

ZONING BOARD OF ADJUSTMENT, PANEL C
MONDAY, SEPTEMBER 16, 2013
AGENDA

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

Neva Dean, Interim Assistant Director
Steve Long, Board Administrator

MISCELLANEOUS ITEM

Approval of the Monday, August 19, 2013 Board of Adjustment Public Hearing Minutes	M1
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UNCONTESTED CASE

BDA 123-091	2415 Laneri Avenue REQUEST: Application of Paul Brian Jankowski for variances to the front and side yard setback regulations	1
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HOLDOVER CASE

BDA 123-054	8000 Park Lane REQUEST: Application of Colesen C. Evans for a variance to the front yard setback regulations	2
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REGULAR CASE

BDA 123-092	5522 Maple Avenue REQUEST: Application of Mark Housewright for a variance to the front yard setback regulations	3
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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 August 19, 2013 public hearing minutes.

FILE NUMBER: BDA 123-091

BUILDING OFFICIAL'S REPORT: Application of Paul Brian Jankowski for variances to the front and side yard setback regulations at 2415 Laneri Avenue. This property is more fully described as the northern part of Lots 15 & 16, Block 7/1973 and is zoned R-7.5(A), which requires a front yard setback of 25 feet and requires a side yard setback of 5 feet. The applicant proposes to construct/maintain a structure and provide a 15 foot 6 inch front yard setback, which will require a 9 foot 6 inch variance to the front yard setback regulations, and to provide a 3 foot 3 inch side yard setback, which will require a 1 foot 9 inch variance to the side yard setback regulations.

LOCATION: 2415 Laneri Avenue

APPLICANT: Paul Brian Jankowski

REQUESTS:

The following appeals have been made in conjunction with maintaining a nonconforming single family home structure and adding a second floor/attic:

1. a variance to the front yard setback regulations of 9' 6" is requested to remedy/address the nonconforming aspect of the existing nonconforming porch/stair structure attached to the nonconforming single family structure located 15' 6" from the front property line or 9' 6" into the 25' front yard setback.
2. a variance to the front yard setback regulations of 8' is requested to cover/align vertically over the existing nonconforming porch structure with a new roof structure attached to the nonconforming single family structure located 17' from the front property line or 8' into the site's 25' front yard setback.
3. a variance to the front yard setback regulations of approximately 3" is requested to remedy/address the nonconforming aspect of the existing nonconforming single family home structure that is located approximately 24' 9" from the front property line or 3" into the 25' front yard setback.
4. a variance to the front yard setback regulations of approximately 3" is requested to vertically align over the existing nonconforming single family home structure with a 2nd floor addition located approximately 24' 9" from the front property line or 3" into the 25' front yard setback.
5. a variance to the side yard setback regulations of 1' 9" is requested to remedy/address the nonconforming aspect of the existing nonconforming single family home structure that is located 3' 3" from the site's southern side property line or 1' 9" into the site's 5' southern side yard setback.
6. a variance to the side yard setback regulations of 1' 9" is requested to construct and maintain a 2nd floor/attic addition that would align vertically over the nonconforming single family home structure located 3' 3" from the site's southern side property line or 1' 9" into the site's 5' southern side yard setback.

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The lot’s restrictive area (caused by the lot being 2,000 square feet less in area than most lots in the same R-7.5(A) zoning classification) precludes the applicant from developing it in a manner commensurate with other developments found on similarly-zoned R-7.5(A) lots that are of typical sized to the zoning district: 7,500 square feet in area.
- The applicant has provided documentation showing that the existing home with proposed addition will have approximately 3,000 square feet – a size that is smaller in size that 11 other developments found in R-7.5(A) zoning, none with less than 4,000 square feet.
- Granting these requests do not appear to be contrary to public interest given that the variances are sought to align porch roof and a second floor addition over a nonconforming single family home structure where the original building footprint does not becoming more nonconforming to the front and side yard setbacks.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5 (A)(Single family district 7,500 square feet)
North: CD 15 (Conservation District)
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 structure that appears to be nonconforming as to the front and side yard setback regulations. The areas to the north, south, east, and west are developed with single family uses.

Zoning/BDA History:

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

Timeline:

- July 22, 3013: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- August 20, 2013: The Board of Adjustment Secretary assigned this case to Board of Adjustment Panel C.
- August 20, 2013: The Board Administrator contacted the applicant and shared the following information via email:
- an attachment that provided the public hearing date and panel that will consider the application; the August 28th deadline to submit additional evidence for staff to factor into their analysis; and the September 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;”
- August 23, 2013: The Board Administrator emailed the applicant the following information:
- code provisions related to nonconforming structures.
- August 28, 2013: The applicant submitted documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment A).
- September 3, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim 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 Chief Arborist, and the Assistant City Attorney to the Board.

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

GENERAL FACTS/STAFF ANALYSIS (front yard variances):

- These requests focus on remedying/addressing the nonconforming aspect of the existing nonconforming porch/stair and single family home structures that are located in the 25' front yard setback, and covering/aligning an addition vertically over these structures in the 25' front yard setback.
- The existing single family home structure appears to be a nonconforming structure as to the front and side yard setback regulations because of the fact that (according to DCAD) it was built in 1922. The proposed structure/addition is to be added atop the existing structure in the front and side yard setbacks.
- Structures on lots zoned R-7.5(A) are required to provide a minimum front yard setback of 25'.
- A site plan has been submitted denoting a portion of the existing structure located as close as 15.6' away from the front property line or as much as 9' 6" into the 25' front yard setback.
- The applicant has chosen to seek variances to the front yard setback regulations to remedy the nonconforming stair/porch/single family structures in the front yard setback and to allow the new construction/additions to the existing structures in the front yard setback.
- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.
- According to DCAD records, the "main improvements" at 2415 Laneri Avenue is a structure built in 1922 with 1,162 square feet of living area and 1,162 square feet of total area. According to DCAD records, there are no "additional improvements" at this address.
- The code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.
- It appears from calculations taken from the submitted site plan by the Board Administrator that the entire approximately 20 square foot stair structure, the entire approximately 230 square foot porch structure, and about 10 square feet (or approximately 1 percent) of the approximately 1,100 square foot building footprint is in the front yard setback.
- The subject site is flat, rectangular in shape, and according to the application, is approximately 5,000 square feet in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet.

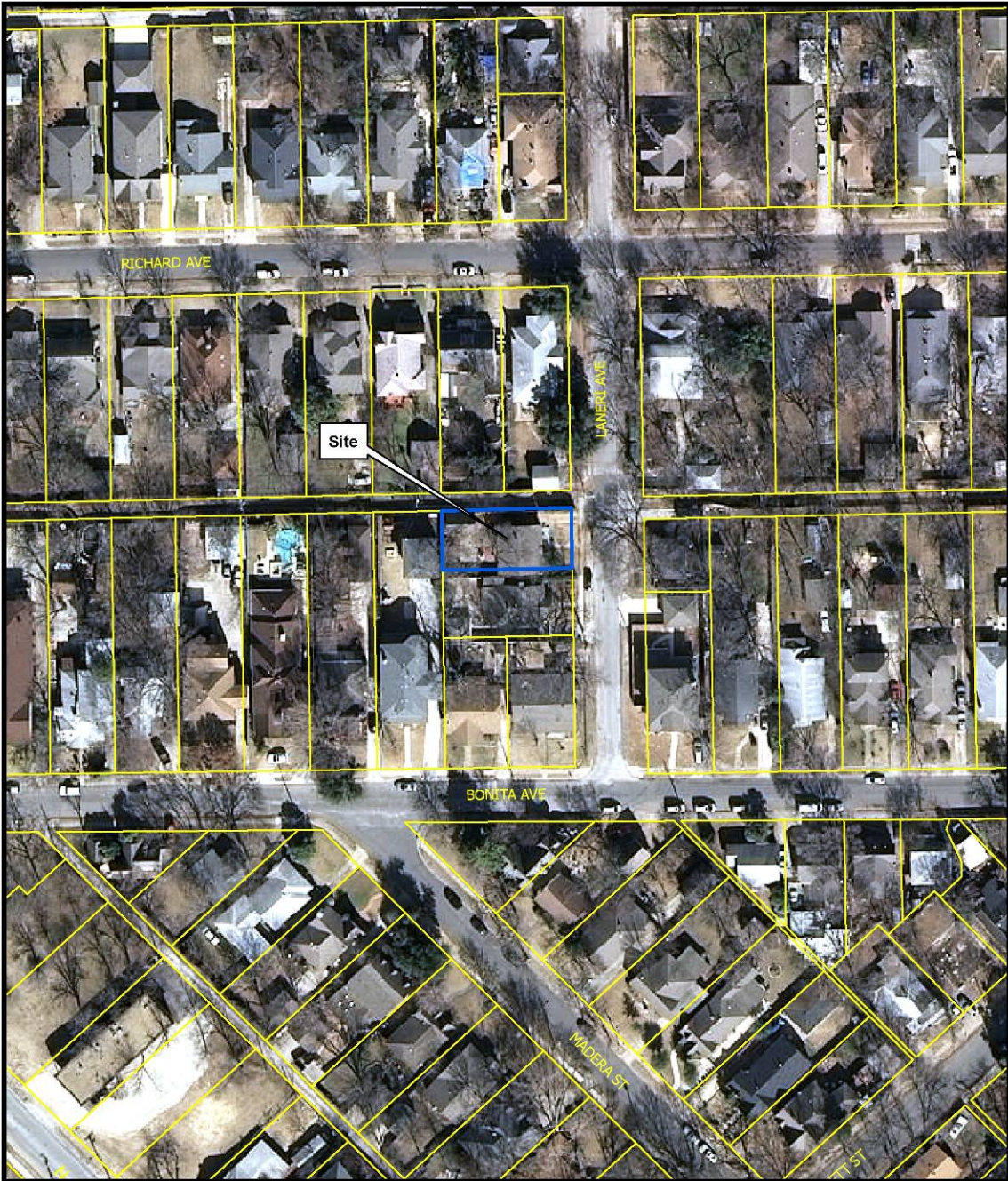
- The applicant has provided information showing that the existing home with the added addition would have approximately 3,000 square feet where 11 other properties that he found in R-7.5(A) have not less than 4,000 square feet.
- The applicant states that granting the requested variances will not change the existing building footprint.
- The applicant has the burden of proof in establishing the following:
 - That granting the variances to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
 - The variances would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant the variance requests and impose the submitted site plan as a condition, the structures in the front yard setback would be limited to what is shown on this document– which are structures located as close as 15' 6" from the front property line or as much as 9' 6" into the 25' front yard setback.

GENERAL FACTS/STAFF ANALYSIS (side yard variances):

- These requests focus on remedying/addressing the nonconforming aspect of the existing nonconforming single family home structure and aligning an addition vertically over this structure in the site's southern 5' side yard setback.
- The existing single family home structure appears to be a nonconforming structure as to the front and side yard setback regulations because of the fact that (according to DCAD) it was built in 1922. The proposed structure/addition is to be added atop the existing structure in the front and side yard setbacks.
- Structures on lots zoned R-7.5(A) are required to provide a minimum side yard setback of 5'.
- A site plan has been submitted denoting a portion of the existing structure located as close as 3' 3" away from the site's southern side property line or as much as 1' 9" into this 5' side yard setback.
- The applicant has chosen to seek variances to the front yard setback regulations to remedy the nonconforming stair/porch/single family structures in the front yard setback and to allow the new construction/additions to the existing structures in the front yard setback.
- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.

- According to DCAD records, the “main improvements” at 2415 Laneri Avenue is a structure built in 1922 with 1,162 square feet of living area and 1,162 square feet of total area. According to DCAD records, there are no “additional improvements” at this address.
- The code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner’s agent.
- It appears from calculations taken from the submitted site plan by the Board Administrator that about 60 square feet (or approximately 6 percent) of the approximately 1,100 square foot building footprint is in the side yard setback.
- The subject site is flat, rectangular in shape, and according to the application, is approximately 5,000 square feet in area. The site is zoned R-7.5(A) where lots are typically 7,500 square feet.
- The applicant has provided information showing that the existing home with the added addition would have approximately 3,000 square feet where 11 other properties that he found in R-7.5(A) have not less than 4,000 square feet.
- The applicant states that granting the requested variances will not change the existing building footprint.
- The applicant has the burden of proof in establishing the following:
 - That granting the variances 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 variances are necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
 - The variances would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant the variance requests and impose the submitted site plan as a condition, the structures in the side yard setback would be limited to what is shown on this document– which are structures located 3’ 3” from the site’s southern side property line or 1’ 9” into this 5’ side yard setback.





1:1,200

AERIAL MAP

Case no: BDA123-091

Date: 9/10/2013

Modern Living

5433 Leegestone Drive
Dallas, Texas 75214
214.286.1666 or 214.726.9571

August 28, 2013

PROPERTY at 2415 LANERI

SUPPLEMENTAL INFORMATION

- It is the property owner's intention, and desire, to remodel the existing one story residence...and add to it a new second floor with a third floor room within the new second floor roof line.
- The renovations to the existing first floor, and the addition of the second floor, will respect the foot print of the existing house... existing Front Yard and Side Yard setbacks will not be decreased.
- The property in question is a non-conforming property within the R7.5(A) Zoning District in which it falls...it is 50' wide by 100' deep which equals 5,000 square feet. The majority of the properties in the Zoning District are 7,500 square feet or larger.
- The proposed renovated house with its new addition will be approximately 3,020 square feet...this size is appropriate and compatible with size of other houses in the R7.5(A) Zoning District. (Refer Table Attached)
- The property owner is asking for three things with regard to variances to the Front Yard and Side Yard setback requirements for this property in the R7.5(A) Zoning District...
 - ONE...grant a variance to the Front Yard and Side Yard setback requirements so that a second floor may be added to the existing one story structure... existing Front Yard and Side Yard setbacks will not be decreased.
 - TWO...grant a variance to the Front Yard setback so that a roof may be added over the existing front porch... existing Front Yard setback will not be decreased.
 - THREE...remedy the aspect of the existing 'non-conforming' one story structure, with regard to Front Yard and Side Yard setbacks, to 'conforming' for this property only.

August 28, 2013

PROPERTY at 2415 LANERI

TABLE SHOWING HOUSES OF COMPARABLE SIZE IN R7.5(A) ZONING DISTRICT

Residential										
RES	MLS#	Status	#	Area	Address	Map	Beds	Baths	Gar/CP/TP	Price
1	11956545	PND	N	12*76*	5412 Goodwin Avenue (817) 858-0055	DA*/0036*/N*	4	4.2	2/0/2	\$729,500
	Pt: N	#Lv: 4	Sto: 2	LO: FLYRG01		SqFt: 4,635	YrBlt: 2006*			OrLP: \$748,500
2	11354235	SLD	Y	12*76*	5130 Goodwin Avenue (817) 858-0055	DA*/0036*/P*	3	4.2	2/0/2	\$ 339,900
	Pt: N	#Lv: 3	Sto: 2	LO: PRUD03DL		SqFt: 4,523*	YrBlt: 2006*			OrLP: \$524,900
3	11827776	SLD	Y	12*76*	5643 Vickery Boulevard (817) 858-0055	DA*/0036*/T*	4	4.1	3/0/3	\$ 450,000
	Pt: N	#Lv: 3	Sto: 2	LO: KWRA01AR		SqFt: 4,948*	YrBlt: 1917*			OrLP: \$482,310
4	11504203	SLD	Y	12*76*	5130 Goodwin Avenue (817) 858-0055	DA*/0036*/P*	4	4.2	2/0/2	\$ 500,000
	Pt: N	#Lv: 3	Sto: 2	LO: NXHR01		SqFt: 4,523*	YrBlt: 2006*			OrLP: \$649,000
5	11702292	SLD	Y	12/6	5442 Belmont Avenue (972) 839-7793	DA*/0036*/S	5	5	2/0/2	\$ 523,000
	Pt: N	#Lv: 2	Sto: 2	LO: BAEG01		SqFt: 4,124	YrBlt: 2007			OrLP: \$549,900
6	11496659	SLD	Y	12/6	5437 Miller Avenue (817) 858-0055	DA*/0036*/S	3	2.1	2/0/2	\$ 487,653
	Pt: N	#Lv: 3	Sto: 2	LO: ebby16		SqFt: 4,129	YrBlt: 2007			OrLP: \$577,500
7	11406025	SLD	Y	12*76*	5411 Miller Avenue (214) 334-9769	DA*/0036*/S*	5	4.1	3/0/3	\$ 635,000Z
	Pt: N	#Lv: 4	Sto: 2	LO: RLAL01		SqFt: 4,260	YrBlt: 1920*			OrLP: \$635,000
8	11740955	SLD	Y	12/6	5323 Goodwin Avenue (817) 858-0055	DA*/0036*/N	4	4.1	2/0/2	\$ 630,000
	Pt: N	#Lv: 3	Sto: 2	LO: dpma04		SqFt: 4,194	YrBlt: 2007			OrLP: \$684,500
9	11910864	SLD	Y	12*76*	5616 Willis Avenue (214) 682-4554	DA*/0036*/S*	5	4	2/0/2	\$ 640,000
	Pt: N	#Lv: 1	Sto: 2	LO: MREG01C		SqFt: 4,092*	YrBlt: 2006*			OrLP: \$659,982
10	11784789	SLD	Y	12*76*	5425 Vickery Boulevard (817) 858-0055	DA*/0036*/S*	4	3.2	3/0/3	\$ 740,000
	Pt: N	#Lv: 2	Sto: 2	LO: PRUD20		SqFt: 4,465*	YrBlt: 2006*			OrLP: \$825,000
11	11927091	SLD	Y	12*76*	6371 Vickery Boulevard (817) 858-0055	DA*/0036*/Q*	5	4.2	4/0/4	\$ 825,000
	Pt: Y	#Lv: 5	Sto: 2	LO: WHRE02		SqFt: 5,251	YrBlt: 2004			OrLP: \$899,900



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-091

Data Relative to Subject Property:

Date: 7-22-13

Location address: 2415 LANERI AVENUE

Zoning District: R-7.5(A)

Lot No.: 15#16 Block No.: 7/1973 Acreage: .103

Census Tract: 10.02

Street Frontage (in Feet): 1) 50 2) 3) 4) 5)

To the Honorable Board of Adjustment :

SE 24

Owner of Property (per Warranty Deed): DHG PARTNERS, LLC

Applicant: PAUL BRIAN JANKOWSKI

Telephone: 214.725.9571

Mailing Address: 5433 LEDGESTONE DRIVE

Zip Code: 75214

E-mail Address: paul@03design.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 9.4' TO THE FRONT YARD SET BACK, AND A VARIANCE OF 1.8' TO THE SIDE YARD SET BACK.

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:

WE ARE REQUESTING THESE VARIANCES TO OVERCOME THE HARDSHIP CREATED BY THE NON CONFORMING SIZE OF THIS PARCEL WITHIN THIS ZONING DISTRICT.

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.

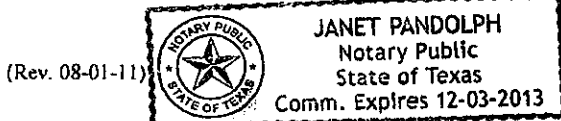
Affidavit

Before me the undersigned on this day personally appeared PAUL BRIAN JANKOWSKI (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 22nd day of July 2013



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

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied _____

Remarks _____

Chairman

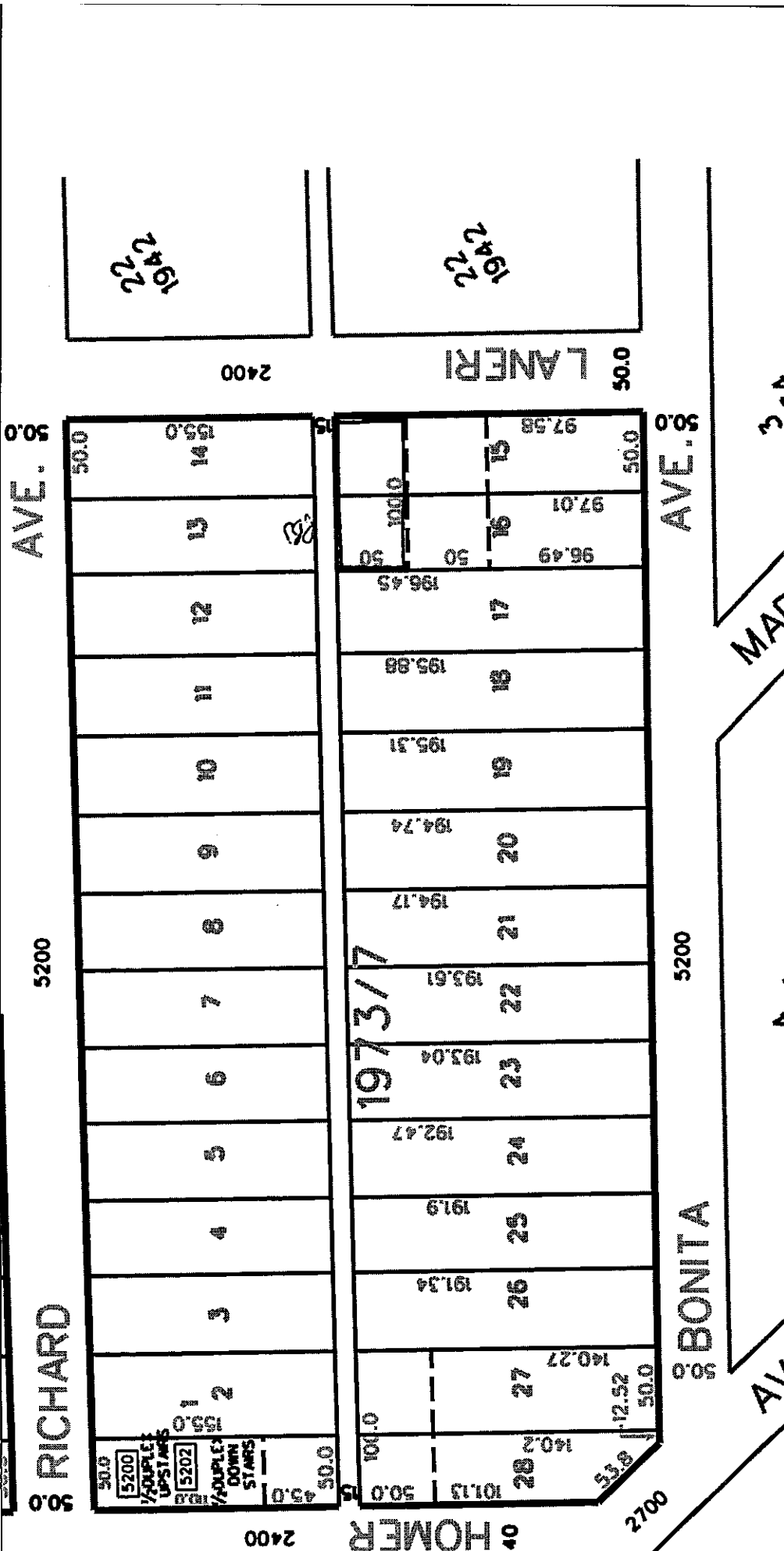
Building Official's Report

I hereby certify that Paul Brian Jankowski
did submit a request for a variance to the front yard setback regulations, and for a variance to the side yard setback regulations
at 2415 Laneri Avenue

