

ZONING BOARD OF ADJUSTMENT, PANEL B
WEDNESDAY, MAY 16, 2012
AGENDA

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

David Cossum, Assistant Director
Steve Long, Board Administrator

MISCELLANEOUS ITEMS

Approval of the Wednesday, April 18, 2012 Board of Adjustment Public Hearing Minutes	M1
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UNCONTESTED CASES

BDA 112-049	10746 St. Michaels Drive REQUEST: Application of Erich Ransleben for a variance to the side yard setback regulations	1
BDA 112-053	10379 Plano Road (AKA 10670 Markison Road) REQUEST: Application of Ken Conway for a special exception to the landscape regulations	2
BDA 112-055	530 E. Camp Wisdom Road REQUEST: Application of Gladys Bowens and Dallas Cothrum for a special exception to the landscape regulations	3
BDA 112-059	4511 Watauga Road REQUEST: Application of Richard Hobaugh for special exceptions to the fence height regulations	4

HOLDOVER CASES

BDA 112-016	13943 C. F. Hawn Freeway REQUEST: Application of Mini-Roll, Inc. to require compliance of a nonconforming use	5
BDA 112-034	9903 Laneyvale Avenue REQUEST: Application of Roberto Torres, represented by Ramon Aranda, for special exceptions to the fence height and visual obstruction regulations	6

REGULAR CASES

BDA 112-050	2911 Routh Street REQUEST: Application of Santos T. Martinez, Masterplan, for variances to the front yard setback regulations and a special exception to the visual obstruction regulations	7
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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 April 18, 2012 public hearing minutes.

FILE NUMBER: BDA 112-049

BUILDING OFFICIAL'S REPORT:

Application of Erich Ransleben for a variance to the side yard setback regulations at 10746 St. Michaels Drive. This property is more fully described as Lot 2 in City Block 1/7288 and is zoned R-16(A), which requires a side yard setback of 10 feet. The applicant proposes to construct/maintain a structure and provide a 3 foot 6 inch side yard setback, which will require a variance of 6 feet 6 inches.

LOCATION: 10746 St. Michaels Drive.

APPLICANT: Erich Ransleben

REQUEST:

- A variance to the side yard setback regulations of 6' 6" is requested in conjunction with constructing and maintaining a swimming pool/spa "structure," a portion of which is located in the site's southern 10' side yard setback on a property developed with a single family home.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with submitted site plan is required.

Rationale:

The applicant has substantiated how the subject site is unique and different from most lots zoned R-16(A) given its slope – a physical condition to the property that creates hardship where the applicant cannot developed this parcel of land given its slope with a swimming pool/spa "structure" that reaches in places given the slope of the site approximately 2' above grade.

STANDARD FOR A VARIANCE:

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

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

developed in a manner commensurate with the development upon other parcels of land with the same zoning; and

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

GENERAL FACTS:

- The minimum side yard setback on an R-16(A) zoned lot is 10 feet.
The applicant has submitted a site plan and elevation indicating a swimming pool/ spa “structure” that in places is approximately 2’ above grade and that is to be located 3’ 6” from the site’s southern side property line (or 6’ 6” into the required 10’ side yard setback).
- The site is sloped westward to eastward to a creek bed on the eastern side of the subject site. The property is irregular in shape (five-sided), and is (according to the application) 0.5 acres (or approximately 22,000 square feet) in area. The site is zoned R-16(A) where lots are typically 16,000 square feet in area.
- According to DCAD records, the property at 10746 St. Michaels has the following improvements:
 - “main improvement” built in 1969 with 4,475 square feet of living area, and
 - “additional improvement” – 552 square foot attached garage.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

March 20, 2012: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

April 17, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

April 17, 2012: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the April 27th deadline to submit additional evidence for staff to factor into their analysis; and the May 4th 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;
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence; and
- a picture that he photographed on the property from the alley northward in March of 2012 with the note that if/when the board grants a variance, they typically impose the applicant's submitted site plan as a condition to the request. (The Board Administrator advised the applicant's representative with this in mind, to please note that his submitted plan should be an accurate representation of what he is seeking variance for, and to make any amendments to the plan that he feels is necessary with submittal of any revised plan (if he deem necessary) to Todd Duerksen and him no later than noon April 27th.

May 1, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorney to the Board.

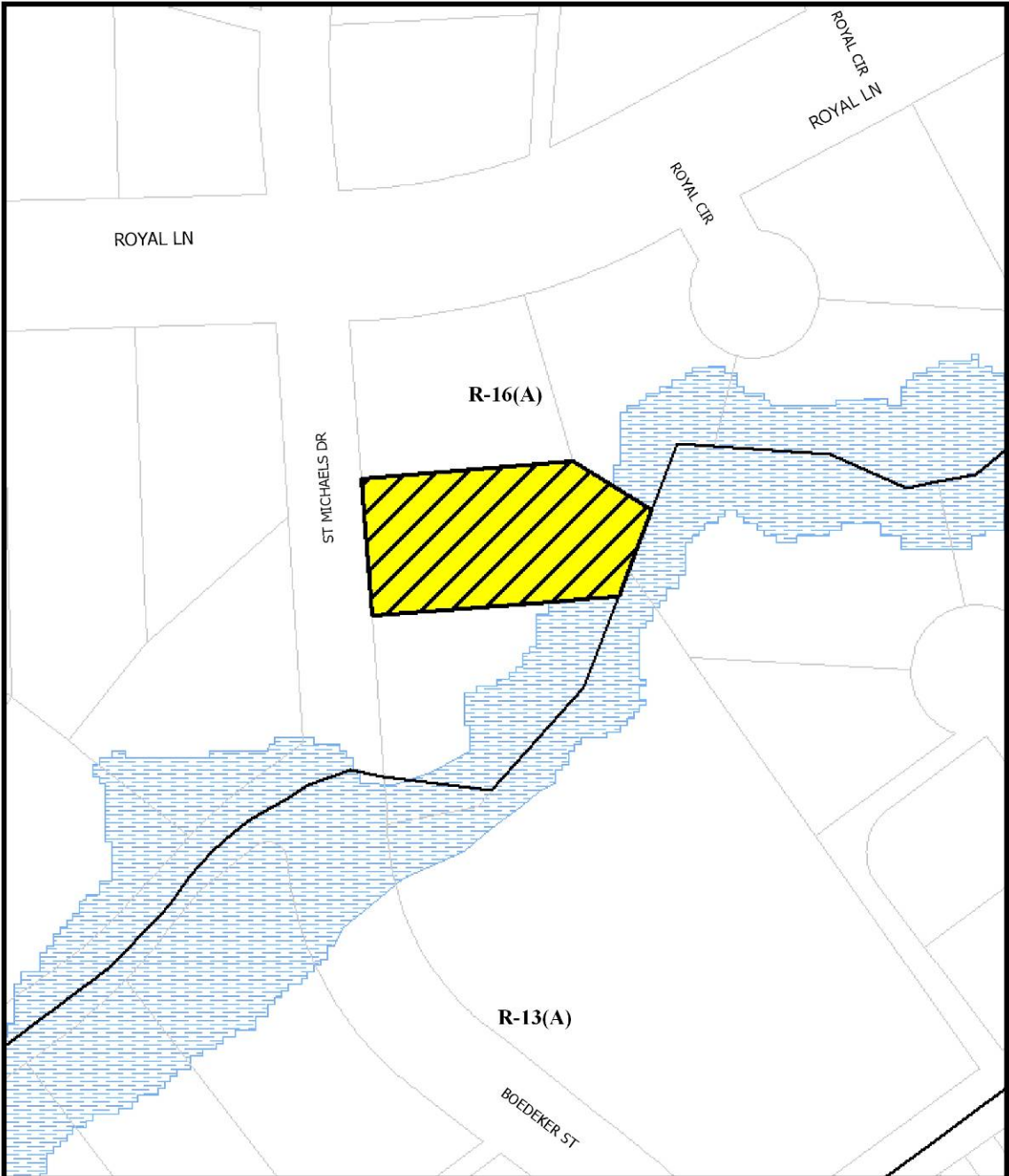
No review comment sheets with comments were submitted in conjunction with this application.

STAFF ANALYSIS:

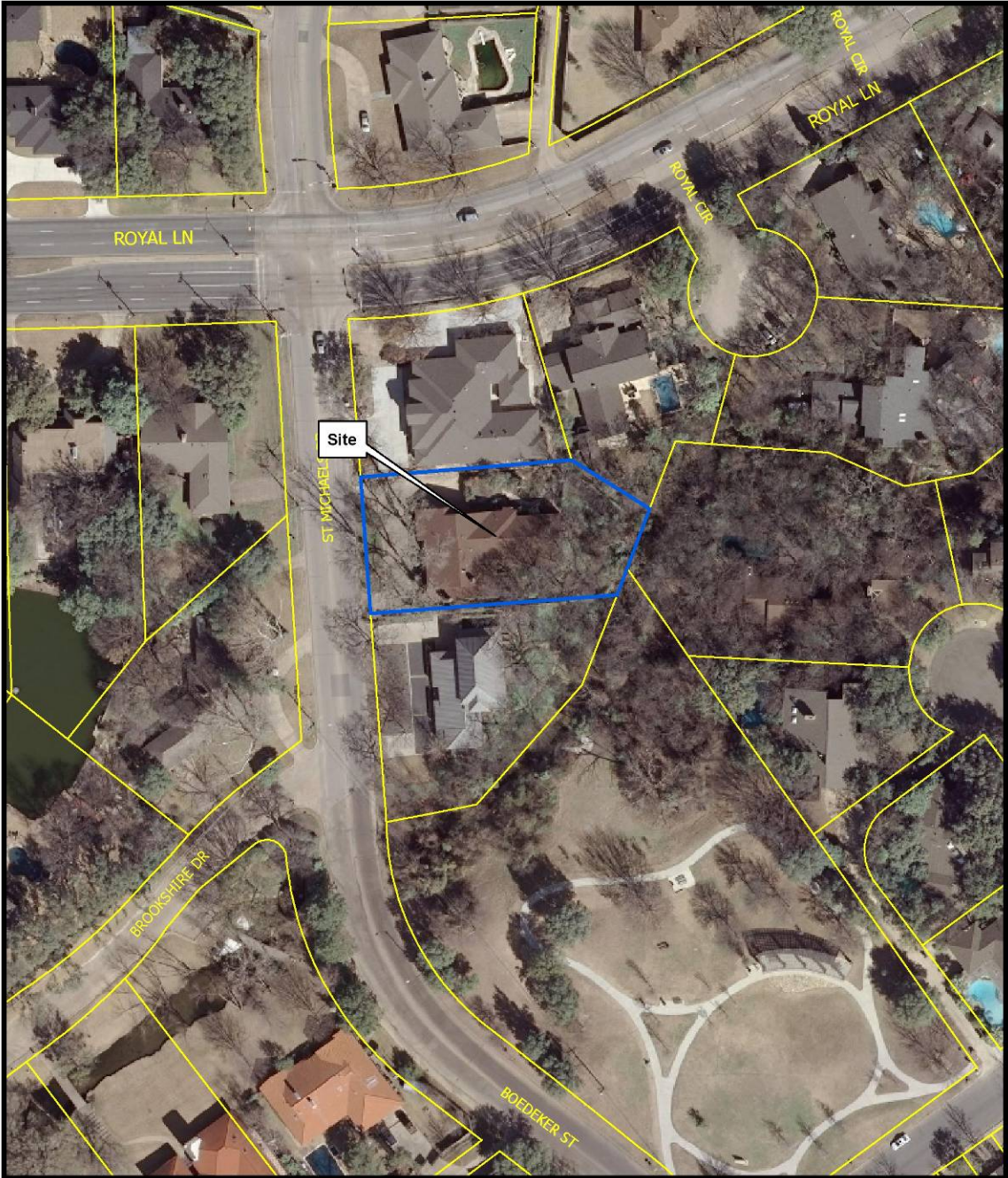
- This request focuses on constructing and maintaining a swimming pool/spa "structure," a portion of which is located in the site's southern 10' side yard setback on a property developed with a single family home.
- According to calculations made by the Board Administrator from the submitted site plan, approximately 215 square feet (or about 1/3) of the approximately 660 square foot swimming pool/spa "structure" is to be located in the site's southern 10' side yard setback.
- The site is sloped westward to eastward to a creek bed on the eastern side of the subject site. The property is irregular in shape (five-sided), and is (according to the

application) 0.5 acres (or approximately 22,000 square feet) in area. The site is zoned R-16(A) where lots are typically 16,000 square feet in area.

- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the side yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-16(A) (Single family) zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-16(A) (Single family) zoning classification.
- If the Board were to grant the side yard variance of 6' 6", imposing a condition whereby the applicant must comply with the submitted site plan, the structure encroaching into this setback would be limited to that shown on the site plan. which is an approximately 660 square foot swimming pool/spa "structure" that is to be located 3' 6" from the southern side property line or 6' 6" into this 10' side yard setback.



 1:1,200	<h1>ZONING MAP</h1>	Case no: <u>BDA112-049</u> Date: <u>4/26/2012</u>
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1:1,200

AERIAL MAP

Case no: BDA112-049

Date: 4/26/2012



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-049

Data Relative to Subject Property:

Date: 3-20-12

Location address: 10746 St. Michael Dr. Zoning District: R-16(A)

Lot No.: 2 Block No.: 1/7288 Acreage: .5 Census Tract: 131.03

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

To the Honorable Board of Adjustment :

NCAS

Owner of Property (per Warranty Deed): Ravi Prakash & Anamika Sinha

Applicant: Erica Ransleben / Robertson Pools Inc Telephone: 972-393-2152 xt 113

Mailing Address: 569 S. Coppell Rd. Coppell TX. Zip Code: 75049

E-mail Address: eransleben@robertsonpools.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 6'-6" ^{AP} ₃₋₂₀₋₁₂
to 10' side yard setback to become 3.5' side yard setback

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:

Severe slope of yard

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.

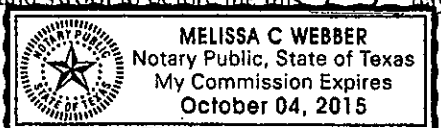
Affidavit

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

Subscribed and sworn to before me this 13 day of March, 2012



Melissa C. Webber
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

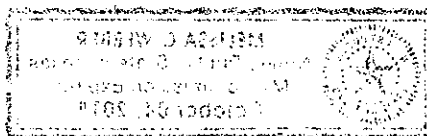
Building Official's Report

I hereby certify that ERICH RANSLEBEN
did submit a request for a variance to the side yard setback regulations
at 10746 Saint Michaels Drive

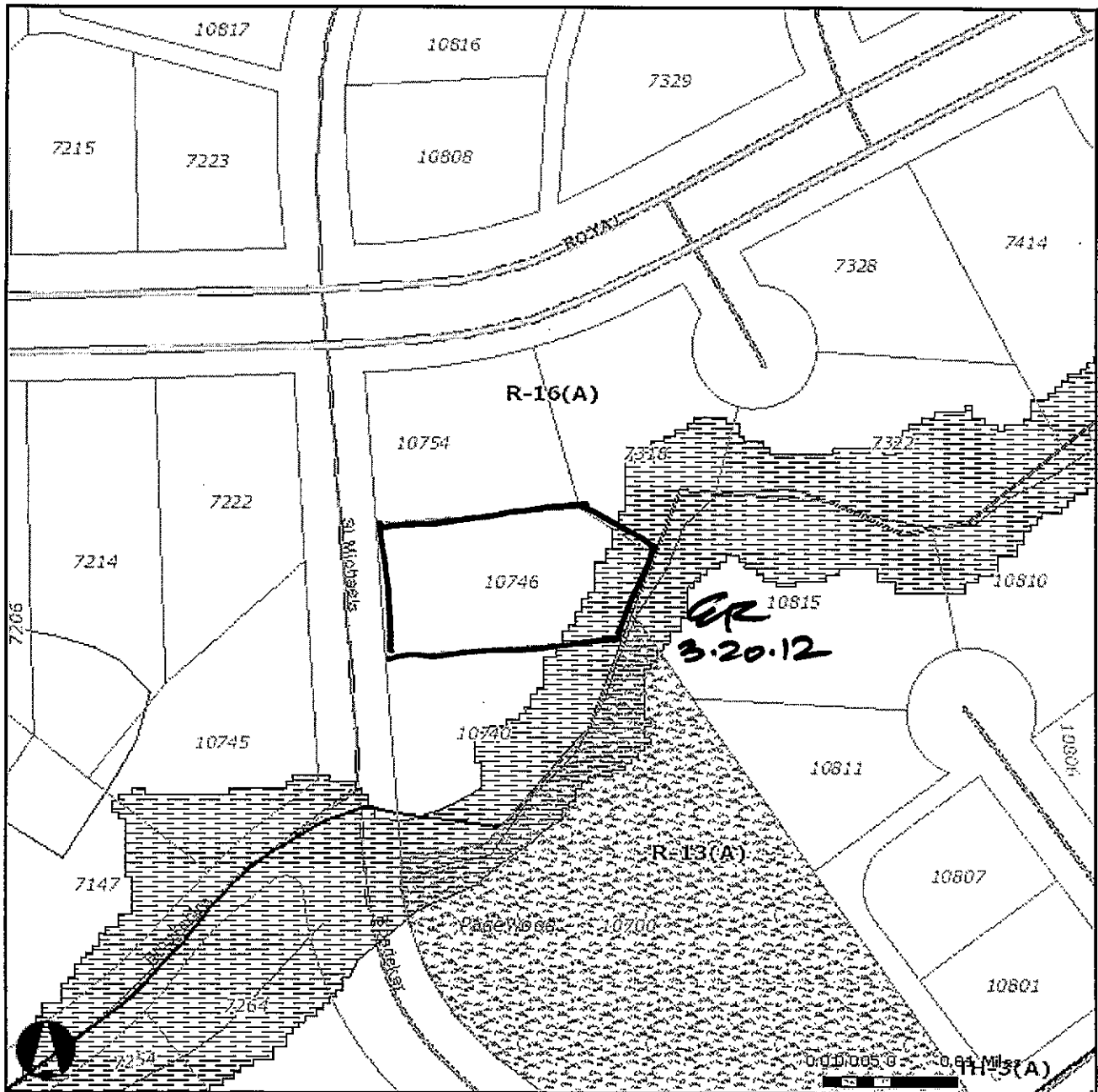
BDA112-049. Application of Erich Ransleben for a variance to the side yard setback regulations at 10746 St. Michaels Drive. This property is more fully described as lot 2 in city block 1/7288 and is zoned R-16(A), which requires a side yard setback of 10 feet. The applicant proposes to construct a single family residential accessory structure and provide a 3 foot 6 inch side yard setback, which will require a 6 foot 6 inch variance to the side yard setback regulation.

Sincerely,


Lloyd Denman, Building Official



City of Dallas Zoning



City Boundaries

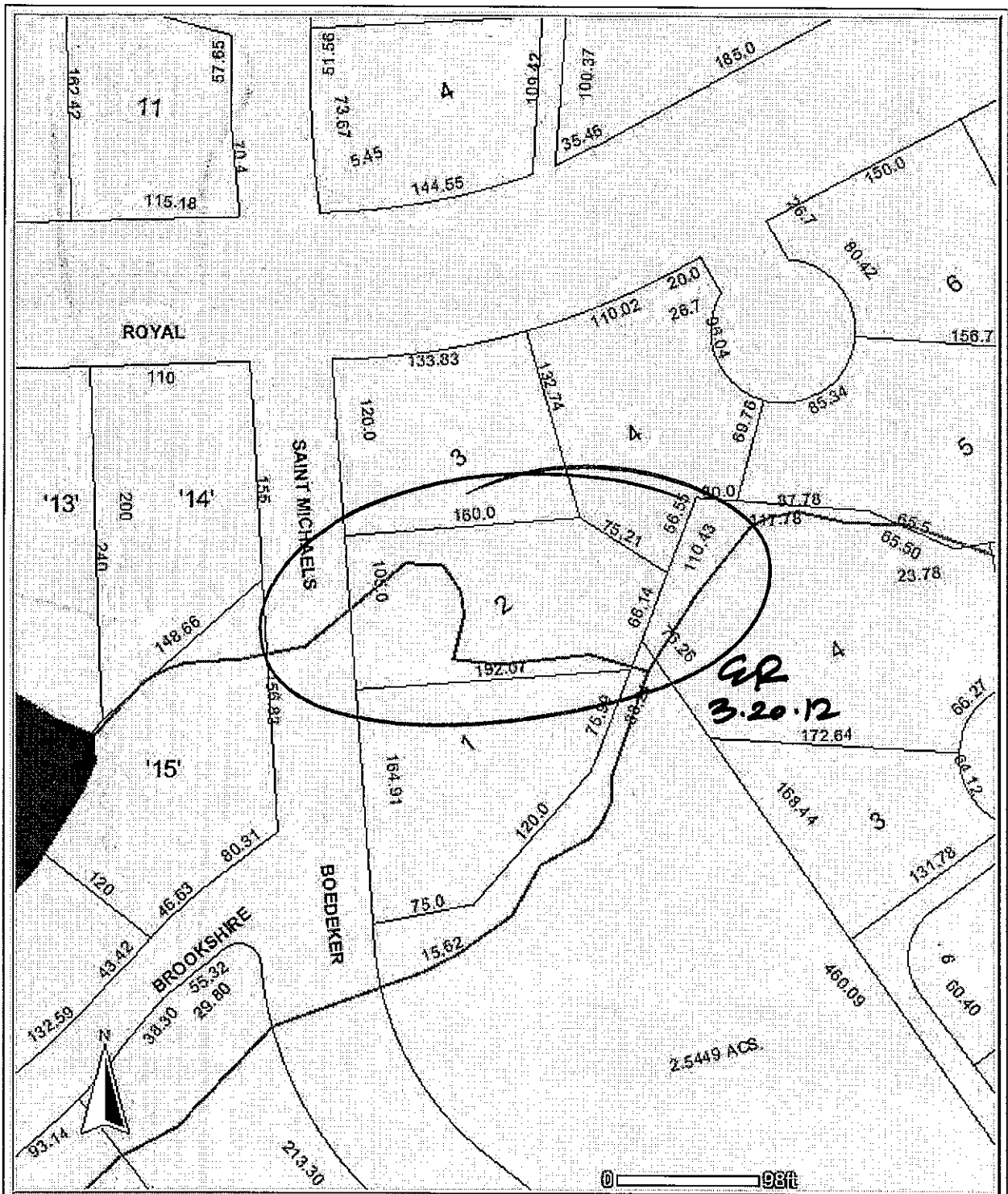
- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

Dry Overlay

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

Base Zoning

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

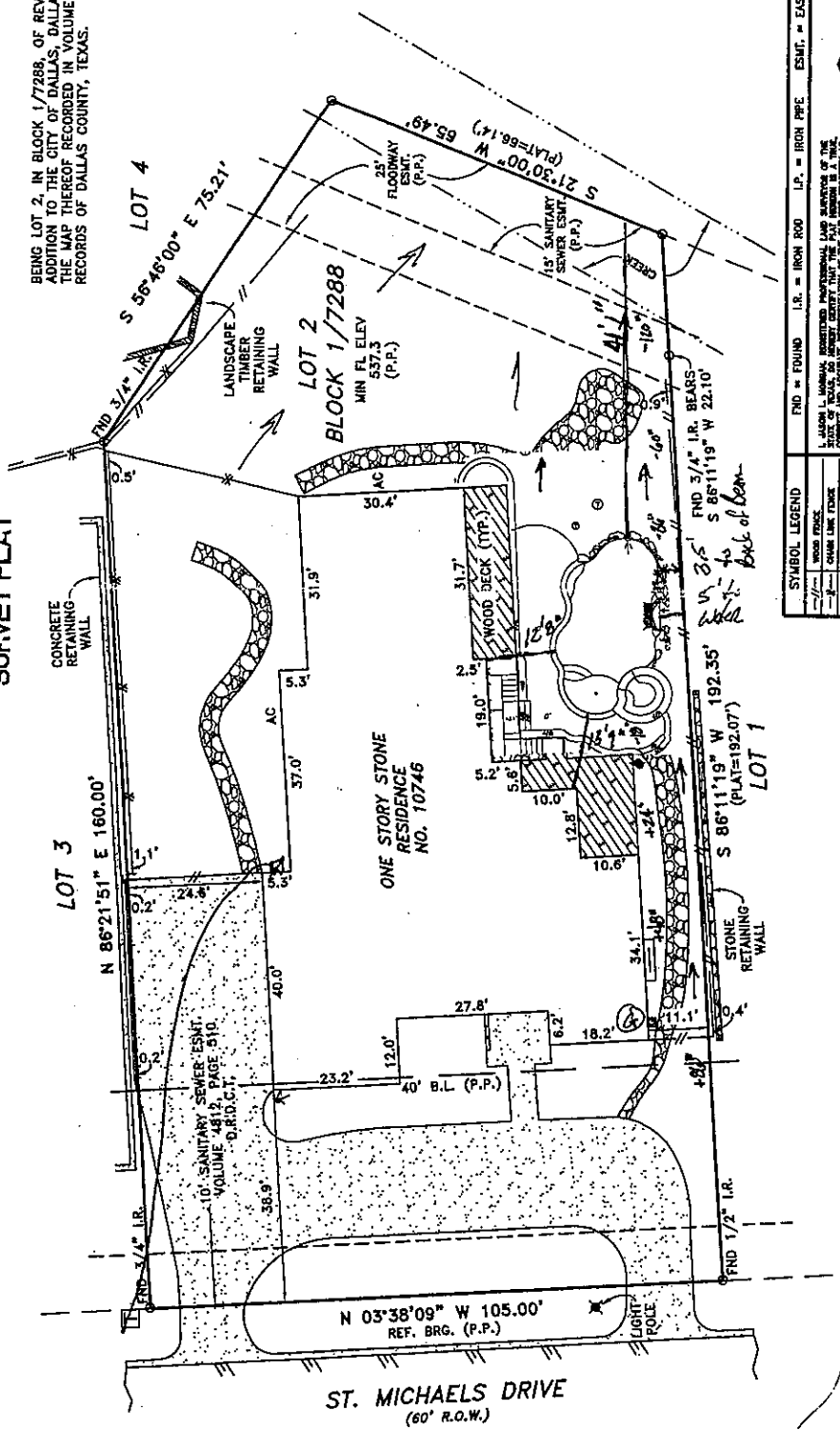


Dallas Central Appraisal District
 District
 www.dallascad.org

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.

'SURVEY PLAT

BEING LOT 2, IN BLOCK 1/7288, OF REVISED ROYAL PARK ESTATES, AN ADDITION TO THE CITY OF DALLAS, DALLAS COUNTY, TEXAS, ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 111, PAGE 2874, OF THE MAP RECORDS OF DALLAS COUNTY, TEXAS.



SYMBOL LEGEND

W	WOOD FENCE
C	CHAIN LINK FENCE
M	MACE FENCE
U	UNPAVED ROAD FENCE
U	UTILITY
P	POWER POLE
W	WATER TOWER
S	SEWER
W	WATER SERVICE LINE
U	UTILITY SERVICE LINE
U	TRANSFORMER AND FND
U	BASE WATER
U	ADJUTANT SURFACE
U	CONCRETE

SYMBOL LEGEND (continued):
 FND = FOUND I.R. = IRON ROD I.P. = IRON PIPE ESMT. = EASEMENT B.L. = BUILDING LINE
 L. JASON L. MORGAN, LICENSED PROFESSIONAL LAND SURVEYOR OF THE STATE OF TEXAS, DO HEREBY CERTIFY THAT THE PLAT HEREON IS A TRUE AND CORRECT COPY OF THE ORIGINAL SURVEY MADE BY ME AND SUBMITTED BY ME TO THE DALLAS COUNTY CLERK FOR RECORDATION BY ME IN THE TEXAS BOOK OF PROFESSIONAL LAND SURVEYING AND MAPS, VOLUME 111, PAGE 2874, AND THAT THE ORIGINAL SURVEY WAS MADE BY ME IN ACCORDANCE WITH THE STATUTES OF THE STATE OF TEXAS, AND THAT THE PLAT HEREON IS A TRUE AND CORRECT COPY OF THE ORIGINAL SURVEY.

REPUBLIC TITLE
 THIS SURVEY WAS PERFORMED FOR:
 MAKE: FRANKS/SHINA
 JOB NO. 08-10-008
 DATE: 10/05/09
 OFF: 08R32658
 TECH: JEN
 DRN. BY: JAG

Global Land Surveying, Inc.
 704 Central Parkway East
 Dallas, Texas 75204
 Phone (972) 881-1700
 Fax (972) 423-1053
 email: info@glsl-inc.com

NOTES:

- (P.P.) INDICATES BUILDING LINES, EASEMENTS, R.O.W.S, DIMENSIONS, ETC. USE PER PLAT REFERENCED IN LEGAL DESCRIPTION ABOVE.
- THE STRUCTURE SHOWN HEREON LIES WITHIN THE 40' BUILDING LINE AS INDICATED BY THE PLAT REFERENCED IN LEGAL DESCRIPTION ABOVE.
- THE PROPERTY SHOWN HEREON IS SUBJECT TO THE EASEMENTS AND/OR AGREEMENTS RECORDED IN VOLUME 5840, PAGE 83, VOLUME 4843, PAGE 40, REAL PROPERTY RECORDS, DALLAS COUNTY, TEXAS.
- NO BELIEF IS EXPRESSED AS TO THE ACCURACY OF THE DIMENSIONS AND BEARINGS RECORDED IN VOLUME 4187, PAGE 477, REAL PROPERTY RECORDS, DALLAS COUNTY, TEXAS. THIS STATEMENT DOES NOT IMPLY THAT THE PROPERTY AND/OR STRUCTURES THEREON WILL BE DAMAGED BY FLOODING OR THAT FLOODING WILL OCCUR ON RARE OCCASIONS, GREATER FLOODS CAN AND WILL OCCUR AND FLOOD HEIGHTS MAY BE INCREASED BY MAN-MADE OR NATURAL CAUSES. THIS FLOOD STATEMENT SHALL NOT CREATE LIABILITY ON THE PART OF THE SURVEYOR.

FLOOD NOTE:
 ACCORDING TO MY INTERPRETATIONS OF COMMUNITY PANEL NO. 486171 0184, DATED 08/23/01, OF THE NATIONAL FLOOD INSURANCE RATE MAPS FOR DALLAS COUNTY, TEXAS, THE SUBJECT PROPERTY LIES WITHIN FLOOD ZONE 1A. THIS STATEMENT DOES NOT IMPLY THAT THE PROPERTY AND/OR STRUCTURES THEREON WILL BE DAMAGED BY FLOODING OR THAT FLOODING WILL OCCUR ON RARE OCCASIONS, GREATER FLOODS CAN AND WILL OCCUR AND FLOOD HEIGHTS MAY BE INCREASED BY MAN-MADE OR NATURAL CAUSES. THIS FLOOD STATEMENT SHALL NOT CREATE LIABILITY ON THE PART OF THE SURVEYOR.

ADDRESS: 10746 ST. MICHAELS DRIVE

SIZE 18' X 33' PERIMETER 86/96'
 AREA 445/485 SQ DEPTH 3'-5"
 TILE 6" STANDARD
 COPING OKLAHOMA FLAGSTONE
 STEEL * ALL 1/2" @ 10' O.C.
 BENCH TANNING LEDGE W/ BUBBLER
 INTERIOR PEARL MATRIX W/ APALONE
 POOL CAPACITY 15,000 GAL

SIZE 8' X 7'
 RAISED 18"
 VENEER Moss Rock
 SPILLWAY Moss Rock
 JETS 5+ TRIPACK BLOWER T-SLIP
 FOUNTAIN INC. LIGHT JANDY LED

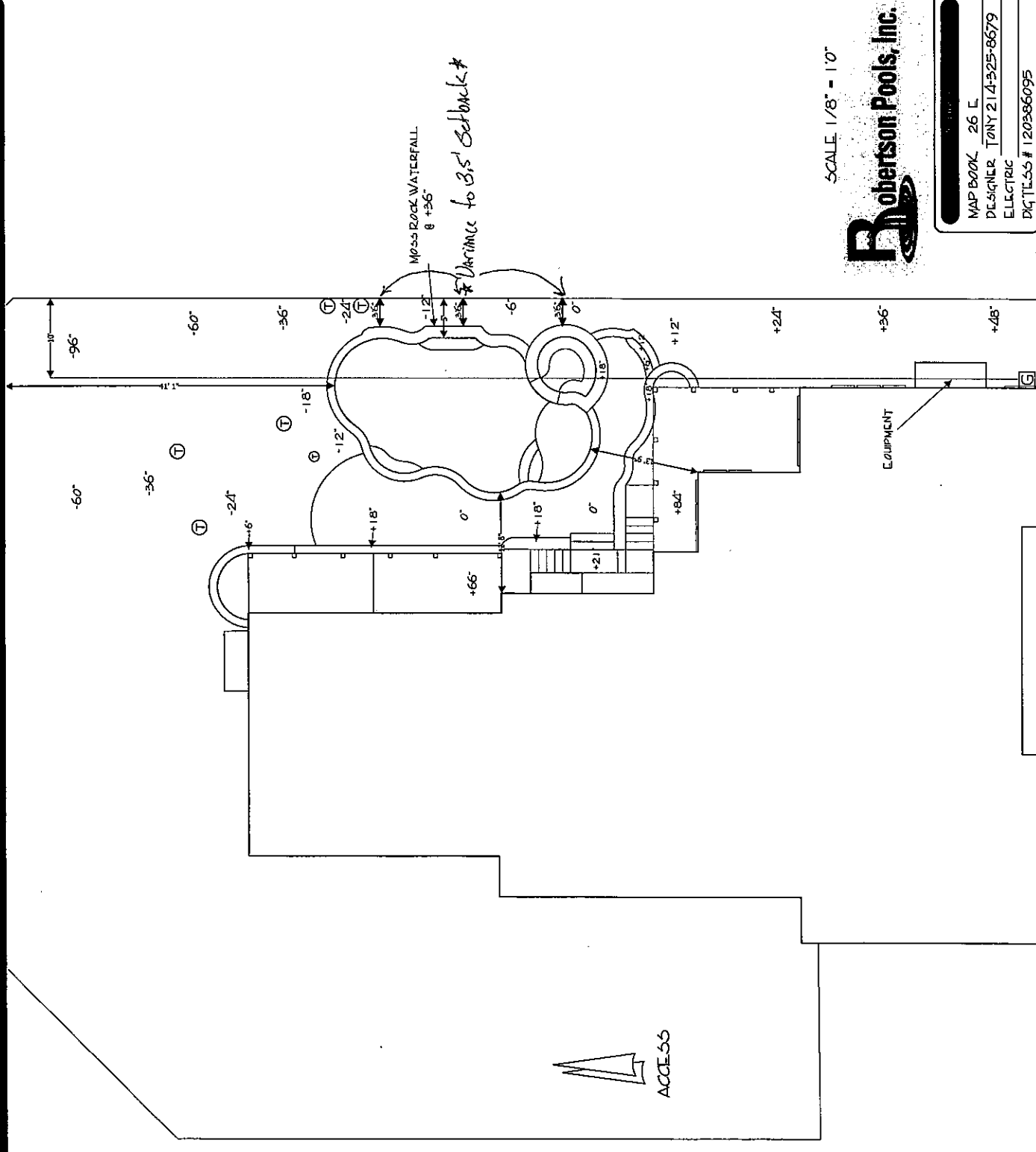
TYPE 400 SQ SKANDECK
 PATIO CAP
 STEPS 22 FLAGSTONE / 20 TP
 DRAINAGE 4 BRASS

PUMP 2.7 HP JANDY E- PUMP
 FILTER 60 SQ DE B/WASH TO SEWER
 BOOSTER P 2.5 HP JANDY STEALTH
 HEATER LEGACY 499U BTU 155 GAS
 CLEANER POLARIS 280 BLACK MAX
 MXY DRAIN AND CANNISTER
 CHLORINATION JANDY SALT SYSTEM
 CONTROL JANDY PDA 6 W SURGE
 LIGHT JANDY LED
 FILL LINE BALL VALVE OFF

EQUIPMENT KADOTA W/ SUITLIE
 CONCRETE REMOVAL
 PIERS
 GRADING
 UTILITY REROUTES BY OWNER
 SPRINKLER REROUTE
 FENCE DOWN AND UP

3 TON Moss Rock WATERFALL W/ 2 HP
 BOOSTER PUMP

NAME RAVI PRAKASHI & ANAMIKA SINHA
 ADDRESS 10726 ST. MICHAEL DR.
 CITY DALLAS TX. 75230
 HOME 972-517-7605
 WORK
 CELL ANAMIKA 214-405-3175
 CELL



SCALE 1/8" = 10'

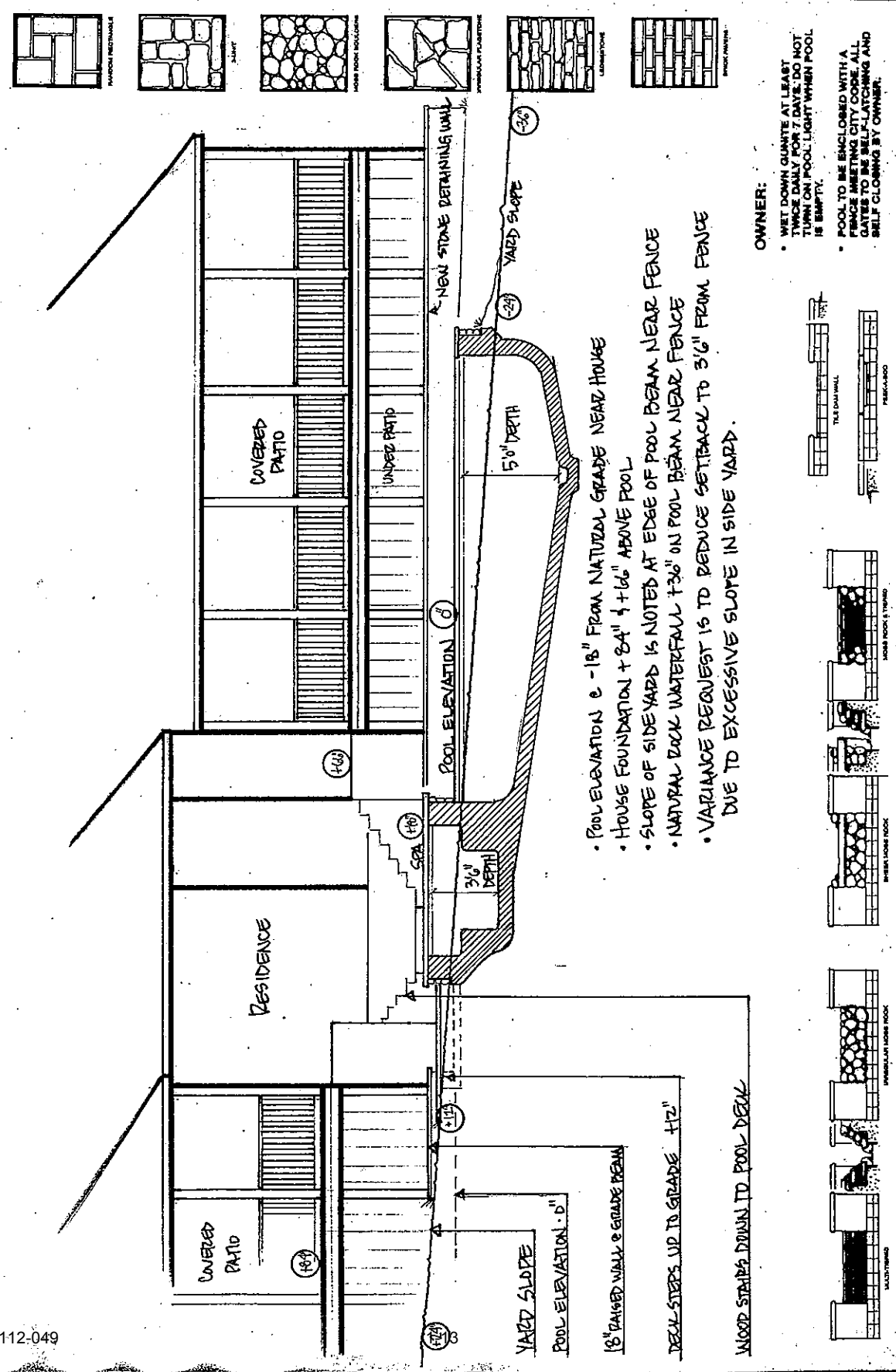


MAP BOOK 26 L
 DESIGNER TONY 214-325-8679
 ELECTRIC
 DGT.ESS # 120386095

(A) 1 YARD SLOPE & POOL STRUCTURE

1/4" SCALE

BDA 112-049

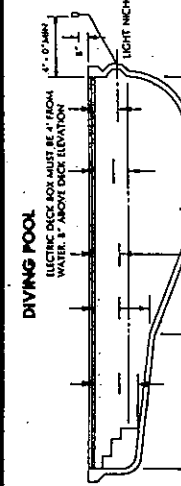
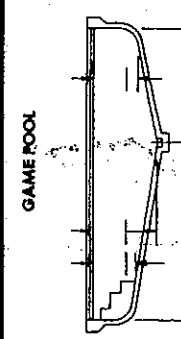


- POOL ELEVATION e - 18" FROM NATURAL GRADE NEAR HOUSE
- HOUSE FOUNDATION + 84" + 16" ABOVE POOL
- SLOPE OF SIDE YARD IS NOTED AT EDGE OF POOL BEAM NEAR FENCE
- NATURAL ROCK WATERFALL + 36" ON POOL BEAM NEAR FENCE
- VARIANCE REQUEST IS TO REDUCE SETBACK TO 3/6" FROM FENCE DUE TO EXCESSIVE SLOPE IN SIDE YARD.

