

**BOARD OF ADJUSTMENT, PANEL A
PUBLIC HEARING MINUTES
DALLAS CITY HALL, COUNCIL CHAMBERS
TUESDAY, APRIL 18, 2006**

MEMBERS PRESENT AT BRIEFING: Rob Richmond, Chair, Peggy Hill, Panel Vice-Chair, Ben Gabriel, regular member, Jordan Schweitzer, regular member, and Maria Gomez, alternate member

MEMBERS ABSENT FROM BRIEFING: No one

STAFF PRESENT AT BRIEFING: Steve Long, Board Administrator, Jennifer Hironoto, Senior Planner, Claire Swann, Asst. City Attorney, Chris Bowers, Asst. City Attorney, Donnie Moore, Chief Planner, Danny Sipes, Development Code Specialist, Chau Nguyen, Traffic Engineer, Mike Sultan, Chief Arborist and Trena Law, Board Secretary

MEMBERS PRESENT AT HEARING: Rob Richmond, Chair, Peggy Hill, Panel Vice-Chair, Ben Gabriel, regular member, Jordan Schweitzer, regular member, and Maria Gomez, alternate member

MEMBERS ABSENT FROM HEARING: No one

STAFF PRESENT AT HEARING: Steve Long, Board Administrator, Jennifer Hironoto, Senior Planner, Claire Swann, Asst. City Attorney, Donnie Moore, Chief Planner, Danny Sipes, Development Code Specialist, Chau Nguyen, Traffic Engineer, Mike Sultan, Chief Arborist and Trena Law, Board Secretary

10:18 A.M. The Board of Adjustment staff conducted a briefing on the Board of Adjustment's **April 18, 2006** docket.

1:06 P.M.

The Chairperson stated that no action of the Board of Adjustment shall set a precedent. Each case must be decided upon its own merits and circumstances, unless otherwise indicated, each use is presumed to be a legal use. Each appeal must necessarily stand upon the facts and testimony presented before the Board of Adjustment at this public hearing, as well as the Board's inspection of the property.

MISCELLANEOUS ITEM NO. 1

To approve the Board of Adjustment Panel A March 14, 2006 public hearing minutes.

BOARD OF ADJUSTMENT ACTION: APRIL 18, 2006

MOTION: Hill

I move to approve the Board of Adjustment March 14, 2006 public hearing minutes.

SECONDED: Gomez

AYES: 5 – Richmond, Hill, Gabriel, Schweitzer, Gomez

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

MISCELLANEOUS ITEM NO. 2

An executive session will be conducted by an assistant city attorney to brief the board (pursuant to Texas Open Meetings Act Section 551.071) on a matter regarding - City of Dallas, Texas, Board of Adjustment of the City of Dallas, and Raj Sharma, in his capacity as the Building Official of the City of Dallas, Petitioners v. Doug Vanesko and Grace Vanesko Respondents, Cause No. 04-0263.

***This was not an action item.**

FILE NUMBER: BDA 056-014

BUILDING OFFICIAL'S REPORT:

Application of Elvia Sanchez for a special exception to the fence height regulations and for a special exception to the visibility obstruction regulations at 2560 West Five Mile Parkway. This property is more fully described as Lot 1 in City Block A/6032 and is zoned R-10(A) which limits the height of a fence in the front yard to 4 feet and requires a 45 foot visibility triangle at street intersections and a 20 foot visibility triangle at drive approaches. The applicant proposes to maintain an 8 foot 2 inch fence in the required front yard setback which would require a special exception of 4 feet 2 inches, and to maintain items in the required visibility triangles which would require a special exception

to the visibility obstruction regulations. Referred to the Board of Adjustment in accordance with Section 51A-4.602 (a) (6), and 51A-4.602 (d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 2560 West Five Mile Parkway

APPLICANT: Elvia Sanchez

REQUESTS:

The following appeals have been made in this application on a site developed with a single family home:

1. A special exception to the fence height regulations of 4' 2" is requested to maintain an open wrought iron fence that (according to a submitted fence elevation) ranges in height from 6' 2" – 8' 2" and an open wrought iron gate that is 8' 2" in height in the site's two, 30' front yard setbacks.
2. Special exceptions to the visibility obstruction regulations are requested to maintain portions of the existing open wrought iron fence and gate as described above in two, 20'-visibility triangles at the drive approach on the north side of the site, and portions of the fence and landscape materials (according to the submitted site plan: "4 small ornamental grass" and/or according to the Development Services Senior Engineer's observation: a crepe myrtle) in the 45'-visibility triangle at the northeast corner of the site at the intersection of West Five Mile Parkway at West Five Mile Parkway.

(Note that the subject site is located at the intersection of West Five Mile Parkway and another street identically named West Five Mile Parkway).

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

STANDARD FOR A SPECIAL EXCEPTION TO THE VISIBILITY OBSTRUCTION REGULATIONS:

The Board shall grant a special exception to the requirements of the visibility obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

GENERAL FACTS (related to the fence height special exception):

- The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.

- A scaled site plan/fence elevation document has been submitted with the application that denotes the following characteristics of the proposal:
 - the fence in the site's front yard setbacks totals 250' in length (90' in length parallel to the street to the east, 100' in length parallel to the street to the north, and 30' in length perpendicular to the street to the east, and 30' in length perpendicular to the street to the north);
 - the fence is linear in design with one drive approach to the site from the street to the north,
 - the fence and gate are located 1' from the site's two front property lines (or about 12' from the Five Mile Parkway curb lines).
- The fence is located on a site where there is no single family home that fronts it to the north and where one single family home fronts it to the east.
- The Board Administrator conducted a field visit of the site and surrounding area and noted that no other fences/walls located in what would appear to be a front yard setback.
- The Building Inspection Development Code Specialist has stated that the City has no record of a fence permit issued on the subject site.
- As of April 10th, seven letters (two from one owner/neighbor) had been submitted to staff in support of the requests, and no letters have been submitted in opposition.
- The applicant submitted information beyond what was submitted with the original application (see Attachments A and B). This information included the following:
 - letters that provided additional details and points of information about the appeals; and
 - photos of the site and surrounding area.

