

ZONING BOARD OF ADJUSTMENT, PANEL B  
WEDNESDAY, FEBRUARY 20, 2013  
AGENDA

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

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**David Cossum, Assistant Director**  
**Steve Long, Board Administrator**

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**MISCELLANEOUS ITEM**

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Approval of the <b>Wednesday, January 16, 2013</b> Board of Adjustment Public Hearing Minutes	M1
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**UNCONTESTED CASES**

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<b>BDA 123-008</b>	9779 Forest Lane <b>REQUEST:</b> Application of Gregg McGillis , represented by Robert Miklos, for a special exception to the sign regulations	1
<b>BDA 123-009</b>	9200 (AKA 9212) Guernsey Lane <b>REQUEST:</b> Application of Robert Baldwin for a variance to the front yard setback regulations	2
<b>BDA 123-010</b>	6129 Prestondell Drive <b>REQUEST:</b> Application of Ronald M. and Sheila K. Kostelny for a variance to the front yard setback regulations	3
<b>BDA 123-014</b>	2020 Lakeland Drive <b>REQUEST:</b> Application of Edward Harbour for a variance to the front yard setback regulations and a special exception to the fence height regulations	4

## 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]

**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel January 16, 2013 public hearing minutes.

**FILE NUMBER:** BDA 123-008

**BUILDING OFFICIAL'S REPORT:**

Application of Gregg McGillis, represented by Robert Miklos, for a special exception to the sign regulations at 9779 Forest Lane. This property is more fully described as Lot 4 in Block 6/8421, and is zoned CR, which (1) limits the combined effective area of all signs attached to any window or any glass door to not more than 15 percent of the area of that window or that glass door; and (2) prohibits signs in the upper two-thirds of a window or glass door. The applicant proposes to install and/or maintain a sign attached to a window or glass door in a business zoning district that will (1) exceed 15 percent of the area of that window or glass door and (2) be located within the upper two-thirds of that window or glass door, which will require a special exception to the sign regulations.

**LOCATION:** 9779 Forest Lane

**APPLICANT:** Gregg McGillis  
Represented by Robert Miklos

**REQUEST:**

A special exception to the sign regulations is requested in conjunction with, according to the application, maintaining translucent vinyl graphics to cover a portion of the upper two-thirds of a window on a site currently developed with a retail use (DD's Discounts).

**STANDARD FOR A SPECIAL EXCEPTION TO THE SIGN REGULATIONS FOR A SIGN ATTACHED TO A WINDOW OR GLASS DOOR IN A BUSINESS ZONING DISTRICT TO EXCEED 15 PERCENT OF THE AREA OF THAT WINDOW OR GLASS DOOR OR TO BE LOCATED WITHIN THE UPPER TWO-THIRDS OF THAT WINDOW OR GLASS DOOR**

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

The Board of Adjustment may authorize signs attached to a window or glass door in a business zoning district to exceed 15 percent of the area of that window or glass door or to be located within the upper two-thirds of that window or glass door if the board finds that the proposed signs do not eliminate visibility into, or out from, the premise; and that a sign authorized by this provision: i) must be made of translucent or a similar material with at least a 65/35 perforation pattern (a maximum of 65 percent of the area is closed,

a minimum of 35 percent of the area is open); and ii) may only have images; any text or characters on the sign are limited to 15 percent of the window area and are only permitted in the lower one-third of the window.

**STAFF RECOMMENDATION:**

Approval

Rationale:

- Staff has concluded that strict compliance with the requirement of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations; and that signs attached to the window or glass door within the upper two-thirds of that window or glass door do not eliminate visibility into, or out from, the premise.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: CR (Community Retail)  
North: MF-1(A) (Multiple family residential)  
South: CR (Community Retail)  
East: R-7.5(A) (Single family district 7,500 square feet)  
West: CR (Community Retail)

**Land Use:**

The site is currently developed with a retail use (DD's Discounts). The areas to the north and west are developed with multifamily uses; and the area to the east is undeveloped; and the area to the south is developed with retail 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:**

December 17, 2012: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 14, 2013: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

January 14, 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 January 30th deadline to submit additional evidence for staff to factor into their analysis; and the February 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

January 23, 2013: The Board Administrator emailed the applicant's representative the following:

- The actual ordinance that provides the provision that he is seeking exception from the board along with the standard in which the board will use in considering whether to grant your request.
- Notice that the file forwarded from Building Inspection included a full scale site plan with a notation of "storefront window sign location" on it but that a reduction of this full scale site plan was not included in the file.
- A request of a copy of a reduction of this site plan no later than January 30<sup>th</sup> if he wanted it to be included it in what is discussed at the staff review team meeting and in the docket that is forwarded to the board members about a week ahead of his hearing.
- Notice that the board can authorize signs attached to a window or glass door in a business zoning district to exceed 15 percent of the area of that window or glass door or to be located within the upper two-thirds of that window or glass door if the board finds that the proposed signs do not eliminate visibility into, or out from, the premise; and that a sign authorized by this provision: i) must be made of translucent or a similar material with at least a 65/35 perforation pattern (a maximum of 65 percent of the area is closed, a minimum of 35 percent of the area is open); and ii) may only have images; any text or characters on the sign are limited to 15 percent of the window area and are only permitted in the lower one-third of the window.
- Question as to whether he could represent that the only aspect of how your sign that you want to maintain on this site is in noncompliance to this code provision is what you have stated on your application which is that the sign is not limited to the lower one-third of the window? (Or in other words, if he would be able to represent that the sign on the site that he wants to

maintain IS in compliance with the translucent vinyl or similar material with at least a 65/35 perforation pattern.)

- The fact that there is no context of what is typically submitted with this type of application OR what is typically imposed as a condition by the board if they choose to grant this type of application, seeing that this is the first of its type made to the board. But even though the code provision states that once a special exception is approved, a business does not need to return to the board of adjustment to change out the images or words on a sign as long as the sign complies with the approved special exception,
- Question as to whether he would feel it would be beneficial to submit some type of elevation of the sign requiring the exception with an accurate representation of: 1) the dimensions of the sign in context with the window or door that it is not in compliance with; 2) notations of material of the sign; and 3) percentage of perforation pattern of the sign.

January 23, 2013: The applicant's representative emailed the Board Administrator a section document with certain notations of the "window graphic" dimension and materials (see Attachment A). (The Board Administrator had indicated certain features shown on this document that were not in compliance with the sign regulations, and not features that could be considered as part of the applicant's special exception request).

February 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February 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 Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

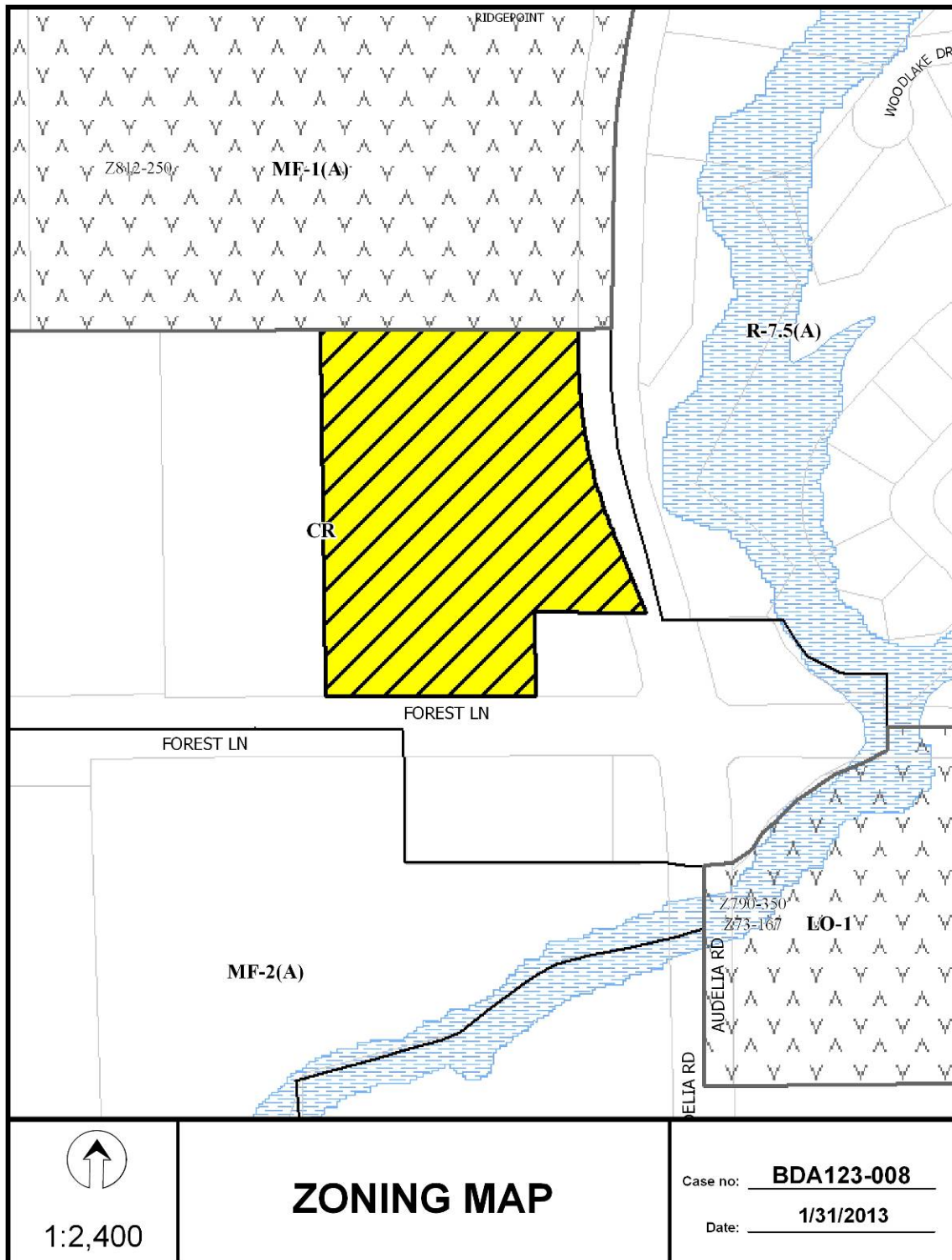
February 6, 2013: The applicant's representative emailed the Board Administrator a revised section document with certain notations of a "window graphic" dimension and materials that appeared to address concerns regarding features shown on the submitted document of January 23<sup>rd</sup> (see Attachment B).

#### **GENERAL FACTS/STAFF ANALYSIS:**

- The request focuses on maintaining translucent vinyl graphics to cover a portion of the upper two-thirds of a window on a site currently developed with a retail use (DD's Discounts).

- The Dallas Development Code states that the Board of Adjustment may authorize signs attached to a window or glass door in a business zoning district to exceed 15 percent of the area of that window or glass door or to be located within the upper two-thirds of that window or glass door if the board finds that the proposed signs do not eliminate visibility into, or out from, the premise; and that a sign authorized by this provision: i) must be made of translucent or a similar material with at least a 65/35 perforation pattern (a maximum of 65 percent of the area is closed, a minimum of 35 percent of the area is open); and ii) may only have images; any text or characters on the sign are limited to 15 percent of the window area and are only permitted in the lower one-third of the window.
- The applicant has the burden of proof in establishing the following:
  - That strict compliance with the requirement of the sign regulations will result in substantial financial hardship or inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives of the sign regulations; and
  - that the signs attached to a window or glass door located within the upper two-thirds of that window or glass door do not eliminate visibility into, or out from, the premise.
- Granting this special exception would not provide any relief to the sign regulations of the Dallas Development Code other than allowing a sign in the upper two-thirds of a window on a site developed with a retail use.





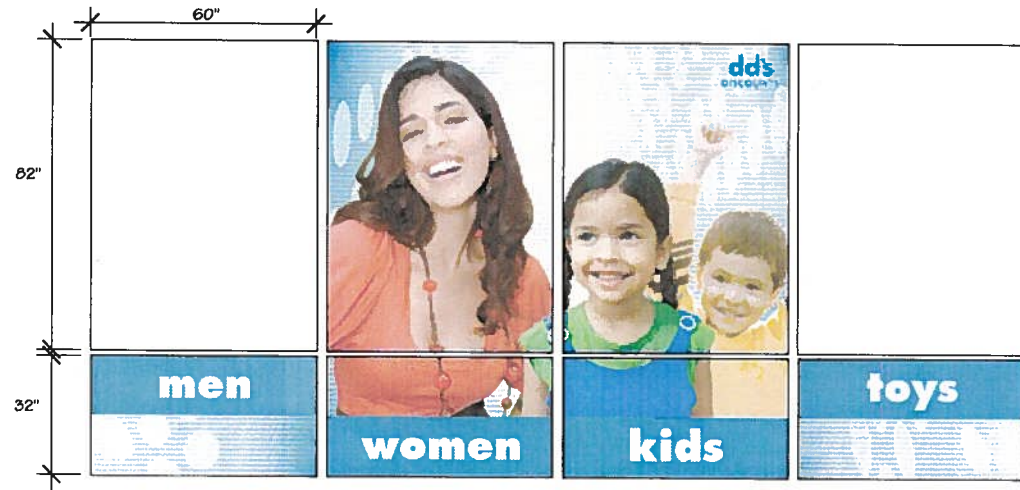






**B** ATRIUM • EXISTING

NO SCALE



**A** WINDOW GRAPHIC • DETAIL

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

82" HIGH X 60" WIDE AND 32" HIGH X 60" WIDE PERFORATED VINYL "CLEAR FOCUS" DECALS APPLIED FIRST SURFACE TO STOREFRONT WINDOW.



**1** STOREFRONT • SOUTH • FOREST LANE • ELEVATION

SCALE: 3/32" = 1'-0"

NOTE:  
BEHIND ALL IMAGE WINDOWS HAS BEEN FIELD VERIFIED AS AN OPEN ATRIUM/WALKWAY.

1057 solano ave.  
p.o. box 6153  
albany, ca 94706-0153  
510/526-0296 fax 526-6092  
www.billmoore.com

MEMBER  
bma  
bill moore & associates

MEMBER  
CSA  
CALIFORNIA SOCIETY OF ARCHITECTS

MEMBER  
AIA  
AMERICAN INSTITUTE OF ARCHITECTS

dd's  
DISCOUNTS

**#5058 NE DALLAS**  
Forest Audelia Village  
9779 Forest Lane  
Dallas, TX 75243

drawn 09/04/09  
rev per JF 09/14/09  
rev per JF 09/30/09

SHEET  
**WG**



**(B) ATRIUM • EXISTING**

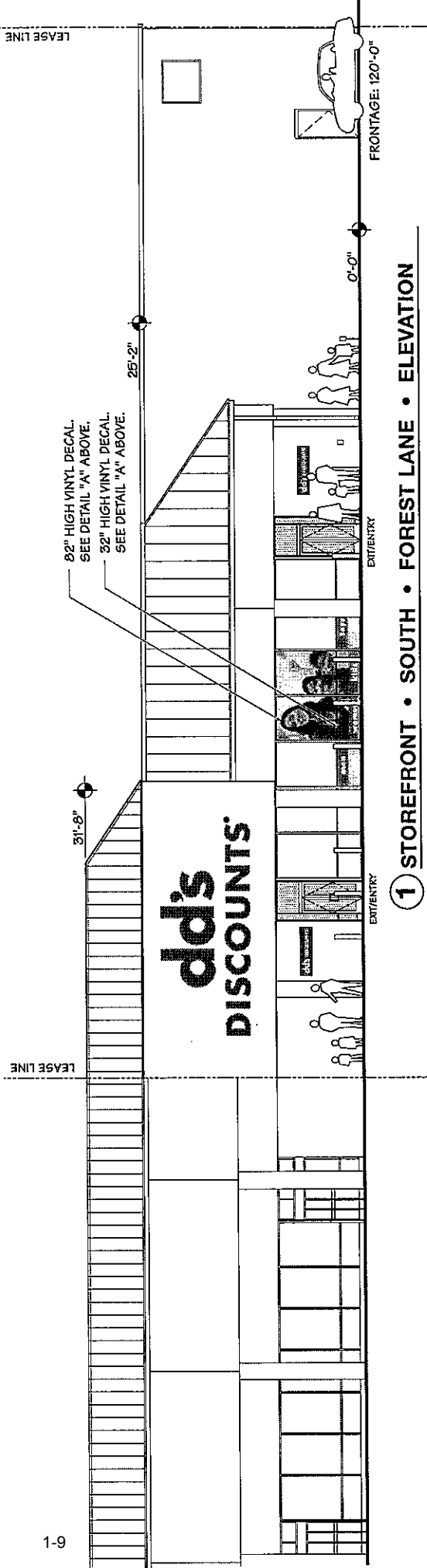
NO SCALE



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PERFORATED VINYL  
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APPLIED FIRST SURFACE TO  
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**(A) WINDOW GRAPHIC • DETAIL**

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



**(1) STOREFRONT • SOUTH • FOREST LANE • ELEVATION**

SCALE: 3/32" = 1'-0"

**lma**  
bill moore & associates

1537 Solano Ave.  
p.o. box 6153  
daly city, ca 94706-0153  
510.526-0296 fax 526-6092  
www.limade.com

**CSA**  
MEMBER  
CONSTRUCTION SOFTWARE ASSOCIATION

**dd's**  
DISCOUNTS

**#5058 NE DALLAS**  
Forest Audelia Village  
9779 Forest Lane  
Dallas, TX 75243

**SHEET**  
**WVG**

d/revl 09/04/09  
rev per /# 09/14/09  
rev per /# 09/30/09

BDA  
123-  
008  
Attach

NOTE:  
BEHIND ALL IMAGE WINDOWS HAS BEEN FIELD VERIFIED  
AS AN OPEN ATRIUM/WALKWAY.



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-008

Data Relative to Subject Property:

Date: 12-17-12

Location address: 9779 Forest Ln Dallas Texas 75243 Zoning District: CR

Lot No.: 4 Block No.: 6/8421 Acreage: 5.73 Census Tract: 190.35

Street Frontage (in Feet): 1) 345 2) 475.63 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

NES

Owner of Property/or Principal: Aldi (Texas) LLL

Applicant: Gregg McGillis Telephone: \_\_\_\_\_

Mailing Address: 4440 Rosewood Dr., Pleasanton, Ca Zip Code: 94588

Represented by: Robert Mikios Telephone: 214-220-1210 x114

Mailing Address: 1909 Woodell Rogers #500 Dallas Texas Zip Code: 75201

Affirm that a request has been made for a Variance , or Special Exception , of the sign ordinance

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

To authorize translucent vinyl graphics to cover a portion of the upper two-thirds of a window.

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: Gregg McGillis Applicant's name printed [Signature] Applicant's signature

Affidavit

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

[Signature]  
Affiant (Applicant's signature)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,

See attached  
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

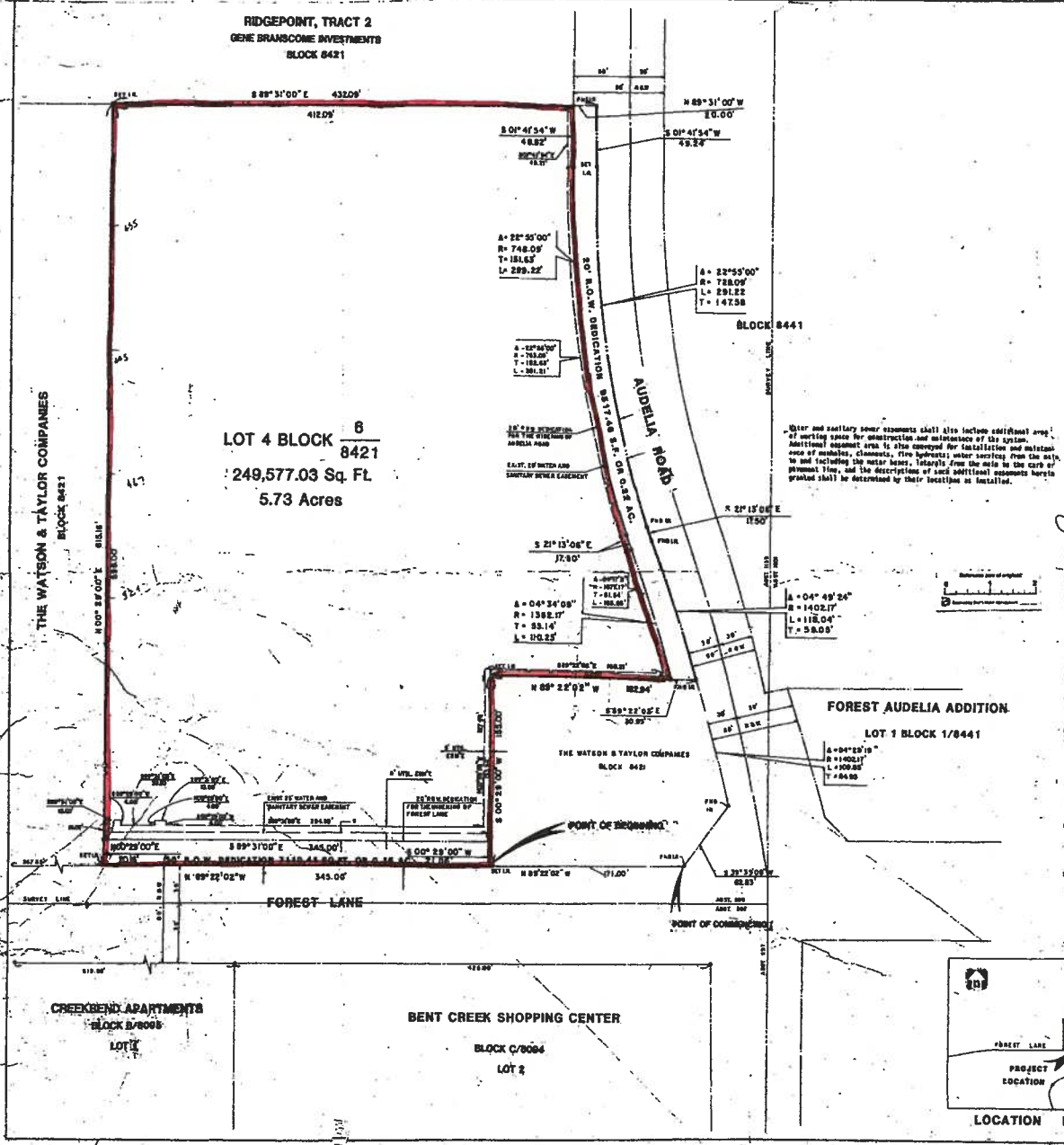
**Building Official's Report**

**I hereby certify that** Gregg McGillis  
**represented by** Robert Miklos  
**did submit a request** for a special exception to the sign regulation  
**at** 9779 Forest Lane

BDA123-008. Application of Gregg McGillis for a special exception to the sign regulations at 9779 Forest Lane. This property is more fully described as Lot 4, Block 6/8421, and is zoned CR, which limits the combined effective area of all signs attached to any window or any glass door to not exceed 15 percent of the area of that window or that glass door and prohibits signs in the upper two-thirds of a window or glass door. The applicant proposes to install a sign attached to a window or glass door in a business zoning district and to exceed 15 percent of the area of that window or glass door and to be located within the upper two-thirds of that window or glass door, which will require a special exception to the sign regulations.

Sincerely,

  
Larry Holmes, Building Official



OWNER'S CERTIFICATE

STATE OF TEXAS  
COUNTY OF DALLAS

WHEREAS American Stores Properties, Inc. is the owner of a 8.11 acre tract of land situated in the B.J. Primore Survey, Abstract No. 1159, said tract being a portion of Block 8421 in the City of Dallas, Dallas County, Texas; said tract being more particularly described as follows:

COMMENCING at the intersection of the north right-of-way 116e of Forest Lane (various A.B.N.'s.) with the West right-of-way line of Audelea Road (various A.B.N.'s.);

THENCE N 89° 22' 00" W, along said north right-of-way 116e of Forest Lane, for a distance of 171.00 feet to a POINT OF BEGINNING;

THENCE N 89° 22' 00" W, for a distance of 365.00 feet to a point for corner;

THENCE N 00° 23' 00" E for a distance of 615.18 feet to a point for corner;

THENCE S 89° 31' 00" E for a distance of 432.00 feet to a point for corner to West right-of-way 116e of Audelea Road;

THENCE:

S 01° 41' 00" W for a distance of 99.00 feet to the point of curvature of a curve to the left having a radius of 720.00 feet, a central angle of 20° 48' 00" and a long chord of 202.25 feet bearing S 89° 45' 36" E;

Symmetrically with said curve to the left for an arc distance of 293.22 feet to a point of tangency;

S 27° 13' 00" E for a distance of 17.49 feet to the point of curvature of a curve to the right having a radius of 1002.17 feet, a central angle of 04° 40' 36" and a long chord of 118.00 feet bearing S 18° 48' 19" E;

Symmetrically with said curve to the right for an arc distance of 110.04 feet to a point for corner;

THENCE N 00° 23' 00" E for a distance of 102.94 feet to a point for corner;

THENCE S 00° 29' 00" W for a distance of 156.00 feet to the POINT OF BEGINNING;

CONTAINING 256,804.00 square feet or 5.91 acres of land, more or less.

THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That, American Stores Properties, Inc. does hereby adopt this plat designating the heretofore described property of American Stores Properties, Inc. as an addition to the City of Dallas, Texas. (Any public utility shall have the right to install and maintain its facilities on the property for the purpose of providing water and sewer service and any maintenance and service to the property.)

This plat approved subject to all plating ordinances, rules, regulations and resolutions of the City of Dallas, Texas.

WITNESS MY HAND AT DALLAS, TEXAS, THIS 20th day of April, 1982.

ATTEST:

*[Signature]*  
Deputy Clerk

STATE OF TEXAS  
COUNTY OF DALLAS

BEFORE me, the undersigned authority, a Notary Public in and for Dallas County, Texas, on this day personally appeared \_\_\_\_\_ known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in the capacity therein stated and as the act and deed of said Corporation.

EITHER UNDER MY HAND AND SEAL OF THIS OFFICE, THIS 20th day of April, 1982.

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

KNOW ALL MEN BY THESE PRESENTS:

THAT I, Bobby Harold Shum, do hereby certify that I prepared this plat from an actual and accurate survey on the ground and that the corner monuments shown thereon were properly placed under my personal supervision in accordance with the plating rules and regulations of the City Plan Commission of the City of Dallas.

*[Signature]*  
Bobby Harold Shum, P.L.  
Registered Public Surveyor

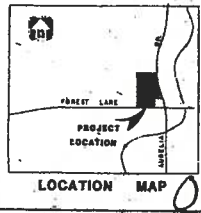
STATE OF TEXAS  
COUNTY OF DALLAS

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Bobby Harold Shum, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and considerations therein expressed and in the capacity therein stated.

Witness my hand and seal of office this 20th day of April, 1982.

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

CITY PLAN NO.  
S.M. 823-120



REVISED APPROVED

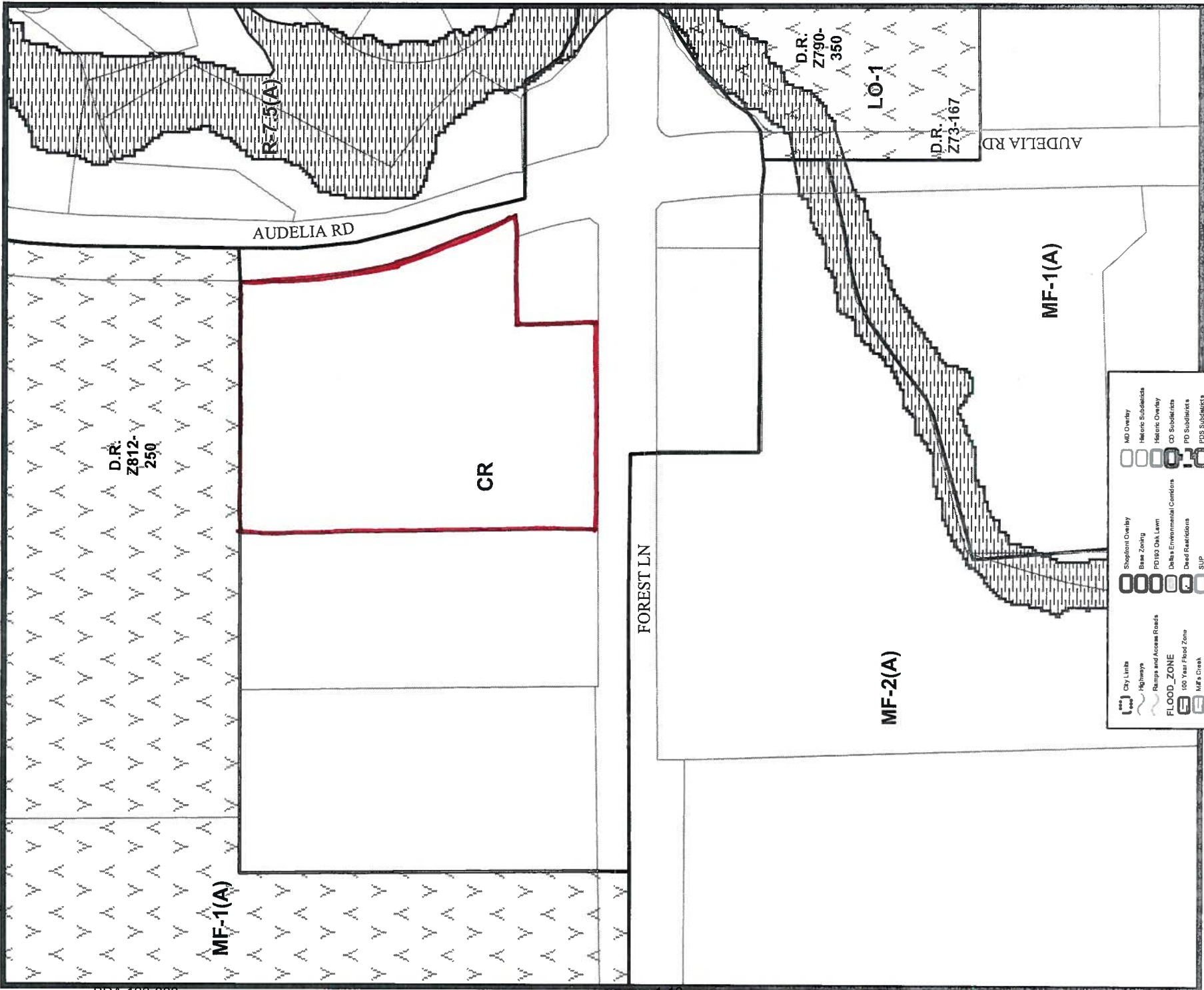
**FINAL PLAT**  
SKAGGS ALPHA BETA BLOCK 6/8421  
B.J. PRIMORE SURVEY  
ABSTRACT NO. 1159  
CITY OF DALLAS  
DALLAS COUNTY, TEXAS  
AMERICAN STORES PROPERTIES

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

Graham Associates, Inc.  
CONSULTING ENGINEERS & PLANNERS  
1111-1111  
1111-1111

*Tom*





Case ID:  
Printed: 9/19/2012

<input type="checkbox"/> City Limits	<input type="checkbox"/> MD Overlay	<input type="checkbox"/> Historic Subdistricts
<input type="checkbox"/> Highways	<input type="checkbox"/> Historic Overlay	<input type="checkbox"/> CD Subdistricts
<input type="checkbox"/> Ramps and Access Roads	<input type="checkbox"/> PD Subdistricts	<input type="checkbox"/> PDS Subdistricts
<input type="checkbox"/> FLOOD_ZONE	<input type="checkbox"/> NSO Subdistricts	<input type="checkbox"/> NSO Overlay
<input type="checkbox"/> 100 Year Flood Zone	<input type="checkbox"/> Easement Overlay	
<input type="checkbox"/> MFA Creek		
<input type="checkbox"/> Peak's Branch		
<input type="checkbox"/> X-PROTECTED BY LEVEE		
<input type="checkbox"/> Parks		
<input type="checkbox"/> Height Map Overlay		
<input type="checkbox"/> Fishing Management Overlay		

1:2,400



**51A-7.305(d)**

(4) Authorize signs attached to a window or glass door in a business zoning district to exceed 15 percent of the area of that window or glass door or to be located within the upper two-thirds of that window or glass door if the board finds that the proposed signs do not eliminate visibility into, or out from, the premise.

(A) A sign authorized by this paragraph:

(i) must be made of translucent vinyl or a similar material with at least a 65/35 perforation pattern (a maximum of 65 percent of the area is closed, a minimum of 35 percent of the area is open): and

(ii) may only have images: any text or characters on the sign are limited to 15 percent of the window area and are only permitted in the lower one-third of the window.

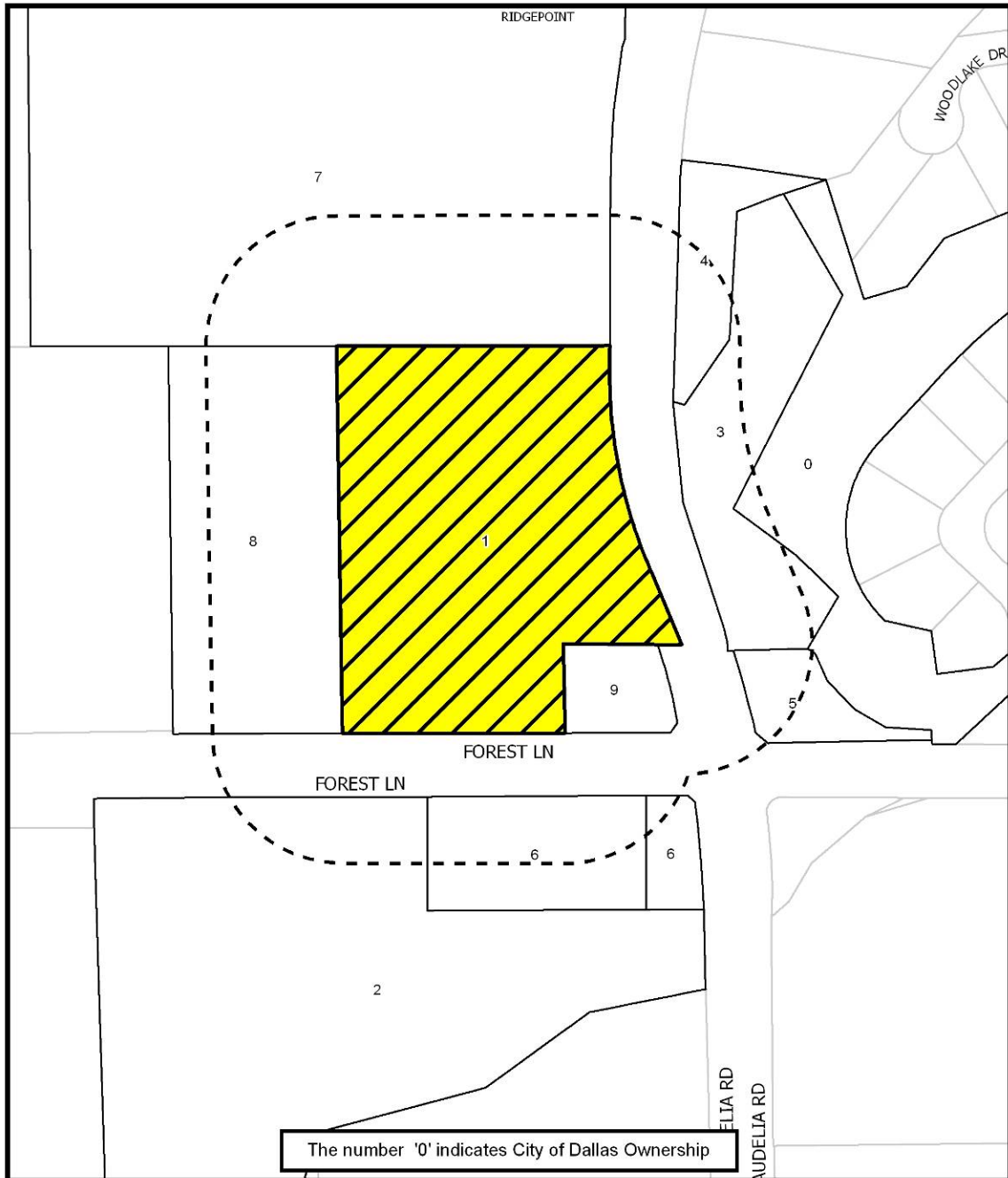
(B) A convenience store regulated by Chapter 12B is not eligible for this special exception.

(C) Once a special exception is approved, a business does not need to return to the board of adjustment to change out the images or words on a sign as long as the sign complies with the approved special exception.









 1:2,400	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;"><b>200'</b></td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;"><b>9</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	<b>200'</b>	AREA OF NOTIFICATION	<b>9</b>	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <b>BDA123-008</b> Date: <b>1/31/2013</b>
<b>200'</b>	AREA OF NOTIFICATION					
<b>9</b>	NUMBER OF PROPERTY OWNERS NOTIFIED					

## ***Notification List of Property Owners***

***BDA123-008***

### ***9 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	9779 FOREST LN	ALDI TX LLC
2	9750 FOREST LN	9750 FOREST LANE LP
3	11800 AUDELIA RD	SMITH HUGH G
4	11922 AUDELIA RD	FETAJ ASTRIT
5	9809 FOREST LN	ZEROS INVESTMENTS LLC
6	9798 FOREST LN	BENT CREEK SHOPPING CENTER LLC
7	11991 AUDELIA RD	ROC TX INDIGO LLC
8	9759 FOREST LN	AUDELIA LP % M WEST HOLDINGS
9	9797 FOREST LN	TETCO STORES LP #625 ATTN GUY FRENCH

**FILE NUMBER:** BDA 123-009

**BUILDING OFFICIAL'S REPORT:**

Application of Robert Baldwin for a variance to the front yard setback regulations at 9200 (AKA 9212) Guernsey Lane. This property is more fully described as Lot 5, Block 5558 and is zoned R-1ac(A), which requires a front yard setback of 40 feet. The applicant proposes to construct a structure and provide a 30 foot front yard setback, which will require a variance to the front yard setback regulations of 10 feet.

**LOCATION:** 9200 (AKA 9212) Guernsey Lane

**APPLICANT:** Robert Baldwin

**REQUEST:**

**REQUEST:**

A variance to the front yard setback regulations of 10' is requested in conjunction with constructing and maintaining a single family home on an undeveloped site, part of which would be located in the 40' front 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 site plan is required.

Rationale:

- The lot's irregular shape and restrictive area (caused by most of the lot being located in floodplain) preclude its development in a manner commensurate with other developments found on similarly-zoned R-1ac(A) lots. In this case, according to the applicant's submittals, a single family home with a building footprint of about 3,900 square feet is proposed on the subject site. According to calculations taken by the Board Administrator from information submitted by the applicant, the size of the proposed home building footprint is near the approximately 4,000 square foot average of 17 other building footprints in the area.
- Granting this variance does not appear to be contrary to the public interest since according to from calculations taken the submitted site plan by the Board Administrator only approximately 2 percent (or approximately 110 square feet) of the proposed approximately 4,000 square foot building footprint is to be located in the site's 40' front yard setback

**BACKGROUND INFORMATION:**

**Zoning:**

Site: R-1ac (A) (Single family district 1 acre)  
North: R-1ac (A) (Single family district 1 acre)  
South: R-1ac (A) (Single family district 1 acre)  
East: R-1ac (A) (Single family district 1 acre)  
West: R-10 (A) (Single family district 10,000 square feet)

**Land Use:**

The subject site is undeveloped. 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:**

December 19, 2012: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 14, 2013: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

January 14, 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 January 30th deadline to submit additional evidence for staff to factor into their analysis; and the February 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

January 29, 2013: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

February 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February 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 Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

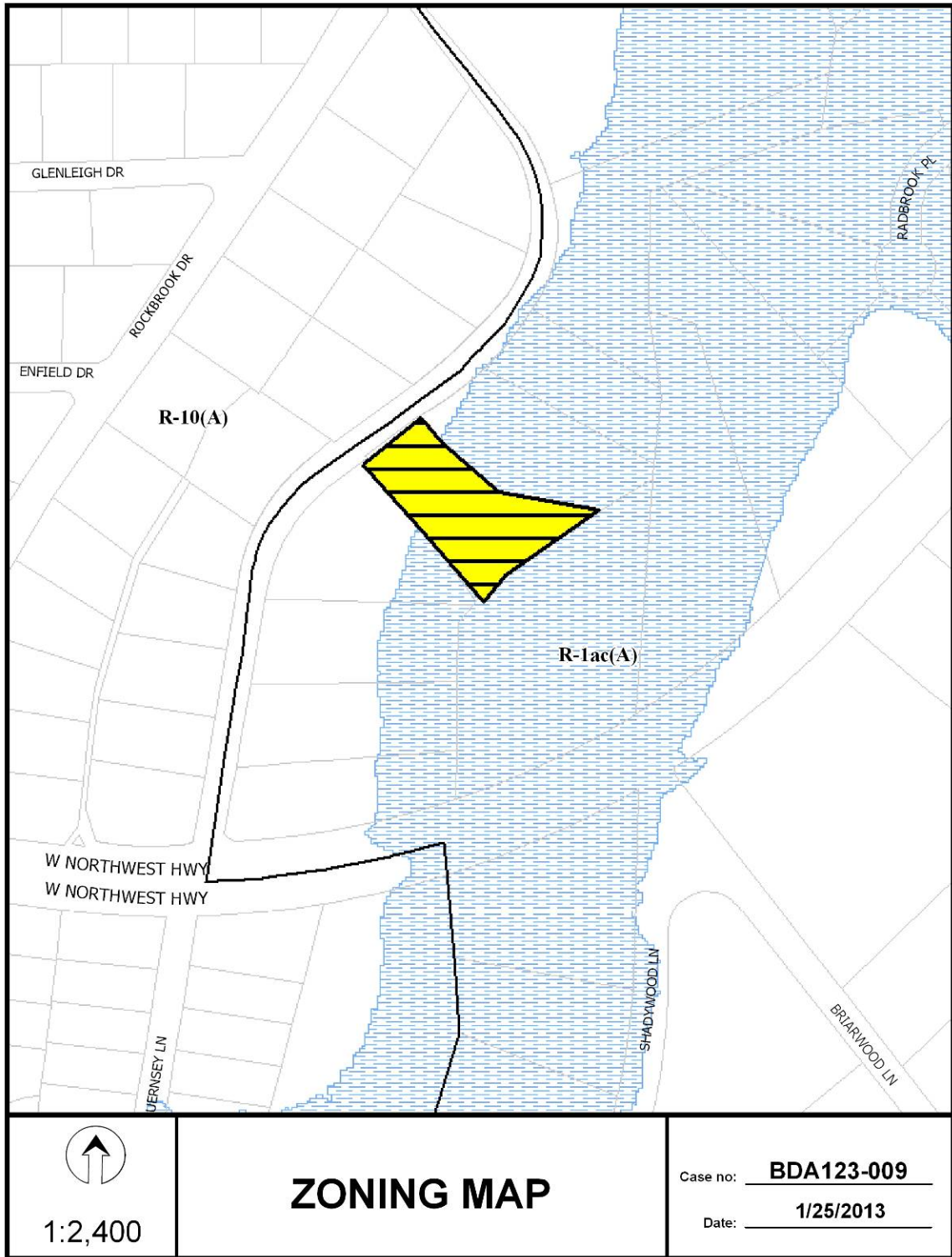
No additional review comment sheets with comments were submitted in conjunction with this application.

### **GENERAL FACTS/STAFF ANALYSIS:**

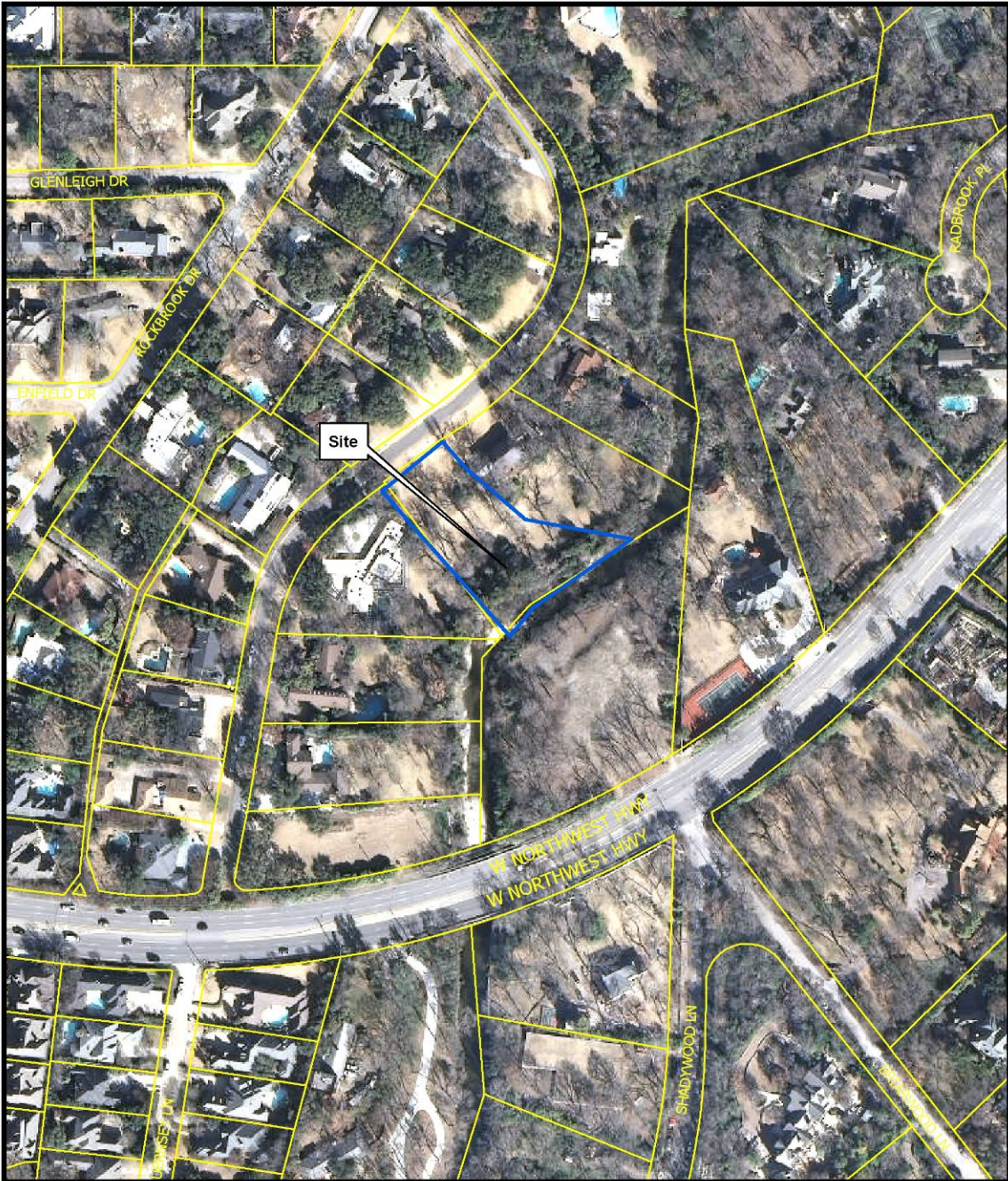
- This request focuses on constructing and maintaining a single family home on an undeveloped site, part of which is proposed to be located in the site's 40' front yard setback.
- Structures on lots zoned R-1ac(A) are required to provide a minimum front yard setback of 40'.
- A site plan has been submitted denoting a portion of the proposed single family home to be located as close as 30' from the site's front property line (or as much as 10' into the 40' front yard setback).
- It appears from calculations taken the submitted site plan by the Board Administrator that approximately 2 percent (or approximately 110 square feet) of the proposed approximately 4,000 square foot building footprint is to be located in the site's 40' front yard setback.
- There are no DCAD records for property located at 9212 Guernsey Lane.
- The subject site is irregular in shape and according to the application, is 1.003 acres in area. The site is zoned R-1ac(A) where lots are typically one acre in area. The zoning map and submitted site plan indicate that over half of the site lies in flood plain.

- 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 R1ac(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-1ac(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 is a structure to be located 30' from the site's front property line (or 10' into the 40' front yard setback).









1:2,400

# AERIAL MAP

Case no: BDA123-009

Date: 1/25/2013

**Baldwin**  
Associates

January 29, 2013

Mr. Steve Long  
Board of Adjustment Administrator  
City of Dallas  
1500 Marilla  
Dallas, Texas 75201

Re: BDA 123-009  
9212 Guernsey Lane

Dear Steve:

We are working with Edward and Stephanie Howard in their efforts to build a new home at 9212 Guernsey Lane. This property is located within a R-1AC(A) zoning district. The R-1AC(A) zoning district requires a 40-foot front yard setback. We are requesting a variance to allow for a small portion of the new house to encroach into the 40-foot front yard setback, by approximately 10 feet, resulting in a 30.1-foot front yard setback. The residential properties on the west side of Guernsey Lane are zoned R-10(A) and they are required to have a 30-foot front yard setback. Given the development pattern on the street, the approval of this request will not have a negative impact on properties in the area.

