

ZONING BOARD OF ADJUSTMENT, PANEL B
WEDNESDAY, NOVEMBER 16, 2011
AGENDA

BRIEFING	L1FN CONFERENCE CENTER AUDITORIUM 1500 MARILLA STREET	11:00 A.M.
PUBLIC HEARING	L1FN CONFERENCE CENTER AUDITORIUM 1500 MARILLA STREET	1:00 P.M.

David Cossum, Assistant Director
Steve Long, Board Administrator

MISCELLANEOUS ITEM

Approval of the Wednesday, October 19, 2011 Board of Adjustment Public Hearing Minutes	M1
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UNCONTESTED CASES

BDA 101-099	1701 Shaw Street REQUEST: Application of B.G. Gipson, represented by B. G. Gipson and Stephanie Dailey, to restore a nonconforming use	1
BDA 101-101	1719 W. 10th Street REQUEST: Application of Kyle Russell for a variance to the off-street parking regulations	2
BDA 101-103	1528, 1530, 1534, 1536, and 1537 Sienna Court REQUEST: Application of Chad Sargent, represented by Ronnie Deford, for a special exception to the fence height regulations	3
BDA 101-106	1899 McKinney Avenue REQUEST: Application of Joe Cavagnaro, represented by Matt Cragun, for a variance to the off-street parking regulations	4

REGULAR CASE

BDA 101-107	3700 McKinney Avenue REQUEST: Application of Jackson Walker, LLP, represented by Susan Mead and Jonathan Vinson, for a variance to the height regulations	5
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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 B October 19, 2011 public hearing minutes.

FILE NUMBER: BDA 101-099

BUILDING OFFICIAL'S REPORT:

Application of B.G. Gipson, represented by B. G. Gipson and Stephanie Dailey, to restore a nonconforming use at 1701 Shaw Street. This property is more fully described as Lot 10 in City Block 13/7118 and is zoned R-5(A), which limits the legal uses in a zoning district. The applicant proposes to restore a nonconforming general merchandise or food store 3500 square feet or less use, which will require a special exception to the nonconforming use regulations.

LOCATION: 1701 Shaw Street

APPLICANT: B.G. Gipson
Represented by B. G. Gipson and Stephanie Dailey

REQUEST:

- A special exception to reinstate nonconforming use rights is requested in conjunction with obtaining a Certificate of Occupancy (CO) for a "general merchandise or food store 3500 square feet or less" use (Gipson Groceries) on the subject site even though this nonconforming use was discontinued for a period of six months or more.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to operate a nonconforming use if that use is discontinued for six months or more since the basis for this type of appeal is based on whether the board determines that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

STANDARD FOR A SPECIAL EXCEPTION TO OPERATE A NONCONFORMING USE IF THAT USE IS DISCONTINUED FOR SIX MONTHS OR MORE: The Dallas Development Code specifies that the Board may grant a special exception to operate a nonconforming use that has been discontinued for six months or more if the owner can show that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

GENERAL FACTS:

- The Dallas Development Code defines "nonconforming use" as "a use that does not conform to the use regulations of this chapter, but was lawfully

established under the regulations in force at the beginning of operation and has been in regular use since that time.

The nonconforming use regulations of the Dallas Development Code state it is the declared purpose of the nonconforming use section of the code that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

The nonconforming use regulations continue to state that the right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more, and that the board of adjustment may grant a special exception to operate a nonconforming use that has been discontinued for six months or more if the owner can show that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

- The subject site is zoned R-5(A) – a zoning district that does not permit a “general merchandise or food store 3,500 square feet or less” use.
- According to information from Dallas Central Appraisal District (DCAD), the “main improvements” for property located at 1701 Shaw Street are a “convenience store” with 2,312 square feet built in 1950.
- Building Inspection has stated that these types of special exception requests originate when an owner/officer related to the property apply for a CO and Building Inspection sees that the use is a nonconforming use. Before a CO can be issued, the City requires the owner/officer related to the property to submit affidavits stating that the use was not abandoned for any period in excess of 6 months since the issuance of the last valid CO. The owners/officers need to submit documents and records indicating continuous uninterrupted use of the nonconforming use, which in this case, they could not.
- This nonconforming “general merchandise or food store 3,500 square feet or less” use is subject to a request that the Board of Adjustment consider establishing a compliance date as is the case with any other nonconforming use.
- The “general merchandise or food store 3,500 square feet or less” use may obtain “conforming use” status by obtaining a zoning change from the current R-5(A) zoning district.
- The owner of the site could develop the site with any use that is permitted in the site’s existing R-5(A) zoning district.
- The Board Administrator has informed the applicant of the provisions set forth in the Dallas Development Code pertaining to nonconforming uses.
- Building Inspection has included a document that includes the following information about this request:
 1. The nonconforming use to be reinstated: “gen. merch. less than 3500 sf”
 2. Reason the use is classified as nonconforming: zoning change
 3. Date the nonconforming use was discontinued: Fall 2009

4. Date that the use became nonconforming: 2-4-87 (51A); date of annexation: 12-30-52; date of construction: 1950 “groc. mkt.”
 5. Current zoning of the property on which the use is located: R-5(A)
 6. Previous zoning of the property on which the use is located: R-5, R-6
- The applicant forwarded additional information beyond what was submitted with the original application (see Attachment A).

BACKGROUND INFORMATION:

Zoning:

Site: R-5(A) (Single family 5,000 square feet)
North: R-5(A) (Single family 5,000 square feet)
South: R-5(A) (Single family 5,000 square feet)
East: R-5(A) (Single family 5,000 square feet)
West: R-5(A) (Single family 5,000 square feet)

Land Use:

The subject site is developed with a retail use that appears vacant. The area to the north is undeveloped; and the areas to the east, south, and west are developed with single family uses.

July 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.

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

October 20, 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 October 28th deadline to submit additional evidence for staff to factor into their analysis; and the November 4th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the section from the Dallas Development Code pertaining to nonconforming uses and structures; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

November 1, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Assistant

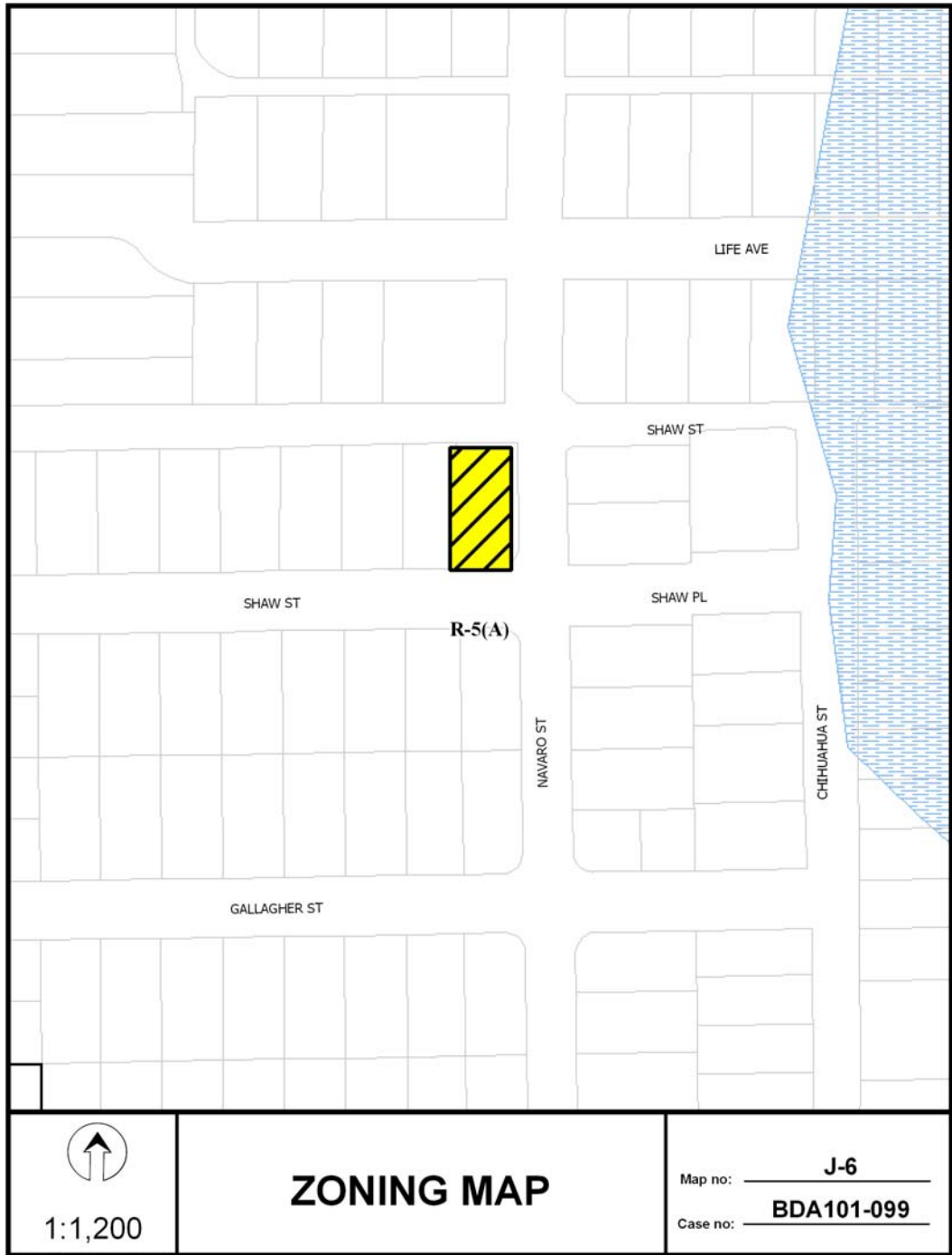
Director, the Acting Building Official, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

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

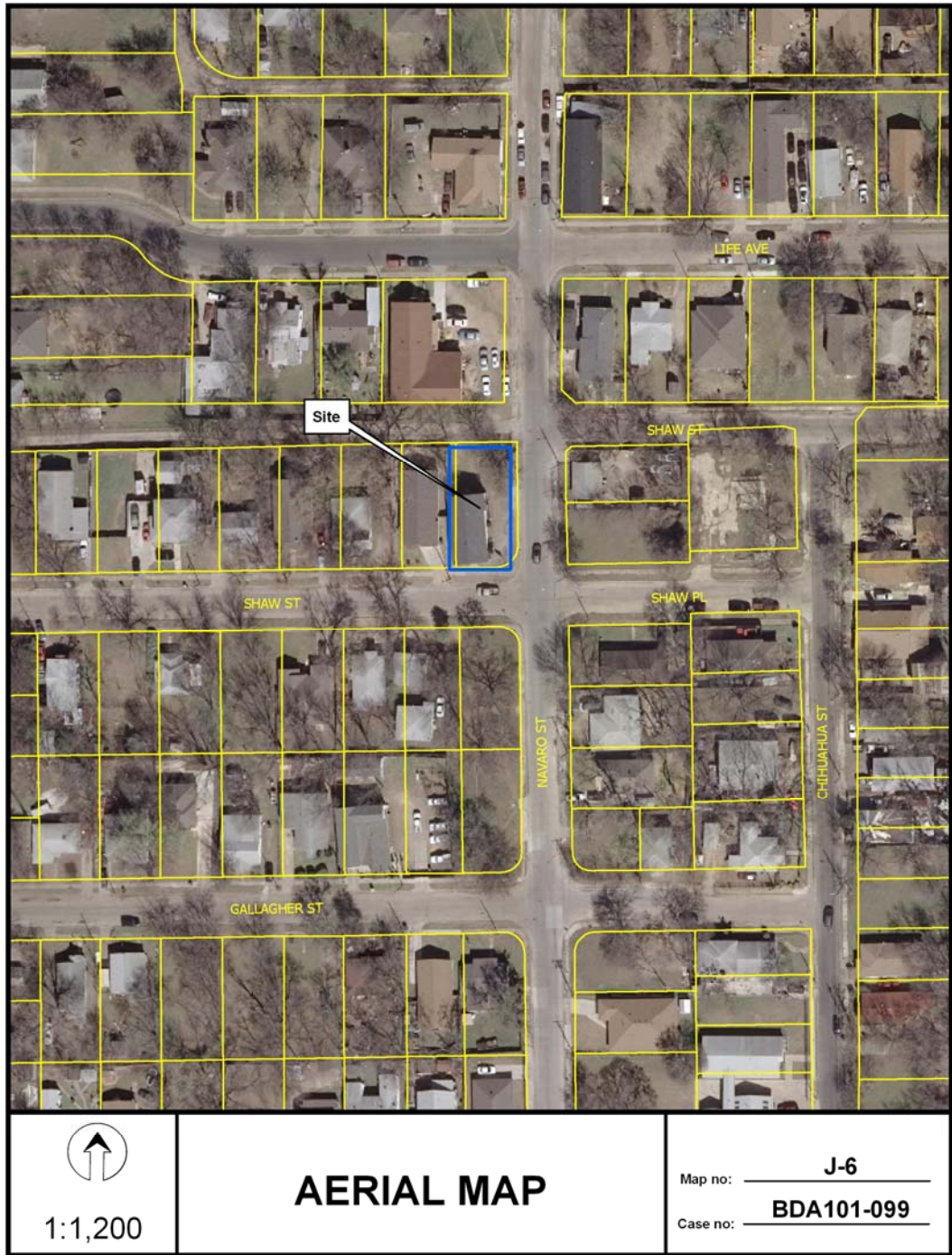
November 7, 2011: The applicant submitted additional information beyond what was submitted with the original application (see Attachment A).

STAFF ANALYSIS:

- This special exception request is made to restore nonconforming use rights (and obtain a Certificate of Occupancy) for a nonconforming “general merchandise or food store 3500 square feet or less” use (Gipson Groceries) that has been discontinued for six months or more.
- The applicant has submitted a document, which states that he had no intentions to vacate or abandon the general merchandise store that has been on the property for over 50 years, and that he only did so due to illness/hospitalization in January of 2009.
- The applicant has the burden of proof in establishing the following related to the special exception request:
 - There was a clear intent not to abandon the nonconforming “general merchandise or food store 3500 square feet or less” use on the subject site even though the use was discontinued for six months or more.
- Granting this request would reinstate/restore the nonconforming use rights that were lost when the “general merchandise or food store 3500 square feet or less” use was vacant for a period of six months or more.
- Granting this request would restore the “general merchandise or food store 3500 square feet or less” use as legal nonconforming use but not as a legal *conforming* use.
- To make the “general merchandise or food store 3500 square feet or less” use on the site a legal conforming use, the applicant would have to make application for a change in zoning and obtain approval from City Council.
- If restored/reinstated, the nonconforming use would be subject to compliance with use regulations of the Dallas Development Code by the Board of Adjustment as any other nonconforming use in the city. (The applicant has been advised by staff of Section 51A-4.704 which is the provision in the Dallas Development Code pertaining to “Nonconforming Uses and Structures”).



DATE: October 27, 2011



DATE: October 27, 2011

To the board of hearing:

Mr. B.G Gipson had no intentions to vacate, or abandon his property of 1701 Shaw St. Dallas, TX 75212. Due to illness of a peripheral vascular disease, Mr. Gipson had to be hospitalized on 01/06/2009 and was under the care of Dr. Kenneth Kollmeyer in which he had over 3 surgeries. Mr. Gipson and his wife Betty Gipson ran the grocery store by themselves. His wife passed away in May 4, 2001 which left him in sole control of the grocery store, which when he took ill caused him to close the store. When Mr. Gipson was back to health, he decided to lease the store out, which is when Mr. Gipson found he had to stop leasing out the store due to non conforming use. Mr. Gipson filed all the necessary and appropriate paperwork to re-open the store. This property was grandfather property, and it would be greatly appreciated, if Mr. Gipson would be allowed to re-open his general merchandise store. The store has been a staple in the community and is the only store of its kind in the general area, and has been around for 54 years and is a great benefit to the community.

Stephnie Dailey



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-099

Date: 7/25/11

Data Relative to Subject Property:

Location address: 1701 Shaw St. Zoning District: RS(A)

Lot No.: 10 Block No.: 13/7118 Acreage: .114 Census Tract: 101.01

Street Frontage (in Feet): 1) 50' 2) 100' 3) 4) 5) gw 19

To the Honorable Board of Adjustment:

Owner of Property/or Principal: B.G. Gipson

Applicant: B.G. Gipson Telephone: 214 478 2149

Mailing Address: 2404 Sue Telephone: All 214 538-4287 Zip Code: 75203

Represented by: B.G. Gipson & Stephanie Dukes Telephone: 214 538-4287

Mailing Address: 2404 Sue St. Zip Code: 75203

Affirm that a request has been made for a Variance, or Special Exception, of Reinstatement of a non conforming 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:

OWNER HAS BEEN ILL HAD TO CLOSE STORE FOR MEDICAL REASON. HE HAD BEEN HOSPITALIZE AND COULD NOT WORK BECAUSE OF ILLNESS. HE WAS NEVER HIS INTENT TO ABANDON THE PROPERTY.

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: B.G. Gipson Applicant's name printed R.A. Gipson Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared B.G. Gipson 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.

R.A. Gipson Affiant (Applicant's signature)

Subscribed and sworn to before me this 25 day of July, 2011

Sancho Alvarez 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

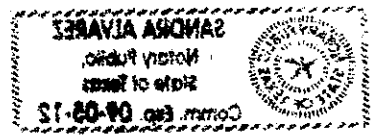
Building Official's Report

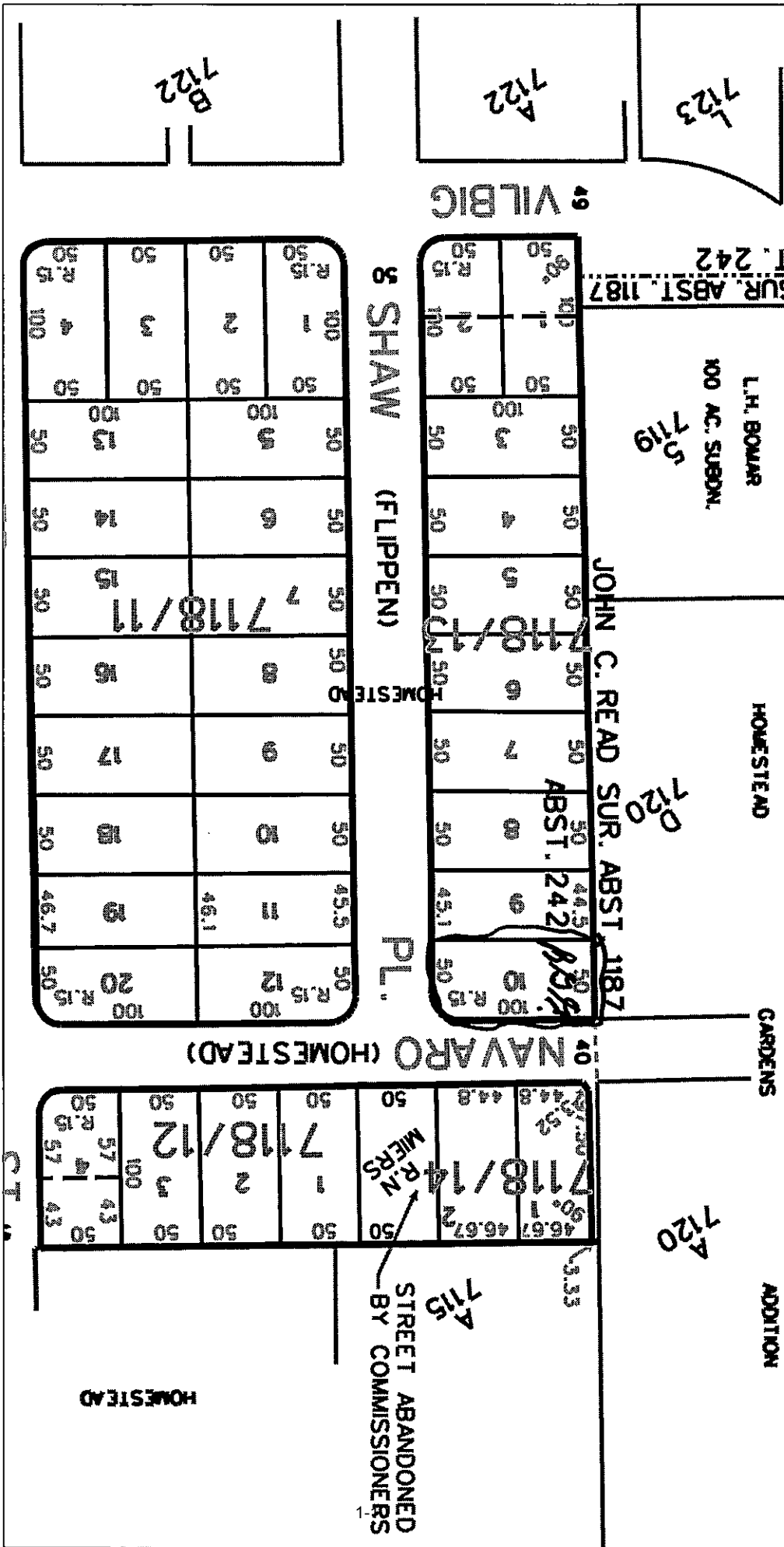
I hereby certify that B.G. Gipson
represented by Stephanie Dailey
did submit a request to restore a nonconforming use
at 1701 Shaw Street

BDA101-099. Application of B.G. Gipson represented by Stephanie Dailey to restore a nonconforming use at 1701 Shaw Street. This property is more fully described as lot 10 in city block 13/7118 and is zoned R-5(A), which limits the legal uses in a zoning district. The applicant proposes to restore a nonconforming general merchandise or food store 3500 square feet or less use, which will require a special exception to the nonconforming use regulation.

Sincerely,

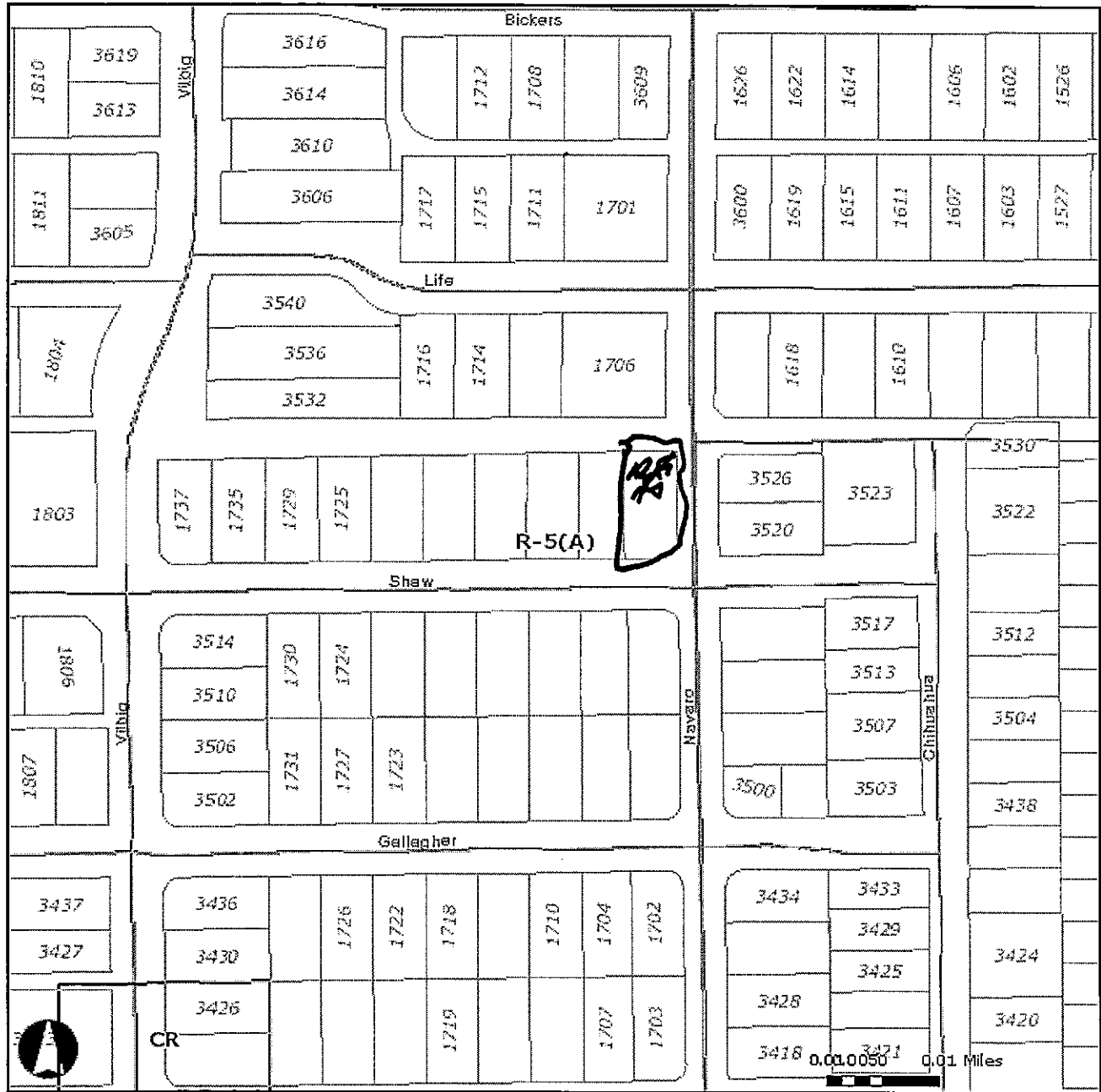

Lloyd Denmam, Building Official





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City of Dallas Zoning



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

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

- PD193 Oak Lawn
- PDS Subdistricts
- Base Zoning
- Pedestrian Overlay
- CP
- SP
- Environmental Corridors
- Escarpment Overlay



Zoning Board of Adjustment appeal to reinstate a nonconforming use.

SEC. 51A-4.704. NONCONFORMING USES AND STRUCTURES.

(a) Compliance regulations for nonconforming uses. It is the declared purpose of this subsection that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

(2) The right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more. The board may grant a special exception to this provision only if the owner can show that there was a clear intent not to abandon the use even though the use was discontinued for six months or more.

Property address: 1701 Shaw Street (13/7118, Lot 10)

1. The nonconforming use to be reinstated: Gen. Merch. < 3500 sf
(The use as stated on the last valid Certificate of Occupancy. Attach copy of C.O.)
2. Reason the use is classified as nonconforming: Zoning change
(Was there a change in zoning of the property or in the use requirements. Be specific.)
3. Date the nonconforming use was discontinued: Fall 2009
4. Date that the use became nonconforming: 2-4-87 (51A),
(Date the property zoning or use requirements changed.)
5. Current zoning of the property on which the use is located: R-5(A)
6. Previous zoning of the property on which the use is located: R-5, R-6
(Applies if a zoning district change caused the use to become nonconforming.)

date of construction: 1950 "Gro. Mkt."

