



CITY OF WEST LAKE HILLS, TEXAS
NOTICE OF BOARD OF ADJUSTMENT (BOA) REGULAR MEETING
Wednesday, June 10, 2020 at 7:00 PM

Notice is hereby given that the Board of Adjustment (BOA) of the City of West Lake Hills, Texas, will hold a REMOTE Regular Meeting on the 10th day of June 2020 at 7:00 p.m., at which time the following items will be discussed, to-wit:

REMOTE ACCESS ONLY:

In accordance with the order of the Office of the Governor issued March 16, 2020, the City Council of the City of West Lake Hills will conduct a telephonic meeting in order to advance the public health goal of limiting face-to-face meetings (also called “social distancing”) to slow the spread of the Coronavirus (COVID19).

The public may participate in this meeting by dialing in to the following toll-free number: 1-346-248-7799, Meeting ID 899 5429 7498, Password: 387042

If you wish to speak during the meeting, we will need your name, phone number and the item number you wish to speak on by 1:00 p.m. on Wednesday June 10.

Members of the public who wish to submit their written comments in lieu of speaking shall submit their comments by emailing SMills@Westlakehills.org. Comments must be received by 1:00 P.M. on June 10th.

The meeting will be live streamed here: <http://mixlr.com/cityofwestlakehills/> and the audio will be available on the City’s website the morning after the meeting.

1. Call to Order
2. Citizen Communications The City Council Welcomes Public Comments at this Point on any Issue. If the Issue is Listed on the Agenda, the Speaker May Choose to Comment During the Public Comment Period or When the Specific Agenda item is Taken Up by the Council Later in the Meeting. The Council Cannot Respond to Matters Not Listed on the Agenda Until a Future Meeting. Speakers Shall Limit Their Comments to Five (5) Minutes Each

3. Consent Agenda All Consent Agenda Items Listed are Considered to be Routine by the City Council and Will be Enacted by One (1) Motion. No Separate Discussion or Action on any of the Items is Necessary Unless Desired by a Council Member or Citizen
 - a. Approval of the April 8, 2020 Regular Meeting Minutes

4. Land Use 917 Calithea Road: Discuss and Consider Action of Two (2) Variance Requests in order to Construct a Swimming Pool and Yard Area:
 - 1) Retaining Wall that Encroaches the Side Building Setback, West Lake Hills Code Sec. 22.03.281
 - 2) Retaining Wall Exceeds 6 feet in Height, West Lake Hills Code Sec. 22.03.170
 Owners/Applicants Cortney & Patrick Johnson.
 - a. Public Hearing: All persons wishing to speak for or against shall be heard

5. Land Use 301 Buckeye Trail: Discuss and Consider Action for Variance Requests for the Construction of a New Garage.
 - 1) Removal of Tree # 217 - 14" Cedar, West Lake Hills Code Sec. 22.03.304
 - 2) Removal of Tree #218 - 16" Double Live Oak, West Lake Hills Code Sec. 22.03.304
 - 3) Encroachment of a New Structure into Side and Rear Building Setbacks, West Lake Hills Code Sec. 22.03.281
 - 4) Exceed Maximum Impervious Cover up to 30.5%, West Lake Hills Code Sec. 22.03.281
 Owner: Ben Brieger / Applicant: Marc Madely
(This requires dual BOA/City Council action: City Council for the tree variances and BOA for the setback encroachment and impervious cover variances)
 - a. Public Hearing: All persons wishing to speak for or against shall be heard

6. Land Use 119 Redbud Trail: Discuss and Consider Action of Four (4) Variance Requests for the Construction of a Second Driveway
 - 1) Construct a Second Driveway Entrance/exit, West Lake Hills Code Sec. 22.03.175
 - 2) Site Disturbance/excavation up to 24 inches for a Retaining Wall in a Setback, West Lake Hills Code Sec. 22.03.170
 - 3) Removal of Tree # 35 - 18" Crepe Myrtle, West Lake Hills Code Sec. 22.03.304
 - 4) Removal of Tree # 38 - 19" Crepe Myrtle, West Lake Hills Code Sec. 22.03.304
 Owner Charles Holley/Applicant Scott Cassel.
(This requires dual BOA/City Council action: City Council for tree variances and BOA for construction of second driveway entrance and site disturbance/retaining wall up to 24" in setback)
 - a. Public Hearing: All persons wishing to speak for or against shall be heard

7. Ordinance 701 South Capital of Texas Highway, Suite G700: Discuss and Consider Action to Adopt an Ordinance for a Special Use Permit Application to Allow the Sale of Beer and Wine for On-Site Consumption at Biderman's Deli, Zoned B – 3. (West Lake Hills Code Sec. 38.03.037). Owner/Applicant Zachary Biderman

- a. Public Hearing: All persons wishing to speak for or against shall be heard.
8. Ordinance 903 Redbud Trail: Discuss and Consider Action to Adopt an Ordinance for a Special Use Permit Application to Allow the Construction of a Guest Quarters on a Residential Property Zoned R – 1. (West Lake Hills Code Sec. 38.03.032 (c)(1)). Owners/Applicants Michael and Peggy Presley.
 - a. Public Hearing: All persons wishing to speak for or against shall be heard.
9. Adjournment

Approved by: Linda Anthony, Mayor

Certificate

I certify that the above Notice of the June 10, 2020 Board of Adjustment REMOTE Regular Meeting was posted on the bulletin board at the Municipal Building, 911 Westlake Drive, West Lake Hills, Texas on Friday June 5, 2020 by 5:00 pm. and will remain posted continuously until said meeting is convened.

Signed by: Stephanie Mills, City Secretary

The City of West Lake Hills is committed to compliance with the Americans with Disabilities Act. Reasonable accommodations and equal access to communications will be provided upon request.

All items on the agenda are for discussion and/or action. City Council reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development).

CITY OF WEST LAKE HILLS, TEXAS
MINUTES OF A BOARD OF ADJUSTMENT (BOA) REGULAR MEETING
Wednesday, April 8, 2020 at 7:00 PM

1. Call to Order

With a quorum present, Mayor Anthony called the meeting to order at 7:04 p.m. Members in attendance were Mayor Anthony, Mayor Pro Tem O'Connor and Members Rhonda McCollough, Brian Plunkett, Beth South, and Darin Walker

2. Citizen Communications The City Council welcomes public comments at this point on any issue. If the issue is listed on the agenda, the speaker may choose to comment during the Citizens Communication agenda item or when the specific agenda item is taken up by the Council later in the meeting. The Council cannot respond to matters not listed on the agenda until a future meeting. Speakers shall limit their comments to five (5) minutes each.

Mayor Anthony opened the meeting for public comments. Hearing none, the public comment section was closed

3. Consent Agenda The following items are anticipated to require little or no individualized discussion due to their nature being clerical, ministerial, mundane or routine. In an effort to enhance the efficiency of City Council Meetings, it is intended that these items will be acted upon by the City Council with a single motion because no public hearing or determination is necessary. However, a City Council Member or Citizen may request separate deliberation for a specific item, in which event those items will be removed from the consent agenda prior to the City Council voting on the consent agenda as a collective, singular item. Citizens requesting items be removed from the consent agenda must submit a written Speaker Card to the City Secretary before the meeting begins. Prior to voting on the consent agenda, the City Council may add additional items that are listed elsewhere on the same agenda.

a. Approval of the February 12, 2020 Regular Meeting Minutes

b. **1105 Blackacre Trail:** Approval of an Ordinance for an after-the-fact Special Use Permit application to allow an existing guest quarters (Section 34.04.032 of the West Lake Hills Code of Ordinances). Owners/Applicants Mark and Antoinette Clark

Motion for Approval of the Consent Agenda as listed made by Councilmember Walker with a Second by Mayor Pro Tem O'Connor.
Motion carried unanimously by a vote of 5 ayes to 0 nays

4. Land Use 101 Double Fork Road: Discuss and Consider Action of a variance request for a building encroachment into a front setback in order to construct a second floor addition on top of an existing structure that encroaches into the front setback. (Section 22.03.281 of the West Lake Hills Code of Ordinances). Owners/Applicants Denise & Anthony Burke

a. Public Hearing: All persons wishing to speak for or against shall be heard.

Motion for Approval made by Mayor Pro Tem O'Connor with a Second by Councilmember McCollough. Motion carried unanimously by a vote of 5 ayes to 0 nays

5. Land Use 1405 Wildcat Hollow: Discuss and Consider Action of after-the-fact variance requests for stacked rock walls that 1) encroach into the building setbacks; and 2) include portions that exceed 6 feet in height. (Sections 22.03.281 and 22.03.170 of the West Lake Hills Code of Ordinances). Owner/Applicant Douglas Jaffe, III (Power of Attorney Luis Reyes)

a. Public Hearing: All persons wishing to speak for or against shall be heard.

Applicants designee gave a presentation to request a postponement of this item. Mayor Anthony requested a Motion be made. A Motion for Denial of the Requested Postponement was made by Mayor Pro Tem O'Connor with a Second by Councilmember South. Motion carried unanimously by a vote of 5 ayes to 0 nays. Applicants designee gave a presentation regarding their request for a variance approval. A Motion for Denial of the Variance was made by Councilmember Plunkett with a Second by Councilmember McCollough. Motion carried unanimously by a vote of 5 ayes to 0 nays

6. Adjournment

Motion to Adjourn made by Councilmember Walker at 7:42 p.m. with a Second by Councilmember South. Motion carried unanimously by a vote of 5 ayes to 0 nays

Respectfully submitted,

LINDA ANTHONY, MAYOR

ATTEST:

Stephanie Mills, City Secretary

These minutes were approved on _____, 2020.



RETAINING WALL VARIANCES STAFF REPORT

JUNE 10, 2020

Project Name: 917 Calithea Road – retaining wall variances

Requested Action: Construct a retaining wall that encroaches the side setback and is taller than the 6ft maximum height in order to extend the yard and build a new swimming pool

Agenda Item: Land Use: **917 Calithea Road:** Discussion/recommendation of two variance requests in order to construct a swimming pool and yard area: 1) retaining wall that encroaches the side building setback (West Lake Hills Code Sec. 22.03.281); and 2) retaining wall exceeds 6 feet in height (West Lake Hills Code Sec.22.03.170). Owners/Applicants Cortney & Patrick Johnson.

Applicant Information: Cortney and Patrick Johnson (Owners)

Hearing Dates:

May 20, 2020 ZAPCO

June 10, 2020 Board of Adjustment

Location: The subject property is located north of Redbud Trail, south of Wild Basin Ledge, and west of Westlake Drive.

Zoning & Site Characteristics:

The subject property and surrounding neighborhood are zoned R-1 – One-Family Residential and is 2.109 acres. There is currently an existing house on the property.

Background & Analysis:

The homeowners, Cortney and Patrick Johnson, are requesting variances to construct a retaining wall behind their house that encroaches the side setback and portions of which exceed the 6ft maximum height. The proposed retaining wall extends the full width of the side setback to the property line. The retaining wall is in connection with the construction of a new swimming pool and is meant to a) provide structural support for the pool; b) replace the need for a fence at the top of the property; and c) expands the usable backyard/garden space.

Though the property is a little over two acres, it is steeply sloped and the backyard drops off close to the rear of the house. Due to the steep topography and location of the house, the proposed retaining wall won't be visible from the street. Other locations for the pool and

retaining wall were considered, but the location of the existing septic field in the small grassy area behind the house and the steep slopes limits other feasible locations.

The Johnsons communicated with their immediately adjacent neighbors regarding the variance requests and their neighbors are supportive of the application. Emails of support are included in the agenda packet.

Variance Criteria Review:

When applying for a variance, the applicant has established by competent evidence that:

1. The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.

The application states –

“A. The grade of our lot is severe...Building a pool on our property requires that we ensure the reasonable safety of others. We have no other location on our property in which to build a pool except on the steepest topography of our lot...”

“B. There are no improvements affected by the requested side setback variance, and the owner of the adjoining side property has consented to and supports our setback variance request.”

“C. Given our house sits on a hill with a severe grade, we believe the retaining wall and pool will protect our home from fire risk”

“D. The severity of the topography has created a wildlife refuge between our home and a wet weather creek in the canyon. We plan to ensure that habitat is preserved...”

2. There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.

The application states –

“A. The addition of the retaining wall and garden space is 1% of the footprint of our 91, 868.04 sq. ft. lot.”

“B. Constructing another set of fences or leaving the restrictive deer fencing that exists would be more limiting to the movement of wildlife, and it is our intention to landscape using predominantly native plants and grasses to minimize the use and impact of pesticides, herbicides and fertilizers and further enhance the natural habitat.”

3. There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.

The application states –

“A. Augmenting the existing or building a fence within the setback would also require a variance and could be an eye sore for our neighbors and restrict the movement of wildlife.”

“B. Constructing a subgrade retaining wall is the alternative that least interferes with our neighbors, is most consistent with the intent of existing applicable ordinances

and provides the greatest safety around our home and the pool we are constructing.”

4. The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.

The application states –

“A. For the reasons stated above, it is the least invasive variance of any alternative.”

“B. The wall has been designed to be as low as possible but to accomplish our goals, given the severe topography, to minimize the size of the variance.”

5. The variance does not violate the intent of the Zoning Ordinance or goals of the Comprehensive Plan.

The application states –

“A. It is the most consistent with that intent of all alternatives for the reasons stated.”

“B. Our home is right at the urban/wildlife interface. Constructing a stone retaining wall, planted with small flowering natives, will dramatically enhance fire safety in addition to the safety around the pool we are constructing that is connected to it.”

6. The variance will not adversely affect neighboring properties or interfere with the enjoyment of these properties by their owners.

The application states –

“A. For all the reasons stated above, it is the only option that will not interfere with our neighbors on either side, or their enjoyment of their own property. Our neighbors on both sides of our house as well as across the street support our application for a variance and have provided that in an email to the City.”

“B. Our neighbors next door have a similar retaining wall both at our property lines as well as on the rear of their home.”

“C. Similar retaining walls can be seen from our house of our neighbor’s retaining walls on Windsong (other side of the same valley we live on) who have constructed pools and yards that adhere to the cliff as this variance requests...”

Traffic/Transportation

No impact on traffic is expected.

Lighting

Outdoor lighting will be reviewed separately with the swimming pool permit application.

Building Code

The property and future construction will have to comply with all applicable City codes.

Subdivision

This request will not change the subdivision.

Comprehensive Planning Analysis

This property is located in Area 1 (Residential). The existing and future land use comply with the Master Plan.

Zoning & Planning Commission Recommendation

During the May 20, 2020 ZAPCO meeting, the Commissioners recommended approval by a vote of 4 (ayes) to 1 (nay).

Staff Recommendation

Staff recommends approval of the requested variances due to the steep topography.

Code Analysis:

Sec. 22.03.170 Site disturbance (excavation, grading or filling)

- (a) Excavating, grading or filling shall minimize the negative impacts of development on natural slopes and interfere as little as possible with the natural landscape by minimizing the alteration of the natural terrain.
- (b) The minimum site disturbance standards for earth cuts and fills are included in the drainage and erosion control design manual.
- (c) Finished open cuts of an excavation shall not exceed the 1.5H:1V ratio in undisturbed earth, 2H:1V ratio in earth fill.
- (d) Excavation shall not interfere with public or private utility systems and shall not create or aggravate any condition detrimental to the public health and safety.
- (e) Excavation and removal of excavated material, and filling shall be permitted without a permit provided such operation is clearly incidental to improvement of the property, consists of less than six cubic yards of material and the area is graded and covered by revegetation or other suitable means to prevent erosion.
- (f) No excavation, grading or filling shall be permitted in setbacks except for up to 18 inches in height or depth.
- (g) Any wall shall not exceed six (6) feet in height above natural grade.
- (h) Walls shall either incorporate the use of native materials or be earth-tone colors to match native soils.
- (i) All walls of three (3) feet or more shall require shrubbery and/or vines of healthy stock and of a minimum of two (2) feet in height immediately after planting in front of the retaining wall. All shrubbery and/or vines shall be planted and maintained so as to form a continuous, unbroken, solid, visual screen which will grow to the same height or more of the retaining wall.

Sec. 22.03.275 Building setback distances

- (a) (1) No principal building shall have any front, side or rear setback distance less than that shown on the schedule of regulations as being required in the district in which the building is located, except that the minimum setback distance from Bee Cave Road shall be 50 feet regardless of which direction the building is facing. The setback distance from the Capital of Texas Highway shall be a minimum of 75 feet.

(2) Unroofed steps and ramps shall not be considered as part of the principal building when measuring the setback distance of such building.

(3) Buildings, including overhangs and eaves, shall not encroach into setbacks.

(Ordinance 211, sec. 6, adopted 1/26/11)

(b) Yards are the open areas between building setback lines and lot lines. Structures shall not be permitted in yards except as otherwise provided herein.

(1) Front yards. Front yards extend the full width of the lot. Their depth is measured from the edge of the right-of-way line of the street to the minimum front setback line.

(2) Rear yards. Rear yards extend the full width of the lot. Their depth is measured from the rear lot line to the minimum rear setback line.

(3) Side yards. Side yards extend from the front yard to the rear yard. Their depth is measured from the side lot line to the nearest minimum side setback line.

(c) In the case of lots abutting on more than one street, the full width of the front yard shall be provided from each street.

(Ordinance 152, att. A, adopted 4/29/09)

Sec. 22.03.276 Setbacks for accessory structures

The minimum setback distances for accessory structures, other than unroofed steps, ramps, fences, walks, driveways, driveway gates, playscapes, and mailboxes, shall be the same as the setback distances applicable to a principal building under the appropriate category in section 22.03.281. Accessory structures, including overhangs and eaves, shall not encroach into setbacks.

Sec. 22.03.281 Schedule of regulations

(a) Where the slope gradient exceeds 25 percent nonresidential development is not permitted.

(b) Dimensional regulations for listed zoning districts:

Dimensional Minimums of Lots									
Dimension/Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Acreage (acres) (A)	1	1	2	1.5	2	1.5	2	20	30
Depth (feet)	150	150	400	200	200	200	200	500	(C)
Width (feet) (B)	150	150	400	150	150	150	150	500	(C)

(1996 Code, sec. 14-295)

Minimum Building Setback Distance in Feet From Front Lot Line									
Lot Size/Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Greater than or equal to .5 acre	50	50	50	50	50	50	50	(IV)(a)	(C)
Less than .5 acres	30	30	N/A	30	30	30	30	N/A	N/A
Minimum Building Setback Distance in Feet From Rear Lot Line									

Lot Size/Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Greater than or equal to .5 acre	30	30	50	40	40	40	40	(IV)(c)	(C)
Less than .5 acres, greater than or equal to .375 acres	25	25	N/A	30	30	30	30	N/A	N/A
Less than .375 acres—zero	15 (F, E)/ 20	15 (F, E)/ 20	N/A	30	30	30	30	N/A	N/A
Minimum Building Setback Distance in Feet From Side Lot Lines									
Lot Size/Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Greater than or equal to .5 acre	25	25	50	(I)	(I)	(I)	(I)	(IV)(c)	(C)
Less than .5 acres, greater than or equal to .375 acres	20	20	N/A	(II)	(II)	(II)	(II)	N/A	N/A
Less than .375 acres—zero	15 (F, E)/ 20	15 (F, E)/ 20	N/A	(II)	(II)	(II)	(II)	N/A	N/A
Maximum Impervious Cover in Percent of Lot Area									
Lot Size/Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Greater than or equal to .5 acre	25%	25%	25%	(IX)	(III)	(III)	(III)	(V)	(C)
Less than .5 acres, greater than or equal to .2 acres	*, †	*, †	25%	(IX)	(III)	(III)	(III)	(V)	(C)

* The following formula applies:

$P = (\text{size of acre expressed as a whole number and decimal}) \times (.5) - (.5)$

Example:

$P = (.25 \text{ acres}) (.5) - .5$

$P = (.125) - .5 = -.375\%$

$P = 37.5\%$ allowable impervious cover for a .25 acre lot

† In order to receive and increase in allowable impervious cover over 25%, the property must be connected to the city's wastewater service.

(A) Land donated/dedicated to and accepted by the city shall be credited to the area of the lot/tract from which the donated land originated.

(B) For residential lots on culs-de-sac, the minimum lot width at the front street property line shall be 33 feet measured along the chord of the arc.

(C) See section 38.03.040 et seq.

(D) Residential 30 feet; nonresidential 37 feet.

(E) No portion of the structure in an extended setback shall be taller than 16' above natural grade.

(F) If the proposed building is a one-story structure, the lesser setback distance applies. If any portion of the building is a two-story structure, the greater setback distance applies.

Sec. 22.03.514 Criteria required for granting variance

No variance shall be granted under this chapter unless the following criteria are fulfilled:

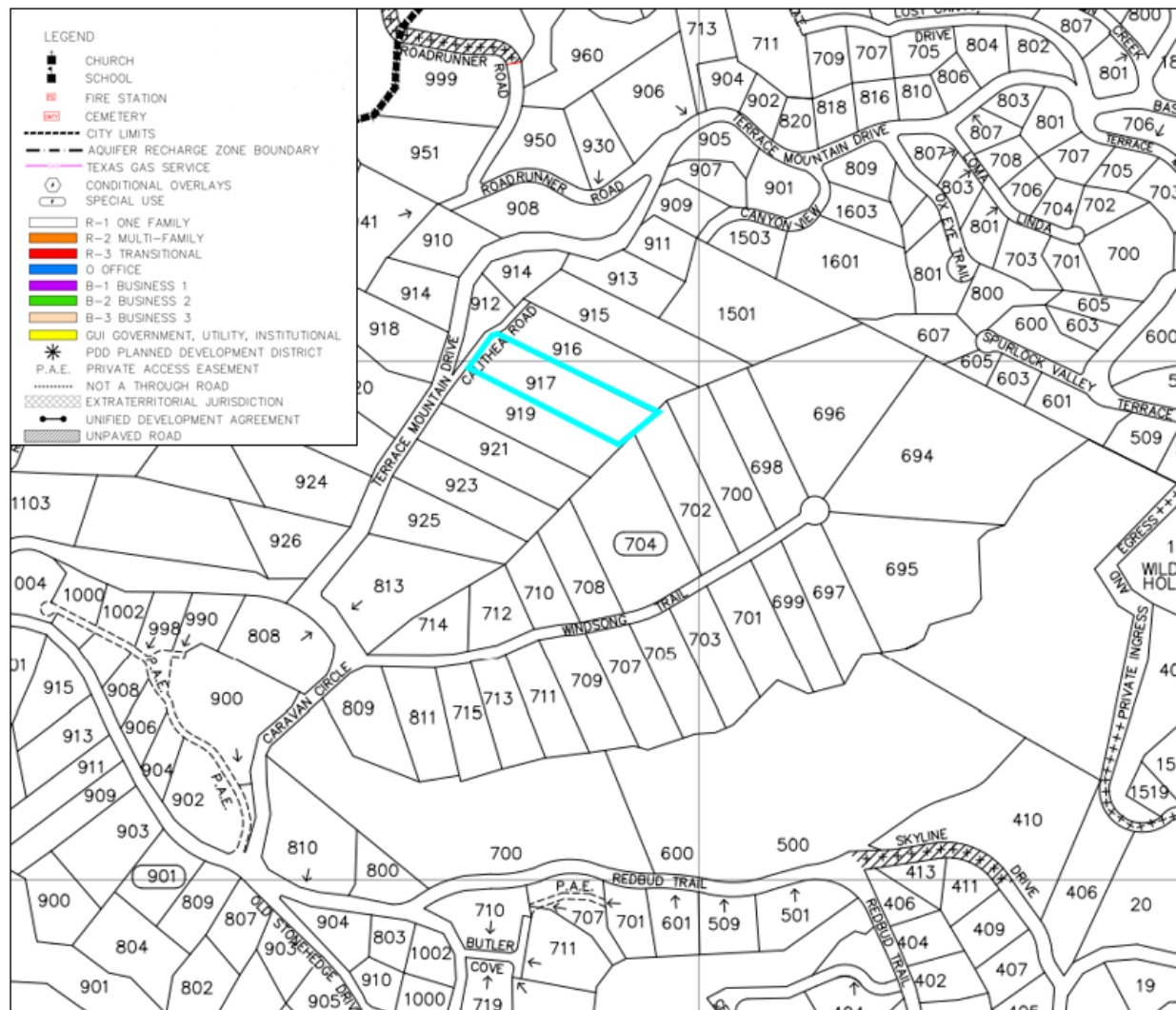
(1) Findings. The applicant has established by competent evidence that:

- (A) The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.
 - (B) There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.
 - (C) There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.
 - (D) The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.
- (2) ZAPCO. The recommendation of zoning and planning commission shall include an analysis of whether:
- (A) The variance may violate the intent of this chapter or the goals of the city's comprehensive plan; and
 - (B) The variance may have an adverse effect on neighborhood properties, or interfere with the respective owners' enjoyment thereof; and
 - (C) When considering variance requests for nonresidential projects in the Commercial Overlay District, whether the variance, when considered as part of the proposed project (as a whole), furthers achievement of the land planning principles set forth in the city's master plan, attachment B, as codified in article 28.02 of this code.
- (3) Conditions. The city council can impose, and the zoning and planning commission can recommend imposition of, reasonable conditions upon granting a variance if the conditions are related to the subject of the variance. When considering variance requests for nonresidential projects in the Commercial Overlay District are necessary to achieve one or more of the land planning principles set forth in the city's master plan, attachment B, as codified in article 28.02 of this code.

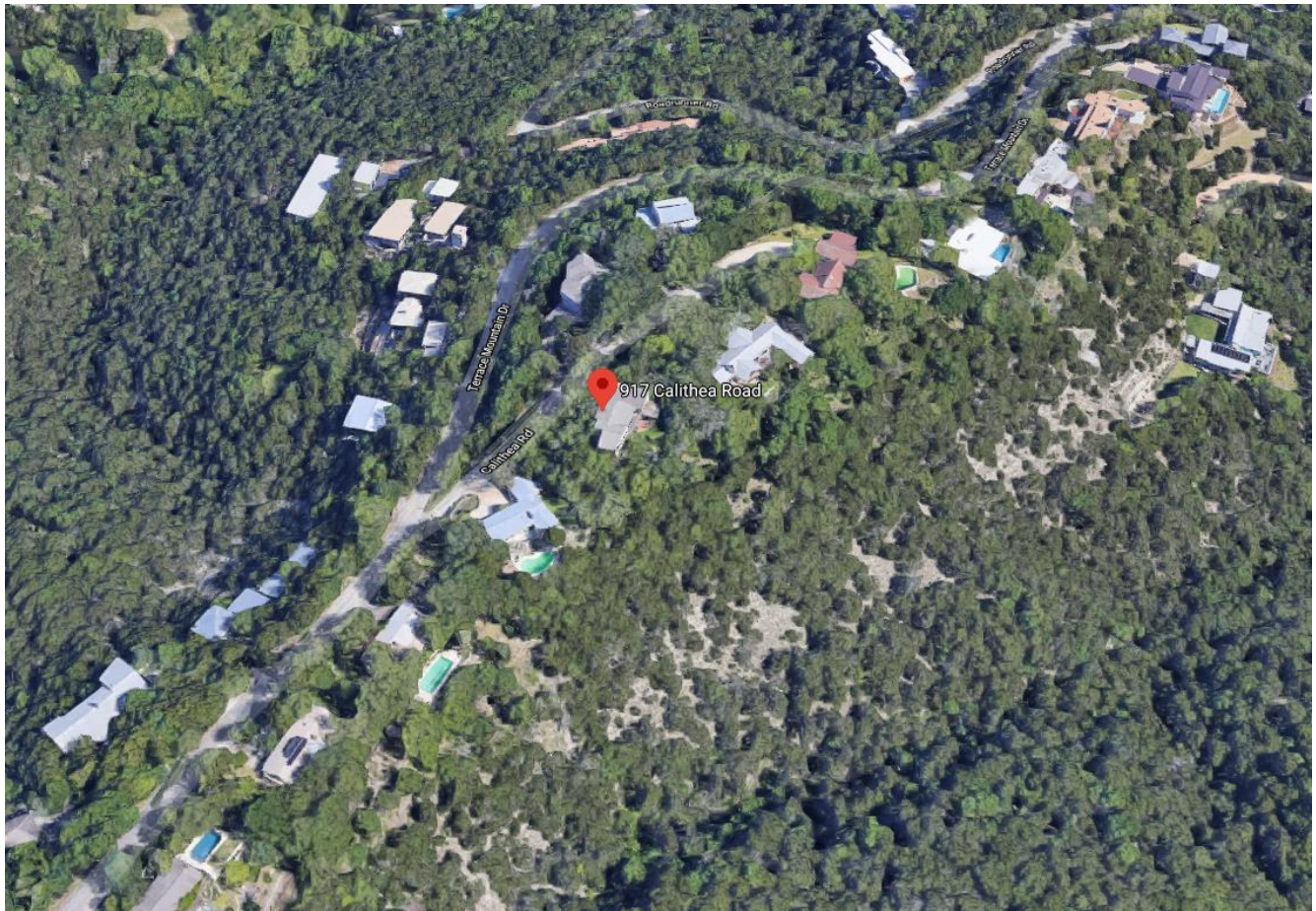
(Ordinance 137, att. A, adopted 9/15/08)

(Maps to follow)

Zoning:



Aerial:



APPLICATION COVER SHEET

Property Address: 917 Calithea Road
Applicant Name: Cortney and Patrick Johnson
Designated Agent (if any, Power of Attorney Required): Trey Jones
Applicant Phone Number: 512-507-2750 Email Address: [REDACTED]
Date Application was Submitted: 4/16/2020
Variance(s) Requested: retaining wall above 18" in 25' setback; retaining wall exceeding 6'

Applicant completes above section; City Staff completes the section below:

Variance File Number: _____ [A sequential identifier based on application date and noted in a Variance Application Log maintained by staff. Examples: 20110903A, 20110903B, 20111021A, etc.]

Application Fees Due: \$ _____ ☐ Fees Received on _____ by _____

DRAFT APPLICATION PACKET MATERIALS

Draft Application Packet Received on _____ by _____
☐ Letter to ZAPCO Chairperson ☐ Variance Approval Criteria Answers
☐ Site Plan Coversheet ☐ Site Plan Drawings
☐ Elevation Views and Floor Plans (new structures only)
☐ Septic Assessment (new structures only)
☐ Additional Support Materials (if any): _____
☐ Power of Attorney (if any) – Designated Representative: _____
Staff Analysis completed on _____ by _____
Staff Analysis sent to Applicant on _____ by _____

FINAL APPLICATION PACKET

Final Application Packet Reviewed and Approved on _____ by _____
Notice to Proceed Letter sent to Applicant on _____ by _____
• Notification Letter must be postmarked by _____ ☐ Confirmed by _____
• Sign must be posted by _____ ☐ Confirmed by _____
15 Copies of Final Packet received on _____ ☐ Confirmed by _____

ZAPCO

Scheduled for ZAPCO Hearing on: _____
ZAPCO Action Letter sent on _____ by _____
ZAPCO Recommendation: _____
Conditions/Comments (if any): _____
Modified application and materials (if any) received on _____ by _____

BOA/CITY COUNCIL

Scheduled for BOA/Council Hearing on: _____
BOA/Council Action: _____
Conditions/Comments (if any): _____
BOA/Council Action Letter sent on _____ by _____

FOLLOW-UP

Follow-up dates (vegetative screening installed, survival verification, etc.): _____
• Notifications added to Incode on _____ by _____
Postponement History (if any): _____
Notes: _____

LETTER TO ZAPCO CHAIRPERSON

DATE: April 16, 2020

Chairman Robert Meisel

West Lake Hills Zoning and Planning Commissions

911 Westlake Drive

West Lake Hills, Texas 78746

Dear Mr. Chairman,

My husband and I have lived in West Lake Hills for more than a decade. Two years ago, we purchased a house at 917 Calithea Road to accommodate our expanding young family. We aspire to build a pool at our new house for our children to grow up in a similar environment to the way that my husband and I were both raised, with a love of the outdoors

Our property at 917 Calithea is on the side of a cliff and presents a hardship for us to be able to construct a pool as well as safeguard against entrants to the property from that pool. We envisioned utilizing retaining walls to both expand our small yard space and as an element of the pool design to ensure safety in the pool space.

We have considered constructing a series of fences, which we believe would be an eye sore for us and our neighbors and substantially interrupt the flow of wildlife on the property. It is with this in mind that we are seeking this variance.

Sincerely,
Cortney & Patrick Johnson

Project Name: 917 Calithea Road

Variance

Requested Action: Construct a stone retaining wall higher than 18" within one side setback, which also scales to a point higher than 6' for a portion of the wall

Applicant Information: Patrick and Cortney Johnson (owners)

Location: The subject property is located on a side street off Terrace Mountain Drive: LOT 5 BLK O TERRACE MOUNTAIN BLK O. Property ID: 119935, Geographic ID: 0119150205.

Zoning & Characteristics: The subject property and surrounding neighborhood are zoned R-1—One-Family Residential. Our family home is located on the property. The property is 2.1090 acres of land (91,868.04 sq. ft. per TCAD), where most of the portion of the lot (outside of the footprint of the house) is on a very steep cliff. The lot is ~160 feet wide (front) and ~600 feet deep (side) (per survey), essentially a very long, but narrow lot, where most of the lot is a cliff that is not occupied by our home (See EXHIBIT A and PICTURE 1).

Background & Analysis:

Patrick and I are requesting variances to construct a retaining wall in substitution of a fence at the top of our lot related to safety in connection with the construction of a pool on our property as well as a component of the expansion of a small garden space for our three children. We purchased our home at 917 Calithea Road two years ago with the intention of adding a pool. After welcoming a third child to our family, we are also increasingly concerned with their safety balanced with the desire to continue preserving the openness and movement of wildlife in the area.

Our goal is to utilize a native-planted subgrade retaining wall to limit access to the pool and provide safety from the cliff behind our house (See marked survey in EXHIBIT A). This would entail adding a flowerbed "steppe" retaining wall, with a second one 30" above it (at grade). Our vision is to allow deer, foxes, bobcats, and other animals to continue to access the property through an existing deer trail on the other side of our property that we wish to keep intact as well as through a portion of the retaining walls, which are low enough at various points for animals to scale. Given the steep terrain, this is similar to the current access they have (See PICTURES 3/4). We currently have a parameter deer fence that spans most of the width of the lot that we could remove if the retaining walls are approved to encourage the flow of wildlife.

The specific variances we are seeking are:

- 1.) to construct a retaining wall in excess of 18" within one of the 25' side setbacks and

- 2.) to allow that retaining wall to exceed the 6' maximum wall height for a portion of the retaining wall that is not connected to the pool, due to the severe topography of the narrow lot.

The retaining wall we are requesting a variance on is similar in construction to the retaining walls required for our pool. Because the pool is outside the setback and the walls are necessary to hold up the pool, they are not included in this variance request but rather are part of the pool permit that we are seeking separately.

Our next door neighbors, Jerry and Diana Vandel, at 915 Calithea Road (the side of our lot where we are requesting the variance), constructed a similar retaining wall between our properties about 10 years ago to extend their yard space, essentially a similar request as this variance, which requests an extension of their existing retaining wall (See PICTURE 2) but one that is subgrade to both of our properties to minimize the disruption that would be created by adding a series of fences. Our neighbors at 915 have provided a letter of support for our project.

We have considered other locations for our swimming pool and small garden space, including the other side of the residence, front yard, and rear. The right, side and existing small patch of grass in the back are all occupied by our septic field, which we have engineered a pool and space to preserve. The rear of our property is a cliff starting about five feet from the back of our house (See PICTURES 5/6/7).

We have received written support from all three surrounding neighbors. We have also lived in West Lake Hills for over 14 years and remain the owners of our previous family home at 818 Terrace Mountain that we outgrew with the addition of another child. Our commitment to ensuring the natural beauty that surrounds this area is reflected in the 2+ acres that will remain a lush sanctuary for animals. We have taken great care to plant butterfly and bird-attracting native species, and the variance we are requesting does not seek to destroy the natural habitat we value so much.

Variance Criteria Review:

When applying for a variance, the applicant has established by competent evidence that:

1. The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant:
 - A. The grade of our lot is severe (See EXHIBIT A and PICTURE 1). Building a pool on our property requires that we ensure the reasonable safety of others. We have no other location on our property in which to build a pool except on the steepest topography of our lot. We would want to install a fence to code (42"), if we are unable to install a retaining wall. We have an existing deer fence that we hoped to be able to remove the lower portion of by adding the retaining wall to allow the animals to move more freely.

Given our topography, we would likely still require a new fence variance to augment or replace the existing one and ensure safety.

- B. There are no improvements affected by the requested side setback variance, and the owner of the adjoining side property has consented to and supports our setback variance request.
- C. Given our house sits on a hill with a severe grade, we believe the retaining wall and pool will protect our home from fire risk.
- D. The severity of the topography has created a wildlife refuge between our home and a wet weather creek in the canyon. We plan to ensure that habitat is preserved. Below is a reflection of the lot and topography. A survey is included in EXHIBIT A.69+6



- 2. There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.
 - A. The addition of the retaining wall and garden space is 1% of the footprint of our 91,868.04 sq. ft. lot.
 - B. Constructing another set of fences or leaving the restrictive deer fencing that exists would be more limiting to the movement of wildlife, and it is our intention to landscape using predominantly native plants and grasses to minimize the use and impact of pesticides, herbicides and fertilizers and further enhance the natural habitat.
- 3. There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.
 - A. Augmenting the existing or building a fence within the setback would also require a variance and could be an eye sore for our neighbors and restrict the movement of wildlife.

- B. Constructing a subgrade retaining wall is the alternative that least interferes with our neighbors, is most consistent with the intent of existing applicable ordinances and provides the greatest safety around our home and the pool we are constructing.
4. The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.
- A. For the reasons stated above, it is the least invasive variance of any alternative.
 - B. The wall has been designed to be as low as possible but to accomplish our goals, given the severe topography, to minimize the size of the variance.
5. The variance does not violate the intent of the Zoning Ordinance or goals of the Comprehensive Plan.
- A. It is the most consistent with that intent of all alternatives for the reasons stated.
 - B. Our home is right at the urban/wildlife interface. Constructing a stone retaining wall, planted with small flowering natives, will dramatically enhance fire safety in addition to the safety around the pool we are constructing that is connected to it.
6. The variance will not adversely affect neighboring properties or interfere with the enjoyment of these properties by their owners.
- A. For all of the reasons stated above, it is the only option that will not interfere with our neighbors on either side, or their enjoyment of their own property. Our neighbors on both sides of our house as well as across the street support our application for a variance and have provided that in email to the City.
 - B. Our neighbors next door have a similar retaining wall both at our property line as well as on the rear of their home.
 - C. Similar retaining walls can be seen from our house of our neighbor's retaining walls on Windsong (other side of the same valley we live on) who have constructed pools and yards that adhere to the cliff as this variance requests (see example PICTURE 8).



