

ZONING BOARD OF ADJUSTMENT, PANEL B
WEDNESDAY, OCTOBER 21, 2015
AGENDA

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

Donna Moorman, Chief Planner
Steve Long, Board Administrator
Danielle Lerma, Current Planner

MISCELLANEOUS ITEMS

Approval of the September 23, 2015 Board of Adjustment Panel B Public Hearing Minutes	M1
Consideration and approval of Panel A's 2016 Public Hearing Calendar	M2

UNCONTESTED CASES

BDA145-103(SL)	1806 McMillan Avenue REQUEST: Application of Santos T. Martinez to restore a nonconforming use	1
BDA145-111(SL)	926 Valencia Street REQUEST: Application of Patricia Nell Turner, represented by Emily Fenlaw, for a variance to the front yard setback regulations	2

HOLDOVER CASES

BDA 134-072(DL)	332 W. Commerce Street REQUEST: Application of Houshang Jahvani for variances to the minimum and maximum front yard setback regulations and to the landscape regulations	3
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BDA145-096(SL) 9008 San Benito Way 4
REQUEST: Application of Eric W. Johnson for a variance to the front yard setback regulations and a special exception to the visual obstruction regulations

COMPLIANCE CASE

BDA145-099(SL) 5500 Swiss Avenue 5
REQUEST: Application of Barbara McDaniel represented by Chris Hamilton, to require compliance of a nonconforming use

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 B September 23, 2015 public hearing minutes.

FILE NUMBER: BDA 145-103(SL)

BUILDING OFFICIAL'S REPORT: Application of Santos T. Martinez to restore a nonconforming use at 1806 McMillan Avenue. This property is more fully described as Lot 25 & 26, Block A/1976, and is zoned CR, which limits the legal uses in a zoning district. The applicant proposes to restore a nonconforming alcoholic beverage establishments use, which will require a special exception to the nonconforming use regulations.

LOCATION: 1806 McMillan Avenue

APPLICANT: Santos T. Martinez

REQUEST:

A request for a special exception to reinstate nonconforming use rights is made to obtain a Certificate of Occupancy (CO) for an "alcoholic beverage establishments" use on the subject site even though this nonconforming use was discontinued for a period of six months or more.

STANDARD FOR A SPECIAL EXCEPTION TO OPERATE A NONCONFORMING USE IF THAT USE IS DISCONTINUED FOR SIX MONTHS OR MORE: The Dallas Development Code states that the Board may grant a special exception to operate a nonconforming use that has been discontinued for six months or more if the owner can show that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

STAFF RECOMMENDATION:

No staff recommendation is made on this or any request for a special exception to operate a nonconforming use if that use is discontinued for six months or more since the basis for this type of appeal is based on whether the board determines that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.

BACKGROUND INFORMATION:

Zoning:

Site: CR (Community Retail)
North: CR (Deed restricted) (Community Retail)
South: CR (Community Retail)
East: MF-2(A) (Multifamily)

West: CR (Community Retail)

Land Use:

The subject site is developed with a vacant non-residential structure. The area to the north is developed with a surface parking lot; the area to the east is developed with multifamily use; and the areas to the south and east are developed with commercial 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.

GENERAL FACTS/STAFF ANALYSIS:

- This request is made to restore nonconforming use rights for an “alcoholic beverage establishments” use that has been discontinued for six months or more, and to obtain a Certificate of Occupancy (CO) for this use.
- The Dallas Development Code defines “nonconforming use” as “a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time.
- The nonconforming use regulations state it is the declared purpose of the nonconforming use section of the code that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.
- The nonconforming use regulations also states that the right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more, and that the board of adjustment may grant a special exception to operate a nonconforming use that has been discontinued for six months or more if the owner can show that there was a clear intent not to abandon the nonconforming use even though the use was discontinued for six months or more.
- The subject site is zoned CR (Community Retail) – a zoning district that permits an “alcoholic beverage establishments” use but with an SUP (Specific Use Permit) which this property does not have.
- A document has been included in the case file that states the “alcoholic beverage establishment” use at 1806 McMillian Avenue is a nonconforming use.
- A copy of Certificate of Occupancy has been included in the case file for an alcoholic beverage establishment use at 1806 McMillan Avenue on May 1, 2001.
- Building Inspection has stated that these types of special exception requests originate from when an owner/officer related to the property applies for a CO and Building Inspection sees that the use is a nonconforming use. Before a CO can be issued, the City requires the owner/officer related to the property to submit affidavits stating that the use was not abandoned for any period in excess of 6 months since

the issuance of the last valid CO. The owners/officers must submit documents and records indicating continuous uninterrupted use of the nonconforming use, which in this case, they could not.

- The applicant has submitted documents that he represents show how the owner of the subject site never intended to vacate the nonconforming use of an alcoholic beverage establishment since the time the use became vacant in March of 2015 (see Attachment A).
- If the Board were to grant this request, the nonconforming “alcoholic beverage establishments” use on the site would be subject to the possibility of an application that may be brought to the Board of Adjustment requesting that the board establish a compliance date as is the case with any other nonconforming use in the city.
- The applicant could achieve conforming use status for the “alcoholic beverage establishments” use on the site with a change in zoning from the City Council.
- The owner could develop the site with any use that is permitted by right in the site’s existing CR zoning classification.
- The applicant has the burden of proof in establishing the following related to the special exception request:
 - There was a clear intent not to abandon the nonconforming “alcoholic beverage establishments” use on the subject site even though the use was discontinued for six months or more.
- Granting this request would reinstate/restore the nonconforming “alcoholic beverage establishments” use rights that were lost when the use was abandoned for a period of six months or more.
- If restored/reinstated, the nonconforming use would be subject to compliance with use regulations of the Dallas Development Code by the Board of Adjustment as any other nonconforming use in the city. (The applicant has been advised by staff of Section 51A-4.704 which is the provision in the Dallas Development Code pertaining to “Nonconforming Uses and Structures”).

Timeline:

August 12, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

September 15, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

September 15, 2015: The Board Administrator contacted the applicant and emailed the following information:

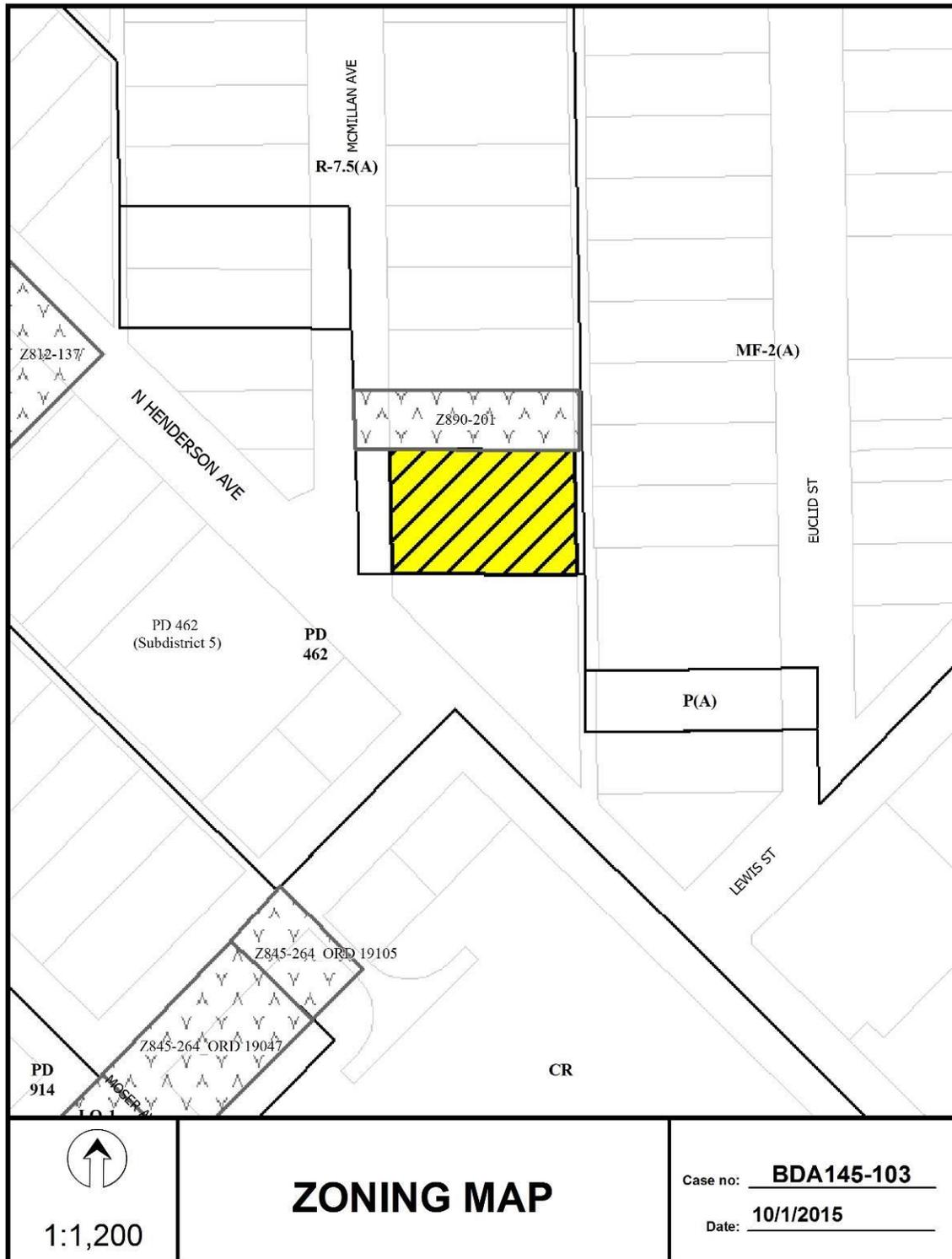
- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the September 30th deadline to submit additional evidence for staff to factor into their analysis; and the October 9th deadline to submit additional evidence to be incorporated into the Board’s docket materials;

- the criteria/standard that the board will use in their decision to approve or deny the request;
- the section from the Dallas Development Code pertaining to nonconforming uses and structures; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

October 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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

October 8, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachment A).

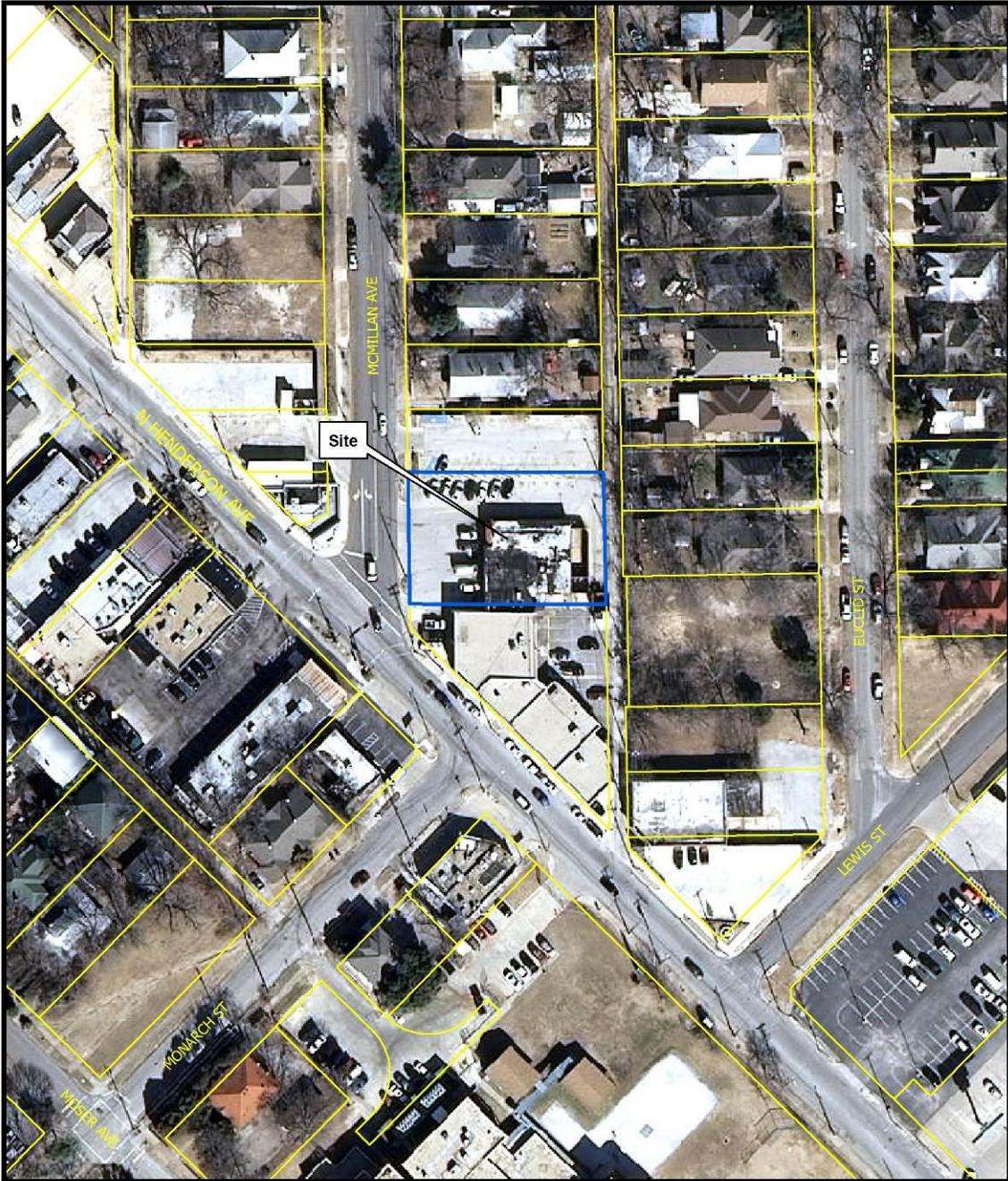


1:1,200

ZONING MAP

Case no: BDA145-103

Date: 10/1/2015



1:1,200

AERIAL MAP

Case no: BDA145-103

Date: 10/1/2015



October 8, 2015

Mr. Steve Long
Board Administrator
City of Dallas
1500 Marilla, 5BN
Dallas, TX 75201

RE: BDA 145-103; 1806 McMillan

Mr. Long:

The property for this address was originally constructed in the mid 1970's. It has been maintained as an alcoholic beverage establishment. The previous certificate of occupancy for the "Slip Inn" references the continuation of a non-conforming use that has been acknowledged by the City of Dallas for this address (Exhibit A).

The Slip Inn operated in this space until the end of March 2014. At that time, the new property owner terminated their lease. It has always been the intention of the property owner to continue an alcoholic beverage establishment at this address.

Two weeks after the previous tenant ceased operations, a new prospective tenant approached the property owner regarding occupancy of the space. The property owner engaged in these conversations for roughly a month. Their concepts for a new finish out in the space is shown in Exhibit B.

Although the conversations with this prospective tenant continued for roughly a month, they continued to market the space for potential tenants. They received interest from another prospective tenant in July of 2014. This prospective tenant forwarded a concept plan for the space (Exhibit C) and began to discuss lease terms for the space (Exhibit D).

The property owner prepared a letter of intent for the prospective tenant to occupy the space shortly after the review of their concept and initial conversations on lease terms (Exhibit E). This includes that the space shall be used as a cocktail bar and lounge (alcoholic beverage establishment).

The property owner and prospective tenant continue to discuss terms for a lease during the month of July 2014. Beginning in August, a lease agreement was prepared and negotiated for the use of a cocktail bar and lounge (alcoholic beverage establishment) for this address. The initial lease agreement is listed as Exhibit F. This dialogue continued through the month of October as terms and revisions to the lease agreement were made by both parties. In addition to a lease agreement, the property owner began discussions with contractors to prepare bids for work on the existing roof and HVAC system for this address (Exhibit G). It was agreed upon both parties that the property owner would be responsible for maintenance work on the HVAC system and roof for this space prior to turning the property over to the tenant. This is reflected in the executed lease agreement with the tenant and property owner (Exhibit H).

It is important to note that in all of these conversations and the execution of a lease, the space for this use remains to that indicated on the previous certificate of occupancy. In addition, the use for this space remains to be listed as a cocktail bar and lounge (alcoholic beverage establishment). In no instance is there evidence to convert the space into a restaurant, dance hall or another assembly use. The property owner maintained the intention of executing a long term lease (10 year minimum) with this tenant for a continuation of the previous occupancy. These items have been highlighted in the previously mentioned exhibits.

As the tenant prepared an application for a new certificate of occupancy (November 1), the property owner began finalizing a contract to repair the HVAC system and roof. A building permit was obtained on November 10, 2014 (Exhibit I) to begin this work.

As work began on the roof and HVAC system, it was discovered that there was damage on the roof that had not been previously identified. The completion of this construction does not occur until mid-January of 2015 (invoice for this work is listed as Exhibit J).

The tenant began interior work in January of 2015. This initial work included items that do not require a building permit (scrub walls, scrape floor tiles, rebuild existing bar and replacing existing bathroom fixtures (no new fixtures or relocation of existing fixtures; just replacing toilets and sinks).

In February, the tenant began conversations with an electrical contractor. It was discovered that the electrical system was the original to the mid 1970's construction and that the previous operators had made numerous splices rather than replacing the original systems. The electrical work would take four months to complete and pass city inspection.

For the remainder of the spring of 2015, the tenant continues to other work required to open a cocktail bar and lounge. This includes the installation of audio and visual equipment, new ice machines, new bar shelves on the main bar, tile work around the bar, and staining the concrete floors.

It should be noted that the tenant also made attempts to obtain a new certificate of occupancy for this space as an alcoholic beverage establishment. However, they were either rejected or denied on their attempts. The first attempt on November 1, 2014 (after executing a lease agreement on October 28) was rejected because it did not include their TABC information. The tenant paid for a TABC survey in December of 2014 and again in the spring of 2015. Another attempt was made for a new certificate of occupancy as an alcoholic beverage establishment on March 9, 2015. This attempt was denied since the application for a non-conforming use had been made beyond the six month allowance for an application.

With the completion of the electrical work in June of 2015, and the stained concrete on July 13, 2015 the tenant made a third attempt for a certificate of occupancy for an alcoholic beverage establishment on July 14, 2015. This application was denied again because it was beyond the allowed time frame for a non-conforming use.

In meeting with the tenant and property owner in July and August of 2015, it became evident that there was never an intention by the property owner to vacate the non-conforming use of an alcoholic beverage establishment at this location. It is clear in their conversations, letters of intent, executed lease and permits that they maintained their intention to lease a cocktail bar and lounge to their tenant. I have provided an additional timeline of events for consideration that validate this position (Exhibit K). For our hearing, we are preparing the additional copies of invoices and correspondence to support this established timeline.

Please let me know of any other items you may need regarding this request.

Sincerely,



Santos T. Martinez
Authorized representative for
Henderson Main Dallas LLC

Certificate of Occupancy

Address: 1806 MCMILLAN AVE 75206 Issued Date: 05/01/2001

Owner: THE SLIP INN INC
001806 MCMILLAN AV DALLAS TX 75206

DBA: THE SLIP INN

Land Use: (5821) ALCOHOLIC BEVERAGE ESTABLISHMENT

C.O.#: 0103151015

Lot:	Block:	Zoning:	CR	PDD:	0	SUP:
Historic Dist:	Consv Dist:	Pro Park:	18	Req Park:	18	Park Agrmt: N
Dwlg Units: 0	Stories: 1	Occ Code:	A3	Lot Area:	0	Total Area: 1828
Type Const: VB	Sprinkler:	Occ Load:		Alcohol:	N	Dance Floor: N

Remarks: NON-CONFORMING USE LETTER ON FILE EXIST USE
MAX OCC 110 UPDATED 9.3.04
patio max occ 49 updated 5/29/12 by SW



Lloyd Denman, Building Official

This certificate shall be displayed on the above premise at all times.

EXHIBIT B

From: Mark Masinter <MMasinter@openra.com>
Sent: Monday, April 14, 2014 9:15 AM
To: Matt Heisley; Drew Downs
Subject: FW: Fancy Free
Attachments: Fancy Free.pdf

FYI

--

OPEN

mark i. masinter
open realty advisors
2525 mckinnon st
suite 750
dallas, texas 75201
214.750.0011 w
214.668.6240 c
[✉mimasinter@openra.com](mailto:mimasinter@openra.com)

From: Chad Solomon <cuffsandbuttons@gmail.com>
Date: Monday, April 14, 2014 8:26 AM
To: Mark Masinter <mimasinter@openra.com>, Tristan Simon <tsimon@consilient.com>
Subject: Fancy Free

Great to see you last night!
Here is the FF presentation....

C

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Cuffs & Buttons™
Chad Solomon
Christy Pope
442-D Lorimer Street #234
Brooklyn, NY 11206
PH: 646.580.2833
www.cuffsandbuttons.com

An LA inspired High Dive
FANCY FREE

Exhibit B

Fancy Free
Neon Signage
Lose Awning, Paint, New Door



Exhibit B

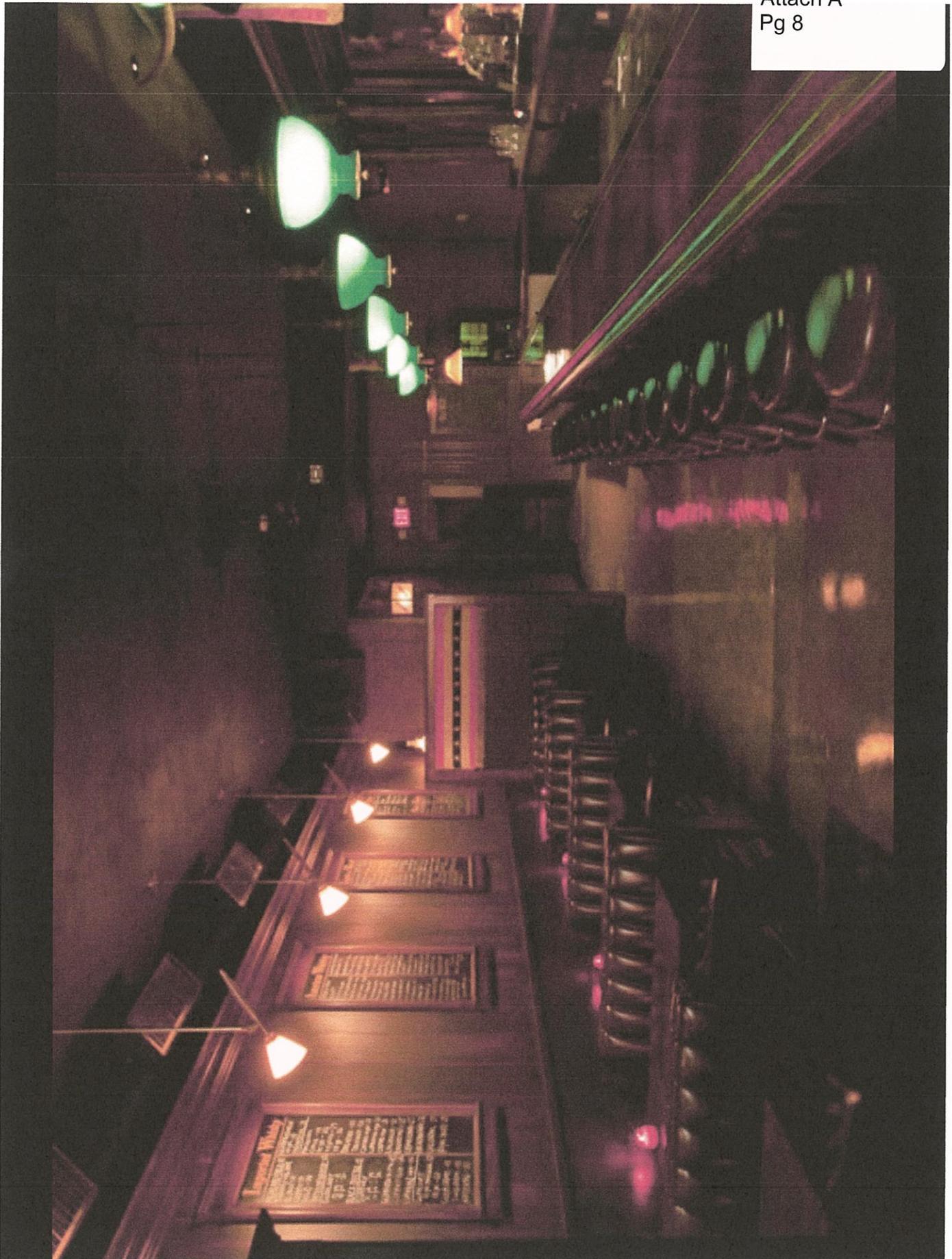


Exhibit B

Fancy Free
Bar Pendants/ Green (low) Ambient Light
Chalk Boards on wall opposite bar (no menus, boards only)



Exhibit B

Fancy Free

Back Bar:

Tap in Middle, Personality piece above, Mirrored sides, Shelving, Liquor Steps



Exhibit B

Fancy Free
Wall Treatments:
Keep Exposed Brick, Build Inlet for indirect lighting
Tufted Banquets...

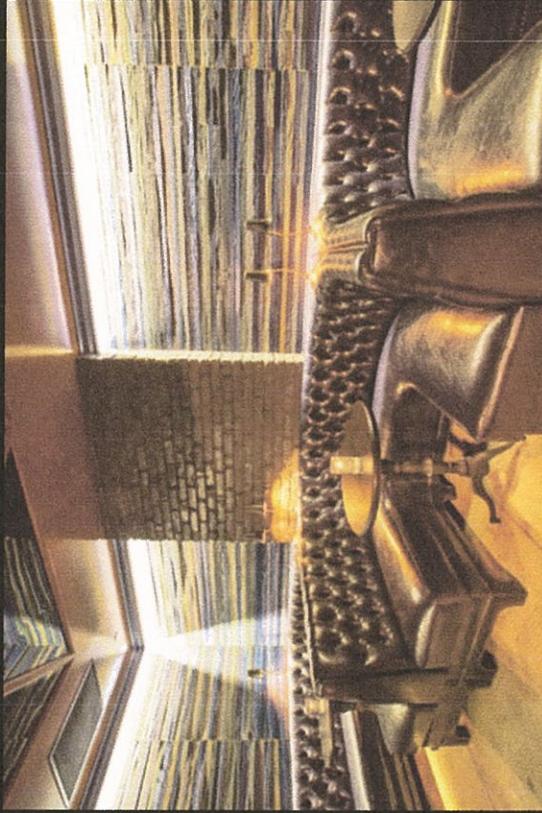


Exhibit B

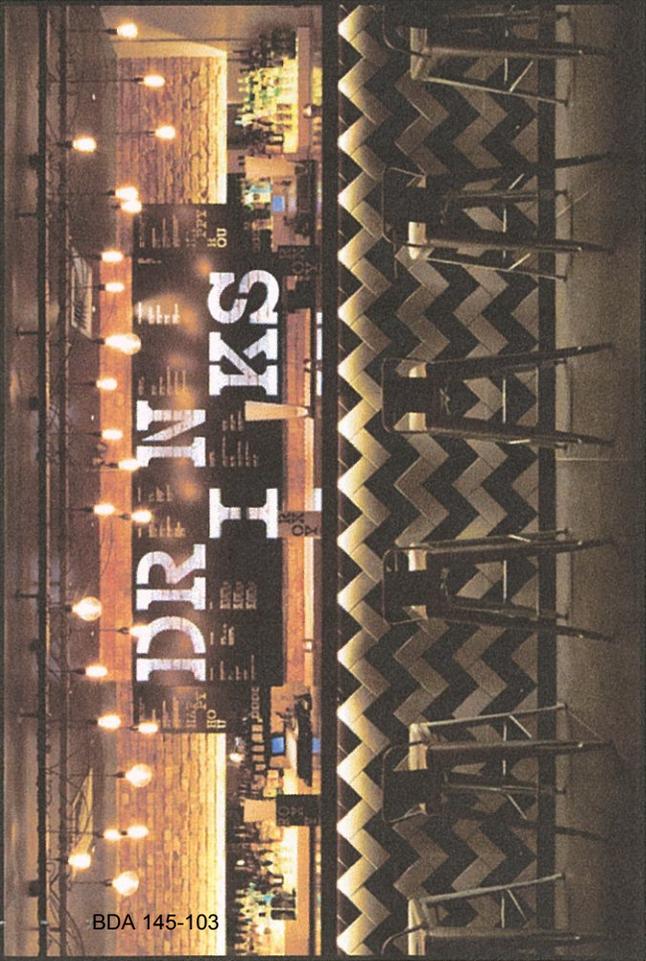
Fancy Free

Wall Treatment: Reclaimed wood (detailed under inlet per slide before)
Tufted Banquets: Left Wall-Runner Banquet, Right Wall- Hollywood Booths

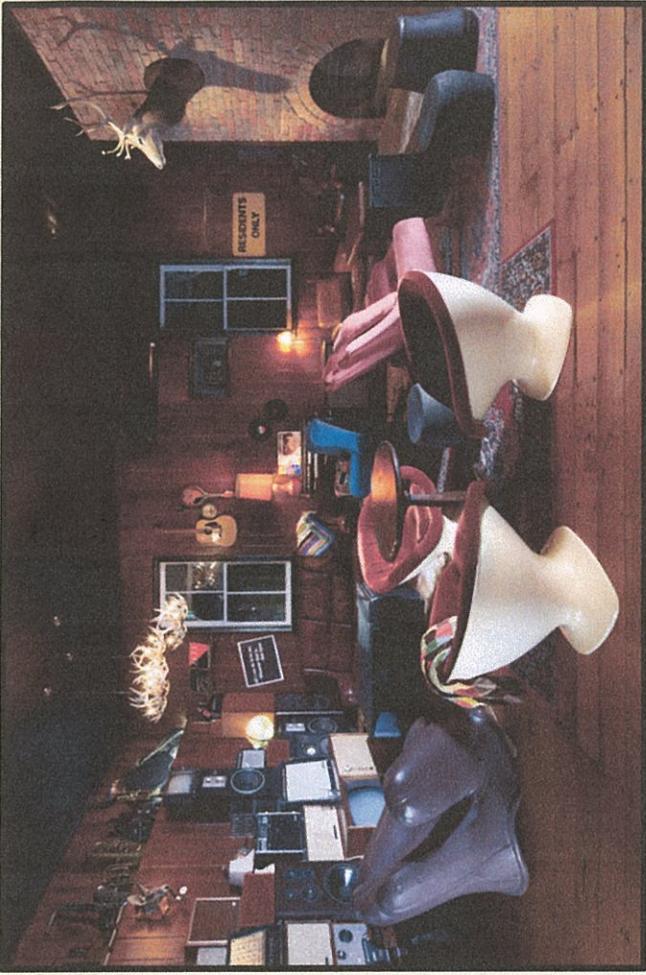


EXHIBIT C

allswell

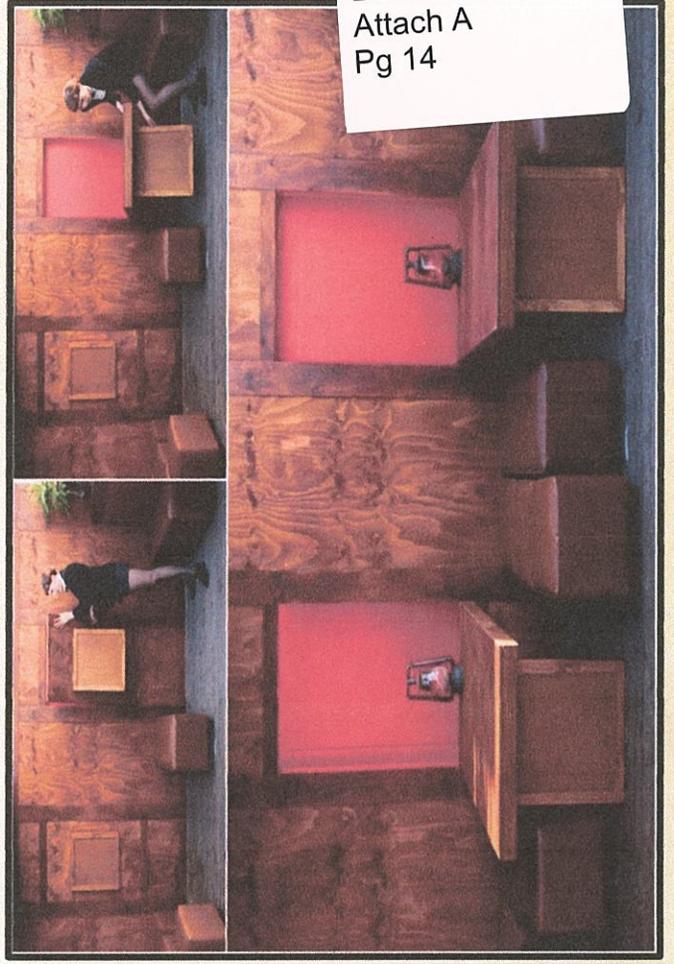
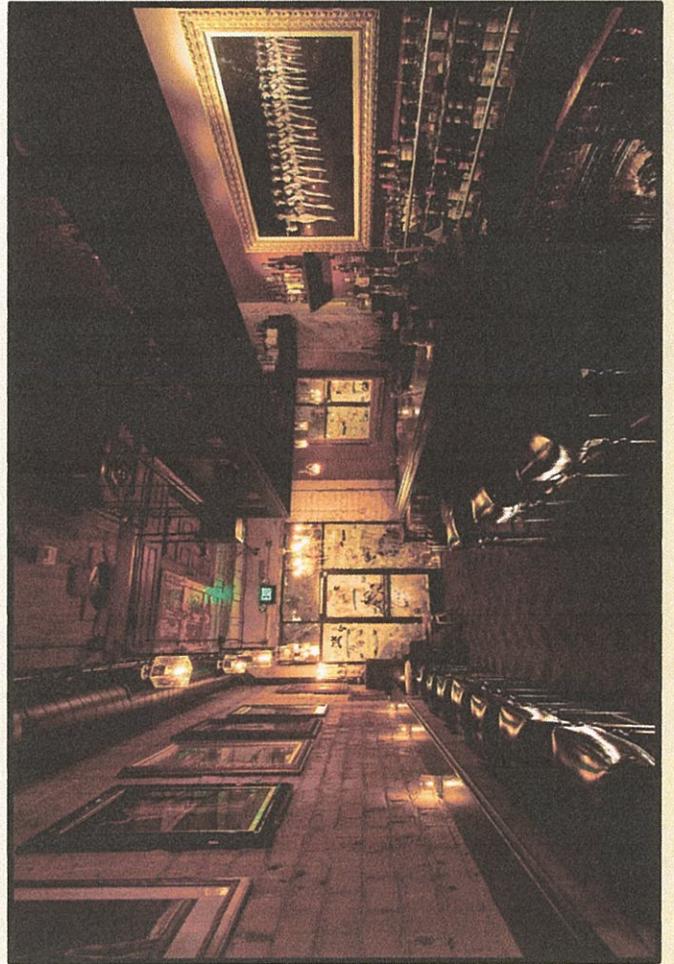


BDA 145-103

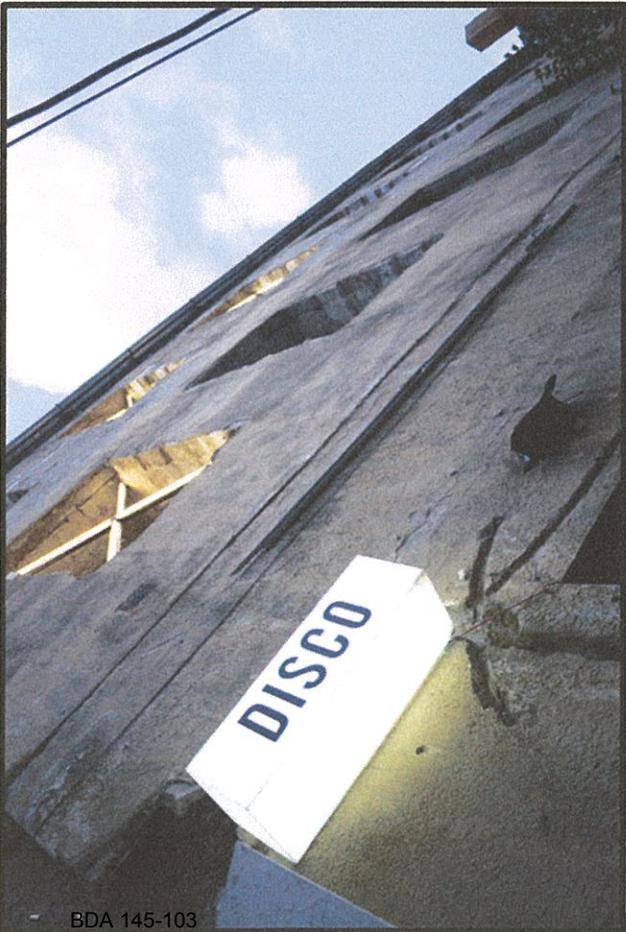


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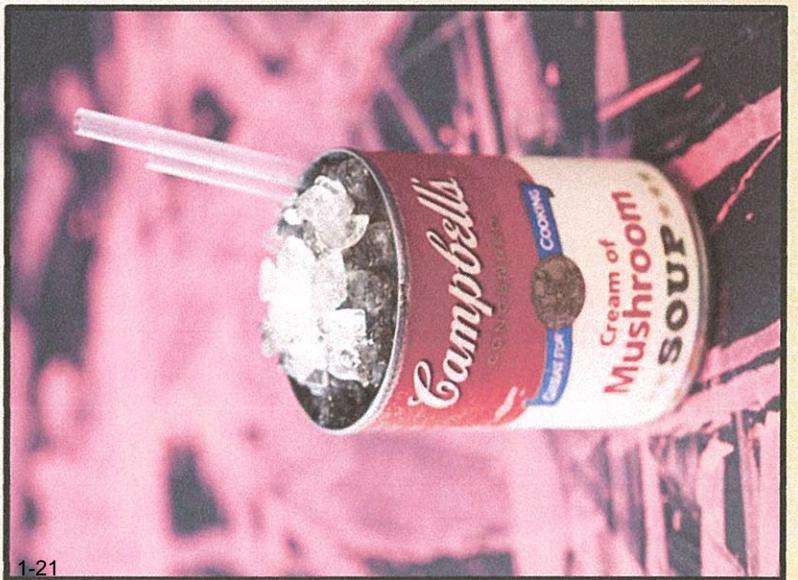
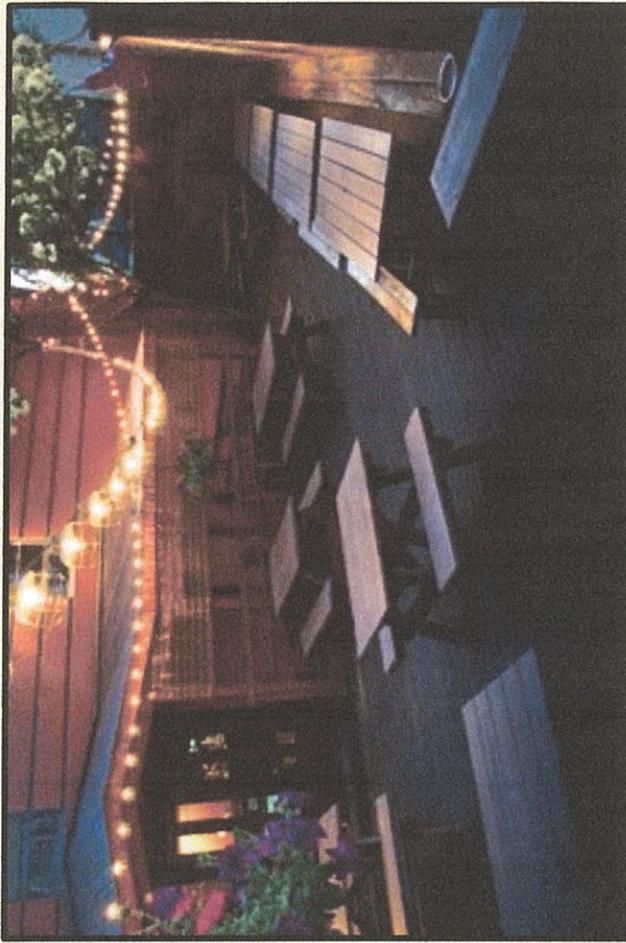
Interior



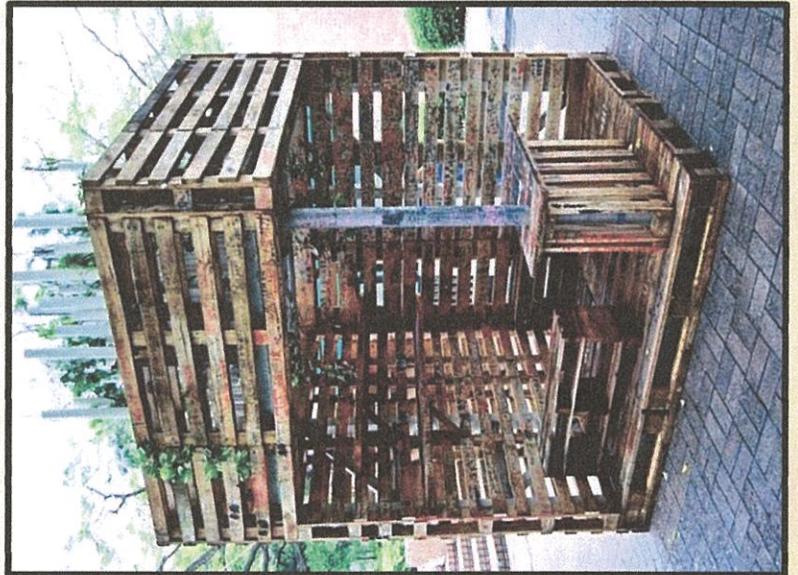
BDA 145-103
Attach A
Pg 14



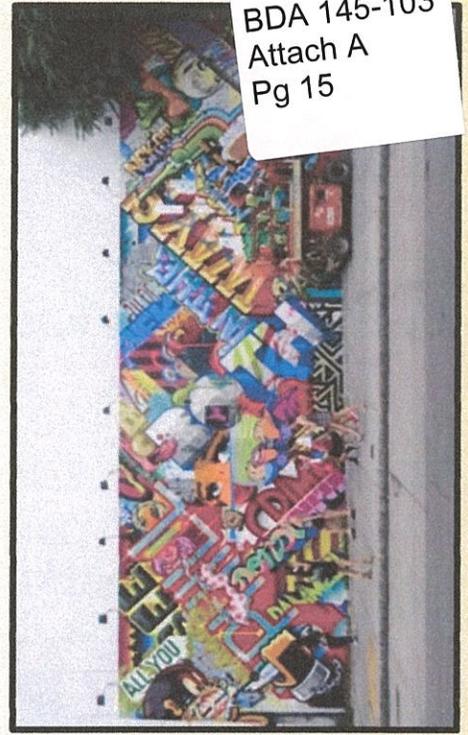
BDA 145-103



1-21



Exterior & design details



BDA 145-103
Attach A
Pg 15

EXHIBIT D

From: brandonmiles-hays@gmail.com on behalf of Brandon Hays <brandon_hays@me.com>
Sent: Wednesday, July 09, 2014 11:42 PM
To: Matt Heisley; Drew Downs
Cc: Phil Schanbaum
Subject: Allswell 1806 McMillan Ave
Attachments: Allswell.pdf; allswell - 2012.pdf

Gentlemen thank you so much again for taking the time Tuesday to meet with us!

