

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
TUESDAY, APRIL 19, 2011**

MEMBERS PRESENT AT BRIEFING: Rob Richmond, Chair, Jordan Schweitzer, Panel Vice-Chair, Scott Hounsel, regular member, Johnnie Goins, regular member and Scott Jackson, alternate member

MEMBERS ABSENT FROM BRIEFING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Bert Vandenberg, Asst. City Attorney, Donnie Moore, Chief Planner, Todd Duerksen, Development Code Specialist, Jerry Svec, Traffic Engineer and Trena Law, Board Secretary

MEMBERS PRESENT AT HEARING: Rob Richmond, Chair, Jordan Schweitzer, Panel Vice-Chair, Scott Hounsel, regular member, Johnnie Goins, regular member and Scott Jackson, alternate member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Bert Vandenberg, Asst. City Attorney, Donnie Moore, Chief Planner, Todd Duerksen, Development Code Specialist, Jerry Svec, Traffic Engineer and Trena Law, Board Secretary

11:00 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **April 19, 2011** docket.

1:01 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 **March 15, 2011** public hearing minutes.

BOARD OF ADJUSTMENT ACTION: APRIL 19, 2011

MOTION: Schweitzer

I move **approval** of the Tuesday, **March 15, 2011** public hearing minutes as amended.

SECONDED: Hounsel

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

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 101-031

BUILDING OFFICIAL'S REPORT:

Application of Maria Cervantes for a special exception to the fence height regulations at 5455 Rancho Lane. This property is more fully described as Lot 42 in City Block 8645 and is zoned R-10(A) which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a 6 foot 4 inch high fence which will require a 2 foot 4 inch special exception.

LOCATION: 5455 Rancho Lane

APPLICANT: Maria Cervantes

REQUEST:

- A special exception to the fence height regulations of 2' 4" is requested in conjunction with primarily maintaining a 6' 4" high open iron fence and on a site currently developed with a single family home. (The special exception is also requested to construct and maintain a 6' 4" high open iron gate across the driveway).

STAFF RECOMMENDATION:

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

GENERAL FACTS:

- The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.
The applicant submitted a revised site plan/partial elevation document (see Attachment A) indicating a fence/gate proposal in the site's front yard setback that would reach a maximum height of 6' 4".
- The following additional information was gleaned from the submitted site plan:
 - The proposal is shown to be approximately 160' in length parallel to the street.
 - The fence is shown to be located approximately 2' from the property line and approximately 13' from the pavement line.
 - The proposed vehicular gate is shown to be located approximately 9' from the property line and approximately 20' from the pavement line.
- The fence is located on the site where two single family homes front it.
- The Board Administrator conducted a field visit of the site and surrounding area along Ranchero Drive (generally 500 feet east and west of the site) and noted no other fence that appeared to be located in a front yard setback and higher than 4' in height.
- On April 5, 2011, the applicant submitted a number of loose color photographs of fences in the area (with features labeled on the back of each photo) that will be available for review at the April 19th briefing/hearing.
- On April 8, 2011, the applicant submitted a petition signed by 16 neighbors/owners who support the application (see Attachment B).

BACKGROUND INFORMATION:

Zoning:

Site: R-10(A) (Single family district 10,000 square feet)
North: R-10(A) (Single family district 10,000 square feet)
South: R-10(A) (Single family district 10,000 square feet)
East: R-10(A) (Single family district 10,000 square feet)
West: R-10(A) (Single family district 10,000 square feet)

Land Use:

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

Timeline:

- February 14, 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.
- March 17, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- March 17, 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 April 4th deadline to submit additional evidence for staff to factor into their analysis; and the April 8th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- April 5, 2011: The applicant submitted a number of loose color photographs of fences in the area (with features labeled on the back of each photo) that will be available for review at the April 19th briefing/hearing.
- April 5, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.
- April 7, 2011: The Sustainable Development Department Project Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following comments: "Comply with all C.O.D visibility requirements." (Note the no item is represented on the submitted site plan as being located in a 20' visibility triangle).
- April 8, 2011: The applicant forwarded additional information beyond what was submitted with the original application (see Attachment B).

STAFF ANALYSIS:

- The primary focus of this request is maintaining a 6' 4" high open iron fence and gate on a site currently developed with a single family home. (The applicant is also requesting a special exception to construct and maintain a 6' 4" high open iron vehicular gate across the existing driveway into the site from Rancho Lane).
- A revised site plan/partial elevation has been submitted indicating a fence/gate proposal that reaches a maximum height of 6' 4". The site plan indicates that the proposal is about 160' in length parallel to the street, with the fence located approximately 2' from the property line or about 13' from the pavement line, and the proposed gate to be located approximately 9' from the front property line or approximately 20' from the pavement line.
- The fence is located on the site where two single family homes front it.
- The Board Administrator conducted a field visit of the site and surrounding area along Rancho Drive (generally 500 feet east and west of the site) and noted no other fence that appeared to be located in a front yard setback and higher than 4' in height.
- As of April 11, 2011, a petition signed by 16 neighbors/owners who support the request had been submitted to staff and no letters had been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that is and/or would reach 6' 4" in height) will not adversely affect neighboring property.

