

ZONING BOARD OF ADJUSTMENT, PANEL C
MONDAY, APRIL 16, 2012
AGENDA

BRIEFING	5ES	11:30 A.M.
LUNCH		
PUBLIC HEARING	COUNCIL CHAMBERS, 1500 MARILLA STREET	1:00 P.M.

David Cossum, Assistant Director
Steve Long, Board Administrator

MISCELLANEOUS ITEM

Approval of the Monday, March 19, 2012 Board of Adjustment Public Hearing Minutes	M1
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UNCONTESTED CASES

BDA 112-039	10757 Lennox Lane REQUEST: Application of Pithou Nuth for a special exception to the fence height regulations	1
BDA 112-042	5322 Walnut Hill Lane REQUEST: Application of Mark Molthan for special exceptions to the fence height and visual obstruction regulations	2
BDA 112-043	5414 Walnut Hill Lane REQUEST: Application of Mark Molthan for a special exception to the fence height regulations	3
BDA 112-044	5404 Walnut Hill Lane REQUEST: Application of Mark Molthan for a special exception to the fence height regulations	4

EXECUTIVE SESSION NOTICE

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

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

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel C March 19, 2012 public hearing minutes.

FILE NUMBER: BDA 112-039

BUILDING OFFICIAL'S REPORT:

Application of Pithou Nuth for a special exception to the fence height regulations at 10757 Lennox Lane. This property is more fully described as Lot 2B in City Block B/5534 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain a 7 foot high fence in a required front yard, which will require a special exception of 3 feet.

LOCATION: 10757 Lennox Lane

APPLICANT: Pithou Nuth

REQUEST:

- A special exception to the fence height regulations of 3' is requested in conjunction with constructing and maintaining an approximately 6' 1" high solid stucco wall with 7' high stucco columns in the site's Royal Lane 40' front yard setback on a site that is developed with a single family home. (No part of this application is made to construct and/or maintain a fence higher than 4' in the site's Lennox Lane front yard setback).

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 R-1ac (A) with two street frontages of unequal distance. The site is located at the southwest corner of Royal Lane and Lennox Lane. Even though the Lennox Lane frontage of the subject site appears to function as its front yard and the Royal Lane frontage appears to function as its side yard, the subject site has two 40' front yard setbacks along both streets. The site has a 40' front yard setback along Royal Lane (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 40' front yard setback along Lennox Lane (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 Lennox Lane frontage is deemed a front yard to maintain the continuity of the established front yard setback along this street for the lot immediately south that fronts eastward and has a front yard setback along Lennox Lane.

- 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 a scaled site plan indicating a "new stucco wall" in the site's Royal Lane front yard setback and an elevation that shows the wall in the required Royal Lane front yard setback reaching a maximum height of 7'- in this case the 7' maximum height being columns with is slightly higher than the denoted 6' ³/₄" high solid stucco wall.

- The following additional information was gleaned from the submitted site plan:
 - Approximately 165' in length parallel to Royal Lane and approximately 35' in length perpendicular on the west side of the site in the front yard setback.
 - Approximately 5' from the Royal Lane front property line and approximately 10' from the pavement line.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA 94-126, Property at 10757 Lennox Lane (the subject site)

On October 25, 1994, the Board of Adjustment granted a request for a special exception to the fence height regulations to maintain a 7' fence on the site with the following conditions: the fence must be setback a minimum of 10 feet from the property line; the fence must of an acceptable open metal material and the fence must not exceed 6' in height; columns

2. BDA 978-231, Property at 10757 Lennox Lane (the subject site)

of metal or solid materials not exceeding 7' in height; and a landscape plan approved by his Board (landscaping in front of fence between the fence and the property line).

On October 19, 1998, the Board of Adjustment Panel C denied requests for special exceptions to the fence height and visual obstruction regulations without prejudice. The case report stated that the requests were made to construct and maintain an 8' high solid masonry wall in the front yard setback and in the 45' visibility triangle at Royal Lane and Lennox Lane.

3. BDA 045-172, Property at 4610 Royal Lane (the lot immediately east of the subject site)

On May 18, 2005, the Board of Adjustment Panel B granted a request for a special exception to the fence height regulations of 7' imposing the following condition: Compliance with the newly submitted "Preliminary Concept Plan/Site Plan and Elevation" dated May 18, 2005 is required. The case report stated that the request was made in conjunction with constructing a wall in the 40' Royal Lane front yard setback on a site developed with a single family home.

4. BDA 88-119, Property at 4707 Royal Lane (the lot immediately northeast of the subject site)

On November 8, 1988, the Board of Adjustment granted a request for a special exception to the fence height regulations to maintain a 6' 10" open metal fence with brick columns subject to compliance with a site plan and landscape plan.

Timeline:

February 22, 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 assigned this case to Board of Adjustment Panel C. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."

March 21, 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 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.

April 3, 2012:

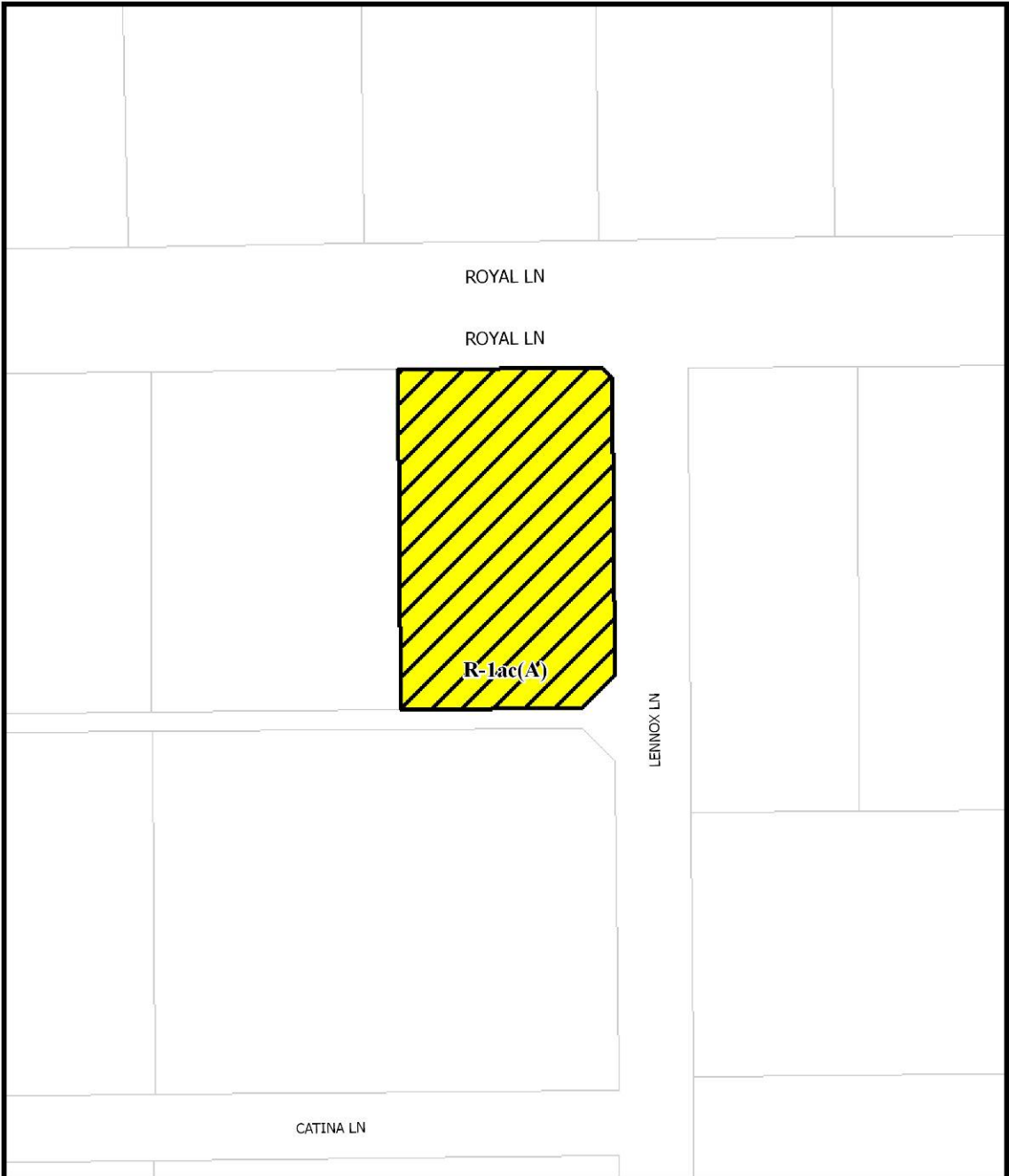
The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development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

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

STAFF ANALYSIS:

- This request focuses on constructing and maintaining an approximately 6' 1" high solid stucco wall with 7' high stucco columns in the site's Royal Lane 40' front yard setback on a site that is developed with a single family home.
- The submitted site plan and elevation documents the location, height, and materials of the fence over 4' in height in the required front yard. The site plan shows the proposal to be approximately 165' in length parallel to Royal Lane and approximately 35' in length *perpendicular* on the west side of the site in the required front yard; and to be located approximately on the front property line or about 10' from the pavement line.
- Two single family homes "front" to the proposed fence/wall, one of which has an existing approximately 7' high open metal fence behind significant landscaping that appears to be a result of an approved fence height special exception in 1988: BDA 88-119.
- The Board Administrator conducted a field visit of the site and surrounding area (approximately 500 feet east and west of the subject site) and noted one other fence above four (4) feet high immediately east of the subject site – an approximately 7' high combination open iron fence/solid stucco base fence/wall that appears to be a result of an approved fence height special exception in 2005: BDA 045-172.
- As of April 9, 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 exception to the fence height regulations (whereby the proposal that would reach 7' in height) will not adversely affect neighboring property.

- Granting this special exception of 3' with a condition imposed that the applicant complies with the submitted site plan and elevation would require the proposal exceeding 4' in height in the Royal Lane front yard setback to be constructed/maintained in the location and of the heights and materials as shown on these documents.

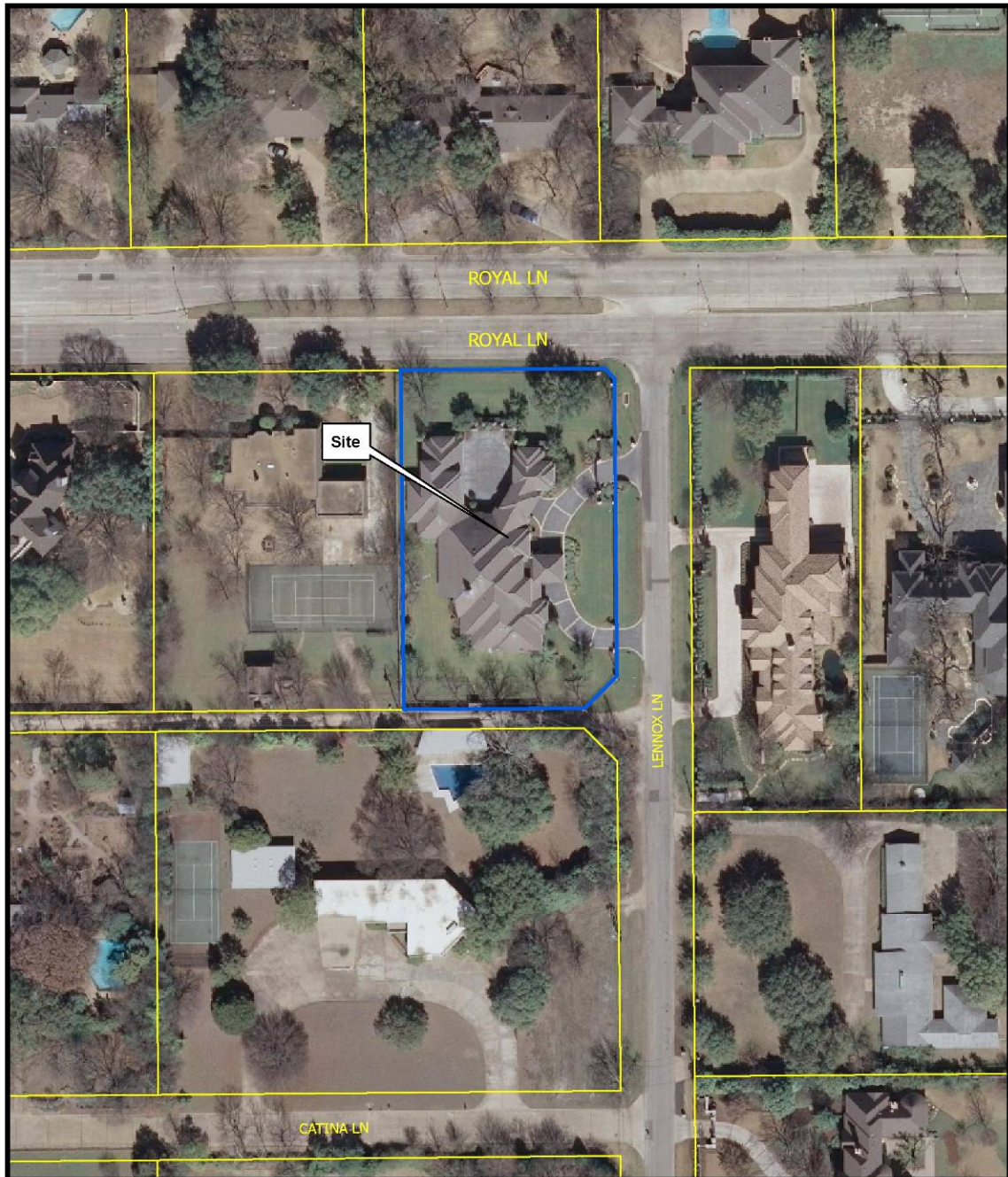


1:1,200

ZONING MAP

Case no: BDA112-039

Date: 3/30/2012



1:1,200

AERIAL MAP

Case no: BDA112-039

Date: 3/30/2012



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-039

Data Relative to Subject Property:

Date: 2-22-12

Location address: 10757 LENNOX LN

Zoning District: R-1AC(A)

Lot No.: 2B Block No.: B/5534 Acreage: 1.0

Census Tract: 76.01

Street Frontage (in Feet): 1) 225' 2) 158' 3) _____ 4) _____ 5) _____ NE 2A

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): PITHOU AND SINNA NUTH

Applicant: PITHOU NUTH Telephone: 972-741-3385

Mailing Address: 10757 LENNOX LN, DALLAS Zip Code: 75229

E-mail Address: NUTH@FLASH-NET

Represented by: PITHOU NUTH Telephone: 972-741-3385

Mailing Address: 10757 LENNOX LN, DALLAS Zip Code: 75229

E-mail Address: NUTH@FLASH-NET

Affirm that an appeal has been made for a Variance __, or Special Exception , of ERECT A NEW FENCE AND REQUESTING A HEIGHT FROM 4 FT TO 7 FT. A SPECIAL EXCEPTION OF 3 FT.

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:

A NEW FENCE WILL ENHANCE AND BEAUTIFY CURB APPEAL ALONG ROYAL LN. IT WILL ALSO CONFORM THIS PROPERTY TO OTHER PROPERTIES THAT CURRENTLY HAVE TALL FENCES IN THIS NEIGHBORHOOD.

