

TUESDAY, JUNE 18, 2013
AGENDA

BRIEFING	ROOM 6/E/S, 1500 MARILLA STREET	11:00 A.M.
LUNCH		
PUBLIC HEARING	ROOM 6/E/S, 1500 MARILLA STREET	1:00 P.M.

David Cossum, Assistant Director
Steve Long, Board Administrator

MISCELLANEOUS ITEM

Approval of the Tuesday, May 21, 2013 Board of Adjustment Public Hearing Minutes	M1
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UNCONTESTED CASES

BDA 123-064	5414 Melrose Avenue REQUEST: Application of Robert V. Hunt for variances to the front and side yard setback regulations and to the maximum lot coverage regulations	1
BDA 123-066	4111 Athletic Club Drive (aka: 4111 La Prada Drive) REQUEST: Application of Cole Evans to enlarge a nonconforming use	2

HOLDOVER CASE

BDA 123-045	5810 Meadowcrest Drive REQUEST: Application of Robert Reeves of Robert Reeves and Associates for a variance to the side yard setback regulations	3
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REGULAR CASES

BDA 123-046	1143 Newport Avenue REQUEST: Application of Keena Hilliard for special exceptions to the fence height and visual obstruction regulations	4
BDA 123-060	2523 McKinney Avenue REQUEST: Application of Ed Simons for a variance to the front yard setback regulations and a special exception to the landscape regulations	5

EXECUTIVE SESSION NOTICE

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

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

(Rev. 6-24-12)

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel A May 21, 2013 public hearing minutes.

FILE NUMBER: BDA 123-064

BUILDING OFFICIAL'S REPORT: Application of Robert V. Hunt for variances to the front and side yard setback regulations and to the maximum lot coverage regulations at 5414 Melrose Avenue. This property is more fully described as part of Lots 8 & 9, Block C/1978, and is zoned R-7.5(A), which requires a 25 foot front yard setback, a 5 foot side yard setback, and limits lot coverage to 45 percent. The applicant proposes to construct and maintain a structure and provide a 7 foot front yard setback, which will require a variance to the front yard setback regulations of 18 feet, 3 foot side yard setbacks, which will require variances to the side yard setback regulations of 2 feet, and exceed the maximum 45 percent lot coverage, which will require a variance to the maximum lot coverage regulations of 437 square feet.

LOCATION: 5414 Melrose Avenue

APPLICANT: Robert V. Hunt

REQUESTS:

The following appeals have been made in conjunction with constructing and maintaining a two-story single family home structure on a site that is currently developed with a one-story single family home structure that the applicant intends to demolish:

1. A variance to the front yard setback regulations of 18' is requested as the proposed structure would be located 7' from the front property line or 18' into the required 25' front yard setback.
2. Variances to the side yard setback regulations of 2' are requested as the proposed structure would be located 3' from the site's two side property lines or 2' into the required 5' side yard setbacks.
3. A variance to the lot coverage regulations of 437 square feet is requested as (according to the applicant) this request would allow up to 2,404 square feet of maximum lot coverage when 1,967 square feet is allowed now (or 45 percent) on the 4,372 square foot subject 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 the variance is:

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;

- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- (C) not granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STAFF RECOMMENDATION:

Approval of the front yard, side yard, and maximum lot coverage variances, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The subject site is unique and different from most lots zoned R-7.5(A) in that it is an irregularly-shaped lot with 4,372 square feet in area. Most lots zoned R-7.5(A) are regularly shaped with 7,500 square feet. The irregularly-shaped lot that is over 3,000 square feet smaller in area than that of most lots in the zoning district precludes the applicant from developing it in a manner commensurate with development on other similarly zoned properties - in this case, the development on the property being the replacement of an existing one-story single family home with a two-story home that according to the applicant would have between 2,500 – 2,900 square feet of air-conditioned space. (Note that while the submitted site plan does not depict the actual location of the garage on the subject site, staff has concluded that if at all possible, the applicant would consider locating the garage on the west side of the subject site given the location of the existing homes to the east and west).

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single family district 7,500 square feet)
North: TH-3 (A) (Townhouse)
South: R-7.5(A) (Single family district 7,500 square feet)
East: R-7.5(A) (Single family district 7,500 square feet)
West: R-7.5(A) (Single family district 7,500 square feet)

Land Use:

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

Zoning/BDA History:

1. BDA 067-169, Property at 2035 On December 10, 2007, the Board of

Cullen Avenue (two lots east of the subject site)

Adjustment Panel C variance to the front yard setback regulations of 20'. The board imposed the following condition: compliance with the submitted site plan is required. The case report stated that the request was made in conjunction with constructing and maintaining a single family home in the site's Melrose Avenue 25' front yard setback on a site that was undeveloped.

Timeline:

April 30, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

May 15, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

May 15, 2013: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the May 29th deadline to submit additional evidence for staff to factor into their analysis; and the June 7th 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.

June 4, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

GENERAL FACTS/STAFF ANALYSIS (front yard variance):

- This request focuses on constructing and maintaining a two-story single family structure, part of which would be located in the site's 25' front yard setback on a

property developed with a one-story single family home structure that the applicant intends to demolish.

- Structures on lots zoned R-7.5(A) are required to provide a minimum front yard setback of 25’.
- The applicant has submitted a site plan that shows a structure (roof eave) located 7’ from the front property line or 18’ into the 25’ required front yard setback.
- It appears from calculations made by the Board Administrator from the submitted site plan that approximately 400 square feet (or about 17 percent) of the proposed approximately 2,400 square foot building footprint is to be located in the site’s 25’ front yard setback.
- The subject site is irregular in shape and according to the application, is 0.10 acres (or 4,372 square feet) in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area.
- DCAD records indicate the “main improvement” for property at 5414 Melrose Avenue being a structure built in 1926 with 1,546 square feet of living area and 1,546 square feet of total area; and no additional improvements.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The 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 R-7.5(A) 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 R-7.5(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which in this case is a structure to be located 7’ from the front property line (roof eave) or 18’ into the 25’ front yard setback.

GENERAL FACTS/STAFF ANALYSIS (side yard variances):

- This request focuses on constructing and maintaining a single family structure, part of which would be located in the site’s 5’ side yard setbacks on a property developed with a single family home developed with a single family structure that the applicant intends to demolish.
- Structures on lots zoned R-7.5(A) are required to provide a minimum side yard setback of 5’.
- The applicant has submitted a site plan that shows a structure located 3’ from the two side property lines or 2’ into the 5’ required side yard setbacks.

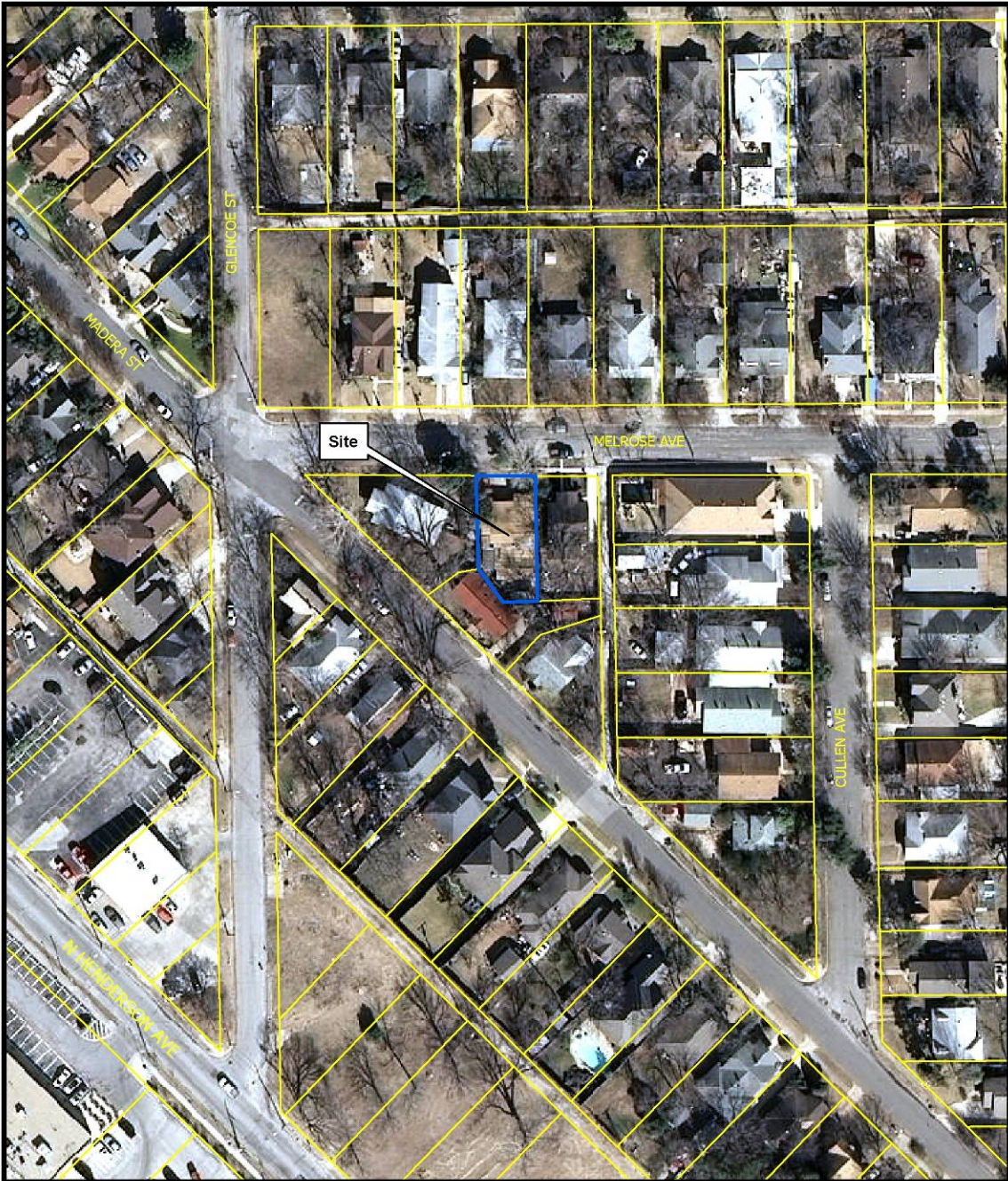
- It appears from calculations made by the Board Administrator from the submitted site plan that approximately 130 square feet (or about 5 percent) of the proposed approximately 2,400 square foot building footprint is to be located in the site's eastern 5' front yard setback; and that approximately 70 square feet (or about 2 percent) of the proposed approximately 2,400 square foot building footprint is to be located in the site's western 5' front yard setback.
- The subject site is irregular in shape and according to the application, is 0.10 acres (or 43,372 square feet) in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area.
- DCAD records indicate the "main improvement" for property at 5414 Melrose Avenue being a structure built in 1926 with 1,546 square feet of living area and 1,546 square feet of total area; and no additional improvements.
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to the side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
 - The variances would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant the variance requests, and impose the submitted site plan as a condition, the structure in the side yard setbacks would be limited to what is shown on this document— which in this case is a structure to be located 3' from the two side property lines or 2' into these 5' side yard setbacks.

GENERAL FACTS/STAFF ANALYSIS (lot coverage variance):

- This request focuses on constructing and maintaining a single family structure that would exceed the maximum 45 percent lot coverage allowed on a property developed with a single family home developed with a single family structure that the applicant intends to demolish.
- The maximum lot coverage for residential structures on lots zoned R-7.5(A) is 45 percent.
- The applicant has submitted a site plan and documentation stating that the lot coverage depicted on the site plan is 2,404 square feet, and that the maximum lot coverage allowed on this site is 1,967 square feet.
- The subject site is irregular in shape and according to the application, is 0.10 acres (or 4,372 square feet) in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area.

- DCAD records indicate the “main improvement” for property at 5414 Melrose Avenue being a structure built in 1926 with 1,546 square feet of living area and 1,546 square feet of total area; and no additional improvements.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the maximum lot coverage 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 R-7.5(A) 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 R-7.5(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure exceeding the maximum 45 percent lot coverage requirement would be limited to what is shown on this document– which in this case is a structure with 2,404 square feet or 437 square feet beyond the 1,967 square feet permitted on the 4,372 square foot subject site.





1:1,200

AERIAL MAP

Case no: BDA123-064

Date: 5/29/2013



City of Dallas

A }

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-064

Data Relative to Subject Property:

Date: 4-30-13

Location address: 5414 Melrose Avenue 75206 Zoning District: R-7.5(A)

part of Lot No.: 849 Block No.: C/1978 Acreage: 4,372 sq' .10 acres Census Tract: 10.02

Street Frontage (in Feet): 1) 47' 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): RVH Real Estate Opportunity Fund, LLC

Applicant: Robert V. Hunt, manager Telephone: 214.824.5750

Mailing Address: 5811 Gaston Avenue Dallas, TX Zip Code: 75214

E-mail Address: RobertVHunt@sbcglobal.net

Represented by: Robert V. Hunt Telephone: Same

Mailing Address: Same Zip Code: Same

E-mail Address: Same

Affirm that an appeal has been made for a Variance X, or Special Exception of A variance of 18' to the front yard setback, and a variance of 2' to the side yard setbacks, AND A VARIANCE OF 437' TO THE MAXIMUM LOT COVERAGE.

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: DWING to an irregularly shaped 4,372 sq' lot (58% of the minimum 7,500 sq' size required in a R-75(A) zoning district). Further, the front width is only 47' wide whereas most lots in this zoning district are 50' wide. The depth of the lot is between 73' to 98' deep whereas most typical lots in this zoning district are 150' deep.

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

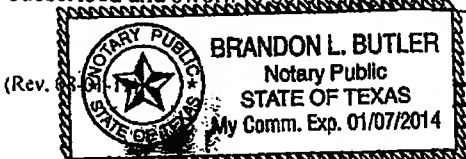
Affidavit

Before me the undersigned on this day personally appeared ROBERT V. HUNT (Affiant/Applicant's name printed)

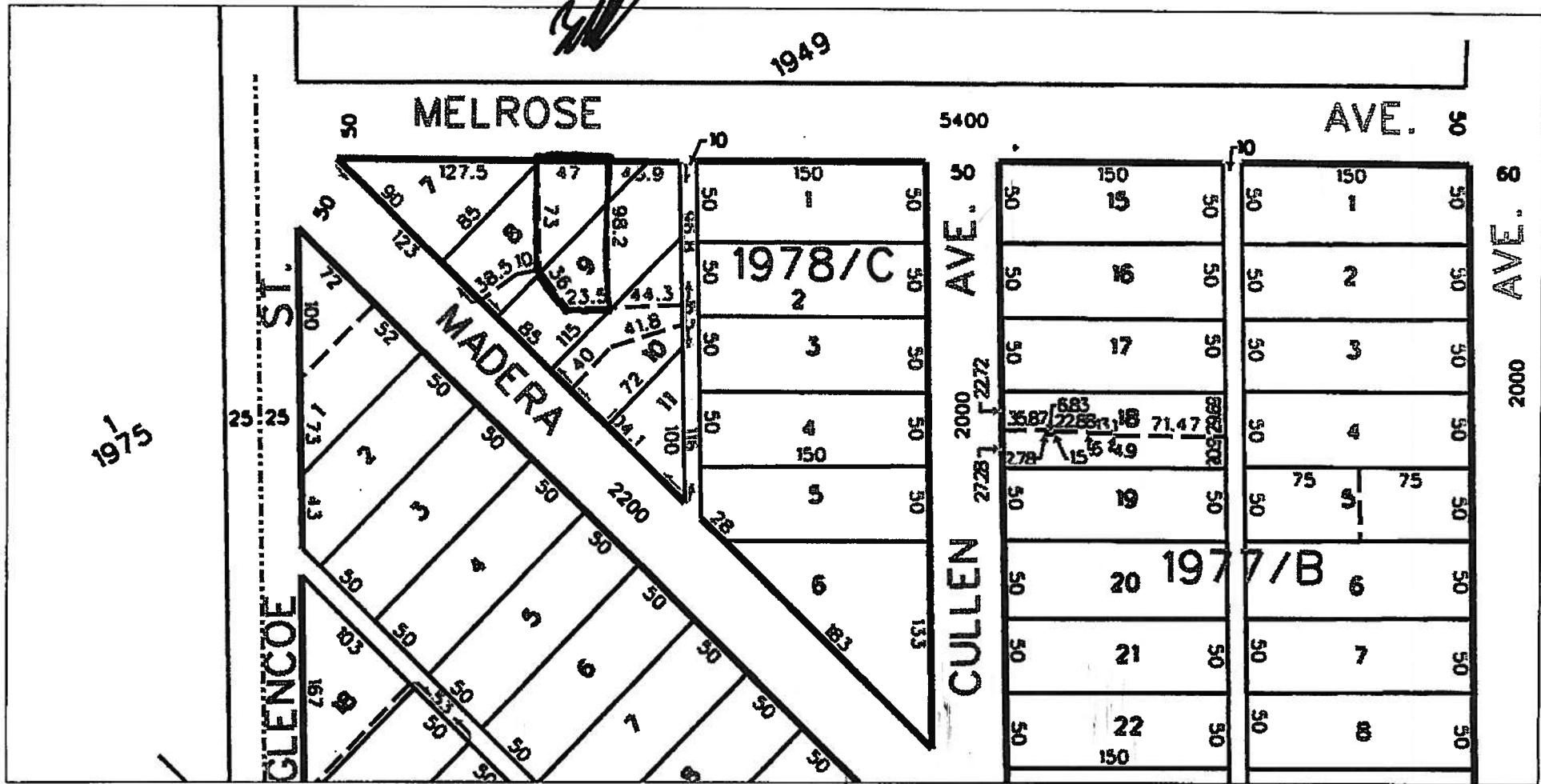
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Respectfully submitted: Robert V. Hunt (Affiant/Applicant's signature)

Subscribed and sworn to before me this 29th day of April, 2013

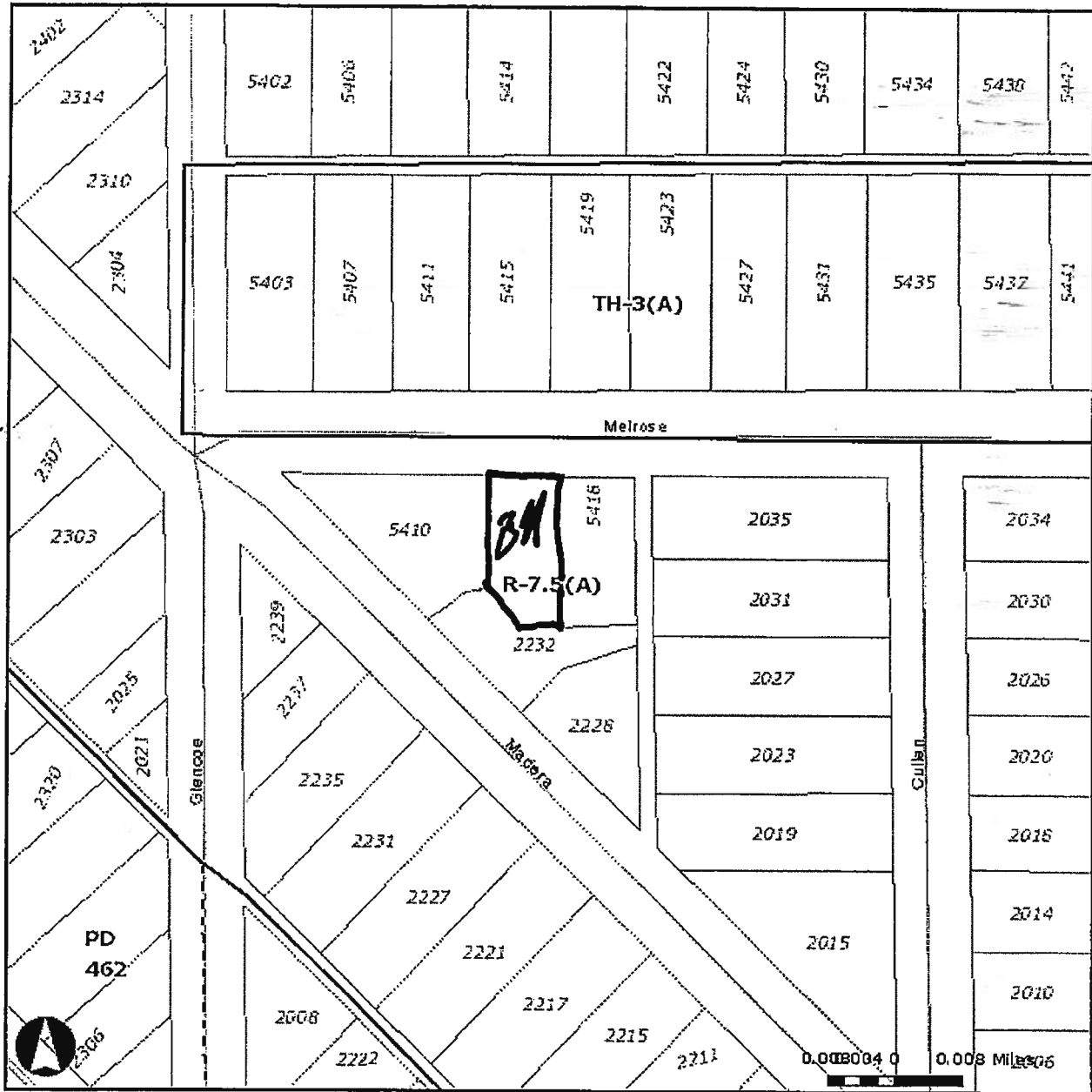


[Signature]
Notary Public in and for Dallas County, Texas



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City of Dallas Zoning

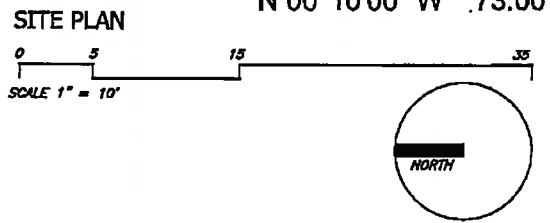
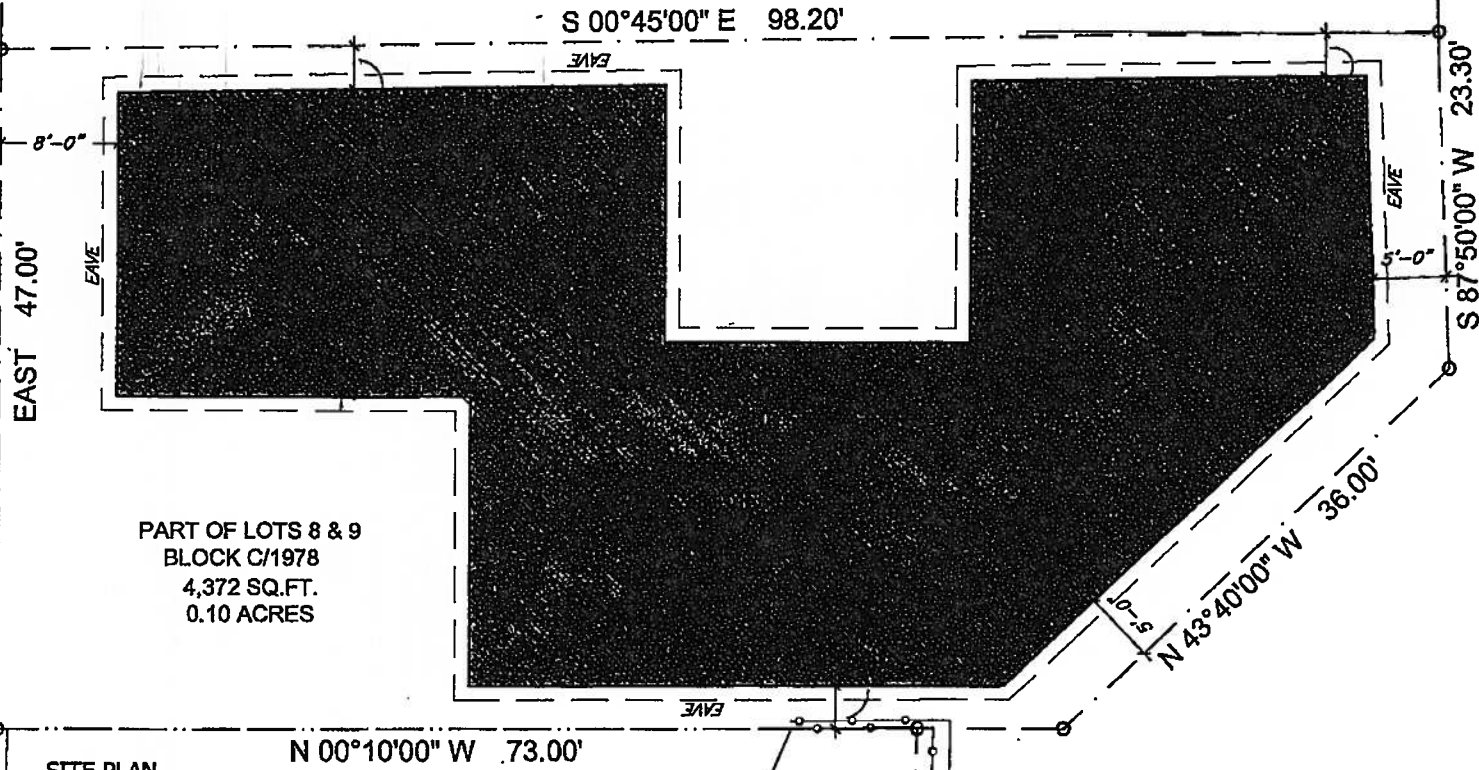


- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

- 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

MELROSE AVENUE
50' R.O.W.



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT
FOR VARIANCES
5414 MELROSE AVENUE, DALLAS, TEXAS, 75206

May 27, 2013

Currently I have a small 4,372 square foot irregularly shaped lot that is an eye sore to the neighborhood. (see three photos, attached) This lot is 58% of the minimum size required for the existing R-7.5 (A) zoning.

My request is as follows:

To tear down the existing home (photos attached) and to build a small, attractive, energy efficient new construction two story single family home. The total square footage of air conditioned space will be between 2,500 and 2,950 square feet.

There are three areas of variances requested;

- 1.) A variance of 18 feet to the front yard setback, (a 7 foot setback to the roof eave and a 8 foot setback to the foundation)
- 2.) A variance of 2 feet to the side yard setbacks
- 3.) A variance of 437 square feet to the maximum lot coverage, or a 10% increase to allow 55% lot coverage max. This is a request of up to 2,404 square feet of maximum lot coverage verses 1,967 square feet allowed now)

Lot Coverage

The lot coverage depicted in the shaded site plan provided is 2,404 square feet. In this zoning, the minimum size lot is 7,500 square feet and up to 45% lot coverage is allowed, or 3,375 square feet of lot coverage. My request for lot coverage is 971 square feet less than allowed for a minimum size legal lot in this zoning district.