Deal points

- \$. 1 a sqft to start with a % increase annually
- \$ a sqft in TI
- 10 year lease with two 5 year options
- Security would come from 6 months worth of rent in cash that sits in escrow of your choice this would burn off after 3 years

We would like to move forward pretty quickly! What do you think the timeline is with raising the roof and delivering the space with the new HVAC and improvements from your side?

Please contact me with any questions or concerns

--

Brandon Hays



EXHIBIT E

July 11, 2014

Brandon Hays
 Via e-mail: brandonmilesays@gmail.com

Re: "allswell"

Dear Brandon,
 The purpose of this letter is to set forth the intent of Henderson Main (Dallas), LLC as Landlord ("Landlord") and "allswell"(subject to change). as Tenant ("Tenant") with respect to the terms of a proposed lease ("Lease") of space at 1806 McMillan Ave., located in Dallas, Texas. The following is a proposal that summarizes the proposed business terms for the above location. If in agreement, please sign and return this document as soon as possible.

Location/Suite:	1806 McMillan Ave., Dallas, TX 75206
Parking:	1812 McMillan Ave., Dallas, TX 75206 (adjacent parking lot to be designated for common use)
Permissible Trade Name:	"allswell" (subject to change)
Guarantor:	Security would come from six (6) months worth of "Gross Rent" that will reside in an escrow account.
Permitted Use:	Operation of cocktail bar/lounge and will be further defined in Lease
Approximate Floor Space:	1,820 SF
Condition of Leased Space:	As-is
Landlord Work:	Landlord will (i) provide 7 to 8 tons of HVAC roof top units to be installed with curbing at locations to be determined; and (ii) demolish and replace the existing roofing with R-18 iso-board and a built-up roofing system on the steel decking
Tenant Allowance:	[REDACTED]

Lease Term:	Ten (10) Years with one (1) five (5) year Fair Market Value Option (FMV)
Rent Commencement Date:	One hundred and twenty (120) days from Delivery of Premises
Annual Minimum Rent:	[REDACTED]
Percentage Rent:	[REDACTED]
CAM:	[REDACTED]
Insurance:	Tenant shall pay its proportionate share of the cost of insurance maintained by Landlord with respect to its ownership of the Building. Estimated 2014 cost is \$0.08 PSF.
Taxes:	[REDACTED]
Utilities:	The leased space will be separately metered, and Tenant will be responsible for paying its own utilities.
On-Going Marketing & Security Charge:	[REDACTED]
Radius Restriction:	3 Miles

Nothing contained in this letter creates any legally binding obligation for either Landlord or Tenant, as the terms contained herein are expressly conditioned upon and subject to execution and delivery of a mutually acceptable Lease.

If the foregoing is acceptable, please sign and return this Letter of Intent to us as soon as possible; upon execution of this Letter of Intent, we will instruct our counsel to prepare a draft of the Lease for review by your counsel and for mutual discussion.

Very truly yours,

Landlord's Consultant

By: _____
Its: Principal

Date: _____

AGREED

Tenant

By: _____

Its: _____

Date: _____

EXHIBIT F

From: Matt Bethancourt <MBethancourt@chaikenlegalgroup.com>
Sent: Friday, August 01, 2014 6:11 PM
To: Drew Downs
Cc: Michael Chaiken
Subject: HHD.29 allswell - 1806 McMillan - Lease Agreement
Attachments: HHD.29 - 1806 McMillan - allswell Lease Agreement.doc

Drew,

Attached is a clean version of the allswell Lease. Please forward to tenant for review. Let me know if you have any questions or concerns. Thanks.

Matt Bethancourt
Chaiken Legal Group, P.C.

Heritage Square II
5001 LBJ Freeway, Suite 925
Dallas, Texas 75244
T 214 751 3433, ext. 227
F 214 751 3438

mbethancourt@chaikenlegalgroup.com
www.chaikenlegalgroup.com

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 *Please consider the environment before printing this e-mail*

EXHIBIT F

SHOPPING CENTER LEASE

ARTICLE 1

DEFINITIONS AND CERTAIN BASIC PROVISIONS

1.1 The following list sets out certain defined terms and certain financial and other information pertaining to this Lease:

- (a) "Landlord": HENDERSON MAIN (DALLAS), LLC, a Delaware limited liability company
- (b) Landlord's address: 2525 McKinnon St., Suite 750, Dallas, Texas 75201
- (c) "Tenant": **[PLEASE PROVIDE.]**
- (d) Tenant's address: **[PLEASE PROVIDE.]**
- (e) Tenant's trade name: allswell **[OPEN.]**
- (f) Tenant's Guarantor (if applicable, attach Guaranty as an exhibit): **[OPEN.]**
ESCROW OF SIX MONTH'S GROSS RENT TO BE DISCUSSED.
- (g) "Agent": Open Realty Advisors
- (h) "Cooperating Agent": **[PLEASE PROVIDE.]**

(i) "Shopping Center": Property located in the City of Dallas, Dallas County, Texas, which property is described on Exhibit "A" attached to this Lease, exclusive of outparcels or other areas which are separately owned or maintained, together with such additions, deletions, and other changes as Landlord may from time to time designate as included within or excluded from the Shopping Center.

(j) "Demised Premises": A store unit containing **approximately 1,820 square feet in area** (measured by calculating lengths and widths to the exterior of outside walls and to the center of interior walls), in the Shopping Center known as 1806 McMillan Avenue, Dallas, Texas and being shown on Exhibit "B" attached to this Lease. With regard to Exhibit "B", the parties agree that the exhibit is attached solely for the purpose of locating the Shopping Center and the Demised Premises within the Shopping Center and that no representation, warranty, or covenant is to be implied by any other information shown on the exhibit (*i.e.*, any information as to buildings, tenants or prospective tenants, etc. is subject to change at any time).

(k) "Commencement Date": The earlier of (i) the date upon which Tenant opens for business at the Demised Premises, or (ii) whichever of the following alternatives may be appropriate (place an "X" or other mark designating a choice in the appropriate box):

- one hundred twenty (120) days after the Demised Premises are deemed "ready for occupancy" (as defined in Exhibit "D" attached to this Lease), it being Landlord's estimate that the Demised Premises will be "ready for occupancy" on or before _____, 20__.
- On _____, 20__.

(l) "Lease Term": Commencing on the Commencement Date and continuing **for ten (10) years** after the Commencement Date; provided that if the Commencement Date is a date other than the first day of a calendar month, the Lease Term shall be extended to include the remainder of the calendar month in which the Commencement Date occurs.

Landlord's Initial _____
Tenant's Initial _____

EXHIBIT F

(m) "Minimum Guaranteed Rental": [REDACTED]

(n) "Percentage Rental Rate" [REDACTED] %.

(o) "Common Area Maintenance Charge": A minimum of \$ _____ per month, payable in advance.

(p) "Prepaid Rental": [REDACTED] being an estimate of the Minimum Guaranteed Rental, Common Area Maintenance Charge and Tenant's obligations for taxes, other real estate charges and insurance, and (if applicable) merchants' association dues or promotional fund for the first month of the Lease Term, such prepaid rental being due and payable upon execution of this Lease. Note: If Tenant desires credit for Prepaid Rental upon execution of this Lease, Tenant should list the check number _____, drawee bank _____, date of check __, 20__, and amount \$ _____.

(q) "Security Deposit": **ESCROW OF SIX MONTH'S GROSS RENT TO BE DISCUSSED.**

(r) "Permitted Use": Tenant may use the Premises for the **operation of cocktail bar/lounge, and for no other purpose**, subject to, and the Demised Premises may not be used at any time in violation of, any restrictions and exclusives set forth on Exhibit "I".

1.2 The following chart is provided as an estimate of Tenant's initial monthly payment broken down into its components. This chart, however, does not supersede the specific provisions contained elsewhere in this Lease:

Initial Minimum Guaranteed Rental (Section 1.1(m))	[REDACTED]
Initial Common Area Maintenance Charge (Sections 1.1(o) and 7.4)	[REDACTED]
Initial Escrow Payment for Taxes and Other Real Estate Charges (Article 6)	[REDACTED]
Initial Escrow Payment for Insurance (Article 6)	[REDACTED] *
Initial Marketing Charge (Article 8)	[REDACTED] *
Total Initial Monthly Payment	[REDACTED] *

* Subject to adjustments as set forth in this Lease.

Landlord's Initial _____
Tenant's Initial _____

EXHIBIT G

BDA 145-103
Attach A
Pg 23

From: CarlosDavidGoyne <cdgoyne@goyne.net>
Sent: Tuesday, August 26, 2014 2:44 PM
To: Drew Downs
Cc: richarddallen@mac.com; ash@cafebuild.com
Subject: Slip Inn Reroof
Attachments: Slip Inn Roofing and White Box.pdf

Please find attached budget for roofing rework with structural modifications.

CarlosDavidGoyne
214.793.8181

EXHIBIT H

BDA 145-103
Attach A
Pg 24

From: Matt Bethancourt <MBethancourt@chaikenlegalgroup.com>
Sent: Friday, August 01, 2014 6:11 PM
To: Drew Downs
Cc: Michael Chaiken
Subject: HHD.29 allswell - 1806 McMillan - Lease Agreement
Attachments: HHD.29 - 1806 McMillan - allswell Lease Agreement.doc

Drew,

Attached is a clean version of the allswell Lease. Please forward to tenant for review. Let me know if you have any questions or concerns. Thanks.

Matt Bethancourt
Chaiken Legal Group, P.C.

Heritage Square II
5001 LBJ Freeway, Suite 925
Dallas, Texas 75244
T 214 751 3433, ext. 227
F 214 751 3438
mbethancourt@chaikenlegalgroup.com
www.chaikenlegalgroup.com

Notice of Confidentiality:

This e-mail communication and the attachments hereto, if any, are intended solely for the information and use of the addressee(s) identified above and may contain information which is legally privileged and/or otherwise confidential. Accordingly, if a recipient of this e-mail communication is not an addressee (or an authorized representative of an addressee), such recipient is hereby advised that any review, disclosure, reproduction, re-transmission or other dissemination or use of this e-mail communication (or any information contained herein) is strictly prohibited. If you are not an addressee and/or have received this e-mail communication in error, please advise the sender of that circumstance either by reply e-mail or by telephone at (214) 751-3433, immediately delete this e-mail communication from any computer and destroy all physical copies of same.

 *Please consider the environment before printing this e-mail*

SHOPPING CENTER LEASE

ARTICLE 1

DEFINITIONS AND CERTAIN BASIC PROVISIONS

1.1 The following list sets out certain defined terms and certain financial and other information pertaining to this Lease:

- (a) "Landlord": HENDERSON MAIN (DALLAS), LLC, a Delaware limited liability company
- (b) Landlord's address: 2525 McKinnon St., Suite 750, Dallas, Texas 75201
- (c) "Tenant": BIG FACE HENDO'S, LLC, a Texas limited liability company
- (d) Tenant's address: 1806 McMillan, Dallas, TX 75206
- (e) Tenant's trade name: The Whippersnapper
- (f) Tenant's Guarantor (if applicable, attach Guaranty as an exhibit): None.
- (g) "Agent": Open Realty Advisors
- (h) "Cooperating Agent": None.

(i) "Shopping Center": Property located in the City of Dallas, Dallas County, Texas, which property is described on Exhibit "A" attached to this Lease, exclusive of outparcels or other areas which are separately owned or maintained, together with such additions, deletions, and other changes as Landlord may from time to time designate as included within or excluded from the Shopping Center.

(j) "Demised Premises": A store unit containing approximately 1,820 square feet in area (measured by calculating lengths and widths to the exterior of outside walls and to the center of interior walls), in the Shopping Center known as 1806 McMillan Avenue, Dallas, Texas and being shown on Exhibit "B" attached to this Lease. With regard to Exhibit "B", the parties agree that the exhibit is attached solely for the purpose of locating the Shopping Center and the Demised Premises within the Shopping Center and that no representation, warranty, or covenant is to be implied by any other information shown on the exhibit (i.e., any information as to buildings, tenants or prospective tenants, etc. is subject to change at any time).

(k) "Commencement Date": The earlier of (i) the date upon which Tenant opens for business at the Demised Premises, or (ii) whichever of the following alternatives may be appropriate (place an "X" or other mark designating a choice in the appropriate box):

- one hundred twenty (120) days after the Demised Premises are deemed "ready for occupancy" (as defined in Exhibit "D" attached to this Lease), it being Landlord's estimate that the Demised Premises will be "ready for occupancy" on or before _____, 20__.
- Notwithstanding anything to the contrary contained herein, if Tenant is unable to obtain a license or permit to serve and sell alcohol on or before the Commencement Date, Tenant may terminate this Lease upon written notice to Landlord; provided if Tenant has not provided Landlord such written notice within 30 days after the Commencement Date, this termination right shall expire and be of no further force or effect.
- On _____, 20__.

(l) "Lease Term": Commencing on the Commencement Date and continuing for ten (10) years after the Commencement Date; provided that if the Commencement Date is a date other than the first day of a calendar month, the Lease Term shall be extended to include the remainder of the calendar month in which the Commencement Date occurs.

(m) "Minimum Guaranteed Rental": _____ per month at the commencement of the Lease Term, through and including month 12 of the Lease Term, and thereafter during the Lease Term as follows:

Months 13 through 24, inclusive	_____ per month
Months 25 through 36, inclusive	_____ per month
Months 37 through 48, inclusive	_____ per month
Months 49 through 60, inclusive	_____ per month
Months 61 through 72, inclusive	_____ per month
Months 73 through 84, inclusive	_____ per month
Months 85 through 96, inclusive	_____ per month
Months 97 through 108, inclusive	_____ per month
Months 109 through 120, inclusive	_____ per month

- (n) "Percentage Rental Rate": _____%.
- (o) "Common Area Maintenance Charge": A minimum of \$_____ per month, payable in advance.

Landlord's Initial _____
 Tenant's Initial _____

EXHIBIT H

(p) "Prepaid Rental": \$ [redacted] being an estimate of the Minimum Guaranteed Rental, Common Area Maintenance Charge and Tenant's obligations for taxes, other real estate charges and insurance, and (if applicable) merchants' association dues or promotional fund for the first month of the Lease Term, such prepaid rental being due and payable upon execution of this Lease. Note: If Tenant desires credit for Prepaid Rental upon execution of this Lease, Tenant should list the check number _____, drawee bank _____, date of check __, 20__, and amount \$ _____.

(q) "Security Deposit": "\$ [redacted] such Security Deposit being due and payable upon execution of this Lease.

(r) "Permitted Use": Tenant may use the Premises for the operation of cocktail bar/lounge, and for no other purpose, subject to, and the Demised Premises may not be used at any time in violation of, any restrictions and exclusives set forth on Exhibit "I".

1.2 The following chart is provided as an estimate of Tenant's initial monthly payment broken down into its components. This chart, however, does not supersede the specific provisions contained elsewhere in this Lease:

Initial Minimum Guaranteed Rental (Section 1.1(m))	[redacted]
Initial Common Area Maintenance Charge (Sections 1.1(o) and 7.4)	[redacted]
Initial Escrow Payment for Taxes and Other Real Estate Charges (Article 6)	[redacted] *
Initial Escrow Payment for Insurance (Article 6)	[redacted] *
Initial Marketing Charge (Article 8)	[redacted] *
Total Initial Monthly Payment	[redacted] *

* Subject to adjustments as set forth in this Lease.

ARTICLE 2

GRANTING CLAUSE

2.1 In consideration of the obligation of Tenant to pay rent as herein provided and in consideration of the other terms, covenants, and conditions hereof, Landlord leases to Tenant, and Tenant hereby takes from Landlord, the Demised Premises upon the terms and conditions set forth in this Lease.

ARTICLE 3

DELIVERY OF DEMISED PREMISES

3.1 Except to the extent modified by Landlord's express assumption of construction obligations, if any, in an exhibit attached to this Lease, the Demised Premises is being leased "AS IS," with Tenant accepting all defects, if any; and Landlord makes no warranty of any kind, express or implied, with respect to the Demised Premises (without limitation, Landlord makes no warranty as to the habitability, fitness or suitability of the Demised Premises for a particular purpose nor as to the absence of any toxic or otherwise hazardous substances). This Section 3.1 is subject to any contrary requirements under applicable law; however, in this regard Tenant acknowledges that it has been given the opportunity to inspect the Demised Premises and to have qualified experts inspect the Demised Premises prior to the execution of this Lease.

3.2 If this Lease is executed before the Demised Premises become vacant, or if any present tenant or occupant of the Demised Premises holds over and Landlord cannot acquire possession of the Demised Premises prior to the Commencement Date of this Lease, as above defined, Landlord shall not be deemed to be in default under this Lease; and in such event Tenant agrees to accept possession of the Demised Premises at such time as Landlord is able to tender the same. If Landlord utilizes the provisions of this Section 3.2, Landlord will waive the payment of rent and other charges covering any period prior to tender of possession of the Demised Premises to Tenant.

ARTICLE 4

RENT

4.1 Rental shall accrue from the Commencement Date, and shall be payable to Landlord, at Landlord's address.

4.2 Tenant shall pay to Landlord Minimum Guaranteed Rental in monthly installments in the amounts specified in Section 1.1(m) of this Lease. The first such monthly installment shall be due and payable on or before the Commencement Date, and subsequent installments shall be due and payable on or before the first day of each succeeding calendar month during the Lease Term; provided that if the Commencement Date is a date other than the

Landlord's Initial [Signature]
Tenant's Initial [Signature]

EXHIBIT H

ARTICLE III. DESCRIPTION OF LANDLORD'S WORK

The Premises shall be delivered in AS-IS, WHERE-IS condition, except that Landlord shall be responsible for performing the following work ("Landlord's Work"):

The work to be done by Landlord shall include, but not be limited to, the purchase and/or installation and/or performance of the following:

1. Provide and install two (2) five (5)-ton rooftop units with curbing at locations to be determined.
2. Demolish existing roofing to structure and patch steel decking as required.
3. Install R-18 ISO board and TPO roofing to tie-in to existing roof structure at 1804 McMillan Ave.
4. Extend and raise existing roof wall structural columns and pilasters approximately 24" above the current elevation.
5. Install steel decking to create a slope adequate to handle heavy rain runoff.
6. Cap and blank all utilities.

*Upon applying for necessary permits, Café Build may be required to submit a roofing sample; if required by the City of Dallas, a sample test will be performed.

*Cafe Build will obtain a basic roofing permit and will manage all issues required to obtain all required permits.

A. Structure:

1. Exterior wall surfaces shall be selected by Landlord. Exterior trim and other exterior work normally requiring painting shall be painted.
2. Roofing shall be built-up composition roofing, or other material specified by Landlord.

B. Store Front:

1. A standard storefront shall be provided in keeping with the overall architectural plan for the center.
2. If a door already exists on the Demised Premises, and if such door is owned by Landlord, then Tenant may use the door for its storefront. However, Landlord makes no representation or warranty in this regard, and Tenant agrees that it is ultimately responsible for providing its own door.

C. Parking Areas and Walks:

1. Parking areas shall be hard-surfaced.
2. Walks shall be surfaced with concrete, stone, brick or other hard material as specified by Landlord.
3. Parking areas and walks shall be provided with reasonably adequate artificial lighting.

D. Floor Slab: The interior of the Demised Premises will have a smooth concrete floor except for the "leave-out", if any, will not be the responsibility of Landlord.

E. Utilities:

1. Cold water service shall be brought to the perimeter of the Demised Premises; otherwise, all plumbing fixtures and connections thereto within the Demised Premises shall be provided by Tenant.
2. Waste line shall be brought to the "leave-out" (see III.D.) in the Demised Premises.
3. Gas service, if utilized by the Shopping Center, shall be brought to a location at the perimeter of the shell building, at which location the gas company will set Tenant's meter; provided, however, that Landlord shall have the option of substituting all electric utility service for gas service.
4. Electrical service (120/240 volt, unless instead 110/208 volt service is provided in the area, and at Landlord's option either three-phase or one-phase service) shall be brought to a location on the perimeter wall of the shell building, at which location the electric company will set Tenant's meter.
5. Telephone service shall be brought to a location on the perimeter wall of the shell building.

F. Limitations and Conditions:

Landlord's Initial MM
Tenant's Initial BT

EXHIBIT I



City of Dallas

Permit # 1411105004

Issue Date: 11/10/2014

Sustainable Construction and Development | Building Inspection Division | 214/948-4480 | www.dallascityhall.com

Address: 1806 MCMILLAN AVE 75206

Land Use Description: VACANT FLOOR SPACE

Work Description: REMOVE EXISTING ROOF AND INSTALL NEW ROOF

Value Of Work: \$15,200.00

Owner Or Tenant: A Y A Z INVESTMENTS GROUP
1804 MCMILLAN AVE , DALLAS TEXAS 752067102 UNITED STATES OF AMERICA

Applicant: WENDY FISHER

Contractor: FISHER ROOFING, LLC

Business Address: 1235 PRATT RD, RED OAK, TX 75154

Telephone: 972/617-0816 Fax: 972/617-6068

Lot: 25	Block: A/1976	Zoning: CR,PD-462	PDD: 462	SUP:
Historic Dist:	Consrv Dist: Henderson .	Pro Park:	Req Park:	Park Agrmt: Y
Dwlg Units:	Stories:	New Area:	Lot Area: 15000	Total Area:
Type Const:	Sprinkler:	Occ Code:	Occ Load:	
Inches Of Removed Trees:				

ALL WORK SUBJECT TO FIELD INSPECTOR APPROVAL Persons performing solid waste/recycling collections including operating a vehicle transporting waste/recycling within the City of Dallas are required to obtain a Solid Waste Franchise from Sanitation Services. Ordinance 18-32 states in part that handling solid waste within the City of Dallas without a franchise is a violation of the city ordinance and may result in civil penalties of up to \$2,000 for each violation. Sanitation Services is located at 3112 Canton Street, 2nd Floor, Dallas, Texas 75226. CO REQUIRED BEFORE OCCUPANCY

This document is issued on the basis of information furnished in the application and is subject to the provisions of all governing ordinances, which must be complied with, whether or not herein specified.

THIS DOCUMENT SHALL BE POSTED AT WORK SITE AND IS SUBJECT TO CANCELLATION UPON NOTICE.



City of Dallas

Contractor's Authorization

Trade Type: Building

Sustainable Development and Construction | Building Inspection Division | www.dallascityhall.com

District Office SE

Validation #:

1411105004101

Address:

1806 MCMILLAN AVE 75206

Issue Date:

11/10/2014

Land Use Description:

VACANT FLOOR SPACE

Work Description:

1001-REMOVE EXISTING ROOF AND INSTALL NEW ROOF

Authorized Date:

11/10/2014

Owner Or Tenant:

A Y A Z INVESTMENTS GROUP
1804 MCMILLAN AVE , DALLAS TEXAS 752067102 UNITED STATES OF AMERICA

Applicant:

WENDY FISHER

Contractor:

FISHER ROOFING, LLC

Business Address:

1235 PRATT RD,

Telephone:

972/617-0816

Fax: 972/617-6068

Lot: 25	Block: A/1976	Zoning: CR,PD-4I	PDD: 462	SUP:
Historic Dist:	Consrv Dist: Henderson / Pro Park:	Req Park:	Park Agrmt: Y	
Dwg Units:	Stories:	New Area:	Lot Area: 15000	Total Area:
Type Const:	Sprinkler:	Occ Code:	Occ Load:	

For inspections call 214/670-5313, 24 hours. You will need your validation number 1411105004101 and one of the inspection types from the list below.

- | | | |
|----------------------------------|------------------|-----------------|
| 120 Pler, Foundation, Excavation | 123 Floor Joists | 127 Frame Walls |
| 130 Frame All | 132 Frame Other | 140 Final |

Your inspector is: Randy Adams at 214/670-8177

Note: 7 AM cut-off for same day inspections! Reinspection fees will be charged if the work is not ready or property is inaccessible. For partial inspection of area or additional assistance, call 214/670-8160 from 8 AM to 4:30 PM Monday through Friday.

EXHIBIT J

From: C.D.Goyne <cdgoyne@goyne.net>
Sent: Monday, January 12, 2015 1:01 PM
To: 'Richard Allen'; Drew Downs
Subject: Invoice #2 for Slip Inn
Attachments: Slip Inn Roofing and HVAC Inv02.pdf

Please find second invoice for project at Slip Inn. Send any questions or comments to Richard Allen at 214.558.3404.

Sincerely,

CarlosDavidGoyne
214.793.8181

March 31, 2014: lease terminated for previous tenant.

April 14, 2014: property owner received concept plan for potential new tenant.

April 22, 2014: property owner received proposed construction budget for potential new tenant.

July 8, 2014: property owner meets with different prospective tenant

July 9, 2014: property owner received concept plan and pro forma for potential new tenant.

July 11, 2014: property owner prepared letter of intent for prospective tenant.

July 17, 2014: property owner prepared revised letter of intent for prospective tenant.

July 23, 2014: property owner calculated ten year finance projections based upon prospective tenant

July 24, 2014: property owner prepared revised letter of intent for prospective tenant.

August 1, 2014: property owner prepared lease agreement for tenant.

August 7, 2014: property owner received proposed lease revisions from tenant. (revisions center on roof and HVAC system repairs to be made by property owner)

August 18, 2014: property owner received proposed revisions for tenant lease.

August 20, 2014: property owner corresponds with prospective tenant on agreed revisions to proposed lease.

August 26, 2014: property owner received bid for roof and HVAC work.

September 10, 2014: property owner forwarded revised lease agreement to tenant.

September 12, 2014: tenant forwarded clarification items to property owner regarding lease revisions.

September 17, 2014: property owner forwarded revised lease agreement to tenant.

October 2, 2014: property owner forwarded revised lease agreement to tenant.

October 3, 2014: tenant agreed to proposed revisions in lease agreement. Tenant needs to finalize LLC for entity to execute agreement.

October 9, 2014: tenant notified property owner that LLC formation is complete.

October 28, 2014: revised lease agreement with new tenant LLC information included forwarded for signature. Lease agreement executed by property owner and tenant.

October 31, 2014: property owner began negotiations with contractor for roof and HVAC work as agreed to by executed lease agreement.

November 1, 2014: tenant submitted application for new certificate of occupancy for alcoholic beverage establishment. (Application ruled incomplete due to lack of TABC information)

EXHIBIT K

- November 3, 2014: property owner forwarded agreement to contractor to execute for roof and HVAC repairs.
- November 4, 2014: property owner received signed contract from contractor for roof and HVAC work.
- November 6, 2014: contract for roof and HVAC work is executed by property owner.
- November 10, 2014: contractor obtained permit to conduct roof and HVAC repair.
- November 19, 2014: tenant paid for TABC survey
- December 18, 2014: tenant paid security deposit for lease space
- January 19, 2015: tenant received notice to proceed on interior work for space.
- January 20, 2015: tenant began to repair duct work for newly completed HVAC system.
- January 21, 2015: tenant began interior work. Scope of work included scrub walls, scrape tiles, rebuild existing bar, replace existing bathroom fixtures.
- February 9, 2015: tenant paid contractors for completing interior work.
- February 10, 2015: tenant negotiated with electrical contractor for new electrical system. (original wiring from original construction had been spliced several times and it was agreed new system to be installed)
- February 11, 2015: tenant paid contractor for completing duct work on new HVAC system.
- February 12, 2015: tenant began negotiation with contractor for audio/visual equipment and installation.
- February – June 22, 2015: electrical upgrades conducted and completed for space.
- March 6, 2015: tenant paid for spray installation in trusses.
- March 9, 2015: tenant made application for new certificate of occupancy for alcoholic beverage establishment. (application rejected by City)
- April 6, 2015: tenant purchases equipment for back bar (coolers, refrigerators).
- April 24, 2015: tenant paid for audio/visual equipment. Moved existing DJ booth to new location in existing space.
- May 4, 2015: tenant paid for the completion of new bar shelves installation and tile work on main bar.
- June 16, 2015: tenant executes contract for new ice machines for bar area.
- June 26, 2015: tenant paid for labor and completed installation of new audio/visual equipment.
- July 3, 2015: tenant paid for labor to stain concrete floors for alcoholic beverage establishment.
- July 6 -13, 2015: stained concrete sets.
- July 14, 2015: tenant attempts to submit new certificate of occupancy for alcoholic beverage establishment.

EXHIBIT K

BDA145-1033

Attach A

pg 33

August 13, 2015: property owner submits application for Board of Adjustment to re-instate non-conforming rights on property for alcoholic beverage establishment.



APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-103

Data Relative to Subject Property:

Date: 8.12.15

Location address: 1806 McMillan Ave. Zoning District: CR

Lot No.: Lots 25 and 26 Block No.: A/1976 Acreage: .344 Census Tract: 10.02 ✓

Street Frontage (in Feet): 1 100' 2 3) 4) 5) SE24

To the Honorable Board of Adjustment:

Owner of Property/or Principal Henderson Main Dallas LLC

Applicant: Santos T. Martinez Telephone:

Mailing Address 2821 St. Louis, Dallas, TX Zip Code: 75226

Represented by: Masterplan Telephone: 214-761-9197

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

Affirm that a request has been made for a Variance, or Special Exception X, of re-establish non-conforming use for alcoholic beverage establishment at this address

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: An alcoholic beverage establishment has been operating at this address prior to 1984. The new owner has been working with a new tenant to operate the space (revising contracts, lease agreements, and service permits) and seeks to re-instate non-conforming rights as it has not intended to vacate this use for the property as it has been vacant for more than six months.

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: Santos T. Martinez Applicant's name printed

Applicant's signature

Affidavit

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

Affiant (Applicant's signature)

Subscribed and sworn to before me this 13 day of August, 2015



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 Santos Martinez

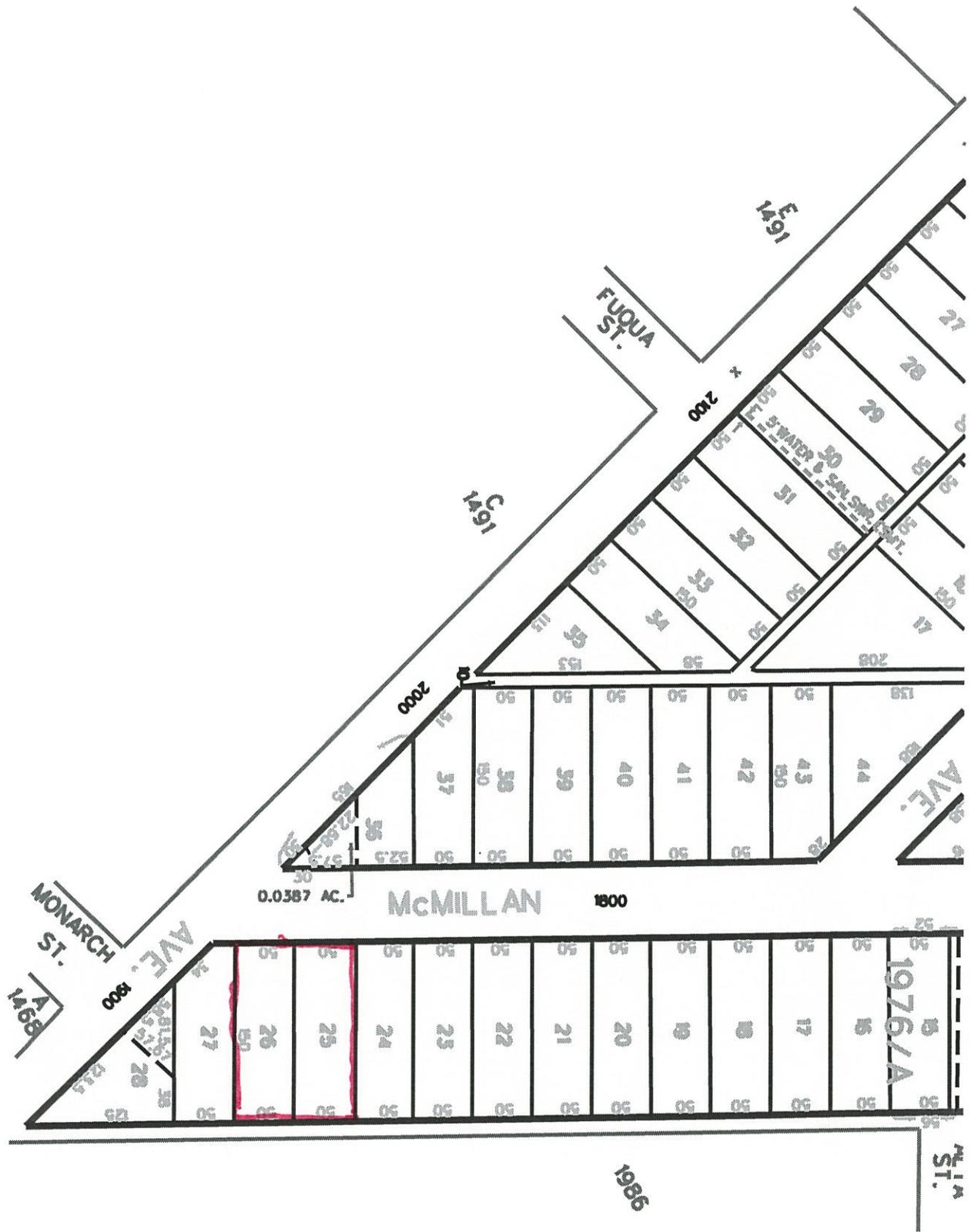
did submit a request to restore a nonconforming use
at 1806 McMillan Avenue

BDA145-103. Application of Santos Martinez to restore a nonconforming use at 1806 McMillan Avenue. This property is more fully described as Lot 25 & 26, Block A/1976, and is zoned CR, which limits the legal uses in a zoning district. The applicant proposes to restore a nonconforming alcoholic beverage establishment use, which will require a special exception to the nonconforming use regulation.

Sincerely,

Larry V. Holmes
Larry Holmes, Building Official







City of Dallas

Zoning Board of Adjustment Appeal #BDA 145-103

Property address: 1806 McMillan Ave.

The use in the above appeal, Alcoholic beverage establishment,
has been identified by Building Inspection to be a nonconforming use.

Appeal for a special exception to enlarge a nonconforming use per Sec. 51A-4.704(b)(5)

Section 51A-4.704. Nonconforming uses and structures.

(b) Changes to nonconforming uses.

(5) Enlargement of a nonconforming use.

(A) In this subsection, enlargement of a nonconforming use means any enlargement of the physical aspects of a nonconforming use, including any increase in height, floor area, number of dwelling units, or the area in which the nonconforming use operates.

(B) The board may allow the enlargement of a nonconforming use when, in the opinion of the board, the enlargement:

- (i) does not prolong the life of the nonconforming use;
- (ii) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and
- (iii) will not have an adverse effect on the surrounding area.

Appeal to establish a compliance date for a nonconforming use per Sec. 51A-4.704(a)(1)(A)

or

Appeal to reinstate a nonconforming use per Sec. 51A-4.704(a)(2)

SECTION 51A-4.704. NONCONFORMING USES AND STRUCTURES.

(a) Compliance regulations for nonconforming uses. It is the declared purpose of this subsection that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

(1) Amortization of nonconforming uses.

(A) Request to establish compliance date. The city council may request that the board of adjustment consider establishing a compliance date for a nonconforming use. In addition, any person who resides or owns real property in the city may request that the board consider establishing a compliance date for a nonconforming use. Upon receiving such a request, the board shall hold a public hearing to determine whether continued operation of the nonconforming use will have an adverse effect on nearby properties. If, based on the evidence presented at the public hearing, the board determines that continued operation of the use will have an adverse effect on nearby properties, it shall proceed to establish a compliance date for the nonconforming use; otherwise, it shall not.

(2) The right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more. The board may grant a special exception to this provision only if the owner can show that there was a clear intent not to abandon the use even though the use was discontinued for six months or more.

