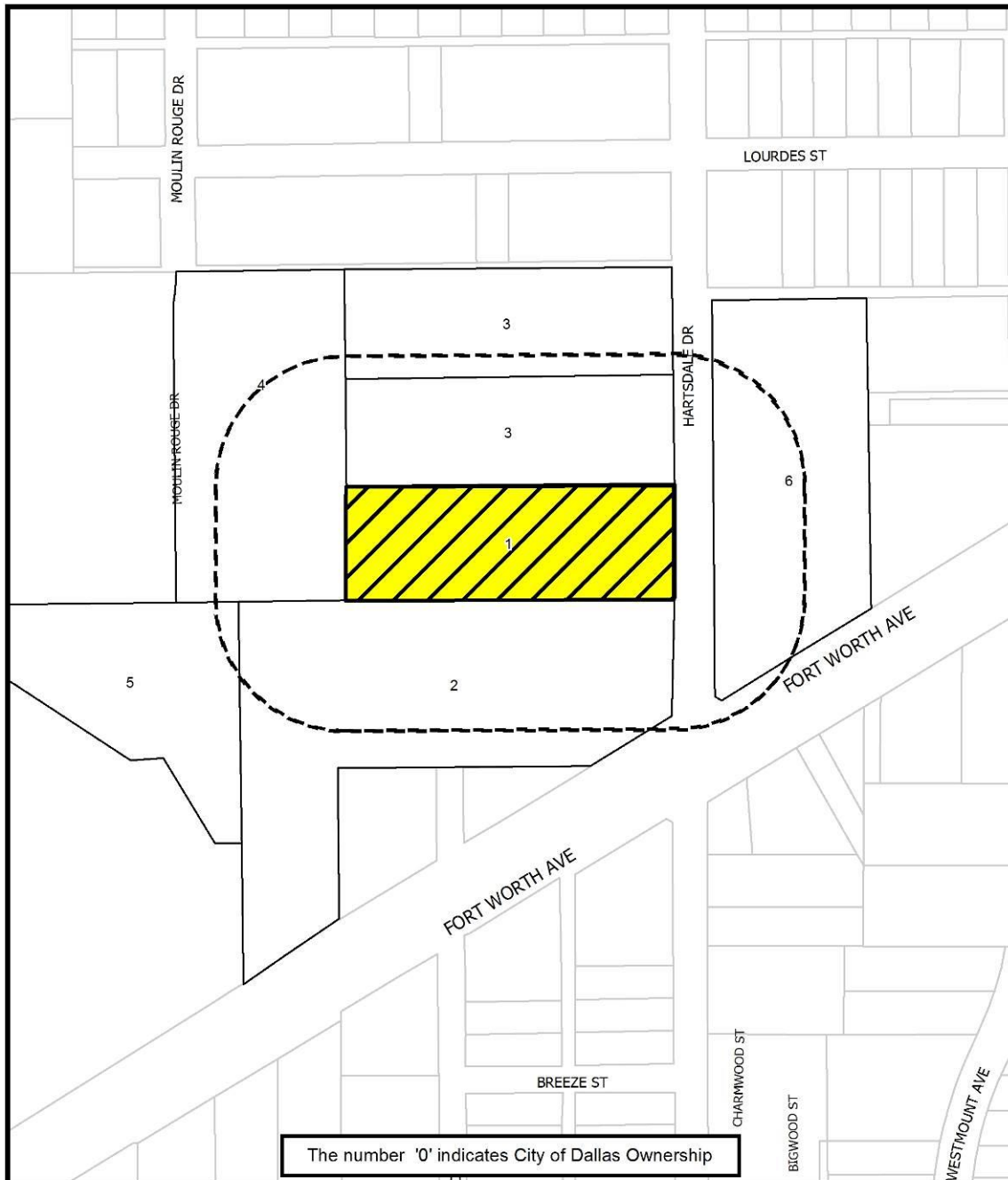
**GARZA CONSTRUCTION CONSULTANTS**  
 1418 MEMORY LN. DALLAS, TEXAS 75217  
 PH: 214 927-8008  
 gcon@earthlink.net

LANDSCAPE PLAN

HARSDALE AVE.

**LANDSCAPE PLAN**  
 SCALE: 1" = 20'





1:2,400

# NOTIFICATION

**200'**

AREA OF NOTIFICATION

**6**

NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA145-001**

Date: **12/23/2014**

12/23/2014

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

***BDA145-001***

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

| <b><i>Label #</i></b> | <b><i>Address</i></b> | <b><i>Owner</i></b>             |
|-----------------------|-----------------------|---------------------------------|
| 1                     | 1215 HARTSDALE DR     | MINISTERIO INTERNACIONAL LIRIOS |
| 2                     | 3011 FORT WORTH AVE   | BUSHMAN JOHN M TR               |
| 3                     | 1239 HARTSDALE DR     | FRENCH COLONY DALLAS LLC        |
| 4                     | 1250 MOULIN ROUGE DR  | MOULIN ROUGE APARTMENTS LLC     |
| 5                     | 1060 WESTMORELAND RD  | KHSC LTD                        |
| 6                     | 2855 FORT WORTH AVE   | FT WORTH AVENUE LTD             |

**FILE NUMBER:** BDA 145-008

**BUILDING OFFICIAL'S REPORT:** Application of Robert Baldwin of Baldwin Associates for a special exception to the fence height regulations at 9246 Sunnybrook Lane. This property is more fully described as Lot 15A and part of Lot 16, Block 12/5585, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain an 8 foot high fence, which will require a 4 foot special exception to the fence height regulations.

**LOCATION:** 9246 Sunnybrook Lane

**APPLICANT:** Robert Baldwin of Baldwin Associates

**REQUEST:**

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

1. A request for a special exception to the fence height regulations of 4' is made to construct and maintain an 8' high limestone masonry fence towards the northwest of the property, a 6'-2" high painted steel fence between 2 evergreen hedges towards the west and south sides of the property, one 6'-2" high painted steel service gate towards the south of the property, and one 8' high painted steel vehicular gate towards the northwest of the property, parallel and perpendicular to Sunny Brook Lane.

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

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

**STAFF RECOMMENDATION (FENCE HEIGHT):**

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

**BACKGROUND INFORMATION:**

**Zoning:**

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

West: R-1ac(A) (Single family district one acre)

**Land Use:**

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

**Zoning/BDA History:**

1. BDA 001-203, Property at 9239 Sunny Brook Lane (west of the subject site)

On May 21, 2001, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of 4'. The case report stated that the request was made in conjunction with constructing and maintaining two sections of an 8' high stucco screen wall in the required 40' front yard.

**GENERAL FACTS/STAFF ANALYSIS (FENCE HEIGHT):**

- This request focuses on constructing and maintaining an 8' high limestone veneer masonry fence towards the northwest of the property, a 6'-2" high painted steel fence between 2 evergreen hedges towards the west and south sides of the property, one 6'-2" high painted steel service gate towards the south of the property, and one 8' high painted steel vehicular gate towards the northwest of the property, parallel and perpendicular to Sunny Brook Lane, in the 40' required front yard on a site developed with a single family home/use.
- 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.
- R-1ac(A) Single Family District requires the minimum front yard setback to be 40'.
- The following additional information was gleaned from the submitted revised site plan:
  - The proposal is represented as being approximately 832' in length parallel to Sunny Brook Lane, and extending as close as 38' to the street on the south side of the property in the front yard setback.
  - The proposal is represented as being at a distance ranging from 0' to 40' from the property line.
- The Current Planner conducted a field visit of the site and surrounding area and noted two other visible fences above 4 feet in height which appeared to be located in front yard setbacks. One fence has recorded BDA history.
- Four homes and one undeveloped site front the proposal.
- As of January 9<sup>th</sup>, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4' will not adversely affect neighboring property.

- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted landscape plan would require the proposal exceeding 4' in height in the front yard setback to be maintained in the location and of the heights and materials as shown on these documents.

**Timeline:**

December 1, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

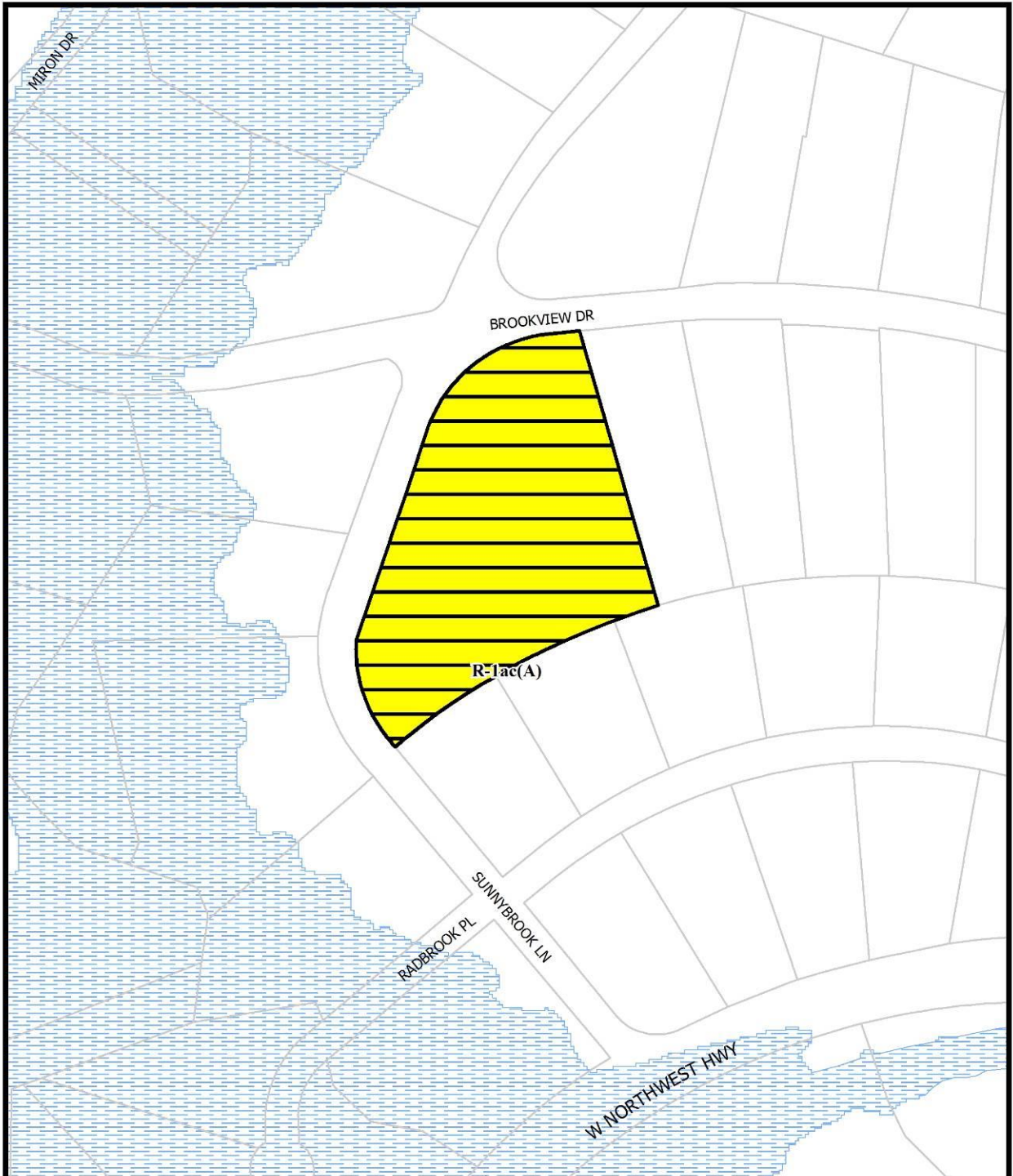
December 10, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

December 10, 2014: The Current Planner emailed the applicant the following information:

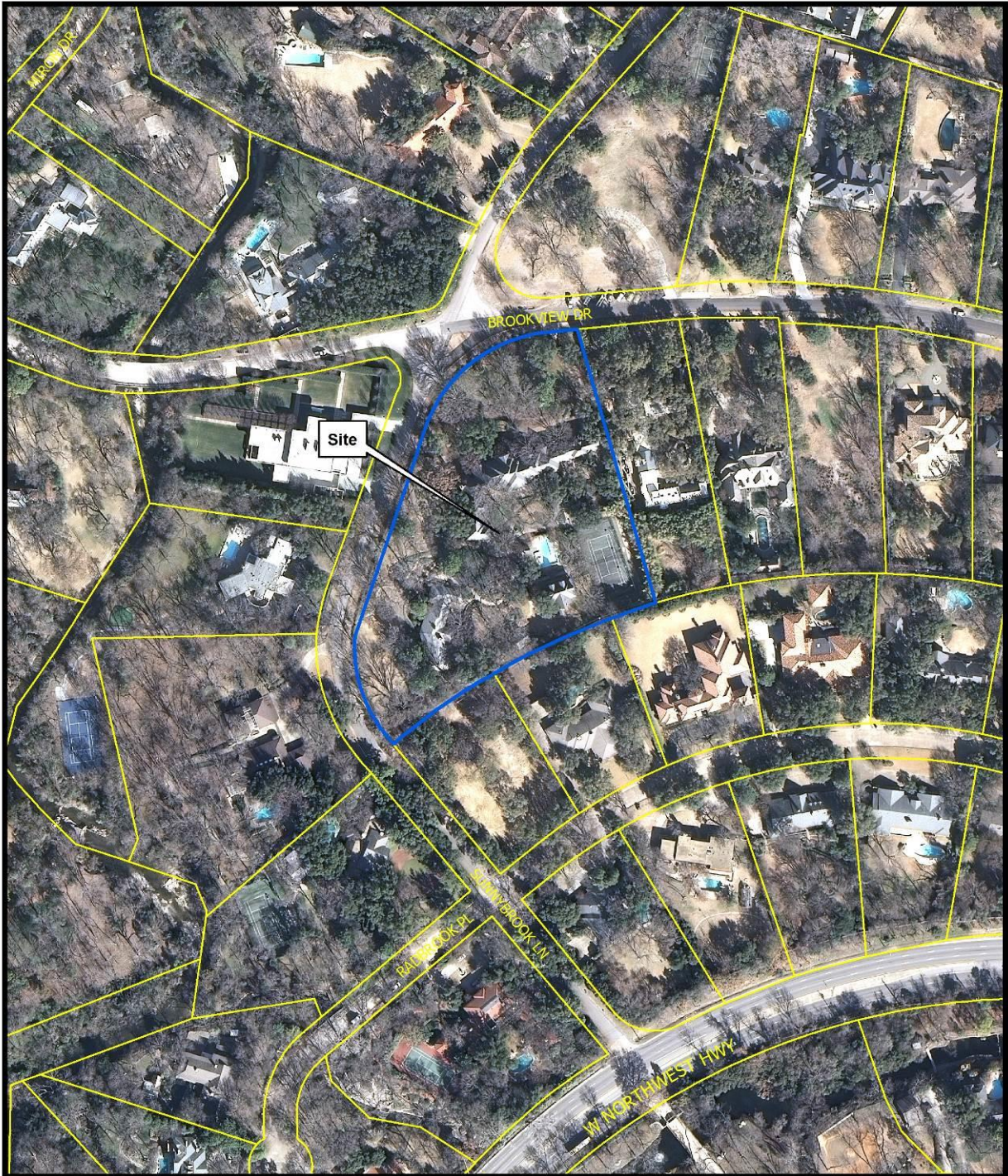
- an attachment that provided the public hearing date and panel that will consider the application; the December 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the January 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the section from the Dallas Development Code pertaining to fence height regulations; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

January 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for January public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, 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.



|  |                     |   |
|--|---------------------|---|
| <br>1:2,400 | <h1>ZONING MAP</h1> | Case no: <u>BDA145-008</u><br>Date: <u>12/23/2014</u> |
|--|---------------------|---|



1:2,400

# AERIAL MAP

Case no: BDA145-008

Date: 12/23/2014



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 45-008

Data Relative to Subject Property:

Date: November 20, 2014

Location address: 9246 Sunny Brook Ln Zoning District: R-1AC(A)

part of 15A  
Lot No.: and 16 Block No.: 12/5585 Acreage: 1.332 acres Census Tract: ~~74.00~~ 706.00

Street Frontage (in Feet): 1) 388 ft 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

*N82A*

Owner of Property (per Warranty Deed): Carlos Gonzalez

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 \_\_, or Special Exception X, of 4 feet to  
the fence height regulations to allow fencing in a required front yard up to eight (8)  
feet in height

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 proposed fence is requested to complement the single family home and provide  
security to the home owner.