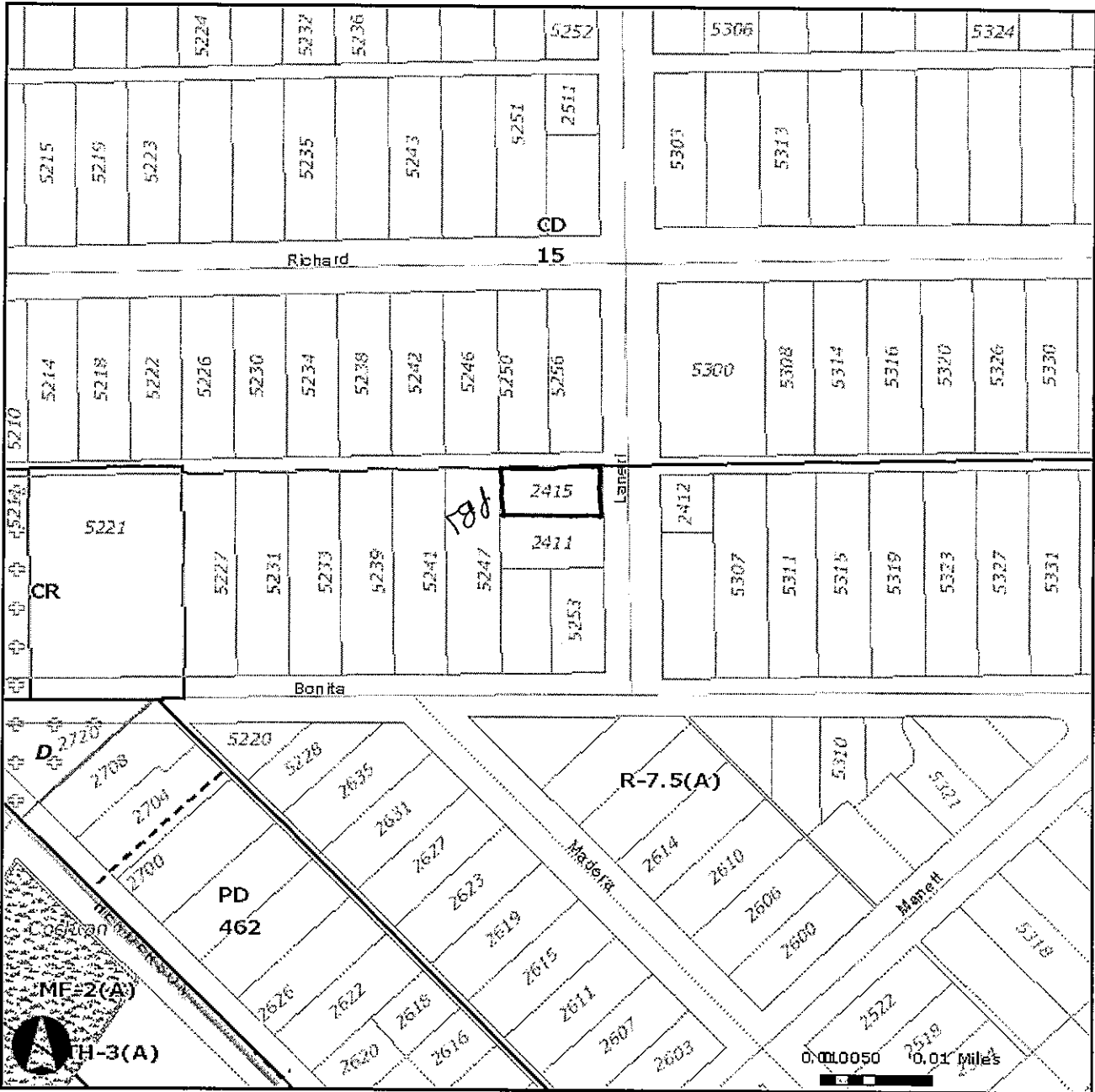
BDA123-091. Application of Paul Brian Jankowski for a variance to the front yard setback regulations and a variance to the side yard setback regulations at 2415 Laneri Avenue. This property is more fully described as the northern part of Lots 15 & 16, Block 7/1973 and is zoned R-7:5(A), which requires a front yard setback of 25 feet and requires a side yard setback of 5 feet. The applicant proposes to construct a single family residential structure and provide a 15 foot 6 inch front yard setback, which will require a 9 foot 6 inch variance to the front yard setback regulation, and to construct a single family residential structure and provide a 3 foot 3 inch side yard setback, which will require a 1 foot 9 inch variance to the side yard setback regulation.

Sincerely,

Larry V. Holmes
Larry Holmes, Building Official



City of Dallas Zoning



City Boundaries

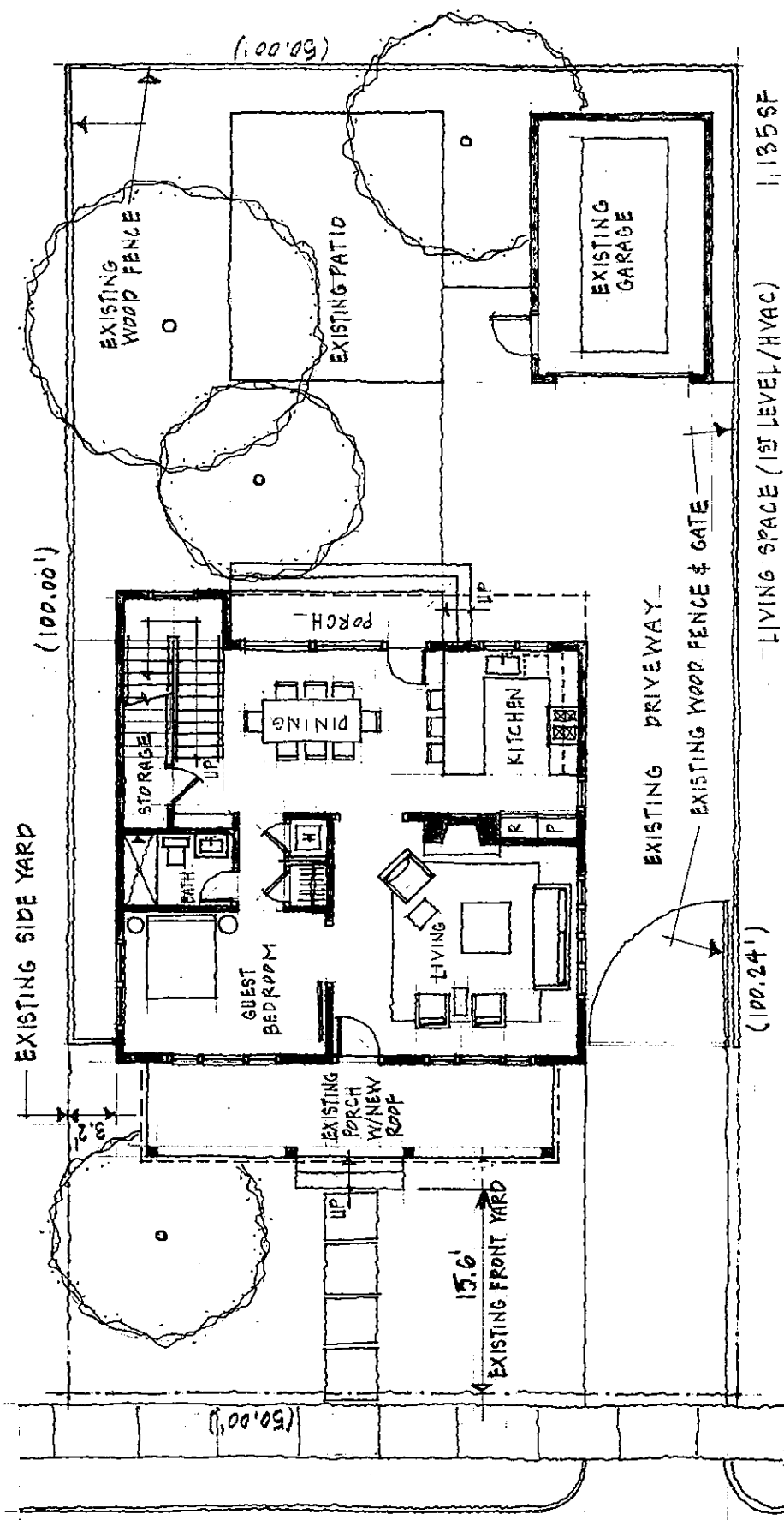
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

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



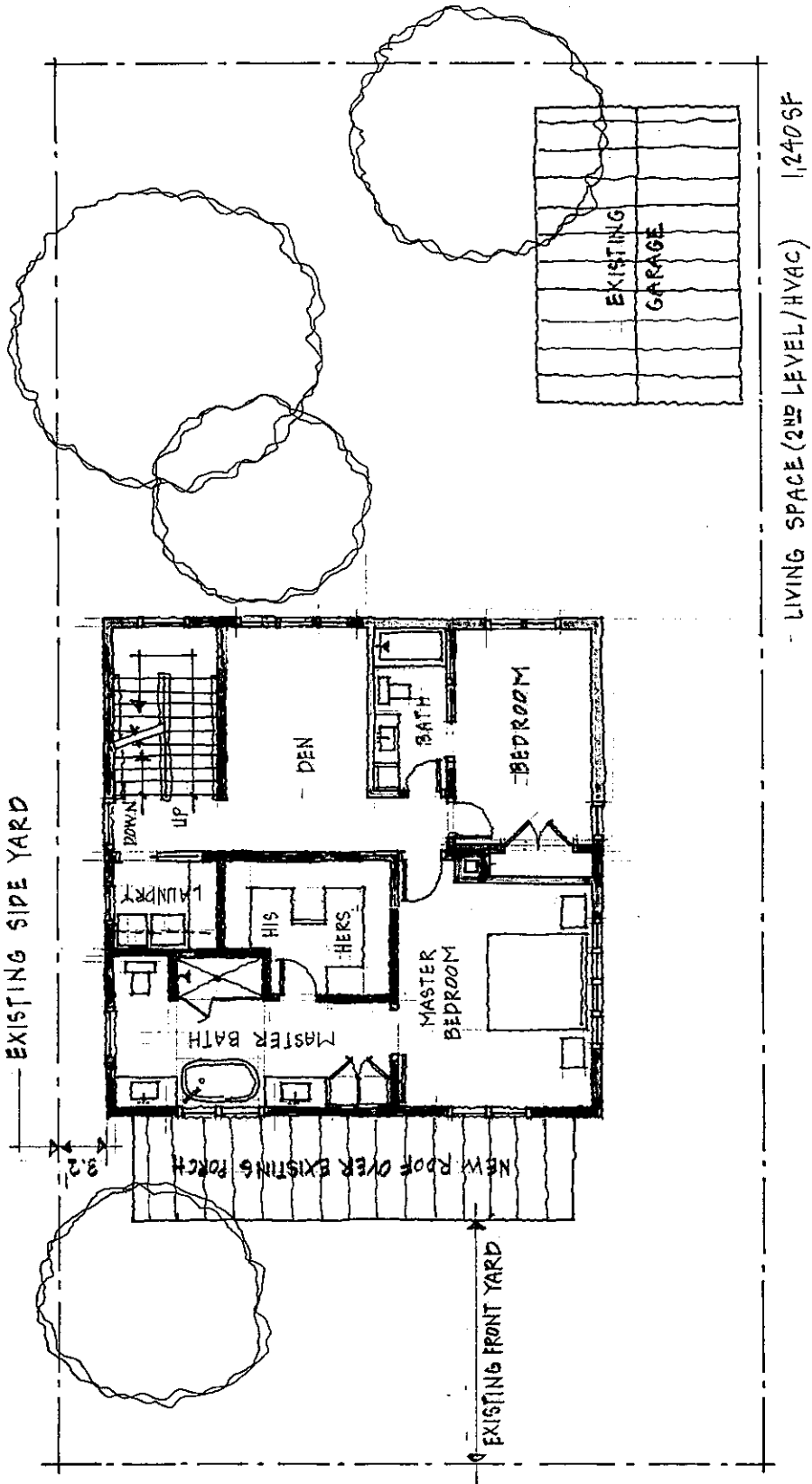
LIVING SPACE (1ST LEVEL/HVAC) 1,135 SF
 COVERED PORCHES 285 SF
 GARAGE 280 SF

1/8" = 1'-0"

Modern Living
 July 22, 2013

SITE PLAN, AND
 FIRST FLOOR PLAN

2415 Laneri Avenue
 Dallas, Texas 75206

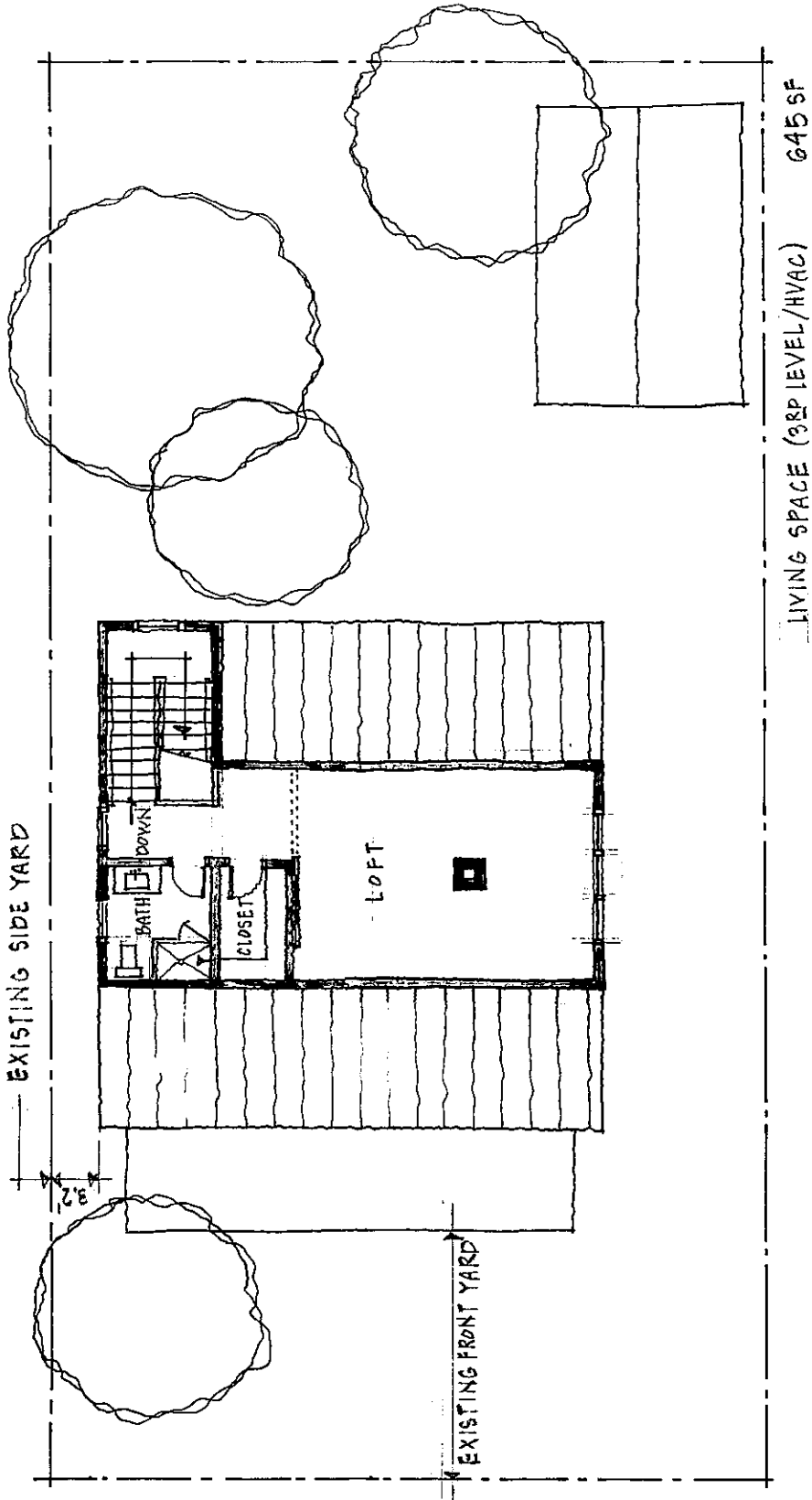


SECOND FLOOR PLAN

2415 Lanier Avenue
Dallas, Texas 75206

1/8" = 1'-0"

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July 22, 2013

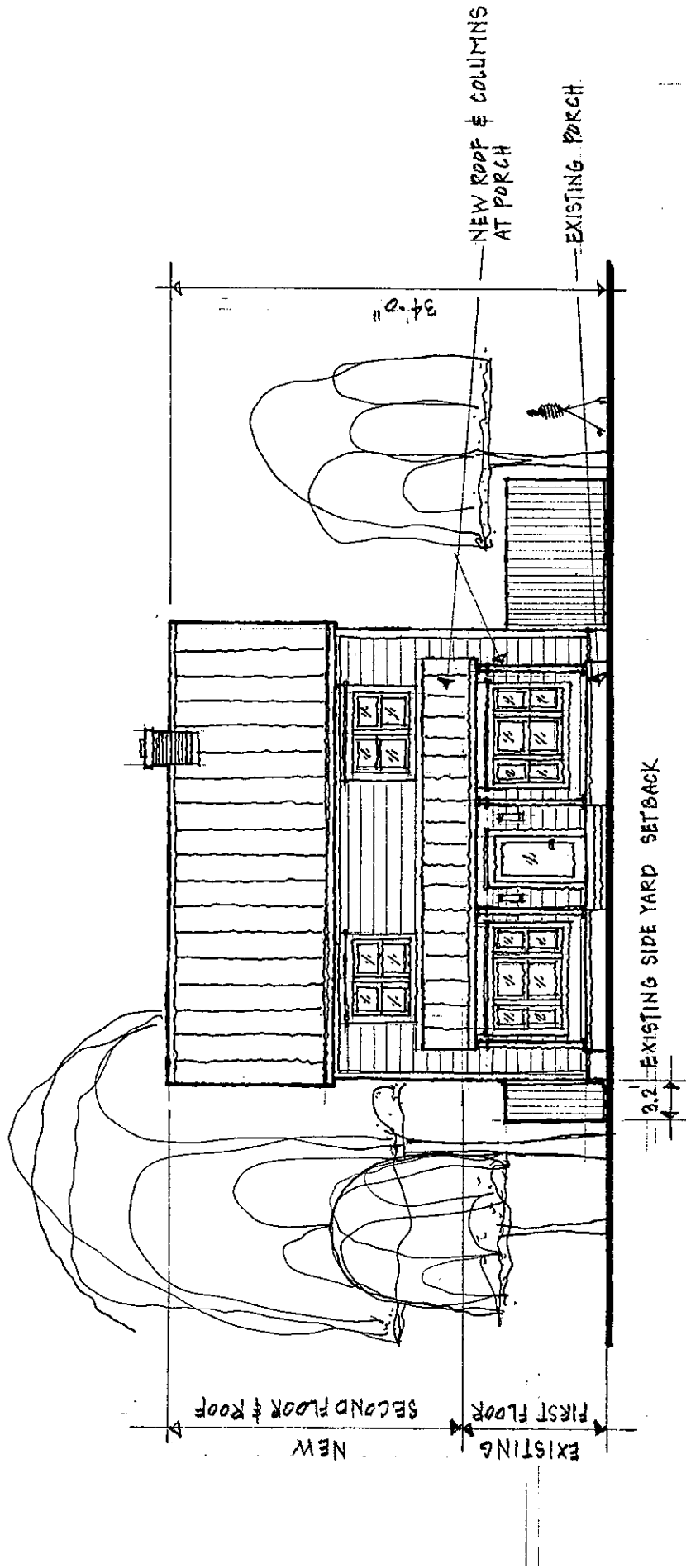


THIRD FLOOR PLAN

2415 Laneri Avenue
 Dallas, Texas 75206

1/8" = 1'-0"

