

BOARD OF ADJUSTMENT, PANEL A  
TUESDAY, MAY 17, 2011  
AGENDA

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BRIEFING	5/E/S	11:00 A.M.
LUNCH		
PUBLIC HEARING	COUNCIL CHAMBERS	1:00 P.M.

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**Donnie Moore, Chief Planner**  
**Steve Long, Board Administrator**

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**MISCELLANEOUS ITEMS**

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Approval of the **Tuesday, April 19, 2011** Board of Adjustment Public Hearing Minutes M1

**EXECUTIVE SESSION:** M2  
Executive session for attorney briefing pursuant to Texas Open Meetings Act Section 551.071, regarding *The City of Dallas, Texas, Board of Adjustment; Betty Antebi-Taylor, in her official capacity; and Joey Zapata, in his official capacity v. Jamie Pierson*, Civ. Action No. 05-10-03145-CV, BDA 078-092, Property at 6159 Oram Street

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**UNCONTESTED CASES**

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**BDA 101-011** 2201 Kings Road 1  
**REQUEST:** Application of Robert Baldwin for a variance to the front yard setback regulations

**BDA 101-040** 4701 Bengal Street 2  
**REQUEST:** Application of Robert Baldwin for a variance to the front yard setback regulations

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**HOLDOVER CASE**

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**BDA 101-028** 707 N. Windomere Avenue 3  
**REQUEST:** Application of Ashley Ness for a special exception and a variance to the rear yard setback regulations

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**REGULAR CASES**

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<b>BDA 101-033</b>	9500 Forest Lane <b>REQUEST:</b> Application of Robert Baldwin for special exceptions to the landscape, tree preservation, and sign regulations	4
<b>BDA 101-039</b>	2815 Greenville Avenue <b>REQUEST:</b> Application of Jon Duperier, represented by John Hamilton for a variance to the height regulations	5

## EXECUTIVE SESSION NOTICE

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

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

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

**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel A April 19, 2011 public hearing minutes.

**FILE NUMBER:** BDA 101-011

**BUILDING OFFICIAL'S REPORT:**

Application of Robert Baldwin for a variance to the front yard setback regulations at 2201 Kings Road. This property is more fully described as Lot 25 in City Block 5743 and is zoned IR and PD 193 (MF-2) which requires a front yard setback of 15 feet. The applicant proposes to maintain a structure and provide a 0 foot front yard setback which will require a variance of 15 feet.

**LOCATION:** 2201 Kings Road

**APPLICANT:** Robert Baldwin

**REQUEST:**

- A variance to the front yard setback regulations of 15' is requested in conjunction with maintaining an existing auto storage/shed structure, part of which is located in one of the site's two 15' front yard setbacks (Macatee Drive). (No portion of the request is made in this application to construct/maintain any portion of a structure in the site's Kings Road front yard setback).

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The applicant has substantiated how the variance is necessary to permit development of the site which is different from other lots by its irregular shape, its slope, and restrictive area caused by the floodplain on property.

**STANDARD FOR A VARIANCE:**

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

- (A) the variance is 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) the variance is 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) the variance is 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.

### **GENERAL FACTS:**

- The minimum front yard setback for lots zoned IR is 15 feet.  
The subject site is a lot that runs from one street to another (Macatee Drive on the north and Kings Avenue on the south) and has double frontage. A site plan has been submitted denoting an “existing building” located on the Macatee Drive front property line, or 15’ into the 15’ required front yard setback. (No encroachment is proposed in the site’s Kings Road 15’ front yard setback).
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the structure footprint to be maintained in the site’s Macatee Drive 15’ front yard setback is approximately 2,500 square feet in area or approximately 1/2 of the approximately 5,400 square foot building footprint.
- According to DCAD records, the site has “no improvements.”
- The subject site is somewhat sloped down to what appears to be a creekbed, irregular in shape, and (according to the application) is 4.01 acres in area. A portion of the site appears to be located in floodplain. The site is zoned IR (Industrial Research).
- The applicant forwarded additional information beyond what was submitted with the original application (see Attachment A).

### **BACKGROUND INFORMATION:**

#### **Zoning:**

Site: IR and PD No. 193 (Industrial Research and Planned Development)  
North: PD No. 712 (Planned Development)  
South: PD No. 193 (Planned Development)  
East: PD No. 712 (Planned Development)  
West: IR (Industrial Research)

**Land Use:**

The subject site is developed with a commercial storage/shed structure. The areas to the north, east, and south appear to be undeveloped; and the area to the west is developed with commercial/office uses.

**Zoning/BDA History:**

- |  |   |
|--|---|
| 1. BDA 101-040, Property at 4701 Bengal Street ( the property to the south and west of the subject site) | On May 17, 2011, the Board of Adjustment Panel A will consider a request for a variance to the front yard setback regulations of 15' in conjunction with a maintaining a structure in the front yard setback. Note that the applicant for BDA101-040 is the same as the applicant for BDA101-011. |
|--|---|

**Timeline:**

- December 7, 2010: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- April 20, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- April 21, 2011: 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 May 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the May 6<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.
- May 2, 2011: The applicant forwarded additional information on this application beyond what was submitted with the original application (see Attachment A).
- May 3, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans

Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

May 5, 2011: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following comments: "Comply with all C.O.D visibility and floodplain requirements."

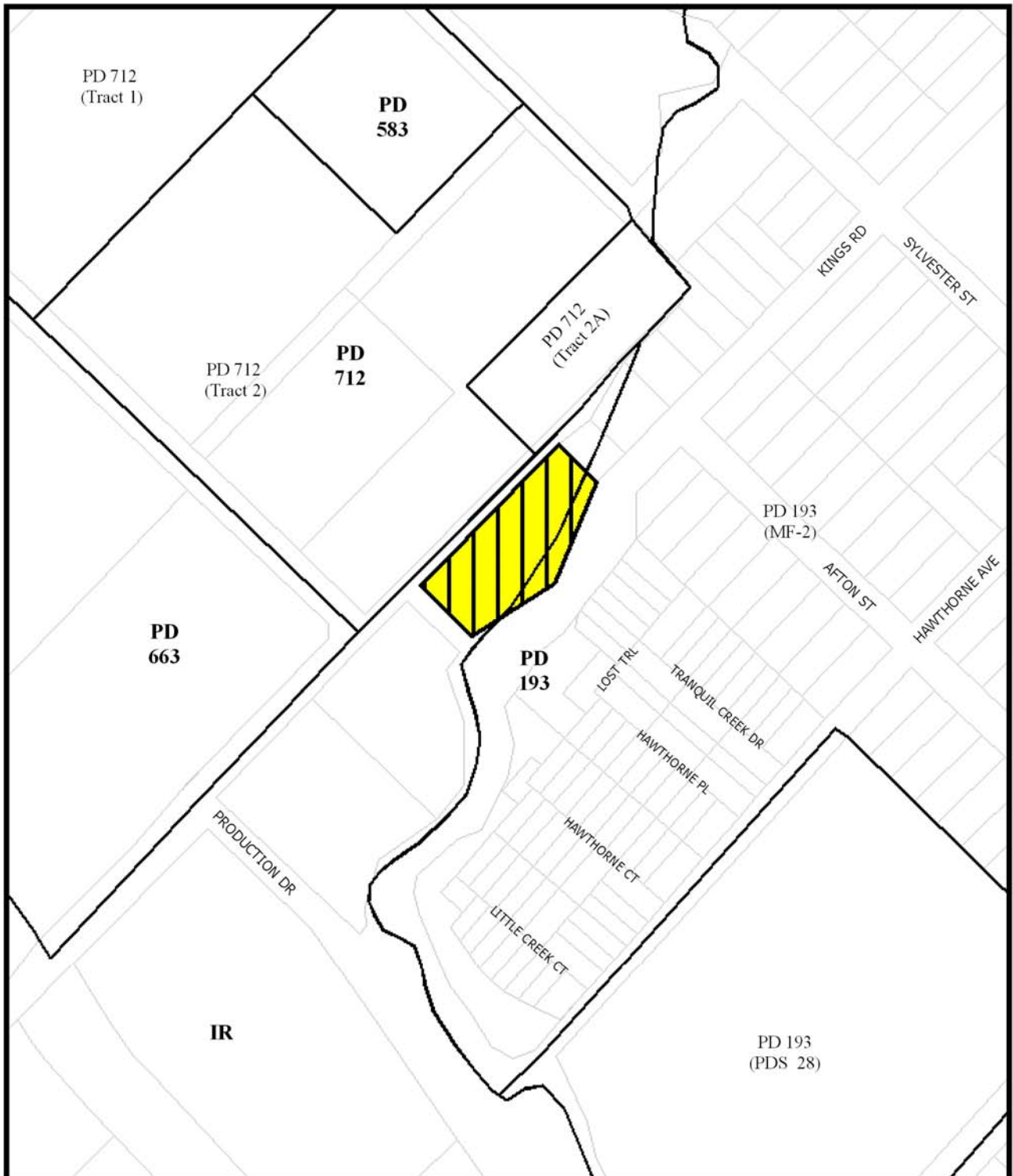
### **STAFF ANALYSIS:**

- The request focuses on maintaining an existing auto storage/shed structure, part of which is located in one of the site's two 15' front yard setbacks (Macatee Drive). (No portion of the request is made in this application to construct/maintain any portion of a structure in the site's Kings Road front yard setback).
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the structure footprint to be maintained in the site's Macatee Drive 15' front yard setback is approximately 2,500 square feet in area or approximately 1/2 of the approximately 5,400 square foot building footprint.
- According to DCAD records, the site has "no improvements."
- The subject site is somewhat sloped down to what appears to be a creekbed, irregular in shape, and (according to the application) is 4.01 acres in area. A portion of the site appears to be located in floodplain. The site is zoned IR (Industrial Research).
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the Macatee Drive front yard setback regulation will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same IR zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same IR zoning classification.
- If the Board were to grant the variance request, subject to the submitted site plan, the structure in the front yard setback would be limited to what is shown



on this document– which in this case is a structure located on the front property line or 15' into the 15' Macatee Drive front yard setback.

- Note that the applicant is aware of the fact that granting his request for a variance to the front yard setback regulations will not provide any relief to any existing/proposed condition on the site that is/would become in noncompliance with the Code's visual obstruction regulations.



1:2,400

# ZONING MAP

Map no:           I-6          

Case no:           BDA101-011          

DATE: April 28, 2011



1:2,400

# AERIAL MAP

Map no: I-6

Case no: BDA101-011

DATE: April 28, 2011

**Baldwin**  
Associates

May 2, 2011

Mr. Steve Long  
Senior Planner  
City of Dallas Department of Development Services  
1500 Marilla Street, Room 5BN  
Dallas, TX 75201-6390

Re: Board of Adjustment Cases 101-011 and 101-040

Dear Steve;

As you may be aware, this firm is representing the owner of the properties known as 2201 Kings Road and 4701 Bengal Street in their request for a variance to the front yard setback requirements to allow two existing structures to remain in the front yard setback on these properties. Although, technically these are two separate properties, in reality they look like and operate as a single property. The properties are zoned industrial and front on an unimproved street called MacAtee. The properties back to a creek and there is also another dedicated but unimproved street that bisects the property and dead ends into the creek.

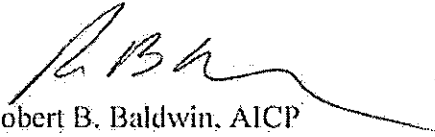
My client is an attorney that works with automobile accidents. He had purchased this property to store automobiles that are related to the cases he works on. Pursuant to the City's regulations, he built an opaque fence to screen the inoperable autos from view. The fences are allowed on the property line. However, once these fences were up and operational, he decided to attach a roof to the fences to protect the vehicles and his employees from the elements. He did not realize that by adding the roof, he changed the fences into structures, which trigger a 15-foot front yard setback. The structures had been operational for years before it was brought to his attention that this was a violation. Once he learned of the problem, he filed for these variance requests in an effort to legitimize the structures.

As mentioned previously, these structure front on an unimproved street, that until recently was heavily overgrown and did not look like, nor function as a street. Both properties are irregular in shape, have a significant change of topography and are encumbered by floodplain along the rear. In fact, a portion of the Kings Road property is actually on the other side of the creek. These properties clearly are not like any other properties in the area given their configuration, topography, the presence of unimproved right-of-way along the front of and through the property and the extensive floodplain encumbering the property. I hope you will agree that this is truly a unique situation.

BDA101-011  
Attach A  
Pg 2

Thank you for your assistance with this matter. We are confident that these requests are reasonable and will not be detrimental to surrounding properties. If you have any questions or need any additional information, please do not hesitate to contact me.

With kind regards,

A handwritten signature in black ink, appearing to read 'R. Baldwin', with a long horizontal flourish extending to the right.

Robert B. Baldwin, AICP



City of Dallas

- A

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: 101-011

Data Relative to Subject Property:

Date: 12-7-10

Location address: 2201 Kings Zoning District: IR

Lot No.: 25 Block No.: 5743 Acreage: 1.094 acres Census Tract: 75 4.01

Frontage (in Feet): 1) 110 ft 2) 461 ft 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

SW22

Owner of Property/or Principal: Crash Inc

Applicant: Robert Baldwin Telephone: 214.824.7949

Mailing Address: 401 Exposition Avenue, Dallas, TX Zip Code: 75226

Represented By: Robert Baldwin Telephone: 214.824.7949

Mailing Address: 401 Exposition Zip Code: 75226

Affirm that a request has been made for a Variance X, or Special Exception   , of 15 feet to the front yard set backs.

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 applicant is seeking permission to maintain a current structure that was built on the property line. The shape of the lot and the floodplain creates a hardship in maintain the required setback

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.

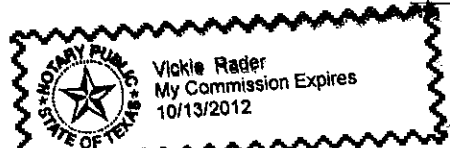
Respectfully submitted: Robert Baldwin Applicant's name printed [Signature] Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Robert Baldwin 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.

[Signature]  
Affiant (Applicant's signature)

Subscribed and sworn to before me this 6th day of December, 2010



Vickie Rader  
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 ROB BALDWIN

did submit a request for a variance to the front yard setback regulations  
at 2201 Kings Road

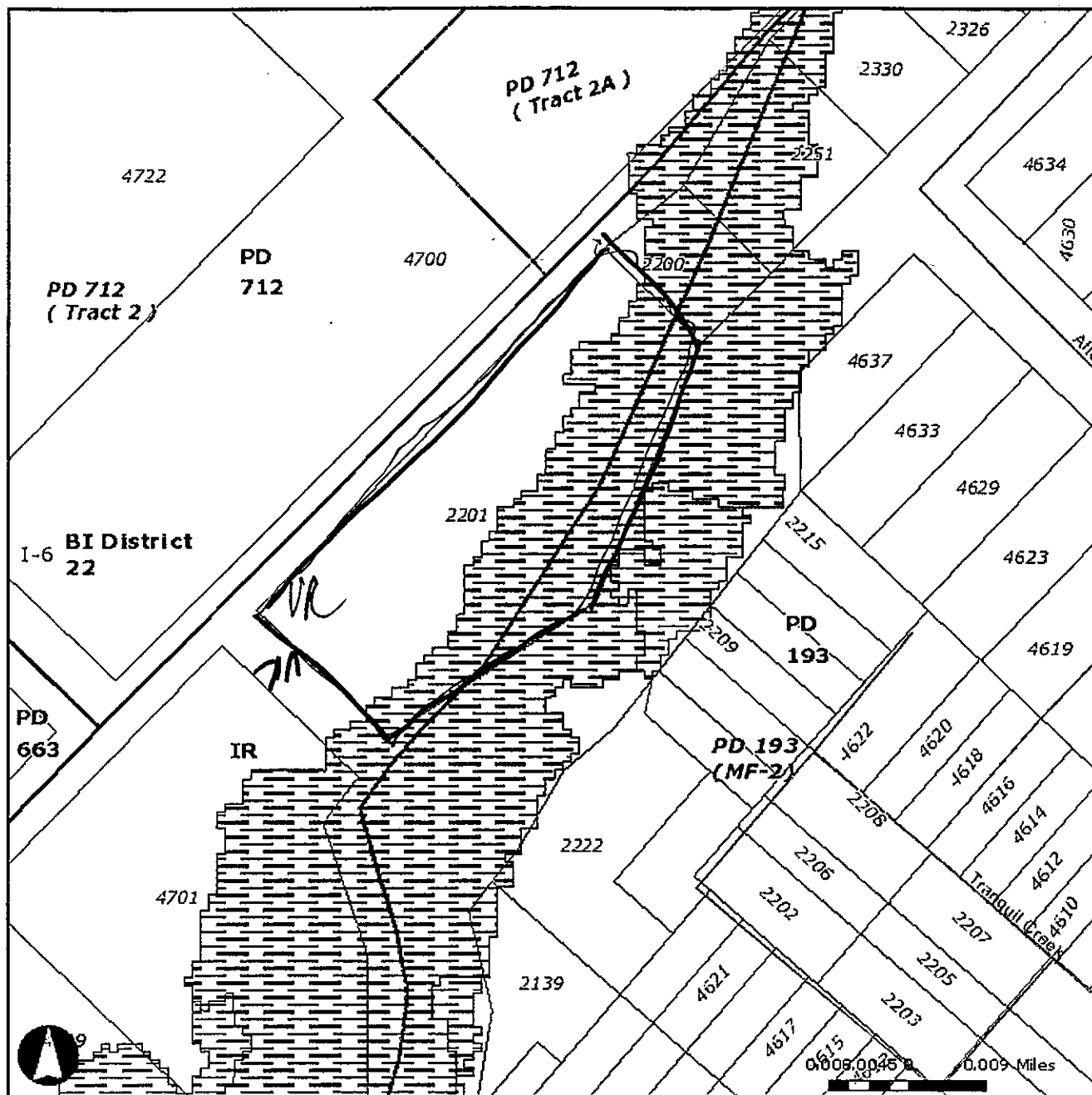
BDA101-011. Application of Rob Baldwin for a variance to the front yard setback regulations at 2201 Kings Road. This property is more fully described as Lot 25 in city block 5743 and is zoned IR and PD 193 (MF-2), which requires a front yard setback of 15 feet. The applicant proposes to construct and maintain a nonresidential structure and provide a 0 foot front yard setback, which will require a 15 foot variance to the front yard setback regulation.

Sincerely,

*Batsheba Antebi*  
Batsheba Antebi, Building Official

# City of Dallas Zoning

011  
1-1



City Boundaries



BI Districts



County



Certified Parcels



DISD Sites



SUP



Dry Overlay



Historic Overlay

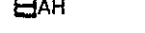
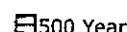


Historic Subdistricts

Base Zoning



Floodplain





5746

MACATEE DR.

N 45°57'08" E - 461.48'

TRACT 2  
47,648 sq. ft.  
1.0938 ac.

LOT 25

BLOCK 5746

THIRD INSTALLMENT OF MAPLEWOOD

WILKINGS RD.

AFTON ST.

KUAI TA ROAD ADDITION  
VOL. 96/43, PG. 1352

P.O.B.  
TRACT 2

N 44°23'20" W  
110.50'

30' R.O.W.

P.O.B.  
TRACT 1

S 44°23'20" E  
110.50'

LOT 29

BENGAL S

BDA 101-01

building

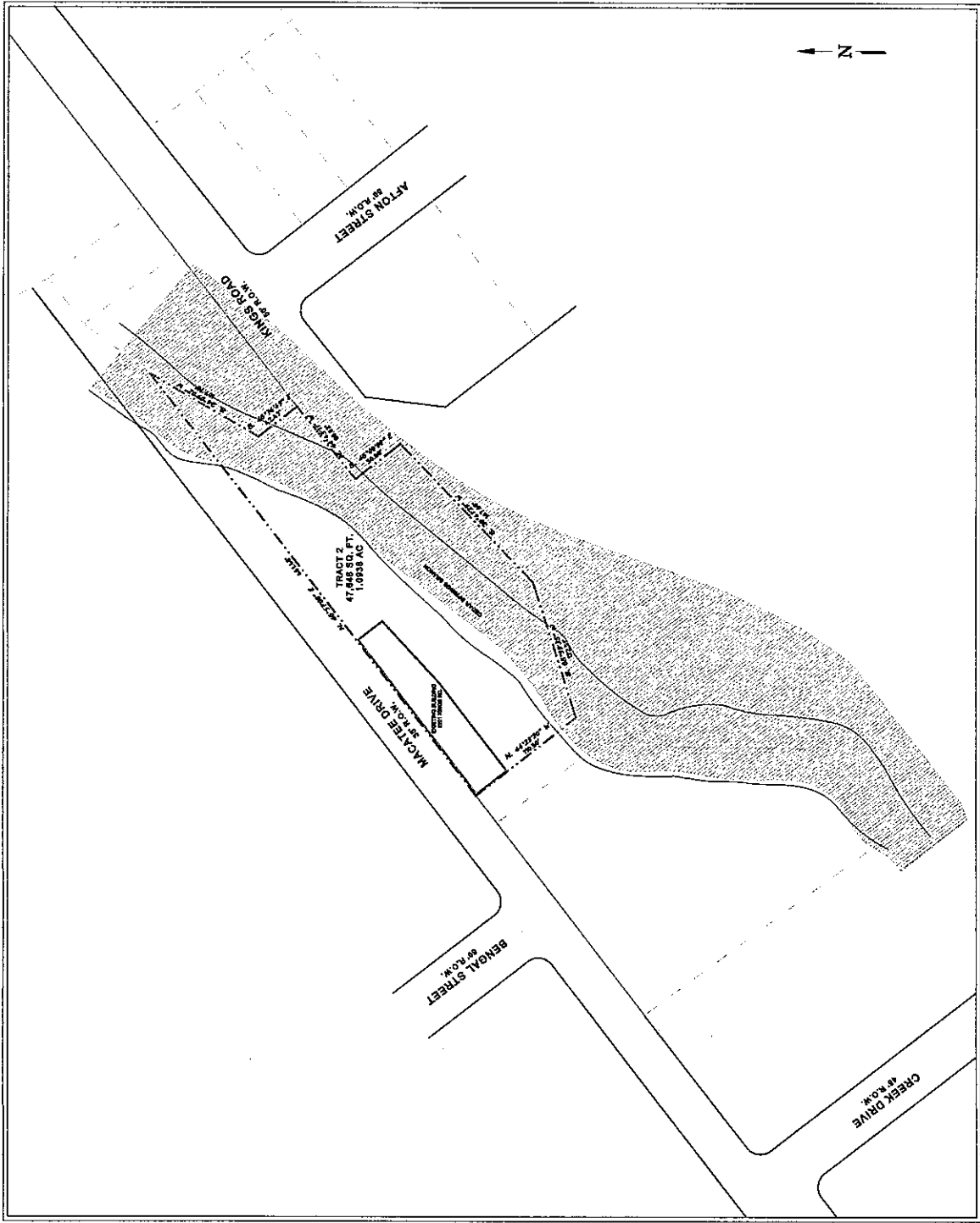
1 st.

T-13

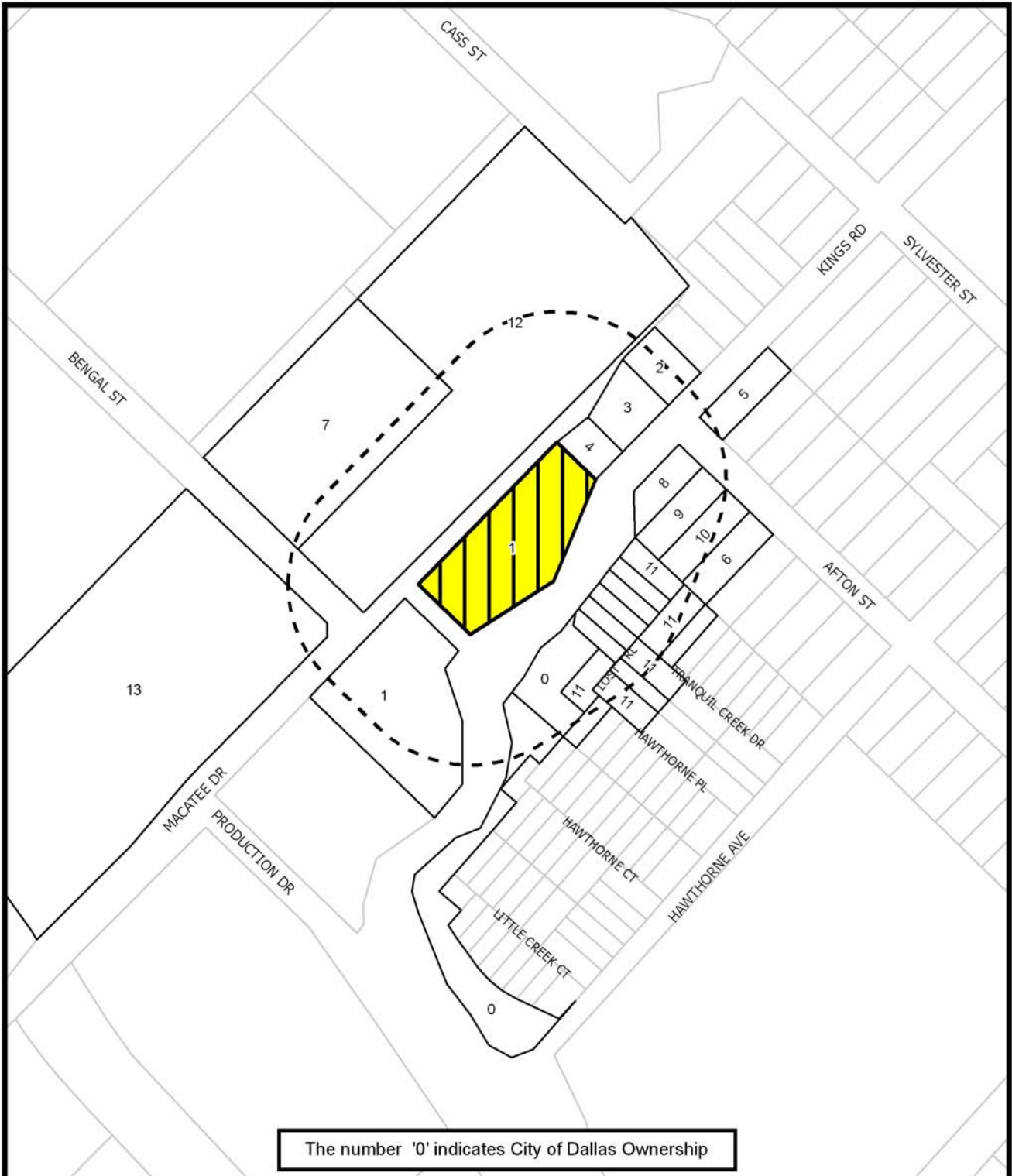
7 ft  
ac.

storage


area



1 SITE PLAN  
PROJECT NO. 0208011



The number '0' indicates City of Dallas Ownership



1:2,400

## NOTIFICATION

<b>200'</b>	<b>AREA OF NOTIFICATION</b>
<b>13</b>	<b>NUMBER OF PROPERTY OWNERS NOTIFIED</b>

Map no:           **I-6**          

Case no:           **BDA101-011**          

DATE: April 28, 2011

# **Notification List of Property Owners**

## **BDA101-011**

### **13 Property Owners Notified**

<b>Label #</b>	<b>Address</b>	<b>Owner</b>
1	4701 KINGS	CRASH INC
2	2330 KINGS	HYDE HEATH
3	2251 KINGS	SINGER ARTURO
4	2200 KINGS	ODONNELL AUDREY L % MICHAEL ODONELL
5	4634 AFTON	CHANDLER NANCY ANN S TR STE 207
6	4623 AFTON	VAN SON MIN & VAN NGOC NGUYEN
7	4722 BENGAL	FOSTER M POOLE JR
8	4637 AFTON	NGUYEN DIEM TRANG HOANG
9	4633 AFTON	NGO HUNG VI & KIM YEN NGO
10	4629 AFTON	NGUYEN MINH
11	4623 TRANQUIL CREEK	TEXAS INTOWNHOMES LLC
12	4700 BENGAL	MC COMPANY LTD
13	4707 BENGAL	RONALD MCDONALD HOUSE OF DALLAS FAMILY ASSIST

**FILE NUMBER:** BDA 101-040

**BUILDING OFFICIAL'S REPORT:**

Application of Robert Baldwin for a variance to the front yard setback regulations at 4701 Bengal Street. This property is more fully described as Lot 29 in City Block 5743 and is zoned IR which requires a front yard setback of 15 feet. The applicant proposes to maintain a structure and provide a 0 foot front yard setback which will require a variance of 15 feet.

**LOCATION:** 4701 Bengal Street

**APPLICANT:** Robert Baldwin

**REQUEST:**

- A variance to the front yard setback regulations of 15' is requested in conjunction with maintaining an existing auto storage/shed structure, part of which is located in the 15' Macatee Drive front yard setback. (Note that although the subject site is developed with two structures in the 15' Macatee Drive front yard setback, the applicant is only making application for variance to what is described as the "new structure to be varied" on the site plan, and not to what is described as the "building not a part of application – existing single story metal building 24,517 SQ. FT." on this plan).

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The applicant has substantiated how the variance is necessary to permit development of the site which is different from other lots by its irregular shape, its slope, and restrictive area caused by the floodplain on property.

**STANDARD FOR A VARIANCE:**

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

- (A) the variance is 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) the variance is 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) the variance is 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.

**GENERAL FACTS:**

- The minimum front yard setback for lots zoned IR is 15 feet. A site plan has been submitted denoting two structures located in the site’s 15’ front yard setback. However, this site plan specifically notes that only one of these two structures is “to be varied” – that being the structure denoted on this plan as “new structure to be varied” that is located on the site’s front property line or 15’ into the 15’ required front yard setback on Macatee Street.
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the structure footprint to be varied/maintained in the site’s 15’ Macatee Drive front yard setback is approximately 900 square feet in area or approximately 16 percent of the approximately 5,700 square foot building footprint.
- According to DCAD records, the site is shows improvements being a 20,800 square foot “storage warehouse” built in 1964.
- The subject site is somewhat sloped down to what appears to be a creekbed, irregular in shape, and (according to the application) is 39,552 square feet in area. (Note that according to the submitted site plan, the site or “Tract 1” is 47,148 square feet or 1.082 acres in area). A portion of the site appears to be located in floodplain. The site is zoned IR (Industrial Research).
- The applicant forwarded additional information beyond what was submitted with the original application (see Attachment A).

