

BOARD OF ADJUSTMENT, PANEL A
TUESDAY, JUNE 14, 2011
AGENDA

BRIEFING	5/E/S	11:00 A.M.
LUNCH		
PUBLIC HEARING	COUNCIL CHAMBERS ,1500 MARILLA STREET	1:00 P.M.

Donnie Moore, Chief Planner
Steve Long, Board Administrator

MISCELLANEOUS ITEM

Approval of the Tuesday, May 17, 2011 Board of Adjustment Public Hearing Minutes	M1
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UNCONTESTED CASES

BDA 101-046	6150 Sherry Lane REQUEST: Application of William Milligan of Merriman Associates Architects for a special exception to the off-street parking regulations	1
BDA 101-050	2525 Frankford Road REQUEST: Application of Tom Bell, represented by Robert Howman, for a special exception to the fence height regulations	2
BDA 101-053(J)	2828 Lemmon Avenue East REQUEST: Application of Baldwin Associates for a variance to the front yard setback regulations	3

HOLDOVER CASE

BDA 101-028	707 N. Windomere Avenue REQUEST: Application of Ashley Ness for a special exception and a variance to the rear yard setback regulations	4
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REGULAR CASES

BDA 101-057	7815 LBJ Freeway aka 7909 LBJ Freeway REQUEST: Application of GHA Architects/Kristy Tornga for a special exception of the sign regulations	5
BDA 101-062(J)	8749 Southwestern Boulevard REQUEST: Application of Leigh Ann Everett represented by Roger Albright for a special exception to the parking regulations	6

EXECUTIVE SESSION NOTICE

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

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

(Rev. 6-24-02)

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel A May 17, 2011 public hearing minutes.

FILE NUMBER: BDA 101-046

BUILDING OFFICIAL'S REPORT:

Application of William Milligan of Merriman Associates Architects for a special exception to the off-street parking regulations at 6150 Sherry Lane. This property is more fully described as Lot 6 in City Block 1/ 5624 and is zoned PD-314 (Tract 6) which requires parking to be provided. The applicant proposes to construct a structure for office use and provide 13 of the required 17 parking spaces which will require a special exception of 4 spaces.

LOCATION: 6150 Sherry Lane

APPLICANT: William Milligan of Merriman Associates Architects

REQUEST:

- A special exception to the off-street parking regulations of 4 parking spaces (or a 24 percent reduction of the 17 off-street parking spaces that are required) is requested in conjunction with constructing and maintaining a two-story, approximately 5,700 square foot "office" use (Bandera Ventures Headquarters) on a site that is currently undeveloped. The applicant proposes to provide 13 (or 76 percent) of the 17 off-street parking spaces that are required for the proposed approximately 5,700 square foot office use structure.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- The special exception of 4 spaces shall automatically and immediately terminate when and if the office use is changed or discontinued.

Rationale:

- The Sustainable Development Department Project Engineer has no objections to this request.
- The applicant has substantiated how the parking demand generated by the proposed office use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. Five head-in parking spaces are provided immediately adjacent to the subject site which the City does not recognize as off-street parking spaces in that they are located and/or back into public right-of-way.

STANDARD FOR A SPECIAL EXCEPTION TO THE OFF-STREET PARKING REGULATIONS:

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights. For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 50 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.
- 2) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
 - (A) establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) impose restrictions on access to or from the subject property; or
 - (C) impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an

ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:

- (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
- (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

GENERAL FACTS:

- The Dallas Development Code requires that office use provide 1 space per 333 square feet of floor area. The application requests a reduction of 4 spaces to the 17 spaces that would be required to that what is shown on the submitted site plan – a 5,723 square foot “office” use structure. The applicant proposes to provide 13 (or 76 percent) of the required 17 off-street parking spaces in conjunction with the site being developed with the approximately 5,700 square foot “office” use/structure.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 314 (Planned Development)
North: PD No. 314 (Planned Development)
South: PD No. 314 (Planned Development)
East: PD No. 314 (Planned Development)
West: PD No. 314 (Planned Development)

Land Use:

The subject site is undeveloped. The areas to the north, east, south, and west appear to be developed with a mix of office and retail uses.

Zoning/BDA History:

1. BDA 056-052, Property at 6147 Sherry Lane (the property immediately north of the subject site)

On December 12, 2005, the Board of Adjustment Panel C granted a request for a variance to the off-street parking regulations of 18 spaces (or 56 percent of the total 32 parking spaces required) and a special exception to the landscape regulations. The board imposed compliance with the submitted revised site plan as a condition to these requests. The case report stated that the requests were made in conjunction with constructing and maintaining a 5,600 square

foot two-story retail use (Dee & Hattie's Specialty Cleaners) and providing 14 of the required 28 off-street parking spaces and not fully providing required landscaping on the site.

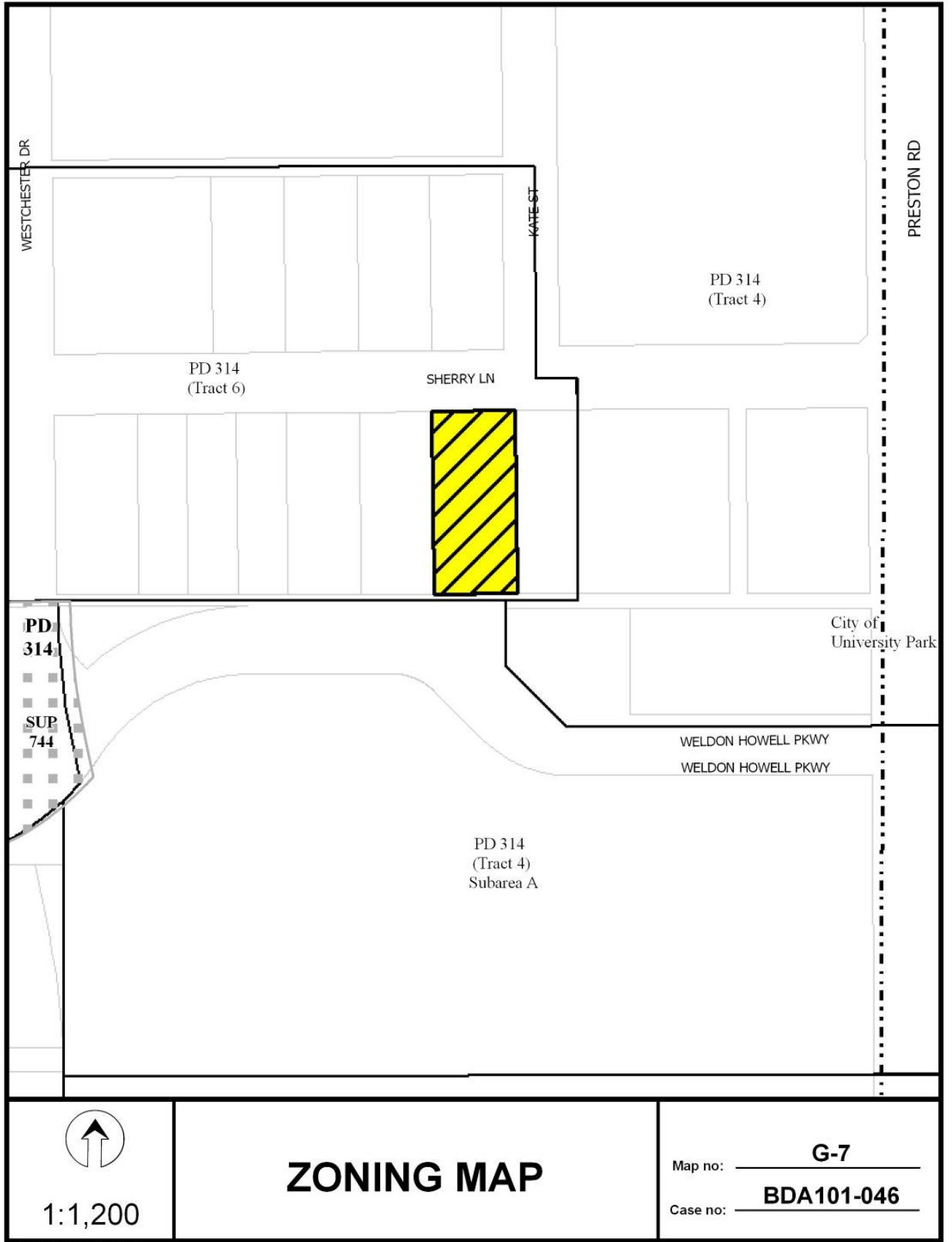
Timeline:

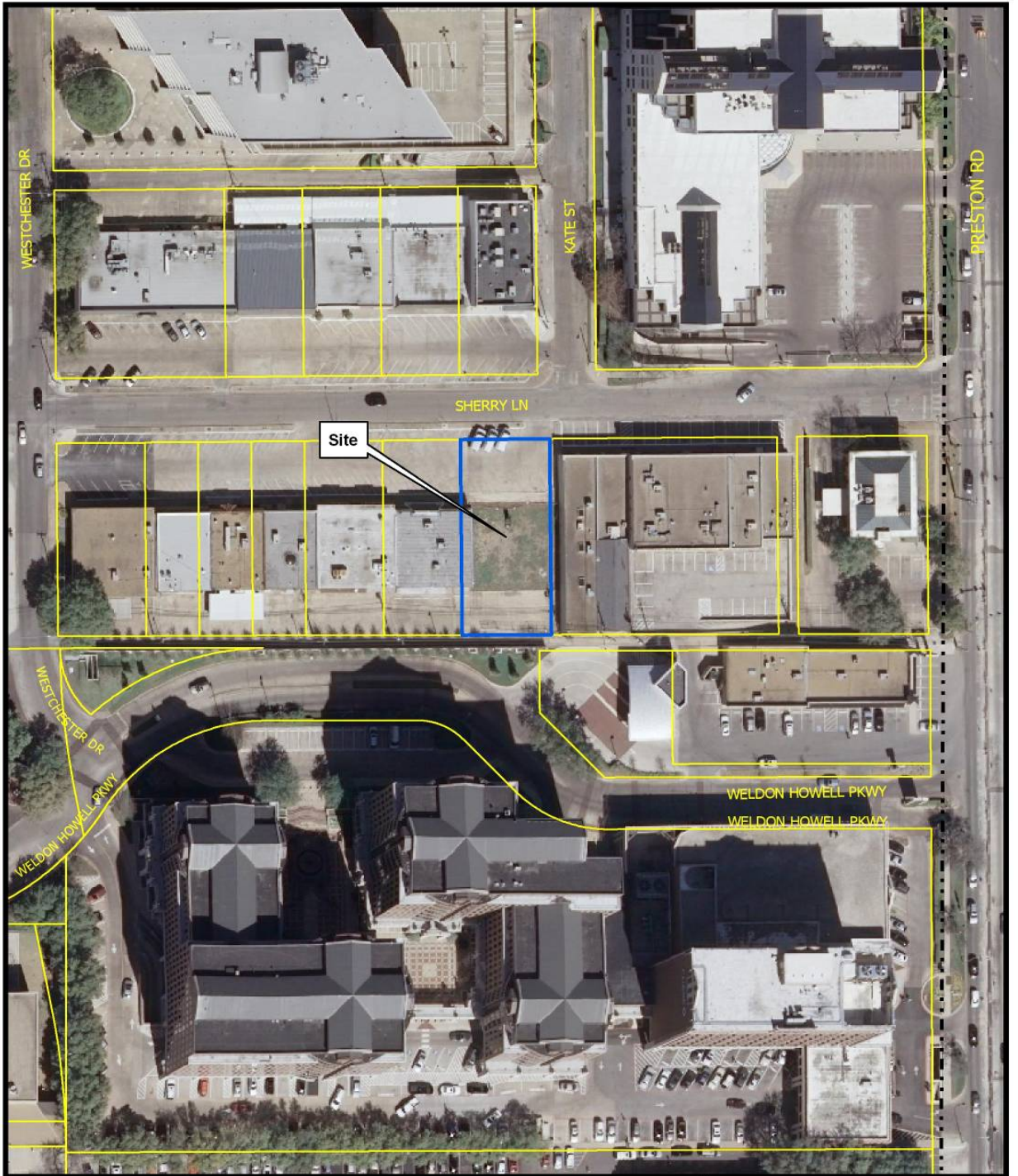
- March 29, 2011: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- May 18, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- May 19, 2011: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the May 26th deadline to submit additional evidence for staff to factor into their analysis; and the June 3rd 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 31, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorneys to the Board.
- June 2, 2011: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."

STAFF ANALYSIS:

- This request focuses on constructing and maintaining a two-story, approximately 5,700 square foot "office" use (Bandera Ventures Headquarters) on an undeveloped site. The applicant proposes to provide 13 (or 76 percent) of the required 17 off-street parking spaces.

- The applicant states on his application that 5 head-in parking spaces are provided on the site which the City does not recognize spaces that can be counted towards the total off-street parking spaces provided for the site.
- The Sustainable Development and Construction Department Project Engineer has submitted a review comment sheet marked “Has no objections.”
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the proposed use does not warrant the number of off-street parking spaces required, and
 - The special exception of 4 spaces (or 24 percent reduction of the required off-street parking spaces) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 4 spaces shall automatically and immediately terminate if and when the office use is changed or discontinued, the applicant would be allowed to construct and maintain the proposed approximately 5,700 square foot office structure/use and provide only 13 of the 17 required parking spaces.





Site



1:1,200

AERIAL MAP

Map no: G-7
Case no: BDA101-046

DATE: May 24, 2011



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-046

Data Relative to Subject Property:

Date: 3-29-11

Location address: 6150 SHERRY LANE, DALLAS TX Zoning District: PD314/TRACT 6

Lot No.: 6 Block No.: 1/5624 Acreage: 0.24 Census Tract: 73.01

Street Frontage (in Feet): 1) 69.00' 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

NE 21A

Owner of Property/or Principal: BV SHERRY, II, L.P., A TEXAS LP

Applicant: _____ Telephone: 214.378.8200

Mailing Address: 8115 PRESTON RD. STE. 415, DALLAS TX Zip Code: 75225

APPLICANT Represented by: WILLIAM MILLIGAN, MERRIMAN ASSOCIATES ARCHITECTS Telephone: 214.347.7075

Mailing Address: 300 N. FIELD ST., DALLAS TX Zip Code: 75202

Affirm that a request has been made for a Variance or Special Exception of FOR A REDUCTION OF 4 SPACES IN PARKING COUNT OF <25% WITHIN THE SITE. THE SITE IS REQUIRED TO HAVE 17 PARKING SPACES. WE ARE PROVIDING ELEVEN SPACES OF OFF-STREET PARKING AND FIVE HEAD-IN SPACES, ALONG WITH FOUR SPACES (<25%) W/IN THE PRESTON GARAGE AS ALLOWED BY PD314.

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:

TO ALLOW US TO MEET OUR PARKING COUNT BY ALLOWING FOR A REDUCTION OF FOUR PARKING SPACES (OR <25%) FROM THE TOTAL PARKING COUNT. WE ARE REQUESTING FOUR PARKING SPACES FOR MAXIMUM FLEXIBILITY FOR FUTURE USES. THIS OFFICE WILL HAVE 8 OCCUPANTS, WITH MINIMAL VISITOR PARKING NEEDED WE ARE PROVIDING 5 SPACE (HEAD-IN) IN FRONT OF OUR SITE WHICH UNDER CURRENT ORDINANCE CANNOT BE COUNTED TOWARDS THE TOTAL PARKING COUNT.

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: WILLIAM MILLIGAN
Applicant's name printed

William Milligan
Applicant's signature

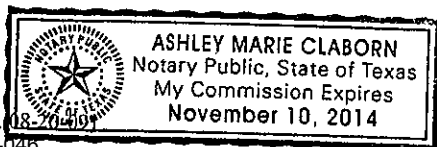
Affidavit

Before me the undersigned on this day personally appeared William Milligan 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.

William Milligan
Affiant (Applicant's signature)

Subscribed and sworn to before me this 25th day of March, 2014

Ashley Marie Claborn
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

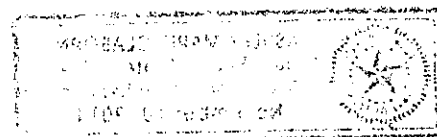
I hereby certify that William Milligan

did submit a request for a special exception to the parking regulations
at 6150 Sherry Lane

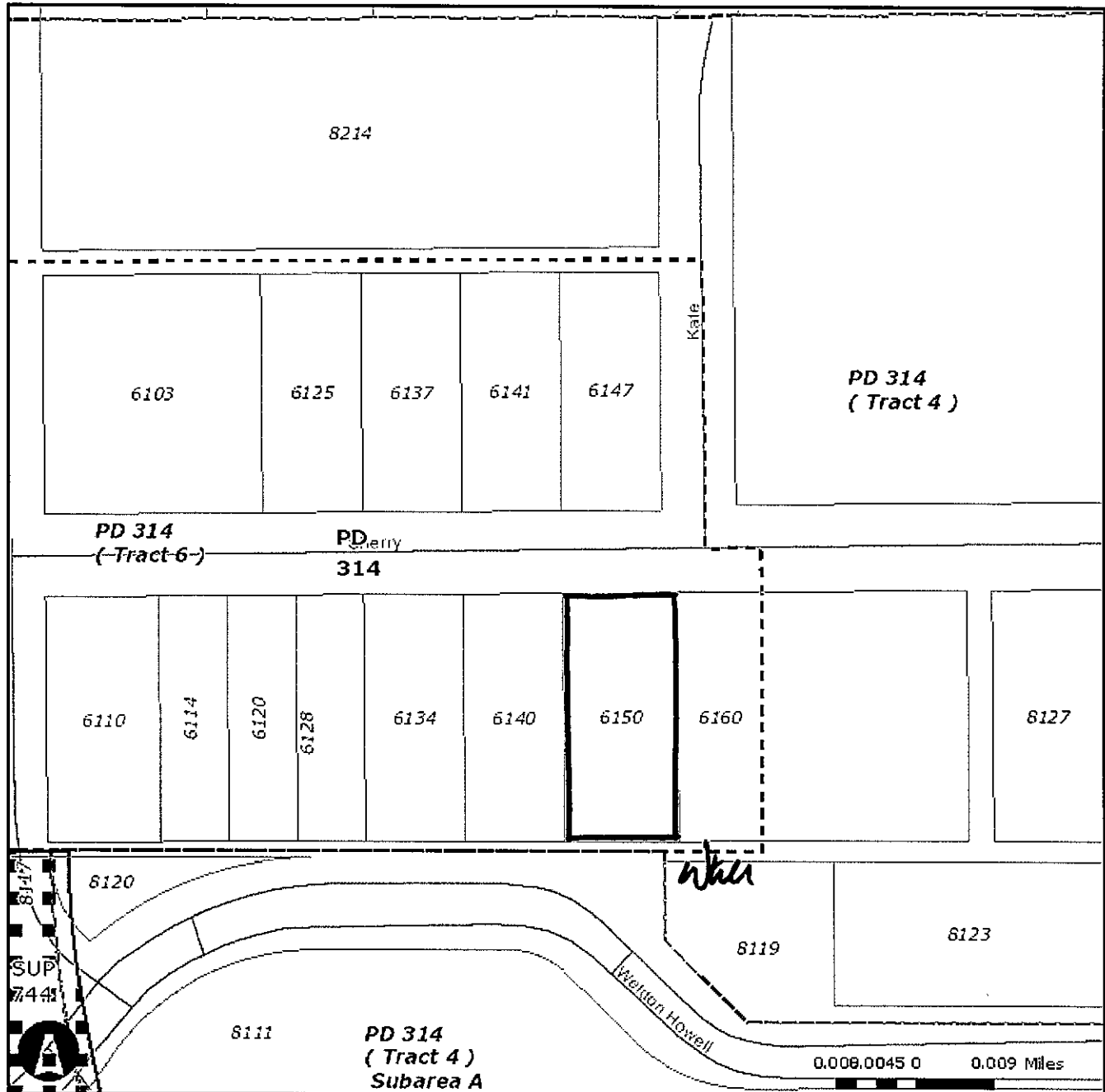
BDA101-046. Application of William Milligan for a special exception to the parking regulations at 6150 Sherry Lane. This property is more fully described as Lot 6 in city block 1/ 5624 and is zoned PD-314 (Tract 6), which requires parking to be provided. The applicant proposes to construct a nonresidential structure for office use and provide 13 of the required 17 parking spaces, which will require a 4 space special exception (24% reduction) to the parking regulation.

Sincerely,

Batsheba Antebi
Batsheba Antebi, Building Official



City of Dallas Zoning



City Boundaries



County



Certified Parcels



DISD Sites



Council Districts



Waterways



Dry Overlay



D



D-1



Historic Overlay



Historic Subdistricts



NSO Overlay



NSO Subdistricts



Base Zoning



Floodplain



100 Flood Zone



Mill's Creek



Peak's Branch



X PROTECTED BY LEVEE



Pedestrian Overlay



CP



SP

BUILDING / PARKING INFORMATION

PROJECT CONTACT INFORMATION

NAME OF PROJECT: BANDERA VENTURES OFFICE BUILDING
 ADDRESS: 6150 SHERRY LN., DALLAS TX. 75225
 PROPOSED USE: OFFICE
 CONTACT PERSON: WILLY WILSON / JERRY LINS
 PHONE: 214.347.7075 / 214.257.0409

ZONING/BUILDING DATA:

ZONING: PD 314 / TRACT V OF PRESTON CENTER
 OCCUPANCY: GROUP B - BUSINESS
 DISTRICT TYPE: CR - COMMUNITY RETAIL - OFFICE ALLOWED.
 USE TYPE: OFFICE
 MIXED OCCUPANCY: YES / **NO**
 CONSTRUCTION TYPE: TYPE V B
 SPRINKLERED: **YES** / NO

NUMBER OF STORIES ALLOWED: 2 STORIES;
 ACTUAL NUMBER OF STORIES = 2

GROSS BUILDING AREA:
 FIRST FLOOR = 4,192 S.F.
 SECOND FLOOR = 1,531 S.F.
 TOTAL = 5,723 S.F.;
 ALLOWABLE PER TABLE 503 = 9,000 S.F. PER FLOOR

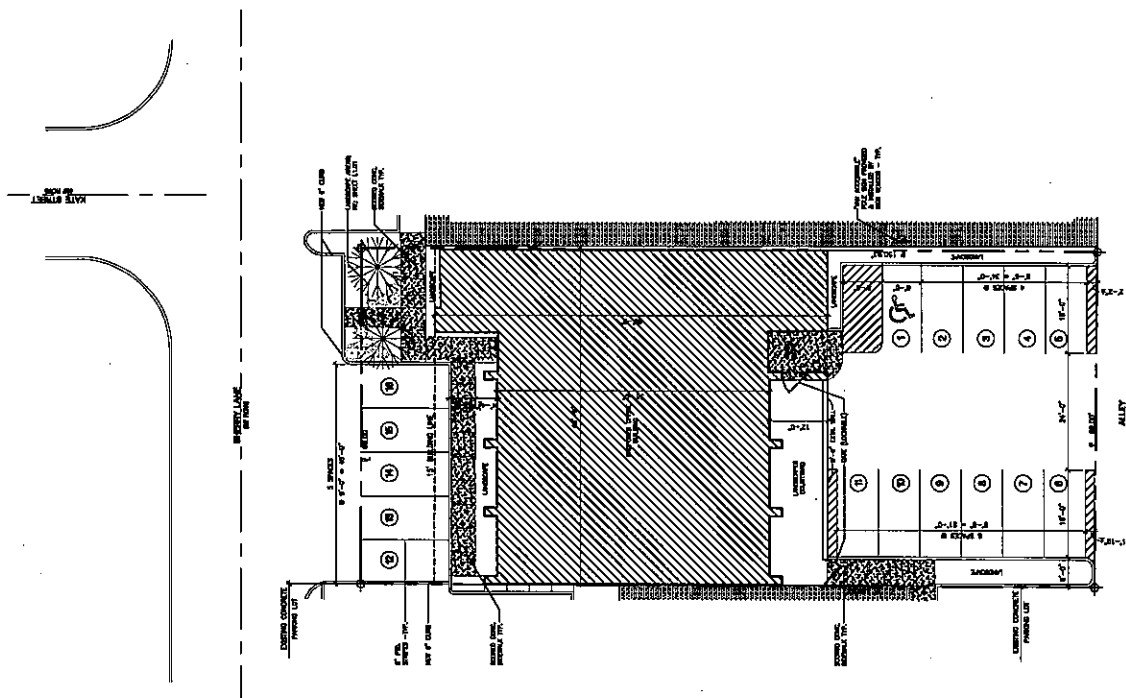
PARKING SPACES:

PARKING REQUIRED:
 17 SPACES = (3 SPACES PER 1000 S.F.)

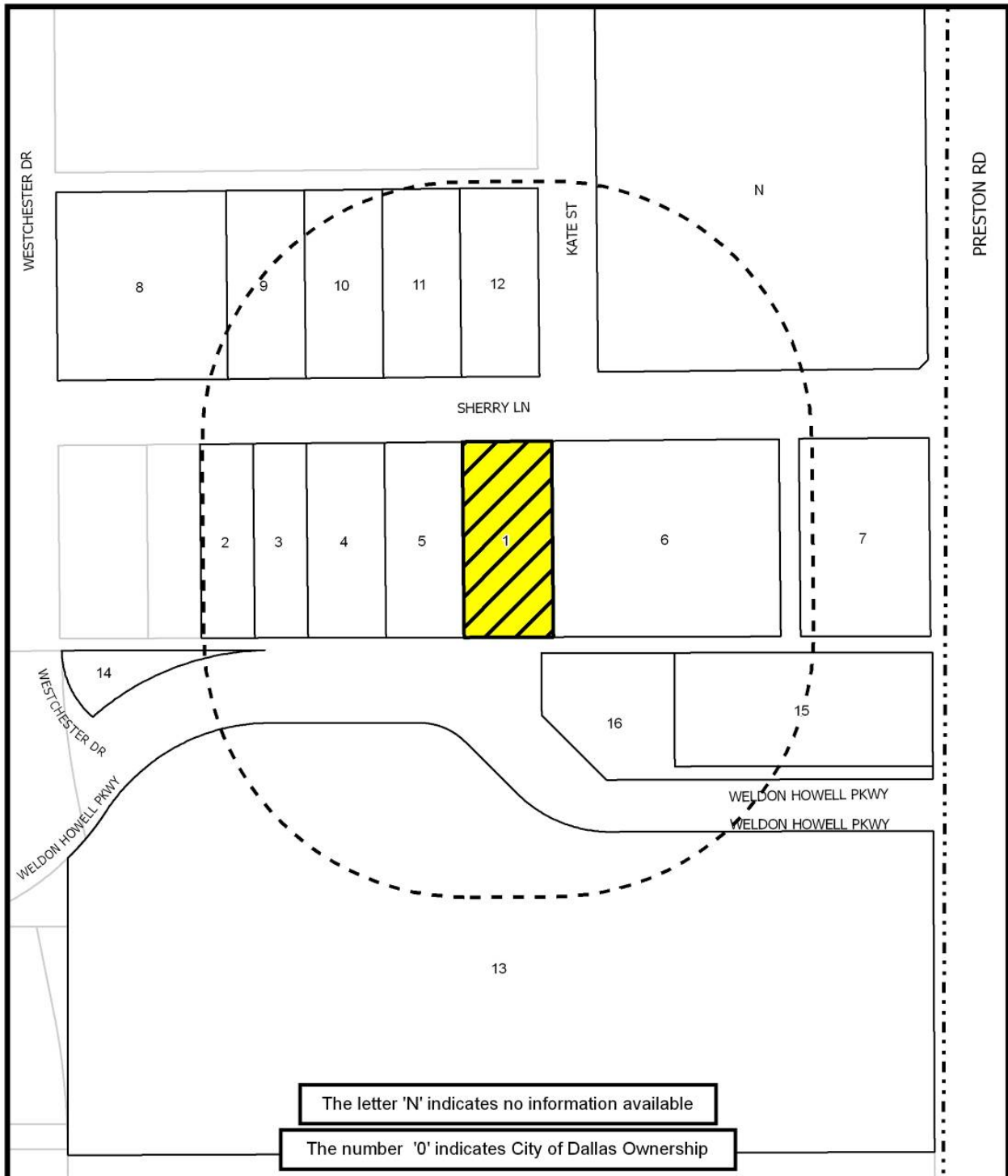
PARKING PROVIDED:

+11 SPACES (OFF-STREET PARKING)
 5 SPACES* (HEAD-IN PARKING OFF SHERRY LANE, WITHIN PROPERTY)
 + 4 SPACES (<25% OF TOTAL IN PRESTON CENTER PARKING GARAGE)
 +20 SPACES PROVIDED

*5 HEAD-IN PARKING SPACES NON-COUNTED UNDER CURRENT ORDINANCE.



01 SITE PLAN w/COURTYARD
 SCALE 1" = 30'-0"



 1:1,200	<h2 style="margin: 0;">NOTIFICATION</h2>	Map no: <u> G-7 </u>
	<div style="display: flex; justify-content: space-around;"> <div style="border: 1px solid black; padding: 2px;">200'</div> <div>AREA OF NOTIFICATION</div> </div> <div style="display: flex; justify-content: space-around;"> <div style="border: 1px solid black; padding: 2px;">16</div> <div>NUMBER OF PROPERTY OWNERS NOTIFIED</div> </div>	Case no: <u> BDA101-046 </u>

DATE: May 24, 2011

Notification List of Property Owners

BDA101-046

16 Property Owners Notified

Label #	Address	Owner
1	6150 SHERRY	BV SHERRY LP
2	6120 SHERRY	GAHAGAN LAWRENCE O
3	6128 SHERRY	K & JOSEY TEXAS LTD ETAL % W W WILLINGHAM III
4	6134 SHERRY	BECKMANN LAND LLC ATTN: DR R H BECKMANN
5	6140 SHERRY	BANTA REAL ESTATE LP
6	6160 SHERRY	ROSEBRIAR SHERRY LN LP
7	8127 PRESTON	MURRAY SAVINGS ASSOC
8	6103 SHERRY	OCONNOR - SHERRY LANE LTD
9	6125 SHERRY	TECHNICALL SCOTTISH I LTD
10	6137 SHERRY	YATER C M & SONS MFG JLRS INC
11	6141 SHERRY	PAYNE JONATHAN M III
12	6147 SHERRY	THEP SHERRY LAND LTD
13	8111 PRESTON	BF PRESTON COMMONS LP % STE 2300
14	8120 WESTCHESTER	ZML PRESTON COMMONS LP # 230
15	8123 PRESTON	JWV ASSOCIATES LTD
16	8119 PRESTON	RB 8119 PRESTON LLC

FILE NUMBER: BDA 101-050

BUILDING OFFICIAL'S REPORT:

Application of Tom Bell, represented by Robert Howman, for a special exception to the fence height regulations at 2525 Frankford Road. This property is more fully described as Lot 1 in City Block A/8754 and is zoned R-7.5(A) which limits the height of a fence to 4 feet. The applicant proposes to construct a 6-foot high fence which will require a special exception of 2 feet.

LOCATION: 2525 Frankford Road

APPLICANT: Tom Bell
Represented by Robert Howman

REQUEST:

- A special exception to the fence height regulations of 2' is requested in conjunction with constructing and maintaining a 6' high chain link fence in the site's 25' Frankford Road front yard setback on a lot developed with a middle school (Dan Long Middle School). (The proposed fence is to border along the Frankford Road/street side of the existing football field/track on the western side of the subject site).

STAFF RECOMMENDATION:

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

GENERAL FACTS:

- The Dallas Development Code states that a person shall not erect or maintain a fence in a required yard more than 9' above grade, and additionally states

that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.

The applicant had submitted a site plan and elevation indicating that the proposal in the required front yard setback reaches a maximum height of 6'.

- The following additional information was gleaned from the submitted site plan:
 - The proposal is approximately 260' in length parallel to Frankford Road and approximately 20' in length *perpendicular* to the street on the east and west sides of the site in the front yard setback.
 - The fence proposal is shown to be located about 5' from the front property line or about 15' from the curb line.
- No single family home “fronts” to the proposal on the subject site given that the homes on the southern side of Frankford Road adjacent to the site are oriented southward onto Sunscape Lane.
- The Board Administrator conducted a field visit of the site and surrounding area (approximately 500' east and west of the subject site) and noted no other fences above four (4) feet high which appeared to be located in a front yard setback.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A)(SUP 1347) (Single family district 7,500 square feet)(Specific Use Permit)
North: MF-1(A) (Multifamily district)
South: TH-1(A) (Townhouse)
East: MF-2(A) (Multifamily district)
West: City of Carrollton

Land Use:

The subject site is developed with a middle school (Dan Long Middle School). 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:

April 21, 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.