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 PITHOU NUTH (Affiant/Applicant's name printed)

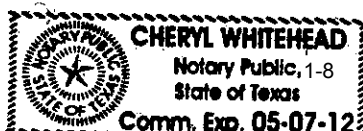
who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

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

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

(Rev. 08-01-11)

BDA 112-039



Cheryl Whitehead 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

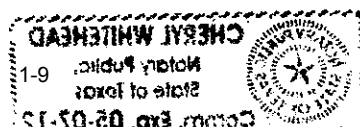
I hereby certify that Pithou Nuth

did submit a request for a special exception to the fence height regulations
at 10757 Lennox Lane

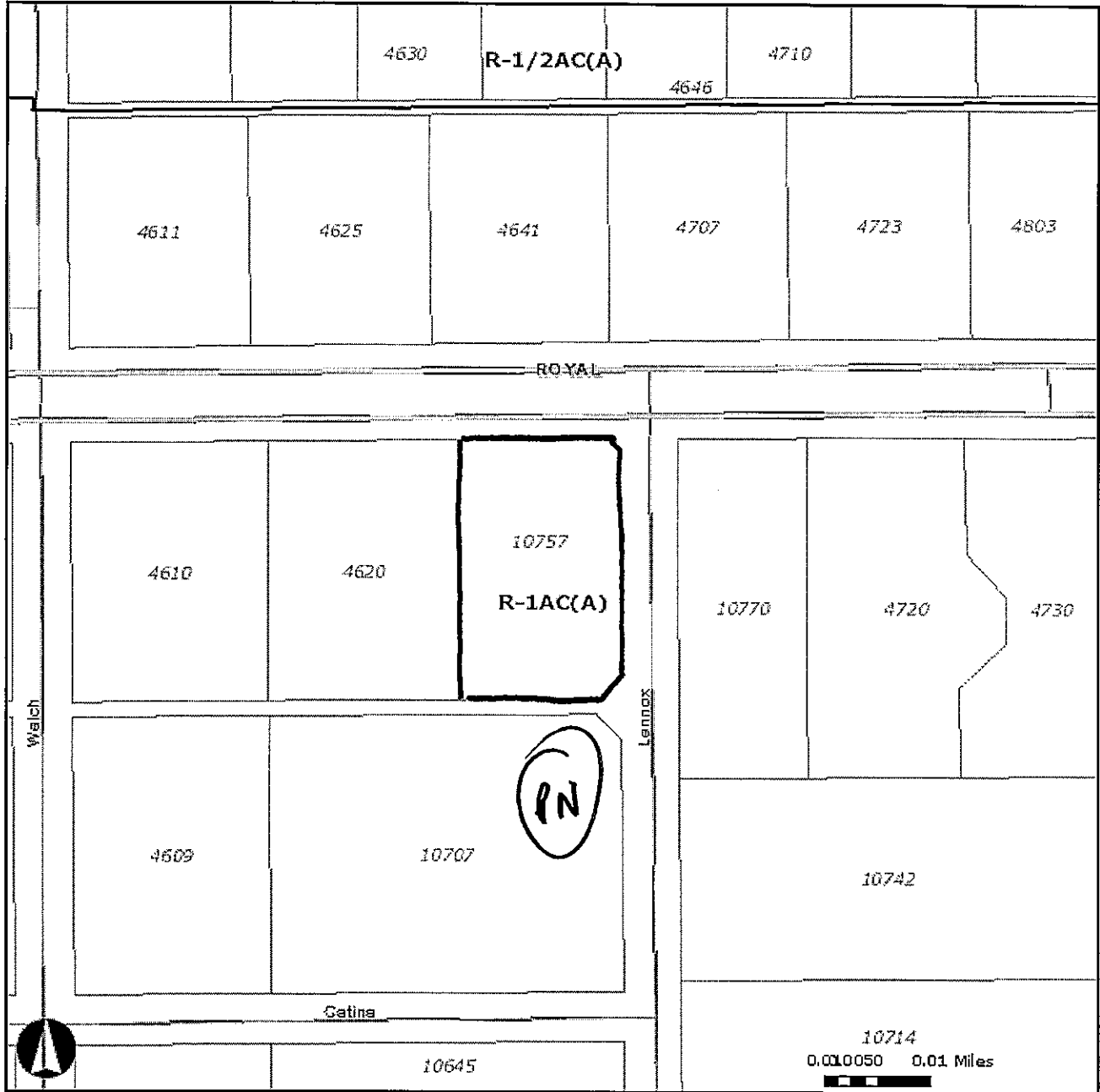
BDA112-039. Application of Pithou Nuth for a special exception to the fence height regulations at 10757 Lennox Lane. This property is more fully described as lot 2B in city block B/5534 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 7 foot high fence in a required front yard, which will require a 3 foot special exception to the fence regulation.

Sincerely,


Lloyd Denman, Building Official



City of Dallas Zoning



City Boundaries

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

Dry Overlay

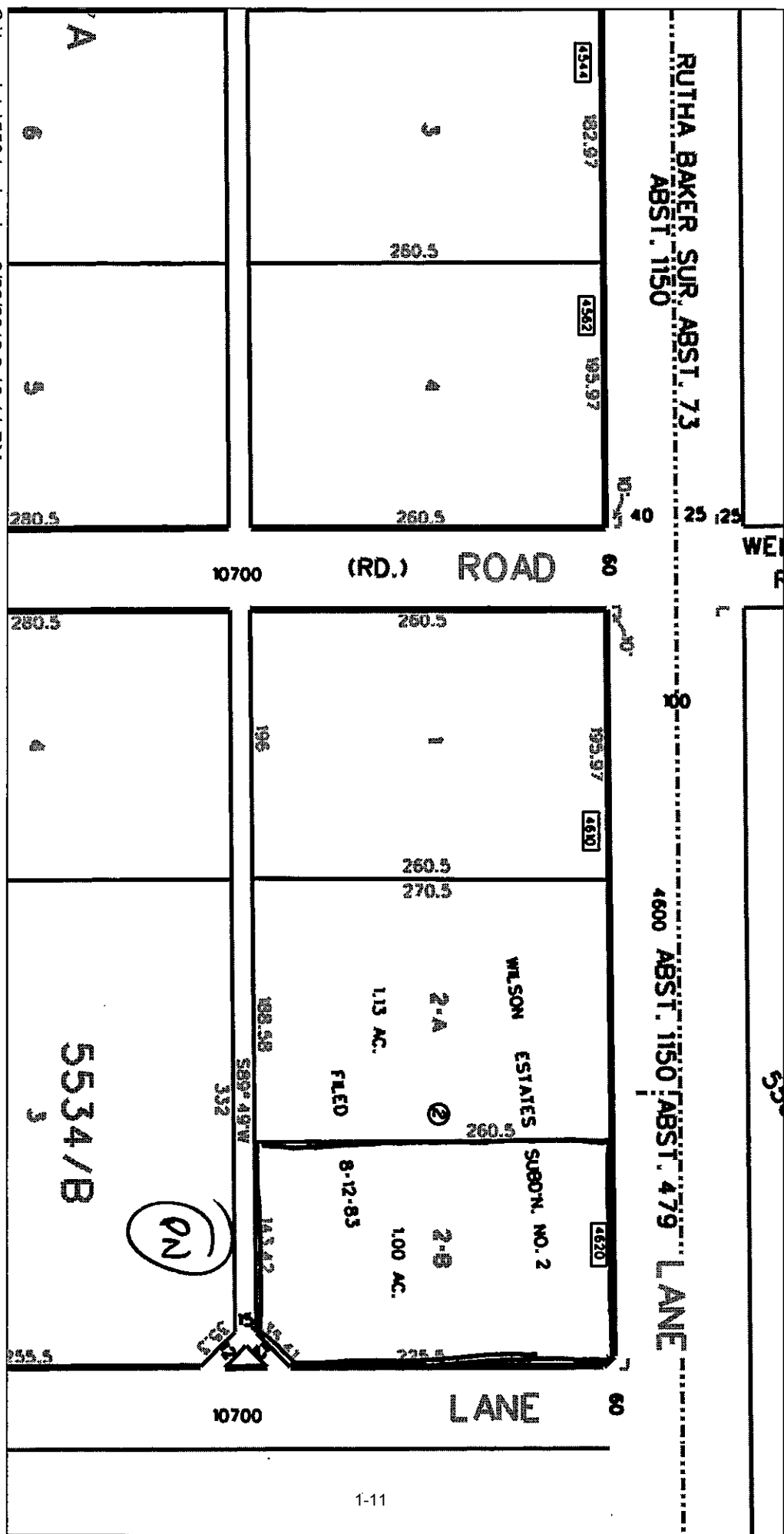
- D
- D-1
- Historic Overlay
- Historic Subdistricts
- NSO Overlay
- NSO Subdistricts
- MD Overlay

Base Zoning

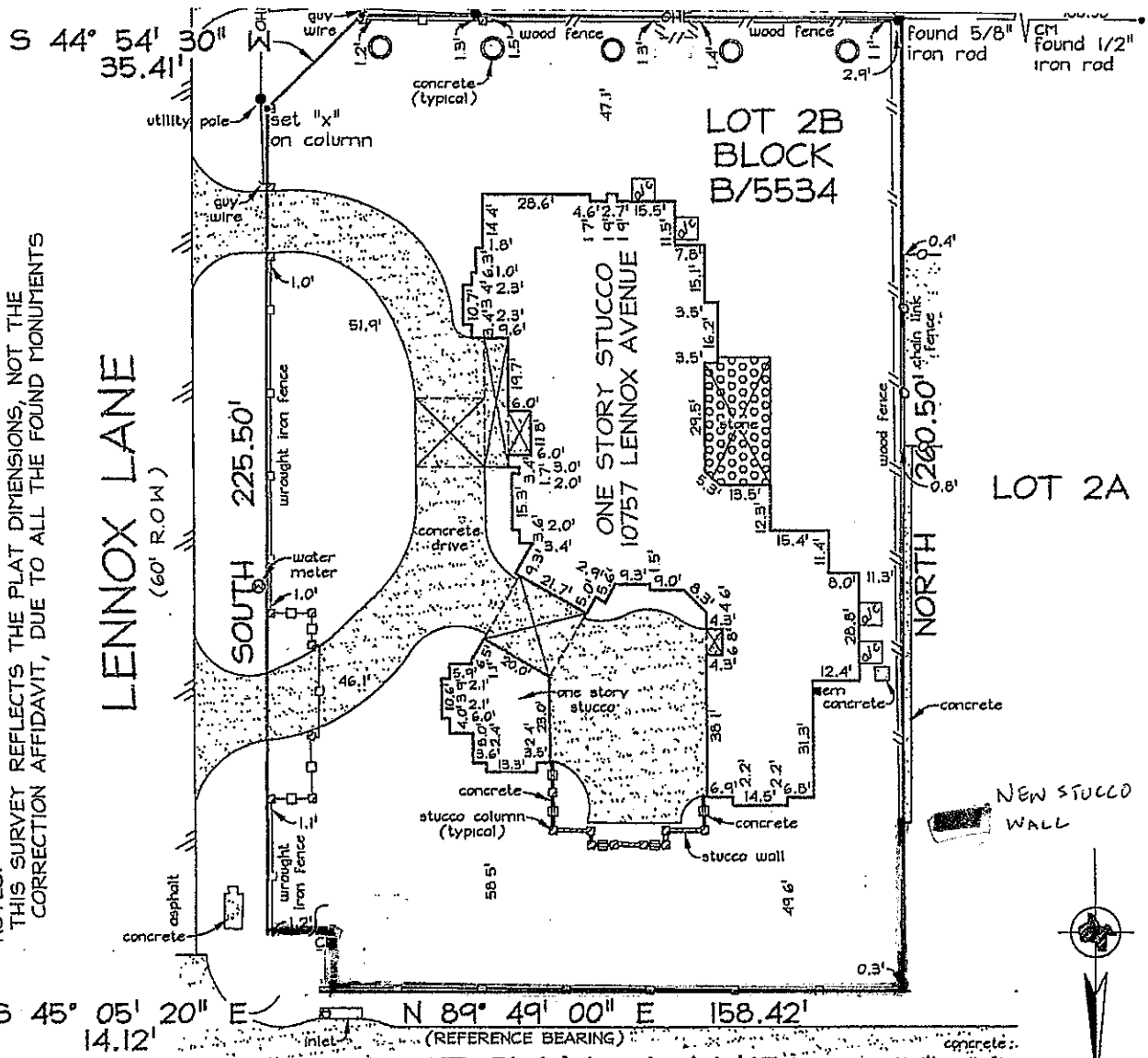
- Floodplain
- 100 Flood Zone
- Mill's Creek
- Peak's Branch
- X PROTECTED BY LEVEE
- Pedestrian Overlay
- CP
- SP
- Environmental Corridors

RUTHA BAKER SUR. ABST. 73
ABST. 1150

4600 ABST. 1150 ABST. 479 LANE

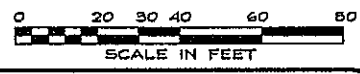


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NOTES:
THIS SURVEY REFLECTS THE PLAT DIMENSIONS, NOT THE CORRECTION AFFIDAVIT, DUE TO ALL THE FOUND MONUMENTS

NOTES:
CM = CONTROLLING MONUMENT.
BEARINGS ARE BASED ON THE RECORDED PLAT REFERENCED BELOW.
THIS SURVEY IS VALID ONLY WITH ORIGINAL SIGNATURE IN BLACK INK.



THIS IS TO DECLARE that on this date a survey was made on the ground, under my direction and supervision of the property located at 10757 LENNOX AVENUE, and Being Lot 2B, Block B/5534 of a Subdivision of Lot 2, Block B/5534, of Wilson Estates Subdivision No. 2, an addition to the City of Dallas, Dallas County, Texas, according to the map thereof recorded in Volume 83159, Page 2459, Map Records, Dallas County, Texas; together with Correction Affidavit filed September 19, 1983 and recorded in Volume 83184, Page 3658, Real Property Records, Dallas County, Texas.

There are no visible conflicts or protrusions, except as shown.

The subject property does not appear to lie within the limits of a 100-year flood hazard zone according to the map published by the Federal Emergency Management Agency, and has a Zone "X" Rating as shown by Map No. 48113C0190 J, dated AUGUST 23, 2001. The statement that the property does or does not lie within a 100-year flood zone is not to be taken as a representation that the property will or will not flood. This survey is not to be used for construction purposes and is for the exclusive use of the hereon named purchaser, mortgage company, and title company only and this survey is made pursuant to that one certain title commitment under the GF number shown hereon, provided by the title company named hereon and that on this date the easements, rights-of-way or other locatable matters of record of which the undersigned has knowledge or has been advised are as shown or noted hereon. This survey is subject to any and all covenants and restrictions of record pertaining to the recorded plat.

DATE: _____

ACCEPTED BY: _____

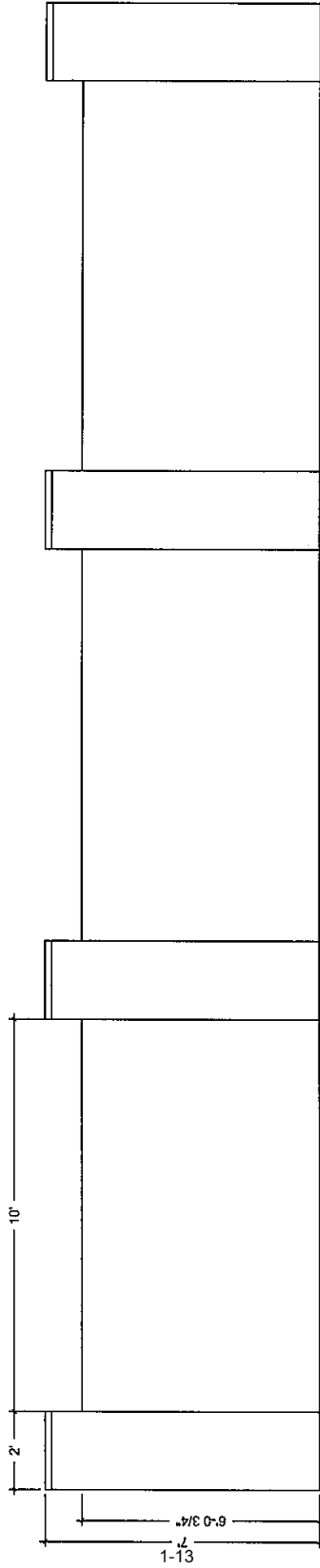


DATE: 05/10/11
FIELD DATE: 05/09/11
REVISED:

TECH: MSP FIELD: VA
JOB NO: 111-1354

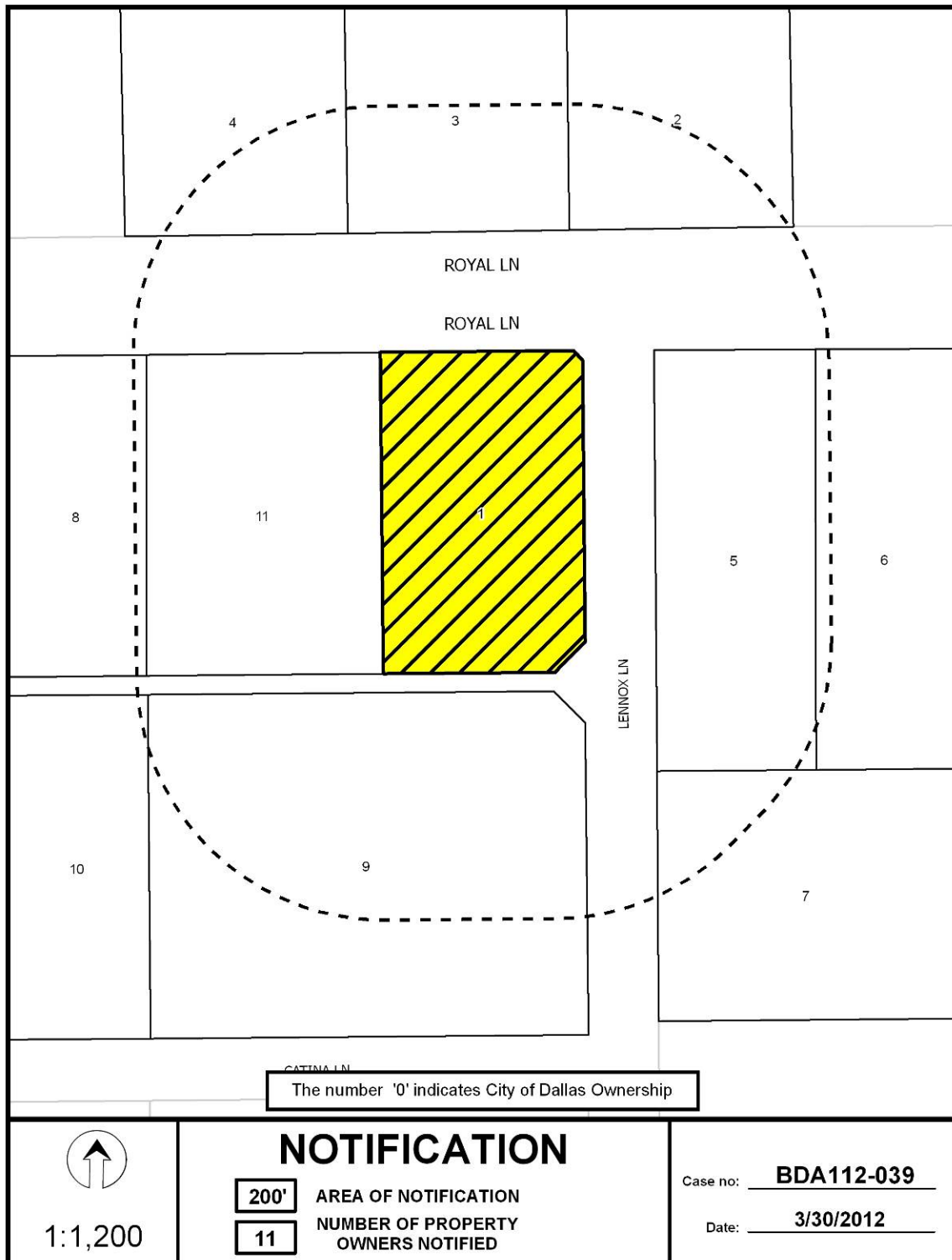
PITHOU & SINNA NUTH
10757 LENNOX LN





10757 Lennox Ln.
Stucco Wall

Scale
1/4" = 1'-0"