OWNER:

- WET DOWN QUARTE AT LEAST TWICE DAILY FOR 7 DAYS. DO NOT TURN ON POOL LIGHT WHEN POOL IS EMPTY.
- POOL TO BE ENCLOSED WITH A FENCE MEETING CITY CODE. ALL GATES TO BE SELF-LATCHING AND SELF-CLOSING BY OWNER.

MAP BOOK NO. 26 E
 LEGAL DESCRIPTION
 LOT NO. B.L.K. NO.
 TRACT NO.
 PERMIT OFFICE



Robertson Pools Inc.

POOL SPECIFIK	
SIZE _____ X _____	DEPTH _____
AREA _____	PERIM _____
TILE _____	COPING _____
BENCH _____	TANNING LEDGE _____
INTERIOR FINISH _____	POOL CAPACITY _____
DECK SPECIFIK	
TYPE _____	PATIO CAP _____
STEPS _____	DRAINS _____
SPA SPECIFIK	
SIZE _____	RAISED VENEER _____
SPILLWAY TYPE _____	JETS _____
LIGHTING _____	EQUIPMENTS _____
PUMP _____	FILTER _____
HEATER _____	POOL CLEANER _____
CHLORINATOR _____	POOL COMPUTER _____
TIME CLOCK _____	FREEZE _____
LIGHTING _____	FILL LINE _____
EXCAVATIK	
ACCESS _____	EQUIPMENT _____
CONCRETE REMOVAL _____	PIERS _____
FENCE _____	SPRINKLER _____
UTILITY REROUTES _____	
NOTES	
SCALE 1/8" = 1'0"	
A CUSTOM SWIMMING POOL	
NAME RAMI PRABAKASHI & AN	
ADDRESS 10716 ST. MARYA	
CITY DALLAS, TEXAS 75243	
REG. PHONE 972-517-7605	
BUS. PHONE _____	















ARTISTIC CONCEPTION



ARTISTIC CONCEPTION

pool

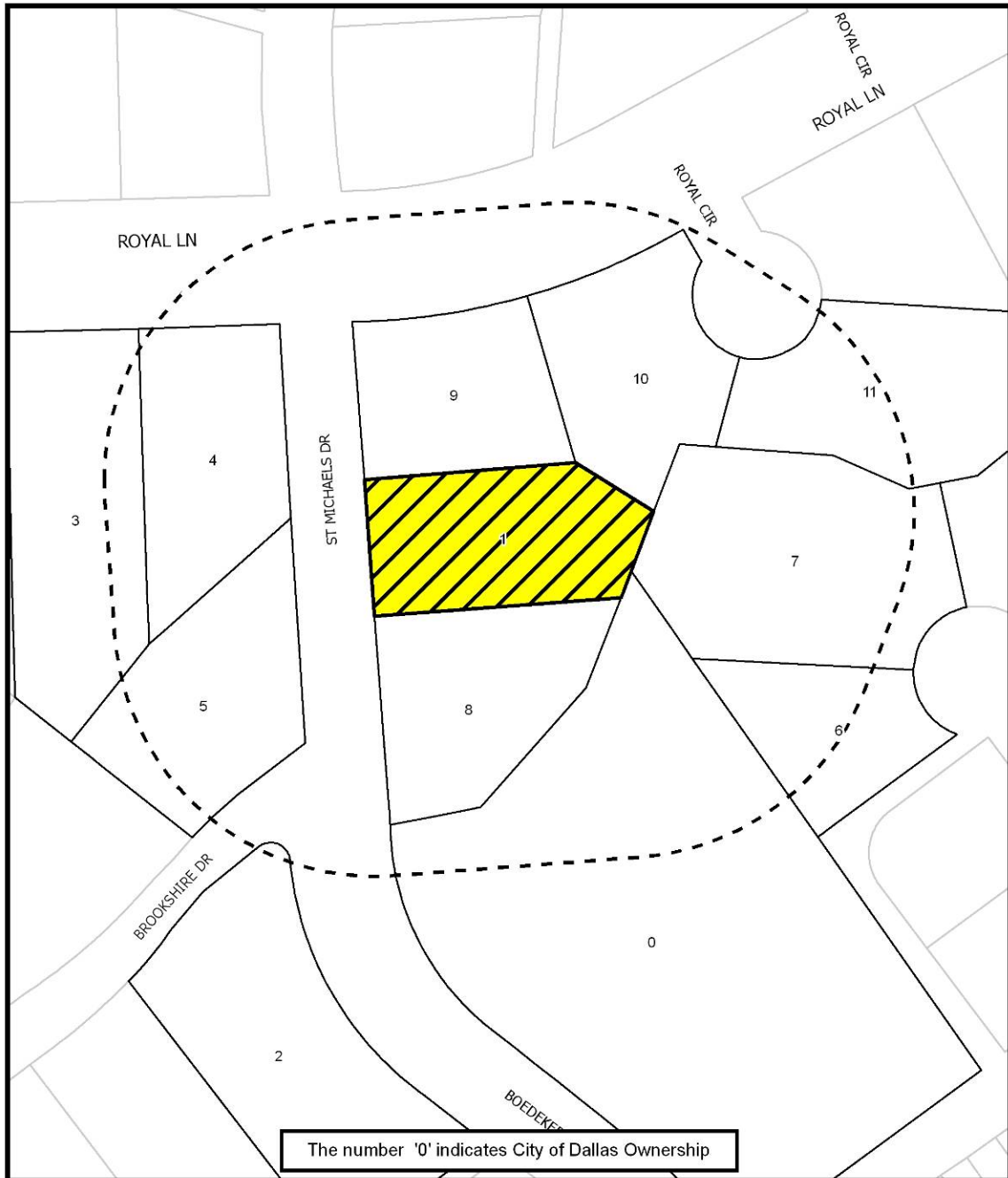


ARTISTIC CONCEPTION

finca







 1:1,200	NOTIFICATION		Case no: BDA112-049
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">11</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 4/26/2012	

Notification List of Property Owners

BDA112-049

11 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	10746 ST MICHAELS DR	PRAKASH RAVI & SINHA ANAMIKA
2	7264 BROOKSHIRE DR	BOGARD RONALD A & SYLVIA A
3	7214 ROYAL LN	KAO KAI CHI & B LAN
4	7222 ROYAL LN	SUHLER ANN M
5	10745 ST MICHAELS DR	KEHR MARY N
6	10811 BRANCH OAKS CIR	HOWELL RICHARD J
7	10815 BRANCH OAKS CIR	WEINSTEIN LOREN J
8	10740 ST MICHAELS DR	NEWMAN KEITH & KATHERINE
9	10754 ST MICHAELS DR	10754 ST MICHAEL DR LLC
10	7318 ROYAL CIR	MEYER ELSA & JURGEN
11	7322 ROYAL CIR	DOOREY MICHAEL J & DEBORAH BOESE

FILE NUMBER: BDA 112-053

BUILDING OFFICIAL'S REPORT:

Application of Ken Conway for a special exception to the landscape regulations at 10379 Plano Road (AKA 10670 Markison Road). This property is more fully described as Tract 1.3 in City Block B/8090 and is zoned IR, which requires mandatory landscaping. The applicant proposes to construct/maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 10379 Plano Road (AKA 10670 Markison Road)

APPLICANT: Ken Conway

REQUEST:

- A special exception to the landscape regulations is requested in conjunction with constructing and maintaining an approximately 31,000 square foot warehouse structure (Interstate Wire Company) on a site currently under development, and not fully meeting the landscape regulations.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted landscape plan is required.

Rationale:

- The City's Chief Arborist supports the request given that an existing major 52'-wide ATMOS gas transmission easement with underground gas main on the site precludes the applicant from locating street trees in the code-required location on the site, and that the site complies with all other Article X mandatory and design standard requirements.
- The applicant has substantiated how strict compliance with the requirements of the Landscape Regulations of the Dallas Development Code will unreasonably burden the use of the property, and that the special exception will not adversely affect neighboring property.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REGULATIONS:

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

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property;

- (2) the special exception will not adversely affect neighboring property; and
- (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

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

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

GENERAL FACTS:

- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- The applicant has submitted an alternate landscape plan that, according to the City of Dallas Chief Arborist, does not comply with street tree requirements of Article X: The Landscape Regulations.
- The City of Dallas Chief Arborist submitted a memo to the Board Administrator regarding the applicant’s request (see Attachment A). The memo states how this request is triggered by new construction on the site and how the alternate plan proposes trees to be planted adjacent to the interior perimeter of an existing major 52’-wide ATMOS gas transmission easement with underground gas main on the site as opposed to the required location of within 30’ of the projected street curb. The Chief Arborist supports the applicant’s landscape special exception request in that the utility has restricted all large trees from planting within the easement and has allowed minimal intrusion with small trees, and complies with all other Article X mandatory and design standard requirements.

BACKGROUND INFORMATION:

Zoning:

Site: IR (Industrial/Research)
North: IR (Industrial/Research)
South: IR (Industrial/Research)
East: IR (Industrial/Research)
West: IR (Industrial/Research)

Land Use:

The site is currently under development. The areas to the north, east, south, and west are developed with warehouse and commercial uses.

Zoning/BDA History:

- | | |
|---|--|
| 1. BDA 956-146, Property at 10425 Plano Road (the property immediately north of the subject site) | On January 23, 1996, the Board of Adjustment Panel C granted a request for a special exception to the landscape regulations and imposed the submitted alternate landscape plan as a condition to the request. The case report stated that the request was made in conjunction with maintaining a new 159,000 square foot warehouse facility (Markinson Distribution Center) with the applicant not being able to fully comply with landscape regulations related to TU's electric power poles on the property. |
|---|--|

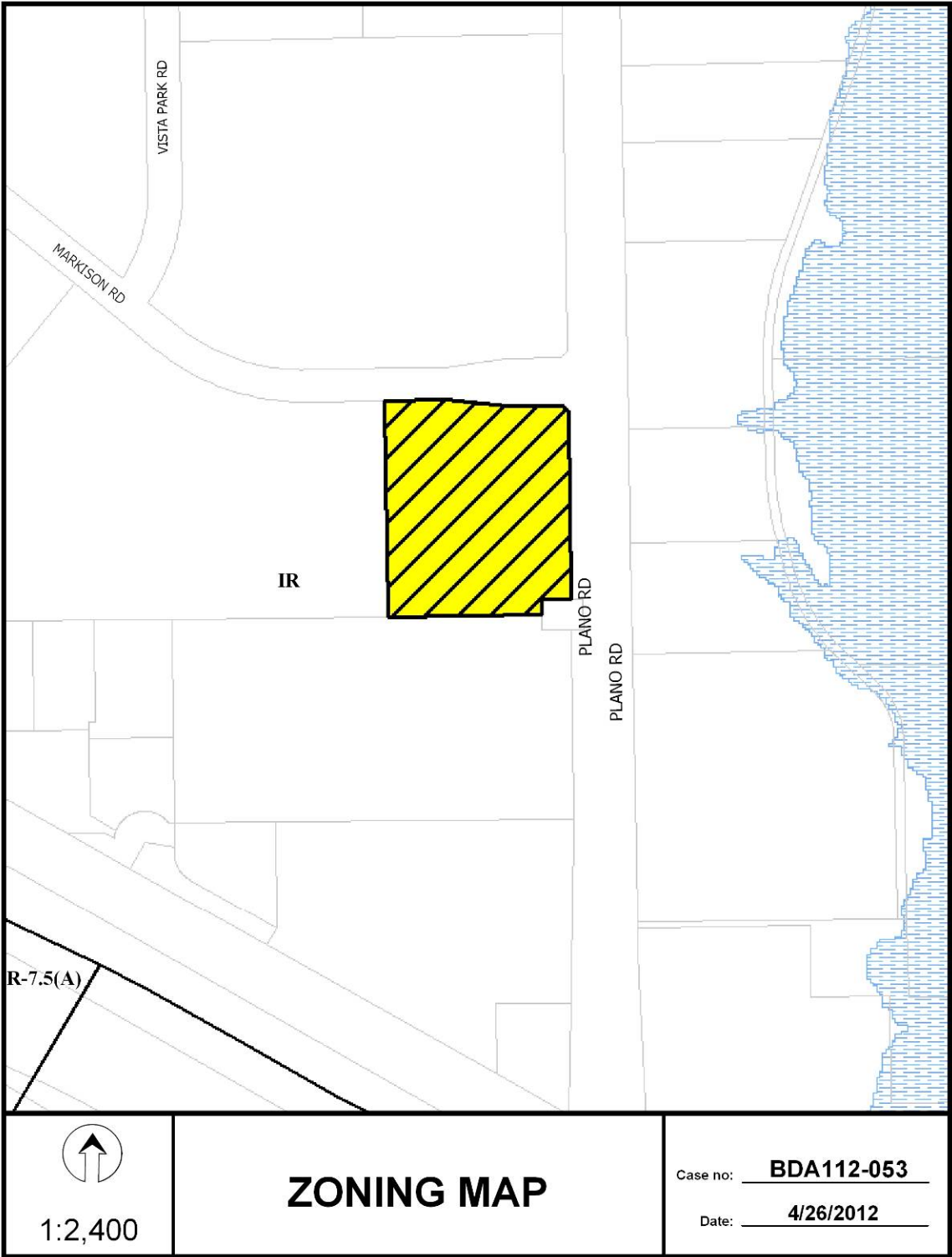
Timeline:

- March 28, 2012: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- April 17, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- April 19, 2012: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the April 27th deadline to submit additional evidence for staff to factor into their analysis; and the May 4th 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.
- May 1, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorney to the Board.

May 4, 2012: The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the request (see Attachment A).

STAFF ANALYSIS:

- This request focuses on constructing and maintaining an approximately 31,000 square foot warehouse structure (Interstate Wire Company) on site currently under development, and not fully meeting the landscape regulations.
- A landscape plan has been submitted that the City of Dallas Chief Arborist supports in that an existing major 52'-wide ATMOS gas transmission easement with underground gas main on the site precludes the applicant from locating street trees in the code-required location on the site, and that the site complies with all other Article X mandatory and design standard requirements.
- The applicant has the burden of proof in establishing the following:
 - Strict compliance with the requirements of the Landscape Regulations of the Dallas Development Code will unreasonably burden the use of the property; and
 - The special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted landscape plan as a condition to the request, the site would be "excepted" from full compliance with the street tree requirements of Article X: The Landscape Regulations.





1:2,400

AERIAL MAP

Case no: BDA112-053

Date: 4/26/2012

Memorandum



DATE May 4, 2012
TO Steve Long, Board of Adjustment Administrator
SUBJECT # BDA 112 · 053 10379 Plano Road

The applicant is requesting a special exception to the landscape requirements of Article X.

Trigger

New construction.

Deficiencies

The alternative landscape plan does not comply with street tree requirements of Section 51A-10.125(b)(5). All required street trees must be large trees, planted at 3" caliper, and placed within 30-feet of the projected street curb. Five large trees and 21 small trees will be planted adjacent to the interior perimeter of the easement.

Factors

A major 52-foot wide ATMOS gas transmission line easement, with an underground gas main, is within the north and east portions of the property along the street frontage, measured from the property line. Overhead utility lines exist along the street frontage on Plano Road.

The utility has restricted all large trees from planting within the easement, and has allowed minimum intrusion with small trees.

The proposed plan complies with all other Article X mandatory and design standard requirements.

Recommendation

Approval.

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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-053

Data Relative to Subject Property:

Date: 3-28-12

Location address: 10379 Plano Road Zoning District: IR

Lot No.: Tr. 1.3 Block No.: B/8090 Acreage: 2.341 Census Tract: 185.004

Street Frontage (in Feet): 1) 300' 2) 300' 3) _____ 4) _____ 5) _____

NE SA

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Jeff Fleming

Applicant: ~~db constructors, inc.~~ Telephone: ~~817-626-7300~~

Mailing Address: ~~2400 Great SW Pway., Fort Worth, TX~~ Zip Code: ~~76106~~



Represented by: Ken Conway Telephone: 682-667-1784

Mailing Address: 2400 Great SW Pway., Fort Worth, TX Zip Code: 76106

Affirm that a request has been made for a Variance __, or Special Exception X, of Landscaping Ordinance

Application is now made to the Honorable Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described request for the following reason:
Due to 50' wide Atmos Energy easement on both frontage roads (Markison Rd. & Plano Rd.) Meeting street tree setback is impossible. Request special exception to install alternative landscape.

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

Respectfully submitted: Ken Conway
Applicant's name printed

Ken Conway
Applicant's signature

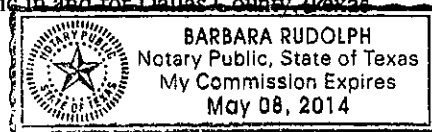
Affidavit

Before me the undersigned on this day personally appeared Ken Conway 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.

Ken Conway
Affiant (Applicant's signature)

Subscribed and sworn to before me this 27TH day of March, 2012

Barbara Rudolph
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 Ken Conway

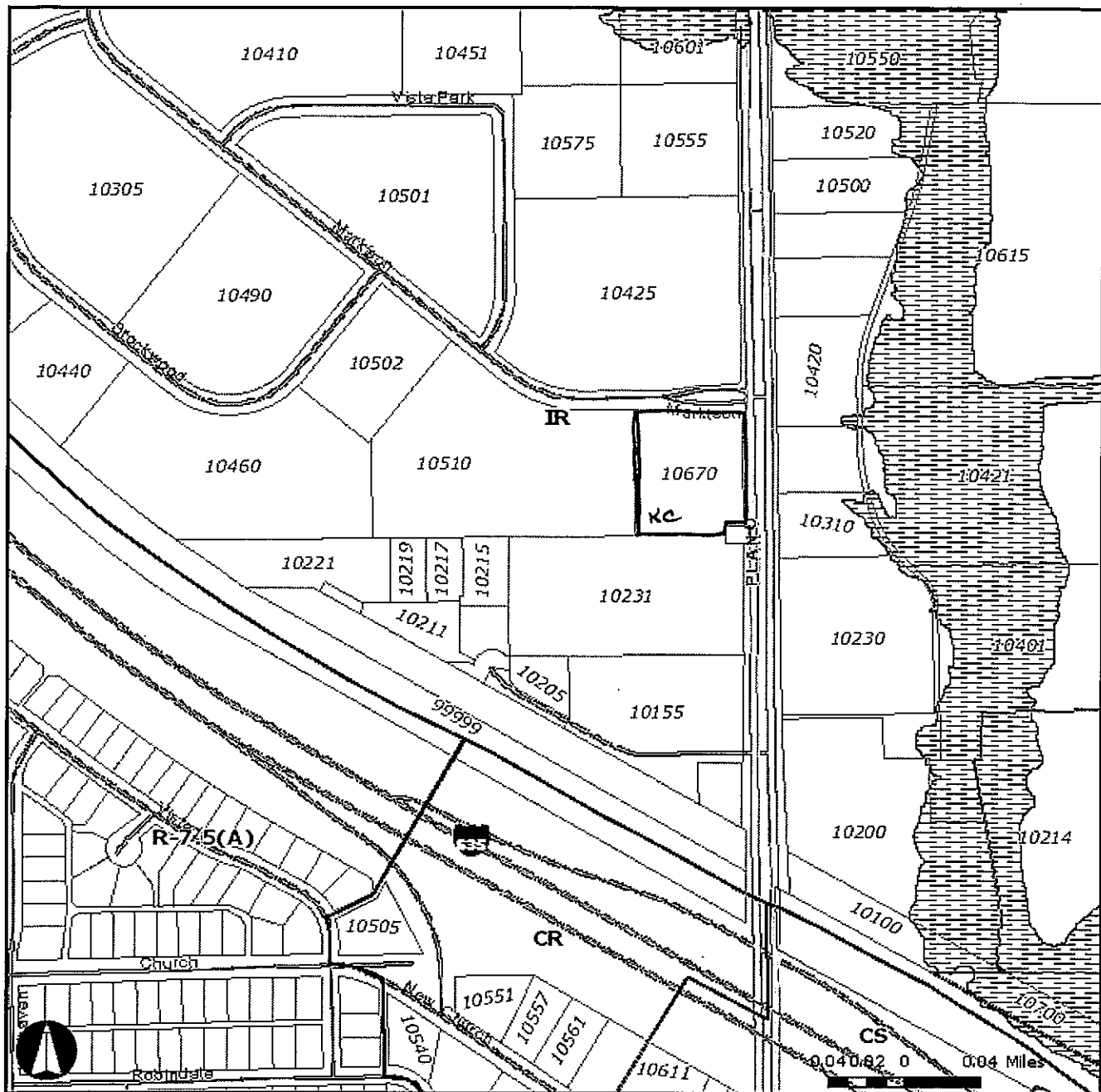
did submit a request for a special exception to the landscaping regulations
at 10379 Plano Road

BDA112-053. Application of Ken Conway for a special exception to the landscaping regulations at 10670 Markison Road. This property is more fully described as tract 1.3 in city block B/8090 and is zoned IR, which requires mandatory landscaping. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

Sincerely,


Lloyd Denman, Building Official

City of Dallas Zoning



City Boundaries



County



Certified Parcels



DISD Sites



Council Districts

Historic Overlay



Historic Subdistricts



NSO Overlay

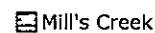


NSO Subdistricts



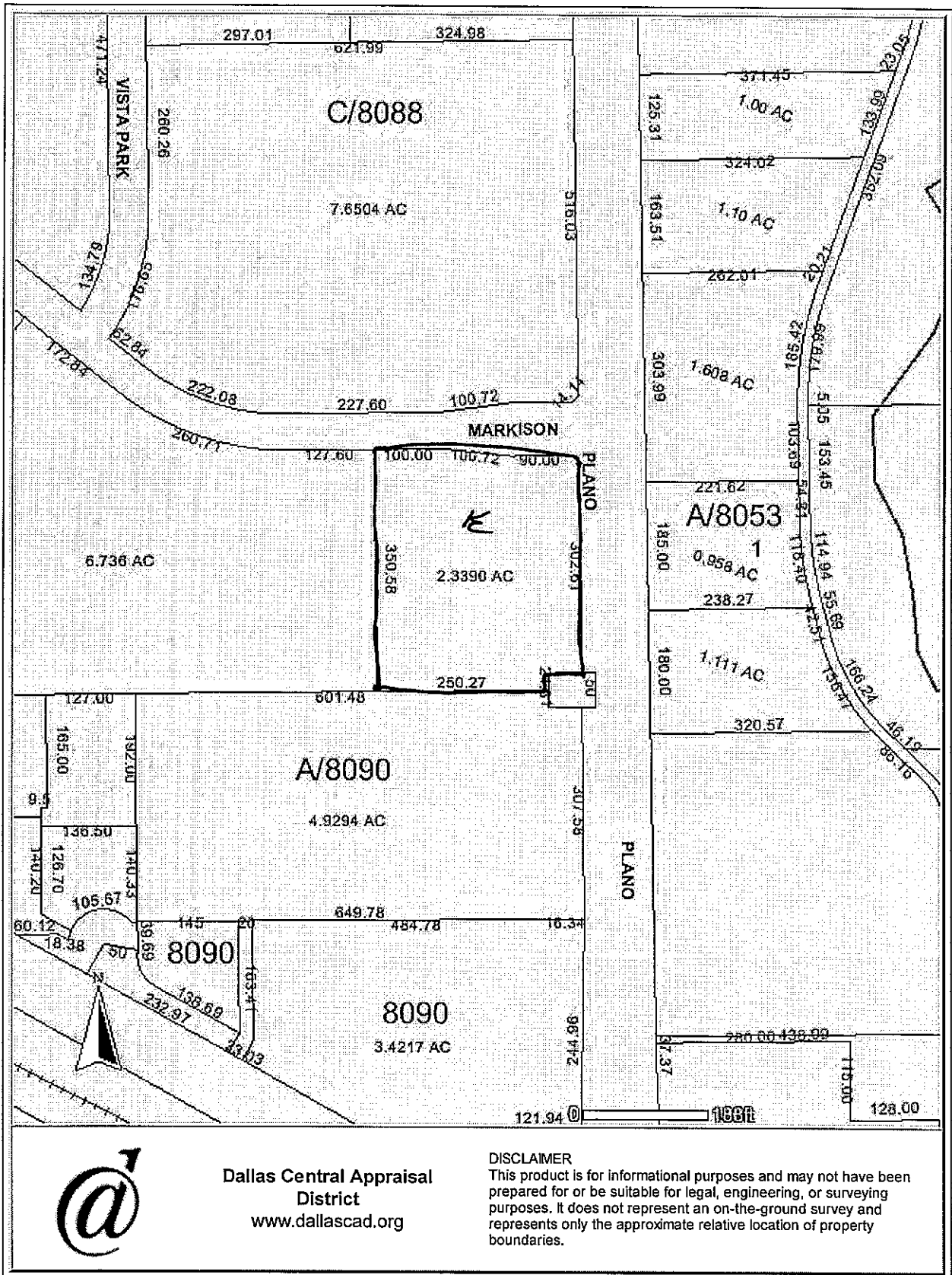
MD Overlay

Floodplain



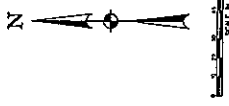
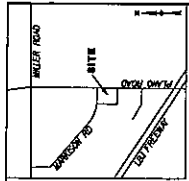
Pedestrian Overlay



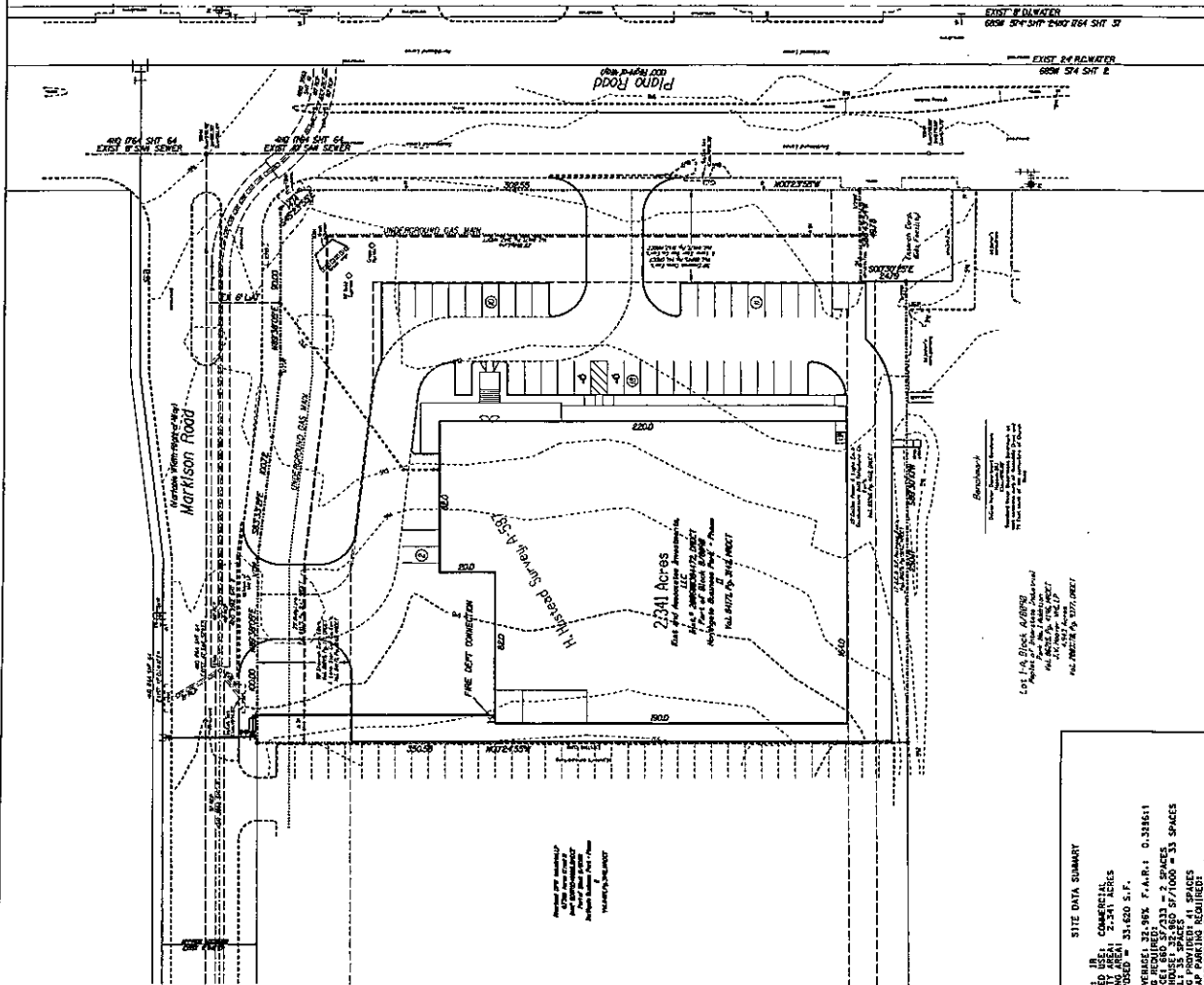


Dallas Central Appraisal District
www.dallascad.org

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.



