

ZONING BOARD OF ADJUSTMENT, PANEL B
WEDNESDAY, APRIL 23, 2014
AGENDA

BRIEFING	6ES, DALLAS CITY HALL	11:00 A.M.
PUBLIC HEARING	6ES, DALLAS CITY HALL 1500 MARILLA STREET	1:00 P.M.

Neva Dean, Interim Assistant Director
Steve Long, Board Administrator

MISCELLANEOUS ITEMS

	Approval of the March 19, 2014 Board of Adjustment Panel B Public Hearing Minutes	M1
BDA 134-030	5604 Pleasant Ridge Drive REQUEST: Of Michael and Melissa Drake to reimburse the filing fee for a special exception to the fence height regulations	M2

UNCONTESTED CASES

BDA 134-031	4473 W. Red Bird Lane REQUEST: Application of Ignacio Santos, represented by Yesenia Casas, for special exceptions to the fence height and visual obstruction regulations	1
BDA 134-036	5822 Lakehurst Avenue REQUEST: Application of Crickett Reed for special exceptions to the fence height and visual obstruction regulations	2

HOLDOVER CASE

BDA 134-009	4202 Bretton Bay Lane REQUEST: Application of Michael Spero for special exceptions to the fence height and visual obstruction regulations	3
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REGULAR CASES

BDA 134-030(D)	5604 Pleasant Ridge Drive REQUEST: Application of Greg Davis for a special exception to the fence height regulations	4
BDA 134-039	3006 W. Northwest Highway REQUEST: Application of Edward Dominguez to restore a nonconforming use	5

EXECUTIVE SESSION NOTICE

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

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

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel B March 19, 2014 public hearing minutes.

MISCELLANEOUS ITEM NO. 2

FILE NUMBER: BDA 134-030

REQUEST: To reimburse the filing fee submitted in conjunction with a request for a special exception to the fence height regulations

LOCATION: 5604 Pleasant Ridge Drive

APPLICANT: Michael and Melissa Drake

STANDARD FOR A FEE WAIVER OR A FEE REIMBURSEMENT:

The Dallas Development Code states that the board may waive the filing fee for a board of adjustment application if the board finds that payment of the fee would result in substantial financial hardship to the applicant.

The Dallas Development Code further states:

- The applicant may either pay the fee and request reimbursement at the hearing on the matter or request that the issue of financial hardship be placed on the board's miscellaneous docket for predetermination.
- In making this determination, the board may require the production of financial documents.

Timeline:

February 24, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

March 12, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

March 12, 2014: The Board Administrator contacted the applicant and emailed him the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the March 26th deadline to submit additional evidence for staff to factor into their analysis; and the April 11th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request;

- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence; and
- the provision from the Dallas Development Code allowing the board to reimburse the filing fee (51A- 1.105 (b)(6)) noting that if the applicant were to add this fee reimbursement request, staff would encourage the applicant to submit any documentation that shows how payment of the filing fee results in substantial financial hardship to the applicant, - i.e. additional financial documents as in but not limited to copies of 1040's, W-4's, bank statements - all with account numbers redacted.

March 26, 2014: The applicant/owners of the property submitted a letter (and related information) requesting reimbursement of the filing fee submitted in conjunction with this application (see Attachment A).

March 26, 2014: The Board Administrator emailed the applicant/owners certain information about the fee reimbursement request (see Attachment B).

March 26, 2014: The applicant submitted additional information pertaining to the fee reimbursement request (see Attachment C).



FedEx Office.

FedEx Kinko's is now FedEx Office

MZ
Attach A
PS 1

Fax Cover Sheet

Date 8/26/14

Number of pages 5 (including cover page)

To:

Name Mr. Steve Long

Company Board Administrator

Telephone _____

Fax 214-670-4210

From:

Name Michael + Melissa Drake

~~Company~~ 5604 Pleasant Ridge Rd

Telephone 972-761-1950

Comments _____



7 90363 00711 1

Fax - Local Send



7 90363 00714 2

Fax - Domestic Send



7 90363 00720 3

Fax - International Send

fedex.com 1800.GoFedEx 1.800.463.3339

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22765

melissa.drake@paladinlogic.com

March 26, 2014

Dear Variance Appeal Board, c/o Mr. Steve Long:

On December 4, 2013, Greg Davis obtained a permit from the City of Dallas to install a fence on our property at 5604 Pleasant Ridge Drive in Dallas. Upon his obtaining this permit, my wife Melissa and I entered into a contract with Greg Davis to build and install this fence, which was custom designed for our yard. The day before the fence panels were to be installed, which was nearly three weeks later, Greg Davis was contacted by the City of Dallas and told the permit issued by the City of Dallas was invalid and should not have been issued and that we would have to pursue this variance.

As a result, we find ourselves in the dubious position of being forced to pay a fee to protect our investment in the fence, a position caused by the mistake made by the City of Dallas. Further, as this fence was custom built, it could not be reused elsewhere. Therefore, we respectfully request that the usual variance appeal fee of \$600 be reimbursed.

In the last few days, it has been brought to our attention that the City of Dallas disputes our perception that it is responsible for the permit having been issued in error. We have been informed that the city's computer system indicates there was insufficient documentation provided by Greg Davis at the time the permit was issued. We would like to address this point.

Let us begin by calling the board's attention to the city's own pamphlet entitled "How to Get a Fence Permit" accessible at the following URL: http://www.dallascityhall.com/building_inspection/pdf/How-to_fence.pdf (attached). Specifically, we note in the section "What are the Procedures?" the following directions:

"Complete and submit an application to Building Inspection. See this pamphlet for directions to our locations and internet site. The application form can be downloaded from our internet site. Applicants are usually not required to submit a site plan."

We are confident that the proper application was, in fact, submitted to Building Inspection together with the permit fee because the permit was issued. Further, we can find no indication in the city's pamphlet that additional documentation should be required, since, as the pamphlet says, "Applicants are usually not required to submit a site plan." We would assume if a site plan was required, that the city would not issue a permit until the site plan were made available, and the fact remains that the city issued us a permit. If any other documents should have been required, they were not mentioned in the city's pamphlet.

Additionally, we would like to call the board's attention to the section "When is a fence permit required?" This section states as follows:

"A fence permit is required to erect a fence or wall over four (4) feet in a required front yard setback or over six (6) feet high if located elsewhere on private property."

If we had intended to install a fence that was not over four feet high in the front yard, we would not have sought a permit. The very fact that we sought a permit should have indicated the intention to build a fence of greater height. In our zone, it turns out it would have been pointless for us to request a permit for any fence that did not first require a variance because the height requirements mandating a permit are the same as those mandating a variance. We can understand how we would not have known this (indeed, we had no idea we needed a variance because the permit had been issued), but shouldn't the City of Dallas have known the need for a variance in our zone just by receiving a permit application for a fence at our address? And yet, the fact remains that the city issued us a permit.

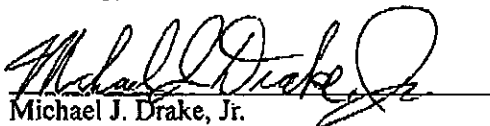
Finally, there is a section in this pamphlet entitled, "What Special Regulations Should I be Aware of." Following the directions as given for using www.dallascityhall.com to locate our zone, we find that we

M2
Attach A
P93

are in "PD 226". Apparently, this refers to a Planned Development District, which, we assume, is the reason the variance (not just a permit) is required. While we did not know we were in such a zone at the time Greg Davis requested the permit, apparently, the office that issued the permit did not know that either because it issued the permit.

In conclusion, we cannot agree with the City of Dallas, that the issuance of the fence permit was not the city's mistake. We would not have commissioned this taller fence had the permit not been issued and certainly not until any additional requirements (e.g. this variance appeal) had been cleared. We feel we were misled into believing we had all the necessary permissions to erect this fence. During the months we have been waiting for our hearing, tall, iron posts have been sticking up in our front yard, the incomplete work begun as a result of a permit that was not honored.

Sincerely,


Michael J. Drake, Jr.


Melissa J. Drake



City of Dallas

HOW CAN I CONTACT BUILDING INSPECTION?

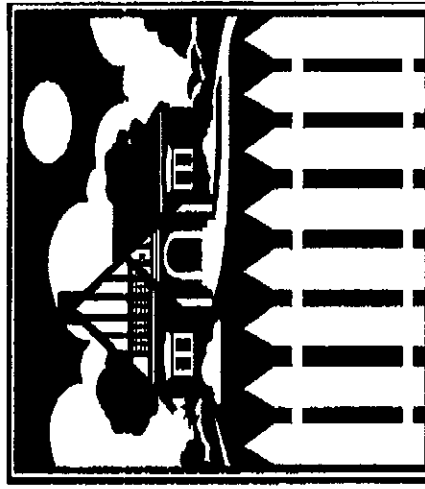
For telephone assistance, call 214-948-4480. Our helpful staff will answer your general questions or route you to appropriate staff for technical questions. For direct access to the Interactive Voice Response System, call 214-670-5313 or access the system online at www.dallascityhall.com by locating City Departments then click on Building Inspection. You can obtain more information about the processes described in this brochure, access the Dallas Development Code, see zoning maps, and download the forms used for permit applications.

HOW TO GET A FENCE PERMIT

Sustainable Development and Construction

Building Inspection Division
320 E. Jefferson Boulevard
Dallas, Texas 75203

214-948-4480



Sustainable Development and Construction
Building Inspection Division

A# 32
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PDA

WHAT ARE THE PROCEDURES?

Complete and submit an application to Building Inspection. See this pamphlet for directions to our locations and internet site. The application form can be downloaded from our internet site.

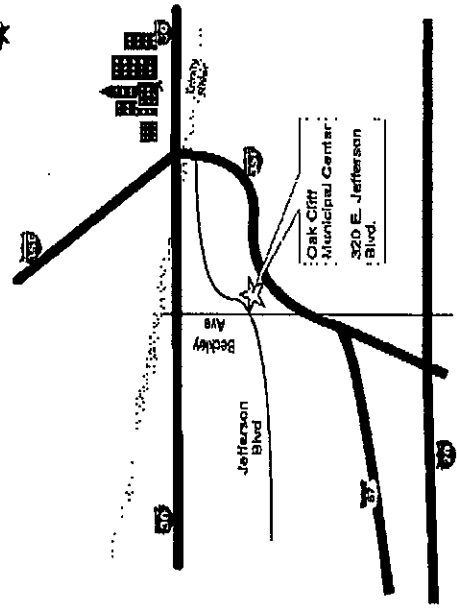
Applicants are usually not required to submit a site plan.

HOW MUCH WILL IT COST?

The cost is based on the value of the work with a minimum fee of \$100.00.

HOW LONG DOES IT TAKE TO GET A FENCE PERMIT?

Normally, a fence permit is issued while you wait. Historic Districts take longer due to the review requirement by the Landmark Commission.



This pamphlet is a guideline and is not intended to replace the city code, or state or federal law. Always check the city code, state and federal law for zoning, exceptions, and amendments. In the event of a conflict between this document and the city code or other legal authority, the city code or other legal authority supersedes.

City of Dallas Publication No. 03/04-04 10/08/04
Additional copies may be obtained from Building Inspection, 320 E. Jefferson Blvd., or

WHEN IS A FENCE PERMIT REQUIRED?

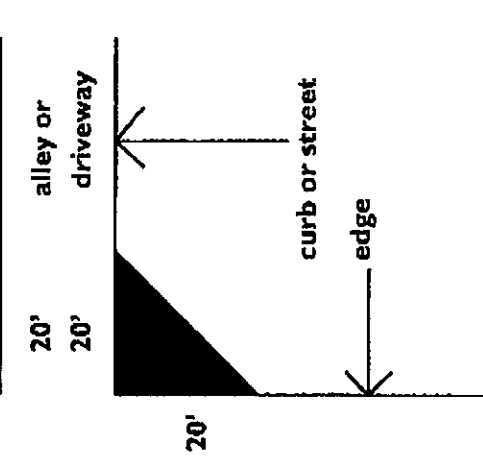
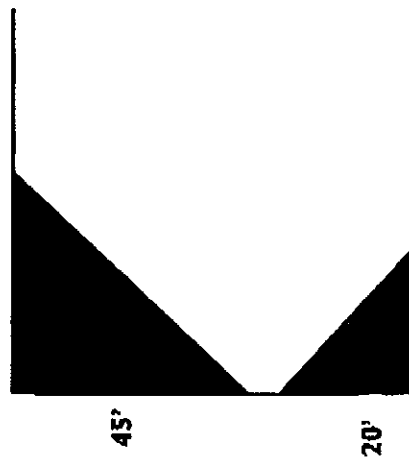
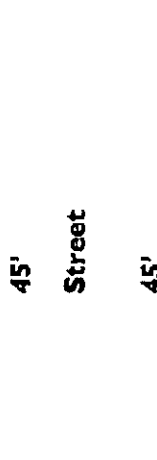
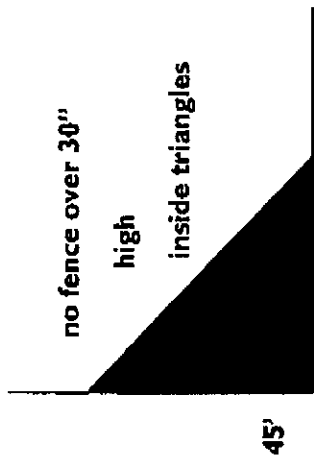
A fence permit is required to erect a fence or all over four (4) feet in a required front yard setback or over six (6) feet high if located elsewhere on private property.

WHAT SPECIAL REGULATIONS SHOULD I BE AWARE OF?

Special zoning areas called Planned Development Districts, Historic Districts, and Conservation Districts may have unique requirements for fences. To determine if you are in one of these districts and to obtain details about district regulations, call 214-948-4800 or look at the zoning maps on our internet site at www.dallascityhall.com. Locate City Departments, then click on Department of Development Services, and finally Zoning Maps.

If you are not in a special district the following general rules apply:

- In a required front yard setback, fence for single family and duplex uses are limited to four (4) feet above grade. Corner lots may have both street frontages considered as front yard setbacks. NOTE: Must have scale site plan for zoning approval.
- Fences on the remainder of the lot may not exceed nine (9) feet in height.
- Barbed wire may not be used for fencing unless it is located six (6) feet or more above grade AND does not project beyond the property line.
- Fences may not be located in easements.
- Swimming pool enclosures have additional fence regulations. See the "How to get a Swimming Pool Permit" guide at any Building Inspection office, call 214-948-4480 or check our Internet web page.



- All fences must provide fire-fighting access to the side and rear yard.
- A fence must not be placed within a visibility triangle at street, alley or driveway intersections if the fence is higher than two and a half (2 1/2) feet measured from the top of the adjacent street curb. See the illustration on the following page.

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 Attach
 P. A
 DT

Long, Steve

M2
Attach B PS 1

From: Long, Steve
Sent: Wednesday, March 26, 2014 10:57 AM
To: 'melissa.drake@paladinlogic.com'
Cc: Duerksen, Todd; Dean, Neva; Way, Jamilah; Jimenez, Danielle; 'greg@fenceinvestments.com'
Subject: FW: BDA 134-030, Property at 5609 Pleasant Ridge Drive
Attachments: Panel B hearing date and deadlines.doc; documentary evidence.pdf; fee waiver and reimbursement.pdf; Attach A.pdf

Dear Mrs. Drake,

Here is information regarding your miscellaneous item request for a reimbursement of the filing fee submitted in conjunction with the application referenced above that we just spoke about on the phone:

1. The materials that you faxed me this morning regarding your fee reimbursement request that I have labeled as "Attach A" - all of which will be emailed to you, city staff, and the board members in a docket report about a week ahead of your April 23rd Board of Adjustment Panel B public hearing.
2. The provision from the Dallas Development Code that allows the board to waive/reimburse filing fees (51A-1.105(b)(6)).
3. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board. (As we discussed this morning, staff will not be forming a recommendation of your requests for fee reimbursement or special exception to the fence height regulations).
4. The board's rule pertaining to documentary evidence.

Please feel free to submit any additional documentation beyond what is attached that shows how payment of the filing fee results in substantial financial hardship to you, (i.e. additional financial documents as in but not limited to copies of 1040's, W-4's, bank statements - *all with account numbers redacted*) no later than 5 p.m., April 11th.

Please write or call me at 214/670-4666 or my colleague, Danielle Jimenez, at (214) 671-9619 if we can be of any additional assistance to you.

Thanks,

Steve

PS: If there is anything that you want to submit to the board beyond what you have included in what I have labeled as Attach A, please feel free to email it to steve.long@dallascityhall.com or mail it to me at the following address:

Steve Long, Board of Adjustment Administrator
City of Dallas Sustainable Development and Construction
1500 Marilla Street, Room 5BN
Dallas, Texas 75201

From: Long, Steve
Sent: Wednesday, March 12, 2014 2:41 PM
To: 'greg@fenceinvestments.com'
Cc: Duerksen, Todd; Jimenez, Danielle
Subject: BDA 134-030, Property at 5609 Pleasant Ridge Drive

Dear Mr. Davis,

M2
Attach B
Pg 2

Here is information regarding your application to the board of adjustment referenced above:

1. Your submitted application materials- all of which will be emailed to you, city staff, and the board members in a docket report about a week ahead of your tentatively scheduled April 23rd Board of Adjustment Panel B public hearing.
2. The provision from the Dallas Development Code allowing the board to grant a special exception to the fence height regulations (51A-4.602(a)(6)).
3. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board.
4. The board's rule pertaining to documentary evidence.

Please review the Building Official's Report/second page of your application (page 2 of 6 in the attached application materials) and contact Todd Duerksen at 214/948-4475 no later than noon, Wednesday, March 26th with regard to any amendment that you feel is necessary to address the issue at hand, specifically if for any reason you feel that the statement in his report stating that the maximum height of your proposal to be located in the front yard setback at 7 feet 6 inches is incorrect. (Note that the discovery of any additional appeal needed other than the fence height special exception request beyond March 26th will result in postponement of the appeal until the panel's next regularly scheduled public hearing).

Lastly, I have reason to believe having spoken on the phone last week with one of the owners of the property, Melissa Drake, that she may be interested in making a request to the board for a reimbursement of the filing fee. Given this, I have attached the code provision that allows the board to waive/reimburse filing fees (51A-1.105(b)(6)). Please encourage Mr./Mrs. Drake to make any such fee reimbursement request to me via email no later than March 26th and if they choose to do so, to submit any documentation that shows how payment of the filing fee results in substantial financial hardship to them, (i.e. additional financial documents as in but not limited to copies of 1040's, W-4's, bank statements - *all with account numbers redacted*).

Please write or call me at 214/670-4666 or my colleague, Danielle Jimenez, at (214) 671-9619 if we can be of any additional assistance to you this application.

Thanks,

Steve

PS: If there is anything that you want to submit to the board beyond what you have included in your attached application materials, please feel free to email it to steve.long@dallascityhall.com or mail it to me at the following address:

Steve Long, Board of Adjustment Administrator
City of Dallas Sustainable Development and Construction
1500 Marilla Street, Room 5BN
Dallas, Texas 75201

M2
Attach C
PS1

Long, Steve

From: Greg Davis <greg@fenceinvestments.com>
Sent: Wednesday, March 26, 2014 12:32 PM
To: Melissa Jeanette; Long, Steve
Cc: Michael Drake; Duerksen, Todd
Subject: Re: FW: BDA 134-030, Property at 5609 Pleasant Ridge Drive

For clarity,
when I applied for the fence permit on December 4th I brought a survey plat (site plan with details) about the fence height. The technician reviewed and issued a permit on the spot. Actually a first for me. Over the past 10 years, I have applied for a fence permit & always brought a birds eye view of the survey plat/site plan. I would not have come all the way from south Denton to apply for a fence that does not need a permit.

The Dallas supervisor of the technician that issued the permit stated his technician made an error in approving the fence permit!!!!!!!!!!!!!!
I asked for reimbursement & sought legal council. The city supervisor referred me to Todd D. And the city supervisor stated he would do everything possible to assist us. I have not heard from him since! Having already custom built this non refundable iron product we were given no other options from the city but to go through the variance process. If I conducted my business this way, I would not be in business!

What we are asking is for fairness. We are asking the board to waive the \$600 variance fee. Not to mention a day lost with gathering documents, document fees, parking fees.

Also, the iron that we custom built was a 5' fence with a arched drive way gate that is 7' 6" at its peak.


Thank you for your time.

Sincerely,
Greg Davis
Owner of Landscape Investments LLC

On Wed, Mar 26, 2014 at 11:34 AM, Melissa Jeanette <tradcatholicclass@gmail.com> wrote:
Hello Mr Davis,

Below is a copy of an email I just received from Steve and attached (called "attach a.pdf") is a copy of the fax we sent him this morning. The fax is a letter asking that the variance fee be reimbursed. We had faxed a reimbursement request to Steve a number of weeks ago, but for some reason Steve wanted another request to be submitted, hence this fax we sent him this morning. In it we outline the reason why we are asking for the reimbursement and we also addressed a point Steve made to me on the phone yesterday.

Thank you for forwarding a copy of the permit. Michael and I didn't see on the permit where it was specified that a fence over 4' high was being built ... was this information perhaps given in the permit application? Steve said some odd things on the phone to me yesterday (which was why I left you a message - I was hoping to fill

M2 Attach  P 2

you in on everything he said to me). One of the things he said was that "if they (the City) had known we were building a fence that high they wouldn't have granted the permit". Now, I don't believe this (Steve has given me a lot of contradicting information already so I don't believe this), but it did make me wonder when I didn't see the fence height specified on the permit itself..

One other question about the permit - it says it is to be displayed at the work site...does this mean we need to actually post the permit outside somehow, or do we just need to have it in our possession if anyone asks to see it?

Of course feel free to call ... 972-761-1950.

Thanks!
Melissa & Michael

----- Forwarded message -----

From: **Melissa Drake** <mhinze@paladinlogic.com>
Date: Wed, Mar 26, 2014 at 11:15 AM
Subject: Fwd: FW: BDA 134-030, Property at 5609 Pleasant Ridge Drive
To: tradcatholicclass@gmail.com

----- Forwarded message -----

From: **Long, Steve** <steve.long@dallascityhall.com>
Date: Wednesday, March 26, 2014
Subject: FW: BDA 134-030, Property at 5609 Pleasant Ridge Drive
To: melissa.drake@paladinlogic.com
Cc: "Duerksen, Todd" <todd.duerksen@dallascityhall.com>, "Dean, Neva" <neva.dean@dallascityhall.com>, "Way, Jamilah" <jamilah.way@dallascityhall.com>, "Jimenez, Danielle" <danielle.jimenez@dallascityhall.com>, greg@fenceinvestments.com

Dear Mrs. Drake,

Here is information regarding your miscellaneous item request for a reimbursement of the filing fee submitted in conjunction with the application referenced above that we just spoke about on the phone:

1. The materials that you faxed me this morning regarding your fee reimbursement request that I have labeled as "Attach A" - all of which will be emailed to you, city staff, and the board members in a docket report about a week ahead of your April 23rd Board of Adjustment Panel B public hearing.
2. The provision from the Dallas Development Code that allows the board to waive/reimburse filing fees (51A-1.105(b)(6)).
3. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board. (As we discussed this morning, staff will not be forming a recommendation of your requests for fee reimbursement or special exception to the fence height regulations).
4. The board's rule pertaining to documentary evidence.

Please feel free to submit any additional documentation beyond what is attached that shows how payment of the filing fee results in substantial financial hardship to you, (i.e. additional financial documents as in but not limited to copies of 1040's, W-4's, bank statements - *all with account numbers redacted*) no later than 5 p.m., April 11th.

M2 Attach C P3 3

Please write or call me at 214/670-4666 or my colleague, Danielle Jimenez, at (214) 671-9619 if we can be of any additional assistance to you.

Thanks,

Steve

PS: If there is anything that you want to submit to the board beyond what you have included in what I have labeled as Attach A, please feel free to email it to steve.long@dallascityhall.com or mail it to me at the following address:

Steve Long, Board of Adjustment Administrator
City of Dallas Sustainable Development and Construction
1500 Marilla Street, Room 5BN
Dallas, Texas 75201

From: Long, Steve
Sent: Wednesday, March 12, 2014 2:41 PM
To: 'greg@fenceinvestments.com'
Cc: Duerksen, Todd; Jimenez, Danielle
Subject: BDA 134-030, Property at 5609 Pleasant Ridge Drive

Dear Mr. Davis,

Here is information regarding your application to the board of adjustment referenced above:

1. Your submitted application materials- all of which will be emailed to you, city staff, and the board members in a docket report about a week ahead of your tentatively scheduled April 23rd Board of Adjustment Panel B public hearing.
2. The provision from the Dallas Development Code allowing the board to grant a special exception to the fence height regulations (51A-4.602(a)(6)).
3. A document that provides your public hearing date and other deadlines for submittal of additional information to staff/the board.
4. The board's rule pertaining to documentary evidence.