**BACKGROUND INFORMATION:**

**Zoning:**

Site: IR (Industrial Research)  
North: PD No. 663 & 712 (Planned Development)  
South: PD No. 193 (Planned Development)  
East: IR (Industrial Research)  
West: IR (Industrial Research)

### **Land Use:**

The subject site is developed with what appears to be an auto storage/shed and a garage/office structure. The area to the north is developed with multifamily use and undeveloped land; the area to the east is developed with commercial use; the area to the south appears to be undeveloped; and the area to the west is developed with commercial/office uses.

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

1. BDA 101-011, Property at 2201 Kings Road ( the property to the north and east of the subject site)

On May 17, 2011, the Board of Adjustment Panel A will consider a request for a variance to the front yard setback regulations of 15' in conjunction with a maintaining a structure in the front yard setback. Note that the applicant for BDA101-011 is the same as the applicant for BDA101-040.

### **Timeline:**

March 23, 2011: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

April 20, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

April 21, 2011: 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 May 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the May 6<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.

May 2, 2011: The applicant forwarded additional information on this application beyond what was submitted with the original application (see Attachment A).

May 3, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance

included: the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

May 5, 2011: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following comments: "Comply with all C.O.D visibility and floodplain requirements."

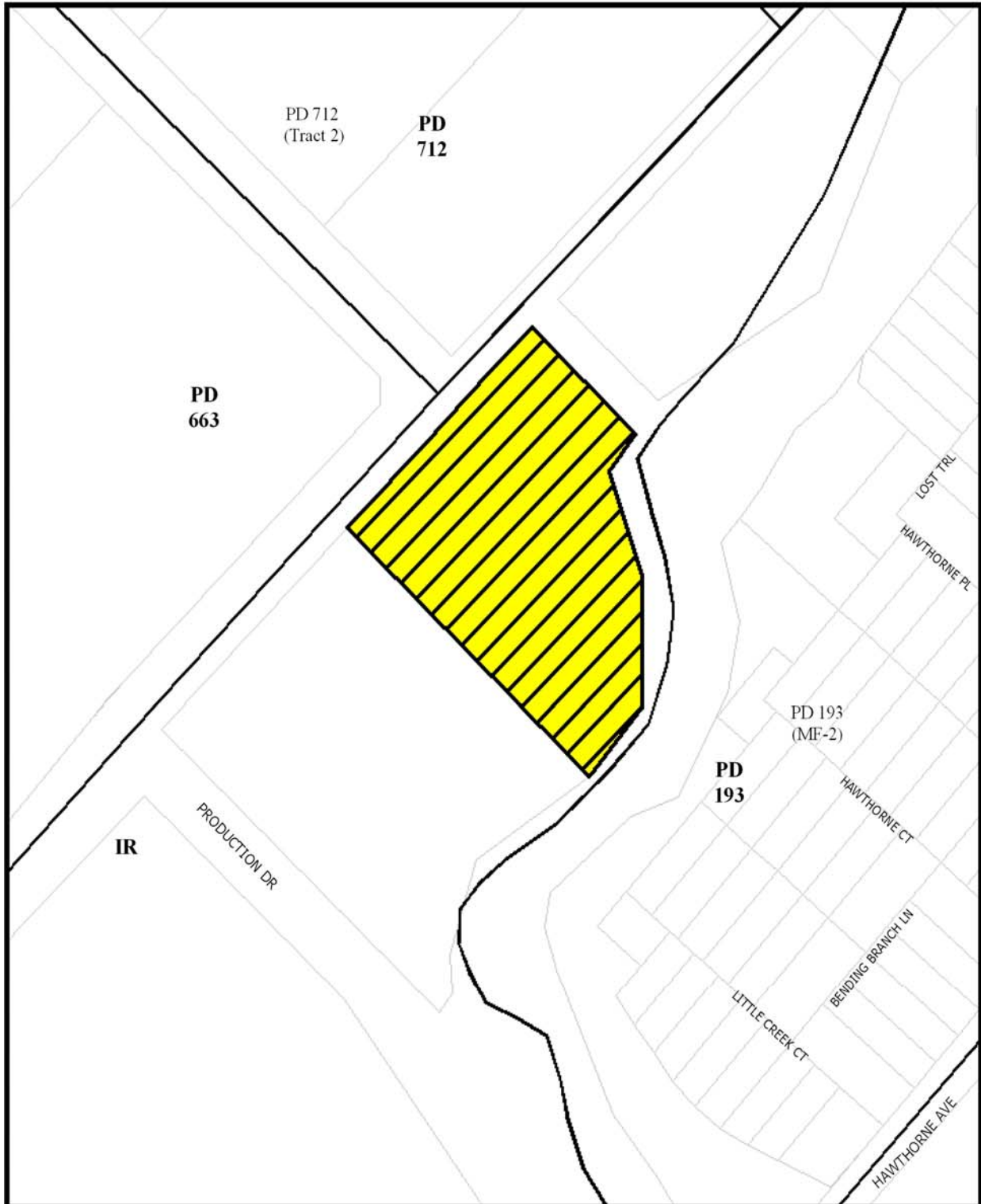
### **STAFF ANALYSIS:**

- The request focuses on maintaining an existing auto storage/shed structure, part of which is located in the 15' Macatee Drive front yard setback.
- Note that although the subject site is developed with two structures in the 15' Macatee Drive front yard setback, the applicant is only making application for variance to what is described as the "new structure to be varied" on the site plan, and not to what is described as the "building not a part of application – existing single story metal building 24,517 SQ. FT." on this plan.
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the structure footprint to be varied/maintained in the site's 15' front yard setback is approximately 900 square feet in area or approximately 16 percent of the approximately 5,700 square foot building footprint.
- According to DCAD records, the site is shows improvements being a 20,800 square foot "storage warehouse" built in 1964.
- The subject site is somewhat sloped down to what appears to be a creekbed, irregular in shape, and (according to the application) is 39,552 square feet in area. (Note that according to the submitted site plan, the site or "Tract 1" is 47,148 square feet or 1.082 acres in area). A portion of the site appears to be located in floodplain. The site is zoned IR (Industrial Research).
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the Macatee Drive front yard setback regulation will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same IR zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a



privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same IR zoning classification.

- If the Board were to grant the variance request, subject to the submitted site plan, the structure as shown and labeled as “new structure to be varied” on this plan would be permitted to remain on the front property line or 15’ into the 15’ Macatee Drive front yard setback.
- Note that the applicant is aware of the fact that granting his request for variance to the front yard setback regulations will not provide any relief to any existing/proposed condition on the site that is/would become in noncompliance with the Code’s visual obstruction regulations.



1:1,200

# ZONING MAP

Map no:           I-6          

Case no:           BDA101-040          

DATE: April 28, 2011



1:1,200

DATE: April 28, 2011

# AERIAL MAP

Map no: I-6

Case no: BDA101-040

**Baldwin**  
**Associates**

May 2, 2011

Mr. Steve Long  
Senior Planner  
City of Dallas Department of Development Services  
1500 Marilla Street, Room 5BN  
Dallas, TX 75201-6390

Re: Board of Adjustment Cases 101-011 and 101-040

Dear Steve;

As you may be aware, this firm is representing the owner of the properties known as 2201 Kings Road and 4701 Bengal Street in their request for a variance to the front yard setback requirements to allow two existing structures to remain in the front yard setback on these properties. Although, technically these are two separate properties, in reality they look like and operate as a single property. The properties are zoned industrial and front on an unimproved street called MacAtee. The properties back to a creek and there is also another dedicated but unimproved street that bisects the property and dead ends into the creek.

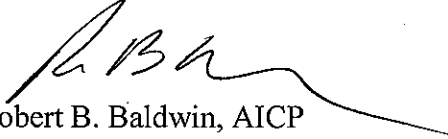
My client is an attorney that works with automobile accidents. He had purchased this property to store automobiles that are related to the cases he works on. Pursuant to the City's regulations, he built an opaque fence to screen the inoperable autos from view. The fences are allowed on the property line. However, once these fences were up and operational, he decided to attach a roof to the fences to protect the vehicles and his employees from the elements. He did not realize that by adding the roof, he changed the fences into structures, which trigger a 15-foot front yard setback. The structures had been operational for years before it was brought to his attention that this was a violation. Once he learned of the problem, he filed for these variance requests in an effort to legitimize the structures.

As mentioned previously, these structure front on an unimproved street, that until recently was heavily overgrown and did not look like, nor function as a street. Both properties are irregular in shape, have a significant change of topography and are encumbered by floodplain along the rear. In fact, a portion of the Kings Road property is actually on the other side of the creek. These properties clearly are not like any other properties in the area given their configuration, topography, the presence of unimproved right-of-way along the front of and through the property and the extensive floodplain encumbering the property. I hope you will agree that this is truly a unique situation.

BDA101-040  
Attach A  
Pg 2

Thank you for your assistance with this matter. We are confident that these requests are reasonable and will not be detrimental to surrounding properties. If you have any questions or need any additional information, please do not hesitate to contact me.

With kind regards,

A handwritten signature in black ink, appearing to read 'R. Baldwin', with a long horizontal flourish extending to the right.

Robert B. Baldwin, AICP



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: 101-040

Data Relative to Subject Property:

Date: 3-23-11

Location address: 4701 Bengal Street Zoning District: IR

Lot No.: 29 Block No.: 5743 Acreage: 39,552 sq. ft. Census Tract: 4.01

Frontage (in Feet): 1) 113 ft 2) 216 ft 3) 4) 5)

To the Honorable Board of Adjustment :

SW 22

Owner of Property/or Principal: Crash Inc

Applicant: Robert Baldwin Telephone: 214.824.7949

Mailing Address: 401 Exposition Avenue, Dallas, TX Zip Code: 75226

Represented By: Robert Baldwin Telephone: 214.824.7949

Mailing Address: 401 Exposition Zip Code: 75226

Affirm that a request has been made for a Variance X, or Special Exception, of 15 feet to the front yard set backs.

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 applicant is seeking permission to maintain a current structure that was built on the property line. The shape of the lot and the floodplain creates a hardship in maintain the required setback

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: Robert Baldwin Applicant's name printed [Signature] Applicant's signature

Affidavit

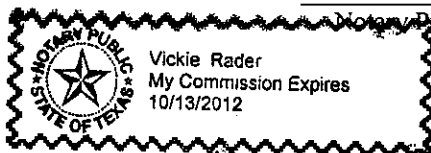
Before me the undersigned on this day personally appeared Robert Baldwin who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

[Signature] Affiant (Applicant's signature)

Subscribed and sworn to before me this 22nd day of March, 2011

[Signature] Vickie Rader

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 Baldwin Associates

did submit a request for a variance to the front yard setback regulations

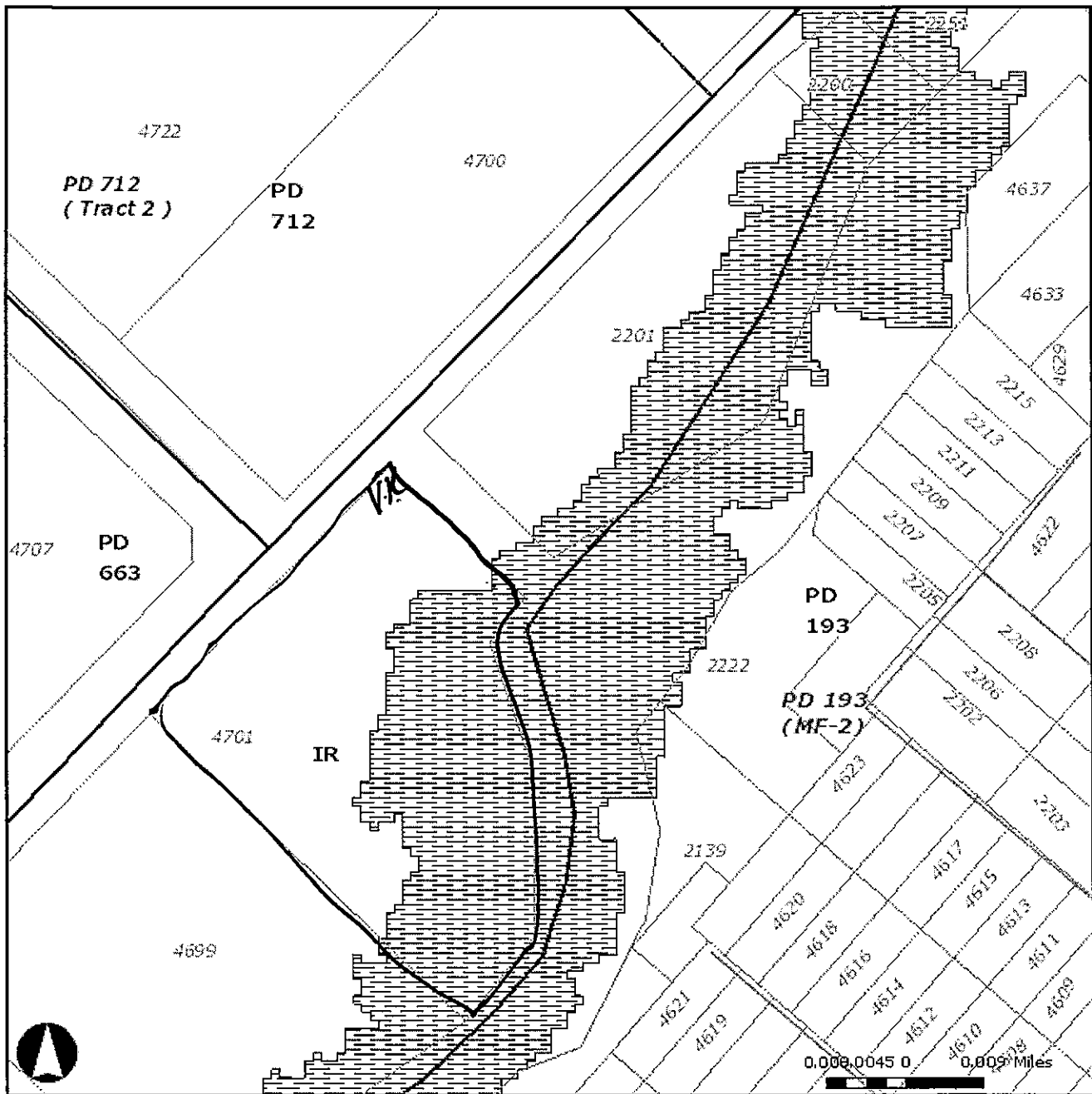
at 4701 Bengal Street

BDA101-040. Application of Robert Baldwin for a variance to the front yard setback regulations at 4701 Bengal Street. This property is more fully described as Lot 29 in city block 5743 and is zoned IR, which requires a front yard setback of 15 feet. The applicant proposes to construct a nonresidential structure and provide a 0 foot front yard setback, which will require a 15 foot variance to the front yard setback regulation.

Sincerely,

*Batsheba Antebi*  
Batsheba Antebi, Building Official

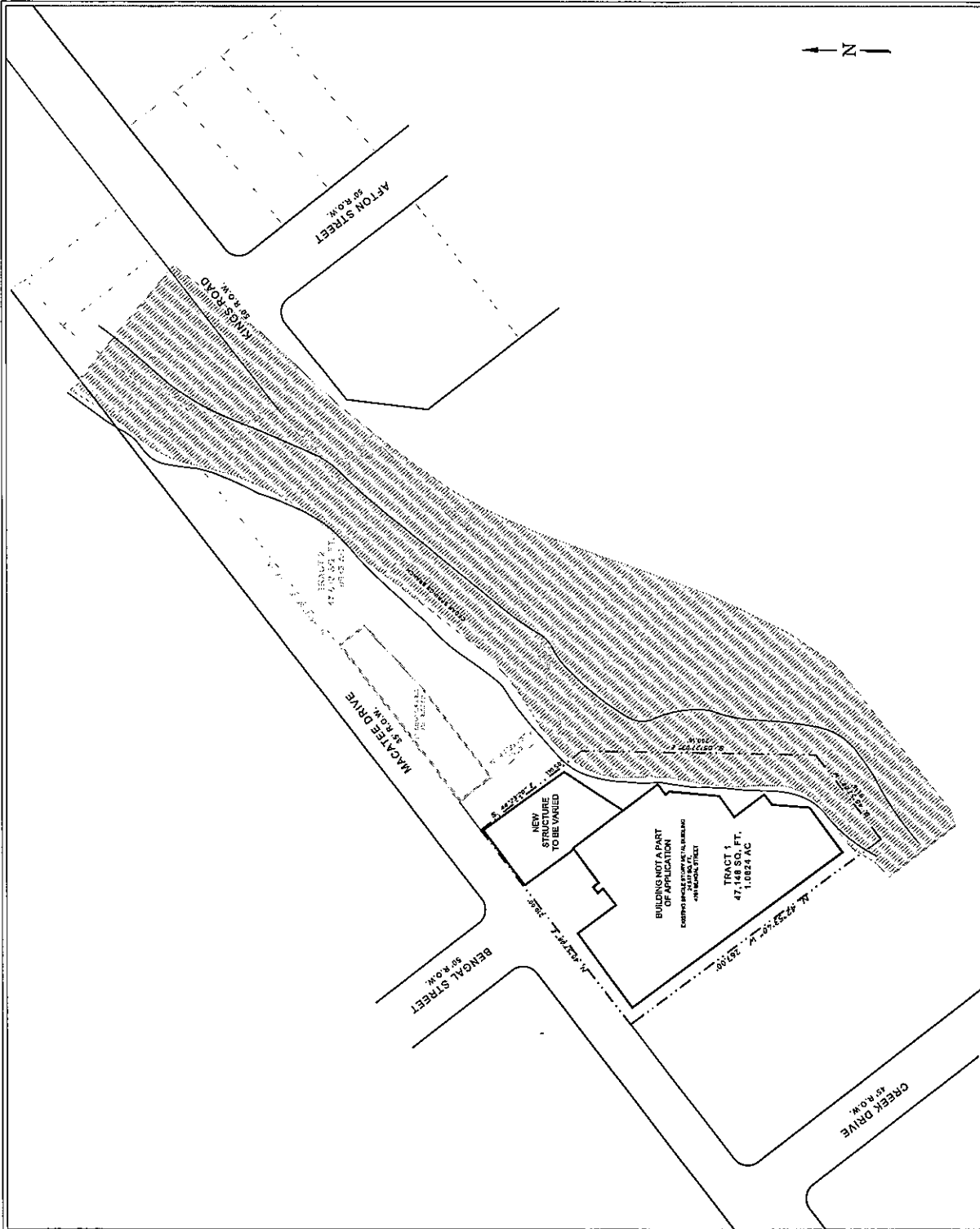
# City of Dallas Zoning



- |                          |                              |                           |
|--------------------------|------------------------------|---------------------------|
| <b>City Boundaries</b>   | <b>Dry Overlay</b>           | <b>Base Zoning</b>        |
|                          |                              |                           |
| <b>County</b>            |                              | <b>Floodplain</b>         |
|                          |                              |                           |
| <b>Certified Parcels</b> | <b>Historic Overlay</b>      |                           |
|                          |                              |                           |
| <b>DISD Sites</b>        | <b>Historic Subdistricts</b> |                           |
|                          |                              | <b>Pedestrian Overlay</b> |
| <b>Council Districts</b> | <b>NSO Overlay</b>           |                           |
|                          |                              |                           |





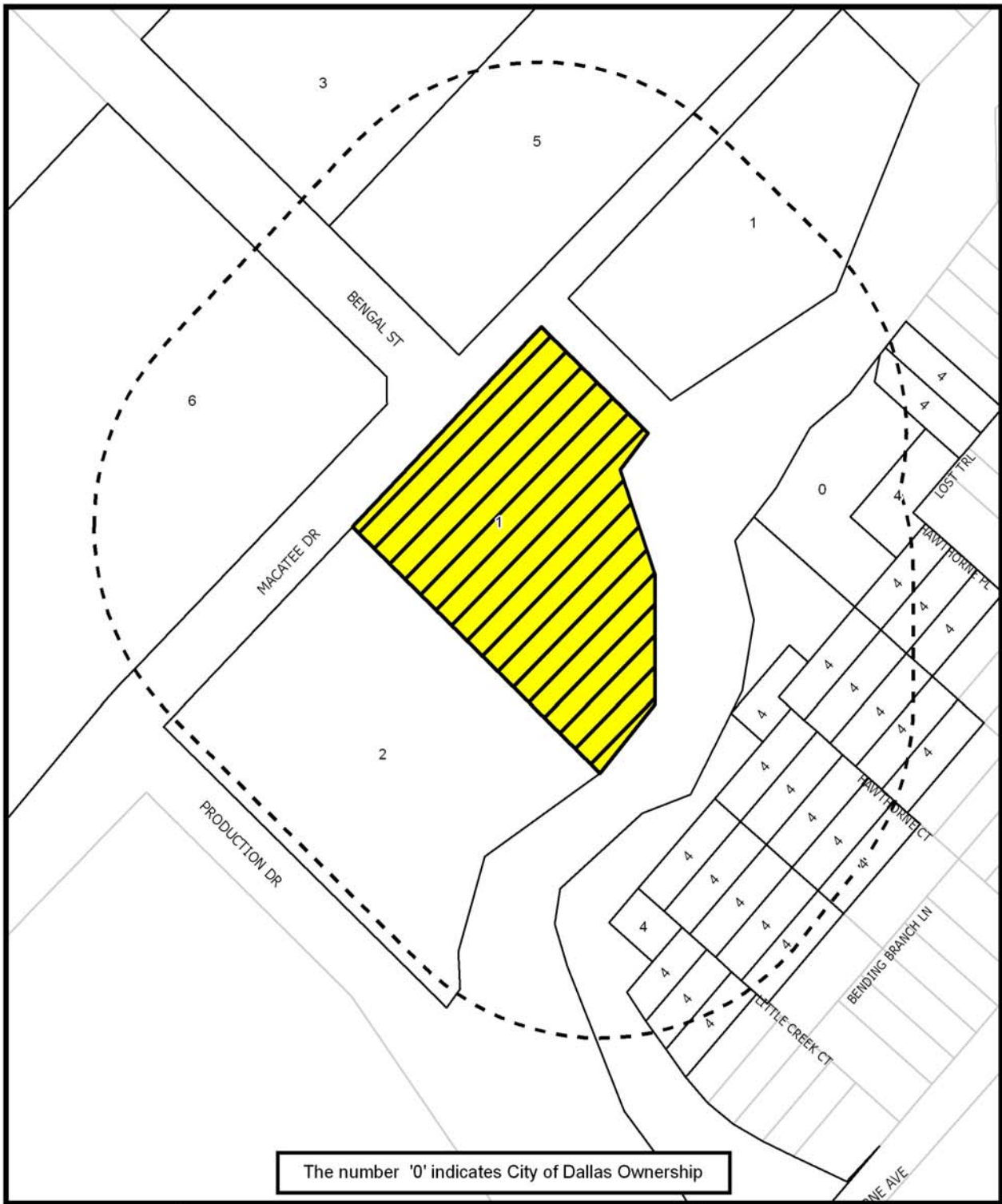


1 SITE PLAN  
SCALE: 1"=20'

<b>Baldwin Associates</b> of Engineering & Surveying 2717 W. LBJ Fwy Suite 200 Dallas, Texas 75243-4200 (214) 343-1100 www.baldwinassoc.com	DATE: 04/18/11 PROJECT NUMBER: 101-040 SHEET NUMBER: 2-14
	BALDWIN ASSOCIATES 2717 W. LBJ Fwy Suite 200 Dallas, Texas 75243-4200 (214) 343-1100 www.baldwinassoc.com

4701 BENGAL STREET  
CITY OF DALLAS, TEXAS





 1:1,200	<h2>NOTIFICATION</h2> <table border="1"> <tr> <td>200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td>6</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	6	NUMBER OF PROPERTY OWNERS NOTIFIED	Map no: <u>          I-6          </u> Case no: <u>          BDA101-040          </u>
200'	AREA OF NOTIFICATION					
6	NUMBER OF PROPERTY OWNERS NOTIFIED					

DATE: April 28, 2011

# **Notification List of Property Owners**

**BDA101-040**

## **6 Property Owners Notified**

<b>Label #</b>	<b>Address</b>	<b>Owner</b>
1	4701 KINGS	CRASH INC
2	4699 PRODUCTION	RUPLEY HELEN GAIL
3	4722 BENGAL	FOSTER M POOLE JR
4	4624 LOST	TEXAS INTOWNHOMES LLC
5	4700 BENGAL	MC COMPANY LTD
6	4707 BENGAL	RONALD MCDONALD HOUSE OF DALLAS FAMILY ASSIST

**FILE NUMBER:** BDA 101-028

**BUILDING OFFICIAL'S REPORT:**

Application of Ashley Ness for a variance to the rear yard setback regulations at 707 N. Windomere Avenue. This property is more fully described as Lot 2 in City Block 24/3475 and is zoned CD-1 which requires a rear yard setback of 3 feet. The applicant proposes to maintain a structure and provide a 0-foot rear yard setback which will require a variance of 3 feet.

**LOCATION:** 707 N. Windomere Avenue

**APPLICANT:** Ashley Ness

**AMENDED REQUESTS:**

- The following appeals have been made in this application in conjunction with maintaining a one-story accessory structure, part of which is located in the site's 3' rear yard setback on a site that is developed with a single family home:
  1. A special exception to the rear yard setback regulations of 3' for tree preservation; and/or
  2. A variance to the rear yard setback regulations of 3'.

**ORIGINAL REQUEST (March 2011):**

- A special exception to the rear yard setback regulations of 3' for tree preservation had been requested in conjunction with maintaining a one-story accessory structure, part of which is located in the site's 3' rear yard setback on a site that is developed with a single family home.

**STAFF RECOMMENDATION (special exception):**

Denial

Rationale:

1. The City of Dallas arborist staff has investigated the trees on the property and have formed an opinion that the trees within proximity to the structure (that are the nature of this request) are not worthy of preservation for a building relocation from setback requirements.
2. In addition, the applicant has not substantiated how the requested special exception is compatible with the character of the neighborhood and that the

value of the surrounding properties will not be adversely affected by the granting of this special exception request.

**STAFF RECOMMENDATION (variance):**

Denial

Rationale:

- The applicant has not substantiated how either the restrictive area, shape, or slope of the site/lot preclude it from being developed in a manner commensurate with development found on other CD (Conservation District No 1) zoned lots.

**STANDARD FOR A SPECIAL TO THE REAR YARD REGULATIONS FOR TREE PRESERVATION:**

The Dallas Development Code specifies that the board may grant a special exception to the minimum rear yard requirements to preserve an existing tree. In determining whether to grant this special exception, the board shall consider the following factors:

- A) Whether the requested special exception is compatible with the character of the neighborhood.
- B) Whether the value of the surrounding properties will be adversely affected.
- C) Whether the tree is worthy of preservation.

**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:

- (A) the variance is 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) the variance is 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) the variance is 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.

**GENERAL FACTS (related to special exception):**

- Structures on lots zoned CD No. 1 are required to provide a minimum rear yard setback of 5'. However, the Code states that in a residential district, a person need not provide a full rear yard setback for a structure accessory to a residential use if the structure does not exceed 15' in height. Where the rear yard is adjacent to an alley, a three-foot setback must be provided. Where the rear yard is not adjacent to an alley, no setback is required.  
The submitted site plan denotes an accessory structure adjacent to an alley that is located on the rear property line (or as much as 3' into the 3' rear yard setback).
- According to calculations taken from the site plan by the Board Administrator, about 60 square feet (or 1/10) of the existing approximately 600 square foot accessory structure is located in the site's 3' rear yard setback.
- DCAD records indicate that the site is developed a single family home in "good" condition built in 1923 with 1,530 square feet of living area.
- The applicant submitted information beyond what was submitted with the original application (see Attachments A, B, and D). This information included the following:
  - photographs of the subject site;
  - a petition signed by 6 owners/neighbors in support of the request;
  - a document stating that the block of N. Windomere on which the site is located has curbside trash pick-up; and
  - a document from a certified arborist stating among other things how "the trees located on your property would more than likely suffer adversely from being transplanted." (Note that this document was submitted after the Chief Arborist submitted his memo on this request, and after the staff had formed their recommendation of denial on this request).
- On March 7, 2011, the City of Dallas Chief Arborist submitted a memo to the Board Administrator pertaining to this request (see Attachment C). The memo stated the following:
  - The arborist staff has investigated the trees on the property and have formed an opinion that the trees within proximity to the structure (that are the nature of this request) are not worthy of preservation for a building relocation from setback requirements.
  - An Italian cypress and a plum tree appear to be within the influence of the probable building location if the structure was relocated within its current configuration but moved within the setback distance. Both trees are relatively young (approximately 3" caliper) and would be suitable for transplant to replacement. The trees are regarded as ornamental landscape trees of potential medium and small sizes, respectively.
  - The "preservation of large trees" is a fundamental purpose of the city's tree preservation ordinance that was established following an initial resolution by the City Council in 1990 to preserve large trees "which, once removed, can be replaced only after generations." Although the city arborists encourage citizens to protect all trees once planted in



appropriate locations, the city arborists' opinion is that the preservation status is directed towards trees, if removed, that would no longer provide the significant financial value and environmental benefits to the owner *and the community* found in large established canopy trees native to, or adapted to, this region.

- All trees on single family or duplex lots which are two acres or less in size with a residential use are not protected under city ordinance. Otherwise, only trees that are 8" in diameter or greater are protected. The city anticipates that some trees must be removed for construction purposes and allows for this with building permits for construction.
- On March 15, 2011, the Board of Adjustment heard testimony on this matter at the public hearing and delayed action on this matter until May 17<sup>th</sup> in order for the applicant to have the opportunity to file a companion case seeking a variance for the rear yard setback rather than or in addition to a special exception.
- On April 11, 2011, the applicant submitted a revised application adding a variance request of 3' to the rear yard setback regulations in addition to the previously requested special exception request of 3' to the rear yard setback regulations to preserve a tree.