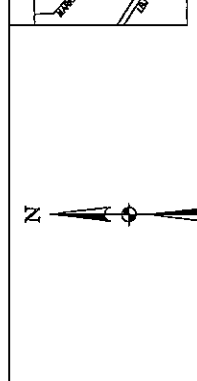
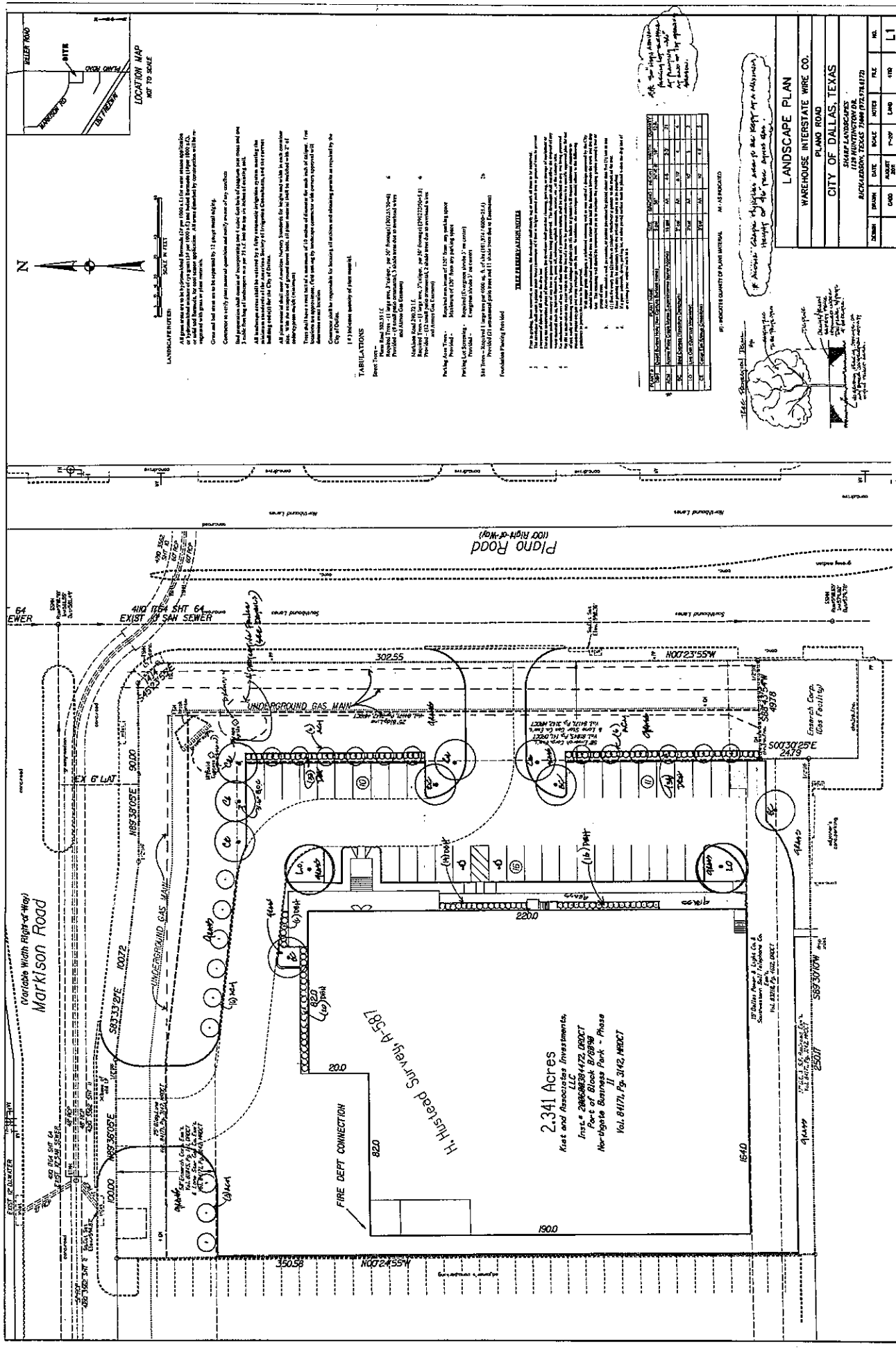
RELANDER ASSOCIATES, INC. 134 RUCKER ROAD DALLAS, TEXAS 75243 TEL: 412-1555 75098	
SITE PLAN	
WAREHOUSE INTERSTATE WIRE CO. 77777 PLANO ROAD CITY OF DALLAS, TEXAS	
H HELLMUTH, OBATA & ASSOCIATES, INC. CIVIL AND ENVIRONMENTAL ENGINEERS 1000 BURNING TREE DRIVE, SUITE 1000 DALLAS, TEXAS 75243	
DESIGN	DATE
DRAWN	DATE
CHECKED	DATE
SCALE	DATE
FILE	NO.
110	???



Lot 1, 1/2 Block 4, 40898
 2341 Acres
 1/2 Block 4, 40898
 1/2 Block 4, 40898
 1/2 Block 4, 40898

SITE DATA SUMMARY

1. ZONING: IWB
2. COMMERCE
3. PROPERTY AREA: 2,341 ACRES
4. BUILDING AREA: 31,620 S.F.
5. LOT COVERAGE: 32.96% F.A.R.: 1.0-3.86:1
6. PARKING REQUIRED: 33 SPACES
 WAREHOUSE: 32,480 S.F./1,000 = 33 SPACES
 PARKING PROVIDED: 41 SPACES
7. HANDICAP PARKING REQUIRED: 2 SPACES
8. HANDICAP PARKING PROVIDED: 2 SPACES
9. HANDICAP PARKING PROVIDED: 2 SPACES



LANDSCAPE PLAN
 WAREHOUSE INTERSTATE WIRE CO.
 PLANO ROAD
 CITY OF DALLAS, TEXAS

LANDSCAPE PLAN
 WAREHOUSE INTERSTATE WIRE CO.
 PLANO ROAD
 CITY OF DALLAS, TEXAS

TABULATIONS
 1) 1" indicates quantity of plant material.

TABLE OF PLANT MATERIAL

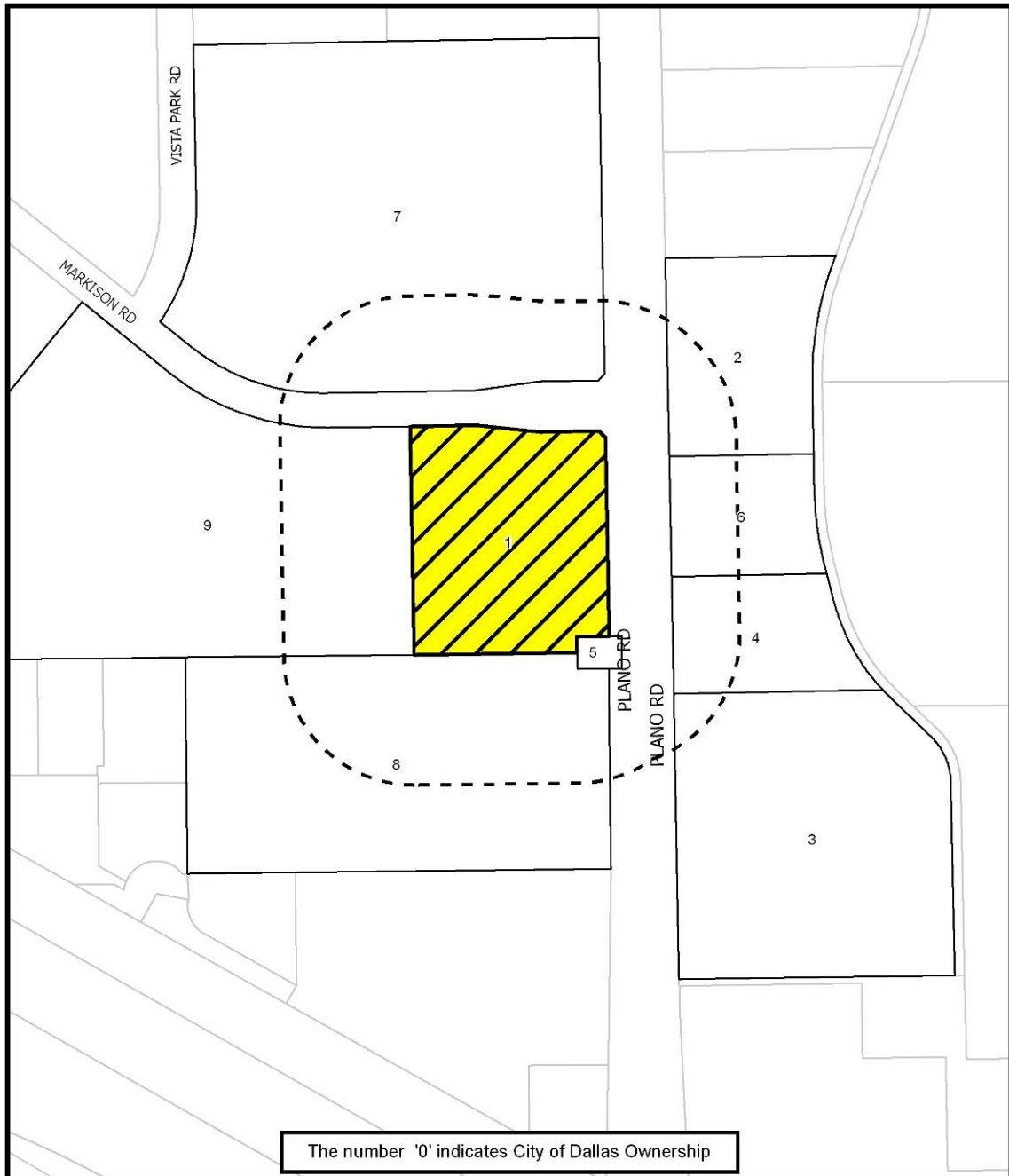
NO.	PLANT NAME	QUANTITY	SIZE	PRICE	TOTAL
1	1" x 1" x 1" x 1" x 1" x 1"	100	1"	1.00	100.00
2	2" x 2" x 2" x 2" x 2" x 2"	50	2"	2.00	100.00
3	3" x 3" x 3" x 3" x 3" x 3"	25	3"	4.00	100.00
4	4" x 4" x 4" x 4" x 4" x 4"	10	4"	10.00	100.00
5	5" x 5" x 5" x 5" x 5" x 5"	5	5"	20.00	100.00
6	6" x 6" x 6" x 6" x 6" x 6"	2	6"	50.00	100.00
7	7" x 7" x 7" x 7" x 7" x 7"	1	7"	100.00	100.00

LANDSCAPE PLAN
 WAREHOUSE INTERSTATE WIRE CO.
 PLANO ROAD
 CITY OF DALLAS, TEXAS

LANDSCAPE PLAN
 WAREHOUSE INTERSTATE WIRE CO.
 PLANO ROAD
 CITY OF DALLAS, TEXAS

LANDSCAPE PLAN
 WAREHOUSE INTERSTATE WIRE CO.
 PLANO ROAD
 CITY OF DALLAS, TEXAS

LANDSCAPE PLAN
 WAREHOUSE INTERSTATE WIRE CO.
 PLANO ROAD
 CITY OF DALLAS, TEXAS



 1:2,400	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="0"> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="border: 1px solid black; padding: 2px; text-align: center;">9</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	9	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: BDA112-053 Date: 4/26/2012
200'	AREA OF NOTIFICATION					
9	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA112-053

9 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	10670 MARKISON RD	FLEMING JEFF
2	10420 PLANO RD	AH PLANO JOINT VENTURE % ALLANTEE HAMMER
3	10230 PLANO RD	LUMBER SALES INC PLANO @ LBJ FRWY
4	10310 PLANO RD	TOVEY FAMILY LTD PS THE
5	10215 PLANO RD	ENSERCH CORP % ATMOS ENERGY / PPTY TAX
6	10200 PLANO RD	NGUYEN HOLLY & SAM KIEN
7	10425 PLANO RD	CATELLUS OPERATING LTD PS
8	10231 PLANO RD	HOOVER JW WHI LP
9	10510 MARKISON RD	RIVERBEND DFW INDUSTRIAL STE 300

FILE NUMBER: BDA 112-055

BUILDING OFFICIAL'S REPORT:

Application of Gladys Bowens and Dallas Cothrum for a special exception to the landscape regulations at 530 E. Camp Wisdom Road. This property is more fully described as Tract 1 in City Block 6630 and is zoned R-7.5(A), which requires mandatory landscaping. The applicant proposes to construct/maintain a structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

LOCATION: 530 E. Camp Wisdom Road

APPLICANT: Gladys Bowens and Dallas Cothrum

REQUEST:

- A special exception to the landscape regulations is requested in conjunction with expanding the electrical substation on the site with a new control enclosure of about 1,000 square feet and adding about 3,000 square feet of impervious coverage on the site, and not fully meeting the landscape regulations.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted revised landscape plan is required.

Rationale:

- The City's Chief Arborist supports the request given the existing/proposed use of the site (an electric substation use), existing conditions on the site (overhead utility lines, existing vegetation to be retained on the west side of the site, existing wooded floodplain on the south side of the site), and that revised alternate landscape plan shows compliance with design standards for screening of off-street parking and for understory preservation with the maintenance of the understory vegetation in the southern end of the lot contiguous to the wooded creek.
- The applicant has substantiated how strict compliance with the requirements of the landscape regulations of the Dallas Development Code will unreasonably burden the use of the property, and that the special exception will not adversely affect neighboring property.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REGULATIONS:

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

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the property;
- (2) the special exception will not adversely affect neighboring property; and
- (3) the requirements are not imposed by a site-specific landscape plan approved by the city plan commission or city council.

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

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

GENERAL FACTS:

- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- The applicant has submitted a revised alternate landscape plan (see Attachment A) that, according to the City of Dallas Chief Arborist, does not comply with the street tree and the 10’ wide perimeter landscape buffer strip along the west property line with residential adjacency requirements of Article X: The Landscape Regulations.
- The City of Dallas Chief Arborist submitted a memo to the Board Administrator regarding the applicant’s request (see Attachment B). The memo states how this request is triggered by new construction of floor area with the expansion of an electric substation use on the site and how the alternate plan proposes to not:
 1. plant required large trees under overhead transmission or distribution lines based on demands for continued maintenance and reliability of electric services to the public - smaller compatible trees are to be planted in lieu of the code- required large trees), and
 2. provide the mandatory 10’-wide perimeter landscape buffer strip along the west property line - an existing “vegetated line” is proposed to be retained on the west side of the property that provides a screen to the nearby residential community in lieu of the code-required buffer strip.

BACKGROUND INFORMATION:

Zoning:

- Site: R-7.5(A)(SUP 188) (Single family residential 7,500 square feet, Specific Use Permit)
- North: R-7.5(A)(SUP 187) (Single family residential 7,500 square feet, Specific Use Permit)
- South: R-7.5(A)(SUP 1578) (Single family residential 7,500 square feet, Specific Use Permit)
- East: R-7.5(A) (Single family residential 7,500 square feet)

West: R-7.5(A)(SUP 1578) (Single family residential 7,500 square feet, Specific Use Permit)

Land Use:

The site is developed with an electrical substation. The areas to the north, east, and south appear to be undeveloped; and the area to the west is developed with multifamily use.

Zoning/BDA History:

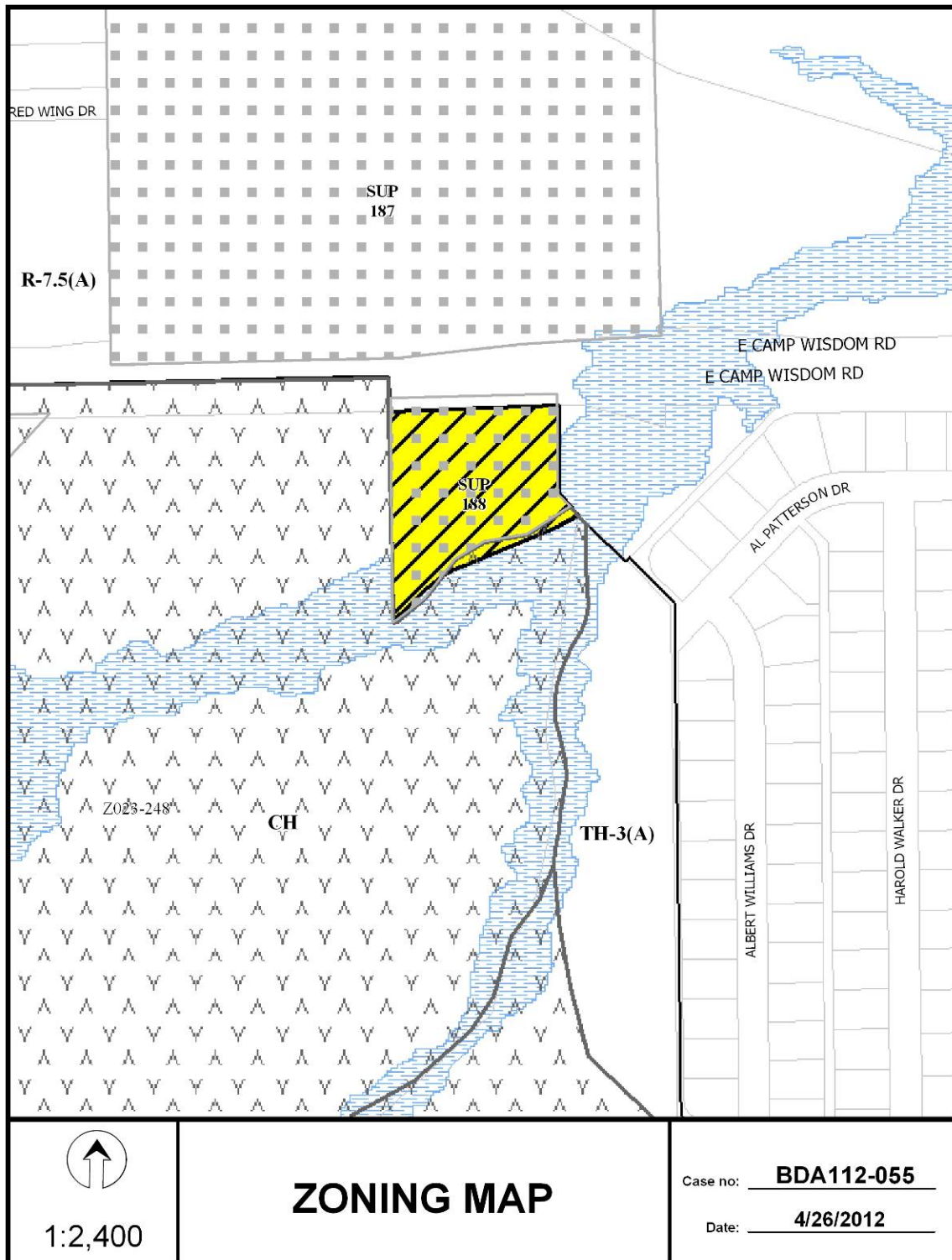
There has not been any recent related board or zoning cases recorded either on or in the immediate vicinity of the subject site.

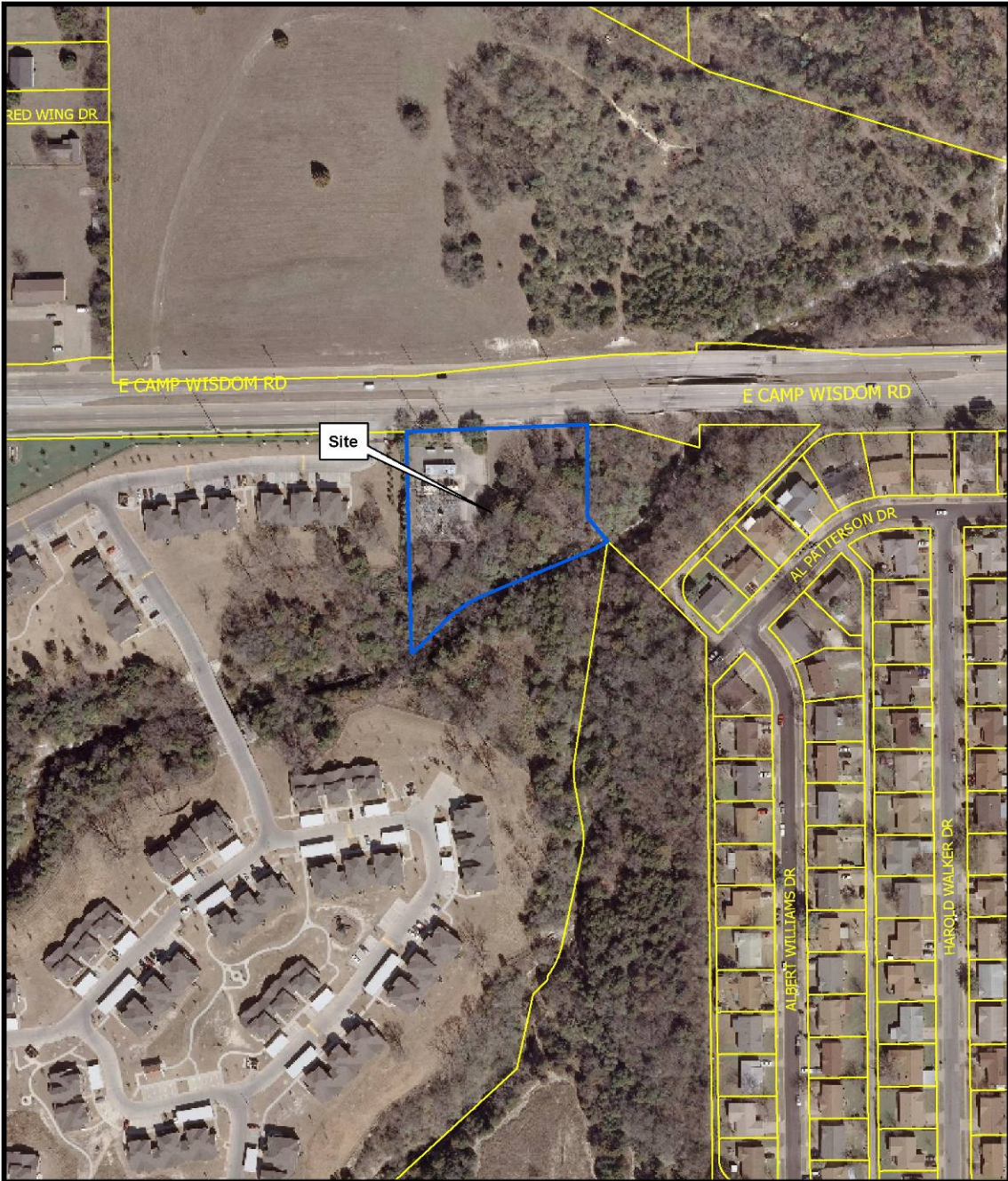
Timeline:

- March 29, 2012: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- April 17, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- April 19, 2012: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the April 27th deadline to submit additional evidence for staff to factor into their analysis; and the May 4th 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 26, 2012: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).
- May 1, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorney to the Board.
- May 7, 2012: The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the request (see Attachment B).

STAFF ANALYSIS:

- This request focuses on expanding the electrical substation on the site with a new control enclosure of about 1,000 square feet and adding about 3,000 square feet of impervious coverage on the site, and not fully meeting the landscape regulations.
- A revised landscape plan has been submitted that the City of Dallas Chief Arborist supports given the existing/proposed use of the site (an electric substation use), existing conditions on the site (overhead utility lines, existing vegetation to be retained on the west side of the site, existing wooded floodplain on the south side of the site), and that revised alternate landscape plan shows compliance with design standards for screening of off-street parking and for understory preservation with the maintenance of the understory vegetation in the southern end of the lot contiguous to the wooded creek.
- The applicant has the burden of proof in establishing the following:
 - Strict compliance with the requirements of the Landscape Regulations of the Dallas Development Code will unreasonably burden the use of the property; and
 - The special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted revised landscape plan as a condition to the request, the site would be “excepted” from full compliance with the street tree and the 10’ wide perimeter landscape buffer strip requirements of Article X: The Landscape Regulations.





1:2,400

AERIAL MAP

Case no: **BDA112-055**

Date: **4/26/2012**

BDA112-055

Attach A

Long, Steve

From: Dallas Cothrum [dallas@masterplanconsultants.com]
Sent: Thursday, April 26, 2012 9:44 AM
To: Erwin, Philip; Long, Steve
Cc: 'Gladys Bowens'
Subject: FW: Camp Wisdom
Attachments: L501-LP-28317.PDF; Landscape Rendering_04-25-2012.pdf

pg 1

Find attached the revised alternate landscape plan as well as a rendering that might be helpful. We've asked Halff to show the overhead electric transmission line (labeled OHE) a little better.

The issue driving all this unfortunately is that we currently have zero floor area on the site with the old equipment that is being replaced. This equipment did not have a control center as the new station will. The control enclosure is about 1,000 sf of floor area and we are adding a total of 3,000 or more sf of impervious coverage. The site does not have sidewalks or driveways at all or parking spaces and the fact that we are adding those ran us up over 2,000 sf, which was unfortunate.

Since we have to comply with Article X due to the equipment "building" we need the relief on Article X for the buffering from the residential. We also can't plant the trees along Camp Wisdom due to the transmission lines.

Dallas

Memorandum



CITY OF DALLAS

DATE May 7, 2012
 TO Steve Long, Board of Adjustment Administrator
 SUBJECT # BDA 112 · 055 530 Camp Wisdom Road

The applicant is requesting a special exception to the landscape requirements of Article X. Specifically, the request is for relief of mandatory requirements of 51A-10.125 for a perimeter landscape buffer strip and for street trees.

Trigger

New construction of floor area with the expansion of an electric substation use.

Deficiencies

The proposed landscape plan does not provide for required street trees along Camp Wisdom Road, or a mandatory 10'-wide perimeter landscape buffer strip along the west property line with residential adjacency.

Factors

The current use of the property is for an electric utility substation. This use is being expanded further within the east part of the property. Electric substations are subject to Article X regulation by ordinance.

Existing large protected trees will be removed from the property, including along the roadway. The tree removal is not subject to this Board review other than as a change of landscaping. Based on the utility expansion, all protected tree removal is exempt from permit and replacement by the defense to prosecution stated in Section 51A-10.140(b)(8) where trees 'interfered with construction or maintenance of a public utility.'

The Oncor Electric Company holds a current policy to not support the planting of large trees under overhead transmission or distribution lines based on demands for the continued maintenance and reliability of electric services to the public. They recommend smaller compatible trees to be planted under their lines.

An existing vegetated line exists to the west of the substation that provides screening from the nearby residential community adjacent to the substation. A wooded floodplain area exists on the southern portion of the property that will be maintained for existing site trees.

BDA112055
Attach B to 2

The property will comply with design standards for screening of off-street parking and for understory preservation with the maintenance of the understory vegetation in the southern end of the lot contiguous to the wooded creek.

A new required sidewalk will be placed along the street frontage. The sidewalk is not considered a part of the landscape design. The configuration of the sidewalk shown on the proposed landscape plan is subject to possible minor alignment changes to meet slope or aesthetic requirements during installation.

Recommendation

Approval.

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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-055

Data Relative to Subject Property:

Date: 3-29-12

Location address: 530 Camp Wisdom Road Zoning District: R-7.5(A)

Lot No.: Tract 1 Block No.: 6630 Acreage: 1.56 Census Tract: 0112.00

Street Frontage (in Feet): 1) Approximately 278 feet along Camp Wisdom Road

Sw12

To the Honorable Board of Adjustment:

Owner of Property/or Principal: Oncor Electric Company

Applicant: Gladys Bowens Telephone: 214-761-9197

Mailing Address 900 Jackson Street, Dallas, TX Zip Code: 75202

Represented by: Dallas Cothrum/Gladys Bowens Telephone: 214-761-9197

Mailing Address: 900 Jackson Street, Suite 640, Dallas, TX Zip Code: 75202

Affirm that a request has been made for a Variance X, or Special Exception , of an alternate landscape plan to utilize existing trees for screening and substitute ornamental trees instead of canopy trees on the front of the lot

Application is now made to the Honorable Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described request for the following reason: The owner is expanding the substation on the site which is heavily treed and with existing screening provided. The number of trees on the site will exceed the number required under the current zoning post construction. Also, request that ornamental trees instead of canopy trees be substituted on the front of the lot

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

Respectfully submitted: Gladys Bowens
By: Gladys Bowens Applicant's signature

Affidavit

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

Gladys Bowens
Affiant (Applicant's signature)

Subscribed and sworn to before me this 28 day of March, 2012



Carol Ann Laquey
Notary Public in and for Dallas County, Texas

(Rev. 08-20-09)

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman


Building Official's Report

I hereby certify that Gladys Bowens

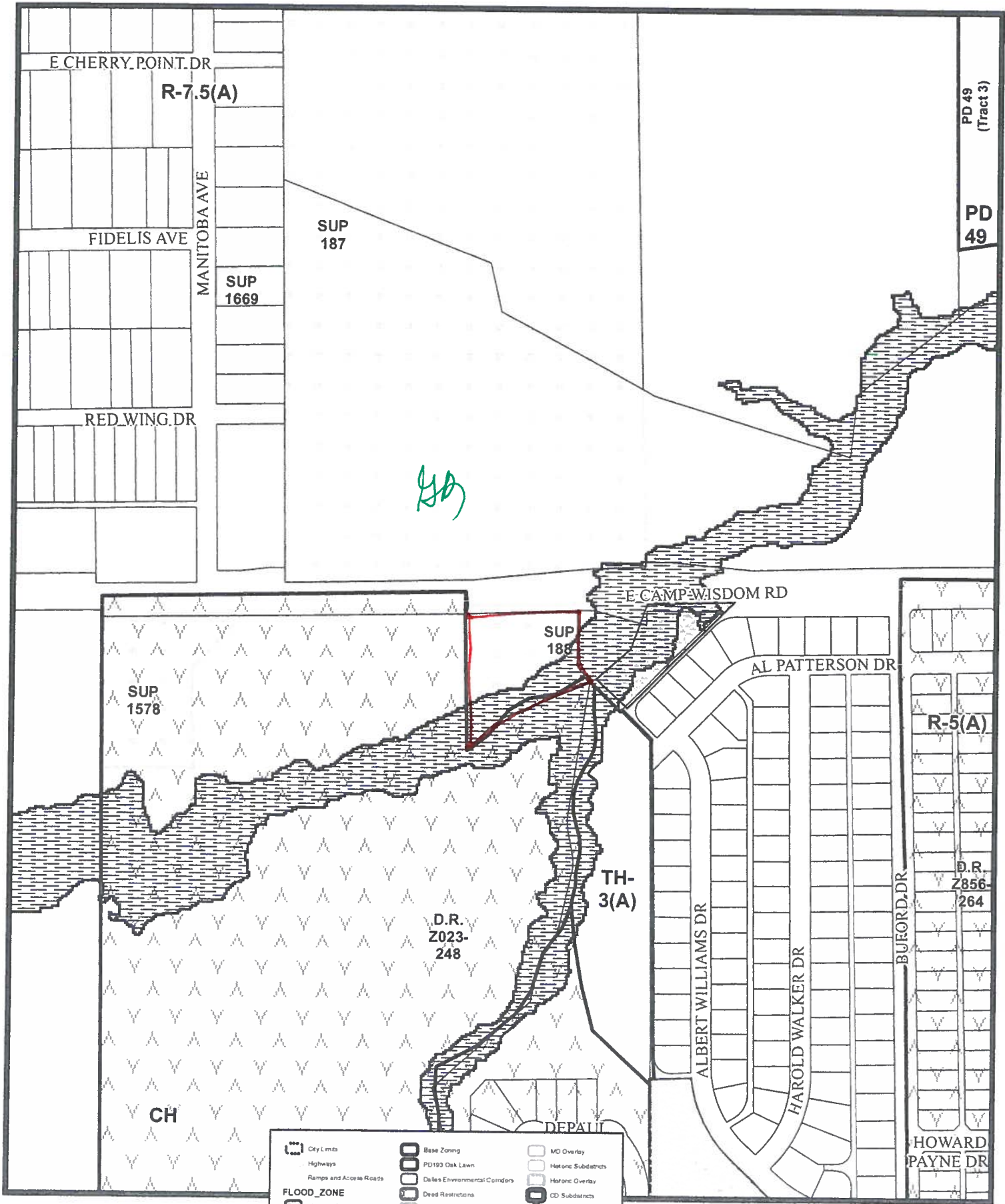
did submit a request for a special exception to the landscaping regulations
at 530 E. Camp Wisdom Road

BDA112-055. Application of Gladys Bowens for a special exception to the landscaping regulations at 530 E. Camp Wisdom Road. This property is more fully described as tract 1 in city block 6630 and is zoned R-7.5(A), which requires mandatory landscaping. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.




























Sincerely,


Lloyd Denman, Building Official

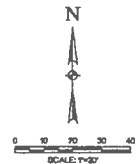
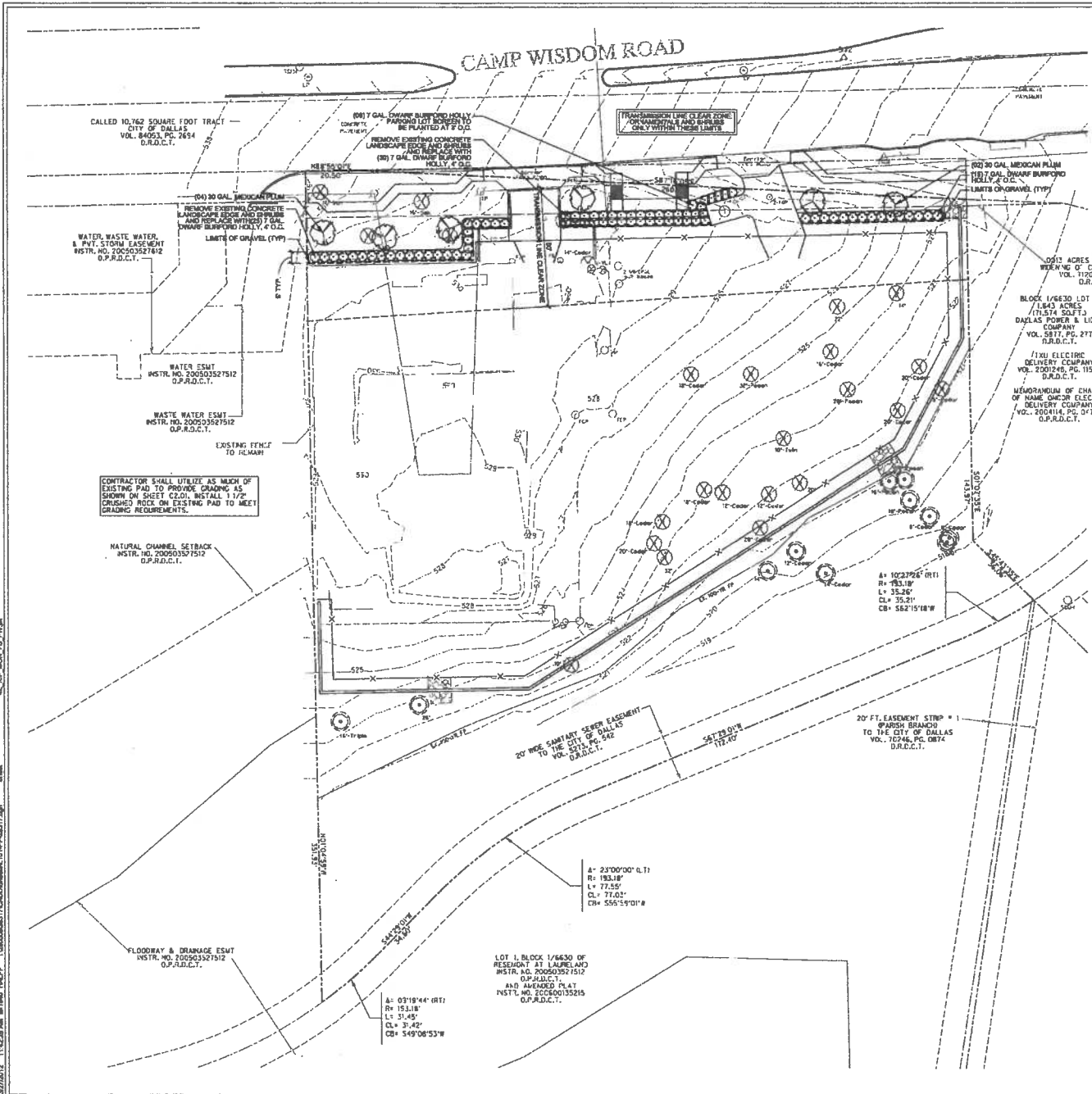




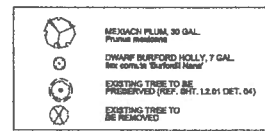

 1:3,600

	City Limits		Base Zoning		MO Overlay
	Highways		PD103 Oak Lawn		Historic Subdistrict
	Ramps and Access Roads		Dallas Environmental Corridor		Historic Overlay
	FLOOD_ZONE		Deed Restrictions		CD Subdistricts
	100 Year Flood Zone		SUP		PD Subdistricts
	M.E.'s Creek		D		PDS Subdistricts
	Peak's Branch		D-1		NSO Subdistricts
	X PROTECTED BY LEVEE		CP		NSO_Overlay
	Parks		SP		Escapement Overlay

Case ID:
 Printed: 2/28/2012



PLANT LEGEND



- LANDSCAPE PLANTING NOTES:**
1. CONTRACTOR IS RESPONSIBLE FOR LOCATING ALL ABOVE GROUND AND BELOW GROUND UTILITIES. EXTREME CAUTION SHOULD BE EXERCISED WHEN REMOVING. CONTRACTOR SHALL BE RESPONSIBLE FOR DAMAGE AND SUBSEQUENT REPAIR TO ANY EXISTING UTILITIES.
 2. ALL SHADE TREES TO BE PLANTED NO CLOSER THAN 10' FROM ALL EXISTING AND PROPOSED UTILITY LINES EXCEPT AS SHOWN.
 3. STEEL LANDSCAPE EDGE SHALL BE USED AS A CONTAINMENT EDGE AND EXPOSE ALL PLANTING BEDS UNLESS OTHERWISE NOTED.
 4. ALL LANDSCAPING SHALL BE PERMANENTLY MAINTAINED AND SHALL INCLUDE AN UNDERGROUND IRRIGATION SYSTEM INSTALLED BY A LICENSED IRRIGATOR AND MEET ALL APPLICABLE REQUIREMENTS OF THE CITY.
 5. ALL TREES THAT ARE TO BE REMOVED SHALL BE CLEARLY MARKED BY THE CONTRACTOR AND VERIFIED BY OWNER OR OWNER REPRESENTATIVE PRIOR TO REMOVAL.
 6. ALL DISTURBED AREAS NOT OTHERWISE NOTED TO RECEIVE REPAIRS SHALL BE REPAIRED.