Setbacks

I am not asking for a rear yard setback variance and the current home has a 100 square foot storage building that is 8 inches from the rear property line.

As a comparison, in the TH-3 zoning in the entire block on Melrose directly across the street, there is **NO** front yard setback required.

DEVELOPMENT • INVESTMENT

PHONE: 214-824-5750

E-MAIL: robertvhunt@sbcglobal.net
5811 Gaston Avenue, Dallas, Texas, 75214

FAX: 214-821-3971

ROBERT V. HUNT

&

ASSOCIATES

Also, the contiguous property on this block at the corner of 5410 Melrose and Madera (to the west), which I own and plan to build on in 2014 has a 9.6 foot front yard setback along Melrose. I will not be asking for a setback variance at 5410 Melrose for the property line that is contiguous to 5414 Melrose.

The newer home to the East of 5414 Melrose on this block located at the corner of 2035 Cullen at Melrose has approximately a 5 foot setback. The photo attached is looking west.

This requested front yard setback does not trigger a visibility triangle issue as shown on the preliminary plan.

Height

The building height will be at or below what is allowed by zoning codes (30 feet).

We request that a variance be granted such that if there were a total loss of the newly constructed or reconstructed building, it could be re-constructed with the same variances if in compliance with the attached site plan.

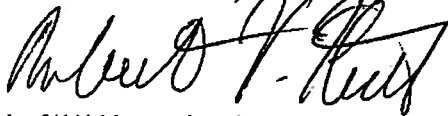
There are two hardships associated with this lot causing the need for the requested variances.

- 1.) The small non-conforming and irregularly shaped lot (4,372 ft) is approximately 58% of the minimum size of lot required in an R-7.5 zone.
- 2.) The irregular shape of the lot and no alley access provides an architectural challenge.

This small home will be a nice attractive energy efficient addition to the neighborhood and a huge improvement over what is there now.

Thank you for your consideration,

Robert Villareal Hunt, RVH Real Estate Opportunity Fund, LLC



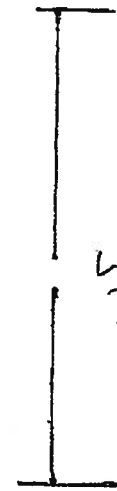
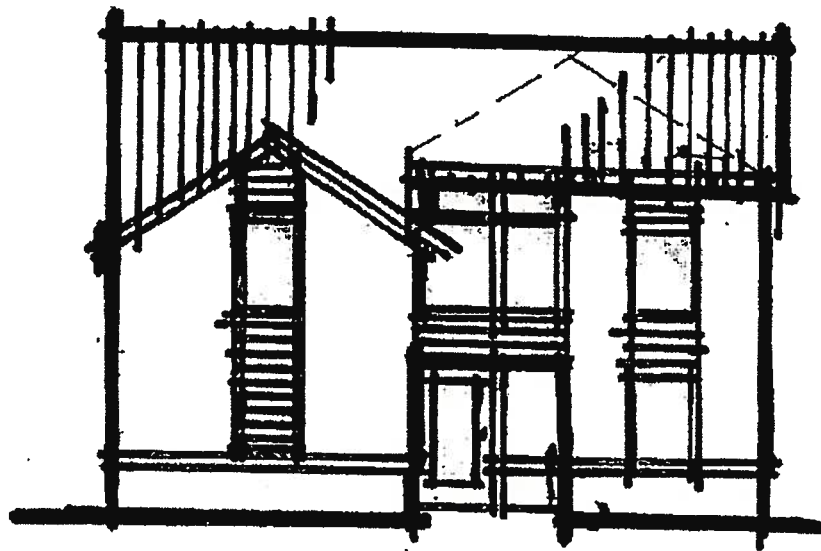
Saved as 5414 Melrose variance letter may 27 2013

DEVELOPMENT • INVESTMENT

PHONE: 214-824-5750

E-MAIL: robertvhunt@sbcglobal.net
5811 Gaston Avenue, Dallas, Texas, 75214

FAX: 214-821-3971



LESS THAN 30' HIGH TO
THE MIDPOINT OF
THE ROOF SLOPE.

544 MELROSE

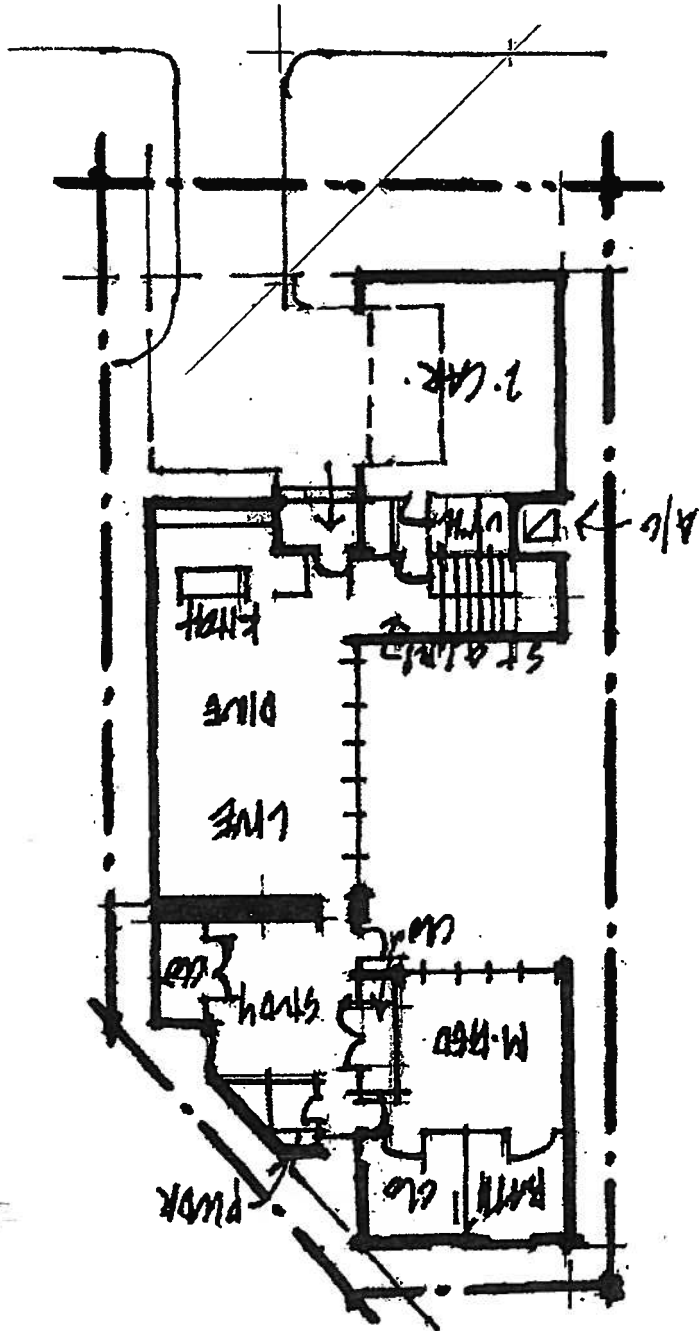
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pennington

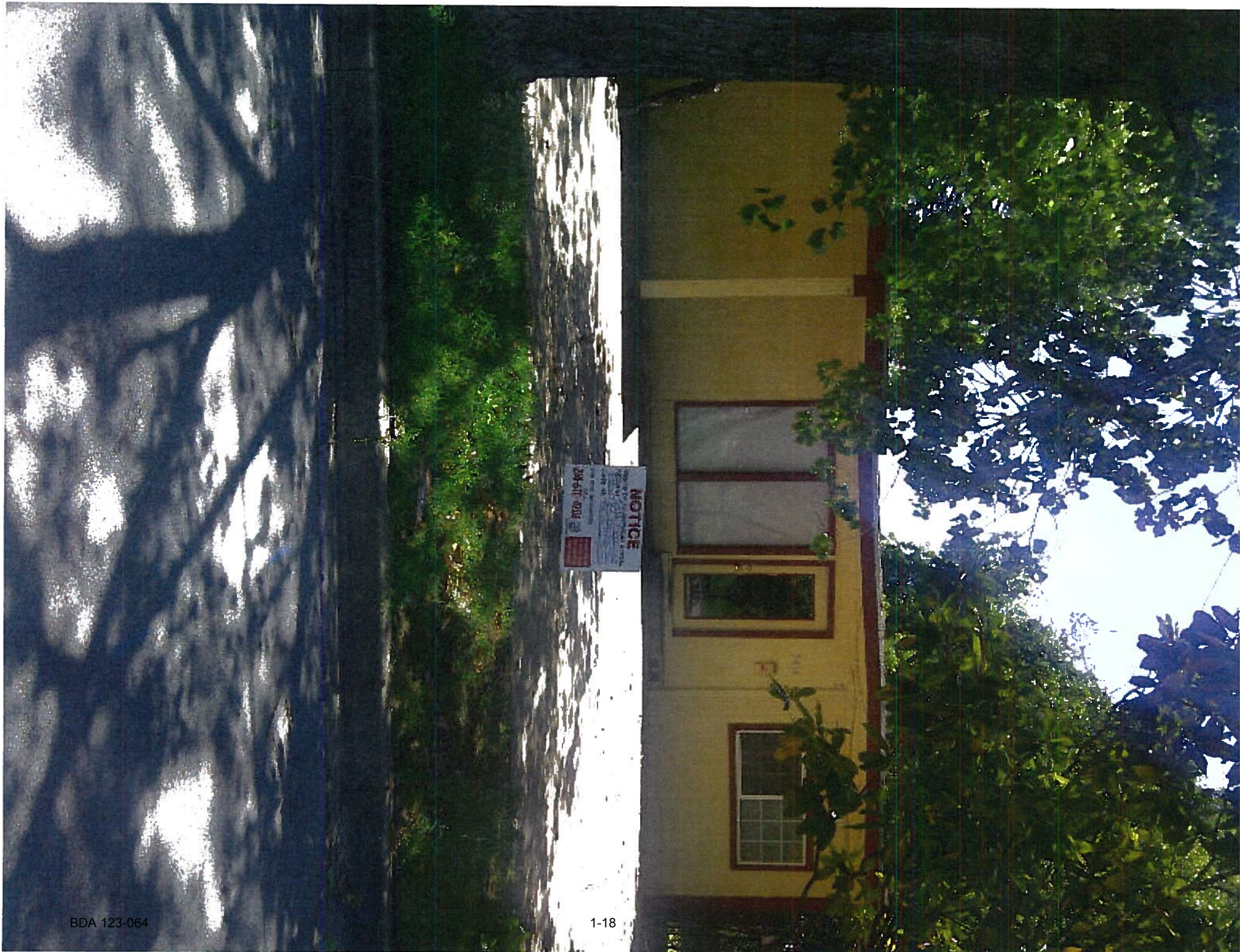
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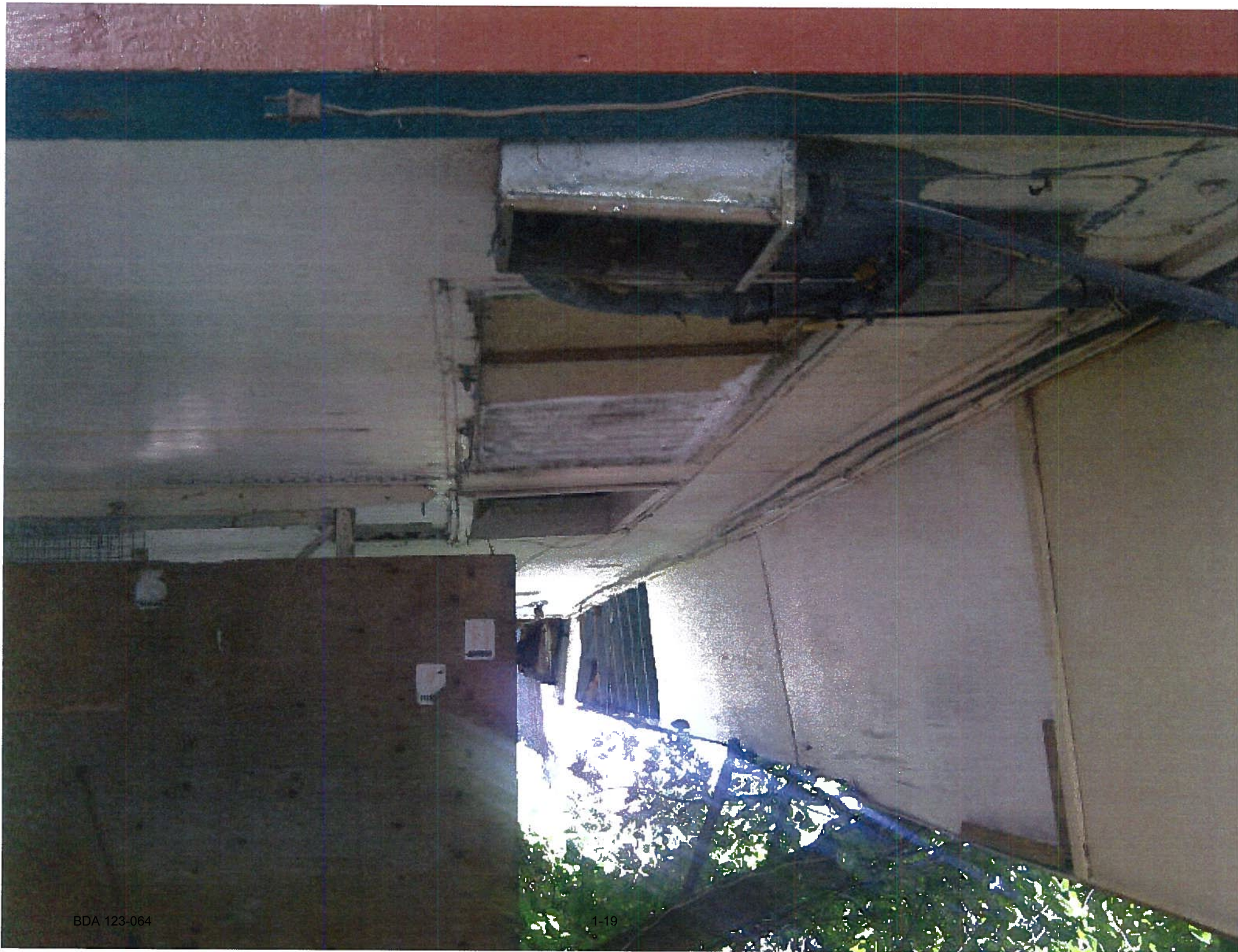
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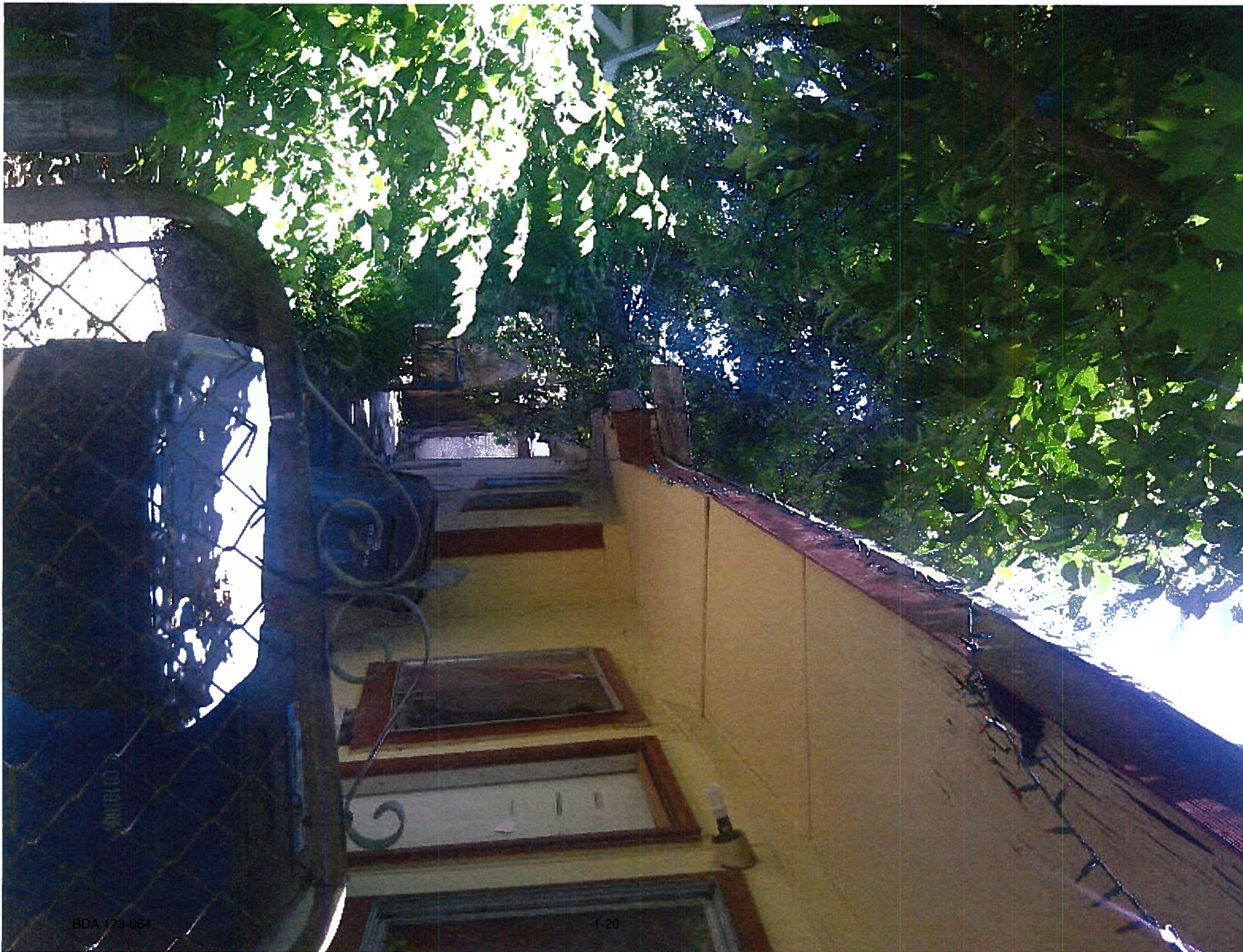
FLOOR PLAN



PRELIMINARY - NOT FINAL







5423 Melrose Avenue
Dallas, TX 75206

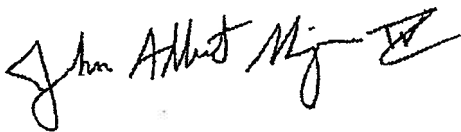
John A. Majors, IV

May 28, 2013

To Whom It May Concern:

I have owned my house at 5423 Melrose for several years and have looked forward to seeing the area developed and upgraded. Right now, there is much work to be done, but I am confident in Mr. Hunt's ability to reform the neighborhood. I realize that the new home Mr. Hunt is building at 5414 Melrose will require some variances from city requirements, and I would like to offer my support for these changes. The neighborhood has a lot of potential and seeing some of Mr. Hunt's current and previous work leads me to believe that he has the ability to make that potential a reality with the homes he is building. I look forward to seeing the progress on our block.

Thank you,



John A. Majors, IV

John A. Majors

5403 Melrose Avenue

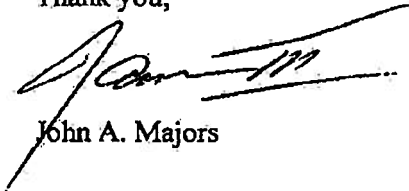
Dallas, TX 75206

May 20, 2013

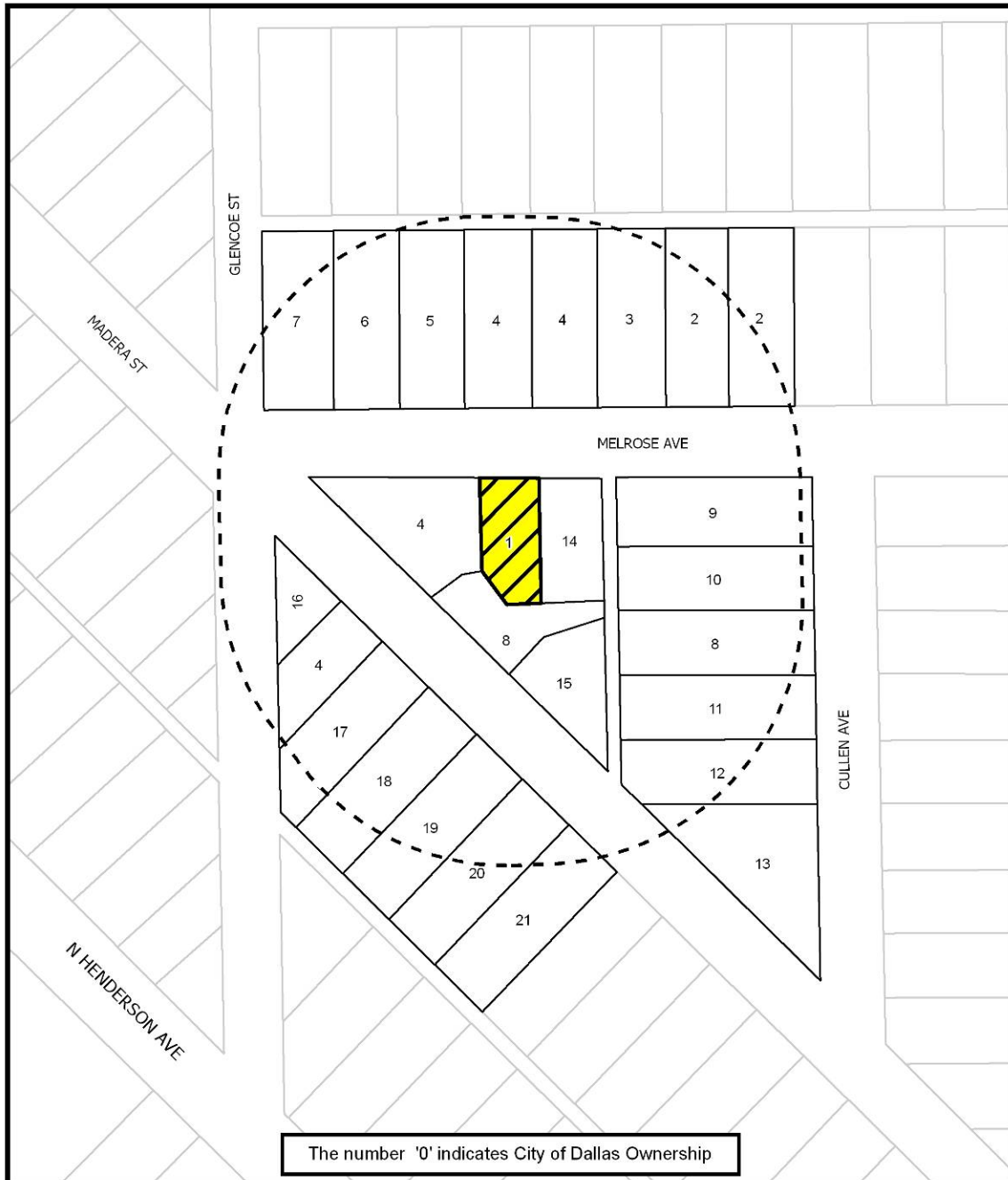
To Whom It May Concern:

As the owner of 5403 Melrose, I am very pleased to know that Mr. Hunt will be building a beautiful new home at 5414 Melrose, almost directly across the street from me. I have had the privilege of viewing the preliminary plans, and I am confident this new home will be striking. I know Mr. Hunt is requesting a variance to the front yard setback on this small lot and I hope you grant him this variance. Currently, the property is unsightly and looks as if collapse is imminent. Mr. Hunt has already begun two new construction homes in the neighborhood and has proven his proficiency in improving the area. This new home at 5414 Melrose will be a vast and appreciated improvement to our neighborhood.

Thank you,

A handwritten signature in black ink, appearing to read "John A. Majors", with a long horizontal flourish extending to the right.

John A. Majors



 1:1,200	NOTIFICATION		Case no: BDA123-064
	200' AREA OF NOTIFICATION 21 NUMBER OF PROPERTY OWNERS NOTIFIED		Date: 5/29/2013

Notification List of Property Owners

BDA123-064

21 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5414 MELROSE AVE	MORALES PABLO & DOLORES
2	5431 MELROSE AVE	ESTRELLO MARIA
3	5423 MELROSE AVE	MAJORS JOHN A IV
4	5419 MELROSE AVE	HUNT ROBERT V
5	5411 MELROSE AVE	MATA DIANA L
6	5407 MELROSE AVE	RIVERA MARGARET
7	5403 MELROSE AVE	MAJORS JOHN A III
8	2232 MADERA ST	CULLEN EDWARD V
9	2035 CULLEN AVE	SKAGGS KEN
10	2031 CULLEN AVE	CRUZ SAUL & GABRIELA
11	2023 CULLEN AVE	LOPEZ LAZARO S & SUSANA INFANTE LOPEZ
12	2019 CULLEN AVE	SANDOVAL JOSE
13	2015 CULLEN AVE	HURLEY PATRICK & SOFIA
14	5418 MELROSE AVE	GASCA GILBERT M EST OF & ISABEL
15	2228 MADERA ST	GAYTAN GUADALOPE & BERNARDINO
16	2239 MADERA ST	HOLMES JOHN B % JOHN HOLMES & CO
17	2235 MADERA ST	ISYA LTD PS
18	2231 MADERA ST	CASAS ALBERT & JUANITA
19	2227 MADERA ST	MCCLURE HEATHER
20	2221 MADERA ST	SCHNEIDER FRED K & BRENDA
21	2217 MADERA ST	ZYLKA JOE &

FILE NUMBER: BDA 123-066

BUILDING OFFICIAL'S REPORT: Application of Cole Evans to enlarge a nonconforming use at 4111 Athletic Club Drive (aka: 4111 La Prada Drive). This property is more fully described as a 310.19 acre tract of land, Tract 5, Block 8579, and is zoned A(A), which limits the legal uses in a zoning district. The applicant proposes to enlarge a nonconforming country club with private membership use, which will require a request to enlarge a nonconforming use.

LOCATION: 4111 Athletic Club Drive (aka: 4111 La Prada Drive)

APPLICANT: Cole Evans

REQUEST:

- A request is made to enlarge of a nonconforming “country club with private membership” use (Dallas Athletic Club), specifically constructing and maintaining an approximately 1,500 square foot hitting bay structure to be located in the virtual center of the approximately 310 acre subject site.

STANDARD FOR ENLARGING A NONCONFORMING USE:

The board may allow the enlargement of a nonconforming use when, in the opinion of the Board, the enlargement: 1) does not prolong the life of the nonconforming use; 2) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and 3) will not have an adverse effect on the surrounding area.