Please review the Building Official's Report/second page of your application (page 2 of 6 in the attached application materials) and contact Todd Duerksen at 214/948-4475 no later than noon, Wednesday, March 26th with regard to any amendment that you feel is necessary to address the issue at hand, specifically if for any reason you feel that the statement in his report stating that the maximum height of your proposal to be located in the front yard setback at 7 feet 6 inches is incorrect. (Note that the discovery of any additional appeal needed other than the fence height special exception request beyond March 26th will result in postponement of the appeal until the panel's next regularly scheduled public hearing).

Lastly, I have reason to believe having spoken on the phone last week with one of the owners of the property, Melissa Drake, that she may be interested in making a request to the board for a reimbursement of the filing fee. Given this, I have attached the code provision that allows the board to waive/reimburse filing fees (51A-1.105(b)(6)). Please encourage Mr./Mrs. Drake to make any such fee reimbursement request to me via email no later than March 26th and if they choose to do so, to submit any documentation that shows how payment of the filing fee results in substantial financial hardship to them, (i.e. additional financial documents as in but not limited to copies of 1040's, W-4's, bank statements - *all with account numbers redacted*).

Please write or call me at 214/670-4666 or my colleague, Danielle Jimenez, at (214) 671-9619 if we can be of any additional assistance to you this application.

Thanks,

Steve

PS: If there is anything that you want to submit to the board beyond what you have included in your attached application materials, please feel free to email it to steve.long@dallascityhall.com or mail it to me at the following address:

Steve Long, Board of Adjustment Administrator
City of Dallas Sustainable Development and Construction
1500 Marilla Street, Room 5BN
Dallas, Texas 75201

--
Melissa Drake
Executive Vice President
Paladin Logic, Limited
214-635-4788
melissa.drake@paladinlogic.com

M2
Attach C pg 5

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May the Heart of Jesus in the most Blessed Sacrament be praised, adored, and loved with grateful affection, at every moment, in all the tabernacles of the world, even to the end of time. (Pius IX, Feb 29, 1868)

FILE NUMBER: BDA 134-031

BUILDING OFFICIAL'S REPORT: Application of Ignacio Santos, represented by Yesenia Casas, for special exceptions to the fence height and visual obstruction regulations at 4473 W. Red Bird Lane. This property is more fully described as tract 166. Block 6949, 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 and maintain a 6 foot high fence, which will require a 2 foot special exception to the fence height regulations, and to locate and maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 4473 W. Red Bird Lane

APPLICANT: Ignacio Santos
Represented by Yesenia Casas

REQUESTS:

The following requests have been made on a site that is currently being developed with a single family home/use:

1. A request for a special exception to the fence height regulations of 2' is made to construct/maintain a 5' 6" high fence (4' 6" high open metal pickets atop a 1' high masonry base) with 6' high masonry columns, and two, 5' 6" high open picket gates with 6' high masonry entry gate columns in the site's 25' front yard setback.
2. Requests for special exceptions to the visual obstruction regulations are made to locate/maintain portions of the aforementioned fence and columns in the 20' visibility triangles on east side of the western driveway and the west side of the eastern driveways into the site from Red Bird Lane.

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):

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):

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Senior Engineer has indicated that he has no objections to these requests.
- The applicant has substantiated how the location of portions of a proposed 5' 6" high fence (4' 6" high open metal pickets atop a 1' high masonry base) with 6' high masonry columns proposed in the 20' visibility triangles on east side of the western driveway and the west side of the eastern driveways into the site from Red Bird Lane 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: City of Duncanville
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 being developed with a single family home. The areas to the north, and west are developed with single family uses; the area to the east is undeveloped; and the area to the south in the City of Duncanville is a combination of vacant land and retail uses.

Zoning/BDA History:

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

Timeline:

February 25, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

March 12, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

March 12, 2014: The Board Administrator emailed the following information to the applicant:

- an attachment that provided the public hearing date and panel that will consider the application; the March 26th deadline to submit additional evidence for staff to factor into their analysis; and the April 11th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

April 8, 2014 : The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

April 9, 2014: The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked “Has no objections.”

GENERAL FACTS/STAFF ANALYSIS (fence height):

- This request focuses on constructing/maintaining a 5’ 6” high fence (4’ 6” high open metal pickets atop a 1’ high masonry base) with 6’ high masonry columns, and two, 5’ 6” high open picket gates with 6’ high masonry entry gate columns in the site’s 25’ front yard setback on a site being developed with a single family home/use.
- 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.

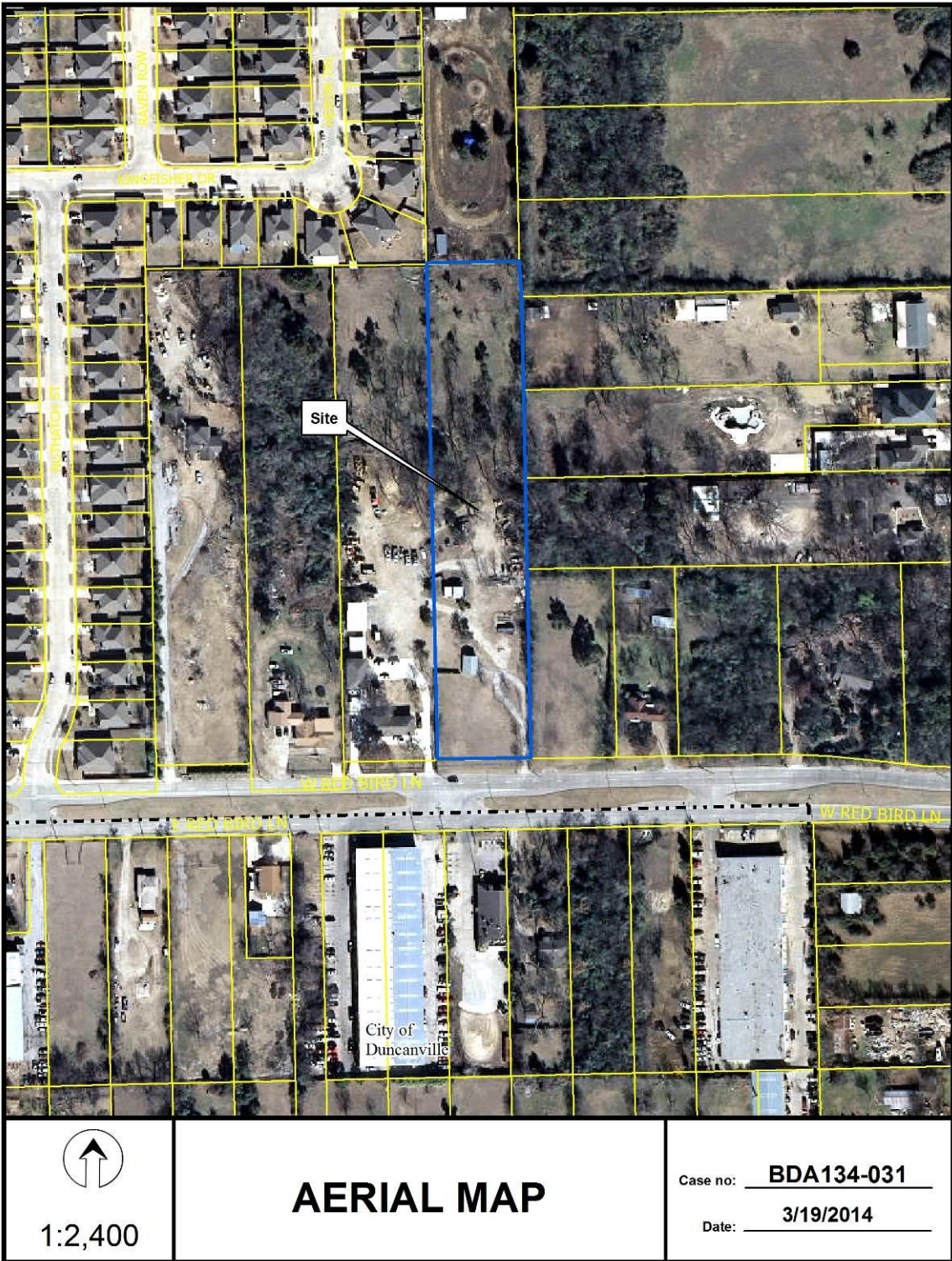
- The applicant has submitted a site plan and a partial elevation of the proposal in the front yard setback that reaches a maximum height of 6’.
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 150’ in length parallel to the Red Bird Lane. (The proposed fence and gates are setback approximately 10’ from the fence).
 - The fence proposal is represented as being located approximately 8’ from the property line or about 17’ from the pavement line. (The proposed gates are represented as being located approximately 15’ from the property line or about 24’ from the pavement line).
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences above 4 feet high which appeared to be located in a front yard setback.
- No homes front the proposal.
- As of April 14, 2014, no letters have been submitted in support of or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4’ 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 partial elevation 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 these documents.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction):

- These requests focus on locating/maintaining portions of the an open metal picket fence and masonry columns in the 20’ visibility triangles on east side of the western driveway and the west side of the eastern driveways into the site from Red Bird Lane. (The 1’ high masonry base of the proposed fence is not a factor in this request given that it is below the 2.5’ height at which the visibility triangles begin).
- 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 partial elevation has been submitted indicating portions of a 5’ 6” high fence (4’ 6” high open metal pickets atop a 1’ high masonry base) with 6’ high masonry columns in the 20’ visibility triangles in the 20’ visibility triangles on east side of the western driveway and the west side of the eastern driveways into the site from Red Bird Lane.
- The Sustainable Development and Construction Department Senior 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 locate/maintain portions of 5' 6" high fence (4' 6" high open metal pickets atop a 1' high masonry base) with 6' high masonry columns in the 20' visibility triangles on east side of the western driveway and the west side of the eastern driveways into the site from Red Bird Lane does not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan and partial elevation would require the items as described above to be limited to and maintained in the locations, height and materials as shown on these documents.





1:2,400

AERIAL MAP

Case no: BDA134-031

Date: 3/19/2014



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-031

Data Relative to Subject Property:

Date: 02-25-14

Location address: 4473 W. RED BIRD Zoning District: R-7.5(A)

Lot No.: 166 Block No.: 6949 Acreage: 3 +/- Census Tract: 165.20

Street Frontage (in Feet): 1) 152.44 2) _____ 3) _____ 4) _____ 5) _____ SW14

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): IGNACIO SANTOS AND MARIA SANTOS

Applicant: IGNACIO SANTOS Telephone: (972) 296-5813

Mailing Address: 4473 W. Red Bird Ln. Zip Code: 75234

E-mail Address: ycasas@santosci.com

Represented by: Yesenia Casas Telephone: _____

Mailing Address: 4473 W Red Bird Ln. Dallas Tx Zip Code: 75234

E-mail Address: ycasas@santosci.com

Affirm that an appeal has been made for a Variance __, or Special Exception of 2' HEIGHT OF FENCE TO BE ADDED TO THE 4' ALLOWED AND SPECIAL EXEMPTION TO THE VISIBILITY OBSTRUCTION TRIANGLES AT DRIVEWAYS.

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: TO ALLOW 2' MORE TO THE 4' ALLOWED ON FENCE INFRONT OF THE PROPERTY DUE TO COMMERCIAL PROP ACCESS. WE WANT JARRI FACING A HIGHWAY BUSY STREET.

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, _____ signed on this day personally appeared IGNACIO SANTOS (Affiant/Applicant's name printed)

who on his/her own knowledge and the best information is the owner/or principal/or authorized representative of the subject property.

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

Subscribed and sworn to before me this 17th day of FEBRUARY, 2014



[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

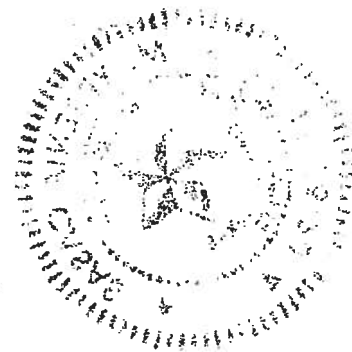
Building Official's Report

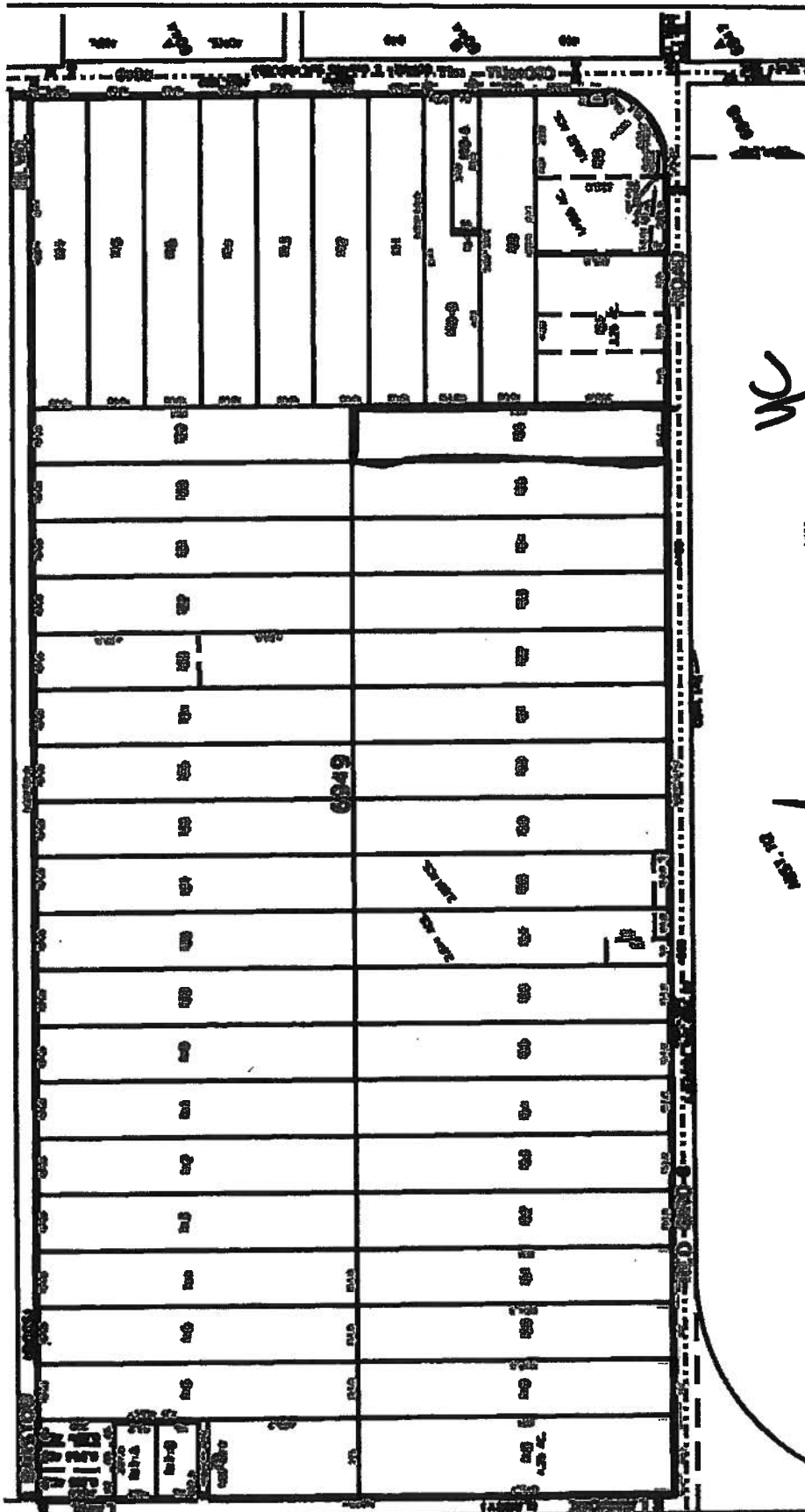
I hereby certify that Ignacio Santos
represented by Yesenia Casas
did submit a request for a special exception to the fence height regulations, and for a special
exception to the visibility obstruction regulations
at 4473 W. Red Bird Lane

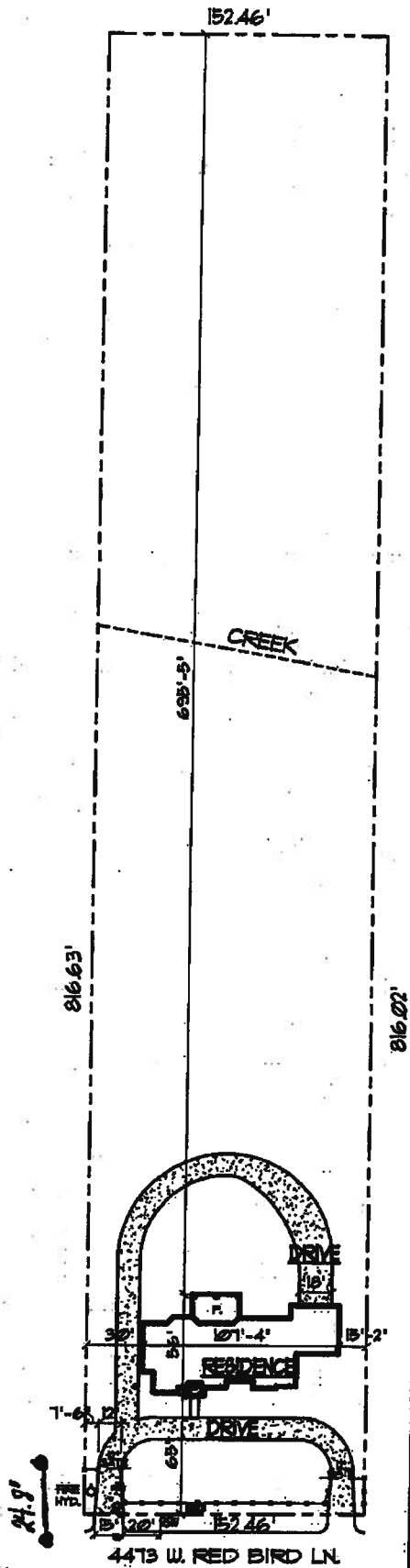
BDA134-031. Application of Ignacio Santos represented by Yesenia Casas for a special exception to the fence height regulations and a special exception to the visibility obstruction regulations at 4473 W. Red Bird Lane. This property is more fully described as tract 166, Block 6949, and is zoned R-7.5(A), 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 structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.



Sincerely,


Larry Holmes, Building Official

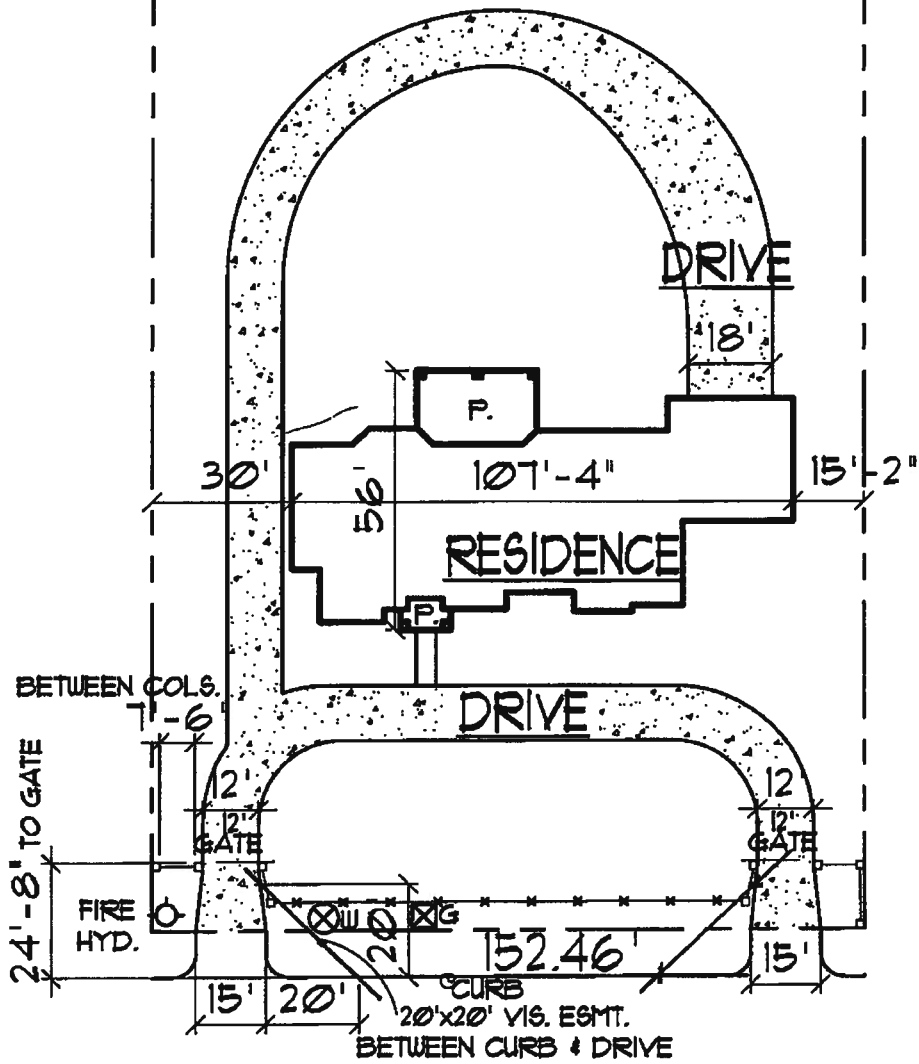








PLOT PLAN SCALE: 1"=10' LOT 166 BLOCK 6949 4473 W. RED BIRD LN. OAK CLIFF FORESTS NO.2 DALLAS DALLAS COUNTY, TEXAS PLAN: 3001 DATE: FEB. 24, 2013		 
		THE PLAN FACTORY

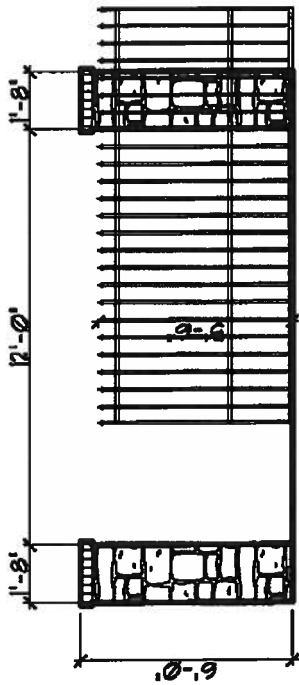
IT SHALL BE THE FULL RESPONSIBILITY OF THE BUILDER TO VERIFY ALL ASPECTS OF THIS PLAN AND ADJUST IF REQUIRED



4473 W. RED BIRD LN.

<p>PLOT PLAN SCALE: 1" = 30'40" LOT 166 BLOCK 6949 4473 W. RED BIRD LN. OAK CLIFF FORESTS NO2 DALLAS DALLAS COUNTY, TEXAS PLAN: 3001 DATE: FEB. 25, 2013</p>	  <p>THE PLAN FACTORY</p>
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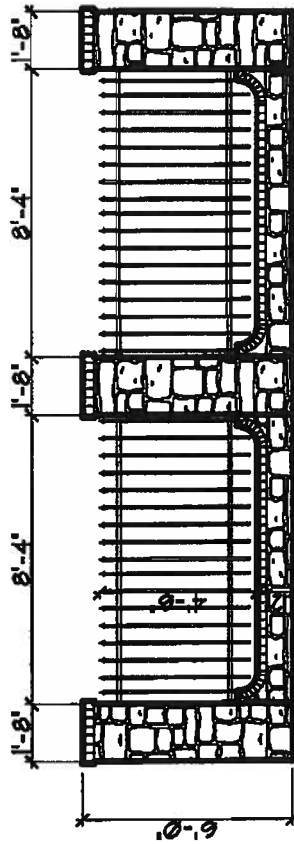
IT SHALL BE THE FULL RESPONSIBILITY OF THE BUILDER TO VERIFY ALL ASPECTS OF THIS PLAN AND ADJUST IF REQUIRED



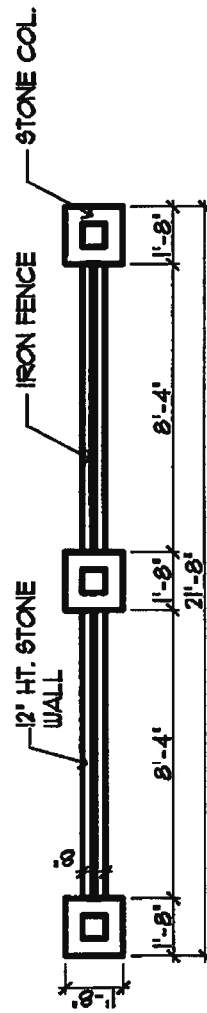
NOTE: IRON GATE TO SLIDE IN TO PROPERTY

GATE DETAIL

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



NOTE: TYPICAL LENGTH PANELS OVER ALL 152.46' WIDTH OF PROPERTY



FENCE DETAIL

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

Long, Steve

From: Yesenia Casas <ycasas@santosci.com>
Sent: Wednesday, March 19, 2014 12:57 PM
To: Long, Steve
Cc: Hatefi, Alireza
Subject: 4473 W. Red Bird Lane.
Attachments: photo 1.JPG; Untitled attachment 00366.txt; photo 2.JPG; Untitled attachment 00369.txt; photo 3.JPG; Untitled attachment 00372.txt; photo 4.JPG; Untitled attachment 00375.txt

Hello,

Please find attached the pictures taken from both driveway approaches. The temporary chain link fence shown is there for the current home construction process and its indeed temporary.

