

ZONING BOARD OF ADJUSTMENT, PANEL C  
MONDAY, NOVEMBER 12, 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, October 15, 2012 Board of Adjustment Public Hearing Minutes	M1
--	----

---

**UNCONTESTED CASES**

---

<b>BDA 112-105</b>	4305 W. Wheatland Road <b>REQUEST:</b> Application of Richard Hanes for a special exception to the landscape regulations	1
<b>BDA 112-112</b>	2860 Lacompte Drive <b>REQUEST:</b> Application of Kim Blair for a special exception to the fence height regulations	2
<b>BDA 112-114</b>	432 N. Acres Drive (AKA: 430 N. Acres Drive) <b>REQUEST:</b> Application of H. Rex Dinger for a special exception to the fence height regulations	3
<b>BDA 112-119</b>	3130 Kingbridge Street <b>REQUEST:</b> Application of Rob Baldwin for a variance to the side yard setback regulations	4

---

**HOLDOVER CASE**

---

**BDA 112-070**

2422 N. Henderson Avenue

5

**REQUEST:** Application of Roger Albright for a special exception to the off-street parking regulations

## 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 October 15, 2012 public hearing minutes.

**FILE NUMBER:** BDA 112-105

**BUILDING OFFICIAL'S REPORT:**

Application of Richard Hanes for a special exception to the landscape regulations at 4305 W. Wheatland Road. This property is more fully described as Lot 2 in City Block A/7543 and is zoned MU-1, which requires mandatory landscaping. The applicant proposes to construct a structure and provide an alternate landscape plan, which will require a special exception.

**LOCATION:** 4305 W. Wheatland Road

**APPLICANT:** Richard Hanes

**REQUEST:**

A special exception to the landscape regulations is requested in conjunction with constructing and maintaining an approximately 7,000 square foot office/retail facility on an undeveloped site, and not fully meeting the landscape regulations.

**STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REGULATIONS:**

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

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

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

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

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- Compliance with the submitted landscape plan is required.

Rationale:

- The City’s Chief Arborist supports the request given that an existing water easement and overhead utility lines on the site preclude the applicant from locating street trees in the code-required location, and that the site complies with all other Article X mandatory and design standard requirements.
- The applicant has substantiated how strict compliance with the requirements of the Landscape Regulations of the Dallas Development Code will unreasonably burden the use of the property, and that the special exception will not adversely affect neighboring property.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: MU-1 (Mixed Use)  
North: MU-1 (Mixed Use)  
South: City of Duncanville  
East: MU-1 (Mixed Use)  
West: MU-1 (Mixed Use)

**Land Use:**

The site is currently undeveloped. The areas to the north and east are undeveloped, the area to the south is developed as townhomes, and the area to the west is developed with retail uses.

**Zoning/BDA History:**

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

**Timeline:**

September 17, 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.

October 10, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

October 10, 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 October 24<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis;

and the November 2<sup>nd</sup> 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.

October 30, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November 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 Building Inspection 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.

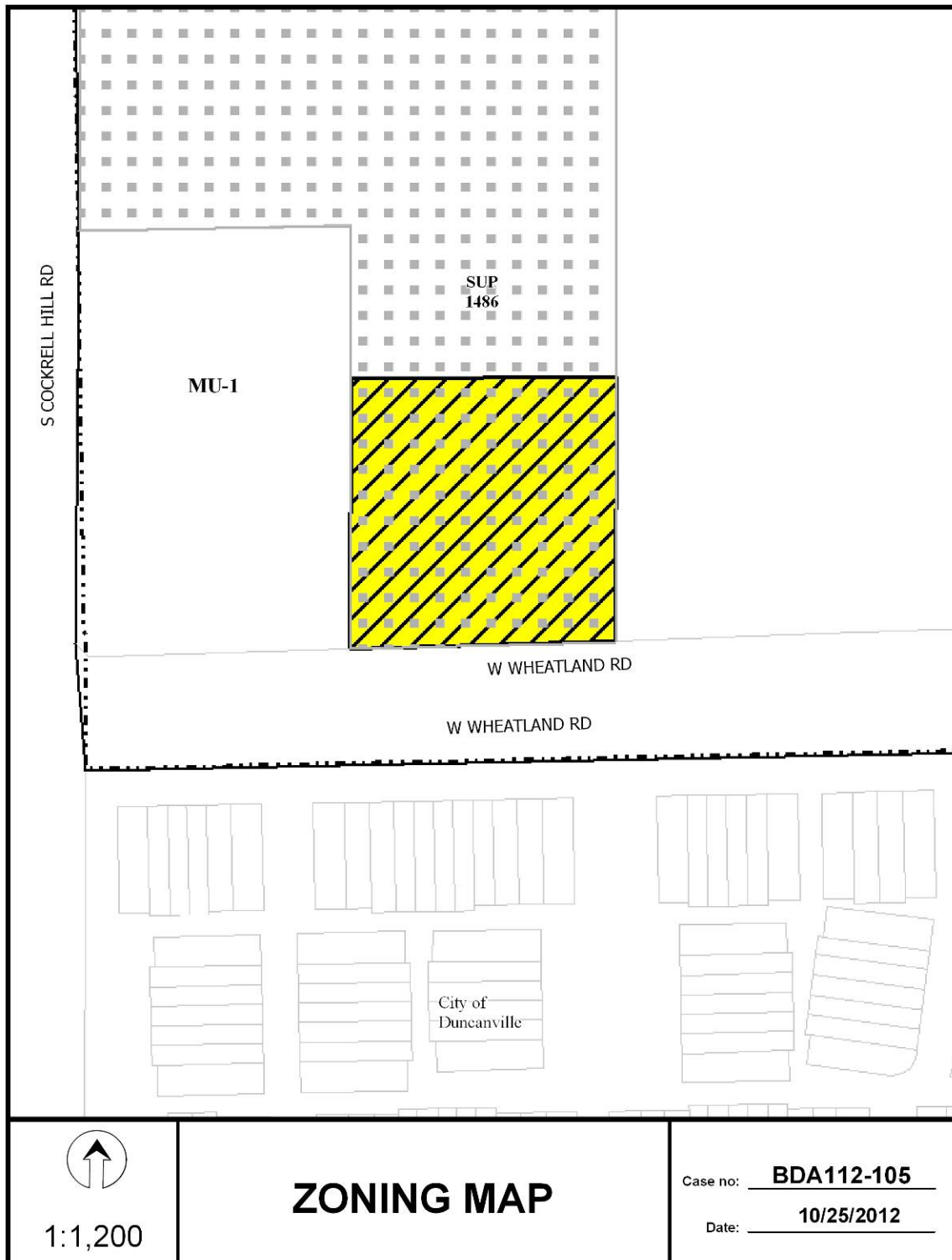
November 2, 2012: The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the request (see Attachment A).

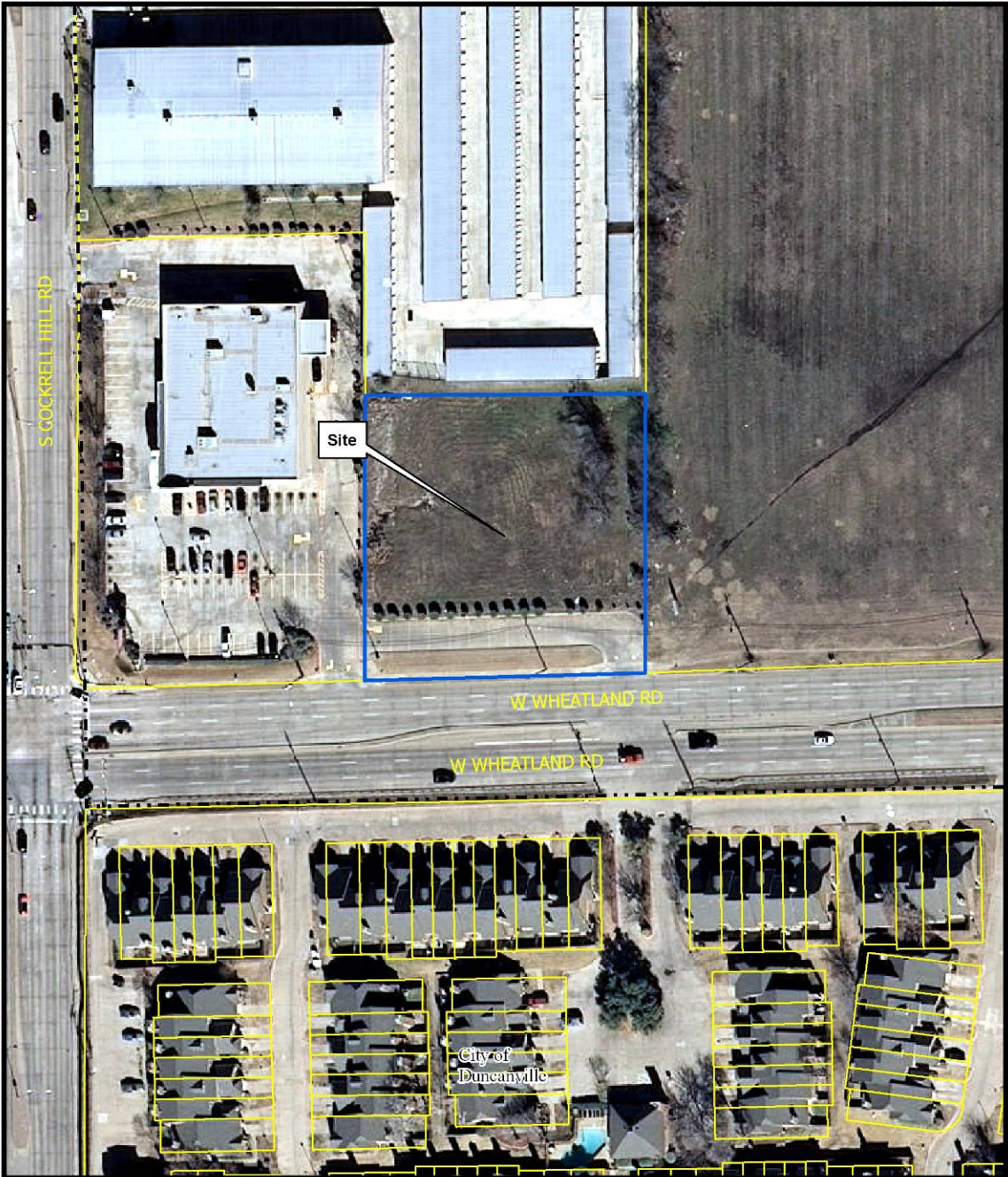
#### **GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on an approximately 7,000 square foot office/retail facility on an undeveloped site, and not fully meeting the landscape regulations.
- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot is increased by more than 2,000 square feet, or when an application is made for a building permit for construction work that: (1) increases the number of stories in a building on the lot; or (2) increases by more than 35 percent or 10,000 square feet, whichever is less, the combined floor areas of all buildings on the lot within a 24-month period.
- The applicant has submitted an alternate landscape plan that, according to the City of Dallas Chief Arborist, does not comply with street tree requirements of Article X: The Landscape Regulations.
- The City of Dallas Chief Arborist submitted a memo to the Board Administrator regarding the applicant's request (see Attachment A). The memo states how this request is triggered by new construction on the site and how the alternate plan proposes the required number of street trees to be located within 60' of back of street curb rather than the required 30' back of curb. The Chief Arborist states that the location of a 15' water easement and overhead utility lines restrict the placement of the street trees in the code-required location.
- The Chief Arborist supports the applicant's landscape special exception request given the conditions/features of the site that preclude full compliance with Article X, and that other than the location of street trees, the site complies with all other Article X mandatory and design standard requirements.
- The applicant has the burden of proof in establishing the following:
  - Strict compliance with the requirements of the Landscape Regulations of the Dallas Development Code will unreasonably burden the use of the property; and

- The special exception will not adversely affect neighboring property.
- If the Board were to grant this request and impose the submitted landscape plan as a condition to the request, the site would be provided exception from full compliance with the street tree requirements of Article X: The Landscape Regulations in this case, street trees located 60' rather than within 30' of back of curb.







1:1,200

# AERIAL MAP

Case no: BDA112-105

Date: 10/25/2012

# Memorandum



CITY OF DALLAS

DATE November 2, 2012

TO

Steve Long, Board of Adjustment Administrator

SUBJECT # BDA 112 - 105 4305 W Wheatland Road

The applicant is requesting a special exception to the landscape requirements of Article X of the Dallas Development Code. Specifically, the applicant seeks an exception for Section 51A-10.125(b)(4), Street trees.

### Trigger

New construction.

### Deficiencies

City ordinance requires 1 – 3" caliper large tree for every 50 feet of street frontage to be planted within 30 feet of the back of curb. The 216' frontage would require 5 street trees of 3" caliper. The proposed landscape plan provides 5 – 3" caliper 'Natchez' crape myrtle trees within 60' of back of street curb.

### Factors

The street frontage along Wheatland Road provides a 15' permeable surface for groundcover, but the location of a 15' water easement (16" water line) restricts the placement of trees in that area. The site has no license for planting in the parkway. The location has a narrow 4' wide parkway lawn, but overhead utility lines do not provide for suitable locations for planting large trees along the thoroughfare.

The crape myrtle trees, planted behind a 45' shared access easement, are also along a 15' drainage easement, and a utility easement, that limits the use of large trees in the area. Screening shrubs are provided for the parking lot.

The property does provide for 3 large trees near the structure.

The landscape plan is compliant of all other Article X requirements.

### Recommendation

Approval of the submitted landscape plan.

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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-105

Data Relative to Subject Property:

Date: SEPT 17, 2012

Location address: 4305 WHEATLAND ROAD Zoning District: MU-1

Lot No.: 2 Block No.: A/7543 Acreage: 1.014 Census Tract: \_\_\_\_\_

Street Frontage (in Feet): 1) 215.60 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_

To the Honorable Board of Adjustment :

Owner of Property/or Principal: DATAL PROPERTIES, INC

Applicant: ~~LESLIAN SRIVASAVA~~ Telephone: ~~214 697 7985~~

Mailing Address: ~~1706 DOWLING DR, IRVING, TX~~ Zip Code: ~~75038~~

Represented by: RICHARD HANESS Telephone: 214 679 2682

Mailing Address: 4324 ALTA VISTA LANE Zip Code: 75229

Affirm that a request has been made for a Variance \_\_\_\_\_, or Special Exception , of THE LANDSCAPE REQUIREMENTS

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:

EXISTING ACCESS AND UTILITY EXPOSURES PREVENTS THE PROPERTY FROM MEETING CURRENT LANDSCAPE REQUIREMENTS

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.

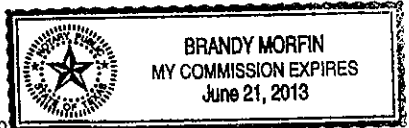
Respectfully submitted: RICHARD HANESS [Signature]  
Applicant's name printed Applicant's Signature

Affidavit

Before me the undersigned on this day personally appeared Richard Hanes 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 18th day of September, 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

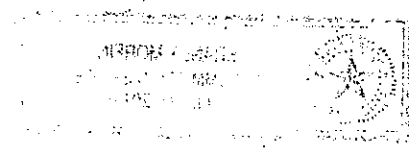
**Building Official's Report**

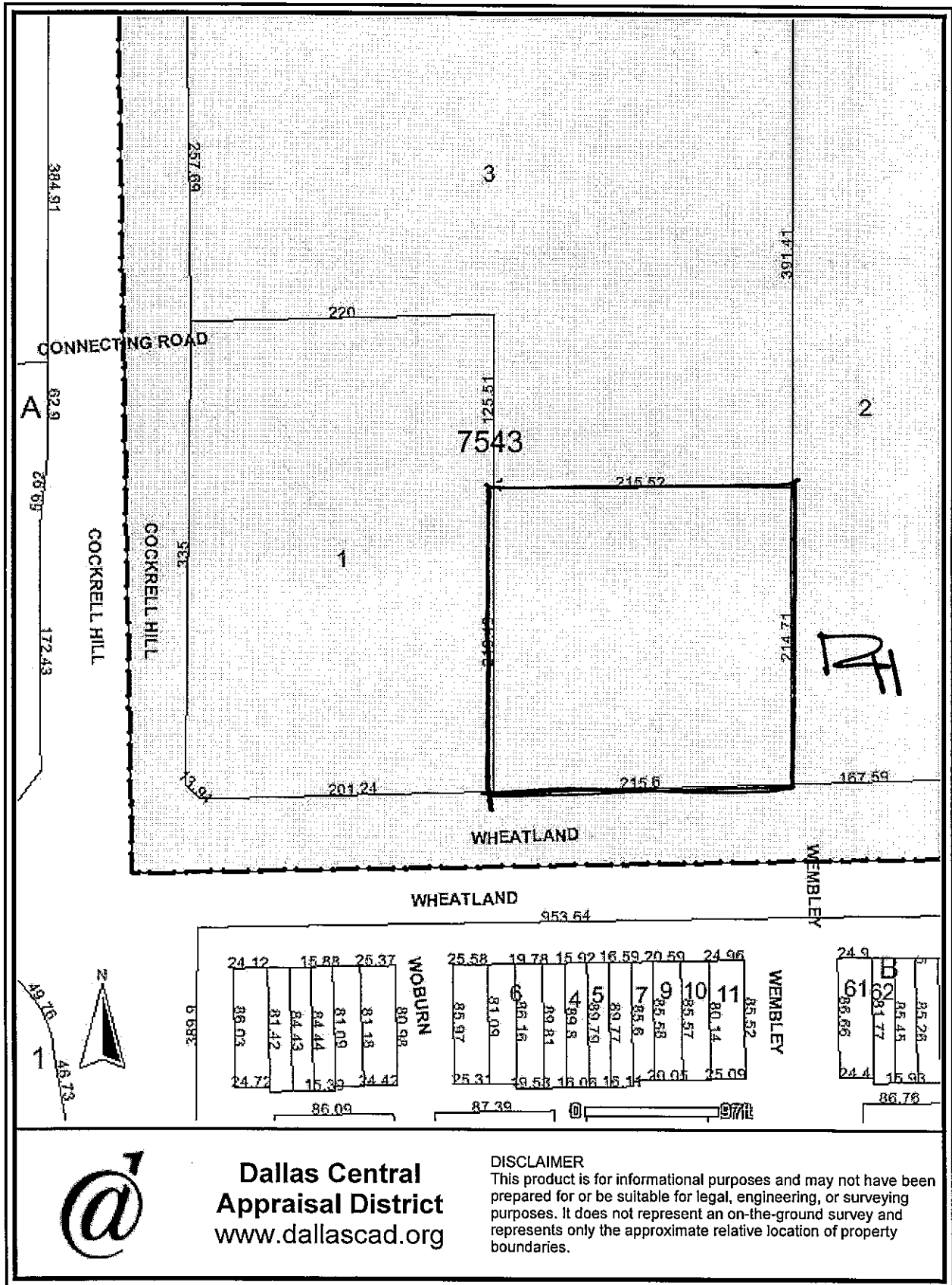
I hereby certify that Richard Hanes  
did submit a request for a special exception to the landscaping regulations  
at 4305 W. Wheatland Road

BDA112-105. Application of Richard Hanes for a special exception to the landscaping regulations at 4305 W. Wheatland Road. This property is more fully described as lot 2 in city block A/7543 and is zoned MU-1, which requires mandatory landscaping. The applicant proposes to construct a nonresidential structure and provide an alternate landscape plan, which will require a special exception to the landscape regulations.