Notification List of Property Owners

BDA112-039

11 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	10757 LENNOX LN	NUTH PITHOU & SINNA
2	4707 ROYAL LN	SHAH DHIREN & SUSHMA
3	4641 ROYAL LN	HERNANDEZ CATHY LIV TR
4	4625 ROYAL LN	STONE SHERRILL
5	10770 LENNOX LN	KROTTINGER KERRY
6	4720 ROYAL LN	LEE OLDEN C & CAROL S
7	10742 LENNOX LN	HERSH KENNETH A SUITE 600
8	4610 ROYAL LN	BANOWSKY BAXTER W & TANYA
9	10707 LENNOX LN	SHEAR PHYLLIS M LF EST TRUSTEES
10	4609 CATINA LN	WISCHKOWSKY RICHARD W & SHANNON R
11	4620 ROYAL LN	COX BOBBIE

FILE NUMBER: BDA 112-042

BUILDING OFFICIAL'S REPORT:

Application of Mark Molthan for special exceptions to the fence height and visual obstruction regulations at 5322 Walnut Hill Lane. This property is more fully described as Lot 2 in City Block 1/5602 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and maintain an 8 foot high fence in a required front yard, which will require a 4 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: 5322 Walnut Hill Lane

APPLICANT: Mark Molthan

REQUESTS:

- The following appeals had been made in this application on a site that is being developed with a single family home:
 1. a special exception to the fence height regulations of 4' is requested in conjunction with maintaining an approximately 7' 6" high solid stone/brick wall with 8' high stone/brick columns and two 8' high wrought iron gates in the site's 40' front yard, and
 2. special exceptions to the visual obstruction regulations are requested in conjunction with maintaining portions of the aforementioned existing 7' 6" high solid stone/brick wall located in the 20' visibility triangles on either side of the western driveway into the site from Walnut Hill Lane (about 8' of length on either side of the driveway).

(Note that this application is adjacent to two other properties where the same applicant/owner seeks similar fence height special exception requests of the Board of Adjustment Panel C: BDA 112-043 and 044).

STAFF RECOMMENDATION (fence height special exception):

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

STAFF RECOMMENDATION (visual obstruction special exceptions):

Approval, subject to the following condition:

- Compliance with the submitted site plan/elevation document is required.

Rationale:

- The Sustainable Development and Construction Department Project Engineer has no objections to these requests.
- The applicant has substantiated how the location of portions of an existing 7' 6" high solid stone/brick wall located in the 20' visibility triangles on either side of the western driveway into the site from Walnut Hill Lane 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 exception):

- The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.
The applicant has submitted a scaled site plan/elevation that denotes that the proposal reaches a maximum height of 8 feet.
- The submitted site plan denotes the following regarding the proposal:
 - Approximately 175' in length parallel to the street.
 - Fence ranging from approximately 5'- 13' from the property line (or about 13' – 18' from the pavement line).
 - Gates at approximately 19' from the property line (or about 28' from the pavement line).

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).A scaled site plan/elevation document has been submitted that denotes portions of the existing 7' 6" high solid stone/brick wall located in the 20' visibility triangles on

either side of the western driveway into the site from Walnut Hill Lane (about 8' of length on either side of the driveway).

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA 067-082, Property at 5404 Walnut Hill Lane (the lot immediately east subject site) On September 17, 2007, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of 4' imposing the following condition with the request: compliance with the submitted revised site/landscape plan and revised elevation is required. The case report states that the request was made to construct a 7' 1" high solid concrete fence with 7' 8" high concrete columns about 2' – 7' from the Walnut Hill front property line.
2. BDA 112- 044, Property at 5404 Walnut Hill Lane (the lot immediately east of subject site) On April 16, 2012, the Board of Adjustment Panel C will consider requests for special exceptions to the fence height regulations made in conjunction with maintaining an approximately 7' 6" high solid stone/brick wall with 8' high stone/brick columns on a site developed with a single family home.
3. BDA 112-043, Property at 5414 Walnut Hill Lane (two lots east of the subject site) On April 16, 2012, the Board of Adjustment Panel C will consider a request for a special exception to the fence height made in conjunction with maintaining an approximately 7' 6" high solid stone/brick wall with 8' high stone/brick columns on a site developed with a single family home.
4. BDA 88-096, 5414 Walnut Hill Lane (two lots east of the subject site) On September 27, 1988, the Board of Adjustment Panel granted a request for a special exception to fence height

regulations of 1' 6", and imposed the following conditions: 1. The fence shall be constructed in accordance with the revised fence elevation plan submitted; 2. The pilasters shall be evenly spaced approximately 16 feet apart; 3. The fence shall be located at least 5 feet from the front property line, and the area between the fence and the street shall be landscaped; 4. The fence on the west property line shall be eliminated; and 5. The fence shall comply with all visibility obstruction triangles. The case report states that a request was made to construct an 8' high fence; however, the board specified in their motion that the special exception was granted to erect a fence 5' 6" high.

- 5. BDA 90-023, 9995 Hollow Way (three lots east of the subject site)

On April 10, 1990, the Board of Adjustment granted a request for a special exception to fence height regulations of 2' and imposed the following conditions to the request: submit a revised landscape plan that indicates the wall recessed and additional landscaping as provided. The case report states that the case report was made to construct a 6' high solid masonry fence in the site's Walnut Hill front yard setback.

- 6. BDA 956-193, 9930 Meadowbrook Drive (the lot immediately west of the subject site)

On May 28, 1996, the Board of Adjustment Panel B granted a request for a special exception to the fence height regulations of 3' 8" imposing the following condition with the request: compliance with the submitted revised landscape/site plan and elevation is required. The case report states that the request was made to construct and maintain an approximately 176' long, 7' 6" high solid stone wall with 8' high stone columns, and two, approximately 7' high open wrought iron gates

Timeline:

February 24, 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 assigned this case to Board of Adjustment Panel C.

- March 21, 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 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.
- 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 "Has no objections."

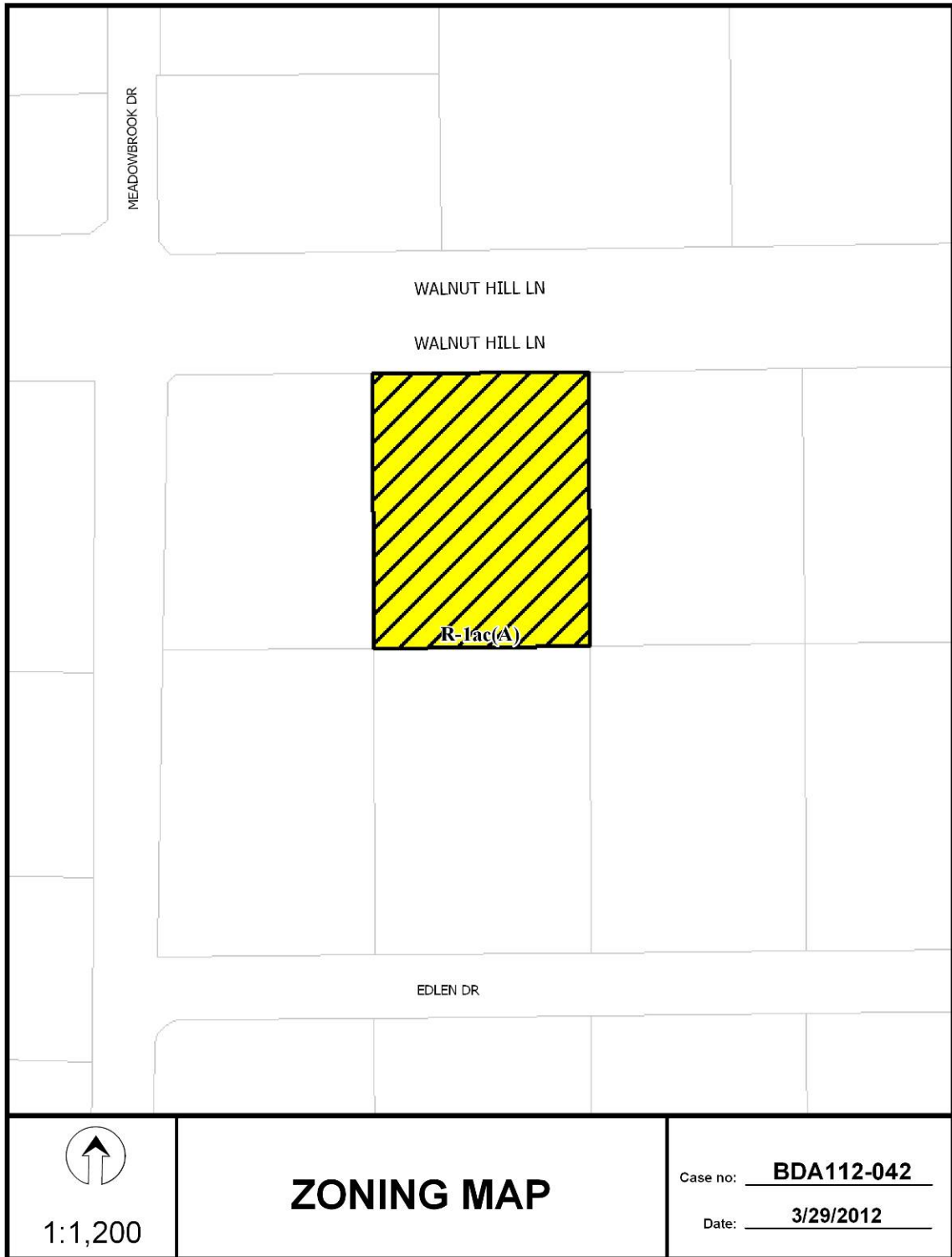
STAFF ANALYSIS (fence height special exception):

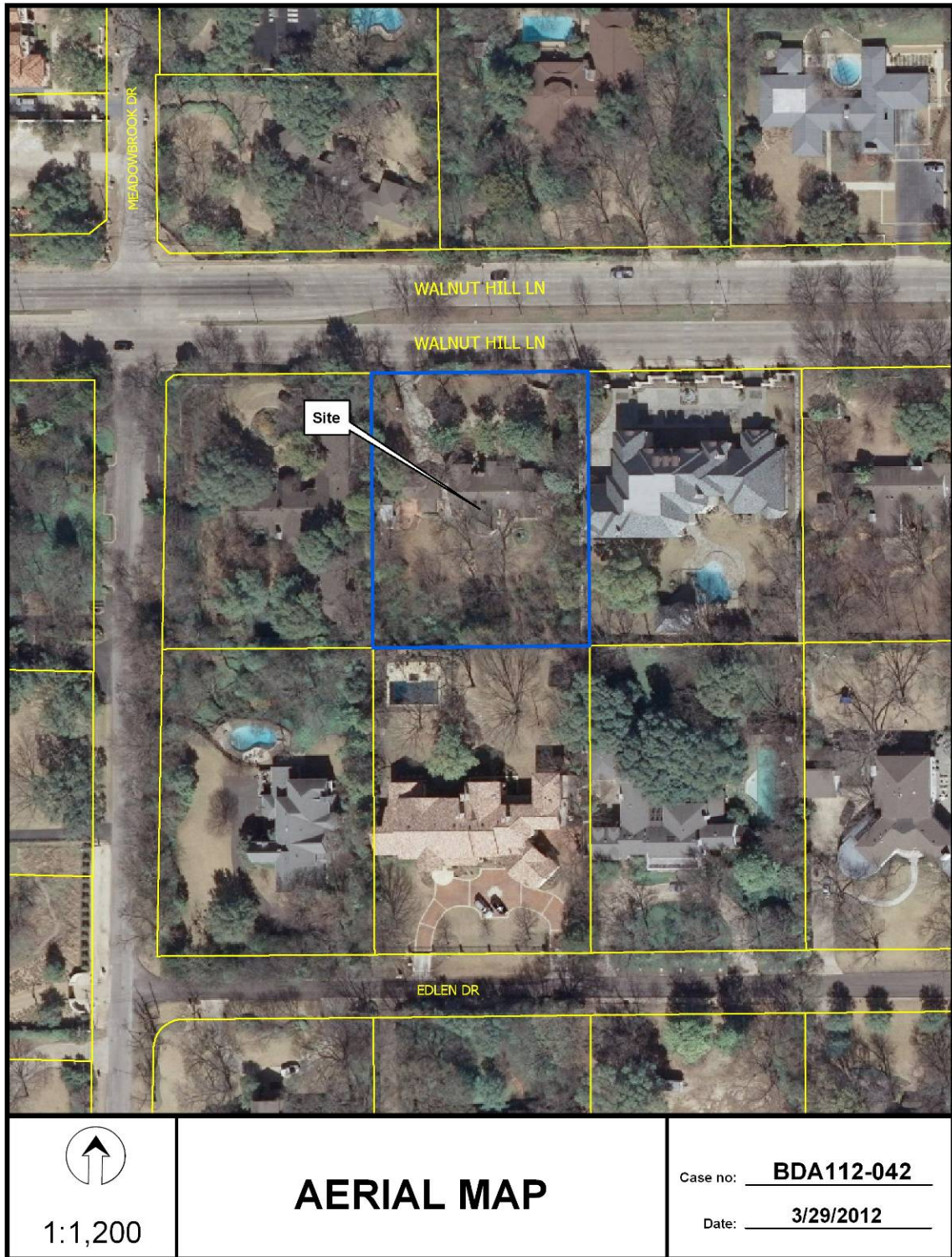
- The request focuses on maintaining an approximately 7' 6" high solid stone/brick wall with 8' high stone/brick columns and two 8' high wrought iron gates in the site's 40' front yard on a property being developed with a single family home.
- This site abuts two properties directly west where the same applicant/owner has made applications to maintain a fence of similar features than that which is on the subject site –requests for special exceptions to fence height regulations made to Board of Adjustment Panel C on April 16, 2012: BDA 112-043 and 044.
- A scaled site plan/elevation document has been submitted documenting the location of the existing fence/wall/columns/gates relative to their proximity to the front property line and pavement line, the length of the proposal relative to the entire lot, and the proposed building materials. The proposal is shown to be located approximately 5' – 13' from the property line or about 13' – 18' from the pavement line. (The gates are shown to be located about 19' from the front property line or about 28' from the pavement line). The proposal is shown to be about 175' long parallel to the street.
- There are 2 single family homes that have direct frontage to the fence/wall. These homes are located across a 6-lane divided major thoroughfare (Walnut Hill Lane) from the subject site, one of which has an approximately 6' solid fence in its front yard.

- In addition, the Board Administrator noted two other fences/walls in the immediate area above 4 feet high which appeared to be located in the front yard setback. There is an approximately 7' high solid concrete/wood fence located three lots east of the site that appears to be a result of a previous board case at this location (BDA 90-023) and an approximately 7' high solid concrete wall located west of the site that appears to be a result of a previous board case at this location (BDA 956-193).
- As of April 9, 2012, no letters had been submitted to staff in opposition or in support to the proposal.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that reaches 8' in height) does not adversely affect neighboring property.
- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted site plan/elevation document would require the proposal exceeding 4' in height in the front yard setback to be maintained in the location and of the heights and materials as shown on this document.

STAFF ANALYSIS (visual obstruction special exceptions):

- These requests focus on maintaining portions of the aforementioned existing 7' 6" high solid stone/brick wall located in the 20' visibility triangles on either side of the western driveway into the site from Walnut Hill Lane (about 8' of length on either side of the driveway).
- The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."
- The applicant has the burden of proof in establishing how granting the requests for special exceptions to the visual obstruction regulations to maintain approximately 8' lengths of existing wall in the 20' visibility triangles on either side of the western driveway into the site from Walnut Hill Lane will not constitute a traffic hazard.
- Granting these requests with a condition imposed that the applicant complies with the submitted site plan/elevation would require that the items in the 20' visibility triangles on either side of the western driveway into the site from Walnut Hill Lane to be limited to the location, height and materials of those items as shown on this document.







