

ZONING BOARD OF ADJUSTMENT, PANEL C
MONDAY, MAY 14, 2012
AGENDA

BRIEFING	5ES	11:00 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, April 16 2012 Board of Adjustment Public Hearing Minutes	M1
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UNCONTESTED CASE

BDA 112-054	3333 Dan Morton Drive REQUEST: Application of Scott Mueller of Hixson Architecture Engineering Interiors for a special exception to the off-street parking regulations	1
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HOLDOVER CASES

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

BDA 112-044	5404 Walnut Hill Lane REQUEST: Application of Mark Molthan for a special exception to the fence height regulations	5
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REGULAR CASES

BDA 101-121	3546 Gaspar Drive REQUEST: Application of Lucila Toraya, represented by Construction Concepts, for a variance to the side yard setback regulations	6
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BDA 112-046	5319 Bryan Street REQUEST: Application of Steven L. Besly for a variance to the floor area 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 C April 16, 2012 public hearing minutes.

FILE NUMBER: BDA 112-054

BUILDING OFFICIAL'S REPORT:

Application of Scott Mueller of Hixson Architecture Engineering Interiors for a special exception to the off-street parking regulations at 3333 Dan Morton Drive. This property is more fully described as Lot 2B in City Block B/8023 and is zoned IR, which requires off-street parking. The applicant proposes to construct/maintain an industrial (inside)/warehouse/office use/structure and provide 250 of the required 453 off-street parking spaces, which will require a special exception of 203 spaces.

LOCATION: 3333 Dan Morton Drive

APPLICANT: Scott Mueller of Hixson Architecture Engineering Interiors

REQUEST:

- A request for a special exception to the off-street parking regulations of 203 off-street parking spaces (or a 45 percent reduction of the 453 off-street parking spaces required) is requested in conjunction with constructing and maintaining an approximately 115,900 square foot addition to an existing approximately 280,000 square foot industrial inside/warehouse/office use on a site (WhiteWave Food, Inc). The applicant proposes to provide 250 (or 55 percent) of the required 453 off-street parking spaces.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- The special exception of 203 off-street parking spaces shall automatically and immediately terminate if and when the industrial inside, warehouse, and office uses are changed or discontinued.

Rationale:

- The applicant substantiated how the parking demand generated by the industrial inside, warehouse, and office uses does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- The Sustainable Development and Construction Department Project Engineer has indicated that he has no objections to the applicant's request.

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

- 1) The Board of Adjustment may grant a special exception to authorize a reduction in the number of off-street parking spaces required under this article if the board finds, after a public hearing, that the parking demand generated by the use does not warrant the number of off-street parking spaces required, and the special exception would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets. The maximum reduction authorized by this section is 25 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights. For the commercial amusement (inside) use and the industrial (inside) use, the maximum reduction authorized by this section is 50 percent or one space, whichever is greater, minus the number of parking spaces currently not provided due to already existing nonconforming rights.
- 2) In determining whether to grant a special exception, the board shall consider the following factors:
 - (A) The extent to which the parking spaces provided will be remote, shared, or packed parking.
 - (B) The parking demand and trip generation characteristics of all uses for which the special exception is requested.
 - (C) Whether or not the subject property or any property in the general area is part of a modified delta overlay district.
 - (D) The current and probable future capacities of adjacent and nearby streets based on the city's thoroughfare plan.
 - (E) The availability of public transit and the likelihood of its use.
 - (F) The feasibility of parking mitigation measures and the likelihood of their effectiveness.
- 3) In granting a special exception, the board shall specify the uses to which the special exception applies. A special exception granted by the board for a particular use automatically and immediately terminates if and when that use is changed or discontinued.
- 4) In granting a special exception, the board may:
 - (A) Establish a termination date for the special exception or; otherwise provide for the reassessment of conditions after a specified period of time;
 - (B) Impose restrictions on access to or from the subject property; or
 - (C) Impose any other reasonable conditions that would have the effect of improving traffic safety or lessening congestion on the streets.
- 5) The board shall not grant a special exception to reduce the number of off-street parking spaces required in an ordinance granting or amending a specific use permit.
- 6) The board shall not grant a special exception to reduce the number of off-street parking spaces expressly required in the text or development plan of an ordinance establishing or amending regulations governing a specific planned development district. This prohibition does not apply when:
 - (A) the ordinance does not expressly specify a minimum number of spaces, but instead simply makes references to the existing off-street parking regulations in Chapter 51 or this chapter; or
 - (B) the regulations governing that specific district expressly authorize the board to grant the special exception.

GENERAL FACTS:

- The Dallas Development Code requires the following off-street parking requirement:
 - Light industrial: One space per 600 square feet of floor area.
 - Office: One space per 333 square feet of floor area.
 - Warehouse: One space per 1,000 square feet of floor area up to 20,000 square feet; one space per 4,000 square feet of floor area over 20,000 square feet.
 On April 25, 2012, the applicant submitted revised materials to the City regarding his request (see Attachment A). The applicant proposes to provide a total of 250 (or 55 percent) of the required 453 off-street parking spaces.

BACKGROUND INFORMATION:

Zoning:

Site: IR (Industrial/research)
North: IM, SUP 1054 (Industrial manufacturing, Specific Use Permit)
South: IR (Industrial/research)
East: IR (Industrial/research)
West: IR (Industrial/research)

Land Use:

The subject site is currently developed with an industrial inside/office/warehouse use (WhiteWave Food, Inc.) The area to the north is developed as an auto auction site; the areas to the east and south are developed with what appears to be industrial inside/office/warehouse uses; and the area to the west appears to be undeveloped.

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 23, 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 C.
- 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.

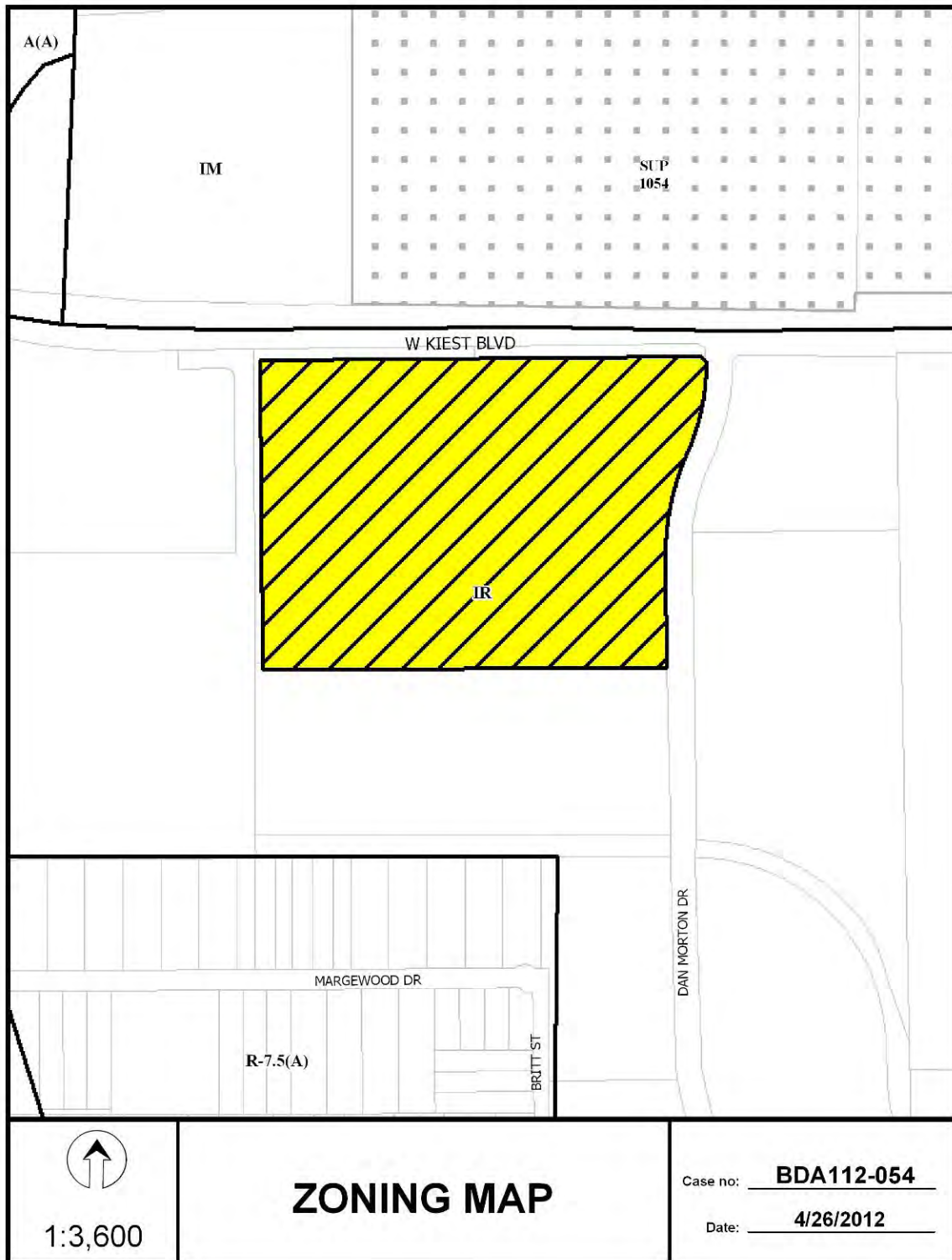
May 1, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable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

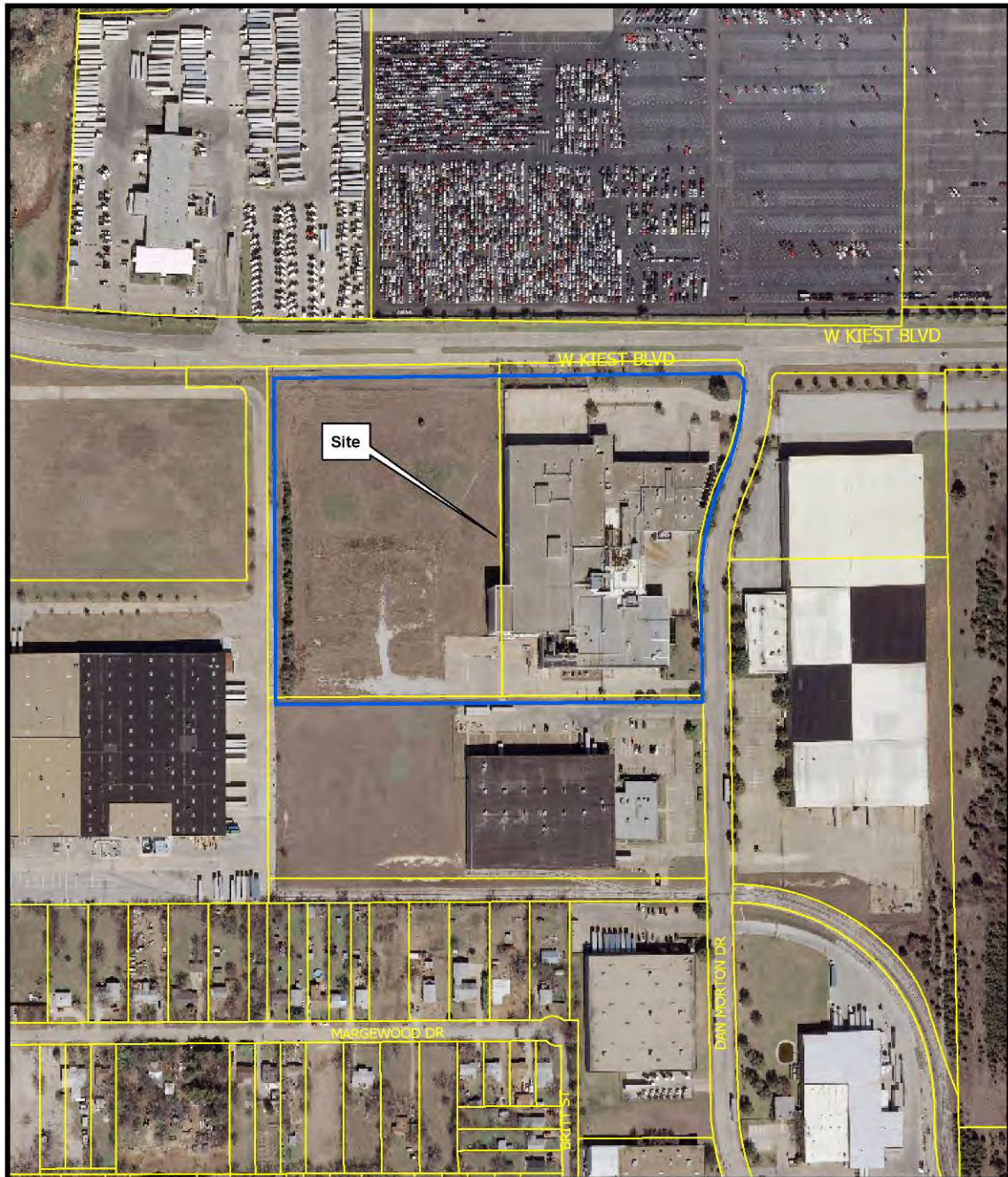
The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded additional documentation submitted by the applicant as well as an amended Building Official's Report to the Board Administrator (see Attachment A).

May 4, 2012: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections."

STAFF ANALYSIS:

- This request focuses on constructing and maintaining an approximately 115,900 square foot addition to an existing approximately 280,000 square foot industrial inside/warehouse/office use on a site (WhiteWave Food, Inc.) where the applicant proposes to provide 250 (or 55 percent) of the required 453 off-street parking spaces.
- The applicant has submitted a document stating that the 453 parking spots required for full capacity far exceeds the parking demand required for full- build out of the site since the maximum anticipated employee count is 110 employees per shift and 180 employees as shift change.
- The Sustainable Development and Construction Department Project Engineer has submitted a review comment sheet marked "Has no objections."
- The applicant has the burden of proof in establishing the following:
 - The parking demand generated by the industrial inside, warehouse, and office uses on the site does not warrant the number of off-street parking spaces required, and
 - The special exception of 203 spaces (or a 45 percent reduction of the required off-street parking) would not create a traffic hazard or increase traffic congestion on adjacent and nearby streets.
- If the Board grants this request subject to the condition that the special exception of 203 off-street parking spaces space shall automatically and immediately terminate if and when the industrial inside, warehouse, and office uses are changed or discontinued, the applicant would be allowed to maintain the existing structure on the property with the proposed addition with these specific uses, and provide only 250 of the 453 code required off-street parking spaces.





1:3,600

AERIAL MAP

Case no: BDA112-054

Date: 4/26/2012

**Off-Street Parking Variance Request
WhiteWave Foods, Inc.
Dallas Beverage Production Facility
Dallas, Texas**

**Hixson Job No. 7715.23
April 25, 2012**

Summary of Variance Request

A variance is requested from the requirements of the City of Dallas Zoning Code, Volume III, Article IV, Section 51A-4.301, "Off-Street Parking and Loading Regulations." WhiteWave Foods is requesting to reduce the required quantity of off-street parking by "Special Exception" based on parking demand as described in Section 51A-4.311 of the City of Dallas Zoning Code.

WhiteWave Foods is considering expanding their Dallas facility and is requesting a Variance to provide a total of 250 parking spots to accommodate the fully built capacity of the site. This request requires a reduction of 203 parking spaces from the Dallas Zoning Code parking requirements.

Background

WhiteWave Foods has recently completed the construction/renovation of a 280,000 square foot Beverage Production facility and provided a total of 270 parking spots to comply with current City of Dallas Zoning Regulations. The current facility employee count per shift is 83 employees, which include production personnel and plant management. The facility will operate (2) twelve hour shifts per day.

The fully built capacity of the site totals 400,997 square feet and would require 453 parking spots based on building use groups and the City of Dallas Zoning Code.

Reasons in Support of Granting a Variance for Parking Reduction:

- 1) The 453 parking spots required for full site capacity far exceeds the parking demand required for full build-out of the site. The maximum anticipated employee count is 110 employees per shift and 180 employees at shift change. Providing 250 parking spots, in addition to required handicap spaces, is more than adequate to accommodate employee parking at shift change.
- 2) Providing parking spots in excess of the anticipated demand will limit the full expansion capability of the site and therefore limit the viability of expanding the Dallas facility to accommodate increased production capacity.

WhiteWave Foods, Inc.
Dallas, Texas
Hixson Job. No. 7715.23

2

April 25, 2012
Off-Street Parking Variance Request



Attached: Site drawing that describes proposed parking layout and full build capacity of WhiteWave Foods Dallas production facility.

HIXSON

A handwritten signature in black ink, appearing to read "Scott A. Mueller".

Scott A. Mueller, P.E., S.E.
Chief Structural Engineer

SAM/jwb

Attachments

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April 25, 2012

City of Dallas Board of Adjustment
Attn: Todd Duerksen
320 East Jefferson Blvd., Room 105
Dallas, Texas 75203

Re: WhiteWave Foods, Inc.
Dallas Beverage Production Facility
Hixson Job No. 7715.23

The following information is supplemental data to support WhiteWave Foods off street parking variance request, submitted by Hixson Architecture Engineering Interiors, dated 032312. The data provided includes production capacity, employee count information, and parking capacity of (2) WhiteWave Foods facilities that have similar production capabilities and product mix as the full build capacity of the 3333 Dan Morton Drive site.

Mt. Crawford, Virginia

Production Capacity: 10 production lines
Employee Count: 1st Shift = 111 Employees
2nd Shift = 65 Employees
Total at Shift Change = 176 Employees
Parking Capacity: 238 standard parking spots and 7 Handicap parking spots

City of Industry, California

Production Capacity: 9 production lines
Employee Count: 1st Shift = 65 Employees
2nd Shift = 90 Employees
3rd Shift = 65 Employees
Total at Shift Change = 155 Employees
Parking Capacity: 198 standard parking spots and 9 Handicap parking spots

Proposed Parking Capacity for Dallas Texas Facility

Note: Values indicated account for maximum/anticipated production capacity of the 3333 Dan Morton Drive site.

Production Capacity: 10 production lines
Employee Count: 1st Shift = 110 Employees (anticipated)
2nd Shift = 70 Employees (anticipated)
Total at Shift Change = 180 Employees (anticipated)
Parking Capacity: 250 standard parking spots and 8 Handicap parking spots

Todd Duerksen
City of Dallas Board of Adjustment

2

April 25, 2012
WhiteWave Foods, Inc. Dallas, TX



HIXSON

A handwritten signature in black ink, appearing to read "Scott A. Mueller".

Scott A. Mueller, P.E., S.E.
Chief Structural Engineer

SAM/jwb

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April 25, 2012

City of Dallas Board of Adjustment
Attn: Todd Duerksen
320 East Jefferson Blvd., Room 105
Dallas, Texas 75203

Re: WhiteWave Foods Addition and Alteration Variance Request
Dallas, Texas
Hixson Job No. 7715.23

The parking analysis provided below indicates the off-street parking requirements for the maximum buildable area of the WhiteWave Foods site located on Dan Morton Drive. The square footage indicated accounts for current, proposed, and future construction as described on attached drawings.

Parking Analysis Based on Use Group for maximum buildable area of site

<u>Use Group</u>	<u>Square Feet</u>	<u>Parking Spots</u>
Warehouse	173,421 SF	1 parking spot / 1000 SF for first 20,000 SF = 20 parking spots 1 parking spot / 4000 SF = 38 parking spots
Office	11,460 SF	1 parking spot / 333 SF = 34 parking spots
Industrial (Inside)	206,147 SF	1 parking spot / 600 SF = 344 parking spots
Accessory Use	9,969 SF	1 parking spot / 600 SF = 17 parking spots
Total		453 parking spots required

HIXSON



Scott A. Mueller, P.E., S.E.
Chief Structural Engineer

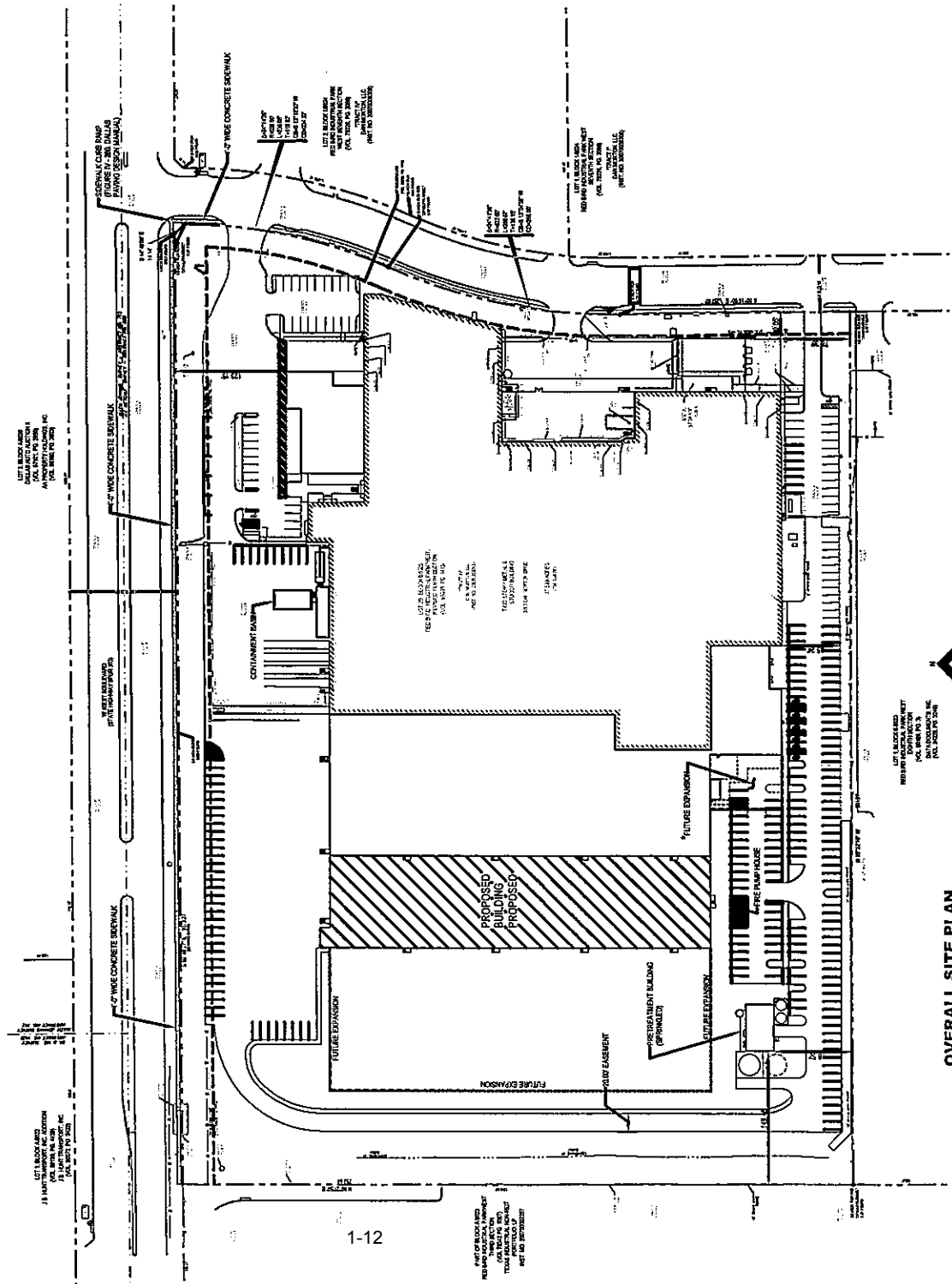
SAM/jwb

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PARKING SUMMARY

ADJACENT LOT	139
ADJACENT SPACES	1
EAST LOT	23
WEST LOT	1
ADJACENT SPACES	47
ADJACENT SPACES	1
ADJACENT SPACES	41
ADJACENT SPACES	0
TOTAL PARKING	250
ADJACENT SPACES	9

NOTE:
 1. ALL ADJACENT SPACES TO BE ELIMINATED AS PART OF PARKING VARIANCE REQUEST



BDA 112-054

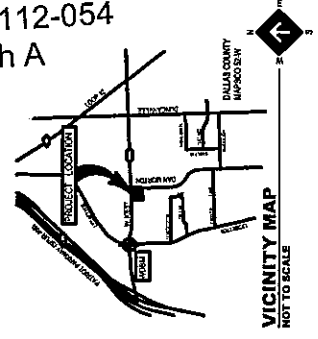
1-12



HIXSON
 620 Van Hook Street
 Carrollton, TX 75006
 (972) 441-1200
 www.hixsoninc.com

The use of any portion of these drawings without the written consent of Hixson, Inc. is prohibited. Hixson, Inc. shall not be held responsible for any errors or omissions in these drawings. Hixson, Inc. shall not be held responsible for any damages, including consequential damages, arising from the use of these drawings.

BDA 112-054
 Attach A
 Pg 6



VICINITY MAP
 NOT TO SCALE

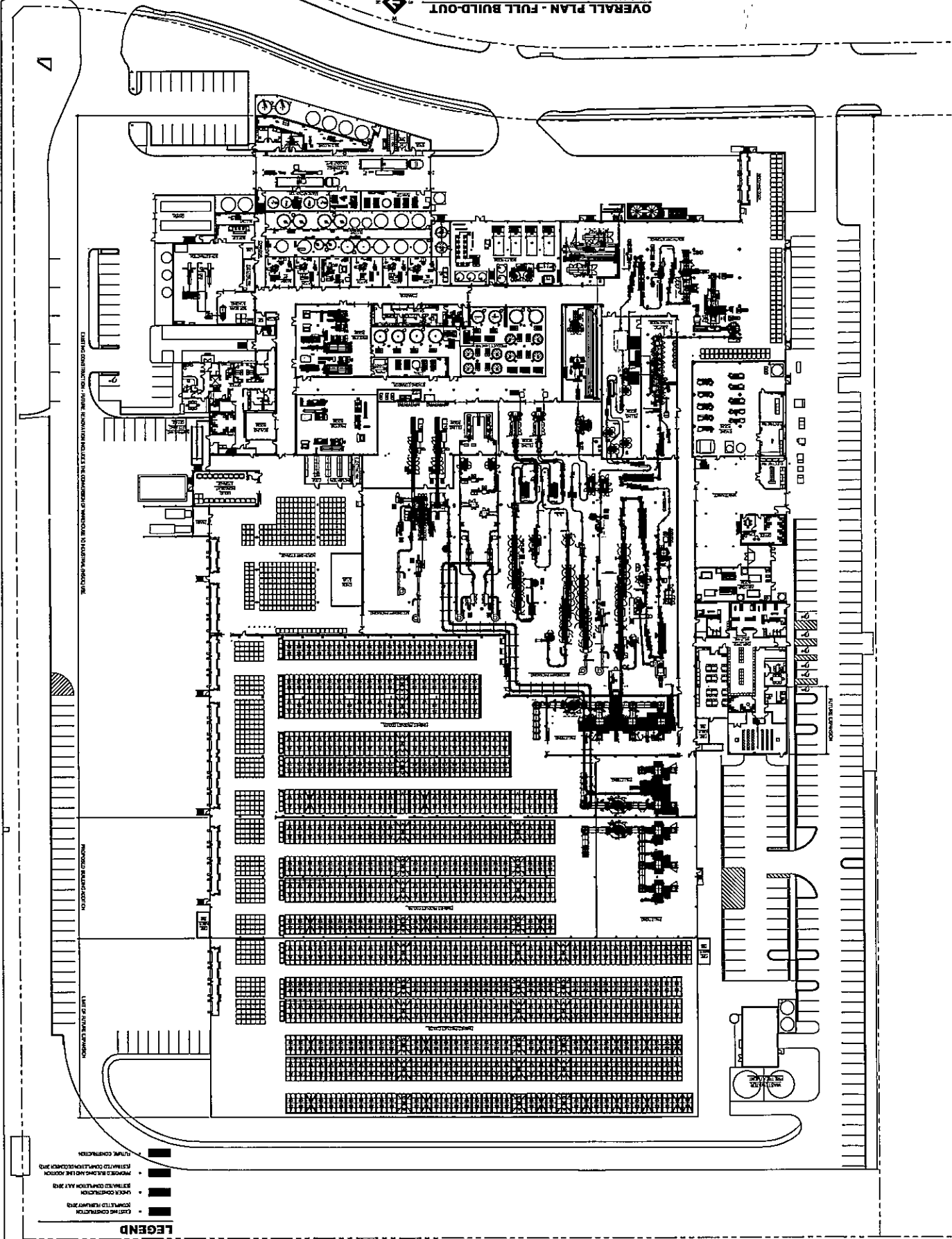
OVERALL SITE PLAN
 1" = 80.00'



623 New North Street
Cedar Rapids, Iowa 52402-1509
1-319-241-1200
www.hixson.com

042512

OVERALL PLAN - FULL BUILD-OUT



- LEGEND**
- EXISTING CONSTRUCTION
 - SUBMITTED CONSTRUCTION
 - EXISTING CONSTRUCTION AND PROPOSED BLDG AND USE ADDITION
 - EXISTING CONSTRUCTION AND PROPOSED CONSTRUCTION AND USE ADDITION
 - EXISTING CONSTRUCTION AND PROPOSED CONSTRUCTION AND USE ADDITION
 - EXISTING CONSTRUCTION AND PROPOSED CONSTRUCTION AND USE ADDITION

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

I hereby certify that Scott Mueller

did submit a request for a special exception to the parking regulations
at 3333 Dan Morton Drive

BDA112-054. Application of Scott Mueller for a special exception to the parking regulations at 3333 Dan Morton Drive. This property is more fully described as lot 2B in city block B/8023 and is zoned IR, which requires parking to be provided. The applicant proposes to construct and maintain a nonresidential structure for 216,116 sq.ft. of industrial (inside), 173,421 sq.ft. of warehouse, and 11,460 sq.ft. of office uses and provide 250 of the required 453 parking spaces, which will require a 203 space special exception (50% reduction for the industrial (inside) use, and a 25% reduction each for the warehouse and office uses) to the parking regulation.

