

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

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BRIEFING	ROOM 6/E/S, 1500 MARILLA STREET	11:00 A.M.
PUBLIC HEARING	ROOM 6/E/S, 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, February 20, 2013</b> Board of Adjustment Public Hearing Minutes	M1
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**UNCONTESTED CASES**

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<b>BDA 123-011</b>	7703 Fairport Road <b>REQUEST:</b> Application of Jaime Lopez for special exceptions to the fence height and visual obstruction regulations	1
<b>BDA 123-012</b>	7609 Fairport Road <b>REQUEST:</b> Application of Jaime Lopez for special exceptions to the fence height and visual obstruction regulations	2
<b>BDA 123-020</b>	4232 Delano Place <b>REQUEST:</b> Application of Karl A. Crawley of Masterplan for a special exception to the off-street parking regulations and variances to the front yard setback and off-street parking regulations	3
<b>BDA 123-023</b>	8408 Menier Street <b>REQUEST:</b> Application of Maxwell Fisher of Masterplan for variances to the front and rear yard setback regulations and a special exception to the fence height regulations	4

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**HOLDOVER CASE**

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**BDA 123-014**

2020 Lakeland Drive

5

**REQUEST:** Application of Edward Harbour for a variance to the front yard setback regulations and special exceptions to the fence height regulations

## EXECUTIVE SESSION NOTICE

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

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

**(Rev. 6-24-12)**

**MISCELLANEOUS ITEM NO. 1**

To approve the Board of Adjustment Panel February 20, 2013 public hearing minutes.

**FILE NUMBER:** BDA 123-011

**BUILDING OFFICIAL'S REPORT:** Application of Jaime Lopez for special exceptions to the fence height and visual obstruction regulations at 7703 Fairport Road. This property is more fully described as Lot 3 in City Block 7971, and is zoned R-7.5(A), which (1) limits the height of a fence in the front yard to 4 feet and (2) requires 20-foot visibility triangles at drive approaches. The applicant proposes to construct and/or maintain a 6-foot-high fence in the front yard and in the required visibility triangles, which will require special exceptions to the fence height regulations of 2 feet and the visual obstruction regulations.

**LOCATION:** 7703 Fairport Road

**APPLICANT:** Jaime Lopez

**REQUESTS:**

- The following appeals have been made on a site that is currently developed with a single family home:
  1. A special exception to the fence height regulations of 2' in conjunction with maintaining an arched open iron picket fence ranging from 4' - 4" 8" in height 5' - 6' high stone columns and an arched open iron picket gate 6' in height flanked by 6' high stone entry columns.
  2. Special exceptions to the visual obstruction regulations in conjunction with maintaining two of the aforementioned 6' high stone entry columns in the 20-foot visibility triangles on either side of the driveway into the site from Fairport Road.  
(Note that this application abuts a property to the west where the same applicant seeks similar fence height and visual obstruction special exceptions. See BDA 123-012).

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:**

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

**STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:**

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

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

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

**STAFF RECOMMENDATION (visual obstruction special exceptions):**

Approval of the requests, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Project Engineer has no objections to these requests.
- The applicant has substantiated how the location of the items (two 6' high stone entry columns) in the 20-foot visibility triangles on either side of the driveway into the site from Fairport Road does not constitute a traffic hazard.

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

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

**Zoning/BDA History:**

1. BDA 123-012, Property at 7609 Fairport Road (the lot immediately west of subject site)

On March 20, 2013, the Board of Adjustment Panel B will consider requests for a special exception to the fence height regulations of 2' requested in conjunction with maintaining an arched open iron picket fence ranging from 4' - 4" 8" in height 5' – 6' high stone columns, and constructing and maintaining an arched open iron picket gate 4' – 4' 8" in height; and special exceptions to the visual obstruction regulations requested in conjunction with maintaining lengths of a 4' – 4' 8" high open iron picket fence, and constructing and

maintaining a 4' – 4' 8" high open iron picket gate in the 20-foot visibility triangles on either side of the driveway that is proposed to lead into the site from Fairport Road.

**Timeline:**

December 18, 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.

February 13, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

February 13, 2012: The Board Administrator emailed a family member of the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the February 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 9<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 requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

March 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

March 8, 2013: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”

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

- This request focuses on maintaining an arched open iron picket fence ranging from 4' - 4' 8" in height 5' – 6' high stone columns and an arched open iron picket gate 6' in height flanked by 6' high stone entry columns on a lot developed with a single family home.

- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant has submitted a site plan and an elevation of the proposal/existing fence in the front yard setback that reaches a maximum height of 6'.
- The following additional information was gleaned from the submitted site plan:
  - The existing fence/gate located in the required front yard over 4' in height is represented on the site plan as being approximately 92' in length parallel to the street and approximately 25' perpendicular to the street on the east side of the site in the front yard setback.
  - The existing fence is shown to be located on the site's front property line or 12' from the pavement line.
  - The existing gate is shown to be located approximately 10' from the site's front property line or 22' from the projected pavement line.
- One single family home "fronts" to the existing fence on the subject site, a home with what appears to be a 4' high fence with an approximately 6' high gate.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences other than the fence to the west that is the issue at hand of BDA 123-012 significantly above four feet high that appeared to be located in a front yard setback.
- As of March 11, 2012, no letters have been submitted in support or opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 2' will not adversely affect neighboring property.
- Granting this special exception of 2' with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the front yard setback (in this case, an existing fence) to be maintained in the location and of the height and material as shown on these documents.

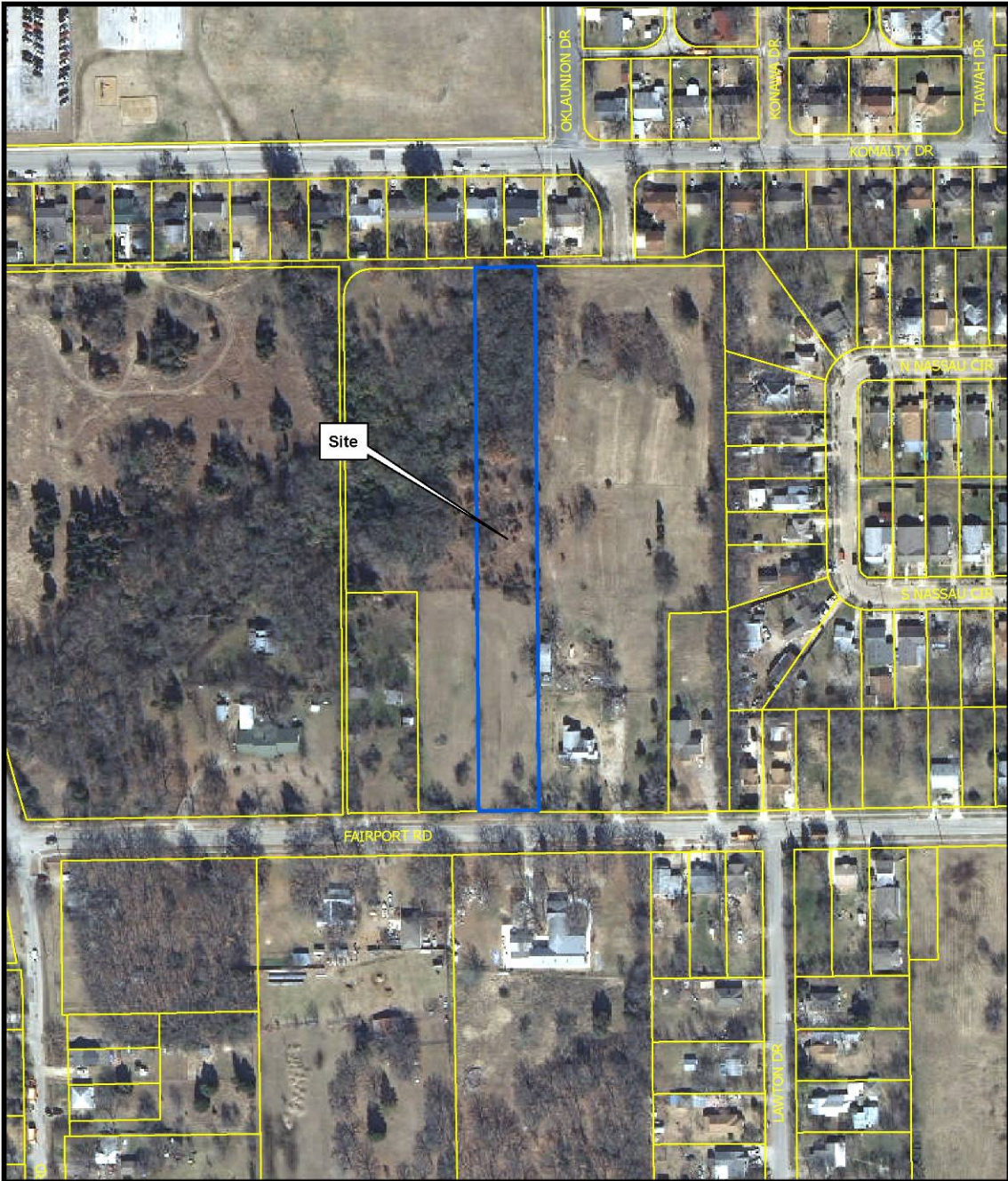
**GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exceptions):**

- These requests focus on maintaining two 6' high stone entry columns in the 20-foot visibility triangles on either side of the driveway into the site from Fairport Road.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
  - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
  - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- A site plan and elevation has been submitted indicating only two 6' high stone columns are located in the 20-foot visibility triangles on either side of the driveway into the site from Fairport Road.



- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain two, 6’ high stone columns in the visibility triangles at the drive approaches into the site from Fairport Road does not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would require that the items in the 20-foot visibility triangles on either side of the driveway into the site from Fairport Road would be limited to the location, height and materials of those items as shown on these documents.





1:2,400

# AERIAL MAP

Case no: **BDA123-011**

Date: **3/1/2013**



APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-011

Data Relative to Subject Property:

Date: 18-12-12

Location address: 7703 FAIRPORT Zoning District: R-7.5(A)

Lot No.: 3 Block No.: 7971 Acreage: 1.7842 Census Tract: 116.01

Street Frontage (in Feet): 1) 92'-402) 3) 4) 5)

To the Honorable Board of Adjustment :

5E10

Owner of Property (per Warranty Deed): JAINIE LOPEZ

Applicant: JAINIE LOPEZ Telephone: 469 334 1164

Mailing Address: 1333 AMITY LANE Zip Code: 75217

E-mail Address:

Represented by: Telephone:

Mailing Address: Zip Code:

E-mail Address:

Affirm that an appeal has been made for a Variance, or Special Exception  of We are requesting a 2 foot special exception to the fence height in a front yard. And the visibility triangle at the drive way.

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:

I think my request for a 2 foot extra height won't effect any one. It will make the street look better. And the fence which is in the triangle won't have a hazard effect because it is see through and it won't be a problem for us or the neighbor.

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.

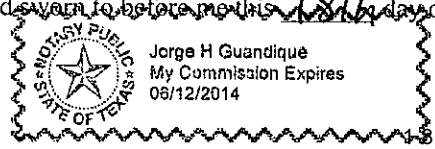
Affidavit

Before me the undersigned on this day personally appeared JAINIE LOPEZ (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: JAINIE LOPEZ (Affiant/Applicant's signature)

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



J Guandique Notary Public in and for Dallas County, Texas

(Rev. 08-01-11)

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** Jaime Lopez

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

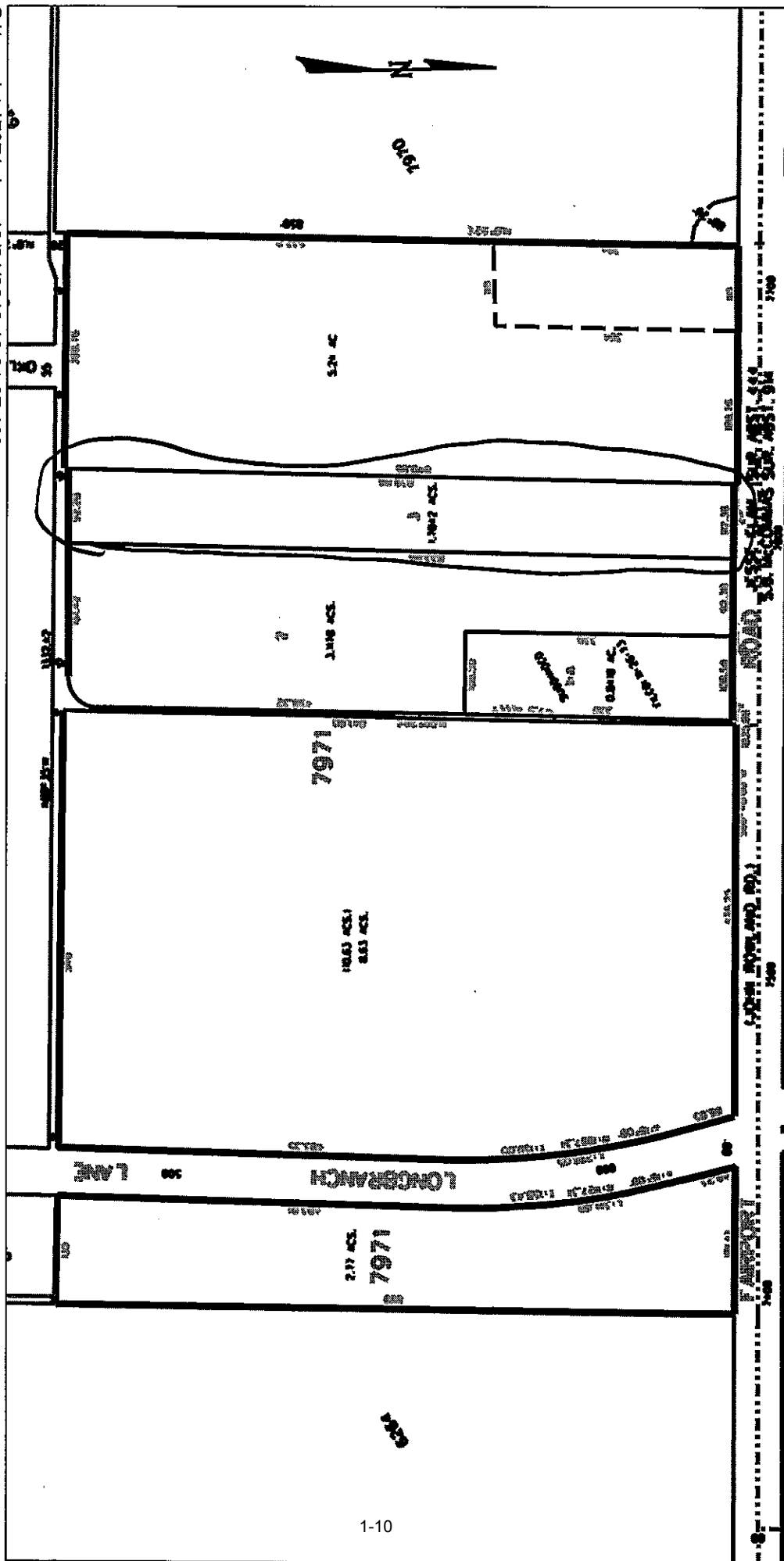
**at** 7703 Fairport Road

BDA123-011. Application of Jaime Lopez for a special exception to the fence height regulations and a special exception to the visibility obstruction regulations at 7703 Fairport Road. This property is more fully described as Lot 3, Block 7971, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct a 6 foot high fence in a required front yard, which will require a 2 foot special exception to the fence regulation, and to construct and maintain a residential fence in a required visibility obstruction triangle which will require a special exception to the visibility obstruction regulation.

Sincerely,

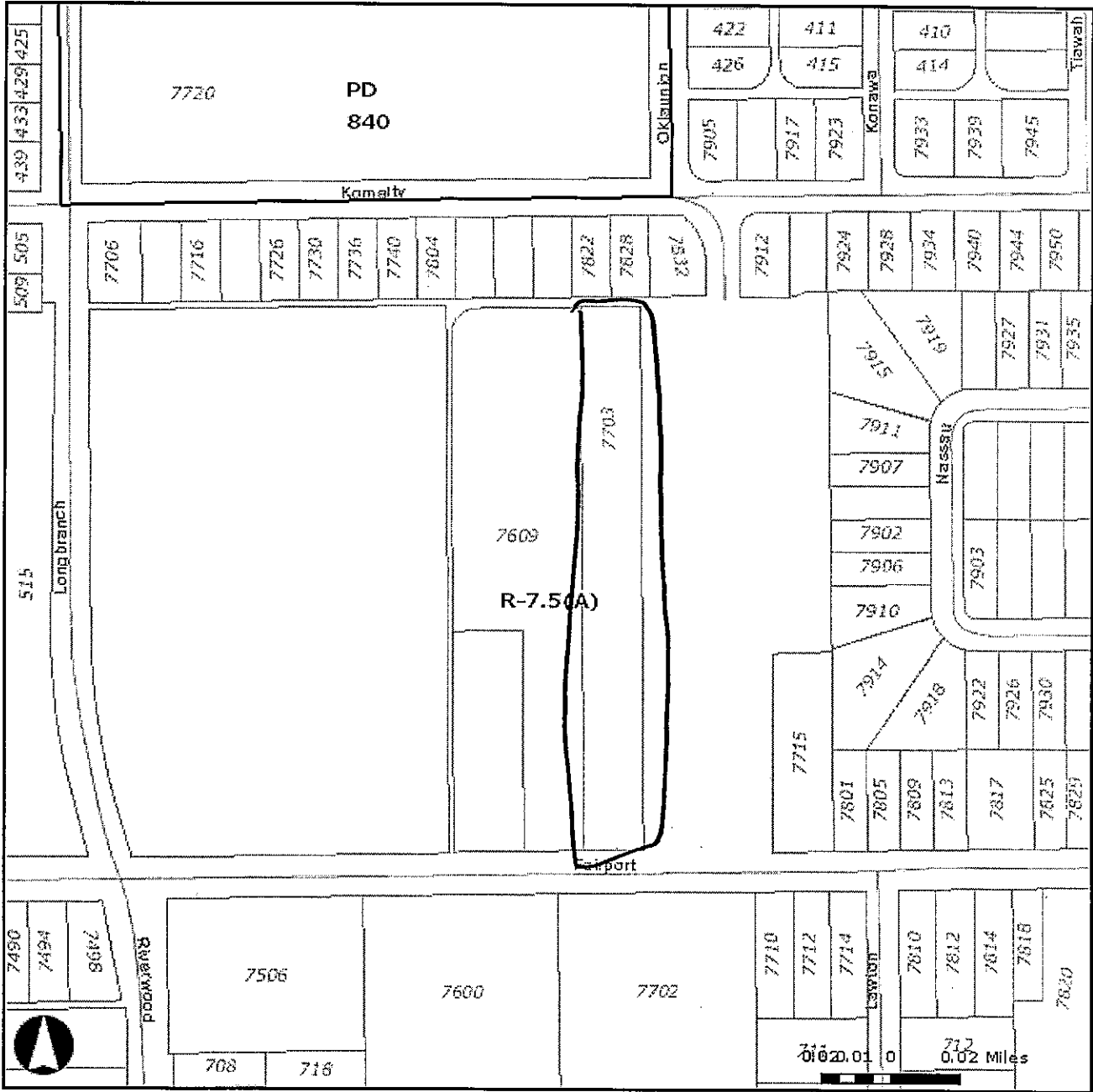
  
Larry Holmes, Building Official

C:\tax\_plats\7971.dgn 12/21/2012 10:31:07 AM



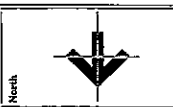
JL.

# 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

J.L



THIS PLAN AND SPECIFICATIONS TO BE USED FOR THE CONSTRUCTION OF THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF DALLAS AND THE DALLAS COUNTY HEALTH DEPARTMENT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF DALLAS AND THE DALLAS COUNTY HEALTH DEPARTMENT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF DALLAS AND THE DALLAS COUNTY HEALTH DEPARTMENT.

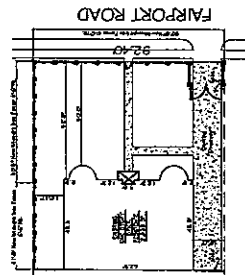
**7703 FAIRPORT ROAD**  
**Block 7971 Lot 3**  
 Dallas, Texas 75217

Drawn by  
**VICENTE ESPARZA**  
 469-877-2324

Date  
**DECEMBER 2012**  
 Sheet Title  
**SITE PLAN**

Scale  
**1" = 60'-0"**  
 Sheet No.  
**1**

of 3



**SITE PLAN** SCALE: 1"=60'-0"





THIS PLAN AND SPECIFICATIONS ARE PREPARED BY THE ARCHITECT AND ENGINEER AND SHALL BE CONSIDERED RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE ARCHITECT AND ENGINEER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE ARCHITECT AND ENGINEER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

7703 FAIRPORT ROAD  
 Block 7971 Lot 3  
 Dallas, Texas 75217

Drawn by  
 VICENTE  
 ESPARZA  
 468-877-2824

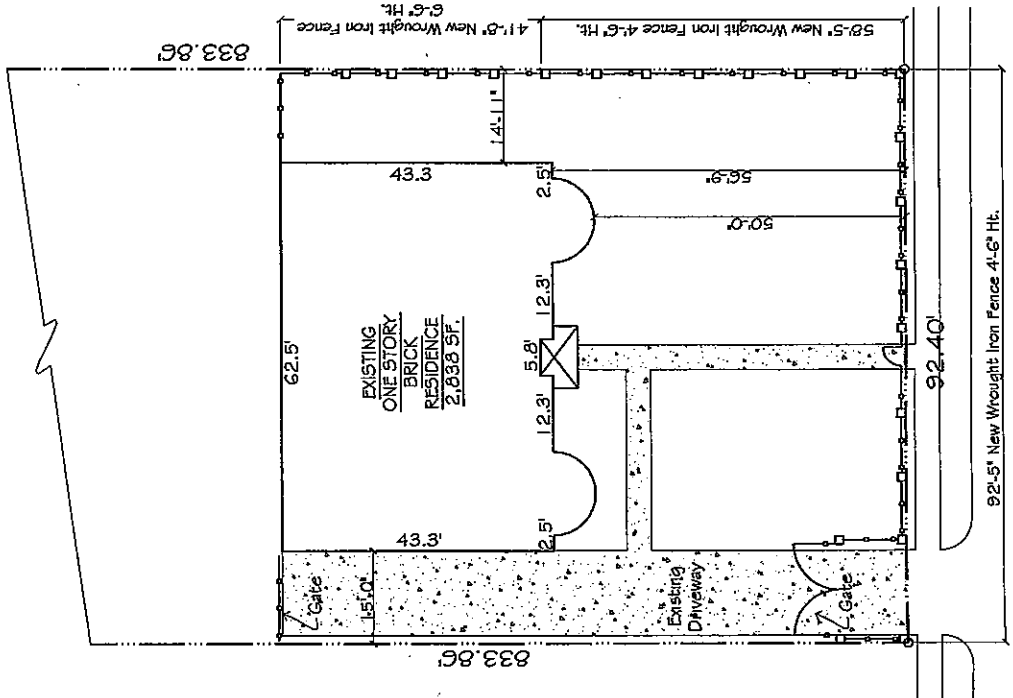
Date  
 DECEMBER, 2012

Sheet Title  
 SITE PLAN

Scale  
 1/4" = 20'-0"

Sheet No.  
 2

of 3



FAIRPORT ROAD

SITE PLAN

SCALE: 1/4"=20'-0"



ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
 CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND LOCATIONS OF EXISTING UTILITIES AND STRUCTURES.  
 CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.  
 CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES AND STRUCTURES.  
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7703 FAIRPORT ROAD  
 Block 7971 Lot 3  
 Dallas, Texas 75217