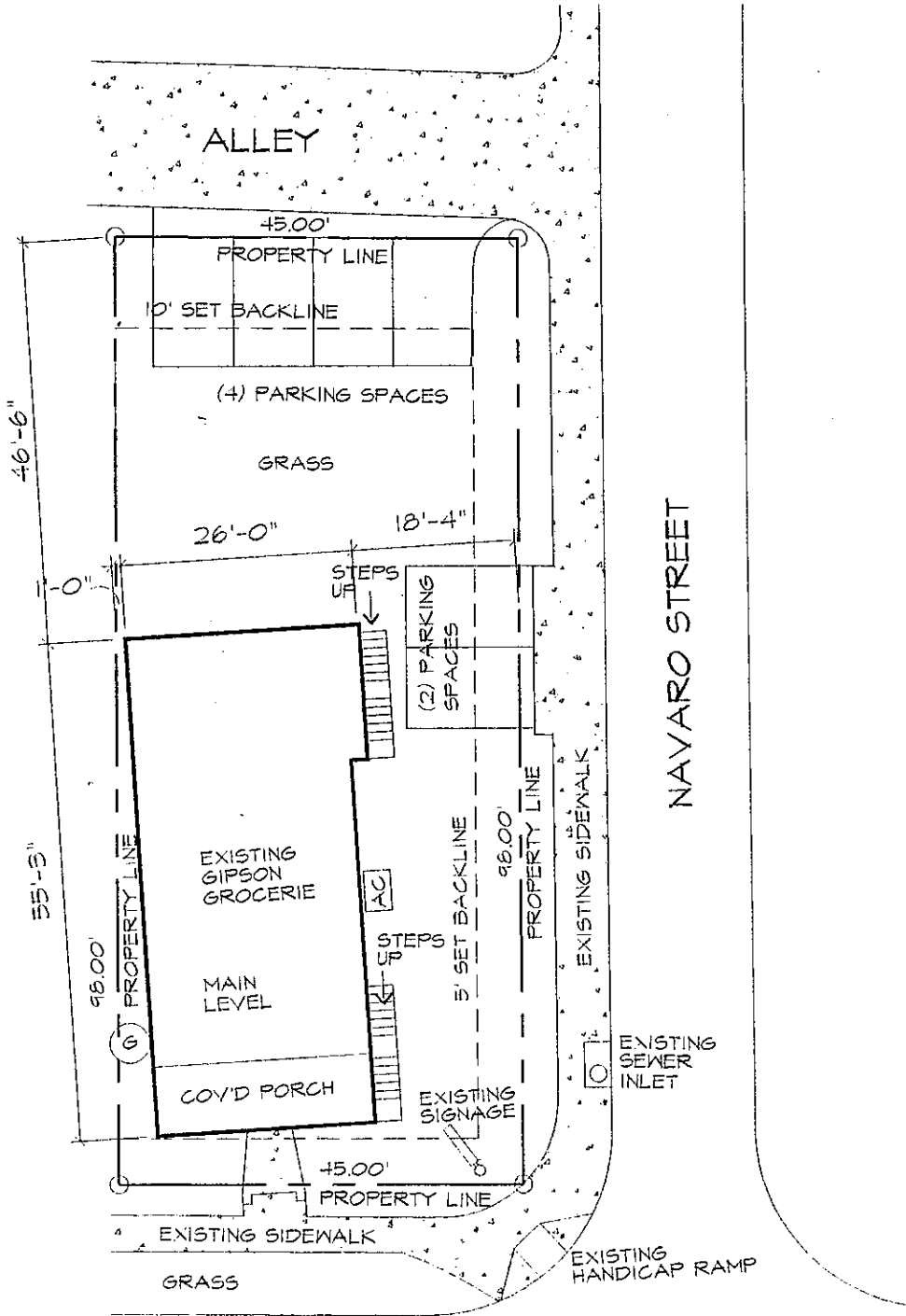
(Rev. 01/21/11)

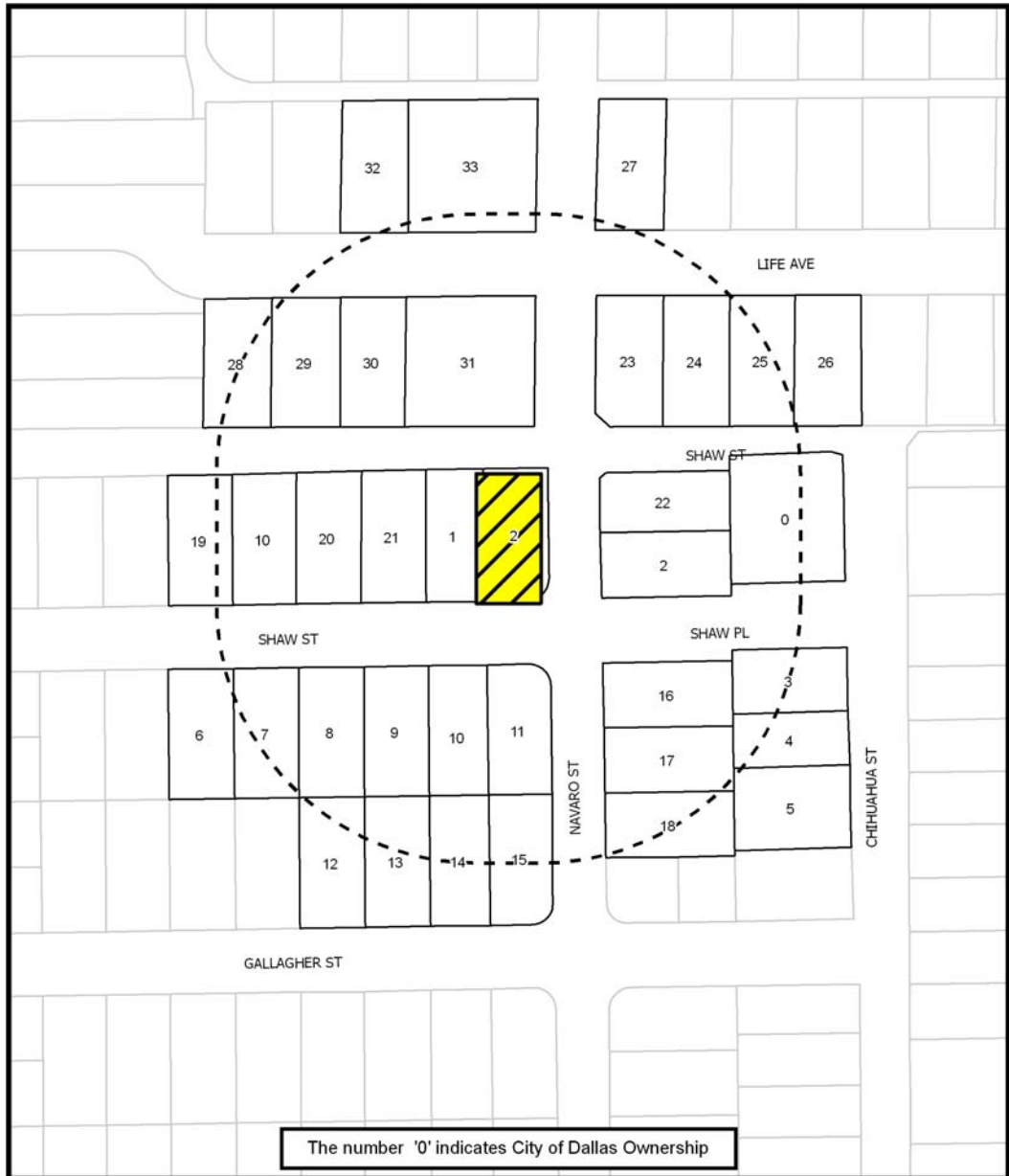
date of annexation: 12-30-52 (R-6 zoning)

1701 SHAW. W. Dallas.
ZONED R-6
MAY 11 1953 app W.D. J.L. Sterling. bus met.
use ~~not~~ estab prior to annexation
12-16-57-APPL FOR C.O. TO OCCUPY PRIVATE
GARAGE AT REAR FOR PLBST. OFFICE PENIES
APPL MADE BY ALTO WILLIAMS - TO WSP.
7-14-61 APPL H.D. FOR GROCERY STORE
BY H.B. GIPSON ZONING APPR.

1701 Shaw St. W. Dallas
2-16-54 - appl for Co. Change
occupancy from Retail
Real Estate Dept. office to
Sandwich stand and sale
of cold drinks candy - Cigarettes
Vanilla Cream (no Beer)
to CPC - Aug 11 54

1701 SHAW R-6
1-2-59 SEE FILE, C.O. APPL. MADE BY ALTO
WILLIAMS 6-28-57, FOR A PLUMBING SHOP.





 1:1,200	<h2>NOTIFICATION</h2>	J-6 Map no: _____			
	<table border="1"> <tr> <td style="padding: 2px;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="padding: 2px;">33</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	33	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
33	NUMBER OF PROPERTY OWNERS NOTIFIED				

DATE: October 27, 2011

Notification List of Property Owners

BDA101-099

33 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1707 SHAW ST	JUAREZ ADELFO & LUCINA
2	3520 NAVARO ST	GIPSON B G
3	3517 CHIHUAHUA ST	REED BRENDA LANETTE EST OF
4	3513 CHIHUAHUA ST	JOHNSON LONNIE EARL % JERRY WAYNE JOHNSO
5	3507 CHIHUAHUA ST	MOFFITT DEWONALD E
6	1722 SHAW ST	GARCIA ROSALIO
7	1716 SHAW ST	COOPER LOUIS H
8	1714 SHAW ST	MITCHELL DENISE P
9	1708 SHAW ST	GIPSON GLADYS MAE ET AL
10	1719 SHAW ST	HMK LTD
11	1702 SHAW ST	MONTGOMERY HOSIE
12	1715 GALLAGHER ST	TRIMBLE JOSEPHINE
13	1711 GALLAGHER ST	GUERRA LORENZO & IRMA
14	1707 GALLAGHER ST	GUERRA LORENZO & IRMA GUERRA
15	3503 NAVARO ST	DAVIS PERCY MAE EST % L MONTGOMERY AP
16	3514 NAVARO ST	DIAMOND THURMAN
17	3510 NAVARO ST	WHEATFALL BEULAH
18	3506 NAVARO ST	RODRIGUEZ FRANCISO
19	1723 SHAW ST	BUSTER EDWINA L & LLOYD BUSTER JR
20	1715 SHAW ST	WELLS COELLA & BOYD RAYELLA
21	1709 SHAW ST	DALLAS AREA HABITAT FOR HUMANITY INC & D
22	3526 NAVARO ST	SAUCEDA AURELIO & IRMA
23	1622 LIFE AVE	CORIA J SANTOS
24	1618 LIFE AVE	WALKER OLA V
25	1614 LIFE AVE	GUERRA JOSE E
26	1610 LIFE AVE	DALLAS HOUSING ACQ & DEV CITY HALL 6DN

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	3600 NAVARO ST	SMITH JOHN H % H E CODY & SON
28	1716 LIFE AVE	MITCHELL LEO JR
29	1714 LIFE AVE	TRUE FAITH PENTECOSTAL APOSTLIC ASSEMBLI
30	1710 LIFE AVE	FUCUALS GLORIA
31	1706 LIFE AVE	TRUE FAITH PENTECOSTAL CHURCH
32	1711 LIFE AVE	BOLDEN MARSHA G
33	1701 LIFEAVE	TRUE FAITH PENTECOSTAL

FILE NUMBER: BDA 101-101

BUILDING OFFICIAL'S REPORT:

Application of Kyle Russell for a variance to the off-street parking regulations at 1719 W. 10th Street. This property is more fully described as Lot 34 in City Block 28/3447 and is zoned LO-1, which requires parking to be provided. The applicant proposes to construct/maintain a structure for medical clinic or ambulatory surgical center use and provide 6 of the required 10 parking spaces, which will require a variance of 4 spaces.

LOCATION: 1719 W. 10th Street

APPLICANT: Kyle Russell

REQUEST:

- A variance to the off-street parking regulations of 4 parking spaces (or a 40 percent reduction of the 10 off-street parking spaces that are required) is requested in conjunction with leasing/maintaining an existing vacant 2,000 square foot structure with "medical clinic or ambulatory surgical center" use, and providing 6 (or 60 percent) of the 10 required off-street parking spaces.

STAFF RECOMMENDATION:

Approval

Rationale:

- Staff concludes that a literal enforcement of the off-street parking regulations would result in unnecessary hardship to the applicant. The site is virtually triangular in shape, 0.16 acres in area, and according to DCAD records developed with a "medical office building" with 2,239 square feet built in 1944. The irregular shape of the site along with its relatively small area for development precludes the applicant from providing any of the required off-street parking for the use of the structure on the site built in the 1940's. Furthermore, granting the variance to the off-street parking regulations does not appear to be contrary to public interest - the Sustainable Development Department Project Engineer has no objections to the request.

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 is:

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

GENERAL FACTS:

- The Dallas Development Code requires an off-street parking requirement of 1 space per 200 square feet of “medical clinic or ambulatory surgical center” use.
The applicant proposes to provide 6 (or 60 percent) of the 10 off-street parking spaces required in conjunction leasing the vacant 2,000 square foot structure with “medical clinic or ambulatory surgical center” use.
The applicant has submitted a site plan that denotes an “existing 2,000 sf bldg” part of which is located in the 15’ front yard setback along Jefferson Boulevard. The structure is most likely a nonconforming structure (a structure that does not conform to the current front yard setback regulations but was lawfully constructed under the regulations in force at the time of construction) where the applicant (who has been fully advised of code provisions related to nonconforming structures – that being the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner’s agent) has chose not to seek variance for it.
- The site is flat, virtually triangular in shape, and according to the application, 0.16 acres in area. The site is zoned LO-1 (Limited Office).
- DCAD records indicate that the “improvements” at 1719 W. Tenth is a “medical office building” with 2,239 square feet built in 1944.

Zoning:

Site: LO-1 (Limited Office)
North: R-7.5(A) & PD No. 87 (Single family & Planned Development)
South: R-7.5(A) (Single family residential 7,500 square feet)
East: PD No. 87 (Planned Development)
West: R-7.5(A) (Single family residential 7,500 square feet)

Land Use:

The subject site is developed with a vacant structure. The area to the north is developed with a surface parking lot and an institutional use (Salvation Army), the areas to the east and south are developed with what appears to be a combination of neighborhood retail and single family uses; and the area immediately west is undeveloped.

Zoning/BDA History:

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

Timeline:

July 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.

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

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

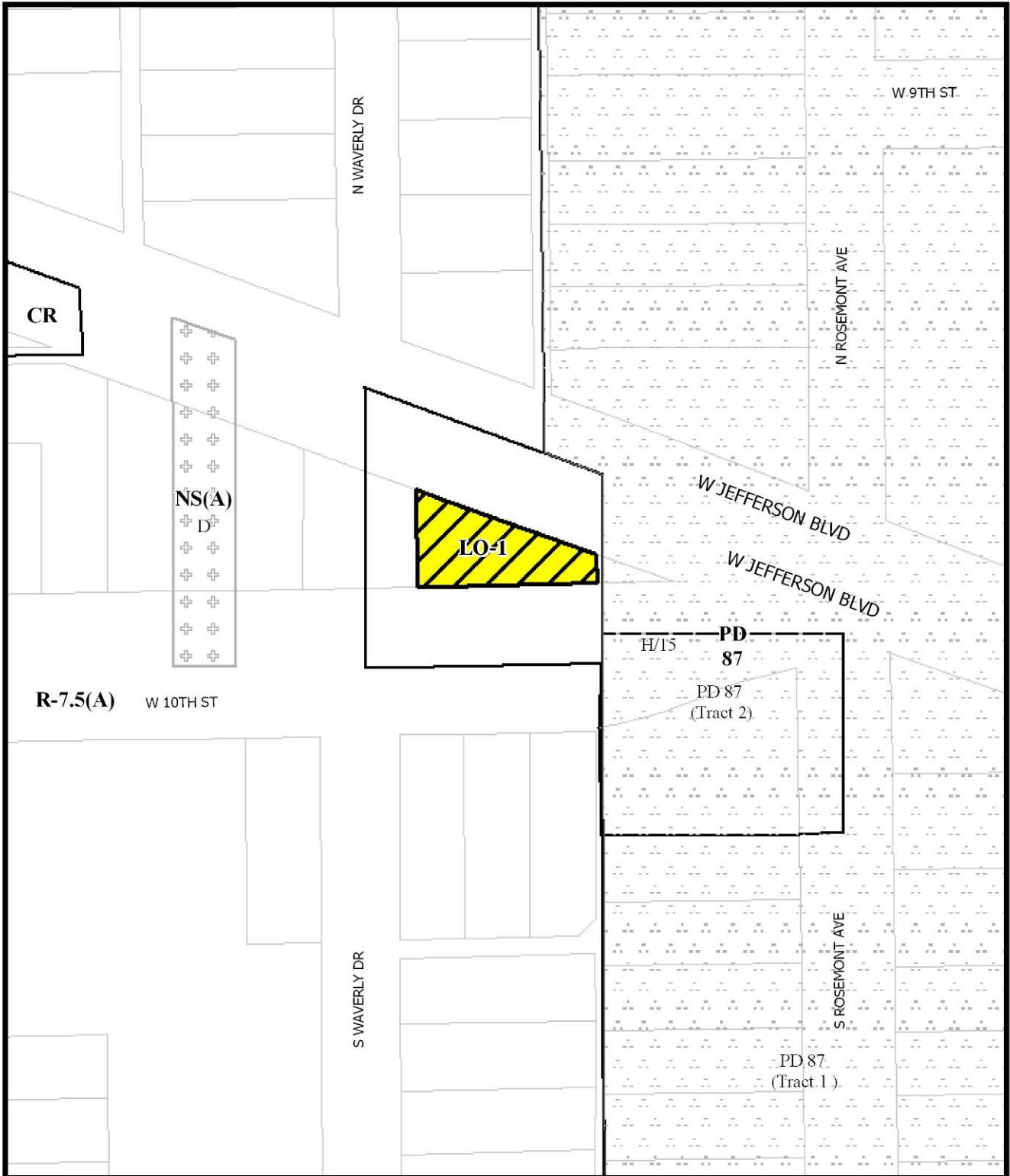
- an attachment that provided the public hearing date and panel that will consider the application; the October 28th deadline to submit additional evidence for staff to factor into their analysis; and the November 4th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- 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.

November 1, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Assistant Director, the Acting Building Official, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

November 3, 2011: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”

STAFF ANALYSIS:

- The request focuses on leasing/maintaining an existing vacant 2,000 square foot structure built in the 1940's with "medical clinic or ambulatory surgical center" use, and providing 6 (or 60 percent) of the 10 required off-street parking spaces.
- The applicant proposes to provide 6 (or 60 percent) of the 10 off-street parking spaces required to lease the existing vacant structure with a "medical clinic or ambulatory surgical center" use at 1 space per 220 square feet of floor area.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."
- The site is flat, virtually triangular in shape, and according to the application, 0.16 acres in area. The site is zoned LO-1 (Limited Office).
- DCAD records indicate that the "improvements" at 1719 W. Tenth is a "medical office building" with 2,239 square feet built in 1944.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to off-street parking 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 LO-1 (Limited Office) 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 LO-1 (Limited Office) zoning classification.

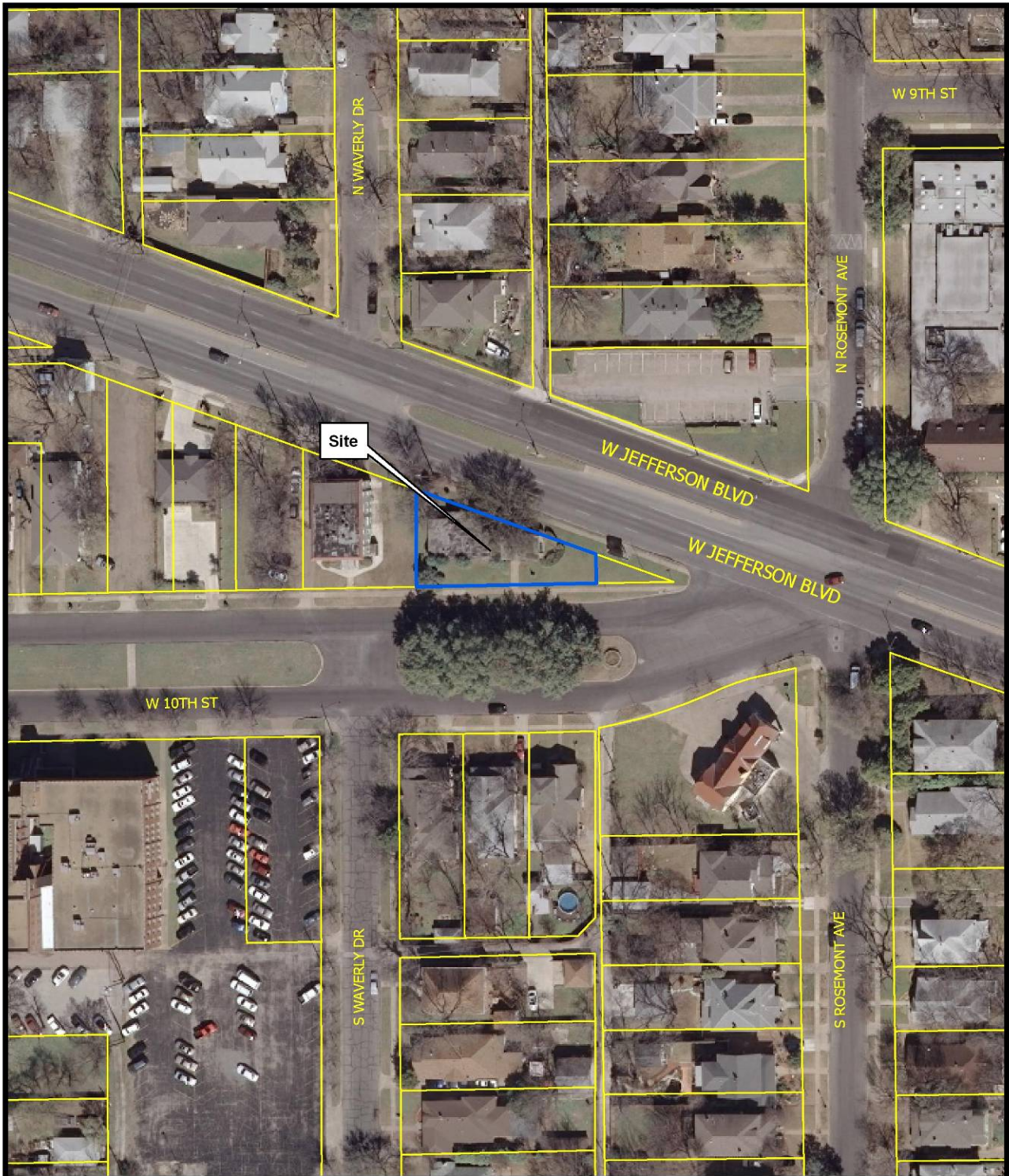


1:1,200

ZONING MAP

Map no: L-6
 Case no: BDA101-101

DATE: October 27, 2011



1:1,200

AERIAL MAP

Map no: L-6

Case no: BDA101-101

DATE: October 27, 2011



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-101

Date: 7/29/2011

Data Relative to Subject Property:

Location address: 1719 10th Street Zoning District: L0-1

Lot No.: 34 Block No.: 28/3447 Acreage: 0.16 acres Census Tract: 52.00

Street Frontage (in Feet): 1) 149' 2) 140' 3) . 4) . 5) .

gwllk

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Dolenz Trust

Applicant: Kyle Russell Telephone: 214 810 5502

Mailing Address: 2122 Kidwell St. 207 Zip Code: 75214

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

Affirm that a request has been made for a Variance or Special Exception _____ of the requirement for 4 additional parking spaces for medical clinic occupancy. We feel this request will not have a negative impact on the neighborhood due to the bldg. having received medical clinic occupancy twice prior.

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 bldg currently has 6 delta credits for office use and the owner wishes to accommodate a clinic tenant. The change in occupancy requires 4 more parking spaces that due to the size & shape of the lot cannot be accommodated.

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: Kyle Russell Applicant's name printed [Signature] Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Kyle Russell 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 29 day of July 2011

[Signature]
Notary Public in and for Dallas County



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 KYLE RUSSELL

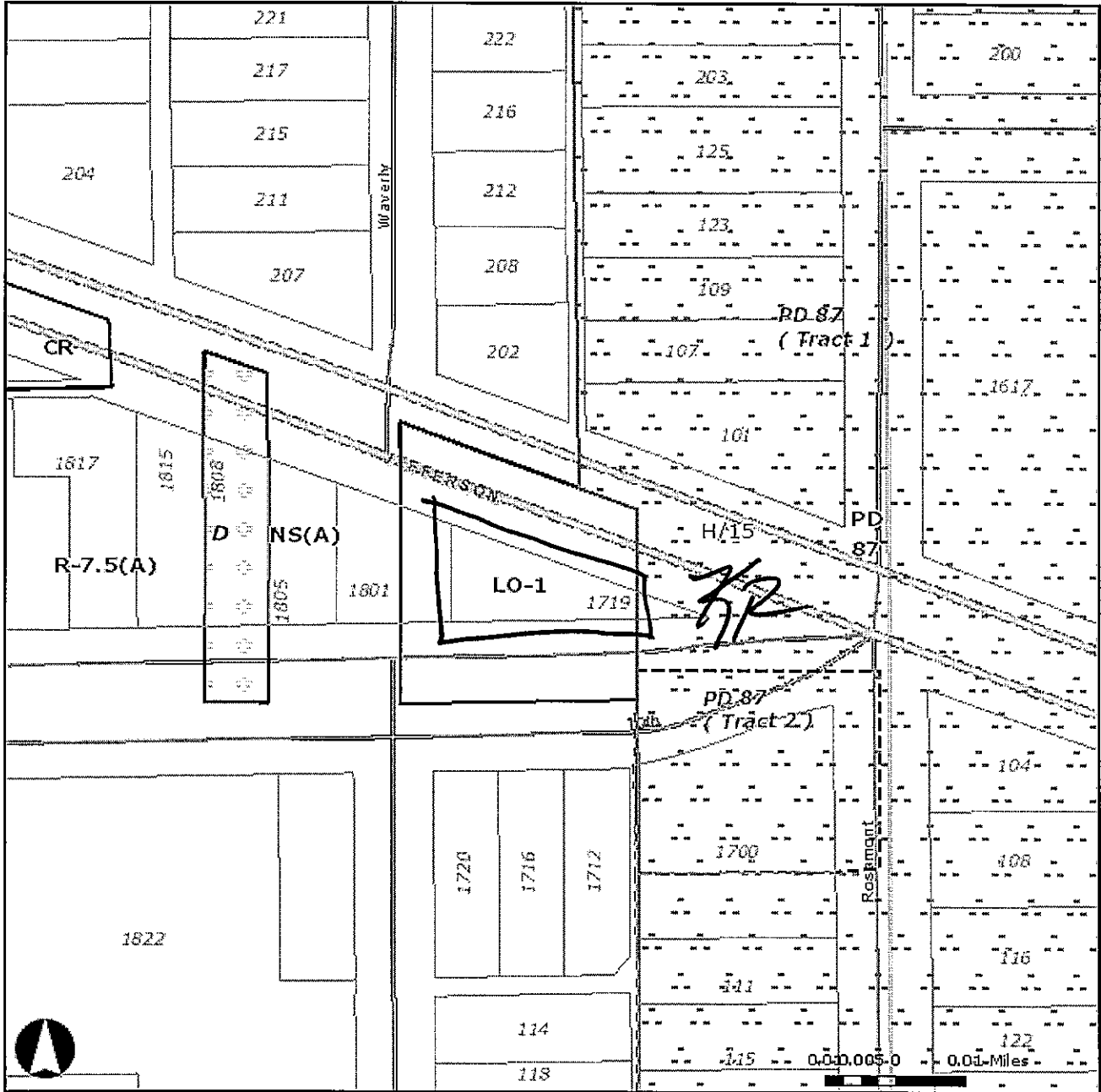
did submit a request for a variance to the parking regulations
at 1719 W. 10th Street

BDA101-101. Application of Kyle Russell for a variance to the parking regulations at 1719 W. 10th Street. This property is more fully described as lot 34 in city block 28/3447 and is zoned LO-1, which requires parking to be provided. The applicant proposes to construct and maintain a nonresidential structure for medical clinic or ambulatory surgical center use and provide 6 of the required 10 parking spaces, which will require a 4 space variance to the parking regulation.