Please review and inform me of your thoughts.

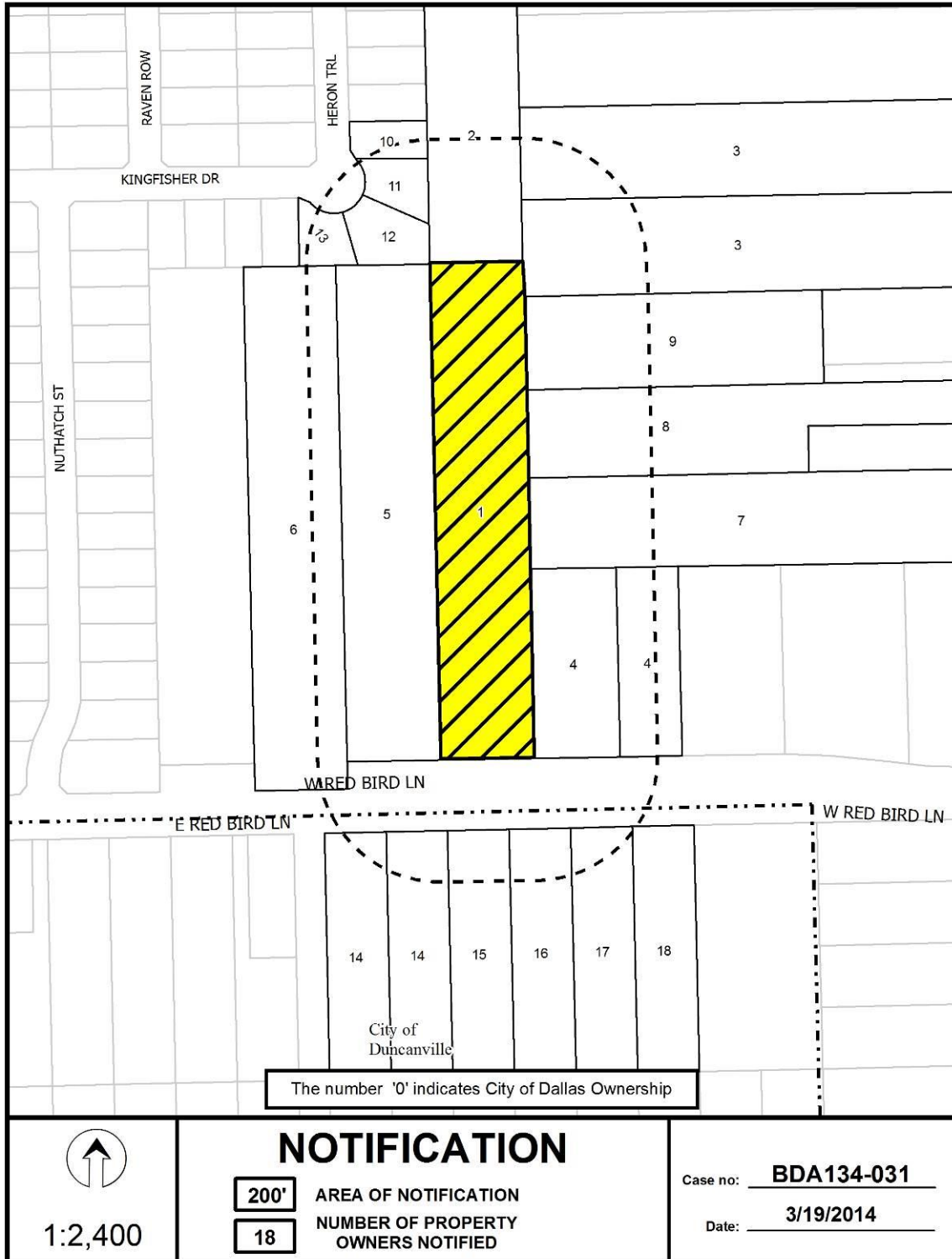
Thank you,
Yesenia Casas
972-296-5813











Notification List of Property Owners

BDA134-031

18 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4473 RED BIRD LN	IMS PROPERTIES LLC
2	4482 BARSTOW BLVD	HERNANDEZ FELIPE
3	5511 COCKRELL HILL RD	TURNQUIST MICHELE A TR
4	4455 RED BIRD LN	SANTOS IGNACIO & SANTOS YVONNE
5	4485 RED BIRD LN	SANTOS IGNACIO J TR & MARIA D TR
6	4499 RED BIRD LN	GUZMAN GUMARO & MARIA D
7	5615 COCKRELL HILL RD	MARCHAN GERARDO
8	5605 COCKRELL HILL RD	AYALA DOMINGO OCHOA JR
9	5523 COCKRELL HILL RD	ARMENDARIZ SAUL & ARMENDARIZ CECILIA
10	5346 HERON TRL	VILLA JOSE
11	4510 KINGFISHER DR	MORALES URIEL A
12	4514 KINGFISHER DR	GARCIA FRANCISCO & SONIA L
13	4518 KINGFISHER DR	TORRES PAUL SR & FEBRONIA L
14	602 RED BIRD LN	BROTHERS UNLIMITED INV INC
15	610 RED BIRD LN	SMITH TERRY DON
16	612 RED BIRD LN	CARDOZA MARIO & MARIA
17	620 RED BIRD LN	REYNOLDS JOHNNIE C ETUX
18	702 RED BIRD LN	MAURICIO LOPEZ FAMILY GROUP LP

FILE NUMBER: BDA 134-036

BUILDING OFFICIAL'S REPORT: Application of Crickett Reed for special exceptions to the fence height and visual obstruction regulations at 5822 Lakehurst Avenue. This property is more fully described as Lot 16, Block B/5515, and is zoned R-10(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 maintain an 8 foot 2 inch high fence, which will require a 4 foot 2 inch special exception to the fence height regulations, and to maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 5822 Lakehurst Avenue

APPLICANT: Crickett Reed

REQUESTS:

The following requests have been made on a site that developed with a single family home/use:

1. A request for a special exception to the fence height regulations of 4' 2" is made to maintain generally a 6' high solid board-on-board wood fence (atop generally a 2' high masonry base) that reaches a maximum height of 8' with one 8' 2" high brick column in the one of the site's two required front yards (Lakeway Court).
2. Requests for special exceptions to the visual obstruction regulations are made to locate/maintain portions of the aforementioned board-on-board wood fence in the two 20' visibility triangles on both sides of the driveway into the site from Lakeway Court.

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):

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):

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Senior Engineer has indicated that he has no objections to these requests.
- The applicant has substantiated how the location of the existing generally 6’ high solid board-on-board wood fence atop generally a 2’ high masonry base located in the 20’ visibility triangles on both sides of the driveway into the site from Lakeway Court does not constitute a traffic hazard.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

February 27, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

March 12, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

March 12, 2014: The Board Administrator emailed the following information to the applicant:

- an attachment that provided the public hearing date and panel that will consider the application; the March 26th deadline to submit additional evidence for staff to factor into their analysis; and the April 11th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

April 8, 2014 : The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

April 9, 2014: The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet marked "Has no objections."

GENERAL FACTS/STAFF ANALYSIS (fence height):

- This request focuses on maintaining generally a 6' high solid board-on-board wood fence (atop generally a 2' high masonry base) that reaches a maximum height of 8' with one 8' 2" high brick column in the one of the site's two required front yards (Lakeway Court) on a site developed with a single family home/use.
- 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.
- Structures on lots zoned R-10(A) are required to provide a minimum front yard setback of 30'.
- The site is located on the southwest corner of Lakehurst Avenue and Lakeway Court. The site has two required front yards. The site has a 30' required front yard along Lakehurst Avenue because it is the shorter of the two frontages. The site also has a 15' required front yard along Lakeway Court, the longer of the two frontages, which is typically regarded as a side yard where only a 6' setback is required and where a 9' high fence can be erected by right. But the site's Lakeway Court frontage is a side yard treated as a front yard setback nonetheless to maintain the continuity

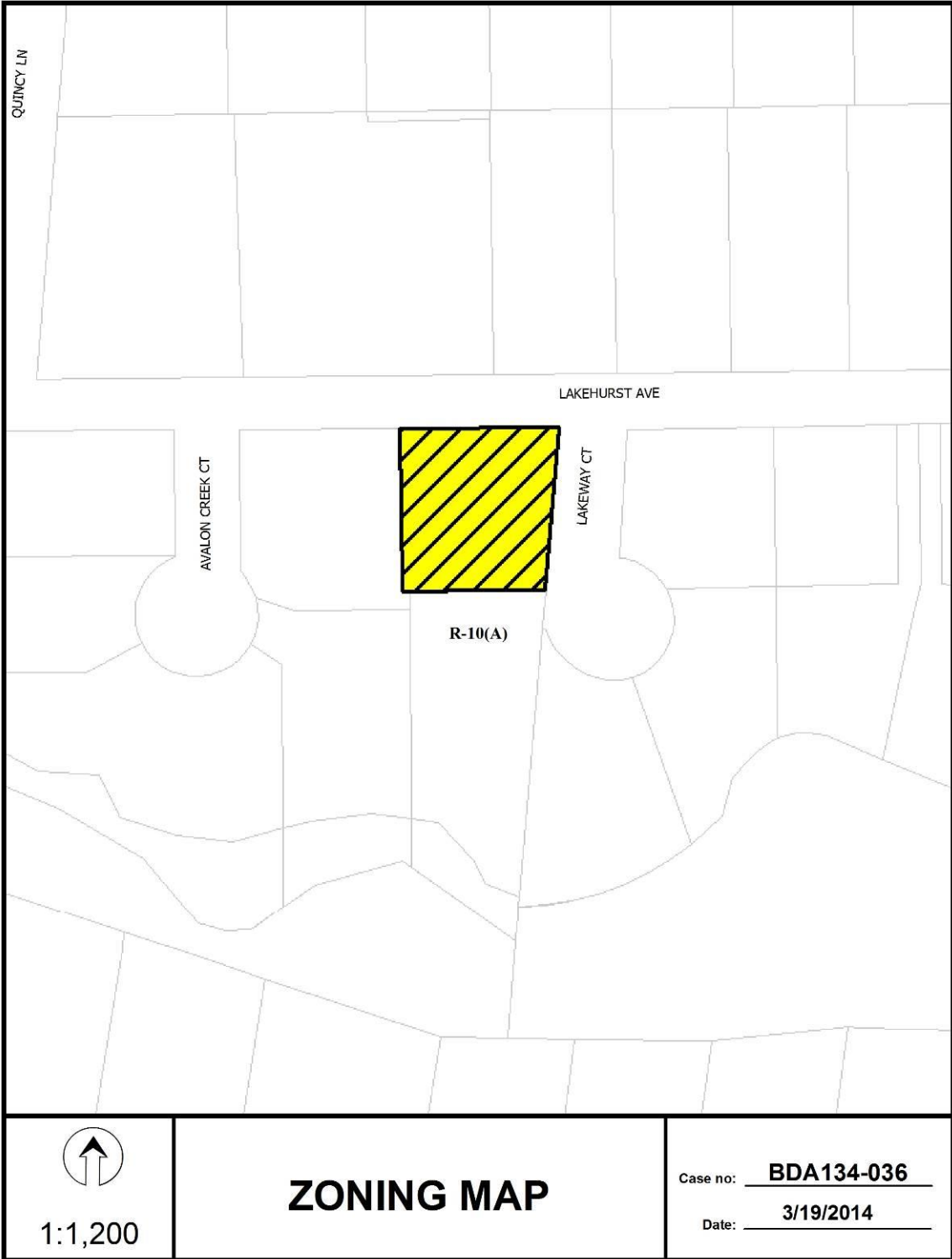
of the established front yard setback established by the lots developed with single family homes south of the site that front/are oriented towards Lakeway Court.

- Regardless of how the existing home is oriented to front onto Lakehurst Avenue (and “side” to Lakeway Court), the site has two required front yards where the focus of the applicant’s request in this application is only to maintain a fence higher than 4’ in the site’s front yard setback on Lakeway Court. (No part of the application is made to construct/maintain a fence in the site’s Lakehurst Avenue required front yard).
- The applicant has submitted a site plan and elevation of the proposal in the front yard setback that reaches a maximum height of 8’ 2”.
- The following additional information was gleaned from the submitted site plan:
 - The proposal is represented as being approximately 36’ in length parallel to the Lakeway Court and about 15’ on the north and south sides in the Lakeway Court required front yard.
 - The proposal is represented as being located on property line or about 13’ from the pavement line.
- The Board Administrator conducted a field visit of the site and surrounding area and noted one other fence above 4 feet high which appeared to be located in a front yard setback- an approximately 8’ high solid brick fence located directly east of the subject site with no recorded BDA history.
- No homes front the proposal.
- As of April 14, 2014, 1 letter has been submitted in support of the application and no letters have been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4’ 2” will not adversely affect neighboring property.
- Granting this special exception of 4’ 2” with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4’ in height in the front yard setback to be constructed/maintained in the location and of the heights and materials as shown on these documents.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction):

- These requests focus on maintaining portions of generally a 6’ high solid board-on-board wood fence atop a 2’ masonry base in the two 20’ visibility triangles on both sides of the driveway into the site from Lakeway Court. (The 2’ high masonry base of the fence is not a factor in this request given that it is below the 2.5’ height at which the visibility triangles begin).
- 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 portions of the generally 6' high solid board-on-board wood fence in the two 20' visibility triangles on both sides of the driveway into the site from Lakeway Court.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet regarding the applicant's request for special exceptions to the visual obstruction regulations 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 generally a 6' high solid board-on-board wood fence atop generally a 2' high masonry base in the two 20' visibility triangles on both sides of the driveway into the site from Lakeway Court 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 the item as described above to be limited to and maintained in the locations, height and materials as shown on these documents.





1:1,200

AERIAL MAP

Case no: BDA134-036

Date: 3/19/2014



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-036

Data Relative to Subject Property:

Date: 2-27-14

Location address: 5822 LAKEHURST AVE.

Zoning District: R-10(A)

Lot No.: 16 Block No.: B/5515 Acreage: .33

Census Tract: 76.05

Street Frontage (in Feet): 1) 128 2) 132 3) _____ 4) _____ 5) _____ NE2S

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): SCOTT W. & CRICKETT S. REED

Applicant: CRICKETT REED Telephone: 214.213.4200

Mailing Address: 5822 LAKEHURST AVE. Zip Code: 75230

E-mail Address: CSEAR @ CSADESIGN.NET

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance __, or Special Exception of 4'-2"

for a fence in a front yard & a special exception wa visibility through construction at the driveway
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:

4' ADD'L FENCE IN A FRONT YARD
The fence will not affect the neighbors adversely as other neighbors have 4' fence

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 CRICKETT REED
(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: Crickett Reed
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 27 day of February, 2014

(Rev. 08-01-11)

BDA 034-036



Julia Hay
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 CRICKETT REED

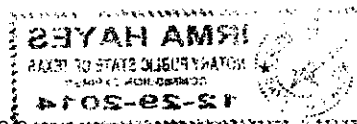
did submit a request for a special exception to the fence height regulations, and for a special exception to the visibility obstruction regulations

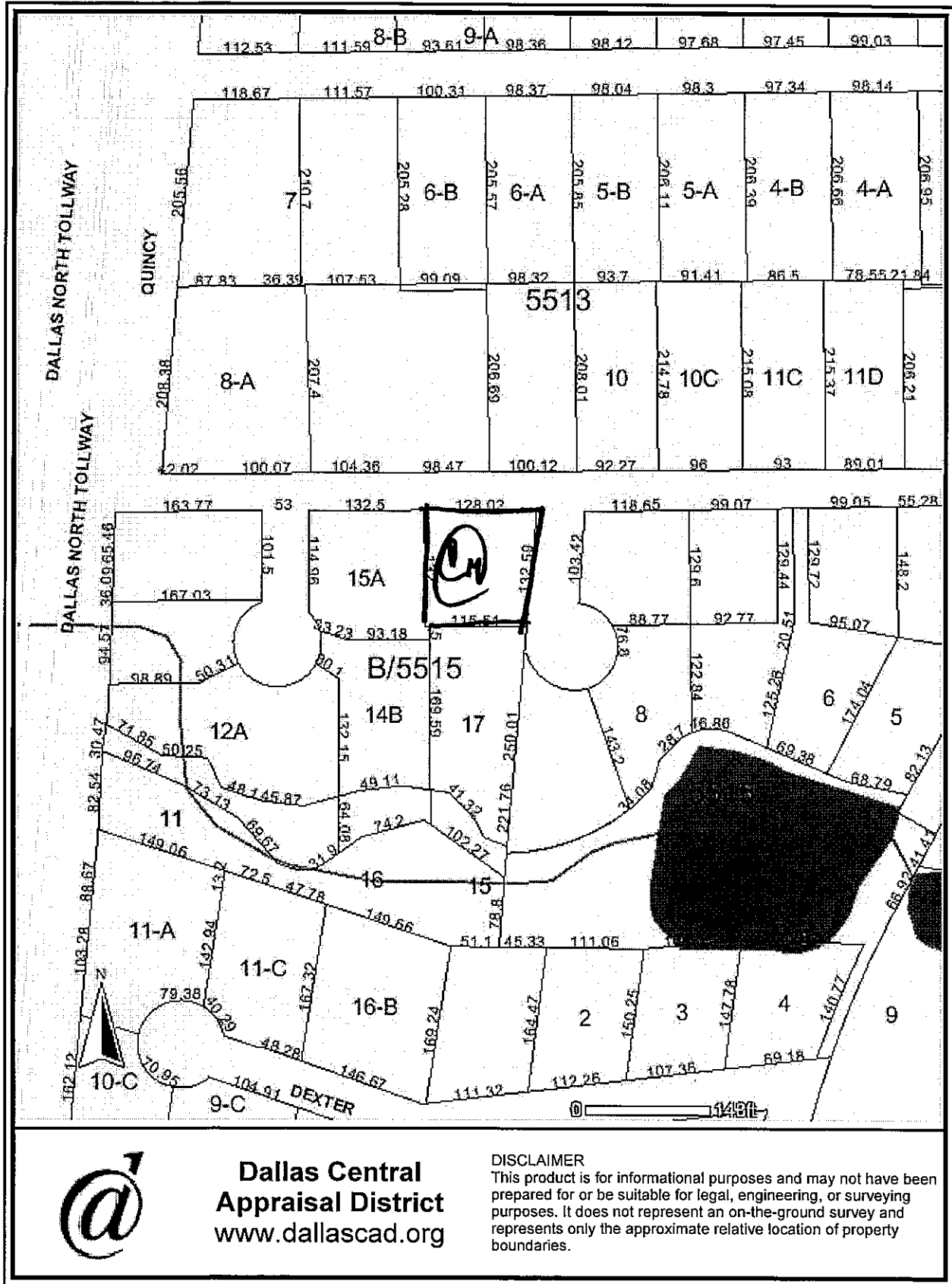
at 5822 Lakehurst Avenue

BDA134-036. Application of Crickett Reed for a special exception to the fence height regulations and a special exception to the visibility obstruction regulations at 5822 Lakehurst Avenue. This property is more fully described as Lot 16, Block B/5515, and is zoned R-10(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 an 8 foot 2 inch high fence in a required front yard, which will require a 4 foot 2 inch special exception to the fence regulation, and to construct and maintain a residential fence structure in a required driveway visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

Sincerely,

Larry V. Holmes
Larry Holmes, Building Official

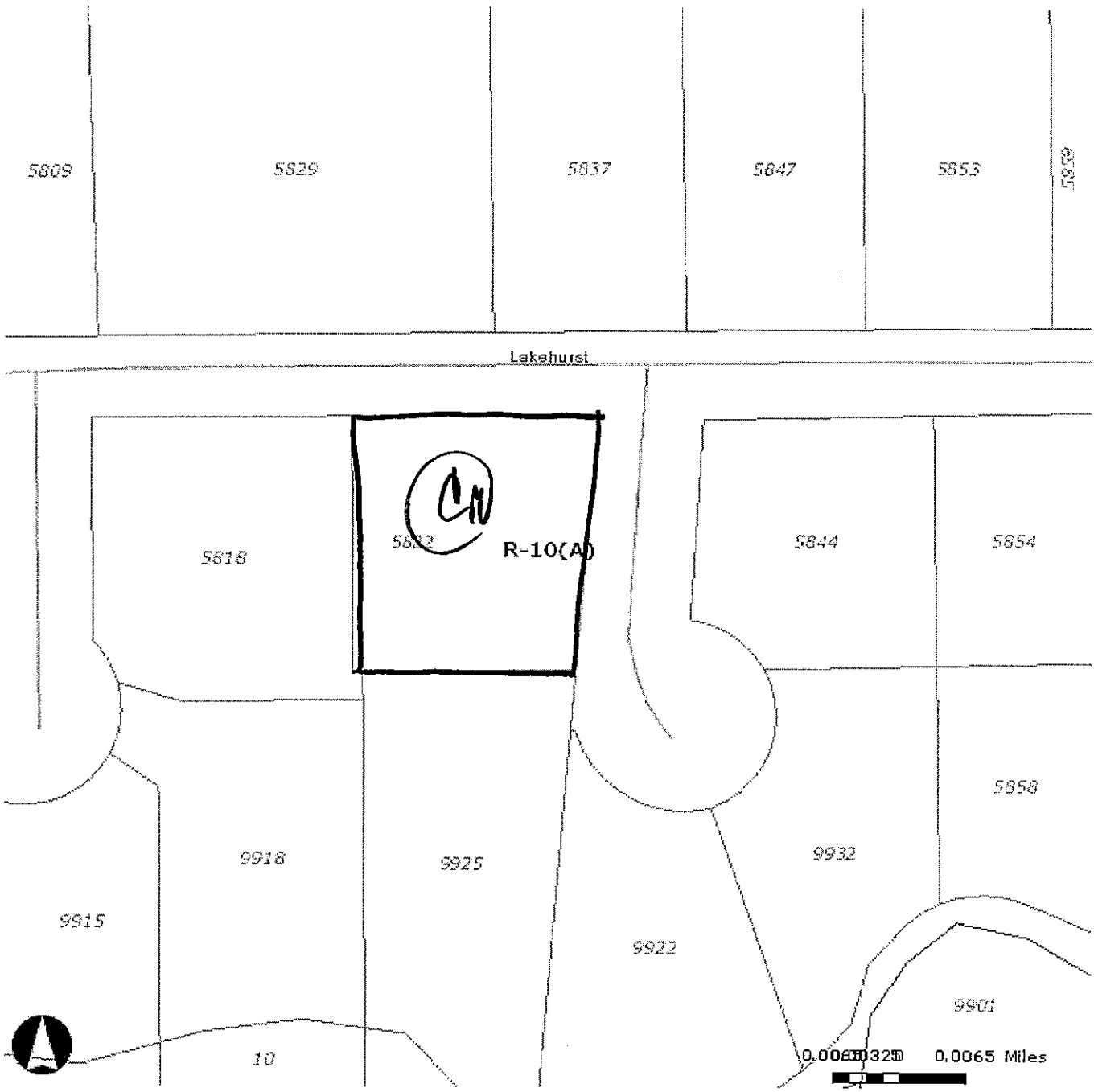




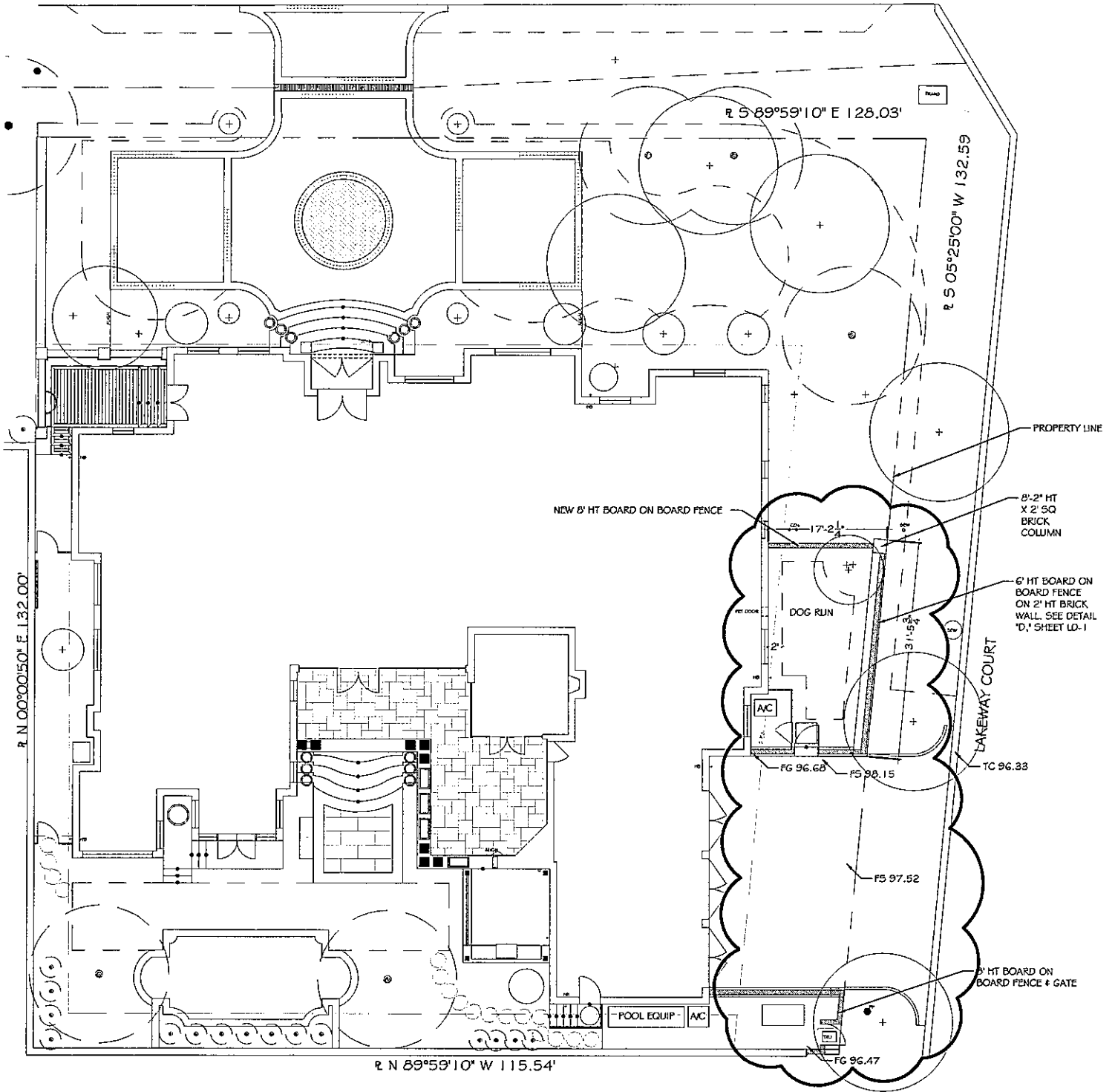
**Dallas Central
Appraisal District**
www.dallascad.org