Certificate of Occupancy

Address: 1806 MCMILLAN AVE 75206

Owner: THE SLIP INN INC

DBA: THE SLIP INN

Land Use: (5821) ALCOHOLIC BEVERAGE ESTABLISHMENT

Occupied Portion:

C.O.#: 0103151015

Issued: 05/01/2001

1806 MCMILLAN AVE 75206

THE SLIP INN INC

001806 MCMILLAN AV DALLAS TX 75206

THE SLIP INN

(5821) ALCOHOLIC BEVERAGE ESTABLISHMENT

Occupied Portion:

C.O.#: 0103151015

Issued: 05/01/2001

Lot: Block: Zoning: CR PDD: 0 SUP: 0

Historic Dist: Consv Dist: Pro Park: 18 Req Park: 18 Park Agrmt: N

Dwlg Units: 0 Stories: 1 Occ Code: A3 Lot Area: 0 Total Area: 1828

Type Const: VB Sprinkler: Occ Load: Alcohol: N Dance Floor: N

Remarks: NON-CONFORMING USE LETTER ON FILE EXIST USE

MAX OCC 110 UPDATED 9.3.04

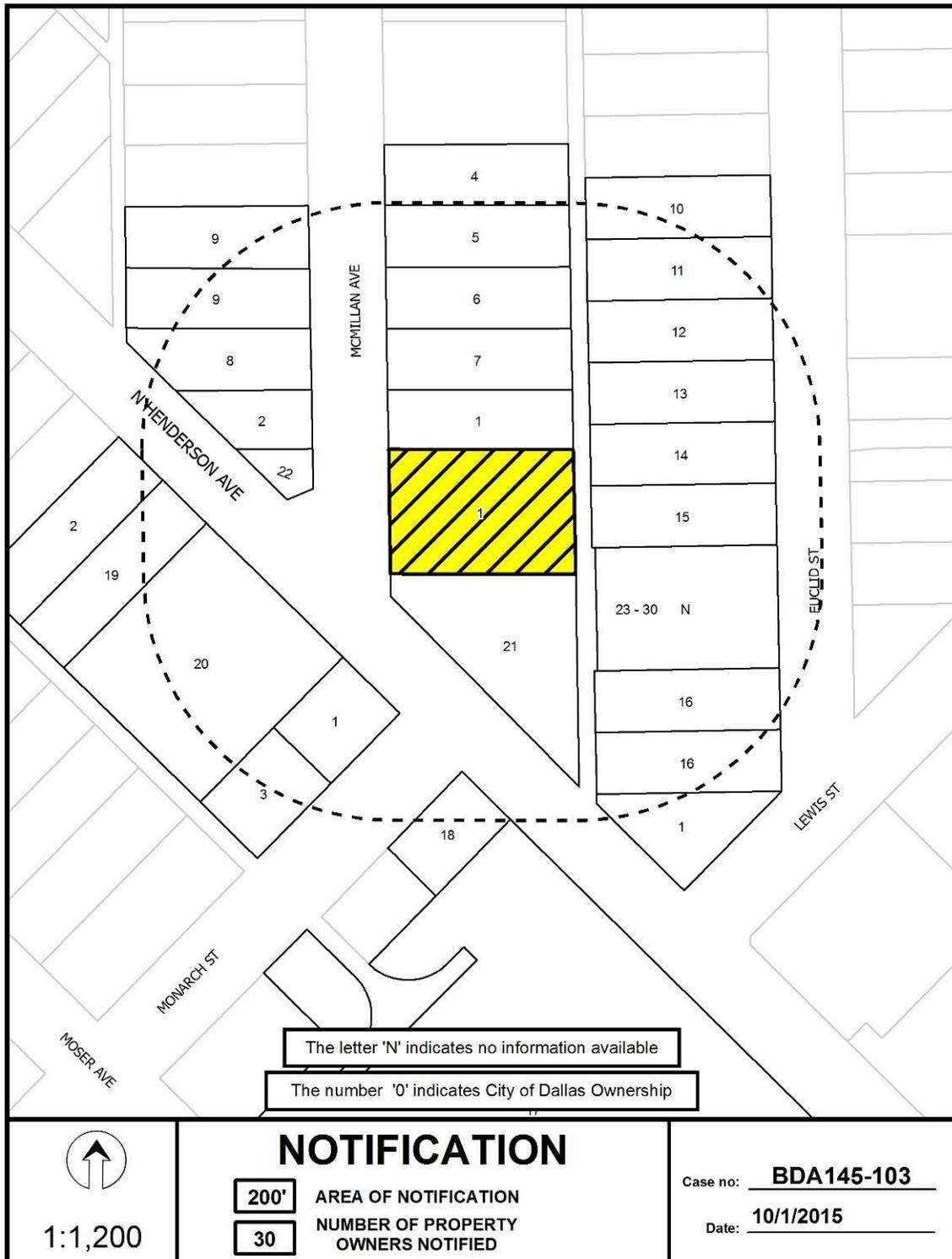
patio max occ 49 updated 5/29/12 by SW

Larry V. Holmes

Larry Holmes, Building Official

This certificate shall be displayed on the above premise at all times.

Sustainable Development and Construction | Building Inspection Division | 214/948-4480 | www.dallascityhall.com



Notification List of Property Owners

BDA145-103

30 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	1901 HENDERSON AVE	HENDERSON MAIN DALLAS LLC
2	1925 HENDERSON AVE	HENDERSON LOTS OWNER DALLAS LLC
3	5217 MONARCH ST	MUELLER MARK C
4	1828 MCMILLAN AVE	MATA HILARIO O & VIVIANA
5	1824 MCMILLAN AVE	TABOR MICHELLE CAROLINE
6	1820 MCMILLAN AVE	KAHN FAMILY TRUST
7	1816 MCMILLAN AVE	CISNEROS JUAN J &
8	1815 MCMILLAN AVE	HENDERSON RESIDENTIAL LANDS
9	1821 MCMILLAN AVE	HENDERSON RESIDENTIAL LANDS
10	1839 EUCLID ST	MATA EDGAR W &
11	1833 EUCLID AVE	MATA EDGAR W
12	1829 EUCLID AVE	CASTILLO JOE DAVE &
13	1827 EUCLID AVE	LARA RAMONA RAMIREZ
14	1821 EUCLID ST	GARCIA JESUS &
15	1819 EUCLID AVE	SINGER SUSAN E
16	1805 EUCLID AVE	1834 N HENDERSON LLC
17	1802 MOSER AVE	Dallas ISD
18	1839 HENDERSON AVE	CANELAKES LOUIS
19	1921 HENDERSON AVE	HENDERSON LOTS OWNER DALLAS LLC
20	1907 HENDERSON AVE	HENDERSON LOTS OWNER DALLAS LLC
21	1900 HENDERSON AVE	HENDERSON MAIN DALLAS LLC
22	1924 HENDERSON AVE	HENDERSON LOTS OWNER DALLAS LLC
23	1811 EUCLID AVE	WHITE CHRISTOPHER DEAN
24	1811 EUCLID AVE	JACKSON KATIE L
25	1811 EUCLID AVE	KIDD KYLE &
26	1811 EUCLID AVE	BOYER ERIC

10/01/2015

Label #	Address	Owner
27	1811 EUCLID AVE	TSUNG-CHIA CHAD LI
28	1811 EUCLID AVE	STRONG BRENT M
29	1811 EUCLID AVE	SINHA RAVI R
30	1811 EUCLID AVE	SCHREIBER WILLIAM SCOTT

FILE NUMBER: BDA 145-111(SL)

BUILDING OFFICIAL'S REPORT: Application of Patricia Nell Turner, represented by Emily Fenlaw, for a variance to the front yard setback regulations at 926 Valencia Street. This property is more fully described as part of Lot 1, Block 22/2222, and is zoned CD 6 (Tract 1), which requires a minimum front yard setback of 35 feet. The applicant proposes to construct and maintain a structure and provide a 29 foot front yard setback, which will require a 6 foot variance to the front yard setback regulations.

LOCATION: 926 Valencia Street

APPLICANT: Patricia Nell Turner
Represented by Emily Fenlaw

REQUEST:

A request for a variance to the front yard setback regulations of 6' is made to remove two step structures and replace them with steps with smaller rises, the replacement step structures to be located 29' from the front property line or 6' into the 35' front yard setback on a site developed with a single family home use/structure.

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION:

Approval, subject to the following condition:

- Compliance with the submitted site plan is required.

Rationale:

- The subject site is unique and different from most lots in the CD 6 zoning district in that it is sloped. The slope of the subject site is the factor that warrants a variance to the front yard setback regulations in this case merely to replace a nonconforming step structure – an existing nonconforming step structure where the right to rebuild ceases if/when the structure is destroyed by the intentional act of the owner or the owner’s agent.

BACKGROUND INFORMATION:

Zoning:

Site: CD 6 (Conservation District)
North: CD 6 (Conservation District)
South: CD 6 (Conservation District)
East: CD 6 (Conservation District)
West: CD 6 (Conservation District)

Land Use:

The subject site is developed with a single family home structure that is nonconforming as to the front yard setback regulations. The areas to the north, east, south, and west are developed with single family uses.

Zoning/BDA History:

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

GENERAL FACTS/STAFF ANALYSIS:

- This request focuses on removing two step structures and replacing them with steps with smaller rises. The replacement step structures are approximately 9 square feet in area and to remain located 29’ from the front property line or 6’ into the 35’ front yard setback on a site developed with a single family home use/structure.
- Main structures on lots zoned CD 6 are required to provide a minimum front yard setback of 35’. (Prior to the creation of CD 6 in 1993, the site had been zoned R-7.5(A) where a 25’ front yard setback was required).
- A scaled site plan has been submitted indicating that the replacement step structure is located 29’ from the front property line or 6’ into this 35’ front yard setback.
- According to DCAD records, the “main improvement” for property addressed at 926 Valencia Street is a structure built in 1940 with 1,494 square feet of living/total area; and with the following additional improvements: a 440 square foot detached servants quarters, a 440 square foot detached garage.

- The applicant has chosen only to seek variance to the front yard setback regulations for the new construction/replacement step structure to the existing structure on the site, and to not seek variance to remedy/address the nonconforming aspect of the existing nonconforming structure that is located in the site's front yard setback.
- The code defines nonconforming structure as a structure that does not conform to the regulations of the code, but which was lawfully constructed under the regulations in force at the time of construction.
- The code states that a person may renovate, remodel, repair, rebuild, or enlarge a nonconforming structure if the work does not cause the structure to become more nonconforming as to the yard, lot, and space regulations.
- The code states that the right to rebuild a nonconforming structure ceases if the structure is destroyed by the intentional act of the owner or the owner's agent.
- The applicant has stated that the modified porch steps will assist in providing better access for the resident of the property with spinal muscular atrophy.
- While the Dallas Development Code provides that the Board of Adjustment can consider applications for special exceptions for the handicapped, the applicant has intentionally chosen to seek variance being aware of the fact that most often when the board grants requests for special exceptions for the handicapped, they impose a condition that the special exception is only valid for as long as a handicapped person resides on the property in which the special exception was applied.
- The subject site is sloped, rectangular in shape, and according to the submitted application is 0.144 acres (or approximately 6,300 square feet) in area. The site is zoned CD 6 where lots prior to the creation of CD 6 in 1993 were zoned R-7.5(A) where lots are typically 7,500 square feet in area.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance 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 CD 6 zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same CD 6 zoning classification.
- If the Board were to grant the variance request, and impose the submitted site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which in this case is an approximately 9 square foot (3.5' x 2.5') step structure located as close as 29' from the site's front property line (or 6' into the 35' front yard setback).

Timeline:

September 1, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

September 15, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

September 15, 2015: The Board Administrator contacted the applicant’s representative and emailed the following information:

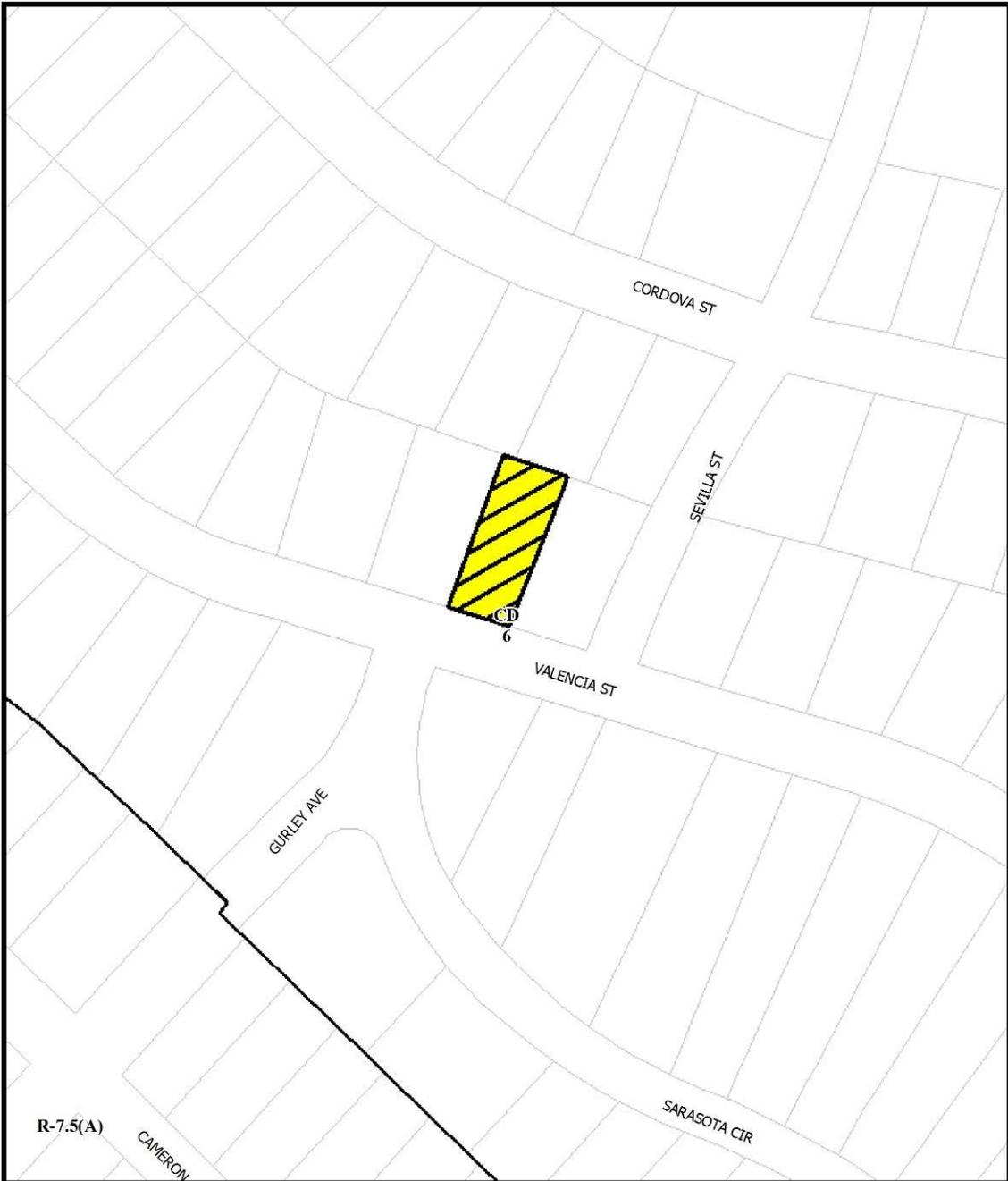
- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the September 30th deadline to submit additional evidence for staff to factor into their analysis; and the October 9th deadline to submit additional evidence to be incorporated into the Board’s docket materials;
- the criteria/standard that the board will use in their decision to approve or deny the request; and
- the Board of Adjustment Working Rules of Procedure pertaining to “documentary evidence.”

September 22, 2015: The applicant submitted additional documentation on this application beyond what was submitted with the original application (see Attachment A).

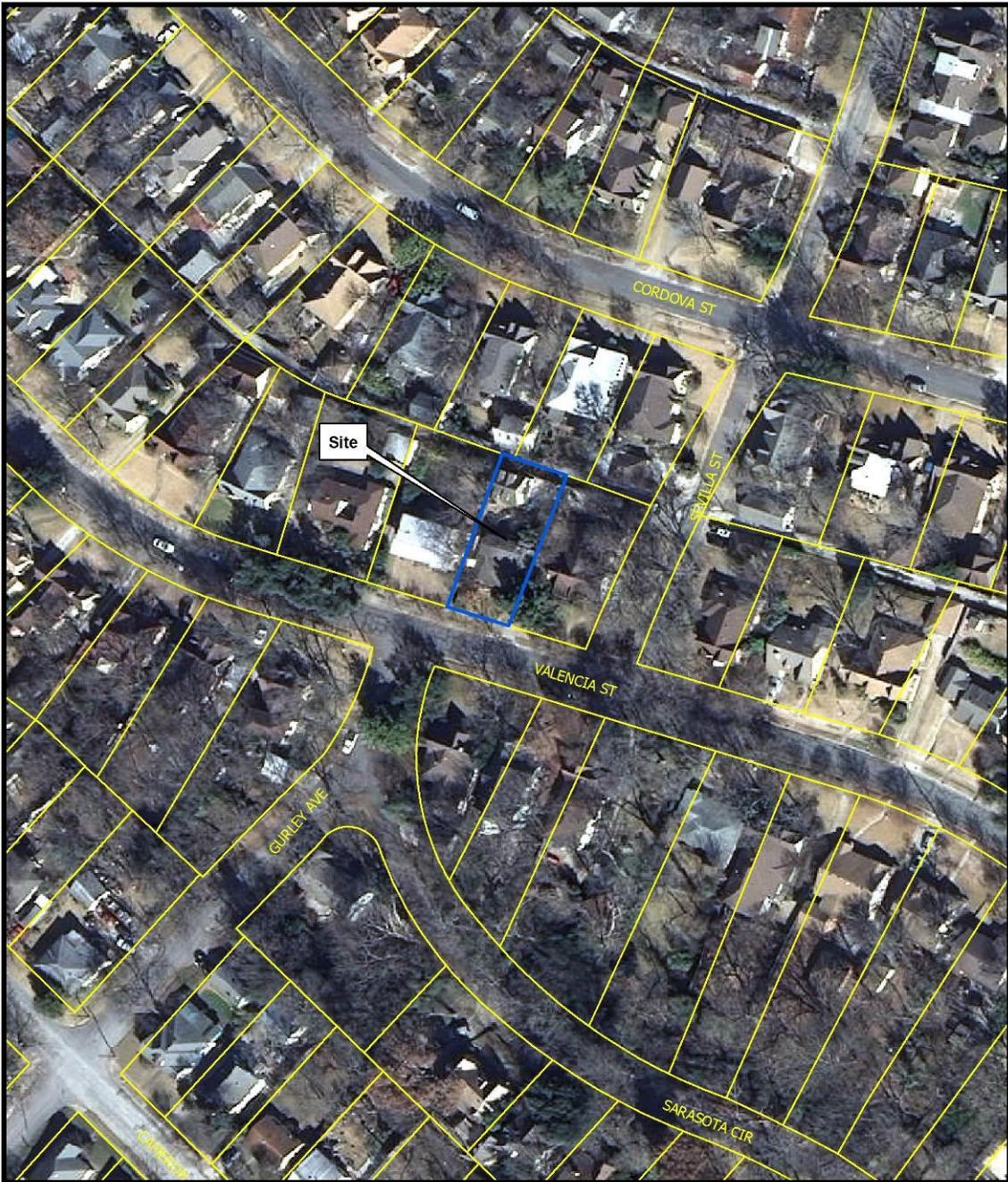
September 30, 2015: The applicant’s representative submitted additional documentation on this application beyond what was submitted with the original application (see Attachment B).

October 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

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



 1:1,200	<h1>ZONING MAP</h1>	Case no: <u>BDA145-111</u> Date: <u>10/1/2015</u>
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1:1,200

AERIAL MAP

Case no: BDA145-111

Date: 10/1/2015

Long, Steve

From: Patricia Turner <pattynellt@yahoo.com>
Sent: Tuesday, September 22, 2015 1:10 PM
To: Long, Steve
Subject: Fw: Oct. 21 hearing for variance 926 Valencia; doctor's letter attached
Attachments: Dr Martin Letter.pdf

Steve,

Re: Oct. 21 hearing for variance on property at 926 Valencia. I am forwarding an attachment that is a letter from my husband's doctor saying why it is necessary that we modify our front porch steps. This letter can be included in our file for the variance. Emily Fenlaw has the original letter with her files.

I am not so great at getting attachments sent sometimes, so if it is not there or you can't open it, please let me know.

Thanks so much for your help.

Sincerely,
Patricia Turner

On Tuesday, September 22, 2015 11:39 AM, Jeremiah Kelley <jbkelley@airmail.net> wrote:

attached

TEXAS NEUROLOGY

6301 Gaston Ave, Ste 100 West Tower
Dallas, Texas 75214
(214) 827-3610 Fax: (214) 821-4017

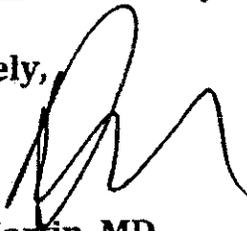
September 15, 2015

RE: Jeremiah Kelly 7/10/1948

To Whom It May Concern,

Jeremiah Kelly has been under my care with late onset spinal muscular atrophy. He has profound neurogenic mediated muscular weakness and atrophy. He has difficulty walking or climbing steps and requires modification of the steps at his house to allow him to enter and exit safely.

Sincerely,



Alan Martin, MD

BDA145-111

Attach B

PS 1

September 30, 2015

Mr. Steve Long
City of Dallas
Board Administrator
1500 Marilla Street, 5BN
Dallas, TX 75201

RE: 926 Valencia Street, Dallas, 75223

Dear Mr. Long,

The property at this address was developed in 1940 and the existing structure is the original home. The current owners have resided on the property since 1994—subsequent to the 1993 rezoning of the neighborhood to a Conservation District 6, the classification of which the City of Dallas helped to initiate. The current owners seek to modify the original steps off of the front porch. These steps are non-conforming to the required front yard setback to the extent that they pre-exist inside the 35-foot setback.

The following hardships detail the merits of a permanent variance at this residence, hereby referred to as Residence, and the site on which it resides as Property:

1. The property owner purchased this home after the zoning regulations had been amended. This request is being made to allow them an opportunity to maintain access to their front entry of their home. The petition is not self-created or for financial gain. The front yard setback was modified by city council action and not by the homeowner.
2. The Residence's entire front porch, the entire front left building wing, and part of the garage are located within the required 35-foot front yard setback. Before the Property was rezoned inside the conservation district in 1993, the required front yard setback was 25-feet. These portions of the Residence constitute approximately 75% of the front of the main structure and bringing any or all of them into compliance would be impossible.
3. The Property has a dramatic slope in the front. The sidewalk is approximately four to five feet lower than the finish floor of the house. To adapt to this slope, there is a one-step-up walkway and two full steps that access the porch. There are no viable alternatives to provide access to the front door and still comply with the required setback without a variance. A literal interpretation of the standard would create an unreasonable hardship on the property and upon the property owner.
4. Most of the homes along Valencia are also out of compliance with the CD-6 required 35-foot front yard setback. By requiring any part of this Residence to be moved back an additional six to eight feet to accommodate the steps would no longer make it commensurate with the

homes on this block face. It is unreasonable and unrealistic to require the homeowners to move their entire home back to comply with the front yard setback by this modest request to the front porch steps.

5. As the Property was developed in 1940, the Residence was built upon a metes and bounds description of a portion of Lot 1 (common practice at this time) rather than all of Lot 1 or Lot 2. Today, this irregular shape and smaller lot size makes it impractical to move the existing structure out of the required front yard setback (established 53 years after construction).
6. The proposed steps modification not only brings the two steps' risers into conformity with building code, it makes for an easier and more natural approach to the front porch, thereby improving the aesthetic conformity that CD-6 seeks continually to achieve.
7. The proposed finish materials also makes them more in keeping with the look and feel of the style of the house.
8. Only one step—the first of the two (not the landing pad)—is made 1-2" deeper, thereby encroaching further only that negligible distance into the front yard setback. This increased encroachment could never be discerned by the naked eye.
9. One home owner has a documented disability that makes it increasingly difficult, and imminently impossible, to access his own home by way of the front entry. If there were ever an emergency and the back entry were unusable (such as fire or intruder), the inability to utilize the front entry/exit safely could prove catastrophic.
10. The proposed handrail is a reasonable accompaniment to any set of steps, and will furthermore be a critical and necessary for the sake of the homeowner's physical condition.

The merits for this variance request far outweigh the negligible impact of the proposed improvements to the front entry steps to this Residence. We appreciate the due consideration given to this case and to these homeowners.

Regards,

Emily Fenlaw, advocate for Patricia Turner and Jeremiah Kelley
214-233-6529
emfenlawdesign@gmail.com



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-111

Date: 9-1-15

Data Relative to Subject Property:

Location address: 926 Valencia St. Zoning District: CD-6 (Tr. 1)

Lot No.: Lots 1 Block No.: 22/2222 Acreage: .144 Census Tract: 12.03

Street Frontage (in Feet): 1 53.5' 2 _____ 3) _____ 4) _____ 5) _____ *get 25*

To the Honorable Board of Adjustment:

Owner of Property/or Principal Jeremiah B Kelly and Patricia Turner

Applicant: Patricia Nell Turner Telephone: _____

Mailing Address 926 Valencia, Dallas, TX Zip Code: 75223

Represented by: Emily Fenlaw Telephone: 214-233-6529

Mailing Address: 7018 Santa Monica Dr Zip Code: 75223

Affirm that a request has been made for a Variance X, or Special Exception , of 6' feet into the required front yard of CD-6

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 property owner seeks to remove the existing two steps located off the front porch and replace them with smaller risers. The existing stairs are located within the required front yard. The new stairs will provide better accessibility for the property owner as the stair rise will be lowered and a hand rail will be provided.

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: Patricia Nell Turner Patricia Nell Turner
Applicant's name printed Applicant's signature

Affidavit

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

Patricia Nell Turner
Affiant (Applicant's signature)

Subscribed and sworn to before me this 13 day of August, 2015

[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 Patricia Nell Turner
represented by Emily Fenlaw
did submit a request for a variance to the front yard setback regulations
at 926 Valencia Street

BDA145-111. Application of Patricia Nell Turner represented by Emily Fenlaw for a variance to the front yard setback regulations at 926 Valencia Street. This property is more fully described as part of Lot 1, Block 22/2222, and is zoned CD-6 (Tract 1), which require a minimum front yard setback of 35 feet. The applicant proposes to construct and maintain a single family residential structure and provide a 29 foot front yard setback, which will require a 6 foot variance to the front yard setback regulation.

Sincerely,


Larry Holmes, Building Official



GENERAL NOTES

1. The foundation subcontractor and the framing subcontractor shall verify all dimensions in the field prior to starting any work and notify General Contractor of any discrepancies between the drawings and the actual field conditions before proceeding with the work.
2. The dimensions shown on the drawings are to face of sheetrock, face of masonry, or centerline of column, as indicated on the drawings.
3. General Contractor shall engage structural engineer for any necessary structural drawings.
4. If applicable, after the foundation has been formed, prior to the pouring of concrete, the General Contractor shall provide an accurate survey performed by a registered surveyor or a registered engineer showing the location of the forms on the lot and their relationship to the property lines, setbacks, etc.
5. The typical interior wall construction is to be 1/2" thick gypsum wall board on No. 2 grade (fingerjoint is acceptable) Douglas fir 2x4 studs (unless noted otherwise on plans) @ 16" on center maximum. All tub and shower enclosures shall have 1/2" thick cementitious backer board or equal. All bathrooms and other wet condition areas shall have 1/2" thick wet-rated ("Mold Tough" or other such brand) gypsum wall board.
6. No water heaters or HVAC equipment shall be located in any attic space without prior review and approval by General Contractor. All plumbing lines shall be wrapped in insulation per code.
7. No electrical equipment, lighting fixtures or other miscellaneous electrical items shall be installed without the prior written approval by General Contractor.
8. The electrical subcontractor shall provide smoke detectors in all bedrooms, hallways just outside bedrooms, at each floor level and in the garage, if applicable, at the code-stipulated distance from doorways and HVAC vents.
9. All interior materials and finishes shall be as selected and approved by General Contractor and the Owner.
10. Each subcontractor on this project shall perform his/her work as prescribed in these drawings, in complete compliance with all applicable Codes and Ordinances, and according to the tenets of good practice.
11. These drawings, and any additional accompanying written documents provided by General Contractor, are to be considered as one; whatever is called for by one shall be as binding as called for by all. Where the drawings and the written documents disagree the better quality or greater quantity of the work or materials shall be estimated upon, and unless ordered by General Contractor in writing, shall be performed or furnished. Should discrepancies or doubt occur, the subcontractor shall not proceed with the work without written clarification from General Contractor.
12. These drawings and any accompanying written material stamped with EDesign logo, the intellectual property contained therein, and any and all reproductions of these documents are the sole property of EDesign / Emily M. Fenlaw. No reproductions of any kind may be made or transmitted beyond the scope or use of this project address without the express permission of EDesign / Emily M. Fenlaw.

Notes credited to Bella Vista Company; some modifications and additions made by EDesign.

SHEET INDEX

ID	Name
1.01	General Notes
1.02	Site Plan
2.01	Site Plan Detail: Proposed Front Steps
3.01	Section-Elevation: Steps & Railing
4.01	3D Perspectives

Emily Fenlaw
7018 Santa Monica Drive
Dallas, TX 75223
214-233-6529
emfenlawdesign@gmail.com
www.emfenlawdesign.com



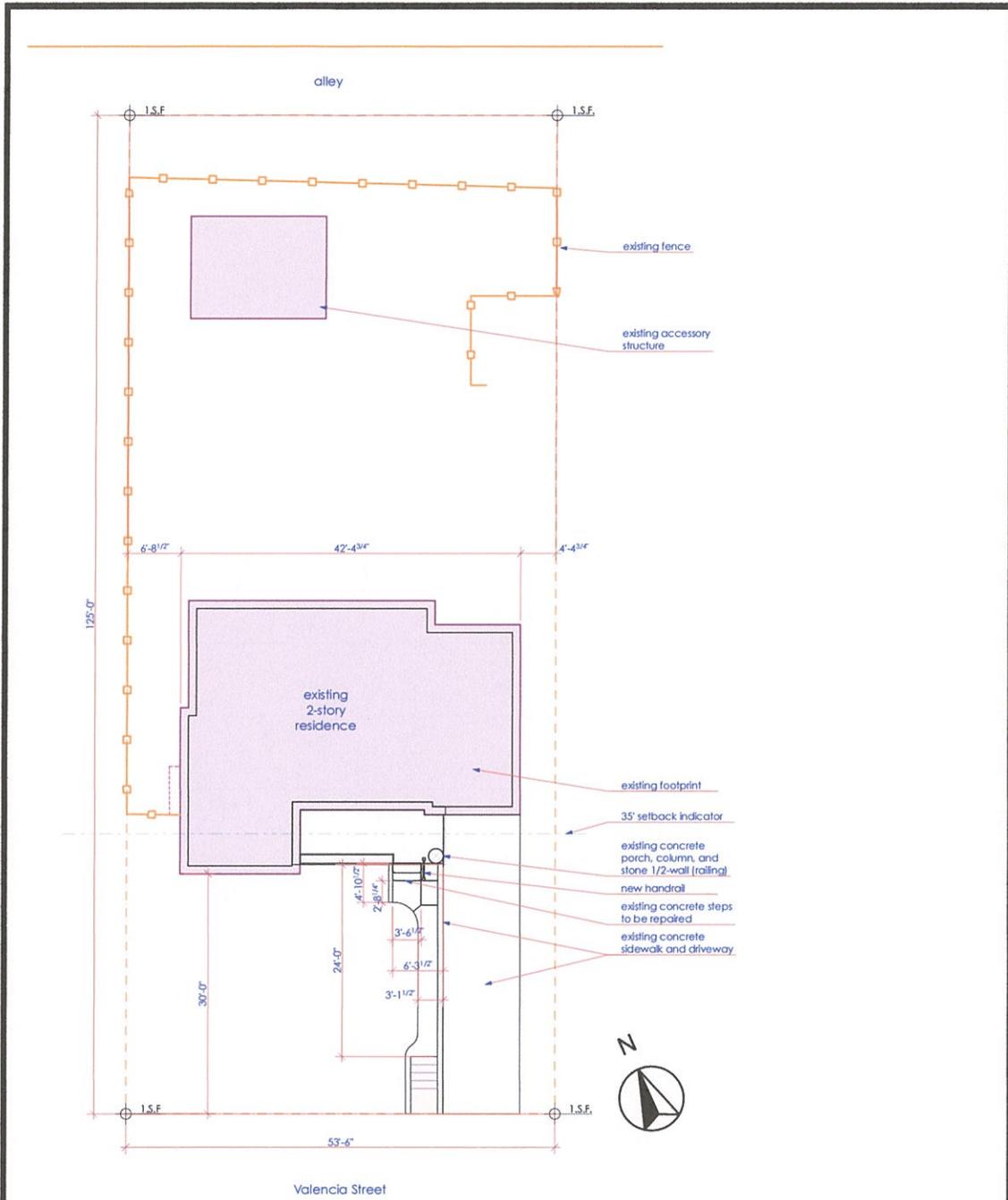
Turner-Kelley Residence
Front Porch Steps Repair
Patty Turner & Jerry Kelley
926 Valencia Street
Dallas, TX 75223

PROJECT NO.	#Pn
DATE	8/11/15
DRAWN BY	Emily Fenlaw
CHECKED BY	EF Design

General Notes

1.01

SHEET 1 OF 5



01 Site Plan - Existing & Proposed
 SCALE: 3/32" = 1'-0"
 (50%)

1.02 SHEET 2 OF 5	Site Plan	PROJECT NO: #FN DATE: 8/11/15 DRAWN BY: Emily Fenlaw CHECKED BY: EF Design	Turner-Kelley Residence <i>Front Porch Steps Repair</i> Patty Turner & Jerry Kelley 926 Valencia Street Dallas, TX 75223	 enrich the everyday	Emily Fenlaw 7018 Santa Monica Drive Dallas, TX 75223 214-233-6529 emfenlawdesign@gmail.com www.emfenlawdesign.com

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Dallas, TX 75223
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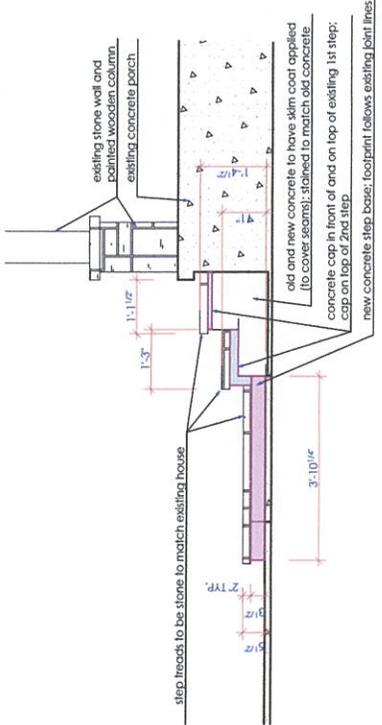


Turner-Kelley Residence
Front Porch Steps Repair
Paty Turner & Jerry Kelley
926 Valencia Street
Dallas, TX 75223

PROJECT NO: #pin
DATE: 8/17/15
DRAWN BY: Emily Fenlaw
CHECKED BY: EF Design

Section -
Elevation: Steps
& Railing

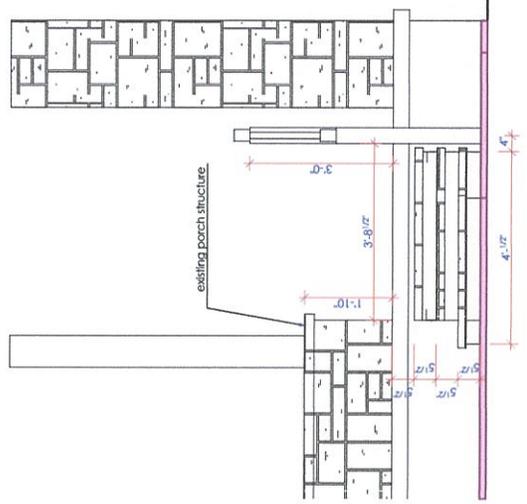
3.01
SHEET 4 OF 5



01 Steps Section

SCALE: 1/2" = 1'-0"

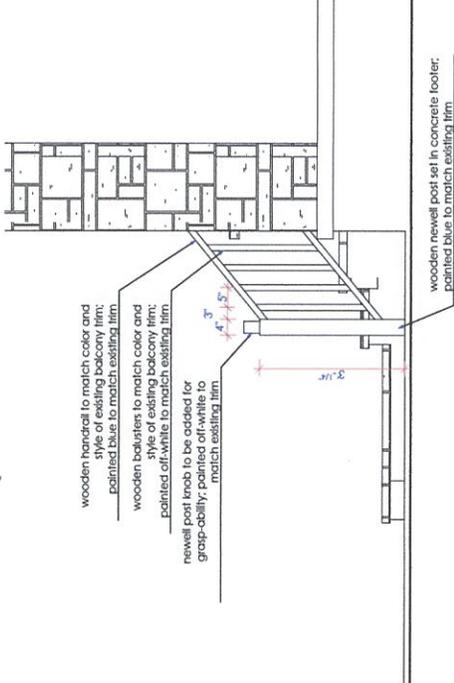
(50%)



03 Steps & Rail - Front View

SCALE: 1/2" = 1'-0"

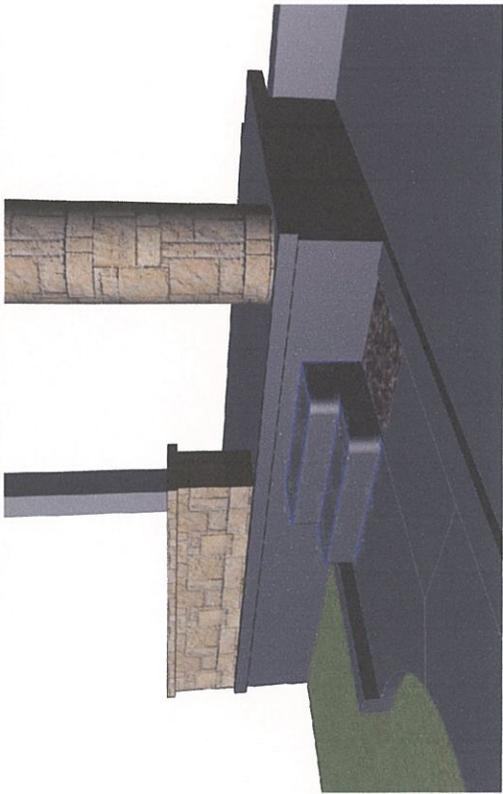
(50%)



02 Railing Detail

SCALE: 1/2" = 1'-0"

(50%)



01 Porch Steps - Existing

4.01

SCALE: 1:124.64

(50%)



02 Porch Steps - Proposed

4.01

SCALE: 1:124.04

(50%)

Emily Fenlaw
7018 Santa Monica Drive
Dallas, TX 75223
214-233-6529
emfenlawdesign@gmail.com
www.emfenlawdesign.com



Turner-Kelley Residence
Front Porch Steps Repair
Patty Turner & Jerry Kelley
926 Valencia Street
Dallas, TX 75223

PROJECT NO: #Pm
DATE: 8/11/15
DRAWN BY: Emily Fenlaw
CHECKED BY: EF Design

3D Perspectives

4.01

SHEET 5 OF 5



 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">27</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	27	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u>BDA145-111</u> Date: <u>10/1/2015</u>
200'	AREA OF NOTIFICATION					
27	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA145-111

27 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	926 VALENCIA ST	KELLEY JEREMIAH B &
2	1001 SARASOTA CIR	QUIRING STEVEN
3	919 VALENCIA ST	RIPP JUSTIN & ASHLEY YOUNG
4	915 VALENCIA ST	LAW DENISE V
5	911 VALENCIA ST	SLAUGHTER BRENDA J
6	1021 VALENCIA ST	MAY WADE H &
7	1013 VALENCIA ST	PATTEE DAVID & DAWN
8	1009 VALENCIA ST	KOMODORE SHANNON
9	1003 VALENCIA ST	ZAHRA EDWARD H JR &
10	922 VALENCIA ST	CLOPP THOMAS A
11	918 VALENCIA ST	COKE GREGORY RANDALL
12	912 VALENCIA ST	MANN JACQUELINE S
13	908 VALENCIA ST	BABIK MARK ALLEN &
14	907 CORDOVA ST	AGUIRRE DANIEL A &
15	911 CORDOVA ST	DAVIS H DARRIN
16	915 CORDOVA ST	MCCUNE MELANIE
17	919 CORDOVA ST	RIDER BOBBIE ANN
18	923 CORDOVA ST	COHEN HARMON M &
19	930 VALENCIA ST	JARRELL PAULA J
20	1010 VALENCIA ST	GIRARD MICHAEL RAYMOND &
21	1002 VALENCIA ST	WEILER MINNIE M TRUSTEE EST OF
22	1003 CORDOVA ST	VINCENT CYNTHIA
23	1007 CORDOVA ST	PEEBLES ROBERT H &
24	920 CORDOVA ST	BRAME MARY ANN
25	914 CORDOVA ST	EDWARDS PATRICIA ZANE
26	906 CORDOVA ST	TORRES DAVID A & AMBER E

10/01/2015

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
27	910 CORDOVA ST	CALLAHAN KEITH E &

FILE NUMBER: BDA 134-072(DL)

BUILDING OFFICIAL'S REPORT: Application of Houshang Jahvani for a variance to the minimum and maximum front yard setback regulations and a variance to the landscaping regulations at 332 W. Commerce Street. This property is more fully described as Lot 1, Block 3/6813, and is zoned PD-714 (Subdistrict 1A), which requires a minimum front yard setback of 6 feet with at least 50 percent of the front façade at the minimum front yard setback and a maximum front yard setback of 15 feet, and which requires mandatory landscaping. The applicant proposes to construct and maintain a nonresidential structure and provide a 96 foot front yard setback, which will require a 90 foot variance to the minimum front yard setback regulation and an 81 foot variance to the maximum front yard setback regulation, and provide an alternate landscape plan, which will require a variance to the landscape regulations.

LOCATION: 332 W. Commerce Street

APPLICANT: Houshang Jahvani

REQUEST:

The following requests have been made on a site currently developed with a motor vehicle fueling station of approximately 670-square feet:

1. A variance to the minimum front yard setback regulations of 90' is requested to allow the expansion of an existing nonresidential structure, built circa 1961, and not fully meet the 6' minimum front yard setback with at least 50% of the front facade at the minimum front yard setbacks along W. Commerce Street, Sulphur Street, Harbin Street, and Haslett Street.
2. A variance to the maximum front yard setback regulations of 81' is requested to allow the expansion of an existing nonresidential structure, built circa 1961, and not fully meet the 15' maximum front yard setbacks along W. Commerce Street, Sulphur Street, Harbin Street, and Haslett Street.
3. A variance to the landscape regulations is requested to allow the expansion of a nonresidential structure, built circa 1961, and not fully meet the landscape regulations.