GENERAL FACTS (related to the visibility obstruction special exception):

- The Dallas Development Code states the following with regard to visibility triangles: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at intersections and 20-foot visibility triangles at drive approaches); and
 - between 2.5 – 8 feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
 The applicant requests to maintain an open metal fence and gate in the site's two 20'-visibility triangles at the drive approach on the north side of the site, and the open metal fence and landscape materials (according to the submitted site plan: "4 small ornamental grass" and/or according to the Development Services Senior Engineer's observation: a crepe myrtle) in the 45'-visibility triangle at the street intersection on the northeast corner of the site.
- According to calculations made by the Board Administrator, the site plan indicates that about 12' of open metal fence is located in the two drive approach visibility triangles, and about 34' of the existing open metal fence is located in the intersection triangle.

- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included the following:
 - letters that provided additional details and points of information about the appeals; and
 - photos of the site and surrounding area.

BACKGROUND INFORMATION:

Zoning:

Site: R-10(A) (Single family district 10,000 square feet)
North: PD No. 568 (FP) (Planned Development District, Floodplain)
South: R-10(A) (Single family district 10,000 square feet)
East: R-10(A) (Single family district 10,000 square feet)
West: R-10(A) (Single family district 10,000 square feet)

Land Use:

The subject site is developed with a single family home. The area to the north is open space (Five Mile Greenbelt), and the areas to the east, south, and west are developed with single family uses.

Zoning/BDA History:

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

Timeline:

- | | |
|-----------------|--|
| Sept. 2, 2005 | The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report. |
| March 15, 2006: | The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A. |
| March 16, 2006: | <p>The Board Administrator contacted the applicant and shared the following information:</p> <ul style="list-style-type: none"> • the public hearing date and panel that will consider the application; • the criteria/standard that the board will use in their decision to approve or deny the request; • the importance of evidence submitted by the applicant with regard to the board’s decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board; |

- the March 24th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
- the April 10th deadline to submit additional evidence to be incorporated into the Board's docket materials;
- that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
- that the board will take action on the matter at the April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

March 20 & April 7, 2006

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

April 4, 2006:

The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; the Chief Arborist, and the Assistant City Attorney to the Board.

April 4, 2006

The Development Services Senior Engineer submitted a review comment sheet marked "Recommends that this be denied." The engineer added the following comments:

- "Cannot support the request."

April 6, 2006

The Development Services Senior Engineer submitted a revised review comment sheet marked "Has no objections." The engineer added the following comments:

- a. "Keep the shrub (crepe myrtle) trimmed
- b. Street ends west of the site, only 4 lots/houses
- c. Traffic originating from the immediate neighborhood is expected to use the east leg of Five Mile Parkway (Circle)."

April 10, 2006

The Code Compliance Inspector for the area in which the subject site is located forwarded a review comment sheet marked "Has no objections."

STAFF ANALYSIS (related to the fence height special exception):

- A scaled site/elevation plan has been submitted that documents the location of the existing fence and gate that exceeds 4' in height in the site's two front yard setbacks.

The plan also documents their location relative to the property lines and pavement lines, and shows the length of the existing fence relative to the entire lot (about 250' long parallel to the two streets and about 30' long perpendicular to the streets).

- The scaled site/elevation plan documents the materials and height of the existing open wrought iron fence (6' 2" – 8' 2") and open arched wrought iron gate (8' 2").
- No other fences/walls exceeding 4' in height were noted in the immediate area in what would appear to be a front yard setback.
- The fence is located on a site where there is no single family home that fronts it to the north and where one single family home fronts it to the east.
- As of April 10th, seven letters (two from one owner/neighbor) had been submitted to staff in support of the requests, and no letters have been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the existing fence and gate that exceeds 4' in height) will not adversely affect neighboring property.
- Granting this special exception of 4' 2" with conditions imposed that the applicant complies with the submitted site/elevation plan would provide assurance that the fence and gate are maintained on the site as shown on this document.

STAFF ANALYSIS (related to the visibility obstruction special exceptions):

- The Development Services Senior Engineer has submitted a review comment sheet indicating that he has no objections to the requests for special exceptions to the visibility obstruction regulations.
- The applicant has the burden of proof in establishing the following:
 - That granting the special exceptions to the visibility obstruction regulations (whereby, according to the submitted site/elevation plan, about 12' of open metal fence is located in the two drive approach visibility triangles, and about 34' of the existing open metal fence and landscape materials (according to the submitted site plan: "4 small ornamental grass" and/or according to the Development Services Senior Engineer's observation: a crepe myrtle) are located in the intersection triangle) will not constitute a traffic hazard.
- If these requests are granted, subject to compliance with the submitted site/elevation plan, the existing fence, gate, and landscape materials ("4 small ornamental grass) would be "excepted" in the 20' visibility triangles at the drive approach and in the 45' visibility triangle at the intersection.