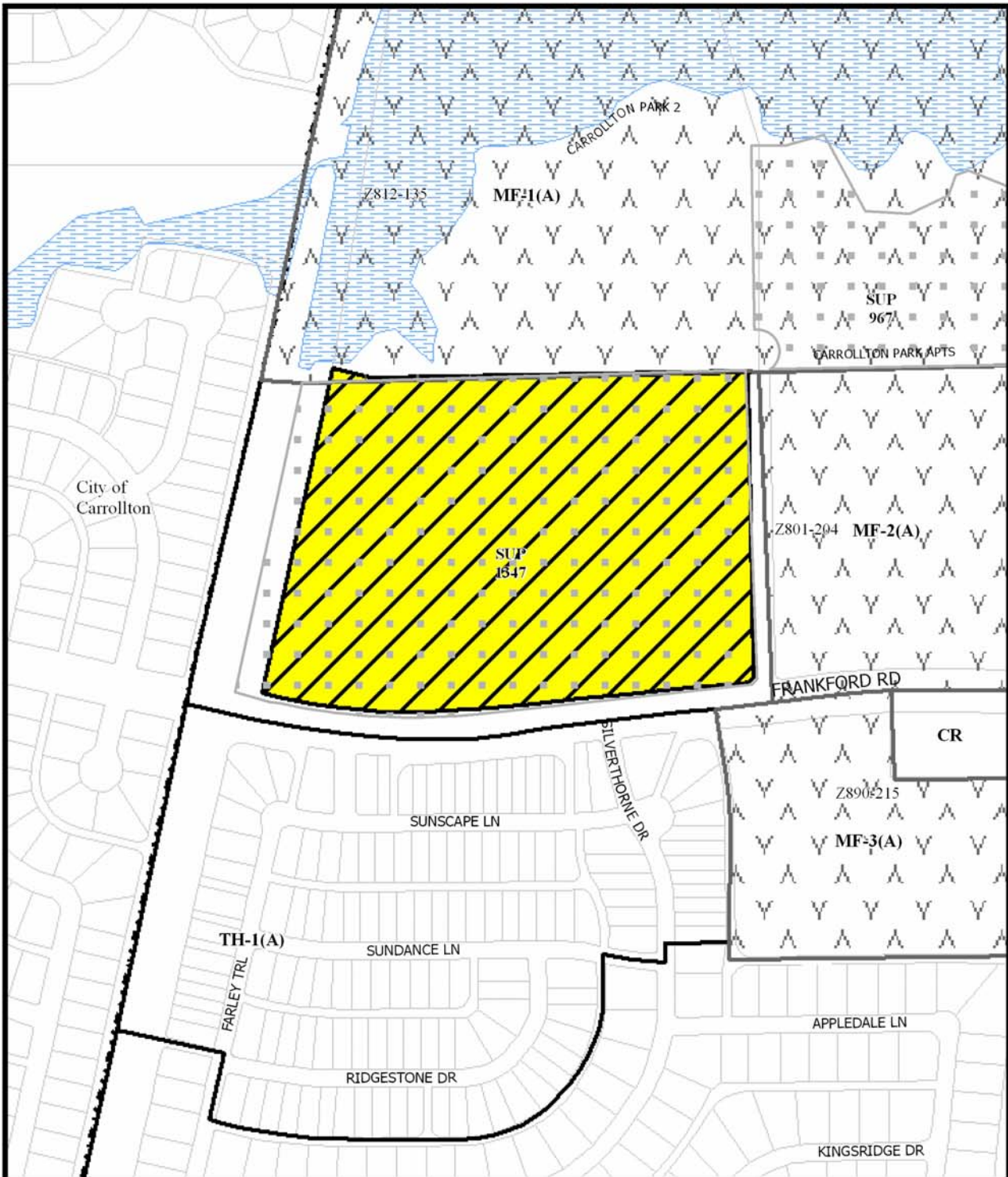
- May 18, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- May 19, 2011: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the May 26th deadline to submit additional evidence for staff to factor into their analysis; and the June 3rd 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 31, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorneys to the Board.
- June 2, 2011: The Sustainable Development Department Project Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following comments: "1. Comply with all C.O.D visibility requirements. 2. Do not restrict drainage flow." (Note that no item appears to be represented on the submitted site plan as being located in a visibility triangle).

STAFF ANALYSIS:

- This request focuses on constructing and maintaining a 6' high chain link fence in the site's 25' Frankford Road front yard setback on a lot developed with a middle school (Dan Long Middle School). (The proposed fence is to border along the Frankford Road/street side of the existing football field/track on the western side of the subject site).
- The submitted site plan and elevation documents the location, height, and material of the proposed fence over 4' in height in the required front yard setback. The site plan indicates that the proposal is about 260' in length parallel to the street and approximately 20' in length *perpendicular* to the street on the east and west sides of the site in the front yard setback. The plan shows the fence to be located approximately 5' from the site's front

property line or about 15' from the curb line. The elevation shows the proposed fence to be made of chain link and 6' in height.

- No single family home “fronts” to the proposal on the subject site given that the homes on the southern side of Frankford Road adjacent to the site are oriented southward onto Sunscape Lane.
- The Board Administrator conducted a field visit of the site and surrounding area (approximately 500' east and west of the subject site) and noted no other fences above four (4) feet high which appeared to be located in a front yard setback.
- As of June 6, 2011, no letters had been submitted to staff in support or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 2' will not adversely affect neighboring property.
- Granting this special exception of 2' with a condition imposed that the applicant complies with the submitted site plan and elevation would provide assurance that the proposal exceeding 4' in height in the front yard setback would be constructed and maintained in the location and of the height and material as shown on these documents.



1:3,600

ZONING MAP

Map no: AA-5

Case no: BDA101-050

DATE: May 24, 2011



1:3,600

AERIAL MAP

Map no: AA-5

Case no: BDA101-050

DATE: May 24, 2011



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-050

Data Relative to Subject Property:

Date: 4-21-11

Location address: 2525 Frankford Rd. Zoning District: R-7.5(A)

Lot No.: 1 Block No.: A/0754 Acreage: 19.125 Census Tract: 216.17

Street Frontage (in Feet): 1) 1183 2) 706 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

NEIR

Owner of Property/or Principal: Carrollton/F.B. ISD

Applicant: Tom Bell Telephone: _____

Mailing Address: 1445 N. Perry Rd. Zip Code: 75009

Represented by: Robert Howman-Glenn Telephone: 972)717-5151

Mailing Address: 105 Decker Ct. #910 Engineering Irving, Tx Zip Code: 75062

Affirm that a request has been made for a Variance , or Special Exception , of _____

2' FEET TO FENCE HEIGHT IN FRONT YARD

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

Allow 6' high chain link fence in front yard set back due to location of existing running track (see attached exhibit)

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: TOM BELL
Applicant's name printed

Tom Bell
Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Tom Bell 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.

Tom Bell
Affiant (Applicant's signature)

Subscribed and sworn to before me this 19th day of April

Gail Tamm
Notary Public in and for Dallas, Texas

GAIL A. TANN
Notary Public, State of Texas
My Commission Exp. 06-01-2012

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 Tom Bell
represented by Robert Howman
did submit a request for a special exception to the fence height regulations
at 2525 Frankford Road

BDA101-050. Application of Tom Bell represented by Robert Howman for a special exception to the fence height regulations at 2525 E. Frankford Road. This property is more fully described as Lot 1 in city block A/8754 and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a 6 foot high fence in a required front yard setback, which will require a 2 foot special exception to the fence regulation.

Sincerely,

Batsheba Antebi
Batsheba Antebi, Building Official

CITY OF DALLAS PLAT BOOKS

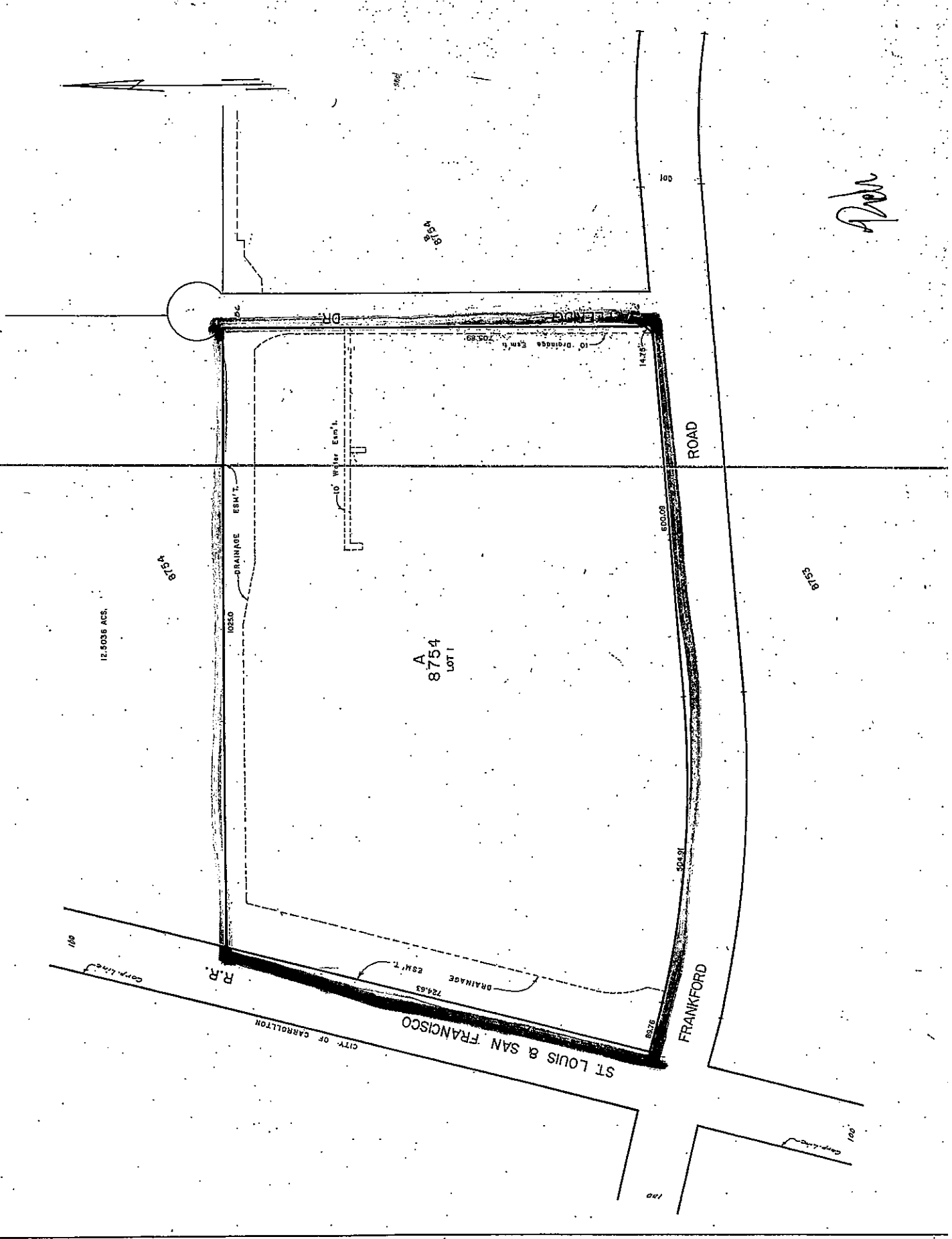
SHIPPED RECEIVED
DATE: 2-11-76 DATE: 10-21-76
CONSOLIDATED 4-4-77 ORD. NO. 15463
SURVEY S.B. EVANS ABST. 404
R. CHOWNING & J. MCCANTS 257 & 885

ADDITION, NORTHSIDE JUNIOR HIGH SCHOOL
SCALE 100 FT. EQUALS 1 INCH

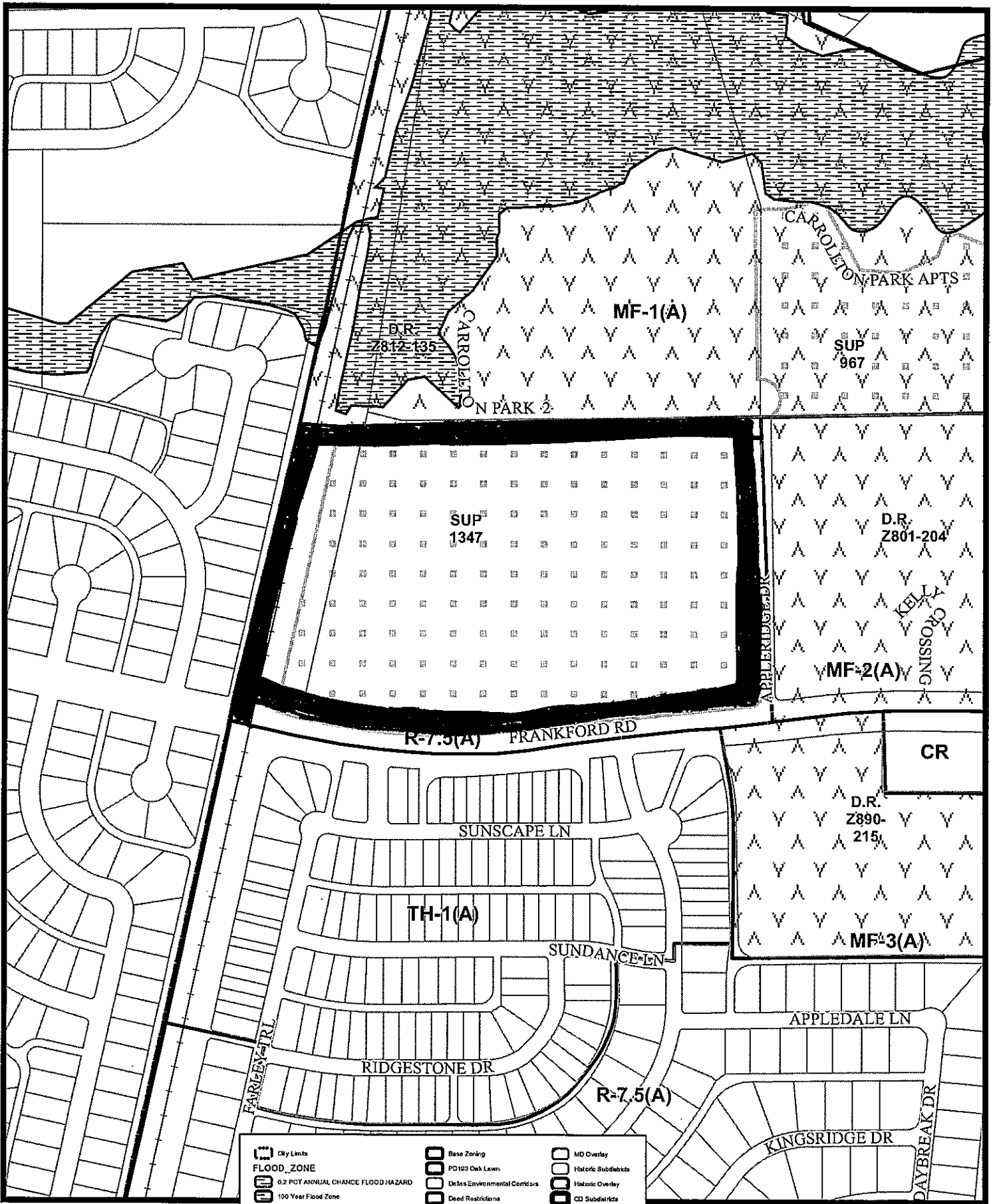
BLOCKS 8754 I
SCHOOL DISTRICT GARROLLTON


N.A.S. 57/80



























FILED: 5/2/80



Red



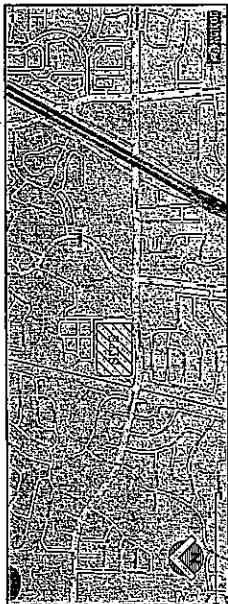

 1:3,600

 City Limits	 Base Zoning	 MD Overlay
 FLOOD_ZONE	 PD103 Oak Lawn	 Historic Subdistricts
 0.2 PCT ANNUAL CHANCE FLOOD HAZARD	 Delas Environmental Corridor	 Historic Overlay
 100 Year Flood Zone	 Dead Restrictions	 CD Subdistricts
 Mfa Creek	 SUP	 PD Subdistricts
 Peak's Branch	 D	 PDS Subdistricts
 X PROTECTED BY LEVEE	 D-1	 NSO Subdistricts
 Parks	 CP	 NSO_Overlay
	 SP	 Escarpment Overlay

Case ID:
 Printed: 4/18/2011



LAND COVERAGE	
OPEN SPACE	84.1%
RESIDENTIAL	15.9%
PAVING	0.0%

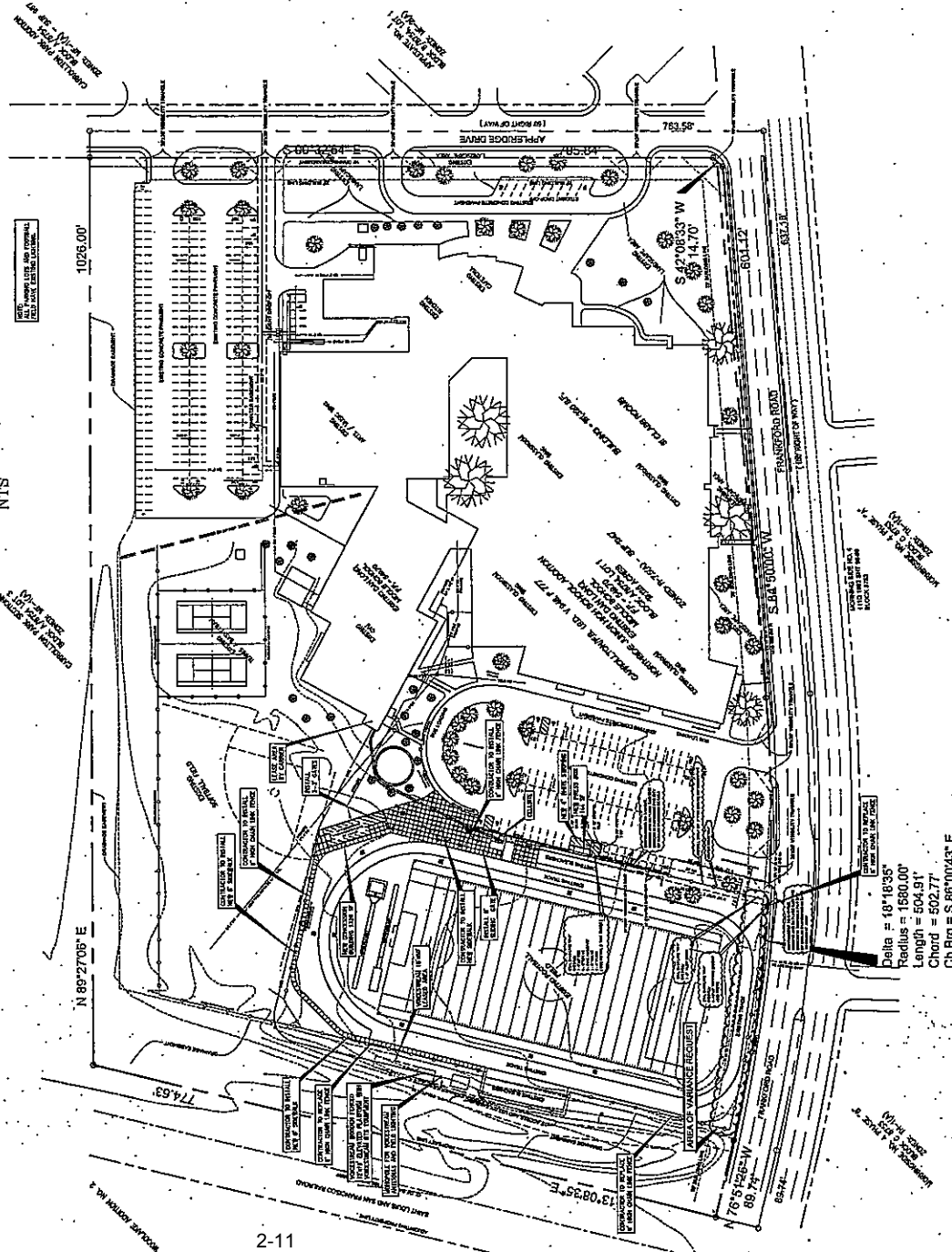


PROPOSED OCCUPATION

THIS IS A 1.5 Acre (65,340 sq. ft.) site located at the intersection of Applebridge Drive and Dan Long Road. The site is currently zoned R-1 (Residential Single-Family) and is being proposed for conversion to a school facility. The proposed school facility will consist of a 100,000 sq. ft. school building, a 10,000 sq. ft. gymnasium, a 5,000 sq. ft. playground, and a 5,000 sq. ft. parking lot. The site is located in the City of Dan Long, California, and is subject to the City's zoning regulations. The proposed school facility will be used for educational purposes and will serve the community of Dan Long. The site is currently vacant and is being proposed for conversion to a school facility. The proposed school facility will consist of a 100,000 sq. ft. school building, a 10,000 sq. ft. gymnasium, a 5,000 sq. ft. playground, and a 5,000 sq. ft. parking lot. The site is located in the City of Dan Long, California, and is subject to the City's zoning regulations. The proposed school facility will be used for educational purposes and will serve the community of Dan Long.

PARKING REQUIREMENTS	
1.5 SPACES PER EACH CLASSROOM	77 TOTAL REQUIRED
TOTAL OF 81 CLASSROOMS	

PARKING TABULATIONS	
PARKING PROVIDED - VEHICLE/STAFF REGULAR (8.0' X 18.0')	371
VISITOR/STAFF HANDICAP (8.0' X 18.0' WITH 5.0' WIDE STRIPES ACCESS)	10
TOTAL PARKING PROVIDED	381



Delta = 18°18'35"
 Radius = 1580.00'
 Length = 504.91'
 Ch Btg = S 88°00'43" E

CORREAN ASSOCIATES, INC.
 451 North Linden Street
 San Jose, CA 95128
 Tel: 408/291-1111
 Fax: 408/291-1112

REVISIONS	
1	ISSUED FOR PERMITTING
2	ISSUED FOR PERMITTING
3	ISSUED FOR PERMITTING
4	ISSUED FOR PERMITTING
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100	ISSUED FOR PERMITTING



Dan Long Middle School
 Restroom and Concession Building
 9525 Frankfurt Road, Dan Long, CA 95027



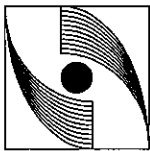
DAN LONG M.S.
 JOB 09267.0000
 DATE 03.28.2011
 SHEET
CS 1.0

OWNER
 CARROLLTON FARMERS BRANCH I.S.D.
 144 NORTH PERRY ROAD
 CARROLLTON, TEXAS 75606
 (972) 382-2000

ARCHITECT
 CORRAAN ASSOCIATES, INC.
 401 HUNTER STREET
 DALLAS, TEXAS 75202
 (214) 748-2000

GLENN ENGINEERING
 11000 W. HUNTER STREET
 FORT WORTH, TEXAS 76116
 (817) 335-2000

CASE NO. = Z-07-



GLENN ENGINEERING

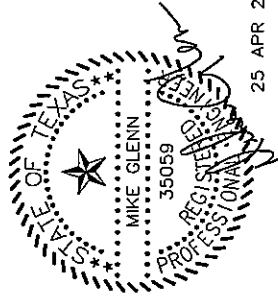
T.B.P.E. FIRM REGISTRATION NO. F - 303

PHONE 972-717-5151

FAX 972-717-2176

105 DECKER COURT-SUITE 910

IRVING, TEXAS 75062



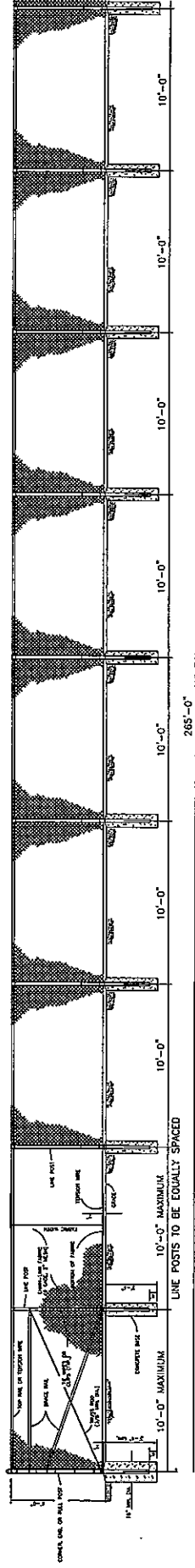
25 APR 2011

THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY MIKE GLENN, P.E. 35059, ON APRIL 25, 2011

0 100 200

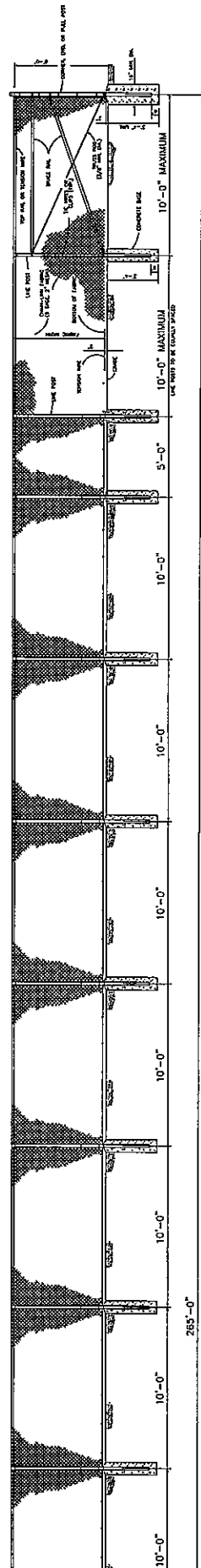


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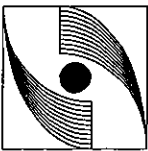
LOOKING SOUTH ALONG FRANKFORD ROAD

SCALE: 1" = 100'



LOOKING SOUTH ALONG FRANKFORD ROAD

SCALE: 1" = 100'



GLENN ENGINEERING

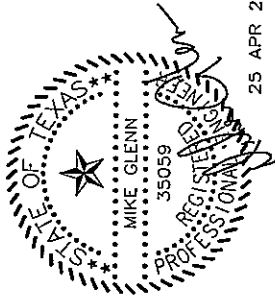
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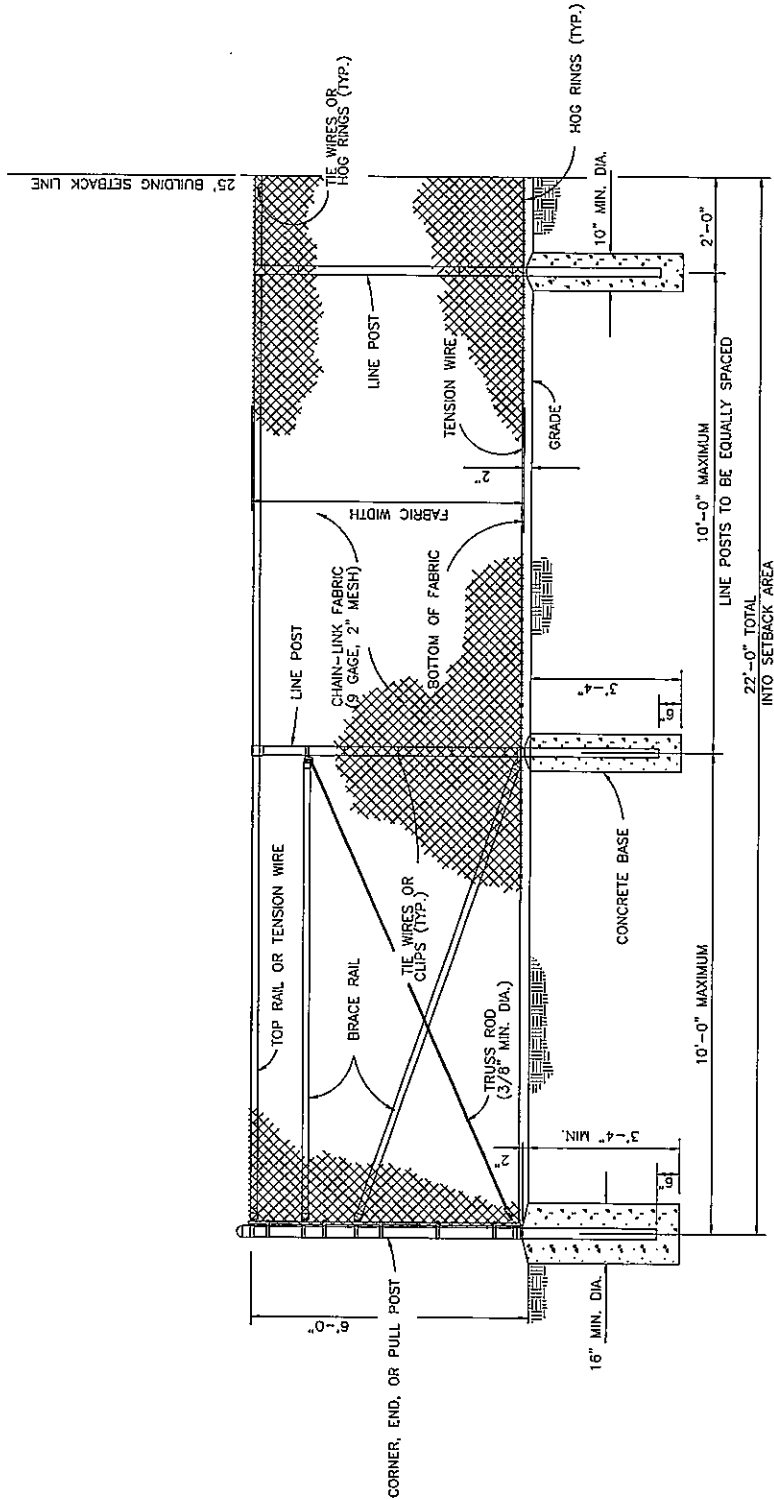


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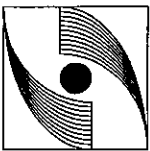


Scale 1" = 40'



FENCE ELEVATION LOOKING EAST

SCALE: 1" = 40'



GLENN ENGINEERING

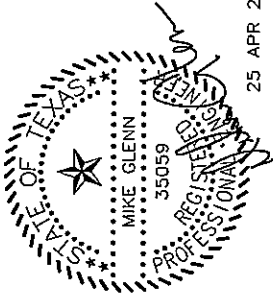
T.B.P.E. FIRM REGISTRATION NO. F - 303

PHONE 972-717-5151

FAX 972-717-2176

105 DECKER COURT-SUITE 910

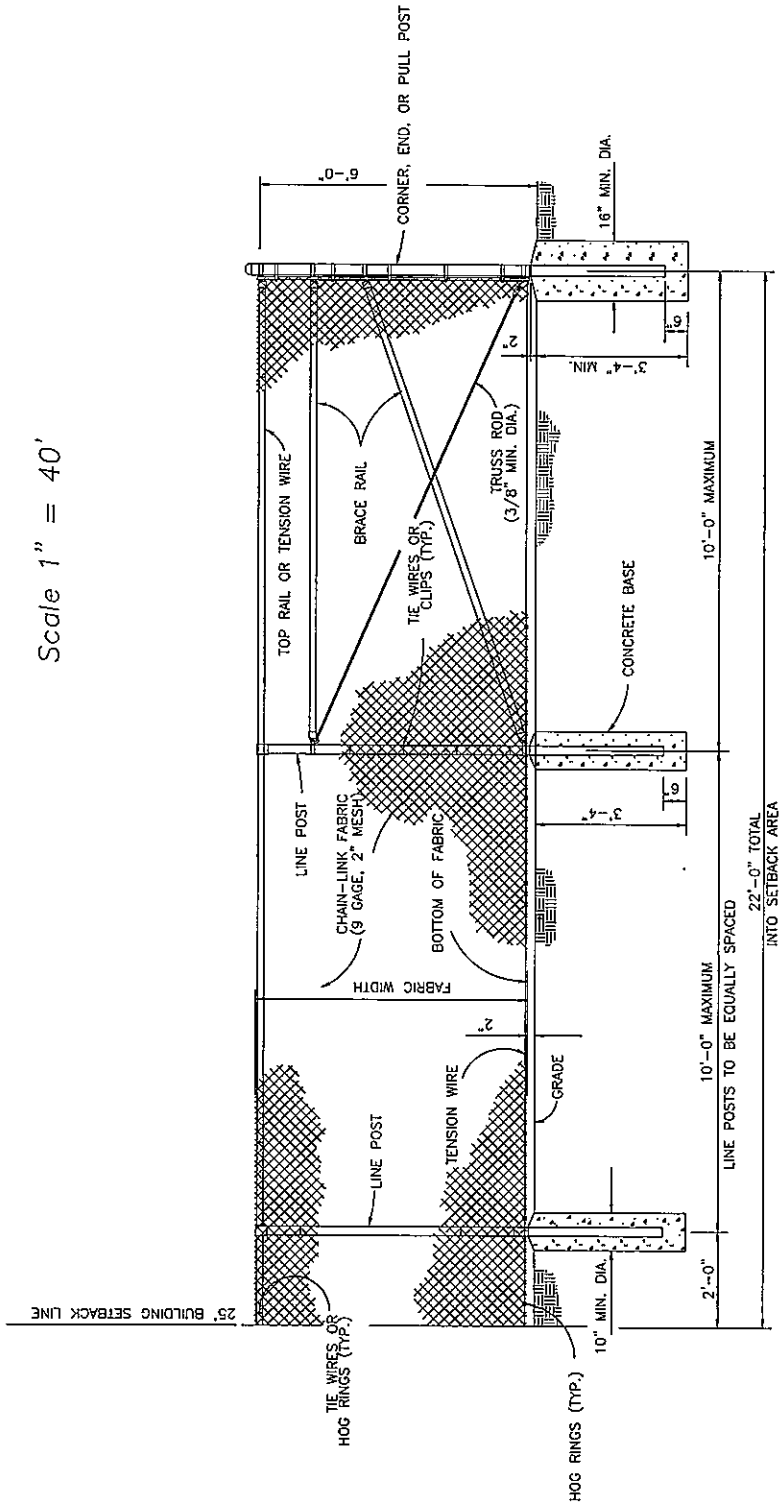
IRVING, TEXAS 75062



THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY MIKE GLENN, P.E. 35059, ON APRIL 25, 2011