Sincerely,


Lloyd Denman, Building Official



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-054

Data Relative to Subject Property:

Date: 032312

Location address: 3333 DAN MORTON DR. Zoning District: IR

Lot No.: 2B Block No.: B/8023 Acreage: 17.599 AC Census Tract: 165.01

Street Frontage (in Feet): 1) 757.06 2) 1068.18 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property/or Principal: WHITEWAVE FOODS

Applicant: SCOTT MUELLER
HIXSON ARCHITECTURE ENGINEERING INTERIORS Telephone: 513-241-1230

Mailing Address: 659 VAN METER ST CINCINNATI OH Zip Code: 45202

Represented by: SCOTT MUELLER Telephone: 513-241-1230

Mailing Address: 659 VAN METER ST CINCINNATI OH Zip Code: 45202

Affirm that a request has been made for a Variance, or Special Exception X of REQUIRED QUANTITY OF OFF-STREET PARKING BASED ON PARKING DEMAND AS DESCRIBED IN SECTION 51A-4.311 OF THE DALLAS ZONING CODE. Reduction of 197 spaces of 421

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:
SEE ATTACHED DOCUMENTATION

Received FOR AND INSIDE USE

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: SCOTT A. MUELLER [Signature]
Applicant's name printed Applicant's signature

Affidavit

Before me the undersigned on this day personally appeared SCOTT A. MUELLER 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 23rd day of MARCH, 2012

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

CAROL L. UTH
Notary Public, State of Ohio
My Commission Expires Aug. 5, 2016

(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 Scott Mueller

did submit a request for a special exception to the parking regulations

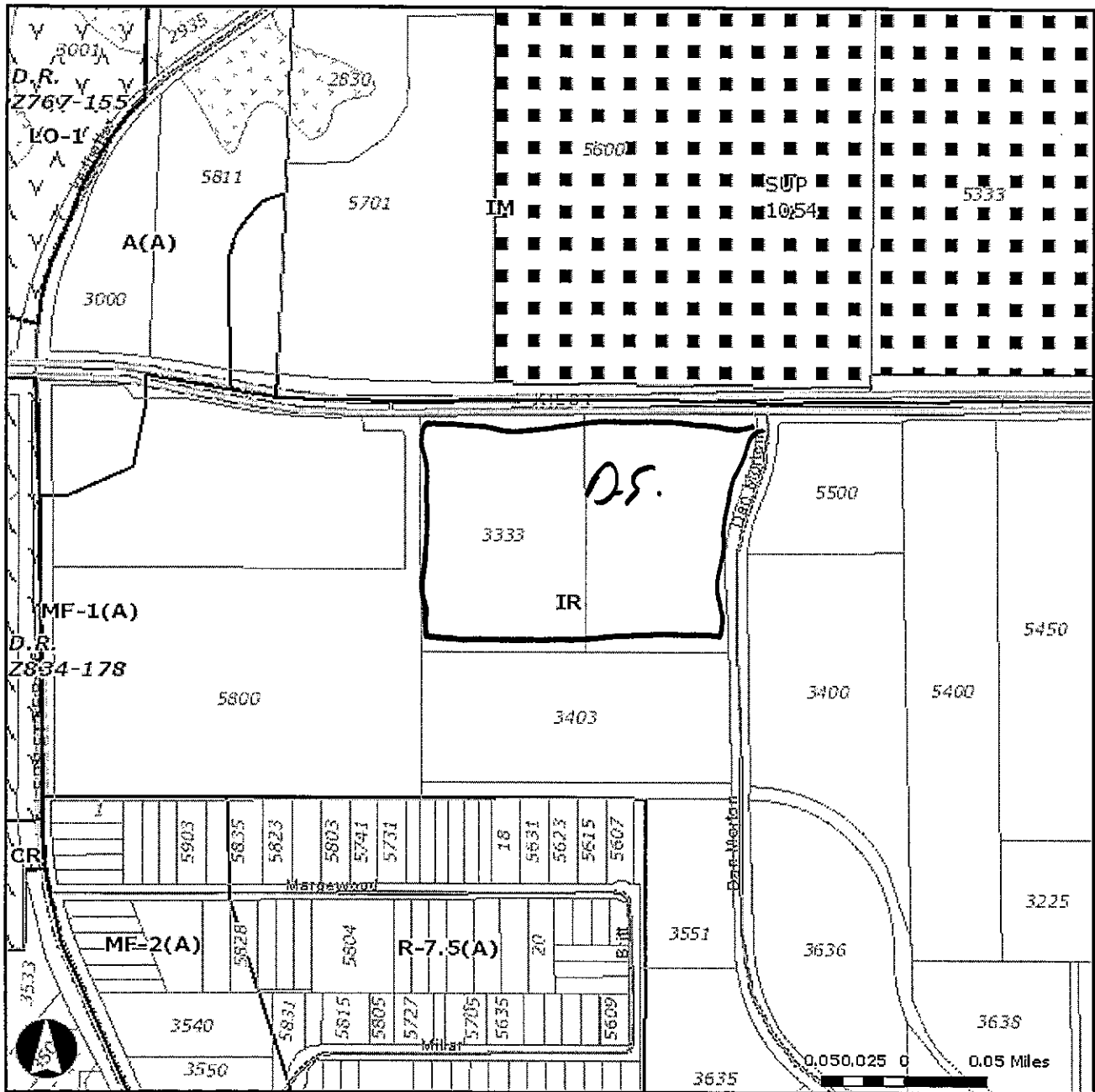
at 3333 Dan Morton Drive

BDA112-054. Application of Scott Mueller for a special exception to the parking regulations at 3333 Dan Morton Drive. This property is more fully described as lot 2B in city block B/8023 and is zoned IR, which requires parking to be provided. The applicant proposes to construct and maintain a nonresidential structure for industrial (inside) use and provide 224 of the required 421 parking spaces, which will require a 197 space special exception (46.8% reduction) to the parking regulation.

Sincerely,


Lloyd Denman, Building Official

City of Dallas Zoning



Address Candidates

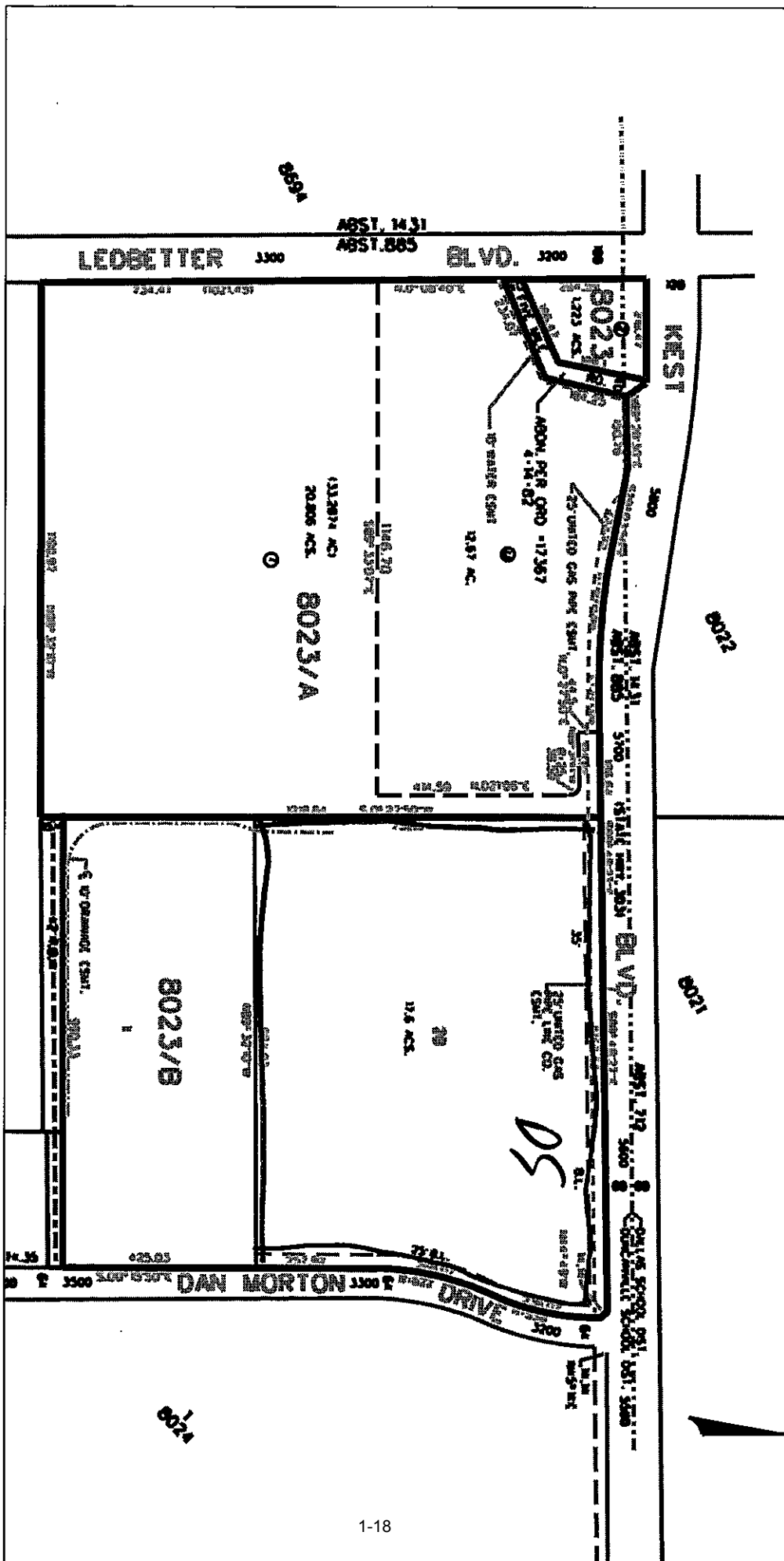
- Address Candidates
- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Major Lakes

Dry Overlay

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

PDS Subdistricts

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



**Off-Street Parking Variance Request
WhiteWave Foods, Inc.
Dallas Beverage Production Facility
Dallas, Texas**

**Hixson Job No. 7715.23
March 23, 2012**

Summary of Variance Request

A variance is requested from the requirements of the City of Dallas Zoning Code, Volume III, Article IV, Section 51A-4.301, "Off-Street Parking and Loading Regulations." WhiteWave Foods is requesting to reduce the required quantity of off-street parking by "Special Exception" based on parking demand as described in Section 51A-4.311 of the City of Dallas Zoning Code.

WhiteWave Foods is considering expanding their Dallas facility and is requesting a Variance to provide a total of 224 parking spots to accommodate the fully built capacity of the site.

Background

WhiteWave Foods has recently completed the construction/renovation of a 280,000 square foot Beverage Production facility and provided a total of 270 parking spots to comply with current City of Dallas Zoning Regulations. The current facility employee count per shift is 83 employees, which include production personnel and plant management. The facility will operate (2) twelve hour shifts per day.

The fully built capacity of the site totals 395,886 square feet and would require 421 parking spots based on building use groups and the City of Dallas Zoning Code.

Reasons in Support of Granting a Variance for Parking Reduction:

- 1) The 421 parking spots required for full site capacity far exceeds the parking demand required for full build-out of the site. The maximum anticipated employee count is 110 employees per shift. Providing 224 parking spots, in addition to required handicap spaces, is more than adequate to accommodate employee parking at shift change.
- 2) Providing parking spots in excess of the anticipated demand will limit the full expansion capability of the site and therefore limit the viability of expanding the Dallas facility to accommodate increased production capacity.

Attached: Site drawing that describes proposed parking layout and full build capacity of WhiteWave Foods Dallas production facility.

WhiteWave Foods, Inc.
Dallas, Texas
Hixson Job. No. 7715.23

2

March 23, 2012
Off-Street Parking Variance Request

HIXSON
ARCHITECTURE ENGINEERING INTERIORS

HIXSON



Scott A. Mueller, P.E., S.E.
Chief Structural Engineer

SAM/jwb

Attachments

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March 23, 2012

City of Dallas Board of Adjustment
Attn: Todd Duerksen
320 East Jefferson Blvd., Room 105
Dallas, Texas 75203

Re: WhiteWave Foods Addition and Alteration Variance Request
Dallas, Texas
Hixson Job No. 7715.23

The parking analysis provided below indicates the off-street parking requirements for the maximum buildable area of the WhiteWave Foods site located on Dan Morton Drive. The square footage indicated accounts for current, proposed, and future construction as described on attached drawings.

Parking Analysis Based on Use Group for maximum buildable area of site

<u>Use Group</u>	<u>Square Feet</u>	<u>Parking Spots</u>
S-1, H-3, H-4 (Storage)	180,410 SF	1 parking spot / 1000 SF for first 20,000 SF = 20 parking spots 1 parking spot / 4000 SF = 41 parking spots
B	15,842 SF	1 parking spot / 600 SF = 27 parking spots
F-2	199,634 SF	1 parking spot / 600 SF = 333 parking spots
Total		421 parking spots required

HIXSON.



Scott A. Mueller, P.E., S.E.
Chief Structural Engineer

SAM/jwb

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WhiteWave Foods
12002 Airport Way
Broomfield, CO 80021

City of Dallas Board of Adjustment
Attn: Todd Duerksen
320 East Jefferson Blvd., Room 105
Dallas, Texas 75203

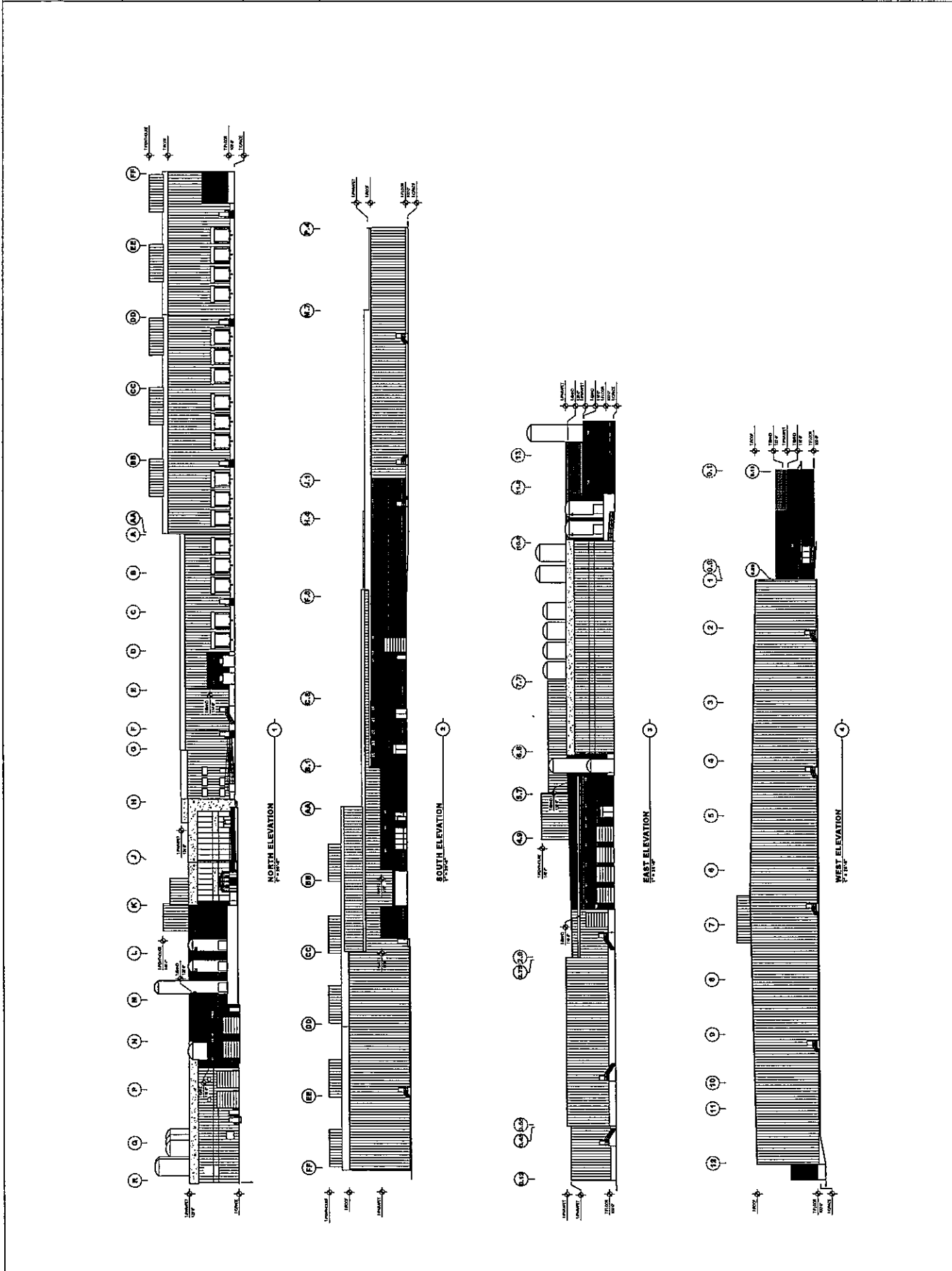
WhiteWave Foods would like to request a variance to reduce the quantity of off-street parking, required by Dallas Zoning Code, at our facility located at 3333 Dan Morton Drive. The attached summary of variance request and supporting documents, prepared by Hixson Architecture Engineering Interiors, communicates WhiteWave's request and justification to reduce off-street parking.

The anticipated employee count indicated within the variance request has been benchmarked from multiple facilities, which WhiteWave currently owns and operates, that have similar production capacity to the full build capacity of the Dan Morton Drive site.

WhiteWave Foods is committed to expanding the capacity of our Dallas facility and being an integral part of the Dallas community. Thank you for your consideration of our variance request.

A handwritten signature in black ink, appearing to read "Rick Wietharn".

Rick Wietharn
VP Engineering and Extraction

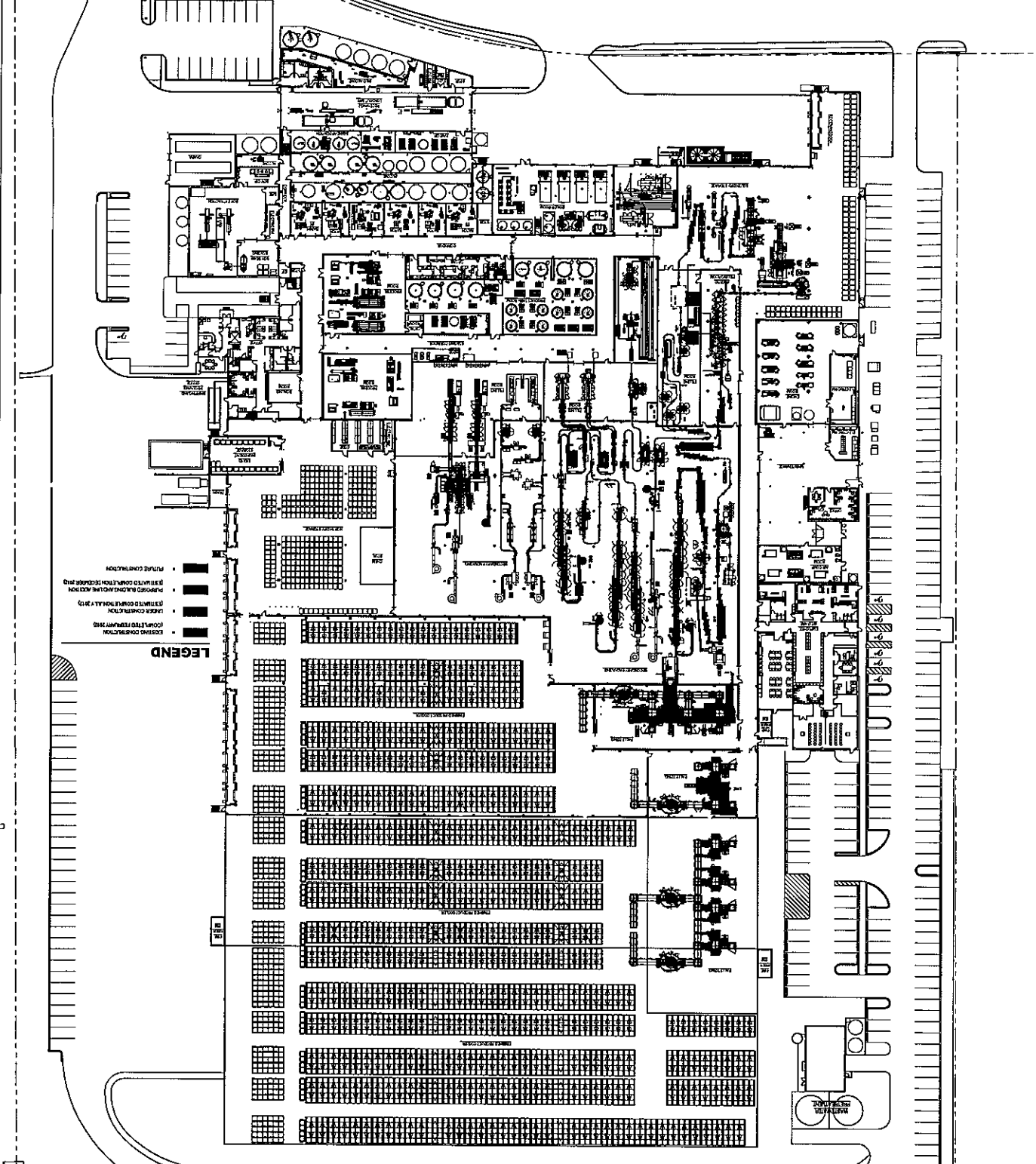
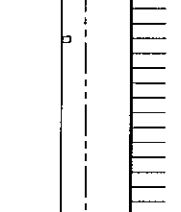


ADDITION & ALTERATION
WHITEMAVE FOODS
 DALLAS TEXAS



HIXSON
 1225 W. HAVEN DRIVE
 FORT WORTH, TEXAS 76104
 817.332.1122
 www.hixson-inc.com

Architectural drawings are to be used only for the project and location shown. No other use is permitted without the written consent of Hixson. Hixson is not responsible for any errors or omissions in these drawings. Hixson is not responsible for any construction or other work not shown in these drawings.



LEGEND

- ◆ PLUMBING CONSTRUCTION
- PERMITTED BUILDING WORK AND NOT SUBJECT TO CONSTRUCTION STOPPAGE
- ▨ INTERIOR CONSTRUCTION (SEE ANY OTHER SHEETS)
- ▩ EXTERIOR CONSTRUCTION
- ▧ ROOFING CONSTRUCTION
- ▨ FOUNDATION REPAIR/WORK

April 16, 2012

City of Dallas Board of Adjustment
Attn: Todd Duerksen
320 East Jefferson Blvd., Room 105
Dallas, Texas 75203

Re: WhiteWave Foods, Inc.
Dallas Beverage Production Facility
Hixson Job No. 7715.23

The following information is supplemental data to support WhiteWave Foods off street parking variance request, submitted by Hixson Architecture Engineering Interiors, dated 032312. The data provided includes production capacity, employee count information, and parking capacity of (2) WhiteWave Foods facilities that have similar production capabilities and product mix as the full build capacity of the 3333 Dan Morton Drive site.

Mt. Crawford, Virginia

Production Capacity: 10 production lines
Employee Count: 1st Shift = 111 Employees
 2nd Shift = 65 Employees
 Total at Shift Change = 176 Employees
Parking Capacity: 238 standard parking spots and 7 Handicap parking spots

City of Industry, California

Production Capacity: 9 production lines
Employee Count: 1st Shift = 65 Employees
 2nd Shift = 90 Employees
 3rd Shift = 65 Employees
 Total at Shift Change = 155 Employees
Parking Capacity: 198 standard parking spots and 9 Handicap parking spots

Proposed Parking Capacity for Dallas Texas Facility

Note: Values indicated account for maximum/anticipated production capacity of the 3333 Dan Morton Drive site.

Production Capacity: 10 production lines
Employee Count: 1st Shift = 110 Employees (anticipated)
 2nd Shift = 70 Employees (anticipated)
 Total at Shift Change = 180 Employees (anticipated)
Parking Capacity: 224 standard parking spots and 7 Handicap parking spots

659 Van Meter Street
Cincinnati Ohio
45202-1568
513 241 1230
Fax 513 241 1287

Todd Duerksen
City of Dallas Board of Adjustment

2

April 16, 2012
WhiteWave Foods, Inc. Dallas, TX



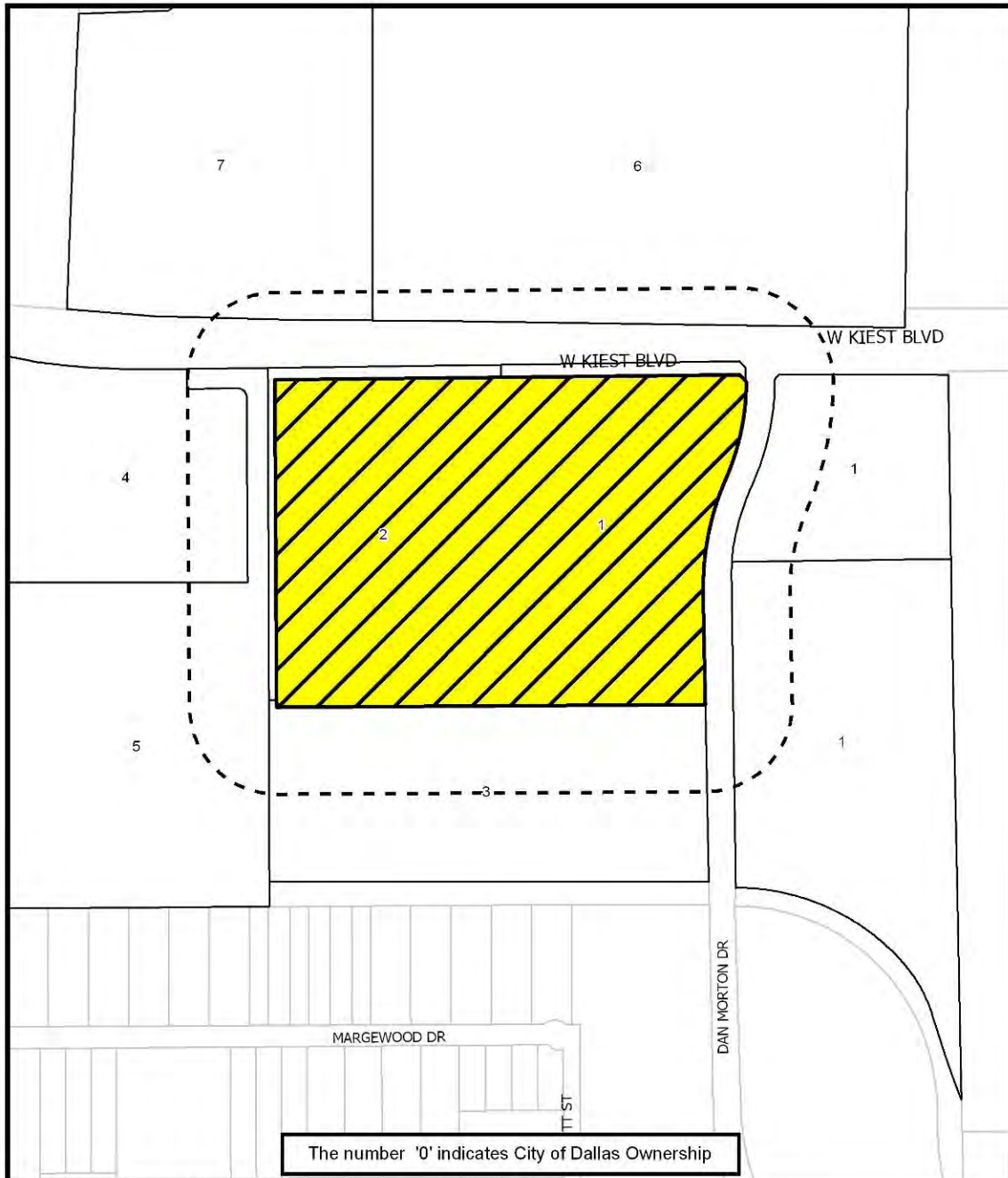
HIXSON

A handwritten signature in black ink, appearing to read "Scott A. Mueller".

Scott A. Mueller, P.E., S.E.
Chief Structural Engineer

SAM/jwb

H:\00771500\opcenter\Variances Phase 3\7715_23_WhiteWave_Parking_Variance_Supporting_Data_041612.docx



 1:3,600	NOTIFICATION		Case no: BDA112-054
	<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

BDA112-054

7 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3400 DAN MORTON DR	WHITEWAVE FOODS COMPANY ATTN: LEGAL DEPA
2	3333 DAN MORTON DR	DAN MORTON LLC %SOUTHERN ASSET SERV CORP
3	3403 DAN MORTON DR	DATA DOCUMENTS INC
4	5800 Kiest Blvd	8600 ROYAL INC STE 835
5	5800 Kiest Blvd	TEXAS INDUSTRIAL NON REIT
6	5600 Kiest Blvd	AA PROPERTY HOLDINGS INC %DALLAS AUTO AU
7	5701 Kiest Blvd	HUNT J B TRANSPORT INC

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 solid stucco wall ranging in height from 6' 4" – 6' 8" (given grade changes on the property) 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 Board of Adjustment conducted a public hearing on April 16, 2012. The applicant submitted written documentation to the Board at the public hearing including a map with corresponding photographs of other fences in the immediate area, and a revised elevation that amended the originally submitted elevation by increasing the height of the proposed wall from 6' 1" to 6' 9" (see Attachment A). The Board delayed action on this application until May 14th to allow the applicant an opportunity to meet with an opposing property owner and possibly submit a revised

proposal with consideration given to a proposal with partial if not entirely open materials and/or some landscaping added adjacent to the proposal that would lessen its impact on neighboring properties.

- On April 27, 2012, the applicant submitted additional information to staff beyond what he submitted with the original application and beyond what he submitted to the Board at the April 16th public hearing (see Attachment B). Part of the applicant's submittals including a revised site plan and a revised elevation that included among other things the notations of certain landscape materials to be located on the street-side of the proposed fence/wall.
- 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 originally 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' $\frac{3}{4}$ " high solid stucco wall. However, on April 24th, the applicant submitted a revised site plan that the applicant has stated among other things shows the new fence to be constructed 3 feet from the property line to accommodate vegetation ("new Holly Shrubs along the entire new wall") and "cut in on the east corner that will greatly improve drivers vision on traffic heading east on Royal Lane," and a revised elevation that the applicant states among other things shows a fence height between 6' 4" – 6' 8".
- The following additional information was gleaned from the submitted revised 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 3' from the Royal Lane front property line and approximately 12' 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 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).
2. BDA 978-231, Property at 10757 Lennox Lane (the subject site)
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 (two lots west 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. |
| 5. BDA 056-225, Property at 10770 Lennox Lane (the lot immediately east of the subject site) | On November 13, 2006, the Board of Adjustment Panel C granted a request for a special exception to the fence height regulations of 5' and imposed the following condition to the request: compliance with the submitted revised site plan Option B elevation, and landscape plan is required. The case report states the request was made to construct and maintain an 8' high solid stucco fence with 9' high stucco columns and a sliding gate to be located in the site's Lennox Lane and Royal Lane front yard setbacks on a site developed with a single family home. |

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.

April 16, 2012: The Board of Adjustment conducted a public hearing on April 16, 2012. The applicant submitted written documentation to the Board at the public hearing including a map with corresponding photographs of other fences in the immediate area, and a revised elevation that amended the originally submitted elevation by increasing the height of the proposed wall from 6' 1" to 6' 9" (see Attachment A). The Board delayed action on this application until May 14th to allow the applicant an opportunity to meet with an opposing property owner and possibly submit a revised proposal with consideration given to a proposal with partial if not entirely open materials and/or some landscaping added adjacent to the proposal that would lessen its impact on neighboring properties.

April 27, 2012: The applicant submitted additional information to staff beyond what he submitted with the original application and beyond what he submitted to the Board at the April 16th public hearing (see Attachment B). Part of the applicant's submittals including a revised site plan and a revised elevation.