City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-042

Date: 2/24/12

Data Relative to Subject Property:

Location address: 5322 Walnut Hill Lane Zoning District: R-1ac(A)

Lot No.: 2 Block No.: 1/5602 Acreage: .9060 Census Tract: 75.00

Street Frontage (in Feet): 1) 176' 2) _____ 3) _____ 4) _____ 5) _____

NE2S

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Lenise Stephenson

Applicant: Mark Molthan Telephone: 214-363-6244

Mailing Address: 4347 W. Northwest Hwy., Ste.120-240 Zip Code: 75220

Represented by: Mark Molthan/Nancy Rodriguez Telephone: 214-280-1277

Mailing Address: _____ Zip Code: _____

Affirm that a request has been made for a Variance __, or Special Exception x, of 4' additional height for front yard fence & Visibility special exception for the east driveway which will only serve as an entrance.

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 additional 4' height fence will not adversely affect the neighbors of neighboring properties. ALSO the neighbors have an 8' high fence

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: Mark Molthan [Signature]
Applicant's name printed Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Mark Molthan 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 24 day of February, 2012



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

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that MARK MOLTHAN

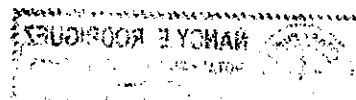
did submit a request for a special exception to the fence height regulations, and for a special exception to the visibility obstruction regulations

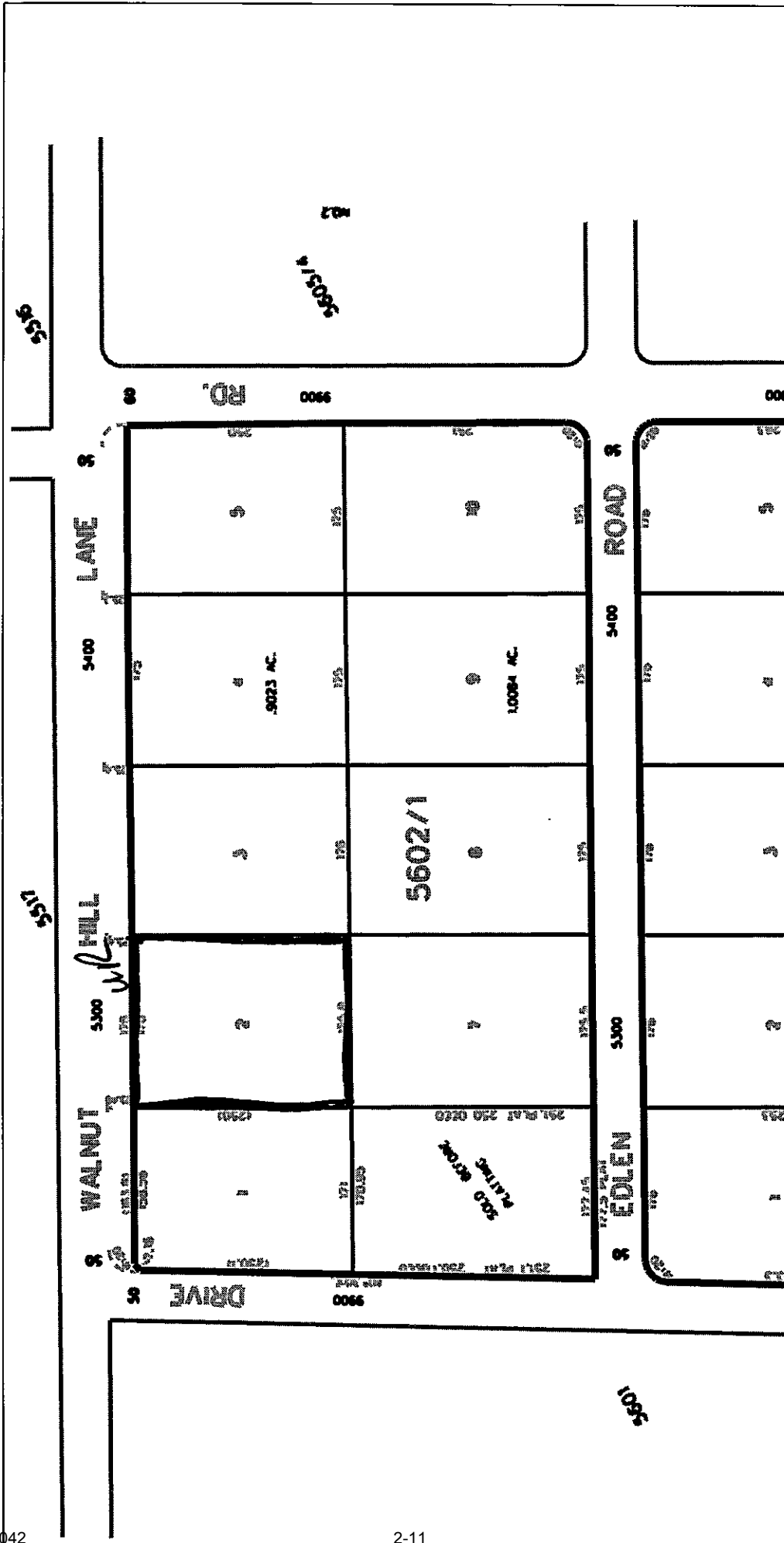
at 5322 Walnut Hill Lane

BDA112-042. Application of Mark Molthan for a special exception to the fence height regulations and a special exception to the visibility obstruction regulations at 5322 Walnut Hill Lane. This property is more fully described as lot 2 in city block 1/5602 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and maintain an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulation, and to construct and maintain a fence in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

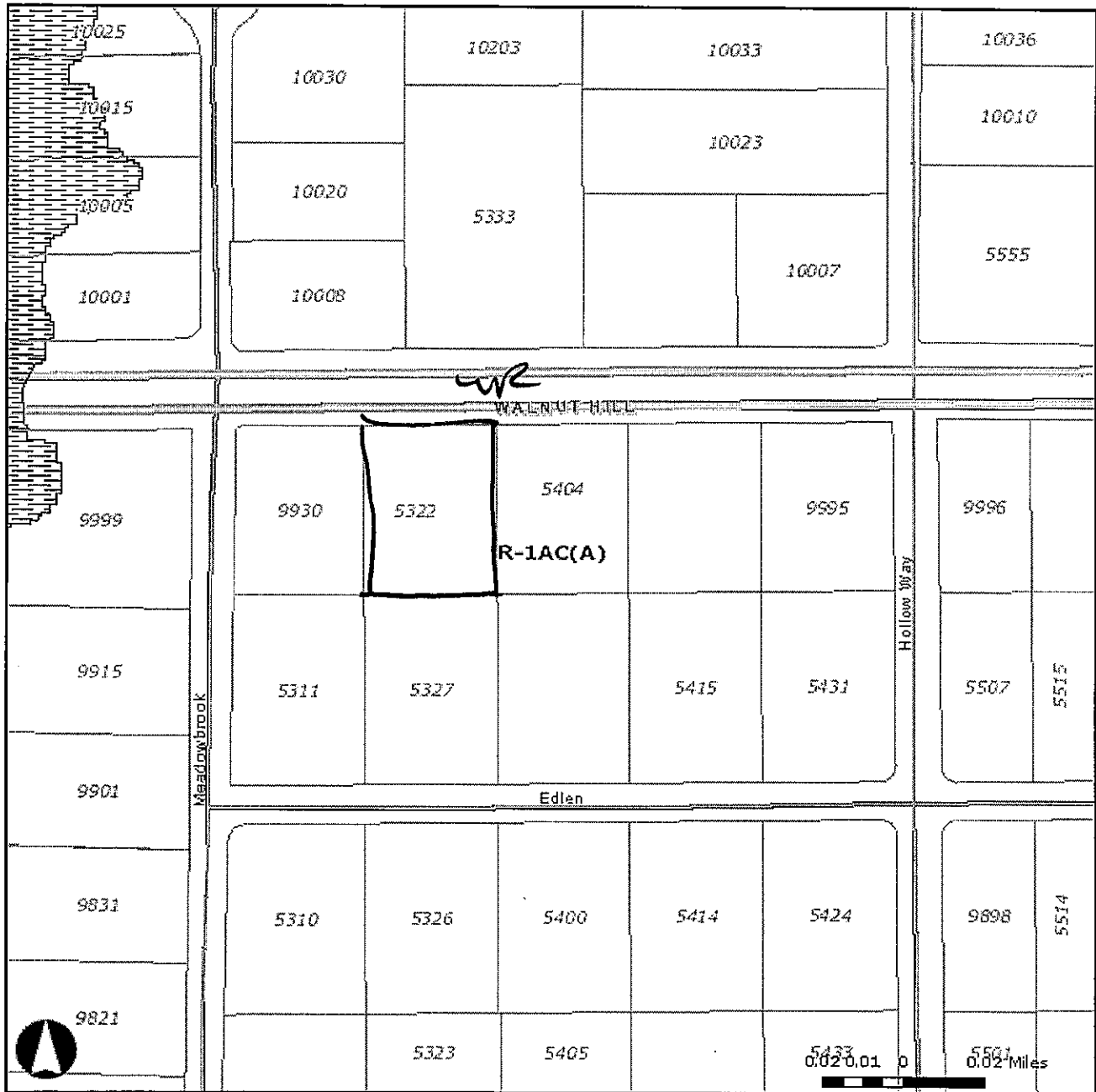
Sincerely,


Lloyd Denman, Building Official





City of Dallas Zoning



City Boundaries

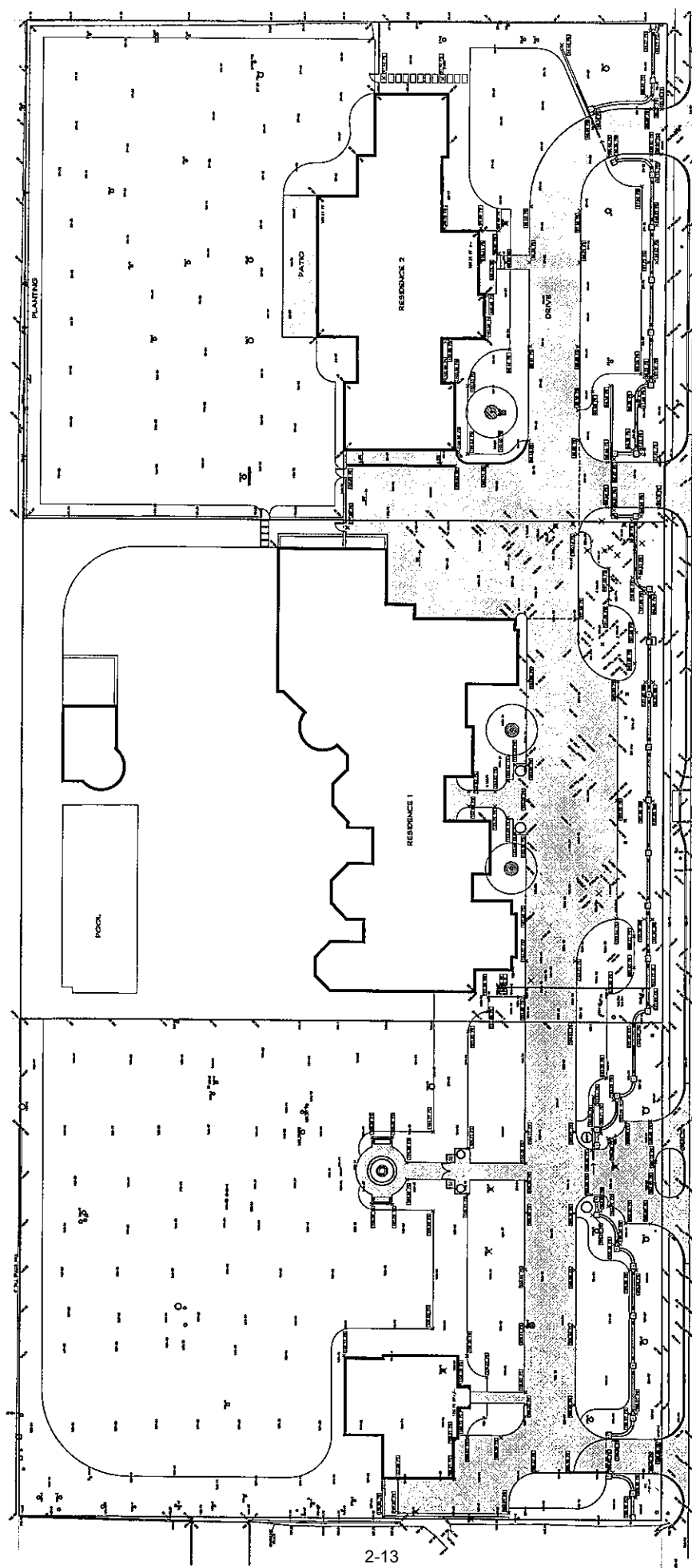
- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

Dry Overlay

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

Base Zoning

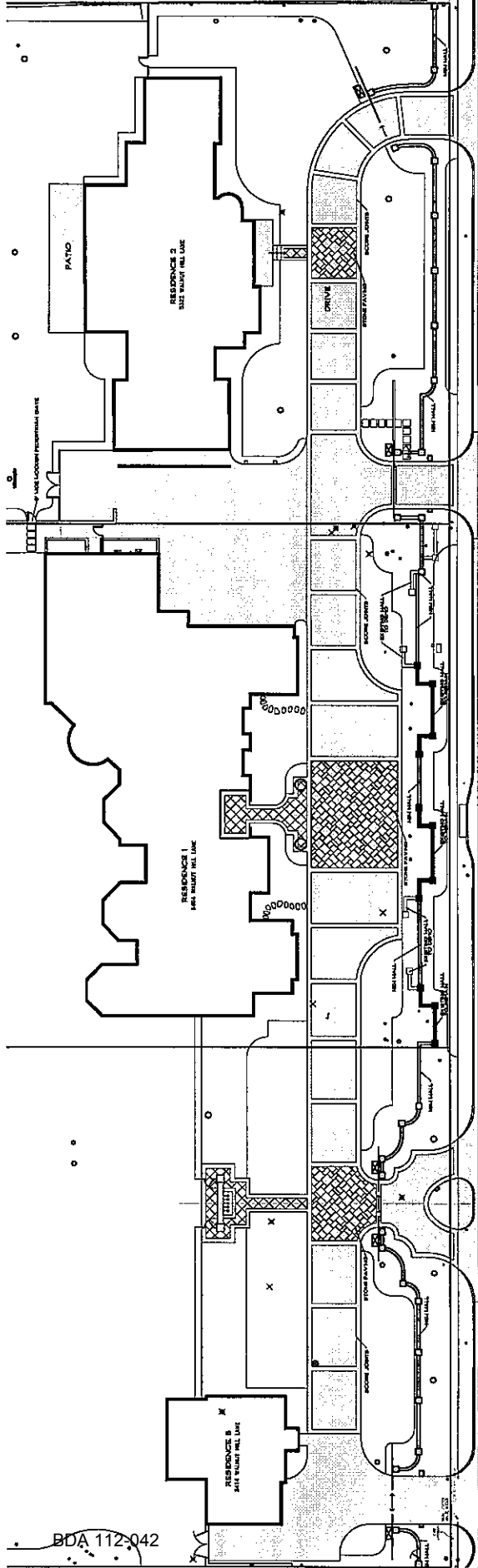
- Base Zoning
- Floodplain
- 100 Flood Zone
- Mill's Creek
- Peak's Branch
- X PROTECTED BY LEVEE
- Pedestrian Overlay
- CP
- SP
- Environmental Corridors



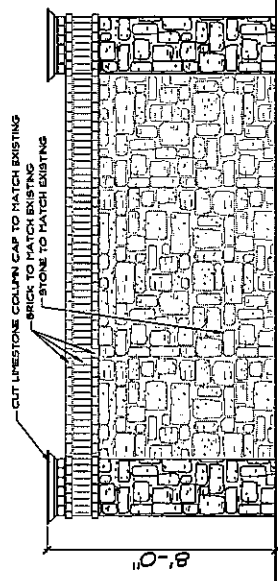
THE STEPHENSON RESIDENCE
SCALE: 1/16" = 1'-0" 10-16-11



DATE:	
SCALE:	
PROJECT:	
CLIENT:	