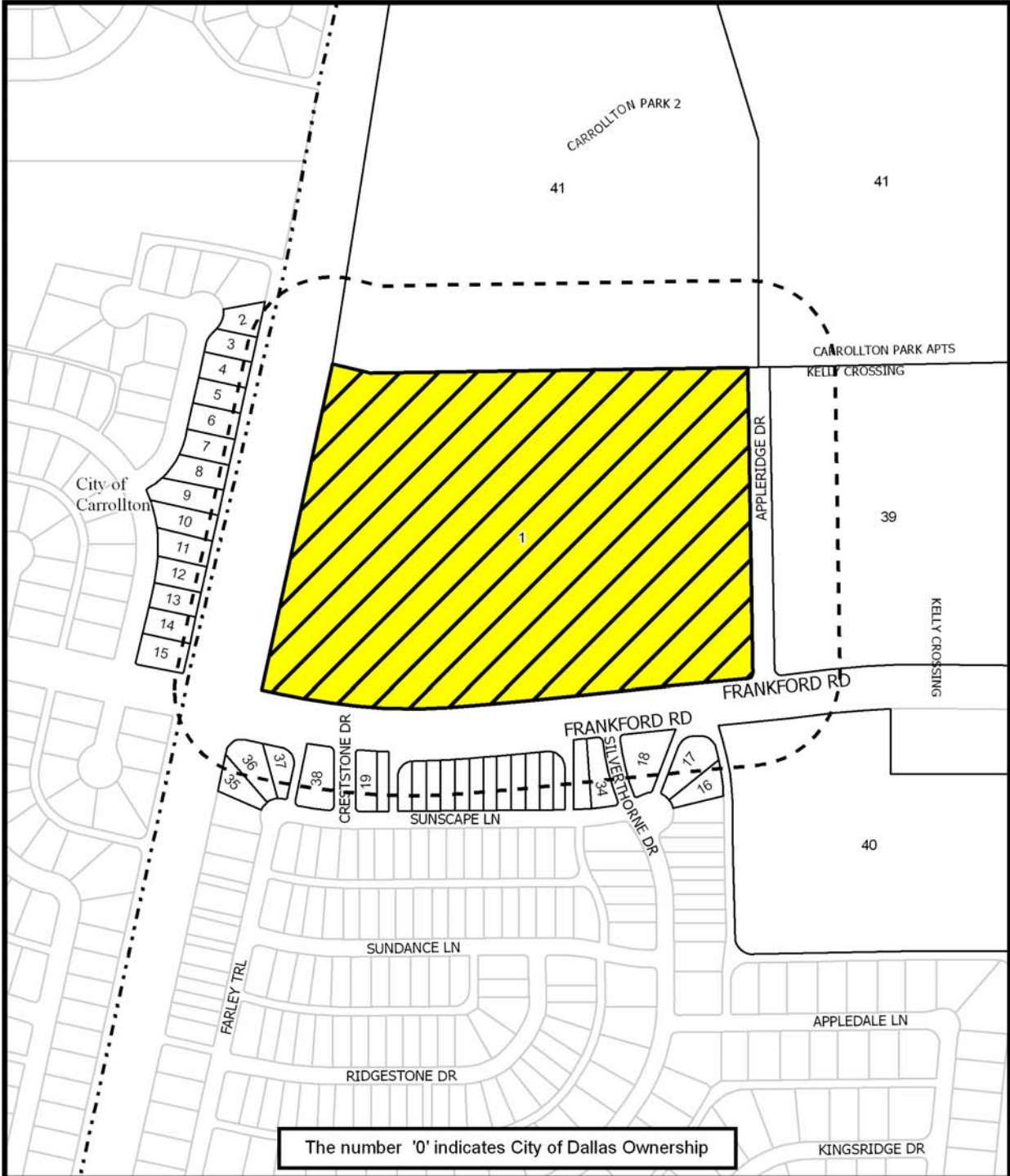


Scale 1" = 40'



FENCE ELEVATION LOOKING WEST

SCALE: 1" = 40'



 1:3,600	<h1>NOTIFICATION</h1>	AA-5 Map no: _____
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">41</div> NUMBER OF PROPERTY OWNERS NOTIFIED	BDA101-050 Case no: _____

DATE: May 24, 2011

Notification List of Property Owners

BDA101-050

41 Property Owners Notified

Label #	Address	Owner
1	2525 APPLERIDGE	Taxpayer at Not Available
2	3014 GLENHOLLOW	Taxpayer at Not Available
3	3012 GLENHOLLOW	Taxpayer at Not Available
4	3010 GLENHOLLOW	Taxpayer at Not Available
5	3008 GLENHOLLOW	Taxpayer at Not Available
6	3006 GLEN HOLLOW	Taxpayer at Not Available
7	3004 GLEN HOLLOW	Taxpayer at Not Available
8	3002 GLEN HOLLOW	Taxpayer at Not Available
9	3000 GLEN HOLLOW	Taxpayer at Not Available
10	3010 RAVINE	Taxpayer at Not Available
11	3008 RAVINE	Taxpayer at Not Available
12	3006 RAVINE	Taxpayer at Not Available
13	3004 RAVINE	Taxpayer at Not Available
14	3002 RAVINE	Taxpayer at Not Available
15	3000 RAVINE	Taxpayer at Not Available
16	2640 SILVERTHORNE	Taxpayer at Not Available
17	2644 SILVERTHORNE	Taxpayer at Not Available
18	2648 SILVERTHORNE	Taxpayer at Not Available
19	2515 SUNSCAPE	Taxpayer at Not Available
20	2519 SUNSCAPE	Taxpayer at Not Available
21	2523 SUNSCAPE	Taxpayer at Not Available
22	2527 SUNSCAPE	Taxpayer at Not Available
23	2531 SUNSCAPE	Taxpayer at Not Available
24	2535 SUNSCAPE	Taxpayer at Not Available
25	2539 SUNSCAPE	Taxpayer at Not Available
26	2543 SUNSCAPE	Taxpayer at Not Available
27	2547 SUNSCAPE	Taxpayer at Not Available
28	2551 SUNSCAPE	Taxpayer at Not Available
29	2555 SUNSCAPE	Taxpayer at Not Available
30	2559 SUNSCAPE	Taxpayer at Not Available

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32	2567	SUNSCAPE	Taxpayer at Not Available
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34	2575	SUNSCAPE	Taxpayer at Not Available
35	17871	FARLEY	Taxpayer at Not Available
36	2503	SUNSCAPE	Taxpayer at Not Available
37	2507	SUNSCAPE	Taxpayer at Not Available
38	2511	SUNSCAPE	Taxpayer at Not Available
39	2601	FRANKFORD	Taxpayer at Not Available
40	2626	FRANKFORD	Taxpayer at Not Available
41	18211	KELLY SPRINGFIELD	Taxpayer at Not Available

FILE NUMBER: BDA 101-053(J)

BUILDING OFFICIAL'S REPORT:

Application of Baldwin Associates for a variance to the front yard setback regulations at 2828 Lemmon Avenue East. This property is more fully described as Lot 4D in City Block 1/634 and is zoned PD-193, O-2, which requires a front yard setback of 20 feet. The applicant proposes to construct and maintain a structure and provide a 16-foot 10-inch front yard setback which will require a variance of 3 feet 2 inches.

LOCATION: 2828 Lemmon Avenue East

APPLICANT: Baldwin Associates

REQUEST:

- A variance to the front yard setback regulations of 3'2" is requested in conjunction with constructing multifamily structure and providing a 16' 10" front yard setback along Oak Grove Avenue where a 20' front yard setback is required.

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 due to a partial street easement on Oak Grove Avenue.

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 other permitted structures (other than single family or residential development tracks) for lots zoned an O-2 Office Subdistrict within PD 193 is 20 feet.
- The subject site is a lot that has street frontage on four sides.
- A site plan has been submitted showing the proposed multifamily structure providing a 16’10” setback and encroaching 3’2” into the 20’ required front yard setback on a portion of the Oak Grove Avenue site near the intersection with Lemmon Avenue West.
- The subject site appears to be flat, irregular in shape, and is approximately 3.06 acres in area.
- The applicant forwarded additional information beyond what was submitted with the original application (see Attachment A).

BACKGROUND INFORMATION:

Zoning:

- Site: PD No. 193 O-2 (Planned Development – Office subdistrict)
- North: PD No. 201, PD No. 305, and PD No. 375 (Planned Development)
- South: PD No. 193 O-2 (Planned Development – Office subdistrict) and PD No. 193 MF-2 (Planned Development – Multifamily subdistrict)
- East: PD No. 375 (Planned Development)
- West: PD No. 193 O-2 (Planned Development – Office subdistrict) and PD No. 193 PDS 6 (Planned Development)

Land Use:

The subject site is currently developed with a parking lot and a vacant hospital. The areas to the north and west appear to be developed with commercial/office uses; and the area to the south is developed with a hospital use. The area to the east is under construction. The area to the northeast is developed with mixed uses (commercial and residential).

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:

April 21, 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.

May 18, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

May 25, 2011: The Board Senior Planner contacted the applicant and discussed the following information:

- the public hearing date and panel that will consider the application; and the June 3rd 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 31, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Senior Planner, the Board of Adjustment Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorneys to the Board.

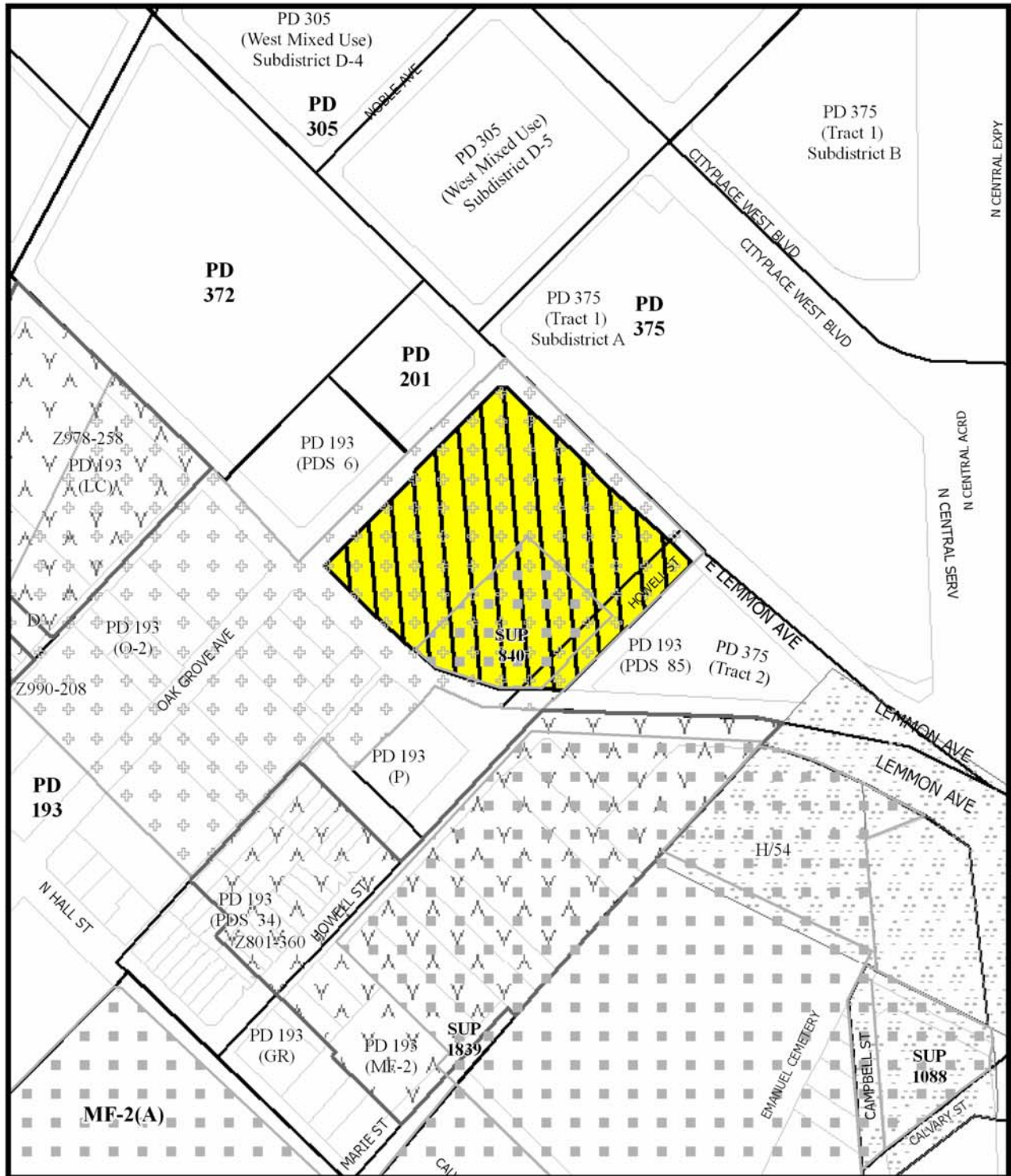
June 2, 2011: The Sustainable Development Department Project Engineer submitted a review comment sheet marked “Has no objections if certain conditions are met” with the following comments: “Comply with all C.O.D visibility requirements.”

June 3, 2011: The applicant submitted additional information (Attachment A).

STAFF ANALYSIS:

- The request focuses on constructing a multifamily structure and providing a 16’ 10” front yard setback along Oak Grove Avenue where a 20’ front yard setback is required.
- The subject site appears to be flat, irregular in shape, and is approximately 3.06 acres in area.

- A 5' street easement exists on a portion of the request site on the Oak Grove Avenue frontage, near Lemmon Avenue West. Front yard setbacks are measured from the property line or right-of-way, whichever creates the greater setback. In the case of the request site, the setback line ranges from 20' from the property line and 25' from the property line where the street easement exists.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the Oak Grove Avenue 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 PD 193 O-2 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 PD 193 O-2 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.

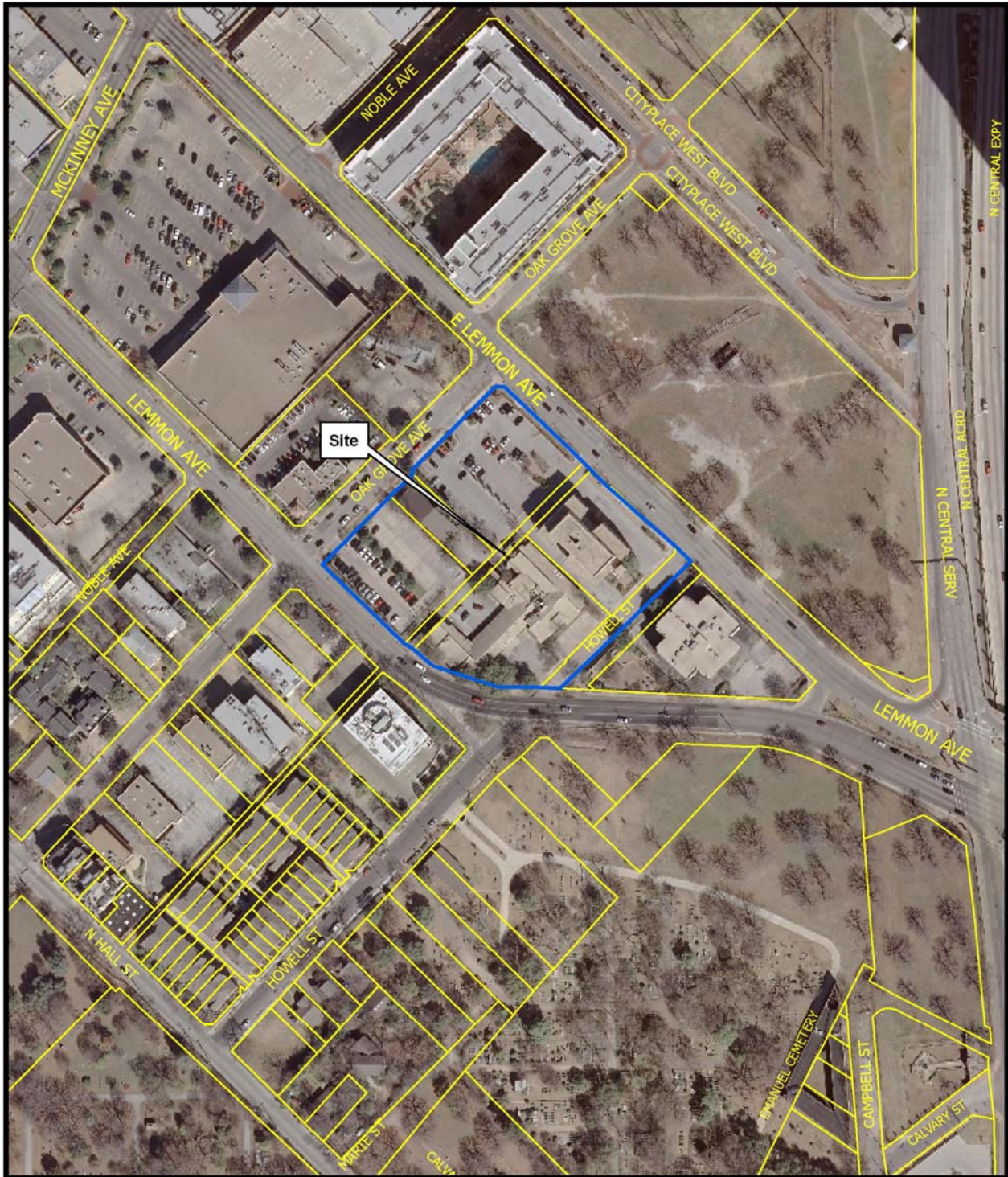



 1:2,400

ZONING MAP

Map no: I-7
 Case no: BDA101-053

DATE: May 25, 2011



1:2,400

AERIAL MAP

Map no: I-7
Case no: BDA101-053

DATE: May 25, 2011

June 2, 2011

Ms. Jennifer Hiromoto
Senior Planner
City of Dallas Department of Sustainable Development
1500 Marilla
Dallas, Texas 75201

Re: BDA 101-053

Dear Jennifer,

This firm represents CWS Lemmon Resources L.P. in their efforts to seek a variance to allow an encroachment into a required front yard setback for their new apartment project on Lemmon Avenue. This letter will detail the request that will go before the Board of Adjustment.

The Property

The property is an irregularly shaped parcel of land that is located on Lemmon Avenue, just west of Central Expressway. The property is bounded by Lemmon Avenue on the north, Oak Grove Avenue on the west, Lemmon Avenue on the south and the abandoned Howell Street on the east. The property contains 3.06 acres of land.

The Proposed Use for the Property

The owner is processing plans to build a multi-story apartment project on the property. This use is consistent with the current zoning on the property and with other development in the area. The plans call for two floors of parking, one of those being underground, and five floors of apartments on top of the parking garage.

The Issue

The property is encumbered by three (3) front yards. The south and eastern sides of the property has an awkward shaped due to the curvature of Lemmon Avenue as it connects to Central Expressway. Due to this curvature, it is imperative that the other three edges of the property be used efficiently. This is especially true due to the underground parking structure which uses very specific dimensions for laying out the parking bays.

The western edge of the property is bounded by Oak Grove Avenue. On the southern stretch of this frontage, an easement for street purposes was placed on the property in 1966. This street easement only encumbers the southern portion of the western property line. The street easement is no longer necessary. The Oak Lawn

Special Purpose District (PD-193) establishes right-of-way widths for streets. In Section 51P-193.131, the right-of-way for nonresidential streets is set at 50-feet. Oak Grove Avenue already meets this requirement without the easement for street purposes, so the easement is not necessary any longer.

The *Dallas Development Code* establishes that front yard setbacks are measured from the property line. However, in cases where there is a street easement, the setback line is measured from the edge of the street easement. In this case, the street easement causes an additional front yard setback that results in a staggered building line along our western property boundary which has a negative impact to the underground parking garage layout. The northern half of the western property line has a 20-foot front yard setback while the southern half of the western property line has a 25-foot setback due to the street easement. This jog in the front yard setback along Oak Grove causes great inefficiencies within the underground parking garage.

This request is seeking permission to have the front yard setback along Oak Grove measured consistently along our western property line, which would result in an encroachment of approximately three feet and two inches (3'-2") into the additional front yard setback along the southern half of the western property line.

This variance is necessary due to the irregular shape of the property and to allow it to be developed commensurate with the northern portion of the property and all other property in PD-193.

Thank you for your assistance with this matter. If I can be of any assistance, please do not hesitate to contact me.

With kind regards,

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

Robert Baldwin, AICP



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-053

Data Relative to Subject Property:

Date: April 20, 2011

Location address: 2828 Lemmon & ~~3514 Oak Grove~~ Zoning District: PD 193 O-2

Lot No.: 4D Block No.: 1/634 Acreage: 3.061ac Census Tract: 7.01

Street Frontage (in Feet): 1) 392 2) 332 3) 335 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property/or Principal: CWS Lemmon Resources L.P.

Applicant: Robert Baldwin Telephone: _____

Mailing Address: 3904 Elm Suite B Zip Code: 75226

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

Mailing Address: 3904 Elm suite B - Dallas TX Zip Code: 75226

Affirm that a request has been made for a Variance X, or Special Exception , of Three feet two inches (3' 2") to the twenty Foot (20) required front 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: That granting the request will not adversely impact the surrounding properties.

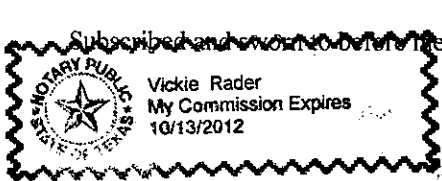
Note to Applicant: If the relief requested in this application is granted by the Board of Adjustment, said permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

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

Affidavit

Before me the undersigned on this day personally appeared Rob 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 20th day of April 2011
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

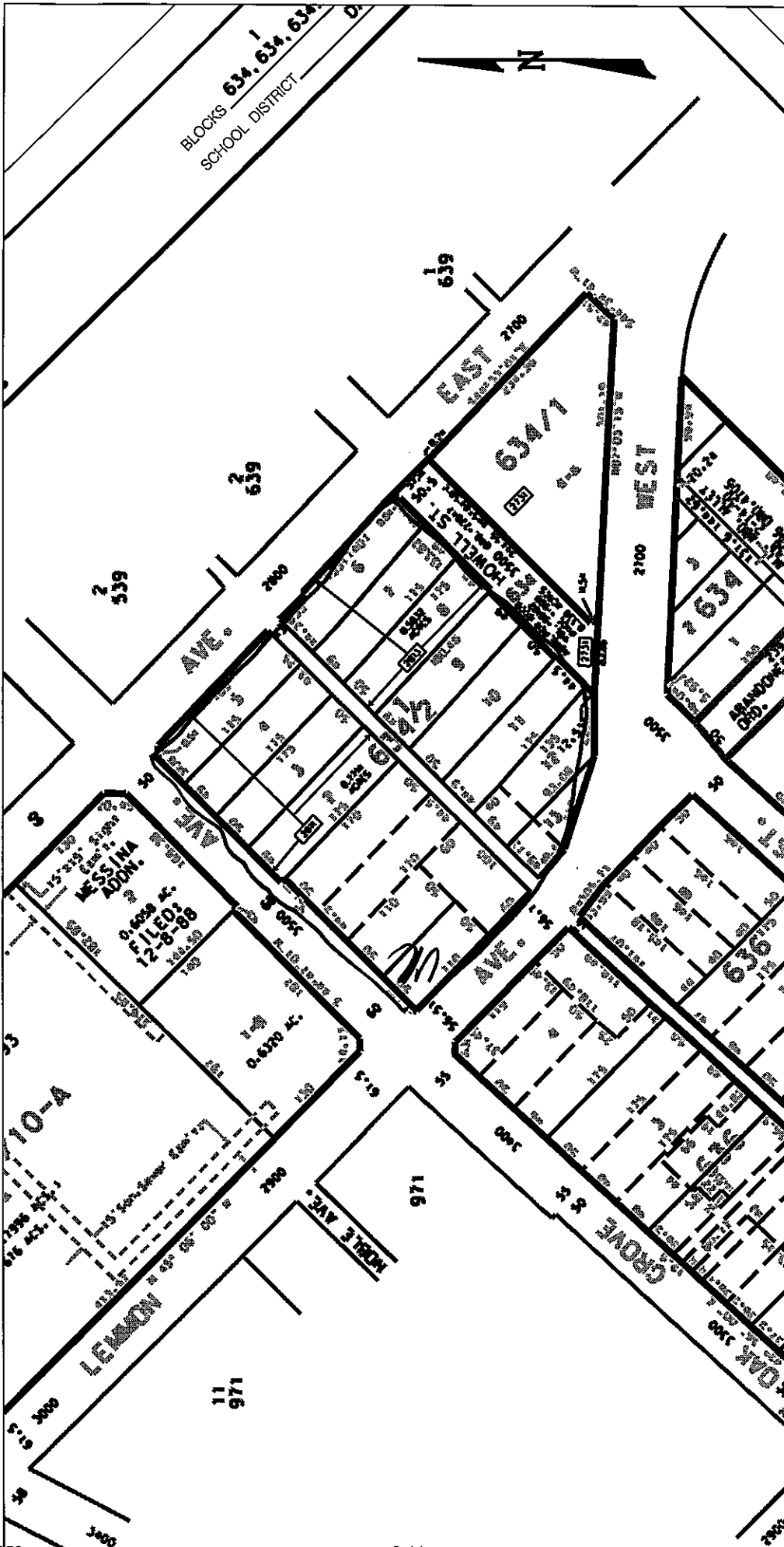
Building Official's Report

I hereby certify that BALDWIN ASSOCIATES
did submit a request for a variance to the front yard setback regulations
at 2828 Lemmon Avenue

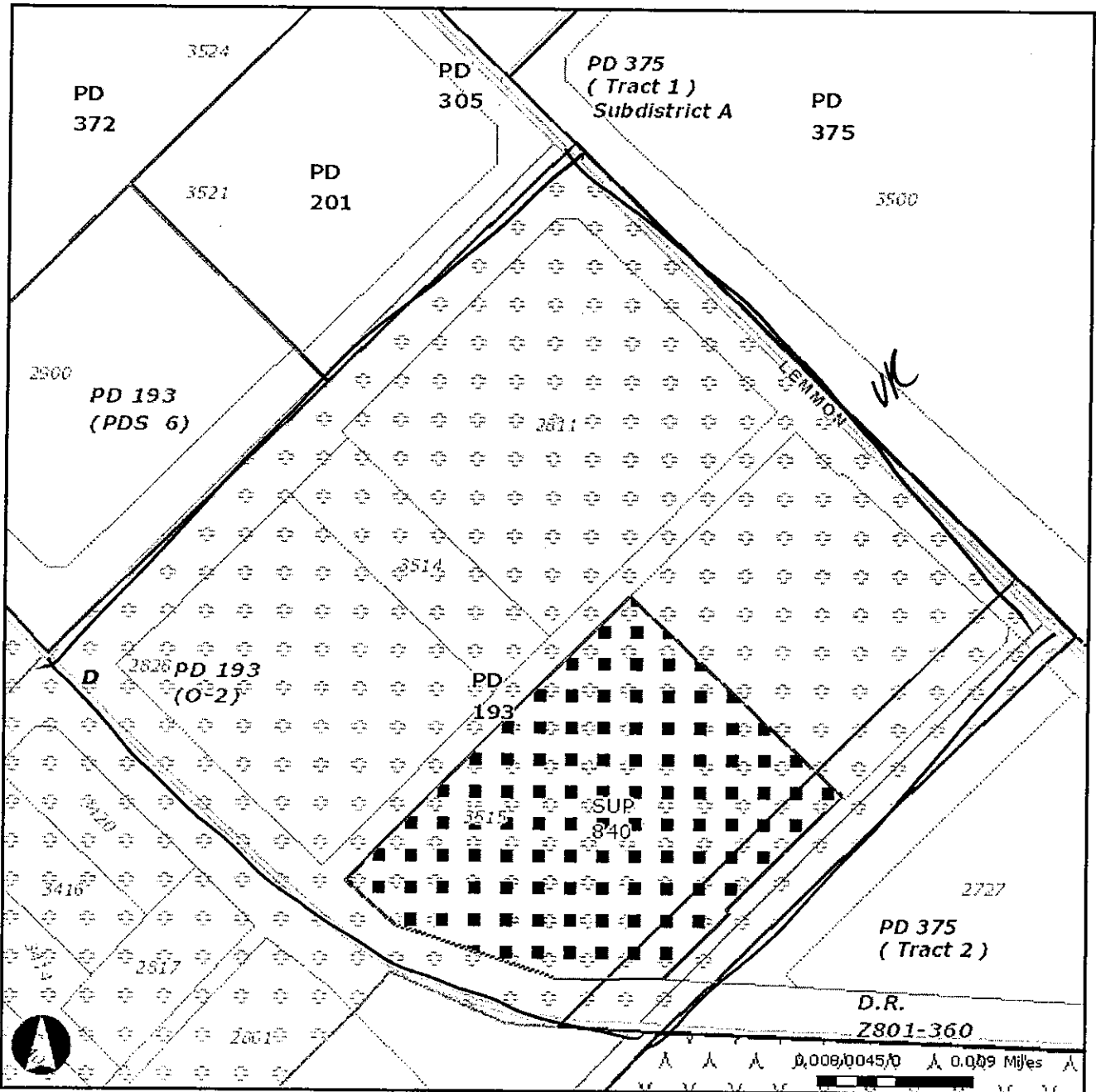
BDA101-053. Application of Baldwin Associates for a variance to the front yard setback regulations at 2828 Lemmon Avenue East. This property is more fully described as Lot 4D in city block 1/634 and is zoned PD-193, O-2, which requires a front yard setback of 20 feet. The applicant proposes to construct and maintain a structure and provide a 16 foot 10 inch front yard setback, which will require a 3 foot 2 inch variance to the front yard setback regulation.