LANDSCAPE REQUIREMENTS:

DESCRIPTION:	REQD:	PROVDED:
STREET TREES (1 Tree per 80 L.F. Street Frontage):	8 - LARGE TREES	08 - ORNAMENTAL
"SITE TREES (1 Tree per 4,000 S.F. Lot Area):	18	38 - EXISTING
DESIGN STANDARDS:		
SCREENING OF OFF-STREET PARKING	YES	YES
STREET BUFFER (FULLY LINED VIA 81A-10.125 (b)(7)(B)(8))	YES	YES
MITIGATION: REF. DALLAS DEVELOPMENT CODE 91A-10.140 (b) (6)	NO	NO

- "LANDSCAPE REQUIREMENT NOTES:**
- 1) SITE TREE REQUIREMENT TO BE FULFILLED BY PROTECTED TREE CREDIT.

**CAMP WISDOM ROAD
SUBSTATION
LOT 1, BLOCK A/6630**

**ONCOR ELECTRIC
DELIVERY COMPANY**
530 EAST CAMP WISDOM
ROAD SUBSTATION
DALLAS, TEXAS



REVISION	DATE	DESCRIPTION



Project No.:	28317
Issued:	02/02/12
Drawn By:	RLD
Checked By:	ESB
Scale:	AS NOTED
Sheet Title:	LANDSCAPE PLAN

L5.01
Sheet Number

LAND USE STATEMENT

The Site

This site contains approximately 1.56 acres of land on Camp Wisdom. The site is zoned R-7.5 for residential uses with a special use permit for the substation. The site is currently developed with an electrical substation by Oncor Electric.

Surrounding Uses

The site is located at 530 East Camp Wisdom and is surrounded by CH zoned property owned by the Dallas Housing Authority on the east and R-5(A) and TH-3(A) on the south which is presently screened with existing trees, R-7.5(A) zoned property owned by Laureland Cemetery on the north and across the street from the site, and City of Dallas property on the west identified as private common area which serves as a buffer between this site and the R-7.5(A) residential lots on the west. There is also flood plain land which acts as a buffer between a portion of the Dallas Housing Authority property, the residential lots on the west and this site.

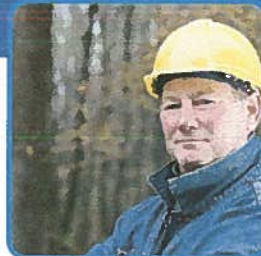
The Request

The applicant is requesting a variance of applicable provisions of Chapter X relative to the landscaping of residential lots. This section requires that residential lots have at least three trees with a caliper equal to or exceeding two inches and that at least two of these trees must be located in the front yard. This tract of land is heavily treed and many of the existing trees will remain post construction. The boundary to the east is already screened with existing trees separating the Dallas Housing Authority property from the site. The boundary to the south has existing trees along with flood plain land which separates this site from the Dallas Housing Authority property and the residential lots on the west. To the west, the site contains existing trees which separates it from the residential lots along with a private common area which further buffers the site. Many of the trees inhabiting the site will remain and will exceed the landscaping requirement for residential lots. As such, the alternate landscape plan provides the buffering required without adding landscaping. Moreover, the introduction of landscaping on the edge of the pad would create either a safety issue or create a larger pad, resulting in elimination of more trees.

The applicant also requests ornamental trees be planted instead of canopy trees along Camp Wisdom due to the transmission line. The Public Utility Commission's recommendations preclude the planting of canopy trees under transmission lines (Know Before You Grow – see attached brochure).



KNOW *before you* GROW



SAFETY

Every year in Texas, people are injured or even killed when they climb or prune trees near power lines. Tree limbs in contact with power lines can act as conductors, and a person can be seriously injured if contact is made.

Trees that fall into utility lines can injure people or damage property near the line, and may also cause power outages, surges, fires, and other damage.

Tree Hazard Checklist:

- Are there detached branches in the tree?
- Are there cracks or splits in the trunk or where branches are attached?
- Have the roots been broken off or damaged by lowering the soil level, installing pavement, repairing sidewalks, or digging trenches?
- Has the site recently been changed by construction, raising the soil level, or installing a lawn?
- Has the tree been topped or heavily pruned?

WHAT TO GROW

Low growing trees with a mature height of less than 25 feet can be planted adjacent to overhead power lines. There are many to choose from and a few that we recommend are:

- Flowering Dogwood
- Mexican Plum
- Dwarf Crapemyrtle
- Crabapple
- Washington Hawthorn
- Desert Willow

HOW TO GROW

Before planting trees, you should consider

- Mature height and width of tree
- Amount of shade provided
- Shape of tree: spread or columnar
- Seed production
- Growth rate and longevity

After selecting the right tree for the right place, the next step is to plant the tree properly. Dig the hole two to three times as wide and only as deep as the root ball. Root flairs should always be slightly exposed on final planting.

With proper tree selection and care, you can enhance your home and improve the environment in your neighborhood and city.

RELIABILITY

By periodically pruning trees near power lines, Oncor Electric Delivery helps to improve customer safety and prevent future power outages. Service interruptions caused by trees are an inconvenience, can endanger lives through failure of life support systems, fire alarms and traffic signals. For more information on Oncor's tree pruning program, visit www.ou.com/trees or call 1-888-313-4747.

Together, we can successfully address the relationship between trees and power lines, and help Texans balance our environment with electric service in a safe and reliable manner.

QUICK FACTS:

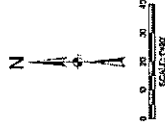
- The three primary causes of power outages are trees, wildlife and lightning.
- Oncor trims about 5,000 miles of distribution line annually, which is equivalent to approximately three round trips from Dallas to Denver, or stacking 18,207 Sears Towers on top of one another.
- The average tree in a metropolitan area survives only about eight years.
- Trees provide shade and shelter, reducing yearly heating and cooling costs by \$2.1 billion.
- Trees located along streets act as a glare and reflection control.
- Trees are the longest living organisms on earth.
- Trees reduce noise pollution by acting as sound barriers.



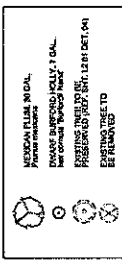


Project No.	20117
Issue No.	02/02/12
Created By	JOB
Checked By	NOT NOTED
Sheet No.	LANDSCAPE PLAN
Sheet Number	L5.01

BDA 112-055
SSS
Attach A
PS 3



PLANT LEGEND



LANDSCAPE PLANTING NOTES:
 1. CONSULTOR TO COMPLETE COORDINATING WITH ALL OTHER CONTRACTORS TO VERIFY TREE PLACEMENT AND SPECIES.
 2. ALL PLANTING SHALL BE IN ACCORDANCE WITH THE CITY OF DALLAS LANDSCAPE DESIGN AND INSTALLATION MANUAL.
 3. ALL PLANTING SHALL BE IN ACCORDANCE WITH THE CITY OF DALLAS LANDSCAPE DESIGN AND INSTALLATION MANUAL.
 4. ALL PLANTING SHALL BE IN ACCORDANCE WITH THE CITY OF DALLAS LANDSCAPE DESIGN AND INSTALLATION MANUAL.
 5. ALL PLANTING SHALL BE IN ACCORDANCE WITH THE CITY OF DALLAS LANDSCAPE DESIGN AND INSTALLATION MANUAL.
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 9. ALL PLANTING SHALL BE IN ACCORDANCE WITH THE CITY OF DALLAS LANDSCAPE DESIGN AND INSTALLATION MANUAL.
 10. ALL PLANTING SHALL BE IN ACCORDANCE WITH THE CITY OF DALLAS LANDSCAPE DESIGN AND INSTALLATION MANUAL.

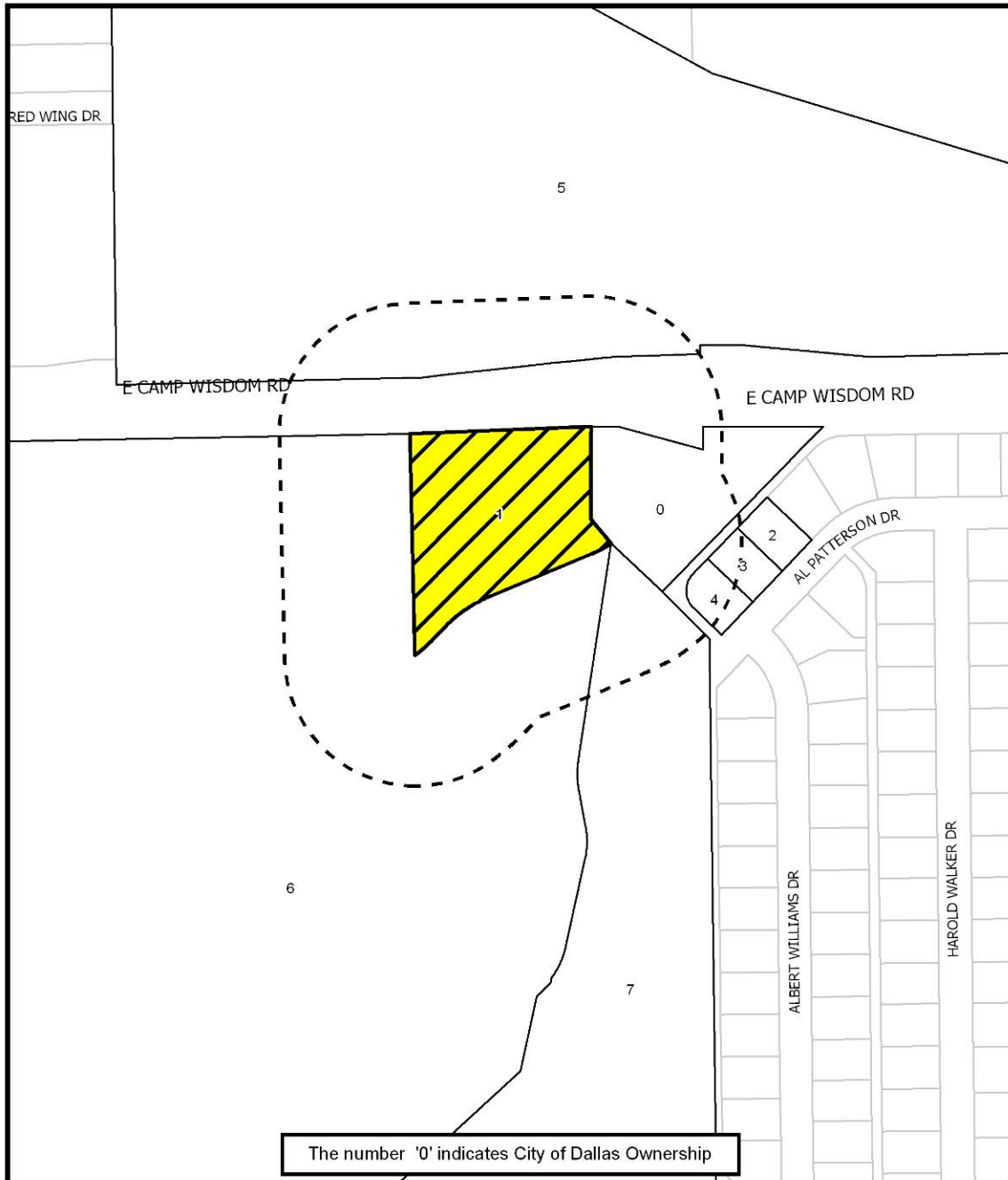
LANDSCAPE REQUIREMENTS:

DESCRIPTION	REQ.	PROVIDED:
STREET TREES (1 TREE PER 60 L.F. STREET FRONTAGE)	1	NO
SITE TREES (1 TREE PER 1,000 S.F. LOT AREA)	18	NO
DESIGN BY ANGLONOUS	YES	YES
SCREENING OF OFF-STREET PARKING	YES	YES
TREE SPECIES (BLUE PINE, WHITE PINE, OR ANY OTHER)	NO	NO

LANDSCAPE REQUIREMENT NOTES:
 1) TREE REQUIREMENT TO BE FULFILLED BY PROTECTED TREE CREDIT.

CAMP WISDOM ROAD SUBSTATION LOT 1, BLOCK A16630





 1:2,400	NOTIFICATION		Case no: BDA112-055
	<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;">7</div> NUMBER OF PROPERTY OWNERS NOTIFIED		Date: 4/26/2012

Notification List of Property Owners

BDA112-055

7 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	530 CAMP WISDOM RD	TEXAS UTILITIES ELEC CO % STATE & LOCAL
2	7141 AL PATTERSON DR	TIPPS RAYMOND III
3	7145 AL PATTERSON DR	LOWRIE VIRGINIA
4	7151 AL PATTERSON DR	SIMMS CHARLOTTE Y
5	1101 CAMP WISDOM RD	LAUREL LAND MEMORIAL
6	330 CAMP WISDOM RD	HOUSING AUTHORITY OF THE CITY OF DALLAS
7	1 DEPAUL AVE	LENNAR HOMES OF TX LAND & CONSTRUCTION

FILE NUMBER: BDA 112-059

BUILDING OFFICIAL'S REPORT:

Application of Richard Hobaugh for special exceptions to the fence height regulations at 4511 Watauga Road. This property is more fully described as Lot 1A in City Block R/4987 and is zoned PD-455, which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct/maintain an 8 foot high fence in required front yard setbacks which will require special exceptions of 4 feet.

LOCATION: 4511 Watauga Road

APPLICANT: Richard Hobaugh

REQUESTS:

- Requests for special exceptions to the fence height regulations of 4' have been made in this application to construct and maintain a fence/wall in the site's two front yard setbacks that would exceed 4' in height (a 7' 4" high combination ornamental iron/stone column fence/wall with 7' 4" high open metal gates and 8' high stone columns in the Watauga Road front yard setback, and a 7' 4" high solid stone wall with 8' high stone columns in the Midway Road front yard setback) on a site developed with a single family home.

STAFF RECOMMENDATION:

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

GENERAL FACTS:

- The subject site is a corner lot zoned PD No. 455 with two street frontages of unequal distance. The site is located at the north corner of Watauga Road and Midway Road. Even though the Midway Road frontage of the subject site appears to function as its front yard and the Watauga Road frontage appears to function as its side yard, the subject site has two 30' front yard setbacks along both streets. The site has a 30' front yard setback along Midway Road (the shorter of the two

frontages that is always deemed the front yard setback on a corner lot of unequal frontage distance in a single family zoning district), and a 30' front yard setback along Watauga Road (the longer of the two frontages of this corner lot of unequal frontage distance), which would typically be regarded as a side yard where a 9' high fence could be maintained by right. The site's Watauga Road frontage is deemed a front yard to maintain the continuity of the established front yard setback along this street created by a number of properties immediately northeast of the subject site that front south and have front yard setbacks along Watauga Street.

- The Dallas Development Code states that a person shall not erect or maintain a fence in a required yard more than 9' above grade, and additionally states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- A scaled site plan and two elevation documents have been submitted indicating that the proposal in the required front yard setbacks reaches a maximum height of 8'.
- The following additional information was gleaned from the submitted site plan:
 - Along Watauga Road:
 - Approximately 270' in length parallel to the street and approximately 30' in length perpendicular on the west side of the site in the front yard setback.
 - Approximately on the front property line or approximately 12' from the pavement line.
 - Along Midway Road:
 - Approximately 25' in length parallel to the street and approximately 30' in length perpendicular on the north and south sides of the site in the Midway Road front yard setback.
 - Approximately on the front property line. (No dimension can be given with regard to the fence/wall location relative to the Midway Road pavement line since the site plan has no pavement line indicated on it).

BACKGROUND INFORMATION:

Zoning:

Site: PD No. 455 (Planned Development District)
North: PD No. 455 (Planned Development District)
South: PD No. 455 (Planned Development District)
East: PD No. 455 (Planned Development District)
West: R-10(A) (Single family district 10,000 square feet)

Land Use:

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

Zoning/BDA History:

1. BDA 067-016, Property at 4506 Watauga Road (the property On January 17, 2007, the Board of Adjustment Panel B denied a request for a

immediately south of the subject site)

special exception to the fence height regulations of 5' 6" without prejudice. The case report stated that the request was made in conjunction with constructing and maintaining a 6' high open wrought iron fence and gate with 6' high columns and a maximum 9' 6" high open wrought iron fence/solid retaining wall in the site's Canyon Road/ Watauga Road 30' front yard setbacks on a site developed with a single family home.

Timeline:

March 29, 2012: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

April 17, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

April 19, 2012: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the April 27th deadline to submit additional evidence for staff to factor into their analysis; and the May 4th 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.

The Board Administrator also wrote the applicant the following:

- that as he and the applicant had spoken about, the applicant had directed him to proceed with his application to be scheduled for a May public hearing "as is" - just a fence height special exception, and not to delay scheduling it until June which allow him time to determine if this application should be not only for a fence height special exception but a front yard variance, too.
- That as he and the applicant had spoken about, the Board would be informed that the applicant is fully aware that the application made for a fence height special exception to be scheduled for May 2012 would not remedy any existing/proposed noncompliance of any structure to setback requirements, and that if that discovery is made, the applicant would remedy the noncompliance or make a separate

application for a variance to the setback regulations for a later date beyond May of 2012;

- That has he and the applicant had discussed, that he see the importance of having your architect amend the submitted “fence site plan” by delineating the pavement line and location of Midway Road on the western side of your property with submitting any amended plans with the Midway Road delineation to staff no later than Friday, April 27th.

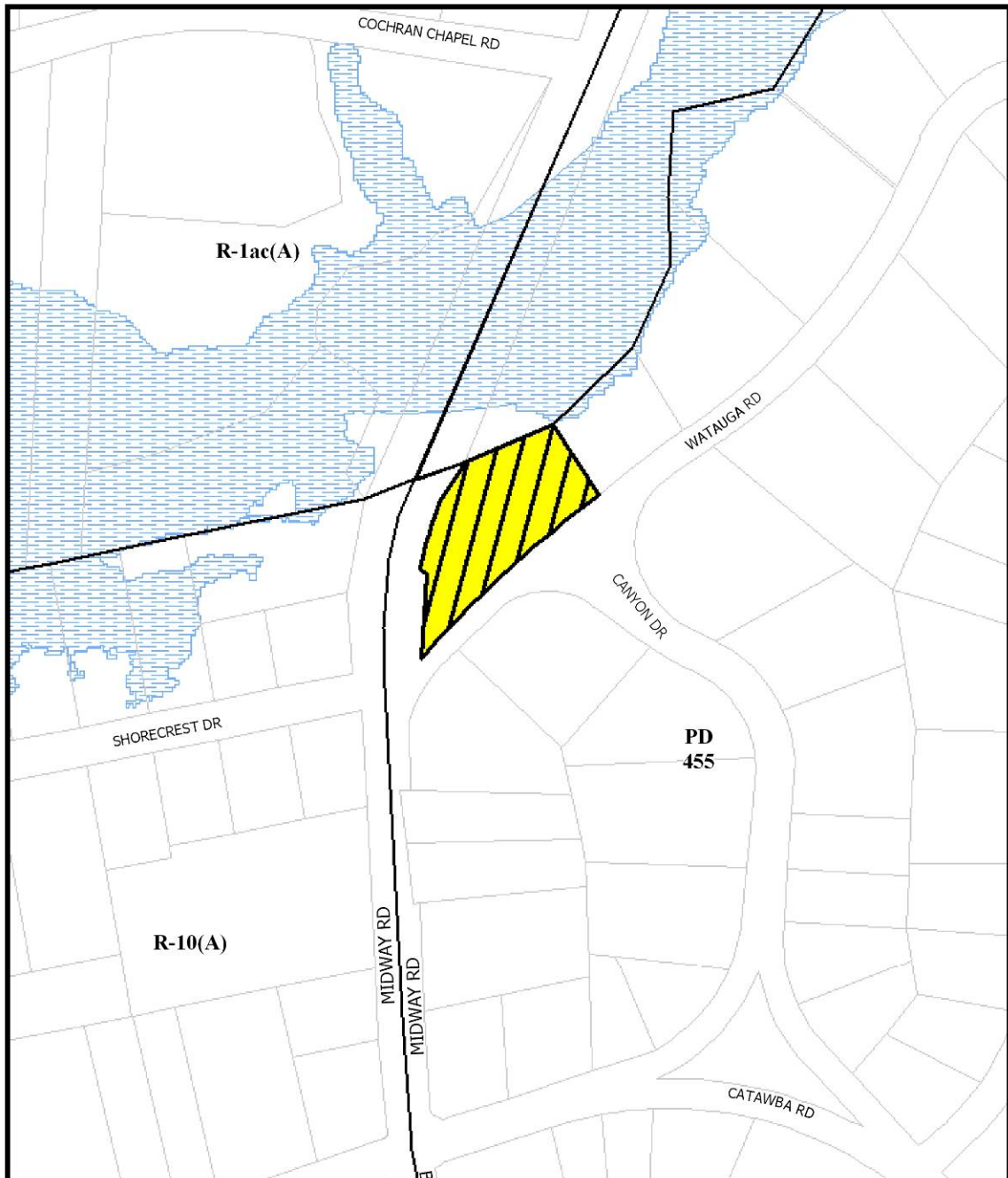
May 1, 2012:

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

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

STAFF ANALYSIS:

- Special exceptions to the fence height regulations have been made to construct/maintain a 7’ 4” high combination ornamental iron/stone column fence/wall with 7’ 4” high open metal gates and 8’ high stone columns in the Watauga Road front yard setback, and a 7’ 4” high solid stone wall with 8’ high stone columns in the Midway Road front yard setback.
- Details related to the length and location of the proposal relative to the entire site, property and pavement lines as represented on the submitted site plan and elevations are provided in the “General Facts” section of this case report.
- One single family home “fronts” on the Watauga Road side of the subject site, and no home “fronts” on the Midway Road side of the subject site.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other fences above 4 feet high in a front yard setback.
- As of May 7, 2012, no letters had been submitted to staff in support or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exceptions to the fence height regulations of 4’ will not adversely affect neighboring property.
- Granting these special exceptions of 4’ with a condition imposed that the applicant complies with the submitted site plan and elevations would require the proposal exceeding 4’ in height in the front yard setbacks to be constructed and maintained in the locations and of the heights and materials as shown on these documents.
- Lastly, the applicant is aware that his request for special exceptions to the fence height regulations will not provide relief to any existing or proposed noncompliant issues on the subject site pertaining to the City’s setback regulations.

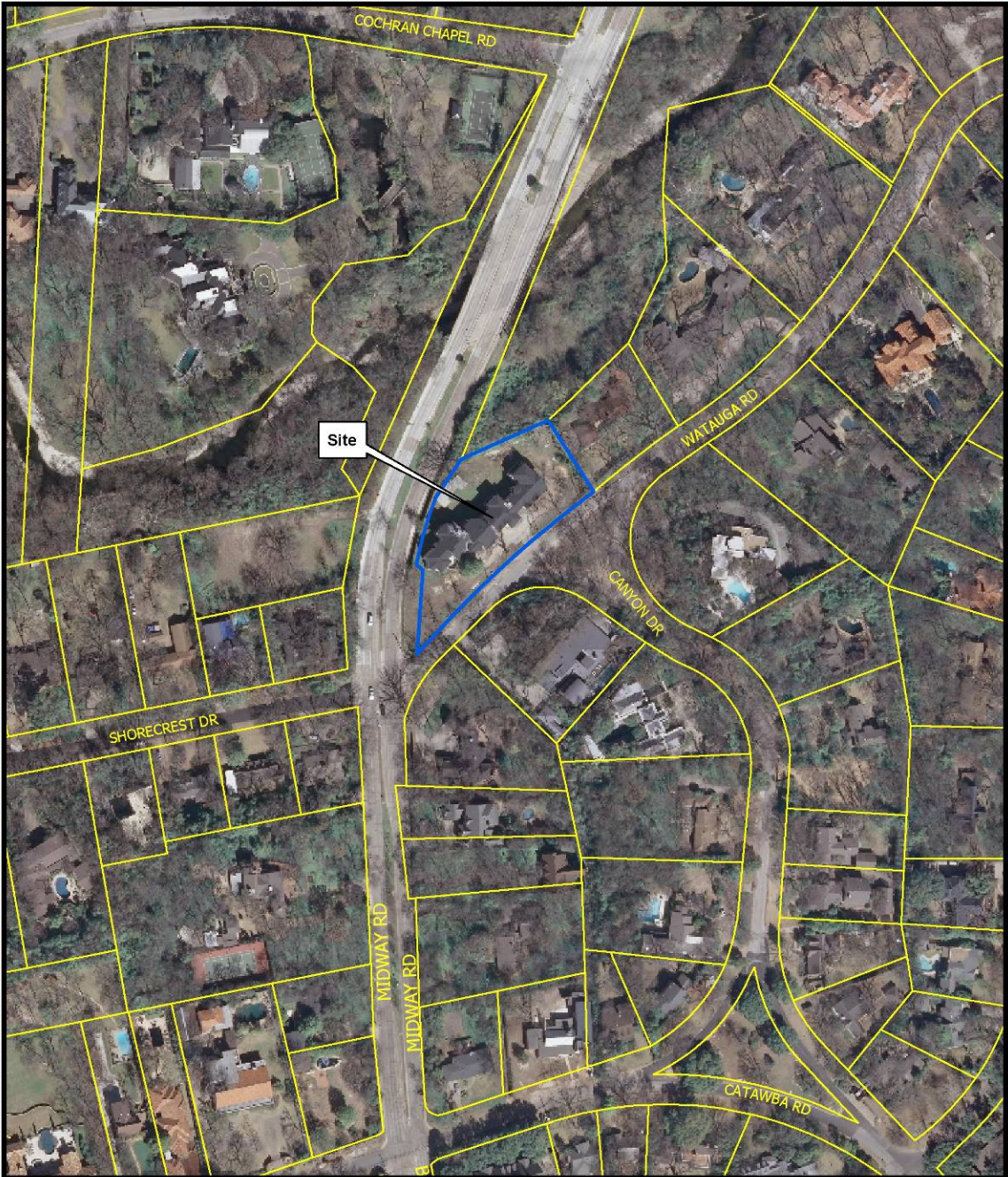


1:2,400

ZONING MAP

Case no: BDA112-059

Date: 4/26/2012



1:2,400

AERIAL MAP

Case no: BDA112-059

Date: 4/26/2012



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-059

Data Relative to Subject Property:

⁷⁵²⁰⁹ Date: 3-29-12

Location address: 4511 Watauga Rd. Zoning District: PD455

Lot No.: 1A Block No.: R/4987 Acreage: 1.0287 Census Tract: 73.02

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

NE21A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Gavin & Grayson Family Trust

Applicant: Richard Hobough Telephone: 817 223 4217

Mailing Address: P.O. Box 201085 Arlington TX Zip Code: 76016

E-mail Address: richard@mbrgfr.com

Represented by: Richard Hobough Telephone: 817-223-4217

Mailing Address: _____ Zip Code: _____

E-mail Address: Richard@MBRGFR.COM

Affirm that an appeal has been made for a Variance _____, or Special Exception X of 4 feet height of fence to be 8 feet to tie into City fence, which is in place and is 8 feet. In a front yard N.A.

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 reason for Variance is to symmetrically tie new fencing to existing City fencing & minimize road noise which runs along side of the property.

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 Gavin & Grayson Family Trust Richard Hobough, trustee (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 29th day of March, 2012

Nancy M. Cooper
Notary Public in and for Dallas County, Texas

(Rev. 08-01-11) BDA 112-059 4-7

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

6

Chairman

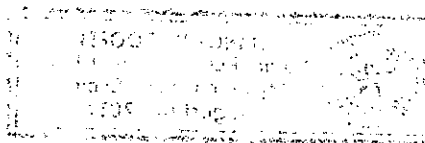
Building Official's Report

I hereby certify that Richard Hobaugh
did submit a request for a special exception to the fence height regulations
at 4511 Watauga Road

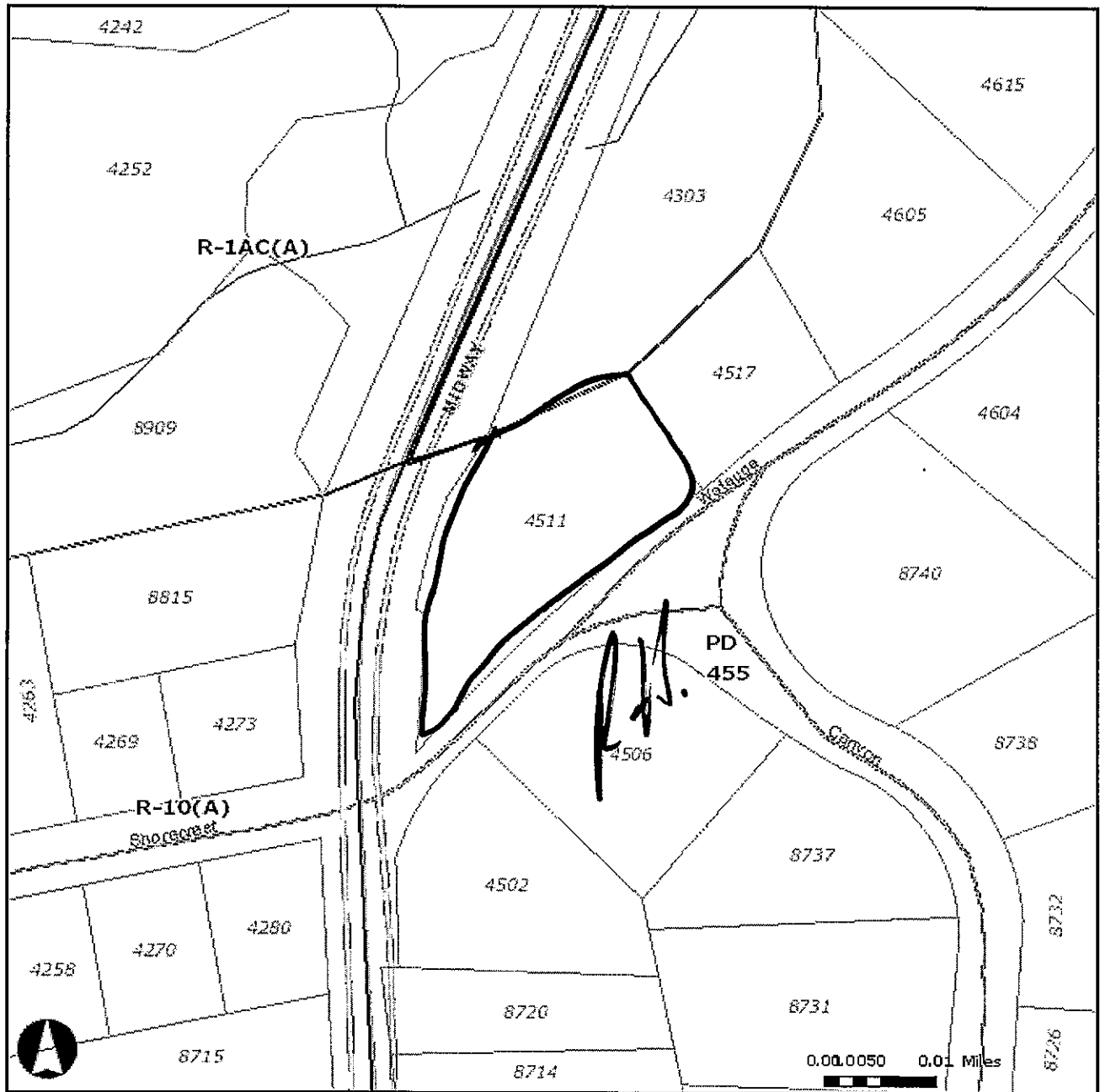
BDA112-059. Application of Richard Hobaugh for a special exception to the fence height regulations at 4511 Watauga Road. This property is more fully described as lot 1A in city block R/4987 and is zoned PD-455, which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulation.

Sincerely,


Lloyd Denman, Building Official



City of Dallas Zoning



City Boundaries

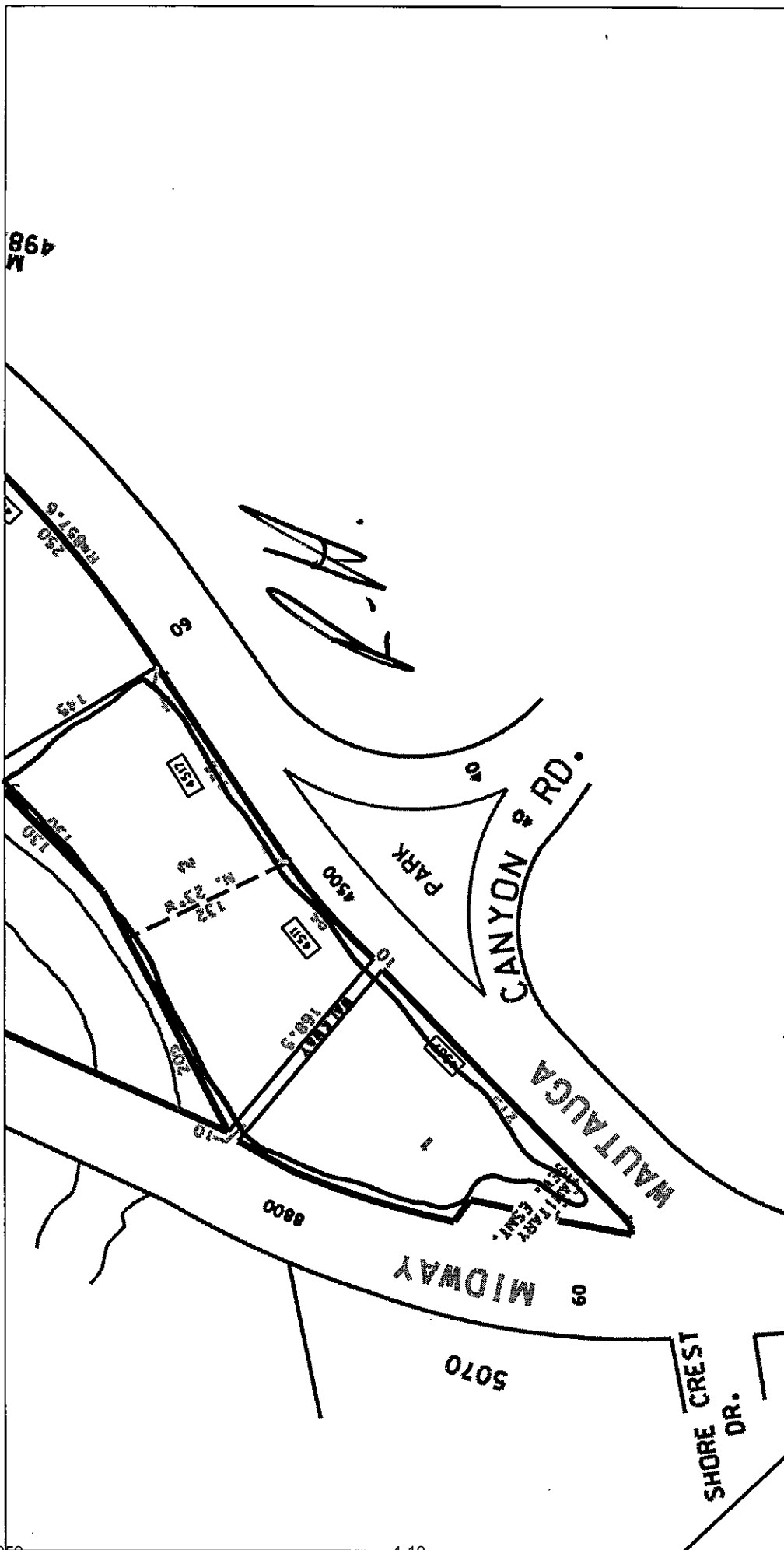
- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

SUP

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

PD193 Oak Lawn

- PD193 Oak Lawn
- PDS Subdistricts
- Base Zoning
- Pedestrian Overlay
- CP
- SP
- Environmental Corridors
- Escarpment Overlay

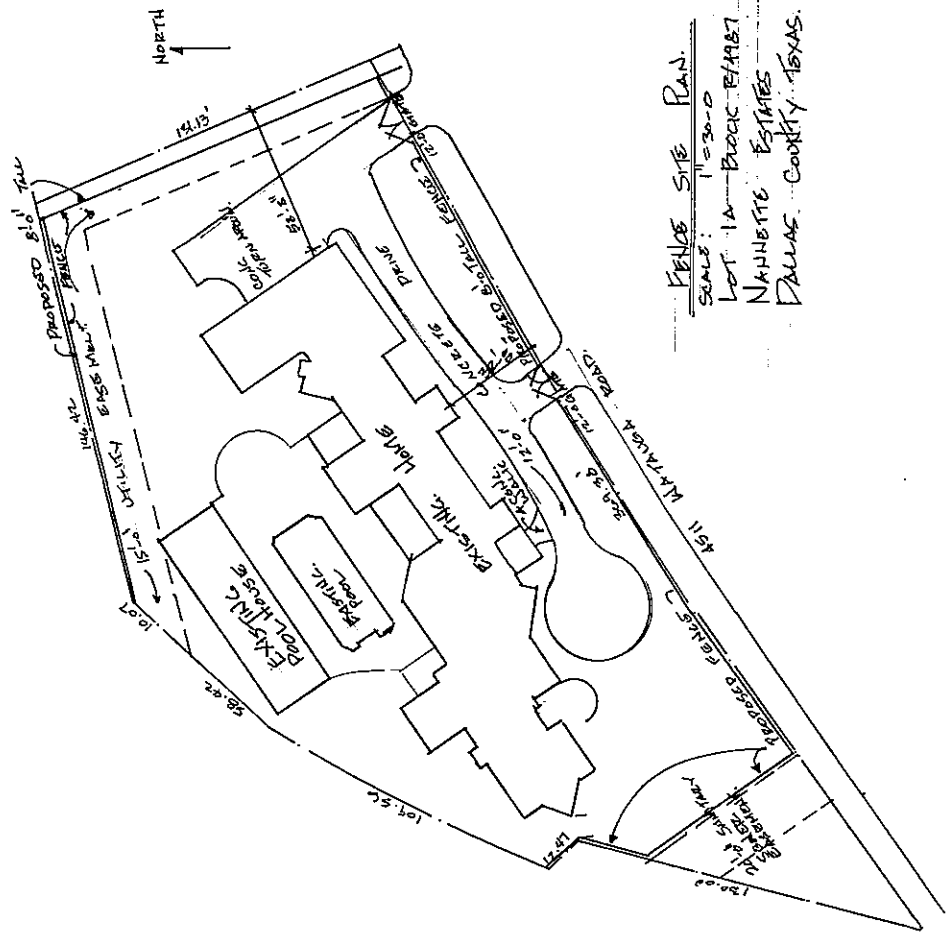


DAVID C. LUTZ ARCHITECTS
 10000 RICHMOND PARKWAY SUITE 100
 FORT WORTH, TEXAS 76101
 817-891-8888

DESIGN ENGINEER
DAVID C. LUTZ
 7017 HUNTER LN
 FORT WORTH, TEXAS 76102

DATE: DAVID
DRAWN BY: DAVID
CHECKED BY: DAVID
CUSTOMER: ORRILL PLAN #
DATE REVISION: BY
DATE REVISION: CUSTOMER

PLAN NUMBER
WATAUGA ROAD
 PROJECT



FENCE SITE PLAN.
 SCALE: 1/8" = 1'-0"
 LOT 1A - PROCC. E-1481
 NANETTE ESTATES
 DALLAS COUNTY TEXAS.