DISCLAIMER

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



LAKEHURST AVENUE



SCALE: 1"=20'-0"

A LANDSCAPE DEVELOPMENT PLAN FOR: THE REED RESIDENCE

5822 Lakehurst Ave Dallas, TX 75230

Drawing: \ARCHV-232\Archverde Server\Current Projects\2013\Reed (8-19-13)\CDs\Reed_Const.dwg
 Saved By: Admn Save Time: 2/27/2014 9:27 AM Plotted by: Devon Blosch Plot Date: 2/27/2014 9:27 AM



 1:1,200	NOTIFICATION		Case no: BDA134-036
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">17</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 3/19/2014	

Notification List of Property Owners

BDA134-036

17 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5822 LAKEHURST AVE	REED CRICKETT S &
2	5837 LAKEHURST AVE	BROWN STEPHEN L & ANN B
3	5847 LAKEHURST AVE	ELLIS PAUL R III & PATRICIA A
4	5809 LAKEHURST AVE	WEINSTEIN JON L & CAROL N
5	5829 LAKEHURST AVE	BURKETT GENE
6	5853 LAKEHURST AVE	VOBACH STEPHEN F & MICHELE F
7	10 AVALON CREEK CT	TOLEDO VICTOR & THOMY SUE
8	10 AVALON CREEK CT	PETERSON ROBERT W & JENIFER P
9	5844 LAKEHURST AVE	HALVERSON PETER D
10	5854 LAKEHURST AVE	REYNOLDS JANET & RON D WILLIS
11	5858 LAKEHURST AVE	LANGDON ROBERT W
12	9932 LAKEWAY CT	LIEBERMAN RANDALL
13	9922 LAKEWAY CT	SMITH BRADLEY M & KAREN A
14	9923 AVALON CREEK CT	CHRISTIE DOUGLAS D
15	9919 AVALON CREEK CT	KHATRI MUSHTAK & ALIYA
16	9915 AVALON CREEK CT	ASHTON JAMES E & GLENDA J
17	5818 LAKEHURST AVE	GILLMAN DAVID & LISA

FILE NUMBER: BDA 134-009

BUILDING OFFICIAL'S REPORT: Application of Michael Spero for special exceptions to the fence height and visual obstruction regulations at 4202 Bretton Bay Lane. This property is more fully described as Lot 1, Block C/8705, 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 drive approaches. The applicant proposes to construct and/or maintain a 7 foot 6 inch high fence which will require a special exception of 3 feet 6 inches to the fence height regulations, and to locate/maintain items in required visibility triangles, which will require special exceptions to the visual obstruction regulations.

LOCATION: 4202 Bretton Bay Lane

APPLICANT: Michael Spero

REQUESTS:

In February of 2014, the following requests were made on a site that is currently developed with a single family home/use:

1. A request for a special exception to the fence height regulations of 3' 6" was made to maintain a 6' high open iron picket fence with 6' 4" high posts and a 6' high open iron picket gate with one 89" high (or 7' 4" high) gate post in one of the site's two 25' front yard setbacks - Voss Road.
2. Requests for special exceptions to the visual obstruction regulations were made to maintain portions of the open iron picket fence/gate and metal posts in the 20' visibility triangles on either side of the driveway into the site from Voss Road.

In April of 2014, the following appeals are made on a site that is currently developed with a single family home/use:

1. A request for a special exception to the fence height regulations of 1' is made in to reduce the height of an existing 6' high open iron picket fence with 6' 4" high posts and a 6' high open iron picket gate with one 89" high (or 7' 4" high) gate post in one of the site's two 25' front yard setbacks - Voss Road all to 5' in height.
2. Requests for special exceptions to the visual obstruction regulations are made to maintain portions of the open iron picket fence/gate and metal posts in the 20' visibility triangles on either side of the driveway into the site from Voss Road.

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):

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):

Approval, subject to the following condition:

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

Rationale:

- The Sustainable Development and Construction Department Senior Engineer has indicated that he has no objections to these requests.
- The applicant has substantiated how the location of portions of the existing open iron picket fence and gate located in the 20' visibility triangles on either side of the driveway into the site from Voss 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 developed with single family uses.

Zoning/BDA History:

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

Timeline:

- December 18, 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.
- January 15, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- January 15, 2014: The Board Administrator emailed the following information to the applicant:
- an attachment that provided the public hearing date and panel that will consider the application; the January 29th deadline to submit additional evidence for staff to factor into their analysis; and the February 7th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the requests; and
 - the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”
- February 4, 2014: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the February public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, and the Assistant City Attorney to the Board.
- February 6, 2014: The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet regarding the applicant’s request for a special exception to the visual obstruction regulations marked “Has no objections.”
- February 19, 2014: The Board of Adjustment Panel B conducted a public hearing on this application. The Board held the request under advisement until their public hearing to be held on April 23, 2014.
- February 27, 2014: The Board Administrator sent a letter to the applicant that noted the decision of the panel, and the April 11th deadline to submit additional evidence to be incorporated into the Board’s docket materials.

March 20, 2014: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).

April 7, 2014: The applicant submitted additional documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment B).

April 8, 2014 : The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

No additional review comment sheets with comments were submitted in conjunction with this application beyond what was submitted prior to the hearing in February.

April 10, 2014: Additional documentation on this application was forwarded to the Board Administrator by the co-presidents of the Bent Tree West Homeowners Association (see Attachment C).

GENERAL FACTS/STAFF ANALYSIS (fence height):

- This original request has been amended from what was presented to the board at the February 19th public hearing. The applicant has submitted a revised site plan and elevation where his request regarding the fence height special exception is to reduce the existing heights of the 6' high open iron picket fence with 6' 4" high posts and a 6' high open iron picket gate with one 89" high (or 7' 4" high) gate post in one of the site's two 25' front yard setbacks - Voss Road all to 5' in height.
- 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 site is located at the southeast corner of Bretton Bay Lane and Voss Road. The site has a 25' front yard setback along Bretton Bay Lane, 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 Voss Road, 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 Voss Road frontage is a side yard treated as a front yard setback nonetheless to maintain the continuity of the established front yard setback established by the lots developed with single family homes south of the site that front/are oriented westward towards Voss Road. Regardless of how the existing home is oriented to front onto Bretton Bay Lane (and

to “side” to Voss Road), the site has two 25’ front yard setbacks where the focus of the applicant’s request in this application is only to maintain a fence higher than 4’ in the site’s front yard setback on Voss Road. No part of the application is made to address any fence in the site’s Bretton Bay Lane front yard setback.

- The applicant had originally submitted a site plan and a partial elevation of the proposal in the front yard setback that reaches a maximum height of 89” or 7’ 4”. But in April of 2014, the applicant submitted a revised site plan and elevation (see Attachment B) that shows the maximum height of the fence and posts to be 5’ in height.
- The following additional information was gleaned from the originally submitted site plan:
 - The proposal is represented as being approximately 90’ in length parallel to the Voss Road and approximately 21’ in length perpendicular to Voss Road on the north and south sides of the site in the Voss Road front yard setback.
 - The proposal is represented as being located approximately 4’ from the property line or about 16’ from the Voss Road pavement line.
- The revised site plan does not make amendments to the length and location of the fence. The only revision to the site plan appears to be the addition of several evergreen plants to be added on the inside of the open picket fence and gates.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences above 4 feet high which appeared to be located in a front yard setback.
- Two homes front the proposal neither of which have fences in their front yards.
- As of April 14, 2014, 13 letters have been submitted in support of the application, 1 letter has been submitted in opposition to the request, and one letter has been submitted for the Board to determine.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 1’ will not adversely affect neighboring property.
- Granting this special exception of 1’ with a condition imposed that the applicant complies with the submitted revised site plan and revised partial elevation would require the proposal exceeding 4’ in height in the front yard setback to be maintained in the location and of the heights and materials as shown on these documents.

GENERAL FACTS/STAFF ANALYSIS (visual obstruction):

- These requests focus on reducing/maintaining portions of the existing 6’ high open iron picket fence with 6’ 4” high posts and a 6’ high open iron picket gate with one 89” high (or 7’ 4” high) gate post in the 20’ visibility triangles on either side of the driveway into the site from Voss Road to 5’.
- 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).
- The original and revised submitted site plan and partial elevation indicate portions of an open iron picket fence and open iron picket gate in the 20' visibility triangles on either side of the driveway into the site from Voss Road. While evergreen plants have been added to the revised site plan, these plants denoted on the inside/house side of fence are not located in the visibility triangles.
- The Sustainable Development and Construction Department Senior Engineer submitted a review comment sheet regarding the applicant's request for a special exception to the visual obstruction regulations 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 portions of 5' high open iron picket fence and gates in the two 20' visibility triangles on either side of the driveway into the site from Voss Road does not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted revised site plan and revised partial elevation would require the items (a 5' high open iron picket fence with 5' high posts and a 5' high open iron picket gate with 5' high gate post in the 20' visibility triangles on either side of the driveway into the site from Voss Road) to be limited to the locations, height and materials as shown on these revised documents.

BOARD OF ADJUSTMENT ACTION: FEBRUARY 19, 2014

APPEARING IN FAVOR: Michael Spero, 4202 Bretton Way Lane, Dallas, TX
Bethany Ardizzoni, 17708 Voss Rd., Dallas, TX

APPEARING IN OPPOSITION: Brian Williamson, 4206 Briargrove Lane, Dallas, TX
Phil Dettle, 4120 Rainsong Dr., Dallas, TX

MOTION #1: Gillespie

I move that the Board of Adjustment, in Appeal No. **BDA 134-009**, on application of Michael Spero, **deny** the special exception requested by this applicant **without prejudice**, because our evaluation of the property and the testimony shows that granting the application would adversely affect neighboring property.

SECONDED: Reynolds

AYES: 2 – Reynolds, Gillespie

NAYS: 3 – Chernock, Wilson, Leone

MOTION FAILED 2 – 3

MOTION #2: Chernock

I move that the Board of Adjustment, in Appeal No. **BDA 134-009**, on application of Michael Spero, **grant** the request to construct and maintain a 7-foot- 6-inch-high fence

in the property's front yard as a special exception to the fence height requirements in the Dallas Development Code, because our evaluation of the property and the testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: **Chernock**

AYES: 3 – Chernock, Wilson, Leone

NAYS: 2 – Reynolds, Gillespie

MOTION FAILED 3 – 2

MOTION #3: **Leone**

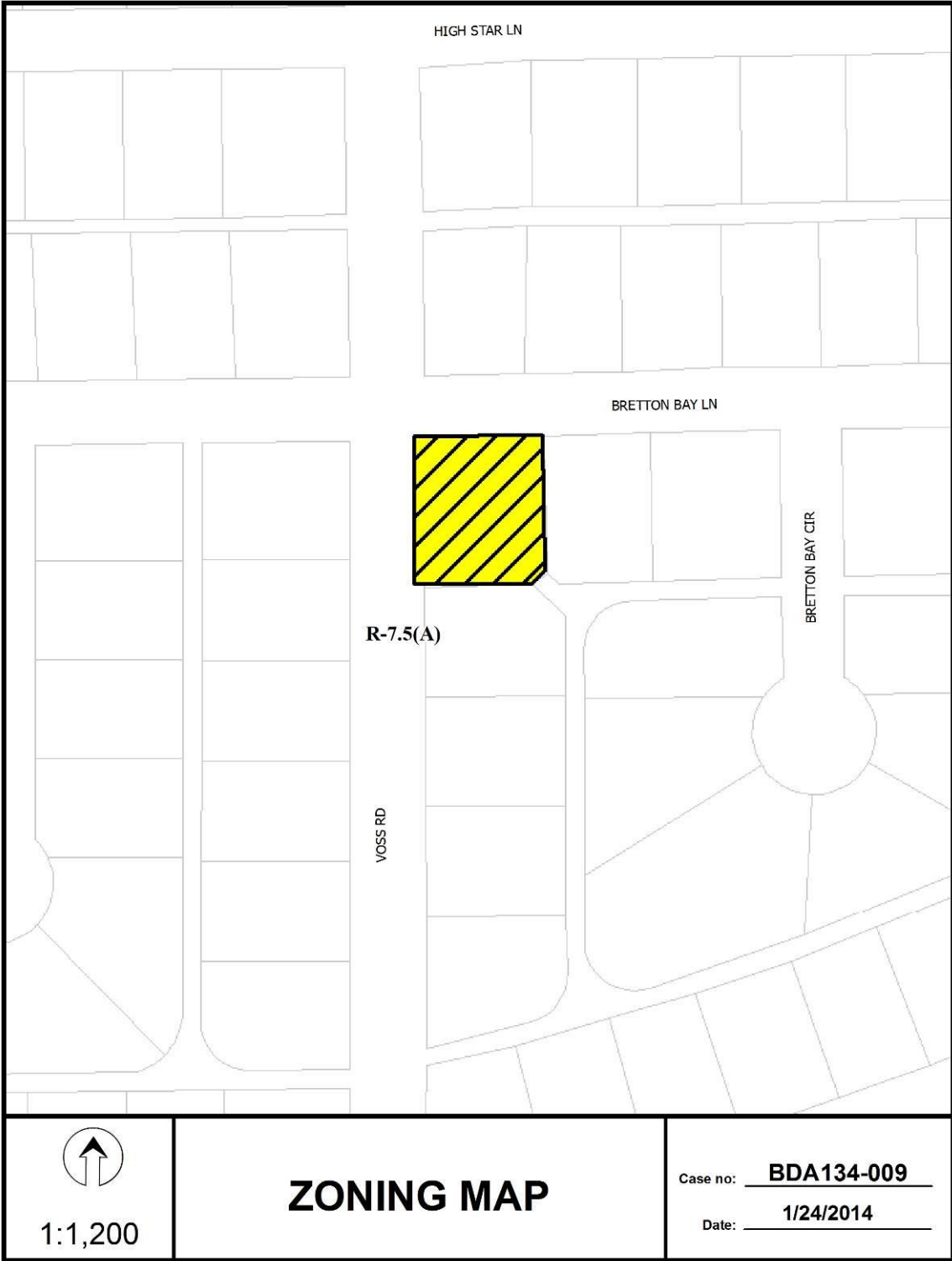
I move that the Board of Adjustment in Appeal No. **BDA 134-009**, hold this matter under advisement until **April 23, 2014**.

SECONDED: **Wilson**

AYES: 4 – Reynolds, Chernock, Wilson, Leone

NAYS: 1 – Gillespie

MOTION PASSED 4 – 1





1:1,200

AERIAL MAP

Case no: BDA134-009

Date: 1/24/2014

Long, Steve

BDA 134-009
Attach A
Pg 1

From: Mike Spero <mike@norris1.com>
Sent: Thursday, March 20, 2014 9:18 AM
To: Long, Steve
Subject: Picture of home on Bretton Bay, and Briargrove
Attachments: 20140320_080254.jpg; 20140320_080329.jpg

Steve,

I would like to add this to my file as another home that looks to have a similar situation as mine, but with an 8foot board on board fence, and alley access to the West of the fence.

This home is on the S.E corner of Briargrove, and Bretton Bay. The home across the street(the S.W corner) has a front entrance on Bretton Bay that faces this fence, and the homes directly west of this all have front entrances on Bretton Bay. This would seem to me that the 8ft fence on the side/front would also constitute a front yard due to the symmetry of the homes West on Bretton bay. Please call me with any questions. I have 2 more pictures I will email you.

Thank you,

Mike Spero

NORRIS TECHNOLOGY

Office: 214.379.3602 | Fax: 214.379.3601

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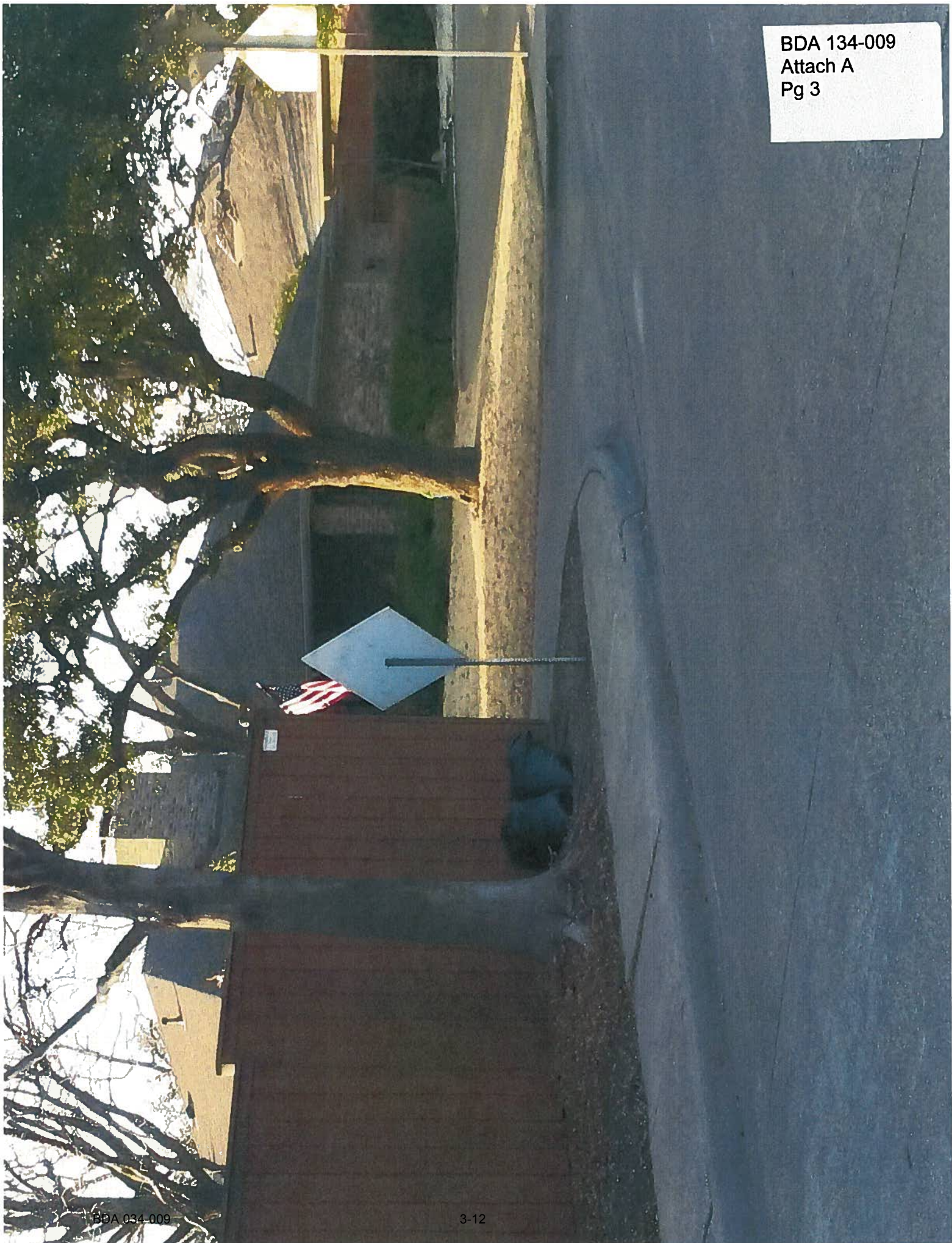


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Long, Steve

BDA 134-009
Attach B
Pg 1

From: Mike Spero <mike@norris1.com>
Sent: Monday, April 07, 2014 9:04 AM
To: Long, Steve
Subject: FW: Revised letter/4202 Bretton Bay -
Attachments: img785.pdf

Steve,

I believe that Brian Williamson will be sending you this letter when he gets them signed off by he, and Phil. I did want to send the revised fence drawing to show that 5 feet will be the maximum height the fence will be, and what I am applying for is a 1 foot special exception. Is there any other info needed other than this letter?

Thank you,

Mike Spero

NORRIS TECHNOLOGY

Office: 214.379.3602 | Fax: 214.379.3601

ISO 9001: 2008, ISO 14001: 2004, and OHSAS 18001: 2007 Registered

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Email: mike@norris1.com

mspero@aol.com

AOL IM :mspero

msn:mikespero@hotmail.com



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From: Brian Williamson [<mailto:brian@bdwilliamsoncpa.com>]
Sent: Tuesday, April 01, 2014 9:39 PM
To: Mike Spero
Cc: Phil Dettle
Subject: FW: Revised letter

Mike

Please take a look at the attached letter. If it conforms with your understanding of our agreement, let me know and we can arrange for the three of us to sign it. Then, I will forward it to the City.

Brian

pBrian D. Williamson, C.P.A.
A Professional Corporation
4206 Briargrove Lane
Dallas, Texas 75287

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eeon



BDA 134-009
Attach B
Pg 3

March 31, 2014

Mr. Steve Long
Board of Adjustment Administrator
City of Dallas Sustained Development
And Construction
1500 Marilla Street, Room 5BN
Dallas, Texas 75201

Dear Mr. Long:

Representatives of the Bent Tree West Homeowners' Association, Inc. (HOA) met with Mr. and Mrs. Mike Spero (owners of the property at 4202 Bretton Bay, Dallas, TX 75287).

The HOA agrees to withdraw our objection to the height of the Spero's metal fence subject to the provisions in the following paragraph. The fence and gate are currently in excess of the City of Dallas maximum height allowance (four feet (4')).

The HOA and the Spero's have agreed on a reduced fence height. The Spero's agree to reduce the fence, gate and all posts to a maximum height of not more than five feet (from ground level to the top of the fence, posts and gate). The Spero's also agree to plant evergreen shrubbery on the inside of the fenced area. The shrubbery will cover between 60% and 70% of the fence's length. The width of the driveway gate is excluded from this calculation.

Very truly yours,

Bent Tree West Homeowners' Association, Inc.

By _____

Phil Dettle, Co-President
214-908-4487

By _____

Brian Williamson, Co-President
972-380-9466

P.O. BOX 701111 DALLAS, TEXAS 75370

Mr. Steve Long
Page 2
March 20, 2014

BDA 134-009
Attach B
Pg 4

Mr. & Mrs. Mike Spero

By _____

Mike Spero
972-333-3499



4202 Bretton Bay Lane

Being Lot 1, in Block C/8705, of Bent Tree West, Phase I, an Addition to the City of Dallas, formerly Renner, Texas, according to the Revised Map thereof recorded in Volume 12, Page 118, Map Records of Collin County, Texas.