STAFF RECOMMENDATION:

No staff recommendation is made on a request to enlarge a nonconforming use since the basis for this type of appeal is based on when, *in the opinion of the Board*, the enlargement: 1) does not prolong the life of the nonconforming use; 2) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and 3) will not have an adverse effect on the surrounding area.

BACKGROUND INFORMATION:

Zoning:

Site: A (A)
North: MF-2 (A)
South: R-16 (A), R-7.5 (A), and City of Mesquite

East: MF-2 (A), R-7.5 (A), and City of Mesquite
West: R-16 (A) and R-10 (A)

Land Use:

The 310 acre subject site is developed as a “country club with private membership” use (Dallas Athletic Club). The nonconforming “country club with private membership” use contains an approximately 40,000 square foot clubhouse, two 18-hole golf courses, swimming pool, and 8 tennis courts. The areas to the north and east are developed with single family and multifamily uses; and the areas to the south and west are developed with single-family uses.

Zoning/BDA History:

1. BDA 034-101, Property at 4111 LaPrada Drive (the subject site)

On December 9, 2003, the Board of Adjustment Panel C granted a request to enlarge a nonconforming “country club with private membership” use (Dallas Athletic Club). The board imposed the following conditions: Any and all investment in the nonconforming use and/or structure housing the nonconforming use shall not be taken into consideration if and when the nonconforming use is amortized; and compliance with the submitted site plan is required. The case report stated that the 316+ acre subject site was developed as approximately 40,000 square foot clubhouse, two 18-hole golf courses, swimming pool, and 8 tennis courts); and that the proposal involved only enlarging the clubhouse component of this non-conforming use, specifically with a 1,548 square foot (or 3.5% of the total building footprint) dining room expansion, and a 3,712 square foot (or 8.5% of the total building footprint) fitness room expansion.

Timeline:

May 10, 2013: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

May 15, 2013: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel A. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."

May 15, 2013: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the May 29th deadline to submit additional evidence for staff to factor into their analysis; and the June 7th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the section from the Dallas Development Code pertaining to nonconforming uses and structures and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

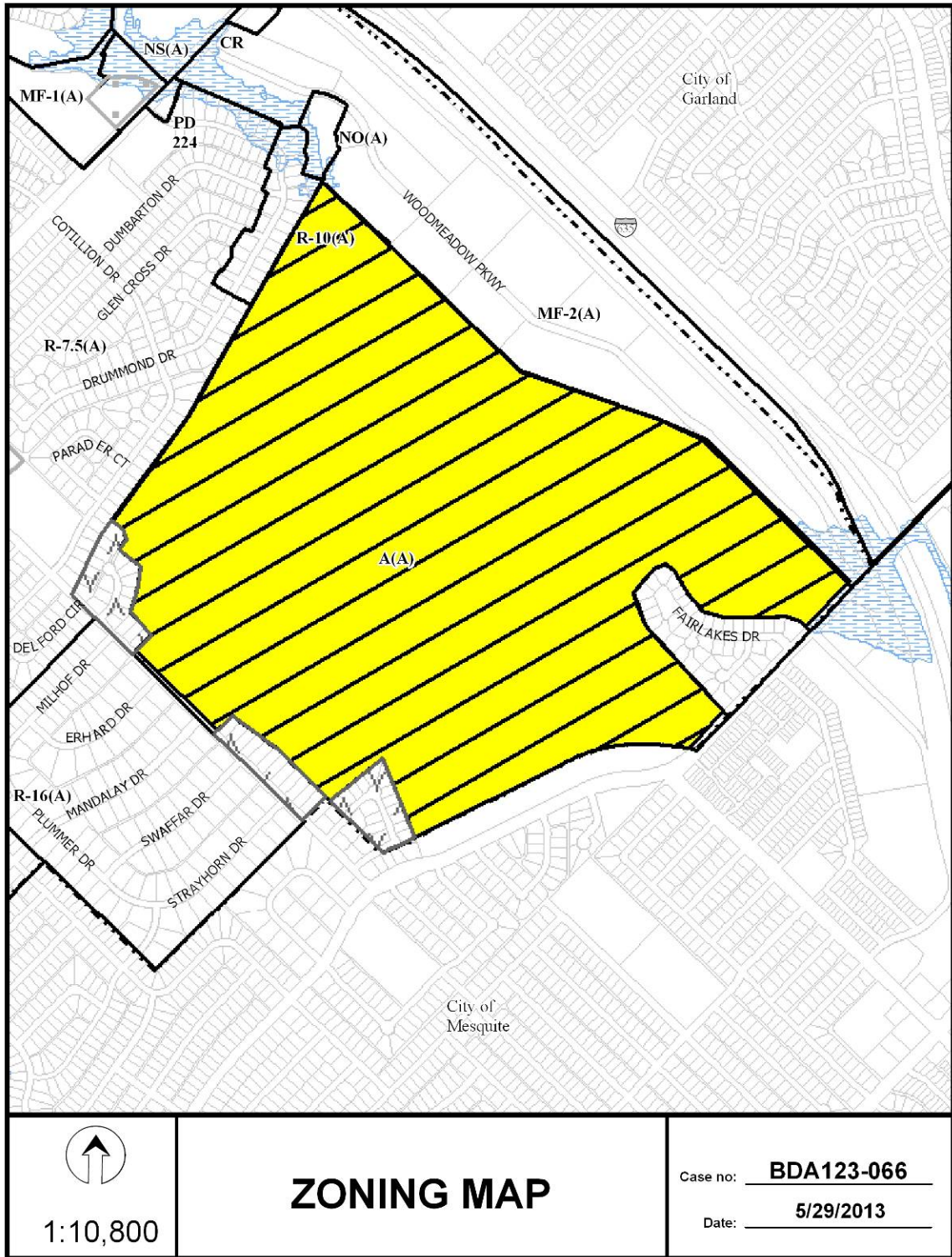
June 4, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on the enlargement of a nonconforming "country club with private membership" use (Dallas Athletic Club) on the subject site, which in this particular case, involves the construction and maintenance of an approximately 1,500 square foot hitting bay structure to be located in the virtual center of the approximately 310 acre subject site.
- The subject site is zoned A(A) (Agricultural).
- A "country club with private membership" use is not permitted in A(A) Agricultural zoning districts with an SUP (Specific Use Permit).

- A “country club with private membership” use in an A (A) Agricultural zoning district is a *conforming* use once it has obtained an SUP (Specific Use Permit) from the City Council through a public hearing process.
- The Dallas Development Code defines a nonconforming use as “a use that does not conform to the use regulations of this chapter, but was lawfully established under regulations in force at the beginning of operation and has been in regular use since that time.”
- The Dallas Development Code states that enlargement of a nonconforming use means any enlargement of the physical aspects of a nonconforming use, including any increase in height, floor area, number of dwelling units, or the area in which the nonconforming use operates.
- The applicant has submitted a site plan, a floor plan, and an elevation that depicts the location, size, function, and height of the proposed hitting bay structure within the 310 acre site that is technically the nonconforming use.
- This application is made to enlarge a nonconforming *use*. The application is *not* made to enlarge a nonconforming *structure*. The proposed hitting bay structure would be in compliance with development code standards such as setbacks, coverage requirements, height requirements, parking requirements, etc. Therefore, the proposed hitting bay structure would be a conforming structure as it relates to development code requirements, located within a broader land use classification (country club with private membership) that can only be deemed a conforming *use* once and if the zoning is changed/or an SUP is obtained.
- Records from Building Inspection Department indicate that the date in which the “country club with private membership” use became nonconforming was upon date of annexation (1954 or latter).
- A copy of a Certificate of Occupancy is included in the case file for Dallas Athletic Club (CO #9102141017) issued on October 28, 1991.
- The applicant has been informed of the Dallas Development Code provisions pertaining to “Nonconforming Uses and Structures,” and how nonconforming uses can be brought to the Board of Adjustment for amortization where if the board determines that continued operation of the use will have an adverse effect on nearby properties, it shall proceed to establish a compliance date for that nonconforming use - a compliance date that is provided under a plan whereby the owner’s actual investment in the use before the time that the use became nonconforming can be amortized within a definite time period.
- The applicant has the burden of proof to establish that the enlargement of the non-conforming use:
 1. does not prolong the life of the nonconforming use;
 2. would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and
 3. will not have an adverse effect on the surrounding area.
- If the Board were to grant this request, with a condition imposed that the applicant comply with the submitted site plan, the enlargement of the nonconforming use would be limited to what is shown on this document.




 1:10,800

ZONING MAP

Case no: **BDA123-066**
 Date: **5/29/2013**



1:10,800

AERIAL MAP

Case no: BDA123-066

Date: 5/29/2013



A

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-066

Data Relative to Subject Property:

Date: 5-10-13

Location address: 4111 Athletic Club Drive Zoning District: A(A)

Lot No.: T.F. 5 ~~N/A~~ Block No.: 8579 Acreage: 310.19 Census Tract: 0126.02 126.04

Street Frontage (in Feet): 1) 1469.79 2) 830.47 3) _____ 4) _____ 5) _____ 568

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Dallas Athletic Club, Inc.

Applicant: Cole Evans / ~~Tommy Mann / Kirk Williams~~ Telephone: (214) 745-5724

Mailing Address: 500 Winstead Building, 2728 N. Harwood Street, Dallas, TX Zip Code: 75201

E-mail Address: tmann@winstead.com

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance __, or Special Exception X, of _____
To allow for enlargement of a nonconforming use pursuant to Sec. 51A-4.704(5)

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

The club was developed prior to annexation, and as such, these improvements would have been allowed. There will be no adverse effect on surrounding properties.

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.

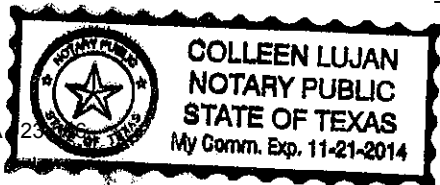
Affidavit

Before me the undersigned on this day personally appeared Cole Evans
(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.

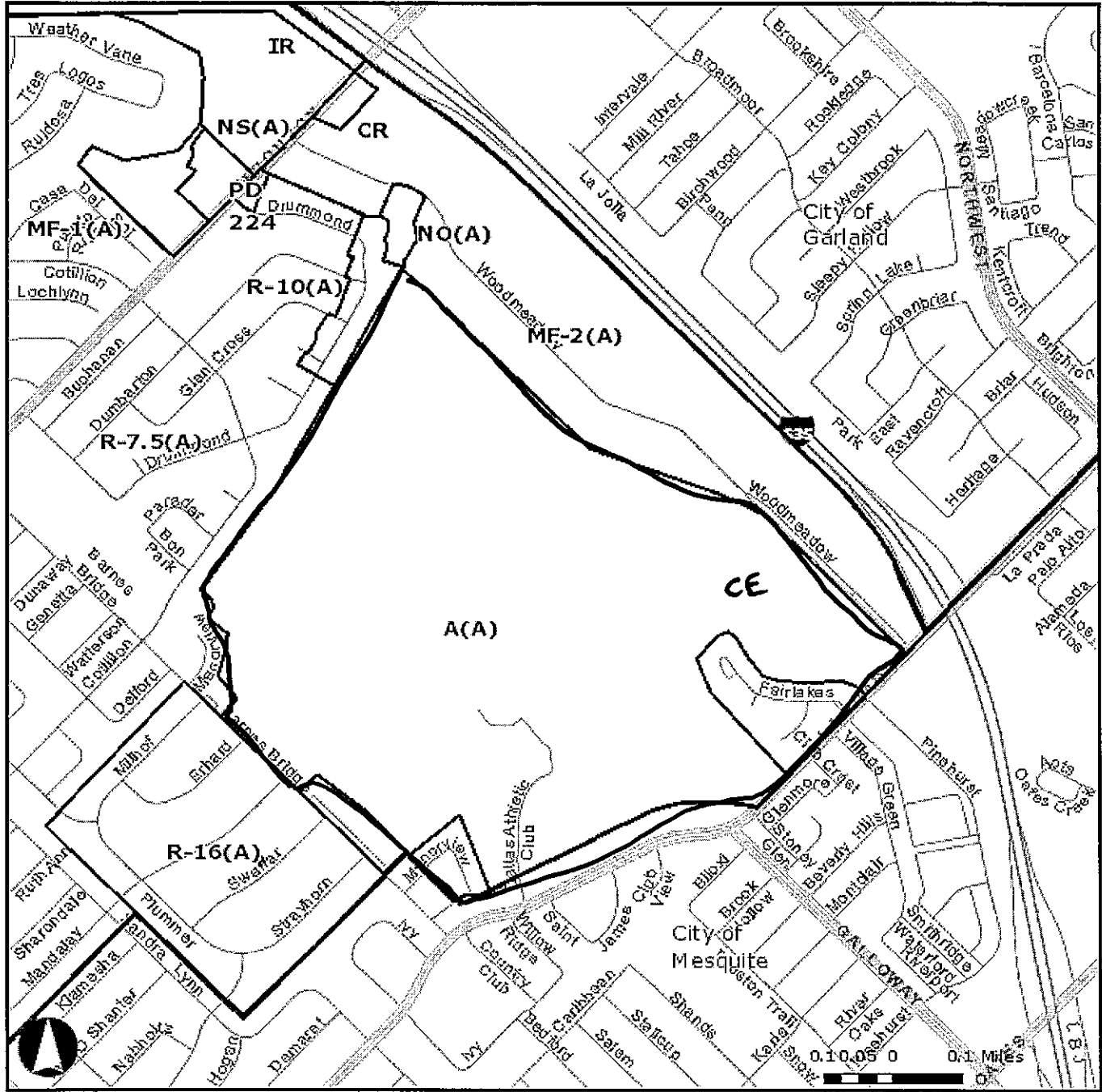
Respectfully submitted: [Signature]
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 10th day of May, 2013.



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

City of Dallas Zoning



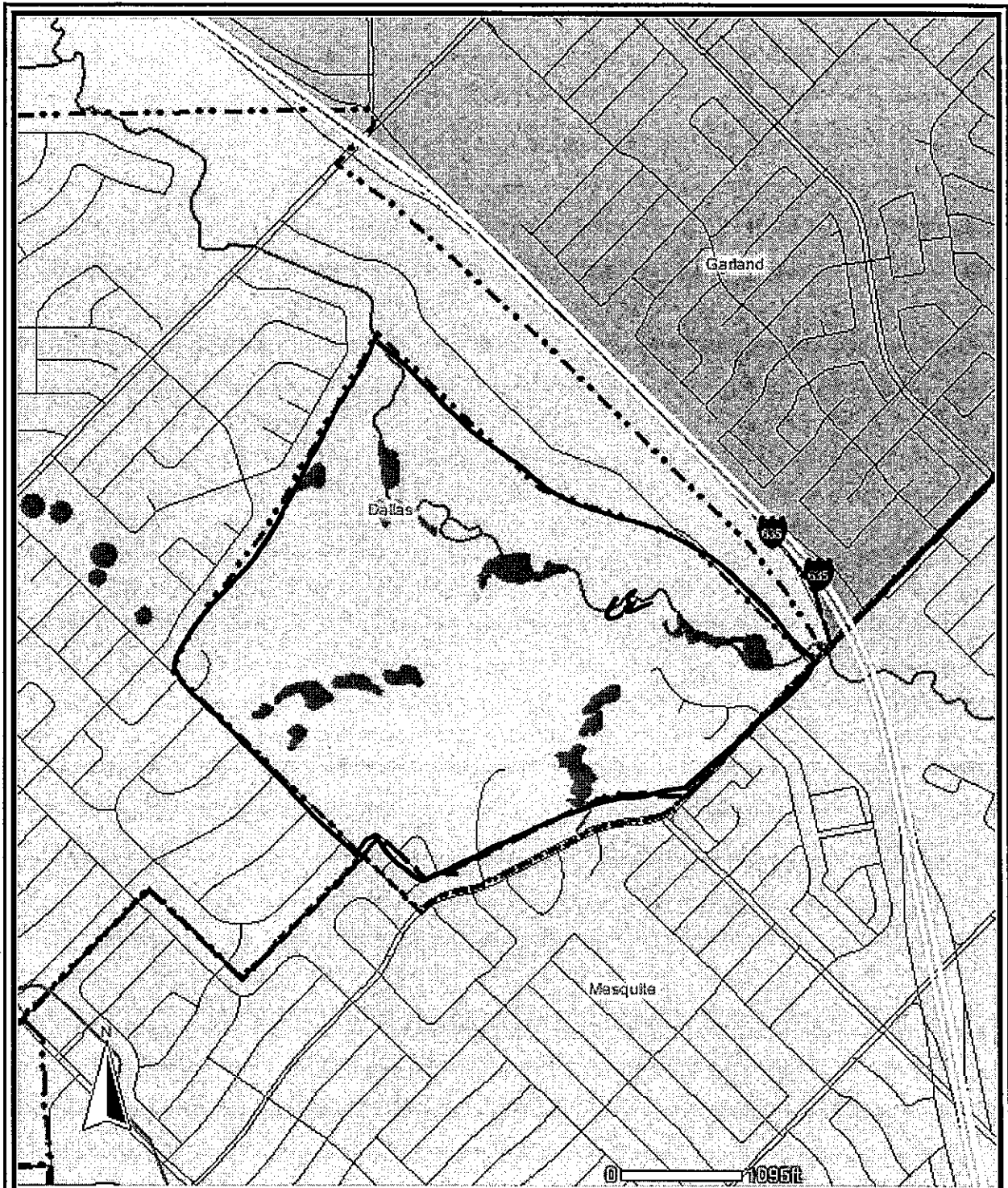
- City Boundaries
- Council Districts
- Major Lakes
- PD193 Oak Lawn
- Base Zoning

Zoning Disclaimer

The data on this website do not constitute the official zoning map of the City of Dallas. We make every effort to ensure this data is accurate and complete, but this website should not be relied on as a substitute for the official version. No development activity should be started without reference to the official version. The official version may be obtained by contacting the Sustainable Development & Construction Department.

This website may not contain the most recent changes to zoning, though updates are typically made within a week of an ordinance being passed by City Council.

If you need assistance with the website, please contact the GIS section of the Sustainable Development & Construction Department at (214) 670-3895. Questions about Zoning or other development related topics should be directed to the Building Inspection Division of the Sustainable Development & Construction Department at (214) 948-4480. The majority of data available on this website is maintained by the



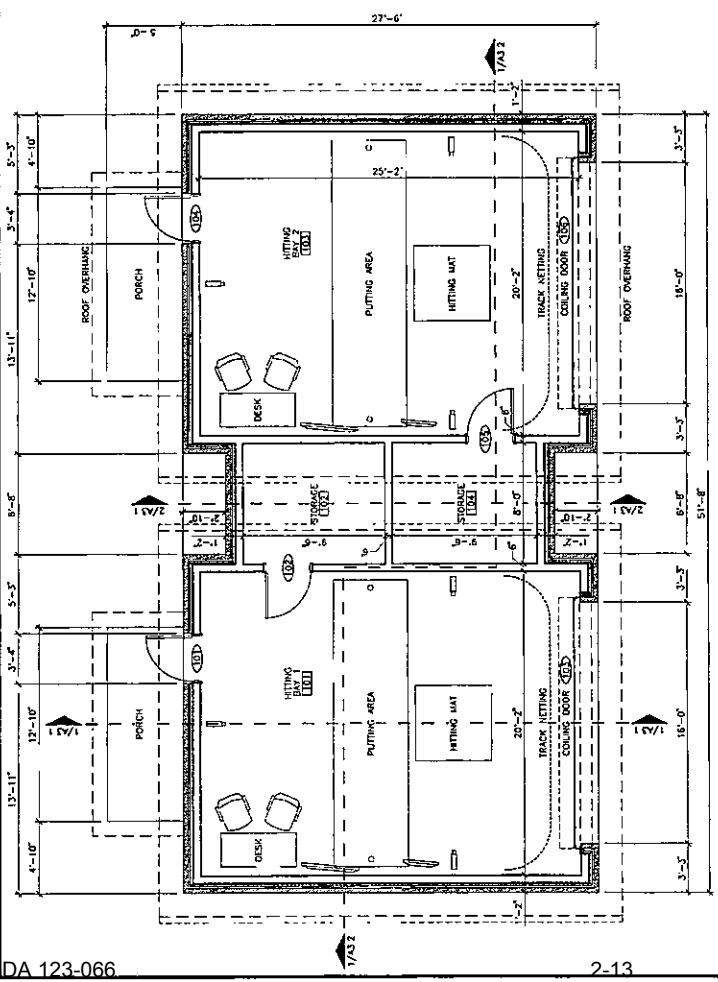
**Dallas Central
Appraisal District**
www.dallascad.org

DISCLAIMER

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

NO.	DATE	REVISION

PRELIMINARY
THIS PLAN SHEET IS ISSUED AS A PRELIMINARY DRAWING FOR INFORMATION AND FOR REGULATORY APPROVAL ONLY. IT IS NOT TO BE USED FOR CONSTRUCTION.
PREPARED BY JAMES G. GATES, AIA ON 07.03.2013
DATE OF REVISION 07.03.2013
PROJECT NO. 12111
DATE OF ISSUE 07.03.2013
DESIGNED BY JAG
DRAWN BY JAG
CHECKED BY JAG
SHEET A1.1
TOTAL SHEETS



- 6" x 20" GAGE METAL STUDS @ 15" O.C. w/ 3/4" TYPE 'X' GYPSUM BOARD INTERIOR & EXTERIOR
- ▤ TRACK NETTING
- ▨ EXTERIOR INSULATION & FINISH SYSTEM (EIFS) USING 2" THICK RIGID INSULATION BOARD

① FLOOR PLAN
 1/4" = 1'-0"



City of Dallas

Zoning Board of Adjustment

Appeal for a special exception to enlarge a nonconforming use.

Sec. 51A-4.704. Nonconforming uses and structures.

(b) Changes to nonconforming uses.

(5) Enlargement of a nonconforming use.

(A) In this subsection, enlargement of a nonconforming use means any enlargement of the physical aspects of a nonconforming use, including any increase in height, floor area, number of dwelling units, or the area in which the nonconforming use operates.

(B) The board may allow the enlargement of a nonconforming use when, in the opinion of the board, the enlargement:

- (i) does not prolong the life of the nonconforming use;
(ii) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and
(iii) will not have an adverse effect on the surrounding area.

Property address: 4111 Athletic Club Drive (Previously 4111 La Prada)

1. The nonconforming use being appealed: (7910) Country Club with Private Membership
(The use as stated on the current valid Certificate of Occupancy. Copy of C.O. attached)

2. Reason the use is classified as nonconforming: use existed prior to annexation into city; use not allowed under current zoning, A(A) without an SUP. No SUP exists.
(i.e.: Was there a change in zoning of the property or in the use requirements. Be specific.)

3. Date that the nonconforming use became nonconforming: Date of Annexation (1954 or later)
(Date the property zoning or use requirements changed.)

4. Current zoning of the property on which the use is located: A(A)

5. Previous zoning of the property on which the use is located: N/A [outside city limits]
(Applies if a zoning district change caused the use to become nonconforming.)

(Rev. 07/11/12)



Certificate of Occupancy

City of Dallas

Address: 4111 LA PRADA DR 75228 Issued Date: 10/28/1991

Owner: DALLAS ATHLETIC CLUB
000000

DBA:

Land Use: (7910) COUNTRY CLUB WITH PRIVATE MEMBERSHIP

C.O.#: 9102141017

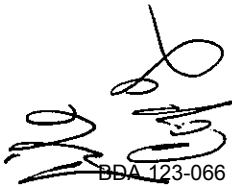
Lot:	Block:	Zoning:	AA	PDD:	0	SUP:
Historic Dist:	Consrv Dist:	Pro Park:	615	Req Park:	520	Park Agrmt:
Dwlg Units:	Stories:	Occ Code:	A21	Lot Area:	1725690	Total Area:
Type Const:	Sprinkler:	Occ Load:		Alcohol:	N	Dance Floor:

Remarks: DBA DALLAS ATHLETIC CLUB PH-357-9404/UPDATE 02/14/02 S-3 OCC.
EXPAN. 06-13-03 - PRKG UPDATED 06-13-03(SH) PERMIT #0304221036

Batsheba Antebi-Taylor

Batsheba Antebi-Taylor, Building Official

This certificate shall be displayed on the above premise at all times.
Development Services Department | Building Inspection Division | 214/948-4480 | www.dallascityhall.com



BDA 123-066

Certificate of Occupancy

Address: 4111 DALLAS ATHLETIC CLUB DR 75228

Owner: DALLAS ATHLETIC CLUB
4111 DALLAS ATHLETIC CLUB DR.
DALLAS, TX. 75228

DBA: DALLAS ATHLETIC CLUB

Land Use: (7910) COUNTRY CLUB WITH PRIVATE MEMBERSHIP

Occupied Portion:

C.O.#: 1303221077

Lot:	5	Block:	8579	Zoning:	A(A),MF-2	PDD:	SUP:
Historic Dist:		Consrv Dist:		Pro Park:	615	Req Park:	520
Dwlg Units:		Stories:		Occ Code:	MIX	Lot Area:	13503546
Type Const:	IIIA	Sprinkler:		Occ Load:		Alcohol:	N
						Total Area:	18811
						Dance Floor:	N

Remarks: SUBJECT TO FIELD INSPECTOR'S APPROVAL-ADDITION OF 1500 SQ. FT. NO CHANGE IN PARKING FROM PREVIOUS CO# 9102141017

Larry V. Holmes
Larry Holmes, Building Official

This certificate shall be displayed on the above premise at all times.



CITY OF DALLAS

AFFIDAVIT

Appeal number: BDA 123-066

I, Dallas Athletic Club, Inc., Owner of the subject property
(Owner or "Grantee" of property as it appears on the Warranty Deed)

at: 4111 ATHLETIC CLUB DR.
(Address of property as stated on application)

Authorize: Cole Evans/Tommy Mann/Kirk Williams, Winstead PC
(Applicant's name as stated on application)

To pursue an appeal to the City of Dallas Zoning Board of Adjustment for the following request(s)

 Variance (specify below)

 Special Exception (specify below)

Other Appeal (specify below)

Enlargement of noncontaining use

Brent Burkhart Brent Burkhart 5/9/2013
Print name of property owner/agent Signature of property owner/agent Date

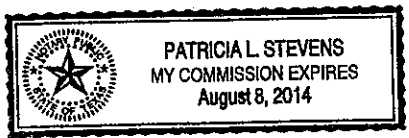
Title: General Manager
Before me, the undersigned, on this day personally appeared Brent Burkhart

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

Subscribed and sworn to before me this 9th day of May, 2013

Patricia L. Stevens
Notary Public for Dallas County, Texas

Commission expires on 8/8/2014



Long, Steve

From: Mann, Tommy [tmann@winstead.com]
Sent: Thursday, May 30, 2013 10:58 AM
To: Long, Steve
Cc: Williams, Kirk
Subject: Dallas Athletic Club Hitting Bays

Steve,

Per our conversation yesterday, the purpose of this email is to try and help you understand a bit better about the nature and use of these proposed structures. We use the term "hitting bay" because the buildings will provide areas from which club members will be able to hit golf balls. The buildings have large, retractable doors (akin to garage doors) that open and allow a golfer to hit from a turf mat out into the driving range. During inclement weather, the doors can be shut, and the golfers can hit into netting within the buildings.

