

ZONING BOARD OF ADJUSTMENT, PANEL B
WEDNESDAY, MARCH 21, 2012
AGENDA

BRIEFING	L1FN CONFERENCE CENTER AUDITORIUM 1500 MARILLA STREET	11:30 A.M.
PUBLIC HEARING	L1FN CONFERENCE CENTER AUDITORIUM 1500 MARILLA STREET	1:00 P.M.

David Cossum, Assistant Director
Steve Long, Board Administrator

MISCELLANEOUS ITEM

Approval of the Wednesday, February 15, 2012 Board of Adjustment Public Hearing Minutes	M1
---	----

UNCONTESTED CASE

BDA 112-032	10245 Strait Lane REQUEST: Application of Rob Baldwin for a special exception to the fence height regulation	1
--------------------	---	---

REGULAR CASES

BDA 112-016	13943 C. F. Hawn Freeway REQUEST: Application of Mini-Roll, Inc. to require compliance of a nonconforming use	2
--------------------	--	---

BDA 112-031	2201 Hawthorne Avenue et al REQUEST: Application of Rob Baldwin for a special exception to the tree preservation regulations	3
--------------------	--	---

EXECUTIVE SESSION NOTICE

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

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

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel B February 15, 2012 public hearing minutes.

FILE NUMBER: BDA 112-032

BUILDING OFFICIAL'S REPORT:

Application of Rob Baldwin for a special exception to the fence height regulation at 10245 Strait Lane. This property is more fully described as Lot 4B City Block E/5532 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain an 8 foot 8 inch high fence in a required front yard which will require a special exception of 4 feet 8 inches.

LOCATION: 10245 Strait Lane

APPLICANT: Rob Baldwin

REQUEST:

- A special exception to the fence height regulations of 4' 8" is requested in conjunction with constructing and maintaining the following in the site's 40' front yard setback on a site being developed with a single family home:
 - *parallel* to Strait Lane:
 - a 7' 3" high open iron picket fence/wall (with 3' high stone base) with 7' 9" high brick columns, and two, 8' 8" high open iron picket gates with 8' high brick columns; and
 - *perpendicular* to Strait Lane on the north and south "sides" of the site in the front yard setback:
 - a 7' 3" high open iron picket fence with 7' 9" high brick columns.

STAFF RECOMMENDATION:

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

GENERAL FACTS:

- The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.

The applicant has submitted a site plan/elevation indicating a fence/wall/column/gate proposal that would be located in the site's front yard setback and that appears to reach a maximum height of 8' 8".

- A site plan has been submitted that indicates the location of the proposal in the front yard setback. The following additional information was gleaned from this site plan:
 - The proposal would be approximately 170' in length parallel to the street with recessed entryways, approximately 40' in length perpendicular to the street on the north and south sides of the site in the front yard setback.
 - The proposed fence/wall is shown to be located approximately on the front property line (or approximately 11' from the pavement line).
 - The proposed gates are to be located about 11' from the front property line (or approximately 20' from the pavement line).

BACKGROUND INFORMATION:

Zoning:

Site: R-1ac (A) (Single family district 1 acre)
North: R-1ac (A) (Single family district 1 acre)
South: R-1ac (A) (Single family district 1 acre)
East: R-1ac (A) (Single family district 1 acre)
West: R-1ac (A) (Single family district 1 acre)

Land Use:

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

Zoning/BDA History:

1. BDA 967-213, Property at 10250 Strait Lane (the lot immediately south of the subject site)

On April 21, 1997, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations (subject to compliance with the submitted site plan, elevation plans, and landscape plan except for the portion of the proposed fence and columns to be located in the North Lindhurst drive visibility triangle), granted requests for special exceptions to visual obstruction regulations to maintain fence/columns/gates at the Strait Lane/N. Lindhurst intersection visibility triangle and at the Strait Lane drive approach (subject to compliance with the submitted site plan, elevation plans, and landscape plan except for the portion of the proposed fence and columns to be located in the North Lindhurst

drive visibility triangle), and denied a request for a special exception to the visual obstruction regulations without prejudice at the North Lindhurst Drive approach visibility triangle.

The case report stated that the requests were made to construct and maintain an a fence at a maximum height of 6' for an open metal fence; 6' 4" for stucco columns; 7' 4" for open metal gates in the front yards and in intersection and drive approach visibility triangles on the property.

Timeline:

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

February 8, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

February 8, 2012: 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 29th deadline to submit additional evidence for staff to factor into their analysis; and the March 9th 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 6, 2012: 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 Sustainable Development and Construction Department Building Inspection Division Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorneys to the Board.

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

STAFF ANALYSIS:

- The request focuses on constructing/maintaining a 7' 3" high open iron picket fence/wall (with 3' high stone base) with 7' 9" high brick columns, and two, 8' 8" high open iron picket gates with 8' high brick columns parallel to the street, and a 7.5' high open iron fence and a 7' 3" high open iron picket fence with 7' 9" high brick column perpendicular to the street on the north and south sides in the front yard setback on a property being developed with a single family home.
- A scaled site plan/elevation document has been submitted documenting the location of the proposed fence/wall/columns/gates relative to their proximity to the front property line and pavement line, the length of the proposal relative to the entire lot, and the proposed building materials. The proposal is shown to be located approximately on the property line or about 11' from the pavement line. (The gates are shown to be located about 11' from the front property line or about 20' from the pavement line). The proposal is shown to be about 170' long parallel to the street and about 40' long perpendicular on the north and south sides of the site in the front yard setback.
- A "Landscape Planting Plan" document has been submitted that provides details of landscape materials to be provided adjacent to the proposal.
- The proposal would be located on a site where one single family home would have direct/indirect frontage, a property that has no fence in its front yard.
- The Board Administrator conducted a field visit of the site and surrounding area along Strait Lane from North Lindhurst Avenue to Dorset Lane and noted the following fence/wall which appeared to be located in the front yard setback (Note that these dimensions are approximations):
 - an approximately 6' high open metal fence with approximately 6' 4' high columns and approximately 7' 6" high gates located immediately south of the site (which appears to be a result of BDA 967-213).
- As of March 12, 2012, no letters had been submitted to staff in opposition to the proposal, and one letter had been submitted in support.
- 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' 8" in height) will not adversely affect neighboring property.
- Granting this special exception of 4' 8" with a condition imposed that the applicant complies with the submitted site plan/elevation document would require the proposal exceeding 4' in height in the front yard setback to be constructed/maintained in the location and of the heights and materials as shown on this document.

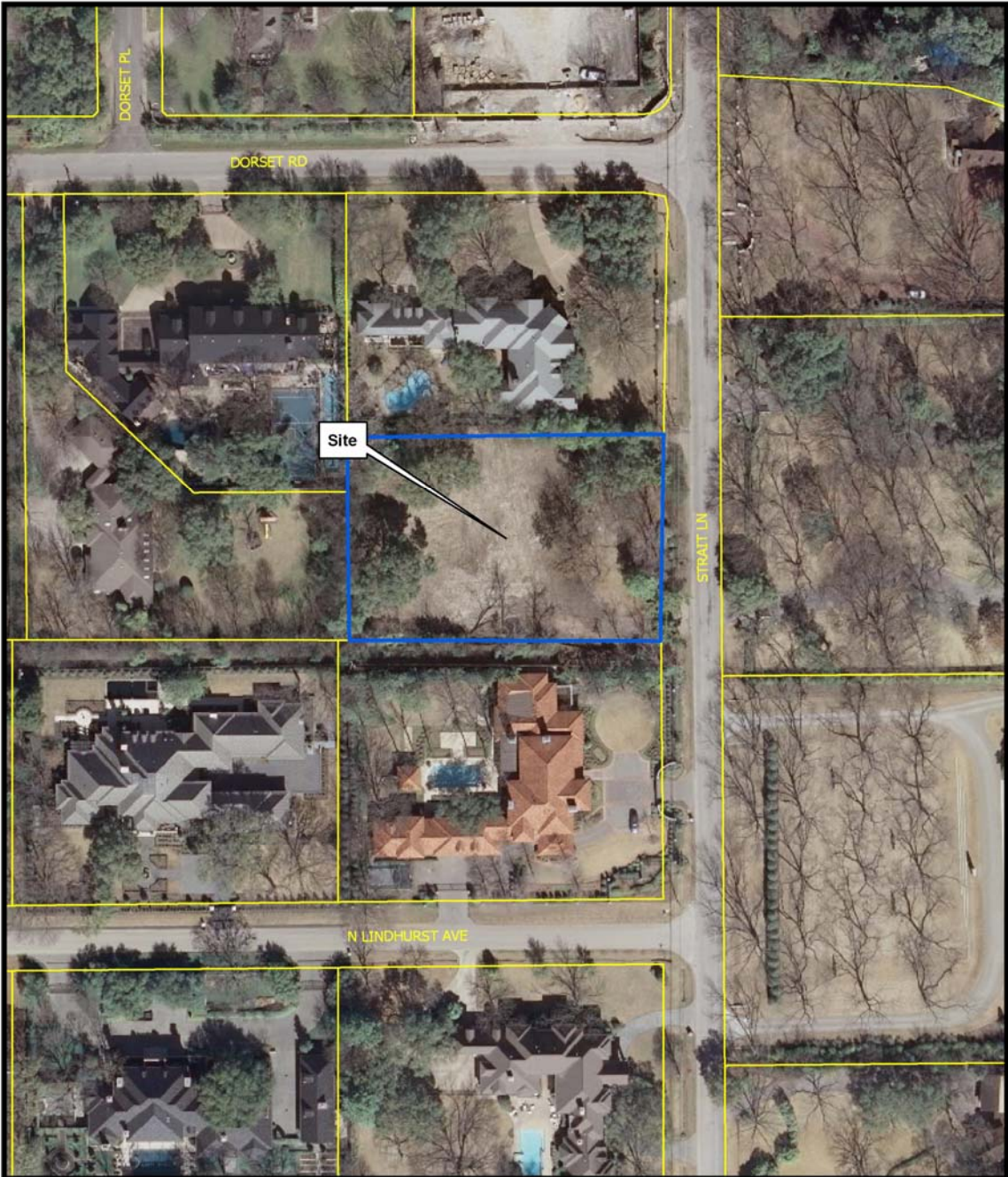


1:1,200

ZONING MAP

Case no: BDA112-032

Date: 2/16/2012



1:1,200

AERIAL MAP

Case no: BDA112-032

Date: 2/16/2012



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: 112-032

Data Relative to Subject Property:

Date: 1-19-12

Location address: 10245 Strait Lane Zoning District: R-1(A)

Lot No.: 4B Block No.: E/5532 Acreage: 0.9700 acres Census Tract: 76.01

Frontage (in Feet): 1) 160 ft 2) _____ 3) _____ 4) _____ 5) _____ NE 2A

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Sharif & Munir Custom Homes

Applicant: Robert Baldwin Telephone: 214.824.7949

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

Represented By: Robert Baldwin Telephone: 214.824.7949

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

Affirm that a request has been made for a Variance , or Special Exception X, of a special exception of four (4) feet eight (8) inches and for a fence located in a required front yard.

Application is now made to the Honorable Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described request for the following reason: The applicant is seeking permission to construct a fence in the in the front yard of this lot which will exceed four (4) feet in height. The fence that we are requesting will not exceed 8'8" in height.

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

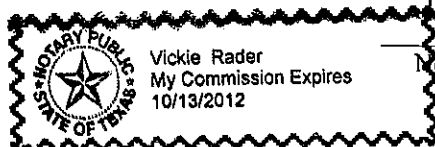
Respectfully submitted: Robert Baldwin [Signature]
Applicant's name printed Applicant's signature

Affidavit

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

[Signature]
Affiant (Applicant's signature)

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

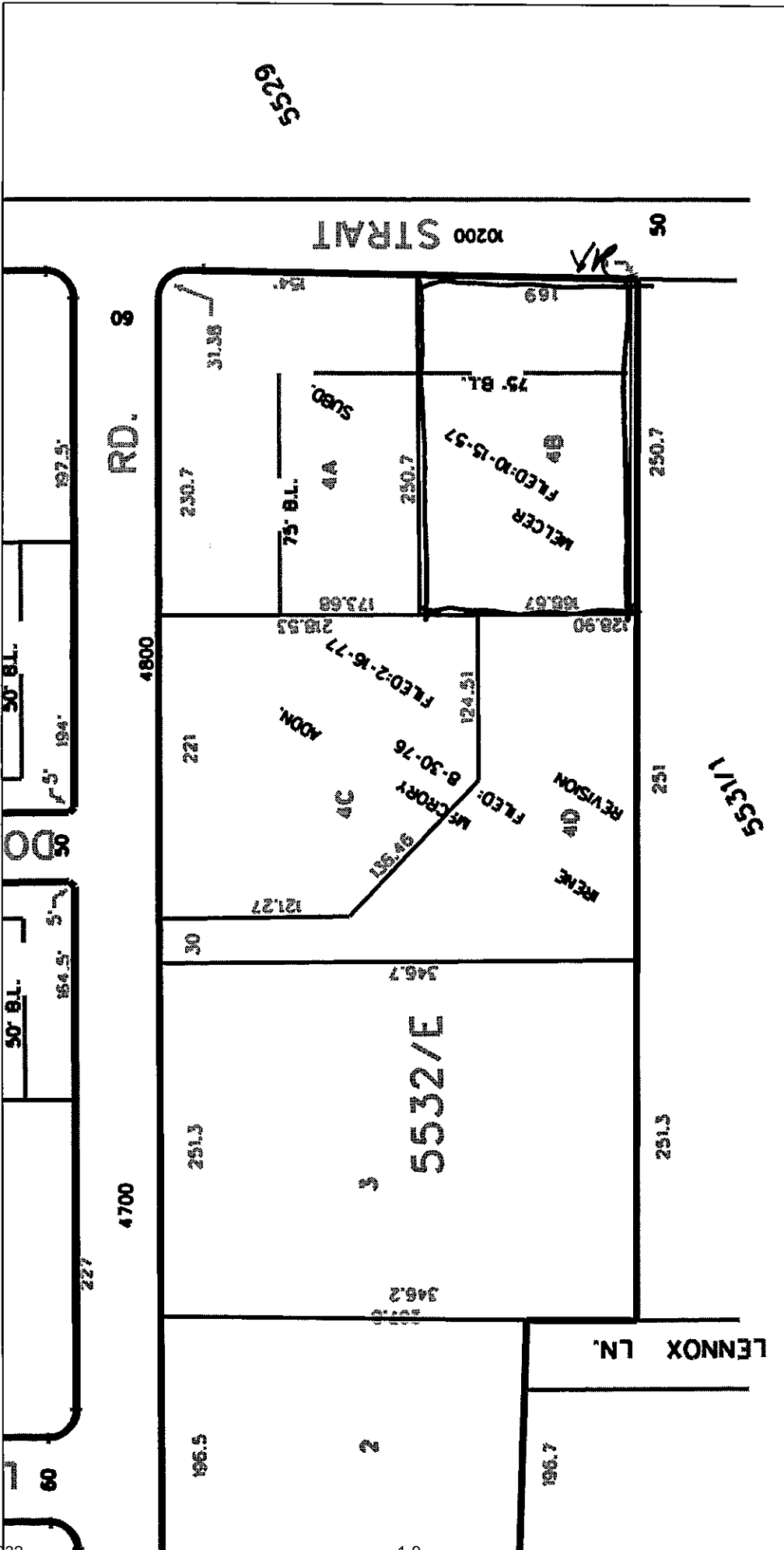
I hereby certify that ROB BALDWIN

did submit a request for a special exception to the fence height regulation
at 10245 Strait Lane