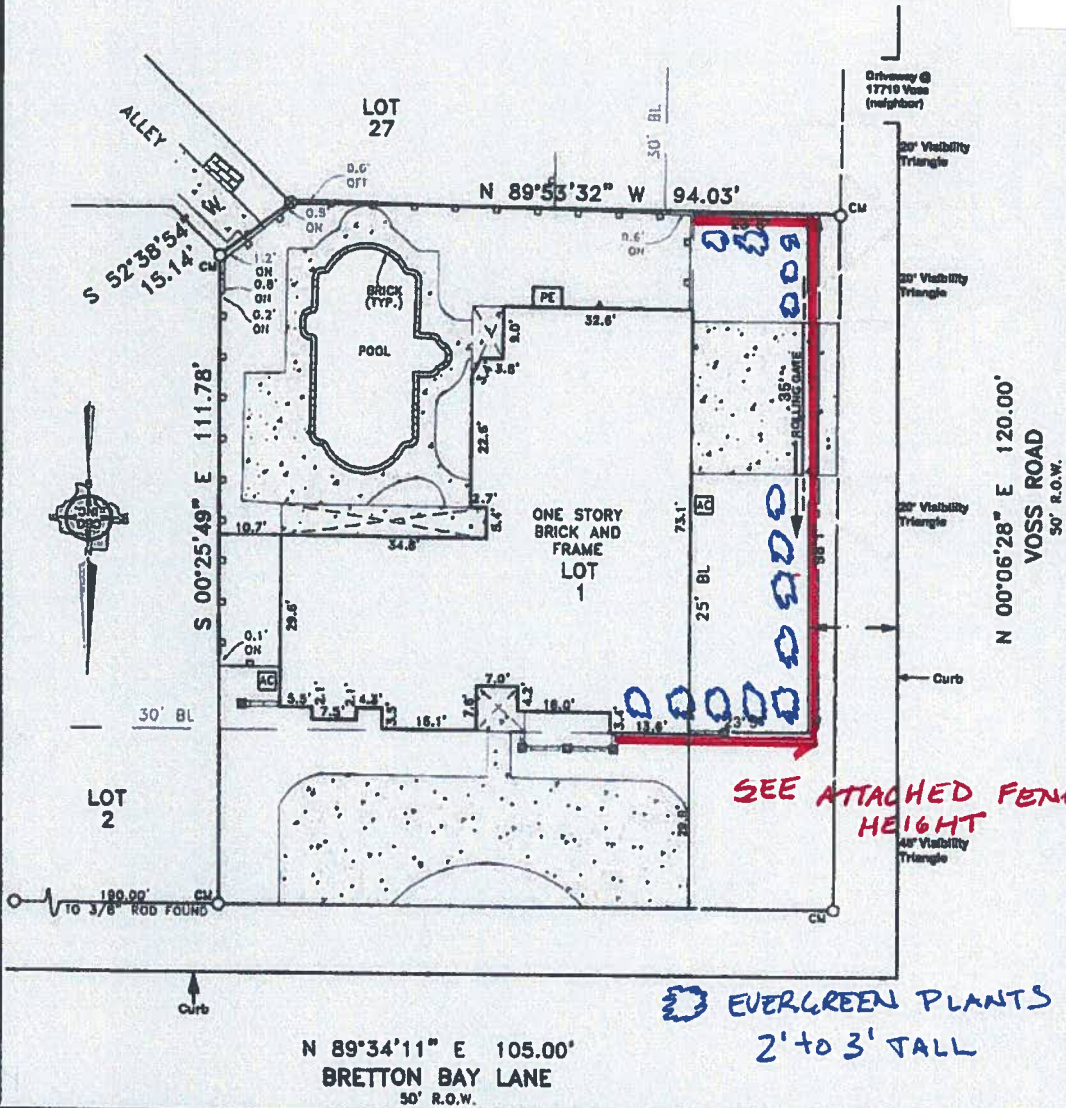
stewart
title guaranty company



BDA 134-009
Attach B
Pg 5

LEGEND

- 3/8" ROD FOUND
- ⊙ 1/2" ROD SET
- ⊙ 1/2" ROD FOUND
- ⊙ 3/4" FOUND/SET
- ⊙ 60d NAIL FOUND
- FENCE POST FOR CORNER
- CM CONTROLLING
- CM MONUMENT
- AC AIR CONDITIONER
- PE POOL
- PE EQUIPMENT
- T TRANSFORMER PAD
- ⊙ COLUMN
- ⊙ POWER POLE
- △ UNDERGROUND ELECTRIC
- △ OVERHEAD ELECTRIC
- OHP OVERHEAD ELECTRIC POWER
- OED OVERHEAD ELECTRIC SERVICE
- ○ CHAIN LINK
- WOOD FENCE 4" WIDE TYPICAL
- WOOD FENCE POST ONLY
- IRON FENCE
- X BARBED WIRE
- EDGE OF ASPHALT
- EDGE OF GRAVEL
- CONCRETE
- COVERED AREA
- FENCE



EXCEPTIONS:

NOTE: PROPERTY SUBJECT TO TERMS, CONDITIONS, AND EASEMENTS CONTAINED IN INSTRUMENT RECORDED IN VOL. 888, PG. 778; VOL. 12, PG. 118

NOTES:

BEARINGS, EASEMENTS AND BUILDING LINES ARE BY RECORDED PLAT UNLESS OTHERWISE NOTED.

FLOOD NOTE: According to the F.I.R.M. No. 48085C0480J, 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 Stewart Title. 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 herein is a correct and accurate representation of the property lines and dimensions as so indicated; location and type of buildings as so shown and EXCEPT AS SHOWN, there are no visible and apparent encroachments or protrusions on the ground.

Drawn By: BRD

Scale: 1" = 20'

Date: 06/04/13

GF No.: 11308564

Job No. 1303118-1

C.B.G. Surveying, Inc.

12025 Shiloh Road, Ste 230
Dallas, TX 75228
P 214.349.9485
F 214.349.2216
www.cbgsurvey.com



Accepted by: _____
Date: _____ Purchaser
Purchaser



4202 Bretton Bay Lane

Being Lot 1, in Block C/8705, of Bent Tree West, Phase I, an Addition to the City of Dallas, formerly Renner, Texas, according to the Revised Map thereof recorded in Volume 12, Page 118, Map Records of Collin County, Texas.

stewart
- the surety company

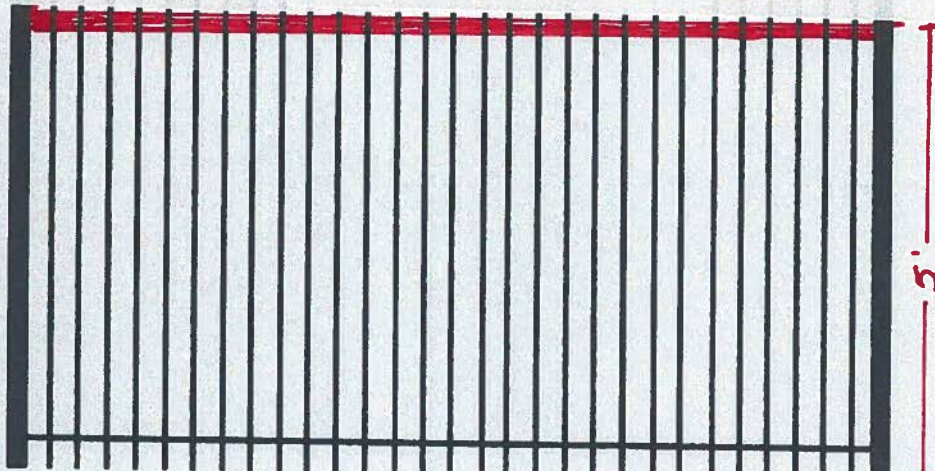


BDA 134-009
Attach B
Pg 6

LEGEND

- 3/8" ROD FOUND
- ⊙ 1/2" ROD SET
- ⊙ 1/2" ROD FOUND
- ⊙ 1/2" FOUND/SET
- 60d NAIL FOUND
- FENCE POST FOR CORNER
- CONTROLLING MONUMENT
- CM MONUMENT
- AD AIR CONDITIONER
- PC POOL EQUIPMENT
- T TRANSFORMER PAD
- COLUMN
- POWER POLE
- ▲ UNDERGROUND ELECTRIC
- ▲ OVERHEAD ELECTRIC
- O— OVERHEAD ELECTRIC POWER
- S— OVERHEAD ELECTRIC SERVICE
- CHAIN LINK
- W— WOOD FENCE 4.5' WIDE TYPICAL
- P— WOOD FENCE POST ONLY
- I— IRON FENCE
- X— BARBED WIRE
- A— EDGE OF ASPHALT
- G— EDGE OF GRAVEL
- C— CONCRETE
- D— COVERED AREA

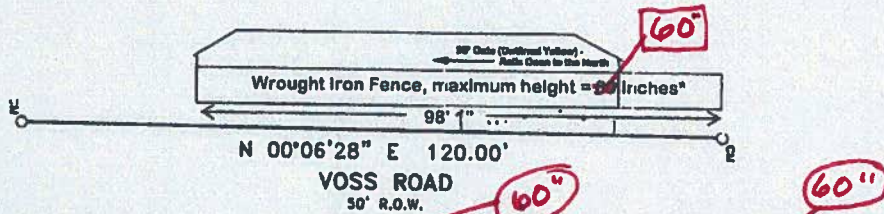
Typical Fence Panel - Drawn at 1/4" = 1' Scale



FENCE TO BE CAPPED ON TOP (RED LINE)

5' MAX HEIGHT

GROUND LEVEL



* 1 gate post at the left side of the driveway is 89" Tall. The maximum height on the fence is 76". Wrought Iron verticals are 1/2" wide, spaced 4" apart, which affords visibility through the fence. Length of the fence = 98' 1".



EXCEPTIONS:

NOTE: PROPERTY SUBJECT TO TERMS, CONDITIONS, AND EASEMENTS CONTAINED IN INSTRUMENT RECORDED IN VOL. 885, PG. 778; VOL. 12, PG. 118

NOTES:

BEARINGS, EASEMENTS AND BUILDING LINES ARE BY RECORDED PLAT UNLESS OTHERWISE NOTED.

FLOOD NOTE: According to the F.I.R.M. No. 4888C0480J, 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 Stewart Title. 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.

Drawn By: BRD

Scale: 1" = 20'

Date: 08/04/13

GF No.:

11308564

Job No. 1303119-1

C.B.G. Surveying, Inc.

12025 Shiloh Road, Ste. 230

Dallas, TX 75228

P 214.349.0485

F 214.349.2216

www.cbadiw.com



Date: _____ Accepted by: _____
Purchaser Purchaser



Bent Tree West
HOMEOWNERS ASSOCIATION

March 31, 2014

Mr. Steve Long
Board of Adjustment Administrator
City of Dallas Sustained Development
And Construction
1500 Marilla Street, Room 5BN
Dallas, Texas 75201

Dear Mr. Long:

Representatives of the Bent Tree West Homeowners' Association, Inc. (HOA) met with Mr. and Mrs. Mike Spero (owners of the property at 4202 Bretton Bay, Dallas, TX 75287).

The HOA agrees to withdraw our objection to the height of the Spero's metal fence subject to the provisions in the following paragraph. The fence and gate are currently in excess of the City of Dallas maximum height allowance (four feet (4')).

The HOA and the Spero's have agreed on a reduced fence height. The Spero's agree to reduce the fence, gate and all posts to a maximum height of not more than five feet (from ground level to the top of the fence, posts and gate). The Spero's also agree to plant evergreen shrubbery on the inside of the fenced area. The shrubbery will cover between 60% and 70% of the fence's length. The width of the driveway gate is excluded from this calculation.

Very truly yours,

Bent Tree West Homeowners' Association, Inc.

By Brian Williamson
Phil Dettle
Phil Dettle, Co-President
214-908-4487

By _____
Brian Williamson, Co-President
972-380-9466

Ⓐ We agree to planting shrubbery on the outside (street side of fence) if planting on the inside causes a problem for the gate's rail. BW



P.O. BOX 701111 DALLAS, TEXAS 75370

Mr. Steve Long
Page 2
March 20, 2014

Mr. & Mrs. Mike Spero

By _____

Mike Spero
972-333-3499



B

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-009

Data Relative to Subject Property:

Date: 12-18-13

Location address: 4202 Bretton Bay Ln

Zoning District: R-7.5(A)

Lot No.: 2 Block No.: C18705 Acreage: .28

Census Tract: 317.04

Street Frontage (in Feet): 1) 105 2) 120 3) _____ 4) _____ 5) _____ NEIR

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Michael Sperru & Julie Sperru

Applicant: Michael Sperru Telephone: 972-333 3499

Mailing Address: 4202 Bretton Bay Ln Zip Code: 75287

E-mail Address: mikeenorris7.com

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance _____, or Special Exception of 3 Foot Corn
The Fence Gate has one post that stands 39 in Tall
in front yard, and visibility triangle @ driveway

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:

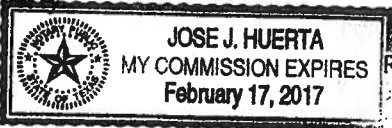
Although the fence is located on a corner lot Voss is not a main street w/ a lot of traffic. The fence is wrought iron & you can see through it in all directions. Being that it is wrought iron there are no visible obstructions at the corner of Voss and Bretton Bay you can clearly see all traffic coming from the north. The enclosed gated driveway is private w/ no public alley access. From the driveway you can clearly see all North/Southbound traffic 20ft's beyond, and all sideways are 100% visible in both directions

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 Mike Sperru
(Affiant/Applicant's name printed)

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



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

Subscribed and sworn to before me this 17th day of December, 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 **MIKE SPERO**

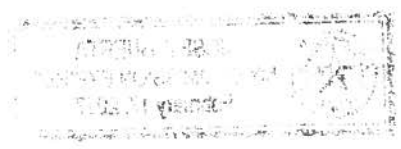
did submit a request for a special exception to the visibility obstruction regulations, and for a special exception to the fence height regulations

at 4202 Bretton Bay Lane

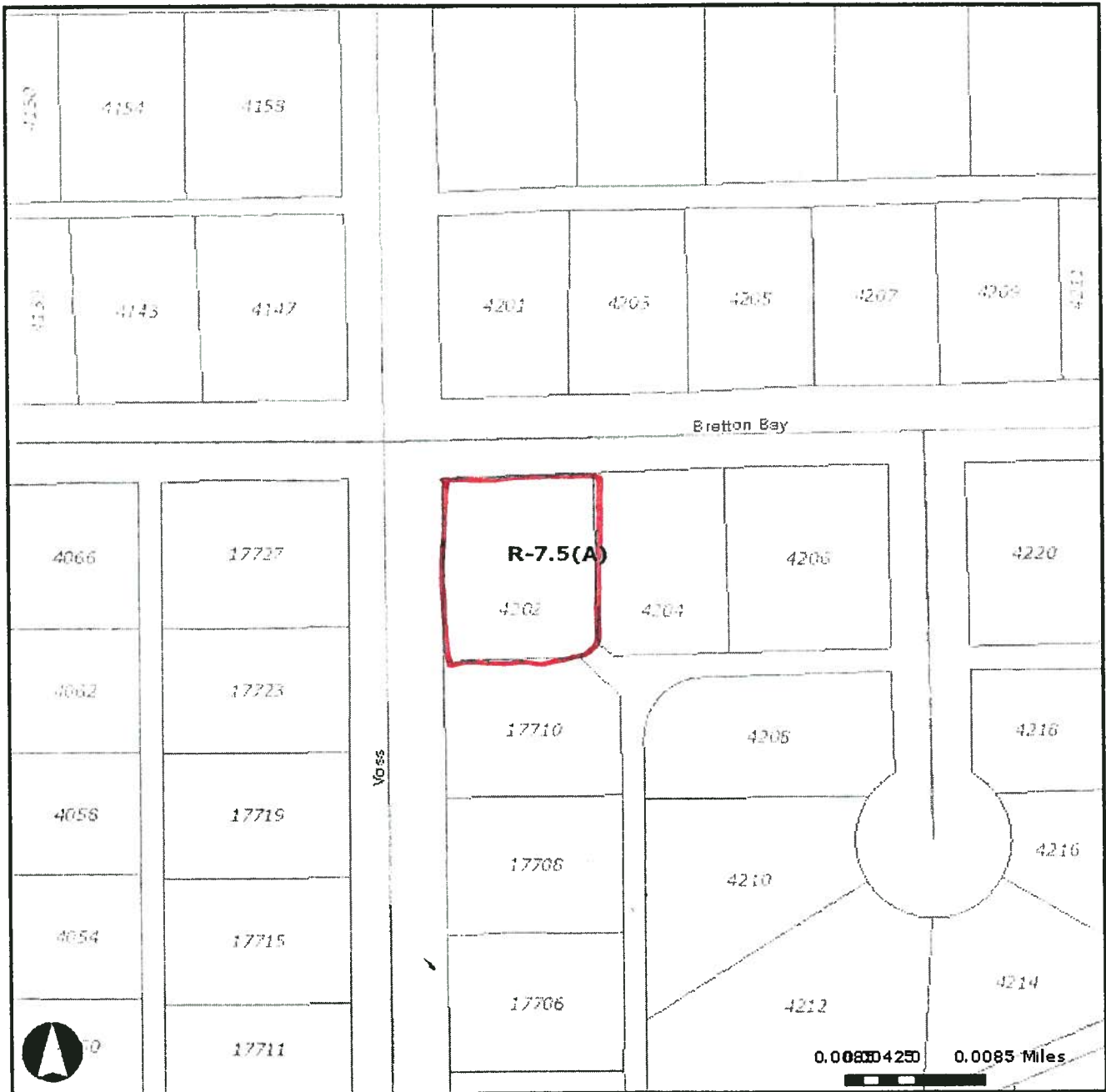
BDA134-009. Application of Mike Spero for a special exception to the visibility obstruction regulations and a special exception to the fence height regulations at 4202 Bretton Bay Lane. This property is more fully described as Lot 1, Block C/8705, and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and maintain a single family residential fence structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation, and to construct a 7 foot inch high fence in a required front yard, which will require a 3 foot 6 inch special exception to the fence regulation.

Sincerely,

Larry V. Holmes
Larry Holmes, Building Official



City of Dallas Zoning



Address Candidates

- City Boundaries
- County
- Certified Parcels
- DISD Sites

SUP

- Dry Overlay
- D
- D-1
- Historic Overlay
- Historic Subdistricts

PDS Subdistricts

- Base Zoning
- Floodplain
- 100 Flood Zone
- Mill's Creek
- Peak's Branch



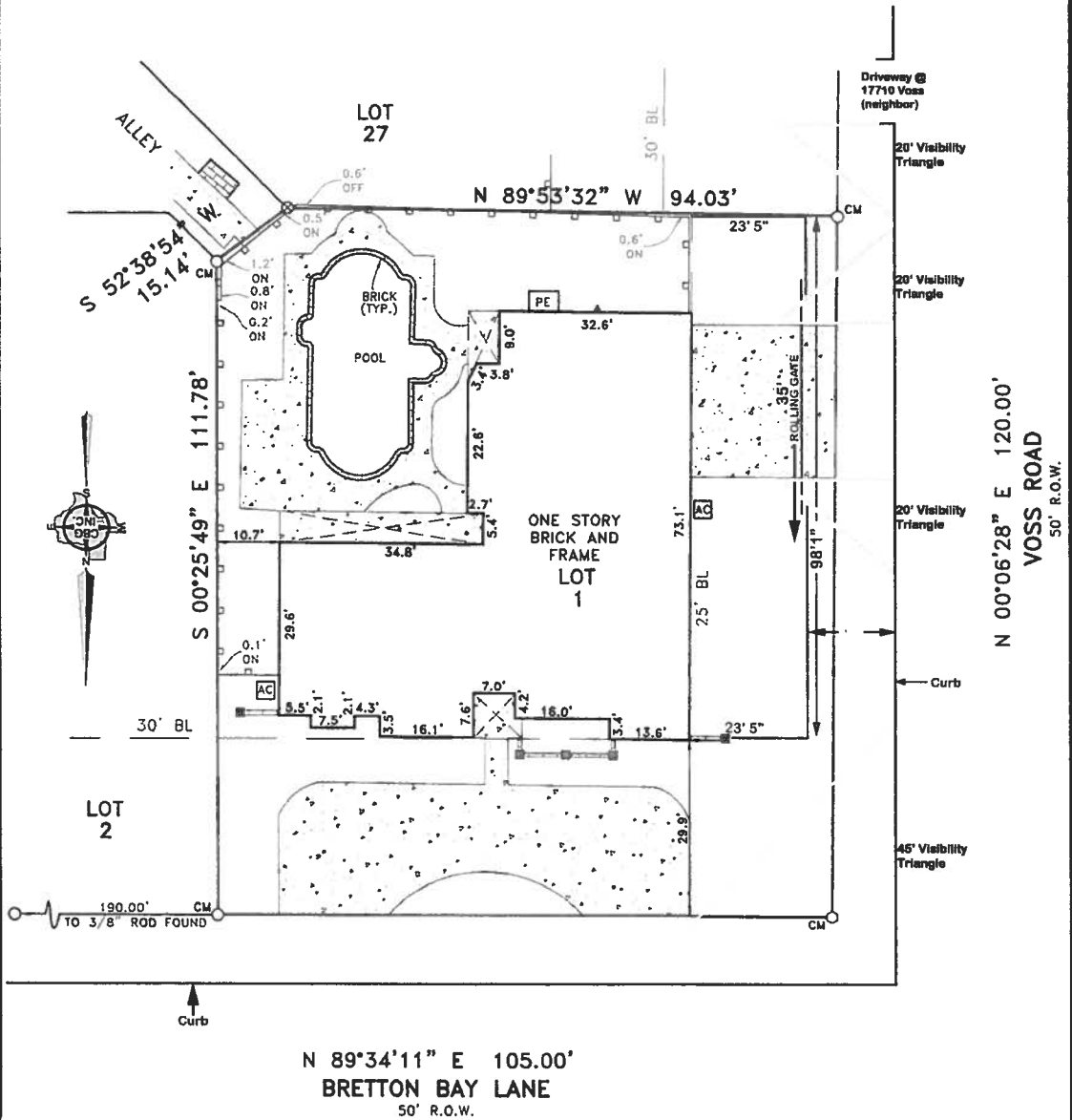
4202 Bretton Bay Lane

Being Lot 1, in Block C/8705, of Bent Tree West, Phase I, an Addition to the City of Dallas, formerly Renner, Texas, according to the Revised Map thereof recorded in Volume 12, Page 118, Map Records of Collin County, Texas.



LEGEND

- 5/8" ROD FOUND
- ⊙ 1/2" ROD SET
- 1/2" ROD FOUND
- ⊗ "x" FOUND/SET
- ◆ 60d NAIL FOUND
- FENCE POST FOR CORNER
- CM CONTROLLING MONUMENT
- AC AIR CONDITIONER
- PE POOL EQUIPMENT
- T TRANSFORMER PAD
- COLUMN
- POWER POLE
- ▲ UNDERGROUND ELECTRIC
- ▲ OVERHEAD ELECTRIC
- OHP— OVERHEAD ELECTRIC POWER
- OES— OVERHEAD ELECTRIC SERVICE
- CHAIN LINK
- WOOD FENCE 0.5' WIDE TYPICAL
- WOOD FENCE POST ONLY
- I — IRON FENCE
- X — BARBED WIRE
- EDGE OF ASPHALT
- EDGE OF GRAVEL
- CONCRETE
- COVERED AREA
- FENCE



EXCEPTIONS:

NOTE: PROPERTY SUBJECT TO TERMS, CONDITIONS, AND EASEMENTS CONTAINED IN INSTRUMENT RECORDED IN VOL. 888, PG. 776; VOL. 12, PG. 118

NOTES:

BEARINGS, EASEMENTS AND BUILDING LINES ARE BY RECORDED PLAT UNLESS OTHERWISE NOTED.