BOARD OF ADJUSTMENT ACTION: APRIL 18, 2006

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: **Gabriel**

I move that the Board of Adjustment **grant** the following application listed on the uncontested docket because it appears, from our evaluation of the properties and all

relevant evidence that the application satisfies all the requirements of the Dallas Development Code and are consistent with the general purpose and intent of the Code. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Schweitzer

AYES: 5 – Richmond, Hill, Gabriel, Schweitzer, Gomez

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 056-118

BUILDING OFFICIAL'S REPORT:

Application of Huffman Builders, represented by David Garner, for a special exception to the landscape regulations at 5917 Belt Line Road (aka 15111 Preston Road). This property is more fully described as Lot 2A in City Block C/8221 and is zoned CR which requires mandatory landscaping. The applicant proposes to construct a building and provide an alternate landscape plan which would require a special exception to the landscape regulations. Referred to the Board of Adjustment in accordance with Section 51A-10.110 of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 5917 Belt Line Road (aka 15111 Preston Road)

APPLICANT: Huffman Builders
Represented by David Garner

REQUEST:

- A special exception to the landscape regulations is requested in conjunction with constructing and maintaining a 7,500 square foot medical office on a site that is currently undeveloped.

STANDARD FOR A SPECIAL EXCEPTION TO THE LANDSCAPE REGULATIONS:

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

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

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

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

GENERAL FACTS:

- The Dallas Development Code requires full compliance with the Landscape Regulations with new construction or with increasing non-permeable coverage by more than 2,000 square feet.
 - The requirements that the applicant is seeking the special exception from are not imposed by a site-specific landscape plan approved by the city plan commission or city council.
 - The City of Dallas Chief Arborist submitted a memo to the Board Administrator and the Board of Adjustment Chief Planner (see Attachment B). The memo stated the following:
 - The applicant is requesting relief from the landscape requirements of Article X (The Landscape Regulations), more specifically, relief from the required 10' wide residential landscape buffer strip.
 - The special exception request is triggered by new construction.
 - Deficiencies:
 1. The applicant is required to provide a 10' wide landscape buffer strip where there is residential adjacency which must include one plant group for each 50 linear feet of adjacency. (2 plant groups would be required for this site).
The applicant is proposing to provide no residential buffer strip with 0 plant groups.
- Factors for consideration:
- Where there is also requirement to provide a 6' solid screen wall (as exists), each plant group must contain one large canopy tree or two large non-canopy trees for each 50 linear feet of residential adjacency.
 - In addition to the access issue for the proposed building, there are low, overhead power lines and two adjacent utility easements for a combined width of 20' (these include a sewer line).
 - In most cases, we (the City) do not allow the planting of new landscaping within a utility easement.
- The applicant's representative submitted additional information beyond what was submitted with the original application (see Attachment A). This information included a letter that provided additional details about the request and photographs of the site and adjacent properties.

BACKGROUND INFORMATION:

Zoning:

<u>Site:</u>	CR (Community Retail)
<u>North:</u>	MF-1(A) (Multifamily)
<u>South:</u>	PD No. 72 (Planned Development)
<u>East:</u>	CR (Community Retail)
<u>West:</u>	CR (Community Retail)

Land Use:

The subject site is undeveloped. The area to the north is developed with multifamily uses, and the areas to the east, south, and west are 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:

- Feb. 24, 2006: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 15, 2006: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- March 16, 2006: The Board Administrator contacted the applicant's representative and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the March 24th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
 - the April 10th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure

pertaining to “documentary evidence,” and may result in delay of action on the appeal or denial; and

- that the board will take action on the matter at the April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

March 29, 2006 The applicant’s representative submitted additional information to the Board Administrator (see Attachment A).

April 4, 2006: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; the Chief Arborist, and the Assistant City Attorney to the Board.

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

April 10, 2006 The City of Dallas Chief Arborist submitted a memo that provided his comments regarding the special exception to the landscape regulations (see Attachment B).

STAFF ANALYSIS:

- An alternate landscape plan has been submitted with this request that, according to the City of Dallas Chief Arborist, is deficient in providing the 10’ wide residential landscape buffer strip requirement of the landscape regulations.
- The submitted plan indicates two existing utility easements (that total 20’ in width) on the northern side of the site where the applicant is required to provide a 10’ wide landscape buffer strip. According to the City of Dallas Chief Arborist, this area of the subject site is also encumbered with low, overhead power lines.
- The lot immediately north of the subject site is zoned MF-1(A) and is developed as a multifamily use. This residentially zoned land immediately north of the subject site is what requires the applicant to provide a 10’ wide landscape buffer strip on the north side of the subject site. The submitted landscape plan indicates that an “Exist. 8’ Masonry Screen Wall” will buffer the proposed office on the subject site from the adjacent apartment complex to the north.
- The applicant has the burden of proof in establishing the following:
 - Strict compliance with the requirements of the landscape regulations (i.e. providing the required 10’ wide landscape buffer strip with 2 plant groups) will unreasonably burden the use of the property (in this case, if approved, with an approximately 7,500 square foot medical office).

- The special exception (whereby none of the required 10' wide landscape buffer strip is proposed to be provided) will not adversely affect neighboring property.

If the Board were to grant this request and impose a condition that the applicant must comply with the submitted alternate landscape plan, the site could be developed with a new medical office, and would be "excepted" from the provision of the 10' wide landscape buffer strip requirement of the landscape regulations.

BOARD OF ADJUSTMENT ACTION: APRIL 18, 2006

APPEARING IN FAVOR: No one

APPEARING IN OPPOSITION: No one

MOTION: Gabriel

I move that the Board of Adjustment **grant** the following application listed on the uncontested docket because it appears, from our evaluation of the properties and all relevant evidence that the application satisfies all the requirements of the Dallas Development Code and are consistent with the general purpose and intent of the Code. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Compliance with the submitted landscape plan is required.

