



CITY OF WEST LAKE HILLS, TEXAS
NOTICE OF CITY COUNCIL REGULAR MEETING
Wednesday, February 11, 2026 at 7:00 PM

Notice is hereby given that the City Council of the City of West Lake Hills, Texas, will hold a Regular Meeting on the 11th day of February 2026 at 7:00 p.m., in the Council Chambers, Municipal Building, 4010 Bee Cave Road, West Lake Hills, Texas, at which time the following items will be discussed, to-wit:

REMOTE ACCESS - Join Zoom Meeting at <https://us02web.zoom.us/j/3499549035>
Or via telephone: Dial (346) 248-7799 - Meeting ID: 349 954 9035

If you wish to speak during the meeting or provide written comments, please email your name, phone number, comments, and the item number you wish to speak/comment on to citysec@westlakehills.gov by 1:00 P.M. on February 11, 2026.

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 or discuss matters not listed on the agenda. The Council may provide factual information, refer the item to a staff member, or request the item be added to a future meeting agenda. 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 requested by a Council Member.
 - a. Approval of the January 28, 2026 Regular Meeting Minutes.
 - b. Approval of the February 4, 2026 Workshop Minutes.
 - c. Approval of contracts with Travis County for an Election Services Agreement and a Joint Election Agreement for the May 2, 2026 General Election.
4. Land Use 4904 Old Bee Cave Road - Discuss and consider action on recommendations from ZAPCO on the following variances for a fence:

1. To allow for a fence encroachment into the 30-foot front-yard fence setback (Section 22.03.173(d)(6)(B)(ii)).
2. To allow for the installation of a fence that does not allow 80% visibility through the fence (Section 22.03.173(d)(6)(A)(i)).
3. To allow for a fence without the required minimum 80% landscaping screening (Section 22.03.173(d)(6)(A)(i)).
4. To allow for the installation of a fence with a height of 7 feet above natural grade (Section 22.03.173(d)(9)(A)).

Applicant: Dylan Freytag, Property Owner.

5. **Land Use 116 Skyline Drive** - Discuss and consider a recommendation from ZAPCO on the following variances for a fence:
 1. To allow for the installation of a fence without required landscaping visibly screening a minimum of 80% of the fence between the street and fence (Section 22.03.173 (d)(6)(A)(i)).
 2. To allow for the installation of a fence that does not allow 80% visibility through the fence (Section 22.03.173 (d)(6)(A)(i)).

Applicant: Brian Sharples, Property Owner.

6. **Land Use 1100 Block of Kennan Road** - Discuss and consider action on a recommendation from ZAPCO on a variance request to reduce the extent of the tree survey requirement for the entirety of a property for a new construction on an undeveloped lot (Section 22.03.304(b)(1)).

Applicant: Paula Ables, Designer/Owner Representative.

7. **Land Use 701 S Capital of Texas Highway Suite A050 (Sweetgreen)** - Discuss and consider action on a recommendation from ZAPCO on the following variances:
 - a. For the installation of a wall sign exceeding the maximum 10-foot length (Section 32.03.009 (2) West Lake Hills Code).
 - b. For the installation of a second sign for a restaurant with square footage of less than 5,000 square feet (Section II.B.1, Village at Westlake Uniform Signage Criteria)

Applicant: Jesus Sanchez, Santech Signs, LLC.

8. **Administration** Discuss and consider approval of additional service request (ASR) #1 associated with development review services.
9. **Administration** Discuss and consider AI Traffic Detection in the RM 2244/Bee Cave Road corridor.
10. **Public Works** Discuss and consider public works facilities and staffing.

11. Adjournment

Approved by: James Vaughan, Mayor

Certificate

I certify that the above Notice of the February 11, 2026 City Council Regular Meeting was posted on the bulletin board at the Municipal Building, 4010 Bee Cave Road, West Lake Hills, Texas on Thursday, February 5, 2026 by 5:00 pm. and will remain posted continuously until said meeting is convened.

Signed by: Jennifer C. Bills, Director of Building & Development

The City of West Lake Hills is committed to compliance with the Americans with Disabilities Act. Reasonable accommodation 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 CITY COUNCIL REGULAR MEETING
Wednesday, January 28, 2026 at 7:00 PM

1. Call to Order

With a quorum present, Mayor Vaughan called the meeting to order at 7:01 p.m.

CITY COUNCIL PRESENT:

Mayor James Vaughan
Mayor Pro Tem Gordon Bowman
Dana Harmon
Brian Plunkett
Beth South
Darin Walker

CITY STAFF PRESENT:

City Administrator Trey Fletcher
City Secretary Terry Blanchard
Director of BDS Jennifer Bills
Chief of Police Scott Gerdes
City Attorney Charles E. Zech

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 or discuss matters not listed on the agenda. The Council may provide factual information, refer the item to a staff member, or request the item be added to a future meeting agenda. Speakers shall limit their comments to five (5) minutes each.

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

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 requested by a Council Member.
- a. Approval of the January 14, 2026 Regular Meeting Minutes.
 - b. Approval of the FY 26 Q1 Building and Development Services Department Report.
 - c. Approval of the FY 26 Q1 Investment and Financial Reports.
 - d. Approval of the FY 26 Q1 Municipal Court Report.
 - e. Approval of the FY 26 Q1 Public Safety Report.
 - f. Approval of the Annual Texas Racial Profiling report.

Mayor Vaughan removed items 3c and 3e from the Consent Agenda.

MOTION: Upon a motion made by Councilmember Bowman and a second by Councilmember South, the Council voted five (5) for and none (0) opposed to approve the revised Consent Agenda as presented. Motion carried.

Item 3c - City Administrator Fletcher answered questions regarding property tax payments and special accounts.

MOTION: Upon a motion made by Councilmember Bowman and a second by Councilmember South, the Council voted five (5) for and none (0) opposed to approve Item 3c. Motion carried.

Item 3e - Chief Gerdes was asked to provide more of a breakdown for offenses listed on the Public Safety Report. Chief stated that he would provide more details on future reports.

MOTION: Upon a motion made by Councilmember Harmon and a second by Councilmember Walker, the Council voted five (5) for and none (0) opposed to approve Item 3e. Motion carried.

4. Ordinance Discuss and consider action to adopt an Ordinance calling a General Election to be held on May 2, 2026 for the purpose of electing a Mayor, Councilmember Place 2, and Councilmember Place 4.

MOTION: Upon a motion made by Councilmember Plunkett and a second by Councilmember Walker, the Council voted five (5) for and none (0) opposed to approve the ordinance as presented. Motion carried.

5. Land Use 8 Nob Hill Cir. - Discuss and consider action to issue a fourth permit extension for 8 Nob Hill for the construction of a new residential structure (Section 22.03.137 Expiration). Applicant: Thomas Walters, Property Owner.

Director Bills gave a summary of the permit. Staff has reviewed the request and deemed it reasonable.

Property owner, Tom Walters, gave a brief history of the issues which led to the current extension request. The Council were able to ask questions regarding the delays.

MOTION: Upon a motion made by Councilmember Plunkett and a second by Councilmember Walker, the Council voted five (5) for and none (0) opposed to approve the one-year extension as requested. Motion carried.

6. Administration Discuss and consider action to waive the use of right-of-way fee for the Rollingwood 5K Run.

Director Bills provided a brief summary.

MOTION: Upon a motion made by Councilmember Harmon and a second by Councilmember Walker, the Council voted five (5) for and none (0) opposed to waive the use of right-of-way fee. Motion carried.

7. Administration Discuss and consider provisions in the City Code related to Noise.

Director Bills reported that there have been no significant updates. City Administrator Fletcher stated that updates would be provided once per month moving forward.

8. Administration Discuss and consider the regulation of e-bikes.

MOTION: Upon a motion made by Councilmember Walker and a second by Councilmember Plunkett, the Council voted five (5) for and none (0) opposed to adjourn the meeting at 7:34 p.m. Motion carried.

9. Administration Discuss and consider donations to the City and associated policies.
10. Administration Receive an update and consider possible action regarding City of West Lake Hills v. Jaffe - 1405 Wildcat Hollow.
11. Adjournment

Respectfully submitted,

JAMES VAUGHAN, MAYOR

ATTEST:

City Secretary

These minutes were approved on February 11, 2026.

CITY OF WEST LAKE HILLS, TEXAS
MINUTES OF A CITY COUNCIL WORKSHOP
Wednesday, February 4, 2026 at 12:00PM PM

1. Call to Order

With a quorum present, Mayor Vaughan called the meeting to order at 12:06 p.m.