This property is located on the east side of Guernsey Lane and abuts Bachman Branch, a creek that runs north and south in this area of Dallas and drains much of Preston Hollow and Bluffview. As with most properties on the east side of Guernsey, this property is encumbered by the Bachman Branch floodplain. As you can see from the attached exhibit, most of the Howard's lot is located within the floodplain of Bachman Branch. This floodplain is encumbering the property to an extent that it cannot be built commensurate with other properties in the immediate vicinity. Properties on the west side of Guernsey Lane are not encumbered with floodplain and as you move south along Guernsey Lane towards Northwest Highway, less of each lot is encumbered by the floodplain.

The floodplain encumbers most of the property. On the east side of the lot, the existing floodplain comes within approximately 20 feet of the front property line and on the western property line the floodplain comes to within approximately 85 feet of the front property line. The Howards are working with the City to reclaim some of the floodplain, but even with this work, most of the property is still in the floodplain. The Howards have hire a nationally recognized architect to design their house for this



particular lot. They went through numerous design iterations until they found one that worked with the lot, complemented the neighborhood and did not crowd the lot.

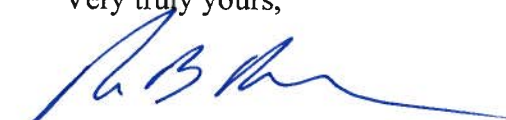
Given the floodplain encumbrance and required setbacks, over 80% of the lot is not usable. The request is to allow a small portion of the house to encroach into the 40-foot front yard setback. The total encroachment is approximately 141 square feet of building footprint. The remainder of the building footprint will comply with the required front yard setback.

We have performed an analysis of other homes in the immediate vicinity and the result of this analysis is attached. This analysis reveals that the Howard's house is proposing to have a building footprint of approximately 9% of the lot area. The average building coverage in the immediate vicinity is around 12.5%. The proposed structure is definitely in keeping with the other homes in the area and the proposed variance will not result in an overbuilt lot.

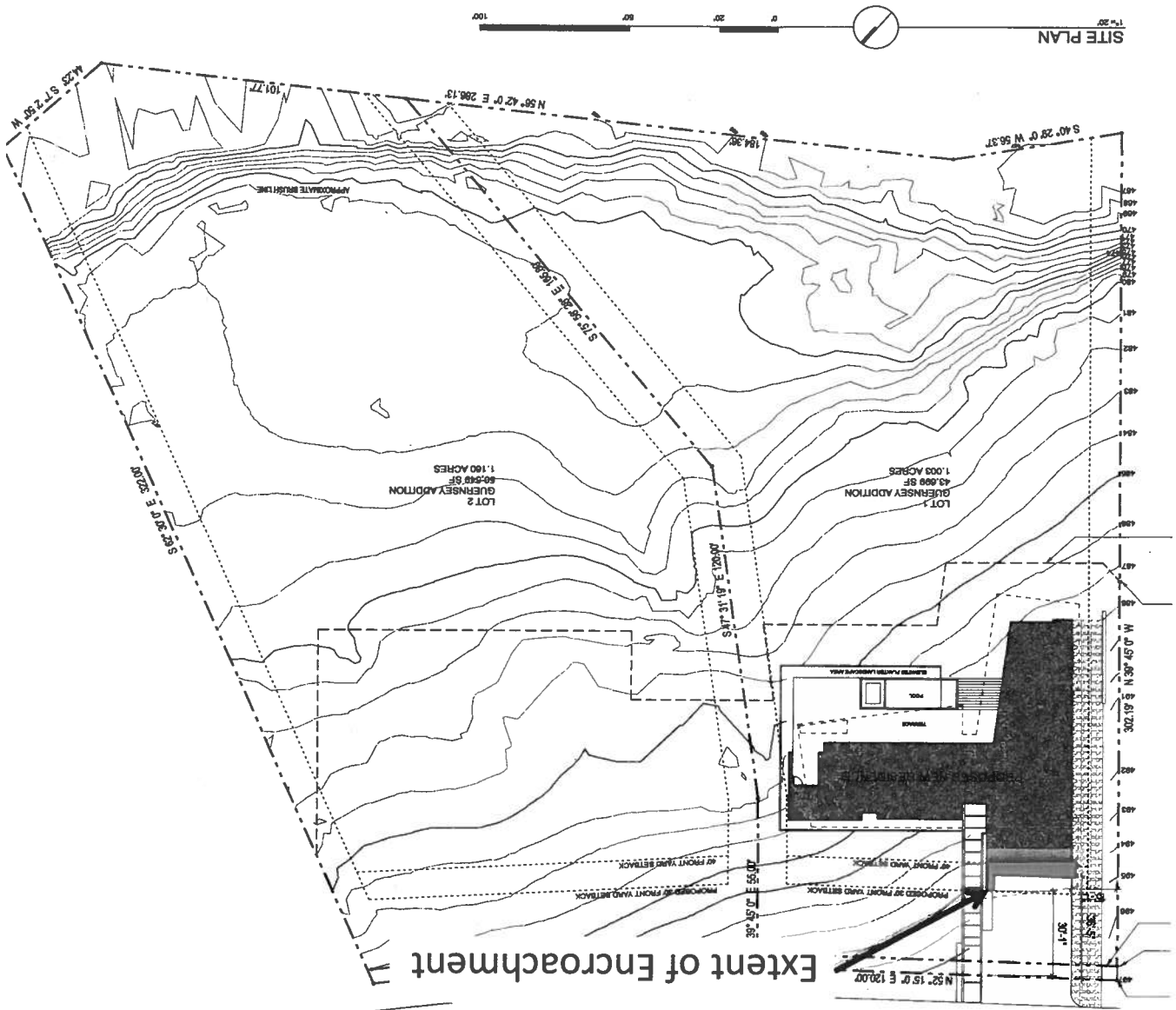
It is not common in Dallas to find lots with almost 80% of the lot unusable. This variance is necessary to allow this property to be developed commensurate with other properties in the immediate vicinity. The proposed variance will not negatively affect any neighboring properties and will not result in a lot being overbuilt.

Thank you for your assistance with this matter. If you have any questions or if I can be of any further assistance, Please do not hesitate to contact me.

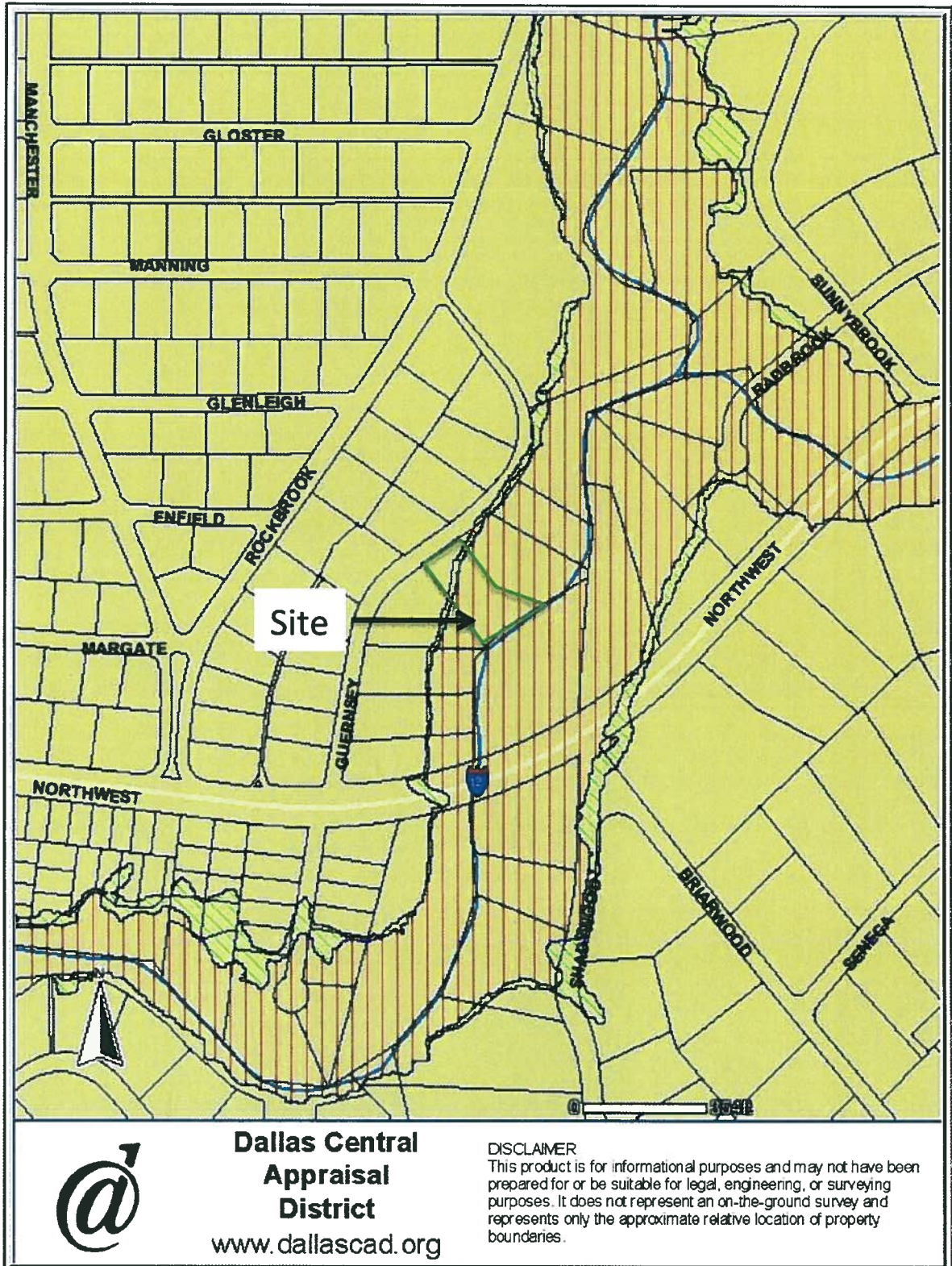
Very truly yours,

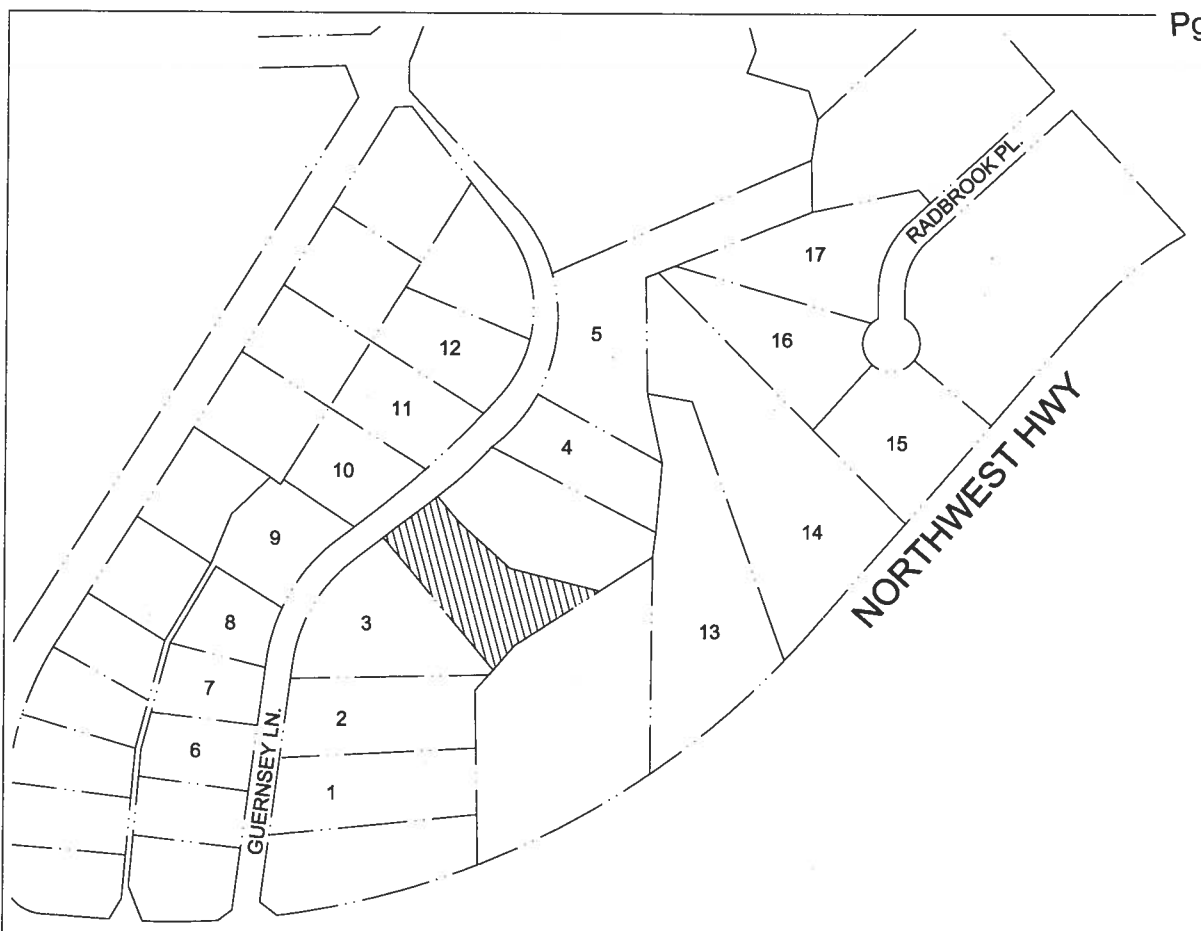
A handwritten signature in blue ink, appearing to read 'R. B. Baldwin', with a long horizontal flourish extending to the right.


Robert B. Baldwin, AICP



# Z123-009





Ref. #	Address	Zoning	Lot Area (acres)	Building Area (First Floor)	Lot Coverage
	9200 Guernsey Ln.	R-1AC(A)	1.003	3,880	9%
1	9020 Guernsey Ln.	R-1AC(A)	0.984	4,521	11%
2	9030 Guernsey Ln.	R-1AC(A)	0.984	5,274	12%
3	9100 Guernsey Ln.	R-1AC(A)	1.133	4,124	8%
4	9308 Guernsey Ln.	R-1AC(A)	0.800	4,120	12%
5	9316 Guernsey Ln.	R-1AC(A)	1.810	2,309	3%
6	9019 Guernsey Ln.	R-10(A)	0.503	3,631	17%
7	9027 Guernsey Ln.	R-10(A)	0.485	4,068	19%
8	9109 Guernsey Ln.	R-10(A)	0.447	3,267	17%
9	9119 Guernsey Ln.	R-10(A)	0.780	4,131	12%
10	9211 Guernsey Ln.	R-10(A)	0.599	4,541	17%
11	9225 Guernsey Ln.	R-10(A)	0.680	3,203	11%
12	9307 Guernsey Ln.	R-10(A)	0.660	4,123	14%
13	4811 W. Northwest HWY	R-1AC(A)	2.032	3,179.5	4%
14	4847 W. Northwest HWY	R-1AC(A)	2.500	3,008.0	3%
15	4906 Radbrook Pl.	R-1AC(A)	1.072	3,614.0	8%
16	4905 Radbrook Pl.	R-1AC(A)	0.655	3,801.0	13%
17	4915 Radbrook Pl.	R-1AC(A)	1.000	7,817.0	18%



**9200 Guernsey Ln.**

SCALE: 1" = 200'-0"  
 DATE: 01-18-13  
 DRAWN BY: AS

Baldwin

---

Associates

**BALDWIN ASSOCIATES**

3904 Elm Street, Suite B  
 Dallas, Texas 75226  
 MOBILE: 214.729.7949  
 OFFICE: 214.824.7949  
 rob@baldwinplanning.com



City of Dallas

B

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-009

Data Relative to Subject Property:

Date: 12-19-12

Location address: 9212 Guernsey Lane Zoning District: R-1(A)

Lot No.: 5 Block No.: 5558 Acreage: 1.003 <sup>103</sup> ~~2.17~~ acres Census Tract: 206

Frontage (in Feet): 1) 240 ft 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

NE2A

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Edward and Stephanie Howard

Applicant: Robert Baldwin Telephone: 214.824.7949

Mailing Address: 3904 Elm Street – Suite B, Dallas, TX Zip Code: 75226

Represented By: Robert Baldwin Telephone: 214.824.7949

Mailing Address: 3904 Elm Street – Suite B Zip Code: 75226

Affirm that a request has been made for a Variance X, or Special Exception   , of    of 10 feet to the front yard setback requirement.

Application is now made to the Honorable Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described request for the following reason: Due to the floodplain located on this property, this variance is needed to allow the lot to be developed commensurate with other property in the immediate vicinity.

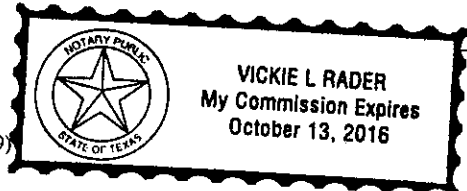
Note to applicant: If the relief requested in this application is granted by the Board of Adjustment, said permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

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

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

[Signature]  
Affiant (Applicant's signature)

Subscribed and sworn to before me this 14th day of December, 2012



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



MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

Date of Hearing \_\_\_\_\_

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

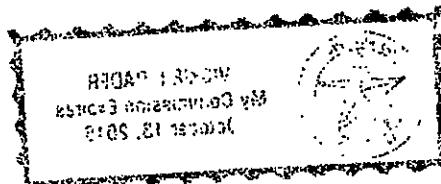
**Building Official's Report**

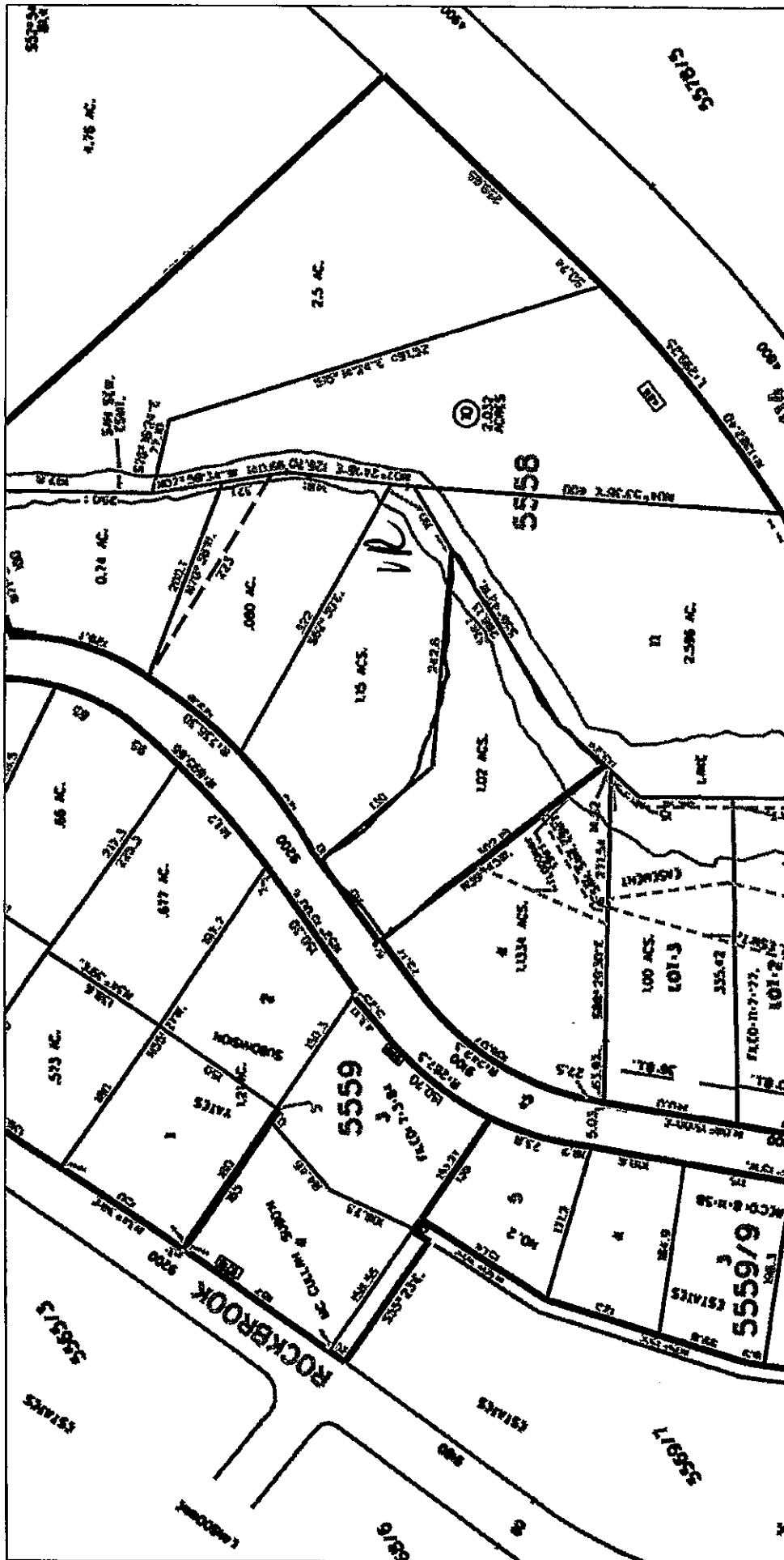
I hereby certify that     ROBERT BALDWIN  
  
did submit a request     for a variance to the front yard setback regulations  
                                  at     9212 Guernsey Lane

BDA123-009. Application of Robert Baldwin for a variance to the front yard setback regulations at 9200 Guernsey Lane. This property is more fully described as Lot 5, Block 5558 and is zoned R-1ac(A), which requires a front yard setback of 40 feet. The applicant proposes to construct a single family residential structure and provide a 30 foot front yard setback, which will require a 10 foot variance to the front yard setback regulation.