Within the structure, we will have video equipment that allows the teaching pros to take video of an individual golfer's swing while hitting balls. The video can then be slowed down and evaluated to help the golfer refine and improve his/her swing. There is also an indoor putting area where a golfer's putting strokes can be similarly reviewed and analyzed. Finally, there will be a desk/sitting area within the bay as well as some storage space in between the two bays. They are single story structures with pitched roofs.

The two bays will be side-by-side and located almost directly in the middle of the 300+ acre property. They will be located such that golfers can hit from them into the existing driving range. Consequently, their impact on any surrounding property owners is extraordinarily minimal. The bays are each roughly 600-650 square feet (note: exact details of the sizes are included in the plans submitted with the request) with storage areas in between them.

Please let me know if this information is helpful for you in responding to any additional calls you may receive from surrounding property owners. If you need anything further, please do not hesitate to contact me.

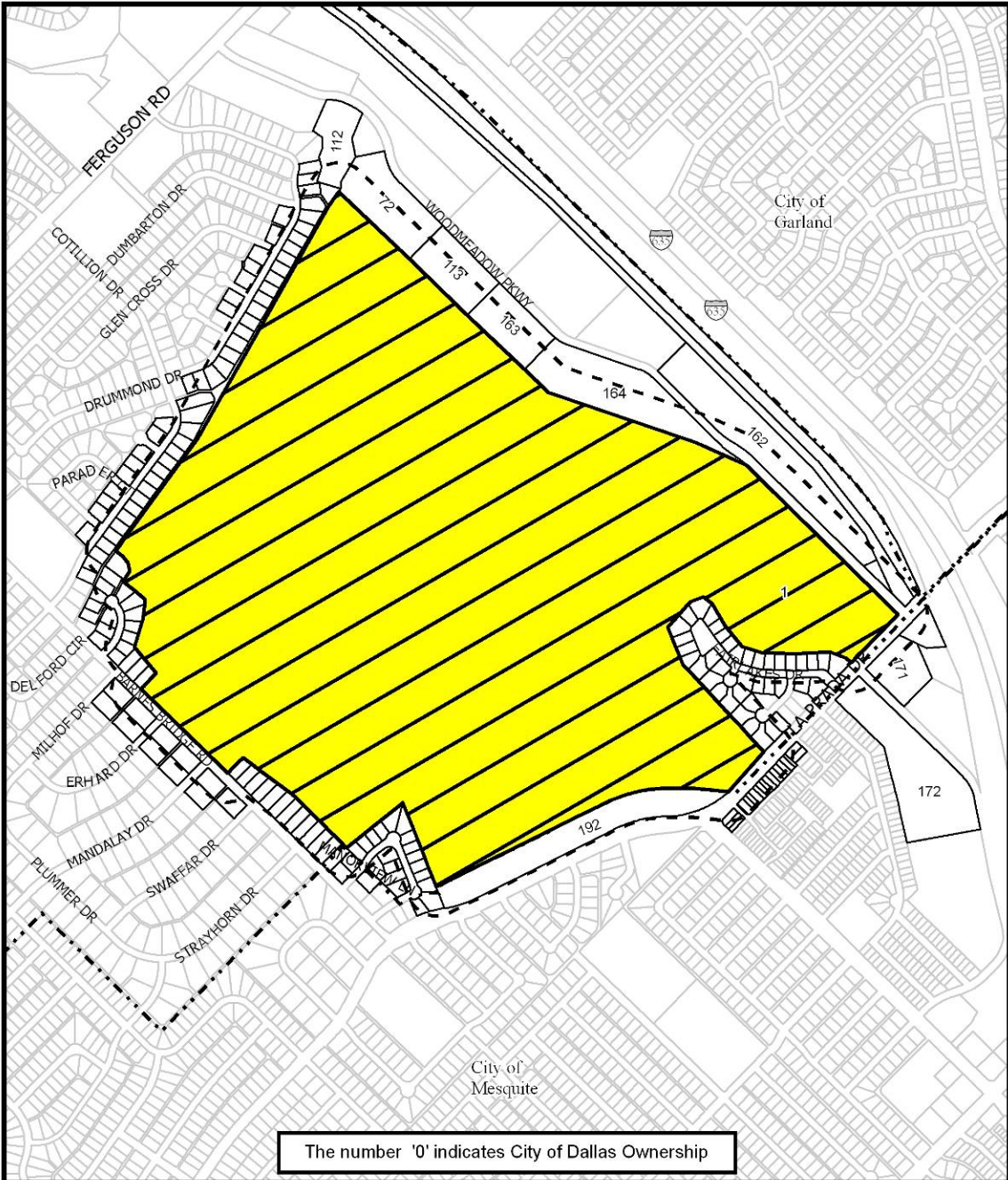
Thanks,
Tommy

Tommy Mann, Attorney

Winstead PC | 500 Winstead Building | 2728 N. Harwood Street | Dallas, Texas 75201
214.745.5724 *direct* | 214.745.5390 *fax* | tmann@winstead.com | www.winstead.com

IRS Circular 230 Required Notice--IRS regulations require that we inform you as follows: Any U.S. federal tax advice contained in this communication (including any attachments) is not intended to be used and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or tax-related matter[s].

Information contained in this transmission is attorney privileged and confidential. It is intended for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone.



 1:10,800	<h2>NOTIFICATION</h2>	Case no: BDA123-066
	<div style="display: flex; justify-content: space-between;"> <div style="border: 1px solid black; padding: 2px;">200'</div> <div>AREA OF NOTIFICATION</div> </div> <div style="display: flex; justify-content: space-between;"> <div style="border: 1px solid black; padding: 2px;">192</div> <div>NUMBER OF PROPERTY OWNERS NOTIFIED</div> </div>	Date: 5/29/2013

Notification List of Property Owners

BDA123-066

192 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4111 ATHLETIC CLUB DR	DALLAS ATHLETIC CLUB
2	11074 MILHOF DR	KENNIMER BOBBIE JO
3	11080 MILHOF DR	WOOD TERRY D &
4	11083 ERHARD DR	WOOD THOMAS S
5	11075 ERHARD DR	HEBERT LOUIS G JR & MARY
6	11076 ERHARD DR	WRIGHT HARRY J FAMILY LIVING TRUST
7	11084 ERHARD DR	ANDERSON DAVID D
8	11081 MANDALAY DR	DILLON DENNIS & DEBORAH
9	11073 MANDALAY DR	WHITE ROBERT GARY
10	11072 MANDALAY DR	DONALD PAUL & MARTHANNA
11	11080 MANDALAY DR	POKLADNIK ROBERT J EST OF % THERESA POKL
12	11077 SWAFFAR DR	BUSH DORIS K
13	11225 COTILLION DR	BLACK MARVIN T & ROSEMARY H
14	11221 COTILLION DR	SCHLACHTER THOMAS P & MARGARET MARSHALL
15	11209 COTILLION DR	MAYES ROBERT H
16	11205 COTILLION DR	FRANCO MARINA M
17	11201 COTILLION DR	CERVANTES PEDRO
18	3602 BON PARK CT	OSTLUND DONALD LEE & THELMA LUCY
19	11463 DRUMMOND DR	ARCE ELEAZIN
20	11469 DRUMMOND DR	SOLANO MARCIE LEE
21	11499 DRUMMOND PL	VIDAL ERIC VINCENT
22	11517 DRUMMOND DR	SLATER ROY S & NANCY G
23	11527 DRUMMOND DR	YOUNG HEATHER D
24	11410 DRUMMOND DR	HOES RICHARD JR
25	11416 DRUMMOND DR	JORDAN EDWIN E & NANCY N
26	11420 DRUMMOND DR	CHESHIRE CHARLES I

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	11426 DRUMMOND DR	LANE SUZANNE
28	11430 DRUMMOND DR	BENSON CARL R
29	11440 DRUMMOND DR	SCOTT WILLIAM J
30	11450 DRUMMOND DR	KAY CHARLES W & FRANCES E
31	11460 DRUMMOND DR	GONZALEZ JOSEPH & MARTHA
32	11468 DRUMMOND DR	COLGIN MICHAEL T & ELLEN
33	11506 DRUMMOND DR	MORENO ANA E
34	11512 DRUMMOND DR	WALKER FALISHIA
35	11518 DRUMMOND DR	PEREZ RODOLFO V
36	11524 DRUMMOND DR	MARIETTI BERT J REVOCABLE LIVING TRUST
37	11530 DRUMMOND DR	WYNN TOM S SR
38	11536 DRUMMOND DR	HIBBS CHRISTOPHER GERARD
39	11542 DRUMMOND DR	MAYS R KORBIN
40	11548 DRUMMOND DR	CASTRO LUIS A
41	11554 DRUMMOND DR	PURSUR ROBERT W & CHERI Z
42	11560 DRUMMOND DR	MCCUNE H RALPH
43	11568 DRUMMOND DR	FRIERSON MELBA L
44	11570 DRUMMOND DR	DORFMAN DEV CO # 297
45	11574 DRUMMOND DR	LUNA EVANGELINA
46	11580 DRUMMOND DR	KILGORE MARY J
47	11139 COTILLION DR	WHITTEMORE GARY C
48	11137 COTILLION DR	GOMEZ SANDRA G
49	11133 COTILLION DR	RIEDEL PATRICIA KWILOSZ
50	11114 COTILLION DR	HALL BERGEN B & BEATRICE MOORE HALL
51	11118 COTILLION DR	STRICKLER MARK
52	11122 COTILLION DR	NORRIS JEFF C & SALLY M
53	11126 COTILLION DR	GONZALES JOSEPHINE M
54	11130 COTILLION DR	BOONE MARTHA
55	11134 COTILLION DR	SAVANT MARY GWENDOLYN
56	11138 COTILLION DR	MONTEMAYOR HOMERO &
57	11140 COTILLION DR	GARZA PETE & MARIA R

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
58	11202 COTILLION DR	SANCHEZ MIGUEL & ROCIO L
59	11204 COTILLION DR	CELIS ELLIE MAY & FELIPE I
60	11206 COTILLION DR	PADILLA JOSE
61	11210 COTILLION DR	WARD ANGELA R &
62	11214 COTILLION DR	PRESLEY CONNIE M
63	11220 COTILLION DR	ROBINSON DANA
64	11224 COTILLION DR	LOHRENGEL JOHN A
65	11226 COTILLION DR	MALOUF LOUIS N
66	11228 COTILLION DR	ALANIZ FILIBERTO & CRUZ ADRIANA ALANIZ
67	11230 COTILLION DR	COALSON JAMES C
68	11554 DUMBARTON DR	SNIDER ANGELA
69	11543 GLEN CROSS DR	KIMBRELL J LON
70	10800 LBJ FWY	TEXAS UTILITIES ELEC CO % STATE & LOCAL
71	11200 LBJ FWY	TEXAS UTILITIES ELECTRIC CO % STATE & LO
72	11201 WOODMEADOW PKWY	VILLA JOLLA PARTNERS LP SUITE 148
73	4035 FAIRLAKES DR	BELK GEORGE J & CYNTHIA K
74	4031 FAIRLAKES DR	SUAN WESLEY K
75	4027 FAIRLAKES DR	HICKEY JO FRANCES
76	4023 FAIRLAKES DR	DAVIS LARRY K & BILLIE SUE DAVIS
77	4019 FAIRLAKES DR	FLOWERS JOHN L JR
78	4015 FAIRLAKES DR	HAYDEN BILLY D
79	4011 FAIRLAKES DR	JAMESON ROBERT E
80	4007 FAIRLAKES DR	DRINKWATER HENRY & BILLYE KAY
81	4003 FAIRLAKES DR	STEM HERB L & VIRGINIA D
82	3927 FAIRLAKES DR	OLDHAM ARCHIE R & KATHLEEN D
83	3923 FAIRLAKES DR	HATHAWAY CHARLES R
84	3919 FAIRLAKES DR	GREVE WALTER W & LOIS I
85	3915 FAIRLAKES DR	HOPPER BENNY D
86	3911 FAIRLAKES DR	SMITH MATTIE LOU
87	3907 FAIRLAKES DR	GIBSON H R JR
88	3903 FAIRLAKES DR	DOANE ROBERT F & TRACI L

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
89	3904 FAIRLAKES DR	STONE CHRISTOPHER A & SUSAN G
90	3908 FAIRLAKES DR	TUCKER BILL F & KATHRYN B
91	3912 FAIRLAKES DR	STOVALL BOBBY W
92	3916 FAIRLAKES DR	HAAS STEVEN M & DEBBIE
93	3920 FAIRLAKES DR	WALKER SIDNEY R
94	3922 FAIRLAKES DR	PEREZ NAHIN S
95	3924 FAIRLAKES CIR	BENNETT GARY E
96	3928 FAIRLAKES CIR	CASEY JACK
97	3932 FAIRLAKES CIR	JOUVENAT JAMES W & GAIL C
98	3936 FAIRLAKES CIR	LEE K BLAINE & NELDA J
99	3940 FAIRLAKES CIR	FULLINGTON GARY & CYNTHIA
100	3944 FAIRLAKES CIR	PARADOWSKI CHARLES E JR & DIANE M
101	4008 FAIRLAKES DR	WEST COY G & BEVERLY
102	4012 FAIRLAKES DR	GUERRERO BEN H & KATHLEEN C
103	4016 FAIRLAKES DR	WETSEL KENNETH B & LINDA
104	4121 FAIRLAKES CT	BROS FRED L
105	4125 FAIRLAKES CT	PINNER RICHARD L
106	4128 FAIRLAKES CT	GONZALEZ ANGEL NOE & MARLA DLOLA
107	4124 FAIRLAKES CT	FOX ROGER A & MARTHA J
108	4122 FAIRLAKES CT	LEINART WILLIAM E & CYNTHIA M
109	4120 FAIRLAKES CT	SELF MELISSA A
110	4024 FAIRLAKES DR	RITTER JAMES T & LYNDIA T
111	4028 FAIRLAKES DR	STATELER SIDNEY D & NANCY
112	11323 WOODMEADOW PKWY	CCP & J TRUST
113	11111 WOODMEADOW PKWY	GABLEPOINT APTS LTD SUITE A
114	11132 MANORVIEW CIR	LEACH CARL MICHAEL & MARSHA C
115	11111 MANORVIEW CIR	JOUBRAN MICHAEL & PAULETTE JOUBRAN
116	11107 MANORVIEW CIR	ESTES ELIZABETH A
117	11103 MANORVIEW CIR	THURSTLIC DAVID M & LINDA D MATTSSON
118	11119 MANORVIEW CIR	RACE DAVID & LINDA
119	11123 MANORVIEW CIR	POPE THERESA A

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
120	11127 MANORVIEW CIR	PARET SANDRA M
121	11140 MANORVIEW CIR	TURNHAM DAVID & LORI MARTIN
122	11136 MANORVIEW CIR	BIESEL JERRY W & ELIZABETH S BIESEL
123	11128 MANORVIEW CIR	CLARK DOUG
124	11124 MANORVIEW CIR	FRANK WILLIAM H & LENORE
125	11120 MANORVIEW CIR	LAWLER WILLIAM R & DELMA LAWLER
126	11116 MANORVIEW CIR	BAIRD BONNIE
127	11112 MANORVIEW CIR	WALL FREDA MAE
128	11108 MANORVIEW CIR	HEBERT GERALD E & DANA R
129	11104 MANORVIEW CIR	HOLLAND DENTON R & PATRICIA ANN
130	3808 BARNES BRIDGE RD	PAYNE CLARENCE F LF EST & ANDREA DALE PA
131	3812 BARNES BRIDGE RD	BAGELMAN BRUCE E & BRENDA F
132	3816 BARNES BRIDGE RD	RUCKER INEZ D
133	3908 BARNES BRIDGE RD	HAWKINS DWIGHT H & PATTI HAWKINS
134	3912 BARNES BRIDGE RD	HOPKINS JOY
135	3916 BARNES BRIDGE RD	HESTON STAN & SUSAN
136	3920 BARNES BRIDGE RD	BLAIR JUNE
137	3924 BARNES BRIDGE RD	HERBERT ANDREW J & JUDITH A
138	3928 BARNES BRIDGE RD	BRORSON LEROY H
139	3932 BARNES BRIDGE RD	PRECISE HUEY ETAL
140	3936 BARNES BRIDGE RD	CAMPBELL WANDA J
141	3940 BARNES BRIDGE RD	RODGERS ARVEL H ETAL
142	4004 BARNES BRIDGE RD	BOWMAN JOHN R II
143	4008 BARNES BRIDGE RD	BARZ WALTER & DELORES
144	4012 BARNES BRIDGE RD	BENSON SAM P & FIFI C
145	4112 MANORVIEW LN	SPRINGFIELD WILLIAM R
146	4140 MANORVIEW LN	FOWLER RANDY KENT & MARY CANDACE
147	4144 MANORVIEW LN	LAVASSEUR PAUL R & NANCY G
148	4148 MANORVIEW LN	WAGES RONALD E & CONNIE J
149	4152 MANORVIEW LN	SOPIANAC IVANA STEGNAR
150	4155 MANORVIEW LN	MURPHY FRED P & BRENDA M

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
151	4151 MANORVIEW LN	WISENER RANDOLPH N & BARBARA L
152	4147 MANORVIEW LN	IDOM RONALD & AVA A
153	4143 MANORVIEW LN	REED DONALD & VIRGINIA
154	4139 MANORVIEW LN	TRAN NHIEN D & THUY B
155	4135 MANORVIEW LN	CHUBB GARY & JANET
156	4131 MANORVIEW LN	RUBY LEN & PEGGY
157	4127 MANORVIEW LN	GRAHAM PAMELA GAIL
158	4123 MANORVIEW LN	HECKMANN DON C
159	4119 MANORVIEW LN	MANN DAVID K & MARY K
160	4115 MANORVIEW LN	BEANE JERRY L & LINDA A BEANE
161	4111 MANORVIEW LN	QUILLIN T A
162	10700 WOODMEADOW PKWY	GC APARTMENTS LLC % KC KRONBACH
163	11011 WOODMEADOW PKWY	ROSE FAIRWAY GREENS LP STE 215
164	10911 WOODMEADOW PKWY	BIRCHMONT HAMPTON GREENS STE 1450
165	4103 MANORVIEW LN	WATSON MARILLA & LAWRENCE
166	4107 MANORVIEW LN	SCHWEERS RONALD G
167	4016 BARNES BRIDGE RD	HOLT THOMAS R & JULIE A
168	4108 MANORVIEW LN	CARROLL MICHAEL L
169	4163 MANORVIEW LN	CASHWELL BARBARA
170	4159 MANORVIEW LN	GIBBENS JANET
171	2200 LA PRADA DR	CROSSROADS CHURCH OF THE NAZARENE
172	1901 PINEHURST LN	IMT HI LAPRADA LP
173	5545 STONEY GLEN DR	COOPER REBECCA
174	5541 STONEY GLEN DR	JOANNA L FARRAR
175	5537 STONEY GLEN DR	LIND CAROLYN A
176	2645 GLENMORE DR	BOULTER EUGENE D
177	2641 GLENMORE DR	COX FRED G & JAN
178	2637 GLENMORE DR	CORTEZ ROMAN & CORTEZ MERCEDES
179	2633 GLENMORE DR	KENNEDY GARY G
180	2629 GLENMORE DR	FLETCHER ADA J
181	2625 GLENMORE DR	BAKER JEREMY ZANE & TERESA CAROL

5/29/2013

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
182	2621 GLENMORE DR	SMITH THELMA T
183	2617 GLENMORE DR	MASSEY MIKEL JOSEPH
184	2613 GLENMORE DR	KAUTISZCH KELLIE NELSON KELLIE NELSON FA
185	2609 GLENMORE DR	BREDLAU MARY CROW P PMB 149
186	2605 GLENMORE DR	MCDANIEL MARY ETTA
187	2601 GLENMORE DR	TARVER DONALD A & ALICE MCGUIRE
188	9002 GLENMORE DR	BRISTOL ON THE PARK H O %PRINCIPALL MGMT
189	5545 CLUB CREST DR	CADENA ANTHONY D
190	5541 CLUB CREST DR	SAINT CLAIR PATRICIA & GLENN
191	1751 OATES DR	TEXAS STATE OF
192	2700 LA PRADA DR	DALLAS ATHLETIC CLUB

FILE NUMBER: BDA 123-045

BUILDING OFFICIAL'S REPORT: Application of Robert Reeves of Robert Reeves and Associates for a variance to the side yard setback regulations at 5810 Meadowcrest Drive. This property is more fully described as Lot 1, Block C/6384, and is zoned R-16(A), which requires a side yard setback of 10 feet. The applicant proposes to construct and/or maintain structures and provide a 3 foot 9 inch side yard setback, which will require a variance to the side yard setback regulations of 6 feet 3 inches.

LOCATION: 5810 Meadowcrest Drive

APPLICANT: Robert Reeves of Robert Reeves and Associates

REQUEST:

A variance to the side yard setback regulations of 6' 3" is requested in conjunction with maintaining an "open-air pavilion/covered patio area" and "fountain" structures on a site developed with a single family home, part and/or all of which is located in the site's western 10' side yard setback.

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

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

Rationale:

- The lot's irregular shape precludes the applicant from developing it in a manner commensurate with other developments found on similarly-zoned R-16(A) lots that are regular in shape.
- Granting this variance with the revised site plan/elevation being imposed as a condition does not appear to be contrary to the public interest since the variance would only allow about 1/3 (or approximately 150 square feet) of an approximately 480 square foot "open-air pavilion/covered patio area" building footprint, and three, 4 square foot, 4' high "fountain" structures in the site's 10' side yard setback on the west side of the property.

BACKGROUND INFORMATION:

Zoning:

Site: R-16 (A) (Single family district 16,000 square feet)
North: R-16 (A) (Single family district 16,000 square feet)
South: R-16 (A) (Single family district 16,000 square feet)
East: R-16 (A) (Single family district 16,000 square feet)
West: R-16 (A) (Single family district 16,000 square feet)

Land Use:

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

Zoning/BDA History:

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

Timeline:

- March 21, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- April 16, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- April 17, 2013: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the May 1st deadline to submit additional evidence for staff to factor into their analysis; and the May 10th deadline to submit additional evidence to be incorporated into the Board's docket materials;

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

May 1, 2013: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

May 7, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

May 21, 2013: The Board of Adjustment Panel C conducted a public hearing on this application. The Board held the request under advisement until June 18, 2013 in order for staff to attempt to obtain a five member panel that could hear the application on this date.

May 24, 2013: The Board Administrator sent a letter to the applicant's representative noting the May 21st action of the Board, the May 29th deadline to submit any new information for staff review, and the June 7th deadline to submit additional evidence to be incorporated into the Board's docket materials.

June 10, 2013: The applicant sent an email to the Board Administrator that stated how he decided at the beginning to make the board of adjustment variance application first, primarily because he thought it would be the more difficult process and the client did not want to spend the significant amount of money for the plat until he knew he had board approval, and that his intent was to immediately proceed with preparing and filing the re-plat once (and if) he got approval from the board of adjustment. The applicant stated if the Board grants the variance, he will only make a re-plat application to amend the building line and wrap it around the area where the violation occurs instead of removing the entire 20' building line along Jamestown, as he had successfully done for other clients in the past.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on an “open-air pavilion/covered patio area” and “fountain” structures on a site developed with a single family home, part and/or all of which is located in the site’s western 10’ side yard setback.
- Structures on lots zoned R-16(A) are required to provide a minimum side yard setback of 10’. (Note that this site has a 20 foot platted building line along Jamestown Road that the applicant is requesting the City Plan Commission to remove hence the request for a variance to the 10’ side yard setback required on this property zoned R-16(A)).
- A revised site plan/elevation document has been submitted denoting a portion of the approximately 480 square foot “open-air pavilion/covered patio area” and all three of the approximately 4 square foot, 4 foot high “fountain” structures located in the 10’ side yard setback on the west side/Jamestown Road side of the subject site. The nearest of these structures is located as close as 3.8’ from the site’s side property line or as much as 6.2’ into the 10’ side yard setback.
- It appears from calculations taken from the submitted revised site plan/elevation document by the Board Administrator that approximately 1/3 (or approximately 150 square feet) of the approximately 480 square foot “open-air pavilion/covered patio area” building footprint, and each of the approximately 4 square foot, 4’ high “fountain” structures are located in the site’s 10’ side yard setback on the west side of the property.
- According to DCAD records, the “main improvements” at 5810 Meadowcrest Drive is a structure built in 2007 with 6,588 square feet of living area and 6,588 square feet of total area. According to DCAD records, the “additional improvements” at 5810 Meadowcrest Drive is an 894 square foot attached garage and a pool.
- The subject site is irregular in shape (approximately 137’ on the north; approximately 42’ on the south; approximately 181’ on the east; and approximately 206’ on the west), flat, and according to the application, is 19,282 square feet in area. The site is zoned R-16(A) where lots are typically 16,000 square feet in area.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-16(A) 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 R-16(A) zoning classification.
- If the Board were to grant the variance request and impose the submitted revised site plan/elevation as a condition, the structures in the side yard setback would be limited to what is shown on this document– which are structures located as close as

- 3' 9" from the site's western side property line (or as much as 6' 3" into the 10' side yard setback).

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

BOARD OF ADJUSTMENT ACTION: MAY 21, 2013

APPEARING IN FAVOR: Robert Reeves, 900 Jackson St., Ste 160, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Hounsel**

I move that the Board of Adjustment, in Appeal No. **BDA 123-045**, hold this matter under advisement until **June 18, 2013**.