Sincerely,


Lloyd Denmam, Building Official

City of Dallas Zoning



City Boundaries

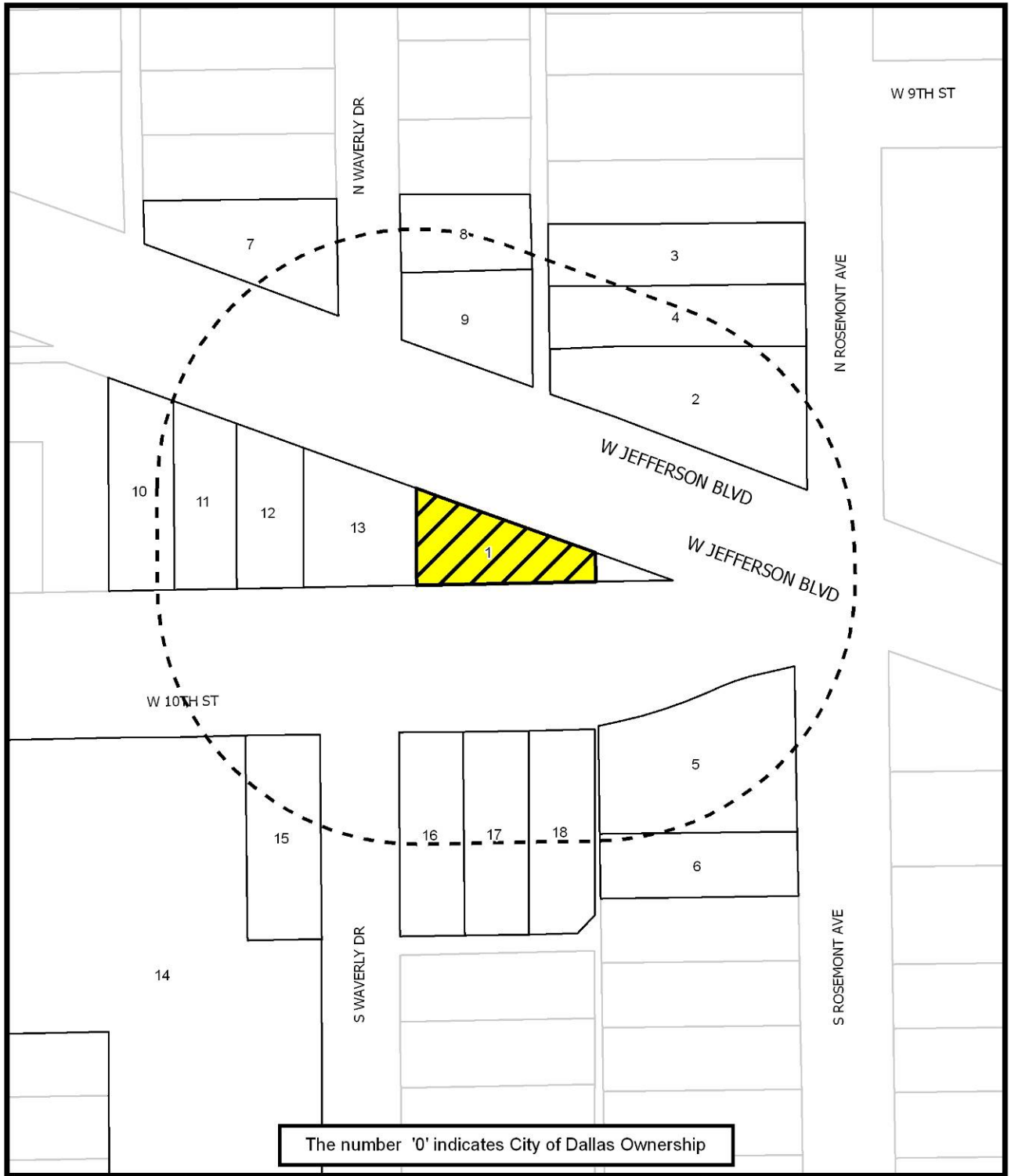
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

Dry Overlay

- D
- D-1
- Historic Overlay
- Historic Subdistricts
- NSO Overlay
- NSO Subdistricts
- MD Overlay

Base Zoning

- Floodplain
- 100 Flood Zone
- Mill's Creek
- Peak's Branch
- X PROTECTED BY LEVEE
- Pedestrian Overlay**
- CP
- SP
- Environmental Corridors**



 1:1,200	<h2 style="margin: 0;">NOTIFICATION</h2> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="border: 1px solid black; padding: 2px 5px;">200'</div> <div>AREA OF NOTIFICATION</div> </div> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="border: 1px solid black; padding: 2px 5px;">18</div> <div>NUMBER OF PROPERTY OWNERS NOTIFIED</div> </div>	Map no: <u> L-6 </u> Case no: <u> BDA101-101 </u>
---	--	--

DATE: October 27, 2011

Notification List of Property Owners

BDA101-101

18 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1719 10TH ST	DOLENZ BRENDA H TR DOLENZ CLINIC TRUST
2	101 ROSEMONT AVE	SALVATION ARMY THE
3	109 ROSEMONT AVE	GARZA ROSA
4	107 ROSEMONT AVE	NORMAN MICHAEL B & CHRISTINE F
5	1700 10TH ST	LOPEZ FRANCISCO J &
6	107 ROSEMONT AVE	ROMAN VERONICA J
7	207 WAVERLY DR	DEARING NANCY C WONDERS
8	208 WAVERLY DR	OCAMPO NOEL A
9	202 WAVERLY DR	CRUZ JOSE & EDITH R
10	1815 10TH ST	MELGOZA JOSE J JIMENEZ
11	1808 JEFFERSON BLVD	MELTON JANIE
12	1805 10TH ST	VILLARREAL HECTOR D
13	1801 10TH ST	TORREZ JESSIE
14	1822 10TH ST	CALVARY BAPTIST CHURCH OF OAK CLIFF INC
15	1822 10TH ST	CALVARY BAPTIST CHURCH OF CHRIST
16	1720 10TH ST	HORTON BARBARA SIEMENS
17	1716 10TH ST	YOUNG BENJAMIN J
18	1712 10TH ST	DENOVA ERIKA

FILE NUMBER: BDA 101-103

BUILDING OFFICIAL'S REPORT:

Application of Chad Sargent, represented by Ronnie Deford, for a special exception to the fence height regulations at 1528, 1530, 1534, 1536, and 1537 Sienna Court. This property is more fully described as Lots 31C, 31D, 31E, 31F, and 31K in City Block 5/642 and is zoned PD-298 (Subarea 8), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct/maintain an 8 foot high fence in a required front yard, which will require a special exception of 4 feet.

LOCATION: 1528, 1530, 1534, 1536, and 1537 Sienna Court

APPLICANT: Chad Sargent
Represented by Ronnie Deford

REQUESTS:

- The following appeals have been made in this application on a site that is currently being developed with a townhome development:
 1. a special exception to the fence height regulations of 4' is requested in conjunction with constructing and maintaining a 6' high solid cedar board-on-board fence atop a 2' high stone retaining wall to be located in the front yard setback along N. Haskell Avenue; and
 2. a special exception to the fence height regulations of 4' is requested in conjunction with constructing and maintaining an 8' high open wrought iron sliding gate to be located in the front yard setback along San Jacinto Street.

STAFF RECOMMENDATION (fence height special exceptions):

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

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:

- PD No. 298 states that for all residential uses, maximum fence height in the required front yard is four feet. PD No. 298 states that the front yard setback in Subarea 8 is not less than 5’ and not more than 15’.
The subject site is located at the southern corner of San Jacinto Street and N. Haskell Avenue with front yard setbacks on both streets
The applicant had submitted a site plan and elevation indicating that the proposal in the required front yard setbacks on N. Haskell Avenue and San Jacinto Street reaches a maximum height of 8’.
- With regard to the proposal along N. Haskell Avenue, the following additional information was gleaned from the submitted site plan:
 - The proposal is shown to be approximately 130’ in length parallel to the street and approximately 8’ – 11.5’ in length perpendicular to the street on the northwest and southeast sides in the front yard setbacks.
 - The proposed is shown to be located approximately on the front property line or about 13’ from the projected curb/pavement line.
- With regard to the proposal along N. Haskell Boulevard, no single family home “fronts” to the proposal on the subject site.
- With regard to the proposal along San Jacinto Street, the following additional information was gleaned from the submitted site plan:
 - The proposal is shown to be approximately 24’ in length parallel to the street.
 - The proposed is shown to be located approximately 9’ from the front property line or about 22’ from the projected curb/pavement line.
- With regard to the proposal along San Jacinto Street, no single family home “fronts” to the proposal on the subject site.
- The Board Administrator conducted a field visit of the site and surrounding area and noted one other fence above four (4) feet high which appeared to be located in a front yard setback – an approximately 6’ high open metal/wire fence atop a solid stone retaining wall located immediately north of the site with no recorded BDA history.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 298 (Planned Development)
North: PD No. 298 (Planned Development)
South: PD No. 298 (Planned Development)
East: PD No. 298 (Planned Development)
West: PD No. 298 (Planned Development)

Land Use:

The subject site is being developed with a townhome development. The areas to the north, east, and south are developed with residential uses, and the area to the west is developed with retail use.

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:

July 20, 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.

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

October 20, 2011: The Board Administrator emailed the applicant the following information:

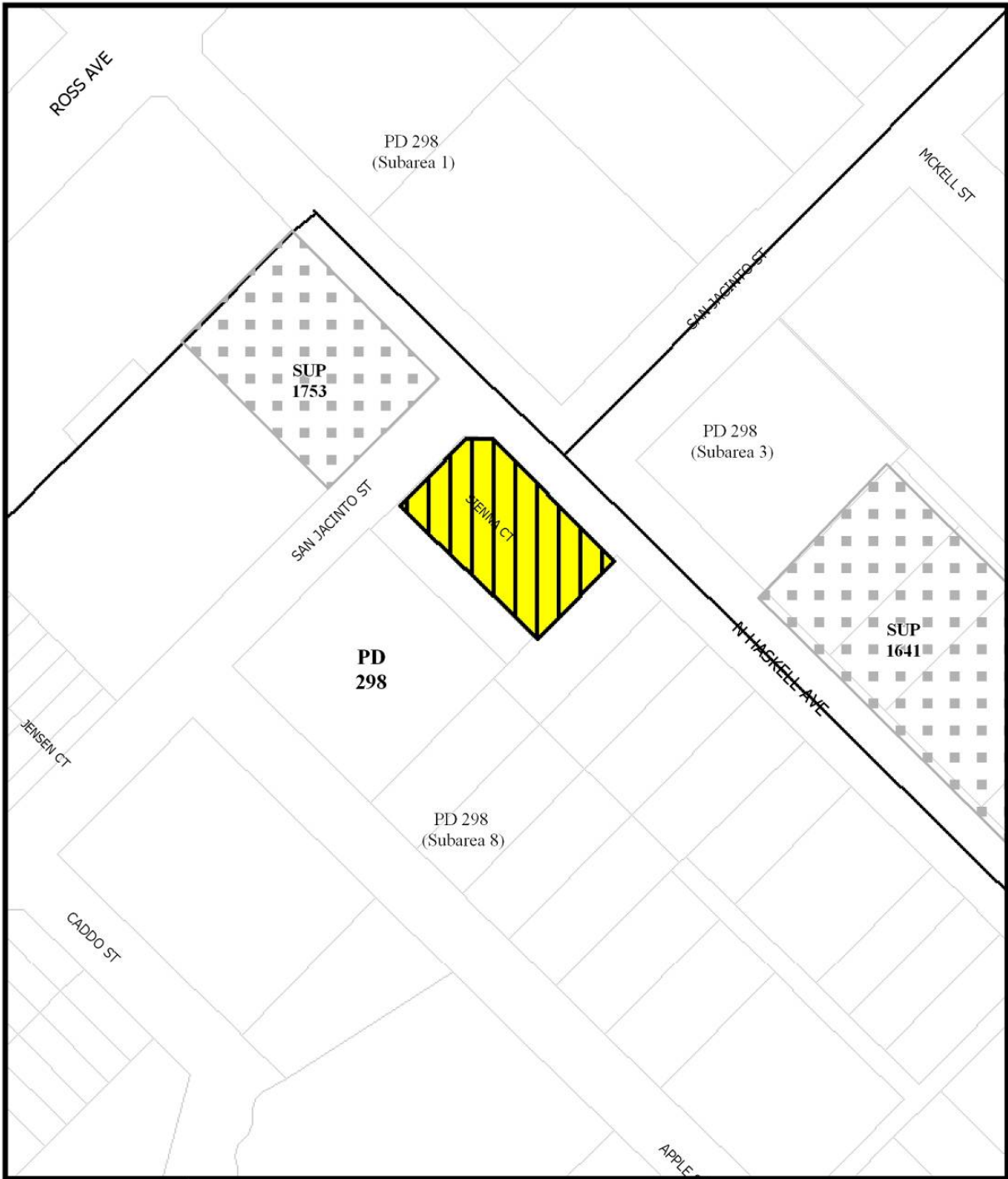
- an attachment that provided the public hearing date and panel that will consider the application; the October 28th deadline to submit additional evidence for staff to factor into their analysis; and the November 4th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- 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.

November 1, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Assistant Director, the Acting Building Official, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- This request focuses on constructing and maintaining a 6' high solid cedar board-on-board fence atop a 2' high stone retaining wall to be located in the front yard setback along N. Haskell Avenue, and an 8' high open wrought iron sliding gate to be located in the front yard setback along San Jacinto Street on a site being developed with a townhome development.
- The submitted site plan and revised documents the location, height, and materials of the fence over 4' in height in the required front yards. The site plan shows the proposal along Haskell Avenue to be approximately 130' in length parallel to the street and approximately 8' – 11.5' in length on the sides in the front yard setback, approximately on the front property line or about 13' from the curb/pavement line. The site plan shows the proposal along San Jacinto Street to be approximately 24' in length parallel to the street, approximately 9' from the front property line or about 22' from the curb/pavement line. The elevation denotes that the fence along N. Haskell to be 6' high solid cedar board-on-board fence atop a 2' high stone retaining wall and the "fence" on San Jacinto to be an 8' high open wrought iron sliding gate.
- No single family home "fronts" to the proposed fence or gate proposed on the subject site.
- The Board Administrator conducted a field visit of the site and surrounding area and noted one other fence above four (4) feet high which appeared to be located in a front yard setback – an approximately 6' high open metal/wire fence atop a solid stone retaining wall located immediately north of the site with no recorded BDA history.
- As of November 7, 2011, no letters have been submitted in support or opposition to the request.
- The applicant has the burden of proof in establishing that the special exceptions to the fence height regulations of 4' will not adversely affect neighboring property.
- Granting these special exceptions of 4' 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 required front yards would be constructed and maintained in the locations and of the heights and materials as shown on these documents.



1:1,200

ZONING MAP

Map no: I-8

Case no: BDA101-103

DATE: October 27, 2011



1:1,200

AERIAL MAP

Map no: I-8

Case no: BDA101-103

DATE: October 27, 2011



City of Dallas

B

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-103

Date: 20 July 2011

Data Relative to Subject Property:

Location address: 1536 Sienna Court Dr, Dallas, TX 75204 Zoning District: PD298 (sub 8)

Lot No.: 31 C, D, E, F and K Block No.: 5/642 Acreage: 0.38 Census Tract: 16.00

Street Frontage (in Feet): 1) 132.04' 2) 101.39' 3) SAN JACINTO 4) _____ 5) _____ SE 27

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Sienna Court Townhomes, LLC

Applicant: Chad Sargent, Managing Member Telephone: (806) 577-7111

Mailing Address: 4513 11TH ST, Lubbock, TX 79416 Zip Code: 79416

Represented by: Ronnie DeFord Telephone: (214) 882-9668

Mailing Address: 1018 N. Dunbarville Rd, Dunbarville, TX 75116 Zip Code: 75116

Affirm that a request has been made for a Variance ____, or Special Exception , of 4' to a Fence in a reqd 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:
TO MAINTAIN CONTINUITY WITH ADJACENT PROPERTIES, WE RESPECTFULLY REQUEST A SPECIAL EXCEPTION TO RAISE FENCE HEIGHTS ALONG THE ONE WAY HASKELL AVE AND AT THE SAN JACINTO ENTRANCE. FENCES WILL NOT OBSTRUCT TRAFFIC VIEWS AND CARS WILL NOT IMPEDE TRAFFIC ON SAN JACINTO.

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.

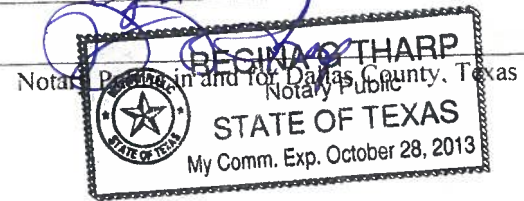
Respectfully submitted: Chad Sargent Applicant's name printed Chad Sargent Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Chad Sargent 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.

Chad Sargent
Affiant (Applicant's signature)

Subscribed and sworn to before me this 2 day of August



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

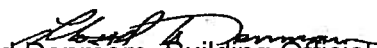
Chairman

Building Official's Report

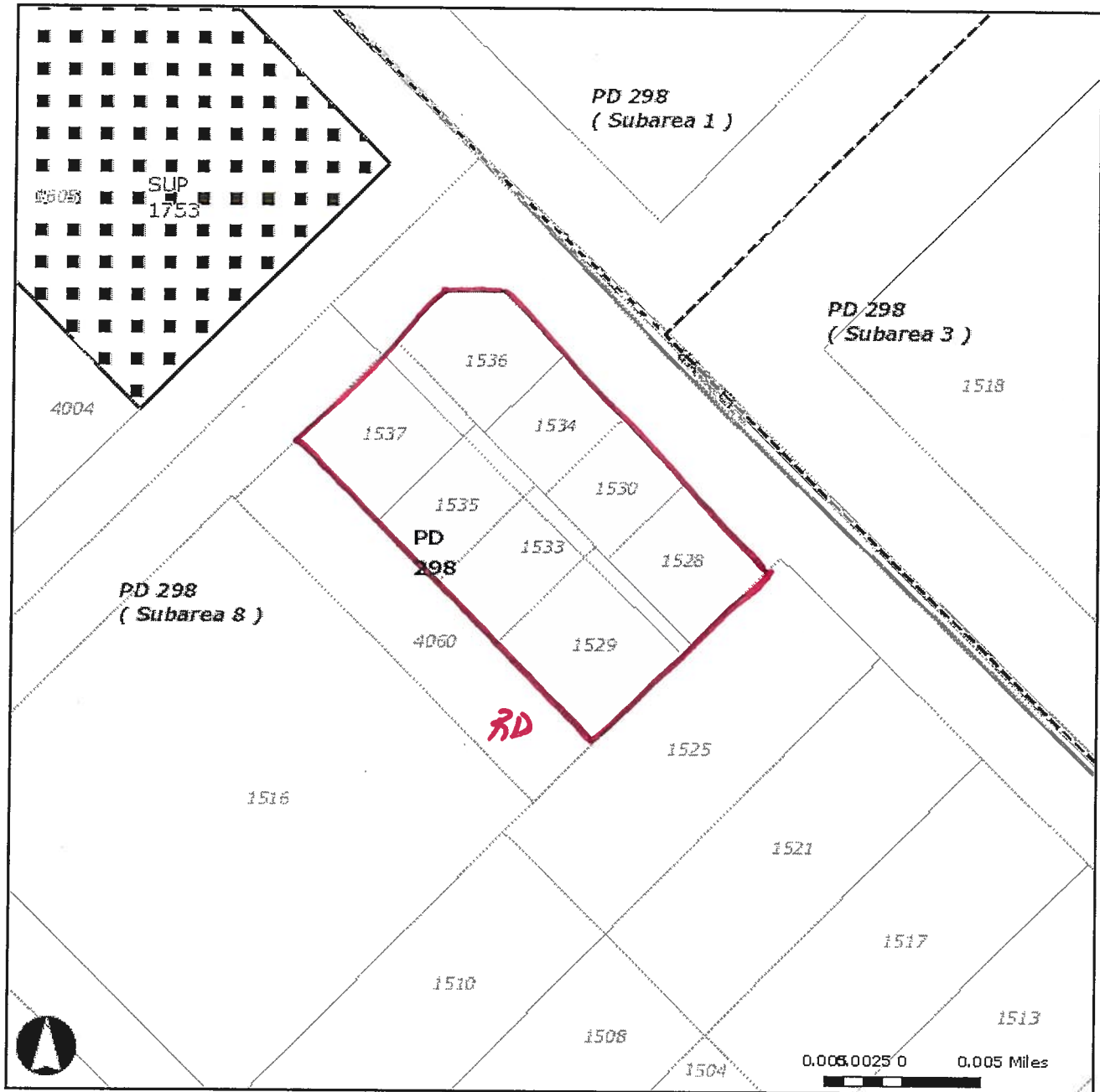
I hereby certify that Chad Sargent
represented by RONNIE DEFORD
did submit a request for a special exception to the fence height regulations
at 1536 Sienna Court

BDA101-103. Application of Chad Sargent represented by Ronnie Deford for a special exception to the fence height regulations at 1536 N. Haskell Avenue (et al). This property more fully described as lots 31C, 31D, 31E, 31F, and 31K in city block 5/642 and is zoned PD-298 (Subarea 8), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulation.

Sincerely,


Lloyd Denman, Building Official

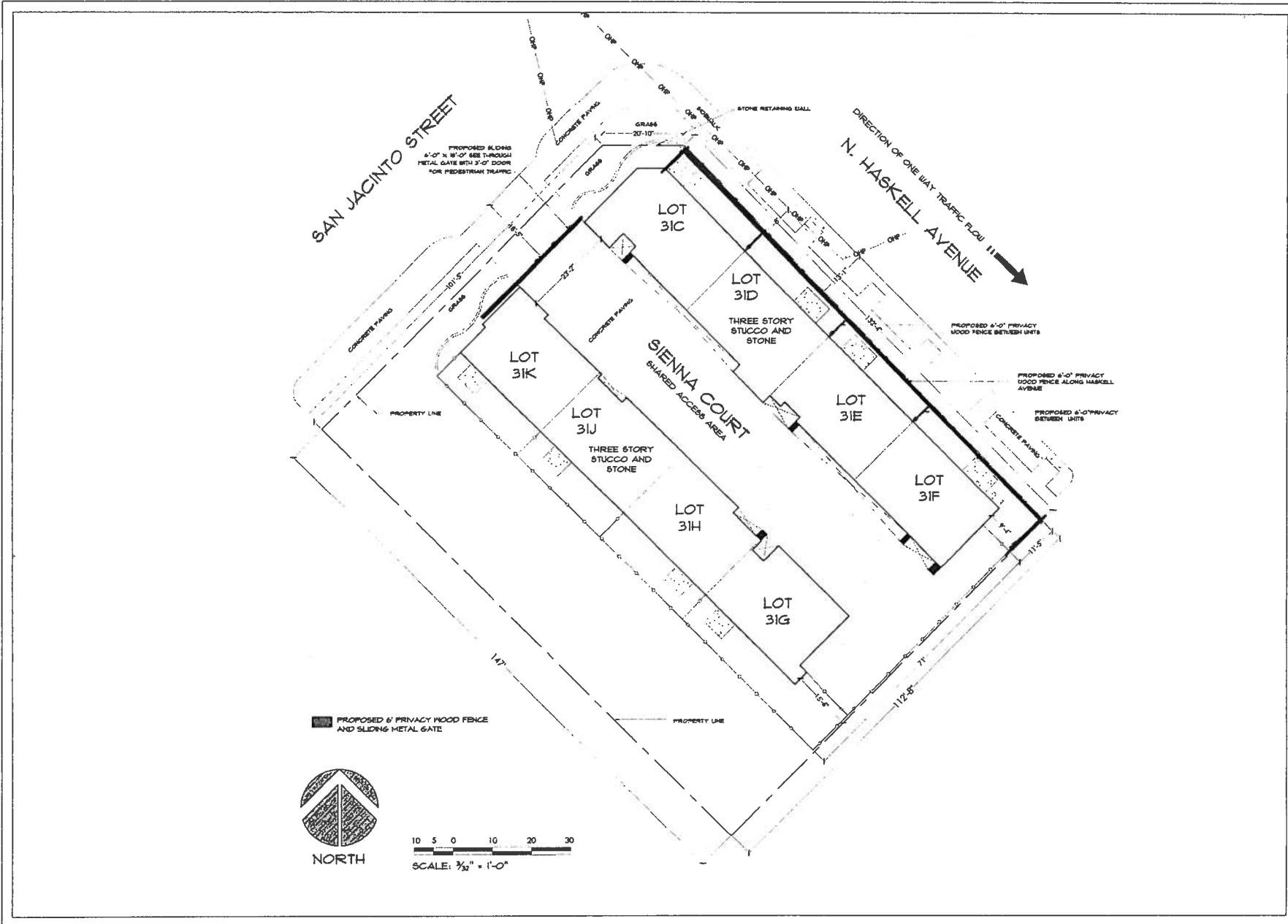
City of Dallas Zoning



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

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

- PD193 Oak Lawn
- PDS Subdistricts
- Base Zoning
- Pedestrian Overlay
- CP
- SP
- Environmental Corridors
- Escarpment Overlay



NOTES:

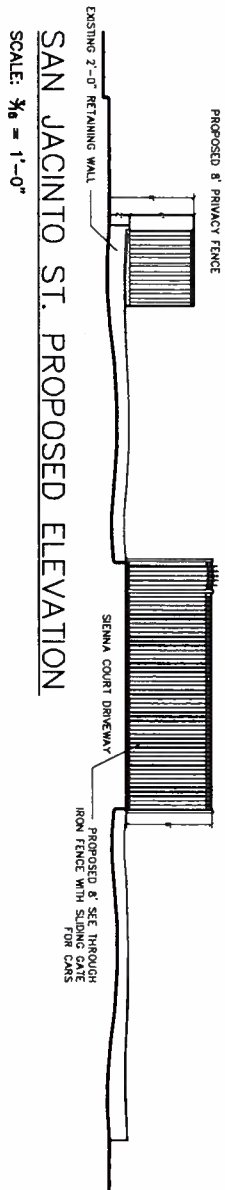
SITE PLAN WITH PROPOSED CONDITIONS

4060 SAN JACINTO STREET
DALLAS, TX

JULY 18, 2011

SITE PLAN

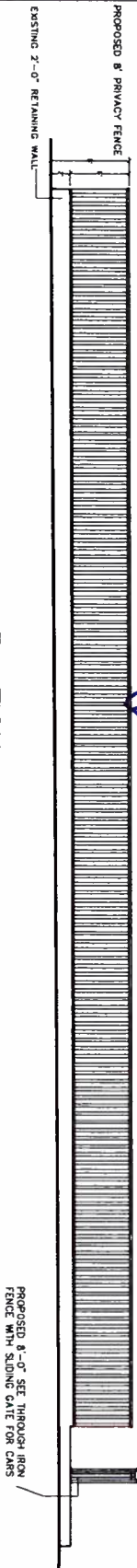
A1.0



SAN JACINTO ST. PROPOSED ELEVATION

SCALE: 3/8" = 1'-0"

*Cedar board-on-board
with
2x2 Cedar cap &c. per
per the spec. 10-17-11*



N. HASKELL AVE. PROPOSED ELEVATION

SCALE: 3/8" = 1'-0"

NOTES:

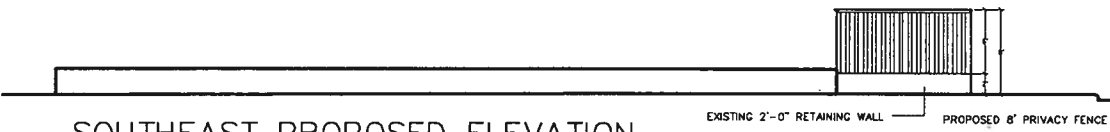
N. HASKELL AVE. PROPOSED ELEVATION
SAN JACINTO ST. PROPOSED ELEVATION

4060 SAN JACINTO STREET
DALLAS, TX

JULY 23, 2011

ELEVATIONS

A2.0



SOUTHEAST PROPOSED ELEVATION

SCALE: $\frac{3}{8} = 1'-0"$

PROPOSED 8' SEE THROUGH
IRON FENCE WITH SLIDING GATE
FOR DRIVEWAY ACCESS



SOUTHWEST PROPOSED ELEVATION

SCALE: $\frac{3}{8} = 1'-0"$

BDA 101-103

3-12

NOTES:

--

SOUTHEAST PROPOSED ELEVATION
SOUTHWEST PROPOSED ELEVATION

4060 SAN JACINTO STREET
DALLAS, TX

JULY 23, 2011

ELEVATIONS

A3.0

1600 N. HASKELL AVE.



1

DIRECTLY NORTH OF THE PROPERTY, ACROSS HASKELL WITH GATE ENTRIES FROM HASKELL



2

EXISTING IRON FENCE AND CAR ENTRANCE GATE



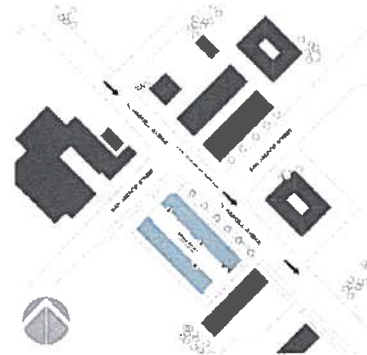
3

GATE ENTRIES FROM HASKELL AVE.