Sincerely,

  
Lloyd Denman, Building Official



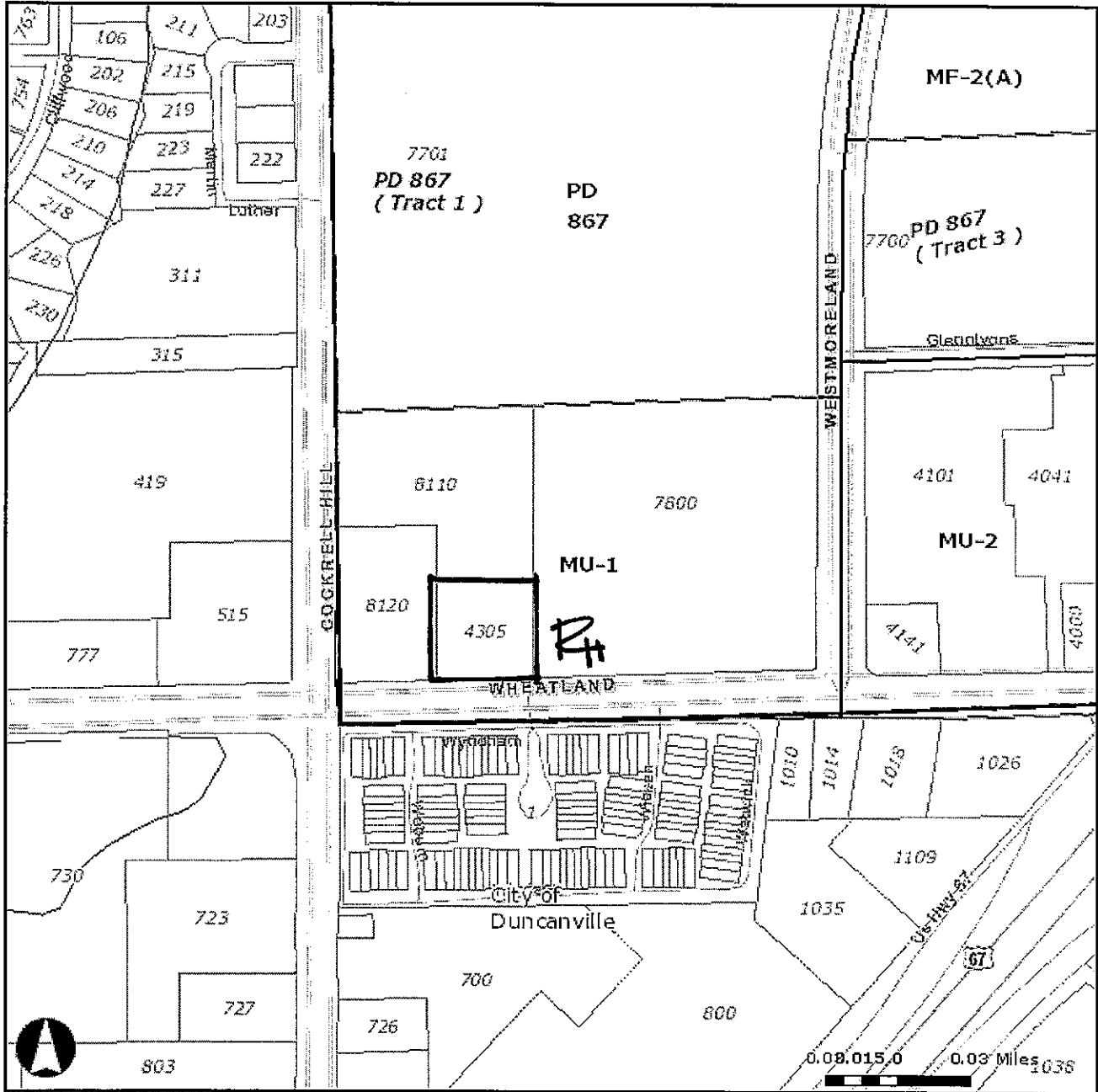


**Dallas Central Appraisal District**  
[www.dallascad.org](http://www.dallascad.org)

**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.



# City of Dallas Zoning



- |  |   |   |
|--|---|---|
| <ul style="list-style-type: none"> <li>City Boundaries </li> <li>County </li> <li>Certified Parcels </li> <li>DISD Sites </li> <li>Council Districts </li> <li>Waterways </li> <li>Parks </li> </ul> | <ul style="list-style-type: none"> <li>Dry Overlay </li> <li></li> <li>Historic Overlay </li> <li>Historic Subdistricts </li> <li>NSO Overlay </li> <li>NSO Subdistricts </li> <li>MD Overlay </li> </ul> | <ul style="list-style-type: none"> <li>PDS Subdistricts </li> <li>Base Zoning </li> <li>Floodplain </li> <li>100 Flood Zone </li> <li>Mill's Creek </li> <li>Peak's Branch </li> <li>X PROTECTED BY LEVEE </li> <li>Pedestrian Overlay </li> <li>CP </li> </ul> |
|--|---|---|

**MAINTENANCE**

The Owner, tenant and their agent, if any, shall be responsible for the maintenance of the landscape of all landscaping. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include mowing, edging, pruning, watering, fertilizing, and other maintenance activities common to maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds and other material or plants that a part of the landscape. All plants and shrubs shall be maintained in a healthy and growing condition as is appropriate for the season of the year. All irrigation systems shall be installed with plant material of similar variety and size. All irrigation heads or lines which are broken and flow water shall be replaced or repaired immediately to prevent the waste of water.

**LANDSCAPE NOTES**

- LANDSCAPE CONTRACTORS ARE RESPONSIBLE FOR THEIR OWN QUANTITY TAKEOFFS.
- ALL PLANT MATERIALS WILL BE SPECIFIED BY THE OWNER AND FOR LANDSCAPE ARCH.
- ALL LANCE AND ORNAMENTAL TREES ARE TO BE CONTAINER GROWN UNLESS NOTED ON THE PLANT MATERIALS LIST.
- SLOPE ALL BODS UP 10% FROM BED PERIMETER TO CENTER OF BED.
- BE SURE NOT TO BLOCK THE FLOW OF DRAINAGE AWAY FROM BUILDINGS ON GENERAL DRAINAGE ACROSS THE SITE.
- ALL TREES AND SHRUBS MUST BE SPECIFIED AS TO THEIR SIZE AND SPECIES. ALL TREES MUST BE SPECIFIED AS TO THEIR CALIBER, HEIGHT, PROPORTIONS AND DOUBLE WRAPPED SINGLE STRAND 12 GAUGE GALVANIZED STEEL OR PLASTIC MULCH AND AT LEAST 17" MINIMUM TREE ROOTBALL PLANTING PIT.
- REPAIR ALL GRASS AREAS DISTURBED ON THIS OR ADJACENT SITES BY CREATING THE SITE GRADIENT, REMOVING ALL DEBRIS AND SOIL AND REPLACING WITH THE SAME TYPE OF PLANT MATERIALS LIST.
- ALL EXISTING AND NEW PERIMETERS TO BE SEPARATED FROM ADJACENT PLANTING.
- SOIL PREPARATION FOR PLANTING BEDS.
- EXCAVATE AS NECESSARY TO REMOVE ALL WEEDS, GRASSES AND LIVE STABILIZED SOIL AND TO PROVIDE FOR 6" OF VITAL EARTH RESOURCES LANDSCAPING ARE TO BE PLANTED INTO THE TILLED SUBSOIL. ALLOW FOR SETTLEMENT WHEN PLANTING THE CORRECT DEPTH OF LANDSCAPE ARE. INSTALL PLANTS AND ADD AGRICULTURAL FERTILIZERS TO THE SOIL. TOP DRESS ALL BEDS AFTER PLANTING WITH 3" OF SHREDED COCOM MULCH. ALLOW FOR SETTLING. FRESH GRADE OF MULCH TO BE ONE INCH ABOVE THE EDGES OF PLANT ROOT BALLS. KEEP MULCH AT LEAST 6" HIGHER ABOVE FROM PLANT STEMS/TRUNKS.

**LEGEND**

- EXISTING HACKBERRY TREES ON THIS PROPERTY TO BE REMOVED.
- EXISTING FRAXEL PROTIUMS ON THIS PROPERTY TO BE REMOVED.

**PLANT MATERIALS LIST**

Quantity	Scientific Name	Common Name	Planting Size
3	Ulmus crassifolius	Cedar elm	2"-Cal., 10" Ht., 4" Spd., Single trunk, first branch at 5'
5	Liquidambar styraciflua	Blackswal	3"-Cal., 14" Ht., 6" Spd., Single trunk, first branch at 5'
7	Fraxinus pennsylvanica	White Ash	2"-Cal., 12" Ht., 4" Spd., Single trunk, first branch at 6'
20	Bruca macrocarpa	Japanese Barwood	2"-DIA
42	Ilx cornuta	Native Dogwood	3" - 4" DIA
211	Topiary	Topiary	14" DIA, 12' Ht.

Solid Sided Concrete Berms at new zones. Repair damaged areas around parking lot perimeter with sod.

**LANDSCAPE TABULATIONS**

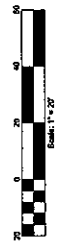
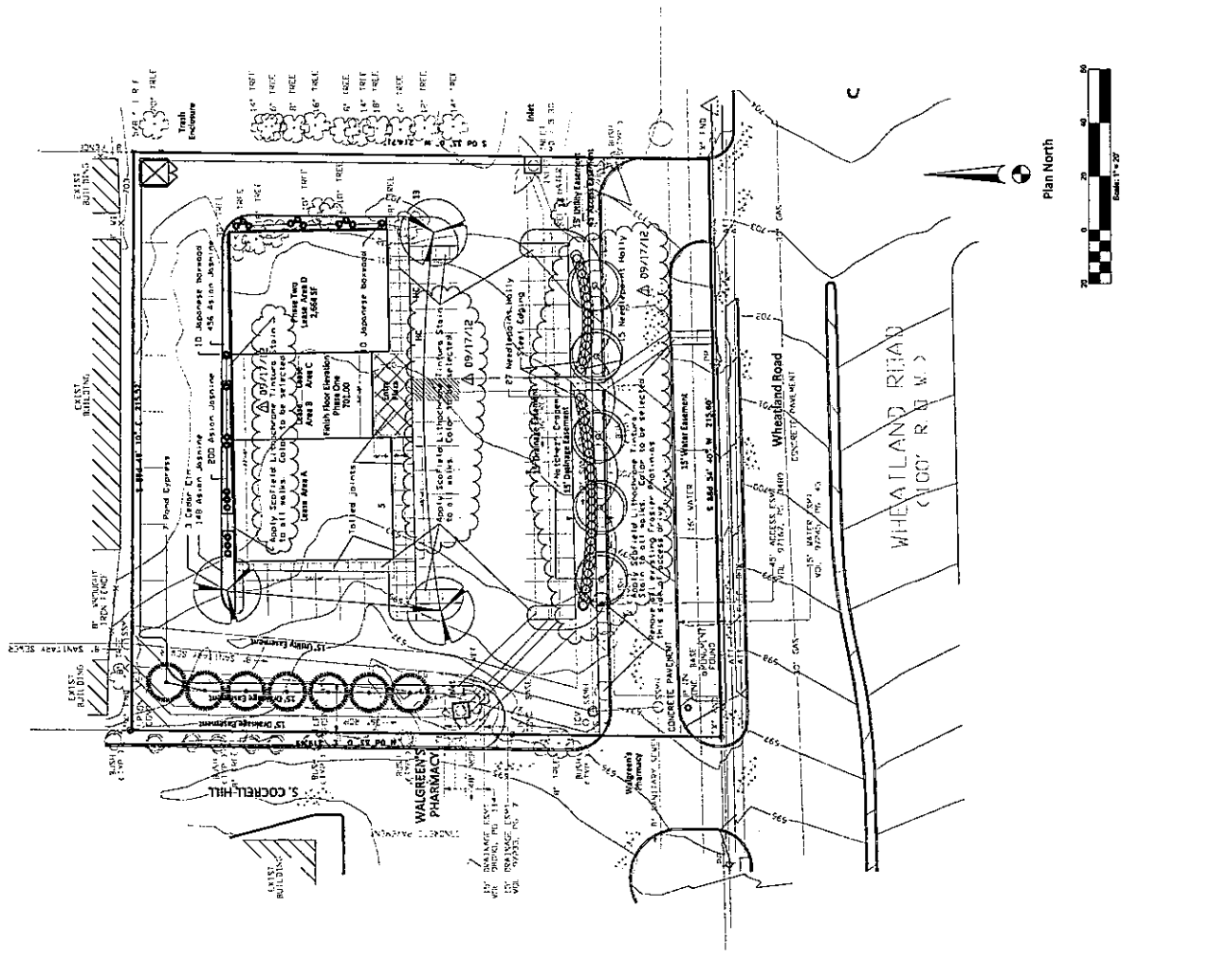
**DESIGN STANDARDS CHOSEN**

FOR THE PROJECT, THE FOLLOWING STANDARDS WILL BE USED:

SOIL: 6" OF VITAL EARTH RESOURCES LANDSCAPING ARE TO BE PLANTED INTO THE TILLED SUBSOIL. ALLOW FOR SETTLEMENT WHEN PLANTING THE CORRECT DEPTH OF LANDSCAPE ARE. INSTALL PLANTS AND ADD AGRICULTURAL FERTILIZERS TO THE SOIL. TOP DRESS ALL BEDS AFTER PLANTING WITH 3" OF SHREDED COCOM MULCH. ALLOW FOR SETTLING. FRESH GRADE OF MULCH TO BE ONE INCH ABOVE THE EDGES OF PLANT ROOT BALLS. KEEP MULCH AT LEAST 6" HIGHER ABOVE FROM PLANT STEMS/TRUNKS.

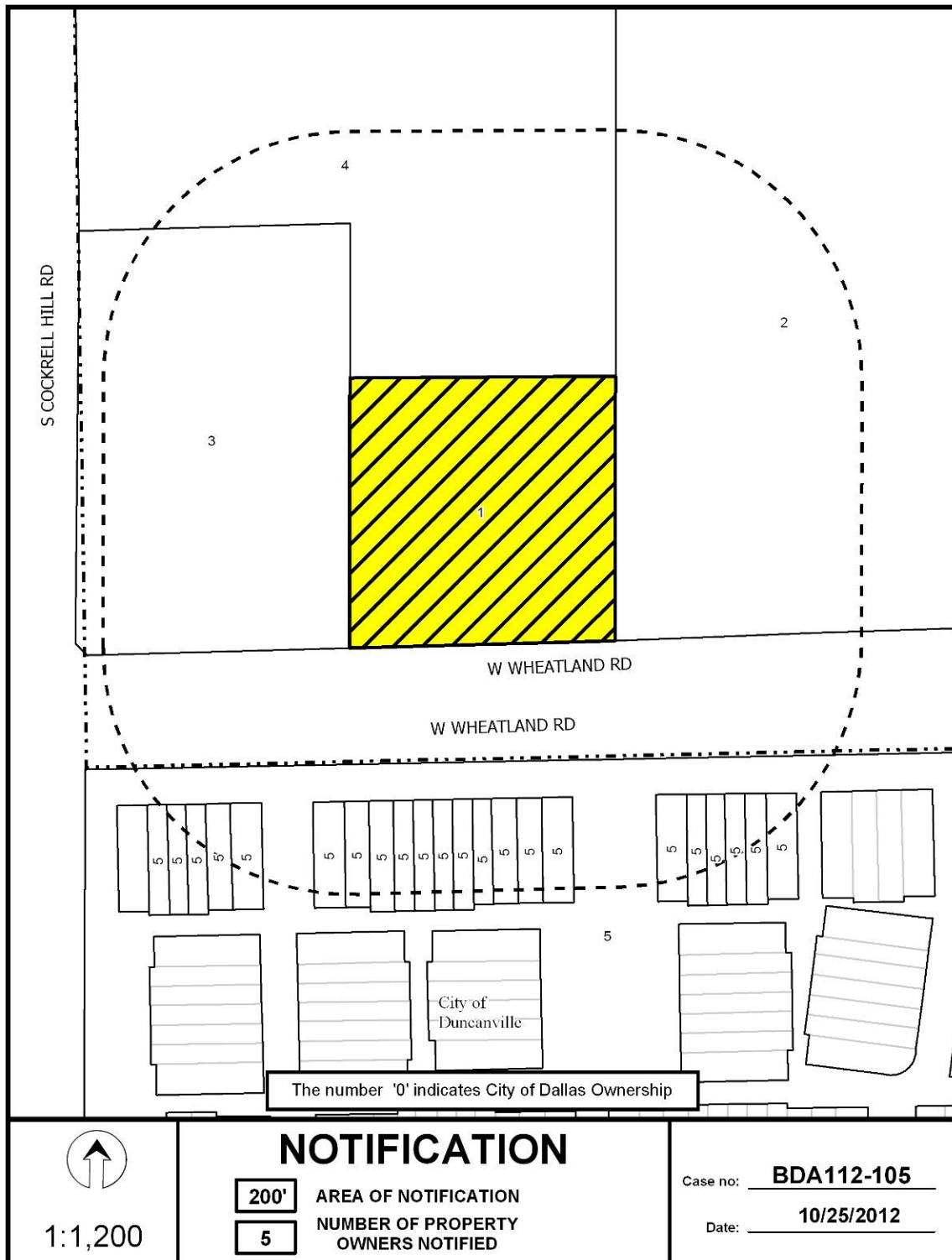
**SITE TABULATIONS**

TOTAL AREA = 6,310.85 SQ. FT.  
 TOTAL LAND = 37,608.17 SQ. FT.  
 BUILDING AREA = 6,310.85 SQ. FT.  
 PAVED AREA = 21,297.32 SQ. FT.  
 UNPAVED AREA = 4,000.00 SQ. FT.  
 PAVED TREES AND SHRUBS = 21,297.32 SQ. FT.









# ***Notification List of Property Owners***

***BDA112-105***

## ***5 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	4305 WHEATLAND RD	DAYAL PROPERTIES INC
2	7800 COCKRELL HILL RD	ASHPORT PARTNERSHIP LTD
3	8120 COCKRELL HILL RD	SURFCOMBER DUNC ASSOC LLC % S MIRMELLI
4	8110 COCKRELL HILL RD	AC SS FUND I DALLAS LLC
5	1 WEMBLEY CIR	GAINES PROPERTIES II LLC

**FILE NUMBER:** BDA 112-112

**BUILDING OFFICIAL'S REPORT:**

Application of Kim Blair for a special exception to the fence height regulations at 2860 Lacompte Drive. This property is more fully described as Lot 49 in City Block 26/6129 and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 8 foot 2 inch high fence, which will require a special exception of 4 feet 2 inches.

**LOCATION:** 2860 Lacompte Drive

**APPLICANT:** Kim Blair

**REQUEST:**

A special exception to the fence height regulations of 4' 2" is requested in conjunction with constructing and maintaining an 8' 2" high solid wood fence in the site's Belteau Lane 15' required front yard on a site 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 Lacompte Drive required front yard).

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:**

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

**Site:** 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 the subject site or in the immediate vicinity of the subject site.

**Timeline:**

September 26, 2012: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

October 10, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

October 10, 2012: The Board Administrator emailed the applicant the following information:

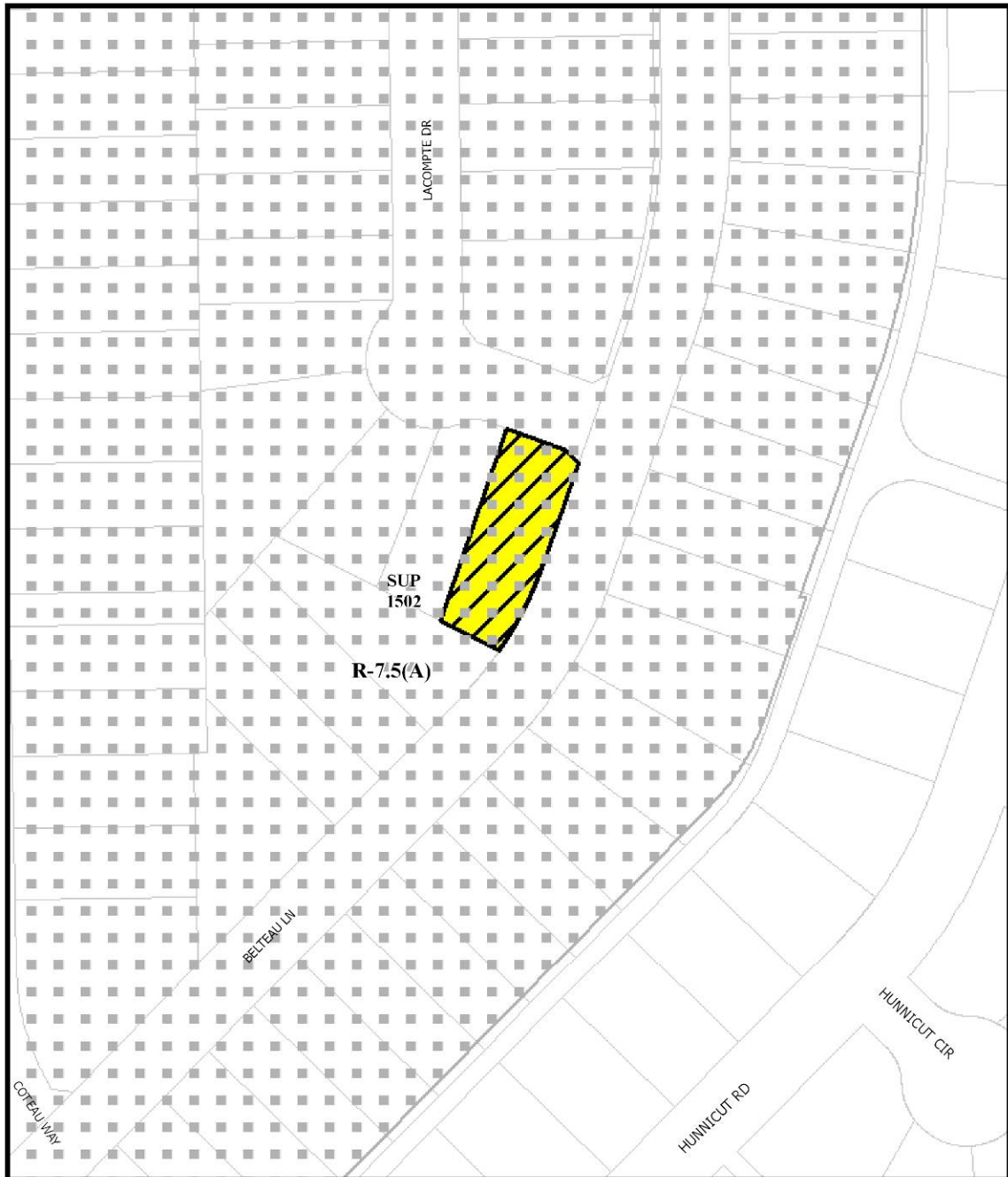
- an attachment that provided the public hearing date and panel that will consider the application; the October 24<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the November 2<sup>nd</sup> deadline to submit additional evidence to be incorporated into 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.