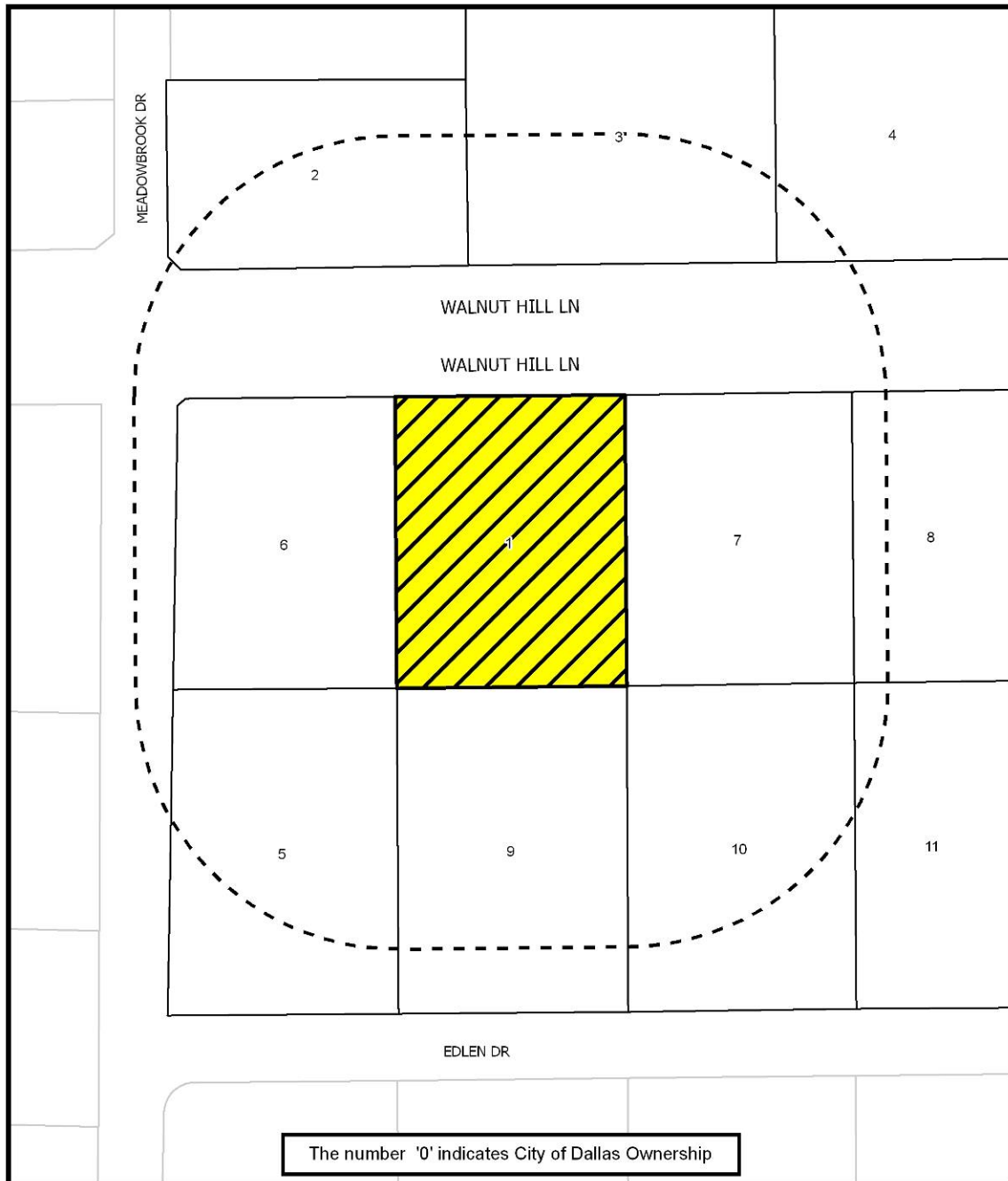


THE STEPHENSON PERIMETER FENCE
SCALE: 1/8" = 1'-0" 10-31-11



STEPHENSON RESIDENCE WALL
SCALE: 1/2" = 1'-0" 2-23-12

PERIMETER FENCE PLAN



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
11 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA112-042**
 Date: **3/29/2012**

Notification List of Property Owners

BDA112-042

11 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5322 WALNUT HILL LN	STEPHENSON RANDALL L & LENISE D STEPHENS
2	10008 MEADOWBROOK DR	JONES ROBERT W
3	5333 WALNUT HILL LN	VETTER ANN W
4	5415 WALNUT HILL LN	MARSHALL CHARLES T & JO-ANNE
5	5311 EDLEN DR	MERCER THOMAS M JR
6	9930 MEADOWBROOK DR	TABOR R JAY & SUSAN R
7	5404 WALNUT HILL LN	STEPHENSON RANDALL L & LENISE H
8	5414 WALNUT HILL LN	STEPHENSON RANDALL & LENISE
9	5327 EDLEN DR	FOLSOM R STEPHEN 1996 IRREVOCABLE TR
10	5333 EDLEN DR	FISCHER KAY W
11	5415 EDLEN DR	SULLIVAN JOHN

FILE NUMBER: BDA 112-043

BUILDING OFFICIAL'S REPORT:

Application of Mark Molthan for a special exception to the fence height regulations at 5414 Walnut Hill Lane. This property is more fully described as Lot 4 in City Block 1/5602 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain an 8 foot high fence in a required front yard, which will require a special exception of 4 feet.

LOCATION: 5414 Walnut Hill Lane

APPLICANT: Mark Molthan

REQUEST:

- A special exception to the fence height regulations of 4' is requested in conjunction with maintaining an approximately 7' 6" high solid stone/brick wall with 8' high stone/brick columns, a 7' high pedestrian gate, and two, 8' high sliding wrought iron gates in the site's 40' front yard setback on a site being developed with a single family home.
(Note that this application is adjacent to two other properties where the same applicant/owner seeks similar fence height special exception requests of the Board of Adjustment Panel C: BDA 112-042 and 044).

STAFF RECOMMENDATION:

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

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

GENERAL FACTS:

- The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.
- The applicant has submitted a scaled site plan/elevation that denotes that the proposal reaches a maximum height of 8 feet.

- The submitted site plan denotes the following regarding the proposal:
 - Approximately 175' in length parallel to the street.
 - Fence at its closest is approximately 10' from the property line (or about 18' from the pavement line).
 - Gates are approximately 20' from the property line (or about 30' from the pavement line).

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

- | | |
|---|--|
| <p>1. BDA 067-082, Property at 5404 Walnut Hill Lane (the lot immediately west of the subject site)</p> | <p>On September 17, 2007, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of 4' imposing the following condition with the request: compliance with the submitted revised site/landscape plan and revised elevation is required. The case report states that the request was made to construct a 7' 1" high solid concrete fence with 7' 8" high concrete columns about 2' – 7' from the Walnut Hill front property line.</p> |
| <p>2. BDA 112- 044, Property at 5404 Walnut Hill Lane (the lot immediately west of subject site)</p> | <p>On April 16, 2012, the Board of Adjustment Panel C will consider requests for special exceptions to the fence height and visual obstruction regulations made in conjunction with approximately 7' 6" high solid stone/brick wall with 8' high stone/brick columns in the site's 40' front yard setback on a site developed with a single family home</p> |
| <p>3. BDA 112-042, Property at 5322 Walnut Hill Lane (two lots immediately west of the subject site)</p> | <p>On April 16, 2012, the Board of Adjustment Panel C will consider a request for a special exception to the fence height made in conjunction with maintaining an</p> |

approximately 7' 6" high solid stone/brick wall with 8' high stone/brick columns and two 8' high wrought iron gates in the site's 40' front yard, and a request for special exceptions to the visual obstruction regulations requested in conjunction with maintaining portions of the aforementioned existing 7' 6" high solid stone/brick wall located in the 20' visibility triangles on either side of the western driveway into the site from Walnut Hill Lane (about 8' of length on either side of the driveway).

4. BDA 88-096, 5414 Walnut Hill Lane (the subject site)

On September 27, 1988, the Board of Adjustment Panel granted a request for a special exception to fence height regulations of 1' 6", and imposed the following conditions: 1. The fence shall be constructed in accordance with the revised fence elevation plan submitted; 2. The pilasters shall be evenly spaced approximately 16 feet apart; 3. The fence shall be located at least 5 feet from the front property line, and the area between the fence and the street shall be landscaped; 4. The fence on the west property line shall be eliminated; and 5. The fence shall comply with all visibility obstruction triangles. The case report states that a request was made to construct an 8' high fence; however, the board specified in their motion that the special exception was granted to erect a fence 5' 6" high.

5. BDA 90-023, 9995 Hollow Way (the lot immediately east of the subject site)

On April 10, 1990, the Board of Adjustment granted a request for a special exception to fence height regulations of 2' and imposed the following conditions to the request: submit a revised landscape plan that indicates the wall recessed and additional landscaping as provided. The case report states that the case report was made to construct a 6' high solid masonry fence in the site's Walnut Hill front yard setback.

6. BDA 956-193, 9930 Meadowbrook Drive (three lots west of the subject site)

On May 28, 1996, the Board of Adjustment Panel B granted a request for a special exception to the fence height regulations of 3' 8" imposing the following condition with the request: compliance with the submitted revised landscape/site plan and elevation is

required. The case report states that the request was made to construct and maintain an approximately 176' long, 7' 6" high solid stone wall with 8' high stone columns, and two, approximately 7' high open wrought iron gates

Timeline:

February 24, 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 assigned this case to Board of Adjustment Panel C.

March 21, 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 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.

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.

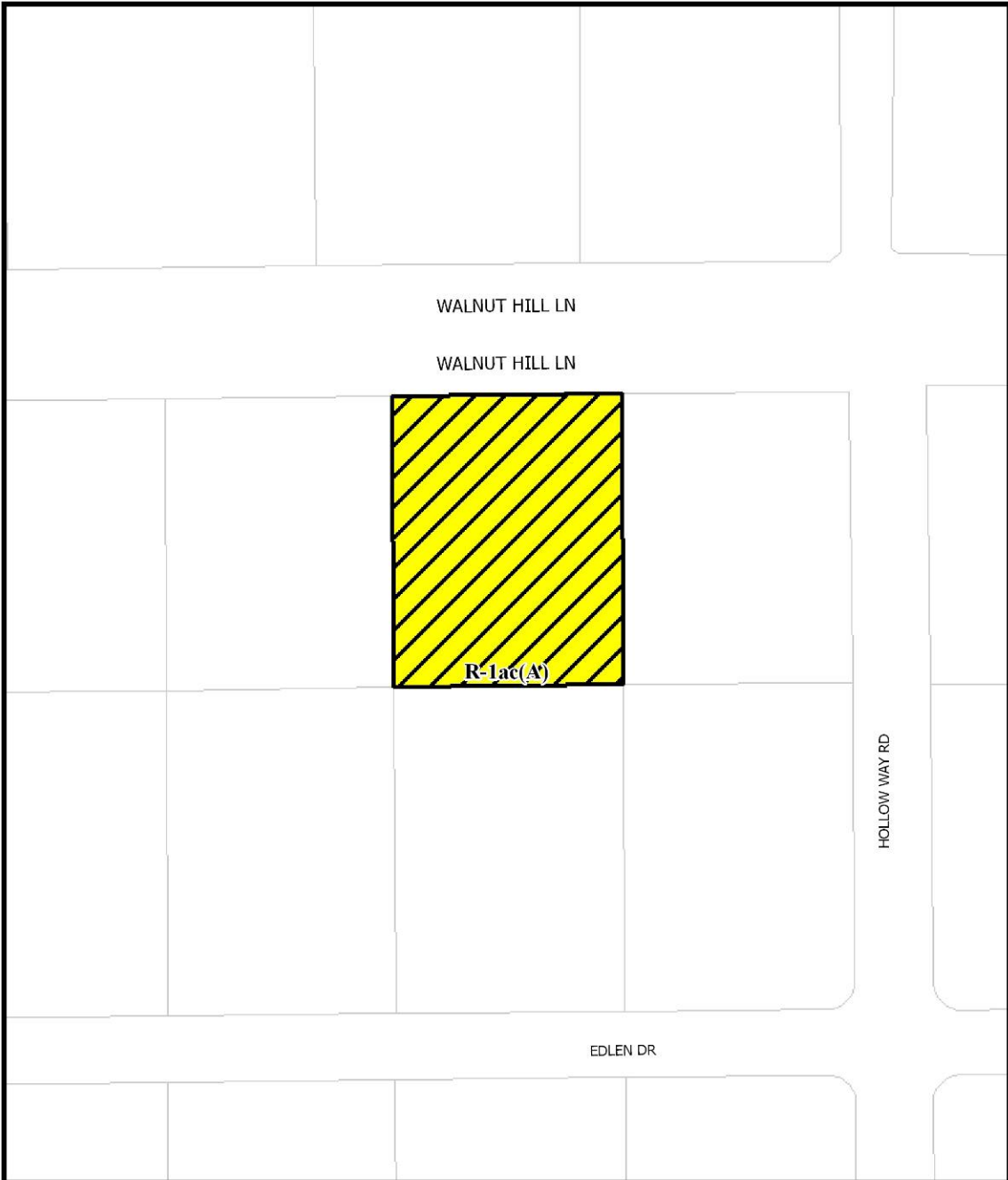
No review comment sheets with comments were submitted in conjunction with this application.

STAFF ANALYSIS:

- The request focuses on maintaining an approximately 7' 6" high solid stone/brick wall with 8' high stone/brick columns and two 8' high wrought iron gates in the site's 40' front yard on a property being developed with a single family home.
- This site abuts two properties directly east where the same applicant/owner has made applications to maintain a fence of similar features than that which is on the

subject site –requests for special exceptions to fence height regulations made to Board of Adjustment Panel C on April 16, 2012: BDA 112-042 and 044.

- A scaled site plan/elevation document has been submitted documenting the location of the existing fence/wall/columns/gates relative to their proximity to the front property line and pavement line, the length of the proposal relative to the entire lot, and the proposed building materials. The proposal is shown to be located at its closest point approximately on the property line or about 18' from the pavement line. (The gates are shown to be located about 20' from the front property line or about 30' from the pavement line). The proposal is shown to be about 175' long parallel to the street.
- There are 2 single family homes that have direct frontage to the fence/wall. These homes are located across a 6-lane divided major thoroughfare (Walnut Hill Lane) from the subject site, one of which has an approximately 6' solid fence in its front yard.
- In addition, the Board Administrator noted two other fences/walls in the immediate area above four (4) feet high which appeared to be located in the front yard setback. There is an approximately 7' high solid concrete/wood fence located one lot east of the site that appears to be a result of a previous board case at this location (BDA 90-023) and an approximately 7' high solid concrete wall located three lots west of the site that appears to be a result of a previous board case at this location (BDA 956-193).
- As of April 9, 2012, no letters had been submitted to staff in opposition or in support to the proposal.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that reaches 8' in height) does not adversely affect neighboring property.
- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted site plan/elevation document would require the proposal exceeding 4' in height in the front yard setback to be maintained in the location and of the heights and materials as shown on this document.

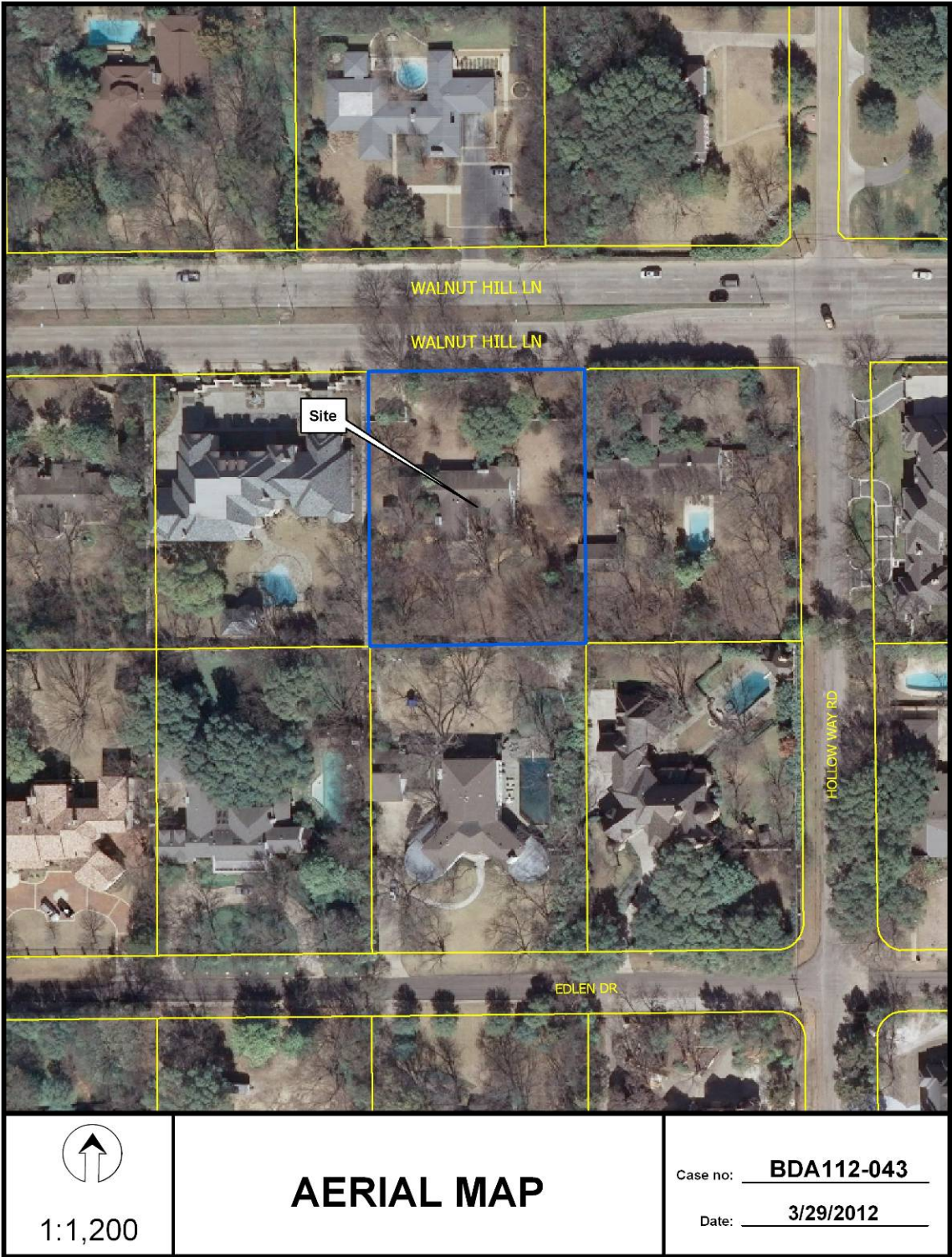


1:1,200

ZONING MAP

Case no: BDA112-043

Date: 3/29/2012





City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-043

Date: 2/24/12

Data Relative to Subject Property:

Location address: 5414 Walnut Hill Lane Zoning District: R-1ac(A)

Lot No.: 4 Block No.: 1/5602 Acreage: .9020 Census Tract: 75,00

Street Frontage (in Feet): 1) 176' 2) _____ 3) _____ 4) _____ 5) _____ NE 2S

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Lenise Stephenson

Applicant: Mark Molthan Telephone: 214-363-6244

Mailing Address: 4347 W. Northwest Hwy., Ste. 120-240 Zip Code: 75220

Represented by: Mark Molthan/Nancy Rodriguez Telephone: 214-280-1277

Mailing Address: _____ Zip Code: _____

Affirm that a request has been made for a Variance __, or Special Exception x, of 4' additional height for front yard fence

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 additional 4' high fence in the front yard will not affect the neighbors/neighborly properties. Also majority neighbors have 6' high fence.