Drawn by  
 VICENTE  
 ESPARZA  
 469-8775254

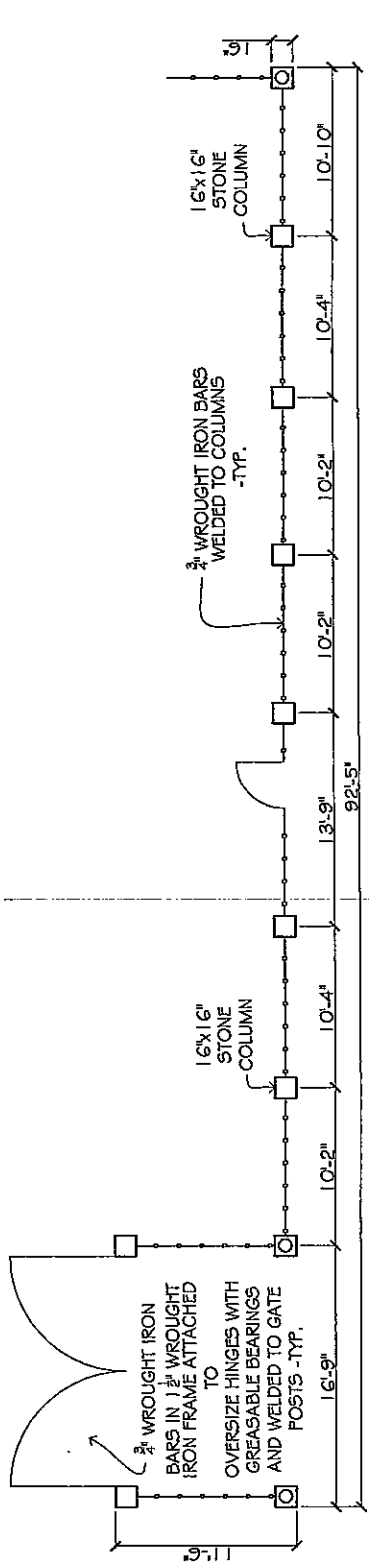
Date  
 DECEMBER, 2012

Sheet Title  
 INDICATES

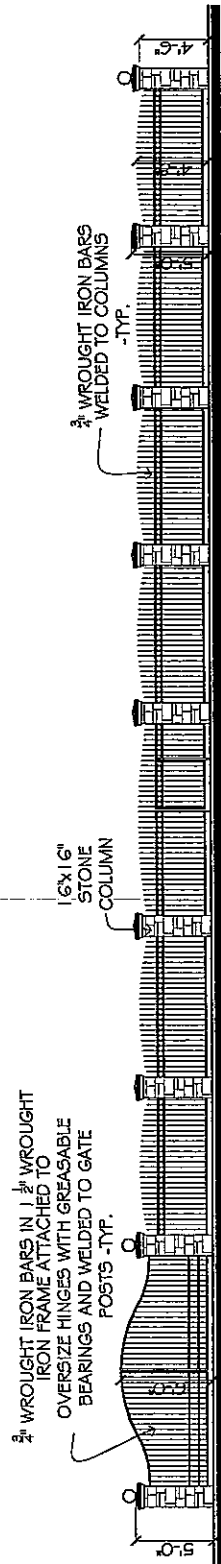
Scale  
 INDICATES

Sheet No.  
 3

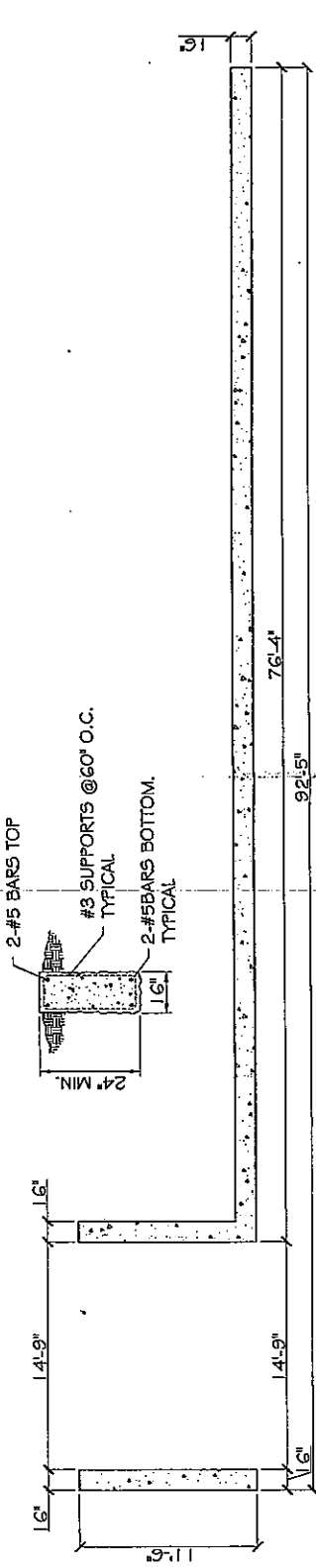
of 3



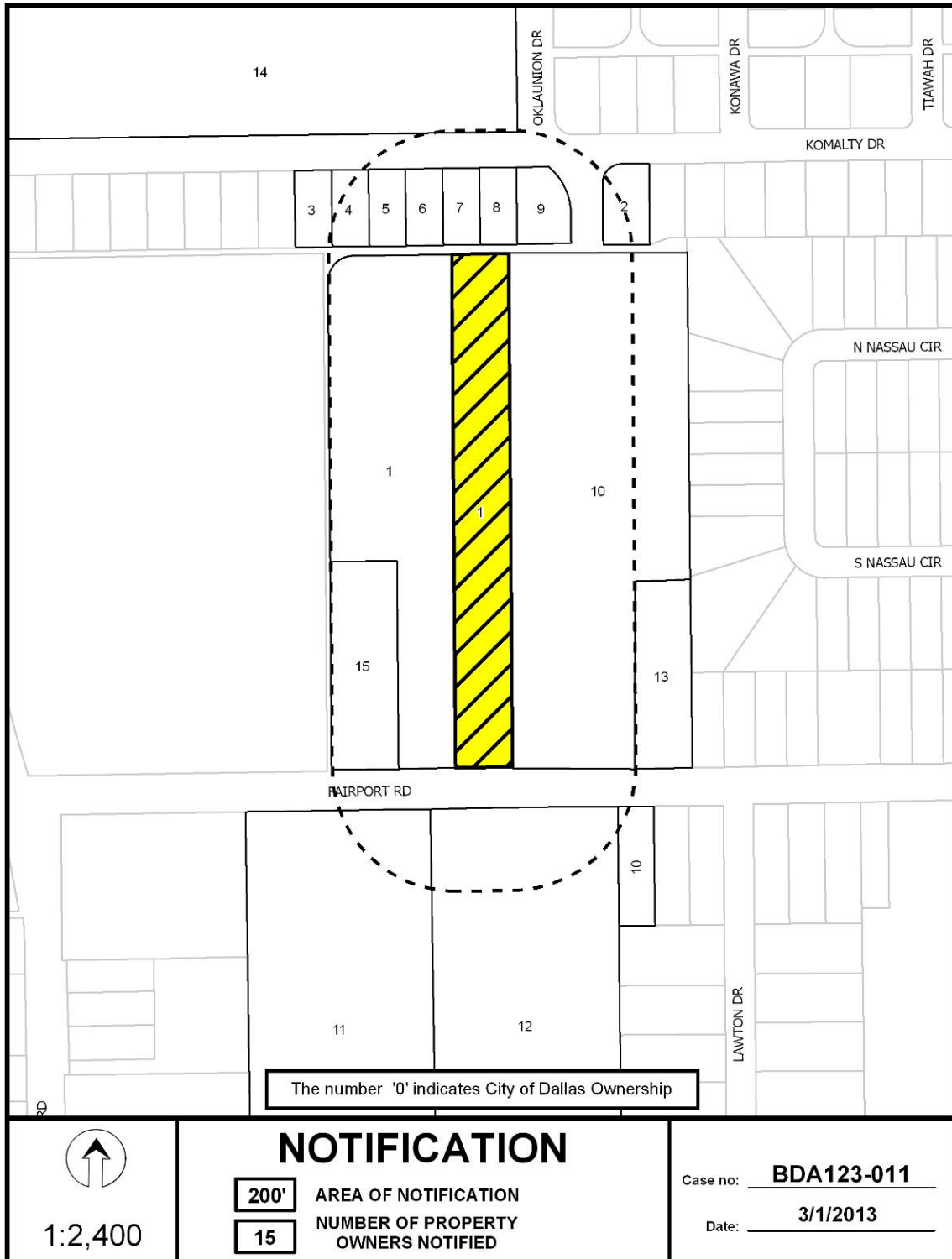
FLOOR PLAN SCALE: 1/8" = 1'-0"



FRONT ELEVATION SCALE: 1/8" = 1'-0"



FOUNDATION PLAN SCALE: 1/8" = 1'-0"



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

### ***BDA123-011***

#### ***15 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	7609 FAIRPORT RD	MOLINA SANDRA
2	7912 KOMALTY DR	HALL GEORGE RALPH
3	7804 KOMALTY DR	SCOTT MARTHA ANN
4	7810 KOMALTY DR	BATRES CLAUDIA M
5	7814 KOMALTY DR	OLIVER CASSANDRA D
6	7818 KOMALTY DR	DANIELS ROBERT D & CARRIE JEANETTE
7	7822 KOMALTY DR	BROADNAX ROBERT
8	7828 KOMALTY DR	SANCHEZ RANULFO
9	7832 KOMALTY DR	VALDEZ JUAN J & MARIA DELOURDES
10	7710 FAIRPORT RD	RODRIGUEZ IGNACIO & DOLORES
11	7600 FAIRPORT RD	BRANTON JOSEPH DUANE & TONYA D
12	7702 FAIRPORT RD	VEITNAMESE BUDDHIST MEDITATION CORP
13	7715 FAIRPORT RD	GOMEZ JESUS
14	7720 GAYGLEN DR	Dallas ISD ATTN OFFICE OF LEGAL SERVICES
15	7605 FAIRPORT RD	VIETNAMESE BUDDIST MEDITATION CORP

**FILE NUMBER:** BDA 123-012

**BUILDING OFFICIAL'S REPORT:** Application of Jaime Lopez for special exceptions to the fence height and visual obstruction regulations at 7609 Fairport Road. This property is more fully described as Lot 2 in City Block 7971, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires 20-foot visibility triangles at drive approaches. The applicant proposes to construct and/or maintain a 6-foot-high fence in the front yard and within the required visibility triangles, which will require special exceptions to the fence height regulations of 2 feet; and the visual obstruction regulations.

**LOCATION:** 7609 Fairport Road

**APPLICANT:** Jaime Lopez

**REQUESTS:**

- The following appeals have been made on a site that is currently undeveloped:
  1. A special exception to the fence height regulations of 2' in conjunction with maintaining an arched open iron picket fence ranging from 4' - 4' 8" in height with 5' - 6' high stone columns, and constructing and maintaining an arched open iron picket gate 4' - 4' 8" in height.
  2. Special exceptions to the visual obstruction regulations in conjunction with maintaining lengths of a 4' - 4' 8" high open iron picket fence, and constructing and maintaining a 4' - 4' 8" high open iron picket gate in the 20-foot visibility triangles on either side of the driveway that is proposed to lead into the site from Fairport Road.

(Note that this application abuts a property to the west where the same applicant seeks similar fence height and visual obstruction special exceptions. See BDA 123-011).

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:**

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

**STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:**

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

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

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

**STAFF RECOMMENDATION (visual obstruction special exceptions):**

Approval of the requests, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Project Engineer has no objections to these requests.
- The applicant has substantiated how the location of the items (4' – 4' 8" high open picket fence and open picket gate) in the 20-foot visibility triangles on either side of the driveway into the site from Lolita Drive would not constitute a traffic hazard.

**BACKGROUND INFORMATION:**

**Zoning:**

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

**Land Use:**

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

**Zoning/BDA History:**

- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. BDA 123-011, Property at 7703 Fairport Road (the lot immediately east of subject site)</li> </ol> | <p>On March 20, 2013, the Board of Adjustment Panel B will consider a special exception to the fence height regulations of 2' is requested in conjunction with maintaining an arched open iron picket fence ranging from 4' - 4" 8" in height 5' high stone columns and an arched open iron picket gate 6' in height flanked by 6' high stone entry columns; and special exceptions to the visual obstruction regulations requested in conjunction with maintaining two of the aforementioned 6' high</p> |
|---|---|

stone entry columns in the 20-foot visibility triangles on either side of the driveway into the site from Fairport Road.

**Timeline:**

- December 18, 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.
- February 13, 2012: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B.
- February 13, 2012: The Board Administrator emailed a family member of the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the February 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 9<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 requests; and
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- March 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.
- March 8, 2013: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”

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

- This request focuses on maintaining an arched open iron picket fence ranging from 4’ - 4” 8” in height with 5’ – 6’ high stone columns, and constructing and maintaining an arched open iron picket gate 4’ – 4’ 8” in height on a undeveloped site.

- 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 has submitted a site plan and an elevation of the proposal/existing fence in the front yard setback that reaches a maximum height of 6'.
- The following additional information was gleaned from the submitted site plan:
  - The existing fence/proposed gate in the required front yard over 4' in height is represented on the site plan as being approximately 92' in length parallel to the street and approximately 25' perpendicular to the street on the west side of the site in the front yard setback.
  - The existing fence/proposed gate is shown to be located on the site's front property line or 12' from the pavement line.
- One single family home "fronts" to the existing fence on the subject site, a home with what appears to be a 4' high fence.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences other than the fence to the west that is the issue at hand of BDA 123-011 significantly above four feet high that appeared to be located in a front yard setback.
- As of March 11, 2012, no letters have been submitted in support or opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 2' will not adversely affect neighboring property.
- Granting this special exception of 2' with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the front yard setback (in this case, an existing fence) to be maintained in the location and of the height and material as shown on these documents.

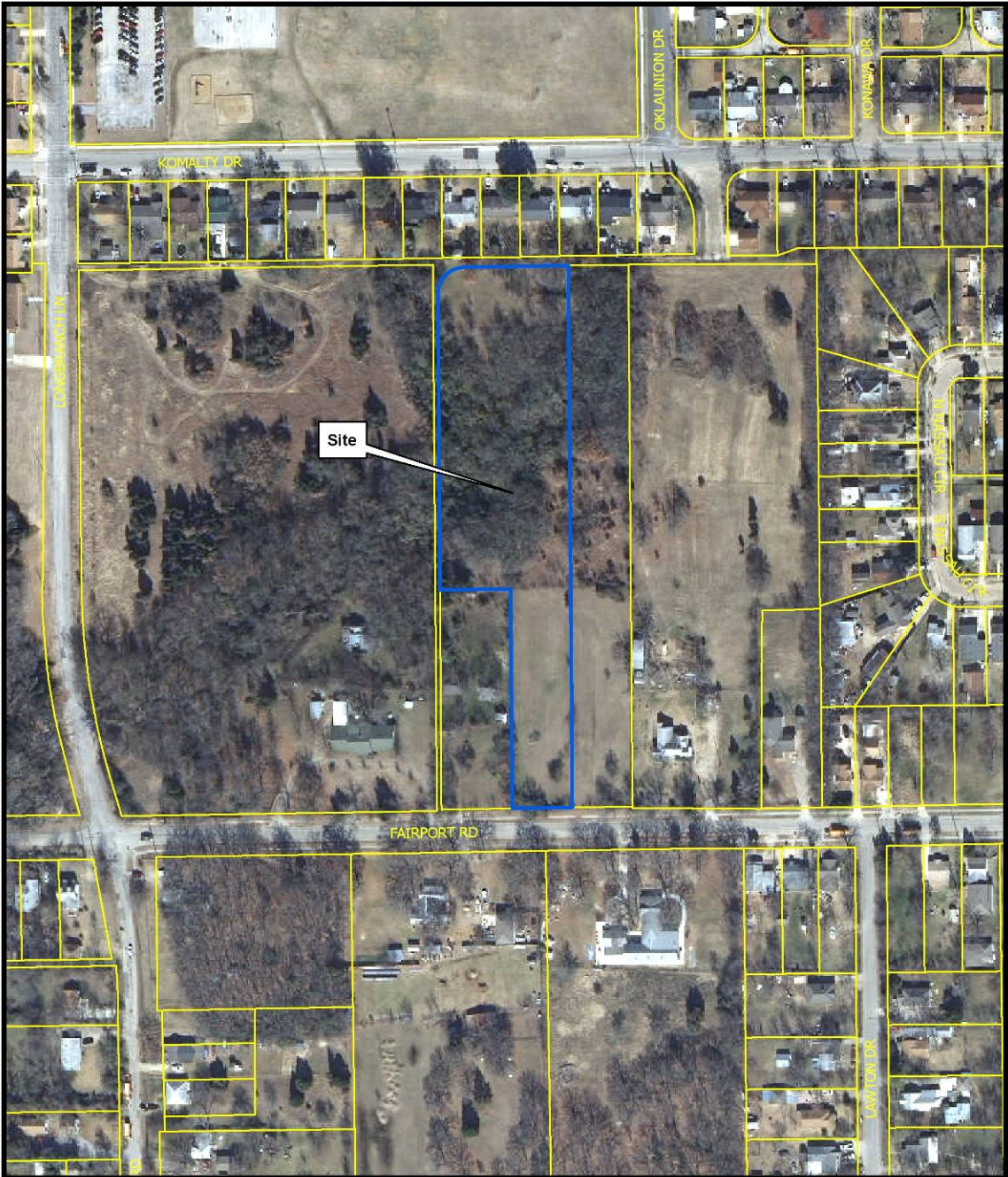
**GENERAL FACTS/STAFF ANALYSIS (visual obstruction special exception):**

- These requests focus on maintaining lengths of a 4' – 4' 8" high open iron picket fence, and constructing and maintaining a 4' – 4' 8" high open iron picket gate in the 20-foot visibility triangles on either side of the driveway that is proposed to lead into the site from Fairport Road.
- The Dallas Development Code states the following: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
  - in a visibility triangle as defined in the Code (45-foot visibility triangles at street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
  - between two and a half and eight feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
- A site plan and elevation has been submitted indicating approximately 12 lengths of the 4' – 4' 8" high open iron picket fence and gate to be located in 20-foot visibility triangles on either side of the proposed driveway into the site from Fairport Road.



- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain lengths of an open iron picket fence and gate in the visibility triangles at proposed drive approaches into the site from Fairport Road does not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and elevation would require that the items in the 20-foot visibility triangles on either side of the proposed driveway into the site from Fairport Road would be limited to the location, height and materials of those items as shown on these documents.





1:2,400

# AERIAL MAP

Case no: BDA123-012

Date: 3/1/2013



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-012

Data Relative to Subject Property:

Date: 12-18-12

Location address: 7609 FAIRPORT Zoning District: R-7.5(A)

Lot No.: 2 Block No.: 7971 Acreage: 3.1178 Census Tract: 116.01

Street Frontage (in Feet): 1) 93' 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) 9810

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): JAINME LOPEZ

Applicant: JAINME LOPEZ Telephone: 469 334 1164

Mailing Address: 1333 AMITY LN Zip Code: 75212

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

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

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

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

Affirm that an appeal has been made for a Variance \_\_\_\_\_, or Special Exception  of we are requesting a 2 foot special exception to the height in a front yard and the visibility triangle at the drive way

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:  
I think my request for a 2 foot extra height won't effect any one it will make the street look better and the fence which is in the triangle won't have a hazard effect because it is see through and it won't be a problem for us or the neighbors

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.

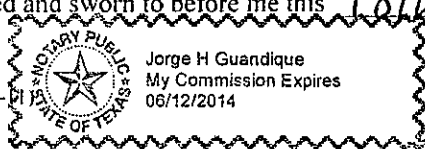
Affidavit

Before me the undersigned on this day personally appeared JAINME LOPEZ  
(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: JAINME LOPEZ  
(Affiant/Applicant's signature)

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



J Guandique  
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 Jaime Lopez

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

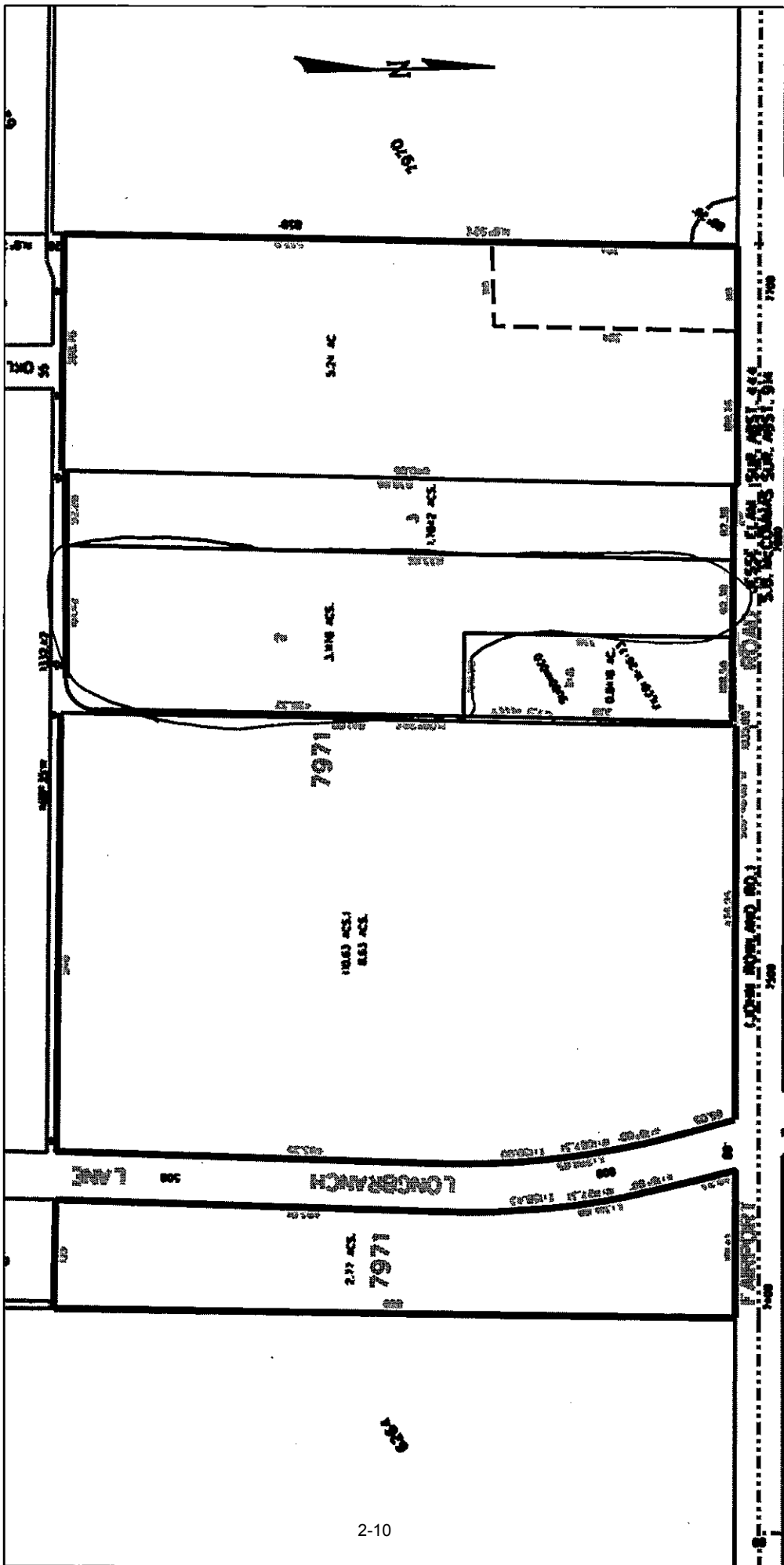
at 7609 Fairport Road

BDA123-012. Application of Jaime Lopez for a special exception to the fence height regulations and a special exception to the visibility obstruction regulations at 7609 Fairport Road. This property is more fully described as Lot 2, Block 7971, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct a 6 foot high fence in a required front yard, which will require a 2 foot special exception to the fence regulation, and to construct and maintain a residential fence in a required visibility obstruction triangle which will require a special exception to the visibility obstruction regulation.