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

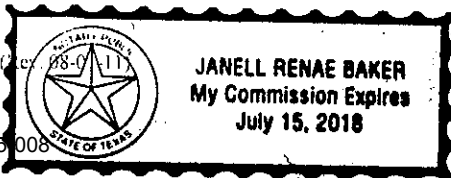
Affidavit

Before me the undersigned on this day personally appeared Rob 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 1 day of December, 2014



[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**

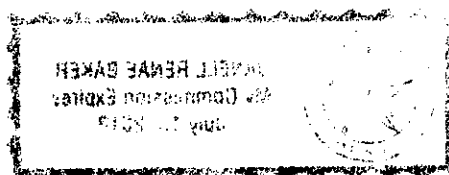
I hereby certify that Robert Baldwin

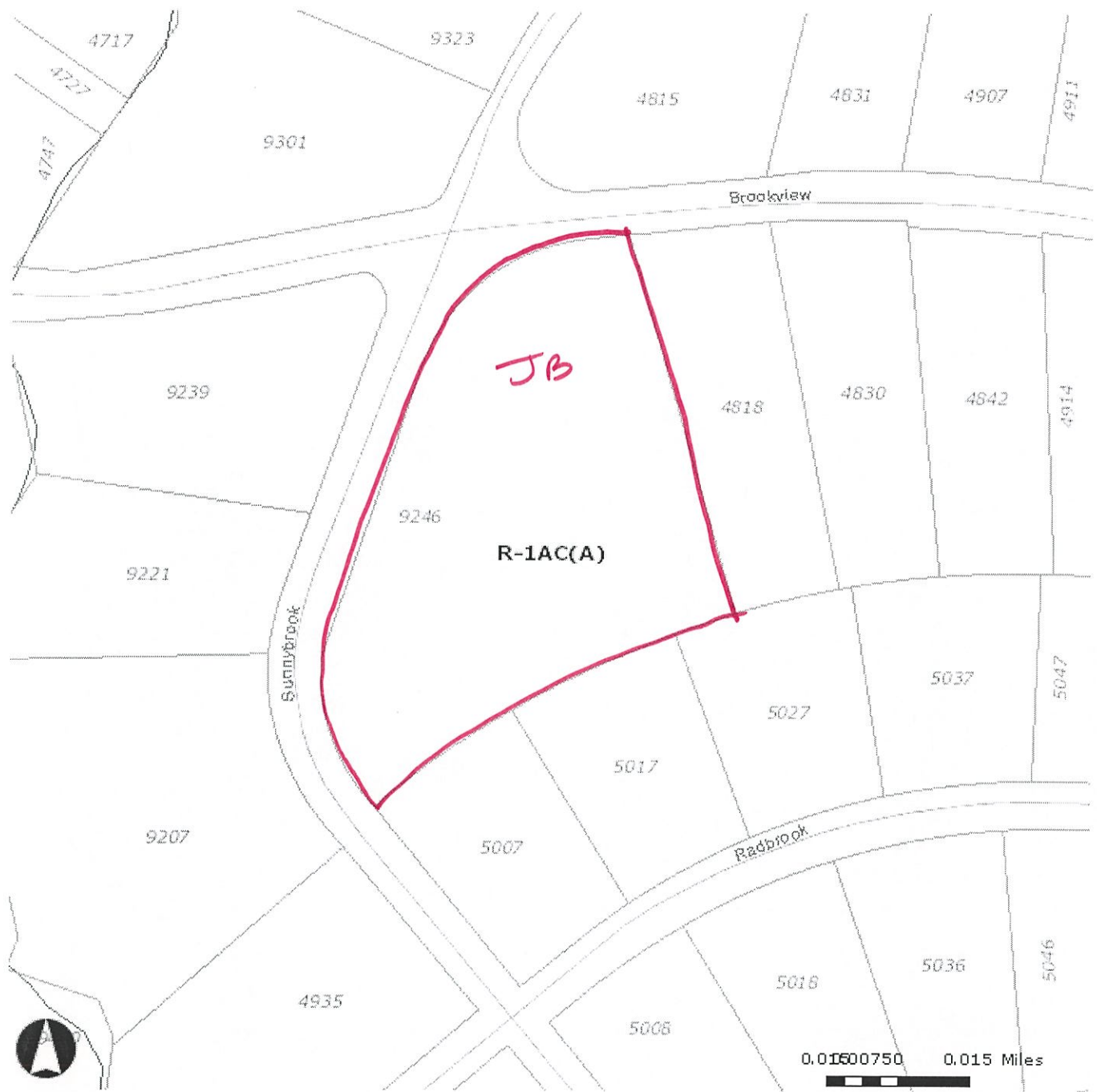
did submit a request for a special exception to the fence height regulations  
at 9246 Sunnybrook Lane

BDA145-008. Application of Robert Baldwin for a special exception to the fence height regulations at 9246 Sunnybrook Lane. This property is more fully described as Lot 15A an part of Lot 16, Block 12/5585, and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulation.

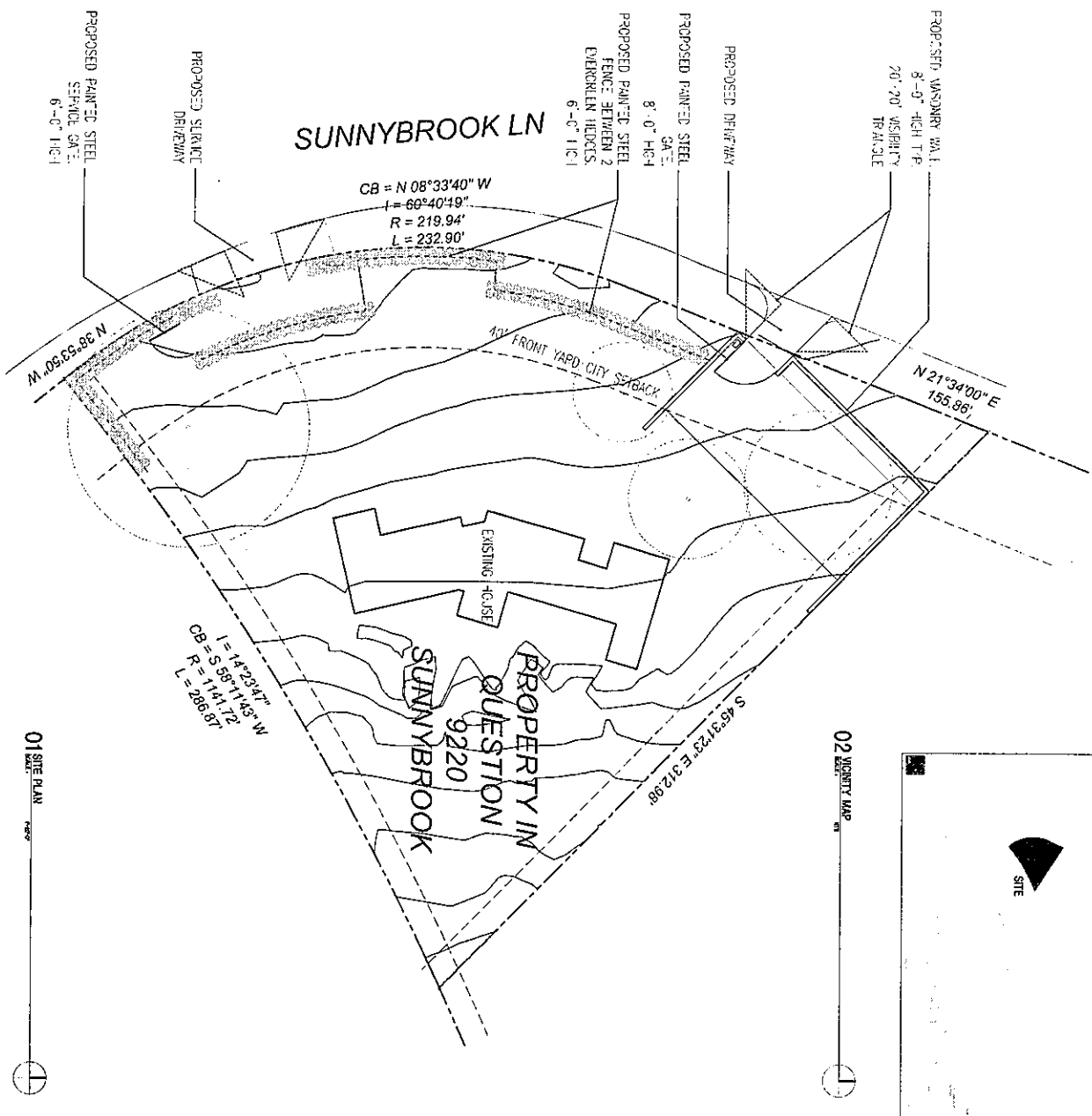
Sincerely,

*Larry V. Holmes*  
Larry Holmes, Building Official



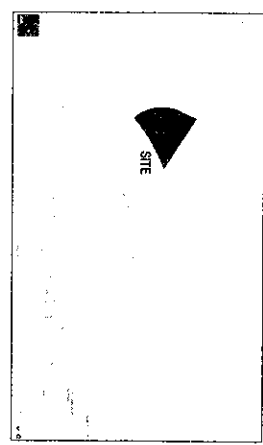






01 SITE PLAN

02 VICINITY MAP



DATE  
19 November 2014

SITE PLAN

**A1.00**

BDA 145-008

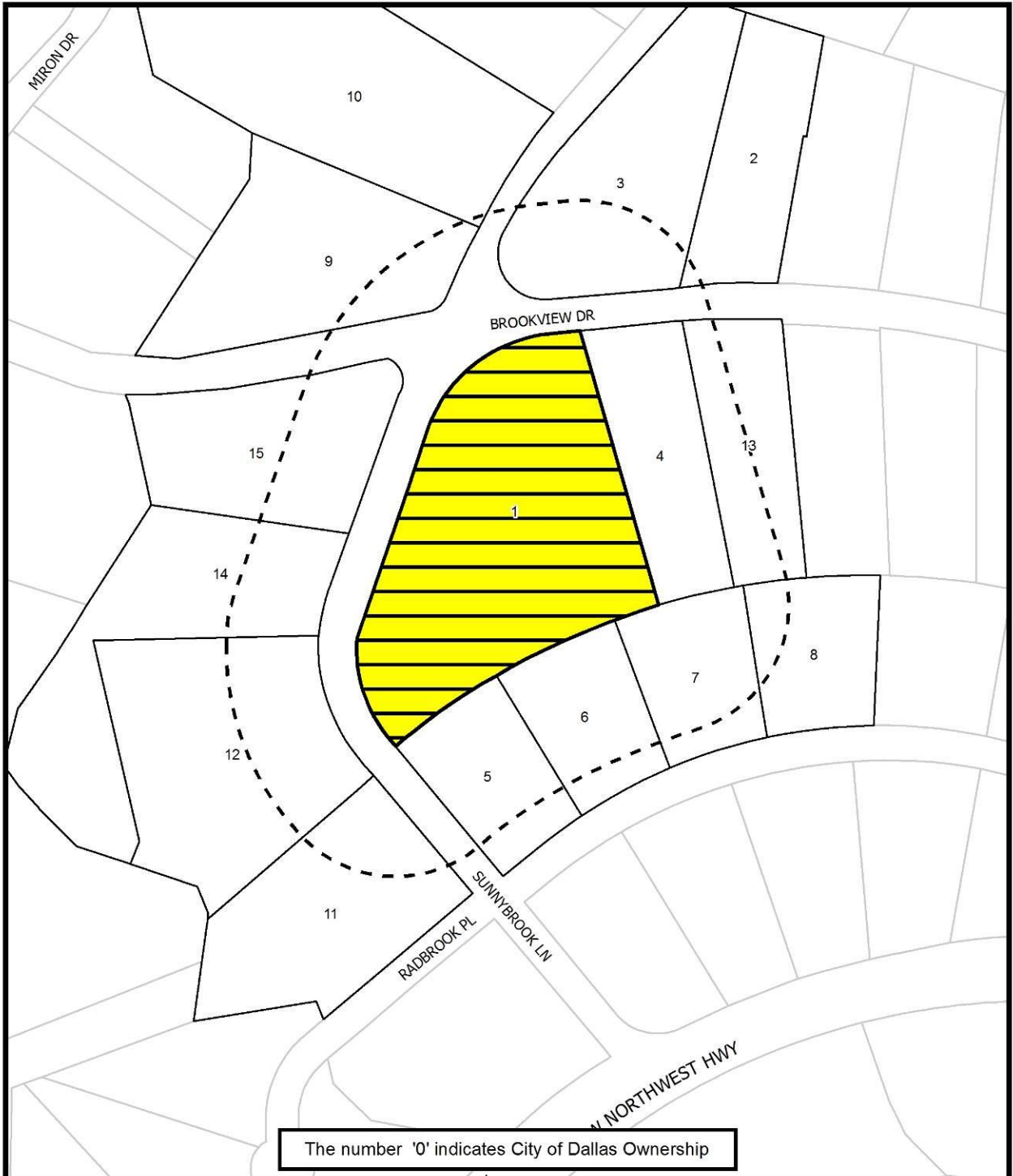
PROJECT #  
SHM-14-085

**GONZALEZ RESIDENCE**  
9220 SUNNYBROOK LANE DALLAS, TX

STOCKER HOESTERY MONTENEGRO

4514 TRAVIS SUITE 302 DALLAS TEXAS 75205  
214.752.3830 1.214.252.3340





|  |  |             |                      |           |                                    |   |
|--|--|-------------|----------------------|-----------|------------------------------------|---|
| <br>1:2,400 | <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>15</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table> | <b>200'</b> | AREA OF NOTIFICATION | <b>15</b> | NUMBER OF PROPERTY OWNERS NOTIFIED | Case no: <u><b>BDA145-008</b></u><br>Date: <u><b>12/23/2014</b></u> |
| <b>200'</b>  | AREA OF NOTIFICATION   |             |                      |           |                                    |   |
| <b>15</b>  | NUMBER OF PROPERTY OWNERS NOTIFIED   |             |                      |           |                                    |   |