October 30, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November 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 Building Inspection 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 with comments were submitted in conjunction with this application.

**GENERAL FACT /STAFF ANALYSIS:**

- This request focuses on constructing and maintaining an 8' 2" high solid wood fence in the site's Belteau Lane 15' required front yard on a site developed with a single family home.
- The subject site is a corner lot zoned R-7.5(A) with two street frontages of unequal distance. The site is located at the southwest corner of Lacompte Drive and Belteau Lane. The site has a required front yard along Lacompte Drive as the shorter of the two frontages are typically deemed the front yard on a corner lot of unequal frontage distance in a single family zoning district. But the site's Belteau Lane frontage is deemed a front yard to maintain the continuity of the established front yard setbacks of the lots immediately south fronting eastward to Belteau Lane.
- Additionally, the subject site has two required setbacks created by platted building lines: a 25' required setback along Lacompte Drive and a 15' required setback along Belteau Lane.
- If it were not for the lots immediately south of the subject site that actually front onto Belteau Lane, the proposed 8' 2" high fence could be constructed/maintained by right since this frontage of the corner subject site is the longer of the subject site's two street frontages.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant had submitted a scaled site and partial elevation that shows the proposal in the Belteau Lane front yard setback reaching a maximum height of 8' 2".
- The following additional information was gleaned from the submitted site plan:
  - Approximately 80' in length parallel to Belteau Lane (and approximately 15' in length perpendicular on the north and south sides of the site in the required front yard), approximately on the Belteau Lane front property line or approximately 13' from the pavement line where three homes would have direct/indirect frontage to the proposal none of which have fences in their front yards.
- The Board Administrator conducted a field visit of the site and surrounding area and noted no other *front yard* fences higher than 4' in the immediate area. However, a number of fences higher than 4' were noted immediately north of the site – solid board fences about 8' - 9' in height that appear to be located in these property's rear yards given a platted easement line on the east sides of these properties.
- As of November 5, 2012, one petition signed by 18 neighbors/owners had been submitted to staff in support of the request or no letters had been submitted opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the proposal that would reach 8' 2" in height) will not adversely affect neighboring property.
- Granting this special exception of 4' 2" with a condition imposed that the applicant complies with the submitted site plan and partial elevation would require the proposal exceeding 4' in height in the Belteau Lane required front yard to be constructed/maintained in the location and of the heights and materials as shown on these documents.



1:1,200

# ZONING MAP

Case no: BDA112-112

Date: 10/25/2012





1:1,200

# AERIAL MAP

Case no: BDA112-112

Date: 10/25/2012





City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-112

Data Relative to Subject Property:

Date: 9-26-12

Location address: 2860 Lacombe Zoning District: R-7.5(A)

Lot No.: 49 Block No.: 26/6129 Acreage: .21 Census Tract: 122.06

Street Frontage (in Feet): 1) 51' 2) 82' 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_ 929

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): Weekly Homes LP

Applicant: Kim Blair Telephone: 972-323-7569

Mailing Address: 3301 N. I 35, Carrollton Zip Code: 75007

E-mail Address: kblair@dwhomes.com

Represented by: \_\_\_\_\_ Telephone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Affirm that an appeal has been made for a Variance \_\_\_\_\_, or Special Exception X, of 4'-2" to the fence height in front yard.

Application is made to the Board of Adjustment, in accordance with the provisions of the Dallas Development Code, to grant the described appeal for the following reason:  
This will allow for this fence to be consistent with the others in the 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 Kim Blair  
(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: Kim Blair  
(Affiant/Applicant's signature)

Subscribed and sworn to before me this 27 day of September 2012

Julie Baker  
Notary Public in and for Dallas County, Texas





# City of Dallas Zoning



**Address Candidates**

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

**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



5

BOUNDARY CURVE DATA		
CURVE	DELTA	RADIUS
C1	44°32'01"	201
C2	159°53'27"	53
C3	45°27'32"	20
C4	9°21'35"	273
C5	276°01'	228
C6	1°45'14"	173
C7	15°38'19"	273

EASEMENT CURVE DATA		
CURVE	DELTA	RADIUS
DC1	53°58'34"	56
DC2	19°52'53"	74
DC3	18°25'58"	59
DC4	53°58'34"	71

EASEMENT LINE DATA		
CURVE	BEARINGS	DISTA
DL1	N61°45'40"W	11
DL2	S84°58'47"W	3
DL3	S84°58'47"W	5
DL4	N61°45'40"W	12

- NOTES:
1. Correct a portion of this project and accepted improvement State law, on the subject of 19.
  2. No reference to the subject of the improvement shall be made in the name of the improvement.
  3. The improvement shall be subject to the provisions of the improvement.
  4. The improvement shall be subject to the provisions of the improvement.
  5. It is the responsibility of the improver to obtain all necessary permits and approvals from the appropriate authorities.
  6. The improvement shall be subject to the provisions of the improvement.
  7. It is the responsibility of the improver to obtain all necessary permits and approvals from the appropriate authorities.
  8. No 100 Year Flood Plain will be shown on this plan.
  9. No existing structures are shown on this plan.
  10. No existing easements are shown on this plan.
  11. The improvement shall be subject to the provisions of the improvement.

**LEGEND**

Prop.      Proposed

Exc.      Existing

Ex.      Existing

RF W/CAP = 1/2" = 1'

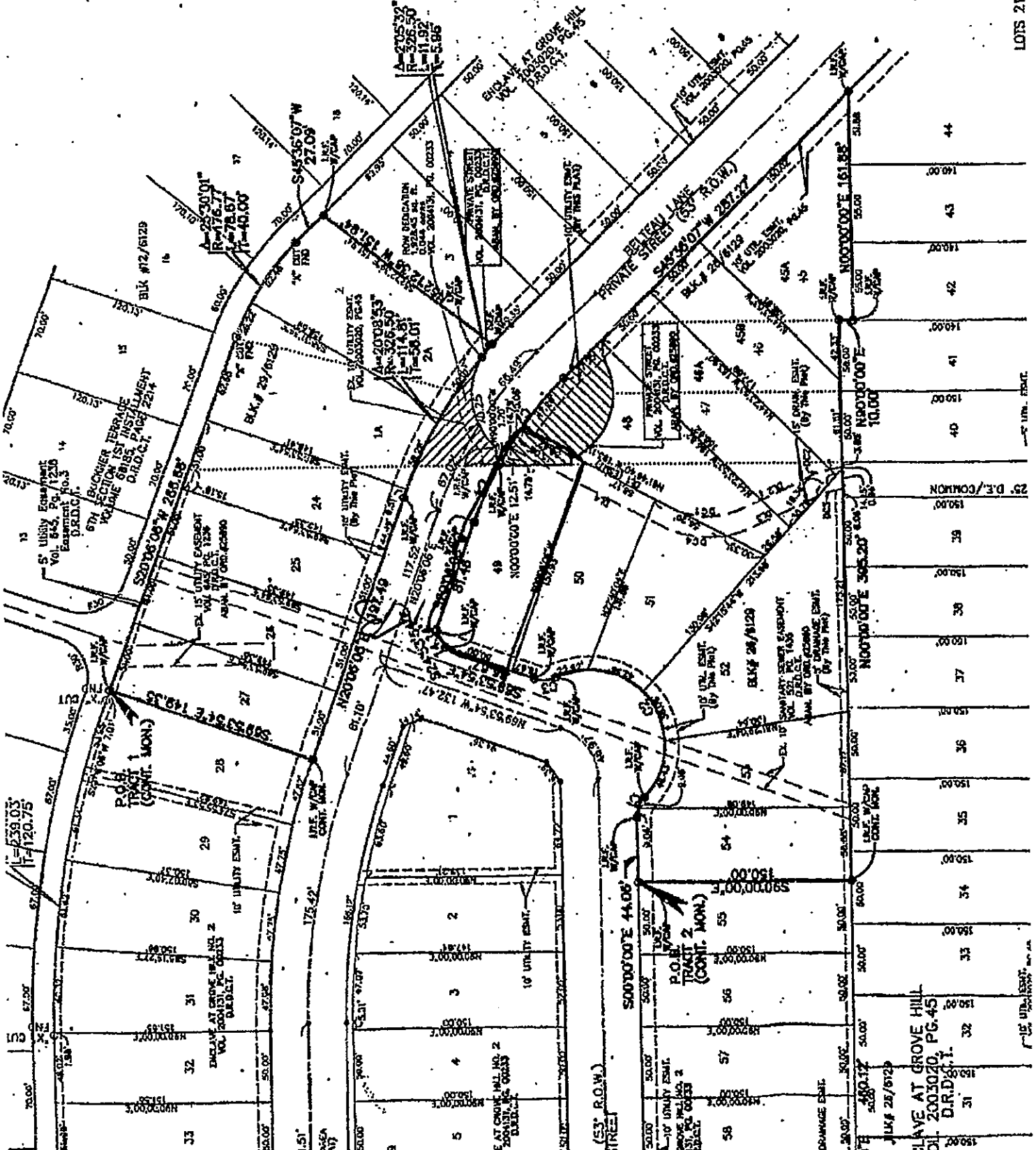
RS W/CAP = 1/2" = 1'

Control Men. = Cont. Men.

"X" CUT FNO = "X" CUT FNO

RIGHT-OF-WAY

ENCLAVE AT  
 LOTS 21A, 22A, 22B, 23A, 23B, 25



© Rodney Jones L.P. 2009  
 This drawing was prepared by Rodney Jones L.P. and is not to be used for any other project without the written consent of Rodney Jones L.P. The drawings are for informational purposes only. The drawings are not to be used for any other project without the written consent of Rodney Jones L.P. The drawings are not to be used for any other project without the written consent of Rodney Jones L.P.

David Weekly Homes  
 A/E/C/F/V  
 Date: 05/13/10  
 Scale: 1" = 20'

Lot: 49  
 Pkg: 26  
 Sublot: 2026

ENCLAVE AT GROVE HILL  
 2860 LACOMPT DRIVE  
 DALLAS, TEXAS

NORTH  
 4382-A  
 PLT PLAN  
 BEGONIA  
 DALLAS  
 ENGINEER

**APPROVED**  
 BY: SEAN LYONS  
 RJD  
 05/13/10

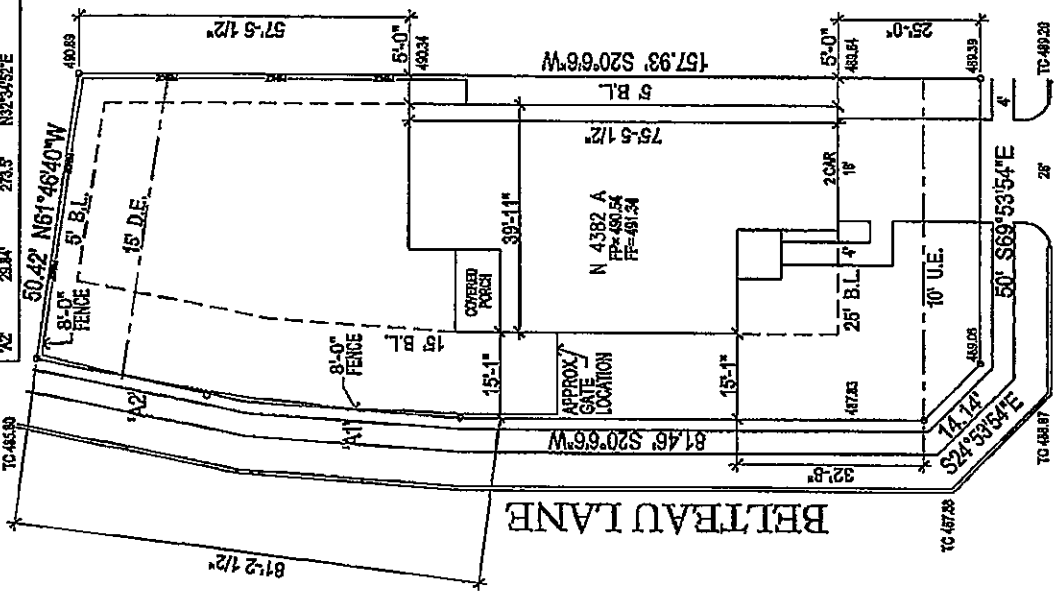
1. TO VERIFY COMPLY WITH ALL LOCAL REQUIREMENTS AND ARE IN LOCAL CONFORMITY WITH V.A. MINIMUM PROPERTY REQUIREMENTS.  
 2. APPROVED FOR PERMITS PER REQ. 09/25/12 JF  
 3. ADD EXT. OWNER'S RETREAT 06/06/12 EP  
 4. REWORKED EXT. OUTDOOR LINKS 05/31/12 JF

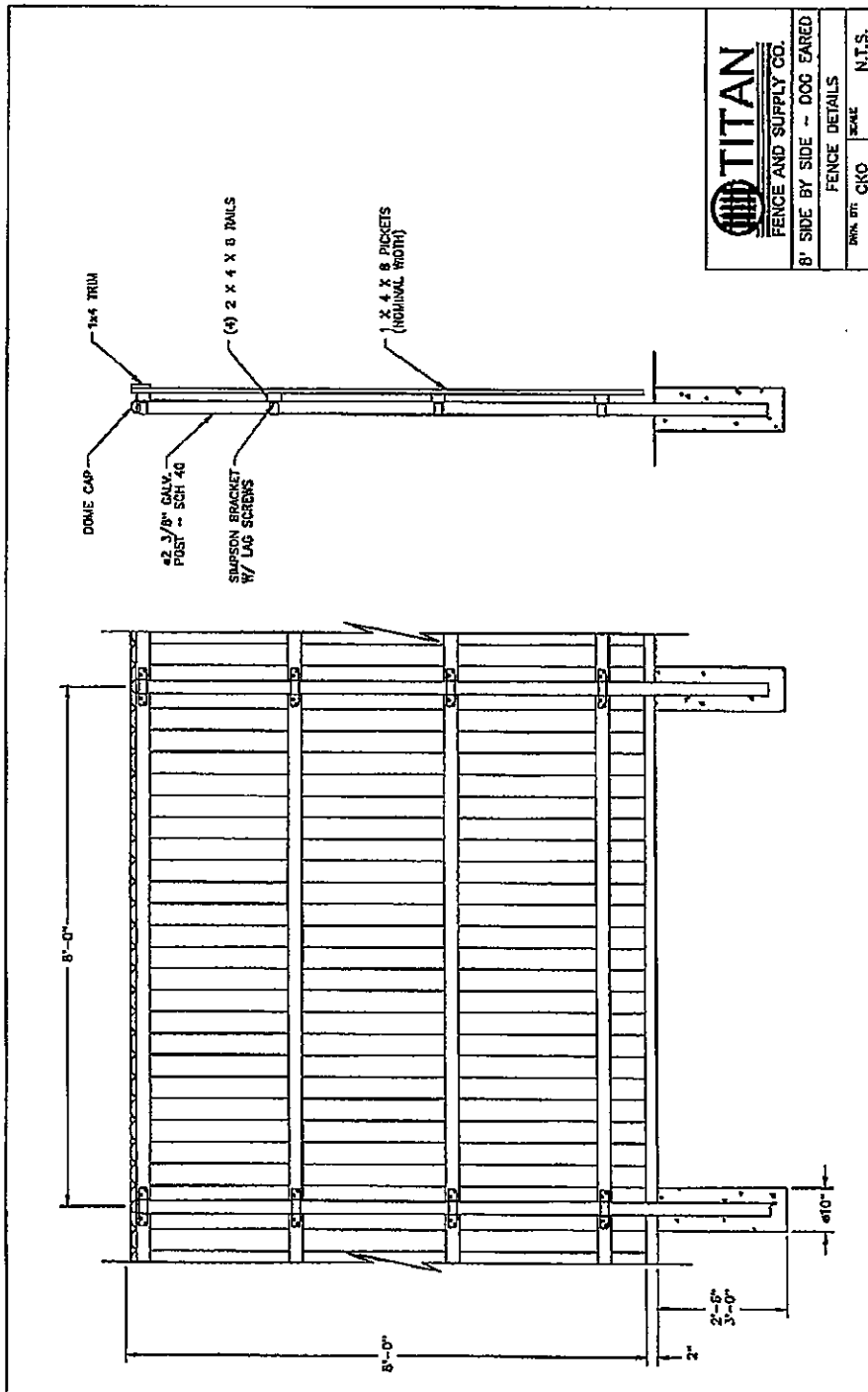
HOUSE: 2567 SQFT  
 LOT: 5125 SQFT  
 COVERED: 1435 SQFT  
 FURNISH: 2026 SQFT  
 SOUTH: 2026 SQFT  
 FENCE: 227 FT



SCALE: 1" = 20'

ARC LEN	ARC TABLE	CHRD. BRG.	CHRD. LEN.
142	273.5	N24°45'52"E	41.83
142	28.34	N32°34'52"E	28.82





THESE PLANS HAVE NOT BEEN REVIEWED FOR COMPLIANCE WITH THE CITY OF DALLAS CONSTRUCTION CODES. ALL WORK PERFORMED IN CONJUNCTION WITH THESE PLANS IS SUBJECT TO FIELD INSPECTOR'S APPROVAL.

10/2/2012

8' Fence in lieu of 4' fence at 2860 Lacompte

A Petition of David Weekley Homes

Addressed to the City of Dallas

David Weekley Homes is filing this petition regarding the issue of fencing at 2860 Lacompte Drive, Dallas, TX 75227. Current zoning requires a 4' fence on the side yard. We are requesting a variance to allow for a 8'2" side by side dog eared fence at the property of 2860 Lacompte. The issue is important because it will keep the fencing within the neighborhood consistent to what is currently seen throughout.

We, the undersigned, agree with the plan to place an 8' side by side dog eared fence and the property of 2860 Lacompte Drive, Dallas, TX 75227.