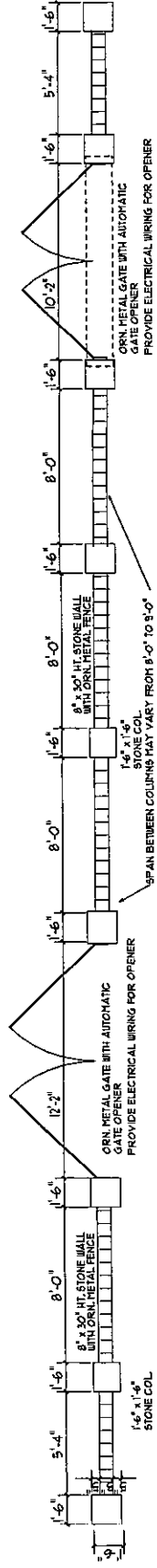
GREAT CARE AND EFFORT HAVE GONE INTO THE CREATION OF THESE BLUEPRINTS. HOWEVER, BECAUSE OF VARIANCE IN DESIGN AND LOCATIONS, DRAWING IS NOT TO BE USED AS A BASIS FOR CONSTRUCTION. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS ON THE JOB. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT PRIOR TO COMMENCEMENT OF CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT PRIOR TO COMMENCEMENT OF CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT PRIOR TO COMMENCEMENT OF CONSTRUCTION.

DAVID C. LUTZ
 ENGINEER
 7017 WORTH LN
 FORT WORTH, TEXAS 76104
 817-881-8822

DATE	DAVID
DRAWN BY	DAVID
CHECKED BY	DAVID
ORIGINAL PLAN #	
REVISED BY	
GATE REVISED	
CUSTOMER	

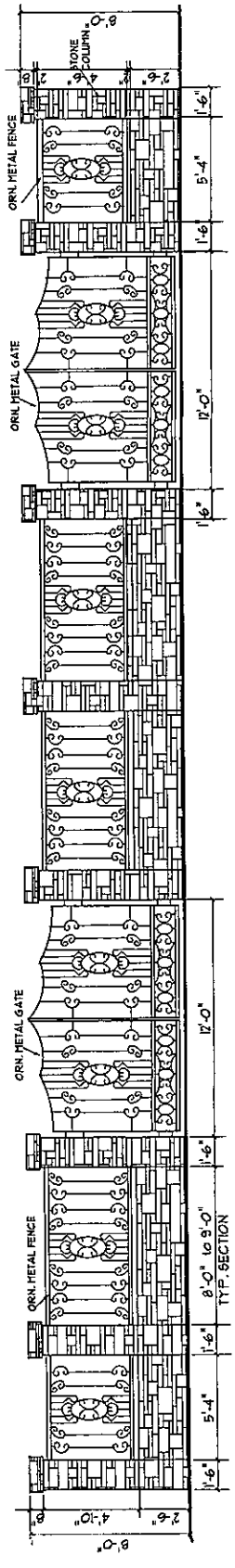
SHEET
 OF

PLAN NUMBER
 WATAUGA RD. PROJECT



TYP. FENCE PLAN LAYOUT

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



TYP. FENCE ELEVATION

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

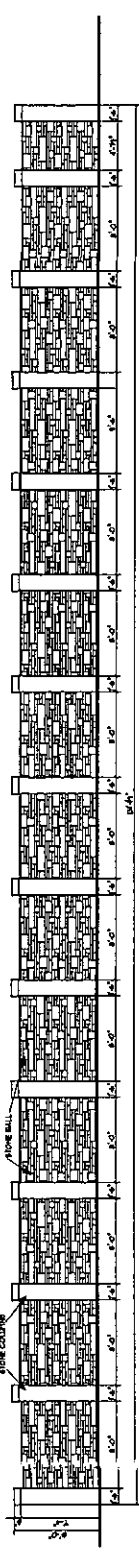
DESIGN AND CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODES AND ALL APPLICABLE LOCAL ORDINANCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT PRIOR TO COMMENCEMENT OF CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT PRIOR TO COMMENCEMENT OF CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT PRIOR TO COMMENCEMENT OF CONSTRUCTION.

DAVID C. LUTZ
 ARCHITECT
 7077 NUMBER LN
 FORT WORTH, TEXAS 76104
 817-881-8822

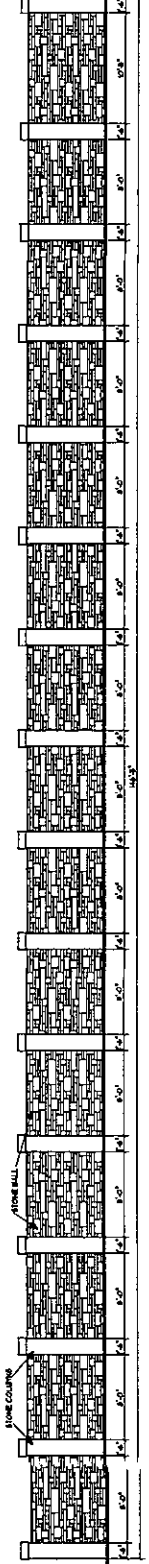
DATE: **DAVID**
 DRAWN BY: **DAVID**
 CHECKED BY: **DAVID**
 ORIGINAL PLAN #

REVISED BY
 DATE REVISED
 CUSTOMER

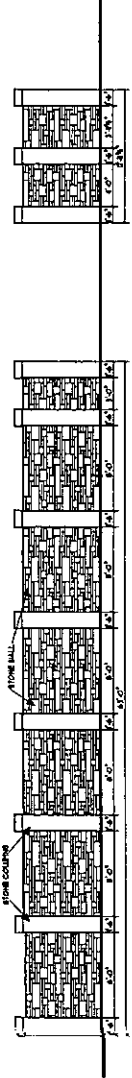
SHEET **01** OF **01**
 PLAN NUMBER
 WATAUGA RD. PROJECT



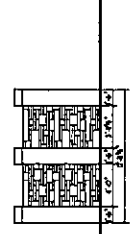
FRONT ELEVATION



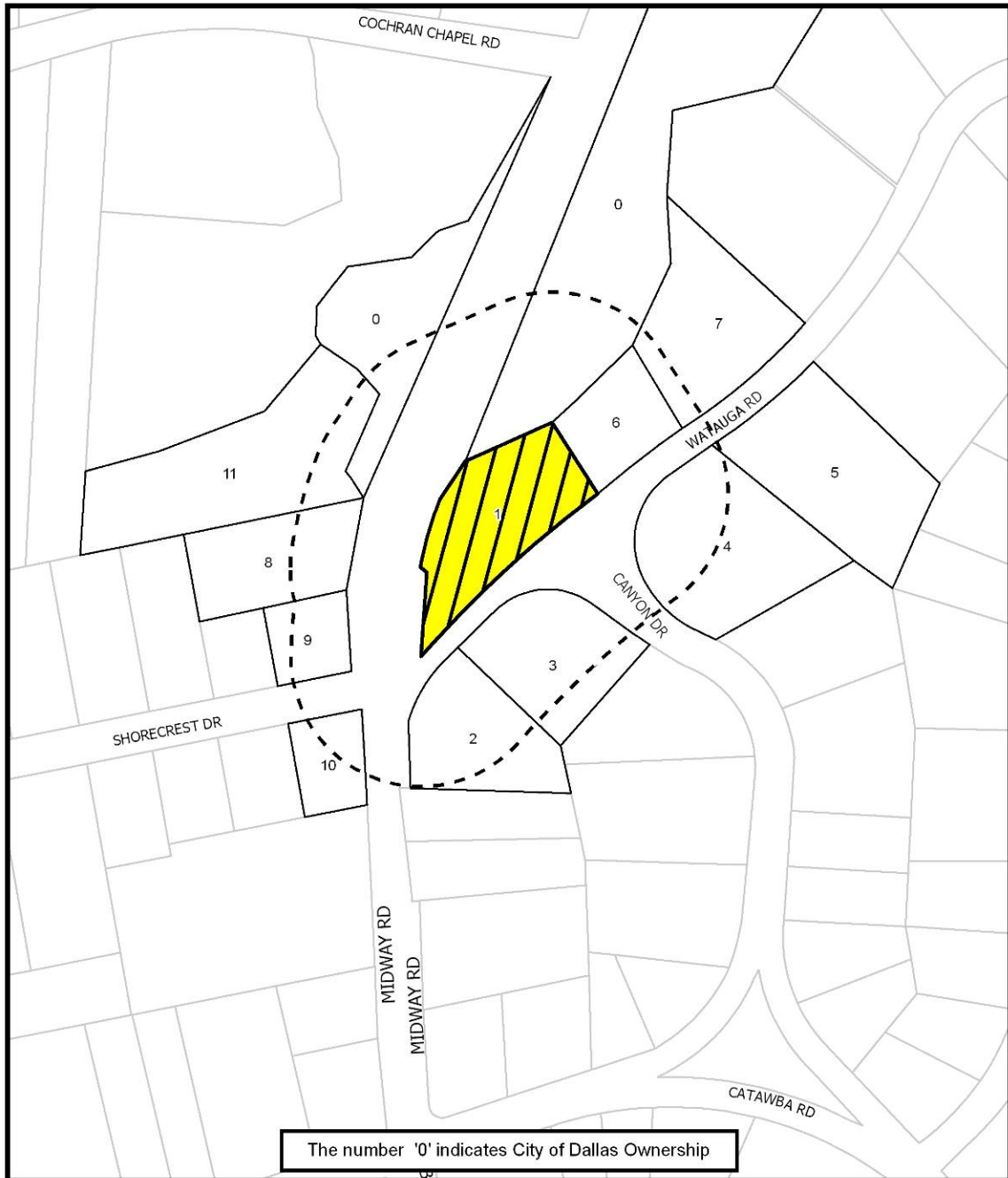
REAR ELEVATION



LEFT SIDE ELEVATION



RIGHT SIDE ELEVATION



 1:2,400	NOTIFICATION		Case no: BDA112-059
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">11</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 4/26/2012	

Notification List of Property Owners

BDA112-059

11 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	4511 WATAUGA RD	GAVIN & GRAYSON FAMILY TRUST
2	4502 WATAUGA RD	ELLIS JOSEPH O IV & KAREN K
3	4506 WATAUGA RD	HUFF J WARREN & WINIFRED B
4	8740 CANYON DR	FOLSE LOIS JOHNSON
5	4604 WATAUGA RD	LINDSLEY HENRY D III
6	4517 WATAUGA RD	WILSON JEAN D
7	4605 WATAUGA RD	KRAKOW ROBERT B & LESLIE P
8	8815 MIDWAY RD	PHI ALPHA REAL ESTATE LLC
9	4273 SHORECREST DR	GARRETT JOHN W & SUSAN P.
10	4280 SHORECREST DR	KOLLACK CHRISTOPHER & ATKINSON DOUGLAS
11	8909 MIDWAY RD	BELLA OAKS INVESTMENTS LLC

FILE NUMBER: BDA 112-016

BUILDING OFFICIAL'S REPORT:

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

LOCATION: 13943 C. F. Hawn Freeway

APPLICANT: Mini-Roll, Inc.

March 21, 2012 Public Hearing Notes:

- The owner of the nonconforming use (Rachel Barnes) submitted written documentation to the Board at the public hearing.

REQUEST:

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

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

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

(1) Amortization of nonconforming uses.

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

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

(F) For purposes of this paragraph, "owner" means the owner of the nonconforming use at the time of the board's determination of a compliance date for the nonconforming use.

GENERAL FACTS:

- City records indicate the following:
 - The nonconforming use being appealed at 13943 C. F. Hawn Freeway: outside sales use.
 - Reason the use is classified as nonconforming: it existed prior to annexation.
 - Date that the nonconforming use became nonconforming: 4-1-78, Consolidation
 - Current zoning of the property on which the use is located: CS, D-1
 - Previous zoning of the property on which the use is located: N/A - Consolidation
- City records indicate the following:
 - A Certificate of Occupancy was issued on 09-16-2011 for property at 13943 C. F. Hawn Freeway to owner Rachel Barnes for an outside sales use with remarks: “Nonconforming outside sales (flea market), existing prior to annexation/consolidation. One 22’ x 50’ metal bldg on-site. No parking allowed on site until approved parking surface has been permitted and approved.”
- The Dallas Development Code states that “nonconforming use” means “a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time.”
- The subject site is zoned Commercial Service (CS) district that permits an “outside sales” use with a Specific Use Permit (SUP).
- The record owner of the property with the nonconforming “outside sales” use could eliminate the nonconforming use status by obtaining a Specific Use Permit (SUP) from City Council.
- The record owner of the property could transition the use on the site from “outside sales” use to any use that is permitted by right in the site’s existing Commercial Service (CS) zoning classification.
- The Board of Adjustment Panel B determined at their March 21, 2012 public hearing, that based on the evidence and testimony presented to them, that continued operation of the nonconforming “outside sales” use would have an adverse effect on nearby properties, and set a hearing date May 16, 2012 for the purpose of establishing a compliance date for this nonconforming use.
- All information submitted by the applicant related to whether continued operation of the nonconforming “outside sales” use would have an adverse effect on nearby properties has been retained in the case file and is available for review upon request.
- Written documentation submitted by the owner of the nonconforming use (Rachel Barnes) to the Board at the March 21, 2012 public hearing has also been retained in the case file and is available for review upon request.
- On April 2, 2012, a subpoena duces tecum and interrogatories was delivered to the owner of the nonconforming “outside sales” use of the site/property (Rachel Barnes and Kleberg Flea Market, Inc. c/o Rachel Barnes, President).

- On April 27, 2012, the Assistant City Attorney (Andrew M. Gilbert) assisting with this application forwarded to the Board Administrator a copy of an April 24, 2012 letter that he had written to the record owner of the property/nonconforming use (Rachel Barnes) (see Attachment A). The letter that was signed/agreed upon by Rachel Barnes stated how she comported with her understanding of the agreement that she has agreed to a voluntary compliance date of July 2, 2012 and will surrender her certificate of occupancy for a nonconforming outside sales use on or before that date; and that she further agrees to waive any appeal of the determination of the City's board of adjustment and will not seek to re-establish the nonconforming outside sales use at any future date.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

- November 22, 2011: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- January 12, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- January 24, 2012: The Board Administrator wrote/sent the record owner of the property (Rachel Barnes) a letter (with a copy to the applicant- Mini-Roll, Inc. c/o Debbie Leonard) that informed her that a Board of Adjustment case had been filed against the nonconforming “outside sales” use on the property. The letter included following enclosures:

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

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

March 6, 2012:

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

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

March 21, 2012:

The Board of Adjustment Panel B conducted a public hearing on this application and determined that based on the evidence and testimony presented to them, that continued operation of the nonconforming “outside sales” use would have an adverse effect on nearby properties, and set a hearing date May 16, 2012 for the

purpose of establishing a compliance date for this nonconforming use.

April 2, 2012: A subpoena duces tecum and interrogatories was delivered to the owner of the nonconforming “outside sales” use of the site/property (Rachel Barnes and Kleberg Flea Market, Inc. c/o Rachel Barnes, President).

April 27, 2012: The Assistant City Attorney (Andrew M. Gilbert) assisting with this application forwarded to the Board Administrator a copy of an April 24, 2012 letter that he had written to the record owner of the property/nonconforming use (Rachel Barnes) (see Attachment A). The letter that was signed/agreed upon by Rachel Barnes stated how she comported with her understanding of the agreement that she has agreed to a voluntary compliance date of July 2, 2012 and will surrender her certificate of occupancy for a nonconforming outside sales use on or before that date; and that she further agrees to waive any appeal of the determination of the City’s board of adjustment and will not seek to re-establish the nonconforming outside sales use at any future date.

May 1, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorney to the Board.

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

STAFF ANALYSIS:

- The “outside sales” use (Kleberg Flea Market) on the subject site is a nonconforming use. According to city records, the use became nonconforming on April 1, 1978 upon “consolidation.”
- The Dallas Development Code states that it is the declared purpose of this subsection (Sec. 51A-4.704. Nonconforming Uses and Structures) that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.
- The record owner of the property with the nonconforming “outside sales” use could eliminate the nonconforming use status by obtaining a Specific Use Permit (SUP) from City Council.

- The record owner of the property could transition the use on the site from “outside sales” use to any use that is permitted by right in the site’s existing CS (Commercial Service) zoning classification.
- The Board of Adjustment Panel B determined at their March 21, 2012 hearing, that based on the evidence and testimony presented to them, that continued operation of the nonconforming “outside sales” use would have an adverse effect on nearby properties, and set a hearing date May 16, 2012 for the purpose of establishing a compliance date for this nonconforming use.
- The purpose of the Board of Adjustment’s May 16, 2012 public hearing is to establish a compliance date for the nonconforming use under a plan whereby the owner’s actual investment in the use before the time that the use became nonconforming can be amortized within a definite time period. (The Dallas Development Code states that for purposes of this paragraph, “owner” means the owner of the nonconforming use at the time of the board’s determination of a compliance date for the nonconforming use).
- The Dallas Development Code states that following factors must be considered by the board in determining a reasonable amortization period:
 - The owner’s capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) on the property before the time the use became nonconforming.
 - Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages.
 - Any return on investment since inception of the use, including net income and depreciation.
 - The anticipated annual recovery of investment, including net income and depreciation.
- The Dallas Development Code additionally states that if the board establishes a compliance date for a nonconforming use, the use must cease operations on that date and it may not operate thereafter unless it becomes a conforming use.
- On April 27, 2012, the Assistant City Attorney (Andrew M. Gilbert) assisting with this application forwarded to the Board Administrator a copy of an April 24, 2012 letter that he had written to the record owner of the property/nonconforming use (Rachel Barnes) (see Attachment A). The letter that was signed/agreed upon by Rachel Barnes stated how she comported with her understanding of the agreement that she has agreed to a voluntary compliance date of July 2, 2012 and will surrender her certificate of occupancy for a nonconforming outside sales use on or before that date; and that she further agrees to waive any appeal of the determination of the City’s board of adjustment and will not seek to re-establish the nonconforming outside sales use at any future date.

BOARD OF ADJUSTMENT ACTION: MARCH 21, 2012

APPEARING IN FAVOR: Debbie Leonard, 815 Roaring Springs, Grand Prairie, TX
 Doug Combs, 2187 S Woody Road, Dallas, TX

APPEARING IN OPPOSITION: Rachel Barnes, 13908 Vida Lane, Dallas, TX

Nancy Perez, P.O. Box 14978, Wylie, TX
Marvin Brock, 521 Thomas Trail, Seagoville, TX
Keith Alexander, 406 Lemont Ave, Dallas, TX

MOTION #1 Wilson

I move that the Board of Adjustment in Appeal No. BDA 112-016 suspend the rules and accept the evidence that is presented today.

SECONDED: Agnich

AYES: 5– Reynolds, Chernock, Wilson, Gaspard, Agnich

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)

MOTION#2: Chernock

I move that the Board of Adjustment in Appeal No. **BDA 112-016**, based on the evidence presented at the public hearing, find that continued operation of this nonconforming use will have an adverse effect on nearby properties, based on the following factors:

- The character of the surrounding neighborhood with the finding of fact that surrounding zoning being residential and commercial retail.
- The degree of incompatibility of the use with the zoning district in which it is located with the finding of fact that there is R-10 Single Family to the north and commercial service to the south, east, and west.
- The manner in which the use is being conducted with the finding of fact that there is not proper consideration for parking and public thoroughfare traffic, creating public traffic hazards and emergency vehicle access to surrounding property and fire hydrants.
- The hours of operation of the use with the finding of fact that the weekend hours of operation are severely impacting adjacent business use on weekends and not allowing neighbors sufficient access to public streets on weekends for purposes of ingress and egress into the neighborhood.
- The extent to which continued operation of the use may threaten public health or safety with the finding of fact that there is excessive standing water without proper drainage, excessive traffic on thoroughfare which could inhibit emergency vehicle access and parking in front of hydrants further inhibiting fire department access.
- The environmental impacts of the use's operation, including but not limited to the impacts of noise, glare, dust, and odor with the finding of fact that there is not proper paving and excessive standing water and trash.
- The extent to which public disturbances may be created or perpetuated by continued operation of the use with the finding of fact of traffic congestion and illegal parking.
- The extent to which traffic or parking problems may be created or perpetuated by continued operation of the use with the finding of fact of illegal parking on adjacent property and traffic congestion on public streets.

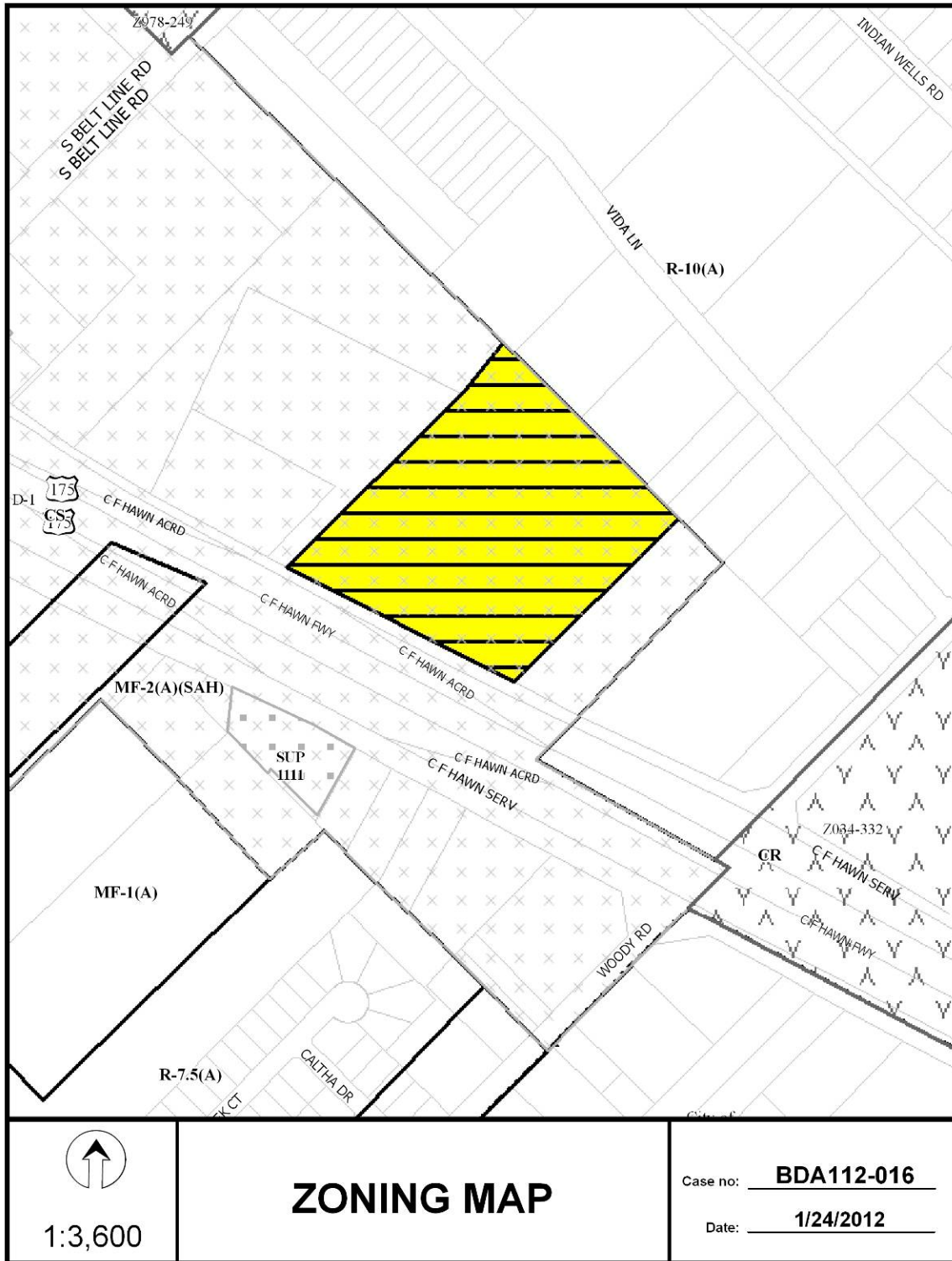
As a result of these findings, I move to set a hearing date of **May 16, 2012** for the purpose of establishing a compliance date for this nonconforming use.

SECONDED: **Gaspard**

AYES: 5– Reynolds, Chernock, Wilson, Gaspard, Agnich

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)





1:3,600

AERIAL MAP

Case no: BDA112-016

Date: 1/24/2012



April 24, 2012

Rachel Barnes
13943 C.F. Hawn Freeway
Dallas, Texas 75253

RE: BDA 112-016; Property at 13943 C.F. Hawn Freeway

Dear Ms. Barnes,

Please allow this to confirm that you have agreed to a voluntary compliance date of July 2, 2012 in the above matter and will surrender your certificate of occupancy for a nonconforming outside sales use on or before that date. You further agree to waive any appeal of the determination of the City's board of adjustment and that you will not seek to re-establish the nonconforming outside sales use at any future date.

Please sign below if this comports with your understanding of our agreement.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew M. Gilbert'.

Andrew M. Gilbert
Assistant City Attorney

AGREED:

A handwritten signature in black ink, appearing to read 'Rachel Barnes', written over a horizontal line.
Rachel Barnes



City of Dallas

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

CASE NO.: 112-016

DATE: 11-22-11

Data Relevant to Subject Property:

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

Name of Property Owner: Rachel Barnes

Lot No.: Tr. 282 Block No.: 8820 Acreage: 9.69 Census Tract: 222 170.04

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

To the Honorable Board of Adjustment:

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

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

Represented By: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

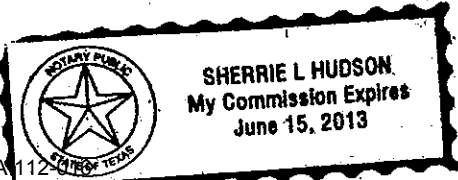
Affirm that a request has been made to establish a compliance date for the property described above for the following reason(s): No parking, Public safety, egress + ingress (1 way in + 1 way out), standing water, flooding, mosquitoes breed standing water, blocking entrance + exit of super store business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

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

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

Debbie Leonard - President
Affiant (Applicant's Signature)

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



Sherrie L Hudson
Notary Public in and for Dallas County, Texas

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that Mini-Roll, Inc.

did submit a request to require compliance of a nonconforming use
at 13943 C. F. Hawn Frwy.

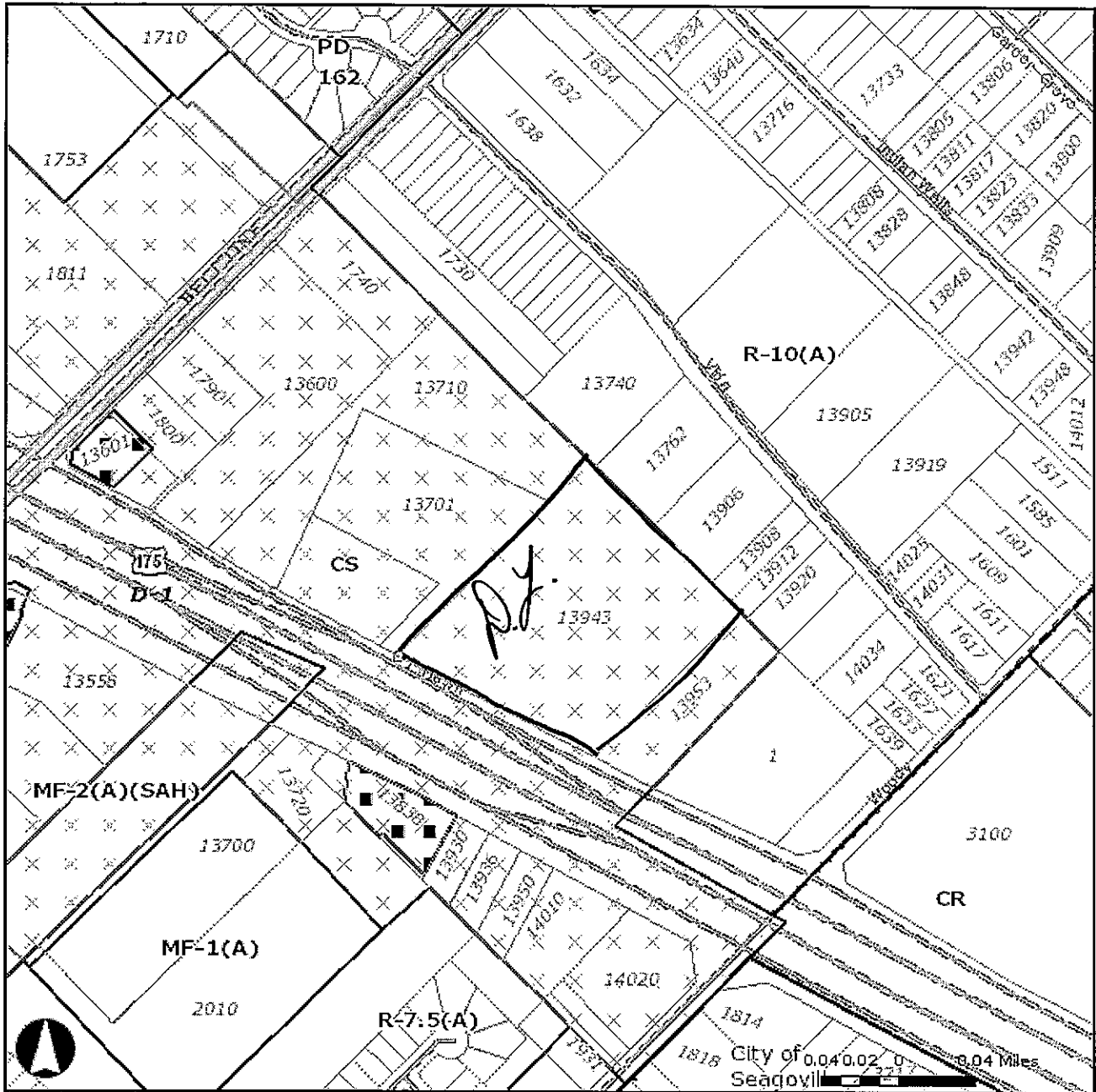
BDA112-016. Application of Mini-Roll, Inc. to require compliance of a nonconforming use at 13943 C. F. Hawn Freeway. This property is more fully described as Tract 282 in city block 8820 and is zoned CS, which limits the legal uses in a zoning district. The applicant requests that the Board establish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

Sincerely,


Lloyd Denman, Building Official



City of Dallas Zoning



City Boundaries

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

Historic Overlay

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

Floodplain

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



City of Dallas

Zoning Board of Adjustment

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

or

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

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

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

(1) Amortization of nonconforming uses.