SECONDED: **Gaspard**

AYES: 4– Moore, Schweitzer, Hounsel, Gaspard

NAYS: 0 -

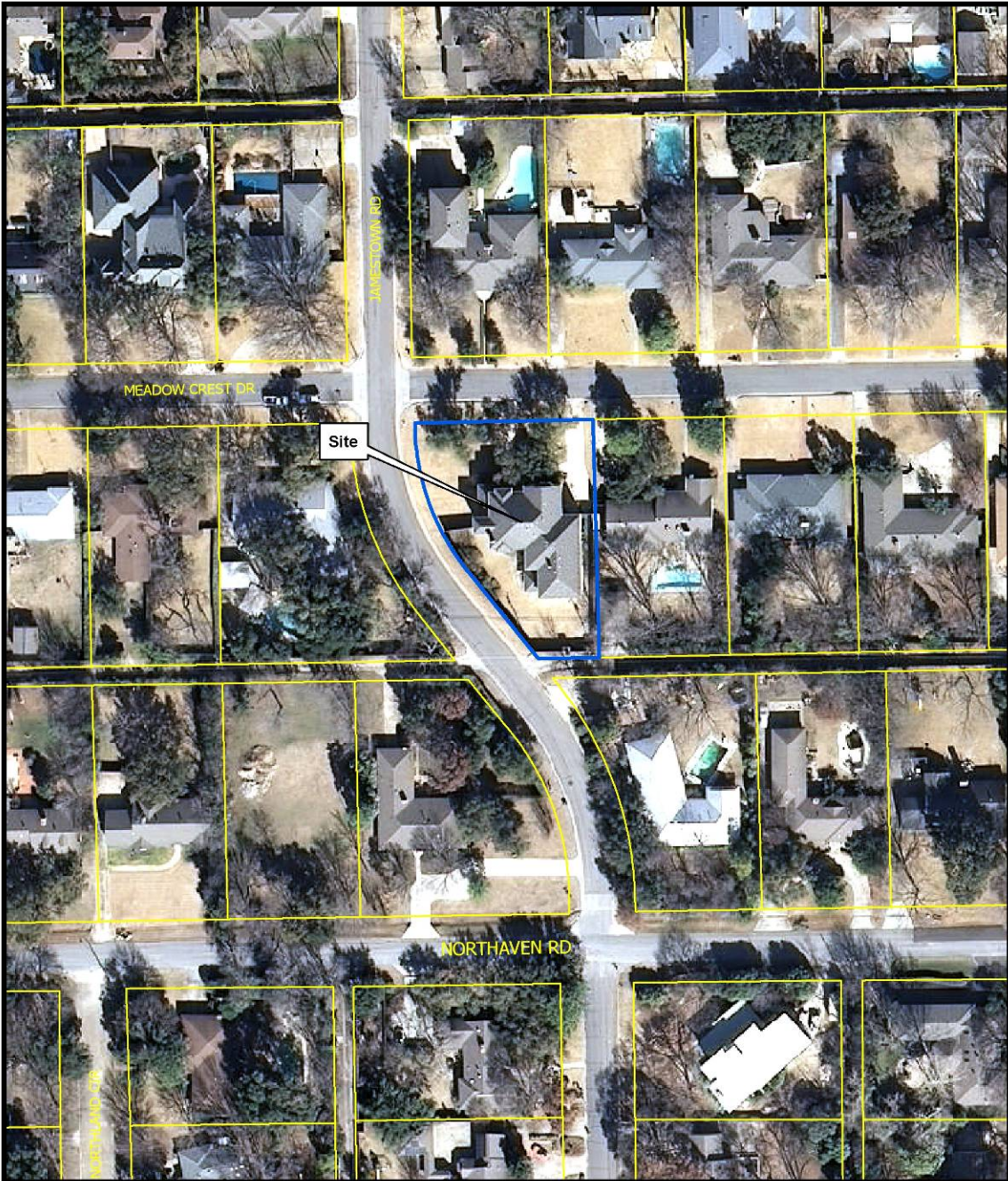
MOTION PASSED: 4– 0(unanimously)



1:1,200

ZONING MAP

Case no: BDA123-045
 Date: 5/1/2013



 1:1,200	<h1>AERIAL MAP</h1>	Case no: <u>BDA123-045</u> Date: <u>5/1/2013</u>
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CITY OF DALLAS, TEXAS
5810 MEADOW CREST

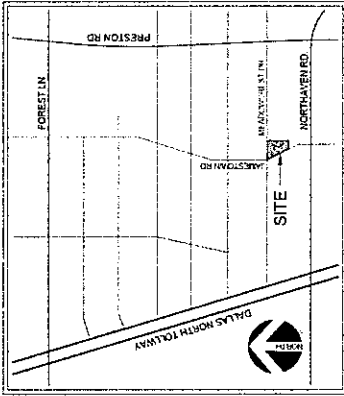
Baldwin
Associates

BALDWIN
ASSOCIATES

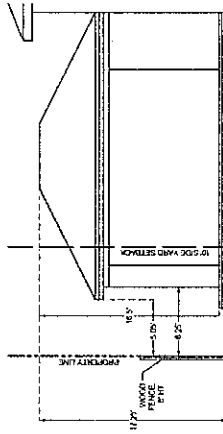
3904 Elm Street, Suite B
Dallas, Texas 75226
OFFICE: 214.529.7849
MOBILE: 214.529.7849
job@baldwinplanning.com

PROJECT NUMBER
04/30/13

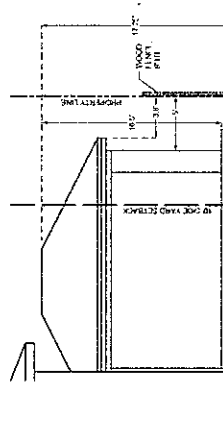
CASE NUMBER



VICINITY MAP
NTS

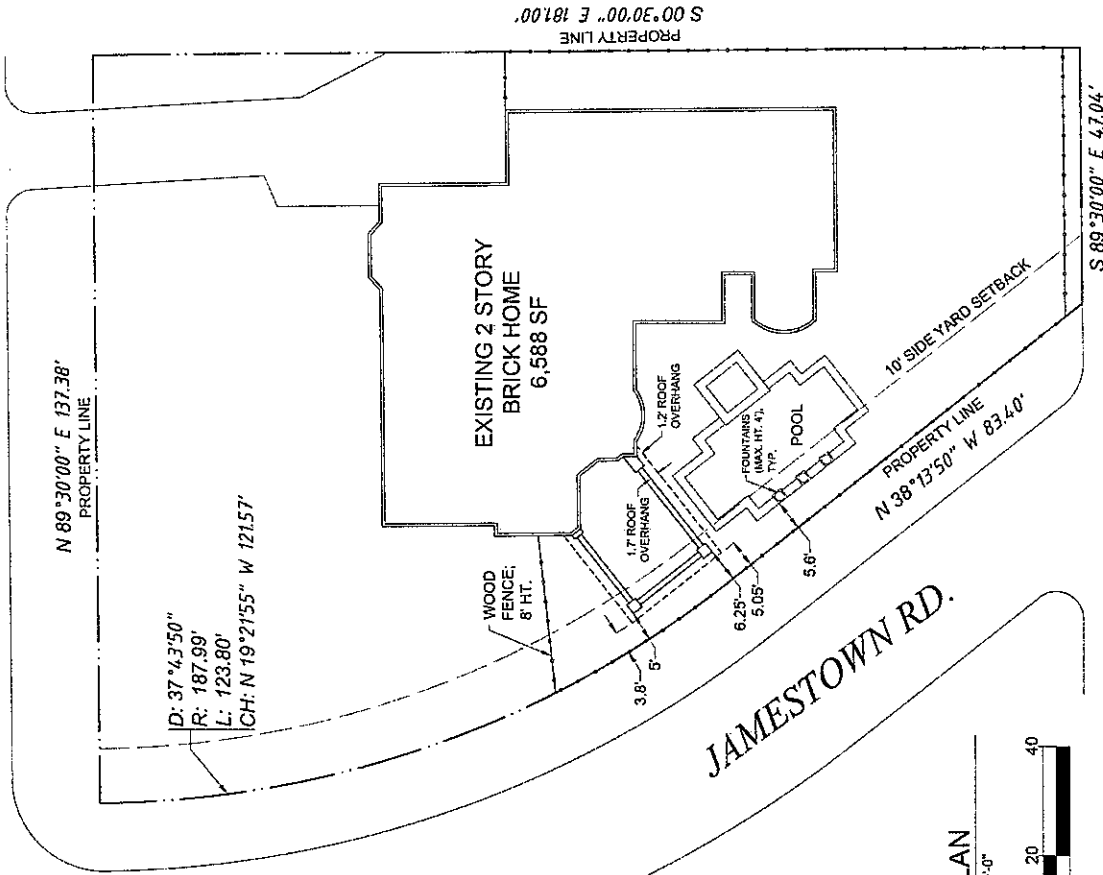


1 SOUTH ELEVATION
SCALE: 1" = 5'-0"



2 NORTH ELEVATION
SCALE: 1" = 5'-0"

MEADOW CREST DR.



SITE PLAN
SCALE: 1" = 10'-0"





City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-045

Data Relative to Subject Property:

Date: 3/21/13

Location address: 5810 Meadowcrest Dr. Dallas, Texas 75230 Zoning District: R-16

Lot No.: 1 Block No.: C/6384 Acreage: 19,282 sq. feet Census Tract 134.00

Street Frontage (in Feet): 1) 100.66' 2) 181' 3) 4) NE 25

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Kirk A. Watson

Applicant: Robert Reeves, Robert Reeves & Associates, Inc Telephone: (214) 749-0530

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

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

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

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

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

Affirm that a request has been made for a Variance X, or Special Exception, of a 6.2 foot side yard Variance along Jamestown Road

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

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.

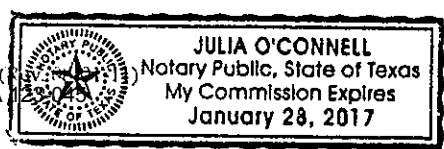
Affidavit

Before me the undersigned on this day personally appeared [Signature] (Affiant/Applicant's signature)

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

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

Subscribed and sworn to before me this 21st day of March, 2013



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

BDA

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that ROBERT REEVES

did submit a request for a variance to the side yard setback regulations
at 5810 Meadow Crest Drive

BDA123-045. Application of Robert Reeves for a variance to the side yard setback regulations at 5810 Meadow Crest Drive. This property is more fully described as Lot 1, Block C/6384, and is zoned R-16(A), which requires a side yard setback of 10 feet. The applicant proposes to construct and maintain a single family residential structure and provide a 3 foot 9 inch side yard setback, which will require a 6 foot 3 inch variance to the side yard setback regulation.

Sincerely,


Larry Holmes, Building Official

DEL ROY DR

BOCA RATON DR

MEADOW CREST DR

R-16(A)

NORTHAVEN RD

NORTHLAND CIR

JAMESTOWN RD

NORTHGATE CIR

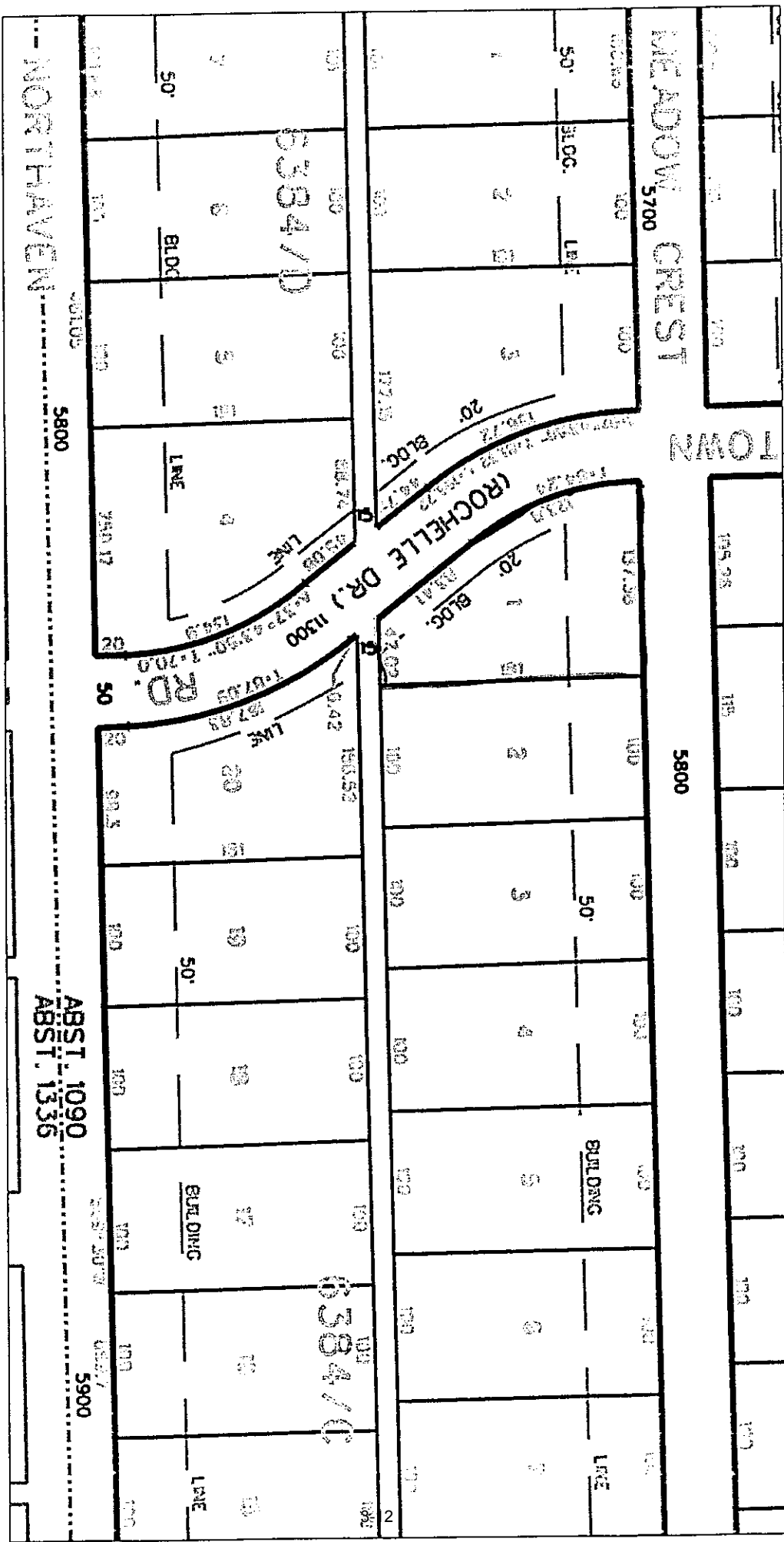
SUP.
44

	City Limits		Proposed Boundary		MD Utility
	Highway		State Zone		Water Main
	Proposed Roadway		Drifted Line		Sanitary
FLOOD_ZONE					Gas
	1 - Flood Zone		Utility Enclosure		Electric
	2 - Flood Zone		Valve		Water
	3 - Flood Zone		Manhole		Sanitary
	4 - Flood Zone		Manhole		Water
	5 - Flood Zone		Manhole		Sanitary
	6 - Flood Zone		Manhole		Water
	7 - Flood Zone		Manhole		Sanitary
	8 - Flood Zone		Manhole		Water
	9 - Flood Zone		Manhole		Sanitary
	10 - Flood Zone		Manhole		Water
	11 - Flood Zone		Manhole		Sanitary
	12 - Flood Zone		Manhole		Water
	13 - Flood Zone		Manhole		Sanitary
	14 - Flood Zone		Manhole		Water
	15 - Flood Zone		Manhole		Sanitary
	16 - Flood Zone		Manhole		Water
	17 - Flood Zone		Manhole		Sanitary
	18 - Flood Zone		Manhole		Water
	19 - Flood Zone		Manhole		Sanitary
	20 - Flood Zone		Manhole		Water

1:2,400
BDA 123-045

Case ID:
Printed: 3/13/2013





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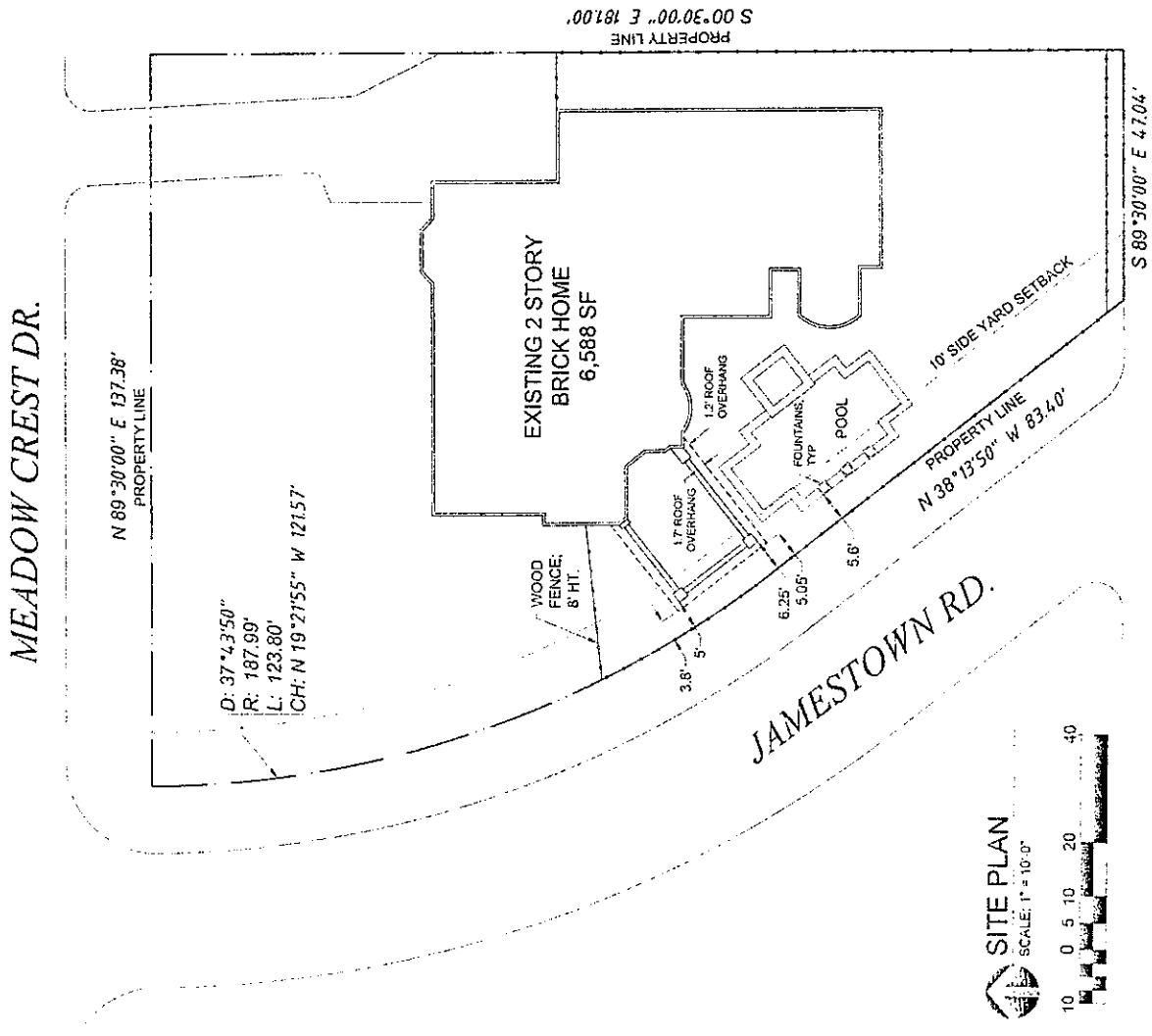
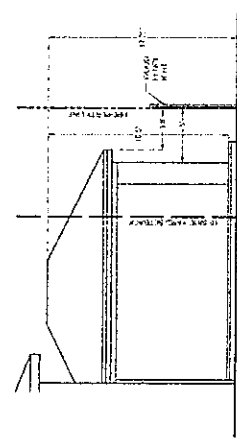
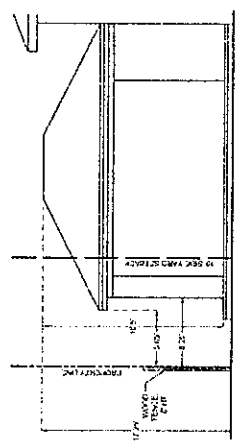
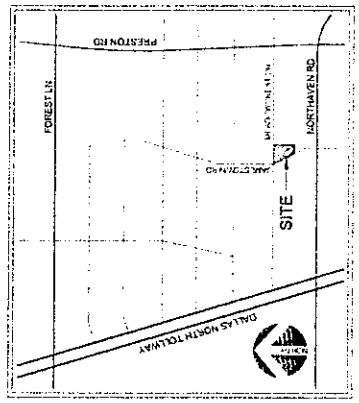
JP

PROJECT NUMBER: 03/25/13
 CASE NUMBER: _____

BALDWIN ASSOCIATES
 3904 Elm Street, Suite B
 Dallas, Texas 75226
 MOBILE: 214 824 7849
 OFFICE: 214 824 7849
 rob@baldwinplanning.com

Baldwin
 Associates

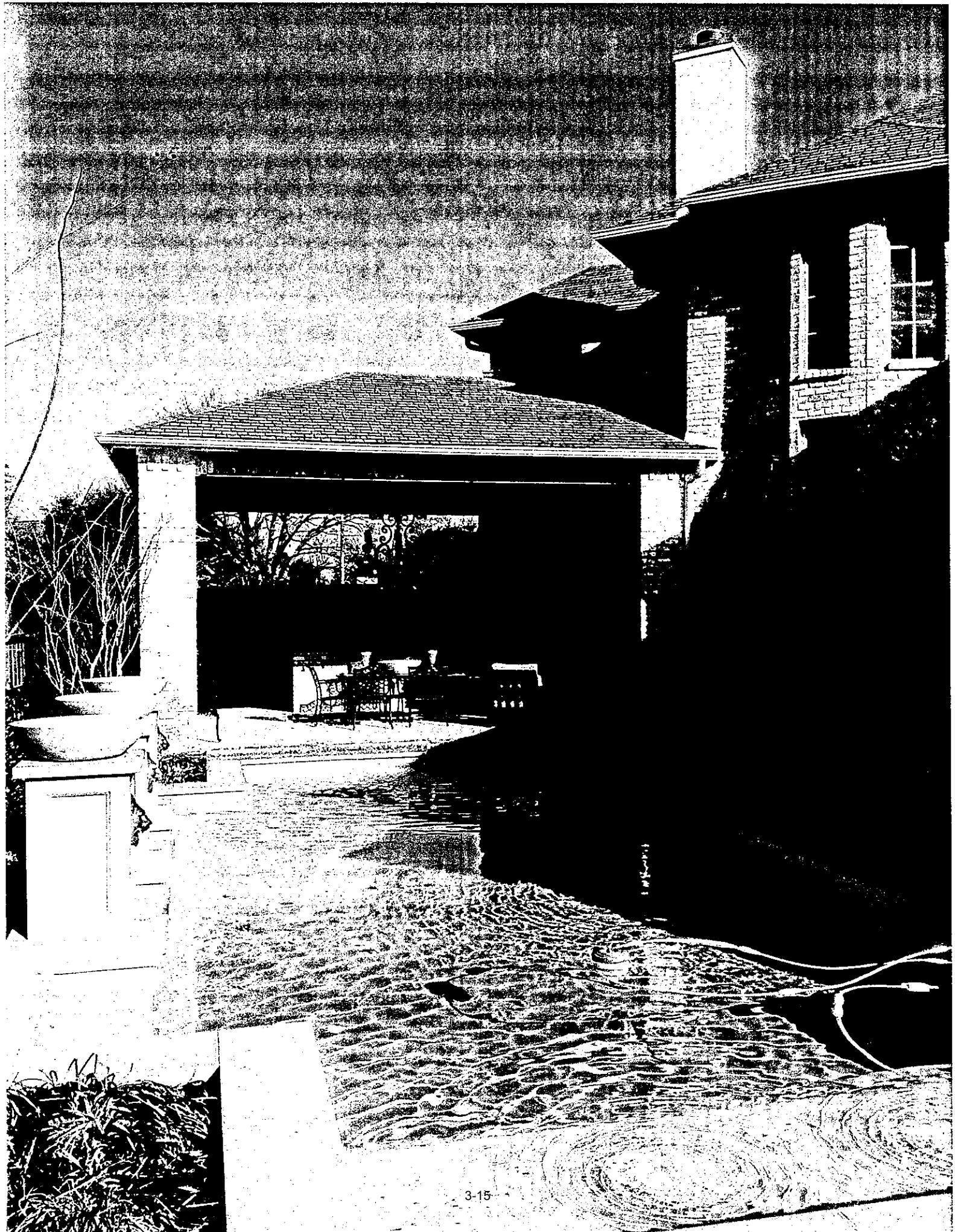
CITY OF DALLAS, TEXAS
 5810 MEADOW CREST