FLOOD NOTE: According to the F.I.R.M. No. 48085C0480J, 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 Stewart Title. 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 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: BRD
 Scale: 1" = 20'
 Date: 06/04/13
 GF No.: 11306564
 Job No. 1303119-1

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

Bryan Connolly
 BRYAN CONNOLLY
 REG. NO. 5513



4202 Bretton Bay Lane

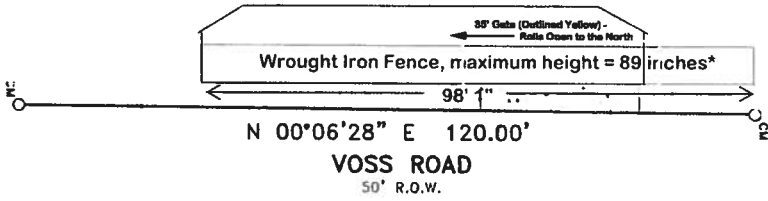
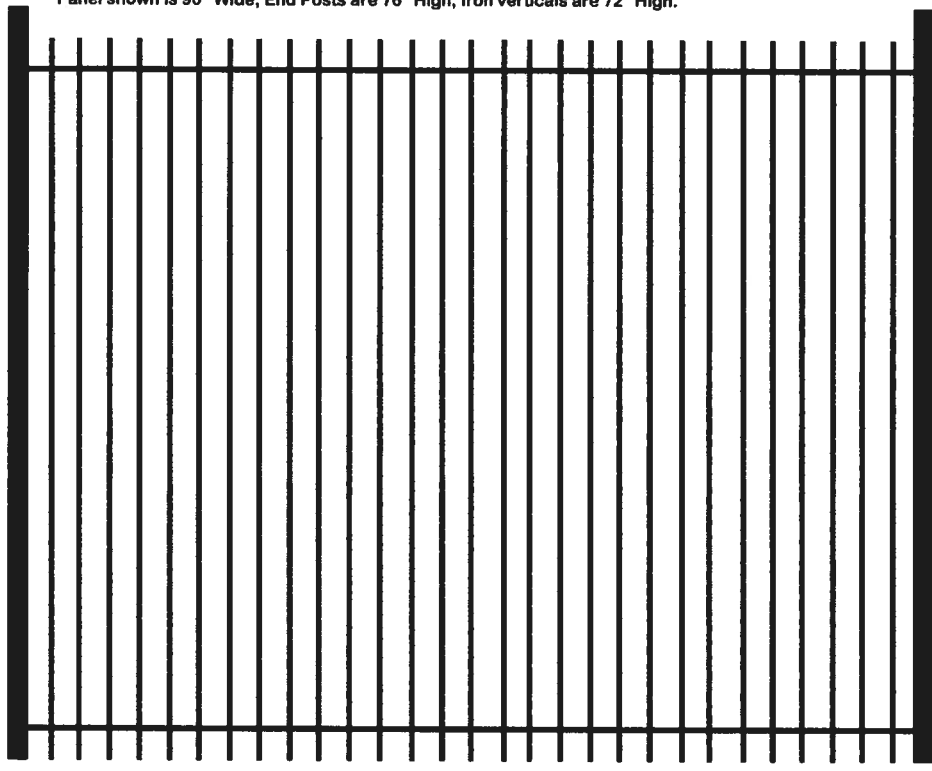
Being Lot 1, in Block C/8705, of Bent Tree West, Phase I, an Addition to the City of Dallas, formerly Renner, Texas, according to the Revised Map thereof recorded in Volume 12, Page 118, Map Records of Collin County, Texas.



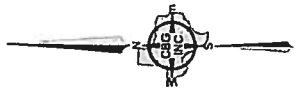
- LEGEND**
- 5/8" ROD FOUND
 - ⊙ 1/2" ROD SET
 - 1/2" ROD FOUND
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 - ◆ 60d NAIL FOUND
 - FENCE POST FOR CORNER
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 - CHAIN LINK
 - WOOD FENCE 0.5' WIDE TYPICAL
 - WOOD FENCE POST ONLY
 - |— IRON FENCE
 - X— BARBED WIRE
 - EDGE OF ASPHALT
 - ▲ EDGE OF GRAVEL
 - CONCRETE
 - COVERED AREA

Typical Fence Panel - Drawn at 1"=1' scale:

Panel shown is 90" Wide, End Posts are 76" High, Iron verticals are 72" High.



* 1 gate post at the left side of the driveway is 89" Tall. The maximum height on the fence is 76".
 Wrought iron verticals are 1/2" wide, spaced 4" apart, which affords visibility through the fence.
 Length of the fence = 98' 1".



EXCEPTIONS:

NOTE: PROPERTY SUBJECT TO TERMS, CONDITIONS, AND EASEMENTS CONTAINED IN INSTRUMENT RECORDED IN VOL. 988, PG. 776; VOL. 12, PG. 118

NOTES:
 BEARINGS, EASEMENTS AND BUILDING LINES ARE BY RECORDED PLAT UNLESS OTHERWISE NOTED.
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Date: _____ Accepted by: _____ Purchaser
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 F 214.349.2216
 www.cbqdfw.com

Bryan Conally
 BRYAN CONALLY
 S.P.S. NO. 5513

Date 12-25-13

I, (print name) Jake & Lori Jenkins,
wish to allow this letter to serve as my statement regarding the fence
recently installed at: 4202 Bretton Bay Lane, Dallas, Texas, 75287.

I do not find the fence to obstruct my view or ability to walk the
sidewalk on Voss Rd, Bretton Bay Lane or any other direction. I also do
not find the fence offensive in its appearance or height. I would find it
only fair to allow the residents to keep their fence at the current height
as it allows their children and dog, as well as many neighborhood
children, to safely play along the side of their house.

Signature: 

Address: 4203 Bretton Bay Ln.
Dallas TX 75287

Additional comments:

Date 12.3.13

I, (print name) Rob Crump

wish to allow this letter to serve as my statement regarding the fence recently installed at: 4202 Bretton Bay Lane, Dallas, Texas, 75287.

I do not find the fence to obstruct my view or ability to walk the sidewalk on Voss Rd, Bretton Bay Lane or any other direction. I also do not find the fence offensive in its appearance or height. I would find it only fair to allow the residents to keep their fence at the current height as it allows their children and dog, as well as many neighborhood children, to safely play along the side of their house.

Signature: 

Address: 17710 Voss
Dallas, TX 75287

Additional comments:

Date 12/3/13

I, (print name) Jess G Lotzbech,

wish to allow this letter to serve as my statement regarding the fence recently installed at: 4202 Bretton Bay Lane, Dallas, Texas, 75287.

I do not find the fence to obstruct my view or ability to walk the sidewalk on Voss Rd, Bretton Bay Lane or any other direction. I also do not find the fence offensive in its appearance or height. I would find it only fair to allow the residents to keep their fence at the current height as it allows their children and dog, as well as many neighborhood children, to safely play along the side of their house.

Signature: Jess G Lotzbech

Address: 4222 Bretton Bay Ln
Dallas, TX 75287

Additional comments:

Date 12-3-13

I, (print name) Justin Godsey & Robyn Hennegan,
wish to allow this letter to serve as my statement regarding the fence
recently installed at: 4202 Bretton Bay Lane, Dallas, Texas, 75287.

I do not find the fence to obstruct my view or ability to walk the
sidewalk on Voss Rd, Bretton Bay Lane or any other direction. I also do
not find the fence offensive in its appearance or height. I would find it
only fair to allow the residents to keep their fence at the current height
as it allows their children and dog, as well as many neighborhood
children, to safely play along the side of their house.

Signature: Justin Godsey

Address: 4205 Bretton Bay Ln.
Dallas, TX 75287

Additional comments:

I frequent this intersection and do not
see the fence as a problem nor does it obstruct
my view of traffic.

Date 12/2/13

I, (print name) Scott Beres

wish to allow this letter to serve as my statement regarding the fence recently installed at: 4202 Bretton Bay Lane, Dallas, Texas, 75287.

I do not find the fence to obstruct my view or ability to walk the sidewalk on Voss Rd, Bretton Bay Lane or any other direction. I also do not find the fence offensive in its appearance or height. I would find it only fair to allow the residents to keep their fence at the current height as it allows their children and dog, as well as many neighborhood children, to safely play along the side of their house.

Signature: 

Address: 4207 Bretton Bay Ln

Additional comments:

Date 12/3/13

I, (print name) Jeanne Moore,
wish to allow this letter to serve as my statement regarding the fence
recently installed at: 4202 Bretton Bay Lane, Dallas, Texas, 75287.

I do not find the fence to obstruct my view or ability to walk the
sidewalk on Voss Rd, Bretton Bay Lane or any other direction. I also do
not find the fence offensive in its appearance or height. I would find it
only fair to allow the residents to keep their fence at the current height
as it allows their children and dog, as well as many neighborhood
children, to safely play along the side of their house.

Signature: Jeanne Moore

Address: 4204 Bretton Bay Lane
Dallas, Tx
75287

Additional comments:

Safety and home improvement should be
encouraged . . . not penalized!
Fence is an addition that in no way
detracts from traffic safety.

Date 12/2/13

I, (print name) Bob + Carolyn Wirth
wish to allow this letter to serve as my statement regarding the fence recently installed at: 4202 Bretton Bay Lane, Dallas, Texas, 75287.

I do not find the fence to obstruct my view or ability to walk the sidewalk on Voss Rd, Bretton Bay Lane or any other direction. I also do not find the fence offensive in its appearance or height. I would find it only fair to allow the residents to keep their fence at the current height as it allows their children and dog, as well as many neighborhood children, to safely play along the side of their house.

Signature: Carolyn Wirth Robert Wirth

Address: 4201 Bretton Bay Ln
Dallas 75287

Additional comments:

I live across the street at 4201 Bretton Bay Lane. Actually I feel that the wrought iron fence improved the property at 4202 Bretton Bay Lane. In addition, the homeowner was simply attempting to be able to use side yard space for a place for his children to play. The fence does not obstruct the view of any vehicles that attempt to turn onto Voss Road or Bretton Bay Lane.

It seems that the laws sometimes punish the wrong people. By constructing a 6 foot fence, the homeowner felt that he was providing better protection for his children when they want to go outside and play.

In this neighborhood, we have a safety patrol that is made up of neighbors who volunteer. This was necessary because the resources of the city of Dallas are limited, and there are not enough police to provide the protection that we wanted in our neighborhood.

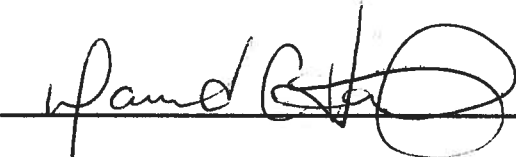
It seems to me that the homeowner simply made a mistake in being more concerned with his children's safety and with being a good neighbor than trying to circumvent any regulations. I would hope that any fines be waived and permit this homeowner to keep his fence as it is.

Date 12-9-13

I, (print name) DAVID HARTY

wish to allow this letter to serve as my statement regarding the fence recently installed at: ~~4202~~ 4303 Bretton Bay Lane, Dallas, Texas, 75287.

I do not find the fence to obstruct my view or ability to walk the sidewalk on Voss Rd, Bretton Bay Lane or any other direction. I also do not find the fence offensive in its appearance or height. I would find it only fair to allow the residents to keep their fence at the current height as it allows their children and dog, as well as many neighborhood children, to safely play along the side of their house.

Signature: 

Address: 4303 Bretton Bay
DALLAS 75287

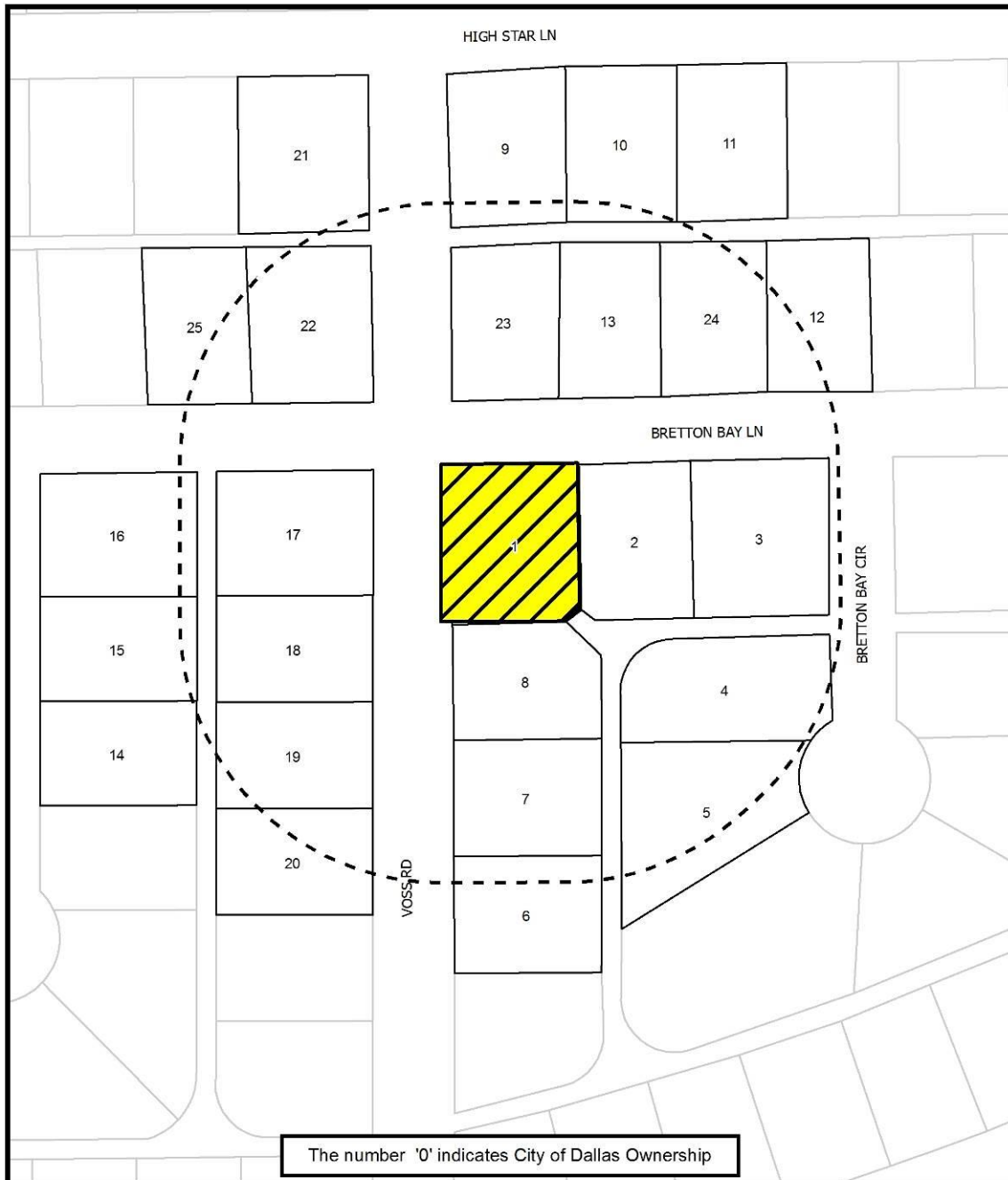
Additional comments:

The fence is a wonderful addition to the
landscape and the fact that it is wrought iron
(which allows visibility) shows foresight as to
it's safety impact on drivers. A solid wood
fence would have been a horrible choice.









 1:1,200	<h2>NOTIFICATION</h2>	Case no: BDA134-009			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">25</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	25	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
25	NUMBER OF PROPERTY OWNERS NOTIFIED				

Notification List of Property Owners

BDA134-009

25 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4202 BRETTON BAY	FREY JEANNETTE
2	4204 BRETTON BAY	MOORE ELMER L
3	4206 BRETTON BAY	PHILLIPS MARIANNE S ET VIR RONNIE
4	4208 BRETTON BAY	PICKETT BRYAN L
5	4210 BRETTON BAY	CROWELL CYNTHIA LU
6	17706 VOSS	DEMENT GREGORY & WENDY
7	17708 VOSS	ARDIZZONI DENNIS & HAMPTON BETHANY
8	17710 VOSS	CRUMP KAREY LYN & ROBERT WILLIAM JR
9	4202 HIGH STAR	HASSELL DENNIS R ETUX
10	4204 HIGH STAR	TOBY LEONA ANN
11	4206 HIGH STAR	PEABODY RICHARD A & TERI L
12	4207 BRETTON BAY	BERES FRANK S & JENNIFER P
13	4203 BRETTON BAY	JENKINS JACOB & LORI JENKINS
14	4058 VILLA GROVE	EIDSVIG LAUREN R
15	4062 VILLA GROVE	GIAMBALVO JOHN R & EILEEN B
16	4066 VILLA GROVE	MERRILL THOMAS S & JANA S
17	17727 VOSS	LAUDE LAWRENCE S & LEEANN
18	17723 VOSS	POWELL ALLEN JR ETUX
19	17719 VOSS	HOLMAN JEFFREY TODD & TINDOWEN DEMENE AD
20	17715 VOSS	DAVIS KUNTHEA
21	4158 HIGH STAR	LEE JOHN
22	4147 BRETTON BAY	KOULOV KONSTANTIN M & KALOYANOVA POLINA
23	4201 BRETTON BAY	WIRTH ROBERT ETUX CAROLYN
24	4205 BRETTON BAY	MARTIN FRED N ETUX JOYCE
25	4143 BRETTON BAY	MCNEECE GREGORY NEAL & KAREN RAE

FILE NUMBER: BDA 134-030

BUILDING OFFICIAL'S REPORT: Application of Greg Davis for a special exception to the fence height regulations at 5604 Pleasant Ridge Drive. This property is more fully described as Lot 7, Block 4/8711, and is zoned PD-226, which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a 7 foot 6 inch high, which will require a 3 foot 6 inch special exception to the fence height regulations.

LOCATION: 5604 Pleasant Ridge Drive

APPLICANT: Greg Davis

REQUEST:

A special exception to the fence height regulations of 4' is requested to construct and maintain a fence in the site's 30' required front yard on a site that is developed with a single family home—a 5' high open wrought iron picket fence with a 5' 8" high walkway gate, 4' wide, and a 7' 6" high driveway gate, 12' 7" wide.

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:

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: PD #226
North: PD #226
South: PD #226
East: PD #226
West: PD #226

Land Use:

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

Zoning/BDA History:

- | | |
|--|--|
| 1. Miscellaneous Item #2, BDA 134-030, Property at 5604 Pleasant Ridge Drive (the subject site) | On April 23, 2014, the Board of Adjustment Panel B will consider reimbursing the filing fee made in conjunction with this application. |
|--|--|

Timeline:

February 24, 2014: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

March 12, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

March 12, 2014: The Board Administrator contacted the applicant and emailed him the following information:

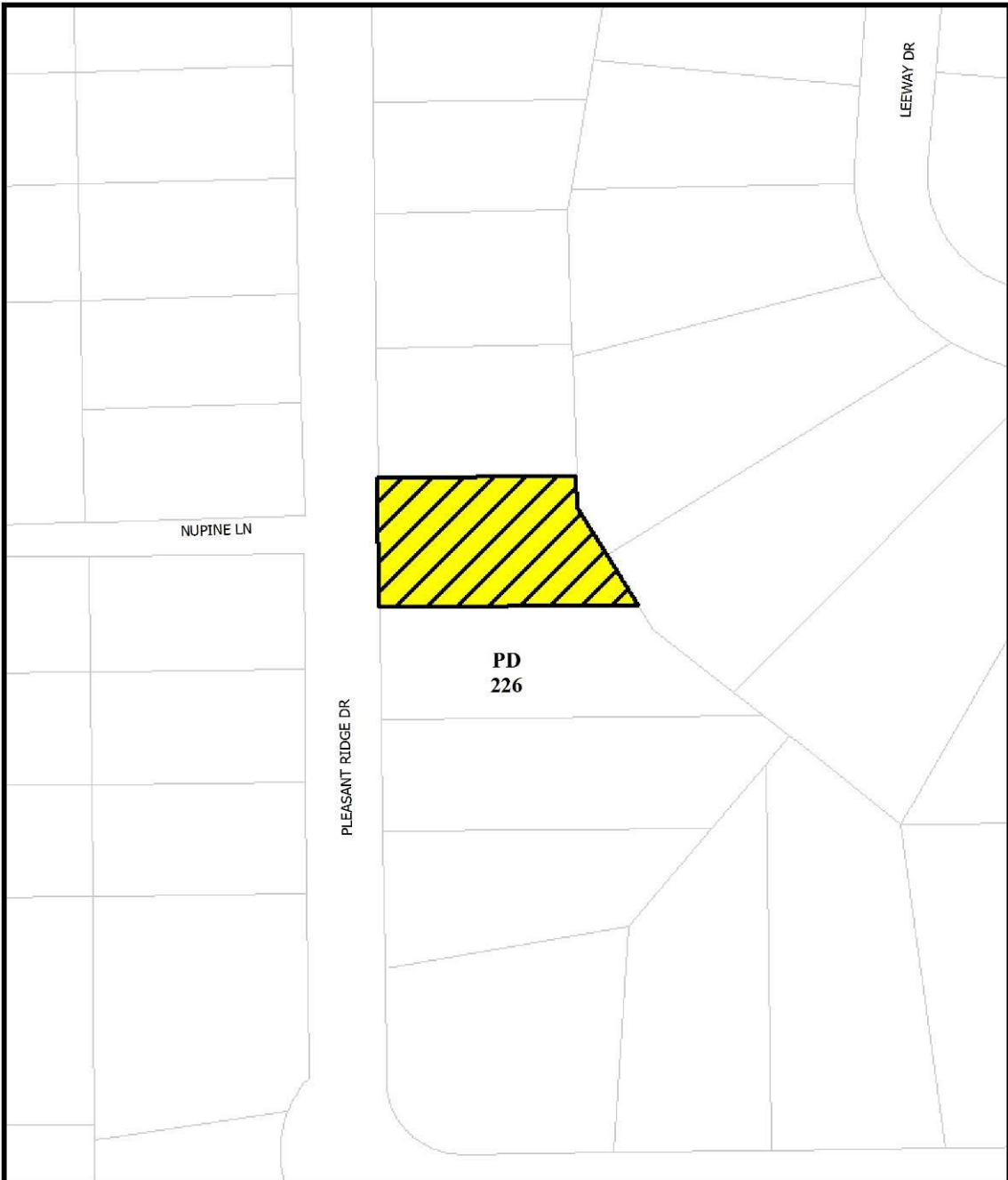
- an attachment that provided the public hearing date and panel that will consider the application; the March 26th deadline to submit additional evidence for staff to factor into their analysis; and the April 11th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

April 8, 2014 : The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining a fence in the site's 30' required front yard on a site that is developed with a single family home – a 5' high open wrought iron picket fence with 5' 8" walkway gate and a 7' 6" high driveway gate.
- 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 following additional information was gleaned from the submitted revised site plan/elevation:
 - The proposal in the front yard setback is represented as being approximately 100' in length parallel to the street with one recessed entryways.
 - The proposed fence is represented as being located approximately 1' from the property line.
- The proposal would be located on the site where one lot would have direct frontage, a lot which has no fence in its front yard setback.
- As of April 14, 2014, no letters have been submitted in support of the request and one letter has been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations of 4' will not adversely affect neighboring property.
- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted revised site plan/elevation 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 these documents.

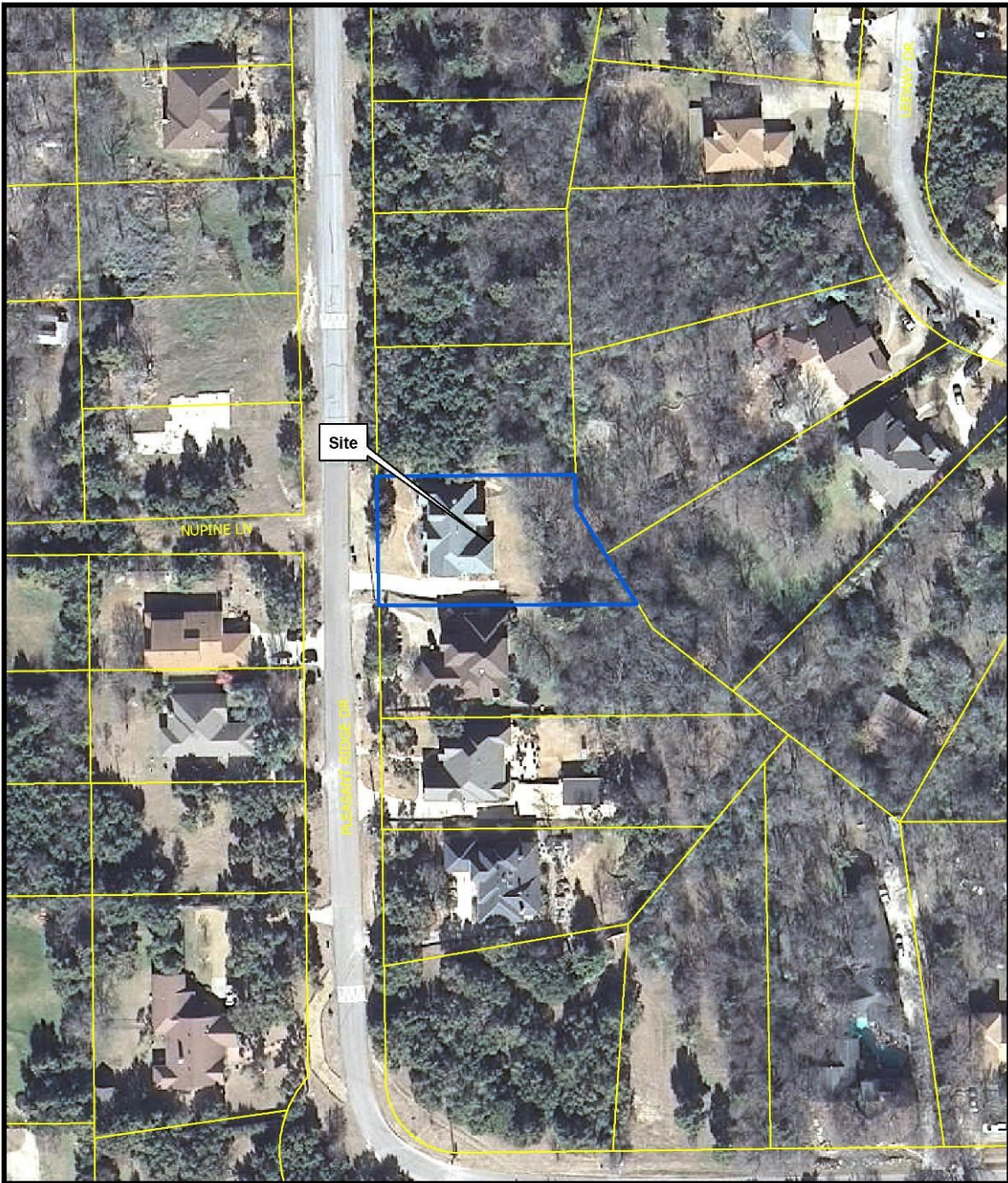


1:1,200

ZONING MAP

Case no: BDA134-030

Date: 3/12/2014



1:1,200

AERIAL MAP

Case no: BDA134-030

Date: 3/12/2014



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-030

Data Relative to Subject Property:

Date: 02/24/14

Location address: 5604 Pleasant Ridge Drive Zoning District: PD 226

Lot No.: 7 Block No.: 418711 Acreage: 0.39 Census Tract: 165,21

Street Frontage (in Feet): 1) 99.7 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Michael Jerome Drake, Jr. and wife, Melissa Jeanette Drake

Applicant: Greg DAVIS Telephone: 940-321-2047

Mailing Address: 3609 Leeds Ct Corinth Zip Code: 76210

E-mail Address: greg@fenceinvestments.com

Represented by: Greg DAVIS Telephone: 940-321-2047

Mailing Address: 3609 Leeds Ct Corinth Zip Code: 76210

E-mail Address: greg@fenceinvestments.com

Affirm that an appeal has been made for a Variance __, or Special Exception , of 3'-6" for A fence in the front yard.