## *Notification List of Property Owners*

***BDA145-008***

### *15 Property Owners Notified*

| <i>Label #</i> | <i>Address</i>      | <i>Owner</i>                 |
|----------------|---------------------|------------------------------|
| 1              | 9246 SUNNY BROOK LN | MCCARTHY STEPHEN JR &        |
| 2              | 4831 BROOKVIEW DR   | BARZUNE LAWRENCE S           |
| 3              | 4815 BROOKVIEW DR   | JAIN VINAY K &               |
| 4              | 4818 BROOKVIEW DR   | ORR DOUGLAS W &              |
| 5              | 5007 RADBROOK PL    | MORASH JASON & JENNIFER      |
| 6              | 5017 RADBROOK PL    | SINASAC DANIEL C & GERALYN A |
| 7              | 5027 RADBROOK PL    | MODERI DAVID & NANCY         |
| 8              | 5037 RADBROOK PL    | DUNK WILLIAM K & ANGIE D     |
| 9              | 9301 SUNNY BROOK LN | POTTS DONALD C & SARA SUE    |
| 10             | 9323 SUNNY BROOK LN | STOOL GERALD H &             |
| 11             | 4935 RADBROOK PL    | HENNINGTON HERBERT           |
| 12             | 9207 SUNNY BROOK LN | VITULLO ANTHONY L & HOLLY P  |
| 13             | 4830 BROOKVIEW DR   | BREKKE RAYMOND &             |
| 14             | 9221 SUNNY BROOK LN | JAYASEELAN NIRMAL S &        |
| 15             | 9239 SUNNY BROOK LN | FIFIELD WILLIAM O &          |

**FILE NUMBER:** BDA 145-006

**BUILDING OFFICIAL'S REPORT:** Application of Danny Sipes for a variance to the front yard setback regulations at 6310 Mercedes Avenue. This property is more fully described as Lot 1, Block E/2849, and is zoned R-7.5(A), which requires a front yard setback of 25 feet. The applicant proposes to construct and maintain a single family residential accessory structure and provide a 13 foot front yard setback, which will require a 12 foot variance to the front yard setback regulations.

**LOCATION:** 6310 Mercedes Avenue

**APPLICANT:** Danny Sipes

**REQUEST:**

The following appeal has been made on a site currently developed with a single family home:

1. a variance to the front yard setback regulations of 12 feet is requested to allow the construction of a single family residential accessory structure, part of which is to be located in one of the site's two 25' front yard setbacks on Mercedes Avenue and Alderson Street.

**STANDARD FOR A VARIANCE:**

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

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

**STAFF RECOMMENDATION:**

Denial



Rationale:

- The applicant had not substantiated at the time of the January 6<sup>th</sup> staff review team meeting how the features of the flat, virtually rectangular in shape, (approximately 372.77' x 447.75'), or 3.8 acre (or approximately 165,528 square foot) site precluded him from developing it in a manner commensurate with other developments found on similarly-zoned R-7.5(A) lots.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-7.5(A)—Single Family Residential District (7,500 square feet)  
North: R-7.5(A)—Single Family Residential District (7,500 square feet)  
South: R-7.5(A)—Single Family Residential District (7,500 square feet)  
East: R-7.5(A)—Single Family Residential District (7,500 square feet)  
West: R-7.5(A)—Single Family Residential District (7,500 square feet)

**Land Use:**

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

**Zoning/BDA History:**

- |   |   |
|---|---|
| 1. BDA 990-203, 6310 Mercedes Avenue (the subject site) | On January 18, 2000, the Board of Adjustment Panel B granted a request for a variance to the height regulations of 8.5', needed in conjunction with remodeling and constructing an addition to an existing single family home. The staff recommendation was denial without prejudice. |
|---|---|

- |   |  |
|---|--|
| 2. BDA 012-115, 6310 Mercedes Avenue (the subject site) | On December 11, 2001, the Board of Adjustment Panel A denied a request for a special exception to the fence height regulations of 2 feet with prejudice. This request was needed in conjunction with adding and maintaining a 2' high open cast iron picket fence to be located atop an existing 4' high approximately 290' long stone wall on both ends of the site, and to replace an existing approximately 5' high approximately 150' long open iron fence with a combination 4' high stone wall/2' high open cast iron fence to be located between the existing 4' high stone wall at either ends of the site. The staff recommendation was denial without prejudice. |
| 3. BDA 012-115, 6310 Mercedes Avenue (the subject site) | On February 26, 2002, the Board of Adjustment Panel A approved a request to waive the 2-year time limitation on a final "denial with prejudice" decision made for a special exception to the fence height regulations of 2 feet.   |
| 4. BDA 012-161, 6310 Mercedes Avenue (the subject site) | On May 28, 2002, the Board of Adjustment Panel A approved a request for a special exception to the fence height regulations of 4 feet. This request was needed in conjunction with constructing and maintaining a 6' fence with 8' columns. The staff recommendation was approval subject to a revised "Planting Plan" and a revised "Partial Site Plan/Elevation from Street (Mercedes)."   |

**GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on constructing and maintaining a single family residential accessory structure, part of which is to be located in one of the site's two 25' front yard setbacks on Mercedes Avenue and Alderson Street.
- 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 southeast corner of Mercedes Avenue and Alderson Street and has two 25' front yard setbacks, one along each street. The site has a 25' front yard setback along Alderson Street, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in this zoning district.

The site also has a 25' front yard setback along Mercedes Avenue, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where 10' setback is required for permitted uses other than single family or duplex. But the site's Mercedes Avenue frontage is side yard treated as a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lots to the north zoned R-7.5(A) that front/are oriented southward towards Mercedes Avenue.

- A scaled site plan has been submitted indicating that a portion of the proposed two-story, approximately 1,986 square foot structure is located 13' from the Alderson Street front property line, or 12' into this 25' front yard setback. The structure will not encroach into the front yard setback along Mercedes Avenue.
- According to the applicant, 418 square feet, or 21.05%, of the first floor of the single family residential accessory structure encroaches into the front yard setback along Alderson Street.
- According to DCAD records, the main improvement at property addressed 6310 Mercedes Avenue was built in 1922 and has 12,222 square feet of living area.
- The subject site is flat, virtually rectangular in shape, (approximately 372.77' x 447.75'), and according to the submitted application is 3.8 acres (or approximately 165,528 square feet) in area. The site is zoned R-7.5(A) where this lot has two 25' front yard setbacks and two 10' side yard setbacks when most lots in this zoning district have one front yard setback, two side yard setbacks, and one rear yard setback.
- The approximately 448' wide site has approximately a 413' width for development once a 25' front yard and a 10' side yard setback are accounted for.
- While the site plan shows that the existing swimming pool encroaches into the required front yard along Alderson Street, the application for a variance to the front yard setback regulations was applied for a single family residential accessory structure only. According to person-to-person conversation with the applicant, the swimming pool was not included given its existence since the 1930s.
- The applicant has the burden of proof in establishing the following:
  - 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.
  - 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 CD 1 zoning classification.
  - 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 CD 1 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 portion of a structure located 13'

from the site's Alderson Street front property line (or 12' into this 25' front yard setback).

**Timeline:**

November 18, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

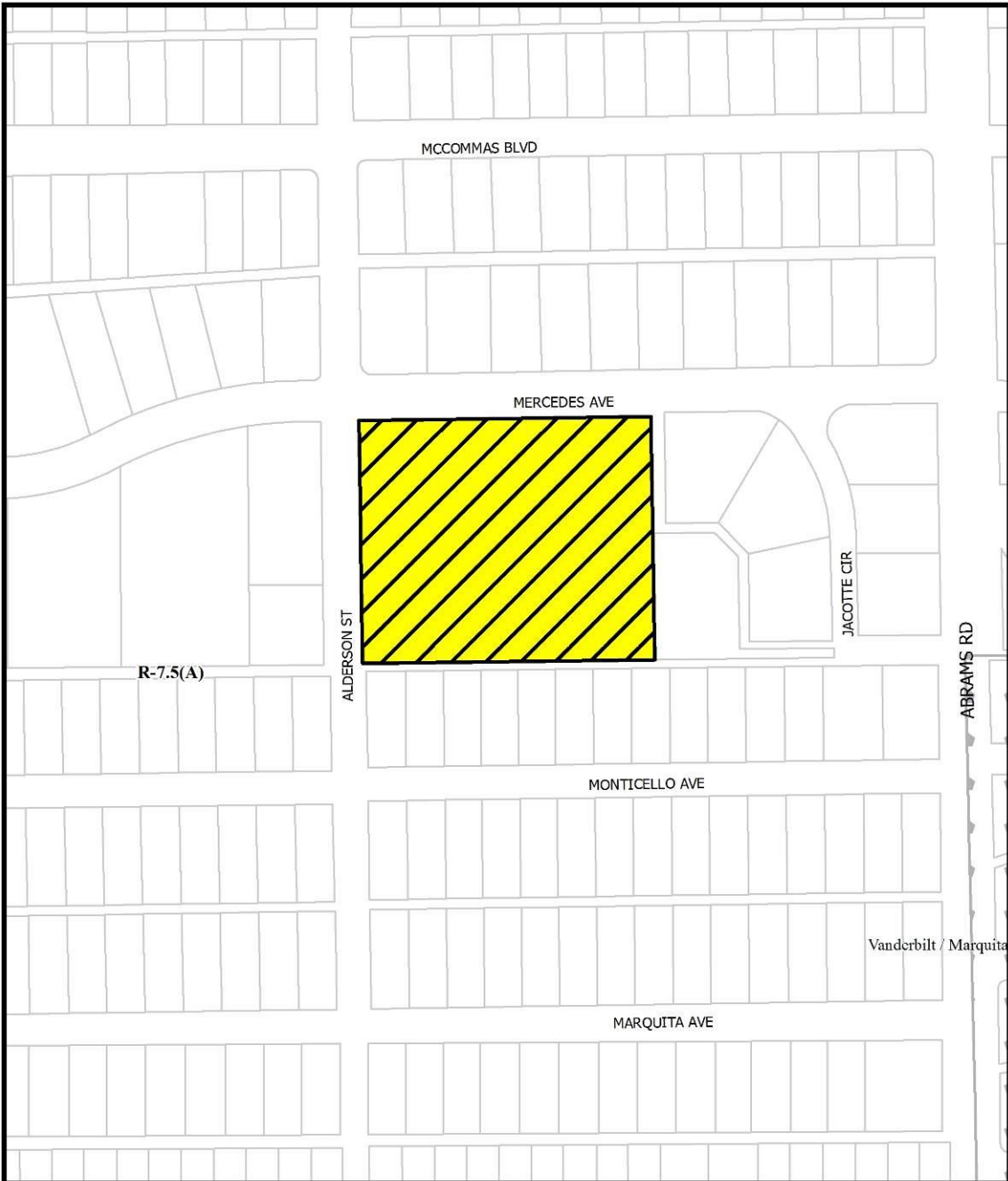
December 10, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

December 10, 2014: The Current Planner emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the December 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the January 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the section from the Dallas Development Code pertaining to variances to the front yard setbacks; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

January 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for January public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, 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.