**GENERAL FACTS (related to variance):**

- Structures on lots zoned CD No. 1 are required to provide a minimum rear yard setback of 5'. However, the Code states that in a residential district, a person need not provide a full rear yard setback for a structure accessory to a residential use if the structure does not exceed 15' in height. Where the rear yard is adjacent to an alley, a three-foot setback must be provided. Where the rear yard is not adjacent to an alley, no setback is required. The submitted site plan denotes an accessory structure adjacent to an alley that is located on the rear property line (or as much as 3' into the 3' rear yard setback).
- According to calculations taken from the site plan by the Board Administrator, about 60 square feet (or 1/10) of the existing approximately 600 square foot accessory structure is located in the site's 3' rear yard setback.
- DCAD records indicate that the site is developed a single family home in "good" condition built in 1923 with 1,530 square feet of living area.
- The subject site is flat, rectangular in shape (50' x 150'), and (according to the application) is 0.17 acres (or 7,405 square feet) in area. The site is zoned CD No. 1 where lots in this subarea of the zoning district had been zoned R-7.5(A) until the creation of the CD in 1988.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: CD No 1 (Conservation district)

North: CD No 1 (Conservation district)  
South: CD No 1 (Conservation district)  
East: CD No 1 (Conservation district)  
West: CD No 1 (Conservation district)

**Land Use:**

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

**Zoning/BDA History:**

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

**Timeline:**

January 26, 2011: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

February 14, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

February 14 & 22, 2011: 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 February 28<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 4th 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.

The email also included a suggestion that the application possibly submit photographs of the mid-part of the site that the Board Administrator could not photograph, an amended site plan showing the location of the tree or trees that the applicant feels justifies the request since typically an applicant making this type of application shows the location, species, and caliper inch of the tree or trees that the applicant feels is worthy of preservation.

Feb. 24 & 28, 2011: The applicant submitted additional information to the Board Administrator (see Attachments A and B).

- March 1, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.
- March 3, 2011: The Sustainable Development Department Project Engineer submitted a review comment sheet marked "Recommends that this be denied" commenting "Deny – no permit, setback or standards. Tree preservation not relevant in this case. If approved, recommend indemnity for the City if damage occurs to the building."
- March 7, 2011: The Chief Arborist submitted a memo to the Board Administrator (see Attachment C). This memo stated among other things that the trees within proximity to the structure (that are the nature of this request) are not worthy of preservation for a building relocation from setback requirements.
- March 7, 2011: The applicant submitted additional information to the Board Administrator (see Attachment D). (Note that this particular information was submitted after the Chief Arborist had submitted to the Board Administrator and after staff had formed their recommendation of denial of this application).
- March 15, 2011: The Board of Adjustment Panel A conducted a public hearing on this request and delayed action until their May 17<sup>th</sup> public hearing in order for the applicant to have the opportunity to file a companion case seeking a variance for the rear yard setback rather than or in addition to a special exception.
- April 18, 2011: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded a revised application to the Board Administrator that added a request for a variance to the rear yard setback regulations of 3'.
- April 21, 2011: 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 May 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the May 6<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.

May 3, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

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

May 5, 2011: The Sustainable Development Department Project Engineer submitted a review comment sheet marked "Recommends that this be denied" commenting "Deny – no permit, setback or standards. Tree preservation (not relevant in this case). If approved, recommend indemnity for the City if damage occurs to the building."

**STAFF ANALYSIS (related to special exception):**

- The focus of this request is maintaining a one-story accessory structure, part of which is located in the site's 3' rear yard setback on a site that is developed with a single family home.
- The Dallas Development Code allows the Board of Adjustment to consider this (or any) proposed structure encroachment in a rear yard setback on CD No. 1 zoned lot either by an application for a variance to the rear yard setback regulations with a standard largely based on the demonstration of property hardship, or by an application for a special exception to the rear yard setback regulations to preserve an existing tree with a standard largely based on compatibility, property values, and whether a tree located on a site that is worthy of preservation - not property hardship. The applicant in this case had originally made only an application for a *special exception* to the rear yard setback regulations for tree preservation but added a variance to the rear yard setback regulations as a result of testimony at the public hearing in March.
- This special exception request is made to maintain an approximately 60 square foot portion of an approximately 600 square foot accessory structure in the site's 3' rear yard setback. (Although staff suggested that the applicant

denote the location, size and species of the tree or trees that she feels is worthy of preservation and in turn precludes her from locating an accessory structure in compliance with rear yard setbacks, no such denotation was made on any submitted plan). The site plan shows what is assumed to be the accessory structure on the property that is located on the rear property line or 3' into the required 3' setback – no tree is denoted on the site plan.

- The City's Chief Arborist has stated among other things that the trees that are the nature of this request (a relatively young Italian cypress and a plum tree approximately 3" caliper) within proximity to the structure in question are not worthy of preservation for a building relocation from setback requirements.
- The applicant has the burden of proof in establishing the following related to the front yard special exception request:
  1. Whether the requested special exception is compatible with the character of the neighborhood.
  2. Whether the value of the surrounding properties will be adversely affected.
  3. Whether the tree is worthy of preservation.
- If the Board were to grant the rear yard special exception request of 3', imposing a condition whereby the applicant must comply with the submitted site plan, the structure in the rear yard setback would be limited to that what is shown on this plan – which in this case is a portion of an accessory structure located on the rear property line (or as much as 3' into the site's 3' rear yard setback).
- If the Board chooses to grant this request, it should be noted that the submitted site plan does not denote the location, size or species of a tree (or trees) that the applicant contends is the tree (or trees) that is worthy of preservation, and in turn a tree that precludes her from relocating the accessory structure out of the required rear yard setback. If the Board feels that this type of documentation is relevant to the approval of this type of tree preservation application, they may request that the applicant amend the submitted site plan by adding this information on the site plan.

**STAFF ANALYSIS (related to variance):**

- The focus of this request is maintaining a one-story accessory structure, part of which is located in the site's 3' rear yard setback on a site that is developed with a single family home.
- The Dallas Development Code allows the Board of Adjustment to consider this (or any) proposed structure encroachment in a rear yard setback on CD No. 1 zoned lot either by an application for a variance to the rear yard setback regulations with a standard largely based on the demonstration of property hardship, or by an application for a special exception to the rear yard setback regulations to preserve an existing tree with a standard largely based on compatibility, property values, and whether a tree located on a site is worthy of preservation - not property hardship. The applicant in this case had originally only made an application for a *special exception* to the rear yard setback regulations for tree preservation but added a variance to the rear

yard setback regulations as a result of testimony at the public hearing in March.

- This variance request is made to maintain an approximately 60 square foot portion of an approximately 600 square foot accessory structure in the site's 3' rear yard setback. The site plan shows what is assumed to be the accessory structure on the property that is located on the rear property line or 3' into the required 3' setback.
- DCAD records indicate that the site is developed with a single family home in "good" condition built in 1923 with 1,530 square feet of living area.
- The subject site is flat, rectangular in shape (50' x 150'), and (according to the application) is 0.17 acres (or 7,405 square feet) in area. The site is zoned CD No. 1 where lots in this subarea of the zoning district had been zoned R-7.5(A) until the creation of the CD in 1988.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the rear yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same CD No. 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 No. 1 zoning classification.
- If the Board were to grant the variance request, subject to the submitted site plan, the structure in the rear yard setback would be limited to what is shown on this document– which in this case is a structure located on the rear property line or 3' into the required 3' rear yard setback

**BOARD OF ADJUSTMENT ACTION: MARCH 15, 2011**

**APPEARING IN FAVOR:**  
TX

Ashley Ness, 707 N. Windomere Ave., Dallas,

Larry Ness, 2011 Cedar Springs Rd., Dallas, TX  
Stephanie Wooley, 1701 N. Collins Blvd., Ste  
1100, Dallas, TX

**APPEARING IN OPPOSITION:** No one

**MOTION #1:** Harris

I move that the Board of Adjustment, in Appeal No. **BDA 101-028**, on application Ashley Ness, **grant** the request of this applicant for a special exception of 3 feet to the rear yard setback regulation to preserve an existing tree, because our evaluation of the property, the testimony presented to us, and the facts that we have determined show that this special exception is compatible with the character of the surrounding neighborhood, the value of surrounding properties will not be adversely affected, and the tree is worthy of preservation. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan is required.

SECONDED: **Richmond**  
AYES: 2 – Richmond, Harris  
NAYS: 3 - Schweitzer, Hounsel, Goins  
MOTION FAILED: 2– 3

MOTION #2: **Schweitzer**

I move that the Board of Adjustment in Appeal No. **BDA 101-028**, hold this matter under advisement until **April 19, 2011**.

SECONDED: **Richmond**  
AYES: 4 – Richmond, Schweitzer, Harris, Hounsel,  
NAYS: 1 - Goins  
MOTION PASSED: 4– 1

\*\*\*\*\*

MOTION #1: **Goins**

I move to adjourn this meeting.

SECOND: **Harris**  
AYES: 5– Richmond, Schweitzer, Harris, Hounsel, Goins  
NAYS: 0 -  
MOTION PASSED: 5– 0 (unanimously)

MOTION #2: **Schweitzer**

I move to reconsider the motion to adjourn this meeting.

SECOND: **Hounsel**  
AYES: 5– Richmond, Schweitzer, Harris, Hounsel, Goins  
NAYS: 0 -  
MOTION PASSED: 5– 0 (unanimously)

MOTION #3: **Schweitzer**

I move to reconsider my motion previously made today on **BDA 101-028** to hold this matter under advisement.

SECOND: **Harris**

AYES: 4– Richmond, Schweitzer, Harris, Hounsel,

NAYS: 1 - Goins

MOTION PASSED: 4-1

MOTION #4: **Schweitzer**

I move that the Board of Adjustment in Appeal No. **BDA 101-028**, hold this matter under advisement until **May 17, 2011**.

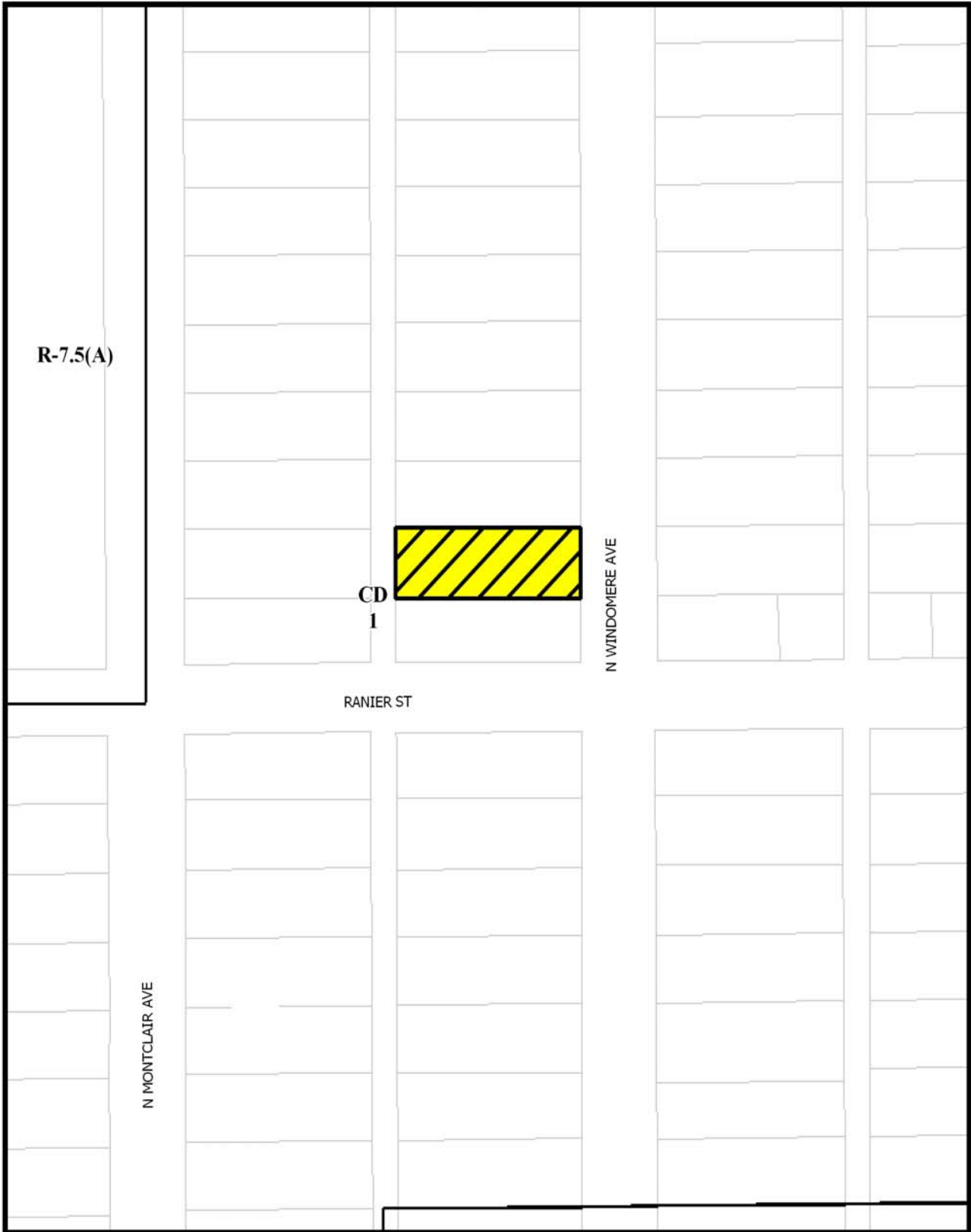
SECONDED: **Hounsel**

AYES: 4 – Richmond, Schweitzer, Harris, Hounsel,

NAYS: 1 - Goins

MOTION PASSED: 4– 1





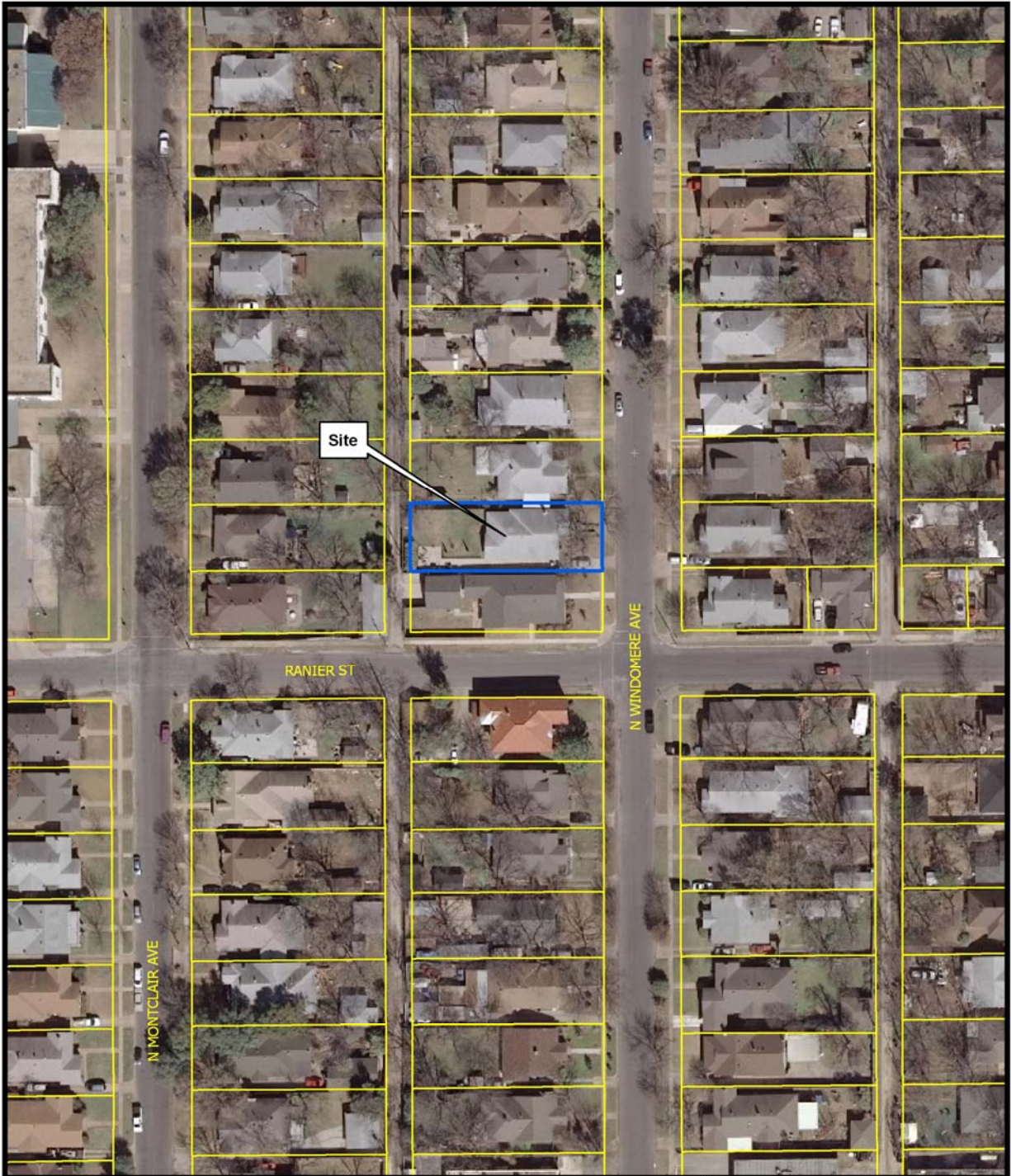
1:1,200

# ZONING MAP

Map no:           L-6          

Case no:           BDA101-028          

DATE: February 23, 2011



1:1,200

# AERIAL MAP

Map no:           L-6          

Case no:           BDA101-028          

DATE: February 23, 2011

BDA 101-028  
Attach A  
p31





1501 N 101st St  
Arlington  
WA 98222

BDA 101-028  
Attachment A  
Pg 3





BDA 101-028

3-17

BDA 101-028  
3-17  
Affidavit  
PS 4



BDA 101-028

3-18

BDA 101-028  
Area 4  
195

Rd 101-028  
Address A  
PA 5

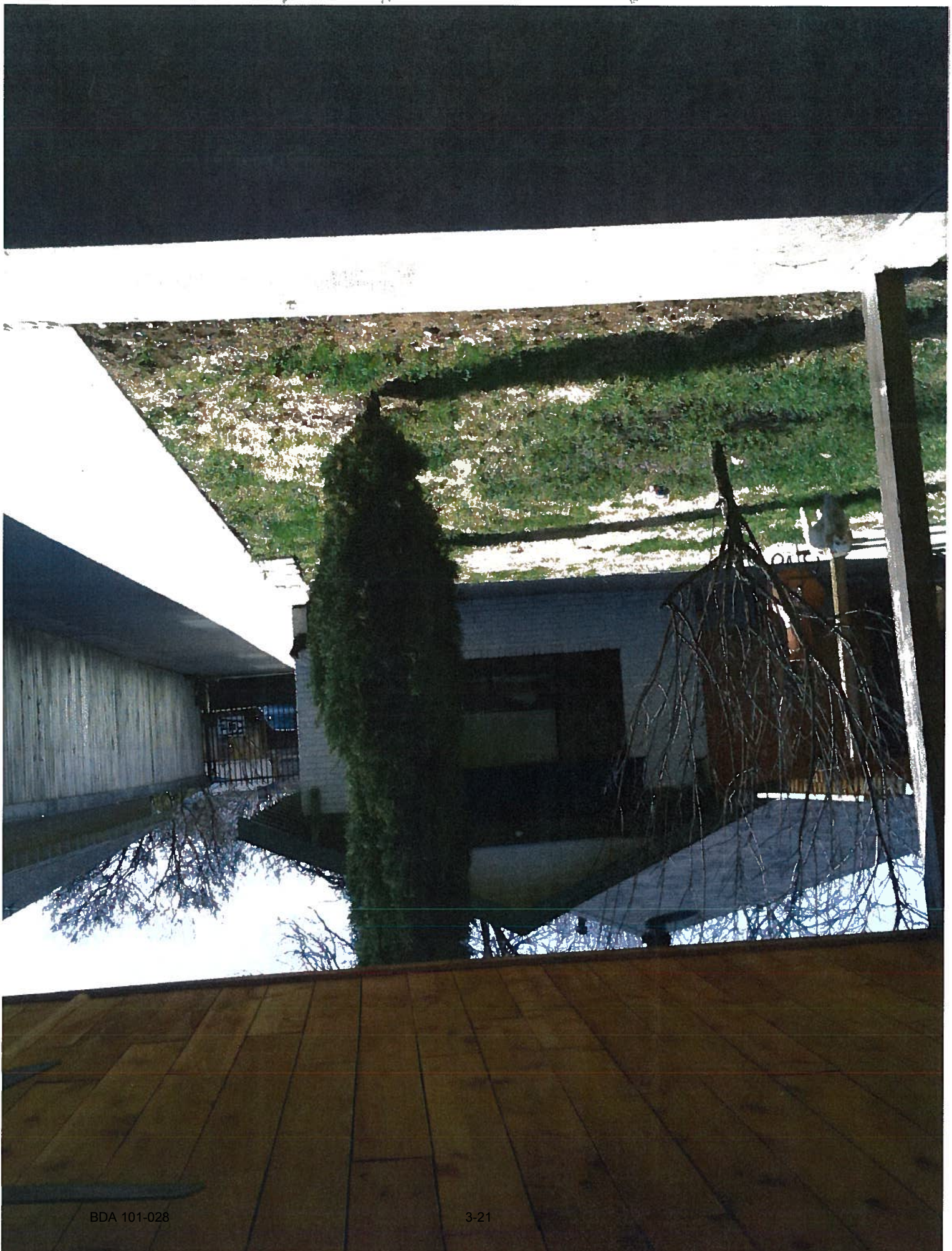






BDA 101-028  
Area A  
P57

BDA 101-028 Attach A P 5 B



My fellow neighbors that are indeed aware of and approve of my carport/workshop that was constructed in the rear of my house have signed below stating that my structure in no way bothers them and in fact is a nice improvement to my home and does not impede on anyone as far as functionality.

NAME

ADDRESS

[Signature] 703 N Windomere Ave

[Signature] 711 N Windomere Ave

[Signature] 700 N Windomere Ave

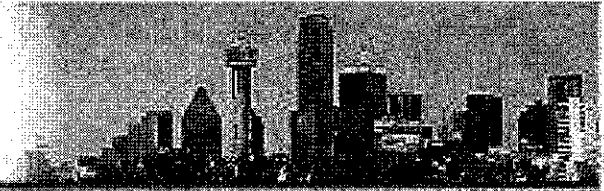
[Signature] 705 N Windomere Ave

[Signature] 707 N Windomere Ave

[Signature] N Windomere Ave  
701 N Edgefield Ave

\* Also the City of Dallas uses the front for trash pick up. The alley is not used for city traffic. Windomere has front trash pick up.

BDA 101-028  
Attach B pg 2



Home | **311 Info & Services** | Community & Culture | Business | Government | Visitors | About | Dallas

Sanitation

OneDAY

When is my Garbage Day?

When is my Brush/Bulky Week?

What is an Extra Cost Service?

Cart Options

Recycling In Dallas

Eliminating Junk Mail

Recycling Collection

Recycling Drop-off Sites

Recycling Electronics

Where to Take Home Chemicals

Give Graffiti the Brush

Where does my garbage go?

Environmental Management System

Calendars

Brush/Bulky Trash

FAQs

Garbage/Bulk Collection

Recycling

Disposal Operations

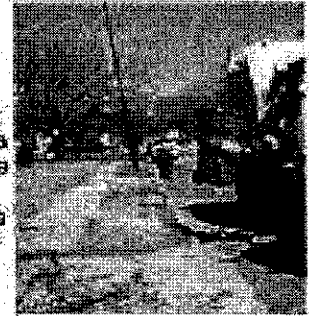
Email Us

To Request a City Service...  
**DIAL 311**  
OR  
Click Here for **311 Online**

### Sanitation Services - Residential Garbage Collection

To find your days of service for Residential Garbage, input your address here.

Residential garbage collection is provided once per week, usually in alleys. If there is no serviceable alley present, garbage should be set out for collection on the curb in front of your home. The City of Dallas provides residences with a 90-gallon polyethylene resin roll cart for automated garbage collection. Residents can keep their carts clean and odor free by periodically rinsing them with a little detergent and a garden hose.



N Windomere is curbside trash pick up

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Accessibility | Credits | Contact Us | Privacy Policy | City Technology Guide

# Memorandum



CITY OF DALLAS

Date March 7, 2011  
To Steve Long, Board of Adjustment Administrator  
Subject 707 N Windomere Avenue – Rear yard setback variance request for tree preservation

The arborist staff has investigated the trees on the property at 707 N Windomere. Our opinion is that the trees within proximity to the structure are not worthy of preservation for a building relocation from setback requirements.

An Italian cypress and a plum tree appear to be within the influence of the probable building location if the structure was relocated within its current configuration but moved within the setback distance. Both trees are relatively young (approximately 3" caliper) and would be suitable for transplant or replacement. The trees are regarded as ornamental landscape trees of potential medium and small sizes, respectively.

The 'preservation of large trees' is a fundamental purpose (51A-10.102) of the city's tree preservation ordinance that was established following an initial resolution by the City Council in 1990 to preserve large trees "which, once removed, can be replaced only after generations." Although we encourage citizens to protect all trees once planted in appropriate locations, our opinion is that the preservation status is directed toward trees, if removed, would no longer provide the significant financial value and environmental benefits to the owner *and the community* found in large established canopy trees native to, or adapted to, this region.

All trees on single family or duplex lots which are 2 acres or less in size with a residential use are not protected under city ordinance. Otherwise, only trees that are 8" in diameter or greater are protected. The city anticipates that some trees must be removed for construction purposes and allows for this with building permits for construction.

Philip Erwin  
Certified Arborist (TX-1284A)  
Chief Arborist  
Building Inspection



BDA101-028

Attach D

## Dallas Tree Surgeons

March 4th, 2011

Dallas Tree Surgeons  
5526 Dyer St.  
Suite 106  
Dallas, TX 75206  
[www.dallastreesurgeons.com](http://www.dallastreesurgeons.com)

Ms. Ness,

The trees located on your property, the two Italian Cypress and two plum trees at 707 N. Windomere Avenue, would more than likely suffer adversely from being transplanted. The after effects from a transplant can vary widely; often there is a recovery time of at least 2 years. When transplanting a tree, the severing of anchoring and absorbing roots is often unavoidable. This alone can be traumatic for a tree. The roots are how the trees absorb both water and nutrients and when this critical process is interrupted the damage can be potentially very intense.

Please feel free to call with any questions you may have, my cell is 214-548-1600.

**Sincerely,**

**Lindsey West**

**ISA Certified Arborist TX- 3729A**



City of Dallas

A

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-028

Data Relative to Subject Property:

Date: 1/26/11

Location address: 707 N Windomere Ave Zoning District: CD1-Sub 1

Lot No.: 2 Block No.: 24/3475 Acreage: .17 Census Tract:

Street Frontage (in Feet): 1) 50 2) 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Ashley Ness

Applicant: Ashley Ness Telephone: 469-834-9179

Mailing Address: 707 N Windomere Ave Dallas Tx Zip Code: 75208

Represented by: Telephone:

Mailing Address: Zip Code:

Affirm that a request has been made for a Variance or Special Exception of 3 feet to the rear yard setback for tree preservation

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:

In order to preserve at least two existing trees which are worthy of preservation. A special exception is compatible with the character of the neighborhood and the value of surrounding properties will be adversely affected.

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: Ashley Ness Applicant's name printed [Signature] Applicant's signature

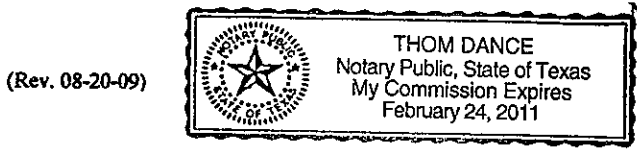
Affidavit

Before me the undersigned on this day personally appeared ASHLEY NESS 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.

[Signature] Affiant (Applicant's signature)

Subscribed and sworn to before me this 27 day of JANUARY, 2011

[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 Ashley Ness

did submit a request for a special exception to the rear yard setback regulation

at 707 N. Windomere Avenue

BDA101-028. Application of Ashley Ness for a special exception to the rear yard setback regulation at 707 N. Windomere Avenue. This property is more fully described as Lot 2 in city block 24/3475 and is zoned CD-1, which requires a rear yard setback of 3 feet. The applicant proposes to construct and maintain a single family residential accessory structure and provide a 0 foot rear yard setback which will require a 3 foot special exception to the rear yard setback regulation for tree preservation.

Hold to ~~April~~ May 17, 2011

Sincerely,

*Batsheba Antebi*  
Batsheba Antebi, Building Official





City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-028

Data Relative to Subject Property:

Date: 4/11/11

Location address: 707 N Windomeer Ave Zoning District: CD1-Sub1

Lot No.: 2 Block No.: 24/3475 Acreage: .17 Census Tract:

Street Frontage (in Feet): 1) 50 2) 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Ashley Ness

Applicant: Ashley Ness Telephone: (469) 834-9179

Mailing Address: 707 N Windomeer Ave Zip Code: 75208

Represented by: Telephone:

Mailing Address: Zip Code:

Affirm that a request has been made for a Variance X, or Special Exception of Three feet to the rear yard setback

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 structure in no way impedes on alley traffic or negatively affects my neighbors or neighborhood. The value of surrounding properties is not adversely affected.

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.

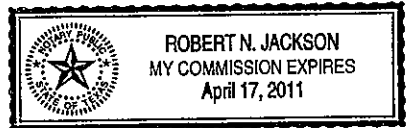
Respectfully submitted: Ashley Ness Applicant's name printed [Signature] Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Ashley Ness 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.

[Signature] Affiant (Applicant's signature)

Subscribed and sworn to before me this 11th day of April, 2011



[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 \_\_\_\_\_



TO THE HONORABLE BOARD OF ADJUSTMENT  
CITY OF CHICAGO  
110 N. LAUREL STREET, 11TH FLOOR  
CHICAGO, ILLINOIS 60602  
TELEPHONE: (312) 744-3100  
FAX: (312) 744-3101  
WWW.CITYOFCHICAGO.IL.GOV

Chairman

**Building Official's Report**

**I hereby certify that** Ashley Ness

**did submit a request** for a variance to the rear yard setback regulations.

**at** 707 N. Windomere Avenue

BDA101-028, Application of Ashley Ness for a variance to the rear yard setback regulation at 707 N. Windomere Avenue. This property is more fully described as Lot 2 in city block 24/3475 and is zoned CD-1, which requires a rear yard setback of 3 feet. The applicant proposes to construct and maintain a single family residential accessory structure and provide a 0 foot rear yard setback which will require a 3 foot variance to the rear yard setback regulation.