Sincerely,

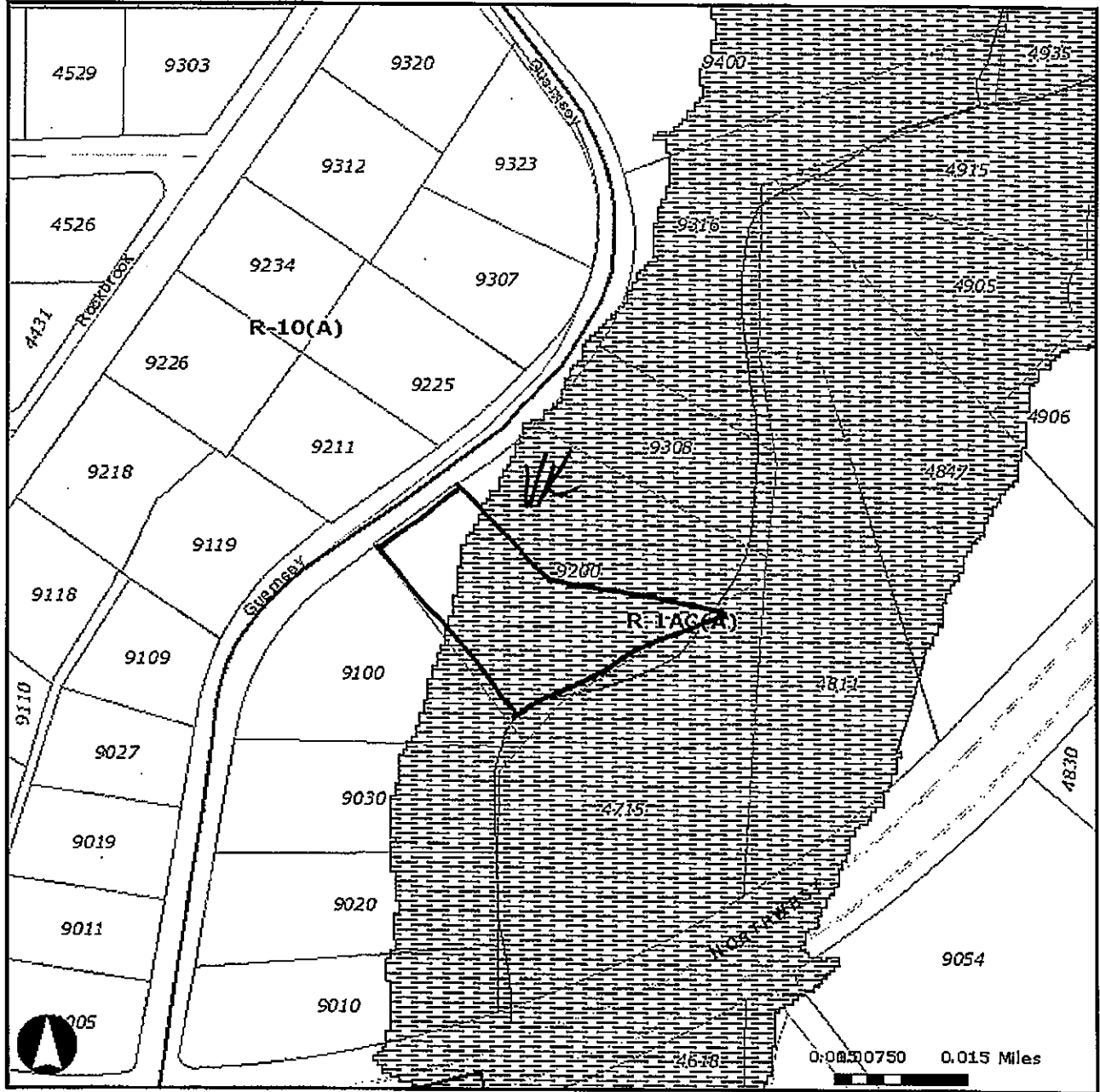
*Larry V. Holmes*  
Larry Holmes, Building Official





C:\fax\_plats\5558.dgn 12/17/2012 2:39:55 PM

# City of Dallas Zoning



**City Boundaries**

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

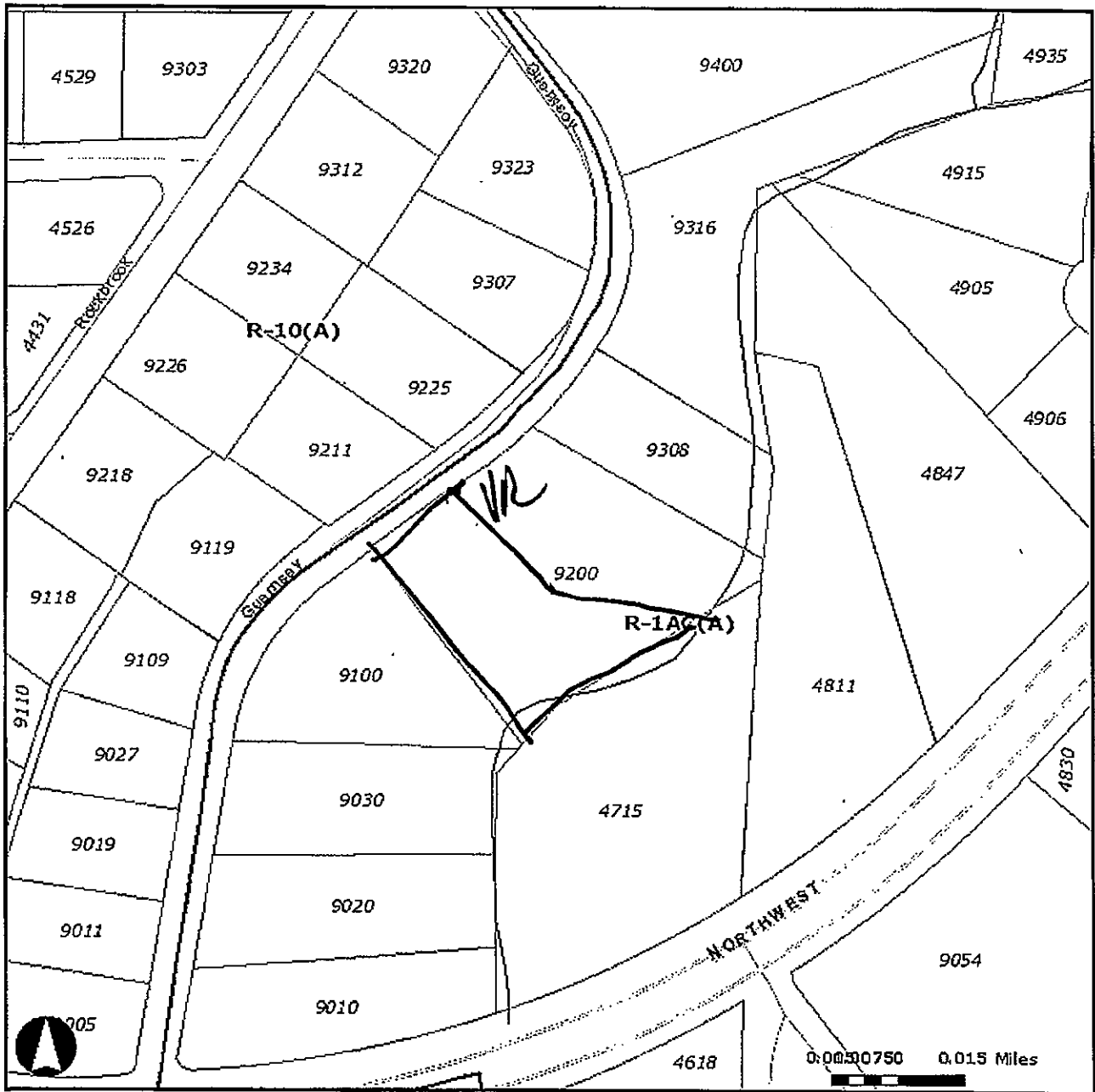
**Dry Overlay**

- 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

# City of Dallas Zoning



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

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

- PD Subdistricts
- PD193 Oak Lawn
- PDS Subdistricts
- Base Zoning
- Pedestrian Overlay
- CP
- SP



WELCOME TO DALLAS  
 2017-2021  
 2021-2025  
 2025-2029  
 2029-2033  
 2033-2037



**GENERAL CONTRACTOR**  
 S.H. McNamee Co., Inc.  
 2027 Lakewood Blvd.  
 Dallas, TX 75244  
 214.313.7233  
 mcnamee@shc.com

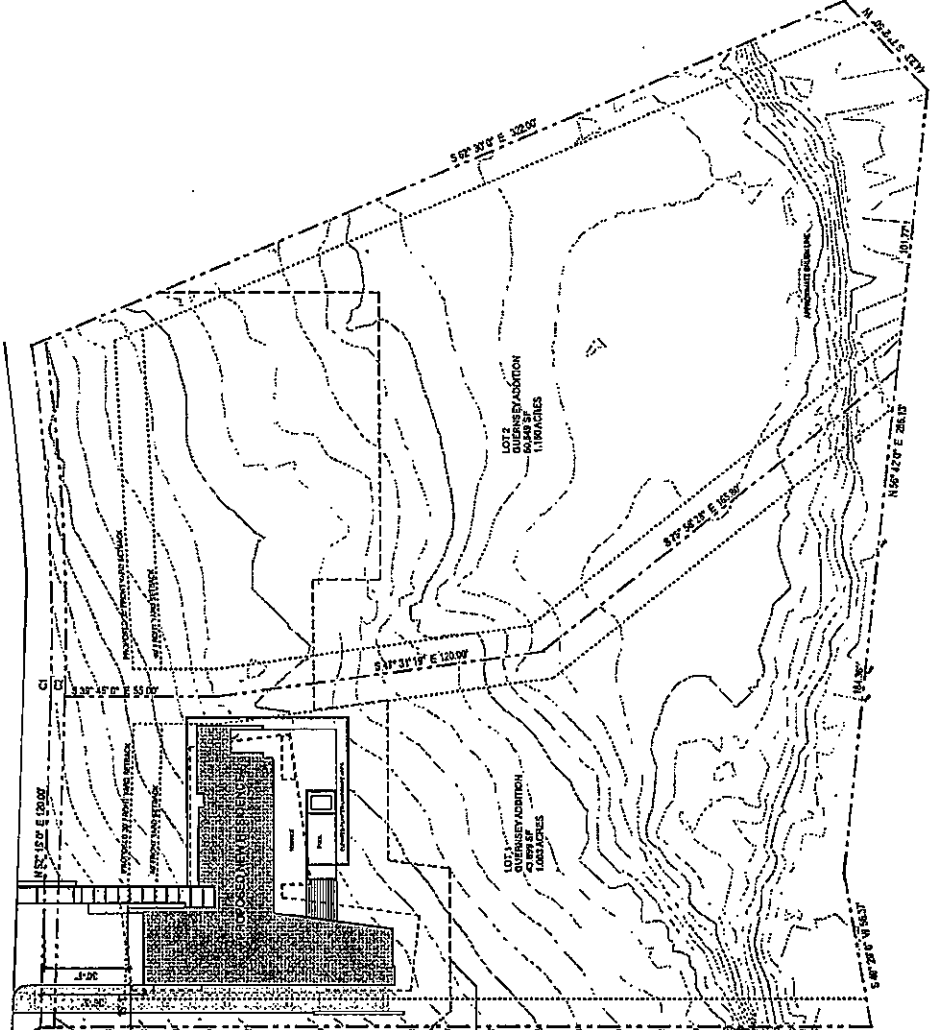
**CITY ENGINEER**  
 James J. Johnson  
 6500 E. Dallas Parkway  
 Dallas, TX 75248  
 214.670.8888

**PROJECT NO.** 132720

**KONWARD RESIDENCE**  
 5703 Lakewood Blvd.  
 Dallas, Texas 75248

DATE	

SHEET PLAN  
**A1.01**



POINT OF BEGINNING  
 UT GANT IRON ROAD  
 W 1/4 SECTION 34, T8S, R10E  
 BASE OF PROJECT FOOTPRINT ONLY  
 EASEMENT ON DEED OR RECORDATION  
 AMOUNTING TO 47.84'

CITY OF DALLAS DORMISE FLOODED  
 "THIS WORK IS PART OF THE DORMISE FLOODED PROJECT AND IS SUBJECT TO THE DORMISE FLOODED PROJECT RECORDATION AND CONDITIONS OF RECORDATION."

APPROXIMATE LOCATION OF HOME PLANTED  
 PLANT MATERIAL APPROXIMATELY 10' FROM CURB

**GEOMETRIC CORNER DATA**

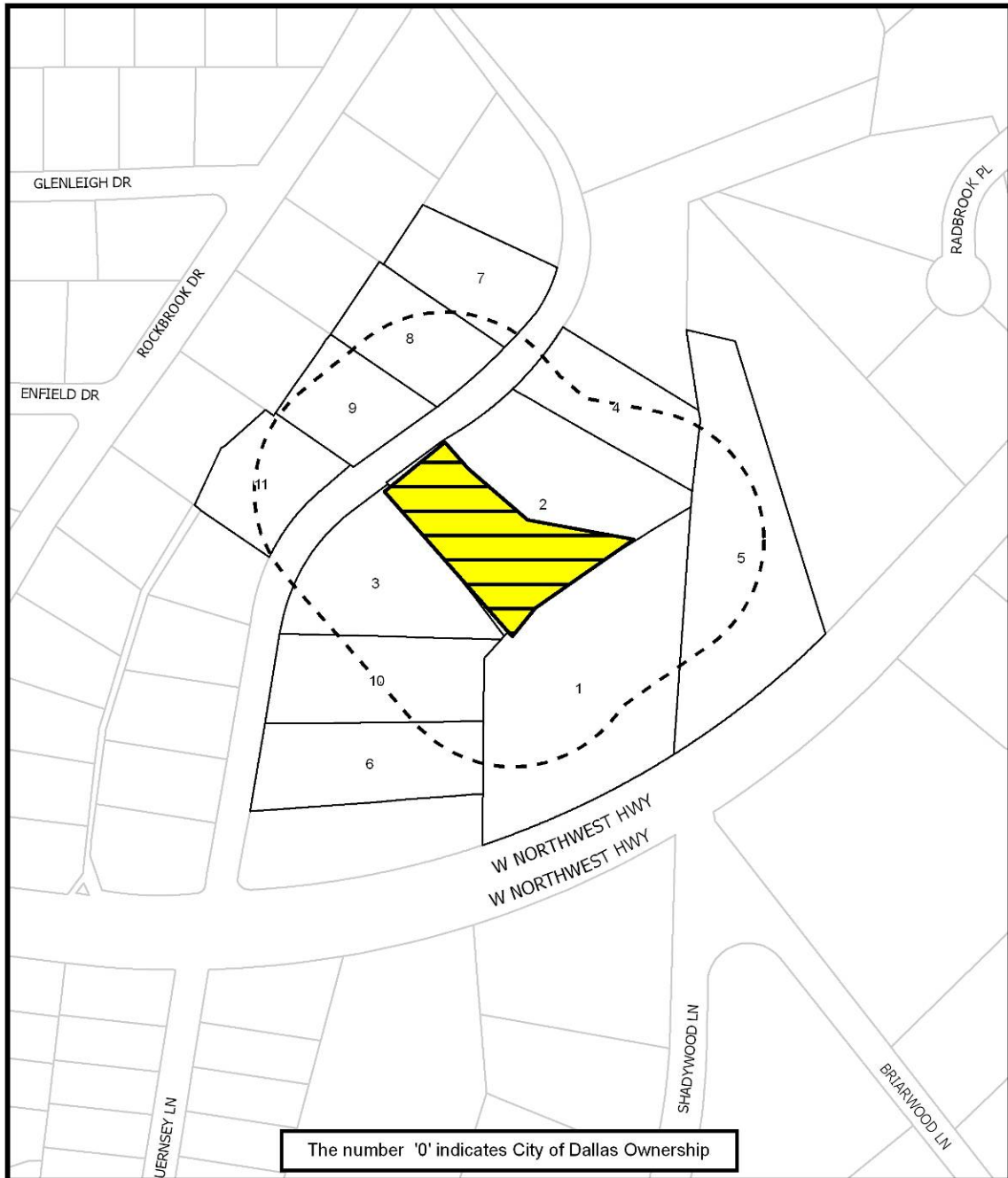
BEARING	90° 52' 34"
LENGTH	274.43'
BEARING	171° 10' 48"
LENGTH	172.86'

**BEARING AND DISTANCE CORNER DATA**

BEARING	17° 46' 44"	LENGTH	124.43'
BEARING	313° 20' 33"	LENGTH	170.00'
BEARING	104° 29' 00"	LENGTH	101.56'
BEARING	107° 11' 00"	LENGTH	101.56'

**LEGAL DESCRIPTION**  
 5000 GLENVIEW II, JAMES W. PARKER SURVEY, TRACT NO. 43, CITY BLOCK 664, DALLAS, DALLAS COUNTY, TEXAS, ACCORDING TO THE PLAN OF SUBDIVISION AND PLAT TWO TRACTS OF LAND DESCRIBED IN DEED TO THOMAS G. WATSON AND HIS WIFE, EMER L. WATSON, RECORDED IN VOL. 7701, PAGE 115 AND 116, RECORD BOOK 11062, RECORDED IN DALLAS COUNTY, TEXAS.  
 HOME PLANT OF COURTESY ANOTHER PARTY.  
 CONTOUR DATA PROVIDED BY THE CITY OF DALLAS.  
 PREPARED BY:  
 CAROLLEA SCHNEIDER ENGINEERING/FORUM  
 3111 NORTH RIVER STREET  
 DALLAS, TEXAS 75245  
 DATE: 06/20/2018





 1:2,400	<b>NOTIFICATION</b>		Case no: <b>BDA123-009</b>
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">11</div> NUMBER OF PROPERTY OWNERS NOTIFIED		Date: <b>1/25/2013</b>

## ***Notification List of Property Owners***

***BDA123-009***

### ***11 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	4715 NORTHWEST HWY	TERRASSE PROPERTIES LLC
2	9200 GUERNSEY LN	HOWARD EDWARD & HOWARD STEPHANIE
3	9100 GUERNSEY LN	MURRAY JOHN & MINNETTE
4	9308 GUERNSEY LN	WHITE ROBERT A
5	4811 NORTHWEST HWY	ASRAWI SALIM
6	9020 GUERNSEY LN	WATSON TRACY L
7	9307 GUERNSEY LN	MCNAMARA MARTIN B
8	9225 GUERNSEY LN	BURKERT CRAIG & MARTHA
9	9211 GUERNSEY LN	DANIEL THERESA M
10	9030 GUERNSEY LN	KNEIPPER RICHARD K
11	9119 GUERNSEY LN	MCCULLAH HARDY N ARCHTCT

**FILE NUMBER:** BDA 123-010

**BUILDING OFFICIAL'S REPORT:**

Application of Ronald M. and Sheila K. Kostelny for a variance to the front yard setback regulations at 6129 Prestondell Drive. This property is more fully described as Lot 6, Block 3/7418 and is zoned R-16(A), which requires a front yard setback of 35 feet. The applicant proposes to construct and maintain a structure and provide a 27 foot front yard setback, which will require a variance to the front yard setback regulations of 8 feet.

**LOCATION:** 6129 Prestondell Drive

**APPLICANT:** Ronald M. and Sheila K. Kostelny

**REQUEST:**

A variance to the front yard setback regulations of up to 8' is requested in conjunction with constructing and maintaining an addition to an existing attached garage, part of which would be located in one of the site's two 35' front yard setbacks (Prestondell Court) on a site that is currently developed with a single family home. (No request has been made in this application to construct/maintain any structure in the site's Prestondell Drive front 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 site plan is required.

Rationale:

- The subject site is unique and different from most lots zoned R-16(A) in that it is a slightly irregularly-shaped corner lot with a restrictive area due to its shape and its two front yard setbacks. The atypical two front yard setbacks on the slightly irregularly-shaped lot precludes it from being developed in a manner commensurate with development on other similarly zoned properties - in this case, the development on the property with a single family home with what the applicant has shown to be a typically found three-car garage in the area/zoning district.
- The requested variance would not be necessary if the lot was similar to most R-16(A) zoned lots with just *one* 35', two 10' side yard setbacks, and one 10' rear yard setback.
- Granting this variance does not appear to be contrary to the public interest since according to calculations taken by the Board Administrator from the submitted site plan, the area of the proposed addition to be located in the site's Prestondell Court 35' front yard setback is approximately 160 square feet in area or approximately half of the approximately 325 square foot building footprint of the proposed addition or about 4 percent of the total building footprint.

### **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:**

December 19, 2012: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 14, 2013: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

January 14, 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 January 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the February 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

January 29 & 30, 2013: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachments A and B).

February 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February 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 Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

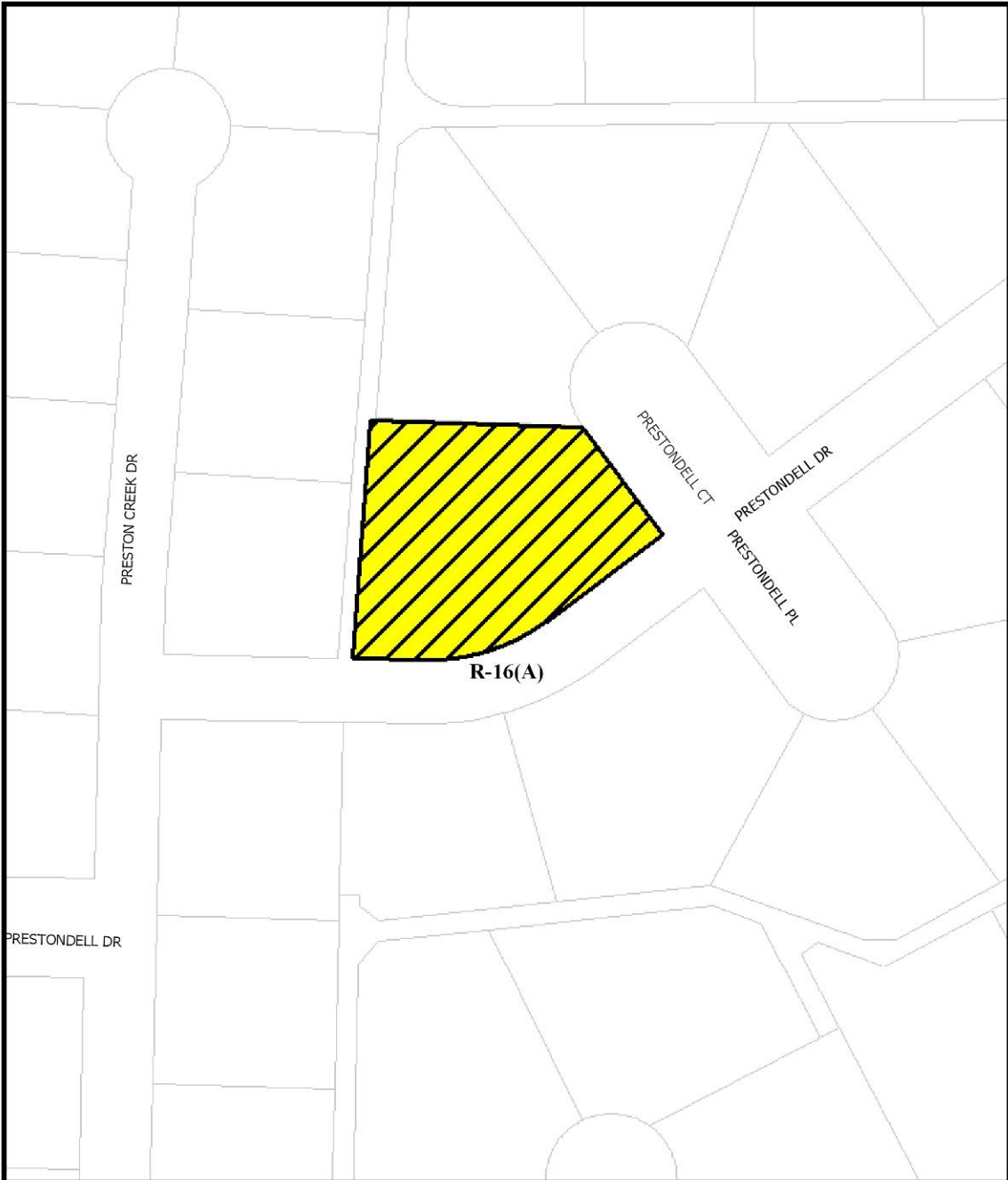
No review comment sheets with comments were submitted in conjunction with this application.

### **GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on constructing and maintaining an addition to an existing attached garage, part of which would be located in one of the two 35' front yard setbacks (Prestondell Court).
- Structures on lots zoned R-16(A) are required to provide a minimum front yard setback of 35'.
- The subject site is located at the northwest corner of Prestondell Drive and Prestondell Court. Regardless of how the existing single family structure is oriented southward to Prestondell Drive, the subject site has two 35' front yard setbacks along both streets. The site has a 35' front yard setback along Prestondell Court, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district. The site also has a 35' front yard setback along Prestondell Drive, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where only a 10' setback is required. But the site's

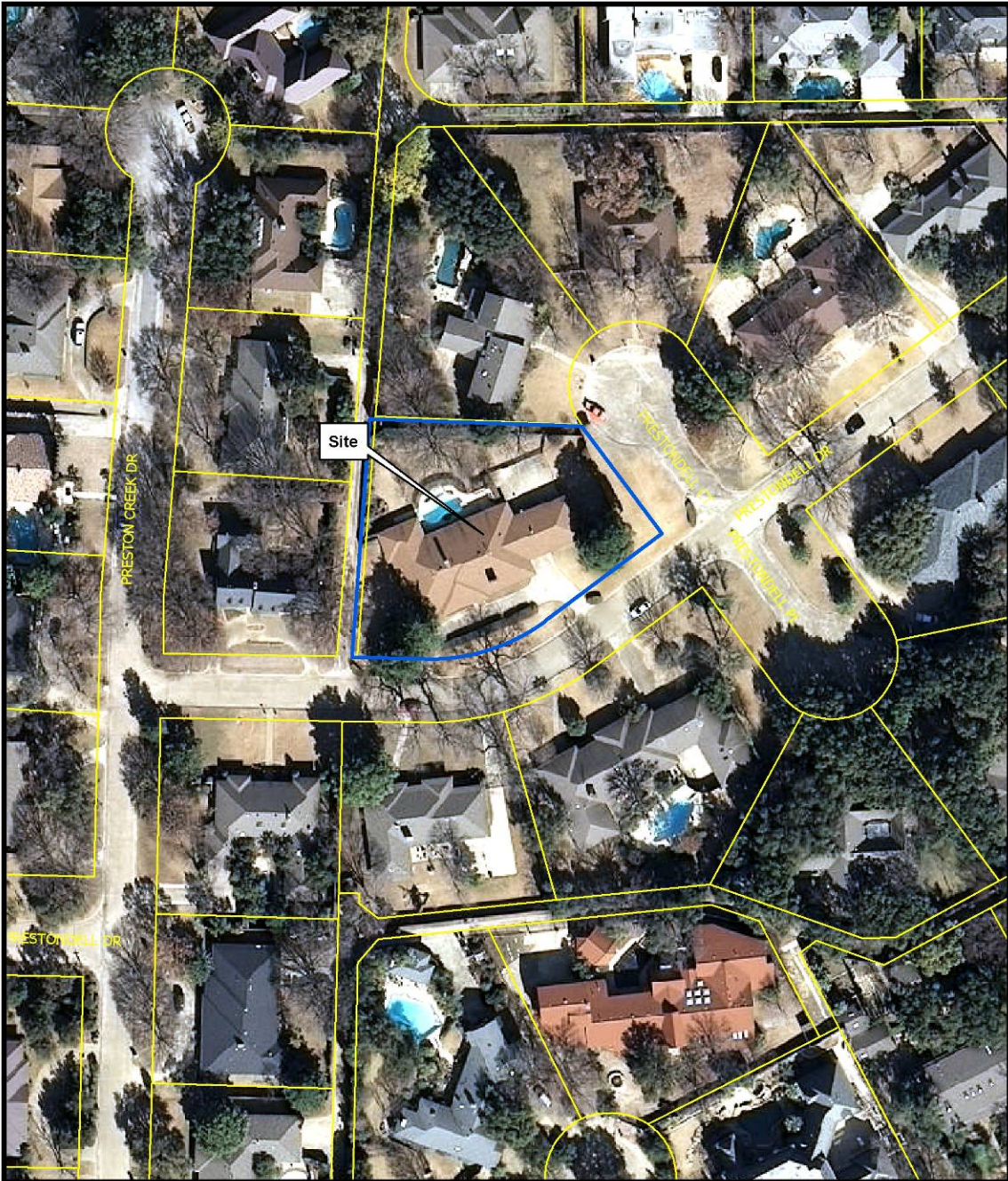
Prestondell Drive frontage is deemed a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lot developed with a single family home to the west.