Name	Address
Denise Victor	2803 Lacompte Dr.
Gaby Hildenbrand	7104 Belteau Lane
Chandra Henson	2948 Vacherie Ln
KAY TAYLOR	2845 VACHERIE LN.
Bonnie S. Allen	2952 Vacherie Ln.
CHARLES TAYLOR	2945 VACHERIE LN
ROBIN HUNTERSON	7152 BELTEAU LN
Larry Restine	2964 VACHERIE
MARVIN GREEN	7054 Belteau Ln
Angie Sieffert	2812 Coteau way
JERRY PYLE	7108 BELTEAU
Jimmy Donahue	2817 Vacherie Ln
EVA RAY DMOCK	7041 Belteau Lane
STEVEN DYK	6934 CHUCKBRY LN
J.L. GARCA	6955 BELTEAU LN.
Kevin McDorman	7053 Belteau (neighbor)
Diane Harbin	7132 Belteau
Alexander Paez	7052 Belteau (neighbor)

8' Fence in lieu of 4' Fence at 2860 Lacompte  
A Petition of David Weekley Homes





 1:1,200	<h2>NOTIFICATION</h2> <table border="1"> <tr> <td style="padding: 2px;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="padding: 2px;">29</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	29	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <b>BDA112-112</b> Date: <b>10/25/2012</b>
200'	AREA OF NOTIFICATION					
29	NUMBER OF PROPERTY OWNERS NOTIFIED					

# ***Notification List of Property Owners***

## ***BDA112-112***

### ***29 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	2860 LACOMPTE DR	WEEKLEY HOMES LP
2	1 BELTEAU LN	ENCLAVE AT GROVE HILL HOA INC
3	1 LACOMPTE DR	ENCLAVE AT GROVE HILL HOA INC SUITE 101
4	4800 SAMUELL BLVD	ENCLAVE AT GROVE HILL HOMEOWNERS ASN
5	2905 COTEAU WAY	RICE BRANDON M
6	2909 COTEAU WAY	WYLY TERRI
7	2917 COTEAU WAY	EEFTING ANTHONY G & KATE
8	2921 COTEAU WAY	MARSH JAMES JR
9	7053 BELTEAU LN	MCDORMAN KEVIN
10	2856 LACOMPTE DR	HOOPER HARRY
11	2852 LACOMPTE DR	GILBERT DAVID B
12	2848 LACOMPTE DR	DAVEY MARIO
13	2844 LACOMPTE DR	CLOSNER BRANDON REED
14	2836 LACOMPTE DR	CARTWRIGHT AMANDA NICOLE
15	7041 BELTEAU LN	DIMOCK ELVA REY
16	7045 BELTEAU LN	MINTON JESSE ALEXANDER
17	7049 BELTEAU LN	HODGE JAMES W
18	7050 BELTEAU LN	HILL ANGELA & TRAVIS BENT
19	7042 BELTEAU LN	DALBKE STEVE
20	7038 BELTEAU LN	BARTON TRENT A & NANETTE J BARTON
21	7058 BELTEAU LN	WILLIAMS STORMEE
22	7104 BELTEAU LN	HILDENBRAND ZACARIAH L & GABRIELA A
23	7108 BELTEAU LN	PYLE GERALD R
24	7112 BELTEAU LN	TWINE DYIANN
25	7116 BELTEAU LN	BEASLEY TALESIA
26	7054 BELTEAU LN	GREEN MARVIN E
27	2839 LACOMPTE DR	BARTON LINDSAY R
28	2835 LACOMPTE DR	DAVIS JIMMIE L
29	2831 LACOMPTE DR	KIRK ROBERT GLENN & PAULINE

**FILE NUMBER:** BDA 112-114

**BUILDING OFFICIAL'S REPORT:**

Application of H. Rex Dinger for a special exception to the fence height regulations at 432 N. Acres Drive (AKA: 430 N. Acres Drive). This property is more fully described as a single family residential building site consisting of part of Lot 1.1 and part of Lot 1.2 in City Block B/6657 and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct and/or maintain a 6 foot 6 inch high fence, which will require a special exception of 2 foot 6 inches.

**LOCATION:** 432 N. Acres Drive (AKA: 430 N. Acres Drive)

**APPLICANT:** H. Rex Dinger

**REQUEST:**

A special exception to the fence height regulations of 2' 6' is requested in conjunction with maintaining what is represented on a submitted elevation as a 6' 2" high solid metal fence with 6' 6" high metal posts on a site developed with a single family home.

**STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:**

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

**STAFF RECOMMENDATION:**

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

**BACKGROUND INFORMATION:**

**Zoning:**

**Site:** 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:** City of Balch Springs  
**West:** CR & R-7.5(A) (Community Retail & Single family district 7,500 square feet)

**Land Use:**

The subject site is developed with a single family home. The areas to the north and east are developed with church use (Full Gospel Church); the area to the south is developed with single family uses; and the area to the west is developed with commercial and single family uses.

**Zoning/BDA History:**

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

**Timeline:**

September 27, 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.

October 10, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.

October 10, 2012: The Board Administrator emailed the applicant the following information:

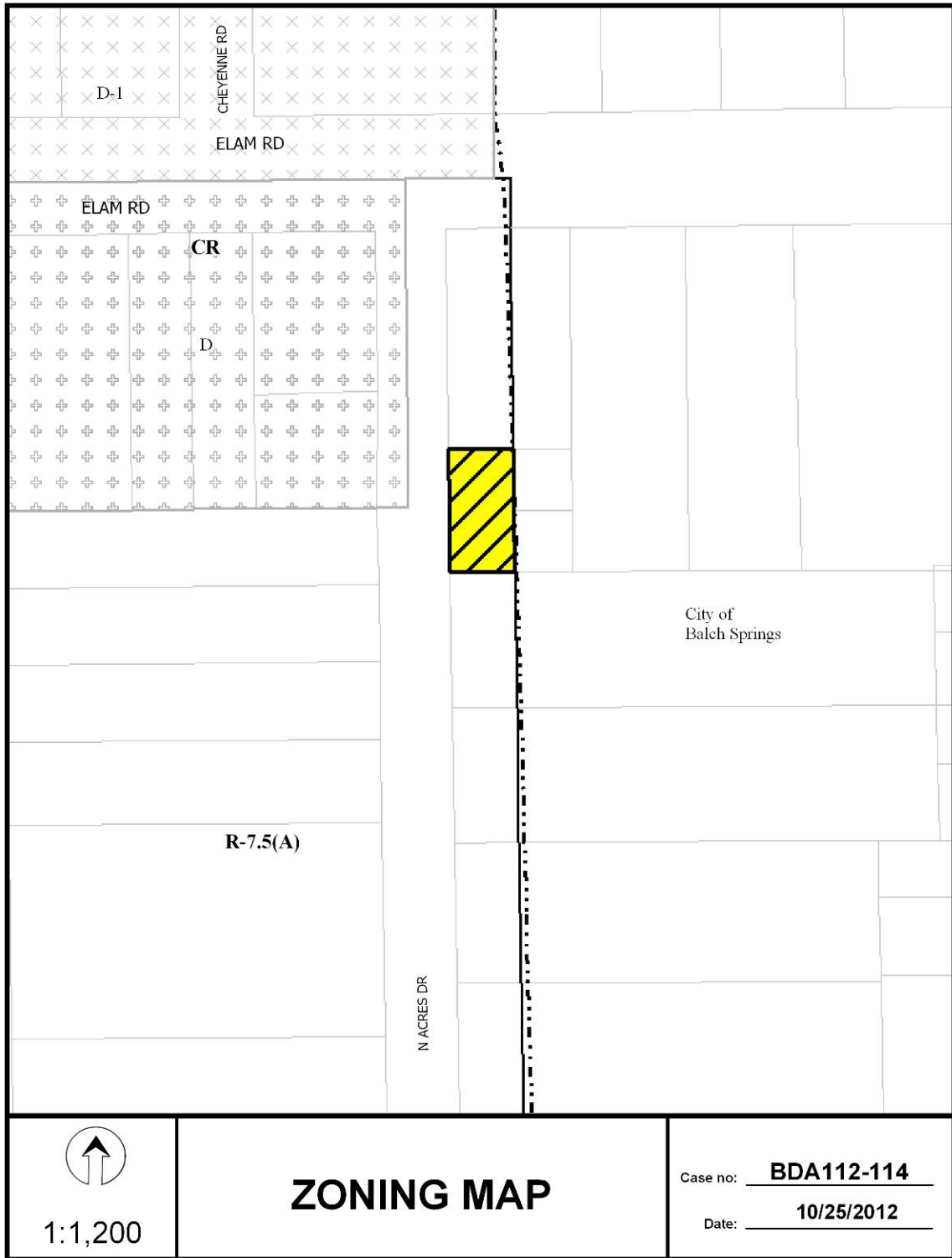
- an attachment that provided the public hearing date and panel that will consider the application; the October 24<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the November 2<sup>nd</sup> deadline to submit additional evidence to be incorporated into 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.

October 30, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November 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 Building Inspection 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.

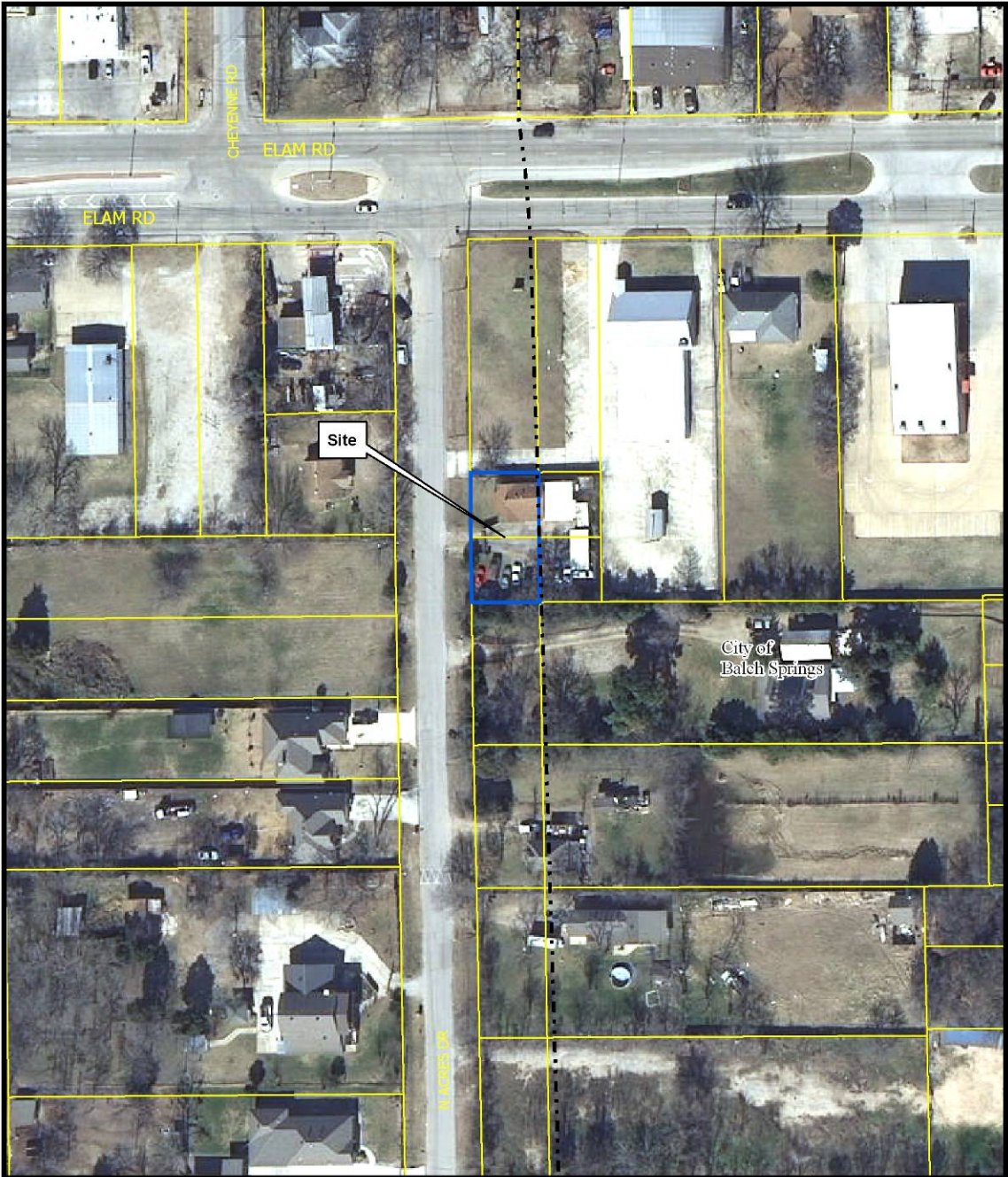
No review comment sheets with comments were submitted in conjunction with this application.

**GENERAL FACT /STAFF ANALYSIS:**

- This request focuses on maintaining 6' 2" high solid metal fence with 6' 6" high metal posts on a site developed with a single family home.
- The Dallas Development Code states that in all residential districts except multifamily districts, a fence may not exceed 4' above grade when located in the required front yard.
- The applicant had submitted a site plan/partial elevation that shows the proposal in the front yard reaching a maximum height of 6' 6".
- The following additional information was gleaned from the submitted site plan/partial elevation:
  - Approximately 80' in length parallel to N. Acres Drive (and approximately 23' in length perpendicular to the street on the south side of the site in the front yard setback), ranging from approximately 2' – 11' from the front property line and approximately 21' – 30' from the pavement line where one home has direct/indirect frontage to the proposal.
- The Board Administrator conducted a field visit of the site and surrounding area along N. Acres Drive (approximately 500' north and south of the subject site) and noted two other fences above 4 feet high (approximately 6' high board fences) immediately north and northwest of the subject site. Although a number of other fences were noted on N. Acres Drive south of the subject site, these fences appeared to be approximately 4' in height.
- As of November 5, 2012, no letters had been submitted in support or in opposition to the request.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the existing fence that reaches 6' 6" in height) does not adversely affect neighboring property.
- Granting this special exception of 2' 6" with a condition imposed that the applicant complies with the submitted site plan/elevation would require the proposal exceeding 4' in height to be maintained in the location and of the heights and materials as shown on this document.







1:1,200

# AERIAL MAP

Case no: BDA112-114

Date: 10/25/2012



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-114

Data Relative to Subject Property:

Date: 9-27-12

Location address: 432 N. ACRES DALLAS TX 75217 Zoning District: R-7.5(A)

Lot No.: 1-2 Block No.: B/6657 Acreage: .23 Census Tract: 117.02

Street Frontage (in Feet): 1) 100' 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_ 5810

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): H. REX DINGER

Applicant: H. REX DINGER Telephone: 972-270-5820

Mailing Address: 814 PLACID DR MESQUITE TX Zip Code: 75150

E-mail Address: glenda.rex@yahoo.com

Represented by: \_\_\_\_\_ Telephone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Zip Code: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Affirm that an appeal has been made for a Variance \_\_, or Special Exception 1, of Two foot six inches  
ALLOWANCE OF EXISTING FENCE HEIGHT IN FRONT YARD

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

IT IS MY OPINION THAT THIS WILL NOT ADVERSELY AFFECT THE NEIGHBORS

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.

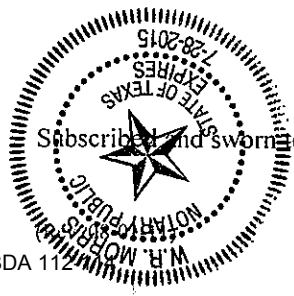
Affidavit

Before me the undersigned on this day personally appeared H. REX DINGER  
(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 27 day of SEPT., 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 H. Rex Dinger  
did submit a request for a special exception to the fence height regulations  
at 432 N. Acres Drive (AKA: 430 N. Acres Drive)

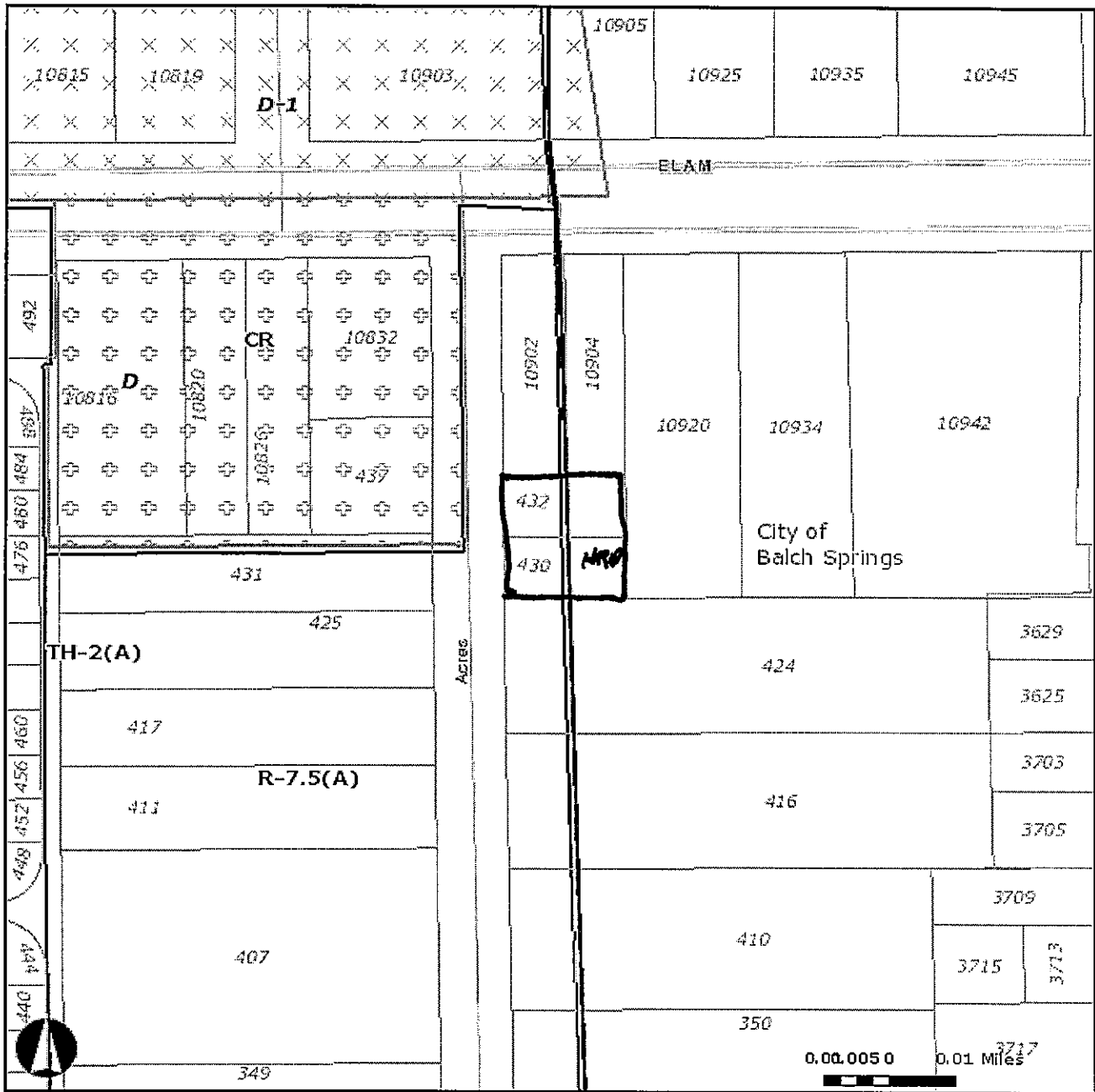
BDA112-114. Application of H. Rex Dinger for a special exception to the fence height regulations at 432 N. Acres Drive (AKA: 430 N. Acres Drive). This property is more fully described as a single family residential building site consisting of part of lot 1.1 and part of lot 1.2 in city block B/6657 and is zoned R-7.5(A), which limits the height of a fence in the front yard to 4 feet. The applicant proposes to construct an 6-foot 6 inch high fence in a required front yard, which will require a 2 foot 6 inch special exception to the fence regulation.