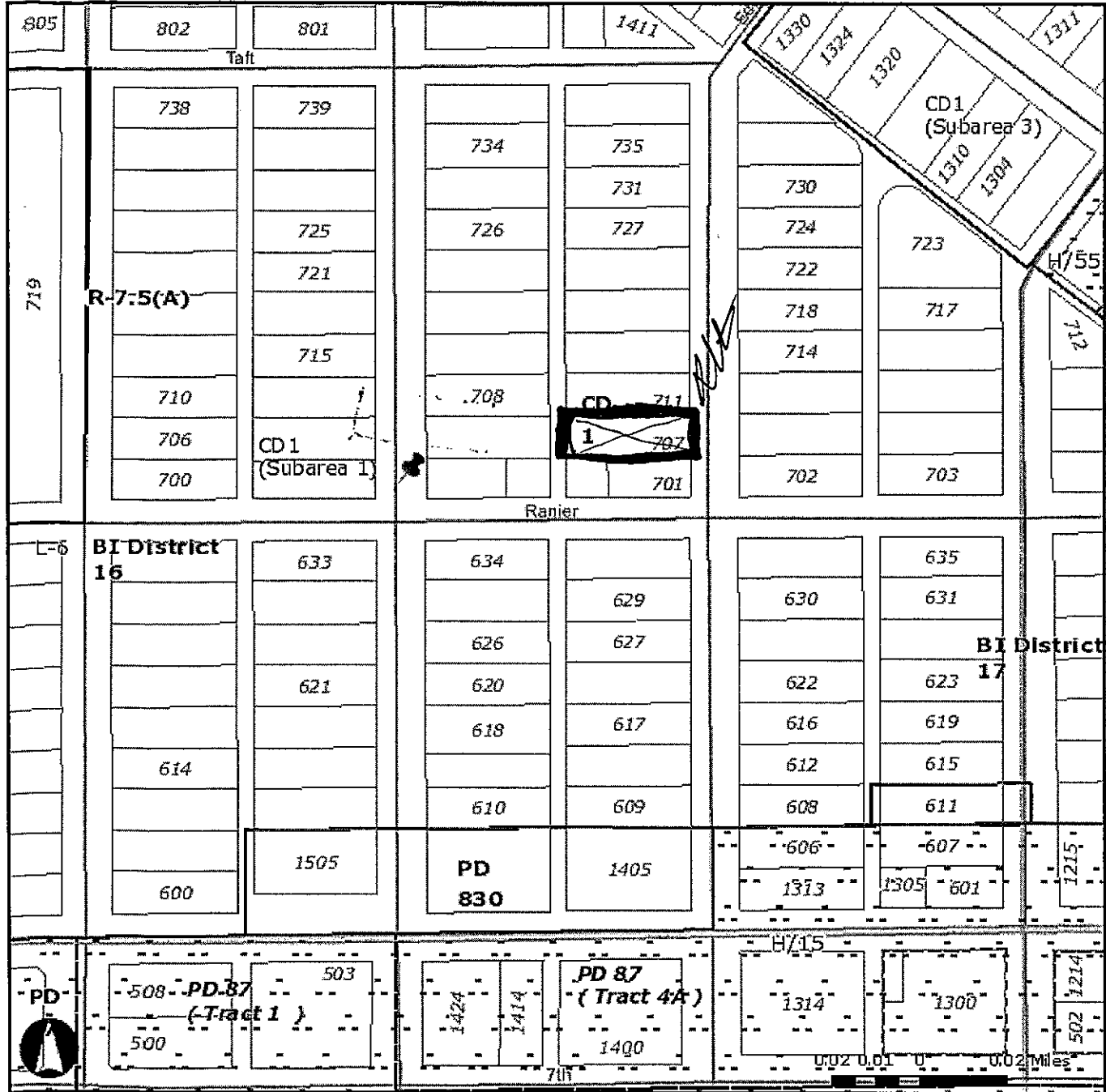
Respectfully,

Sincerely,

*Batsheba Antebi*  
Batsheba Antebi, Building Official

# City of Dallas Zoning

54 A  
L-6



Address Candidates



City Boundaries



BI Districts



County



Certified Parcels



Deed Restrictions



SUP



Dry Overlay



Historic Overlay



PDS Subdistricts



Base Zoning



Floodplain



50 TAFT 1500

58

50	150	20
50	11	
50	12	
50	13	
50	14	
50	15	
50	16	
50	17	
50	18	
50	19	
50	20	

150	50
10	50
9	50
8	50
7	50
6	50
5	50
4	50
3	50
2	50
1	50

3475/24



AVE. 700

700 AVE.

50 RANIER 1500

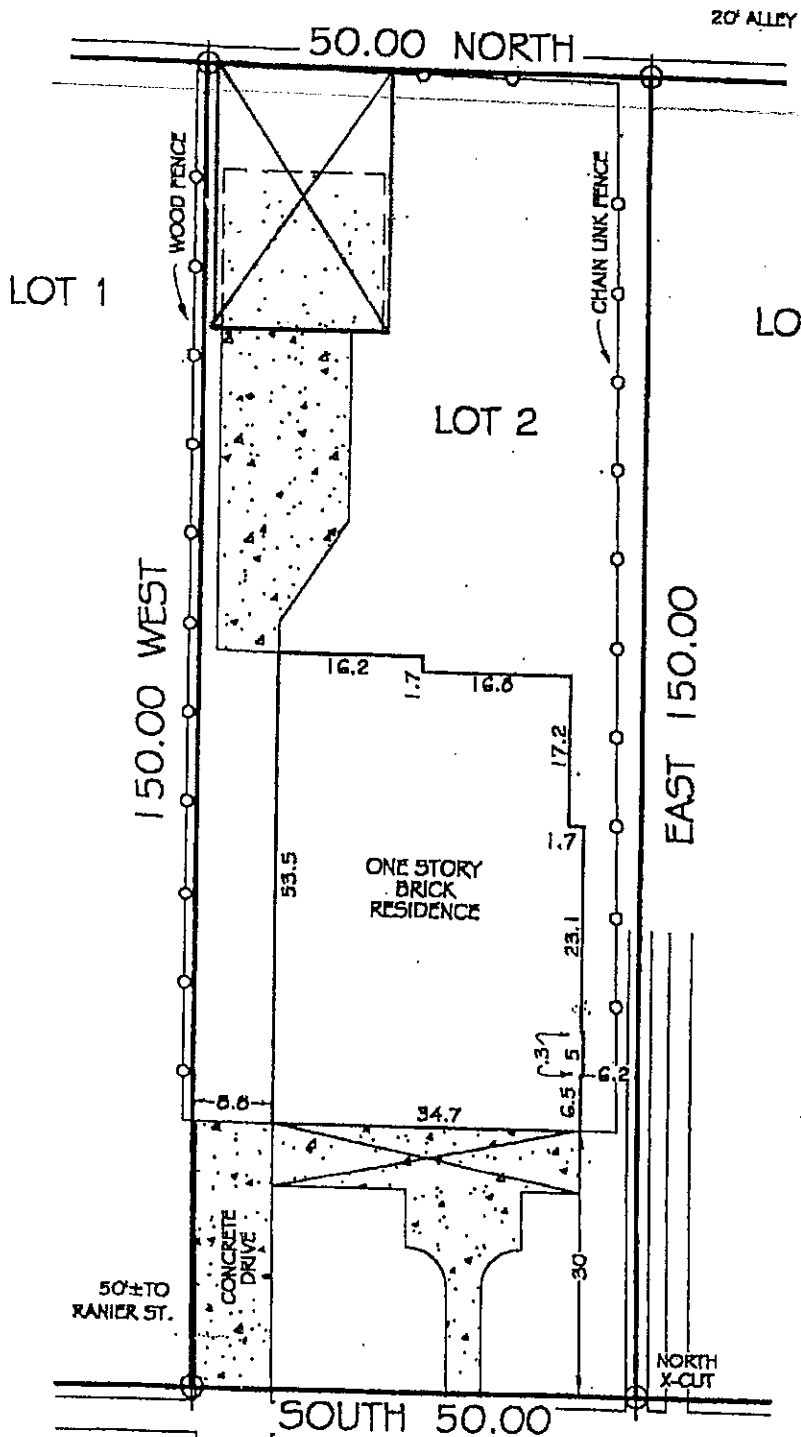
300

50	150	20
50	10	
50	11	
50	12	
50	13	

150	50
9	50
8	50
7	50
6	50

3476/25

600

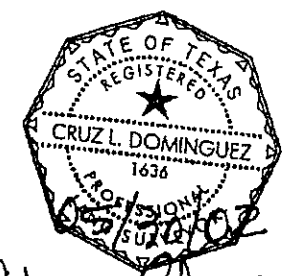


SURVEY EXAMINED AND ACCEPTED BY  
 PURCHASERS: \_\_\_\_\_  
 DATE: \_\_\_\_\_

707 WINDOMERE AVENUE  
 60' R.O.W.

TO: METROPLEX TITLE CO. + JORGE GONZALEZ AND ROCIO GONZALEZ

I, CRUZ L. DOMINGUEZ, CERTIFY THAT THIS SURVEY PLAT, IS A TRUE, CORRECT, AND ACCURATE REPRESENTATION OF THE PROPERTY AND IMPROVEMENTS, AS DETERMINED BY AN ON-THE-GROUND SURVEY. BEARINGS, DIMENSIONS, EASMENTS, AND SETBACK LINES, ARE AS SHOWN ON RECORDED PLAT, SCHEDULE A & D, AND/OR AS DETERMINED BY SURVEY, REFLECTING CONDITIONS, AS OF DATE SHOWN. THIS SURVEY PLAT WAS REQUESTED AND PERFORMED, EXCLUSIVELY FOR THE PARTIES INVOLVED WITH G. F. NUMBER SHOWN HEREON ONLY, BEING VALID, ONLY WITH ORIGINAL SIGNATURE AND DATE. UNAUTHORIZED USE IS NOT PERMITTED WITHOUT WRITTEN PERMISSION OF THE SURVEYOR. SURVEY IS PROTECTED BY UNITED STATES COPYRIGHT LAW. ALL RIGHTS RESERVED.

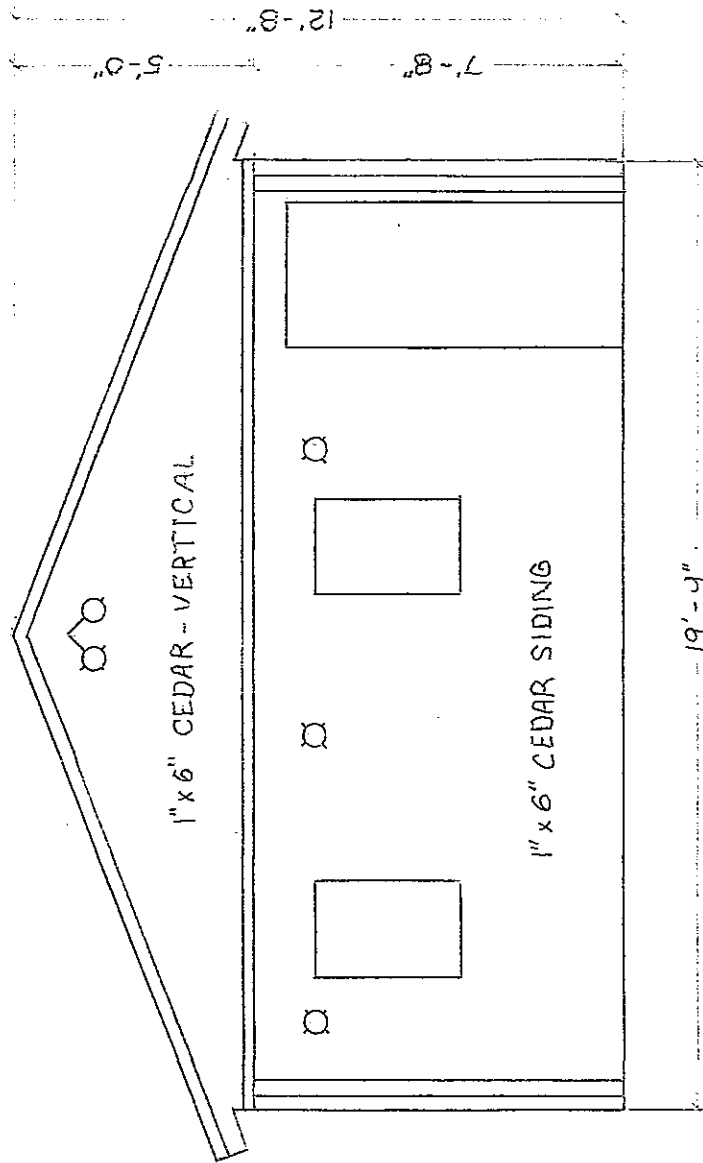


*Cruz L. Dominguez*  
 VEACH LAND SURVEYING CO.

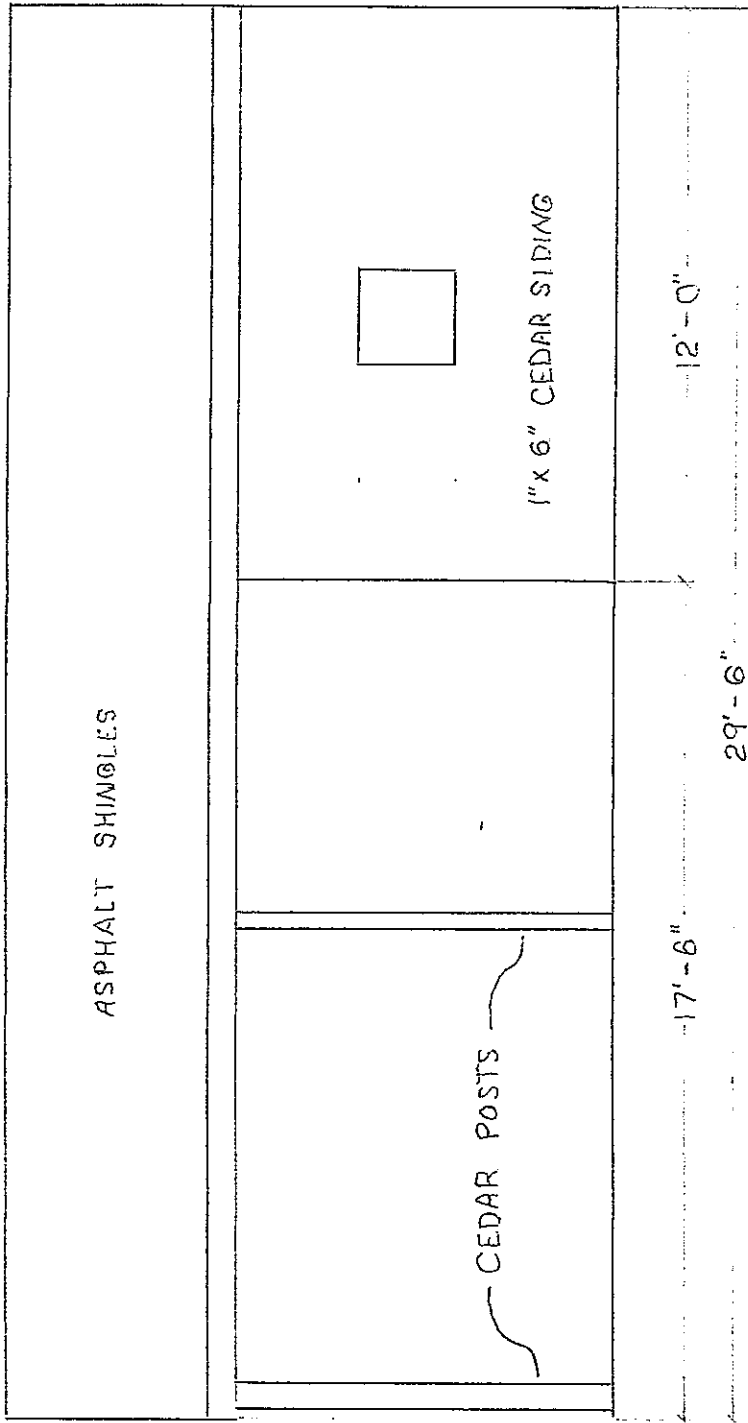
THIS PROPERTY APPEARS TO LIE WITHIN ZONE   X    
 ACCORDING TO FLOOD INSURANCE RATE MAP FOR  
  DALLAS COUNTY  , TEXAS, COMMUNITY PANEL NO. \_\_\_\_\_  
 48311C0340.1      DATED 8/11/01

SCALE:   1"=20'    
 DATE:   5/30/2002    
 G.F. NO.   MC02-00906    
 JOB NO.:   56202  

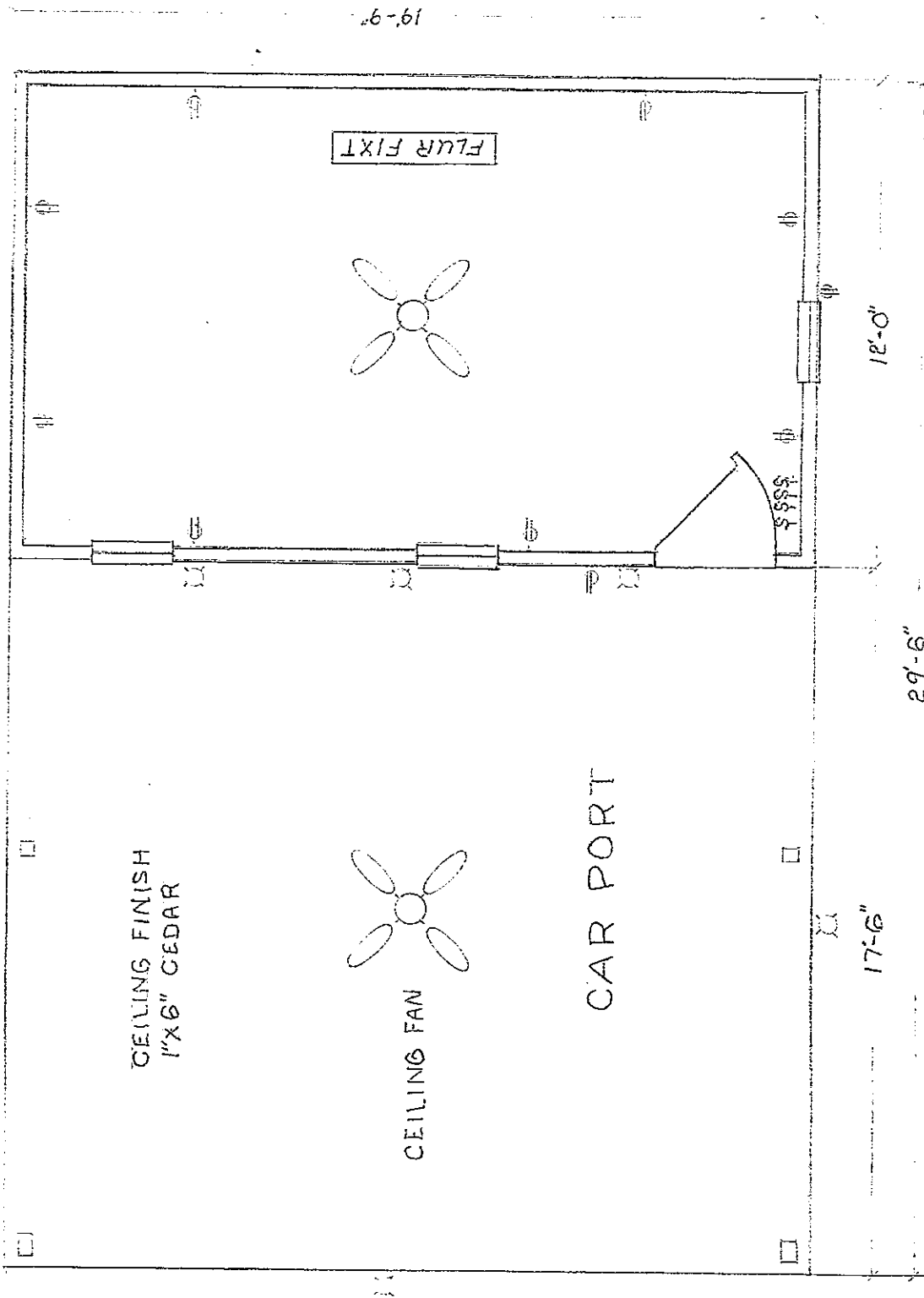
(972) 790-5581  
 FAX (972) 254-4268  
 944 W. AIRPORT FWY.



FRONT ELEVATION



RIGHT ELEVATION







CITY OF DALLAS

March 23, 2011

Ashley Ness  
707 N. Windomere Avenue  
Dallas, TX 75208

Re: BDA 101-028, Property at 707 N. Windomere Avenue

Dear Ms. Ness:

The Board of Adjustment Panel A, at its public hearing held on Tuesday, March 15, 2011 held this matter under advisement until May 17, 2011 in order for you to have the opportunity to file a companion case seeking a variance for the rear yard setback rather than or in addition to a special exception.

If you choose to make an application for a variance to the rear yard setback regulations, please do so with Todd Duerksen in Building Inspection at 320 E. Jefferson, Room 105 by Friday, April 8<sup>th</sup>.

Please be aware of the May 2<sup>nd</sup> deadline to submit any additional information that you want staff to consider in making their recommendation to the board, and the May 6<sup>th</sup> deadline to submit any additional information that you want incorporated into the board's docket.

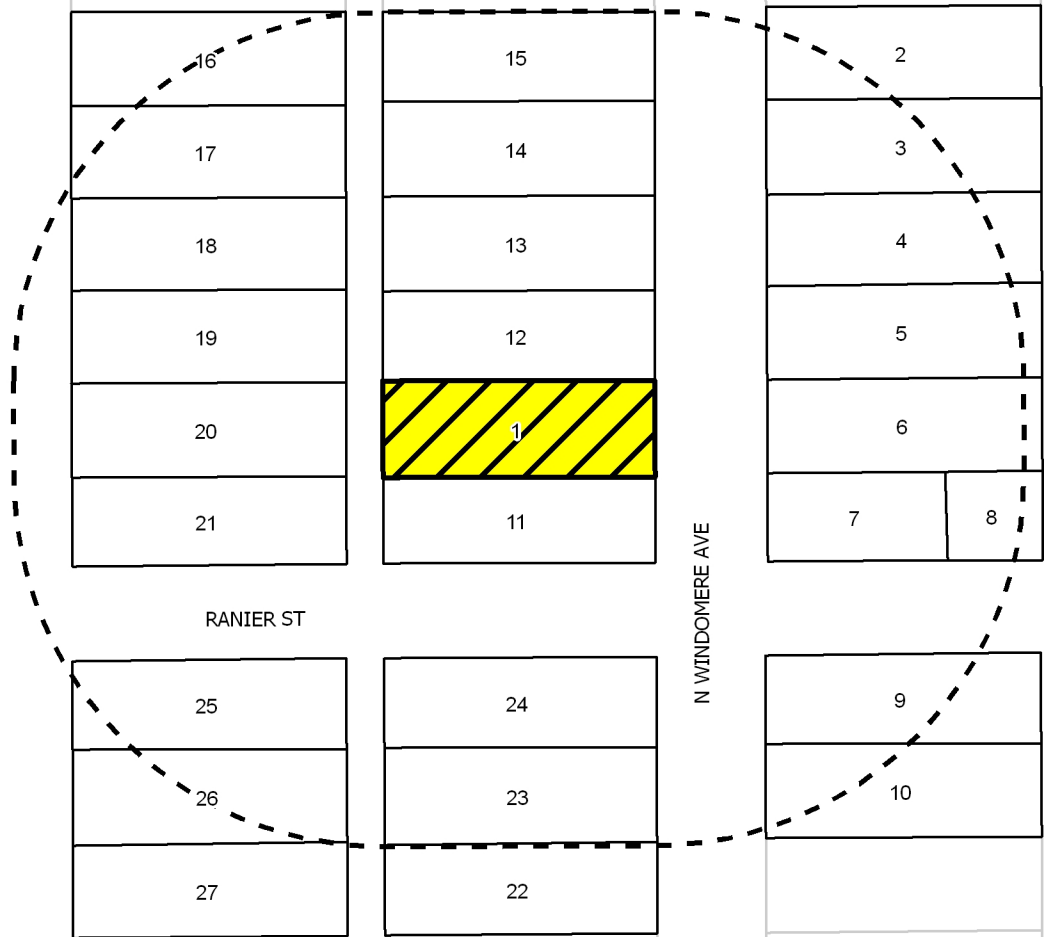
Should you have any further questions regarding the Board's action, please contact me at (214) 670-4666.

A handwritten signature in black ink that reads "Steve Long".

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

SL/tl

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



The number '0' indicates City of Dallas Ownership



# NOTIFICATION

**200'**

AREA OF NOTIFICATION

**27**

NUMBER OF PROPERTY OWNERS NOTIFIED

Map no:           L-6          

Case no:           BDA101-028          

1:1,200

BDA 101-028

3-37

# **Notification List of Property Owners**

**BDA101-028**

## **27 Property Owners Notified**

<b>Label #</b>	<b>Address</b>	<b>Owner</b>
1	707 WINDOMERE	NESS ASHLEY
2	722 WINDOMERE	BROWN LONNIE B & LINDA M
3	718 WINDOMERE	FINLEY KYLE D
4	714 WINDOMERE	PRIETO ANGELICA & ANTONIO RAMIREZ
5	708 WINDOMERE	GROPPE JAY C & KATHLEEN A
6	706 WINDOMERE	MCKAY BRIAN A & MCKAY CANDICE
7	702 WINDOMERE	TAYLOR REBECCA
8	1417 RANIER	MARTINEZ SILVIA
9	634 WINDOMERE	JENSEN ANNETTE
10	630 WINDOMERE	PULIS JOEL T & LAURA E
11	703 WINDOMERE	CAIN CHRISTOPHER D
12	711 WINDOMERE	SYDNOR ERNEST M & NADINE
13	715 WINDOMERE	ESCOBAR JESUS & ROSA F
14	719 WINDOMERE	CAMACHO ARMANDO & GRACIELA
15	721 WINDOMERE	CRUZ JAVIER L & SOSA
16	722 MONTCLAIR	MARLIN ANGELA R
17	718 MONTCLAIR	COUCH PAT
18	714 MONTCLAIR	BERG SHERRY
19	710 MONTCLAIR	HARRISON KELLE ANNE
20	706 MONTCLAIR	KIENINGER DANIEL
21	700 MONTCLAIR	WEBER SHARON S
22	627 WINDOMERE	HOWARD HAMILTON
23	631 WINDOMERE	RAMIREZ JUANITA & ORTIZ MARIA
24	633 WINDOMERE	RAMIREZ TERESA
25	634 MONTCLAIR	ALONSO MARIA DE JESUS & KARINA M ROSS
26	630 MONTCLAIR	KENNEDY LISA ANN
27	626 MONTCLAIR	LYTLE HEATHER M & ZACHARY J

**FILE NUMBER:** BDA 101-033

**BUILDING OFFICIAL'S REPORT:**

Application of Robert Baldwin for special exceptions to the landscape, tree preservation, and sign regulations at 9500 Forest Lane. This property is more fully described as a 3.7319 acre tract in city block V/8151 and is zoned MU-3 which requires mandatory landscaping and tree mitigation, and allows 1 detached sign for ever 450 feet, or fraction thereof, of frontage on a public street. The applicant proposes to construct a structure and provide an alternate landscape plan which will require a special exception to the landscape regulations, an alternate tree preservation plan which will require a special exception to the tree preservation regulations, and to construct an additional detached premise sign which will require a special exception to the sign regulations.

**LOCATION:** 9500 Forest Lane

**APPLICANT:** Robert Baldwin

**REQUESTS:**

- The following appeals had been made in this application in conjunction with demolishing a vacant multi-story office structure and constructing and maintaining an approximately 5,700 square foot gas station/convenience store structure use (QuickTrip):
  1. A special exception to the landscape regulations is requested in conjunction with the redevelopment of the site and not fully meeting the landscape regulations;
  2. A special exception to the tree preservation regulations is requested in conjunction with not fully mitigating protected trees to be removed on a site in conjunction its redevelopment; and
  3. A special exception to the sign regulations is requested in conjunction with erecting and maintaining an additional detached sign for the proposed gas station/convenience store to be located on the site's LBJ Freeway frontage between two existing billboards.

**STAFF RECOMMENDATION (landscape special exception):**

Denial

Rationale:

- The City's Chief Arborist recommends denial of the request.

- The applicant has not substantiated how strict compliance with the requirements of the Landscape Regulations of the Dallas Development Code will unreasonably burden the use of the property; and that the special exception will not adversely affect neighboring property. In this case the applicant has not accounted for why the request for leniency to the landscape regulations is valid when the property is of a sufficient size and open space to allow the proposed development while simultaneously complying with Article X: the Landscape Regulations.

**STAFF RECOMMENDATION (tree preservation special exception):**

Denial

Rationale:

- The City's Chief Arborist recommends denial of the request.
- The applicant has not substantiated how strict compliance with the requirements of the Tree Preservation Regulations of the Dallas Development Code will unreasonably burden the use of the property; and that the special exception will not adversely affect neighboring property. In this case the applicant has not accounted for why the request for leniency to the tree preservation regulations is valid. The applicant's alternate mitigation plan provides an insufficient application of landscape and mitigation to address total removal of existing trees on the property bordering and including a riparian area - a term to describe the area that acts to interface between land and stream - in this particular case, the area on which the development is proposed and the creekbed on the east side of the site).

**STAFF RECOMMENDATION (sign special exception):**

Approval, subject to the following condition:

- Compliance with the submitted "sign exhibit"/site plan document and elevation is required.

Rationale:

- The applicant has substantiated how strict compliance with the sign regulations (in this case, the site being held to two detached signs along the site's expressway frontage) would result in an inequity since the site has a feature that is uncharacteristic of most lots – that being two existing billboards on the site that accounts for the site's two permitted signs (from which the applicant states he "does not control") and simultaneously precludes the applicant/owner from having a detached premise sign identifying his business along the expressway frontage – a type of sign that is typically found along the expressway frontages on other lots.
- In addition, there appears to be no corresponding benefit to the city and its citizens in accomplishing the objective of the sign regulations in this case (i.e. holding this site to just two signs along the expressway - in this case, the

existing billboards on the site's LBJ Freeway frontage) since the proposed additional sign has been represented as being in compliance with all other Code requirements. (If for any reason, the "additional sign" granted by the board in this request was discovered to be out of compliance with some other Code requirement at a later date, the applicant would be required to return to the board with a new application to address any issue that the board is empowered to consider related to non-compliance with city sign codes).

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE AND TREE PRESERVATION REGULATIONS:**

The board may grant a special exception to the landscape and tree preservation 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.

**STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS FOR AN ADDITIONAL DETACHED SIGN:**

The Board of Adjustment may, in specific cases and subject to appropriate conditions, authorize one additional detached sign on a premise in excess of the number permitted by the sign regulations as a special exception to these regulations when the board has made a special finding from the evidence presented that strict compliance with the requirement of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.

**GENERAL FACTS (related to the landscape special exception):**

- 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.

A revised alternate landscape plan has been submitted (see Attachment A) which according to the City of Dallas Chief Arborist is deficient from meeting the landscape requirements of Article X.

- The City of Dallas Chief Arborist submitted a memo to the Board Administrator and the Chief Board of Adjustment Planner (see Attachment B). The memo stated the following:
  - The applicant is requesting a special exception to the tree mitigation and a special exception to the landscape requirements of Article X: The Landscape Regulations.
  - Trigger:
    - Demolition and new construction.
  - Deficiencies
    - Pertaining to “request 1” of the applicant’s May 2 letter (tree mitigation special exception), and according to the plan provided on May 3<sup>rd</sup>, a total of 507” of protected trees (33 trees) are to be removed on the general construction site, and 165” of protected trees (11 trees) to be removed from the “floodway.” This would require a tree replacement of 672 caliper inches on site or through alternate methods of mitigation (maximum replacement value of \$59,480) available through Article X. Based on the proposed planting plan, 57” (nearly 12 percent) would be planted back on property with two species of trees.
    - Pertaining to “request 2” of the applicant’s May 2 letter (landscape special exception), there is not residential adjacency to be adjacent to or directly across a street 64’ or less in width. The residences in question are across LBJ Freeway. However, after reviewing the plans provided on May 3, some landscape deficiencies to Article X have been identified to be considered by the Board.
  - Factors for consideration:
    - Tree mitigation:
      - The proposed removal includes 165” of tree removal from the floodway in the property, being protected trees along the floodway. The trees are growing along slopes of the drainage and provide slope protection. Dense vegetation surrounds the protected trees. Only five of the trees (64” of protected trees) are directly tied to the construction of a proposed gabion wall, as it is shown under this plan. The gabion wall construction proposal is currently submitted and under review. The other six trees (101”) are distanced from the wall construction and support the integrity of the natural tributary system in sloped areas along the creek.
      - According to Mr. Steve Parker, the Floodplain Management administrator, the plans for the gabions identify “only two bois d’arc

trees) to be removed because they conflict with the gabion wall/mattress. They show grading in an area that contains additional trees, not related to gabions.” Parker further stated that “if they proposed to remove all trees in the floodway he proposes they mitigate for them. Permits to identify the requirements of the City office, or the extent of grading and the transitional environmental impacts to exposing the creek in this area have not been seen.

- Article X, Section 51A-10.134:
  - Species: The applicant proposes mitigating on site with honeylocust and Texas ash. Ordinance requires that “no one species may constitute more than 30 percent of the replacement trees planted on a lot or tract.
  - Location. Several open areas on the plan that may be suitable to planting additional trees have been identified. It is not recommended to plant large tree species in line of sight of highway signage that could be subject to possible inappropriate pruning practices (ex. Tree topping) in the future.
  - Minimum size. The crepe myrtles identified as 1 inch trees could be upgraded to a minimum of 2 inch trees to meet minimum city standards and count toward tree mitigation.
  - Timing. Mitigation for the removal of trees with demolition would require a timing extension special exception (as part of this request) to the completion date a new development, or a time that is favorable to the Board.
- Article X, Section 51A-10.135:
  - The ordinance provides multiple ways to complete mitigation when planting on site “would be impracticable or imprudent.” This may be accomplished through: 1) planting within one mile of the tree removal property; 2) donating trees to the Park Department (where an agreement of conditions can be reached); 3) forming a conservation easement; or 4) paying into the Reforestation Fund.
  - The complete removal of all trees in a vegetated tributary creek area, per the plan, is in contradiction to ForwardDallas! Policies (6.4.1) to protect riparian zones and wildlife corridors.
- Landscaping (10.125 and 10.126): There is no residential adjacency deficiency.
  - Street trees: 581’ of Forest Lane requires 12 street trees. 10 new 3” trees are provided within the required 30’ of the curb and 1 existing tree is available in the northeast corner of the lot if not removed. An additional 3 trees would be available within 40’ of the curb. Street trees are not required along the LBJ off-ramp.
  - Site trees: The 3.73-acre property requires a minimum of 41 site trees. The applicant proposes to leave no existing tree on site and



- to plant back 34 site trees on the property. 9 of the trees are 1” caliper crepe myrtles.
- Parking lot trees: All required parking spaces are required to be within 120’ of the stem of a large canopy tree. 4 parking spaces near the front of the entry of the building have been measured as being in compliance with this requirement.
  - Design standards: The plan lists 3 design standards where 2 are required: 1) Screening of off-street parking is partially provided off the property in the city right-of-way on Forest. All design standards are required to be located on the development property. Licensing and permits are required for planting and irrigation in the parkway. Screening shrubs must be 3’ in height at planting. 5 gallon, 2’ high shrubs are identified for planting. 2) Pedestrian facilities are indicated in the table but not identifiable on the plan to meet code. 3) Enhanced pedestrian walkways for pedestrian use must occupy at least 5 percent of the lot. The applicant identifies 4,465 square feet of enhanced pavement in the table were a minimum of 8,124 square feet would be required on site. The type of enhancement should be identified.
  - The protection and maintenance of all “floodway trees” outside of gabion construction would provide a minimum site tree credit of 29 site trees from 7 existing trees.
  - Recommendation:
    - Denial of the submitted plan for tree mitigation and landscaping.
    - Reason:
      - Tree mitigation – Insufficient application of landscaping and mitigation are on the plan to address the total removal of existing trees on the property bordering and including a riparian area. Justification for removal of all vegetation from riparian area should be provided.
      - Landscaping – The property is of sufficient size and open space are to adopt Article X landscape standards. The grounds for residential adjacency is not warranted and has no application to the landscape design.

**GENERAL FACTS (related to tree preservation special exception):**

- The Dallas Development Code states that the Tree Preservation, Removal, and Replacement Regulations apply to all property in the city except for: a) lots smaller than two acres in size that contain single family or duplex uses; and b) lots in a planned development district with landscaping and tree preservation regulations that vary appreciably from those in the provisions set forth in Chapter 51A.
- The Dallas Development Code states that if a tree removal application is approved, one or more healthy replacement trees must be planted in accordance with the following requirements:

1. Quantity. The total caliper of replacement trees must equal or exceed the total caliper of the protected trees removed or seriously injured.
2. Species. A replacement tree must be one of the specific “approved replacement trees” listed, and no one species of tree may constitute more than 30 percent of the replacement trees planted on a lot or tract.
3. Location. The replacement trees must be planted on the lot from which the protected tree was removed or seriously injured, except as otherwise allowed by the code as an “alternate method of compliance with tree replacement requirements.” Replacement trees may not be planted within a visibility triangle, a water course, or an existing or proposed street or alley.
4. Minimum size. A replacement tree must have a caliper of at least two inches.
5. Timing. Except as otherwise provided in the code, all replacement trees must be planted within 30 days after the removal or serious injury of the protected trees.

If the property owner provides the building official with an affidavit that all replacement trees will be planted within six months, the building official shall permit the property owner to plant the replacement trees during the six-month period.

If the property owner provides the building official with a performance bond or letter of credit in the amount of the total cost of purchasing and planting replacement trees, the building official may permit the property owner up to 18 months to plant the replacement trees with the following restrictions:

- For single family or multifamily developments, at least 50 percent of the total caliper of replacement trees must be planted before 65 percent of the development has received a final building inspection or a certificate of occupancy, and all replacement trees must be planted prior to the completion of the development; and
- In all other cases, the replacement trees must be planted prior to the issuance of a certificate of occupancy.

A replacement tree that dies within two years of the date it was planted must be replaced by another replacement tree that complies with the tree preservation regulations.

- The Dallas Development Code provides the following “alternate methods of compliance with tree replacement requirements” if the building official determines that, due to inhospitable soil conditions or inadequate space, it would be impracticable or imprudent for the responsible party to plant a replacement tree on the lot where the protected tree was removed or seriously injured (the “tree removal property”):
  1. Donate the replacement tree to the city’s park and recreation department.
  2. Plant the replacement tree on other property in the city that is within one mile of the tree removal property.
  3. Make a payment into the Reforestation Fund.

- 4. Grant a conservation easement to the city.
- The applicant submitted additional information to staff regarding the request (see Attachment A). This information included the following information:
  - a letter that provided additional details about the requests;
  - a sign elevation; and
  - an email and related “revised landscape plan.”
- The City of Dallas Chief Arborist submitted a memo to the Board Administrator and the Chief Board of Adjustment Planner (see Attachment B). (See the “GENERAL FACTS (related to the landscape special exception)” section of this case report for additional details provided in this memo regarding the request for the special exception to the tree preservation regulations).

**GENERAL FACTS (related to the sign special exception):**

- The Dallas Development Code states that only one detached sign is allowed per street frontage other than expressways, and that one expressway sign is allowed for every 450 feet of frontage or fraction thereof on an expressway. The applicant has submitted a “sign exhibit”/site plan document which indicates the locations of two existing billboards along its approximately 515’ long LBJ Freeway frontage along with a “PROPOSED 50’ HT x 218 SF QT SIGN WITH MONUMENT BASE” located between the two existing billboards. The applicant has also submitted a site elevation that provides additional specifications about this request.
- The applicant submitted additional information to staff regarding the request (see Attachment A). This information included the following information:
  - a letter that provided additional details about the requests;
  - a sign elevation; and
  - an email and related “revised landscape plan.”

**BACKGROUND INFORMATION:**

**Zoning:**

Site: MU-3 (Mixed Use)  
North: CR & PD No. 452 (Community Retail and Planned Development)  
South: R-7.5(A) & PD No. 702 (Single family 7,500 square feet and Planned Development)  
East: NO(A) (Neighborhood Office)  
West: PD No. 702 (Planned Development)

**Land Use:**

The site is currently developed with a vacant multi-story office structure that the owner intends to demolish. The area to the north is developed with retail and

multifamily use; the area to the east is developed with office use; the areas to the south and west are developed as the LBJ Freeway.

**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.

**Timeline:**

February 15, 2011: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

April 20, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

April 21, 2011: 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 May 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the May 6<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.

May 2 and 3, 2011: The applicant forwarded additional information on this application beyond what was submitted with the original application (see Attachment A).

May 3, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

May 5, 2011: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections if certain conditions are met” with the

following comments: “Comply with all C.O.D visibility and floodplain requirements. Additional sign – no comment.”

May 9, 2011: The applicant submitted additional information to the Board Administrator beyond what was submitted in the original application (see Attachment B).

**STAFF ANALYSIS (related to the landscape special exception):**

- This request focuses on demolishing a vacant multi-story office structure and constructing and maintaining an approximately 5,700 square foot gas station/convenience store structure use (QuickTrip) and being “excepted” from fully meeting the City’s landscape regulations of Article X, more specifically, from fully meeting street tree, site tree, parking lot tree, and design standard requirements.
- The City of Dallas Chief Arborist recommends denial of the request stating among other things that the property is of a sufficient size and open spaces to adopt Article X standards.
- 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, the site would be “excepted” from compliance with the street tree (providing as many as 11 of the 12 required), site tree (providing 34 of the 41 required), parking lot tree (where 4 parking spaces are not within 120’ of a large canopy tree), and design standard (it appears that none of the 2 are fully provided) requirements of Article X: The Landscape Regulations.

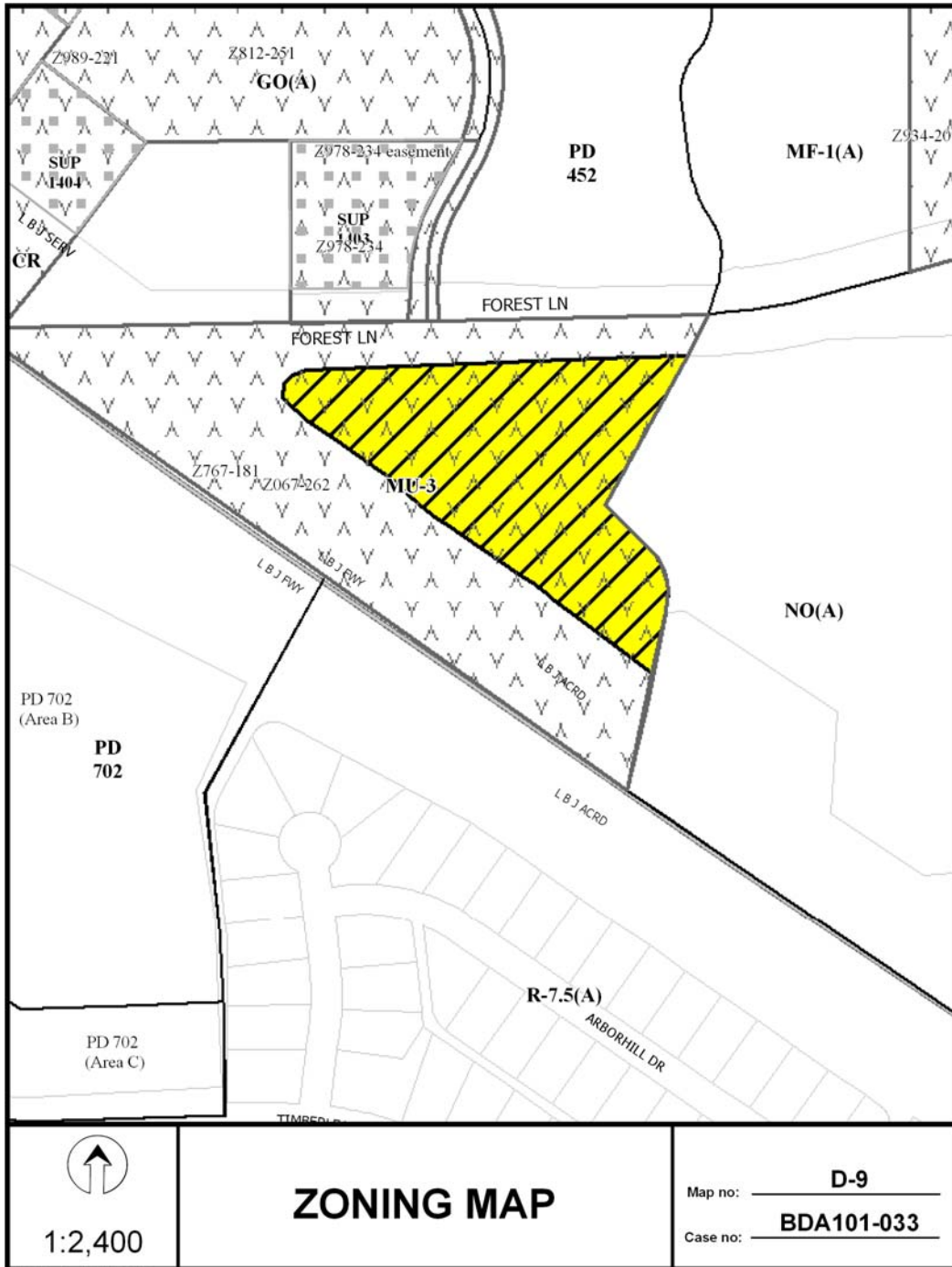
**STAFF ANALYSIS (related to tree preservation special exception):**

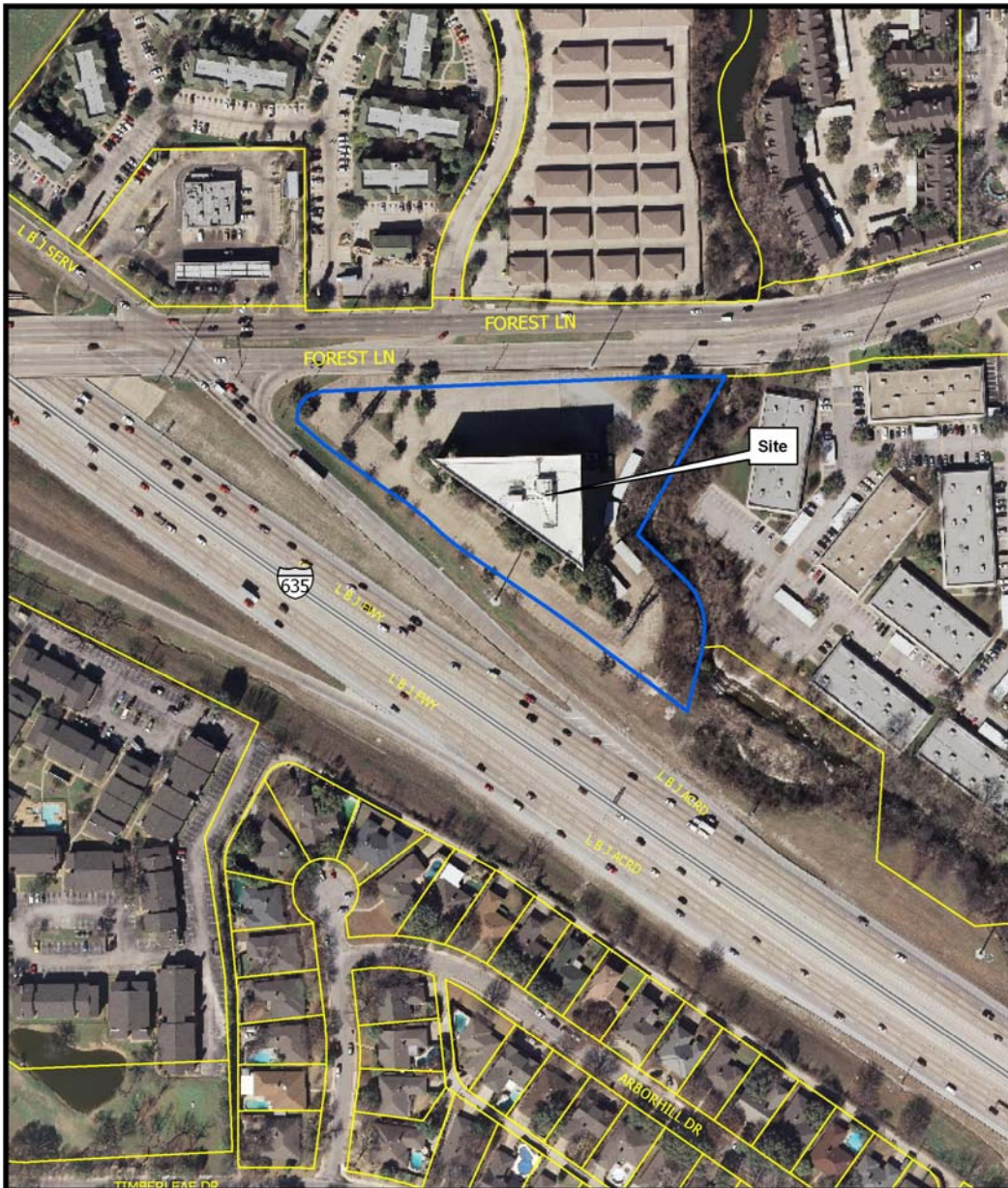
- This request focuses on demolishing a vacant multi-story office structure and constructing and maintaining an approximately 5,700 square foot gas station/convenience store structure use (QuickTrip) and being “excepted” from fully meeting the City’s tree preservation regulations of Article X, more specifically, from fully meeting requirements related to species, location, size, and timing requirements.
- The City of Dallas Chief Arborist recommends denial of the request stating among other things that there is an insufficient application of landscaping and mitigation noted on the alternate plan to address the removal of existing trees on the property bordering and including a riparian area on the east side of the site.
- The applicant has the burden of proof in establishing the following:

- Strict compliance with the requirements of the Tree Preservation Regulations of the Dallas Development Code will unreasonably burden the use of the property (in this case, a site that is currently planned for redevelopment from a vacant multi-story office structure to a gas station/convenience store).
- The special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted alternate tree mitigation/landscape plan as a condition, the site would be “excepted” from compliance with the species (only two species of trees are proposed in conjunction with mitigation when no one species can constitute more than 30 percent of the replacement trees on a lot), location (several open areas on are the site suitable to plant additional trees), size (crepe myrtles denoted on plan as 1” trees do not count toward mitigation), and timing (mitigation of removal of trees do not comply with the time frame in which mitigation must be completed relative to the completion date of the proposed new development) requirements of Article X: The Tree Preservation Regulations.

**STAFF ANALYSIS (related to the sign special exception):**

- The request focuses on erecting and maintaining an additional detached sign for the proposed gas station/convenience store to be located on the site’s LBJ Freeway frontage between two existing billboards - billboards which, according to the applicant, he “does not control.”
- A “sign exhibit”/site plan document and sign elevation has been submitted indicating the locations of the two existing billboards sign and the proposed additional sign, and the height and dimensions of the proposed additional sign – a 50’ high sign that is about 22’ in length and about 15’ in width. (The applicant has written that the proposed additional sign “meets all of the requirements of the Dallas Sign Code.”)
- The applicant has the burden of proof in establishing the following:
  - That strict compliance with the requirement of the sign regulations (where in this case, the site would be limited to having only two signs along its expressway frontage) will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations.
- Granting this special exception would allow a 3<sup>rd</sup> sign on the site – in this case, a sign along the site’s LBJ Freeway frontage that could serve to identify the applicant’s business as opposed to the existing permitted billboards on the site to which the applicant/owner “does not control.” If the Board were to impose the submitted elevation and “sign exhibit”/site plan document as a condition to the request, the additional/3<sup>rd</sup> sign would be limited to the specific location and characteristics as shown of these documents.





1:2,400

## AERIAL MAP

Map no:           D-9            
Case no:           BDA101-033          

DATE: April 28, 2011



**Baldwin**  
**Associates**

May 2, 2011

Mr. Steve Long  
Senior Planner  
City of Dallas Department of Development Services  
1500 Marilla Street, Room 5BN  
Dallas, TX 75201-6390

Re: Board of Adjustment Case 101-033 – 9500 Forest Lane

Dear Steve;

As you may be aware, this firm is representing the owner of the property known as 9500 Forest Lane in their effort to redevelop this property. Specifically, we are seeking three (3) Special Exceptions that are needed to allow this site to be redeveloped. Specially, we are requesting: 1) a Special Exception to the landscaping provisions of Article X to allow for alternate tree mitigation; 2) a Special Exception to the provisions of Article X to allow for a reduced landscape buffer along one side of the Property; and 3) a Special Exception to the Sign Standards to allow for an additional detached sign on the Property. Each request is detailed below.

**The Property**

The property is an existing five-story office building with approximately 105,000 square feet of leasable area. The building was built in 1980. This property is roughly triangular in shape and is bounded by Forest Lane, US 635 and a floodway easement. Over the last several years, the office building has been vacant and not well maintained. In fact, if you go to the site today you will see that most of the windows are boarded up and the grounds are overgrown. The City of Dallas is actively trying to get this building demolished but the owner does not have the capital to do so. I understand that there are pending lawsuits and code enforcement complaints on the property that the city is trying to resolve. Both the city and the surrounding neighbors recognize that the building and grounds are a nuisance and needs to be removed. This redevelopment will help both the city and the neighbors get rid of a troubled building.

**The Issue**

I represent QuikTrip in their efforts to solve this problem. They are proposing to purchase the Property, demolish the building and pavement and redevelop the site with a new QuikTrip facility. In preparing the plans to accomplish this project, they have run into a number of unanticipated issues with the site that is triggering the need for these requests. It turns out that it is much harder redeveloping an old office building that originally anticipated.

## Discussion on the Requests

### Request 1 – Special Exception for Tree Mitigation

The first request is for a Special Exception for alternate tree mitigation. Since the Property was developed as an office building over 30 years ago, there are many large trees in what is currently the parking lot and immediately adjacent to the building. These trees will not survive the demolition of the improvements on the property. In addition, there are several trees located in the adjacent floodway that will have to be removed in order for the floodway to function properly. These trees cannot be saved or relocated due to their age and the existing conditions of the property. The landscape plan for the QT facility shows as many trees as we can put on the site and allow them to thrive. As many of the existing trees as possible have been saved, but given their number and location, there are some that just can't be mitigated on site. We are seeking permission to not have to mitigate all of trees in order to allow us to develop the site in a reasonable and responsible manner.

### Request 2 – Request to Allow an Encroachment into A Landscape Buffer

The second request is to allow for an encroachment into a required landscape buffer. This property abuts US 635 and is zoned MU-2. Across the freeway is property zoned as a PD for multi-family uses and R-7.5 (A) and developed with single-family uses. As you are aware, in the City of Dallas, zoning district boundary lines go to the middle of the street. Therefore, we technically have residential adjacency, even though the closest homes are about 400 feet away and across a multi-lane freeway. This residential adjacency triggers the need for a 10-foot wide landscaped buffer. As you can see from our landscape plan, we have a curb that slightly encroaches into the required buffer yard. I calculate the encroachment to be about 3 feet and approximately 120 square feet of curbing. Our trouble is stemming from the triangular shape of the lot and the fact that the parking lots for this use need to be rectangular. In an effort to screen this encroachment, we are proposing to plant a hedge of shrubs to enhance this buffer yard and to screen this curb. I recognize the need for buffer yards when there is true residential adjacency, but in this case, even though we technically have residential adjacency, in reality, the closest homes are about 400 feet away and we are confident that this encroachment will not be detrimental to this adjacency.

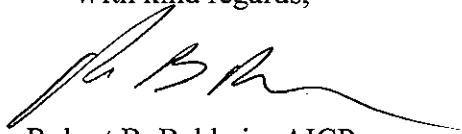
### Request 3 – A Special Exception to Allow an Additional Pylon Sign on the Property

As I mentioned previously, this property abuts US 635. In this location, the freeway is depressed from grade and the site actually sits about 20 feet higher than the freeway travel lanes. This property is encumbered with two (2) existing billboards that we do not control. We are seeking permission to install a pylon sign advertising the QuikTrip facility so it can be seen from the freeway. The proposed sign meets all of the requirements of the Dallas Sign Code, but the presence of the billboards prohibits QuikTrip from having a sign on the freeway frontage. We are seeking permission to

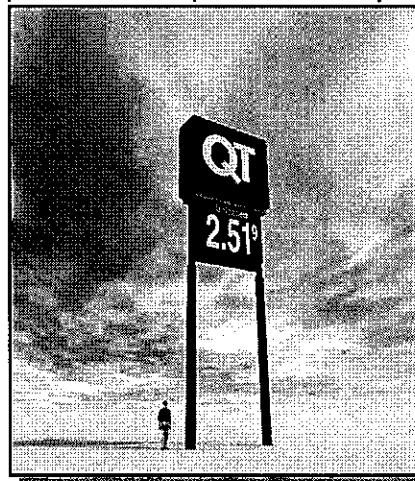
allow an additional sign that would allow people travelling on US 635 to know that they are located that this corner.

Thank you for your assistance with this matter. We are confident that these requests are reasonable and will not be detrimental to surrounding properties. If you have any questions or need any additional information, please do not hesitate to contact me.

With kind regards,

A handwritten signature in black ink, appearing to read 'R. Baldwin', with a long, sweeping horizontal line extending to the right.

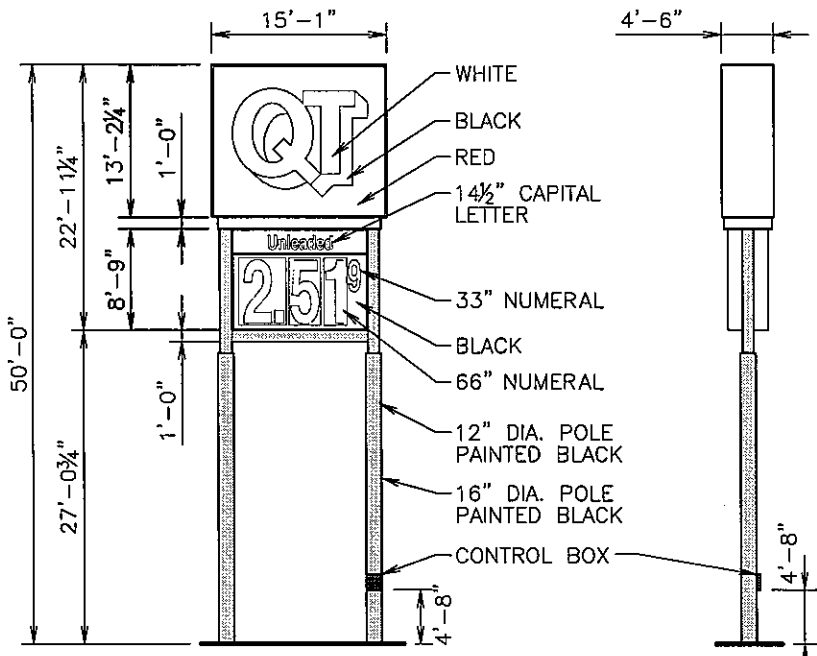
Robert B. Baldwin, AICP



High Rise Pole Sign  
HR-15LP

2/22/11

SQUARE FOOTAGE	
TYPEFACE	173
INSIDE CAN	287
ENTIRE SIGN	302



**SPECIFICATIONS:**

**LOGO**  
3M Translucent Vinyl Face, 3M Cardinal Red Translucent #3632-53, surface applied graphics.

**Pricer**  
Flat Solar grade, Clear Lexan Face, .177 thickness, painted on 2nd surface, Akzo Noble Black, Scrolling Price Numerals, White Helvetica Condensed font, Unlead Product Panels, White text area, painted 2nd surface Akzo Nobel Opaque Black, Auto Diesel Product Panels, White text area, painted 2nd surface to match PMS 7481C Translucent Green, Akzo Noble.

**LOGO Cabinet/Pricer Cabinet/Base**  
Aluminum Construction, Internally illuminated with A130 LED Lamp Fixture BXCR9002, A130 Power Supplies BXCR9003. LOGO Cabinet painted Akzo Noble, QT Red SIGN9141 Low Gloss. Pricer Cabinet painted Akzo Noble Black Low Gloss. Accent Trim section painted 1st surface Akzo Noble Silver-Low Gloss.