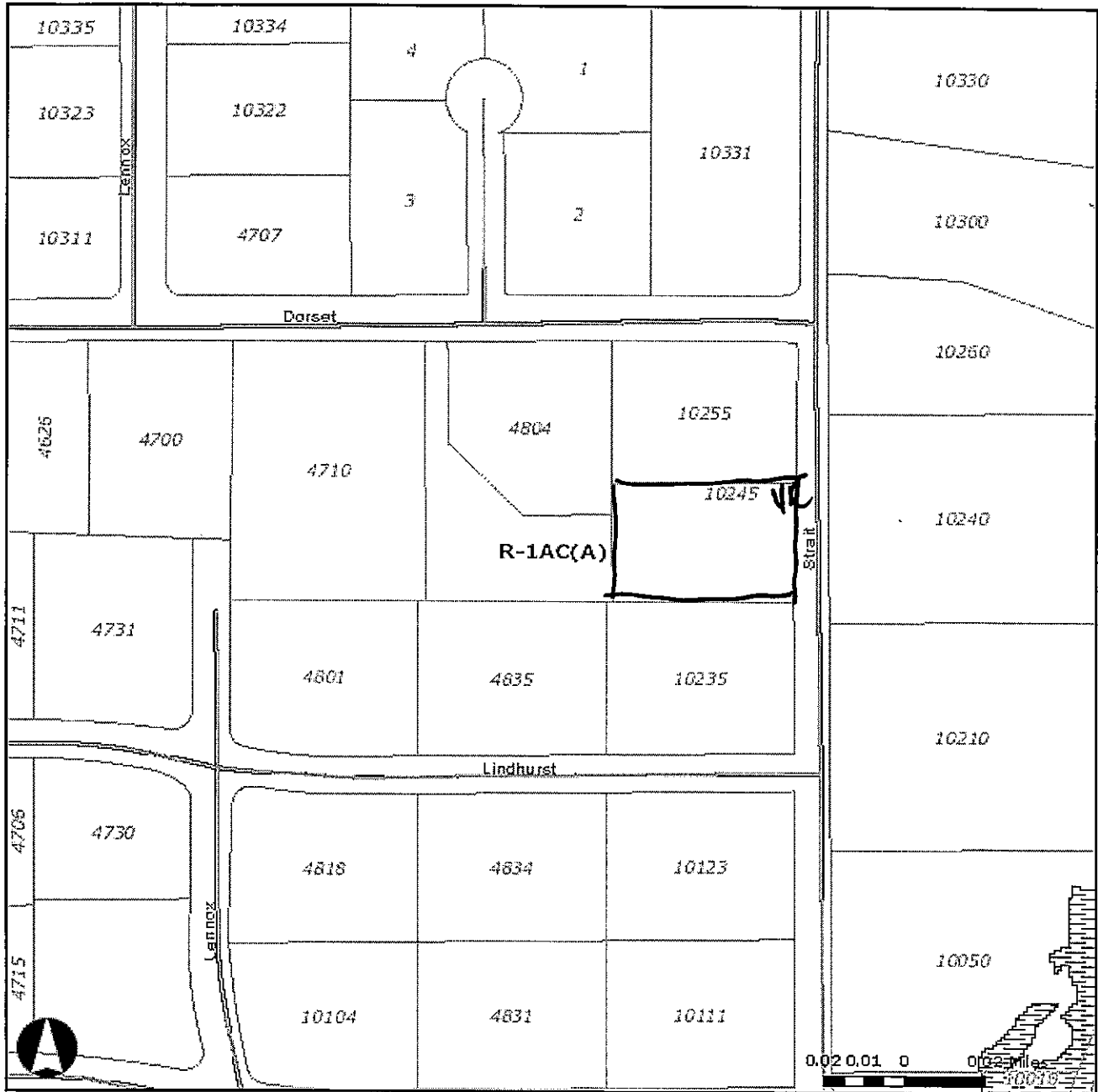
BDA112-032. Application of Rob Baldwin for a special exception to the fence height regulation at 10245 Strait Lane. This property is more fully described as lot 4B city block E/5532 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot 8 inch high fence in a required front yard, which will require a 4 foot 8 inch special exception to the fence regulation.

Sincerely,


Lloyd Denman, Building Official



City of Dallas Zoning



City Boundaries

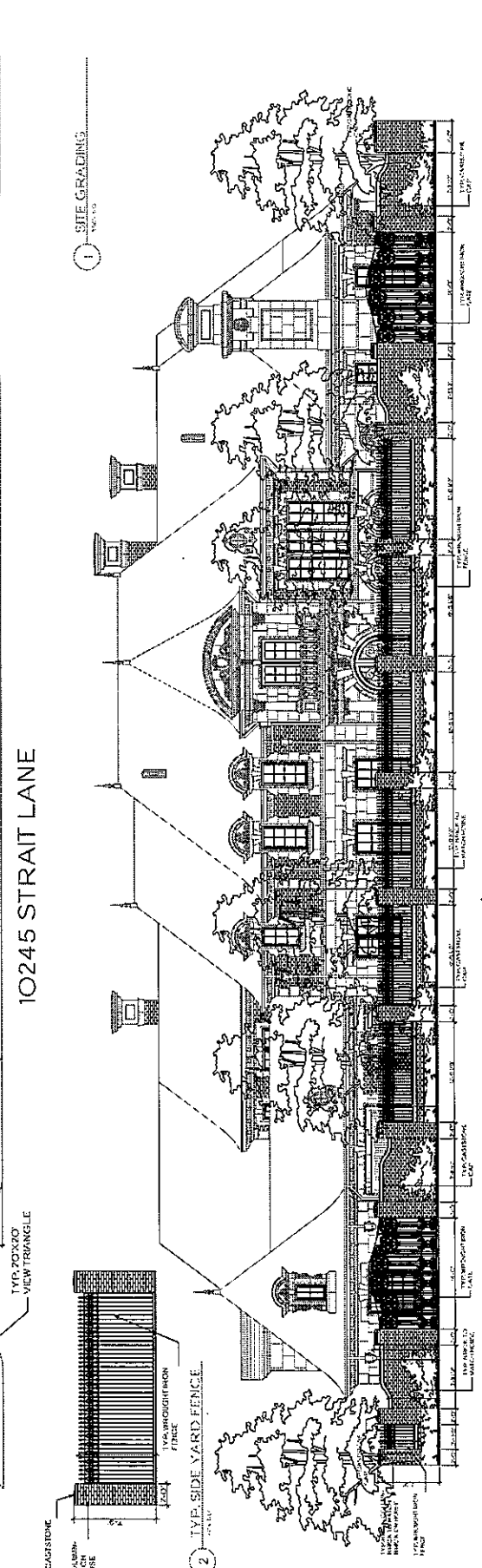
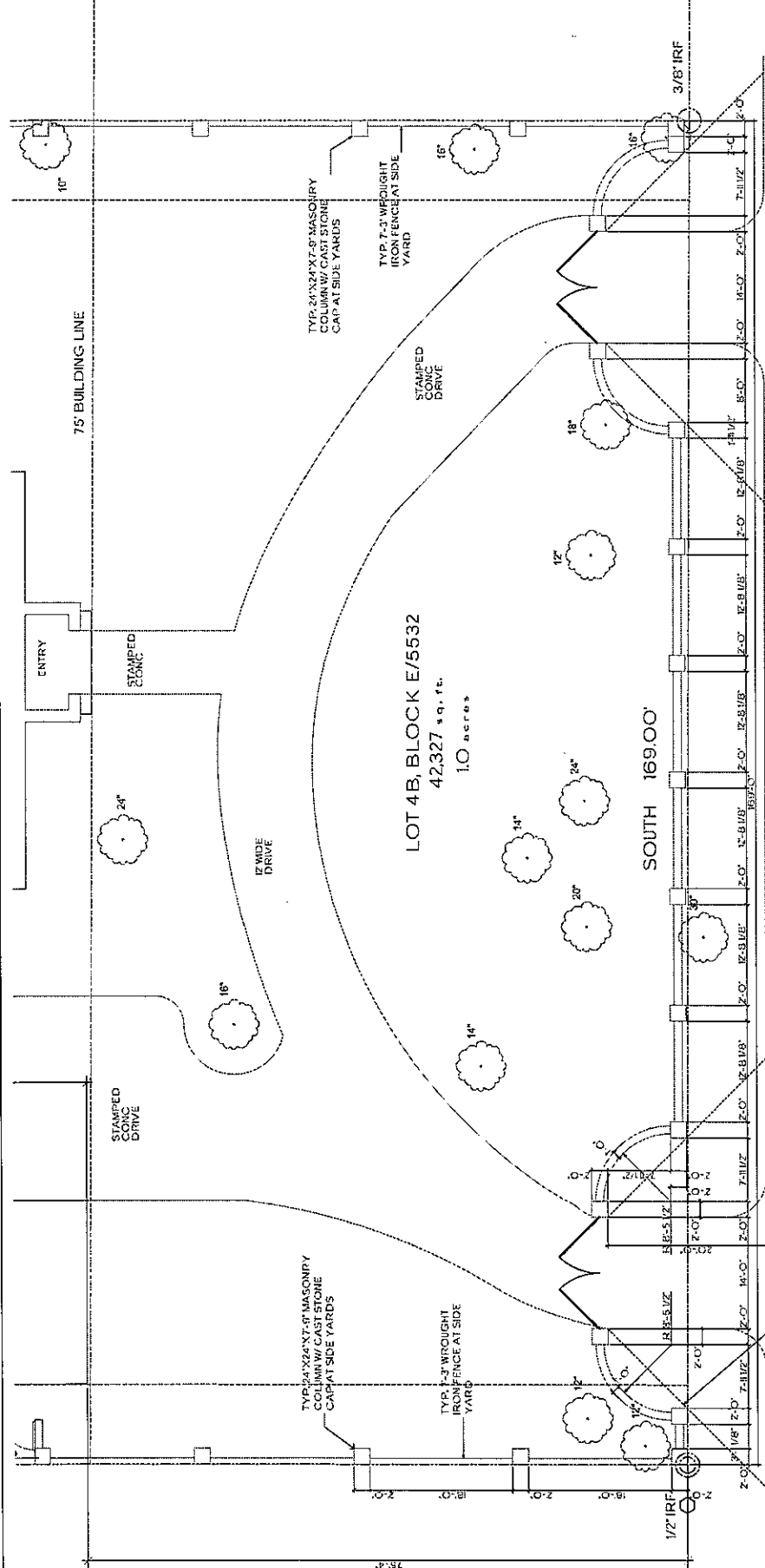
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

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





CITY OF DALLAS

AFFIDAVIT

BDA Case # 112-032

I, MICHAEL MUNIR, Owner of the subject property

at: 10245 STRAIT LANE

Authorize (applicant) Robert Baldwin

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

Variance (please specify)

Special Exception (please specify) Fence Height

Other {please specify}

MICHAEL MUNIR, PRESIDENT

[Signature]