Sincerely,

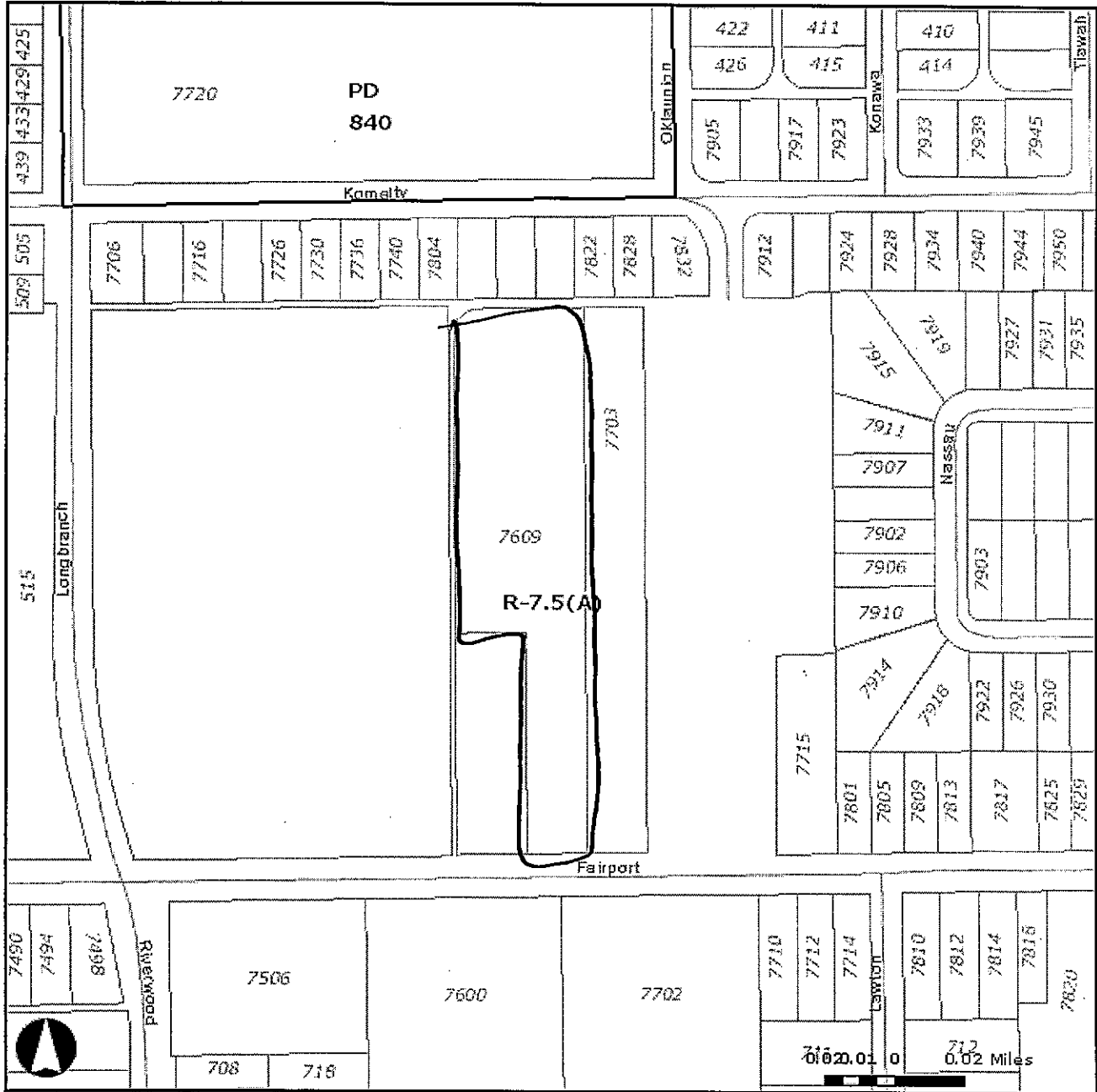
  
Larry Holmes, Building Official

C:\tax\_plats\7971.dgn 12/21/2012 10:31:07 AM



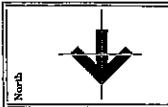
J.L

# 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

*J.C*



THIS PLAN HAS BEEN PREPARED TO PROVIDE BASIC INFORMATION AND NOT TO BE USED FOR CONSTRUCTION. THE INFORMATION CONTAINED HEREIN IS FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE OF ANY KIND. THE USER OF THIS PLAN SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

7609 FAIRPORT ROAD  
 Block 7971 Lot 2  
 Dallas, Texas 75217

Drawn by  
 VICENTE  
 ESPARZA  
 469-477-2324

Date  
 DECEMBER, 2012  
 Sheet Title

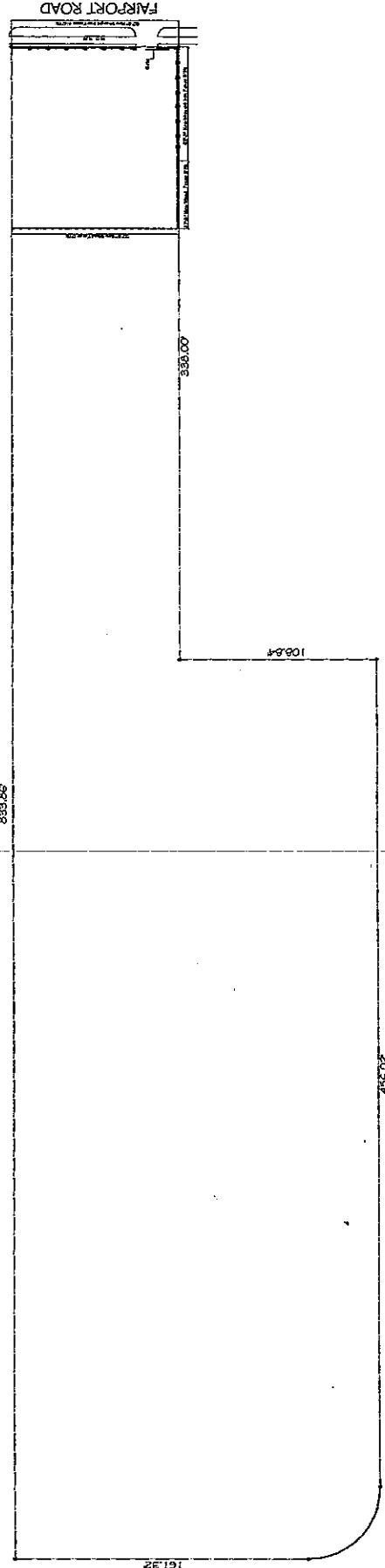
SITE PLAN

Scale  
 1" = 60'-0"

Sheet No.

SITE PLAN SCALE: 1"=60'-0"

1 of 3







SEE PLANS AND SPECIFICATIONS TO PROVIDE BASIC INFORMATION FOR THE CONTRACTOR TO COMPLETE THE WORK. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF DALLAS AND THE STATE OF TEXAS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF DALLAS AND THE STATE OF TEXAS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF DALLAS AND THE STATE OF TEXAS.

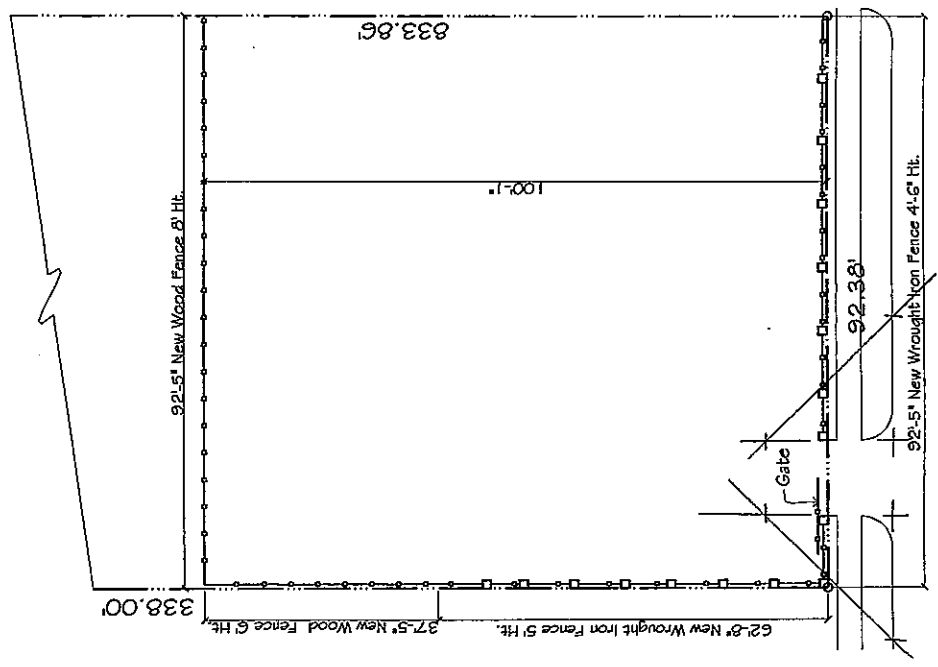
7609 FAIRPORT ROAD  
Block 7971 Lot 2  
Dallas, Texas 75217

Drawn by  
VICENTER  
ESPARZA  
409-677-2524

Date  
DECEMBER, 2012  
Sheet Title  
SITE PLAN

Block  
140 - 20.0'  
Sheet No.  
2

of 3



FAIRPORT ROAD

SITE PLAN

SCALE: 1"=20'-0"

North



THIS PLAN AND ELEVATION ARE SUBJECT TO CHANGE WITHOUT NOTICE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND CONDITIONS OF THE WORK BEFORE BEGINNING CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AUTHORITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE AND FEDERAL AUTHORITIES.

7609 FAIRPORT ROAD  
Block 7971 Lot 2  
Dallas, Texas 75217

Drawn by  
VICENTE  
ESPARZA  
469-672534

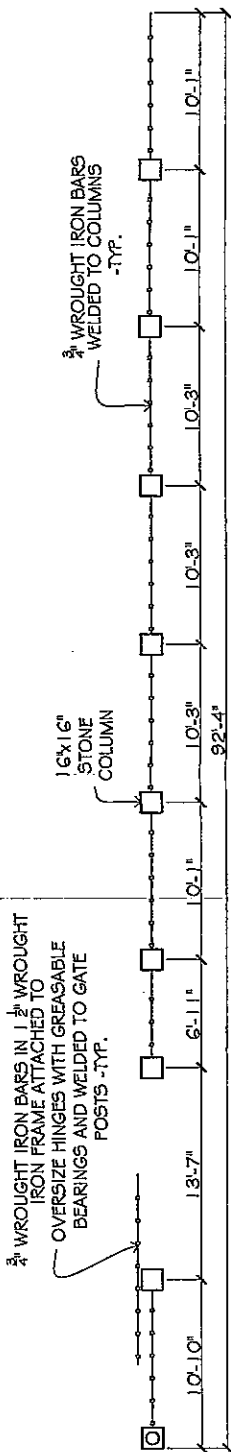
Date  
DECEMBER, 2012  
Sheet Title

INDICATES

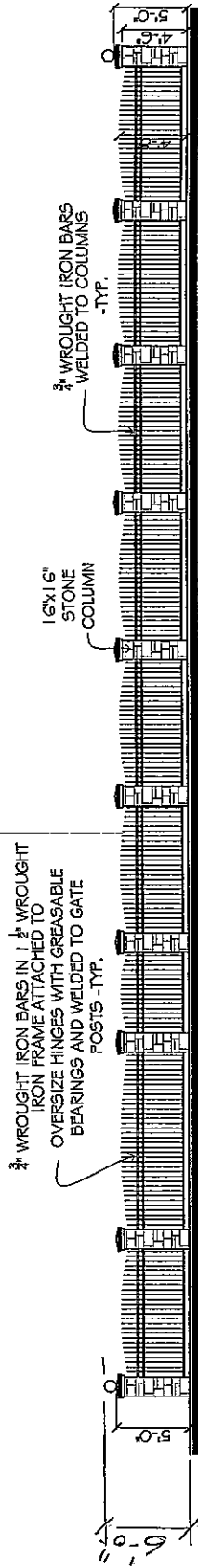
Scale  
INDICATES  
Sheet No.

3

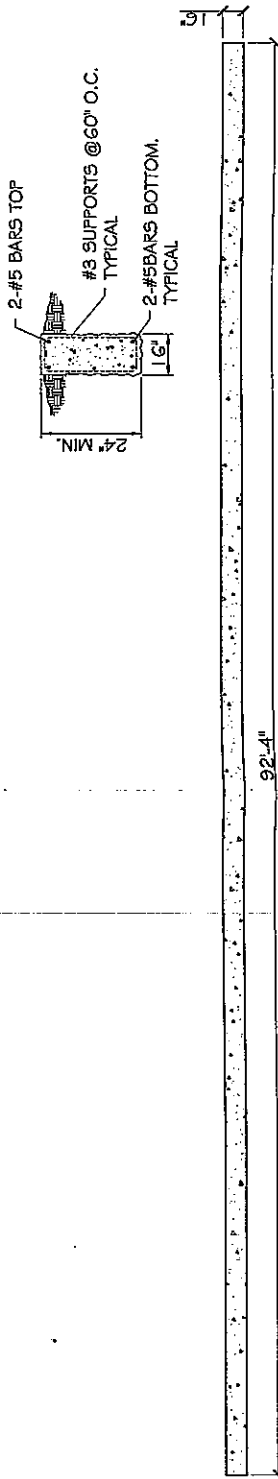
of 3



FLOOR PLAN SCALE: 1/8" = 1'-0"



FRONT ELEVATION SCALE: 1/8" = 1'-0"



FOUNDATION PLAN SCALE: 1/8" = 1'-0"



## *Notification List of Property Owners*

### *BDA123-012*

#### *17 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	7609 FAIRPORT RD	MOLINA SANDRA
2	7730 KOMALTY DR	BENITEZ BALTAZAR O
3	7736 KOMALTY DR	TALLEY PAT GIST &
4	7740 KOMALTY DR	JOHNSON EILEEN
5	7804 KOMALTY DR	SCOTT MARTHA ANN
6	7810 KOMALTY DR	BATRES CLAUDIA M
7	7814 KOMALTY DR	OLIVER CASSANDRA D
8	7818 KOMALTY DR	DANIELS ROBERT D & CARRIE JEANETTE
9	7822 KOMALTY DR	BROADNAX ROBERT
10	7828 KOMALTY DR	SANCHEZ RANULFO
11	7832 KOMALTY DR	VALDEZ JUAN J & MARIA DELOURDES
12	7600 FAIRPORT RD	BRANTON JOSEPH DUANE & TONYA D
13	7702 FAIRPORT RD	VEITNAMESE BUDDHIST MEDITATION CORP
14	7505 FAIRPORT RD	VIETNAMESE BUDDIST MEDITATION CORP
15	7707 FAIRPORT RD	RODRIGUEZ IGNACIO & DOLORES
16	7720 GAYGLEN DR	Dallas ISD ATTN OFFICE OF LEGAL SERVICES
17	7605 FAIRPORT RD	VIETNAMESE BUDDIST MEDITATION CORP

**FILE NUMBER:** BDA 123-020

**BUILDING OFFICIAL'S REPORT:** Application of Karl A. Crawley of Masterplan for a special exception to the off-street parking regulations and variances to the front yard setback and off-street parking regulations at 4232 Delano Place. This property is more fully described as Lot 26A in City Block B/657 and is zoned MF-2(A), which requires (1) 2 off-street parking spaces; (2) a front yard setback of 15 feet; and (3) a parking space to be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to construct and maintain a single family residential structure and provide (1) 1 of the required 2 parking spaces, which will require a special exception to the off-street parking regulations of 1 space; (2) a 5 foot front yard setback, which will require a variance to the front yard setback regulations of 10 feet; and (3) an enclosed parking space with a setback of 10 feet, which will require a variance to the off-street parking regulations of 10 feet.

**LOCATION:** 4232 Delano Place

**APPLICANT:** Karl A. Crawley of Masterplan

**REQUESTS:**

The following appeals have been made in conjunction with constructing and maintaining a single-story approximately 1,700 square foot single family home structure on a site that is currently undeveloped:

1. A variance to the front yard setback regulations of 10' is requested to locate the proposed home in one of the site's two 15' front yard setbacks (Peak Street)- more specifically a structure proposed to be located 5' from the Peak Street front property line or 10' into the 15' front yard setback on Peak Street.
2. A variance to the off-street parking regulations of 10' is requested as the proposed home is proposed to have a parking space enclosed in a garage that would be located 10' from the Peak Street property/right-of-way line or as much as 10' into the required 20' distance from the street right-of-way line.
3. A special exception to the off-street parking regulations of 1 parking space (or a 50 percent reduction of the 2 off-street parking spaces that are required) is requested in conjunction with constructing and maintaining the proposed single family home with one of the required two off-street parking spaces.

**STANDARD FOR A VARIANCE:**

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, coverage, floor area for structures accessory to single family uses, height, minimum sidewalks, off-

street parking or off-street loading, or landscape regulations provided that the variance is:

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

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

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

- (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
  - (B) Impose restrictions on access to or from the subject property; or
  - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
  - 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
    - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
    - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

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

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The lot's restrictive area (a lot size that is approximately 2,000 square feet less than other adjacent lots in the area/same zoning district) precludes its development in a manner commensurate with other developments found on similarly-zoned MF-2(A) lots.
- In this case, according to the applicant's submittals, a one-story approximately 1,700 square foot single family home with a one-car garage is proposed on the subject site.

**STAFF RECOMMENDATION (off-street parking variance):**

Approval, subject to the following condition:

1. Compliance with the submitted site plan is required.
2. An automatic garage door must be installed and maintained in working order at all times.
3. At no time may the area in front of the garage be used for parking of vehicles.
4. All applicable permits must be obtained.

Rationale:

- The lot's restrictive area (a lot size that is approximately 2,000 square feet less than other adjacent lots in the area/same zoning district) precludes its development in a manner commensurate with other developments found on similarly-zoned MF-2(A) lots. In this case, according to the applicant's submittals, a one-story approximately

1,700 square foot single family home with a one-car garage is proposed on the subject site.

- Granting this request is not contrary to the public interest because: 1) the submitted site plan denotes the location of the enclosed parking space, which is 10' from the street right-of-way line or 24' from the projected pavement line, and 2) the Sustainable Development and Construction Department Engineering Division Assistant Director has indicated with no objections to this request.

**STAFF RECOMMENDATION (off-street parking special exception):**

Approval, subject to the following condition:

- The special exception shall automatically and immediately terminate if and when the single family use is changed or discontinued.

Rationale:

- The applicant has substantiated how the parking demand generated by the proposed single family use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the property were zoned single family and not multifamily, the applicant would be in compliance with the off-street parking requirements for the proposed single family use).
- Additionally, the subject site is located on Peak Street where public transit is readily available.
- The Sustainable Development and Construction Department Project Engineer has no objections to the applicant's request.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: MF-2(A) (Multifamily)  
North: MF-2(A) (Multifamily)  
South: MF-2(A) (Multifamily)  
East: MF-2(A) (Multifamily)  
West: MF-2(A) (Multifamily)

**Land Use:**

The subject site is undeveloped. The areas to the north, south, east, and west are mostly developed with what appears to be single family or duplex uses.

**Zoning/BDA History:**



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

**Timeline:**

January 23, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 13, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

February 13, 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 February 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 9<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 requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

February 26, 2013: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

March 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

March 8, 2013: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."

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

- This request focuses on constructing and maintaining a single-story approximately 1,700 square foot single family home on an undeveloped site, part of which is proposed to be located in the one of the site's two 15' front yard setbacks (Peak

Street). (No part of the application is made to construct or maintain any structure in the site's Delano Place front yard setback).

- Structures on lots zoned MF-2(A) are required to provide a minimum front yard setback of 15'.
- The corner property with two street frontages has two front yard setbacks as any property with two street frontages would that is not zoned agricultural, single family, or duplex.
- A site plan has been submitted denoting a portion of the proposed single family home to be located 5' from the site's Peak Street front property line (or 10' into this 15' front yard setback).
- Approximately 1/4 (or approximately 400 square feet) of the proposed approximately 1,700 square foot building footprint is to be located in the site's 15' Peak Street front yard setback.
- DCAD records indicate "no improvements" for the property at 4232 Delano Place.
- The subject site is generally rectangular in shape (approximately 50' x 65') and according to the application, is 0.078 acres (or 3,398 square feet) in area. The site is zoned MF-2 (A).
- The applicant notes the following: that the lots immediately north of the subject site in the same zoning district are approximately 2,000 square feet larger than that of the subject site; that the proposed single family home on the subject site would be in alignment with the existing house to the south that faces Munger Street; and most of the streets in this area have houses that "side" onto Peak Street and front other streets with varying setbacks usually less than 15' depending on when the residence was built.
- 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 MF-2(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 MF-2 (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 5' from the site's Peak Street front property line (or 10' into this 15' front yard setback).

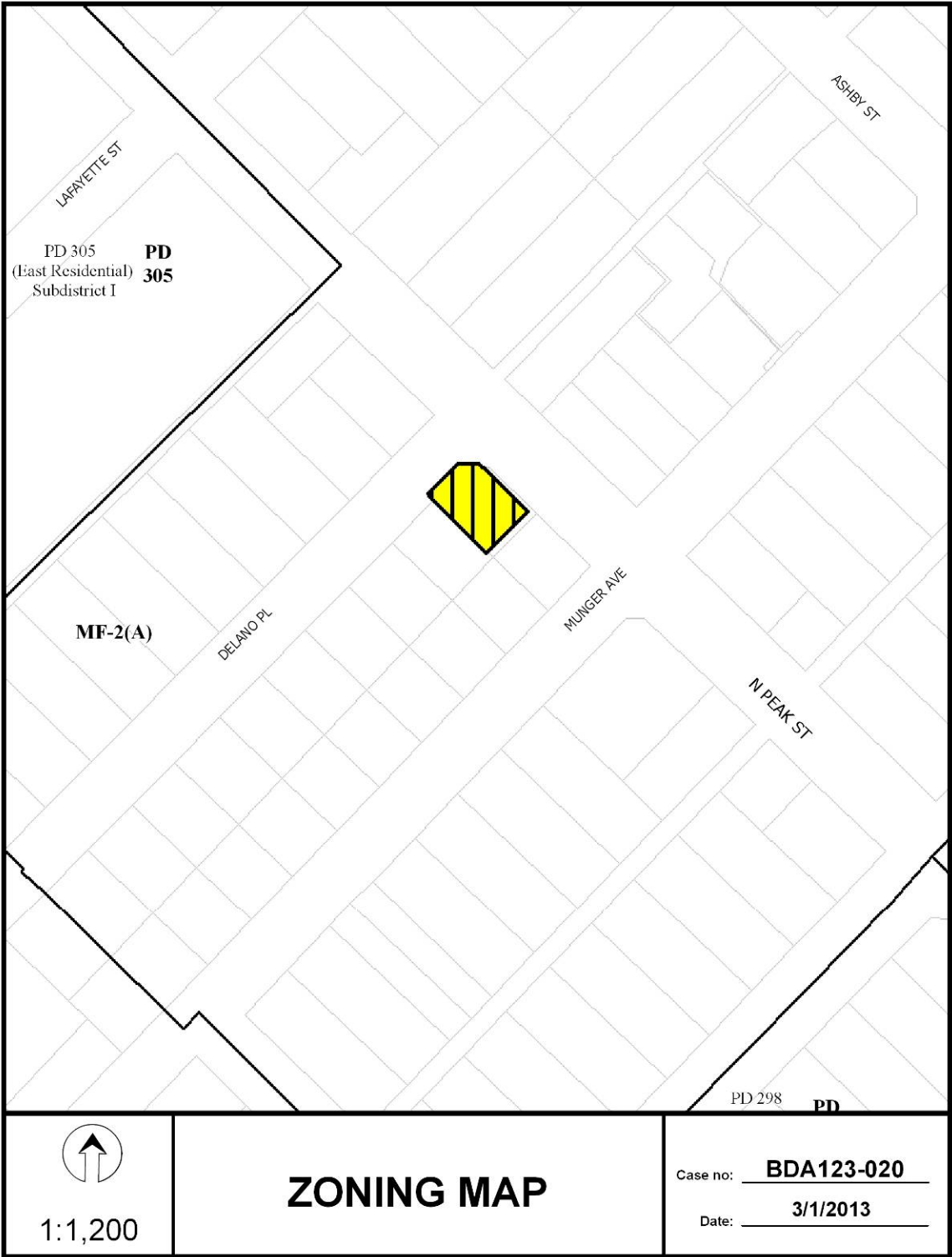
**GENERAL FACTS/STAFF ANALYSIS (off-street parking variance):**

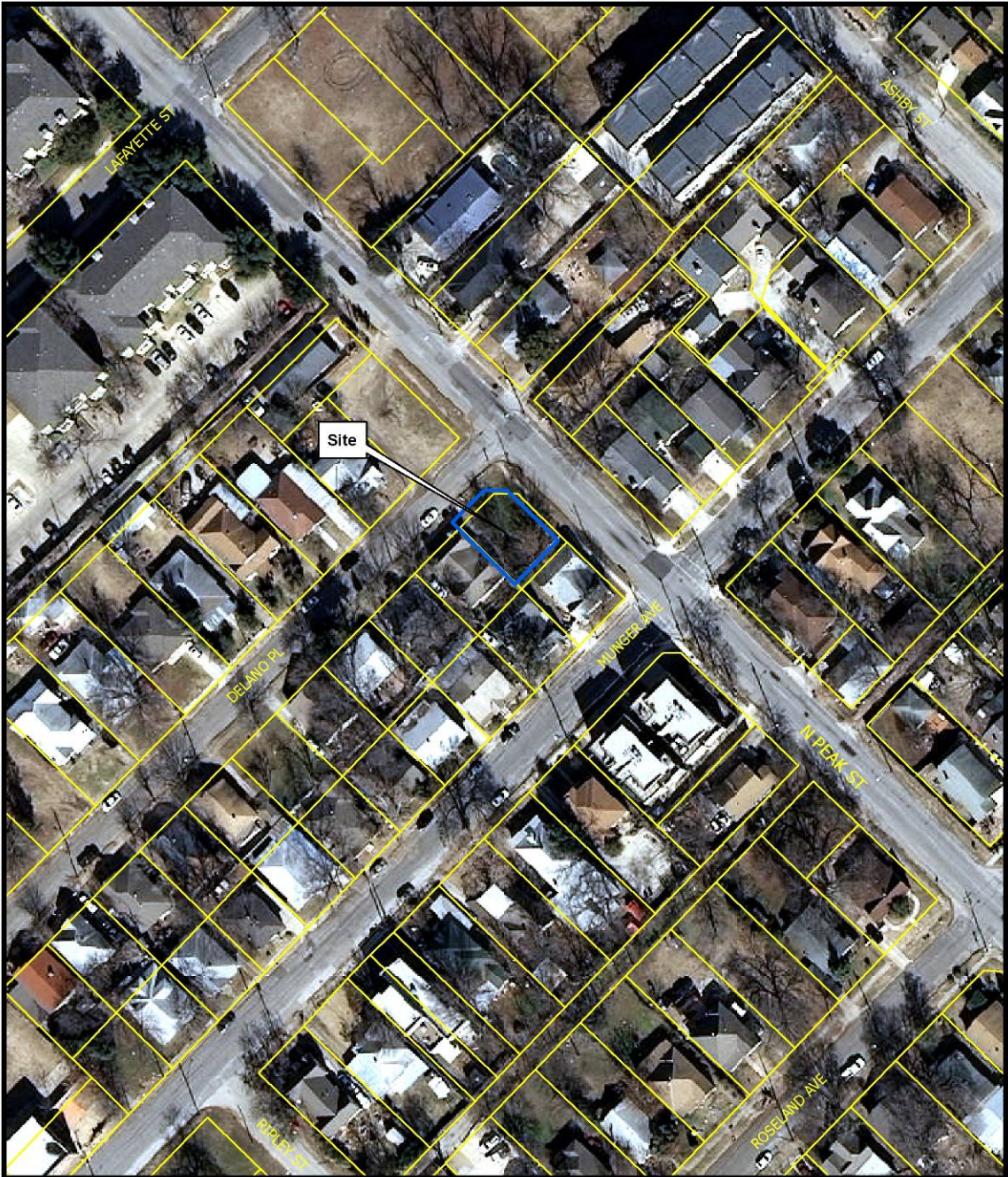
- This request focuses on enclosing a parking space with a garage door in the proposed garage that is attached to the proposed single family home, where the parking space entered from Peak Street would be located less than the required 20' distance from the street right-of-way line.
- The Dallas Development Code states that a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in enclosed structure and if the space faces upon or can be entered directly from a street or alley.
- The submitted site plan denotes the location of an enclosed parking space in the proposed structure that is 10' from the street right-of-way line or 24' from the projected pavement line.
- DCAD records indicate "no improvements" for the property at 4232 Delano Place.
- The subject site is generally rectangular in shape (approximately 50' x 65') and according to the application, is 0.078 acres (or 3,398 square feet) in area. The site is zoned MF-2 (A).
- The applicant notes that the proposed garage door setback will allow enough room for a vehicle to pull off the street and be in front of the garage door with enough distance (18 feet) such that a normal vehicle will not overhang the sidewalk while opening the garage door.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the parking regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same MF-2(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 (MF-2(A) zoning classification.
- If the Board were to grant the variance request, staff recommends imposing the following conditions:
  1. Compliance with the submitted site plan is required.
  2. An automatic garage door must be installed and maintained in working order at all times.
  3. At no time may the area in front of the garage be used for parking of vehicles.
  4. All applicable permits must be obtained.