CITY COUNCIL PRESENT:

Mayor James Vaughan
Mayor Pro Tem Gordon Bowman
Dana Harmon – attending remotely
Brian Plunkett
Beth South

CITY STAFF PRESENT:

City Administrator Trey Fletcher
Development Coordinator Joel Sherrouse
Director of BDS Jennifer Bills
Chief of Police Scott Gerdes
Police Admin Specialist Tristan Castillo
Assistant Planner Elizabeth McNamara
Deputy City Inspector Alex Sanchez
Assistant City Attorney Natalie Thamm

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 or discuss matters not listed on the agenda. The Council may provide factual information, refer the item to a staff member, or request the item be added to a future meeting agenda. Speakers shall limit their comments to five (5) minutes each.

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

3. Administration: Discuss proposed scope of work for updating the city's tree ordinances and desired outcomes.
- a. Consultants from urban forestry firm PlanIT Geo briefed Council on some differences between Tree Ordinances and Urban Forestry Ordinances, and the possibility of developing new ordinances with the City of West Lake Hills. Council discussed potential opportunities and challenges associated with the existing ordinances and adoption of new ordinances.

The meeting was suspended at 12:35pm

The meeting was reconvened at 12:39 p.m.

4. Administration: Discuss winter weather event preparation and response.
 - a. City Administrator Trey Fletcher briefed Council on the City's response to the January freeze event. Council discussed the city's response, that of neighboring jurisdictions and agencies, and pre-treatment options for future events.

5. Administration: Discuss provisions in the City Code Related to Noise.
 - a. This item was withdrawn from the agenda

6. Administration: Discuss the regulation of e-bikes.
 - a. Chief Gerdes describes different classification of e-bikes and the city's authority for their regulation under state law. Chief Gerdes emphasized that due to the inability of officers to classify e-bikes visually and the fact that there are no age requirements for class 1 and 2 e-bikes, the police have limited options for enforcement of e-bike related regulations if the bikes are otherwise obeying laws that would apply to any other bicycles.
 - b. Council discussed including an article regarding e-bikes in an upcoming newsletter.

7. Discuss donations to the City and associated policies.
 - a. City Administrator Trey Fletcher led a discussion with Council related to the conditions for which the city may receive and utilize donations. Discussion centered on the requirement that deductible donations serve a public purpose.

12. Adjournment –

Mayor Vaughan Adjourned the meeting at 2:07pm

Respectfully submitted,

James Vaughan, MAYOR

ATTEST:

Joel Sherrouse,
Development Coordinator

These minutes were approved on February 11, 2026.

ELECTION AGREEMENT BETWEEN TRAVIS COUNTY AND THE CITY OF WEST LAKE HILLS

Pursuant to Chapter 31, Subchapter D, Chapter 123, and Chapter 271 of the Texas Election Code and Chapter 791 of the Texas Government Code, Travis County (the “County”) and [the City of West Lake Hills](#) (“Participating Entity”) enter into this agreement (this “Agreement”) for the Travis County Clerk, as the County’s election officer (the “Election Officer”), to conduct the Participating Entity’s elections, including runoffs, and for the Participating Entity’s use of the County’s current or future-acquired election equipment for any voting system that the County adopts, as authorized under Title 8 of the Texas Election Code, for all Participating Entity elections. The purpose of this Agreement is to maintain consistency and accessibility in voting practices, polling places, and election procedures in order to best assist the voters of the Participating Entity.

Section 1. GENERAL PROVISIONS

- (A) Except as otherwise provided in this Agreement, the term “election” refers to any Participating Entity election, occurring on any uniform election date prescribed by the Texas Election Code or a primary election date, along with any resulting runoff, if necessary, within all Participating Entity’s territory located in Travis County. If a runoff is necessary, to the extent the date is not already set by statute, the Participating Entity shall work with the Election Officer to determine a mutually acceptable run-off date. In the event that the Participating Entity and the Election Officer do not agree on a run-off date, the Participating Entity agrees to the run-off date selected by the Election Officer.
- (B) If the Participating Entity determines it is necessary to conduct an election during a time other than that specified in Section 1(A), the Election Officer and a representative designated by the Participating Entity will meet as soon as possible thereafter to determine the feasibility of the Election Officer conducting such an election. If both parties agree that the Election Officer will administer the election, the new election will be based on all other applicable provisions of this Agreement except provisions that are inconsistent and cannot be feasibly applied.
- (C) Except as otherwise provided in this Agreement:
 - (1) The term “Election Officer” refers to the Travis County Clerk;
 - (2) The term “precinct” means all voter registration precincts in the territory of the Participating Entity located within Travis County;
 - (3) The term “election services” refers to services used to perform or supervise any or all of the duties and functions that the Election Officer determines necessary for the conduct of an election; and

- (4) The term “cost for election services” includes the costs for personnel, supplies, materials, or services needed for providing these services and an administrative fee as permitted by the Texas Election Code but does not refer to costs relating to the use of the voting equipment.
- (D) Except as otherwise provided in this Agreement, the cost for “use of voting equipment” for a particular election is the amount the County will charge the Participating Entity for use of the County’s voting equipment in use at the time of that election.
- (E) The Participating Entity agrees to commit the funds necessary to pay for all election-related expenses for Participating Entity elections in accordance with this Agreement.
- (F) The Election Officer has the right to enter into agreements with other entities at any time, including during the dates listed in Section 1(A).
- (G) As a condition for providing election services and equipment usage, the Election Officer may require authorities of political subdivisions holding elections on the same day in all or part of the same territory to enter into a joint election agreement as authorized in Chapter 271 of the Texas Election Code, and the Participating Entity agrees to enter into any joint election agreement required by the County.

SECTION 2. PARTICIPATING ENTITY’S USE OF VOTING EQUIPMENT; DUTIES OF THE ELECTION OFFICER AND OF THE PARTICIPATING ENTITY

The County shall make available to the Participating Entity the County’s current voting system and any future-acquired voting system as authorized under Title 8 of the Texas Election Code, subject to restrictions and conditions imposed by the Election Officer to ensure availability of the equipment for County-ordered elections, primary elections, special elections, and subsequent runoff elections, if applicable. The Election Officer may also impose restrictions and conditions to protect the equipment from misuse or damage.

SECTION 3. APPOINTMENT OF ELECTION OFFICER

- (A) The Travis County Election Officer (“Election Officer”) is appointed to serve as the Participating Entity’s Election Officer and Early Voting Clerk to conduct the Participating Entity’s elections described in Section 1.
- (B) As the Participating Entity’s Election Officer and Early Voting Clerk, the Election Officer shall coordinate, supervise, and conduct all aspects of administering voting in Participating Entity elections in compliance with all applicable laws, subject to Section 3(C) below.

- (C) The Participating Entity shall continue to perform those election duties listed in (1) through (6) below and any other election duties, such as receipt of candidate applications, that are not allowed to be delegated to another governmental entity:
- (1) Preparing, adopting, and publishing all required election orders, including orders for appointment of central counting station personnel, early voting ballot board personnel, and signature verification personnel in elections where needed, resolutions, notices, and other documents, including bilingual materials, evidencing action by the governing authority of the Participating Entity necessary to the conduct of an election, except that:
 - a. The Election Officer does not provide newspaper notices on behalf of the Participating Entity with respect to a specific election.
 - b. With respect to each debt obligation election the Election Officer conducts for the Participating Entity pursuant to this Agreement:
 - i. The Election Officer, after receiving from the Participating Entity a copy of the debt obligation election order, shall post the notice required by and in accordance with Texas Election Code Section 4.003(f)(1) on election day and during early voting by personal appearance, in a prominent location at each polling place;
 - ii. The Election Officer shall provide written confirmation to the Participating Entity that the debt obligation election order was posted in accordance with Texas Election Code Section 4.003(f)(1); and
 - iii. The Participating Entity shall pay any applicable expenses incurred by the Election Officer that directly relates to the posting required by Texas Election Code Section 4.003(f)(1).
 - (2) Preparing the text for the Participating Entity's official ballot in English and Spanish and any other languages as required by law;
 - (3) Providing the Election Officer with a list of candidates or propositions showing the order and the exact manner in which the candidates' names and the propositions are to appear on the official ballot;
 - (4) Conducting the official canvass of a Participating Entity election;
 - (5) Administering the Participating Entity's duties under state and local campaign finance laws;
 - (6) Filing the Participating Entity's annual voting system report to the Secretary of State as required under Texas Election Code Chapter 123.