4

ADDITIONAL VIEW AT GATE ENTRY FROM HASKELL AVE.



VICINITY MAP



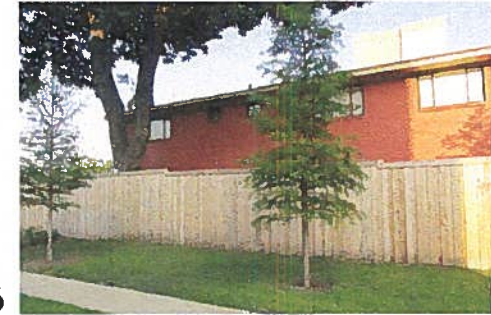
1

1518 N. HASKELL AVE.



2

CORNER OF HASKELL AVE. AND SAN JACINTO EXISTING 8' FENCE



3

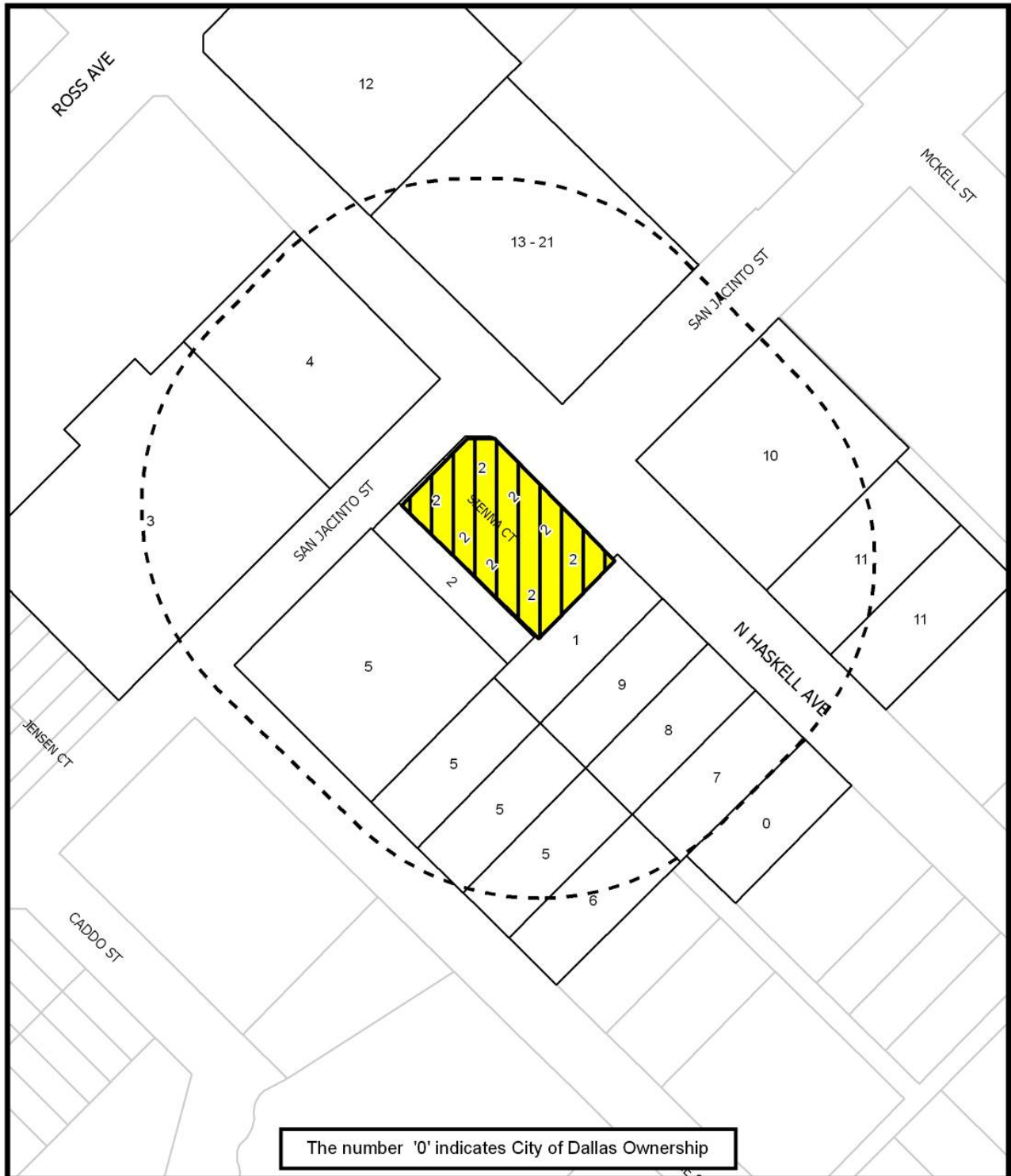
1518 N. HASKELL AVE. EXISTING 8' WOOD FENCE




4



ADJACENT PROPERTIES WITH SIMILAR FENCES TO OUR REQUEST




 1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
21 NUMBER OF PROPERTY OWNERS NOTIFIED

Map no: I-8
 Case no: BDA101-103

DATE: October 27, 2011

Notification List of Property Owners

BDA101-103

21 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1525 HASKELL AVE	HASKELL PARC LLC %JOHAN SALEH (PRESIDENT)
2	4060 SAN JACINTO ST	SIENNA COURT TOWNHOMES LLC
3	4004 ROSS AVE	ROSS AVE WAREHOUSE LP STE 300
4	1605 HASKELL AVE	CASS DON TR STE B
5	1516 APPLE ST	ACCESS 1ST CAPITAL BANK
6	1500 APPLE ST	URIBE BELIA
7	1513 HASKELL AVE	GUIDO CARMEN C
8	1517 HASKELL AVE	HASKELL PARC LL %JOHAN SALEH (PRESIDENT)
9	1521 HASKELL AVE	BUILDING MAINTENANCE &
10	1518 HASKELL AVE	ALLEGRO ROBERT DBA ALLEGRO PROPERTIES
11	1514 HASKELL AVE	VGA LEASING LP
12	4202 ROSS AVE	4206 ROSS PARTNERS LTD ATTN: RASANSKY MI
13	1600 HASKELL AVE	WILSON CHASITY N
14	1600 HASKELL AVE	SMALLWOOD JOHN M JR
15	1600 HASKELL AVE	1600 HASKELL PARTNERS LP
16	1600 HASKELL AVE	PEDERSON MISTY D
17	1600 HASKELL AVE	SHOEMAKER ANTHONY L
18	1600 HASKELL AVE	HO KIEM A & CAROLINE H
19	1600 HASKELL AVE	EAKINS GREG
20	1600 HASKELL AVE	HONEYCUTT CHARLES W &
21	1600 HASKELL AVE	PRUDENTIAL RELOCATION INC 2ND FLOOR RECE

FILE NUMBER: BDA 101-106

BUILDING OFFICIAL'S REPORT:

Application of Joe Cavagnaro, represented by Matt Cragun, for a variance to the off-street parking regulations at 1899 McKinney Avenue. This property is more fully described as being Block 293 and is zoned PD-193 (HC), which requires parking to be provided. The applicant proposes to construct/maintain a structure for a restaurant without drive-in or drive-through service use and provide 35 of the required 71 parking spaces, which will require a variance of 36 spaces.

LOCATION: 1899 McKinney Avenue

APPLICANT: Joe Cavagnaro
Represented by Matt Cragun

REQUEST:

- A variance to the off-street parking regulations of 36 parking spaces (or a 51 percent reduction of the 71 off-street parking spaces that are required) is requested in conjunction with maintaining an approximately 7,100 square foot structure as "restaurant without drive-in or drive through service" use (Glass at 1899).

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- The applicant shall provide 71 off-street parking spaces within a walking distance of 600 feet from the subject site.

Rationale:

- Staff concludes that a literal enforcement of the off-street parking regulations would result in unnecessary hardship to the applicant. The site is virtually triangular in shape, 0.4 acres in area, and according to DCAD records developed with an "office building" built in 1966. The irregular shape of the site along with its relatively small area for development precludes the applicant from providing the required off-street parking for the use of the structure on the site built in the 1960's on the site.
- Furthermore, granting the variance to the off-street parking regulations does not appear to be contrary to public interest with the staff suggested condition imposed - the Sustainable Development Department Project Engineer has no objections to the request. In this particular case, the applicant is providing/would be required to provide (if the staff suggested condition is imposed) the entire amount of off-street parking required for the use/size of

the structure on the subject site but not in accordance to the specific “special parking regulation” within PD No. 193 that requires that at least 50 percent of the off-street parking required for any other main use must be located on the same lot as that use or on a lot directly adjacent to or across an alley from that use.

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 is:

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

GENERAL FACTS:

- PD No. 193 requires an off-street parking requirement of 1 space per 100 square feet of “restaurant without drive-in or drive-through service” use. PD No. 193 additionally provides certain “special parking regulations” with a “general standard” stating: “At least 50 percent of the off-street parking required for any other main use must be located on the same lot as that use or on a lot directly adjacent to or across an alley from that use.”
The application and Building Official’s report states that variance is sought for 36 spaces where the City recognizes the applicant providing 35 (or 49 percent) of the 71 off-street parking spaces required in conjunction maintaining the existing 7,143 square foot structure with “restaurant without drive-in or drive-through service” use.
- The parking provisions mentioned above allow the City to recognize only 35 (or 49 percent) of the 71 off-street parking spaces required for this sized structure leased with this specific use even though the applicant is providing 100 percent of the required parking for the use on the subject site at a location not on the same lot as the use, and not on a lot directly adjacent to or across an alley from that use. The applicant’s representative has submitted a site plan and a letter (see Attachment A) documenting that 71 parking spaces required for the use on the subject site are provided in a remote parking

agreement at 1900 Cedar Springs – a location that begins approximately 300' north of the subject site and across St. Paul Street from the subject site.

- The site is somewhat sloped, virtually triangular in shape, and according to the application, 0.447 acres in area. The site is zoned PD No. 193 (HC).
- DCAD records indicate that the “improvements” at 1899 McKinney is an “office building” with 7,953 square feet built in 1966.

Zoning:

Site: PD No. 193 (HC) (Planned Development, Heavy Commercial)
North: PD No. 193 (HC) (Planned Development, Heavy Commercial)
South: PD No. 193 (HC) (Planned Development, Heavy Commercial)
East: PD No. 193 (HC) (Planned Development, Heavy Commercial)
West: PD No. 193 (HC) (Planned Development, Heavy Commercial)

Land Use:

The subject site is developed an approximately 7,100 square foot “restaurant without drive-in or drive through service” structure/use (Glass at 1899). The areas to the north, east, south, and west is developed with a mix of uses, most of which appear to be office uses.

Zoning/BDA History:

1. BDA 001-155, Property at 1899 McKinney Avenue (the subject site)

On February 20, 2001, Board of Adjustment Panel B granted a request for a special exception to the landscape regulations and imposed the submitted revised landscape plan as a condition. The case report stated that the request was made in conjunction with renovating and expanding an existing office building on the site where the existing building footprint would remain intact and eight floors would be added atop that would include 19 residential units.

Timeline:

August 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.

October 14, 2011: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

October 19, 2011: The Board Administrator emailed the applicant's representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the October 28th deadline to submit additional evidence for staff to factor into their analysis; and the November 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.

October 28, 2011: The applicant's representative submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

November 1, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Assistant Director, the Acting Building Official, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

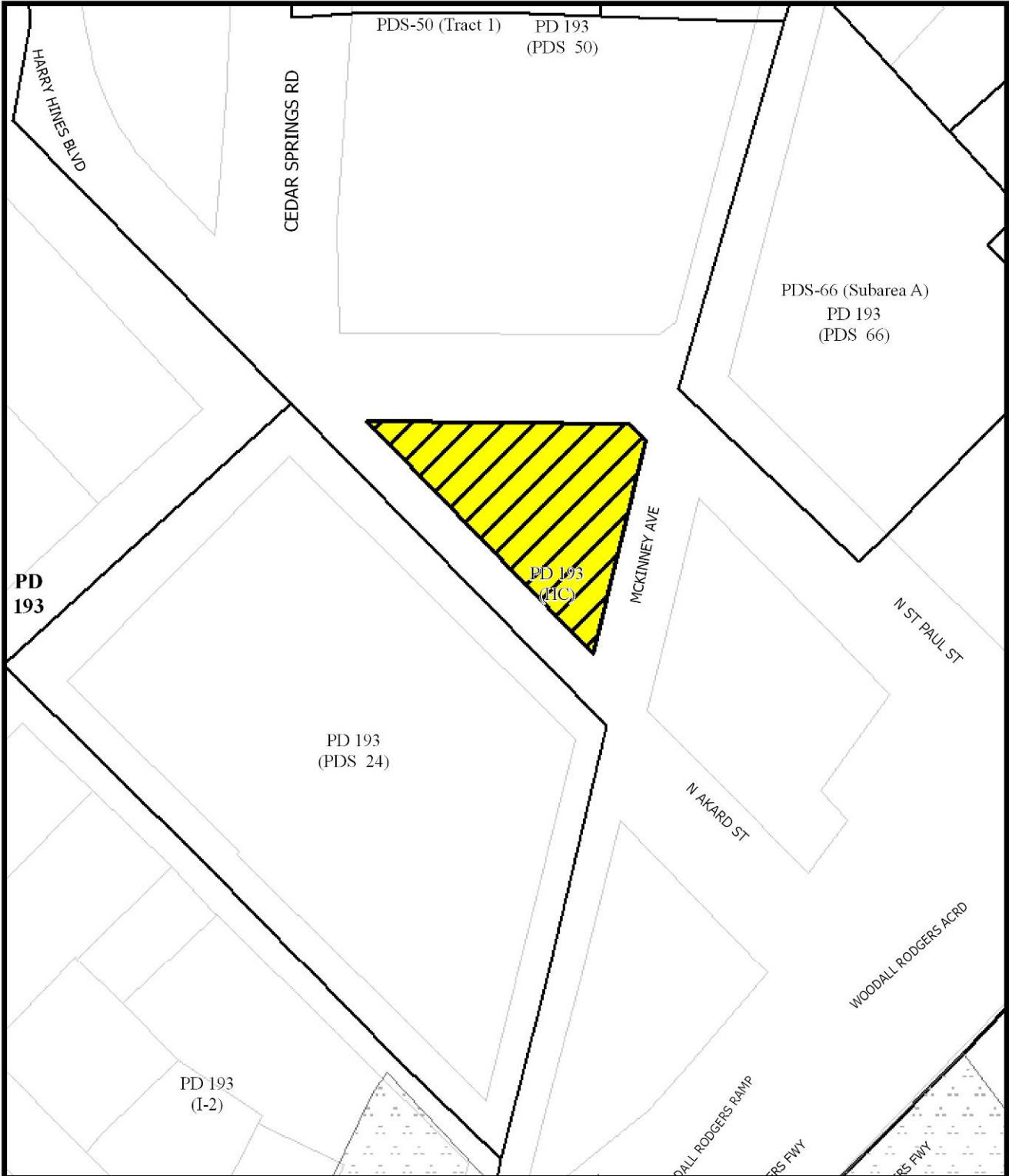
November 3, 2011: The Sustainable Development Department Project Engineer submitted a Review Comment Sheet marked "Has no objections."

STAFF ANALYSIS:

- The request focuses on maintaining an approximately 7,100 square foot structure as "restaurant without drive-in or drive through service" use (Glass at 1899) where the City only recognizes 35 required off-street parking spaces as being provided off-street parking spaces.
- The applicant is not adhering to PD No. 193's "special parking regulation" that requires "At least 50 percent of the off-street parking required for any other main use must be located on the same lot as that use or on a lot directly adjacent to or across an alley from that use."
- While the applicant is providing 71 off-street parking spaces or 100 percent of the required parking for the use on the subject site, all 71 off-street parking spaces required for the use on the subject site are being provided in a remote

parking agreement at 1900 Cedar Springs – a parking garage location that begins approximately 300' north of the subject site and across St. Paul Street from the subject site. The “special parking regulation” mentioned above only allows the City to recognize only half of the required 71 off-street parking spaces for the use on the subject site in this location.

- The Sustainable Development and Construction Department Project Engineer has submitted a Review Comment Sheet marked “Has no objections.”
- The site is somewhat sloped, virtually triangular in shape, and according to the application, 0.447 acres in area. The site is zoned PD No. 193 (HC).
- DCAD records indicate that the “improvements” at 1899 McKinney is an “office building” with 7,953 square feet built in 1966.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to off-street parking 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 PD No. 193 (LC) 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 No. 193 (LC) zoning classification.
- If the Board were to grant this request and impose the staff suggested condition, the applicant would be required to provide 71 off-street parking spaces required for the 7,100 square foot restaurant use on the subject site within a walking distance of 600 feet from the subject site.



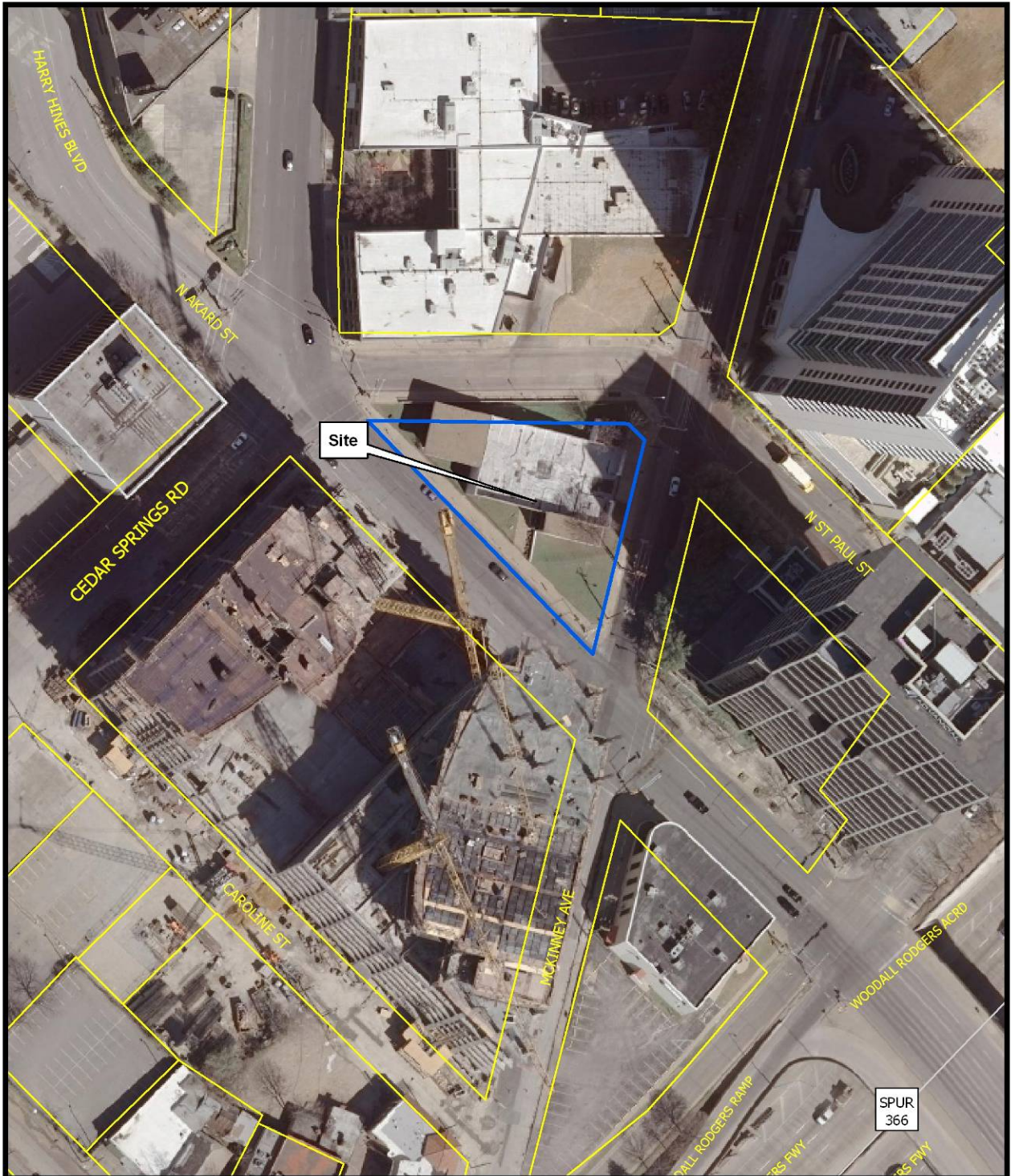
1:1,200

ZONING MAP

Map no: J-7

Case no: BDA101-106

DATE: October 27, 2011



1:1,200

AERIAL MAP

Map no: J-7

Case no: BDA101-106

DATE: October 27, 2011

October 28, 2011

Department of Development Services

Current Planning
City of Dallas
1500 Marilla Street, 5BN
Dallas, TX 75201

Re: BDA 101-106
1899 McKinney Avenue

We are respectfully requesting a variance to the provision that states **“At least 50 percent of the off-street parking required for any other main use must be located on the same lot as that use or on a lot directly adjacent to or across an alley from that use”** for 1899 McKinney Avenue for the following reasons:

1. When the original permit was submitted and the CO (Jan 26, 2011) was approved, it was interpreted that this site fell within the Special Retail Street portion of McKinney Avenue and would be allowed to follow the requirements for parking that were spelled out in that provision. In order to meet these requirements, the ownership obtained a valet permit that would allow them to collect and return their patron's cars on the street side parking area adjacent to the site. They also obtain a remote parking agreement for all 71 spaces that would be required for the site's parking from the owner of 1900 Cedar Springs. Under these conditions, they opened for business.
2. On August 1, 2011, the owner submitted a permit to install a reflective pool on the site. As part of the review, it was discovered that 1899 McKinney was not part of the Special Retail Street portion of McKinney and therefore would be required to meet the provision that states: "At least 50 percent of the off-street parking required for any other main use must be located on the same lot as that use or on a lot directly adjacent to or across an alley from that use". The business is already operating under an approved C.O. and after consultation with city staff about the situation, it was determined that a variance to the requirement would be needed to allow the site to be compliant with city code.
3. Based on the geometry of the existing site and conditions, it would be difficult to fit the required access points and parking needed to bring the site into compliance.
4. Since the site has been open, to our knowledge there have been no complaints made to the city about the existing arrangement for the parking of this site.

Thank you for your time and attention. Please feel free to contact us if you have any additional questions or comments.



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-106

Data Relative to Subject Property:

Date: 08/26/11

Location address: 1899 McKinney Ave Zoning District: PD-193(HC)

Lot No.: N/A Block No.: 293 Acreage: 0.447 Census Tract: 19.00

Street Frontage (in Feet): 1) 205 2) 250 3) 170 4) 5) SW 22

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Pearl Realty Holdings, LLC

Applicant: Joe Cavagnaro Telephone: 972-743-4718

Mailing Address: 1201 Queen Guinevere Drive, Lewisville, TX Zip Code: 75056

E-mail Address: Joe.cavagnaro@yahoo.com

Represented by: Matt Cragun Telephone: 817-794-0202

Mailing Address: 1601 East Lamar Blvd #210 Arlington, TX Zip Code: 76011

E-mail Address: Matt@ODengineering.com

Affirm that an appeal has been made for a Variance X, or Special Exception, of ~~off street~~ On Site Parking requirement of 36 spaces. Reduce parking spaces from the existing 71 spaces for restaurant with out drive-in service use.

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

When the project was granted it C.O. # 1010291104, it was allowed to meet its off street parking requirement via a shared parking agreement. It was not until the owner submitted for an addition permit # 1108011029, that the error was discovered. Therefore honorably request a parking variance to allow the property to be allowed to continue with 100% off site parking or to alleviate requirement for 36 on site spaces as City

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

Affidavit

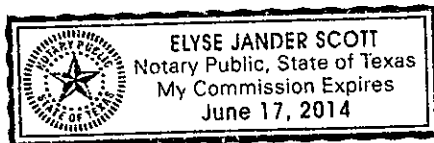
Before me the undersigned on this day personally appeared Joe Cavagnaro Jr. (Affiant/Applicant's name printed)

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

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

Subscribed and sworn to before me this 26th day of August, 2011

(Rev. 08-01-11)



Elyse Jander Scott Notary Public in and for Dallas County, Texas

approved orig plan assuming site was part of McKinney Ave "Special Detail Street"

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

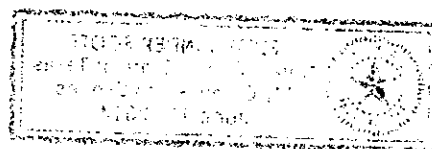
Building Official's Report

I hereby certify that Joe Cavagnaro
represented by Matt Cragun
did submit a request for a variance to the parking regulations
at 1899 McKinney Avenue

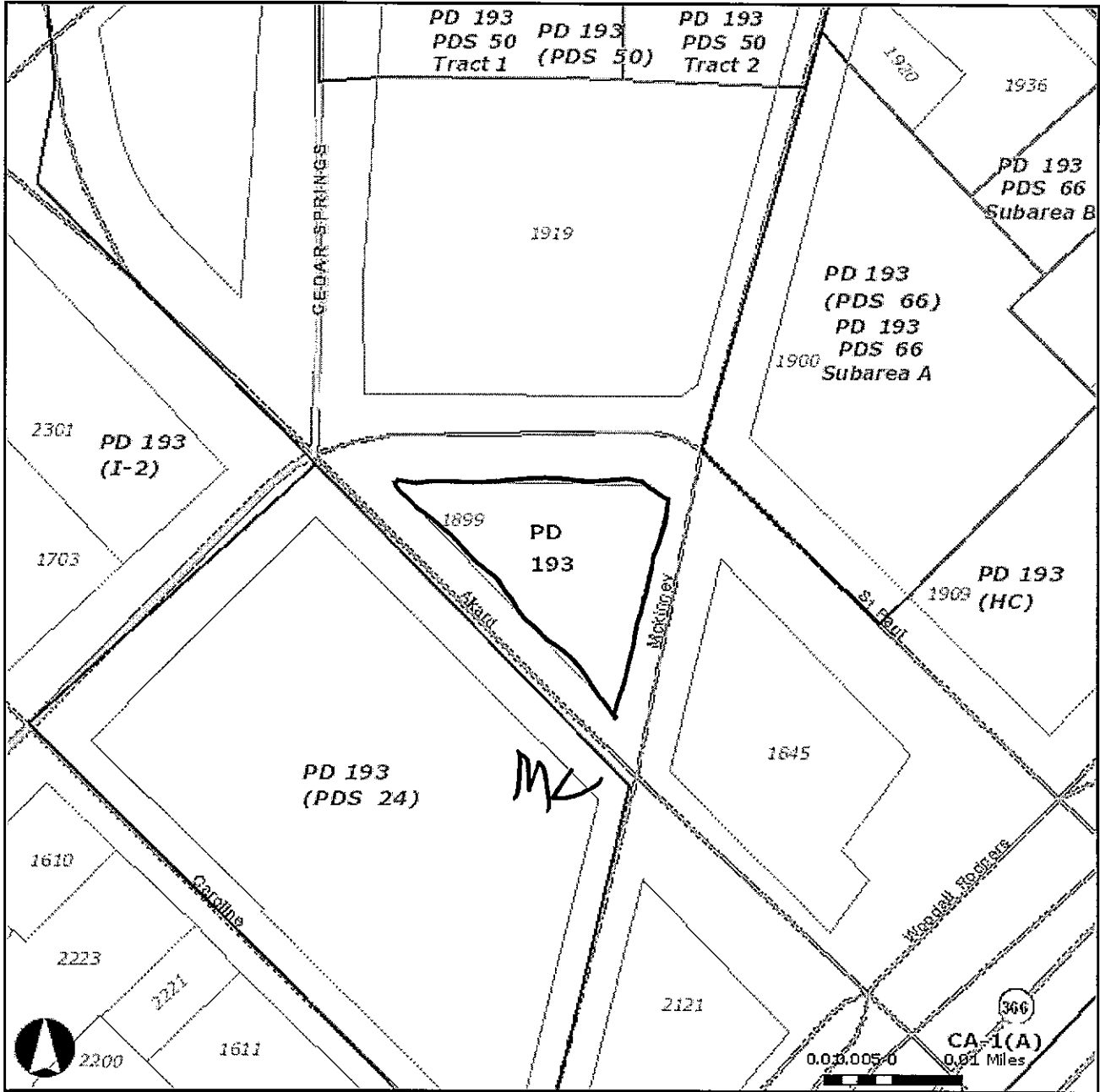
BDA101-106. Application of Joe Cavagnaro represented by Matt Cragun for a variance to the parking regulations at 1899 McKinney Avenue. This property is more fully described as being block 293 and is zoned PD-193 (HC), which requires parking to be provided. The applicant proposes to construct and maintain a nonresidential structure for a restaurant without drive-in or drive-through service use and provide 35 of the required 71 parking spaces, which will require a 36 space variance to the parking regulation.