- A scaled site plan has been submitted indicating that the proposed addition would be located 27' – 33.4' from the Prestondell Court front property line or 8' – 1.6' into this 35' front yard setback. (No encroachment is proposed in the Prestondell Drive 35' front yard setback).
- According to DCAD records, the “main improvements” at 6129 Prestondell is a structure built in 1963 with 4,426 square feet of living area and 4,426 square feet of total area. According to DCAD records, the “additional improvements” at 6129 Prestondell is a 754 square foot attached garage and a pool.
- According to calculations taken by the Board Administrator from the submitted site plan, the area of the proposed addition to be located in the site’s Prestondell Court 35' front yard setback is approximately 160 square feet in area or approximately half of the approximately 325 square foot building footprint of the proposed addition or about 4 percent of the total building footprint.
- The subject site is flat, somewhat irregular in shape, and approximately 231' on the northwest and southeast), and according to the application, 0.738 acres (or approximately 32,000 square feet) in area. The site has two 35' front yard setbacks; and two 10' side yard setbacks; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the Prestondell Court 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-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 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 as close as 27' from the Prestondell Court front property line (or as much as 8' into this Prestondell Court 35' front yard setback).



 1:1,200	<h1>ZONING MAP</h1>	Case no: <u>BDA123-010</u> Date: <u>1/31/2013</u>
--	---------------------	--





1:1,200

# AERIAL MAP

Case no: BDA123-010

Date: 1/31/2013



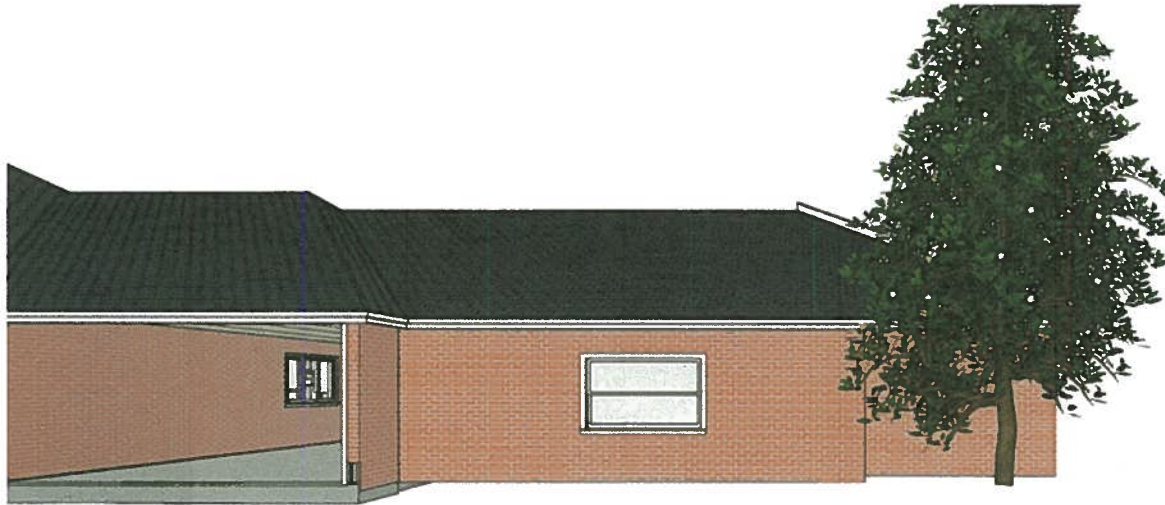


## Aerial view

6129 Prestondell Drive



Proposed site of single car garage.



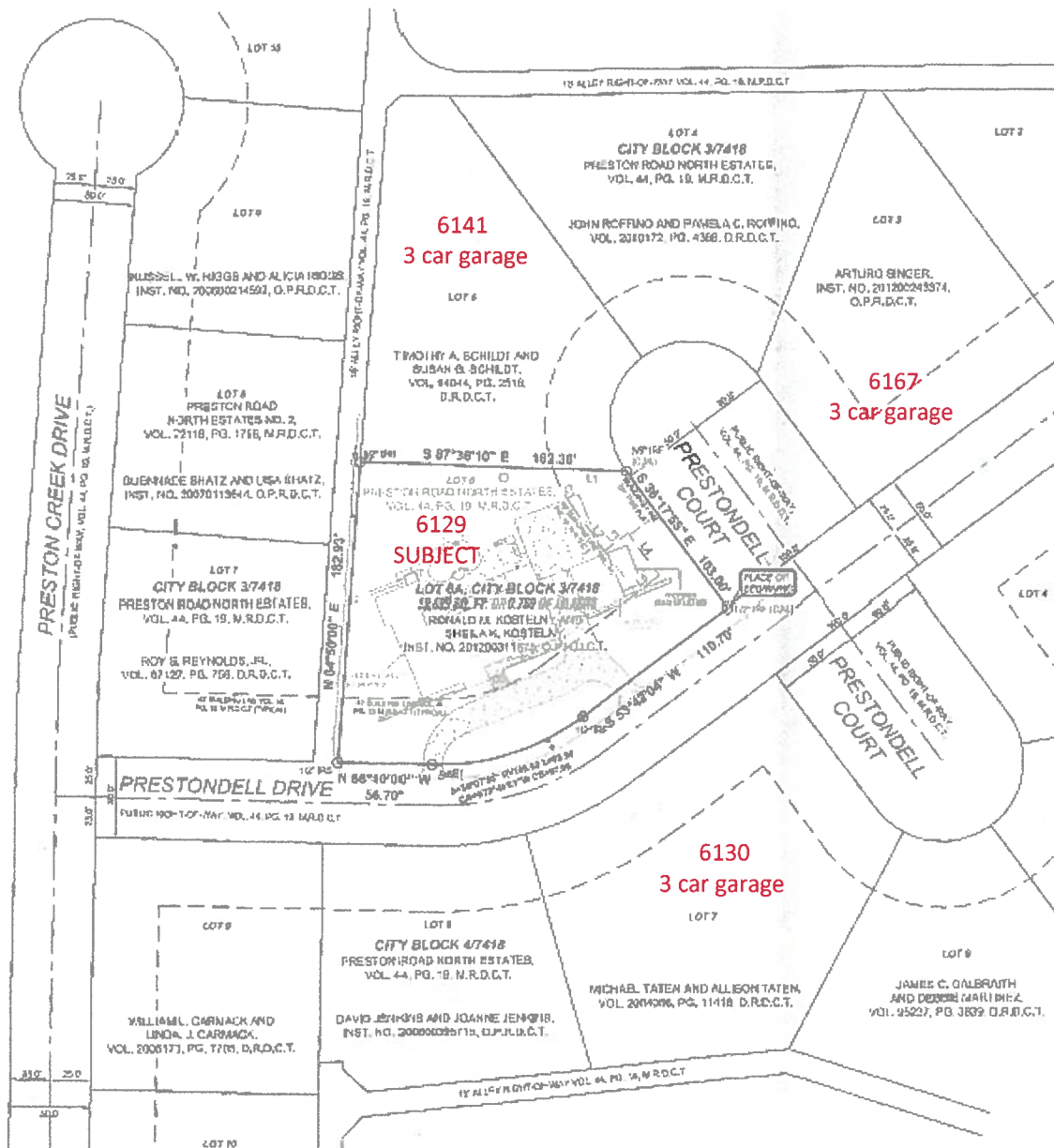
Elevation of proposed single car garage.





View of east property line relative to curb at Prestondell Court.





BDA123-010  
 Attach A  
 Pg 4

Other properties in Zone R-16(A) that have 3 or more car garages:  
 6178 Prestondell Drive  
 6215 Prestondell Drive

Close properties with 3 or more car garages.

Exhibit A



6167 Prestondell



6130 Prestondell

3 car garages on Prestondell Drive

Exhibit B

BDA 123-010  
Attach B**Long, Steve**

PS 1

**From:** Kostelny [kostelny@sbcglobal.net]  
**Sent:** Wednesday, January 30, 2013 11:19 AM  
**To:** Long, Steve  
**Cc:** Kostelny, Ron  
**Subject:** BDA 123-010, Property at 6129 Prestondell Drive  
**Attachments:** Zoning map with 3 car Revised.pdf

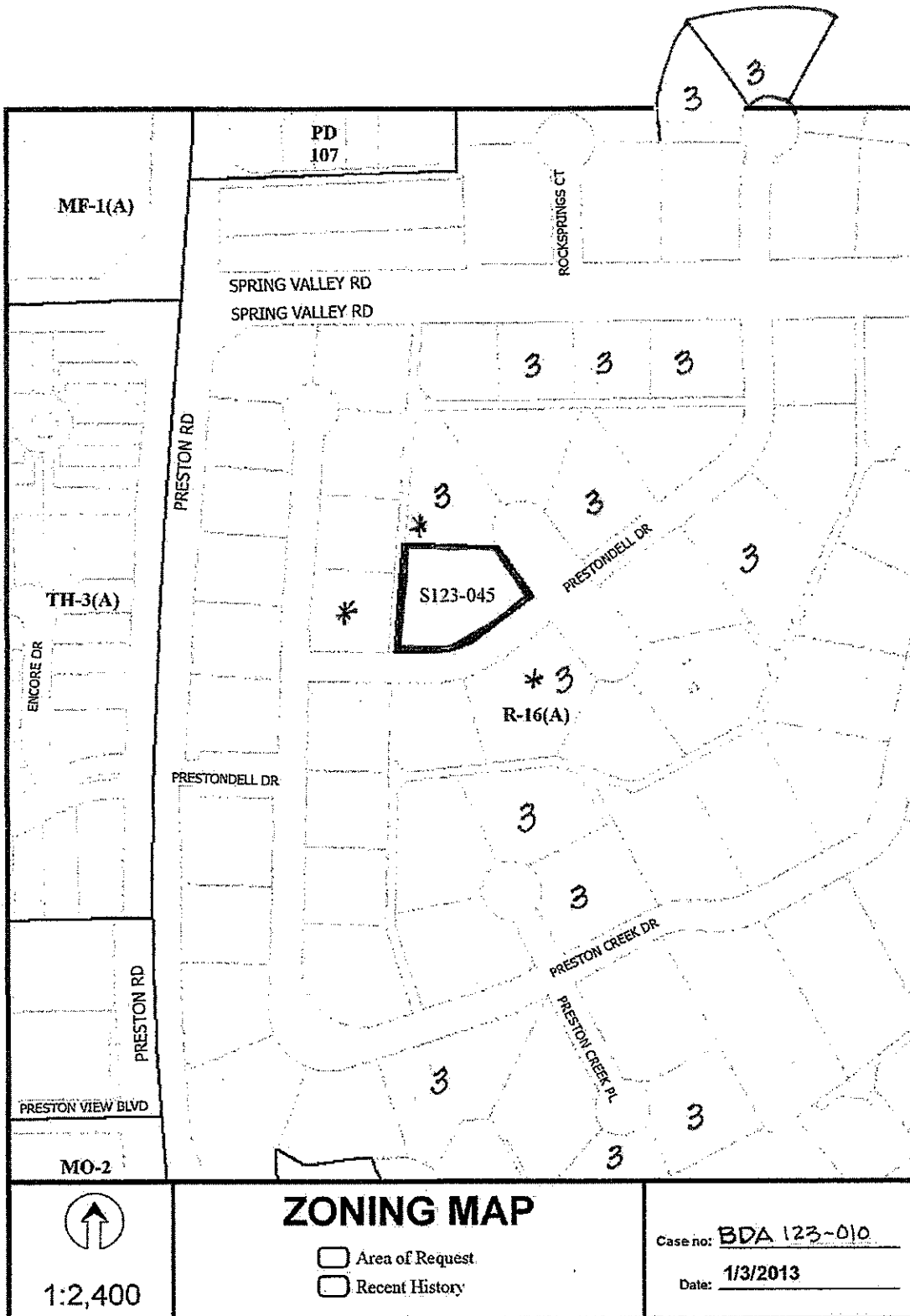
Steve,

There are a few more points that we'd like to offer to support our application for an 8' variance on our property.

1. A variance on our property in no way would be contrary to the public interest as evidenced by the support of 3 of our closest neighbors. A literal enforcement of this chapter would result in unnecessary hardship and prevent us from building a single car attached garage. As evidenced by Attachment A, pages 4 and 5, there are numerous 3 car garages within 400' of our property. Our immediate neighbors to the north, the east and south have 3 car garages.
2. The irregular shape of our property including the front yard set backs on two sides creates a hardship to develop our property commensurate with the development of other parcels with the same R-16 (A) zoning as evidenced by the attached zoning map.
3. Without the restrictive two front yard set backs on the front and the side yards, we would not need to apply for this variance to appropriately develop our property commensurate with other properties in our immediate area.
4. The right of way pavement line ranges from 45' at the widest to 12' at the narrowest to the property line. The garage addition at the north point would be 27' from our property line and 60' from the pavement line.

Thank you for your consideration.

Respectfully,  
Sheila and Ron Kostelny  
6129 Prestondell Drive  
Dallas, TX 75240  
214.696.4808



### ZONING MAP

- Area of Request
- Recent History

Case no: BDA 123-010

Date: 1/3/2013

1:2,400

3	3 CAR GARAGE
*	SUPPORT FOR VARIANCE



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-010

Data Relative to Subject Property:

Date: December 19, 2012

Location address: 6129 Prestondell Drive, Dallas, TX Zoning District: R-16(A)

Lot No.: 6 Block No.: 3/1418 Acreage: .738 Census Tract: 136.08

Street Frontage (in Feet): 1) 261' 2) 104' 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

*NE3N*

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Ronald M. Kostelny and Sheila K. Kostelny

Applicant: Ronald M. and Sheila K. Kostelny Telephone: 214.505.3926

Mailing Address: 5325 Kelsey Rd, Dallas, TX Zip Code: 75229

E-mail Address: Kostelny@sbglobal.net

Represented by: Self Telephone: \_\_\_\_\_

Mailing Address: Same as above Zip Code: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Affirm that an appeal has been made for a Variance , or Special Exception , of 8' TO THE FRONT YARD SET BACK.

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 enforcement of existing 40' building line on east side yard proves an unnecessary hardship to the development of an attached single car garage. Many of our neighbors, specifically 6130 and 6167 Prestondell Drive and 6141 Prestondell Court have 3 car garages. See attached Exhibit A, B & C. The variance must be necessary to permit the construction of an attached single car garage due to the restrictive platting with 2 front yard building set-backs. Please see page 2 attached.*

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 RONALD M. KOSTELNY  
(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.

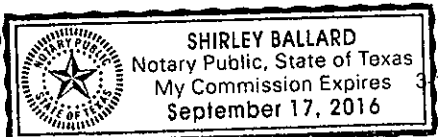
Respectfully submitted: [Signature]  
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 18th day of December, 2012

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

(Rev. 08-01-11)

BDA 123-010





MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

Date of Hearing \_\_\_\_\_

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman

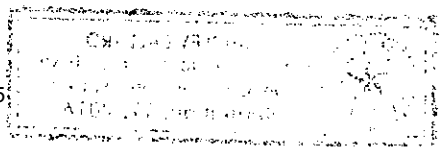
**Building Official's Report**

I hereby certify that Ronald Kostelny  
did submit a request for a variance to the front yard setback regulations  
at 6129 Prestondell Drive

BDA123-010. Application of Ronald Kostelny for a variance to the front yard setback regulations at 6129 Prestondell Drive. This property is more fully described as Lot 6, Block 3/7418 and is zoned R-16(A), which requires a front yard setback of 35 feet. The applicant proposes to construct and maintain a single family residential structure and provide a 27 foot front yard setback, which will require an 8 foot variance to the front yard setback regulation.

Sincerely,

*Larry V. Holmes*  
Larry Holmes, Building Official



### OWNERS CERTIFICATION

KNOW, UNDERSTAND, KNOW AND DEMY BY THESE PRESENTS:

That we, Ronald M. Kostecky and Sheila K. Kostecky, on this day of 17th day of June, 2012, are the owners of the following property located in the County of Dallas, State of Texas, to-wit: City Block 37418, Preston Road North Estates, Volume 44, Page 19, M.R.D.C.T.

The public use hereof, under the authority of the City of Dallas, Texas, and its duly authorized officers, is hereby certified to the public use hereof, under the authority of the City of Dallas, Texas, and its duly authorized officers, for the purposes of the City of Dallas, Texas, and its duly authorized officers, as herein set forth.

The City and the State of Texas, and the City of Dallas, Texas, and its duly authorized officers, are hereby certified to the public use hereof, under the authority of the City of Dallas, Texas, and its duly authorized officers, as herein set forth.

### OWNERS DEDICATION

That we, Ronald M. Kostecky and Sheila K. Kostecky, on this day of 17th day of June, 2012, do hereby dedicate to the City of Dallas, Texas, the following property located in the County of Dallas, State of Texas, to-wit: City Block 37418, Preston Road North Estates, Volume 44, Page 19, M.R.D.C.T.

The public use hereof, under the authority of the City of Dallas, Texas, and its duly authorized officers, is hereby certified to the public use hereof, under the authority of the City of Dallas, Texas, and its duly authorized officers, as herein set forth.

The City and the State of Texas, and the City of Dallas, Texas, and its duly authorized officers, are hereby certified to the public use hereof, under the authority of the City of Dallas, Texas, and its duly authorized officers, as herein set forth.

**WITNESSES:**

Sheila K. Kostecky Owner  
Ronald M. Kostecky Owner

**WITNESSES BY HAND AT DALLAS, TEXAS, THIS DAY OF** June, 2012, at \_\_\_\_\_ City of \_\_\_\_\_

Sheila K. Kostecky Owner  
Ronald M. Kostecky Owner

**WITNESSES:**

Sheila K. Kostecky Owner  
Ronald M. Kostecky Owner

**WITNESSES BY HAND AT DALLAS, TEXAS, THIS DAY OF** June, 2012, at \_\_\_\_\_ City of \_\_\_\_\_

Sheila K. Kostecky Owner  
Ronald M. Kostecky Owner

**NOTAR PUBLIC STATEMENT:**

I, \_\_\_\_\_, Notary Public, do hereby certify that on this day of 17th day of June, 2012, at \_\_\_\_\_ City of \_\_\_\_\_, State of Texas, the foregoing instrument was presented to me by Ronald M. Kostecky and Sheila K. Kostecky, who acknowledged to me that they executed the same for the purposes and considerations therein expressed.

Witness my hand and seal of office this 17th day of June, 2012, at \_\_\_\_\_ City of \_\_\_\_\_, State of Texas.

**NOTAR PUBLIC STATEMENT:**

I, \_\_\_\_\_, Notary Public, do hereby certify that on this day of 17th day of June, 2012, at \_\_\_\_\_ City of \_\_\_\_\_, State of Texas, the foregoing instrument was presented to me by Ronald M. Kostecky and Sheila K. Kostecky, who acknowledged to me that they executed the same for the purposes and considerations therein expressed.

Witness my hand and seal of office this 17th day of June, 2012, at \_\_\_\_\_ City of \_\_\_\_\_, State of Texas.

### OWNERS CERTIFICATION

KNOW, UNDERSTAND, KNOW AND DEMY BY THESE PRESENTS:

That we, James C. Gaudry, Jr., and Debbie Martinez, on this day of 17th day of June, 2012, are the owners of the following property located in the County of Dallas, State of Texas, to-wit: City Block 37418, Preston Road North Estates, Volume 44, Page 19, M.R.D.C.T.

The public use hereof, under the authority of the City of Dallas, Texas, and its duly authorized officers, is hereby certified to the public use hereof, under the authority of the City of Dallas, Texas, and its duly authorized officers, as herein set forth.

The City and the State of Texas, and the City of Dallas, Texas, and its duly authorized officers, are hereby certified to the public use hereof, under the authority of the City of Dallas, Texas, and its duly authorized officers, as herein set forth.

### OWNERS DEDICATION

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The public use hereof, under the authority of the City of Dallas, Texas, and its duly authorized officers, is hereby certified to the public use hereof, under the authority of the City of Dallas, Texas, and its duly authorized officers, as herein set forth.

The City and the State of Texas, and the City of Dallas, Texas, and its duly authorized officers, are hereby certified to the public use hereof, under the authority of the City of Dallas, Texas, and its duly authorized officers, as herein set forth.

**WITNESSES:**

James C. Gaudry, Jr. Owner  
Debbie Martinez Owner

**WITNESSES BY HAND AT DALLAS, TEXAS, THIS DAY OF** June, 2012, at \_\_\_\_\_ City of \_\_\_\_\_

James C. Gaudry, Jr. Owner  
Debbie Martinez Owner

**WITNESSES:**

James C. Gaudry, Jr. Owner  
Debbie Martinez Owner

**WITNESSES BY HAND AT DALLAS, TEXAS, THIS DAY OF** June, 2012, at \_\_\_\_\_ City of \_\_\_\_\_

James C. Gaudry, Jr. Owner  
Debbie Martinez Owner

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Witness my hand and seal of office this 17th day of June, 2012, at \_\_\_\_\_ City of \_\_\_\_\_, State of Texas.

**NOTAR PUBLIC STATEMENT:**

I, \_\_\_\_\_, Notary Public, do hereby certify that on this day of 17th day of June, 2012, at \_\_\_\_\_ City of \_\_\_\_\_, State of Texas, the foregoing instrument was presented to me by James C. Gaudry, Jr. and Debbie Martinez, who acknowledged to me that they executed the same for the purposes and considerations therein expressed.

Witness my hand and seal of office this 17th day of June, 2012, at \_\_\_\_\_ City of \_\_\_\_\_, State of Texas.

**NOTAR PUBLIC STATEMENT:**

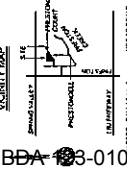
I, \_\_\_\_\_, Notary Public, do hereby certify that on this day of 17th day of June, 2012, at \_\_\_\_\_ City of \_\_\_\_\_, State of Texas, the foregoing instrument was presented to me by James C. Gaudry, Jr. and Debbie Martinez, who acknowledged to me that they executed the same for the purposes and considerations therein expressed.

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I, \_\_\_\_\_, Notary Public, do hereby certify that on this day of 17th day of June, 2012, at \_\_\_\_\_ City of \_\_\_\_\_, State of Texas, the foregoing instrument was presented to me by James C. Gaudry, Jr. and Debbie Martinez, who acknowledged to me that they executed the same for the purposes and considerations therein expressed.

Witness my hand and seal of office this 17th day of June, 2012, at \_\_\_\_\_ City of \_\_\_\_\_, State of Texas.



**LEGEND**

- City Block 37418, Preston Road North Estates, Volume 44, Page 19, M.R.D.C.T.
- City Block 37418, Preston Road North Estates, Volume 44, Page 19, M.R.D.C.T.
- City Block 37418, Preston Road North Estates, Volume 44, Page 19, M.R.D.C.T.
- City Block 37418, Preston Road North Estates, Volume 44, Page 19, M.R.D.C.T.