PICTURE 1: PICTURE OF CLIFF



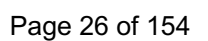
PICTURE 2: EXISTING RETAINING WALLS BETWEEN US AND NEIGHBORS AT 915 CALITHEA ROAD

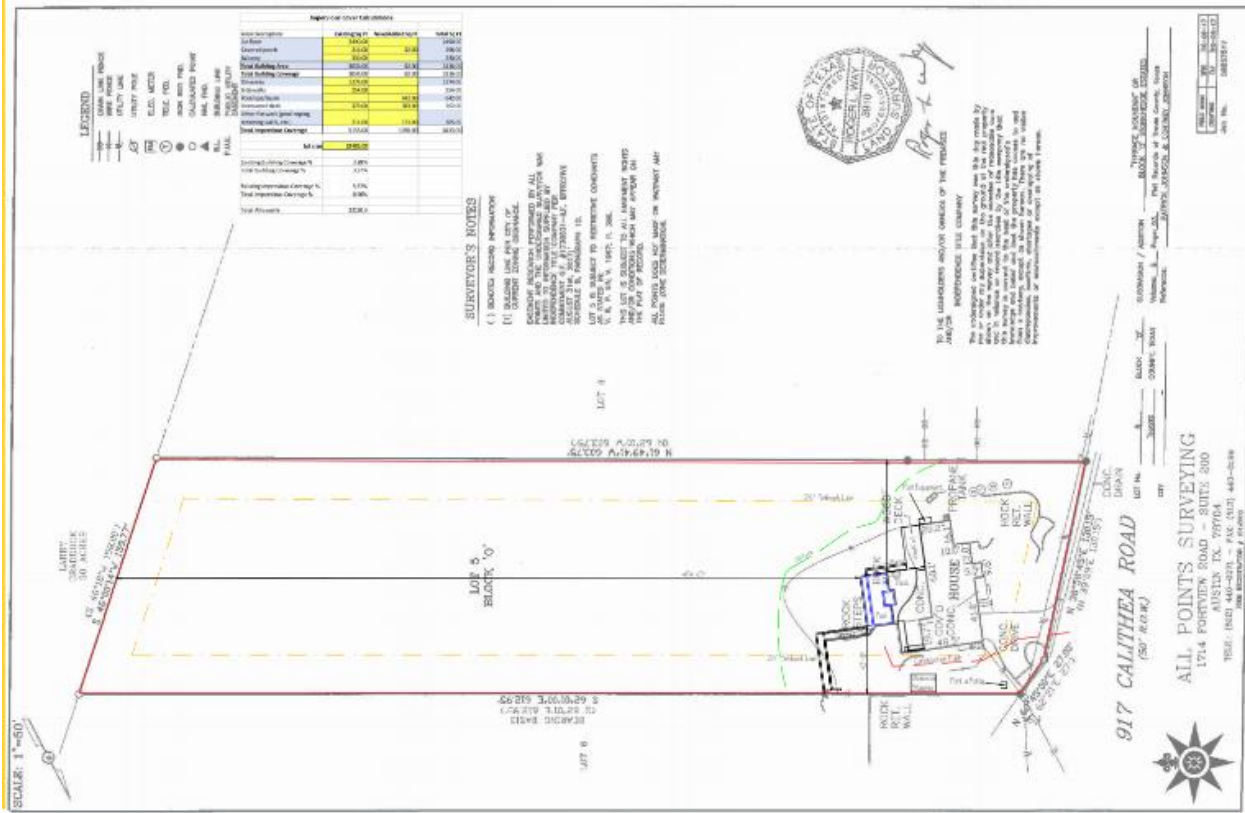


PICTURES 3/4: EXISTING SPACE WHERE WE WOULD LIKE TO ADD THE RETAINING WALL-
CURRENT GRASSY AREA IS A SMALL PATCH OF THE SEPTIC FIELD



Construction Plan

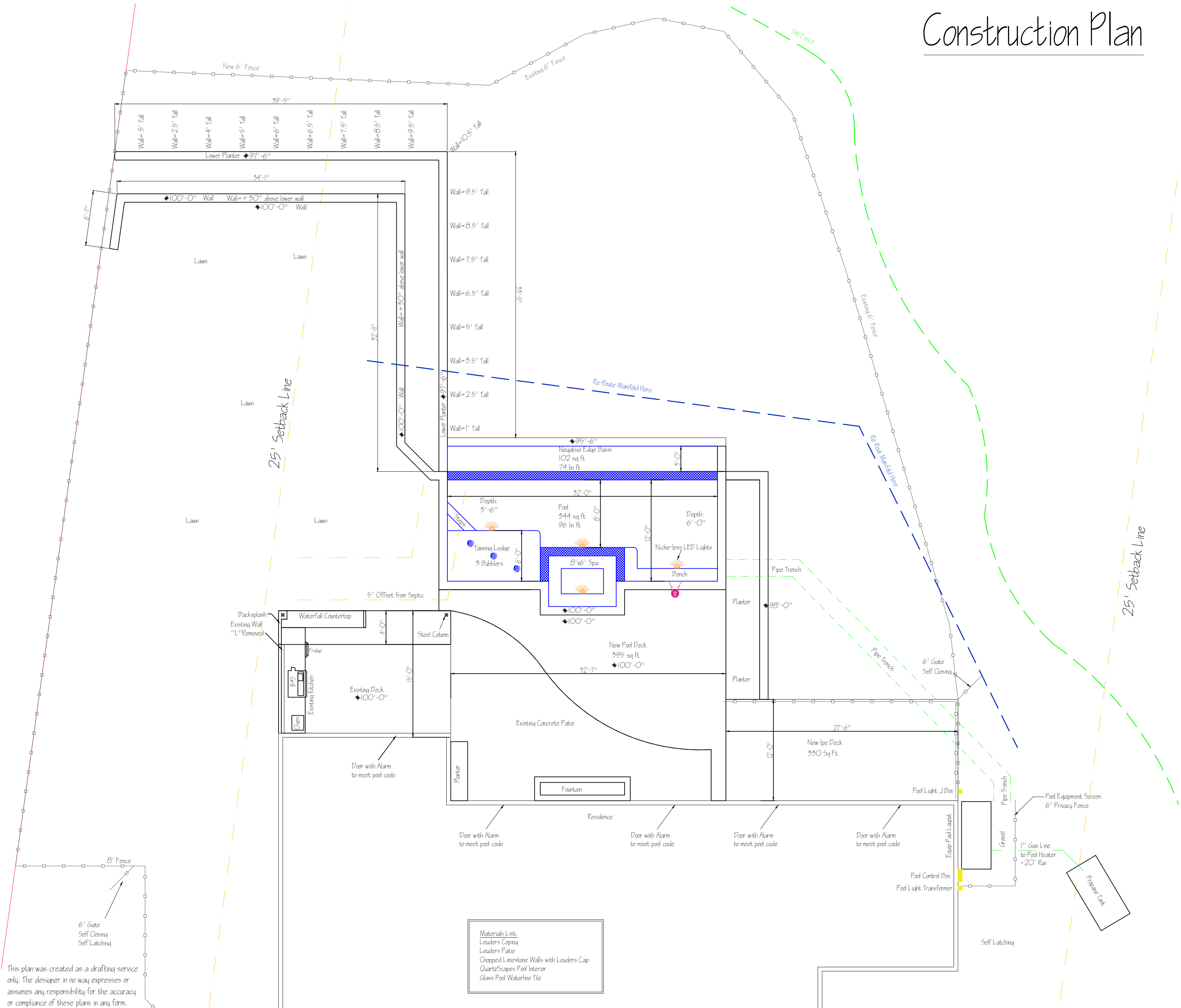




PICTURE 8: EXAMPLE OF NEIGHBORS ON OTHER SIDE OF VALLEY (ON WINDSONG) AND HOW THEY HAVE CONSTRUCTED SIMILAR RETAINING



Construction Plan



Calithea Residence

Address: 917 Calithea Rd West Lake Hills, TX 78746

Job: 2018/P.D.G.

View: C-Sheet (1 Plan)

File: Calitheadwg

Date: 05/06/2020

Scale: 1/8" = 1'-0"

Drawn By: CEE

SCALE: 1"=50'

LARRY GRADDOCK
30 ACRES
 $S\ 46^{\circ}00'14''W\ 159.77'$
 $S\ 46^{\circ}18'N\ 159.00'$

LOT 5 BLOCK 'O'

LOT 6
BEARING BASIS
(S 62°01'E 612.95')
S 62°01'00"E 612.95'

LOT 4
N 61°49'41"W 603.75'
(N 62°01'W 603.75')

LEGEND

- CHAIN LINK FENCE
- WIRE FENCE
- UTILITY LINE
- UTILITY POLE
- ELEC. METER
- TELE. PED.
- IRON ROD FND.
- CALCULATED POINT
- NAIL FND.
- BUILDING LINE
- PUBLIC UTILITY EASEMENT
- B.L.P.E.

Impervious Cover Calculations

Area Description	Existing Sq Ft	New/Added Sq Ft	Total Sq Ft
1st floor	2490.00		2490.00
Covered porch	214.00	82.00	296.00
Balcony	330.00		330.00
Total Building Area	3034.00	82.00	3116.00
Total Building Coverage	3034.00	82.00	3116.00
Driveway	1274.00		1274.00
Sidewalks	254.00		254.00
Pool/spa/basin		642.00	642.00
Uncovered deck	379.00		383.00
Other flatwork (pool coping, retaining walls, etc.)	212.00	173.00	385.00
Total Impervious Coverage	5153.00	1280.00	6433.00
Lot size	92482.00		
Existing Building Coverage %	3.28%		
Total Building Coverage %	3.37%		
Existing Impervious Coverage %	5.57%		
Total Impervious Coverage %	6.96%		
Total Allowable	23120.5		

SURVEYOR'S NOTES

() DENOTES RECORD INFORMATION

[1] BUILDING LINE PER CITY OF CURRENT ZONING ORDINANCE.

EASEMENT RESEARCH PERFORMED BY ALL POINTS AND THE UNDERSIGNED SURVEYOR WAS LIMITED TO THE INFORMATION SUPPLIED BY INDEPENDENCE TITLE COMPANY PER COMMITTEE G.F. #1738631-ILE, EFFECTIVE AUGUST 31st, 2017; SCHEDULE B, PARAGRAPH 10.

LOT 5 IS SUBJECT TO RESTRICTIVE COVENANTS AS STATED IN V. & P. 93; V. 1967; P. 398.

THIS LOT IS SUBJECT TO ALL EASEMENT RIGHTS AND/OR CONDITIONS WHICH MAY APPEAR ON THE PLAT OF RECORD.

ALL POINTS DOES NOT MAKE OR WARRANT ANY FLOOD ZONE DETERMINATION.

TO THE LIEBHOLDERS AND/OR OWNERS OF THE PREMISES AND/OR INDEPENDENCE TITLE COMPANY

The undersigned certifies that this survey was this day made by me or under my supervision on the ground of the real property shown as being surveyed and that I am a duly licensed land surveyor in the State of Texas and in reliance on record records by which this survey is correct to the best of the undersigned's knowledge and belief and that the property has access to and from a roadway, except as shown herein. There are no visible encroachments, corners, shortages or overlapping of improvements or encroachments except as shown hereon.

917 CALITHEA ROAD ('50' R.O.W.)

CONC. DRAIN

LOT No. 5

TRAFS

BLOCK 'O'

COUNTY, TEXAS

Volume, B Page 53

Reference:

TERRACE MOUNTAIN OR BLOCK 'O' SUBDIVISION

Patrick Johnson & Courtney Johnson

ALL POINTS SURVEYING
1714 FORTVIEW ROAD - SUITE 200
AUSTIN TX 78704
TELE: (512) 440-0071 - FAX: (512) 440-0199
FIRM REGISTRATION # 10118010

FIELD WORK JW 10-08-17
DRAWING DJ 10-08-17
Job No. 09B37517



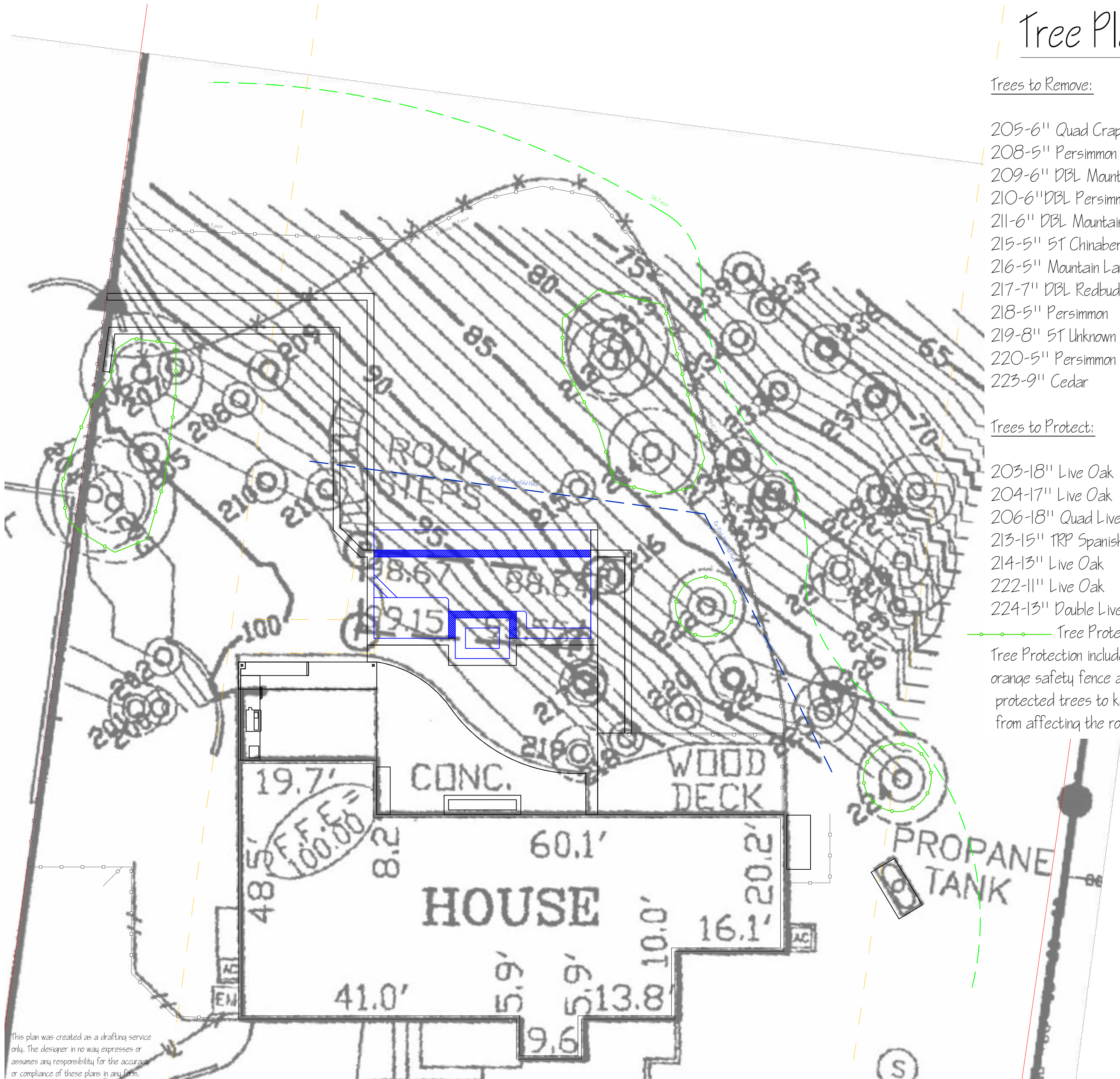
PDG

PROPERTY DESIGN GROUP

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PERMISSION OF PDG. REPRODUCTION OF ANY PART OF
THIS PLAN SET IS STRICTLY PROHIBITED.

File: Calithea.dwg Date: 05/06/2020

Drawn By: CEE



This plan was created as a drafting service only. The designer in no way expresses or assumes any responsibility for the accuracy or compliance of these plans in any form.

Tree Plan

Trees to Remove:

- 205-6" Quad Grape Myrtle
- 208-5" Persimmon
- 209-6" DBL Mountain Laurel
- 210-6" DBL Persimmon
- 211-6" DBL Mountain Laurel
- 215-5" 5T Chinaberry
- 216-5" Mountain Laurel
- 217-7" DBL Redbud
- 218-5" Persimmon
- 219-8" 5T Unknown
- 220-5" Persimmon
- 223-9" Cedar

Trees to Protect:

- 203-18" Live Oak
- 204-17" Live Oak
- 206-18" Quad Live Oak
- 213-15" TRP Spanish Oak
- 214-13" Live Oak
- 222-11" Live Oak
- 224-13" Double Live Oak

Tree Protection Fence
Tree Protection includes putting orange safety fence around protected trees to keep construction from affecting the root zone of the tree.



Calithea Residence

Address: 917 Calithea Rd West Lake Hills, TX 78746

Job: 2018/P.D.G. View: C-Sheet (3 Tree Plan)

File: Calitheadwg Date: 05/06/2020

Scale: 3/32" = 1'-0"

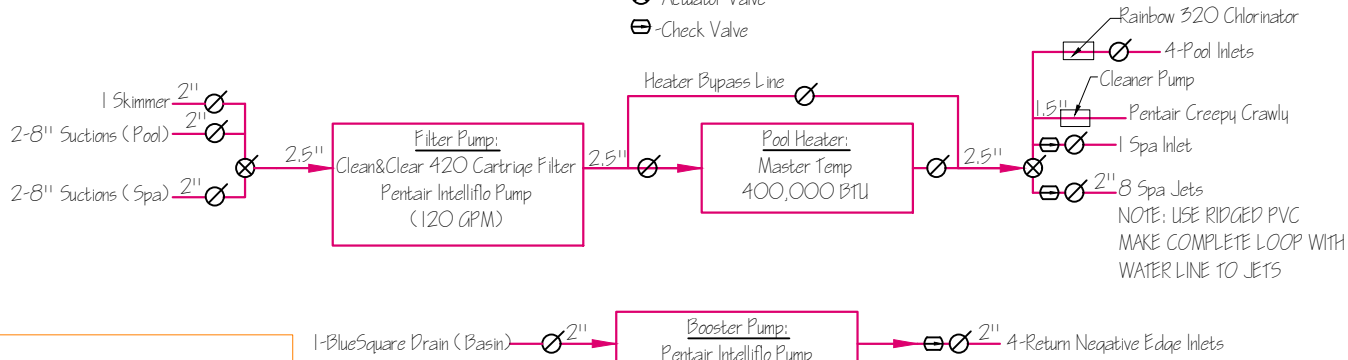
Drawn By: CEE

Pool Equipment Layout

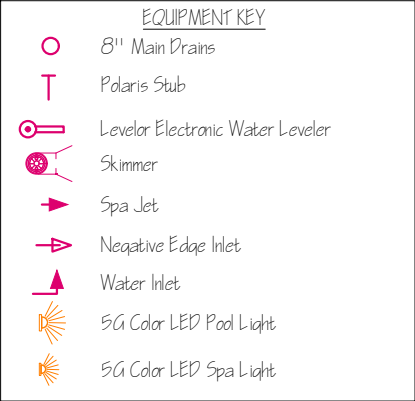
Scale: 1/8"=1'-0"

Pool Equipment Layout

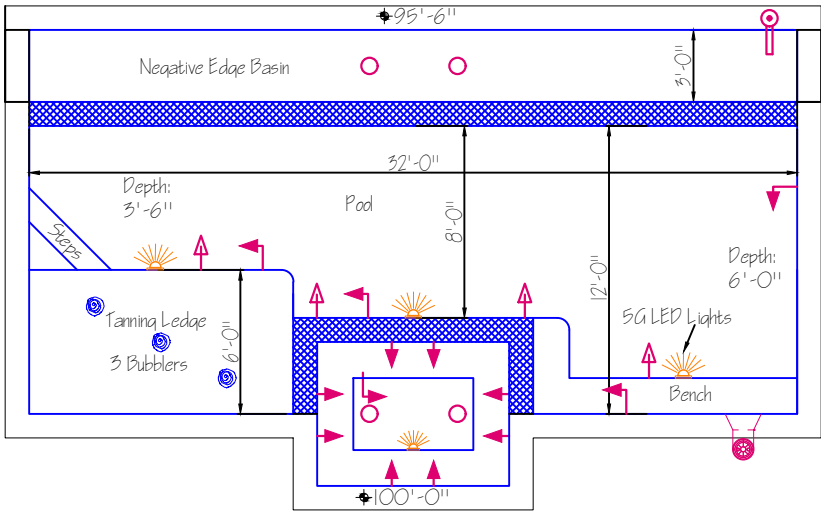
- Manual Valve
- Actuator Valve
- Check Valve



Pool Perimeter is 96 lin ft
3-Pentair IntelliBrite SG 12v LED RGB Pool Lights - 1000 lumens each
Spa Perimeter is 28 lin ft
1-Pentair IntelliBrite SG 12v LED RGB Spa Light - 400 lumens each



NOTE: For specific instructions on equipment installation, please see manufacturers instruction manuals.
NOTE: Pool Light need to be routed to a J-Box 9" above water level and then over to the transformer at the pool equipment.
NOTE: Bond all metal objects within 5' of the pool water.
I.E. Metal Handrails, diving boards, slide components, ect...
NOTE: Pool and Spa drains will be VDMA compliant.
NOTE: Negative Edge wier wall must be level to a tolerance of 1/16".



11,000 gallons ÷ Clean&Clear 420 Filter (120 gpm capacity) = 1.5 hr turnover rate

Pool Equipment:

- 2-8" Main Drains
- 400K Pod Heater
- Pentair IntelliFlo Filter Pump
- Pentair 480 Cartridge Filter
- 1-Skimmer
- 1-Pentair Cleaner Pump
- 1-Creapy Crawly Cleaner
- Chlorine Tab Feeder
- 4-Pod Inlets
- 4-Negative Edge Overflow Inlets
- 3-Nicheless LED Pool Lights
- 1-Intermatic 100w transformer
- EasyTouch PSL4 w/ Screen-o-gic Bundle

Spa Equipment:

- 2-8" Main Drains
- 1-Nicheless LED Pool Light
- 1-Intermatic 100w transformer
- 8-Spa Jets
- 1-Spa Inlet
- 1-Polaris Air Blower

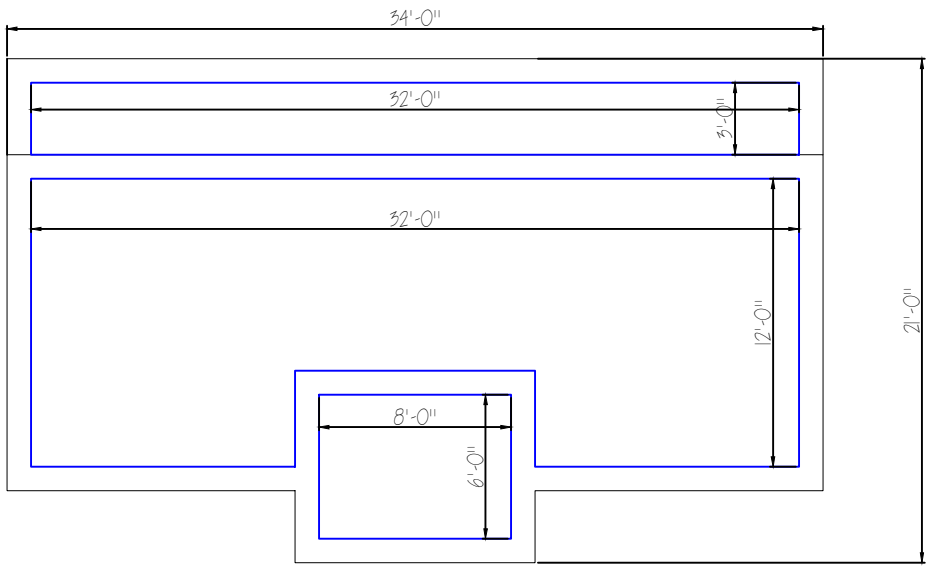
Basin Equipment:

- 2-8" Main Drains
- 1-Electronic Water Leveler

Pool Dimensions

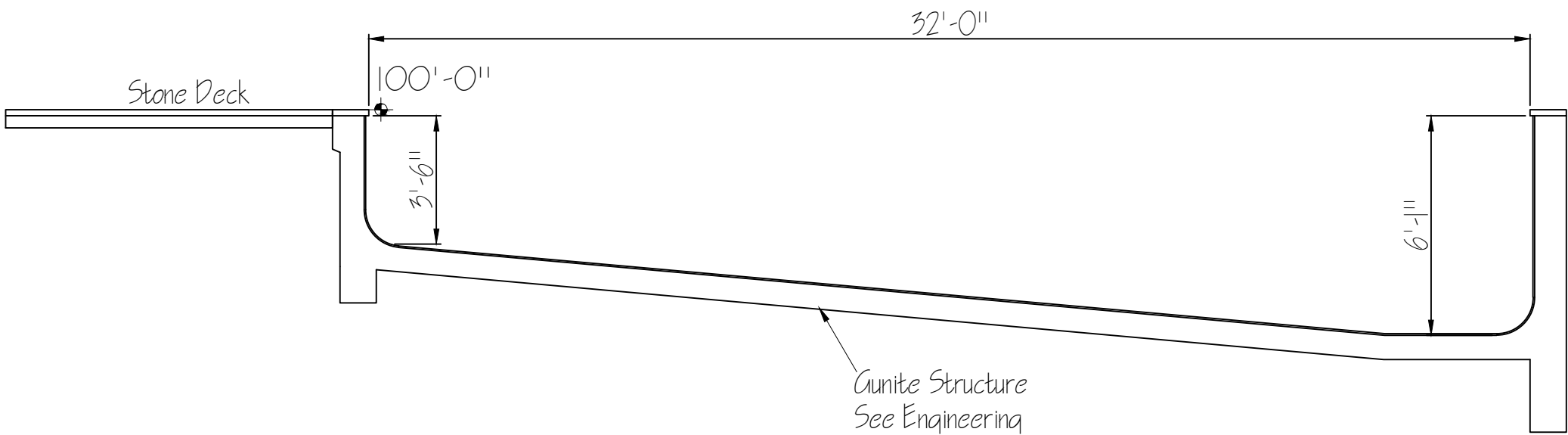
Scale: 1/8"=1'-0"

Pool Details Plan



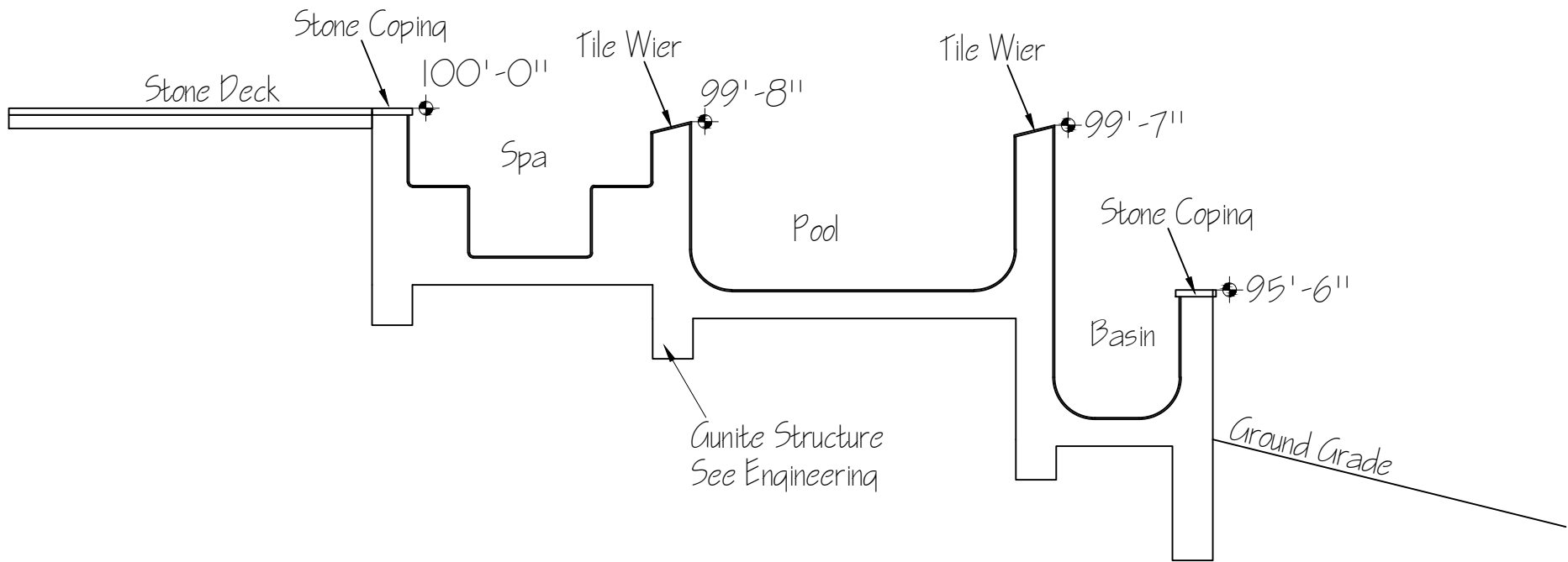
Pool Depth Profile

Scale: 1/4"=1'-0"



Pool Edge Detial

Scale: 1/4"=1'-0"



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Calithea Residence

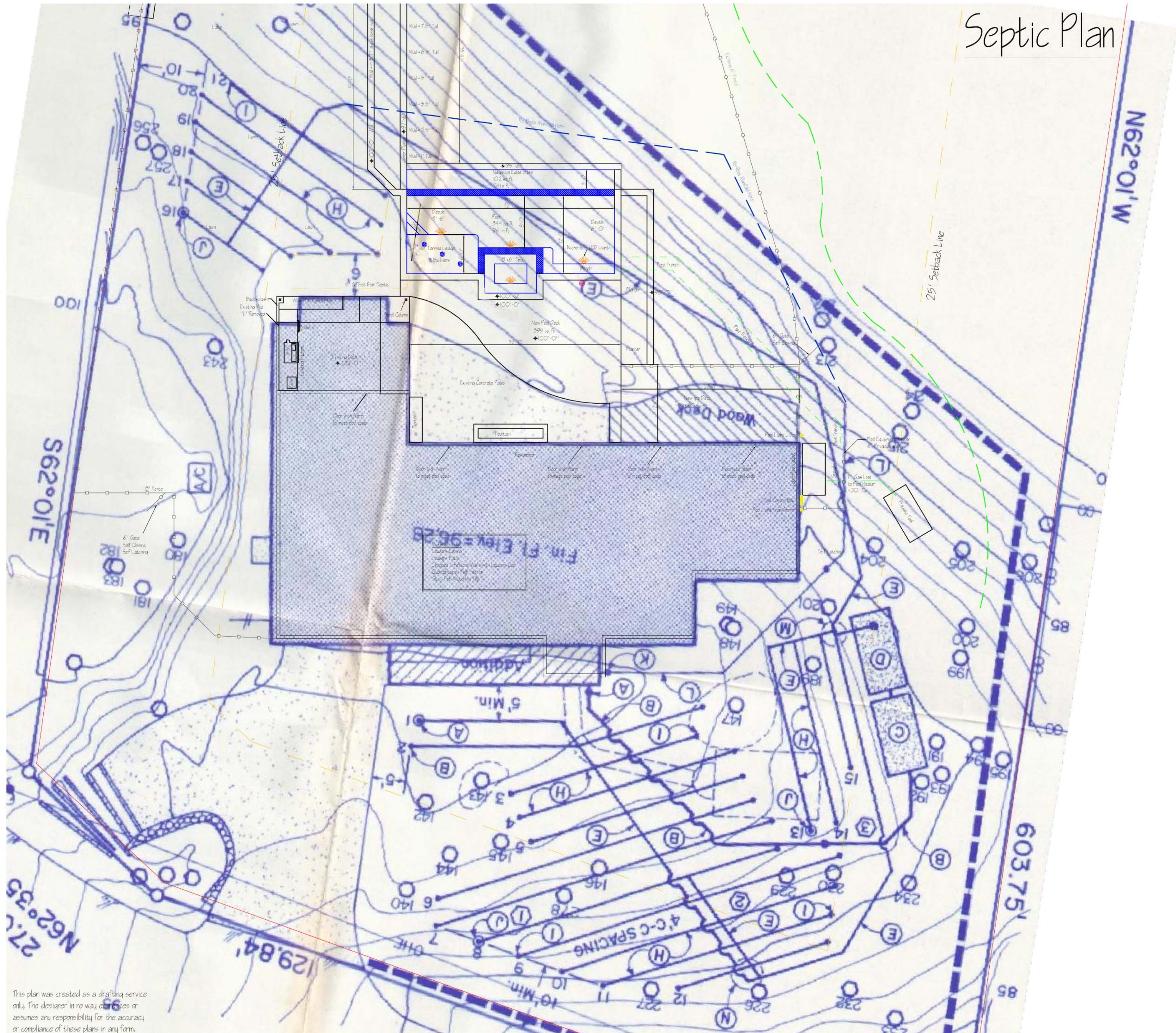
Address: 917 Calithea Rd West Lake Hills, TX 78746

Job: 2018/P.D.G. View: C-Sheet (4 Pool Details)

File: Calitheadwg Date: 05 / 06 / 2020

Scale: Per Viewport

Drawn By: CEE



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Septic Plan



PDG

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Calithea Residence

Address: 917 Calithea Rd West Lake Hills, TX 78746

Job: 2018/P.D.G.

View: C-Sheet (5 Septic Plan)

File: Calitheadwg

Date: 05 / 05 / 2020

Scale: 3/32" = 1'-0"

Drawn By: CEE

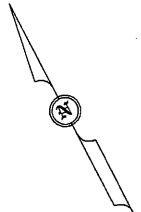








SCALE: 1"=60'



LARRY
CRADDOCK
30 ACRES

S 46°18'W 158.00'
S 46°00'14"W 159.77'

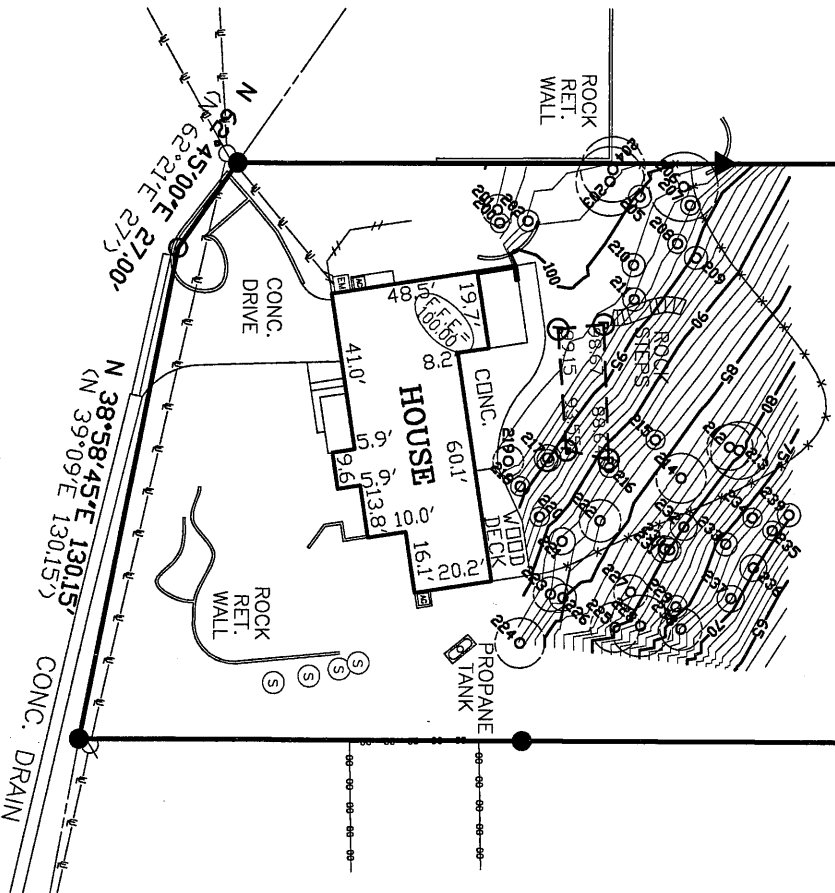
LOT 4

LOT 5
BLOCK "O"

BEARING BASIS
(S 62°01'E 612.95')
S 62°01'00"E 612.95'

N 61°49'41"W 603.75'
(N 62°01'W 603.75')

LOT 6



LEGEND	
—●—	CHAIN LINK FENCE
—x—	WIRE FENCE
—u—	UTILITY LINE
⊙	UTILITY POLE
⊞	ELEC. METER
①	TELE. PED.
●	IRON ROD FND.
○	CALCULATED POINT
⊙	PIN FLAG SET
▲	NAIL FND.
BL	BUILDING LINE
P.U.E.	PUBLIC UTILITY EASEMENT

TREE TABLE

200	5" MOUNTAIN LAUREL
201	8" QUAD MOUNTAIN LAUREL
202	5.5" DBL MOUNTAIN LAUR
203	18" LIVE OAK
204	17" LIVE OAK
205	6" QUAD GRAPE MYRTLE
206	18" QUAD LIVE OAK
207	5" DBL MOUNTAIN LAUREL
208	5" PERSIMON
209	6" DBL MOUNTAIN LAUREL
210	6" DBL PERSIMON
211	6" DBL MOUNTAIN LAUREL
212	12" DBL SPANISH OAK
213	15" TRP SPANISH OAK
214	13" LIVE OAK
215	5" ST CHINA BERRY
216	5" MOUNTAIN LAUREL
217	7" DBL REDBUD
218	5" PERSIMON
219	8" ST UNKNOWN
220	5" PERSIMON
221	7" DBL PERSIMON
222	11" LIVE OAK
223	9" CEDAR
224	13" DBL LIVE OAK
225	13" LIVE OAK
226	7" QUAD MOUNTAIN LAUREL
227	9" LIVE OAK
228	16" CEDAR
229	6" LIVE OAK
230	6" DBL MOUNTAIN LAUREL
231	7" MOUNTAIN LAUREL
232	7" HACKBERRY
233	6" CEDAR
234	5" CEDAR
235	5" CEDAR
236	7" CEDAR
237	7" CEDAR
238	11" CEDAR
239	6" CEDAR

SURVEYOR'S NOTES

() DENOTES RECORD INFORMATION
[1] BUILDING LINE PER CITY OF
CURRENT ZONING ORDINANCE.

EASEMENT RESEARCH PERFORMED BY ALL
POINTS AND THE UNDERSIGNED SURVEYOR
WAS LIMITED TO INFORMATION SUPPLIED
BY INDEPENDENCE TITLE COMPANY PER
COMMITMENT G.F. #1736531-LLF,
EFFECTIVE AUGUST 31st, 2017;
SCHEDULE B, PARAGRAPH 10.

LOT 5 IS SUBJECT TO RESTRICTIVE
COVENANTS AS STATED IN:
V. 8, P. 93; V. 1967, P. 386.

THIS LOT IS SUBJECT TO ALL EASEMENT
RIGHTS AND/OR CONDITIONS WHICH MAY
APPEAR ON THE PLAT OF RECORD.

ALL POINTS DOES NOT MAKE OR WARRANT
ANY FLOOD ZONE DETERMINATION.

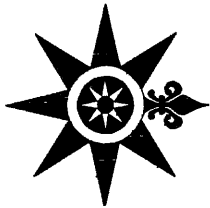
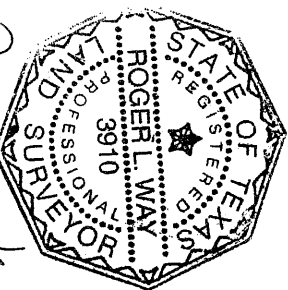
TO THE LIENHOLDERS AND/OR OWNERS OF THE PREMISES AND/OR
INDEPENDENCE TITLE COMPANY

The undersigned certifies that this survey was this day made by me or
under my supervision on the ground of the real property shown on the
survey and after the exercise of reasonable care and in reliance on
record searches by the title company that this survey is correct to the
best of the undersigned's knowledge and belief and that the property
has access to and from a roadway, except as shown hereon. There are
no visible discrepancies, conflicts, shortages or overlapping of
improvements or encroachments except as shown hereon.

LEGAL DESCRIPTION:

LOT 5, BLOCK "O", TERRACE MOUNTAIN OR BLOCK "O" STENEGEDGE
ESTATES, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE
MAP OR PLAT THEREOF, AS RECORDED IN VOL. 8, PG. 93, PLAT
RECORDS, TRAVIS COUNTY, TEXAS.