Sincerely,

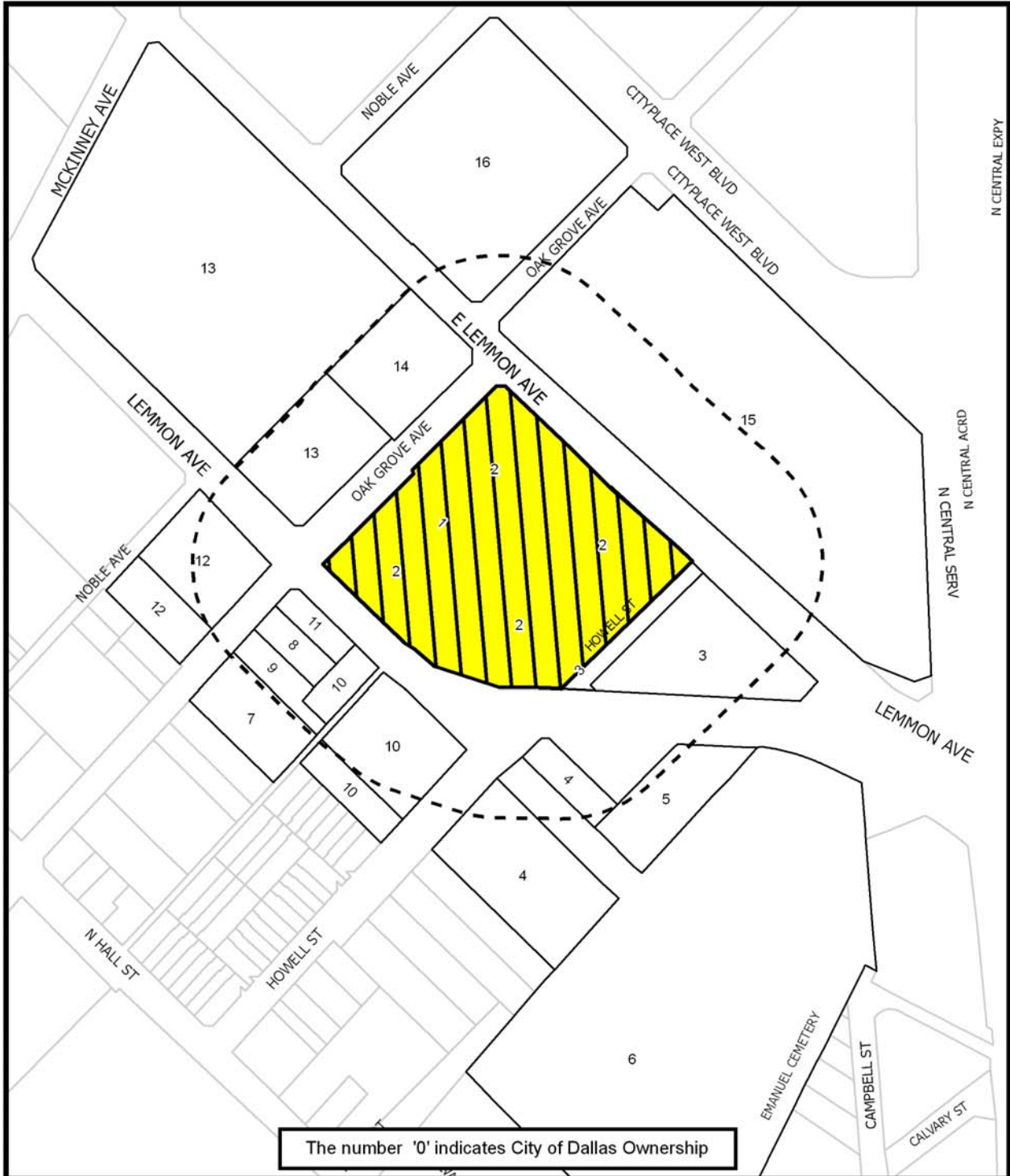
Batsheba Antebi
Batsheba Antebi, Building Official



City of Dallas Zoning



City Boundaries	Dry Overlay	Base Zoning
County	Historic Overlay	Floodplain
Certified Parcels	Historic Subdistricts	100 Flood Zone
DISD Sites	NSO Overlay	Mill's Creek
Council Districts		Peak's Branch
		X PROTECTED BY LEVEE
		Pedestrian Overlay



 1:2,400	<h2 style="text-align: center;">NOTIFICATION</h2> <p>200' AREA OF NOTIFICATION</p> <p>16 NUMBER OF PROPERTY OWNERS NOTIFIED</p>	<p>Map no: <u> I-7 </u></p> <p>Case no: <u> BDA101-053 </u></p>
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DATE: May 25, 2011

Notification List of Property Owners

BDA101-053

16 Property Owners Notified

Label #	Address	Owner
1	3514 OAK GROVE	CWS LEMMON LP SUITE 400
2	3515 LEMMON EAST	CWS LEMMON LP
3	2731 LEMMON	BREMNERDUKE MARY SHIELS DEVELOPMENT LP
4	3502 HOWELL	CONGREGATION EMANU EL
5	2700 LEMMON	TEMPLE EMANU EL
6	2700 LEMMON	HEBREW CEMETARY ASSN
7	3402 OAK GROVE	GRW BUILDING CORP LLC
8	3416 OAK GROVE	TWS & K REALTY LLP
9	3414 OAK GROVE	TWS&K REALTY LLP
10	3433 LEMMON	2801 INVESTMENTS LTD STE A306
11	3420 OAK GROVE	ANTONETTI & VEGA LTD LP
12	3409 OAK GROVE	2909 LEMMON LP STE 200
13	3524 MCKINNEY	PAN COASTAL LIMITED PS % SOUTHSTATE MGMT CORP
14	3521 OAK GROVE	MESSINA MARIO L LOCK BOX 64 STE 913
15	3500 CENTRAL	BLACKBURN CENTRAL HOLDINGS LP LB 12
16	2901 CITY PLACE	BRYSON AT CITY PLACE LP

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'.

On May 17, 2011, the conducted a public hearing and heard testimony at the public hearing regarding the posting of the notification sign on the site and delayed action on this application until June 14th to allow the applicant to post the notification sign on the site.

The Board of Adjustment should determine if the applicant complied with the Dallas Development Code provision related to the posting of the notification sign on the subject site with the findings that:

- 1) The Dallas Development Code states that "the applicant shall post the required number of notification signs on the property within 14 days after an application is filed. The signs must be legible and remain posted until a final decision is made on the application. If the city plan commission, landmark commission, or board of adjustment determines that the applicant has failed to comply with the provisions of this section, it shall take no action on the application other than to postpone the public hearing for at least four weeks, or deny the applicant's request, with or without prejudice. If the hearing is postponed, the required notification signs must

be posted within 24 hours after the case is postponed and comply with all other requirements of this section.”

- 2) The Building Inspection Senior Plans Examiner/Development Code Specialist emailed the Board Administrator at 3:37 p.m. on May 18th the following: “Ashley Ness was just in and purchased her replacement notification sign at 3:27 pm. She acknowledged that she was late.”

On May 23rd, the Board Administrator emailed the applicant the following information:

- The 2008 ordinance that established the code provision related to the posting of notification signs.
- An account of how the board delayed action on her request in May until June 14th where they will determine at this June 14th public hearing whether she has complied with this provision; and that if the board determines that she has complied with this provision, they will be able to either grant, deny, or delay the special exception and variance requests; however, if the board determines that she has not complied with this provision, they will only be able to either deny or delay her special exception and variance requests.
- A document that provided deadlines for submittal of any additional information to staff/the board.

On May 31st, the applicant forwarded additional information to the Board Administrator (see Attachment E). This information included the following:

- A letter requesting continuance of her requests to the next board hearing beyond June 14th since she will be out of the country and unable to reschedule her trip, and providing an account as to her posting of the notification sign.
- An email that she has sent to Todd Duerksen (Building Inspection Senior Plans Examiner/Development Code Specialist) along with a photo of the temporary sign she had posted on her property.

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:

- 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;
- 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

- 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 a 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 17th 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.
- On May 17, 2011, the conducted a public hearing and heard testimony at the public hearing regarding the posting of the notification sign on the site and delayed action on this application until June 14th to allow the applicant to post the notification sign on the site.

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.
- On May 17, 2011, the conducted a public hearing and heard testimony at the public hearing regarding the posting of the notification sign on the site and delayed action on this application until June 14th to allow the applicant to post the notification sign on the site.

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 28th 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 17th 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 2nd deadline to submit additional evidence for staff to factor into their analysis; and the May 6th 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.
- 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.”
- May 17, 2011: The Board of Adjustment Panel A conducted a public hearing heard testimony at the public hearing regarding the posting of the notification sign on the site and delayed action on this application until June 14th to allow the applicant to post the notification sign on the site.
- May 18, 2011: The Building Inspection Senior Plans Examiner/Development Code Specialist emailed the Board Administrator at 3:37 p.m. on May 18th the following: “Ashley

Ness was just in and purchased her replacement notification sign at 3:27 pm. She acknowledged that she was late.”

- May 23, 2011: The Board Administrator emailed the applicant the following information:
- The 2008 ordinance that established the code provision related to the posting of notification signs.
 - An account of how the board delayed action on her request in May until June 14th where they will determine at this June 14th public hearing whether she has complied with this provision; and that if the board determines that she has complied with this provision, they will be able to either grant, deny, or delay the special exception and variance requests; however, if the board determines that she has NOT complied with this provision, they will only be able to either deny or delay her special exception and variance requests.
 - A document that provided deadlines for submittal of any additional information to staff/the board.
- May 31, 2011: The applicant forwarded additional information to the Board Administrator (see Attachment E).
- May 31, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorneys to the Board.
- June 2, 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 Board of Adjustment should determine if the applicant complied with the Dallas Development Code provision related to the posting of the notification sign on the subject site with the findings that:
 - 1) The Dallas Development Code states that “the applicant shall post the required number of notification signs on the property within 14 days after an application is filed. The signs must be legible and remain posted until a

final decision is made on the application. If the city plan commission, landmark commission, or board of adjustment determines that the applicant has failed to comply with the provisions of this section, it shall take no action on the application other than to postpone the public hearing for at least four weeks, or deny the applicant's request, with or without prejudice. If the hearing is postponed, the required notification signs must be posted within 24 hours after the case is postponed and comply with all other requirements of this section."

2) The Building Inspection Senior Plans Examiner/Development Code Specialist emailed the Board Administrator at 3:37 p.m. on May 18th the following: "Ashley Ness was just in and purchased her replacement notification sign at 3:27 pm. She acknowledged that she was late."

- If the Board of Adjustment were to determine that the applicant did not comply with the Dallas Development Code provision related to the posting of the notification sign, it shall take no action on the application other than to postpone the public hearing for at least four weeks, or deny the applicant's request, with or without prejudice.
- If the Board of Adjustment were to determine that the applicant did comply with the Dallas Development Code provision related to the posting of the notification sign on the site, the Board could consider the special exception request as scheduled on June 14, 2011.
- 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 Board of Adjustment should determine if the applicant complied with the Dallas Development Code provision related to the posting of the notification sign on the subject site with the findings that:
 - 1) The Dallas Development Code states that “the applicant shall post the required number of notification signs on the property within 14 days after an application is filed. The signs must be legible and remain posted until a final decision is made on the application. If the city plan commission, landmark commission, or board of adjustment determines that the applicant has failed to comply with the provisions of this section, it shall take no action on the application other than to postpone the public hearing for at least four weeks, or deny the applicant’s request, with or without prejudice. If the hearing is postponed, the required notification signs must be posted within 24 hours after the case is postponed and comply with all other requirements of this section.”
 - 2) The Building Inspection Senior Plans Examiner/Development Code Specialist emailed the Board Administrator at 3:37 p.m. on May 18th the following: “Ashley Ness was just in and purchased her replacement notification sign at 3:27 pm. She acknowledged that she was late.”

- If the Board of Adjustment were to determine that the applicant did not comply with the Dallas Development Code provision related to the posting of the notification sign, it shall take no action on the application other than to postpone the public hearing for at least four weeks, or deny the applicant's request, with or without prejudice.
- If the Board of Adjustment were to determine that the applicant did comply with the Dallas Development Code provision related to the posting of the notification sign on the site, the Board could consider the variance request as scheduled on June 14, 2011.
- 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: Ashley Ness, 707 N. Windomere Ave., Dallas, TX
 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, Housel, 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, Housel,
NAYS: 1 - Goins
MOTION PASSED: 4– 1

BOARD OF ADJUSTMENT ACTION: MAY 17, 2011

APPEARING IN FAVOR: Ashley Ness, 707 N. Windomere Ave., Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Hounsel**

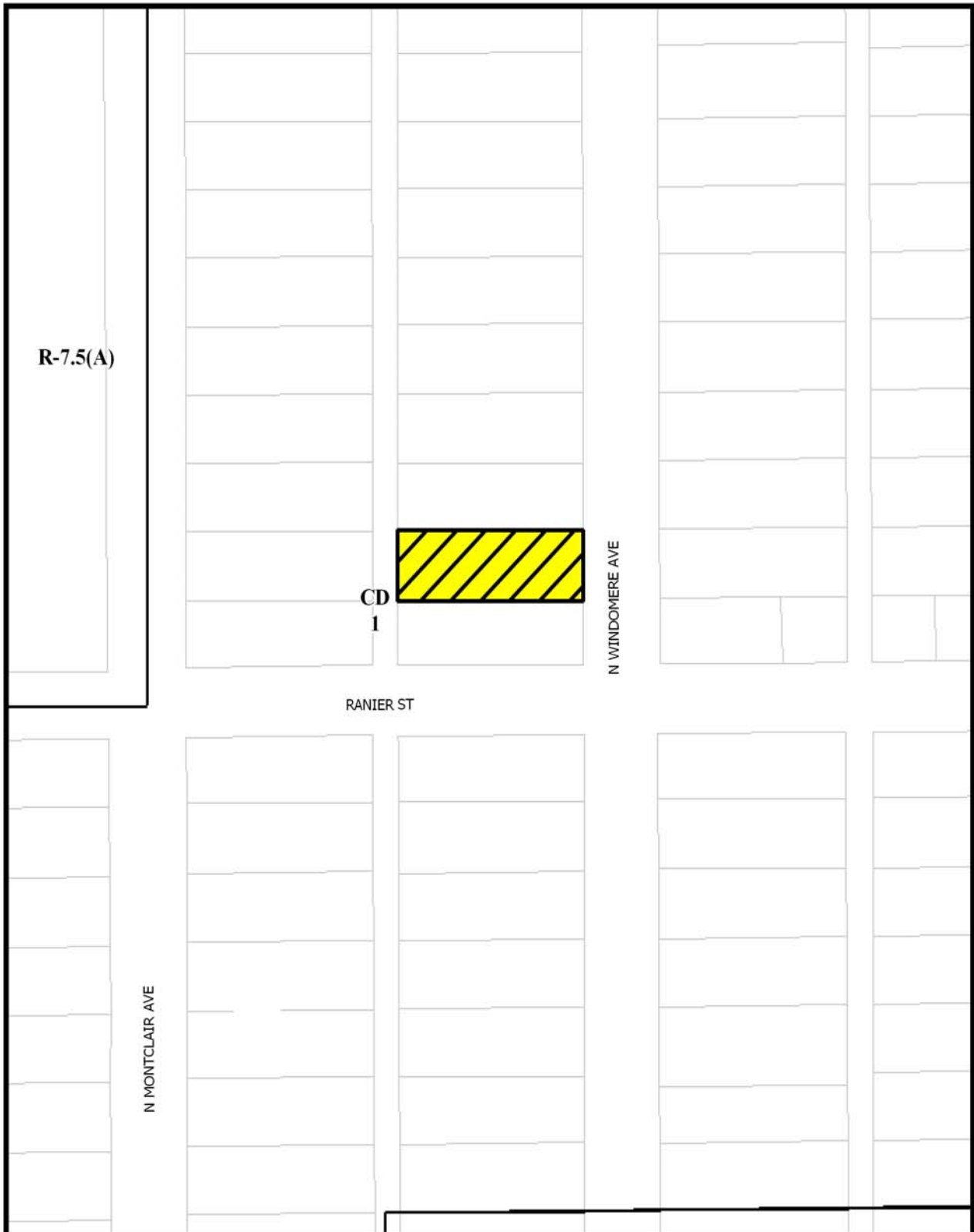
Having fully reviewed the evidence in Appeal No. **BDA 101-028**, on application of Ashley Ness, and heard all the testimony and facts relating to the posting of the notification of the sign, I find that the required signs were not posted properly and I move that the Board of Adjustment in Appeal No. **BDA 101-028**, hold this matter under advisement until **June 14, 2011**.

SECONDED: **Schweitzer**

AYES: 5 – Richmond, Schweitzer, Hounsel, Goins, Jackson

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)



 1:1,200	<h1>ZONING MAP</h1>	Map no: <u> L-6 </u> Case no: <u> BDA101-028 </u>
--	---------------------	--

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





1500 N 100th St
Arlington
WA 98222

BDA 101-028
Attachment A
Pg 3





BDA 101-028
Attch 4
p 34



BDA 101-028
Area 4
195

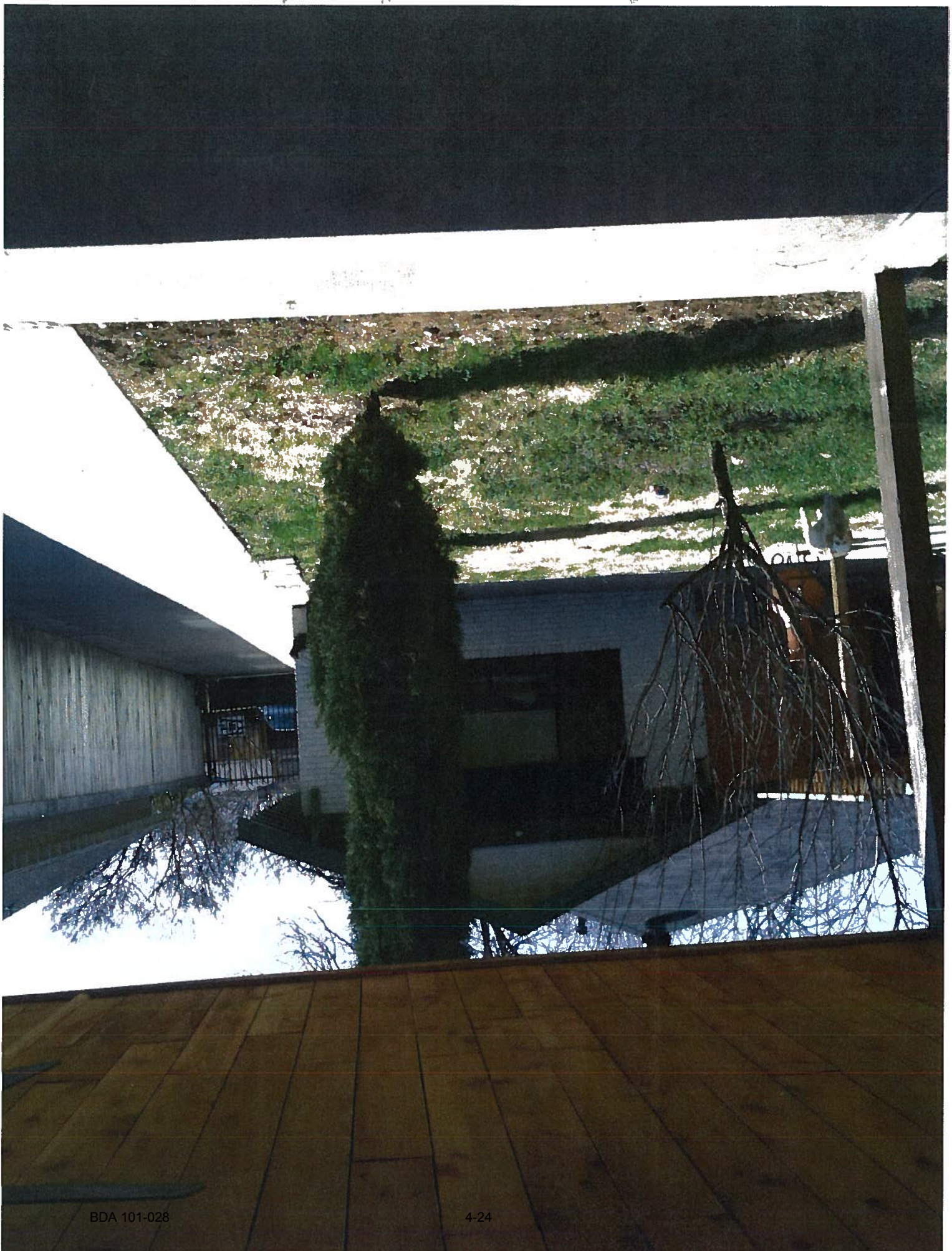
Rd 101-028
Address A
PA 5





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

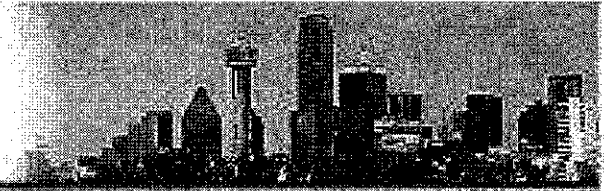
[Signature] 705 N Windomere Ave

[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

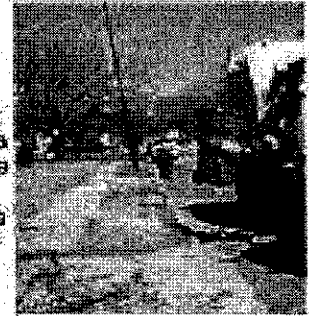
Email Us

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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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

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

BDA 101-028
Attachment
pg 1

Long, Steve

From: Ashley K. Ness [ashkness@nessgroup.com]
Sent: Tuesday, May 31, 2011 2:05 PM
To: Long, Steve
Cc: T. Craig Sheils
Subject: BDA 101-028
Attachments: Fwd: Sign; Ness letter to BOA.pdf; boa sign.JPG

Good Afternoon Mr. Long

Attached is a letter requesting continuance for my hearing June 14, as I will be out of the country. Also attached is the email that I sent Todd Duerkson and a photo of the temporary sign I had posted.

I hope you had a pleasant holiday weekend☺

Thank You,
Ashley Ness
Ashley K. Ness
Principle/PI/Private Protection Officer
Ness Group International
Utility/Energy Security Consultants
Investigative Agency
TX License #C11213
707 N. Windomere Ave.
Dallas TX,75208
www.nessgroup.com
ashkness@nessgroup.com
Office: 214.954.9997 Fax:214.954.9998
Mobile: 469.834.9179

BDA 101-028
Attach E
p 2

Ashley K. Ness
707 N. Windomere Ave.
Dallas, Texas 75208

May 31, 2011

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

Re: *Board of Adjustment Hearing on Cause No. 101-028.*

Dear Mr. Long:

As you know, at the hearing on May 17, 2011, my case was taken under advisement by the Board of Adjustment to allow me time to post the required sign within 24 hours. My case was reset for hearing on June 14, 2011.

On May 18, 2011, I appeared at Dallas City Hall the following morning at 10:30 a.m. to have the sign issued so that it could be posted within the required 24-hour period. I was informed by Trena Law that Todd Duerksen was the only person that could issue the sign, and he would not be back in until that afternoon. To make sure I complied with the ordinance, I created a temporary sign, a picture of which is enclosed, using the previous sign I posted for the special exception request as a model. I posted that sign on my property within the 24-hour period. I then emailed Mr. Duerksen to let him know that I had come by the office while he was out and to find out when he would return so that I could get the sign. I also informed him that a temporary sign was posted to avoid any problems. A copy of my email to Mr. Duerksen is also enclosed. The sign was issued later that afternoon, and I immediately posted it.

When I returned to my office on May 17, 2011, I realized that I will be out of the country on June 14, 2011, and I am unable to reschedule that trip. I am therefore requesting that the hearing scheduled for June 14, 2011, be continued until the next Board of Adjustment hearing. My attorney, Craig Sheils, will appear and speak on my behalf at the hearing set on June 14, 2011.

I appreciate your courtesy and cooperation in this matter.

Sincerely,

Ashley K. Ness

BDA-101-028

Attach E

Pg 3

Long, Steve

From: Ashley K. Ness [ashkness@nessgroup.com]
Sent: Monday, May 23, 2011 11:36 AM
To: steve.long@cityhall.com
Subject: Fwd: Sign

Sent from my iPad

Begin forwarded message:


From: "Ashley K. Ness" <ashkness@nessgroup.com>
Date: May 18, 2011 2:11:04 PM CDT
To: "todd.duerksen@dallascityhall.com" <todd.duerksen@dallascityhall.com>
Subject: Sign

Are you back in the office yet Todd? I came in at 10:30...obviously you weren't there...lol..Trena said you'd be in in the morning. I will be there today again to get the sign. I do have a temporary one posted so that there are no problems. I had a picture of the last one so all info is on there & posted till I get to you...plz let me know if you are back yet. Thank you!!!!

Ashley K Ness
Principle/PI/PPO/Security Consultant
Ness Group International
Utility/ Energy Security Consultants
TX License# C11213
Investigative Agency
TX License# A11212
www.Nessgroup.com
Ashkness@Nessgroup.com
Office:469-834-9179
Fax:214-954-9998

BDA
101-
028
Attach
E
Pg 4

NOTICE

BOARD OF ADJUSTMENT APPEAL
REQUEST 707N WindomERE
REAR YD. Setback
CASE NO BDA 101-028
FOR MORE INFORMATION
CALL
214-670-4206 
CITY OF DALLAS





City of Dallas

A

APPLICATION/APPEAL 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

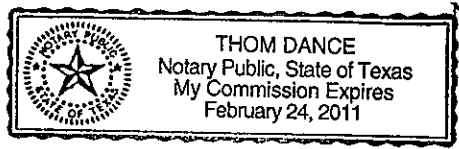
Before me the undersigned on this day personally appeared ASHLEY NESS who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

[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

(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 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.

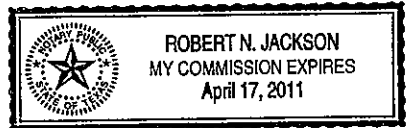
Respectfully submitted: Ashley Ness Applicant's name printed [Signature] Applicant's signature

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 BOARD OF ADJUSTMENT
CITY OF CHICAGO
110 N. LAUREL ST. CHICAGO, IL 60602
TEL: (773) 554-3300 FAX: (773) 554-3301
WWW.CITYOFCHICAGO.COM

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,

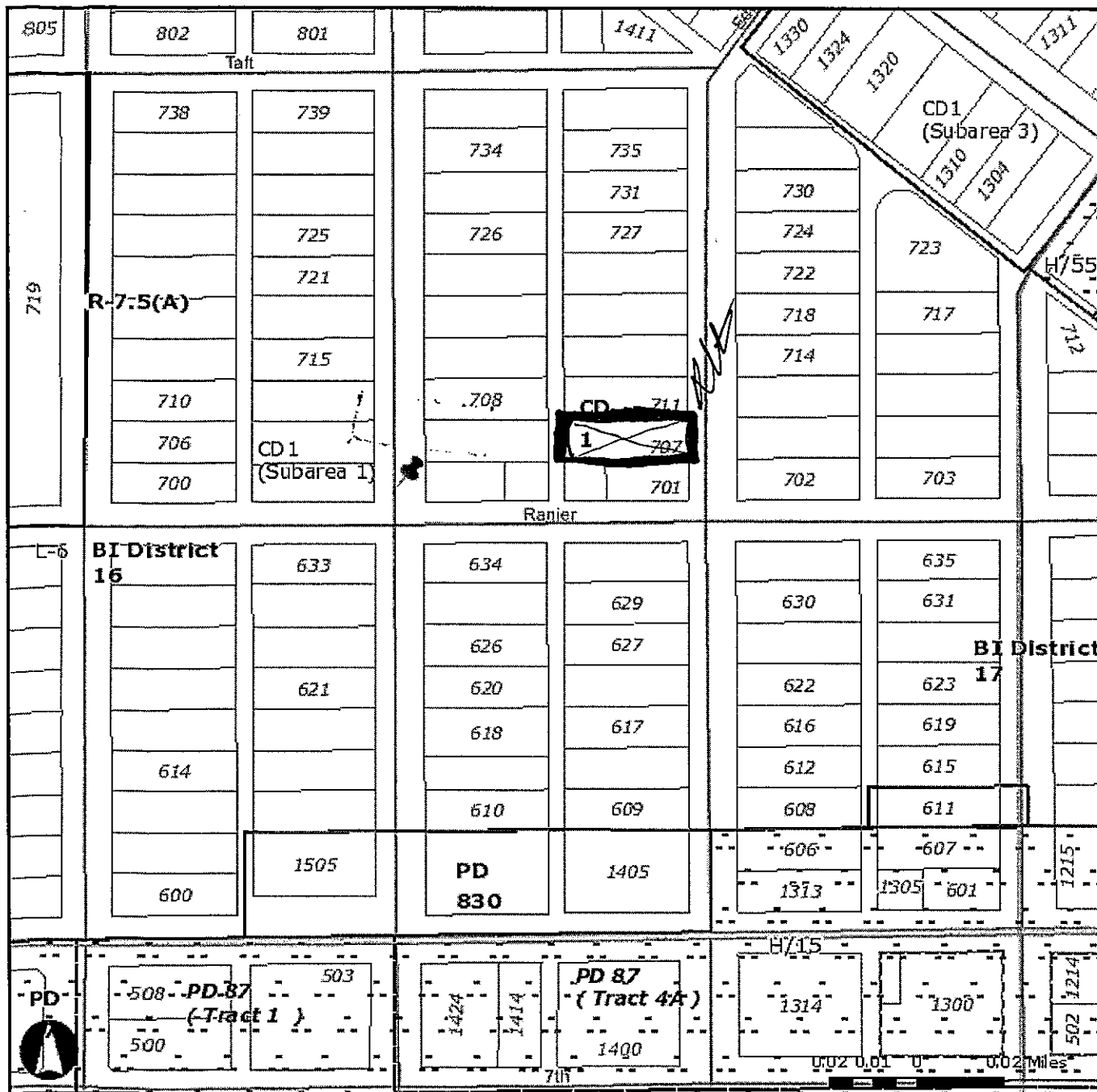
Sincerely,

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
AVE. 700

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

60
700 AVE.

3475/24



50 RANIER 1500

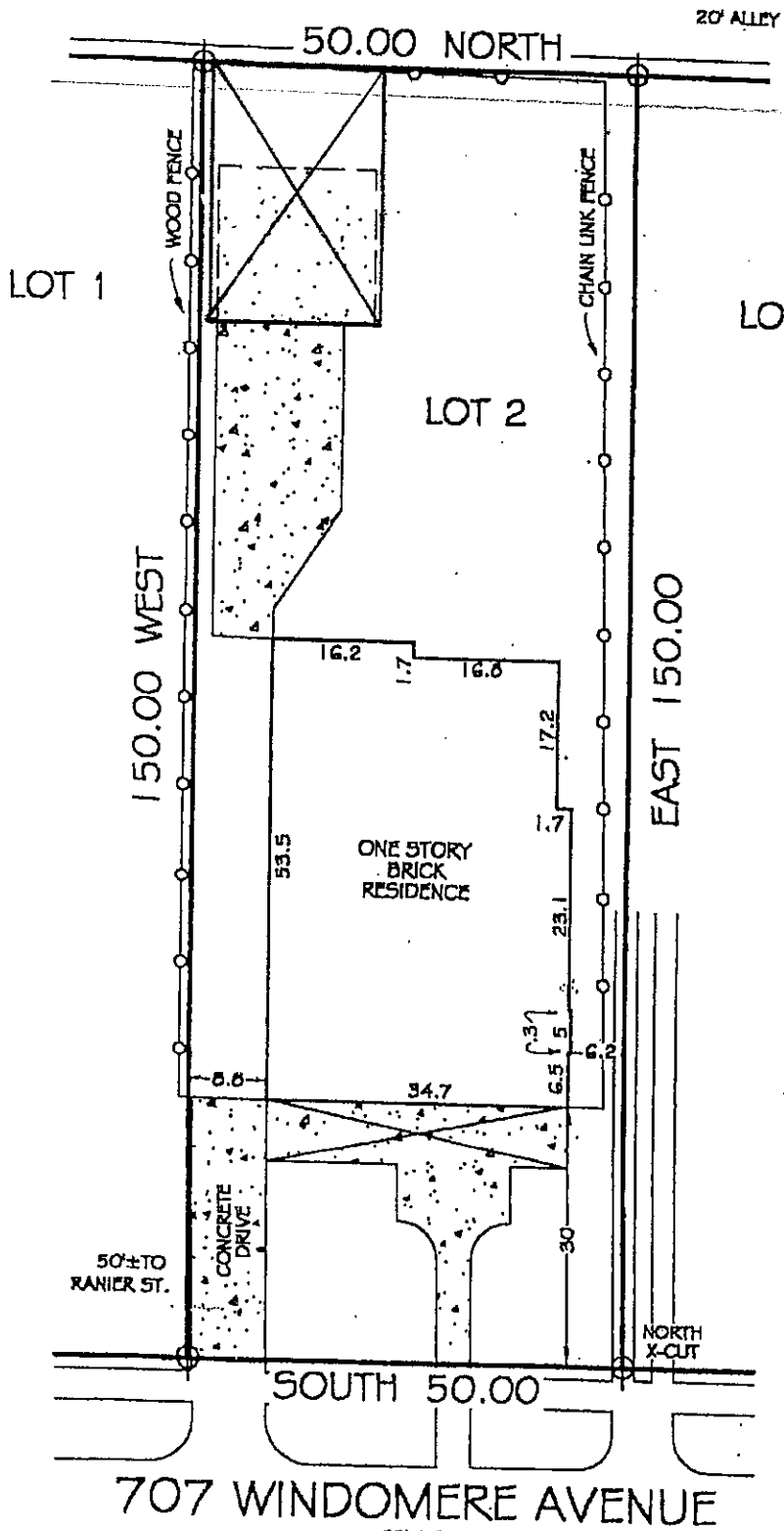
300

50	150	20
50	10	
50	11	
50	12	
50	13	

150	50
9	50
8	50
7	50
6	50

600

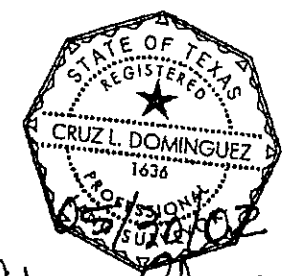
3476/25



SURVEY EXAMINED AND ACCEPTED BY
 PURCHASERS: _____
 DATE: _____

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.