(These conditions are imposed to help assure that the variance will not be contrary to public interest).

**GENERAL FACTS/STAFF ANALYSIS (off-street parking special exception):**

- This request focuses on constructing and maintaining a single family home structure and providing one of two required off-street parking spaces.
- The Dallas Development Code states that the off-street parking requirement for “single family” use is one space in R-7.5(A), R-5(A), and TH districts, and two spaces in all other districts.  
The applicant proposes to provide 1 (or 50 percent) of the required 2 off-street parking spaces in conjunction with the site being developed with the single family use on the property zoned MF-2(A).
- The applicant states that the proposed residence will be owned and leased by DHA with income restrictions on the tenant which tends to lower the number of vehicles on the site. Additionally, the applicant states that the lot is located on Peak Street, which has very good bus service and many routes that feed into the nearby City Place rail station.
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Has no objections.”
- The applicant has the burden of proof in establishing the following:
  - The parking demand generated by the single family use does not warrant the number of off-street parking spaces required, and
  - The special exception of 1 space (or a 50 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board were to grant this request, and impose the condition that the special exception of 1 space shall automatically and immediately terminate if and when the single family use is changed or discontinued, the applicant would be allowed to construct/maintain the single family home on the site with providing only 1 of 2 required off-street parking spaces.





1:1,200

# AERIAL MAP

Case no: BDA123-020

Date: 3/1/2013



# Masterplan

Land Use Consultants

BDA 123-020  
Attach A  
Pg 1

Steve Long, Administrator  
Board of Adjustment  
Sustainable Development and Construction Services  
Dallas City Hall  
Room 5BN  
Dallas, TX 75201

BDA 123-020, 4232 Delano Place

The Dallas Housing Authority (DHA) is the owner of the site that is the subject of this BDA request. Plans call for the vacant lot to be developed with a single family residence to be rented. The site is presently zoned an MF-2(A) Multifamily District and is located at the corner of Peak Street and Delano Place. Since the zoning is MF-2(A) both frontages are considered front yards with a 15 foot setback. The area surrounding the site is also zoned MF-2(A) and is developed with single family uses.

The Dallas Housing Authority is requesting two variances and one special exception in order to develop an approximately 1700 square foot single story house. The lot adjacent to this lot to the south is developed with a single story house with a setback on Peak Street similar to that requested on this lot. The proposed front yard setback on Peak Street is five feet for a variance of ten feet. The lot has an area of 3,398 square feet which is similar to the lot adjacent to the south but is smaller than the lots across Delano which average approximately 1,000 square feet greater and are 20 feet deeper. Lots further down Delano across the street are approximately 2,000 square feet larger. The proposed 5 foot setback is in line with the house to the south which faces Munger not Peak Street. Most of the streets in this area have houses that 'side' onto Peak and front the other street with varying setbacks usually less than 15 feet depending on when the residence was built.

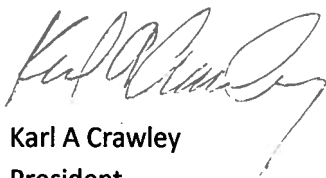
The DHA is also requesting a variance to the parking regulations which requires a parking space in an enclosed structure to be setback at least 20 feet if the space can be entered directly from a street or alley. The proposed single family house will have a single car garage that will be setback 10 feet from the property line. The architect for the project has worked with the Engineering Section and have determined that the proposed garage door setback will allow enough room for a vehicle to pull off the street and be in front of the garage door with enough distance (18 feet) such that a normal vehicle will not overhang the sidewalk while opening the garage door.

The final request is for a Special Exception to the off-street parking regulations for a reduction in the required number of parking spaces for one parking space. A single family residence in a multifamily district requires two parking spaces for the use. If the property were zoned a TH Townhouse District only one space would be required. The size and configuration of this lot more closely resembles a



townhouse lot than a multifamily lot. Since the proposed residence will be owned and leased by the DHA there will be income restrictions on the tenants which tend to lower the number of vehicles that will be on-site. The lot is located on Peak Street which has very good local bus service and many of these bus routes feed into the CityPlace rail station which is nearby. Most of the single family uses in the area have only one parking space with few cars located on the street. Peak has No Parking during certain times of day which would force any parking not on-site to Delano which is only one block long and does not continue on the other side of Peak Street.

The variance to the front yard setback on Peak Street is not contrary to the public interest in fact it is in the public interest to develop this site with a single family use versus a multifamily use which the zoning permits. Much of this area of East Dallas was once zoned and platted as single family but over time the zoning was changed to multifamily. The lots in the area are developed with single family uses and the most directly affected lot to the request lot is developed in a similar matter to the proposed single family use. The variance to the parking regulations to allow an enclosed parking space within 20 feet of the property line will allow the tenant to secure their vehicle in a garage. If the door were removed then this variance would not be required but the tenant would not have a secure parking space. The architect has designed the garage setback such that the door has an 18 foot clearance to the sidewalk so a vehicle parked to open the garage door will not overhang the sidewalk. This will mitigate any issues with the use of the sidewalk. Finally the special exception for one parking space is once again caused by the underlying zoning, MF vs. TH. If the lot was zoned TH as its shape and size more closely resemble then only one parking space would be required, a single family use in MF zoning requires two spaces. Since the DHA is developing the property and a 40 year Covenant is placed on the lot for income restricted tenants the likelihood of the tenant having more than one vehicle is reduced. More than adequate bus service is available on Peak and the CityPlace rail station is less than a mile away. Overall the three requests will allow this difficult site to be developed with affordable, new housing without having a detrimental effect on the surrounding properties.



Karl A Crawley  
President





PEAK

MUNGER

HOME ADJACENT TO REQUEST

BDA 123-020  
Attach A  
Pg 3

NO PARKING  
THIS SIDE OF STREET  
7-9 AM  
4-6 PM

BDA 123-020  
Attach A  
Pg 4



VACANT LOT ACROSS DELANO



BDA 123-020

HOUSE ACROSS PEAK

3-15

BDA 123-020  
Attach A  
Pg 5



BDA 123-020

3-16

HOME DIRECTLY ACROSS PEAK

BDA 123-020  
Attach A  
Pg 6



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-020

Data Relative to Subject Property:

Date: 01-23-13

Location address: 4232 Delano Place Zoning District: MF-2(A)

Lot No.: 26A Block No.: B/657 Acreage: 0.078 ac. Census Tract: 8.00

Street Frontage (in Feet): 1 71.78' (Peak) 2 29.7' (Delano) 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_ *5E 21*

To the Honorable Board of Adjustment:

Owner of Property/or Principal Dallas Housing Authority

Applicant: Karl A Crawley, Masterplan Telephone: 214 761 9197

Mailing Address 900 Jackson Ste 640 Dallas TX Zip Code: 75202

Represented by: Same as applicant Telephone: \_\_\_\_\_

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

Affirm that a request has been made for a Variance X, or Special Exception X, of \_\_\_\_\_  
Special exception to the off-street parking regulations for one space, variance to the front yard setback on Delano of 10 feet (to allow a 5 foot setback), variance to the parking regulations to allow an enclosed parking space within 20 feet of a street 10'

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:

SIDE YARD VARIANCE - DUE TO CORNER LOT AND SMALL SIZE  
GARAGE DOOR SETBACK DUE TO CORNER LOT, TWO FRONT YARDS, SMALL LOT  
PARKING SPECIAL EXCEPTION WILL NOT HAVE ADVERSE IMPACT ON  
SURROUNDING AREA

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

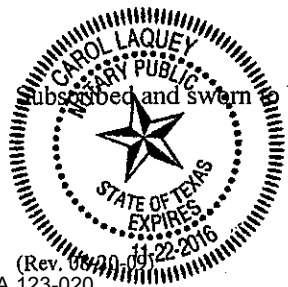
Respectfully submitted: Karl A Crawley Applicant's name printed  
[Signature] Applicant's signature

Affidavit

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

[Signature]  
Affiant (Applicant's signature)

Subscribed and sworn before me this 21 day of January, 2013



[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** Karl A. Crawley

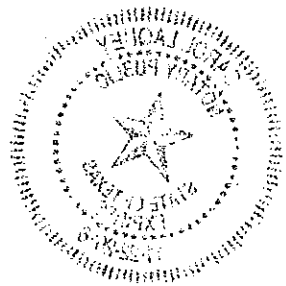
**did submit a request** for a special exception to the parking regulations, and for a variance to the front yard setback regulations, and for a variance to the off-street parking regulation

**at** 4232 Delano Place

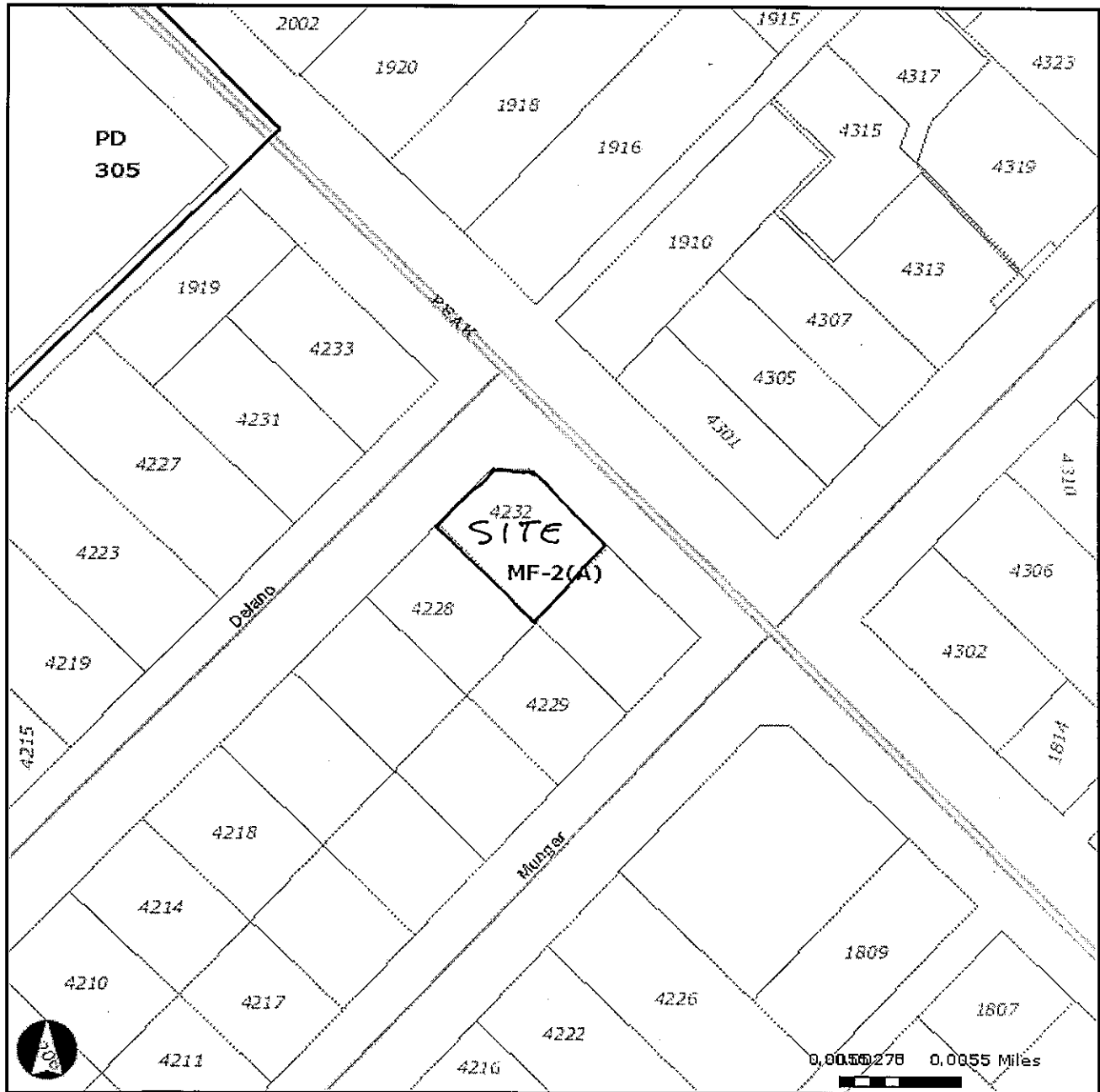
BDA123-020. Application of Karl A. Crawley for a special exception to the parking regulations, a variance to the front yard setback regulations, and a variance to the off-street parking regulation at 4232 Delano Place. This property is more fully described as Lot 26A, Block B/657 and is zoned MF-2(A), which requires 2 off-street parking spaces to be provided and requires a front yard setback of 15 feet and requires a parking space must be at least 20 feet from the right-of-way line adjacent to a street or alley if the space is located in an enclosed structure and if the space faces upon or can be entered directly from the street or alley. The applicant proposes to construct a single family residential structure and provide 1 of the required 2 parking spaces, which will require a 1 space special exception to the parking regulation, and to construct a single family residential structure and provide a 5 foot front yard setback, which will require a 10 foot variance to the front yard setback regulation, and to construct a single family residential structure with a front yard setback of 10 feet, which will require a variance of 10 feet to the off-street parking regulation.

Sincerely,

*Larry V. Holmes*  
Larry Holmes, Building Official



# City of Dallas Zoning



### Address Candidates

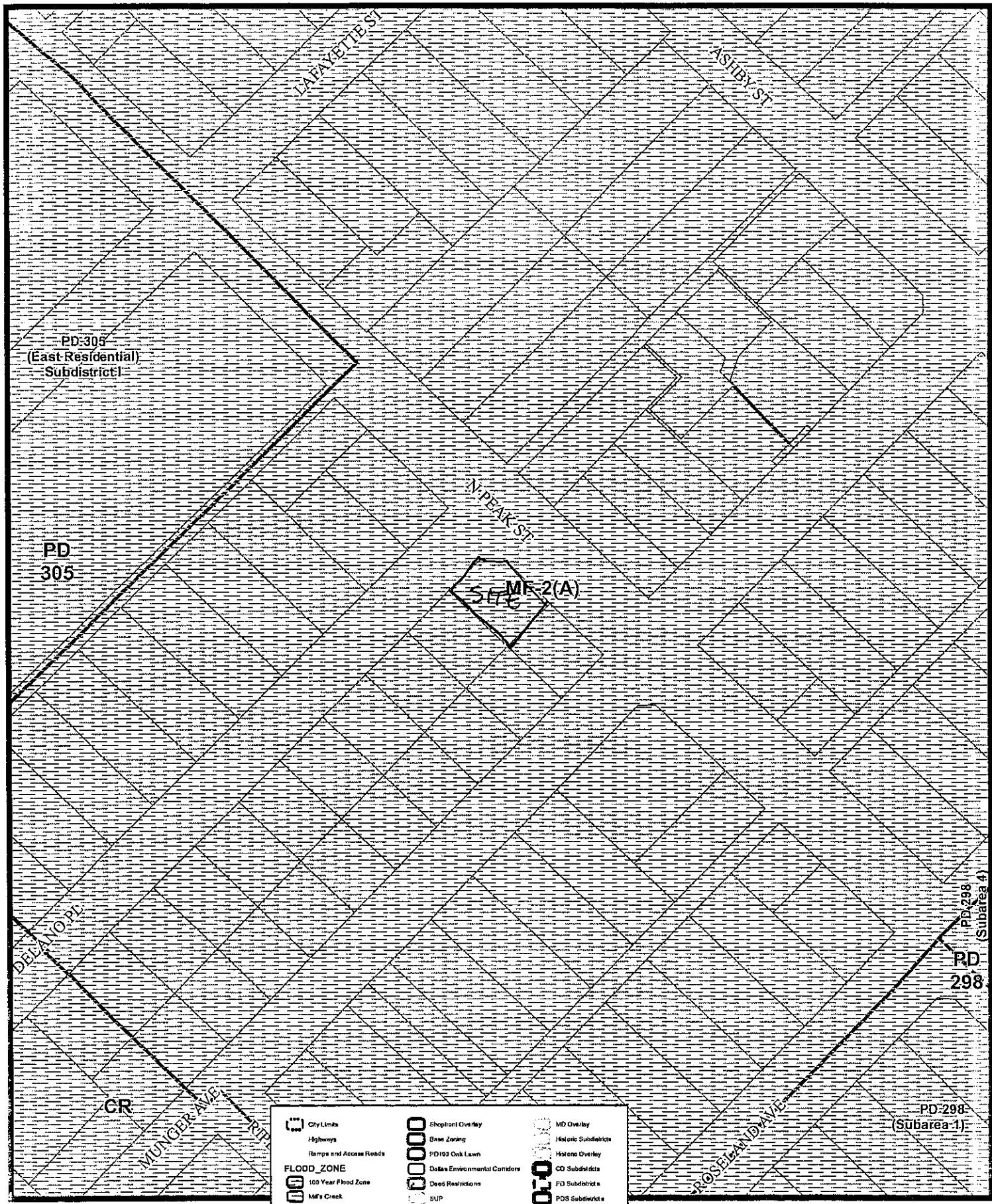
- Address Candidates
- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways

### Deed Restrictions

- 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
- Environmental Corridors



1:1,200

BDA 123-020

City Limits	Shopfront Overlay	MD Overlay
Highways	Bare Zoning	Historic Subdistricts
Ramps and Access Roads	PD103 Oak Lawn	Historic Overlay
<b>FLOOD_ZONE</b>	Dallas Environmental Corridor	CD Subdistricts
100 Year Flood Zone	Deed Restrictions	PD Subdistricts
Mif's Creek	SUP	PDS Subdistricts
Peak's Branch	D	NSO Subdistricts
X PROTECTED BY LEVEE	D-1	NSO Overlay
Parks	CP	Escarpment Overlay
Height Map Overlay	SP	
Parking Management Overlay		

Case ID:

Printed: 1/18/2013

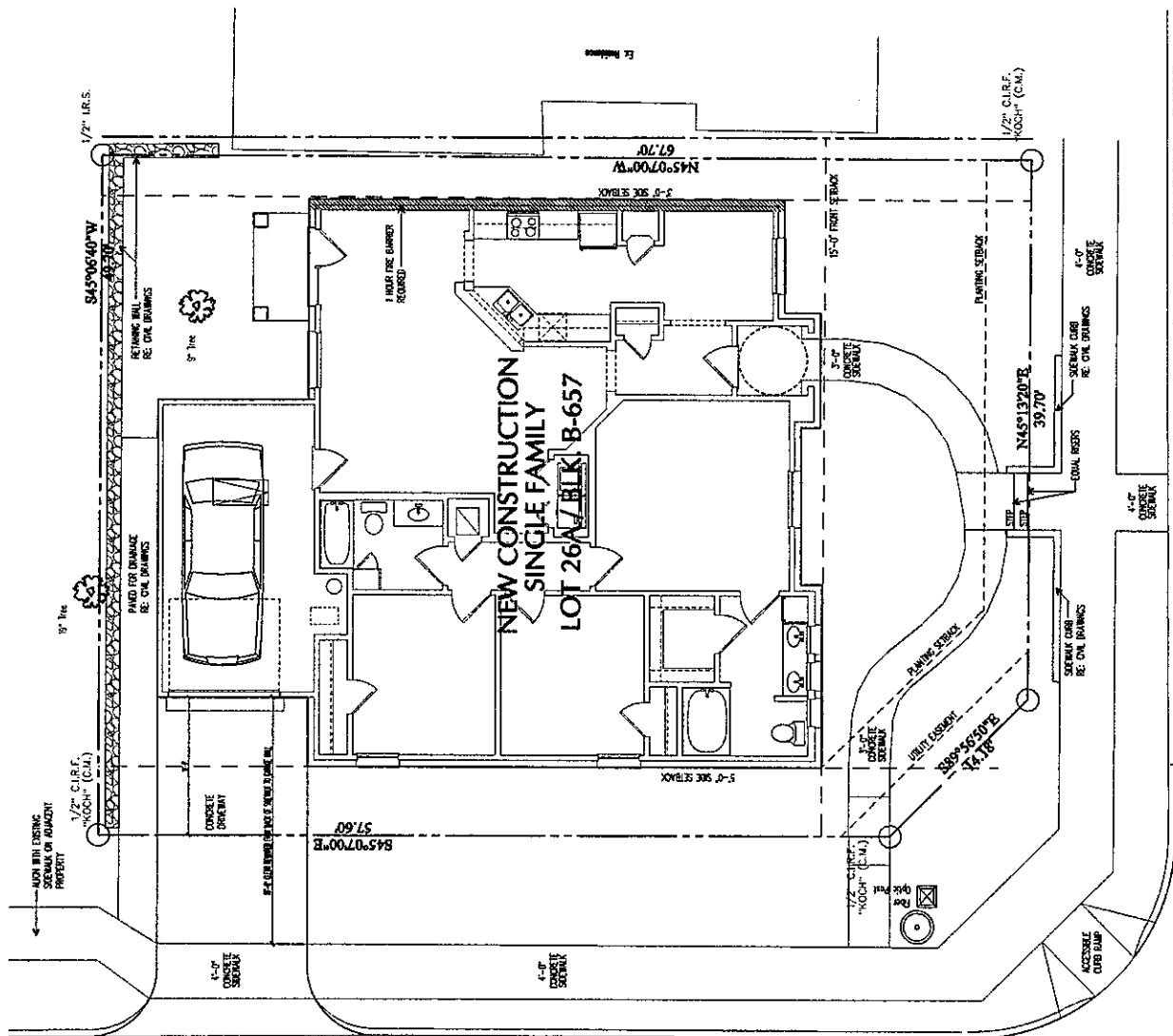


PEAK STREET  
(Call 50' Right-of-Way)