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: Mark Molthan [Signature]
Applicant's name printed Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Mark Molthan 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 24 day of February, 2012

[Signature]
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

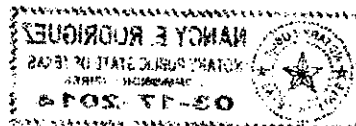
I hereby certify that MARK MOLTHAN

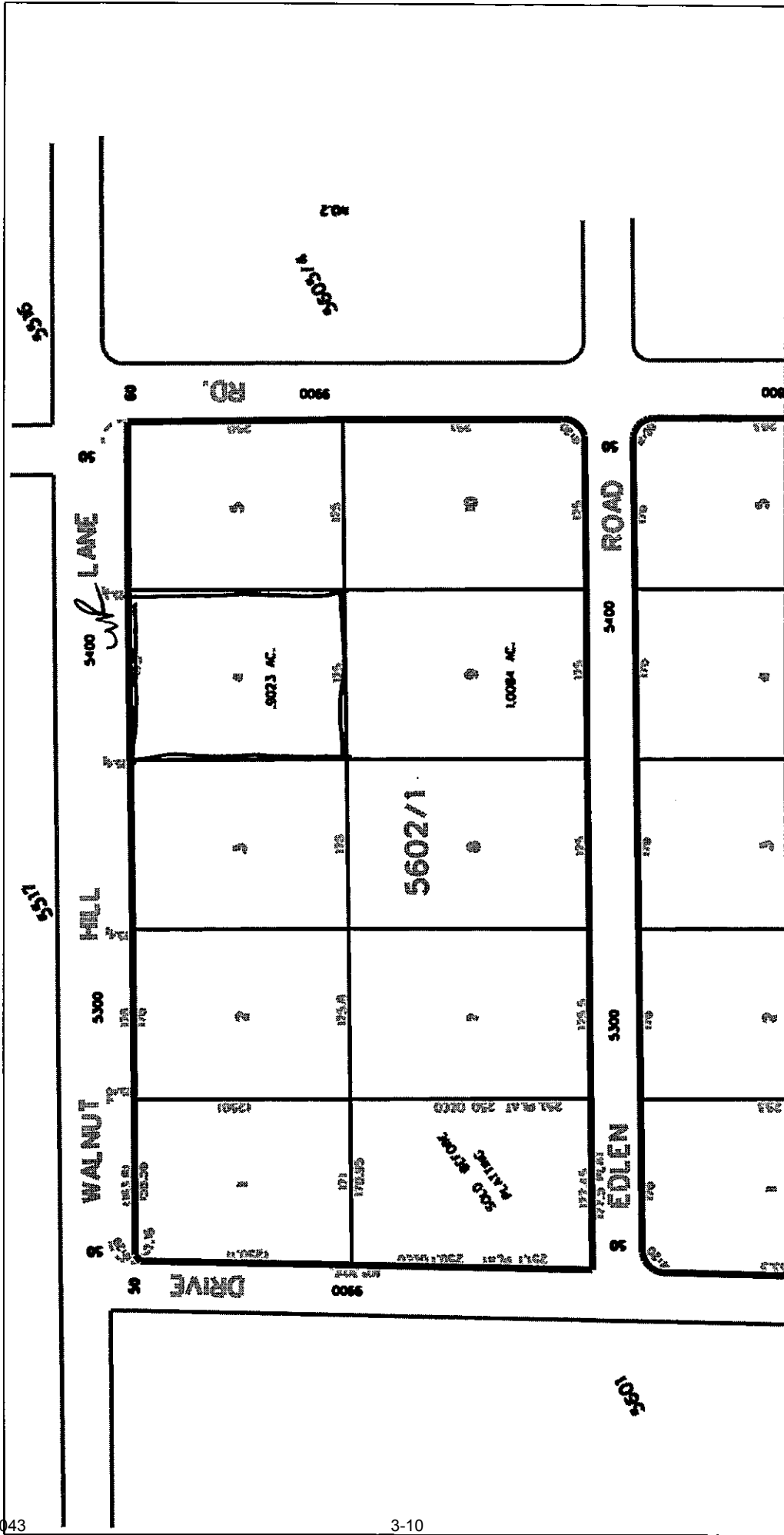
did submit a request for a special exception to the fence height regulations
at 5414 Walnut Hill Lane

BDA112-043. Application of Mark Molthan for a special exception to the fence height regulations at 5414 Walnut Hill Lane. This property is more fully described as lot 4 in city block 1/5602 and is zoned R-1ac(A), which limits the height of a fence in the front yard to feet. The applicant proposes to construct and maintain an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulation.

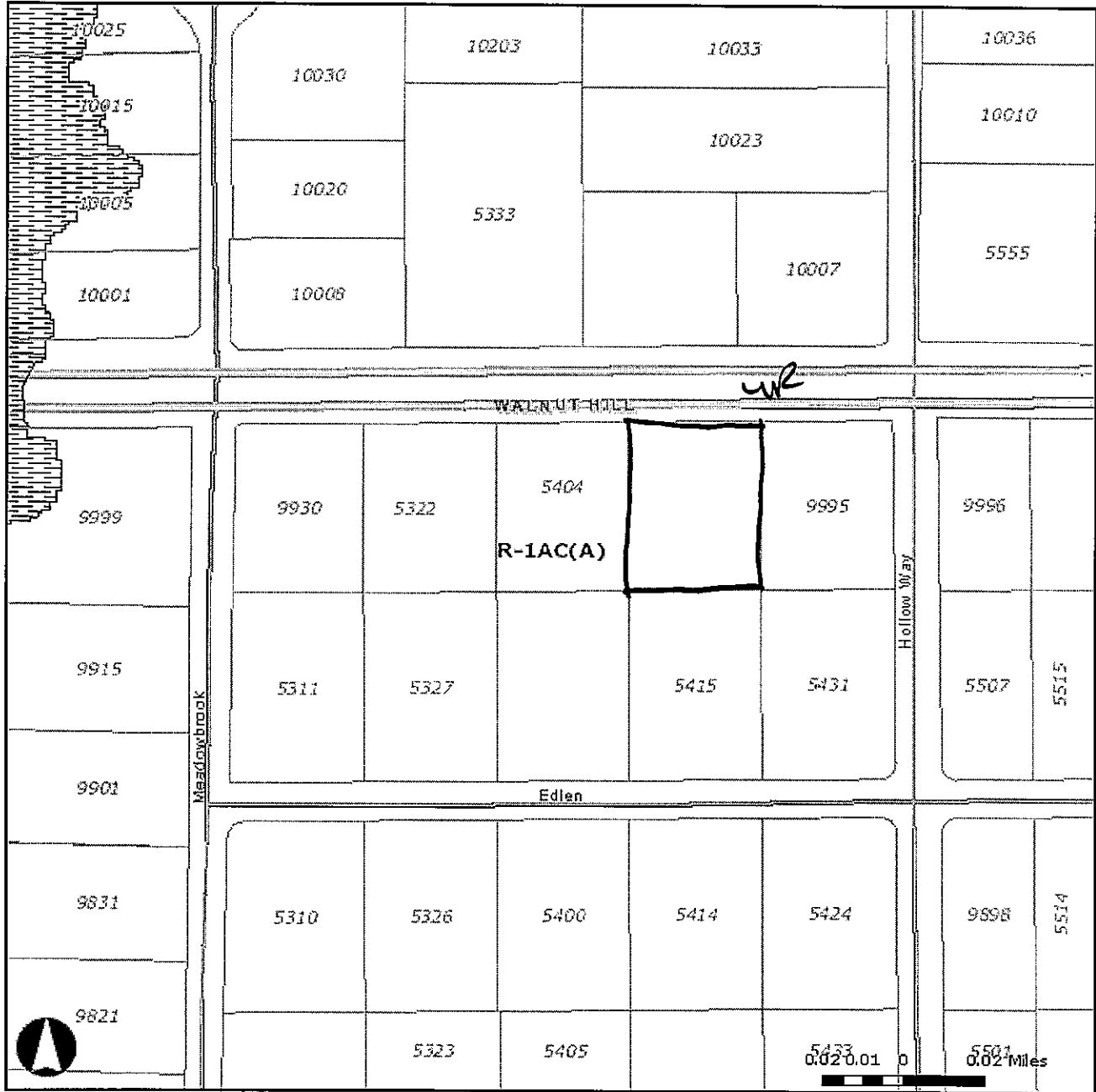
Sincerely,


Lloyd Denman, Building Official





City of Dallas Zoning



City Boundaries

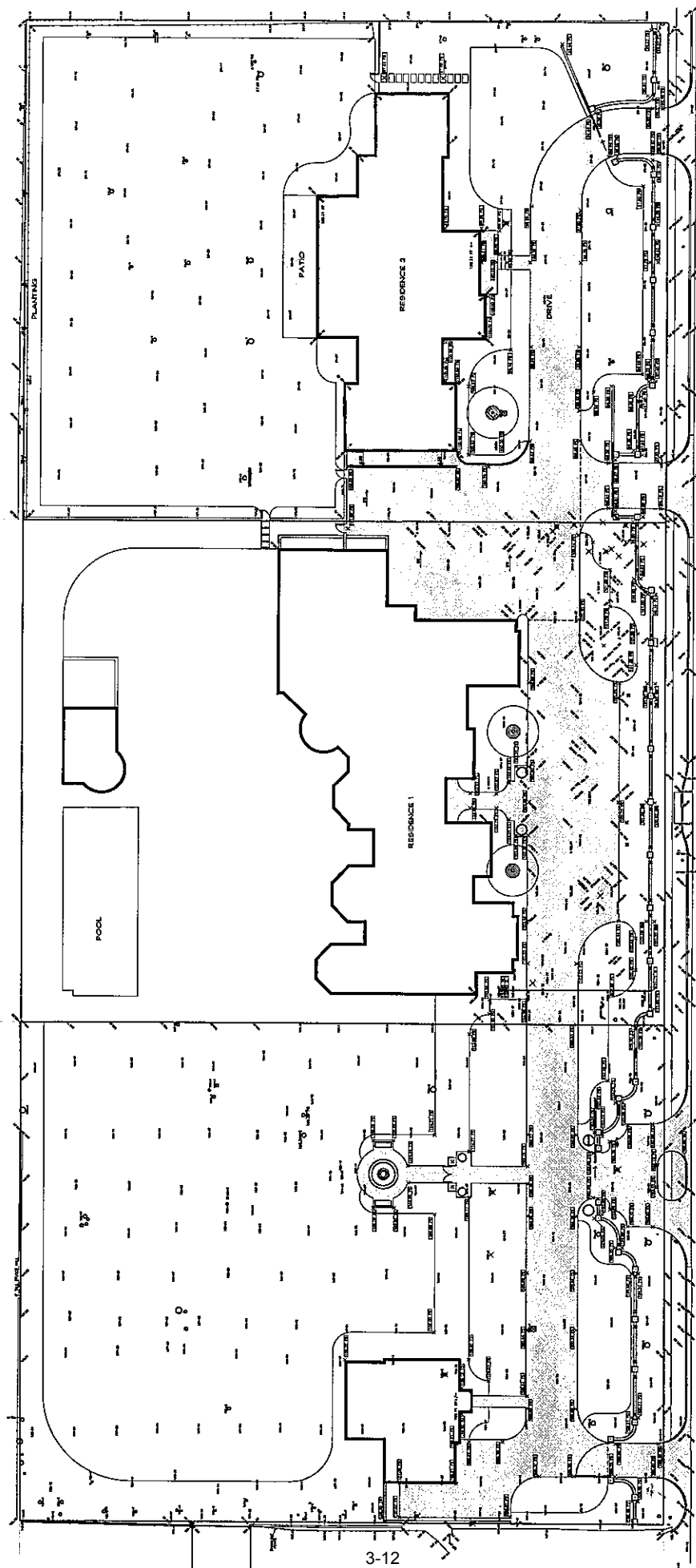
- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

Dry Overlay

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

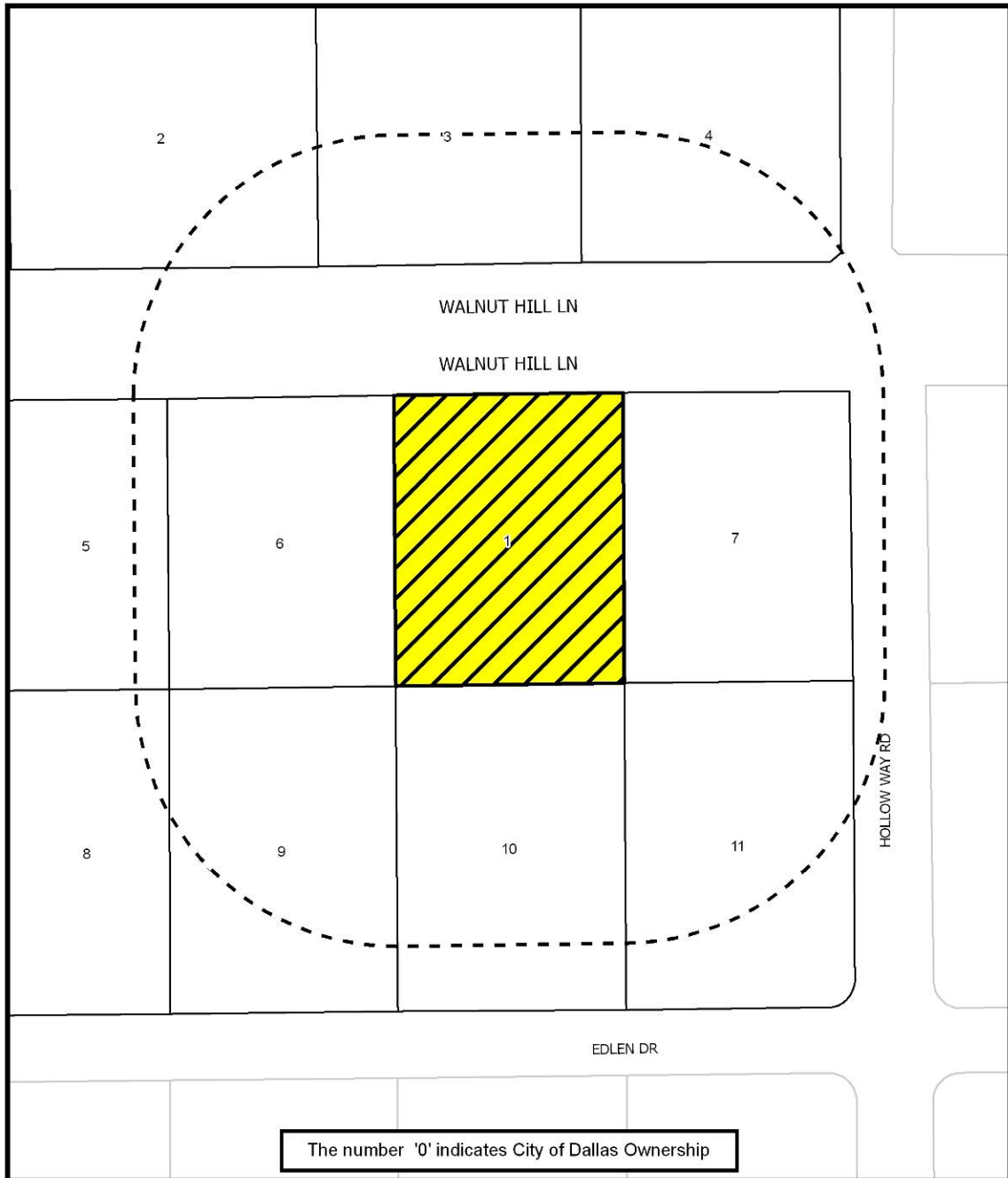
Base Zoning

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



THE STEPHENSON RESIDENCE
 SCALE: 1/16" = 1'-0"
 10-18-11





 1:1,200	NOTIFICATION		Case no: BDA112-043
	<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: 3/29/2012	

Notification List of Property Owners

BDA112-043

11 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5414 WALNUT HILL LN	STEPHENSON RANDALL & LENISE
2	5333 WALNUT HILL LN	VETTER ANN W
3	5415 WALNUT HILL LN	MARSHALL CHARLES T & JO-ANNE
4	10007 HOLLOW WAY RD	SALIM MICHAEL D & LAURIE A
5	5322 WALNUT HILL LN	STEPHENSON RANDALL L & LENISE D STEPHENS
6	5404 WALNUT HILL LN	STEPHENSON RANDALL L & LENISE H
7	9995 HOLLOW WAY RD	BUTTLES JOHN S & JENNIFER A
8	5327 EDLEN DR	FOLSOM R STEPHEN 1996 IRREVOCABLE TR
9	5333 EDLEN DR	FISCHER KAY W
10	5415 EDLEN DR	SULLIVAN JOHN
11	5431 EDLEN DR	CORSON CHARLES D & LAURIE S

FILE NUMBER: BDA 112-044

BUILDING OFFICIAL'S REPORT:

Application of Mark Molthan for a special exception to the fence height regulations at 5404 Walnut Hill Lane. This property is more fully described as Lot 3 in City Block 1/5602 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and maintain an 8 foot high fence in a required front yard, which will require a special exception of 4 feet.