- (D) The Participating Entity shall also be responsible for proofing and attesting to the accuracy of all ballot language, including any required language translations, and format information programmed by the County. This includes any information programmed for use with the audio or tactile button features of the equipment. The Participating Entity may also monitor and review all logic and accuracy testing and mandatory tabulations. The Participating Entity will complete its duties within timeframes as prescribed by the County. If the Participating Entity finds any discrepancies or concerns, it will immediately report them to the Election Officer and work with her to resolve any issues so that final approval can be reached. The Participating Entity shall be responsible for any and all actual costs associated with correcting the ballot and ballot programming if the error is discovered after the Participating Entity has signed off on its final proof containing the error.
- (E) **The city secretary** will assist the County whenever possible when the conduct of the election requires assistance from Participating Entity departments and staff. **The city secretary** will serve as the Regular Early Voting Clerk for the Participating Entity to receive requests for applications for early voting ballots and forward these applications to the Joint Early Voting Clerk. **The city secretary** will serve as the Custodian of Records for the Participating Entity to complete those tasks in the Texas Election Code that the Election Officer will not perform.

SECTION 4. ELECTION WORKERS AND POLLING PLACES

- (A) For presentation to the governing body of the Participating Entity, the County shall provide a list containing the locations, times, and dates of early voting polling places suitable for consideration and adoption by the governing body in accordance with Texas Election Code Chapter 85.
- (B) The Election Officer will assume the responsibility for recruiting election personnel; however, if by the 5th day before the Election, the Election Officer reports vacancies in positions for election judges, alternate judges, election day clerks, early voting ballot board, receiving substation clerks, or any other key election personnel, the Participating Entity shall provide emergency personnel in these positions.
- (C) The Election Officer shall notify each of the election judges and alternates of their appointment and the eligibility requirements that pertain to them and to the selection of Election Day clerks. Included in this notification will be the number of clerks that each precinct should have in addition to the election judge and alternate judge. The election judges and/or the alternates are responsible for recruiting and supervising their clerks.

- (D) All election workers must agree to attend training sessions as determined by the Election Officer. Costs for these training sessions and compensation for attendees will be included as part of the election services costs.
- (E) During any election and any subsequent runoff election that involves entities in addition to the Participating Entity, the Election Officer will work with all parties to find a plan that can be agreed upon regarding the designation of polling places. If agreement cannot be reached, the Election Officer will resolve the differences. In all cases, the Election Officer has sole discretion to determine whether polling place changes are necessary.

SECTION 5. PAYMENTS FOR ELECTION SERVICES

- (A) Costs and payments for the use of voting equipment are addressed separately in Section 6 of this Agreement.
- (B) Requests for Election Services. For each election the Participating Entity desires the Election Officer to conduct, the Participating Entity must submit a written request to the Election Officer that describes the general nature of the election and specifies the date of the election.
- (C) Cancellations. On or before 11:59 p.m. on the 68th day before an election for which the Participating Entity has requested election services, the Participating Entity shall notify the Election Officer as to whether the Participating Entity anticipates the cancellation of its election, and on or before 11:59 p.m. on the 60th day before the election the Participating Entity shall notify the Election Officer as to whether the Participating Entity will cancel that election. If the Election Officer receives written notice from the Participating Entity on or before 11:59 p.m. of the 60th day before an election that the Participating Entity's election will be cancelled in accordance with Subchapters C and D of Texas Election Code Chapter 2, the Contracting Officer shall only be entitled to receive the actual expenses incurred before the date of cancellation in connection with the election and an administrative fee of \$100.
- (D) Notice, Cost Estimate, Initial Invoicing, and Initial Payment.
 - (1) Notwithstanding the provisions in Section 9(B), the County and the Participating Entity agree that notice under Section 5 can be provided via email. The following email address will be used for email communications to or from the County pursuant to Section 5: elections@traviscountytexas.gov, with a copy to ElectionEntities@traviscountytexas.gov. The Participating Entity has designated [the city secretary](#) as the Participating Entity's representative for sending and receiving email communications under Section 5, and the Participating Entity designates the following email address as the

Participating Entity's email address for sending and receiving email communications pursuant to Section 5: citysec@westlakehills.gov.

- (2) Initial Cost Estimate. On or before the 60th day before an election for which the Participating Entity has requested election services, the Election Officer will mail and/or email the Participating Entity a cost estimate for conducting the election. The cost estimate will include an administrative fee that is equal to 10% of the total estimated cost of conducting the Participating Entity's election, excluding the costs of voting equipment. In the event of a joint election, the cost estimate will reflect that election costs will be divided on a pro rata basis among all entities involved in the election in the manner set forth in this Section 5. The proportional cost for the Election Officer to conduct each participating entity's election will be calculated by dividing the number of registered voters in the territorial jurisdiction of each participating entity by the total number of registered voters for all of the participating entities involved in the joint election and multiplying that quotient by the total cost of the election. The product of these numbers is the pro rata cost share for each participating entity. The Participating Entity acknowledges and understands that if any other participating entity listed in the cost estimate cancels its election, each remaining participating entity's pro rata cost (including the Participating Entity's pro rata cost share) will result in a proportionate cost increase.
- (3) Initial Invoice and Initial Payment. Along with the initial cost estimate, the Election Officer will also include an initial invoice for the Participating Entity to pay 60% of the initial cost estimate. The Participating Entity must pay the County the amount specified in each invoice no later than 30 days after the Participating Entity's receipt of the invoice.
- (4) Runoff Elections. For each runoff election the Participating Entity has requested that the Election Officer conduct, the Participating Entity must make a payment equal to 60% of the projected costs for the runoff election no later than three business days after receiving that cost estimate from the Election Officer. The projected share of election costs will include an administrative fee that is equal to 10% of the total estimated cost of conducting the Participating Entity's runoff election, excluding the costs of voting equipment.
- (5) Each party may change its respective email addresses for email communications under this Section 5, without the need to amend this Agreement, by sending notice to the other party in accordance with Section 9(B).

- (F) Final Accounting and Final Invoice. The County will send the Participating Entity a final invoice of election expenses not later than 90 days after an election unless the Election Officer notifies the Participating Entity during that 90-day period following the election that the Election Officer requires additional time to send a final invoice to the Participating Entity. The final invoice will include a listing of additional costs incurred at the Participating Entity's behalf and specify the total payment due from the Participating Entity for any unpaid portion of the Participating Entity's costs.
- (1) Within 30 days after receipt of an election cost invoice setting forth the Election Officer's actual contract expenses and charges incurred in the conduct of the election, the Participating Entity shall pay the Election Officer the balance due on each final invoice no later than 30 days after the Participating Entity's receipt of that invoice.
 - (2) A refund may be due from the County to the Participating Entity if the final costs are lower than the amount already paid by the Participating Entity or if, at the end of the calendar year, the County Auditor's Office makes adjustments to the election workers' payroll and the amount already paid by the Participating Entity for election worker payroll costs exceeds the payroll amounts calculated by the County Auditor's Office.
- (G) The Participating Entity shall promptly review an election invoice and any supporting documentation when received from the County. The Participating Entity may audit, during the County's normal business hours, relevant County election or accounting records upon reasonable notice to the County. The Participating Entity shall pay the entire final invoice or the undisputed portion of the final invoice not later than the 30th day after receiving the invoice. Failure by the Participating Entity to timely pay an invoice in full may impact the Election Officer's participation in future elections with the Participating Entity.

SECTION 6. PAYMENTS FOR USE OF VOTING EQUIPMENT

- (A) The Election Officer shall conduct elections using a voting system certified by the Secretary of State in accordance with the Texas Election Code and that has been approved for use by the Travis County Commissioners Court unless otherwise agreed upon by the Participating Entity, the Travis County Clerk, and the Travis County Commissioners Court.
- (B) The Participating Entity shall make payments to Travis County as consideration for the use of the County's voting equipment.

- (1) For each election the Election Officer conducts for the Participating Entity after January 1, 2025, through January 1, 2026, the Participating Entity shall pay (a) the sum of 4% of the cost of the electronic voting system equipment installed at a polling place and 4% for each unit of other electronic equipment used by the Travis County Clerk's Office to conduct the election or provide election services, if the sum is greater than \$100.00, and (b) \$100.00 if the sum described in (a) is \$100.00 or less.
 - (2) In this Agreement "other electronic equipment" includes ballot marking devices, ballot scanners, ballot printers, ballot tabulators, electronic pollbooks, and ballot programming software.
- (C) Payment by the Participating Entity to the County for voting equipment is due no later than 30 days after the Participating Entity's receipt of an invoice from the County.
- (D) If the County acquires additional equipment, different voting equipment, or upgrades to existing equipment during the term of this Agreement, the charge for the use of the equipment may be renegotiated.