Granting this special exception of 2' 4" with a condition imposed that the applicant complies with the submitted revised site plan/partial elevation would assure that the proposal would be maintained and/or completed and maintained in the location and of the height and material as shown on this document.

BOARD OF ADJUSTMENT ACTION: APRIL 19, 2011

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Schweitzer**

I move that the Board of Adjustment grant application **BDA 101-031** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code.

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

SECONDED: **Goins**

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

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 101-035

BUILDING OFFICIAL’S REPORT:

Application of Jonathan Vinson for a variance to the parking regulations at 4512 W. Davis Street. This property is more fully described as a 4.867 acre tract of land in City Block 7212 and is zoned PD-811 (Subarea D) which requires parking to be provided. The applicant proposes to construct a residential structure for multifamily use and provide 134 of the required 166 parking spaces which will require a variance of 32 spaces.

LOCATION: 4512 W. Davis Street

APPLICANT: Jonathan Vinson

REQUEST:

- A variance to the off-street parking regulations of 32 spaces (or a 19 percent reduction of the off-street parking space requirement) is requested in conjunction with constructing and maintaining an approximately 104,000 square foot, 130-unit multifamily development on an undeveloped lot. The applicant proposes to provide 134 (or 81%) of the 166 parking spaces required by the zoning ordinance of PD No. 811.

STAFF RECOMMENDATION:

Approval

Rationale:

- The Sustainable Development Department Project Engineer has no objections to this off-street parking reduction request – therefore, granting this parking reduction variance is not contrary to the public interest.
- The applicant has substantiated how the variance to the parking regulations is necessary to permit development of the site which is different from other lots by its restrictive size, shape, or slope. The site is irregular in shape, sloped, has a substantial amount of tree cover that in turn limits the amount of its developable space unless trees are removed; and has a drainage easement that precludes the placement of structures over it on the site.

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, lot coverage,

floor area for structures accessory to single family uses, height, minimum sidewalks, off-street parking or off-street loading, or landscape regulations provided that:

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

GENERAL FACTS:

- PD No. 811 requires the following off-street parking requirement for multifamily use: a minimum of 1 space for each efficiency dwelling unit and for each dwelling unit with one bedroom; 1 ½ spaces for each dwelling unit with two or more bedrooms. The applicant has submitted a “development plan”/site plan denoting 58 spaces required for the total amount of one bedroom apartments on the site and 108 spaces required for the total amount of two bedroom apartments on the site. According to application and Building Official’s Report, the applicant proposes to provide 134 (or 81%) of the 166 parking spaces that would be required by ordinance for the 130 units that are proposed.
- The Dallas Development Code states that the Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets; and that the maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.
- However, the Dallas Development Code states that the Board of Adjustment shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
 - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.
- The applicant must seek his 19 percent off-street parking reduction request to the board as a variance (as opposed to the more typical special exception) since PD No. 811 expressly specifies a number of spaces required for multifamily use – a parking

requirement of a minimum of 1 space for each efficiency dwelling unit and for each dwelling unit with one bedroom; and 1 ½ spaces for each dwelling unit with two or more bedrooms which is different from the Dallas Development Code – a requirement of generally 1 space per 500 square feet of floor area.

- The subject site appears to be somewhat sloped, irregular in shape, and according to the application, 4.867 acres in area. The site is zoned PD No. 811(Subarea D).
- DCAD records indicates “no improvements” on the site.
- On April 8, 2011, the applicant submitted additional information for the board’s consideration beyond what was submitted with the original application (see Attachment A).

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 811 (Subarea D) (Planned Development)
North: PD No. 811 (Subarea E) (Planned Development)
South: PD No. 811 (Subarea D) (Planned Development)
East: PD No. 811 (Subarea D) (Planned Development)
West: PD No. 193 and IR (Planned Development and Industrial Research)

Land Use:

The subject site is undeveloped. The areas to the north, east, and south are undeveloped; and the area to the west is developed with office/warehouse 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:

- Undated: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- March 17, 2011: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- March 17, 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 April 4th deadline to submit additional evidence for staff to factor into their analysis; and the

April 8th deadline to submit additional evidence to be incorporated into the Board's docket materials;

- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

April 4, 2011: The applicant forwarded additional information beyond what was submitted with the original application for staff to review and consider.

April 5, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

April 7, 2011: The Sustainable Development Department Project Engineer submitted a review comment sheet marked "Has no objections."