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 solid stucco wall ranging in height from 6' 4" – 6' 8" (given grade changes on the property) 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 revised site plan and revised 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 3' from the front property line or about 12' 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 2006: BDA 056-225.
- As of May 7, 2012, no letters had been submitted to staff in support of the request, and 2 letters had been submitted in opposition.
- 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 revised site plan and revised 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.

BOARD OF ADJUSTMENT ACTION: APRIL 16, 2012

APPEARING IN FAVOR: Pithou Nuth, 10757 Lennox Lane, Dallas, TX

APPEARING IN OPPOSITION: Sherrill Stone, 4625 Royal Lane, Dallas, TX

MOTION #1: **Moore**

I move that the Board of Adjustment in Appeal No. **112-039** suspend the rules and accept the evidence that is presented today.

SECONDED: **Maten**

AYES: 5– Boyd, Moore, Maten, Coulter, Richard

NAYS: 0 –

MOTION PASSED: 5-0 (unanimously)

MOTION #2: **Coulter**

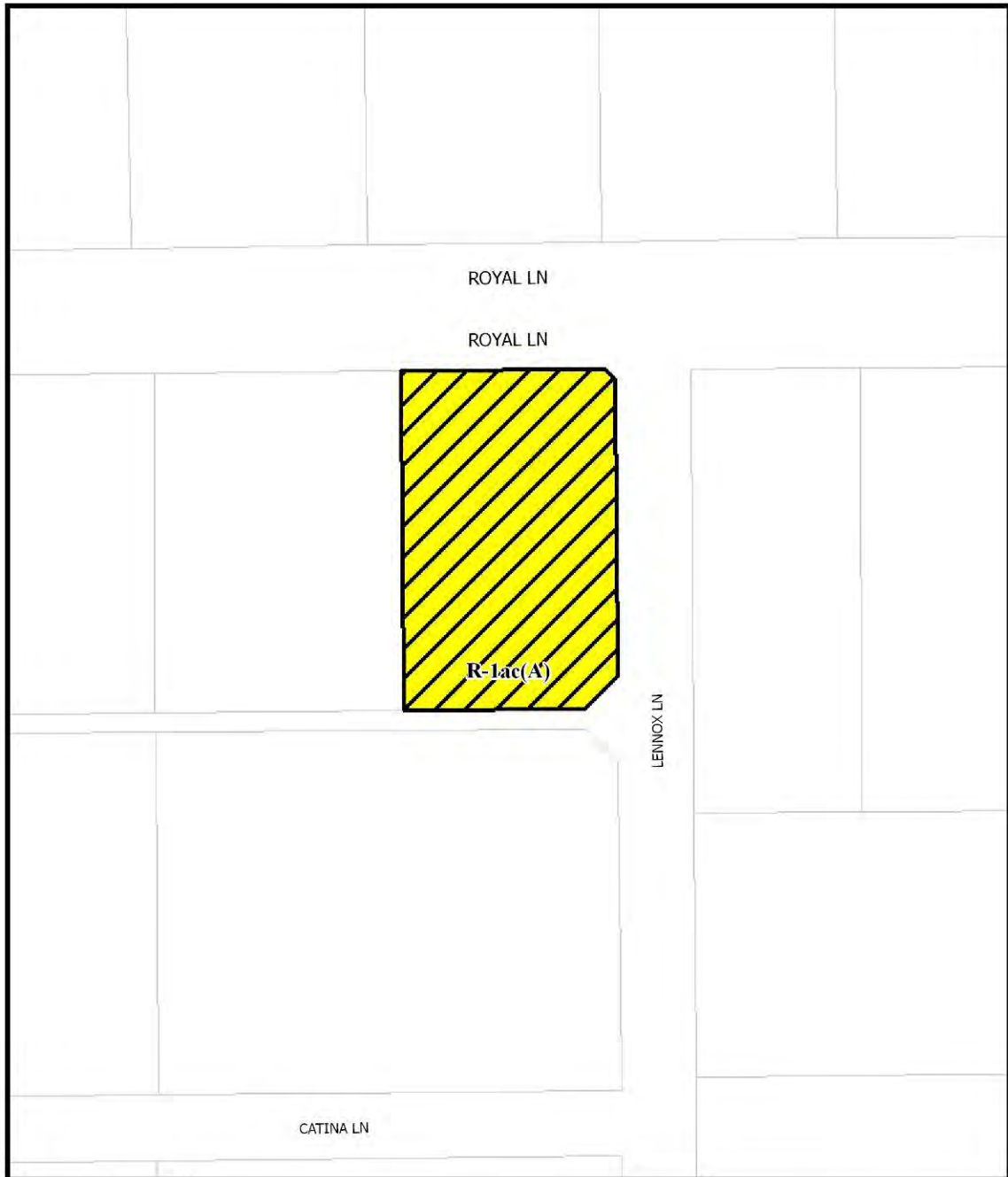
I move that the Board of Adjustment in Appeal No. **BDA 112-039**, hold this matter under advisement until **May 14, 2012**.

SECONDED: **Richard**

AYES: 5– Boyd, Moore, Maten, Coulter, Richard

NAYS: 0 –

MOTION PASSED: 5-0 (unanimously)



1:1,200

ZONING MAP

Case no: BDA112-039

Date: 3/30/2012



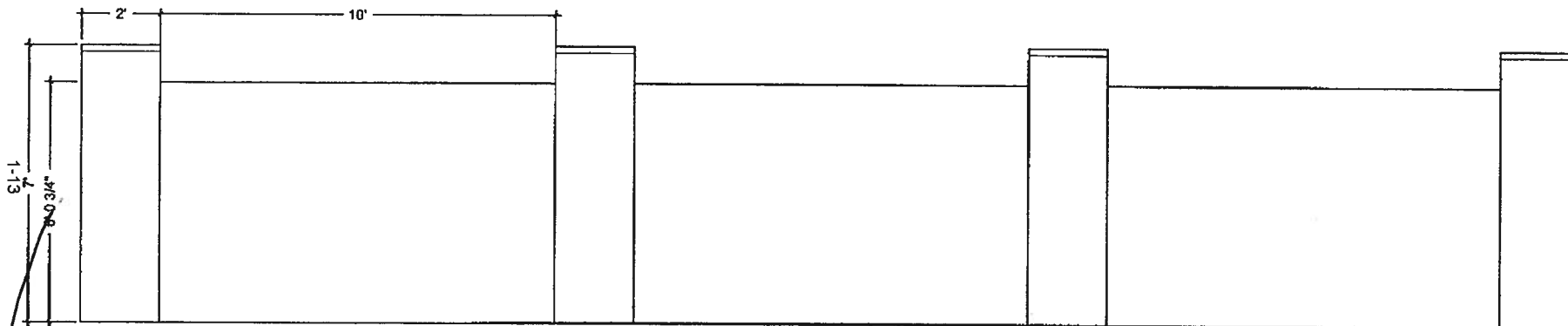
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AERIAL MAP

Case no: BDA112-039

Date: 3/30/2012

Submitted by
applicant at
the 4-16-12
hearing



6' 9"
PN

10757 Lennox Ln.
Stucco Wall

Scale
1/4" = 1'-0"

Location: 10757 Lennox Lane
File No.: BDA 112-039

Submitted by
applicant at
the 4-16-12
hearing.

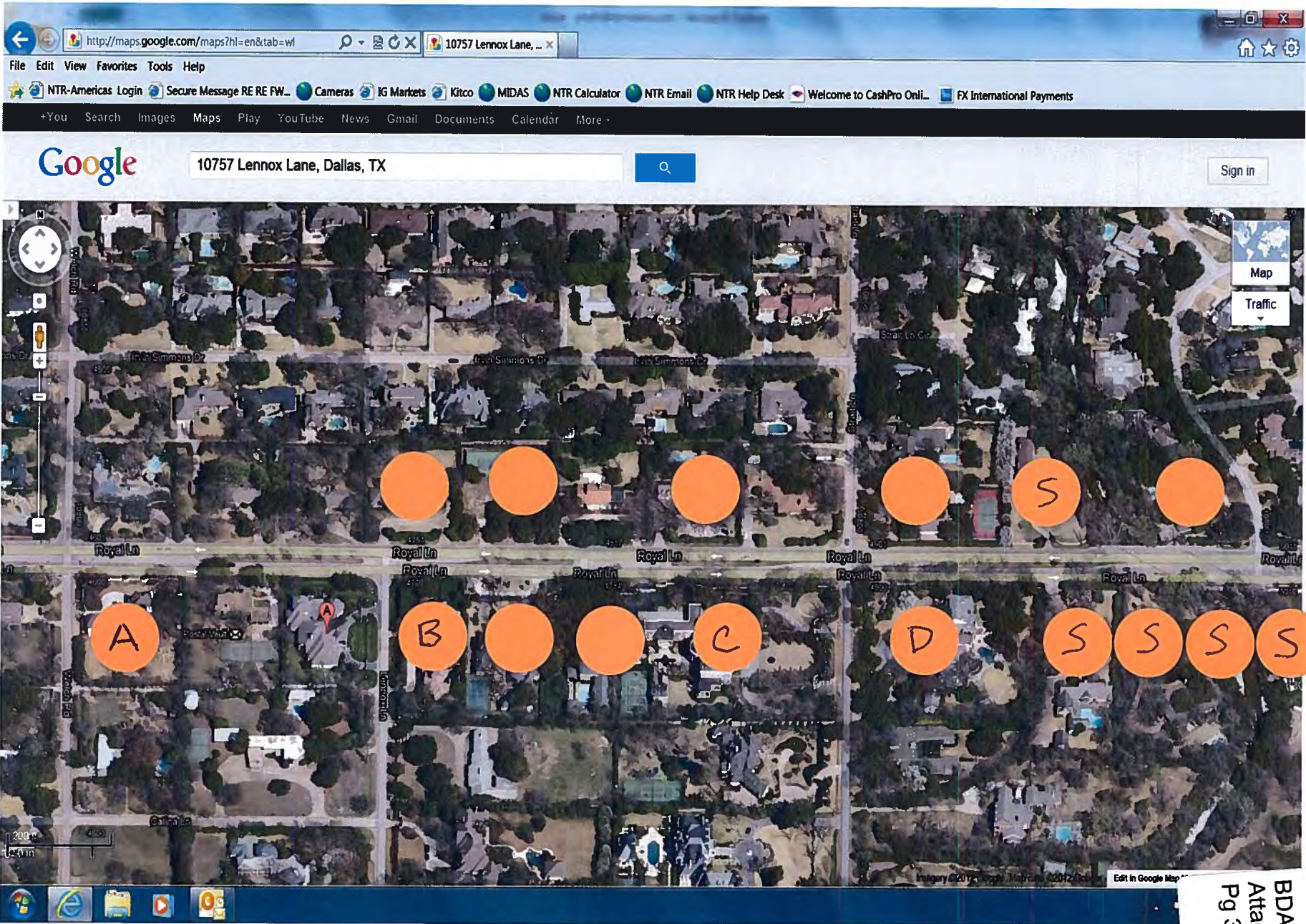
Royal Lane Neighborhood Fences

BDA 112-039
Attach A
Pg 2

1. Ex. "A" – 4610 Royal Lane; solid stucco fence $\geq 7'$
2. Ex. "B" – 10770 Lennox Lane; stucco/bar fence $\geq 7'$
3. Ex. "C" – 10777 Strait Lane; solid stucco/stone fence $\geq 7'$
4. Ex. "D" – 10750 Strait Lane; solid stucco/stone fence $\geq 7'$
5. Ex. "S" - various solid brick or Austin stone fences $\geq 7'$
6. Unlettered orange dots; misc. brick or Austin stone fences $\geq 7'$

Fence requested for 10757 Lennox – solid stucco fence 6' 9"
(w/ 7' stucco columns)

Requested fence is consistent with fences of neighboring properties
and will not adversely affect neighboring properties.



A



BDA 112-039
Attach A
Pg 4

B



c



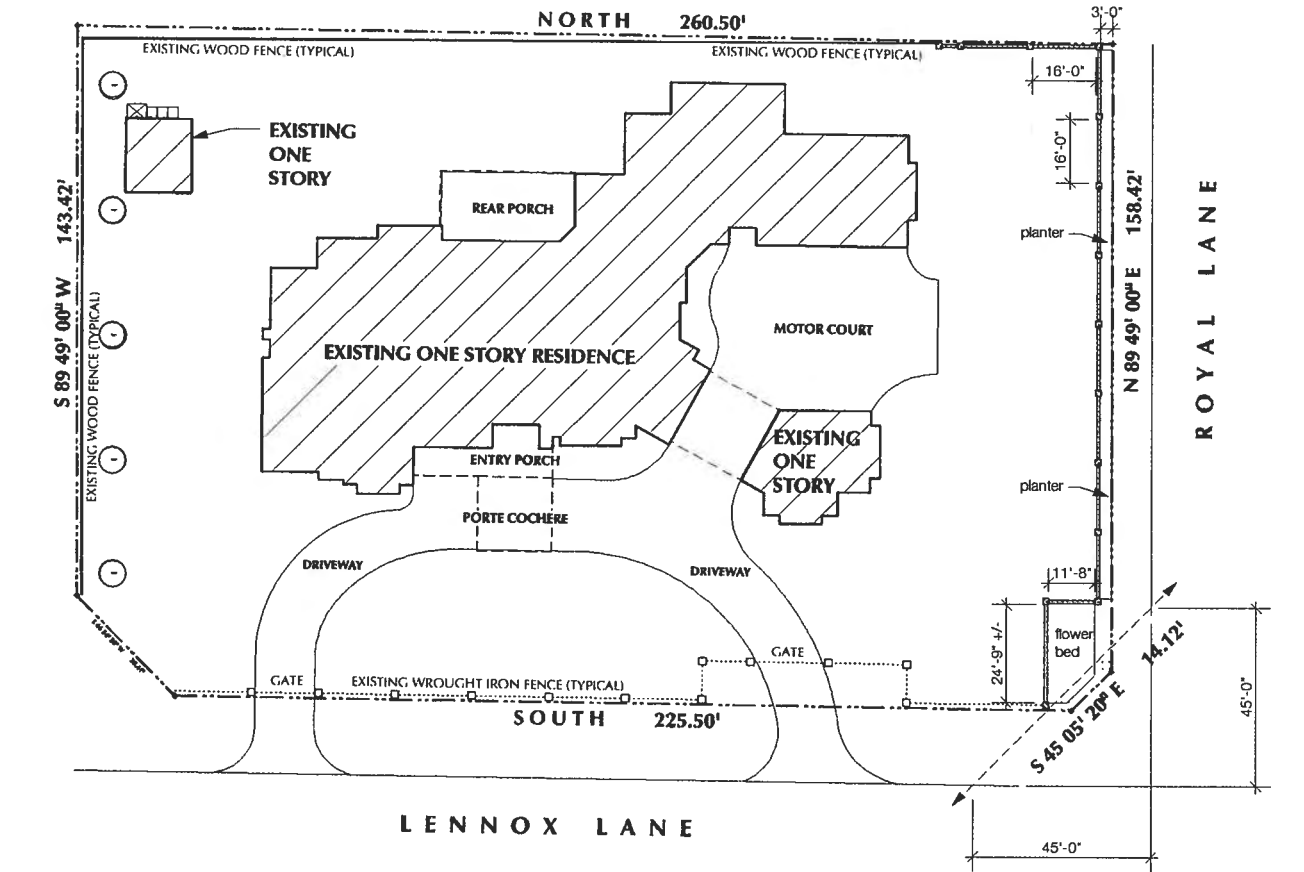
D



BDA 112-039
Attach A
Pg 7

Revised Submission

1. Site plan revised to show new fence will be constructed 3 feet from the property line to accommodate vegetation. It also shows the cut in on the east corner (11 feet 8 inches south of the new fence line along Royal Lane and 24 feet 9 inches west of the fence line along Lennox) that will greatly improve drivers vision on traffic heading east on Royal Lane
2. A revised elevation that shows fence height between 6 feet 8 inches to 6 feet 4 inches. It also shows vegetation on the fence and along the property line.
3. Rendering pictures of before and after look on the proposed fence.
4. E-mail and reference material from Mr. Ray Umscheid, Noise Expert from TxDot Environmental Affairs to address noise concern.

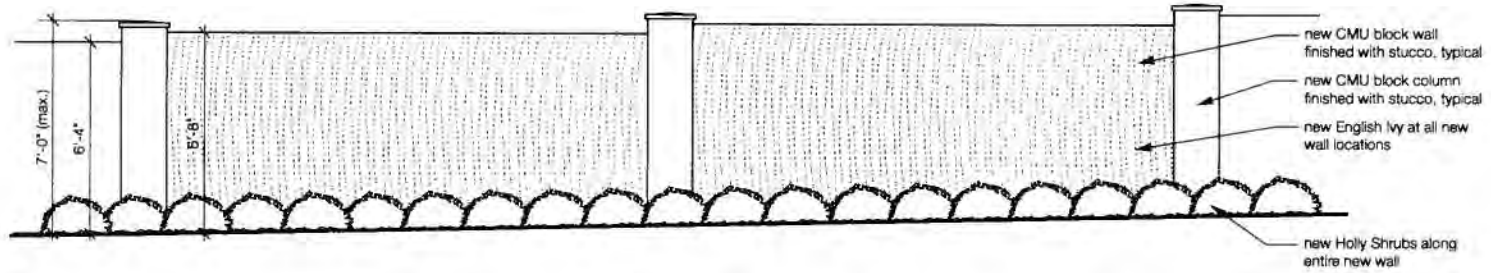


01 **SITE PLAN - NEW FENCE**
 1.01 Scale: 1" = 30 ft



BDA 112-039
 Attach B
 Pg 2

1.01
SITE PLAN
:: new renovation to be built at: 10757 Lennox Lane Dallas, Texas
:: drawings prepared by: Modern Craft Construction, LLC 2102 FM 1141, Rockwall, Texas 76087 Wiley Gilliam - 214.477.7443
ISSUE: 25 April 2012 permit & construction



01 **NEW FENCE ELEVATION (PARTIAL)**
 1.02 Scale: 1/4" = 1'-0"



ISSUE:
 25. April 2012
 permit & construction

drawings prepared by:
Modern Craft Construction, LLC
 2102 FM 1141, Rockwall, Texas 75087
 Wiley Gilliam - 214.477.7443

new renovation to be built at:
 10757 Lennox Lane
 Dallas, Texas

SITE PLAN

1.02

BDA 112-039
 Attach B
 Pg 3





Re: Phone call

Wed, April 18, BDA 112-039
 Attach B
 Pg 6

From: Ray Umscheid <Ray.Umscheid@txdot.gov> Add to Contacts
 To: nuth@flash.net
 Cc: Jenise Walton <Jenise.Walton@txdot.gov>; Rory Meza <Rory.Meza@txdot.gov>

Pete,

It was good talking to you. The 6' wall that you are contemplating construction of would not make a perceptible change to the noise levels on the other side of the road considering the great distance of 6 lanes and a median and the relatively short height of your proposed wall. See section 3.5.4 on the attached link for more information on reflected sound on noise barriers.

http://www.fhwa.dot.gov/environment/noise/noise_barriers/design_construction/design/design03.cfm

Ray

Ray Umscheid
 Noise Expert
 TxDOT Environmental Affairs
 Technical Services Section
 Human Environments Branch
 Phone: 512-416-3025
ray.umscheid@txdot.gov

>>> Jenise Walton 4/17/2012 8:43 AM >>>

yes, we can handle this. I'm copying Ray Umscheid as he is our noise specialist.

>>> Rory Meza 4/17/2012 8:32 AM >>>

Jenise

I had a phone message from someone in the Dallas area requesting information on acoustic requirements near a freeway. The name I heard on the message was "Pete" at 972-741-3385. Would you be able to call him? I think he has been shuffled around looking for the right person to talk about noise walls.

Thanks
 Rory

Ms. Rory Meza, P.E.
 Director, Roadway Design Section
 Design Division
 Texas Department of Transportation
 512-416-2678
 email: Rory.Meza@txdot.gov

berm is, essentially, grass-covered acoustically soft earth with side slopes closer to the sound path, which provides additional attenuation. However, because a berm is wider than a wall (thus, requiring more land than a wall when constructed) and because the 1 to 3 dB(A) additional attenuation is, at best, only barely perceptible to the human ear, a berm's acoustical advantage does not necessarily guarantee its choice versus a wall.

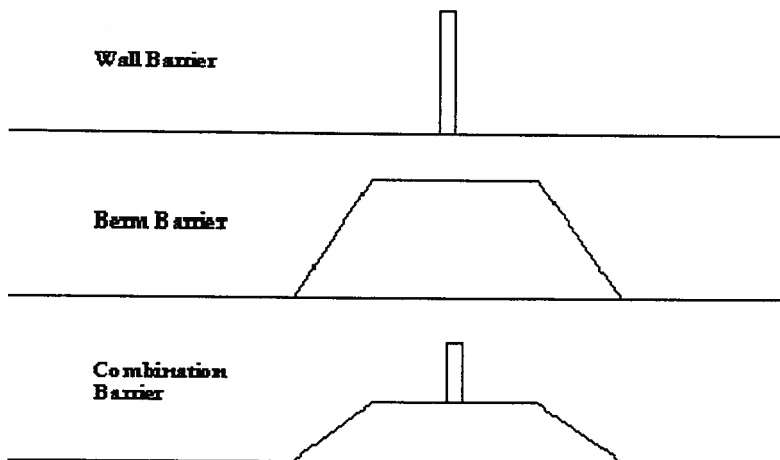


Figure 16. Wall, berm and combination noise barriers

3.5.4 Reflective Versus Absorptive.

A barrier without any added absorptive treatment is by default reflective (see also Section 3.4.1). A reflective barrier on one side of the roadway can result in some sound energy being reflected back across the roadway to receivers on the opposite side (see Figure 17).

It is a common phenomenon for residents to perceive a difference in sound after a barrier is installed on the opposite side of a roadway. Although theory indicates greater increases for a single reflection, practical highway measurements commonly show not greater than a 1 to 2 dB(A) increase in sound levels due to the sound reflected off the opposing barrier. While this increase may not be readily perceptible, residents on the opposite side of the roadway may perceive a change in the quality of the sound; the signature of the reflected sound may differ from that of the source due to a change in frequency content upon reflection.

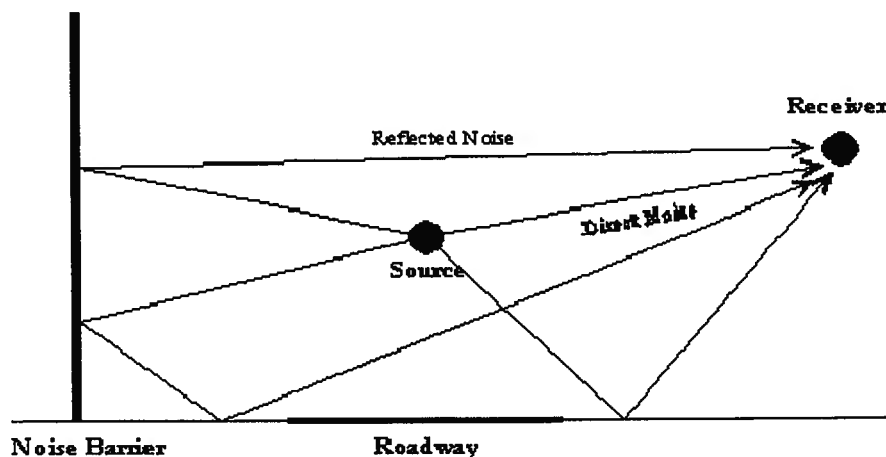


Figure 17. Reflective noise paths due to a single barrier

Parallel barriers are two barriers which face each other on opposite sides of a roadway (see Figure 18). Sound reflected between reflective parallel barriers may cause degradations in each barrier's performance due to multiple reflections that diffract over the individual barriers. These degradations may be from 2 to as much as 6 dB(A) (see Figure 19).^{ref.19} That is, a single barrier with an insertion loss of 10 dB(A) may only realize an effective reduction of 4 to 8 dB(A) if another barrier is placed parallel to it on the opposite side of the highway.



Figure 18.
Parallel noise barriers
 photo #2968

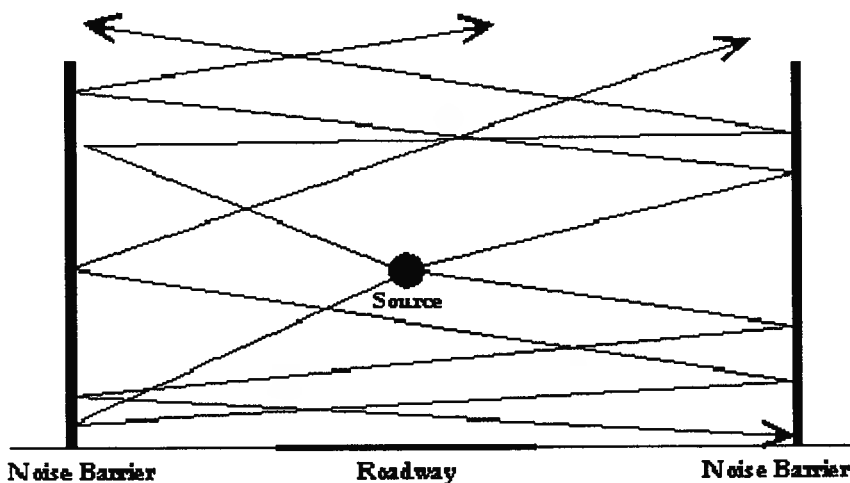


Figure 19. Reflective noise paths due to a parallel barrier

The problems caused by both single and parallel barriers can be minimized using one or a combination of the following three methods:^{ref.19}

- For parallel barriers, ensure that the distance between the two barriers is at least 10 times their average height. A 10:1 width-to-height (w/h) ratio will result in an imperceptible degradation in performance. In recent studies, it was determined that as the w/h ratio increases, the insertion loss degradation decreases.^{ref.24 and ref.33} This decrease can be attributed to: (1) the decrease in the number of reflections between the barriers; and (2) the weakening of the reflections due to geometrical spreading and atmospheric absorption. Table 5 provides a guideline of three, general w/h ratio ranges and the corresponding barrier insertion-loss degradation (Δ_{IL}) that can be expected.

Table 5. Guideline for categorizing parallel barrier sites based on the w/h ratio.

w/h Ratio	Maximum Δ_{IL} in dB(A)	Recommendation
-----------	--------------------------------	----------------

Less than 10:1	3 or greater	Action required to minimize degradation.
10:1 to 20:1	0 to 3	At most, degradation barely perceptible; no action required in most instances.
Greater than 20:1	No measurable degradation	No action required.

- Apply sound absorptive material on either one or both barrier facades. See also Section 3.4.1. The decision to add a sound absorptive surface should be determined by weighing benefit versus cost. That is, what noise abatement benefits can be achieved for how many residents versus the costs of the application and maintenance of the absorptive treatments?

The answer is most important since the typical costs of noise absorptive material, whether integrated with the noise barrier at the time of barrier construction, or as a retrofit later on after the barrier is constructed, is usually \$75 to \$118/m² (\$7 to \$11/ft²). Using an average cost of \$97/m² (\$9/ft²) for example, for a 3.6-m (12 ft) high barrier, this would translate into an additional \$0.4 million/km (\$0.6 million/mi) in costs. ref.24, ref.34, ref.35, ref.36 and ref.37

- Tilt one or both of the barriers outward away from the road. Previous research has shown that an angle as small as 7 degrees is effective at minimizing degradations. ref.33 This solution, however, must consider locations higher than the opposite barrier because they may be adversely affected by the reflected sound.

3.5.5 Other Unique Design Considerations.

3.5.5.1 Overlapping Barriers.

Barriers which overlap each other (see Figure 20) are usually constructed to allow access gaps for maintenance, safety, and pedestrian purposes (see Section 9.4.1). A general rule-of-thumb is that the ratio between overlap distance and gap width should be at least 4:1 to ensure negligible degradation of barrier performance (see Figures 21). If a 4:1 ratio is not feasible, then consideration should be given to the application of absorptive material (see Section 3.4.1) on the barrier surfaces within the gap area.



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.