01 SITE PLAN  
SCALE 1/4" = 1'-0"



DELANO PLACE  
(Call 50' Right-of-Way)



NEW CONSTRUCTION  
SINGLE FAMILY  
LOT 26A/BLK B-657

PROJECT: P.E.C./A.C.P.  
OWNER: J.D.U./B.E.S.  
DATE: 02/05/00  
DESIGN: J.D.U./B.E.S.  
CONSTRUCTION: J.D.U./B.E.S.  
REVISIONS:  
1. 02/05/00: INITIAL DESIGN  
2. 02/05/00: REVISIONS  
3. 02/05/00: REVISIONS  
4. 02/05/00: REVISIONS

ARCHITECTURE: R.P.G.A.  
DESIGN GROUP, INC.  
1100 WEST WILSON ROAD, SUITE 100  
DALLAS, TEXAS 75201  
PHONE: (214) 343-1100  
FAX: (214) 343-1101  
WWW: WWW.RPGA.COM

DALLAS HOUSING AUTHORITY  
Texas

PROJECT NO.: 02000-01A  
SHEET NO.: A-1.01

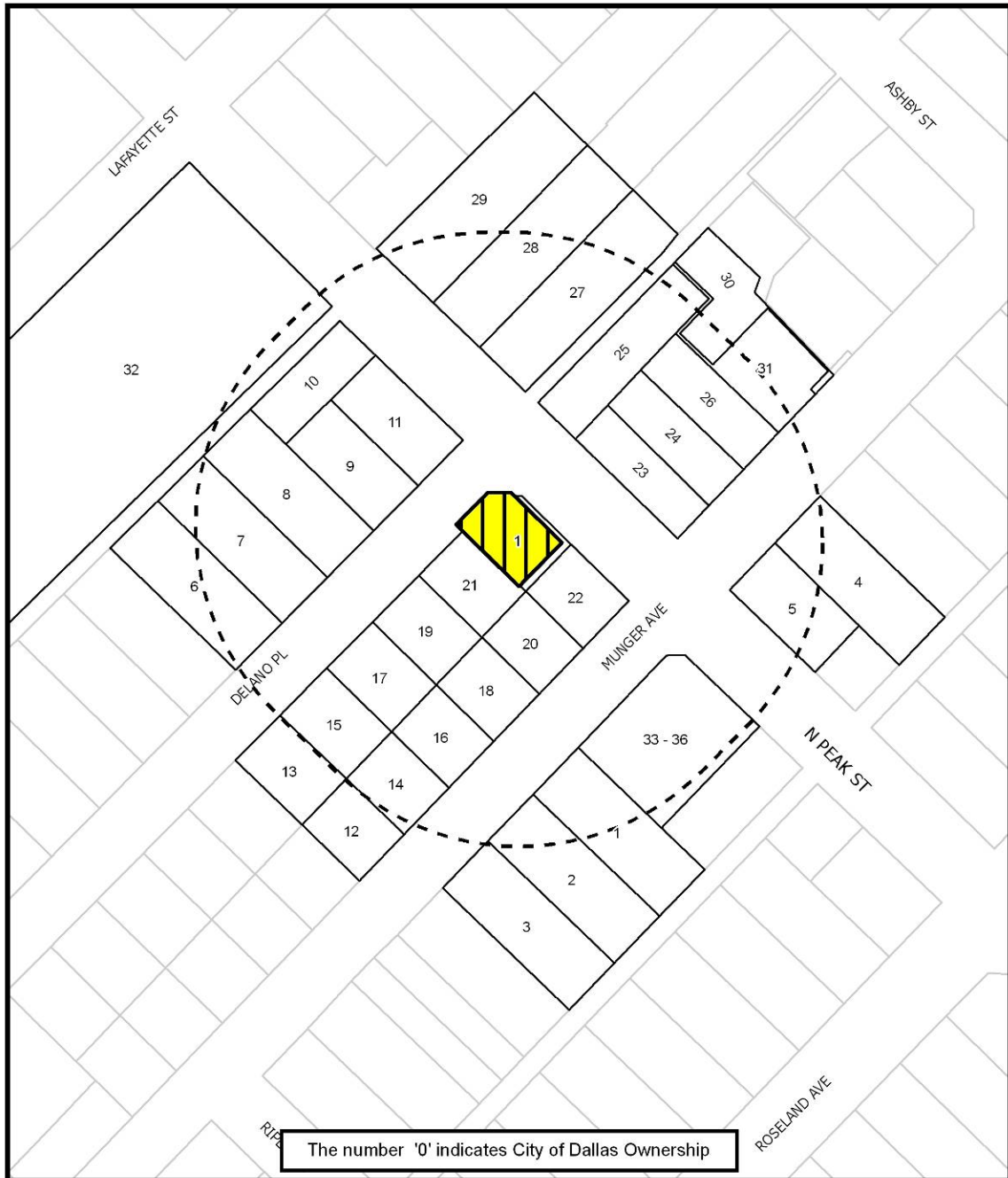
## Board of Adjustment Requests for 4232 Delano Place

The site is presently zoned an MF-2(A) Multifamily District and is located at the corner of Peak Street and Delano Place. Since the zoning is MF-2(A) both frontages are considered front yards with a 15 foot setback. The lot is owned by the Dallas Housing Authority and plans call for it to be developed with a single family residence to be rented. The area surrounding the site is also zoned MF-2(A) and is developed with single family uses.

The Dallas Housing Authority is requesting two variances and one special exception in order to develop an approximately 1700 square foot single story house. The lot adjacent to this lot to the south is developed with a single story house with a setback on Peak Street similar to that requested on this lot. The proposed front yard setback on Peak Street is five feet for a variance of ten feet. The lot has an area of 3,398 square feet which is similar to the lot adjacent to the south but is smaller than the lots across Delano which average approximately 1,000 square feet greater and are 20 feet deeper. Lots further down Delano across the street are approximately 2,000 square feet larger. The proposed 5 foot setback is in line with the house to the south which faces Munger not Peak Street. Most of the streets in this area have houses that 'side' onto Peak and front the other street with varying setbacks usually less than 15 feet depending on when the residence was built.

The DHA is also requesting a variance to the parking regulations which requires a parking space in an enclosed structure to be setback at least 20 feet if the space can be entered directly from a street or alley. The proposed single family house will have a single car garage that will be setback 10 feet from the property line. The architect for the project has worked with the Engineering Section and have determined that the proposed garage door setback will allow enough room for a vehicle to pull off the street and be in front of the garage door with enough distance (18 feet) such that a normal vehicle will not overhang the sidewalk while opening the garage door.

The final request is for a Special Exception to the off-street parking regulations for a reduction in the required number of parking spaces for one parking space. A single family residence in a multifamily district requires two parking spaces for the use. If the property were zoned a TH Townhouse District only one space would be required. The size and configuration of this lot more closely resembles a townhouse lot than a multifamily lot. Since the proposed residence will be owned and leased by the DHA there will be income restrictions on the tenants which tend to lower the number of vehicles that will be on-site. The lot is located on Peak Street which has very good local bus service and many of this bus routes feed into the CityPlace rail station which is nearby. Most of the single family uses in the area have only one parking space with few cars located on the street. Peak has No Parking during certain times of day which would force any parking not on-site to Delano which is only one block long and does not continue on the other side of Peak Street.



 1:1,200	<h2>NOTIFICATION</h2>	Case no: <b>BDA123-020</b>			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">36</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	36	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
36	NUMBER OF PROPERTY OWNERS NOTIFIED				

## *Notification List of Property Owners*

***BDA123-020***

### *36 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4226 MUNGER AVE	HOUSING AUTHORITY OF THE CITY OF DALLAS
2	4222 MUNGER AVE	RIOS MODESTA R
3	4216 MUNGER AVE	LEAL RAUL S
4	4306 MUNGER AVE	VITELA JOEL & HAYDE
5	4302 MUNGER AVE	VITELA JESSICA MARCELA
6	4219 DELANO PL	HERRERA LORENZO & RITA
7	4223 DELANO PL	MARES JOSE G
8	4227 DELANO PL	BENAVIDES JORGE H
9	4231 DELANO PL	FRANCO RAMON JR
10	1919 PEAK ST	JOHNSON NORMA
11	4233 DELANO PL	SALESS ALI
12	4217 MUNGER AVE	FAZ BASILIO TORRES & FRANCISCA TORRES
13	4214 DELANO PL	GONZALES NATIVIDAD P
14	4219 MUNGER AVE	TORRES BASILIO & FRANCISCA TORRES
15	4218 DELANO PL	THACH TUAN NGOC
16	4223 MUNGER AVE	ARCINIEGA THERESA F
17	4222 DELANO PL	FORD DEBRA
18	4227 MUNGER AVE	GONZALEZ EUSEBIO S
19	4226 DELANO PL	LOPEZ MARTHA
20	4229 MUNGER AVE	FLORES JUAN
21	4228 DELANO PL	JES DAR & CHANTHA VANN
22	4233 MUNGER AVE	KRONE RYAN D
23	4301 MUNGER AVE	FESPERMAN DAVID J
24	4305 MUNGER AVE	DAVILA SALVADOR & MARIA E
25	1910 PEAK ST	THANG RUN ET AL
26	4307 MUNGER AVE	MOORE NORMA LILIA

2/28/2013

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	1916 PEAK ST	LETTIERI LUCY ESTATE OF
28	1918 PEAK ST	LONGORIA JAVIER & ESMERALDA LONGORIA
29	1920 PEAK ST	NORTON AMY R
30	4315 MUNGER AVE	WARIS ZISHAN
31	4313 MUNGER AVE	TRAN MINH H
32	4204 LAFAYETTE ST	PG CABELL LP
33	4230 MUNGER AVE	EVETTS BRIAN BLDG A UNIT 101
34	4230 MUNGER AVE	SMITH KAREN M BLDG A UNIT 102
35	4230 MUNGER AVE	ELIAS ALBERT G JR
36	4230 MUNGER AVE	RAMOS RICARDO S

**FILE NUMBER:** BDA 123-023

**BUILDING OFFICIAL'S REPORT:** Application of Maxwell Fisher of Masterplan for variances to the front and rear yard setback regulations and a special exception to the fence height regulations at 8408 Menier Street. This property is more fully described as a 0.181 acre parcel in City Block 5673 and is zoned R-16(A), which requires a front yard setback of 35 feet, a rear yard setback of 10 feet, and limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a structure and provide (1) a 6-foot front yard setback, which will require a variance to the front yard setback regulations 29 feet and (2) a 4 foot rear yard setback, which will require a variance to the rear yard setback regulations of 6 feet. The applicant also proposes to construct and maintain an 8-foot-high fence, which will require a special exception to the fence height regulations of 4 feet.

**LOCATION:** 8408 Menier Street

**APPLICANT:** Maxwell Fisher of Masterplan

**REQUESTS:**

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

1. A variance to the front yard setback regulations of 29' is requested in conjunction with constructing and maintaining a 1-2 story single family home structure (and pool structure), either part (or all) of which would be located in the site's 35' front yard setback.
2. A variance to the rear yard setback regulations of 6' is requested in conjunction with constructing and maintaining a single family home structure, part of which would be located in the site's 10' rear yard setback.
3. A special exception to the fence height regulations of 4' is requested in conjunction with replacing an existing 6' high open chain link fence (that was a result of a previously approved fence height special exception on the subject site) with an 8' high solid stucco veneer wall in the site's 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 and rear yard setback variances):**

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 of a restrictive area due to its width of only 53 feet and its total square footage of approximately 7,900 square feet. Staff has concluded that the 8' width of developable space remaining once a 35' front yard setback and a 10' rear yard setback is be accounted for on this 53' wide site does not allow development of a reasonably-sized single family home (and pool) structure on it. Most lots in R-16(A) zoning are 16,000 square feet in area; the subject site has about half that amount at approximately 7,900 square feet.

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

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

**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-7.5(A) (Single family district 7,500 square feet)

**Land Use:**

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

**Zoning/BDA History:**

1. BDA 989-190, Property at 8408 Menier Street (the subject site)

On March 16, 1999, the Board of Adjustment Panel B granted requests for a front yard variance of 27', a rear yard variance of 1' 4", and a request for a special exception to the fence height regulations of 2'. The board denied a request for special exception to the visual obstruction regulations. The board imposed the submitted site plan as a condition to the variance requests, and imposed the submitted site plan and elevation as a condition to the special exception request.

The case report stated that the requests were made to construct/maintain an approximately 2,000 square foot single family home and an approximately 500 square foot garage, and to maintain an existing open chain link fence in the front yard setback and in drive approach visibility triangles.

2. BDA 91-074, Property at 8404 Menier Street (the lot immediately north of the subject site)

On December 10, 1991, the Board of Adjustment granted requests for a front yard variance of 24.7' and side and rear yard variances of 2'. The board imposed the following condition: "subject to a landscape plan being submitted to and approved by the Board prior to final inspection. Landscaping should be used to soften the structures appearances along Menier Street.

The case report stated that the requests were made to "permit the improvement of a structure into a single family use. The structure was built on a separately parcel of land and was used for storage. The property owner did obtain an electrical permit but not the required building permit to erect the structure. As a consequence, the required setbacks for the structure were not provided."



## **Timeline:**

January 23, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

February 13, 2013: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel B. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."

February 13, 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 February 29<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the March 9<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 requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

March 5, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Planner, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

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

- This request focuses primarily on constructing and maintaining a single family home structure, part of which would be located in the site's 35' front yard setback. Part of this request is to locate and maintain a pool structure in the front yard setback as well.
- Structures on lots zoned R-16(A) are required to provide a minimum front yard setback of 35'.

- A site plan has been submitted denoting the proposed pool structure and part of the main single family home structure located 6' from the site's front property line or 29' into this 35' front yard setback.
- The site plan shows all of the 270 square foot pool structure and the majority of the proposed approximately 3,200 square foot building footprint is located in the site's 35' front yard setback.
- According to DCAD records, there are no "main improvements" at 8408 Menier Street.
- The subject site is rectangular in shape (53' x 150') and is according to the application, 0.181 acres (or approximately 7,900 square feet) in area. The site is zoned R-16(A) where lots are typically 16,000 square feet in area.
- Only an 8' width of developable space would remain once a 35' front yard setback and a 10' rear yard setback would be accounted for on the 53' wide site.
- 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-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 structures in the front yard setback would be limited to what is shown on this document– which are structures to be located 6 from the site's front property line (or as much 29' into this 35' front yard setback).

**GENERAL FACTS/STAFF ANALYSIS (rear yard variance):**

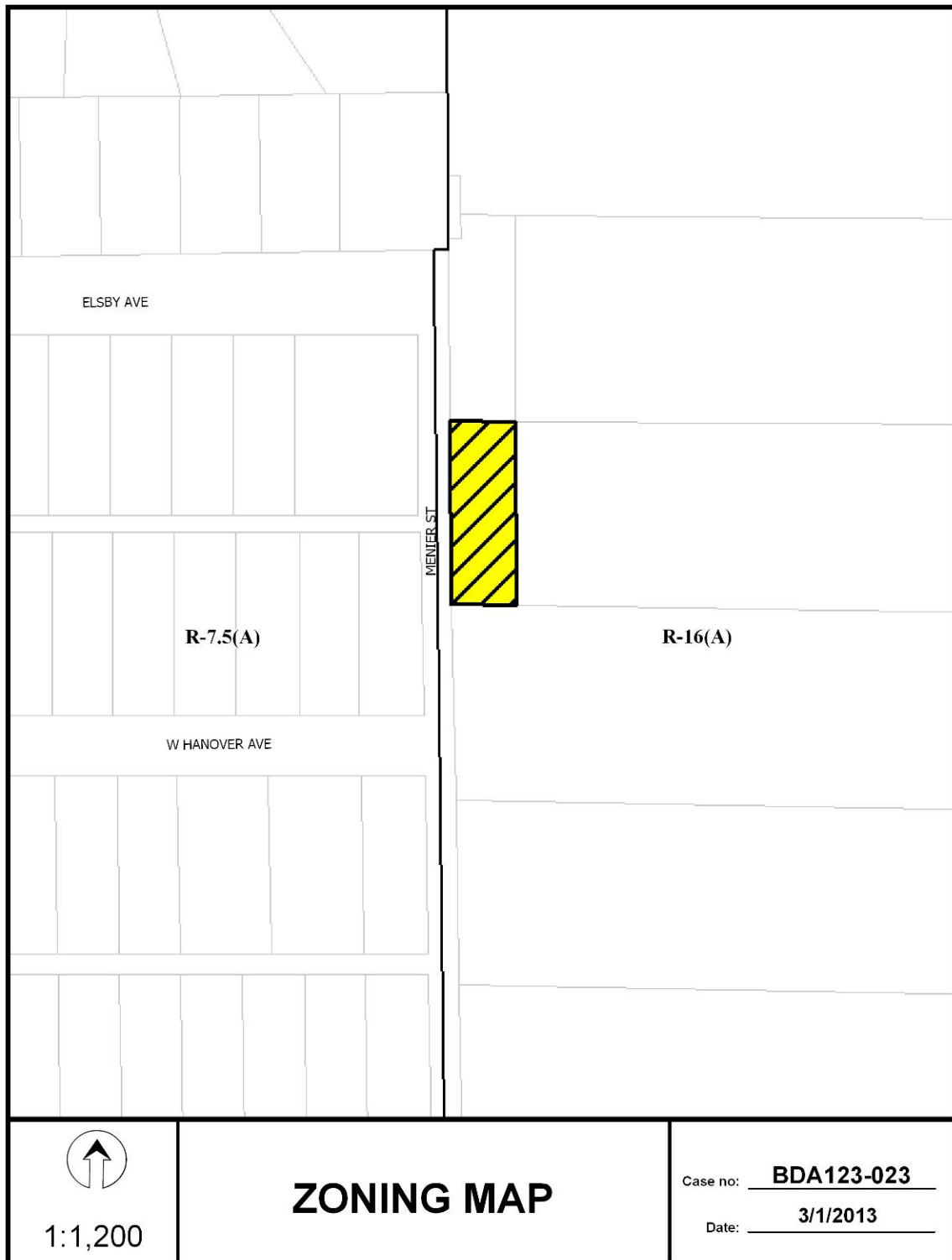
- This request focuses on constructing and maintaining a single family home structure, part of which would be located in the site's 10' rear yard setback.
- Structures on lots zoned R-16(A) are required to provide a minimum rear yard setback of 10'.
- A site plan has been submitted denoting the proposed single family home structure located 4' from the site's front property line or 6' into this 10' rear yard setback.
- The submitted site plan shows that approximately ¼ of the approximately 3,200 square foot building footprint is located in the site's 10' rear yard setback.
- According to DCAD records, there are no "main improvements" at 8408 Menier Street.

- The subject site is rectangular in shape (53' x 150') and is according to the application, 0.181 acres (or approximately 7,900 square feet) in area. The site is zoned R-16(A) where lots are typically 16,000 square feet in area.
- Only an 8' width of developable space would remain once a 35' front yard setback and a 10' rear yard setback would be accounted for on the 53' wide site.
- The applicant has the burden of proof in establishing the following:
  - That granting the variance to the rear yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
  - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same 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 rear yard setback would be limited to what is shown on this document– which is a structure to be located 4' from the site's rear property line (or as much 6' into this 10' front yard setback).

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

- This request focuses replacing an existing 6' high open chain link fence (that was a result of a previously approved fence height special exception on the subject site) with an 8' high solid stucco veneer wall in the site's 35' front yard setback.
- 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 and elevation that shows the proposal in the front yard setback reaching a maximum height of 8'.
- The following additional information was gleaned from the submitted site plan:
  - Approximately 90' in length parallel to the street (and 16' in length perpendicular on the south side of the site in the required front yard), approximately on the front property line or approximately 4' from the pavement line where one home has direct frontage to the proposal - a home with an approximately 5' high solid board fence with no recorded BDA history.
- The Board Administrator conducted a field visit of the site and surrounding area and noted several other fences higher than 4' in the immediate area none with recorded BDA history other than that of the subject site.
- As of March 11, 2013, no letters had been submitted to staff in support or in opposition to the request.

- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach 8' in height) will not adversely affect neighboring property.
- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted site plan and fence elevation would require the proposal to be constructed/maintained in the location and of the heights and materials as shown on these documents.

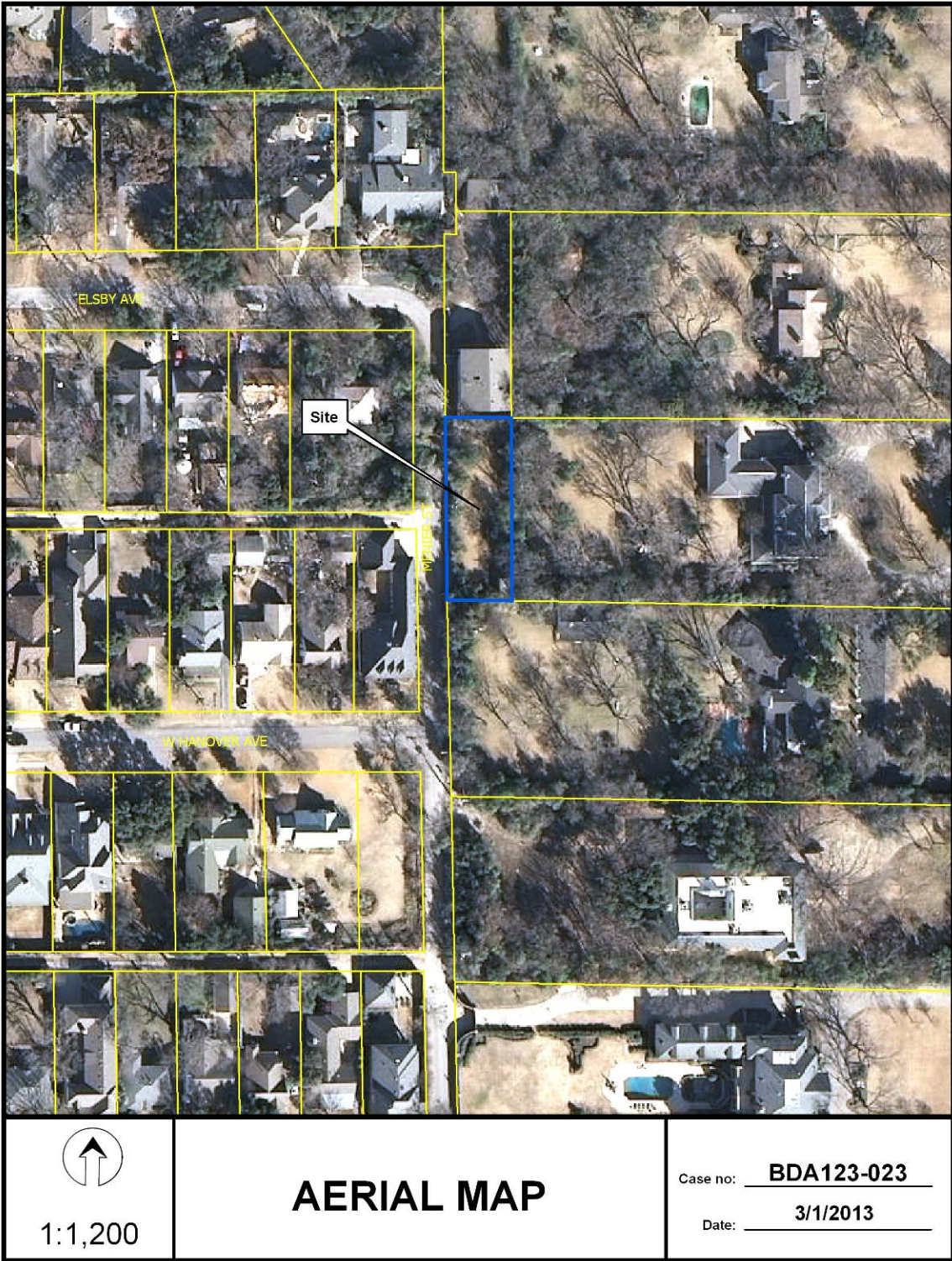


1:1,200

# ZONING MAP

Case no: BDA123-023

Date: 3/1/2013





City of Dallas

B

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-023

Data Relative to Subject Property:

Date: January 23, 2013

Location address: 8408 Menier Street

Zoning District: R-16(A)

Lot No.: - Block No.: Pt of BLK 5673 Acreage: 0.181 acres Census Tract: 0073.02

Street Frontage (in Feet): 1) 149.7 2)          3)          4)          5)         

NE 21A

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Marcia Cuellar ; Frank Cuellar Jr.