SECTION 7. ADDITIONAL EARLY VOTING LOCATIONS

- (A) All of the Participating Entity's voters within Travis County will have access to all the Travis County Early Voting sites in each election at no additional cost.
- (B) If the Participating Entity desires to have one or more early voting sites that are in addition to those sites the Election Officer has already selected for a specific election, the Participating Entity must submit the request to the Election Officer no later than 60 days before the election. The Election Officer will work with the Participating Entity to explore whether adding the location is appropriate for that election. Notwithstanding any provision to the contrary, the Election Officer has sole discretion to determine whether to provide any additional early voting sites requested by the Participating Entity.
- (C) If the Election Officer agrees that adding a proposed location is appropriate for that election, the Election Officer will thereafter provide a written estimate to the Participating Entity that sets forth the estimated cost for providing the additional early voting location(s) and the deadline by which the cost estimate must be paid. The Participating Entity will be responsible for the full cost of the additional site(s) that is being requested. If after receiving the cost estimate, the Participating Entity desires to move forward with having the additional early voting location(s), the Participating Entity will notify the Election Officer and include payment of the cost estimate with the Participating Entity's notice to the Election Officer no later than the deadline specified in the Election Officer's cost estimate.

SECTION 8. COMMUNICATIONS

- (A) The Participating Entity and the Election Officer shall each designate a member of their staff to serve as the primary contact for the respective offices under this Agreement and provide the name and contact information for that individual to the other party. Each party may change their designated staff members by sending notice to the other party without the further need to amend this Agreement.
- (B) Throughout the term of this Agreement, the Participating Entity and the County will engage in ongoing communications on issues related to Participating Entity elections, the use of County's voting equipment, and the delivery of services under this Agreement and, when necessary, the County Clerk, Elections Division staff members, and other election workers shall meet with the Participating Entity to discuss and resolve any problems which might arise under this Agreement.
- (C) The Election Officer shall be the main point of media contact for election information related to election administration. The Participating Entity designates [the city secretary](#) to serve as the main point of contact for media inquiries related to the content of the Participating Entity's ballot or candidates.

SECTION 9. MISCELLANEOUS PROVISIONS

- (A) Amendment/Modification. Except as otherwise provided, this Agreement may not be amended, modified, or changed in any respect whatsoever, except by a further Agreement in writing and duly executed by the parties hereto. No official, representative, agent, or employee of the County has any authority to modify this Agreement except pursuant to such expressed authorization as may be granted by the Commissioners Court of Travis County, Texas. No official, representative, agent, or employee of the Participating Entity has any authority to modify this Agreement except pursuant to such expressed authorization as may be granted by the governing body of the Participating Entity. Dyana Limon-Mercado, Travis County Clerk (or her successor), may propose necessary amendments or modifications to this Agreement in writing in order to conduct a joint election smoothly and efficiently, except that any such proposals must be approved by the Commissioners Court of the County and the governing body of the Participating Entity.
- (B) Notice. Unless otherwise provided herein, any notice to be given hereunder by any party to the other shall be in writing and may be affected by personal delivery, by certified mail, or by common carrier. Notice to a party shall be addressed as follows:

[CITY OF WEST LAKE HILLS](#)

City Secretary
4010 Bee Cave Road
West Lake Hill, TX 78746

TRAVIS COUNTY

Honorable Dyana Limon-Mercado, Travis County Clerk (or her successor)
1000 Guadalupe Street, Room 222
Austin, Texas 78701

Cc: Honorable Delia Garza, Travis County Attorney (or her successor)
314 West 11th Street, 5th Floor
Austin, Texas 78701

Notice by hand-delivery is deemed effective immediately, notice by certified mail is deemed effective three days after deposit with a U.S. Postal Office or in a U.S. Mail Box, and notice by a common carrier, is deemed effective upon receipt. Each party may change the address for notice to it by giving notice of such change in accordance with the provisions of this Section. When notices by email are permitted by this Agreement, (1) the notice is deemed effective upon the day it is sent if the email is received before 5:00 p.m. on a business day; (2) the notice is deemed effective on the first business day after the email was received if the email was received after 5:00 p.m. on a business day or anytime on a Saturday or Sunday. In this Agreement, "business day" means any weekday that is not a holiday designated by the Travis County Commissioners Court.

- (C) Force Majeure. In the event that the performance by the County of any of its obligations or undertakings hereunder shall be interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God or the result of war, riot, civil commotion, sovereign conduct, or the act or condition of any persons not a party hereto or in privity thereof, then it shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.
- (D) Venue and Choice of Law. The Participating Entity agrees that venue for any dispute arising under this Agreement will lie in the appropriate courts of Austin, Travis County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and the United States of America.
- (E) Entire Agreement. This Agreement contains the entire agreement of the parties relating to the rights herein granted and the obligations herein assumed and also supersedes all prior agreements, including prior election services contracts and prior agreements to conduct joint elections. Any prior agreements, promises, negotiations, or representations not expressly contained in this Agreement are of

no force or effect. Any oral representations or modifications concerning this Agreement shall be of no force or effect, excepting a subsequent modification in writing as provided herein.

- (F) Severability. If any provision of this Agreement is found to be invalid, illegal or unenforceable by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Agreement. Parties to this Agreement shall perform their obligations under this Agreement in accordance with the intent of the parties to this Agreement as expressed in the terms and provisions of this Agreement.
- (G) Breach. In the event that Participating Entity or County breaches any of its obligations under this Agreement, the non-breaching party shall be entitled to pursue any and all rights and remedies allowed by law.
- (H) Payments from Current Revenues. Payments made by the Participating Entity in meeting its obligations under this Agreement shall be made from current revenue funds available to the governing body of the Participating Entity. Payments made by the County in meeting its obligations under this Agreement shall be made from current budget or revenue available to the County.
- (I) Other Instruments. The County and the Participating Entity agree that they will execute other and further instruments, or any documents as may become necessary or convenient to effectuate and carry out the purposes of this Agreement.
- (J) Third Party Beneficiaries. Except as otherwise provided herein, nothing in this Agreement, expressed or implied, is intended to confer upon any person, other than the parties hereto, any benefits, rights or remedies under or by reason of this Agreement.
- (K) Joint Election Agreements. The County and the Participating Entity expressly understand and acknowledge that each may enter into other joint election agreements with other jurisdictions, to be held on Election Day and at common polling places covered by this Agreement.
- (L) Mediation. When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in Section

154.053 of the Texas Civil Practice and Remedies Code unless both parties agree, in writing, to waive the confidentiality. Notwithstanding the foregoing, the parties intend to fully comply with the Texas Open Meetings Act and the Texas Public Information Act whenever applicable. The term “confidential” as used in this Agreement has the same meaning as defined and construed under the Texas Public Information Act and the Texas Open Meetings Act.

- (M) Addresses for Payments. Payments made to the County, or the Participating Entity under this Agreement shall be addressed to following respective addresses:

Travis County Clerk – Elections Division
P.O. Box 149325
Austin, Texas 78714

City of West Lake Hills
City Secretary
4010 Bee Cave Road
West Lake Hills, TX 78746

- (N) Effective Date. This Agreement is effective upon execution by both parties and remains in effect until either party terminates this agreement for any reason upon providing 60 days written notice to the other party.

- (O) Reference of Time. All times referenced in this Agreement are to Central Time, and in all instances, the time-stamp clock used by the Travis County Clerk’s Office at 5501 Airport Boulevard in Austin, Texas is the official clock for determining the correct time.

- (P) Signatures. The individuals below have been authorized to sign this Agreement.

IN TESTIMONY WHEREOF, the parties hereto have executed this Agreement in multiple copies, each of equal dignity, and this Agreement takes effect on the date it is fully executed by the Participation Entity, the Travis County Judge (on behalf of the Travis County Commissioners Court), and the Travis County Clerk.

[Signatures on following page]

CITY OF WEST LAKE HILLS

BY: _____
James Vaughan
Mayor

DATE: _____

TRAVIS COUNTY

BY: _____
Dyana Limon-Mercado (or her successor)
County Clerk

DATE: _____

PARTICIPATING ENTITIES

Name of Participating Entity	<u>City of West Lake Hills</u>
Address	<u>4010 Bee Cave Road</u>
	<u>West Lake Hills, TX 78746</u>
Name of Authorized Signatory	<u>James Vaughan, Mayor</u>
Signature	<u></u>
Date signed	<u>02/11/2026</u>
E-mail address	<u>mayor@westlakehills.gov</u>

JOINT ELECTION AGREEMENT FOR MAY 2, 2026 ELECTIONS

Recitals

1. Travis County (the "County") will be conducting general and special elections for the participating entities (each, a "Participating Entity," and together, the "Participating Entities") listed in Exhibit A, which is attached to and incorporated into this agreement, on May 2, 2026. Each Participating Entity requires elections to be held on May 2, 2026 in those portions the Participating Entity's territory that are located in Travis County.
2. Under Texas Election Code Section 271.002, political subdivisions of the State of Texas are authorized to hold elections jointly in voting precincts that can be served by common polling places if elections are ordered by the authorities of two or more political subdivisions to be held on the same day in all or part of the same territory.
3. Texas Government Code Chapter 791 authorizes local governments to contract with one another and with state agencies for various governmental functions, including those in which the contracting parties are mutually interested.
4. It would benefit the County, the Participating Entities, and their respective citizens and voters to hold the elections jointly in the election precincts that common polling places can serve.