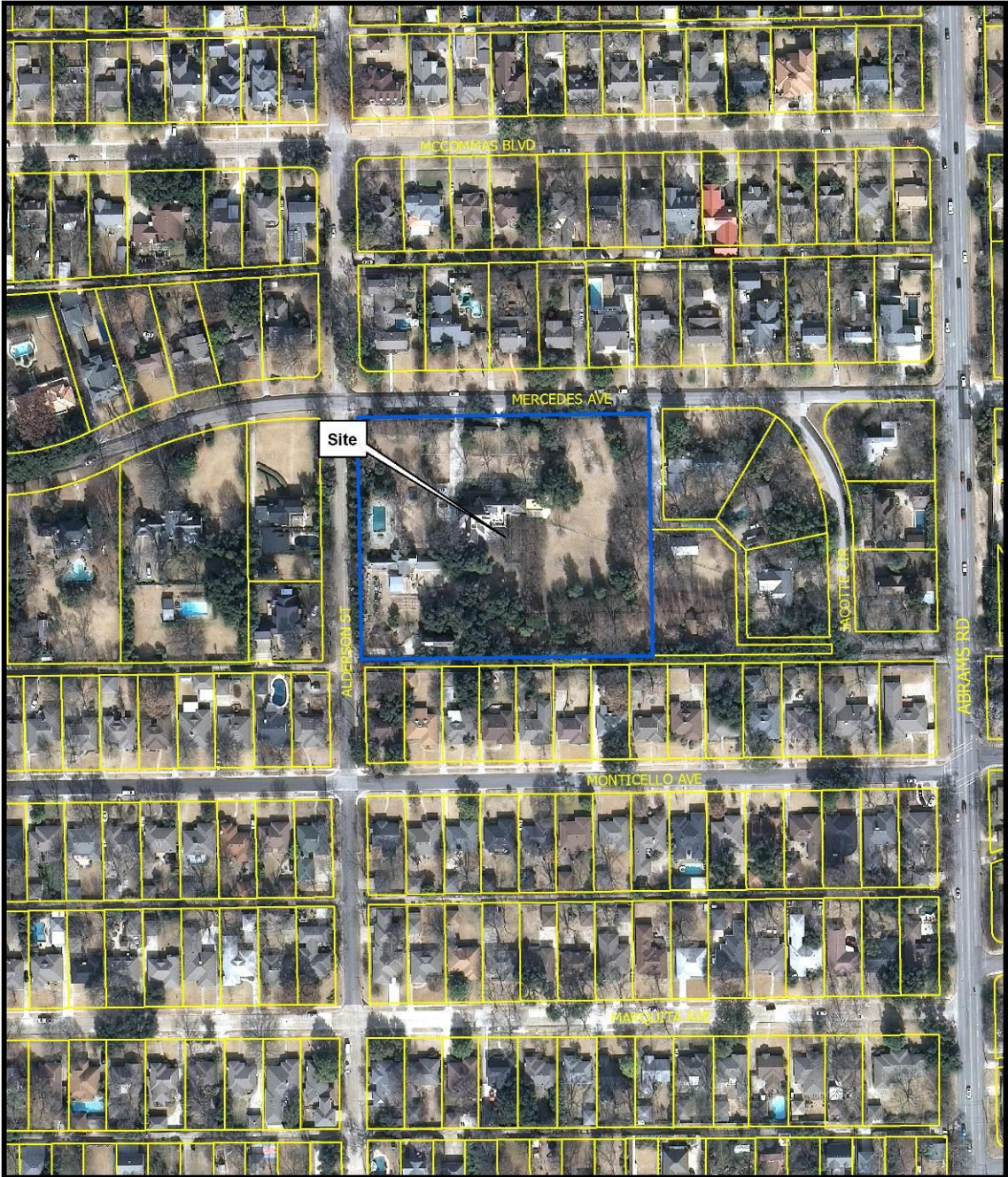
No review comment sheets with comments were submitted in conjunction with this application.



1:2,400

# ZONING MAP

Case no: BDA145-006  
 Date: 12/23/2014



1:2,400

# AERIAL MAP

Case no: BDA145-006

Date: 12/23/2014



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-006

Data Relative to Subject Property:

Date: 10-7-14

Location address: 6310 MERCEDES Ave Zoning District: R7.5(A)

Lot No.: 1 Block No.: E/2849 Acreage: 3.83 Census Tract: 2.01

Street Frontage (in Feet): 1) 447.7 2) 342.7 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_ SE24

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): STUART M. CROW and Shirley W. Crow

Applicant: DANNY SIPES Telephone: 214-794-0213

Mailing Address: P.O. Box 3293 Forney TX Zip Code: 75126

E-mail Address: danny@txpermit.com

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

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

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

Affirm that an appeal has been made for a Variance  or Special Exception  of 12' to the Front Yard Setback Regulations

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:

We are Requesting a VARIANCE OF 12' to the Front YARD setback Regulations to allow the construction of a POOL CABANA. We are requesting this VARIANCE due to A PROPERTY HARDSHIP OF HAVING TO Provide a Front YARD Setback of 25' ON MERCEDES and Alderson.

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

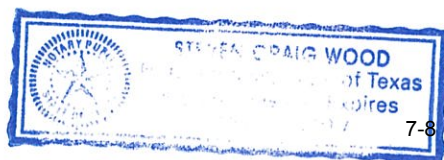
Before me the undersigned on this day personally appeared DANNY SIPES (Affiant/Applicant's name printed)

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 18 day of November, 2014

(Rev. 08-01-11)



[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

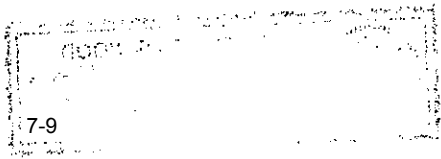
I hereby certify that DANNY SIPES

did submit a request for a variance to the front yard setback regulations  
at 6310 Mercedes Avenue

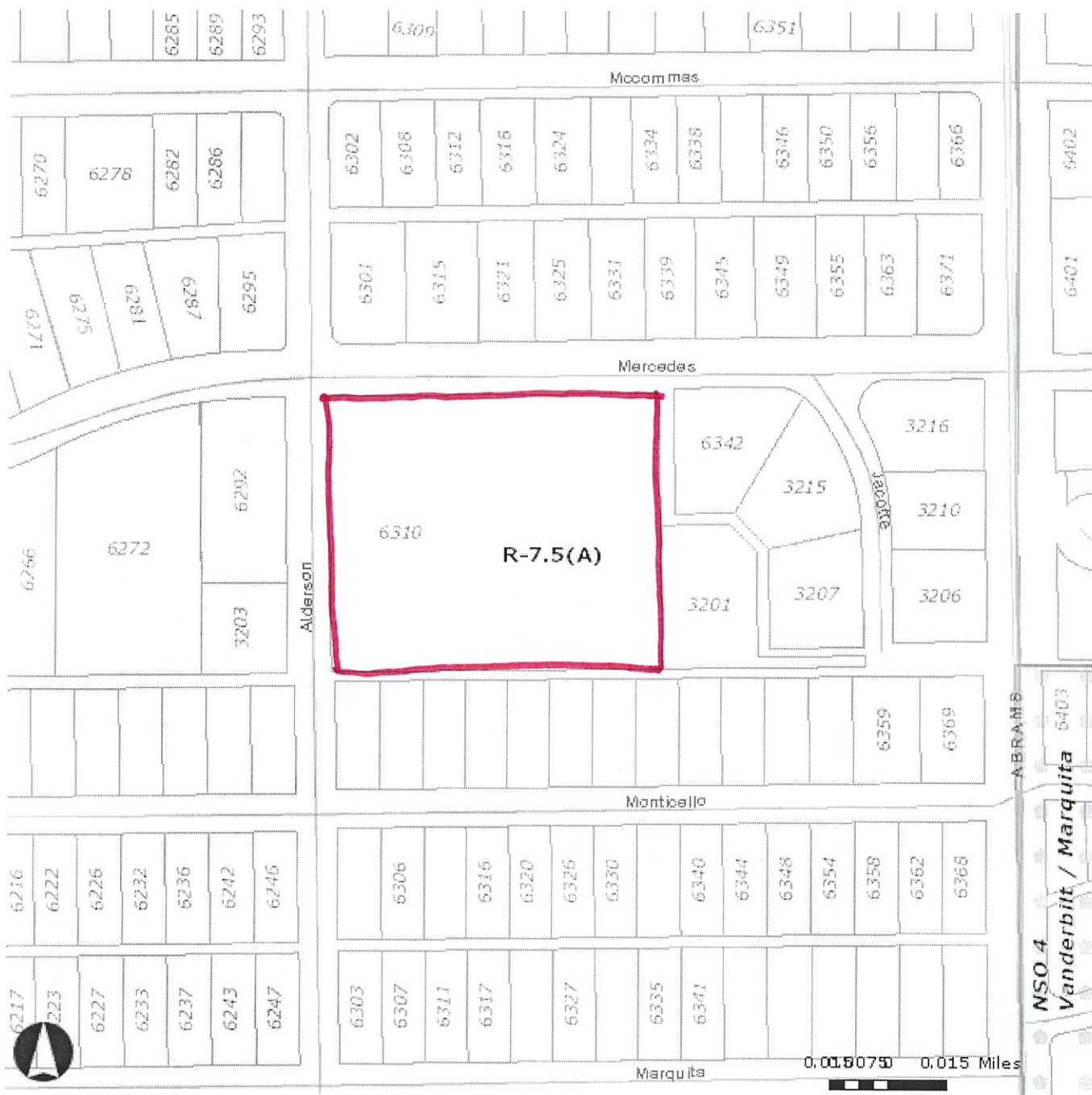
BDA145-006. Application of Danny Sipes for a variance to the front yard setback regulations at 6310 Mercedes Avenue. This property is more fully described as Lot 1, Bloc E/2849, and is zoned R-7.5(A), which requires a front yard setback of 25 feet. The applica proposes to construct and maintain a single family residential structure and provide a 13 foot front yard setback, which will require a 12 foot variance to the front yard setback regulation.