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:

To hear and decide special exceptions expressly provided for in the zoning ordinance. THIS WILL NOT HAVE AN ADVERSE AFFECT ON NEIGHBORHOOD PROPERTIES AS IT WILL ENHANCE ADJOINING PROPERTIES

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

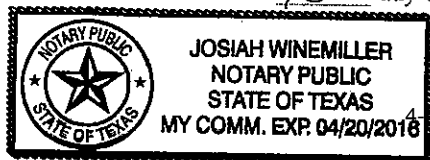
Affidavit

Before me the undersigned on this day personally appeared Greg Richard DAVIS (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: Richard Guy Davis (Affiant/Applicant's signature)

Subscribed and sworn to before me this 13th day of February, 2014



[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

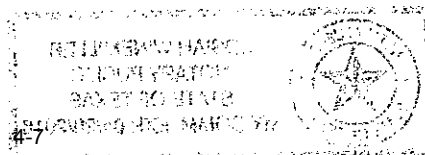
Building Official's Report

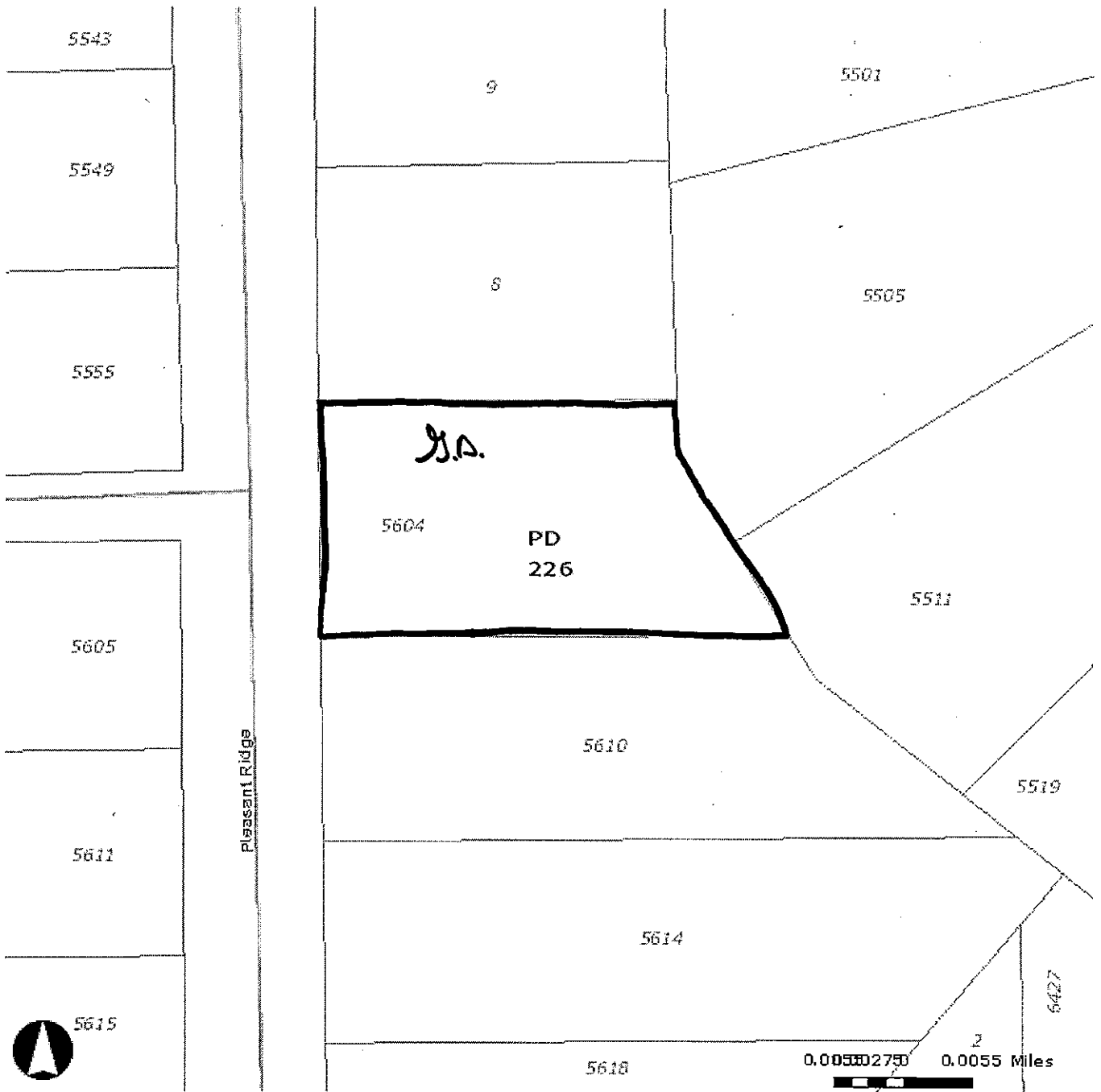
I hereby certify that GREG DAVIS
did submit a request for a special exception to the fence height regulations
at 5604 Pleasant Ridge Drive

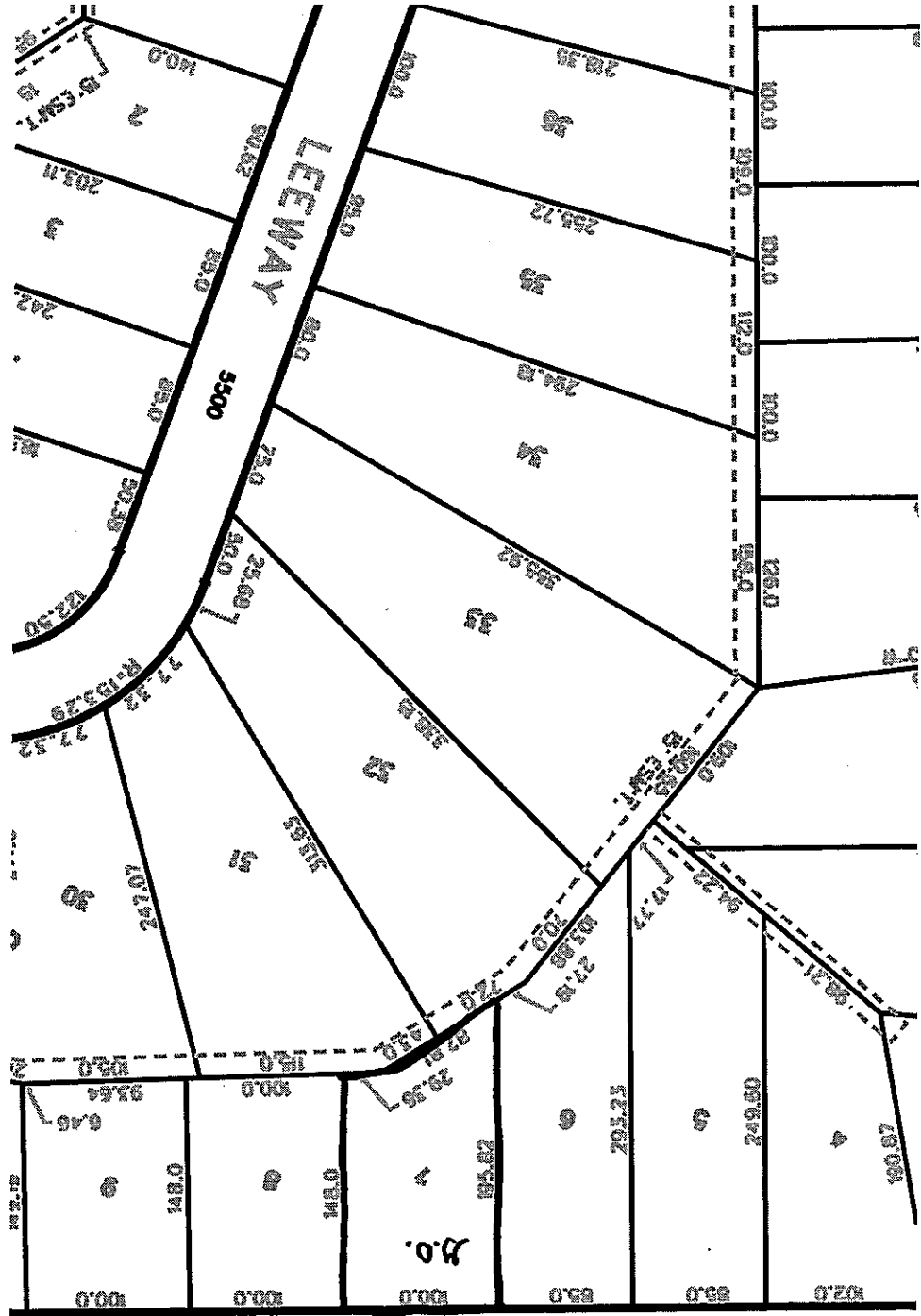
BDA134-030. Application of Greg Davis for a special exception to the fence height regulations at 5604 Pleasant Ridge Drive. This property is more fully described as Lot 7, Block 4/8711, and is zoned PD-226, which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 7 foot 6 inch high fence in a required front yard, which will require a 3 foot 6 inch special exception to the fence regulation.

Sincerely,

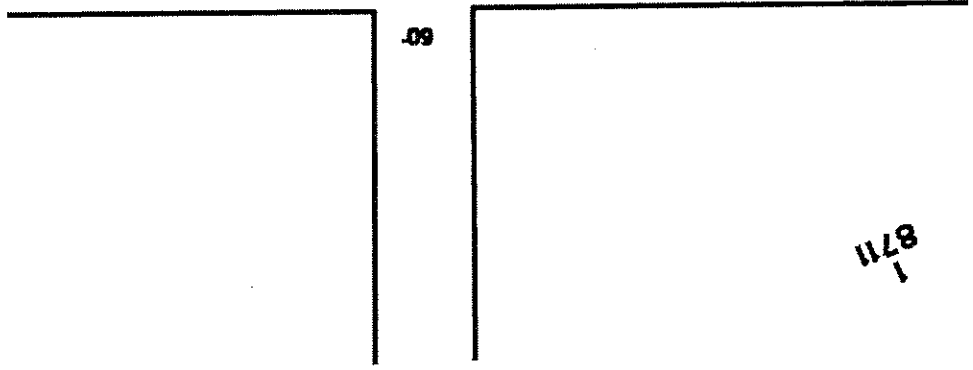
Larry V. Holmes
Larry Holmes, Building Official







PLEASANT RIDGE

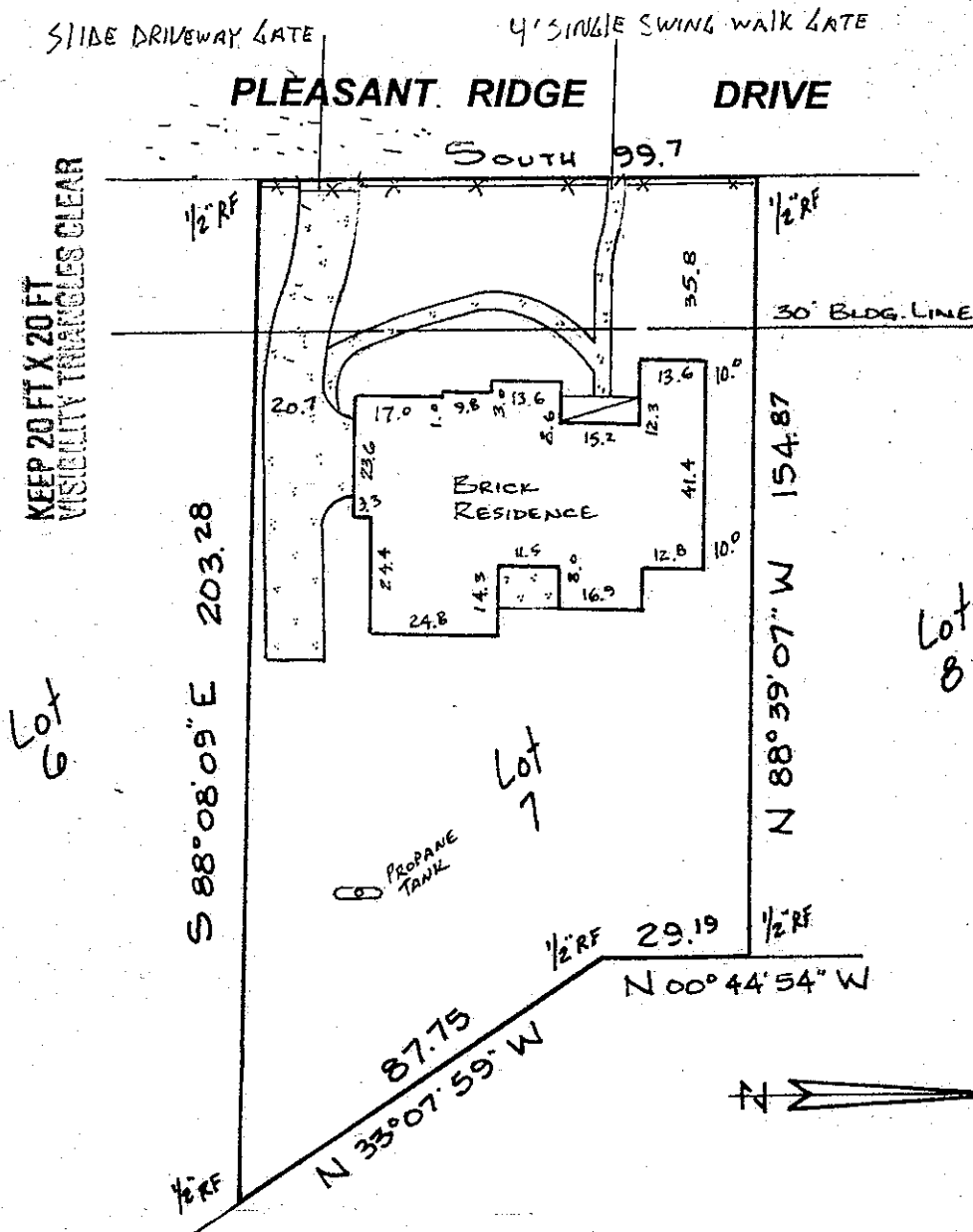


SURVEY PLAT

This is to certify that I have, this date, made a careful and accurate survey on the ground of the property located at 5604 Pleasant Ridge Drive, being Lot 7, in Block 4/8711, of Irwin-Keasler Development, Red Bird Addition, Unit No.7 (now known as Mountain Lake Estates), an Addition to the City of Dallas, Dallas County, Texas, according to the Map thereof recorded in Volume 20, Page 201, of the Map Records of Dallas County, Texas.

The property shown hereon is located in Zone "X" according to Community Panel Number 48113C0470 J, of the U. S. Department of Housing and Urban Development Flood Hazard Boundary Map Dated August 23, 2001.

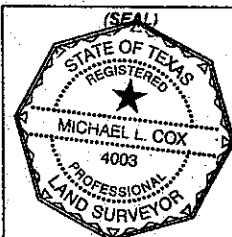
Note: Easements as recorded in Vol.1976 Pg.573 and Vol.2312 Pg.375, Deed Records, Dallas County, Texas, do not to the best of my knowledge and belief affect the above described property.



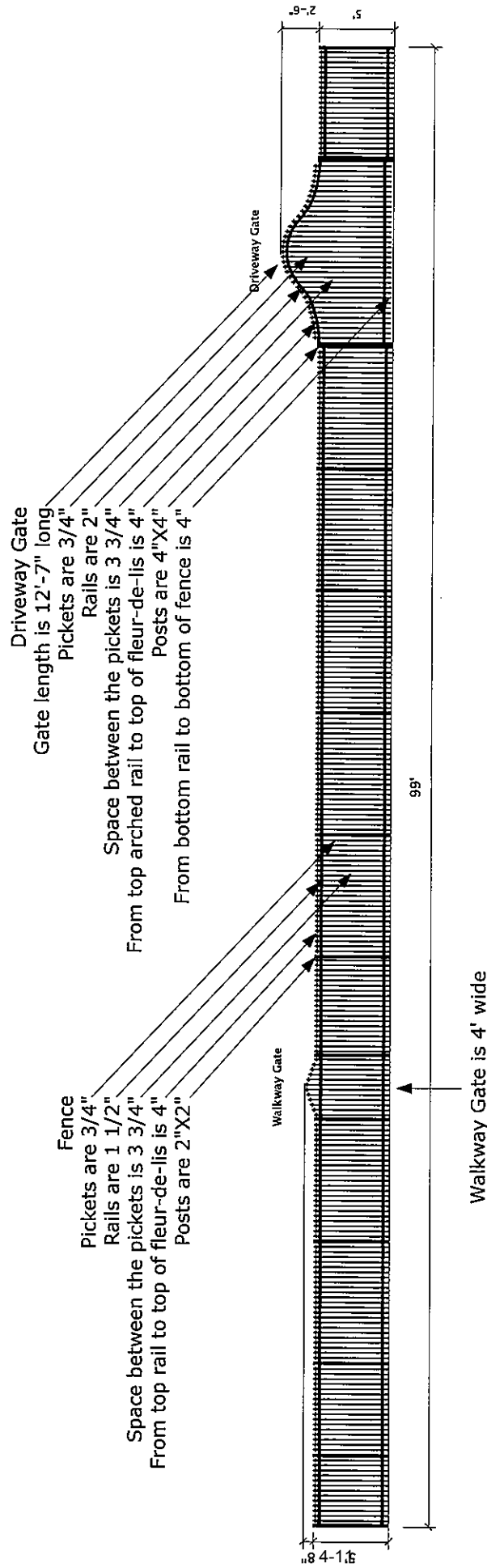
This survey was performed exclusively for the parties in connection with the G. F. Number shown hereon and is licensed for a single use. This survey remains the property of the surveyor. Unauthorized reuse is not permitted without the expressed written permission of the surveyor. This survey is an original work protected by United States Copyright law and international treaties. All rights reserved. Do not make illegal copies.

This plat is a true, correct, and accurate representation of the property, as determined by an on the ground survey, the lines and dimensions of said property being indicated on the plat, the size and location of existing improvements are as shown. THERE ARE NO ENCROACHMENTS, CONFLICTS, OR PROTRUSIONS EXCEPT AS SHOWN.

This survey was performed in connection with the transaction described in G. F. NO: 10R38990 #CH1 of Reunion Title.

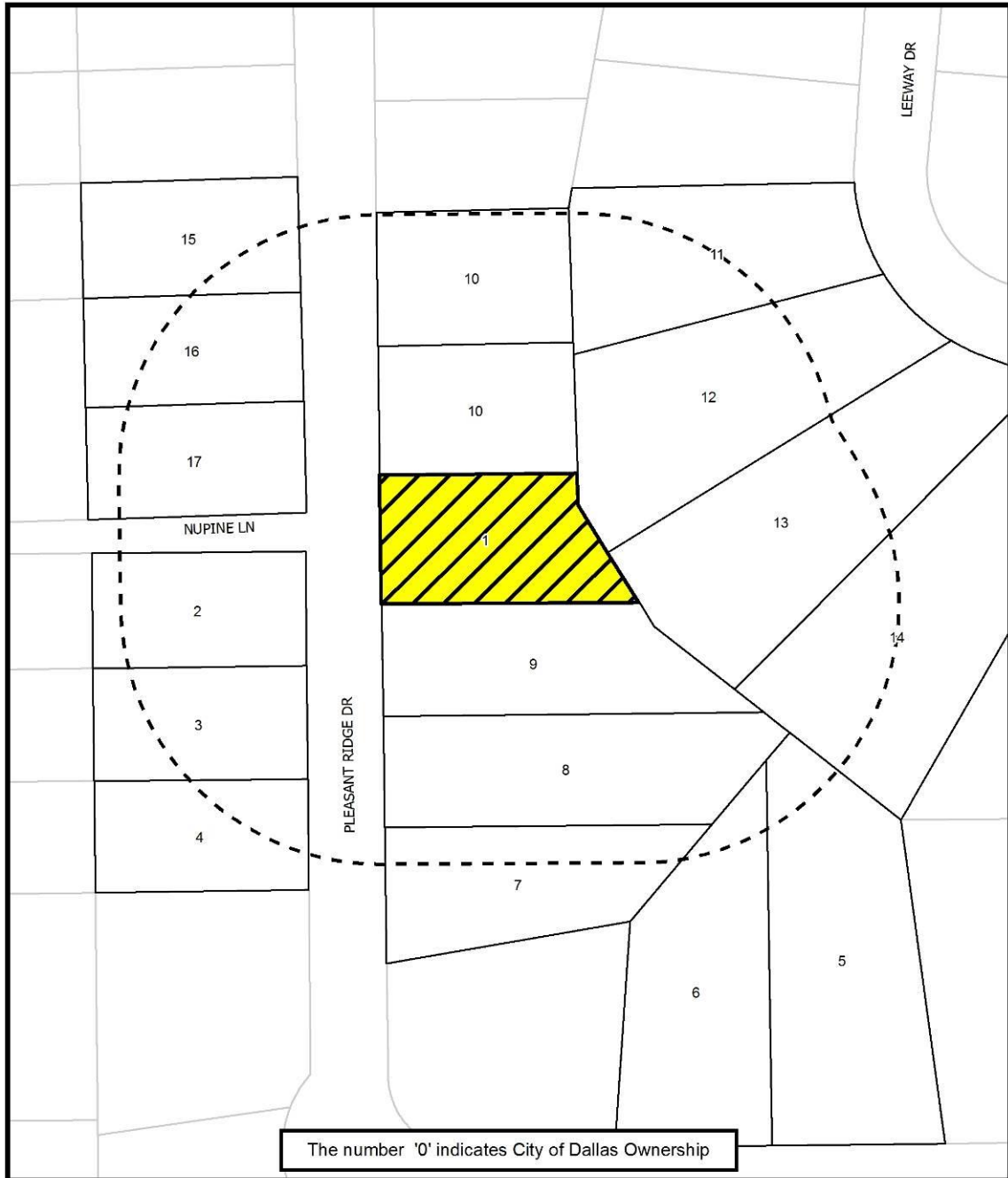


SCALE: 1"=30'	MICHAEL L. COX, INC. PROFESSIONAL LAND SURVEYORS 222 TEXAS STREET CEDAR HILL, TEXAS 75104	MICHAEL L. COX, RPLS 4003
DATE: 12-16-2010		
JOB NO: 23505	4-10 PH: (972) 291-7848 FX: (972) 291-7840	
DRAWN BY: MC		



Scale: 1/8" = 1'-0"





 1:1,200	NOTIFICATION		Case no: BDA134-030
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">17</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 3/12/2014	

Notification List of Property Owners

BDA134-030

17 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5604 PLEASANT RIDGE DR	DRAKE MICHAEL JEROME JR & MELISSA JEANE
2	5605 PLEASANT RIDGE DR	PEAK ROBERT & CHARLINE
3	5611 PLEASANT RIDGE DR	JACKSON ANTHONY & NEDRA FAYE
4	5615 PLEASANT RIDGE DR	JAIMES BALTAZAR & ILDA
5	6427 ROSALIE DR	GROS DAVID T & LYNN B
6	2 ROSALIE DR	ADRIAN PETER ULRICH
7	5618 PLEASANT RIDGE DR	MASSEY MARK
8	5614 PLEASANT RIDGE DR	HAMILL CHARLES & DIANE
9	5610 PLEASANT RIDGE DR	WILKINS SHARON
10	8 PLEASANT RIDGE DR	ACOSTA RAUL
11	5501 LEEWAY DR	ACOSTA RAUL A
12	5505 LEEWAY DR	BOURDEAU MICHAEL
13	5511 LEEWAY DR	GARCIA ISRAEL & IRMA L GARCIA
14	5519 LEEWAY DR	LABARRE STEPHEN & ANTOINETTE
15	5543 PLEASANT RIDGE DR	HUERTA WALTER &
16	5549 PLEASANT RIDGE DR	LEMUS INES ORLANDO
17	5555 PLEASANT RIDGE DR	LEMUS ORLANDO

FILE NUMBER: BDA 134-039

BUILDING OFFICIAL'S REPORT: Application of Edward Dominguez to restore a nonconforming use at 3006 W. Northwest Highway. This property is more fully described as Lot 9, Block B/5784, and is zoned CR, which limits the legal uses in a zoning district. The applicant proposes to restore a nonconforming alcoholic beverage establishments use, which will require a special exception to the nonconforming use regulations.