Pursuant to Texas Election Code Sections 271.002 and 271.003 and Texas Government Code Chapter 791, this Joint Election Agreement is entered into by and between Travis County, a political subdivision of the State of Texas acting by and through the Travis County Commissioners Court, and the Participating Entities, each acting by and through their respective governing bodies.

I. Scope of Joint Election Agreement

This agreement covers conducting the May 2, 2026 General and Special Elections for the Participating Entities. The Participating Entities will hold these elections on May 2, 2026 ("Election Day") jointly for the Participating Entities' voters who reside in -Travis County. This agreement also covers any General and Special Election runoffs, if necessary.

II. Election Officer

The Participating Entities hereby appoint the Travis County Clerk, the election officer for Travis County, as the election officer to perform or supervise the County's duties and responsibilities involved in conducting the joint election covered by this agreement.

III. Early Voting

Each of the Participating Entities agrees to conduct its early voting jointly. Each of the Participating Entities appoints the Travis County Clerk, the early voting clerk for Travis County, as the early voting clerk for the joint election. Early voting for the Participating Entities will be conducted at the dates, times, and locations as selected by the Election Officer and authorized and ordered by the governing body of each Participating Entity.

A. County Responsibilities

1. The County will provide to the governing body of each Participating Entity a list of locations, times, and dates of early voting polling places suitable for consideration and adoption by the governing body, in accordance with Texas Election Code chapter 85. The Election Officer will designate and confirm all Election Day polling place locations.
2. The Travis County Clerk, as the early voting clerk, will be responsible for conducting early voting by mail and by personal appearance for all Travis County voters voting in the joint election. The Travis County Clerk will receive from each Participating Entity's regular early voting clerk applications for early voting ballots to be voted by mail, under Texas Election Code Title 7. The Travis County Clerk will send early voting ballots by mail and receive early voting ballots for early voting by mail. The Travis County Clerk may appoint such deputy early voting clerks as necessary to assist the Travis County Clerk with voting to take place at the early voting locations.
3. The County will determine the number of election workers to hire to conduct early voting in the joint election. The Travis County Clerk will arrange or contract for training for all election workers and will assign all election workers employed for early voting in the joint election. The training of these election workers is mandatory; these individuals will be compensated for their time in training. The County will provide a training facility for election classes to train election workers employed in conducting early voting, including early voting by personal appearance at main and temporary branch early voting polling places, early voting by mail, and other aspects of the early voting program for the joint election. The County will name early voting deputies and clerks employed to conduct early voting.
4. The County will provide and deliver all supplies and equipment necessary to conduct early voting for the joint election, including ballots, election forms, any necessary ramps, utility hook-ups, signs, registration lists and ballot boxes, to early voting polling places. The County will designate and confirm all early voting polling place locations.
5. The County will be responsible for preparing and transporting the electronic voting equipment necessary to conduct early voting. The County will perform all tests of voting equipment as required, including posting notice of equipment testing.

6. Under Election Code sections 66.058 and 271.010, the Participating Entities appoint the Travis County Clerk as the joint custodian of records for the sole purpose of preserving all voted ballots securely in a locked room in the locked ballot boxes for the preservation period that the Election Code requires.
7. The County will receive ballot language in both English and Spanish from each Participating Entity and format the ballots as needed to include these languages. The County will provide each Participating Entity with a final proof of ballot language for approval before printing the ballots. Upon final proof approval, ballots will be printed in an expedited timeframe so as to allow ballot allocations for the ballot mail outs for the Early Voting by Mail Program.
8. A single joint voter sign-in process consisting of a common list of registered voters, and common signature rosters will be used for early voting. A single, combined ballot and any number of ballot boxes required for each election site, as determined by the County, will be used. The County will use an electronic voting system, as defined and described in Texas Election Code Title 8, and agrees to use ballots that are compatible with such equipment.
9. The County will be responsible for facilitating the appointment and operation of the Early Voting Ballot Board. The County will designate a person to serve as the presiding judge for the Early Voting Ballot Board and will provide that information to the governing body of each Participating Entity for entry of an order by that authority appointing this official. The presiding judge for the Early Voting Ballot Board is eligible to serve in this capacity. The presiding judge for the Early Voting Ballot Board will appoint two or more election clerks, and the judge and clerks will comprise the Early Voting Ballot Board and will count and return early voting ballots and perform other duties the Election Code requires of it. This provision applies only in elections that are also countywide elections. In elections that are not also countywide elections, the Participating Entity will be responsible in making the presiding judge and the alternate presiding judge appointment. The Participating Entity will be responsible for these appointments unless the Participating Entity expressly grants to the County that authority. If the Participating Entity does not make the appointments within 45 days of the election, then the County will make those appointments.
10. The County will be responsible for facilitating the appointment and operation of the Signature Verification Committee, if needed. The early voting clerk will issue a written order creating the committee if the early voting clerk determines that a signature verification committee should be appointed or if the clerk receives a petition signed by at least 15 registered voters for the creation of the committee. The early voting clerk will determine the number of members on the committee, providing for a minimum of five (the committee chair and four members), and they will comprise the Signature Verification Committee. The Signature Verification Committee will meet

prior to election day to compare signatures on the applications for ballot by mail to the corresponding carrier envelopes and perform other duties the Election Code requires of it. This provision applies only in elections that are also countywide elections.

In elections that are not also countywide elections, the Participating Entity will be responsible in making these appointments. Not later than the fifth day after the date the early voting clerk issues the order calling for the appointment of a signature verification committee, or not later than October 15 for a committee required on the written request by at least 15 registered voters of the county in the general election for state and county officers, the Participating Entity will be responsible for appointing the members unless the Participating Entity expressly grants to the County that authority. If the Participating Entity does not appoint the members of the Committee by the above deadline, then the County will make those appointments.

B. Participating Entities' Responsibilities

1. Each Participating Entity will appoint a qualified person to serve as the regular early voting clerk for the Participating Entity. The regular early voting clerk for each respective Participating Entity will receive requests for applications for early voting ballots to be voted by mail and will forward in a timely manner, as prescribed by law, any and all applications for early voting ballots to be voted by mail, received in the Entity's office, to the Travis County Clerk.
2. Each Participating Entity will appoint a qualified person to act as custodian of records for the Participating Entity to perform the duties imposed by the Election Code on the custodian of records for its respective entity.
3. Each Participating Entity will provide ballot language for the respective portion of the official ballot to the County in both English and Spanish. The Participating Entity must make any additions, modifications, deletions, or other changes to such ballot contents or language before the Participating Entity's final proof approval. The County will provide the Participating Entity with a final proof of ballot language, as it is to appear on the ballot, for final proof approval. Upon final proof approval, the ballot will be programmed for the voting equipment in an expedited timeframe so as to allow ballot allocations for the printed ballot mail outs for the Early Voting by Mail Program.

IV. Election Day

A. County Responsibilities

1. The County will designate and confirm all Election Day polling place locations for the joint election and will forward such information to the Participating Entities in a timely fashion to allow the governing body of the

respective Participating Entities to enter orders designating such polling places.

2. The County will designate the presiding election judge and the alternate presiding election judge to administer the election in the precinct in which a common polling place is to be used and will forward such information to the Participating Entities to allow the governing bodies of the respective Participating Entities to enter appropriate orders designating such officials before the election. The presiding election judge and alternate presiding election judge must be qualified voters of the Travis County election precinct in which the joint election is held. The presiding election judge for the precinct in which a common polling place is used may appoint election clerks as necessary to assist the judge in conducting the election at the precinct polling place. The alternate presiding election judge may be appointed as a clerk. The alternate presiding election judge may serve as the presiding election judge for the precinct in the presiding election judge's absence. Election judges and clerks will be compensated at the rate established by the County. The Texas Election Code and other applicable laws will determine compensable hours.
3. One set of election officials will preside over the election in the precinct using a common polling place. There will be a single joint voter sign-in process consisting of a common list of registered voters and common signature rosters in the precinct using a common polling place. A single, combined ballot and any number of ballot boxes required for each election site, as determined by the County, will be used. The officer designated by law to be the custodian of the voted ballots for the County will be custodian of all materials used in common in the precinct using a common polling place. The County will use an electronic voting system, as defined and described by Texas Election Code Title 8, and agrees to use ballots that are compatible with such equipment.
4. The County will arrange for training and will provide the instructors, manuals and other training materials deemed necessary for training all judges and clerks. Training for election judges and alternate judges is mandatory, and these individuals will be compensated for their time in training.
5. The County will arrange for election-day voter registration precinct lists for the joint election. The County will determine the amount of election supplies needed for Election Day voting.
6. The County, by and through the County Clerk's Elections Division, and Administrative Operations, will be responsible for preparing and transporting voting equipment and election-day supplies for use on Election Day.
7. The County, by and through the County Voter Registrar, will provide the list of registered voters as needed in the overlapping jurisdictions identified in

the attached exhibits, with designation of registered voters in each Participating Entity, for use at the joint election day polling place on Election Day.