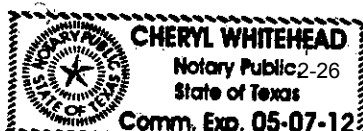
Respectfully submitted: [Signature] (Affiant/Applicant's signature)

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

Cheryl Whitehead
Notary Public in and for Dallas County, Texas

(Rev. 08-01-11)

BDA 112-039



MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

Building Official's Report

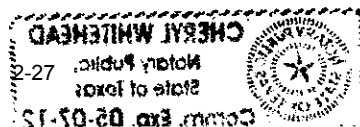
I hereby certify that Pithou Nuth

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

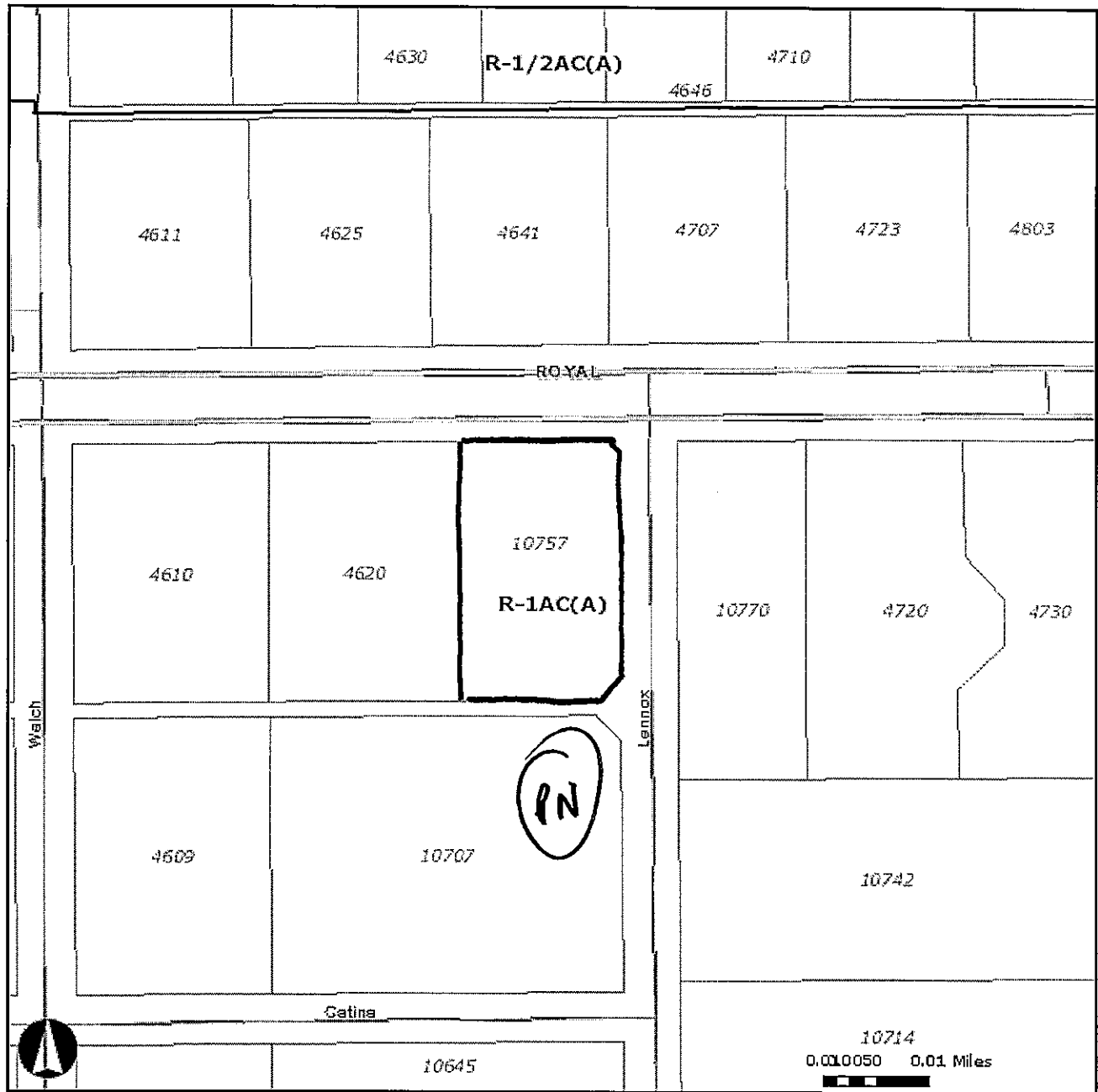
BDA112-039. Application of Pithou Nuth for a special exception to the fence height regulations at 10757 Lennox Lane. This property is more fully described as lot 2B in city block B/5534 and is zoned R-1ac(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct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

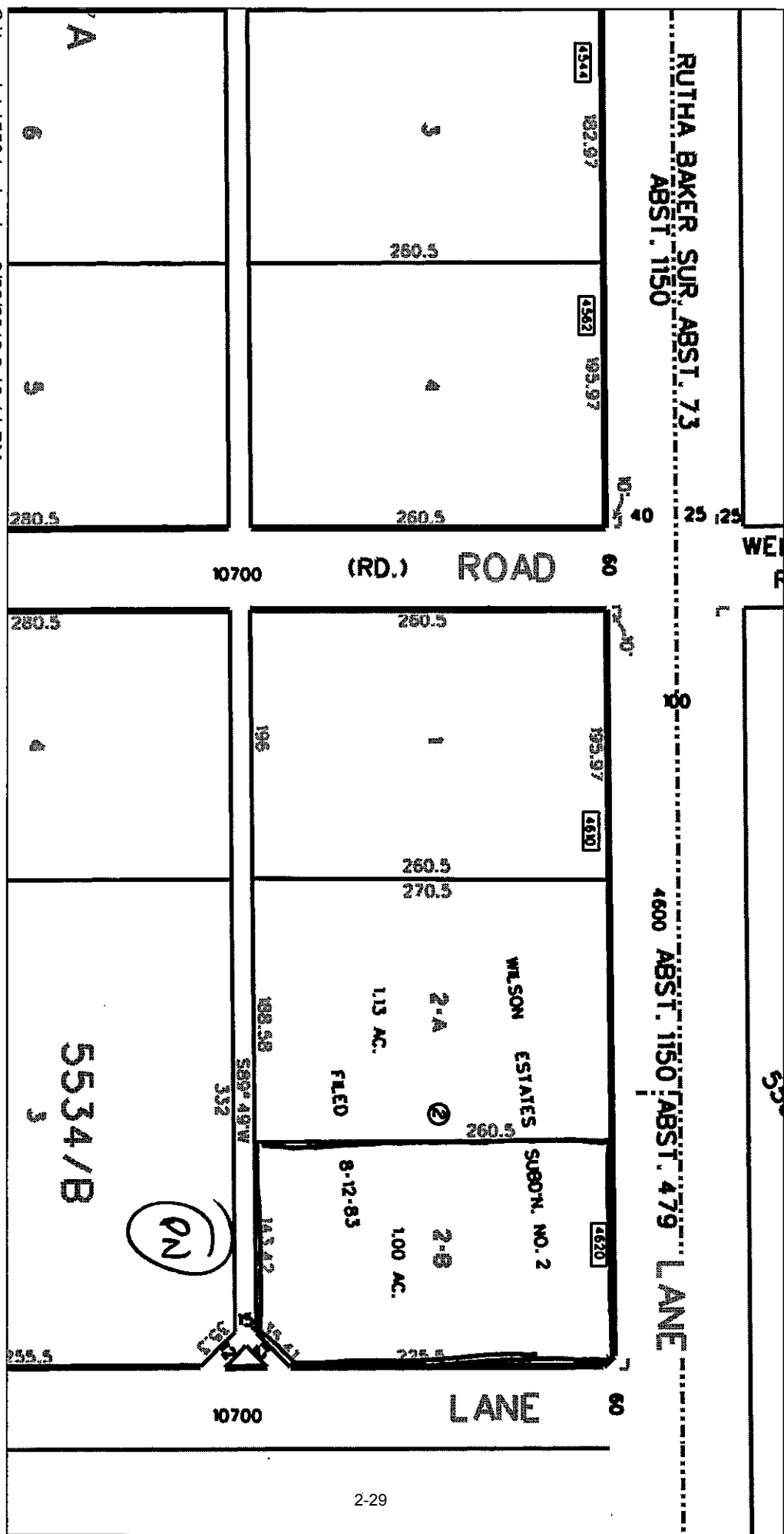
- D
- D-1
- Historic Overlay
- Historic Subdistricts
- NSO Overlay
- NSO Subdistricts
- MD Overlay

Base Zoning

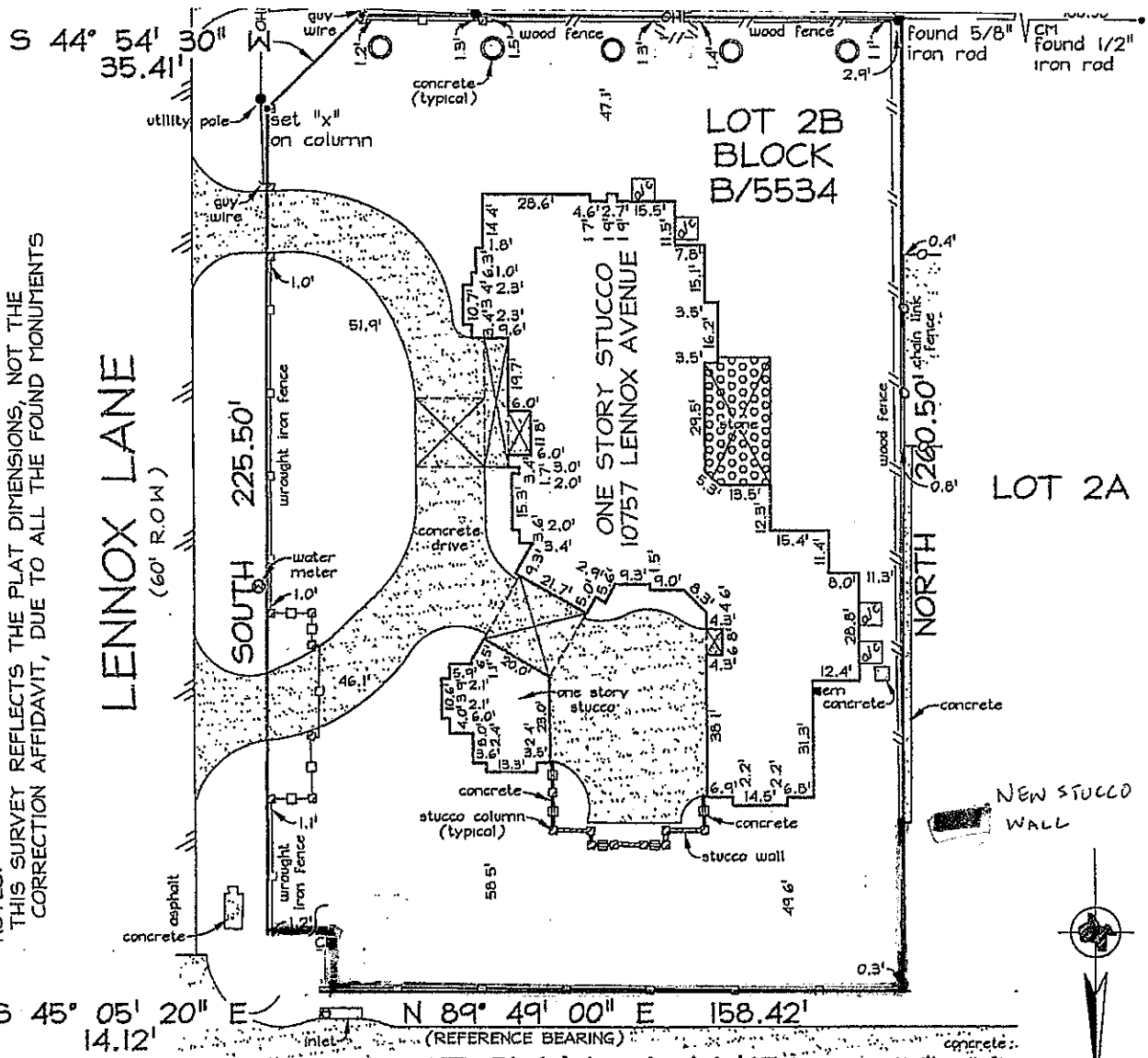
- Floodplain
- 100 Flood Zone
- Mill's Creek
- Peak's Branch
- X PROTECTED BY LEVEE
- Pedestrian Overlay
- CP
- SP
- Environmental Corridors

RUTHA BAKER SUR. ABST. 73
ABST. 1150

4600 ABST. 1150 ABST. 479 LANE



C:\tax_plats\5534_abc.dgn 2/22/2012 2:13:11 PM



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: _____

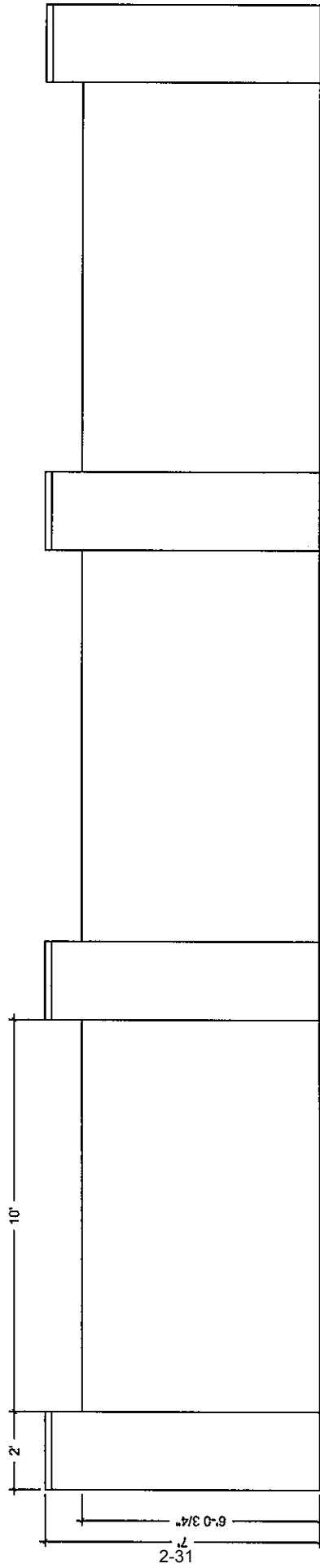


DATE: 05/10/11
FIELD DATE: 05/09/11
REVISED:

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

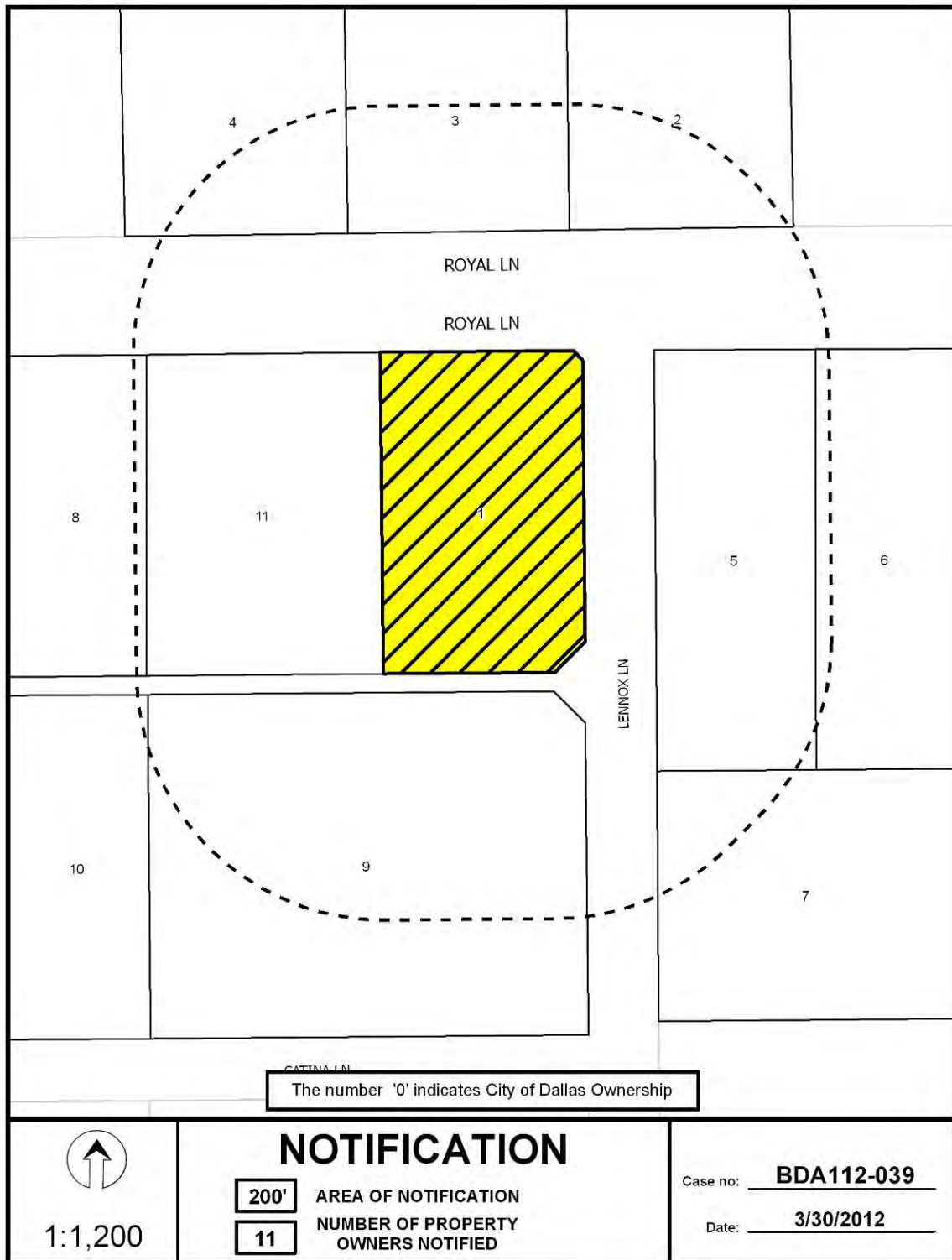
PITHOU & SINNA NUTH
10757 LENNOX LN





10757 Lennox Ln.
Stucco Wall

Scale
1/4" = 1'-0"



CATINA LN
The number '0' indicates City of Dallas Ownership



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
11 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA112-039**
Date: **3/30/2012**

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 revised site/landscape/elevation plan 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 Board of Adjustment conducted a public hearing on this application on April 16, 2012, and delayed action until May 14th to allow the applicant an opportunity to possibly submit a revised proposal with consideration given to a proposal with partial open materials and/or landscaping added adjacent to the proposal that would lessen its impact on neighboring properties.
- On April 24, 2012, the applicant submitted a revised site/landscape/elevation plan to the staff (see Attachment A). The applicant represented that this revised site/landscape/elevation plan only amended what was originally submitted by adding certain landscape materials adjacent to the wall (i.e. no amendments have been made in the revised plan with regard to fence heights or the location of the fence from what was originally submitted), and that all of the added *landscape materials* on the revised submitted plan were code-compliant with regard to the visual obstruction regulations.
- 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 revised site/landscape/elevation plan 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 Board of Adjustment conducted a public hearing on this application on April 16, 2012, and delayed action until May 14th to allow the applicant an opportunity to possibly submit a revised proposal with consideration given to a proposal with partial open materials and/or landscaping added adjacent to the proposal that would lessen its impact on neighboring properties.
- On April 24, 2012, the applicant submitted a revised site/landscape/elevation plan to the staff (see Attachment A). The applicant represented that this revised site/landscape/elevation plan only amended what was originally submitted by adding certain landscape materials adjacent to the wall (i.e. no amendments have been made in the revised plan with regard to fence heights or the location of the fence from what was originally submitted), and that all of the added *landscape materials* on the revised submitted plan were code-compliant with regard to the visual obstruction regulations.
- 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) On September 17, 2007, the Board of Adjustment Panel C granted a request for a

immediately east subject site)

2. BDA 112- 044, Property at 5404 Walnut Hill Lane (the lot immediately east of subject site)

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

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

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

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.

On April 16, 2012, the Board of Adjustment Panel C delayed action on 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 until May 14, 2012.

On April 16, 2012, the Board of Adjustment Panel C delayed action on 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 until May 14, 2012.

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

site)

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."
- April 16, 2012: The Board of Adjustment conducted a public hearing on this application on April 16, 2012, and delayed action until May 14th to allow the applicant an opportunity to possibly submit a revised proposal with consideration given to a proposal with partial open materials and/or landscaping added adjacent to the proposal that would lessen its impact on neighboring properties.
- April 24, 2012: The applicant submitted a revised site/landscape/elevation plan to the staff (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 "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 revised scaled site/landscape/elevation plan 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.

- The revised site/landscape/elevation plan denotes a number of landscape materials to be planted on the street-side of the fence/wall.
- 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 May 7, 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 revised site/landscape/elevation plan 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 revised site/landscape/elevation plan 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.

BOARD OF ADJUSTMENT ACTION: APRIL 16, 2012

APPEARING IN FAVOR: Mark Molthan, 4347 W Northwest Hwy, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Maten**

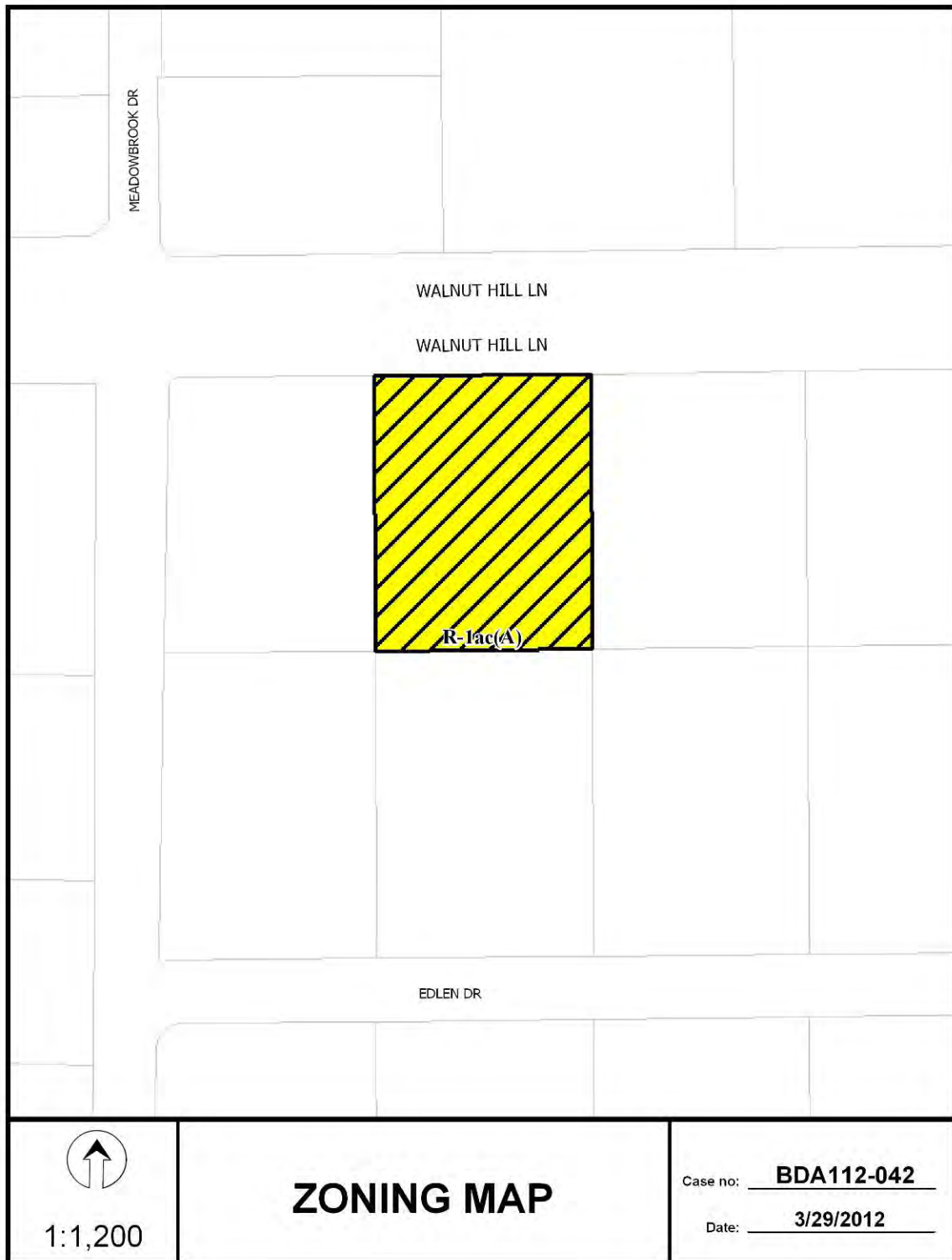
I move that the Board of Adjustment in Appeal No. **BDA 112-042**, hold this matter under advisement until **May 14, 2012**.

SECONDED: **Moore**

AYES: 5– Boyd, Moore, Maten, Coulter, Richard

NAYS: 0 –

MOTION PASSED: 5-0 (unanimously)





1:1,200

AERIAL MAP

Case no: BDA112-042

Date: 3/29/2012



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

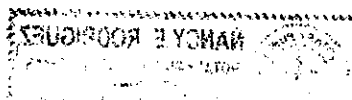
did submit a request for a special exception to the fence height regulations, and for a special exception to the visibility obstruction regulations

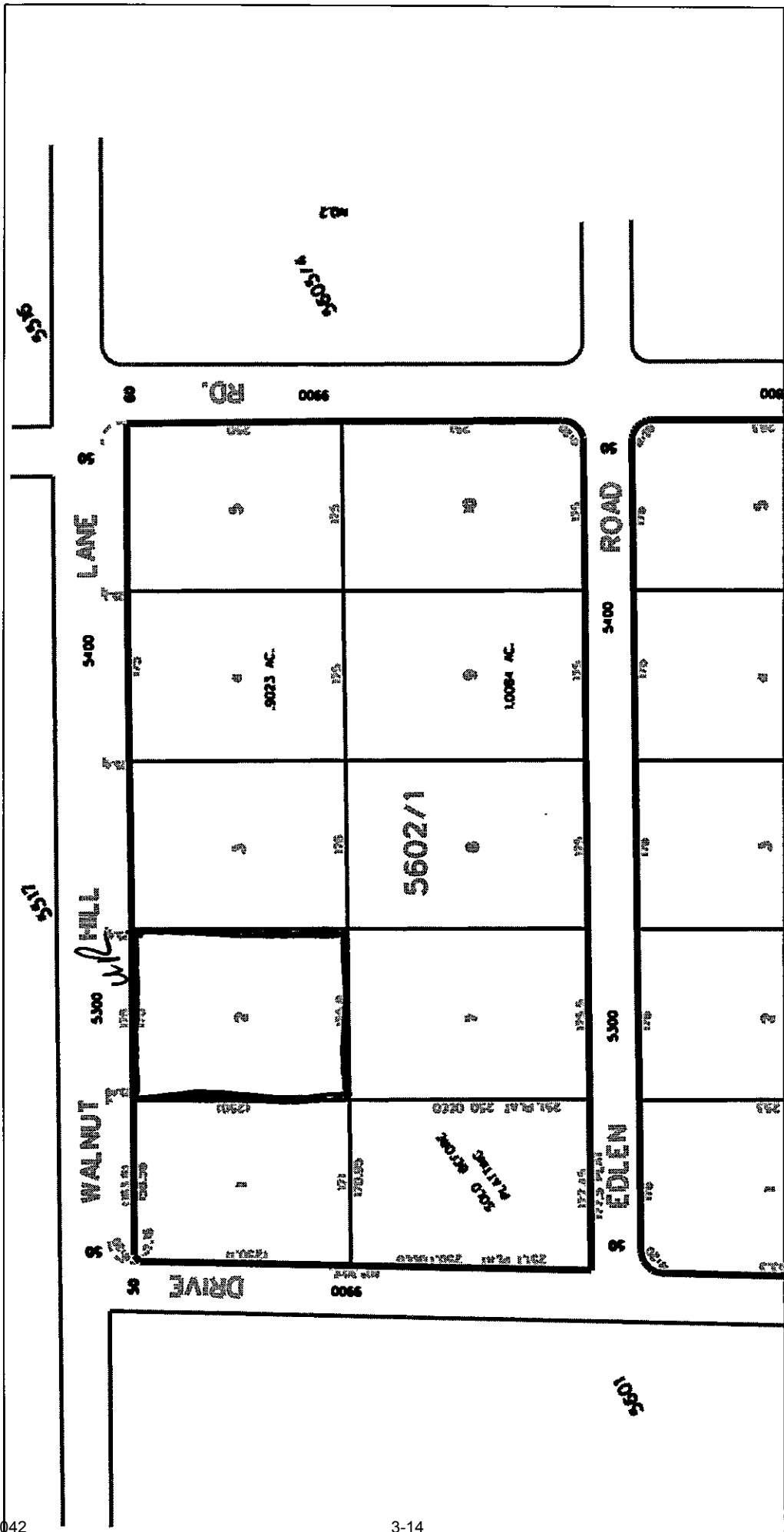
at 5322 Walnut Hill Lane

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.