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

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

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

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

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

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

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

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

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

(Rev. 10/04/11)

Certificate of Occupancy

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

Owner: 13943 C. F. Hawn Frwy.
BARNES RACHEL
PO BOX 360458 , DALLAS TEXAS 75336-0458 UNITED STATES OF AMERICA

DBA: KLEBERG FLEA MARKET

Land Use: (5939) OUTSIDE SALES

C.O.#: 1105101150

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

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



Lloyd Denman, Building Official

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



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

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

SITE PLAN

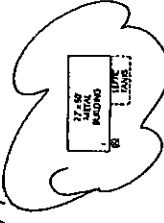
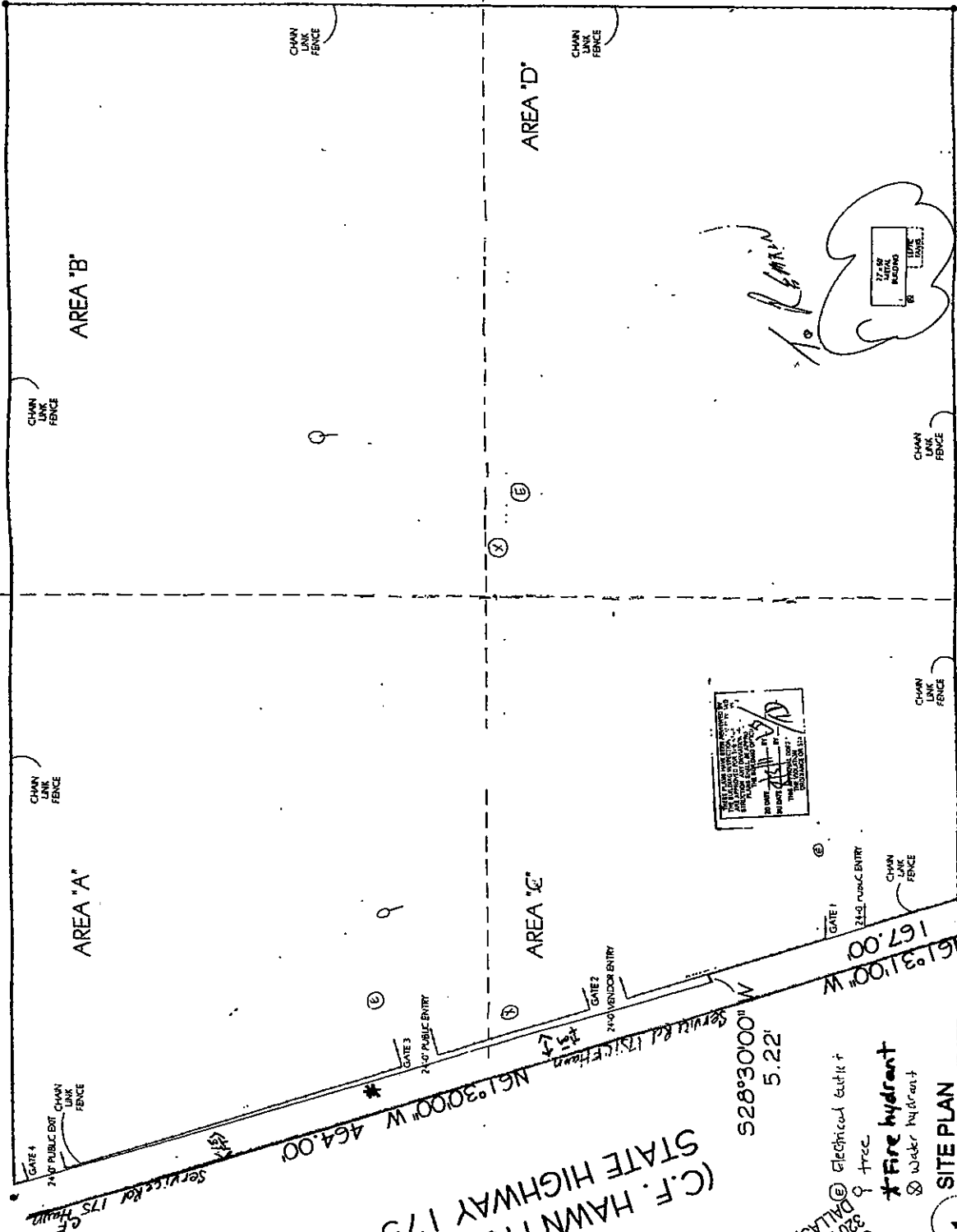
PROJECT NUMBER	2009-108
ISSUED BY	DAVID
ISSUED DATE	07/27/09
CHECKED BY	EA
FILE NAME	

SP-1

S44°58'00"E 604.15'

N45°1'00"E 750.77'

S45°17'00"W 566.21'



(C.F. HAWN FREEWAY)
 STATE HIGHWAY 175

N61°31'00"W 167.00'

S28°30'00"W 5.22'

N61°30'00"W 464.00'

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

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

- Electrical outlet
- tree
- * Fire hydrant
- Water hydrant



Residential Account #00000899825350000

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

Address: 13943 C F HAWN
Neighborhood: 0
Mapsc0: 69A-R (DALLAS)

DCAD Property Map 2011 Appraisal Notice

File Homestead Exemption Online

Print Homestead Exemption Form

YAHOO! Maps

Owner (Current 2012)

BARNES RACHEL
 PO BOX 360458
 DALLAS, TEXAS 753360458

Multi-Owner (Current 2012)

Owner Name	Ownership %
BARNES RACHEL	100%

Legal Desc (Current 2012)

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

Value

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

Main Improvement (Current 2012)

No Main Improvement.

Additional Improvements (Current 2012)

No Additional Improvements.

Land (Certified 2011)

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

* All Exemption information reflect Certified 2011. *

Exemptions (Certified 2011)

No Exemptions

Estimated Taxes (Certified 2011)

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

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

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

History

History

TEXAS SECRETARY of STATE

HOPE ANDRADE

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

BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

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

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

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

Instructions:

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

Long, Steve

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

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

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

Dear Todd,

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

Thanks,

Steve

GENERAL WARRANTY DEED WITH VENDOR'S LIEN 1817451

THE STATE OF TEXAS }
COUNTY OF DALLAS }

05/07/02 3224113 \$15.00
Know All Men By These Presents :

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

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

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

2002 089 01794

DATE: 4-22-11

APPLICATION TYPE

PERMIT CO

OTHER EXPRESS



1105101150

JOB NO: (OFFICE USE ONLY)
00050237

PERMIT NO: (OFFICE USE ONLY)

HEALTH REVIEW (Restaurants/Food Service)

City of Dallas

BUILDING INSPECTION APPLICATION

STREET ADDRESS OF PROPOSED PROJECT: 13943 C.F. Hawn Frwy SUITE, BLDG/FLOOR NO: _____ USE OF PROPERTY: Outside Sales

OWNER/RENTAL: Rachel Barnes ADDRESS: _____ CITY: Dallas STATE: TX ZIP CODE: 75253

DBA (IF APPLICABLE): _____ E-MAIL ADDRESS (OPTIONAL): _____

APPLICANT: Rachel Barnes CONTR NO: _____ COMPANY NAME: Kleberg Flea Market

ADDRESS: 13943 C.F. Hawn CITY: Dallas STATE: TX ZIP CODE: 75253 PHONE NO: 972-557-1717 FAX NO: _____

DESCRIPTION OF PROPOSED PROJECT: Kleberg Flea Market Non conforming use

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

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

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

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

WILL ALCOHOL BE SOLD/SERVED? YES NO

WILL THERE BE A DANCE FLOOR? YES NO

PERSONAL SERVICE LICENSE REQUIRED FOR THE PROPOSED USE? YES NO

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

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

APPLICANT SIGNATURE: Rachel Barnes

FOR OFFICE USE ONLY

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



City of Dallas

January 24, 2012

Via certified mail 7011 1150 0000 0380 6599

Rachel Barnes
PO Box 360458
Dallas, Texas 75336-0458

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

Dear Ms. Barnes:

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

Enclosed you will find the following information:

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

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

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

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

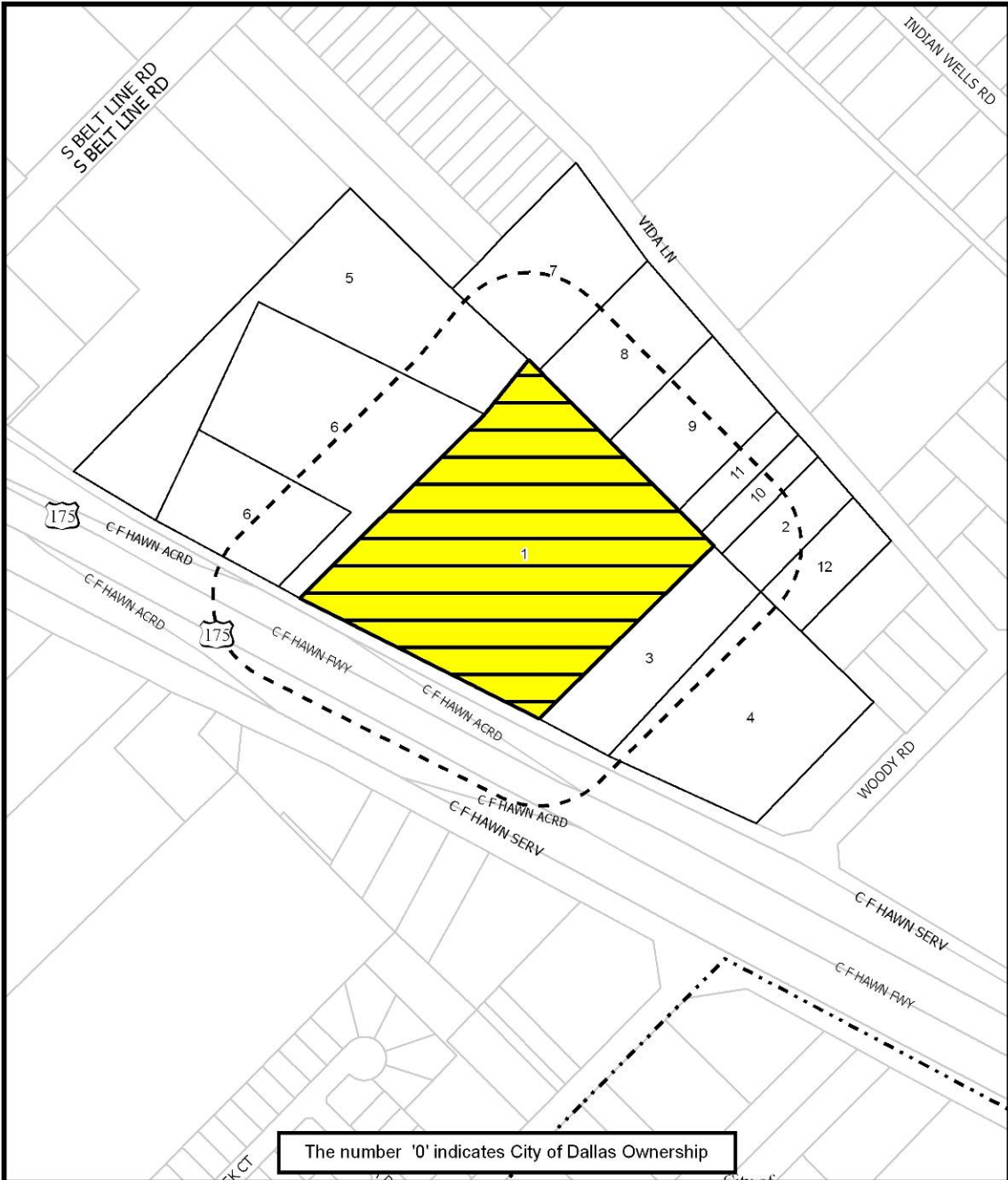
Sincerely,


Steve Long
Board of Adjustment Administrator

Enclosures

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

✓ file



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

Notification List of Property Owners

BDA112-016

12 Property Owners Notified

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

FILE NUMBER: BDA 112-034

BUILDING OFFICIAL'S REPORT:

Application of Roberto Torres, represented by Ramon Aranda, for special exceptions to the fence height and visual obstruction regulations at 9903 Laneyvale Avenue. This property is more fully described as Lot 51 in City Block C/6682 and is zoned R-5(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at alley and driveway approaches and a 45 foot visibility triangle at street intersections. The applicant proposes to maintain a 7 foot high fence in a required front yard, which will require a 3 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: 9903 Laneyvale Avenue

APPLICANT: Roberto Torres
Represented by Ramon Aranda

REQUESTS:

- The following appeals had been made in this application on a site that is developed with a single family home:
 1. special exception to the fence height regulations of up to 3' are requested in conjunction with modifying and maintaining according to the submitted revised elevation (see Attachment A) an existing "5' brick, stone & wrought iron fence" with a 7' high archway over a pedestrian gate along Laneyvale Avenue and along a portion of Algonquin Drive, and a 6' high wood fence along another portion of Algonquin Drive, both of which are located in the site's two 20' front yard setbacks, and
 2. special exceptions to the visual obstruction regulations are requested in conjunction with maintaining according to the submitted revised site plan and revised elevations (see Attachment A) portions of the aforementioned existing 5' high open wrought iron fence with stone base located in the 20' visibility triangles on either side of the driveway into the site from Laneyvale Avenue (about 10' of length on either side of the driveway).

Note: On May 4, 2012, the applicant's representative emailed a revised site plan and revised elevations to the Board Administrator (see Attachment A) with the following amendments to the original application:

- a) The originally requested existing 5' high open wrought iron fence with stone base located in the 45' visibility triangle at Laneyvale Avenue/Algonquin Drive intersection has been amended to show a 2' 6". Given these amendments, the applicant is requesting that the Board deny this request for a special exception to the visual obstruction regulations to locate/maintain any/all items in the 45'

visibility triangle at Laneyvale Avenue/Algonquin Drive intersection without prejudice.

- b) The existing shrubs that the Board Administrator noted on his field trip that are located on either side of the driveway into the site from Laneyvale Avenue are not part of the revised requests for special exceptions to the visual obstruction regulations to maintain items located in the 20' visibility triangles on either side of the driveway into the site from Laneyvale Avenue since a notation has been made on the submitted revised site plan that "(2) 7' high bushes to be removed."

STAFF RECOMMENDATION (fence height special exceptions):

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

STAFF RECOMMENDATION (visual obstruction special exceptions):

Denial

Rationale:

- The Sustainable Development and Construction Department Project Engineer recommends denial of these requests as originally submitted.
- While the applicant's representative has submitted a revised site plan and elevations (*after* the Sustainable Development and Construction Department Project Engineer had reinstated his original recommendation in April) that he says removes any item out of the required 45' visibility triangle at Laneyvale Avenue and Algonquin Drive (hence, requests that *this* special exception be denied without prejudice), the applicant had not substantiated how the location of the existing 5' high open wrought iron fence with stone base located in the 20' visibility triangles on either side of the driveway into the site from Laneyvale Avenue does not constitute a traffic hazard.

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.

GENERAL FACTS (fence height special exceptions):

- On April 18, 2012, the Board delayed action on this application until May 16th to allow the applicant an opportunity to meet with an opposing property owner and possibly submit a revised proposal to the Board.
- The subject site is a corner lot zoned R-5(A) with two street frontages of unequal distance. The site is located at the northeast corner of Laneyvale Avenue and Algonquin Drive. Even though the Laneyvale Avenue frontage of the subject site appears to function as its front yard and the Algonquin Drive frontage appears to function as its side yard, the subject site has two 20' front yard setbacks along both streets. The site has a 20' front yard setback along Laneyvale Avenue (the shorter of the two frontages which is always deemed the front yard setback on a corner lot of unequal frontage distance in a single family zoning district), and a 20' front yard setback along Algonquin Drive (the longer of the two frontages of this corner lot of unequal frontage distance), which would typically be regarded as a side yard where a 9' high fence could be maintained by right). The site's Algonquin Drive frontage is deemed a front yard to maintain the continuity of the established front yard setback along this street created by a number of properties immediately north of the subject site that front west and have front yard setbacks along Algonquin Street.
- The Dallas Development Code states that a person shall not erect or maintain a fence in a required yard more than 9' above grade, and additionally states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant had submitted with the original application a scaled site plan and two "NTS" or (Not To Scale) elevations indicating that the proposal in the required front yard setbacks reaches a maximum height of 7'- in this case the 7' maximum height being an archway over a pedestrian gate along Laneyvale Avenue.
- The following additional information was gleaned from the originally submitted site plan:
 - Along Laneyvale Avenue:
 - Approximately 72' in length parallel to the street and approximately 20' in length perpendicular on the east side of the site in the front yard setback.
 - Approximately on the front property line or approximately 10' from the pavement line.
 - Along Algonquin Drive:
 - Approximately 105' in length parallel to the street and approximately 20' in length perpendicular on the north side of the site in the front yard setback.
 - Approximately on the front property line or approximately 10' from the pavement line.
- On May 4, 2012, the applicant's representative emailed a revised site plan and revised elevations to the Board Administrator (see Attachment A). Note that staff could not glean certain dimensions from these emailed reduced plans.

GENERAL FACTS (visual obstruction special exceptions):

- On April 18, 2012, the Board delayed action on this application until May 16th to allow the applicant an opportunity to meet with an opposing property owner and possibly submit a revised proposal to the Board.

- The Dallas Development Code states the following with regard to visibility triangles: 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 intersections and 20-foot visibility triangles at drive approaches); and
 - between 2.5 – 8 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 scaled site plan and two “NTS” or (Not To Scale) elevations had been submitted with the original application that showed a 5’ high open wrought iron fence with stone base located in the 20’ visibility triangles on either side of the driveway into the site from Laneyvale Avenue (about 10’ of length on either side of the driveway) and in the 45’ visibility triangle at Laneyvale Drive and Algonquin Drive (about 27’ lengths on both streets).
- On May 4, 2012, the applicant’s representative emailed a revised site plan and revised elevations to the Board Administrator (see Attachment A). Note that staff could not glean certain dimensions from these emailed reduced plans.

BACKGROUND INFORMATION:

Zoning:

Site: R-5(A) (Single family district 5,000 square feet)
North: R-5(A) (Single family district 5,000 square feet)
South: R-7.5(A) (Single family district 7,500 square feet)
East: R-5(A) (Single family district 5,000 square feet)
West: R-5(A) (Single family district 5,000 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:

- January 20, 2012: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- March 20, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- March 21, 2012: The Board Administrator emailed the applicant’s representative the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the March 30th deadline to submit additional evidence for staff to factor into their analysis; and the April 6th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the requests; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

March 221, 2012: The Board Administrator emailed the applicant's representative the following information:

- A picture of shrubs that he photographed on the property, and a request that if these shrubs were something his client intended to request that the board consider in the triangles, to add them to his site plan and elevation no later than March 30th – otherwise it would be noted in the staff report that these existing shrubs are not part of the applicant's request.

(Note that no such request/amendment was made to the application and/or submittals).

April 3, 2012: 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 Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorney to the Board.

April 5, 2012: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Recommends that this be denied" commenting "No objection to fence height or alley visibility triangle – however, both the lack of a 45 x 45 at the street/street and the 20 x 20 at the drive are traffic hazards."

April 18, 2012: The Board delayed action on this application until May 16th to allow the applicant an opportunity to meet with an opposing property owner and possibly submit a revised proposal to the Board.

May 1, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior

Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorney to the Board.

May 4, 2012: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Recommends that this be denied" commenting "No objection to fence height or alley visibility triangle – however, both the lack of a 45 x 45 at the street/street and the 20 x 20 at the drive are traffic hazards."

May 4, 2012: The applicant's representative submitted revised materials to the Board Administrator *after* the Sustainable Development and Construction Department Project Engineer submitted his updated review comment sheet marked "Recommends that this be denied." (see Attachment A).

STAFF ANALYSIS (fence height special exceptions):

- These revised requests focus on modifying/maintaining (according to the submitted revised elevation) an existing "5' brick, stone & wrought iron fence" with a 7' high archway over a pedestrian gate along Laneyvale Avenue and along a portion of Algonquin Drive, and a 6' high wood fence along another portion of Algonquin Drive, both of which are located in the site's two 20' front yard setbacks on a property developed with a single family home.
- The originally submitted site plan and "not to scale" elevations documented the location, height, and materials of the fence over 4' in height in the site's two front yard setbacks. The originally submitted site plan showed the fence along Laneyvale Avenue to be approximately 72' in length parallel to the street and approximately 20' in length *perpendicular* to Laneyvale Avenue on the east side of the site in the front yard setback; and to be located approximately on the front property line or about 10 from the pavement line; and showed the fence along Algonquin Drive to be approximately 105' in length parallel to the street and approximately 20' in length *perpendicular* to Algonquin Drive on the north side of the site in the front yard setback; and to be located approximately on the front property line or about 10 from the pavement line.
- On May 4, 2012, the applicant's representative emailed a revised site plan and revised elevations to the Board Administrator (see Attachment A). Note that staff could not glean certain dimensions from these emailed reduced plans.
- No single family home "fronts" on the Laneyvale Avenue side of the subject site (the property immediately south of the site fronts westward to Algonquin Drive and has a side yard along Laneyvale Avenue and what appears to be an 8' high solid fence in its side yard across from the subject site); and three single family homes "front" on Algonquin Drive, none with fences in their front yards.
- 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. (One approximately 8' high solid fence was noted immediately south

of the subject site – a fence that appears to be in compliance with the Development Code since this property’s Laneyvale Avenue frontage is a *side yard*).

- As of May 8, 2012, no letters had been submitted to staff in support of the request and one letter had been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exceptions to the fence height regulations of up to 3’ will not adversely affect neighboring property.
- Granting these special exceptions of up to 3’ with a condition imposed that the applicant complies with the submitted revised site plan and revised elevations would require the proposal exceeding 4’ in height in the front yard setbacks to be modified/maintained in the location and of the heights and materials as shown on these revised documents.

STAFF ANALYSIS (visual obstruction special exceptions):

- These revised requests focus on maintaining according to the submitted revised site plan and revised elevations portions of the aforementioned existing 5’ high open wrought iron fence with stone base located in the 20’ visibility triangles on either side of the driveway into the site from Laneyvale Avenue (about 10’ of length on either side of the driveway).
- The applicant’s representative has submitted a revised site plan and elevations that removes existing shrubs that the Board Administrator noted on his field trip that are located on either side of the driveway into the site from Laneyvale Avenue, and he says removes any item out of the required 45’ visibility triangle at Laneyvale Avenue and Algonquin Drive.
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain aforementioned items in the drive approach visibility triangles do not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted revised site plan and revised elevations would require that the items in the 20’ visibility triangles on either side of the driveway into the site from Laneyvale Avenue to be limited to the location, height, and materials of those items as shown on these revised documents.

BOARD OF ADJUSTMENT ACTION: APRIL 18, 2012

APPEARING IN FAVOR: Ramon Aranda, 2946 So. Sunbeck Circle, Farmers Branch

APPEARING IN OPPOSITION: No one

MOTION: Leone

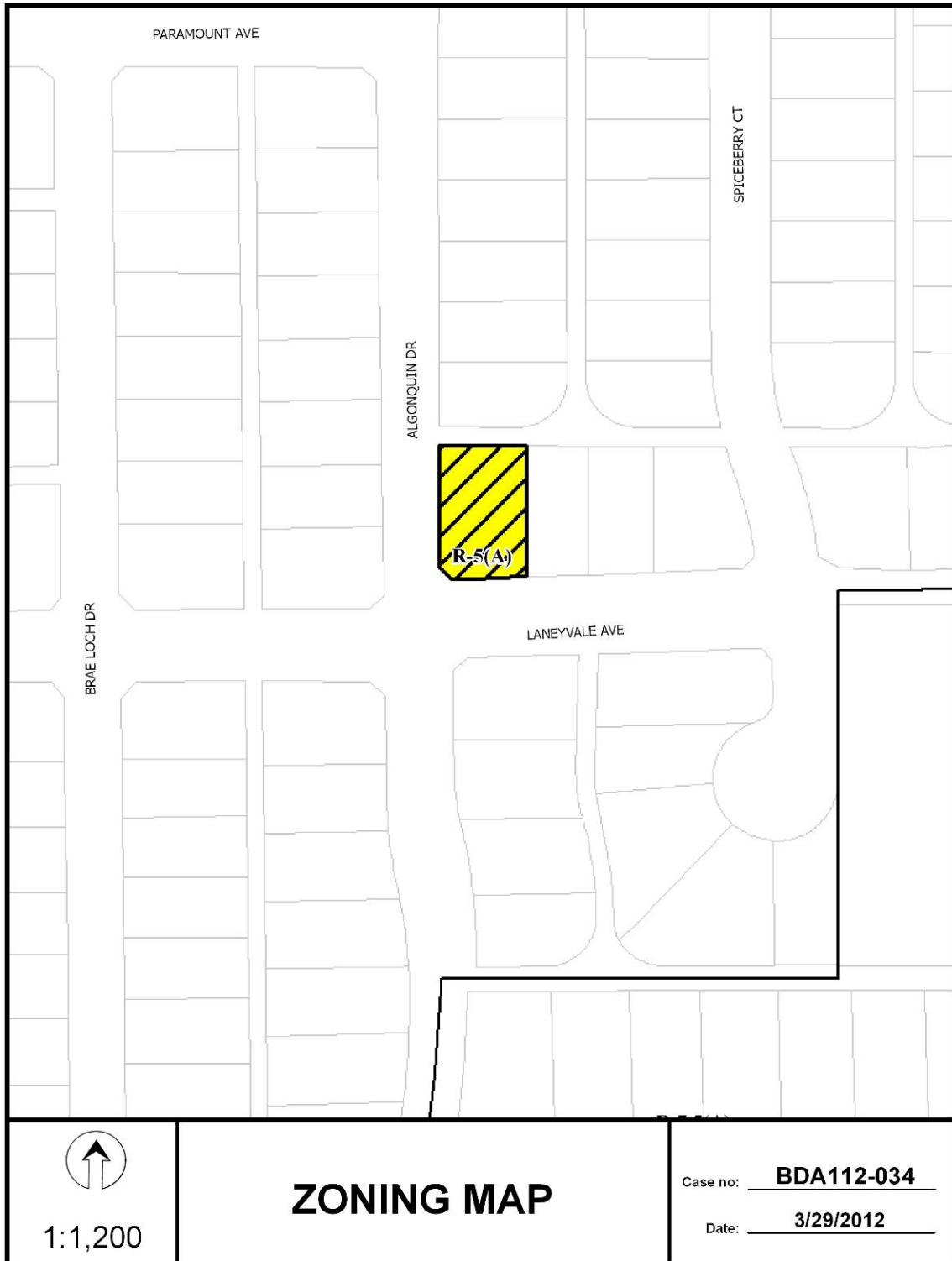
I move that the Board of Adjustment in Appeal No. **BDA 112-034**, hold this matter under advisement until **May 16, 2012**.

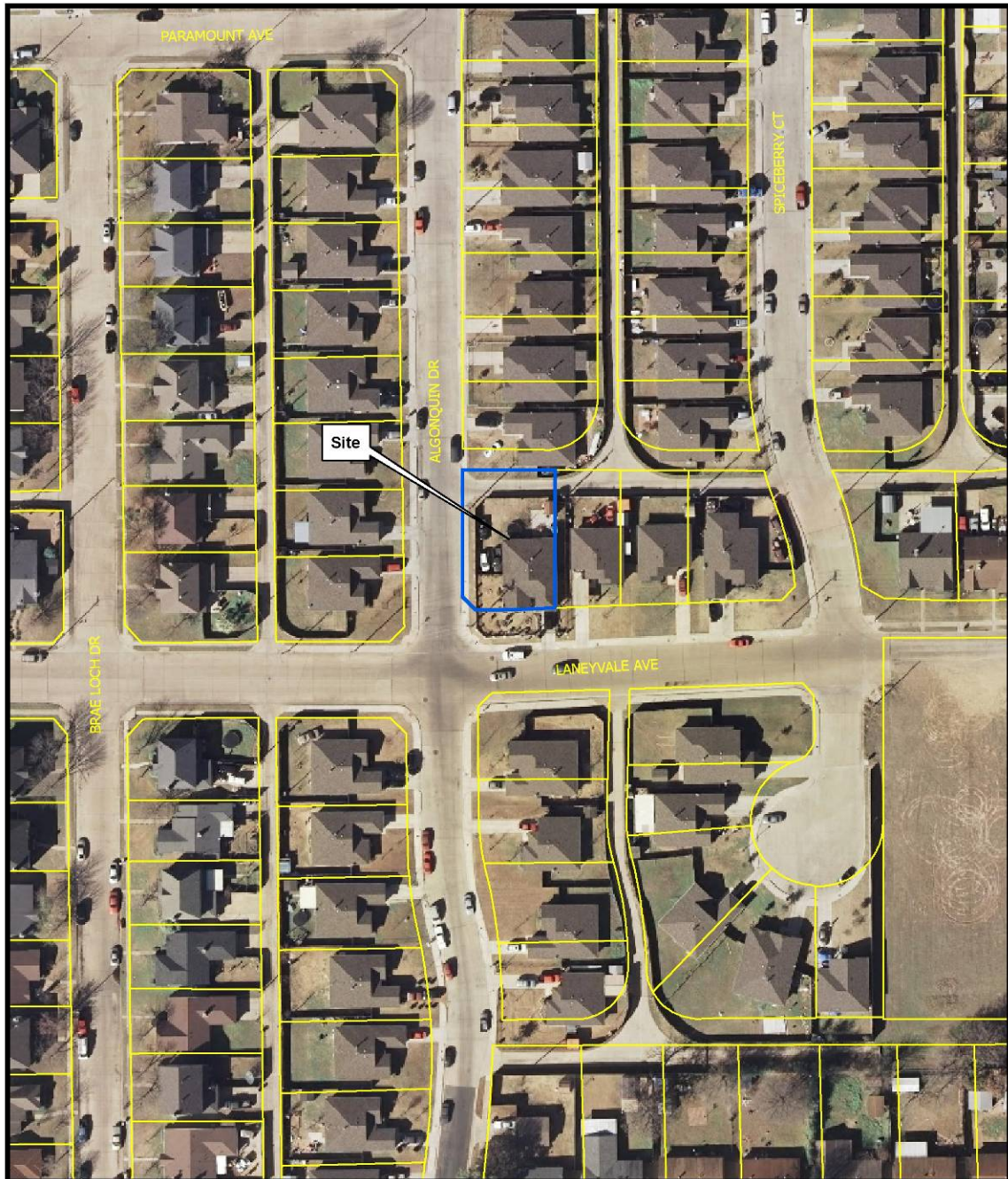
SECONDED: Gillespie

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

NAYS: 0 –

MOTION PASSED 5 – 0 (unanimously)



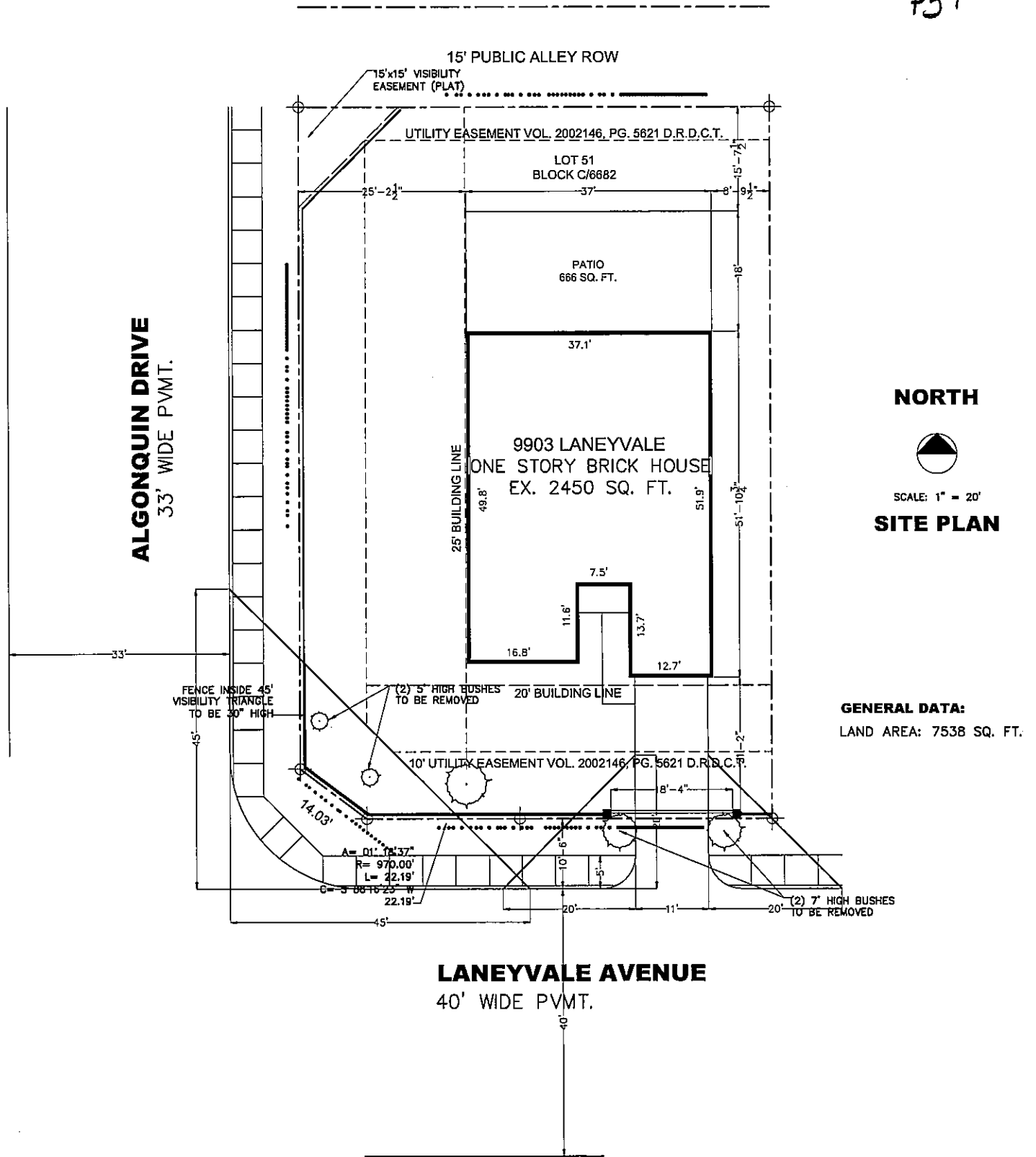


1:1,200

AERIAL MAP

Case no: BDA112-034

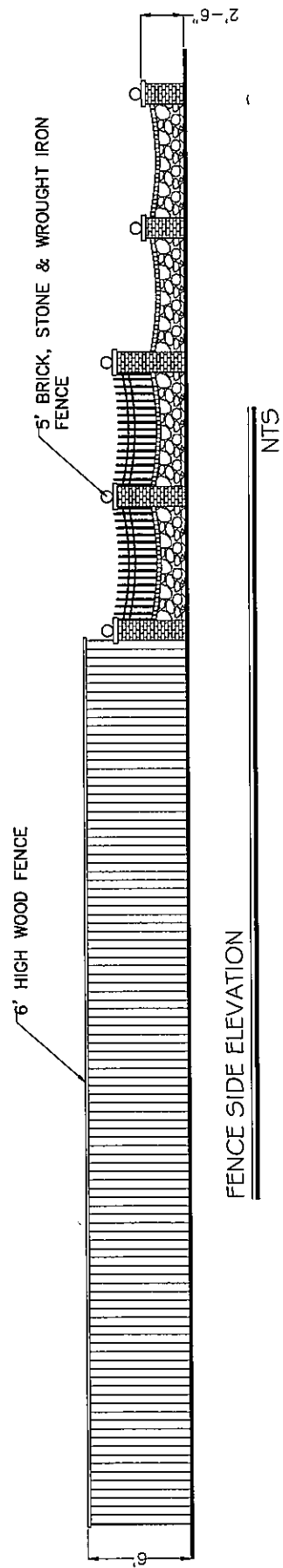
Date: 3/29/2012

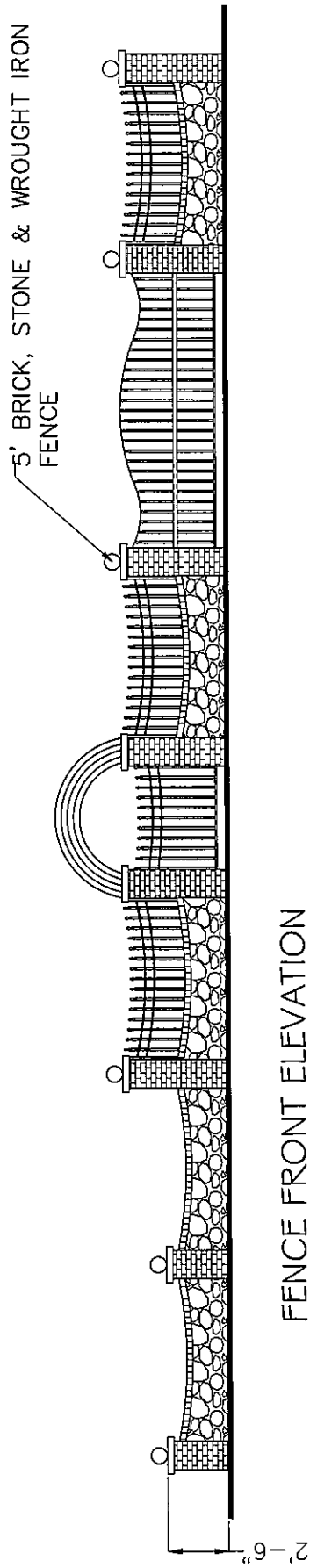


BDA112-034

Attach A

pg 2





FENCE FRONT ELEVATION

NTS



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-034

Data Relative to Subject Property:

Date: JAN. 20 / 2012

Location address: 9903 LANEYVALE AVE. Zoning District: R-5(A)

Lot No.: 51 Block No.: C/6682 Acreage: 6466¹⁵ # Census Tract: 118.00

Street Frontage (in Feet): 1) 61' 2) 106' 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

2810

Owner of Property (per Warranty Deed): ROBERTO TORRES

Applicant: ROBERTO TORRES Telephone: (972) 557-7582

Mailing Address: 9903 LANEYVALE AVE. Zip Code: 75217

E-mail Address: _____

Represented by: RAMON ARANDA Telephone: (972) 754-1745

Mailing Address: 2946 S. SUNBECK CIR. Zip Code: 75234

E-mail Address: ramonaranda@hotmail.com

Affirm that an appeal has been made for a Variance or Special Exception of 3' TO THE FENCE HEIGHT IN THE FRONT YARD, & VISIBILITY TRIANGULAR OBSTRUCTIONS AT DRIVEWAY & STREET INTERSECTIONS.

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: BUILDER DID NOT GUIDE TO HEIGHT REGULATIONS.