STANDARD FOR A VARIANCE:

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

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

STAFF RECOMMENDATION (MINIMUM/MAXIMUM FRONT YARD SETBACK ON W. COMMERCE STREET):

Approval, subject to the following condition:

- Compliance with the submitted revised alternate site/landscape plan is required.

Rationale:

- The applicant has substantiated how the site cannot be developed according to PDD No. 714, Subdistrict 1A, regulations. The site, while not sloped, is of a restrictive area and shape that precludes it from being developed in a manner commensurate with the development of other parcels of land within the same planned development district. Furthermore, the hardship is not self-created. City Council approved Ordinance No. 25898 on February 23, 2005, which made the existing structure, built circa 1961, nonconforming. PDD No. 714, modeled after form districts, encumbers the structure with four minimum/maximum front yard setbacks and does not allow for legal nonconforming structures to expand without meeting the requirements of the planned development district.

STAFF RECOMMENDATION (MINIMUM/MAXIMUM FRONT YARD SETBACK ON SULPHUR STREET):

Approval, subject to the following condition:

- Compliance with the submitted revised alternate site/landscape plan is required.

Rationale:

- The applicant has substantiated how the site cannot be developed according to PDD No. 714, Subdistrict 1A, regulations. The site, while not sloped, is of a restrictive area and shape that precludes it from being developed in a manner commensurate with the development of other parcels of land within the same planned development district. Furthermore, the hardship is not self-created. City Council approved Ordinance No. 25898 on February 23, 2005, which made the existing structure, built circa 1961, nonconforming. PDD No. 714, modeled after form districts, encumbers the structure with four minimum/maximum front yard setbacks and does not allow for legal nonconforming structures to expand without meeting the requirements of the planned development district.

STAFF RECOMMENDATION (MINIMUM/MAXIMUM FRONT YARD SETBACK ON HARBIN STREET):

Approval, subject to the following condition:

- Compliance with the submitted revised alternate site/landscape plan is required.

Rationale:

- The applicant has substantiated how the site cannot be developed according to PDD No. 714, Subdistrict 1A, regulations. The site, while not sloped, is of a restrictive area and shape that precludes it from being developed in a manner commensurate with the development of other parcels of land within the same planned development district. Furthermore, the hardship is not self-created. City Council approved Ordinance No. 25898 on February 23, 2005, which made the existing structure, built circa 1961, nonconforming. PDD No. 714, modeled after form districts, encumbers the structure with four minimum/maximum front yard setbacks and does not allow for legal nonconforming structures to expand without meeting the requirements of the planned development district.

STAFF RECOMMENDATION (MINIMUM/MAXIMUM FRONT YARD SETBACK ON HASLETT STREET):

Approval, subject to the following condition:

- Compliance with the submitted revised alternate site/landscape plan is required.

Rationale:

- The applicant has substantiated how the site cannot be developed according to PDD No. 714, Subdistrict 1A, regulations. The site, while not sloped, is of a restrictive area and shape that precludes it from being developed in a manner commensurate with the development of other parcels of land within the same planned development district. Furthermore, the hardship is not self-created. City Council approved Ordinance No. 25898 on February 23, 2005, which made the existing structure, built circa 1961, nonconforming. PDD No. 714, modeled after form districts, encumbers the structure with four minimum/maximum front yard setbacks and does not allow for legal nonconforming structures to expand without meeting the requirements of the planned development district.

STAFF RECOMMENDATION (LANDSCAPE REGULATIONS):

Approval, subject to the following condition:

- Compliance with the submitted revised alternate site/landscape plan is required.

Rationale:

- The City of Dallas Chief Arborist, while not supporting the request for the originally submitted alternate site/landscape plan, now supports the landscape variance request with the revised alternate landscape plan submitted on October 05, 2015.

The applicant has provided enough information to prove he meets the standard of a variance request, and he has provided a more comprehensive landscape design that enhances the property and keeps within the spirit of the ordinance creating PDD No. 714.

BACKGROUND INFORMATION:

Zoning:

Site: PDD No. 714 (Planned Development, Subdistrict 1A)
North: PDD No. 714 (Planned Development, Subdistrict 1A)
South: PDD No. 714 (Planned Development, Subdistrict 1A)
East: PDD No. 714 (Planned Development, Subdistrict 1A)
West: PDD No. 714 (Planned Development, Subdistrict 1A)

Land Use:

The site is currently developed with a motor vehicle fueling station that according to DCAD was built in 1961. The area to the north and west is developed with office uses; the area to the east is developed with a multifamily residential use; 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.

GENERAL FACTS/STAFF ANALYSIS (FRONT YARD VARIANCES):

- This request originally focused on constructing and maintaining an addition to an existing motor vehicle fueling station, and providing a 99' front yard setback. With the revised alternate landscape plan, the request now focuses on constructing and maintaining an addition to an existing motor vehicle fueling station, and providing a 96' front yard setback.
- Structures on lots zoned PDD No. 714, Subdistrict 1A, are required to provide a minimum front yard setback of 6' with at least 50% of the front façade at the minimum front yard setback and a maximum front yard setback of 15'.
- The original scaled site/landscape plan submitted showed the location of the structure in relation to the minimum/maximum front yard setbacks as follows:
 1. Along W. Commerce Street, the existing structure and/or proposed addition are located approximately 43' from the 15' maximum front yard setback, and approximately 52' from the 6' minimum front yard setback.
 2. Along Sulphur Street, the existing structure and/or proposed addition are located approximately 54' from the 15' maximum front yard setback, and approximately 63' from the 6' minimum front yard setback.

3. Along Harbin Street, the existing structure and/or proposed addition are located approximately 1' from the 15' maximum front yard setback, and approximately 10' from the 6' minimum front yard setback.
 4. Along Haslett Street, the existing structure and/or proposed addition are located approximately 82' from the 15' maximum front yard setback, and approximately 91' from the 6' minimum front yard setback.
- The revised scaled site/landscape plan now shows the location of the structure in relation to the minimum/maximum front yard setbacks as follows:
 1. Along W. Commerce Street, the existing structure and/or proposed addition are located approximately 41' from the 15' maximum front yard setback, and approximately 50' from the 6' minimum front yard setback.
 2. Along Sulphur Street, the existing structure and/or proposed addition are located approximately 54' from the 15' maximum front yard setback, and approximately 63' from the 6' minimum front yard setback.
 3. Along Haslett Street, the existing structure and/or proposed addition are located approximately 76' from the 15' maximum front yard setback, and approximately 85' from the 6' minimum front yard setback.
 4. Along Harbin Street, the existing structure and/or proposed addition meet the 6' minimum front yard setback, and 100% of the front façade is at the 6' minimum front yard setback. However, the dumpster and proposed air pump are located on the 10.5' street easement line, thereby providing a 0' front yard setback.
 - According to DCAD records, the "improvement" at 332 W. Commerce Street is a 600-square foot "bayless service station" built in 1961.
 - The site is flat, irregular in shape, and is approximately 0.4524 acres (or approximately 19,706.5-square feet) in area. The site is zoned PDD No. 714, Subdistrict 1A.
 - The applicant has the burden of proof in establishing the following:
 - That granting the variance to the landscape regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PDD No. 714, Subdistrict 1A, zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PDD No. 714, Subdistrict 1A, zoning classification.
 - If the Board were to grant the variance request, and impose the submitted revised site/landscape plan as a condition, the proposed addition to the existing structure would be limited to what is shown on this document, which in this case, is located as much as 81' from the 15' maximum front yard setback, and as much as 90' from the

6' minimum front yard setback. The proposed addition will also not be required to have at least 50 percent of the front façade at the minimum front yard setbacks.

GENERAL FACTS/STAFF ANALYSIS (LANDSCAPE VARIANCE):

- This request focuses on completing and maintaining an expansion to an existing circa 1961 nonresidential structure, and not fully meeting the landscape regulations. More specifically, according to the City of Dallas Chief Arborist, the proposed plan does not fully comply with the required landscape standards of PDD No. 714, Subdistrict 1A, for a project that increases the floor area of all buildings on site by 310.45%.
- The Dallas Development Code requires full compliance with the landscape regulations when nonpermeable coverage on a lot or tract is increased by more than 2,000 square feet, or when work on an application is made for a building permit for construction work that increases the number of stories in a building on the lot, or 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.
- Given specific provisions of the landscape provisions of PDD No. 714, Subdistrict 1A, the applicant can only seek these leniencies from the board of adjustment by requesting a *variance* to the landscape regulations within this PDD as opposed to the more typical *special exception* to the landscape regulations.
- On September 10, 2015, the City of Dallas Chief Arborist submitted a memo regarding the applicant's request (see Attachment A). This memo states the request is triggered because the owner intends to increase the combined floor area of all buildings on site.
- The Chief Arborist's memo lists the following deficiencies, as stated in Section 714.114, Landscaping, 714.115, Street and Sidewalk Standards, and 714.116 Screening Regulations, in this case:
 - Landscaping of streets in compliance with Exhibit 714F for Subdistrict 1;
 - street trees;
 - site trees;
 - parking lot trees;
 - landscape plan; and
 - screening regulations.
- The Chief Arborist's memo lists the following factors for consideration:
 1. PDD No. 714, Subdistrict 1A, landscape requirements include the following:
 - Landscaping of streets in compliance with Exhibit 714F for Subdistrict 1: The site cannot provide the required 15' sidewalk.
 - Street trees:
 - In Subdistricts 1A and 1B, trees must be placed in a 16' square tree grates. The alternate site/landscape plan only provides for tree grates along the W. Commerce Street frontage.
 - One street tree per 30 feet of street frontage with a minimum of two trees must be provided. While the property requires 22 street trees, the alternate site/landscape plan provides for 12.

- Site trees: One site tree per 3,000 square feet with a minimum of 4 trees is required, but 3 trees are being provided on the alternate site/landscape plan.
 - Parking lot trees: Each required parking space must be within 75' of the trunk of a large canopy tree. One handicap parking space does not meet this requirement. Furthermore, street trees may not qualify for this measurement.
 - Landscape Plan: A landscape plan must earn at least 75 points (of a total possible 125 points). The submitted alternate site/landscape plan does not specify how it meets the criteria.
 - Screening regulations: The alternate site/landscape plan provides for screening regulations along W. Commerce Street, but not along Sulphur Street or Harbin Street. A surface parking lot requires a "low screen" when new construction begins on the site. A "low screen" is when shrubs form a three-foot high screen that is 95% opaque within three years of planting.
2. PDD No. 714 additional standards for non-compliance on-site:
- PDD No. 714 also provides for an "open space fund" for if a property owner cannot plant all of the required trees on the building site – in these situations, the property owner shall comply with this requirement for no more than 50 percent of the required trees. The owner must make a payment into the West Commerce Street/Fort Worth Avenue Open Space Fund. This measure would account for only a portion of the overall landscape deficiency for the property. As of September 15, 2015, the applicant has not stated intention to pay or plant, per this ordinance, in order to help mitigate for the lack of required site trees on the property.
3. Additional items to consider in evaluation of this case:
- According to Sec. 714.114(h)(5), "Except as provided in this subsection, trees and shrubs must be planted at least 10' from the centerline of any water or sewer main." While the submitted alternate site/landscape plan does not identify the location of the known water line along W. Commerce Street, it appears the proposed trees along W. Commerce are too close to the known water line, and the trees may not be allowed.
 - The property has landscaping proposed in visibility triangles. The store sign and vacuum/air system are located in the northwest visibility triangle, but are not identified on the submitted alternate site/landscape plan.
 - The proposed canopies will provide a "significant shade structure" for the site.
- The Chief Arborist originally recommended denial of the alternate site/landscape plan. The Chief Arborist had stated that, while the applicant met the conditions for approval of the variance, the proposed alternate site/landscape plan did not address the spirit of the ordinance that stated, "Development should support West Commerce Street as the gateway from downtown into the area..." The Chief Arborist recommended that, should the board choose to support the variance, to condition the approval with a provision that allowed for the removal of the trees along Commerce Street if street and sidewalk standards prohibit their installation.
 - On September 23, 2015, the Board of Adjustment Panel B voted to hold the application until the regularly scheduled October 21st meeting.

- On October 05, 2015, the applicant submitted a revised alternate site/landscape plan to the Building Inspection Senior Plans Examiner/Development Code Specialist, who then revised the Building Official's report.
- On October 08, 2015, the Chief Arborist submitted a memo regarding the applicant's revised request (Attachment B).
- The Chief Arborist now recommends approval of the revised alternate site/landscape plan because the revised plan now provides for the following:
 - Crepe myrtles are now proposed along the Commerce, Sulphur, and Harbin street frontages.
 - Screening shrubs and 4 crepe myrtles will be planted along Commerce Street.
 - Screening shrubs and 2 crepe myrtles will be planted along Sulphur Street.
 - Four (4) additional crepe myrtle trees, for a total of 9, will be provided within the parkway along Harbin Street.
 - The parking area will have 3 Caddo maple trees.
 - Along Haslett Street, the applicant proposes a low-level planting bed, comprised of native and adapted xeriscape plant materials, between the garbage storage area and the new 5-foot wide public sidewalk.
 - Two existing trees in the two visibility triangles along Harbin Street will be removed.
- The site is flat, irregular in shape, and is approximately 0.4524 acres (or approximately 19,706.5-square feet) in area. The site is zoned PDD No. 714, Subdistrict 1A.
- According to DCAD records, the "improvement" at 332 W. Commerce Street is a 600-square foot "bayless service station" built in 1961.
- The applicant has the burden of proof in establishing the following:
 - That granting the variance to the landscape regulations will not be contrary to the public interest when, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.
 - The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same PDD No. 714, Subdistrict 1A, zoning classification.
 - The variance would not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the PDD No. 714, Subdistrict 1A, zoning classification.
- If the Board were to grant this request and impose a condition that the applicant must comply with the submitted revised alternate site/landscape plan, the site would be "varied" from certain landscape standards of PDD No. 714, Subdistrict 1A, as shown on this submitted revised alternate site/landscape plan.

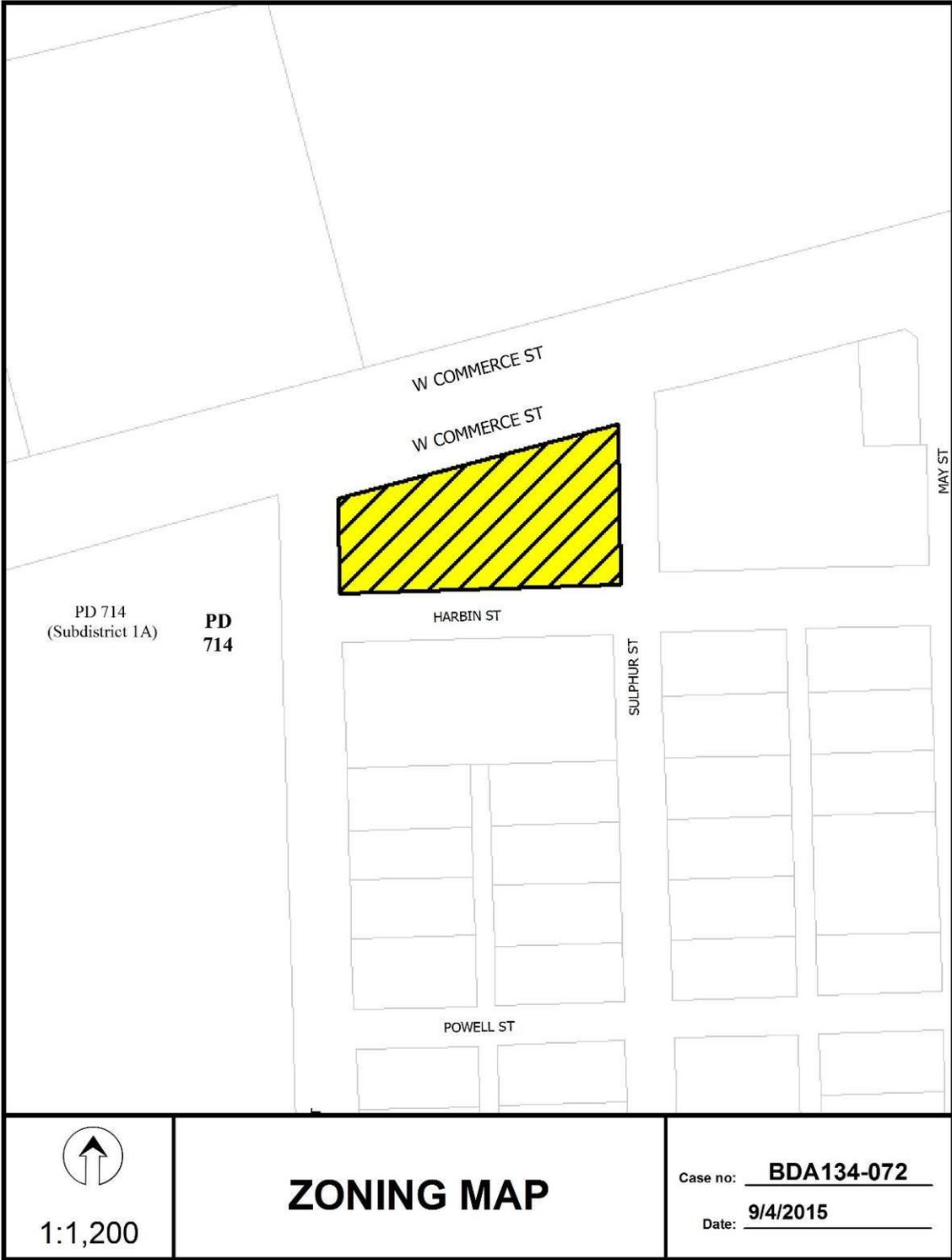
Timeline:

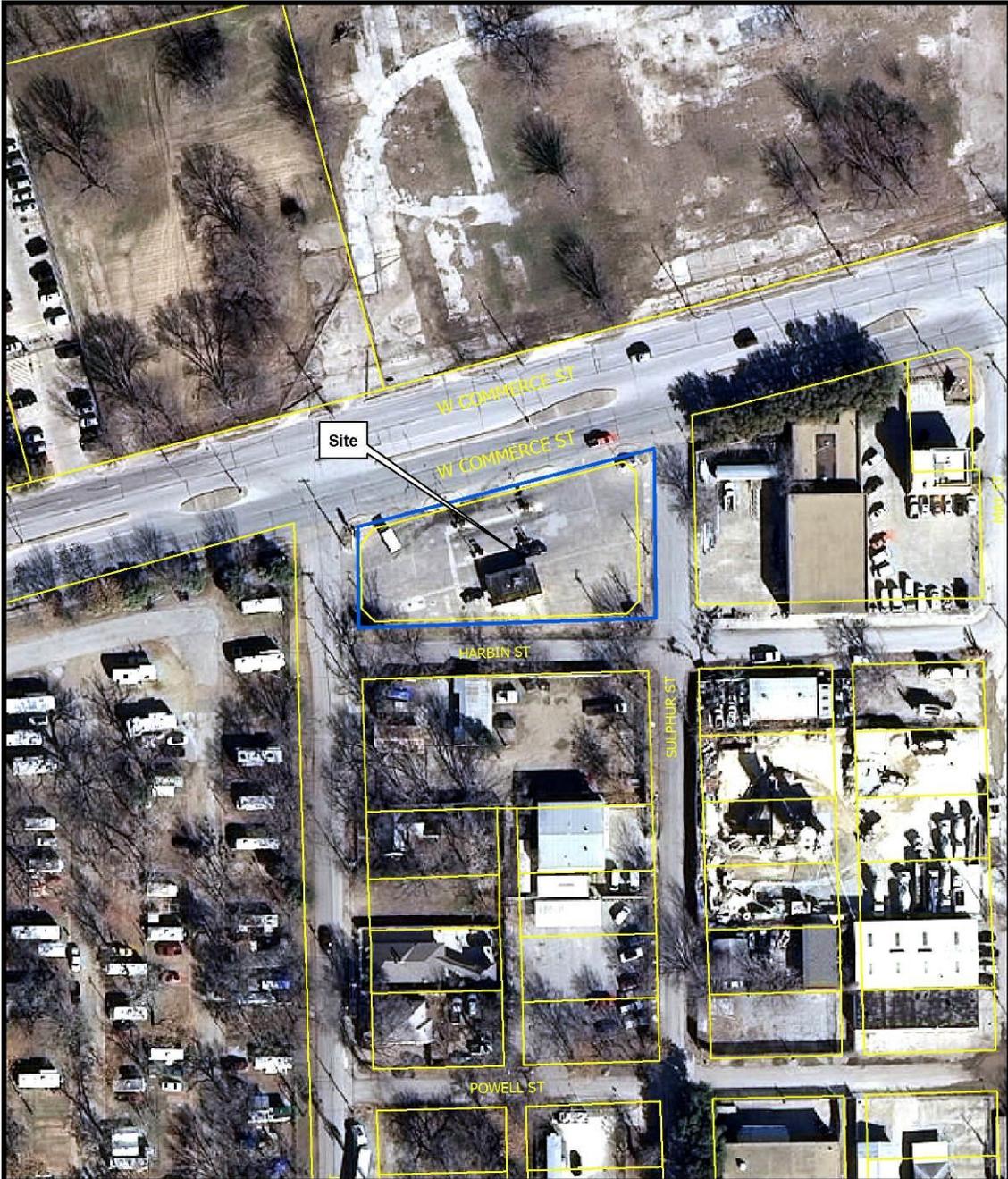
- July 9, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.
- August 19, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.
- August 27, 2015: The Current Planner emailed the following information to the applicant:
- a copy of the application materials including the Building Official’s report on the application;
 - an attachment that provided the public hearing date and panel that will consider the application; the September 2nd deadline to submit additional evidence for staff to factor into their analysis; and the September 11th 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.”
- September 8, 2015: 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 Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.
- September 10, 2015: The City of Dallas Chief Arborist submitted a memo regarding the request (see Attachment A).
- September 23, 2015: The Board of Adjustment Panel B voted to hold this application until the regularly scheduled October Panel B Board of Adjustment meeting.
- October 05, 2015: The applicant submitted a revised alternate site/landscape plan to the Building Inspection Senior Plans Examiner/Development Code Specialist.
- October 06, 2015: 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 Board of Adjustment Chief Planner, the Assistant Building Official, the Board

Administrator, the Building Inspection Senior Plans Examiner/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

October 08, 2015: The City of Dallas Chief Arborist submitted a memo regarding the revised request (see Attachment B).

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





1:1,200

AERIAL MAP

Case no: BDA134-072

Date: 9/4/2015

Memorandum



CITY OF DALLAS

DATE September 10, 2015

TO

Danielle Lerma, City Planner
Steve Long, Board of Adjustment Administrator

SUBJECT # BDA 134 · 072 332 W Commerce Street

The applicant is requesting a variance to the landscape requirements of PD 714, Subdistrict 1A.

Trigger

New building construction or major modification increasing the combined floor area of all buildings on the site.

Deficiencies

The proposed alternate landscape plan is not able to comply with multiple requirements of the ordinance, as stated in Section 714.114, Landscaping, 714.115, Street and Sidewalk Standards, and 714.116 Screening Regulations.

Deficiencies include the following:

Landscaping of streets in compliance with Exhibit 714F for Subdistrict 1. Property cannot provide 15-foot wide sidewalk required under Section 714.115, Street and Sidewalk Standards.

Street Trees:

All street trees are required to be in a 16-foot square tree grate. Grates are provided only for the Commerce Street frontage.

Twelve street trees are provided. The property requires twenty-two trees along all street frontages.

Site Trees:

Site trees are required at 1 tree per 3,000 square feet of lot area, with a minimum of four site trees. The plan shows three site trees within the property.

Parking lot trees:

The handicap parking space is at the edge of, but beyond, the 75 feet required distance from the trunk of a large canopy tree. Street trees may not qualify for this measurement.

Landscape Plan:

A landscape plan must earn at least 75 points (of a total possible of 125 points). None of the five design point options have been specified. Options include provisions for lighting, foundation planting strip, seasonal color, native or adapted xeriscape landscaping, and creation of open space.

Screening Regulations:

The screening regulations of Section 714.116 are provided for in this landscape plan only along Commerce Street, in a planting bed which appears to be two feet wide, and not along Sulphur Street or Harbin Street. A surface parking lot requires a 'low screen' for when the surface parking lot is provided with 'new construction.' In a low screen, shrubs form a three-foot-high screen that is 95 percent opaque within three years of planting.

Factors

The property is a 19,708 square feet lot with four street frontages. The site currently has an existing use with a proposal to add to the original structure. Existing vegetation only occurs in the parkway with two poor conditioned trees and groundcover.

Harbin Street and Sulphur Street frontages are unimproved without sidewalk or curb.

According to ordinance, street trees may not be counted as site trees.

"If a property owner cannot plant all of the required trees on the building site, the property owner shall make a payment into the West Commerce Street/Fort Worth Avenue Open Space Fund for no more than 50 percent of the required trees." – 714.114(f).

Trees and shrubs must be planted at least 10 feet from the centerline of any water or sewer main. The plan does not identify the location of the known Commerce Street water line and its proximity to the tree location. Based on review of an adjacent project, and the water line relocation which occurred for that project, it appears the water line alignment would place the proposed trees to within 10 feet of the line. If the proposed trees are too close to the line, they may not be allowed for installation.

The property has multiple drive entries on three street frontages. The central drive entry on Commerce is proposed for closure. Visibility triangles for the driveways and the street corners prohibit any landscaping above 2.5 feet in height within those zones. The store sign and vacuum/air system is located in the northwest visibility triangle and not identified on the plan.

The proposed canopy will provide a significant shade structure over the paved surface.

Recommendation

The chief arborist recommends denial of the proposed alternate landscape plan because insufficient information is provided to determine that the placement of street trees along Commerce Street will not be denied with a building permit. Furthermore, in addressing that the 'spirit of the ordinance will be observed' with this improvement in the 'gateway' district, certain mitigating factors for pedestrian amenities may be considered where visibility triangle and utility locations inhibit suitable planting for compliance.

Recommendations for improvement *may* include increased planting areas on the property for 1) seasonal color or 'xeriscape' landscape beds with low-level shrubs and groundcover at the Harbin/Haslett and Commerce/Sulphur street corners, with improved depth of landscape design and reduction of width of drive entries, 2) screening of parking along Sulphur Street, and 3) improved landscaping along Harbin Street building façade, or screening, by adding a landscape bed into the lot adjacent to the parkway.

But, it is also my opinion a literal enforcement of the regulations would result in unnecessary hardship, the variance is necessary to permit development based on the combination of restrictive area and shape with street regulation restrictions, and the variance does not relieve a self-created hardship, but is also bound by the other restrictive factors. On this basis, I would favor a more comprehensive landscape design solution on the property to support the spirit of the ordinance as it applies to this existing use.

If the board chooses to support the variance for the proposed plan, I recommend to condition the approval with a provision to allow for the removal of Commerce Street trees if street and sidewalk standards prohibit their installation.

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

Memorandum



Date October 8, 2015
To Danielle Lerma
Subject BDA 134-072 – 332 W Commerce Street - City Arborist comments

A revised alternate landscape plan was submitted by the applicant for the property at 332 West Commerce after further discussion of design options. Based on the revisions, I recommend approval of the plan.

The revised plan provides for the following conditions:

- Small trees (crepe myrtles) are proposed for Commerce, Sulphur, and Harbin street frontages.
- Commerce Street will have a combination of four crepe myrtles and a row of screening shrubs.
- Sulphur Street frontage will include a row of screening shrubs with two crepe myrtle trees.
- Three Caddo maple trees (large species) will be provided for the parking area.
- Harbin Street parkway will include four additional crepe myrtle trees for a total of nine trees to provide buffering of the use.
- In providing visual continuity along Haslett Street, a low-level planting bed will be provided between the garbage storage screen and the new 5-foot wide public sidewalk. This will be accomplished with 'native and adapted xeriscape plant materials' to provide a landscaped edge along the street corner to be completed by a professional landscaper.
- Two existing trees which are located in the visibility triangle, and impacting city infrastructure, will be removed along Harbin Street.

The combined landscape conditions will provide an enhanced appearance to the property with the expansion of the existing use.

Philip Erwin
Chief Arborist



City of Dallas

APPLICATION/APPEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 134-072

Data Relative to Subject Property:

Date: 7-13-2015

Location address: 332 W. COMMERCE ST. Zoning District: PD714 (1A)

Lot No.: 1 Block No.: 316813 Acreage: 0.4524 Census Tract: _____

Street Frontage (in Feet): 1) 230.67 2) 131.20 3) 224.00 4) 77.91 5) _____ 5217

To the Honorable Board of Adjustment :

X Owner of Property (per Warranty Deed): MALCOM A. AGESHEN

Applicant: HOUSHANG JAHVANI Telephone: 214-718-9469

Mailing Address: 2121 N. JOSEY LANE, SUITE #100 Zip Code: 75006

E-mail Address: JAHVANI@HOTMAIL.COM

Represented by: HOUSHANG JAHVANI Telephone: 214-718-9469

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance , or Special Exception , of AN ALTERNATE LANDSCAPE PLAN, AND A VARIANCE OF 15' FOR REQUIRED FRONT YARD SETBACK MAXIMUM.

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:

BASED ON AREA AND EXISTING FEATURES AND LOCATION, THE PROPERTY CAN NOT BE DEVELOPED ACCORDING TO PD-714

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 HOUSHANG JAHVANI
(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 09th day of July, 2015

(Rev. 08-01-11) BDA 145-072 3-17

[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

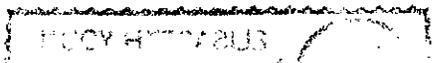
I hereby certify that Houshang Jahvani

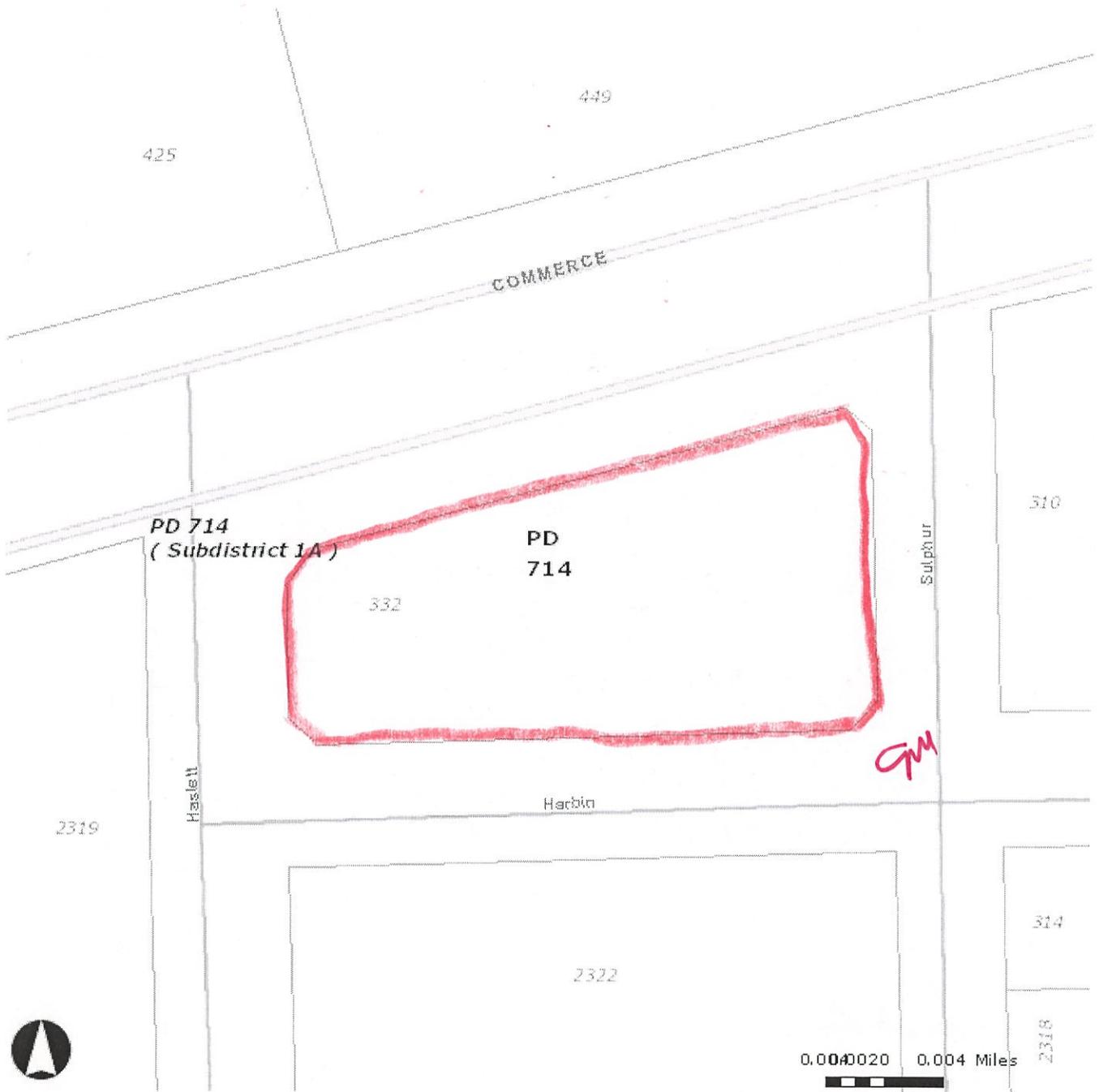
did submit a request for a variance to the front yard setback regulations, and for a special exception to the landscaping regulations
at 332 W. Commerce Street

BDA134-072. Application of Houshang Jahvani for a variance to the minimum and maximum front yard setback regulations and a variance to the landscaping regulations at 332 W. Commerce Street. This property is more fully described as Lot 1, Block 3/6813, and is zoned PD-714 (Subdistrict 1A), which requires a minimum front yard setback of 6 feet with at least 50 percent of the front facade at the minimum front yard setback and a maximum front yard setback of 15 feet, and which requires mandatory landscaping. The applicant proposes to construct and maintain a nonresidential structure and provide a 99 foot front yard setback, which will require a 93 foot variance to the minimum front yard setback regulation and an 84 foot variance to the maximum front yard setback regulation, and provide an alternate landscape plan, which will require a variance to the landscape regulations.

Sincerely,


Larry Holmes, Building Official



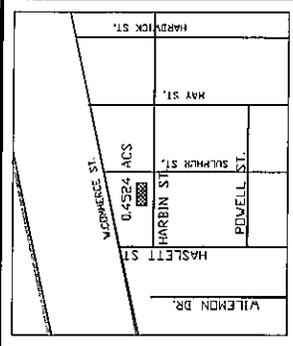


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 [johnv@jehmail.com]

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 2121 N. JOSEY LANE, #100
 CARROLLTON, TEXAS 75006
 TEL: (214) 716-9489
 [johnv@jehmail.com]

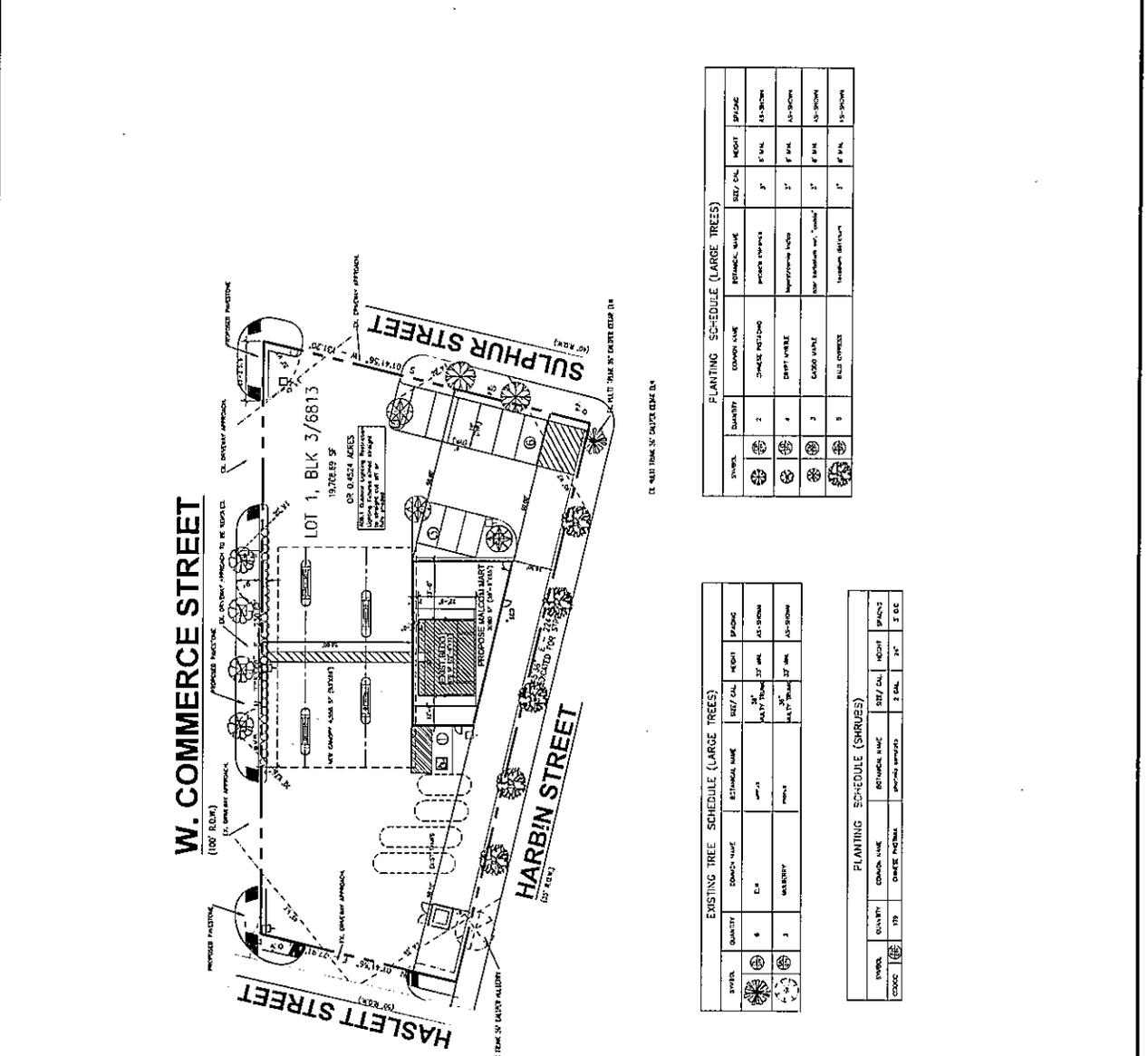
MALCOM C-STORE & GAS
 332 W. COMMERCE STREET
 DALLAS, TEXAS 75208



LOCATION_MAP
N.T.S.