April 8, 2011: The applicant forwarded additional information beyond what was submitted with the original application and beyond what was discussed at the April 5th staff review team meeting (see Attachment A).

STAFF ANALYSIS:

- This request focuses on providing 81 percent of the required off-street parking spaces in conjunction with constructing and maintaining an approximately 104,000 square foot, 130-unit multifamily development on an undeveloped lot. (The applicant proposes to provide 134 of the 166 off-street parking spaces required by the zoning ordinance of PD No. 811).
- The request to reduce the number of the required 166 parking spaces on the site by 32 spaces (or by 19 percent) must be considered by the board as a *variance* request (as opposed to the more typical special exception request) given Dallas Development Code provisions and that the site is located in PD No. 811 – a Planned Development District that expressly specifies a number of spaces required for multifamily use (that being a minimum of 1 space for each efficiency dwelling unit and for each dwelling unit with one bedroom; and 1 ½ spaces for each dwelling unit with two or more bedrooms) that is different from the parking requirement for multifamily use provided in the Dallas Development Code (that being generally 1 space per 500 square feet of floor area).
- If the site were located outside of PD No. 811 in a general zoning classification that permits multifamily use, the same 32 space (or 19 percent) reduction request could be made as a *special exception* to the parking regulations since the amount of

reduction being requested is less than 25% of the total number of parking spaces required.

- The subject site is appears to be somewhat sloped, irregular in shape, and according to the application, 4.867 acres in area. The site is zoned PD No. 811(Subarea D).
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the parking regulations of 32 spaces 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. 811 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 PD No. 811 zoning classification.

The Sustainable Development and Construction Department Project Engineer has submitted a review comment sheet marked "Has no objections" to the request.

BOARD OF ADJUSTMENT ACTION: APRIL 19, 2011

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Schweitzer**

I move that the Board of Adjustment grant application **BDA 101-035** listed on the uncontested docket because it appears, from our evaluation of the property and all relevant evidence, that the application satisfies all the requirements of the Dallas Development Code or appropriate PD as applicable, and are consistent with its general purpose and intent of the Code or PD.

SECONDED: **Goins**

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

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 101-036

BUILDING OFFICIAL’S REPORT:

Application of Tommy Mann, Winstead, PC, for a special exception to the off-street stacking space regulations at 13330 Preston Road. This property is more fully described as Lot 1 in City Block 7438 and is zoned RR which requires off-street stacking spaces to be provided. The applicant proposes to construct and maintain a financial institution with drive through window use and provide 10 of the required 12 off-street stacking spaces which will require a special exception of 2 spaces.

LOCATION: 13330 Preston Road

APPLICANT: Tommy Mann, Winstead, PC,

REQUEST:

- A special exception to the off-street stacking space regulations of 2 off-street stacking spaces (or a 17 percent reduction of the off-street stacking space requirement) is requested in conjunction with constructing and maintaining an approximately 3,800 square foot financial institution with drive-in window use (Chase Bank). The applicant proposes to provide 10 (or 83 percent) of the 12 off-street stacking spaces required by code.

STAFF RECOMMENDATION:

Approval, subject to the following conditions:

1. The special exception of 2 off-street stacking spaces shall automatically and immediately terminate if and when the financial institution with drive-in window use is changed or discontinued.
2. Compliance with the submitted revised site plan is required.

Rationale:

- The Sustainable Development Department Project Engineer has no objections to this request with the condition imposed that the applicant complies with the revised submitted site plan.
- The applicant has substantiated how the stacking demand generated by the proposed financial institution with drive-in window use does not warrant the number of off-street stacking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.

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

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street stacking spaces required under this article if the board finds, after a public hearing, that the stacking demand generated by the use does not warrant the number of off-street stacking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and

nearby streets. The maximum reduction authorized by this section is two spaces for each of the first two drive-through windows, if any, or 25 percent of the total number of required spaces, whichever is greater, minus the number of spaces currently not provided due to already existing nonconforming rights.

- 2) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The stacking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (B) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (C) The availability of public transit and the likelihood of its use.
- 3) In granting a special exception, the board shall specify the use or uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
 - (A) establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) impose restrictions on access to or from the subject property; or
 - (C) impose any other reasonable condition that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in a planned development district, or an ordinance granting or amending a specific use permit.

GENERAL FACTS:

- The Dallas Development Code requires the following off-street stacking space requirements for a financial institution with drive-in window:
 - 5 stacking spaces for 1 teller window or station. ("Teller window or station" is defined as a location where motor vehicles transact business with an employee of the financial institution by deal drawer or through the use of a pneumatic tube system or equivalent).
 - 10 stacking spaces for 2 teller windows or stations.
 - 2 stacking spaces for each unmanned transaction station. ("Unmanned transaction station" is defined as a location where customers in motor vehicles transact business with a machine.)The applicant proposes to provide 10 (or 83 percent) of the required 12 off-street stacking spaces in conjunction with the construction and maintenance of a financial institution with drive-in window use with 2 teller windows and 1 unmanned transaction station on the site.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A).