Sincerely,


Lloyd Denman, Building Official



City of Dallas Zoning



City Boundaries

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

SUP

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

PD193 Oak Lawn

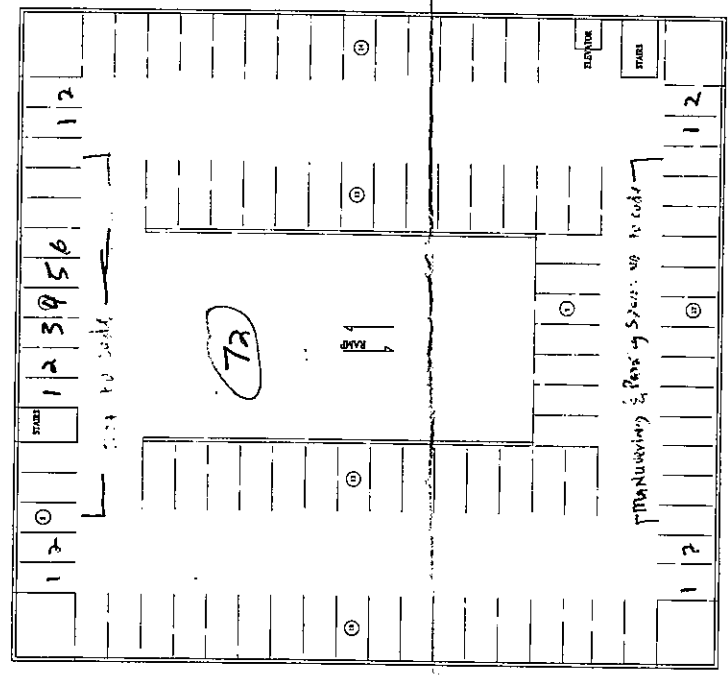
- PD193 Oak Lawn
- PDS Subdistricts
- Base Zoning
- Floodplain
- 100 Flood Zone
- Mill's Creek
- Peak's Branch
- X PROTECTED BY LEVEE
- Pedestrian Overlay

GENERAL CONTRACTOR
KC DESIGN

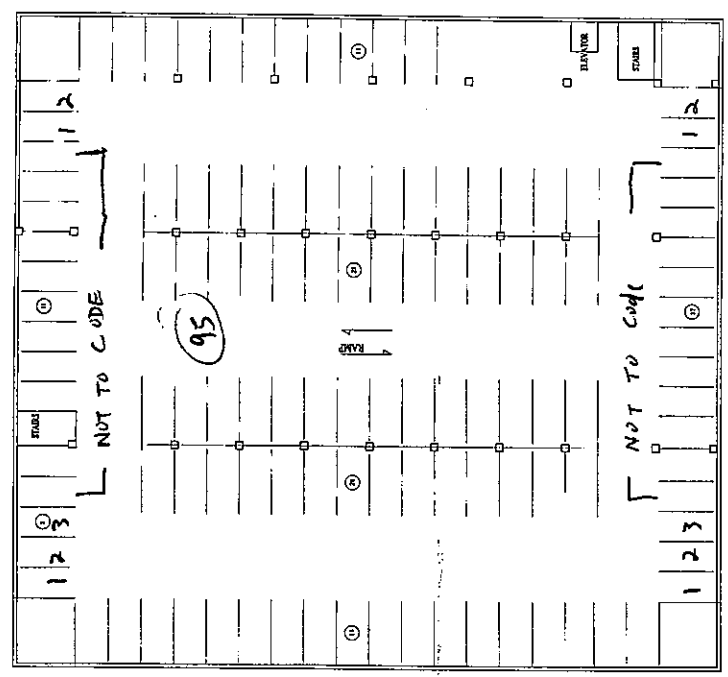
SITE
1900 CEDAR SPRING RD.
DALLAS, TEXAS 75201

REVISIONS	
DATE:	
JOB NUMBER	01811
DRAWN BY:	KC
DATE:	1/10/11
SITE PLAN	

SHEET NO.
A-1



THIRD FL
SCALE: 1/16" = 1'-0"



SECOND FL
SCALE: 1/16" = 1'-0"

The required number of parking stalls, including accessible stalls, shall be provided at each of the following locations: all new, existing, and proposed parking areas, all new, existing, and proposed parking areas, and any other subject. Parking shall be provided in accordance with the following: 1. All new parking areas shall be provided in accordance with the following: 2. All existing parking areas shall be provided in accordance with the following: 3. All proposed parking areas shall be provided in accordance with the following:

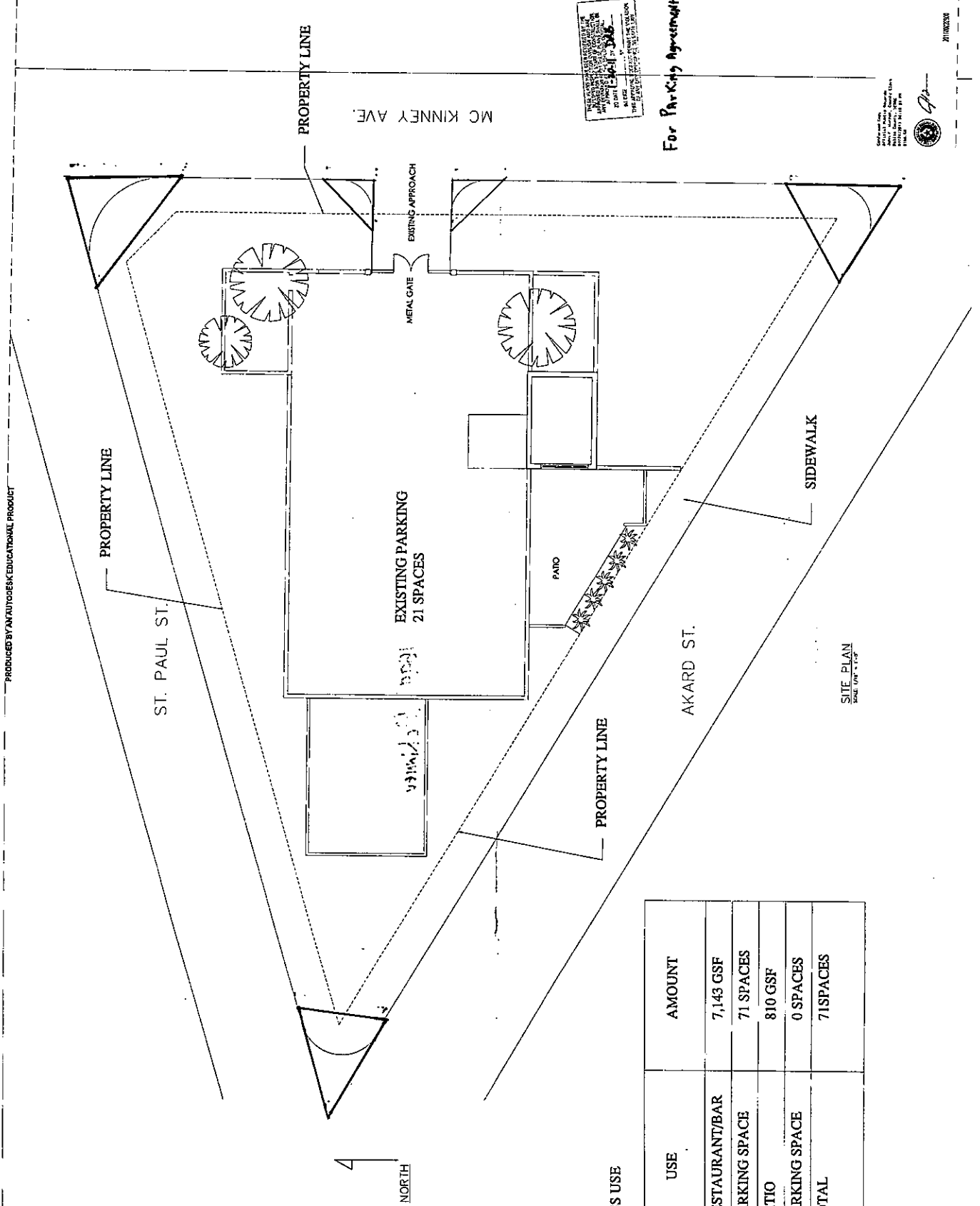
THIS PLAN HAS BEEN REVIEWED BY THE ARCHITECT AND IS SUBJECT TO THE FOLLOWING CONDITIONS: 1. THE ARCHITECT SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT. 2. THE ARCHITECT SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT.

KC DESIGN
 GENERAL CONTRACTOR
 3405 DUAL CREST CT.
 ARLINGTON, TX 76014
 817-614-3396

GLASS AT 1899
 1899 MC KINNEY
 DALLAS, TEXAS 75202

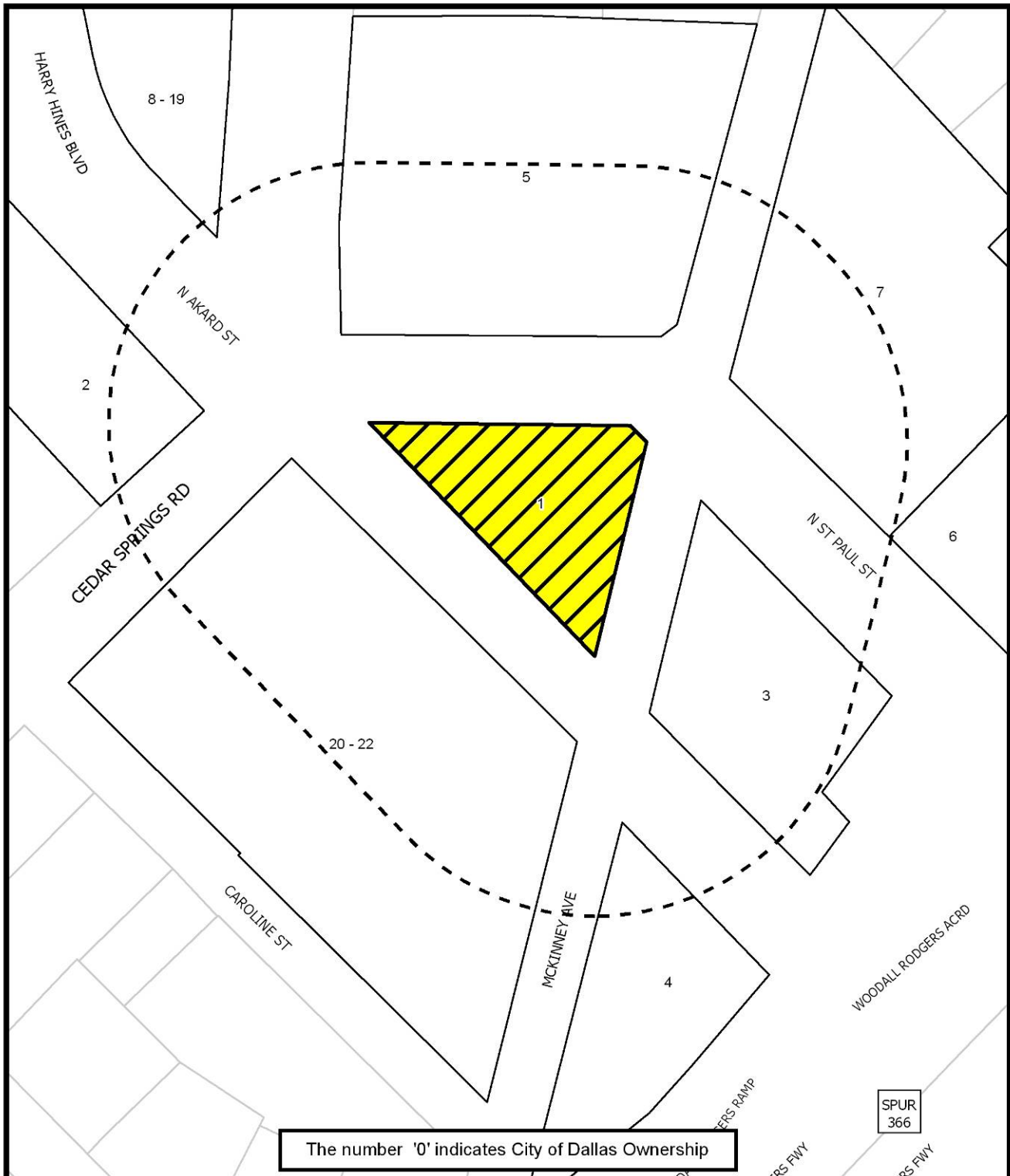
REVISIONS
 DATE:
 JOB NUMBER
 03810
 DRAWN BY: KC
 DATE: 12/14/10
 SITE PLAN

SHEET NO.
A2



GLASS USE	USE	AMOUNT
	RESTAURANT/BAR	7,143 GSF
	PARKING SPACE	71 SPACES
	PATIO	810 GSF
	PARKING SPACE	0 SPACES
	TOTAL	71 SPACES

PRODUCED BY AN AUTODESK EDUCATIONAL PRODUCT




 1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
22 NUMBER OF PROPERTY OWNERS NOTIFIED

Map no: J-7
 Case no: BDA101-106

DATE: October 27, 2011

Notification List of Property Owners

BDA101-106

15 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1899 MCKINNEY AVE	PEARL REALTY HOLDINGS LLC
2	2301 AKARD ST	PFP AKARD PLACE INC
3	1845 WOODALL RODGERS FWY	CHARTER WOODALL PARTNERS SUITE 1700
4	2121 AKARD ST	2121 AKARD PARTNERS LP ATTN: R MAURICE C
5	1919 MCKINNEY AVE	HKS BUILDINGS LP % ECOM REAL ESTATE MGMT
6	1909 WOODALL RODGERS FWY	L & W REAL ESTATE LLC DANNA OFFICE LP
7	1900 MCKINNEY AVE	1900 MCKINNEY PROPERTIES ATTN: B&D EQUIT
8	1925 CEDAR SPRINGS RD	KIRK JAMES R UNIT 101
9	1925 CEDAR SPRINGS RD	MARTIN CHRISTOPHERH &
10	1925 CEDAR SPRINGS RD	DEBORAH WALKER & ASSOC UNIT 103
11	1925 CEDAR SPRINGS RD	DEBORAH WALKER & ASSO INC STE 103
12	1925 CEDAR SPRINGS RD	ROMANO PHILIP J
13	1925 CEDAR SPRINGS RD	THREE BRIDS PROPERTY LP
14	1925 CEDAR SPRINGS RD	ROLLINS PROPERTIES LP % JAMES KIRK
15	1925 CEDAR SPRINGS RD	ROLLIN PROPERTIES LP % JAMES KIRK
16	1925 CEDAR SPRINGS RD	DAWSON WILLIAM B & PATRICIA A STE
17	1925 CEDAR SPRINGS RD	SMITH THOMAS L UNIT #301
18	1925 CEDAR SPRINGS RD	REEDER JAMES B LOFT 302
19	1925 CEDAR SPRINGS RD	BALDRIDGE JERALD TR ETAL SUITE 303
20	1717 MCKINNEY AVE	GPI-M UPTOWN LP
21	1700 CEDAR SPRINGS RD	LG CEDAR SPRINGS LP SUITE 800
22	1717 MCKINNEY AVE	GIP-M UPTOWN LP

FILE NUMBER: BDA 101-107

BUILDING OFFICIAL'S REPORT:

Application of Jackson Walker, LLP, represented by Susan Mead and Jonathan Vinson, for a variance to the height regulations at 3700 McKinney Avenue. This property is more fully described as Lot 1.1 in City Block A/977 and is zoned PD 305 (Subdistrict D-2), which limits the maximum structure height to 240 feet. The applicant proposes to construct/maintain a structure with a building height of 260 feet, which will require a variance to the maximum height regulations of 20 feet.

LOCATION: 3700 McKinney Avenue

APPLICANT: Jackson Walker, LLP
Represented by Susan Mead and Jonathan Vinson

REQUEST:

- A variance to the height regulations of 20' is requested in conjunction with constructing and maintaining a mixed-use residential and retail project that would reach (according to the revised application and submitted conceptual elevation) 260' in height on a site that is currently undeveloped.

STAFF RECOMMENDATION:

Denial

Rationale:

- Staff was unable to conclude that the parcel differs from other parcels of land by being of such restrictive area, shape, or slope that it cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification.
- Staff concludes however that granting this request would not be contrary to the public interest.
- Staff acknowledges that the Board of Adjustment identified a unique hardship on this site in 2005 and granted, among other things, a variance to the height regulations.
- Staff also acknowledges that the current application is one of a lesser height and is a more limited request for relief than what was applied for/granted on this site by the Board of Adjustment in 2005.

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 is:

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

GENERAL FACTS:

- PD No. 305 (Subdistrict D) states that the maximum height for structures is 240 feet.
The revised application and revised Building Official's report (see Attachment A) states that variance is sought for 20' in height.
The applicant has submitted an elevation that appears conceptual in nature denoting a rectangle labeled "proposed building," with height references on the side/top of the rectangle/ "proposed building" denoting "240' – height allowed in PD 305" and "260' – height variance request."
The applicant has submitted a development plan in conjunction with this request indicating the following with regard to "building area" – retail/residential/pers serv: 60,000 sf; and residential: 429,149 sf for a total of 489,149 sf. The development plan denotes that only the approximate northern third of the site as the 'height variance area' or the area of the site that would reach 260' in height.
- The site is flat, somewhat irregular in shape, and according to the application, 3.083 acres in area. The site is zoned PD No. 305 (Subdistrict D). The site has four 10' front yard setbacks which is typical of any lot that has a street frontage and is not zoned single family, duplex, or agricultural.
- DCAD records indicate that the "improvements" at 3700 McKinney is a "recreation building" with 10,500 square feet built in 1994.
- The applicant forwarded additional information to the staff beyond what was submitted with the original application.
- The applicant forwarded additional information to the Board Administrator to be forwarded to the Board members beyond what was submitted with the original application and to staff (see Attachment B).

Zoning:

Site: PD No. 305 (Subdistrict D) (Planned Development)

North: PD No. 305 (Subdistrict D) (Planned Development)
South: PD No. 305 (Subdistrict D) (Planned Development)
East: PD No. 305 (Subdistrict D) (Planned Development)
West: PD No. 305 (Subdistrict B) (Planned Development)

Land Use:

The subject site is currently vacant. The areas to the north, east, and south are developed with a mix of office, retail, and residential uses, and the area to the east is undeveloped.

Zoning/BDA History:

1. BDA 056-013, Property at 3636 McKinney Avenue (the subject site)

On October 19, 2005, Board of Adjustment Panel B granted a request for a variance of 5' to the front yard setback regulations (imposing the submitted site plan and revised elevations as conditions to the request), a request for a variance to the height regulations of 25' (imposing the submitted site plan and revised elevations as conditions to the request), and a request for a special exception to the landscape regulations (imposing the submitted revised landscape plan as a condition to the request). The case report stated that the requests were made in conjunction with constructing and maintaining a 19 story retail/office/residential tower, a 12 story retail/residential tower, a 7 story retail/office/residential tower, a 2.5 story parking tower, and a restaurant on a site that was developed as a recreation use (The Hank Haney Golf Driving Range).

Timeline:

September 9, 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.

October 14, 2011: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, “If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case.”

October 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 October 28th deadline to submit additional evidence for staff to factor into their analysis; and the November 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.

October 28, 2011: The applicant submitted additional information to staff for staff review purposes beyond what was submitted with the original application.

November 1, 2011: The applicant submitted a revised application and other related information to staff (see Attachment A).

November 1, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Assistant Director, the Acting Building Official, the Building Inspection Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and the Assistant City Attorney to the Board.

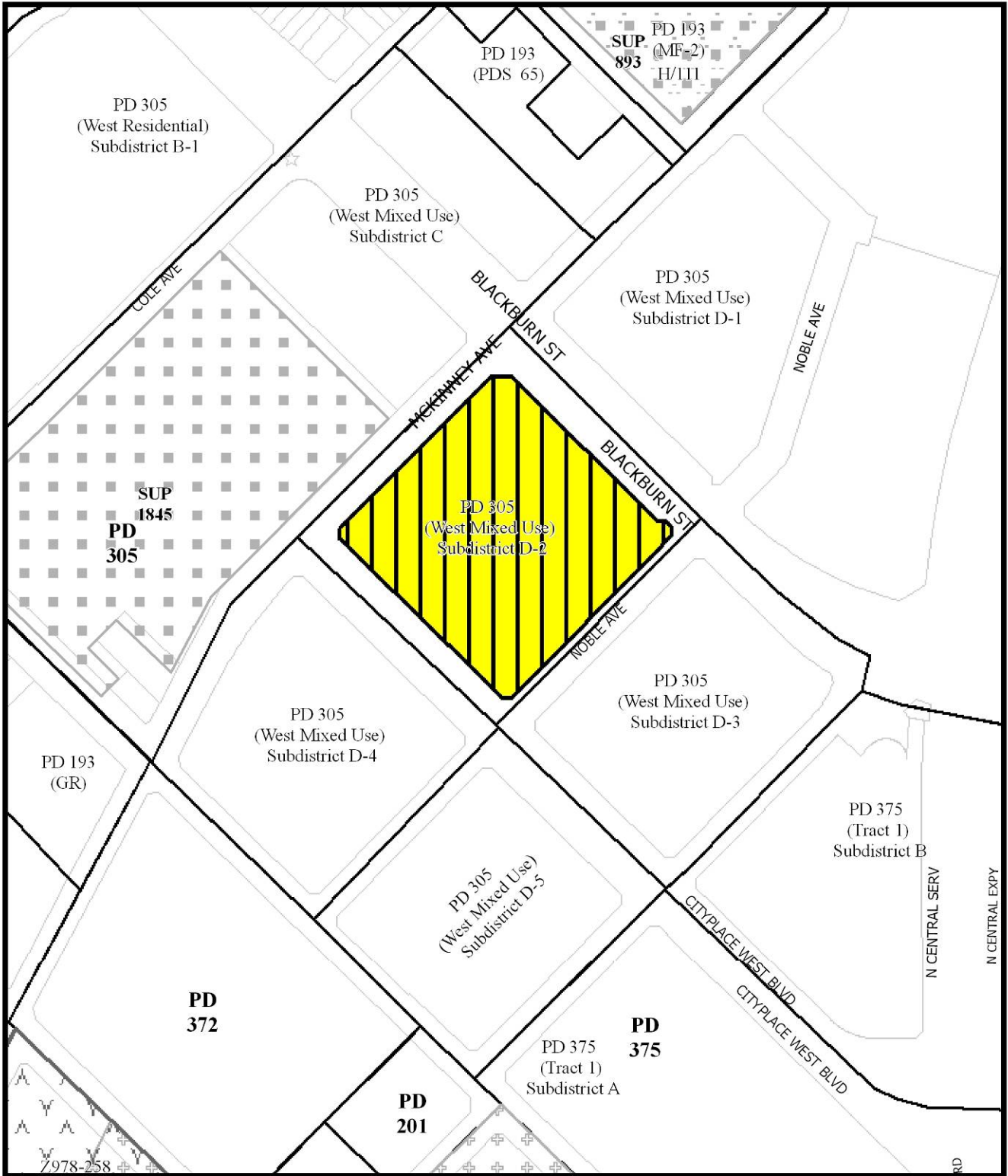
No review comment sheets with comments were submitted in conjunction with this application.

November 4, 2011: The applicant submitted additional information to the Board Administrator to be forwarded to the Board members beyond

what was submitted with the original application (see Attachment B).

STAFF ANALYSIS:

- This request focuses on constructing and maintaining a mixed use residential and retail project on a site that is undeveloped, part of which would exceed the maximum height for structures on properties zoned PD 305 (Subdistrict D) of 240 feet.
- The applicant has submitted an elevation that appears conceptual in nature denoting a rectangle labeled “proposed building,” with height references on the side/top of the rectangle/ ‘proposed building” denoting “240’ – height allowed in PD 305” and “260’ – height variance request.”
- The applicant has submitted a development plan in conjunction with this request indicating the following with regard to “building area” – retail/residential/pers serv: 60,000 sf; and residential: 429,149 sf for a total of 489,149 sf. The development plan denotes that only the approximate northern third of the site as the ‘height variance area” or the area of the site that would reach 260’ in height.
- The site is flat, somewhat irregular in shape, and according to the application, 3.083 acres in area. The site is zoned PD No. 305 (Subdistrict D). The site has four 10’ front yard setbacks which is typical of any lot that has a street frontage and is not zoned single family, duplex, or agricultural.
- DCAD records indicate that the “improvements” at 3700 McKinney is a “recreation building” with 10,500 square feet built in 1994.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to height 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 PD No. 305 (Subdistrict D) 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 No. 305 (Subdistrict D) zoning classification.
- If the Board were to grant the height variance request of 20’, subject to the submitted elevation and development plan described previously in this case report, the structure would be allowed to reach 260’ in height as shown on these submitted conceptual documents.