REFERENCE: PATRICK JOHNSON AND CORTNEY JOHNSON



917 CALITHEA ROAD
(50' R.O.W.)

ALL POINTS SURVEYING

1714 FORVIEW ROAD - SUITE 200

AUSTIN TX. 78704

TELE.: (512) 440-0071 - FAX: (512) 440-0199

FIRM REGISTRATION # 10118600

FIELD WORK	DRAWING	DATE
10-28-19	10-28-19	10-28-19

SURVEY DATE: 10-28-19
Job No. 10814419
SCALE: 1"=20'



Thu 4/30/2020 9:54 AM

Re: 917 Calithea Variance

To: [REDACTED] Anjali Naini; [REDACTED]

Cc: [REDACTED]

 This message is part of a tracked conversation. [Click here to find all related messages or to open the original flagged message.](#)
[Click here to download pictures.](#) To help protect your privacy, Outlook prevented automatic download of some pictures in this message.

Anjali,
I fully support the variance requested by Patrick and Courtney Johnson in constructing a retaining wall in the area of their pool and play area.
If any additional assistance is needed, please do not hesitate to contact me.

Frank Phillips
919 Terrace Mountain Dr. (aka; 919 Calithea)
(512) 328-5424

-----Original Message-----

From: Patrick Johnson <[REDACTED]>
To: [REDACTED] <[REDACTED]>; Anjali Naini <planner@westlakehills.org>; Courtney Johnson <[REDACTED]>
Sent: Wed, Apr 29, 2020 6:07 pm
Subject: 917 Calithea Variance

Frank

Thanks for taking my call today and expressing support for our retaining wall as part of our pool and play area for the kids. It was nice to see you even though we were social distancing!

Anjali,

Frank Phillips is our neighbor on the other side of our house from Jerry and Diana. His address is 919 Terrace Mountain Dr (at the corner of Calithea and Terrace Mountain).

Frank, if you could please reply to this email that you are in support of our variance request, it would help us get through the process. Anjali has expressed a simple email reply is the most efficient way to go for you and the City of WLH vs. writing a letter.

With our best,

Patrick and Courtney Johnson
917 Calithea
Patrick: cell 512-784-4819
Courtney: cell 512-507-2750



Wed 4/29/2020 6:09 PM

Patrick Johnson <[REDACTED]>

Support from Jerry and Diana Vandel: 917 Calithea variance

To: Anjali Naini; Courtney Johnson

i Follow up. Start by Wednesday, April 29, 2020. Due by Wednesday, April 29, 2020.
You replied to this message on 4/30/2020 3:38 PM.

First and most important supporter. This is our 'setback' neighbor.

-----Original Message-----

From: Jerry Vandel <[REDACTED]>

Sent: Wednesday, April 29, 2020 6:00 PM

To: Patrick Johnson <[REDACTED]>

Subject: Re: 917 Calithea variance

Hi Patrick,

As we discussed, Diana and I are supportive of your variance request.
We have no issues that concern us with regard to the variance.

Jerry and Diana Vandel

On Wed, Apr 29, 2020 at 5:54 PM Patrick Johnson <[REDACTED]> wrote:

>

> Jerry,

>

>

>

> Thanks for taking my call yesterday and expressing support for our retaining wall as part of our pool and play area for the kids. It was nice to see you even though we were social distancing!

>

>

>

> Anjali,

>

>

>

> Jerry and Diane Vandel are our neighbors closest to the proposed variance. Their address is 915 Calithea.

>



Thu 4/30/2020 4:06 PM

John Howard <[REDACTED]>

Re: 917 Calithea Variance request

To [REDACTED]

Cc Anjali Naini; Charlotte Howard; Cortney Johnson; [REDACTED]

Hi Patrick, and anyone concerned, Charlotte and I are in support of the variance and have no objections. I am copying her on this email. Thank you

On Wed, Apr 29, 2020 at 6:17 PM Patrick Johnson <[REDACTED]> wrote:

John and Charlotte,

John and Charlotte

Thanks for taking my call yesterday and expressing support for our retaining wall as part of our pool and play area for the kids. It was nice to see you even though we were social distancing!

Anjali,

John and Charlotte Howard are our neighbors across the street to the proposed variance. Their address is 912 Terrace Mountain (at the corner of Calithea and Terrace Mountain).

John, if you could please reply to this email that y'all are in support of our variance request, it would help us get through the process. Anjali has expressed a simple email reply is the most efficient way to go for you and the City of WLH vs. writing a letter.

With our best,

NOTICE TO NEIGHBORS OF VARIANCE REQUEST

DATE OF NOTICE: April 17, 2020

Greetings. You are hereby notified that **Cortney and Patrick Johnson**, the recorded owners of a property located at **917 Calithea Road** in the City of West Lake Hills, Texas have filed a Variance Application with the City of West Lake Hills, Texas requesting variances according to the following Sections of the City's Code of Ordinances:

- **Section 22.03.170 – Site disturbance (excavation, grading or filling)**
 - **Retaining wall exceeding 6ft**
- **Sec. 22.03.281 – Schedule of regulations**
 - **Encroachment of a retaining wall into a side setback**

The request is so that the property owners may: **Construct a retaining wall that exceeds 6ft and encroaches the 25ft side setback in order to build a new swimming pool and expanded yard space.**

The Application may be inspected at West Lake Hills City Hall, 911 Westlake Drive, West Lake Hills, Texas between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. This application is scheduled to be considered at a public hearing held by the Zoning and Planning Commission on **May 20, 2020** at **6:30** p.m. and the Board of Adjustment/City Council on **June 10, 2020** at **7:00** p.m. at West Lake Hills City Hall, located at 911 Westlake Drive, West Lake Hills, Texas. There shall include an opportunity for all interested persons to be heard. Please call City Hall at 512-327-3628 or email planner@westlakehills.org if you have any questions.

Mark Littrell, Zoning & Planning Secretary

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CITY OF WEST LAKE HILLS, TEXAS
MINUTES OF A ZONING & PLANNING COMMISSION (ZAPCO) REGULAR MEETING
Wednesday, May 20, 2020 at 6:30 PM



1. Call to Order. Chairman Robert Meisel.
2. Consent Agenda The following items are considered to be self-explanatory by the Commission and will be enacted with one motion. There will be no separate discussion of these item/s unless a Commission Member or citizen so requests.

- a. Approval of the April 15, 2020 Regular Meeting Minutes.

LAURIE MOVES TO APPROVE AS PRESENTED. BILL VANDERSTEEL. (5-0).

3. Land Use 4609 Bee Cave Road: Discussion/recommendation of a sign application for two (2) projecting/wall numerical street address signs at Creekside at the Hills (Chapter 32 of the West Lake Hills Code). Applicant CND Signs.

- a. Staff Briefing

Anjali provides staff report. Signs comply with the Code. Staff Recommendation: Approval of the two signs.

- b. Presentation by applicant
 - c. Public Hearing: All persons wishing to speak for or against shall be heard.
 - d. Deliberation and Action

MOVES TO REC APPROVAL. HARWELL SECONDS. (5-0).

4. Land Use 901 Forest View Drive: Discussion/recommendation of a variance request for a fence to exceed the maximum allowed height in order to install privacy panels to a section of an existing fence. (City of West Lake Hills Code Sec. 22.03.173). Owner/Applicant June Janes.

- a. Staff Briefing

Briefing is given. 10' in particular sections. Previous variance had been approved for

several years. We received a letter from a neighbor against. Staff Recommendation: Approval.

b. Presentation by applicant

June is the applicant. Brandon is also present. On page 23 of your packet is what we are requesting to replace a 20 year old fence and a variance for height in that one section with some panels on top of the fence. It will be on the property line where it has been for the last 28 years. We purchased the house in 1992. We obtained a permit in 2000 to replace the fence at the same height and same place. We paid the total cost of that fence. We want to keep one section tall. When it was built in 1960 there wasn't a house behind us. A two-story was built in 1980. I met with neighbors who property lines we share. I'm happy to answer any questions.

Brandon: The fence was built before the neighbor bought their place. We will be willing to re-survey to show it is on our property.

c. Public Hearing: All persons wishing to speak for or against shall be heard.

d. Deliberation and Action

Harwell: Is the fence the letter owner's property? He has issues with the production.

Chair: The city cannot issue a permit to build a fence on someone else's property. Get that done first to make sure the line is where it supposed to be.

BV: I didn't have a problem with it when the photos make it very clear. It's important that the neighbor has some input of how it looks.

Brandon: I don't think he has issues with the style; it's the disruption.

LM: Is there any reason for safety concerns for having a fence that high?

Brandon: It's been that way 28 years and we're lowering it.

LM: You're asking for over 4' more than what we allow. Are you making it that high to provide security or privacy?

June: Privacy, no other reason.

LM: Thank you.

Chair: The ordinance requires that it meets the minimum goal that is not as disruptive as our ordinance scheme. If the issues is privacy, the answer is a window treatment and not a fence. I don't think the city can go with a new variance. It does allow you to repair but does not allow a new fence.

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BV: I'm a confused about the initial construction. That was 12' feet high. Why are having a new variance if they are rpelacing it lower?

Chair: This does require a variance. The old one won't cover it.

Pledger: Mr. Janes are partners and I believe that privacy is a reasonable basis for a higher fence. We have approved fences for privacy.

BV: The need for height is much more obvious for this smaller lot.

Vaughan: Since they already had a variance, it should be restricted to repairing. It makes fence to me to move forward with it. It's an improvement.

BV: We can condition that the approval based on survey confirmation.

BV MOVES TO REC APPROVAL WITH VEREIFICATION OF PROPERTY LINE.
PLEDGER SECONDS. (3-2)

5. Land Use 917 Calithea Road: Discussion/recommendation of two variance requests in order to construct a swimming pool and yard area: 1) retaining wall that encroaches the side building setback (West Lake Hills Code Sec. 22.03.281); and 2) retaining wall exceeds 6 feet in height (West Lake Hills Code Sec.22.03.170). Owners/Applicants Cortney & Patrick Johnson.

a. Staff Briefing

Staff report is given. This property is over 2 acres and is very steep. Neighbors are supportive. Staff Recommendation: Approval.

b. Presentation by applicant

Cornthey Johnson is the owner. Our lot is extremely steep. The location is located on Page 61 with pictures showing the hardship. Our neighbors have been supportive as well.

c. Public Hearing: All persons wishing to speak for or against shall be heard.

Public hearing is closed.

d. Deliberation and Action

BV: Have you considered it being moved to the middle of the property?

Cortney: We did consider a number of locations. There were concerns but we would have the same variance request because of the topography. This was less invasive. Page 75 is more clear of the retaining that the neighbor has installed.
The wall is below grade and is less visible.

LM: This is design driven.

BV MOVES TO REC APPROVAL. HARWELL SECONDS. (4-1) LM DISAOPROVES.

6. **Land Use 301 Buckeye Trail:** Discussion/recommendation of variance requests for the construction of a new garage: 1) removal of Tree # 217 - 14" Cedar (West Lake Hills Code Sec. 22.03.304); 2) removal of Tree # 218 - 16" double Live Oak (West Lake Hills Code Sec. 22.03.304); 3) encroachment of a new structure into side and rear building setbacks (West Lake Hills Code Sec. 22.03.281); and 4) exceed maximum impervious cover up to 30.5% (West Lake Hills Code Sec. 22.03.281). Owner Ben Brieger/Applicant Marc Madely.

a. Staff Briefing

Staff Briefing is given that this is back. Letters of support are provided from neighbors.
Staff Recommendation: Denial.

b. Presentation by applicant

Ben Brieger: I'm still applying for the same variances. A few have changed. The whole reason for this is safety to continue this hobby. I have explored some alternatives. Bill Vandersteel came up with several solutions. Putting the garage in the front yard it would effect large oak trees. Third was impervious cover. I appreciate Bill's help with this. I've looked at alternatives. The two effective neighbors have written letters in support of this.

c. **Public Hearing:** All persons wishing to speak for or against shall be heard.

closed

d. Deliberation and Action

Vaughan: Alternatives?

BV: We met and tried to come up with solutions that would fit. The spaces weren't quite large enough.

Chair: I need to offer an observation that this is design driven. This is too much too far.

Pledger MOVES TO REC DENIAL FOR LACK OF HARDSHIP. HARWELL SECONDS.

7. **Land Use 119 Redbud Trail:** Discussion/recommendation of four variance requests for the construction of a second driveway: 1) construct a second driveway entrance/exit (West Lake Hills Code Sec. 22.03.175; 2) site disturbance/excavation up to 24 inches for a retaining

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wall in a setback (West Lake Hills Code Sec. 22.03.170); 3) removal of Tree # 35 - 18" Crepe Myrtle (West Lake Hills Code Sec. 22.03.304); 4) removal of Tree # 38 - 19" Crepe Myrtle (West Lake Hills Code Sec. 22.03.304). Owner Charles Holley/Applicant Scott Cassel.

a. Staff Briefing

Staff Briefing is given. Staff Recommendation: Approval

Harwell: Impervious Cover?

Charles: the previous built a small concrete parking area and put in gravel. We have closed that up. That is just a parking area. Scott Cassel is also on.

LM: How long is the driveway from the street to the garage?

BV: It's about 50' from the garage to the street.

Chair: Is there a history in the file?

Mark: It had a hammerhead for a turnaround.

Chair: It was not on the building plan set.

BV: Was it ever built?

Chair: It's there.

b. Presentation by applicant

Scott Caasel is the landscape architect. The grade is 16.5%. The driveway is 51' from the roadway. The hardship is it impossible to turnaround. They have to back out onto Redbud. People go so fast on that roadway. Due to that issue we deem it a hardship. The impervious cover is under. The two trees to be removed are crape mertles which are not native. The other homes all have driveways with the same issues.

Charles: The hammerhead was approved about three months before we bought eh house.

c. Public Hearing: All persons wishing to speak for or against shall be heard.

closed

d. Deliberation and Action

Chair: I don't see why you need a cut there other than convenience.

Charles: There is enough room to back up to the left but to get out is more difficult if you

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have another car. It's impossible.

BV: If the hammerhead was deeper it would be adequate.

Charles: Are you saying to expand the hammerhead?

BV: You can't back into that. I'm suggesting on the other side of the driveway.

Charles: It will still be difficult if another car is in the driveway.

Scott: There is also the visibility and safety issue.

LM: Looking at it it's a 3 car garage. We use our hammerhead, it looks like it would be possible and would do the job and not require a variance. The variance is more design driven.

Charles: People will still have to back out and create a very dangerous situation.

Chair: Redbud is a problem.

BV: Would delivery would be using it or parking in the street?

Charles: There is going to be no gate.

PLEDGER believes it would be beneficial I'm leaning approval.

BV MOVES TO REC APPROVAL. JAMES VAUGH SECONDS.

HARWELL: If the drivers on Redbud are speeding, using traffic calming and enforce the limits in place, that would be preferable.

Pledger: I don't disagree I think it's a design issue. It's a weird lot. The better solution is to add a second driveway.

(5-0) approval.

8. Adjournment. Chairman Robert Meisel.

Meeting is adjourned at 8:04 p.m.

DRAFT

Respectfully submitted,

ROBERT MEISEL, CHAIRMAN

ATTEST:

ZAPCO Secretary Mark Litrell

These minutes were approved on _____, 2020.



**SETBACK ENCOACHMENT, IMPERVIOUS COVER
& TREE VARIANCE REQUESTS
STAFF REPORT**

JUNE 10, 2020

Project Name: 301 Buckeye Trail – Tree Variances and Setback Encroachment Variance

Requested Action: Remove two trees 14” or greater (Tree # 217 – 14” Cedar and Tree # 218 – 16” Double Live Oak); encroachment into side and rear setbacks; and impervious cover variance in order to construct a new detached garage

Agenda Item: Land Use: **301 Buckeye Trail:** Discussion/recommendation of variance requests for the construction of a new garage: 1) removal of Tree # 217 (14" Cedar); 2) removal of Tree # 218 (16" double Live Oak); 3) encroachment of a new structure into building setbacks; and 4) exceed maximum impervious cover up to 30.5%. (Owner Ben Brieger/Applicant Marc Madely).

Applicant Information: Ben Brieger (owner); Marc Madeley – Allegiant Contractors (applicant)

Hearing Dates:

April 15, 2020	ZAPCO - <i>Postponed</i>
May 20, 2020	ZAPCO
June 10, 2020	Board of Adjustment/City Council

Location: The subject property is located north of Bee Cave Road, west of Westlake Drive, and south of Yaupon Valley Road.

Zoning & Site Characteristics:

The subject property and surrounding neighborhood are zoned R-1 – One-Family Residential. The property is an irregular triangular-shaped lot and is approximately 0.48 acre. There are existing structures on the property including a single-family home, driveway, garage, and patio.

Background & Analysis:

Update: After being postponed on April 15, 2020, the homeowner, Ben Brieger, still wishes to pursue the same variance requests with the proposed layout reviewed by ZAPCO during the April meeting. Additional design layouts were considered and are included in the packet, but do not meet Dr. Brieger’s needs. Emails from neighbors supporting the variance requests were received by the City in early May and are also included in the packet.

The homeowner, Ben Brieger, submitted variance requests in order to construct a new garage where he plans to pursue his hobby of working on old cars. Currently, Dr. Brieger works on the cars in his driveway, which is sloped and poses a danger to him. It is further explained in the application that the proposed garage would also benefit the neighbors by removing the cars out of sight. Dr. Brieger proposes to construct the new garage mostly in the same footprint as a previous garage that has been demolished. The dimensions of the proposed garage are 30ft x 30ft, totaling 900sf.

Due to the site conditions, the homeowner is requesting variances for setback encroachment (6' 4" into the rear setback and 3' 2" into the side setback); impervious cover (requesting up to 30.5%); and removal of two trees 14" or greater (Tree 217 – 14" Cedar and Tree 218 – 16" Double Live Oak). According to the survey provided, there are 144 trees on the property, including several that are 14" or greater.

The maximum amount of impervious cover permitted is 25%, and per the application, the property is currently at 26.2% impervious cover and the applicant is requesting an increase up to 30.5%.

The property is an irregular, triangular-shape with a limited buildable area. There is little remaining buildable area due to existing structures, building setbacks, sloping topography toward the rear of the property, and trees 14" or greater.

Variance Criteria Review:

When applying for a variance, the applicant has established by competent evidence that:

1. The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.
The application states – "Without the proposed garage I am forced to work outside on a sloping driveway using a floor jack and jack stands. This is an unsafe and potentially deadly practice...By building a garage I would be able to use 4 point hydraulic lifts which would eliminate this safety threat."
2. There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.
The application states – "In the proposed site there was a pre-existing structure so I would minimize the number of plants that would need to be removed. I would replant new ones elsewhere on the property."
3. There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.
The application states – "To continue to work outdoors, but for the reasons above, I would prefer not to."

4. The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.
The application states – “It would be a garage about the size of existing structures. I would like a much larger structure, but I think this would be the minimum needed.”
5. The variance does not violate the intent of the Zoning Ordinance or goals of the Comprehensive Plan.
The application states – “This variance would be in keeping with the spirit of the ordinance in that it would only minimally impact the environment and would not be readily visible from the street. Also it would improve the visual environment of the immediate neighbors as it would clean up my driveway and there would (be) no cars parked outside under car covers.”
6. The variance will not adversely affect neighboring properties or interfere with the enjoyment of these properties by their owners.
The application states – “As mentioned above, moving the cars indoors would clear the visual clutter in the driveway. Also, building the structure would remove (the) tree that is blocking the immediate neighbors’ downtown view; they would have 2 visual advantages.”

Traffic/Transportation

No impact on traffic is expected.

Lighting

Outdoor lighting is not proposed for this project.

Building Code

The property and future construction will have to comply with all applicable City codes.

Subdivision

This request will not change the subdivision.

Comprehensive Planning Analysis

The existing residential land use complies with the Master Plan.

Zoning & Planning Commission Recommendation

During the May 20, 2020 ZAPCO meeting, the Commissioners recommended denial unanimously by a vote of 5 – 0.

Staff Recommendation

The application does not demonstrate hardship, which usually relates to the physical aspects of a property that pose undue hardship in complying with the City’s Code. The application also does not demonstrate other alternative locations for the proposed structure to minimize the number of variances requested. Staff therefore recommends denial.

However, due to the unique, irregular shape of the lot, ZAPCO may want to consider each variance differently.

Code Analysis:

Sec. 22.03.304 Tree and vegetation removal and replacement

(a) Removal policy.

(4) The removal of trees greater than or equal to 14 inches in diameter measured at a point 54 inches above the ground is prohibited except as allowed under section 22.03.303(b)(7) and therefore such removal requires a variance from the city council. (Ordinance 223 adopted 9/14/11)

(d) Calculating tree replacement requirements.

(1) Trees of any species with a trunk diameter of less than 6 inches do not require replacement.

(2) Conifer and Juniper trees (commonly referred to as “cedars”) with a trunk diameter of less than 12 inches that are removed to establish a fire safety buffer zone in accordance with section 22.03.303(b)(5) do not require replacement.

(3) Conifer and Juniper trees (commonly referred to as “cedars”) with a trunk diameter of 3 inches or less that are removed as a fire prevention measure in accordance with section 22.03.303(b)(6) do not require replacement.

(4) To compensate for the removal of live trees that are not diseased, dying or dead (as defined in accordance with section 22.03.303(b)(7)) and that are removed in accordance with this section, the property owner must install replacement trees according to the following requirements:

(A) All trees with trunk diameters equal to or greater than six inches and less than 14 inches must be replaced on a 75% basis. In such cases, the replacement trees planted must have trunk diameters of at least 3 inches. For example, if a 12-inch tree is removed, then a total of 9 replacement inches must be planted using trees with a minimum trunk diameter of 3 inches.

(B) All trees with trunk diameters greater than or equal to 14 inches require a variance to subsection (a)(4) above and must be replaced on a 150% basis. For example, if a 16-inch tree is removed, then a total of 24 replacement inches must be planted using single-trunk trees with a minimum trunk diameter of at least 3 inches.

Trunk diameter <6 inches: No replacement required.

From 6 inches to <14 inches: 75% replacement required: Must use replacement trees with trunk diameters of at least 3 inches.

14 inches and larger: Requires variance; 150% replacement required: Must use replacement single-trunk trees with trunk diameters of at least 3 inches.

(5) To compensate for the loss of diseased or dying trees removed in accordance with this section and with section 22.03.303(b)(7), the property owner must install replacement trees on a 50% basis. In such cases, the replacement trees planted must have trunk diameters of at least

1-1/2 inches. For example, if a 9-inch tree is removed, then a total of 4-1/2 replacement inches must be planted using trees with a minimum trunk diameter of 1-1/2 inches.

(6) In the case of dead trees removed in accordance with this section and with section 22.03.303(b)(7), no replacement is required.

(7) For purposes of calculating the replacement inches as required above, the trunk diameters of all replacement trees shall be measured at a point 12 inches above the ground.

(8) Replacement trees shall count on an inch-for-inch basis.

(9) When using a species with multiple trunks (e.g., Texas Mountain-Laurel, Yaupon Holly, etc.) for replacement purposes, the following chart shall be used to convert the planting container measurement to the equivalent trunk diameter for the purposes of this section:

<u>Planting Container Size</u>	<u>Equivalent Trunk Diameter</u>
20 gallons	3 inches
30 gallons	4 inches
40 gallons	5 inches

(10) The planting of native grasses or ground cover is encouraged, but shall not satisfy any tree replacement requirement.

Sec. 22.03.275 Building setback distances

(a) (1) No principal building shall have any front, side or rear setback distance less than that shown on the schedule of regulations as being required in the district in which the building is located, except that the minimum setback distance from Bee Cave Road shall be 50 feet regardless of which direction the building is facing. The setback distance from the Capital of Texas Highway shall be a minimum of 75 feet.

(2) Unroofed steps and ramps shall not be considered as part of the principal building when measuring the setback distance of such building.

(3) Buildings, including overhangs and eaves, shall not encroach into setbacks.

(Ordinance 211, sec. 6, adopted 1/26/11)

(b) Yards are the open areas between building setback lines and lot lines. Structures shall not be permitted in yards except as otherwise provided herein.

(1) Front yards. Front yards extend the full width of the lot. Their depth is measured from the edge of the right-of-way line of the street to the minimum front setback line.

(2) Rear yards. Rear yards extend the full width of the lot. Their depth is measured from the rear lot line to the minimum rear setback line.

(3) Side yards. Side yards extend from the front yard to the rear yard. Their depth is measured from the side lot line to the nearest minimum side setback line.

(c) In the case of lots abutting on more than one street, the full width of the front yard shall be provided from each street.

(Ordinance 152, att. A, adopted 4/29/09)

Sec. 22.03.281 Schedule of regulations

- (a) Where the slope gradient exceeds 25 percent nonresidential development is not permitted.
- (b) Dimensional regulations for listed zoning districts:

Dimensional Minimums of Lots									
Dimension/Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Acreage (acres) (A)	1	1	2	1.5	2	1.5	2	20	30
Depth (feet)	150	150	400	200	200	200	200	500	(C)
Width (feet) (B)	150	150	400	150	150	150	150	500	(C)

(1996 Code, sec. 14-295)

Minimum Building Setback Distance in Feet From Front Lot Line									
Lot Size/Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Greater than or equal to .5 acre	50	50	50	50	50	50	50	(IV)(a)	(C)
Less than .5 acres	30	30	N/A	30	30	30	30	N/A	N/A
Minimum Building Setback Distance in Feet From Rear Lot Line									
Lot Size/Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Greater than or equal to .5 acre	30	30	50	40	40	40	40	(IV)(c)	(C)
Less than .5 acres, greater than or equal to .375 acres	25	25	N/A	30	30	30	30	N/A	N/A
Less than .375 acres—zero	15 (F, E)/ 20	15 (F, E)/ 20	N/A	30	30	30	30	N/A	N/A
Minimum Building Setback Distance in Feet From Side Lot Lines									
Lot Size/Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Greater than or equal to .5 acre	25	25	50	(I)	(I)	(I)	(I)	(IV)(c)	(C)
Less than .5 acres, greater than or equal to .375 acres	20	20	N/A	(II)	(II)	(II)	(II)	N/A	N/A
Less than .375 acres—zero	15 (F, E)/ 20	15 (F, E)/ 20	N/A	(II)	(II)	(II)	(II)	N/A	N/A
Maximum Impervious Cover in Percent of Lot Area									
Lot Size/Zoning	R-1	R-2	R-3	O	GUI	B-1	B-2	B-3	MU-1
Greater than or equal to .5 acre	25%	25%	25%	(IX)	(III)	(III)	(III)	(V)	(C)

Less than .5 acres, greater than or equal to .2 acres	*, †	*, †	25%	(IX)	(III)	(III)	(III)	(V)	(C)
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* The following formula applies:

$P = (\text{size of acre expressed as a whole number and decimal}) \times (.5) - (.5)$

Example:

$P = (.25 \text{ acres}) (.5) - .5$

$P = (.125) - .5 = -0.375\%$

$P = 37.5\%$ allowable impervious cover for a .25 acre lot

† In order to receive and increase in allowable impervious cover over 25%, the property must be connected to the city's wastewater service.

- (A) Land donated/dedicated to and accepted by the city shall be credited to the area of the lot/tract from which the donated land originated.
- (B) For residential lots on culs-de-sac, the minimum lot width at the front street property line shall be 33 feet measured along the chord of the arc.
- (C) See section 38.03.040 et seq.
- (D) Residential 30 feet; nonresidential 37 feet.
- (E) No portion of the structure in an extended setback shall be taller than 16' above natural grade.
- (F) If the proposed building is a one-story structure, the lesser setback distance applies. If any portion of the building is a two-story structure, the greater setback distance applies.

Sec. 22.03.514 Criteria required for granting variance

No variance shall be granted under this chapter unless the following criteria are fulfilled:

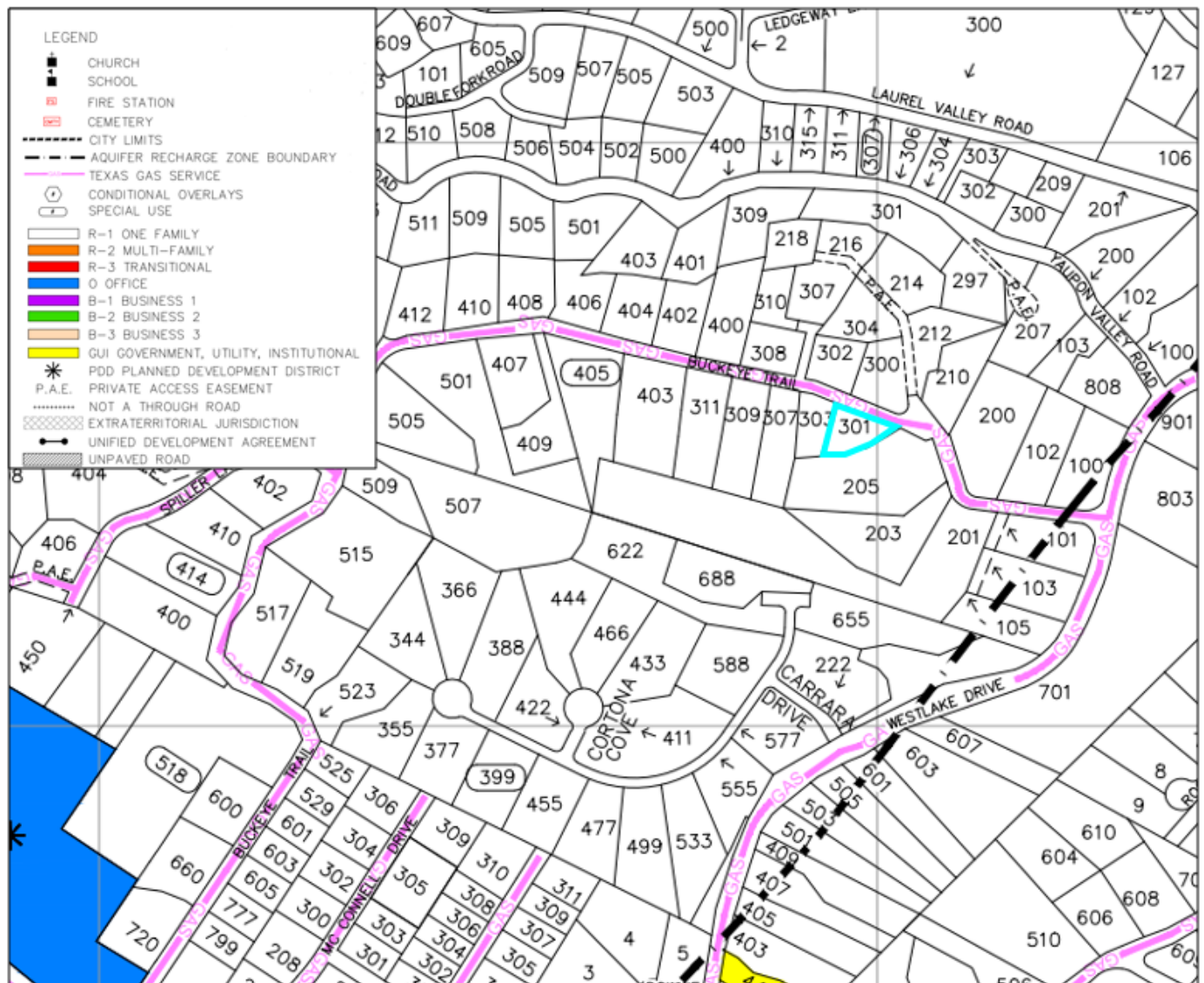
- (1) Findings. The applicant has established by competent evidence that:
 - (A) The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.
 - (B) There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.
 - (C) There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.
 - (D) The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.
- (2) ZAPCO. The recommendation of zoning and planning commission shall include an analysis of whether:
 - (A) The variance may violate the intent of this chapter or the goals of the city's comprehensive plan; and
 - (B) The variance may have an adverse effect on neighborhood properties, or interfere with the respective owners' enjoyment thereof; and
 - (C) When considering variance requests for nonresidential projects in the Commercial Overlay District, whether the variance, when considered as part of the proposed project (as a whole), furthers achievement of the land planning principles set forth in the city's master plan, attachment B, as codified in article 28.02 of this code.
- (3) Conditions. The city council can impose, and the zoning and planning commission can recommend imposition of, reasonable conditions upon granting a variance if the conditions are related to the subject of the variance. When considering variance requests for nonresidential

projects in the Commercial Overlay District are necessary to achieve one or more of the land planning principles set forth in the city's master plan, attachment B, as codified in article 28.02 of this code.

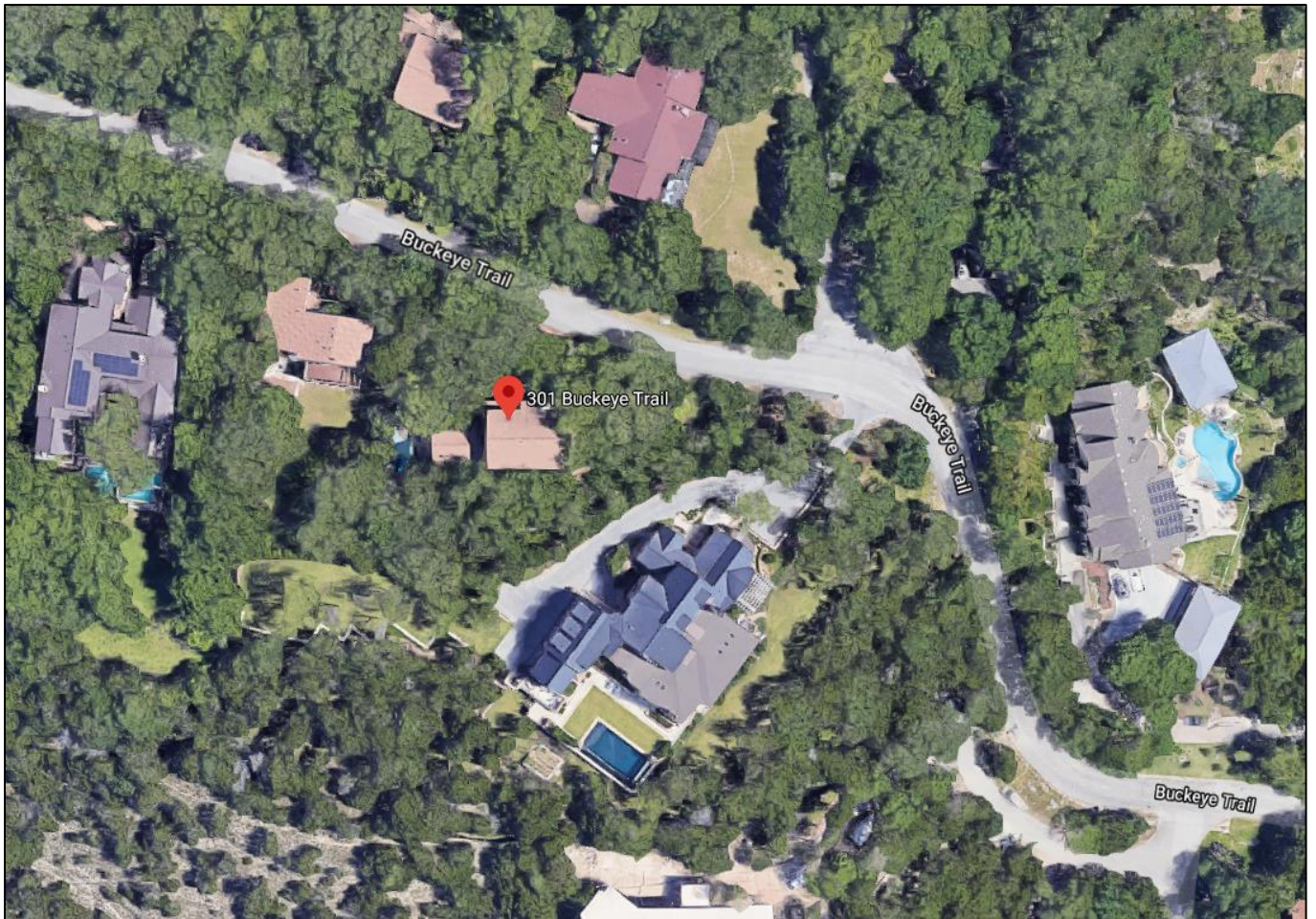
(Ordinance 137, att. A, adopted 9/15/08)

(Maps to follow)

Zoning:



Aerial:



APPLICATION COVER SHEET

City of West Lake Hills
Received
JAN 10 2020

Property Address: 301 Buckeye
Applicant Name: Ben Breiger
Designated Agent (if any, Power of Attorney Required): _____
Applicant Phone Number: (512) 431-6683 Email Address: _____
Date Application was Submitted: _____
Variance(s) Requested: Building beyond buildback lines

Applicant completes above section; City Staff completes the section below:

Variance File Number: _____ [A sequential identifier based on application date and noted in a Variance Application Log maintained by staff. Examples: 20110903A, 20110903B, 20111021A, etc.]

Application Fees Due: \$ _____ ☐ Fees Received on _____ by _____

DRAFT APPLICATION PACKET MATERIALS

Draft Application Packet Received on _____ by _____
☐ Letter to ZAPCO Chairperson ☐ Variance Approval Criteria Answers
☐ Site Plan Coversheet ☐ Site Plan Drawings
☐ Elevation Views and Floor Plans (new structures only)
☐ Septic Assessment (new structures only)
☐ Additional Support Materials (if any): _____
☐ Power of Attorney (if any) – Designated Representative: _____
Staff Analysis completed on _____ by _____
Staff Analysis sent to Applicant on _____ by _____

FINAL APPLICATION PACKET

Final Application Packet Reviewed and Approved on _____ by _____
Notice to Proceed Letter sent to Applicant on _____ by _____
• Notification Letter must be postmarked by _____ ☐ Confirmed by _____
• Sign must be posted by _____ ☐ Confirmed by _____
15 Copies of Final Packet received on _____ ☐ Confirmed by _____

ZAPCO

Scheduled for ZAPCO Hearing on: _____
ZAPCO Action Letter sent on _____ by _____
ZAPCO Recommendation: _____
Conditions/Comments (if any): _____
Modified application and materials (if any) received on _____ by _____

BOA/CITY COUNCIL

Scheduled for BOA/Council Hearing on: _____
BOA/Council Action: _____
Conditions/Comments (if any): _____
BOA/Council Action Letter sent on _____ by _____

FOLLOW-UP

Follow-up dates (vegetative screening installed, survival verification, etc.): _____
• Notifications added to Incode on _____ by _____

Postponement History (if any): _____
Notes: _____

LETTER TO ZAPCO CHAIRPERSON

12/8/19

Chairman Robert Meisel
West Lake Hills Zoning and Planning Commission
911 West Lake Drive
West Lake Hills, Texas, 78746

Dear Mr. Chairman:

I would like to build a garage at the end of my driveway. My hobby is working on old cars (it was my first job after graduating college, but is now just a hobby). I need a garage in order to safely store and work on these cars. Currently I am resorting to getting under these cars on a sloping driveway which is a very unsafe practice as they could fall and crush me. Furthermore, the cars are stored outside in the driveway where they are an eyesore and exposed to the elements.

Because of the build back lines it would require variances. I don't think it would cause much environmental impact, as there was a structure in this location in the past and it is now weeds and crumbling asphalt and concrete. The two trees I would have to remove would be replaced somewhere else on the property. Their removal would also significantly improve my neighbors' view of downtown. Also, the cars would be out of sight as well.

Allowing me to complete this project would greatly enhance my safety as well as my enjoyment of the property. It would also have a positive effect on the aesthetics of the properties and have minimal impact on the environment. Thank you for your consideration,

Ben Brieger
301 Buckeye Trail
(512) 431-6683

ANSWERS TO VARIANCE APPROVAL CRITERIA QUESTIONS

1) CONDITIONS THAT WOULD RESULT IN UNNECESSARY HARDSHIP IF THIS ORDINANCE IS STRICTLY ENFORCED.