BACKGROUND INFORMATION:

Zoning:

Site: RR (Regional Retail)
North: PD No. 17 (Planned Development)
South: PD No. 16 (Planned Development)
East: R-16(A), SUP No. 502 (Single family residential, Specific Use Permit for Private Recreation Club and Area)
West: RR (Regional Retail)

Land Use:

The subject site is developed as a retail strip center (The Preston Valley View Center). The areas to the north, south, and west are developed with retail uses; and the area to the east is developed with a private recreation center use.

Zoning/BDA History:

1. BDA 056-179, 13302 Preston Road (the subject site) On August 15, 2006, the Board of Adjustment Panel A granted a request for a special exception to the off-street parking regulations of 29 spaces (or 8% of the required off-street parking). The case report stated that the request was made in conjunction with reallocating leasing areas/uses within an existing shopping center (The Preston Valley View Shopping Center). The board imposed the following condition: the special exception shall automatically and immediately terminate if and when the private recreation club, personal service use, furniture store, general merchandise or food store greater than 3,500 square feet, general merchandise or food store 3,500 square feet or less, restaurant with drive-in or drive-through service, restaurant without drive-in or drive through service uses on the site are changed or discontinued.

Timeline:

- February 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.
- March 17, 2011: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A.

- March 17, 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 April 4th deadline to submit additional evidence for staff to factor into their analysis; and the April 8th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the request; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- April 5, 2011: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.
- April 7, 2011: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections if certain conditions are met" with the following comments: "Recommend drive in front of bank to be one way southbound. Later agreed to let applicant provide signs to restrict turns into drive, at south drive/drive intersection, but mark one drive on ground with one set of arrows indicating two way drive in front of bank."
- April 8, 2011: The applicant submitted a revised site plan in response to the Sustainable Development and Construction Department Project Engineer's April 7th comment sheet (see Attachment A).
- April 11, 2011: The Sustainable Development and Construction Department Project Engineer states in an email that he is in support of the request with the condition imposed that the applicant complies with the revised submitted site plan.

STAFF ANALYSIS:

- This request focuses on constructing and maintaining an approximately 3,800 square foot financial institution with drive-in window use (Chase Bank), and providing 10 (or 83 percent) of the 12 code required off-street stacking spaces in conjunction with the drive-in window use having 2 teller windows and 1 unmanned transaction station.
- The Sustainable Development Department Project Engineer supports the request provided that the board impose a condition that the applicant complies with the revised submitted site plan.

- The applicant has the burden of proof in establishing the following:
 - The stacking space demand generated by the proposed use on the site does not warrant the number of off-street stacking spaces required, and
 - The special exception of 2 spaces (or a 17 percent reduction of the required number of off-street stacking spaces) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, subject to the conditions that: 1) the special exception of 2 off-street stacking spaces shall automatically and immediately terminate if and when the financial institution with drive-in window use is changed or discontinued; and 2) that the applicant comply with the submitted revised site plan, the applicant would be allowed to develop/maintain the site with this specific use with conditions/features as shown on this plan, and provide only 10 of the 12 code required off-street stacking spaces.

BOARD OF ADJUSTMENT ACTION: APRIL 19, 2011

APPEARING IN FAVOR: Tommy Mann, 5400 Renaissance Tower, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Schweitzer**

I move that the Board of Adjustment, in Appeal No. **BDA 101-036**, on application of Tommy Mann, **grant** the request of this applicant to reduce the number of required off-street stacking spaces in the Dallas Development Code by two spaces, because our evaluation of the property and the testimony shows that the stacking demand generated by the proposed use on the site does not warrant the number of off-street stacking spaces required, and the special exception would not create a traffic hazard nor increase traffic congestion on adjacent and nearby streets. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- The special exception shall automatically and immediately terminate if and when the financial institution with drive-in window use on the site is changed or discontinued.
- Compliance with the submitted revised site plan is required.

SECONDED: **Jackson**

AYES: 4 – Richmond, Schweitzer, Goins, Jackson

NAYS: 0 -

MOTION PASSED: 4– 0 (unanimously)

***Member Scott Housel recused himself and did not hear or vote on this matter.**

MOTION: **Goins**

I move to adjourn this meeting.

SECOND: Schweitzer
AYES: 4– Richmond, Schweitzer, Goins, Jackson
NAYS: 0 -
MOTION PASSED: 4– 0 (unanimously)

1:11 P.M. - Board Meeting adjourned for **April 19, 2011**.

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

Note: For detailed information on testimony, refer to the tape retained on file in the Department of Planning and Development.