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.

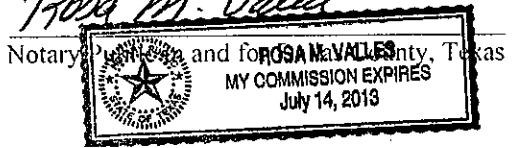
Affidavit

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

Subscribed and sworn to before me this 26 day of January, 2012
Fred M. Walker



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

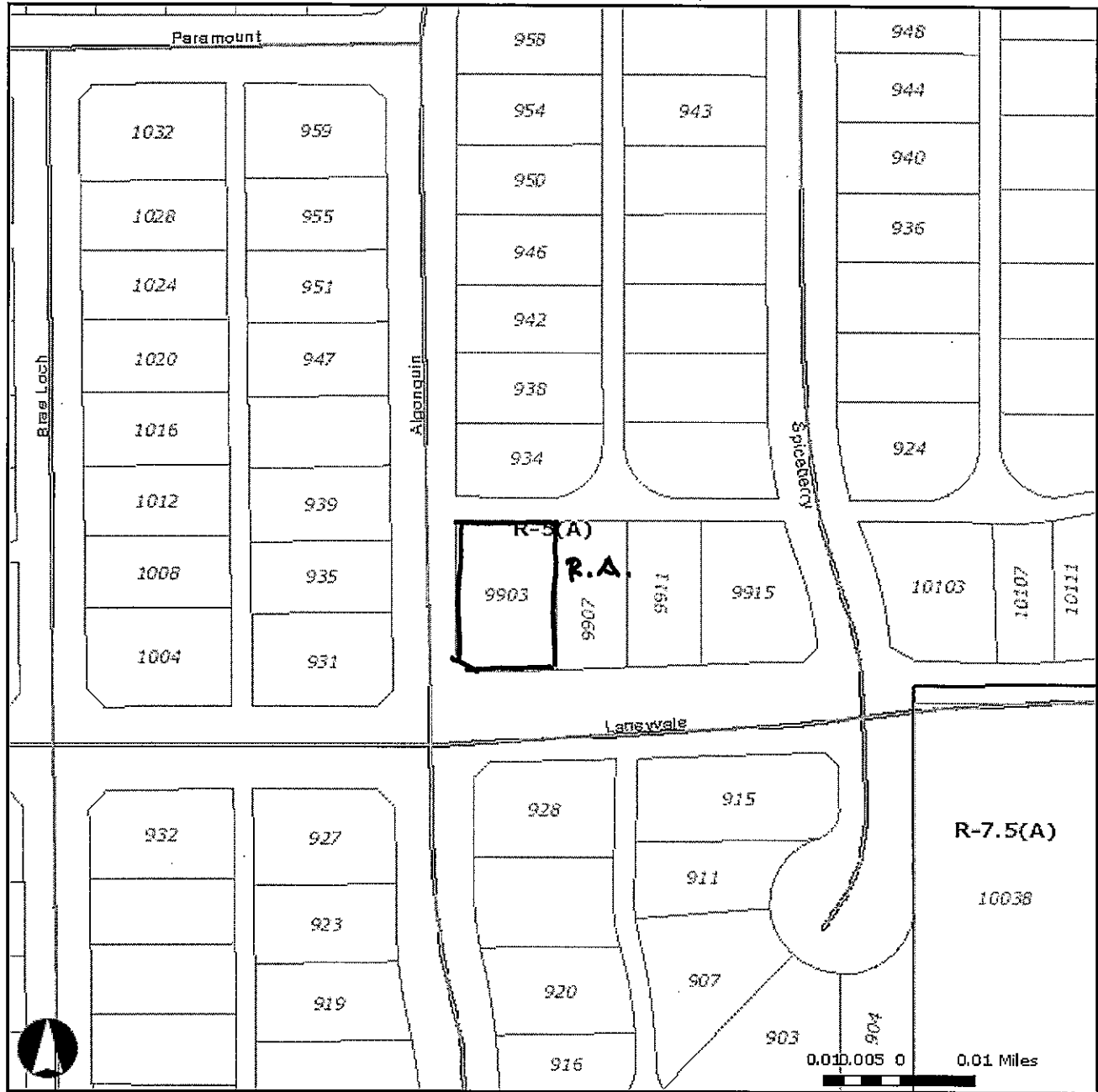
I hereby certify that ROBERTO TORRES
represented by RAMON ARANDA
did submit a request for a special exception to the fence height regulation, and for a special
exception to the visibility obstruction regulations
at 9903 Laneyvale Avenue

BDA112-034. Application of Roberto Torres represented by Ramon Aranda for a special exception to the fence height regulation and a special exception to the visibility obstruction regulations at 9903 Laneyvale Avenue. This property is more fully described as lot 51 in city block C/6682 and is zoned R-5(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at alley and driveway approaches and a 45 foot visibility triangle at street intersections. The applicant proposes to construct an 7 foot high fence in a required front yard, which will require a 3 foot special exception to the fence regulation, and to construct a residential fence in required visibility obstruction triangles, which will require special exceptions to the visibility obstruction regulations.

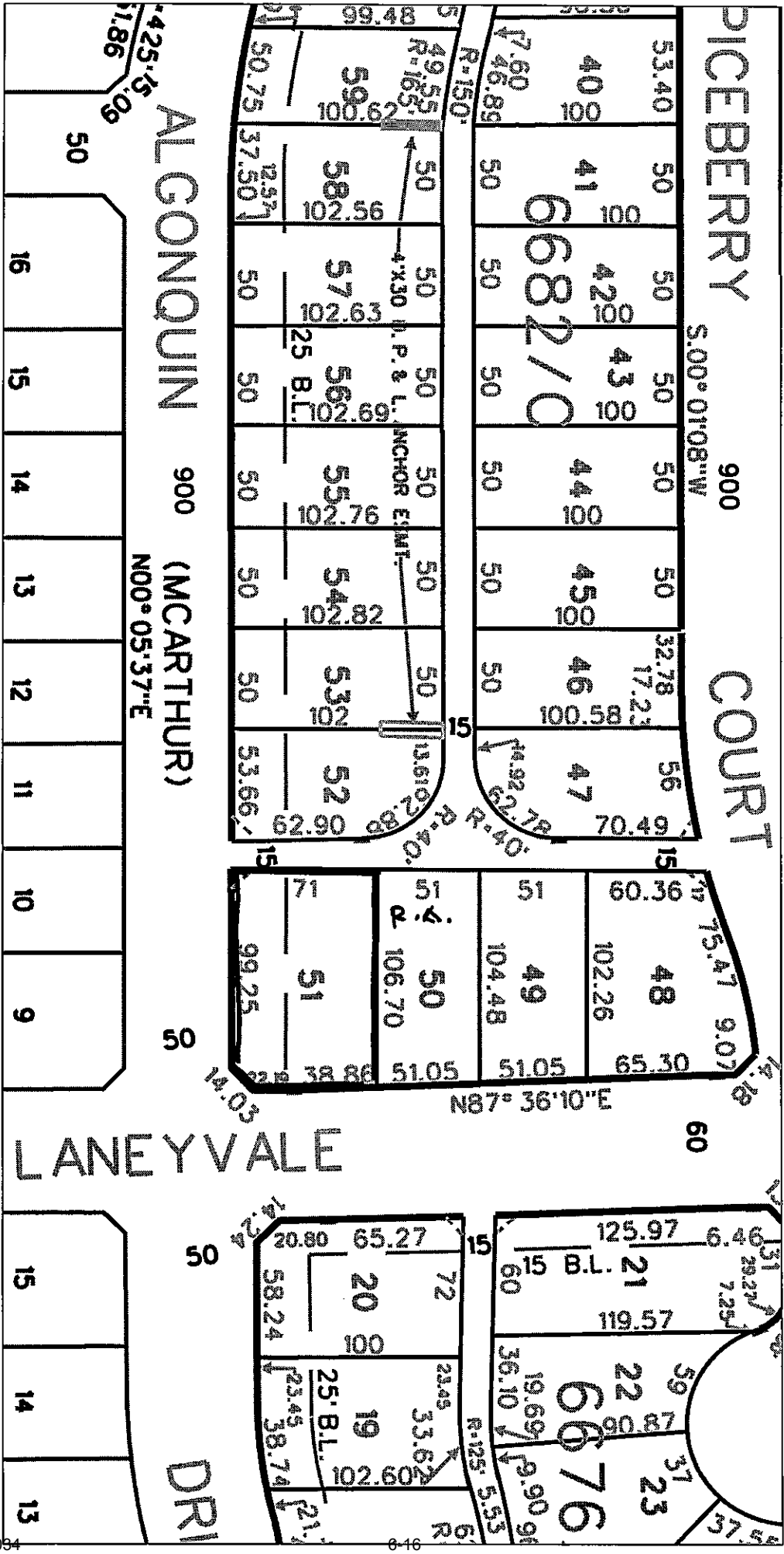
Sincerely,


Lloyd Denman, Building Official

City of Dallas Zoning



- | | | |
|--|--|--|
| <p>City Boundaries</p> <p>County</p> <p>Certified Parcels</p> <p>DISD Sites</p> <p>Council Districts</p> <p>Waterways</p> <p>Parks</p> | <p>Dry Overlay</p> <p>Historic Overlay</p> <p>Historic Subdistricts</p> <p>NSO Overlay</p> <p>NSO Subdistricts</p> <p>MD Overlay</p> | <p>Base Zoning</p> <p>Floodplain</p> <p>100 Flood Zone</p> <p>Mill's Creek</p> <p>Peak's Branch</p> <p>X PROTECTED BY LEVEE</p> <p>Pedestrian Overlay</p> <p>Environmental Corridors</p> |
|--|--|--|



900
DICEBERRY COURT
S.00° 01' 08" W

900
COURT

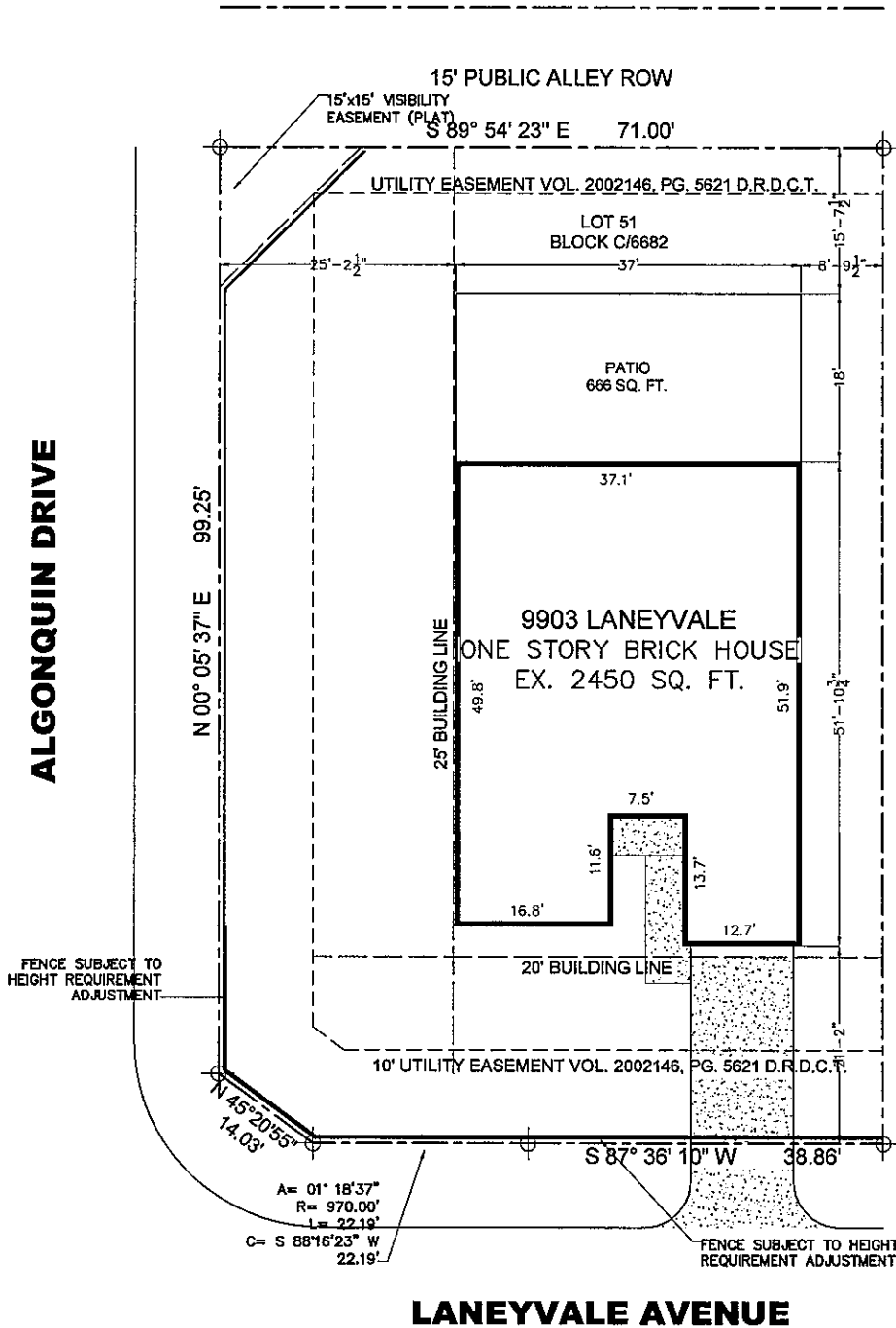
900
ALGONQUIN (MCARTHUR)
N00° 05' 37" E

LANEVALE

DRI

PM 10:15:16 1/27/2012 3:15:16 PM C:\fax_plats\6676_4.dgn

ALGONQUIN DRIVE



NORTH

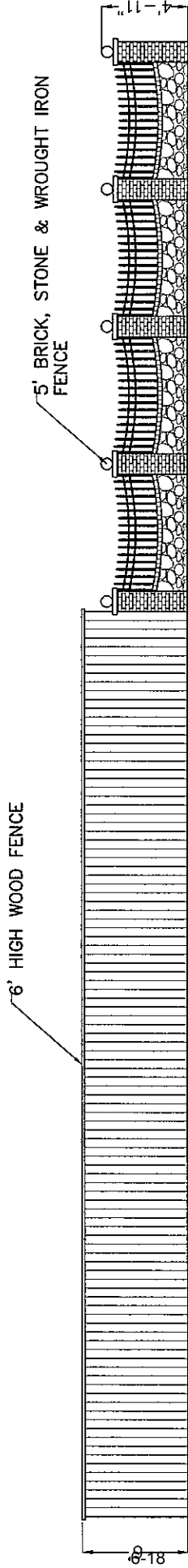


SCALE: 1" = 20'

SITE PLAN

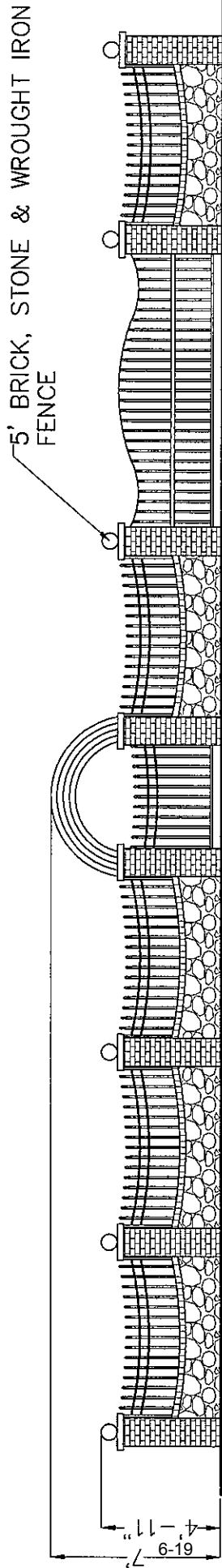
GENERAL DATA:

LAND AREA: 7538 SQ. FT.



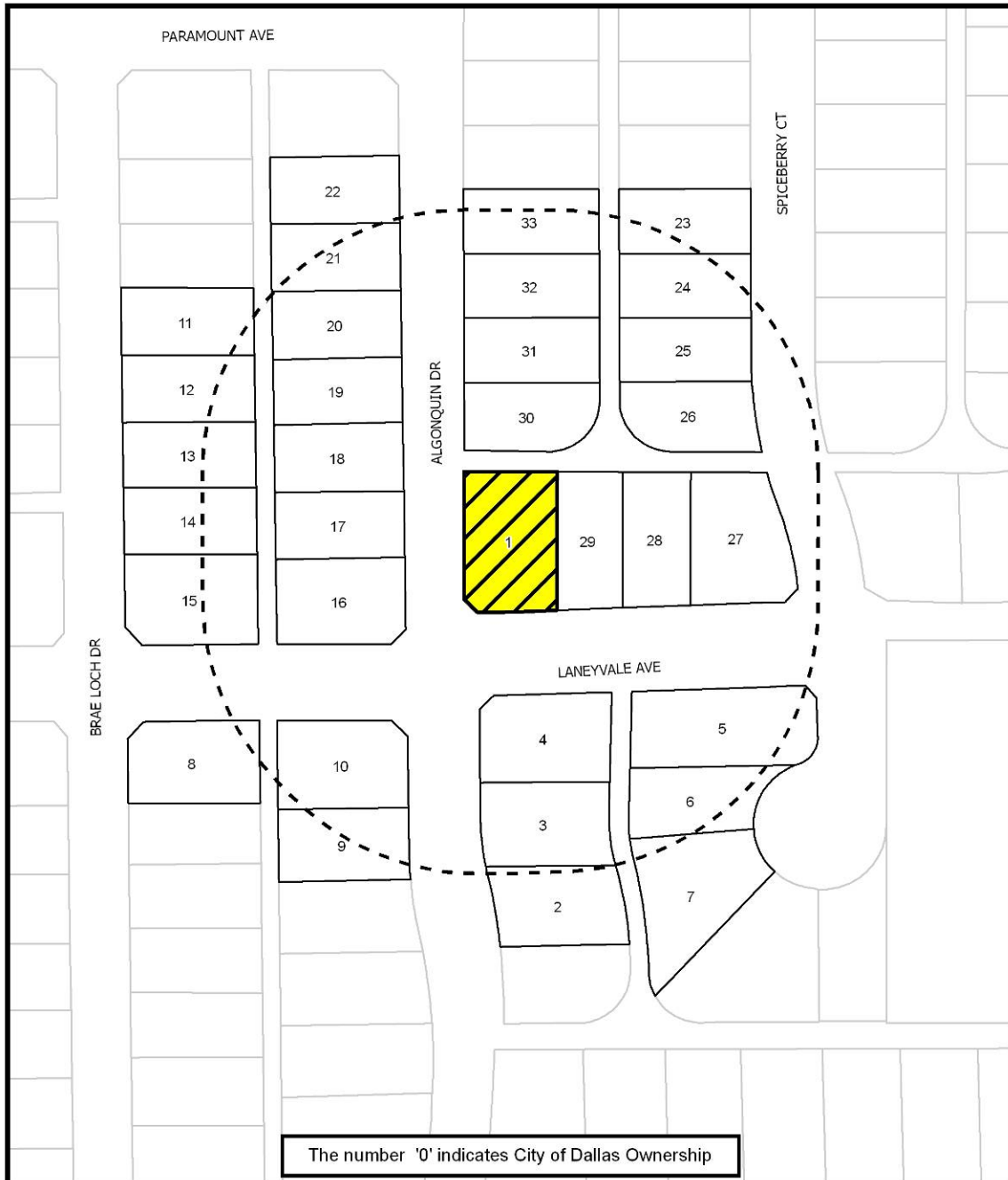
FENCE SIDE ELEVATION

NTS



FENCE FRONT ELEVATION

NTS



The number '0' indicates City of Dallas Ownership

 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;">33</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	33	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u> BDA112-034 </u> Date: <u> 3/29/2012 </u>
200'	AREA OF NOTIFICATION					
33	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA112-034

33 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	9903 LANEYVALE AVE	TORRES ROBERTO
2	920 ALGONQUIN DR	TUTT TIFFANY M
3	924 ALGONQUIN DR	MARTINEZ FRANCISCO J
4	928 ALGONQUIN DR	MEDFORD NADINE G
5	915 SPICEBERRY CT	GUTIERREZ DANIEL
6	911 SPICEBERRY CT	ORTIZ AGUSTIN & LEONARDA ORTIZ
7	907 SPICEBERRY CT	SOTO SAMUEL S & CANDISS A ZUNIGA
8	932 BRAE LOCH DR	ESTRADA HECTOR
9	923 ALGONQUIN DR	GANT PATTIE W
10	927 ALGONQUIN DR	DURAN EUSTAQUIO
11	1020 BRAE LOCH DR	HALL BRENDA
12	1016 BRAE LOCH DR	WASHINGTON NAPOLEON & VALLERIE J
13	1012 BRAE LOCH DR	BROWN EISLEY
14	1008 BRAE LOCH DR	STILWELL SHARON & DONALD R
15	1004 BRAE LOCH DR	BASSETT LARRY L & DELORES A
16	931 ALGONQUIN DR	DIAZ ALBERTO
17	935 ALGONQUIN DR	MARQUEZ ANTONIO R
18	939 ALGONQUIN DR	DURAN ANTONIO
19	943 ALGONQUIN DR	TUTSON LONZO T JR
20	947 ALGONQUIN DR	TORRES MOISES JR & AMANDA
21	951 ALGONQUIN DR	ENRIQUEZ SILVIA S
22	955 ALGONQUIN DR	HERNANDEZ ANA
23	935 SPICEBERRY CT	PENATE MIGUEL D & NORA E RAUDA
24	931 SPICEBERRY CT	ARAMBURO IGNACIO
25	927 SPICEBERRY CT	MEJORADA SAUL JR
26	923 SPICEBERRY CT	VENEGAS RAUL
27	9915 LANEYVALE AVE	RICO GUADALUPE
28	9911 LANEYVALE AVE	CASTRO MAIRA Y
29	9907 LANEYVALE AVE	QUNONEZ GUADALUPE
30	934 ALGONQUIN DR	GONZALEZ VICTOR HUGO

31	938	ALGONQUIN DR	VALDIVIA FELIPE
32	942	ALGONQUIN DR	WELLINGTON ALBERT C & ERICA E
33	946	ALGONQUIN DR	FELIPE PEDRO & FLORENTINO MARTIN

FILE NUMBER: BDA 112-050

BUILDING OFFICIAL'S REPORT:

Application of Santos T. Martinez, Masterplan, for variances to the front yard setback regulations and a special exception to the visual obstruction regulations at 2911 Routh Street. This property is more fully described as Lots 7-10 in City Block 952 and is zoned PD-193(GR), which requires a front yard setback of 10 feet, and a 45 foot visibility triangle at street intersections. The applicant proposes to construct/maintain a structure and provide 0 foot front yard setbacks, which will require variances to the front yard setback regulations of 10 feet, and to locate/maintain items in a required visibility triangle which will require a special exception to the visual obstruction regulations.

LOCATION: 2911 Routh Street

APPLICANT: Santos T. Martinez, Masterplan

REQUESTS:

- The following appeals have been made in this application on a site that is currently developed with existing retail/restaurant uses (Sunstone Yoga and PrimeBar) and a vacant restaurant use (The Place at Perry's) that is being transitioned to a bar/restaurant use (Kung Fu Saloon- Dallas):
 1. Variances to the front yard setback regulations of 10' are requested in conjunction with:
 - a) Demolishing the existing concrete "patio" and steps at the entrance (of the former Perry's Restaurant/proposed Kung Fu Saloon) and replacing it with a "new wooden patio and stairs," almost all of which would be located in the site's two 10' front yard setbacks along Routh Street and Cedar Springs Road
 - b) constructing and maintaining a "small balcony near the entrance along Routh Street";
 - c) addressing and remedying the nonconforming aspect of the existing nonconforming structure that is located in the site's two front yard setbacks along McKinney Avenue and Boll Street;
 2. A special exception to the visual obstruction regulations is requested to construct, locate, and maintain portions of the aforementioned "new wooden patio and stairs" in the required 45' visibility triangle at the intersection of Routh Street and Cedar Springs Road.

STAFF RECOMMENDATION (variance):

Denial

Rationale:

- Although the site is irregular in shape, the applicant had not substantiated how either the shape of the lot or its area or slope precludes it from being developed in a manner commensurate with development found on other PD 193 (GR Subdistrict) zoned lots.

STAFF RECOMMENDATION (visual obstruction special exception):

Denial

Rationale:

- The Sustainable Development and Construction Department Project Engineer recommends denial of this request stating that the applicant’s proposal makes an existing visibility problem worse, and that the acute angle of the intersection contributes to the traffic hazard problem.
- The applicant had not substantiated how the location of the items shown on his submitted revised site plan and his elevation in the 45’ visibility triangle at the intersection of Routh Street and Cedar Springs Road does not constitute a traffic hazard.

STANDARD FOR A VARIANCE:

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

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

STANDARD FOR A SPECIAL EXCEPTION TO THE 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.

GENERAL FACTS (variances):

- The subject site is located at the intersection of Routh Street and Cedar Springs Road. Because the property with two street frontages is zoned PD 193 (GR), it has two 10' front yard setbacks along both streets.
- The minimum front yard setback on a PD 193 (GR) zoned lot is 10 feet.
- The applicant has submitted a revised site plan and an elevation indicating that portions of an existing structure and portions of an approximately 330 square foot "proposed new wooden patio and stairs" structure will be located on the site's Routh Street and Cedar Springs Road front property lines or 10' into the 10' front yard setbacks, and a "proposed new wooden balcony" will be located on the Routh Street front property line or 10' into this 10' front yard setback. (The dimensions of the balcony are not clearly noted on the revised plan but *appear* to be approximately 13' in length and approximately 2' in width).
- The applicant has made variance requests for not only the proposed addition to be located in the Routh Street and Cedar Springs Road front yard setbacks but also for the existing nonconforming structure (which according to DCAD records constructed in 1950) that is located in both these front yard setbacks – areas that the applicant has represented impacts over 2,500 square feet of existing floor area as well as accessibility ramps into the building. (The Dallas Development Code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent).
- The site is flat, irregular in shape (five-sided), and according to the amended application, 0.1656 acres in area. The corner property with two street frontages has two front yard setbacks as any corner property with two street frontages would that is not zoned agricultural, single family, or duplex.
- DCAD records indicate that the improvements at 2911 Routh Street is a "retail strip" with 7,672 square feet built in 1950.
- On April 27, 2012, the applicant submitted additional information to the staff beyond what was submitted with the original application (see Attachment A).

GENERAL FACTS (visual obstruction special exceptions):

- The Dallas Development Code states the following with regard to visibility triangles: 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 intersections and 20-foot visibility triangles at drive approaches); and
 - between 2.5 – 8 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).
- On April 27, 2012, the applicant submitted additional information to the staff beyond what was submitted with the original application (see Attachment A).
- The submitted revised site plan indicates that approximately 1/3 of the "proposed new wooden patio and stair" structure is to be located in the 45' visibility triangle at the intersection of Routh Street and Cedar Springs Road.
- The submitted elevation denotes certain characteristics related to the patio and stairs. While the heights of the patio and stairs are denoted, the building materials are not other than the general label on the elevation stating "Proposed New Wooden Deck and Stairs."

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	PD 193 (GR) (Planned Development District, General Retail)
<u>North:</u>	PD 193 (LC) (Planned Development District, Light commercial)
<u>South:</u>	PD 193 (GR) (Planned Development District, General Retail)
<u>East:</u>	PD 9 (Planned Development District)
<u>West:</u>	PD 193 (GR) (Planned Development District, General Retail)

Land Use:

The subject site is developed with a vacant restaurant use (The Place at Perry's) along with other existing retail/restaurant uses (Sunstone Yoga and PrimeBar) The areas to the north, east, south, and west are a mix of office, retail, and residential uses.

Zoning/BDA History:

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

Timeline:

- March 26, 2012: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- April 17, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- April 18, 2012: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the April 27th deadline to submit additional evidence for staff to factor into their analysis; and the May 4th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - the criteria/standard that the board will use in their decision to approve or deny the requests; and
 - the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.
- April 24, 2012: The Board Administrator emailed the applicant the following additional information after a more in depth review of the applicant's submittals:
- With the understanding that the code states that the applicant has the burden of proof in establishing the necessary facts to

warrant favorable action of the board, the Board Administrator found certain things in the submittals precluded him from comprehensively conveying what was being requested from the board in this application.

- The observation that if/when the board grants variances, they almost always impose the applicant's submitted site plan as a condition to the request. With this in mind, the applicant may want to consider the importance of how a clearly noted site plan that conveys the issue at hand in terms of what structure/structures are requested to be varied in the setback may be in the process.
- The observation that if/when the board grants visual obstruction special exceptions, they almost always impose the applicant's submitted site plan *and* elevation as a condition to the request. With this in mind, the applicant may want to consider the importance of how a clearly noted site plan *and* elevation that conveys the issue at hand in terms of what structure/structures are requested to be excepted in the visibility triangle may be in the process.

April 27, 2012: The applicant submitted additional information to the staff beyond what was submitted with the original application (see Attachment A).

May 1, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Sustainable Development and Construction Department Project Engineer, the Chief Arborist, and Assistant City Attorney to the Board.

May 4, 2012: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Recommends that this be denied" commenting "This proposal makes an existing visibility problem worse. The acute angle of the intersection contributes to the traffic hazard problem."

STAFF ANALYSIS (variances):

- These requests focus on:
 1. demolishing the existing concrete "patio" and steps at the entrance of a vacant business and replacing it with a "new wooden patio and stairs," almost all of which would be located in the site's two 10' front yard setbacks along Routh Street and Cedar Springs Road,

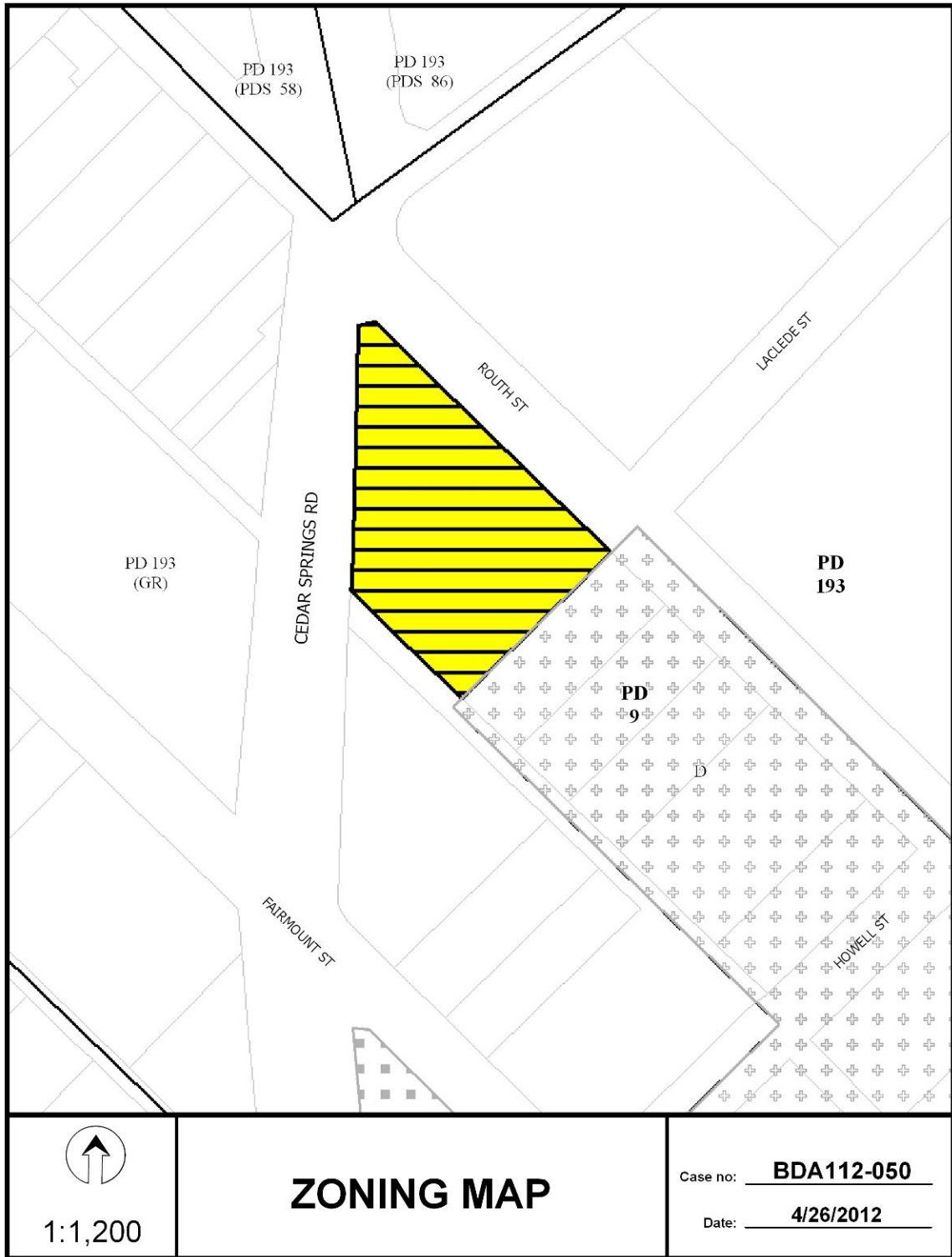
2. constructing and maintaining (according to the applicant's April 27th letter) a "small balcony near the entrance along Routh Street";
 3. addressing and remedying the nonconforming aspect of the existing nonconforming structure on this site that is located in the site's two front yard setbacks along McKinney Avenue and Boll Street.
- According to calculations taken by the Board Administrator from the submitted revised site plan, virtually all of the approximately 330 square feet of the "proposed new wooden patio and stair" structure is in Routh Street and Cedar Springs Road front yard setbacks, and all of what appears to be a 26 square foot "balcony" structure is located in the Routh Street front yard setback.
 - The site is flat, irregular in shape (five-sided), and according to the amended application, 0.1656 acres in area. The site is zoned PD No. 193 (GR). The corner property with two street frontages has two front yard setbacks as any corner property with two street frontages would that is not zoned agricultural, single family, or duplex.
 - DCAD records indicate that the improvements at 2911 Routh Street is a "retail strip" with 7,672 square feet built in 1950.
 - The applicant has the burden of proof in establishing the following:
 - That granting the variances to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PD 193 (GR) zoning classification.
 - The variances would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PD 193 (GR) zoning classification.
 - If the Board were to grant the front yard variance requests, imposing a condition whereby the applicant must comply with the submitted revised site plan, the structures in the front yard setbacks would be limited to what is shown on this plan – which in this case are portions of existing structure in the site's two front yard setbacks, virtually all of a proposed "wooden patio and stairs" structure in the site's two front yard setbacks (and in the 45' visibility triangle), and what *appears* to be an approximately 26 square foot "balcony" structure in the site's front yard setback along Routh Street.