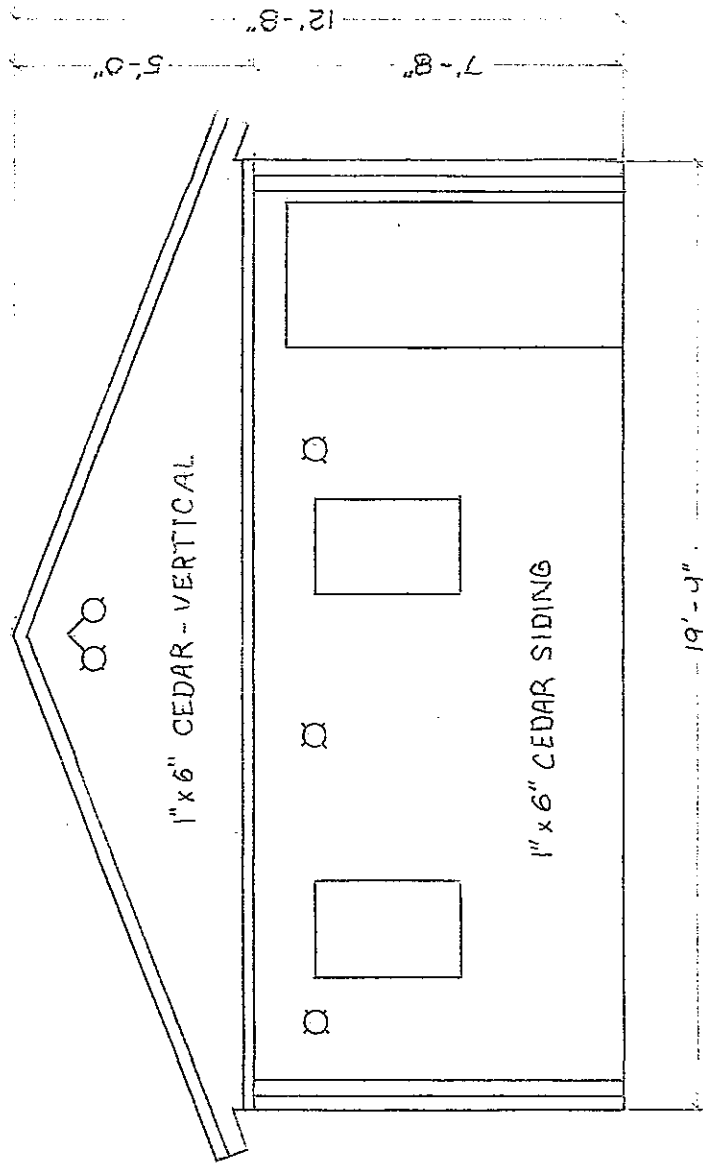


Cruz L. Dominguez
 VEACH LAND SURVEYING CO.

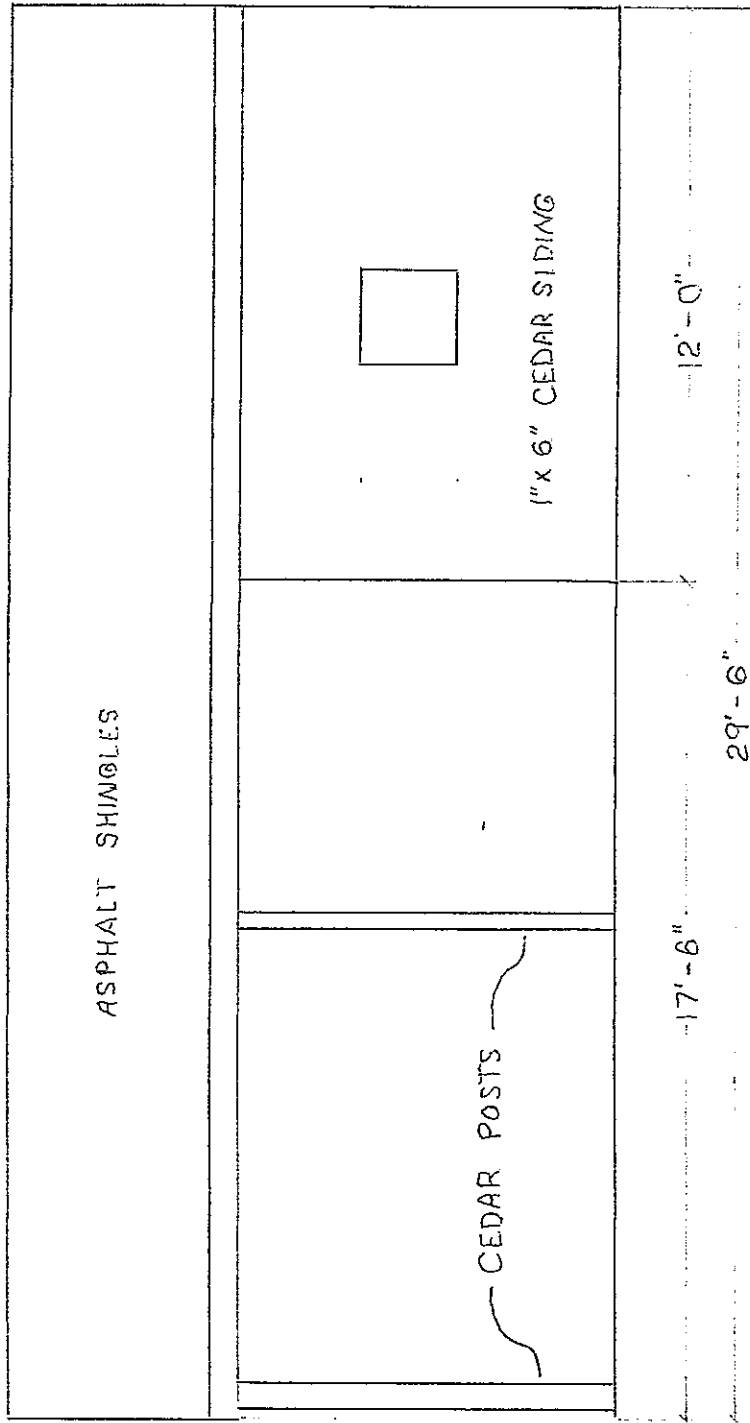
THIS PROPERTY APPEARS TO LIE WITHIN ZONE X
 ACCORDING TO FLOOD INSURANCE RATE MAP FOR
 DALLAS COUNTY, TEXAS, COMMUNITY PANEL NO. _____
 48311C0340.1, DATED _____

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

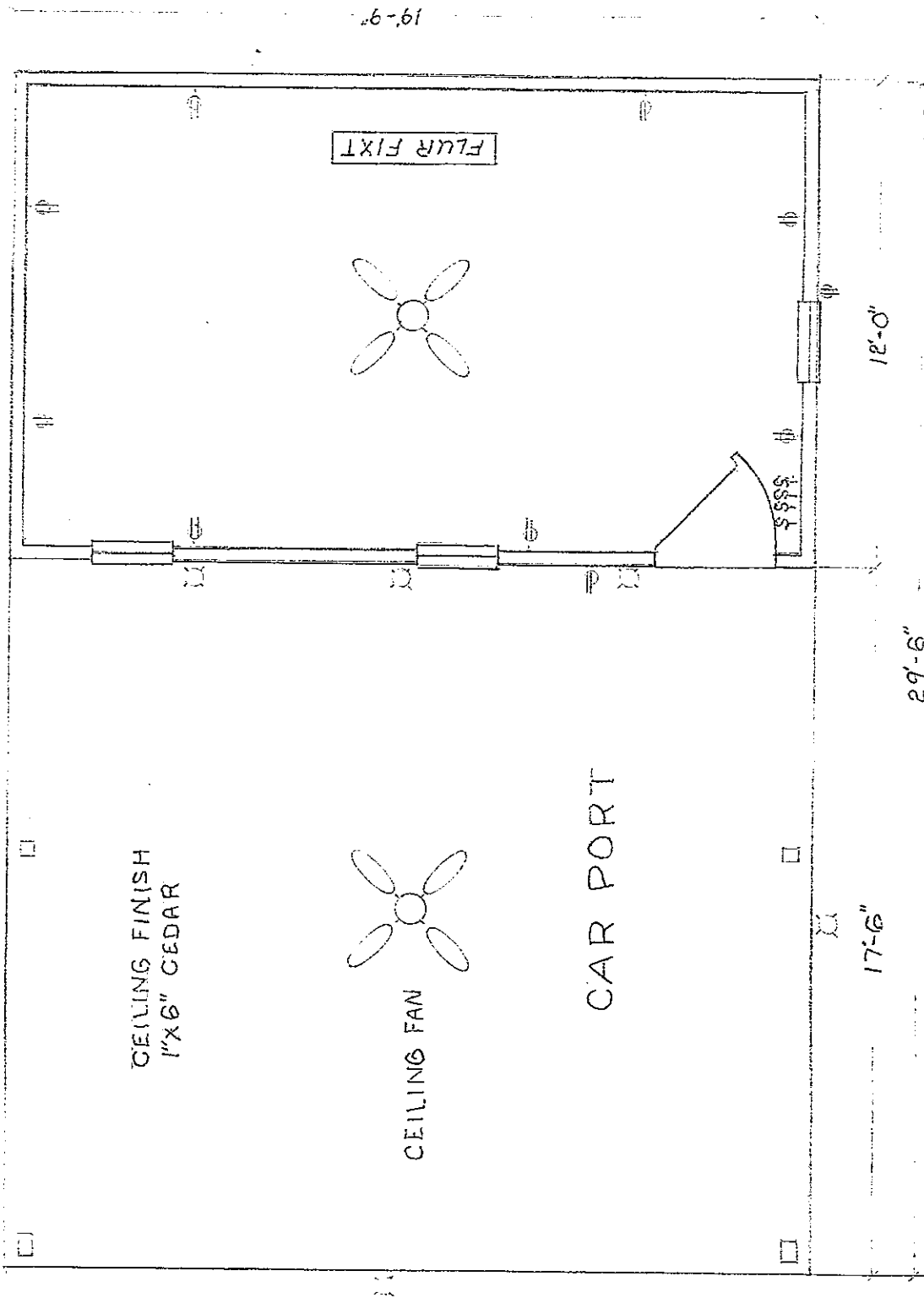
(972) 790-5581
 FAX (972) 254-4268
 944 W. AIRPORT FWY.



FRONT ELEVATION



RIGHT ELEVATION



SCALE 1/4" = 1'-0"



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 8th.

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

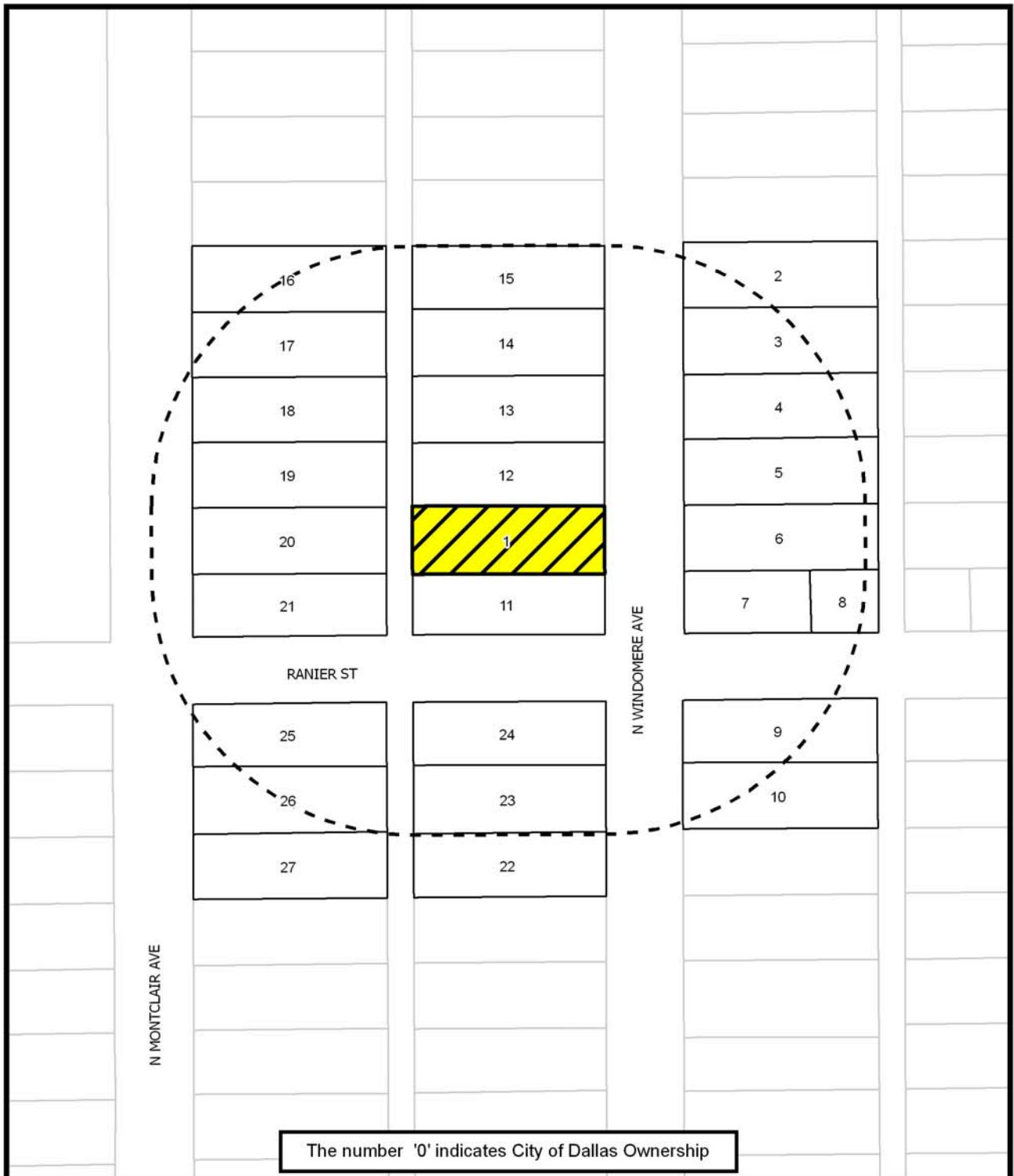
Should you have any further questions regarding the Board's action, please contact me at (214) 670-4666.

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



 1:1,200	<h2>NOTIFICATION</h2>	Map no: <u> L-6 </u>			
	<table border="1"> <tr> <td style="padding: 2px;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="padding: 2px;">27</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	27	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
27	NUMBER OF PROPERTY OWNERS NOTIFIED				

DATE: February 23, 2011

Notification List of Property Owners

BDA101-028

27 Property Owners Notified

Label #	Address	Owner
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 101-057

BUILDING OFFICIAL'S REPORT:

Application of GHA Architects/Kristy Tornga for a special exception of the sign regulations at 7815 LBJ Freeway aka 7909 LBJ Freeway. This property is more fully described as Lot 2C in City Block C/7497 and is zoned MU-1 which requires detached expressway premise signs with a setback greater than 25 feet to have a maximum effective area of 400 square feet. The applicant proposes to construct and maintain a detached expressway premise sign with a minimum 25 foot setback and an effective area of 440 square feet which will require a special exception of an additional 10% of the effective area to the sign regulations.

LOCATION: 7815 LBJ Freeway aka 7909 LBJ Freeway

APPLICANT: GHA Architects/Kristy Tornga

REQUEST:

- A special exception to the sign regulations of 40 square feet (or 10 percent) is requested in conjunction with erecting and maintaining a detached premise expressway sign for a "restaurant with drive-through service" use (In-N-Out Burger) with an effective area of 440 square feet (25' 6" x 17' 3"). The site is currently under development as a restaurant with drive-in or drive through service use (In-N-Out Burger).

STAFF RECOMMENDATION:

Denial

Rationale:

- The applicant had not substantiated how strict compliance with the 400 square foot effective area provision of the sign regulations would result substantial financial hardship or inequity to the applicant without corresponding benefit to the city and citizens in accomplishing the objectives of this article.

**STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS
FOR THE EFFECTIVE AREA OF A DETACHED PREMISE SIGN:**

The Board of Adjustment may, in specific cases and subject to appropriate conditions, authorize a special exception to the sign regulations to permit a

detached premise sign of up to 10 percent of the effective area and height of this article when the board has made a special finding from the evidence presented that strict compliance with this article would result in substantial financial hardship or inequity to the applicant without corresponding benefit to the city and citizens in accomplishing the objectives of this article.

GENERAL FACTS:

- The Dallas Development Code states that an expressway sign with a minimum setback of 25' may have a maximum height of 40' and a maximum effective area of 400 square feet.
A site plan has been submitted indicating a “new pole sign” located approximately 60' from the site’s LBJ Freeway front property line. An elevation has been submitted indicating the height of the “In-N-Out Burger” sign to be 50' from grade, 25' 6” long and 17' 3” high. The elevation denotes the effective area of the sign is 439.9 square feet or 10 percent greater than the effective area allowed by the code at 400 square feet.

BACKGROUND INFORMATION:

Zoning:

Site: MU-1 (Mixed Use)
North: MU-1 (Mixed Use)
South: MU-1 (Mixed Use)
East: MU-1 (Mixed Use)
West: MU-1 (Mixed Use)

Land Use:

The site is currently under development as a restaurant with drive-in or drive-through service use (In-N-Out Burger). The areas to the north, east, and west are developed with retail uses; and the area to the south is developed with a freeway (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:

April 25, 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.

May 18, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

May 19, 2011: The Board Administrator emailed the applicant the following information:

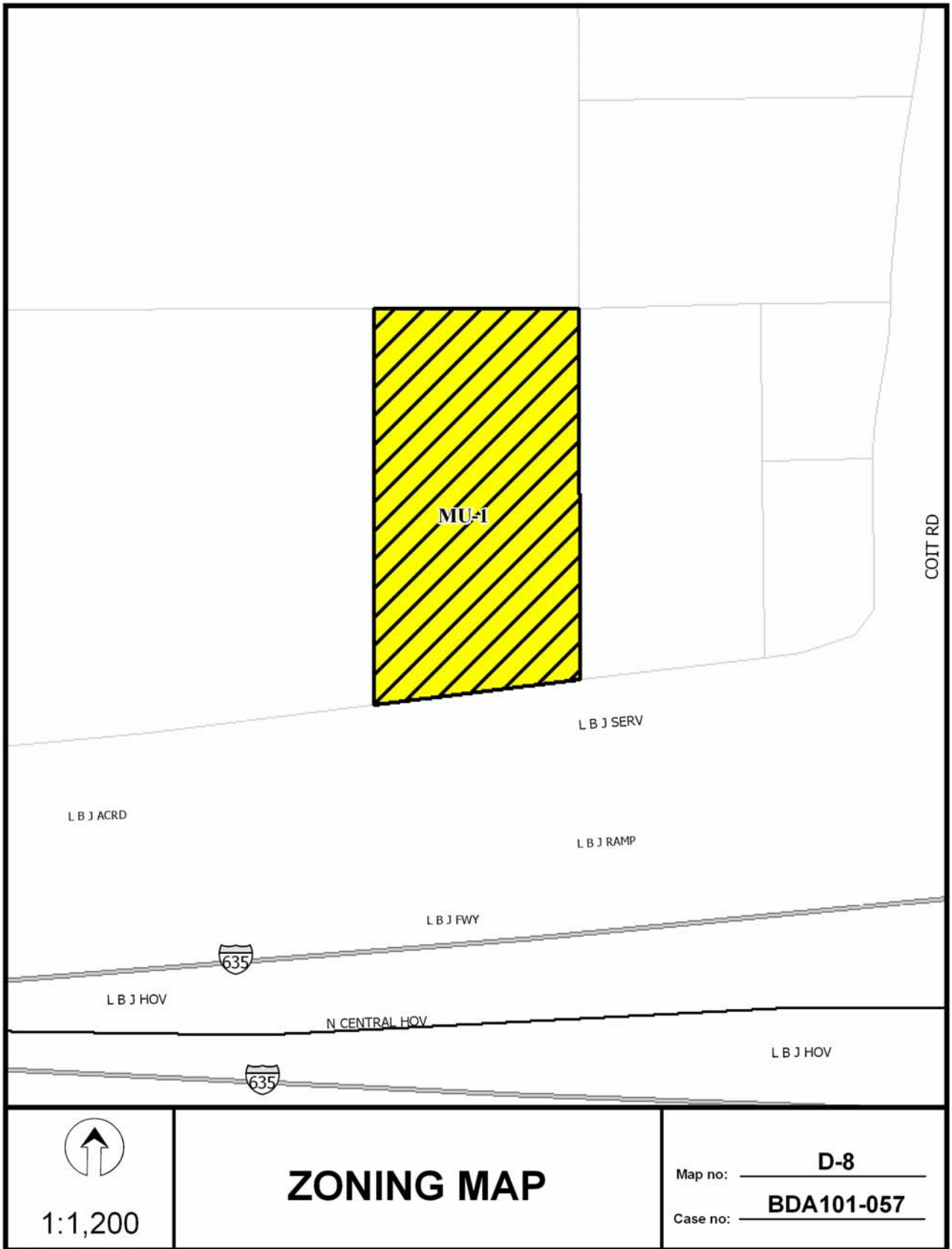
- an attachment that provided the public hearing date and panel that will consider the application; the May 26th deadline to submit additional evidence for staff to factor into their analysis; and the June 3rd deadline to submit additional evidence to be incorporated into the Board's docket materials;
- 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 31, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorneys to the Board.

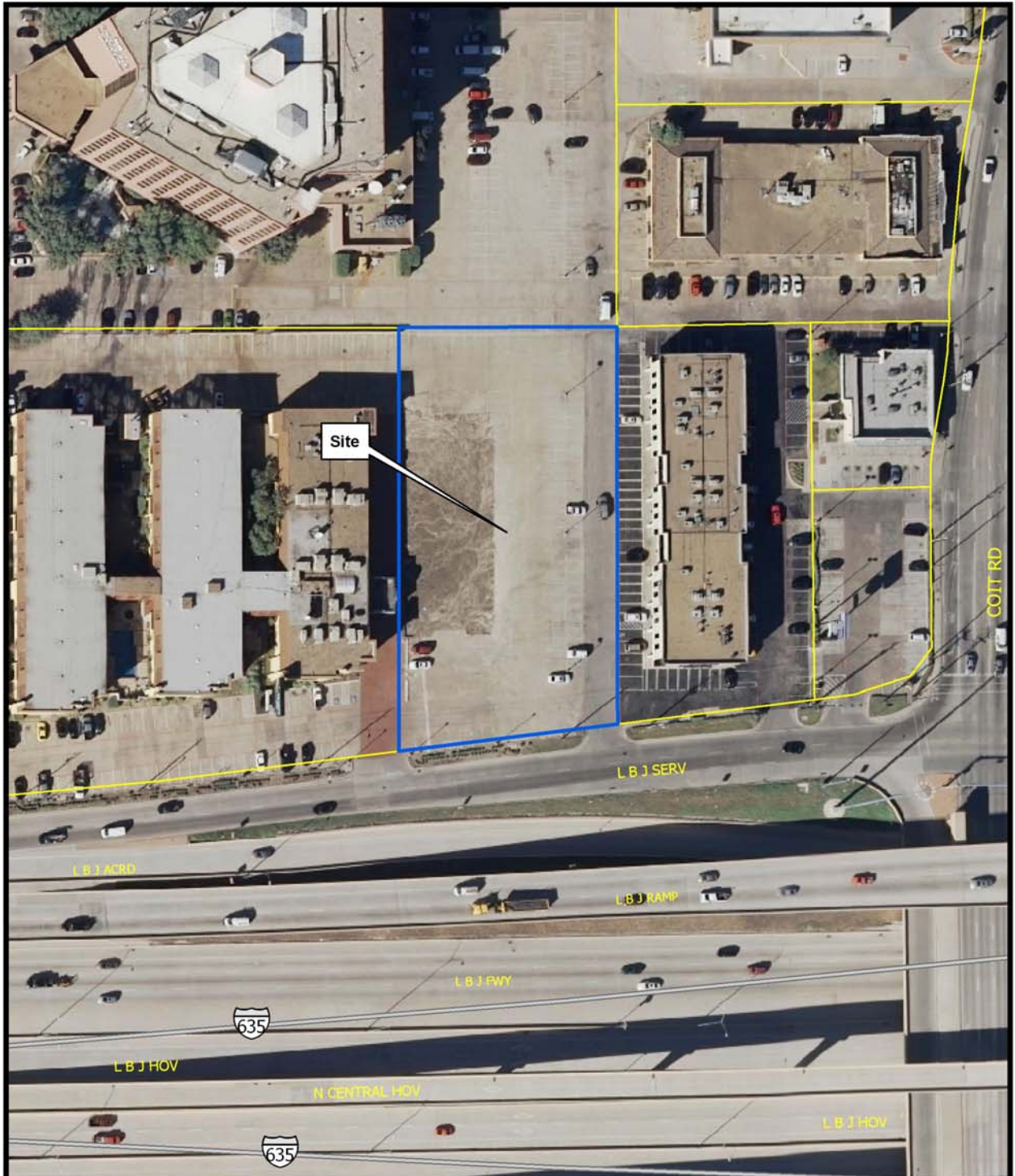
No review comment sheets with comments were submitted in conjunction with this application.

STAFF ANALYSIS:

- This focus of this request is to erect and maintain a detached "restaurant with drive-through service" premise expressway sign (In-N-Out Burger) with an effective area of 440 square feet (25' 6" x 17' 3") – a sign that would be 10 percent larger than the 400 square feet that is permitted by 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 permitted to erect and maintain a sign with an effective area of 400 square feet) 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 with a condition imposed that the applicant complies with the submitted site plan and elevation would allow the sign to be erected and maintained on the site in the location and of the dimensions shown on these documents – a sign with an effective area that is 10 percent or 40 square feet larger than what is permitted by code.



DATE: May 25, 2011



1:1,200

AERIAL MAP

Map no: D-8

Case no: BDA101-057

DATE: May 25, 2011



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-057

Data Relative to Subject Property:

Date: 4-25-11

Location address: 7909 LBJ Freeway, Dallas, TX Zoning District: CR

Lot No.: 2C Block No.: C/7497 Acreage: 1.214 Census Tract: _____

Street Frontage (in Feet): 1) 169.24 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property/or Principal: HE GRE, LLC

Applicant: GHA Architects / Kristy Tornga Telephone: 214-461-9632

Mailing Address: 14110 N Dallas Pkwy, Ste 300, Dallas Zip Code: 75254

Represented by: same Telephone: same

Mailing Address: same Zip Code: same

Affirm that a request has been made for a Variance __, or Special Exception X, of Signage Code restricting the maximum allowed sign area to 400SF. We are requesting an alternative Sign Plan to allow an increase of 10% of the Freeway Pole Sign for a maximum area of 440 SF.

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: Due to the proximity of the site to the LBJ Freeway and Hwy 75 we are requesting an increase in the allowable sign area for the freeway pole sign in order to allow adequate visibility for customers who will be traveling to this business from the freeways. With the many different elevations of the roadways an increase in sign area will help guide customers more smoothly to the site.

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.

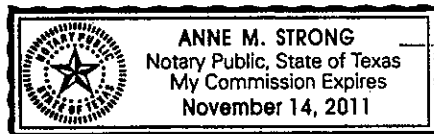
Respectfully submitted: Kristy Tornga Applicant's name printed [Signature] Applicant's signature

Affidavit

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

Affiant (Applicant's signature)

Subscribed and sworn to before me this 25th 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 _____

Chairman

Building Official's Report

I hereby certify that Kristy Tornga

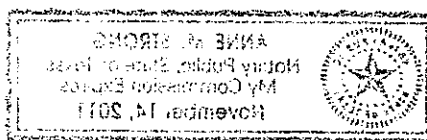
did submit a request 7909 Lyndon Baines Johnson Freeway

at

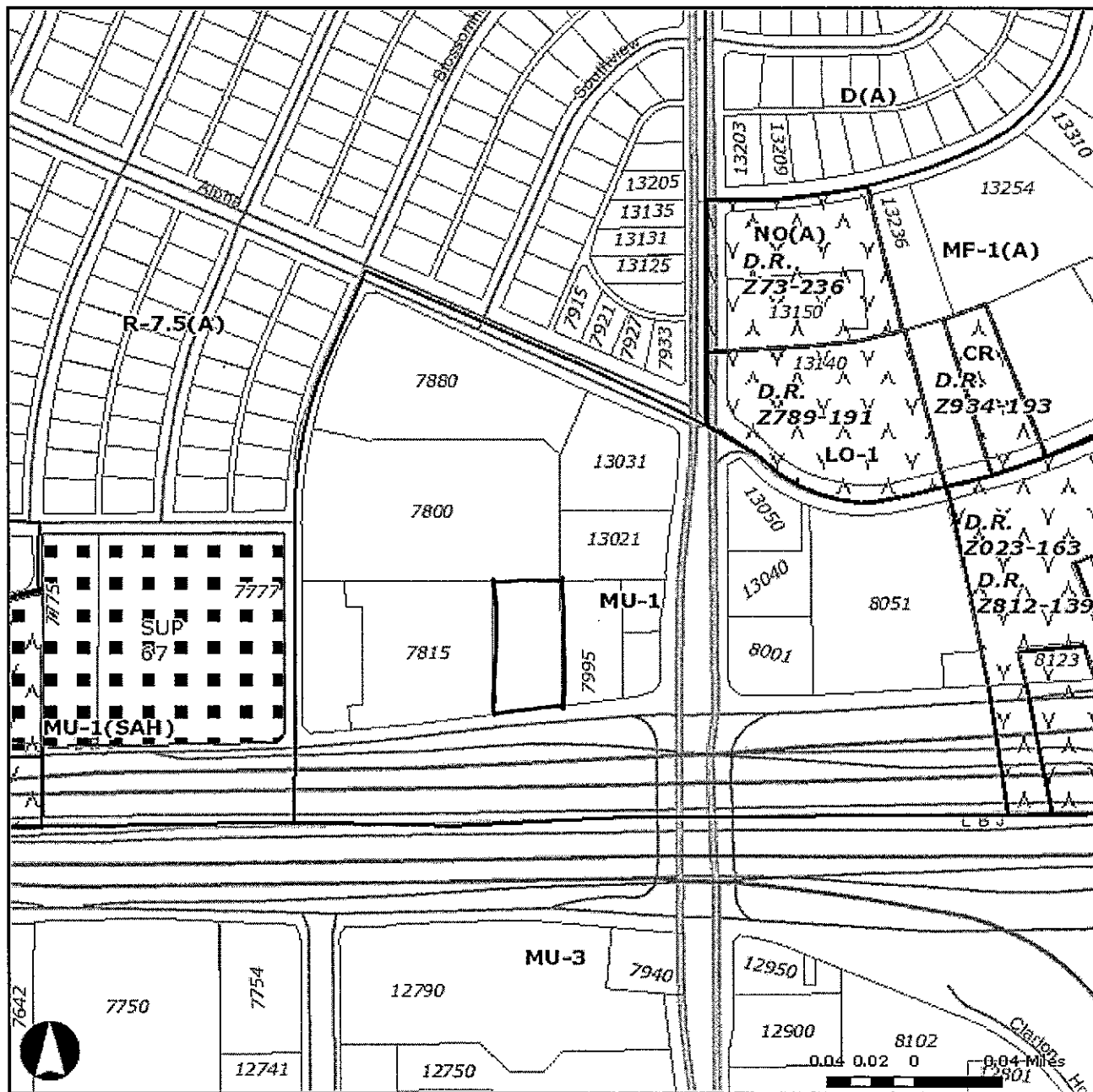
BDA101-057. Application of Kristy Tornga for a special exception of the sign regulations at 7815 LBJ Freeway. This property is more fully described as Lot 2C in city block C/7497 and is zoned MU-1, which requires detached expressway premise signs with a setback greater than 25 feet to have a maximum effective area of 400 square feet. The applicant proposes to construct and maintain a detached expressway premise sign with a minimum 25 foot setback and an effective area of 440 square feet which will require a special exception allowing up to an additional 10% of the effective area to the sign regulations.