Applicant: Maxwell Fisher, Masterplan

Telephone: 214.470.3972

Mailing Address: 900 Jackson Street, Suite 640, Dallas, TX

Zip Code: 75202

Represented by:         

Telephone:         

Mailing Address:         

Zip Code:         

29 Affirm that a request has been made for a Variance X or Special Exception         , of          ~~24~~ feet to the front yard setback, and a variance of X feet to the rear yard setback, and a special exception of 4 feet to the fence height in the front yard.         

11/7  
2/14

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 restrictive size of the parcel, the variances to setbacks are necessary to construct a single family residence generally commensurate in size with the neighboring properties. The special exception to fence height would allow construction of a solid masonry fence not to exceed 8 feet in height within the front yard, and will not adversely effect neighboring properties.

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

Respectfully submitted:

Maxwell Fisher

Applicant's name printed

Maxwell Fisher

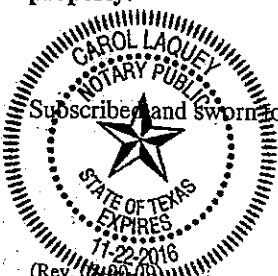
Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Maxwell FISHER 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.

Maxwell Fisher

Affiant (Applicant's signature)



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

Carol Laquay  
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 Maxwell Fisher

did submit a request for a variance to the front yard setback regulations, and for a variance to the rear yard setback regulations, and for a special exception to the fence height regulations

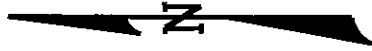
at 8408 Menier Street

BDA123-023. Application of Maxwell Fisher for a variance to the front yard setback regulations, a variance to the rear yard setback regulations, and a special exception to the fence height regulations at 8408 Menier Street. This property is more fully described as a .181 acre parcel in Block 5673 and is zoned R-16(A), which limits the height of a fence in the front yard to 4 feet and requires a front yard setback of 35 feet and a rear yard setback of 10 feet. The applicant proposes to construct a single family residential structure and provide an 6 foot front yard setback, which will require a 29 foot variance to the front yard setback regulation, and provide an 4 foot rear yard setback, which will require a 6 foot variance to the rear yard setback regulation, and to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulation.

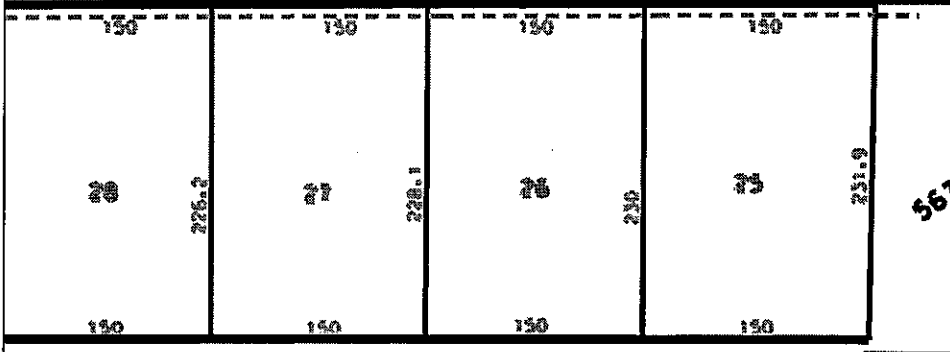
Sincerely,

  
Larry Holmes, Building Official





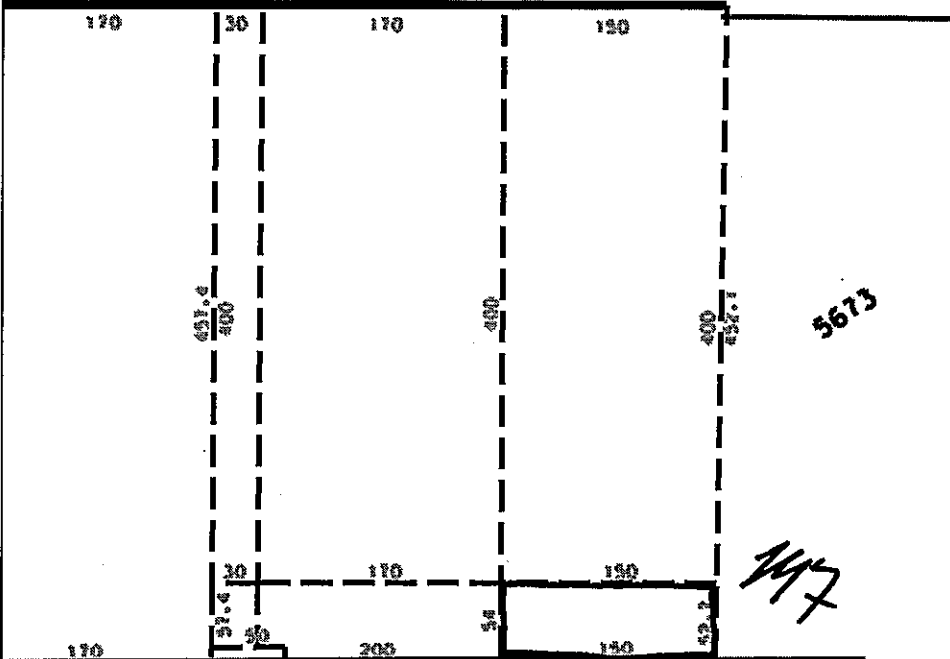
2  
5168



5674

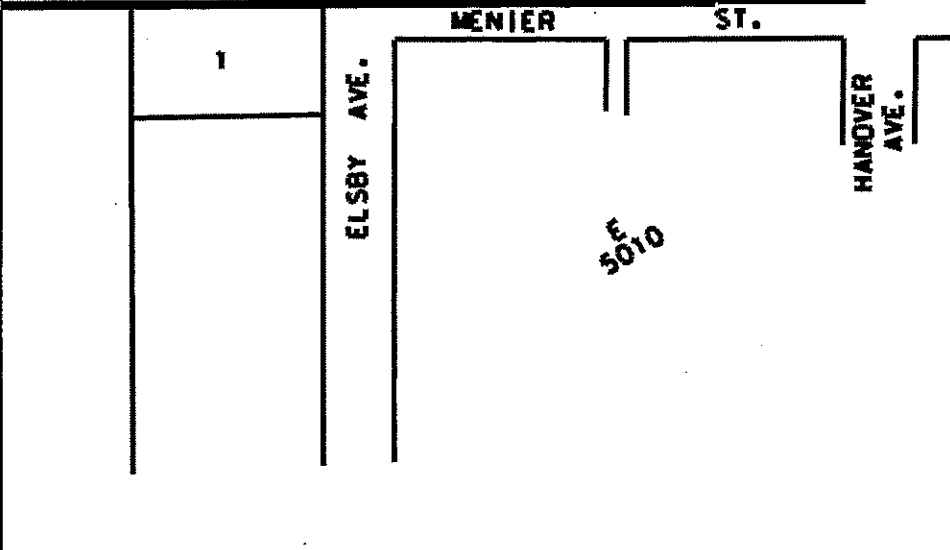
ROAD

8300



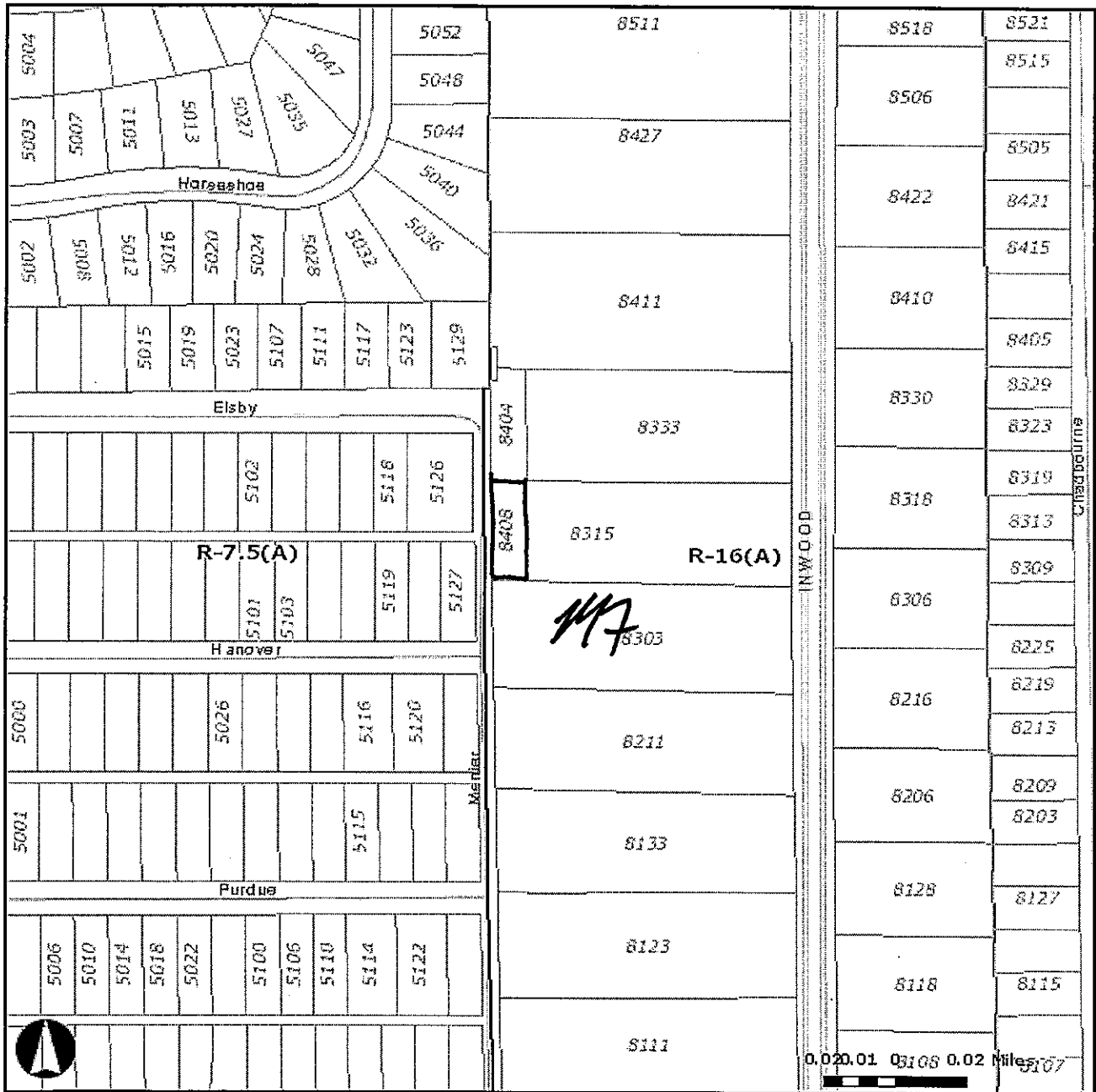
5673

147



500

# City of Dallas Zoning



**City Boundaries**

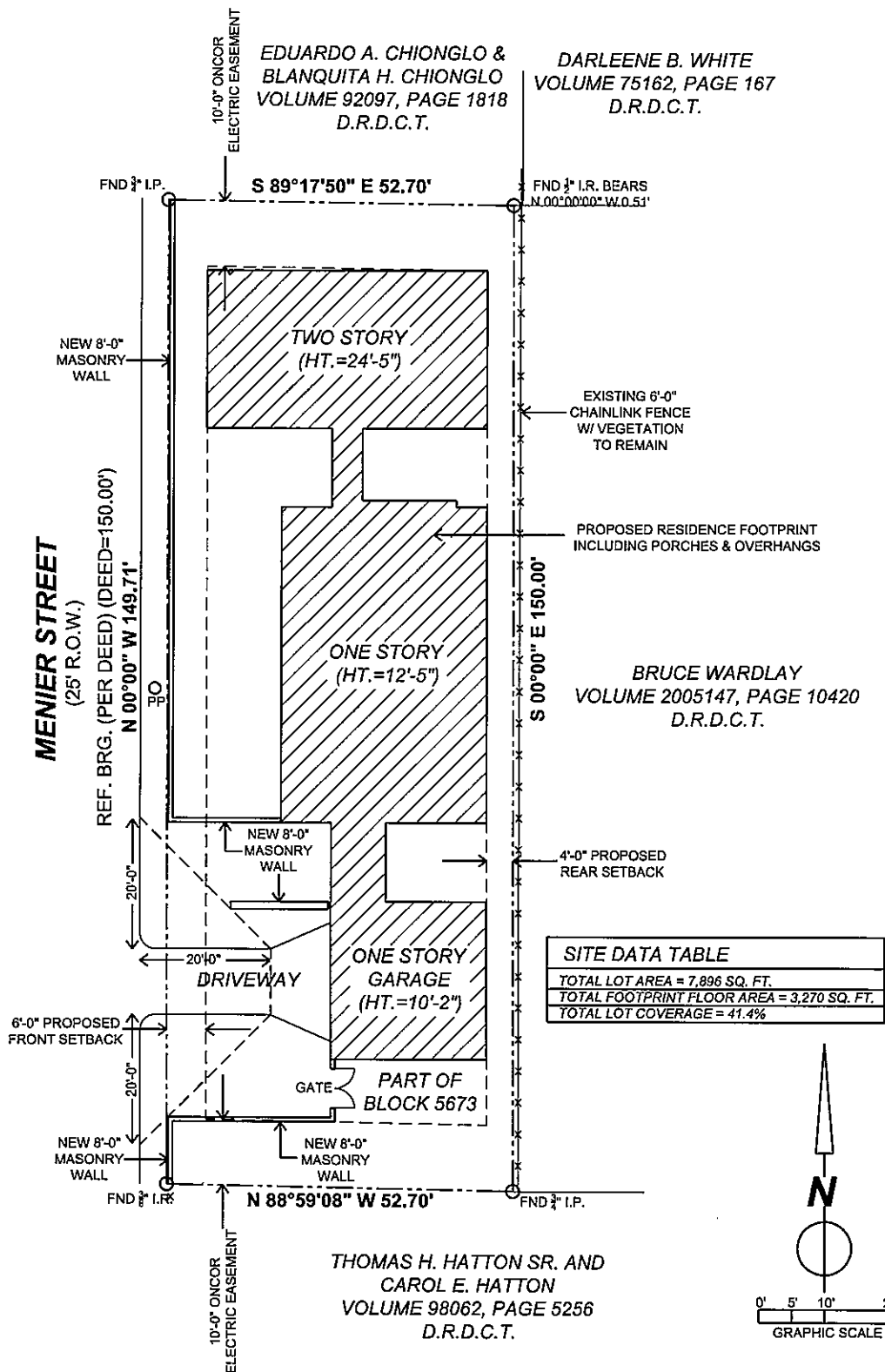
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

**Dry Overlay**

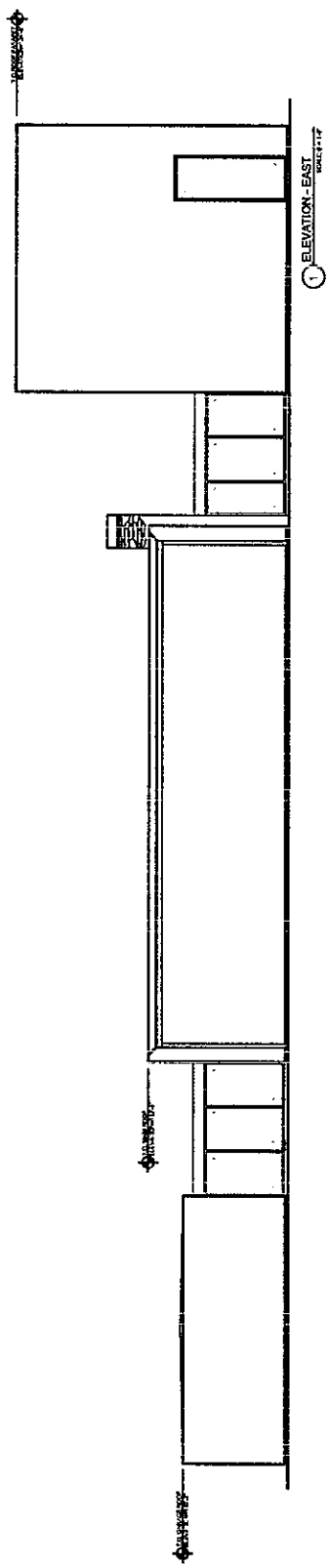
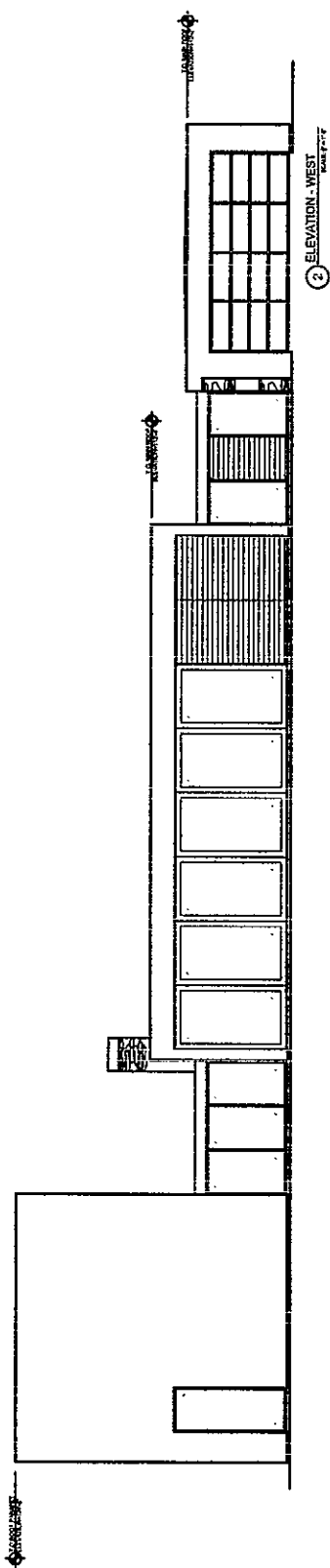
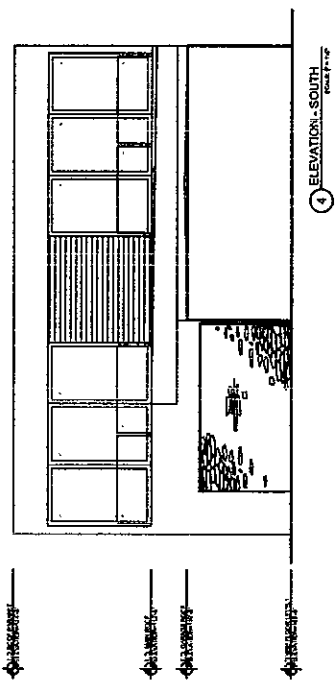
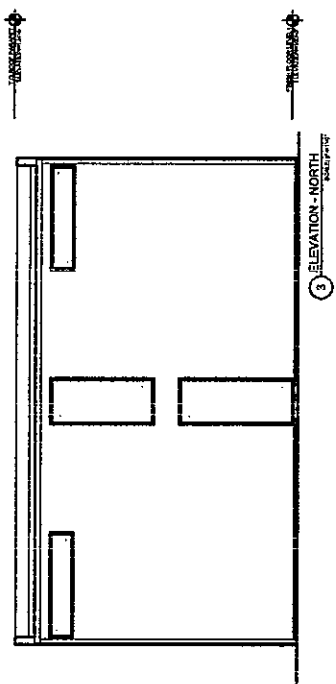
- D
- D-1
- Historic Overlay
- Historic Subdistricts
- NSO Overlay
- NSO Subdistricts
- MD Overlay

**Base Zoning**

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

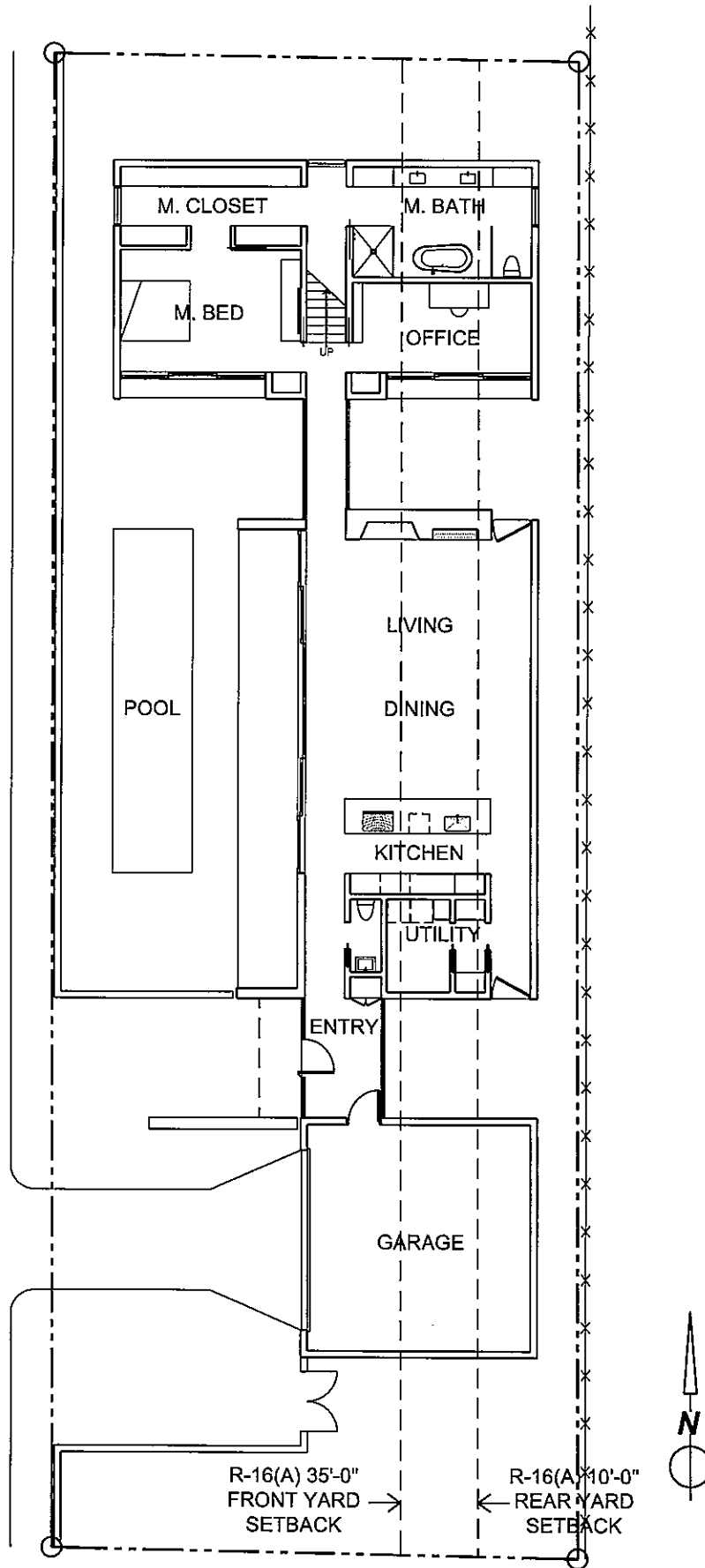


**GOYER RESIDENCE - SITE PLAN**  
ADDRESS: 8408 MENIER STREET DATE: 01.25.2013 SCALE: 1/8"=1'-0"



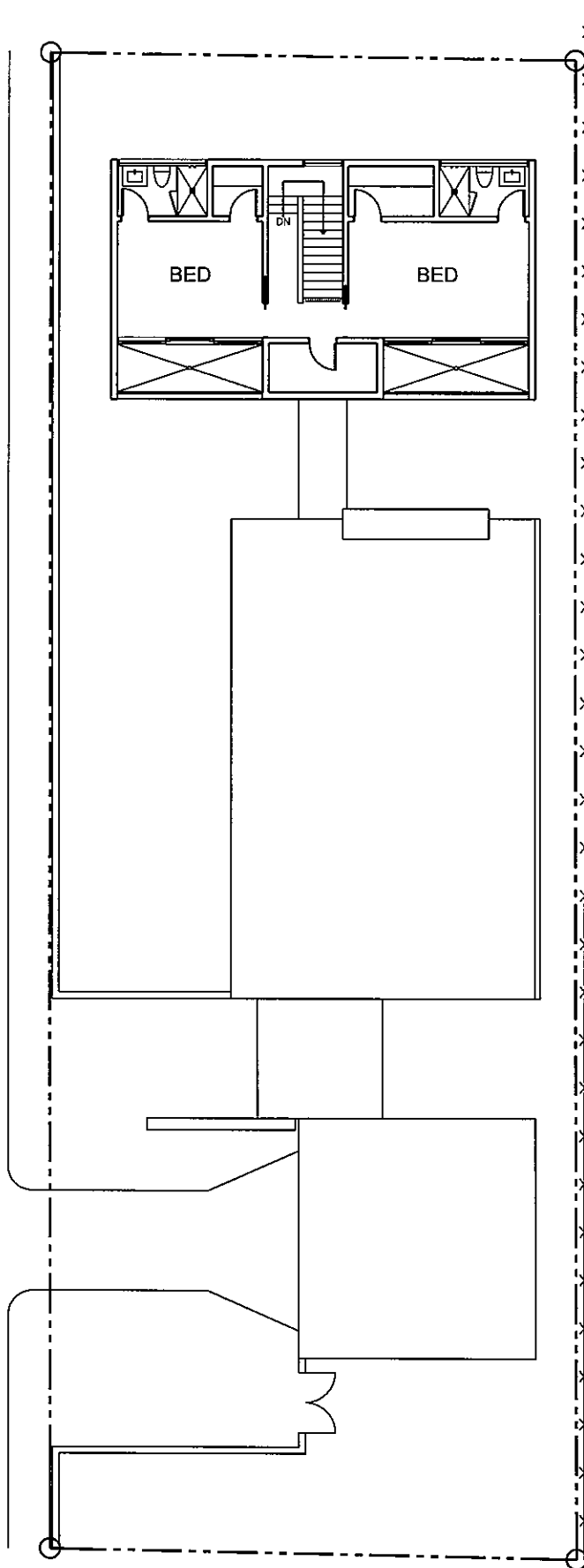
# Goyer Residence - Elevations

Address: 8408 Menier Street Date: 01.31.2013 Scale: 1/4" = 1'-0"