SECONDED: Schweitzer

AYES: 5 – Richmond, Hill, Gabriel, Schweitzer, Gomez

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 056-069

BUILDING OFFICIAL'S REPORT:

Application of Luis Barrios for a special exception to the fence regulations and a special exception to the visibility obstruction regulations at 119 S. Bridges Street. This property is more fully described as Lot 27 in City Block B/6355 and is zoned R-7.5(A) which limits the height of a fence in the front yard to 4 feet and requires a 20 foot visibility triangle at drive approaches. The applicant proposes to maintain a 14 foot 8 inch fence which would require a special exception of 10 feet 8 inches, and to maintain items in the 20 foot visibility triangles which would require a special exception to the visibility obstruction regulations. Referred to the Board of Adjustment in accordance with Section 51A-4.602 (a) (6) and (d) (3) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 119 S. Bridges Street

APPLICANT: Luis Barrios

REQUESTS:

- The following appeals have been made in this application on a site developed with a single family home:
 1. A special exception to the fence height regulations of 10' 8" is requested to maintain, according to the submitted site plan/elevation, the following in the site's 25' front yard setback:
 - a 3' 2" high stucco wall (with approximately 1.5' high metal pickets atop);
 - 6' high stucco columns;
 - a 12' 6" high pedestrian archway; and
 - a 14' 8" high vehicular archway .
 2. Special exceptions to the visibility obstruction regulations are requested to maintain portions of the existing stucco fence/wall and columns as described above in two, 20'-visibility triangles at the drive approach to the site from Bridges Street.

STANDARD FOR A SPECIAL EXCEPTION TO FENCE HEIGHT REGULATIONS:

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

STANDARD FOR A SPECIAL EXCEPTION TO THE VISIBILITY OBSTRUCTION REGULATIONS:

The Board shall grant a special exception to the requirements of the visibility obstruction regulations when, in the opinion of the Board, the item will not constitute a traffic hazard.

GENERAL FACTS (related to the fence height special exception):

- The Dallas Development Code states that a fence may not exceed 4' above grade when located in the required front yard in all residential districts except multifamily districts.
- A scaled site plan/fence elevation document has been submitted with the application that denotes the following characteristics of the proposal:
 - the fence/wall that exceeds 4' in height in the site's front yard setback totals 80' in length;
 - o the fence/wall is linear in design with one drive approach to the site from the Bridges Street;
 - o the fence/wall is located 1' from the site's front property line (or about 14' from the curb line).
- The fence/wall is located on a site where there are two single family homes have indirect frontage to it.

- The Board Administrator conducted a field visit of the site and surrounding area and noted the one other fence/wall located in what would appear to be a front yard setback. This fence/wall is located about 4 lots to the southeast of the subject site, and is an approximately 6' high open metal fence with approximately 15' high vehicular archways.
- The Building Inspection Development Code Specialist has stated that the City has no record of a fence permit issued on the subject site.
- As of April 10th, a petition had been submitted to staff with 19 neighbors/owners in support of the requests, and no letters have been submitted in opposition.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included the following:
 - a letter that provided additional details and points of information about the appeals; and
 - a petition signed by 19 neighbors/owners who support the requests.

GENERAL FACTS (related to the visibility obstruction special exception):

- The Dallas Development Code states the following with regard to visibility triangles: A person shall not erect, place, or maintain a structure, berm, plant life or any other item on a lot if the item is:
 - in a visibility triangle as defined in the Code (45-foot visibility triangles at intersections and 20-foot visibility triangles at drive approaches); and
 - between 2.5 – 8 feet in height measured from the top of the adjacent street curb (or the grade of the portion on the street adjacent to the visibility triangle).
 The applicant requests to maintain a solid stucco fence/wall and columns in the site's two 20'-visibility triangles at the drive approach on the site.
- According to calculations made by the Board Administrator, the site plan indicates that about 12' linear feet of stucco fence/wall is located in the two drive approach visibility triangles.
- As of April 10th, a petition had been submitted to staff with 20 neighbors/owners in support of the requests, and no letters have been submitted in opposition.
- The applicant submitted information beyond what was submitted with the original application (see Attachment A). This information included the following:
 - a letter that provided additional details and points of information about the appeals; and
 - a petition signed by 19 neighbors/owners who support the requests.

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: IM (Industrial Manufacturing)
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, and west are developed with single family uses; and the area to the south is undeveloped.

Zoning/BDA History:

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

Timeline:

- Nov. 18, 2005 The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- March 15, 2006: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- March 16, 2006: The Board Administrator contacted the applicant and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board’s decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the March 24th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board’s docket;
 - the April 10th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence,” and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

- March 28, 2006 The applicant submitted information beyond what was submitted with the original application (see Attachment A).
- April 4, 2006: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; the Chief Arborist, and the Assistant City Attorney to the Board.
- April 6, 2006 The Development Services Senior Engineer submitted a review comment sheet with the following comments:
1. "Vehicles may be expected to back out onto Bridges St. They may potentially be backed into the intersection (prohibited per Dallas City Code, Sec. 28-35) to go north on Freddie St. or west on Bridges St.
 2. A circular drive is preferable."

STAFF ANALYSIS (related to the fence height special exception):

- A scaled site/elevation plan has been submitted that documents the location of the existing fence/wall, columns, pedestrian archway, and vehicular archway exceeding 4' in height and in the site front yard setback. The site/elevation plan indicates their location relative to the property line and pavement line, and clearly shows the length of the existing fence/wall relative to the entire lot (about 80' long parallel to Bridges Street).
- The scaled site/elevation plan documents the materials and heights of the existing stucco fence/wall (3' 2" with about 1.5' high metal pickets atop), stucco columns (6'), pedestrian archway (12' 6"), and vehicular archway (14' 8").
- One other fence/wall exceeding 4' in height was noted in the immediate area in what would appear to be a front yard setback (approximately 4 lots to the southeast).
- The fence/wall is located on a site where there are two single family homes have indirect frontage to it.
- As of April 10th, a petition had been submitted to staff with 19 neighbors/owners in support of the requests, and no letters have been submitted in opposition.
- The applicant has the burden of proof in establishing that the special exception to the fence height regulations (whereby the existing fence/wall, columns, and pedestrian and vehicular archways that exceed 4' in height) will not adversely affect neighboring property.
- Granting this special exception of 10' 8" with conditions imposed that the applicant complies with the submitted site/elevation plan would provide assurance that the fence/wall, columns, and archways are maintained on the site as shown on this document.