Modern Living
 July 22, 2013



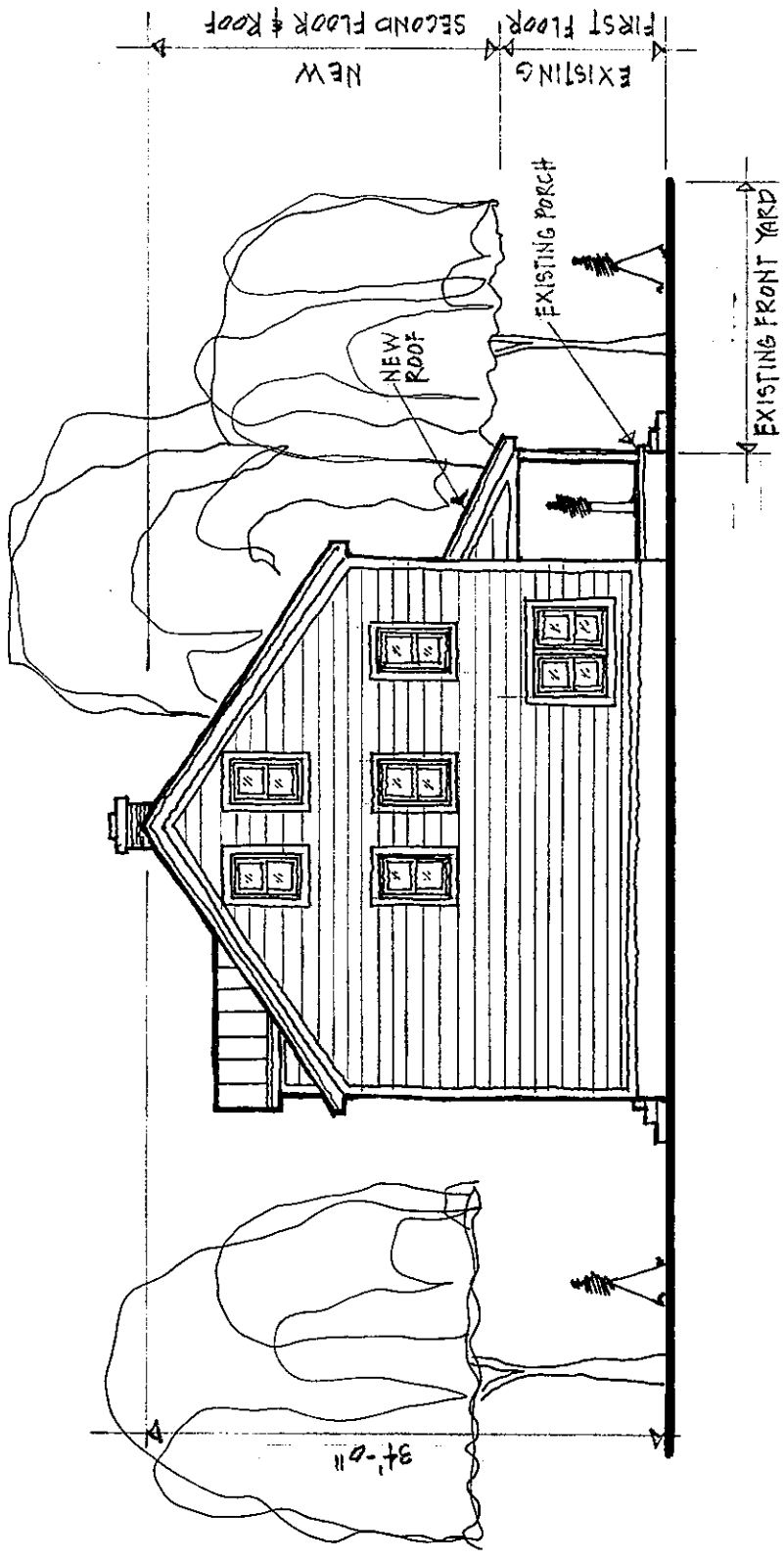
EAST ELEVATION

2415 Lanier Avenue

Dallas, Texas 75206

Modern Living

July 22, 2013

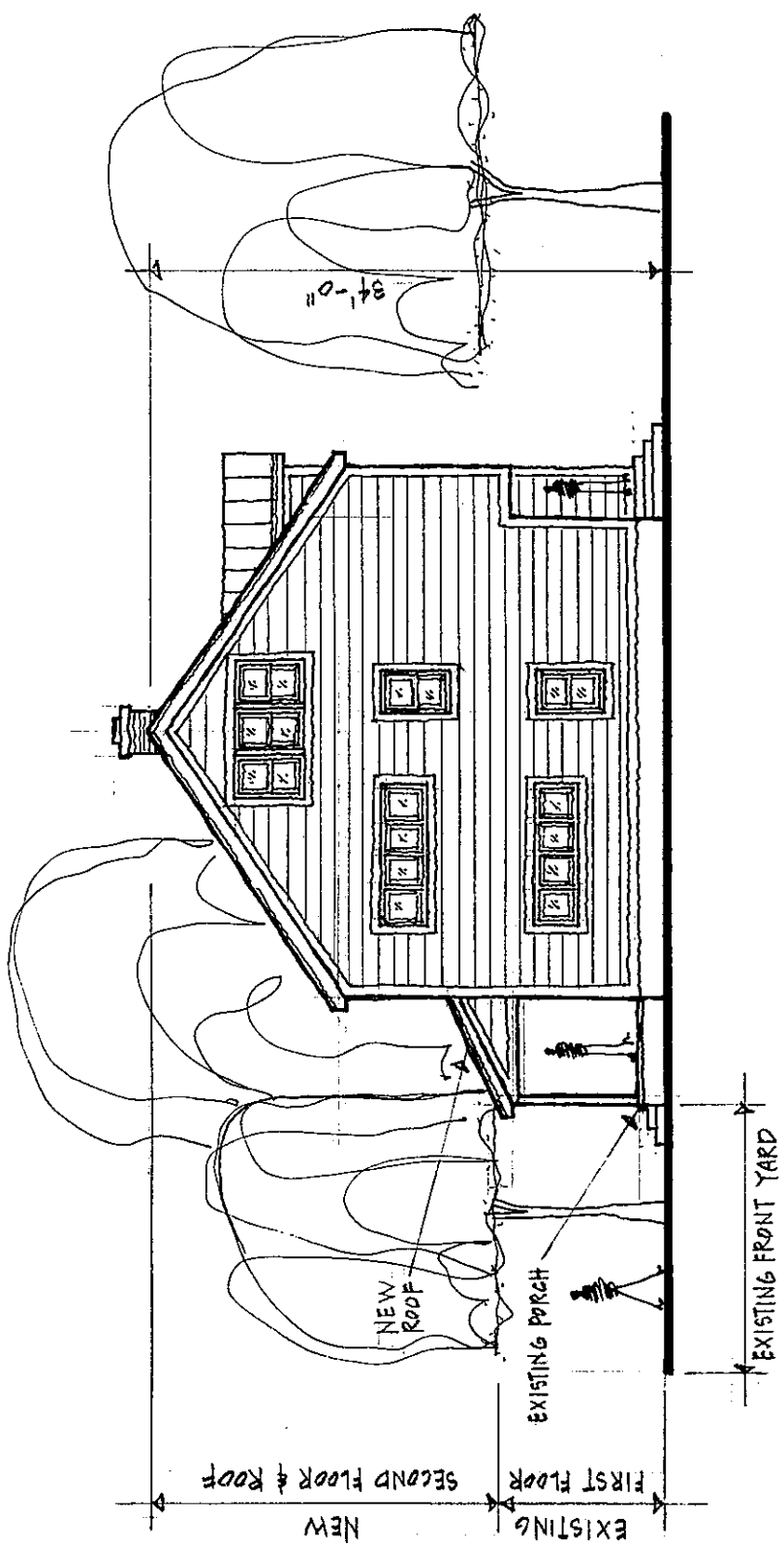


SOUTH ELEVATION

1/8" = 1'-0"

2415 Laneri Avenue
Dallas, Texas 75206

Modern Living
July 22, 2013

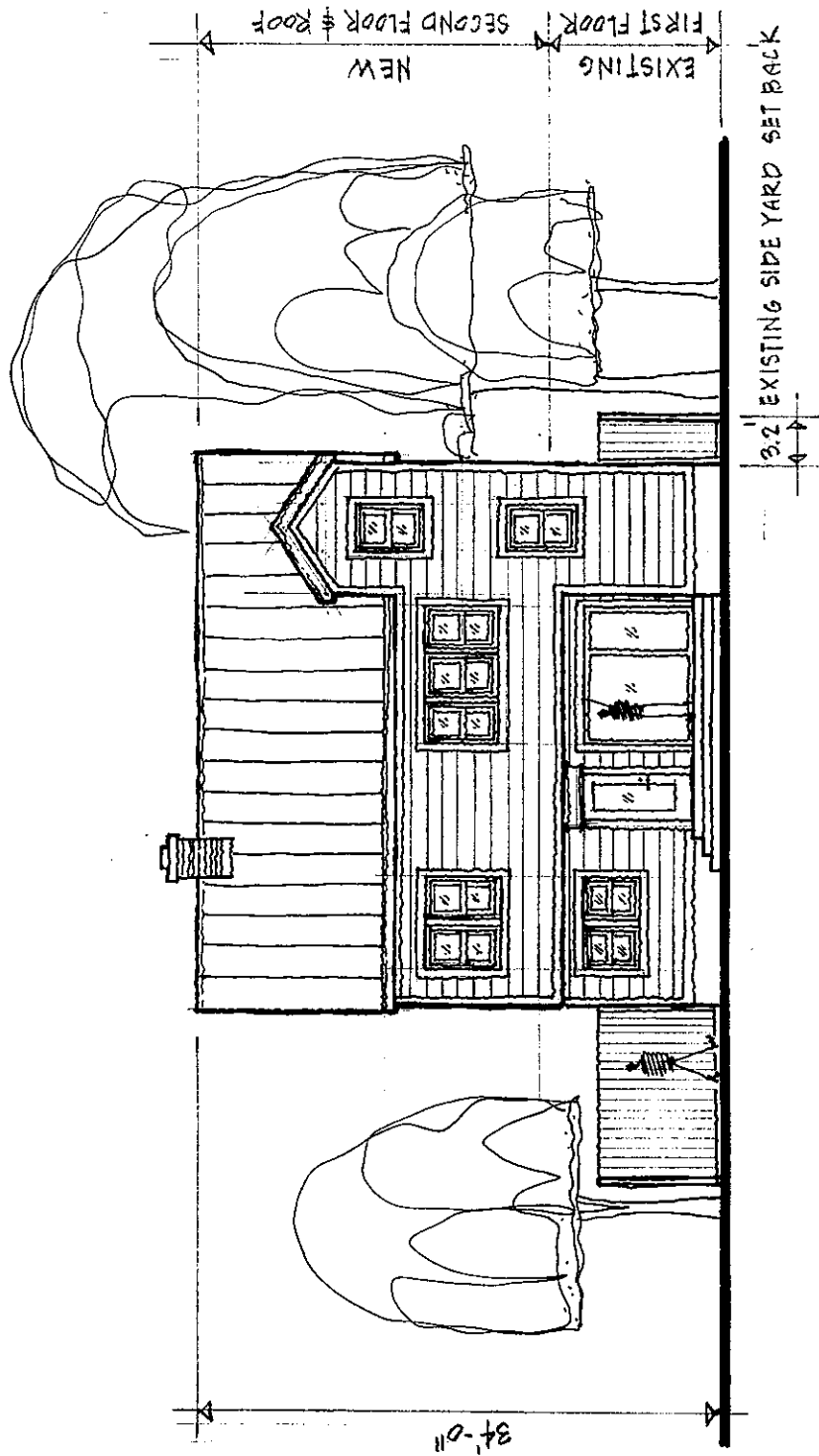


1/8" = 1'-0"

NORTH ELEVATION

Modern Living
July 22, 2013

2415 Laneri Avenue
Dallas, Texas 75206

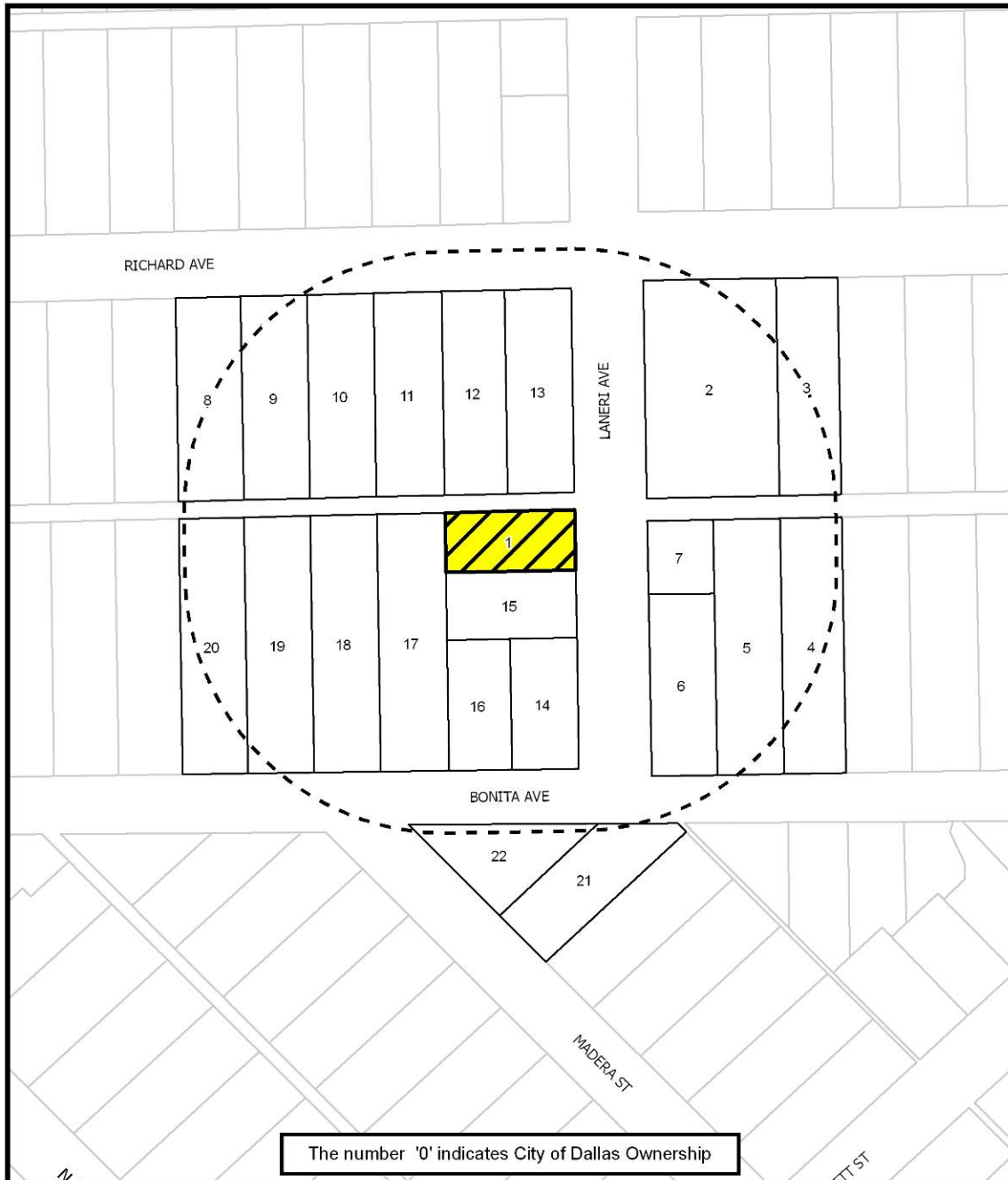


WEST ELEVATION

2415 Laneri Avenue
Dallas, Texas 75206

1/8" = 1'-0"

Modern Living
July 22, 2013



 1:1,200	<h2>NOTIFICATION</h2>	Case no: BDA123-091			
	<table border="1"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">22</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	22	NUMBER OF PROPERTY OWNERS NOTIFIED
200'	AREA OF NOTIFICATION				
22	NUMBER OF PROPERTY OWNERS NOTIFIED				

Notification List of Property Owners

BDA123-091

22 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	2415 LANERI AVE	BLOEDE VICTOR GUSTAY
2	5300 RICHARD AVE	CLAYTON HAROLD F
3	5308 RICHARD AVE	SILVA BELINDA
4	5311 BONITA AVE	NAJERA IRENE C
5	5307 BONITA AVE	RAMIREZ MARIA RAMIREZ IGNACIA
6	5303 BONITA AVE	TODD ANDREW B
7	2412 LANERI AVE	SAINZ JORDAN LEIGH
8	5234 RICHARD AVE	POLLICINA KRISTINE B
9	5238 RICHARD AVE	SANCHEZ UVELIA
10	5242 RICHARD AVE	SANCHEZ DANIEL E
11	5246 RICHARD AVE	HASS ROGIER DE
12	5250 RICHARD AVE	CARDOSO JESUS
13	5256 RICHARD AVE	THOMAS GRAHAM
14	5253 BONITA AVE	HENLY MILLER
15	2411 LANERI AVE	MIRELES FIDEL F & JOSEPHINA SANCHEZ
16	5251 BONITA AVE	HARRELL ALLEN
17	5247 BONITA AVE	PETTIT TODD & KIMBERLY
18	5241 BONITA AVE	WALKER DAVID
19	5239 BONITA AVE	LANDON MARILYNN W & ALFRED LONDON
20	5233 BONITA AVE	SUGERA RUBIN
21	2622 MADERA ST	PINN GROUP LLC
22	2626 MADERA ST	MILLER DAN R & ALISON L

FILE NUMBER: BDA 123-054

BUILDING OFFICIAL'S REPORT: Application of Colesen C. Evans for a variance to the front yard setback regulations at 8000 Park Lane. This property is more fully described as Lot 1C, Block A/5456, and is zoned MU-3 (SAH), which requires a front yard setback of 35 feet for portions of a structure greater than 45 feet in height. The applicant proposes to construct a structure over 45 feet in height and provide a 15 foot 6 inch front yard setback for a portion of a structure over 45 feet in height, which will require a variance to the front yard setback regulations of 19 foot 6 inches.

LOCATION: 8000 Park Lane

APPLICANT: Colesen C. Evans

FILE NUMBER: BDA 123-054

REQUEST:

A variance to the urban form front yard setback regulations of 19' 6" is requested in conjunction with constructing and maintaining an approximately 80' high mixed use (retail/restaurant/office) structure that would be located within the required 35' front yard setback for the portion of it above 45' in height along the US 75/North Central Expressway service road. The site is developed as a mixed use development (Park Lane).

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:

- (A) 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;
- (B) the variance is necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- (C) the variance is 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.

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan and site section document is required.

Rationale:

- The subject site is restricted in its developable area given its multiple front yards, its narrow width, and an off-set at the corner of Park Lane and the north bound frontage road to accommodate a TXDOT deceleration lane which (according to the applicant) without this required lane, a variance would not be required.
- Granting the variance to the urban form front yard setback regulations (with the suggested condition imposed) would not be contrary to the public interest since the portion of the proposed structure to be “varied” is:
 - A maximum 80’ in height or 35’ above/beyond the 45’ height in which the additional 20’ urban form front yard setback begins; and
 - Located on a portion of the site that abuts the US 75/North Central Expressway service road where the property to the west is separated by over 300’ of public right-of-way.

BACKGROUND INFORMATION:

Site: MU-3(SAH) (Deed restricted)* (Mixed Use, Standard Affordable Housing)
North: RR (Regional Retail)
South: GO(A) (General Office)
East: MU-3 (Mixed Use)
West: RR (Regional Retail)

- * Note that the applicant acknowledged in an email to the Board Administrator on May 16, 2013 of the deed restrictions on the property. The applicant stated that these deed restrictions do not affect this application to the board since they only pertain to overall density.

Land Use:

The subject site is currently developed as a mixed use development (Park Lane). The areas to the north, south, east and west are development with mostly retail and office uses.

Zoning/BDA History:

1. BDA 101-019, Property at 8000Park Lane (the subject site) On February 17, 2011, the Board of Adjustment Panel C granted requests for variances to the urban form front yard setback regulations of up to 10.75’ The board imposed the following condition: compliance with the submitted site plan is required. The case report stated that the

requests were made in conjunction with constructing and maintaining an approximately 400 square foot 68' high sign "structure" that would not comply with the required 35' front yard setback for the portion of it above 45' in height along Blackwell Street and the I-75/North Central Expressway service road. It was noted that the site was developed as a mixed use development (Park Lane).

2. BDA 089-125, Property at 8070 Park Lane (the subject site)

On December 14, 2009, the Board of Adjustment Panel C granted a request for a special exception to the tree preservation regulations requested in conjunction with not fully mitigating protected trees removed on a site that is currently being developed with a mixed use office/residential/dining/shopping project (Park Lane). The board imposed the following condition: All protected trees, as defined by Article X that remain on the Property following the date of the hearing, are considered to be protected and subject to the Article X tree preservation ordinance. Any protected tree that is determined to be removed, based on conditions as defined in Article X, must be subject to replacement.

3. BDA067-052, Property at 8070 Park Lane (the subject site)

On May 14, 2007, the Board of Adjustment Panel C granted a request for a special exception to the off-street parking regulations of 374 spaces (or 5.67% of the required off-street parking) and imposed the following conditions: The special exception shall automatically and immediately terminate if and when the office uses on the site are changed or discontinued to have less than 125,000 square feet of office use; and the applicant or property owner must submit a parking analysis of the site to the Department of Development Services engineer no later than December 31, 2011. Should the parking analysis show any parking deficiency, the applicant or property owner must immediately mitigate that deficiency as may be agreed between the

applicant or property owner and the Department of Development Services. The case report stated that the request was made in conjunction with developing a 33-acre site with mixed-uses.

Timeline:

March 29, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

May 15, 2013: 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."

May 15, 2013: 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 May 29th deadline to submit additional evidence for staff to factor into their analysis; and the June 7th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

June 4, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for June public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

June 17, 2013: The Board of Adjustment Panel C conducted a public hearing on this application. The Board held the request under advisement until

August 19, 2013 in order for staff to attempt to obtain a five member panel that could hear the application on this date.

June 25, 2013: The Board Administrator sent a letter to the applicant that noted the decision of the panel, the July 31st deadline to submit any additional evidence for staff to factor into their analysis; and the August 9th deadline to submit additional evidence to be incorporated into the Board's docket materials.

July 5, 2013: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date that the panel that will consider the application; the July 31st deadline to submit additional evidence for staff to factor into their analysis; and the August 9th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

August 1, 2013: The applicant submitted documentation on this application to the Board Administrator beyond what was submitted with the original application, and beyond the materials that were part of the record at the June 17th public hearing (see Attachment A).

August 6, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for August public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, the Sustainable Development and Construction Department Chief Planner, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

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

August 19, 2013: The Board of Adjustment Panel C conducted a public hearing on this application. The Board held the request under advisement until September 16, 2013.

August 20, 2013: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date that the panel that will consider the application; the August 28th deadline

to submit additional evidence for staff to factor into their analysis; and the September 6th deadline to submit additional evidence to be incorporated into the Board's docket materials; and

- the Board of Adjustment Working Rules of Procedure pertaining to documentary evidence.

September 3, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim 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 Chief Arborist, and the Assistant City Attorney to the Board.

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining an approximately 80' high mixed use (retail/restaurant/office) structure with an approximately 32,000 square foot building footprint that does not comply with the required 35' front yard setback (or additional 20' setback to the required 15' front yard setback) for that portion of the structure above 45' in height along the US 75/North Central Expressway service road. The site is developed as a mixed use development (Park Lane).
- Development on lots zoned MU-3 are required to provide a 15' front yard setback and an additional 20' setback for any portion of a structure above 45' in height.
- The applicant has submitted an overall site plan (that includes a "detail plan" and "site section" document indicating the portion of the proposed structure above 45' in height that is located as close as 15' 6" from the site's front property line along the US 75/North Central Expressway service road but as much as 19' 6" into the 35' front yard setback *for the portion of a structure over 45' in height*.
- The submitted "detail plan" denotes a hatched area that is the building area within the urban form setback; with average grade being about 579' with a new proposed tower height of approximately 658'.
- The applicant has submitted a "site section" document representing how the upper two stories of the proposed 5 story structure encroaches into the additional 20' front yard setback for the portion of the structure above 45' in height.
- The applicant has submitted a document stating that the area that is proposed to encroach into the urban form setback is approximately 4 percent of the building square footage.
- Staff has interpreted that the additional 20' setback provision for structures or portions of structures higher than 45' in height was enacted to discourage a canyon effect that a structure may create once it exceeds a specific height, and that this

additional front yard setback was enacted to ensure openness, light, and airflow between tower structures.