Sincerely,

  
Larry Holmes, Building Official

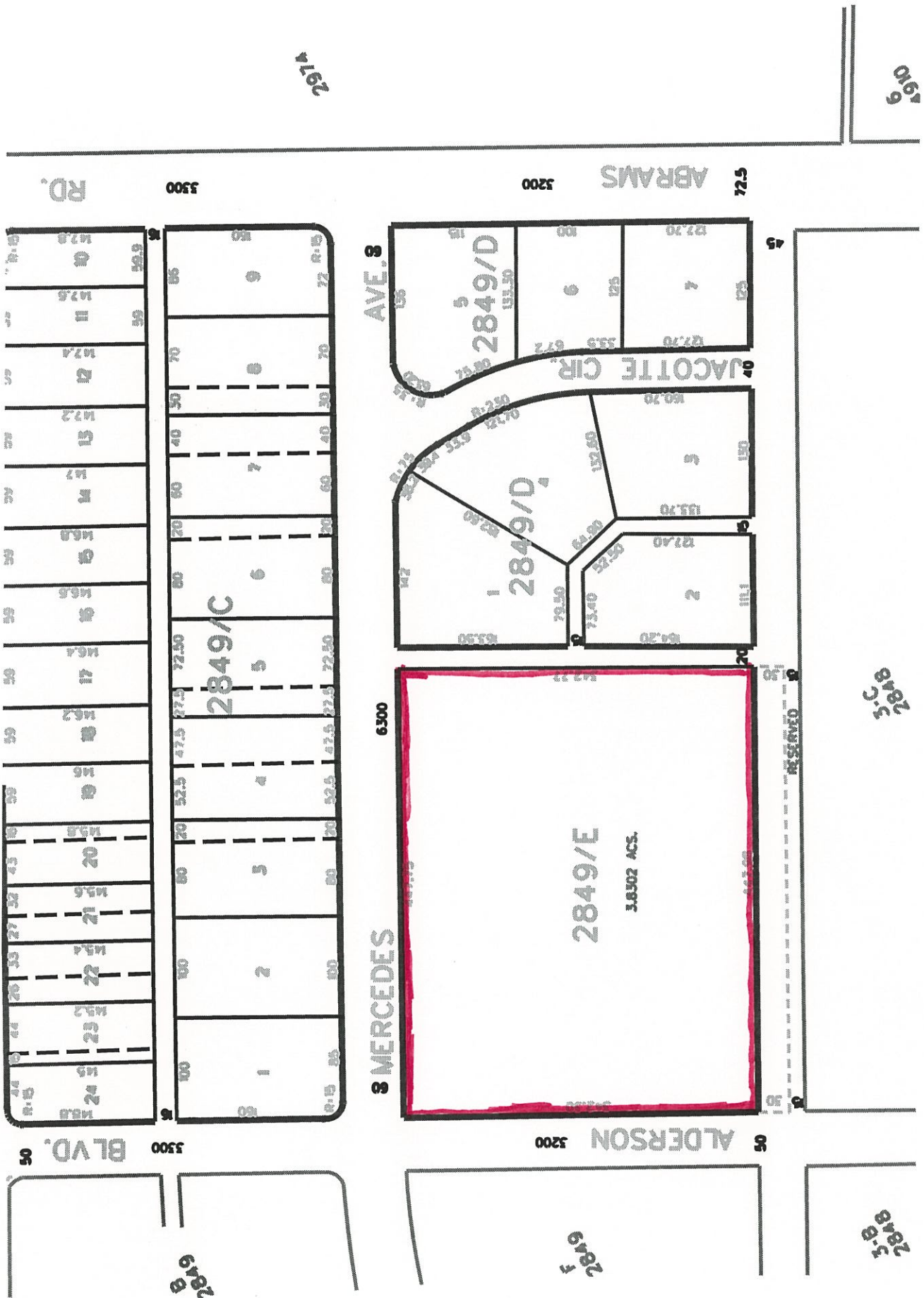






*Handwritten red text:* 6/2/13

11/19/2014



2849 G

2849 F

2849 B

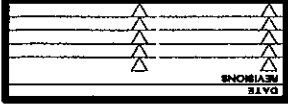
2849 S-C

4910

2914



D.C. BROADSTONE II  
ARCHITECT  
5025 N. CENTRAL EXPRESSWAY DALLAS, TEXAS 75245-3600

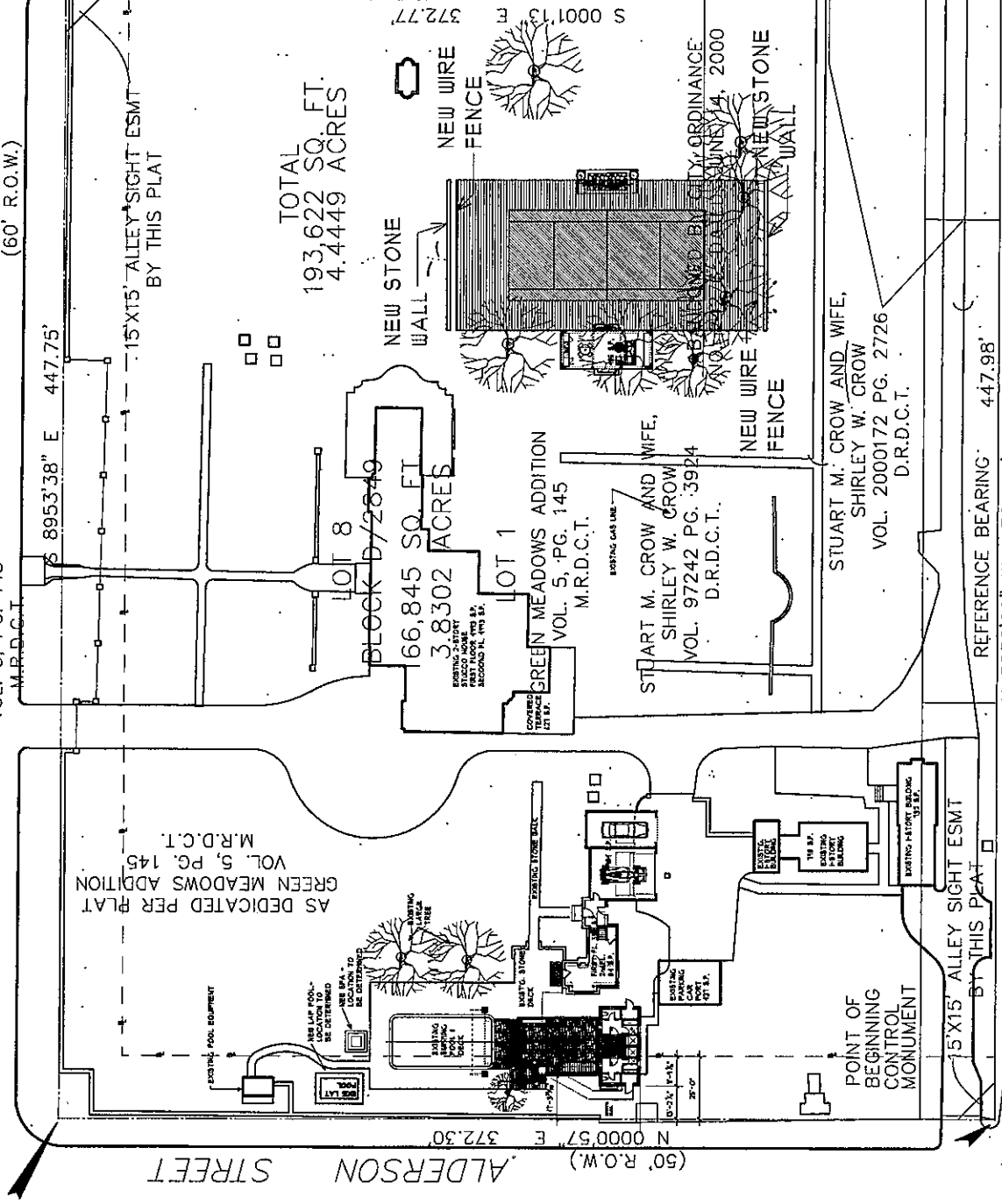


ALTERATIONS TO THE SEVEN DWYER HOUSE FOR  
MR. & MRS. STUART CROW  
DALLAS, TEXAS  
DATE REVISIONS

SHEET NO. 1-1 OF 1

GREEN MEADOWS ADDITION  
VOL. 5, PG. 145  
M.R.D.C.T.

CONTROL MONUMENT



STATISTICS:

|                              |              |
|------------------------------|--------------|
| LOT SIZE                     | 166,845 S.F. |
| MAIN HOUSE                   | 13,415 S.F.  |
| 50% OF MAIN HOUSE            | 6,708 S.F.   |
| 25% OF MAIN HOUSE            | 3,354 S.F.   |
| EXISTING ACCESSORY BUILDINGS | 2,112 S.F.   |
| NEW ACCESSORY BUILDINGS      | 2,481 S.F.   |
| GRAND TOTAL ACCESSORY BLDGS. | 4,593 S.F.   |

|                              |             |             |
|------------------------------|-------------|-------------|
| EXISTING ACCESSORY BUILDINGS | AREA S.F.   | LINE S.F.   |
| NEW HOUSE                    | 13,415 S.F. | 13,415 S.F. |
| NEW HOUSE                    | 6,708 S.F.  | 6,708 S.F.  |
| NEW HOUSE                    | 3,354 S.F.  | 3,354 S.F.  |
| TOTAL                        | 24,477 S.F. | 24,477 S.F. |

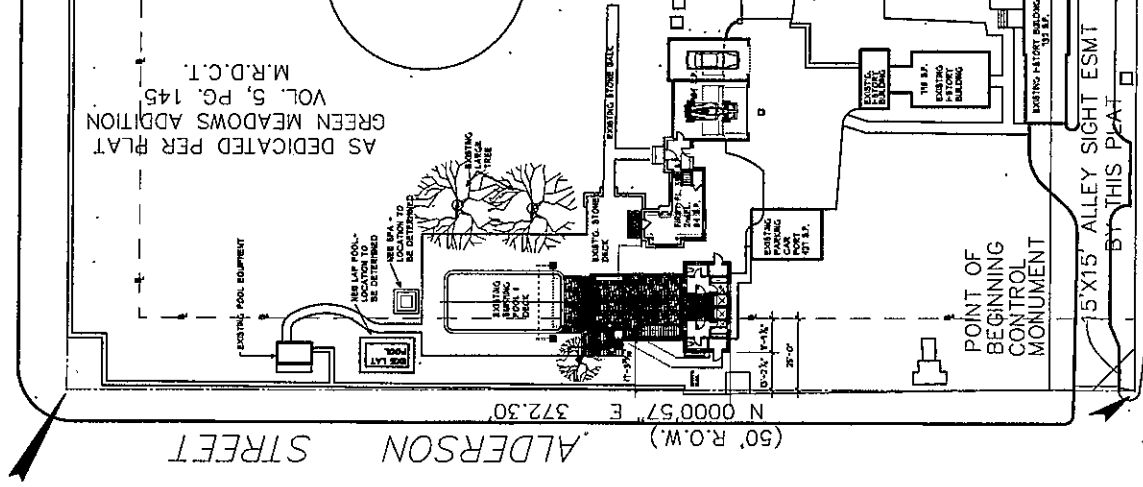
|                        |            |            |
|------------------------|------------|------------|
| NEW ACCESSORY BUILDING | AREA S.F.  | LINE S.F.  |
| POOL HOUSE             | 2,112 S.F. | 2,112 S.F. |
| TRAMP STREET PAVILION  | 2,481 S.F. | 2,481 S.F. |
| TOTAL                  | 4,593 S.F. | 4,593 S.F. |

09-02-2014  
PRELIMINARY  
NOT FOR CONSTRUCTION

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

ALDERSON STREET (60' R.O.W.)  
N 0000'57" E 372.30'

GREEN MEADOWS ADDITION VOL. 5, PG. 145 M.R.D.C.T.



LOT 8  
BLOCK D-72849  
66,845 SQ. FT.  
3.8302 ACRES

LOT 1  
GREEN MEADOWS ADDITION  
VOL. 5, PG. 145  
M.R.D.C.T.

STUART M. CROW AND WIFE,  
SHIRLEY W. CROW  
VOL. 97242 PG. 3924  
D.R.D.C.T.

STUART M. CROW AND WIFE,  
SHIRLEY W. CROW  
VOL. 2000172 PG. 2726  
D.R.D.C.T.

NEW STONE WALL  
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NEW WIRE FENCE

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60' R.O.W. MERCEDES AVENUE (60' R.O.W.)  
N 0001'33" W 194.13'  
S 0001'13" E 372.77'  
S 0001'13" E 178.84'

15'X15' ALLEY SIGHT ESMT BY THIS PLAT

TOTAL 193,622 SQ. FT. 4.4449 ACRES

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REFERENCE BEARING 447.98'  
N 8950'00" W 723.08'

15'X15' ALLEY SIGHT ESMT BY THIS PLAT

POINT OF BEGINNING CONTROL MONUMENT

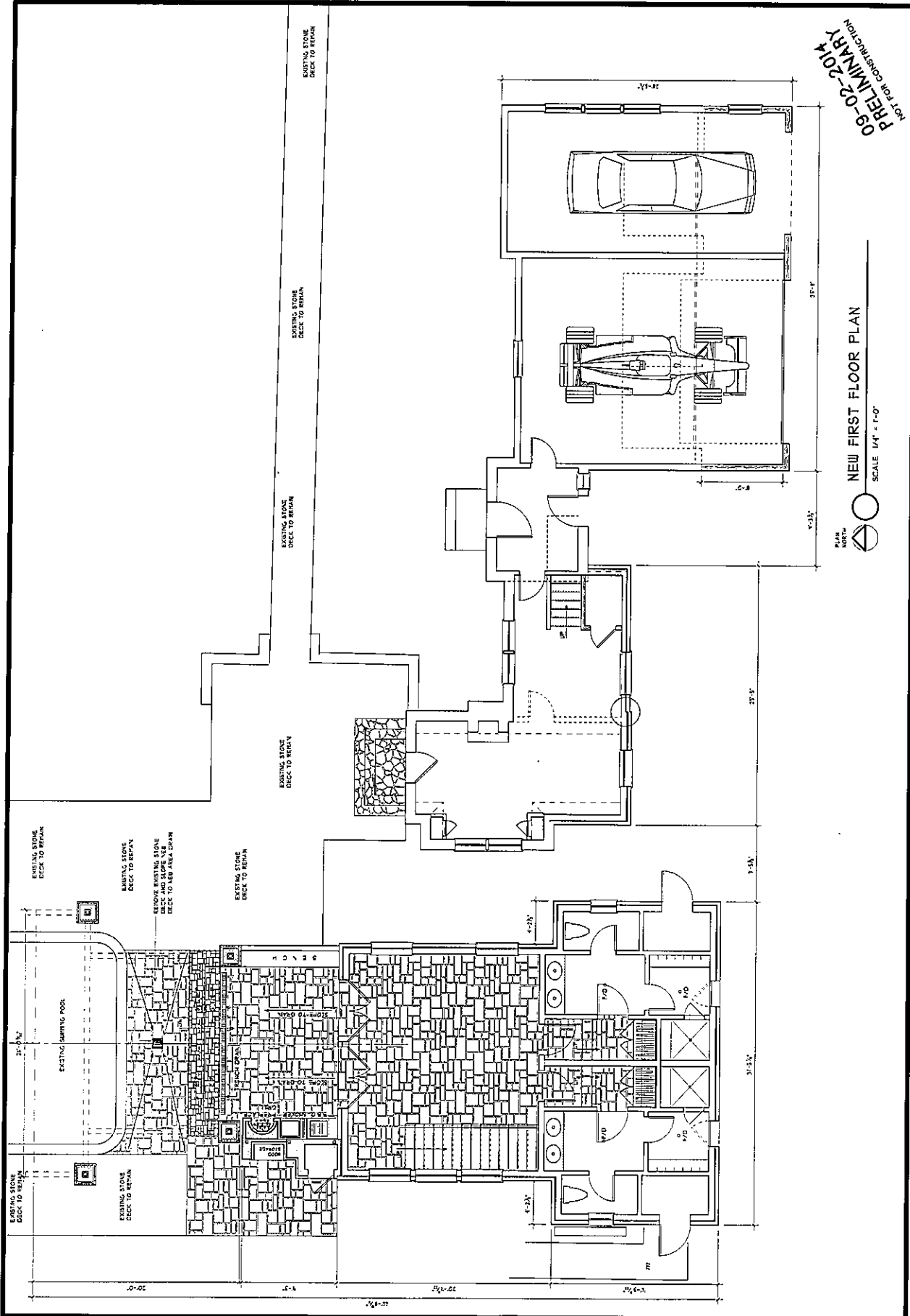


D.C. BROADSTONE II  
ARCHITECT  
5025 N. CENTRAL EXPY. DALLAS, TEXAS 75245.21.3980



ALTERNATIONS TO THE SEVEN DWARF HOUSE FOR  
MR. & MRS. STUART CROW  
DALLAS, TEXAS

SHEET NO. **A1.2**  
OF 3



09-02-2014  
PRELIMINARY  
NOT FOR CONSTRUCTION

NEW FIRST FLOOR PLAN  
SCALE 1/4" = 1'-0"





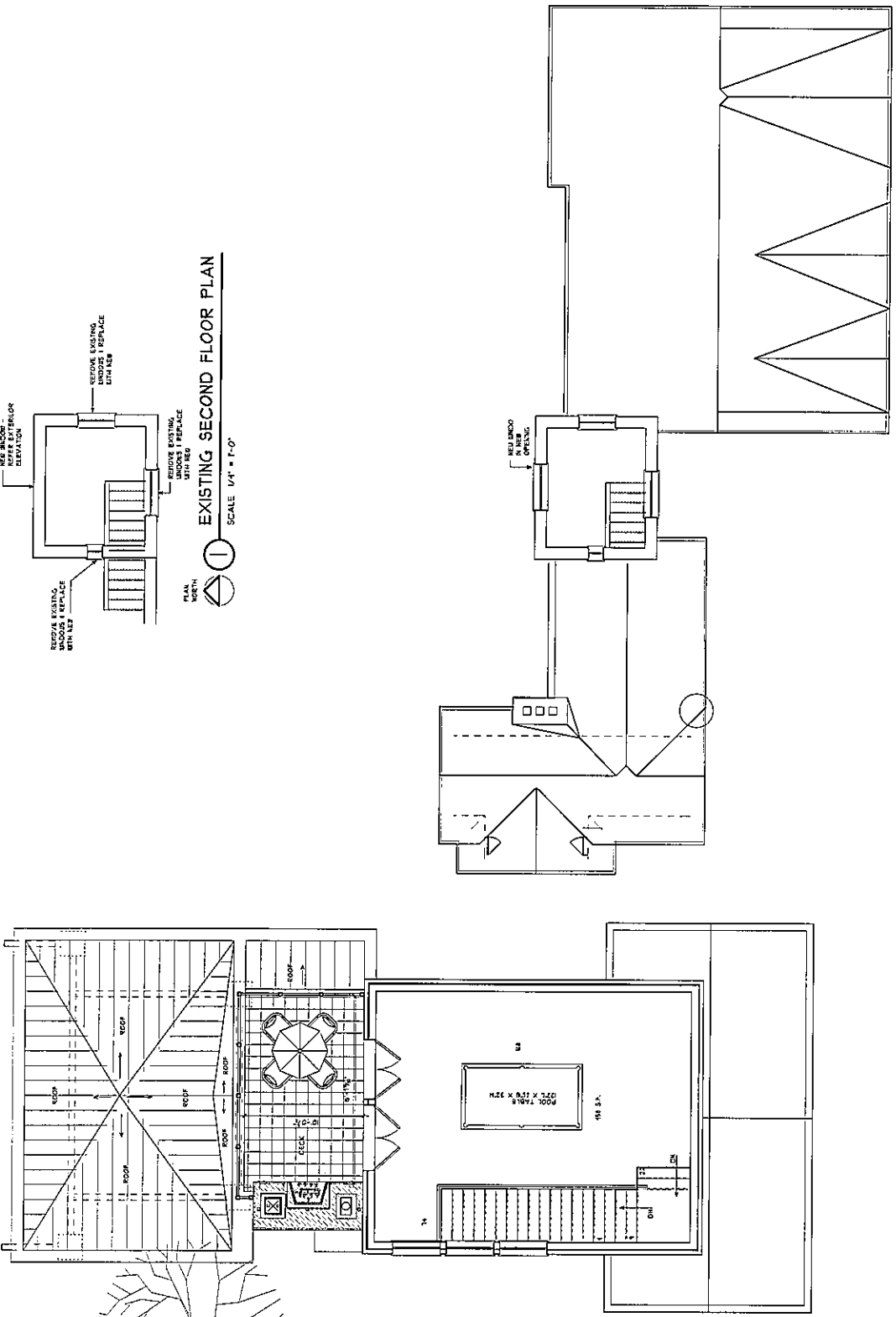
D.C. BROADSTONE II  
ARCHITECT  
5029 N. CENTRAL EXP'Y, DALLAS, TEXAS 75245.21.3580

| DATE | REVISIONS |
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ALTERATIONS TO THE SEVEN DWARF HOUSE FOR  
MR. & MRS. STUART CROW  
DALLAS, TEXAS  
6310 MERCEDS