STAFF ANALYSIS (related to the visibility obstruction special exceptions):

- The Development Services Senior Engineer has made the following comments:
 1. “Vehicles may be expected to back out onto Bridges St. They may potentially be backed into the intersection (prohibited per Dallas City Code, Sec. 28-35) to go north on Freddie St. or west on Bridges St.
 2. A circular drive is preferable.”
- The applicant has the burden of proof in establishing the following:
 - That granting the special exceptions to the visibility obstruction regulations (whereby, according to the submitted site/elevation plan, about 12’ linear feet of stucco fence/wall is located in the two drive approach visibility triangles) will not constitute a traffic hazard.
- If these requests are granted, subject to compliance with the submitted site/elevation plan, the existing fence/wall and columns would be “excepted” in the 20’ visibility triangles at the two drive approaches into the site from Bridges Street.

BOARD OF ADJUSTMENT ACTION: APRIL 18, 2006

APPEARING IN FAVOR: Robert Deering, 107 Bridges, Dallas, TX
Luis Barrios, 119 S. Bridges, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION#1: Gomez

I move that the Board of Adjustment, in Appeal No. **BDA 056-069**, on application of Luis Barrios, **grant** the request of this applicant to construct a 14 foot, 8 inch fence on the property as a special exception to the height requirement for fences contained in the Dallas Development Code, because our evaluation of the property and testimony shows that this special exception will not adversely affect neighboring property. I further move that the following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Gabriel

AYES: 5 – Richmond, Hill, Gabriel, Schweitzer, Gomez

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

MOTION#2: Gomez

I move that the Board of Adjustment, in Appeal No. **BDA 056-069**, on application of Luis Barrios, **grant** the request of this applicant to maintain items in visibility corner clips as a special exception to the visibility obstruction regulation contained in the Dallas Development Code, because our evaluation of the property and testimony shows that this special exceptions will not constitute a traffic hazard. I further move that the

following condition be imposed to further the purpose and intent of the Dallas Development Code:

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

SECONDED: Gabriel

AYES: 5 – Richmond, Hill, Gabriel, Schweitzer, Gomez

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

FILE NUMBER: BDA 056-107(J)

BUILDING OFFICIAL'S REPORT:

Application of Christopher Jackson for a special exception to the side yard setback regulations at 10124 Van Dyke Road. This property is more fully described as Lot 24 in City Block 23/6134 and is zoned R-7.5(A) which requires a side yard setback of 5 feet. The applicant proposes to maintain a carport in the required side yard setback and provide a 0 foot side yard setback which would require a special exception of 5 feet. Referred to the Board of Adjustment in accordance with Section 51A-4.402 (c) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 10124 Van Dyke Road

APPLICANT: Christopher Jackson

REQUEST:

- A special exception to the side yard setback regulations of 5’ is requested in conjunction with maintaining a carport on a site developed with a single family home.

STANDARD FOR A SPECIAL EXCEPTION TO ALLOW A CARPORT IN THE SIDE YARD:

The Board of Adjustment may grant a special exception to the minimum side yard requirements to allow a carport for a single family or duplex use when, in the opinion of the Board, the carport will not have a detrimental impact on surrounding properties. In determining whether to grant a special exception, the Board shall consider the following:

- (1) Whether the requested special exception is compatible with the character of the neighborhood.
- (2) Whether the value of surrounding properties will be adversely affected.
- (3) The suitability of the size and location of the carport.
- (4) The materials to be used in construction of the carport.

(Storage of items other than motor vehicles is prohibited in a carport for which a special exception is granted in this section of the Code).

GENERAL FACTS:

- A 5'-side yard setback is required in the R-7.5(A) zoning district.
- The site plan shows the existing carport is 24' x 28' or 672 square feet.
- The carport is located 0' from the site's northern side property line.
- The subject site is 75' x 159' (or 11,925 square feet) in area.
- According to DCAD, the site is developed with a single family home in average condition built in 1953 with 1,620 square feet of living area.
- Building Inspection states that a permit was issued by the City for the carport on this site on January 19, 2006. A note on the permit states a 5' setback is required.
- The applicant has indicated that the permit was applied for after the carport was constructed.
- The Dallas Development Code provides for the Board of Adjustment to consider special exceptions for *carports* in the side yard with a specific basis for this type of appeal. (Note that the Dallas Development Code does not provide a definition of "carport"; however, Building Inspection interprets a "carport" to be a structure that would cover a vehicle and be open on at least one side. Building Inspection has recently been interpreting what would appear to a layperson to be a garage without a garage door as a "carport").
- The Dallas Development Code provides for the Board of Adjustment to consider *variances for structures* in the side yard setback with a different basis for appeal than that of *special exceptions for carports* in the side yard setback.
- The Dallas Development Code specifies that no side yard setback is required in residential districts for "a structure accessory to a residential use if the structure does not exceed 15 feet in height; and is located in the rear 30 percent of the lot." In this case, the special exception is required since:
 - The "carport" structure can not be deemed "a structure accessory to a residential use" since it is attached to the main structure.
 - Even if the "carport" structure was detached from the main structure and could be deemed "a structure accessory to a residential use," it is not located in the rear 30 percent of the 145'-long lot.
- The submitted scaled site plan indicates the carport is located approximately 52 feet from the rear property line and approximately 79 feet from the front property line.
- The applicant submitted a scaled elevation showing a sectional view of the carport. The building materials were not identified on the elevation.
- The scaled elevation shows the height of the carport is approximately 10'.
- No other carports were observed in the surrounding area.