Sincerely,

Batsheba Antebi
Batsheba Antebi, Building Official

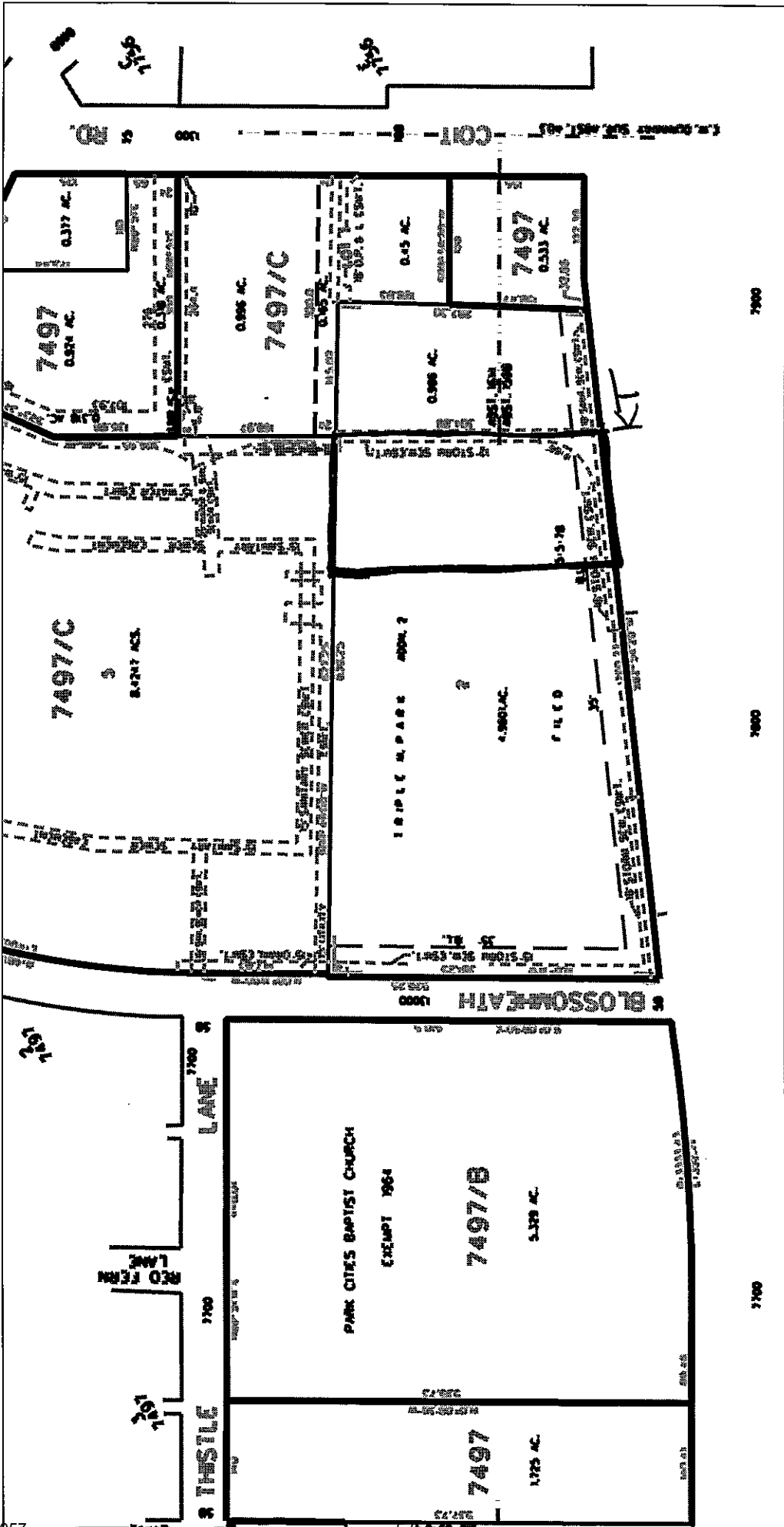


City of Dallas Zoning



- | | | |
|--|--|---|
| <p>City Boundaries</p> <p>County</p> <p>Certified Parcels</p> <p>DISD Sites</p> <p>Council Districts</p> <p>Waterways</p> <p>Parks</p> | <p>Dry Overlay</p> <p>Historic Overlay</p> <p>Historic Subdistricts</p> <p>NSO Overlay</p> <p>NSO Subdistricts</p> | <p>Base Zoning</p> <p>Floodplain</p> <p>100 Flood Zone</p> <p>Mill's Creek</p> <p>Peak's Branch</p> <p>X PROTECTED BY LEVEE</p> <p>Pedestrian Overlay</p> <p>CP</p> <p>SP</p> |
|--|--|---|

KT



SITE BENCHMARK
 1. THE CITY ENGINEER SHALL LOCATE APPROPRIATE POINT WEST OF THE CORNER OF THE LOT TO BE THE POINT OF BEGINNING OF THE SUBDIVISION.
 2. THE CITY ENGINEER SHALL LOCATE APPROPRIATE POINT WEST OF THE CORNER OF THE LOT TO BE THE POINT OF BEGINNING OF THE SUBDIVISION.
 3. THE CITY ENGINEER SHALL LOCATE APPROPRIATE POINT WEST OF THE CORNER OF THE LOT TO BE THE POINT OF BEGINNING OF THE SUBDIVISION.

NOTE
 1. ALL DIMENSIONS SHALL BE IN FEET AND INCHES.
 2. ALL DIMENSIONS SHALL BE TO THE CENTER LINE OF THE ROAD OR RAILROAD UNLESS OTHERWISE SPECIFIED.
 3. ALL DIMENSIONS SHALL BE TO THE CENTER LINE OF THE ROAD OR RAILROAD UNLESS OTHERWISE SPECIFIED.

SITE SUMMARY	
EXISTING ZONING:	MU-1
PROPOSED USE:	DRIVE-THROUGH RESTAURANT
BUILDING AREAS:	3,750 S.F.
SITE AREA:	52,866 S.F. (1.21 AC.)
PARKING REQUIRED: (1/100 SF OF GRA SF)	38 SPACES
PARKING PROVIDED:	72 SPACES
BUILDING HEIGHT	28' (1 STORY)
FLOOR AREA RATIO	0.071:1

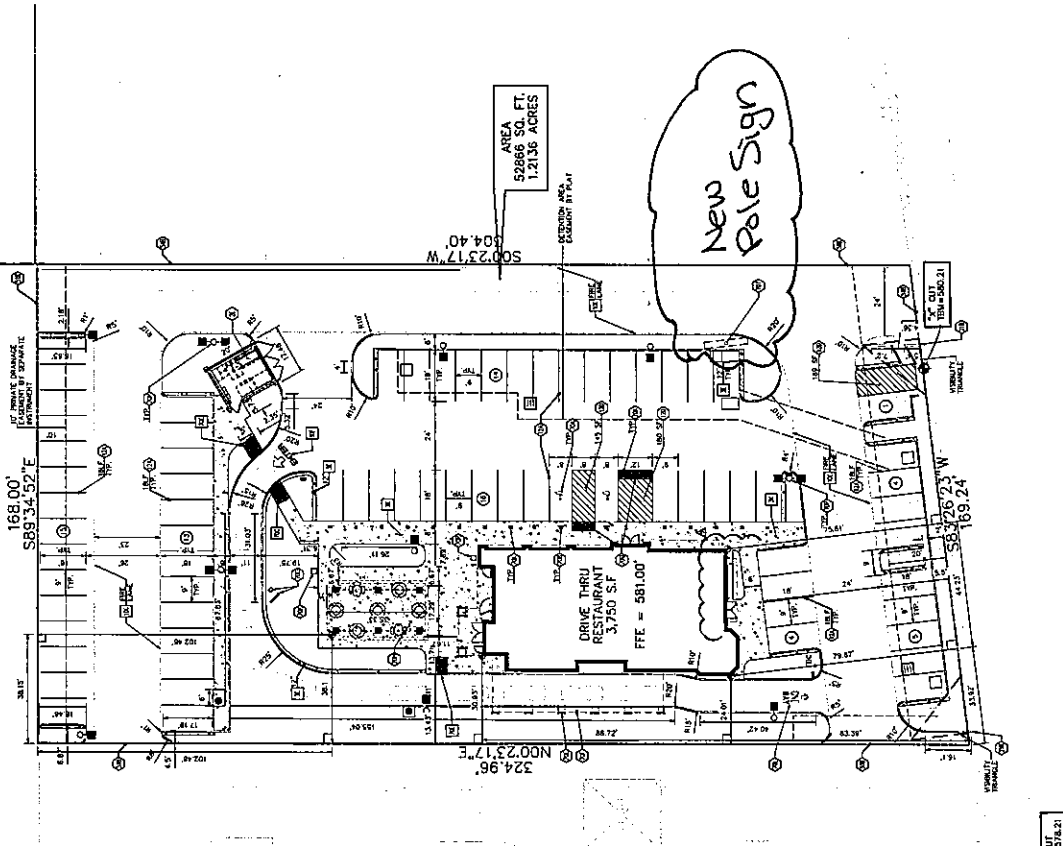
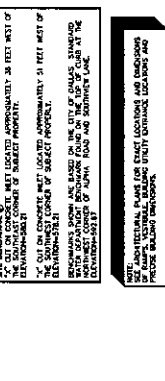
LEGEND

EXISTING

BOUNDARY LINE
 DRAINAGE SERVICE LINE
 GAS LINE
 WATER MAIN
 ELECTRIC MAIN
 SEWER MAIN
 FENCE
 CONCRETE PAVEMENT
 ASPHALT DRIVEWAY
 DRIVEWAY
 SIDEWALK
 STORM DRAIN
 FIRE HYDRANT
 MANHOLE
 SERVICE VALVE
 CHECK VALVE
 SLASH VALVE
 STOP VALVE
 STORM DRAIN MAN HOLE
 GAS VALVE
 WATER VALVE
 ELECTRICAL VALVE
 LIGHT POLE
 WIRE
 FIRE ALARM
 FIRE ALARM BOX
 FIRE ALARM PULL STATION
 FIRE ALARM BELL
 FIRE ALARM BELL BOX
 FIRE ALARM BELL HOUSE
 FIRE ALARM BELL HOUSE
 FIRE ALARM BELL HOUSE

PROPOSED

BOUNDARY LINE
 RIGHT OF WAY LINE
 CONCRETE CURB AND GUTTER
 ASPHALT DRIVEWAY
 DRIVEWAY
 SIDEWALK
 STORM DRAIN
 FIRE HYDRANT
 MANHOLE
 SERVICE VALVE
 CHECK VALVE
 SLASH VALVE
 STOP VALVE
 STORM DRAIN MAN HOLE
 GAS VALVE
 WATER VALVE
 ELECTRICAL VALVE
 LIGHT POLE
 WIRE
 FIRE ALARM
 FIRE ALARM BOX
 FIRE ALARM PULL STATION
 FIRE ALARM BELL
 FIRE ALARM BELL BOX
 FIRE ALARM BELL HOUSE
 FIRE ALARM BELL HOUSE



HE GRE, LLC
 Engineering Associates, Inc.
 3005 107th Street, Suite 100
 Dallas, TX 75244
 972-443-1111
 972-443-1112
 972-443-1113
 972-443-1114
 972-443-1115
 972-443-1116
 972-443-1117
 972-443-1118
 972-443-1119
 972-443-1120

CONSTRUCTION SET

DATE	DESIGNER	SCALE	REVISION
06/28/17	06/28/17		

CITY OF DALLAS
 SITE PLAN
 INFO COORD AND 885
 REKAS
 REV-3
 CI

10/20/17
 10/20/17

HE GRE, LLC
 Engineering Associates, Inc.
 3005 107th Street, Suite 100
 Dallas, TX 75244
 972-443-1111
 972-443-1112
 972-443-1113
 972-443-1114
 972-443-1115
 972-443-1116
 972-443-1117
 972-443-1118
 972-443-1119
 972-443-1120



PROJECT: IN-N-OUT #XXXX
 DRAWN BY: NPO COIT & LGS, DALLAS, TX
 SHEET TITLE: MONUMENT SIGN
 DESIGNED BY: GARRY WILCOX
 CHECKED BY: JEREMY READ
 DATE: 08/17/10
 SCALE: NOTED
 CUSTOMER APPROVAL:

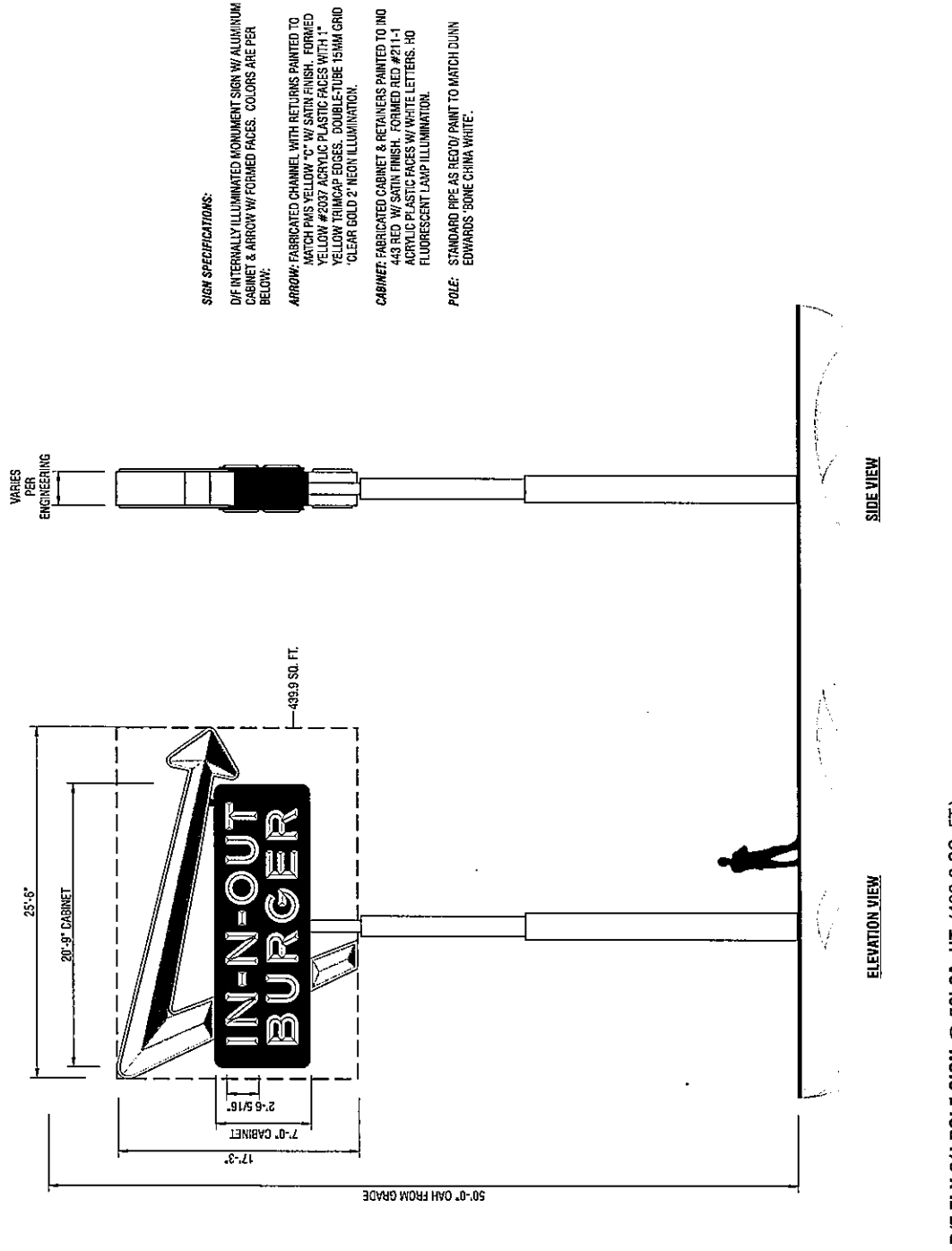
UNLESS SPECIFIED, THIS SIGN SHALL BE MANUFACTURED IN ACCORDANCE WITH THE PRODUCTION. The information shown is for permitting and design intent only. Colors shown are representations of colors and are not intended to be an exact match of the finished product.

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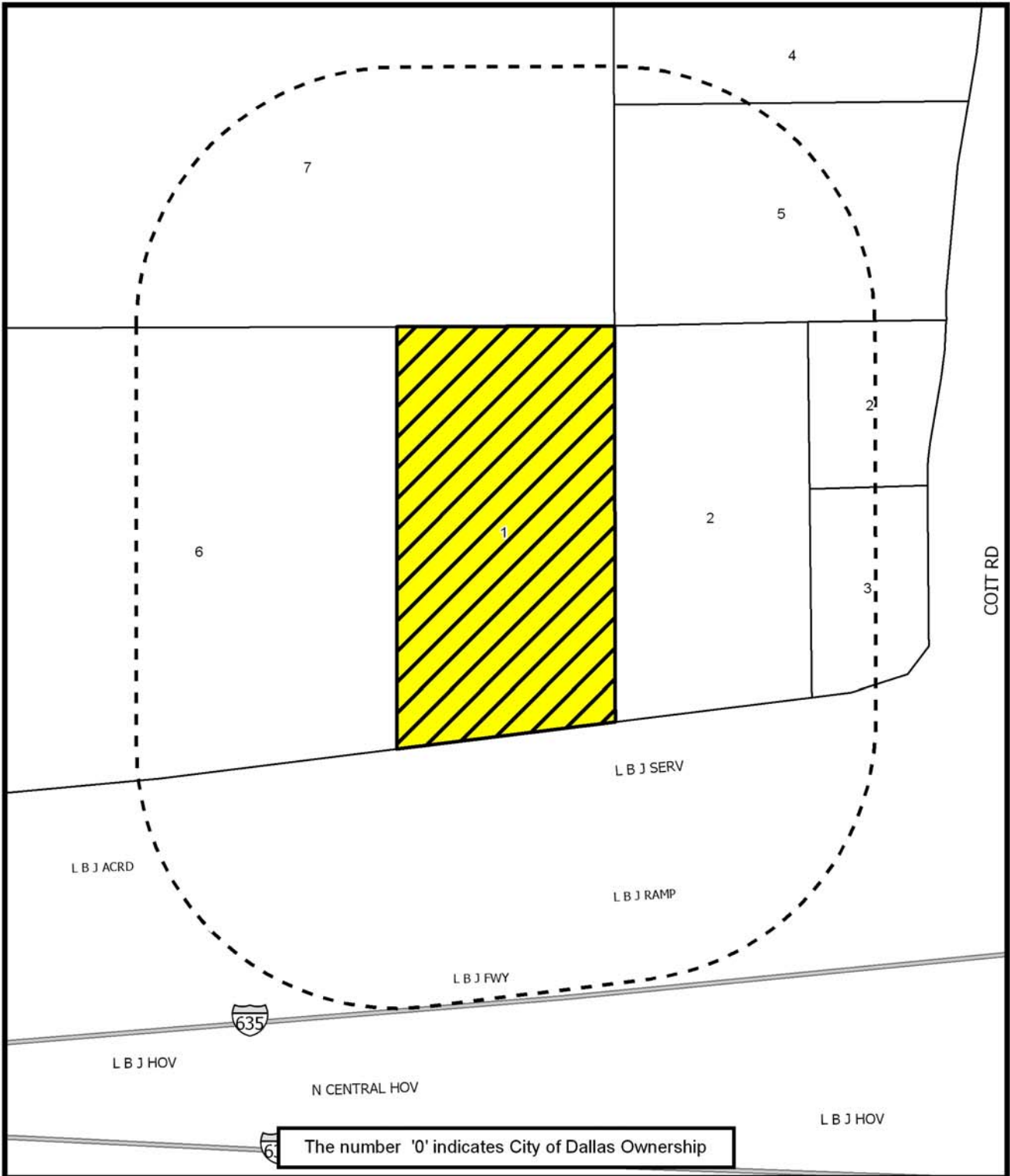
PROJECT #	10-775	DRAWING #	308859
REVISIONS	6	DATE	08/03/10

REVISIONS			
NO.	DATE	BY	DESCRIPTION
1	10/20/10	JA	1
2	10/20/10	JA	6
3	10/20/10	JA	8
4	10/20/10	JA	10
5	10/20/10	JA	11
6	10/20/10	JA	12

KEY NO. **A1**



D/F 7' X 21' POLE SIGN @ 50' OA. HT. (439.9 SQ. FT.)
 SCALE: 1/8" = 1'-0"




 1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
7 NUMBER OF PROPERTY OWNERS NOTIFIED

Map no: D-8
 Case no: BDA101-057

DATE: May 25, 2011

Notification List of Property Owners

BDA101-057

7 Property Owners Notified

Label #	Address	Owner
1	7815 LBJ	BM CAPITAL INVESTMENT GROUP LLC
2	7995 LBJ	HEBRON OLD DENTON LTD SUITE 250
3	13009 COIT	HEBRON-OLD DENTON LTD SUITE 250
4	13031 COIT	SCP 2003 D GL JPCC TX LP 5CVS
5	13021 COIT	PNYX LIMITED PARTNERSHIP
6	7815 LBJ	HOTEX LLC
7	7800 ALPHA	HPT IHG 3 PPTIES TR

FILE NUMBER: BDA 101-062(J)

BUILDING OFFICIAL'S REPORT:

Application of Leigh Ann Everett represented by Roger Albright for a special exception to the parking regulations at 8749 Southwestern Boulevard. This property is more fully described as Lot 1 in City Block D/5414 and is zoned MF-2(A), which requires parking to be provided. The applicant proposes to construct residential structures for multifamily use and provide 580 of the required 628 parking spaces which will require a special exception of 48 spaces (8% reduction).

LOCATION: 8749 Southwestern Boulevard

APPLICANT: Leigh Ann Everett
Represented by Roger Albright

REQUEST:

- A special exception to the off-street parking regulations of 48 parking spaces (or an 8 percent reduction of the 628 off-street parking spaces that are required) is requested in conjunction with constructing residential structures for a multifamily use containing 322 dwelling units with a 2,400 square foot accessory community center and providing 580 (or 92 percent) of the 628 required off-street parking spaces.

STAFF RECOMMENDATION:

- Denial

Rationale:

- The Sustainable Development Department Project Engineer submitted a review comment sheet stating "Recommends that this be denied (see comments below)" with the following comments: "inadequate information. Need parking study for review from a traffic registered professional engineer. No street parking is available at this site."

STANDARD FOR A SPECIAL EXCEPTION TO THE OFF-STREET PARKING REGULATIONS:

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated

by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights. For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 50 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.

- 2) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
 - (A) establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) impose restrictions on access to or from the subject property; or
 - (C) impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
 - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

GENERAL FACTS:

- The Dallas Development Code requires the following off-street parking requirement:
 - Multifamily use: 1 space for 500 square feet of floor area. Not less than one space nor more than two and one half spaces are required for each dwelling unit in a multifamily structure 36 feet or less in height.
 - Accessory community center (private) use: 1 space for 100 square feet of floor area.
- The applicant proposes to provide 580 (or 92 percent) of the required 628 off-street parking spaces in conjunction with redevelopment of the request site with multifamily uses.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A).

BACKGROUND INFORMATION:

Zoning:

Site: MF-2(A) (Multifamily)
North: PD 742 (Planned Development District)
South: MF-1(A) (Multifamily)
East: MF-2(A) (Multifamily)
West: MF-2(A) (Multifamily)

Land Use:

The subject site is currently developed with a multifamily use. The area to the north is under construction with retail and restaurant uses; the areas to the east, south, and west are developed with multifamily uses. A library is located at the north corner of Skillman Street and Southwestern Boulevard.

Zoning/BDA History:

BDA056-104
6061 Village Glen

On March 14, 2006, the Board of Adjustment approved a variance of 1'6" to the height regulations and a special exception to the parking regulations of 235 spaces or 24% for a proposed multifamily development requiring 970 off-street parking spaces.

BDA978-161
8603 Southwestern Boulevard

On April 28, 1998, the Board of Adjustment approved a variance of 11' to the height regulations, a special exception to the tree mitigation

regulations, and a special exception of 101 spaces or 13% for a proposed multifamily development requiring 751 off-street parking spaces.

Timeline:

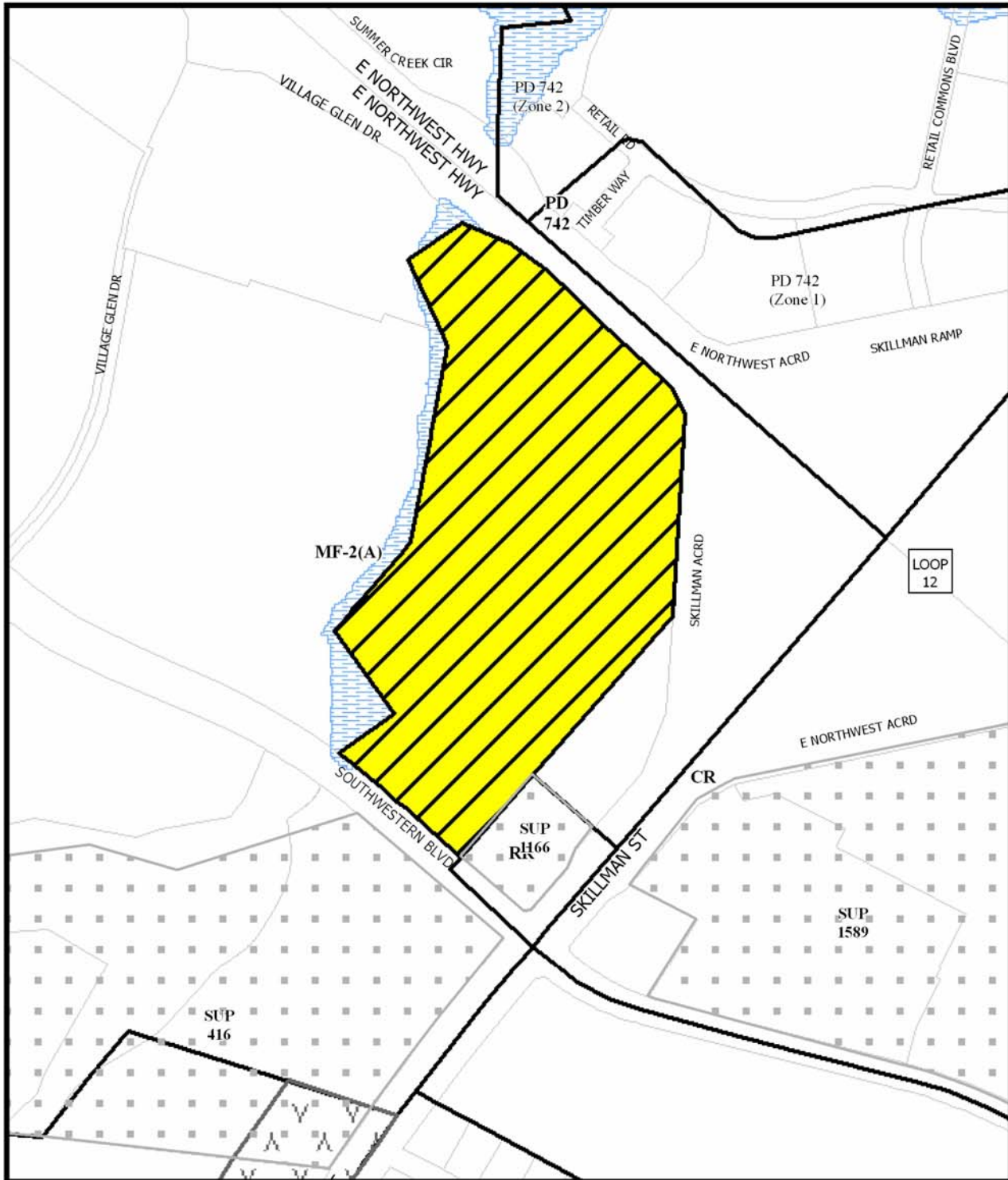
- April 29, 2011: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- May 18, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- May 25, 2011: The Board Senior Planner contacted the applicant and discussed the following information:
- the public hearing date and panel that will consider the application; and the June 3rd 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 31, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Board of Adjustment Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorneys to the Board.
- June 2, 2011: The Sustainable Development Department Project Engineer submitted a review comment sheet marked “Recommends denial (see comments below).”
- June 3, 2011: The applicant submitted additional information (Attachment A).

STAFF ANALYSIS:

- The proposed approximately 301,709 square foot structure for multifamily uses with an approximately 2,400 square foot accessory community center requires 628 off-street parking spaces of which the applicant proposes to provide 580 at 1 space per 500 square feet of floor area for the multifamily

use and 1 space per 100 square feet of floor area for the accessory community center (private).

- On June 2, 2011, Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Recommends that this be denied (see comments below)” with the following comments: “inadequate information. Need parking study for review from a traffic registered professional engineer. No street parking is available at this site.”
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the existing and proposed uses does not warrant the number of off-street parking spaces required, and
 - The special exception of 48 spaces (or 8 percent reduction of the required off-street parking spaces) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, subject to the condition that the special exception of 48 spaces shall automatically and immediately terminate if and when the multifamily use are changed or discontinued, the applicant would be allowed to redevelop the site with multifamily use and provide only 580 of the 628 required off-street parking spaces.



1:3,600

ZONING MAP

Map no: G-8
 Case no: BDA101-062

DATE: May 25, 2011



1:3,600

AERIAL MAP

Map no: G-8
Case no: BDA101-062

DATE: May 25, 2011

THE BLUFFS IN THE VILLAGE

Proposed 46 Parking Spaces/8% Special Exception

The Village:

The Bluffs is one of seventeen (17) multi-family communities which comprise “The Village” encircled by Greenville Avenue, Northwest Highway, Skillman and Lovers Lane. The Village contains over 7,000 dwelling units and is home to over ten thousand (10,000) citizens of Dallas. Development of The Village began forty (40) years ago. Communities within The Village continue not to be merely renovated, but replaced with new communities reflecting changes in construction, design and lifestyles including transportation habits.

The Bluffs:

The new Bluffs will contain 322 dwelling units with a mix of 201 one bedroom, 103 two bedroom and 18 three bedroom units for a total of 461 bedrooms. A total of 580 off-street parking spaces will be provided. This will provide a parking ratio of 1.8 spaces per dwelling unit and 1.26 parking spaces per bedroom. Both of these ratios exceed the demonstrated parking demand shown for communities within The Village.

Demonstrated Parking Demand:

- (1) BDA978-161 – In April, 1998, the Board approved a special exception of 101 parking spaces for The Glen located at 8603 Southwestern Blvd. in The Village. The 101 parking space special exception recommended by staff and approved by the Board provided a parking supply of 1.6 spaces per unit and 1 space per bedroom.
- (2) Parking Demand Study – In support of that application, this same applicant presented the Technical Memorandum prepared by DeShazo & Associates. As of the Study date, the average complex in The Village contained 509 units, 667 bedrooms, and 816 parking spaces. This yielded an average parking ratio of 1.6 spaces per unit and 1.17 spaces per bedroom. The attached Parking Study based upon parking surveys conducted in The Village at peak times reflect that the maximum parking demand observed would result in ratios of 1.38 spaces per unit and 1 space per bedroom being needed to meet that demand.

(3) BDA989-111 – In October, 1998, staff recommended and the Board approved a 15% special exception to the off-street parking requirements for the vacant site within The Village located at 8875-8893 Southwestern. The reduction resulted in parking ratios of 1.98 spaces per unit and 1.28 spaces per bedroom for the new development.

(4) BDA056-104 – In March, 2006, the Board approved a 179 parking space special exception for the “Dakota” complex in The Village. That special exception included the use of tandem spaces (Some units in the Dakota have attached garages and designated parking in front of the garages provided for those individual units. Those “tandem spaces” while counted in PD-193 as off-street parking are not under the Development Code. No tandem spaces are proposed for The Bluffs.). Under the special exception approved by the Board, the Dakota is parked at 1.8 spaces per unit including the tandem spaces or 1.5 spaces per unit without the tandem spaces and 1.4 spaces per bedroom with the tandem and 1.1 spaces per bedroom without.

Conclusion:

The parking study prepared by DeShazo & Associates has been time-tested and shown to be correct in all respects. Those results continue to be shown to be true in each new complex built or rebuilt within The Village. Actual demand does not exceed the 1.26 space per bedroom or 1.8 spaces per unit proposed for The Bluffs. The best proof is in the continued success of The Village. Each complex enjoys high occupancy and high rents; something that would not occur if the needs of its residents including their parking needs were not being met.

TAB 1

BDA 978-161



CITY OF DALLAS

April 30, 1998

Roger Albright
3301 Elm Street
Dallas, Texas 75226

Re: BDA 978-161
8603 Southwestern Blvd.