SHEET NO.  
**A1.3**  
OF 5

09-02-2014  
PRELIMINARY  
NOT FOR CONSTRUCTION



EXISTING SECOND FLOOR PLAN  
SCALE 1/4" = 1'-0"

SECOND FLOOR PLAN AT TOWER  
SCALE 1/4" = 1'-0"

SECOND FLOOR PLAN AT NEW POOL HOUSE  
SCALE 1/4" = 1'-0"

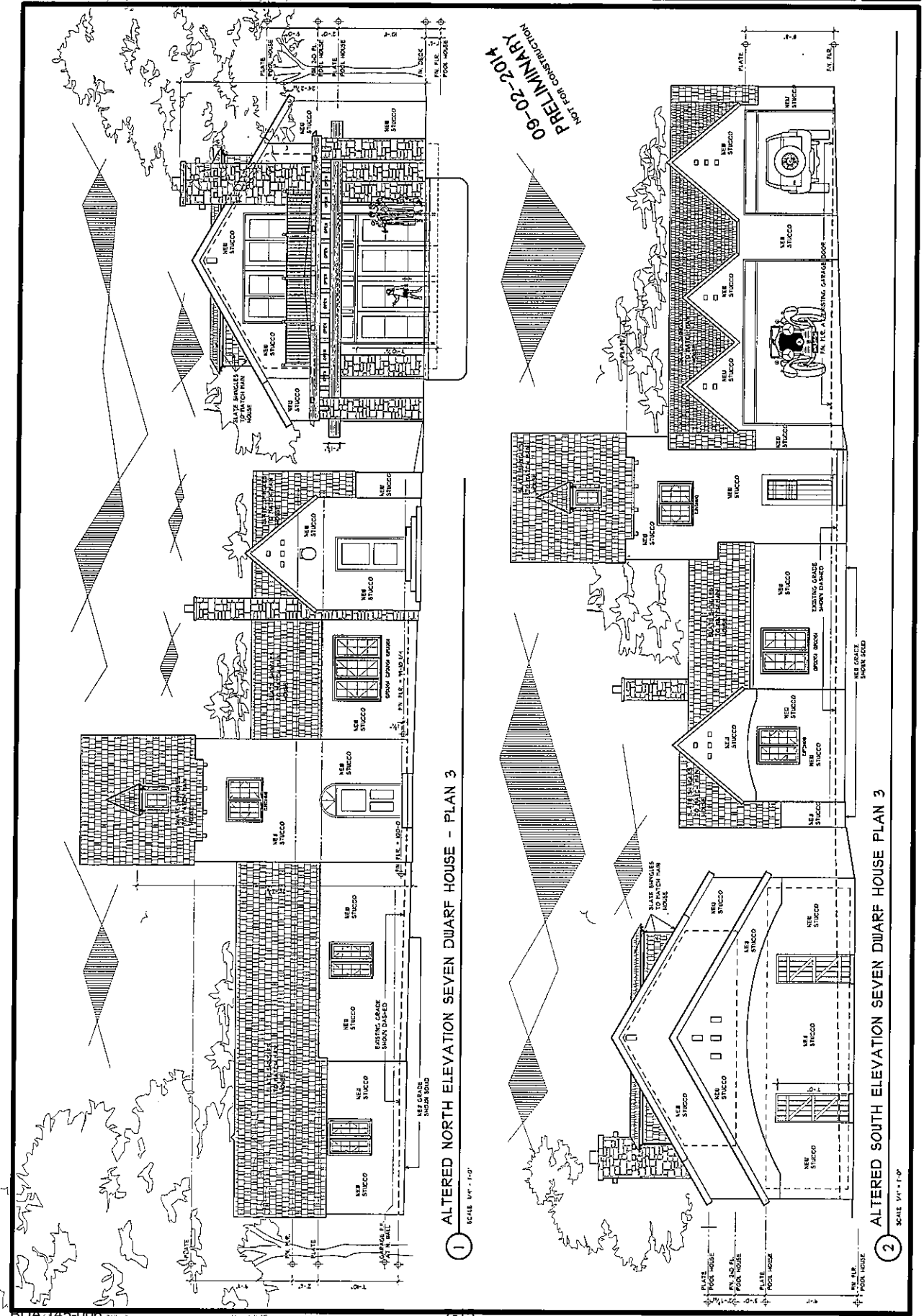


D.C. BROADSTONE II  
ARCHITECT  
5025 N. CENTRAL EXPY. DALLAS, TEXAS 75214.9680

| DATE | REVISIONS |
|------|-----------|
|      |           |
|      |           |
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|      |           |

ALTERATIONS TO THE SEVEN DWARF HOUSE FOR  
MR. & MRS. STUART CROW  
8310 MERCEDES  
DALLAS, TEXAS

SHEET NO.  
**A4.1**  
OF 3



BD/A 145-006





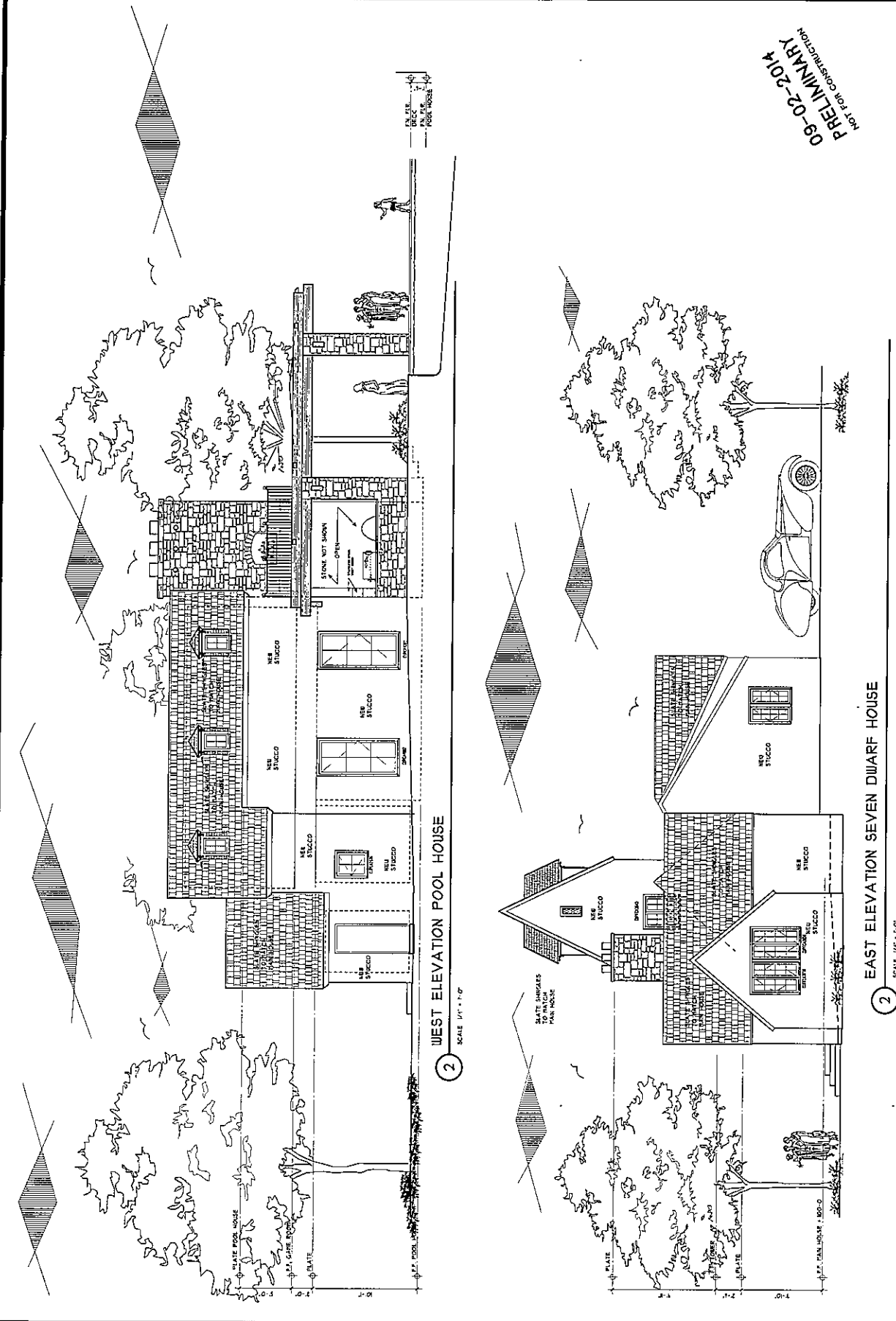
D.C. BROADSTONE II  
ARCHITECT  
5025 N. CENTRAL EXPWY, DALLAS, TEXAS 75214.9880

| DATE | REVISIONS |
|------|-----------|
|      |           |
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ALTERATIONS TO THE SEVEN DWARF HOUSE FOR  
MR. & MRS. STUART CROW  
8310 MERCEDES  
DALLAS, TEXAS

SHEET NO.  
**A4.3**  
OF 3

09-02-2014  
PRELIMINARY  
NOT FOR CONSTRUCTION

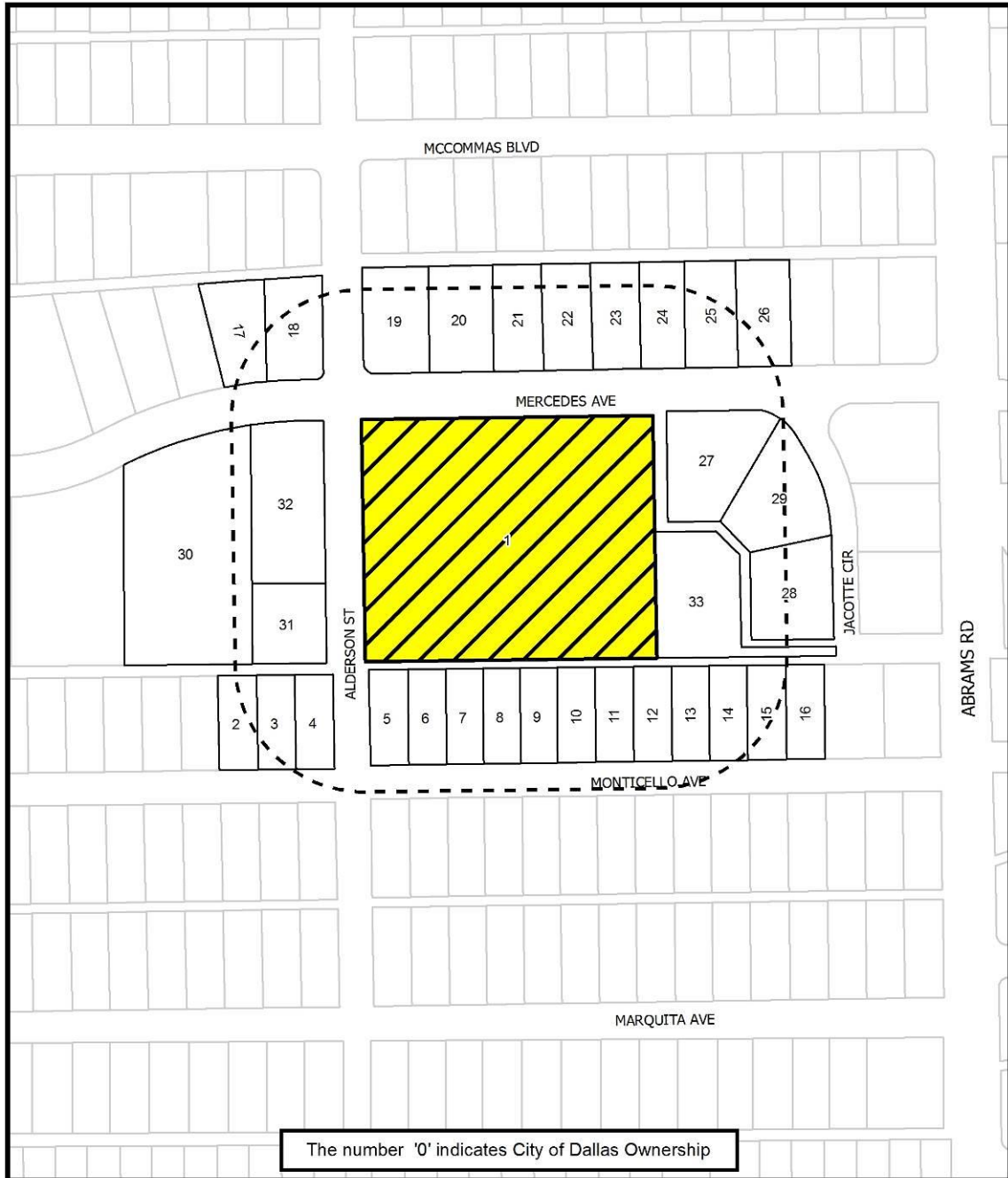


WEST ELEVATION POOL HOUSE  
SCALE 1/4" = 1'-0"

EAST ELEVATION SEVEN DWARF HOUSE  
SCALE 1/4" = 1'-0"







The number '0' indicates City of Dallas Ownership

|  |  |  |                            |
|--|--|--|----------------------------|
| <br>1:2,400 | <b>NOTIFICATION</b>  |  | Case no: <b>BDA145-006</b> |
|  | <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;">33</div> NUMBER OF PROPERTY OWNERS NOTIFIED |  | Date: <b>12/23/2014</b>    |