Sincerely,

  
Lloyd Denman, Building Official



# City of Dallas Zoning



**City Boundaries**

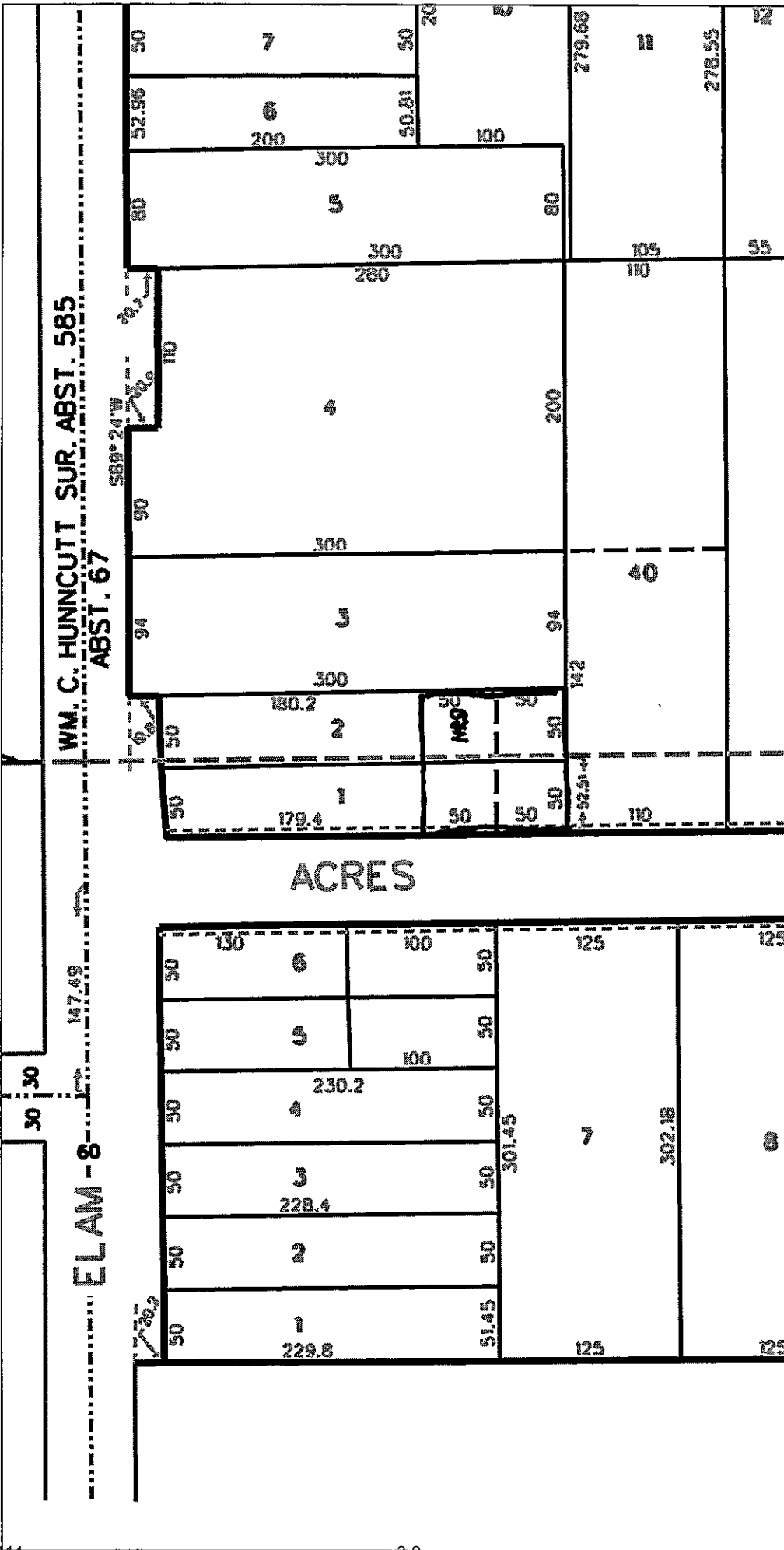
- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

**Dry Overlay**

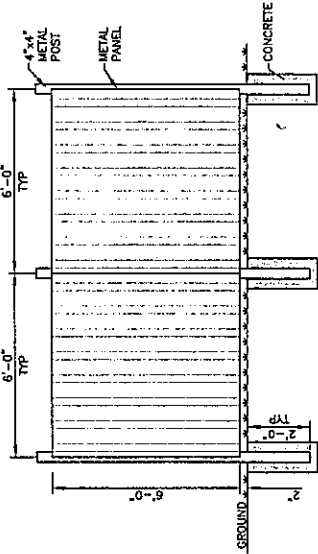
- Dry Overlay
- D
- D-1
- Historic Overlay
- Historic Subdistricts
- NSO Overlay
- NSO Subdistricts
- MD Overlay

**Base Zoning**

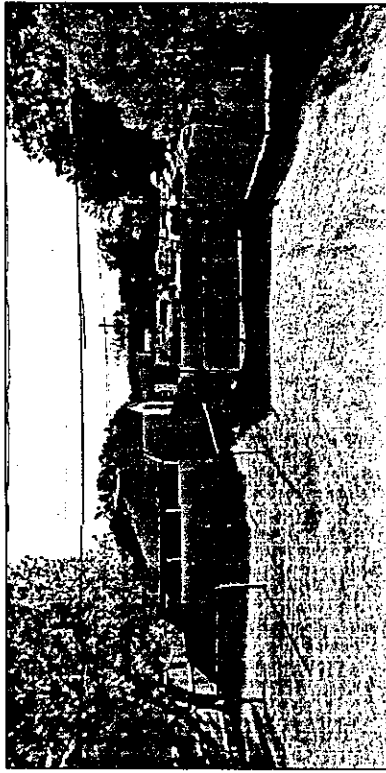
- Base Zoning
- Floodplain
- 100 Flood Zone
- Mill's Creek
- Peak's Branch
- X PROTECTED BY LEVEE
- Pedestrian Overlay
- CP
- SP
- Environmental Corridors



PLEASANT MEADOWS	ELAM	ELAM	WOOD CAK
CHEYENNE	N. ACRES		SITE
VICINITY MAP NTS			
NORTH			



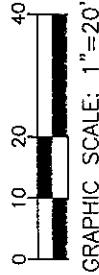
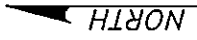
EXISTING FENCE ELEVATION  
SCALE: 1"=4'0"



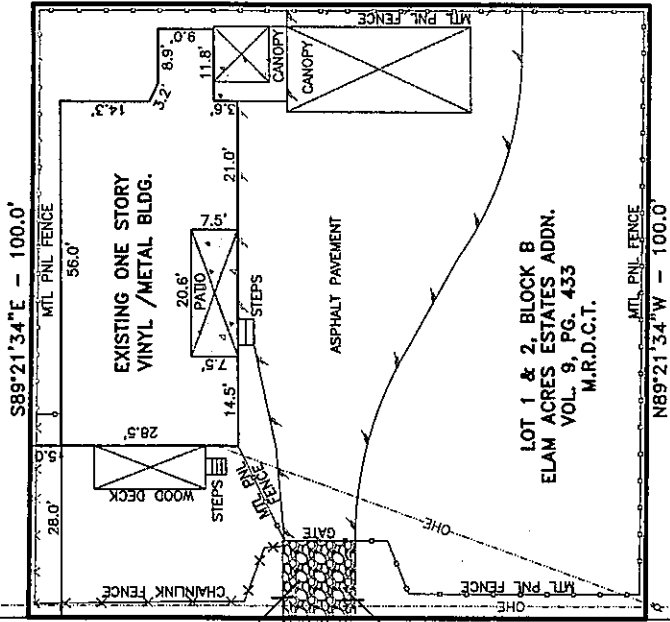
LOT 3, BLOCK B  
ELAM ACRES ESTATES ADDN.  
VOL. 9, PG. 433  
M.R.D.C.T.

**Barragan**  
Group, L.L.C.  
TECHNICAL & MANAGEMENT SUPPORT  
P. (469) 231-1953  
JORGE A. BARRAGAN - jabbarragan@barragan.com

<b>SITE PLAN</b>	
432 N. ACRES DRIVE	
LOT 1 & 2, BLOCK B	
CITY OF DALLAS, TEXAS	
DESIGN: BARRAGAN	DRAWN: BARRAGAN
FILE: 1211	SCALE: 1"=20'
DATE: 09.19.12	1 OF 1



FRONTIER REVIVAL CENTER  
VOL. 85154, PG. 3729  
D.R.D.C.T.

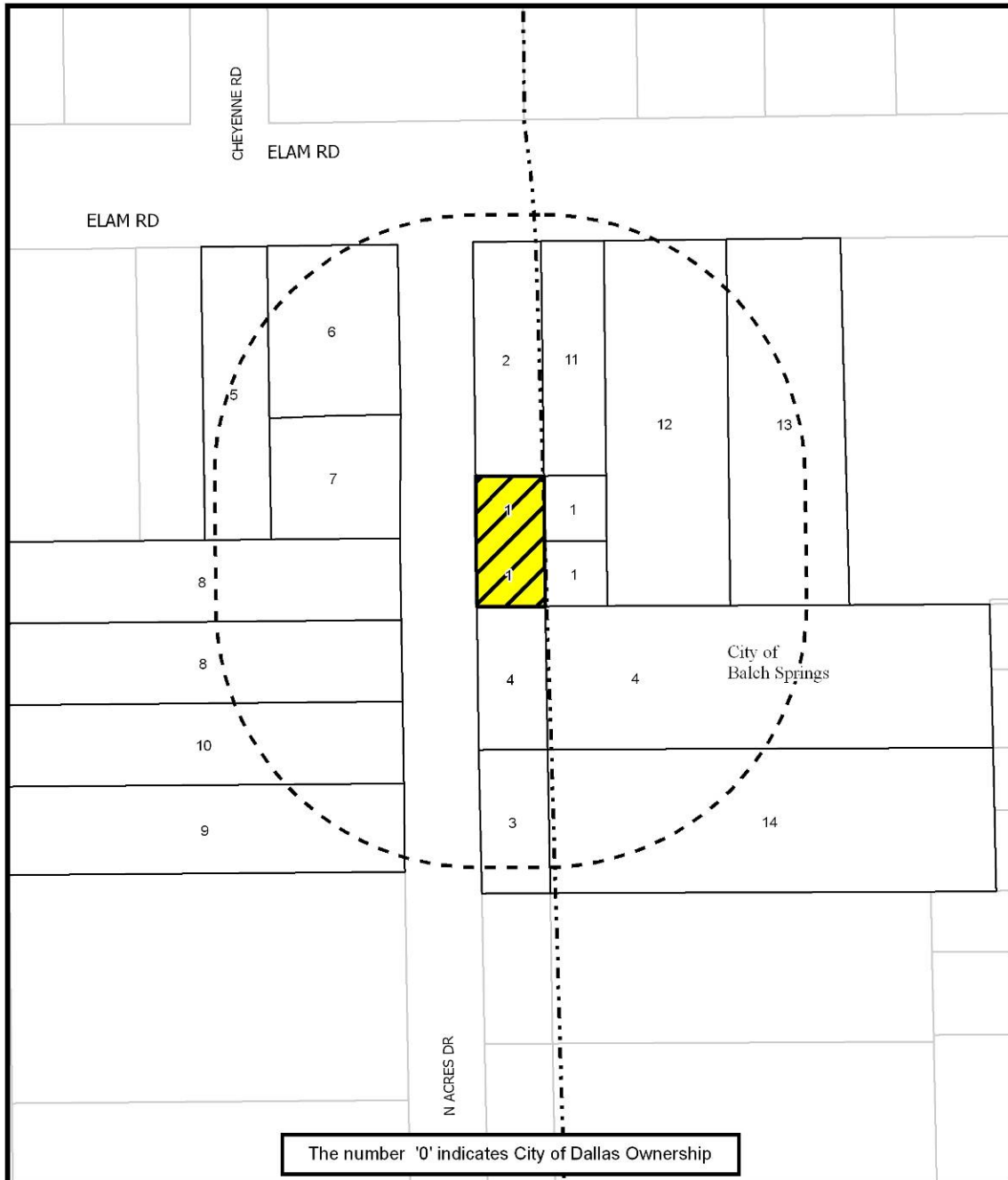


LOT 1 & 2, BLOCK B  
ELAM ACRES ESTATES ADDN.  
VOL. 9, PG. 433  
M.R.D.C.T.

LOT 40, BLOCK B/6657  
ELAM ACRES ESTATES ADDN.  
VOL. 9, PG. 433  
M.R.D.C.T.

N. ACRES DRIVE  
(60' RIGHT-OF-WAY)  
ASPHALT PAVEMENT

BARRAGAN GROUP, L.L.C. 2012 - THESE DRAWINGS AND SPECIFICATIONS ARE INSTRUMENTS OF SERVICE AND SHALL REMAIN THE PROPERTY OF BARRAGAN GROUP, L.L.C. THE USE OF THESE INSTRUMENTS FOR OTHER PROJECTS OR EXTENSIONS TO THIS PROJECT WITHOUT WRITTEN CONSENT OF BARRAGAN GROUP, L.L.C. IS PROHIBITED AND GROUNDS FOR LEGAL ACTION.



 1:1,200	<b>NOTIFICATION</b>	Case no: <b>BDA112-114</b>			
	<table border="1"> <tr> <td style="text-align: center;"><b>200'</b></td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;"><b>14</b></td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	<b>200'</b>	AREA OF NOTIFICATION	<b>14</b>	NUMBER OF PROPERTY OWNERS NOTIFIED
<b>200'</b>	AREA OF NOTIFICATION				
<b>14</b>	NUMBER OF PROPERTY OWNERS NOTIFIED				

# ***Notification List of Property Owners***

## ***BDA112-114***

### ***14 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	432 ACRES DR	DINGER H REX
2	10902 ELAM RD	FRONTIER REVIVAL CENTER C/O A OAKLEY
3	416 ACRES DR	RAMIREZ AMBROSIA
4	424 ACRES DR	JOHNSON RALPH J
5	10826 ELAM RD	MCCURRY RONNIE & LEOTA
6	10832 ELAM RD	MCMURRY RONALD & LOETA
7	437 ACRES DR	LUJANO ADAN & MARGARITA
8	431 ACRES DR	MARTINEZ ENRIQUE
9	411 ACRES DR	GUTIERREZ LEOPOLDO
10	417 ACRES DR	PEREZ ARMANDO
11	10904 ELAM RD	FRONTIER REVIVAL CENTER %A OAKLEY
12	10920 ELAM RD	FRONTIER REV CTR INC
13	10934 ELAM RD	LOZANO NICASIO
14	416 ACRES DR	FELL DAISY L

**FILE NUMBER:** BDA 112-119

**BUILDING OFFICIAL'S REPORT:**

Application of Rob Baldwin for a variance to the side yard setback regulations at 3130 Kingbridge Street. This property is more fully described as Lot 1 in City Block BB/7135 and is zoned PD-508 (Tract 4), which requires a 50 foot side yard setback. The applicant proposes to construct a structure and provide a 38 foot side yard setback, which will require a variance of 12 feet.

**LOCATION:** 3130 Kingbridge Street

**APPLICANT:** Rob Baldwin

**REQUEST:**

A variance to the side yard setback regulations of 12' is requested in conjunction with constructing and maintaining a one-story, approximately 77,000 square foot assisted living facility use on an undeveloped lot, part of which would be located in the site's 50' side yard setback on the north side of the property.

**STANDARD FOR A VARIANCE:**

The Dallas Development Code Section 51A-3.102(d)(10) 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 compliance with the submitted site plan

Rationale:

- The lot's irregular shape and restrictive area preclude its development in a manner commensurate with other developments found on similarly-zoned PD 508 lots. The usually large 50' side yard setbacks required in this Planned Development district on this property create hardship on this narrow lot. The applicant has stated that the two 50 foot side yard setbacks account for over 33 percent of its width when most combined side yard setbacks on a typical lot in residential zoning districts account for about 10 percent of the total lot width.
- Granting this variance does appear to be contrary to public interest in that the property immediately north of the subject site where the side yard setback variance is requested is the same owner as that of the subject site: Dallas Housing Authority.

**BACKGROUND INFORMATION:**

**Zoning:**

Site: PD 508 Tract 4 (Planned Development)  
North: PD 508 Tract 4 (Planned Development)  
South: PD 508 Tract 13 & 14 (Planned Development)  
East: PD 508 Tract 9 (Planned Development)  
West: PD 508 Tract 14 (Planned Development)

**Land Use:**

The subject site is undeveloped. The areas to the north and east appear to be developed with residential uses; and the areas to the south and west appear to be undeveloped.

**Zoning/BDA History:**

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

**Timeline:**

- October 10, 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.
- October 16, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- October 17, 2012: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the October 24<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis;



and the November 2<sup>nd</sup> 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.

October 24 & 31, 2012:

The applicant forwarded additional information beyond what was submitted with the original application (see Attachments A and B).

October 30, 2012:

The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November 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 Building Inspection 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.

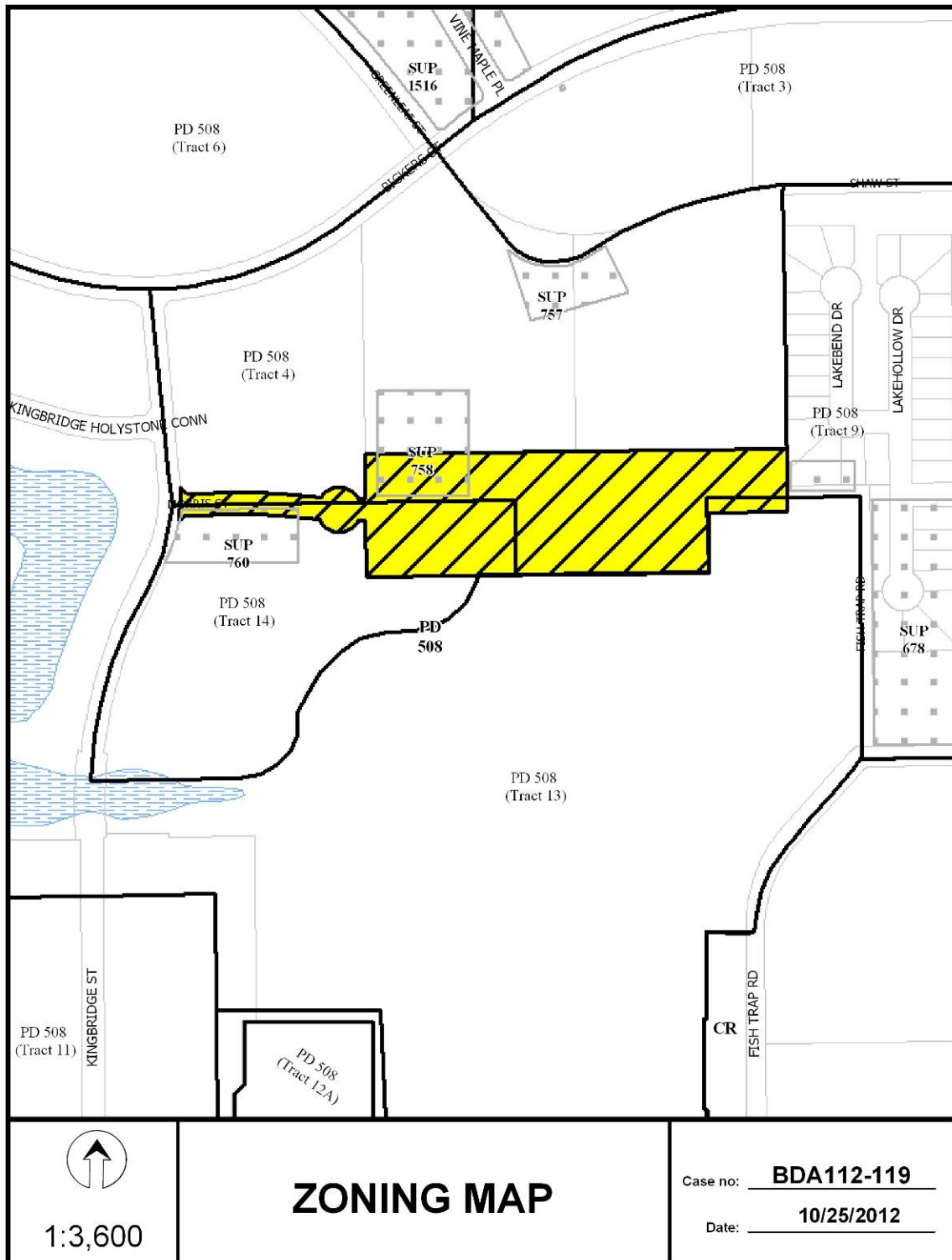
No review comment sheets with comments were submitted in conjunction with this application.

### **GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on constructing and maintaining a one-story, approximately 77,000 square foot assisted living facility use on an undeveloped lot, part of which would be located in the site's 50' side yard setback on the north side of the property.
- A 50' side yard setback is required for properties zoned PD 508 Tract 4.
- A site plan has been submitted showing that a portion of the structure/building footprint is located 12' into the 50' side yard setback.
- The site is flat, slightly irregular in shape, and according to the application, is 6.391 acres in area. The site is zoned PD 508 Tract 4.
- According to DCAD records, there are "no improvements" for the property at 3130 Kingbridge Street.
- 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 to side yard setback regulations 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 PD 508 zoning classification.
  - The variance to side yard setback regulations 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 DP 508 zoning classification.

- If the Board were to grant the front yard variance request, imposing a condition whereby the applicant must comply with the submitted site plan, the structure in the side yard setback would be limited to what is shown on the submitted plan – a structure that could be located 38' from the site's northern side property line or 12' into the 50' side yard setback.





1:3,600

# AERIAL MAP

Case no: BDA112-119

Date: 10/25/2012

October 24, 2012

Mr. Steve Long  
Board of Adjustment Administrator  
City of Dallas  
1500 Marilla  
Dallas, Texas 75201

Re: BDA 112-119  
3130 Kingsbridge Street

Dear Mr. Long:

This firm represents the Dallas Housing Authority (DHA) in their request for a variance to a 50-foot side yard setback on their property located at 3130 Kingsbridge Street in West Dallas. This project is the third piece in a campus project for elderly residents DHA has sponsored in this area. The first two pieces were a multi-story senior apartment project and a nursing home. This project is a single-story memory care facility.

The need for this variance took everyone by surprise. We have recently completed a rezoning for this property to specifically allow this project. As part of the rezoning, we had a Detailed Development Plan approved showing the exact layout that has been submitted as part of this application. When we went to obtain a building permit for the project, it was noted that the zoning regulations requires a 50-foot side yard setback on the property. This took us all by surprise as the version of the ordinance we were working from showed a 10-foot setback. It seems that there were two different versions of the base ordinance going around. The one that showed a 10-foot setback and one that showed the 50-foot setback. Unfortunately, the one that showed the 10-foot setback what used in the rezoning of the property and it was not correct. We now have an approved Detailed Development Plan that we are required to build to, but it does not meet the side yard setback requirements. That is why we are seeking this variance.