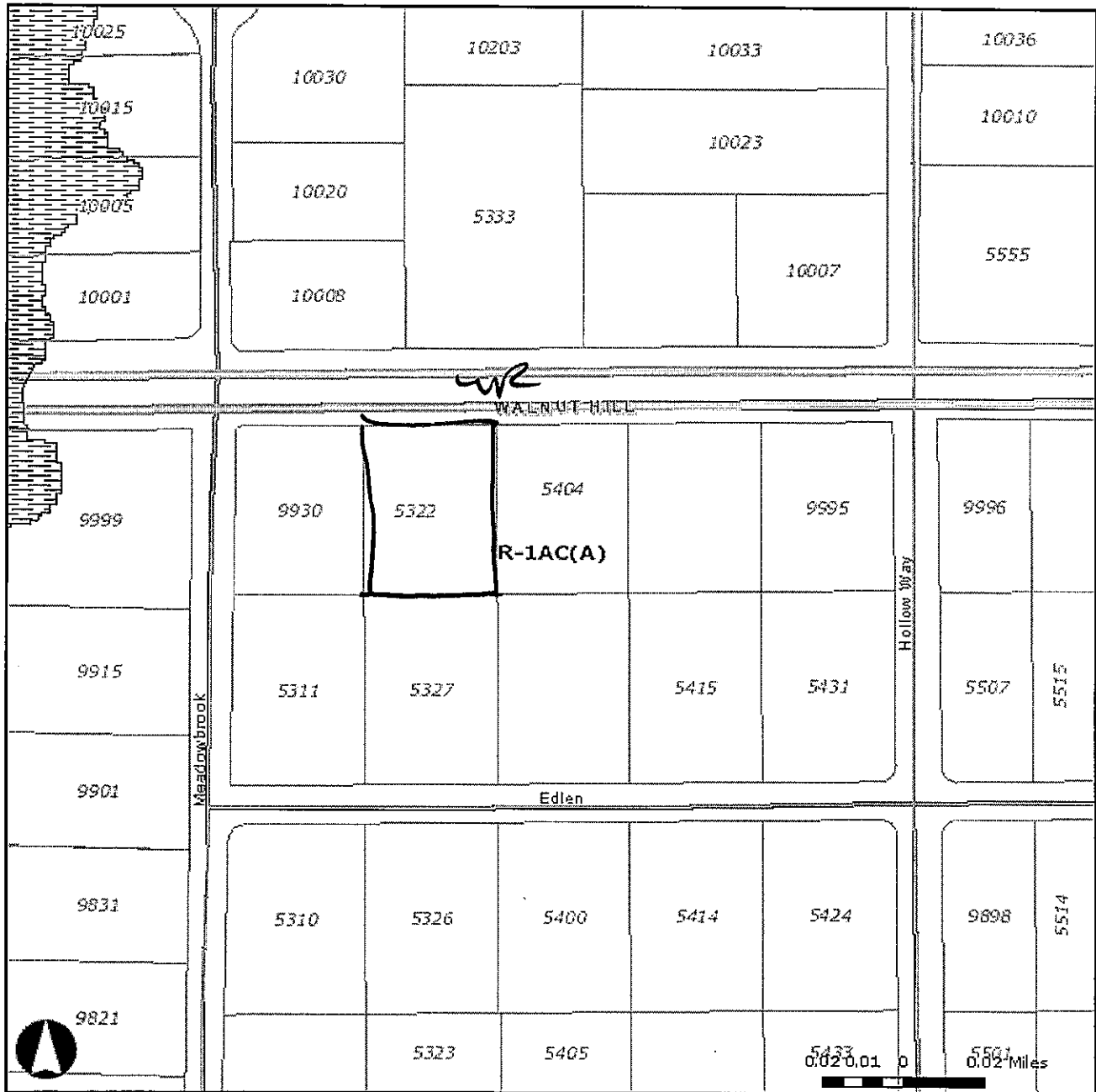
Sincerely,


Lloyd Denman, Building Official





City of Dallas Zoning



City Boundaries

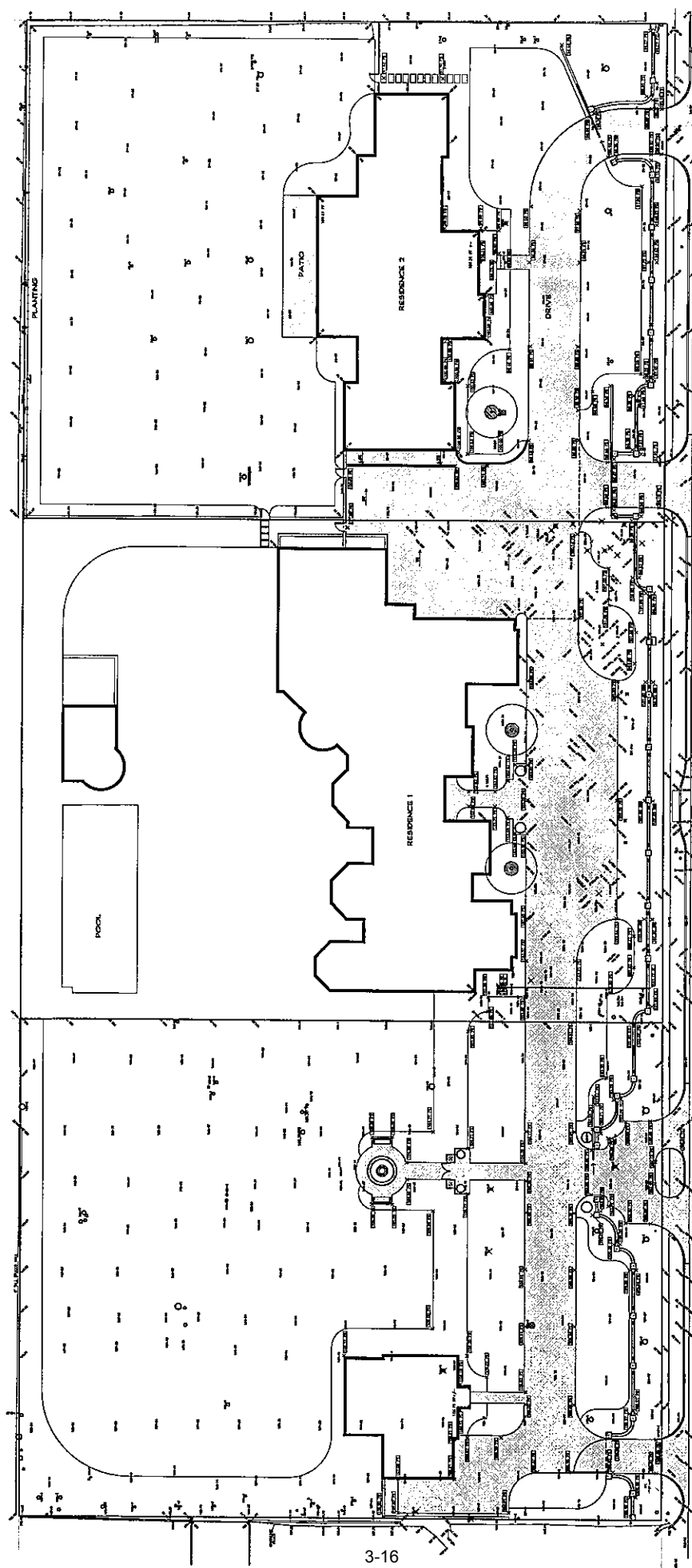
- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

Dry Overlay

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

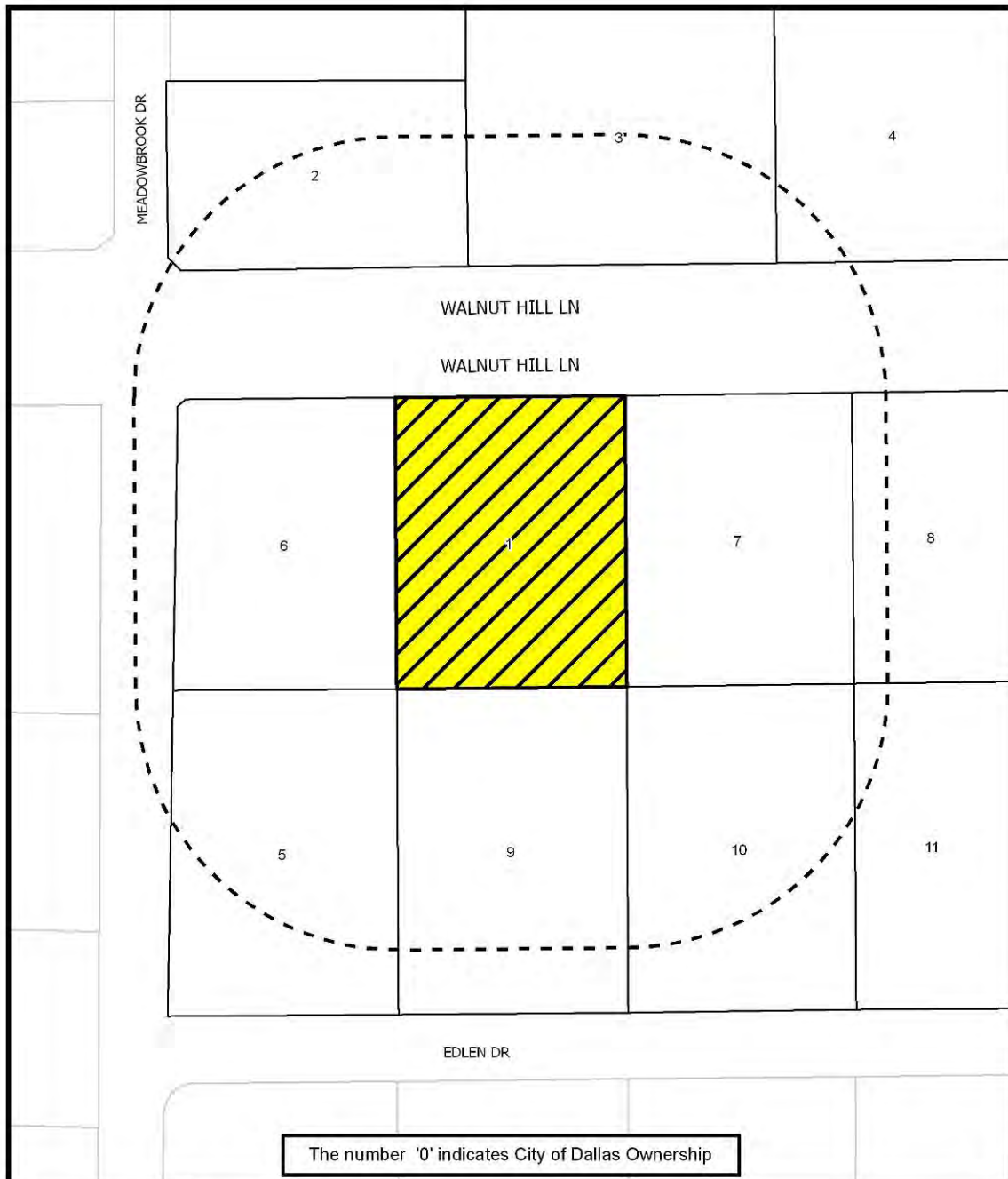
Base Zoning

- 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





 1:1,200	NOTIFICATION		Case no: BDA112-042
	<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

BDA112-042

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 Board of Adjustment conducted a public hearing on this application on April 16, 2012, and delayed action until May 14th to allow the applicant an opportunity to possibly submit a revised proposal with consideration given to a proposal with partial open materials and/or landscaping added adjacent to the proposal that would lessen its impact on neighboring properties.

- On April 24, 2012, the applicant submitted a revised site/landscape/elevation plan to the staff (see Attachment A). The applicant represented that this revised site/landscape/elevation plan only amended what was originally submitted by adding certain landscape materials adjacent to the wall (i.e. no amendments have been made in the revised plan with regard to fence heights or the location of the fence from what was originally submitted), and that all of the added *landscape materials* on the revised submitted plan were code-compliant with regard to the visual obstruction regulations.
- 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 revised site/landscape/elevation plan 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:

1. BDA 067-082, Property at 5404 Walnut Hill Lane (the lot immediately west of 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' –

2. BDA 112- 044, Property at 5404 Walnut Hill Lane (the lot immediately west of subject site)

7' from the Walnut Hill front property line. On April 16, 2012, the Board of Adjustment Panel C delayed action on 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 until May 14, 2012.

3. BDA 112-042, Property at 5322 Walnut Hill Lane (two lots immediately west of the subject site)

On April 16, 2012, the Board of Adjustment Panel C delayed action on 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 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) until May 14, 2012.

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

On April 10, 1990, the Board of Adjustment

(the lot immediately east of the subject site)

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.

April 16, 2012: The Board of Adjustment conducted a public hearing on this application on April 16, 2012, and delayed action until May 14th to allow the applicant an opportunity to possibly submit a revised proposal with consideration given to a proposal with partial open materials and/or landscaping added adjacent to the proposal that would lessen its impact on neighboring properties.

April 24, 2012: The applicant submitted a revised site/landscape/elevation plan to the staff (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.

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 revised scaled site/landscape/elevation plan 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.

- The revised site/landscape/elevation plan denotes a number of landscape materials to be planted on the street-side of the fence/wall.
- 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 May 7, 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 revised site/landscape/elevation plan 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.

BOARD OF ADJUSTMENT ACTION: APRIL 16, 2012

APPEARING IN FAVOR: Mark Molthan, 4347 W Northwest Hwy, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Maten**

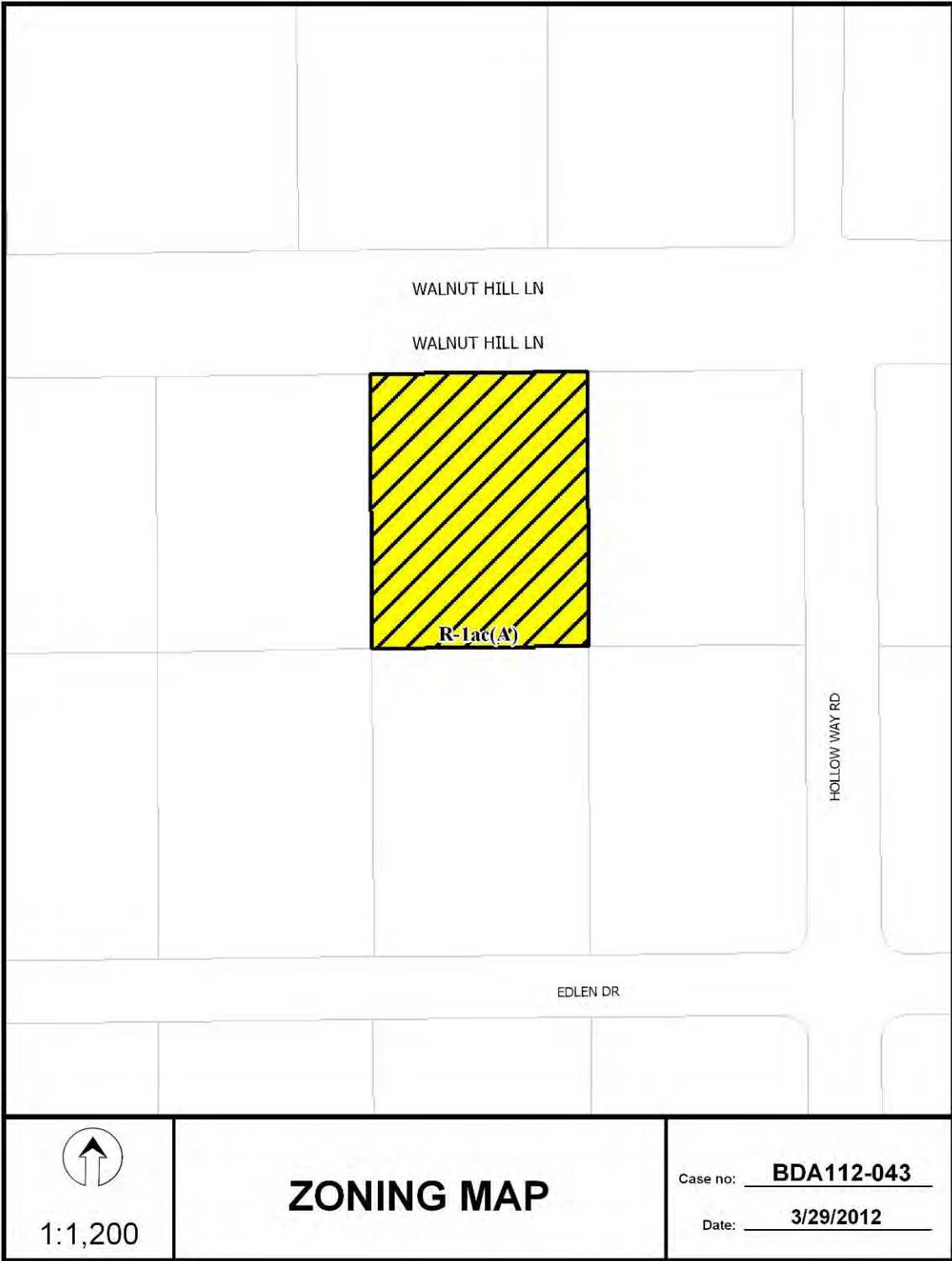
I move that the Board of Adjustment in Appeal No. **BDA 112-043**, hold this matter under advisement until **May 14, 2012**.

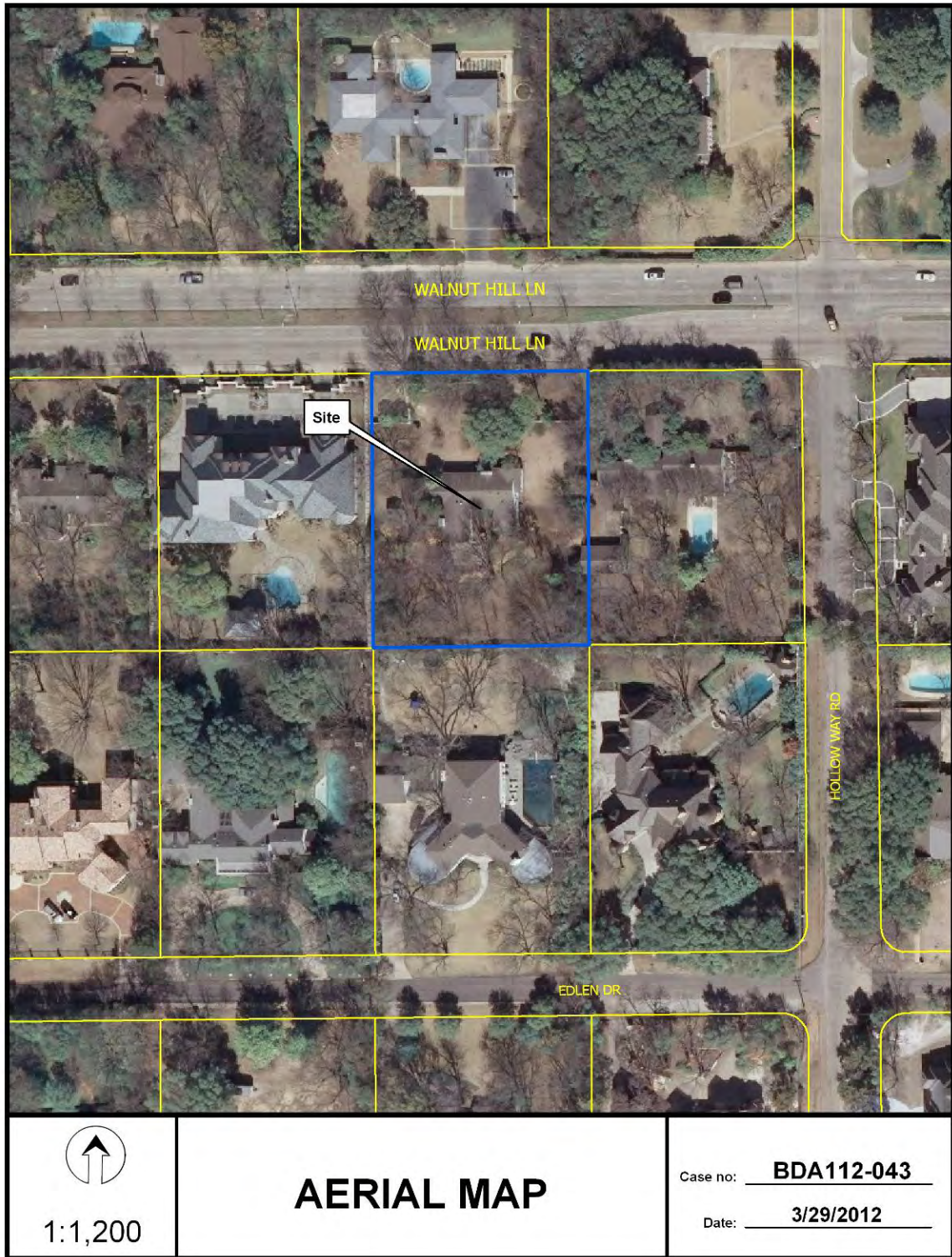
SECONDED: **Moore**

AYES: 5– Boyd, Moore, Maten, Coulter, Richard

NAYS: 0 –

MOTION PASSED: 5-0 (unanimously)







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

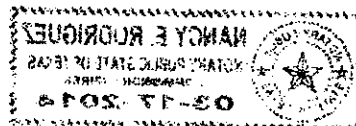
I hereby certify that MARK MOLTHAN

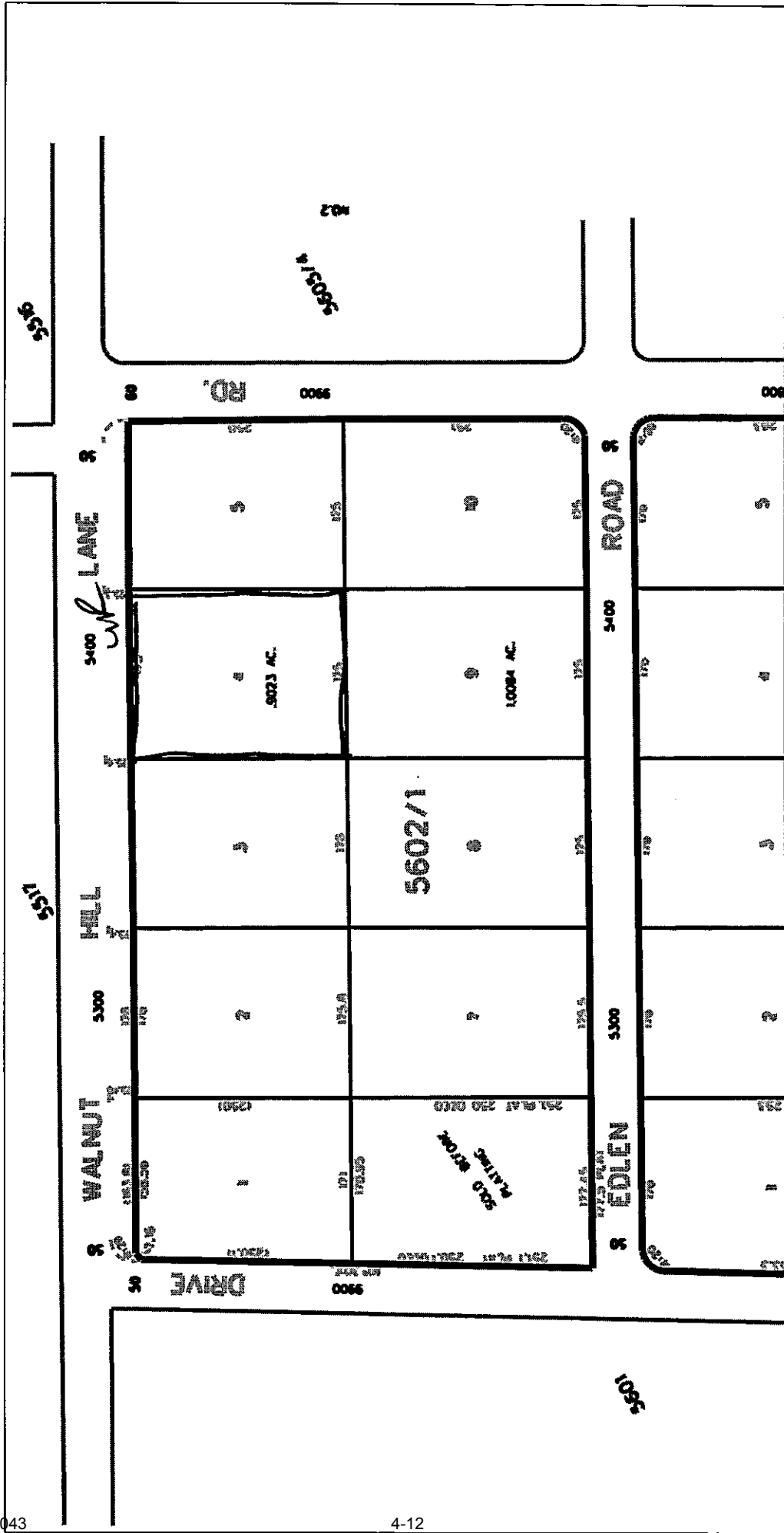
did submit a request for a special exception to the fence height regulations
at 5414 Walnut Hill Lane

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.

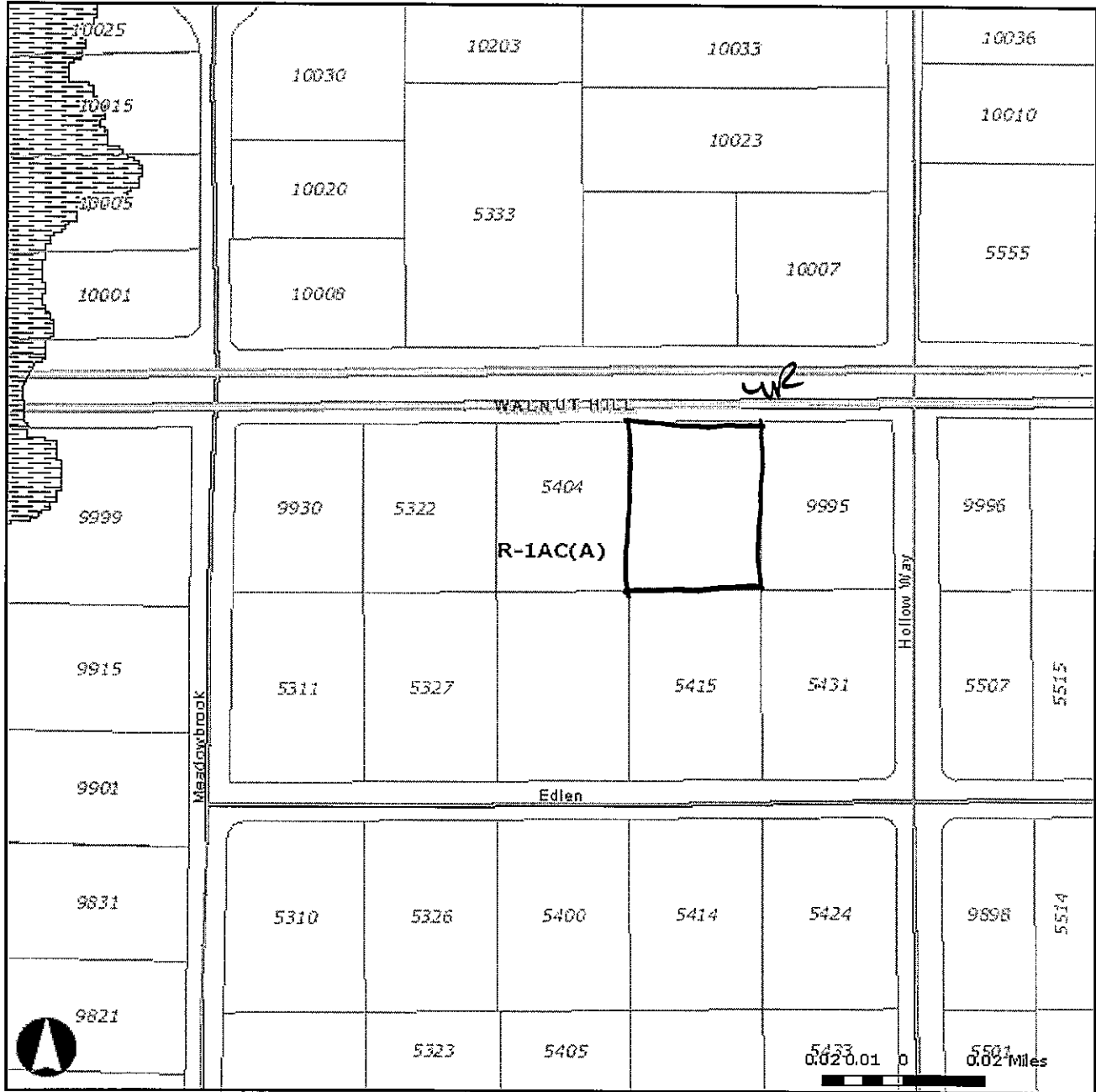
Sincerely,


Lloyd Denman, Building Official





City of Dallas Zoning



City Boundaries

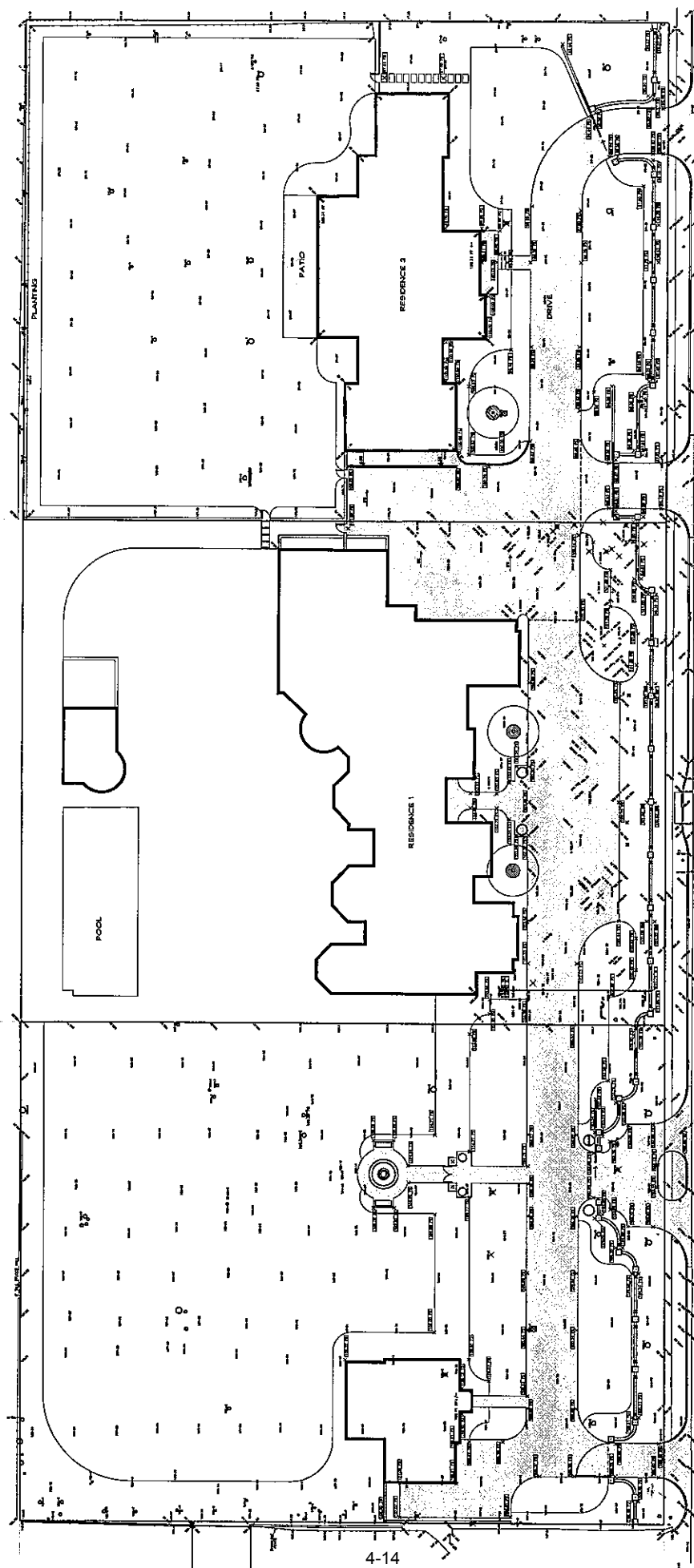
- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