- According to the applicant, about 4 percent (or about 6,500 square feet) of the total area of the structure (approximately 160,000 square feet) encroaches into the urban form setback. The applicant states that there are 5 floors at approximately 32,000 each where portions of the 2 upper floors that intrude into the urban form setback.
- The subject site is somewhat sloped, slightly irregular in shape, and, according to the application, 33.32 acres in area. The site is zoned MU-3(SAH). The site encompasses an entire block whereby given this and its zoning, the site has 4 front yard setbacks.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the urban form front yard setback requested to construct and maintain an approximately 80' high structure 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 MU-3 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 MU-3 zoning classification.
- If the Board were to grant the urban form front yard variance request of up to 19' 6", imposing a condition whereby the applicant must comply with the submitted site plan and site section document, the structure would be limited to what is shown on these documents – a structure that complies with setbacks 45' in height and below, but where 35' of the structure proposed to exceed 45' in height would be allowed to be located in the additional 20' setback along the US 75/North Central Expressway service road.
- No additional written documentation has been submitted by the applicant beyond what was included in the August 19th docket.

***Member Robert Agnich recused himself and did not hear or vote on this matter.**

BOARD OF ADJUSTMENT ACTION: JUNE 17, 2013

APPEARING IN FAVOR: Barry Knight, 2728N. Harwood, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION:Maten

I move that the Board of Adjustment, in Appeal No. **BDA 123-054**, hold this matter under advisement until **August 19, 2013**.

SECONDED: **Coulter**

AYES: 4–Richardson, Maten, Coulter, Lewis

NAYS: 0–

MOTION PASSED: 4– 0 (unanimously)

BOARD OF ADJUSTMENT ACTION: AUGUST 19, 2013

APPEARING IN FAVOR: Tommy Mann, Winstead Bldg., Dallas, TX
Sandy Spurgin, 8080 Park Lane, Dallas, TX

APPEARING IN OPPOSITON: No one

MOTION #1: **Richard**

I move that the Board of Adjustment, in Appeal No. **BDA 123-054**, on application of Coleson C. Evans, **grant** a 19 foot, 6 inch variance to the urban form front yard setback regulations, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would result in unnecessary hardship to this applicant. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted site plan and site section document is required.

SECONDED: **Coulter**

AYES: 3– Coulter, Richard, Carreon

NAYS: 2 – Richardson, Maten,

MOTION FAILED: 3– 2

MOTION #2: **Maten**

I move that the Board of Adjustment, in Appeal No. **BDA 123-054**, on application of Coleson C. Evans, **deny** the variance to the urban form front yard setback regulations **without prejudice**, because our evaluation of the property and the testimony shows that the physical character of this property is such that a literal enforcement of the provisions of the Dallas Development Code, as amended, would not result in unnecessary hardship to this applicant.

SECONDED: **Richardson**

AYES: 2– Richardson, Maten

NAYS: 3 –Coulter, Richard, Carreon

MOTION FAILED: 2– 3

MOTION #3: **Coulter**

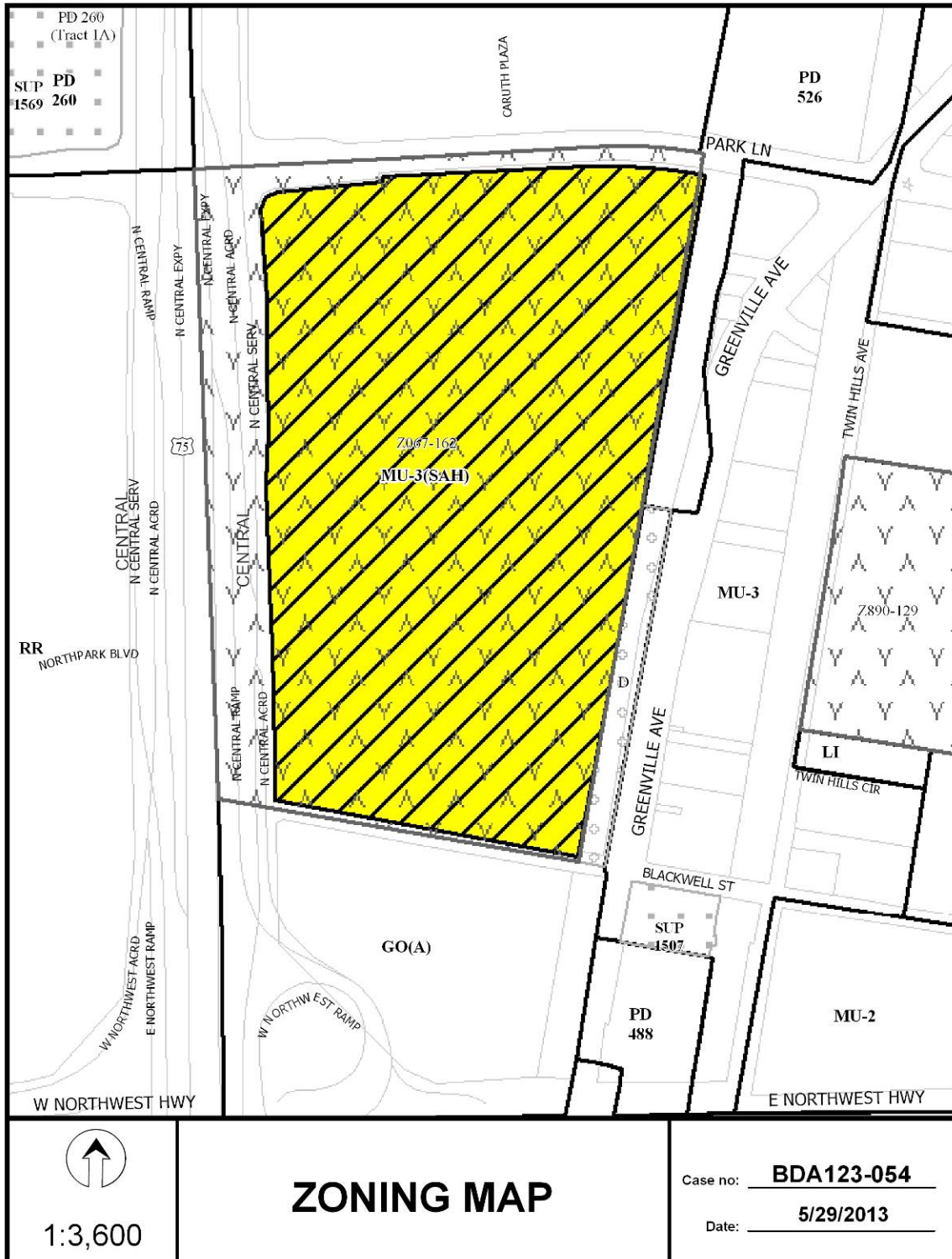
I move that the Board of Adjustment, in Appeal No. **BDA 123-054**, on application of Colesen C. Evans, hold this matter under advisement until **September 16, 2013**.

SECONDED: **Richard**

AYES: 5– Richardson, Maten, Coulter, Richard, Carreon

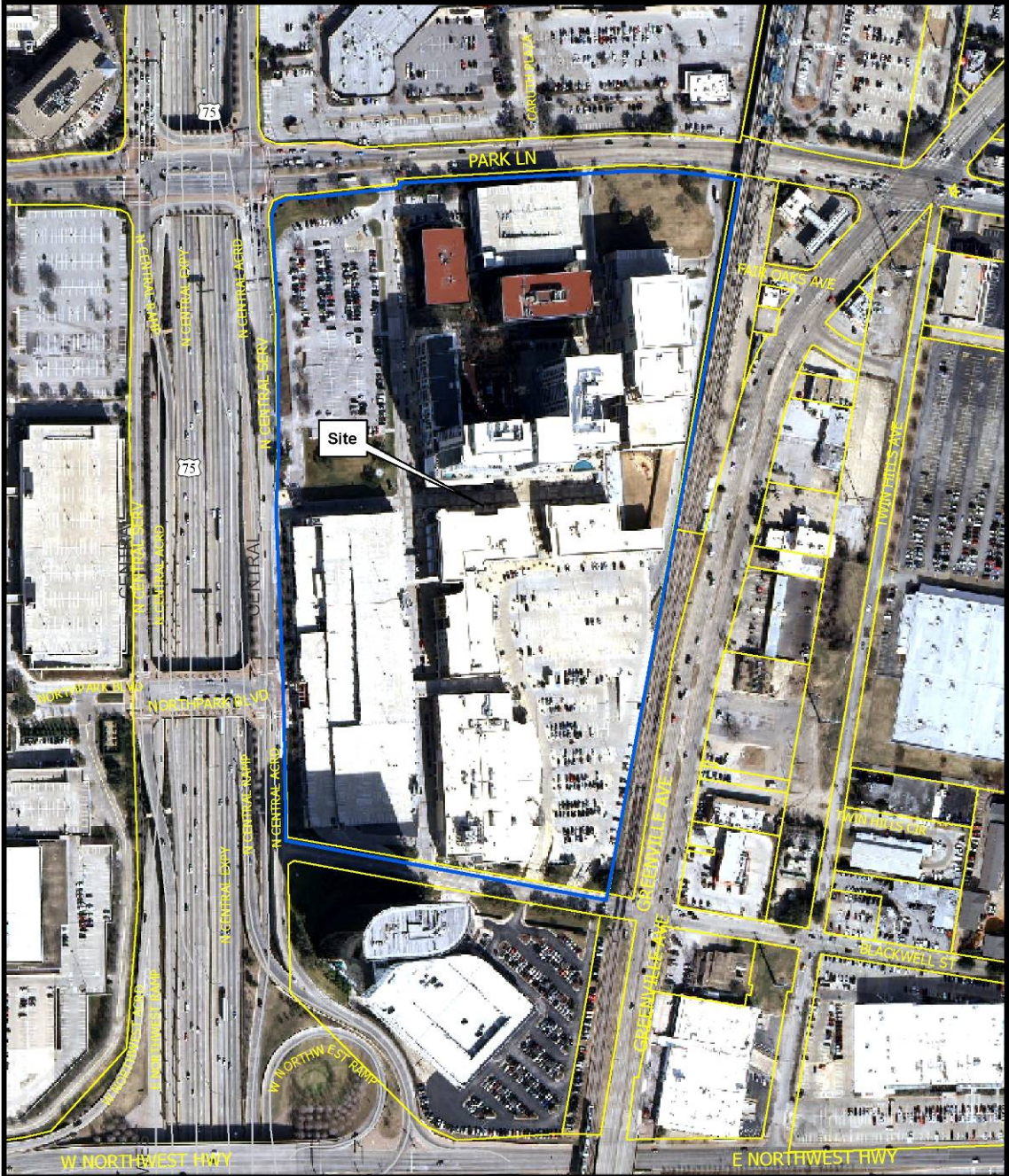
NAYS: 0 –

MOTION PASSED: 5– 0(unanimously)



ZONING MAP

Case no: **BDA123-054**
 Date: **5/29/2013**



1:3,600

AERIAL MAP

Case no: BDA123-054

Date: 5/29/2013

VARIANCE REQUEST TO URBAN FORM SETBACK



BDA 123-054
Attach A
Pg 1

THE VISION



8000 Park Lane represents the opportunity to bring a defined and human-scaled entry to the Shops at Park Lane along with much-needed public open space that is currently lacking. The proposed park will bring a vital “heart beat” and sense of place to the project.

Due to the unusually narrow dimension of the block and other constraints outlined on the following pages, a variance to the urban form setback is requested to allow the proposed development to proceed.

VIEW FROM PARK LANE - CURRENT



Current view from Park Lane looking into the Shops at Park Lane

BDA 123-054
Attach A
Pg 3

VIEW FROM PARK LANE – FALL 2014



A new low-scale office building will serve as the project's front door and create a "gateway" entrance into the project

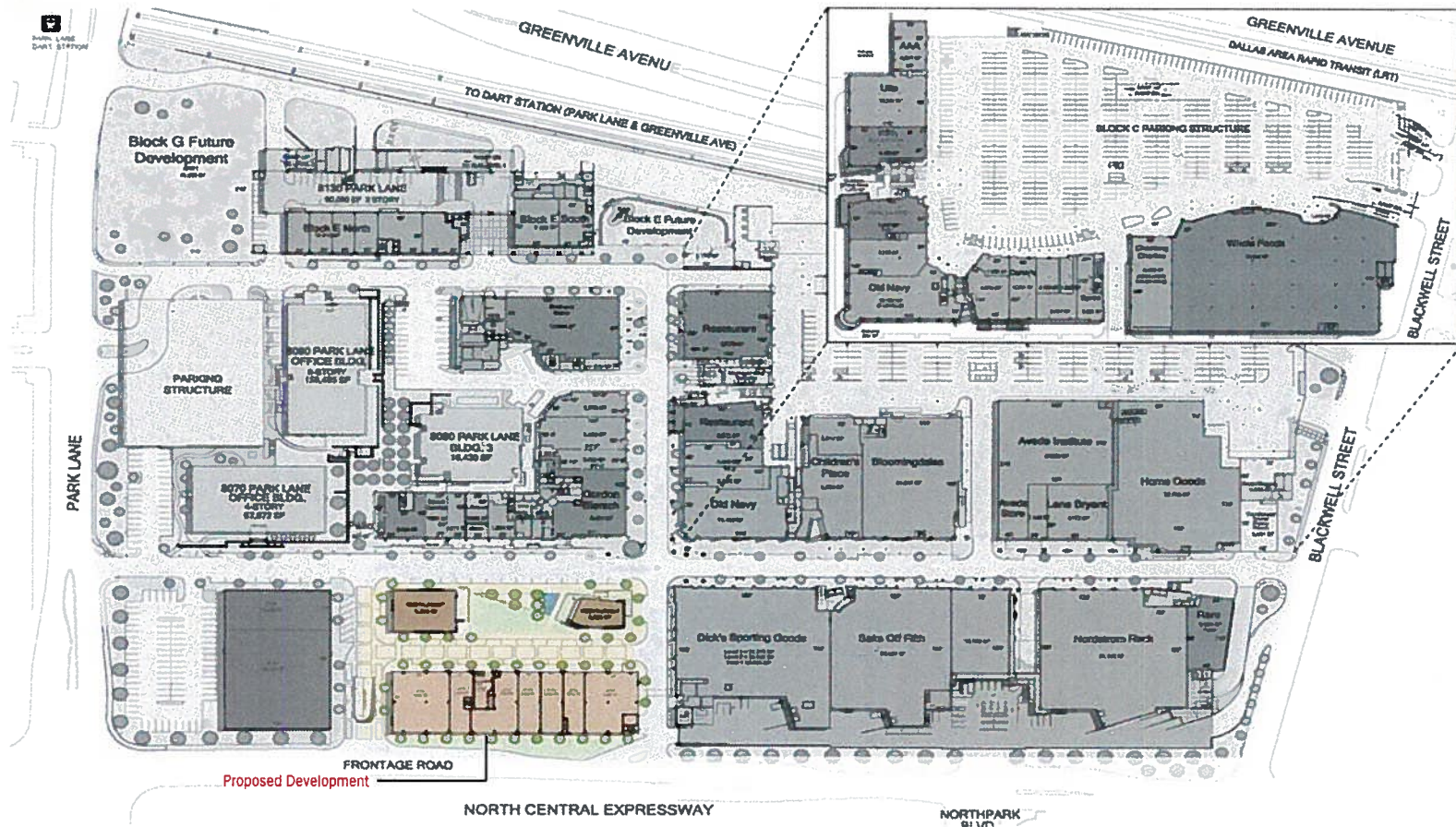
PLANNED GREEN SPACE – FALL 2014



BDA 123-054
Attach A
Pg 5

The proposed park creates a central gathering place and much needed public open space that will serve the entire development and community .

OVERALL SITE PLAN



The variance request applies to the “Block A” parcel highlighted above. Because the project is platted as a single lot, the application appears to apply to the entire 33 acre lot, the balance of which has already been developed.

BDA 123-054
 Attach A
 Pg 6

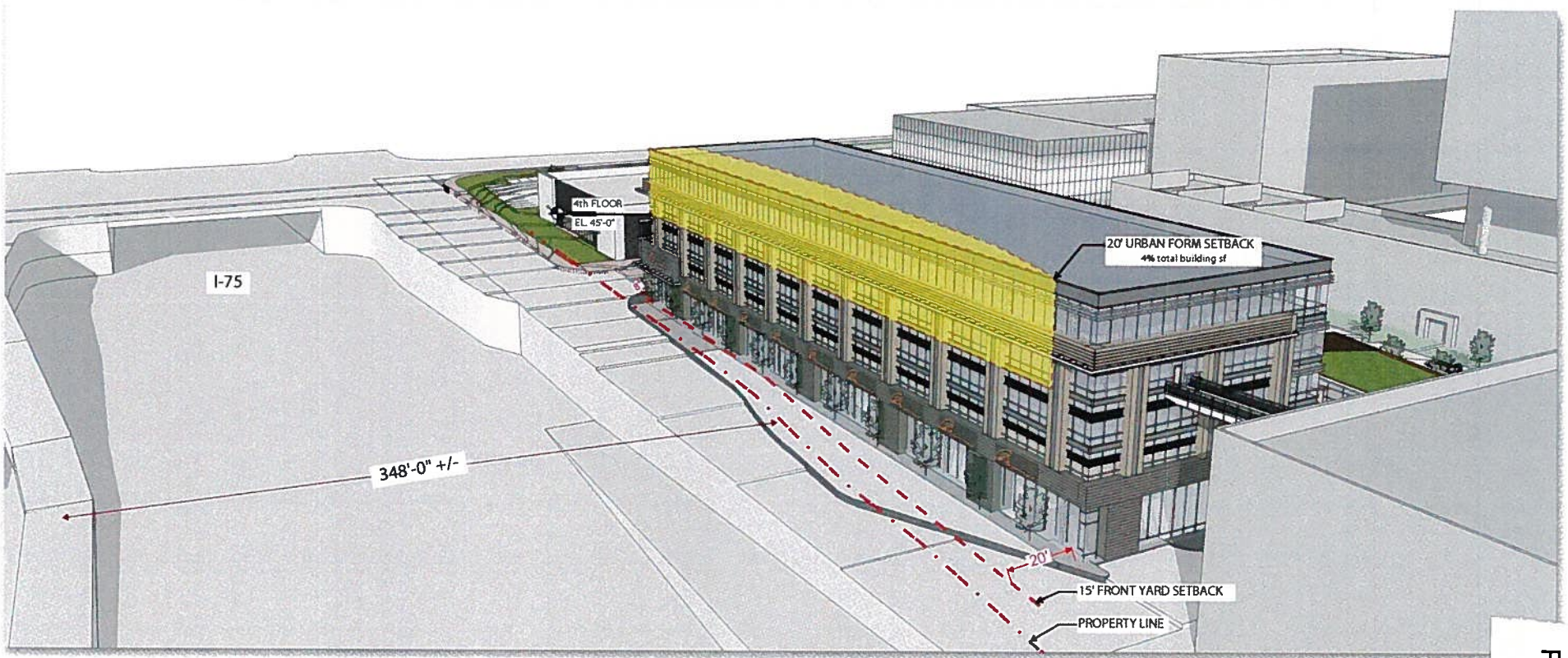
VIEW FROM PARK LANE AND CENTRAL – CURRENT



Current view from the intersection of Park Lane and North Central Expressway

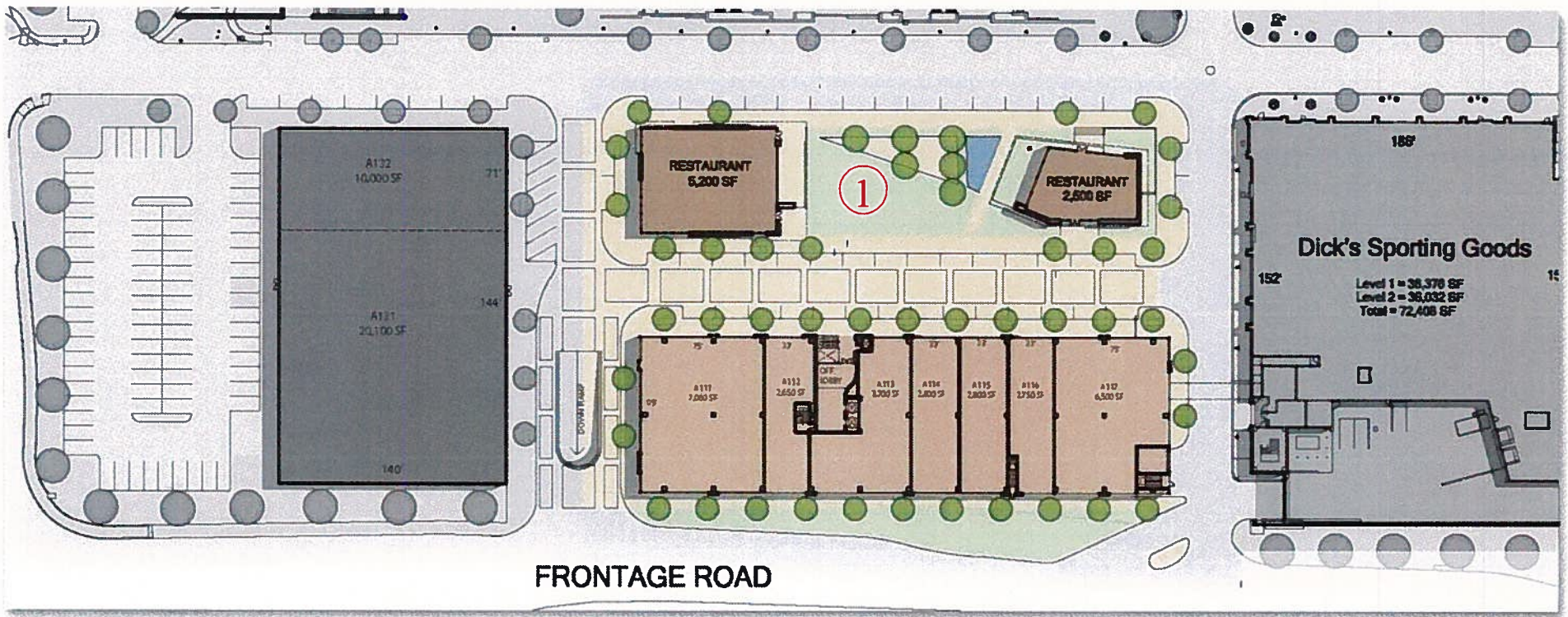
BDA 123-054
Attach A
Pg 7

SUMMARY OF VARIANCE REQUEST



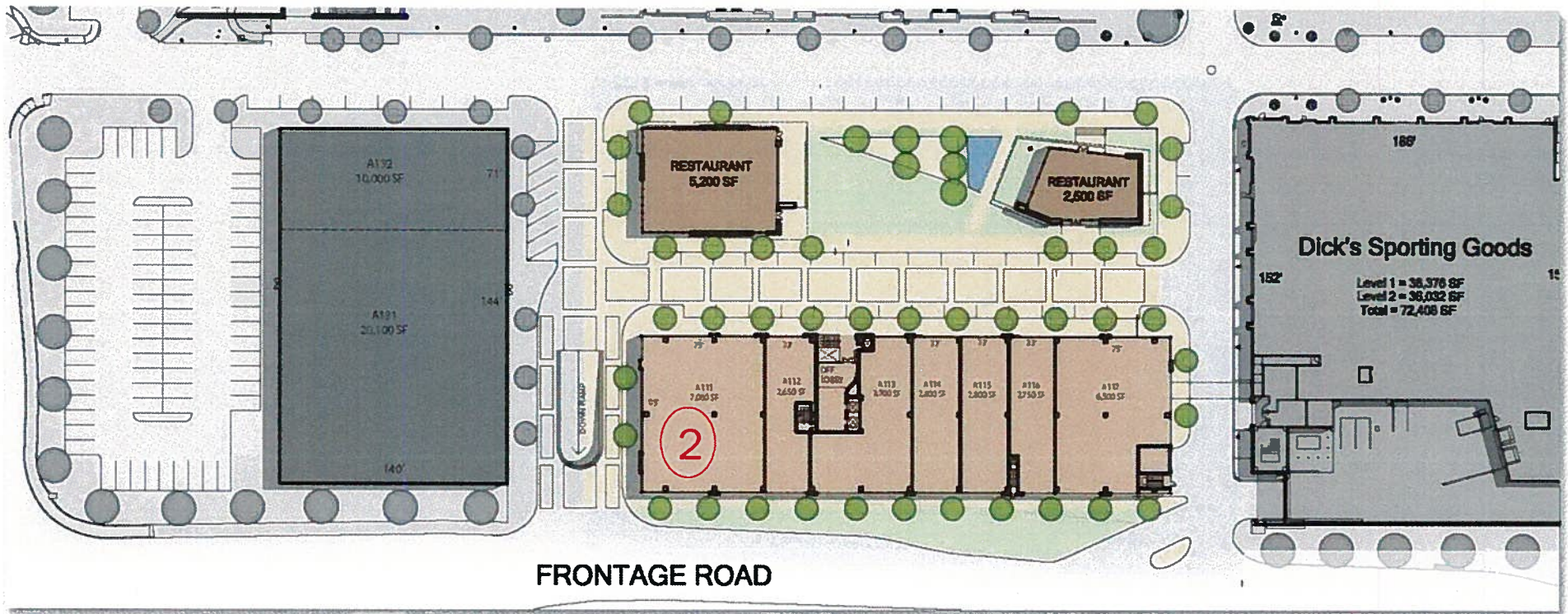
The variance only applies to the highlighted portion of the 4th and 5th floors that varies from 1”- to 19’.
This area represents approximately 4% of the building square footage.