BACKGROUND INFORMATION:

Zoning:

Site: R-7.5 (A) (Single family residential 7,500 square feet)
North: R-7.5 (A) (Single family residential 7,500 square feet)
South: R-7.5 (A) (Single family residential 7,500 square feet)
East: R-7.5 (A) (Single family residential 7,500 square feet)
West: R-1 acre (A) (Single family residential 1 acre)

Land Use:

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

Zoning/BDA History:

There have been no recent Board of Adjustment requests in the immediate area.

Timeline:

- February 15, 2006 The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 15, 2006: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- March 16, 2006: The Board Administrator wrote the applicant a letter that conveyed the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the April 7th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

April 4, 2006: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Department Transportation Engineer, Senior Planner Hiramoto, Development Services Department Code Specialist, Chief Arborist, and the Assistant City Attorney to the Board.

STAFF ANALYSIS:

- The carport is open on three sides and attached to the main structure.
- The site plan shows the carport is approximately 672 square feet and provides a 0' side yard setback.
- Granting this special exception would allow the carport to remain in its current location which is 0' away from the side property line (or 5' into the required 5' side yard setback).
- Historically, staff has suggested that the Board impose conditions with this type of appeal. The following conditions would restrict the location and size of the carport's location in the side yard setback; would require the carport in the side yard setback to be retained in its current design, materials, and configuration; and would require the applicant to mitigate any water drainage related issues that the carport may cause on the lot immediately adjacent:
 1. Compliance with the submitted site plan and elevation is required.
 2. The carport structure must remain open at all times.
 3. There is no lot-to-lot drainage in conjunction with this proposal.
 4. All applicable building permits are obtained.
- The applicant has the burden of proof to establish that the carport will not have a detrimental impact on surrounding properties.

BOARD OF ADJUSTMENT ACTION: APRIL 18, 2006

APPEARING IN FAVOR: Christopher Jackson, 10124 Van Dyke, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: Schweitzer

I move that the Board of Adjustment, in Appeal No. **BDA 056-107**, on application of Christopher Jackson, **grant** the request to maintain a carport in the side yard as a special exception to the minimum side yard requirements in the Dallas Development Code because our evaluation of the property and testimony shows that the carport will not have a detrimental impact on surrounding properties. I further move that the

following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- The carport must remain open on 3 sides at all times;
- There must be no lot-to-lot drainage in conjunction with this proposal.
- All applicable building permits must be obtained;
- Compliance with the submitted site plan and elevation is required;
- No item (other than a motor vehicle) may be stored in the carport;
- Carport must be made of metal material.

SECONDED: Gomez

AYES: 4 – Richmond, Gabriel, Schweitzer, Gomez

NAYS: 1 - Hill

MOTION PASSED: 4– 1

FILE NUMBER: BDA 056-114

BUILDING OFFICIAL'S REPORT:

Application of Patricia Gibson, represented by Dana Swope of Woodbine Development at 1900 North St. Paul Street (aka 1900 North Akard) for a special exception to the pedestrian skybridge regulations. This property is more fully described as a tract of land in City Blocks 518, 519, and 356 and is zoned CA-1(A) which prohibits a pedestrian skybridge within 300 feet of a historical overlay district. The applicant proposes to construct a pedestrian skybridge 86 feet from a historical overlay district which would require a special exception of 214 feet. Referred to the Board of Adjustment in accordance with Section 51A-4.217 (b) (12) (H) of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 1900 North St. Paul Street (aka 1900 North Akard)

APPLICANT: Patricia Gibson
Represented by Dana Swope of Woodbine Development

April 18, 2006 Public Hearing Notes:

- The applicant’s representative submitted additional written documentation at the public hearing.

REQUEST:

- A special exception to the pedestrian skybridge regulations of 214’ is requested in conjunction with locating a pedestrian skybridge over Munger Avenue that is less than 300’ from a historic overlay district (The Cumberland School). The proposed

skybridge would connect a new office tower to a new parking garage for the employees of the new office tower. The site is currently under development.

STANDARD FOR A SPECIAL EXCEPTION TO THE PEDESTRIAN SKYBRIDGE STANDARDS:

The board may grant a special exception to the pedestrian skybridge standards contained in the Dallas Development Code if the board finds that:

- (1) strict compliance with the requirements of this article will unreasonably burden the use of the properties;
- (2) the special exception will not adversely affect neighboring property; and
- (3) the special exception will not be contrary to the public interest.

GENERAL FACTS:

- The Dallas Development Code provides 19 mandatory pedestrian skybridge standards.
The applicant is seeking a special exception from one of these 19 mandatory provisions, specifically the provision stating that pedestrian skybridges must not be located within 300 feet of an historic overlay district (in this case, the Cumberland School). The proposed pedestrian skybridge is proposed to be located 86' from this historic overlay district.
- The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A). This information included the following:
 - an account that provided additional details about the request;
 - exhibits including a site location map; a project site plan; rendered views of the skybridge from Woodall Rogers, North Akard Street, the Dallas Museum of Art; a risk assessment report prepared by a consultant; and background plus site generated traffic volumes prepared by a traffic consultant.