## *Notification List of Property Owners*

### *BDA145-006*

#### *33 Property Owners Notified*

| <i>Label #</i> | <i>Address</i>      | <i>Owner</i>                  |
|----------------|---------------------|-------------------------------|
| 1              | 6310 MERCEDES AVE   | CROW STUART M 2000 TR &       |
| 2              | 6237 MONTICELLO AVE | VICK TANNER S & JENNIFER H    |
| 3              | 6243 MONTICELLO AVE | PINEDA PETE JR                |
| 4              | 6247 MONTICELLO AVE | JUNG BUCK L                   |
| 5              | 6303 MONTICELLO AVE | STILLO CHRISTOPHER M          |
| 6              | 6307 MONTICELLO AVE | CARTER LUCILLE S              |
| 7              | 6311 MONTICELLO AVE | BEAZLEY LAURA                 |
| 8              | 6317 MONTICELLO AVE | VILER TERA                    |
| 9              | 6321 MONTICELLO AVE | LLOYD NICHOLAS & BAILEY       |
| 10             | 6327 MONTICELLO AVE | MCLAUGHLIN JASON & KELLY      |
| 11             | 6331 MONTICELLO AVE | WOHLRABE BARBARA L            |
| 12             | 6335 MONTICELLO AVE | HANNAH ELAINE MICHELLE        |
| 13             | 6341 MONTICELLO AVE | ALEXANDER MATTHEW             |
| 14             | 6345 MONTICELLO AVE | IRWIN ELIZABETH C             |
| 15             | 6349 MONTICELLO AVE | FAROW EDWARD JOSEPH           |
| 16             | 6355 MONTICELLO AVE | FORGEY OLIVIA D               |
| 17             | 6287 MERCEDES AVE   | HAGEMANN V W JR TRUST &       |
| 18             | 6295 MERCEDES AVE   | MEGGS R L & MARY              |
| 19             | 6301 MERCEDES AVE   | PIEPER TONY                   |
| 20             | 6315 MERCEDES AVE   | TSCHURR HANS C &              |
| 21             | 6321 MERCEDES AVE   | BRADEN SUSAN N                |
| 22             | 6325 MERCEDES AVE   | BROWN CAROLYN KING & STEVEN C |
| 23             | 6331 MERCEDES AVE   | HADEN WILLIAM C &             |
| 24             | 6339 MERCEDES AVE   | BRET JOHN R &                 |
| 25             | 6345 MERCEDES AVE   | DAWSON DAVID A & SHANNON I    |
| 26             | 6349 MERCEDES AVE   | TAGG DEBRA B & PAUL F         |

12/23/2014

| <b>Label #</b> | <b>Address</b>    | <b>Owner</b>                   |
|----------------|-------------------|--------------------------------|
| 27             | 6342 MERCEDES AVE | KIRK RONALD & MATRICE E        |
| 28             | 3207 JACOTTE CIR  | CROW STUART MITCHELL           |
| 29             | 3215 JACOTTE CIR  | PRESTON MICHAEL D &            |
| 30             | 6272 MERCEDES AVE | WRIGHTON RANDOLPH SYMONDS JR & |
| 31             | 3203 ALDERSON ST  | CARONA JOHN J JR & DANA LYNN   |
| 32             | 6292 MERCEDES AVE | WEBER CAROL                    |
| 33             | 3201 JACOTTE CIR  | CROW STUART MITCHELL           |

**FILE NUMBER:** BDA 145-011

**BUILDING OFFICIAL'S REPORT:** Application of Ed Simons of Masterplan for a special exception to the Modified Delta Overlay District No. 1 regulations at 1909 Greenville Avenue. This property is more fully described as Lot 21 and part of Lot 20, Block C/1983, and is zoned PD-842 (MD-1), which states that the right to carry forward nonconforming parking spaces under the delta theory is lost when a use is discontinued or remains vacant for 12 months or more. The applicant proposes to carry forward nonconforming parking spaces under the delta theory lost because of a use that was discontinued or vacant for 12 months or more, which will require a special exception to the Modified Delta Overlay District No. 1 regulations.

**LOCATION:** 1909 Greenville Avenue

**APPLICANT:** Ed Simons of Masterplan

**REQUEST:**

A request for a special exception to the Modified Delta Overlay District No. 1 regulations is made to carry forward an unspecified number of nonconforming parking spaces under the delta theory that were terminated because the City of Dallas has determined that a use on the site was discontinued or remained vacant for 12 months or more.

**STANDARD FOR SPECIAL EXCEPTION TO THE MODIFIED DELTA OVERLAY DISTRICT No. 1 REGULATIONS TO CARRY FORWARD NONCONFORMING PARKING AND LOADING SPACES UNDER THE DELTA THEORY WHEN A USE IS DISCONTINUED OR REMAINS VACANT FOR 12 MONTHS OR MORE:**

The Modified Delta Overlay District No. 1 states that the right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:

1. A decline in the rental rates for the area which has affected the rental market.
2. An unusual increase in the vacancy rates for the area which has affected the rental market.
3. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

**STAFF RECOMMENDATION:**

Denial

Rationale:

- The applicant has not demonstrated that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:
  1. A decline in the rental rates for the area which has affected the rental market.
  2. An unusual increase in the vacancy rates for the area which has affected the rental market.
  3. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 842, MD-1 (Planned Development, Modified Delta Overlay)  
North: PD 842, MD-1 (Planned Development, Modified Delta Overlay)  
South: PD 842, MD-1 (Planned Development, Modified Delta Overlay)  
East: PD 842, MD-1 (Planned Development, Modified Delta Overlay)  
West: PD 842, MD-1 (Planned Development, Modified Delta Overlay)

**Land Use:**

The subject site is developed with an vacant one-story commercial/retail use. The areas to the north, east, south, and west are developed with commercial/retail uses

**Zoning/BDA History:**

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

**GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on carrying forward an unspecified number of nonconforming parking spaces under the delta theory that were terminated because the City of Dallas has determined that a use on the site was discontinued or remained vacant for 12 months or more.
- The subject site is zoned PD 842, Modified Delta Overlay District 1.

- The Dallas Development Code provides the following with regard to “nonconformity as to parking or loading”:
  - Increased requirements. A person shall not change a use that is nonconforming as to parking or loading to another use requiring more off-street parking or loading unless the additional off-street parking and loading spaces are provided.
  - Delta theory. In calculating required off-street parking or loading, the number of nonconforming parking or loading spaces may be carried forward when the use is converted or expanded. Nonconforming rights as to parking or loading are defined in the following manner: required parking or loading spaces for existing use minus the number of existing parking or loading spaces for existing use equals nonconforming rights as to parking or loading.
  - Decreased requirements. When a use is converted to a new use having less parking or loading requirement, the rights to any portion of the nonconforming parking or loading that are not needed to meet the new requirements are lost.
- In 1987, the City Council created “Modified Delta Overlay Districts” in those areas where it has determined that a continued operation of the delta theory is not justified because there is no longer a need to encourage redevelopment and adaptive reuse of existing structures, or a continued application of the delta theory will create traffic congestion and public safety problems and would not be in the public interest.
- In a modified delta overlay district, the city council may limit the number of percentage of nonconforming parking or loading spaces that may be carried forward by a use under the delta theory. An ordinance establishing a modified delta overlay district may not increase the number of nonconforming parking or loading spaces that may be carried forward under the delta theory when a use is converted or expanded.
- An ordinance establishing a modified delta overlay district must provide that when a use located in the district is converted to a new use having less parking or loading requirements, the rights to any portion of the nonconforming parking or loading not needed to meet the new requirements are lost.
- An ordinance establishing a modified delta overlay district may provide that rights under the delta theory terminate when a use for which the delta theory has been applied is discontinued.
- In 1987, the City Council established Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:
  - That no nonconforming parking spaces may be carried forward by a use under the delta theory when a use in this district is expanded.
  - That when a use located in this district is converted to a new use having greater parking or loading requirements, the rights to any nonconforming parking or loading under the delta theory may not be used to meet the new parking requirement.
  - That when a use located in this district is converted to a new use having less parking or loading requirements, the rights to any portion of the nonconforming parking or loading not needed to meet the new requirements are lost.

- In 1995, the City Council amended Modified Overlay District No. 1 (the Greenville Avenue Modified Delta Overlay District) which stated among other things:
  - The right to carry forward nonconforming parking and loading spaces under the delta theory terminates when a use is discontinued or remains vacant for 12 months or more. The board of adjustment may grant a special exception to this provision only if the owner can demonstrate that there was not an intent to abandon the use even though the use was discontinued or remained vacant for 12 months or more by proving the occurrence of an extreme circumstance, which shall include but not be limited to the following:
    1. A decline in the rental rates for the area which has affected the rental market.
    2. An unusual increase in the vacancy rates for the area which has affected the rental market.
    3. Obsolescence of the subject property, including environmental hazards, extensive renovation or remodeling, and extreme deterioration of adjacent properties affecting the marketability of property.
- According to DCAD, the property at 1909 Greenville Avenue is developed with a “free standing retail store” with 4,000 square feet built in 1925.
- The applicant states that an “application has been submitted for a general merchandise store less than 3,500 square feet. The owner was unable to lease the space for a long time because of contrition of street improvements. The use is compatible with other neighborhood serving uses along the newly improved street.”
- While the Board Administrator had requested that the applicant provide (among other things to the code standard) how many parking spaces he wanted the Board to consider carrying forward, the applicant has not provided this information.
- The applicant has stated that the property owner has not been able to find a tenant since the PD was created in 2011, and that the property had been a bar use for years prior to that.

**Timeline:**

November 21, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

December 10, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

December 10, 2014: The Board Administrator contacted the applicant’s representative and emailed him the following information:

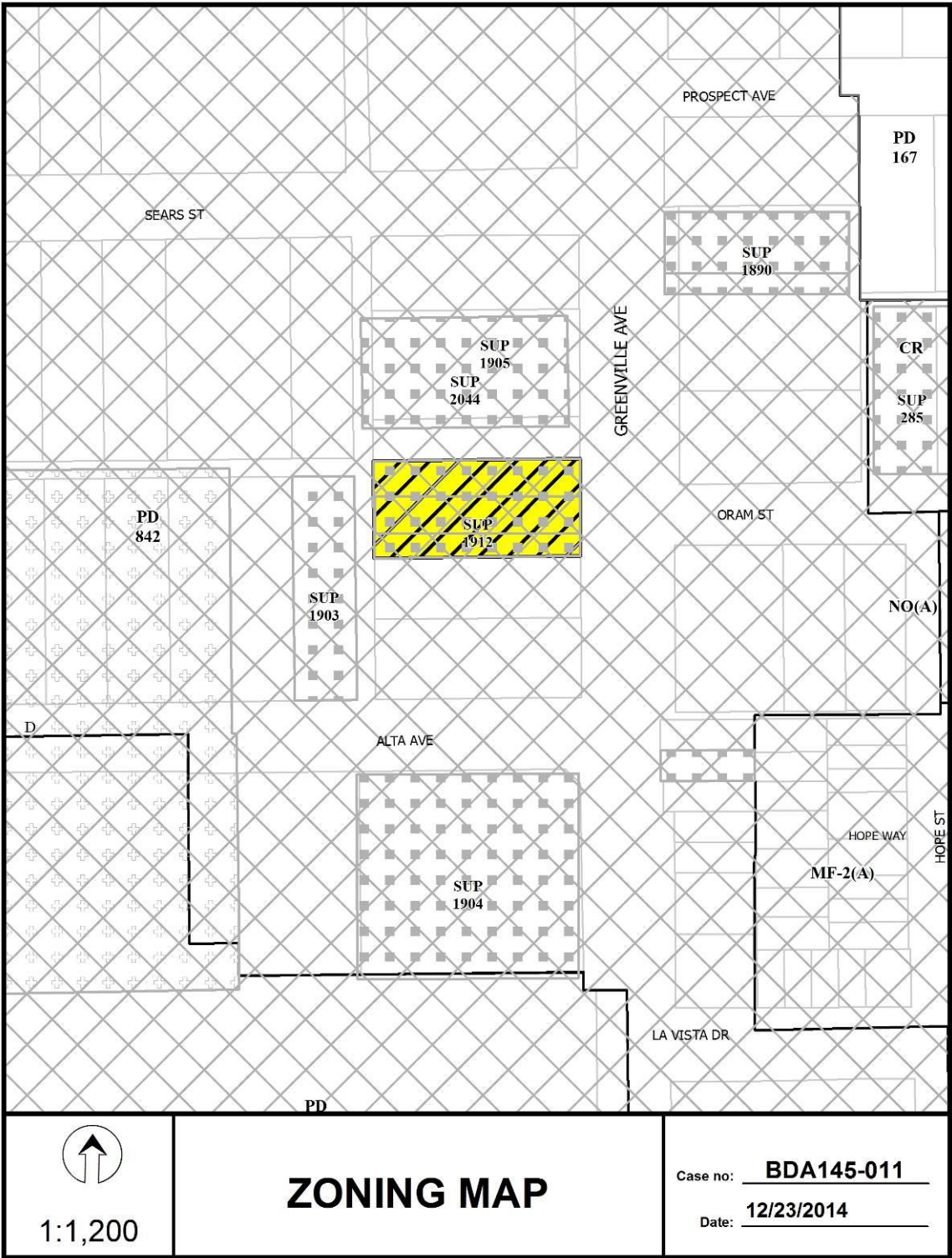
- an attachment that provided the public hearing date and panel that will consider the application; the December 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the January 9<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

January 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for January public hearings. Review team members in attendance included: the Sustainable Development and Construction Interim Assistant Director, 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.

January 6, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).





1:1,200

# ZONING MAP

Case no: BDA145-011

Date: 12/23/2014



1:1,200

# AERIAL MAP

Case no: BDA145-011

Date: 12/23/2014

BDA 145 -011  
Attach A pg 1

**Long, Steve**

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**From:** Ed Simons <esimons@masterplanconsultants.com>  
**Sent:** Tuesday, January 06, 2015 1:58 PM  
**To:** Long, Steve  
**Cc:** Duerksen, Todd  
**Subject:** 1909 Greenville  
**Attachments:** 14094 asbuilt 2014-12-19.pdf

Steve, The survey I submitted was very old. Here is an updated survey. I'll take full size copies to you and Todd. Thanks. Ed

Ed Simons  
Masterplan Consultants  
900 Jackson Street, Suite 640  
Dallas, Texas 75202

O 214-761-9197  
F 214-748-7114  
M 214-914-9646



BDA 145-011  
Attach A pg 3

**Long, Steve**

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**From:** Ed Simons <esimons@masterplanconsultants.com>  
**Sent:** Tuesday, January 06, 2015 2:39 PM  
**To:** Long, Steve  
**Subject:** FW: info on 1909 greenville

The property owner tells me that they haven't been able to find a tenant since P 842 was adopted on January 26, 2011. It had been a bar use for years prior to that. Ed

---

**From:** Nick Hannon [<mailto:NHannon@icirealestate.com>]  
**Sent:** Friday, December 19, 2014 3:07 PM  
**To:** [esimons@masterplanconsultants.com](mailto:esimons@masterplanconsultants.com)  
**Subject:** info on 1909 greenville

After the City ordinance was passed 1909 Greenville was vacated in 2011.