Dry Overlay

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

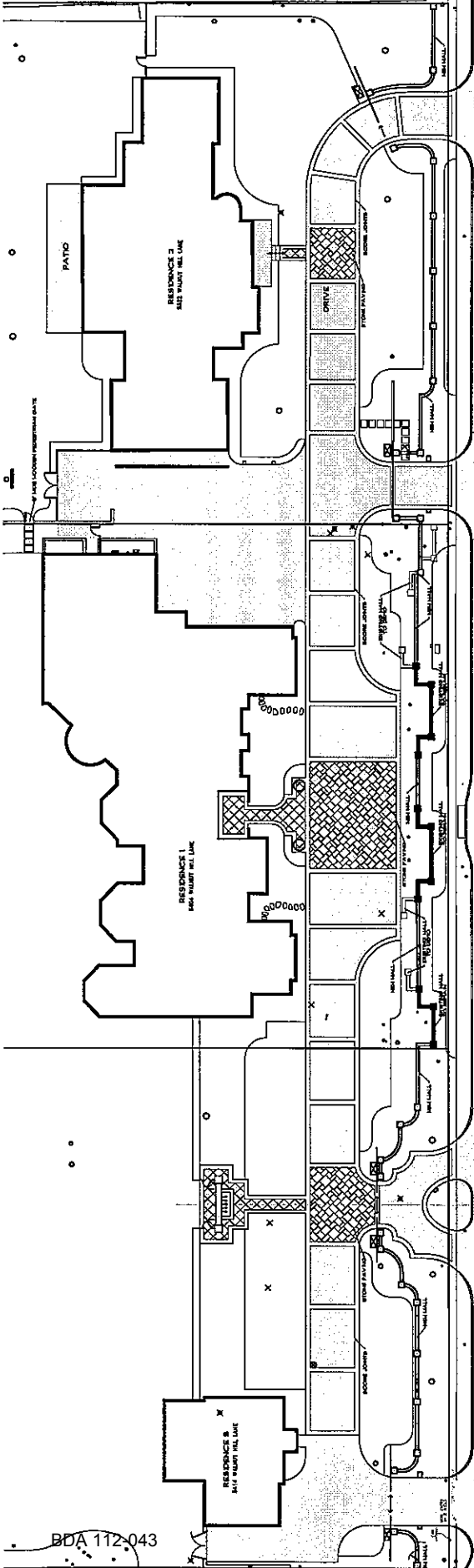
Base Zoning

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

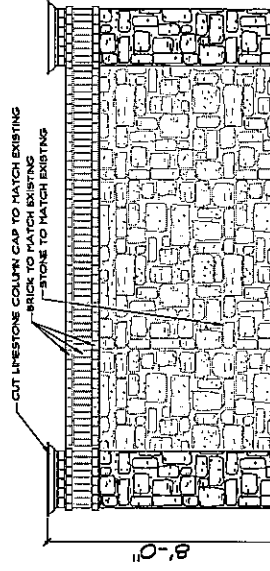


THE STEPHENSON RESIDENCE
 SCALE: 1/16" = 1'-0"
 10-18-11





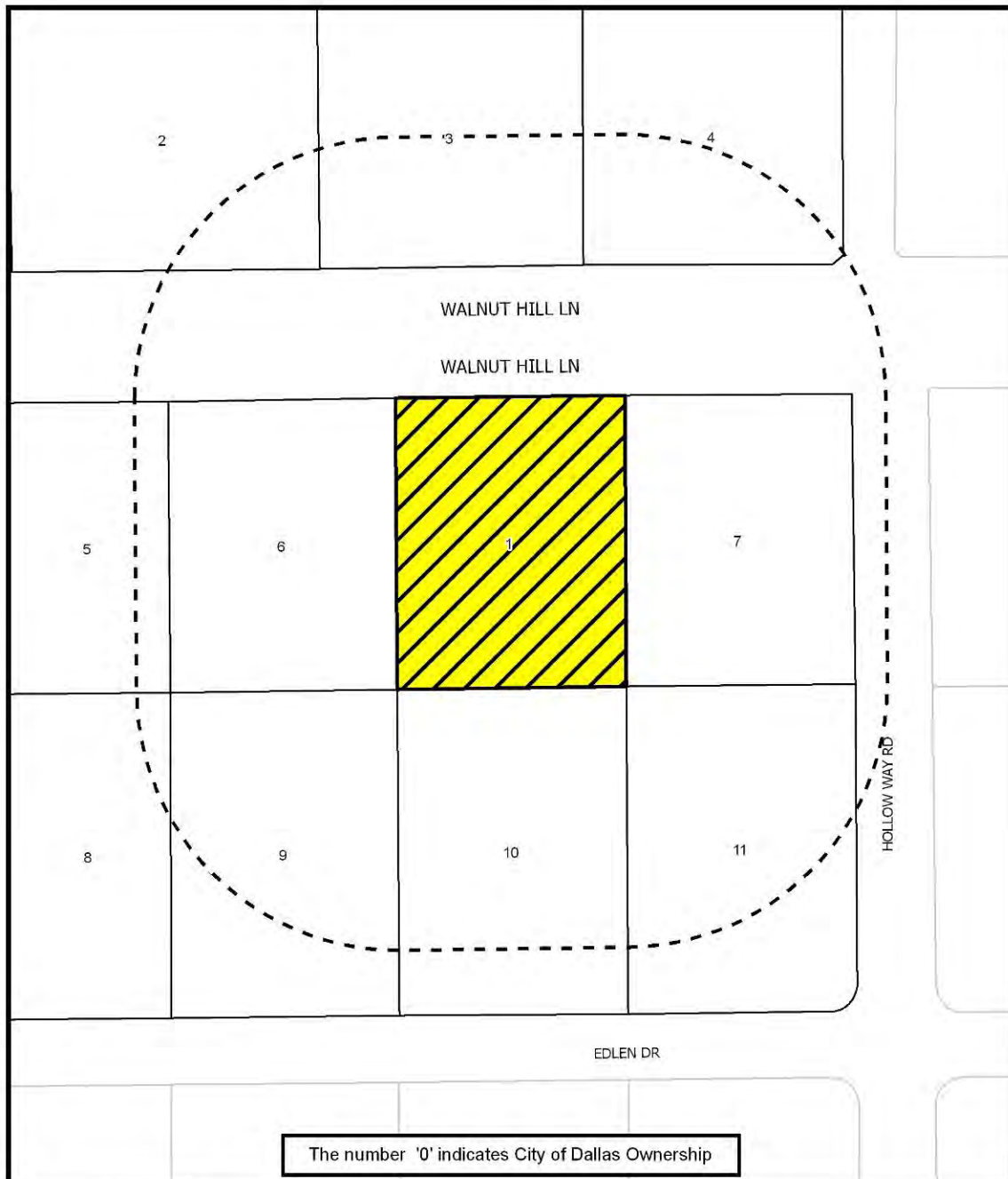
THE STEPHENSON PERIMETER FENCE
 SCALE: 1/16" = 1'-0" 10-31-11



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

PERIMETER FENCE PLAN

BDA 112-043



1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
11 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA112-043**

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 Board of Adjustment conducted a public hearing on this application on April 16, 2012, and delayed action until May 14th to allow the applicant an opportunity to submit a revised proposal with consideration given to a proposal with partial open materials and/or landscaping added adjacent to the proposal that would lessen its impact of the fence on neighboring properties.
- On April 24, 2012, the applicant submitted a revised site/landscape/elevation plan to the staff (see Attachment A). The applicant represented that this revised site/landscape/elevation plan only amended what was originally submitted by adding certain landscape materials adjacent to the wall (i.e. no amendments have been made in the revised plan with regard to fence heights or the location of the fence from what was originally submitted), and that all of the added *landscape materials* on the revised submitted plan were code-compliant with regard to the visual obstruction regulations.
- 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 revised site/landscape/elevation plan 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:

- | | |
|--|--|
| <ol style="list-style-type: none"> 1. BDA 067-082, Property at 5404 Walnut Hill Lane (the subject site) | <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</p> |
|--|--|

2. BDA 112- 042, Property at 5322 Walnut Hill Lane (the lot immediately west of subject site)

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.

On April 16, 2012, the Board of Adjustment Panel C delayed action on 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 stone/brick wall located in the 20' visibility triangles on either side of the western driveway into the site from Walnut Hill Lane until May 14, 2012.

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

On April 16, 2012, the Board of Adjustment Panel C delayed action on 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 until May 14, 2012.

4. BDA 88-096, 5414 Walnut Hill Lane (the lot immediately 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

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

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.

6. BDA 956-193, 9930
Meadowbrook Drive (two 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. 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.

April 16, 2012: The Board of Adjustment conducted a public hearing on this application on April 16, 2012, and delayed action until May 14th to allow the applicant an opportunity to submit a revised proposal with consideration given to a proposal with partial open materials and/or landscaping added adjacent to the proposal that would lessen its impact on neighboring properties.

April 24, 2012: The applicant submitted a revised site/landscape/elevation plan to the staff (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.

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 revised scaled site/landscape/elevation plan 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 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 May 7, 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 revised site/landscape/elevation plan 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.

BOARD OF ADJUSTMENT ACTION: APRIL 16, 2012

APPEARING IN FAVOR: Mark Molthan, 4347 W Northwest Hwy, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Maten**

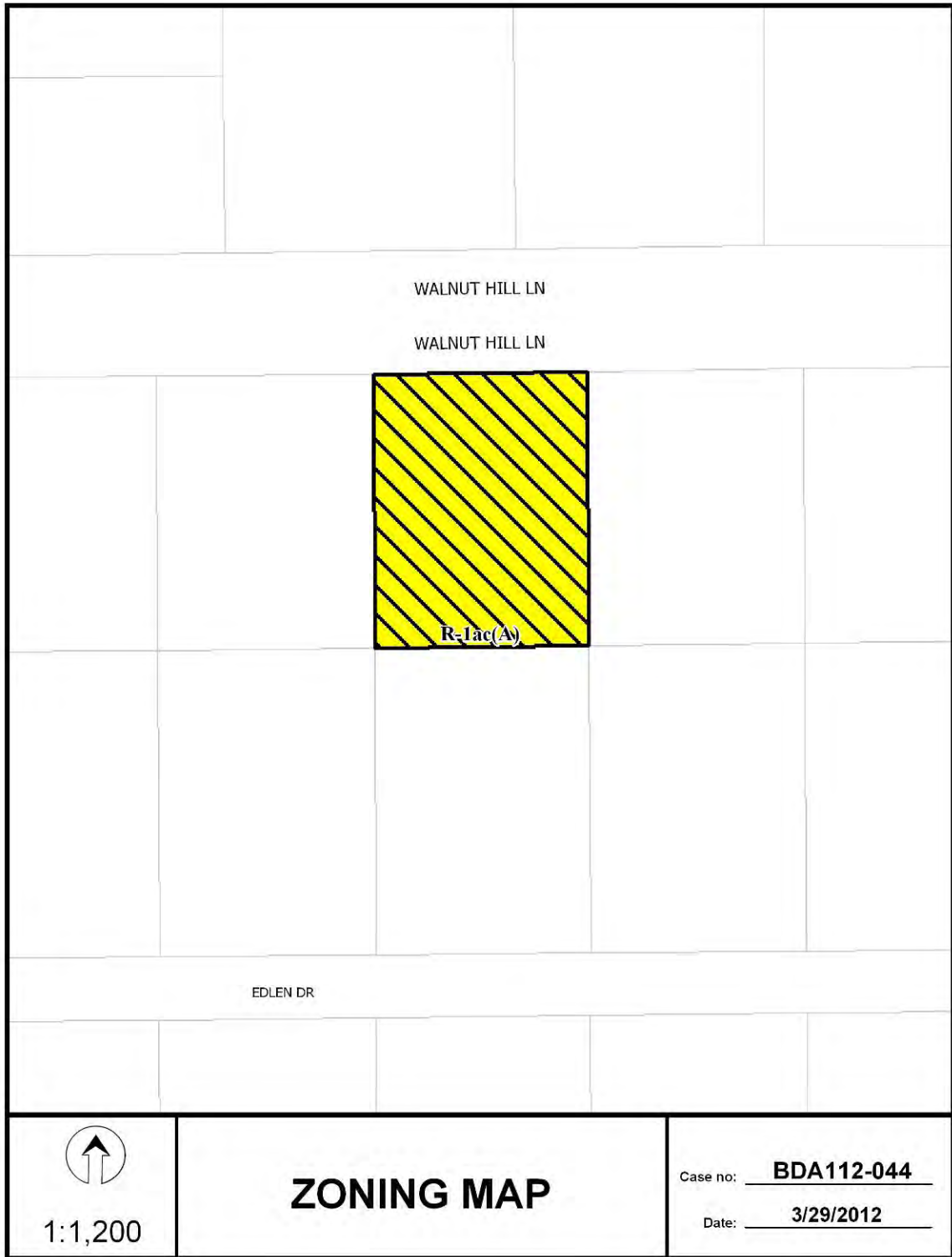
I move that the Board of Adjustment in Appeal No. **BDA 112-044**, hold this matter under advisement until **May 14, 2012**.

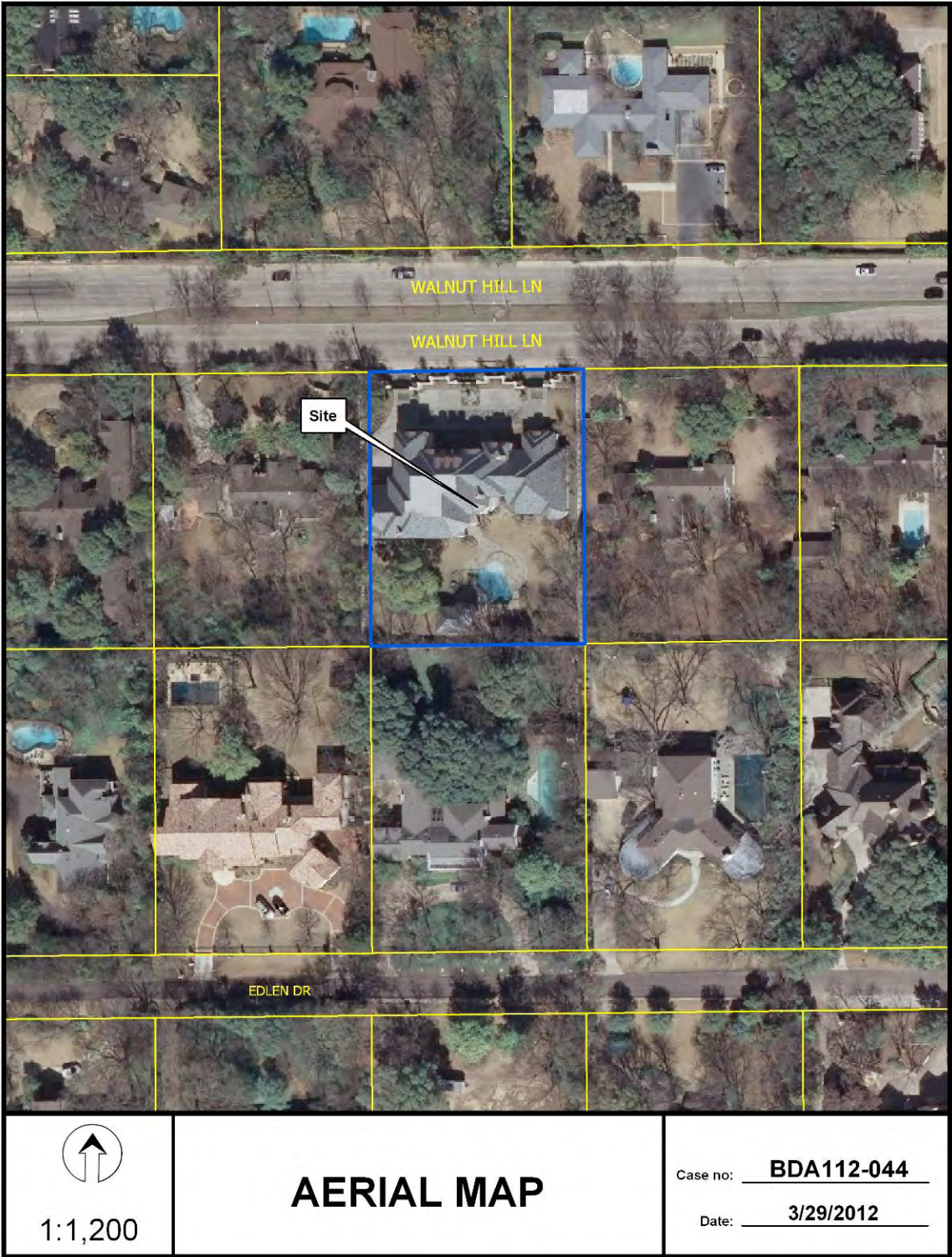
SECONDED: **Moore**

AYES: 5– Boyd, Moore, Maten, Coulter, Richard

NAYS: 0 –

MOTION PASSED: 5-0 (unanimously)







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 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 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

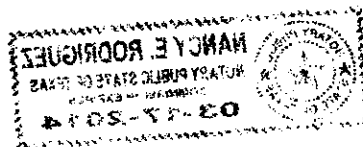
I hereby certify that MARK MOLTHAN

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

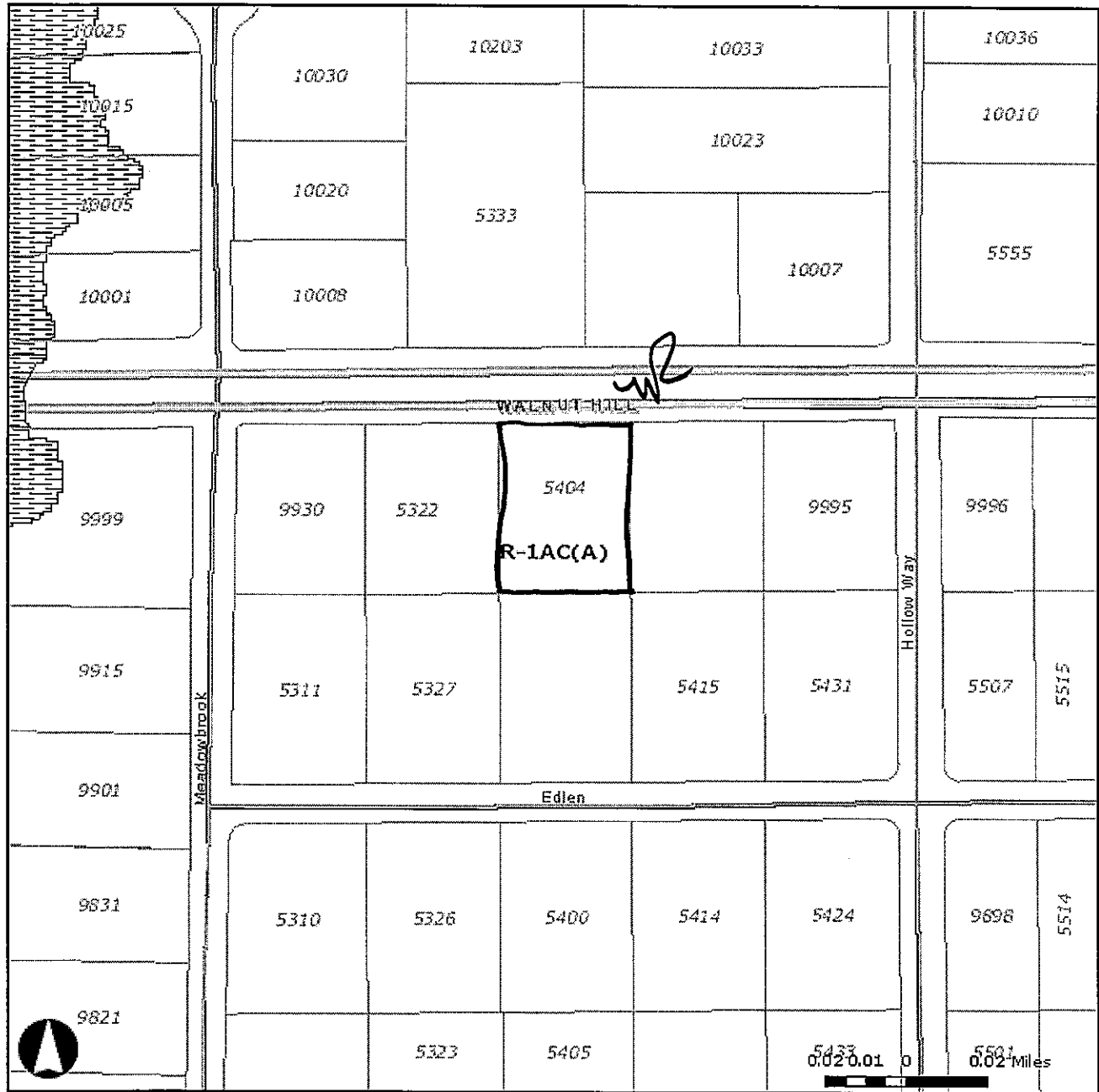
BDA112-044. Application of Mark Molthan for a special exception to the fence height regulations at 5404 Walnut Hill Lane. This property is more fully described as lot 3 in city block 1/5602 and is zoned R-1ac(A), which limits the height of a fence in the front yard to feet. The applicant proposes to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

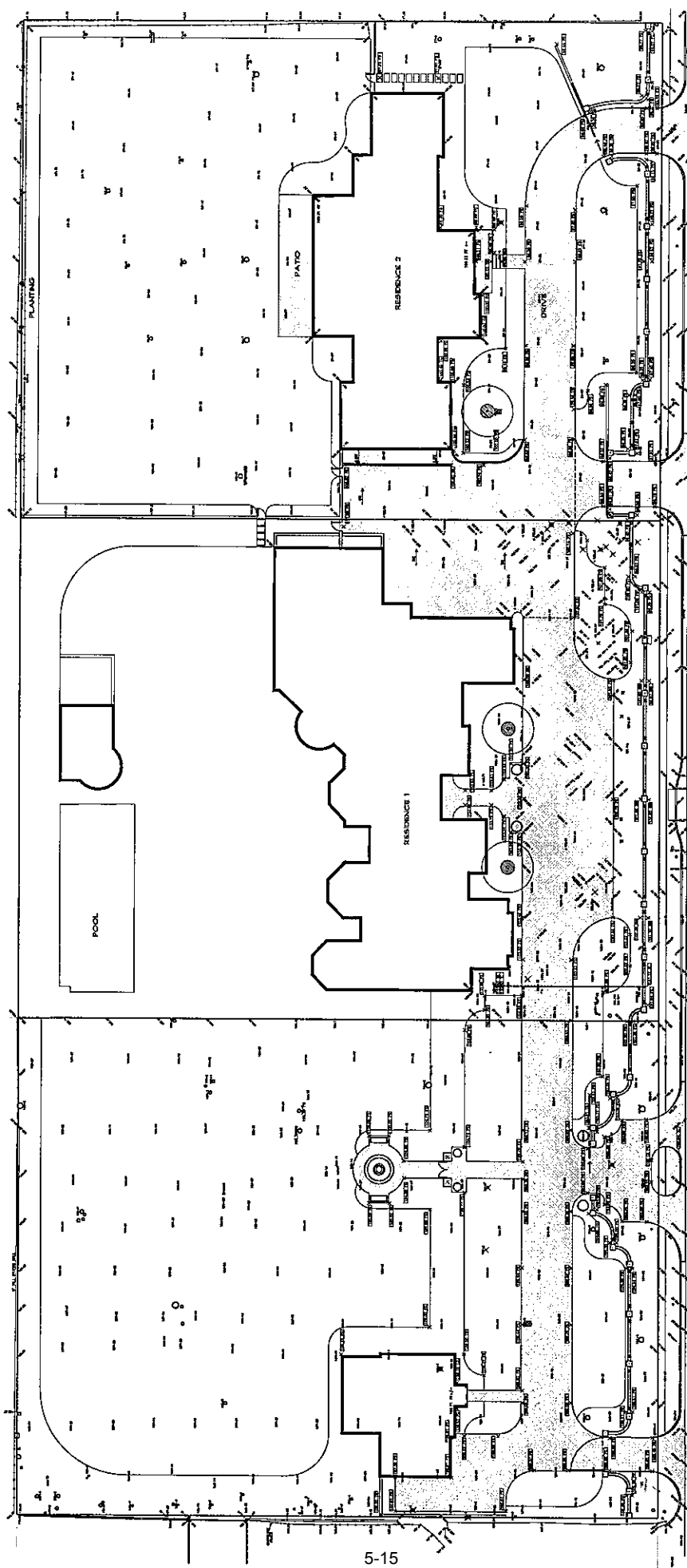
- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

Dry Overlay

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

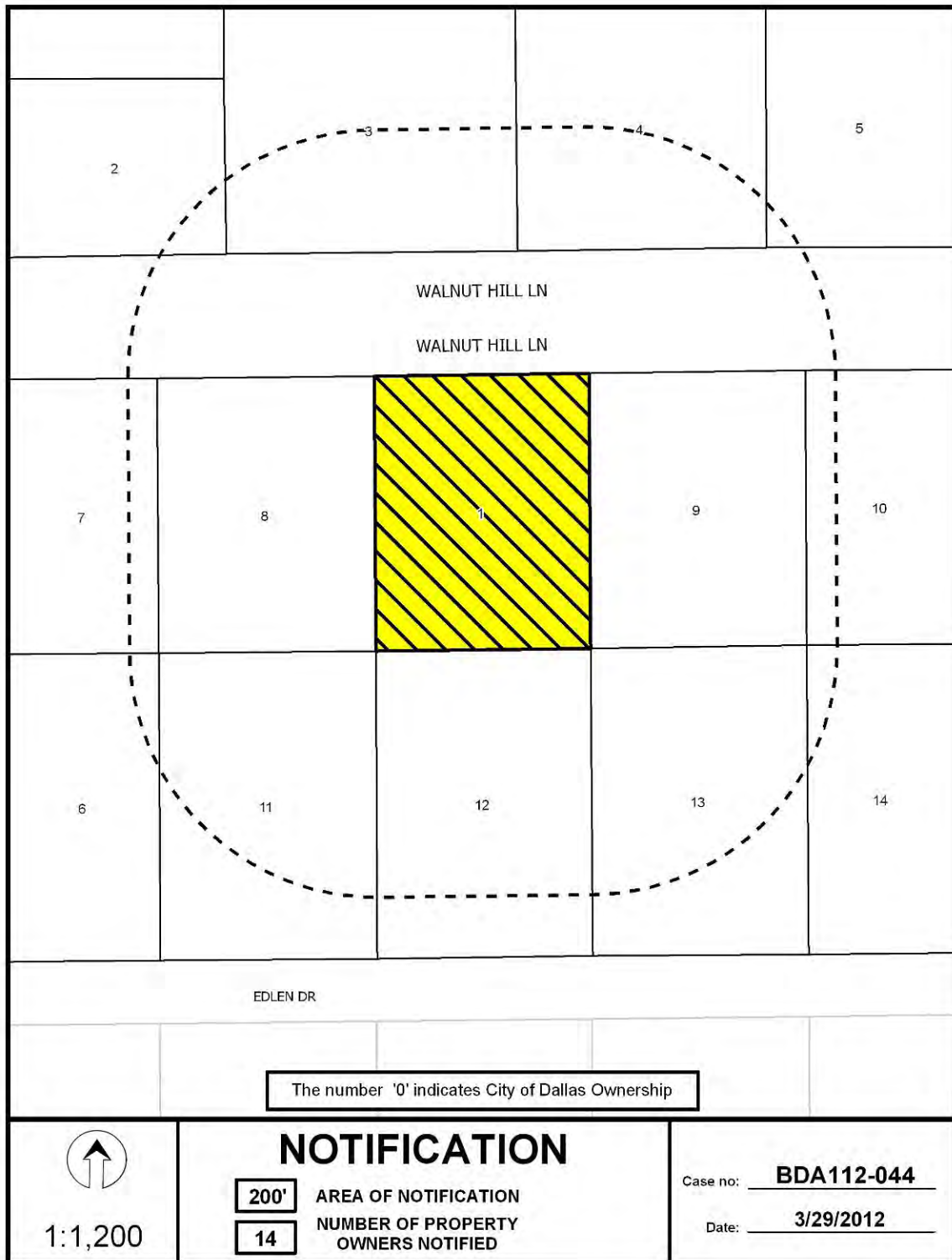
Base Zoning

- 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" (10-15-11)





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

FILE NUMBER: BDA 101-121

BUILDING OFFICIAL'S REPORT:

Application of Lucila Toraya, represented by Construction Concepts, for a variance to the side yard setback regulations at 3546 Gaspar Drive. This property is more fully described as Lot 11 in City Block 16/6144 and is zoned R-7.5(A), which requires a side yard setback of 5 feet. The applicant proposes to construct and/or maintain a structure and provide a 0 foot side yard setback, which will require a variance of 5 feet.

LOCATION: 3546 Gaspar Drive

APPLICANT: Lucila Toraya
Represented by Construction Concepts

REQUEST:

- A variance to the side yard setback regulations of 5' is requested in conjunction with maintaining (what is represented on the submitted site plan) a "one story frame" single family home structure, a portion of which is located in the site's western 5' side yard setback.

STAFF RECOMMENDATION:

Denial

Rationale:

- The applicant has not substantiated how the subject site differs from other lots zoned R-7.5(A) where either its restrictive size, shape, or slope precludes it from being developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning. The site is flat, virtually rectangular in shape, and is 0.21 acres (or approximately 9,100 square feet) in area – a lot area larger than the typical lot area in R-7.5(A) zoning at 7,500 square feet.

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 subject site is located at the southwest corner of Gaspar Avenue and El Centro. The property has one 25’ front yard setback on the north along Gaspar Avenue, two 5’ side yard setbacks on the east (along El Centro) and west, and one 5’ rear yard setback on the south.
- The minimum side yard setback on an R-7.5(A) zoned lot is 5 feet. The applicant has submitted a site plan indicating a structure that is located as close on from the site’s western side property line (or 5’ into the required 5’ side yard setback).
- The site is flat, virtually rectangular in shape (49.5’ on the north, 65’ on the south, 140 on the east, and 139’ on the west), and is (according to the application) 0.21 acres (or approximately 9,100 square feet) in area. The plat map of the site indicates that the property has a 30’ platted building line along Gaspar Avenue. The site is zoned R-7.5(A) where lots are typically 7,500 square feet in area.
- According to DCAD records, the property at 3546 Gaspar has the following improvements:
 - “main improvement” built in 1950 with 868 square feet of living area, and
 - “additional improvement” – 380 square foot detached carport.

BACKGROUND INFORMATION:

Zoning:

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

Land Use:

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

Zoning/BDA History:

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

Timeline:

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 C.

April 17, 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 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.

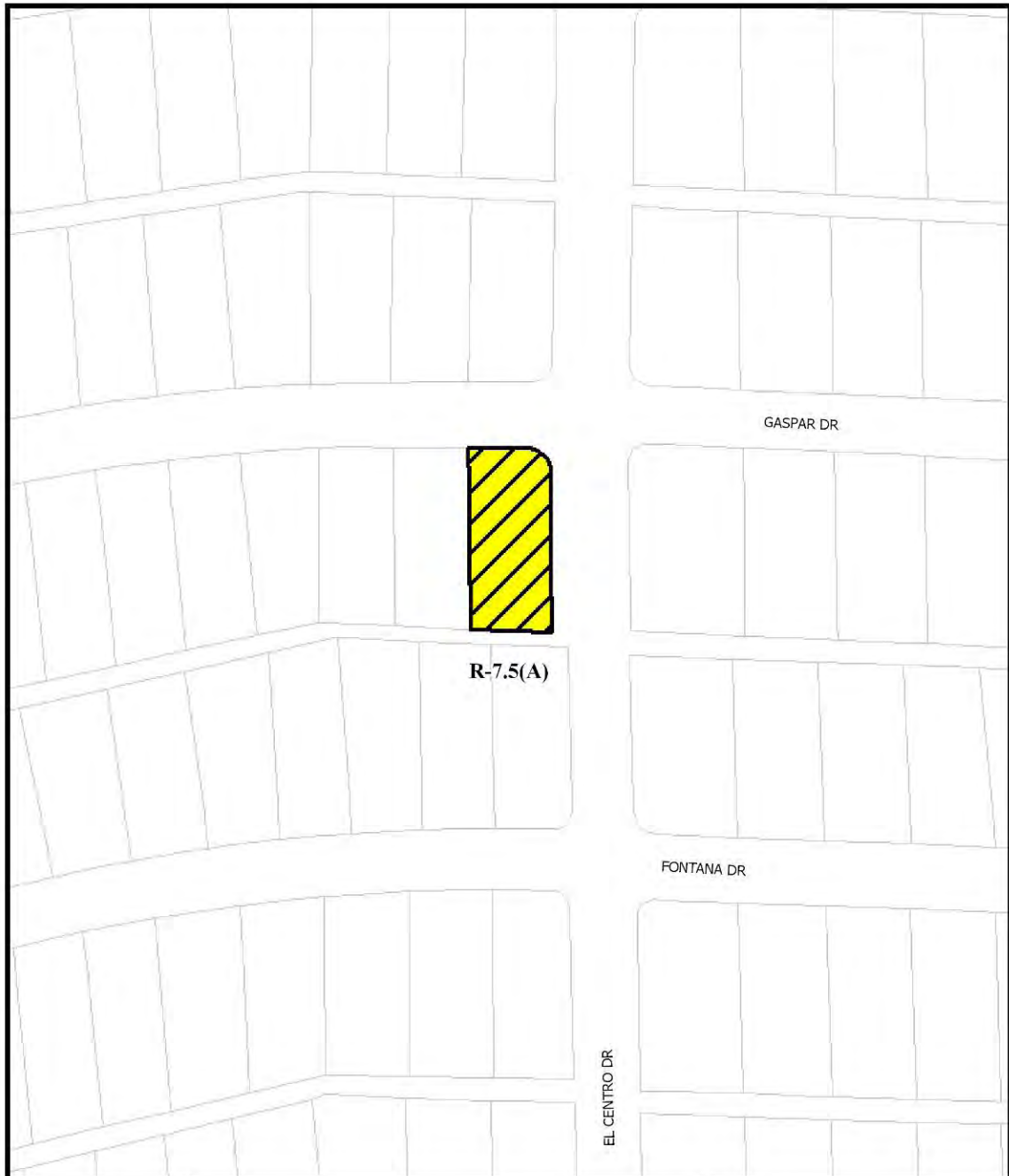
May 1, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for May public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable 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 maintaining (what is represented on the submitted site plan) a "one story frame" single family home structure, a portion of which is located in the site's western 5' side yard setback.