SITE DATA SUMMARY TABLE

ZONING	FD-741
EXISTING USE	CONVENIENCE STORE
PROPOSED USE OF ADJN	MALCOM MART
SITE	.4524 ACRES
BUILDING SQ.FTG.	2990 SF
BUILDING HEIGHT	1-STORY, 20 FEET
LOT COVERAGE	19,708 SQ.FT.
FLOOR AREA RATIO	0.10 (10.0%)
PARKING REQ'D :	10 (1 SPACE PER 200 SF
HANDICAPPED PARKING REQ'D	1 SPACE
PARKING PROVIDED	07
HANDICAPPED PARKING PROVIDED	1 SPACE



PLANTING SCHEDULE (LARGE TREES)

SYMBOL	QUANTITY	COMMON NAME	ESTIMATED NAME	SIZE/ CAL.	HEIGHT	SPACING
(Symbol)	2	CHERRY PRUNING	PRUNUS SPINOSA	3"	5' MIN.	45-500MM
(Symbol)	4	SMART YEW	HOPIA TAXIFOLIA	2"	8' MIN.	45-500MM
(Symbol)	3	GLAZED YEW	HOPIA TAXIFOLIA 'GLAZED'	2"	8' MIN.	45-500MM
(Symbol)	5	BALL CYPRESS	HOPIA TAXIFOLIA 'BALL'	1"	6' MIN.	45-500MM

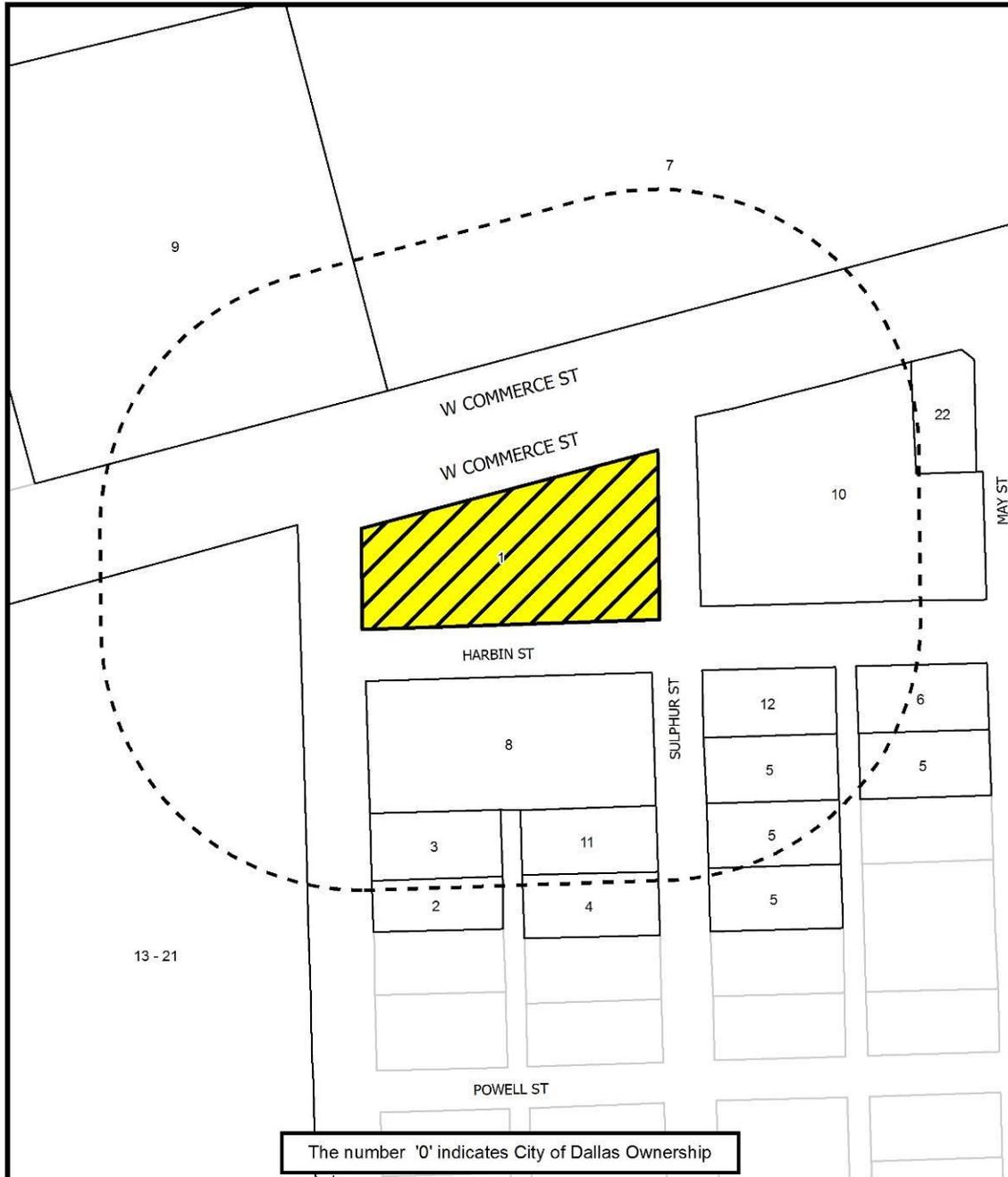
EXISTING TREE SCHEDULE (LARGE TREES)

SYMBOL	QUANTITY	COMMON NAME	ESTIMATED NAME	SIZE/ CAL.	HEIGHT	SPACING
(Symbol)	6	CL	CL	3"	5' MIN.	45-500MM
(Symbol)	3	SMART YEW	HOPIA TAXIFOLIA	2"	8' MIN.	45-500MM

PLANTING SCHEDULE (SHRUBS)

SYMBOL	QUANTITY	COMMON NAME	ESTIMATED NAME	SIZE/ CAL.	HEIGHT	SPACING
(Symbol)	179	CHERRY PRUNING	PRUNUS SPINOSA	2 GAL.	24"	5' O.C.





 1:1,200	NOTIFICATION		Case no: BDA134-072
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">22</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 9/4/2015	

Notification List of Property Owners

BDA134-072

22 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	332 COMMERCE ST	AGESHEN MALCOM
2	2310 HASLETT ST	HERNDON N M
3	2314 HASLETT ST	MARTINEZ ISIDORO G
4	2311 SULPHUR ST	VAFEE ABDOL H
5	2310 SULPHUR ST	RAMOS SAMUEL
6	2323 MAY ST	D & A ALVAREZ GROUP LLC
7	449 COMMERCE ST	COMMERCE PPTIES WEST LC
8	2322 HASLETT ST	VAFEE ABDOL H
9	425 COMMERCE ST	STEMMONS J M JR ETAL
10	310 COMMERCE ST	BROWN GUY III
11	2315 SULPHUR ST	VAFEE ABDOL H
12	314 HARBIN ST	NINO ISMAEL
13	2319 FAMOUS DR	ALTA WEST COMMERCE APARTMENTS
14	2319 FAMOUS DR	HINTERGARDT BARBARA
15	2319 FAMOUS DR	RODRIGUEZ, JORGE
16	2319 FAMOUS DR	RAMIREZ IDA
17	2319 FAMOUS DR	AYUAR DINERA
18	2319 FAMOUS DR	HERNANDEZ MARCIANO
19	2319 FAMOUS DR	VEGA LEONARDO
20	2319 FAMOUS DR	GOODWIN GLENDA
21	2319 FAMOUS DR	MCCUIN WILFORD
22	302 COMMERCE ST	RESIDENTIAL PROPERTY INVENTORY LLC

FILE NUMBER: BDA 145-096(SL)

BUILDING OFFICIAL'S REPORT: Application of Eric W. Johnson for a variance to the front yard setback regulations and a special exception to the visual obstruction regulations at 9008 San Benito Way. This property is more fully described as Lots 16, 17, 18, & 19, Block 12/5239, and is zoned MF-2(A), which requires a front yard setback of 25 feet, and a 20 foot visibility triangle at driveway approaches. The applicant proposes to construct and/or maintain a structure and provide a 3 foot front yard setback, which will require a 22 foot variance to the front yard setback regulations, and to locate and maintain items in a required visibility triangle, which will require a special exception to the visual obstruction regulations.

LOCATION: 9008 San Benito Way

APPLICANT: Eric W. Johnson

REQUESTS:

The following request has been made on a site that is developed with a multifamily development use (San Benito Apartments):

- A variance to the front yard setback regulations of 9' 6" is made to relocate and maintain an existing dumpster "structure" in the 25' front yard setback to a new location to the southwest of its current location 15' 6" from the front property line or 9' 6" into in the site's 25' front yard.

Originally, the following requests had been made:

- A variance to the front yard setback regulations of 22' had been made to relocate and maintain an existing dumpster "structure" in the 25' front yard setback to a new location to the southwest of its current location 3' from the front property line or 22' into in the site's 25' front yard; and
- A request for special exception to the visual obstruction regulations had been made to relocate and maintain the existing dumpster structure (and 6' high wood fence/enclosure) in a driveway to the northeast in a 20' driveway visibility triangle into the site from San Benito Way. (Note that the applicant's submittal of a revised site plan on October 1st denotes the dumpster structure outside the 20' drive approach visibility triangle).

STANDARD FOR A VARIANCE:

The Dallas Development Code specifies that the board has the power to grant variances from the front yard, side yard, rear yard, lot width, lot depth, lot 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.

STANDARD FOR A SPECIAL EXCEPTION TO THE VISUAL OBSTRUCTION REGULATIONS:

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

STAFF RECOMMENDATION (variance):

Denial

Rationale:

- Staff concluded that there was no property hardship to the site that warranted a front yard variance in this case made to relocate and maintain an existing dumpster “structure” in the front yard setback.
- The applicant had not substantiated how the physical features of the flat, rectangular in shape, and 32,000 square foot (200’ x 160’) subject site preclude it from being developed in a manner commensurate with the development upon other parcels of land in districts with the same MF-2(A) zoning classification while simultaneously complying with code provisions including front yard setback regulations.

STAFF RECOMMENDATION (visual obstruction):

Denial without prejudice

Rationale:

- The applicant submitted a revised site plan representing there is no longer any item located in a required visibility triangle.

BACKGROUND INFORMATION:

Zoning:

Site: MF-2(A) (Multifamily)

North: CR & R-7.5(A) (Community retail and Single family district 7,500 square feet)
South: MF-2(A) & R-7.5(A) (Multifamily and Single family district 7,500 square feet)
East: R-7.5(A) (Single family district 7,500 square feet)
West: CR (Community retail)

Land Use:

The subject site is developed with a multifamily development use (San Benito Apartments). The area to the north is developed with a mix of single family and retail/commercial uses; 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.

GENERAL FACTS/STAFF ANALYSIS (variance):

- While the original request focused on relocating and maintaining an existing dumpster “structure” in the 25’ front yard setback to a new location to the southwest of its current location 3’ from the front property line or 22’ into in the site’s 25’ front yard, the applicant’s submitted revised site plan indicates the dumpster to be relocated 15’ 6” from the site’s front property line or 9’ 6” into the front yard setback (see Attachment E)
- The subject site is located on a block that is divided by two zoning districts- MF-2(A) and R-7.5(A). While the subject site is zoned MF-2(A) where structures in this zoning are required to provide a minimum front yard setback of 15’, the front yard setback on the subject site is 25’ because the remaining part of the block is zoned R-7.5(A) and the Dallas Development Code states that if street frontage within a block is divided by two or more zoning districts, the front yard for the entire block must comply with the requirements of the district with the greatest front yard requirement.
- A scaled site plan was originally submitted indicating that the “proposed trash enclosure” and trash container within it (approximately 30 square feet in area) located 3’ from the front property line or 22’ into the 25’ front yard setback.
- A revised scaled site plan submitted on October 1st indicates that the “proposed trash enclosure” and trash container within it (approximately 30 square feet in area) located 15’ 6” from the front property line or 9’ 6” into the 25’ front yard setback.
- According to DCAD records, the “main improvement” at 9008 San Benito Way is an “apartment” built in 1961 with 16,356 square feet in area.
- The subject site is flat, rectangular in shape, and 32,000 square feet (200’ x 160’) in area.
- The applicant has the burden of proof in establishing the following:
 1. That granting the variance to the front yard setback regulations will not be contrary to the public interest when, owing to special conditions, a literal

enforcement of this chapter would result in unnecessary hardship, and so that the spirit of the ordinance will be observed and substantial justice done.

2. The variance is necessary to permit development of the subject site that differs from other parcels of land by being of such a restrictive area, shape, or slope, that the subject site cannot be developed in a manner commensurate with the development upon other parcels of land in districts with the same R-7.5(A) zoning classification.
 3. The variance would not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor to permit any person a privilege in developing this parcel of land (the subject site) not permitted by this chapter to other parcels of land in districts with the same R-7.5(A) zoning classification.
- If the Board were to grant the variance request, and impose the submitted revised site plan as a condition, the structure in the front yard setback would be limited to what is shown on this document– which in this case is a structure to be located 15’ 6” from the front property line (or 9’ 6” into the 25’ front yard setback).

GENERAL FACTS/STAFF ANALYSIS (visual obstruction):

- The applicant submitted a revised site plan on October 1st that denotes the dumpster structure is located outside the 20’ drive approach visibility triangle (see Attachment E).
- The original request focused on relocating and maintaining an existing dumpster structure (and 6’ high wood fence/enclosure) in a driveway to the northeast in a 20’ driveway visibility triangle into the site from San Benito Way.
- The Dallas Development Code states the following: 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 street intersections, and 20 foot visibility triangles at drive approaches and at alleys on properties zoned single family); and
 - between two and a half and eight 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 had originally submitted a site plan and an elevation denoting a 6’ wood enclosure (with “trash container” in it) which is located in a 20’ visibility triangle at a driveway into the site from San Benito Way.
- The Sustainable Development and Construction Department Project Engineer had submitted a review comment sheet marked “Recommends that this be denied” with the following additional comment: “Proposed location conflicts with visibility triangle. Various alternatives for waste disposal are available that do not require placing receptacle in visibility triangle.”
- Before the submittal of the revised site plan, the applicant had the burden of proof in establishing how granting the request for a special exception to the visual obstruction regulations to relocate and maintain the existing dumpster structure (and 6’ high wood fence/enclosure) in a driveway to the northeast in a 20’ driveway visibility triangle into the site from San Benito Way did not constitute a traffic hazard.

- The Sustainable Development and Construction Department Project Engineer submitted a revised review comment sheet marked “Has no objections” with the following additional comment: “No longer in visibility triangle.”
- Staff suggests that the Board deny the request for a special exception to the visual obstruction regulations without prejudice given that this request is no longer needed given the submittal of the revised site plan on October 1st.

Timeline:

July 20, 2015: The applicant submitted an “Application/Appeal to the Board of Adjustment” and related documents which have been included as part of this case report.

August 19, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

August 19, 2015: The Board Administrator emailed the following information to the applicant:

- a copy of the application materials including the Building Official’s report on the application;
- an attachment that provided the public hearing date and panel that will consider the application; the September 2nd deadline to submit additional evidence for staff to factor into their analysis; and the September 11th 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.”

September 5 & 8, 2015: The applicant submitted additional information to staff beyond what was submitted with the original application (see Attachments A and B).

September 8, 2015: 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 Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

September 11, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked “Recommends that this be denied” with the following additional

comment: "Proposed location conflicts with visibility triangle. Various alternatives for waste disposal are available that do not require placing receptacle in visibility triangle."

September 23, 2015: The Board of Adjustment Panel B conducted a public hearing on this application. The Board Administrator circulated a revised site plan submitted by the applicant and revised comments from the Sustainable Development and Construction Department Project Engineer to the Board at the briefing (see Attachments C and D). The Board delayed action on this application until their next public hearing to be held on October 21, 2015.

September 24, 2015: The Board Administrator sent an email to the applicant that noted the decision of the panel, the September 30th deadline to submit any additional information to staff for their review, and the October 9th deadline to submit additional evidence to be incorporated into the Board's docket materials.

October 1, 2015: The Building Inspection Senior Plans Examiners/Development Code Specialist forwarded additional information from the applicant to the Board Administrator (see Attachment E).

October 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

October 9, 2015: The Sustainable Development and Construction Department Project Engineer submitted a review comment sheet marked "Has no objections" with the following additional comment: "No longer in visibility triangle."

BOARD OF ADJUSTMENT ACTION: SEPTEMBER 23, 2015

APPEARING IN FAVOR: Eric Johnson, 9008 San Benito Way, Dallas, TX

APPEARING IN OPPOSITION: No one

MOTION: **Bartos**

I move that the Board of Adjustment in Appeal No. **BDA 145-096** hold this matter under advisement until **October 21, 2015**.

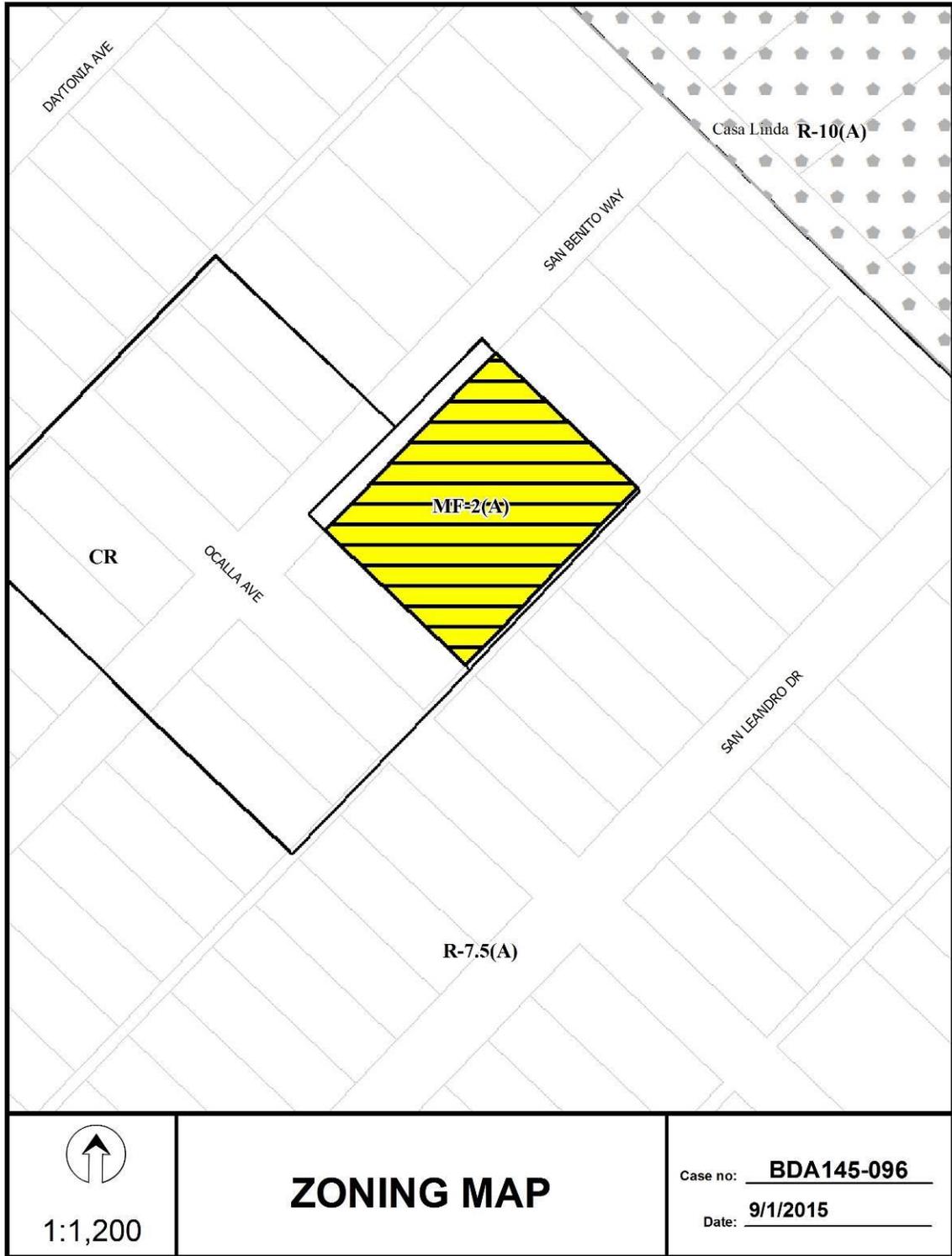
SECONDED: **Johnson**

AYES: 5 – Reynolds, Hounsel, Johnson, Agnich, Bartos

NAYS: 0 -

MOTION PASSED: 5 – 0 (unanimously)

***Member San Gillespie recused himself and did not hear or vote on this matter.**

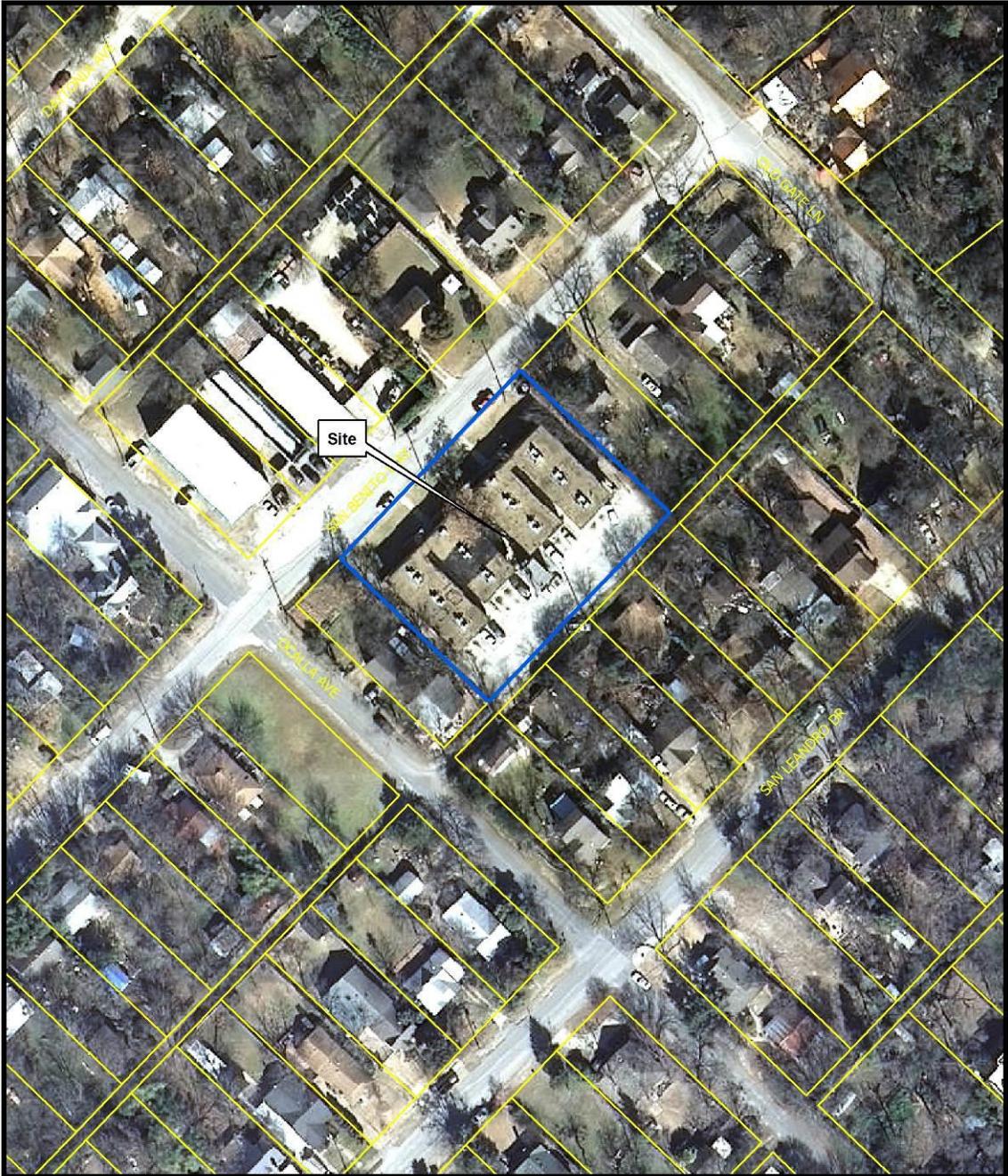


1:1,200

ZONING MAP

Case no: BDA145-096

Date: 9/1/2015



1:1,200

AERIAL MAP

Case no: BDA145-096

Date: 9/1/2015

Long, Steve

From: Eric Johnson <e.w.johnson@sbcglobal.net>
Sent: Saturday, September 05, 2015 1:12 PM
To: Long, Steve
Subject: Variance Support - Dumpster.PDF
Attachments: Variance Support - Dumpster.PDF; ATT00001.txt

Hello Mr. Long!

Attached below in a PDF are four documents.

Please call me when you have a chance to look at this. I'm sorry for the confusion. I hope that my lengthy explanation below does not compound the problem.

Unfortunately, I reversed the order of the first two pages.

Page 1 is my reply to the letter of support that begins on page 2.

Please consider page 2 first. It is an email from the Little Forest Hills neighborhood association co-presidents.

In their email they reference their personal recommendation letter, as well as the fact that their board voted on and approved support for my variance application.

They also asked that I not use this document as a recommendation for variance approval from the LFHNA. I am only sharing this letter with you in my request for guidance from you. Please do not share this letter with the board.

I want to respect the wishes of the co-presidents.

Their letter says that approval from LFHNA will come separately if needed, and that they are concerned about setting a precedence for getting involved in zoning and code issues. However in this case they feel that approval of the variance" is the only thing that really makes sense".

I want to use this document to show the intent of the LFHNA to support the variance application.

I ALSO WANT TO RESPECT THEIR REQUEST THAT I NOT USE THIS SPECIFIC LETTER AS AN ENDORSEMENT. THEREFORE I HAVE REMOVED ALL PERSONAL REFERENCE AND EMAIL INFORMATION FROM THE DOCUMENT.

Please do not share this letter with the board of adjustment.

If necessary I will ask the LFHNA for an official letter of endorsement supporting the variance application.

Page 3 is an email from January 10, 2014 from our dumpster service provider.

The letter states that Bluebonnet Waste Control, Inc. is "unable to service the container located in the parking lot area of the complex", etc.

Page 4 is a letter from Progressive Waste Solutions, our current dumpster service provider, dated August 20 2015.

Two weeks ago at my request they came out and did a site survey to determine if they could or could not move the container to the back of the buildings.

They determined that they are NOT able to service a container located in the back and that they "will be required to leave the container where it sits at the present time in front of the building".

Please call me to discuss this, and any additional information that you feel we should add to the packet that the board members receive concerning my variance application.

Thank you for your help. Sincerely,

Eric

EDA145-096

Attach A

PS 2

Subject: [REDACTED]
From: Eric Johnson (e.w.johnson@sbcglobal.net)
To: lfneighborhood@swbell.net;
Cc: [REDACTED]1950@gmail.com, [REDACTED]well@yahoo.com;
Date: Monday, August 24, 2015 11:49 AM

[REDACTED]
Thank you very much for your support. I understand exactly where you are coming from when you say you don't want to set some sort of precedent. I appreciate and respect the position that you are in and know that this is a delicate issue for you, and the neighborhood association.

I assure you that I will continue to press forward with getting this variance approved without making direct reference to any one specific letter of support.

If there is dissension from a citizen that cannot be overcome through discussion with the city staff, I may again want to consult with you personally. At no point, will I ever start just throwing peoples names out, claiming endorsement and support.

I am going to try to do this as tactfully as possible and stay as far under the radar as I can. I don't want this to be a big issue, but businesswise it is. I just need this giant headache that the city has created to go away so we can return to preserving the integrity of our community.

If possible, I would like to get a letter of support from the neighborhood association, to be used only if necessary, for my presentation at the hearing.

I don't need this anytime soon. The hearing for the variance is on September 23rd, and I may not need it at all, but would like to have it if I am required to make a presentation. We should know long before then if this is going to be a rubber stamp of approval process or if there will be dissension from one or more "interested parties".

Thank you for your help! Please feel free to call me anytime, day or night, with any questions you have
214-534-4040

Sincerely,
Eric

Eric Johnson
214-534-4040
Box 141021
Dallas
Texas
75214

On Aug 23, 2015, at 8:30 PM, lfh <lfhneighborhood@sanbenito.org> wrote:

BDA145-016
Attach A
p33

Hi Eric, I am attaching a personal recommendation letter for [REDACTED]. We also put the issue before the board for a vote and we did get a majority vote for the variance however there is some concern of setting a precedence for getting involved in zoning and code issues. We would appreciate if you could save the "big guns" (neighborhood support) to use only if needed. It seems that the variance is the only thing that really makes sense for you and this property but we know the city doesn't always do things the logical way.

You may use the letter from [REDACTED] however you wish as long as it is from a close by neighbor and not as co-presidents of LFHNA. That will have to come separately if needed. Let us know how the process is going please and if you get any push back from neighbors.

[REDACTED]
[REDACTED]
<san benito apts.docx>

Begin forwarded message.

From: [REDACTED] <[REDACTED]@gmail.com>
Subject: Fwd: Neighborhood Flyer
Date: August 23, 2015 at 11:28:16 AM CDT
To: [REDACTED] <lfhneighborhood@sanbenito.org>
Cc: [REDACTED] <[REDACTED]@gmail.com>

A/V,

Just FYI,

Regards,
[REDACTED]

----- Forwarded message -----

From: Eric Johnson <e.w.johnson@sbcglobal.net>
Date: Sun, Aug 23, 2015 at 9:52 AM
Subject: Re: Neighborhood Flyer
To: [REDACTED] <[REDACTED]@gmail.com>

[REDACTED]
Thank you very much for your prompt reply!

I greatly appreciate you contacting [REDACTED] on my behalf.

In the interest of keeping everyone in the loop, I will await their opportunity to comment before I deliver these.

I also spoke with Kevin yesterday. He and Kim are going to review the same docs that I left with you and get back to me with their comments.

Please feel free to forward this and any other info to [REDACTED] and anyone else in your group that you feel needs to be included.

Bluebonnet Waste
Control Inc.
P.O. Box 223845
Dallas Texas 75222-3845
Phone: 214-748-5221
Fax: 214-748-6886

Facsimile Transmittal

To: Eric Johnson Fax: 214-279-0191

San Benito Apts

From: Laura Rivera *Laura Rivera* Date: January 10, 2014

Re: Trash Pick-up Pages: 01 Including cover

9008 San Benito Way,

Dallas TX

- Urgent
- For Review
- Please Comment
- Please Reply
- Please Recycle

Notes:

We are unable to service the container located in the parking lot area of the complex. Driveway is too narrow and the turning ways are too tight and the clearance isn't available for our trucks to perform services. The current location is the only spot where services can be performed.

Please do not hesitate to contact us with any questions.

Thank you!

Front-load Dispatching department

.....



August 20, 2015

Mr. Eric Johnson
San Benito Apartments
9008 San Benito Way
Dallas, TX 75218

REF: Trash Container Placement

Dear Mr. Johnson,

Progressive Waste Solutions has completed the site survey regarding your request to move the container to the back of the building.

It has been determined that we are NOT able to complete this request because of the many operational issues this would cause. We will be required to leave the container where it sits at the present time in front of the building.

Regards,

Michelle Seely
Progressive Waste Solutions
469-816-3343 cell
michelle.seely@progressivewaste.com

Long, Steve

From: Eric Johnson <e.w.johnson@sbcglobal.net> Pg 1
Sent: Tuesday, September 08, 2015 11:28 AM
To: Long, Steve
Subject: San Benito Apartments variance application
Attachments: Progressive Waste Letter RE Dumpster Variance.pdf; ATT00001.htm; A.Vail and V.Fasset letter of support.jpg; ATT00002.htm

Mr. Long,

I am sending two additional documents that I would like you to please include in your packet for the adjustment board staff.

One is a letter from Progressive Waste Solutions, from our representative Michelle Seely.

I asked her to provide additional information & more details as to why they would not be able to service a container located in the back of the property.

It is very specific & lists several reasons.

The second document is a personal letter from Amy Ewell & Vail Fassett. This is the letter from the LFHNA copresidents personally that was referenced in my previous email. I have another 20+ letters similar to this one. I am only sending you this one at the present time, because I referenced in my earlier email, but forgot to include it then.

Thank you for your time. I appreciate your help attention to detail.

Eric

BDA 145-096

Attach B

pg 2



August 20, 2015

Mr. Eric Johnson
San Benito Apartments
9008 San Benito Way
Dallas, TX 75218

REF: Trash Container Placement

Dear Mr. Johnson,

Progressive Waste Solutions has completed the site survey regarding your request to move the container to the back of the building.

It has been determined that we are NOT able to complete this request because of the many operational issues this would cause.

If we service from the back of the complex, the driver would have to back the truck blindly across an intersection which is completely unacceptable because there is not enough room for the truck to turn around.

The driveways are far too narrow for the trucks to navigate and the turning radius from the side street into the alley will be almost impossible, without backing up and re-negotiating the turn. The alley access is also limited by private fences utility poles gas meters etc. Normally there are 20+ vehicles parked in the parking lot as well. It will be in everybody's best interest to continue service from the street in front.

Regards,

Michelle Seely
Progressive Waste Solutions
469-816-3343 cell
michelle.seely@progressivewaste.com

Date: 8/23/2015

To Whom It May Concern:

This letter is in regards to a variance that has been filed for the San Benito Apartments, 9008 San Benito Way Dallas, TX 75218. The issue is the dumpster which is currently in the front of the building. Vail and I have lived 2 streets directly behind these apartments for 20 yrs and have always been impressed with the care of the apartments and the tenants that live here. I frequently drive, run, walk and bike in front of this dwelling and it is always well taken care of and the trash is always contained where it is supposed to be. My understanding is that there is a code issue with the placement of the dumpster. It has been reported to me that the only viable option is to have rolling cans for each apartment. (Due to lack of space behind the apartments as well as City power lines and gas meters that are near the entrance.) I would hate to see the addition of 46 rolling trash cans each week to the small area on this block. There is also some parking at the street level on this block which would further make the addition of 46 cans an eyesore, and would increase noise and smell. The apartments currently have their trash picked up 2x per week which limits the odor and amount of accumulation. (The city would only come 1x weekly to empty the 46 rolling trash cans.) I also have known the owner to request additional pick ups during busy times.

I hope that you consider approving this variance for the sake of the surrounding neighbors. The current way his trash is being handled is working well, with little disturbance to the immediate area.

Sincerely,

Amy Ewell and Vail Fassett
9019 Eustis Ave.
Dallas, TX 75218
972-742-8580
Dino9@swbell.net

Long, Steve

From: Eric Johnson <e.w.johnson@sbcglobal.net>
Sent: Monday, September 21, 2015 5:14 PM
To: Lam, David
Cc: Moorman, Donna; Way, Jamilah; Duerksen, Todd; Lam, David; Long, Steve
Subject: Re: BDA 145-096, Property at 9008 San Benito Way
Attachments: A1.pdf; ATT00001.htm; D FISHER - Letter RE Drawing Clarifications 9 16 15.doc; ATT00002.htm

Mr. Lam,

I am attaching a letter and a revised site plan for the San Benito apartments concerning the dumpster variance application and related application for a waiver of the visibility triangle. The letter and site plan is from our architect, David Fisher.

Use of the area on the original site plan labeled as a driveway to the east side of the property, was abandoned prior to the receipt of our certificate of occupancy in 1997. It has not been used as a driveway since our acquisition of the property in 1993.

Railroad ties currently block the entrance to this area by a vehicle, as well as our existing dumpster, which is currently located at the front edge of our property by the street.

This area is not a driveway presently, has not been used as a driveway in over 20 years and will never be used as a driveway again.

At the hearing we will provide pictures referenced in Mr. Fisher's letter. This should clear up all the discrepancies.

Once this is done to your satisfaction, we hope you will be able to approve our request for waiver of the visibility triangle.

Thank you for your consideration of this matter.

Sincerely,
Eric Johnson

Eric Johnson
214-534-4040
Box 141021
Dallas
Texas
75214

On Sep 11, 2015, at 12:22 PM, "Long, Steve" <steve.long@dallascityhall.com> wrote:

Attached is the review comment sheet from David Lam, Sustainable Development and Construction Department Project Engineer, regarding the visual obstruction request that is part of the application referenced above. This will be incorporated into the case report/docket that is emailed to you and the board members next week.

Please write, see, or call me at 214/670-4666 if you have any concerns or questions.

City of Dallas
ATTN: Board of Adjustment
1500 Marilla 5BN
Dallas, Texas 75201

Board Members:

Eric Johnson has asked me to write you concerning his Variance Application for the San Benito Apartments.

I have been asked to clarify some issues concerning the drawing that was submitted for approval. I provided the drawing for the variance application for The San Benito Apartments.

Please Note:

The drawing is based on the original site plan that we verified as being dimensionally correct. Many of the original notes on the plan were left in place. Some are technically incorrect. Site inspection and photographs easily verify all of the discrepancies. Attached is a Site Plan designating existing on site conditions and the requested relocation of the dumpster and it's enclosure.

The area on the East side of the property has been abandoned and is no longer a driveway and has not been used for that purpose in a very long time. It should have been correctly labeled as "pedestrian access only".

Due to the age of this property, vehicular circulation is limited. Sufficient off street parking has been provided to service the facility. Access is provided by a mere 10' wide (max) existing driveway. A front end loading trash hauling vehicle would be challenged negotiating the drive by itself. There is insufficient maneuverability within the parking area to the rear of the facility for the trash vehicle to access, lift and empty. There is also insufficient area to turn a vehicle of this size around to exit the property. Alley access is not possible due to the fact there is no pass thru alley at the rear of the property.

Mr. Johnson is attempting to accommodate the needs of his tenants and the requirements of the City of Dallas. Again, due to the age and physical constraints inherent to the property, the latter point has become a hardship.

Mr. Johnson's intent is to relocate and rotate the dumpster enclosure so that the gates do not face the street directly and to raise the enclosure to 6'. This, I believe, is a reasonable compromise to accommodate the City's dumpster requirements and his tenants needs.

Sincerely,

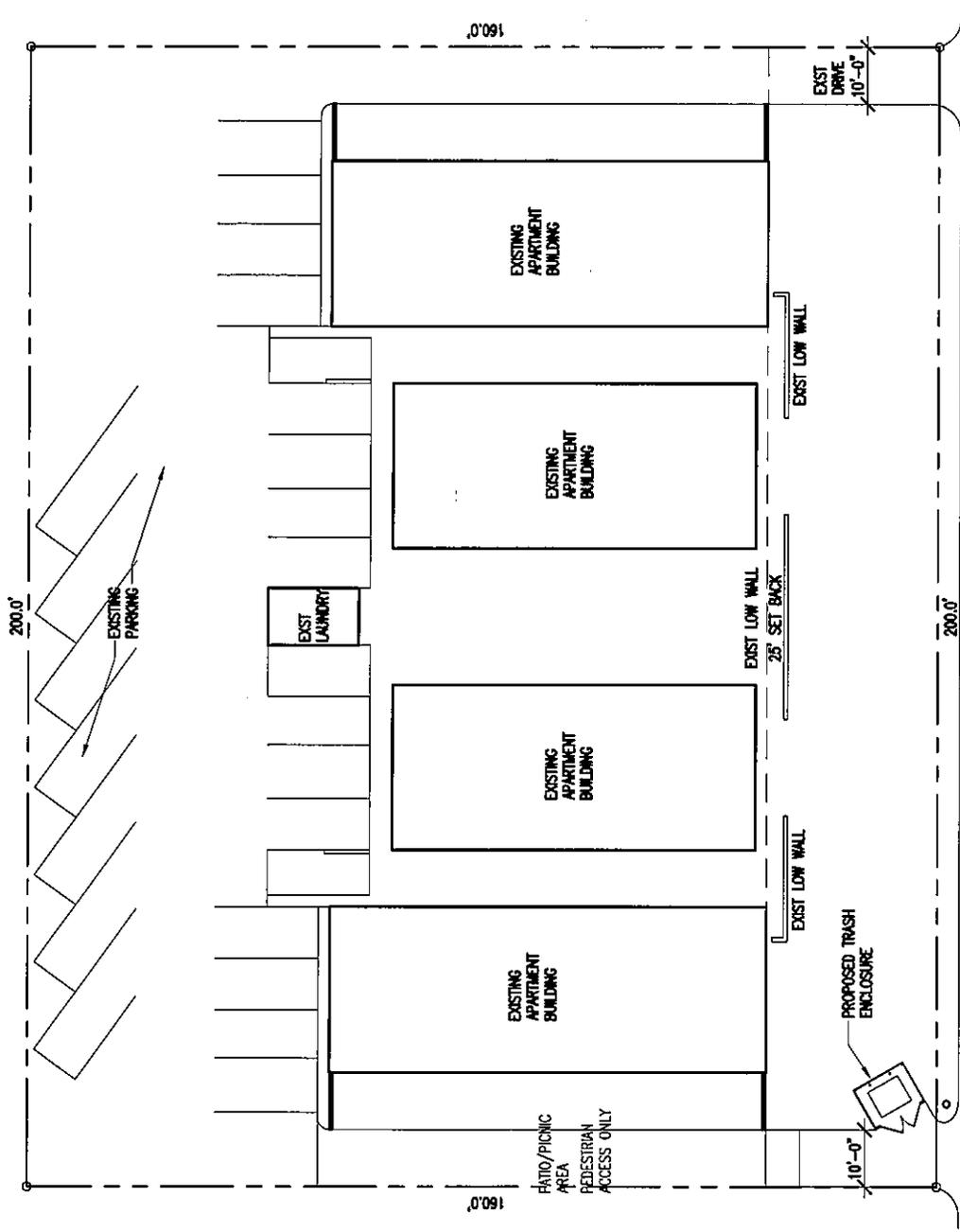
David M. Fisher

David Fisher + Architects, Inc.

G MAN LIMITED
SAN BENITO APARTMENTS
9008 SAN BENITO WAY
DALLAS, TEXAS

20 JUL 15
DATE
A1
SHEET NO.

SEPT. 20, 2015



SAN BENITO WAY

01 SITE PLAN
1" = 20'-0"



Long, Steve

Attach D

From: Lam, David
Sent: Wednesday, September 23, 2015 9:59 AM
To: Long, Steve
Cc: Moorman, Donna; Duerksen, Todd; Way, Jamilah
Subject: RE: BDA 145-096

Steve,

Upon further discussion with the applicant on the evening of 9/22/2015, I realize that my review comments may not have been clearly communicated.

Please add this email as a supplement to my engineering review comment with the intent of providing further clarification of my recommended denial for the subject case.

The proposed location poses a traffic hazard based on the following assessment.