We leased it in September 2014 after a prolonged leasing effort.

We are now in 2015.

Nick Hannon  
Intercity Investments. Inc  
4301 Westside Drive  
Suite 100  
Dallas, Texas 75209  
214 520 2565  
[www.Intercityinvestments.com](http://www.Intercityinvestments.com)

No virus found in this message.  
Checked by AVG - [www.avg.com](http://www.avg.com)  
Version: 2015.0.5577 / Virus Database: 4253/8767 - Release Date: 12/19/14



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-011

Data Relative to Subject Property:

Date: November 21, 2014

Location address: 1909 Greenville Avenue Zoning District: PD 842 (MD-1)

Lot No.: 21 and pt 20 Block No.: C/1983 Acreage: .4 Census Tract: 10.02

Street Frontage (in Feet): 1 80 2 3) 4) SE 24

To the Honorable Board of Adjustment:

Owner of Property/or Principal Intercity Investment Properties

Applicant: Ed Simons (Masterplan) Telephone: 214-761-9197

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

Represented by: Same Telephone: Same

Mailing Address: Same Zip Code: 75202

Affirm that a request has been made for a Variance, or Special Exception X, of Special exception to the expiration of Delta Credits in the Modified Delta Overlay.

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: Application has been submitted for a general merchandise store less than 3500 square feet. The owner was unable to lease the space for a long time because of contrition of street improvements. The use is compatible with other neighborhood serving uses along the newly improved street.

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: Ed Simons Applicant's name printed [Signature] Applicant's signature

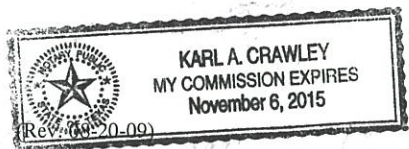
Affidavit

Before me the undersigned on this day personally appeared Ed Simons 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.

Affiant (Applicant's signature)

Subscribed and sworn to before me this 21 day of November, 2014

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**

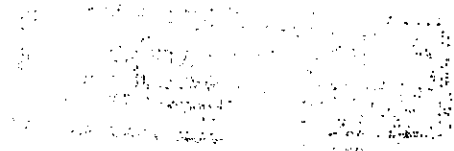
I hereby certify that Ed Simons

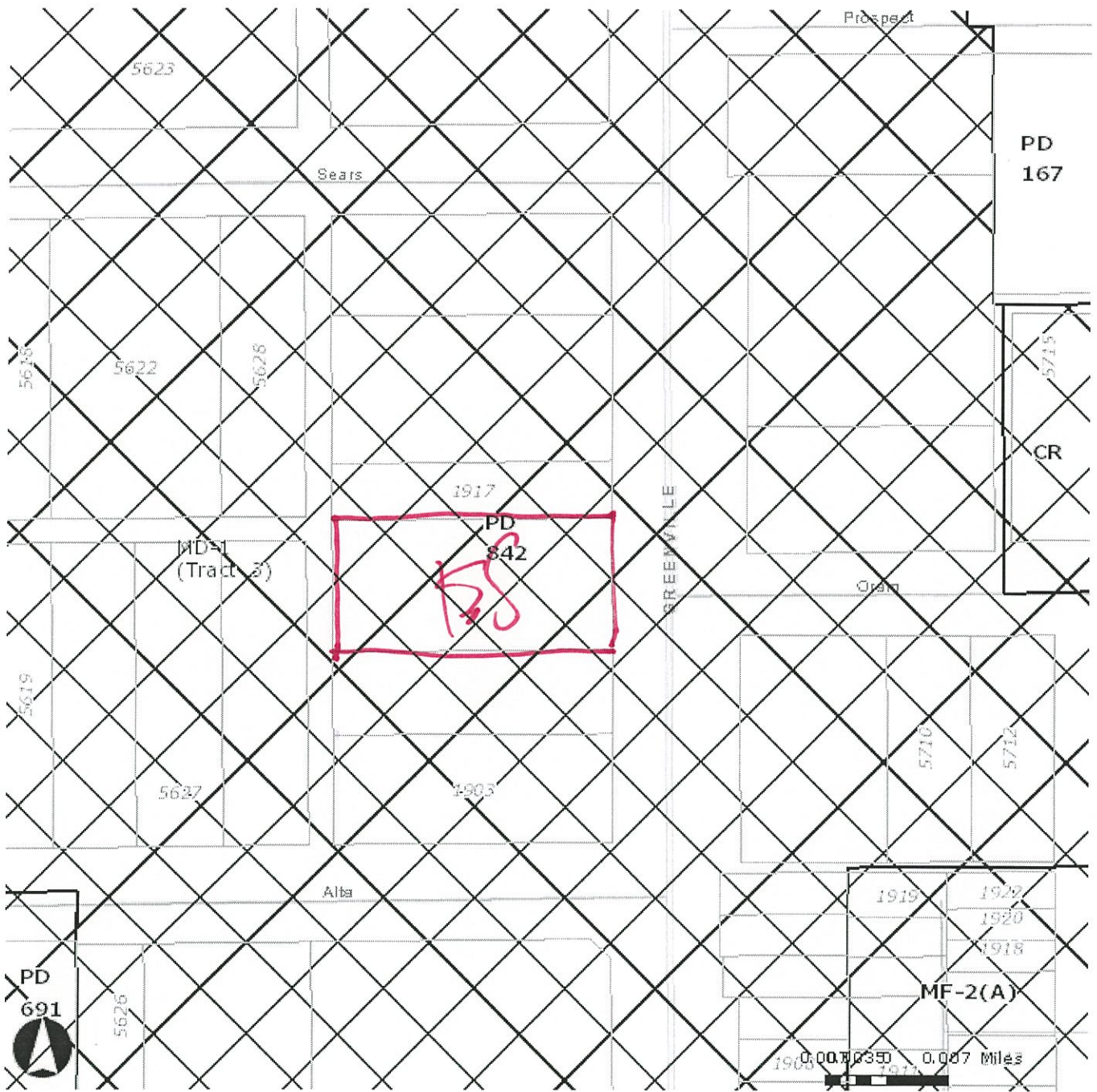
did submit a request to restore a nonconforming use  
at 1909 Greenville Avenue

BDA145-011. Application of Ed Simons to restore delta parking credits at 1909 Greenville Avenue. This property is more fully described as Lot 21 and part of Lot 20, Block C/1983, and is zoned PD-842 (MD-1), which states that the right to nonconforming delta parking credits are lost if the use is vacant for twelve months or more. The board may grant a special exception to this provision only if the owner can demonstrate there was not an intention to abandon the use. The applicant proposes to restore the lost delta parking credits, which will require a special exception to the Modified Delta Overlay-1 regulation.

Sincerely,

  
Larry Holmes, Building Official













BDA Case Number 145-011  
~~INTERCITY INVESTMENTS~~  
 I, CHRISTOPHER G. JORDAN, Owner of property at 1909 GREENVIEW,  
 (Address of Subject Property)  
 authorize MASTERPLAN to pursue an appeal to the City of Dallas Board  
 (Applicant)  
 of Adjustment for the following request(s):

- Variance (please specify type(s)) \_\_\_\_\_
- Special Exception (please specify type(s)) MODIFIED DELTA OVERLAY RESTRICTIONS
- Other (please specify) \_\_\_\_\_

Intercity Investment Properties, Inc. [Signature] 11/6/14  
 Printed Name of Property Owner Signature of Property Owner Date

Before me the undersigned on this day personally appeared Christopher G. Jordan,  
 (Print name of Property Owner)

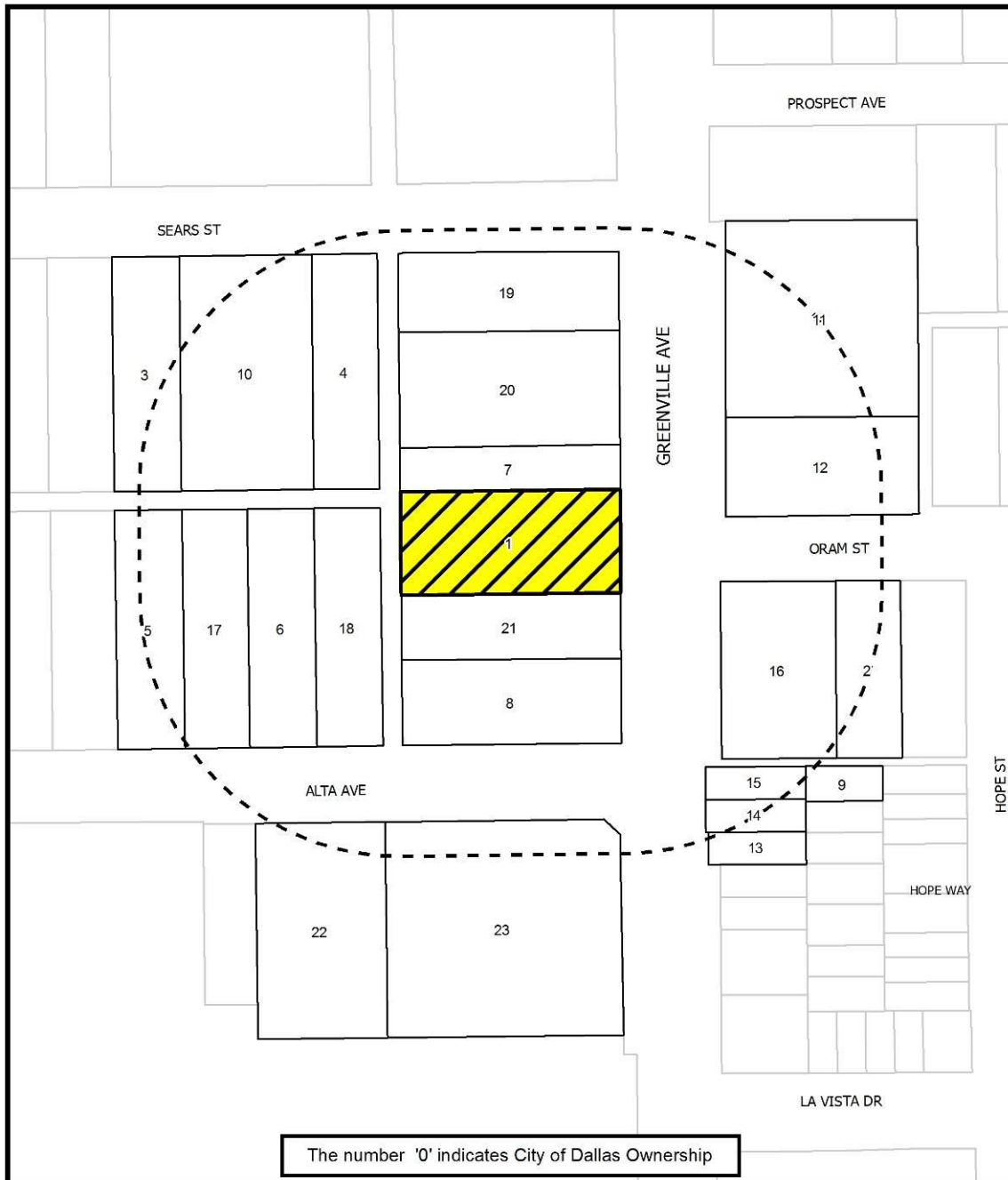
who on his/her oath certifies that the above statements are true and correct to his/her best knowledge.

Subscribed and sworn to before me this 6<sup>th</sup> day of November 2014,

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



Commission expires on October 08, 2018



|  |  |  |                            |
|--|--|--|----------------------------|
| <br>1:1,200 | <b>NOTIFICATION</b>  |  | Case no: <b>BDA145-011</b> |
|  | <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;">23</div> NUMBER OF PROPERTY OWNERS NOTIFIED |  | Date: <b>12/23/2014</b>    |

## *Notification List of Property Owners*

### *BDA145-011*

#### *23 Property Owners Notified*

| <i>Label #</i> | <i>Address</i>      | <i>Owner</i>              |
|----------------|---------------------|---------------------------|
| 1              | 1911 GREENVILLE AVE | INTERCITY INVESTMENT PROP |
| 2              | 5710 ORAM ST        | SOURIS MINOS              |
| 3              | 5618 SEARS ST       | GREENVILLE HOLDINGS CO    |
| 4              | 5628 SEARS ST       | ANDRES FAMILY TRUSTS      |
| 5              | 5619 ALTA AVE       | THACKER RICHARD E JR      |
| 6              | 5627 ALTA AVE       | WSVV                      |
| 7              | 1917 GREENVILLE AVE | WORLD WIDE FOOD INC       |
| 8              | 1903 GREENVILLE AVE | LOWGREEN PS               |
| 9              | 1919 HOPE WAY       | NGUYEN NGOC DIEP          |
| 10             | 5622 SEARS ST       | 5624 SEARS STREET LTD     |
| 11             | 2008 GREENVILLE AVE | LAVO PROPERTIES LLC       |
| 12             | 2000 GREENVILLE AVE | LANDE PAUL &              |
| 13             | 1912 GREENVILLE AVE | CAMPBELL OLIVER           |
| 14             | 1914 GREENVILLE AVE | CHAPLIN JACK ET AL        |
| 15             | 1916 GREENVILLE AVE | SHORT STACK LLC           |
| 16             | 1928 GREENVILLE AVE | LOWGREEN PS               |
| 17             | 5623 ALTA AVE       | SHIELDS WILLIAM OLIVER    |
| 18             | 5631 ALTA AVE       | WSVV LLC                  |
| 19             | 1931 GREENVILLE AVE | GENARO TRUST 1            |
| 20             | 1919 GREENVILLE AVE | 1919 27 GREENVILLE LTD    |
| 21             | 1909 GREENVILLE AVE | WORLDWIDE FOOD INC        |
| 22             | 5626 ALTA AVE       | LATORRE ROBERT INC        |
| 23             | 1827 GREENVILLE AVE | LOWGREEN PS               |