**LINE TABLE**

LINE NO.	BEARING	DISTANCE	CURVE DATA
1	S 87°31'07" E	163.36'	
2	S 17°12'35" E	190.90'	
3	N 04°57'00" E	182.83'	
4	S 87°31'07" E	163.36'	

**CONVEYANCE**

CONVEYANCE	DATE	VOLUME	PAGE	PLAT
City Block 37418, Preston Road North Estates, Volume 44, Page 19, M.R.D.C.T.	06/17/12	44	19	37418-19

**BASIS OF BEARING:**

South 23°45'42" W, 44 sec. West, determined by Texas State Plane Coordinate System of 1983, with bearing conversions based on NAD 83 datum. No projection.

**LEGEND**

City Block 37418, Preston Road North Estates, Volume 44, Page 19, M.R.D.C.T.

City Block 37418, Preston Road North Estates, Volume 44, Page 19, M.R.D.C.T.

City Block 37418, Preston Road North Estates, Volume 44, Page 19, M.R.D.C.T.

**GENERAL NOTES**

- All lot boundaries are shown as shown on the plat.
- All distances are shown as shown on the plat.
- All structures shown are shown as shown on the plat.
- All easements are shown as shown on the plat.
- All other features are shown as shown on the plat.

**PRELIMINARY PLAT**  
**KOSTELNY ADDITION**  
**LOT 6A, CITY BLOCK 37418**  
 A REPLAT OF LOT 6 OF BLOCK 37418 OF PRESTON ROAD NORTH ESTATES, VOLUME 44, PAGE 19, M.R.D.C.T., AS AN ADDITION TO THE CITY OF DALLAS, DALLAS COUNTY, TEXAS. CITY FILE NO. 125-163.

**A & W SURVEYORS, INC.**  
 PHONE: (972) 818-1175 FAX: (972) 818-1176  
 WWW.AWSURV.COM

PROPERTY ACQUIRED FOR PRESTON CREEK DRIVE, CITY OF DALLAS, TEXAS. PRELIMINARY PLAT.

Owner: \_\_\_\_\_ Title: \_\_\_\_\_

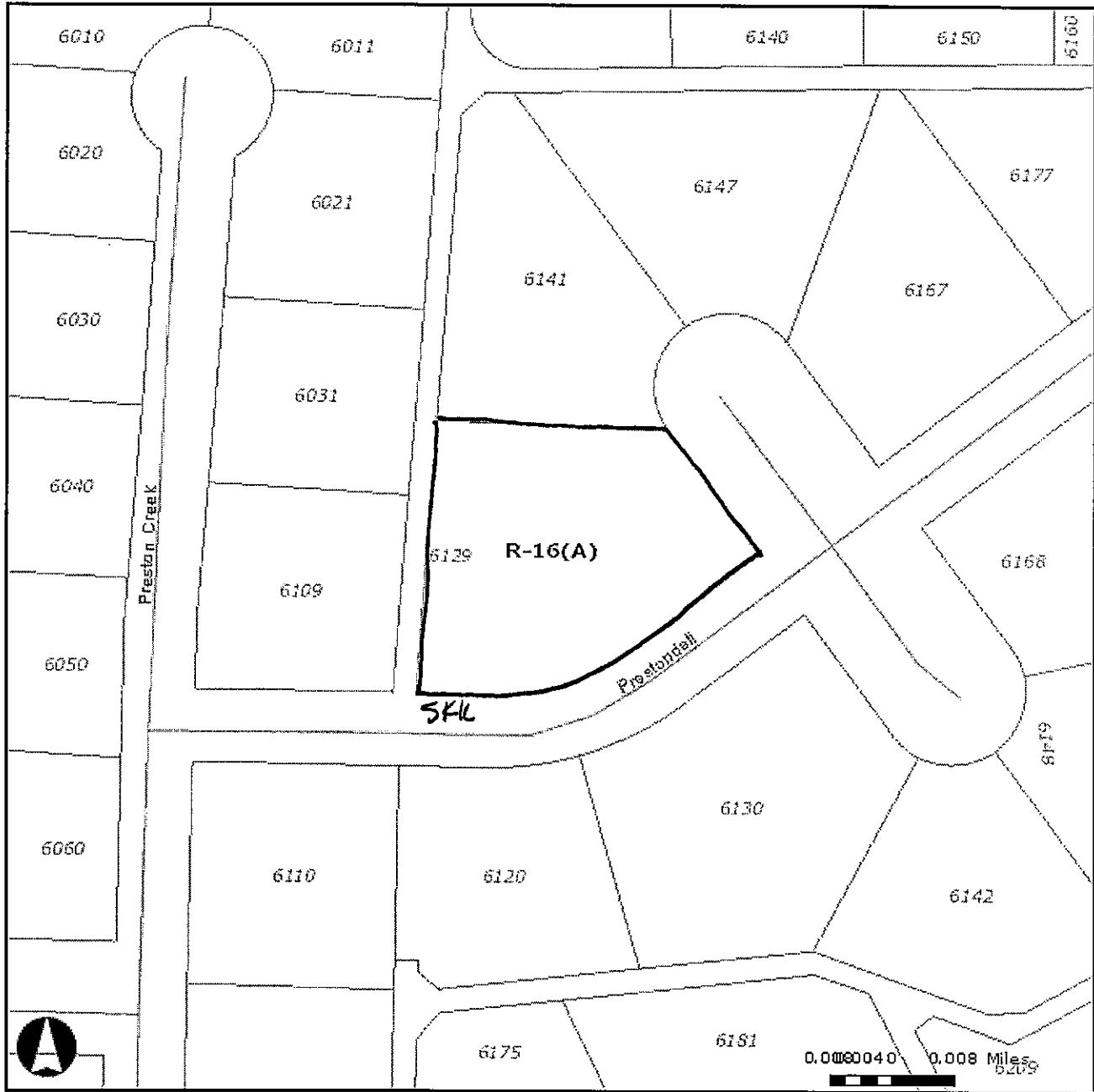
City: \_\_\_\_\_ State: TX

Plat No: 37418-19 Date: 06/17/12

City File No: 125-163

*\*Professional company operating in your best interest\**

# City of Dallas Zoning



- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Major Lakes

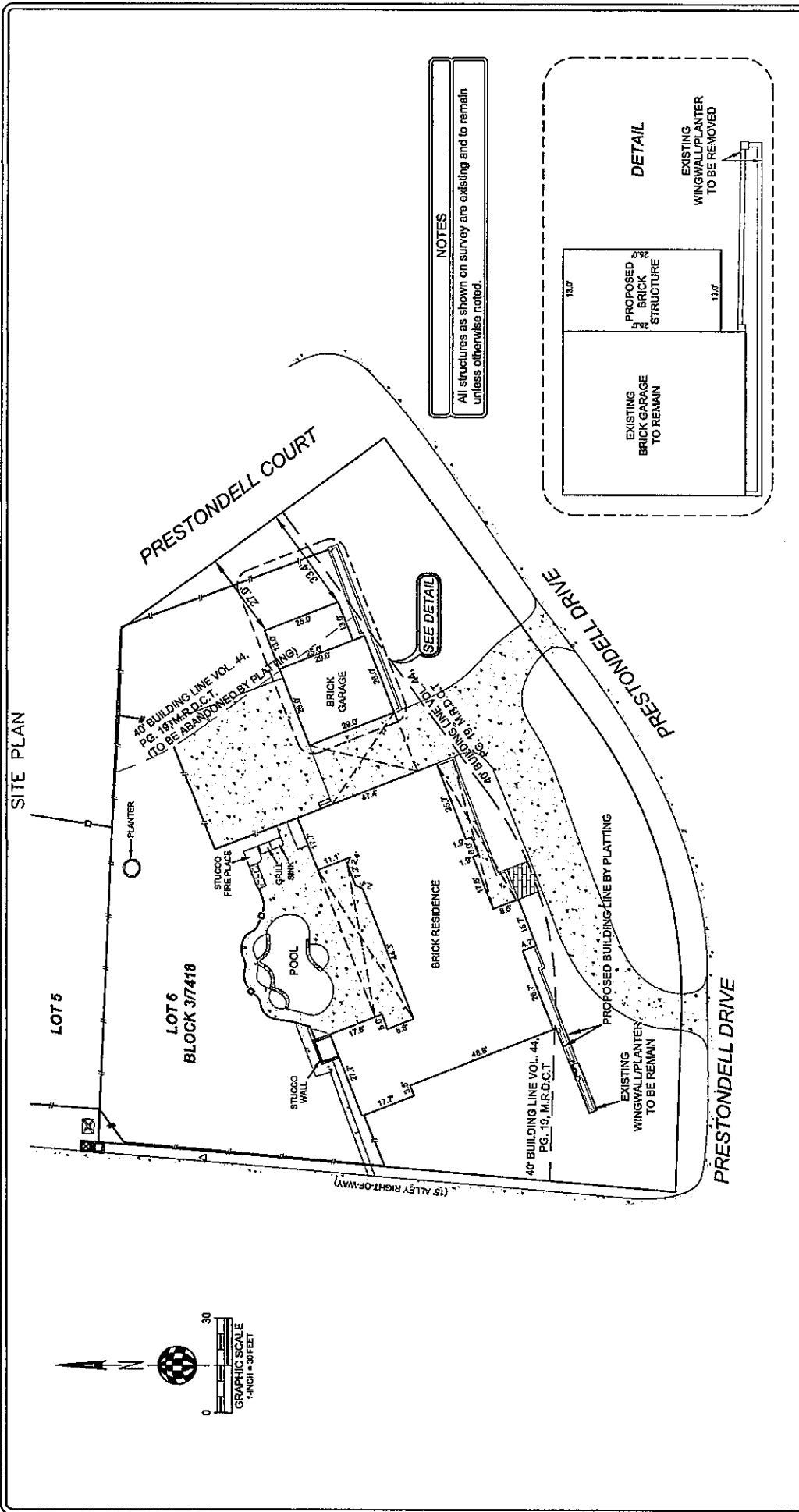
- Dry Overlay
- D
- D-1
- Historic Overlay
- Historic Subdistricts
- NSO Overlay
- NSO Subdistricts
- MD Overlay

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

6129 Preston dell Drive

Page 2

The 3-car garage is commensurate with our close neighbors and others in our R-16(A) zoning class. Additionally, we enjoy a 100' public right-of-way on the east side where we are asking for the variance.



**A&W SURVEYORS, INC.**  
Professional Land Surveyors  
P.O. BOX 870628, MESQUITE, TX, 75167  
PHONE: (972) 891-4875 FAX: (972) 891-4854  
WWW.AWSURVEY.COM

CERTIFY TO: RONALD M. E. SHEKAZ, KOSTELY  
DATE: 09/13/12 G.F. NO.: CTCP87-87120818  
TITLE: CHICAGO TITLE DRAWING: 345  
JOB NO.: 12-128  
A professional company operating in your best interest

**6129 PRESTONDELL DRIVE  
DALLAS, DALLAS COUNTY,  
TEXAS**

**LEGEND**

⊗	CEILING	⊗	WATER VALVE	⊗	PLASTIC FENCE	⊗	BOUNDARY	⊗	CONCRETE
⊗	AC	⊗	FIRE HYDRANT	⊗	ASPHALT	⊗	NEIGHBORLINE	⊗	GRAVEL
⊗	1/2" IR SET	⊗	SEPTIC COVER	⊗	OVERHEAD UTILITY LINE	⊗	BUILDING LINE	⊗	BRICK
⊗	5/8" IR FOUND	⊗	SAN. SEW. IML	⊗	BARBED WIRE FENCE	⊗	BASEMENT	⊗	STONE
⊗	3/8" IR FOUND	⊗	AC. PAD	⊗	FREE LAMP STRIP	⊗	FREE LAMP STRIP	⊗	WOOD DECK
⊗	6" HD WLL FOUND	⊗	IRRIGATION VALVE	⊗	BRICK RET. WALL	⊗	BRICK RET. WALL	⊗	BUILDING WALL
⊗	PRVNL SET	⊗	STONE COLUMN	⊗	STONE RET. WALL	⊗	STONE RET. WALL	⊗	CEILING TILE
⊗	1/2" IR FOUND	⊗	CON. MONUMENT	⊗	WOOD FENCE	⊗	WOOD FENCE	⊗	HANDICAP SPACE
⊗	1/2" IR FOUND	⊗	SAN. SERV. CO.	⊗	FREE LAMP STRIP	⊗	STUCCO RET. WALL	⊗	



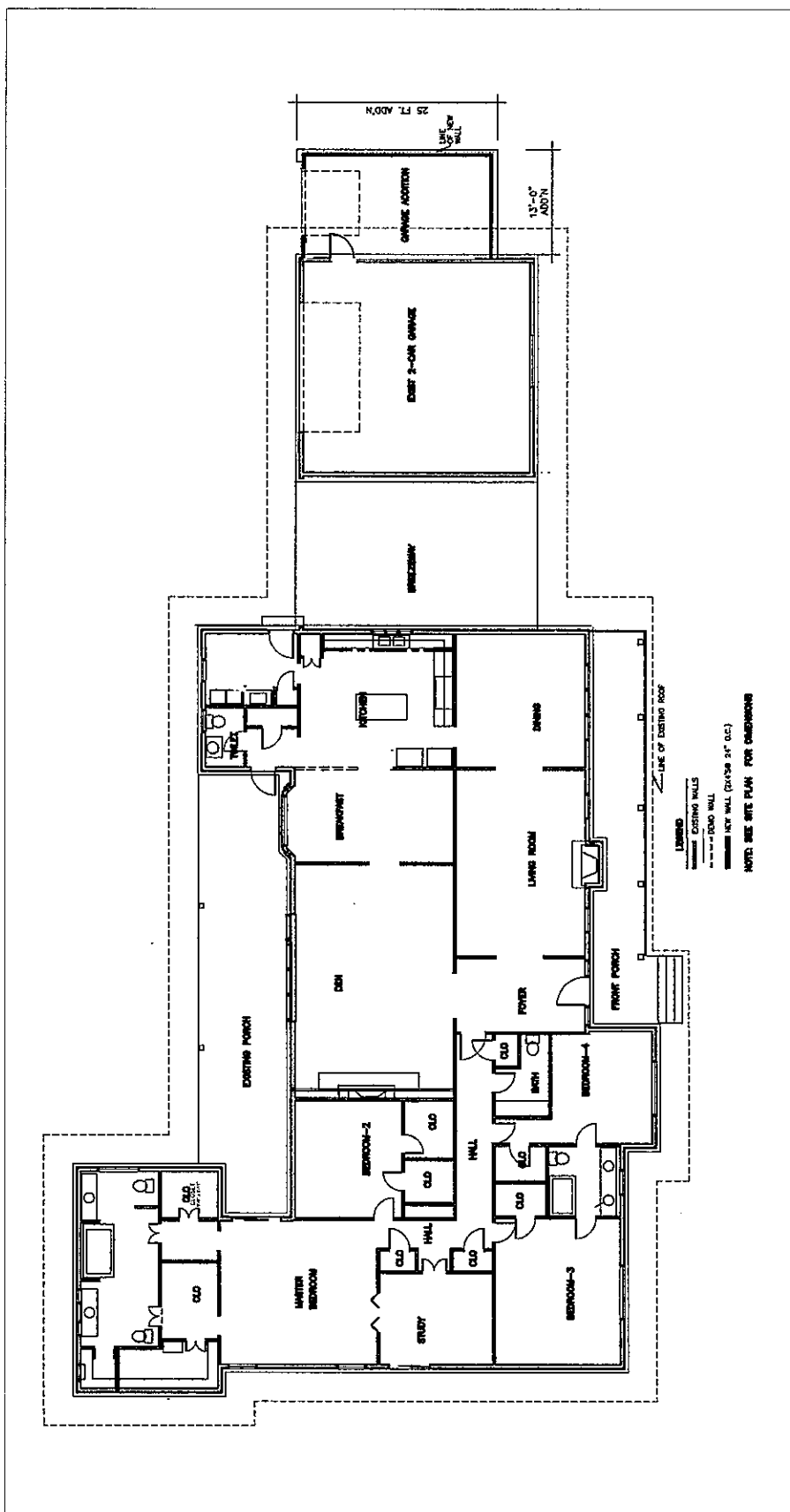


DATE	10-23-12
REVISIONS	
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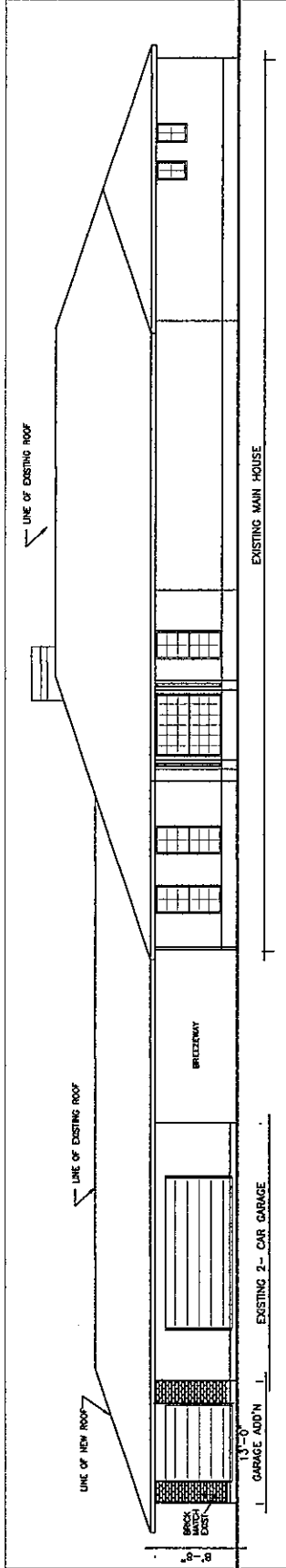


SHEET

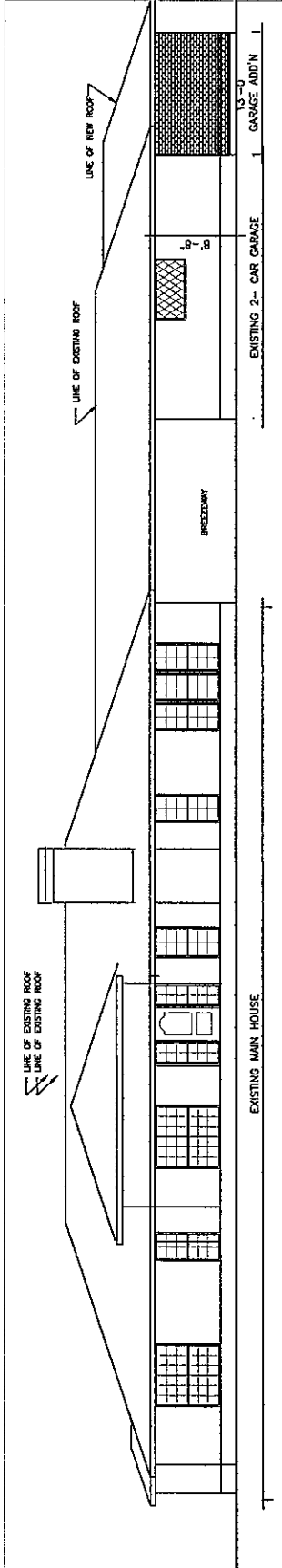
A2



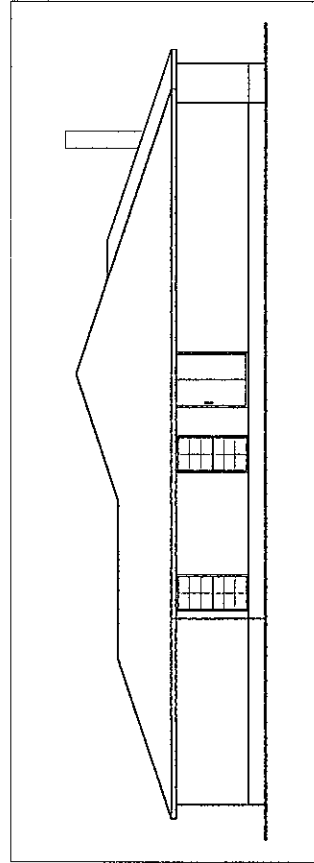
**FLOOR PLAN**  
 1/8"=1'-0"



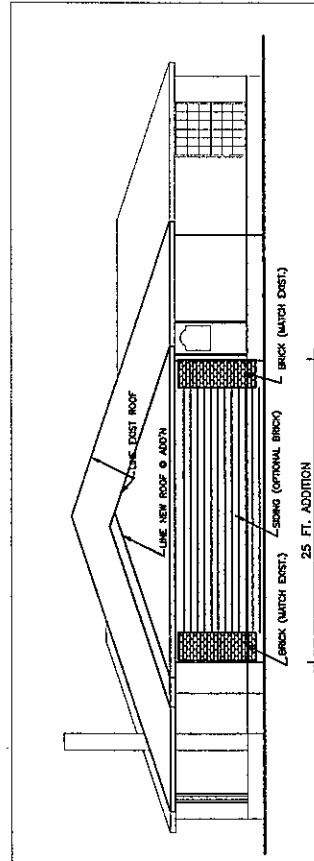
**NORTH ELEVATION**  
 3/16"=1'-0"



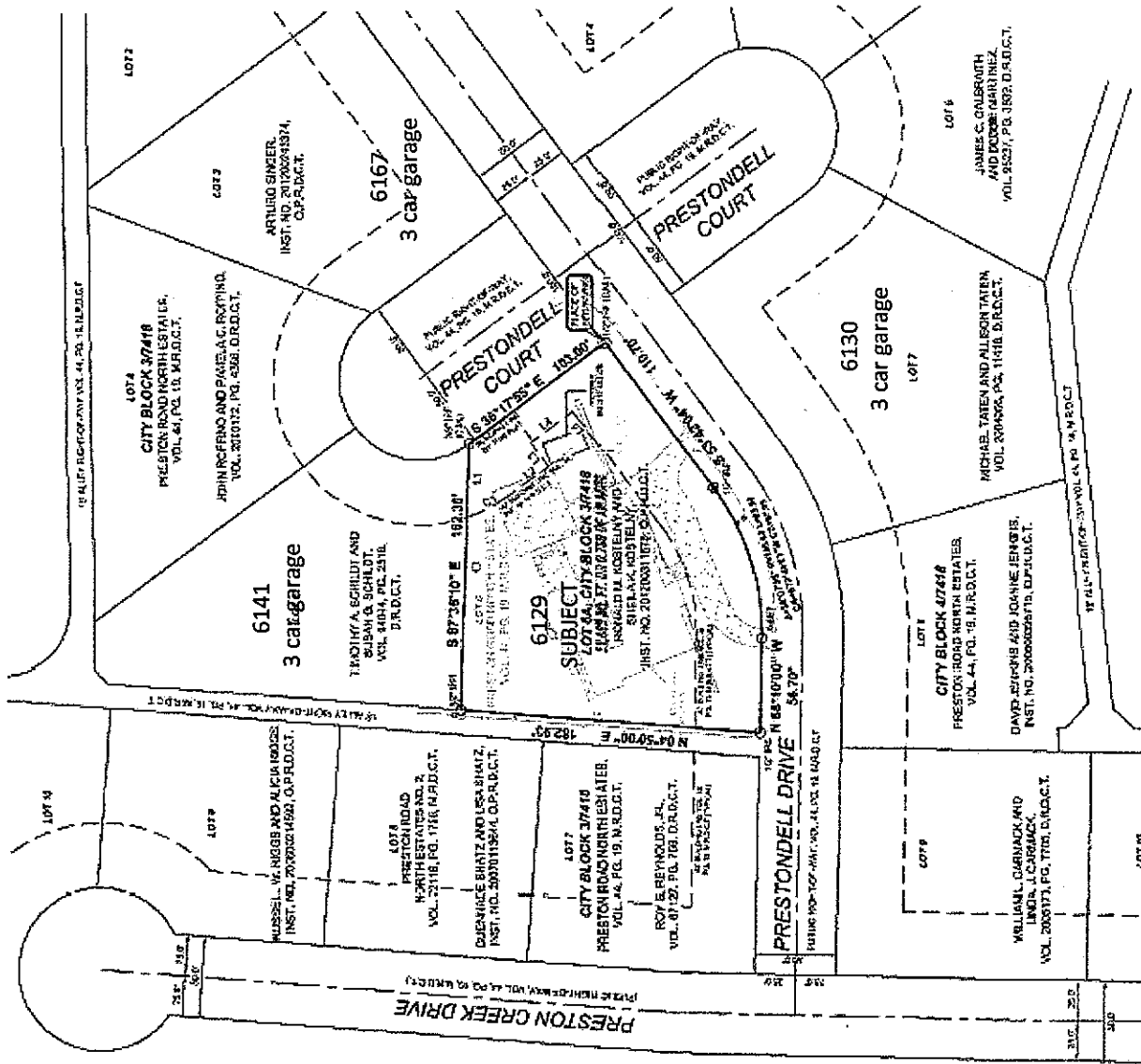
**SOUTH ELEVATION**  
 3/16"=1'-0"



**WEST ELEVATION**  
 3/16"=1'-0"



**EAST ELEVATION**  
 3/16"=1'-0"



Other properties in Zone R-16(A) that have 3 or more car garages:  
 6178 Prestondell Drive  
 6215 Prestondell Drive

Close properties with 3 or more car garages.