SITE CONSTRAINTS/HARDSHIPS - 1



The park cannot be narrowed and still function as a central gathering space of appropriate size to support a project of this size.

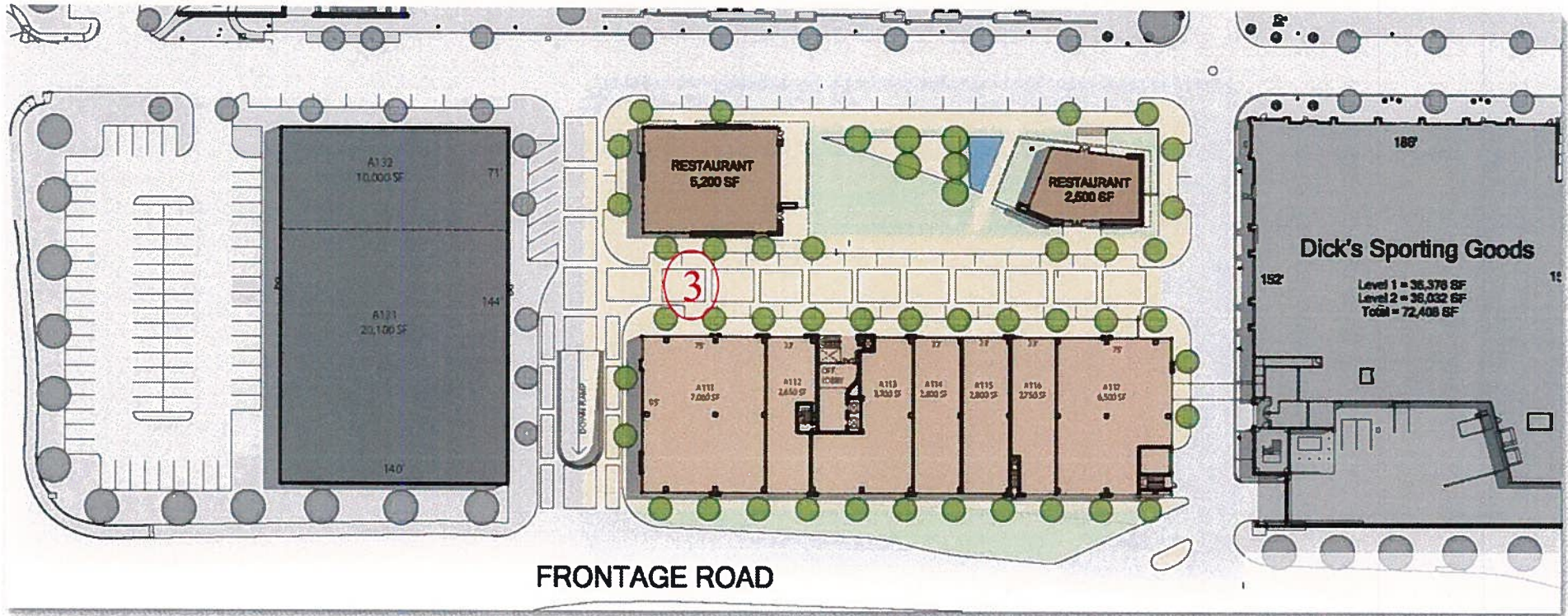
SITE CONSTRAINTS/HARDSHIPS - 2



Minimum building depth shown, cannot be narrowed. This is driven by the column alignment through the retail and subterranean parking as well as the circulation around the central core of the office building.

BDA 123-054
Attach A
Pg 10

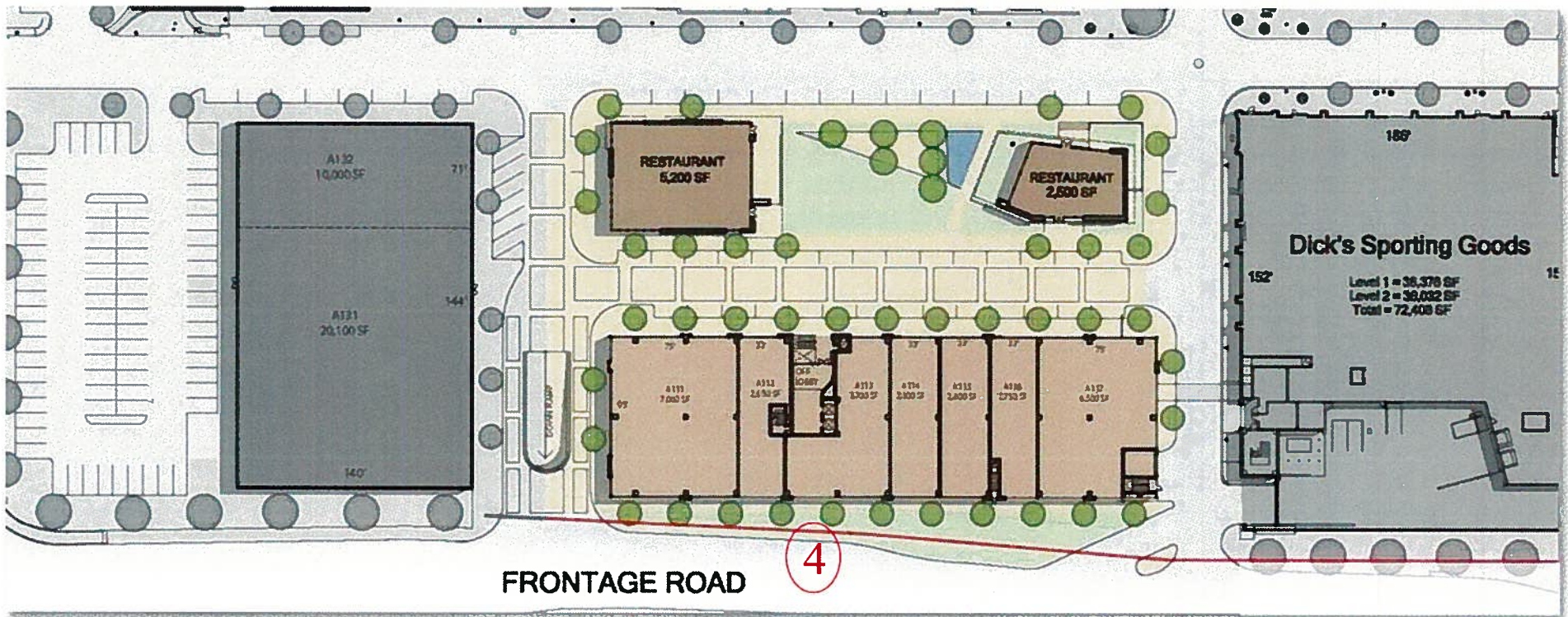
SITE CONSTRAINTS/HARDSHIPS - 3



Ground floor retail and office lobby must front a street to be successful. It will not be leasable if the street was removed. Additionally, the street will become part of the park for large events.

BDA 123-054
Attach A
Pg 11

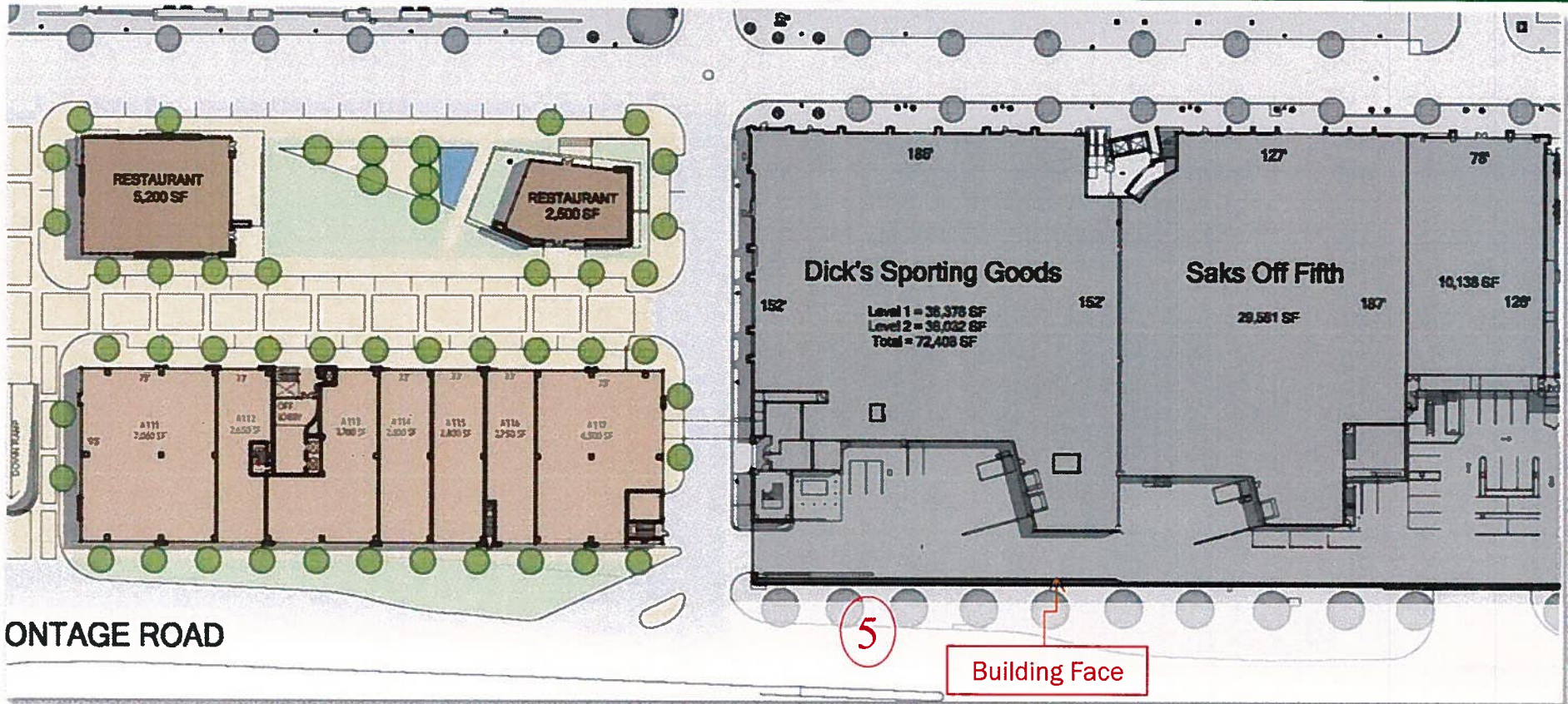
SITE CONSTRAINTS/HARDSHIPS - 4



Right of Way Line moves east into property to accommodate TXDOT required deceleration lane. Without the existence of the required deceleration lane, a variance would not be required.

BDA 123-054
Attach A
Pg 12

SITE CONSTRAINTS/HARDSHIPS - 5

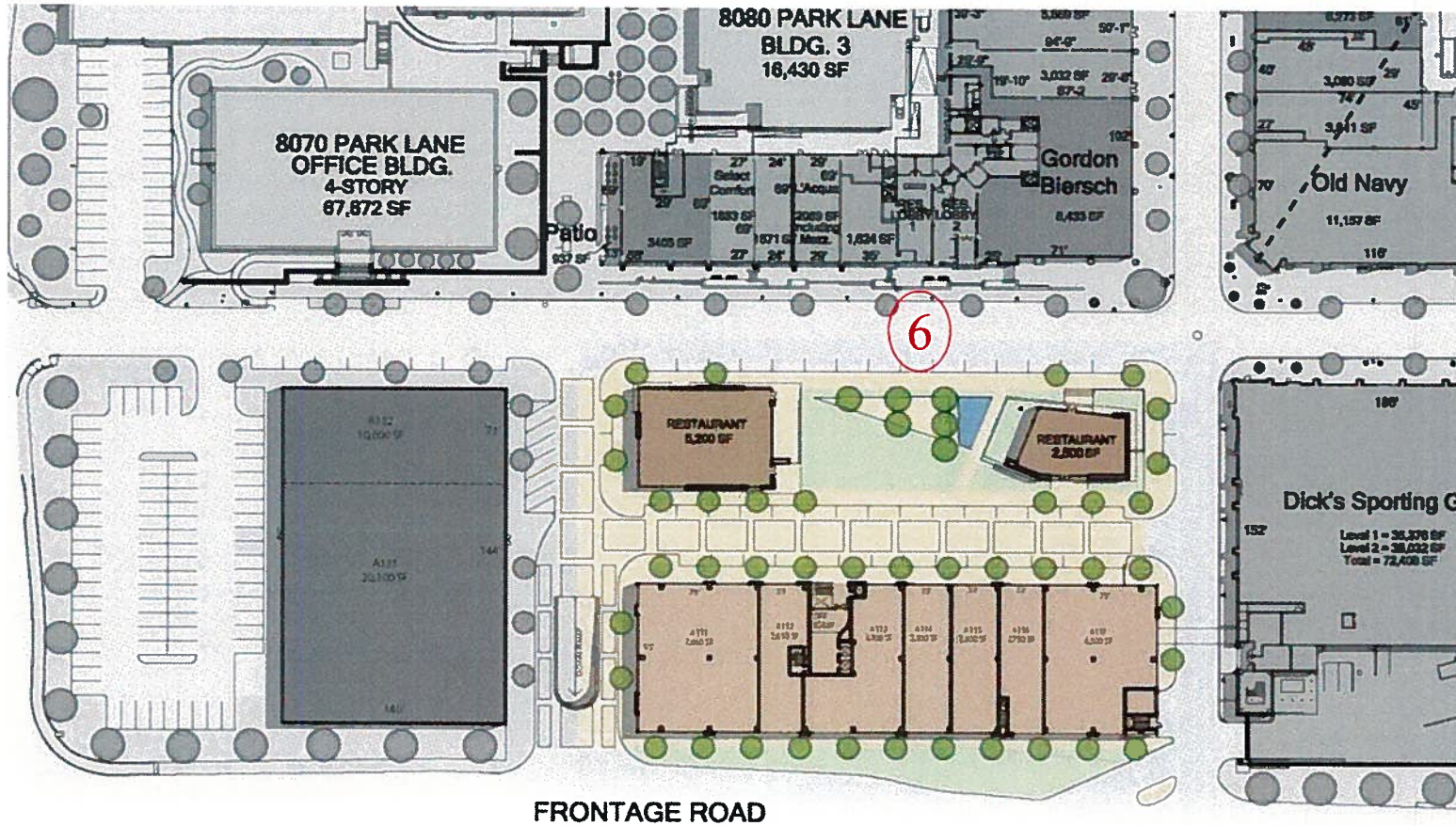


ONTAGE ROAD

The dominant building line/face of adjacent structure is closer to the access road than the proposed building.

BDA 123-054
Attach A
Pg 13

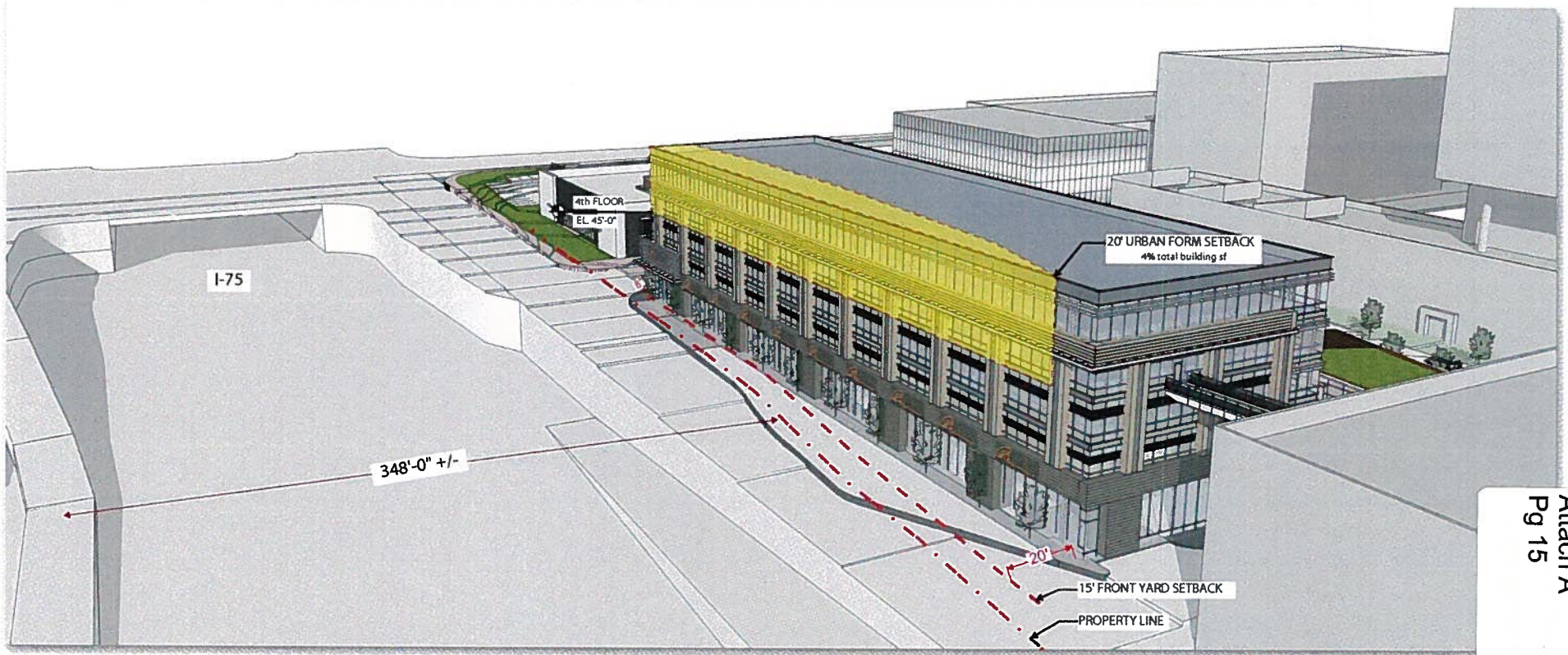
SITE CONSTRAINTS/HARDSHIPS - 6



BDA 123-054
Attach A
Pg 14

The streets, infrastructure, and adjacent buildings have been completed and cannot be modified.