8. The common polling place is designated as the polling place that the County uses. At the common polling place, any number of ballot boxes required for each election site, as determined by the County, will be used for depositing all ballots cast in the joint election. At this polling place, one voter registration list and one combination poll list and signature roster form will be kept for the joint election. The final returns for each Participating Entity and the County will be canvassed separately by each respective Participating Entity. The Travis County Clerk will maintain a return center on Election Day for the purpose of receiving returns from the County. The Travis County Clerk will provide unofficial election results to the qualified individual appointed by each Participating Entity.
9. On Election Day, the Travis County Clerk or the clerk's Elections Division will field all questions from election judges.
10. The County will make available translators capable of speaking English and Spanish to assist Spanish-speaking voters in understanding and participating in the election process in the territory covered by this agreement.

B. Participating Entities' Responsibilities

1. Before Election Day, each Participating Entity will answer questions from the public with respect to the Participating Entity's election during regular office hours of 8:00 a.m. – 5:00 p.m.
2. Each Participating Entity shall keep their office open for election duties for at least 3 hours per day, during regular office hours, on regular business days beginning no later than the 50th day before the date of each general election or by the 3rd day after the date a special election is ordered and ending no earlier than the 40th day after election day.
3. The custodian of records for each Participating Entity will receive returns from the Travis County Clerk on Election Day.

V. Election Night

A. County Responsibilities

1. The County will be responsible for all activities on election night, including setting up a central counting station, coordinating and supervising the results tabulation, coordinating and supervising the physical layout of the

support stations that are the joint election's receiving substations, and coordinating and managing election media coverage.

2. The County is responsible for coordinating the transport of voted ballot boxes to the central counting station.
3. The County will appoint the presiding judge and alternate presiding judge of the central counting station to maintain order at the central counting station, to administer oaths as necessary, to receive sealed ballot boxes, and to perform such other duties that the Texas Election Code requires, and will forward such information to each Participating Entity in a timely fashion to allow the governing body of each Participating Entity to enter appropriate orders designating such election officials before the election. The presiding judge of the central counting station may appoint clerks to serve at the central counting station. In addition, the County will appoint a tabulation supervisor to be in charge of operating the automatic tabulating equipment at the central counting station; an individual to serve as central counting station manager; and an assistant counting station manager to be in charge of administering the central counting station and generally supervising the personnel working at the central counting station. The County will forward such information to each Participating Entity in a timely fashion to allow the governing body of each Participating Entity to enter appropriate orders designating such election officials before the election. This provision applies only in elections that are also countywide elections.

In elections that are not also countywide elections, the Participating Entity will be responsible in making these appointments. The Participating Entity will be responsible for all appointments unless the Participating Entity expressly grants to the County that authority. If the Participating Entity does not make the appointments within 45 days of the election, then the County will make those appointments.

4. The County will provide the Participating Entities with reasonable space in a public area adjacent to the central counting station at which each Participating Entity may have representatives or other interested persons present during the counting process.

B. Participating Entities' Responsibilities

Other than receiving returns from the Travis County Clerk, the Participating Entities have no role or responsibility on the night of the election.

VI. County Resources

- A. The County will provide the Elections Division permanent staff and offices to administer the joint election, under the Travis County Clerk's direction.

- B. For early voting, the County will provide a locked and secure area in which voted ballot boxes will be stored until the Early Voting Ballot Board convenes. The County, by and through Administrative Operations, will be responsible for transporting the ballot boxes to the central counting station for the Early Voting Ballot Board.
- C. The County will be responsible for providing and maintaining voting equipment and testing any voting equipment as required by the Texas Election Code.
- D. The County will process the payroll for all temporary staff hired to conduct the joint election. The payroll processing includes statutory reporting and providing W-2 forms where applicable.
- E. The County will conduct early voting as indicated in this agreement.

VII. Joint Election Costs; Payment

- A. Concurrently with its submittal of an executed copy of this agreement each Participating Entity must also submit payment via check or ACH, in the amount equal to the deposit identified for that Participating Entity in the Cost Estimate attached as Exhibit B, which is also incorporated into this agreement. The County is under no obligation to conduct a Participating Entity's elections until the County receives that Participating Entity's payment of Cost Estimate. All checks must be made payable to Travis County. This deposit represents approximately 60% of the costs of the Participating Entity's share of the estimated election costs, or \$100, whichever amount is greater. The County will submit an invoice to each Participating Entity for the balance of the Participating Entity's actual joint election expenses upon the election's completion. Joint-election expenses include expenses for facilities, personnel, supplies, and training that the County actually incurs for establishing and operating all early voting and election-day activities at the polling place in the joint election territory as well as activities related to tabulating votes, all as reflected on the Cost Estimate. Each Participating Entity will pay the total amount of its invoice no later than 30 days of receiving it.
- B. In the event of a recount, the expense of the recount will be borne by the Participating Entity involved in the recount on a pro-rata basis.
- C. In the event a Participating Entity cancels its respective election because of unopposed candidates under Texas Election Code Title 1, the Participating Entity will be responsible for its respective share of election expenses incurred through the date that the election is canceled as allocated to the cancelling entity based on the formula in the Cost Estimate, adjusted for the actual expenses incurred by the County through the date of the cancellation. If a Participating Entity cancels its election, the County will recalculate the allocation percentages among the remaining Participating Entities according to the formula used in the Cost Estimate.

- D. In the event there are any expenses associated with processing a ballot arising from a write-in candidate, the Participating Entity that received the declaration will bear the expenses.
- E. If the Participating Entity desires to establish an early voting polling place, other than those sites the Election Officer has already selected, the Participating Entity must submit the request to the Election Officer no later than 60 days before the election. The Election Officer will work with the Participating Entity to explore whether adding the location is appropriate for that election. Notwithstanding any provision to the contrary, the Election Officer has sole discretion to determine whether to provide any additional early voting sites requested by the Participating Entity.

If the Election Officer agrees that adding a proposed location is appropriate for that election, the Election Officer will thereafter provide a written estimate to the Participating Entity that sets forth the estimated cost for providing the additional early voting location(s) and the deadline by which the cost estimate must be paid, as set forth in Exhibit B. The Participating Entity will be responsible for the full cost of the additional site(s) that is being requested. If after receiving the cost estimate, the Participating Entity desires to move forward with having the additional early voting location(s), the Participating Entity will notify the Election Officer and include payment of the cost estimate with the Participating Entity's notice to the Election Officer no later than the deadline specified in the Election Officer's cost estimate.

VIII. General Provisions

A. Legal Notices

Each of the Participating Entities will be individually responsible for preparing the election orders, resolutions, notices, and other pertinent documents for adoption or execution by its own respective governing board and for all related expenses. The Travis County Clerk will provide each Participating Entity information on changes affecting the Participating Entity's election, such as polling place changes and changes in voting equipment, when such changes are confirmed, verified, or otherwise become known to the clerk's office. Each of the Participating Entities will be individually responsible for posting or publishing election notices and for all related expenses. Each of the Participating Entities further will be individually responsible for election expenses incurred in relation to any polling place that is not a common polling place as designated in this agreement.

B. Communication

Throughout this agreement's term, the Travis County Clerk or the clerk's employee will meet as necessary with the designated representative of each Participating Entity to discuss and resolve any problems that might arise regarding the joint election.

C. Custodian

The Travis County Clerk will serve as the custodian of the keys to the ballot boxes for voted ballots in the joint election.

D. Effective Date

This agreement takes effect upon its complete execution by all Participating Entities and the County. The obligation of each Participating Entity to the County under this agreement will not end until that Participating Entity pays the County its share of the joint election costs.

IX. Miscellaneous Provisions

A. Amendment/Modification of Exhibits A and B

1. The Participating Entities acknowledge and agree that Exhibit A and Exhibit B may be amended to add or remove entities wishing to participate or cease participating in the agreement. The Participating Entities agree to future amendments of Exhibit A and Exhibit B and authorize the County to enter into such amendments without the Participating Entities' having to sign the future amendments. The County agrees to notify all Participating Entities of any amendments to Exhibit A and Exhibit B.
2. Except as otherwise provided, this Agreement may not be amended in any respect whatsoever except by a further agreement in writing, duly executed by the parties to this agreement. No official, representative, agent, or employee of the County has any authority to modify this Agreement except by express authorization from the Travis County Commissioners Court. No official, representative, agent, or employee of any Participating Entity has any authority to modify this agreement except by express authorization from the governing body of the respective Participating Entity. The Travis County Clerk may propose necessary amendments to this agreement in writing in order to conduct the joint election smoothly and efficiently, except that any such proposed amendment must be approved by the Travis County Commissioners Court and the governing body of each respective Participating Entity before the amendment will be effective.