Safety! Without the proposed garage I am forced to work outside on a sloping driveway using a floor jack and jack stands. This is an unsafe and potentially deadly practice. I have seen this unfortunate mishap more than I care to remember, whereby a car slips off the jack stands and crushes the person underneath. By building a garage I would be able to use 4 point hydraulic lifts which would eliminate this safety threat. Also, since this hobby involves older cars, leaving them outside in the elements also leads to their demise by corrosion.

2) WHY NATURAL TERRAIN AND FLORA BE UNREASONABLY DISRUPTED OR DESTROYED.

In the proposed site there was a pre-existing structure so I would minimize the number of plants that would need to be removed. I would replant new ones elsewhere on the property.

3) WHAT OTHER REASONABLE ALTERNATIVES HAVE I CONSIDERED.

To continue to work outdoors, but for the reasons above, I would prefer not to.

4) WHY IS THE VARIANCE REQUESTED THE MINIMUM REQUIRED TO ALLEVIATE THE HARDSHIP.

It would be a garage about the size of existing structures. I would like a much larger structure, but I think this would be the minimum needed.

5) WHY DO I BELIEVE THE VARIANCE DOES NOT VIOLATE THE INTENT OF THE ZONING ORDINANCE.

This variance would be in keeping with the spirit of the ordinance in that it would only minimally impact the environment and would not be readily visible from the street. Also it would improve the visual environment of the immediate neighbors as it would clean up my driveway and there would no cars parked outside under car covers.

6) WHY WOULD THE VARIANCE NOT ADVERSELY AFFECT THE NEIGHBORING PROPERTIES.

As mentioned above, moving the cars indoors would clear the visual clutter in the driveway. Also, building the structure would remove tree that is blocking the immediate neighbors' downtown view; they would have 2 visual advantages.

SCALE: 1"=20'



IMPORTANT NOTICE

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND WITHOUT ANY INSURANCE AGAINST SURVEYING ERRORS AND OMISSIONS. THE SURVEYOR ASSUMES NO LIABILITY FOR ANY ERRORS OR OMISSIONS, AND THE SURVEYOR'S LIABILITY IS LIMITED TO THE FEE CHARGED FOR THE SURVEY.

THE OVERLOOK
AT WESTLAKE
BK. 90, PG. 341

CARRISA ADDITION
BK. 80, PG. 366

TREE TABLE

NO.	DATE	TYPE	SIZE	LOCATION
101	20"	RED	14"	OK
102	10"	RED	10"	OK
103	10"	RED	10"	OK
104	10"	RED	10"	OK
105	10"	RED	10"	OK
106	10"	RED	10"	OK
107	10"	RED	10"	OK
108	10"	RED	10"	OK
109	10"	RED	10"	OK
110	10"	RED	10"	OK
111	10"	RED	10"	OK
112	10"	RED	10"	OK
113	10"	RED	10"	OK
114	10"	RED	10"	OK
115	10"	RED	10"	OK
116	10"	RED	10"	OK
117	10"	RED	10"	OK
118	10"	RED	10"	OK
119	10"	RED	10"	OK
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124	10"	RED	10"	OK
125	10"	RED	10"	OK
126	10"	RED	10"	OK
127	10"	RED	10"	OK
128	10"	RED	10"	OK
129	10"	RED	10"	OK
130	10"	RED	10"	OK
131	10"	RED	10"	OK
132	10"	RED	10"	OK
133	10"	RED	10"	OK
134	10"	RED	10"	OK
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136	10"	RED	10"	OK
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138	10"	RED	10"	OK
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147	10"	RED	10"	OK
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155	10"	RED	10"	OK
156	10"	RED	10"	OK
157	10"	RED	10"	OK
158	10"	RED	10"	OK
159	10"	RED	10"	OK
160	10"	RED	10"	OK
161	10"	RED	10"	OK
162	10"	RED	10"	OK
163	10"	RED	10"	OK
164	10"	RED	10"	OK
165	10"	RED	10"	OK
166	10"	RED	10"	OK
167	10"	RED	10"	OK
168	10"	RED	10"	OK
169	10"	RED	10"	OK
170	10"	RED	10"	OK
171	10"	RED	10"	OK
172	10"	RED	10"	OK

proposed location of
new detached garage

LEGEND

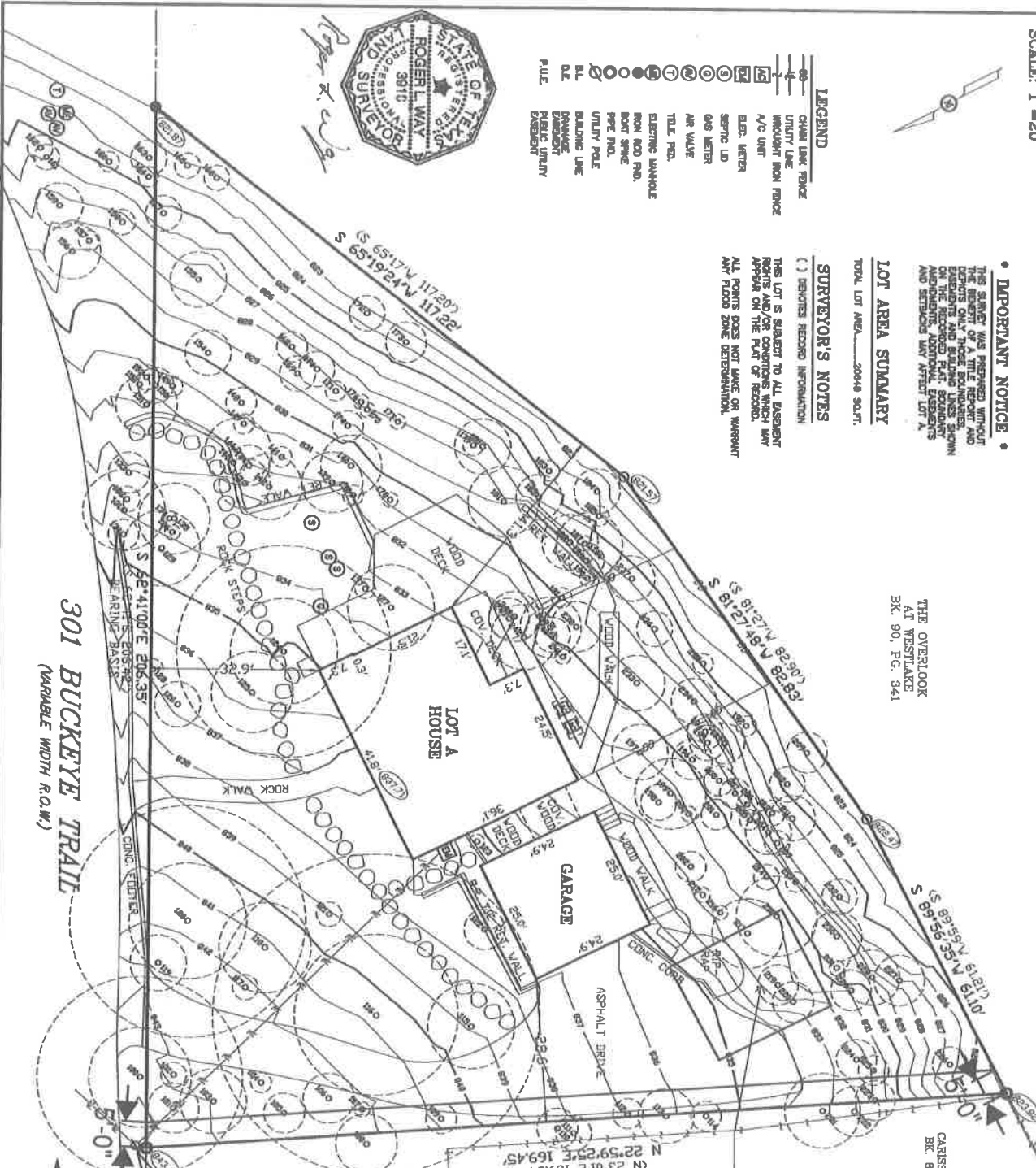
- CHAIN LINK FENCE
- UTILITY LINE
- W/OUT FENCE
- A/C UNIT
- BLK. METER
- SEPT. LID
- OKS METER
- AIR VALVE
- TILE PFL.
- ELECTRIC METER
- IRON ROD P.D.
- ROCK SPRING
- PERM. P.D.
- UTILITY POLE
- BUILDING LINE
- DRAINAGE
- EXIST. UTILITY
- P.U.L.E.

SURVEYOR'S NOTES

(1) REMAINS RECORD INFORMATION
THIS LOT IS SUBJECT TO ALL EASEMENTS
RIGHTS AND COVENANTS WHICH MAY
APPEAR ON THE PLAT OF RECORD.
ALL POINTS DO NOT HAVE OR WARRANT
ANY FLOOD ZONE DETERMINATION.

LOT AREA SUMMARY

TOTAL LOT AREA: 20648 SQ.FT.



301 BUCKEYE TRAIL
(VARIABLE WIDTH R.O.W.)



ALL POINTS SURVEYING
1714 FORTVIEW ROAD - SUITE 200
AUSTIN TX 78704
TEL: (512) 440-0071 - FAX: (512) 440-0189
TIN REGISTRATION # 1015800

LEGAL DESCRIPTION:
LOT 4, PHASE 2, PHILLIPS ADDITION, A SUBDIVISION IN WEST LAKE HILLS,
TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP ON PLAT THEREOF, AS
RECORDED IN VOL. 88, PG. 41, PLAT RECORDS, TRAVIS COUNTY, TEXAS.
REFERENCE: WANC MAPS ONLY

FILE NO.	DATE	SCALE	DATE
101	08-12-19	1"=20'	08-12-19
102	08-12-19	1"=20'	08-12-19
103	08-12-19	1"=20'	08-12-19
104	08-12-19	1"=20'	08-12-19
105	08-12-19	1"=20'	08-12-19
106	08-12-19	1"=20'	08-12-19
107	08-12-19	1"=20'	08-12-19
108	08-12-19	1"=20'	08-12-19
109	08-12-19	1"=20'	08-12-19
110	08-12-19	1"=20'	08-12-19
111	08-12-19	1"=20'	08-12-19
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123	08-12-19	1"=20'	08-12-19
124	08-12-19	1"=20'	08-12-19
125	08-12-19	1"=20'	08-12-19
126	08-12-19	1"=20'	08-12-19
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155	08-12-19	1"=20'	08-12-19
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167	08-12-19	1"=20'	08-12-19
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169	08-12-19	1"=20'	08-12-19
170	08-12-19	1"=20'	08-12-19
171	08-12-19	1"=20'	08-12-19
172	08-12-19	1"=20'	08-12-19

SCALE: 1"=20'

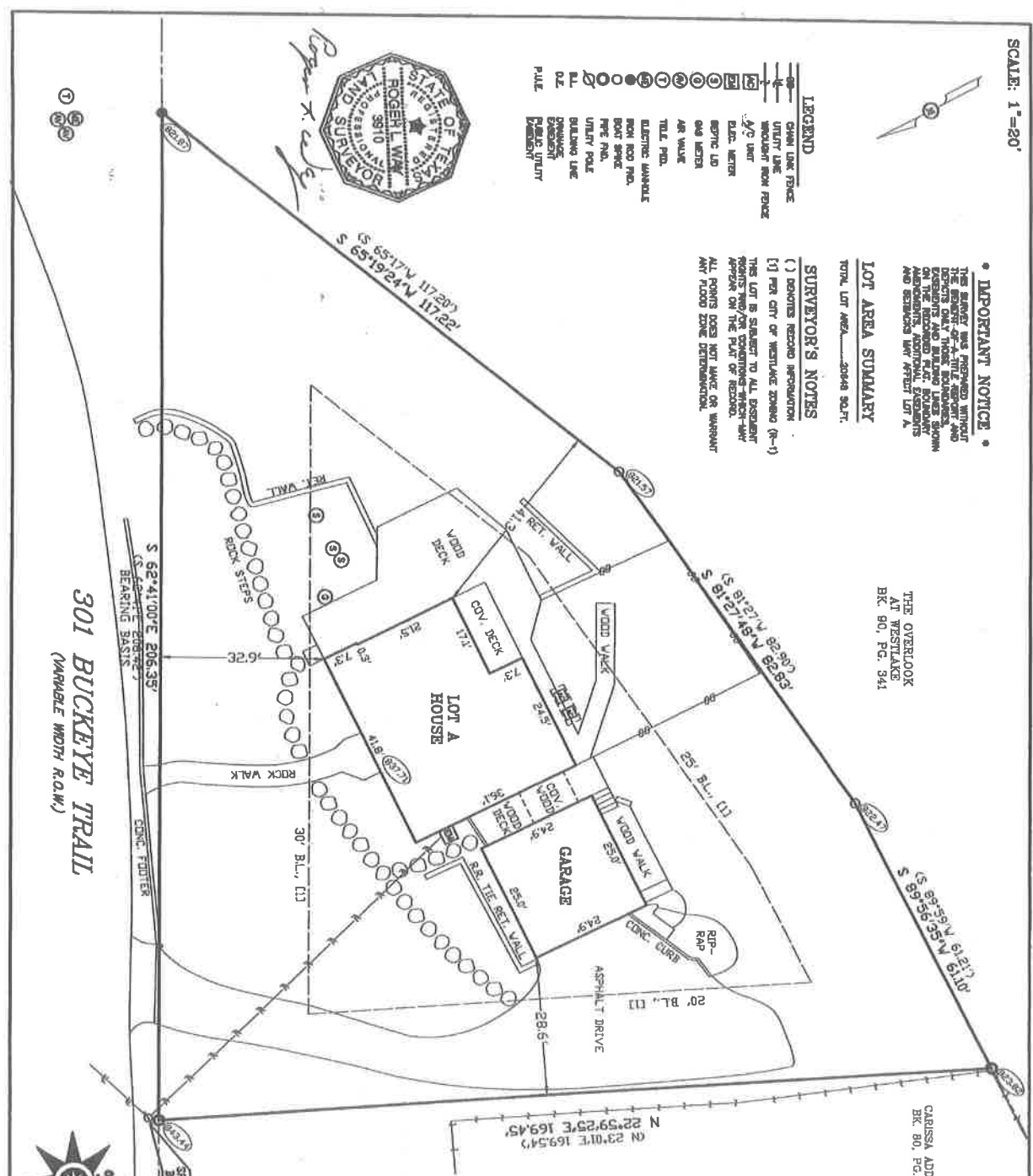


IMPORTANT NOTICE
THE SURVEY WAS PREPARED IN ACCORDANCE WITH THE SURVEYING ACT, TITLE 11, CHAPTER 84, AND THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING. THE SURVEYOR HAS REVIEWED THE RECORDS OF THE PUBLIC RECORDS OFFICE AND THE COUNTY CLERK'S OFFICE AND HAS FOUND NO RECORDS AFFECTING THIS SURVEY. THE SURVEYOR HAS ALSO REVIEWED THE RECORDS OF THE PUBLIC RECORDS OFFICE AND THE COUNTY CLERK'S OFFICE AND HAS FOUND NO RECORDS AFFECTING THIS SURVEY.

LOT AREA SUMMARY
TOTAL LOT AREA: 2044 S.Q.F.T.

SURVEYOR'S NOTES
(1) DENOTES RECORDED INFORMATION
(1) PER CITY OF WESTLAKE ZONING (R-1)
THIS LOT IS SUBJECT TO ALL EXISTENT RIGHTS TWO OR FOURTEEN INCH-ANY APPLICABLE ON THE PLAT OF RECORD.
ALL POINTS DOES NOT HAVE OR WARRANT ANY FLOOD ZONE DETERMINATION.

- LEGEND**
- CHALK LINE FENCE
 - UTILITY LINE
 - WROUGHT IRON FENCE
 - AP UNIT
 - BLD. METEOR
 - SEPTIC LD
 - SEA WATER
 - AR WALK
 - TILE FLD.
 - ELECTRIC MANHOLE
 - IRON ROD FLD.
 - ROCK PILE
 - PPE FLD.
 - UTILITY POLE
 - BELTING LINE
 - BL
 - DRAINAGE
 - CONCRETE
 - PUBLIC UTILITY
 - CONCRETE



THE OVERLOOK
AT WESTLAKE
BK. 80, PG. 341

CARISSA ADDITION
BK. 80, PG. 389

301 BUCKEYE TRAIL
(VARIABLE WIDTH R.O.W.)



ALL POINTS SURVEYING
1714 FORTVIEW ROAD - SUITE 200
AUSTIN TX 78704
TEL: (512) 440-0071 - FAX: (512) 440-0189
FIRM REGISTRATION # 111110

LEGAL DESCRIPTION:
LOT A, FRANK S. PHILLIPS ADDITION, A SUBDIVISION IN WEST LAKE HILLS, TRACT 1, BLOCK 1, LOT 1, PLAT 1, RECORDED IN VOL. 88, PG. 41, PLAT RECORDS, TARRANT COUNTY, TEXAS.
REFERENCE MADE HERETO.

TREE TABLE

100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574	575	576	577	578	579	580	581	582	583	584	585	586	587	588	589	590	591	592	593	594	595	596	597	598	599	600	601	602	603	604	605	606	607	608	609	610	611	612	613	614	615	616	617	618	619	620	621	622	623	624	625	626	627	628	629	630	631	632	633	634	635	636	637	638	639	640	641	642	643	644	645	646	647	648	649	650	651	652	653	654	655	656	657	658	659	660	661	662	663	664	665	666	667	668	669	670	671	672	673	674	675	676	677	678	679	680	681	682	683	684	685	686	687	688	689	690	691	692	693	694	695	696	697	698	699	700	701	702	703	704	705	706	707	708	709	710	711	712	713	714	715	716	717	718	719	720	721	722	723	724	725	726	727	728	729	730	731	732	733	734	735	736	737	738	739	740	741	742	743	744	745	746	747	748	749	750	751	752	753	754	755	756	757	758	759	760	761	762	763	764	765	766	767	768	769	770	771	772	773	774	775	776	777	778	779	780	781	782	783	784	785	786	787	788	789	790	791	792	793	794	795	796	797	798	799	800	801	802	803	804	805	806	807	808	809	810	811	812	813	814	815	816	817	818	819	820	821	822	823	824	825	826	827	828	829	830	831	832	833	834	835	836	837	838	839	840	841	842	843	844	845	846	847	848	849	850	851	852	853	854	855	856	857	858	859	860	861	862	863	864	865	866	867	868	869	870	871	872	873	874	875	876	877	878	879	880	881	882	883	884	885	886	887	888	889	890	891	892	893	894	895	896	897	898	899	900	901	902	903	904	905	906	907	908	909	910	911	912	913	914	915	916	917	918	919	920	921	922	923	924	925	926	927	928	929	930	931	932	933	934	935	936	937	938	939	940	941	942	943	944	945	946	947	948	949	950	951	952	953	954	955	956	957	958	959	960	961	962	963	964	965	966	967	968	969	970	971	972	973	974	975	976	977	978	979	980	981	982	983	984	985	986	987	988	989	990	991	992	993	994	995	996	997	998	999	1000	1001	1002	1003	1004	1005	1006	1007	1008	1009	1010	1011	1012	1013	1014	1015	1016	1017	1018	1019	1020	1021	1022	1023	1024	1025	1026	1027	1028	1029	1030	1031	1032	1033	1034	1035	1036	1037	1038	1039	1040	1041	1042	1043	1044	1045	1046	1047	1048	1049	1050	1051	1052	1053	1054	1055	1056	1057	1058	1059	1060	1061	1062	1063	1064	1065	1066	1067	1068	1069	1070	1071	1072	1073	1074	1075	1076	1077	1078	1079	1080	1081	1082	1083	1084	1085	1086	1087	1088	1089	1090	1091	1092	1093	1094	1095	1096	1097	1098	1099	1100	1101	1102	1103	1104	1105	1106	1107	1108	1109	1110	1111	1112	1113	1114	1115	1116	1117	1118	1119	1120	1121	1122	1123	1124	1125	1126	1127	1128	1129	1130	1131	1132	1133	1134	1135	1136	1137	1138	1139	1140	1141	1142	1143	1144	1145	1146	1147	1148	1149	1150	1151	1152	1153	1154	1155	1156	1157	1158	1159	1160	1161	1162	1163	1164	1165	1166	1167	1168	1169	1170	1171	1172	1173	1174	1175	1176	1177	1178	1179	1180	1181	1182	1183	1184	1185	1186	1187	1188	1189	1190	1191	1192	1193	1194	1195	1196	1197	1198	1199	1200	1201	1202	1203	1204	1205	1206	1207	1208	1209	1210	1211	1212	1213	1214	1215	1216	1217	1218	1219	1220	1221	1222	1223	1224	1225	1226	1227	1228	1229	1230	1231	1232	1233	1234	1235	1236	1237	1238	1239	1240	1241	1242	1243	1244	1245	1246	1247	1248	1249	1250	1251	1252	1253	1254	1255	1256	1257	1258	1259	1260	1261	1262	1263	1264	1265	1266	1267	1268	1269	1270	1271	1272	1273	1274	1275	1276	1277	1278	1279	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APPLICATION COVER SHEET

Property Address: 301 Buckeye Trail

Applicant Name: Ben Brieger

Designated Agent (if any, Power of Attorney Required): Allegiant Contractors (Marc Madeley)

Applicant Phone Number: (512) 431-6683

Email Address: [REDACTED]

Date Application was Submitted: 2/12/2020

Variance(s) Requested: Need to remove several trees in order to build detached garage. Tree number 217 14" Cedar and tree number 218 16" Double Live Oak would both need to be removed in order to build the requested detached garage.

Applicant completes above section; City Staff completes the section below:

Variance File Number: _____ [A sequential identifier based on application date and noted in a Variance Application Log maintained by staff. Examples: 20110903A, 20110903B, 20111021A, etc.]

Application Fees Due: \$ _____ ☐ Fees Received on _____ by _____

DRAFT APPLICATION PACKET MATERIALS

Draft Application Packet Received on _____ by _____

☐ Letter to ZAPCO Chairperson

☐ Variance Approval Criteria Answers

☐ Site Plan Coversheet

☐ Site Plan Drawings

☐ Elevation Views and Floor Plans (new structures only)

☐ Septic Assessment (new structures only)

☐ Additional Support Materials (if any): _____

☐ Power of Attorney (if any) – Designated Representative: _____

Staff Analysis completed on _____ by _____

Staff Analysis sent to Applicant on _____ by _____

FINAL APPLICATION PACKET

Final Application Packet Reviewed and Approved on _____ by _____

Notice to Proceed Letter sent to Applicant on _____ by _____

• Notification Letter must be postmarked by _____ ☐ Confirmed by _____

• Sign must be posted by _____ ☐ Confirmed by _____

15 Copies of Final Packet received on _____ ☐ Confirmed by _____

ZAPCO

Scheduled for ZAPCO Hearing on: _____

ZAPCO Action Letter sent on _____ by _____

ZAPCO Recommendation: _____

Conditions/Comments (if any): _____

Modified application and materials (if any) received on _____ by _____

BOA/CITY COUNCIL

Scheduled for BOA/Council Hearing on: _____

BOA/Council Action: _____

Conditions/Comments (if any): _____

BOA/Council Action Letter sent on _____ by _____

FOLLOW-UP

Follow-up dates (vegetative screening installed, survival verification, etc.): _____

• Notifications added to Incode on _____ by _____

Postponement History (if any): _____

Notes: _____

LETTER TO ZAPCO CHAIRPERSON

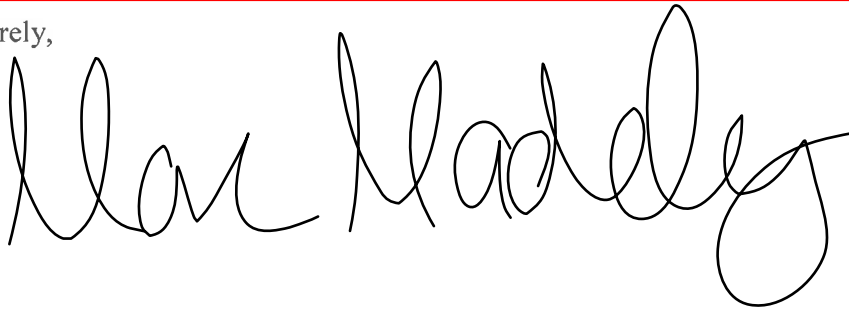
DATE:

Chairman Robert Meisel
West Lake Hills Zoning and Planning Commission
911 Westlake Drive
West Lake Hills, Texas 78746

Dear Mr. Chairman:

We've already applied for variance to build a detached garage, but also need to apply for a variance to remove two protected trees. We would need to remove tree 217 14" Cedar & 218 16" Double Live Oak.

Sincerely,

A handwritten signature in black ink, reading "Alan Haddy". The signature is fluid and cursive, with a large loop at the end of the last name.

ANSWERS TO VARIANCE APPROVAL CRITERIA QUESTIONS

West Lake Hills City Code requires applicants to answer each of the following questions. The ZAPCO Commissioners, Board of Adjustment and City Council Members consider your answers to these questions when evaluating your application. *(Feel free to respond to these questions on a separate page or document.)*

- (1) Describe in detail any special conditions you believe will result in unnecessary hardship to you if the terms of this ordinance are strictly or literally enforced.

- (2) Why do you think the natural terrain and existing flora will not be unreasonably disrupted or destroyed in the variance you are requesting is granted?

- (3) What other reasonable alternatives have you considered? Why won't these other options alleviate the difficulty or hardship that you think exists?

- (4) Why do you believe the variance you are requesting is the minimum required to alleviate the difficulty or hardship you think exists?

- (5) Why do you believe your variance does not violate the intent of the Zoning Ordinance or the goals of the City's Comprehensive Plan?

- (6) Why do you believe your variance will not adversely affect neighboring properties or interfere with the enjoyment of these properties by their owners?

Property Address: _____

APPLICATION COVER SHEET

Property Address: 301 Buckeye Trail

Applicant Name: Ben Brieger

Designated Agent (if any, Power of Attorney Required): Allegiant Contractors (Marc Madeley)

Applicant Phone Number: (512) 431-6683

Email Address:

Date Application was Submitted: 3/12/2020

Variance(s) Requested: Requesting variance to increase impervious coverage from 26.2% to 30.5% with the addition of 30x30 (900 sqft) detached garage.

Applicant completes above section; City Staff completes the section below:

Variance File Number: *[A sequential identifier based on application date and noted in a Variance Application Log maintained by staff. Examples: 20110903A, 20110903B, 20111021A, etc.]*

Application Fees Due: \$ ☐ Fees Received on by

DRAFT APPLICATION PACKET MATERIALS

Draft Application Packet Received on by

☐ Letter to ZAPCO Chairperson

☐ Variance Approval Criteria Answers

☐ Site Plan Coversheet

☐ Site Plan Drawings

☐ Elevation Views and Floor Plans (new structures only)

☐ Septic Assessment (new structures only)

☐ Additional Support Materials (if any):

☐ Power of Attorney (if any) – Designated Representative:

Staff Analysis completed on by

Staff Analysis sent to Applicant on by

FINAL APPLICATION PACKET

Final Application Packet Reviewed and Approved on by

Notice to Proceed Letter sent to Applicant on by

• Notification Letter must be postmarked by ☐ Confirmed by

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15 Copies of Final Packet received on ☐ Confirmed by

ZAPCO

Scheduled for ZAPCO Hearing on:

ZAPCO Action Letter sent on by

ZAPCO Recommendation:

Conditions/Comments (if any):

Modified application and materials (if any) received on by

BOA/CITY COUNCIL

Scheduled for BOA/Council Hearing on:

BOA/Council Action:

Conditions/Comments (if any):

BOA/Council Action Letter sent on by

FOLLOW-UP

Follow-up dates (vegetative screening installed, survival verification, etc.):

• Notifications added to Incode on by

Postponement History (if any):

Notes:

LETTER TO ZAPCO CHAIRPERSON

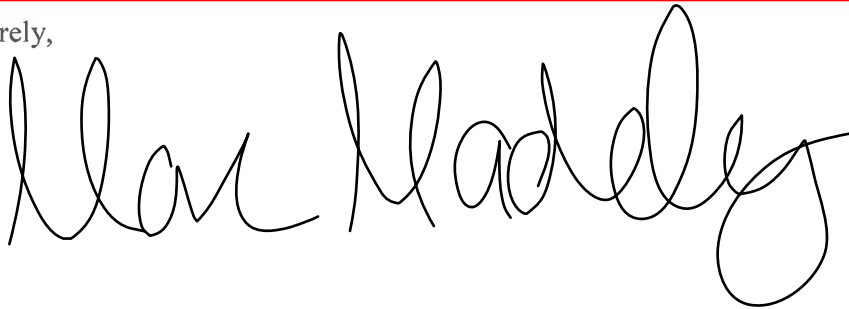
DATE:

Chairman Robert Meisel
West Lake Hills Zoning and Planning Commission
911 Westlake Drive
West Lake Hills, Texas 78746

Dear Mr. Chairman:

We've already applied for variance to build a detached garage, but also need to apply for a variance to increase impervious coverage. Answers to the questions listed below are on the original application that we turned in for the detached garage variance.

Sincerely,

A handwritten signature in black ink, reading "Alan Haddy". The signature is fluid and cursive, with a large loop at the end of the last name.

ANSWERS TO VARIANCE APPROVAL CRITERIA QUESTIONS

West Lake Hills City Code requires applicants to answer each of the following questions. The ZAPCO Commissioners, Board of Adjustment and City Council Members consider your answers to these questions when evaluating your application. *(Feel free to respond to these questions on a separate page or document.)*

- (1) Describe in detail any special conditions you believe will result in unnecessary hardship to you if the terms of this ordinance are strictly or literally enforced.

See answers on the original variance request for the detached garage. Same for the below answers.

- (2) Why do you think the natural terrain and existing flora will not be unreasonably disrupted or destroyed in the variance you are requesting is granted?

- (3) What other reasonable alternatives have you considered? Why won't these other options alleviate the difficulty or hardship that you think exists?

- (4) Why do you believe the variance you are requesting is the minimum required to alleviate the difficulty or hardship you think exists?

- (5) Why do you believe your variance does not violate the intent of the Zoning Ordinance or the goals of the City's Comprehensive Plan?

- (6) Why do you believe your variance will not adversely affect neighboring properties or interfere with the enjoyment of these properties by their owners?

Property Address: _____



SPECIAL POWER OF ATTORNEY FORM

KNOW ALL PERSONS BY THIS DOCUMENT that I, Benjamin Briege
have made, constituted and appointed Mark Madely
to be my duly authorized representative in connection with an application dated 2/12/20,
to be heard by the Building Design Committee, Zoning & Planning Commission, and City
Council/Board of Adjustment of the City of West Lake Hills, Texas. All representations, whether
oral or written, made by the representative in support of the request have the full force and effect
of the applicant's approval. I do by this document constitute the above named representative as
my true and lawful attorney-in-fact to act in my name, place and stead, to do and perform any act
in connection with such application which I myself might perform or do if I was personally present.

Benjamin Briege
Property Owner/Applicant Name
301 Buckeye Trail West Lake Hills TX 78746
Street Address City State Zip Code

512 431-6683
Property Owner/Applicant Phone Number

This instrument was acknowledged before me on this the 27 day of February, 2020.

Mark Lehman Littrell
Notary Public in and for the State of Texas



SCALE: 1"=20'



*** IMPORTANT NOTICE ***

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DEPICTS ONLY THOSE BOUNDARIES, EASEMENTS AND BUILDING LINES SHOWN ON THE RECORDED PLAT. BOUNDARY AMENDMENTS, ADDITIONAL EASEMENTS AND SETBACKS MAY AFFECT LOT A.

LOT AREA SUMMARY

TOTAL LOT AREA.....20648 SQ.FT.

LEGEND

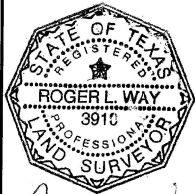
- CHAIN LINK FENCE
- UTILITY LINE
- WROUGHT IRON FENCE
- A/C UNIT
- ELEC. METER
- GAS METER
- AIR VALVE
- TELE. PED.
- ELECTRIC MANHOLE
- IRON ROD FND.
- BOAT SPIKE
- PIPE FND.
- UTILITY POLE
- BUILDING LINE
- DRAINAGE EASEMENT
- PUBLIC UTILITY EASEMENT

SURVEYOR'S NOTES

() DENOTES RECORD INFORMATION

THIS LOT IS SUBJECT TO ALL EASEMENT RIGHTS AND/OR CONDITIONS WHICH MAY APPEAR ON THE PLAT OF RECORD.

ALL POINTS DOES NOT MAKE OR WARRANT ANY FLOOD ZONE DETERMINATION.



Roger L. Way

Variance to remove two protected trees.

THE OVERLOOK AT WESTLAKE BK. 90, PG. 341

TREE TABLE

100	20" DBL LIVE OAK	173	8" CEDAR
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171	4" MOUNTAIN LAUREL	244	10" LIVE OAK
172	7" CEDAR		

proposed location of new detached garage

LEGAL DESCRIPTION:

LOT A, FRANK S. PHILLIPS ADDITION, A SUBDIVISION IN WEST LAKE HILLS, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN VOL. 68, PG. 41, PLAT RECORDS, TRAVIS COUNTY, TEXAS.

REFERENCE: MARC MADELEY

SPINDLE SET IN P.P. BENCHMARK-844.82'

By	Date
FIELD WORK	WW 08-11-13
DRAFTING	SCN
SURVEY DATE:	08-12-19
Job No.	06814719
SCALE:	1"=20'

301 BUCKEYE TRAIL
(VARIABLE WIDTH R.O.W.)



ALL POINTS SURVEYING

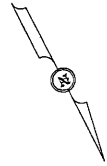
1714 FORTVIEW ROAD - SUITE 200

AUSTIN TX. 78704

TELE.: (512) 440-0071 - FAX: (512) 440-0199

FIRM REGISTRATION # 10118900

SCALE: 1"=20'



*** IMPORTANT NOTICE ***

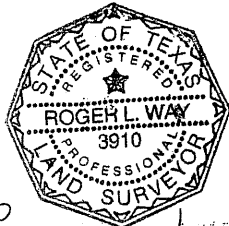
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND DEPICTS ONLY THOSE BOUNDARIES, EASEMENTS AND BUILDING LINES SHOWN ON THE RECORDED PLAT. BOUNDARY AMENDMENTS, ADDITIONAL EASEMENTS AND SETBACKS MAY AFFECT LOT A.

LOT AREA SUMMARY

TOTAL LOT AREA.....20648 SQ.FT.

LEGEND

- CHAIN LINK FENCE
- U- UTILITY LINE
- W- WROUGHT IRON FENCE
- AC A/C UNIT
- EM ELEC. METER
- S SEPTIC LID
- G GAS METER
- AV AIR VALVE
- T TELE. PED.
- ME ELECTRIC MANHOLE
- IRON ROD FND.
- BOAT SPIKE
- PIPE FND.
- UTILITY POLE
- B.L. BUILDING LINE
- D.E. DRAINAGE EASEMENT
- P.U.E. PUBLIC UTILITY EASEMENT



Roger L. W.

SURVEYOR'S NOTES

() DENOTES RECORD INFORMATION

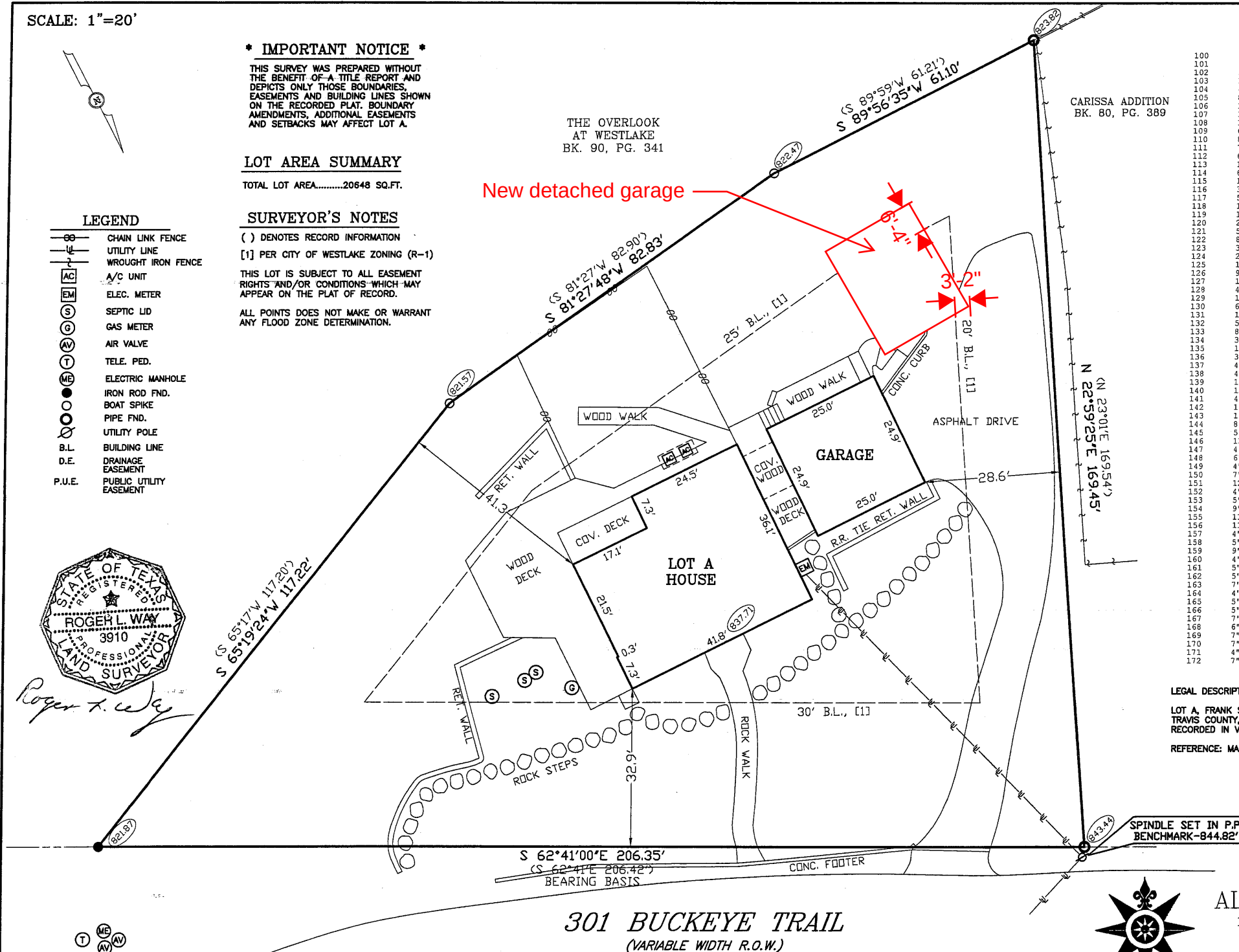
[1] PER CITY OF WESTLAKE ZONING (R-1)

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ALL POINTS DOES NOT MAKE OR WARRANT ANY FLOOD ZONE DETERMINATION.

THE OVERLOOK
AT WESTLAKE
BK. 90, PG. 341

New detached garage



TREE TABLE

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LOT A, FRANK S. PHILLIPS ADDITION, A SUBDIVISION IN WEST LAKE HILLS, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN VOL. 68, PG. 41, PLAT RECORDS, TRAVIS COUNTY, TEXAS.