SCALE:	
1/16" = 1'-0"	
SERIAL NUMBER:	
HR15LP	
STORE NUMBER:	

K:\Projects\Div 08 Data\Bas\09003\03\dwg\HR-15LP - 50ft.dwg - I\_#00 Feb 22, 2011 - 3:51pm - jklm

BDA101-033  
Attach A

**Long, Steve**

pg 5

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**From:** Robert Baldwin [rob@baldwinplanning.com]  
**Sent:** Tuesday, May 03, 2011 8:44 AM  
**To:** Erwin, Philip  
**Cc:** Jake Petras; Long, Steve  
**Subject:** BDA 101-033 - Revised landscape Plan  
**Attachments:** Landscape Plan .pdf

Good morning Phil,

I wanted to forward a revised landscaper plan to you for the above referenced case of Forest Lane. Our engineer will be bringing hard copies to David Wong this morning. It is my understanding that this represents the culmination of work between our engineer and David to work out a reasonable landscape plan for this site. This is the site plan we would like to use for the BDA case. I am going out to the site this morning to see if I can tell if the Bois d' Arc trees are male or female and will forward photos to you.

Thanks for your help with this. Please do not hesitate to contact me if I can be of any assistance.  
Rob

**Rob Baldwin**  
Baldwin Associates LLC  
214.729-7949 (cell)  
Rob@baldwinplanning.com



# Memorandum



CITY OF DALLAS

DATE May 9, 2011  
TO Donnie Moore, Chief Planner  
Steve Long, Board of Adjustment Administrator  
SUBJECT # BDA 101 - 033 9500 Forest Lane

The applicant is requesting a special exception to the tree mitigation regulations and a special exception to the landscape regulations of Article X.

### Trigger

Demolition and new construction.

### Deficiencies

Pertaining to 'request 1' of the applicant's letter of May 2, and according to the plan provided to me on May 3, a total of 507" of protected trees (33 trees) are to be removed on the general construction site, and 165" of protected trees (11 trees) to be removed from the 'floodway'. This would require a tree replacement of 672 caliper inches on site or through alternative methods of mitigation (maximum replacement value of \$59,480) available through Article X. Based on the proposed planting plan, 57" (nearly 12%) would be planted back on property with two species of trees.

Pertaining to 'request 2', there is no residential adjacency as claimed by the applicant. Section 51A-10.101 identifies a lot with residential adjacency to be adjacent to or directly across a street 64 feet or less in width. The residences in question are across LBJ Freeway. However, after reviewing the plans provided on May 3, I have identified some landscape deficiencies to Article X for consideration by the Board.

### Factors

Tree Mitigation: The proposed removal includes 165" of tree removal from the floodway in the property, being all of the protected trees along the floodway. The trees are growing along slopes of the drainage and provide slope protection. Dense vegetation surrounds the protected trees. Only five of the trees (64" of protected trees) are directly tied to the construction of a proposed gabion wall, as it is shown on this plan. The gabion wall construction proposal is currently submitted and under review. The other six trees (101") are distanced from the wall construction and support the integrity of the natural tributary system in sloped areas along the creek.

According to Mr. Steve Parker, the Floodplain Management administrator, in an e-mail sent to me on May 3, the plans for the gabions identify "only two bois d'arc trees [trees #1888 and #1889] to be removed because they conflict with the gabion wall/mattress. They show grading in an area that contains additional trees, not related to the gabions." He further stated "if they propose to remove all trees in the floodway I propose they mitigate for them." I have not seen the permit to identify the requirements of the City office, or the extent of grading and the transitional environmental impacts to exposing the creek in this area.

Article X, Section 51A-10.134:

- **Species:** The applicant proposes mitigating on site with honeylocust and Texas ash. Ordinance requires that "no one species may constitute more than 30 percent of the replacement trees planted on a lot or tract."
- **Location:** I have identified several open areas on the plan that may be suitable to planting additional trees. It is not recommended to plant large tree species in line of sight with highway signage that could be subject to possible inappropriate pruning practices (ex., tree topping) in the future.
- **Size:** The crepe myrtles identified as 1 inch trees could be upgraded to a minimum of 2 inch trees to meet minimum city standards and count toward mitigation.
- **Timing:** Mitigation for the removal of trees with demolition would require a timing extension special exception (as a part of this request) to the completion date of a new development, or a time that is favorable to the Board.

Article X, Section 51A-10.135:

The ordinance provides multiple ways to complete mitigation when planting on site "would be impracticable or imprudent." This may be accomplished through 1) planting within one mile of the tree removal property, 2) donating trees to the Park Department (where agreement of conditions can be reached), 3) forming a conservation easement, and/or 4) paying into the Reforestation Fund.

The complete removal of all trees in the vegetated tributary creek area, per the plan, is in contradiction to ForwardDallas! policies (6.4.1) to protect riparian zones and wildlife corridors.

Landscaping (10.125 and 10.126): There is no residential adjacency deficiency.

- Street trees: 581' of Forest Lane requires 12 street trees. 10 new 3" trees are provided within the required 30 feet of the curb and 1 existing tree is available in the northeast corner of the lot if not removed. An additional three trees would be available within 40 feet of the curb. Street trees are not required along the LBJ off-ramp.
- Site trees: The 3.73-acre property requires a minimum of 41 site trees. The applicants proposal is to leave no existing trees on site and to plant back 34 site trees on the property. Nine of the trees are 1-inch caliper crepe myrtle.
- Parking lot trees: All required parking spaces are required to be within 120 feet of the stem of a large canopy tree. I have measured four parking spaces near the front entry of the building would be in non-compliance with this requirement.
- Design Standards: The plan lists three design standards where two are required . 1) Screening of off-street parking is partially provided off the property in the city right-of-way on Forest. All design standards are required



to be located on the development property. Licensing and permits are required for planting and irrigation in the parkway. Screening shrubs must be three feet in height at planting. Five gallon, two feet tall shrubs are identified for planting. 2) Pedestrian facilities are indicated in the table, but not identifiable on the plan to meet code. The 'specified facilities and features' must be a minimum of 5% of the lot area. 3) Enhanced pedestrian walkways for pedestrian use must occupy at least 5% of the lot. The applicant identifies 4,465 s.f. of enhanced pavement in the table where a minimum of 8,124 s.f. would be required on site. The type of enhancement should be identified.

The protection and maintenance of all 'floodway trees' outside of gabion construction would provide a minimum site tree credit of 29 site trees from 7 existing trees.

### Recommendation

Denial of the submitted plan for tree mitigation and landscaping.

#### Reason

Tree mitigation: Insufficient application of landscaping and mitigation are on the plan to address the total removal of existing trees on the property bordering and including a riparian area. Justification for removal of all vegetation from the riparian area should be provided.

Landscaping: The property is of sufficient size and open space area to adopt Article X landscape standards. The grounds for residential adjacency is not warranted and has no application to the landscape design.

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



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-033

Data Relative to Subject Property:

Date: February 15, 2011

Location address: 9500 Forest Lane Zoning District: MU-3

Lot No.: \_\_\_\_\_ Block No.: 1/ 8151 Acreage: 3.73 ac Census Tract: 185.03

Street Frontage (in Feet): 1) 745 2) 543 3) 94 4) \_\_\_\_\_ 5) \_\_\_\_\_

NE 5

To the Honorable Board of Adjustment :

Owner of Property/or Principal: -CALC Partners, LP

Applicant: QuikTrip Corporation c/o Jake Petras Telephone: (817) 358-7680

Mailing Address: 1120 N. Industrial Euless, Texas Zip Code: 76039

Applicant

Represented by: Robert Baldwin Telephone: 214-824-7949

Mailing Address: 3904 Elm Street - Suite B, Dallas, Texas Zip Code: 75226

Affirm that a request has been made for a Variance \_\_, or Special Exception X, of \_\_\_\_\_ a Special Exception to the tree mitigation requirements of Article X and a Special Exception to allow a second detached sign on the premises area reduction in landscape buffer. VR

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 applicant seeks to redevelop the site and cannot accommodate the required tree mitigation. There is a billboard on the Property and the applicant seeks permission to have an on-premise detached sign as well.

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: Robert Baldwin Applicant's name printed [Signature] Applicant's signature

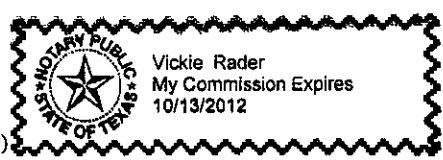
Affidavit

Before me the undersigned on this day personally appeared Robert Baldwin 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.

[Signature] Affiant (Applicant's signature)

Subscribed and sworn to before me this 22 day of Sept, 2011

[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 ROBERT BALDWIN

did submit a request for a special exception to the tree preservation regulations, and for a special exception to the sign regulations, and for a special exception to the landscaping regulations

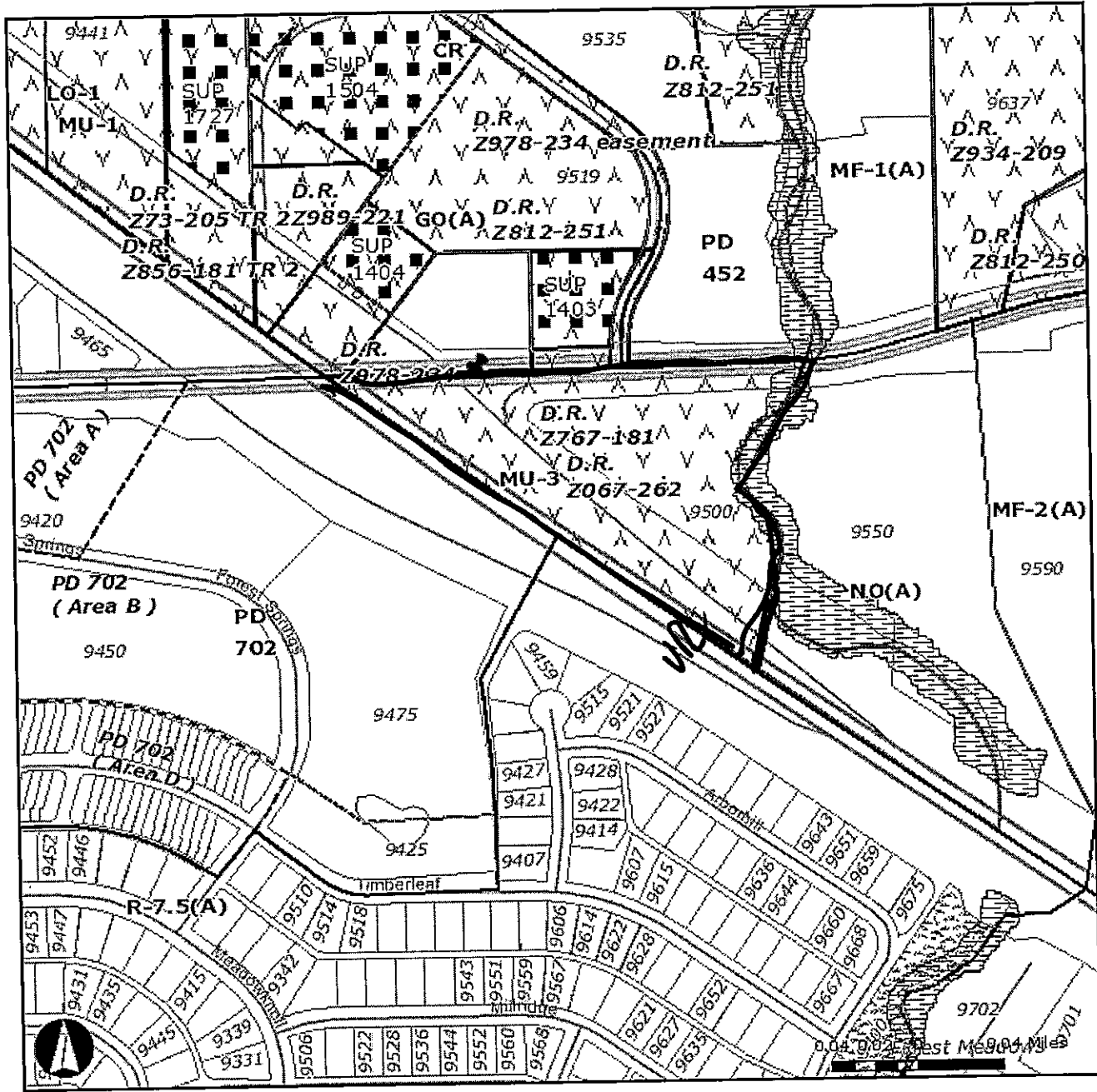
at 9500 Forest Lane

BDA101-033. Application of Robert Baldwin for a special exception to the landscaping regulations, a special exception to the tree preservation regulations and for a special exception to the sign regulations at 9500 Forest Lane. This property is more fully described as a 3.7319 acre tract in city block V/8151 and is zoned MU-3, which requires mandatory landscaping and allows 1 detached sign for ever 450 feet, or fraction thereof, c frontage on a public street. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations, an alternate tree preservation plan, which will require a special exception to the tree preservation regulations and to construct a second additional detached premise sign, which will require a special exception to the sign regulations.

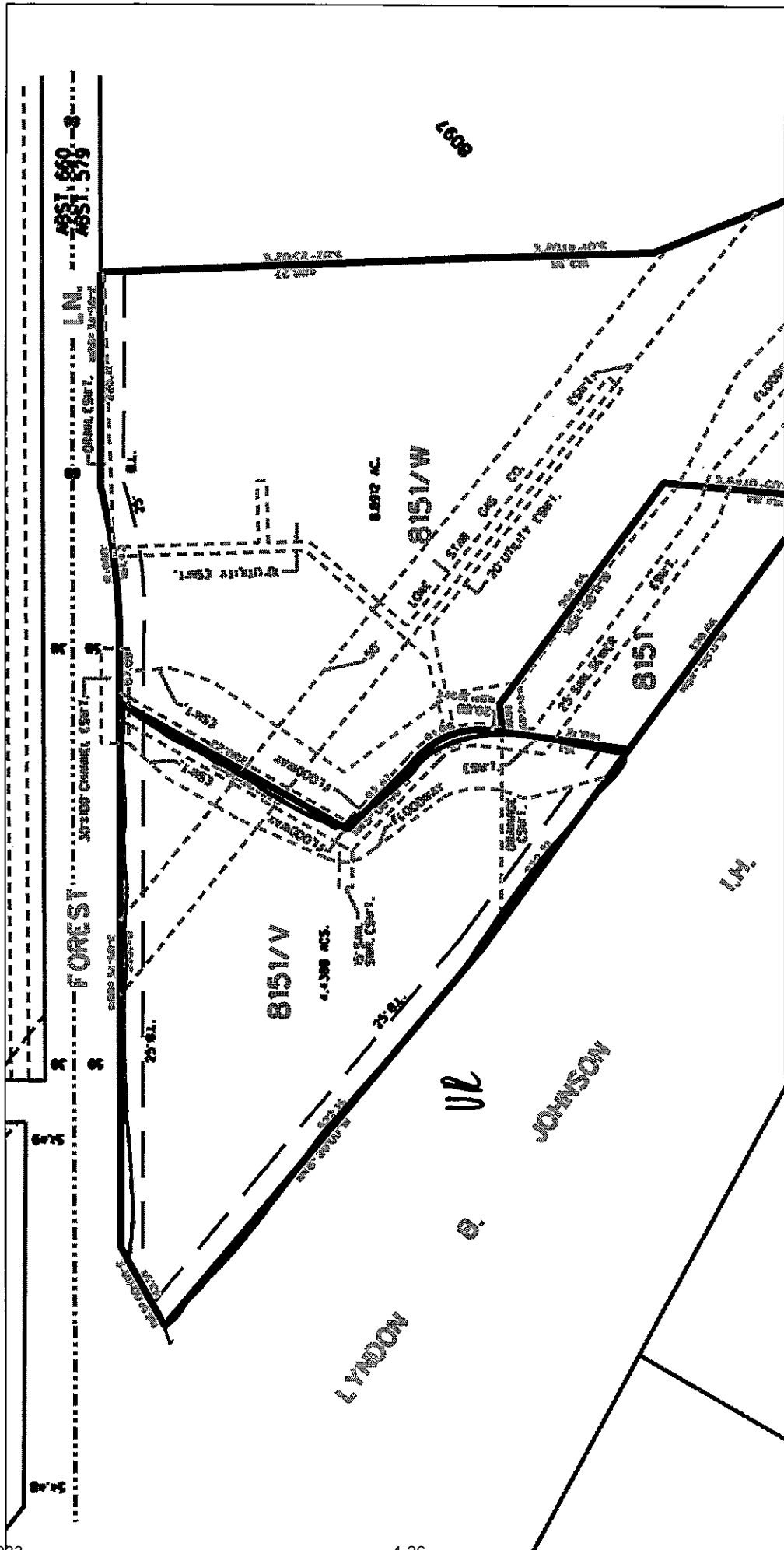
Sincerely,

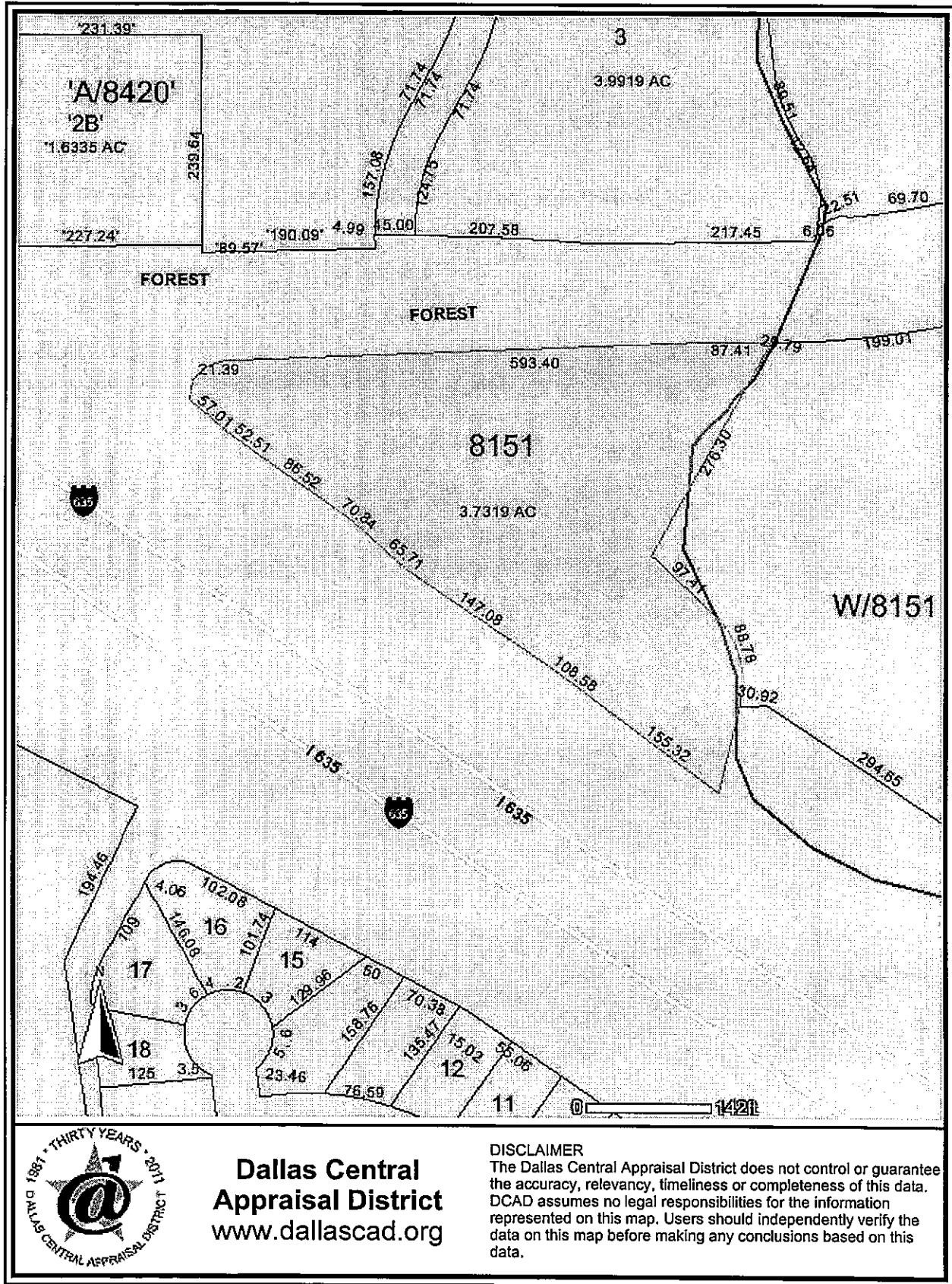
*Batsheba Antebi*  
Batsheba Antebi, Building Official

# City of Dallas Zoning



- |                    |                       |                      |
|--------------------|-----------------------|----------------------|
| Address Candidates | SUP                   | PDS Subdistricts     |
| City Boundaries    | Dry Overlay           | Base Zoning          |
| County             | D                     | Floodplain           |
| Certified Parcels  | D-1                   | 100 Flood Zone       |
| DISD Sites         | Historic Overlay      | Mill's Creek         |
| Council Districts  | Historic Subdistricts | Peak's Branch        |
|                    | NSO Overlay           | X PROTECTED BY LEVEE |
|                    |                       | Pedestrian Overlay   |
|                    |                       | CP                   |





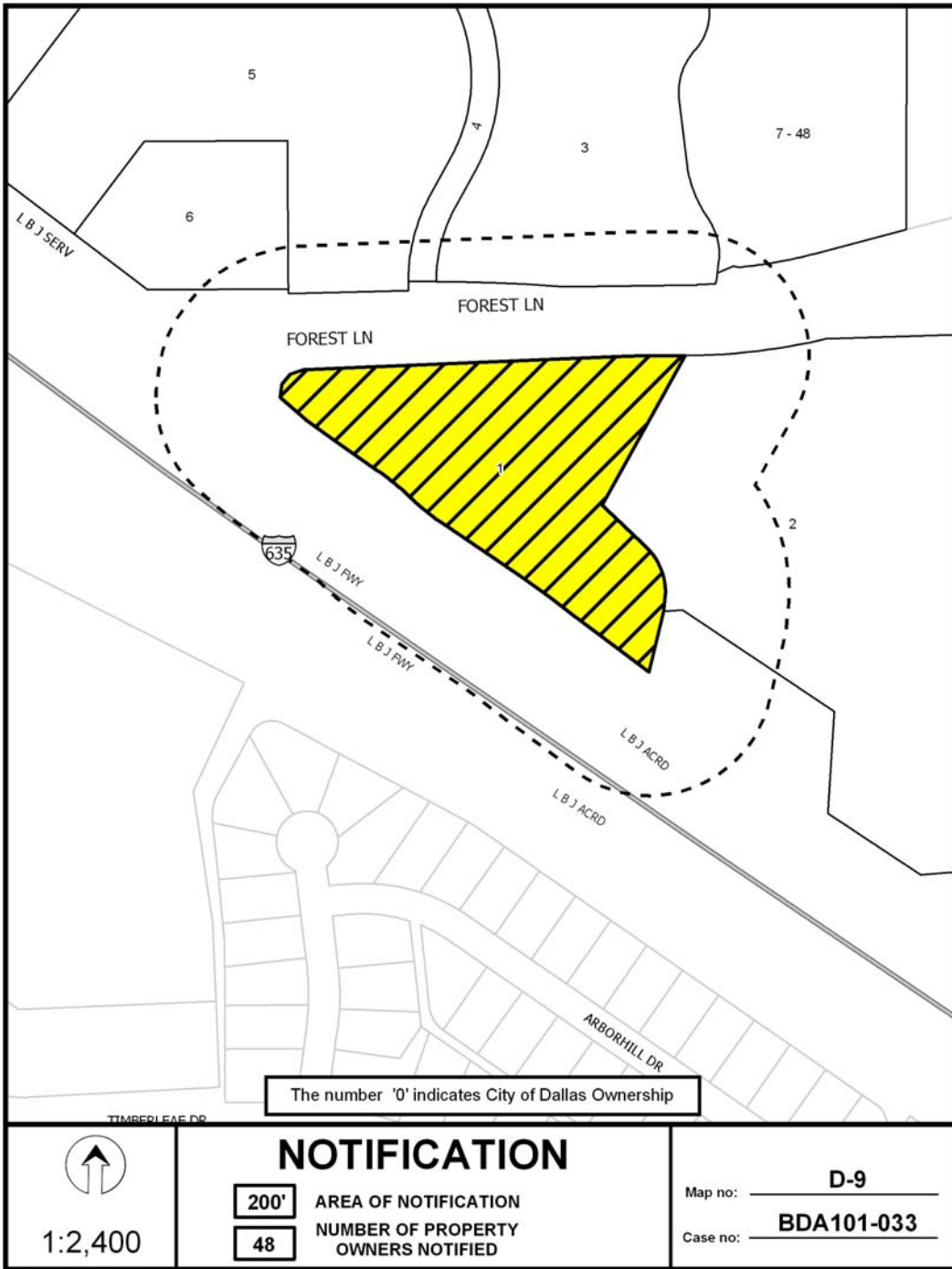
*donnie made this to confirm acre.*











# **Notification List of Property Owners**

**BDA101-033**

## **48 Property Owners Notified**

<b>Label #</b>	<b>Address</b>	<b>Owner</b>
1	9500 FOREST	CALC PARTNERS LP %CALC MANAGEMENT LLC
2	9550 FOREST	7100 REGENCY SQUARE LP
3	9555 FOREST	SECURITY PORTFOLIO V LP BLDG E
4	9535 FOREST	9535 FOREST LANE LP STE 500
5	9519 FOREST	BIGELOW ARIZONA TX 348 LP % BIGELOW
6	9501 LBJ	EXXONMOBIL OIL CORP
7	9601 FOREST	WYATT JOHN & SHEILA WYATT
8	9601 FOREST	ANGELL CAPITAL I LLC SUITE 501
9	9601 FOREST	BRAGG MARQUIS
10	9601 FOREST	BECK JUNITA
11	9601 FOREST	HUBBARD DAMIONE JR
12	9601 FOREST	TAYLOR KENDRICK
13	9601 FOREST	CONLEY GREGORY UNIT 123
14	9601 FOREST	FRYE TERRY LEE
15	9601 FOREST	GOLDSTEIN AARON H & PAULA KAYE
16	9601 FOREST	WARREN CHRISTINA
17	9601 FOREST	ANDERSON VYBRONE & EVELYN
18	9601 FOREST	BKKR REALTY LLC
19	9601 FOREST	PETTIGREW GAYLE D
20	9601 FOREST	BAYVIEW LOAN SERVICING LLC 5TH FLOOR
21	9601 FOREST	SCHERER T O
22	9601 FOREST	CHANG DONG PING
23	9601 FOREST	LEANDER WILLIAM JR
24	9601 FOREST	DYKES APRIL
25	9601 FOREST	CHASTAIN CODY
26	9601 FOREST	MONTGOMERY JALHA
27	9601 FOREST	DONNELL CEDRIC
28	9601 FOREST	ALLEN CASSANDRA UNIT 1313
29	9601 FOREST	GUAN ZHIJUN BLDG M UNIT 1321

30	9601	FOREST	MEDLOCK CHETERIA
31	9601	FOREST	FARUQ AUSAF & AYESHA
32	9601	FOREST	SCHERER T O III APT 1
33	9601	FOREST	TANG SILIVIA H
34	9601	FOREST	OU CUILAN
35	9601	FOREST	SWOYER RANDALL LEE
36	9601	FOREST	HYE ANNE
37	9601	FOREST	YODER JUSTIN
38	9601	FOREST	DOSSEY GARRY D ETAL N1423
39	9601	FOREST	MTA PARTNERS LLC
40	9601	FOREST	HUFFMAN LAURA
41	9601	FOREST	NYAKIA PAMELA
42	9601	FOREST	MTA PARTNERS LLC
43	9601	FOREST	OU CUI LAN UNIT 1512 BLDG O
44	9601	FOREST	SMITH MARY
45	9601	FOREST	MTA PARTNERS LLC
46	9601	FOREST	OLABIYI OLAYEMI BLDG O UNIT 1522
47	9601	FOREST	PATTERSON TRACY
48	9601	FOREST	STRAUTHER ELOISE

**FILE NUMBER:** BDA 101-039

**BUILDING OFFICIAL'S REPORT:**

Application of Jon Duperier, represented by John Hamilton for a variance to the height regulations at 2815 Greenville Avenue. This property is more fully described as Lot 10, 11 and 12 in City Block 8/ 1926 and is zoned CR which limits the height of a structure to 26 feet due to the residential proximity slope regulation. The applicant proposes to construct a structure with a height of 33 feet which will require a variance of 7 feet.

**LOCATION:** 2815 Greenville Avenue

**APPLICANT:** Jon Duperier  
Represented by John Hamilton

**REQUEST:**

- A variance to the height regulations (specifically to the residential proximity slope or RPS) of 7' is requested in conjunction with constructing and maintaining a 33' high, approximately 96 square foot "roof access enclosure" structure to be located atop a structure under redevelopment on the site, which would be located above RPS (residential proximity slope) line that begins at the CD No. 15/single family residentially-zoned undeveloped/vacant property immediately south of the site. The structure that is under redevelopment on the site appears from submitted plans to include three storefronts/restaurant uses (Terilli's, Rohst, and Dodie's) each with "roof access enclosure" structures to roof patios only one of which is to exceed the RPS line – that being the "roof access enclosure" structure to be located atop the southernmost store front (Terilli's) nearest the single family residentially zoned undeveloped/vacant property immediately to the south. (The other two 33' high "roof access enclosure" structures have been recently constructed atop the building on the site and are shown on the submitted elevation and site plan to be in compliance with the RPS given their height and their distance to the adjacent residentially-zoned property to the south and west).

**STAFF RECOMMENDATION:**

Denial

Rationale:

- The applicant has not substantiated how either the restrictive area, shape, or slope of the site/lot preclude it from being developed in a manner

commensurate with development found on other CR (Community Retail) zoned lots.

**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:

- (A) the variance is 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) the variance is 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) the variance is 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.

**GENERAL FACTS:**

- The maximum height for a structure in a CR zoning district is 54', however, any portion of a structure over 26' in height cannot be located above a residential proximity slope, which in this case given that the subject site is immediately adjacent to property zoned CD No. 15/single family, is a 1:3-slope (or 1 foot in height for every 3 foot away from private property in a residential zoning district). The RPS slope on the subject site begins at the CD No. 15 zoned property immediately south and west of the site, however, given what is shown on the submitted site plan and elevation, the only encroachment beyond these two RPS lines is the line that begins from the currently vacant/undeveloped single family zoned property to the south. The application and Building Official's Report states that a variance of 7' is requested since there is a structure proposed to reach 33' in height or 7' higher/beyond than the 26' height allowed for a structure within the RPS line. The submitted elevation and site plan shows one of the three "roof access enclosure" structures requiring variance to the RPS that being the "roof access enclosure" structure for the southernmost restaurant/storefront on the site.
- The subject site is flat, rectangular in shape (150' x 160'), and, according to the application, is 0.5510 acres (or approximately 24,000 square feet) in area.
- DCAD states that the site is developed with a 10,875 square foot "retail strip."