1/17/12

Print name of property owner

Signature of property owner

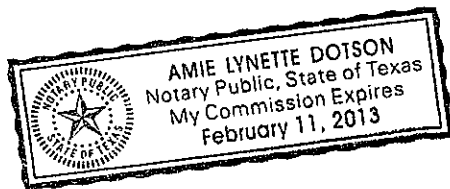
Date

Before me the undersigned on the day of personally appeared Michael Munir

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

Subscribed and sworn to before me this 17 day of Jan., 2012

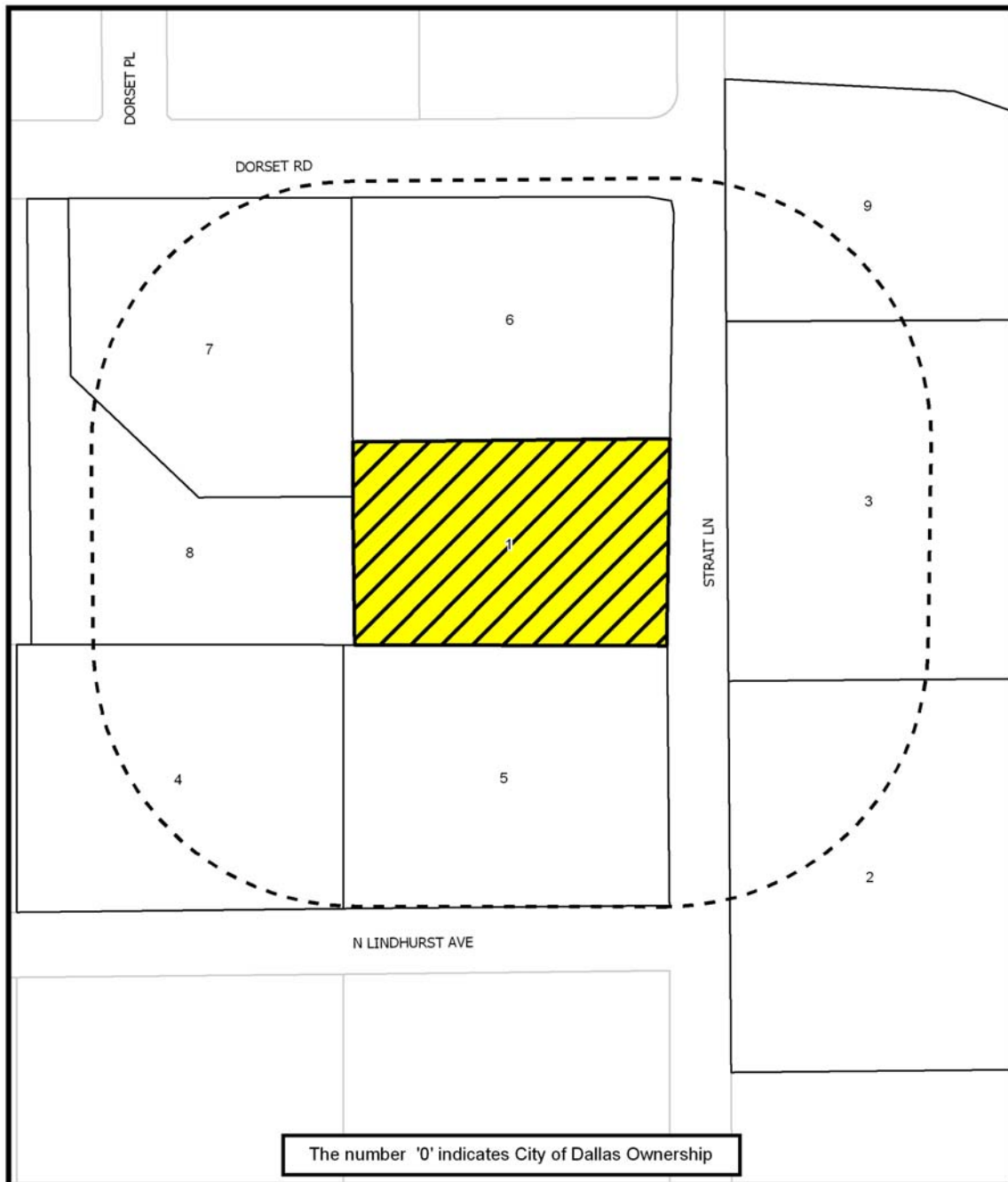
Amie Lynette Dotson



Notary Public on and for

Dallas County, Texas

Commission expires on 2-11-13



 1:1,200	<h2>NOTIFICATION</h2>	Case no: <u>BDA112-032</u>			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">9</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	9	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
9	NUMBER OF PROPERTY OWNERS NOTIFIED				

Notification List of Property Owners

BDA112-032

9 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	10245 STRAIT LN	SHARIF & MUNIR CUSTOM HOMES INC
2	10210 STRAIT LN	STRAIT MANAGEMENT TRUST SUITE 3700
3	10240 STRAIT LN	PARKER RUFUS LF EST % JANET PARKER
4	4835 LINDHURST AVE	SAXTON VICKY & KELLY UNIT 205 LB 35
5	10235 STRAIT LN	BRINKER TONI C
6	10255 STRAIT LN	SHAMOUN C GREGORY
7	4804 DORSET RD	WATTERS JOHN P & DONNA T WATTERS
8	4802 DORSET RD	GARG ABHIMANYU & SANDEEP
9	10260 STRAIT LN	GLOSSER GREGORY CHARLES & MARY ELLEN GLO

FILE NUMBER: BDA 112-016

BUILDING OFFICIAL'S REPORT:

Application of Mini-Roll, Inc. to require compliance of a nonconforming use at 13943 C. F. Hawn Freeway. This property is more fully described as Tract 282 in City Block 8820 and is zoned CS, which limits the legal uses in a zoning district. The applicant requests that the Board establish a compliance date for a nonconforming outside sales use.

LOCATION: 13943 C. F. Hawn Freeway

APPLICANT: Mini-Roll, Inc.

REQUEST:

- A request is made for the Board of Adjustment to establish a compliance date for a nonconforming "outside sales" use (Kleberg Flea Market) on the subject site.

COMPLIANCE REGULATIONS FOR NONCONFORMING USES: SEC. 51A-4.704. NONCONFORMING USES AND STRUCTURES of the Dallas Development Code provides the following provisions:

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

(1) Amortization of nonconforming uses.

(A) Request to establish compliance date. The city council may request that the board of adjustment consider establishing a compliance date for a nonconforming use. In addition, any person who resides or owns real property in the city may request that the board consider establishing a compliance date for a nonconforming use. Upon receiving such a request, the board shall hold a public hearing to determine whether continued operation of the nonconforming use will have an adverse effect on nearby properties. If, based on the evidence presented at the public hearing, the board determines that continued operation of the use will have an adverse effect on nearby properties, it shall proceed to establish a compliance date for the nonconforming use; otherwise, it shall not.

(B) Factors to be considered. The board shall consider the following factors when determining whether continued operation of the nonconforming use will have an adverse effect on nearby properties:

- (i) The character of the surrounding neighborhood.
- (ii) The degree of incompatibility of the use with the zoning district in which it is located.
- (iii) The manner in which the use is being conducted.

- (iv) The hours of operation of the use.
 - (v) The extent to which continued operation of the use may threaten public health or safety.
 - (vi) The environmental impacts of the use's operation, including but not limited to the impacts of noise, glare, dust, and odor.
 - (vii) The extent to which public disturbances may be created or perpetuated by continued operation of the use.
 - (viii) The extent to which traffic or parking problems may be created or perpetuated by continued operation of the use.
 - (ix) Any other factors relevant to the issue of whether continued operation of the use will adversely affect nearby properties.
- (C) Finality of decision. A decision by the board to grant a request to establish a compliance date is not a final decision and cannot be immediately appealed. A decision by the board to deny a request to establish a compliance date is final unless appealed to state court within 10 days in accordance with Chapter 211 of the Local Government Code.
- (D) Determination of amortization period.
- (i) If the board determines that continued operation of the nonconforming use will have an adverse effect on nearby properties, it shall, in accordance with the law, provide a compliance date for the nonconforming use under a plan whereby the owner's actual investment in the use before the time that the use became nonconforming can be amortized within a definite time period.
 - (ii) The following factors must be considered by the board in determining a reasonable amortization period:
 - (aa) The owner's capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) on the property before the time the use became nonconforming.
 - (bb) Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages.
 - (cc) Any return on investment since inception of the use, including net income and depreciation.
 - (dd) The anticipated annual recovery of investment, including net income and depreciation.
- (E) Compliance requirement. If the board establishes a compliance date for a nonconforming use, the use must cease operations on that date and it may not operate thereafter unless it becomes a conforming use.
- (F) For purposes of this paragraph, "owner" means the owner of the nonconforming use at the time of the board's determination of a compliance date for the nonconforming use.

GENERAL FACTS:

- City records indicate the following:
 - The nonconforming use being appealed at 13943 C. F. Hawn Freeway: outside sales use.

- Reason the use is classified as nonconforming: it existed prior to annexation.
- Date that the nonconforming use became nonconforming: 4-1-78, Consolidation
- Current zoning of the property on which the use is located: CS, D-1
- Previous zoning of the property on which the use is located: N/A - Consolidation
- City records indicate the following:
 - A Certificate of Occupancy was issued on 09-16-2011 for property at 13943 C. F. Hawn Freeway to owner Rachel Barnes for an outside sales use with remarks: “Nonconforming outside sales (flea market), existing prior to annexation/consolidation. One 22’ x 50’ metal bldg on-site. No parking allowed on site until approved parking surface has been permitted and approved.”
- The Dallas Development Code states that “nonconforming use” means “a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time.”
- The subject site is zoned Commercial Service (CS) district that permits a “outside sales” use with a Specific Use Permit (SUP).
- The record owner of the property with the nonconforming “outside sales” use could eliminate the nonconforming use status by obtaining a Specific Use Permit (SUP) from City Council.
- The record owner of the property could transition the use on the site from “outside sales” use to any use that is permitted by right in the site’s existing Commercial Service (CS) zoning classification.

BACKGROUND INFORMATION:

Zoning:

Site: CS (Commercial Service)
North: R-10(A) (Single family residential, 10,000 square feet)
South: CS (Commercial Service)
East: CS (Commercial Service)
West: CS (Commercial Service)

Land Use:

The site is currently developed with an “outside sales” use (Kleberg Flea Market). The areas to the east and west are developed with commercial/retail uses; the area to the north is developed with single family uses; and the area to the south is a freeway (C. F. Hawn Freeway).

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:

November 22, 2011: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

January 12, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

January 24, 2012: The Board Administrator wrote/sent the record owner of the property (Rachel Barnes) a letter (with a copy to the applicant- Mini-Roll, Inc. c/o Debbie Leonard) that informed her that a Board of Adjustment case had been filed against the nonconforming "outside sales" use on the property. The letter included following enclosures:

1. A copy of the Board of Adjustment application and related materials that has been submitted in conjunction with the application by the applicant.
2. A copy of the section of the Dallas Development Code that describes the Board of Adjustment (Section 51A-3.102).
3. A copy of the section of the Dallas Development Code that provides the definition of "nonconforming use" (Section 51A-2.102 (90)).
4. A copy of the section of the Dallas Development Code that provides the purpose and main uses permitted set forth for "Commercial service" zoning district (Section 51A-4.123 (a)).
5. A copy of the section of the Dallas Development Code that provides the definition and provisions set forth for "outside sales" use (Section 51A-4.210 (21))."
6. A copy of the section of the Dallas Development Code that provides provisions for "nonconforming uses and structures" (Section 51A-4.704).
7. A copy of the section of the Dallas Development Code that describes the Board of Adjustment hearing procedures (51A-4.703).
8. A copy of the City of Dallas Board of Adjustment Working Rules of Procedures.
9. A copy of the hearing procedures for board of adjustment amortization of a nonconforming use.

The letter also informed Ms. Barnes of the date, time, and location of the public hearing, and provided a deadline of March 9th to submit any information that would be incorporated into the board's docket.

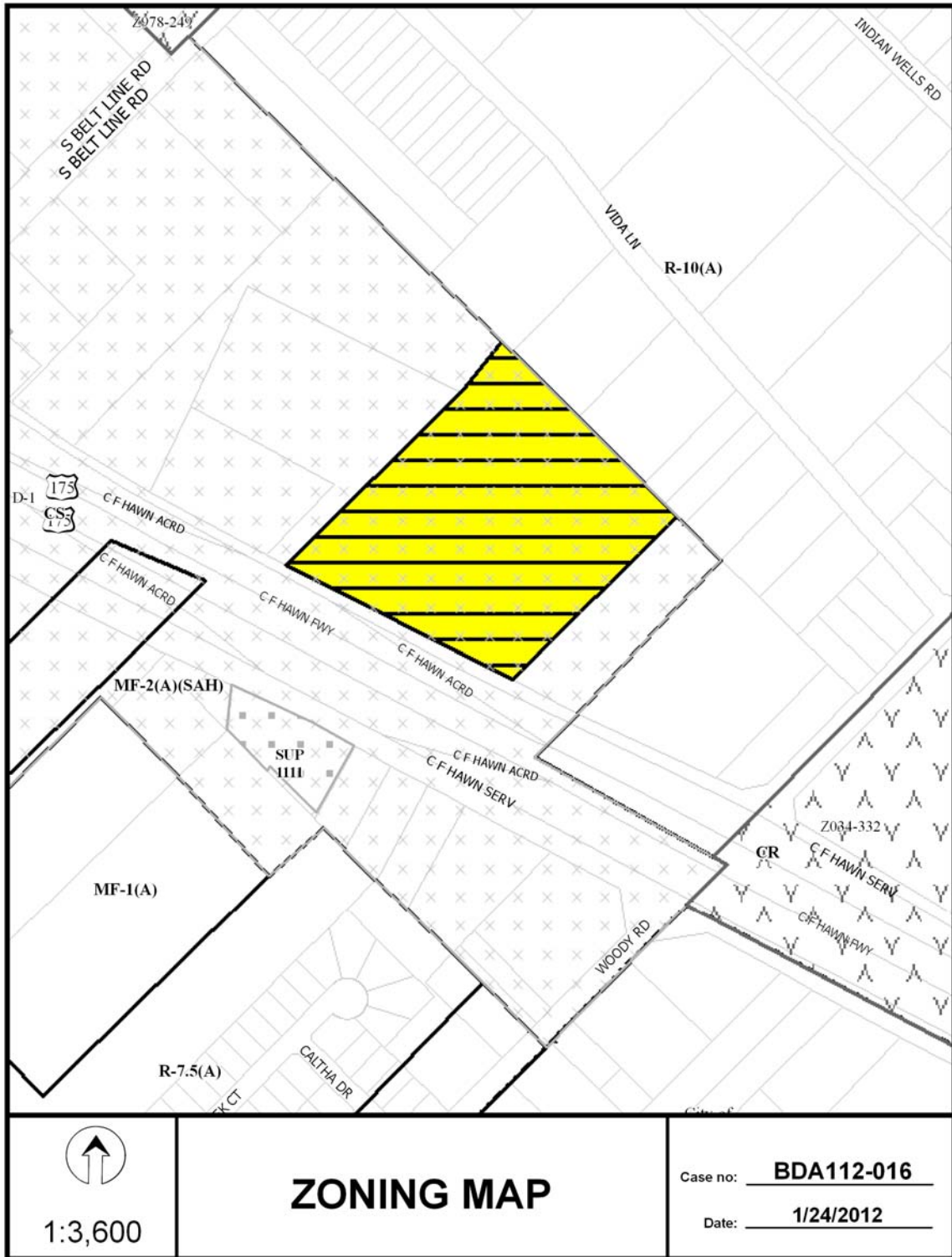
March 6, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for March public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction

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

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

STAFF ANALYSIS:

- The “outside sales” use (Kleburg Flea Market) on the subject site is a nonconforming use. According to city records, the use became nonconforming on April 1, 1978 upon “consolidation.”
- The Dallas Development Code states that it is the declared purpose of this subsection (Sec. 51A-4.704. Nonconforming Uses and Structures) that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.
- The record owner of the property with the nonconforming “outside sales” use could eliminate the nonconforming use status by obtaining a Specific Use Permit (SUP) from City Council.
- The record owner of the property could transition the use on the site from “outside sales” use to any use that is permitted by right in the site’s existing CS (Commercial Service) zoning classification.
- The applicant has the burden of proof in establishing the following:
 - Continued operation of the nonconforming “outside sales” use will have an adverse effect on nearby properties.
- The purpose of the Board of Adjustment’s March 21st public hearing shall be to determine whether continued operation of the nonconforming “outside sales” use will have an adverse effect on nearby properties. The Dallas Development Code states that if, based on the evidence presented at the public hearing, the board determines that continued operation of this use will have an adverse effect on nearby properties, it shall proceed to establish a compliance date for the nonconforming use (at a subsequent public hearing); otherwise, it shall not.