Dear Mr. Albright:

The Board of Adjustment at its public hearing held on Tuesday, April 28, 1998 took the following actions:

- granted your request for a variance of 11 feet to the height regulations for proposed apartment buildings and 13 feet to the maximum height regulations for the structures on top of proposed apartment buildings, subject to compliance with the submitted site and elevation plans;
- granted your request for a special exception of 101 parking spaces to the off-street parking regulations, subject to this special exception automatically and immediately terminates if and when the multifamily use is changed or discontinued; and
- granted your request for a special exception to the tree preservation requirements, subject to the following conditions:
 - (1) mitigation must be completed by April 28, 2001; and
 - (2) protected trees may be removed prior to the issuance of a building permit.

You will need to contact the Building Inspector's Office at 320 E. Jefferson, Room 105 within the next 180 days in order to obtain the appropriate permits in conjunction with these requests.

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

Sincerely,

Steve Long, Board Administrator
Board of Adjustment
Department of Planning and Development

SL/km

c: PC Village Apartments Dallas LP, 8308 Southwestern Blvd., Dallas, Tx. 75206
Ramiro Lopez, Code Enf., Street & Sanitation (6/D/S)
Phil Sikes, Bldg. Inspection, 320 E. Jefferson #105
File

RECEIVED MAY 01 1998

PLANNING AND DEVELOPMENT CITY HALL DALLAS, TEXAS 75201 TELEPHONE 214/670-4118

TAB 2

PARKING STUDY

Law Offices of Roger Albright

**Parking Study for The Glen Apartment
Redevelopment at The Village
in Dallas, Texas**

Prepared by:
DeShazo, Tang & Associates, Inc.
Engineers • Planners
400 S. Houston St., Suite 330
Dallas, Texas 75202

April 21, 1998



4-8

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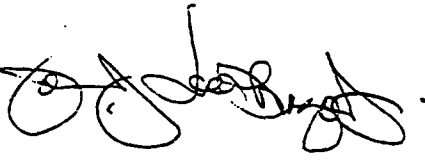
INTRODUCTION.....	1
PARKING STUDY.....	4
<i>Observed Parking Demand</i>	4
<i>Effective Parking Demand</i>	4
CONCLUSION.....	5



DeShazo, T. & Associates, Inc.
Engineers ♦ Planners
400 South Houston, Suite 330
Dallas, TX 75202-4899
214/748-6740 • FAX 214/748-7037
email: dtainc@onramp.net

TECHNICAL MEMORANDUM

TO: Mr. Roger Albright
Law Offices of Roger Albright

FROM: DeShazo, Tang & Associates, Inc. 

DATE: April 21, 1998

RE: Parking Study for The Glen Apartment Redevelopment at The Village
Apartment Community in Dallas, Texas; DT&A No. 98066

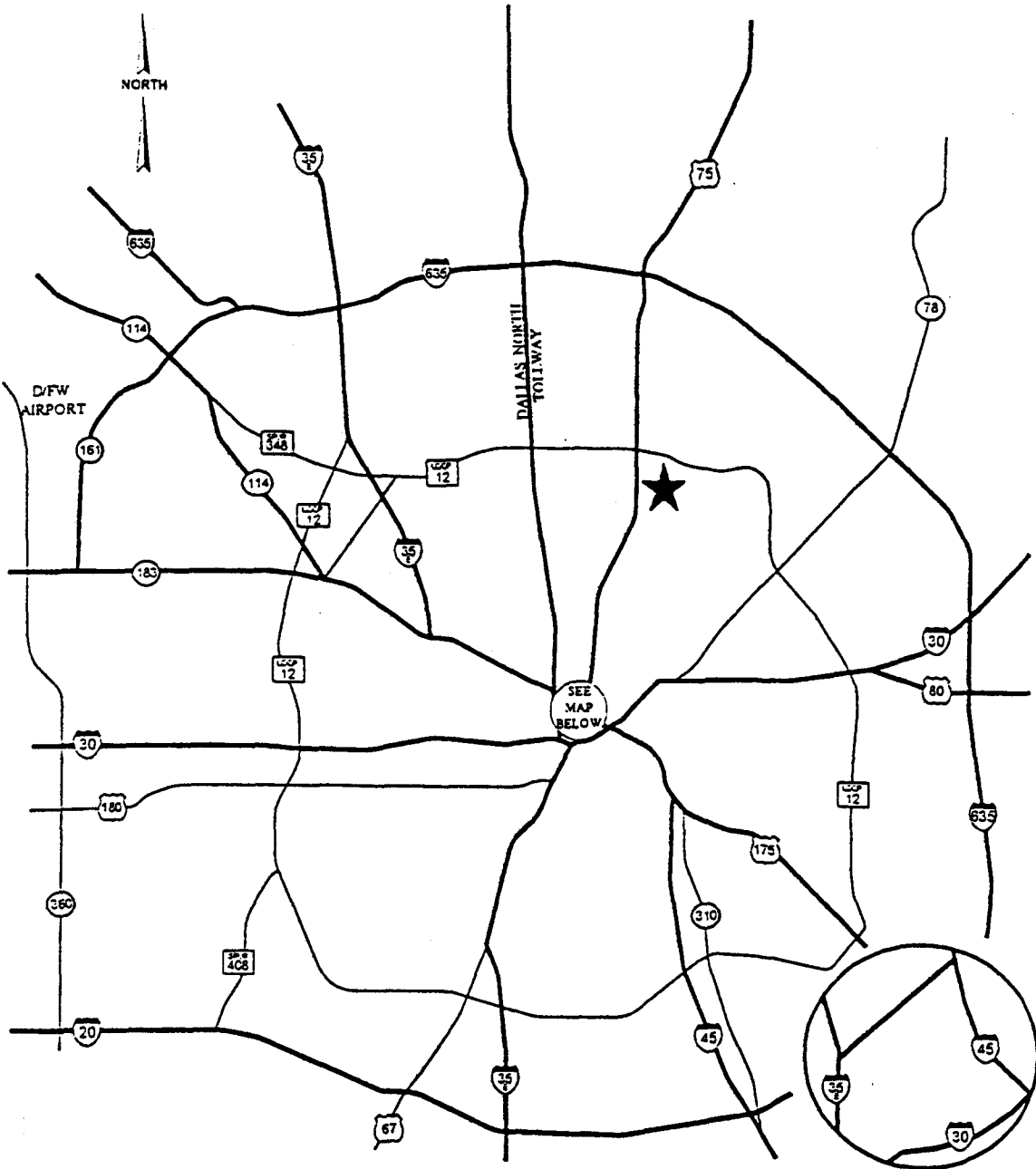
INTRODUCTION

The services of DeShazo, Tang & Associates (DT&A) were retained to conduct a parking analysis for the redevelopment of The Glen apartment complex, part of The Village apartment community located in Dallas, Texas. The Village is located in the southeast quadrant of North Central Expressway (US 75) and Northwest Highway (Loop 12), a vicinity map is provided in Exhibit 1. The proposed program for the redevelopment of The Glen contains 392 units, including 174 one-bedroom apartments, 182 two-bedroom apartments and 36 three-bedroom apartments.

The Village is an apartment community composed of 14 individual apartment complexes and a country club. A site plan of The Village is shown in Exhibit 2. The average complex contains 509 units, 697 bedrooms, and 816 parking spaces which yields an average parking ratio of 1.6 spaces per unit and 1.17 spaces per bedroom. The proposed redevelopment of The Glen apartment complex provides a parking supply of 1.66 spaces per unit, which is equivalent to 1 space per bedroom. The intent of this analysis is to support the proposed parking ratio.

In order to support the proposed parking criteria, the following model is used:

- A. Perform a parking space survey at four apartment complexes in The Village, and
- B. Project an effective parking demand for apartment complexes in The Village.



Legend:

★ =The Village Apartment Community

EXHIBIT 1. VICINITY MAP

DeShazo, Tang & Associates, Inc.
Page 2

The Village

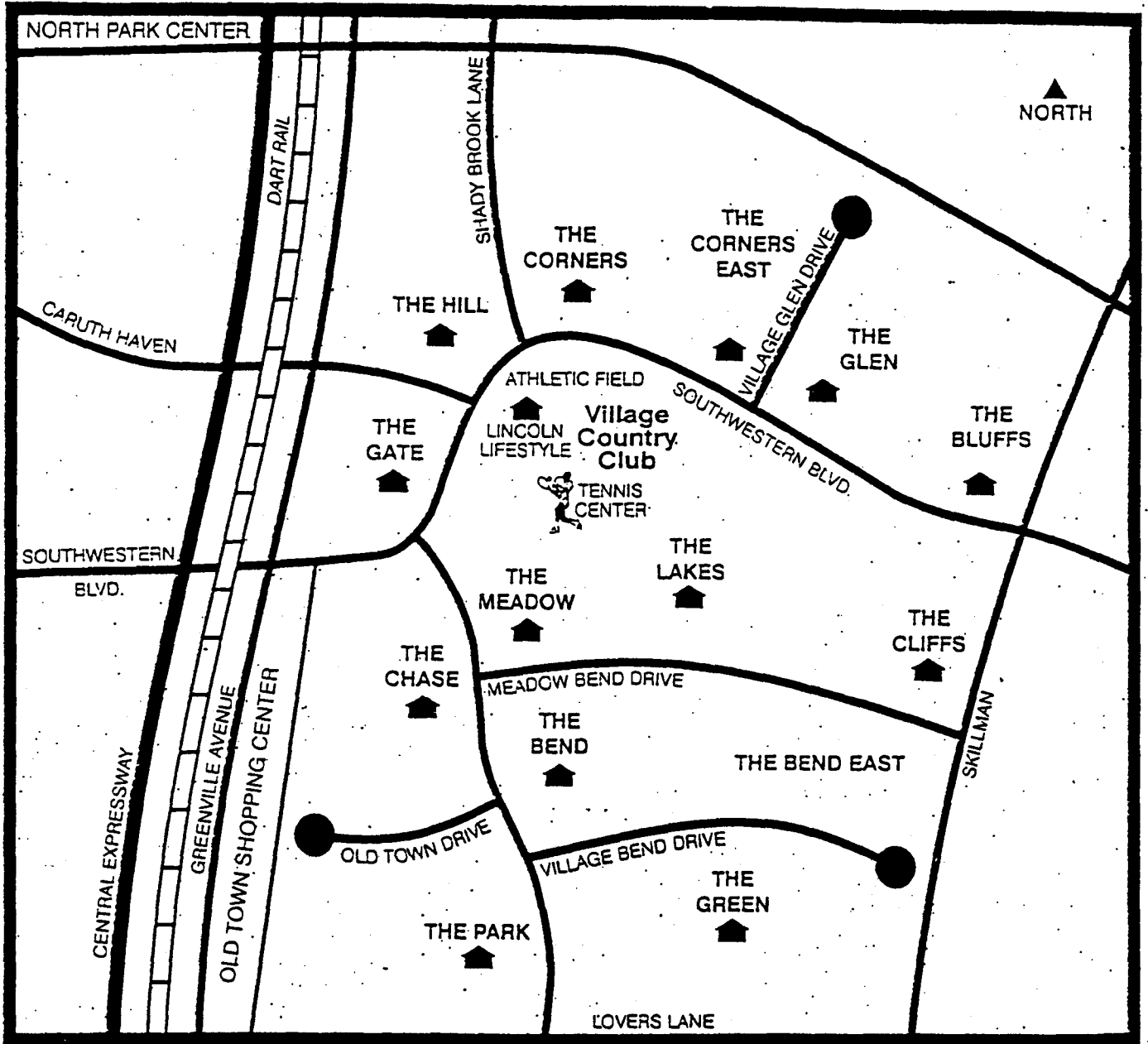


EXHIBIT 2. THE VILLAGE SITE PLAN

DeShazo, Tang & Associates, Inc.
Page 3

PARKING STUDY

Observed Parking Demand

DT&A collected a parking accumulation count at four complexes in The Village during a peak parking period at 12:00 AM on Friday, April 17, 1998 (Thursday night) and at 1:30 AM on Sunday, April 19, 1998 (Saturday night). The four complexes were approximately 96 percent occupied at the time of the survey. Site plans for the surveyed complexes are provided in the Appendix. A summary of the surveyed complexes and the observed parking demand is provided in Table 1.

TABLE 1. SUMMARY OF PARKING SURVEY

Apartment Complex	Occupied Units	Occupied Bedrooms	Observed Parking Demand (spaces)	
			Friday	Sunday
The Cliffs	206	273	252	242
The Gate	443	758	582	582
The Lakes	649	858	801	780
The Park	358	476	409	422
TOTAL:	1,656	2,365	2,044	2,026

Effective Parking Demand

The effective parking demand is based upon the observed parking demand and then factored to account for parking inefficiencies. A parking inefficiency of five percent is added to the observed demand which accounts for design limitations of the parking facility, the distance tenants are willing to walk, and other factors which may reduce the optimum use of the parking facility. After applying the parking inefficiency factor, a maximum effective parking demand of 1.38 spaces per unit and 0.98 spaces per bedroom is projected as shown in Table 2 (see detailed calculations in the Appendix).

TABLE 2. EFFECTIVE PARKING DEMAND

Apartment Complex	Effective Parking Ratio (spaces per unit)		Effective Parking Ratio (spaces per bedroom)	
	Friday	Sunday	Friday	Sunday
The Cliffs	1.28	1.23	0.97	0.93
The Gate	1.38	1.38	0.81	0.81
The Lakes	1.30	1.26	0.98	0.95
The Park	1.20	1.24	0.90	0.93
AVERAGE:	1.30	1.28	0.91	0.90

CONCLUSION

The purpose of this analysis is to support the proposed parking ratio of 1.66 spaces per unit for the redevelopment of The Glen apartment complex located in The Village. DT&A performed sample parking surveys of The Village at peak parking time periods and then applied a five percent (5%) parking inefficiency factor to the observed demand. The resulting maximum parking ratio of 1.38 spaces per unit and 0.98 spaces per bedroom is less than the proposed parking ratio. Therefore, DT&A recommends a special exception be allowed to permit Lincoln Properties to provide 1.66 spaces per unit, which is equivalent to one space per bedroom, for the redevelopment of The Glen.

APPENDIX

Parking Survey for the Village in Dallas, Texas

Friday, April 17, 1998 at 12:00 AM

	Observed Demand (spaces)	Inefficiency Factor (%)	Effective Demand (spaces)	Occupied Units	Effective Pkg Ratio (spaces per unit)	Occupied Bedrooms	Effective Pkg Ratio (spaces per bedroom)
The Cliffs	252	12.6	265	206	1.28	273	0.97
The Gate	582	29.1	611	443	1.38	758	0.81
The Lakes	801	40.1	841	649	1.30	858	0.98
The Park	409	20.5	429	358	1.20	476	0.90
Total	2,044	102.2	2,146	1,656	1.30	2,365	0.91

Sunday, April 19, 1998 at 1:30 AM

	Observed Demand (spaces)	Inefficiency Factor (%)	Effective Demand (spaces)	Occupied Units	Effective Pkg Ratio (spaces per unit)	Occupied Bedrooms	Effective Pkg Ratio (spaces per bedroom)
The Cliffs	242	12.1	254	206	1.23	273	0.93
The Gate	582	29.1	611	443	1.38	758	0.81
The Lakes	780	39.0	819	649	1.26	858	0.95
The Park	422	21.1	443	358	1.24	476	0.93
Total	2,026	101.3	2,127	1,656	1.28	2,365	0.90

4-16

Occupancy by Number of Bedrooms

As of 4/12/98

Property	Unit Type	# Units	# Occupied	Occupancy %	Total Bedrooms Occupied Apts.
The Cliffs	1 Bedroom	152	139	91.45%	139
	2 Bedroom	72	67	93.06%	134
	Total	224	206	91.96%	273
The Gate	Efficiency	47	44	93.62%	44
	1 Bedroom	144	136	94.44%	136
	2 Bedroom	219	211	96.35%	422
	3 Bedroom	52	52	100.00%	156
	Total	462	443	95.89%	758
The Lakes	1 Bedroom	460	440	95.65%	440
	2 Bedroom	216	209	96.76%	418
	Total	676	649	96.01%	858
The Park	1 Bedroom	248	240	96.77%	240
	2 Bedroom	120	118	98.33%	236
	Total	368	358	97.28%	476

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NOTE: This worksheet was provided by Lincoln Properties on April 16, 1998.

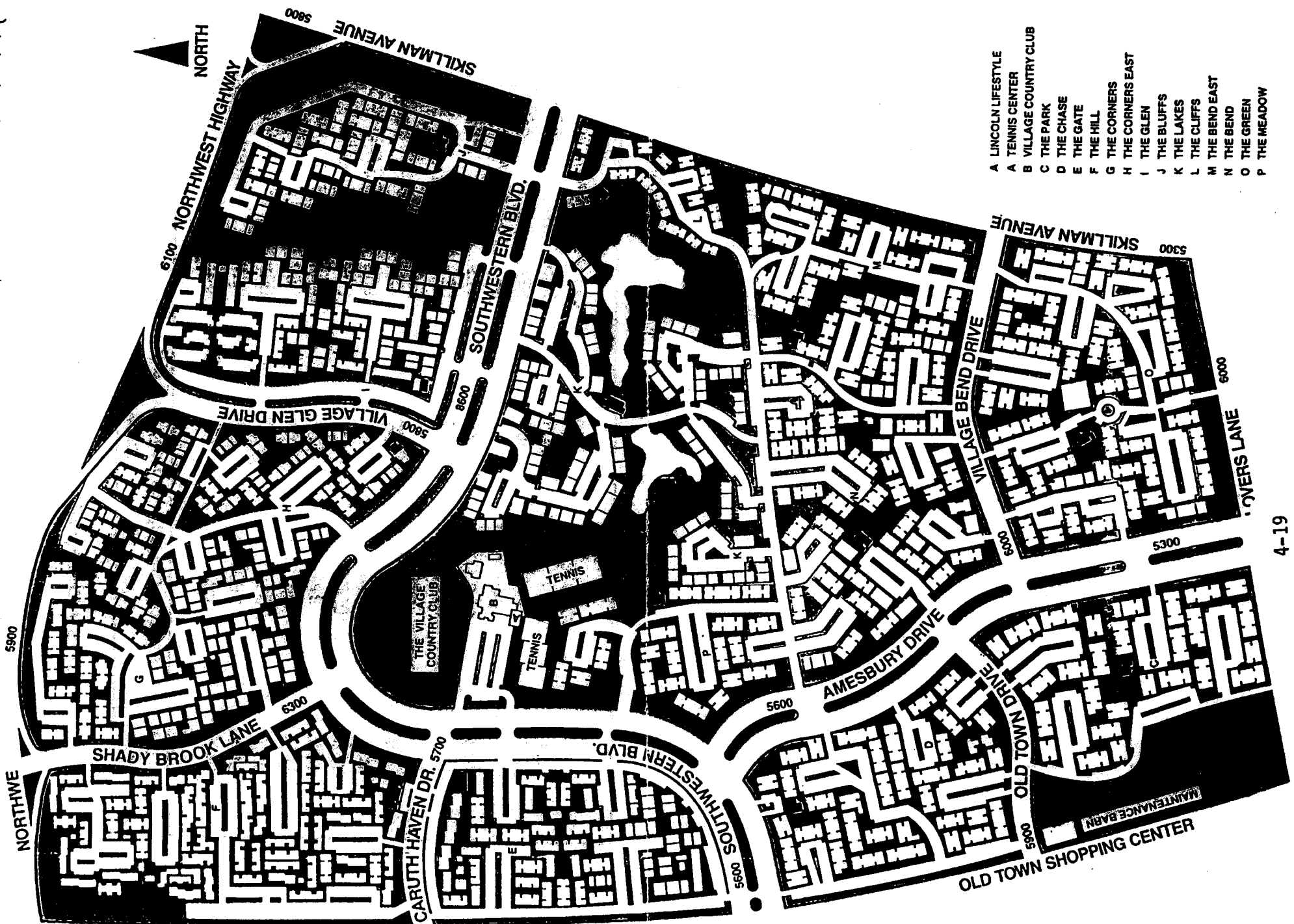
Parking Spaces Per Unit Comparison

	Total Units	Covered Parking Spaces	Total Parking Spaces	Avg. Spaces Per Unit
Bend	592	0	864	1.46
Bend East	472	0	684	1.45
Bluffs	400	0	599	1.50
Chase	496	0	750	1.51
Cliffs	224	0	448	2.00
Corners	800	0	1,250	1.56
Corners East	596	0	868	1.46
Gate	462	28	806	1.74
Glen	407	0	701	1.72
Hill	630	56	1,559	2.47
Lakes	676	32	1,014	1.50
Meadow	296	0	459	1.55
Park	368	56	541	1.47
Green	696	243	872	1.25
Total Village	7,115	415	11,415	1.60

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NOTE: This worksheet was provided by Lincoln Properties on April 16, 1998.

989-111



- A LINCOLN LIFESTYLE
- A TENNIS CENTER
- B VILLAGE COUNTRY CLUB
- C THE PARK
- D THE CHASE
- E THE GATE
- F THE HILL
- G THE CORNERS
- H THE CORNERS EAST
- I THE GLEN
- J THE BLUFFS
- K THE LAKES
- L THE CLIFFS
- M THE BEND EAST
- N THE BEND
- O THE GREEN
- P THE MEADOW

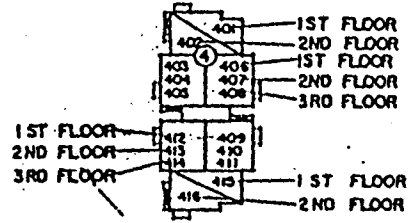
4-19



THE CLIFFS

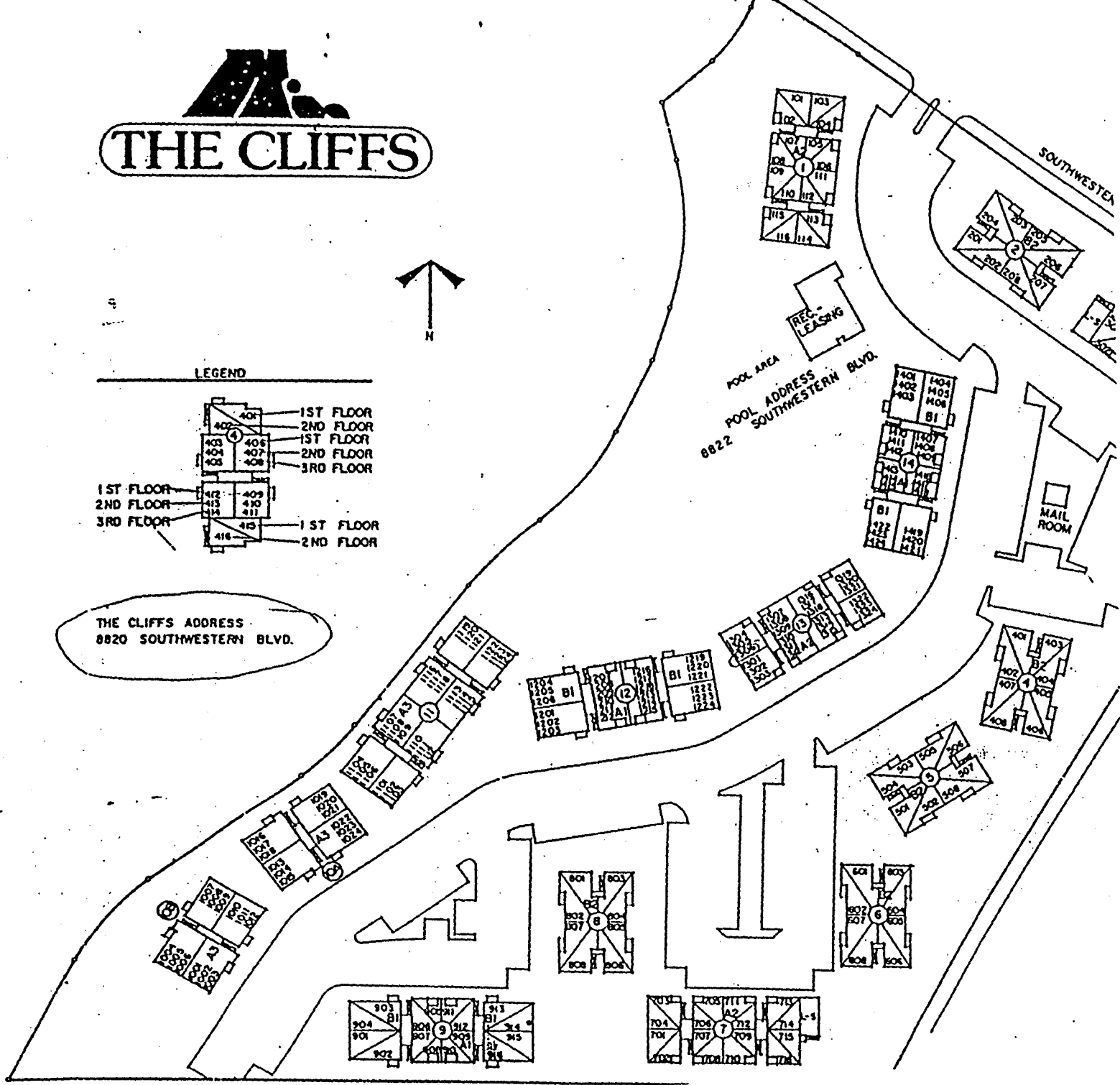


LEGEND



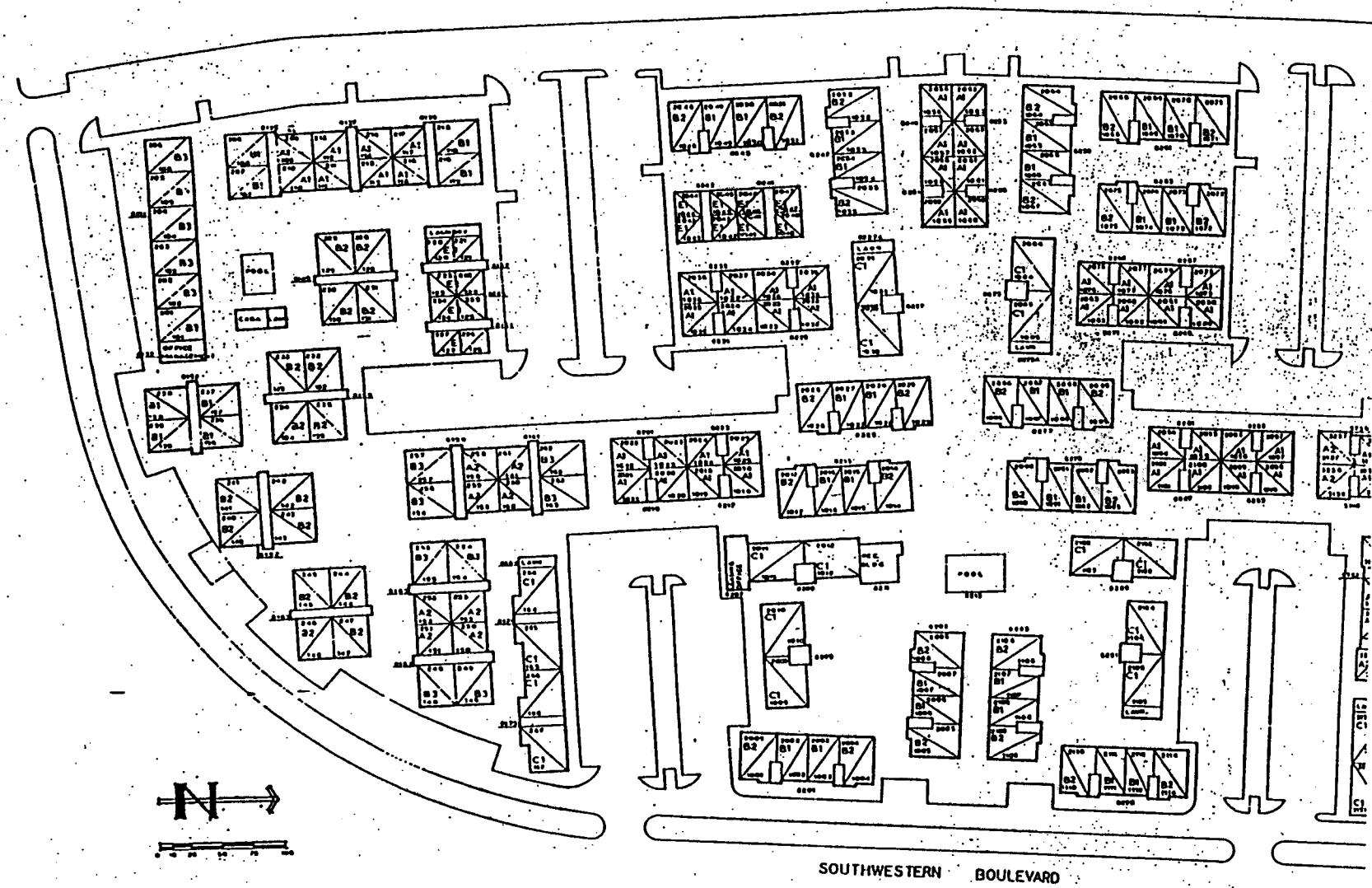
THE CLIFFS ADDRESS
8820 SOUTHWESTERN BLVD.