1. There is an existing driveway located on the northeast corner of the subject property.
2. The property owner, present and future, has the right to remove the temporary wooden obstructions and use this existing driveway to better facilitate vehicular traffic to/from the multifamily residential site. This option is feasible based on the following facts:
 - a. The site plan indicates that the two driveways' width are each 10-feet.
 - b. The applicant has indicated that the northeastern driveway has been blocked, resulting in a 10-foot width driveway for both ingress and egress traffic.
 - c. City standards per the City of Dallas Paving Design Manual and City of Dallas Off-Street Parking and Driveway Manual is:
 - i. 15-foot minimum for One Way operation (separate drives for ingress and egress)
 - ii. 20-foot minimum width for two way driveway
3. The applicant has not substantially justified why relocating the waste collection container to the south or east, away from San Benito Way and outside of the 20-foot visibility triangle is not a safe and feasible alternative. (Note: 1. Conversation with City of Dallas Solid Waste Division has confirmed that both of these alternatives would be feasible. 2. the less obtrusive the sanitation truck is to the traffic along San Benito Way, the better from a traffic safety perspective)

DAVID M. LAM, P.E. (HI, TX), CFM

ENGINEER
 SUSTAINABLE DEVELOPMENT & CONSTRUCTION DEPARTMENT
 ENGINEERING DIVISION
 CITY OF DALLAS

<http://dallascityhall.com/departments/sustainabledevelopment/Pages/FormsDept.aspx#engineerform>

320 E. JEFFERSON, ROOM 200
 DALLAS, TEXAS 75203
 PH. 214.948.5384
 FAX 214.948.4211

DAVID.LAM@DALLASCITYHALL.COM



Long, Steve

BDA145-096
Attach E Pg 1

From: Duerksen, Todd
Sent: Thursday, October 01, 2015 8:37 AM
To: Long, Steve
Subject: RE: BDA145-096, 9008 San Benito

You should have received two sheets, the Site Plan/A1 and the Elevation/A2.

"I FIND YOUR LACK OF FAITH DISTURBING."
-DARTH VADER

From: Duerksen, Todd
Sent: Thursday, October 01, 2015 8:24 AM
To: Long, Steve
Subject: Re: BDA145-096, 9008 San Benito

I will scan the reduced copy to you.

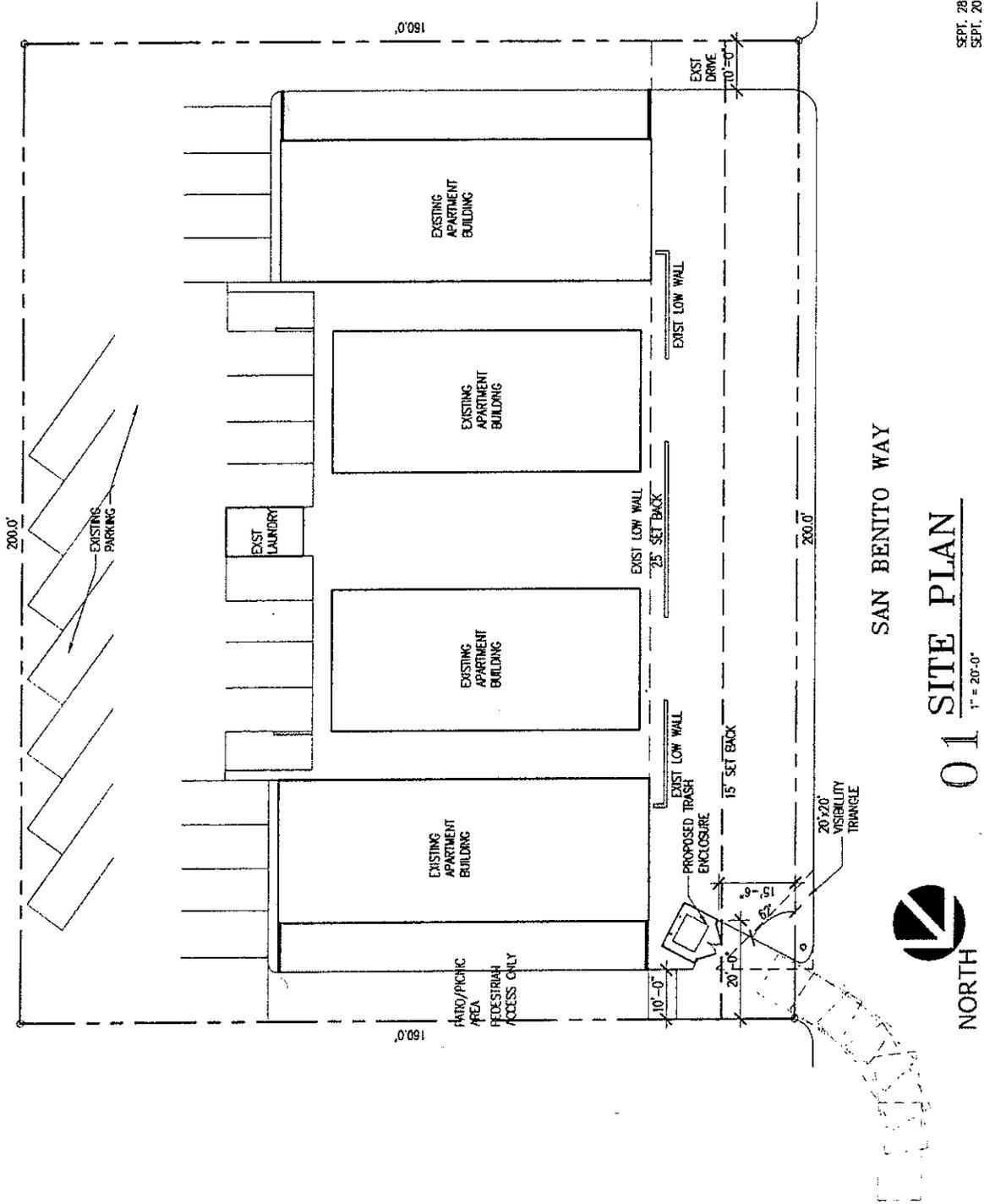
From: Duerksen, Todd
Sent: Wednesday, September 30, 2015 3:32 PM
To: Long, Steve
Subject: BDA145-096, 9008 San Benito

I have from the applicant the revised site plan and revised elevation drawings for BDA145-096, 9008 San Benito.

G MAN LIMITED
 SAN BENITO APARTMENTS
 9008 SAN BENITO WAY
 DALLAS TEXAS

20 JUL 15
 DATE
 A
 SHEET NO.

SEPT. 28, 2015
 SEPT. 20, 2015



SAN BENITO WAY

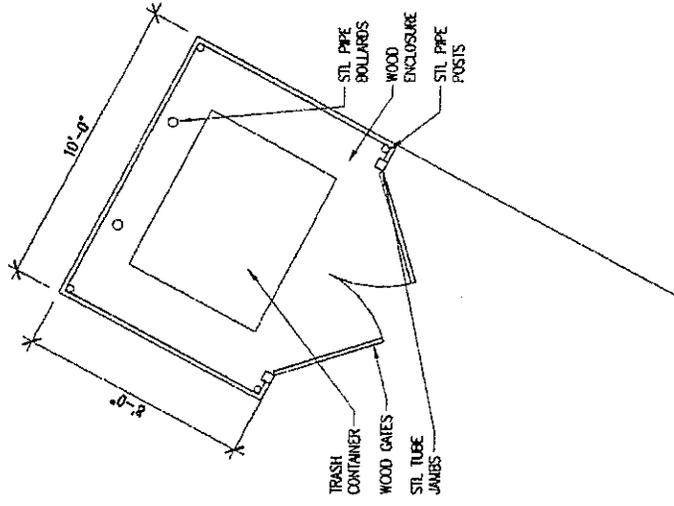
01 SITE PLAN

1" = 20'-0"

NORTH

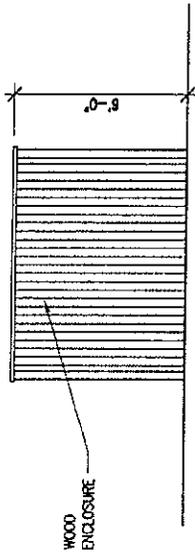
G MAN LIMITED
 SAN BENITO APARTMENTS
 9008 SAN HENRI WAY
 DALLAS, TEXAS

20 JUL 15
 DATE
 AS
 SHEET NO.

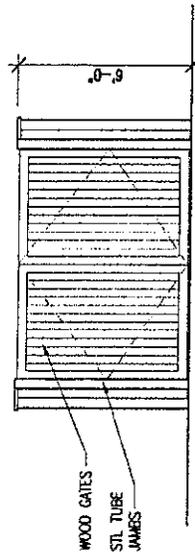


01 ENCLOSURE PLAN
 1/4" = 1'-0"

SEPT. 28, 2015



03 SIDE ELEVATION
 1/4" = 1'-0"



02 FRONT ELEVATION
 1/4" = 1'-0"



City of Dallas

APPLICATION/APEAL TO THE BOARD OF ADJUSTMENT

Case No.: BDA 145-096

Date: 7-20-15

Data Relative to Subject Property:

Location address: 9008 San Benito Way Zoning District: MF2 (A)

Lot No.: 16-19 Block No.: 12/5239 Acreage: _____ Census Tract: 81.00

Street Frontage (in Feet): 1) 50 200' 2) 50 3) 50 4) 50 5) _____

507

To the Honorable Board of Adjustment :

Owner of Property (per Warranty Deed): GMAN, Ltd.

Applicant: Eric W. Johnson Telephone: 214-534-4040

Mailing Address: PO Box 141021, Dallas, TX Zip Code: 75214

E-mail Address: e.w.johnson@sbcglobal.net

Represented by: _____ Telephone: _____

Mailing Address: _____ Zip Code: _____

E-mail Address: _____

Affirm that an appeal has been made for a Variance X, or Special Exception -, of 22 feet to the required 25 foot front yard setback.

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

See attached
Subject Property is restricted by the adjacent R-7.5 zoning requiring a 25 foot setback. Subject Property is restricted by inadequate access to the rear portion of the property.

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 Eric Johnson
(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 20th day of July, 2015

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

(Rev. 03/01/11)



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 Eric W. Johnson

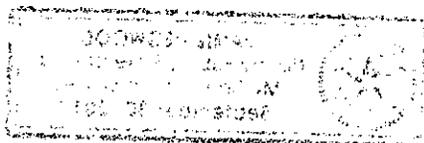
did submit a request for a variance to the front yard setback regulations, and for a special exception to the visibility obstruction regulations

at 9008 San Benito Way

BDA145-096. Application of Eric W. Johnson for a variance to the front yard setback regulations and a special exception to the visibility obstruction regulations at 9008 San Benito Way. This property is more fully described as Lots 16, 17, 18, & 19, Block 12/5239, and is zoned MF-2(A), which requires a 20 foot visibility triangle at driveway approaches and requires a front yard setback of 25 feet. The applicant proposes to construct a multifamily residential accessory structure and provide a 3 foot front yard setback, which will require a 22 foot variance to the front yard setback regulation, and to construct and maintain a multifamily residential accessory structure in a required visibility obstruction triangle, which will require a special exception to the visibility obstruction regulation.

Sincerely,


Larry Holmes, Building Official



LAT BOX
1/4" = 1 FT. EQUALS 1 INCH



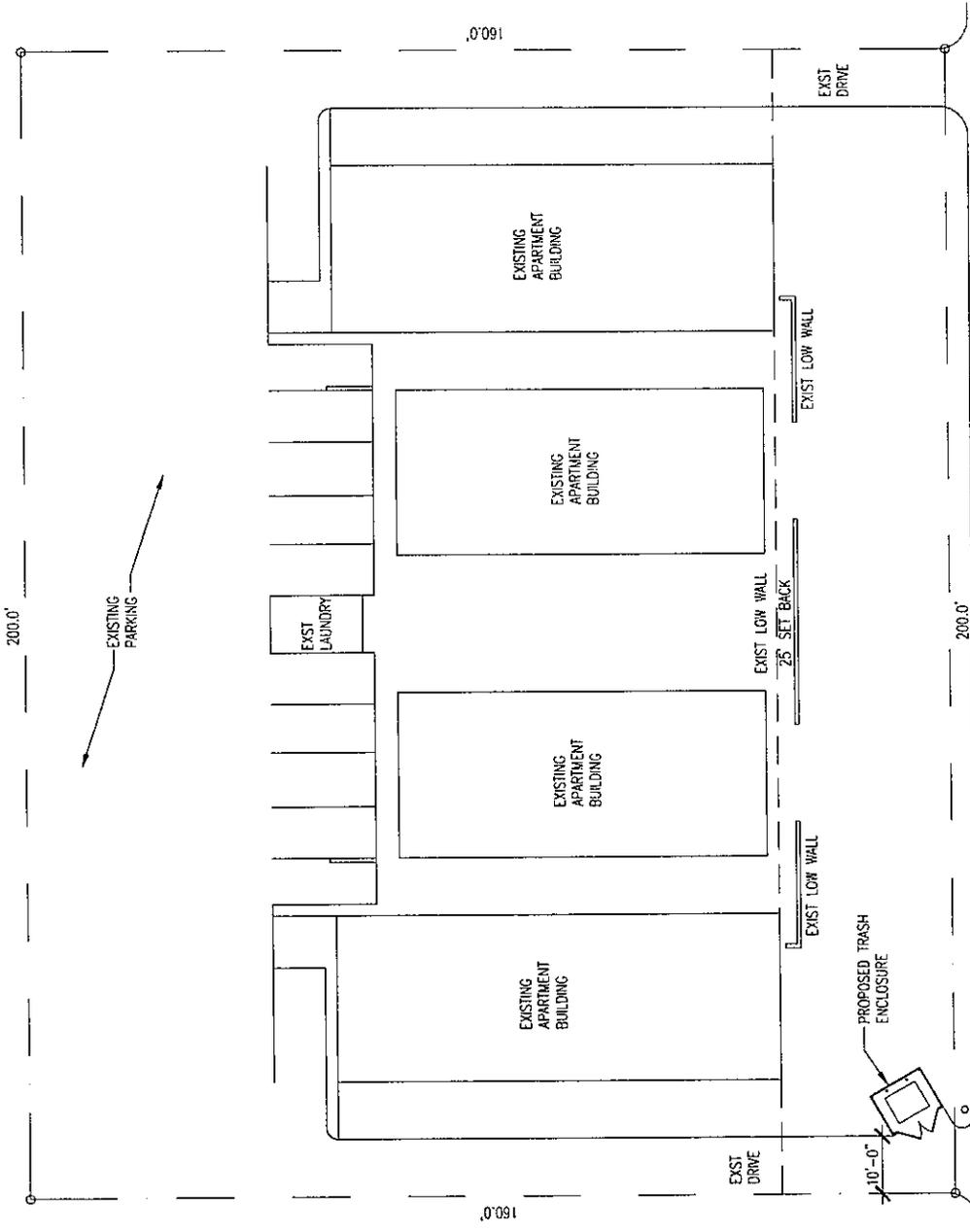
Application/Appeal to the Board of Adjustment

This 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 reasons:

1. This variance is not contrary to the public interest and a literal enforcement would result in an unnecessary hardship because there is no other location accessible by a commercial garbage dumpster truck.
2. The subject is restricted in area for locating a trash receptacle because the adjacent single family R-7.5 zoning requires a 25'ft front yard setback.
3. This variance is not requested to relieve a self-created hardship.

G M A N L I M I T E D
S A N B E N I T O A P A R T M E N T S
9 0 0 8 S A N B E N I T O W A Y
D A L L A S , T E X A S

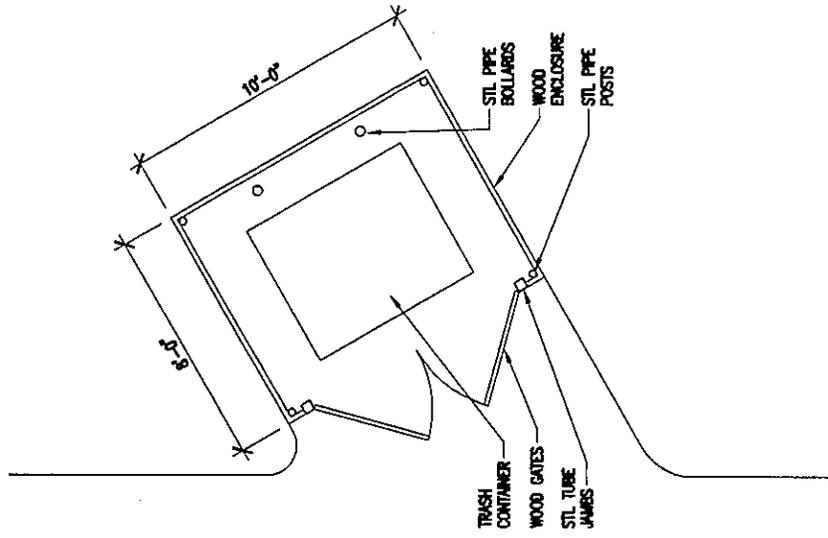
20 JUL 15
DATE
A1
SHEET NO.



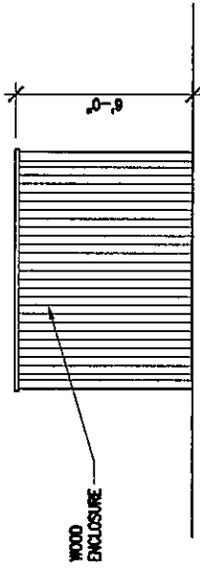
SAN BENITO WAY

01 SITE PLAN
1" = 20'-0"

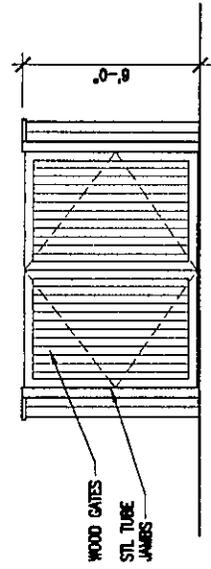




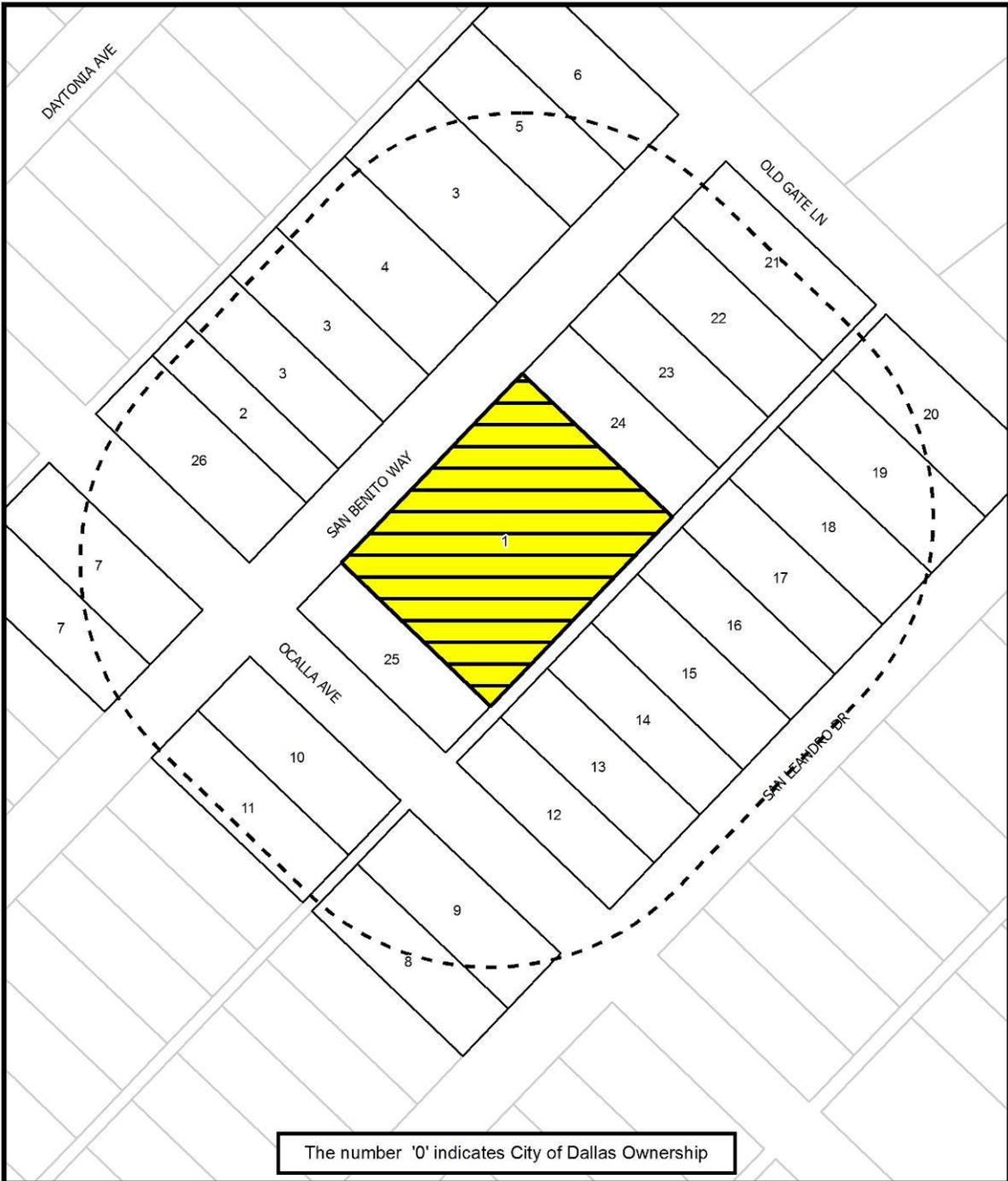
01 ENCLOSURE PLAN
 1/4" = 1'-0"



03 SIDE ELEVATION
 1/4" = 1'-0"



02 FRONT ELEVATION
 1/4" = 1'-0"



 1:1,200	<h2 style="text-align: center;">NOTIFICATION</h2> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">200'</td> <td>AREA OF NOTIFICATION</td> </tr> <tr> <td style="text-align: center;">26</td> <td>NUMBER OF PROPERTY OWNERS NOTIFIED</td> </tr> </table>	200'	AREA OF NOTIFICATION	26	NUMBER OF PROPERTY OWNERS NOTIFIED	Case no: <u>BDA145-096</u> Date: <u>9/1/2015</u>
200'	AREA OF NOTIFICATION					
26	NUMBER OF PROPERTY OWNERS NOTIFIED					

Notification List of Property Owners

BDA145-096

26 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	9008 SAN BENITO WAY	GMAN LTD
2	9007 SAN BENITO WAY	GANTER KEVIN &
3	9011 SAN BENITO WAY	GANTER KEVIN &
4	9019 SAN BENITO WAY	GANTER KEVIN
5	9031 SAN BENITO WAY	NOVAK HOWARD JAY
6	9035 SAN BENITO WAY	MITCHELL BEAU L
7	8935 SAN BENITO WAY	G MAN LTD PS
8	8935 SAN LEANDRO DR	PUTNAM MICHAEL J
9	8939 SAN LEANDRO DR	AYDT CHARLES S &
10	8938 SAN BENITO WAY	G MAN LIMITED
11	8934 SAN BENITO WAY	SWIRCZYNSKI ERIC & LISA
12	9003 SAN LEANDRO DR	STILES NATALIE J & CURT G STILES
13	9007 SAN LEANDRO DR	JOHNSON JENNIFER J &
14	9011 SAN LEANDRO DR	VOWELL KEVIN
15	9015 SAN LEANDRO DR	MORRIS AMY
16	9019 SAN LEANDRO DR	HOOD THOMAS R &
17	9023 SAN LEANDRO DR	SMITH KELLY MUELLER & JON PAUL SMITH
18	9027 SAN LEANDRO DR	WASHBURN JENNIFER L & VERNON P
19	9031 SAN LEANDRO DR	HANSEN JERRY D
20	9035 SAN LEANDRO DR	BRITTON CHRISTOPHER L
21	9034 SAN BENITO WAY	GANTER KEVIN &
22	9030 SAN BENITO WAY	QUALLS KRISTEN BROOKE &
23	9026 SAN BENITO WAY	JOHNSON ERIC W
24	9022 SAN BENITO WAY	SPICA PROPERTIES LP
25	1808 OCALLA AVE	G MAN LTD
26	1720 OCALLA AVE	AMERICAN BAKERS &

09/01/2015

Label # Address

Owner

FILE NUMBER: BDA 145-099(SL)

BUILDING OFFICIAL'S REPORT: Application of Barbara McDaniel, represented by Chris Hamilton, requesting that the board consider establishing a compliance date for the nonconforming use at 5500 Swiss Avenue. This property is more fully described as Lot 12, 11, & part of 10, Block 12/1862. The property is zoned PD 63 (H/1, Area A), which establishes the uses allowed in this zoning district and provides that the civic, social, and fraternal associations use (medical society auxiliary social club) is nonconforming.

LOCATION: 5500 Swiss Avenue

APPLICANT: Barbara McDaniel
Represented by Chris Hamilton

REQUEST:

- A request is made for the Board of Adjustment to establish a compliance date for a nonconforming civic, social, and fraternal associations (medical society auxiliary social club) use on the subject site.

BACKGROUND INFORMATION:

Zoning:

Site: PD 63 (H/1, Area A) (Planned Development, Historic)
North: PD 63 (H/1, Area A) (Planned Development, Historic)
South: PD 63 (H/1, Area A) (Planned Development, Historic)
East: PD 99 (Planned Development)
West: PD 63 (H/1, Area A) (Planned Development, Historic)

Land Use:

The site is currently developed with a nonconforming civic, social, and fraternal associations (medical society auxiliary social club) use. The areas to the north, south, and west are developed with single family uses; the area to the east is developed with a mix of multifamily and single family uses, and a vacant lot.

Zoning/BDA History:

1. Z145-337, Property at 5500 Swiss Avenue (the subject site) A request for a PD (Planned Development) has been made to create a permanent land use with parking requirements. This application has not been scheduled for a City Plan Commission public hearing.

GENERAL FACTS:

- Property address of the nonconforming use: 5500 Swiss Avenue: civic, social, and fraternal associations use (medical society auxiliary social club).
- Reason the use is classified as nonconforming: On September 10, 1973, PD 63 was created and allowed the following use: “charitable and philanthropic designation for the Women’s Auxiliary to the Dallas County Medical Society” at 5500 Swiss Avenue. On January 23, 1985, PD 63 was amended as follows: “medical society auxiliary social club use currently operated by the Dallas County Medical Society Auxiliary at 5500 Swiss Avenue is expressly recognized as a nonconforming use.”
- Date that use became nonconforming: January 23, 1985.
- City records indicate that a certificate of occupancy number 8006167595 was issued on September 16, 1980 for a “(6994) Civic, social, and fraternal associations” (medical society club) at 5500 Swiss Avenue to owner Dallas County Medical Society Auxiliary.
- The Dallas Development Code states that a nonconforming use is a use that does not conform to the use regulations of this chapter, but was lawfully established under the regulations in force at the beginning of operation and has been in regular use since that time.
- The record owner of the property with the nonconforming “civic, social, and fraternal associations” use (medical society auxiliary social club) could eliminate its nonconforming use status by obtaining a change in zoning to allowed the use.
- In a request for a compliance date for a nonconforming use, the applicant has the burden of proof in establishing that the continued operation of the nonconforming civic, social, and fraternal associations use (medical society auxiliary social club) will have an adverse effect on nearby properties.
- The October 21st the board of adjustment shall hold a public hearing to determine whether continued operation of the nonconforming civic, social, and fraternal associations use (medical society auxiliary social club) will have an adverse effect on nearby properties. The Dallas Development Code states that if, based on the evidence presented at the public hearing, the board determines that continued operation of this use will have an adverse effect on nearby properties, it shall proceed to establish a compliance date for the nonconforming use (at a subsequent public hearing); otherwise, it shall not.

DALLAS DEVELOPMENT CODE SECTION 51A-4.704 - COMPLIANCE REGULATIONS FOR NONCONFORMING USES:

(a) Compliance regulations for nonconforming uses. It is the declared purpose of this subsection that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

(1) Amortization of nonconforming uses.

(A) Request to establish compliance date. The city council may request that the board of adjustment consider establishing a compliance date for a nonconforming use. In addition, any person who resides or owns real property in the city may request that the board consider establishing a compliance date for a nonconforming use. Upon receiving such a request, the board shall hold a public hearing to determine whether continued operation of the nonconforming use will have an adverse effect on nearby properties. If, based on the evidence presented at the public hearing, the board determines that continued operation of the use will have an adverse effect on nearby properties, it shall proceed to establish a compliance date for the nonconforming use; otherwise, it shall not.

(B) Factors to be considered. The board shall consider the following factors when determining whether continued operation of the nonconforming use will have an adverse effect on nearby properties:

(i) The character of the surrounding neighborhood.

(ii) The degree of incompatibility of the use with the zoning district in which it is located.

(iii) The manner in which the use is being conducted.

(iv) The hours of operation of the use.

(v) The extent to which continued operation of the use may threaten public health or safety.

(vi) The environmental impacts of the use's operation, including but not limited to the impacts of noise, glare, dust, and odor.

(vii) The extent to which public disturbances may be created or perpetuated by continued operation of the use.

(viii) The extent to which traffic or parking problems may be created or perpetuated by continued operation of the use.

(ix) Any other factors relevant to the issue of whether continued operation of the use will adversely affect nearby properties.

(C) Finality of decision. A decision by the board to grant a request to establish a compliance date is not a final decision and cannot be immediately appealed. A decision by the board to deny a request to establish a compliance date is final unless appealed to state court within 10 days in accordance with Chapter 211 of the Local Government Code.

(D) Determination of amortization period.

(i) If the board determines that continued operation of the nonconforming use will have an adverse effect on nearby properties, it shall, in accordance with the law, provide a compliance date for the nonconforming use under a plan whereby the owner's actual investment in the use before the time that the use became nonconforming can be amortized within a definite time period.

(ii) The following factors must be considered by the board in determining a reasonable amortization period:

(aa) The owner's capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) on the property before the time the use became nonconforming.

(bb) Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages.

(cc) Any return on investment since inception of the use, including net income and depreciation.

(dd) The anticipated annual recovery of investment, including net income and depreciation.

(E) Compliance requirement. If the board establishes a compliance date for a nonconforming use, the use must cease operations on that date and it may not operate thereafter unless it becomes a conforming use.

(F) For purposes of this paragraph, "owner" means the owner of the nonconforming use at the time of the board's determination of a compliance date for the nonconforming use.

Timeline:

July 23, 2015: The applicant submitted an "Application/Appeal to the Board of Adjustment" and related documents which have been included as part of this case report.

August 19, 2015: The Board of Adjustment Secretary randomly assigned this case to Board of Adjustment Panel B.

August 19, 2015: The Board Administrator contacted the applicant's representative and emailed him the following information:

1. His submitted application materials (**that did not include the submitted appendix/exhibits**).
2. A copy of the section from the Dallas Development Code that describes the Board of Adjustment (Section 51A-3.102).
3. A copy of the City of Dallas Board of Adjustment Working Rules of Procedure.
4. A copy of the section of the Dallas Development Code that provides the definition of "nonconforming use" (Section 51A-2.102 (90)).
5. A copy of the section of the Dallas Development Code that describes the Board of Adjustment hearing procedures (Section 51A-4.703).
6. The standard as to how the board is able to consider/grant a request to establish a compliance date for a nonconforming use (Section 51A-4.703(a)(1)(A)).
7. A copy of the procedure for board of adjustment amortization of a nonconforming use.
8. A document that provides the public hearing date and other deadlines for submittal of additional information to staff/the board beyond what is included in the attached application materials, noting that no staff recommendation will be made on your application to the board.
9. The board's rule pertaining to documentary evidence.

The Board Administrator requested that the applicant's representative review the attached application materials to make sure they were complete and the Building Official's Report/second page of the application (page 2 of 43 in these materials); and that he contact the Building Inspection Senior Plans Examiners/Development Code Specialist at 214/948-4475 no later than noon, Wednesday, September 2nd with regard to any amendment to the Building Official's report that he felt was necessary to address the issue at hand.

The Board Administrator requested that the applicant's representative email him a copy of the materials in the notebook that he submitted to the Building Inspection Senior Plans Examiners/Development Code Specialist in Building Inspection,

and courier one additional copy of this notebook to him by August 26th.

August 21, 2015: The applicant's representative emailed the Board Administrator a copy of the materials in the notebook that he submitted to the Building Inspection Senior Plans Examiners/Development Code Specialist in Building Inspection, and couriered one additional copy of this notebook that he had submitted with the application to Building Inspection on July 23rd.

August 21, 2015: The Board Administrator wrote/sent the record owner of the property (Dallas County Medical Society Womens Auxilary) a letter (with a copy to the applicant, Barbara McDaniel, and the applicant's representative, Chris Hamilton) that informed her that a Board of Adjustment case had been filed against the nonconforming "outside sales" use on the property. The letter included following enclosures:

1. A copy of the Board of Adjustment application and related materials submitted in conjunction with the application by the applicant or by the city staff.
2. A copy of the section of the Dallas Development Code that describes the Board of Adjustment (Section 51A-3.102).
3. A copy of the section of the Dallas Development Code that provides the definition of "nonconforming use" (Section 51A-2.102 (90)).
4. A copy of the section of the Dallas Development Code that provides provisions for "nonconforming uses and structures" (Section 51A-4.704).
5. A copy of the section of the Dallas Development Code that describes the Board of Adjustment hearing procedures (Section 51A-4.703).
6. A copy of the City of Dallas Board of Adjustment Working Rules of Procedures.
7. A copy of the hearing procedures for board of adjustment amortization of a nonconforming use.

The letter noted that the request was scheduled to be heard by Board of Adjustment Panel B at a **public hearing on Wednesday, October 21, 2015, Dallas City Hall, L1 Conference Center Auditorium, 1500 Marilla Street, 1:00 p.m.**, that staff will brief the board on this matter prior to the public hearing on the morning of the same day, in the same room of Dallas City Hall, that the briefing was an open meeting which he/she was welcome to attend; that his/her attendance at this briefing/public hearing was strongly encouraged; and that notification signs posted by the City should remain on the property in the approximate locations posted by the director; and that if there was any information that he/she would like to have incorporated into the board's docket, please submit this

information to him at steve.long@dallascityhall.com, no later than 1 p.m., Friday, October 9th.

October 6, 2015: The Board of Adjustment staff review team meeting was held regarding this request and the others scheduled for October public hearings. Review team members in attendance included: the Sustainable Development and Construction Board of Adjustment Chief Planner, the Assistant Building Official, the Board Administrator, the Building Inspection Senior Plans Examiners/Development Code Specialist, the City of Dallas Chief Arborist, the Sustainable Development and Construction Department Current Planner, the Sustainable Development and Construction Department Project Engineer, and the Assistant City Attorney to the Board.

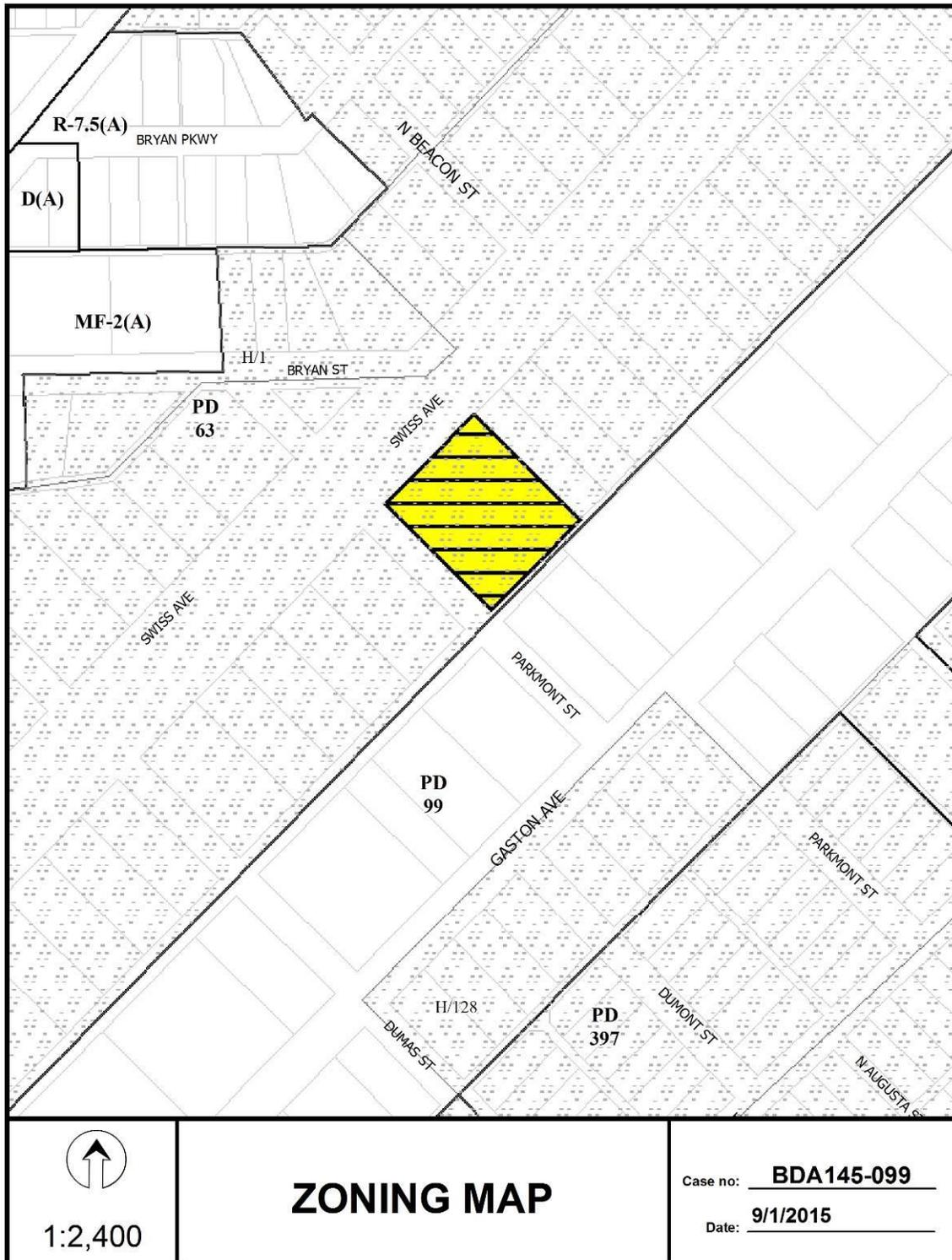
No review comment sheets were submitted in conjunction with this application.

October 6 & 7, 2015: The Board Administrator emailed the applicant's representative and the attorney representing the record owner of the nonconforming use on the subject site that the deadline to submit additional information to be included in the board's docket was extended to 1 p.m., Monday, October 12th.

October 7, 2015: The Building Inspection Senior Plans Examiners/Development Code Specialist forwarded a revised document stating the date in which the use on the subject site became nonconforming to the Board Administrator (see Attachment A).

October 12, 2015: The applicant's representative submitted "Supplemental Information In Support of Barbara McDaniel's Application to the Board of Adjustment to Set a Compliance Date for the Nonconforming Use at 5500 Swiss Avenue."

October 12, 2015: The attorney representing the record owner of the nonconforming use on the subject site submitted a document entitled "Respondent Dallas County Medical Society Alliance Foundation's Request For Hearing Deferral, And, Subject To Such Request, Response to Barbara McDaniel's Application To Set A Compliance Date For The Nonconforming Use at 5500 Swiss Avenue" with related exhibits.