LOCATION: 5404 Walnut Hill Lane

APPLICANT: Mark Molthan

REQUEST:

- A special exception to the fence height regulations of 4' is requested in conjunction with maintaining an approximately 7' 6" high solid stone/brick wall with 8' high stone/brick columns in the site's 40' front yard setback on a site developed with a single family home.

(Note that this application abuts two other properties where the same applicant/owner seeks similar fence height special exception requests of the Board of Adjustment Panel C: BDA 112-042 and 043. Additionally note that Board of Adjustment Panel C granted a request for a fence height special exception request on this site/property in September of 2007- BDA 067-082- an exception made to construct and maintain a 7' 6" high solid stone wall with 8' high stone columns and two, approximately 7' high sliding electric open wrought iron gates in the site's 40' front yard setback on a site that at that time was being 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 Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.
The applicant has submitted a scaled site plan/elevation that denotes that the proposal reaches a maximum height of 8 feet.
- The submitted site plan denotes the following regarding the proposal:
 - Approximately 175' in length parallel to the street.
 - Ranging from approximately 6'- 10' from the property line (or about 16' – 20' from the pavement line).

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

1. BDA 067-082, Property at 5404 Walnut Hill Lane (the subject site)

On September 17, 2007, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of 4' imposing the following condition with the request: compliance with the submitted revised site/landscape plan and revised elevation is required. The case report states that the request was made to construct a 7' 1" high solid concrete fence with 7' 8" high concrete columns about 2' – 7' from the Walnut Hill front property line.
2. BDA 112- 042, Property at 5322 Walnut Hill Lane (the lot immediately west of subject site)

On April 16, 2012, the Board of Adjustment Panel C will consider requests for special exceptions to the fence height and visual obstruction regulations made in conjunction with maintaining an approximately 7' 6" high solid stone/brick wall with 8' high stone/brick columns and two 8' high wrought iron gates in the site's 40' front yard, and maintaining portions of the aforementioned existing 7' 6" high solid

3. BDA 112-043, Property at 5414 Walnut Hill Lane (the lot immediately east of the subject site)

4. BDA 88-096, 5414 Walnut Hill Lane (the lot immediately east of the subject site)

5. BDA 90-023, 9995 Hollow Way (two lots immediately east of the subject site)

6. BDA 956-193, 9930 Meadowbrook Drive (two lots west of the subject site)

stone/brick wall located in the 20' visibility triangles on either side of the western driveway into the site from Walnut Hill Lane. On April 16, 2012, the Board of Adjustment Panel C will consider a request for a special exception to the fence height made in conjunction with maintaining an approximately 7' 6" high solid stone/brick wall with 8' high stone/brick columns, a 7' high pedestrian gate, and two, 8' high sliding wrought iron gates in the site's 40' front yard setback on a site being developed with a single family home.

On September 27, 1988, the Board of Adjustment Panel granted a request for a special exception to fence height regulations of 1' 6", and imposed the following conditions: 1. The fence shall be constructed in accordance with the revised fence elevation plan submitted; 2. The pilasters shall be evenly spaced approximately 16 feet apart; 3. The fence shall be located at least 5 feet from the front property line, and the area between the fence and the street shall be landscaped; 4. The fence on the west property line shall be eliminated; and 5. The fence shall comply with all visibility obstruction triangles. The case report states that a request was made to construct an 8' high fence; however, the board specified in their motion that the special exception was granted to erect a fence 5' 6" high.

On April 10, 1990, the Board of Adjustment granted a request for a special exception to fence height regulations of 2' and imposed the following conditions to the request: submit a revised landscape plan that indicates the wall recessed and additional landscaping as provided. The case report states that the case report was made to construct a 6' high solid masonry fence in the site's Walnut Hill front yard setback.

On May 28, 1996, the Board of Adjustment Panel B granted a request for a special exception to the fence height regulations of 3' 8" imposing the following condition with the request: compliance with the submitted

revised landscape/site plan and elevation is required. The case report states that the request was made to construct and maintain an approximately 176' long, 7' 6" high solid stone wall with 8' high stone columns, and two, approximately 7' high open wrought iron gates

Timeline:

February 24, 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 assigned this case to Board of Adjustment Panel C. This assignment was made in order to comply with Section 9 (k) of the Board of Adjustment Working Rule of Procedure that states, "If a subsequent case is filed concerning the same request, that case must be returned to the panel hearing the previously filed case."

March 21, 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 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 23, 2012: The Board Administrator emailed the applicant the following information:

- A picture that he photographed on the property at 5404 Walnut Hill Lane several days ago; and a question as to whether the existing "fence" matches what is represented on your submitted site plan/elevation; and if not, what was his proposal to the board: 1) to change the existing "fence" on the property to match what is shown on his submitted site plan/elevation; or 2) to change what is shown on his submitted site plan/elevation to match the existing "fence"?
- An observation for him to be aware of the fact that if/when the board grants this type of request they almost always impose the applicant's submitted site plan and/or elevation as a condition to the request. With this in mind, you may want to make sure that

whatever is on your submitted plan is what you are willing to construct/modify/maintain on the property.

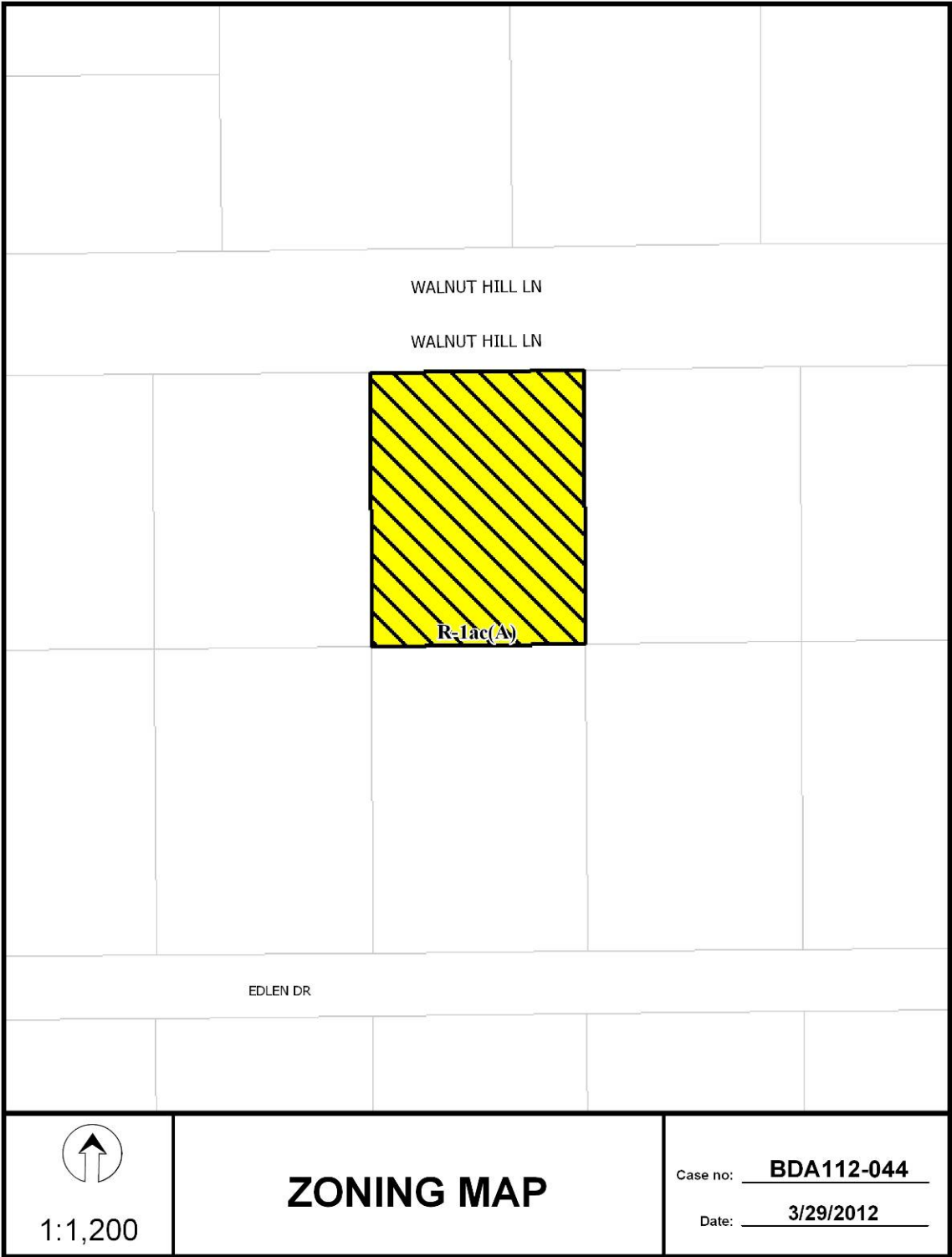
April 3, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for April public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable 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.

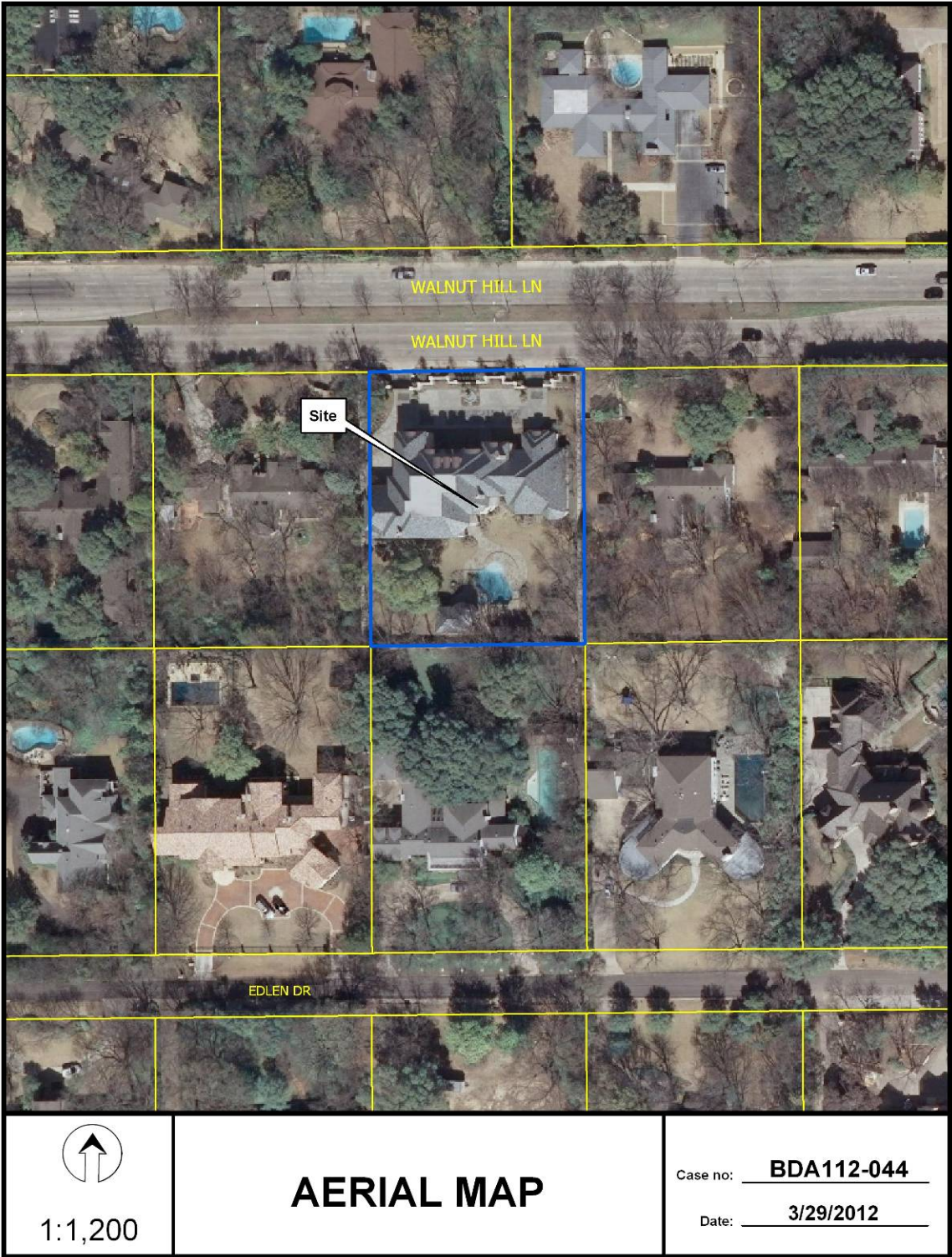
No review comment sheets with comments were submitted in conjunction with this application.

STAFF ANALYSIS:

- The request focuses on maintaining an approximately 7' 6" high solid stone/brick wall with 8' high stone/brick columns in the site's 40' front yard setback on a site developed with a single family home.
- This site abuts properties directly east and west where the same applicant/owner has made applications to maintain a fence of similar features than that which is on the subject site –requests for special exceptions to fence height regulations made to Board of Adjustment Panel C on April 16, 2012: BDA 112-042 and 043.
- A scaled site plan/elevation document has been submitted documenting the location of the existing fence/wall/columns relative to their proximity to the front property line and pavement line, the length of the proposal relative to the entire lot, and the proposed building materials. The proposal is shown to be located approximately 6' – 10' from the property line or about 16' – 20' from the pavement line. The proposal is shown to be about 175' long parallel to the street.
- There are 2 single family homes that have direct frontage to the fence/wall. These homes are located across a 6-lane divided major thoroughfare (Walnut Hill Lane) from the subject site, one of which has an approximately 6' solid fence in its front yard.
- In addition, the Board Administrator noted two other fences/walls in the immediate area above four (4) feet high which appeared to be located in the front yard setback. There is an approximately 7' high solid concrete/wood fence located two lots east of the site that appears to be a result of a previous board case at this location (BDA 90-023) and an approximately 7' high solid concrete wall located two lots west of the site that appears to be a result of a previous board case at this location (BDA 956-193).
- As of April 9, 2012, no letters had been submitted to staff in opposition or in support to the proposal.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that reaches 8' in height) does not adversely affect neighboring property.

- Granting this special exception of 4' with a condition imposed that the applicant complies with the submitted site plan/elevation document would require the proposal exceeding 4' in height in the front yard setback to be maintained in the location and of the heights and materials as shown on this document.







City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-044

Date: 2/24/12

Data Relative to Subject Property:

Location address: 5404 Walnut Hill Lane Zoning District: R-1ac(A)

Lot No.: 3 Block No.: 1/5602 Acreage: .9000 Census Tract: 75.00

Street Frontage (in Feet): 1) 175' 2) _____ 3) _____ 4) _____ 5) _____ NE2S

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Lenise Stephenson

Applicant: Mark Molthan Telephone: 214-363-6244

Mailing Address: 4347 W. Northwest Hwy., Ste.120-240 Zip Code: 75220

Represented by: Mark Molthan/Nancy Rodriguez Telephone: 214-280-1277

Mailing Address: _____ Zip Code: _____

Affirm that a request has been made for a Variance , or Special Exception , of 4' additional height for front yard fence

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 additional 4' high front yard fence will not adversely affect the neighbors/neighboring properties. Also majority neighbors have 8' high fence.

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.