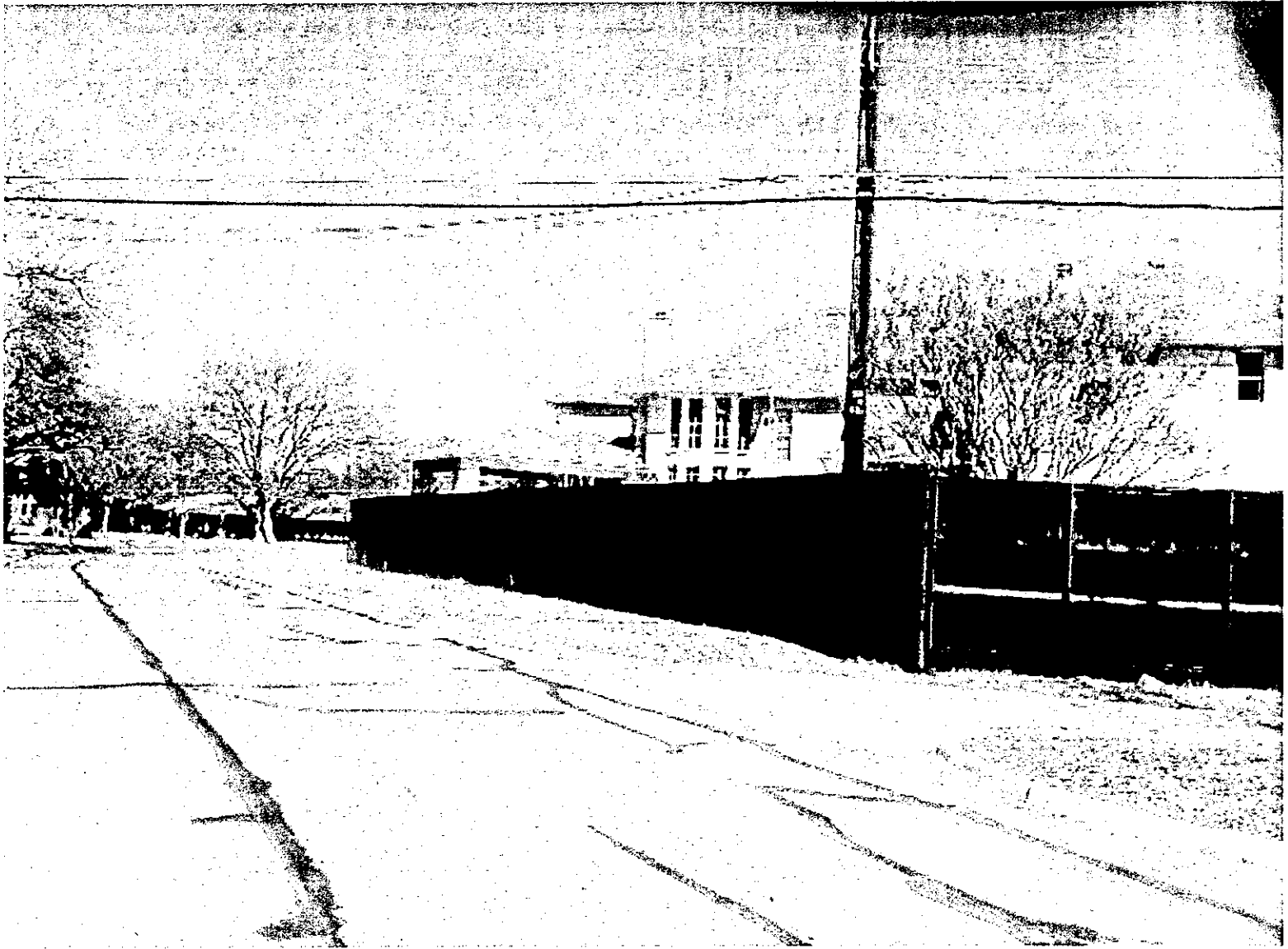


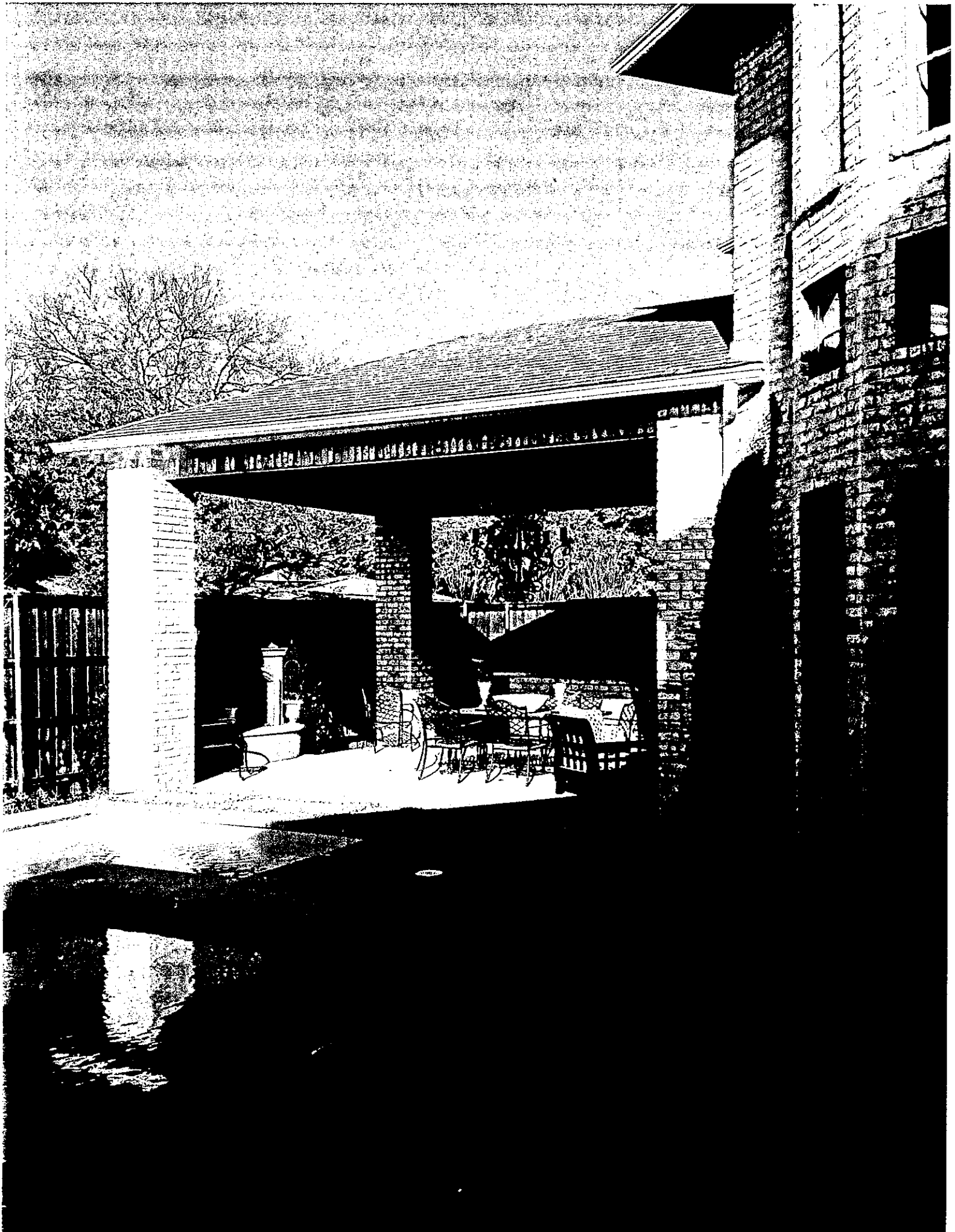
Board of Adjustment Application
5810 Meadow Crest Dr.
March 21, 2013

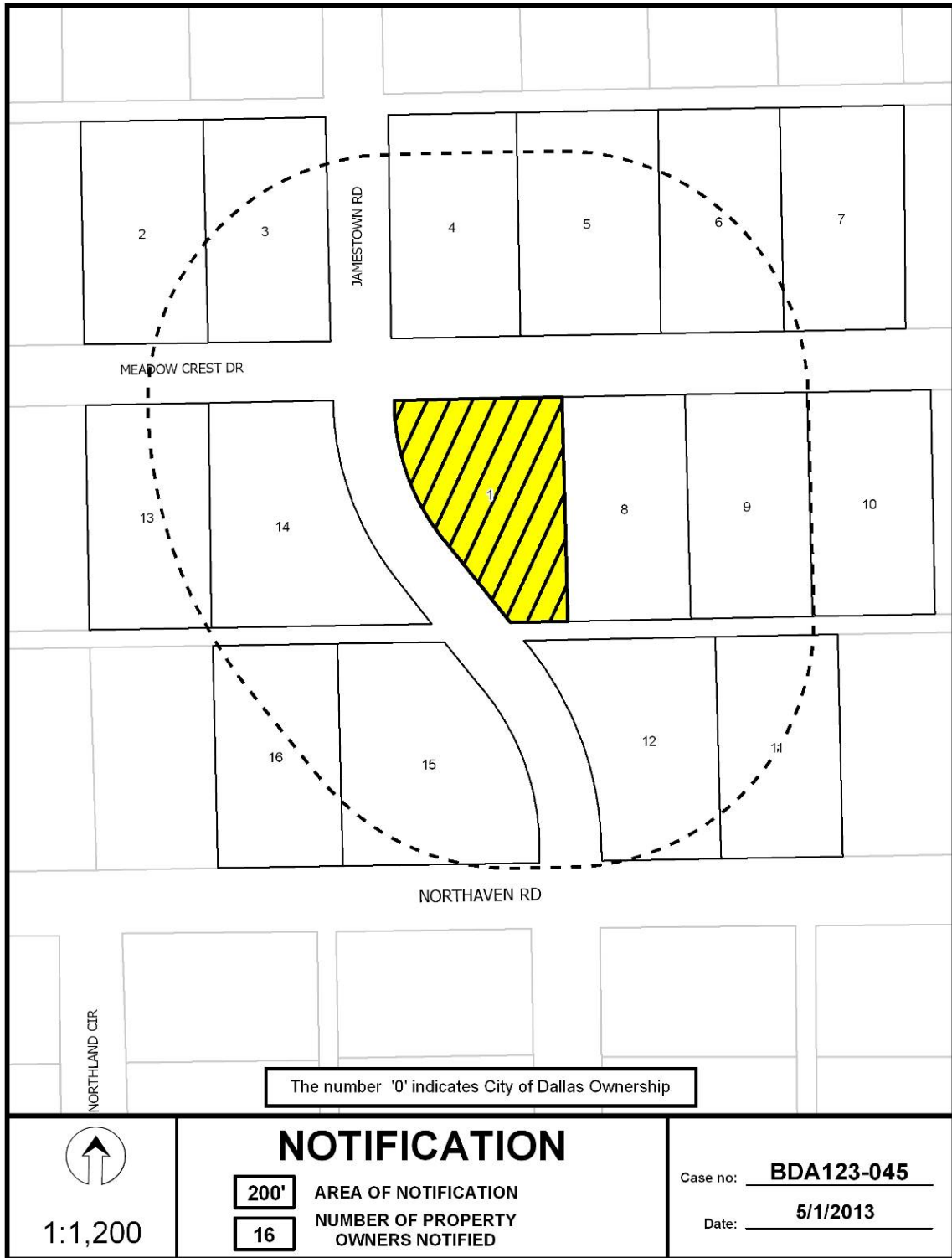
Application is now made to the Honorable Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the describe appeal for the following reason:

- 1) The lot is irregular in shape with the back yard area only 47.04 feet wide. The front yard area is 137.38 feet wide.
- 2) Because of the lot configuration and location of the house, the side yard area along Jamestown Road functions as a back yard. The side yard area along Jamestown is relatively narrow and limits the placement of a swimming pool and covered patio area. No other lot in the area has this restricted lot configuration.
- 3) The 6.2-foot side yard variance is necessary in order to allow an existing open-air pavilion to remain.
- 4) After he bought the house, the current property owner hired a contractor to construct an open-air pavilion next to the existing pool, which would connect with the house. The owner was unaware that the contractor failed to get a building permit and proceeded to construct the pavilion into the side yard setback along Jamestown Road. The contractor has vanished and the owner has not been able to contact him.
- 5) The open-air pavilion is one story and architecturally compatible with the existing home. The colors, brick, roof pitch, and singles are all consistent with the materials used on the house.









Notification List of Property Owners

BDA123-045

16 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5810 MEADOWCREST DR	WATSON KIRK A
2	5715 MEADOWCREST DR	GUTHNECK BARBARA T
3	5723 MEADOWCREST DR	HOWELL ANGELA T MICHAEL E HOWELL
4	5807 MEADOWCREST DR	KEED LORRAINE FORSYTH
5	5815 MEADOWCREST DR	JONES THOMAS P & DENISE K
6	5823 MEADOWCREST DR	SHIVER FREDERICK H
7	5831 MEADOWCREST DR	BEARDEN LISA
8	5818 MEADOWCREST DR	JENKENS LYSSA &
9	5824 MEADOWCREST DR	HARRIS MARY GENEVIEVE
10	5832 MEADOWCREST DR	WIDEMAN MATTHEW R & KELLEY
11	5915 NORTHAVEN RD	ARNOLD JUDY
12	5907 NORTHAVEN RD	CHU DENNIS T
13	5714 MEADOWCREST DR	WINN JANICE L
14	5722 MEADOWCREST DR	FAULKNER ADRIENNE A
15	5831 NORTHAVEN RD	TANOOMAND GUILTY & SHARIFADDIN SOKHANSANJ
16	5821 NORTHAVEN RD	STEVEN E BOX CO

FILE NUMBER: BDA 123-046

BUILDING OFFICIAL'S REPORT: Application of Keena Hilliard for special exceptions to the fence height and visual obstruction regulations at 1143 Newport Avenue. This property is more fully described as Lot 12, Block 7/4268, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires a 45 foot visibility triangle at street intersections, and 20 foot visibility triangles at drive approaches and at alley and street intersections. The applicant proposes to construct and/or maintain a 6 foot high fence, which will require a special exception to the fence height regulations of 2 feet, and to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 1143 Newport Avenue

APPLICANT: Keena Hilliard

REQUESTS:

The following appeals have been made on a site that is currently developed with a single family home:

1. A special exception to the fence height regulations of 2' is requested in conjunction with maintaining a 6' high cedar board-on-board fence in the site's front yard setback on Newport Avenue.
2. Special exceptions to the visual obstruction regulations are requested in conjunction with maintaining:
 - a 6' high cedar board-on-board fence in the 45' visibility triangle at the intersection of Newport Avenue and Clinton Avenue;
 - a 6' high cedar board-on-board fence in the 20' visibility triangle on the southern side of the southern driveway into the site from Clinton Avenue,
 - a 4' high open chain link fence in the 20' visibility triangle on the northern side of the southern driveway into the site from Clinton Avenue;
 - a 4' high open chain link fence in the 20' visibility triangle on the southern side of the northern driveway into the site from Clinton Avenue; and
 - a portion of a garage structure in the 20' visibility triangle at the intersection of the alley at Clinton Avenue.

(Note that the requests for special exceptions to the visual obstruction regulations only involve maintaining the fences/garage that the Board Administrator photographed on the property several weeks ago and that have been represented on the applicant's submitted site plan and elevation. These requests do not include any other item such as landscape materials that may have been photographed and/or may be located in a visibility triangle on the subject site).

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.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

The Board shall grant a special exception to the requirements of the visual obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

STAFF RECOMMENDATION (fence height special exception):

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.

STAFF RECOMMENDATION (visual obstruction special exceptions):

- (1) Denial of the requests for visual obstruction special exceptions at the street intersection and the drive approaches

Rationale:

- The applicant has not substantiated how the location of the items (an existing 6' high cedar board-on-board fence and/or an existing 4' high open chain link fence) located in the intersection and/or drive approach visibility triangles does not constitute a traffic hazard.
- The Sustainable Development and Construction Department Project Engineer has recommended denial of these requests.

- (2) Approval of the request for a visual obstruction special exception at the alley/street intersection, subject to the following condition:

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

Rationale:

- The applicant has substantiated how the location of the existing garage in the 20' visibility triangle at the intersection of the alley at Clinton Avenue does not constitute a traffic hazard.
- The Sustainable Development and Construction Department Project Engineer has no objections to this request.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5(A) (Single family district 7,500 square feet)
North: R-7.5(A) (Single family district 7,500 square feet)
South: R-7.5(A) (Single family district 7,500 square feet)
East: R-7.5(A) (Single family district 7,500 square feet)
West: R-7.5(A) (Single family district 7,500 square feet)

Land Use:

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

Zoning/BDA History:

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

Timeline:

- March 27, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- April 16, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- April 17, 2013: The Board Administrator shared the following information to the applicant via email:
- an attachment that provided the public hearing date and panel that will consider the application; the May 1st deadline to submit additional evidence for staff to factor into their analysis; and the May 10th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the requests; and
 - the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."
- April 24, 2013: The Board Administrator emailed the applicant a record of their phone conversation establishing that her requests to the board involved maintaining the fences/garage that he photographed on the property a couple of weeks earlier, and that as they had discussed with regard to her visual obstruction special exception requests, the board would only be considering the items in the

triangles as noted on her plans (board fence, chain link fence, and garage) – and that if she were wanting the Board to consider other “items” in the triangles such as landscape materials, that she should add the location and heights of any such item on her site plan. (Note that no amended site plan or elevation had been submitted as of June 10th).

April 29, 2013: The Board Administrator postponed this application from Board of Adjustment Panel As’ May 21st hearing to Panel A’s June 18th hearing per the applicant’s request.

May 15, 2013: The Board Administrator shared the following information to the applicant via email:

- an attachment that provided the public hearing date and panel that will consider the application; the May 29th deadline to submit additional evidence for staff to factor into their analysis; and the June 7th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

June 4, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

June 10, 2013: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet regarding the applicant’s request for special exceptions to the visual obstruction regulations marked “Recommends that this be denied” commenting “fences are obstructing the view of the pedestrian way near a school; the garage corner is OK.”

GENERAL FACTS/STAFF ANALYSIS (fence height special exception):

- This request focuses on maintaining 6’ high board-on-board fence in the front yard setback on a site developed with a single family home.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4’ above grade when located in the required front yard.

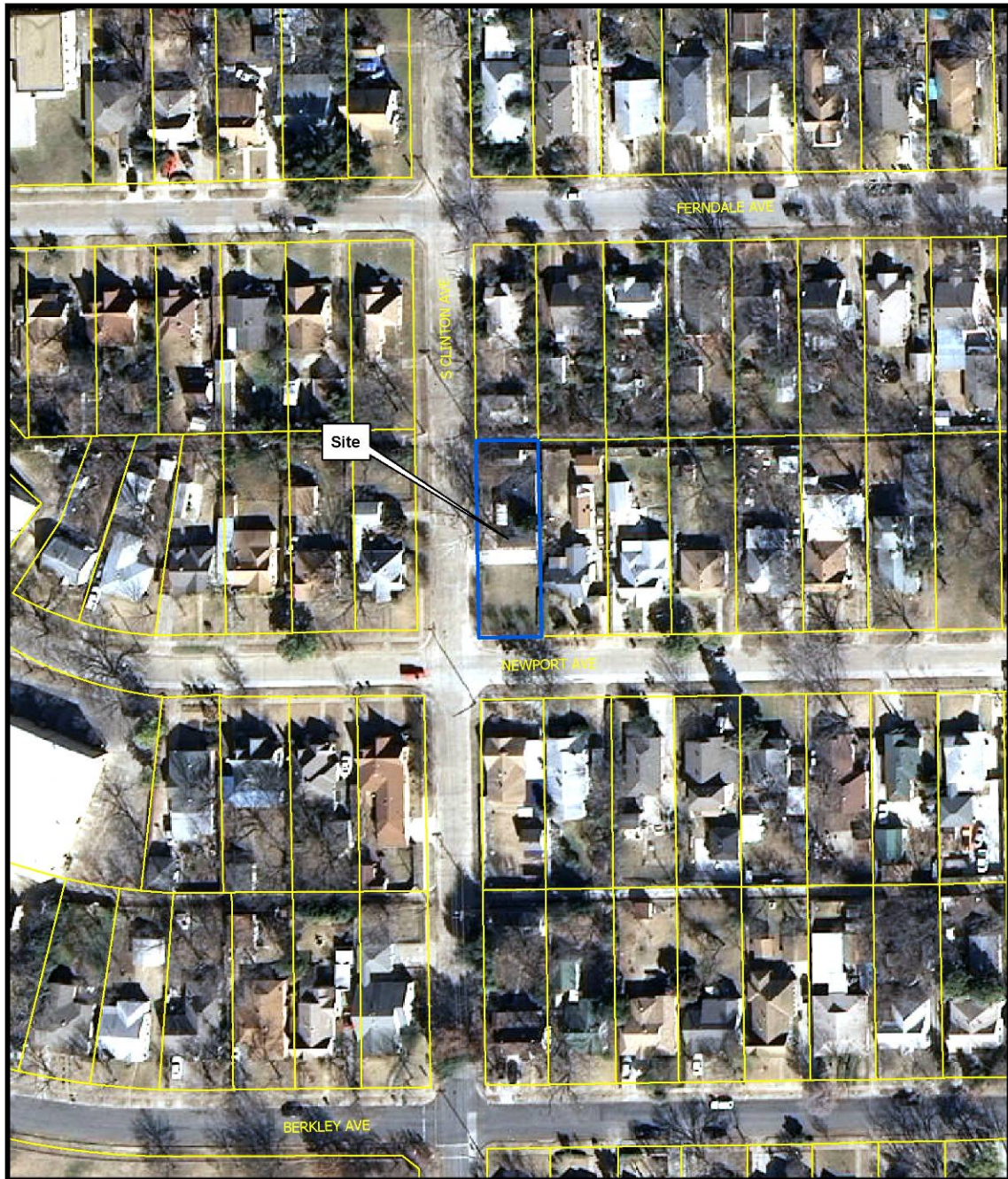
- The subject site is located at the northeast corner of Newport Avenue and Clinton Avenue. The site has only one front yard setback along Newport Avenue even though it is located at the corner of Newport Avenue and Clinton Avenue. The site's longer frontage is Clinton Avenue and there is no continuity of an established front yard setback to maintain along Clinton Avenue, hence it is a side yard where a fence can be constructed and maintained 9' in height).
- The applicant has submitted a site plan/elevation of the proposal in the front yard setback that reaches a maximum height of 72" or 6'.
- The following additional information was gleaned from the submitted site plan:
 - The existing fence located in the front yard setback over 4' in height is represented on the site plan as being approximately 50' in length parallel to the street and 25' in length perpendicular to the street on the east and west sides of the site in the front yard setback.
 - The existing fence located in the front yard setback is shown to be located on the front property line or approximately 10' from the pavement line.
- The existing fence is located across from one single family home, which does not have a fence in its front yard higher than 4'.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences that appeared to be above 4' in height and located in a front yard setback.
- As of June 10, 2013, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 2' will not adversely affect neighboring property.
- Granting this special exception of 2' with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the front yard setback to be maintained in the location and of the heights and materials as shown on these documents.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exceptions):

- These requests focus maintaining the following on the subject site:
 - a 6' high cedar board-on-board fence in the 45' visibility triangle at the intersection of Newport Avenue and Clinton Avenue;
 - a 6' high cedar board on board fence in the 20' visibility triangle on the southern side of the southern driveway into the site from Clinton Avenue,
 - a 4' high open chain link fence in the 20' visibility triangle on the northern side of the southern driveway into the site from Clinton Avenue;
 - a 4' high open chain link fence in the 20' visibility triangle on the southern side of the northern driveway into the site from Clinton Avenue; and
 - a portion of a garage structure in the 20' visibility triangle at the intersection of the alley at Clinton Avenue.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:

- in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
- between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- A site plan and an elevation have been submitted indicating the aforementioned items in the aforementioned visibility triangles.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet regarding the applicant's request for special exceptions to the visual obstruction regulations marked "Recommends that this be denied" commenting "fences are obstructing the view of the pedestrian way near a school; the garage corner is OK."
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations do not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would require the items in the visibility triangles to be limited to the locations, heights and materials of those items as shown on these documents.





1:1,200

AERIAL MAP

Case no: BDA123-046

Date: 5/1/2013



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-046

Data Relative to Subject Property:

Date: 3/27/2013

Location address: 1143 Newport Ave, Dallas, TX 75224 Zoning District: R-7.5(A)

Lot No.: 12 Block No.: 74268 Acreage: 0.172 Census Tract: 63.02

Street Frontage (in Feet): 1) 56 2) 150 3) 4) 5)

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Keena Hilliard

Applicant: Keena Hilliard Telephone: 214-319-0170

Mailing Address: 1143 Newport Ave, Dallas, TX Zip Code: 75224

E-mail Address: keena.hilliard@q.com

Represented by: Telephone:

Mailing Address: Zip Code:

E-mail Address:

Affirm that an appeal has been made for a Variance or Special Exception of 2' in fence height in front yard (2) visibility triangle on Clinton and Newport (3) visibility triangle on driveway on side yard (4) visibility triangle for driveway in front of garage (5) visibility triangle for a lawn behind property

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:

- one of the exceptions will adversely affect the neighboring property, because: (1) the height matches the height of other privacy fences in the neighborhood, (2) the fence is in the same place the previous fence was for 20+ years and previously no visibility issues despite having thick trees in the triangle (3) this driveway is not usually used for parking and there is not much traffic on Clinton

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

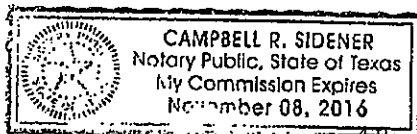
Before me the undersigned on this day personally appeared Keena Hilliard (Affiant/Applicant's name printed)

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: Keena Hilliard (Affiant/Applicant's signature)

Subscribed and sworn to before me this 27 day of MARCH 2013

(Rev. 08-01-11)



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 Keena Hilliard

did submit a request for a special exception to the fence height regulations, and special exceptions to the visibility obstruction regulations

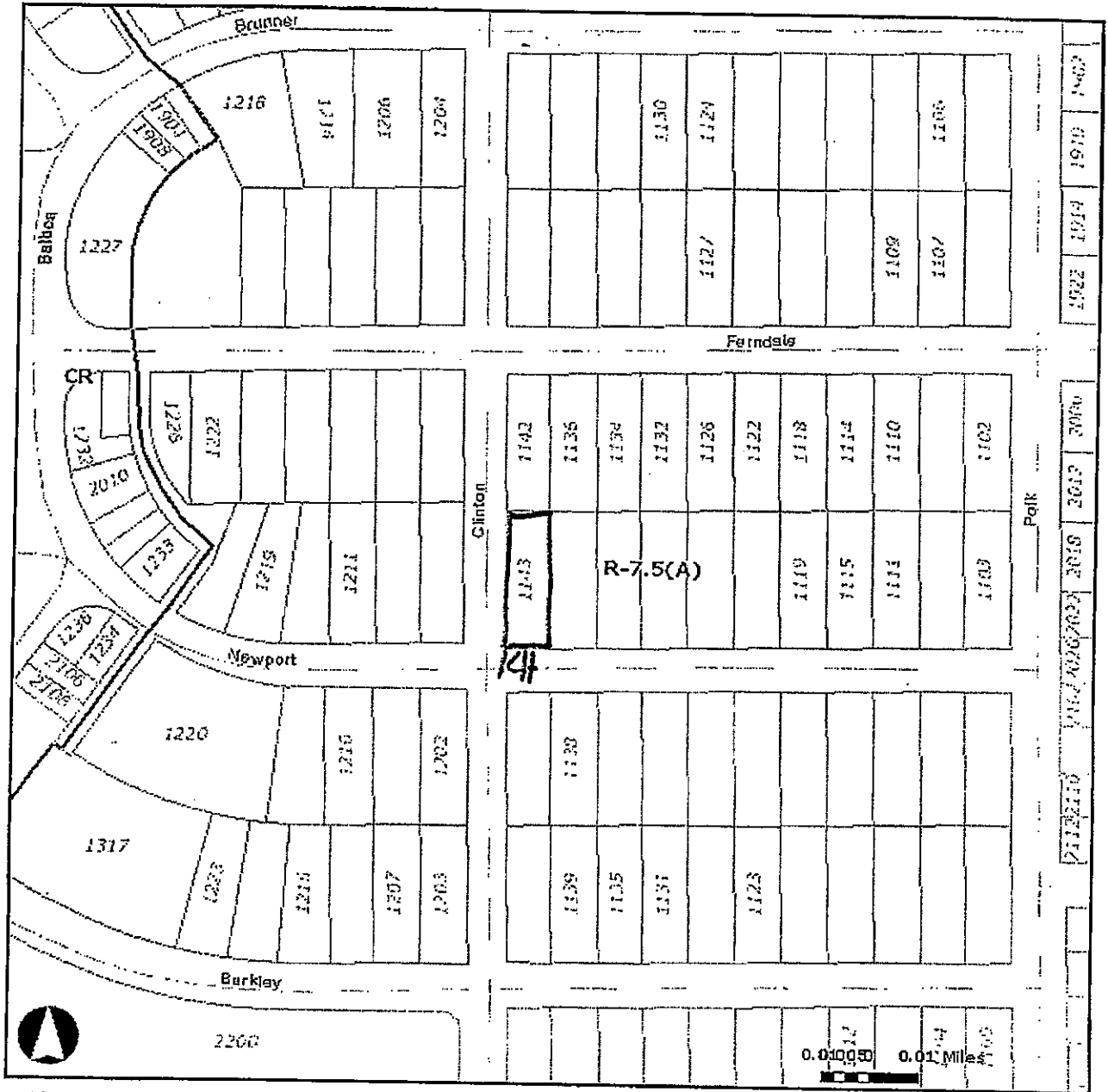
at 1143 Newport Avenue

BDA123-046. Application of Keena Hilliard for a special exception to the fence height regulations and special exceptions to the visibility obstruction regulations at 1143 Newport Avenue. This property is more fully described as Lot 12, Block 7/4268, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires a 45 foot visibility triangle at street intersections and requires 20 foot visibility triangles at driveway and alley intersections with streets. The applicant proposes to construct a 6 foot high fence in a required front yard, which will require a 2 foot special exception to the fence regulation, and to construct and maintain a residential fence in required visibility obstruction triangles, which will require special exceptions to the visibility obstruction regulations.