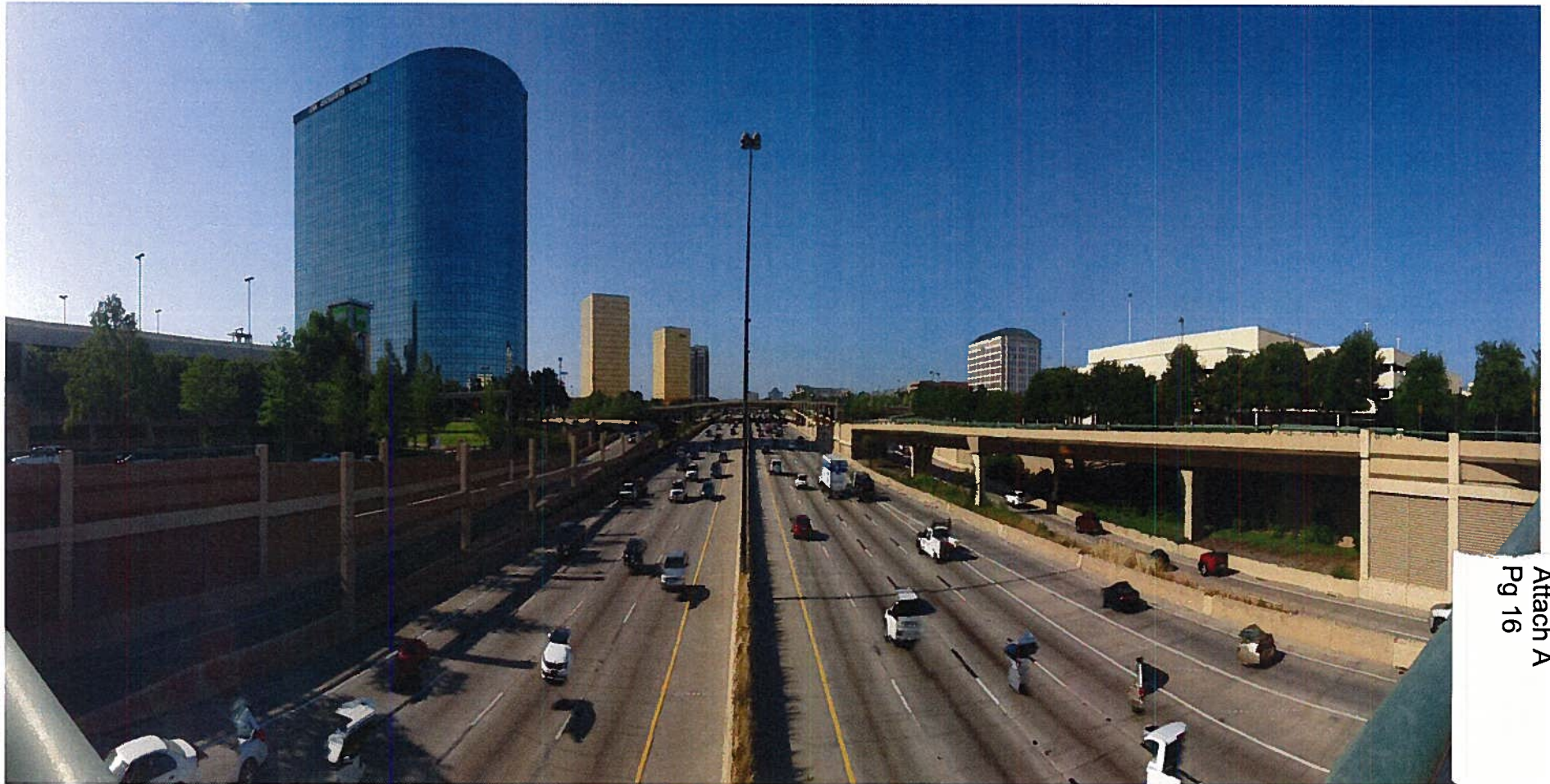
SUMMARY OF VARIANCE REQUEST



BDA 123-054
Attach A
Pg 15

The variance request applies to the portion of the building shown above. The variance only applies to the portion of the 4th and 5th floors that varies from 1”- to 19’. This area represents approximately 4% of the building square footage. Please also note the expansive distance (+/- 348 feet) between the properties across Central Expressway.

SUMMARY OF VARIANCE REQUEST



BDA 123-054
Attach A
Pg 16

View looking south from Park Lane illustrating the 348 foot distance to the adjacent property

CONCLUSION



Conclusion –

We are requesting your approval of a variance to the Urban Form Setback based upon the various property hardships previously outlined. The variance will allow for responsible development of a low-impact project much smaller in scale than the existing zoning allows, as well as the simultaneous development of a much-needed green-space amenity. Ultimately, the goal of the Urban Form Setback of preventing a “canyon effect” is still achieved due to the expansive distances between parcels along Central Expressway. Granting this variance is not contrary to the public interest and, owing to special conditions, a literal enforcement of the urban form setback would result in an unnecessary hardship.



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-054

Data Relative to Subject Property:

Date: 3-29-13

Location address: 8000 Park Lane Zoning District: MU-3 (SAH)

Lot No.: 1C Block No.: A/5456 Acreage: 33.32 Census Tract: 0078.06

Street Frontage (in Feet): 1) 750 2) 1480 3) 1005 4) _____ 5) _____

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Northwood PL A LP

Applicant: Winstead PC [Barry Knight, Tommy Mann and Cole Evans] Telephone: (214) 745-5274

Mailing Address: 2728 N. Harwood St., #500 Zip Code: 75201

E-mail Address: bknight@winstead.com

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

Affirm that a request has been made for a Variance X, or Special Exception , of
19.4 feet from the 35 foot setback required for the portion of the building greater than 45 feet in height
 (urban form setback)

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: (1)Property has multiple front yards, (2) Property slopes, (3) There is no adverse effect on surrounding properties, especially along Central Expressway where the variance is being requested

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: Cole Evans
Applicant's name printed

[Signature]
Applicant's signature

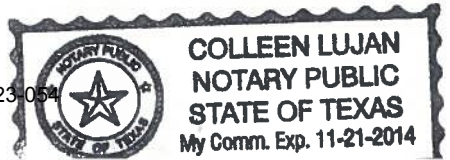
Affidavit

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

Affiant (Applicant's signature)

Subscribed and sworn to before me this 28 day of March 2013

Colleen Lujan
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

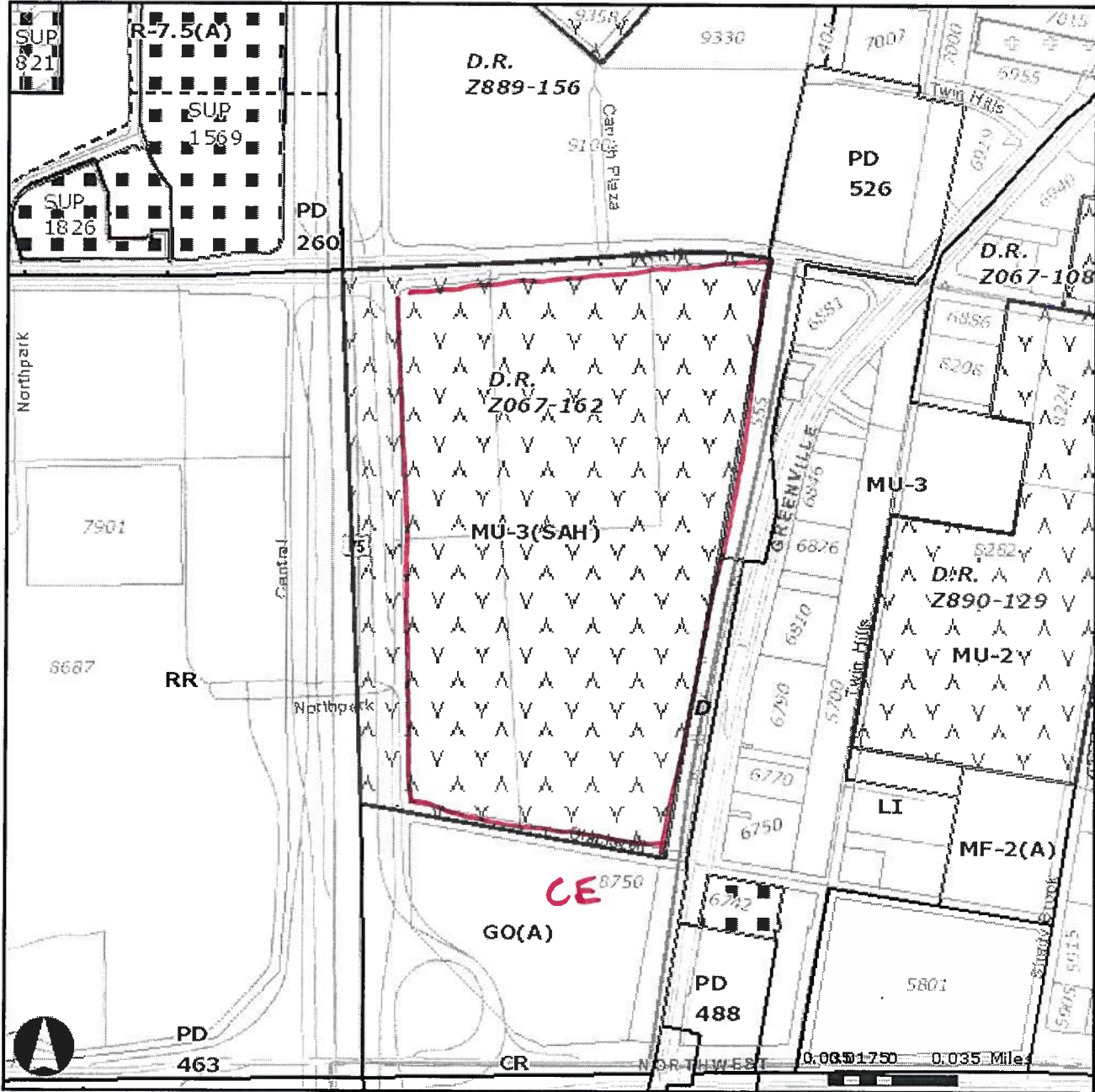
I hereby certify that Colesen C. Evans
did submit a request for a variance to the front yard setback regulations
at 8000 Park Lane

BDA123-054. Application of Colesen C. Evans for a variance to the front yard setback regulations at 8000 Park Lane. This property is more fully described as Lot 1C, Block A/5456, and is zoned MU-3 (SAH), which requires a front yard setback of 35 feet for the portion of a 76 foot 6 inch high building greater than 45 feet in height. The applicant proposes to construct a nonresidential structure and provide a 15 foot 6 inch front yard setback, which will require a 19 foot 6 inch variance to the front yard setback regulation due to the urban form setback requirement.

Sincerely,


Larry Holmes, Building Official

City of Dallas Zoning



Address Candidates

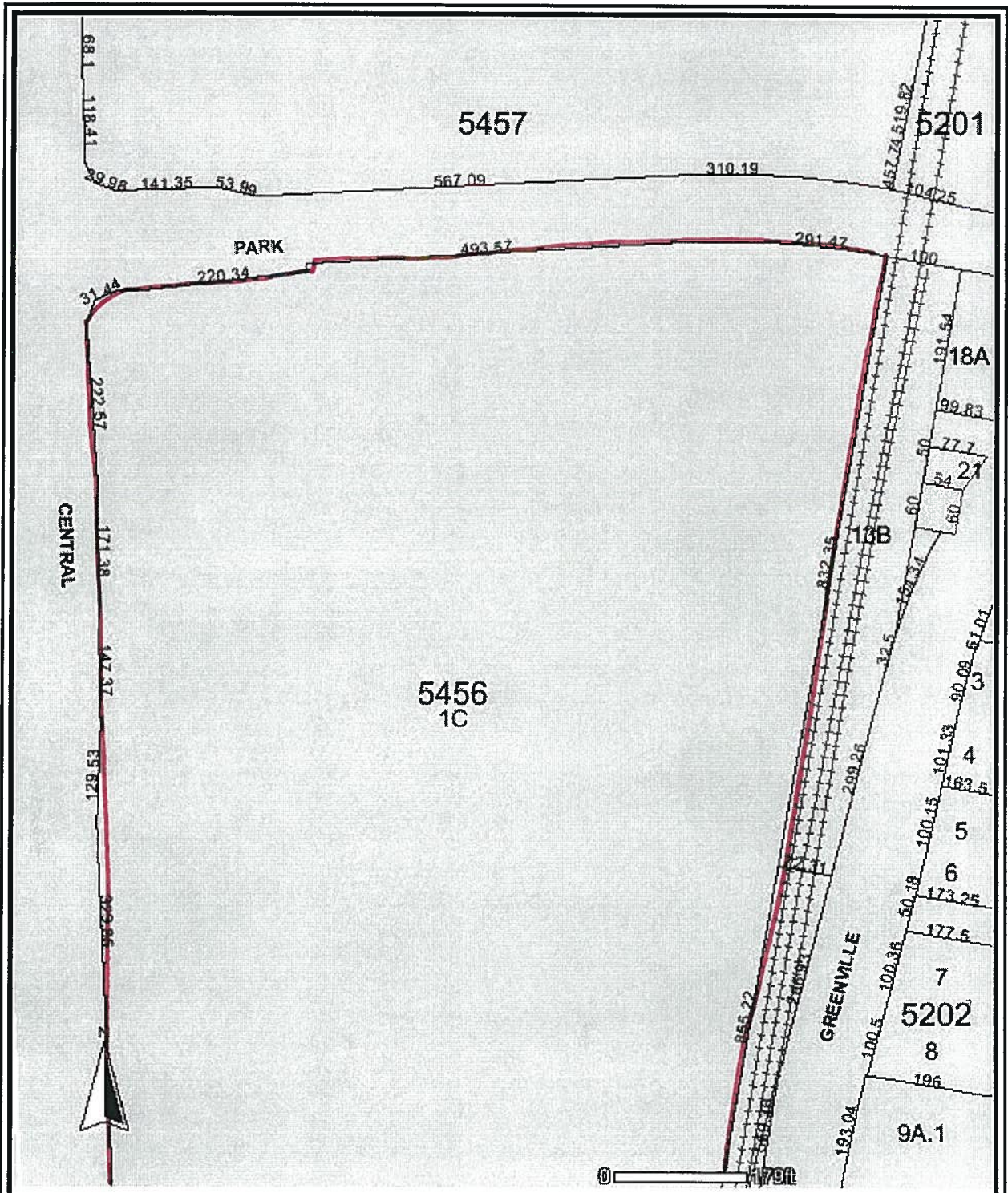
- Address Candidates
- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Major Lakes

Dry Overlay

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

PDS Subdistricts

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



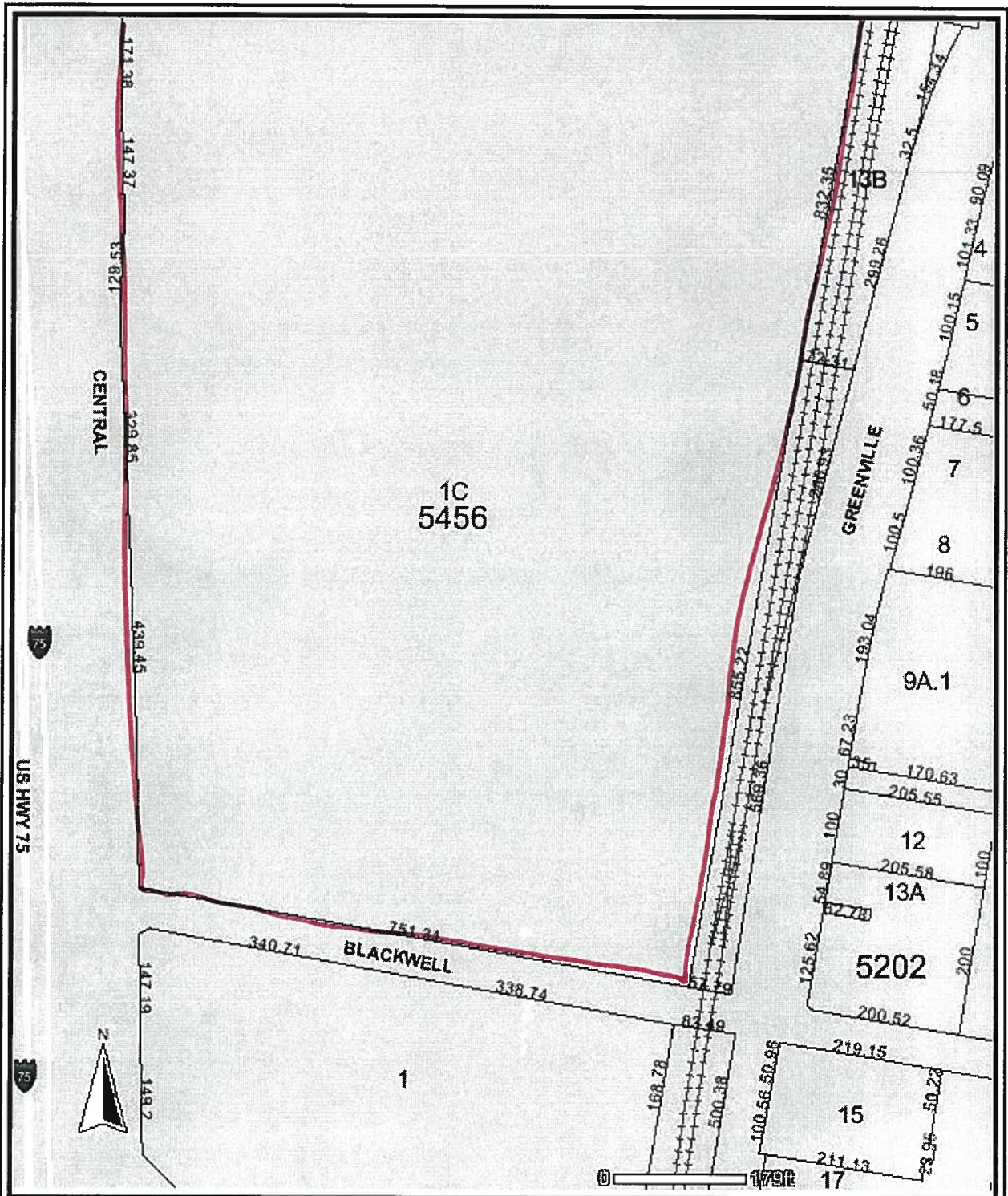
CE



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

DISCLAIMER

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



CE

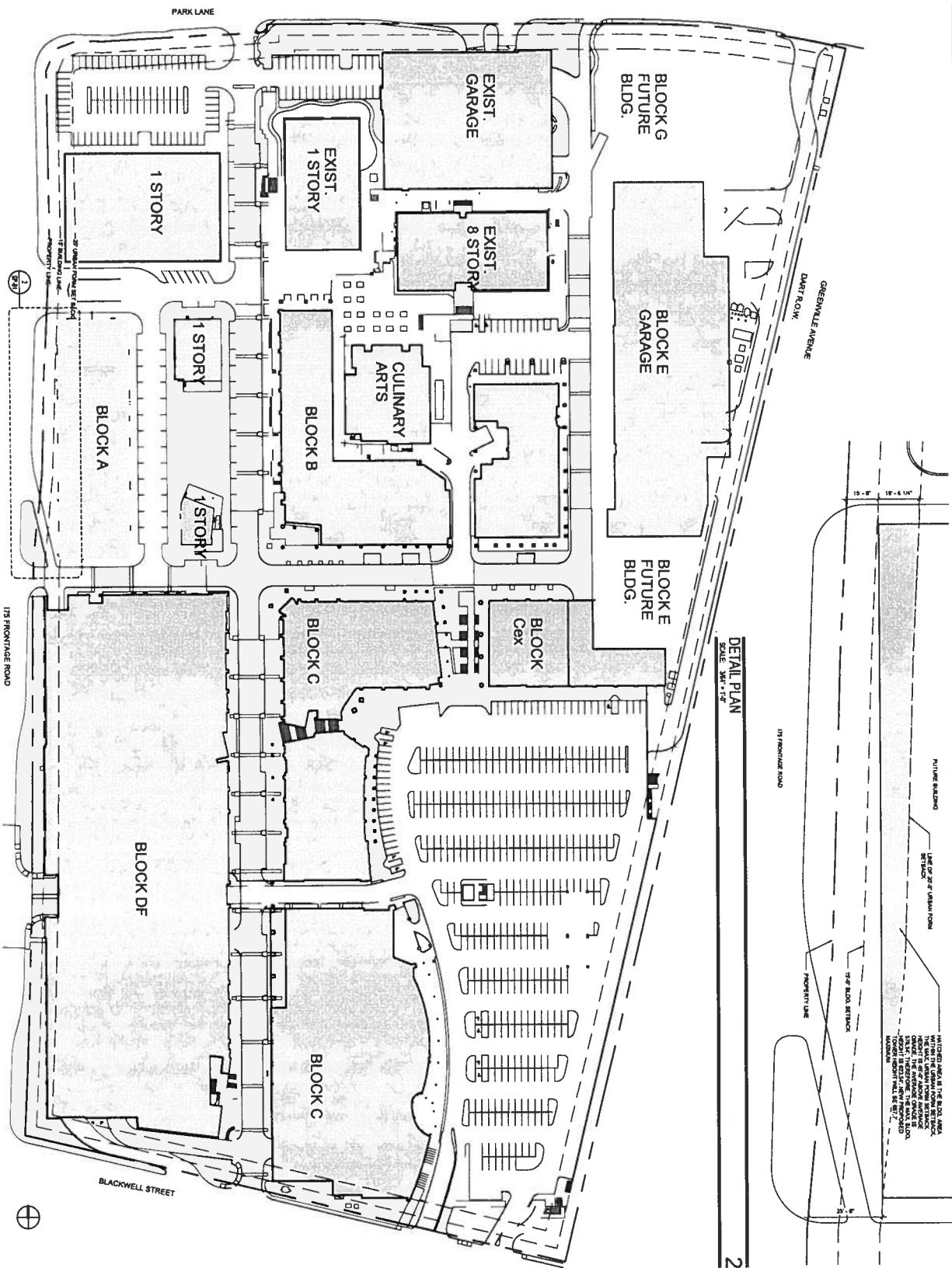


**Dallas Central
Appraisal District**
www.dallascad.org

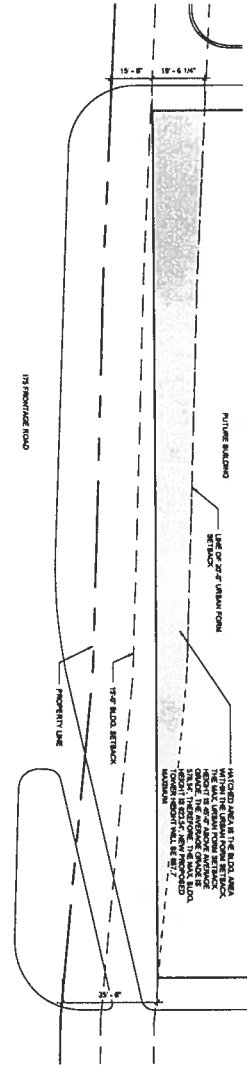
DISCLAIMER

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

OVERALL SITE PLAN
SCALE: 1" = 80'-0"



DETAIL PLAN
SCALE: 3/4" = 1'-0"



NOTED: THIS IS THE BLOCK, AREA, AND THE BUILDING FOOTPRINTS. THE BUILDING FOOTPRINTS ARE NOT TO BE CONSIDERED AS A GUARANTEE OF THE EXISTING CONDITIONS. THE BUILDING FOOTPRINTS ARE TO BE USED AS A REFERENCE ONLY. THE BUILDING FOOTPRINTS ARE TO BE USED AS A REFERENCE ONLY. THE BUILDING FOOTPRINTS ARE TO BE USED AS A REFERENCE ONLY.