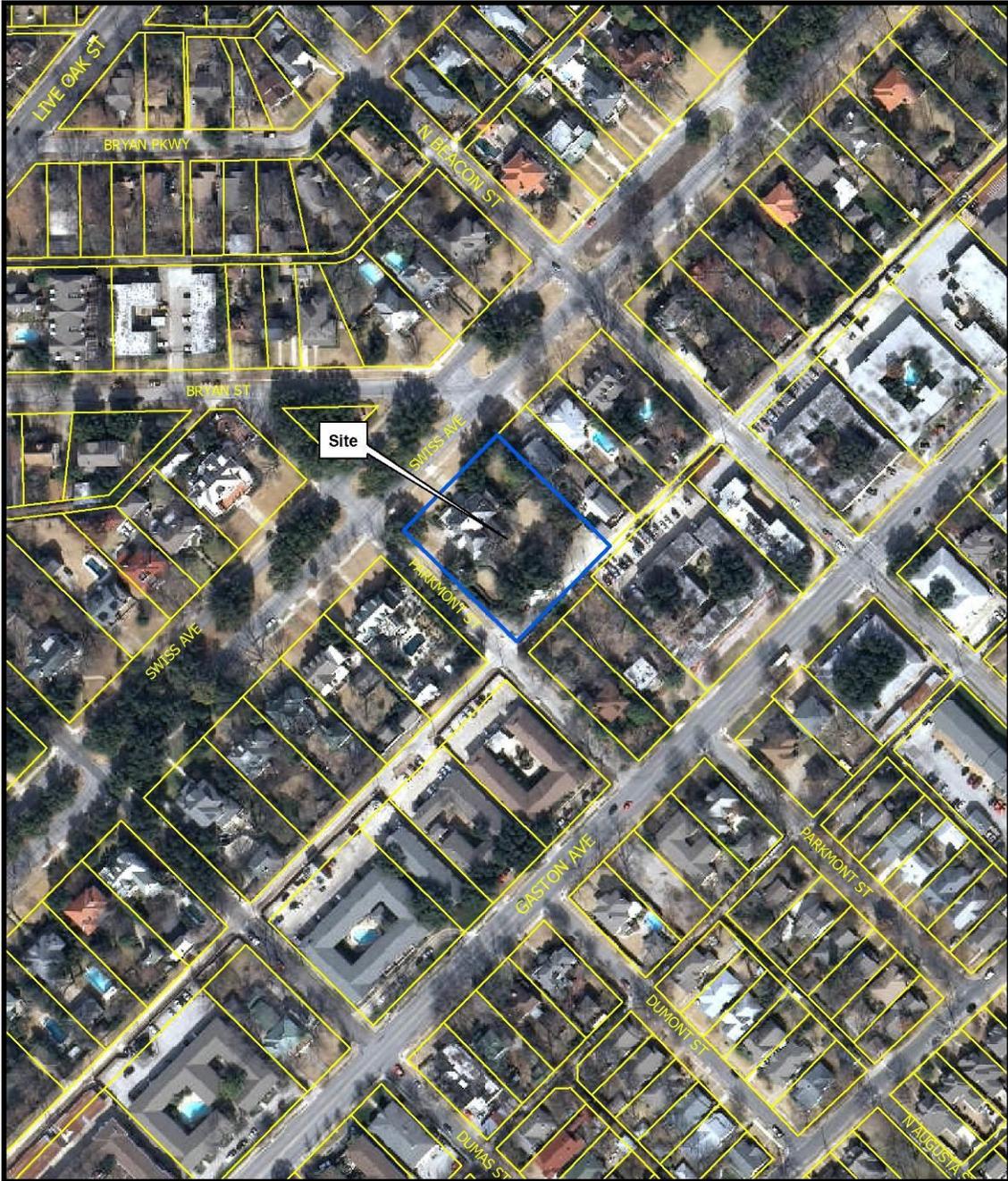


1:2,400

ZONING MAP

Case no: BDA145-099

Date: 9/1/2015



1:2,400

AERIAL MAP

Case no: BDA145-099

Date: 9/1/2015



City of Dallas

Zoning Board of Adjustment

Appeal to establish a compliance date for a nonconforming use.
Sec. 51A-4.704(a)(1)(A)

or

Appeal to reinstate a nonconforming use. Sec. 51A-4.704(a)(2)

SEC. 51A-4.704. NONCONFORMING USES AND STRUCTURES.

(a) Compliance regulations for nonconforming uses. It is the declared purpose of this subsection that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

(1) Amortization of nonconforming uses.

(A) Request to establish compliance date. The city council may request that the board of adjustment consider establishing a compliance date for a nonconforming use. In addition, any person who resides or owns real property in the city may request that the board consider establishing a compliance date for a nonconforming use. Upon receiving such a request, the board shall hold a public hearing to determine whether continued operation of the nonconforming use will have an adverse effect on nearby properties. If, based on the evidence presented at the public hearing, the board determines that continued operation of the use will have an adverse effect on nearby properties, it shall proceed to establish a compliance date for the nonconforming use; otherwise, it shall not.

(2) The right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more. The board may grant a special exception to this provision only if the owner can show that there was a clear intent not to abandon the use even though the use was discontinued for six months or more.

Property address: 5500 Swiss Avenue, Dallas, TX 75214

1. The nonconforming use being appealed/reinstated: (699A) Civic, Social, and Fraternal Associations
(The land use as stated on the Certificate of Occupancy. Copy of C.O. attached)
2. Reason the use is classified as nonconforming: This type of land use no longer exists. The property is located in a historic district on a residential street.
(Was there a change in zoning or in the use requirements.)
3. Current zoning of the property on which the use is located: Single Family Residential, Planned Development District PD63 (H/A Area A)
4. Date the nonconforming use was discontinued: N/A
5. Date that the nonconforming use became nonconforming: The date the C.O. was issued (6/11/00)
(Date the property zoning or use requirements changed.)
6. Previous zoning of the property on which the use is located: N/A
(Applies if a zoning district change caused the use to become nonconforming.)

(Rev. 04/04/14)

PD - Sept. 10, 1973 was a conforming use when created & Revised 1985 to a nonconforming use per Section 12 (e) of Ord: 18563, Jan. 23, 1985

BDA 145-099

EXHIBITS

The following exhibits can be viewed at:

<http://dallascityhall.com/government/meetings/Pages/zoning-board.aspx>

or dropbox.com:

<https://www.dropbox.com/s/5i2tgpby6sek/Agenda%2010-21-2015%28B%29.pdf?dl=0>

- 099 applicant's appendix and exhibits
- Applicant's additional submittal 10-12
- Respondent's brief 10-12
- Respondent's Exhibit 72 10-12
- Dean exhibit—Video 1.mov
- Dean exhibit- Video 1 – announcements.AVI



City of Dallas

APPLICATION TO THE BOARD OF ADJUSTMENT
TO SET A COMPLIANCE DATE FOR A NONCONFORMING USE

CASE NO.: 145-099

DATE: 7/23/15

Data Relevant to Subject Property:

Location address: 5500 Swiss Avenue, Dallas 75214 Zoning District: PD63(H/A)

Name of Property Owner: Dallas County Medical Society Women's Auxiliary

Lot No.: 11-12 + 56' LT 10 Block No.: 12/1862 Acreage: 49,619 sq ft Census Tract: 14.00

Street Frontage (in Feet): (1) 206 frontage (2) 249 depth (3) _____ (4) _____ (5) _____ SE 23

To the Honorable Board of Adjustment:

Applicant: Barbara McDaniel Telephone: _____

Mailing Address: 5439 Swiss Avenue, Dallas 75214 Zip Code: 75214
chamilton@standlyhamilton.com

Represented By: Chris Hamilton Telephone: 214-234-7900

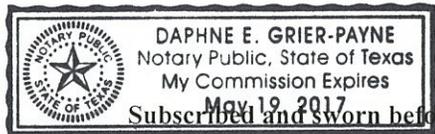
Mailing Address: 375 N. St. Paul St, Ste. 3300, Dallas Zip Code: 75201

Affirm that a request has been made to establish a compliance date for the property described above for the following reason(s): The Aldredge House, 5500 Swiss, is being operated as a for-profit special events wedding and party venue, which has an adverse effect on my property and my daily life. The Aldredge House is hosting over 60 weddings and parties a year, with up to 200 guests, and ending as late as 11:45pm with loud outdoor send offs. This creates noise problems, parking problems, & other

Respectfully submitted: Barbara McDaniel Barbara McDaniel
Print Applicant's name Applicant's Signature

Before me the undersigned on this day personally appeared _____ who on his or her oath certifies that the above statements are true and correct to his or her best knowledge and belief and that he or she resides or owns property in the City of Dallas.

Barbara McDaniel
Affiant (Applicant's Signature)



Subscribed and sworn before me this 23rd day of July, 20 15

Daphne Grier-Payne
Notary Public in and for Dallas County, Texas

disturbances that are not appropriate on this historic Residential Street.

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 Barbara McDaniel
represented by Chris Hamilton
did submit a request to require compliance of a nonconforming use
at 5500 Swiss Avenue

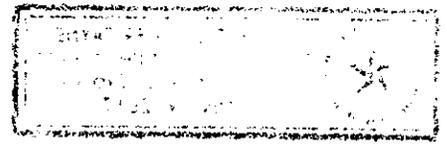
BDA145-099. Application of Barbara McDaniel represented by Chris Hamilton to require compliance of a nonconforming use at 5500 Swiss Avenue. This property is more fully described as Lot 12, 11, & part of 10, Block 12/1862, and is zoned PD-63 (H/1, Area A), which limits the legal uses in a zoning district. The applicant proposes to request that the Board establish a compliance date for a nonconforming civic, social, and fraternal associations use.

Barbara McDaniel

Chris Hamilton

Sincerely,

Larry Holmes
Larry Holmes, Building Official

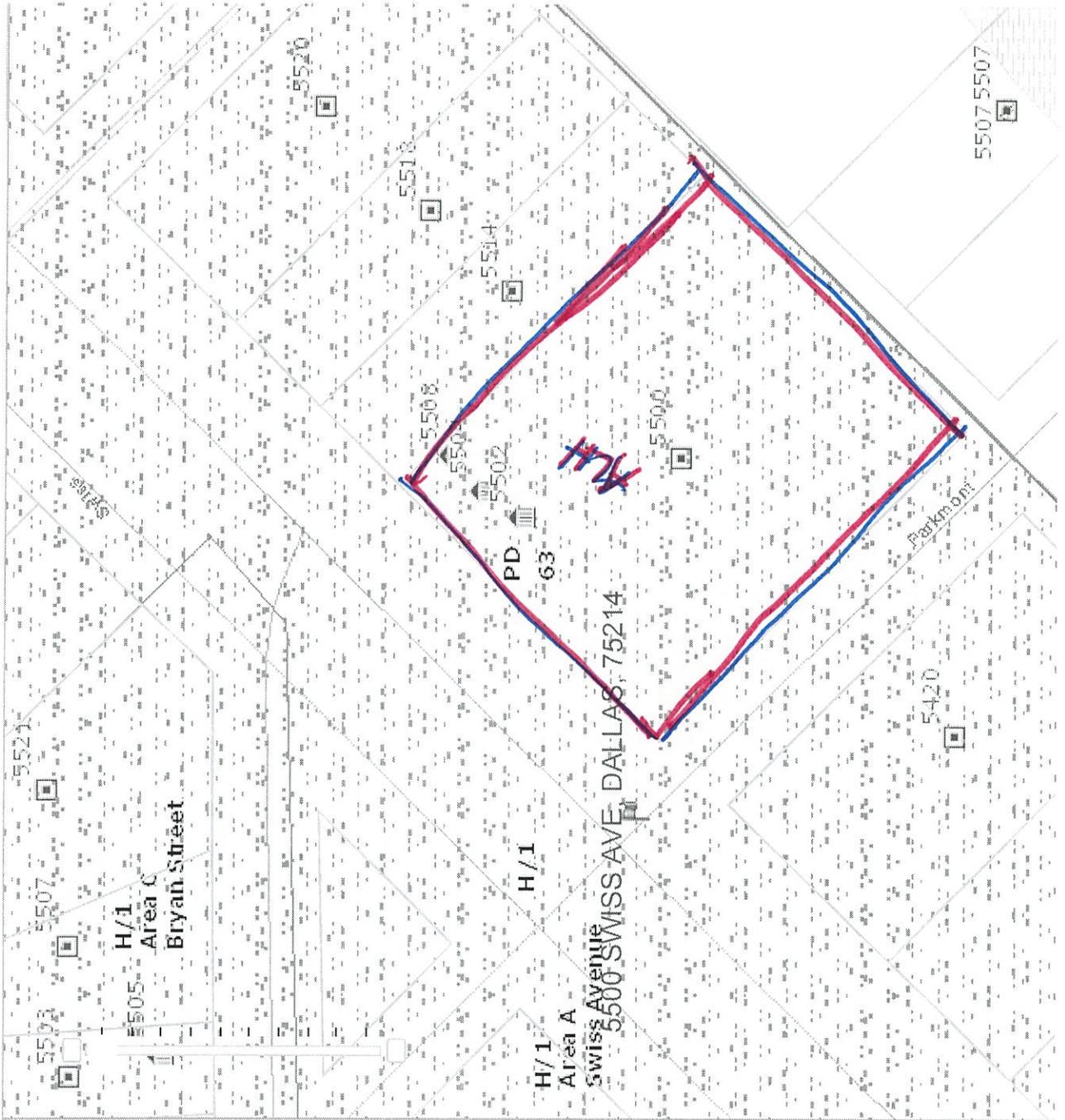


City of Dallas

Internal Development Research Site

Legend

Locate Property







City of Dallas

Zoning Board of Adjustment Appeal #BDA 145-099

Property address: 5500 Swiss Ave.

The use in the above appeal, Civic, social, and fraternal associations has been identified by Building Inspection to be a nonconforming use.

Appeal for a special exception to enlarge a nonconforming use per Sec. 51A-4.704(b)(5)

Section 51A-4.704. Nonconforming uses and structures.

(b) Changes to nonconforming uses.

(5) Enlargement of a nonconforming use.

(A) In this subsection, enlargement of a nonconforming use means any enlargement of the physical aspects of a nonconforming use, including any increase in height, floor area, number of dwelling units, or the area in which the nonconforming use operates.

(B) The board may allow the enlargement of a nonconforming use when, in the opinion of the board, the enlargement:

- (i) does not prolong the life of the nonconforming use;
- (ii) would have been permitted under the zoning regulations that existed when the nonconforming use was originally established by right; and
- (iii) will not have an adverse effect on the surrounding area.

Appeal to establish a compliance date for a nonconforming use per Sec. 51A-4.704(a)(1)(A)

or

Appeal to reinstate a nonconforming use per Sec. 51A-4.704(a)(2)

SECTION 51A-4.704. NONCONFORMING USES AND STRUCTURES.

(a) Compliance regulations for nonconforming uses. It is the declared purpose of this subsection that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code, having due regard for the property rights of the persons affected, the public welfare, and the character of the surrounding area.

(1) Amortization of nonconforming uses.

(A) Request to establish compliance date. The city council may request that the board of adjustment consider establishing a compliance date for a nonconforming use. In addition, any person who resides or owns real property in the city may request that the board consider establishing a compliance date for a nonconforming use. Upon receiving such a request, the board shall hold a public hearing to determine whether continued operation of the nonconforming use will have an adverse effect on nearby properties. If, based on the evidence presented at the public hearing, the board determines that continued operation of the use will have an adverse effect on nearby properties, it shall proceed to establish a compliance date for the nonconforming use; otherwise, it shall not.

(2) The right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more. The board may grant a special exception to this provision only if the owner can show that there was a clear intent not to abandon the use even though the use was discontinued for six months or more.

**BARBARA McDANIEL'S APPLICATION
TO THE BOARD OF ADJUSTMENT TO SET A COMPLIANCE DATE
FOR THE NONCONFORMING USE AT 5500 SWISS AVENUE**

TO THE HONORABLE BOARD OF ADJUSTMENT:

COMES NOW, Barbara McDaniel ("McDaniel" or "Applicant"), and files this, the Application to the Board of Adjustment to set a compliance date for the non-conforming use that exists at the Aldredge House, 5500 Swiss Avenue, 75214. The Dallas County Medical Society Women's Auxiliary ("DCMSA") owns the Aldredge House and operates a for-profit special events venue at that location. The DCMSA contracts out with Food Glorious Food, "the largest upscale catering company in North Texas," to run and cater numerous large events and weddings at the Aldredge House. *See* Food Glorious Food website, <http://www.foodgloriousfood.biz/> (Exhibit 1). McDaniel files this brief to show the adverse effect that the operation of the Aldredge House has on her property and her daily life. In addition, the neighbors who live in close proximity to the Aldredge House have submitted Affidavits in Support of McDaniel's Application. The neighbors who are filing Affidavits in Support of this Application are as follows:

- Nick and Rhonda McCune, 5514 Swiss Avenue, Dallas, Texas 75214;
- David and Jean Dean, 5420 Swiss Avenue, Dallas, Texas 75214;
- Anne Hamilton, 5521 Swiss Avenue, Dallas, Texas 75214;
- Robert Rose, Jr. and Stacey Copeland, 5416 Swiss Avenue, Dallas, Texas 75214;
- Stephanie Stanley, 5505 Gaston Avenue, Dallas, Texas 75214;
- Jim and Jean Dunkerley, 5507 Bryan Street, Dallas, Texas 75206;
- James Finley, 5421 Swiss Avenue, Dallas, Texas 75214; and
- Lloyd McDaniel, 5439 Swiss Avenue, Dallas, Texas 75214.

These neighbors' homes are marked with a red "X" on the attached neighborhood map. *See* Neighborhood Map (Exhibit 2). McDaniel and her neighbors will show the extreme adverse

impact that the operation of the Aldredge House has on their properties and on the enjoyment of their daily lives.

I. INTRODUCTION

On June 16, 1980, the Aldredge House received a Certificate of Occupancy for Civic, Social, and Fraternal Associations. *See* Certificate of Occupancy (Exhibit 3). The DCMSA has since engaged Food Glorious Food to operate a large-scale, for-profit special events venue at the Aldredge House. Food Glorious Food is an assumed name for Culinaire International, Inc. *See* Secretary of State filing (Exhibit 4). Culinaire maintains the Aldredge House website, and until recently, has been the only contact for neighbors if there are complaints about the events at the Aldredge House. Despite living across the street from the Aldredge House for almost 20 years, McDaniel has never met a member of the DCMSA in relation to their operation of the Aldredge House.

The Aldredge House is a hugely popular wedding venue and has been a nominee for “Best Wedding Venue” in North Texas. *See* Dallas City Voter website (Exhibit 5). It is one of six “featured venues” on Food Glorious Food’s website. Food Glorious Food website, pp. 2-3 (Exhibit 1). According to the Aldredge House’s 2014 calendar, there were 48 weddings and 16 other events¹ at the Aldredge House, for a total of 64 events in 2014. *See* 2014 Calendar (Exhibit 6). This total does not include smaller events and meetings such as one-hour wedding rehearsals, bridal portraits, DCMSA board meetings or committee meetings, or DCMSA lunches. *Id.* Of these 64 events, 28 events had over 100 guests (not including servers or staff), 32 events ended at 10:00 PM or later, and 18 events ended at 11:00 PM or later. *Id.* These events cause a serious disruption in the immediate neighbors’ lives. The events are multi-day affairs, as set-up begins

¹ Other events include birthday parties, rehearsal dinners, bridal showers, happy hours, conferences, dinners, and holiday parties.

the day prior to the event with numerous service trucks idling in front of neighbors' homes; "send-offs" occur outside and are typically late in the night; the service item breakdown of the chairs, tables, and other items goes on well past the event end time; and set up for another event can begin early the very next morning. A large amount of alcohol is served at these events, which leads to very noisy and rowdy guests. Due to the adverse effect on her property and nearby properties, McDaniel asks that the Board set a compliance date for the Aldredge House for the nonconforming use.

II. FACTORS

McDaniel will address each of the eight (8) factors that are considered when determining whether continued operation of the nonconforming use will have an adverse effect on nearby properties.

1. The Character of the Surrounding Neighborhood

The Aldredge House is located on Swiss Avenue, in the middle of the Swiss Avenue Historic District ("SAHD"). The SAHD was designated as Dallas' first historic district in 1973. Swiss Avenue was the first paved street in the entire city of Dallas; it is a boulevard street. Swiss Avenue stands as the finest example of an early 20th Century neighborhood in the entire Southwest.² Since its establishment, Swiss Avenue and its surrounding streets have served as the home for many of Dallas' most distinguished and well-known business, civic, social, religious and political leaders. The SAHD is listed in the National Register of Historic Places and is recognized as a Dallas landmark and a Texas Historical Site. The SAHD is a residential district. Swiss Avenue was named among the "best neighborhoods in Dallas" in 2013.³ The character of Swiss Avenue and the SAHD cannot be understated.

² See <http://www.sahd.org/content/history>.

³ See <http://www.swissavenuewomensguild.com/sahd/article.php>.

2. The Degree of Incompatibility of the Use with the Zoning District in which it is Located

The Aldredge House is located on a residential street that is zoned for Single Family Residences. It is surrounded entirely by residences. Swiss Avenue is a serene boulevard street that would be very quiet if not for these very large gatherings at the Aldredge House. In addition, the Aldredge House is located in the SAHD. The operation of a “civic, social, and fraternal association” that functions more like a nightclub is extremely incompatible with the zoning for Single Family Residences.

In the recent past, numerous businesses have been prohibited from operating in or near the residential SAHD. Examples of this are the pop-up catered dinners at Swiss Avenue and La Vista, the proposed wedding chapel near North Fitzhugh Avenue and Live Oak Street,⁴ and the disallowance of alcohol at Garden Café.⁵ McDaniel submits that the Aldredge House is a far greater threat to the character and serenity of the SAHD than these businesses would have been.

The DCMSA received a Certificate of Occupancy for Civic, Social, and Fraternal Associations on June 16, 1980. *See* Certificate of Occupancy (Exhibit 3). The documents leading up to the conversion of the Aldredge House to the DCMSA headquarters and the granting of that Certificate of Occupancy illustrate that the manner in which the Aldredge House is currently being operated was not contemplated at the time the Certificate of Occupancy was granted. In an April 8, 1973 letter from the DCMSA to the City of Dallas Building Inspection, the DCMSA proposed to “preserve this stately home by maintaining its regal character by careful restoration of the house and grounds.” *See* Ltr. from DCMSA to Harden, City of Dallas Building Inspection, dated 4/8/73 (Exhibit 7). The DCMSA stated that the “home would be used by the Auxiliary for

⁴ See <http://candysdirt.com/tag/dallas-planning-and-zoning/>.

⁵ See <http://www.dallasnews.com/news/community-news/dallas/headlines/20110915-update-dallas-city-council-affirms-no-alcohol-sales-at-garden-cafe.ece>

its general meetings, board meetings and will be available **to members** to use for private entertaining. . . The Auxiliary is also studying the feasibility of renting the house to other select groups such as the dental, lawyers, bankers wives, etc. **for their meetings.**" *Id.* (emphasis added). In this letter, there was no mention at all of private for-profit parties for non-members. In approximately 1974, the City of Dallas created a task force to address the conversion of the Aldredge House by the DCMSA for use as the organization's headquarters. This task force was needed because "[d]ue to the location within the Swiss Avenue History District, there are some complexities involved that might not ordinarily arise in other locales." *See* Ltr. from Mason, Planner Historic Preservation, dated 7/11/75 (Exhibit 8). In the Aldredge House Rules from the 1970's, there was a requirement that individual functions be "sponsored by an auxiliary member who will be financially responsible." *See* Aldredge House Rules, 1970s, (Exhibit 9). No such requirement is in place today.

Significantly, in the DCMSA's Application for Certificate of Occupancy, the organization stated that they were going to use the premises for a "meeting house" of the DCMSA. *See* Application for Certificate of Occupancy, dated 10/8/74 (Exhibit 10). The neighbors in close proximity to the Aldredge House feel as though they are living next to a nightclub. *See* Affidavits of Nick McCune (Exhibit 11), Rhonda McCune (Exhibit 12), David Dean (Exhibit 13), Jean Dean (Exhibit 14), Anne Hamilton (Exhibit 15), Robert Rose, Jr. (Exhibit 16), Stacey Copeland (Exhibit 17), Stephanie Stanley (Exhibit 18), Jim Dunkerley (Exhibit 19), Jean Dunkerley (Exhibit 20), James Finley (Exhibit 21); and Lloyd McDaniel (Exhibit 51). They are awoken late in the evening and early in the morning by the very large and frequent events that are held at the Aldredge House. This is highly incompatible with a residential zoning district.

3. The Manner in which the Use is Being Conducted

The manner in which the use of the Aldredge House is being conducted has an adverse effect on McDaniel's home and on the nearby neighbors' homes. There are multiple parties and weddings in a weekend, and sometimes there are multiple parties and weddings on the same day. Under the DCMSA Foundation's own "Aldredge House General Policies," they have a 200-person occupancy, events can go on until 11:30 PM, and they allow DJs and bands at the parties and weddings. *See* DCMSA Foundation – Aldredge House General Policies (Exhibit 22).

According to the Aldredge House's 2014 calendar, there were 48 weddings and 16 other events⁶ at the Aldredge House, for a total of 64 events in 2014. *See* 2014 Calendar (Exhibit 6). This total does not include smaller events and meetings such as one-hour wedding rehearsals, bridal portraits, DCMSA board meetings or committee meetings, or DCMSA lunches. *Id.* Of these 64 events, 28 events had over 100 guests (not including servers or staff), and because the Aldredge House can only accommodate approximately 100 guests inside, these 28 events had to be held outside. The noise created by this number of outdoor guests is substantial. The number of guests is also significant because the Aldredge House only has two bathrooms for the guests to use. Stephanie Stanley, who lives behind the Aldredge House at 5505 Gaston Avenue, frequently sees party attendees urinating near her back fence. *See* Stanley Affidavit (Exhibit 18). Moreover, the alley behind her house is frequently the area where musicians take smoke breaks. *Id.* Their conversations are loud and disturb Ms. Stanley, as do the cigarette butts and other trash that they leave in the alley for her to pick up. *Id.*

Of the 64 events in 2014, 32 events ended at 10:00 PM or later, and 18 events ended at 11:00 PM or later. *Id.* According to the Aldredge House's 2015 calendar, which was provided in

⁶ Other events include birthday parties, rehearsal dinners, bridal showers, happy hours, conferences, dinners, and holiday parties.

April 2015 and does not reflect all events that were held and are yet to be held in 2015, there are 32 weddings and 8 other events, for a total of 40 events in 2015. *See* 2015 Calendar (Exhibit 23). This total does not include smaller events and meetings such as one-hour wedding rehearsals, bridal portraits, DCMSA board meetings or committee meetings, or DCMSA lunches. *Id.* Of these 40 events, 25 events have over 100 guests (not including servers or staff), 2 events have 200 guests, 24 events ended at 10:00 PM or later, and 9 events ended at 11:00 PM or later. *Id.* This very large volume of events is not appropriate for a residential street.

The events at the Aldredge House cause a serious disruption in the immediate neighbors' lives. The events are multi-day affairs, as set-up begins the day prior to the event with numerous service trucks idling in front of neighbors' homes; "send-offs" occur outside and are typically late in the night; the item breakdown of the chairs, tables, and other service items goes on well past the event end time; and set up for another event can begin early the very next morning. Also, generally, an unlimited amount of free alcohol is served at these events, which leads to very noisy and rowdy guests.

Immediate Aldredge House neighbor Nick McCune describes "A Day in the Life" of an Aldredge House neighbor. *See* Exhibit 9 of Nick McCune's Affidavit (Exhibit 11). To prepare for an event of the size that the Aldredge House frequently hosts, the help staff and "early arrivers" come early and park in inappropriate spots in front of neighbors' homes; the service trucks arrive and are noisily left idling and blowing exhaust fumes into the Dean's home; the noisy service item set-up of tables, chairs, and other items then occurs; and up to 200 guests arrive (the parking issues that follow are more fully described below). *Id.* For the wedding ceremonies, the Aldredge House has asked the immediate neighbors such as the McCunes and Deans to be quiet in their own backyards while the outdoor wedding ceremony is occurring. *Id.*;

see also Affidavit of David Dean (Exhibit 13). As stated by Mr. McCune, he has to tip-toe around in his own backyard, turn off the music by his pool, and stop working in his yard so as not to disturb the bride and groom's wedding ceremonies. *See* Exhibit 1 of Affidavit of Nick McCune (Exhibit 11). The attached photo of an outdoor ceremony at the Aldredge House illustrates the close proximity of the McCune's home to the ceremonies. *See* Outdoor Ceremony Photo (Exhibit 24).

For the wedding ceremonies, the Aldredge House frequently sets up a cocktail hour on the front terrace. Indeed, this feature is advertised and marketed to the potential brides as "an exterior wraparound terrace ideal for cocktails." *See* Aldredge House website (Exhibit 25); Dallas City Voter website (Exhibit 5). Up to 200 guests mingling around with cocktails is loud and disturbing to neighbors. Additionally, the Aldredge House has placed outdoor speakers on the terrace so that the guests can listen to music during the cocktail hour. *See* Affidavit of Anne Hamilton (Exhibit 16). This has disturbed the neighbors on numerous occasions and disrupts their daily lives. Mr. McCune describes that even though outside amplification is officially prohibited, there are almost always PA speakers outside or "near outside" of the House. *See* Exhibit 1 of Affidavit of Nick McCune (Exhibit 11). Mr. McCune details how the DJs use the speakers for announcements and continues using them during the loud and booming introductions, subsequent crowd cheering, toasts, and other announcements. *Id.*

As mentioned above, when these large events are predominately outside, they create lots of noise for the neighbors. The attached pictures show various outdoor setups at the Aldredge House. *See* Photos of Outdoor Wedding setups (Exhibit 26). Even when the party is relegated to be inside the House, the door going outside is frequently left open, thus creating loud disturbances for the neighbors. When the music starts and the dancing begins, the DJ cranks up

the music as loud as possible because he or she wants everyone to have the best time possible, and if there is a live band, they will try to play as loud as possible as well. *See* Band photos (Exhibit 27). A copious amount of alcohol is served at these weddings, which results in a very large number of drunk people (the “screaming drunks”). *Id.* People like to have a very good time at weddings, but the neighbors have to constantly deal with hundreds of people having a very good time each weekend. *See* Party Photos (Exhibit 28). Mr. McCune shot a video of a birthday party that was held at the Aldredge house on June 5, 2015. *See* Exhibit 2 to Affidavit of Nick McCune (attached as Exhibit 11). A “screaming drunk” can be heard using profanity and threatening either Mr. McCune in his own backyard, or threatening another party goer. *Id.* Either way, this is not appropriate activity for a residential district. While the size of the party held on June 5 was smaller than the typical large weddings that are held at the Aldredge House, the video illustrates the noise and disregard for neighbors that occurs at the Aldredge House on a weekly basis.

After the party, sometimes as late as 11:45 PM, the large crowd moves to the front yard of the Aldredge house for the send-off, at which time sparklers are typically lighted and there is loud cheering and car honking. *Id.* As seen in the attached photos, Food Glorious Food advertises and markets this sendoff to potential brides. *See* Photos of Sendoffs (Exhibit 29). Indeed, in the first attached photo, Food Glorious Food employee Lauren Twitchell states, “Look at this beautiful exit out of the Aldredge House! Call me today to plan your dream wedding.” *Id.* On the Aldredge House’s Facebook page, a picture was posted of a sendoff with sparklers that appears to be indoors with the caption “How about Sparklers for your Send Off? So romantic!” *See* Indoor Sparkler photo (Exhibit 30). Even after the guests then leave the party, the noise does not end for the Aldredge House neighbors. The service item breakdown then begins with the

breakdown of chairs, tables, and other items. *Id.* If a tent was used, loud banging and large machines are utilized for the breakdown. More truck noise and fumes persist well into the early hours of the morning. *Id.*

The next day, the neighbors are left to clean up the various litter from the party the night before. Some of this litter includes personal items from party goers. For example, Rob Rose, Jr. and Stacey Copeland have found a guest's bra in front of their home. *See* Rose Affidavit (Exhibit 16); Copeland Affidavit (Exhibit 17). Additionally, Anne Hamilton found a strapless bra and one high-heeled shoe in front of her home in 2013; and on June 5, 2015, a party-goer left her thong underwear in front of Ms. Hamilton's home. *See* Exhibit 1 to Hamilton Affidavit (Exhibit 15). There are children living at both of these families' homes; this type of activity is not consistent with activity in a residential district.

To accommodate such a large number of guests, the Aldredge House has to utilize the backyard for the party venue. In the event that the forecast shows that it may rain, they use very large tents. These tents are advertised to the potential brides and are very large, expensive tents. *See* Tent photos (Exhibit 31). Dallas Building Code, Chapter 64, provides that if a tent is erected in a residentially zoned district, an approving petition must be submitted on a form provided by Building Inspection, and it must be signed **by all property owners within 100 feet of the site**, including streets and alleys, measured from the property lines of the premises on which the tent is to be erected. *See* How to Get a Permit to Erect a Tent, City of Dallas (Exhibit 31); City Code, Chapter 39 (Exhibit 33). Both Food Glorious Food employees and DCMSA members have solicited for Tent Permit Applications, but they have been unable to obtain the consent of all property owners within 100 feet of the site every time they wanted to use a tent. Instead, they have repeatedly forged neighbors' signatures in order to obtain these Tent Permits. As detailed in

the attached affidavits of David and Jean Dean, Nick McCune and Rhonda McCune, and Stephanie Stanley, their names have been forged many times on Tent Permit Applications submitted to the City. In particular,

- David Dean's name was forged on an application for a Tent Permit that was submitted to the City of Dallas on March 6, 2012. *See* David Dean Affidavit (Exhibit 13).
- The McCunes' name, Jean Dean's name, and Stephanie Stanley's mother's name (Mable Stanley) were forged on the Tent Permit Application submitted on October 3, 2013. *See* Nick McCune Affidavit (Exhibit 11) Rhonda McCune Affidavit (Exhibit 12); Stephanie Stanley Affidavit (Exhibit 18); Jean Dean Affidavit (Exhibit 14).
- In an application for a Tent Permit submitted to the City of Dallas on April 28, 2014, the McCunes' forged signature, Jean Dean's forged signature, and Mable Stanley's forged signature were cut and pasted from the October 3, 2013, application. *See* Nick McCune Affidavit (Exhibit 11) Rhonda McCune Affidavit (Exhibit 12); Stephanie Stanley Affidavit (Exhibit 18); Jean Dean Affidavit (Exhibit 14). In fact, the eleven signatures on the April 28, 2014, application are an exact replica of the eleven signatures from the October 3, 2013, application, with the exception that the date next to the neighbors' signatures has been whited out.
- David Dean's name was forged on an application for a Tent Permit that was submitted to the City of Dallas on September 19, 2014. *See* David Dean Affidavit (Exhibit 13).
- In an application for a Tent Permit submitted to the City of Dallas on April 23, 2013, Stephanie Stanley's mother's name (Mable Stanley) was forged. *See* Stephanie Stanley Affidavit (Exhibit 18). The signatory for the Deans' household, 5420 Swiss Avenue, was Kenny Bruce, a contractor who occasionally worked for them. One time several years

ago, the Deans gave Mr. Bruce permission to sign one Tent Permit Application, and they have verified with him that he only signed one Tent Permit Application on behalf of 5420 Swiss Avenue. *See* Jean Dean Affidavit (Exhibit 14).

- The exact signatures from the April 23, 2013 Tent Permit Application were cut and pasted into a Tent Permit Application submitted to the City of Dallas on January 14, 2015. *See* David Dean Affidavit (Exhibit 13); Jean Dean Affidavit (Exhibit 14); Nick McCune Affidavit (Exhibit 11); Rhonda McCune Affidavit (Exhibit 12). Indeed, the twelve signatures on the January 14, 2015 application are an exact replica of the twelve signatures on the April 23, 2013, application, with the exceptions that the date next to the neighbors' signatures has been whited out and the address for Mable Stanley has been changed from 5505 Gaston Avenue to 5507 Gaston Avenue. Mable Stanley does not own and has never owned 5507 Gaston Avenue. *See* Stephanie Stanley Affidavit (Exhibit 18).
- The forged signature of Mr. Bruce for the Dean's household and the forged Mable Stanley signature which submitted on the April 23, 2013 application and then cut and pasted into the January 14, 2015 application – were again cut and pasted onto a Tent Permit application submitted to the City of Dallas on April 8, 2015. *See* David Dean Affidavit (Exhibit 11); Jean Dean Affidavit (Exhibit 12); Stephanie Stanley Affidavit (Exhibit 18). A close inspection of the signature of Mr. Bruce for the Dean household and the handwriting for "5420 Swiss AVE" shows that it is an exact replica of the signature listed on the April 23, 2013, and January 14, 2015 applications. *Id.* The numbering to the left of the signatures on the April 8, 2015, application has been handwritten in. *Id.*

This extensive forgery illustrates that the manner in which the large, loud, and late parties and weddings at the Aldredge House are being conducted has an adverse effect on the neighbors'

properties and lives, as the only option available for obtaining the neighbors' consent to erect the large tents for the events is to forge their names.

4. The Hours of Operation of the Use

As set forth above, the hours of operation of the weddings and parties at the Aldredge House is not consistent with the residential district in which it is located. The Aldredge House's own policies state they will book events until 11:30 PM. *See* 2014 and 2015 Calendars (Exhibits 6 and 23). In 2014, there were 32 events that ended at 10:00 PM or later, and 18 events that ended at 11:00 PM or later. *See* 2014 Calendar (Exhibit 6). Set-up and break down of these events occurs late in the evening and early in the morning, when nearby residents are trying to sleep. Numerous residents have been woken up repeatedly by activities at the Aldredge House, including Anne Hamilton's young child. *See* Anne Hamilton Affidavit (Exhibit 15). A family should be able to live on Swiss Avenue without the fear that their children will be woken up late in the night by screaming party goers.

While Nick McCune's "A Day in the Life" of an Aldredge House neighbor details the hours of set up and tear down for one wedding; it is very common for there to be multiple weddings in a weekend and several weddings in one day. For example, on Saturday, May 23, 2015 (Memorial Day Weekend), 125 guests had a screaming outdoor sendoff at 11:00 PM, and at 7:00 AM the next morning (Sunday, May 24, 2015), the Aldredge House was abuzz with many cars, trucks, and people facilitating deliveries preparing for a wedding beginning at 10:00 AM. The hours of use of the Aldredge House have an adverse impact on the surrounding homes and are not consistent with a residential district.

5. The Extent to which Continued Operation of the Use May Threaten Public Health or Safety

No one lives in the Aldredge House, but there is a tenant who lives in the back garage apartment. In the last six years, there have been many very significant criminal incidents on the Aldredge House property that have not occurred on any other nearby properties. These incidents are as follows:

- a. February 20, 2009: Burglary of Residence at 5500 Swiss. *See* February 2009 Offense Report (Exhibit 34).
- b. March 21, 2010: Disturbance at 5500 Swiss. Verbal disturbance at garage apartment located behind the Aldredge house. One individual pulled out a wooden baseball bat from his car and tried to assault another person. The police officer removed his Taser from his holster to stop the individual. *See* March 2010 Offense Report (Exhibit 35).
- c. October 21, 2012: Theft of two speakers from the Aldredge House backyard. The speakers showed up at a pawn shop later that day. *See* October 2012 Offense Report (Exhibit 36).
- d. November 12, 2012: Burglary of residence – garage apartment located behind the Aldredge house. *See* November 2012 Offense Report (Exhibit 37).
- e. March 4, 2013: Death by suicide at garage apartment located behind the Aldredge house at 5500 Swiss. Decedent wanted money for illegal drugs prior to taking his life by hanging on the premises. A witness stated that decedent was using drugs on a daily basis. *See* March 4, 2013 Offense Report (Exhibit 38).
- f. March 13, 2013: Arrest for family violence/injury to the elderly – resulting from incident involving inhabitants of the garage apartment located behind the Aldredge House at 5500 Swiss. Injuries included the accused biting the 73-year old on the arm and causing other lacerations. *See* March 13, 2013 Offense Report (Exhibit 39).
- g. September 11, 2014: Aggravated Robbery of Individual. Adam Palmer, the individual who lives in the garage apartment located behind the Aldredge House, returned home from cashing a check. As he got out of his car to open his garage door, he was struck on the head by a piece of wood. He fell to the ground and lost consciousness. Mr. Palmer sustained serious bodily injury to his head. *See* September 2014 Offense Report (Exhibit 40).

- h. June 15, 2015: Burglary of Residence – the back guesthouse behind the Aldredge House. Adam Palmer reported seven Hispanic males around 13-14 years old trying to climb the wall to his residence to get on his roof. Mr. Palmer went outside and scared them off. *See* June 2015 Offense Report (Exhibit 41).

These incidents are significant, and they illustrate a threat to the public health or safety of the nearby residents.

Further, the Dallas Fire and Rescue Department has found numerous hazards at 5500 Swiss Avenue, which has an adverse effect on nearby properties. On July 21, 2011, the problem identified was “Tent permit,” and one hazard was found. *See* July 2011 Service Request (Exhibit 42). On March 27, 2012, the problems identified were “Tent Re-inspection; inspected for fire extinguishers, tents, exists, and no smoking signs,” and four hazards were found. *See* March 2012 Service Request (Exhibit 43). On April 2, 2012, the problem identified was “Tent permit,” and one hazard was found. *See* April 2012 Service Request (Exhibit 44). On June 12 through June 19, 2013, the problem identified was “no smoke detectors, fire extinguishers, etc.,” and eight hazards were found. *See* June 2013 Service Request (Exhibit 45). Accordingly, one notice was served, and the Aldredge House was issued an application for High Risk Application Form. *Id.* Finally, on February 13, 2015, four hazards were found. *See* February 2015 Service Request (Exhibit 46). These repeated hazards are a threat to the residents of the nearby properties’ health or safety.

Additionally, to accommodate the vehicles of up to 200 guests, cars are parked on both sides of Swiss, Parkmont, and Bryan Street, making access for emergency service trucks impossible. This is a big concern for the neighbors surrounding the Aldredge House. *See generally* Affidavits (Exhibits 11 – 21, 51). Additionally, cars are frequently parked in front of the fire hydrant in front of the Deans’ home on Parkmont. *See* Jean Dean Affidavit (Exhibit 14); David Dean Affidavit (Exhibit 13). This is a serious problem, as this is the fire hydrant that

would service the neighbors if there were a fire. This concern is exacerbated by the frequent use of fireworks by the Aldredge House at the outdoor sendoffs, and use of fireworks even during indoor sendoffs, as detailed above. *See* Photos of Sendoffs (Exhibit 29); Indoor Sparkler Photo (Exhibit 30).