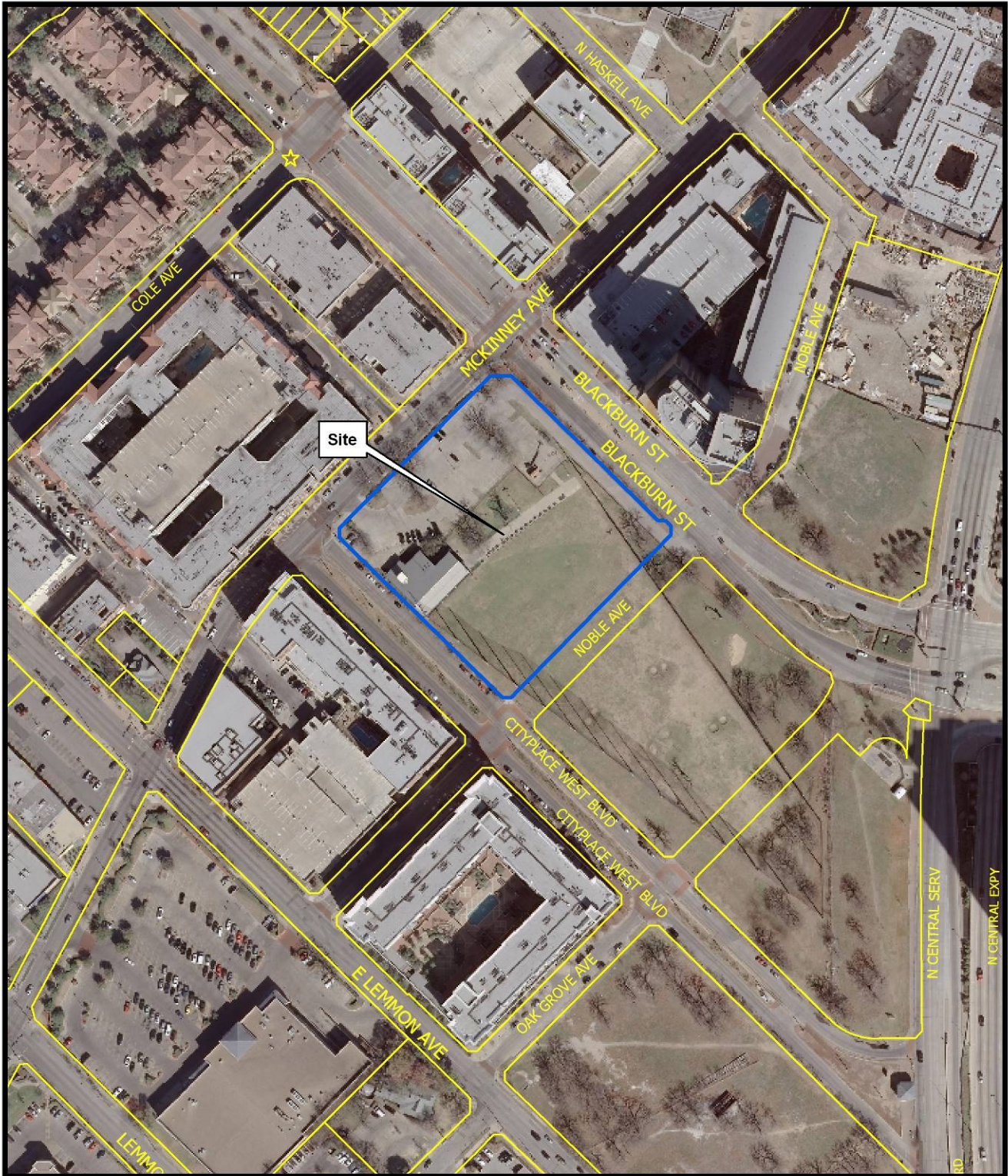
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ZONING MAP

Map no: I-7

Case no: BDA101-107

DATE: October 27, 2011



1:2,400

AERIAL MAP

Map no: I-7

Case no: BDA101-107

DATE: October 27, 2011

BDA 101-107

Attch A

Pg 1

Long, Steve

From: Vinson, Jonathan [jvinson@jw.com]
Sent: Tuesday, November 01, 2011 10:50 AM
To: O'Donnell, Theresa; Cossum, David; Long, Steve
Cc: Truitt, Jim; Mead, Susan; Foster, Laura; lawrence.cosby@gff.com; Good, Larry; Chris Petrash (cpetrash@ZieglerCooper.com); Kurt Hull (khull@zieglercooper.com)
Subject: BDA 101-107; 3700 McKinney Avenue
Attachments: height variance 110111.pdf; zoning 110111 Development Plan.pdf

Theresa, David, and Steve: Upon additional study by our architects, it has been determined that the maximum structure height which needs to be requested is now 260 feet, revised downward from 277 feet, a significant reduction. Attached are a revised conceptual elevation and a revised plan both showing a 260 foot maximum structure height as well as continuing to show the limited "height variance area" on the plan.

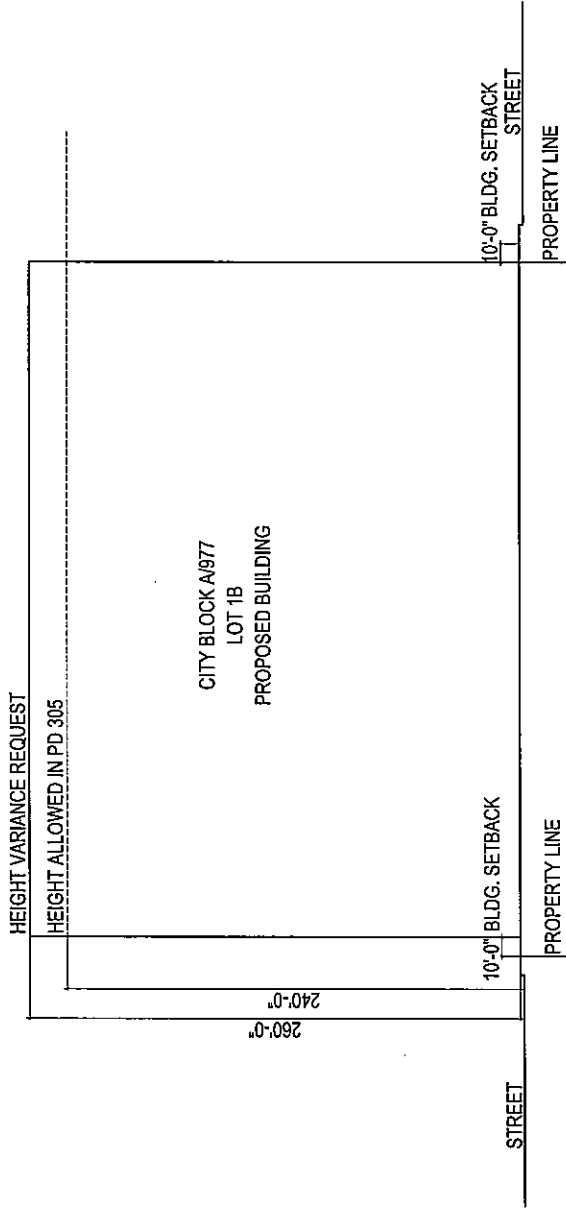
As you will recall, the Fairfield request approved by the Board in 2005 was for 265 feet, so this is five feet less than that previously-approved request, and without the setback and landscape requests that Fairfield was granted. I note also that, as you can see from the topo lines on the plan, there is some slope to the site, which is one more property hardship factor.

I can come in and amend the application to reflect 260 feet if and when you want me to. I also want to make sure that we are noticed for the November 16 hearing, so if the case needs to be noticed at 277 feet to meet the deadlines, please do so - as you know, the Board can approve less and we would specify to the Board that our request is for 260 feet, although our preference is for it to be noticed for November 16 at 260 feet.

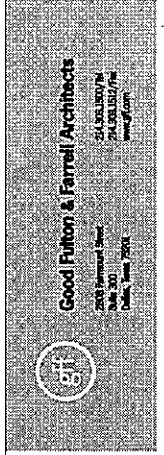
Please let us know after the team meeting today what the result of your discussion is. Of course, if we can answer any questions in the meantime, please contact me. Thank you very much.

Jonathan G. Vinson
Jackson Walker L.L.P.
901 Main Street, Suite 6000
Dallas, Texas 75202
Office: 214-953-5941
Cell: 214-770-4636
Fax: 214-661-6809
E-mail: jvinson@jw.com

BDA101-107
Attach A
192

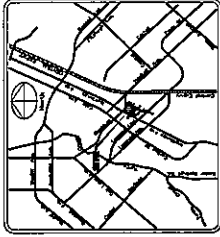
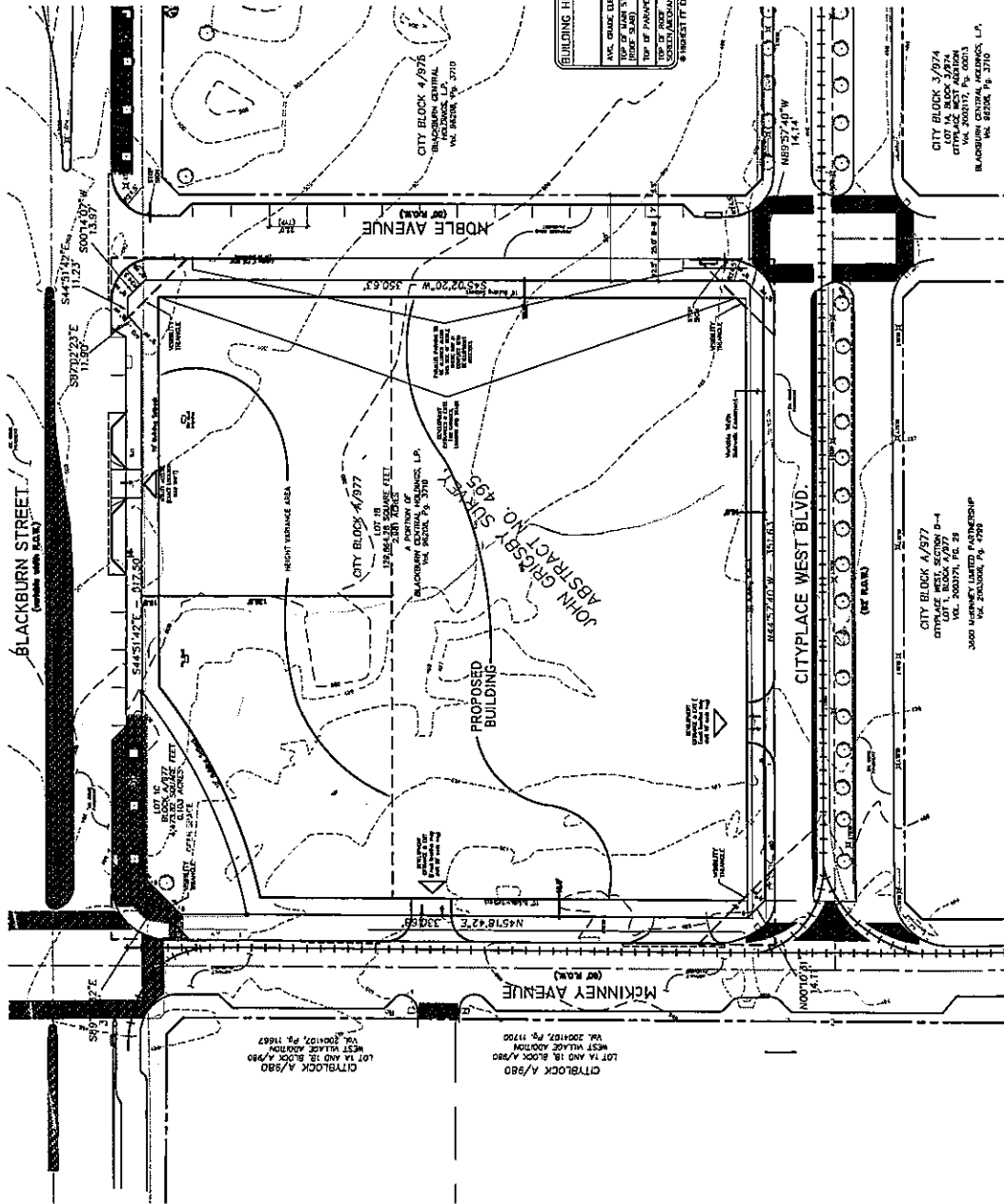


NOTE: ACCESS POINTS NOT SHOWN.



Job #: 11057.01
File Name: zoning 11011.dwg
Date: 11/07/2011
Drawn by: DF, LNF

HEIGHT VARIANCE
Cityplace Block 7A
Dallas, Texas



CITYPLACE WEST
 SECTION D-2, ADDITION
 JOHN GREISER SURVEY, 1985
 TO ADD 1.50 ACRES TO THE
 CITYPLACE WEST SECTION
 TO BE 1.50 ACRES TO BE ADDED TO THE
 CITYPLACE WEST SECTION
 TO BE 1.50 ACRES TO BE ADDED TO THE
 CITYPLACE WEST SECTION

CUMULATIVE DEVELOPMENT
 ZONING OF PD 000

AREA (PART B)	20	0	0
B	232	0	0
C	150	15,500	15,500
D-1	215	115	115
D-2	250	23,271	23,271
D-3	100	10,000	10,000
D-4	215	115	115

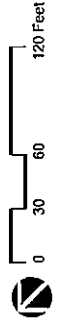
BUILDING HEIGHT SUMMARY

NUMBER	HEIGHT
1	1-2
2	3-4
3	5-6
4	7-8
5	9-10
6	11-12
7	13-14
8	15-16
9	17-18
10	19-20
11	21-22
12	23-24
13	25-26
14	27-28
15	29-30
16	31-32
17	33-34
18	35-36
19	37-38
20	39-40
21	41-42
22	43-44
23	45-46
24	47-48
25	49-50
26	51-52
27	53-54
28	55-56
29	57-58
30	59-60
31	61-62
32	63-64
33	65-66
34	67-68
35	69-70
36	71-72
37	73-74
38	75-76
39	77-78
40	79-80
41	81-82
42	83-84
43	85-86
44	87-88
45	89-90
46	91-92
47	93-94
48	95-96
49	97-98
50	99-100

BUILDING AREA

TYPE	TOTAL	NET
RETAIL/RESTAURANT/OTHER SERV.	428,148 SF	385 UNITS
RESIDENTIAL	428,148 SF	385 UNITS
TOTAL	856,296 SF	770 UNITS

PARKING SPACE CALCULATION
 MINIMUM PARKING REQUIRED
 TO MEET REQUIREMENT = 1 SPACE / 300 SF (RESIDENTIAL SERVICES)
 TO MEET REQUIREMENT = 1 SPACE / 100 SF (RETAIL SERVICES)
 RETAIL RESTAURANT/OTHER SERV. 250
 RESIDENTIAL 250
 TOTAL 500



Good Futuro & Ferrell Architects
 2001 Ross Street
 Dallas, Texas 75201
 Phone: 214.760.7600
 Fax: 214.760.7601
 Email: info@gf.com

Job #: 11067.01
 File Name: zoning 110111.dwg
 Date: 11/01/2011
 Drawn by: DF, LNF

DEVELOPMENT PLAN
 Cityplace Block 7A
 Dallas, Texas



BDA 101-107
Attach A
Pg 4

B

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-107

Data Relative to Subject Property:

Date: 9-9-11

Location address: 3700 McKinney Avenue Zoning District: P.D. 305, Subd. D-2

Lot No.: 1.1 Block No.: A/977 Acreage: 3.083 Census Tract: 7.01

Street Frontage (in Feet): 1) 330.57 2) 317.50 3) 340.34 4) 359.67 5)

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Blackburn Central Holdings, L.P.

Applicant: Jackson Walker L.L.P., Susan Mead/Jonathan Vinson Telephone: (214) 953-5941

Mailing Address: 901 Main Street, Suite 6000, Dallas, Texas Zip Code: 75202

Represented by: Jackson Walker L.L.P., Susan Mead/Jonathan Vinson Telephone: (214) 953-5941

Mailing Address: 901 Main Street, Suite 6000, Dallas, Texas Zip Code: 75202

*201
9/9/11
JGV*

Affirm that a request has been made for a Variance , or Special Exception , of 5 foot to the front yard setback regulation for certain awning and signage projections only, and 20 feet to the maximum height regulations. 35 31 20

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:

Granting of the requested variances will not be contrary to the public interest; and owing to special conditions, to be described further in supplementary materials to be provided to City Staff, literal enforcement of the referenced regulations would result in unnecessary hardship. The variances are necessary to in a manner commensurate permit development of this specific parcel of land because of restrictive property conditions which would otherwise prevent its development with other parcels. The requested variances are not to relieve a self-created or personal hardship, nor for financial reasons only.

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: Jonathan G. Vinson
Applicant's name printed

Jonathan G. Vinson
Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Jonathan G. Vinson 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.

Jonathan G. Vinson
Affiant (Applicant's signature)

Subscribed and sworn to before me this 8th day of September, 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 Jonathan Vinson

did submit a request for a variance to the building height regulation
at 3700 McKinney Avenue

BDA101-107. Application of Jonathan Vinson for a variance to the building height regulation at 3700 McKinney Avenue. This property is more fully described as lot 1.1 in city block A/977 and is zoned PD 305 (Subdistrict D-2), which limits the maximum building height. The applicant proposes to construct a structure with a building height of 260 feet, which will require a 20 foot variance to the maximum building height regulation.

Sincerely,


Lloyd Denman, Building Official



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

November 4, 2011

Hon. Chair and Members, Panel B
Zoning Board of Adjustment
c/o Mr. Steve Long, Board Administrator
Department of Sustainable Development and Construction
City of Dallas
1500 Marilla Street, Room 5BN
Dallas, Texas 75201

Re: BDA 101-107; 3700 McKinney Avenue.

Dear Members of Panel B:

We represent Forest City Enterprises, Inc. (“Forest City”), the prospective purchaser and developer of the area of request in this case. Forest City is in the planning stages for a very high-quality mixed-use residential and retail project fronting McKinney Avenue, between Blackburn Street on the north, Noble Avenue on the east, and Cityplace West Boulevard on the south.

This is a 2.98 acre site within P.D. 305, the Cityplace planned development district, and is surrounded by the West Village development on the west, the Mondrian residential high-rise on the north, Central Expressway on the east after an intervening lot, and additional retail and the Marquis on McKinney residential high-rise to the south. This is an outstanding location for mixed-use, transit-oriented development, being very close to the DART Cityplace Station immediately to the southeast and adjacent to the McKinney Avenue Trolley. P.D. 305 permits a maximum height of 240 feet in Subdistrict D-2, in which the site is located.

Our request is for a variance of twenty feet (20 feet) to the maximum height regulations of P.D. 305, for a total maximum height of 260 feet, limited to only a *portion* of the site, as shown on the attached conceptual site plan. This request has been *reduced* from our original request for a 37 foot variance. The attached conceptual elevation also shows a maximum height of 260 feet, but please bear in mind that the additional 20 feet in height on the site will be governed by and limited to what is shown as the “height variance area” on the conceptual site plan. In fact, it is anticipated that, if this request is granted and the project is developed, a significant portion of the site will actually be built at *less* than 240 feet in height. This request is explained in greater detail below.

This site is subject to certain *property hardship conditions* which are special conditions under which literal enforcement of the P.D. 305 regulations would result in unnecessary hardship. For example, the size of the lot, 2.98 acres, is *relatively small* in comparison with the development rights available and thus results in a property hardship condition which would prevent development commensurate with other projects in the area.

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

Mr. Steve Long
November 4, 2011
Page 2

In addition, the property has a total of *four front yards*, including a front yard newly created by the extension of Noble Avenue on the east. There is also a *slope* on the site, as shown by the topography lines on the plan.

There also is a *wider than normal right-of-way width on McKinney Avenue*, which limits the developable area on that side of the property. McKinney Avenue at this location, as built from curb to curb (to the bulb-outs on the west side of McKinney adjacent to West Village, not counting the parallel parking) is approximately 30 feet wide. However, the right-of-way is 60 feet, 15 feet of which extends from the east curb line to the site's property line, creating a larger setback.

In addition, the current owner of the property has granted to the City a 4,462 square foot open space easement out of the site at the corner of McKinney and Blackburn. This easement is part of a larger plan to provide more welcoming and publicly-accessible open space, with landscaping and public art, in the Cityplace neighborhood, but it also *reduces the site area*, creates a *deeper setback*, and makes the site more *irregularly shaped*, all of which contribute to the property hardship. These hardship conditions are not self-created or personal hardships, and the requested variance is necessary to permit development in a manner commensurate with other parcels which are similarly situated.

Finally, the granting of the requested variances will *support the public interest* by facilitating the development of this signature building containing first-class residential development and ground-floor retail. The additional height is a reasonable response to having to pull back the building footprint from the corner of McKinney and Blackburn, from McKinney Avenue, and from the other three public streets.

Please note that the Board had previously found property hardship and approved a twenty-five foot height variance for this site, five more feet than we are requesting, on October 19, 2005, under BDA 056-013, and also granted front yard setback variances and a landscape special exception in that case, but that project did not proceed due to other factors.

Further, on May 27, 2003, in case BDA 023-075, the Staff recommended, and the Board of Adjustment granted, a five foot front yard setback variance for the Mondrian high-rise multifamily project, directly across Blackburn Street, finding property hardship on the basis of four front yards, slope, and irregular shape (*see minutes, attached*). While no other case sets a precedent, this approval did significantly increase that site's development rights, and directly relates to our ability to develop commensurate with other properties in the area.

Please note also that the portions of Cityplace closer to Central Expressway to the east, in P.D. 375, allow higher heights by right, including 270 feet between Blackburn and Cityplace West, and 546 feet between Cityplace West and Lemmon Avenue. Our request is an excellent transition from that maximum height.

One of the salient features of this location is the urban, pedestrian-oriented environment due both to the close proximity to the DART rail station and the McKinney

Mr. Steve Long
November 4, 2011
Page 3


Avenue Trolley, as well as to the West Village development and other nearby developments. This development is intended to greatly enhance this pedestrian-friendly and transit-oriented environment, and we suggest that consideration should be given to the very positive impact development of this now-vacant site will have on the public interest.

Attached to this letter are several illustrations and other items, including:

- (1) several support letters from nearby property owners, with locator map;
- (2) the conceptual elevation and conceptual site plan marked in color to show the variance request area;
- (3) a copy of our Landscape Plan, submitted for approval in conjunction with a Minor Amendment, showing the extensive tree planting programmed for the site;
- (4) a plat-type drawing of the site showing the open space easement at McKinney and Blackburn;
- (5) an aerial photo showing the location in context of the site (Tract 7A);
- (6) the Conceptual Open Space Plan for Cityplace;
- (7) the Cityplace “Urban Parks Key Plan”;
- (8) a detailed drawing of the McKinney Junction open space; and
- (9) several site photos, showing each frontage and the McKinney Junction feature nearing completion.

Due to all of the factors described above, we believe that this application clearly meets all of the required standard for the variance request. Therefore, we will respectfully ask at your hearing that you approve our application. Thank you very much for your consideration.

Very truly yours,


Jonathan G. Vinson

cc: Jim Truitt
George Burchlaw
Larry Good
Lawrence Cosby
Laura Foster
Susan Mead



November 3, 2011

Hon. Chair and Members
Zoning Board of Adjustment
City of Dallas
1500 Marilla Street, Room 5BN
Dallas, Texas 75201

Re: BDA 101-107; 3700 McKinney Avenue.

Dear Members of the Board of Adjustment:

West Village Management Company is the management company for and the representative of the ownership of West Village. We are one of the neighboring property owners adjacent to Forest City Enterprises, Inc.'s proposed development site at 3700 McKinney Avenue. As nearby property owners, we have a very strong interest in the high quality development of this property. We *support* Forest City's request in this case.

Specifically, Forest City's request for an additional 20 feet in maximum structure height, to 260 feet, is very reasonable considering the various site constraints and the urban character of the neighborhood.

Approval of this request will allow the first class development of this key site in Uptown to proceed. Development of this site with a signature project is critical to maintaining the high quality of development in our neighborhood as well as our property values. As nearby property owners, we respectfully ask that the Board of Adjustment *support* Forest City's application and approve the variance request. Thank you very much.

Sincerely yours,

WEST VILLAGE MANAGEMENT COMPANY

A handwritten signature in blue ink that reads "Robert W. Bagwell".

Robert W. Bagwell
President



November 3, 2011

Hon. Chair and Members
Zoning Board of Adjustment
City of Dallas
1500 Marilla Street, Room 5BN
Dallas, Texas 75201

Re: BDA 101-107; 3700 McKinney Avenue.

Dear Members of the Board of Adjustment:

West Village Management Company is the management company for and the representative of the ownership of West Village II. We are one of the neighboring property owners adjacent to Forest City Enterprises, Inc.'s proposed development site at 3700 McKinney Avenue. As nearby property owners, we have a very strong interest in the high quality development of this property. We *support* Forest City's request in this case.

Specifically, Forest City's request for an additional 20 feet in maximum structure height, to 260 feet, is very reasonable considering the various site constraints and the urban character of the neighborhood.

Approval of this request will allow the first class development of this key site in Uptown to proceed. Development of this site with a signature project is critical to maintaining the high quality of development in our neighborhood as well as our property values. As nearby property owners, we respectfully ask that the Board of Adjustment *support* Forest City's application and approve the variance request. Thank you very much.

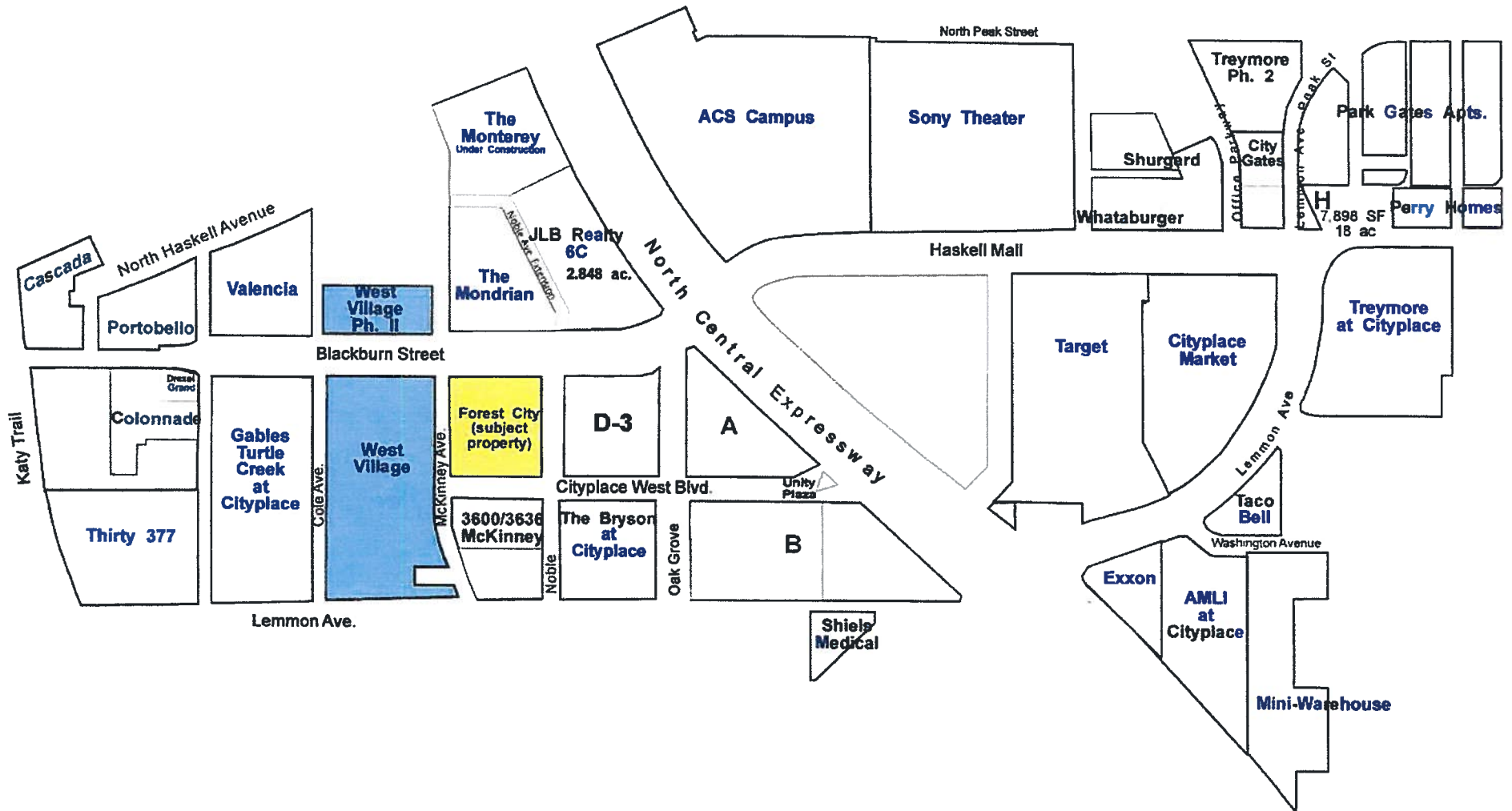
Sincerely yours,

WEST VILLAGE MANAGEMENT COMPANY

A handwritten signature in blue ink that reads "Robert W. Bagwell".