**NORTHWOOD
RETAIL**

8080 PARK LANE, SUITE 770
DALLAS, TX 75225

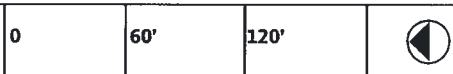
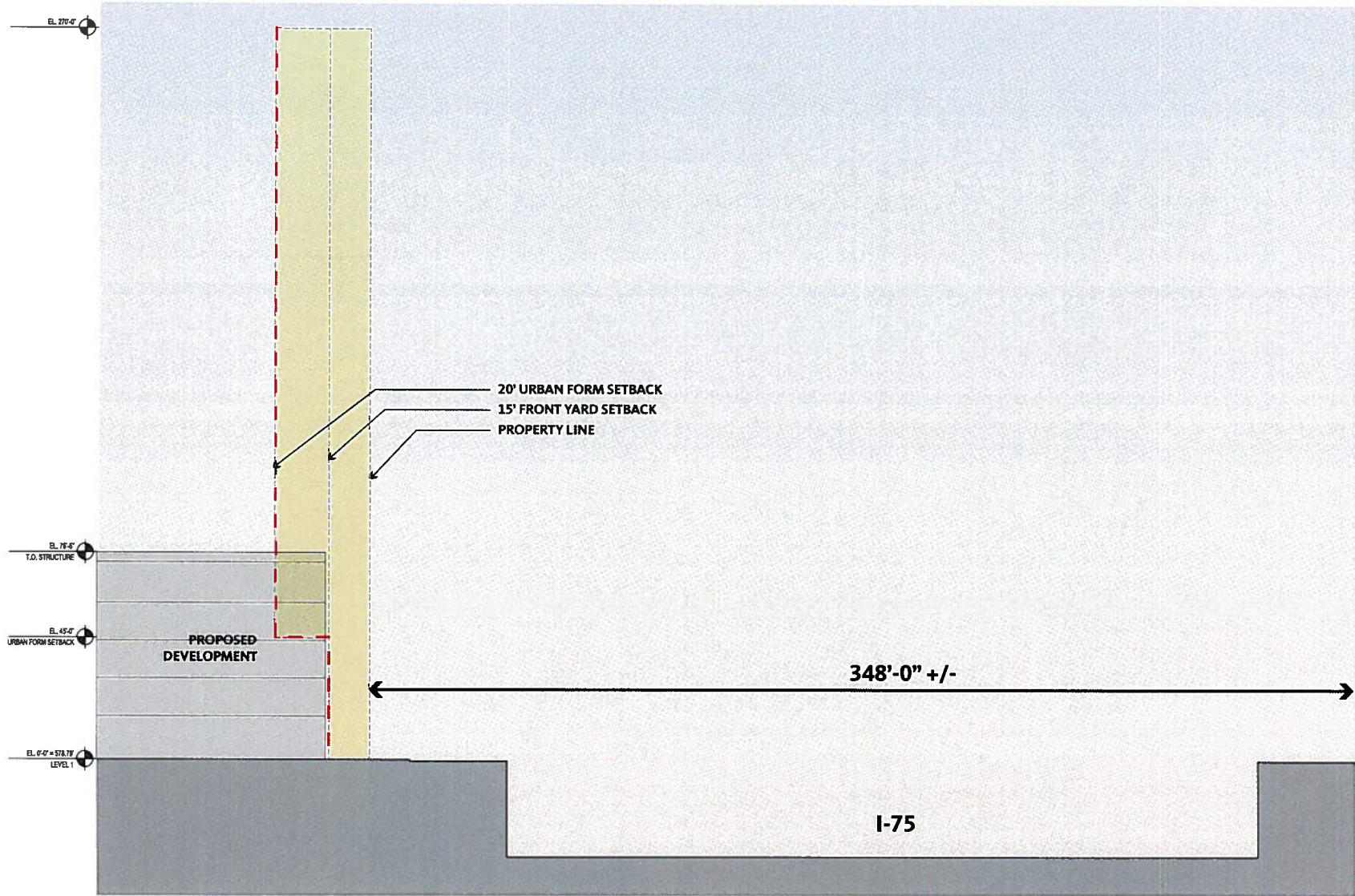
Gensler
Kenzel Place Street
Suite 300
Houston, TX 77002
Tel: 713.444.0000
Fax: 713.444.5001

Rev #	Date	Description
1	02/27/2013	ISSUE FOR ZONING

Backgrounds
NOT FOR CONSTRUCTION

Project Name: THE SHOP@ PARK LANE
Project Number: 02.7249.000
Site Plan
Scale: 1" = 80'-0"

SP-01

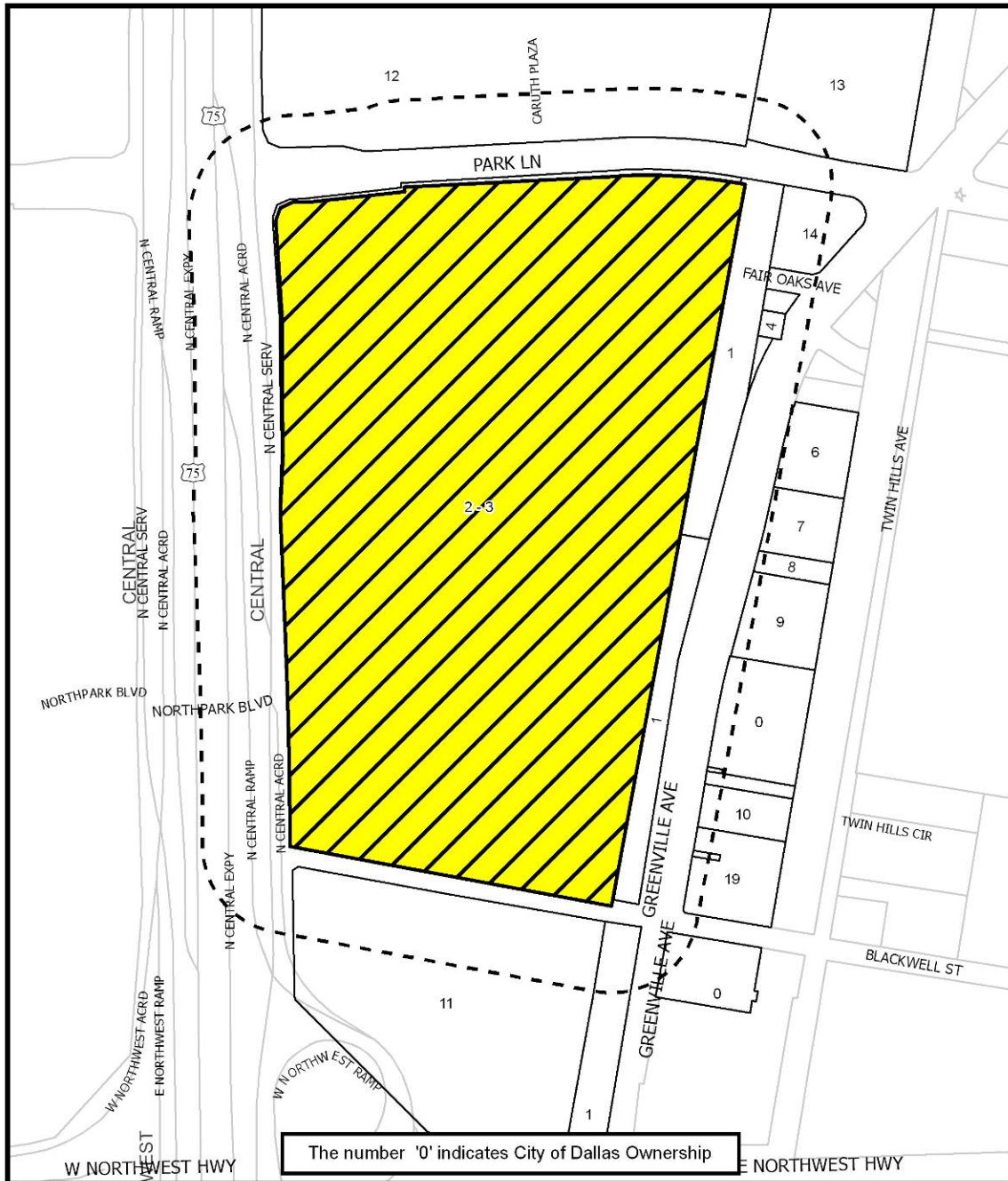


SITE SECTION

NORTHWOOD
INVESTORS



Gensler
05 MAR 2013



 1:3,600	NOTIFICATION		Case no: BDA123-054
	<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;">19</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 5/29/2013	

Notification List of Property Owners

BDA123-054

19 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	555 2ND AVE	DART
2	8000 PARK LN	NORTHWOOD PL HOLDINGS LLC
3	8066 PARK LN	DNCX PARK LANE LP OMNIUM MANAGEMENT COMP
4	6855 GREENVILLE AVE	DORFMAN SAM Y LLC
5	6867 GREENVILLE AVE	UECKERT E HOWARD ET AL
6	6846 GREENVILLE AVE	SLJ CORNERSTONE LTD
7	6826 GREENVILLE AVE	FURRH INC
8	6818 GREENVILLE AVE	BOTANIC LTD CO
9	6810 GREENVILLE AVE	BOGART LYNNE ET AL % TOM SCOTT,LESSEE
10	6770 GREENVILLE AVE	MIEGEL INVESTMENTS LLC
11	8750 CENTRAL EXPY	8750 NCE DALLAS LLC INSURANCE CO
12	9100 CENTRAL EXPY	CARUTH ACQUISITION LP
13	8169 PARK LN	DALLAS AREA RAPID TRANSIT
14	6881 GREENVILLE AVE	JOHNSTON ELLEN STRUBE TAX DEPT. # 33116
15	6857 GREENVILLE AVE	RALSTON DOUGLAS
16	6790 GREENVILLE AVE	6778-6790 GREENVILLE AVE LTD
17	6778 GREENVILLE AVE	6778-6790 GREENVILLE AVE LTD
18	6750 GREENVILLE AVE	ELLER MEDIA COMPANY
19	6750 GREENVILLE AVE	ARMSTRONG GUADALUPE LP

FILE NUMBER: BDA 123-092

BUILDING OFFICIAL'S REPORT: Application of Mark Housewright for a variance to the front yard setback regulations at 5522 Maple Avenue. This property is more fully described as Lot 9, Block A/5708 and is zoned MU-3, which requires a front yard setback of 15 feet and an additional urban form setback of 20 feet for that portion of the structure above 45 feet in height. The applicant proposes to construct/maintain a structure with a building height of 51 feet and provide a 15 foot front yard setback, which will require a 20 foot variance to the front yard setback regulations for the portion of the structure over 45 feet in height.

LOCATION: 5522 Maple Avenue

APPLICANT: Mark Housewright

REQUEST:

A variance to the urban form front yard setback regulations of 20' is requested in conjunction with constructing and maintaining an approximately 51' high, 4-story high, structure in a proposed multifamily development (Alta Maple Station) that would be located within the required 35' front yard setback for the portion of it above 45' in height along Maple Avenue. The site is currently developed as an office/warehouse use that the applicant intends to demolish.

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:

- (A) 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;
- (B) the variance is necessary to permit development of a specific parcel of land that differs from other parcels of land by being of such a restrictive area, shape, or slope, that it cannot be developed in a manner commensurate with the development upon other parcels of land with the same zoning; and
- (C) the variance is 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.

STAFF RECOMMENDATION:

Denial

Rationale:

- Granting this request does not appear to be contrary to public interest given that the variance request (if the submitted site plan and “overall elevations” document were imposed as conditions to this request) would allow only a 51’ high structure to encroach into the urban form setback – a structure only 6’ above the 45’ in height that triggers the additional 20’ setback. However, staff recommends denial of the request since the applicant has not addressed the remaining components of the variance standard.
- While the subject site is moderately sloped, the applicant has not provide documentation to show how this feature nor its area (at 2.2 acres) or shape (rectangular) preclude the applicant from developing it in a manner commensurate with the development of other parcels of land in the same MU-3 zoning.

BACKGROUND INFORMATION:

Site: MU-3 (Mixed Use) (Deed restricted)*
North: MU-3 (Mixed Use)
South: PD 862 (Planned Development)
East: IR (Industrial research)
West: MU-3 (Mixed Use)

- * Note that the applicant acknowledged in an email to the Board Administrator on August 26, 2013 of the deed restrictions on the property. The applicant stated that these deed restrictions that refer to height do not affect this application to the board since the applicant’s proposal in this application at approximately 51’ in height is significantly less than the 90 feet or seven stories.

Land Use:

The subject site is currently developed as an office/warehouse. The area to the north is developed as a rail line station; and the areas to the east, south, and west are development with mostly office and warehouse 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:

- August 18, 2013: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- August 20, 2013: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- August 20, 2013: 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 August 28th deadline to submit additional evidence for staff to factor into their analysis; and the September 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 request; and
 - the Board of Adjustment Working Rules of Procedure pertaining
- August 27, 2013: The Building Inspection Senior Plans Examiner/Development Code Specialist submitted a revised Building Official's Report to the Board Administrator on this application (see Attachment A).
- August 28, 2013: The applicant submitted documentation on this application to the Board Administrator beyond what was submitted with the original application (see Attachment B).
- September 3, 2013: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for September public hearings. Review team members in attendance included: the Sustainable Development and Construction Department Current Planning Division Interim 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 Chief Arborist, and the Assistant City Attorney to the Board.

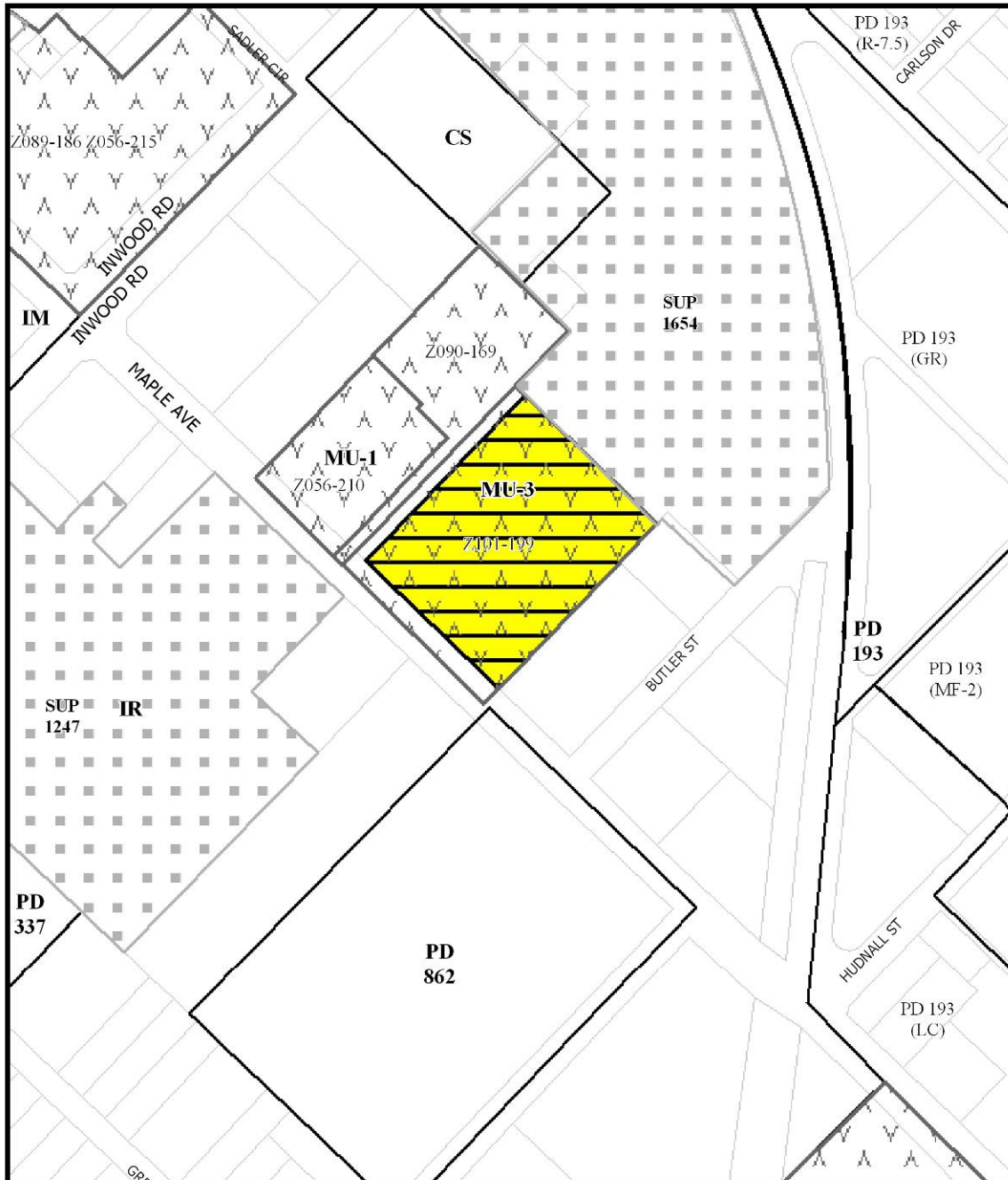
No review comment sheets were submitted in conjunction with this application.

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on constructing and maintaining an approximately 51' high structure in a proposed multifamily development (Alta Maple Station) that does not comply with the required 35' front yard setback (or additional 20' setback to the required 15' front yard setback) for that portion of it above 45' in height along Maple

Avenue. The site is developed with an office/warehouse use that the applicant intends to demolish.

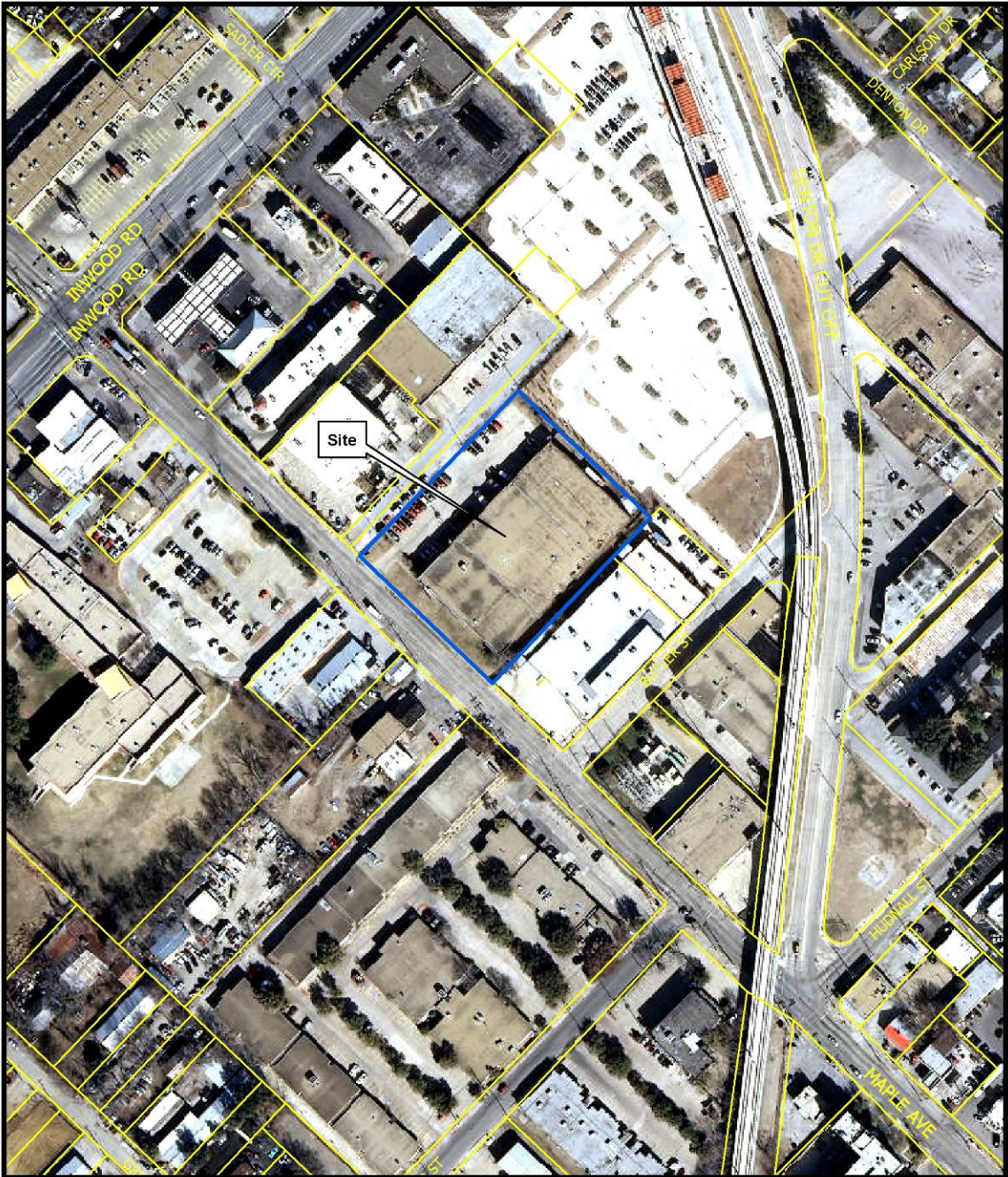
- Development on lots zoned MU-3 are required to provide a 15' front yard setback and an additional 20' setback for any portion of a structure above 45' in height.
- The applicant has submitted a site plan indicating the portion of the proposed structure above 45' in height that is located as close as 15' from the site's front property line along Maple Avenue.
- The applicant has submitted an "overall elevations" document representing how a portion of the upper story of the 4th floor of the structure encroaches into the additional 20' front yard setback for the portion of the structure above 45' in height.
- The applicant emailed staff that only 6' of the fourth floor of the building is encroaching into the urban form front yard setback. The applicant stated that the total amount of this structure encroaching into the setback is 4,775 square feet (or approximately 3 percent) of its total 155,761 square feet.
- Staff has interpreted that the additional 20' setback provision for structures or portions of structures higher than 45' in height was enacted to discourage a canyon effect that a structure may create once it exceeds a specific height, and that this additional front yard setback was enacted to ensure openness, light, and airflow between tower structures.
- The subject site is moderately-sloped, rectangular in shape, and, according to the application, 2.28 acres in area. The site is zoned MU-3.
- DCAD records indicate that the improvements at 5522 Maple Avenue are a "storage warehouse" with 50,052 square feet built in 1956.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the urban form front yard setback requested to construct and maintain an approximately 51' high structure 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 MU-3 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 MU-3 zoning classification.
- If the Board were to grant the urban form front yard variance request of 20' imposing a condition whereby the applicant must comply with the submitted site plan and "overall elevations" document, the structure would be limited to what is shown on these documents – a structure that complies with setbacks 45' in height and below, but where 6' of the structure proposed to exceed 45' in height would be allowed to be located in the additional 20' setback along the Maple Avenue.