The design on the building shows a 38-foot side yard setback on the north side of the property. Therefore, we are requesting variance of 12-feet. The property is a long narrow tract that sits back from all public streets. The requirement for a 50-foot side yard is excessive and no one at the city can explain why it is required or how it happened. That being said, the imposition of the excessive side yard requirement puts a burden on the property that is not shared by other properties in the area in that this is a long and narrow site, which is different from all other properties in the area. With this setback in

112-119  
Attach A  
Pg 2

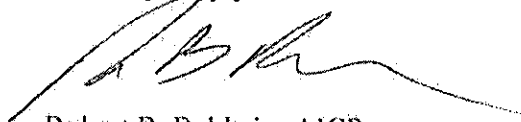
place, over 1/3 of the property is encumbered by the side yard setback. This is not normal for properties in Dallas to have such an extensive side yard setback.

The design of the building is such that its use and the patients that will be housed in the building establish much of the layout of the building. The Federal Government is funding this project and also establishes the room size, corridor size and the open space requirements. Given that this is a facility for people with memory issues, all open areas must be secured and located within the courtyards. The patients cannot venture outside of the secured area. Therefore, we cannot change the building size or orientation as it has already been approved.

It needs to be noted that DHA owns all of the property that is affected by this request. They are supportive of the request and would like to see this part of their senior living campus completed. We are still providing a 38-foot side yard setback, which is in excess of what you would normally find for a single story building.

Thank you for your assistance with this matter. If you have any questions or need any additional information, please do not hesitate to call me.

Very truly yours,



Robert B. Baldwin, AICP



BDA 112-119  
Attachment B  
PS 1

**Baldwin**  
**Associates**

October 31, 2012

Mr. Steve Long  
Board of Adjustment Administrator  
City of Dallas  
1500 Marilla  
Dallas, Texas 75201

Re: BDA 112-119  
3130 Kingsbridge Street

Dear Steve:

As you are aware, we represent the Dallas Housing Authority (DHA) in their request for a variance to a required 50-foot side yard setback on their property located at 3130 Kingsbridge Street in West Dallas. The property is intended to be as a single-story memory care facility for elderly DHA clients. The property has a requirement of 50 feet and we are providing a 38-foot side yard setback, so we are requesting side yard variance of 12 feet along the north property line.

The property is a long narrow tract that is not immediately adjacent to any public street. All of the property surrounding the property is owned and operated by the Dallas Housing Authority. The property is approximately 1,100 feet long and 300 feet wide. The zoning on the property requires a 50-foot front, side and rear yard setback. The 50-foot front and rear yard setback requirement is not onerous in this case since the lot is 1,100 feet long. The combined front and rear yard setback represents only 9% of the total length of the lot. On the other hand, the side yard setbacks would account for over 33% of width of the lot. This is not normal in Dallas and represents a hardship in that this property is required to provide a much larger area to the side yard setbacks than any other zoning district in Dallas. In single-family residential districts of Dallas, it is common to find the combined side yard setbacks to account for about 10% of the total lot with. In multifamily districts, the combined side yard setbacks normally account for less than five percent of the lot area. In fact, the most restrictive side yard setbacks found in the Dallas Development Code is 30-feet and this is when an industrial use is adjacent to a residential use. In this case, we are putting a One (1) story assisted living facility next to a three (3) story multi-family project.

The shape of this lot is not consistent with the established lot pattern in the area. The development sites in the immediate vicinity all tend to have shapes that are traditional for development. The lot that is subject to this request is long and narrow,

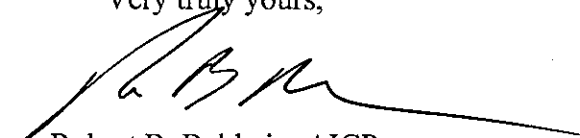
which is dictated by its location between the existing multi-family development to the north and Fish Trap Lake to the south. This is an infill property that has had its shape dictated by previous development and environmental features. The shape of the lot cannot be changed to account for the onerous side yard setback requirements.

The design of the building is such that its use and the patients that will be housed in the building establish much of the layout of the building. The Federal Government is funding this project and also establishes the room size, corridor size and the open space requirements. Given that this is a facility for people with memory issues, all open areas must be secured and located within the courtyards. The patients cannot venture outside of the secured area. Therefore, we cannot change the building size or orientation as it has already been approved.

It needs to be noted that DHA owns all of the property that is affected by this request. They are supportive of the request and would like to see this part of their senior living campus completed. We are still providing a 38-foot side yard setback, which is in excess of what you would normally find for a single story residential building adjacent to another residential building.

Thank you for your assistance with this matter. If you have any questions or need any additional information, please do not hesitate to call me.

Very truly yours,



Robert B. Baldwin, AICP





City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: 112-119

Date: 10-12-12

Data Relative to Subject Property:

Location address: 3130 Kingbridge St. Zoning District: PD-508(Tract 4)

Lot No.: 1 Block No.: BB/7135 Acreage: 6.391 acres Census Tract: 205,00

Frontage (in Feet): 1) 83 ft 2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_ 5) \_\_\_\_\_ *SW-19*

To the Honorable Board of Adjustment :

Owner of Property/or Principal: Dallas Housing Authority

Applicant: Robert Baldwin Telephone: 214.824.7949

Mailing Address: 3904 Elm Street – Suite B, Dallas, TX Zip Code: 75226

Represented By: Robert Baldwin Telephone: 214.824.7949

Mailing Address: 3904 Elm Street – Suite B Zip Code: 75226

Affirm that a request has been made for a Variance X, or Special Exception \_\_\_\_\_, of the side yard setback requirement of 12 feet

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 applicant is seeking permission to construct an assisted living facility with a 38 foot setback rather than the required 50 foot side yard setback on the north side of the property.

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: Robert Baldwin  
Applicant's name printed

*[Signature]*  
Applicant's signature

Affidavit

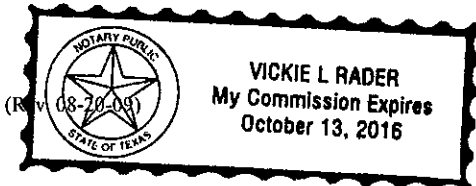
Before me the undersigned on this day personally appeared Rob Baldwin who on (his/her) oath certifies that the above statements are true and correct to his/her best knowledge and that he/she is the owner/or principal/or authorized representative of the subject property.

*[Signature]*

Affiant (Applicant's signature)

Subscribed and sworn to before me this 10<sup>th</sup> day of October, 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

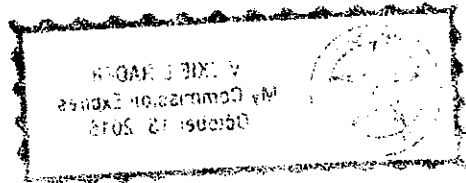
I hereby certify that ROB BALDWIN

did submit a request for a variance to the side yard setback regulations  
at 3130 Kingbridge Street

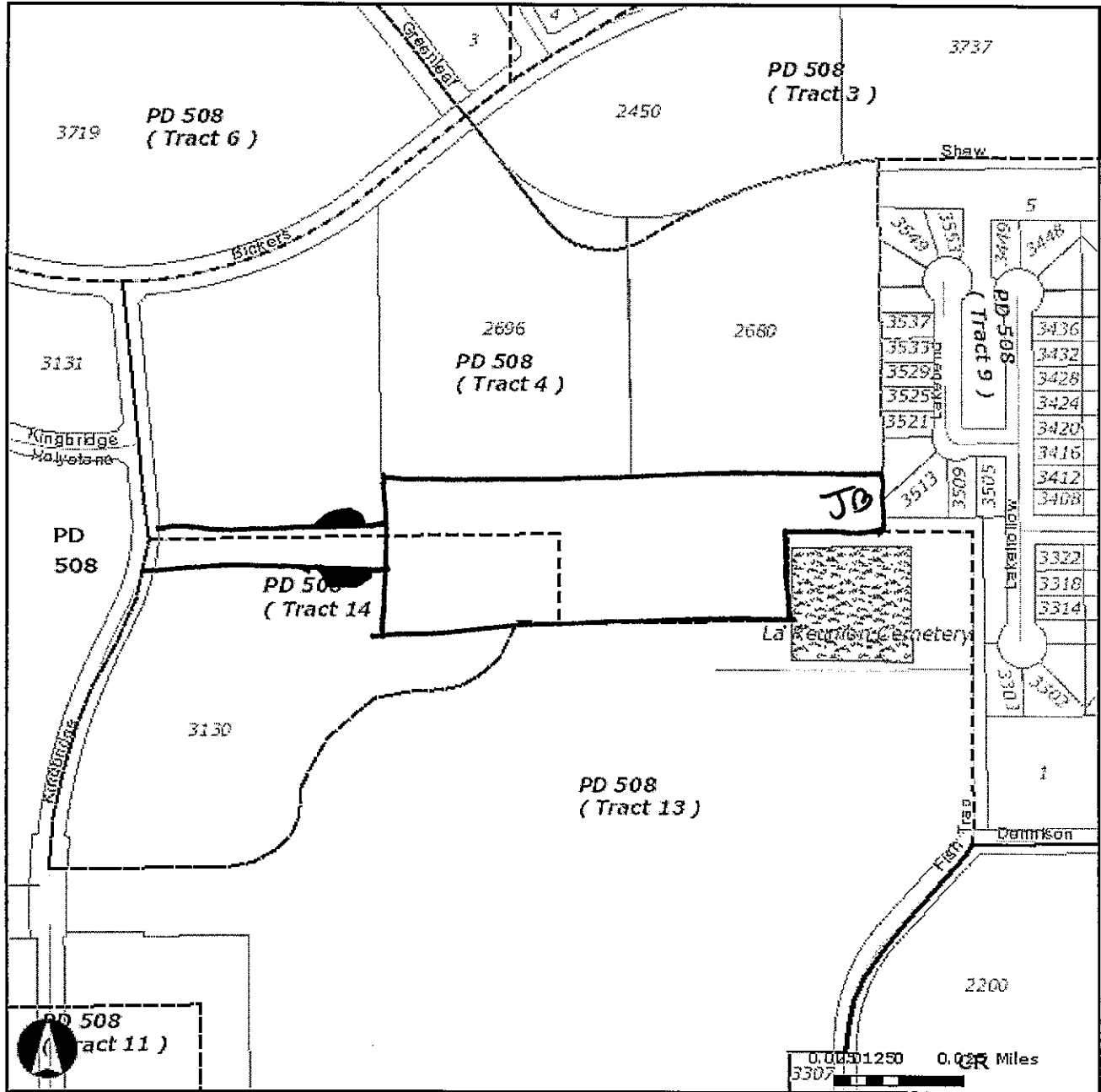
BDA112-119. Application of Rob Baldwin for a variance to the side yard setback regulations at 3130 Kingbridge Street. This property is more fully described as lot 1 in city block BB/7135 and is zoned PD-508 (Tract 4), which requires a 50 foot side yard setback. The applicant proposes to construct a residential structure and provide a 38 foot side yard setback, which will require a 12 foot variance to the side yard setback regulation.

Sincerely,

  
Lloyd Denman, Building Official



# City of Dallas Zoning



**Address Candidates**

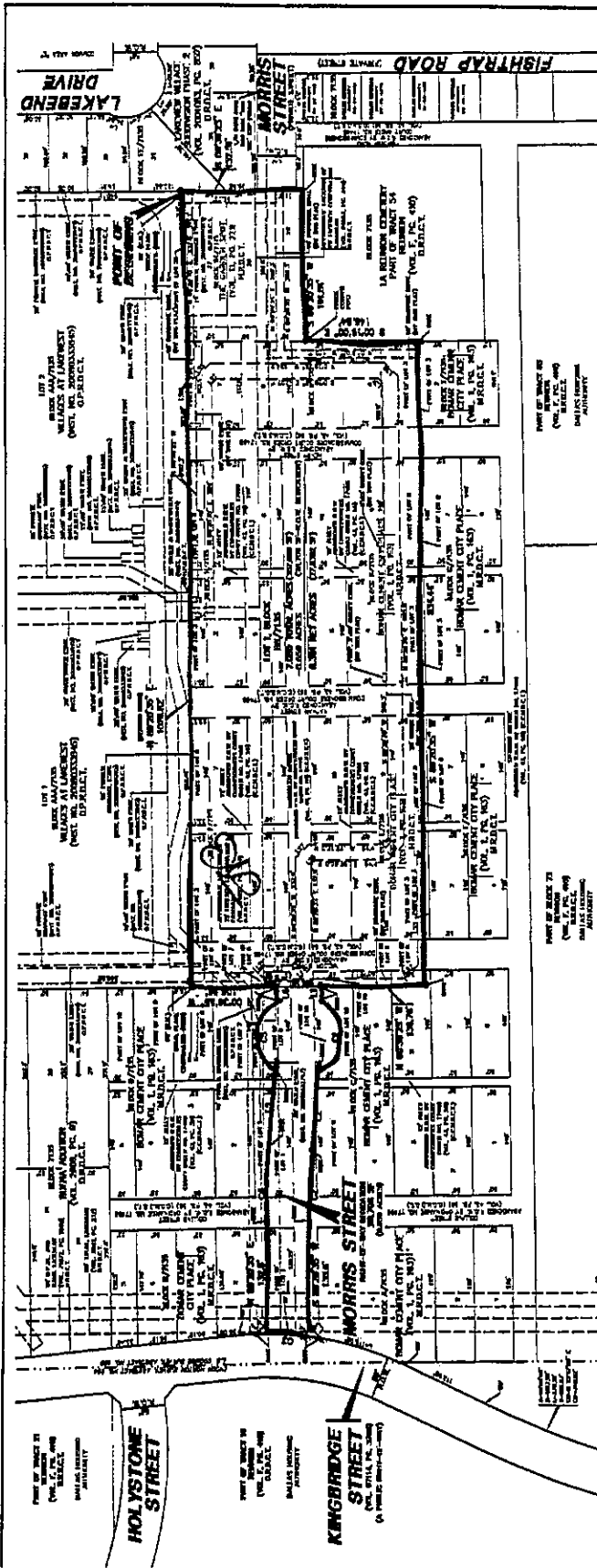
- Address Candidates
- City Boundaries
- County
- Certified Parcels
- Waterways
- Parks
- Deed Restrictions

**Historic Overlay**

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

**PDS Subdistricts**

- PDS Subdistricts
- Base Zoning
- Pedestrian Overlay
- CP
- SP
- Environmental Corridors
- Escarpment Overlay
- SPSD Overlay



**FINAL PLAN**

**LAKEWEST ASSISTED LIVING FACILITY**  
**LOT 1, BLOCK B6/7/136**

BEING A REPEAT OF PART OF LOT 5, BLOCK A/7/135; PART OF LOTS 1 AND 2, BLOCK B/7/135; PART OF LOTS 3, 4, 5, 6 AND 10, BLOCK C/7/135; PART OF LOTS 7, 8 AND 9, BLOCK D/7/135; ALL OF LOTS 11, 12 AND 13, AND PART OF LOTS 1, 2, 6 AND 7 AND PART OF LOTS 3 AND 8, BLOCK E/7/135; PART OF LOTS 4, 5, 9 AND 10 AND PART OF LOTS 3 AND 8, BLOCK F/7/135; ALL OF LOTS 14, 15, 16 AND 17 AND PART OF LOTS 3 AND 8, BLOCK G/7/135; ALL UNIMPROVED RIGHTS-OF-WAY ADDRESS: 14000 MORRIS STREET, SUITE 100, CITY OF DALLAS, TEXAS 75244

LEWIS G. COOKS SURVEY, INSTRUMENT NO. 789 CITY OF DALLAS, DALLAS COUNTY, TEXAS CITY PLAN FILE NO. 5112-141

SHEET 1 OF 2

**Pacheco Koch**  
 ARCHITECTS  
 14000 MORRIS STREET, SUITE 100  
 DALLAS, TEXAS 75244  
 PHONE: (214) 350-0000

**GENERAL NOTES**

1. THIS PLAN IS TO BE USED IN CONNECTION WITH THE CITY OF DALLAS, TEXAS, CITY PLAN FILE NO. 5112-141.

2. THE CITY ENGINEER HAS REVIEWED THIS PLAN AND HAS ISSUED HIS APPROVAL THEREON.

3. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THIS PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

4. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THIS PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

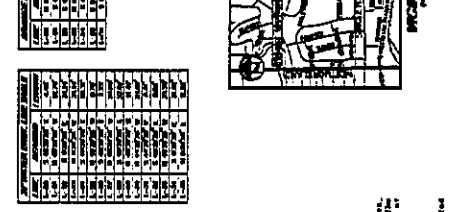
5. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THIS PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

**LINE TABLE**

LINE NO.	DESCRIPTION	DATE
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	...	...

**CURVE TABLE**

LINE NO.	START STATION	END STATION	CURVE DATA
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	...	...	...



**GENERAL NOTES**

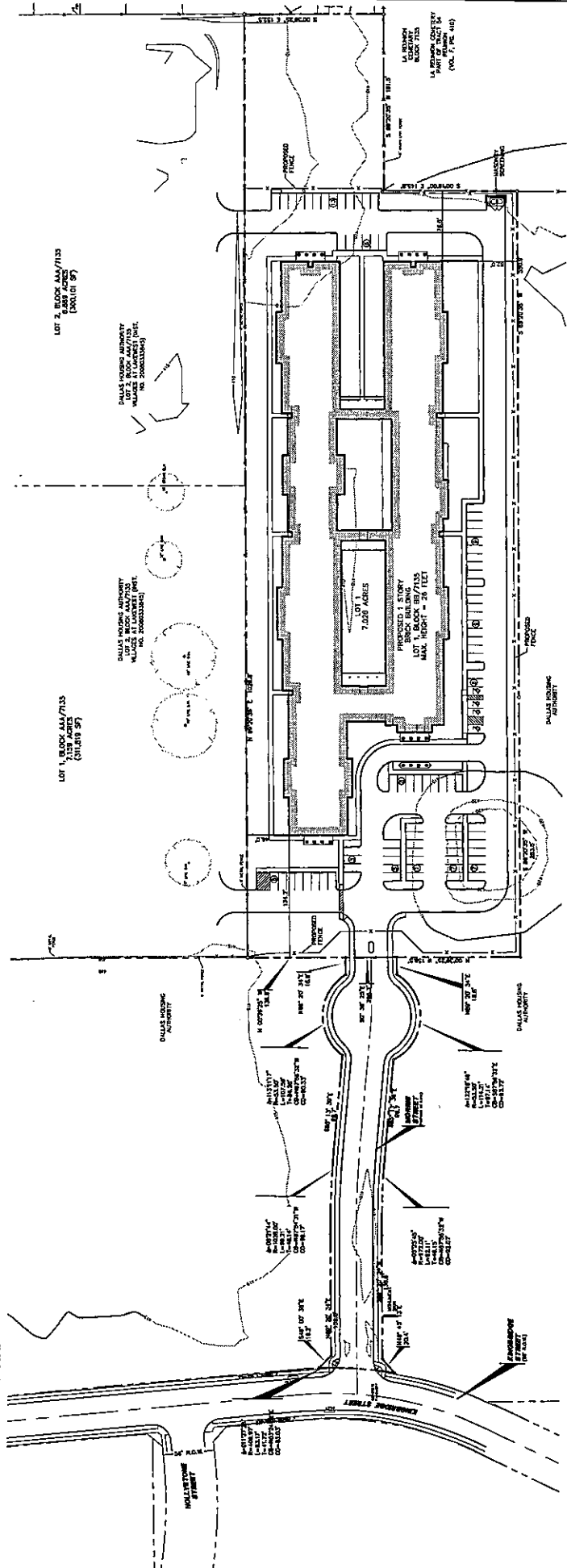
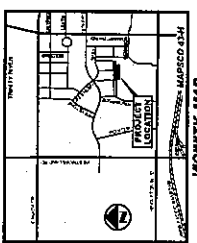
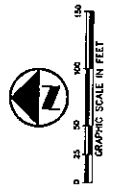
1. THIS SYSTEM IS TO BE USED IN CONNECTION WITH THE CITY OF DALLAS, TEXAS, CITY PLAN FILE NO. 5112-141.

2. THE CITY ENGINEER HAS REVIEWED THIS PLAN AND HAS ISSUED HIS APPROVAL THEREON.

3. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THIS PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

4. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THIS PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

5. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THIS PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.