REFERENCE: MARC MADELEY

By: _____ Date: 08-11-18	
FIELD WORK	WW
DRAFTING	SCN
SURVEY DATE: 09-06-19	
Job No. 06B14719	
SCALE: 1"=20'	



ALL POINTS SURVEYING
1714 FORTVIEW ROAD - SUITE 200
AUSTIN TX. 78704
TELE.: (512) 440-0071 - FAX: (512) 440-0199
FIRM REGISTRATION # 10118900

07/25/2006 14:37

512759R685

SNS ENGINEERING

PAGE 02

LINE NO.	BEARING & DISTANCE
L1	ACTUAL N 89°57'38" W 81.25'
	RECORD N 89°59'00" W 81.21'



CAPSSA ADDITION
301.80, PG. 389



- LEGEND**
- PP6 POWER POLE
 - ET OVERHEAD ELEC./TELE. LINE
 - CL CHAIN LINK FENCE
 - IR IRON FENCE
 - IPF 1/2" IRON PIPE FOUND

ONE 0.75" DIA. AT 115.5' FROM
301.80, PG. 389

PROPERTY SURVEY





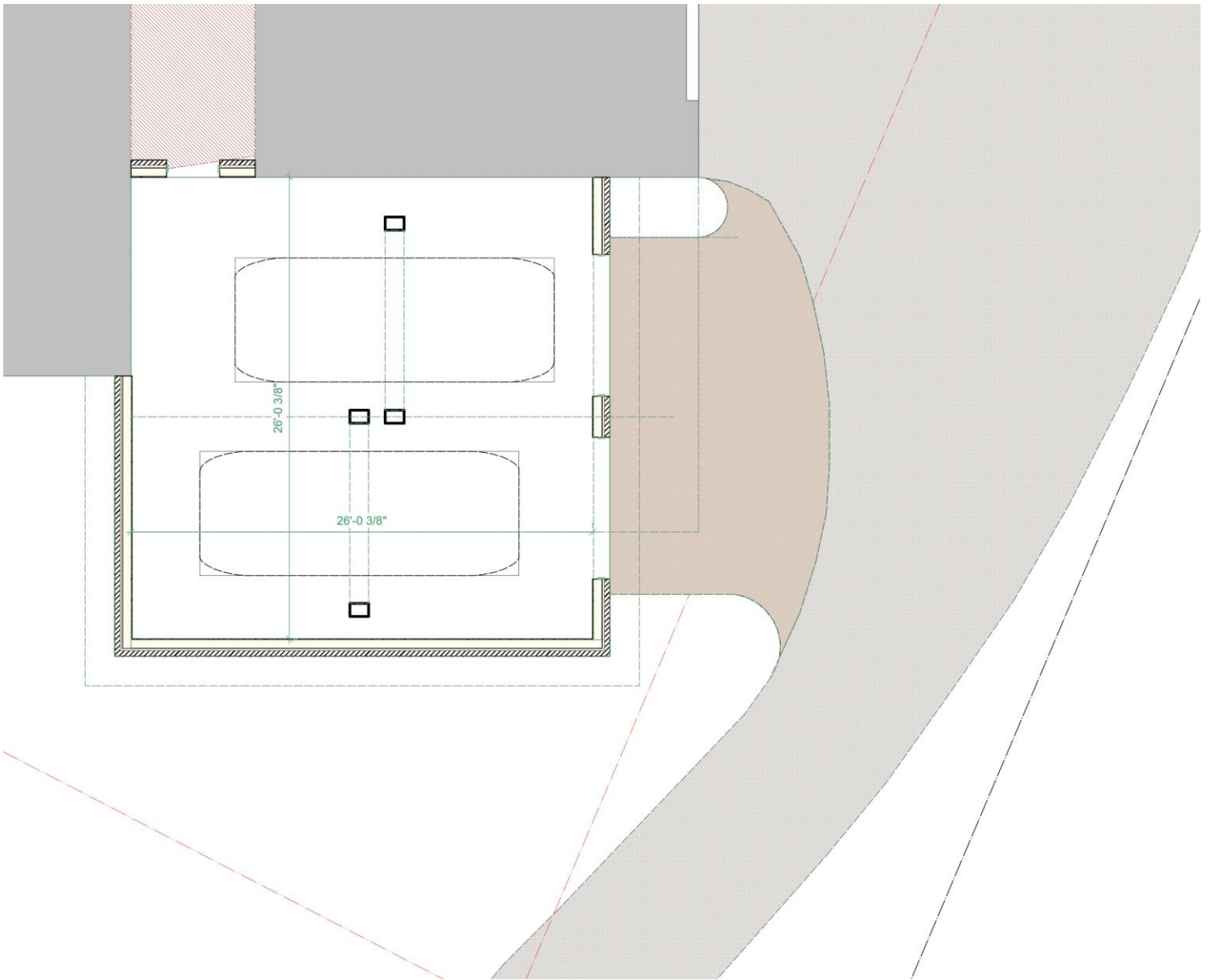
Hi Anjali,

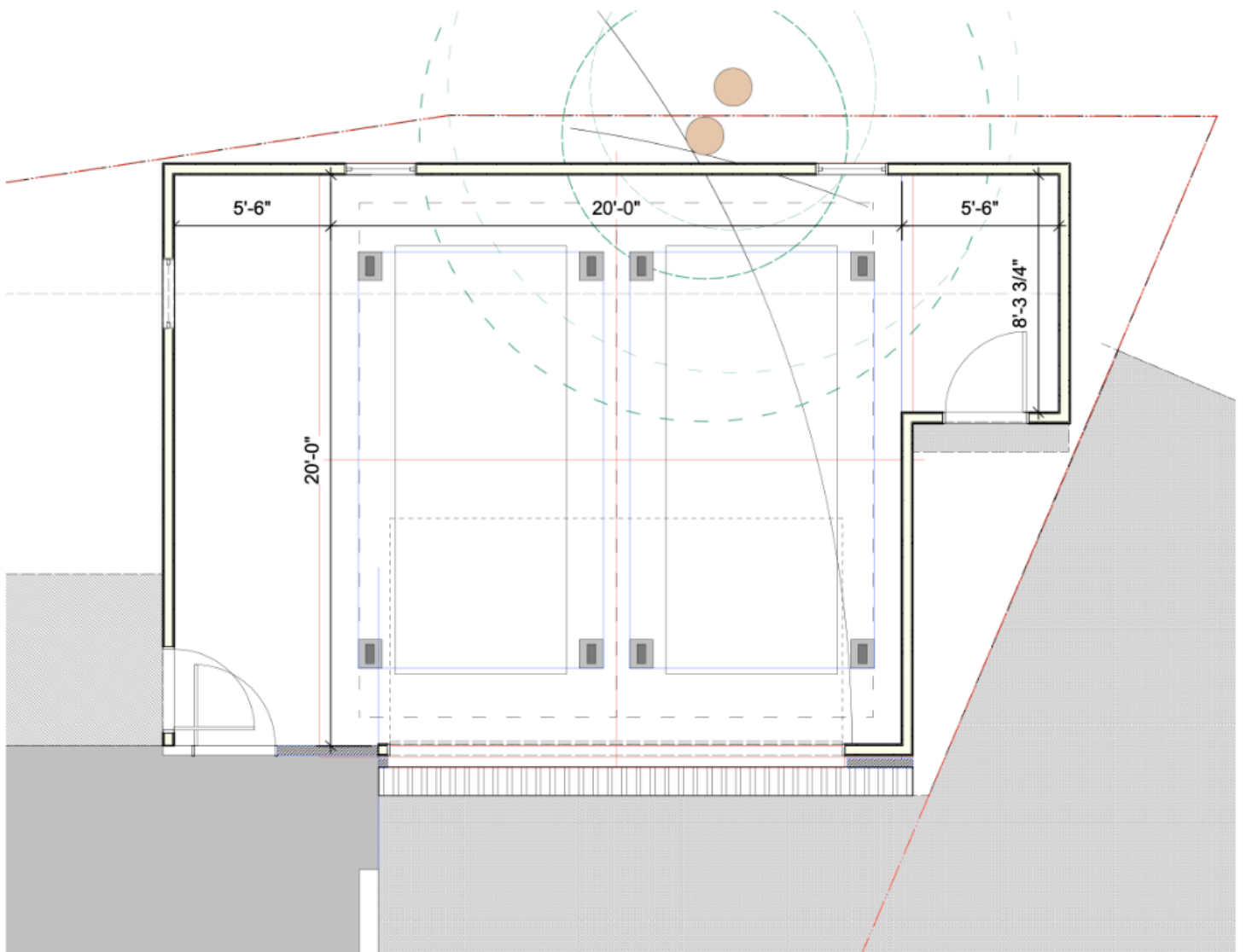
I am still applying for the same variances. As much as I appreciate Bill Vandersteel's generosity with his time and expertise, the solutions still wouldn't quite accommodate what I would need; to fit the type of car lifts I need, it would require at least 26-28ft wide rectangle which would still put me over the build back line on the side by 5-10 ft and several feet on the downhill side. If the build back lines were where they were on my old survey, none of this would be a problem. Also, the proposed solution would delete my back walkway which is the main dry, non-slippery entrance to my house. The other alternative solution to put it in my front yard would yield the size structure I would need, but it would endanger two very large oak trees and put the structure facing street side. I feel like this would defeat the mission of preserving the visual sanctity of the neighborhood. The trees that would be felled for my proposed plan are far less visually consequential and practically invisible from the street. The other solution that Mr. Vandersteel came up with would solve the variance for impermeable cover by changing the top of the driveway to gravel and to have french drains around the structure.

I don't want to come across as difficult or ungrateful for everybody's help, especially Mr. Vandersteel's, but I still want to build this garage so I can safely work on my cars. In the ER I have seen more people than I care to remember who have been crushed by cars slipping off jack stands (which is what I am using now). I feel that sticking points have been addressed:

- 1) One hardship is my physical safety. Also, that alternatives have been explored, but because of the build back line driven design, these would not yield enough space to make the project practical.
- 2) One of the reasons for build back lines is to protect neighbors from impositions near their property; the 2 affected neighbors are OK with the variances with the proviso that I landscape around any concrete, which I agree to do.
- 3) The variance for impervious cover could easily be remedied by making the driveway permeable.
- 4) The few trees I would have to fell are not visually important to the neighborhood. One is dead, the other is a cedar and the third would open up my neighbors' downtown view. Protection of vital root zones could be accomplished using stilts rather than concrete slab.
- 5) We must also consider the circumstances of this unique time, with the economy at a near standstill, every little endeavor that employs people will help. This would be an ancillary benefit of making exceptions for variances and moving ahead with this project.

Thanks,
Ben
512 431-6683







Thu 5/7/2020 5:52 PM

Scott Dunaway <[REDACTED]>

Brieger Project

To Anjali Naini

Cc ben

i Follow up. Start by Friday, May 8, 2020. Due by Friday, May 8, 2020.
You replied to this message on 5/8/2020 10:12 AM.

Anjali,

My name is Scott Dunaway. I live at 205 Buckeye Trail and am Dr. Ben Brieger's neighbor. I spoke with Ben recently regarding his proposed construction project of a single structure garage addition. I understand that he will require a variance for encroaching on the setback line to our property. While I am unclear on how much the structure will encroach on the property line (we don't have a survey that places the structure, only a few markers), we believe it will be 2-3 feet.

I spoke with Ben regarding my concerns, specifically the roof height from grade and the encroachment. We agreed that during construction, he would put in place erosion barriers and a construction fence to control debris. We also agreed that once complete, he would landscape the backside of the structure to mask the exposed foundation and part of the wall. With these agreements in place, I would like to voice my support for Dr. Brieger to proceed with his plans to the ZAPCO.

If you have any questions, please contact me directly. Thank you.

- Scott Dunaway



Scott Dunaway | Partner
O (512) 344-2601 | M (512) 870-7212

[REDACTED]
www.themonumentgroup.com



Fri 5/8/2020 10:08 PM

Eric Huang <[REDACTED]>

301 Buckeye Trail Variance Request

To Anjali Naini

i Follow up. Start by Monday, May 11, 2020. Due by Monday, May 11, 2020.
You replied to this message on 5/11/2020 10:48 AM.

Hi Anjali,

My name is Eric Huang, the owner of 303 Buckeye Trail. I am writing to support my neighbor, Dr. Ben Brieger's variance request for his new garage plan.

Ben is a thoughtful neighbor and always keeps his property well maintained. He has communicated with me about his new garage plan. Not only I have no concerns about his plan but also think it can increase the value of nearby properties. Having additional space for his vehicles will also make adjacent areas in between Ben and my property more organized.

In conclusion, Dr. Brieger's has my full support for his new garage plan application. Please feel free to reach out to me if there is any questions.

Best regards,

-Eric Huang.
303 Buckeye Trail.
858-876-5614

NOTICE TO NEIGHBORS OF VARIANCE REQUESTS

DATE OF NOTICE: March 13, 2020

Greetings. You are hereby notified that **Benjamin Brieger**, the recorded owner of a property located at **301 Buckeye Trail** in the City of West Lake Hills, Texas has filed an Application with the City of West Lake Hills, Texas requesting variances according to the following Sections of the City's Code of Ordinances:

- **Section 22.03.281 – Exceed allowable impervious cover up to 30.5%**
- **Section 22.03.304 – Vegetation and Tree Removal;**
 - **Tree #217 – 14" Cedar**
 - **Tree #218 – 16" double Live Oak**
- **Section 22.03.281 – Encroachment into a building setback**

The request is so that the property owner may: **construct a new 900sf detached garage.**

The Application may be inspected at West Lake Hills City Hall, 911 Westlake Drive, West Lake Hills, Texas between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. This application is scheduled to be considered at a public hearing held by the Zoning and Planning Commission on **April 15, 2020** at **6:30** p.m. and the City Council/Board of Adjustment on **May 13, 2020** at **7:00** p.m. at West Lake Hills City Hall, located at 911 Westlake Drive, West Lake Hills, Texas. There shall include an opportunity for all interested persons to be heard. Please call City Hall at 512-327-3628 or email planner@westlakehills.org if you have any questions.

Mark Littrell, Zoning & Planning Secretary



**DRIVEWAY, SITE DISTURBANCE,
& TREE VARIANCES
STAFF REPORT**

JUNE 10, 2020

Project Name: 119 Redbud Trail – Driveway, site disturbance, and tree/vegetation variances

Requested Action: Construct a driveway extension with second driveway entrance, which requires variances: 1) second driveway entrance (Code only allows one); 2) site disturbance over 18" in the setback; 3) removal of two trees greater than 14" in diameter

Agenda Item: Land Use: 119 Redbud Trail: Discussion/consideration of four variance requests for the construction of a second driveway: 1) construct a second driveway entrance/exit (West Lake Hills Code Sec. 22.03.175; 2) site disturbance/excavation up to 24 inches for a retaining wall in a setback (West Lake Hills Code Sec. 22.03.170); 3) removal of Tree # 35 - 18" Crepe Myrtle (West Lake Hills Code Sec. 22.03.304); 4) removal of Tree # 38 - 19" Crepe Myrtle (West Lake Hills Code Sec. 22.03.304). Owners Charles and Shannon Holley/Applicant Scott Cassel. (This requires dual BOA/City Council action: City Council for tree variances and BOA for construction of a second driveway entrance and site disturbance/retaining wall up to 24" in setback.)

Applicant Information: Owners Charles and Shannon Holley/Applicant Scott Cassel

Hearing Dates:

May 20, 2020	ZAPCO
June 10, 2020	Board of Adjustment/City Council

Location: The subject property is located south of Skyline Drive, north of Laurel Valley Road, and west of Westlake Drive.

Zoning & Site Characteristics:

The subject property and surrounding neighborhood are zoned R-1 – One-Family Residential and is approximately 1.86 acres.

Background & Analysis:

The homeowners, Charles and Shannon Holley, are requesting variances in order to construct a second driveway entrance to add an extension to the existing driveway so that cars are able to safely exit the garage without backing out onto Redbud Trail.

The City's Code Section 22.03.175 only allows one driveway for residential properties. The application states that the current driveway, "...which extends straight uphill from the garage onto Redbud Trail, is impossible to turn around in and is unsafe to exit due to poor view of oncoming traffic."

The City's Code also requires driveways to be designed in a manner that would allow adequate space for vehicles to enter/exit so they will not have to back out directly onto a public street (Code Sec. 22.03.175 (d)).

In order to construct the second driveway entrance and driveway extension, additional variances are required for the removal of two Crepe Myrtle trees that are greater than 14" in diameter and excavation of 24" in the setback, which is greater than the maximum allowed 18" in a setback. The owners explored a different location for the proposed driveway extension and second entrance, but that would require the removal of native oak and cedar trees.

Variance Criteria Review:

When applying for a variance, the applicant has established by competent evidence that:

1. The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.

The application explains that there is not adequate room for the homeowners or visitors to exit the driveway safely onto Redbud Trail. In particular, the issues include:

"-The lack of room to turn around on the driveway or the 'hammerhead' put in by the previous owners. As mentioned, there is not sufficient room for larger vehicles to safely turnaround in the hammerhead. This results in vehicles backing up out of the driveway and onto Redbud Trail, which is not safe and contrary to City code."

"-Due to the angle of Redbud Trail as it approaches our property from the east, it is impossible to know whether a vehicle is about to come around the corner. Due to the speed of most vehicles on Redbud Trail, those leaving our driveway or those coming on the road have insufficient time to react and adjust."

"-The existing grade in the front yard requires a short wall on the uphill and short wall on the downhill side to create a safe driveway that will not exacerbate drainage. We only require a few additional inches to excavate underground to ensure a properly constructed and safe wall is installed adjacent to our driveway."

2. There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.

The application states – "The removal of non-native crape myrtle trees should have relatively minor implications for the local, native ecology, especially as we intend to replace them with three or four native trees."

3. There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.

The application states – “We have attempted to use the ‘hammerhead’ turn around area put in by the previous owner and found it unusable. We have also considered simply relocating the driveway entrance/exit onto Redbud Trail by removing the portion of the existing driveway within the 10’ driveway boundary setback and 20’ Right of Way street setback, but unfortunately this leaves insufficient room for vehicles to backup out of our garage or turnaround.”

4. The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.

The application states – “The proximity of the curve in Redbud Trail to the existing driveway is not something that we can address –the only remedy is to add an extension off of our existing driveway for another exit.”

5. The variance does not violate the intent of the Zoning Ordinance or goals of the Comprehensive Plan.

The application states – “Our goal is to minimize any ecological impact while ensuring our safety, together with that of visitors to our house and those driving on Redbud Trail. Were we able to have sufficient visibility down Redbud Trail to see oncoming traffic, for such traffic to see our driveway, and to have sufficient room to turn around and not back out onto Redbud Trail, we would not be seeking this variance.”

6. The variance will not adversely affect neighboring properties or interfere with the enjoyment of these properties by their owners.

The application states – “The proposed driveway extension and additional exit would help to ensure the safety of our neighbors and fellow West Lake residents driving on Redbud Trail. Moreover, the proposed exit is farther away from the driveway of our neighbor directly across the street (our existing entrance/exit is almost directly across from their driveway) and the neighbor at 123 Redbud Trail.”

Traffic/Transportation

If the variance is approved, the proposed project may have a positive impact on Redbud Trail by reducing a safety hazard for the homeowners of the subject property as well as other drivers.

Lighting

No outdoor lighting is proposed with this project.

Building Code

The property and future construction will have to comply with all applicable City codes.

Subdivision

This request will not change the subdivision.

Comprehensive Planning Analysis

This property is located in Area 1 (Residential). The existing and future land use comply with the Master Plan.

Zoning & Planning Commission Recommendation

During the May 20, 2020 ZAPCO meeting, the Commissioners unanimously recommended approval by a vote of 5 – 0.

Staff Recommendation

Staff recommends approval of the requested variances as the proposed driveway configuration and second entrance help alleviate a safety hazard. The application demonstrates a lack of other feasible options to reconfigure the existing driveway.

Code:

Sec. 22.03.170 Site disturbance (excavation, grading or filling)

- (a) Excavating, grading or filling shall minimize the negative impacts of development on natural slopes and interfere as little as possible with the natural landscape by minimizing the alteration of the natural terrain.
- (b) The minimum site disturbance standards for earth cuts and fills are included in the drainage and erosion control design manual.
- (c) Finished open cuts of an excavation shall not exceed the 1.5H:1V ratio in undisturbed earth, 2H:1V ratio in earth fill.
- (d) Excavation shall not interfere with public or private utility systems and shall not create or aggravate any condition detrimental to the public health and safety.
- (e) Excavation and removal of excavated material, and filling shall be permitted without a permit provided such operation is clearly incidental to improvement of the property, consists of less than six cubic yards of material and the area is graded and covered by revegetation or other suitable means to prevent erosion.
- (f) No excavation, grading or filling shall be permitted in setbacks except for up to 18 inches in height or depth.
- (g) Any wall shall not exceed six (6) feet in height above natural grade.
- (h) Walls shall either incorporate the use of native materials or be earth-tone colors to match native soils.
- (i) All walls of three (3) feet or more shall require shrubbery and/or vines of healthy stock and of a minimum of two (2) feet in height immediately after planting in front of the retaining wall. All shrubbery and/or vines shall be planted and maintained so as to form a continuous, unbroken, solid, visual screen which will grow to the same height or more of the retaining wall.

Sec. 22.03.175 Off-street parking and parking pad requirements in residential areas

- (a) Off-street parking and loading areas, including parking pads, shall be located no closer to street right-of-way lines and to lot boundary lines than the applicable minimum distances prescribed in the following schedules:

- (1) The minimum setback distance for driveways and parking areas from street right-of-way lines shall be 20 feet. Excluded from this setback is the first 20 feet of the driveway that connects to the adjacent street.
- (2) The minimum setback distance for driveways and parking areas from boundary lines shall be 10 feet. Excluded from this setback is the first 10 feet of the driveway that connects to the adjacent street.
- (b) Driveway entrances shall be set back at least 35 feet from the point of tangency of the curb at any intersecting street.
- (c) Adequate culverts shall be provided per the drainage and erosion control design manual.
- (d) All driveways shall be designed so as to provide safe vehicular entrance and exit without the necessity of backing out into a public street.
- (e) Every driveway entrance/exit shall be at roadway grade level where the driveway intersects the city's right-of-way except as otherwise approved by the city inspector.
- (1) Each dwelling shall be on a lot abutting a public street or having access to an improved public street, and all structures shall be so located on lots as to provide safe, convenient access for servicing, police protection, fire protection and required off-street parking. Driveways shall not exceed a maximum of 20 percent grade at any point after construction.
- (2) Only one driveway is allowed per primary dwelling unit, regardless of the number of lots, frontage on more than one roadway, or character of accessory structures. The driveway entrance/exit shall not exceed 20 feet in width. The location of all driveways shall be approved by the city inspector. The parking spaces and driveway surfaces shall be those required in [sections 22.03.241](#), [22.03.242](#), [22.03.244](#) and [22.03.247](#).
- (3) No residential structure shall be erected or enlarged by an increase in floor area unless the minimum number of off-street parking spaces specified in the following schedule is provided. Adequate aisles and driveways shall also be provided to permit proper maneuvering within the parking area and for safe and orderly entry and exit. Parking area design is included as an integral part of the site plan development.

Sec. 22.03.304 Tree and vegetation removal and replacement

(a) Removal policy.

- (1) Existing vegetation shall be left undisturbed to the maximum extent possible. In most circumstances, if a tree must be removed, it shall be replaced with a native, non-invasive species so that the native, natural landscape of the city is preserved for future generations.
- (2) Trees less than ten (10) inches in diameter measured at a point fifty-four (54) inches above the ground may be removed with a permit in accordance with [section 22.03.303\(b\)](#).
- (3) Trees greater than or equal to ten (10) inches and less than fourteen (14) inches in diameter measured at a point fifty-four (54) inches above the ground may be removed with a permit in accordance with [section 22.03.303\(b\)\(4\)](#). If a tree greater than or equal to ten (10) inches and less than fourteen (14) inches in diameter does not meet the requirements of [section 22.03.303\(b\)\(4\)](#) then the removal shall be requested through a variance as described by subsection (a)(4) of this section.
- (4) The removal of trees greater than or equal to fourteen (14) inches in diameter measured at a point fifty-four (54) inches above the ground, or a tree greater or equal to ten (10) inches and less than fourteen (14) inches in diameter that does not meet the requirements of [section](#)

[22.03.303\(b\)\(4\)](#), is prohibited except as allowed under [section 22.03.303\(b\)\(7\)](#) and therefore such removal requires a variance from the city council as outlined in section 22.03.308.

(b) Removal procedure.

(1) Tree survey.

(A) For all new construction on an undeveloped lot without existing structures, the property owner must provide the city inspector with a tree survey of the entire property.

(B) For all new construction on a developed lot with existing structures, the city administrator at his sole discretion may allow the property owner to submit a tree survey of less than the entire property.

(C) All tree surveys must be conducted by a state-registered surveyor or engineer prior to a permit being issued and must include all trees with trunk diameters of three (3) inches or greater at twelve (12) inches above the ground.

(D) All trees to be removed must be highlighted or marked on the survey.

(2) Trunk diameters of the trees that the property owner proposes to remove shall be measured at a point fifty-four (54) inches above the ground. If a tree trunk splits at a height of less than fifty-four (54) inches, the tree diameter shall be calculated by adding the sum of the diameter of the largest stalk, plus one-half (1/2) of the diameter of all remaining smaller stalks all measured at a point fifty-four (54) inches above the ground.

(c) Violation of removal procedure.

(1) No person shall remove a tree in violation of this division.

(2) The diameter of trees removed in violation of this division shall be measured at the widest portion of the exposed base of the trunk for purposes of calculating replacement requirements. If no exposed base of trunk exists, then the city inspector shall estimate the diameter of trees that were removed for purposes of calculating replacement requirements.

(3) Any person removing tree(s) or vegetation in violation of the regulations provided in this division shall replace the tree(s) removed with tree(s) of equivalent species and size (caliper inches and canopy diameter). If tree(s) removed are not exhibit A tree(s), then exhibit A tree(s) must be used as replacements.

(4) Any person violating any of the provisions of this division shall be deemed guilty of a class C misdemeanor, and such offense shall be punishable by a fine not to exceed two thousand dollars (\$2,000.00) per offense. Each tree removed in violation of this division shall be considered a separate offense. A person does not commit an offense under this section unless the person intentionally, knowingly, recklessly, or with criminal negligence engages in conduct as the definition of the offense requires.

(5) It is a separate offense to fail to replace trees or vegetation, or remit to the city cash-in lieu, as provided in this code, within 601 days of issuance of a final order by the city.

(6) Criminal fines imposed under this code are in addition to replacement requirements and any other remedies available at law or in equity.

Sec. 22.03.514 Criteria required for granting variance

No variance shall be granted under this chapter unless the following criteria are fulfilled:

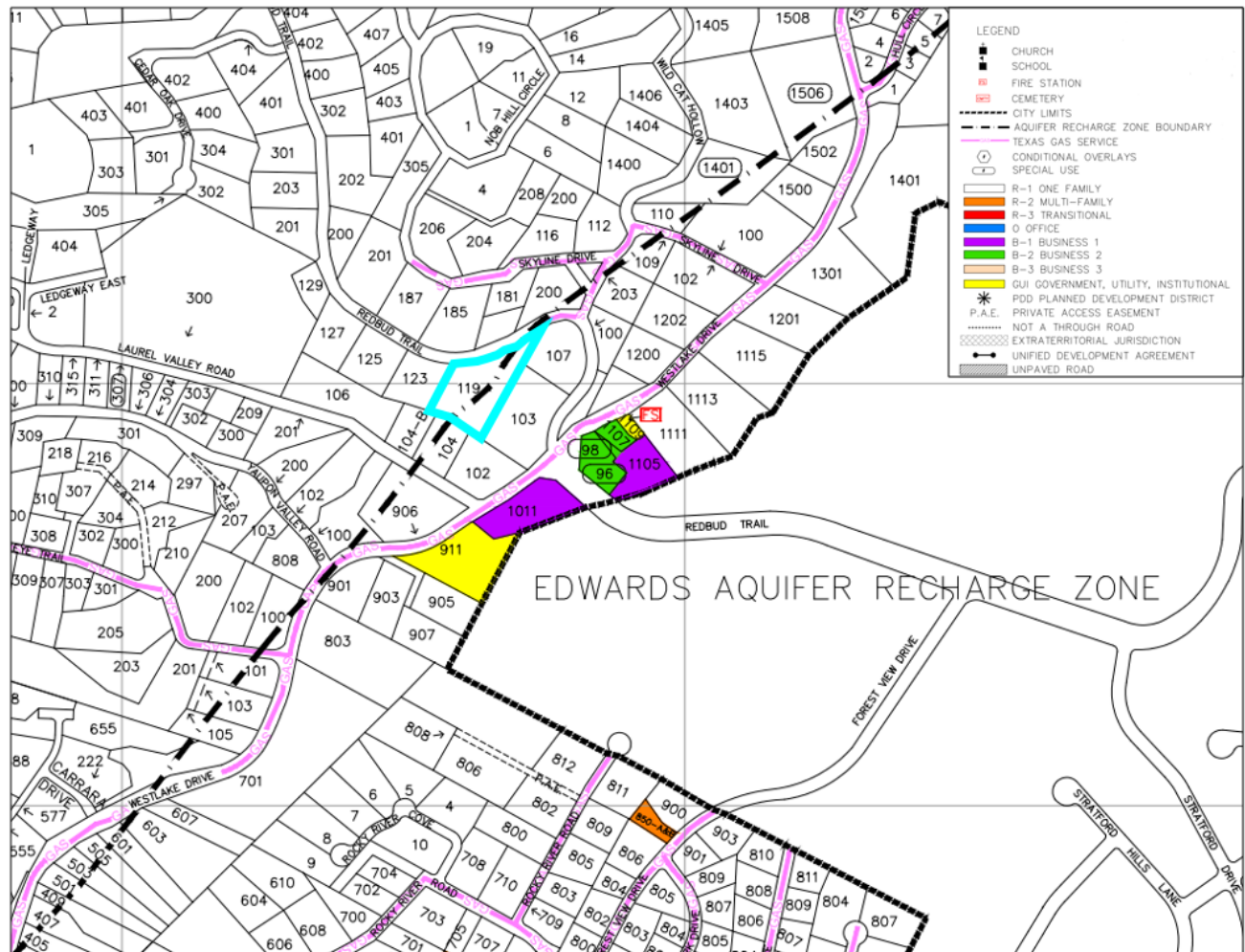
(1) Findings. The applicant has established by competent evidence that:

(A) The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.

- (B) There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.
 - (C) There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.
 - (D) The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.
- (2) ZAPCO. The recommendation of zoning and planning commission shall include an analysis of whether:
- (A) The variance may violate the intent of this chapter or the goals of the city's comprehensive plan; and
 - (B) The variance may have an adverse effect on neighborhood properties, or interfere with the respective owners' enjoyment thereof; and
 - (C) When considering variance requests for nonresidential projects in the Commercial Overlay District, whether the variance, when considered as part of the proposed project (as a whole), furthers achievement of the land planning principles set forth in the city's master plan, attachment B, as codified in article 28.02 of this code.
- (3) Conditions. The city council can impose, and the zoning and planning commission can recommend imposition of, reasonable conditions upon granting a variance if the conditions are related to the subject of the variance. When considering variance requests for nonresidential projects in the Commercial Overlay District are necessary to achieve one or more of the land planning principles set forth in the city's master plan, attachment B, as codified in article 28.02 of this code.
- (Ordinance 137, att. A, adopted 9/15/08)

(Maps to follow)

Zoning:



Aerial:



APPLICATION COVER SHEET

Property Address: 119 Redbud Trail West Lake Hills, TX 78746
Applicant Name: Charles Holley
Designated Agent (if any, Power of Attorney Required): Scott Cassel
Applicant Phone Number: 479-586-7771 Email Address: [REDACTED]
Date Application was Submitted: 04/03/20

Variance(s) Requested: A variance to City of West Lake Hills Code 22.03.175 Off Street Parking and Parking Pad Requirements in Residential Areas, Section (e) (2), which limits each dwelling unit to "only one driveway." For safety reasons, we seek to install a second entrance/exit off of the existing driveway. A second variance of Code 22.03.170(f), which states "No excavation, grading or filling shall be permitted in setbacks except for up to 18 inches in height or depth", is requested so that we can excavate up to 24" for proper footings and drainage for a retaining wall necessary to level the proposed driveway. The wall will not exceed 18" above grade (fill) at any point. The third variance is for the removal of a 19" non-native Crape Myrtle, which is located where the new driveway exit is proposed (all other possible locations would require the removal of native oak and cedar trees); the fourth variance is for the removal of another non-native Crape Myrtle tree, 18" in caliper, located near a retaining wall necessary for the proposed driveway.

Applicant completes above section; City Staff completes the section below:

Variance File Number: _____ *[A sequential identifier based on application date and noted in a Variance Application Log maintained by staff. Examples: 20110903A, 20110903B, 20111021A, etc.]*

Application Fees Due: \$ _____ ☐ Fees Received on _____ by _____

DRAFT APPLICATION PACKET MATERIALS

Draft Application Packet Received on _____ by _____
☐ Letter to ZAPCO Chairperson ☐ Variance Approval Criteria Answers
☐ Site Plan Coversheet ☐ Site Plan Drawings
☐ Elevation Views and Floor Plans (new structures only)
☐ Septic Assessment (new structures only)
☐ Additional Support Materials (if any): _____
☐ Power of Attorney (if any) – Designated Representative: _____
Staff Analysis completed on _____ by _____
Staff Analysis sent to Applicant on _____ by _____

FINAL APPLICATION PACKET

Final Application Packet Reviewed and Approved on _____ by _____
Notice to Proceed Letter sent to Applicant on _____ by _____
• Notification Letter must be postmarked by _____ ☐ Confirmed by _____
• Sign must be posted by _____ ☐ Confirmed by _____
15 Copies of Final Packet received on _____ ☐ Confirmed by _____

ZAPCO

Scheduled for ZAPCO Hearing on: _____
ZAPCO Action Letter sent on _____ by _____
ZAPCO Recommendation: _____
Conditions/Comments (if any): _____
Modified application and materials (if any) received on _____ by _____

BOA/CITY COUNCIL

Scheduled for BOA/Council Hearing on: _____
BOA/Council Action: _____
Conditions/Comments (if any): _____
BOA/Council Action Letter sent on _____ by _____

FOLLOW-UP

Follow-up dates (vegetative screening installed, survival verification, etc.): _____
• Notifications added to Incode on _____ by _____
Postponement History (if any): _____
Notes: _____

April 3, 2020

Chairman Robert Meisel West Lake Hills Zoning and Planning
Commission 911 Westlake Drive West Lake Hills, Texas 78746

Dear Mr. Chairman:

This letter is in support of our request for four (4) variances. The first is to City of West Lake Hills Code 22.03.175 Off Street Parking and Parking Pad Requirements in Residential Areas, Section (e) (2), which limits each dwelling unit to "only one driveway." The existing driveway, which extends straight uphill from the garage onto Redbud Trail, is impossible to turn around in and is unsafe to exit due to poor views of oncoming traffic. This presents a danger to us, visitors, as well as other drivers on Redbud Trail. A second variance of Code 22.03.170(f), which states "No excavation, grading or filling shall be permitted in setbacks except for up to 18 inches in height or depth", is requested so that we can excavate up to 24" for proper footings and drainage for a retaining wall necessary to level the proposed driveway. The wall will not exceed a height of 18" above grade (fill) at any point.

The proposed alternative driveway layout, for which we are seeking this variance and which is illustrated in the attached site plan, would provide sufficient room for us to back out of the garage, turn onto a proposed extension of the driveway that extends to the eastern portion of our property and a safer driveway exit, where cars leaving our property can be seen and where we can see other drivers.

The original driveway appears to be in contradiction of 22.03.175 (d), which states that "All driveways shall be designed so as to provide safe vehicular entrance and exit without the necessity of backing out into a public street." That driveway extended straight from the house, up a steep incline, and onto Redbud Trail. It is unclear why this driveway was allowed during the original house construction. A 'hammerhead'-shaped extension to this driveway was, we understand, approved by the City and installed prior to our purchase of the home last December 2019. Unfortunately, this 'hammerhead' addition does not provide sufficient room for larger cars and vehicles to turn around.

We have considered removing those portions of the existing driveway within the 10' driveway boundary setback and 20' Right of Way street setback, but unfortunately this leaves insufficient room for vehicles to backup out of our garage or turnaround. Due to setback restrictions as well as the proximity of the house to Redbud Trail, the only completely safe option is for the existing driveway to serve as an entrance and the proposed driveway extension to serve as an exit.

Additionally, numerous driveways within West Lake municipal limits have driveways with more than a single entrance/exit, including the four properties directly to the west of ours: 123 Redbud Trail, 125 Redbud Trail, 127 Redbud Trail and 129 Redbud Trail. We are assuming our neighbors have these driveways with multiple exits due to the same safety issues we seek to remedy here.

The second variance concerns the limit on excavation/fill/grading of more than 18" in the front setback (Sec 22.03.170(f)). Due to the slope in the front yard, short retaining walls are necessary to level grade properly; they will not exceed 18" above grade, but will require footings 6" below grade, resulting in excavation of 24", exceeding the code limit of 18" of excavation. The two crape myrtles trees for the third and fourth variances are located at the location of the driveway exit and a retaining wall, respectively. Unfortunately, moving the driveway elsewhere would require the removal of native oak or cedar trees, which we would prefer not to do.

Thank you,
Charles and Shannon Holley

ANSWERS TO VARIANCE APPROVAL CRITERIA QUESTIONS

West Lake Hills City Code requires applicants to answer each of the following questions. The ZAPCO Commissioners, Board of Adjustment and City Council Members consider your answers to these questions when evaluating your application. (Feel free to respond to these questions on a separate page or document.)

(1) Describe in detail any special conditions you believe will result in unnecessary hardship to you if the terms of this ordinance are strictly or literally enforced.

There are a number of special conditions which result in unnecessary hardship - that is, a driveway that is unsafe for us and our visitors to exit from and, in turn, for drivers on Redbud Trail. These include:

- The lack of room to turn around on the driveway or the 'hammerhead' put in by the previous owners. As mentioned, there is not sufficient room for larger vehicles to safely turnaround in the hammerhead. This results in vehicles backing up out of the driveway and onto Redbud Trail, which is not safe and contrary to City code.
- Due to the angle of Redbud Trail as it approaches our property from the east, it is impossible to know whether a vehicle is about to come around the corner. Due to the speed of most vehicles on Redbud Trail, those leaving our driveway or those coming on the road have insufficient time to react and adjust.
- The existing grade in the front yard requires a short wall on the uphill and short wall on the downhill side to create a safe driveway that will not exacerbate drainage. We only require a few additional inches to excavate underground to ensure a properly constructed and safe wall is installed adjacent to our driveway.

(2) Why do you think the natural terrain and existing flora will not be unreasonably disrupted or destroyed in the variance you are requesting is granted?

The proposed driveway extension and exit onto Redbud Trail would extend over only existing turf and between the root zones of existing oak trees. The driveway extension runs parallel to the front of the house and along the contours there, meaning we are avoiding significant cuts or filling and maintaining existing drainage patterns. Only a single crape myrtle tree, planted by the previous owners, would need to be removed to accommodate this work. Moreover, the installation of the driveway will remove turf grass from the front lawn, reducing water use for the property. Excavating an additional 6" down for the wall footing will not impact any flora, etc. It will merely ensure the wall is properly built and protect the property and it's inhabitants.

The removal of non-native crape myrtle trees should have relatively minor implications for the local, native ecology, especially as we intend to replace them with three or four native trees.

(3) What other reasonable alternatives have you considered? Why won't these other options alleviate the difficulty or hardship that you think exists?

We have attempted to use the 'hammerhead' turn around area put in by the previous owner and found it unusable. We have also considered simply relocating the driveway entrance/exit onto Redbud Trail by removing the portion of the existing driveway within the 10' driveway boundary setback and 20' Right of Way street setback, but unfortunately this leaves insufficient room for vehicles to backup out of our garage or turnaround. Due to setback restrictions as well as the proximity of the house to Redbud Trail, the only completely safe option is for the existing driveway to serve as an entrance and the proposed driveway extension to serve as an exit.

Concerning the second variance, unfortunately, we have to manage the slope in the front yard and ensure the walls are properly built, and so ask for a small increase in the maximum limit. As regards the Crape Myrtle removal, moving the proposed additional driveway exit to another location would require removal of, or significant impact on the critical root zone of, native oak and cedar trees.