1:3,600

AERIAL MAP

Case no: BDA112-016

Date: 1/24/2012



City of Dallas

APPLICATION TO THE BOARD OF ADJUSTMENT
TO SET A COMPLIANCE DATE FOR A NONCONFORMING USE

CASE NO.: 112-016

DATE: 11-22-11

Data Relevant to Subject Property:

Location address: 13943 C.F. Hunt Freeway Zoning District: CS (D-1)

Name of Property Owner: Rachel Barnes

Lot No.: Tr. 282 Block No.: 8820 Acreage: 9.69 Census Tract: 282 170.04

Street Frontage (in Feet): (1) 631' (2) _____ (3) _____ (4) _____ (5) _____ SEE 10K

To the Honorable Board of Adjustment:

Applicant: Mini-Roll, Inc. Telephone: 972-743-8119

Mailing Address: 815 Roaring Springs Dr., Grand Prairie, Tx. Zip Code: 75052

Represented By: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

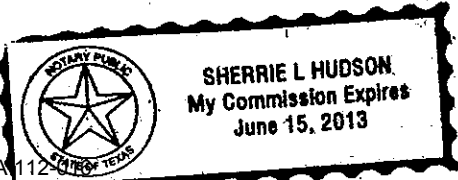
Affirm that a request has been made to establish a compliance date for the property described above for the following reason(s): No parking, Public safety, egress + ingress (1 way in + 1 way out), standing water, flooding, mosquitoes breed standing water, blocking entrance + exit of super store business every Sat. + Sun. day, continue to add rock + dirt + mow about 2 ft. higher ground, closed sign state helps. age because of traffic + now starting again + public safety with families + kids walking on service roads, etc. No Bathrooms, parking on "Workin Rd," Traffic problem for Homeowners in area (very bad)

Respectfully submitted: Debbie Leonard Debbie Leonard - President
Print Applicant's name Applicant's Signature

Before me the undersigned on this day personally appeared Debbie Leonard - President who on his or her oath certifies that the above statements are true and correct to his or her best knowledge and belief and that he or she resides or owns property in the City of Dallas

Debbie Leonard - President
Affiant (Applicant's Signature)

Subscribed and sworn before me this 15 day of November, 20 11



Sherrie L Hudson
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 Mini-Roll, Inc.
did submit a request to require compliance of a nonconforming use
at 13943 C. F. Hawn Frwy.

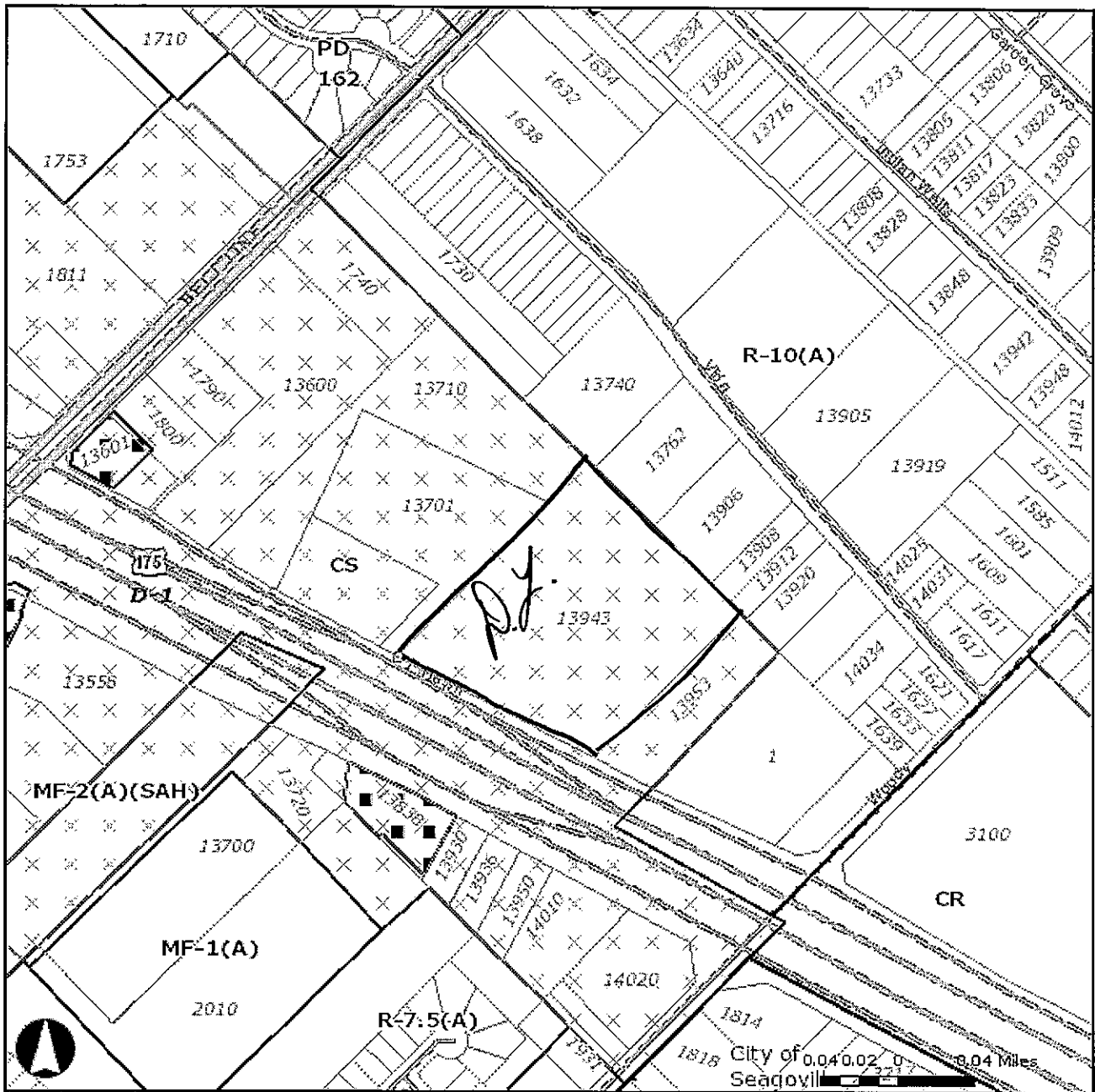
BDA112-016. Application of Mini-Roll, Inc. to require compliance of a nonconforming use at 13943 C. F. Hawn Freeway. This property is more fully described as Tract 282 in city block 8820 and is zoned CS, which limits the legal uses in a zoning district. The applicant requests that the Board establish a compliance date for a nonconforming outside sales use.

Sincerely,


Lloyd Denman, Building Official



City of Dallas Zoning



City Boundaries

- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Major Lakes
- Municipal Setting Designations

Historic Overlay

- Historic Overlay
- Historic Subdistricts
- NSO Overlay
- NSO Subdistricts
- MD Overlay
- CD Subdistricts
- PD Subdistricts

Floodplain

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



City of Dallas

Zoning Board of Adjustment

Appeal to establish a compliance date for a nonconforming use.
Sec. 51A-4.704(a)(1)(A)

or

Appeal to reinstate a nonconforming use. Sec. 51A-4.704(a)(2)

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

(a) Compliance regulations for nonconforming uses. It is the declared purpose of this subsection that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code...

(1) Amortization of nonconforming uses.

(A) Request to establish compliance date. The city council may request that the board of adjustment consider establishing a compliance date for a nonconforming use. In addition, any person who resides or owns real property in the city may request that the board consider establishing a compliance date for a nonconforming use...

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

Property address: Kleberg Flea Market 13943 C.F. Horn Freeway Dallas, Tx. 75253

1. The nonconforming use being appealed/reinstated: Outside Sales
(The use as stated on the current valid Certificate of Occupancy. Copy of C.O. attached)

2. Reason the use is classified as nonconforming: it existed prior to annexation
(Was there a change in zoning of the property or in the use requirements. Be specific.)

3. Date that the nonconforming use became nonconforming: 4-1-78, Consolidation
(Date the property zoning or use requirements changed.)

4. Date the nonconforming use was discontinued: N/A

5. Current zoning of the property on which the use is located: CS (D-1)

6. Previous zoning of the property on which the use is located: N/A - Consolidation
(Applies if a zoning district change caused the use to become nonconforming.)

(Rev. 10/04/11)

Certificate of Occupancy

Address: 13943 C F HAWN FWY 75253 **Issued Date:** 09/16/2011

Owner: 13943 C. F. Hawn Frwy. **BARNE RACHEL**

PO BOX 360458 , DALLAS TEXAS 75336-0458 UNITED STATES OF AMERICA

DBA: KLEBERG FLEA MARKET

Land Use: (5939) OUTSIDE SALES

C.O.#: 1105101150

Lot:	282	Block:	8820	Zoning:	CS,R-10(A)	PDD:	SUP:		
Historic Dist:		Consrv Dist:		Pro Park:	0	Req Park:	0	Park Agrmt:	N
Dwlg Units:	0	Stories:	1	Occ Code:	M	Lot Area:	398313	Total Area:	1100
Type Const:	UNK	Sprinkler:		Occ Load:		Alcohol:	N	Dance Floor:	N

Remarks: Nonconforming outside sales (flea market), existing prior to annexation/consolidation. One 22'x50' metal bldg on-site. No parking allowed on site until approved parking surface has been permitted and approved.

Lloyd Denman
Lloyd Denman, Building Official

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



ARIAS DRAFTING
 13643 Springville Rd.
 Dallas, TX 75244
 PH: (972) 475-9400

KLEBERG FLEA MARKET
 13943 C.F. HAWN FREEWAY
 DALLAS, TX 75253

SITE PLAN

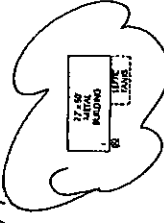
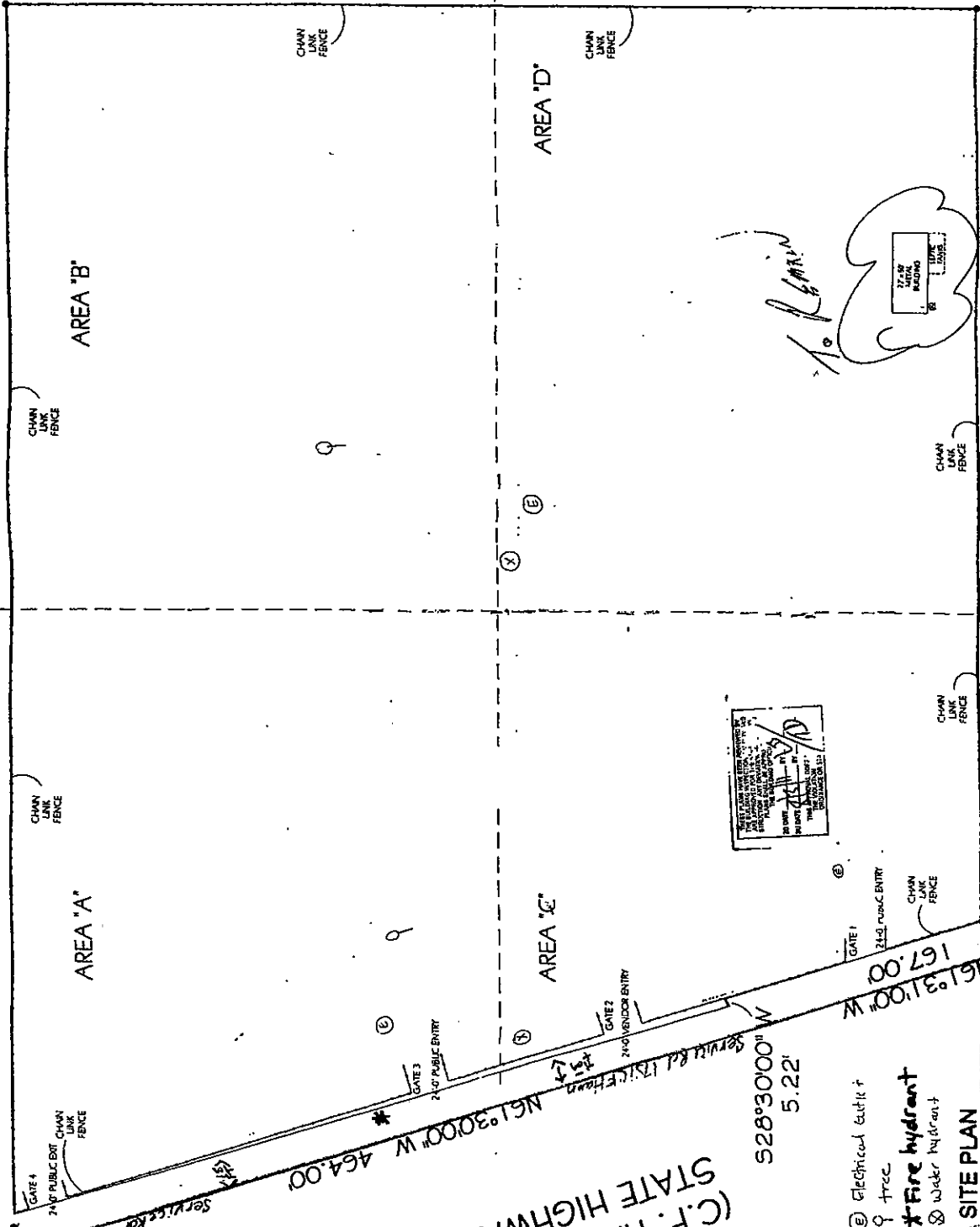
PROJECT NUMBER	2009-108
ISSUED BY	DAVID BROWN
DESIGNED BY	DAVID BROWN
CHECKED BY	EA
FILE NAME	