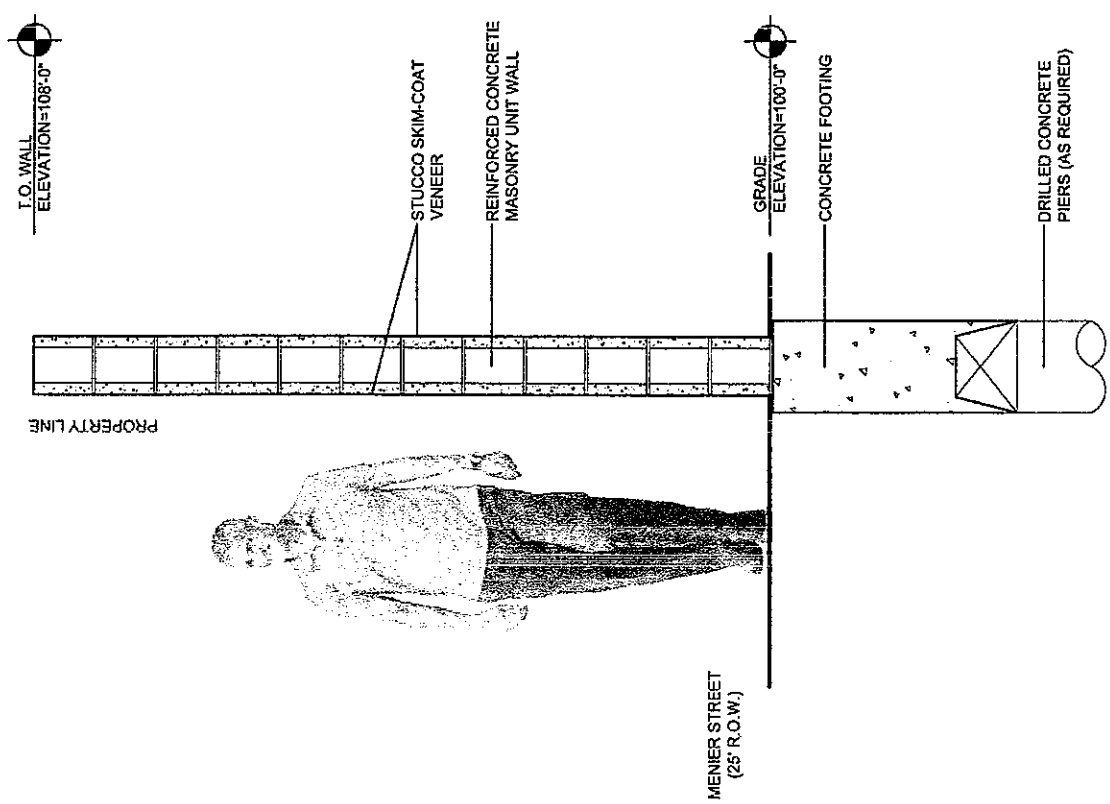
2-14

**GOYER RESIDENCE - FLOOR PLAN - 1**  
 ADDRESS: 8408 MENIER STREET DATE: 01.31.2013 SCALE: 1/8"=1'-0"

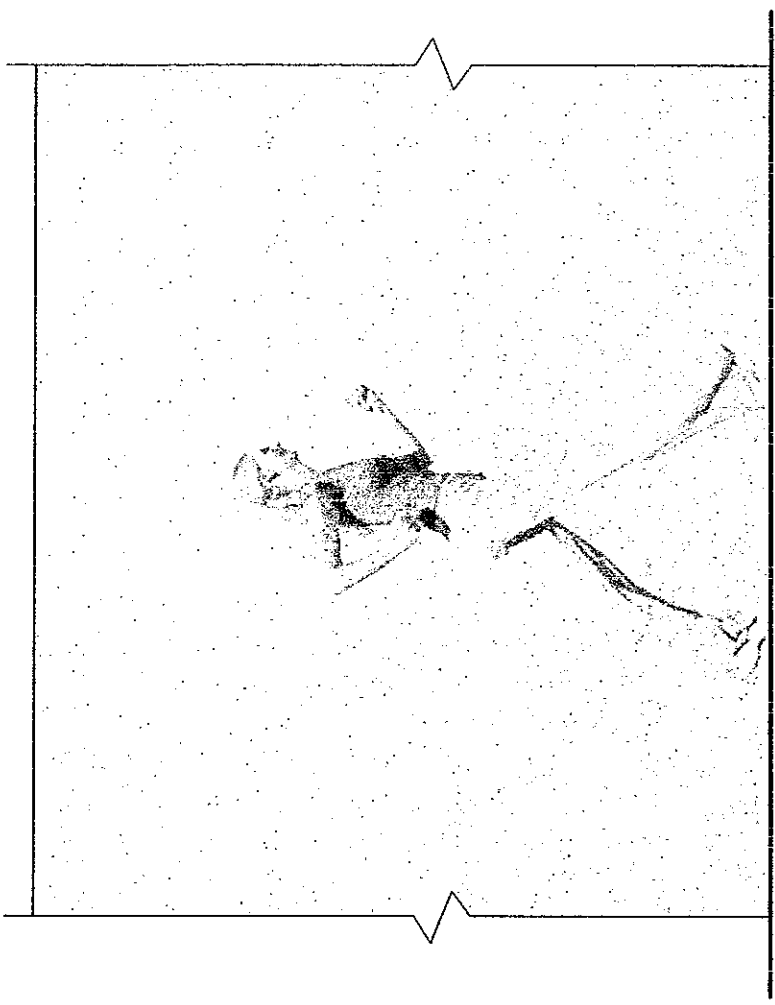


***GOYER RESIDENCE - FLOOR PLAN - 2***

***ADDRESS: 8408 MENIER STREET DATE: 01.31.2013 SCALE: 1/8"=1'-0"***



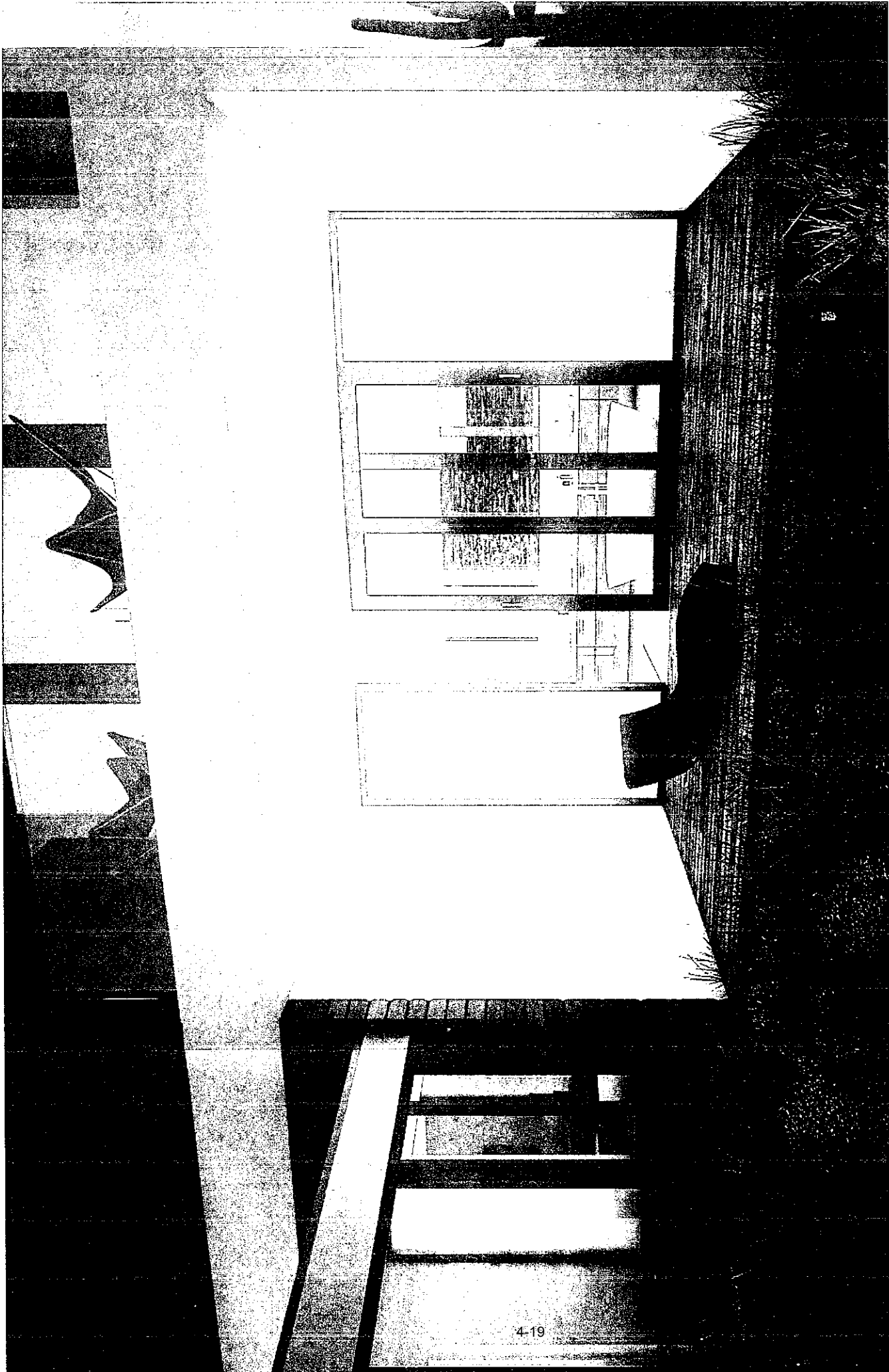
TYPICAL WALL SECTION



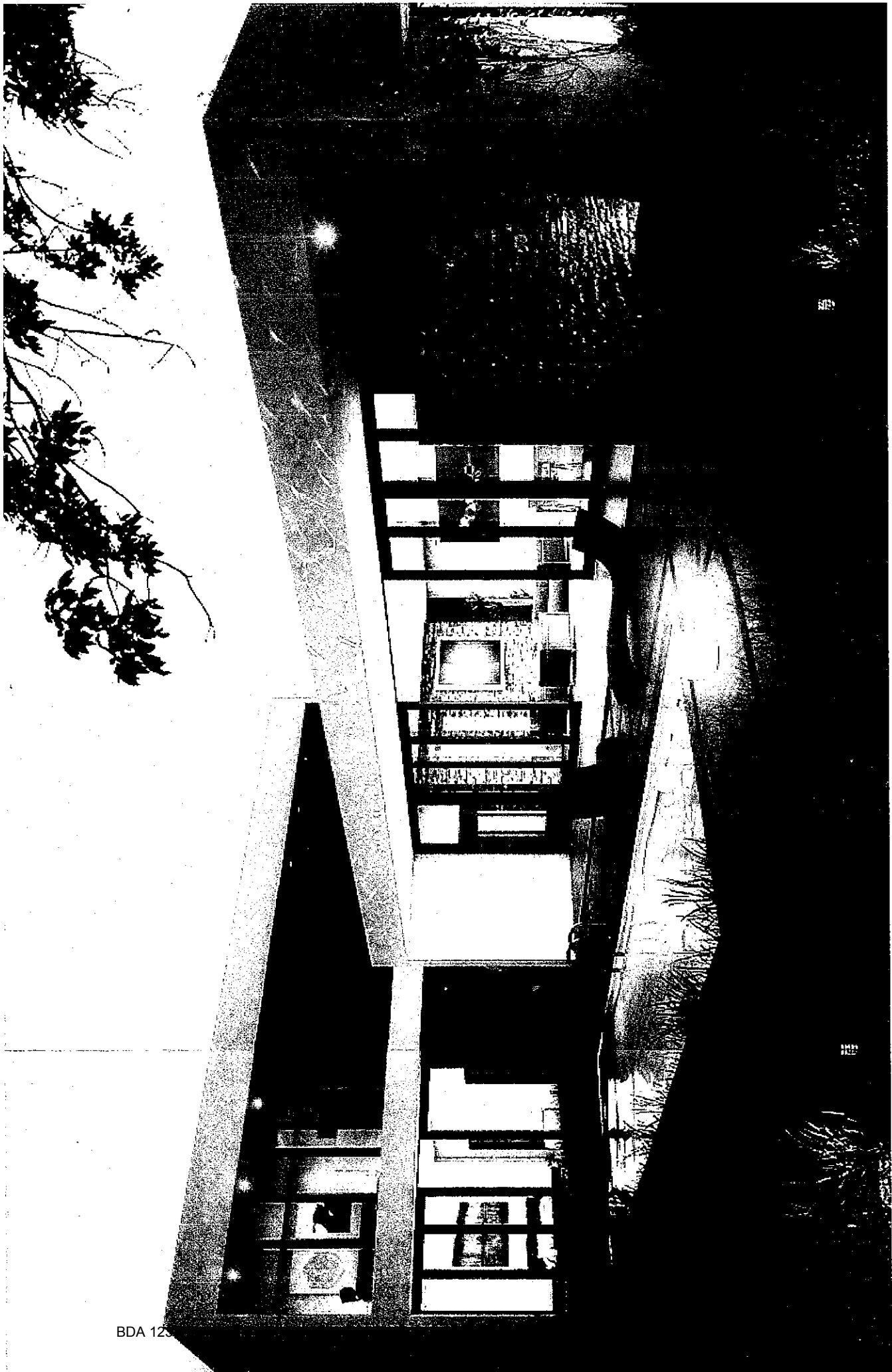
TYPICAL WALL ELEVATION - MENIER ST. SIDE

# GOYER RESIDENCE - WALL DETAILS

ADDRESS: 8408 MENIER STREET DATE: 01.31.2013 SCALE: 3/4"=1'-0"









# Masterplan

Land Use Consultants

TO: Board of Adjustment Members, City of Dallas

February 14, 2013

FROM: Maxwell J. Fisher, AICP

RE: Application to Board of Adjustment – 8408 Menier Street

*Via Electronic Delivery*

Summary:

We respectfully request variances to build a house and a special exception to construct a masonry wall along Menier Street. The 7,905-square foot parcel is undeveloped and located amid an established single family neighborhood. The parcel's orientation and required setbacks are such that variances are necessary to construct a residential structure commensurate in size with the residences in the neighborhood. A special exception is also sought to increase the allowable fence (masonry wall) height from 4 to 8 feet in the front yard along Menier Street. In 1999, the Board of Adjustment approved similar variances to setbacks to construct a house. A permit was not sought and the house was not constructed, and consequently, the entitlements expired after 180 days.

Variance to Front Yard Setback:

The property is only 52.7 feet deep with respect to Menier Street. The building setback from Menier Street, or the required front yard, is 35 feet in the R-16(A) District. The front yard setback coupled with a 10-foot rear yard setback leaves only 7.7 feet of depth, making construction of a single family structure fundamentally impossible. Thus, we request a variance in front yard setback from 35 to 6 feet, or a variance of 29 feet.

The subject property and the property north at 8404 Menier Street are unique in both size and configuration compared to the other properties east of Menier Street. As such, there is no established continuity along the east side of Menier Street to maintain prescribed setbacks. Moreover, the proposed building location and design would minimize visual impact along Menier Street in that the southern two-thirds of the structure would be no greater than 10 to 13 feet in height and is located 18 to 24 feet from the front property line along Menier Street. Only the northern 24 feet of structure would be two stories in height, and would be located 6 feet from the front property line.

Variance to Rear Yard Setback:

The application also includes a request to decrease the rear yard setback from 10 to 4 feet, or a variance of 6 feet. This adjustment would allow additional buildable area and a greater building setback from Menier Street. A 4-foot yard would maintain adequate space for access and maintenance, and any roof overhangs or other projections without encroachment over the eastern property line. The great depth of the property to the east provides adequate spacing even if the current structure to the east is removed to accommodate a larger structure.

2-14

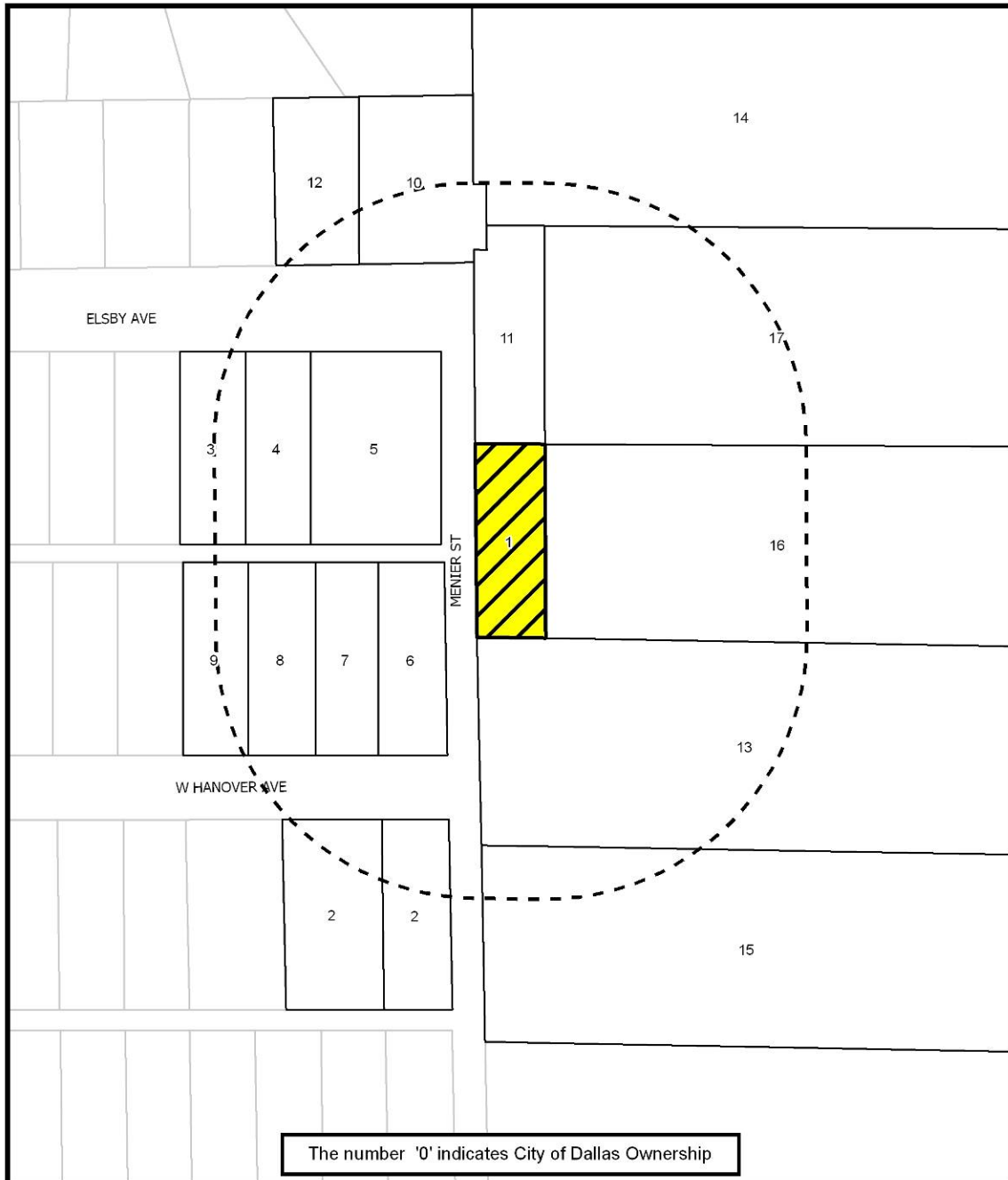
Special Exception - Fence Height:

Due to the proposed building footprint dictated by the shape of the lot, the yard along Menier Street will function as a side or rear yard, as opposed to a front yard. However, since the yard is adjacent to Menier Street, Dallas City Code defines it as a front yard. As such, fences are limited to 4 feet in height. The elongated configuration of the property exposes most of the functional area of the yard to Menier Street. As such, a 4-foot fence provides limited privacy and doesn't inhibit most views. The proposed 8-foot tall masonry wall with a stucco finish would provide a durable product for the neighborhood, and the security and privacy desired in a side or rear yard.

It should also be noted that the Board of Adjustment approved an increase in fence height to 8 feet for the property immediately north, which accommodated the existing 8-foot tall masonry wall. Moreover, as alluded to above, the majority of residential properties east of Menier Street front on Inwood Road and back to Menier Street. Consequently, there are a number of mostly 6- to 8-foot tall fences constructed of various materials to the south of the property, along the east side of Menier Street. As such, the proposed request is commensurate with the prevailing streetscape to the south.

Conclusion:

The property's location is such that a single family is essentially the only viable use of the property given its limited size and the established residential neighborhood. Although the neighborhood is comprised of a wide range of housing sizes and styles, many newly constructed residential structures are as large as or larger than the proposed structure at 3,270 feet. To build such a structure, variances are necessary. Both the variance to setbacks and additional fence height are justified by the configuration of the property and granting such allowances would not adversely impact the surrounding properties. The special exception would allow a taller fence providing security and privacy to the homeowner's side or rear yard. The additional fence height would also be consistent with the height of fences to the south along Menier Street.



The number '0' indicates City of Dallas Ownership

 1:1,200	<h2>NOTIFICATION</h2>	Case no: <b>BDA123-023</b>			
	<table border="1"> <tr> <td style="text-align: center;"><b>200'</b></td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;"><b>17</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	<b>200'</b>	AREA OF NOTIFICATION	<b>17</b>	NUMBER OF PROPERTY OWNERS NOTIFIED
<b>200'</b>	AREA OF NOTIFICATION				
<b>17</b>	NUMBER OF PROPERTY OWNERS NOTIFIED				

## *Notification List of Property Owners*

### *BDA123-023*

#### *17 Property Owners Notified*

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	8408 MENIER ST	CUELLAR FRANK & SONS
2	5120 HANOVER AVE	TOULMIN SAMMYE W
3	5114 ELSBY AVE	HOBGOOD MORTON D JR & DORA L
4	5118 ELSBY AVE	SONG GAO & WING LIM TSE
5	5126 ELSBY AVE	BISHOP DIANE SUE
6	5127 HANOVER AVE	LEE DAN HENRY III & WOFFORD CINDY LYNN
7	5123 HANOVER AVE	PROPST JACKIE L
8	5119 HANOVER AVE	TORRES FRANK L TR & ESTELLA T TR
9	5115 HANOVER AVE	MCNULTY MATTHEW
10	5129 ELSBY AVE	RICHARD ROBERT W & ET AL
11	8404 MENIER ST	CHIONGLO EDUARDO A & BLANQUITA H CHIONGL
12	5123 ELSBY AVE	MARTIN COLIN G & NOBLES JANA S
13	8303 INWOOD RD	HATTON THOMAS H SR & CAROL E
14	8411 INWOOD RD	SUTTON KENNETH D
15	8211 INWOOD RD	HABEEB THOMAS L
16	8315 INWOOD RD	WARDLAY BRUCE
17	8333 INWOOD RD	WHITE DARLEENE B

**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).
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 revised 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.

February 20, 2013: The Board of Adjustment Panel B conducted a hearing on this application where the applicant submitted a revised site plan to the Board at this public hearing (see Attachment A). (Note that while this amended site plan made changes to the requested fence height special exception request, it made no changes to the front yard variance request). The Board moved to hold the matter under advisement until March 20, 2013.