(4) Why do you believe the variance you are requesting is the minimum required to alleviate the difficulty or hardship you think exists?

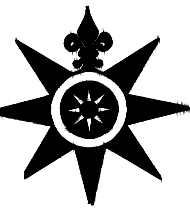
The proximity of the curve in Redbud Trail to the existing driveway is not something that we can address - the only remedy is to add an extension off of our existing driveway for another exit.

(5) Why do you believe your variance does not violate the intent of the Zoning Ordinance or the goals of the City's Comprehensive Plan?

Our goal is to minimize any ecological impact while ensuring our safety, together with that of visitors to our house and those driving on Redbud Trail. Were we able to have sufficient visibility down Redbud Trail to see oncoming traffic, for such traffic to see our driveway, and to have sufficient room to turn around and not back out onto Redbud Trail, we would not be seeking this variance. We believe the safety of West Lake Hills residents and visitors is of paramount importance to the City. The requested additional front setback excavation is minimal and will not result in above grade fill exceeding 18"; and the trees are non-native ornamentals planted by a previous homeowner. We intend to plant native trees in different locations.

(6) Why do you believe your variance will not adversely affect neighboring properties or interfere with the enjoyment of these properties by their owners?

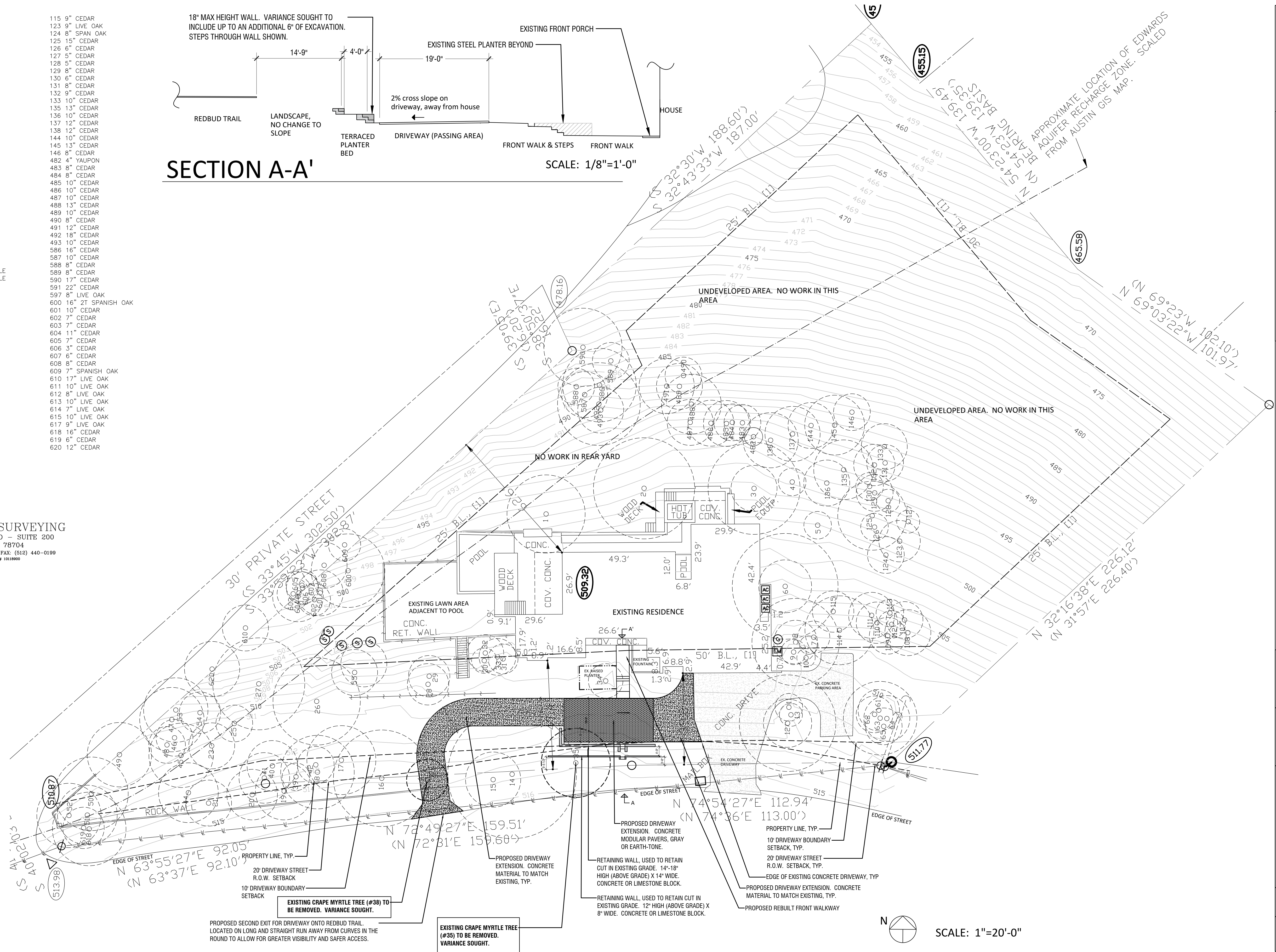
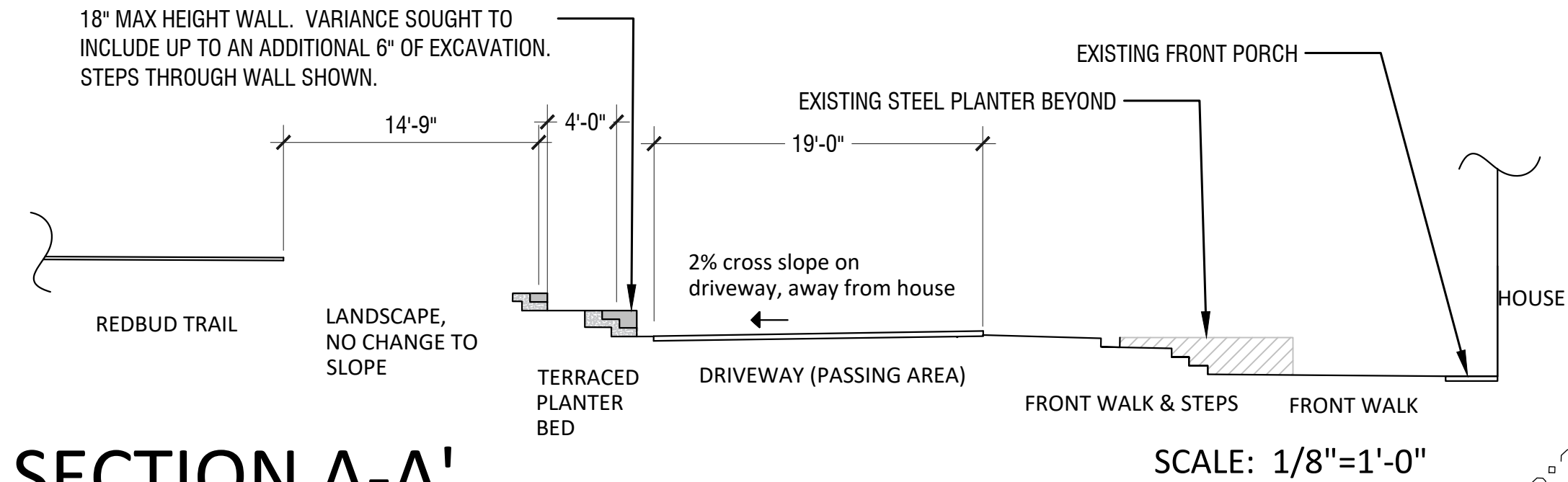
The proposed driveway extension and additional exit would help to ensure the safety of our neighbors and fellow West Lake residents driving on Redbud Trail. Moreover, the proposed exit is farther away from the driveway of our neighbor directly across the street (our existing entrance/exit is almost directly across from their driveway) and the neighbor at 123 Redbud Trail.



TAG	DESCRIPTION	
1	17" LIVE OAK	115 9" CEDAR
2	22" PECAN	123 9" LIVE OAK
3	19" SPANISH OAK	124 8" SPAN OAK
4	11" LIVE OAK	125 15" CEDAR
5	10" LIVE OAK	126 6" CEDAR
6	21" LIVE OAK	127 5" CEDAR
7	12" LIVE OAK	128 5" CEDAR
8	14" LIVE OAK	129 8" CEDAR
9	12" LIVE OAK	130 6" CEDAR
10	11" LIVE OAK	131 8" CEDAR
11	11" LIVE OAK	132 9" CEDAR
12	21" LIVE OAK	133 10" CEDAR
13	11" LIVE OAK	135 13" CEDAR
14	28" LIVE OAK	136 10" CEDAR
15	12" LIVE OAK	137 12" CEDAR
16	21" CEDAR	138 12" CEDAR
17	15" CEDAR	144 10" CEDAR
18	16" CEDAR	145 13" CEDAR
19	13" CEDAR	146 8" CEDAR
20	12" CEDAR	482 4" YAUPON
21	10" CEDAR	483 8" CEDAR
22	9" LIVE OAK	484 8" CEDAR
23	10" LIVE OAK	485 10" CEDAR
25	15" LIVE OAK	486 10" CEDAR
26	19" LIVE OAK	487 10" CEDAR
27	20" LIVE OAK	488 13" CEDAR
28	18" LIVE OAK	489 10" CEDAR
29	18" LIVE OAK	490 8" CEDAR
30	11" LIVE OAK	491 12" CEDAR
31	13" LIVE OAK	492 18" CEDAR
32	16" LIVE OAK	493 10" CEDAR
33	16" LIVE OAK	586 16" CEDAR
34	15" MT CB	587 10" CEDAR
35	18" CREPE MYRTLE	588 8" CEDAR
38	19" CREPE MYRTLE	589 8" CEDAR
39	6" CEDAR	590 17" CEDAR
40	11" CEDAR	591 22" CEDAR
41	11" CEDAR	597 8" LIVE OAK
42	8" CEDAR	600 16" 21" SPANISH OAK
43	11" CEDAR	601 10" CEDAR
44	13" CEDAR	602 7" CEDAR
45	14" CEDAR	603 7" CEDAR
46	8" CEDAR	604 11" CEDAR
47	14" CEDAR	605 7" CEDAR
48	8" CEDAR	606 3" CEDAR
49	14" CEDAR	607 6" CEDAR
50	14" CEDAR	608 8" CEDAR
51	13" CEDAR	609 7" SPANISH OAK
52	14" CEDAR	610 17" LIVE OAK
53	14" CEDAR	611 10" LIVE OAK
54	9" LIVE OAK	612 8" LIVE OAK
55	10" CEDAR	613 10" LIVE OAK
61	9" CEDAR	614 7" LIVE OAK
62	8" CEDAR	615 10" LIVE OAK
63	8" CEDAR	617 9" LIVE OAK
64	10" CEDAR	618 16" CEDAR
65	8" CEDAR	619 6" CEDAR
106	11" CEDAR	620 12" CEDAR
107	8" CEDAR	
108	10" CEDAR	
109	8" CEDAR	
110	9" CEDAR	
111	10" CEDAR	
112	6" CEDAR	
113	6" CEDAR	
114	15" CEDAR	

ALL POINTS SURVEYING
1714 FORTVIEW ROAD - SUITE 200
AUSTIN TX. 78704
TELE.: (512) 440-0071 - FAX: (512) 440-0199
FIRM REGISTRATION # 10118900

SECTION A-A'



SITE PLAN

FOR VARIANCE APPLICATION ONLY

CASSEL

L A N D S C A P E S
A R C H I T E C T S

HOLLEY RESIDENCE
119 Redbud Trail
Austin, TX 78746

Issue Record

04/16/20

Revision Record

2

Project ID

Project Title

Project Address

Drawn By

Checked By

File Name

Sheet #

L1.0

SITE PLAN

SPECIAL POWER OF ATTORNEY

KNOW ALL PERSONS BY THIS DOCUMENT that I Charles M. and
being the owner(s) of the property identified below, have made, constituted and appointed
Shannon S. Holley to be my duly authorized representative in connection with
a variance application dated 4-1-2020 and relating to my property at
, to be heard by the Zoning and Planning
Commission and BOA/City Council of the City of West Lake Hills, Texas. All representations,
whether oral or written, made by the representative in support of the request have the full force
and effect of the applicant's approval. I do by this document constitute the above named
representative as my true and lawful attorney-in-fact to act in my name, place and stead, to do
and perform any act in connection with such application which I myself might perform or do if I
was personally present.

Property Owner/Applicant's Signature _____

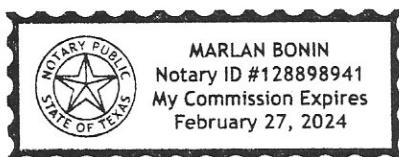
119 Redbud Trail, Westlake Hills, Tx 78746

479-586-7771
Phone Number

The instrument was acknowledged before me on this the 2nd day of April, 20 20.

Notary Public in and for the State of Texas

* - Co-trustees



119 Redbud Trail - This shows the existing driveway and the curve in Redbud Trail that limits visibility and creates a dangerous situation for the us, visitors and those driving on the road. Due to the slope and size of the existing driveway it is impossible for all but small vehicles to turn around, requiring drivers must back up onto Redbud Trail.



Image capture: Feb 2019 © 2020 Google

123 Redbud Trail - It is the norm in this area along Redbud Trail to have two driveway entrances/exits. This picture shows that our immediate neighbor to the west, 123 Redbud Trail, has two driveway entrances/exits.



Image capture: Feb 2019 © 2020 Google

125 Redbud Trail also has two entrances/exits.



Image capture: Feb 2019 © 2020 Google



127 Redbud Trail also has two entrances/exits.



Image capture: Feb 2019 © 2020 Google



129 Redbud Trail also has two entrances/exits.



Image capture: Feb 2019 © 2020 Google



NOTICE TO NEIGHBORS OF VARIANCE REQUEST

DATE OF NOTICE: April 17, 2020

Greetings. You are hereby notified that **Charles Holley**, the recorded owner of a property located at **119 Redbud Trail** in the City of West Lake Hills, Texas has filed a Variance Application with the City of West Lake Hills, Texas requesting variances according to the following Sections of the City's Code of Ordinances:

- **Section 22.03.175 – Off-street parking and parking pad requirements in residential areas**
 - **Construct a second driveway entrance/exit**
- **Section 22.03.170 – Site disturbance (excavation, grading or filling)**
 - **Excavate up to 24" for retaining wall and footings related to driveway construction**
- **Section 22.033.304 – Tree and vegetation removal and replacement**
 - **Tree # 35 – 18" Crepe Myrtle**
 - **Tree # 38 – 19" Crepe Myrtle**

The request is so that the property owners may: **Construct a second driveway entrance/exit including excavation over maximum allowed 18" in the setback and removal of two trees over 14"**.

The Application may be inspected at West Lake Hills City Hall, 911 Westlake Drive, West Lake Hills, Texas between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. This application is scheduled to be considered at a public hearing held by the Zoning and Planning Commission on **May 20, 2020** at **6:30** p.m. and the Board of Adjustment/City Council on **June 10, 2020** at **7:00** p.m. at West Lake Hills City Hall, located at 911 Westlake Drive, West Lake Hills, Texas. There shall include an opportunity for all interested persons to be heard. Please call City Hall at 512-327-3628 or email planner@westlakehills.org if you have any questions.

Mark Littrell, Zoning & Planning Secretary





SPECIAL USE PERMIT (SUP) STAFF REPORT

JUNE 10, 2020

Project Name: 701 S. Capital of Texas Highway Suite G700 (Biderman's Deli) – SUP Application

Agenda Item: 701 South Capital of Texas Highway, Suite G700: Discuss and Consider Action to Adopt an Ordinance for a Special Use Permit Application to Allow the Sale of Beer and Wine for On-Site Consumption at Biderman's Deli, Zoned B – 3. (West Lake Hills Code Sec. 38.03.037).
Owner/Applicant Zachary Biderman

Applicant Information: Zachary Biderman

Hearing Dates:

June 10, 2020 Board of Adjustment

Requested Action: Special Use Permit for sale of beer and wine for on-premises consumption

Location: The property is located at the southeast corner of Loop 360/South Capital of Texas Highway and Bee Cave Road (The Village at Westlake). The subject unit, Suite G700, is located at the southern end of the shopping center.

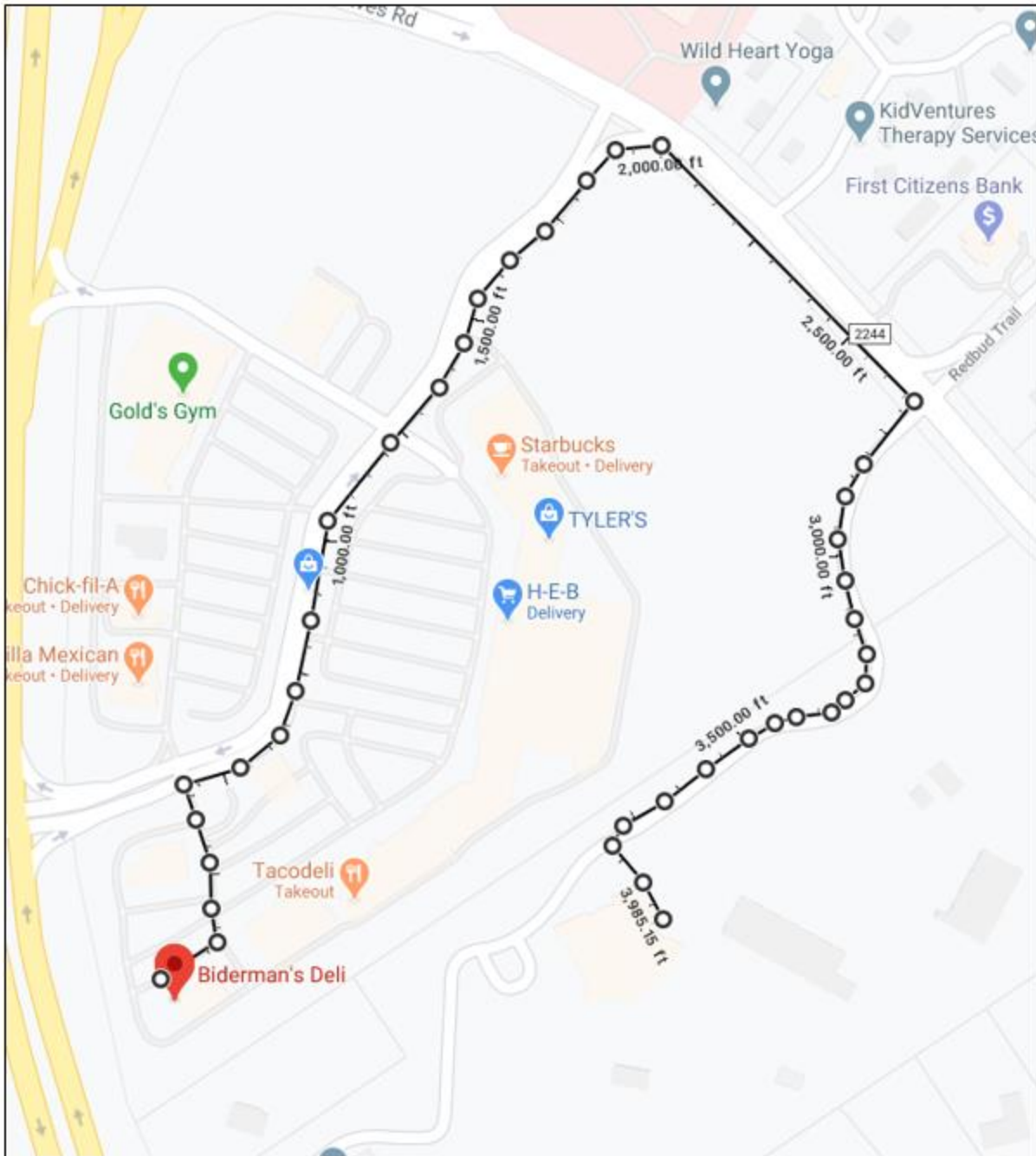
Zoning & Site Characteristics: The subject property is a shopping center zoned B – 3 Business 3 District.

Background & Analysis: Biderman's Deli is an existing restaurant located in the Village at Westlake Shopping Center. The owner, Zachary Biderman, is applying for a Special Use Permit for the sale of beer and wine for consumption within the restaurant. The restaurant's hours of operation at 7:00am to 3:00pm Monday through Friday, and 8:00am to 3:00pm Saturday through Sunday.

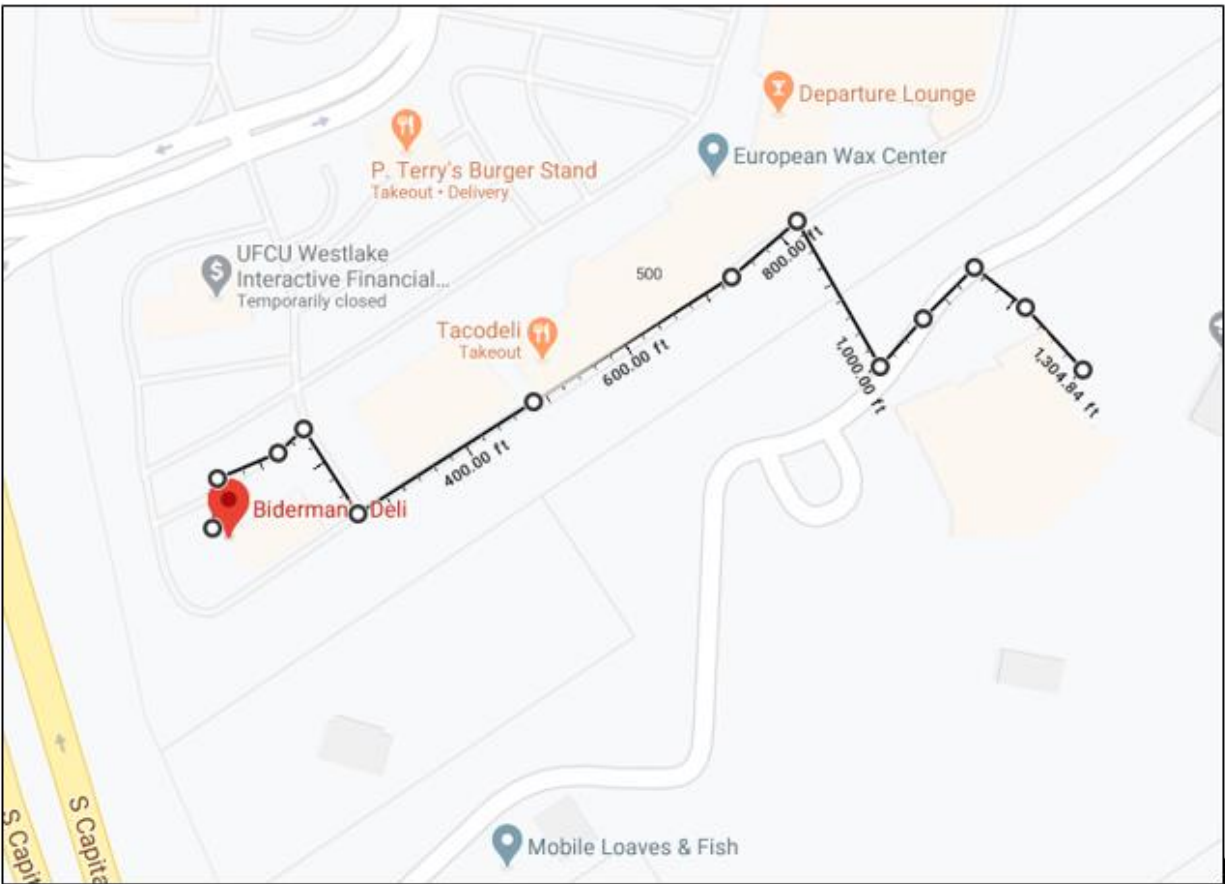
The City's Code requires sale of alcohol to comply with the Texas Alcoholic Beverage Commission (TABC) regulations regarding distance of the businesses selling alcoholic beverages to a church or school. In this particular case, the property is adjacent to S. John Neumann's Church located at 5455 Bee Cave Road. TABC method of measuring for public hospitals or churches is "from front door to front door, along the property lines of the street fronts and in a direct line across intersections." Below are the two ways staff measured the distance. Both show that Biderman's Deli is over 300ft away from the door of the church.

It is the Owner's responsibility to obtain any licenses required by the TABC.

Measurement 1 – Approximately 3,985.15 Feet



Measurement 2 – Approximately 1,304.84 Feet



SUP Criteria & Analysis:

A proposal to sell alcoholic beverages in a restaurant for on- or off-premises consumption must comply with the following specific criteria and conditions, as well as the general criteria in [section 38.04.033](#) (refer to Code section of staff report below for additional requirements for alcohol SUPs and criteria applicable to all SUPs):

- (1) The restaurant where the alcoholic beverage is proposed to be sold shall not be located within 300 feet of a church or school as measured by state law;
 - Refer to the maps above. The location of Biderman's Deli complies with TABC requirements regarding distance to churches.
- (2) The restaurant where the alcoholic beverage is proposed to be sold shall not be located on property, two or more sides of which abut property in a residential zoning district;
 - Refer to the zoning map included at the end of this report. There is one property zoned residential adjacent to the Village at Westlake.
- (3) The gross receipts derived from the sale of alcoholic beverages shall not exceed the gross receipts derived from the sale of food;
 - The primary business of Biderman's Deli is the sale of food.

(4) The permit shall be reviewed annually by the city administrator and, if reissued, reissued at the end of the calendar year; and

- City staff will review annually and keep track of when the SUP needs to be reissued.

(5) Additional fees are to be collected after three years' operation in accordance with the alcoholic beverage commission permit rules.

- City staff will review and ensure all applicable fees are collected in accordance with TABC rules.

Traffic/Transportation

No impact expected.

Lighting

Outdoor lighting is not proposed with this application.

Building Code

The property and future construction will have to comply with all applicable City codes.

Subdivision

This request will not change the subdivision.

Comprehensive Planning Analysis

The request is in compliance with the Master Plan based on current and future land use.

Staff Recommendation:

Staff recommends approval. The application as presented meets City Code requirements.

Code:

Sec. 38.03.038 B-3 business 3 district

(a) Purpose. The B-3 district is intended to provide a more intense mixed use retail facility with frontage on a state-maintained highway. This zoning classification is limited to those tracts of land for which, prior to June 24, 1992, were issued by the city a building permit and a certificate of occupancy for buildings located on the subject property. This zoning district classification is no longer an extant zoning district classification except for those tracts of land which have been designated as B-3 business zoning districts in accordance with this section. The regulations set forth in this section shall apply to only those tracts of land which have heretofore been designated as a B-3 business zoning classification and have been developed or are being developed pursuant to such zoning classification.

(b) Permitted uses. The following uses are permitted, provided that there is no nuisance factor:

- (1) Those uses permitted in O, B-1 and B-2 districts, except that only one stand-alone bank or savings and loan facility shall be permitted in any B-3 district, unless another bank or savings and loan facility applied for a permit prior to May 1, 2005, and subsequently received approval for such permit.
- (2) Alcoholic beverages sold in grocery stores for off-premises consumption.
- (3) Appliance store.

- (4) Bicycle shop.
- (5) Electronic equipment store.
- (6) Camera store.
- (7) Clothing store.
- (8) Department store.
- (9) Fabric store.
- (10) Financial services.
- (11) Hobby shop.
- (12) Import store.
- (13) Liquor store.
- (14) Movie theaters.
- (15) Record shop.
- (16) Research, development or clinical laboratory.
- (17) Restaurant.
- (18) Shoe store or shoe repair.
- (19) Accessory structures and uses customarily incidental to any of the uses permitted under this subsection provided they are specifically requested by the applicant and approved by city council.

(c) Special uses. Special uses permitted upon approval of the board of adjustment are:

- (1) Alcoholic beverages sold in a restaurant for on- or off-premises consumption.
- (2) Cocktail lounge.
- (3) Other retail business uses providing goods and services to meet the needs of the region, which may be permitted as special uses in accordance with the procedure for granting such uses upon findings made in writing that the proposed use is of the same general character as those listed in subsection (b) of this section, is not attended by nuisance factors, and will not be detrimental to the other uses within the district or the adjoining uses.

(4) Special uses permitted in O, B-1 and B-2 districts, except that a bank or savings and loan facility shall not be allowed in any B-3 district by way of a special use permit.

(5) Laundry and dry cleaning plant operation.

Sec. 38.04.031 Criteria for establishment of special use categories; uses allowed in specific districts

- (a) General criteria for establishment of a special use category are as follows:
 - (1) Special and associated expenses for regulatory oversight;
 - (2) Higher probability of chance of nuisance to the surrounding areas;
 - (3) Greater impact on surrounding properties with respect to the following:
 - (A) Parking;
 - (B) Waste products and disposal methods;
 - (C) Noise (peace and quiet of the neighborhood);
 - (D) Light or glare;
 - (E) Smell, fumes, dust and odor;
 - (F) Traffic; and
 - (G) Infectious or contagious diseases;
 - (4) Activities which increase potentially objectionable sensory responses for surrounding areas;
 - (5) Greater adverse impact on appraised valuations of surrounding properties;
 - (6) Higher level of impediment to development of surrounding properties;
 - (7) Increase in traffic congestion and reduction of pedestrian safety to a significant degree;
 - (8) Regulatory control for number and type of animals to prevent menace or disturbing of neighbors;

- (9) Regulatory control for selective activities in other than permitted zoning districts;
- (10) Regulatory control for activities that have a potential to harm the environment; and
- (11) Regulatory control for continuance of activity.
- (b) Specific special uses authorized by zoning district are as follows:

<u>Special Use</u>	<u>District Allowed</u>
Alcoholic beverages sold in grocery stores for off-premises consumption	B-2, B-3
Alcoholic beverages sold in restaurants for on- or off-premises consumption	B-2, B-3

(Ordinance 334 adopted 10/26/16)

Sec. 38.04.034 Criteria applicable to individual special uses

(e) Alcoholic beverages sold in a restaurant for on- or off-premises consumption. A proposal to sell alcoholic beverages in a restaurant for on- or off-premises consumption must comply with the following specific criteria and conditions, as well as the general criteria in section 38.04.033:

- (1) The restaurant where the alcoholic beverage is proposed to be sold shall not be located within 300 feet of a church or school as measured by state law.
- (2) The restaurant where the alcoholic beverage is proposed to be sold shall not be located on property, two or more sides of which abut property in a residential zoning district.
- (3) The gross receipts derived from the sale of alcoholic beverages shall not exceed the gross receipts derived from the sale of food.
- (4) The permit shall be reviewed annually by the city administrator and, if reissued, reissued at the end of the calendar year.
- (5) Additional fees are to be collected after three years' operation in accordance with the alcoholic beverage commission permit rules.
- (6) Special offers to the public promoting the sale of alcoholic beverages commonly known as "happy hour" shall be conducted only at times when the permittee offers full food service and only during the period of time from 4:00 p.m. through 7:00 p.m. during the days of Monday through Friday inclusive except as indicated in this subsection. The permittee may select a period of time not to exceed three hours per each day to conduct a happy hour promotion for the days of Saturday and Sunday. The permittee shall give written notification to the city administrator of the hour selected for such a happy hour and any changes thereto. The permittee shall give a 72-hour notice to the city administrator of changes to any happy hour designation.
- (7) Live entertainment utilizing electronically amplified musical instruments or an associated sound system shall not be permitted. Live entertainment is permitted as follows:
 - (A) The group of performers is limited to not more than four persons;
 - (B) The entertainment must be located within the confines of the restaurant interior;
 - (C) The sound is not to be heard outside the restaurant premises; and
 - (D) All performances must end at 10:30 p.m. daily.

Sec. 38.04.032 Special use permit

- (a) Required. No special use shall be established, operated or maintained except as authorized by a special use permit issued in accordance with the requirements of this section.

(b) Issuance. A special use permit may be issued only for the special uses specified in this division, and only for the district where it is authorized. Unless for a home-based business, a special use permit may only be issued by the board of adjustment acting after a public hearing. The city administrator may issue special use permits for home-based businesses without public hearings if the applicant: (1) complies with subsection (c) of this section and with sections 38.04.033 and 38.04.034(a); (2) provides written notice in accordance with the applicable provisions of subsection (e); and (3) provided that the city administrator receives no written protests from owners of all real property located within 300 feet in all directions of the applicant's property on which the home-based business is sought, regardless of whether the neighboring property is within the city limits or ETJ.

In considering any application for a special use permit, the board of adjustment shall give due regard to the nature and condition of all adjacent land, uses, and structures. The board of adjustment may disapprove an application for a special use permit, or approve same subject to such requirements and conditions, in addition to the regulations of the district in which the particular use is located, as it may deem necessary for the protection of adjacent properties and the public interest.

(c) Application. An application for a special use permit shall be made in writing in a form prescribed by the city administrator and shall be accompanied by such information as may be requested, including a site plan, if required, in order to properly review the proposed use. Such information may include but is not limited to site and building plans, drawings and elevations, and operational data. All applicants for a special use permit for a nonresidential use in a residential district shall provide the city with a signed letter from a licensed attorney verifying that the proposed use will not be violating deed restrictions.

(d) Report by city administrator or city inspector. Either the city administrator or the city inspector shall visit the site of the proposed special use and the surrounding area and shall prepare findings to be delivered to the board of adjustment.

(e) Notice of public hearing before board of adjustment.

(1) The board shall hold a public hearing on each application for a special use permit.

(2) Written notice of such hearing shall be given to the owners of all real property located within 300 feet in all directions of the property that is the subject of the hearing, regardless of whether the neighboring property is within the city limits or ETJ. Notice shall be given not less than thirty (30) days prior to the date of the hearing.

(3) Such notice shall state the purpose, date, time and place of the hearing and shall contain a brief description of the proposed development, including its nature, scope and location. The notice shall also describe any variances the applicant has requested and shall state the location and times at which the applications and supporting documents are available for public inspection. The time and place of the public hearing to be held before the city council shall also be included if known at the time the notice is given and, if it is not known at such time, a telephone number shall be provided where information on the hearing before the city council will be available at a later date.

(4) Notice in the form of weather resistant signs provided by the city shall be posted by the applicant. The sign shall state the purpose, date, time and place of the hearing before the commission, and shall contain a brief description of the proposed development. Signs placed on the property involved must be within 10 feet of any property line paralleling any established or proposed street, and must be visible from that street. Signs must be posted at least 30 days prior to hearing. All required signs shall remain on the property until final disposition of the matter by the city. The applicant must remove all signs required by this section within 24 hours of final disposition by the city. An affidavit of proof of posting shall be filed by the applicant with the city at or prior to the hearing, accompanied by legible photographs of the sign as-posted.

(5) Notice of the hearing must be published in the city's official newspaper 15 days prior to the hearing before the board.

(Ordinance 347 adopted 11/21/17)

(f) Review and recommendation by board of adjustment.

(1) The board shall review the application for a special use permit to determine whether the proposed special use complies with each of the general criteria in section 38.04.033 and with each of the specific criteria in section 38.04.034 applicable to the proposed use, and shall make a separate finding thereon for each criterion.

(2) The board shall not approve an application unless it finds that the proposed special use as presented or as modified by the commission complies with each of the general and applicable specific criteria.

(3) The board shall make a written finding of its decision in accordance with section 38.02.007.

(4) The board may condition its approval of an application on the applicant's adoption of specified changes, additions, limitations, safeguards or effective time periods designed to ensure compliance with the criteria.

(5) The board shall not grant a special use permit unless it finds that the proposed special use complies with each of the applicable general and specific criteria; otherwise, it shall deny the application.

Sec. 38.04.033 General criteria applicable to all special uses

A proposed special use permit must comply with all the following criteria:

(1) The appearance, size, density and operating characteristics of the proposed special use are compatible with the surrounding neighborhood and uses;

(2) The proposed use will not have an adverse effect on the value of surrounding properties or impede their proper development;

(3) The proposed use will not create a nuisance factor or otherwise interfere with a neighbor's enjoyment of the neighbor's property or operation of the neighbor's business;

(4) The traffic that the proposed use can reasonably be expected to generate on existing streets will not create or add significantly to congestion, a safety hazard, or a parking problem in the area, nor will it disturb the peace and quiet of the neighborhood; and

(5) The proposed use shall comply with all other applicable ordinances and regulations.

(Ordinance 334 adopted 10/26/16)

Sec. 38.04.035 General conditions for all special uses

(a) Adherence to approved plans and limitations. A special use shall be established, operated and maintained in accordance with the plans, terms, conditions and limitations contained in the permit approved by the BOA.

(b) Duration of permit; renewal. Special use permits shall be granted for a definite period of time, not to exceed two years. Upon the special use permit's expiration, renewals may be granted at the discretion of the city administrator provided no written complaints were received during the use period. If there is a record of complaints or if the city administrator opts not to approve the renewal, the applicant can seek renewal from the BOA. If the BOA declines the renewal, the applicant can reapply for the special use permit. This process entails the applicant receiving approval from: (1) the building design committee; and (2) then the BOA. The applicant shall pay new fees.

(c) Revocation of permit. The BOA, after notice and a public hearing, may revoke any special use permit for one or more of the following reasons:

(1) A substantial violation of any of the plans, terms, conditions and limitations applicable to the special use;

(2) A substantial violation of any applicable ordinance or regulation;

(3) Operation or maintenance of the special use in a manner that is detrimental to the public's health or safety, or so as to constitute a nuisance; or

(4) Discontinuance of the use.

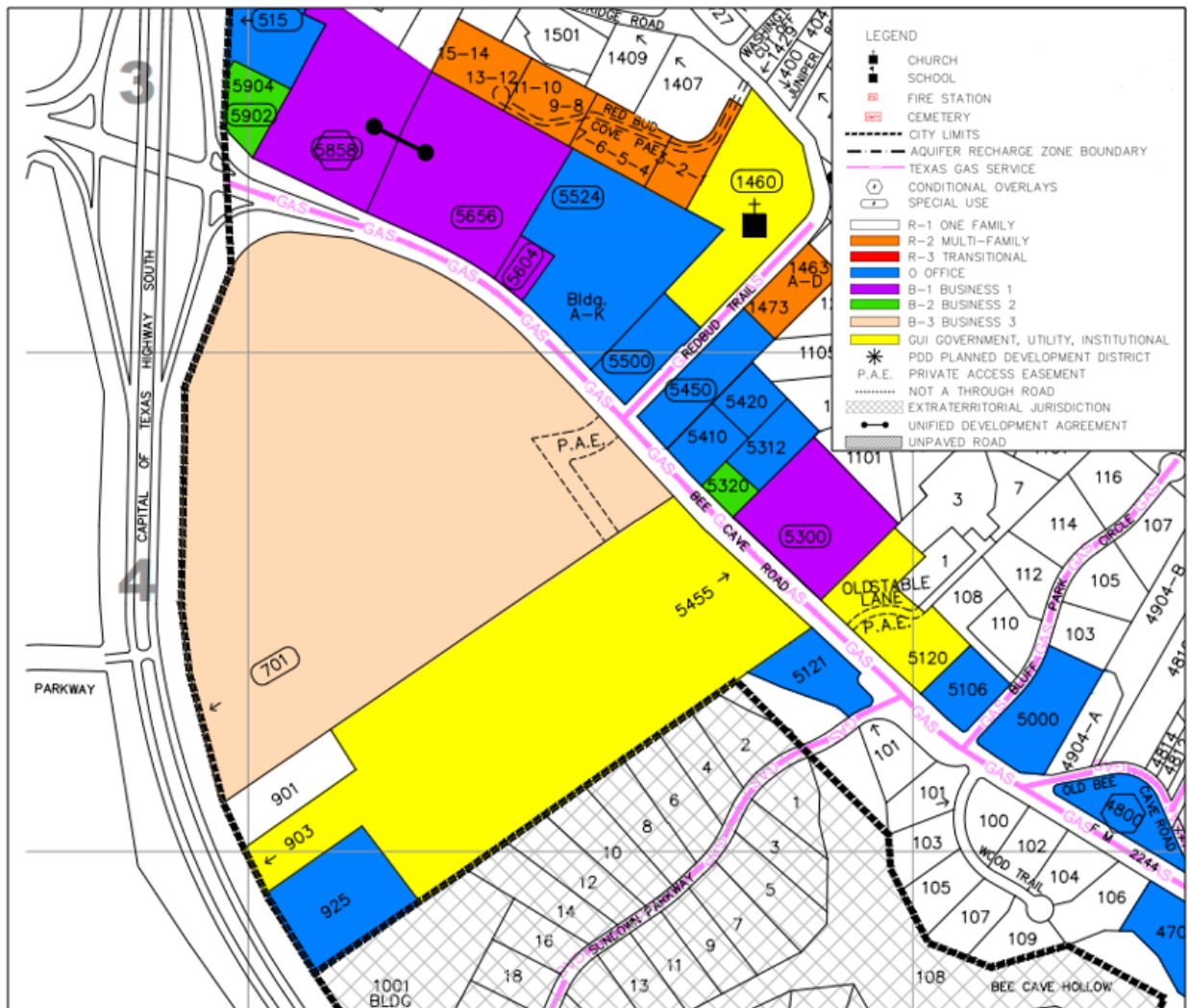
(d) Lapse of permit. A special use permit shall lapse if the use has not been commenced, or, in the case of construction, if construction has not been commenced, within one year of the date the permit was issued.