SP-1

S44°58'00"E 604.15'

N45°1'00"E 750.77'

S45°17'00"W 566.21'



(C.F. HAWN FREEWAY)
 STATE HIGHWAY 175

N61°31'00"W 167.00'

N61°30'00"W 464.00'

S28°30'00"W 5.22'

- ⊙ Electrical outlet
- ⊙ tree
- * Fire hydrant
- ⊗ water hydrant

1 SITE PLAN
 1/8" = 1'-0"

CITY OF DALLAS - BUILDING INS.
 320 E. JEFFERSON BLVD.
 DALLAS, TEXAS 75203



Dallas Central Appraisal District Home | Find Property | Contact Us

Residential Account #00000899825350000

Location Owner Legal Desc Value Main Improvement Additional Improvements Land
Estimated Taxes History

Address: 13943 C F HAWN
Neighborhood: 0
Mapsco: 69A-R (DALLAS)

**DCAD Property Map
2011 Appraisal Notice**

File Homestead Exemption Online



Print Homestead Exemption Form

YAHOO! Maps

Owner (Current 2012)

BARNES RACHEL
PO BOX 360458
DALLAS, TEXAS 753360458

Multi-Owner (Current 2012)

Owner Name	Ownership %
BARNES RACHEL	100%

Legal Desc (Current 2012)

- 1: BLK 8820
 - 2: TR 282 ACS 9.144
 - 3:
 - 4: VOL2002089/01794 DD042320
 - 5: 8820 000 282 3008820 000
- Deed Transfer Date:** 5/6/20

Value

2011 Certified Value:	
Improvement:	
Land:	
Market Value:	
Revaluation Year:	2
Previous Revaluation Year:	2

Main Improvement (Current 2012)

No Main Improvement.

Additional Improvements (Current 2012)

No Additional Improvements.

Land (Certified 2011)

#	State Code	Zoning	Frontage (ft)	Depth (ft)	Area	Pricing Method	Unit Price	Market Adjustme
1	COMMERCIAL IMPROVEMENTS	COMMERCIAL SERVICE DISTRICT	0	0	398,313.0000 SQUARE FEET	STANDARD	\$1.50	0%

* All Exemption information reflect Certified 2011. *

Exemptions (Certified 2011)

No Exemptions

Estimated Taxes (Certified 2011)

	City	School	County and School Equalization	College	Hospital
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS CO COMMUNITY COLLEGE	PARKLAND HOSPITAL
Tax Rate per \$100	\$0.797	\$1.290347	\$0.2531	\$0.09967	\$0.271
Taxable Value	\$628,460	\$628,460	\$628,460	\$628,460	\$628,460
Estimated Taxes	\$5,008.83	\$8,109.31	\$1,590.63	\$626.39	\$1,703.13
Tax Ceiling					N/A
Total Estimated Tax					

DO NOT PAY TAXES BASED ON THESE ESTIMATED TAXES. You will receive **bill** from the appropriate agency when they are prepared. Taxes are collected sending you the **official** tax bill. To see a listing of agencies that collect taxes for [Click Here](#)

The estimated taxes are provided as a courtesy and should not be relied upon in making decisions. The Dallas Central Appraisal District (DCAD) does not control the tax rate nor the amount as that is the responsibility of each Taxing Jurisdiction. Questions about your taxes should be directed to the appropriate taxing jurisdiction. We cannot assist you in these matters. These tax estimates are based on the most current certified taxable value multiplied by the most current tax rate. **It does not include other special or unique tax scenarios.** If you wish to calculate taxes yourself, you may use the calculator to assist you.

History

History

TEXAS SECRETARY of STATE **HOPE ANDRADE**

[UCC](#) | [Business Organizations](#) | [Trademarks](#) | [Notary](#) | [Account](#) | [Help/Fees](#) | [Briefcase](#) | [Logout](#)

BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

Filing Number: 44789200 **Entity Type:** Domestic For-Profit Corporation
Original Date of Filing: September 21, 1978 **Entity Status:** In existence
Formation Date: N/A
Tax ID: 17516188996 **FEIN:**
Duration: Perpetual

Name: MINI-ROLL, INC.
Address: 815 ROARING SPRINGS DR.
 GRAND PRAIRIE, TX 75052 USA

<u>REGISTERED AGENT</u>	<u>FILING HISTORY</u>	<u>NAMES</u>	<u>MANAGEMENT</u>	<u>ASSUMED NAMES</u>	<u>ASSOCIATED ENTITIES</u>
Last Update	Name	Title	Address		
August 10, 2011	DEBORAH LEONARD	PRESIDENT	P.O. BOX 305 SEAGOVILLE, TX 75159 USA		
August 10, 2011	DEBORAH LEONARD	DIRECTOR	P.O. BOX 305 SEAGOVILLE, TX 75159 USA		
August 10, 2011	NANCY KURP	SECRETARY	815 ROARING SPRINGS DR. GRAND PRAIRIE, TX 75052 USA		
August 10, 2011	NANCY KURP	DIRECTOR	815 ROARING SPRINGS DR. GRAND PRAIRIE, TX 75052 USA		
August 10, 2011	BRADLEY LEONARD	VICE PRESIDENT	2711 EXCALIBUR GRAND PRAIRIE, TX 75052 USA		
August 10, 2011	BRADLEY LEONARD	DIRECTOR	2711 EXCALIBUR GRAND PRAIRIE, TX 75052 USA		

[Order](#)

[Return to Search](#)

Instructions:

- To place an order for additional information about a filing press the 'Order' button.

Long, Steve

From: Duerksen, Todd
Sent: Thursday, January 12, 2012 1:24 PM
To: Long, Steve
Cc: Palomino, Tammy; Cossum, David
Subject: RE: BDA 112-016, Property at 13943 C. F. Hawn Freeway
Attachments: DOC001.PDF; DOC_2011-243569_1.pdf

13943 C. F. Hawn Freeway deed attached identifying Rachel Barnes as property owner.
And you already have a copy of the C.O. identifying Rachel Barnes as the business owner and see C.O.
application attached identifying Rachel Barnes as the applicant.

From: Long, Steve
Sent: Thursday, January 12, 2012 12:39 PM
To: Duerksen, Todd
Cc: Palomino, Tammy; Cossum, David
Subject: BDA 112-016, Property at 13943 C. F. Hawn Freeway

Dear Todd,

I am preparing to write the record owner of this property (according to DCAD, Rachel Barnes) a letter informing her about this application against her property that that applicant (Debbie Leonard) has told me today she wants set for March 21st. But are you aware of perhaps a record tenant or anyone else that I should send this type of letter to? (You may recall that we sent a letter to the record owner AND the record tenant of the nonconforming bar use – Bom Boom on Northwest Highway several years ago. Does sending this letter to Rachel Barnes suffice?)

Thanks,

Steve

GENERAL WARRANTY DEED WITH VENDOR'S LIEN 1817451

**THE STATE OF TEXAS }
COUNTY OF DALLAS }**

05/07/02 3224113 \$15.00
Know ^{and} All Men By These Presents :

That, **CLARENCE E. GEORGE** and wife, **VIDA B. GEORGE**, (herein called "Grantor", whether one or more), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other valuable consideration to the undersigned paid by **RACHEL BARNES**, a single woman, (herein called "Grantee"), the receipt of which is hereby acknowledged; and the further consideration of the execution and delivery of that one certain promissory note of even date herewith, in the original principal sum of Three Hundred Fifty-Seven Thousand and No/100 Dollars (\$357,000.00), executed by Grantee, as Maker, and payable to the order of Banco Popular, North America, its successors and/or assigns, (P.O. Box 38525, Houston, Texas 77238-8525) and being due and payable according to the terms and conditions stated therein; the payment of which note is secured by the vendor's lien herein retained, and is additionally secured by a Deed of Trust of even date herewith to Dan W. McCrary, Trustee; has **GRANTED, SOLD, AND CONVEYED**, and by these presents does **GRANT, SELL AND CONVEY**, unto Grantee, whose address is 1628 Vail Meadow Lane, Dallas, Texas 75253, all of the following described real property in Dallas County, Texas, to wit :

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN AS IF FULLY SET FORTH.

This conveyance is made and accepted subject to all and singular any easements and rights-of-way of record and all presently recorded restrictions, reservations, exceptions, covenants, conditions, oil and gas leases, mineral severances, set-backs, governmental regulations or ordinances that are valid and affect the property, recorded in the Official Public Records of Real Property of Dallas County, Texas and all of these matters are excluded from the warranty of title herein contained.

2002 089 01794

DATE: 4-22-11

APPLICATION TYPE

PERMIT CO

OTHER EXPRESS



1105101150

JOB NO: (OFFICE USE ONLY)
00050257

PERMIT NO: (OFFICE USE ONLY)

HEALTH REVIEW (Restaurants/Food Service)

City of Dallas

BUILDING INSPECTION APPLICATION

STREET ADDRESS OF PROPOSED PROJECT: 13943 C.F. Hawn Frwy

SUITE, BLDG, FLOOR NO: _____

USE OF PROPERTY: Outside Sales

OWNER/RENTAL: Rachel Barnes

ADDRESS: _____

CITY: Dallas STATE: TX ZIP CODE: 75253

DBA (IF APPLICABLE): _____

E-MAIL ADDRESS (OPTIONAL): _____

APPLICANT: Rachel Barnes

CONTR NO: _____

COMPANY NAME: Kleberg Flea Market

ADDRESS: 13943 C.F. Hawn

CITY: Dallas STATE: TX ZIP CODE: 75253

PHONE NO: 972-557-1717 FAX NO: _____

DESCRIPTION OF PROPOSED PROJECT: Kleberg Flea Market Non conforming use

CONST AREA (sq ft)	NEW CONST	VALUATION (\$)	NEW CONST
	REMODEL		REMODEL
	LEASE		TOTAL VALUATION
	TOTAL AREA		

ALL FOOD SERVICE ESTABLISHMENTS REQUIRE A GREASE INTERCEPTOR INSTALLED ONSITE. CHECK BOX IF THERE IS ONE LOCATED ON THE PROPERTY.

PLEASE INDICATE ALL TYPES OF WORK THAT WILL BE PART OF THIS PROJECT BY CHECKING THE APPROPRIATE BOX AND PROVIDE CONTRACTOR/SUBCONTRACTOR INFORMATION ON THE BACK OF THIS FORM. NOTE: AN AFFIDAVIT IS REQUIRED FOR THE SALE OR SERVING OF ALCOHOL.

- BUILDING
- PLUMBING
- FENCE
- DRIVE APPROACH
- BACKFLOW
- BARRICADE
- ELECTRICAL
- FIRE SPRKLR
- SIGN
- SWIMMING POOL
- CUSTOMER SVC
- GREEN BUILDING/LEED
- MECHANICAL
- FIRE ALARM
- LANDSCAPE
- LAWN SPRINKLER
- FLAMMABLE LIQUID
- OTHER:

WILL ALCOHOL BE SOLD/SERVED? YES NO

PERSONAL SERVICE LICENSE REQUIRED FOR THE PROPOSED USE? YES NO

WILL THERE BE A DANCE FLOOR? YES NO

ARE POTENTIALLY HAZARDOUS FOODS/OPEN FOODS BEING SOLD? YES NO

I HAVE CAREFULLY READ THE COMPLETED APPLICATION AND KNOW THE SAME IS TRUE AND CORRECT AND HEREBY AGREE THAT IF A PERMIT IS ISSUED ALL PROVISIONS OF THE CITY ORDINANCES AND STATE LAWS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT. I AM THE OWNER OF THE PROPERTY OR THE DULY AUTHORIZED AGENT. PERMISSION IS HEREBY GRANTED TO ENTER PREMISES AND MAKE ALL INSPECTIONS.

APPLICANT SIGNATURE: Rachel Barnes

FOR OFFICE USE ONLY

ZONING				BUILDINGS		MISCELLANEOUS		
LAND USE	TYPE OF WORK	BASE ZONING	PD	CONSTRUCTION TYPE	OCCUPANCY	ACTIVITY	OWN	
<u>5939</u>		<u>CS</u>		<u>UNK</u>	<u>M</u>			
LOT	BLOCK	REQUIRED PARKING	PROPOSED PARKING	SPRINKLER	OCCUPANT LOAD	FLOOD PLAIN	AIRPORT	
LOT AREA	BDA	SUP	RAR	STORIES	DWELLING UNITS	SPECIAL INSPECTIONS	HISTORICAL	
DIR	EARLY RELEASE	DEED RESTRICTION	PARKING AGREEMENT	NUMBER BEDROOMS	NUMBER BATHROOMS	CRY	LL	
ROUTE TO	REVIEWER	DATE	APPLICATION REMARKS				FEE CALCULATIONS (\$)	
PRE-SCREEN	<u>SE</u>	<u>5-10/11</u>					PERMIT FEE	<u>280.00</u>
ZONING							SURCHARGE	
BUILDING							PLAN REVIEW FEE	
ELECTRICAL							EXPRESS ACCEPT FEE	
PLUMBING/MECHANICAL							EXPRESS PLAN REVIEW	
GREEN BUILDING							HOURLY FEE TOTAL	
HEALTH							HEALTH PERMIT FEE	
HISTORICAL/CONS DIST							OTHER FEES	
PUBLIC WORKS							OTHER FEES	
WATER							OTHER FEES	
FIRE							OTHER FEES	
LANDSCAPING							TOTAL FEES	<u>280.00</u>
VIATION								
OTHER								



City of Dallas

January 24, 2012

Via certified mail 7011 1150 0000 0380 6599

Rachel Barnes
PO Box 360458
Dallas, Texas 75336-0458

Re: BDA 112-016, Pending Board of Adjustment Case Located at 13943 C.F. Hawn Freeway

Dear Ms. Barnes:

You are the record owner of the nonconforming outside sales use at 13943 C.F. Hawn Freeway. This letter informs you that a request has been made to set a compliance date for the nonconforming outside sales use operating on this property. The case will be heard by the Board of Adjustment.