BACKGROUND INFORMATION:

Zoning:

Site: CA-1(A) (Central Area)
North: CA-1(A) (Central Area)
South: CA-1(A) (Central Area)
East: CA-1(A) (Central Area)
West: CA-1(A)-H/42 (Central Area, Historic Overlay)

Land Use:

The subject site is under development. The area to the north is developed with a freeway use (Woodall Rogers Freeway); the area to the east is an institutional use (The

Dallas Museum of Art); and the area to the south is developed with office use; and the area to the west is developed with hotel and office uses (The Cumberland School).

Zoning/BDA History:

- | | |
|---|--|
| 1. 1900 Akard Street (the subject site) | On March 6, 2006, the City of Dallas Landmark Commission recommended approval of the requested skybridge located on Munger Avenue. |
| 2. Z056-153, 1900 Akard Street (the subject site) | A request for an SUP (Specific Use Permit) for a pedestrian skybridge will be scheduled for a City Plan Commission public hearing after the Board of Adjustment has taken action on a request for a special exception to the pedestrian skybridge standards on April 18, 2006. . |

Timeline:

- Jan. 28, 2006: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.
- March 15, 2006: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.
- March 16, 2006: The Board Administrator contacted the applicant's representative and shared the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the March 24th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
 - the April 10th deadline to submit additional evidence to be incorporated into the Board's docket materials;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and

- that the board will take action on the matter at the April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.

April 4, 2006: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Senior Engineer, the Building Inspection Development Code Specialist, the Board of Adjustment Senior Planner; the Chief Arborist, and the Assistant City Attorney to the Board.

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

April 10, 2006 The applicant's representative submitted information beyond what was submitted with the original application (see Attachment A).

STAFF ANALYSIS:

- The special exception request is to allow a proposed skybridge to deviate from one of 19 mandatory pedestrian skybridge standards provided in the Dallas Development Code: The proposed skybridge would be located 86' from an historic overlay district (in this case, the Cumberland School) when a 300' distance is required.
- According to the submitted site plan, locating the proposed skybridge at the required 300' distance from the historic overlay district would result in the skybridge being located near the middle of the N. St. Paul Street right-of-way, a location where it would no longer connect the two proposed buildings.
- The applicant has the burden of proof in establishing the following:
 - Strict compliance with the requirements (i.e. providing the required 300' distance from the historic overlay district) will unreasonably burden the use of either of the properties (in this case, a skybridge that would connect a proposed office building to a proposed employee parking garage);
 - The special exception (allowing a skybridge to be located 214' into the required 300' distance requirement from an historic overlay district) will not adversely affect neighboring property; and
 - The special exception (allowing a skybridge to be located 214' into the required 300' distance requirement from an historic overlay district) will not be contrary to the public interest.
- The City of Dallas Landmark Commission recommended support of the skybridge proposal in March of 2006.
- The applicant will be required to obtain an SUP (Specific Use Permit) from the City Council in order to construct the skybridge on the subject site.
- If the Board were to grant this request (and if City Council were to approve an SUP for a pedestrian skybridge), the skybridge could be constructed/located as close as 86' from the Cumberland School historic overlay district.

BOARD OF ADJUSTMENT ACTION: APRIL 18, 2006

APPEARING IN FAVOR: Hout Hammer, 1807 Ross Ave. #500, Dallas, TX
Dana Swope, 1445 Ross Ave., Dallas, TX 75202

APPEARING IN OPPOSITION: Leslie Brosi, 3030 McKinney Ave., Dallas, TX
Richard Brink, 1999 McKinney Ave, #1207, Dallas, TX

MOTION: Hill

I move that the Board of Adjustment, in Appeal No. **BDA 056-114**, on application of Patricia Gibson, **grant** the request of this applicant to construct a pedestrian skybridge 86 feet from a historic overlay district as a special exception to the pedestrian skybridge regulations contained in the Dallas Development Code, because our evaluation of the property and testimony shows that strict compliance with the requirements will unreasonably burden the use of either of the properties, the special exception will not adversely affect neighboring property, and the special exception will not be contrary to the public interest.

SECONDED: Gabriel

AYES: 4 – Richmond, Hill, Gabriel, Gomez

NAYS: 1 - Schweitzer,

MOTION PASSED: 4– 1

FILE NUMBER: BDA 056-115(J)

BUILDING OFFICIAL'S REPORT:

Application of Barbara Tennant represented by Rob Baldwin for a special exception to the landscape regulations at 5130 Belmont Avenue (aka 5222 Belmont and 2419 Henderson). This property is more fully described as Lots 3 thru 8 in City Block C/1993 and is zoned MF-2(A) which requires mandatory landscaping. The applicant proposes to construct a single family development and provide an alternate landscape plan which would require a special exception. Referred to the Board of Adjustment in accordance with Section 51A-10.110 of the Dallas Development Code, as amended, which states the power of the Board to grant special exceptions.

LOCATION: 5130 Belmont Avenue (aka 5222 Belmont and 2419 Henderson)

APPLICANT: Barbara Tennant
Represented by Rob Baldwin

REQUEST:

- A special exception to the landscape regulations is requested in conjunction with the construction of a shared access development.

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:

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

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

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

GENERAL FACTS:

- The Dallas Development Code requires full compliance with the Landscape Regulations with new construction or with increasing non-permeable coverage by more than 2,000 square feet.
- The applicant has submitted a site plan that does not fully comply with the landscape regulations, specifically a plan where (according to the City of Dallas Chief Arborist) the applicant is requesting relief from portions of the required landscaping.
- The requirements that the applicant is seeking the special exception from are not imposed by a site-specific landscape plan approved by the city plan commission or city council.
- According to the submitted site plan, the 2.82-acre site will be developed with 63 single family dwelling units in a shared access development.
- According to DCAD, the site is undeveloped
- The City of Dallas Chief Arborist submitted a memo to the Board Administrator and the Chief Board of Adjustment Planner that stated the following:
 - The applicant is requesting relief from the number of site trees.
 - The special exception request is triggered by new construction.
 - Deficiencies:
 2. The applicant is required to provide three site trees for each lot within the shared access development, with two trees for each lot located in the front yard, and the third tree for each lot located anywhere else within the development. This requires 126 site trees in the front yard and 63 trees within the development.