B. Notice

Any notice to be given in this agreement, by any party to the other, must be in writing and delivered personally or by certified mail, return receipt requested, to the proper party at the addresses listed in Exhibit A.

Each party may change the address for notice to it by giving notice of the change under this section's terms.

C. Force Majeure

In the event that the County cannot perform any of its obligations in this agreement or is interrupted or delayed by any occurrence not occasioned by its own conduct, whether it be an act of God, the result of war, riot, civil commotion, sovereign conduct, epidemic, pandemic, or other event declared a disaster (including a disaster declared by the County Judge), or like reason, then the County will be excused from performing for such period of time as is reasonably necessary after such occurrence to remedy its effects.

D. Venue and Choice of Law

The Participating Entities agree that venue for any dispute arising under this agreement will lie in the appropriate courts of Austin, Travis County, Texas. This agreement is governed by and is to be construed under the laws of Texas and the United States of America.

E. Entire Agreement

This agreement contains the parties' entire agreement relating to the rights granted and the obligations assumed in it, and it supersedes all prior agreements, including prior election services contracts relating to each Participating Entity's May 2, 2026 election. Any prior agreements, promises, negotiations, or representations not expressly contained in this agreement are of no force or effect. Any oral representations or modifications concerning this agreement have no force or effect, except a subsequent amendment in writing as this agreement provides.

F. Severability

If any provision of this agreement is found to be invalid, illegal or unenforceable by a court of competent jurisdiction, such invalidity, illegality, or unenforceability will not affect the agreement's remaining provisions; and its parties will perform their obligations under the agreement's surviving terms and provisions.

G. Breach

In the event that any Participating Entity or the County breaches any of its obligations under this agreement, the non-breaching party will be entitled to pursue any and all rights and remedies allowed by law.

H. Payments from Current Revenues

Payments made by the Participating Entities in meeting their obligations under this agreement will be made from current revenue funds available to the governing body of the respective Participating Entity. Payments made by the County in meeting its obligations under this agreement will be made from current revenue funds available to the County.

I. Other Instruments

The Participating Entities agree that they will execute other and further instruments or any documents as may become necessary or convenient to effectuate and carry out this agreement's purposes.

J. Third-Party Beneficiaries

Except as otherwise provided in this agreement, nothing in this agreement, expressed or implied, is intended to confer upon any person, other than the parties to it, any of its benefits, rights, or remedies.

K. Other Joint Election Agreements

The County and the Participating Entities expressly understand and acknowledge that each may enter into other joint election agreements with other political subdivisions, to be held on Election Day and at common polling places covered by this agreement, and that the addition of other political subdivisions as parties to this agreement will require amending Exhibits A and B.

L. Mediation

When mediation is acceptable to both parties in resolving a dispute arising under this agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Texas Civil Practice and Remedies Code section 154.023. Unless both parties are satisfied with the mediation's result, the mediation will not constitute a final and binding resolution to the dispute. All communications within the scope of the mediation will remain confidential as described in section 154.073, unless both parties agree, in writing, to waive the confidentiality. Despite this, the parties intend to fully comply with the Texas Open Meetings Act and the Texas Public Information Act whenever applicable. The term "confidential" as used in this agreement has the same meanings as defined and construed under the Texas Public Information Act and the Texas Open Meetings Act. Notwithstanding any provision to the contrary, nothing in this Agreement requires the County or a Participating Entity to waive any applicable exceptions to disclosure under the Texas Public Information Act.

M. Counterparts

This Agreement may be executed in multiple counterparts, all of which will be deemed originals and with the same effect as if all parties to it had signed the same document. Signatures transmitted electronically by e-mail in a "PDF" format or by DocuSign or similar e-signature service shall have the same force and effect as original signatures. All of such counterparts will be construed together and will constitute one and the same agreement.

TRAVIS COUNTY

BY: _____
Andy Brown
County Judge

Date: _____
Dyana Limon-Mercado
County Clerk

PARTICIPATING ENTITIES

Name of Participating Entity	_____
Address	_____ _____
Name of Authorized Signatory	_____
Signature	_____
Date signed	_____
E-mail address	_____

EXHIBIT A *[this list needs to be updated]*

Municipalities

School Districts

MUDs

ESDs

EXHIBIT B
COST ESTIMATE



AGENDA REPORT

Meeting Date:	<u>February 11, 2026</u>	Item Number:	<u>4</u>
Department:	<u>Building & Development</u> <u>Jennifer C. Bills, Director of</u>		
Prepared By:	<u>Building & Development</u>	Cost / Budget:	<u>None</u>
Exhibits:	<u>See Attached</u>	Source of Funds:	<u>N/A</u>

Subject

4904 Old Bee Cave Rd.: Discuss and consider action on recommendations from ZAPCO on the following variances for a fence:

1. To allow for a fence encroachment into the 30-foot front-yard fence setback (Section 22.03.173(d)(6)(B)(ii)).
2. To allow for the installation of a fence that does not allow 80% visibility through the fence (Section 22.03.173(d)(6)(A)(i)).
3. To allow for a fence without the required minimum 80% landscaping screening (Section 22.03.173(d)(6)(A)(i)).
4. To allow for the installation of a fence with a height of 7 feet above natural grade (Section 22.03.173(d)(9)(A)).

Applicant: Dylan Freytag, Property Owner

Recommendation

Hold a public hearing and determine the following findings of fact to approve or deny the requested variances.

1. The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.
2. There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.
3. There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.
4. The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.

The City Council can recommend imposition of reasonable conditions upon granting a variance if the conditions are related to the subject of the variance.

The findings of fact as alleged by the applicant are attached in Exhibit A.

The Zoning and Planning Commission considered the item the January 21, 2026 meeting and recommended **denial** by a vote of 5-0 (Attachment 6).

Discussion

Property Information, Zoning & Site Characteristics:

Owner: Dylan & Kati Freytag Trust

Legal Description: First Resubdivision of Martha Townsley Subdivision Lot 2

Lot Size: 1.04 acres

Zoning: R-1, One-Family

Wastewater: On-Site Sewer System (Septic)

The properties surrounding the subject property are zoned O, Office and R-1, One-Family.

Background & Analysis:

The applicant is requesting four variances related to a fence that was installed at the property line without permits. The fence variances include allowances for encroachment into the front fence setback, exceeding landscaping and visibility measures for the front fence, and maximum height of the entire fence.

The applicant provided street-view photos of the fence showing the existing native vegetation, but do not directly address the 80% transparency standards required for front-yard fences. As the fence is on the property line, all of this vegetation is in the Old Bee Cave Road right-of-way and is subject to removal by utilities and the city.



Views from street of existing native landscaping with new fence shown beyond.

§22.03.173(d)(6)(A)(i): *Front-yard fences shall: Be landscaped on the side(s) facing the street(s) with native vegetation from the city's recommended plan list so that a minimum of 80% of the total area of the front-yard fence exposed to the streetscape is effectively screened from view*

To meet this requirement, we plan to keep existing native vegetation in place, as shown in its current state in these the photographs. To the extent the 80% coverage is deemed not achieved, we will supplement the vegetation with additional native landscaping.

Photos provided by the applicant on 11/12/2025

The applicant provided a picture which shows the fence exceeding the minimum 80% transparency standards.



Photo provided by the applicant on 11/10/2025

Front-yard Fence Setback

- Front yard fence and gate encroaching up 11.5 feet into the 30-foot front yard fence setback.