Sincerely,


Larry Holmes, Building Official

City of Dallas Zoning



Address Candidates

- Address Candidates
- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways

SUP

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

PDS Subdistricts

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

5160

2000

210

50	150	150	50
50	1	22	50
50	2	21	50
50	3	20	50
50	4	19	50
50	5	18	50
50	6	17	50
50	7 4268/7	16	50
50	8	15	50
50	9	14	50
50	10	13	50
50	11	12	50
150		150	50

50 AVE.

1100

50 NEWPORT

50	150		50
50	1		50
50	2		50
50	3		50
50	4		50
50	5		50
50	6		50
50	7 42		50
50	8		50
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150			50

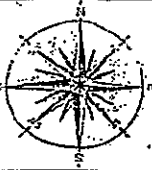
2000

KH

21

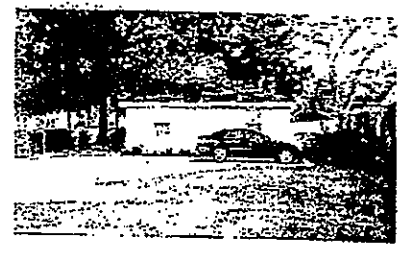
4279

C:\tax_plats\4267_p1.dgn 3/28/2013 8:43:20 AM



1143 Newport Avenue

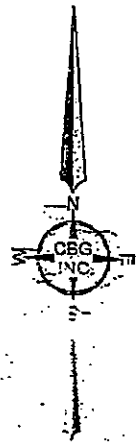
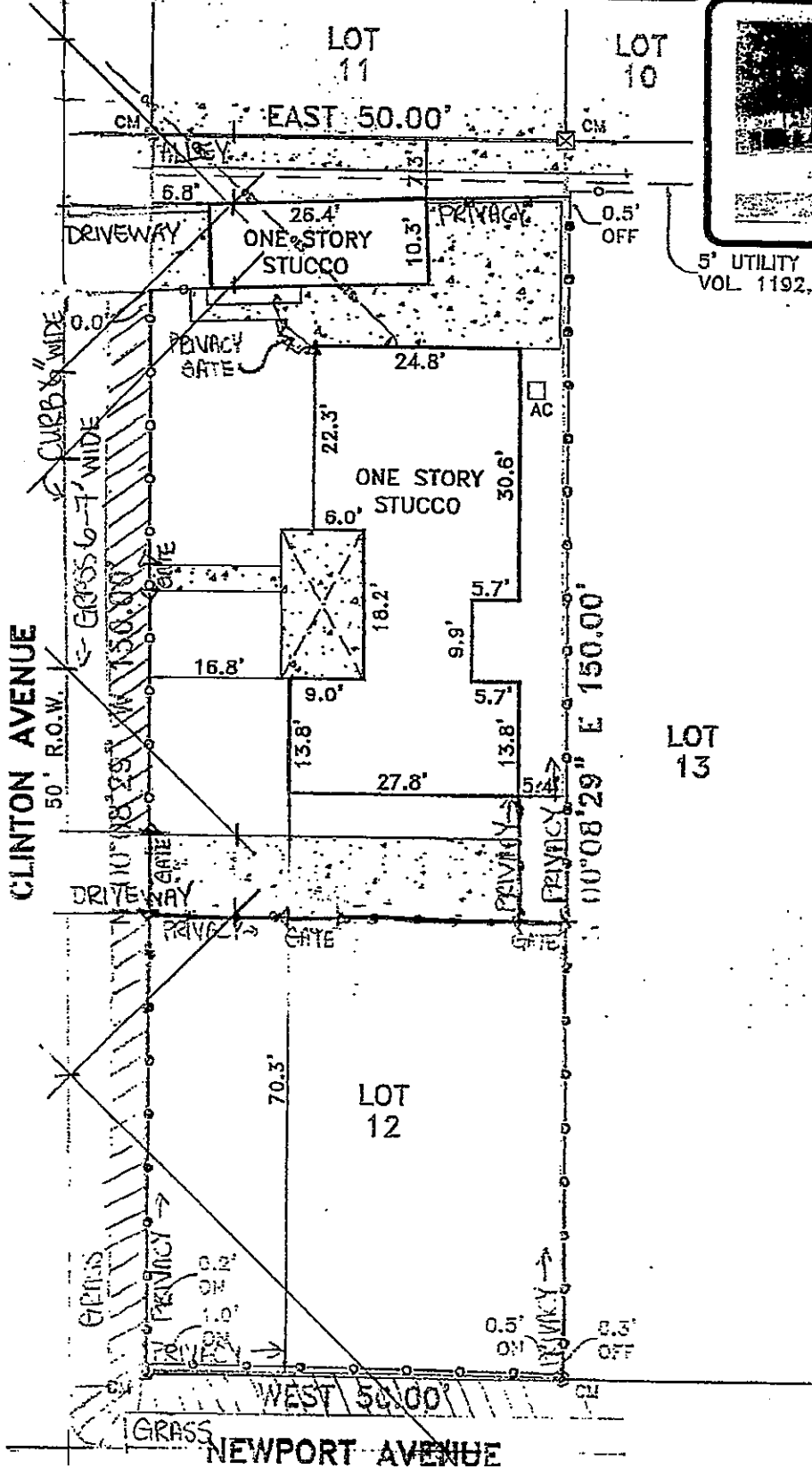
Being Lot 12, in Block 7/4268, of Elmwood, an Addition to the City of Dallas, Dallas County, Texas, according to the Map thereof recorded in Volume 3, Page 230, of the Map Records of Dallas County, Texas.



5' UTILITY EASEMENT
VOL. 1192, PG. 366

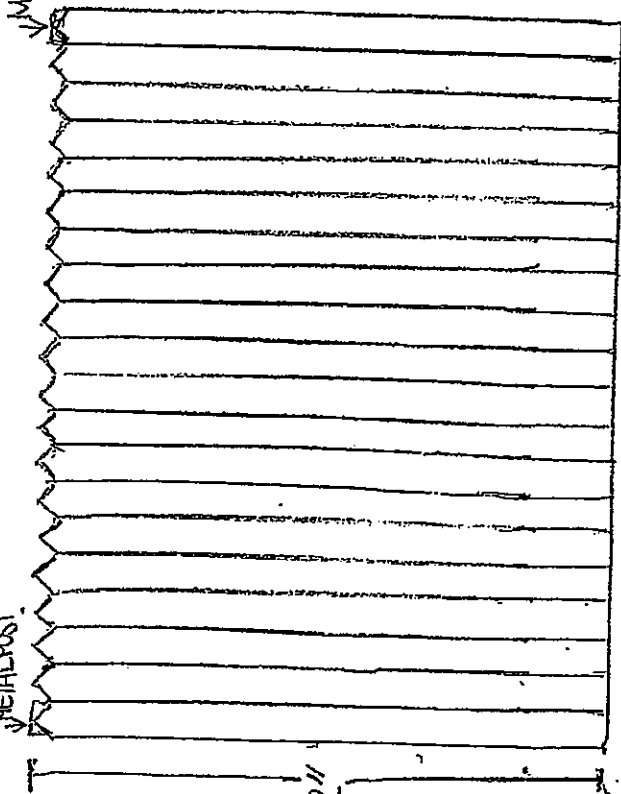
LEGEND

- 1/2" ROD FOUND
- ⊗ 1/2" ROD SET
- 1" PIPE FOUND
- ⊗ "X" FOUND/SET
- ◆ 60d NAIL FOUND
- FENCE POST FOR CORNER
- CM CONTROLLING MONUMENT
- AC AIR CONDITIONER
- PE POOL EQUIPMENT
- T TRANSFORMER PAD
- COLUMN
- POWER POLE
- ▲ UNDERGROUND ELECTRIC
- △ OVERHEAD ELECTRIC
- OH — OVERHEAD ELECTRIC POWER
- OES — OVERHEAD ELECTRIC SERVICE
- ○ — CHAIN LINK
- □ — WOOD FENCE 0.5' WIDE TYPICAL
- ▯ — IRON FENCE
- X — BARBED WIRE
- — — EDGE OF ASPHALT
- — — EDGE OF GRAVEL
- ▨ SIDEWALK
- ↔ GATE
- WOODEN PRIVACY FENCE ("PRIVACY")



CEDAR BOARD ON BOARD, UNFINISHED/UNVARNISHED, POSTS ARE CUT EVEN WITH TOP OF FENCE

METAL POST

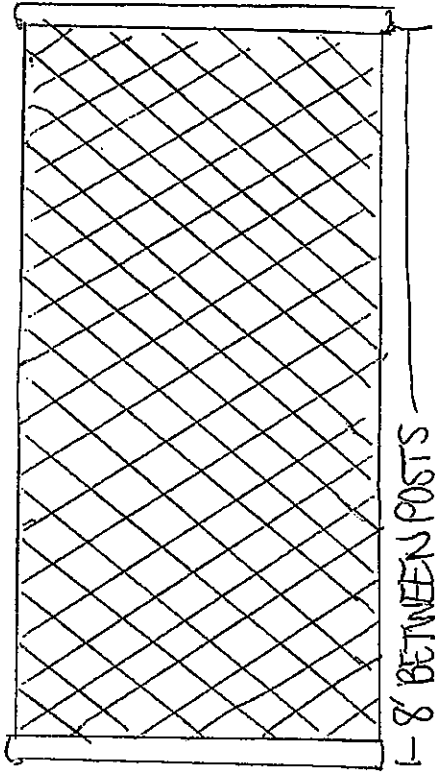


FRONT OF FENCE

72"

1-8' PANELS BETWEEN POSTS

CHAINLINK



48"

1-8' BETWEEN POSTS

To: Steve Long - Customer said you are requesting this:
Reg. 1143 Newport Ave.

BDA CASE # 123-046

From: Ethel Gaston-Green

E-mail Address: _____

Affirm that an appeal has been made for a Variance __, or Special Excep

Application is made to the Board of Adjustment, in accordance with the Development Code, to grant the described appeal for the following reason:
I don't know how long it has been here more than 20 years and my vision issues getting bad and out of the way not been here since the subdivision was plat it is dead end the cars it has not been used for a while so there's no traffic entering or leaving
Note to Applicant: If the appeal requested in this application is granted, a permit must be applied for within 180 days of the date of the final act specifically grants a longer period.

cont. from p. 1

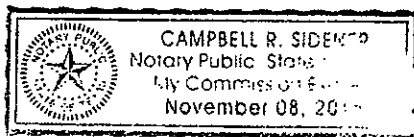
Affidavit

Before me the undersigned on this day personally appeared Kee
(Aff)
who on (his/her) oath certifies that the above statements are to his knowledge and that he/she is the owner/or principal/or authorized property.

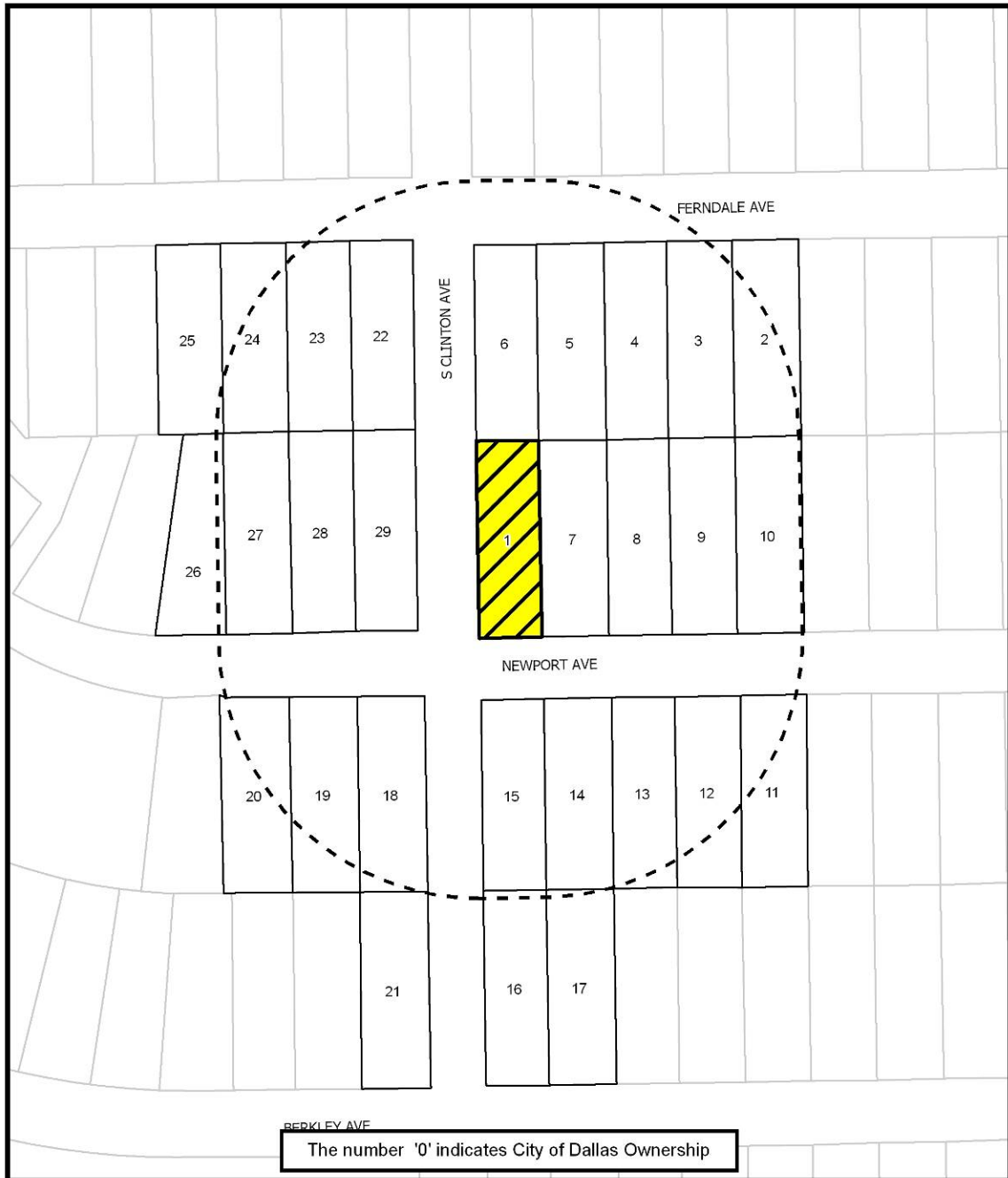
Respectfully submitted: [Signature]

Subscribed and sworn to before me this 27 day of Nov

(Rev. 08-01-11)



[Signature]
Notary Public



Berkeley Ave
 The number '0' indicates City of Dallas Ownership

 1:1,200	<h2>NOTIFICATION</h2>	Case no: BDA123-046			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">29</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	29	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
29	NUMBER OF PROPERTY OWNERS NOTIFIED				

Notification List of Property Owners

BDA123-046

29 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1143 NEWPORT AVE	GUTIERREZ ROBERTO
2	1126 FERNDALE AVE	BOWLING BILLIE
3	1132 FERNDALE AVE	YANEZ FRANCISCO & FLOR
4	1134 FERNDALE AVE	COUCH PATRICIA ANNETTE
5	1136 FERNDALE AVE	GUERRERO REMIGIO
6	1142 FERNDALE AVE	LUNDAY HELEN JUNE
7	1139 NEWPORT AVE	DELGADILLO LEOPOLDO G & OFELIA DELGADILL
8	1135 NEWPORT AVE	MARTINEZ FELICIA A
9	1131 NEWPORT AVE	RAYE PAUL MILLER
10	1127 NEWPORT AVE	SANCHEZ ALFREDO
11	1126 NEWPORT AVE	TREVINO SENON H
12	1130 NEWPORT AVE	MARTINEZ JESSE ETAL
13	1134 NEWPORT AVE	MEDINA ISIDRO & MARIA
14	1138 NEWPORT AVE	SMITH R E
15	1142 NEWPORT AVE	MEDINA JUAN & FLORA R
16	1143 BERKLEY AVE	OLVERA CAMILO
17	1139 BERKLEY AVE	ESQUIVEL HECTOR
18	1202 NEWPORT AVE	HOUSE KAYLI A
19	1206 NEWPORT AVE	TALAMANTES ARTHUR E
20	1210 NEWPORT AVE	EDEN DAVID A & KIMBERLY M
21	1203 BERKLEY AVE	MUNIZ ERIC
22	1202 FERNDALE AVE	HARPER ALVIN ELDRIDGE
23	1206 FERNDALE AVE	DE LA ROSA JOSE A & NORMA J
24	1210 FERNDALE AVE	RIOS JUAN & MARGARITA M
25	1214 FERNDALE AVE	REACHI ABRAHAM & MARIA L
26	1215 NEWPORT AVE	GLORIA JUAN J

5/1/2013

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	1211 NEWPORT AVE	HOLLINS JEREAN ELAINE
28	1207 NEWPORT AVE	MONTOYA PABLO & BERTHA
29	1203 NEWPORT AVE	JERNIGAN RONI

FILE NUMBER: BDA 123-060

BUILDING OFFICIAL'S REPORT: Application of Ed Simons for a variance to the front yard setback regulations and a special exception to the landscape regulations at 2523 McKinney Avenue. This property is more fully described as a .20 acre parcel in Block 2/954 and is zoned PD-193 (LC), which requires a front yard setback of 10 feet and requires mandatory landscaping. The applicant proposes to construct and/or maintain a structure and provide a 0 foot front yard setback, which will require a variance to the front yard setback regulations of 10 feet, and to provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 2523 McKinney Avenue

APPLICANT: Ed Simons

REQUESTS:

The following appeals have been made on a site that is currently developed with a mixed use structure part of which is vacant:

1. A variance to the front yard setback regulations of 10' is made in conjunction with modifying and maintaining an "existing patio" structure with an approximately 1,000 square foot building footprint, part of which is located on the McKinney Avenue front property line (and part of which is located in but to be removed out of the public right-of-way), or 10' into the 10' front yard setback.
2. A special exception to the PD 193 landscape regulations in conjunction with the increasing nonpermeable coverage of the lot, and not fully complying with the landscaping requirements of PD 193.

STANDARD FOR A VARIANCE:

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

- (A) not contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done;
- (B) necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and

(C) not granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land with the same zoning.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REQUIREMENTS IN OAK LAWN:

Section 26(a)(4) of Ordinance No. 21859, which establishes PD 193, specifies that the board may grant a special exception to the landscaping requirements of this section if, in the opinion of the Board, the special exception will not compromise the spirit and intent of this section. When feasible, the Board shall require that the applicant submit and that the property comply with a landscape plan as a condition to granting the special exception.

STAFF RECOMMENDATION (variance):

Denial

Rationale:

- Staff was unable to conclude how the parcel/subject site 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 PD 193 (LC) zoning classification. The size, shape, and slope of the flat, somewhat irregular in shape, approximately 8,700 square foot subject site does not preclude the applicant/owner from developing it with a structure/use without a patio structure in the required front yard setback.

STAFF RECOMMENDATION (landscape special exception):

Denial

Rationale:

- The Chief Arborist recommends denial of the proposed landscape plan because it compromises the spirit and intent of the PD 193 landscaping requirements.
- The applicant has not substantiated how granting this request would not compromise the spirit and intent of the landscaping requirements of PD 193.

BACKGROUND INFORMATION:

Zoning:

Site: PD 193 (LC) (Planned Development District, Light commercial)
North: PD 193 (LC) (Planned Development District, Light commercial)
South: PD 193 (LC) (Planned Development District, Light commercial)
East: PD 9 (Planned Development District)
West: PD 193 (PDS 73) (Planned Development District, Planned Development District)

Land Use:

The subject site is developed with a mixed use structure. The areas to the north and east are undeveloped; the area to the south is developed with office use; and the area to the west is developed with a mix of retail, office, and residential uses.

Zoning/BDA History:

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

Timeline:

- April 24, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- June 4, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- June 4, 2013: 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 June 7th 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.
- June 4, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.
- June 7, 2013: The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the request for a special exception to the landscape regulations (see Attachment A).

GENERAL FACTS/ANALYSIS (front yard variance):

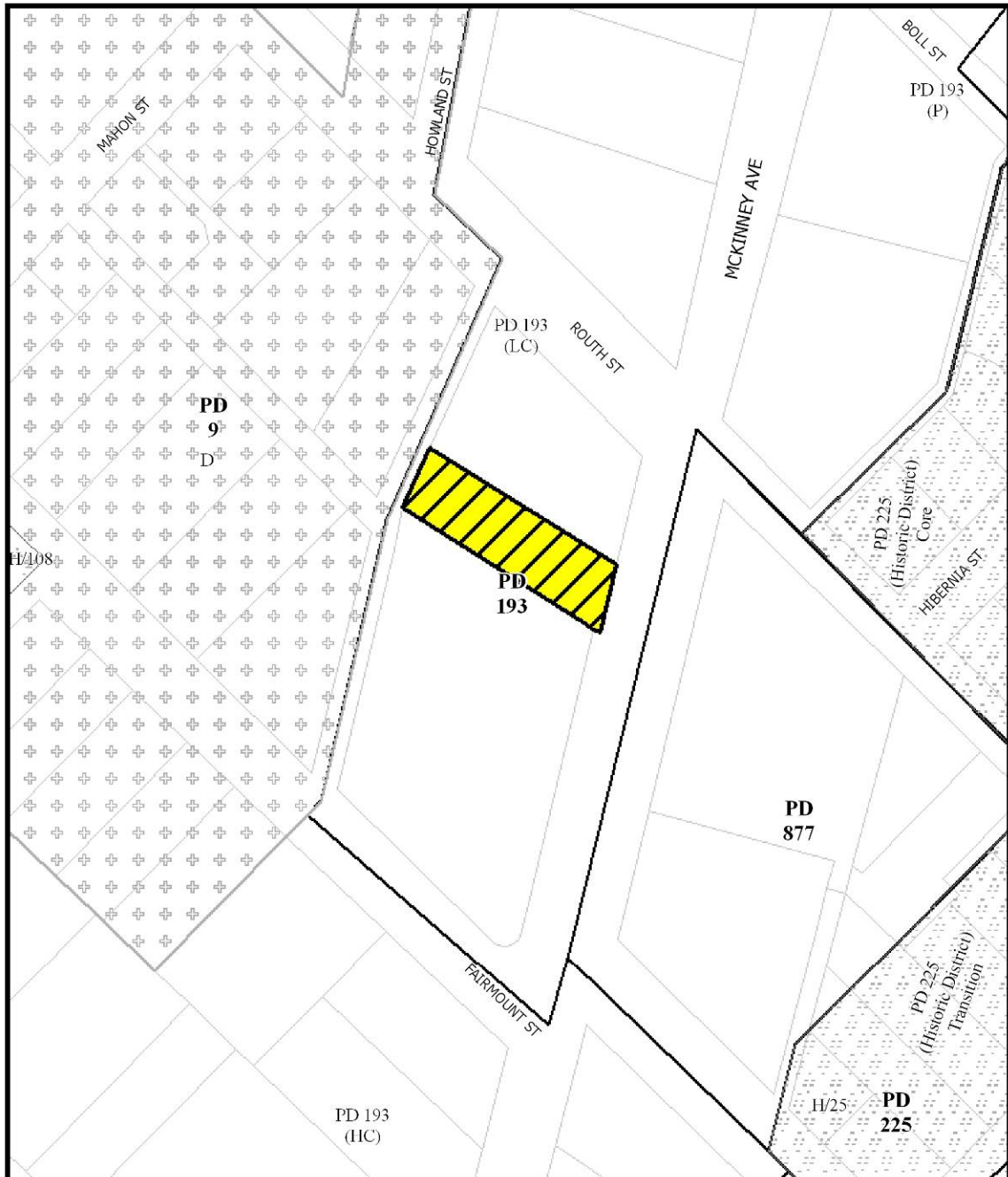
- This request focuses on modifying/maintaining an “existing patio” structure with an approximately 1,000 square foot building footprint, part of which is located on the McKinney Avenue front property line (and part of which is located in but to be removed out of the public right-of-way), or 10’ into the 10’ front yard setback on a site developed with a mixed use part of which is vacant.
- The minimum front yard setback on a PD 193 (LC) zoned lot is 10 feet.
- A site plan and a partial landscape/patio/site plan have been submitted showing a “patio” structure on the McKinney Avenue front property line.
- According to calculations taken from the submitted site plan by the Board Administrator, approximately 500 square feet of the approximately 1,000 square foot existing patio/building footprint is located in the front yard setback.
- DCAD records indicate that the improvements at 2523 McKinney are a “free standing retail store” with 5,393 square feet built in 1953.
- The site is flat, somewhat irregular in shape (175’ on the north, 181’ on the south, 50’ on the east, and 50’ on the west), and according to the application, is 0.20 acres (or approximately 8,700 square feet) in area. The site is zoned PD 193 (LC).
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 193 (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 PD 193 (LC) zoning classification.
- If the Board were to grant this request, imposing a condition whereby the applicant must comply with the submitted site plan and a partial landscape/patio/site plan, the structure in front yard setback would be limited to what is shown on these plans which in this case is a structure labeled as “patio” that is located on the front property line or 10’ into the 10’ required front yard setback.

GENERAL FACTS/STAFF ANALYSIS (landscape special exception):

- This request focuses on proposed new construction on the site, and not fully complying with the landscaping requirements of PD 193.
- PD 193 states that the landscape, streetscape, screening, and fencing standards shall become applicable to uses (other than to single family and duplex uses in detached structures) on an individual lot when work is performed on the lot that increases the existing building height, floor area ratio, or nonpermeable coverage of the lot unless the work is to restore a building that has been damaged or destroyed

by fire, explosion, flood, tornado, riot, act of the public enemy, or accident of any kind.