- The applicant forwarded additional information beyond what was submitted with the original application (see Attachment A). This information included an elevation with the RPS line, and a document that provided additional details about the request.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: CR (Community Retail)  
North: CR (Community Retail)  
South: CD No. 15 (Conservation District)  
East: CR (Community Retail)  
West: CD No. 15 (Conservation District)

**Land Use:**

The subject site is being redeveloped with a structure to house three retail/restaurant uses (Terrlli’s, Rohst, and Dodie’s). The areas to the north and east are developed with a retail uses; the area to the south is undeveloped/vacant; and the area to the west is developed with single family uses.

**Zoning/BDA History:**

1. BDA 93-152, Property at 2831 Greenville Avenue ( the subject site) On August 24, 1991, the Board of Adjustment granted a variance to the front yard setback regulations of 15’. The board imposed the following condition to the request: the applicant must submit a landscape plan to be approved by the Board Administrator. The case report stated that the request was made in conjunction with the placement of an existing awning added to the 3,100 square foot building (Pazzi’s) in July of 1993 – an awning assumed to be in compliance because a neighboring restaurant on the site (Terilli’s) had a similar type of awning. (The case report stated that according to Building Inspection, Terilli’s would most likely be submitting a similar type of variance request for their awning in the near future).

## **Timeline:**

- March 7, 2011: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- April 20, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- April 21, 2011: 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 May 2<sup>nd</sup> deadline to submit additional evidence for staff to factor into their analysis; and the May 6<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.
- April 28 & May 3, 2011: The applicant forwarded additional information on this application beyond what was submitted with the original application (see Attachment A).
- May 3, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.

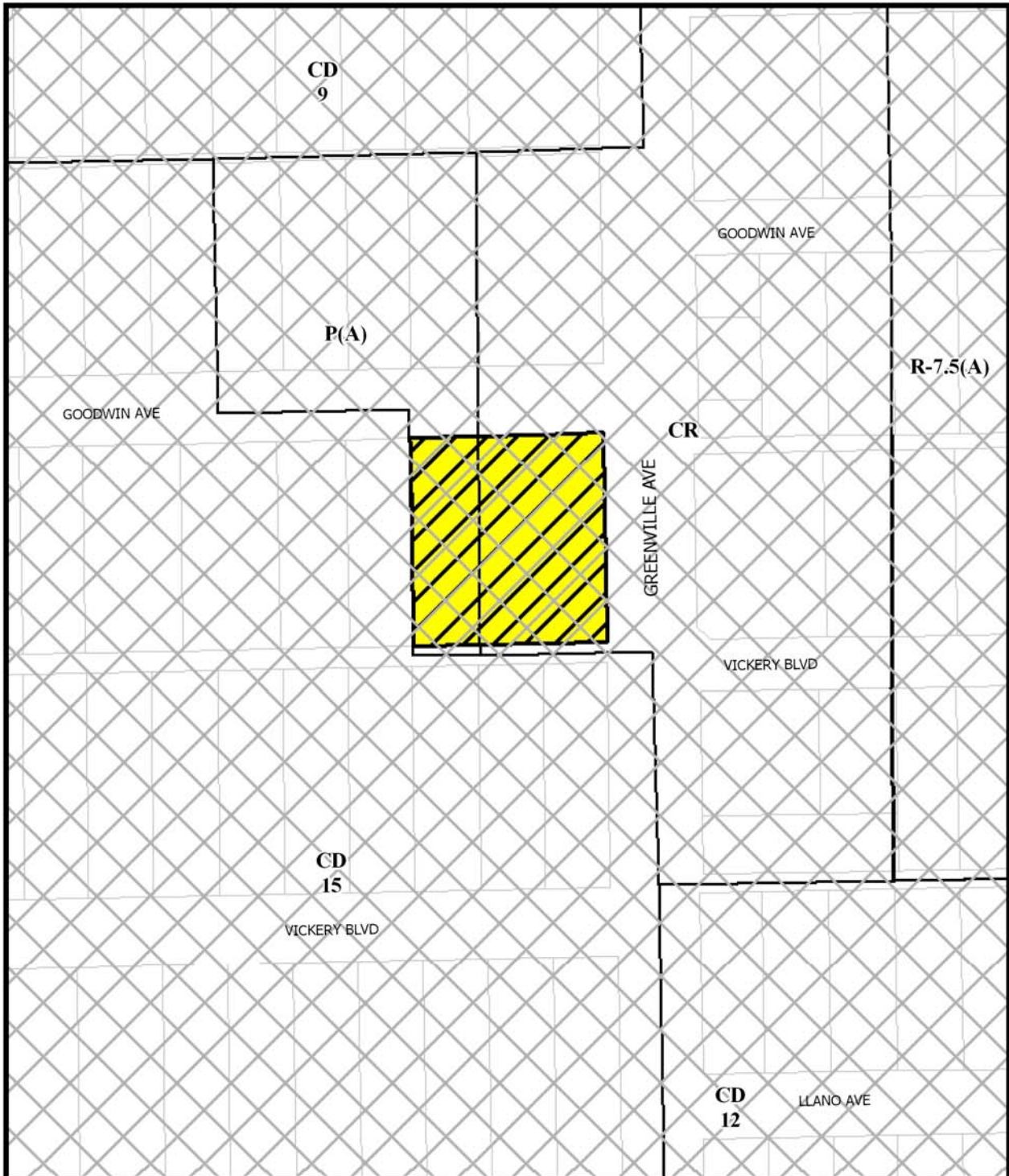
No review comment sheets with comments were submitted in conjunction with this application.

## **STAFF ANALYSIS:**

- The request focuses on constructing and maintaining a 33’ high, approximately 96 square foot “roof access enclosure” structure to be located atop a structure under redevelopment on the site, which would be located above RPS (residential proximity slope) line that begins at the CD No. 15/single family residentially- zoned undeveloped/vacant property immediately south of the site.



- The structure that is under development on the site appears from submitted plans to include three storefronts/restaurant uses (Terilli's, Rohst, and Dodie's) each with "roof access enclosure" structures to roof patios only one of which is to exceed the RPS line – that being the "roof access enclosure" structure to be located atop the southernmost store front (Terilli's) nearest the single family residentially zoned undeveloped/vacant property immediately to the south. (The two other 33' high "roof access enclosure" structures have been recently constructed atop the building on the site and are shown on the submitted elevation and site plan to be in compliance with the RPS given their height and their distance from the adjacent residentially-zoned property to the south and west).
- The subject site is flat, rectangular in shape (150' x 160'), and, according to the application, is 0.5510 acres (or approximately 24,000 square feet) in area.
- DCAD states that the site is developed with a 10,875 square foot "retail strip."
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to height regulations due to the residential proximity slope will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same CR (Community Retail) zoning classification.
  - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same CR (Community Retail) zoning classification.
- If the Board were to grant the height variance of 7', imposing a condition whereby the applicant must comply with the submitted site plan and elevation, the structure encroaching above and beyond the residential proximity slope would be limited to what is shown on the submitted plan and elevation which in this case is a 33' high, approximately 96 square foot "roof access enclosure" structure to be located atop a structure under redevelopment on the site – a structure of similar height and footprint as two recently constructed "roof access enclosure" structures atop the roof of the building on the site that are in locations where these structures fall below the RPS line.



1:1,200

# ZONING MAP

Map no:           H-8          

Case no:           BDA101-039          

DATE: April 28, 2011



1:1,200

# AERIAL MAP

Map no:           H-8          

Case no:           BDA101-039          

DATE: April 28, 2011



BDA101-039

Attach A

**Long, Steve**

pg 2

**From:** John Hamilton [hamiltonwolf08@yahoo.com]  
**Sent:** Tuesday, May 03, 2011 1:06 PM  
**To:** Long, Steve  
**Subject:** 2919 Greenville - Variance BDA Case 101-039

Honorable Board of Adjustments  
Mr. Steve Long, Administrator

Dear Sirs,

An Application for Variance has been made to the Board for a Height Variance to allow an additional 7ft of height for a Rooftop Stair Access Enclosure above the allowed 26ft height restriction. The Property is along Greenville Avenue, and is in a well know location that has Terillis Restaurant, Rohst Restaurant, and Dodies Restaurant. Across the street are both the Grape, and the Blue Goose Restaurants respectively.

The overall building has three restaurants located within it, and all three face Greenville Ave.

The Rooftop Patios are allowed by right by the City of Dallas Development Code, and are approved and constructed in compliane with all Local, City and State Codes. The Restaurants located in the middle and north ends of the building have already completed construction of the Rooftop Stair Access Enclosures as they are not close enough to a Residential Property Line, but the South Restaurant (TERILLIS) is close enough that the Variance is required.

The reason and request for the Variance, is to have access to the Roof be weatherproof, safe for patrons and staff, and to have a more visible and secure entry/access point control.

We believe that the visual impact is very nearly nil as the Rooftop Stair Enclosures are only slightly visible from the street level.

We believe that the entire property and all of the restaurants should have the same secure, safe, weatherproof access to the roof at both the north and the south ends of the building.

We feel strongly that the Restaurants, the Owners and the Tenants and Patrons are served well by the investment and rehabilitation of the Property, the Rooftops and the environment by this variance, and look forward to our Board Hearing on May 17, 2011.

If you have questions or comments, Please contact me at your convenience.

Applicant Representative 101-039  
John A. Hamilton, Assoc. AIA  
**Hamilton Wolf Andrews**  
2802 N. Carroll Ave #4309  
Dallas, Texas 75204  
(469) 951-2547  
[hamiltonwolf08@yahoo.com](mailto:hamiltonwolf08@yahoo.com)



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-039

Data Relative to Subject Property:

Date: 3.7.2011

Location address: 2819 GREENVILLE AVE, DALLAS TX 75204 Zoning District: CR

Lot No.: 10, 11, 12 Block No.: 8/1926 Acreage: .5510 Census Tract: 10.01

Street Frontage (in Feet): 1) 160'-0" 2) 150'-0" 3) GREENVILLE GARDEN 4) 5) 58' 2"

To the Honorable Board of Adjustment :

Owner of Property: GREENVILLE LANDMARK VENTURE, LTD

Applicant: JON DUPERIER Telephone: 214.587.3040

Mailing Address: 3405 MILTON AVE #209 - DALLAS TX Code: 75205

Represented by: JOHN HAMILTON Telephone: 424-951-2547

Mailing Address: 2802 N. CARROLL AVE #4209 DALLAS, TX 75204 Zip Code: 75204

Affirm that a request has been made for a Variance X or Special Exception of THE RESIDENTIAL PROXIMITY SLOPE HEIGHT RESTRICTION FROM 26'-0" AS ALLOWED TO 23'-0" (7 FT HIGHER) FOR WEATHERPROOF ENCLOSURE ONLY EXCEPTION IS FROM SOUTH SIDE @ VACANT LOT

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:

FOR THE SAFETY OF THE PATRONS FOR ACCESS AND EGRESS. FOR COMMON AND CONSISTENT DESIGN WITHIN COMMUNITY ARCHITECTURE.

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: JON DUPERIER Applicant's name printed [Signature] Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared JON DUPERIER 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.

[Signature] Affiant (Applicant's signature)

Subscribed and sworn to before me this 15th day of March, 2011

[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 Jon Duperier  
represented by John Hamilton  
did submit a request for a variance to the height regulation  
at 2819 Greenville Avenue

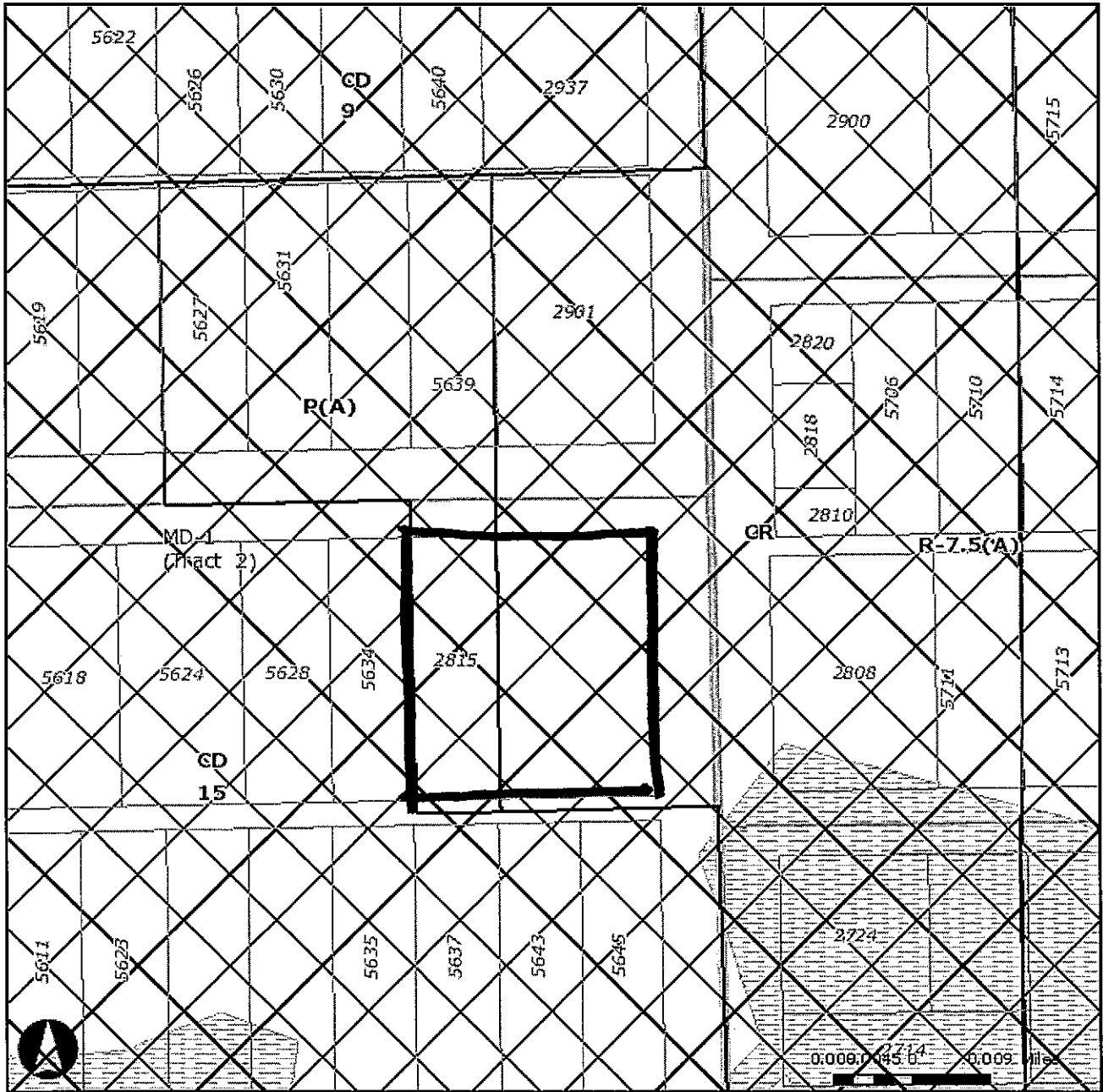
BDA101-039. Application of Jon Duperier represented by John Hamilton for a variance to the height regulations at 2815 Greenville Avenue. This property is more fully described as Lot 10, 11 and 12 in city block 8/ 1926 and is zoned CR, which limits the height of a structure to 26 feet due to the residential proximity slope regulation. The applicant proposes to construct a nonresidential structure with a height of 33 feet, which will require a 7 foot variance to the maximum building height regulation.

Sincerely,

*Batsheba Antebi*  
Batsheba Antebi, Building Official



# City of Dallas Zoning



**City Boundaries**

- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

**Dry Overlay**

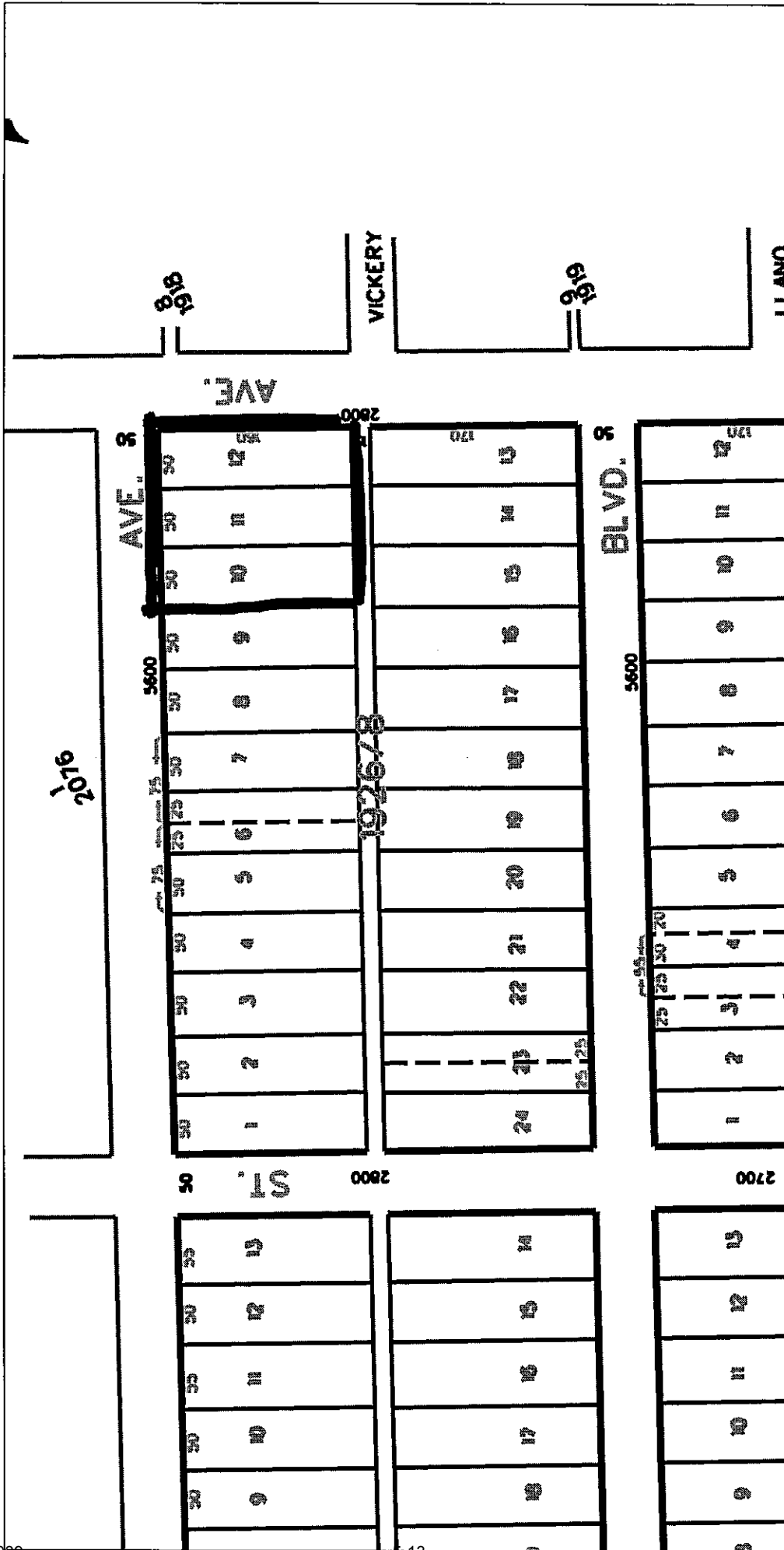
- Dry Overlay
- D
- D-1
- Historic Overlay
- Historic Subdistricts
- NSO Overlay
- NSO Subdistricts

**Base Zoning**

- Base Zoning
- Floodplain
- 100 Flood Zone
- Mill's Creek
- Peak's Branch
- X PROTECTED BY LEVEE
- Pedestrian Overlay
- CP
- SP

*JA*





FLAT MAP

**PROJECT INFORMATION**

OWNER:  
GREENVILLE LANDMARK VENTURE, LTD  
3400 WILTON AVENUE, SUITE 200  
DALLAS, TEXAS 75205  
CONTACT: JON GUERBER

CONTRACTOR:  
DENCO CONSTRUCTION SPECIALISTS  
1000 W. WILSON AVENUE  
GARLAND, TEXAS 75043  
CONTACT: STEVE SMITH  
409.483.9999  
SSM@DENCOSPECIALISTS.COM

ASSOCIATE:  
HAMILTON WOLF ANDREWS  
2902 N. CARROLL AVE #4309  
DALLAS, TEXAS 75204  
CONTACT: JOHN A. HAMILTON  
HAMILTONWOLF@HAWOOD.COM  
409.581.2547

TAS-ADA COMPLIANCE:  
FREDERICK & ASSOCIATES, INC  
1000 WEST ST, STE 201  
BECKSBURG, TEXAS 76021

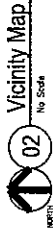
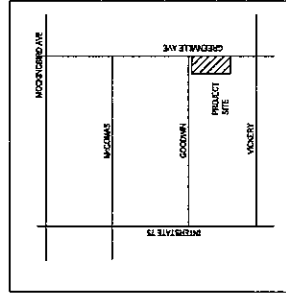
CONTACT: SUSAN FREDERICK  
SUSAN@FREDERICK-  
ASSOCIATES.COM

TOTAL BLDGS SF COVERED: 13,763

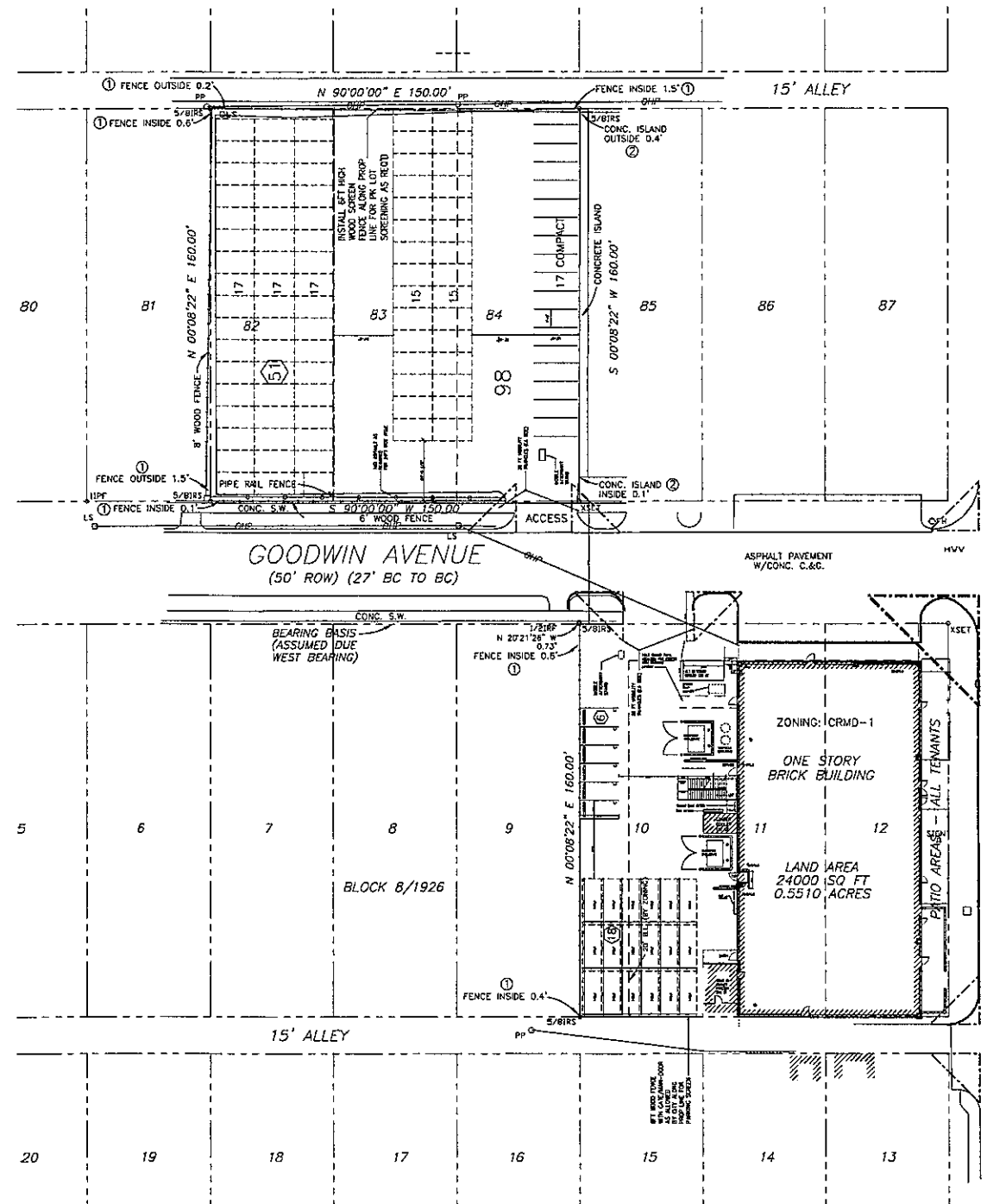
PARKING REQUIRED: 138

PARKING PROVIDED SUMMARY:  
PACKED PARKING - REMOTE 08  
PACKED PARKING - ON SITE 24  
DELTA CREDITS 24

TOTAL PARKING PROVIDED: 138



Vicinity Map  
No Scale



CONCRETE PAVEMENT  
W/CONC. C.&G.

GREENVILLE AVENUE  
(60' ROW) (37.5' BC TO BC)

Site Plan - Survey Plan  
1/8" = 1'-0"

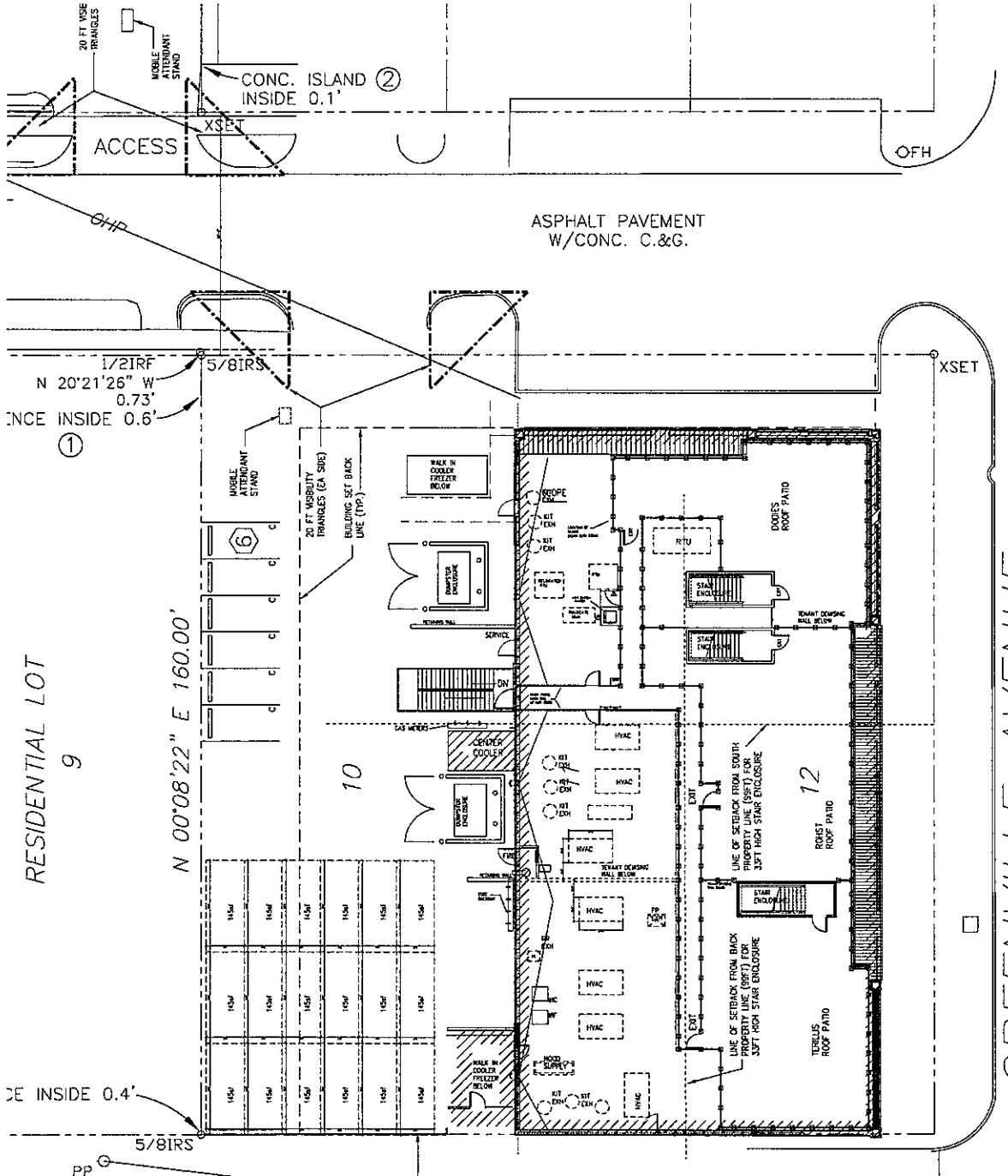


HAMILTON WOLF ANDREWS  
Architecture / Design / Consulting  
Restaurant - Retail Design  
1000 W. WILSON AVENUE  
GARLAND, TEXAS 75043  
TEL: 409-483-9999  
WWW.HAMILTONWOLFANDREWS.COM