(e) Transfer of permit. A special use permit is not transferable and shall cease upon transfer of the property or business.

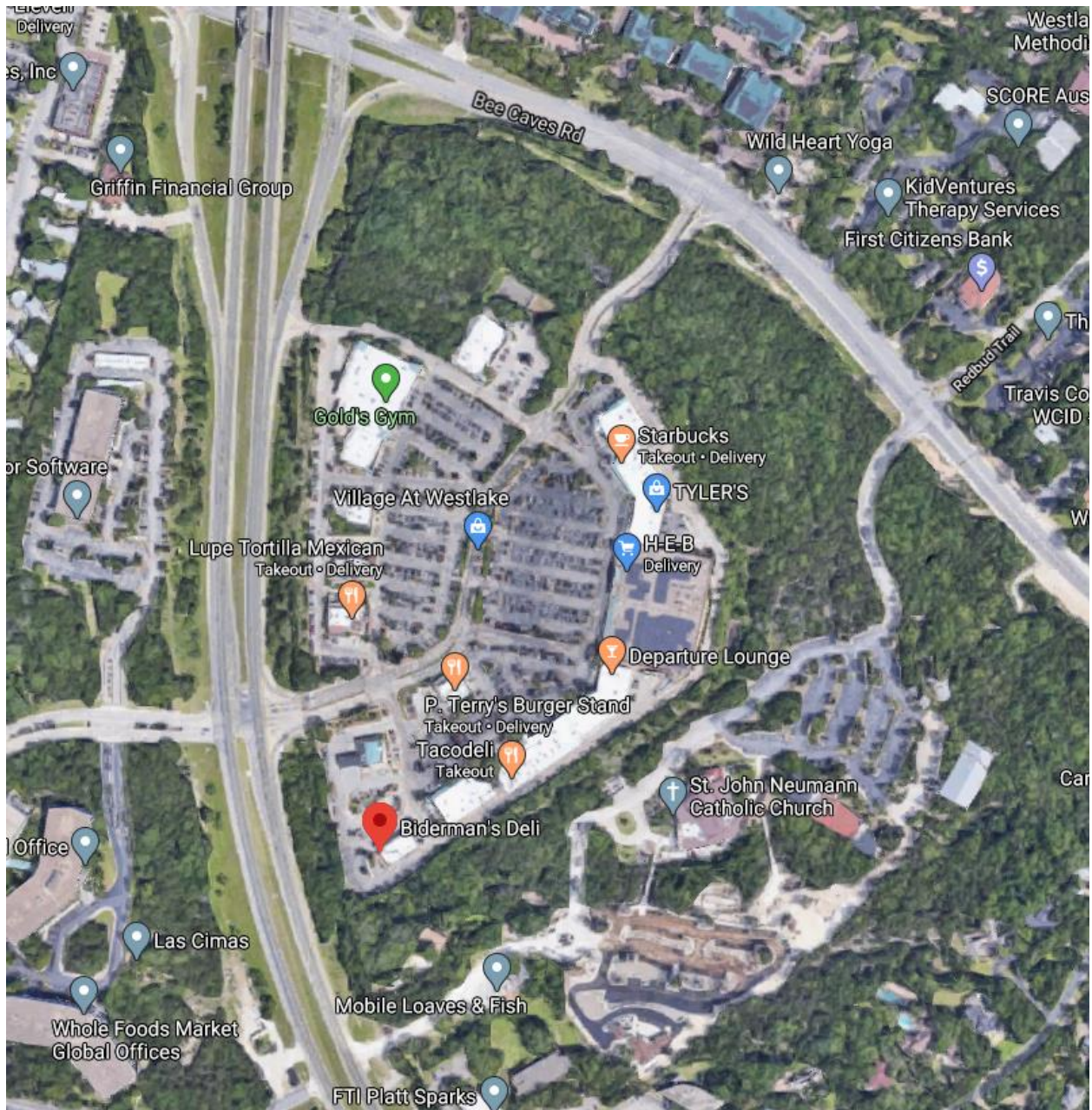
(Ordinance 334 adopted 10/26/16)

(Maps to follow)

Zoning:



Aerial:



SPECIAL USE PERMIT FORM

DATE March 4, 2020

SUBMISSION DEADLINE DATE March 5, 2020

NAME ZACHARY BIDERMAN PHONE (H) 512-922-3023 (W) _____

ADDRESS 3904 SYCAMORE DR CITY AUSTIN ZIP 78722

SPECIAL USE APPLIED FOR BEER + WINE SOLD IN RESTAURANT

SPECIAL USE ADDRESS 701 S. CAPITAL of TX HWY, G-700, 78746

NAME OF BUSINESS BIDERMAN'S DELI DURATION OF USE _____

DATE OF PUBLIC HEARING: BOA ~~MARCH~~ APRIL 8, 2020

HOURS OF OPERATION 7AM - 3PM M-F, 8AM - 3PM SAT-SUN

FEES PAID _____ RECEIVED BY/DATE _____ SIGN PICKED UP _____

B.O.A. ACTION _____

COMMENTS FOR THE RECORD Seeking a beer and wine license

for our restaurant. Not selling liquor. This is
for in-store consumption only. Available
during open hours.

EXHIBIT A

**SITE PLAN OF SHOPPING CENTER SHOWING THE PREMISES
AND EMPLOYEE PARKING AREAS**

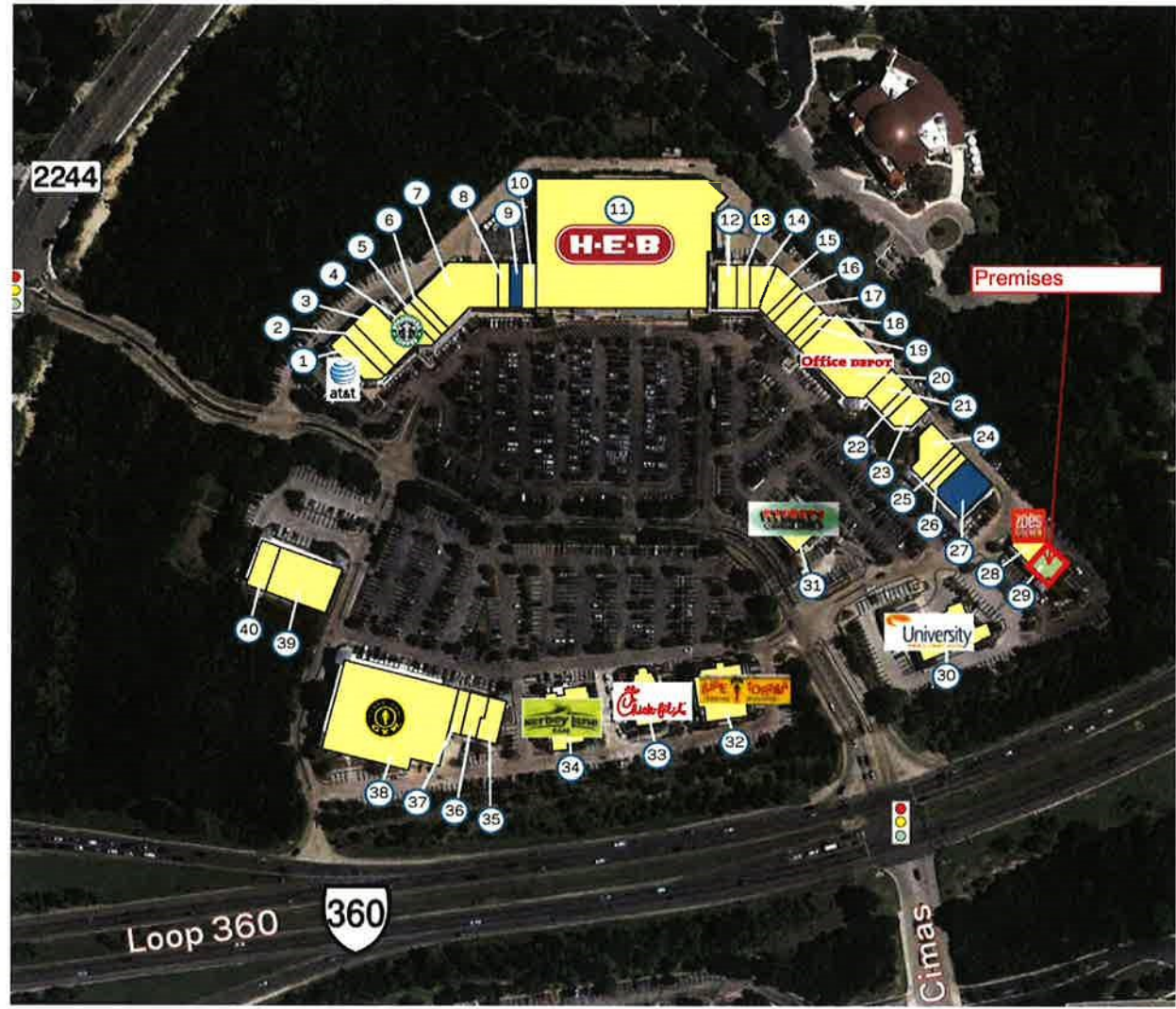


EXHIBIT B
SPACE PLAN OF THE PREMISES

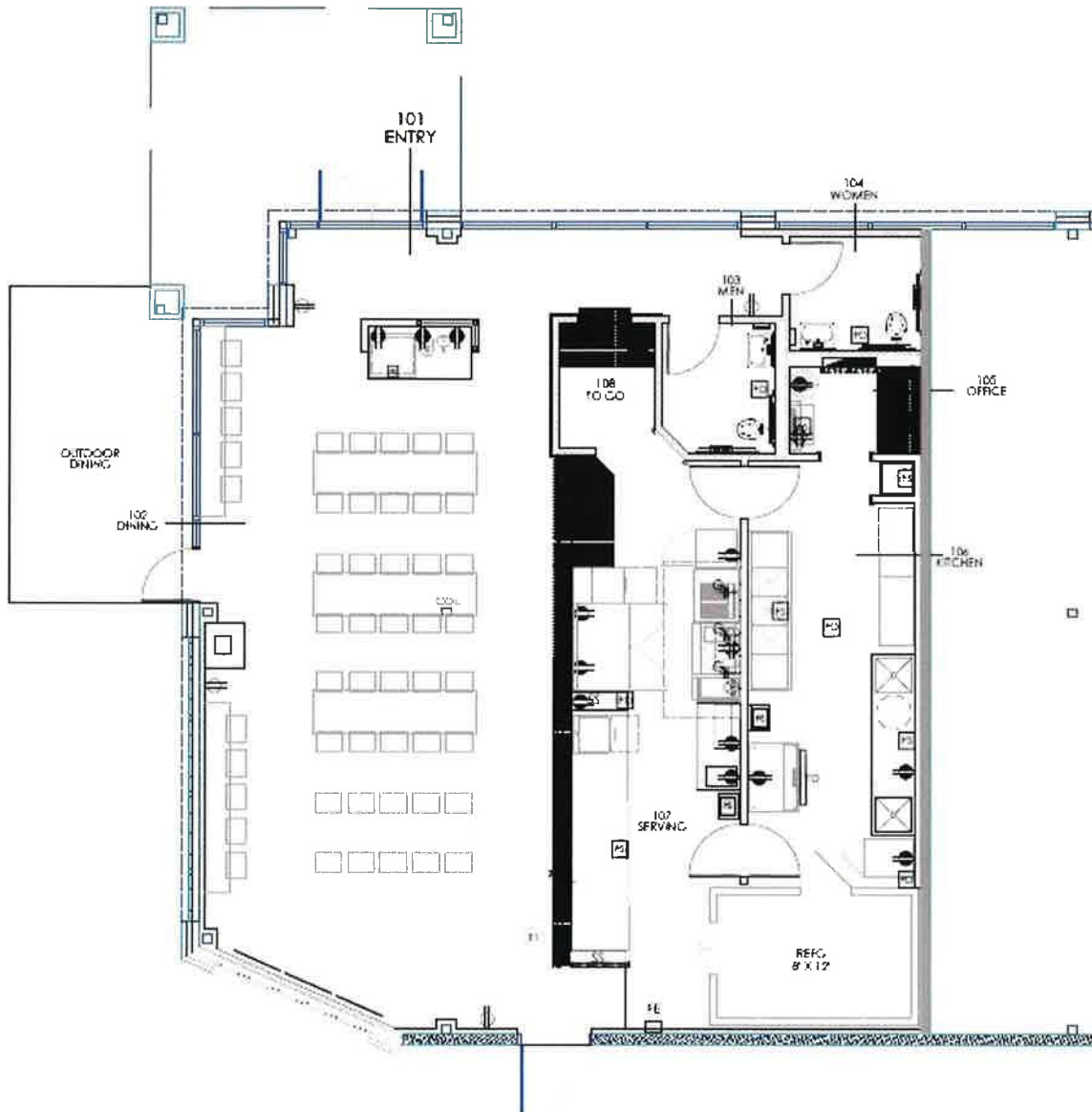
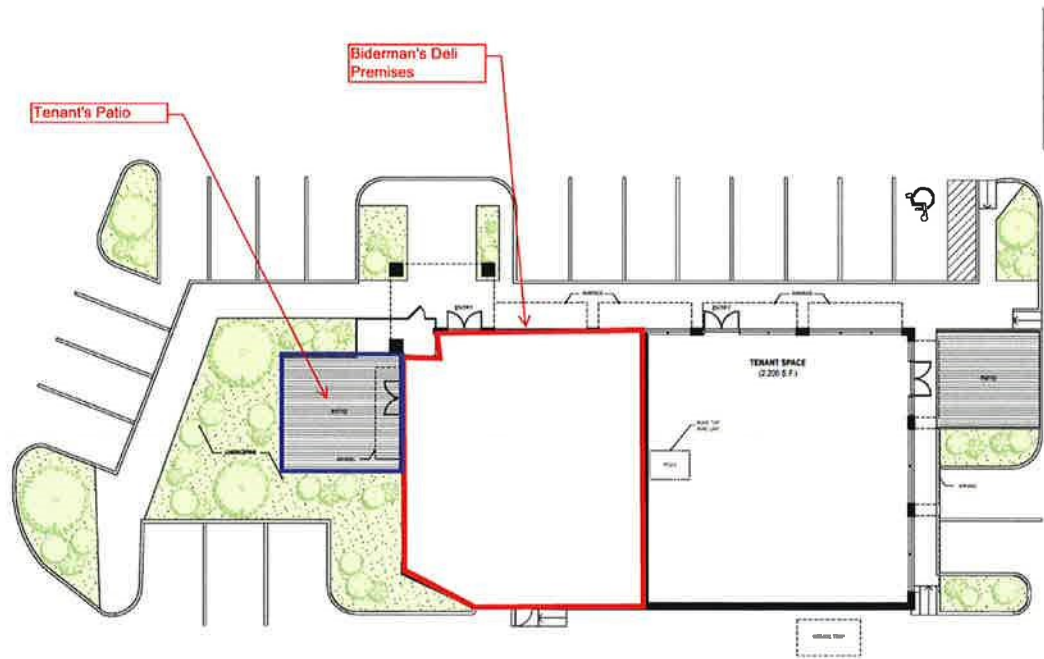


EXHIBIT I
OUTDOOR SEATING AREA





**PROOF OF
PUBLICATION
STATE OF TEXAS**

PUBLIC NOTICE

Before me, the undersigned authority, a Notary Public in and for the County of Travis, State of Texas, on this day personally appeared Jason Gallanis, Advertising Agent of the Lake Travis View, which is a newspaper of general circulation published in the county of Travis in the state of Texas, who being duly sworn by me, states that the attached advertisement was published at the lowest published rate for Classified advertising in said newspaper on the following date(s), to wit, and that the attached is a true copy of said advertisement: the following date(s), CITY OF WEST LAKE HILLS PUBLIC NOTICE SPECIAL USE PERMITS The City of West Lake Hills will hold public hearings on June 10, 2020, at 7:00P.M. before the Board, first date of Publication 05/21/2020, last date of Publication 05/21/2020, web and print times Published 1, Legal ads 6 C.

WEST LAKE HILLS, CITY OF
911 WESTLAKE DR
AUSTIN, TX 78746-4509

Invoice/Order Number:	0000571976
Ad Cost:	\$156.16
Paid:	\$0.00
Balance Due:	\$156.16

Signed

(Legal Advertising Agent)

Sworn or affirmed to, and subscribed before me, this 2nd day of June, 2020 in Testimony whereof, I have hereunto set my hand and affixed my official seal, the day and year aforesaid.

Signed

(Notary)



Please see Ad on following page(s).

Invoice/Order Number:	0000571976
Ad Cost:	\$156.16
Paid:	\$0.00
Balance Due:	\$156.16

CITY OF WEST LAKE HILLS
PUBLIC NOTICE – SPECIAL USE PERMITS

The City of West Lake Hills will hold public hearings on June 10, 2020, at 7:00 P.M., before the Board of Adjustment/City Council in the Council Chambers at City Hall, 911 Westlake Drive, West Lake Hills, Texas, 78746 giving all interested persons the right to appear and be heard regarding the following items:

1. A request for a Special Use Permit for the construction of a guest quarters located at 903 Redbud Trail, West Lake Hills, TX 78746. The property is zoned R – 1 (One-Family Residential).
2. A request for a Special Use Permit to allow the sale of alcoholic beverages sold in a restaurant for on -premises consumption to be located at 701 S. Capital of Texas Highway, Suite G-700, West Lake Hills, TX 78746. The property is zoned B – 3 (Business 3).

For questions or to request a copy of the applications, please contact the Building & Development Services Department at 512-327-3628 or by email at planner@westlakehills.org.

5/21/20

0000571976-01

SPECIAL USE PERMIT ORDINANCE 157-2020-B

AN ORDINANCE SETTING FORTH THE CONDITIONS UNDER WHICH BEER AND WINE BEVERAGES MAY BE SOLD FOR ON-PREMISE CONSUMPTION, AND AUTHORIZING THE CITY ADMINISTRATOR TO NOTE THE CHANGE ON THE OFFICIAL ZONING MAP OF THE CITY.

WHEREAS, Zachary Biderman, has requested a Special Use Permit (SUP) for the sale of on-premises consumption of beer and wine at Biderman's Deli located at 701 South Capital of Texas Highway, Suite G-700, West Lake Hills, Texas, the herein described parcel of land; and

WHEREAS, the notice as required by Section 38.03.037, of the West Lake Hills Code has been given to adjacent property owners; and

WHEREAS, Public Hearings have been held by the Board of Adjustment (BOA) as required by law; and

WHEREAS, any and all protests submitted against the proposed SUP have been considered by BOA; and

WHEREAS, BOA find that the application for Special Use Permit meets the requirements of Section 38.03.037 of the West Lake Hills Code; and

WHEREAS, beer and wine will be sold and consumed on the premises, and the premises will be used as a restaurant; and

WHEREAS, the public interest dictates that special conditions be set forth regulating the sale of beer and wine under the Special Use Permit provisions of the West Lake Hills Code; and

WHEREAS, the applicant has agreed to the special conditions regulating the sale of beer and wine contained herein; and

WHEREAS, BOA at its Public Hearing on the Special Use Permit on the herein described parcel is not contrary to the public interest;

NOW, THEREFORE, BE IT ORDAINED BY BOA OF THE CITY OF WEST LAKE HILLS, TEXAS:

Article 1. The legal description of said parcel of land is as follows:

Lot 1, Loop 360/RM 2244 Center.

Article 2. The permit is granted under the following general terms and conditions:

1. Mixed beverages may be sold on the premises under the following conditions:
 - (a) Beer and wine may be sold only during the hours set by the Texas Alcoholic Beverage Commission (TABC).
 - (b) Hours of Operation for the restaurant are:
7:00 a.m. to 3:00 p.m. Monday through Friday; and
8:00 a.m. to 3:00 p.m. Saturday and Sunday.
 - (c) Beer and wine beverages shall be sold for on-premise consumption only.

- (d) The permitted use shall not create nuisance factors which interfere with adjoining property owners' enjoyment of their property or operation of business.
 - (e) The permit shall expire upon any change in the ownership of the business, Biderman's Deli.
2. Applicant must comply with all applicable federal, state and local statutes, rules, regulations and ordinances.

Article 3. This Special Use Permit is not transferable to another person/business or another parcel of land.

Article 4. The Board of Adjustment after notice and public hearing, may revoke this Special Use Permit for one or more of the following reasons:

- 1. A violation of any of the representations, plans, terms, general, or special conditions and limitations applicable to this Special Use Permit.
- 2. A violation of any laws, ordinances or regulations.
- 3. A change in the nature of the use of Biderman's Deli.
- 4. Operation or maintenance of the Special Use Permit in a manner that is detrimental to the public health or safety, or so as to constitute a nuisance.

Article 5. If this Special Use Permit is discontinued for more than sixty (60) consecutive days, it shall be deemed abandoned.

Article 6. The duration of this Special Use Permit shall be for two (2) years from the effective date hereon.

Article 7. This Special Use Permit may be renewed for two (2) year periods at the discretion of the City Administrator provided no written complaints have been received during the use period. When complaints have been registered, the applicant will obtain renewal approval from the Board of Adjustment.

Article 8. The application form entitled "Special Use Permit Form" along with any supporting correspondence and documents and marked as Exhibit "A" attached hereto are incorporated herein by reference for all pertinent purposes.

Article 9. The City Administrator is hereby authorized and shall promptly note the change on the Official Zoning Map of the City of West Lake Hills, Texas. The zoning map shall indicate that there is a Special Use Permit for the premises.

Article 10. This Special Use Permit shall become effective on the 10th day of June, 2020.

PASSED AND APPROVED this 10th day of June, 2020.

LINDA ANTHONY, BOA CHAIR

ATTEST:

STEPHANIE MILLS, CITY SECRETARY

I/We acknowledge receipt of this SUP and agree to abide by its terms and conditions.

Applicant's Signature



SPECIAL USE PERMIT (SUP) STAFF REPORT

JUNE 10, 2020

Project Name: 903 Redbud Trail – Special Use Permit for Guest Quarters

Agenda Item: **903 Redbud Trail:** Discuss and Consider Action to Adopt an Ordinance for a Special Use Permit Application to Allow the Construction of a Guest Quarters on a Residential Property Zoned R – 1. (West Lake Hills Code Sec. 38.03.032 (c)(1)). Owners/Applicants Michael and Peggy Presley.

Applicant Information: Michael and Peggy Presley

Hearing Dates:

June 10, 2020 Board of Adjustment

Requested Action: Special Use Permit to remodel/expand an existing structure and convert it into guest quarters.

Location: The property is located north of Yaupon Valley Road; southwest of Windsong Trail; and west of Caravan Circle.

Zoning & Site Characteristics: The subject property and surrounding neighborhoods are zoned R – 1 – One-Family Residential. The subject property is approximately 1.998 acres.

Background & Analysis: The homeowners Michael and Peggy Presley would like construct a guest quarters by remodeling/expanding an existing standalone hobby workshop on their property. The existing structure is 20ft by 22ft. With the addition of approximately 360 sf, the guest quarters would be no larger than 800sf. The structure complies with the maximum allowable size for a guest quarters, City setback requirements and appears to meet impervious cover and height regulations.

Should the Board of Adjustment approve the requested SUP, the homeowners will then submit a building permit application for the construction of the SUP.

The Presleys' immediate neighbor located at 909 Redbud Trail express support for the SUP request via email included in the BOA packet.

SUP Criteria & Analysis:

- (1) The appearance, size, density and operating characteristics of the proposed special use are compatible with the surrounding neighborhood and uses;
 - The proposed guest quarters will be located in a building that is already existing in the backyard of the property. It will be designed to match the existing architectural aesthetics of the property. The proposed size meets the Code which allows a maximum of 800sf for guest quarters.
- (2) The proposed use will not have an adverse effect on the value of surrounding properties or impede their proper development;
 - The proposed employee quarters should not have an impact on the value of surrounding homes. The structure is existing and is proposed to be remodeled/expanded to convert it into a guest quarters.
- (3) The proposed use will not create a nuisance factor or otherwise interfere with a neighbor's enjoyment of the neighbor's property or operation of the neighbor's business;
 - The proposed use will not interfere with neighbors' enjoyment of their properties. The building is existing and the expansion and proposed use will have to comply with all applicable City regulations.
- (4) The traffic that the proposed use can reasonably be expected to generate on existing streets will not create or add significantly to congestion, a safety hazard, or a parking problem in the area, nor will it disturb the peace and quiet of the neighborhood; and
 - The traffic impact is minimal as it is designed to accommodate occasional visiting guests and family members.
- (5) The proposed use shall comply with all other applicable ordinances and regulations.
 - A building permit will need to be submitted to the City for review prior to construction. Staff will review for compliance with all applicable rules and regulations prior to issuing the permit.

Traffic/Transportation

There may be a localized impact on traffic during the construction process in addition to the occasional visitor after the project is completed.

Lighting

If applicable, outdoor lighting will be reviewed at a later time with the building permit application.

Building Code

The property and future construction will have to comply with all applicable City codes.

Subdivision

This request will not change the subdivision.

Comprehensive Planning Analysis

The request is in compliance with the Master Plan based on current and future land use.

Planning Staff Recommendation:

Staff recommends approval. The application as presented meets City Code requirements.

Code:

ARTICLE 1.01 CODE OF ORDINANCES

Sec. 1.01.003 Definitions and rules of construction

Guesthouse. An accessory seasonal dwelling located on the same lot as the principal building and used occasionally for habitation for guests but not for remuneration. Such accessory dwelling shall not be permitted on lots of less than one acre. The guest quarters shall not exceed 800 square feet in size and shall contain only one bedroom.

Sec. 38.03.032 R-1 one-family residential district

(a) Purpose. The R-1 district is intended to establish and preserve peaceful, attractive and safe low-density residential neighborhoods of single-family detached dwelling units and to protect the integrity of such areas by prohibiting the intermixture of residential and incompatible nonresidential uses.

(b) Permitted uses. Permitted uses are as follows:

(1) One-family dwelling, limited to no more than one such building per lot occupied by no more than one family.

(2) Accessory structures and uses customarily incidental to the uses permitted under this subsection.

(c) Special uses. Special uses permitted upon authorization of the city council administrator are as follows:

(1) Guest or domestic employee quarters.

(2) Home occupation.

(3) Riding stable.

(4) Short-term rental.

Sec. 38.04.031 Criteria for establishment of special use categories; uses allowed in specific districts

(a) General criteria for establishment of a special use category are as follows:

(1) Special and associated expenses for regulatory oversight;

(2) Higher probability of chance of nuisance to the surrounding areas;

(3) Greater impact on surrounding properties with respect to the following:

(A) Parking;

(B) Waste products and disposal methods;

(C) Noise (peace and quiet of the neighborhood);

(D) Light or glare;

(E) Smell, fumes, dust and odor;

(F) Traffic; and

(G) Infectious or contagious diseases;

(4) Activities which increase potentially objectionable sensory responses for surrounding areas;

(5) Greater adverse impact on appraised valuations of surrounding properties;

(6) Higher level of impediment to development of surrounding properties;

(7) Increase in traffic congestion and reduction of pedestrian safety to a significant degree;

- (8) Regulatory control for number and type of animals to prevent menace or disturbing of neighbors;
 - (9) Regulatory control for selective activities in other than permitted zoning districts;
 - (10) Regulatory control for activities that have a potential to harm the environment; and
 - (11) Regulatory control for continuance of activity.
- (b) Specific special uses authorized by zoning district are as follows:

<u>Special Use</u>	<u>District Allowed</u>
Alcoholic beverages sold in grocery stores for off-premises consumption	B-2, B-3
Alcoholic beverages sold in restaurants for on- or off-premises consumption	B-2, B-3
Assembly and testing of electronic components	O
Bank or savings and loan association	B-2
Charter school or private school	O
Child day-care facility	O, GUI, B-1, B-2, B-3
Church	O, B-1, B-2, B-3
Cocktail lounge	B-3
Commercial coach	All (temporary during construction)
Commercial kennel	B-2, B-3
Employee dining facility	O, B-1, B-2, B-3
Guest or domestic employee quarters	R-1, R-2, R-3
Home occupation	R-1, R-2, R-3
Hospital	B-1, B-2, B-3
Laundry and dry cleaning plant	B-3
Massage therapy school	O, B-1
Private horse stable	R-1, R-2
Publishing business	B-2, B-3
Rehabilitation/wellness center	B-1, B-2, B-3
Research, development or clinical laboratory	B-2, B-3
Restaurant with drive-in/drive-through facilities	B-2
Retail liquor store	B-2
Riding stable	R-1, R-2
Short-term rental	R-1, R-2, R-3
Wireless telecommunication facilities	O, B-1, B-2, B-3, GUI

(Ordinance 334 adopted 10/26/16)

Sec. 38.04.032 Special use permit

(a) Required. No special use shall be established, operated or maintained except as authorized by a special use permit issued in accordance with the requirements of this section.

(b) Issuance. A special use permit may be issued only for the special uses specified in this division, and only for the district where it is authorized. Unless for a home-based business, a special use permit may only be issued by the board of adjustment acting after a public hearing. The city administrator may issue special use permits for home-based businesses without public hearings if the applicant: (1) complies with subsection (c) of this section and with sections 38.04.033 and 38.04.034(a); (2) provides written notice in accordance with the applicable provisions of subsection (e); and (3) provided that the city administrator receives no written protests from owners of all real property located within 300 feet in all directions of the applicant's property on which the home-based business is sought, regardless of whether the neighboring property is within the city limits or ETJ.

In considering any application for a special use permit, the board of adjustment shall give due regard to the nature and condition of all adjacent land, uses, and structures. The board of adjustment may disapprove an application for a special use permit, or approve same subject to such requirements and conditions, in addition to the regulations of the district in which the particular use is located, as it may deem necessary for the protection of adjacent properties and the public interest.

(c) Application. An application for a special use permit shall be made in writing in a form prescribed by the city administrator and shall be accompanied by such information as may be requested, including a site plan, if required, in order to properly review the proposed use. Such information may include but is not limited to site and building plans, drawings and elevations, and operational data. All applicants for a special use permit for a nonresidential use in a residential district shall provide the city with a signed letter from a licensed attorney verifying that the proposed use will not be violating deed restrictions.

(d) Report by city administrator or city inspector. Either the city administrator or the city inspector shall visit the site of the proposed special use and the surrounding area and shall prepare findings to be delivered to the board of adjustment.

(e) Notice of public hearing before board of adjustment.

(1) The board shall hold a public hearing on each application for a special use permit.

(2) Written notice of such hearing shall be given to the owners of all real property located within 300 feet in all directions of the property that is the subject of the hearing, regardless of whether the neighboring property is within the city limits or ETJ. Notice shall be given not less than thirty (30) days prior to the date of the hearing.

(3) Such notice shall state the purpose, date, time and place of the hearing and shall contain a brief description of the proposed development, including its nature, scope and location. The notice shall also describe any variances the applicant has requested and shall state the location and times at which the applications and supporting documents are available for public inspection. The time and place of the public hearing to be held before the city council shall also be included if known at the time the notice is given and, if it is not known at such time, a telephone number shall be provided where information on the hearing before the city council will be available at a later date.

(4) Notice in the form of weather resistant signs provided by the city shall be posted by the applicant. The sign shall state the purpose, date, time and place of the hearing before the commission, and shall contain a brief description of the proposed development. Signs placed on the property involved must be within 10 feet of any property line paralleling any established or proposed street, and must be visible from that street. Signs must be posted at least 30 days prior to hearing. All required signs shall remain on the property until final disposition of the matter by the city. The applicant must remove all signs required by this section within 24 hours of final disposition by the city. An affidavit of proof of posting shall be filed by the applicant with the city at or prior to the hearing, accompanied by legible photographs of the sign as-posted.

(5) Notice of the hearing must be published in the city's official newspaper 15 days prior to the hearing before the board.

(Ordinance 347 adopted 11/21/17)

(f) Review and recommendation by board of adjustment.

(1) The board shall review the application for a special use permit to determine whether the proposed special use complies with each of the general criteria in section 38.04.033 and with each of the specific criteria in section 38.04.034 applicable to the proposed use, and shall make a separate finding thereon for each criterion.

(2) The board shall not approve an application unless it finds that the proposed special use as presented or as modified by the commission complies with each of the general and applicable specific criteria.

(3) The board shall make a written finding of its decision in accordance with section 38.02.007.

(4) The board may condition its approval of an application on the applicant's adoption of specified changes, additions, limitations, safeguards or effective time periods designed to ensure compliance with the criteria.

(5) The board shall not grant a special use permit unless it finds that the proposed special use complies with each of the applicable general and specific criteria; otherwise, it shall deny the application.

Sec. 38.04.033 General criteria applicable to all special uses

A proposed special use permit must comply with all the following criteria:

(1) The appearance, size, density and operating characteristics of the proposed special use are compatible with the surrounding neighborhood and uses;

(2) The proposed use will not have an adverse effect on the value of surrounding properties or impede their proper development;

(3) The proposed use will not create a nuisance factor or otherwise interfere with a neighbor's enjoyment of the neighbor's property or operation of the neighbor's business;

(4) The traffic that the proposed use can reasonably be expected to generate on existing streets will not create or add significantly to congestion, a safety hazard, or a parking problem in the area, nor will it disturb the peace and quiet of the neighborhood; and

(5) The proposed use shall comply with all other applicable ordinances and regulations.

(Ordinance 334 adopted 10/26/16)

Sec. 38.04.035 General conditions for all special uses

(a) Adherence to approved plans and limitations. A special use shall be established, operated and maintained in accordance with the plans, terms, conditions and limitations contained in the permit approved by the BOA.

(b) Duration of permit; renewal. Special use permits shall be granted for a definite period of time, not to exceed two years. Upon the special use permit's expiration, renewals may be granted at the discretion of the city administrator provided no written complaints were received during the use period. If there is a record of complaints or if the city administrator opts not to approve the renewal, the applicant can seek renewal from the BOA. If the BOA declines the renewal, the applicant can reapply for the special use permit. This process entails the applicant receiving approval from: (1) the building design committee; and (2) then the BOA. The applicant shall pay new fees.

(c) Revocation of permit. The BOA, after notice and a public hearing, may revoke any special use permit for one or more of the following reasons:

(1) A substantial violation of any of the plans, terms, conditions and limitations applicable to the special use;

(2) A substantial violation of any applicable ordinance or regulation;

(3) Operation or maintenance of the special use in a manner that is detrimental to the public's health or safety, or so as to constitute a nuisance; or

(4) Discontinuance of the use.

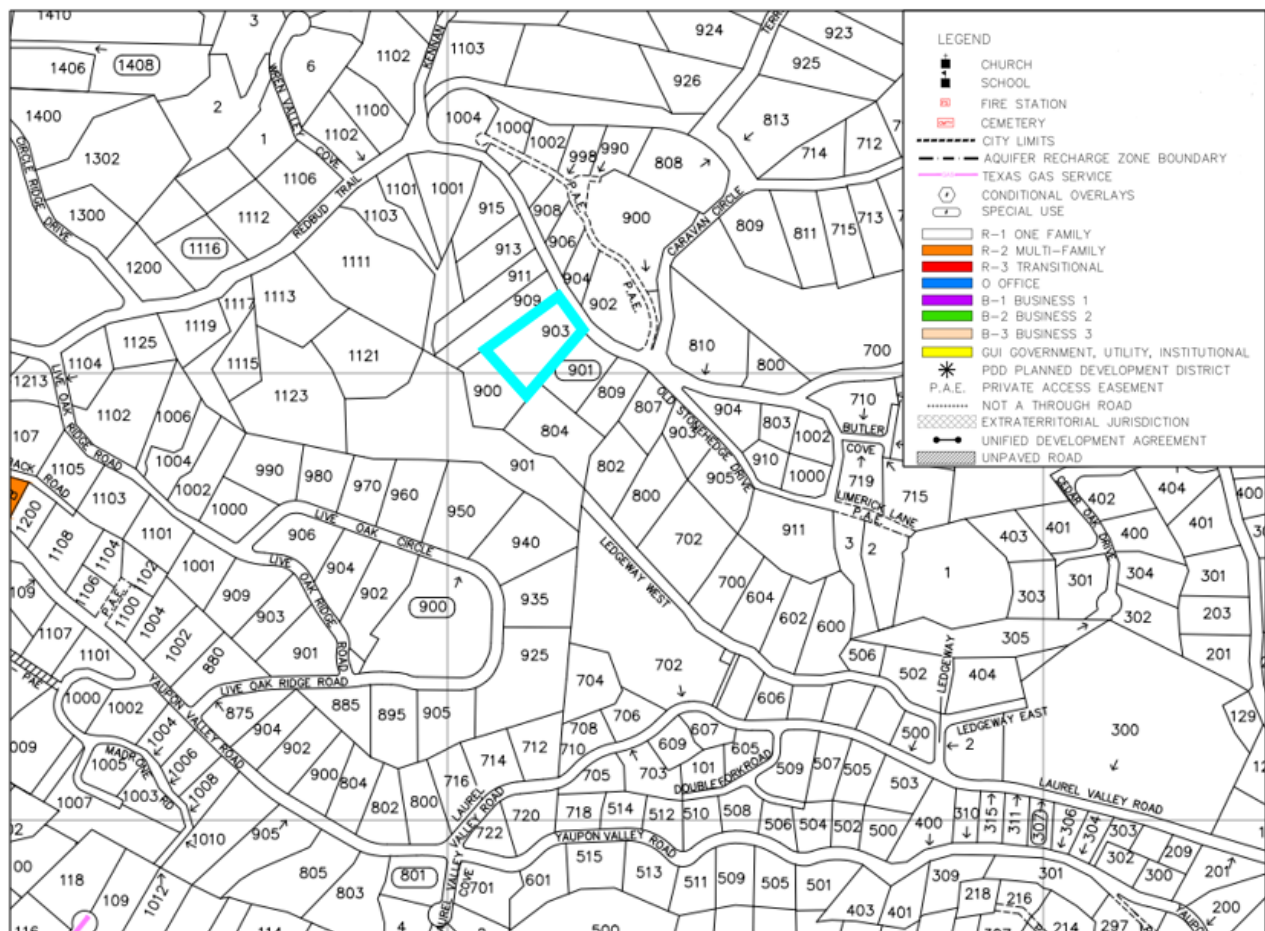
(d) Lapse of permit. A special use permit shall lapse if the use has not been commenced, or, in the case of construction, if construction has not been commenced, within one year of the date the permit was issued.