LOCATION: 3006 W. Northwest Highway

APPLICANT: Edward Dominguez

REQUEST:

A special exception to reinstate nonconforming use rights is requested to obtain a Certificate of Occupancy (CO) for an "alcoholic beverage establishments" use on the subject site even though this nonconforming use was discontinued for a period of six months or more.

STANDARD FOR A SPECIAL EXCEPTION TO OPERATE A NONCONFORMING USE IF THAT USE IS DISCONTINUED FOR SIX MONTHS OR MORE: The Dallas Development Code states that the Board may grant a special exception to operate a nonconforming use that has been discontinued for six months or more if the owner can show that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to operate a nonconforming use if that use is discontinued for six months or more since the basis for this type of appeal is based on whether the board determines that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

BACKGROUND INFORMATION:

Zoning:

Site: CR (Community Retail)
North: CR (Community Retail)
South: CR (Community Retail)
East: CR (Community Retail)

West: CR (Community Retail)

Land Use:

The subject site is developed with what appears to be a nonresidential structure that is vacant. The areas to the north, east, south, and west appear to be developed mostly as commercial/retail uses.

Zoning/BDA History:

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

Timeline:

January 28, 2014: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

March 14, 2014: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

March 14, 2014: The Board Administrator contacted the applicant and shared the following information via email:

- an attachment that provided the public hearing date and panel that will consider the application; the March 26th deadline to submit additional evidence for staff to factor into their analysis; and the April 11th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request;
- the section from the Dallas Development Code pertaining to nonconforming uses and structures; and
- the Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence."

April 8, 2014 : The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Senior Engineer, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, and the Assistant City Attorney to the Board.

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

GENERAL FACTS/STAFF ANALYSIS:

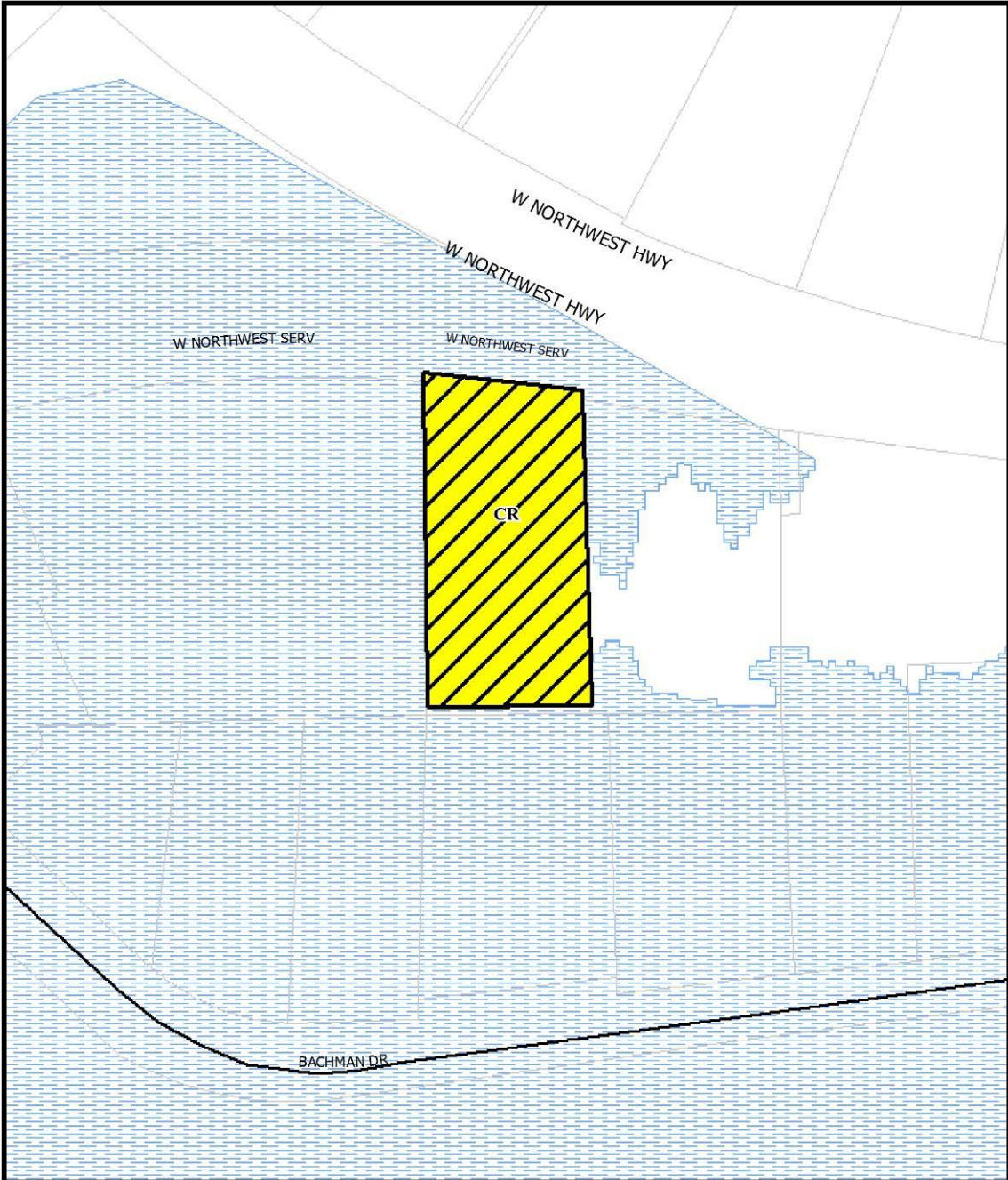
- This special exception request is made to restore nonconforming use rights (and obtain a Certificate of Occupancy) for a nonconforming “alcoholic beverage establishments” use that has been discontinued for six months or more, and to obtain a Certificate of Occupancy (CO) for this use.
- The Dallas Development Code defines “nonconforming use” as “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 nonconforming use regulations state it is the declared purpose of the nonconforming use section of the code 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 nonconforming use regulations also states that the right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more, and that the board of adjustment may grant a special exception to operate a nonconforming use that has been discontinued for six months or more if the owner can show that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

- The subject site is zoned CR – a zoning district that does permits an “alcoholic beverage establishments” use by SUP only.
- A document has been included in the case file that states the following:
 1. The nonconforming use to be reinstated: alcoholic beverage establishment.
 2. Reason the use is classified as nonconforming: Allowed only by SUP.
 3. Date that the use became nonconforming: October 2012*
 4. Date the nonconforming use was discontinued: October 2012
 5. Current zoning of the property on which the use is located: CR
 6. Previous zoning of the property on which the use is located: CR(* Building Inspection has determined that the actual date in which this use became nonconforming was June 23, 1993).
- Building Inspection has stated that these types of special exception request originate from when an owner/officer related to the property apply for a CO and Building Inspection sees that the use is a nonconforming use. Before a CO can be issued, the City requires the owner/officer related to the property to submit affidavits stating that the use was not abandoned for any period in excess of 6 months since the issuance of the last valid CO. The owners/officers must submit documents and records indicating continuous uninterrupted use of the nonconforming use, which in this case, they could not.
- If the Board were to grant this request, the nonconforming “alcoholic beverage establishments” use on the site would be subject to the possibility of an application that may be brought to the Board of Adjustment requesting that the board establish a compliance date as is the case with any other nonconforming use in the city.
- The “alcoholic beverage establishments” use can obtain “conforming use” status with a change in zoning.

- The owner could develop the site with any use that is permitted by right in the site's existing CR zoning classification.
- The applicant has the burden of proof in establishing the following related to the special exception request:
 - There was a clear intent not to abandon the nonconforming “alcoholic beverage establishments” use on the subject site even though the use was discontinued for six months or more.
- Granting this request would reinstate/restore the nonconforming “alcoholic beverage establishments” use rights that were lost when the use was abandoned for a period of six months or more.
- If restored/reinstated, the nonconforming use would be subject to compliance with use regulations of the Dallas Development Code by the Board of Adjustment as any other nonconforming use in the city. (The applicant has been advised by staff of Section 51A-4.704 which is the provision in the Dallas Development Code pertaining to “Nonconforming Uses and Structures”).



1:1,200

ZONING MAP

Case no: BDA134-039

Date: 3/19/2014



1:1,200

AERIAL MAP

Case no: BDA134-039

Date: 3/19/2014



City of Dallas

B

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-039

Data Relative to Subject Property:

Date: 2-28-14

Location address: 3006 WEST Northwest Hwy Zoning District: CR

Lot No.: 9 Block No.: B/5784 Acreage: 0.698 Census Tract: 4.06

Street Frontage (in Feet): 1) 123 2) _____ 3) _____ 4) _____ 5) _____

NE21A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): EDWARD DOMINGUEZ

Applicant: EDWARD DOMINGUEZ Telephone: 214-363-0703

Mailing Address: 4134 LOVERS LANE Zip Code: 75225

E-mail Address: bigTupy@yahoo.com

Represented by: EDDIE DOMINGUEZ Telephone: 214-363-0703

Mailing Address: 4134 LOVERS LANE Zip Code: 75225

E-mail Address: bigTupy@yahoo.com

Affirm that an appeal has been made for a Variance _____, or Special Exception , of REINSTATEMENT OF ALCOHOLIC BEVERAGE ESTABLISHMENT - Non
conforming UCC

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

THE INTENT WAS NEVER TO CUT WATER OFF. PREVIOUS
TENANT CUT OFF WATER WITHOUT MY KNOWLEDGE. NEW TENANT
STARTED REMODEL BUT HAD TO STOP BECAUSE OF OTHER
BUSINESSES SHE WAS ATTENDED TO. LEASE WAS SIGNED WITH
NEW TENANT MAY 17, 2012. TENANT INTENT WAS ALWAYS TO PROCEED WITH OPENING.

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

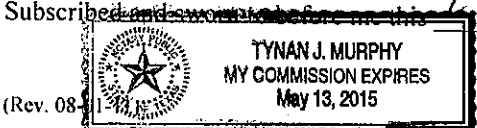
Before me the undersigned on this day personally appeared EDWARD DOMINGUEZ

(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: Edward Dominguez
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 26th day of FEB. 2014



[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

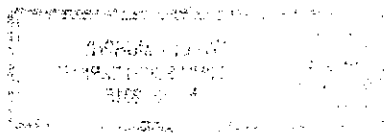
Building Official's Report

I hereby certify that Edward Dominguez
did submit a request to restore a nonconforming use
at 3006 W. Northwest Hwy.

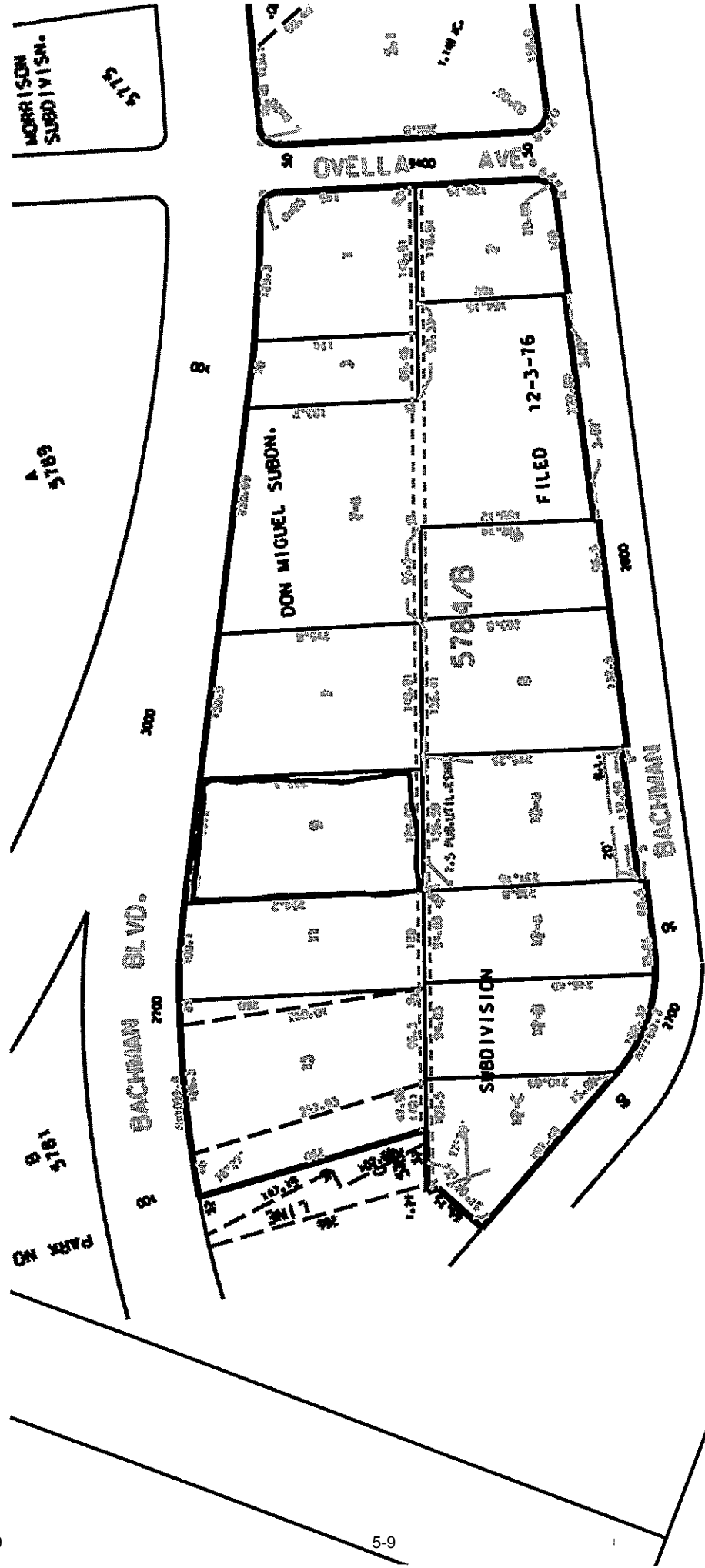
BDA134-039. Application of Edward Dominguez to restore a nonconforming use at 3006 W. Northwest Hwy. This property is more fully described as Lot 9, Block B/5784, and is zoned CR, which limits the legal uses in a zoning district. The applicant proposes to restore a nonconforming alcoholic beverage establishment use, which will require a special exception to the nonconforming use regulation.

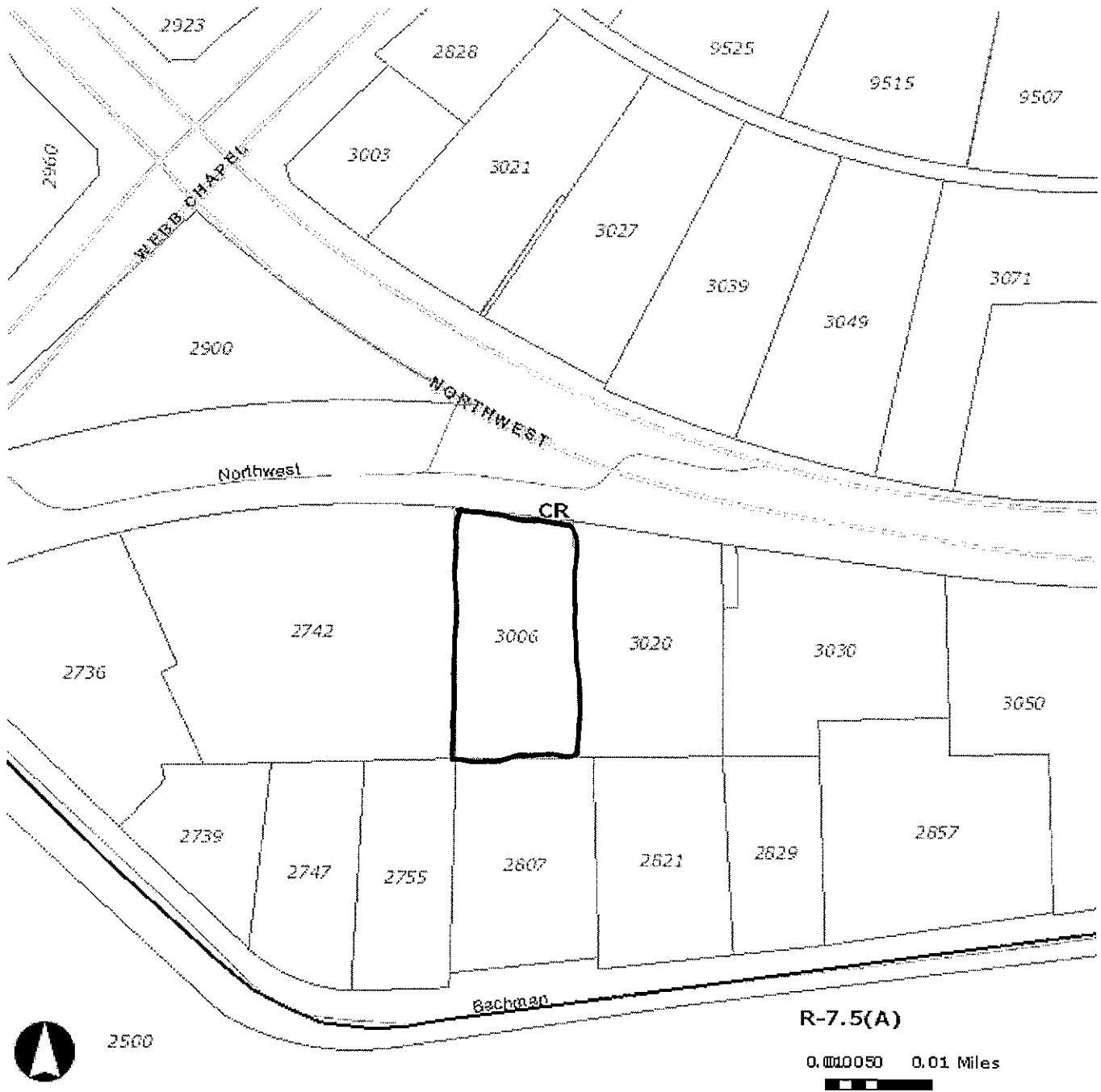
Sincerely,


Larry Holmes, Building Official



63





[Handwritten signature]



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, 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.

(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: 3006 WEST Northwest Hwy

1. The nonconforming use being appealed/reinstated: Alcoholic Beverage Establishment
(The use as stated on the current valid Certificate of Occupancy. Copy of C.O. attached)
2. Reason the use is classified as nonconforming: only Allowed by SUP
(Was there a change in zoning of the property or in the use requirements? Be specific.)
3. Date that the nonconforming use became nonconforming: OCTOBER 2012
(Date the property zoning or use requirements changed.)
4. Date the nonconforming use was discontinued: OCTOBER 2012
5. Current zoning of the property on which the use is located: CR - COMMUNITY RETAIL
6. Previous zoning of the property on which the use is located: CR - COMMUNITY RETAIL
(Applies if a zoning district change caused the use to become nonconforming.)

(Rev. 10/04/11)



CITY OF DALLAS

February 14, 2014

Mr. David Mitchell
3577 N. Bellline Road, #242
Irving, TX 75062

RE: Certificate of Occupancy Application for 3006 W. Northwest Highway

Dear Mr. Mitchell:

You applied for a Certificate of Occupancy (CO) on January 27, 2014 to operate an "Alcoholic Business Establishment" at the above location. This property is located in a CR-Community Retail zoning district. An alcoholic beverage establishment is only allowed in a CR zoning district by Specific Use Permit (SUP).

While this property was previously used as an alcoholic beverage establishment without an SUP due to nonconforming rights, city utility records indicate there was zero water usage on the water account from October 2012 until February 2014. Section 51A-4.704(a)(2) of the Dallas Development Code provides that the right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more. Based on zero water usage, it is determined that the nonconforming alcoholic beverage establishment use was discontinued because it did not operate for six months or more. This means that your CO application was approved in error and is not denied.

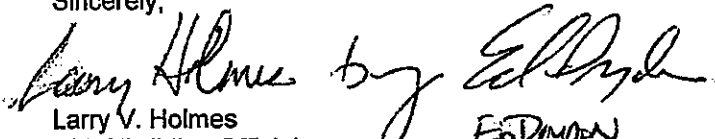
You have several options available to you if you wish to occupy the building:

1. You may change the previous nonconforming use to a conforming use,
2. You may apply for an (SUP to operate an alcoholic beverage establishment,
3. You may request a special exception from the Board of Adjustment 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.
4. You may appeal this determination of the Building Official to the Board of Adjustment if you feel this determination was made in error.

If you wish to change the use of the property to a conforming use, you can visit with a Plans Examiner to discuss the requirements. If you wish to apply for an SUP, you may contact Current Planning at 214-670-44209. If you wish to request a special exception or appeal the decision of the Building Official, you may contact Todd Duerksen at 214-948-4475. If you wish to appeal the determination of the Building Official, you must file the appeal within 15 days of the date of this letter.

Please feel free to contact me at 214-948-4330 if you have any questions.

Sincerely,


Larry V. Holmes
Chief Building Official

Cc: Olga Torres-Holyoak
Todd Duerksen



Certificate of Occupancy

City of Dallas

Address: 3006 W NORTHWEST HWY 75220

Owner: JOE DALE MCKNIGHT
000000

DBA:

Land Use: (5821) ALCOHOLIC BEVERAGE ESTABLISHMENT

C.O.#: 8612161110

Issue Date: 02/04/1987

Lot:	Block:	Zoning:	HC-FP	PDD:	0	SUP:
Historic Dist:	Consy Dist:	Pro Park:	0	Req Park:	0	Park Agrmt:
Dwlg Units:	Stories:	Occ Code:	B2	Lot Area:	0	Total Area:
Type Const:	Sprinkler:	Occ Load:	None	Alcohol:	N	Dance Floor:

Remarks: 1-29-87 18257 MIX BEV. LATE HRS. CARTAGE;MAX OCC LD=81,LS

Building Official

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

Development Services Department | Building Inspection Division | 214/948-4480 | www.dallascityhall.com



 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">14</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	14	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: BDA134-039 Date: 3/19/2014
200'	AREA OF NOTIFICATION					
14	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA134-039

14 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3006 NORTHWEST HWY	DOMINGUEZ EDWARD
2	2739 BACHMAN DR	CHAMBERLAIN NICHOLAS & KIMBERLY JONES
3	2829 BACHMAN DR	2829 BACHMAN LLC
4	3020 NORTHWEST HWY	ROYAL PALACE CHINESE INC %DAI QUOC TRAN
5	2821 BACHMAN DR	ROSAS REFUGIO J GANDARA & CAROL L GANDAR
6	2807 BACHMAN DR	BACHMAN PLACE LLC
7	2742 BACHMAN DR	PIRRING INTERNATIONAL INC
8	2747 BACHMAN DR	LOVE FIELD POST 453 INC AMERICAN LEGION
9	3049 NORTHWEST HWY	LOPEZ HECTOR & SONIA
10	3039 NORTHWEST HWY	WEBB EXTENSION NW LP STE 300
11	3027 NORTHWEST HWY	HARRISON MIKE
12	3021 NORTHWEST HWY	G MEDINA ENTERPRISES INC
13	3030 NORTHWEST HWY	BOW ORE HOLDINGS LLC % STEPHEN J SEGAL
14	3030 NORTHWEST HWY	ARRINGTON OUTDOOR ADVERTISING LP