Exhibit A



6167 Prestondell Drive  
3 car garage  
Exhibit B

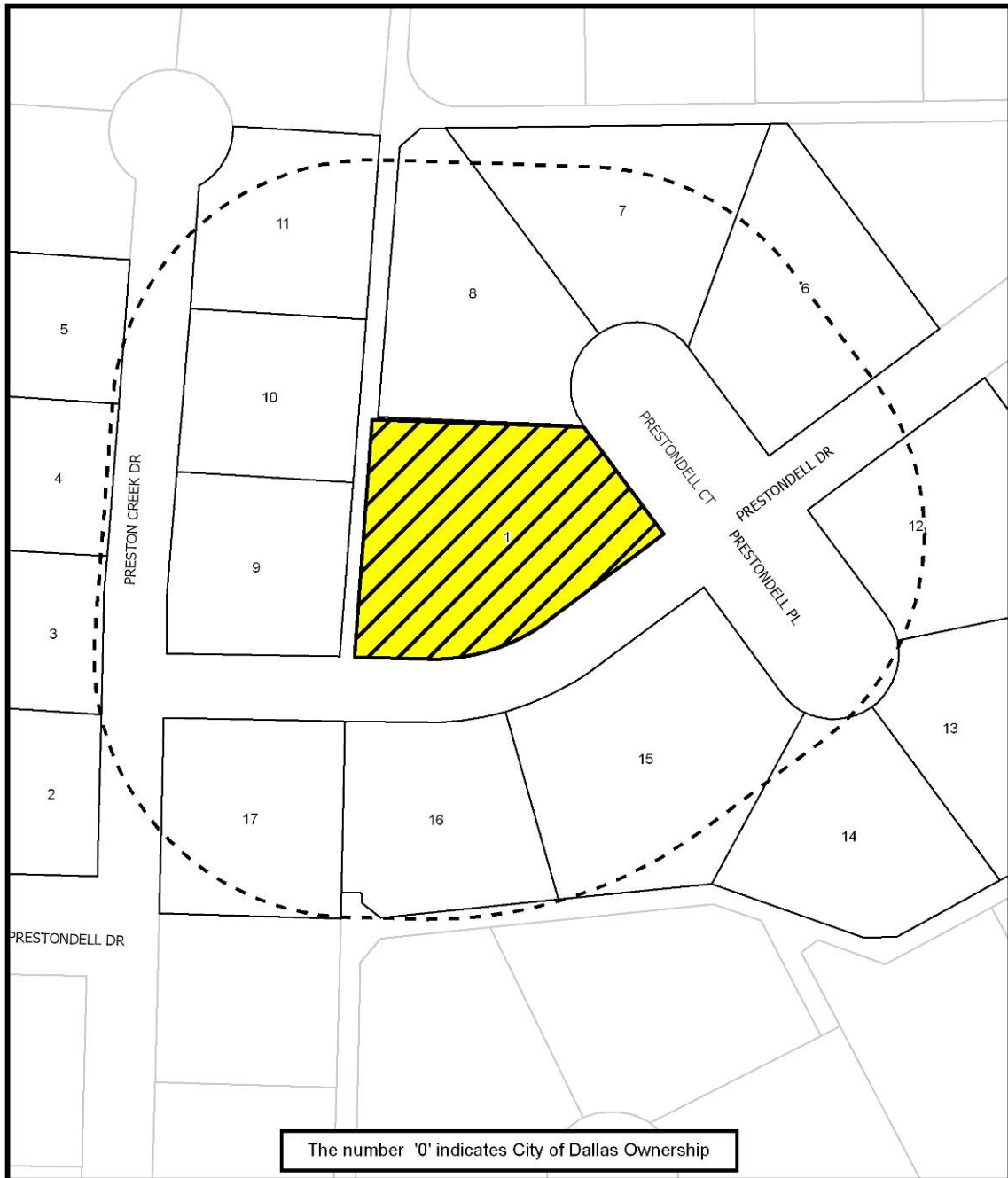


6130 Prestondell Drive

3 car garage

Exhibit C





 1:1,200	<b>NOTIFICATION</b>		Case no: <b>BDA123-010</b>
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">17</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: <b>1/31/2013</b>	

## *Notification List of Property Owners*

**BDA123-010**

### *17 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	6129 PRESTONDELL DR	STEWART DONALD R TR
2	6060 PRESTON CREEK DR	BOEDING MICHAEL A & KATHLEEN A
3	6050 PRESTON CREEK DR	HENGER WILLIAM M JR & GAYNELLE
4	6040 PRESTON CREEK DR	GLENN PROPERTIES INC
5	6030 PRESTON CREEK DR	SMITH RICK E & KATHEY L SMITH
6	6167 PRESTONDELL DR	STUCKEY DAVE W & KIM E
7	6147 PRESTONDELL CT	ROFFINO JOHN & PAMELA C
8	6141 PRESTONDELL CT	SCHILD T TIMOTHY A & SUSAN G
9	6109 PRESTONDELL DR	REYNOLDS ROY S JR
10	6031 PRESTON CREEK DR	SHATZ GUENNADE & LISA # 371
11	6021 PRESTON CREEK DR	RIGGS RUSSELL W & ALICIA
12	6168 PRESTONDELL DR	KEENE ROY J JR
13	6148 PRESTONDELL PL	TSAO RONNIE C C & TERESA I H
14	6142 PRESTONDELL PL	GALBRAITH JAMES C % DEBBIE MARTINEZ
15	6130 PRESTONDELL DR	TATEN MICHAEL & ALLISON C
16	6120 PRESTONDELL DR	JENKINS DAVID & JOANNE
17	6110 PRESTONDELL DR	CARMACK WILLIAM L & LINDA J

**FILE NUMBER:** BDA 123-014

**BUILDING OFFICIAL'S REPORT:**

Application of Edward Harbour for a variance to the front yard setback regulations and a special exception to the fence height regulations at 2020 Lakeland Drive. This property is more fully described as Lot 6, Block 17/5244, and is zoned R-7.5(A), which requires a front yard setback of 25 feet and limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct a structure and provide a 10 foot front yard setback, which will require a variance to the front yard setback regulations of 15 feet; and to construct an 8 foot 3 inch high fence, which will require a special exception to the fence regulations of 4 feet 3 inches.

**LOCATION:** 2020 Lakeland Drive

**APPLICANT:** Edward Harbour

**REQUESTS:**

The following appeals have been made on a site that is currently undeveloped:

1. a variance to the front yard setback regulations of 15' is requested in conjunction with constructing and maintaining a single family home structure, part of which would be located in one of the site's two 25' front yard setbacks (Eustis Avenue); and
2. special exceptions to the fence height regulations of 4' 3" are requested in conjunction with constructing and maintaining an 8' 3" high solid wood fence in the site's two 25' front yard setbacks along Lakeland Drive and Eustis Avenue .

(No part of this application is made to construct and/or maintain a structure in the site's Lakeland Drive front 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.

**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.

**STAFF RECOMMENDATION (front yard setback variance):**

Approval, 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 a corner lot with a restrictive area due to its two front yard setbacks. The atypical two front yard setbacks on this lot precludes it from being developed in a manner commensurate with development on other similarly zoned properties - in this case, the development on the property with a single family home.
- This site with the atypical two 25' front yard setbacks leaves only a 20' width of developable space on the 50' wide site once a 5' side yard setback and a 25' front yard setback would be accounted for.
- The requested variance would not be necessary if the lot was similar to most R-7.5(A) zoned lots with just *one* 25', two 5' side yard setbacks, and one 5' rear yard setback.

**STAFF RECOMMENDATION (fence height special exceptions):**

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

**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-10 (A) (Single family district 10,000 square feet)
- East: R-7.5 (A) (Single family district 7,500 square feet)
- West: R-10 (A) (Single family district 10,000 square feet)

**Land Use:**

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

**Zoning/BDA History:**

1. BDA 112, 067, Property at 8610 Eustis Avenue (the lot directly southeast of the subject site)

On June 18, 2012, the Board of Adjustment Panel C granted a request for a variance to the front yard setback regulations of 15' and imposed the submitted site plan as a condition. The case report stated that the request was made in conjunction with constructing and maintaining a two-story single family home structure, part of which would be located in one of the site's two 25' front yard setbacks (Eustis Avenue) on a site that is currently undeveloped. (No request was made in this application to construct/maintain any structure in the site's Lakeland Avenue front yard setback).

1. BDA 101-124, Property at 8610 Eustis Avenue (the lot directly southeast of the subject site)

On December 12, 2011, the Board of Adjustment Panel C granted a request for a variance to the front yard setback regulations of 15' and imposed the submitted site plan as a condition. The case report stated that the request was made in conjunction with constructing and maintaining a two-story single family home structure, part of which would be located in one of the site's two 25' front yard setbacks (Eustis Avenue) on a site that is currently undeveloped. (No request was made in this application to construct/maintain any structure in the site's Lakeland Avenue front yard setback).

**Timeline:**

December 21, 2012: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 14, 2013: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.

January 14, 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 January 30th deadline to



submit additional evidence for staff to factor into their analysis; and the February 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials;

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

February 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for February 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 Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

#### **GENERAL FACTS/STAFF ANALYSIS (front yard variance):**

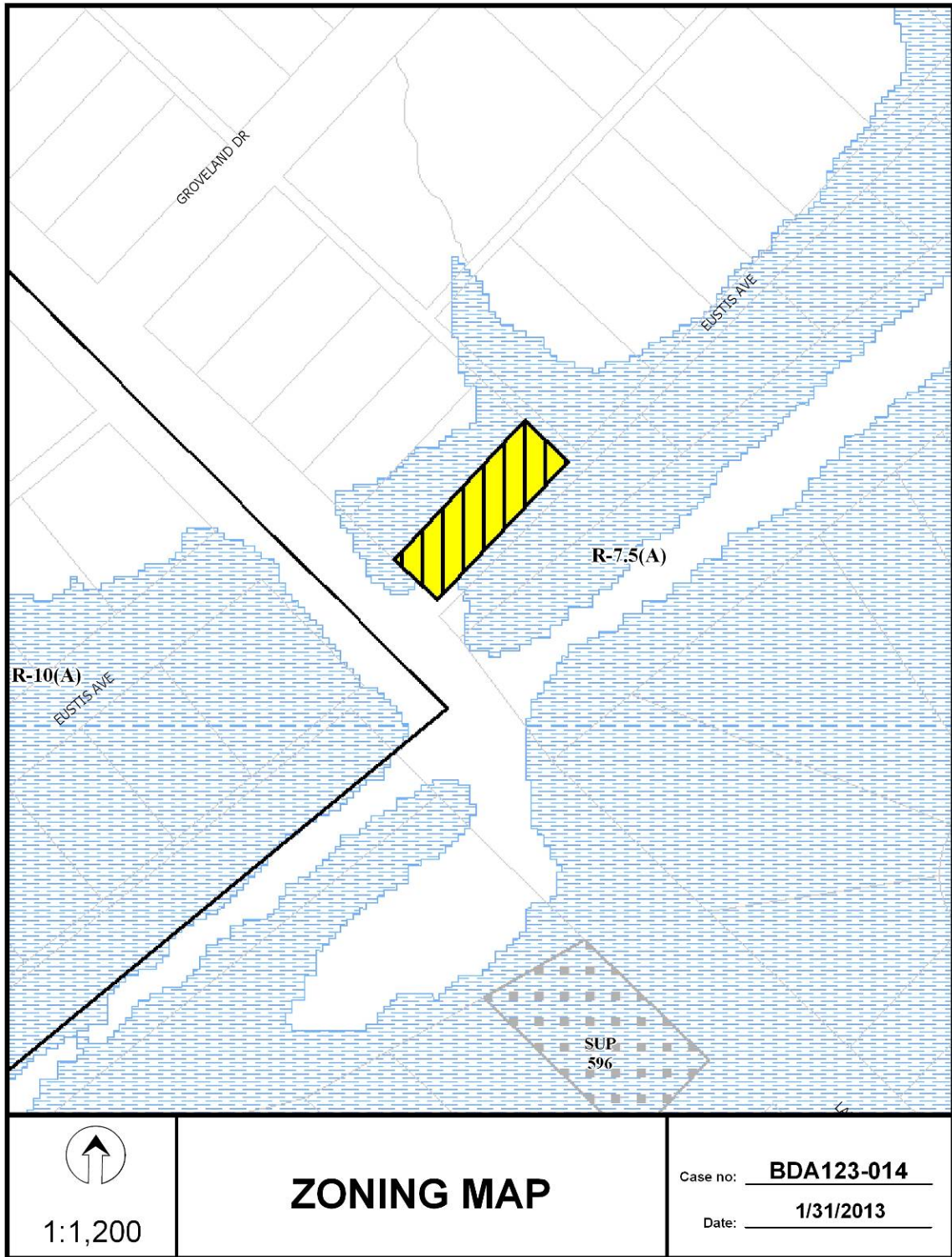
- This request focuses on constructing and maintaining a single family home structure, part of which would be located in one of the site's two 25' front yard setbacks (Eustis Avenue).
- Structures on lots zoned R-7.5(A) are required to provide a minimum front yard setback of 25'.
- The subject site is located at the north corner of Lakeland Drive and Eustis Avenue. Regardless of how the proposed single family structure is to be oriented, the subject site has two 25' front yard setbacks along both streets. The site has a 25' front yard setback along Lakeland Drive, the shorter of the two frontages, which is always deemed the front yard setback on a corner lot in a single-family zoning district. The site also has a 25' front yard setback along Eustis Drive, the longer of the two frontages of this corner lot, which is typically regarded as a side yard where only a 5' setback is required. But the site's Eustis Drive frontage is deemed a front yard setback nonetheless to maintain the continuity of the established front yard setbacks established by the lots developed with single family homes to the northeast along Eustis Drive that front southeastward.
- A site plan has been submitted denoting a portion of the proposed single family home located 10' from the site's front property line along Eustis Avenue (or 15' into this 25' front yard setback). (No encroachment is proposed in the Lakeland Drive 25' front yard setback).
- It appears from the submitted site plan that approximately 37 percent (or approximately 1,150 square feet) of the proposed approximately 3,150 square foot building footprint is to be located in the site's Eustis Avenue 25' front yard setback.
- DCAD records indicate "no main improvements" for the property at 2020 Lakeland Drive.

- The subject site is rectangular in shape (50' x 155') and is 7,750 square feet in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area. The site has two 25' front yard setbacks; and two 5' side yard setbacks; most residentially-zoned lots have one front yard setback, two side yard setbacks, and one rear yard setback.
- Only a 20' width of developable space would remain on the 50' wide site once a 5' side yard setback and a 25' front yard setback would be accounted for.
- 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 10' from the Eustis Avenue front property line (or 15' into this Eustis Avenue 25' front yard setback).

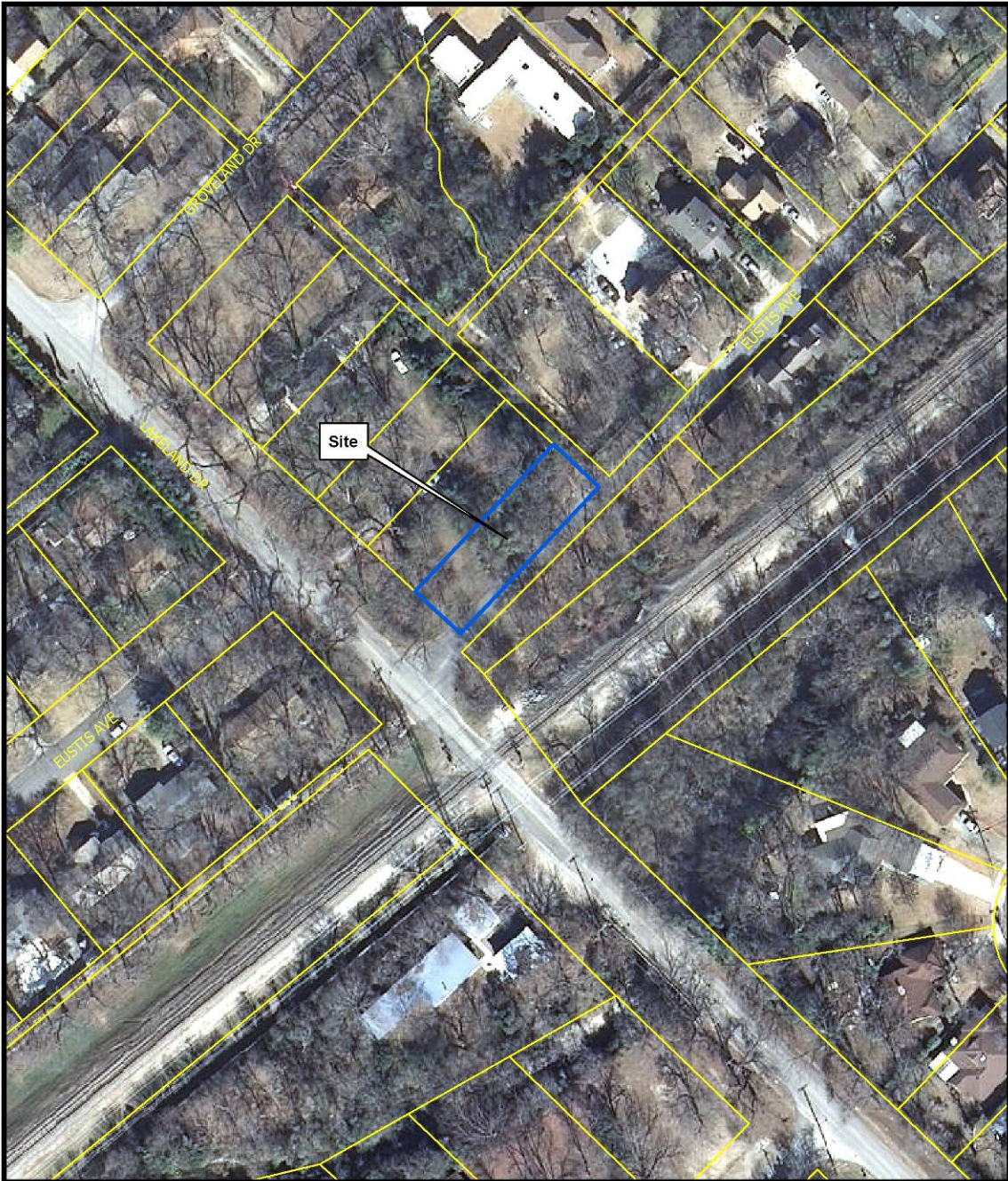
**GENERAL FACT /STAFF ANALYSIS (fence height special exceptions):**

- These requests focus on constructing and maintaining an 8' 3" high solid wood fence in the site's Lakeland Drive and Eustis Avenue front yard setbacks.
- As described preciously in this case report, the subject site located at the north corner of Lakeland Drive and Eustis Street has two 25' front yard setbacks.
- If it were not for the lots immediately northeast of the subject site that actually front onto Eustis Drive, the proposed 8' 3" high fence proposed along Eustis Drive could be constructed/maintained by right since this frontage of the corner subject site is the longer of the subject site's two street frontages.
- 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 applicant had submitted a scaled site plan/partial elevation that shows the proposal in the Lakeland Drive and Eustis Avenue front yard setbacks reaching a maximum height of 97 ½" or 8' 3".
- With regard to the proposed fence along Lakeland Drive, the following additional information was gleaned from the submitted site plan/elevation:

- Approximately 45' in length parallel to the street (and 25' in length perpendicular on the sides of the site in the required front yard), approximately on the front property line or approximately 34' from the pavement line where no home has direct frontage to the proposal since the home directly across Lakeland Drive fronts Eustis Avenue.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other *front yard* fences higher than 4' in the immediate area.
- With regard to the proposed fence along Eustis Avenue, the following additional information was gleaned from the submitted site plan/elevation:
  - Approximately 26' in length parallel to the street (and 10' and 25' in length perpendicular on the sides of the site in the required front yard), approximately on the front property line or approximately 14' from the pavement line where no home would have direct frontage to the proposal since the property directly across Eustis Avenue is undeveloped).
  - The Board Administrator conducted a field visit of the site and surrounding area and noted two other fences higher than 4' northeast of the site. These two fences were approximately 6' high solid board fences, neither with recorded board of adjustment history.
- As of February 11, 2013, no letters had been submitted in support or in opposition to these requests.
- The applicant has the burden of proof in establishing that the special exceptions to the fence height regulations of 4' 3" (whereby the proposal that would reach 8' 3" in height) will not adversely affect neighboring property.
- Granting these special exceptions of 4' 3" with a condition imposed that the applicant complies with the submitted site plan/partial elevation would require the proposal exceeding 4' in height in these front yard setbacks to be constructed/maintained in the location and of the heights and materials as shown on these documents.







1:1,200

# AERIAL MAP

Case no: BDA123-014

Date: 1/31/2013





City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-014

Data Relative to Subject Property:

Date: 12-21-2012

Location address: 2020 Lakeland Zoning District: R-7.5(C)

Lot No.: 6 Block No.: 17/5244 Acreage: 50'x155' Census Tract: \_\_\_\_\_

Street Frontage (in Feet): 1) <sup>155</sup> 205'± 2) 50 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Edward D. Harbour II and Tonna

Applicant: Edward Harbour Telephone: 214-682-8728

Mailing Address: 1744 Mariposa Drive, Dallas, TX Zip Code: 75228

E-mail Address: eddie harbour@yahoo.com

Represented by: Self Telephone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Affirm that an appeal has been made for a Variance X, or Special Exception \_\_\_\_\_, of 15' to the FYB & A to F4  
① Request that Lakeland setback be left at 25' and Fence ht. Eustis setback be reduced from 25' to 10'.

② Request allowance to have a 6' wood fence around Lakeland driveway parking.

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:

Please see Attachment One (1)

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

Eddie Harbour

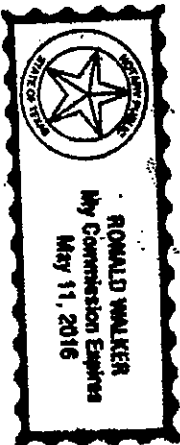
Before me the undersigned on this day personally appeared Eddie Harbour  
(Affiant/Applicant's name printed)

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: Eddie Harbour  
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 24 day of December, 2012

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



MEMORANDUM OF  
ACTION TAKEN BY THE  
BOARD OF ADJUSTMENT

Date of Hearing \_\_\_\_\_

Appeal was--Granted OR Denied

Remarks \_\_\_\_\_

Chairman


**Building Official's Report**

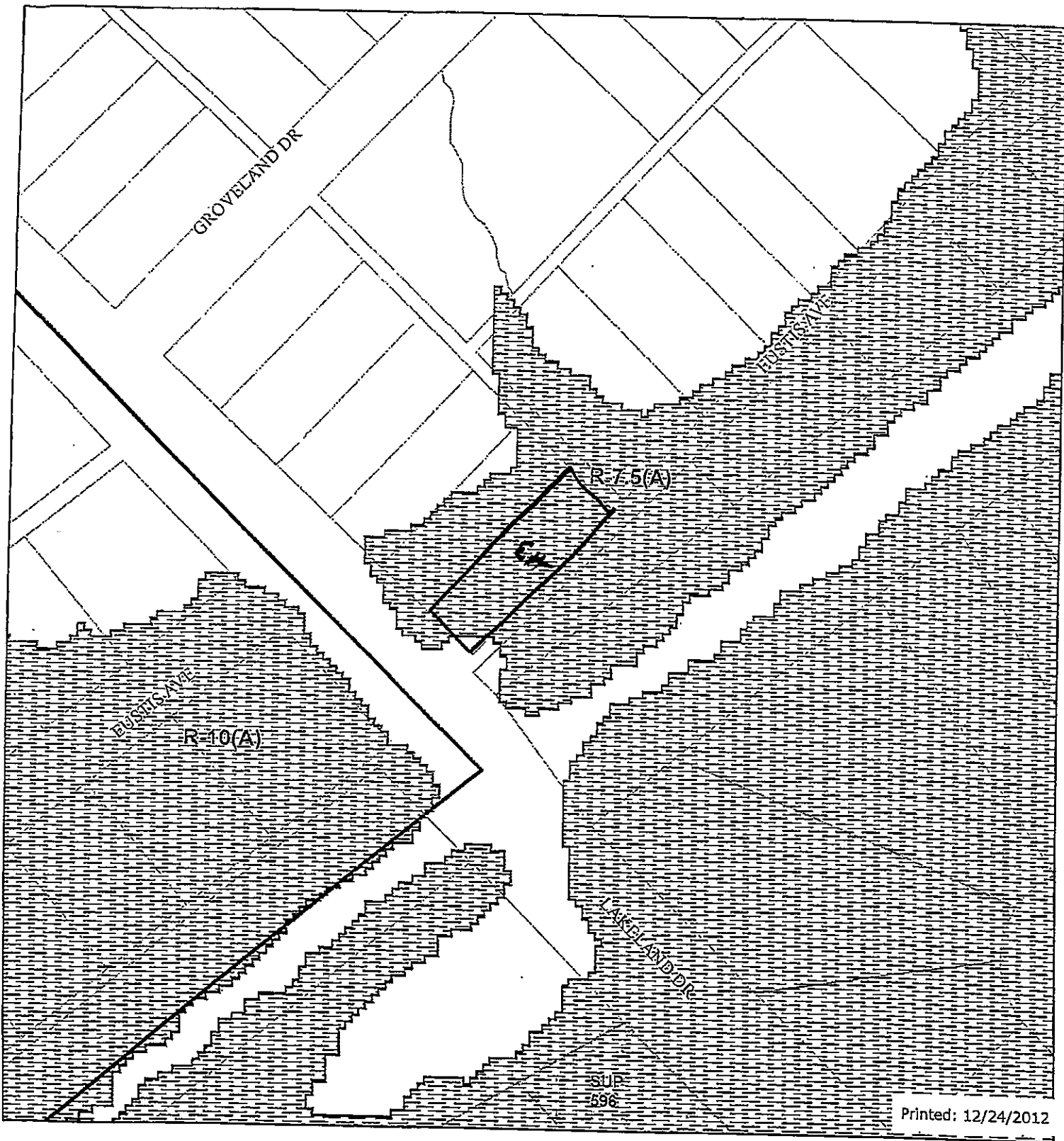
I hereby certify that Edward Harbour

did submit a request for a variance to the front yard setback regulation, and for a special exception to the fence height regulations  
at 2020 Lakeland Dr.