Robert W. Bagwell
President

Cityplace



- Subject Property
- BDA 101 - Property owned by West Village



November 3, 2011

Hon. Chair and Members
Zoning Board of Adjustment
City of Dallas
1500 Marilla Street, Room 5BN
Dallas, Texas 75201

Re: BDA 101-107; 3700 McKinney Avenue.

Dear Members of the Board of Adjustment:

We are one of the neighboring property owners adjacent to Forest City Enterprises, Inc.'s proposed development site at 3700 McKinney Avenue. Property owned by Blackburn Central Holdings is indicated on the attached map in orange. As nearby property owners, we have a very strong interest in the high quality development of this property. We *support* Forest City's request in this case.

Specifically, Forest City's request for an additional 20 feet in maximum structure height, to 260 feet, is very reasonable considering the various site constraints and the urban character of the neighborhood.

Approval of this request will allow the first class development of this key site in Uptown to proceed. Development of this site with a signature project is critical to maintaining the high quality of development in our neighborhood as well as our property values. As nearby property owners, we respectfully ask that the Board of Adjustment *support* Forest City's application and approve the variance request. Thank you very much.

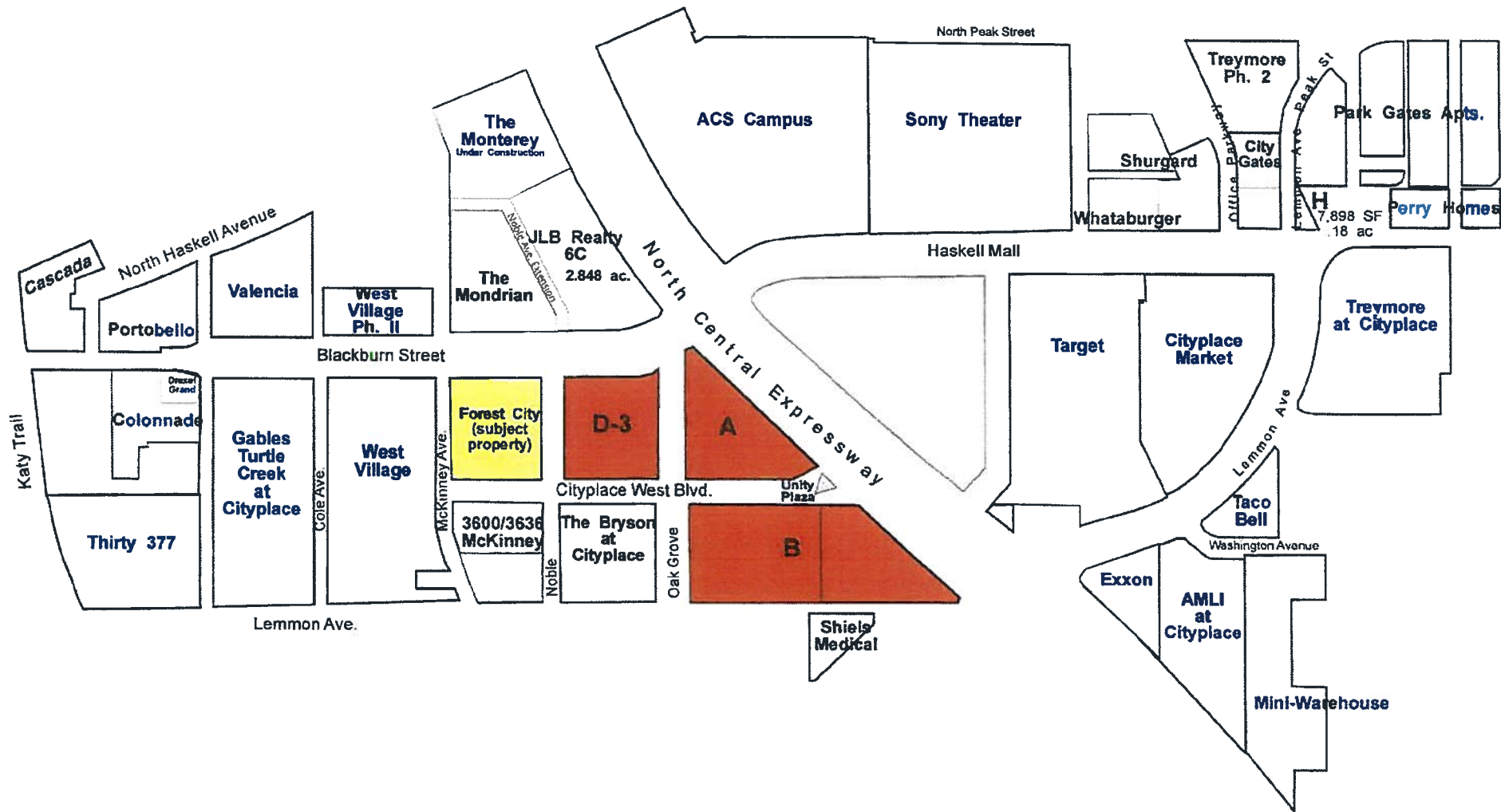
Sincerely yours,

BLACKBURN CENTRAL HOLDINGS, L.P.
A Texas Limited Partnership

By: Cityplace Company, a Texas corporation,
as agent for Hampstead Associates, Inc.,
As general partner of Ross Venture Land
Investments, L.P., as general partner of
Blackburn Central Holdings, L.P.

By: 
Neal Sleeper, President

Cityplace



 Subject Property

 Property owned by Blackburn Central Holdings, L.P.



November 3, 2011

Hon. Chair and Members
Zoning Board of Adjustment
City of Dallas
1500 Marilla Street, Room 5BN
Dallas, Texas 75201

Re: BDA 101-107; 3700 McKinney Avenue.

Dear Members of the Board of Adjustment:

We are one of the neighboring property owners adjacent to Forest City Enterprises, Inc.'s proposed development site at 3700 McKinney Avenue. Property owned by 3600 McKinney Limited Partnership is indicated on the attached map in orange. As nearby property owners, we have a very strong interest in the high quality development of this property. We *support* Forest City's request in this case.

Specifically, Forest City's request for an additional 20 feet in maximum structure height, to 260 feet, is very reasonable considering the various site constraints and the urban character of the neighborhood.

Approval of this request will allow the first class development of this key site in Uptown to proceed. Development of this site with a signature project is critical to maintaining the high quality of development in our neighborhood as well as our property values. As nearby property owners, we respectfully ask that the Board of Adjustment *support* Forest City's application and approve the variance request. Thank you very much.

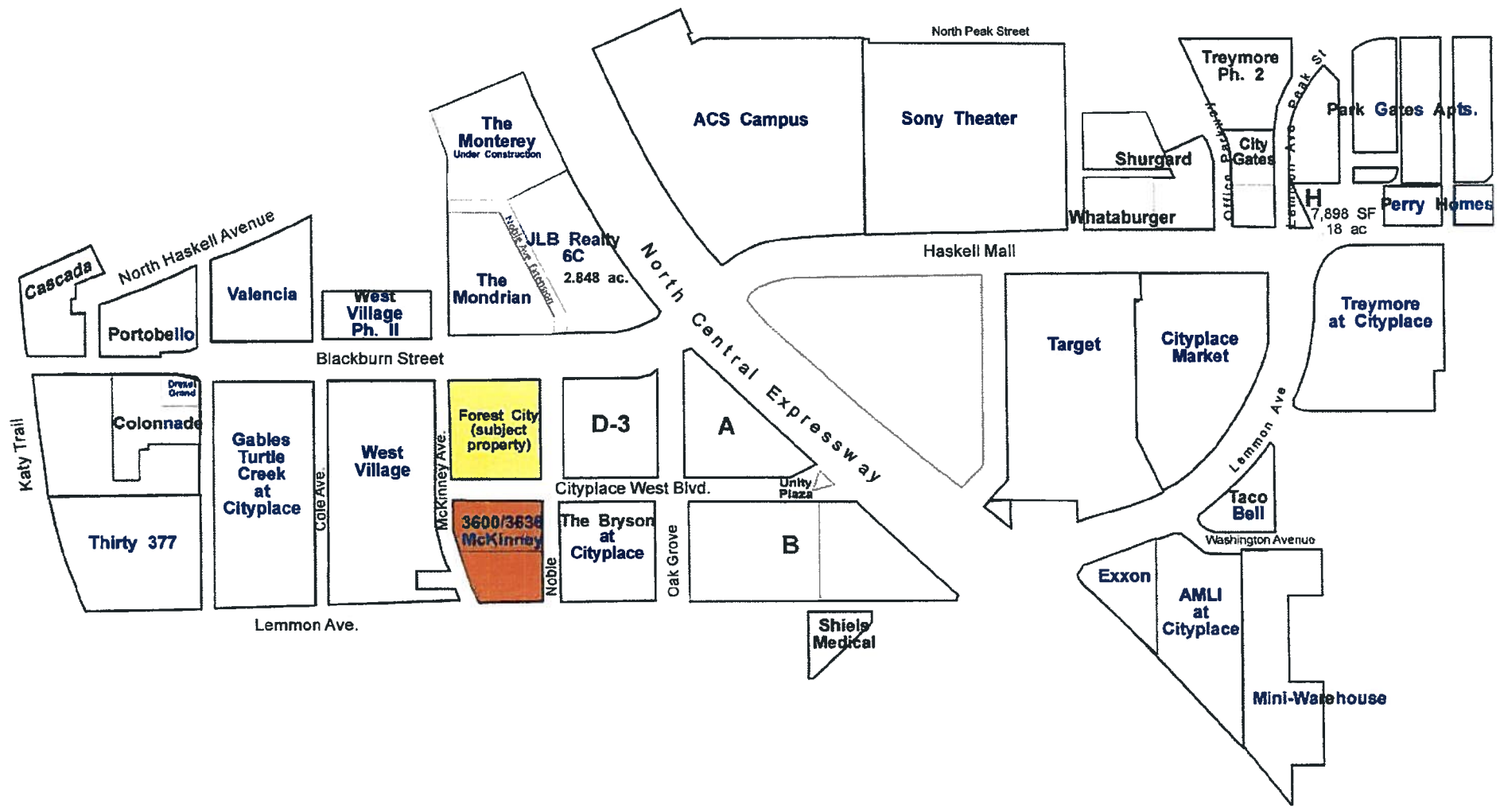
Sincerely yours,

3600 McKINNEY LIMITED PARTNERSHIP
A Texas Limited Partnership

By: Cityplace Company, a Texas corporation,
as manager

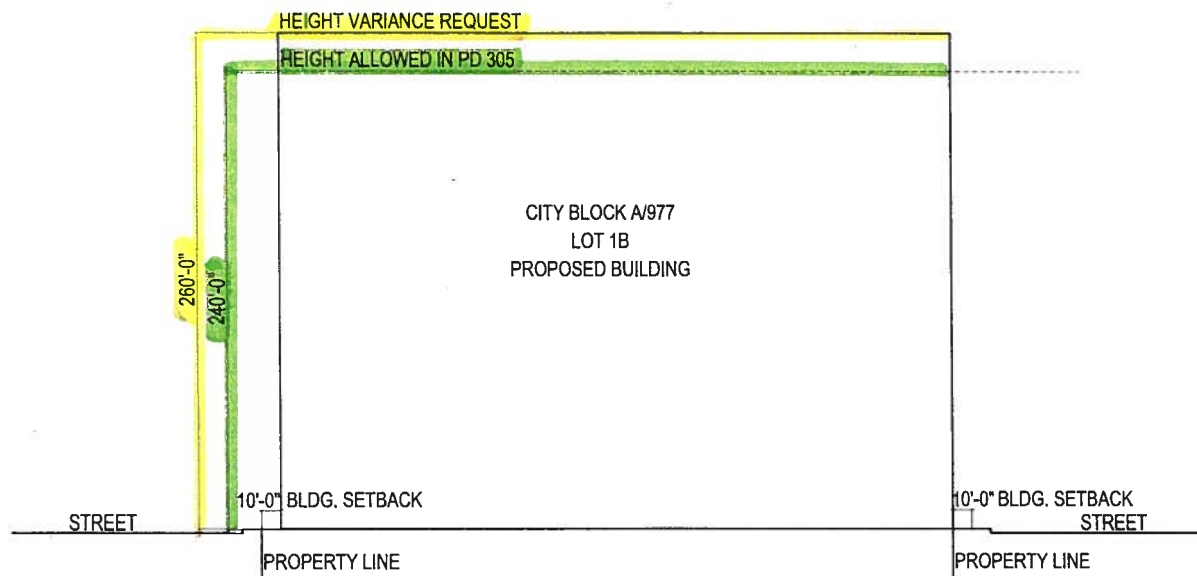
By: 
Neal Sleeper, President

Cityplace

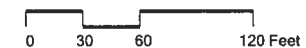


Subject Property

BDA 101-107 Property owned by 3600 McKinney Limited Partnership



NOTE: ACCESS POINTS NOT SHOWN



HEIGHT VARIANCE

Cityplace Block 7A
Dallas, Texas

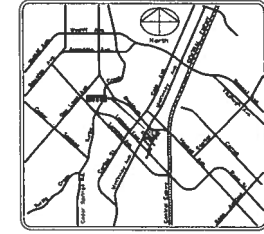
Job #: 11067.01
File Name: zoning 110111.dwg
Date: 11/01/2011
Drawn by: DF, LNF



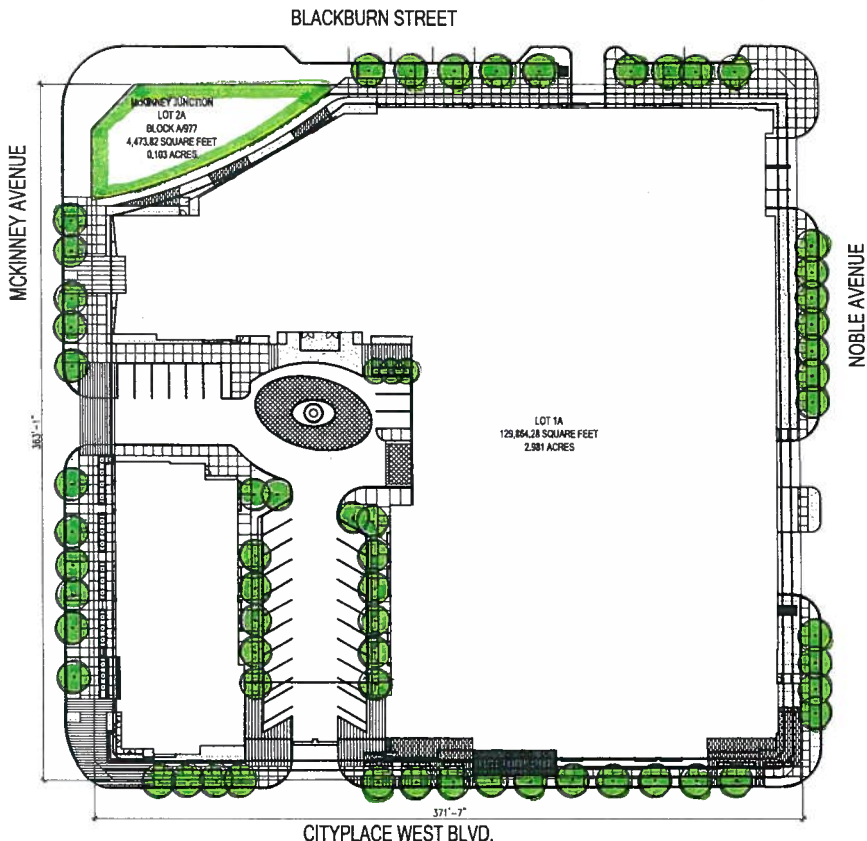
Good Fulton & Farrell Architects

2808 Fairmount Street
Suite 300
Dallas, Texas 75201

214.303.1500/Tel
214.303.1512/Fax
www.gfl.com



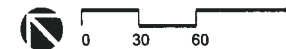
VICINITY MAP



PD - 305 SUBDISTRICT D LANDSCAPE TABULATIONS

Landscape Site Area	REQUIRED	PROVIDED
<ul style="list-style-type: none"> Will consist of a combination of living trees, shrubs, groundcover and turf. Pavement for pedestrians and non-motorized vehicles is permitted in the designated landscape site area. 		
Total Site Area: 129,864 SF		
10% of Total Site to be Landscape	12,986 SF (10%)	Project Complies
Front Yard Area <ul style="list-style-type: none"> Will consist of a combination of trees, shrubs, groundcover and turf. 		
Total Front Yard Area: 10,848 SF		
60% of Front Yard to be Landscape	6,507 SF (60%)	Project Complies
General Planting Area <ul style="list-style-type: none"> Must contain living trees, shrubs, vines, flower, or ground cover vegetation. All plants in this area must be recommended for local area use by the director of parks and recreation. 		
12% of Front Yard		
McKinney Avenue (2,676 SF)	321 SF (12%)	Project Complies
Noble Avenue (2,574 SF)	309 SF (12%)	Project Complies
Blackburn (2,313 SF)	277 SF (12%)	Project Complies
Cityplace West Blvd. (3,333 SF)	400 SF (12%)	Project Complies
Special Planting Area <ul style="list-style-type: none"> Must contain living trees, shrubs, or vines. Turf grass and groundcover are not counted toward meeting these minimum planting requirements. 		
6% of Front Yard		
McKinney Avenue (2,676 SF)	161 SF (6%)	Project Complies
Noble Avenue (2,574 SF)	154 SF (6%)	Project Complies
Blackburn Street (2,313 SF)	139 SF (6%)	Project Complies
Cityplace West Blvd. (3,333 SF)	200 SF (6%)	Project Complies
Street Trees		
(1) 3.5' cal. tree (14' ht.) per 25 LF (exclusive of drives)		
McKinney Avenue (277.2 LF)	(11) trees 3.5'	Project Complies
Noble Avenue (268.2 LF)	(11) trees 3.5'	Project Complies
Blackburn Street (223.6 LF)	(9) trees 3.5'	Project Complies
Cityplace West Blvd. (342.8 LF)	(14) trees 3.5'	Project Complies
Irrigation		
All landscape areas to be covered by an automatic irrigation system.		
Note:		
All tree plantings will comply with visibility triangle requirements.		

BDA 101 - 107
Attachment B, P. 13



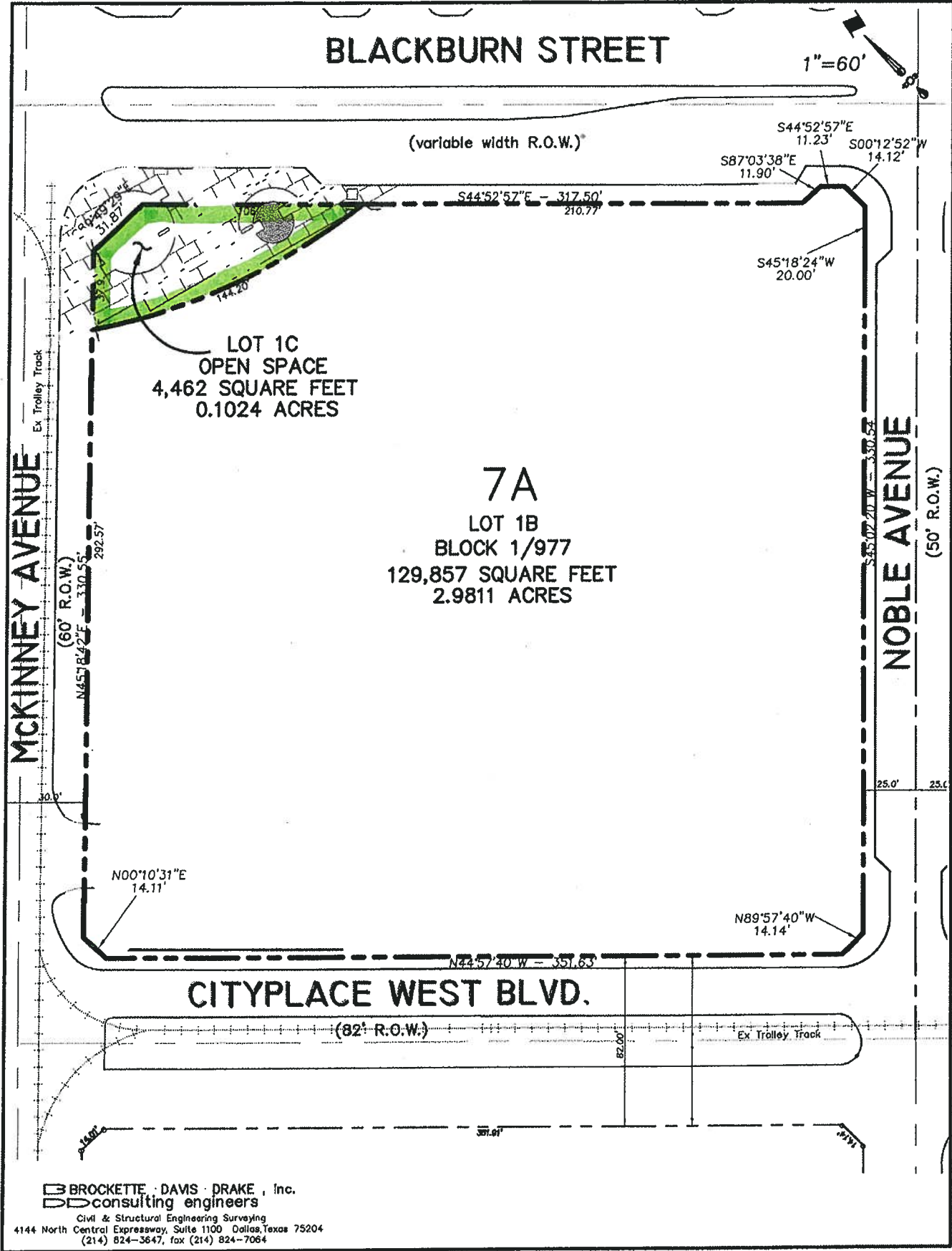
LANDSCAPE PLAN

Cityplace Block 7A
Dallas, Texas

Job #: 11067.01
File Name: site plan.dwg
Date: 10/31/2011
Drawn by: LNF/KLP

BDA 101-107
Conceptual/illustrative only;
Not for submittal under BDA 101-107

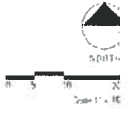
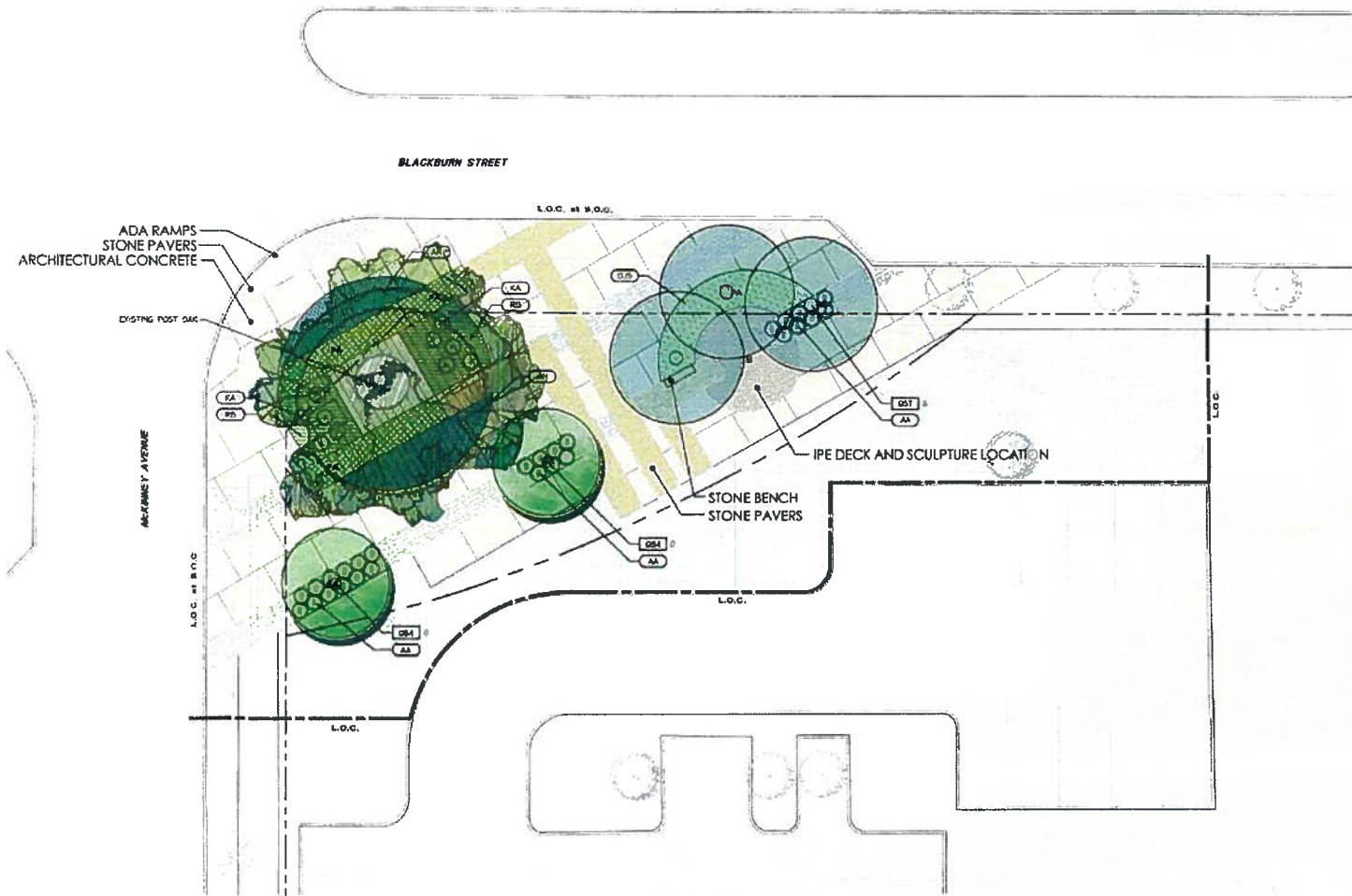
Good Fulton & Farrell Architects
2908 Fairmount Street
Suite 300
Dallas, Texas 75201
214-303.1530/Tel
214-303.1512/Fax
www.gff.com





Aerial photo;
Site is Tract 7A





BDA 101 - 107
Attachment B, P. 18



BDA 101 - 107
Attachment B, P. 19

BDA 101-107

View of site from ⁵⁻³¹ McKinney and Cityplace West



BDA 101 - 107
Attachment B, P. 20

BDA 101-107

**View of site from 32
Cityplace West and Noble Avenue**



**View west along Blackburn;
Mondrian on the right**



BDA 101-107

**View of McKinney Junction
(McKinney and Blackburn)**



Another view of McKinney Junction 5-35

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
TUESDAY, May 27, 2003**

MEMBERS PRESENT AT BRIEFING: Rev. H.J. Johnson, Vice Chair, Kathy Coffman, regular member, Ed Barger, regular member, Ben Gabriel, regular member and Scott Chase, regular member

MEMBERS ABSENT FROM BRIEFING: None

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Trena Law, Board Secretary, T.J. Okwubanego, Asst. City Attorney, Michael Sultan, Chief Arborist, and Phil Sikes, Building Inspection Chief Planner, and Danny Sipes, Building Inspection Planner

MEMBERS PRESENT AT HEARING: Rev. H.J. Johnson, Vice Chair, Kathy Coffman, regular member, Ed Barger, regular member, Ben Gabriel, regular member and Scott Chase, regular member

MEMBERS ABSENT FROM HEARING: None

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Trena Law, Board Secretary, T.J. Okwubanego, Asst. City Attorney, Michael Sultan, Chief Arborist, and Phil Sikes, Chief Planner, and Danny Sipes, Building Inspection Planner

11:10 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's May 27, 2003 docket.