Enclosed you will find the following information:

1. A copy of the Board of Adjustment application and related materials that has been submitted in conjunction with the application by the applicant.
2. A copy of the section of the Dallas Development Code that describes the Board of Adjustment (Section 51A-3.102).
3. A copy of the section of the Dallas Development Code that provides the definition of "nonconforming use" (Section 51A-2.102 (90)).
4. A copy of the section of the Dallas Development Code that provides the purpose and main uses permitted set forth for "Commercial service (CS)" districts (Section 51A-4.123 (a)).
5. A copy of the section of the Dallas Development Code that provides the definition and provisions set forth for "outside sales" use (Section 51A-4.210 (21)).
6. A copy of the section of the Dallas Development Code that provides provisions for "nonconforming uses and structures" (Section 51A-4.704).
7. A copy of the section of the Dallas Development Code that describes the Board of Adjustment hearing procedures (Section 51A-4.703).
8. A copy of the City of Dallas Board of Adjustment Working Rules of Procedures.
9. A copy of the hearing procedures for board of adjustment amortization of a nonconforming use.

This request is scheduled to be heard by Board of Adjustment Panel B at a **public hearing** on **Wednesday, March 21, 2012, Dallas City Hall**, L1 Conference Center Auditorium, 1500 Marilla Street, 1:00 p.m. Staff will brief the board on this matter prior to the public hearing on the morning of the same day, in the same room of Dallas City Hall. This briefing is an open meeting which you are welcome to attend. Your attendance at this briefing/public hearing is strongly encouraged.

Lastly note that if there is any information that you would to have incorporated into the board's docket that is emailed to the board members, city staff and the applicant about a week ahead of this hearing, please submit this information to me at steve.long@dallascityhall.com no later that noon, Friday, March 9th.

Should you have any further questions, please feel free to contact me at (214) 670-4666.

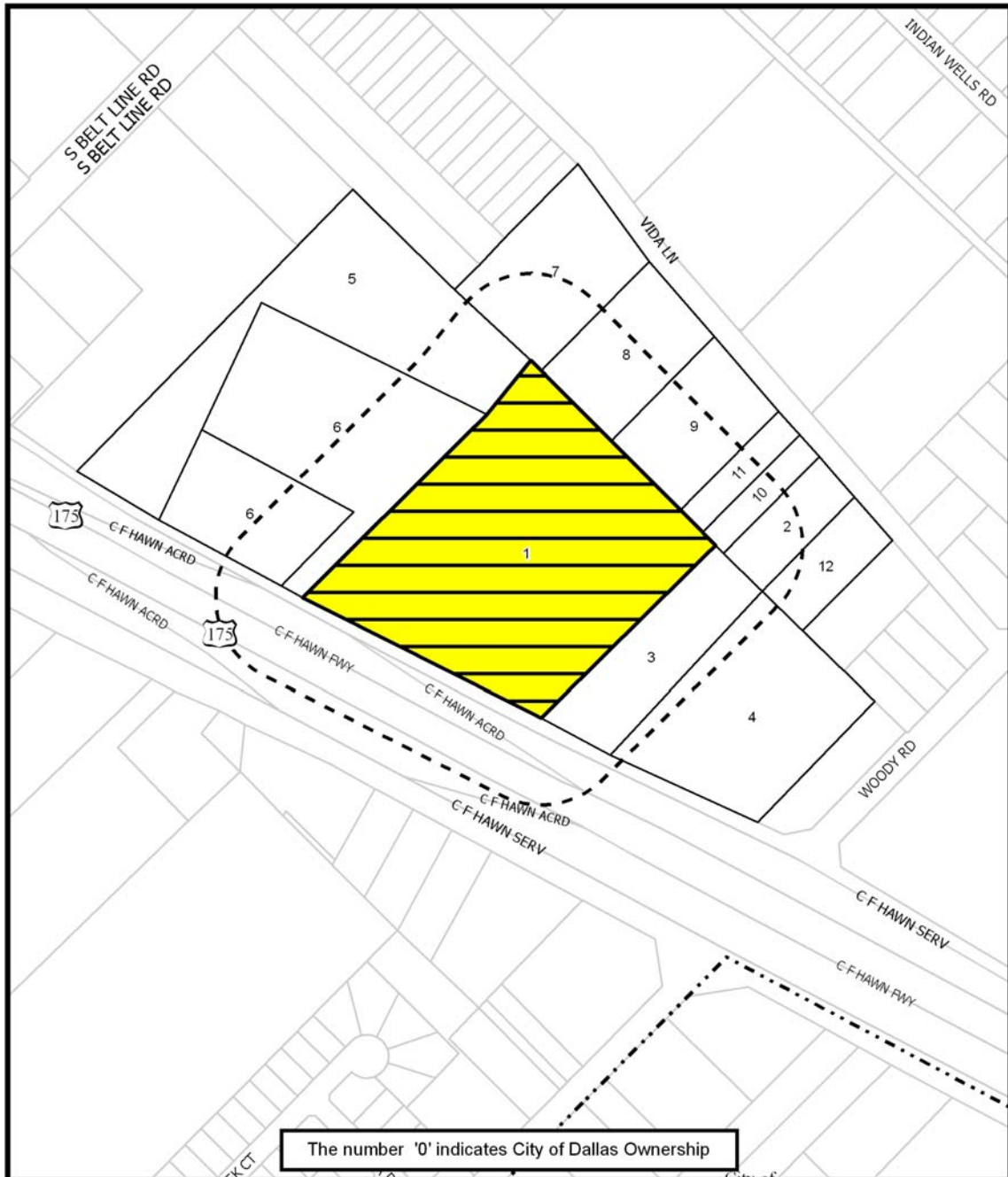
Sincerely,

Steve Long
Board of Adjustment Administrator

Enclosures

- c: Mini-Roll, Inc, c/o Debbie Leonard, 815 Roaring Springs Drive, Grand Prairie, Texas 75052
David Cossum, Sustainable Development Assistant Director, Rm 5BN, Dallas City Hall
Casey Burgess, Assistant City Attorney, Rm 7DN, Dallas City Hall
Chris Bowers, Assistant City Attorney, Rm 7DN, Dallas City Hall
Todd Duerksen, Senior Plans Examiner, Rm 105, OCMC

✓ file



 1:3,600	NOTIFICATION		Case no: BDA112-016
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">12</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 1/24/2012	

Notification List of Property Owners

BDA112-016

12 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	13943 C F HAWN FWY	BARNES RACHEL
2	13920 VIDA LN	SOTO HERIBERTO
3	13953 C F HAWN FWY	MINI ROLL INC
4	1 C F HAWN FWY	R&B LLC
5	13710 C F HAWN FWY	FOX RUSSELL TRUSTEE
6	13701 C F HAWN FWY	MALDONADO BALTAZAR
7	13740 VIDA LN	HERRIN ZORA & BILLY ROWELL
8	13762 VIDA LN	DOTIE RUFUS EUGENE
9	13906 VIDA LN	PELAYO MARIA
10	13912 VIDA LN	EWALT SAMUEL EST OF
11	13908 VIDA LN	GEORGE CLARENCE E
12	14010 VIDA LN	VALLES ANASTACIA

FILE NUMBER: BDA 112-031

BUILDING OFFICIAL'S REPORT:

Application of Rob Baldwin for a special exception to the tree preservation regulations at 2201 Hawthorne Avenue et al. This property is more fully described as Lots 1 through 71 in City Block 2301 and is zoned PD-193 (MF-2), which requires mandatory tree mitigation. The applicant proposes to construct and maintain residential structures and provide an alternate tree mitigation plan, which will require a special exception to the tree preservation regulations.

LOCATION: 2201 Hawthorne Avenue et al

APPLICANT: Rob Baldwin

REQUEST:

- A special exception to the tree preservation regulations is requested in conjunction with according to the application allowing "additional time to complete tree mitigation" on a property that is undeveloped.

STAFF RECOMMENDATION:

Denial

Rationale:

- The applicant has not substantiated:
 - how strict compliance with the requirements of the Tree Preservation Regulations of the Dallas Development Code (specifically related to the additional time to complete tree mitigation of protected trees removed on the site) will unreasonably burden the use of the property; and
 - that the special exception will not adversely affect neighboring property.
- The City's Chief Arborist recommends denial of the request since there is no formal landscape or tree mitigation plan on which to make a determination.

STANDARD FOR A SPECIAL EXCEPTION TO THE TREE PRESERVATION REGULATIONS:

The board may grant a special exception to the tree preservation regulations of this article upon making a special finding from the evidence presented that:

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property;
- (2) the special exception will not adversely affect neighboring property; and

(3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

In determining whether to grant a special exception, the Board shall consider the following factors:

- the extent to which there is residential adjacency;
- the topography of the site;
- the extent to which landscaping exists for which no credit is given under this article; and
- the extent to which other existing or proposed amenities will compensate for the reduction of landscaping.

GENERAL FACTS:

- The Dallas Development Code requires full compliance with the Tree Preservation Regulations with new construction or with increasing non-permeable coverage by more than 2,000 square feet.

An application has been submitted that states that a request has been made to “allow additional time to complete tree mitigation” and that “the property is in the process of being replatted and rezoned and the final landscape design and tree mitigation plan will be prepared after the rezoning of the property is complete.”

- The City of Dallas Chief Arborist submitted a memo regarding this request to the Board Administrator (see Attachment A). The memo stated the following:
 - The applicant is requesting relief from tree mitigation regulations of Article X of the Dallas Development Code (The Landscape and Tree Preservation Regulations).
 - Trigger:
 - Tree removal permit in conjunction with a grading permit issued on November 6, 2006.
 - Deficiencies:
 - The property has been graded and most trees have been removed under permits issued to a previous property owner. The identified total mitigation was stated as “105 protected trees totaling 1,712 inches” and an equivalent reforestation value of \$145,842.00 and “subject to arborist verification.”
 - The tree replacement ordinance requires that all mitigation for trees removed under a tree removal permit to be completed within 6 months, and no greater than 18 months under a letter of credit or performance bond (Section 51A-10.134). No tree mitigation has been completed to date.
 - Factors for consideration:
 - The properties were reviewed by the Board (case # 078-076) in June of 2008 for a tree mitigation special exception. The same factors that applied on the Chief Arborist’s report of June 16, 2008 remain with the exception of the request of the applicant stating “the property is in the process of being replatted and rezoned and the final landscape plan design and tree mitigation plan will be prepared after the rezoning of the property is complete.”
 - A landscape special exception has not been requested.

- All tree mitigation requirements run with the land regardless of the y new owner. The current owner is not the party who removed the trees under the original permit.
- The request by the current owner is “to allow additional time to complete tree mitigation.” There is no request for a reduction of the required mitigation.
- The Chief Arborist has been in communication with the applicant regarding the request but has not received a formal written statement at the time of submitting this memorandum that specifies what they are requesting.
- Recommendation:
 - Denial because no formal landscape or tree mitigation plan on which to make a determination.
 - If the Board decides it is favorable to grant an extension, the Chief Arborist recommends granting an extension of no longer than the final building inspection of the first dwelling unit to be completed, or three years from the date of the hearing, whichever is sooner.

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 193 (MF-2 Subdistrict) (Planned Development District, Multifamily)
North: PD No. 193 (MF-2 Subdistrict) (Planned Development District, Multifamily)
South: IR (Industrial Research)
East: PD No. 193 (PDS 28) (Planned Development District)
West: IR (Industrial Research)

Land Use:

The subject site is undeveloped. The area to the north is developed with single family residential uses; the area to the east is developed as what appears to be an institutional/private school use; and the areas to the south and west are developed with office/industrial uses.

Zoning/BDA History:

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. BDA 078-076, Property at 2223 Hawthorne Avenue (the subject site) | <p>On June 25, 2008, the Board of Adjustment Panel B denied a request for a special exception to the tree preservation regulations without prejudice. The case report stated that the application was made in conjunction with mitigating removed protected trees on a site that is planned to be developed with a single family development.</p> |
|--|---|

Timeline:

January 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 8, 2012: 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 8, 2012: 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 29th deadline to submit additional evidence for staff to factor into their analysis; and the March 9th 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 6, 2012: 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 Sustainable Development and Construction Department Building Inspection Division Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorneys to the Board.