- According to calculations made by the Board Administrator from the submitted site plan, approximately 120 square feet (or about 40 percent) of the approximately 300 square foot addition (or 13 percent of the approximately 900 square foot building footprint) is located in the site's western 5' side yard setback.
- The applicant has been advised that when the board grants a variance, they typically impose the applicant's submitted site plan as a condition; thus, his submitted site plan should be an accurate representation of what he is seeking a variance for, and that any amendments to the site plan should be submitted to the City no later than April 27th.
- The site is flat, virtually rectangular in shape (49.5' on the north, 65' on the south, 140 on the east, and 139' on the west), and is (according to the application) 0.21 acres (or approximately 9,100 square feet) in area. The plat map of the site indicates that the property has a 30' platted building line along Gaspar Avenue. The site is zoned R-7.5(A) where lots are typically 7,500 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-7.5(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-7.5(A) (Single family) zoning classification.
- If the Board grants the side yard variance of 5', imposing the site plan as a condition would limit the structure encroachment into the setback to what is shown on, which in this case is a portion of an existing single family home (represented on the submitted plan as an approximately 120 square foot portion of the approximately 300 square foot addition of the approximately 900 square foot building footprint) located on the site's western side property line or 5' into this 5' side yard setback.



1:1,200

ZONING MAP

Case no: BDA101-121

Date: 11/17/2011



1:1,200

AERIAL MAP

Case no: BDA101-121

Date: 11/17/2011



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 101-121

Data Relative to Subject Property:

Date: 3/29/12

Location address: 3546 Gaspar Dr. Zoning District: R-7.5(A)

Lot No.: 11 Block No.: 16/0144 Acreage: .21 Census Tract: 9802

Street Frontage (in Feet): 1) 65' 2) 118' 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

NE1

Owner of Property (per Warranty Deed): Lucila V. Toraya

Applicant: Lucila Toraya Telephone: 2147498587

Mailing Address: 3546 Gaspar Dr. Zip Code: 75220

E-mail Address: _____

Represented by: Construction Concepts, Inc Telephone: 214-946-4300

Mailing Address: 317 E. Jefferson Blvd Zip Code: 75203

E-mail Address: energyinspector@yahoo.com

Affirm that an appeal has been made for a Variance or Special Exception _____, of 5 feet to the side set backs. ~~for compact~~

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:

Current structure was built within the side set backs.

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 Lucila V. Toraya
(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: Lucila V. Toraya
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 29 day of March, 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

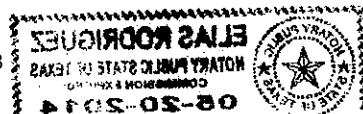
Building Official's Report

I hereby certify that Lucila Toraya
represented by CONSTRUCTION CONCEPTS INC
did submit a request for a variance to the side yard setback regulation
at 3546 Gaspar Drive

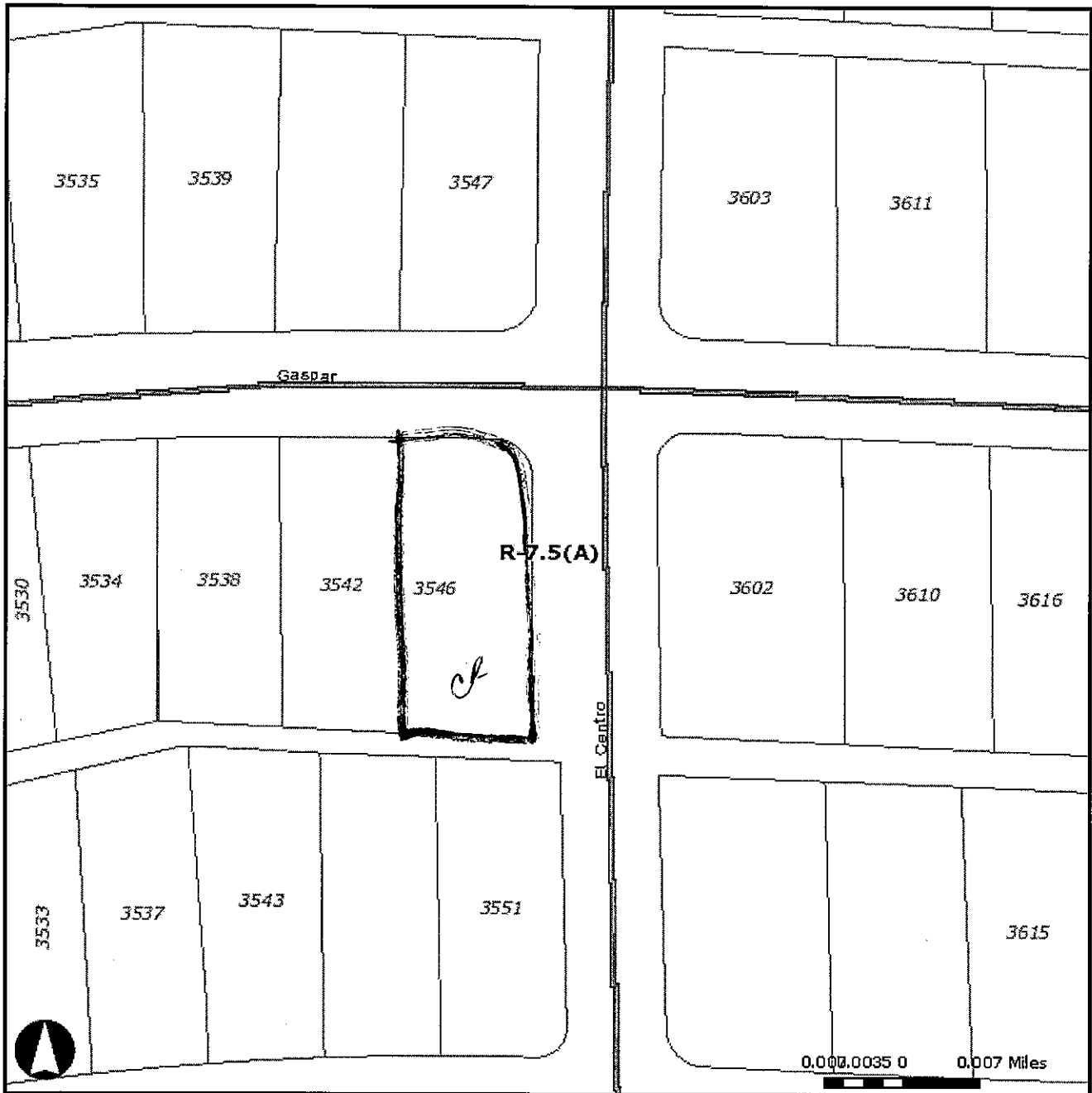
BDA101-121. Application of Lucila Toraya for a variance to the side yard setback regulation at 3546 Gaspar Drive. This property is more fully described as lot 11 in city block 16/6144 and is zoned R-7.5(A), which requires a side yard setback of 5 feet. The applicant proposes to construct and maintain a single family residential structure and provide a 0 foot side yard setback, which will require a 5 foot variance to the side yard setback regulation.

Sincerely,


Lloyd Denman, Building Official



City of Dallas Zoning



Address Candidates



City Boundaries



County



Certified Parcels



DISD Sites

SUP



Dry Overlay



Historic Overlay



Historic Subdistricts

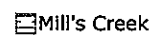
PDS Subdistricts



Base Zoning



Floodplain





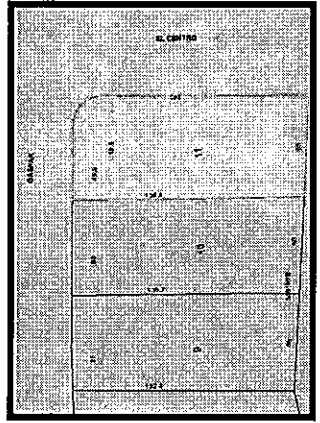
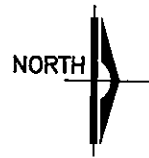
CONSTRUCTION CONCEPTS INC.
 "Planning and Designing a Better Tomorrow"

317 E. JEFFERSON BLVD.
 DALLAS, TX. 75203
 TEL (214) 948-4300
 FAX (214) 948-9544

Legal Description:
 1: WALNUT HILL ESTATE
 2: LOT 11 GASPAR &
 CENTRO DR.

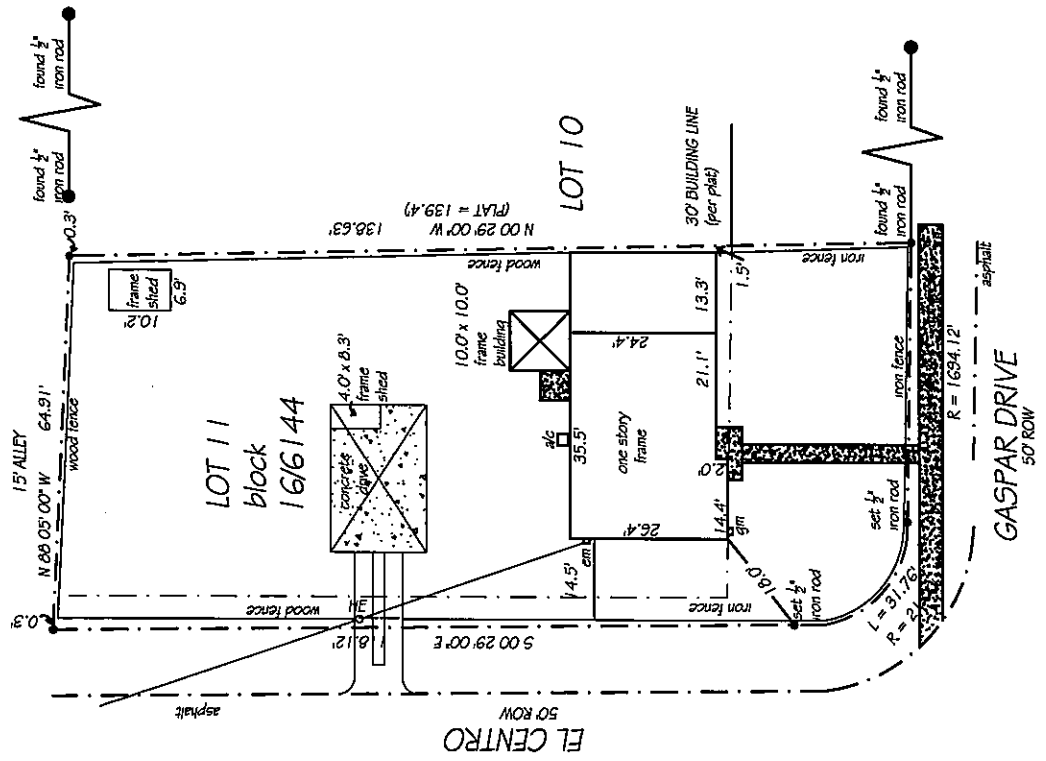
Project Name & Address
 3546 GASPAR DRIVE
 Dallas, Texas
 75220

Project SITE
 Date 08/15/11
 Scale 1"=20'-0"
 Drawn By fp
 Sheet 1



VICINITY MAP
 not to scale - for reference only

SQUARE FOOTAGE	
SITE AREA	1,688 S.F.
TOTAL EXISTING BUILDING	888 S.F.
ONE STORY ADDITION	308 S.F.
COVERED DECK	110 S.F.
TOTAL BUILDING ADDITION	308 S.F.



CONSTRUCTION CONCEPTS INC.
 Planning and Designing a Better Tomorrow

317 E. JEFFERSON BLVD.
 DALLAS, TX. 75203
 TEL. (214) 948-4300
 FAX. (214) 948-9544

Legal Description:
 1: WALNUT HILL ESTATE
 2: LOT 11 CASPAR &
 CENTRO DR.

Project Name & Address
 3546 GASPAR DRIVE
 Dallas, Texas
 75220

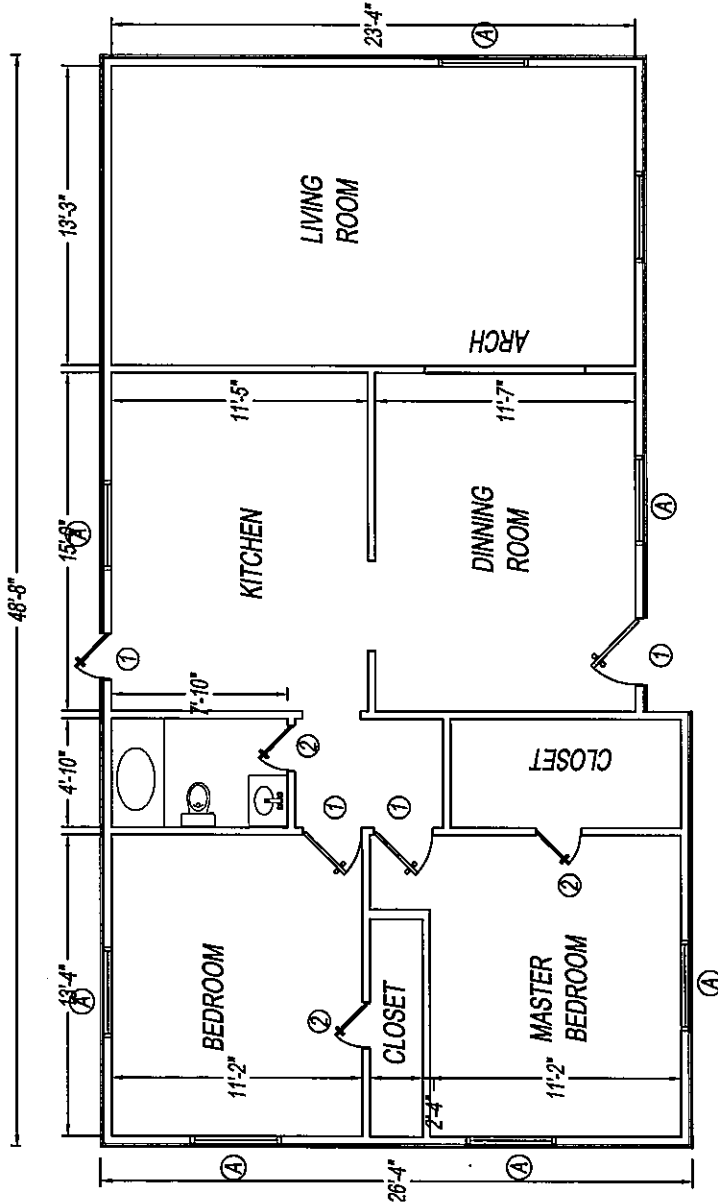
Project	FLOOR	Sheet	4
Date	08/15/11	Scale	3/16" = 1'-0"
Drawn By	fp		

SQUARE FOOTAGE	
SITE AREA	13,688 S.F.
TOTAL EXISTING BUILDING	889 S.F.
ONE STORY ADDITION	204 S.F.
COVERED DECK	101 S.F.
TOTAL BUILDING ADDITION	305 S.F.

DOOR SCHEDULE			
TAG	SIZE	DESC.	QTY.
1	3'-0" X 6'-8"	SC	4
2	2'-8" X 6'-8"	HC	3

H.C. = HOLLOW CORE
 S.C. = SOLID CORE

WINDOW SCHEDULE			
TAG	SIZE	DESC.	QTY.
A	3'-0" X 5'-0"	-	7



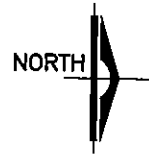
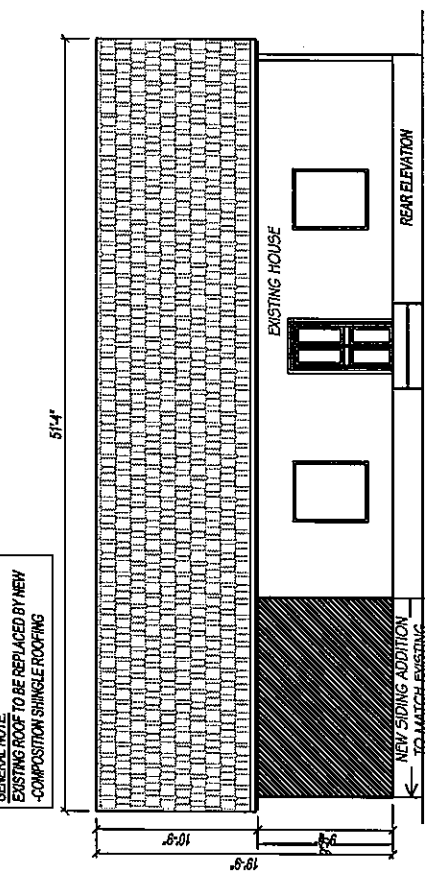
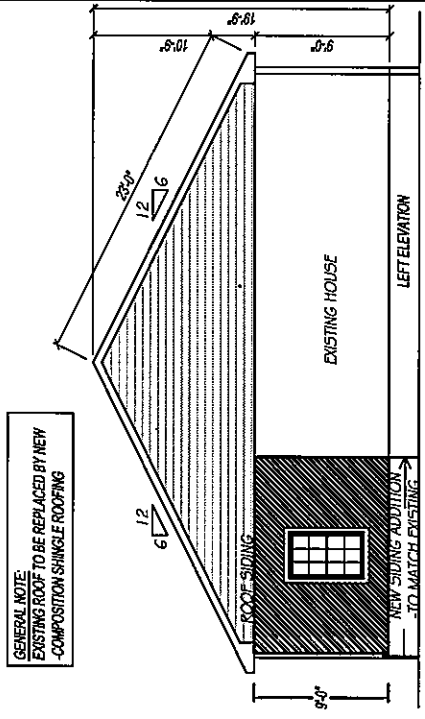
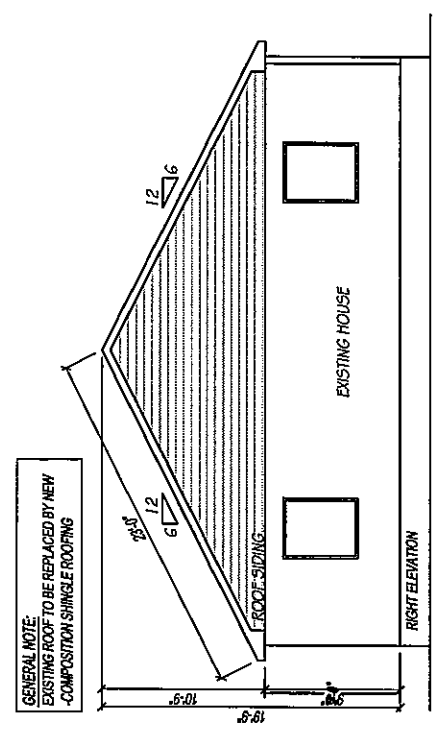
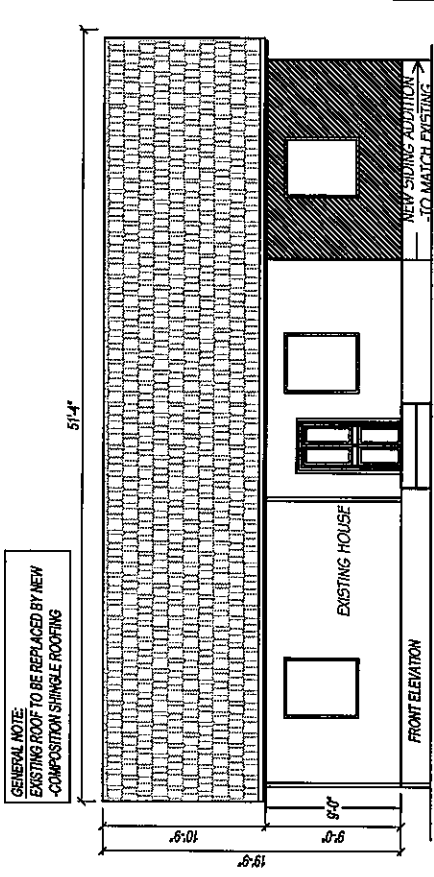
CONSTRUCTION CONCEPTS, INC.
 "Planning and Designing a Better Tomorrow"

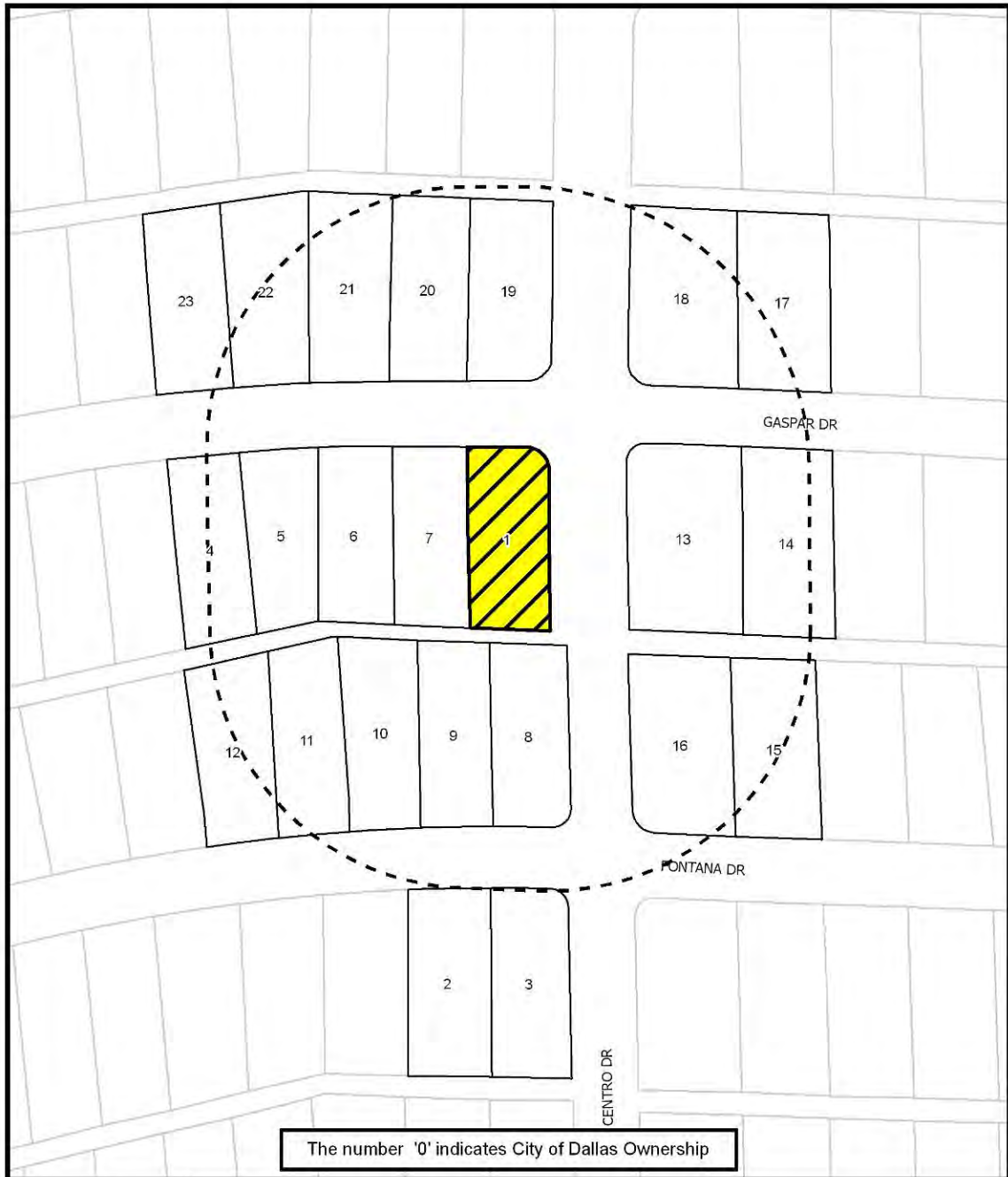
317 E. JEFFERSON BLVD.
 DALLAS, TX. 75203
 TEL. (214) 948-4300
 FAX. (214) 948-9544

Legal Description:
 1: WALNUT HILL ESTATE
 2: LOT 11 GASPAR & CENIRO DR.

Project Name & Address:
 3546 GASPAR DRIVE
 Dallas, Texas
 75220

Project ELEVATIONS	Sheet
Date 08/15/11	6
Scale 1/8" = 1'-0"	
Drawn By fp	





1:1,200

NOTIFICATION

200' AREA OF NOTIFICATION
23 NUMBER OF PROPERTY OWNERS NOTIFIED

Case no: **BDA101-121**

Date: **11/17/2011**

Notification List of Property Owners

BDA101-121

23 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	3546 GASPAR DR	TORAYA LUCILA V
2	3544 FONTANA DR	MARTINEZ ARACELI &
3	3548 FONTANA DR	MITCHELL WILLIAM W
4	3530 GASPAR DR	VILLANUEVA VALENTIN & MARIA GARCIA
5	3534 GASPAR DR	GUZMAN MARIA E
6	3538 GASPAR DR	AVELLANEDA CESAR & SARA MEJIA
7	3542 GASPAR DR	JARAMILLO MARIANO
8	3551 FONTANA DR	ALCALA IDALIA
9	3547 FONTANA DR	JARAMILLO VICTOR & ANNETTE
10	3543 FONTANA DR	VASQUEZ LEO H & LUISA GARCIA
11	3537 FONTANA DR	REYNA ROSENDO & YOLANDA FLORES
12	3533 FONTANA DR	ALCALA JOE R ETAL
13	3602 GASPAR DR	FARINA LUPE F & JORGE
14	3610 GASPAR DR	CASH FREIDA J
15	3611 FONTANA DR	CASTRO GERARDO
16	3603 FONTANA DR	GONZALES MARGARITO
17	3611 GASPAR DR	RAMOS ROSA I RODRIGUEZ JUAN M
18	3603 GASPAR DR	OLIVEIRA LINDER
19	3547 GASPAR DR	BENAVIDEZ AURORA
20	3543 GASPAR DR	CRI INVESTMENTS LLC
21	3539 GASPAR DR	DIAL HELEN W
22	3535 GASPAR DR	HERNANDEZ HUGO
23	3529 GASPAR DR	PAEZ MANUEL HERNANDEZ & MARIA C DE HERNA

FILE NUMBER: BDA 112-046

BUILDING OFFICIAL'S REPORT:

Application of Steven L. Besly for a variance to the floor area regulations at 5319 Bryan Street. This property is more fully described as Lot 5 in City Block X/1861 and is zoned MF-2(A), which states that an accessory structure to a single family use may not exceed 25% of the floor area of the main structure. The applicant proposes to construct an accessory structure with 1,121 square feet of floor area (44.8% of the 2,502 square foot floor area of the main structure), which will require a variance to the floor area regulations of 495.5 square feet.

LOCATION: 5319 Bryan Street

APPLICANT: Steven L. Besly

REQUEST:

- According to the Building Official's report, a variance to the floor area regulations for a structure accessory to single family use of 495.5 square feet is requested in conjunction with constructing and maintaining (what is represented on the submitted site plan) a "new two-story frame garage" structure on a site developed with an "existing two-story frame residence," an accessory structure that would exceed 25 percent of the floor area of the existing main structure.

STAFF RECOMMENDATION:

Denial

Rationale:

- The applicant has not substantiated how the subject site differs from other lots zoned MF-2(A) where either its restrictive size, shape, or slope precludes it from being developed in a manner commensurate with the development upon other parcels of land with the same R-7.5(A) zoning. The site is flat, rectangular in shape (160' x 51'), and is (according to the application) 8,160 square feet in area. The applicant has not demonstrated how the property cannot be retained with/developed with a commensurately-sized single family home and accessory structure in accordance with development code standards due to the restrictive area, shape, or slope of the property.

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:

- “Accessory structure” is defined in the Dallas Development Code as “a structure located on the same lot as the main building that is subordinate in floor area, location, and purpose to the main building and use for a permitted accessory use.”
- The Dallas Development Code states that “an accessory use must be a use customarily incidental to the main use.”
- The subject site is zoned MF-2(A), which permits a “single family” use by right.
- The subject site is developed with a single family use.
- For single family uses, the Dallas Development Code states that, except in the agricultural district, “the floor area of any individual accessory structure on a lot, (excluding floor area used for parking), may not exceed 25 percent of the floor area of the main building.”
- The applicant has submitted a site plan indicating an “existing two-story frame residence” and a “new two-story frame garage.” The applicant has submitted a floor plan of the accessory structure where its first floor includes a garage space, and its second floor includes a living room, two bedrooms, and bath spaces. The applicant has stated on his application that an appeal has been made for variance of “floor area ratio for unattached carriage house. Entitled to 625.5 square feet as 25% of 2502 square feet and seek variance of up to 495.5 square feet.” The related Building Official’s Report states that the applicant proposes to construct an accessory structure with 1,121 square feet of floor area (44.8 percent of the 2,502 square feet of floor area of the main structure) which will require a 495.5 square foot variance to the floor area ratio regulation.
- The site is flat, rectangular in shape (160’ x 51’), and is (according to the application) 8,160 square feet in area. The site is zoned MF-2(A).
- According to DCAD records, the property at 5319 Bryan has the following improvements:
 - “main improvement” built in 1914 with 2,502 square feet of living area, and
 - “additional improvements;” a 200 square foot attached carport and a 200 square foot detached carport.

BACKGROUND INFORMATION:

Zoning:

Site: MF-2(A) (Multifamily)
North: MF-2(A) (Multifamily)
South: PD 63 (Planned Development District)
East: MF-2(A) (Multifamily)
West: MF-2(A) (Multifamily)

Land Use:

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

Zoning/BDA History:

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

Timeline:

- February 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 C.
- 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.

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

STAFF ANALYSIS:

- This request focuses on a variance to the floor area regulations for an accessory structure to a single family use of 495.5 square feet that has been requested in conjunction with constructing and maintaining (what is represented on the submitted site plan) a “new two-story frame garage” structure on a site developed with an “existing two-story frame residence,” an accessory structure that would exceed 25 percent of the floor area of the existing main structure.
- The site is flat, rectangular in shape (160’ x 51’), and is (according to the application) 8,160 square feet in area. The site is zoned MF-2(A).
- According to DCAD, the property is developed with a structure with about 2,500 square feet of living area and a 200 square foot attached carport and a 200 square foot detached carport. (Note that this referenced detached carport appears from the Board Administrator’s field trip of the site in April of 2012 to have been demolished).
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the floor area for structures accessory to single family uses regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same MF-2(A) (Multifamily) zoning classification.
 - The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same MF-2(A) (Multifamily) zoning classification.
- If the Board were to grant the variance to the floor area regulations for an accessory structure to a single family use of 495.5 square feet, the property could be developed with an accessory structure that could exceed the floor area of the main structure by 495.5 square feet. The applicant would be required to adhere to all other development code provisions on this property.