At a wedding on June 20, 2015, in lieu of using sparklers, the guests released as many as 100 lighted helium balloons. *See* Anne Hamilton Affidavit (Exhibit 15). Some of these balloons fell back down into the neighborhood. Ms. Hamilton found one balloon in the avenue median. Exhibit 2 to Hamilton Affidavit (Exhibit 15). Ms. Hamilton's 3-year old son found another balloon in their back yard and was playing with it. Exhibit 3 to Hamilton Affidavit (Exhibit 15). These balloons had small LED lights inside of them, which are themselves choking hazards. Each LED light contained three "button batteries" which came out quiet easily. Exhibit 4 to Hamilton Affidavit (Exhibit 15). These "button batteries" are a serious safety hazard and are known to cause very serious injury or death if a child swallows them. The use of lighted balloons in a residential district, and across the street from a park where children frequently play, is not safe.

Finally, as detailed above, service trucks arrive and are left idling and blowing exhaust fumes into the Dean's home. *See* David Dean Affidavit (Exhibit 13). It is not healthy for these fumes to be repeatedly circulated throughout the Dean's home. Thus, the use of the Aldredge House as a premier wedding venue creates numerous threats to the nearby property owners' health and safety, and has an adverse effect on them and their properties.

6. The Environmental Impacts of the Use's Operation, Including but not Limited to the Impacts of Noise, Glare, Dust, and Odor

As more fully detailed above, the noise that these very large, very frequent parties and weddings generates is above acceptable levels for a residential district and has an adverse effect

on the nearby properties. Many nearby neighbors have been woken up numerous times by the excessive noise either generated during set up of the parties/weddings, the party/wedding reception itself, the send-off after the wedding, or the tear-down from the party/wedding. *See generally* Affidavits (Exhibits 11 – 21, 51). Significantly, Stephanie Stanley's 91-year old mother, Mable Stanley, has been forced to leave her home and now lives in a secondary residence because of the excessive noise at the Aldredge House and the traffic that the very large parties create. *See* Affidavit of Stephanie Stanley (Exhibit 18).

As set forth in Mr. and Mrs. Dean's affidavits, the delivery trucks idle outside their home and the resulting fumes circulate throughout their home. *See* Affidavits of David Dean (attached as Exhibit 13), Jean Dean (attached as Exhibit 14). These fumes smell bad and are circulated throughout the residence. Thus, the noise and exhaust fumes that the private for-profit events at the Aldredge House create have a significant adverse effect on the nearby properties.

7. The Extent to which Public Disturbances May Be Created or Perpetuated by Continued Operation of the Use

Because no one lives in the Aldredge House, any normal homeowner issue takes longer to identify, address, and resolve. One example of this is the number of times that the alarm goes off at the Aldredge House, which can be heard by the nearby property owners. In the past five years, the Aldredge House's alarm has gone off eleven times; thus triggering a call to and possibly a response by Dallas Police. *See* Service calls for 1/31/10, 8/6/10, 10/17/11, 11/27/11, 1/3/12, 11/16/12, 10/13/13, 12/13/13, 10/2/14, 11/28/14, 3/25/15 (Exhibit 47). The very large outdoor wedding receptions, the setting up and tearing down of the large tents, and the loud and late send-offs are also examples of public disturbances that are created and perpetuated by the continued operation of the Aldredge House as a private events venue.

8. The Extent to which Traffic or Parking Problems may be Created or Perpetuated by Continued Operation of the Use

As detailed above and in the supporting Affidavits, the parties and weddings have a large number of guests, and the guests' cars are parked on both sides of Swiss Avenue, Parkmont, and Bryan Street. The double parking of the cars on Parkmont, Swiss, and Bryan makes access for emergency service trucks impossible. Cars are frequently parked in front of the fire hydrant on Parkmont that would service the neighbors' homes in the event of a fire. The Aldredge House officially allows parking on the side of the Aldredge House on Parkmont, and their website says nothing about not blocking the fire hydrant on Parkmont. *See Aldredge House Website, "Details," p. 2 (Exhibit 25).* It is not a coincidence that the first documented complaints about the Aldredge House's use were about parking problems. In October 1979, there are documented citizen reports that there is a "continuous on street parking problem . . . As a result, Swiss Avenue and the side streets leading to Swiss are cluttered with cars, especially on weekends after regular working hours. . . This has been reported to the police numerous times." *See First Complaints (Exhibit 48).* Thirty-five years later, the nearby properties are facing the same problems.

The Aldredge House is supposed to "make a conscientious effort to use the off-street parking spaces provided and refrain as much as possible from parking on Swiss or Parkmont." *See Notes from Design Review Task Force, 11/1974 (Exhibit 49).* Moreover, in the case of special events that may require additional parking, proof must be shown that off-street parking can be provided to accommodate 70% of the parking requirements for the additional people. *Id.* The Aldredge House's Valet Parking Map shows that they are allowed to park around triangle park (Savage Park), although this should be only after the Gaston lot is full. *See Valet Parking Map (Exhibit 50).* However, this does not happen. As detailed in Nick McCune's Affidavit, the

valet parking attendants rarely use the Gaston parking lot. *See* Nick McCune Affidavit (Exhibit 11). For example, on June 9, 2015, there were 35 cars parked on Swiss, Parkmont, and Bryan, but zero cars parked in the Gaston lot. *Id.* There is a photo attached to Mr. McCune's affidavit of the empty Gaston lot that he took that evening. Exhibit 6 to Nick McCune Affidavit (Exhibit 11).

As detailed in Jim and Jean Dunkerley's Affidavits, even when the events at the Aldredge House have valet parking, the valet attendants park cars along Bryan Street. *See* James Dunkerley's Affidavit (Exhibit 19); Jean Dunkerley's Affidavit (Exhibit 20). The valets park cars around Savage Park, which is across the street from their home, prior to parking in the Gaston street lot. *Id.* A photo from a wedding on June 20, 2015, is attached to their affidavits, which showing cars parked across from their house on Bryan Street. Exhibit 1 to James and Jean Dunkerley's Affidavits (Exhibits 19-20). Moreover, party attendees sometimes elect to self-park on the streets surrounding the Aldredge House and then walk to the Aldredge House. Jim and Jean Dunkerley attached a photo showing party attendees parking close to the intersection of Swiss and Beacon, and then walking to the Aldredge House for the event that occurred the evening of June 20, 2015. Exhibit 2 to James and Jean Dunkerley's Affidavits (Exhibits 19-20).

As detailed in Anne Hamilton's Affidavit, from 2011 to 2014, the Aldredge House valet parked cars in front of her home, thus prohibiting her own guests from parking there. *See* Anne Hamilton Affidavit (Exhibit 15). For example, one Sunday afternoon in 2014, she and her husband invited their family to come over after church; however, there was no available parking in front of her home or anywhere nearby for their family to park. *Id.* As detailed in Stephanie Stanley's affidavit, cars frequently use her driveway to turn around to return to the Aldredge House's circle drive on Parkmont, which is extremely bothersome to her and to her mother. *See* Stanley Affidavit (Exhibit 18). The parking problems that are created by having very large, very

frequent weddings and parties in the middle of a residential district are considerable, and they have an adverse effect on nearby properties.

III. CONCLUSION

The operation of a for-profit special events venue at the Aldredge House has an adverse effect on McDaniel's property and on nearby properties. Thus, McDaniel asks the Board of Adjustment to set a compliance date for the non-conforming use that exists at the Aldredge House, 5500 Swiss Avenue, 75214.

Respectfully submitted,

/s/ Christopher S. Hamilton
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**ATTORNEY FOR APPLICANT BARBARA
McDANIEL**

**Index of Exhibits Attached to Barbara McDaniel's Application to the Board of Adjustment
to Set a Compliance Date for the Nonconforming Use ***

1. Food Glorious Food website, <http://www.foodgloriousfood.biz/>
2. Neighborhood Map
3. Certificate of Occupancy
4. Secretary of State filing
5. Dallas City Voter website
6. 2014 Calendar
7. Ltr. from DCMSA to Harden, City of Dallas Building Inspection, dated 4/8/73
8. Ltr. from Mason, Planner Historic Preservation, dated 7/11/75
9. Aldredge House Rules, 1970s
10. Application for Certificate of Occupancy, dated 10/8/74
11. Affidavit of Michael "Nick" McCune
 1. A "Day in the Aldredge Neighbor's Life"
 2. Video from Party on June 5, 2015
 3. Photo of Cars Parked on Both Sides of Swiss Avenue
 4. Photo of Valet Parking Stands
 5. Photo of Orange Cones in front of McCune Home
 6. Photo of Empty Gaston Parking Lot
 7. Tent Permit Application, 10/3/13
 8. Tent Permit Application, 11/12/13
 9. Tent Permit Application, 4/28/14
 10. Tent Permit Application, 1/14/15
 11. Tent Permit Application, 4/23/13
12. Affidavit of Rhonda McCune
 1. Photo of Orange Cones in front of McCune Home
 2. Tent Permit Application, 10/3/13
 3. Tent Permit Application, 11/12/13
 4. Tent Permit Application, 4/28/14
 5. Tent Permit Application, 1/14/15
 6. Tent Permit Application, 4/23/13
13. Affidavit of David Dean
 1. Tent Permit Application, 3/6/12
 2. Tent Permit Application, 9/16/14
 3. Tent Permit Application, 4/23/13
 4. Tent Permit Application, 1/14/15
 5. Tent Permit Application, 4/8/15
14. Affidavit of Jean Dean
 1. Tent Permit Application, 4/23/13
 2. Tent Permit Application, 1/14/15
 3. Tent Permit Application, 4/8/15
 4. Tent Permit Application, 10/3/13
 5. Tent Permit Application, 4/28/15
15. Affidavit of Anne Hamilton
 1. Photos of Party Attendee's Underwear in Front of Hamilton Home

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City of Dallas

2. Photo of Lighted Helium Balloon in Swiss Avenue Median
3. Photo of Lighted Helium Balloon in Hamilton Backyard
4. Photo of "Button Batteries" in LED Light, Found in Lighted Helium Balloon
16. Affidavit of Robert Rose, Jr.
17. Affidavit of Stacey Copeland
18. Affidavit of Stephanie Stanley
 1. Tent Permit Application, 4/23/13
 2. Tent Permit Application, 10/3/13
 3. Tent Permit Application, 4/28/14
 4. Tent Permit Application, 1/14/15
 5. Tent Permit Application, 4/8/15
19. Affidavit of James Dunkerley
 1. Photo from 6/20/15 Wedding Showing Cars Parked Across from Dunkerley Home
 2. Photo of Guests Self-Parking on Swiss Avenue Before 6/20/15 Wedding
20. Affidavit of Jeanette Dunkerley
 1. Photo from 6/20/15 Wedding Showing Cars Parked Across from Dunkerley Home
 2. Photo of Guests Self-Parking on Swiss Avenue Before 6/20/15 Wedding
21. Affidavit of James Finley
22. DCMSA Foundation – Aldredge House General Policies
23. 2015 Calendar
24. Outdoor Ceremony Photo
25. Aldredge House website
26. Photos of Outdoor Wedding setups
27. Band photos
28. Party Photos
29. Photos of Sendoffs
30. Indoor Sparkler photo
31. Tent photos
32. How to Get a Permit to Erect a Tent, City of Dallas
33. City Code, Chapter 39
34. February 2009 Offense Report
35. March 2010 Offense Report
36. October 2012 Offense Report
37. November 2012 Offense Report
38. March 4, 2013 Offense Report
39. March 13, 2013 Offense Report
40. September 2014 Offense Report
41. June 2015 Offense Report
42. July 2011 Service Request
43. March 2012 Service Request
44. April 2012 Service Request
45. June 2013 Service Request
46. February 2015 Service Request

47. Service calls for 1/31/10, 8/6/10, 10/17/11, 11/27/11, 1/3/12, 11/16/12, 10/13/13, 12/13/13, 10/2/14, 11/28/14, 3/25/15
48. First Complaints
49. Notes from Design Review Task Force, 11/1974
50. Valet Parking Map
51. Affidavit of Lloyd McDaniel



Residential Account #000018175600000

Location Owner Legal Desc Value Main Improvement Additional Improvements Land Exemptions
Estimated Taxes History

Property Location (Current 2016)

Address: 5500 SWISS AVE
Neighborhood: 1DSS08
Mapsc0: 36-X (DALLAS)

Legal Desc (Current 2016)

- 1: MUNGER PLACE
 - 2: BLK 12/1862 LTS 11-12 & 56' LT 10
 - 3: SWISS & PARKMONT
 - 4: CO-DALLAS
 - 5: 1862 012 01100 1001862 012
- Deed Transfer Date:** 1/1/1900

DCAD Property Map 2015 Appraisal Notice

Electronic Documents (ENS)

YAHOO! Maps

Owner (Current 2016)

DALLAS CO MEDICAL SOC
WOMENS AUXILIARY
5500 SWISS AVE
DALLAS, TEXAS 752144947

Multi-Owner (Current 2016)

Owner Name	Ownership %
DALLAS CO MEDICAL SOC	100%

Value

2015 Proposed Values	
Improvement:	\$473,140
Land:	+ \$412,000
Market Value:	= \$885,140
Revaluation Year:	2013
Previous Revaluation Year:	2010

Main Improvement (Current 2016)

Building Class	25	Construction Type	FRAME	# Baths (Full/Half)	4/ 0
Year Built	1917	Foundation	PIER AND BEAM	# Kitchens	1
Effective Year Built	1917	Roof Type	HIP	# Bedrooms	4
Actual Age	98 years	Roof Material	SLATE	# Wet Bars	0
CDU (Condition / Desirability / Utility)	POOR	Fence Type	IRON	# Fireplaces	3
Living Area	7,255 sqft	Ext. Wall Material	BRICK VENEER	Sprinkler (Y/N)	Y
Total Area	7,255 sqft	Basement	PARTIAL	Deck (Y/N)	N
% Complete	100%	Heating	CENTRAL FULL	Spa (Y/N)	N
# Stories	TWO STORIES	Air Condition	CENTRAL FULL	Pool (Y/N)	N
Depreciation	70%			Sauna (Y/N)	N

Additional Improvements (Current 2016)

#	Improvement Type	Construction	Floor	Exterior Wall	Area (sqft)
2	DETACHED GARAGE		UNASSIGNED	FRAME	400
3	DETACHED SERVANTS QUARTERS		UNASSIGNED	FRAME	400
4	GREENHOUSE		UNASSIGNED	FRAME	400

Land (2015 Proposed Values)

#	State Code	Zoning	Frontage (ft)	Depth (ft)	Area	Pricing Method	Unit Price	Market Adjustment	Adjusted Price	Ag Land
1	SINGLE FAMILY RESIDENCES	PLANNED DEVELOPMENT DISTRICT	206	249	49,619.0000 SQUARE FEET	FRONT FOOT	\$2,000.00	0%	\$412,000	N

* All Exemption information reflects 2015 Proposed Values. *

Exemptions (2015 Proposed Values)

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS CO COMMUNITY COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
HISTORIC EXEMPTION	\$885,140	\$0	\$0	\$0	\$0	\$0
Taxable Value	\$0	\$885,140	\$885,140	\$885,140	\$885,140	\$0

**Exemption Details
Estimated Taxes (2015 Proposed Values)**

	City	School	County and School Equalization	College	Hospital	Special District
Taxing Jurisdiction	DALLAS	DALLAS ISD	DALLAS COUNTY	DALLAS CO COMMUNITY COLLEGE	PARKLAND HOSPITAL	UNASSIGNED
Tax Rate per \$100	\$0.797	\$1.282085	\$0.2531	\$0.124775	\$0.286	N/A
Taxable Value	\$0	\$885,140	\$885,140	\$885,140	\$885,140	\$0
Estimated Taxes	\$0.00	\$11,348.25	\$2,240.29	\$1,104.43	\$2,531.50	N/A
Tax Ceiling					N/A	N/A
Total Estimated Taxes:						\$17,224.47

DO NOT PAY TAXES BASED ON THESE ESTIMATED TAXES. You will receive an **official tax bill** from the appropriate agency when they are prepared. Taxes are collected by the agency sending you the **official** tax bill. To see a listing of agencies that collect taxes for your property. [Click Here](#)

The estimated taxes are provided as a courtesy and should not be relied upon in making financial or other decisions. The Dallas Central Appraisal District (DCAD) does not control the tax rate nor the amount of the taxes, as that is the responsibility of each Taxing Jurisdiction. Questions about your taxes should be directed to the appropriate taxing jurisdiction. We cannot assist you in these matters. These tax estimates are calculated by using the most current certified taxable value multiplied by the most current tax rate. **It does not take into account other special or unique tax scenarios.** If you wish to calculate taxes yourself, you may use the TaxEstimator to assist you.

History

History

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ARTICLE 63.

PD 63.

SEC. 51P-63.101.

LEGISLATIVE HISTORY.

PD 63 was established by Ordinance No. 14247, passed by the Dallas City Council on September 10, 1973. Ordinance No. 14247 amended Ordinance No. 10962, Chapter 51 of the 1960 Revised Code of Civil and Criminal Ordinances of the City of Dallas. Ordinance No. 14247 was amended by Ordinance No. 15715, passed by the Dallas City Council on December 21, 1977, and Ordinance No. 15766, passed by the Dallas City Council on March 15, 1978. On February 3, 1982, the Dallas City Council passed Ordinance No. 17285, repealing Ordinance Nos. 14247, 15715, and 15766, and re-establishing PD 63. Ordinance No. 17285 was amended by Ordinance No. 18563, passed by the Dallas City Council on January 23, 1985. (Ord. Nos. 10962; 14247; 15715; 15766; 17285; 18563; 25423)

SEC. 51P-63.102.

PROPERTY LOCATION AND SIZE.

PD 63 is established on property generally located southeast of Live Oak Street, south of La Vista Drive, northwest of the alley between Swiss Avenue and Gaston Avenue, and northeast of Fitzhugh Avenue. The size of PD 63 is approximately 116.88 acres. (Ord. Nos. 17285; 25423)

SEC. 51P-63.103.

DEFINITIONS.

(a) In this article:

- 63C.
- (1) ACCEPTABLE COLOR RANGE means the range of colors shown on Exhibit
 - (2) APPLICANT means the property owner or his designee.
 - (3) BLOCK means an area bounded by streets on all sides.
 - (4) BLOCKFACE means all of the lots on one side of a block.
 - (5) CERTIFICATE OF APPROPRIATENESS means a certificate issued by the city to authorize certain acts to be performed in this district. (See the enforcement section of this article.)
 - (6) COLUMN means the entire column including the base and capital, if any.
 - (7) COMMISSION means the city plan and zoning commission.
 - (8) COMMITTEE means the landmark committee created under Section 51-3.103.
 - (9) CORNER LOT means a lot that has frontage on two different streets.
 - (10) CORNER SIDE FACADE means a main building facade facing the side street.
 - (11) CORNER SIDE YARD means a side yard that abuts a street.
 - (12) DIRECTOR means the director of development services or his representative.

SEC. 51P-63.104.

INTERPRETATIONS.

- (a) Unless otherwise stated, the interpretations in Chapter 51 apply to this article.
- (b) Unless otherwise stated, all references to articles, divisions, or sections in this article are to articles, divisions, or sections in Chapter 51. (Ord. 25423)

SEC. 51P-63.105.

RECONCILIATION WITH ORDINANCE NO. 17285 AND THE DALLAS DEVELOPMENT CODE.

The provisions of Ordinance No. 17285 and the Dallas Development Code, as amended, apply to the Swiss Avenue Historic District unless expressly modified or repealed by this article. In the event of a conflict, the provisions of this article control. (Ord. Nos. 18563; 25423)

SEC. 51P-63.106.

NONCONFORMING USES AND STRUCTURES.

(a) In general. Except as otherwise provided in this article, Section 51-4.704 relating to nonconforming uses and structures, applies to all uses and structures in this district.

(b) Nonconforming uses.

(1) Termination when building destroyed. Except as otherwise provided below, if a building in which a nonconforming use is located is destroyed, the right to operate the nonconforming use terminates immediately.

(2) Nonconforming servants' or caretakers' quarters. The right to operate a nonconforming servants' or caretakers' quarters use does not terminate when the structure in which the use is located is damaged or destroyed. A servants' or caretakers' quarters must be used by bona fide servants or caretakers and may not be rental accommodations.

(c) Rebuilding damaged or destroyed nonconforming buildings. If a nonconforming single-family main or accessory building is damaged or destroyed, it may be rebuilt at the same location without the approval of the board of adjustment. (Ord. Nos. 18563; 25423)

SEC. 51P-63.107.

GRAPHICS.

Graphics that illustrate the requirements of this article are labelled Exhibit 63B. In the event of a conflict, the text of this article controls over any graphic display in Exhibit 63B. (Ord. Nos. 18563; 25423; 26340)

SEC. 51P-63.108.

ENFORCEMENT.

(a) Certificate of appropriateness required. A person commits an offense if, without first obtaining a certificate of appropriateness from the city expressly authorizing the act, he:

- (1) places or constructs a main or accessory building on property in this district;
- (2) makes exterior alterations to a main or accessory building in this district; or

attached to Ordinance No. 18563. A map showing the area boundaries is labelled Exhibit 63A. (Ord. Nos. 18563; 25423)

SEC. 51P-63.114. USE REGULATIONS FOR AREA A.

The following use regulations apply to all property in Area A:

(1) Uses that were illegal on February 3, 1982, are illegal uses under this article. Except as otherwise provided in this article, nonconforming uses are governed by Section 51-4.704.

(2) The number of dwelling units on a building site may not be increased. If the number of dwelling units in a building is reduced, or the building is replaced with another building containing a lesser number of dwelling units, the building site shall thereafter be limited to the lesser number of dwelling units.

(3) Except as otherwise provided below, uses are limited to single-family residential uses.

(4) The duplex use at 5600-02 Swiss Avenue is expressly recognized as a legal use unless and until the structure in which the use is located is destroyed, in which case the right to operate the duplex use terminates immediately.

(5) The medical society auxiliary social club use currently operated by the Dallas County Medical Society Auxiliary at 5500 Swiss Avenue is expressly recognized as a nonconforming use. (Ord. Nos. 18563; 25423)

SEC. 51P-63.115. DEVELOPMENT STANDARDS FOR AREA A.

(a) In general. Except as otherwise provided in this section, the development standards in the Dallas Development Code, as amended, applicable to an R-10 Single-Family District apply to all property in Area A. In the event of a conflict, the provisions of this section control.

(b) Height requirements. Maximum permitted heights for buildings and structures are:

- (1) 36 feet for a main building; and
- (2) 24 feet for an accessory building or structure.

(c) Lot size requirements. Lots must conform to the following standards:

- (1) Each lot must have a minimum area of 10,000 square feet and a minimum depth of 230 feet.
- (2) Each lot must have a width no less than 90 percent of the average width of all lots in both the same and the opposite blockface.

(3) Lots platted on or before February 3, 1982, are legal building sites, even though they may not conform to the requirements of this section.

(d) Maximum lot coverage. Maximum permitted lot coverage for all buildings and structures combined is 25 percent.

Re: **5500 Swiss Avenue**, Lots 11, 12, & part of 10, Block 12/1862, **PD 63** planned development zoning district, **H/1 (Area A)** historic overlay, C.O.# 8006167595, (6994) Civic, social, and fraternal associations use (previous C.O.# 67595), dba: Aldredge House

To be used as an office and clubhouse for the Dallas County Medical Society Women's Auxiliary.

Per the Dallas County Medical Society website:

1973

The DCMSA accepted donation of the Swiss Avenue Aldredge House from George N. Aldredge, MD, and his family for its headquarters.

1975

DCMS moved its headquarters to 3630 Noble Ave.

In 1975 a C.O. was issued to the Dallas County Medical Society Women's Auxiliary for an "office" use and in 1976 a C.O. was issued to the same occupant for a "club & office" use.

According to a current website (<http://www.aldredgehouse.com/>) they advertise and operate as being "*An Historic Event Venue In Dallas*" for wedding ceremonies, receptions, holiday parties, corporate meetings, luncheons, and catered affairs. This could be a **Commercial amusement (inside)** use per Section 51A-4.210(b)(7), or a **Mortuary, funeral home, or commercial wedding chapel** use per Section 51A-4.210(b)(18), or the **Civic, social, and fraternal associations "Limited"** use per Chapter 51, Section 10-211 (aka: Club, private; lodge or social organization, Club private lodge or fraternal organization) for which they were issued a C.O. in 1980 or as the use appears to have become, a "Private club" use per the revised Chapter 51, Section 51-4.209(5). The current Chapter 51A does not appear to have a corresponding like-defined use.



City of Dallas

Zoning Board of Adjustment

Appeal to establish a compliance date for a nonconforming use.
Sec. 51A-4.704(a)(1)(A)

-or-

Appeal to reinstate a nonconforming use. Sec. 51A-4.704(a)(2)

SEC. 51A-4.704. NONCONFORMING USES AND STRUCTURES.

(a) Compliance regulations for nonconforming uses. It is the declared purpose of this subsection that nonconforming uses be eliminated and be required to comply with the regulations of the Dallas Development Code...

(1) Amortization of nonconforming uses.

(A) Request to establish compliance date. The city council may request that the board of adjustment consider establishing a compliance date for a nonconforming use. In addition, any person who resides or owns real property in the city may request that the board consider establishing a compliance date for a nonconforming use...

(2) The right to operate a nonconforming use ceases if the nonconforming use is discontinued for six months or more. The board may grant a special exception to this provision only if the owner can show that there was a clear intent not to abandon the use even though the use was discontinued for six months or more.

Property address: 5500 SWISS Avenue, Dallas, TX 75214

- 1. The nonconforming use being appealed/reinstated: (6994) Civic, Social, and Fraternal Associations
2. Reason the use is classified as nonconforming: This type of land use no longer exists. The property is located in a historic district on a residential street.
3. Current zoning of the property on which the use is located: Single Family Residential, Planned Development District PD63 (H/I Area A)
4. Date the nonconforming use was discontinued: N/A
5. Date that the nonconforming use became nonconforming: The date the C.O. was issued (6/10/00)
6. Previous zoning of the property on which the use is located: N/A

(Rev. 04/04/14)

PD - Sept. 10, 1973. Created
See Section SIP-63.114(5)

Certificate of Occupancy

Address: 5500 SWISS AVE
Issued: 06/16/1980

Owner: DALLAS CO MED. SOC AUX.
5500 SWISS AVE DALLAS TX 75214

DBA: ALDREDGE HOUSE

Land Use: (6994) Civic, social, and fraternal associations.

Occupied Portion:

C.O.#: 8006167595

Lot:	Block:	Zoning:	H	PDD:	63	SUP:	
Historic Dist:	Consrv Dist:	Pro Park:	0	Req Park:	0	Park Agrmt:	N
Dwlg Units:	Stories:	Occ Code:	A3	Lot Area:	0	Total Area:	0
Type Const:	Sprinkler:	Occ Load:	262	Alcohol:	N	Dance Floor:	N

Remarks: ALDREDGE HOUSE
Max Occ Load upstairs=110
Max Occ Load downstairs=152

Larry V. Holmes
Larry Holmes, Building Official

This certificate shall be displayed on the above premise at all times.

LOCATION: 5500 Lewis Ave
USE: Dallas Co Medical Soc Club
NAME OF OWNER:
TENANT: Nestorial House
Office use only:
Zoning: PD 63-H
District: 23
Remarks: CO # 67595
6-16-80

Block: 12/1862
Lot: 11

Form 05-2244

C.O. # 8006167595
(6994) "Civic, Social, and fraternal associations"
10-211 Recreation Social & Entertainment Uses
"Club, private lodge, or fraternal organization" (139)
("L" in MF-3, MF-4, & O-2)
See: 10-1000 for Limited Uses

Nov, 1978
11-78

51-A.209(5) Private Club

5504 Swiss Avenue
 ZONING P.D.
 BLOCK 12-1862 LOT 56' of 10 of 10
 DIST. 23
 USE Office "W.A.D.C.M.S."
 OWNER "W.A.T.T.D.C.M.S."
 TENANT Same

46045 3.19.75

LOCATION: 5504 SWISS AVE W
 USE: OFFICE & CLUB FOR WOMENS AUXILIARY DALLAS COUNTY MEDICAL
 NAME OF OWNER: WATT D.C.M.S.
 TENANT: SAME

Office use only:

Zoning: PD
 District: 23

Remarks: TEMP. WITH EXISTING PARKING EXPIRATION 11-1-76
 Block: 12/1862
 Lot: 56' of 10

CO# 49030 1/16/76
 Form 05-2244

LOCATION: 5504 SWISS AVE
 USE: CLUB & OFFICE FOR DALLAS COUNTY MEDICAL SOCIETY
 NAME OF OWNER: WATT D.C.M.S.
 TENANT: SAME ALDREDGE HOUSE

Office use only:

Zoning: PD
 District: 23

Remarks: PERMANENT

Block: 12/1862
 Lot: 56' OF 10

CO# 52213

10-29-76
 Form 05-2244

DISTRICTS

TYPE USE	PERMITTED BY SPECIAL RESOLUTION OF THE CITY COUNCIL																			
	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160
10-211 RECREATION, SOCIAL & ENTERTAINMENT USES																				
a AMUSEMENT, COMMERCIAL (OUTSIDE) (135)																				
b AMUSEMENT, COMMERCIAL (INSIDE) (135)																				
c CARNIVAL OR CIRCUS (TEMPORARY) (137)																				
d COUNTRY CLUB																				
e CLUB, PRIVATE LODGE OR FRATERNAL ORGANIZATION (139)																				
f FARROUNDS (140)																				
g GOLF COURSE (141)																				
h PARK OR PLAYGROUND, PUBLIC (142)																				
i RECREATION CLUB OR AREA, PRIVATE (143)																				
j RODEO (144)																				
k THEATRE, DRIVE-IN TYPE (145)																				
l THEATRE, ANT DRIVE-IN TYPE (146)																				
m GAME COURT (146.1)																				
10-212 TRANSPORTATION TYPE USES																				
a AIRPORT OR LANDING FIELD (147)																				
b BUS STATION & TERMINAL (148)																				
c HAULING & STORAGE COMPANY (149)																				
d HELICOPTER BASE (150)																				
e HELIPORT (151)																				

- (137) **Carnival or Circus (Temporary):** A temporary traveling show or exhibition sometimes housed in tents, and which has no permanent structure or installation. Such temporary carnival or circus is subject to special authorization by resolution of the City Council.
- (138) **Country Club, Private Membership:** An area of 20 acres or more containing a golf course and a club house and available only to the membership. Such a club may contain as adjunct facilities, a private club and dining room, swimming pool, tennis courts and similar service and recreation facilities.
- (139) **Club, Private; Lodge or Social Organization:** A facility which only members or their guests may use by virtue of membership in a social organization, or lodge and which may provide a private bar, tennis court, swimming pool, or similar recreational facility.
- (140) **Fairgrounds:** An outside area where a fair, circus, or exhibition is held.
- (141) **Golf course:** A golf course owned or controlled by a public agency such as the municipal Park Department and operated for the benefit of the public.
- (142) **Park or Playground, Public:** A recreation facility or park owned or operated by a public agency such as the municipal Park Department or School Board, and available to the general public. This term shall include such uses as stadiums, field houses, and customary accessory uses.
- (143) **Recreation Club or Area, Private:** A facility or area which only members or their guests may use by virtue of membership in a church, neighborhood or similar association and which may provide recreational facilities provided in a public park or playground; the serving or consumption of alcoholic beverages is not allowed.
- (144) **Rodeo:** Facility for public performances which may feature bronco riding, calf roping, steer wrestling, brahma bull riding and other similar activities.
- (145) **Theater, Drive-In Type:** Facility arranged so that patrons can view the screen and receive the sound in the privacy of their cars, or while seated outside.

the right, but not the obligation, to undertake the compliance required of the private entity at the cost and expense of the entity. Should the entity fail to pay the City for the work performed on its behalf by the City within a period of 180 days from presentation of the bill by the City of Dallas, then the street shall thereafter cease to be a private street and shall become a public street of the City of Dallas. (Ord. 16428)

DIVISION 10-1000. LIMITED USE

Section 10-1001

Limited use as indicated herein applies to certain service and retail uses, indicated by symbol on the Use Schedule, Division 10-200, which are permitted in certain districts as shown and which are to be contained entirely within the main building, do not have an exterior access except through the general building entrances and which has no exterior advertising or signs. Such uses are secondary to the main use and for service to the occupants of the building.

Section 10-1002

In lieu of the requirements found in Section 10-1001, limited uses which involve the dispensing of motor vehicle fuel are subject to the following requirements:

- (a) All storage tanks for motor vehicle fuel shall be located underground.
- (b) The dispensing of motor vehicle fuel shall be limited to one (1) pump for each main building.
- (c) Such pump and any sign relating to this use shall not be visible from public streets. No sign shall be erected indicating the availability of gasoline.
- (d) Such use is secondary to the main use and the dispensing of gasoline is limited to the owner and tenants of the building. Gasoline shall not be available to the general public.

(3) Restaurant without drive-in service.

(A) Definition: an establishment for the sale and service of food to customers on the premises, but not in automobiles.

(B) Districts permitted: commercial, central area, and industrial districts; limited use in MF-3, MF-4, and O-2 districts.

(C) Required off-street parking: one space for each 100 square feet of floor area.

(D) Required off-street loading: see Section 51-4.303(a)(1)(E).

(4) Restaurant with alcoholic beverages and/or entertainment.

(A) Definition: an establishment for the sale and service of food to customers.

(B) Districts permitted: SC, GR, LC, HC, central area, and industrial districts; limited use in MF-3, MF-4, and O-2 districts.

(C) Required off-street parking: one space for each 100 square feet of floor area.

(D) Required off-street loading: see Section 51-4.303(a)(1)(E).

(E) Additional provisions:

(i) Alcoholic beverages may be served under this use.

(ii) Music, entertainment, or facilities for dancing may be provided under this use.

(5) Private club.

(A) Definition: an establishment for the association of a group of people for common purpose, interest, or pleasure.

(B) Districts permitted: SC, GR, LC, HC, central area, and industrial districts; limited use in MF-3, MF-4, and O-2 districts.

(C) Required off-street parking: one space for each guest room, plus one space for each 100 square feet of floor area exclusive of guest rooms; a minimum of 10 parking spaces is required. (Ord. 16302)

(D) Required off-street loading: see Section 51-4.303(a)(1)(E).

(E) Additional provisions:

(i) Private club facilities must be available only to members and their guests.

(ii) The private club may include a restaurant or bar, and tennis courts, swimming pool, or similar recreational facilities.

(6) Catering service.

(A) Definition: an establishment that serves and supplies food to be consumed off premises.

(B) Districts permitted: SC, GR, LC, HC, central area, and industrial districts.

(C) Required off-street parking: one space for each 200 square feet of floor area.

(D) Required off-street loading: see Section 51-4.303(a)(1)(E).

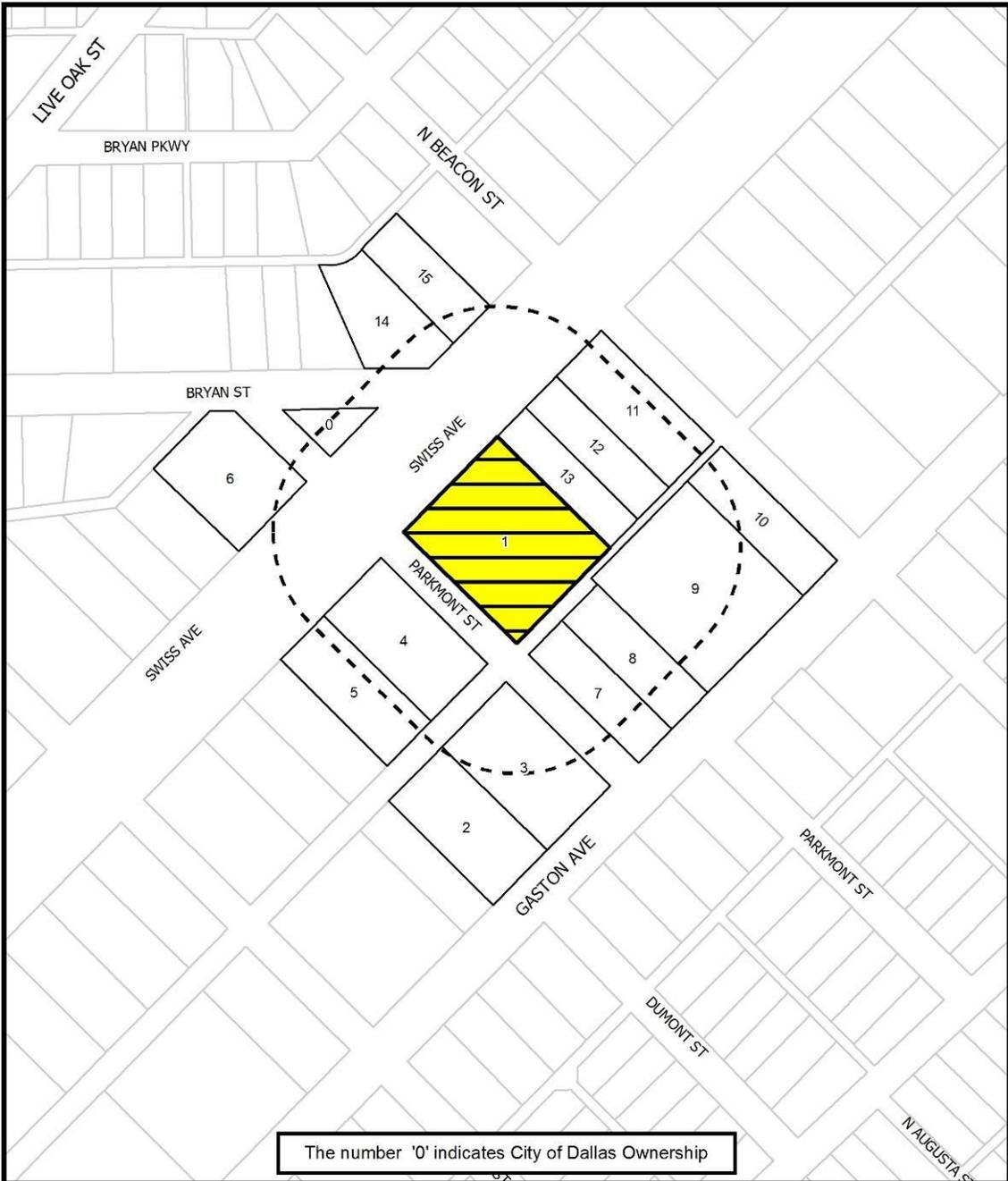
SEC. 51-4.210. PROFESSIONAL, PERSONAL SERVICE, AND CUSTOM CRAFTS USES

Professional, personal service, and custom crafts uses are subject to the following regulations:

(1) Office.

(A) Definition: a place for the regular transaction of business.

(B) Districts permitted: office, commercial, central area, and industrial districts.



 1:2,400	NOTIFICATION		Case no: BDA145-099
	<div style="border: 1px solid black; padding: 2px; display: inline-block;">200'</div> AREA OF NOTIFICATION <div style="border: 1px solid black; padding: 2px; display: inline-block;">15</div> NUMBER OF PROPERTY OWNERS NOTIFIED	Date: 9/1/2015	

Notification List of Property Owners

BDA145-099

15 Property Owners Notified

<i>Label #</i>	<i>Address</i>	<i>Owner</i>
1	5500 SWISS AVE	DALLAS CO MEDICAL SOC
2	5425 GASTON AVE	SILVEIRA BRAD
3	5435 GASTON AVE	ROLLING CASH UPPER E LP
4	5420 SWISS AVE	DEAN DAVID ALLEN &
5	5416 SWISS AVE	ROSE ROBERT N JR
6	5439 SWISS AVE	MCDANIEL LLOYD H &
7	5505 GASTON AVE	STANLEY MABLE C
8	5507 GASTON AVE	ALAN HOFFMANN LLC
9	5515 GASTON AVE	5515 GASTON REALTY PARTNERS LLC
10	907 BEACON ST	JSH 907 BEACON LLC
11	5520 SWISS AVE	MILLER JANICE SUE
12	5518 SWISS AVE	ROGERS ROBERT H & DONNA
13	5514 SWISS AVE	MCCUNE MICHAEL J &
14	5521 SWISS AVE	HAMILTON CHRISTOPHER SCOTT & ANNE LANGDON
15	5527 SWISS AVE	WILES WILLIAM DIXON