SITE DATA TABLE					
DATE	REVISION	BY	DATE	REVISION	BY
08/14/12	001	JK	08/14/12	001	JK
08/14/12	002	JK	08/14/12	002	JK

**PRELIMINARY**  
 NOT FOR CONSTRUCTION  
 THESE DOCUMENTS HAVE BEEN PREPARED BY THE ENGINEER WITH THE INTENT OF PROVIDING INFORMATION TO THE CLIENT FOR THE PURPOSES OF OBTAINING PERMITS FROM THE CITY OF DALLAS AND THE STATE OF TEXAS. THE ENGINEER HAS NOT CONDUCTED A VISUAL SURVEY OF THE SITE AND HAS NOT BEEN ADVISED BY THE CLIENT OF ANY CHANGES TO THE SITE SINCE THE DATE OF THE LAST VISUAL SURVEY. THE ENGINEER HAS NOT CONDUCTED A VISUAL SURVEY OF THE SITE SINCE THE DATE OF THE LAST VISUAL SURVEY. THE ENGINEER HAS NOT CONDUCTED A VISUAL SURVEY OF THE SITE SINCE THE DATE OF THE LAST VISUAL SURVEY.

**ISSUED FOR PRELIMINARY BIDDING PURPOSES ONLY**  
 (SUBJECT TO REVISION PRIOR TO CONSTRUCTION)  
 THESE DOCUMENTS HAVE BEEN PREPARED BY THE ENGINEER WITH THE INTENT OF PROVIDING INFORMATION TO THE CLIENT FOR THE PURPOSES OF OBTAINING PERMITS FROM THE CITY OF DALLAS AND THE STATE OF TEXAS. THE ENGINEER HAS NOT CONDUCTED A VISUAL SURVEY OF THE SITE AND HAS NOT BEEN ADVISED BY THE CLIENT OF ANY CHANGES TO THE SITE SINCE THE DATE OF THE LAST VISUAL SURVEY. THE ENGINEER HAS NOT CONDUCTED A VISUAL SURVEY OF THE SITE SINCE THE DATE OF THE LAST VISUAL SURVEY. THE ENGINEER HAS NOT CONDUCTED A VISUAL SURVEY OF THE SITE SINCE THE DATE OF THE LAST VISUAL SURVEY.

REV	DATE	DESCRIPTION

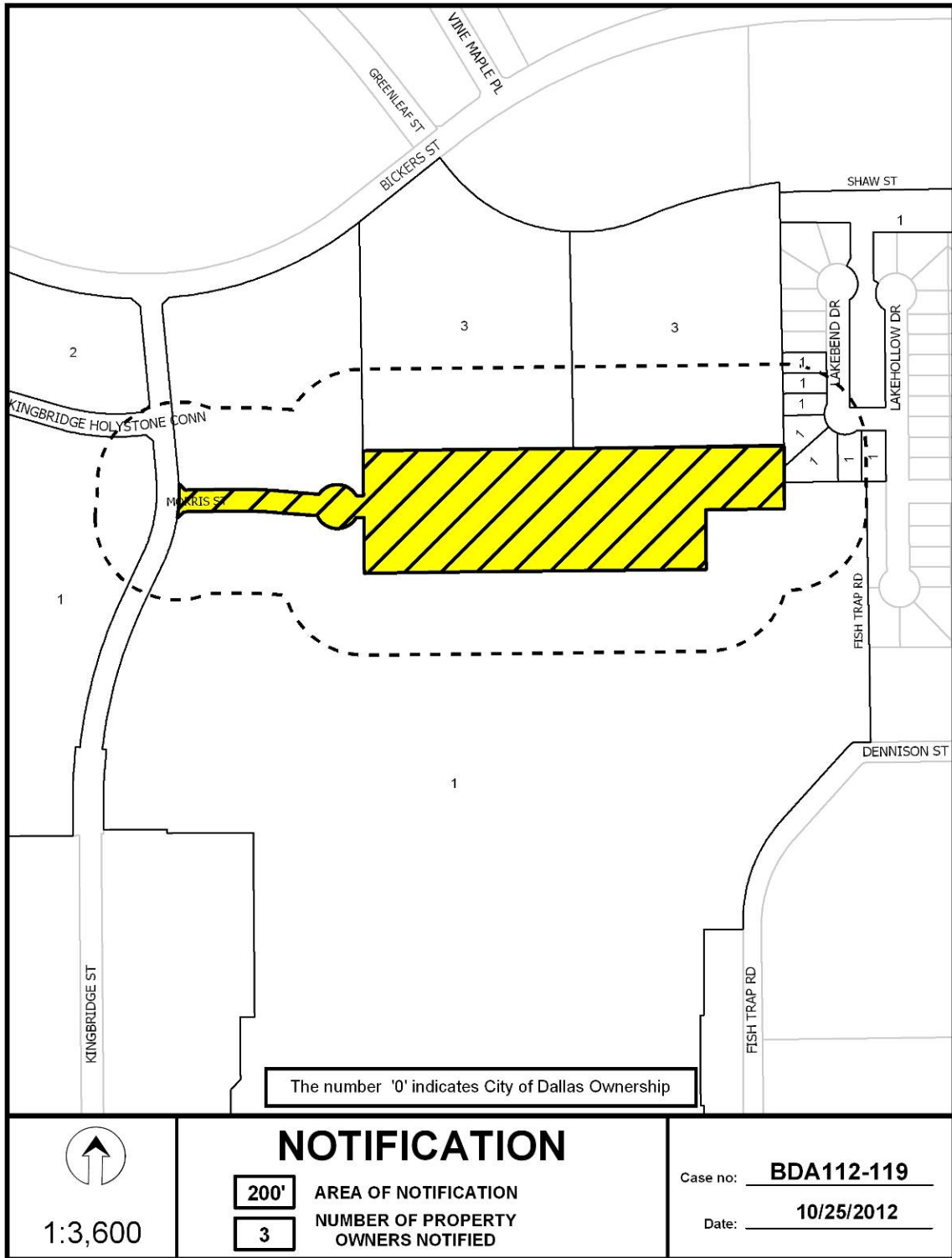
**Pacheco Koch**  
 ARCHITECTS  
 1000 N. CENTRAL EXPRESS WAY, SUITE 1000  
 DALLAS, TEXAS 75204 • 972.333.3001  
 DALLAS • FORT WORTH • HOUSTON • IRVING • MCKINNEY • PLANO • WICKLIFFE • WYOMING

**Detailed Development Plan**  
 LAKWEST  
 ASSISTED LIVING FACILITY  
 HOSPITAL / MEDICAL FACILITIES  
 CITY OF DALLAS, TEXAS

REVISED BY	DATE	SCALE	NOTES	FILE	AK

**CASE NUMBER Z112-242 (WE)**

DATE FILED: 08/14/12 10:00 AM  
 DATE FILED: 08/14/12 10:00 AM  
 DATE FILED: 08/14/12 10:00 AM



# ***Notification List of Property Owners***

***BDA112-119***

## ***3 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	3130 KINGBRIDGE ST	DALLAS HOUSING AUTHORITY STE 350
2	3131 KINGBRIDGE ST	DALLAS HOUSING AUTHORITY SUITE 350
3	2696 BICKERS ST	DALLAS HOUSING AUTHORITY STE 350

**FILE NUMBER:** BDA 112-070

**BUILDING OFFICIAL'S REPORT:**

Application of Roger Albright for a special exception to the off-street parking regulations at 2422 N. Henderson Avenue. This property is more fully described as Lot 1A in City Block 1/1975 and is zoned PD-462 (Subdistrict 3), which requires off-street parking to be provided. The applicant proposes to construct/maintain a structure for a restaurant without drive-in or drive-through service use and provide 37 of the required 42 off-street parking spaces, which will require a special exception to the off-street parking regulations of 5 spaces.

**LOCATION:** 2422 N. Henderson Avenue

**APPLICANT:** Roger Albright

**REQUEST:**

A special exception to the off-street parking regulations of 5 parking spaces (or a 12 percent reduction of the 42 off-street parking spaces that are required) is requested in conjunction with maintaining an approximately 4,200 square foot structure/restaurant (Jake's). The applicant proposes to provide 37 (or 88 percent) of the required 42 off-street parking spaces in conjunction with maintaining this use with this square footage within or that is part of the existing structure.

**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.

**STAFF RECOMMENDATION:**

Approval, subject to the following condition:

- The special exception shall automatically and immediately terminate if and when the restaurant without drive-in or drive-through service use is changed or discontinued.

Rationale:

- The applicant has substantiated how the parking demand generated by the proposed restaurant with drive-in or drive-through service 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 Sustainable Development and Construction Department Project Engineer has indicated that he has no objections to the applicant's request.

## **BACKGROUND INFORMATION:**

### **Zoning:**

Site: PD 462 (Planned Development)  
North: TH-3(A) (Townhouse)  
South: MF-2(A) (Multifamily)  
East: PD 462 (Planned Development)  
West: PD 462 (Planned Development)

### **Land Use:**

The subject site is currently developed with restaurant without drive-in or drive-through service use (Jake's). The areas to the north, south, and west are developed with multifamily uses, and the area to the east is developed with retail uses.

### **Zoning/BDA History:**

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

### **Timeline:**

- April 27, 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.
- May 16, 2012: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel C.
- May 17, 2012: The Board Administrator emailed the applicant the following information:
- an attachment that provided the public hearing date and panel that will consider the application; the May 30<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the June 8<sup>th</sup> 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 18, 2012: The applicant requested postponement of this application from Panel C's June 18<sup>th</sup> hearing to Panel C's August 13<sup>th</sup> hearing.
- July 17, 2012: The Board Administrator emailed the applicant the following information:

- an attachment that provided the public hearing date and panel that will consider the application; the July 25<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the August 3<sup>rd</sup> 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.

July 27, 2012: The Building Inspection Senior Plans Examiner/Development Code Specialist forwarded an amended Building Official's Report on this application (see Attachment A).

July 27, 2012: The Sustainable Development and Construction Department Engineering Division Assistant Director submitted a review comment sheet marked "Has no objections."

July 30, 2012: The applicant submitted a revised site plan (see Attachment B).

July 31, 2012: 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 Assistant Director, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, and the Assistant City Attorneys to the Board.

August 3, 2012: Staff discovered an error with meeting notification requirements on this application for Panel C's August 13<sup>th</sup> hearing. Given this error, the Board Administrator informed the applicant that his applicant was postponed until Panel C's next scheduled hearing to be held on September 17, 2012.

August 7, 2012: The Board Administrator emailed the applicant the deadlines for additional submittals: staff review - August 29<sup>th</sup> and board docket - September 7<sup>th</sup>.

September 4, 2012: 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 Assistant Director, the Sustainable Development and Construction Department Engineering Division Assistant Director, Building Inspection Chief Planners, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the Chief Arborist, and the Assistant City Attorney to the Board.

- September 17, 2012: The Board of Adjustment Panel C conducted a hearing on this application and moved to hold the matter under advisement until November 12, 2012.
- September 18, 2012: The Board Administrator wrote the applicant a letter that conveyed the board's decision along with the October 24<sup>th</sup> deadline to submit additional evidence for staff to factor into their analysis; and the November 2<sup>nd</sup> deadline to submit additional evidence to be incorporated into the Board's docket materials.
- October 30, 2012: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for November 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 Building Inspection 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.

#### **GENERAL FACTS/STAFF ANALYSIS:**

- This request focuses on maintaining an approximately 4,200 square foot structure (Jake's), which includes a 3,700 square foot restaurant use/structure and a 500 square foot open covered patio area.
- The Dallas Development Code requires the following off-street parking requirements: Restaurant without drive-in or drive-through service use: 1 space per 100 square feet of floor area.
- The applicant proposes to provide 37 (or 88 percent) of the required 42 off-street parking spaces in conjunction with the restaurant without drive-in or drive-through service use.
- The applicant's revised site plan dated 07-30-12 (see Attachment B) denotes a "building area" of 3,700 square feet requiring 37 spaces and a "patio" of 520 square feet requiring 5 spaces.
- The 3,700 square foot restaurant meets the Code's parking requirement of 37 off-street parking places. The approximately 500 square foot covered patio is the additional square footage that necessitates this special exception.
- The Sustainable Development and Construction Department Engineering Division Assistant Director 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 restaurant without drive-in or drive through use does not warrant the number of off-street parking spaces required, and
  - The special exception of 5 spaces (or a 12 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 were to grant this request and impose the condition that the special exception of 5 spaces shall automatically and immediately terminate if and when the restaurant without drive-in or drive through service use is changed or discontinued, the applicant would be allowed to maintain the site with this specific use and provide only 37 of the 42 code required off-street parking spaces.

**BOARD OF ADJUSTMENT ACTION:    **SEPTEMBER 17, 2012****

APPEARING IN FAVOR:            Roger Albright

APPEARING IN OPPOSITION: No one

MOTION:    **Gaspard**

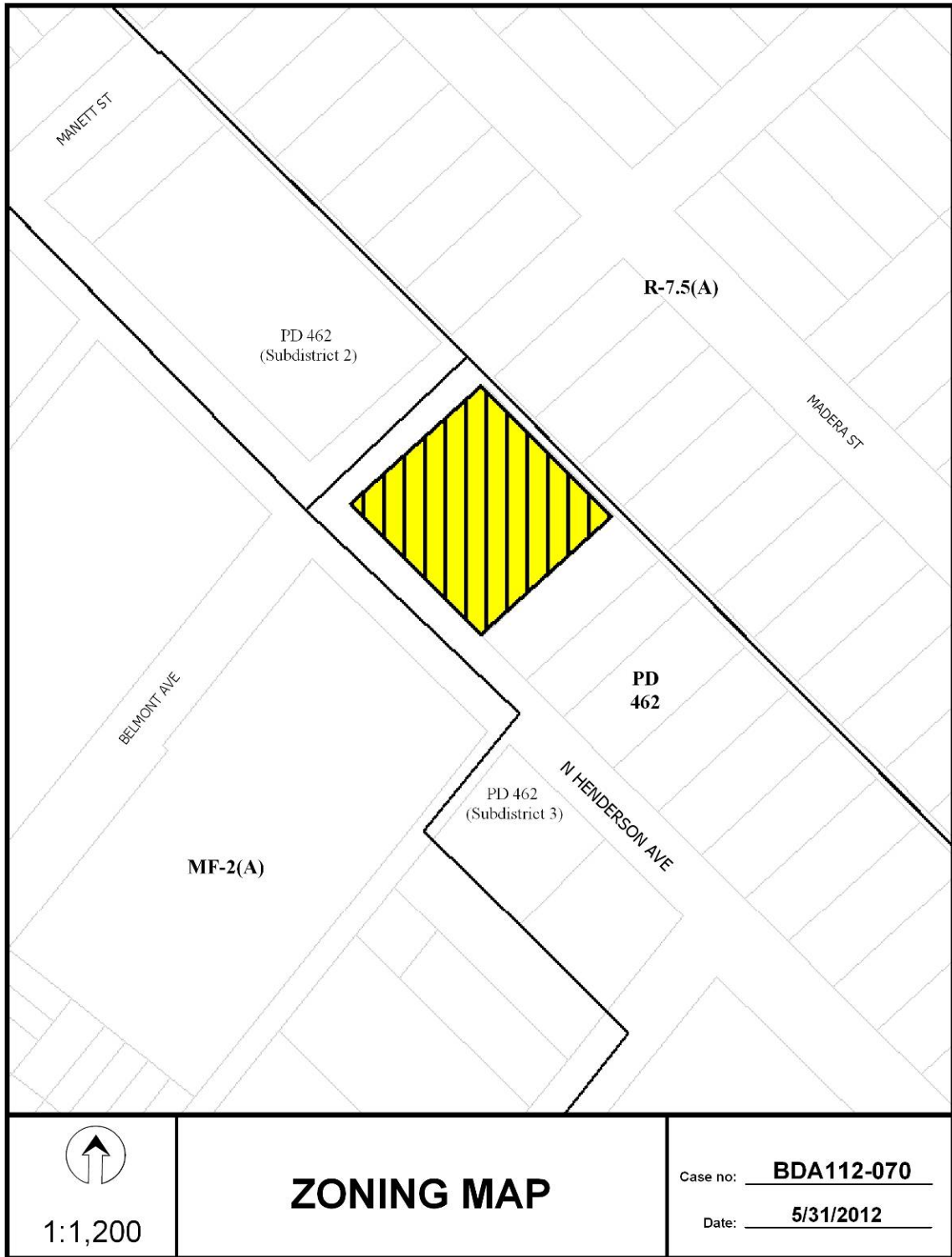
I move that the Board of Adjustment, in Appeal No. **BDA 112-070**, hold this matter under advisement until **November 12, 2012**.

SECONDED:    **Scott**

AYES: 4– Richardson, Coulter, Gaspard, Scott

NAYS: 0 –

MOTION PASSED 4 – 0 (unanimously)



1:1,200

# ZONING MAP

Case no: BDA112-070

Date: 5/31/2012





1:1,200

# AERIAL MAP

Case no: BDA112-070

Date: 5/31/2012





07-30-2012

**JAKES HAMBURGER RESTAURANT**  
 PHOENIX PROPERTY COMPANY  
 in DALLAS, TEXAS for

**BGO architects**  
 4144 N. Central Exp., Suite 405  
 Dallas, TX 75204  
 214.520.6879  
 bgoarchitects.com

DATE: 07-30-12  
 PROJECT: 09156

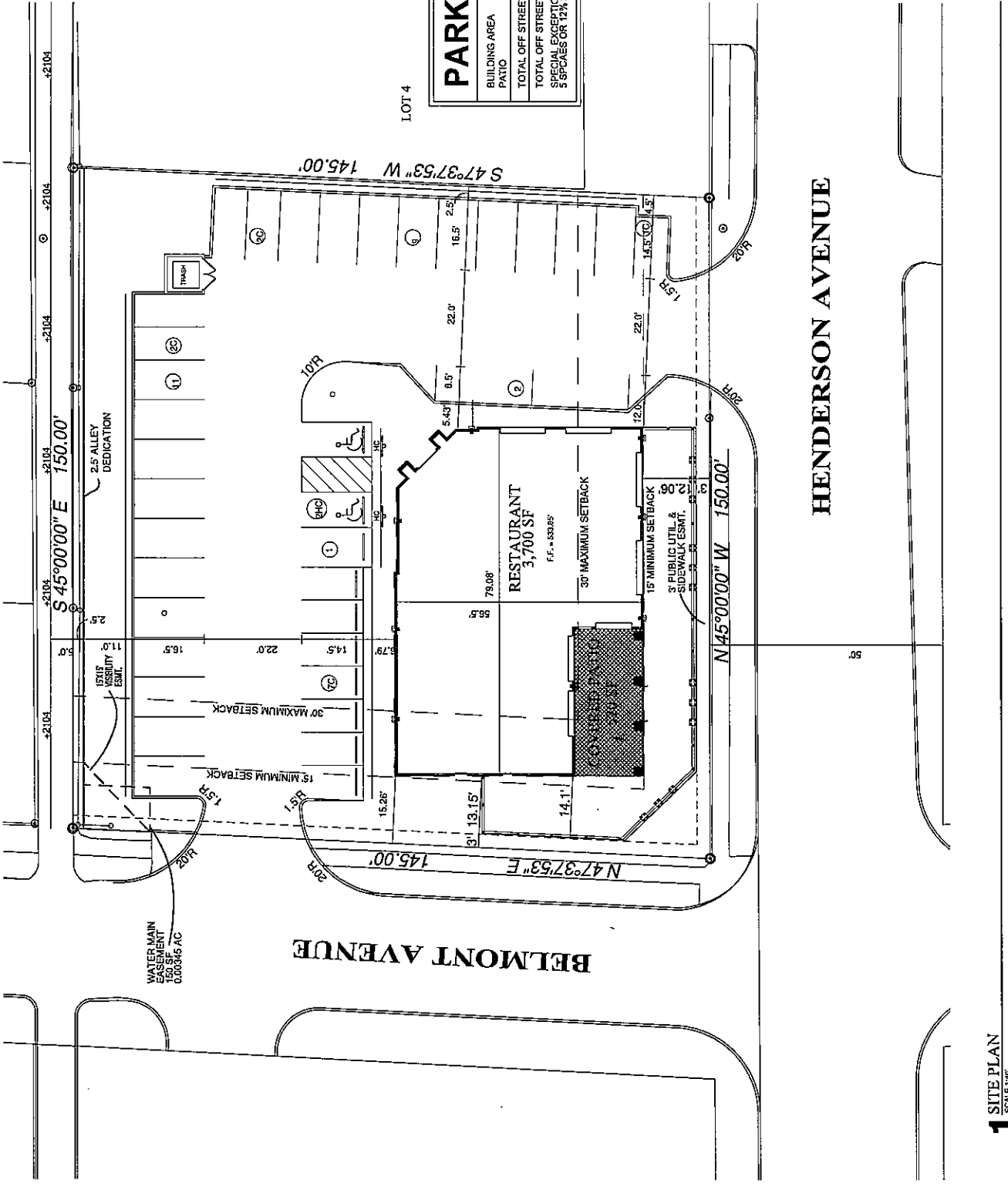
SHEET NUMBER: 1-1

SHEET PLAN

Copyright © BGO Architects. All Rights Reserved.