1:05 P.M.

The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel A April 22, 2003 public hearing minutes.

MOTION: Coffman

I move **approval** of the **Tuesday, April 22, 2003** Board of Adjustment Public Hearing minutes as amended.

SECONDED: Gabriel

AYES: 5 – Johnson, Coffman, Barger, Gabriel, Chase

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

FILE NUMBER: BDA 023-075

BUILDING OFFICIAL'S REPORT:

Application of James R. Schnurr, Winstead Sechrest & Minick, P.C. for a variance to the front yard setback regulations at 3810 McKinney Avenue. This property is more fully described as a tract of land in City Blocks 2/976, 984 and 6/1511 and is zoned PD 305 which requires a 10 foot front yard setback. The applicant proposes to construct a multifamily dwelling and provide a 5-foot front yard setback which would require a variance of 5 feet to the front yard setback regulations. Referred to the Board of Adjustment in accordance with Section 51-3.102 (d) (10) of the Dallas Development Code, as amended, which states the power of the Board to grant variances.

LOCATION: 3810 McKinney Avenue

APPLICANT: James R. Schnurr, Winstead Sechrest & Minick, P.C.

MAY 27 PUBLIC HEARING NOTES:

- The Board Administrator noted at the briefing on this case that the site was actually encumbered with having *four* front yard setbacks (rather than three front yards as previously stated in the case report).

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

SUMMARY:

- Variances of up to 5' to the front yard setback regulations are requested in conjunction with constructing and maintaining stoops in the Noble Avenue, McKinney Avenue, and Street "A" front yard setbacks. These stoops will attach to a multifamily/retail development (Cityplace West – Block 6B) on a site that is currently undeveloped.
- The proposed stoops do not comply with the 10' front yard setback of PD No. 305. Although the main structures on the site meet the front yard setback requirement, it appears from the submitted site plan that 13 stoops on Noble Avenue, 4 stoops on McKinney Avenue, and 1 stoop on Street "A" will be located as close as 3' 10" from the front property lines of these three streets.

According to a letter submitted by the applicant (see Attachment A), the following distances will be provided between the stoops and the following streets' property lines, parking curbs, and street curbs:

- Along McKinney Avenue: 6.5' from the property line, 16' 8" from the parking curb, and 24' from the street curb.
 - Along Street "A": 6' 2" from the property line, 11' 2" from the parking curb, and 18' 6" from the street curb.
 - Along Noble Avenue: 6' 2" from the property line, 12' 1" from the parking curb, and 19' from the street curb.
- Staff concludes that these requests should be granted, subject to compliance with the submitted site plan. This recommendation has been made largely due to the site's restrictive area whereby, due to this characteristic, a literal enforcement of the PD No. 305 setback regulations in this case creates unnecessary hardship. Given the site's restrictive area, compliance with the setback regulations on this site prohibits the lot's development in a manner commensurate with the development on other PD No. 305 zoned lots. Specifically, the site is constrained by having three (3) front yards: McKinney Avenue, Street "A", and Noble Street.

If a condition were imposed whereby the variance would be tied to compliance with the submitted site plan, staff has concluded that granting this variance would not be contrary to the public interest for the following reasons:

- The stoops will not infringe on public use of sidewalks as there will be at least 11' of width maintained between the edge of the parking curb and the stoops.
- The imposition of the applicant complying with the submitted site plan as a condition to this request would place restrictions on the area/location, size (length and width), and function (stoops) of each encroachment into the front yard setback.

BACKGROUND INFORMATION:
Zoning and Land Use

<u>Site:</u>	PD No. 305	Undeveloped
<u>North:</u>	PD No. 305	Undeveloped

South: PD No. 305
East: PD No. 305
West: PD No. 305

Recreational
Undeveloped
Mixed use and undeveloped

Zoning/BDA History:

1. BDA 989-189, 3665 McKinney Avenue (the block immediately west of the site)

On April 19, 1999, the Board of Adjustment Panel C followed the staff recommendation and granted requests for variances to the front yard setback regulations along Cole Avenue, along the Haskell/Blackburn Connection, and along McKinney Avenue (for awnings, balconies, and bay windows); a special exception to the landscape regulations and tree preservation regulations, and a special exception to the visibility triangle regulations, subject to conditions. The appeals were requested in conjunction with constructing and maintaining a 6-structure, generally 4-story mixed use project (The West Village).

Land Use: The subject site is relatively flat, irregular in shape (approximately 250' on the north, 450' on the east, 360' on the south, and 420' on the west), and is approximately 2.8 acres in area. The site has three (3) front yard setbacks and is currently undeveloped. The areas to the north and east are undeveloped; the area to the south is developed as a recreational use (City Golf); and the area to the west is partially undeveloped and partially developed as a mixed use project (The West Village).

Landscaping: N/A

Miscellaneous: The application states that the request has been made to:

- "Obtain a variance to the front-yard regulations contained in Planned Development District No. 305. The owner seeks to located stoops in the required front yard in accordance with the attached plans."

The application states that the requests should be granted for the following reason:

- "In order to develop the site commensurate with other similar developments, a variance is necessary due to the significant and unusual slope of the property. The stoops will be located a safe distance from the curb."

On April 2, 2003, the Board Administrator left a message with the applicant to inform him the following information:

- The public hearing date and panel in which the case was randomly assigned by the Board Secretary;
- The criteria/standard that the Board will use in their decision to approve or deny the request;

- The importance of evidence submitted by the applicant with regard to the Board's decision 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 April 23, 2003 deadline to submit additional evidence for staff to factor into their recommendation; and
- That the Board will taken action on the matter at the May 27th public hearing after considering the staff recommendation and all information/evidence and testimony presented by the applicant and all interested parties.

On April 23, 2002, the applicant submitted of a letter to the Board Administrator to further explain the merits and scope of the request (see Attachment A).

On April 25, 2003, the Board of Adjustment staff review team meeting was held regarding this case. Review team members in attendance included: the Assistant Director of the Development Services Department, the Board of Adjustment Chief Planner, the Board Administrator, the Chief Arborist, and the Assistant City Attorney to the Board.

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

BASIS FOR REQUESTS FOR A VARIANCE: The Dallas Development Code specifies that a variance can be granted that 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 must be necessary to permit development of a specific parcel of land which 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 in districts with the same zoning classification. A variance may 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 a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

BOARD OF ADJUSTMENT ACTION: May 27, 2003

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Barger

I move that the Board of Adjustment **grant** application **BDA 023-075** listed on the uncontested docket because our evaluation of the property, the testimony presented to us, and the facts that we had determined show that the application satisfies all the requirements of the Dallas Development Code and are consistent with its general purpose and intent. 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: **Coffman**

AYES: 5 – Johnson, Coffman, Barger, Gabriel, Chase

NAYS: 0 - None

MOTION PASSED: 5 – 0 (Unanimously)



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-107

Data Relative to Subject Property:

Date: 9-9-11

Location address: 3700 McKinney Avenue Zoning District: P.D. 305, Subd. D-2

Lot No.: 1.1 Block No.: A/977 Acreage: 3.083 Census Tract: 7.01

Street Frontage (in Feet): 1) 330.57 2) 317.50 3) 340.34 4) 359.64 5)

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Blackburn Central Holdings, L.P.

Applicant: Jackson Walker L.L.P., Susan Mead/Jonathan Vinson Telephone: (214) 953-5941

Mailing Address: 901 Main Street, Suite 6000, Dallas, Texas Zip Code: 75202

Represented by: Jackson Walker L.L.P., Susan Mead/Jonathan Vinson Telephone: (214) 953-5941

Mailing Address: 901 Main Street, Suite 6000, Dallas, Texas Zip Code: 75202

guy

Affirm that a request has been made for a Variance [checked], or Special Exception, of 5 feet to the front yard setback regulation for certain awning and signage projections only, and 20 feet to the maximum height regulations. L 35 37

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:

Granting of the requested variances will not be contrary to the public interest; and owing to special conditions, to be described further in supplementary materials to be provided to City Staff, literal enforcement of the referenced regulations would result in unnecessary hardship. The variances are necessary to in a manner commensurate permit development of this specific parcel of land because of restrictive property conditions which would otherwise prevent its development with other parcels. The requested variances are not to relieve a self-created or personal hardship, nor for financial reasons only.

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: Jonathan G. Vinson Applicant's name printed Jonathan G. Vinson Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Jonathan G. Vinson 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.

Jonathan G. Vinson Affiant (Applicant's signature)

Subscribed and sworn to before me this 8th day of September, 2011



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

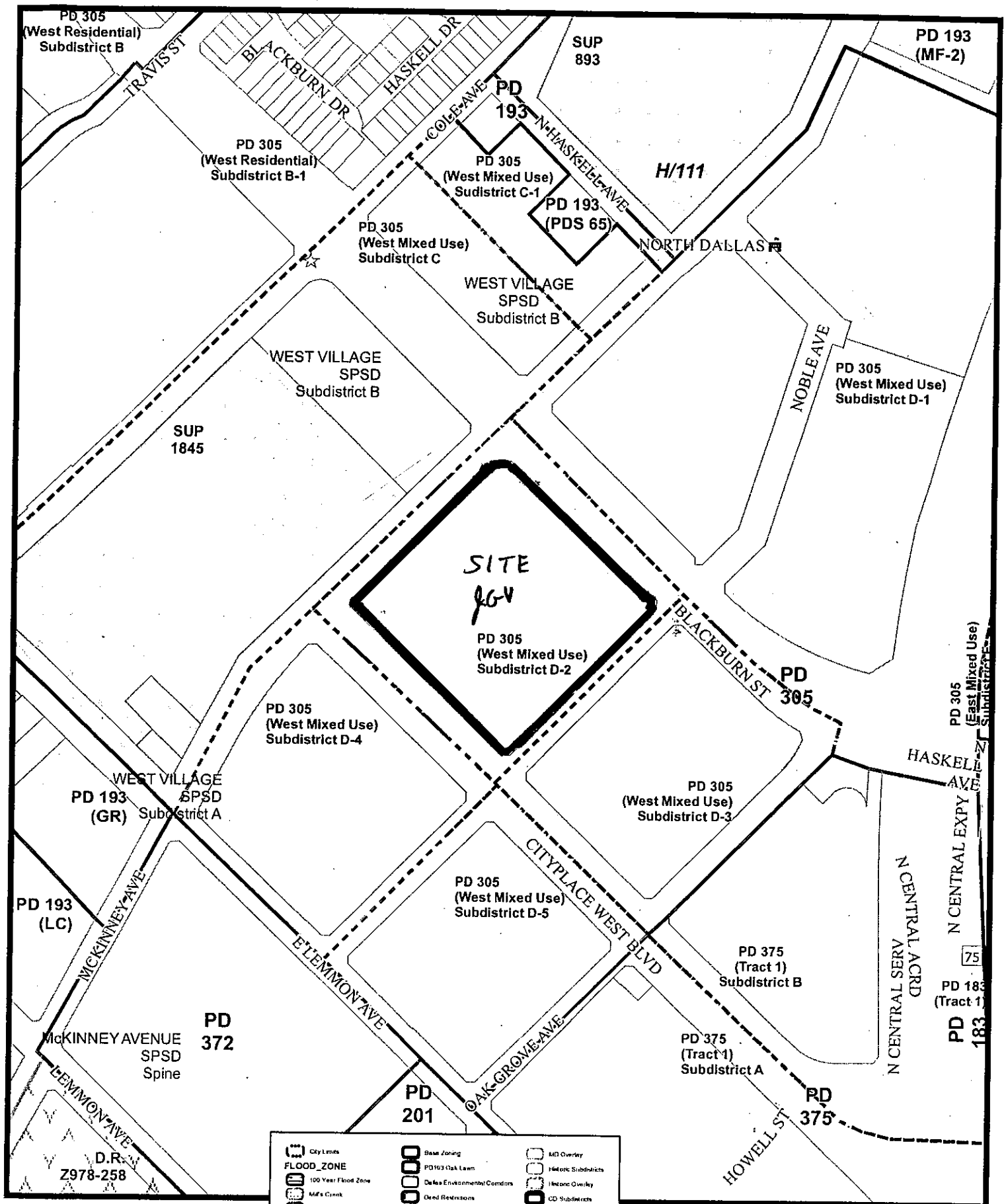
I hereby certify that Jonathan Vinson

did submit a request for a variance to the building height regulation
at 3700 McKinney Avenue

BDA101-107. Application of Jonathan Vinson for a variance to the building height regulation at 3700 McKinney Avenue. This property is more fully described as lot 1.1 in city block A/977 and is zoned PD 305 (Subdistrict D-2), which limits the maximum building height. The applicant proposes to construct a structure with a building height of 277 feet, which will require a 37 foot variance to the maximum building height regulation.

Sincerely,


Lloyd Denman, Building Official



SITE
16-V

PD 305
(West Mixed Use)
Subdistrict D-2

PD 305
(West Mixed Use)
Subdistrict D-4

WEST VILLAGE
SPSP
Subdistrict A
PD 193
(GR)

PD 193
(LC)

MCKINNEY AVENUE
SPSP
Spine
PD 372

D.R.
Z978-258

PD 305
(West Mixed Use)
Subdistrict D-5

PD 305
(West Mixed Use)
Subdistrict D-3

PD 375
(Tract 1)
Subdistrict B

PD 375
(Tract 1)
Subdistrict A

PD 201

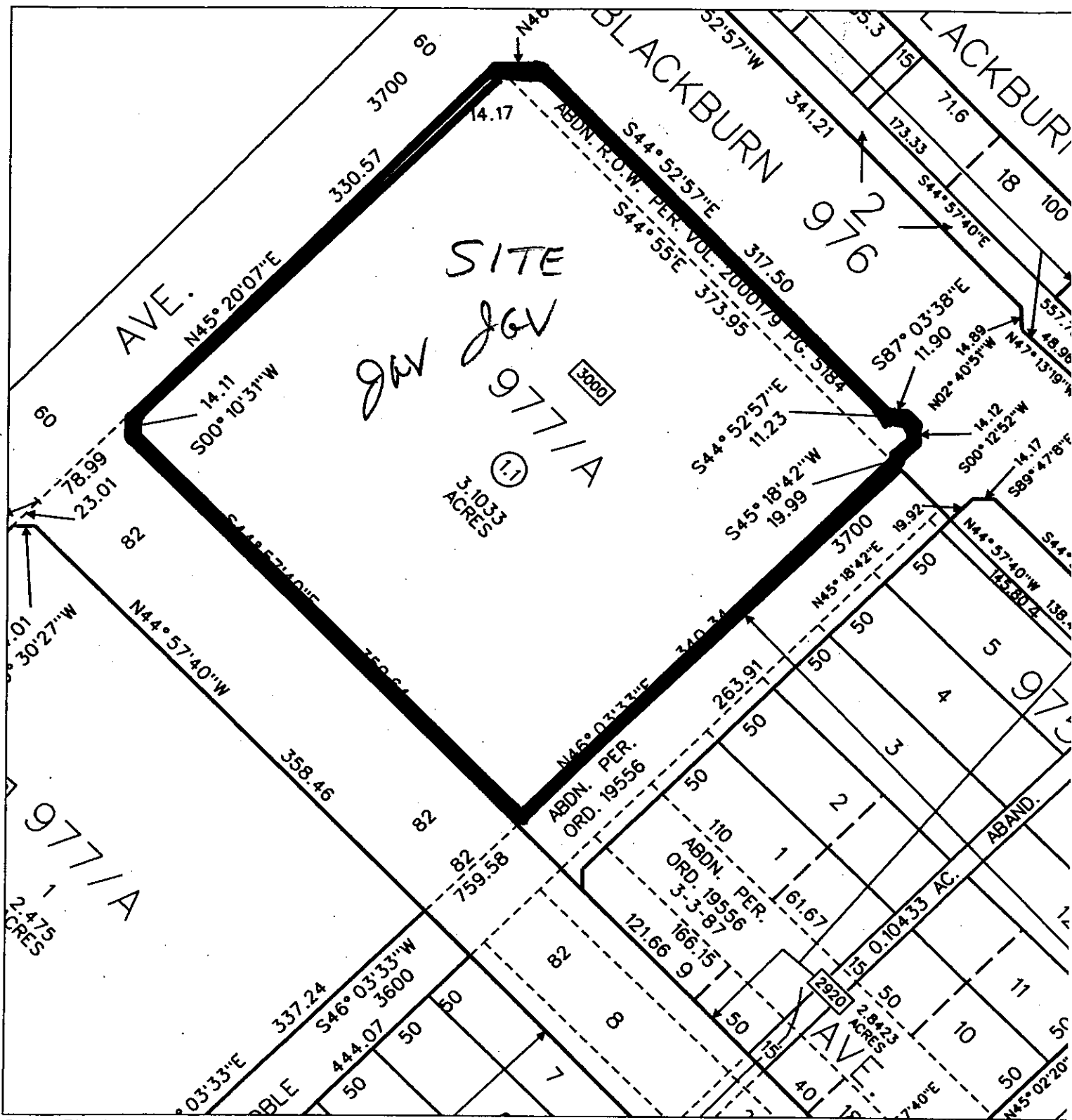
PD 375

City Limits	Base Zoning	MID Overlay
FLOOD_ZONE	PD193 Oak Lawn	Historic Subdistricts
100 Year Flood Zone	Dallas Environmental Corridor	Historic Overlay
M's Creek	Dated Restrictions	CD Subdistricts
Park's Branch	SUP	PD Subdistricts
X PROTECT HD BY LEVEE	D	PDS Subdistricts
Parks	D-1	NSO Subdistricts
	OP	NSO Overlay
	SP	Employment Overlay

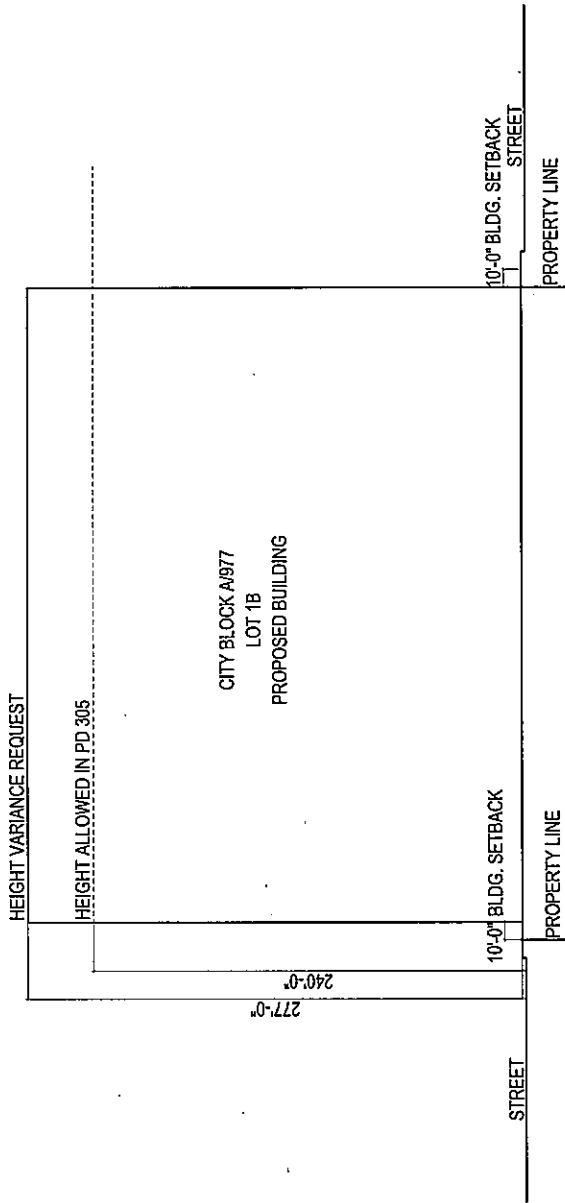


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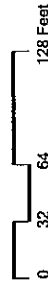
Case ID:
Printed: 9/2/2011



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NOTE: ACCESS POINTS NOT SHOWN.



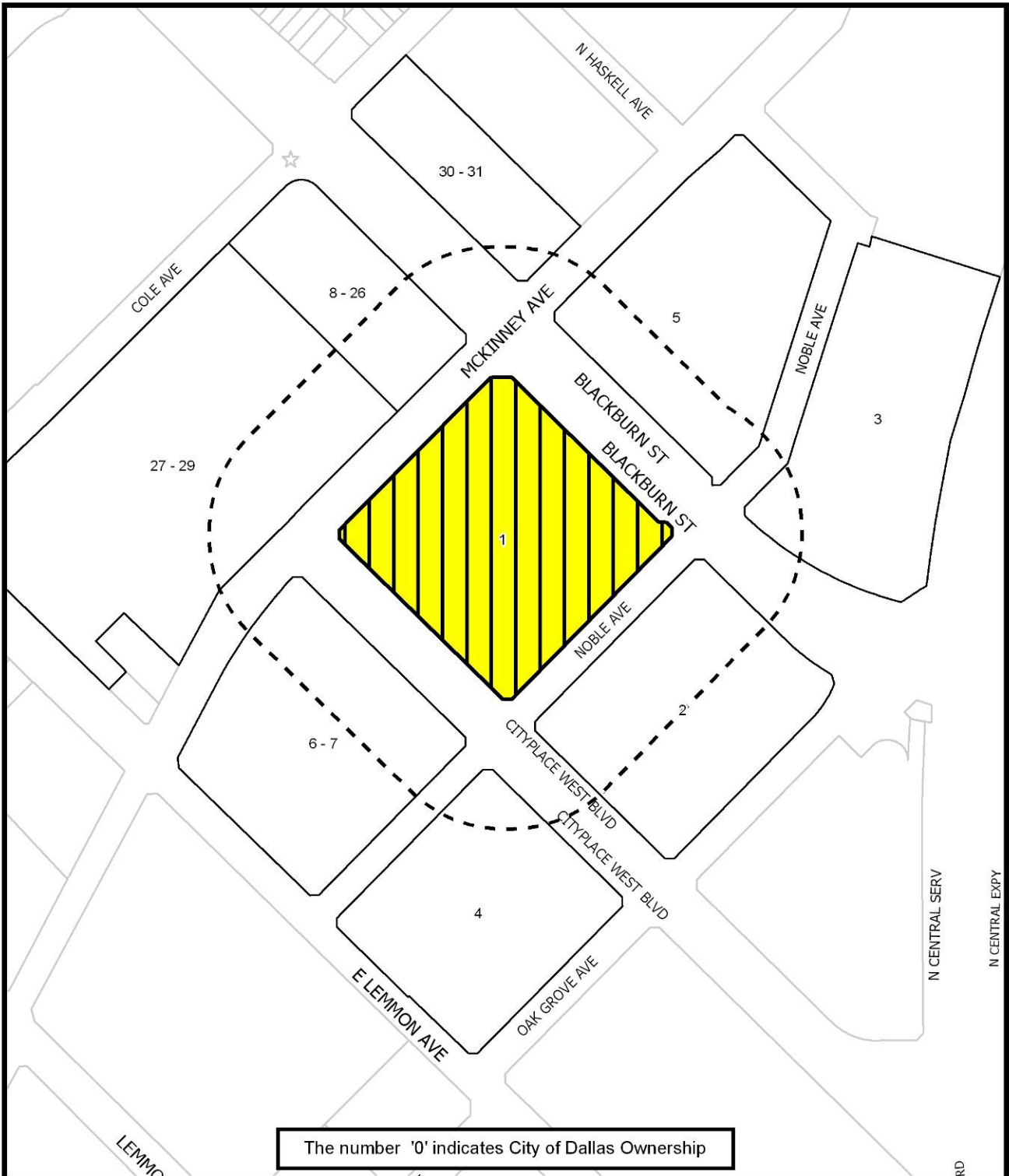
HEIGHT VARIANCE

Cityplace Block 7A
Dallas, Texas

Job #: 11067.01
File Name: zoning_09011.dwg
Date: 05/02/2011
Drawn by: DF, LNF



Good Fulton & Farrell Architects
 2803 Richmond Street
 Suite 300
 Dallas, Texas 75201
 214.303.5070
 214.303.6372 fax
 www.gff.com



The number '0' indicates City of Dallas Ownership

 1:2,400	<h2 style="text-align: center;">NOTIFICATION</h2> <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;">31</div> <div>NUMBER OF PROPERTY OWNERS NOTIFIED</div> </div>	<p style="text-align: right;">Map no: <u> I-7 </u></p> <p style="text-align: right;">Case no: <u> BDA101-107 </u></p>
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DATE: October 27, 2011

Notification List of Property Owners

BDA101-107

31 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3700 MCKINNEY AVE	BLACKBURN CENTRAL HOLDINGS LP LB 12
2	2921 LEMMON AVE	BLACKBURN CENTRAL HOLDINGS LP LB 12
3	3925 CENTRAL EXPY	JLB CITYPLACE LP SUITE 960
4	2901 CITY PLACE BLVD	BRYSON AT CITY PLACE LP
5	3000 BLACKBURN ST	LOADSTAR INC
6	3636 MCKINNEY AVE	CIM/3636 MCKINNEY AVE LP STE 900
7	3600 MCKINNEY AVE	3600 MCKINNEY LTD PS STE 890
8	3699 MCKINNEY AVE	WEST VILLAGE 2004 PO LTD % PHOENIX PROPE
9	3699 MCKINNEY AVE	WALSH JOHN F
10	3699 MCKINNEY AVE	KAPORIS HELEN %SENDERA TITLE INC
11	3699 MCKINNEY AVE	WALSH JOHN F & UNIT 483
12	3699 MCKINNEY AVE	SAVAGE TAMARA ANN
13	3699 MCKINNEY AVE	KALISER MARC S
14	3699 MCKINNEY AVE	WOODWARD MICHAEL BRYAN UNIT 486
15	3699 MCKINNEY AVE	SHERWOOD STEVEN TRUST SUITE 300
16	3699 MCKINNEY AVE	ROGERS MARTIN
17	3699 MCKINNEY AVE	SCHULZE MARK
18	3699 MCKINNEY AVE	GC MAIN ST, LTD
19	3699 MCKINNEY AVE	ADAMS THOMAS UNIT 581
20	3699 MCKINNEY AVE	NGUYEN DUNG N & NGUYEN PETER F
21	3699 MCKINNEY AVE	LUCIA RYAN UNIT 583
22	3699 MCKINNEY AVE	REBELLO EUPHRASON G
23	3699 MCKINNEY AVE	YOUNG FREDERICK C
24	3699 MCKINNEY AVE	MOEDER JILL BLDG E UNIT 586
25	3699 MCKINNEY AVE	MULVANY STEPHEN J
26	3699 MCKINNEY AVE	CWS URBAN LOFTS LP

10/27/2011

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	3699 MCKINNEY AVE	CWS VILLAGE RESIDENTIAL LP SUITE 210
28	3699 MCKINNEY AVE	SOUTH ALLEY LOFT LLC BLDG A UNIT 221
29	3699 MCKINNEY AVE	MILLER HENRY S III & ANGELA AHMADI
30	3839 MCKINNEY AVE	CIM 3839 MCKINNEY AVE LP STE 900
31	3839 MCKINNEY AVE	WVILP