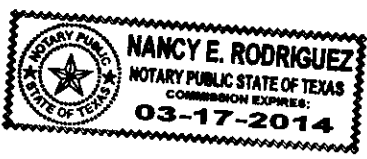
Respectfully submitted: Mark Molthan [Signature]
Applicant's name printed Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared Mark Molthan 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 24 day of February, 2012



[Signature]
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

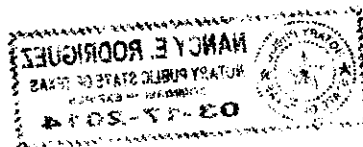
I hereby certify that MARK MOLTHAN

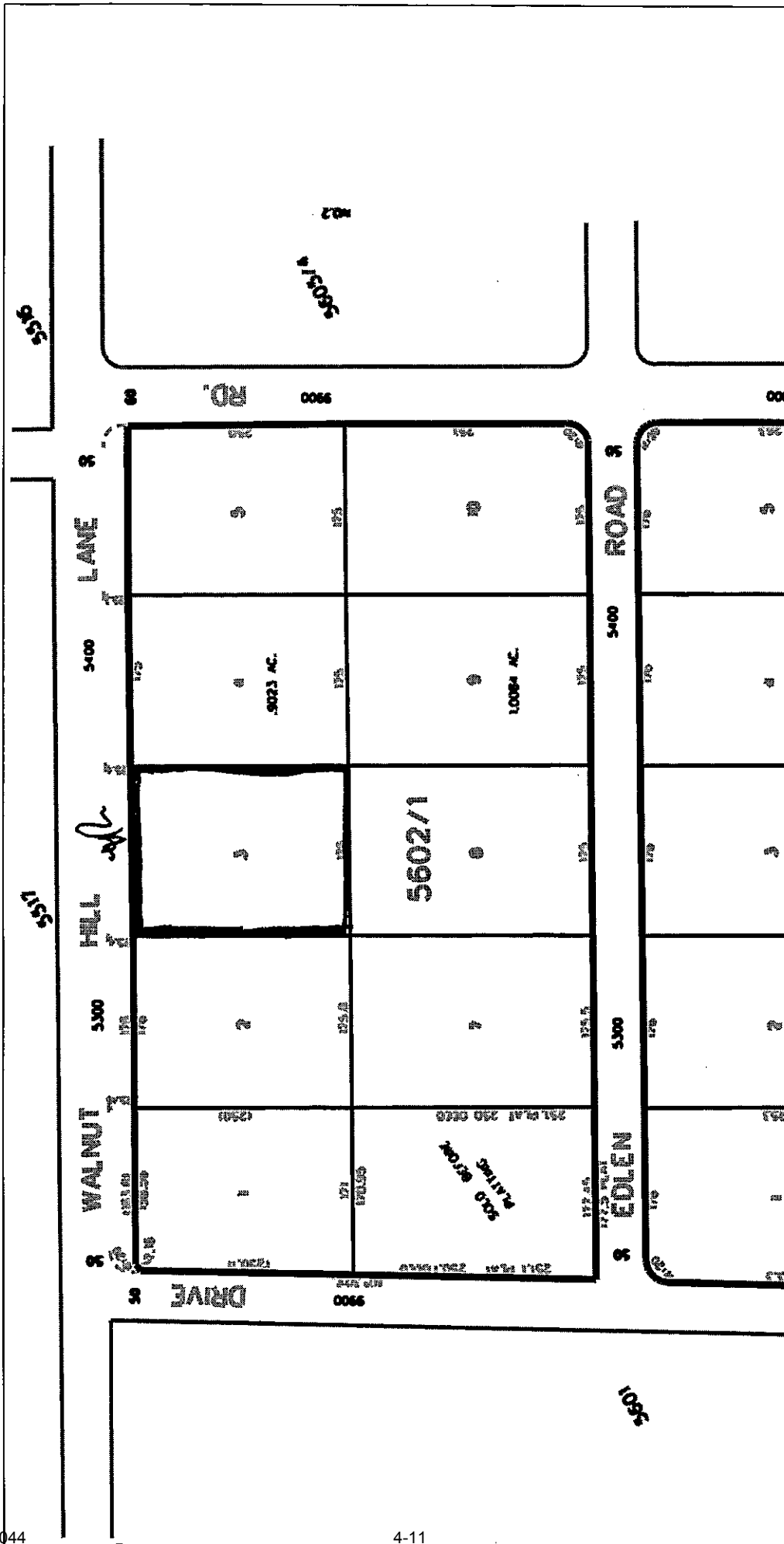
did submit a request for a special exception to the fence height regulations
at 5404 Walnut Hill Lane

BDA112-044. Application of Mark Molthan for a special exception to the fence height regulations at 5404 Walnut Hill Lane. This property is more fully described as lot 3 in city block 1/5602 and is zoned R-1ac(A), which limits the height of a fence in the front yard to feet. The applicant proposes to construct and maintain an 8 foot high fence in a required front yard, which will require a 4 foot special exception to the fence regulation.

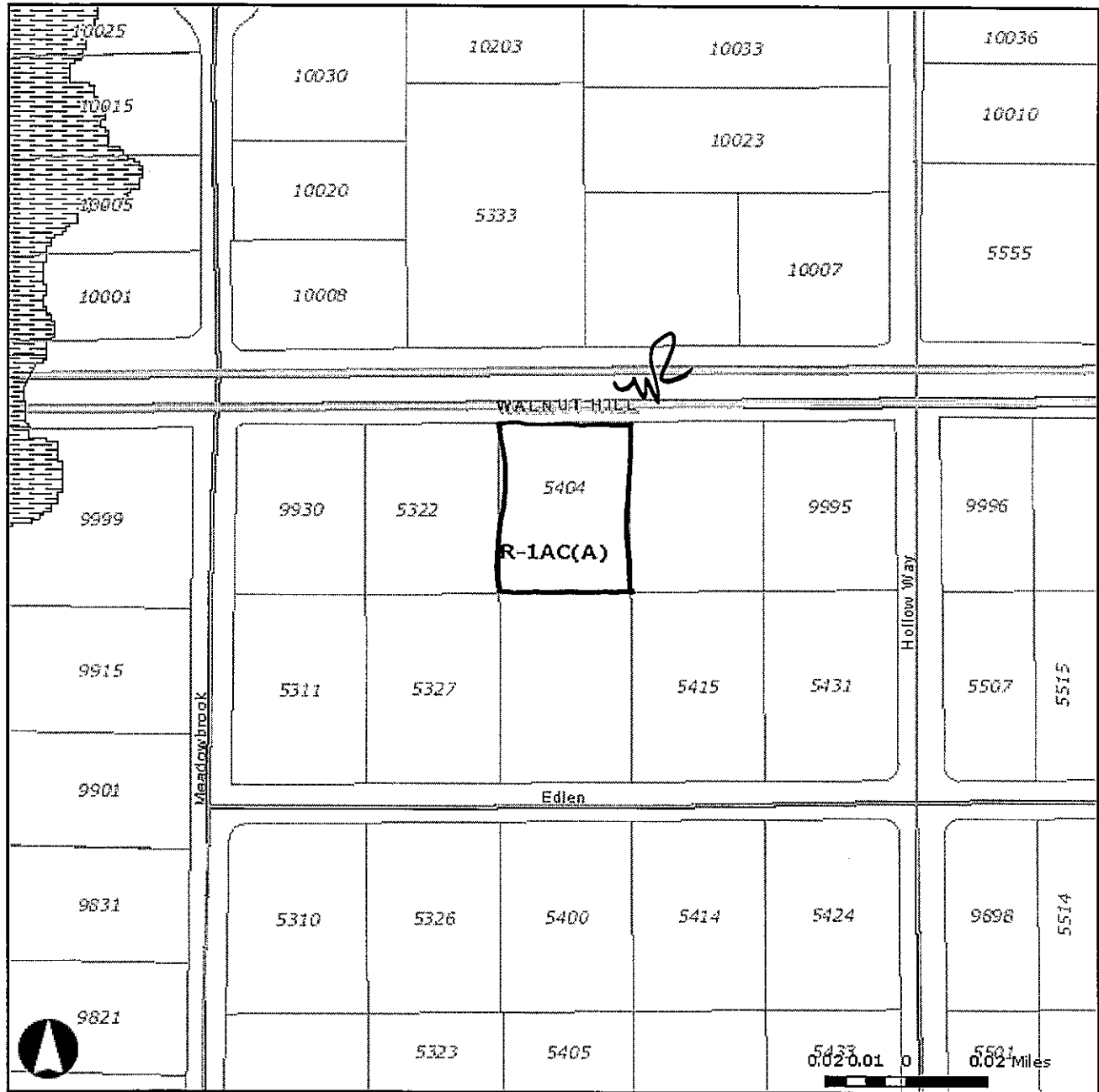
Sincerely,


Lloyd Denman, Building Official





City of Dallas Zoning



City Boundaries

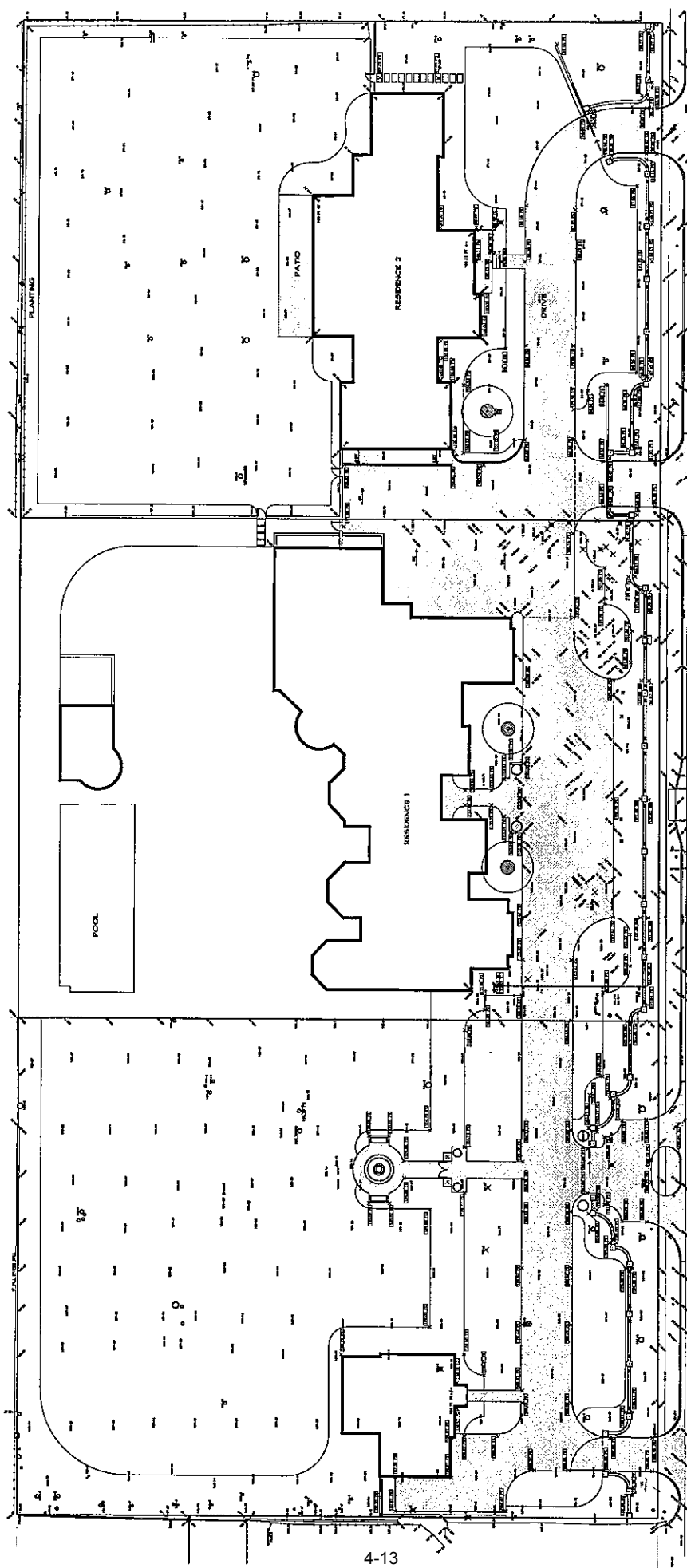
- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

Dry Overlay

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

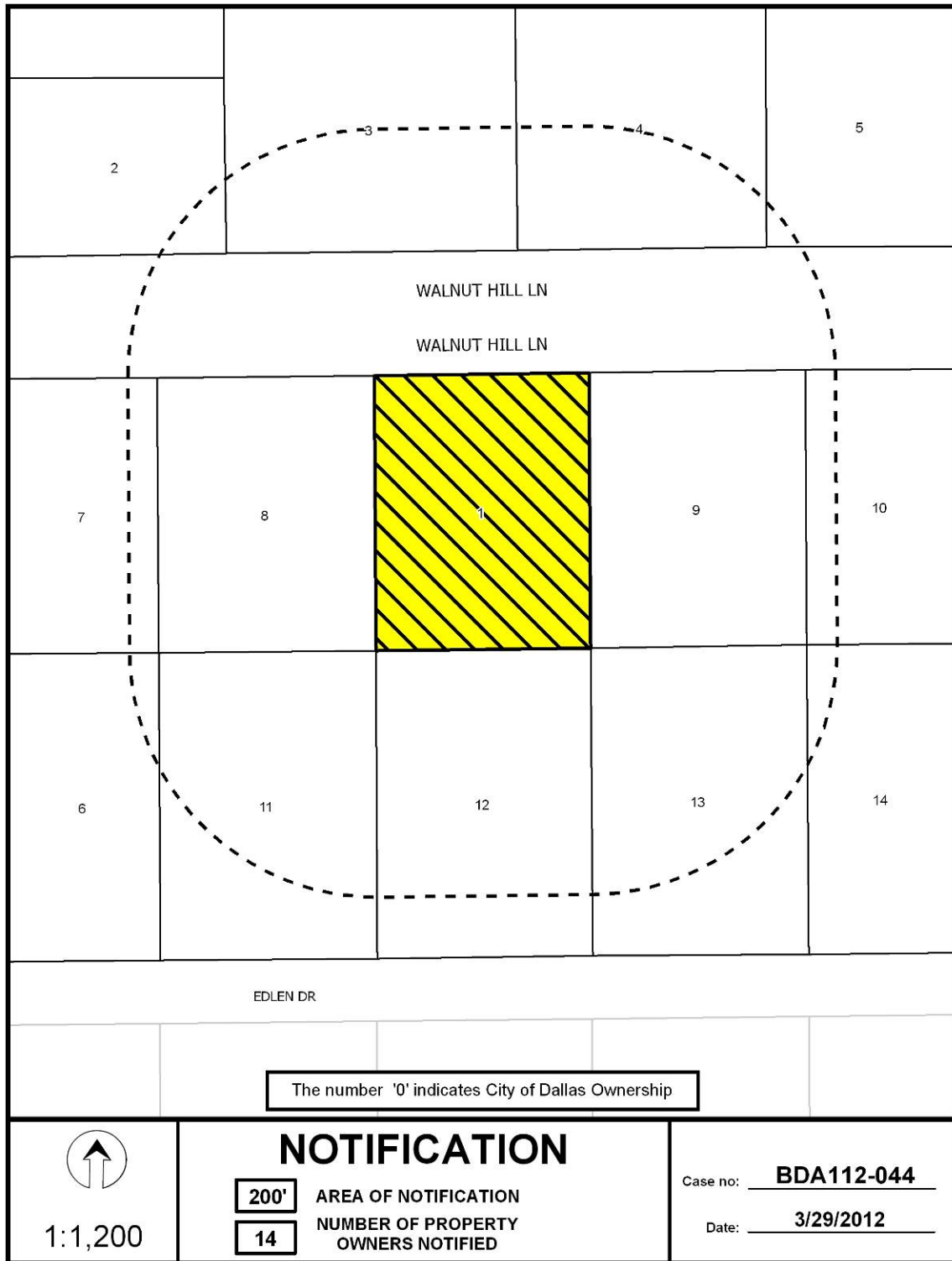
Base Zoning

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



THE STEPHENSON RESIDENCE
 SCALE: 1/8" = 1'-0" (10/18/11)





Notification List of Property Owners

BDA112-044

14 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5404 WALNUT HILL LN	STEPHENSON RANDALL L & LENISE H
2	10008 MEADOWBROOK DR	JONES ROBERT W
3	5333 WALNUT HILL LN	VETTER ANN W
4	5415 WALNUT HILL LN	MARSHALL CHARLES T & JO-ANNE
5	10007 HOLLOW WAY RD	SALIM MICHAEL D & LAURIE A
6	5311 EDLEN DR	MERCER THOMAS M JR
7	9930 MEADOWBROOK DR	TABOR R JAY & SUSAN R
8	5322 WALNUT HILL LN	STEPHENSON RANDALL L & LENISE D STEPHENS
9	5414 WALNUT HILL LN	STEPHENSON RANDALL & LENISE
10	9995 HOLLOW WAY RD	BUTTLES JOHN S & JENNIFER A
11	5327 EDLEN DR	FOLSOM R STEPHEN 1996 IRREVOCABLE TR
12	5333 EDLEN DR	FISCHER KAY W
13	5415 EDLEN DR	SULLIVAN JOHN
14	5431 EDLEN DR	CORSON CHARLES D & LAURIE S