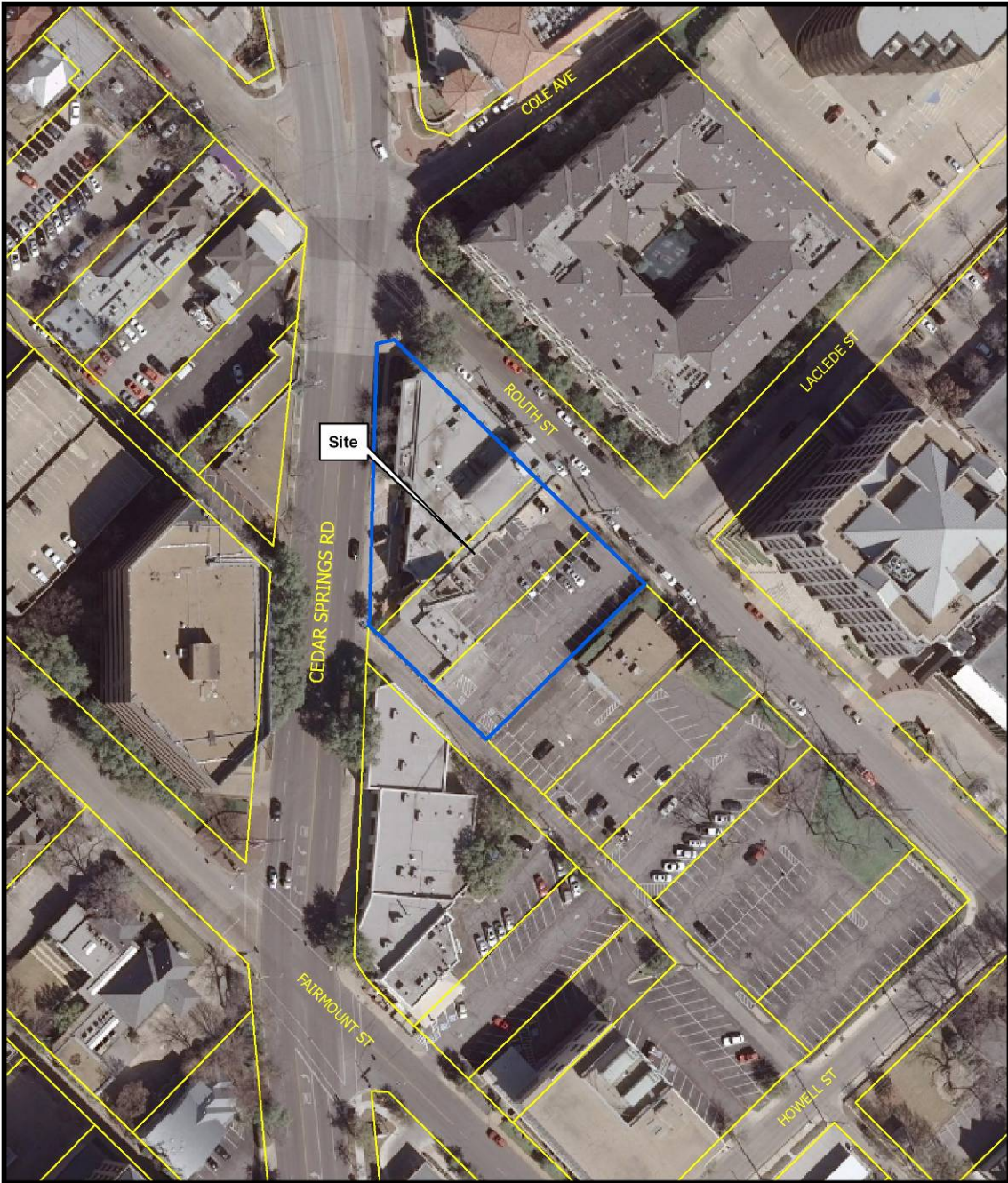
STAFF ANALYSIS (visual obstruction special exception):

- This request focuses on constructing/locating/maintaining portions of the aforementioned "new wooden patio and stairs" in the required 45' visibility triangle at the intersection of Routh Street and Cedar Springs Road.
- The applicant has the burden of proof in establishing how granting the request for a special exception to the visual obstruction regulations to construct/locate/maintain

the aforementioned items in Routh Street/Cedar Springs Road intersection visibility triangle does not constitute a traffic hazard.

- Granting this request with a condition imposed that the applicant complies with the submitted revised site plan and submitted elevation would require that the proposed items in the 45' Routh Street/Cedar Springs Road intersection triangle to be limited to the location, height, and materials of those items as shown on these documents.
- If the Board grants this request, they may consider requiring the applicant to clearly denote the building materials beyond the general label on the elevation stating nothing more than "Proposed New Wooden Deck and Stairs" to assure that the items in the visibility triangle do not constitute a traffic hazard.





1:1,200

AERIAL MAP

Case no: BDA112-050

Date: 4/26/2012



April 27, 2012

Mr. Steve Long
Board of Adjustment
City of Dallas
1500 Marilla, Room 5BN
Dallas, Texas 75201

BDA 112-050
Attach A
Pg 1

RE: BDA 112-050; 2911 Routh Street

Dear Mr. Long:

Our client is seeking a variance to the required front yard setback for a new wooden deck and balcony on a non-conforming structure. They are also seeking a variance to the required 45 foot visibility triangle for the intersection of Routh Street and Cedar Springs.

The property is developed with an existing structure that was constructed prior to 1958. I have included a historical aerial from 1958 that shows the property developed in its current configuration.

The property maintains an irregular shape and there is a curve in Cedar Springs that begins at this intersection. There is also a five foot grade difference between the entrance of this building and the sidewalk.

At the time of the original construction, the property was developed with a zero setback along Cedar Springs and a two foot setback along Routh Street. When the City of Dallas amended its zoning regulations, this property was reclassified in a General Retail zoning district. The required front yard setback for a GR district is ten feet.

The property owner has a new restaurant tenant that seeks to redevelop the entrance. They seek to remove the existing concrete steps and deck and replace them with a wooden structure. This new deck will not have any seating available for patrons. They also seek to construct a small balcony near the entrance along Routh Street. This project will also replace the existing awning over the main entrance and expand it along the existing façade.

The variance request is needed to accommodate a new entrance to the property. There is a five foot change in grade between the sidewalk and the front door. A new deck entrance with stairs will be used to allow patrons to enter into the building. The front yard setback variance will also allow the property owner to bring the building into a conforming status. This impacts over 2500 square feet of existing floor area as well as accessibility ramps into the building.

MASTERPLAN
900 Jackson Street, Suite 640
Dallas, Texas 75202


Phone: (214) 761-9197
Fax: (214) 748-7114
Web: masterplanconsultants.com



The proposed new entrance deck will extend into the required visibility triangle at this intersection. The required clearance for this intersection is 45 feet. The proposed construction has portions of the deck entrance and rails located between 39 and 45 feet in this visibility triangle. The property owner has agreed to allow the tenant to construct a wooden deck with open rails and a wooden lattice work underneath the deck for vines to grow. I have attached an additional exhibit that shows the extent of the obstruction at this intersection. It should be noted that there is a stop sign at this intersection.

We believe the construction of the existing right of way along Cedar Springs, in addition to the shape of our property, creates a hardship to maintain any elements outside of this visibility triangle.

Please feel free to contact our offices if you need any additional information regarding this request.


Santos T. Martinez
Authorized representative for
Greenway Cedar Springs LP

MASTERPLAN
500 South Ervay, Suite 112B
Dallas, Texas 75201

Phone: (214) 761-9197
Fax: (214) 748-7114
Web: masterplanconsultants.com



1958 aerial



Existing Structure

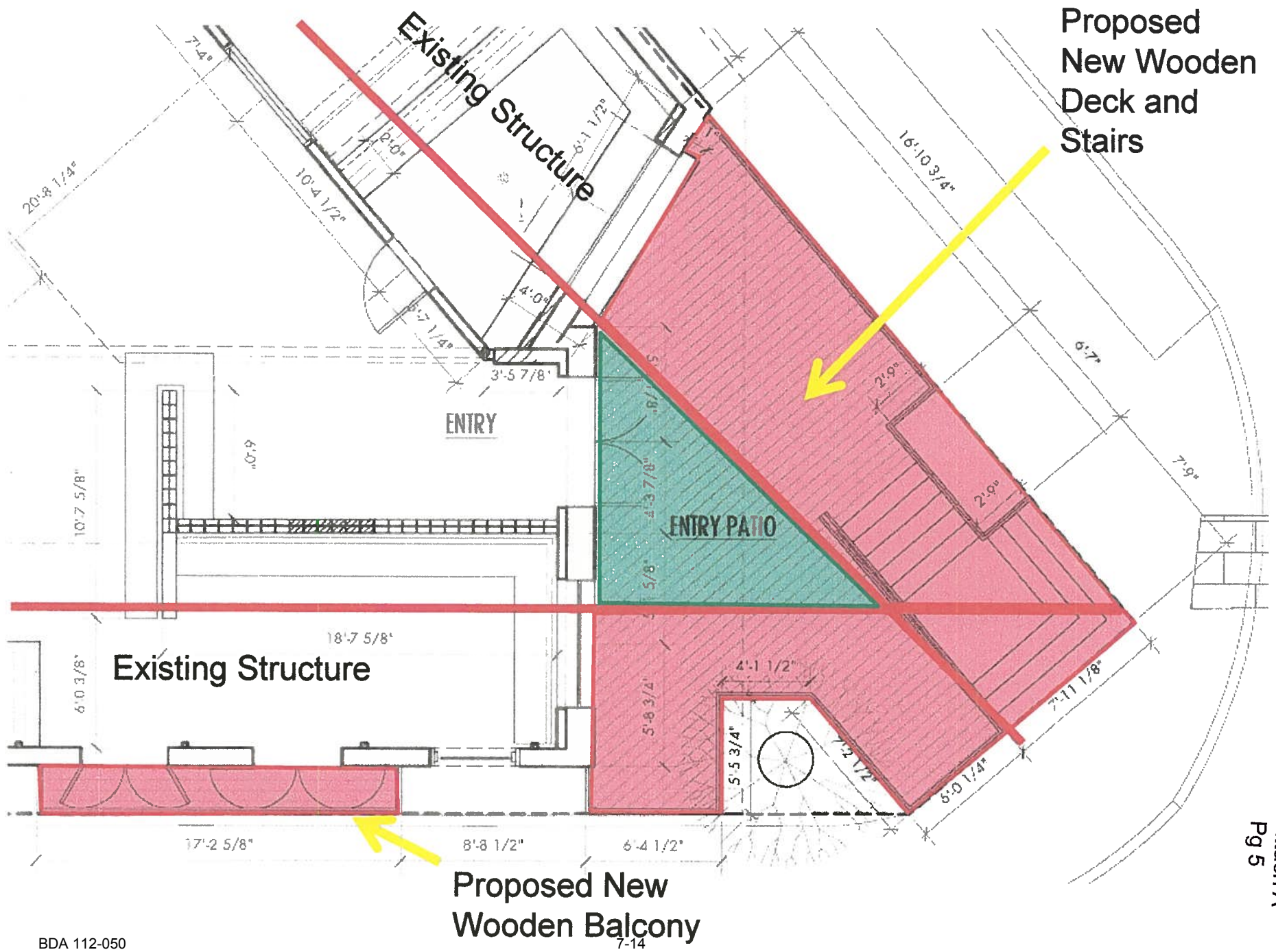
DUMPSTER

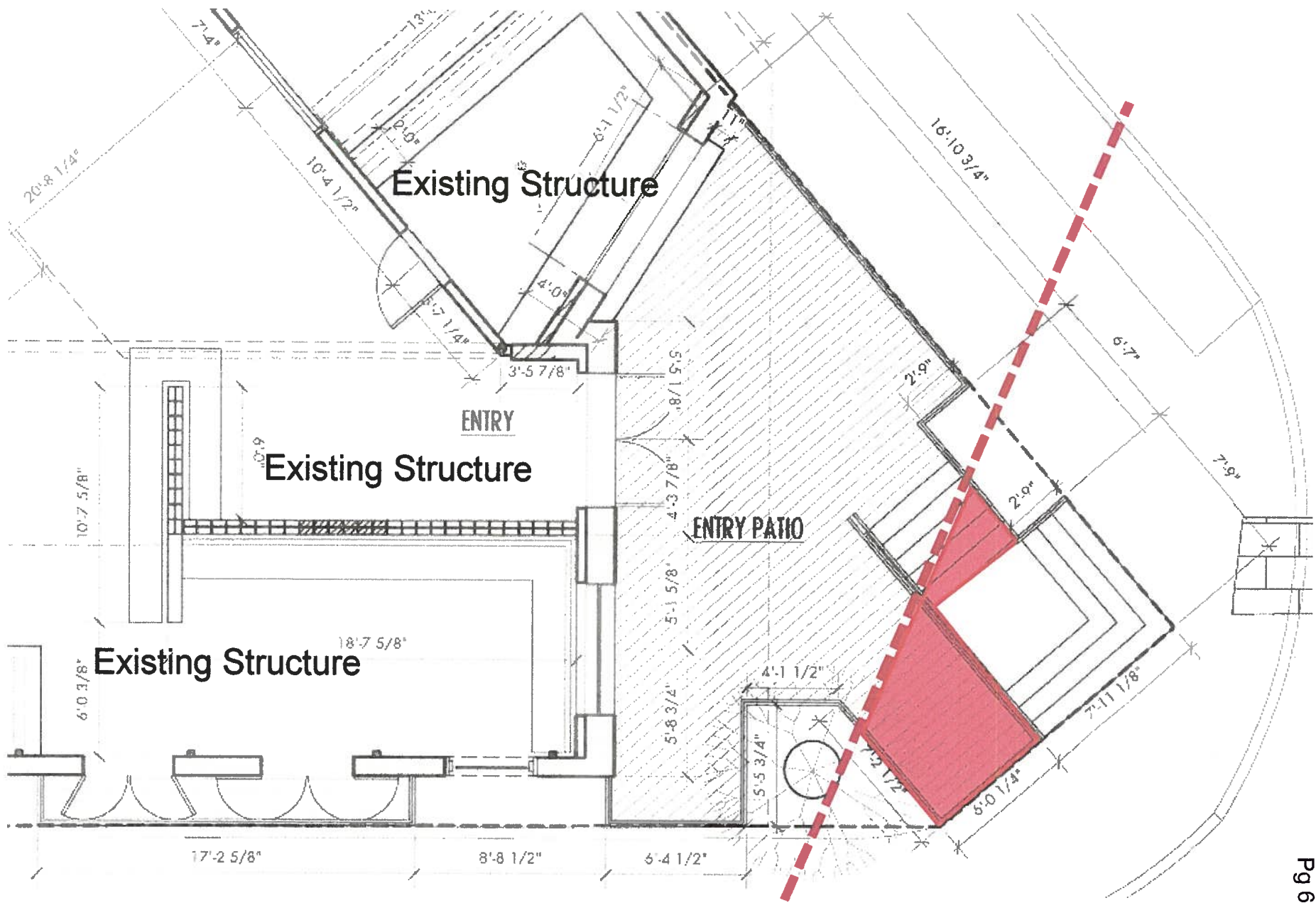
Proposed New Wooden Deck and Stairs

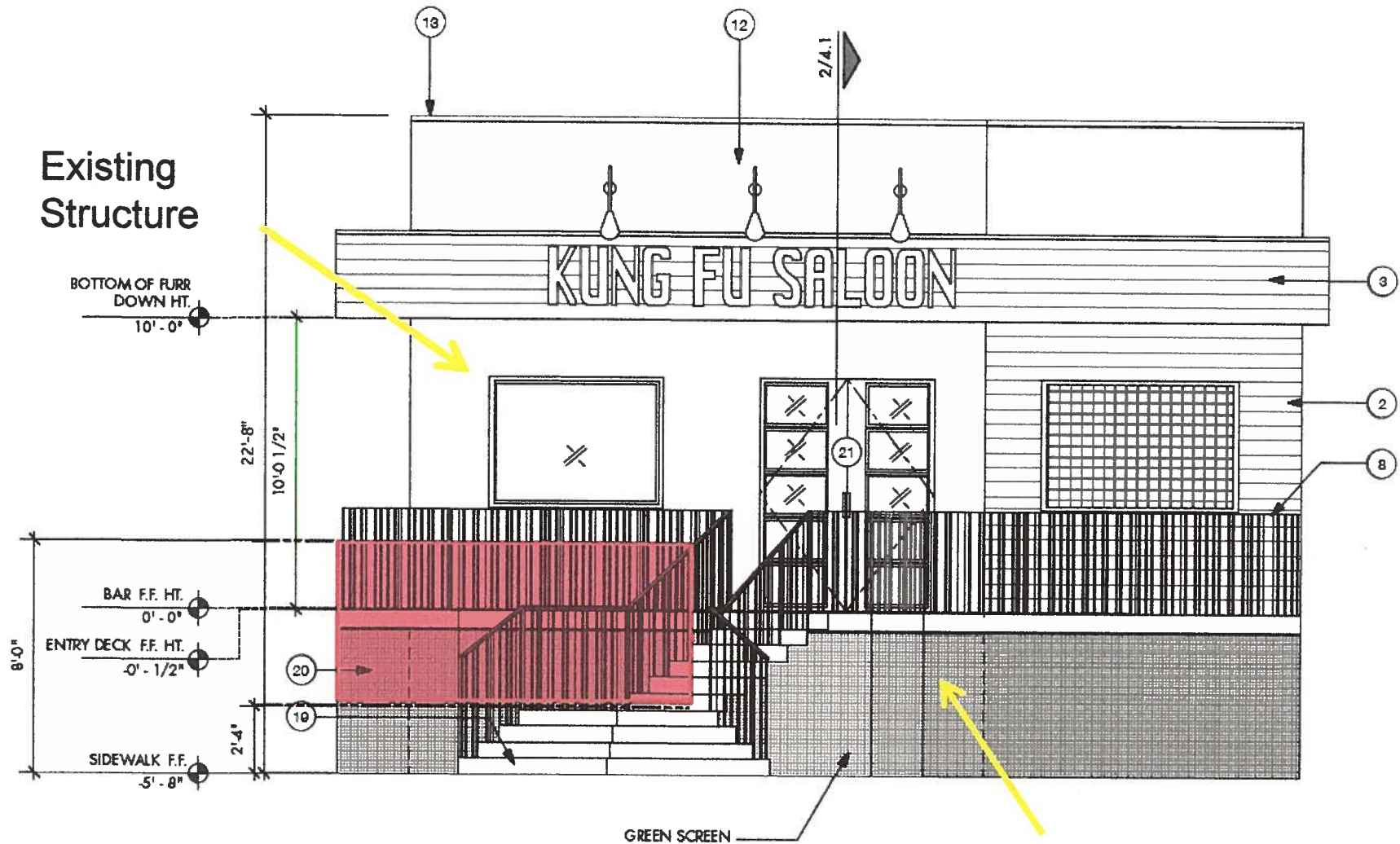
Existing Structure

Proposed New ROUTH STREET Wooden Balcony

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







Proposed New Wooden Deck and Stairs



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-050

Data Relative to Subject Property:

Date: 3-26-12

Location address: 2911 Routh Zoning District: PDD 193 (GR)

Lot No.: 7-10 Block No.: 952 Acreage: .1656 acres Census Tract: 42.01

Street Frontage (in Feet): 1) 268.0' 2) 215' 3) na 4) na 5) na

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Greenway-Cedar Springs LP

Applicant: Santos T. Martinez Telephone: _____

Mailing Address: 2808 Fairmount Suite 100 Zip Code: 75201

Represented by: Masterplan Telephone: 214-761-9197

Mailing Address: 900 Jackson #640 Zip Code: 75202

Affirm that a request has been made for a Variance X or Special Exception , of 10 (ten) feet to the required front yard setback; variance to the visibility obstruction regulations.

Application is now made to the Honorable Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described request for the following reason: Property was developed prior to 1965 when there was no required front yard setback. The applicant seeks to demolish existing concrete patio and steps at the entrance and replace it with a wooden patio and steps into the building. The property is a triangle shaped and most of the existing structure is within the required front yard setback. The triangular shape of the property creates substantial hardship for the redevelopment of the property. Due to the triangular shape, there are portions of the new patio that would encroach into the required visibility triangle.

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

Respectfully submitted: Santos T. Martinez
Applicant's name printed

[Signature]
Applicant's signature

Affidavit

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

[Signature]
Affiant (Applicant's signature)

Subscribed and sworn to before me this 26 day of March, 2012



Carol Ann Laquey
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 **SANTOS MARTINEZ**

did submit a request for a variance to the front yard setback regulations, and for a special exception to the visibility obstruction regulations

at 2911 Routh Street

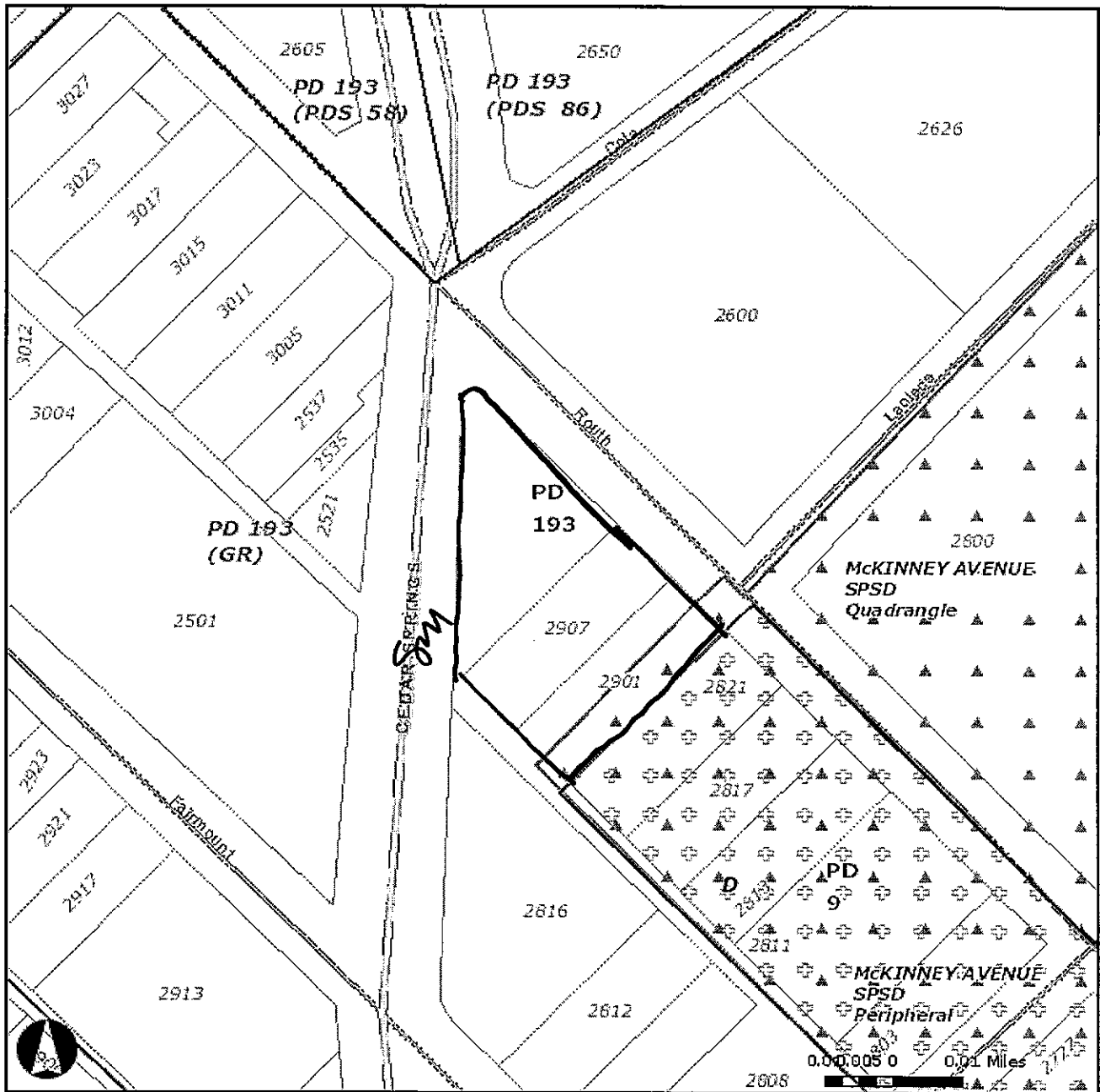
BDA112-050. Application of Santos Martinez for a variance to the front yard setback regulations and a special exception to the visibility obstruction regulations at 2911 Routh Street. This property is more fully described as lots 7-10 in city block 952 and is zoned PD-193(GR), which requires a 45 foot visibility triangle at street intersections and requires a front yard setback of 10 feet. The applicant proposes to construct and maintain a nonresidential structure and provide a 0 foot front yard setback, which will require a 10 foot variance to the front yard setback regulation, and to construct and maintain a nonresidential structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

Sincerely,


Lloyd Denman, Building Official



City of Dallas Zoning



City Boundaries

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

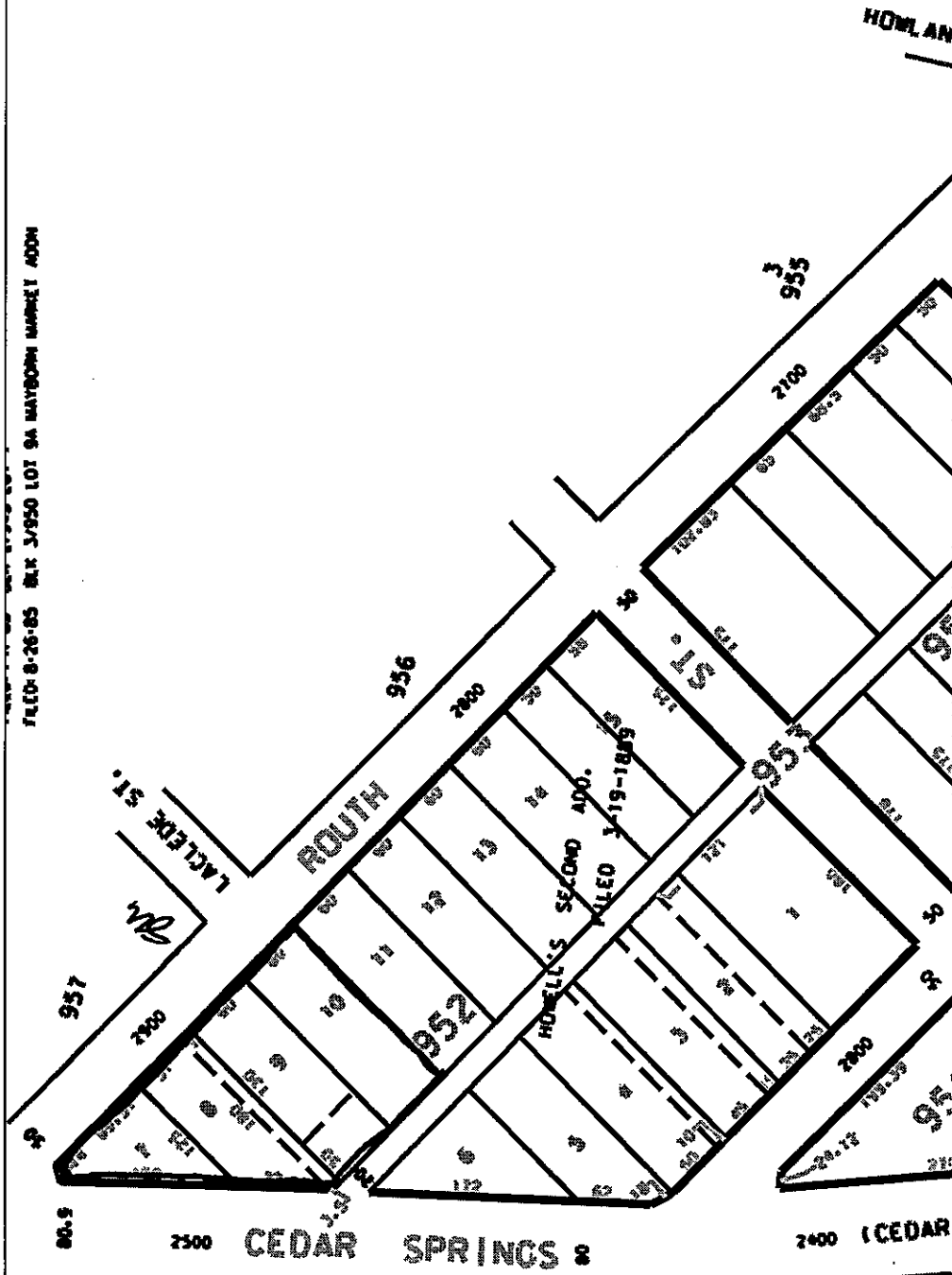
Dry Overlay

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

Base Zoning

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

FILED 8-26-85 BK 1 3/950 LOT 94 MATBORO MARKET ADDN



80.9

2500

CEDAR SPRINGS

2400 (CEDAR

11
946

7

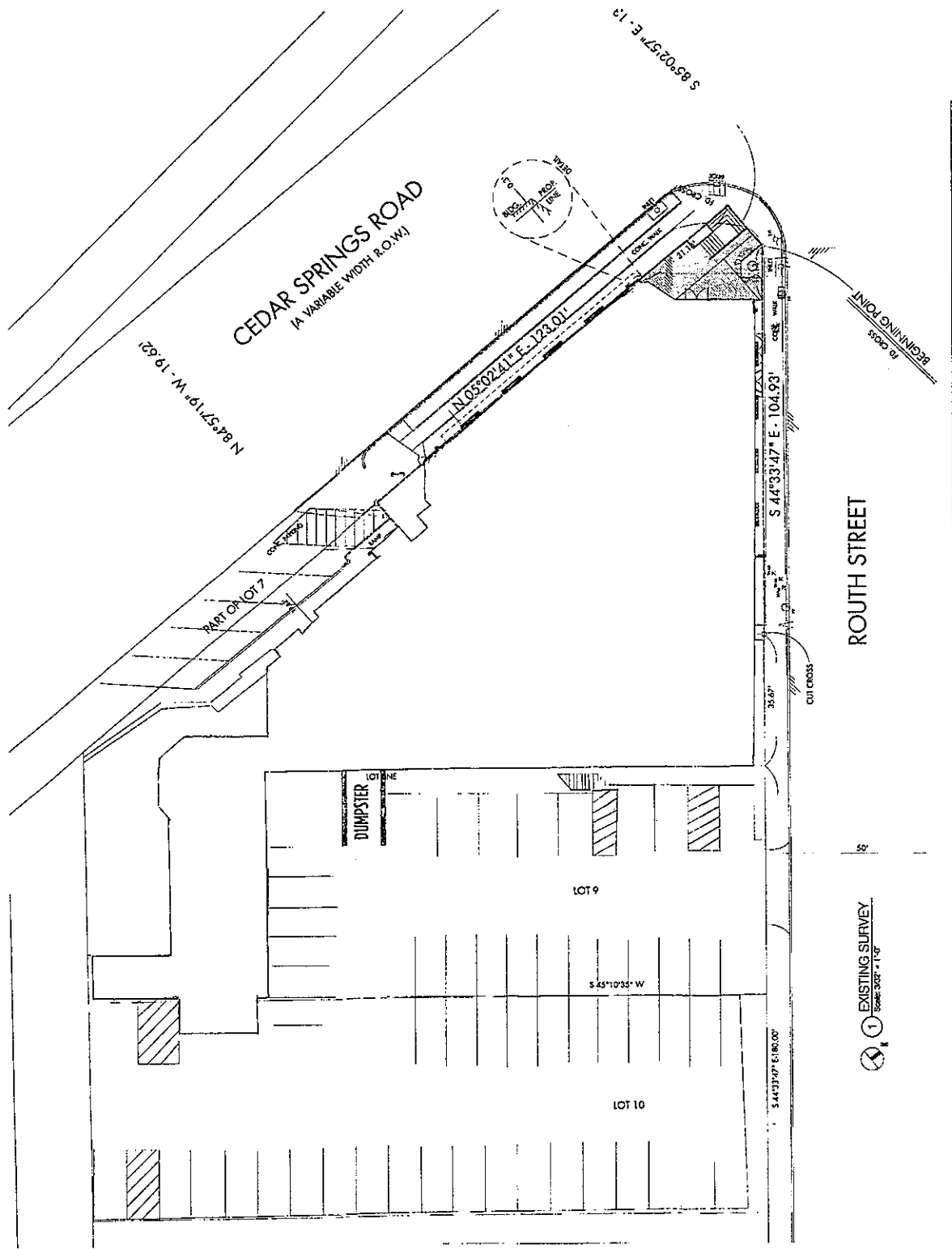
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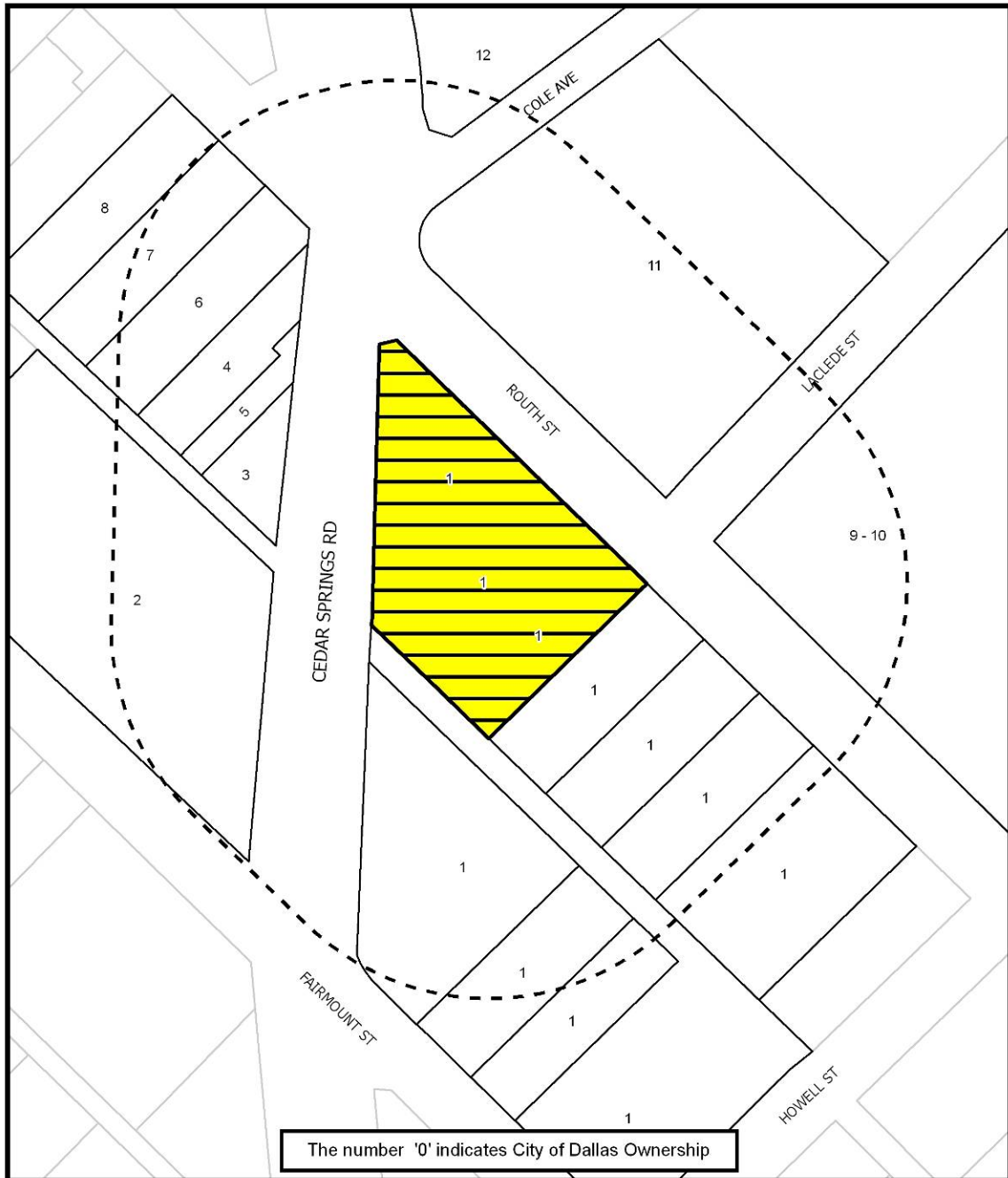
CHICCO

2423 goodman road, building A, suite 202, irving, tx 75038
714.232.0500

KUNG FU SALOON/DALLAS
2911 Routh St.
Dallas, TX 75201

Survey No.	
Project No.	
Client	
Date	
Scale	
Author	
Checker	
Reviewer	
Approved	





 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;">12</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	12	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: BDA112-050 Date: 4/26/2012
200'	AREA OF NOTIFICATION					
12	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA112-050

12 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	2812 FAIRMOUNT ST	GREENWAY CEDAR SPRINGS LP SUITE 100
2	2501 CEDAR SPRINGS RD	JEFFERSON AT PRESTON LTD
3	2521 CEDAR SPRINGS RD	THORNTON LAURIE L & LOUISE SPURGEON FAMI
4	2537 CEDAR SPRINGS RD	SPURGIN ROBERT B & SALLY THORNTON LAURIE
5	2535 CEDAR SPRINGS RD	SPURGIN ROBERT B
6	3005 ROUTH ST	JEH FAMILY TRUST
7	3011 ROUTH ST	BROWN REALTY COMPANY
8	3015 ROUTH ST	BROWN REALTY COMPANY
9	2800 ROUTH ST	CLOVER QUADRANGLE CORP % AMERICAN REALTY
10	2800 ROUTH ST	THEATRE THREE INC %CLEVELAND CLINTON
11	2600 COLE AVE	GABLES REALTY LTD PS
12	2650 CEDAR SPRINGS RD	LG VILLA ROSA II LP STE #1220