4-20



THE GATE

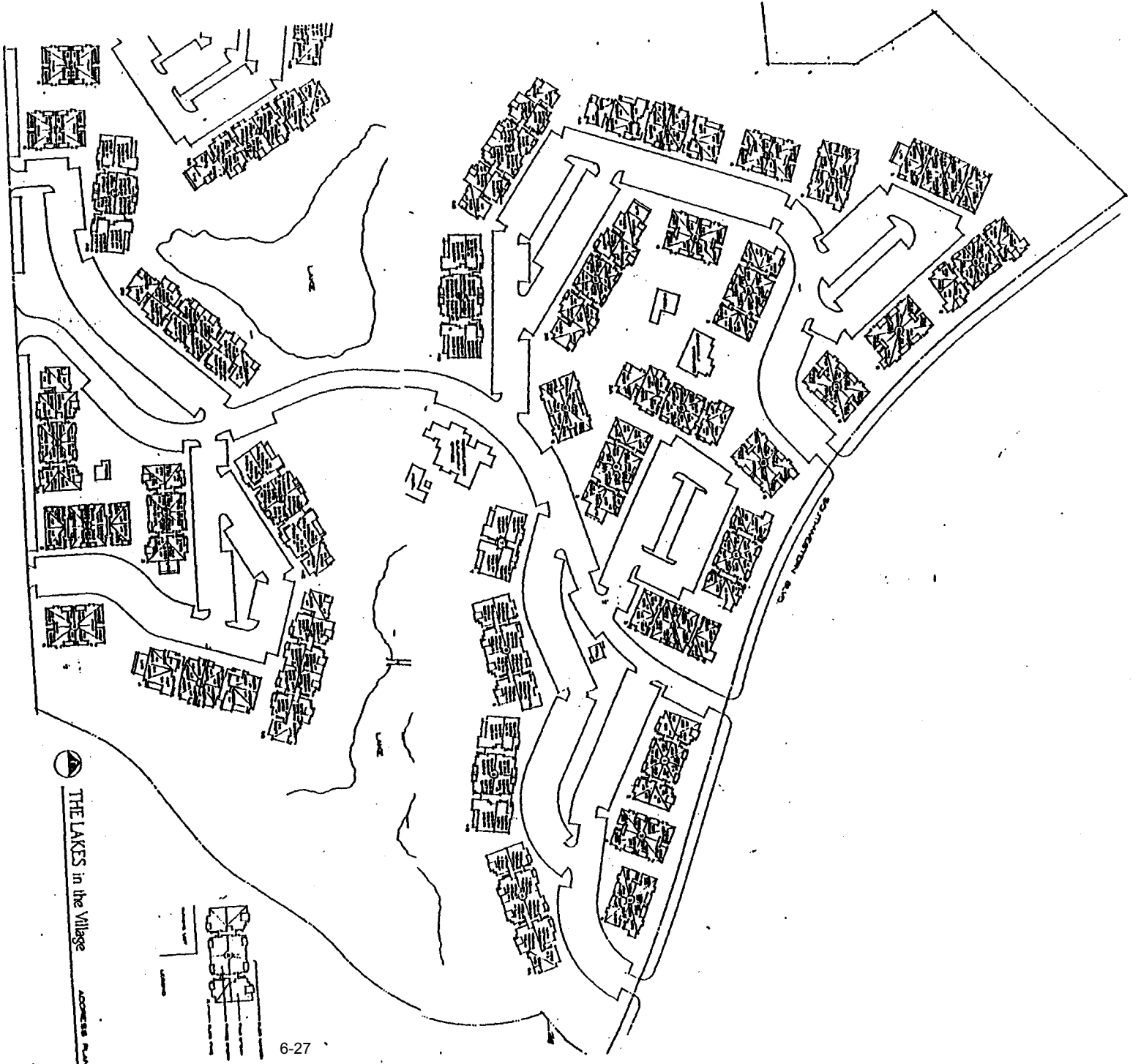
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SOUTHWESTERN BOULEVARD

LAKES

4-22

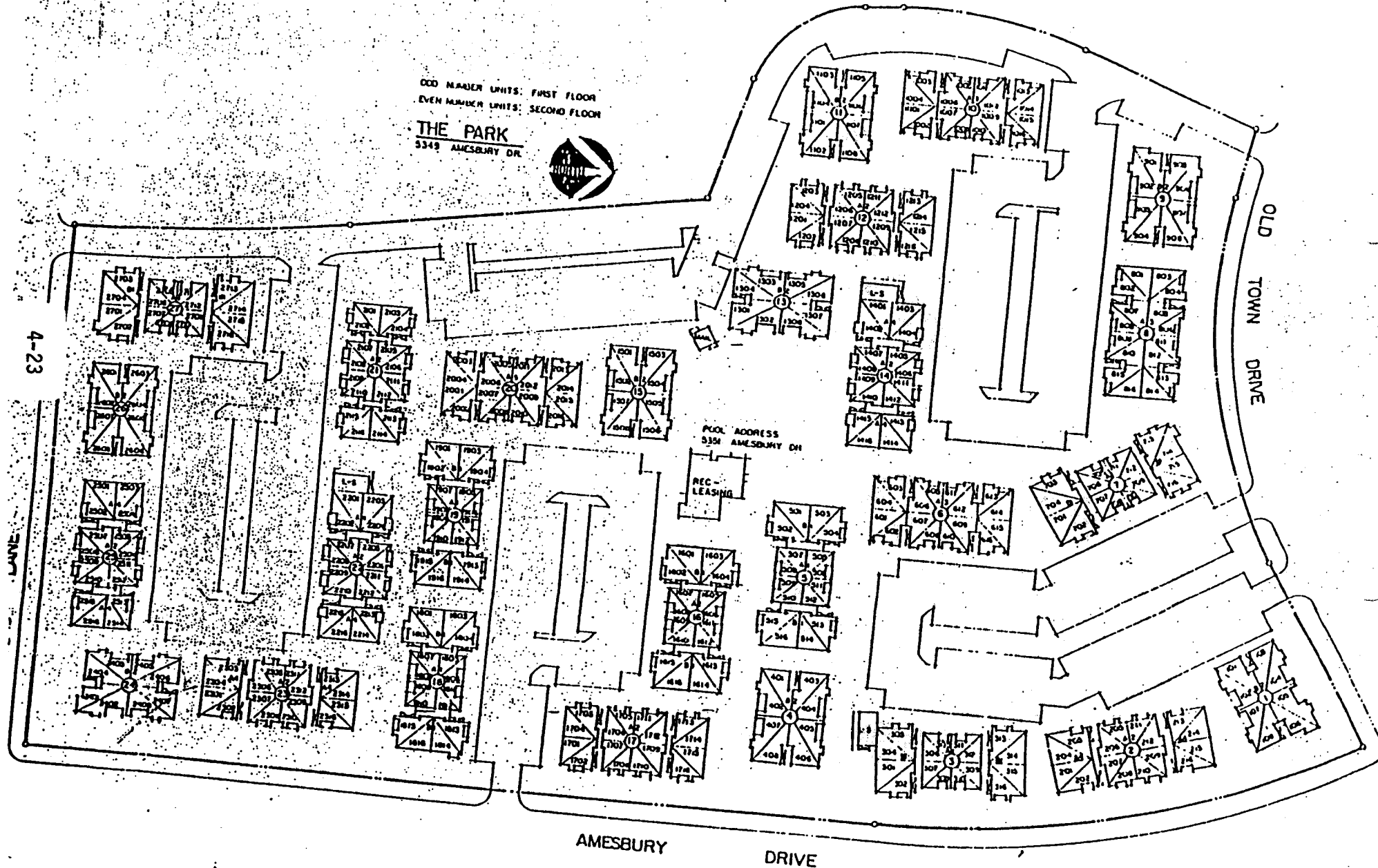


THE LAKES in the Village
ADDRESS PLAN

6-27

989-111

989-111



TAB 3

BDA 989-111



CITY OF DALLAS

October 23, 1998

Roger Albright
3301 Elm Street
Dallas, Texas 75226

Re: BDA 989-111
8875-8887, 8891-8893 Southwestern Blvd.

Dear Mr. Albright:

The Board of Adjustment, at its public hearing held on Tuesday, October 20, 1998, granted your request for a special exception to the off-street parking regulations, subject to this special exception automatically and immediately terminates if and when the multifamily use is changed or discontinued.

Contact the Building Inspector's Office at 320 E. Jefferson, Room 105 within the next 180 days in order to identify and/or obtain any/all appropriate permits needed in conjunction with this case.

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

Sincerely,

Steve Long, Board Administrator
Board of Adjustment
Department of Planning & Development

SL/km

c: Ramiro Lopez, Code Enf., Street & Sanitation (6/D/S)
Phil Sikes, Bldg. Inspection, 320 E. Jefferson #105
File

RECEIVED OCT 26 1998

PLANNING AND DEVELOPMENT CITY HALL DALLAS, TEXAS 75201 TELEPHONE 214/670-4118

FILE NUMBER: BDA 989-111

BUILDING OFFICIAL'S REPORT:

Application of P.C. Village Apartments Dallas, L.P., represented by Roger Albright, for a special exception to the off-street parking regulations at 8875-8887, 8891-8893 Southwestern Blvd. This property is more fully described as a tract of land in City Blocks 5411 and 5414 and is zoned MF-2(A) which requires parking be provided at a ratio of one (1) space for every 500 square feet of floor area. The applicant proposes to construct new apartments which would require a special exception of 13 spaces. This appeal is being referred to the Board of Adjustment in accordance with Section 51A.3.102(d)(3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 8875-8887, 8891-8893 Southwestern Blvd.

APPLICANT: P.C. Village Apartments Dallas, L.P.
Represented by: Roger Albright

STAFF RECOMMENDATION: Approval of the request for a special exception to the off-street parking regulations of 13 spaces, subject to a condition.

The request for a special exception to the off-street parking space regulations of 13 off-street parking spaces (or 15 percent of the required off-street parking requirement) is recommended for approval, subject to the condition that the special exception automatically and immediately terminates if and when the multifamily use on the site is changed or discontinued.

This recommendation has been made for the following reason:

- It has been determined from staff analysis and from evidence submitted by the applicant that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and that the special exception does not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

SUMMARY:

- A special exception to the off-street parking space regulations of 13 off-street parking spaces (or 15 percent of the required off-street parking requirement) is needed in conjunction with plans to construct and maintain an approximately 44,600 square foot, 40 unit multifamily complex addition (The Glen).
- The applicant cannot comply with the off-street parking requirement of one (1) space per every 500 square feet of floor area because only 77 of the required 90 off-street parking spaces are proposed to be provided.

- Staff concludes that the request for a special exception to the off-street parking spaces of 13 spaces (or 15 percent of the required off-street parking requirement) is justified, subject to the condition mentioned above. This conclusion has been made largely because the Board of Adjustment Review Team transportation engineer has reviewed the request and has indicated no objections to the request. Specifically, the parking demand generated by the multifamily use will not warrant the number of off-street parking spaces required, and will not create a traffic hazard, or increase traffic congestion on adjacent and nearby streets.

BACKGROUND INFORMATION:
Zoning and Land Use

Site:	MF-2(A)	Undeveloped
North:	MF-2(A)	Thoroughfare intersection
South:	MF-2(A)(SUP 1166)	Library
East:	CR	Retail
West:	MF-2(A)	Multifamily

Zoning/BDA History:

1. BDA 978-161, 8603 Southwestern Boulevard (the lot west of the subject site)

On April 28, 1998, the Board of Adjustment followed the staff recommendation and granted requests for a special exceptions to the off-street parking regulations of 101 spaces and tree preservation regulations, and a variance to the height regulations of 11 feet, subject to conditions, needed in conjunction with constructing/maintaining a 390 unit, 3-4 story, approximately 375,000 square foot multifamily complex (The Glen).

Land Use: The subject site is currently undeveloped. The area to the north is a thoroughfare intersection; the area to the east is developed with retail uses; the area to the south is developed with a public library; and the area to the west is developed with multifamily uses.

Landscaping: N/A

Miscellaneous: The applicant stated on the application that a request has been made to the Board of Adjustment:

- "for a special exception to the off-street parking regulations."

The applicant stated on the application that the request should be approved for the following reasons:

- "The applicant seeks a special exception to authorize a 15 percent reduction of the number of off-street parking spaces required under the Dallas Development Code.

- The applicant proposed to construct 40 units of multifamily housing containing 44,600 square feet which would normally require 90 parking spaces.
- The applicant proposes to provide 77 off-street parking spaces.
- The 77 spaces to be provided would result in off-street parking being provided at the ratio of 1.92 spaces per unit and 1/28 spaces per bedroom.
- The applicant is the developer/owner of 15 other nearby multifamily developments collectively known as "The Village."
- The average current parking ratio provided for those complexes is 1.6 spaces per unit with some complexes providing parking at a ratio as low as 1.35 spaces per unit.
- Nonetheless, none of those complexes have experienced an insufficient supply of parking.
- As recently as April, 1998, the applicant requested a special exception for the adjoining multifamily project known as "The Glen."
- The requested 13 percent reduction was recommended by staff and was approved by the Board in the furtherance of that earlier request, the applicant provided a parking demand study prepared by DeShazo, Tang, and Associates.
- The professional study concluded that the observed peak parking demand in after adding a 5 percent parking inefficiency factor, resulted in a maximum parking ratio of 1.38 spaces per unit and 0.98 spaces per bedroom; each of which is less than the parking ratios proposed herein.
- The parking demand generated by this use would not warrant the number of off-street parking spaces required and the proposed special exception would not create a traffic hazard or increase traffic congestion on adjacent or nearby streets."

On September 24, 1998, the Board Administrator spoke with the applicant's representative and shared the following information:

- the criteria for the request that the Board will use in their decision to approve or deny the request;
- the importance of evidence submitted by the applicant since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
- the significance of how comments from the Board of Adjustment Review Team Transportation Engineer may factor into the overall staff recommendation and the Board's decision on this type of request; and
- the October 1, 1998 deadline to submit additional evidence for staff to factor into their recommendation (the tentative date when the Board Administrator would review the case with the Director of Planning).

On September 29, 1998, the Board of Adjustment Review Team meeting was held regarding this case. Review team members in attendance at this meeting included the Board Administrator, the Assistant Director of Planning, the Building Inspection Zoning Technical Manager, the Board of Adjustment Review Team Development Code Specialist; the City of Dallas Chief Arborist, the Board of Adjustment Review Team Land Use/Urban Design Planner, the Board of Adjustment Review Team Transportation Engineer, and the Board of Adjustment Assistant City Attorney.

The following "Review Comment Sheets" were submitted to the Board Administrator:

- The Board of Adjustment Review Team Land Use/Urban Design Planner submitted a Review Comment Sheet marked "Have no objections to approval."
- The Board of Adjustment Review Team Transportation Engineer submitted a Review Comment Sheet marked "Have no objections to approval."

No other "Review Comment Sheets" with comments were submitted to the Board Administrator.

BASIS FOR REQUESTS FOR AN OFF-STREET PARKING SPECIAL EXCEPTION:

The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.

- 1) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.

- 2) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.

- 3) In granting a special exception, the board may:
 - (A) establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) impose restrictions on access to or from the subject property; or
 - (C) impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.

TAB 4

BDA 056-104

March 20, 2006



CITY OF DALLAS

Roger Albright
3301 Elm Street
Dallas, TX 75226-2562

Re: BDA 056-104
6061 Village Glen Drive aka 6532 thru 6648 Shadybrook and 6001 thru
6089 Village Glen Drive

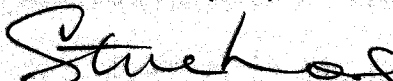
Dear Mr. Albright:

The Board of Adjustment Panel A, at its public hearing held on Tuesday, March 14, 2006, took the following actions:

1. Approved your request to reduce the number of required off-street parking spaces in the Dallas Development code by 179 parking spaces, subject to the following conditions:
 - Compliance with the submitted revised site plan;
 - The special exception shall automatically and immediately terminate if and when the multifamily use on the site is changed or discontinued.
2. Approved your request for a variance of 1 foot, 6 inches to the height regulations, subject to the following condition:
 - Compliance with the submitted revised site plan and elevations is required.

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

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


Steve Long, Board Administrator
Board of Adjustment
Department of Planning & Development

SL/tl

c: PC Village Apartments Dallas, LP, 3300 Linclon Plaza, 500 N. Akard St.,
Dallas, TX
Ade Williams, Code Enforcement, 320 E. Jefferson #LL23
Danny Sipes, Bldg. Inspection, 320 E. Jefferson #105
File

DEVELOPMENT SERVICES CITY HALL DALLAS, TEXAS 75201 TELEPHONE 214/670-4209

RECEIVED MAR 21 2006



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-062

Data Relative to Subject Property:

Date: April 27, 2011

Location address: 8749 Southwestern Blvd. ("The Bluffs") Zoning District: MF-2(A)

Lot No.: 1 Block No.: D/5414, Village Glen #4 Acreage: 15.59 Census Tract: 79.07

Street Frontage (in Feet): 1) 670' 2) 462' 3) 247' 4) -0- 5) -0-

582AA

To the Honorable Board of Adjustment :

Owner of Property/or Principal: PC Village Apartments Dallas, L.P.

Applicant: ~~PC Village Apartments Dallas, L.P.~~ LEIGH ANN EVERETT

Mailing Address: 2200 McKinney, Suite 1000, Dallas, Texas Zip Code: 75201

Represented by: Roger Albright Telephone: 214.939.9224

Mailing Address: 3301 Elm Street, Dallas, Texas Zip Code: 75226-2562

Affirm that a request has been made for a Variance _____, or Special Exception X, of

Parking special exception of 48 spaces or 8% FROM REQUIRED 628 SPACES FOR A MULTI-FAMILY USE

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:

See attached. WILL NOT HAVE ADVERSE AFFECT DUE TO DEMAND CHARACTERISTICS OF PROJECT

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.

PC Village Apartments Dallas, L.P.

By: Pogue Family No. 2 Limited Partnership, its sole General Partner

By: Pogue Family No. 2 Companies, Inc., its sole General Partner

Respectfully submitted Leigh Ann Everett, its Asst. Secretary

Applicant's name printed

Leigh Ann Everett
Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Leigh Ann Everett 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.

Leigh Ann Everett
Affiant (Applicant's signature)

Subscribed and sworn to before me this 27th day of April, 2011.

Julie Marie Pomykal
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

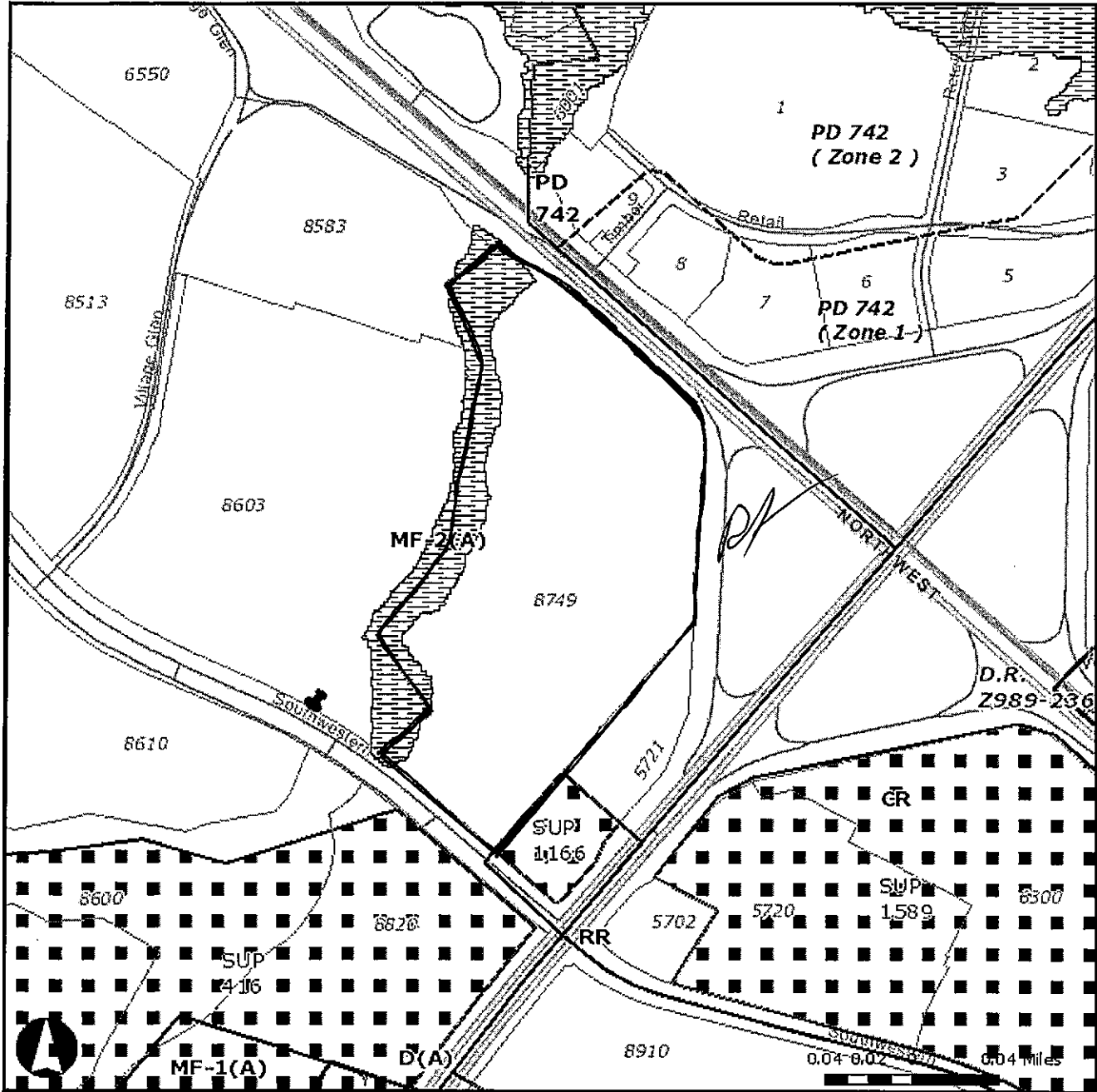
I hereby certify that Leigh Ann Everett
represented by ROGER ALBRIGHT
did submit a request for a special exception to the parking regulations
at 8749 Southwestern Blvd.

BDA101-062. Application of Leigh Ann Everett represented by Roger Albright for a special exception to the parking regulations at 8749 Southwestern Boulevard. This property is more fully described as Lot 1 in city block D/5414 and is zoned MF-2(A), which requires parking to be provided. The applicant proposes to construct residential structures for multifamily use and provide 580 of the required 628 parking spaces, which will require a 4:1 space special exception (8% reduction) to the parking regulation.

Sincerely,

Batsheba Antebi
Batsheba Antebi, Building Official

City of Dallas Zoning



Address Candidates



City Boundaries



County



Certified Parcels



DISD Sites



SUP



Dry Overlay



D



D-1



Historic Overlay



Historic Subdistricts



PDS Subdistricts



Base Zoning



Floodplain



100 Flood Zone



Mill's Creek



Peak's Branch

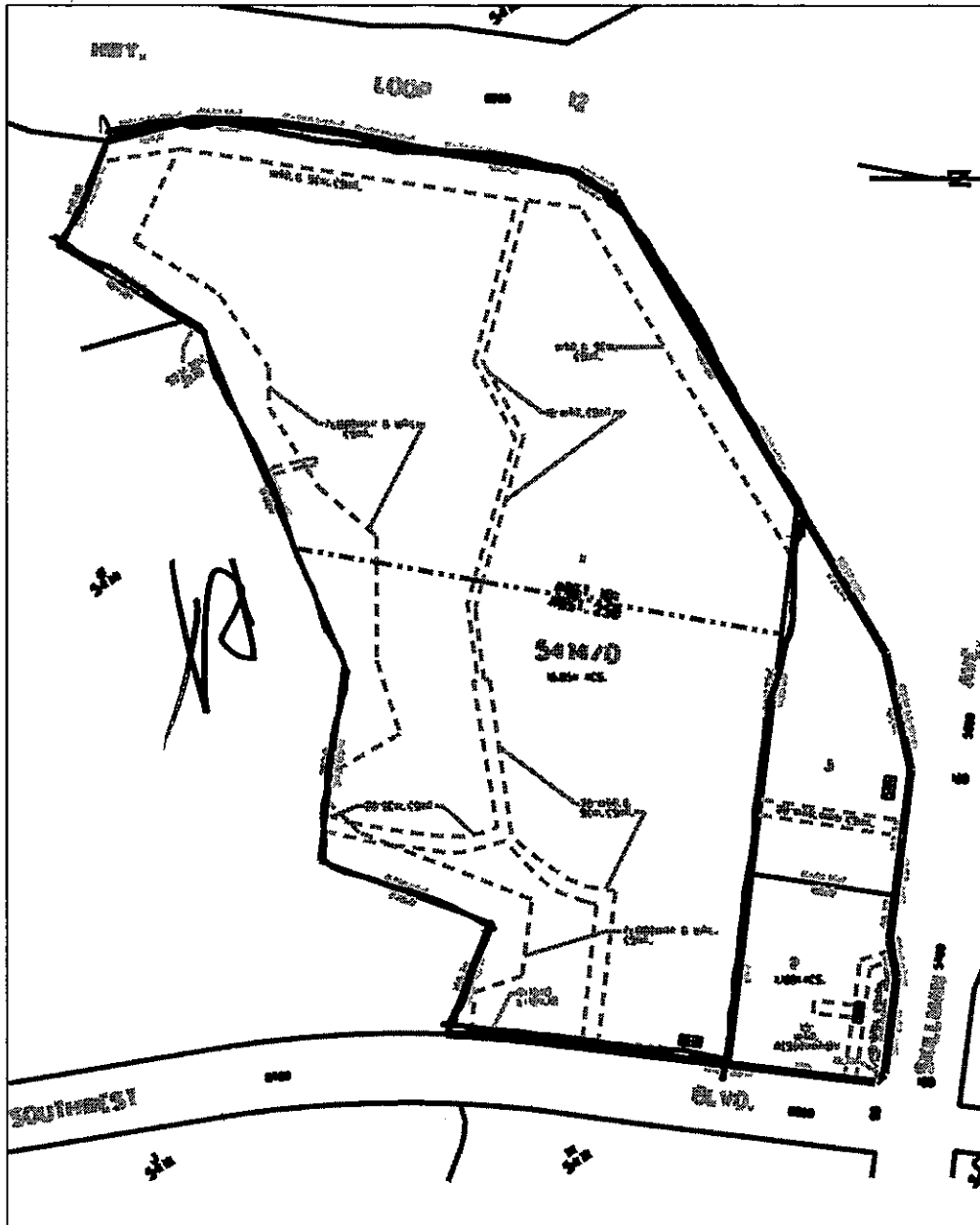


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Pedestrian Overlay

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REVISIONS

The Bluffs

apartments located in
Dallas, Texas

DATE
04-25-11

PROJECT
09153

SHEET NUMBER
1.1

SITE PLAN

LEGEND

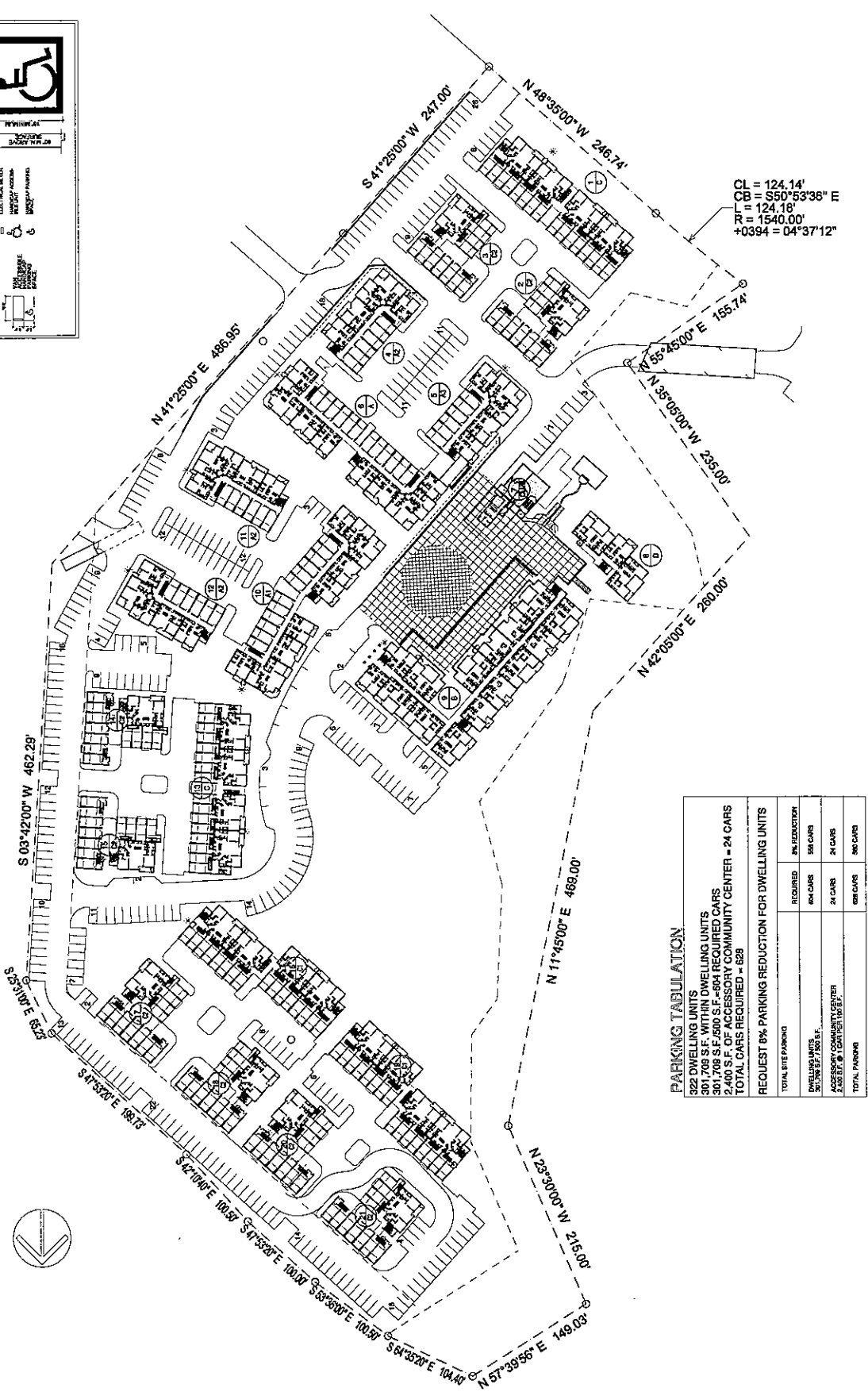
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SYMBOLS

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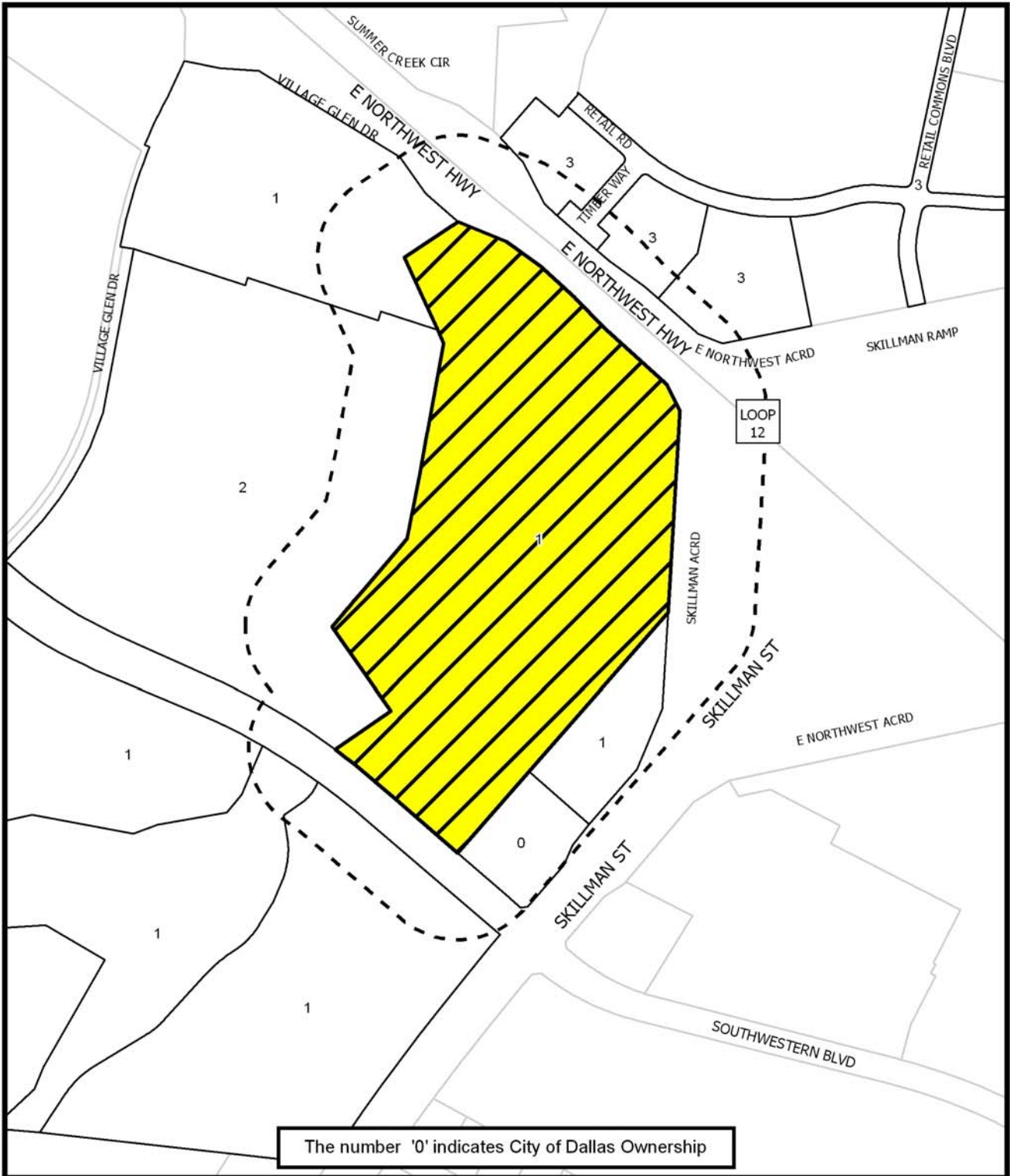
CL = 124.14'
 CB = S55°53'38\"/>

PARKING TABULATION

322 DWELLING UNITS
 301,709 S.F. WITHIN DWELLING UNITS
 301,708 S.F. 2,600 S.F. OF ACCESSORY COMMUNITY CENTER = 24 CARS
 2,400 S.F. OF ACCESSORY COMMUNITY CENTER = 628
TOTAL CARS REQUIRED = 628

REQUEST 8% PARKING REDUCTION FOR DWELLING UNITS

TOTAL SITE PARKING	REQUIRED	REDUCTION
301 DWELLING UNITS	24 CARS	24 CARS
ACCESSORY COMMUNITY CENTER	24 CARS	24 CARS
2,400 S.F. OF ACCESSORY COMMUNITY CENTER	628 CARS	628 CARS
TOTAL PARKING	676 CARS	676 CARS



The number '0' indicates City of Dallas Ownership

 1:3,600	<h2 style="text-align: center;">NOTIFICATION</h2> <p> 200' AREA OF NOTIFICATION 3 NUMBER OF PROPERTY OWNERS NOTIFIED </p>	<p>Map no: <u> G-8 </u></p> <p>Case no: <u> BDA101-062 </u></p>
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DATE: May 25, 2011

Notification List of Property Owners

BDA101-062

3 Property Owners Notified

Label #	Address	Owner
1	8820 SOUTHWESTERN	PC VILLAGE APTS DALLAS LP 3300 LINCOLN PLAZA
2	8603 SOUTHWESTERN	PC VILLAGE APTS DALLAS 3300 LINCOLN PLAZA
3	9 SKILLMAN	TC TIMBERCREEK ASSC