 1:2,400

ZONING MAP

Case no: **BDA123-092**
 Date: **9/10/2013**



1:2,400

AERIAL MAP

Case no: BDA123-092

Date: 9/10/2013

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 Housewright

did submit a request for a variance to the front yard setback regulations at 5522 Maple Avenue

BDA123-092. Application of Mark Housewright for a variance to the front yard setback regulations at 5522 Maple Avenue. This property is more fully described as Lot 9, Block A/5708 and is zoned MU-3, which requires a front yard setback of 15 feet and an additional urban form setback of 20 feet for that portion of the structure above 45 feet in height. The applicant proposes to construct a multifamily residential structure with a building height of 51 feet and provide a 15 foot front yard setback, which will require a 20 foot variance to the front yard setback.

Sincerely,

Larry Holmes
Larry Holmes, Building Official

BDA 123-092

Attach B

PS1

Long, Steve

From: markh77@live.com on behalf of Mark H [mark@masterplanconsultants.com]
Sent: Wednesday, August 28, 2013 11:02 AM
To: Long, Steve
Subject: RE: 5522 Maple/BDA123-092
Attachments: Northbound Maple Photo-Graphic.pdf

Steve,

I have attached a photo/graphic that we would like included in the packets to the Board. GFF is still working on the southern view but it won't be ready until this afternoon. So if you need to close the file at noon that's fine we can hand out the other view at the hearing.

I hope we given you everything you need -- let me know if that's not the case. Thanks again for your help.

Mark Housewright
 Masterplan
 214-761-9197

 The information contained in this e-mail message is intended only for the personal and confidential use of the recipient named above. Masterplan, an assumed name of DalClay Corporation, does not provide legal advice. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message. Unless expressly stated this message should not be construed as a digital or electronic signature.

Subject: RE: 5522 Maple/BDA123-092
Date: Mon, 26 Aug 2013 12:36:48 -0500
From: steve.long@dallascityhall.com
To: mark@masterplanconsultants.com

Thank you.

Steve

ALLOWED BEYOND URBAN FORM SETBACK = 90'-0"

ACTUAL BUILDING HEIGHT = 51'-0"

ALLOWED WITHIN URBAN FORM SETBACK = 45'-0"

LEGEND

- AREA OF BUILDING WITHIN URBAN FORM SETBACK
- HEIGHT OF BUILDING ALLOWED PER MU-3 ZONING AND DEED RESTRICTIONS



VIEW FROM NORTHWEST BOUND MAPLE AVE.

Alta Maple Station
Dallas, Texas



Good Fulton & Farrell Architects

2006 Carver Street
Suite 300
Dallas, Texas 75201
www.gff.com

Job #: 12205 File Name: Northwest Maple.psd Date: 08/29/13 Drawn by: AK



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 123-092

Data Relative to Subject Property:

Date: 8/14/13

Location address: 5522 Maple Ave. Zoning District: MU-3

Lot No.: 9 Block No.: A/5708 Acreage: 2.2837 Census Tract: 0004.04

Street Frontage (in Feet): 1) 282.87 2) _____ 3) _____ 4) _____ 5) _____

To the Honorable Board of Adjustment :

SW22

Owner of Property (per Warranty Deed): Maple/Douglas, L.P.

Applicant: Mark Housewright Telephone: 214-761-9197

Mailing Address: 900 Jackson St, Ste 640 Dallas TX Zip Code: 75202

E-mail Address: mark@masterplanconsultants.com

Represented by: Same as Applicant Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance , or Special Exception _____, of Setback of 20 ft. to the front yard setback due to an urban form requirement.

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

The Applicant seeks a setback variance as a result of a property hardship. Adjacency to a DART station parking lot combined with a severe slope on the southern end of the tract, necessitate positioning the building toward Maple Ave. The result is a slight variance to the height allowed.

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.

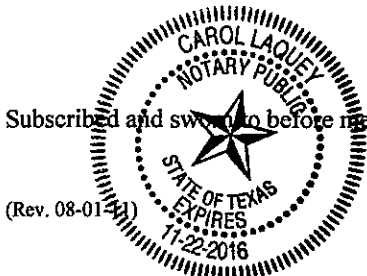
Affidavit

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

Subscribed and sworn to before me this 14 day of August, 2013



Carol Laquey
Notary Public in and for Dallas County, Texas

MEMORANDUM OF
ACTION TAKEN BY THE
BOARD OF ADJUSTMENT

Date of Hearing _____

Appeal was--Granted OR Denied

Remarks _____

Chairman

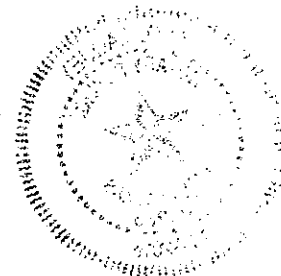
Building Official's Report

I hereby certify that Mark Housewright
did submit a request for a variance to the front yard setback regulations
at 5522 Maple Avenue

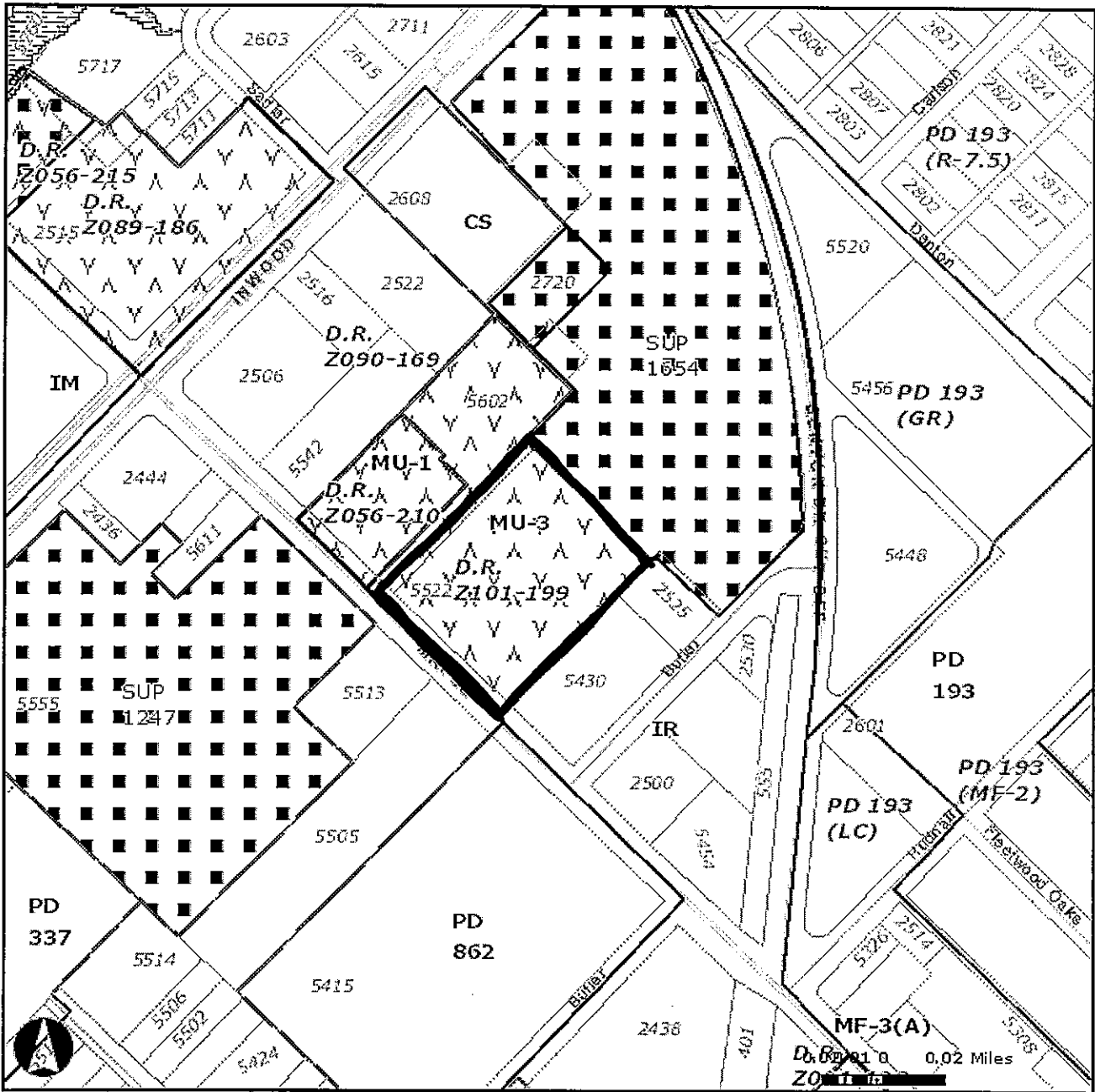
BDA123-092. Application of Mark Housewright for a variance to the front yard setback regulations at 5522 Maple Avenue. This property is more fully described as Lot 9, Block A/5708 and is zoned MU-3, which requires a front yard setback of 15 feet and an additional urban form setback of 20 feet for that portion of the structure above 45 feet in height. The applicant proposes to construct a multifamily residential structure with a building height of 275 feet and provide a 15 foot front yard setback, which will require a 20 foot variance to the front yard setback.

Sincerely,

Larry V. Holmes
Larry Holmes, Building Official



City of Dallas Zoning



- | | | |
|--|--|---|
| <p>City Boundaries</p> <p>Certified Parcels</p> <p>Deed Restrictions</p> <p>SUP</p> <p>Dry Overlay</p> <p>Historic Overlay</p> | <p>NSO Overlay</p> <p>NSO Subdistricts</p> <p>MD Overlay</p> <p>CD Subdistricts</p> <p>PD Subdistricts</p> <p>PD193 Oak Lawn</p> <p>PDS Subdistricts</p> | <p>Floodplain</p> <p>100 Flood Zone</p> <p>Mill's Creek</p> <p>Peak's Branch</p> <p>X PROTECTED BY LEVEE</p> <p>Pedestrian Overlay</p> <p>CP</p> <p>SP</p> <p>Environmental Corridors</p> <p>Escarpment Overlay</p> |
|--|--|---|



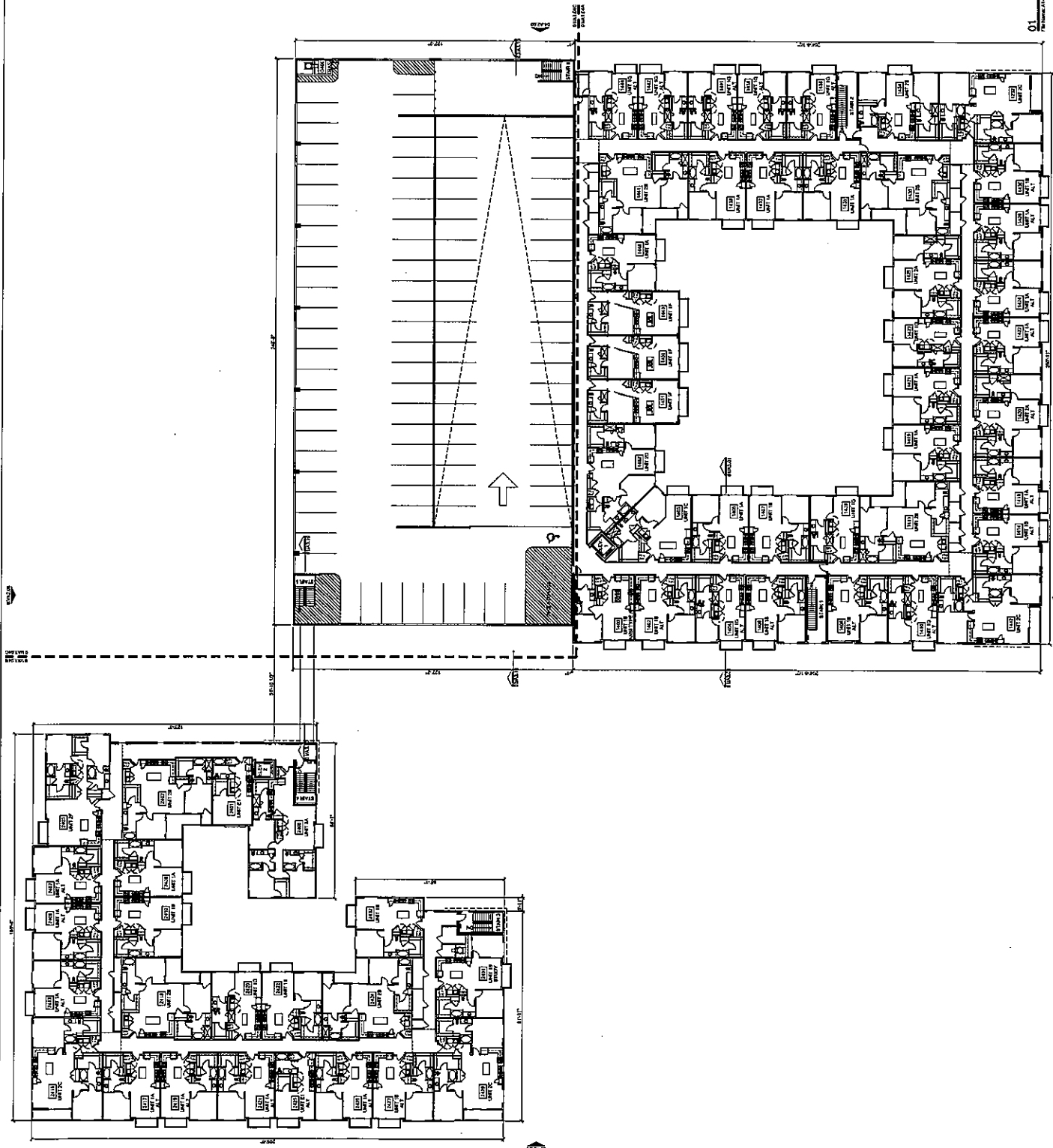
NO.	DATE	BY	REVISION

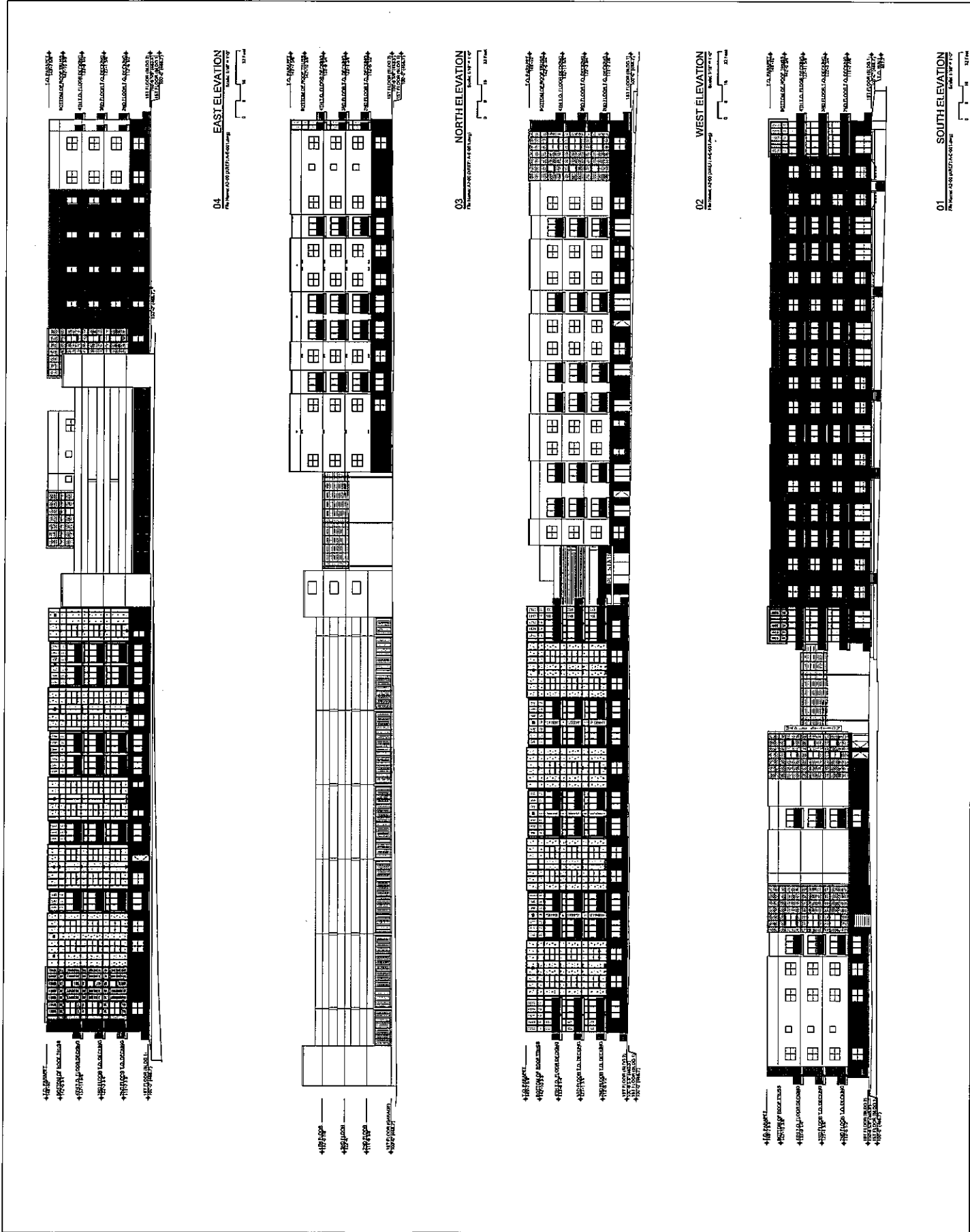
ALTA MAPLE STATION
 5522 & 5602 MAPLE AVENUE
 DALLAS, TEXAS
ISSUE FOR PERMIT

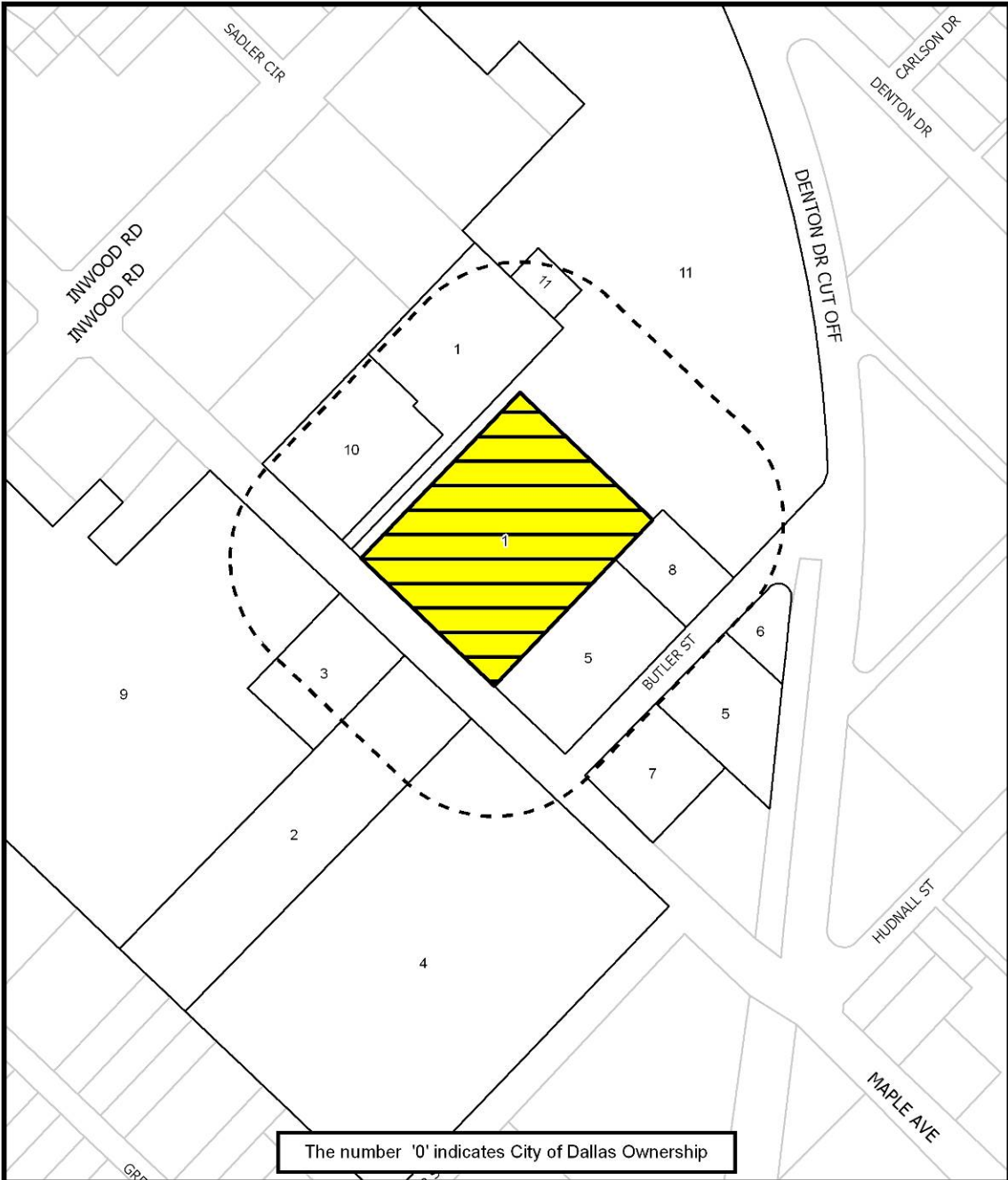
WOOD PARTNERS
 Wood Partners
 5440 North Central Expressway, Suite 205
 Dallas, Texas 75226
 Tel: 214.723.2800



Good Fulton & Farrell Architects
 2908 Fairmarket Street
 Suite 300
 Dallas, Texas 75201
 Tel: 214.933.1700
 Fax: 214.933.1714
 www.gff.com
 © Good Fulton & Farrell 2012







 1:2,400	NOTIFICATION		Case no: BDA123-092
	<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: 9/10/2013	

Notification List of Property Owners

BDA123-092

11 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5602 MAPLE AVE	MAPLE DOUGLAS LP
2	5505 MAPLE AVE	HEWITT BILL FAMILY LIMITED PARTNERSHIP
3	5513 MAPLE AVE	3605 INWOOD ROAD LP
4	5415 MAPLE AVE	UCF MAPLE LLC % UCF I TRUST 1
5	5430 MAPLE AVE	PIMENTAL HOLDINGS LLC
6	2530 BUTLER ST	SHEFAH LLC
7	2500 BUTLER ST	TEXAS UTILITIES ELEC CO % STATE & LOCAL
8	2525 BUTLER ST	PRESCOTT INTERESTS LTD STE 225
9	5555 MAPLE AVE	Dallas ISD ATTN OFFICE OF LEGAL SERVICES
10	5610 MAPLE AVE	HUIZENGA INC
11	5542 MAPLE AVE	DART