BDA112-070  
 Attach B



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



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 112-070

Data Relative to Subject Property:

Date: 4-27-12

Location address: 2422 N. Henderson Zoning District: PD-462 (subdist. 3)

Lot No.: 1A Block No.: 1/1975 Acreage: 0.49017 Census Tract: 10.02

Street Frontage (in Feet): 1) 145.00' 2) 150.00' 3) 4) 5)

SE 24

To the Honorable Board of Adjustment:

Owner of Property (per Warranty Deed): LIC HENDERSON AVENUE, L.P.

Applicant: Roger Albright on behalf of LIC HENDERSON AVENUE, L.P. Telephone: 214.939.9224

Mailing Address: c/o PPC Land Ventures, 5950 Sherry Lane, Ste. 320, Dallas, TX Zip Code: 75225

E-mail Address: ralaw@rogeralbright.com

Represented by: Roger Albright Telephone: 214.939.9224

Mailing Address: 3301 Elm Street, Dallas, TX Zip Code: 75226-2562

E-mail Address: ralaw@rogeralbright.com

Affirm that an appeal has been made for a Variance, or Special Exception X, of 6 parking spaces

from the required 43 spaces for a restaurant without drive-thru use.

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:

Parking for covered outdoor patio area does not warrant the number of off-street spaces required. Special exception would not create traffic hazard or increase traffic congestion.

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: Roger Albright Applicant's name printed

Applicant's signature

Affidavit

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

Subscribed and sworn to before me this 27th day of April, 2012



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**

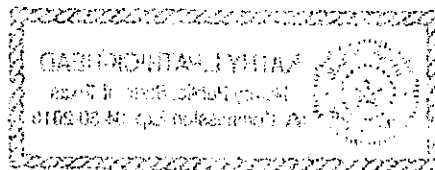
I hereby certify that ROGER ALBRIGHT

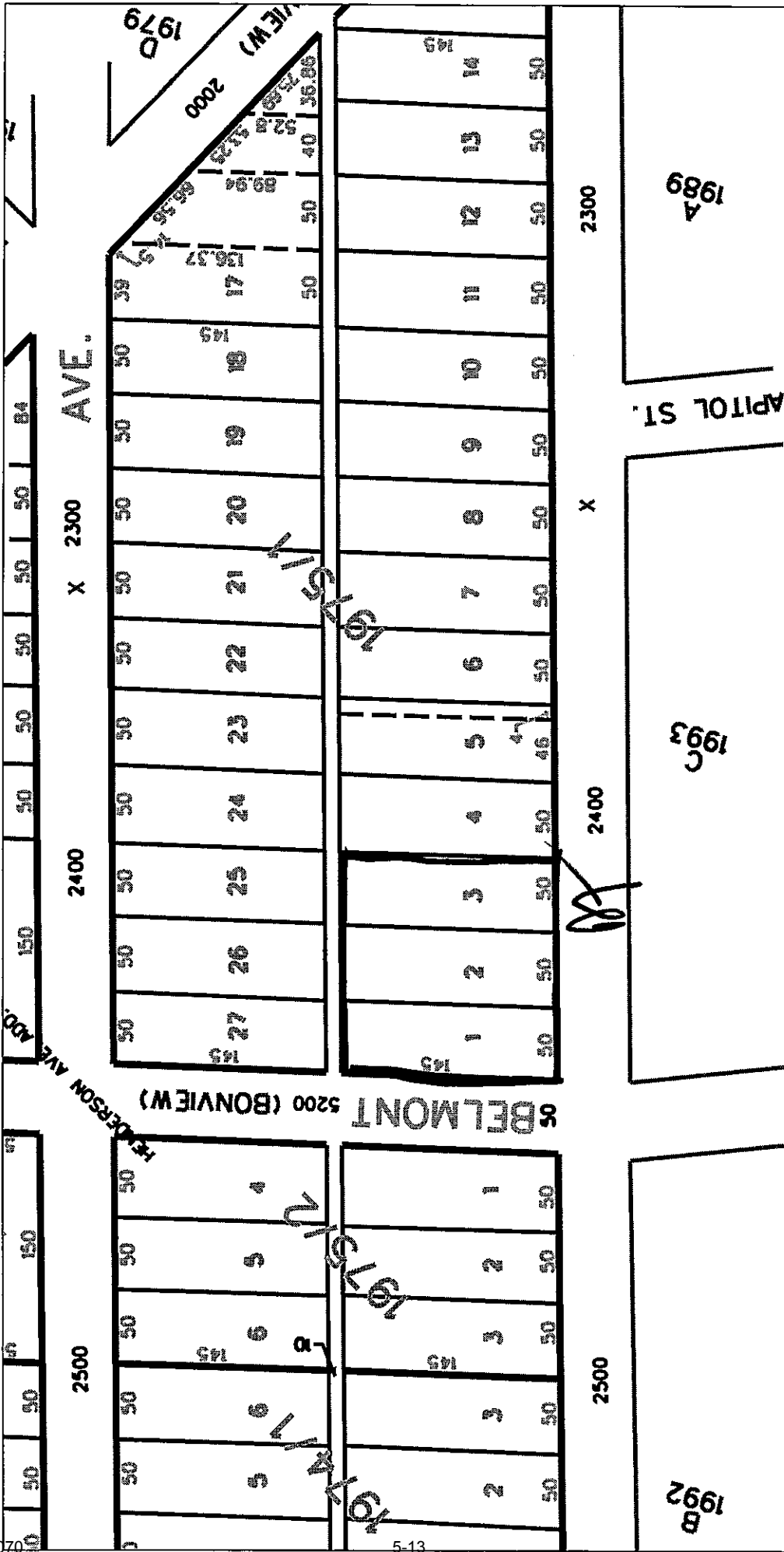
did submit a request for a special exception to the parking regulations  
at 2422 N. Henderson

BDA112-070. Application of Roger Albright for a special exception to the parking regulations at 2422 N. Henderson Avenue. This property is more fully described as lot 1A in city block 1/1975 and is zoned PD-462 (Subdistrict 3), which requires parking to be provided. The applicant proposes to construct and maintain a nonresidential structure for a restaurant without drive-in or drive-through service use and provide 37 of the required 43 parking spaces, which will require a 6 space special exception (14% reduction) to the parking regulation.

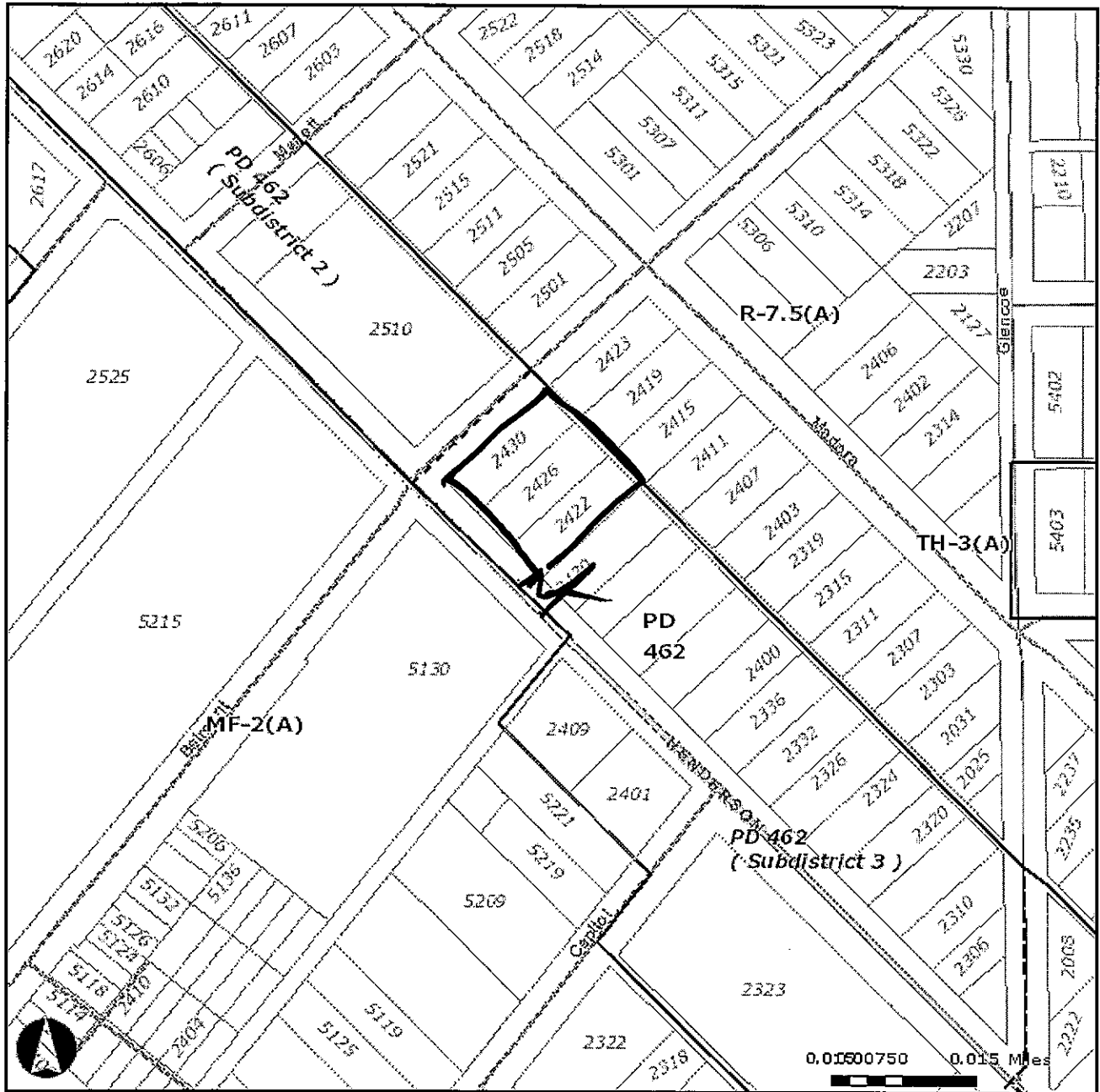
Sincerely,

  
Lloyd Denman, Building Official






# City of Dallas Zoning

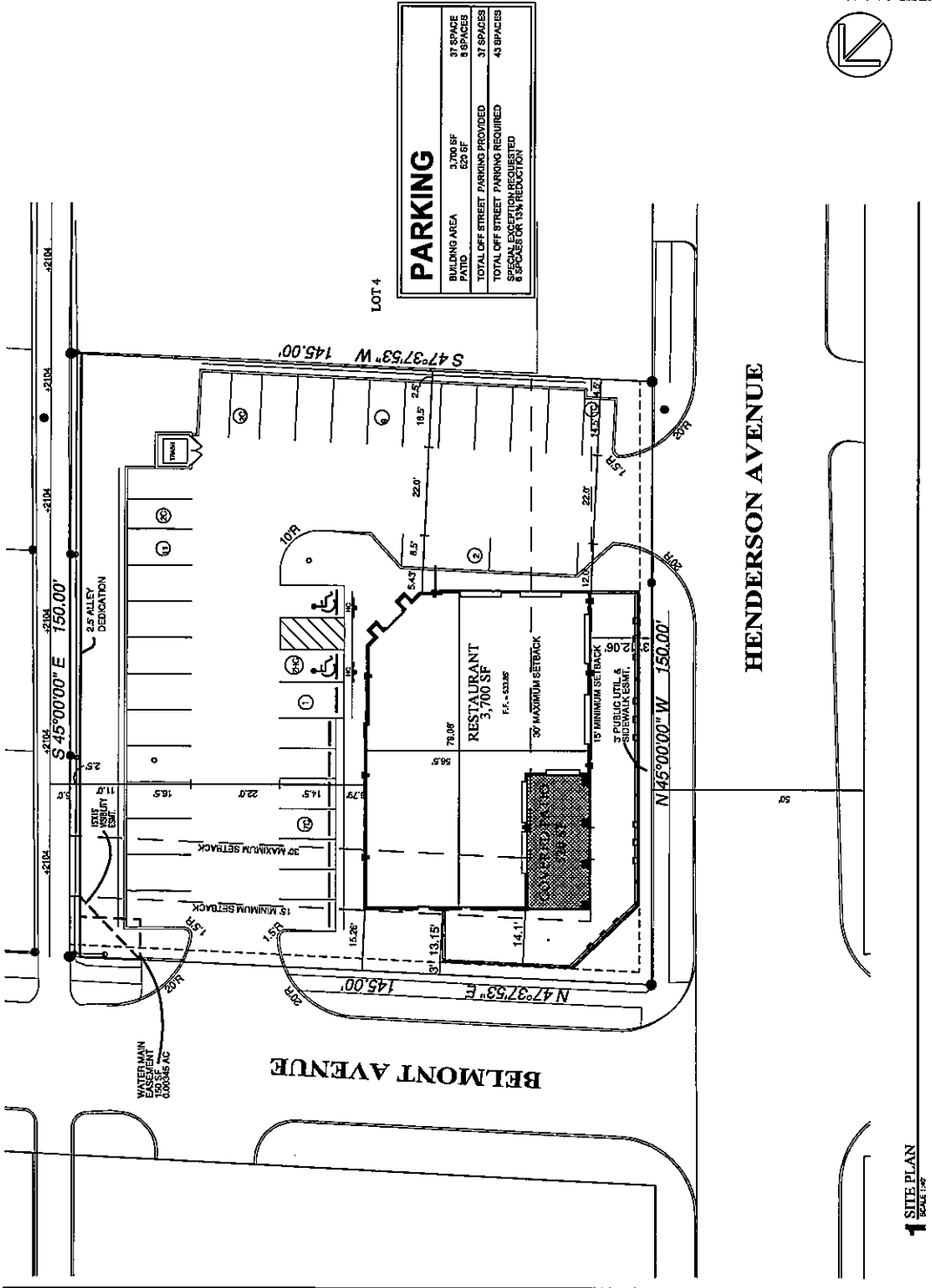


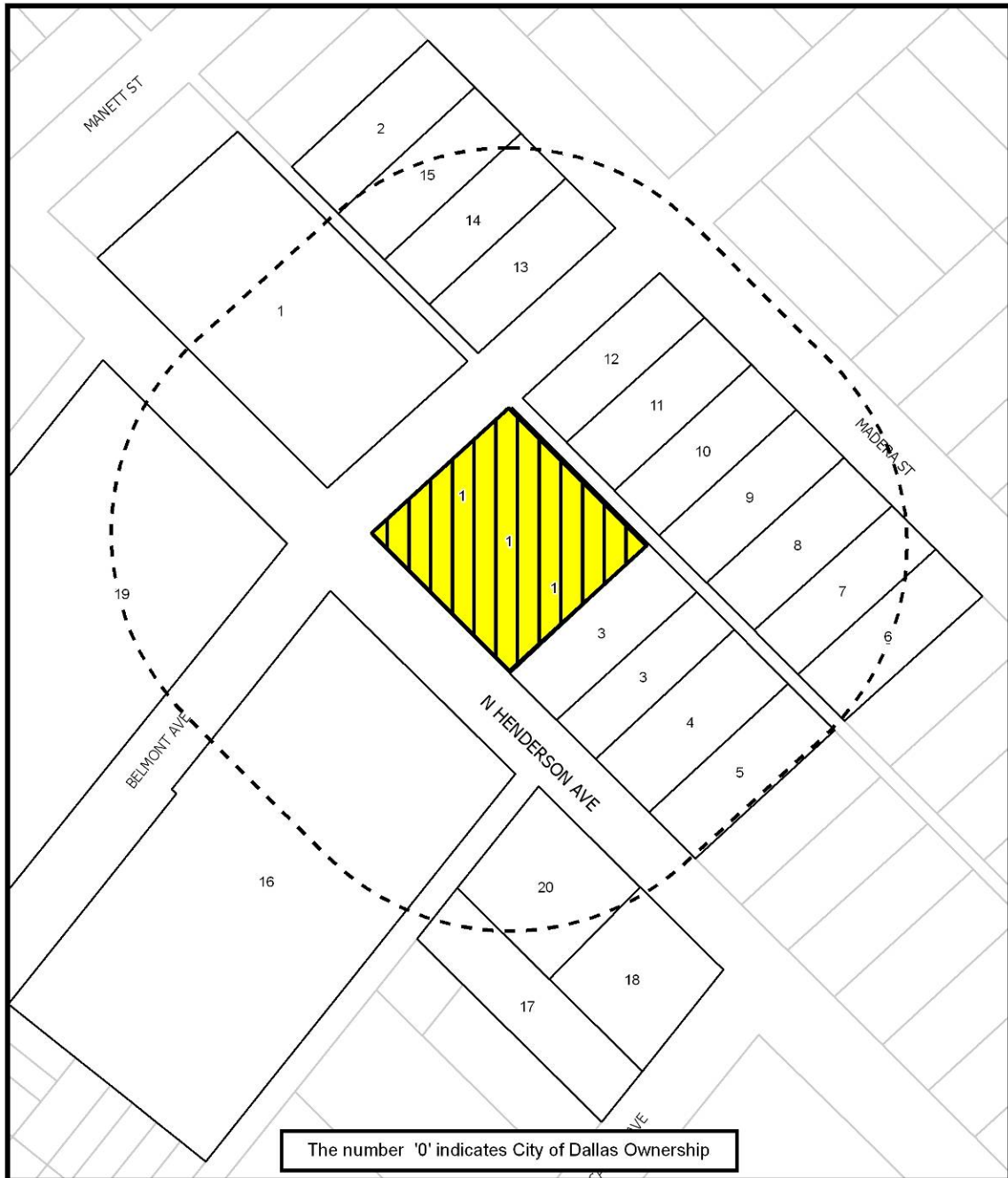
- City Boundaries
- County
- Certified Parcels
- DISD Sites
- Council Districts
- Waterways
- Parks

- 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

	REVISIONS	<b>JAKES HAMBURGER RESTAURANT</b> IN DALLAS, TEXAS PHOENIX PROPERTY COMPANY		<b>BGO</b> architect 4144 N. Conroy Way Dallas, TX 75244 214-343-8800 www.bgoarchitect.com	DATE	08-22-12
					PROJECT	09156
				<b>1:1</b> SITE PLAN		





 1:1,200	<h2>NOTIFICATION</h2> <table border="1"> <tr> <td>200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td>20</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	20	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <b>BDA112-070</b> Date: <b>5/31/2012</b>
200'	AREA OF NOTIFICATION					
20	NUMBER OF PROPERTY OWNERS NOTIFIED					

# ***Notification List of Property Owners***

***BDA112-070***

## ***20 Property Owners Notified***

<b><i>Label #</i></b>	<b><i>Address</i></b>	<b><i>Owner</i></b>
1	2430 HENDERSON AVE	LIC HENDERSON AVE LP
2	2515 MADERA ST	GORDON SCOTT K
3	2420 HENDERSON AVE	HERNANDEZ ROY
4	2410 HENDERSON AVE	HAJDAR LUCY LIFE ESTATE
5	2406 HENDERSON AVE	COHEN CLARA JO
6	2319 MADERA ST	GONZALEZ OLGA
7	2403 MADERA ST	REYNA VICENTE & CATALINA VARELA
8	2407 MADERA ST	MOODY TAYLOR
9	2411 MADERA ST	WARD JOAN
10	2415 MADERA ST	VEGA JESUS
11	2419 MADERA ST	WILLIAMS DEREK B
12	2423 MADERA ST	PATEL SUNAY & NISHA
13	2501 MADERA AVE	POWELL RICHARD CHAD
14	2505 MADERA AVE	MOON MICHAEL D
15	2511 MADERA ST	WINBORN BOBBIE SUE
16	5130 BELMONT AVE	SPUSO5 WOOD ALTA HENDERSON LLC %WOOD
17	5221 CAPITOL AVE	SHOPS ON HENDERSON LP %CONNECTED MANG
18	2401 HENDERSON AVE	THE SHOPS ON HENDERSON LP %CONNECTED
19	5215 BELMONT AVE	HENDERSON BELMONT APTS PO LTD
20	2409 HENDERSON AVE	SHOPS ON HENDERSON II LP