February 26, 2013: The Board Administrator emailed the applicant the information related to the action of the board and the March 8<sup>th</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials. As of March 8<sup>th</sup>, no new materials had been submitted to staff by the applicant.

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

- This request focuses on constructing and maintaining a single family 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 revised site plan has been submitted denoting a portion of the proposed single family structure 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).
- The submitted revised site plan shows approximately 37 percent (or approximately 1,150 square feet) of the proposed approximately 3,150 square foot building footprint 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 revised 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 previously 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 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 submitted a revised scaled site plan/partial elevation at the February 20<sup>th</sup> public hearing (see Attachment A). This revised plan shows the proposed fence in the Lakeland Drive and Eustis Avenue front yard setbacks being "wood" and 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 revised 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 revised site plan/elevation:
  - Approximately 26' and 30' 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 March 11, 2013, three letters had been submitted in support of the request, and no letters had been submitted in opposition.
- 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 revised 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.

**BOARD OF ADJUSTMENT ACTION: FEBRUARY 20, 2013**

APPEARING IN FAVOR: Edward Harbour, 1744 Meraposa , Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Gillespie**

I move that the Board of Adjustment, in Appeal No. **BDA 123-014**, hold this matter under advisement until **March 20, 2013**.

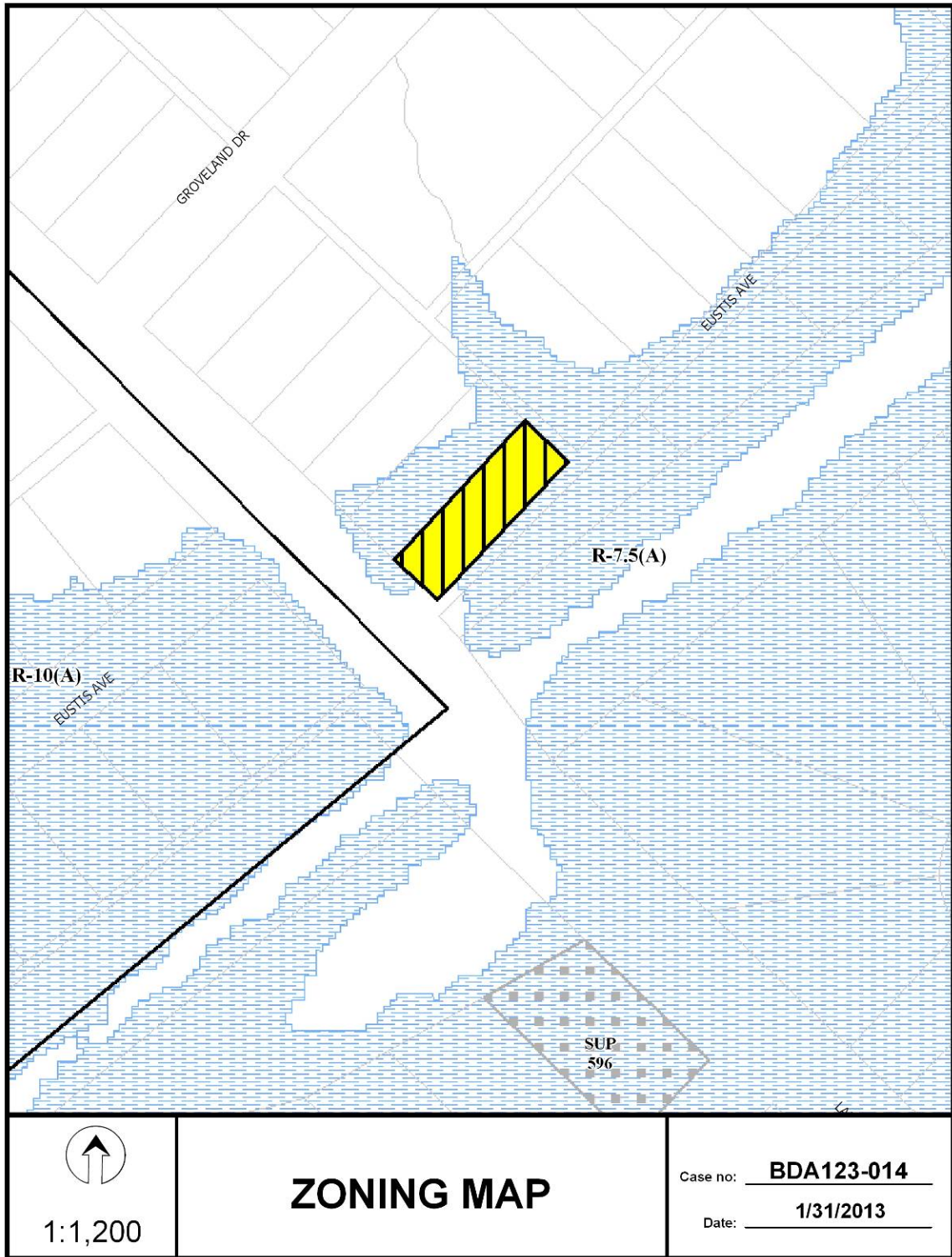
SECONDED: **Wilson**

AYES: 5– Reynolds, Gillespie, Chernock, Wilson, Leone

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

\*\*\*\*\*





1:1,200

# AERIAL MAP

Case no: BDA123-014

Date: 1/31/2013

123-014

BDA  
123-  
014  
Attach  
A



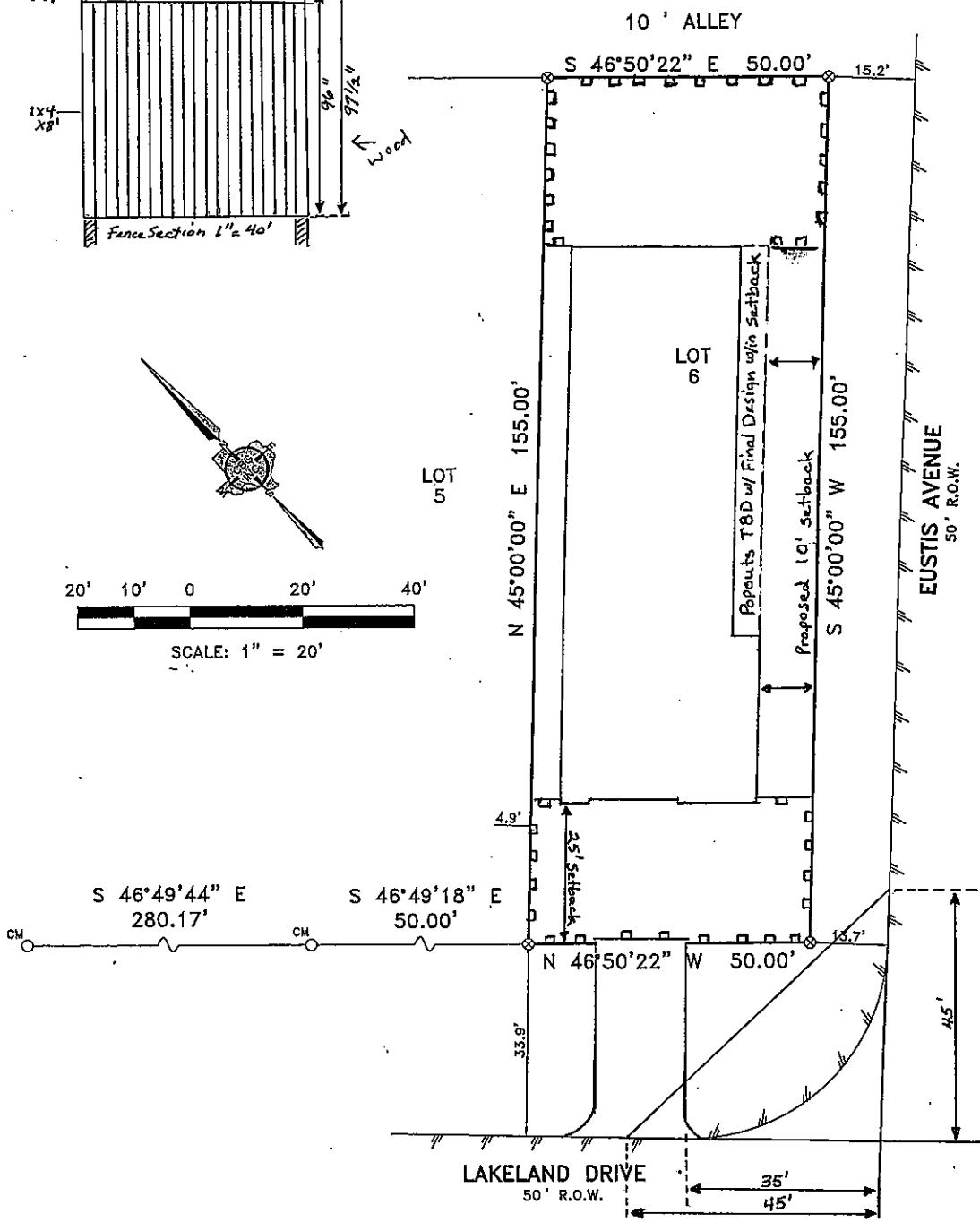
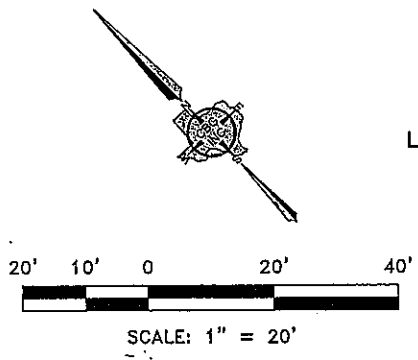
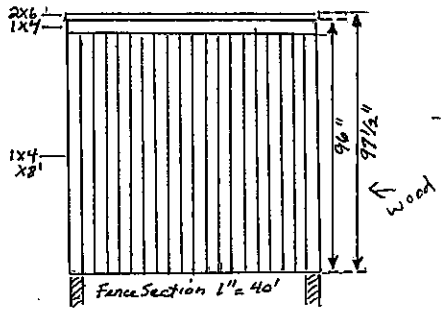
### 2020 Lakeland Drive

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
- ◆ 60d NAIL FOUND
- FENCE POST FOR CORNER
- CM CONTROLLING MONUMENT
- AC AIR CONDITIONER
- PE POOL EQUIPMENT
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- COLUMN
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- ▲ UNDERGROUND ELECTRIC
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- OHP— OVERHEAD ELECTRIC POWER
- DES— 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



#### EXCEPTIONS:

THESE PLANS HAVE NOT BEEN REVIEWED FOR COMPLIANCE WITH THE CITY OF DALLAS CONSTRUCTION CODES. ALL WORK PERFORMED IN CONJUNCTION WITH THESE PLANS IS SUBJECT TO FIELD INSPECTOR'S APPROVAL\*

#### NOTES:

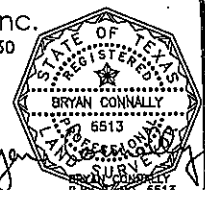
BEARINGS, EASEMENTS AND BUILDING LINES ARE BY RECORDED PLAT UNLESS OTHERWISE NOTED.  
FLOOD NOTE: According to the F.I.R.M. No. 48113C0355 J, this property does lie in Zone X and DOES NOT lie within the 100 year flood zone.

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 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.

Date: \_\_\_\_\_  
Accepted by: \_\_\_\_\_  
Purchaser: \_\_\_\_\_  
Purchaser: \_\_\_\_\_

Drawn By: JW  
Scale: 1" = 20'  
Date: 5/23/2012  
GF No.: 5-10  
12-136140-PC  
Job No. 1202212-1

C.B.G. Surveying, Inc.  
12025 Shiloh Road, Ste. 230  
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P 214.349.9485  
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www.cbgsurvey.com



*Bryan Connally*



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 FRS & A to F4  
Request that Lakeland setback be left at 25' and Fence ht. Eustis setback be reduced from 25' to 10'.

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

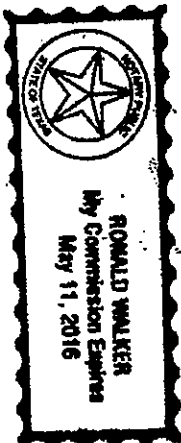
Before me the undersigned on this day personally appeared Eddie Harbour  
(Affiant/Applicant's name printed)

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        | SPSP 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.

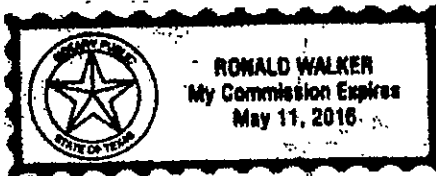
From a historical perspective (and fully understanding that no other case sets a precedent), when this plan was drawn my lot faced open unplatted property which is probably why it was drawn 50' wide when most of the other corner lots on my side of Lakeland were drawn at 60' wide from the RR Tracks back 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.

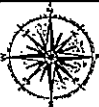
REQUESTED VARIANCE 2.

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]*  
*Notary*





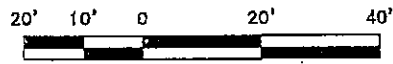
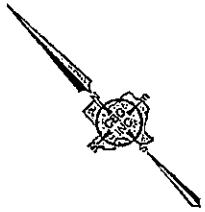
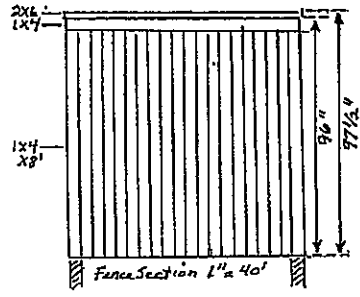
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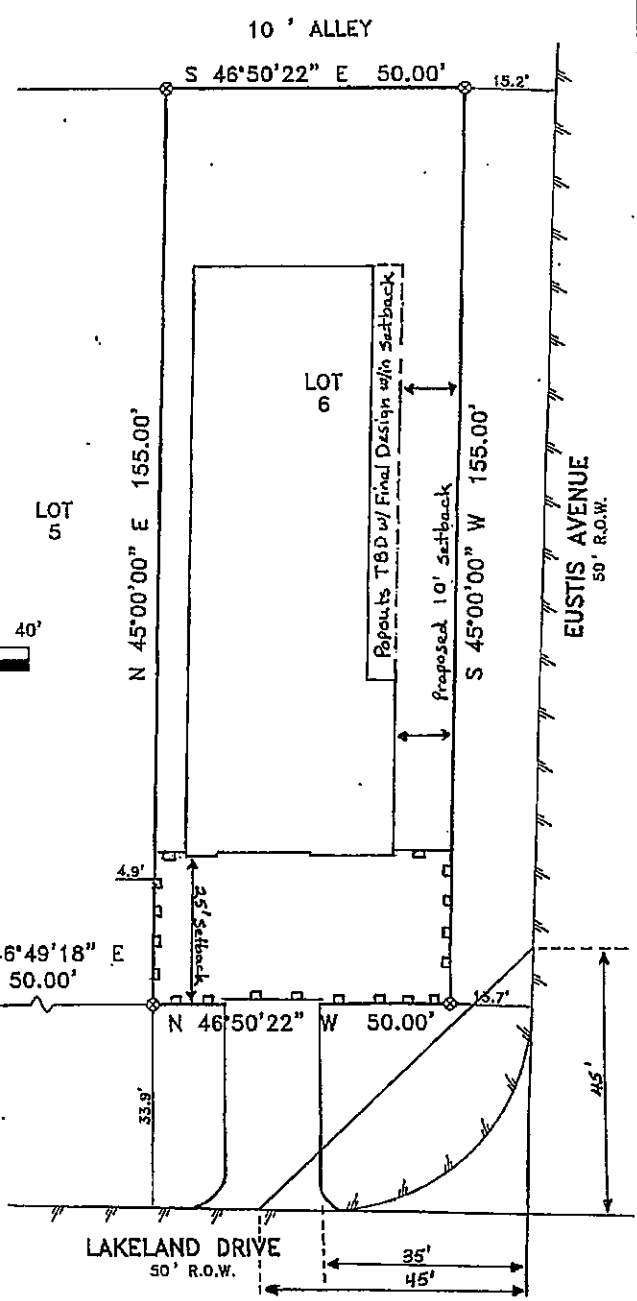


#### LEGEND

- 1/2" ROD FOUND
- 1/2" ROD SET
- 1" PIPE FOUND
- ⊗ "X" FOUND/SET
- ⊕ 60# NAIL FOUND
- FENCE POST FOR CORNER
- CM CONTROLLING MORNMENT
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- IRON FENCE
- X — BARBED WIRE
- EDGE OF ASPHALT
- EDGE OF GRAVEL
- CONCRETE
- COVERED AREA



SCALE: 1" = 20'



**EXCEPTIONS:**

Accepted by: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Purchaser \_\_\_\_\_

Purchaser 5-16

**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.

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 Scale: 1" = 20'  
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 GF No.: 12-136140-PC  
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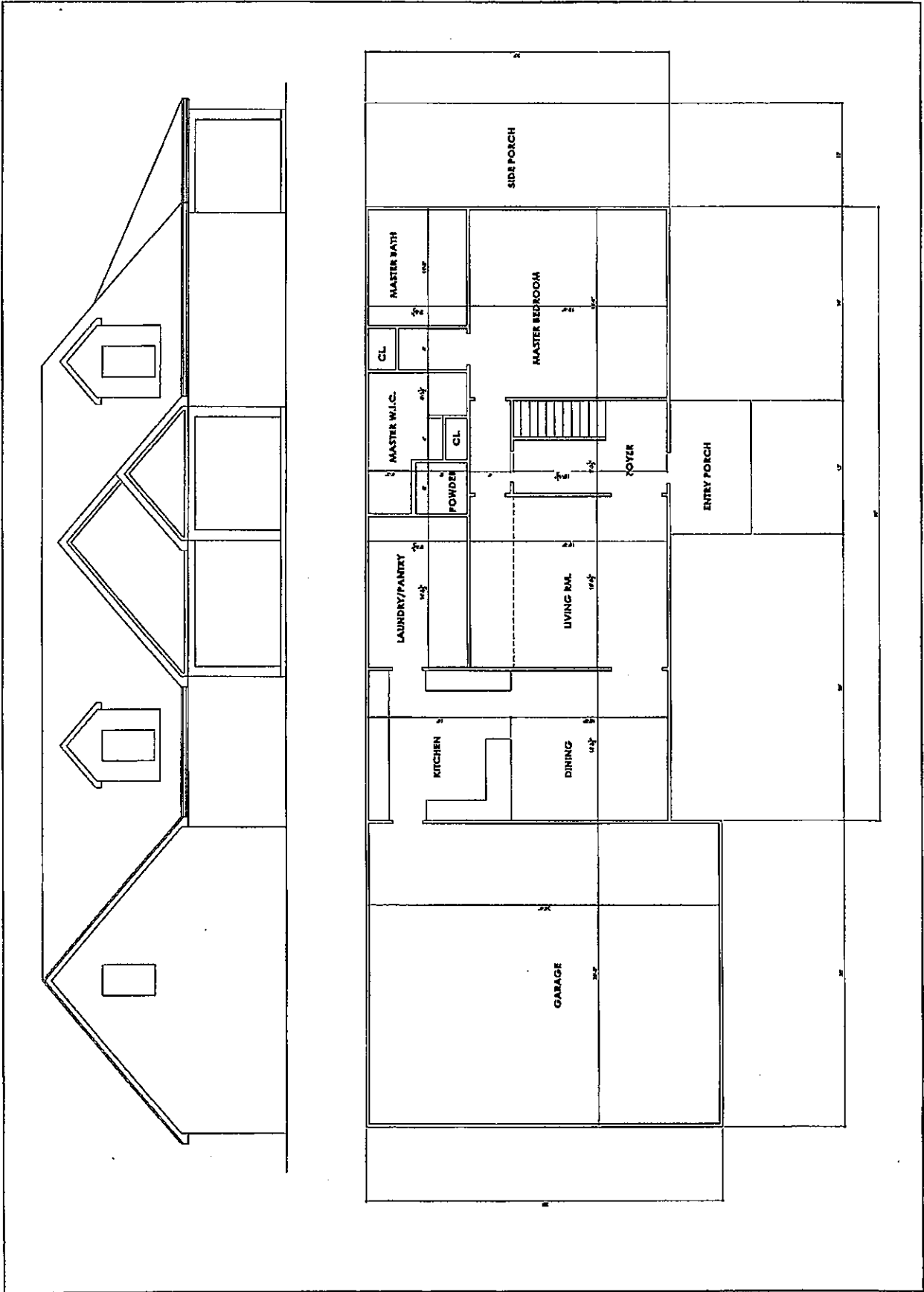
THIS PLAN IS THE PROPERTY OF PLAN AHEAD INC. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. ANY REUSE OR MODIFICATION OF THIS PLAN WITHOUT THE WRITTEN CONSENT OF PLAN AHEAD INC. IS STRICTLY PROHIBITED.

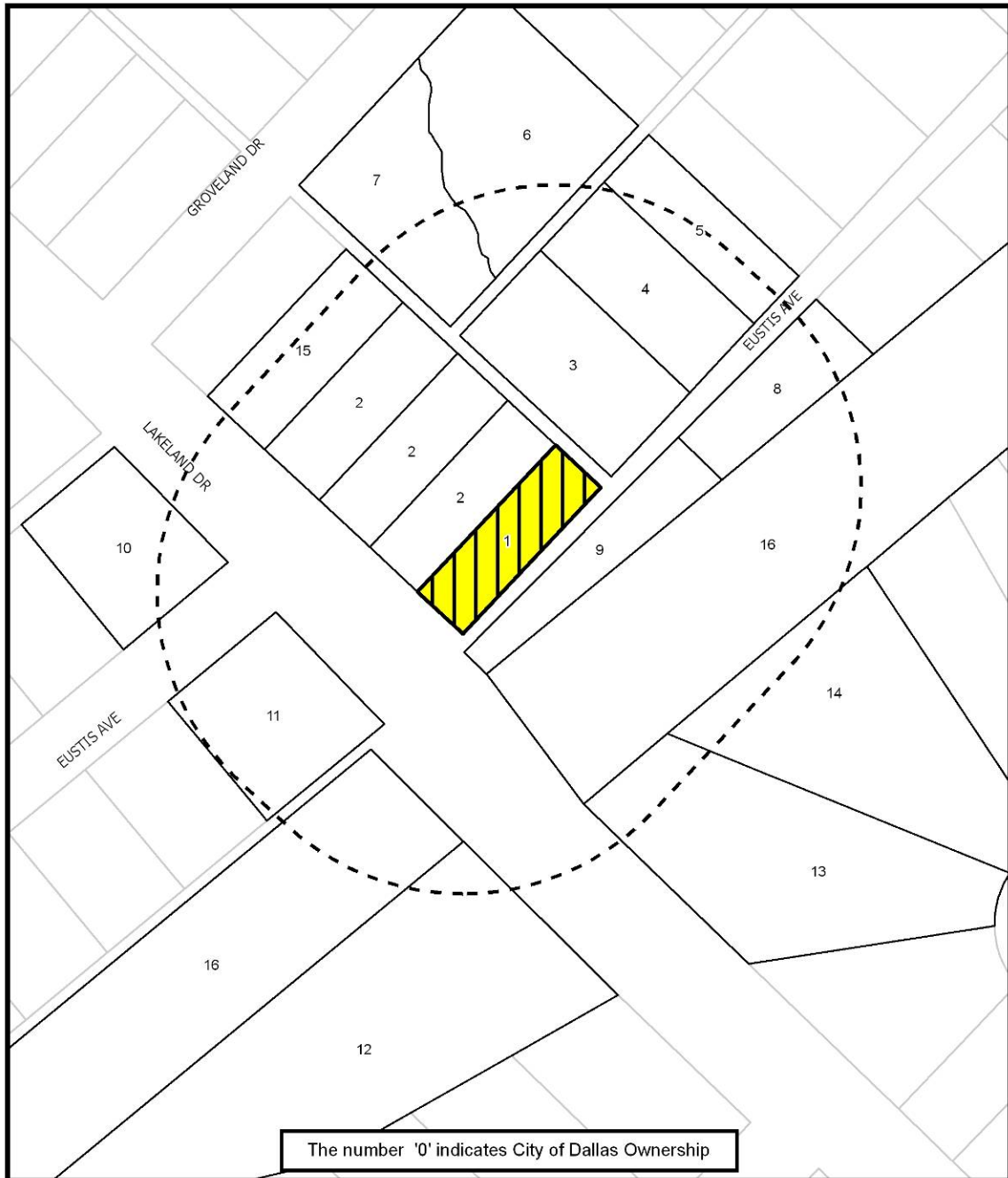


PLAN AHEAD INC.  
 3720 South Street  
 Kissimmee, FL 34758  
 Phone (888) 414-2222  
 Office Attn: PLANS@PLANHEAD.COM

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