BDA123-014. Application of Edward Harbour for a variance to the front yard setback regulation and a special exception to the fence height regulations at 2020 Lakeland Drive. This property is more fully described as Lot 6, Block 17/5244, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires a front yard setback of 25 feet. The applicant proposes to construct a single family residential structure and provide a 10 foot front yard setback, which will require a 15 foot variance to the front yard setback regulation, and to construct an 8 foot 3 inch high fence in a required front yard, which will require a 4 foot 3 inch special exception to the fence regulation.

Sincerely,

  
Larry Holmes, Building Official

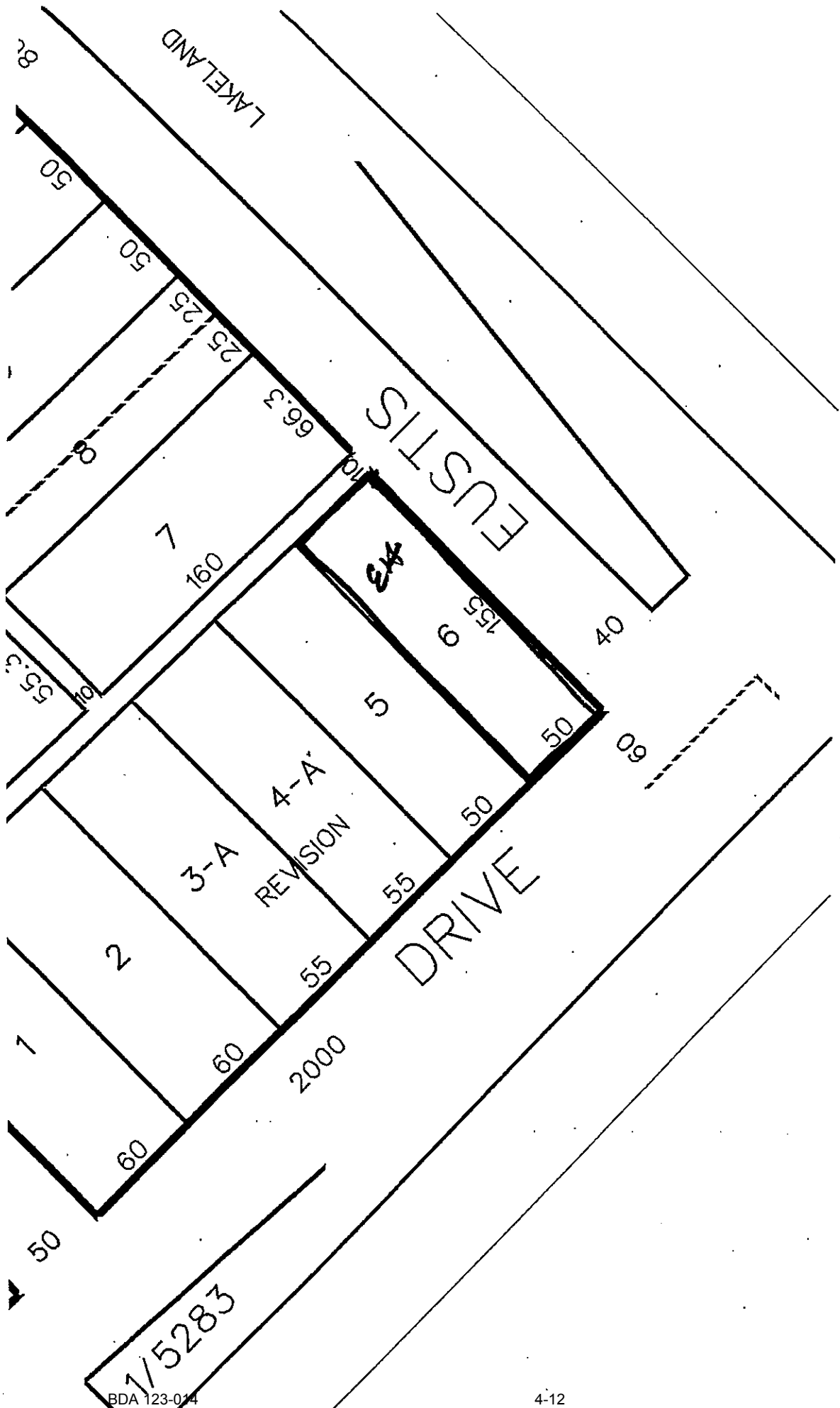


Printed: 12/24/2012

### Legend

- |                      |                                |                       |                    |
|----------------------|--------------------------------|-----------------------|--------------------|
| City Limits          | railroad                       | Dry Overlay           | CD Subdistricts    |
| School               | Certified Parcels              | D                     | PD Subdistricts    |
| Floodplain           | Base Zoning                    | D-1                   | PDS Subdistricts   |
| 100 Year Flood Zone  | PD193 Oak Lawn                 | CP                    | NSO Subdistricts   |
| Mill's Creek         | Dallas Environmental Corridors | SP                    | NSO_Overlay        |
| Peak's Branch        | SPSD Overlay                   | MD Overlay            | Escarpment Overlay |
| X Protected by Levee | Deed Restrictions              | Historic Subdistricts |                    |
| Parks                | SUP                            | Historic Overlay      |                    |





REQUESTED VARIANCE 1.

I request that my primary front yard setback remain 25' on Lakeland and that my secondary front yard setback on Eustis be set at 10'. The lots contiguous to my property are 50'x155' like my lot is. Each of these lots have a 25' front setback and a 5' side and rear sideback. Given this each of the lots contiguous to my property have 5000sqft of buildable area (40"x125'). My lot, because it's a corner lot has a 25' foot setback on Lakeland, and a 25' setback on Eustis in addition to the 5' side and rear setbacks. Considering this, my buildable area is 2300sqft or (20'x125'). If my request for a 10' setback on the Eustis side of my property is granted, it would give me a buildable area of 4375sqft. (35'x125').

This request is made because of the hardship that having two front setbacks on the Lakeland and Eustis sides of my property would cause. Other contiguous lots identical to mine enjoy 2 (two) times the buildable square footage as my lot would allow. As described above, the existing setbacks would make my property at 2020 Lakeland virtually impossible to build on. My request is being made based on the aforementioned hardship.

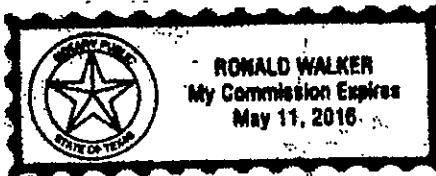
From a historical perspective (and fully understanding that no other case sets a precedent), when this plan was drawn my lot faced open unplatted property which is probably why it was drawn 50' wide when most of the other corner lots on my side of Lakeland were drawn at 60' wide from the RR Tracks back to Diceman. Further, in surveying most of these properties I think all have only one 25' setback even with a wider lot size. Other Eustis lots have unique characteristics and enjoy or have recently received a 10' setback. My request is to keep my actual front setback as zoned, and ask that my second front setback of Eustis (due to being a corner lot) be modified to 10'. Because of the normal city of Dallas easement along Eustis of approximately 15', the distance from the edge of the pavement to the setback line (if approved to 10') would be approximately 25'. On the basis of the above mentioned hardship, I respectfully request this modified setback.

REQUESTED VARIANCE 2.

I request a variance to enclose my parking off of Lakeland with a 6' wood fence with an electric sliding gate as opposed to a 4' fence.

*Eddie Harbour*

X *[Signature]*  
*[Signature]*  
Notary







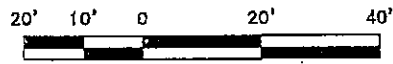
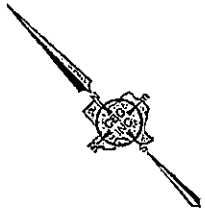
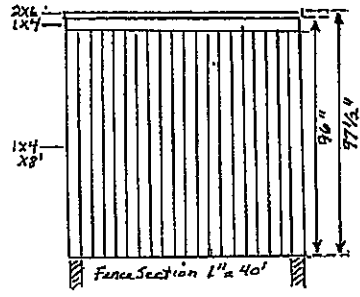
### 2020 Lakeland Drive

Being Lot 6 in Block 17/5244 of Lakeland Terrace Addition, an Addition to the City of Dallas, Dallas County, Texas, according to the Plat thereof recorded in Volume 4, Page 87, Map Records, Dallas County, Texas.

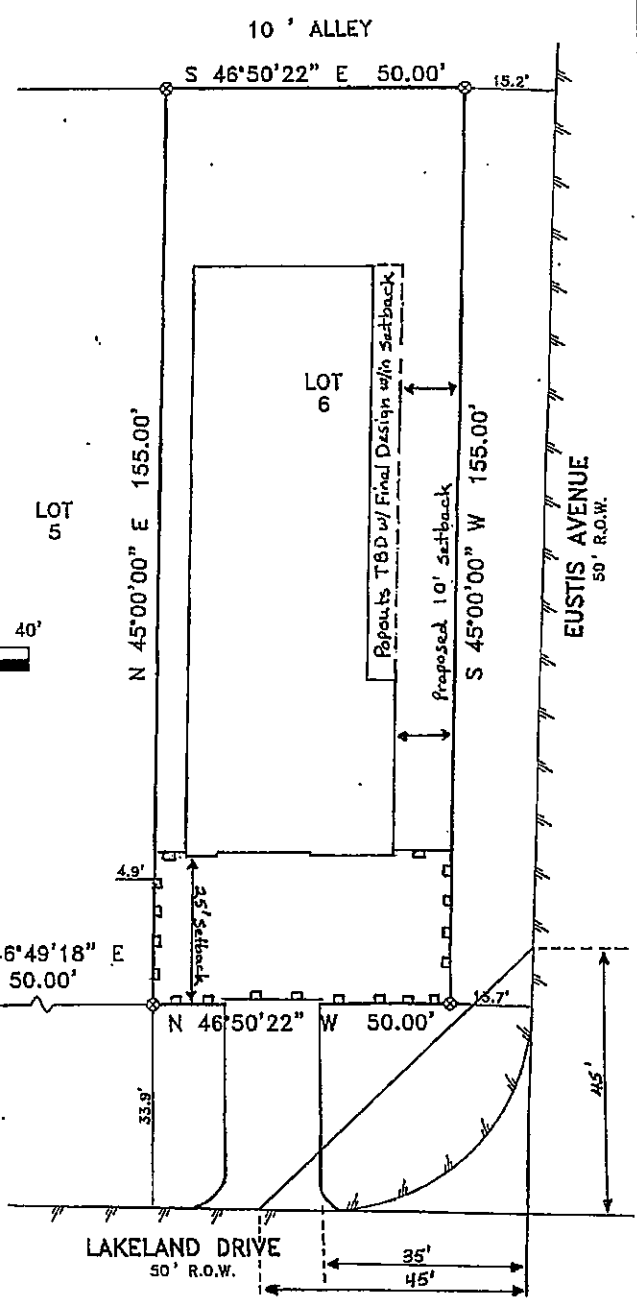


#### LEGEND

- 1/2" ROD FOUND
- 1/2" ROD SET
- 1" PIPE FOUND
- ⊗ "X" FOUND/SET
- ⊕ 60# NAIL FOUND
- FENCE POST FOR CORNER
- CM CONTROLLING MORTMENT
- AC AIR CONDITIONER
- PE POOL EQUIPMENT
- T TRANSFORMER PAD
- COLUMN
- POWER POLE
- ▲ UNDERGROUND ELECTRIC
- △ OVERHEAD ELECTRIC
- OHP— 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
- CONCRETE
- COVERED AREA



SCALE: 1" = 20'



**EXCEPTIONS:**

Accepted by: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Purchaser \_\_\_\_\_  
 Purchaser 4-14

**NOTES:**  
 BEARINGS, EASEMENTS AND BUILDING LINES ARE BY RECORDED PLAT UNLESS OTHERWISE NOTED.  
 FLOOD NOTE: According to the F.I.R.M. No. 4813C0335 J, this property does lie in Zone X and DOES NOT lie within the 100 year flood zone.

This survey is made in conjunction with the information provided by Capital Title Company. Use of this survey by any other parties and/or for other purposes shall be at user's own risk and any loss resulting from other use shall not be the responsibility of the undersigned. This is to certify that I have on this date made a careful and accurate survey on the ground of the subject property. The plat hereon is a correct and accurate representation of the property lines and dimensions are as indicated; location and type of buildings are as shown; and EXCEPT AS SHOWN, there are no visible and apparent encroachments or protrusions on the ground.

Drawn By: JW  
 Scale: 1" = 20'  
 Date: 5/23/2012  
 GF No.: 12-136140-PC  
 Job No. 1202212-1

**C.B.G. Surveying, Inc.**  
 12025 Shiloh Road, Ste. 250  
 Dallas, TX 75228  
 P 214.349.9485  
 F 214.349.2216  
 www.cbgsurvey.com

Bryan Connally

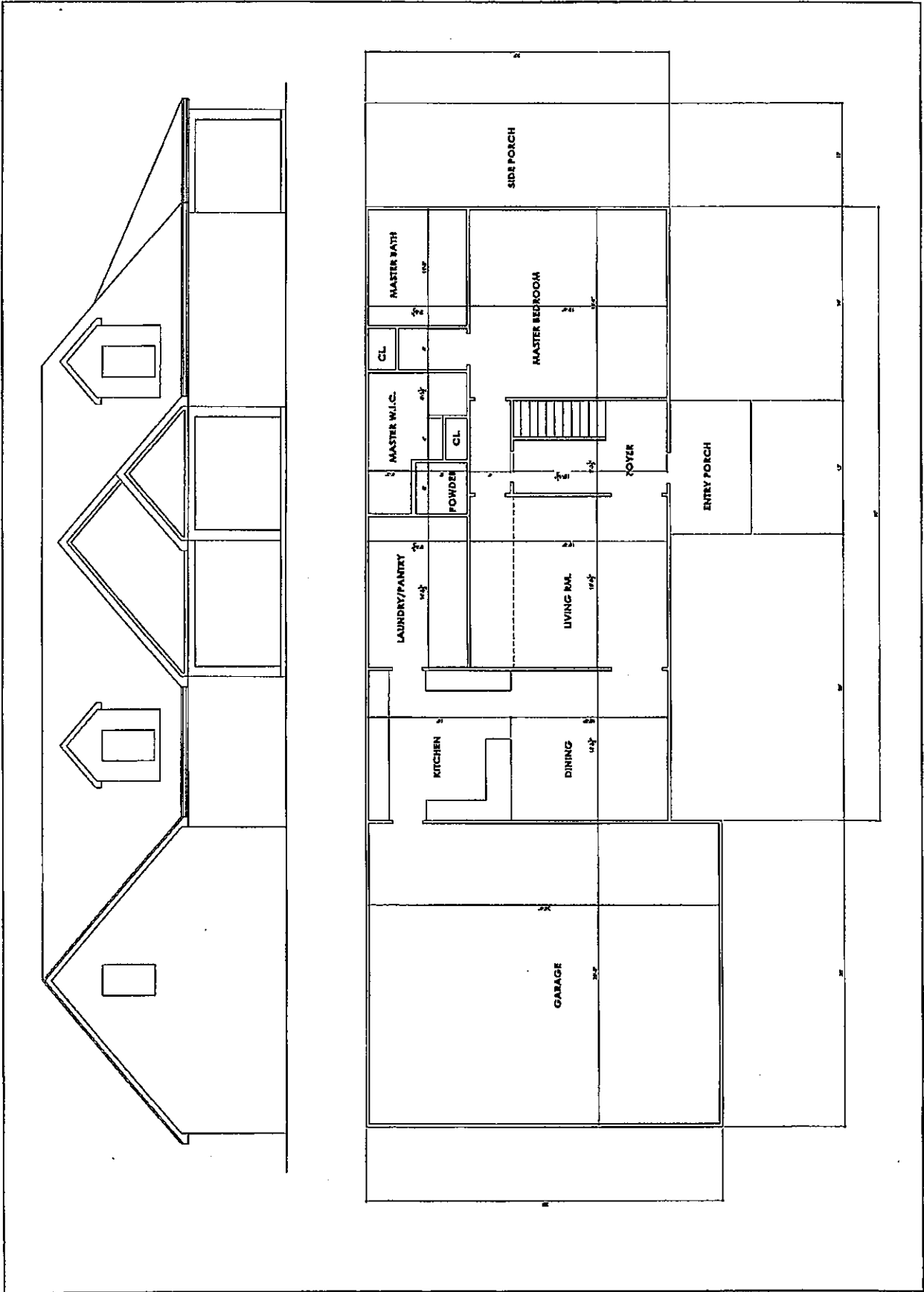
THIS PLAN IS THE PROPERTY OF PLAN AHEAD INC. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. ANY REUSE OR MODIFICATION OF THIS PLAN WITHOUT THE WRITTEN CONSENT OF PLAN AHEAD INC. IS STRICTLY PROHIBITED.

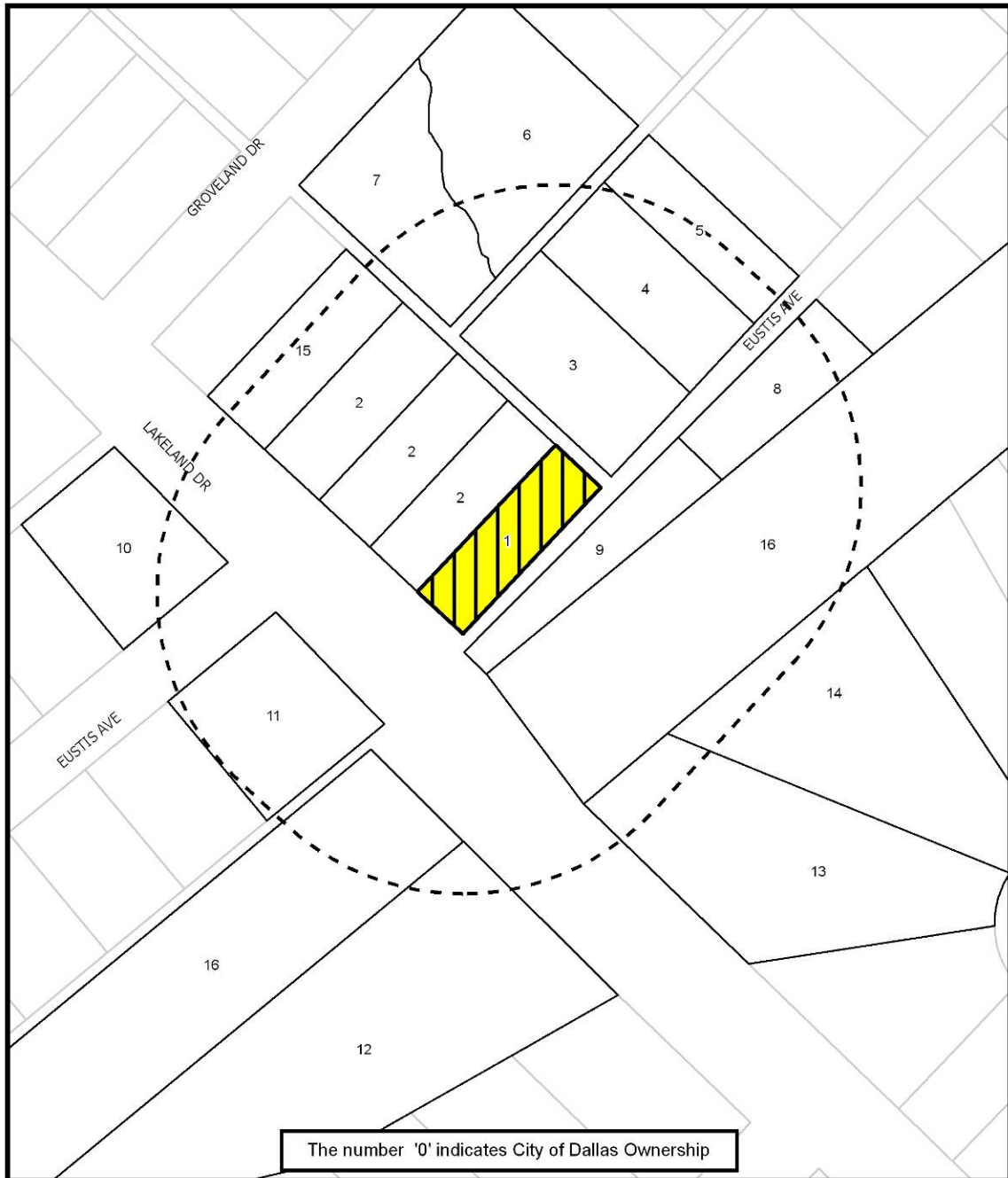


PLAN AHEAD INC.  
 3720 SOUTH STREET  
 ANNAPOLIS, MD 21403  
 PHONE (410) 291-8888  
 OFFICE AT WORK PLANNING

FILE:  
 DRAWING:  
 NUMBER:  
 DATE: 10-12-2012

**A1**





 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;"><b>200'</b></td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;"><b>16</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	<b>200'</b>	AREA OF NOTIFICATION	<b>16</b>	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <b>BDA123-014</b> Date: <b>1/31/2013</b>
<b>200'</b>	AREA OF NOTIFICATION					
<b>16</b>	NUMBER OF PROPERTY OWNERS NOTIFIED					

## ***Notification List of Property Owners***

### ***BDA123-014***

#### ***16 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	2020 LAKELAND DR	CLEMONS DONALD H PMB 444
2	2010 LAKELAND DR	KUMMER ELIZABETH A
3	8615 EUSTIS AVE	NADY SCOTT X & RONICCA R
4	8623 EUSTIS AVE	NADY SCOTT X & RONNICA R
5	8627 EUSTIS AVE	CAMPBELL LARRY RUSSELL & AMI NICOLE
6	8626 GROVELAND DR	JANEWAY STEVEN & CLEA VERVEN
7	8618 GROVELAND DR	JACKSON MARY ANN
8	8626 EUSTIS AVE	PYATT RANDY C
9	8610 EUSTIS AVE	LAMONT LEE S & VANCLEVE GRANT
10	8571 EUSTIS AVE	MCGILVRAY PAIGE
11	8574 EUSTIS AVE	KARL ANN C
12	2100 LAKELAND DR	HOKE BOBBY R & KAILA
13	8607 VINEWOOD DR	INGRAHAM MARK R & JENNIFER KLEIN
14	8611 VINEWOOD DR	DELONG RICHARD & AMANDA
15	2004 LAKELAND DR	STERLING TRUST CO CUSTODIAN S HINDS IRA
16	99999 NO NAME ST	KANSAS CITY SOUTHERN RR