- The City of Dallas Chief Arborist submitted a memo to the Board Administrator regarding the submitted landscape special exception request (see Attachment A).
- The Chief Arborist's memo stated among other things how the request is made for a special exception to the southern property of a larger building site for required front yard landscape site area, general planting area, and special planting area. The request is triggered by new construction with an increase of nonpermeable coverage on the lot and how the application is only for the southern 9015 square feet of a greater building site.
- The Chief Arborist notes that the applicant's submitted plan does not comply with; 1) the front yard landscape site area for the minimum of 60 percent of the front yard; 2) general planting area; and 3) special planting area requirements for PD 193 (LC) zoning.
- The Chief Arborists listed several factors for consideration:
 - the property area identified on the landscape plan is a portion (9015 square feet) of a larger building site as identified in existing building permit applications. The landscape site area and other landscape elements for the larger building site are not identified.
 - The proposed landscape plan, for the request area only, complies with the minimum tree planting zone requirement, screening of off-street parking, and sidewalk requirements of the PD 193 ordinance. The plan identifies an overall, fragmented, landscape site area (LSA) of 11 percent where a minimum of 10 percent of the lot is required. Compliance factors for the greater building site are undetermined.
- The Chief Arborist recommends denial of the proposed landscape plan because it compromises the spirit and intent of the PD 193 ordinance for properties in the LC district.
- The applicant has the burden of proof in establishing the following:
 - The special exception (where an alternate landscape plan has been submitted that is deficient in meeting front yard landscape site area, general planting area, and special planting area requirements of PD 193) will not compromise the spirit and intent of the section of the ordinance (Section 26: Landscape, streetscape, screening, and fencing standards).
- If the Board were to grant this request, imposing the alternate landscape plan as a condition, the site would be provided exception to the front yard landscape site area, general planting area, and special planting area requirements of the Oak Lawn PD 193 landscape ordinance.

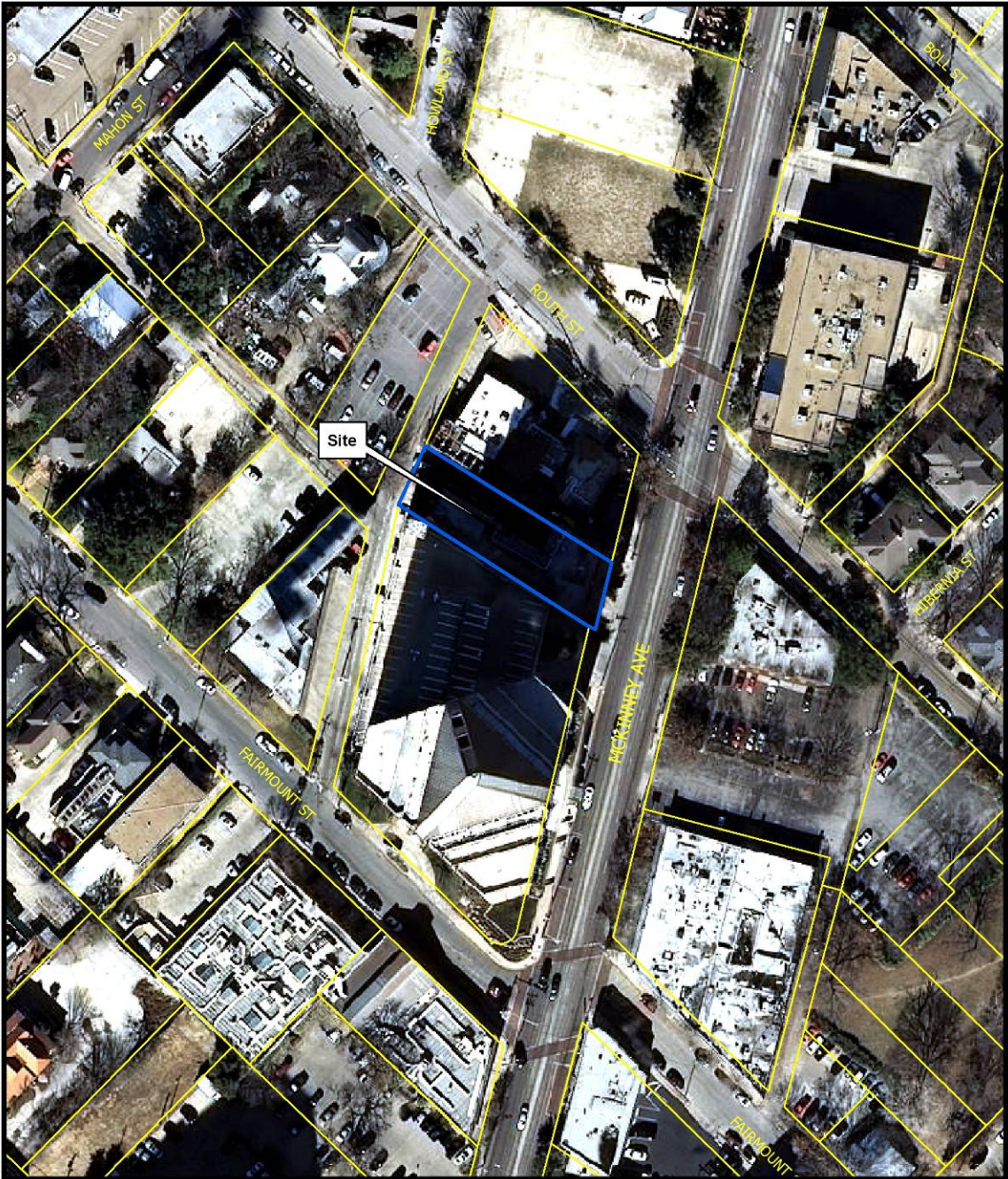


1:1,200

ZONING MAP

Case no: BDA123-060

Date: 6/5/2013



1:1,200

AERIAL MAP

Case no: BDA123-060

Date: 6/5/2013

Memorandum



CITY OF DALLAS

DATE June 7, 2013

TO

Steve Long, Board of Adjustment Administrator

SUBJECT # BDA 123 · 060

2523 McKinney

The applicant is requesting a special exception to the landscape requirements of PD 193 (LC). Specifically, the request is for a special exception to the southern property of a larger building site for required front yard landscape site area, general planting area, and special planting area.

Trigger

New construction with an increase of nonpermeable coverage on the lot. This application is only for the southern 9015 sf of a greater building site.

Deficiencies

The proposed landscape plan for the request area does not comply with 1) the front yard landscape site area for the minimum of 60% of the front yard, 2) general planting area, or 3) special planting area requirements, for PD 193 (LC) zoning.

Factors

The property area identified on the landscape plan is a portion (9015 sf) of a larger building site, as identified in existing building permit applications. The landscape site area and other landscape elements for the larger building site are not identified.

The proposed landscape plan, for the request area only, complies with the minimum tree planting zone requirement, screening of off-street parking, and sidewalk requirements of the PD 193 ordinance. The plan identifies an overall, fragmented, landscape site area (LSA) of 11% where a minimum of 10% of the lot is required. Compliance factors for the greater building site are undetermined.

Recommendation

Denial of the submitted landscape plan.

In my opinion, the proposed landscape plan does compromise the spirit and intent of the PD 193 ordinance for properties in the LC district.

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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-060

Data Relative to Subject Property:

Date: April 24, 2013

Location address: 2523 McKinney Ave. Zoning District: PD 193(LC)

Lot No.: Tr Block No.: 2/954 Acreage: .02 .20 Census Tract: 18.00
~~17.02~~

Street Frontage (in Feet): 1 80 53' 2 _____ 3) _____ 4) _____ 5) _____

SW 22

To the Honorable Board of Adjustment:

Owner of Property/or Principal OR Asset Holdings LP.

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

Mailing Address 900 Jackson, Suite 640 Zip Code: 75202

Represented by: same Telephone: _____

Mailing Address: _____ Zip Code: _____

Affirm that a request has been made for a Variance X, or Special Exception , of Front yard setback and special exception for landscaping.

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 grade of out lot requires a structure in the required yard that matches the elevation of our entry elevation. We are requesting an alternate landscape plan because the paton added additional non permeable area.

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

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

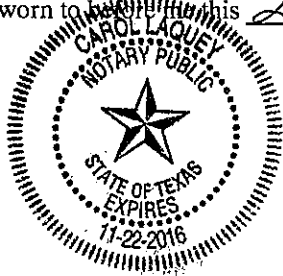
Affidavit

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

[Signature]
Affiant (Applicant's signature)

Subscribed and sworn to before me this 24 day of April, 2013

Carol Laquey
Notary Public in and for Dallas County, Texas



(Rev. 08-20-09)

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that ED SIMONS

did submit a request for a variance to the front yard setback regulations, and for a special exception to the landscaping regulations
at 2523 McKinney Avenue

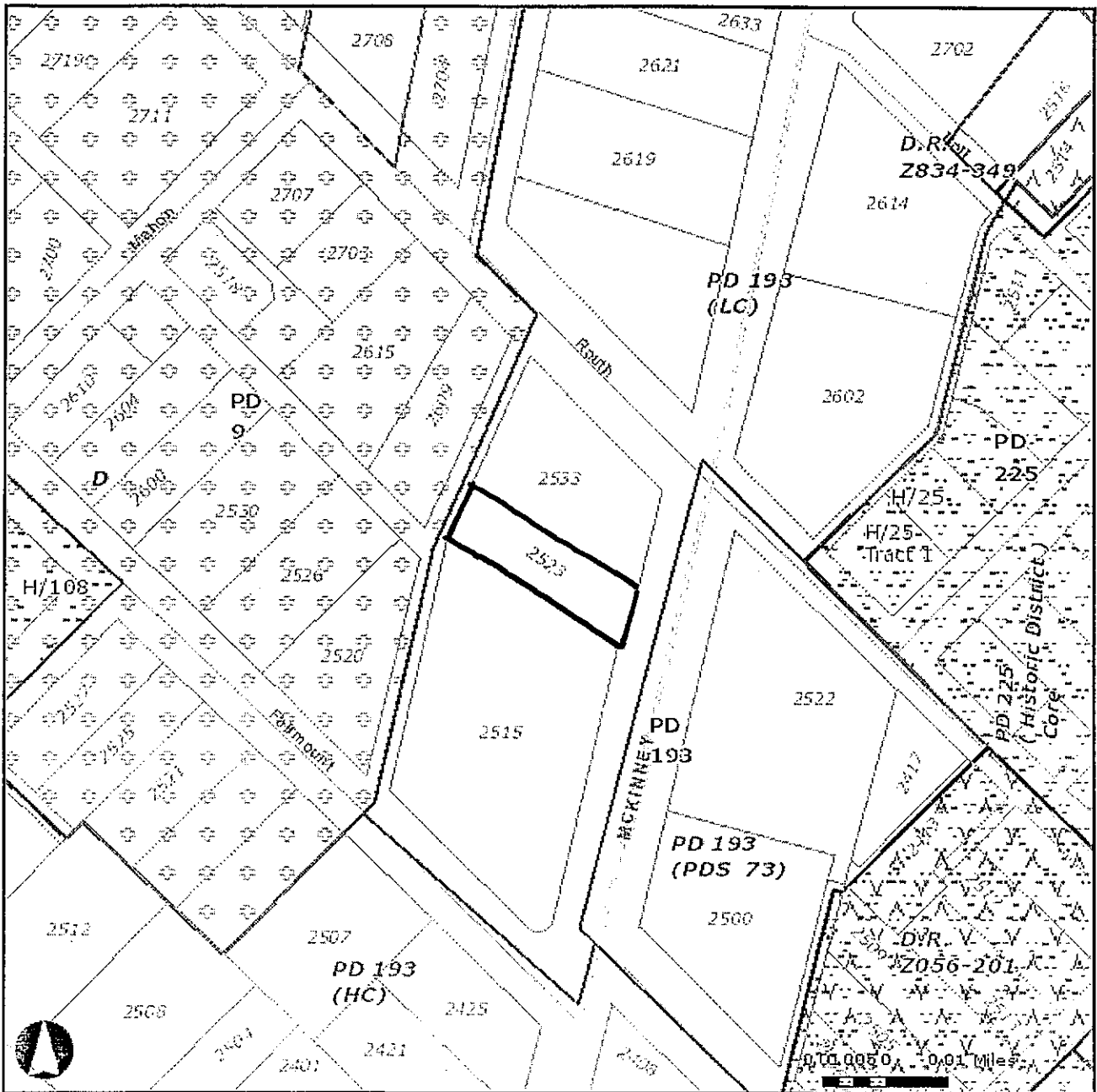
BDA123-060. Application of Ed Simons for a variance to the front yard setback regulations and a special exception to the landscaping regulations at 2523 McKinney Avenue. This property is more fully described as a .20 acre parcel in Block 2/954 and is zoned PD-193 (LC), which requires a front yard setback of 10 feet and requires mandatory landscaping. The applicant proposes to construct and maintain a nonresidential structure and provide a 0 foot front yard setback, which will require a 10 foot variance to the front yard setback regulation, and to construct and maintain a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

Sincerely,

Larry V. Holmes
Larry Holmes, Building Official



City of Dallas Zoning



- | | | |
|-------------------|-----------------------|----------------------|
| City Boundaries | SUP | PD193 Oak Lawn |
| County | Dry Overlay | PDS Subdistricts |
| Certified Parcels | D | Base Zoning |
| DISD Sites | D-1 | Floodplain |
| Council Districts | Historic Overlay | 100 Flood Zone |
| Waterways | Historic Subdistricts | Mill's Creek |
| Parks | NSO Overlay | Peak's Branch |
| | NSO Subdistricts | X PROTECTED BY LEVEE |
| | | Pedestrian Overlay |

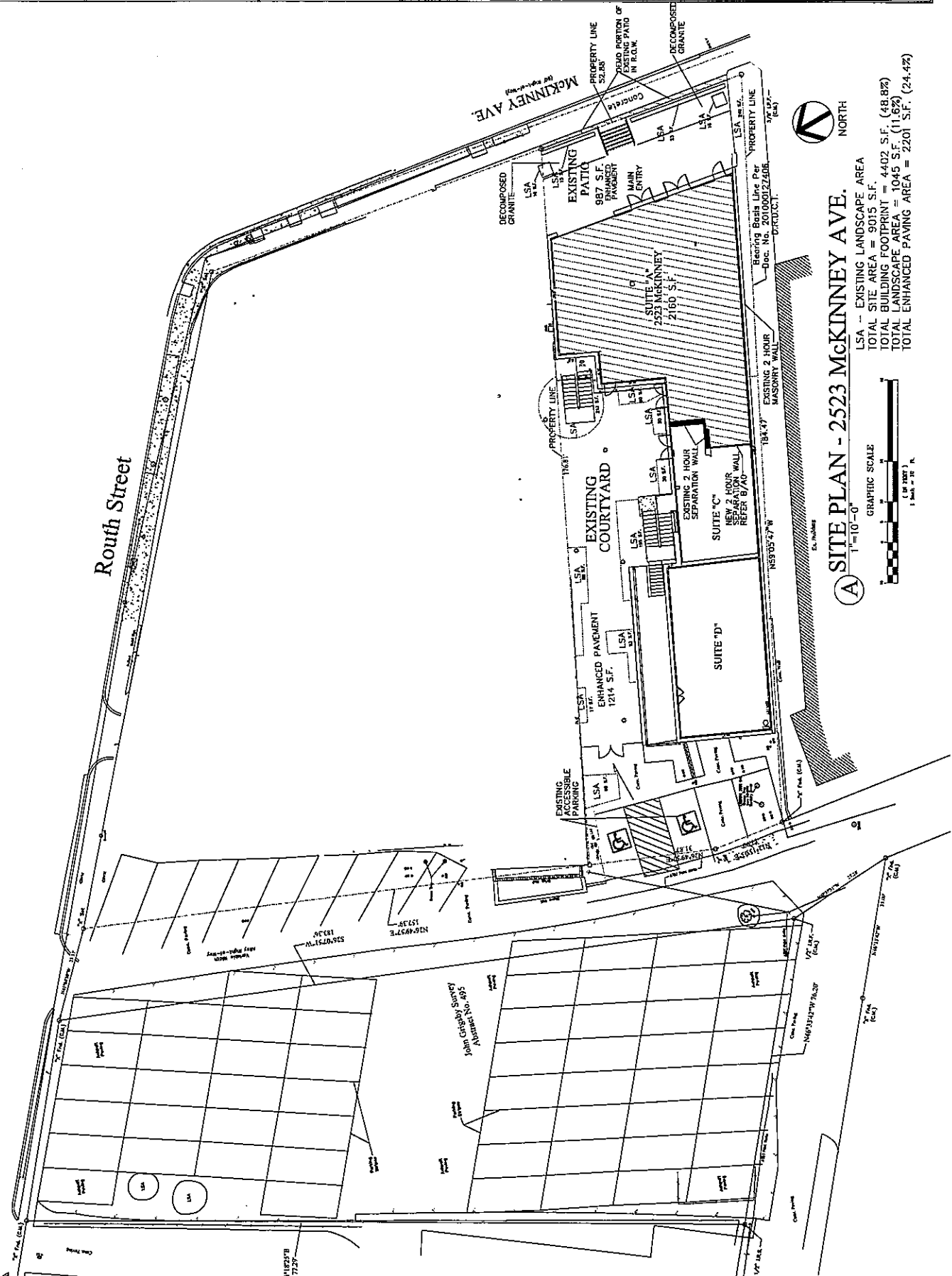
Routh Street

RESTAURANT (REMODEL)
2523 MCKINNEY AVENUE SUITE "A"
DALLAS, TEXAS

DCD
DESIGN CONSULTATIVE
DALLAS
ARCHITECTS

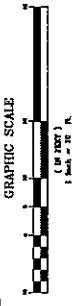
REGISTERED ARCHITECT
STATE OF TEXAS
A&B License No. 111111
214-594-1747

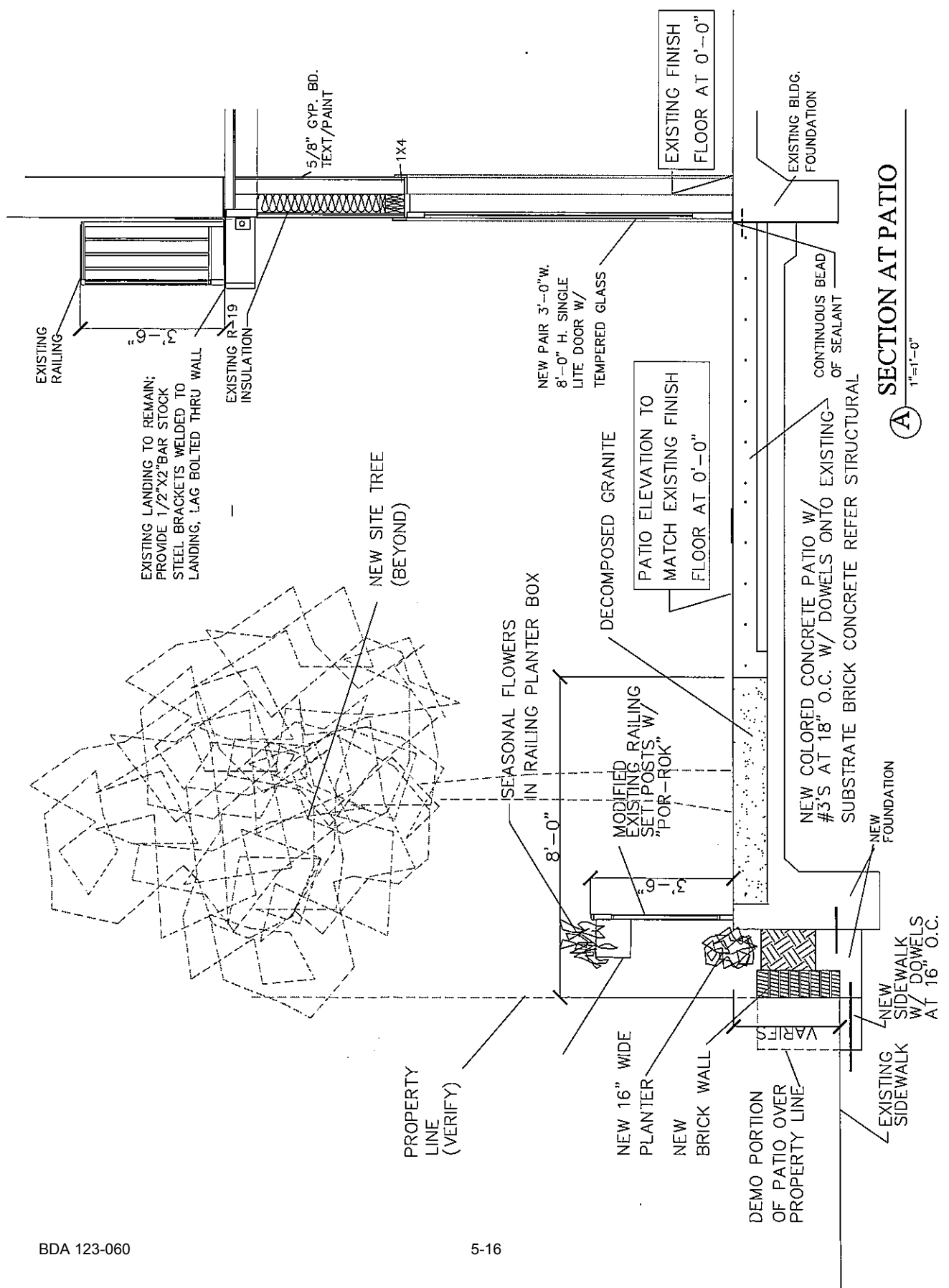
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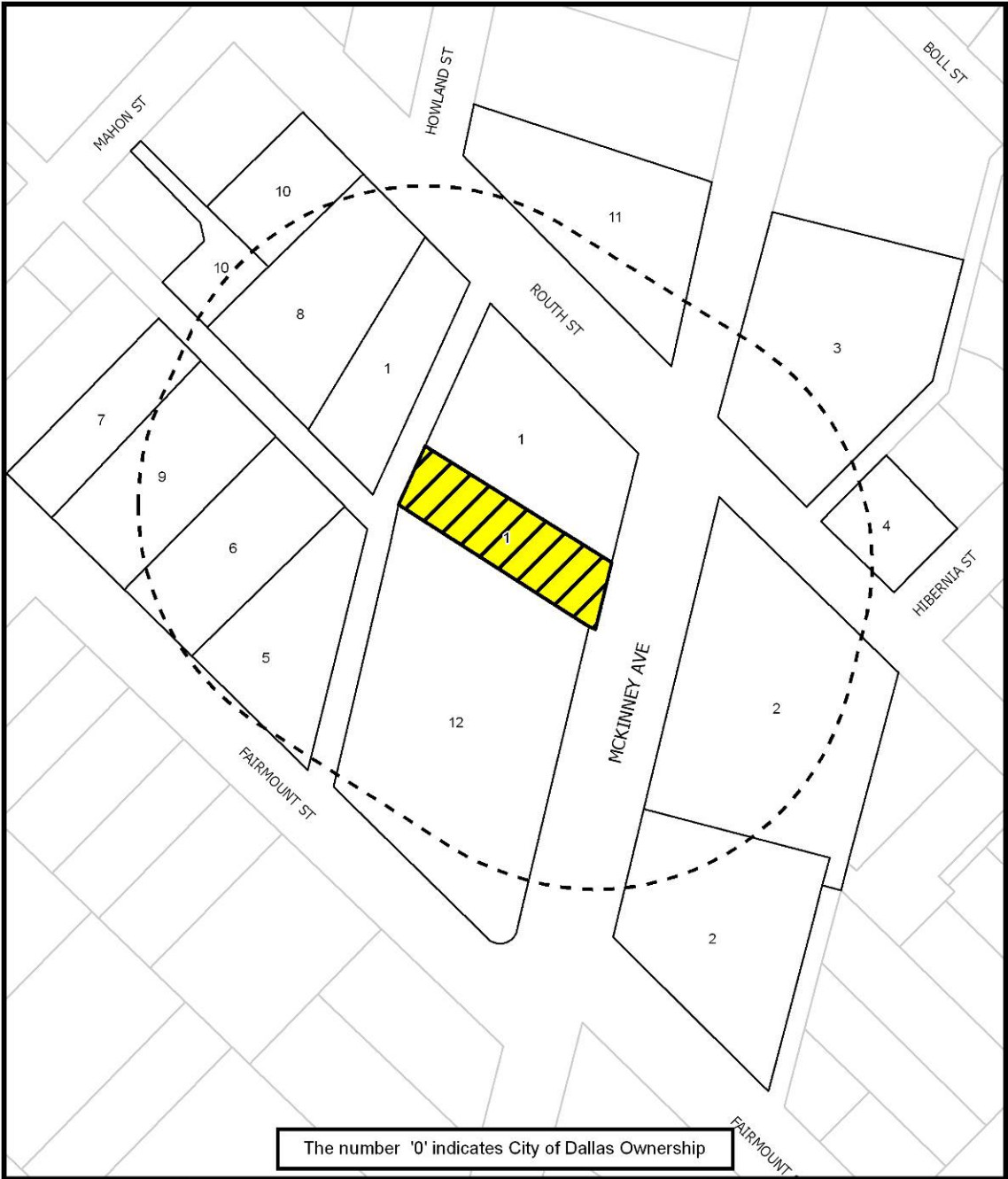


(A) SITE PLAN - 2523 MCKINNEY AVE.
1"=10'-0"

LSA - EXISTING LANDSCAPE AREA
 TOTAL SITE AREA = 9015 S.F.
 TOTAL BUILDING FOOTPRINT = 4402 S.F. (48.8%)
 TOTAL LANDSCAPE AREA = 1045 S.F. (11.6%)
 TOTAL ENHANCED PAVING AREA = 2201 S.F. (24.4%)







The number '0' indicates City of Dallas Ownership

 1:1,200	<h2>NOTIFICATION</h2> <table border="1"> <tr> <td>200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td>12</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	12	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: BDA123-060 Date: 6/5/2013
200'	AREA OF NOTIFICATION					
12	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA123-060

12 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	2609 ROUTH ST	OR ASSET HOLDINGS LP
2	2500 MCKINNEY AVE	PEGASUS UPTOWN LP
3	2602 MCKINNEY AVE	UPTOWN ENERGY PARTNERS LP
4	2500 ROUTH ST	GARZA PPTIES L L C #200
5	2520 FAIRMOUNT ST	W J FAIRMOUNT LP STE 650 L B 149
6	2526 FAIRMOUNT ST	MURPHY PLAZA LLC ATTN: MARTIN ADLER
7	2600 FAIRMOUNT ST	STARK JERRY COMPANIES INC
8	2615 ROUTH ST	VILLANUEVA MARIA & MARCELINO
9	2530 FAIRMOUNT ST	KORNYE GEORGE W & MARY ANN
10	2703 ROUTH ST	BABY ROUTH INC
11	2619 MCKINNEY AVE	XL CAPITAL LLC
12	2515 MCKINNEY AVE	CHATEAU PLAZA HOLDINGS LP