- The applicant is providing 13 site trees in the front yard of the shared access development and 31 site trees within the development.
- Factors for consideration:
 1. There is a code amendment scheduled to go before City Council later this month that proposes changing the landscape requirements for a shared access development located in multifamily zoning to require the following:
 - One site tree for every 4,000 square feet of lot area,
 - One street tree for every 25' of street frontage, and
 - 20% of the shared access development must be designated as landscape site area.
 2. The proposed alternate landscape plan meets the site tree requirements under the proposed code amendment requirements, but it does not meet the 20% landscape site area requirement, nor does it meet the proposed street tree requirement.

BACKGROUND INFORMATION:

Zoning:

Site: MF-2(A) (Multifamily)
North: PD 462 (Planned Development District)
South: MF-2(A) (Multifamily)
East: MF-2(A) (Multifamily) and PD 462 (Planned Development District)
West: MF-2(A) (Multifamily)

Land Use:

The 2.82-acre subject site is undeveloped. The areas to the south and east are developed with church and single family uses; the area to the west is developed with multifamily uses; and the area to the north is developed with single family uses.

Zoning/BDA History:

There have been no recent Board of Adjustment requests in the immediate area.

Timeline:

January 14, 2006 The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

March 15, 2006: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel A.

- March 16, 2006: The Board Administrator wrote the applicant an email that conveyed the following information:
- the public hearing date and panel that will consider the application;
 - the criteria/standard that the board will use in their decision to approve or deny the request;
 - the importance of evidence submitted by the applicant with regard to the board's decision since the code states that the applicant has the burden of proof to establish the necessary facts to warrant favorable action by the board;
 - the April 7th deadline to submit additional evidence for staff to factor into their analysis and incorporate into the board's docket;
 - that additional evidence submitted past this date should be brought to the public hearing, should adhere to the recently adopted Board of Adjustment Working Rules of Procedure pertaining to "documentary evidence," and may result in delay of action on the appeal or denial; and
 - that the board will take action on the matter at the April public hearing after considering the information/evidence and testimony presented to them by the applicant and all other interested parties.
- April 4, 2006: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for the April public hearings. Review team members in attendance included: the Board of Adjustment Chief Planner, the Board Administrator, the Development Services Department Transportation Engineer, Senior Planner Hiromoto, Development Services Department Code Specialist, Chief Arborist, and the Assistant City Attorney to the Board.
- April 4, 2006 The applicant provided a letter to the Board to further explain his request (Attachment A).
- April 10, 2006 Chief Arborist Sultan provided a review comment letter on the request.

STAFF ANALYSIS:

- The applicant has submitted a landscape plan that provides the location of the street trees and trees internal to the shared access development.
- The applicant is providing the following alternative landscaping:
 - 13 street trees for 600 feet of street frontage
 - 31 site trees within the 120,000 square foot development
- The request site appears to be flat.
- The request site is adjacent to residential uses to the north, south, east and west.

- There are existing trees that were observed at the site visit by Senior Planner Hiromoto. It is unknown if any of the existing trees will remain with the proposed development.
- It is unknown if other existing or proposed amenities will be provided in the development to compensate for the reduction of landscaping.
- Granting this request, subject to a condition that the applicant comply with the submitted landscape plan, will allow the site to be developed without meeting all of the landscaping requirements.
- The applicant has the burden of proof to establish that strict compliance with the requirements of this article will unreasonably burden the use of the property and that the special exception will not adversely affect neighboring property.

BOARD OF ADJUSTMENT ACTION: APRIL 18, 2006

APPEARING IN FAVOR: Rob Baldwin, 6035 Vanderbilt, Dallas, TX

APPEARING IN OPPOSITION: No one

2:24 P.M.: Break

2:30 P.M.: Resumed

MOTION: Hill

I move that the Board of Adjustment, in Appeal No. **BDA 056-115**, on application of Barbara Tennant, **grant** the request of this applicant to provide an alternate landscape plan as a special exception to the landscape requirements in the Dallas Development Code because our evaluation of the property and testimony shows that strict compliance with the requirements will unreasonably burden the use of the property, the special exception will not adversely affect neighboring property; and the requirements are not imposed by a site specific landscape plan approved by the city plan commission or city council. I further move that the following conditions be imposed to further the purpose and intent of the Dallas Development Code:

- Thirty-one 2-inch diameter site trees must be located anywhere within the development;
- Sixteen 3-inch diameter street trees must be located between 2 1/2 and 10 feet from back of curb; and
- Twenty percent of the shared access development must be designated as landscape site area (any permeable area or concrete for pedestrian use only).

SECONDED: Gabriel

AYES: 5 – Richmond, Hill, Gabriel, Schweitzer, Gomez

NAYS: 0 -

MOTION PASSED: 5– 0 (unanimously)

MOTION: **Hill**

I move to adjourn this meeting.

SECONDED: **Gabriel**

AYES: 5 – Richmond, Hill, Gabriel, Schweitzer, Gomez

NAYS: 0 -

MOTION PASSED: 5 – 0 (Unanimously)

2:23 P.M. - Board Meeting adjourned for April 18, 2006.

CHAIRPERSON

BOARD ADMINISTRATOR

BOARD SECRETARY

Note: For detailed information on testimony, refer to the tape retained on file in the Department of Planning and Development.