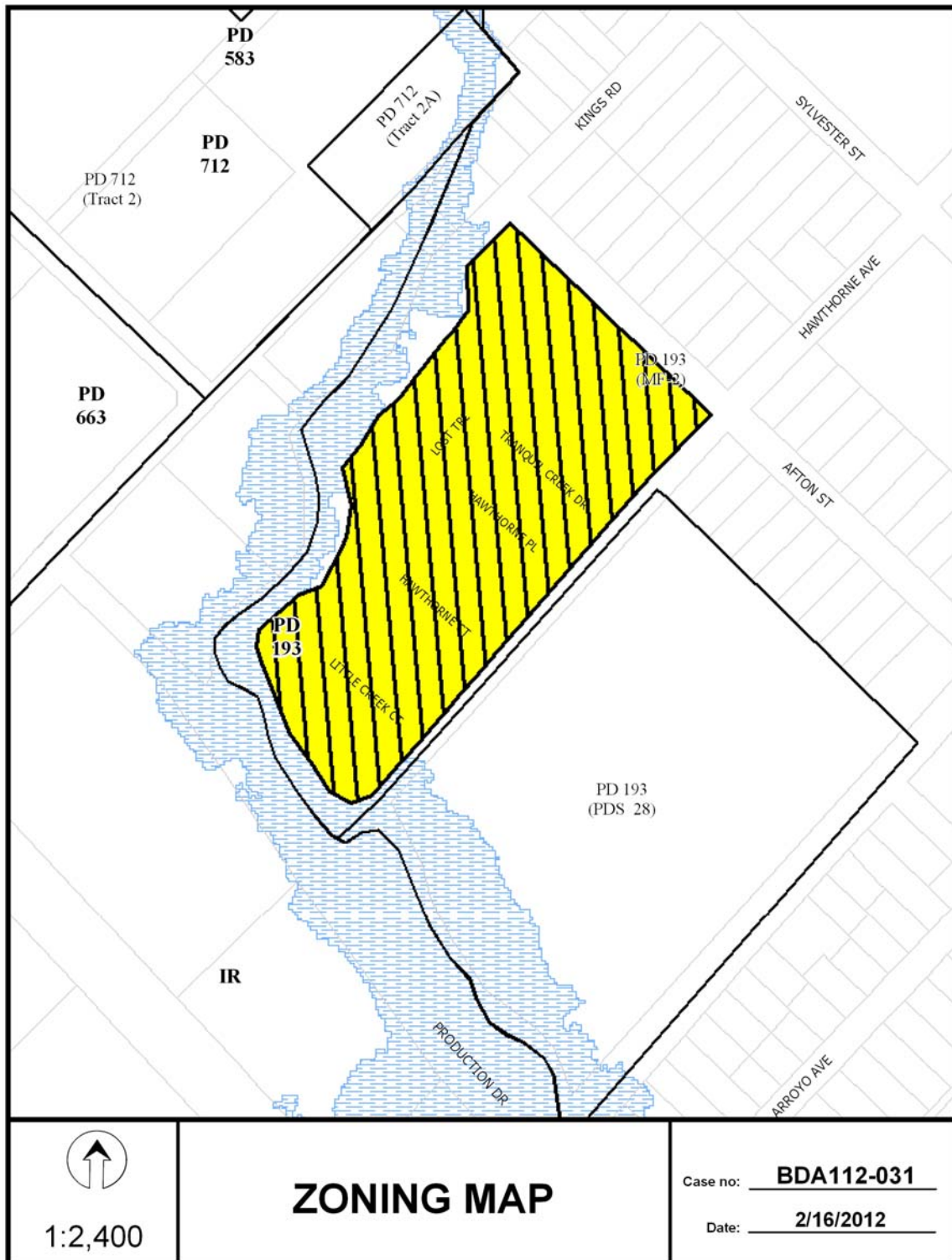
No review comment sheets with comments were submitted in conjunction with this application.

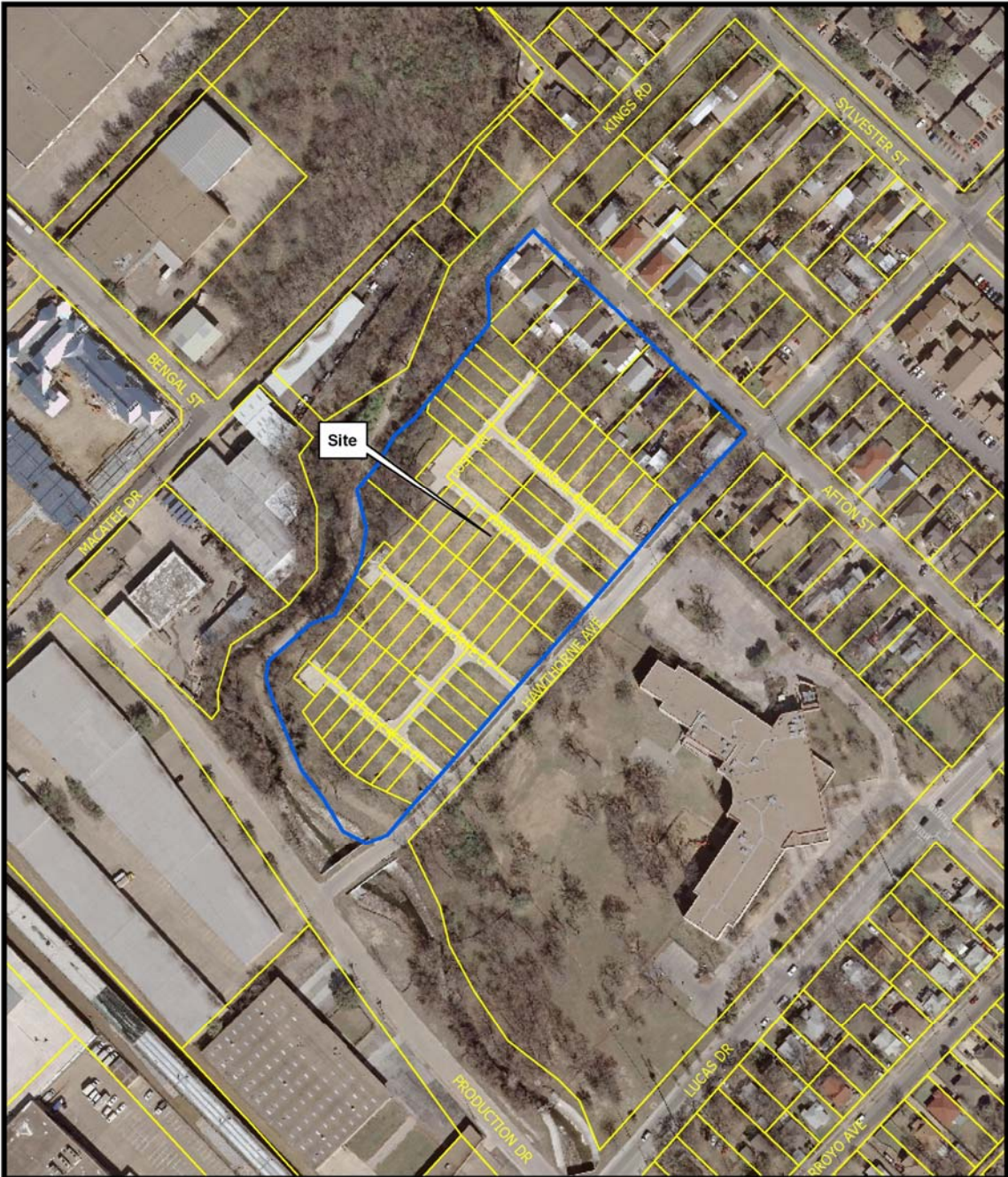
March 12, 2012: The City of Dallas Chief Arborist submitted a memo regarding this request (see Attachment A).

STAFF ANALYSIS:

- An application has been made "to allow additional time to compete tree mitigation" on a property that is undeveloped.
- The request focuses on obtaining additional time to mitigate protected trees removed on this site beyond the 6 - 18 months the applicant had to do so from when a tree removal permit was issued on this site in November of 2006.

- While the application states that “the property is in the process of being replatted and rezoned and the final landscape plan design and tree mitigation plan will be prepared after the rezoning of the property is complete,” the applicant has not presented a formal written statement to staff that specifies what they are requesting.
- The property owner can comply with tree preservation regulations by mitigating the removed trees in any of the alternative methods provided for in Article X: planting within one mile of the Property, donating trees to the Park Department, forming a conservation easement on property within city limits, and/or paying into the Reforestation Fund.
- The City of Dallas Chief Arborist recommends that this request be denied.
- The applicant has the burden of proof in establishing the following:
 - Strict compliance with the requirements of the Tree Preservation Regulations of the Dallas Development Code (i.e. mitigating all protected trees removed on the site within 30 days – 18 months from removal) will unreasonably burden the use of the property.
 - The special exception (allowing for an extension of the time period in which to fully mitigate protected trees removed on the site in 2006) will not adversely affect neighboring property.
- If the Board chooses to grant this request, staff suggests that the Board consider granting an extension of no longer than the final building inspection of the first dwelling unit to be completed, or three years from the date of the hearing, whichever is sooner.





1:2,400

AERIAL MAP

Case no: BDA112-031

Date: 2/16/2012

Memorandum



CITY OF DALLAS

DATE March 12, 2012
TO Steve Long, Board of Adjustment Administrator
SUBJECT # BDA 112 - 031 2201 Hawthorne Avenue

The applicant is requesting a special exception to the tree mitigation regulations of Article X.

Trigger

Tree removal with permit in conjunction with grading permit issued on November 6, 2006.

Deficiencies

The Property has been graded and most trees have been removed under permits issued to a previous property owner. The identified total mitigation was stated as '105 protected trees totaling 1,712 inches' and an equivalent reforestation value of \$145,842.00 and 'subject to arborist verification.'

The tree replacement ordinance requires that all mitigation for trees removed under a tree removal application must be completed within 6 months, and no greater than 18 months under a letter of credit or performance bond (Section 51A-10.134). No tree mitigation has been completed to date.

Factors

The properties were reviewed by the Board (case # 078-076) in June, 2008 for a tree mitigation special exception. The same factors that applied on the Chief Arborist's report of June 16, 2008 remain, with the exception of the request of the applicant stating "the property is in the process of being replatted and rezoned and the final landscape plan design and tree mitigation plan will be prepared after the rezoning of the property is complete."

A landscape special exception has not been requested.

All tree mitigation requirements remain with the Property in perpetuity and are adopted by any new owner of that Property. The current owner is not the party who removed the trees under the original permit.

The request by the current owner is "to allow additional time to complete tree mitigation." There is no request for a reduction of the required mitigation.

The Chief Arborist has been in communication with the applicant regarding the request but has not received a formal written statement at the time of submitting this memorandum that specifies the conditions they are requesting.

Recommendation

Denial of the request due to no formal landscape or tree mitigation plan on which to make a determination.

If the Board decides it is favorable to grant an extension, the Chief Arborist recommends granting an extension of no longer than for the final building inspection of the first dwelling unit to be completed, or three years from the date of the hearing, whichever is sooner.

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



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-031

Date: 1-18-12

Data Relative to Subject Property:

Location address: 2201 Hawthorne Avenue et. al. Zoning District: PD-193(MF-2)

Lot No.: 1-71 Block No.: 2301 Acreage: 5.509 acres Census Tract: 4.01

Street Frontage (in Feet): 1) 680' 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Texas Intownhomes, LLC

Applicant: Rob Baldwin Telephone: (214) 824-7949

Mailing Address: 3904 Elm St. # B Dallas, TX Zip Code: 75226

Represented by: Rob Baldwin Telephone: (214) 824-7949

Mailing Address: 3904 Elm St. # B Dallas, TX Zip Code: 75226

Affirm that a request has been made for a Variance , or Special Exception of _____
to allow additional time to complete tree mitigation.

Application is now made to the Honorable Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described request for the following reason: The property is in the process of being replatted and rezoned and the final landscape design and tree mitigation plan will be prepared after the rezoning of the property is complete.

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

Respectfully submitted: Robert Baldwin
Applicant's name printed

Applicant's signature

Affidavit

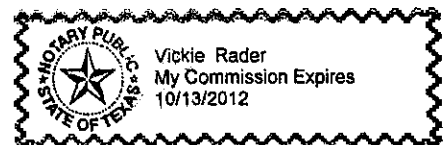
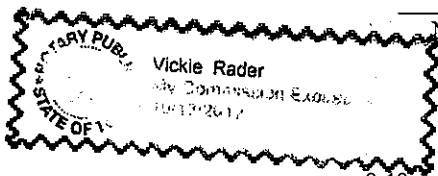
Before me the undersigned on this day personally appeared Rob Baldwin who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

Affiant (Applicant's signature)

Subscribed and sworn to before me this 22 day of December, 2011

Vickie Rader
Notary Public and for Dallas County, Texas

(Rev. 08-20-09)



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

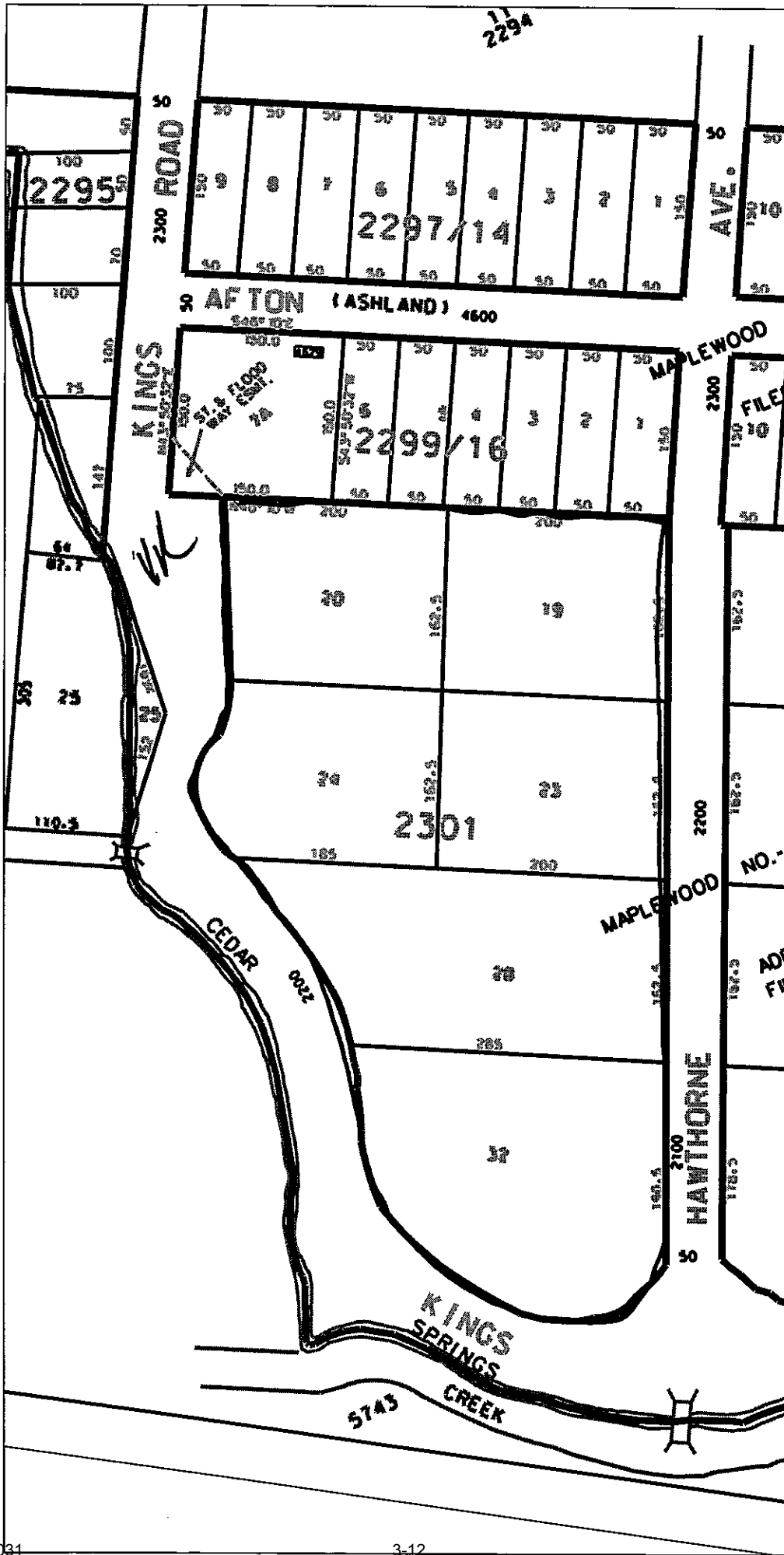
I hereby certify that ROB BALDWIN

did submit a request for a special exception to the landscaping and tree mitigation regulations
at 2201 Hawthorne Avenue