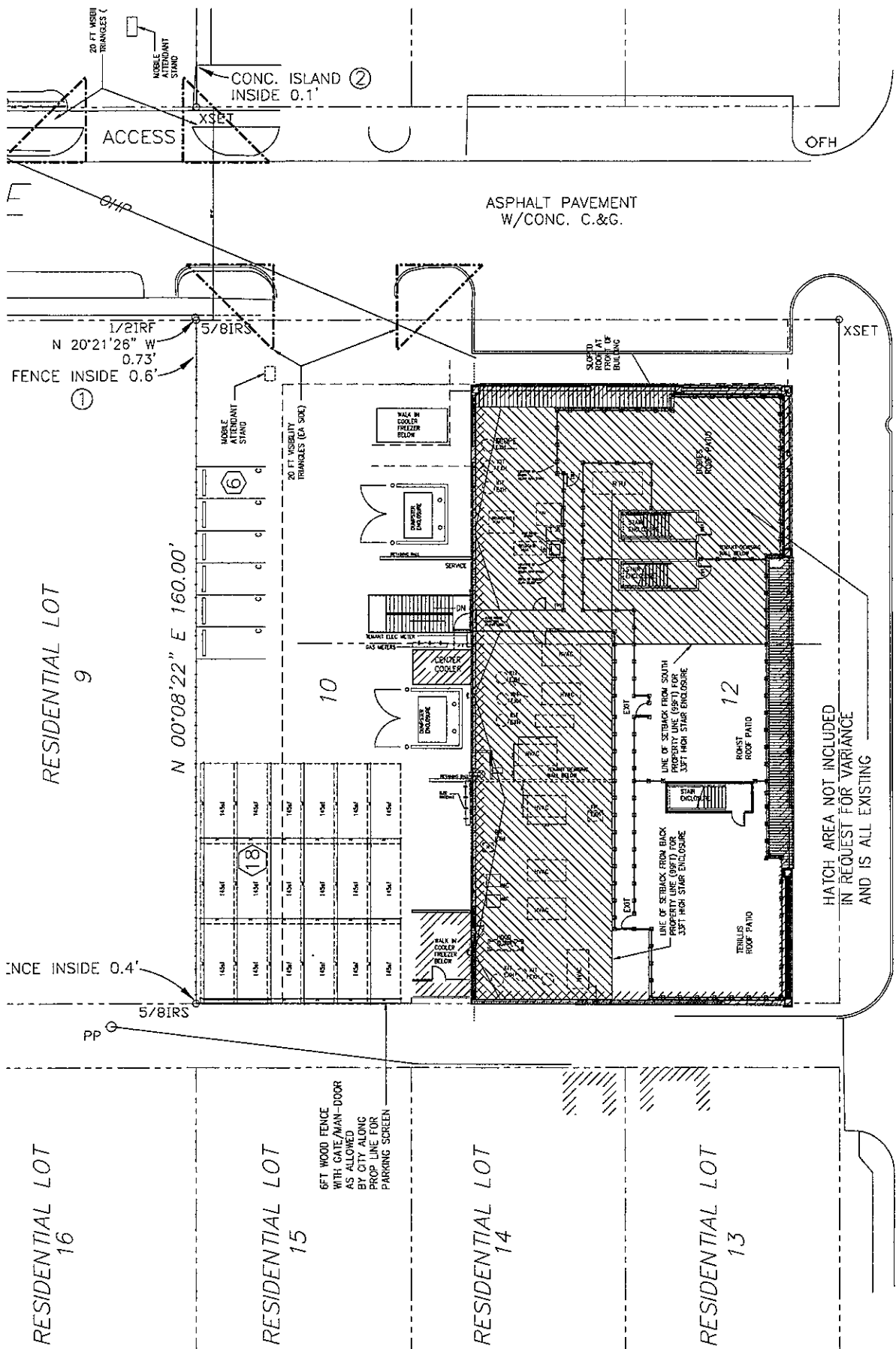
**DENCO**  
Construction Specialists  
6525 Lyons Rd. Garland, TX 75042  
(414) 898-8199 (972) 239-6155 fax

Roof Enclosure Variance  
2815 Greenville Ave (Above Terillis Restaurant)  
Dallas, Texas 75206

PERMIT 2-23-12  
DRAWN BY: HAMILTON  
JOB NUMBER:  
DATE: 09/09  
SHEET NO. A-00 SITE

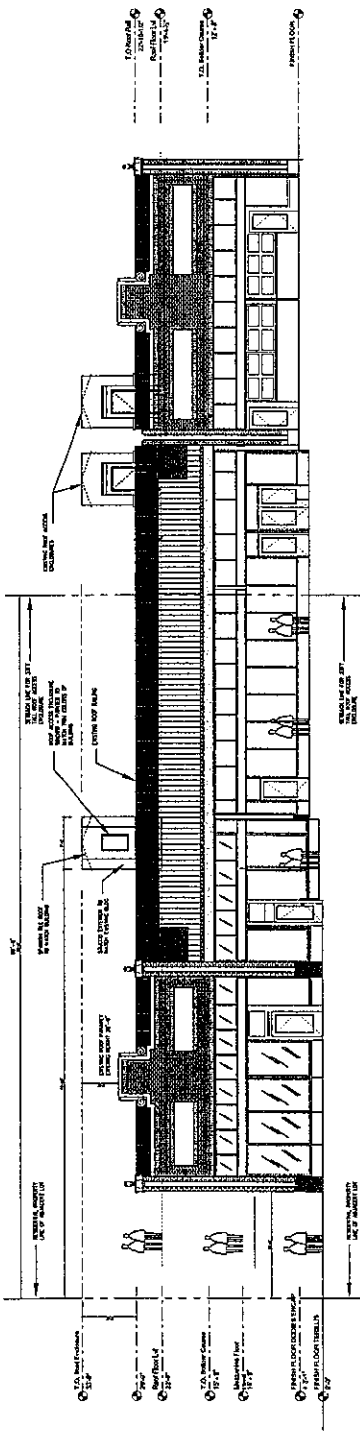


RESIDENTIAL LOT 16  
 RESIDENTIAL LOT 15  
 6FT WOOD FENCE WITH GATE/MAN-DOOR AS ALLOWED BY CITY ALONG PROP LINE FOR PARKING SCREEN  
 RESIDENTIAL LOT 14  
 RESIDENTIAL LOT 13  
 GREENVILLE AVENUE

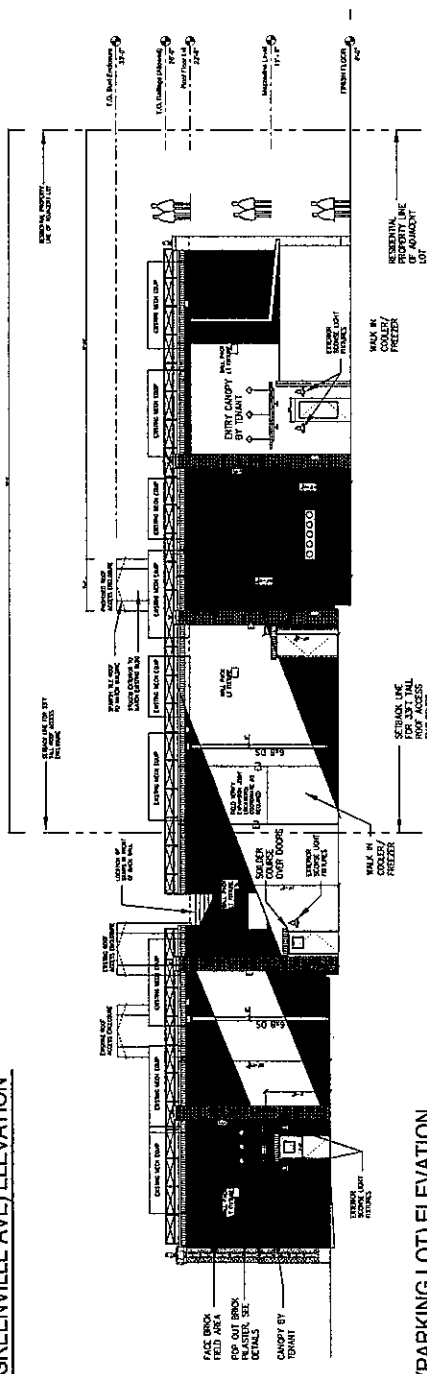


BDA 101-039

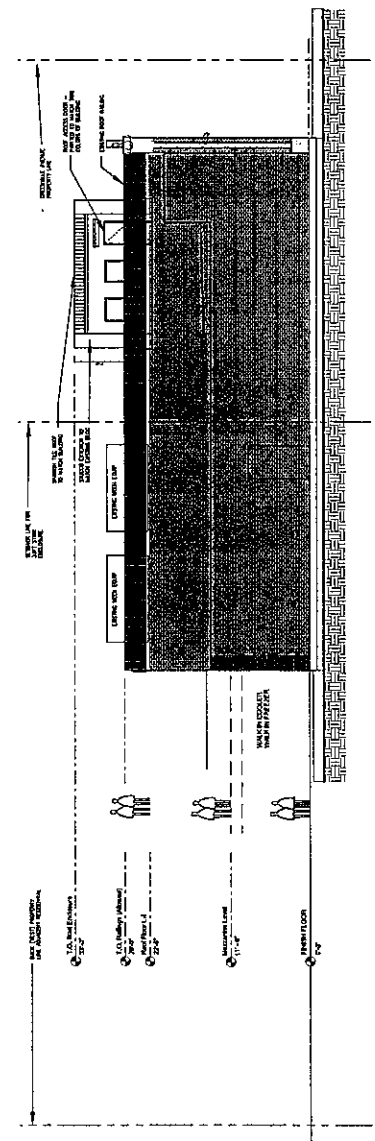
5-16



01 OVERALL EAST (GREENVILLE AVE) ELEVATION  
1/8"=1'-0"



02 OVERALL WEST (PARKING LOT) ELEVATION  
1/8"=1'-0"



03 OVERALL SOUTH (RESIDENTIAL LOT) ELEVATION  
1/8"=1'-0"

BDA 101-039

<p><b>HAMILTON WOLF ANDREWS</b> Architectural Design / Consulting 1100 West 19th Street, Suite 100 Dallas, Texas 75206 (214) 886-9199</p>	<p><b>DENCO</b> Construction Specialists 6525 Lorna Rd. Garland, TX 75043 (214) 886-9199 (773) 226-9185 fax</p>	<p><b>PROJECT / CLIENT</b> 2815 Greenville Ave (Above Terrell's Restaurant) Dallas, Texas 75206</p>	<p><b>PERMIT</b> 625-510 <b>DESIGN BY</b> HAMILTON <b>JOB NUMBER</b> <b>DATE</b> <b>STREET NO.</b> <b>A-100</b> <b>ELEV</b></p>
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## RESIDENTIAL ADJACENCY REVIEW

Date: September 28, 2010

1.	<b>Application #:</b>	1008261001, -05, -06, -07, -08
2.	<b>Date of application:</b>	August 26, 2010
3.	<b>Date received by RAR team:</b>	September 20, 2010
4.	<b>Date RAR report completed:</b>	September 28, 2010
5.	<b>Type of application:</b>	Building permit (RAR required)
6.	<b>Address:</b>	2815, 2817 and 2821 Greenville Avenue
7.	<b>Proposed activity/business:</b>	"Restaurant without drive-in or drive-through service"
8.	<b>Use classification:</b>	5811
9.	<b>Zoning of subject property:</b>	CR Community Retail, MD-1 Tract 2 P(A) Parking
10.	<b>Zoning of adjacent property:</b>	(north): CR Community Retail (south): CD 15 Vickery Place Conservation District (east): CR Community Retail, MD-1 (west): CD 15 Vickery Place Conservation District
11.	<b>Adjacent property development:</b>	(north): Restaurant (Blue Goose) (south): Single family residential uses (east): Retail (Earth Blooms, Stoney's Wines); Restaurant (The Grape); Bar (Dubliner Pub); Office (Attorneys' office) (west): Single family residential uses
12.	<b>Analysis:</b>	The proposed restaurant use in this zoning district requires a RAR review. The purpose of this review is to assess what, if any, reasonable accommodations should be made to lessen any possible adverse impacts of this use upon

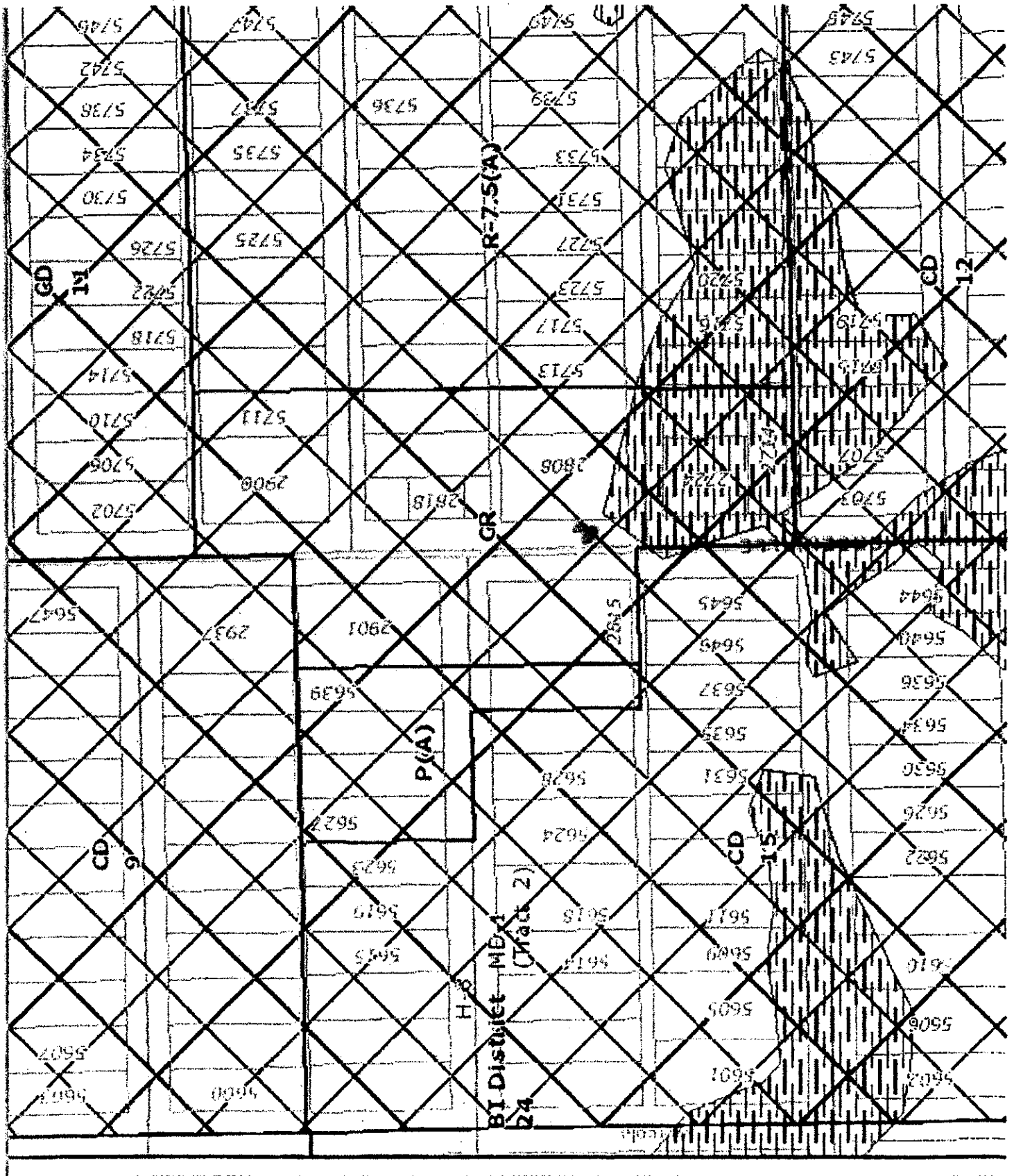
		<p>the adjacent existing residential uses.</p> <p>Reconstruction of these buildings is proposed to include the addition of open air, roof top restaurant space which previously did not exist.</p>
<p>13. <b>Action:</b></p>		<p><u>Approval with conditions:</u></p> <ol style="list-style-type: none"> <li>1. The <u>alley</u> to the south of the subject property <u>will not be used for access</u> to the parking lot located to the west of the building.</li> <li>2. Any <u>lighting</u> installed on the rooftop dining area <u>will be directed onto the rooftop</u>. No filaments will be visible from adjacent properties.</li> <li>3. There will be <u>no amplified sound</u> (speakers) associated with the rooftop dining area.</li> <li>4. The rooftop dining area will <u>not remain open after 12:00 a.m.</u> (midnight).</li> <li>5. Potted <u>evergreen plant material</u> will be installed and maintained to form a solid screen of 6 feet in height along the south and west perimeter of the rooftop dining area.</li> <li>6. A solid <u>screening fence</u> will be constructed and maintained along the south and west perimeter of the parking lot adjacent to the building.</li> </ol>
<p>14. <b>Rationale:</b></p>		<p>The above conditions are imposed to ensure compatibility of the proposed restaurant use (including rooftop seating) with the existing and adjacent residential uses.</p>
<p>15. <b>Attachments</b></p>		<p>Aerial                  Zoning map                  Photographs (street views x3)</p>

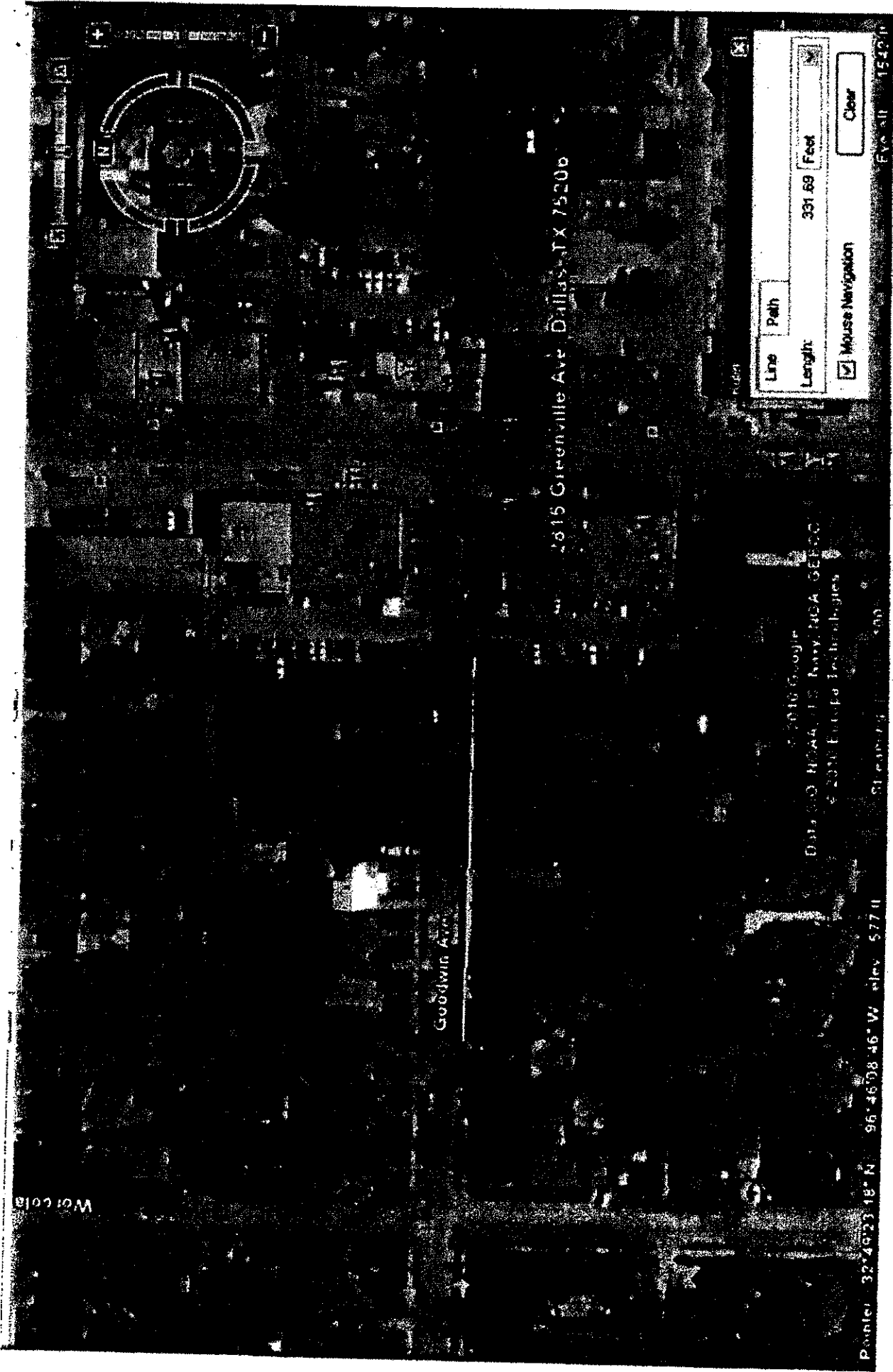


16.	<b>RAR reviewers contributing to this report:</b>	Ed Bateman, SDC/BI Leif Sandberg, SDC/BI

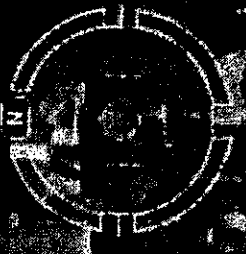
M:\RARs\2815 Greenville\RAR 092310.doc

92810





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Line Path

Length: 331.69 Feet

Mouse Navigation

Clear

Eye Alt 15.00

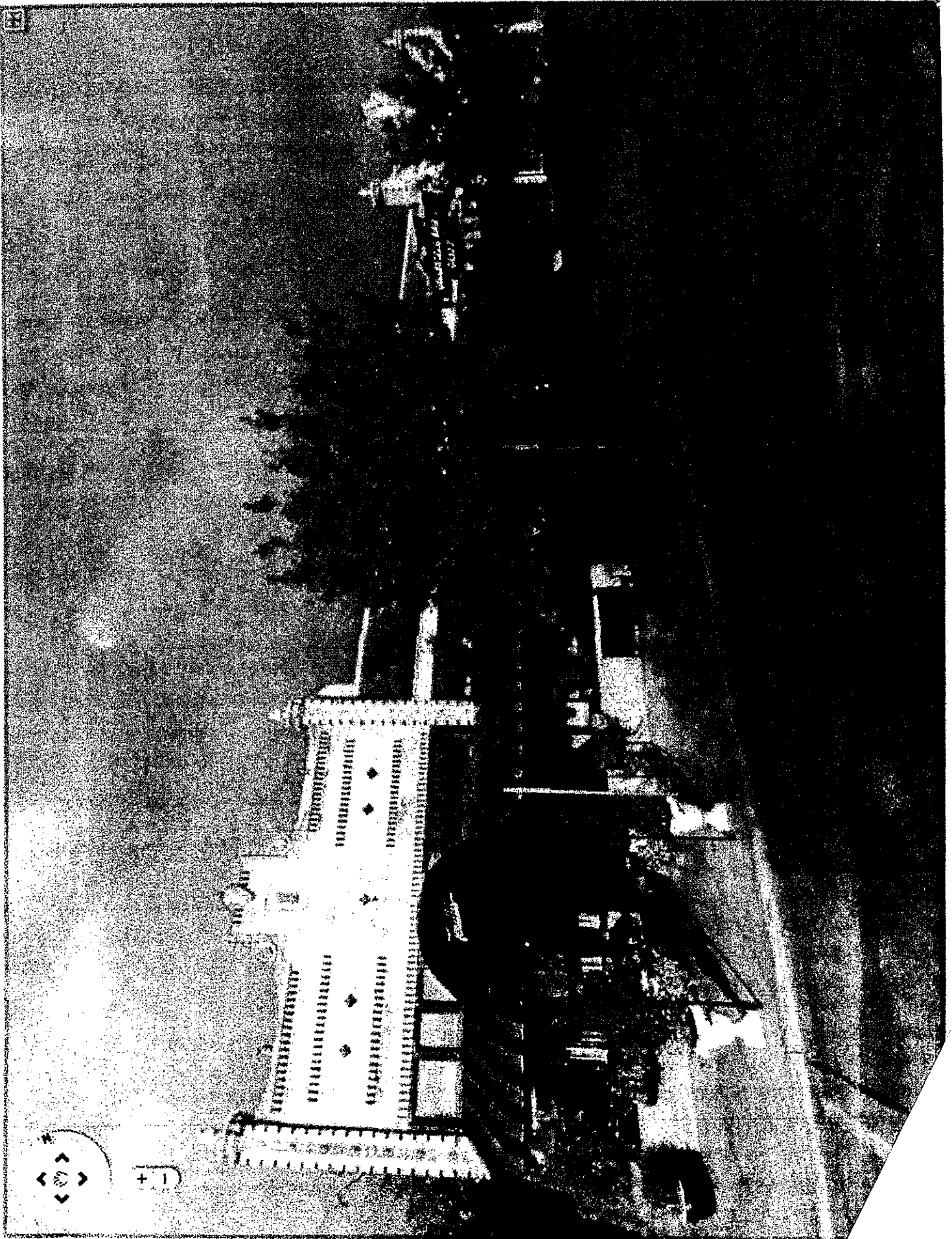
2815 Greenville Ave Dallas, TX 75206

Goodwin Ave

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© 2010 Europa Technologies

Point: 32°40'23.18" N 96°46'08.46" W elev: 577 ft

World

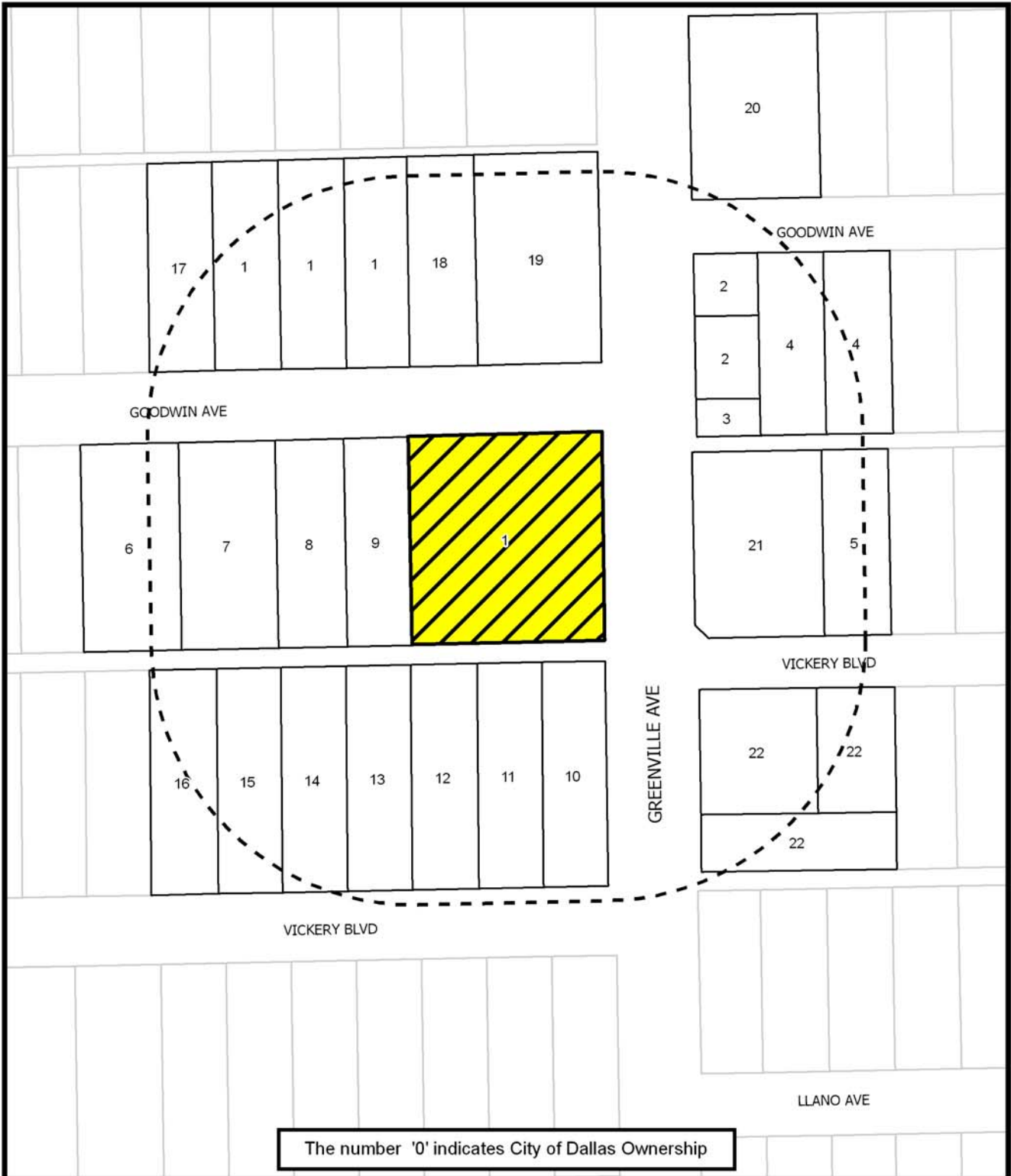






5840 Goodwin Ave, Dallas, TX, United States  
Address is approximate





1:1,200

# NOTIFICATION

**200'**

AREA OF NOTIFICATION

**22**

NUMBER OF PROPERTY OWNERS NOTIFIED

**H-8**

Map no: \_\_\_\_\_

**BDA101-039**

Case no: \_\_\_\_\_

DATE: April 28, 2011

# **Notification List of Property Owners**

**BDA101-039**

## **22 Property Owners Notified**

<b>Label #</b>	<b>Address</b>	<b>Owner</b>
1	5635 GREENVILLE	GREENVILLE LANDMARK VENT LTD
2	2820 GREENVILLE	RUBIN MARTIN J
3	2810 GREENVILLE	GRAPE BLDG JT VTR % KATHLEEN MCDANIEL
4	5710 GOODWIN	2900 GREENVILLE TRUST % MADISON PACIFIC DEV CO
5	5711 VICKERY	GRAPE BUILDING J V
6	5618 GOODWIN	MYERS ALAN S & CANDACE
7	5624 GOODWIN	ANDERSON ALEXANDER B
8	5628 GOODWIN	ZUNIGA JUAN & ELZA ISIDRO
9	5634 GOODWIN	FLANERY W
10	5645 VICKERY	FOSTER JOSEPH B L
11	5643 VICKERY	NPOT PARTNERS I LP
12	5637 VICKERY	HEFFLEFINGER GAY
13	5635 VICKERY	HOFFMAN STEPHEN T
14	5631 VICKERY	KAROL INVESTMENTS LLC
15	5627 VICKERY	LISTI KATHERINE ANNE
16	5623 VICKERY	BONNETT WILLIAM R
17	5623 GOODWIN	WAGNER GEORGE W JR
18	5639 GOODWIN	REISBERG FRED
19	2901 GREENVILLE	REISBERG FRED INV LTD
20	2900 GREENVILLE	MADISON PACIFIC DEVELOPMENT CO #300
21	2808 GREENVILLE	GRAPE BUILDING JV %KATHLEEN MCDANIEL
22	5710 VICKERY	K&B COMMERCIAL TEXAS ETAL % W W WILLINGHAM III