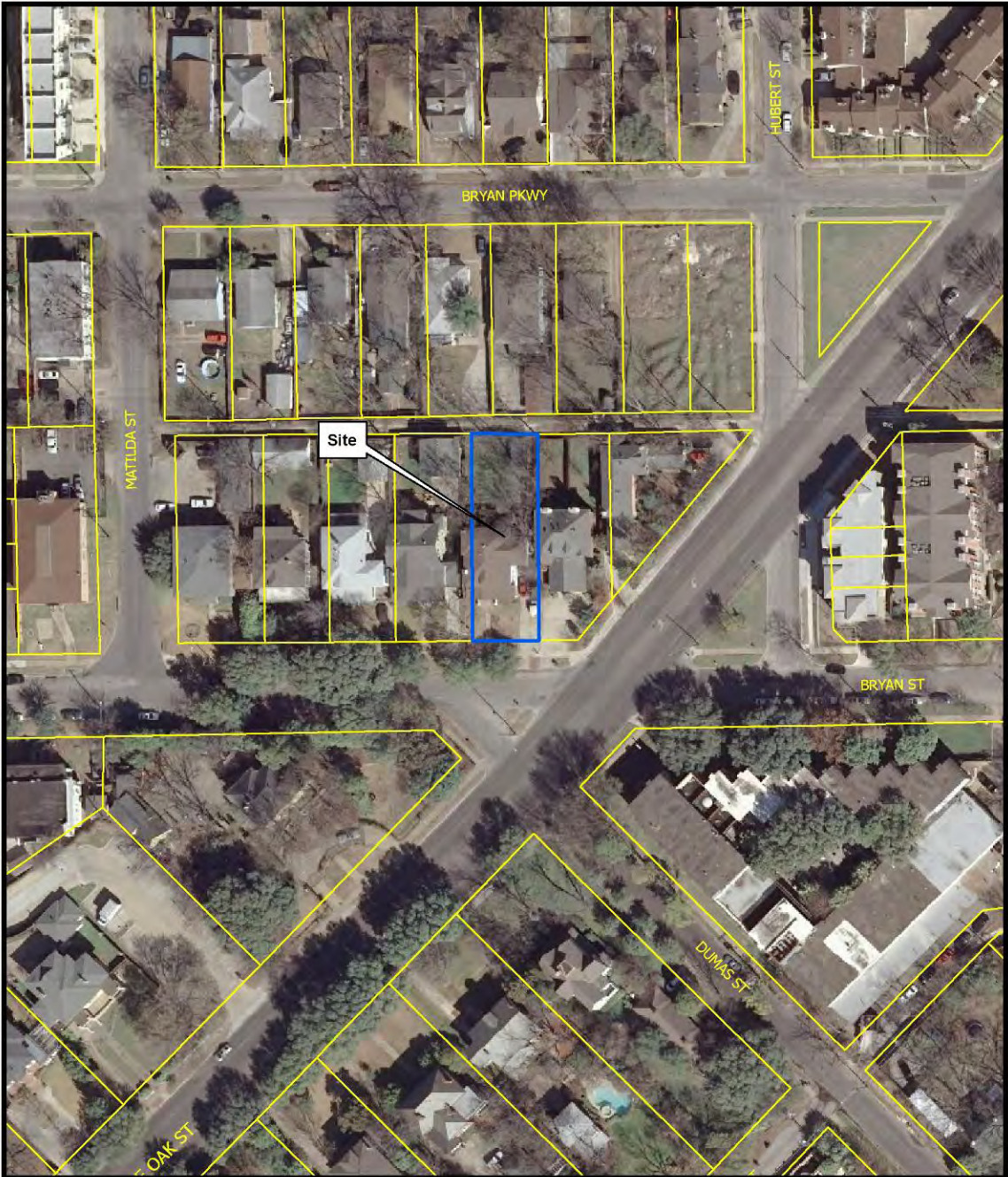


1:1,200

ZONING MAP

Case no: BDA112-046

Date: 4/26/2012



1:1,200

AERIAL MAP

Case no: BDA112-046

Date: 4/26/2012



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-046

Data Relative to Subject Property:

Date: 2/29/2012

Location address: 5319 Bryan St Zoning District: MF2(A)

Lot No.: 5 Block No.: X/1861 Acreage: 8160 sq ft Census Tract: 15.04

Street Frontage (in Feet): 1) 51 2) 3) 4) 5)

5623

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Steven L Besly and Sara K Besly

Applicant: Steven L Besly Telephone:

Mailing Address: 5319 Bryan St Dallas Tx Zip Code: 75206

E-mail Address: sbesly@cblegal.com

Represented by: Telephone:

Mailing Address: Zip Code:

E-mail Address:

Affirm that an appeal has been made for a Variance X, or Special Exception, of Floor Area Ratio for attached Carriage House. Entitled to 625.5 sq ft as 25% of 2500 sq ft and seek Variance for up to 495.5 sq 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:

see attached

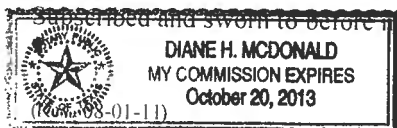
Note to Applicant: If the appeal requested in this application is granted by the Board of Adjustment, a permit must be applied for within 180 days of the date of the final action of the Board, unless the Board specifically grants a longer period.

Affidavit

Before me the undersigned on this day personally appeared Steven Besly (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 February, 2012

Diane H. McDonald 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

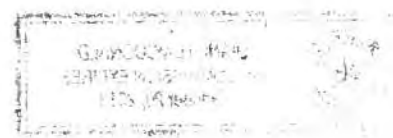
I hereby certify that Steven L. Besly

did submit a request for a variance to the floor area ratio regulation
at 5319 Bryan Street

BDA112-046. Application of Steven L. Besly for a variance to the floor area ratio regulation at 5319 Bryan Street. This property is more fully described as lot 5 in city block X/1861 and is zoned MF-2(A), in which an accessory structure to a single family use may not exceed 25% of the floor area of the main structure. The applicant proposes to construct a single family residential accessory structure with 1,121 square feet of floor area (44.8% of the 2,502 square foot floor area of the main structure), which will require a 495.5 square foot variance to the floor area ratio regulation.

Sincerely,


Lloyd Denman, Building Official



Steven Besly
5319 Bryan St

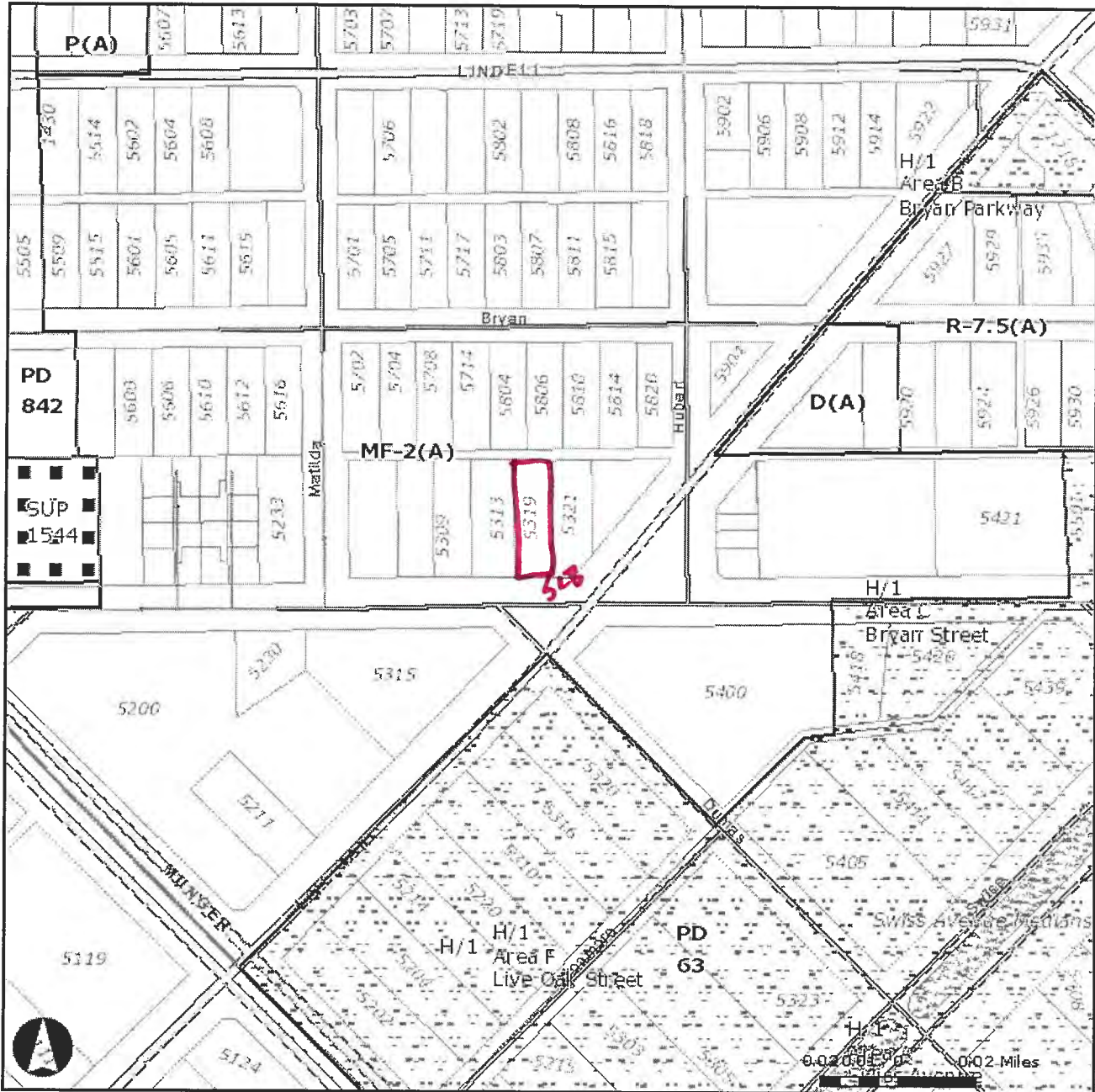
The requested variance for floor area ration is not contrary to public policy and is required by the special conditions caused by a 98 year old house sitting off kilter on an irregularly extra long and narrow lot. A literal enforcement of the 25% floor area might not be a problem for a wide lot containing a single story ranch style home built to modern code because an addition can be added to the house. Four Square Prarie houses that were built in munger place did not have attached parking bu rather unattached carriage houses/servants quarters. Replacing the one that was in evidence when Chuck Norris shot the movie Silent Rage in my house, is in keeping with the proper neighborhood design even though the area has been designated Multi Family 2 and there is a house converted to an apartment building that has a 4 car unattached garage converted to apartments on my block. Next door I have an oversized brick duplex and a Four square with an overlarge carriage house that caused the removal of 2 very large oak trees and cut the roots of one of my trees that is just now coming back. And behind me is a brick apartment building. Two open lots were scraped to build 4 plex three story apartments that utilize every square foot of space with little or no landscaping. Six lots down the Brownstones on Bryan built 8 such units which are almost as big an eyesore as the three boarding houses on the corner of Bryan and Mckinney. The houses and trees were scraped before the market crashed in 2009 and have ben left the unkept which allows all the noise from Liveoak including busses and sirens directly into my lot. The Carriage house should help block that. Every house in Munger Place had a carriage house and most have been replaced and improved with modern conveniences.

My 98 year old two story structure is only worth \$32,000 according to DCAD. Even if it was capable of being added onto the irregular lot would require a variance because the property is right next to the lot line which would still require a variance for violating the set back. The standalone building as designed incorporates close to \$30,000 worth of foundation piers, concrete and engineering simply to meet code and provide a stable structure. Requiring an addition as an attached structure would more than triple those costs if it could be engineered at all and would be an unnecessary hardship. The long and narrow off kilter lot also paves the entire back yard, cuts down the well developed trees and would prevent the addition from being a parking structure because the turning radius would be to tight to park 4 cars. Finally, such a solid foundation if attached to a 98 year old pier and beam structure that was built to move, would rip the old house off its foundation.

The slope and drainage of the lot also prevents an addition as the alley And the fully paved parking structure of the Apartment building drains into my lot and my neighbor with a overlarge carriage house drain drains into my back yard as can be seen by the attached photo. I have been forced to install drainage to keep the water out of my house but it still flows behind the house and then down the driveway

A literal enforcement of the ordinance creates an unnecessary hardship but as designed my carriage house observes the spirit of the ordinance and allows for justice to be done. It is designed to mimic the original prairie carriage house and unlike the neighbors it allows for the retention of the Two very large trees and ample area for drainage caused by the slope. Even its larger size is commensurate with my lot which is 16 feet longer than the other lots in the area. I am allowed to build a 4 car parking structure with 625.5 sqft of upstairs living space. Building a proper rectangular 4 Square carriage house with the additional square footage is within the spirit of the ordinance and should be approved.

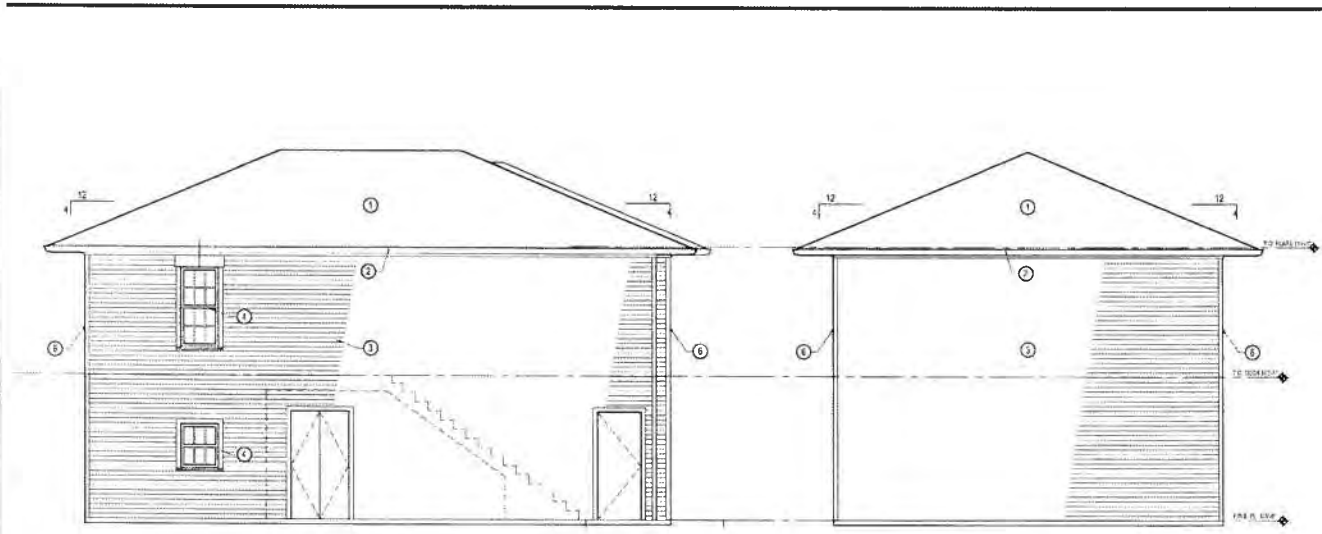
City of Dallas Zoning



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

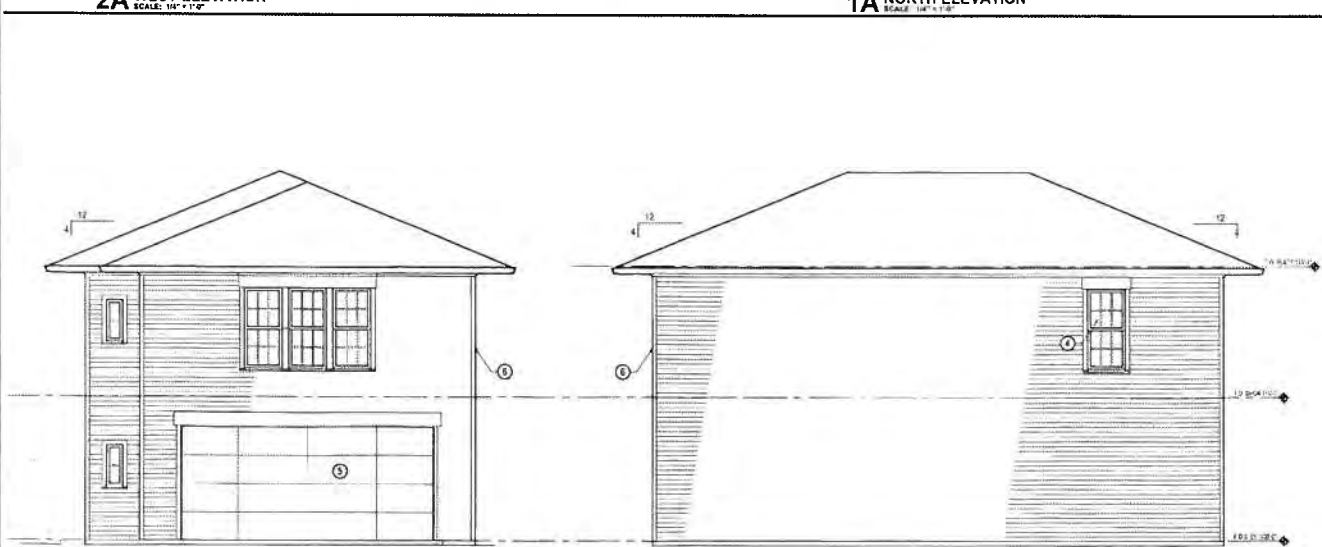
- SUP
- Dry Overlay
- D
- D-1
- Historic Overlay
- Historic Subdistricts
- NSO Overlay
- NSO Subdistricts

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



2A WEST ELEVATION
SCALE: 1/4" = 1'-0"

1A NORTH ELEVATION
SCALE: 1/4" = 1'-0"



2B EXTERIOR ELEVATION SOUTH
SCALE: 1/4" = 1'-0"

2A EXTERIOR ELEVATION SOUTH
SCALE: 1/4" = 1'-0"

KEY NOTES

- ① COMPOSITE SHINGLES TO MATCH COLOR ON HOUSE
- ② EXTRUDED ALUMINUM GUTTER TO MATCH HOUSE
- ③ HARD-PLANK SIDING, MATCH SIZING AND SPACING ON HOUSE
- ④ SINGLE-HUNG WINDOWS AND TRIM TO MATCH HOUSE
- ⑤ GARAGE DOOR
- ⑥ CORNER TRIMS TO MATCH DETAIL ON HOUSE

The Carriage House
for the
Steve Besly Residence

5319 Bryan Street
Dallas, TX 75206

ARROstudios
design

Revision	Describe Revision	By	Checked
1	ISSUED	AL	BC

GENERAL NOTES

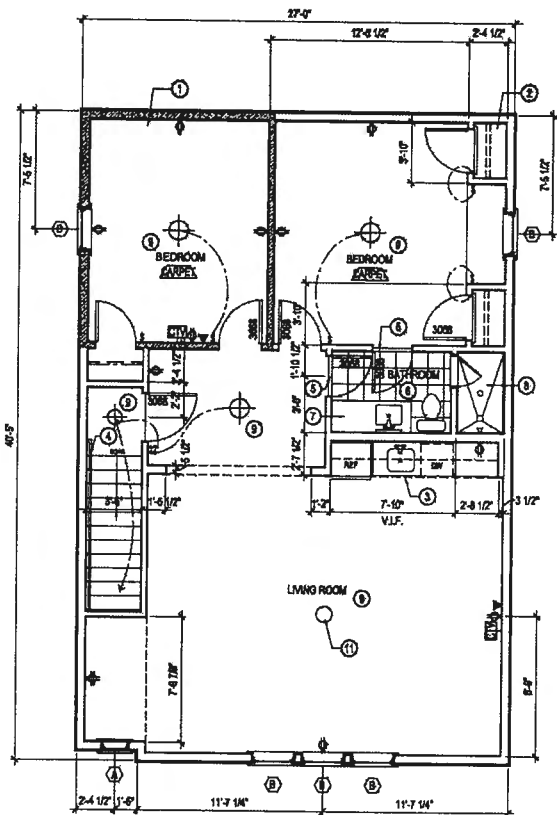
Project Name: _____
 The Carriage House

Client Name: _____
 CHExtElevs.dwg

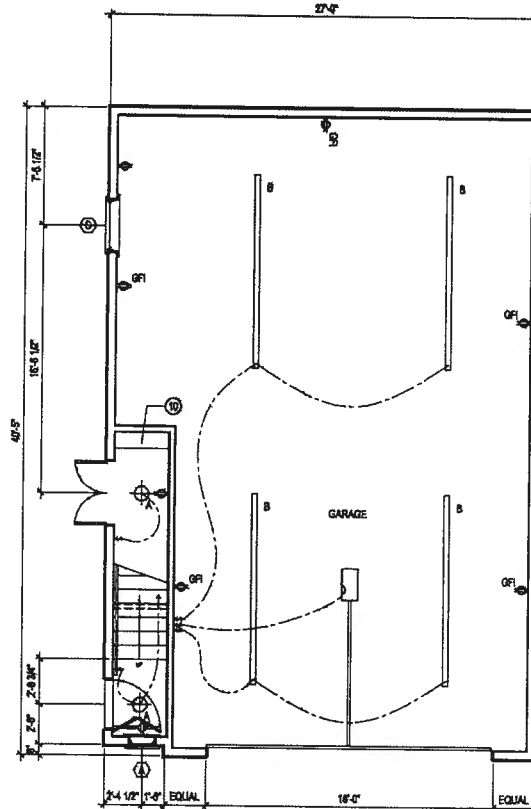
Revision: _____
 Exterior Elevations

Scale: _____
 0 1 2 4 8

A09.00



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



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

KEY NOTES

- ① PROVIDE SECURITY MESH IN WALLS, SHOWN HATCHED
- ② ROOF & SHELF
- ③ KITCHEN MILLWORK AND EQUIPMENT PROVIDED BY OWNER. COORDINATE WIDTH OF ALCOVE DOORS
- ④ WALL MOUNTED HANDRAIL TO MEET CODE
- ⑤ RAISED THRESHOLD
- ⑥ 12"x12" PORCELAIN TILE
- ⑦ NEW VANITY
- ⑧ SHOWER
- ⑨ CARPET THIS AREA
- ⑩ ADJUSTABLE SHELVES (5 TOTAL)
- ⑪ ELECTRICAL FLOOR OUTLET. CONSULT WITH OWNER ABOUT LOCATION

GENERAL NOTES

- A. ALL DIMENSIONS ARE TO THE FACE OF STUD UNLESS NOTED OTHERWISE.
- B. GYPSUM BOARD SHEATHING SHALL BE 5/8" THICK AT ALL EXPOSED SURFACES, PAINT P/T U.I.O.
- C. MACHINE TROWEL ALL EXPOSED CONCRETE SURFACES
- D. PROVIDE 1/2" CONCRETE BACKER BOARD AT SHOWER AND TUB SURFACES. PROVIDE WATER RESISTANT GREENBOARD AT SHOWER AND TUB CEILING
- E. PROVIDE COMPLETE WATERPROOF ASSEMBLY AT ROOF INCLUDING T.P.L. BARRIER, PARAPET FLASHING AND METAL CAP FLASHING
- F. ALL KITCHEN CABBINETS PROVIDED AND OWNER, INSTALLED BY CONTRACTOR
- G. ALL KITCHEN APPLIANCES, EQUIPMENT, FIXTURES AND FITTINGS PROVIDED BY OWNER, INSTALLED BY CONTRACTOR
- H. TREAT ALL CELLULOSIC MATERIAL (E.G. WOOD FRAMING) WITH BORATE PRODUCT TO A MINIMUM OF 3 FEET ABOVE FOUNDATION
- I. OWNER TO SEAL ALL EXTERNAL CRACKS, JOINTS, EDGES AND ENTIRE ROOF WITH CALICREED. NOTIFY OWNER ONCE SHEATHING HAS BEEN APPLIED TO STUDS AND PRIOR TO INSTALLATION OF INSULATION
- J. INSULATION TO MEET THE GRADE I REQUIREMENTS OF THE MORTGAGE INDUSTRY NATIONAL HOME ENERGY RATING STANDARDS. ALLOW ONLY VERY SMALL GAPS (ROUND WIRING, ELECTRIC OUTLETS, ETC.) AND INCOMPLETE FILL AMOUNTS OF 2% OR LESS. GAPS RUNNING CLEAR THROUGH THE INSULATION SHALL BE NO MORE THAN 2% OF THE TOTAL SURFACE AREA COVERED BY THE INSULATION
- K. AIR LEAKAGE RATE MUST BE TESTED BY GREEN RATER PRIOR TO DRYWALL INSTALLATION. NOTIFY OWNER OF INSULATION INSTALLATION DATES AND COORDINATE WITH GREEN RATER
- L. ALL DOMESTIC HOT WATER PIPING SHALL HAVE PEX INSULATION. INSULATION SHALL BE PROPERLY INSTALLED ON ALL PIPING ELBOWS TO ADEQUATELY INSULATE 90 DEGREE BEND.

The Carriage House
for the
Steve Besly Residence

5319 Bryan Street
Dallas, TX 75206

ARROstudios
design

Item	Class & Item Description	By	Check
1	CONTRACT	AD	MC
Issued For BIDD & Permit			

Description

Project Name

The Carriage House

Client File Name

CarriageHouse_plans.dwg

Description

Floor Plan

Sheet

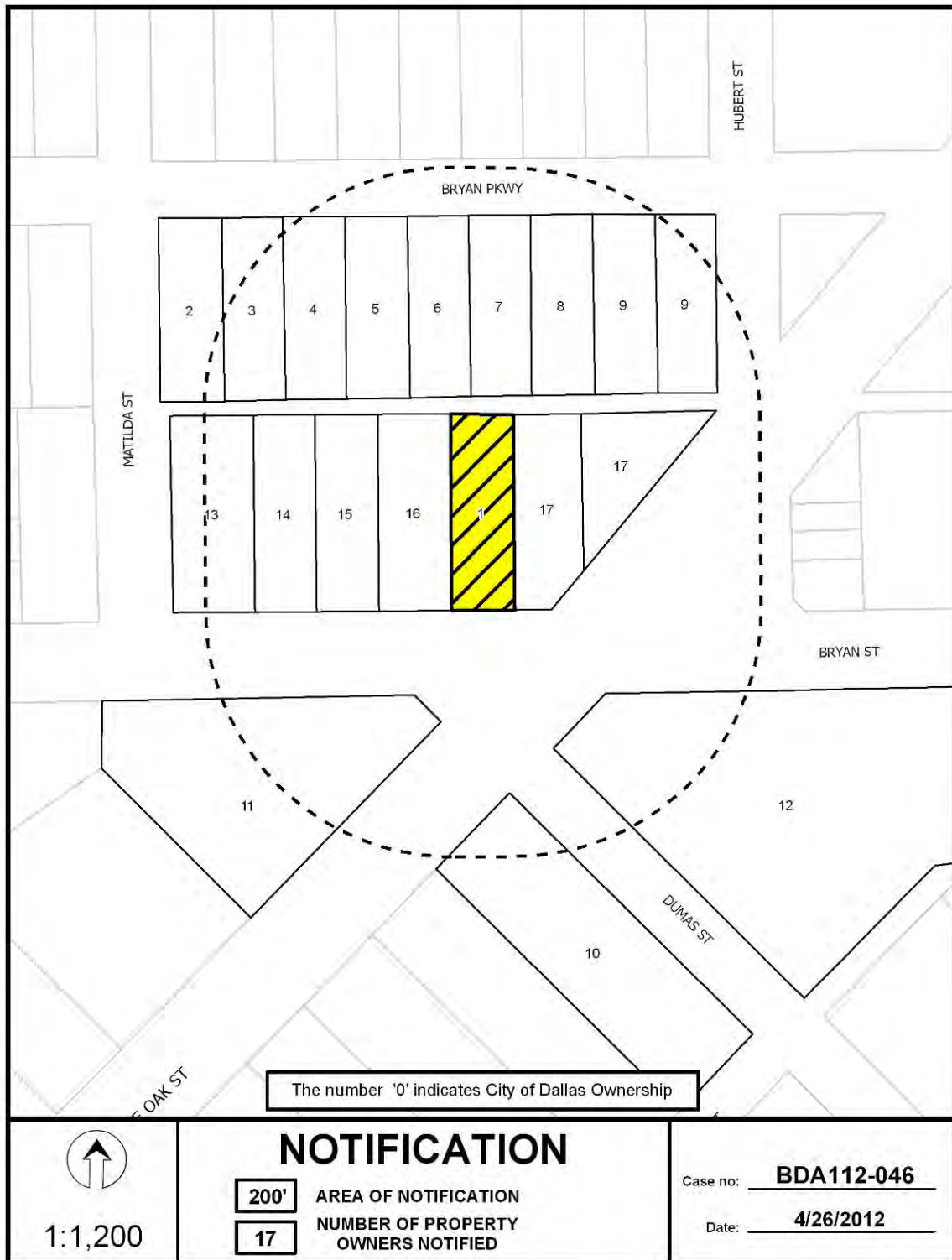
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

A02.01



BDA 112-046

7-15



Notification List of Property Owners

BDA112-046

17 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5319 BRYAN ST	BESLY STEVEN
2	5702 BRYAN PKWY	GILMORE RALPH CURTIS
3	5704 BRYAN PKWY	MONTES ROSA GONZALES & ANTONIA F GONZALE
4	5708 BRYAN PKWY	HERRERA LUCIANO & BLANCA
5	5714 BRYAN PKWY	BERMUDEZ LIDIA B
6	5804 BRYAN PKWY	WILLIAMS PAUL
7	5806 BRYAN PKWY	BRYAN PKWY DEVELOPMENT LL
8	5810 BRYAN PKWY	HALL DORIS J
9	5814 BRYAN PKWY	COBINA REAL ESTATE LLC
10	5320 LIVE OAK ST	WHISNANT ROBERT A JR
11	5315 LIVE OAK ST	REEVES BRADFORD & MARY LEE RODDY
12	5400 LIVE OAK ST	C & B POWER 5400 INC
13	5303 BRYAN ST	ELITE PLACE INV LLC
14	5305 BRYAN ST	CLAYTON KENNETH
15	5309 BRYAN ST	DUHOUX YVES
16	5313 BRYAN ST	MADDEN CHRISTOPHER J
17	5321 BRYAN ST	TGHM PROPERTIES LP THOMAS K MOTLOW