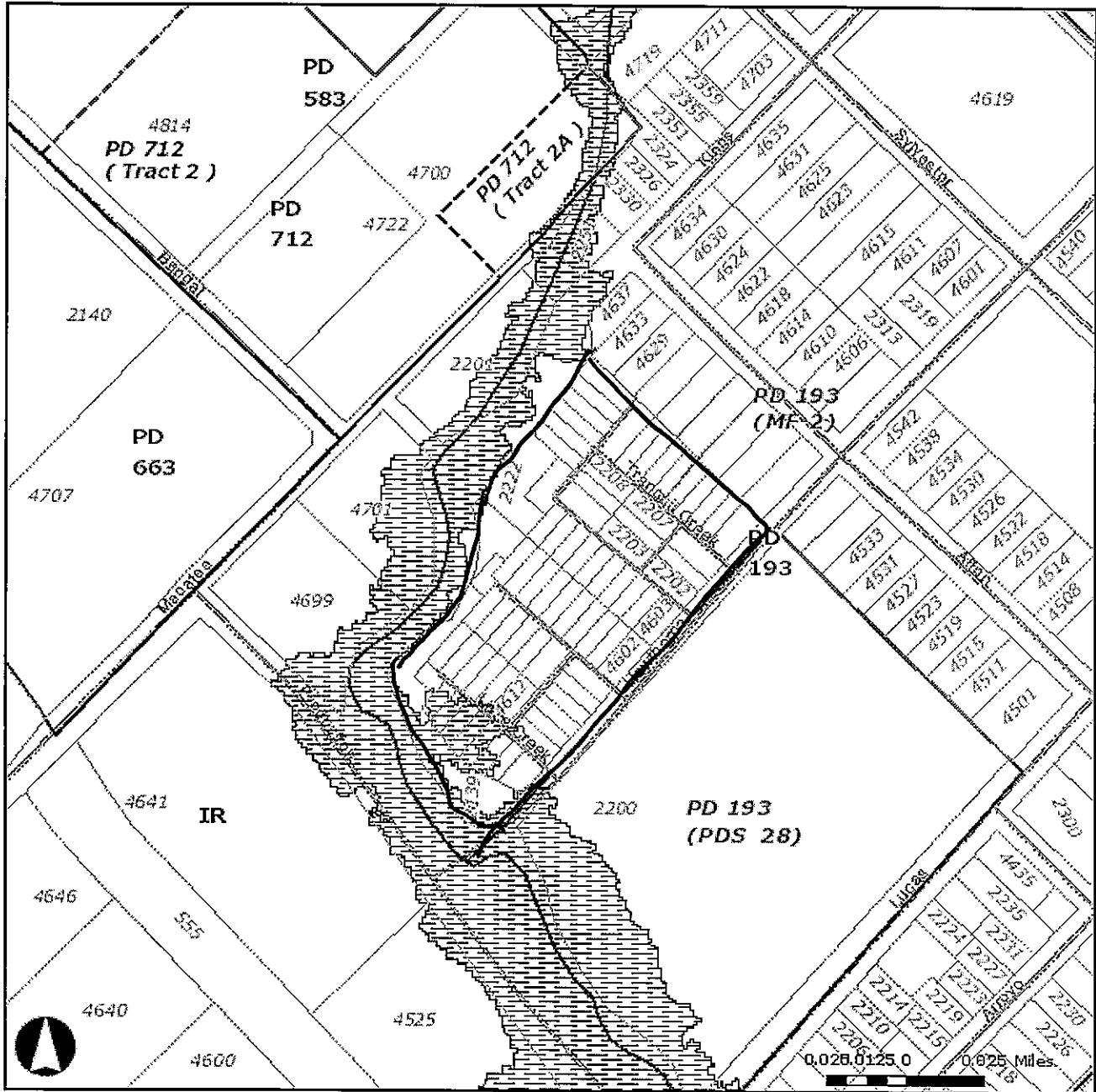
BDA112-031. Application of Rob Baldwin for a special exception to the landscaping and tree mitigation regulations at 2201 Hawthorne Avenue, et al. This property is more fully described as lots 1 through 71 in city block 2301 and is zoned PD-193 (MF-2), which requires mandatory landscaping and tree mitigation. The applicant proposes to construct residential structures and provide an alternate landscape plan for tree mitigation, which will require a special exception to the landscape and tree preservation regulations.

Sincerely,


Lloyd Denman, Building Official



City of Dallas Zoning



City Boundaries

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

Dry Overlay

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

Base Zoning

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



AFFIDAVIT

BDA Case # 112-031

I, TEXAS INTOWNHOMES, LLC, Owner of the subject property

at: Hawthorne Townhomes Phase 1 and Phase 2

Authorize (applicant) Robert Baldwin

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

Variance (please specify)

Special Exception (please specify) Extension of time to perform tree mitigation

Other {please specify}

TEXAS INTOWNHOMES, LLC [Signature] 11/28/11
Print name of property owner Signature of property owner MANAGER Date

Before me the undersigned on the day of personally appeared Frank Liu

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

Subscribed and sworn to before me this 28 day of November, 2011

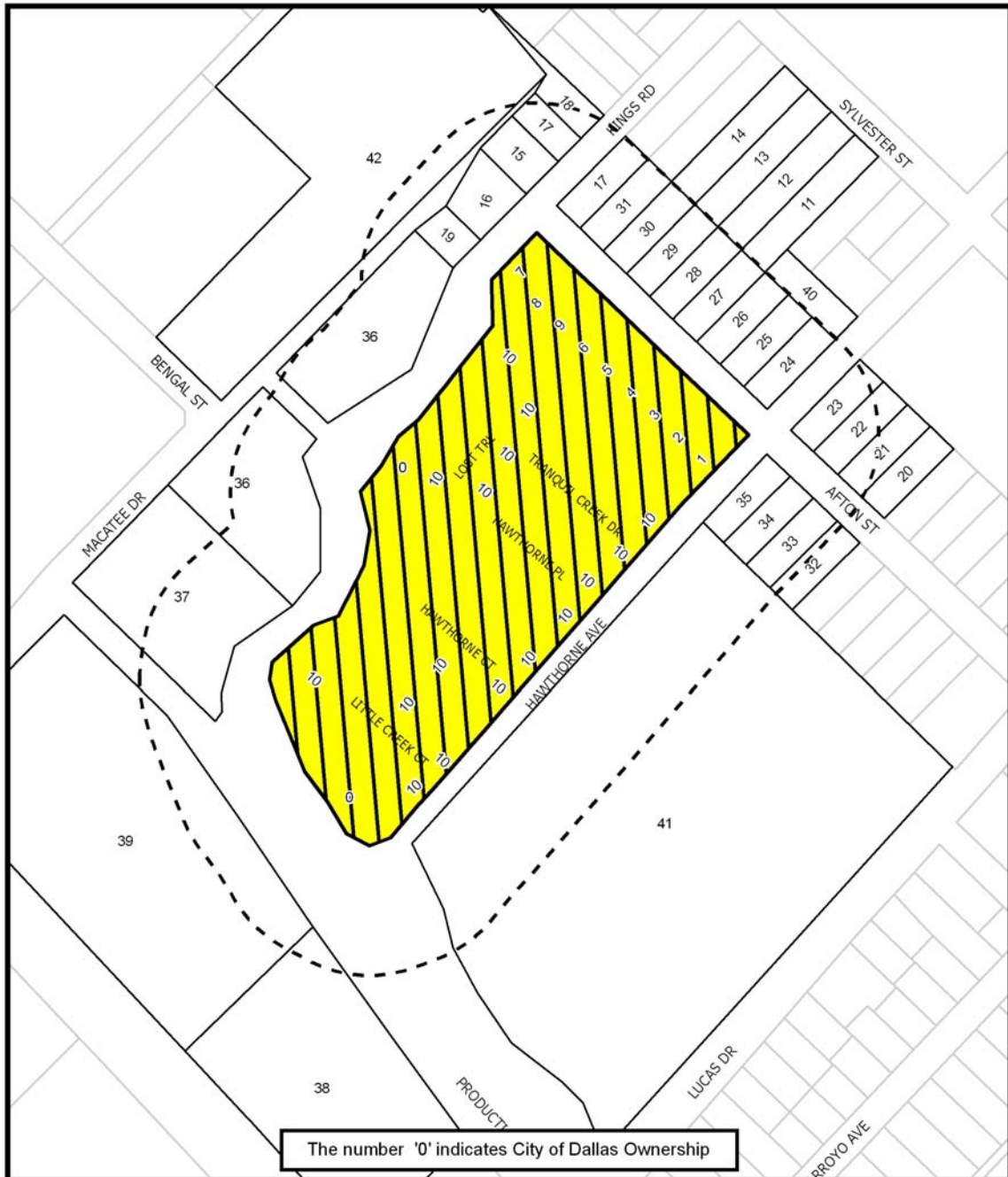
[Signature]



Notary Public on and for

Dallas County, Texas

Commission expires on August 12, 2014



 1:2,400	NOTIFICATION		Case no: BDA112-031
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">42</div> NUMBER OF PROPERTY OWNERS NOTIFIED		Date: 2/16/2012

Notification List of Property Owners

BDA112-031

42 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4601 AFTON ST	DICKERSON DOROTHY
2	4607 AFTON ST	GALINDO JOSE H & ROSA
3	4611 AFTON ST	PEREZ DENISE
4	4615 AFTON ST	FRANCISCO TOMAS
5	4619 AFTON ST	CAO TRANG THI
6	4623 AFTON ST	NGUYEN VAN NGOC
7	4637 AFTON ST	NGUYEN DIEM TRANG HOANG
8	4633 AFTON ST	NGO HUNG VI & KIM YEN NGO
9	4629 AFTON ST	NGUYEN MINH
10	2201 LOST TRL	TEXAS INTOWNHOMES LLC
11	4615 SYLVESTER ST	GARCIA BRENDA N
12	4619 SYLVESTER ST	GANDARA AURELIANO & RAFAELA M
13	4623 SYLVESTER ST	HOLGUIN FERNANDO & MARIA D C
14	4625 SYLVESTER ST	KEMP JACK R
15	2330 KINGS RD	HYDE HEATH
16	2251 KINGS RD	SINGER ARTURO
17	2326 KINGS RD	CHANDLER NANCY ANN S TR STE 207
18	2324 KINGS RD	SANCHEZ MARIA
19	2200 KINGS RD	ODONNELL AUDREY L % MICHAEL ODONELL
20	4530 AFTON ST	NGUYEN HOANG
21	4534 AFTON ST	LE HOA THI XUAN
22	4538 AFTON ST	OSORIO ISRAEL ANTUNEZ & NICOLASA PINEDA
23	4542 AFTON ST	MEDRANO PROPERTIES LLC
24	4600 AFTON ST	GALINDO XOCHILT
25	4606 AFTON ST	RAMIREZ JOSE & MARIA G ZUNIGA
26	4610 AFTON ST	MEDINA ADAN V & MAGDALENA C
27	4614 AFTON ST	VO HUONG THANH
28	4618 AFTON ST	DINH MY HOANG
29	4622 AFTON ST	LE MINH HOANG
30	4624 AFTON ST	LE KY VAN & MANH NGOC NGUYEN

31	4630	AFTON ST	ARRINGTON DON B LF EST
32	4531	AFTON ST	ZUNIGA ANTONIO JUAN
33	4533	AFTON ST	DEITELHOFF KATRINA
34	4535	AFTON ST	QUINONES DANIEL G
35	4543	AFTON ST	MANUEL CLEMENTE
36	2201	KINGS RD	CRASH INC
37	4699	PRODUCTION DR	RUPLEY HELEN GAIL
38	4525	PRODUCTION DR	PRODUCTION PPTY PTNR LLC
39	4641	PRODUCTION DR	GREENWAY 4641 PRODUCTION SUITE 100
40	2313	HAWTHORNE AVE	JORY ROBERT
41	2200	LUCAS DR	Dallas ISD % JAYNE MORRELL
42	4700	BENGAL ST	TCF INTERESTS PARTNERSHIP LTD ATTN: LEGA