(e) Transfer of permit. A special use permit is not transferable and shall cease upon transfer of the property or business.

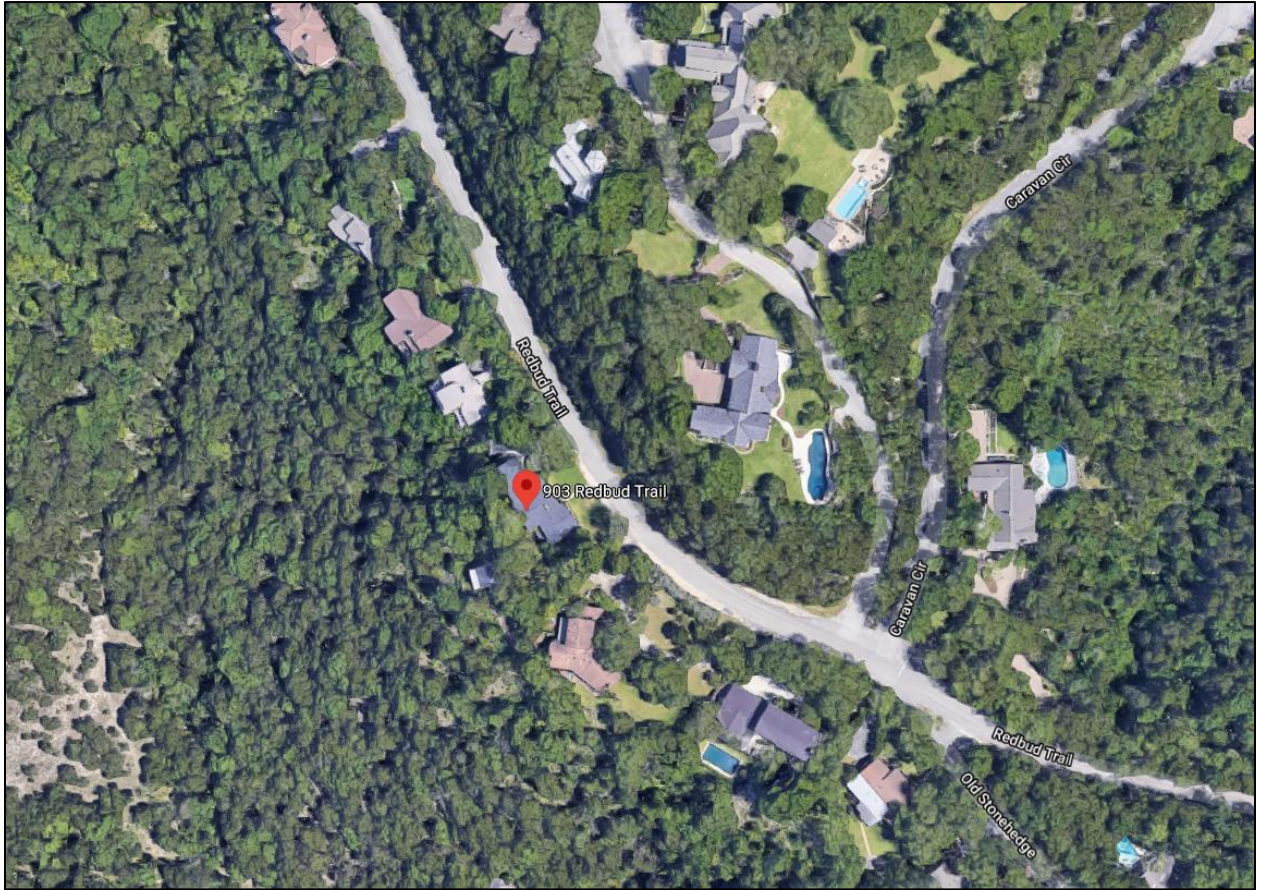
(Ordinance 334 adopted 10/26/16)

(Maps to follow)

Zoning:



Aerial:



SPECIAL USE PERMIT APPLICATION



Date Received: 5/7/2020 Received By: ML
Amount Due \$ 450.00 Date Payment Received: 6/1/2020
Admin Complete Date: _____ Permit No: 15814

*****All applications and supporting documents should be submitted electronically to
pzsec@westlakehills.org and planner@westlakehills.org*****

APPLICANT INFORMATION

The agent is the official contact person for this project and the single point of contact. All correspondence and communication will be conducted with the agent. If no agent is listed, the owner will be considered the agent.

Property Owner: Michael/Peggy Presley Phone: 512-970-9659
Email: [REDACTED]
Address: 903 Redbud Trail City: West Lake Hills State: TX Zip: 78746
Agent*: _____ Phone: _____
Email: _____
Address: _____ City: _____ State: _____ Zip: 78746

**Please submit Power of Attorney form designating authorized agent.*

PROJECT INFORMATION

Property Address: 903 Redbud Trail
Subdivision Name: Adamcik Addition
Block: _____ Lot: 2 Tax Parcel ID: 117494
Current Zoning Classification: R-1 Total Lot Area: 1.998 acres
Proposed Special Use: Guest Quarters Applying for Variance ☐ Yes ☒ No
(if yes, please submit separate variance application)
Name of Business (if applicable): _____
Hours of Operation: _____ Duration of Use: _____
Present Land Use: residential



SPECIAL USE PERMIT APPLICATION

Brief description of proposed project:

Expand and convert existing 20 x 22 hobby workshop building into 800 Sq. ft. guest quarters

AUTHORIZATION & ACKNOWLEDGEMENT

The above information is true to the best of my knowledge. I attest that the real property described is owned by me and all others as signed below. If the below is signed by the authorized agent of said property, the signature of the property owner must be included below or consent must be attached (Power of Attorney Form).

Signature

Date

Printed Name

APPLICATION CHECKLIST

Special Use Permit Application Checklist

- ☒ Completed, signed application
- ☐ Power of Attorney form, if applicable
- ☒ Proof of ownership of subject property
- ☐ Traffic Impact Analysis, if applicable (*required for projects expected to generate 200 trips a day, refer to Chapter 38 of the Code*)
- ☒ Letter addressed to BOA Chairperson describing proposed Special Use
- ☒ Property survey/Site Plan
- ☒ Building elevations if available
- ☒ Pictures of property
- ☐ Payment of application fees by check or credit card (*refer to Appendix A: Fee Schedule in the Code of Ordinances for current fees*)
- ☐ Other applicable information as required by staff



SPECIAL USE PERMIT APPLICATION

SPECIAL USE PERMIT PROCESS & PROCEDURES

Public Hearings

SUP applications are considered by the Board of Adjustment, which meets the second (2nd) Wednesday of the month. All meetings are held in the Council Chambers at City Hall, 911 Westlake Drive at 7:00pm and the agenda and meeting packet are posted on the City website the Friday before.

Public Notices

All public notices are handled by staff. Letters are sent to neighbors within 300' of the applicant's property at least ten (10) days before the BOA meeting; a notice in the newspaper is published at least fifteen (15) days prior to the meeting; and staff will provide the applicant with a notice sign to be placed on the property at least ten (10) days before the meeting.

Application Deadlines

Applications are due forty-five (45) days prior to the next BOA meeting. In some circumstances it may be possible to receive an extension by contacting planner@westlakehills.org

SUP Review Criteria

Refer to the City's Zoning Ordinance, Chapter 38, Article 38.04, Division 2 for Special Use criteria applicable to all special uses and criteria applicable to individual special uses.

STAFF NOTES

For Completion by Staff Only

Date public notification letters mailed: _____

Newspaper notice deadline: _____ Publication Date: _____

Date of Board of Adjustment Meeting: _____

Board of Adjustment Action: _____

Notes:

May 4 , 2020

Ms. Linda Anthony, Chair
Board of Adjustment
City of West Lake Hills
911 Westlake Drive
West Lake Hills, TX 78746

Dear Ms. Anthony,

As per the guidelines set forth in the West Lake Hills, Texas Code of Ordinances I am requesting a Special Use Permit for my property at 903 Redbud Trail. The proposed permit request will be for residential use only as an occasional visiting quest and family quarters, as allowed under section 38.03.062 (4). The renovated and expanded existing structure is currently and will be well within building setback lines and will comply with all WLH building codes and drainage / impervious coverage regulations.

Please call me at 512-970-9659 or email me at [REDACTED] should you have any questions.

Respectfully,

Michael and Peggy Presley

903 Redbud Trail
West Lake Hills, Tx 78746
512-970-9659

Property

Account

Property ID: 117494 Legal Description: LOT 2 ADAMCIK ADDITION
 Geographic ID: 0117190317 Zoning:
 Type: Real Agent Code:
 Property Use Code:
 Property Use Description:

Protest

Protest Status:
 Informal Date:
 Formal Date:

Location

Address: 903 REDBUD TRL Mapsco:
 TX 78746
 Neighborhood: CORE Map ID: 011827
 Neighborhood CD: M5700

Owner

Name: PRESLEY MICHAEL AUSTIN & Owner ID: 115245
 Mailing Address: MARGARET PRESLEY % Ownership: 100.000000000000%
 903 REDBUD TRL
 WEST LAKE HILLS, TX 78746-3535
 Exemptions: HS, OTHER

Values

(+) Improvement Homesite Value:	+	\$330,635	
(+) Improvement Non-Homesite Value:	+	\$0	
(+) Land Homesite Value:	+	\$661,500	
(+) Land Non-Homesite Value:	+	\$0	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0
(=) Market Value:	=	\$992,135	
(-) Ag or Timber Use Value Reduction:	-	\$0	
(=) Appraised Value:	=	\$992,135	
(-) HS Cap:	-	\$0	
(=) Assessed Value:	=	\$992,135	

Taxing Jurisdiction

Owner: PRESLEY MICHAEL AUSTIN &
 % Ownership: 100.000000000000%
 Total Value: \$992,135

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax	Tax Ceiling
03	TRAVIS COUNTY	0.369293	\$992,135	\$708,208	\$2,615.36	
08	EALES ISD	1.130000	\$992,135	\$937,135	\$10,376.02	\$10,376.02

09	CITY OF WEST LAKE HILLS	0.070000	\$992,135	\$988,135	\$691.69
0A	TRAVIS CENTRAL APP DIST	0.000000	\$992,135	\$992,135	\$0.00
10	TRAVIS CO WCID NO 10	0.086000	\$992,135	\$988,135	\$849.80
2J	TRAVIS COUNTY HEALTHCARE DISTRICT	0.105573	\$992,135	\$708,208	\$747.67
39	TRAVIS CO ESD NO 9	0.078100	\$992,135	\$988,135	\$771.74
Total Tax Rate:		1.838966			
				Taxes w/Current Exemptions:	\$16,052.28
				Taxes w/o Exemptions:	\$18,245.03

Improvement / Building

Improvement #1:	1 FAM DWELLING	State Code:	A1	Living Area:	3784.0 sqft	Value: \$330,635
Type	Description	Class CD	Exterior Wall	Year Built	SQFT	
1ST	1st Floor	WW - 4		1956	2738.0	
RSBLW	Residence Below	WW - 4		1956	1046.0	
011	PORCH OPEN 1ST F	* - 4		1956	8.0	
011	PORCH OPEN 1ST F	* - 4		1956	15.0	
061	CARPORT ATT 1ST	* - 4		1956	399.0	
095	HVAC RESIDENTIAL	* - *		1956	3784.0	
251	BATHROOM	* - *		1956	3.0	
413	STAIRWAY EXT	A - *		1956	1.0	
522	FIREPLACE	* - 4		1956	1.0	
571	STORAGE DET	WW - 2-		1956	180.0	
581	STORAGE ATT	WW - 2		1956	96.0	
581	STORAGE ATT	WW - 4		1956	168.0	
591	MASONRY TRIM SF	AVG - *		1956	275.0	
612	TERRACE UNCOVERD	* - 4		1956	360.0	

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	LAND	Land	1.9980	87032.88	0.00	0.00	\$661,500	\$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2020	\$330,635	\$661,500	0	992,135	\$0	\$992,135
2019	\$330,635	\$661,500	0	992,135	\$0	\$992,135
2018	\$269,098	\$661,500	0	930,598	\$10,930	\$919,668
2017	\$217,737	\$669,375	0	887,112	\$51,050	\$836,062
2016	\$204,833	\$669,375	0	874,208	\$114,152	\$760,056
2015	\$255,864	\$551,250	0	807,114	\$116,154	\$690,960

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	6/1/1990	WD	WARRANTY DEED	SHELTON JEANETTE TRUSTEE	PRESLEY MICHAEL AUSTIN &	11210	00607	
2	1/5/1988	TD	TRUSTEE DEED	MITCHELL DAN M	SHELTON JEANETTE TRUSTEE	10540	00616	
3	1/31/1986	WD	WARRANTY DEED	ADAMCIK JOE A DR & SHELTON JEA	MITCHELL DAN M	09554	00146	

Questions Please Call (512) 834-9317

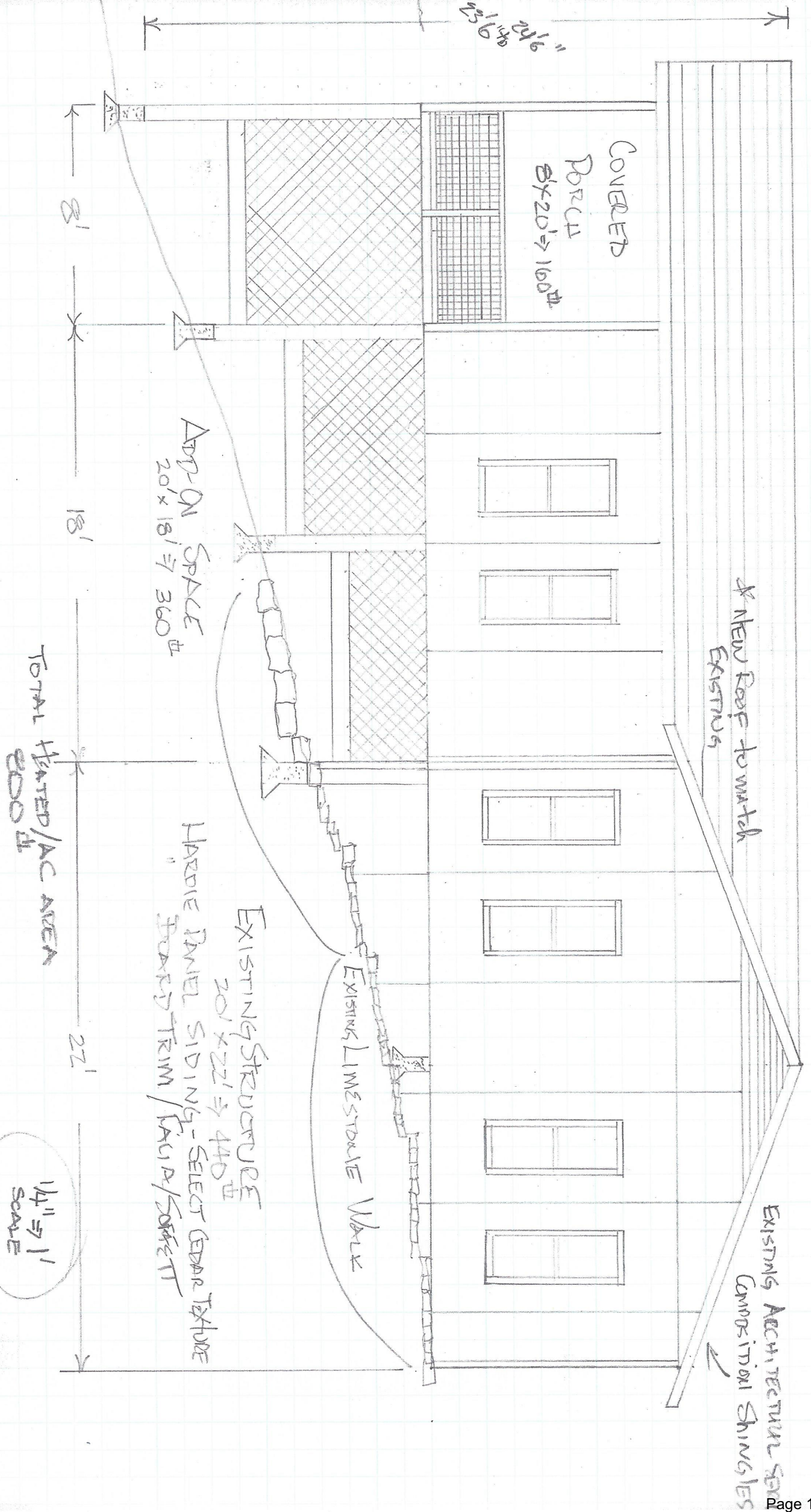
This site requires cookies to be enabled in your browser settings.

Website version: 1.2.2.30

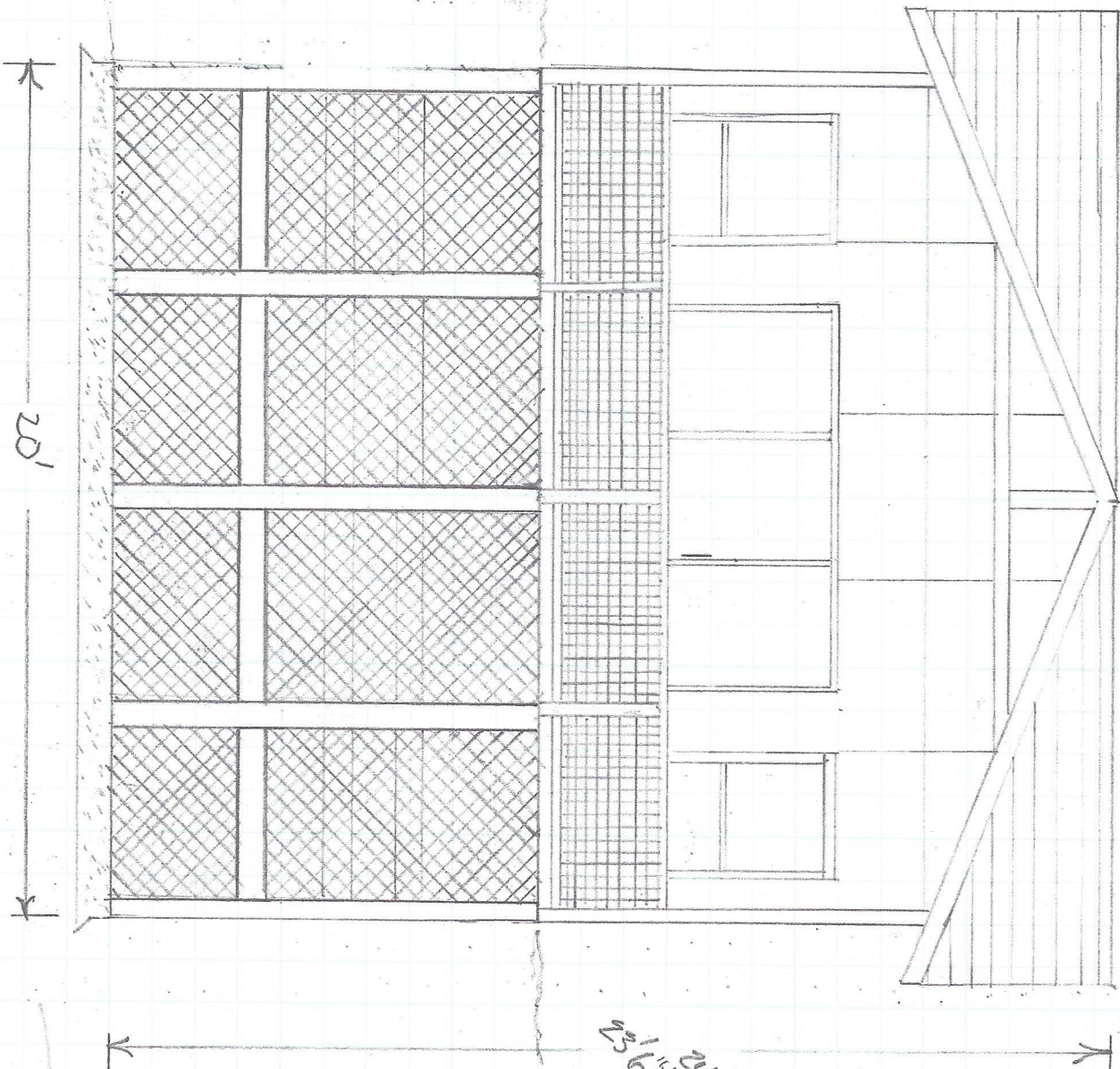
Database last updated on: 5/2/2020 12:04 AM

© N. Harris Computer Corporation

903 REPUBLIC TRAIL - GUEST HOUSE - T&B
West Elevation



NORTH ELEVATION

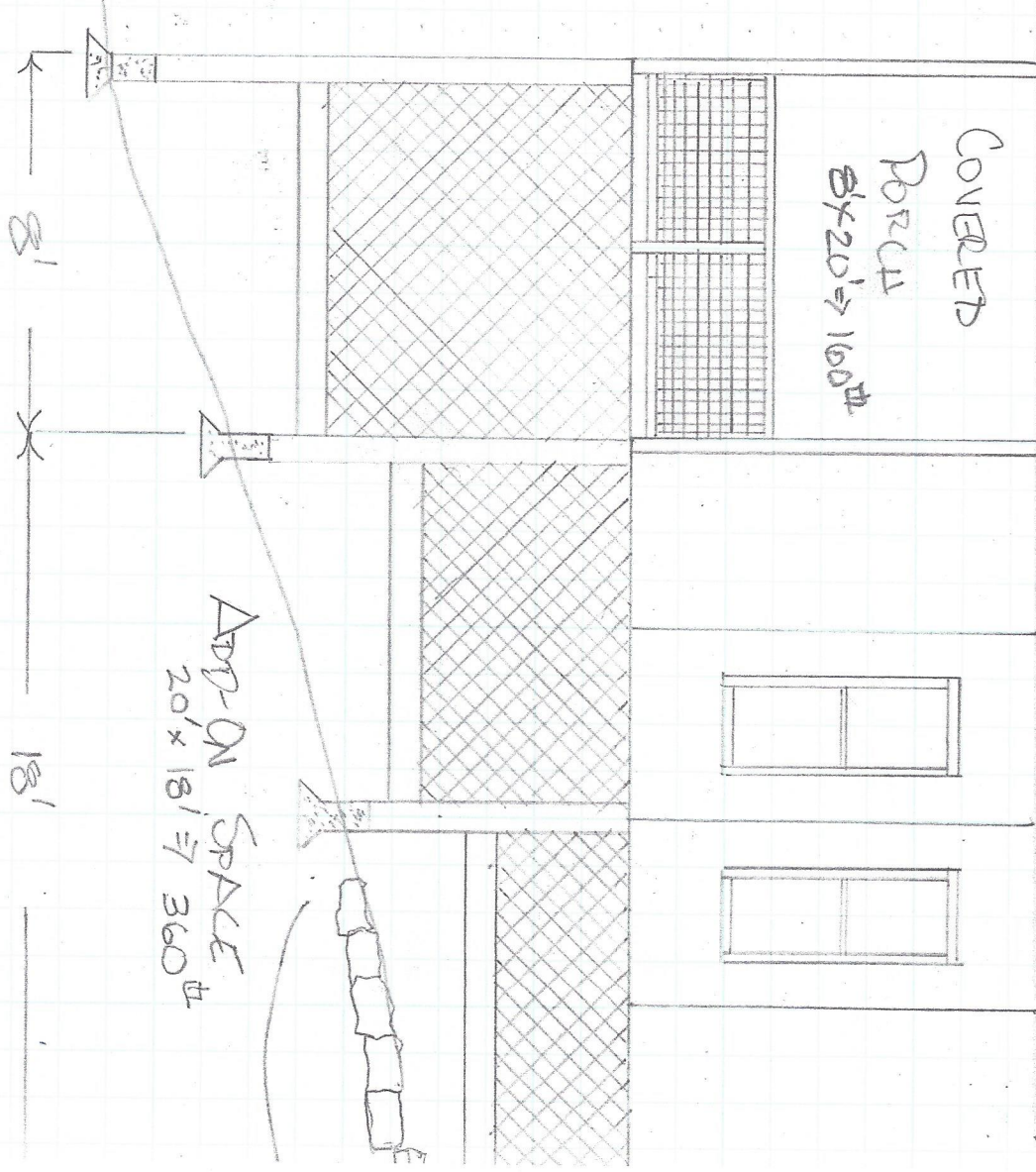


903 REEBUO TRAIL - GUEST HOME WEST ELEVATION

* New Roof -
Existing

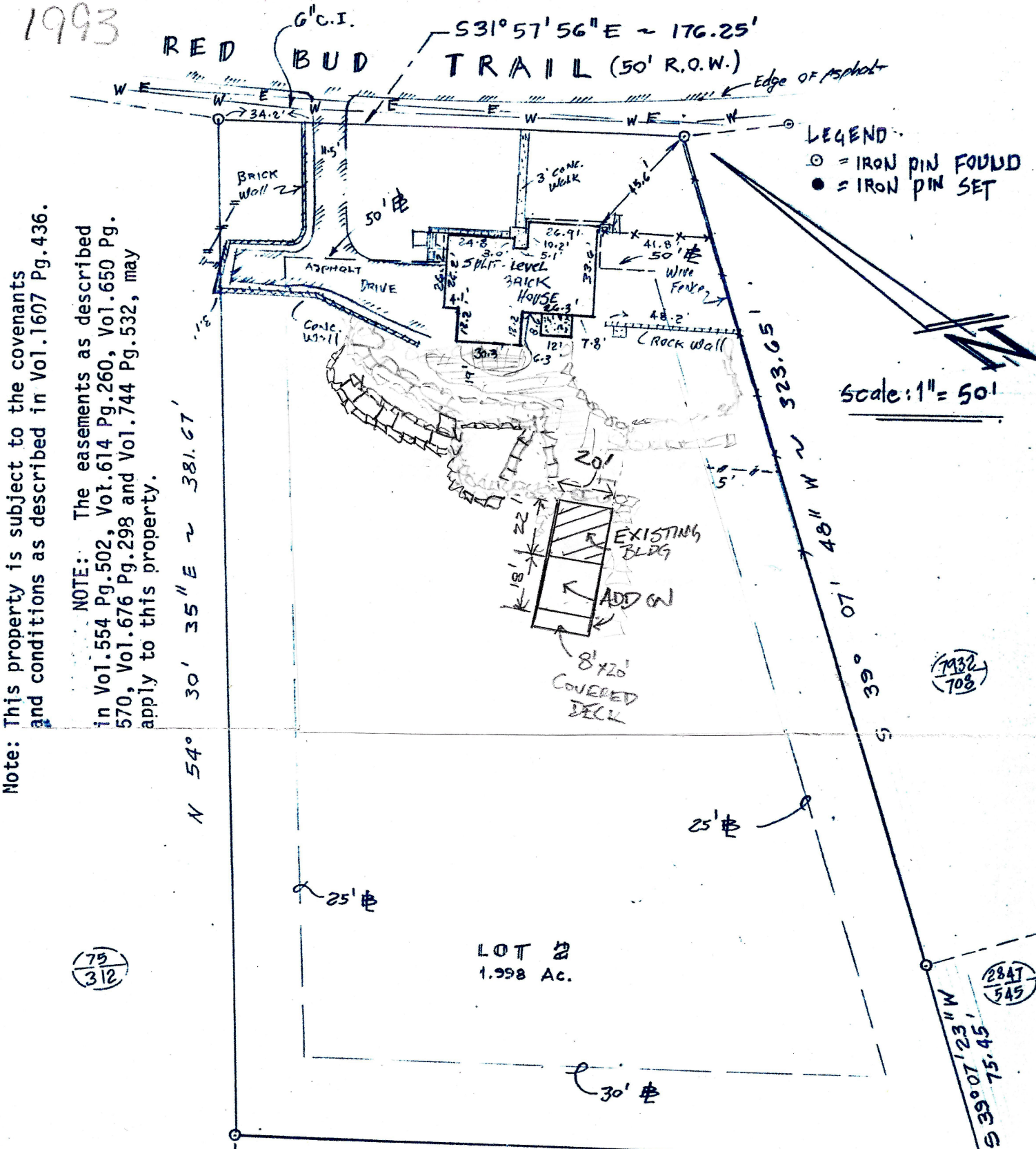
COVERED
PORCH
8' x 20' → 160 sq ft

ADD-ON SPACE
20' x 18' = 360 sq ft



TOTAL

SURVEY PLAT OF: LOCAL ADDRESS 903 RED BUD TRAIL REF: PRESLEY GF#214090
LEGAL DESCRIPTION: LOT 2 BLOCK - ADAMCIK ADDITION
A SUBDIVISION IN TRAVIS COUNTY, TEXAS, OF RECORD IN VOL. 86 PG. 19B OF
THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS.



Note: This property is subject to the covenants and conditions as described in Vol. 1607 Pg. 436.

NOTE: The easements as described in Vol. 554 Pg. 502, Vol. 614 Pg. 260, Vol. 650 Pg. 570, Vol. 676 Pg. 298 and Vol. 744 Pg. 532, may apply to this property.

NOTES #2 APPLY: LOT 1 S 32° 39' 05" E ~ 282.12'

1. ☐ This property is in ZONE _____ of the F.E.M.A. Flood Insurance Rate Map for _____, Texas, Community Panel No. _____, dated _____.

2. ☒ This property IS NOT within a Special Flood Hazard Area, as identified by the F.I.A./H.U.D. Flood Hazard Boundary Map for WEST LAKE HILLS, Texas, Community Panel No. 481030 01, dated FEB. 7, 1975.

3. ☐ According to the recorded plat of this subdivision, this lot _____ within the 100 year flood plain.

4. ☐ According to the recorded plat of this subdivision, the 100 year flood plain is contained within the drainage easements shown on the plat. There _____ drainage easement on this lot.

5. ☐ The drainage on this lot is such that under normal conditions the water will drain away from the house and off the lot.

THE STATE OF TEXAS: TO THE LIEN HOLDERS AND/OR THE OWNERS OF THE COUNTY OF TRAVIS PREMISES SURVEYED AND TO THE HERITAGE TITLE OF AUSTIN & TITLE RESOURCES GUARANTY COMPANY

The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and that there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, visible utility lines or roads in place, except as shown hereon, and that said property has access to and from a dedicated roadway, except as shown hereon.

USE OF THIS SURVEY FOR ANY OTHER PURPOSE OR OTHER PARTIES SHALL BE AT THEIR RISK AND UNDERSIGNED IS NOT RESPONSIBLE TO OTHERS FOR ANY LOSS RESULTING THEREFROM.

Dated this the 17th day of AUGUST, 19 93.

JOB No. 60201 INVOICE No. 24399

Clinton P. Rippey
CLINTON P. RIPPY
REGISTERED PUBLIC SURVEYOR
NUMBER 1453







Anjali,

This is the only email response I received back. I did have actual phone conversations with Matt Winkler and Debbie Bowen about this and they had no issues with our plans.

Warmest regards,

Michael A. Presley

903 Redbud Trail

West lake Hills, TX 78746

512-970-9659 cell

512-327-5954 home

From: Gibson, David V <[REDACTED]>

Sent: Tuesday, May 12, 2020 2:11 PM

To: [REDACTED]

Cc: Peggy Presley [REDACTED] >

Subject: RE: Special Use Permit filing

Mike

Thanks for letting me know your plans for your Special Use Permit – sounds reasonable to me.

Also thanks for helping to corral Sue when she gets away from me and runs the street – I'm working to get her to respond to my command to come even when she is excited and running – I now have an electronic collar (which you mentioned to me) if I need it – the good news is that she does not run away

Happy Mother's Day to Peggy

David

From: [REDACTED]

Sent: Monday, May 11, 2020 3:43 PM

To: Gibson, David V [REDACTED] >

Cc: Peggy Presley [REDACTED] >

Subject: Special Use Permit filing

Dave,

Just wanted to give you a heads up that Peggy and I have filed for a Special Use Permit in order to expand and convert my shop to a separate living unit guest quarters. WLH requires this permitting process for stand-alone guest and domestic help quarters (max 800 sq. ft.) and will be notifying you within the next couple of weeks. The Board of Adjustment hearing is scheduled for June 10.

The addition will be essentially an add-on of approximately 360 sq. ft. to my 440 sq. ft. shop building and due to the current location and elevation, I do not think we will impede or block any views from your home. The additional space roof line will be at the same level as the existing roof is now, perhaps lower and will be of the same composite shingles as on the shop now. We have no intentions of using this

guest quarters for short term rental purposes, as that use is a separate SUP filing. If you have any questions or comments please feel free to give me a call.

Thanks, Mike

Warmest regards,

Michael A. Presley

903 Redbud Trail

West lake Hills, TX 78746

512-970-9659 cell

512-327-5954 home

Order Confirmation

Ad Order Number

0000571976

Customer

WEST LAKE HILLS, CITY OF

Payor Customer

WEST LAKE HILLS, CITY OF

PO Number**Sales Rep.**

jrocha

Customer Account

30404

Payor Account

30404

Ordered By

Anjali Naini

Order Taker

jrocha

Customer Address911 WESTLAKE DR
AUSTIN TX 787464509 USA**Payor Address**911 WESTLAKE DR
AUSTIN TX 787464509 USA**Customer Fax****Order Source****Customer Phone**

5123273628

Payor Phone

5123273628

Customer EMail**Special Pricing****Invoice Text****Ad Order Notes****Net Amount**

\$156.16

Tax Amount

\$0.00

Total Amount

\$156.16

Payment Amount

\$0.00

Amount Due

\$156.16

Ad Number

0000571976-01

Ad Type

Legal

Production Method

AdBooker

Production Notes**External Ad Number****Ad Attributes****Ad Released**

No

Pick Up**Ad Size**

1 X 32 li

Color

<u>Run Date</u>	<u>Product</u>	<u>Placement</u>	<u>Sched Cst</u>	<u>Disc/Prem</u>	<u>Color</u>	<u>Pickup</u>	<u>Tax</u>	<u>Subtotal</u>
05/21/2020	S-Westlake Picyuane	Legals	\$78.08	\$0.00	\$0.00	\$0.00	\$0.00	\$78.08
05/21/2020	S-Lake Travis View	Legals	\$78.08	\$0.00	\$0.00	\$0.00	\$0.00	\$78.08
05/21/2020 - 05/21/2020	S-Web	Legals	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Ad Content

**CITY OF WEST LAKE HILLS
PUBLIC NOTICE – SPECIAL USE PERMITS**

The City of West Lake Hills will hold public hearings on June 10, 2020, at 7:00 P.M. before the Board of Adjustment/City Council in the Council Chambers at City Hall, 911 Westlake Drive, West Lake Hills, Texas, 78746 giving all interested persons the right to appear and be heard regarding the following items:

1. A request for a Special Use Permit for the construction of a guest quarters located at 903 Redbud Trail, West Lake Hills, TX 78746. The property is zoned R-1 (One-Family Residential).
2. A request for a Special Use Permit to allow the sale of alcoholic beverages sold in a restaurant for on-premises consumption to be located at 701 S. Capital of Texas Highway, Suite G-700, West Lake Hills, TX 78746. The property is zoned B-3 (Business 3).

For questions or to request a copy of the applications, please contact the Building & Development Services Department at 512-327-3628 or by email at planner@westlakehills.org.

5/21/20

0000571976-01

NOTICE TO NEIGHBORS OF A SPECIAL USE REQUEST

DATE OF NOTICE: May 22, 2020

Greetings. You are hereby notified that **Michael Presley** the recorded owner of a property located at **903 Redbud Trail** in the City of West Lake Hills, Texas has filed an Application with the City of West Lake Hills, Texas requesting a Special Use Permit according to the following Sections of the City's Code of Ordinances:

- **Section 38.03.032(c)(1) – R1 One-Family Residential Special Use – guest quarters**

The request is so that the property owner may: **Construct a guest quarters.**

This application is scheduled to be considered at a public hearing held by the Board of Adjustment on **June 10, 2020** at **7:00 p.m.** at West Lake Hills City Hall, located at 911 Westlake Drive, West Lake Hills, Texas. There shall include an opportunity for all interested persons to be heard. Please call City Hall at 512/327-3628 or email planner@westlakehills.org if you have questions or would like to request a copy of the application.

Anjali Naini, Director of Building and Development Services

SPECIAL USE PERMIT ORDINANCE 157-2020-C

AN ORDINANCE SETTING FORTH THE CONDITIONS UNDER WHICH A SPECIAL USE PERMIT SHALL BE PERMITTED AND AUTHORIZING THE CITY ADMINISTRATOR TO NOTE THE CHANGE ON THE OFFICIAL ZONING MAP OF THE CITY.

WHEREAS, Michael and Margaret Presley, owners of the herein described parcel of land at 903 Redbud Trail, has requested a Special Use Permit for a guest quarters; and

WHEREAS, the notice as required by Section 38.04.032 of the West Lake Hills Code of Ordinances has been given to adjacent property owners; and

WHEREAS, Public Hearings have been held by the Board of Adjustment as required by law; and

WHEREAS, there has not been a valid objection in the Public Hearings or a written protest submitted against the proposed Special Use Permit; and

WHEREAS, the Board of Adjustment find that the application for Special Use Permit meets the requirements of Sections 38.03.032 and 38.04.031 of the West Lake Hills Code; and

WHEREAS, the Board of Adjustment at its Public Hearing finds that the Special Use Permit on the herein described parcel is not against the public interest;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF THE CITY OF WEST LAKE HILLS, TEXAS:

Article 1. The legal description of said parcel of land is as follows:

Lot 2, Adamcik Addition.

Article 2. The permit is granted under the following general terms and conditions:

1. The use shall not require change in the character or exterior appearance of the principal residential unit;
2. The Special Use shall not create a nuisances or otherwise interfere with any neighbor's reasonable enjoyment of the neighbor's property;
3. The Special Use shall not have an adverse effect on the value of surrounding properties nor impede their proper development;
4. No signs are permitted on the parcel except as permitted under the provisions of Chapter 32 of the West Lake Hills Code; and
5. All representations, whether oral or written, made by the owner, or his agent, in support of a Special Use Permit are conditions upon which this permit is granted.

Article 3. The duration of this Special Use Permit shall be for two (2) years from the effective date hereon.

Article 4. This Special Use Permit may be renewed for two (2) year periods at the discretion of the City Administrator provided no written complaints have been received during the use period. When complaints have been registered, the applicant can seek renewal approval from the Board of Adjustment.

Article 5. This Special Use Permit for a guest quarters is granted to Michael and Margaret Presley, property owner, allowing a guest quarters at 903 Redbud Trail.

Article 6. This Special Use Permit is not transferable to another person or another parcel of land.

Article 7. The Board of Adjustment after notice and Public Hearing, may revoke this Special Use Permit for one or more of the following reasons:

1. A violation of any of the representations, plans, terms, general or special conditions, and limitations applicable to this Special Use Permit;
2. A violation of any applicable ordinance or regulation;
3. A change in the nature of the use without prior approval of the City; or
4. Operation or maintenance of the Special Use Permit in a manner that is detrimental to the public health or safety, or so as to constitute a nuisance.

Article 8. The application form entitled "Special Use Permit Form" along with any supporting correspondence and documents, and marked as Exhibit "A" attached hereto are incorporated herein by reference for all pertinent purposes.

Article 9. The City Administrator is hereby authorized and shall promptly note the change on the Official Zoning Map of the City of West Lake Hills, Texas. The Zoning Map shall indicate that there is a Special Use Permit for 903 Redbud Trail.

Article 10. This Special Use Permit shall become effective on the 10th day of June, 2020.

PASSED AND APPROVED this 10th day of June, 2020.

LINDA ANTHONY, CHAIRWOMAN
BOARD OF ADJUSTMENT
CITY OF WEST LAKE HILLS, TEXAS

ATTEST:

Stephanie Mills, City Secretary

I/We acknowledge receipt of this SUP and agree to abide by its terms and conditions.

Michael and Margaret Presley, Owners