Code Reference

Section 22.03.173(d)(6)(B)(ii) Front-yard fence requirement

(B) Except as may be required by subsection (5) above, the setback distance for a front-yard fence shall be determined as follows:

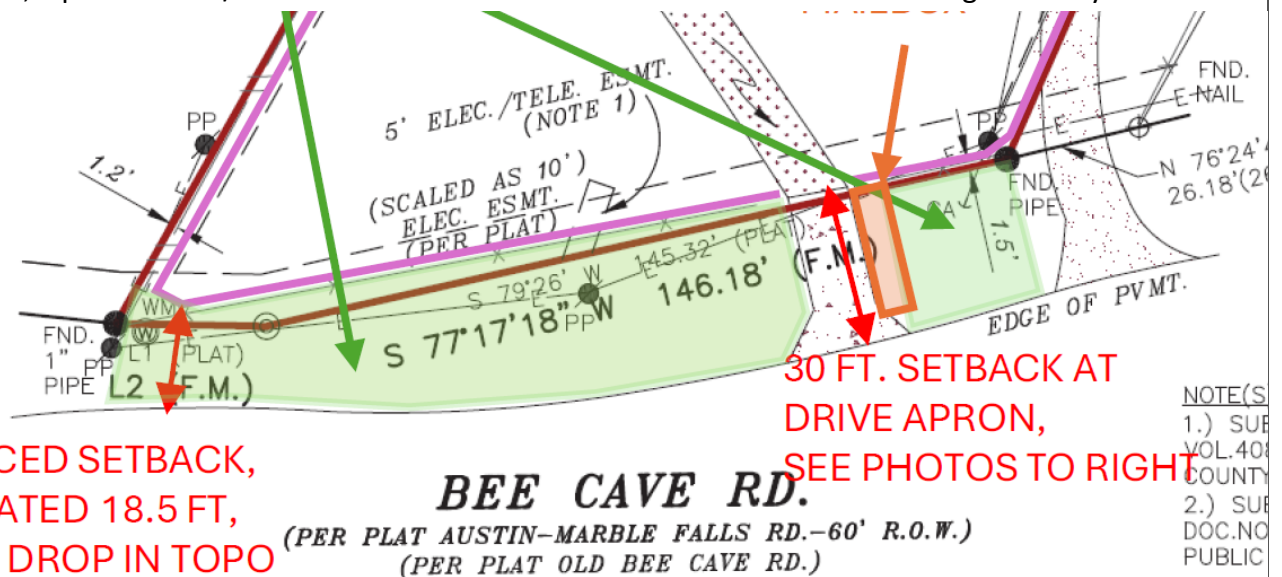
(i) For lots less than 0.75 acre, the minimum front setback distance for front-yard fences shall be 20 feet from the nearest pavement edge of the public or private street, provided that no fence shall be constructed in the right-of-way.

(ii) For lots 0.75 acre and larger, the minimum front setback distance for front-yard fences shall be 30 feet from the nearest pavement edge of the public or private street, provided, that no fence shall be constructed in the right-of-way.

(iii) Rear and side setbacks set forth in section 22.03.281 do not apply to front-yard fences.

Request

The applicant is requesting to place the fence up to 11.5 feet into the front-yard fence setback, which is measured from the edge of pavement. The edge of pavement varies from the property line from 16 to 30 feet. At the closest point, the fence is at the front property line. If the fence were to remain at the property line, a pedestal call/code box cannot be installed as it would be within the right-of-way.



Fence height

- Front yard fence exceeds maximum 6 feet in height from the natural grade

Code Reference

Section 22.03.173(d)(9)(A)

- Fences shall not exceed 6 feet in height per side on or parallel to each property line measured from existing natural ground level.

Request

The applicant requested a variance for a 7-foot-tall fence along the front as interior lot lines.

Front-yard transparency standards

- Front yard fence does not meet the minimum 80% visibility standards from 45 to 180 degrees.

Code Reference

Section 22.03.173(d)(6)(B)(i) Front-yard fence requirement

- Be constructed to allow a minimum of 80% visibility through the front-yard fence prior to the installation of the landscaping required in subsection (6) (A).

Request

The applicant requested a variance for 0% transparency where the minimum 80%.

Front-yard landscaping requirement

- Front-yard fence does not meet the landscaping visibility screening minimum of 80% of the fence between the street and fence.

Code Reference

Section 22.03.173(d)(6)(B)(i) Front-yard fence requirement

- (i) Be landscaped on the side(s) facing the street(s) with native vegetation from the city's recommended plant list so that a minimum of 80% of the total area of the front-yard fence exposed to the streetscape is effectively screened from view.

Request

The applicant is requesting to allow for the installation of a fence without any landscaping provided on the applicant's property, as the fence is at the property line. The existing vegetation is within the street right-of-way, which is subject to maintenance for fire, drainage and utility access by the city and other utilities.

Public Comments:

As of the date of the report, one written comment was received in opposition to the request. One neighbor spoke in opposition to the request at the ZAPCO meeting.

Variance Criteria Review:

Fences follow the procedure and notice found in Section 22.03.511 Procedure and notice:

- (a) The city council, when petitioned for a variance, after 16 days' written notice to all property owners within 300 feet of the subject property, shall hold a hearing, and the city council may vary the application of any provision of this article to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of this article or public interest, or when, in its opinion, the interpretation and recommendation of the zoning and planning commission should be modified or reversed.
- (b) A decision of the city council to vary the application of any provision of this article shall specify in what manner such variance is made, the conditions upon which it is made and the reasons thereof.

The criteria and process for granting a variance found in Section 22.03.514:

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

- 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.
- 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.
- 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.

Outdoor Lighting

Outdoor lighting is not proposed with this variance request. Any outdoor lighting will need to comply with the City's Code.

Compliance with Adopted International Building Code

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

Subdivision

There is no change to the subdivision proposed with this application.






Comprehensive Planning Analysis

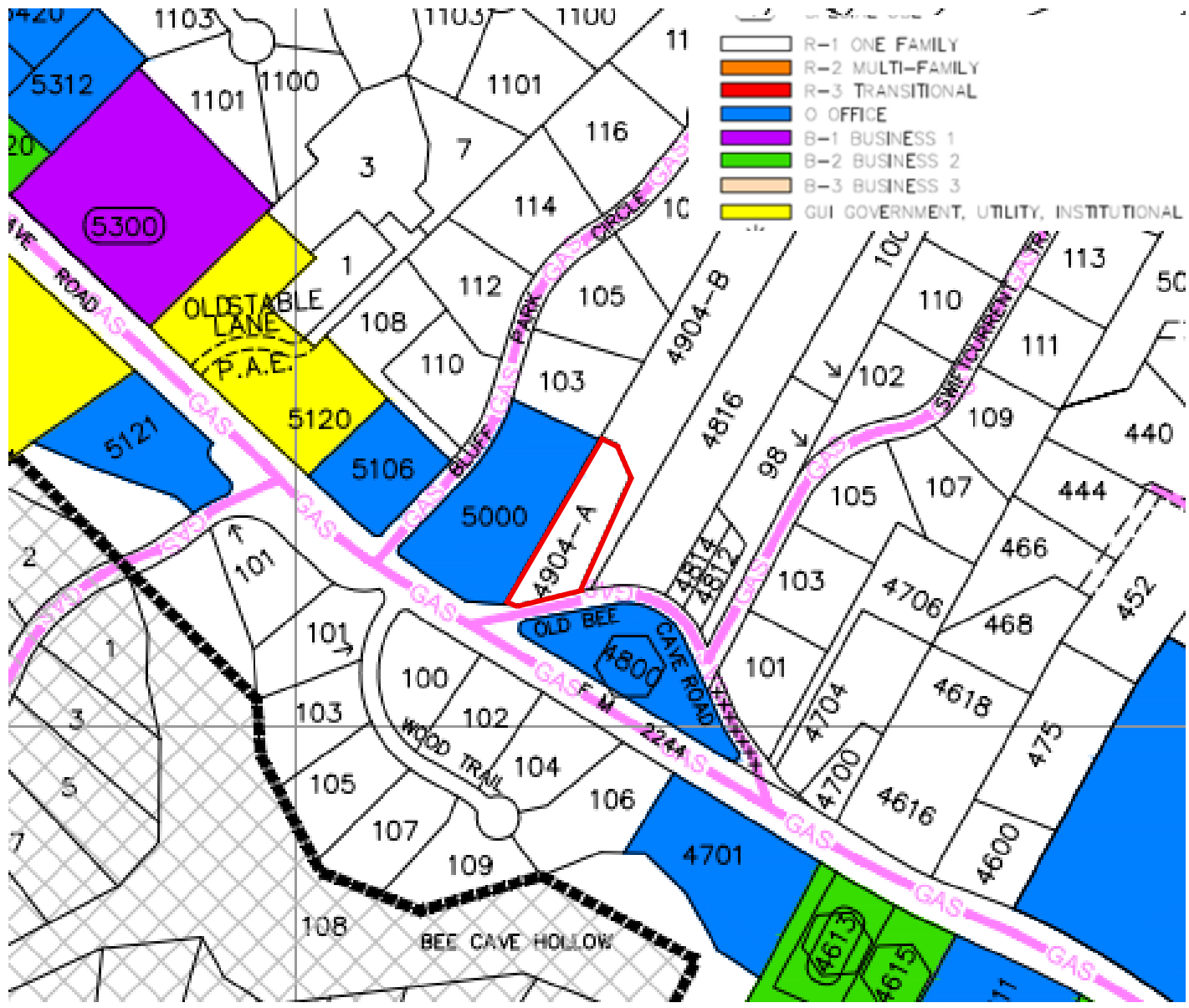
The existing and future land use is in conformance with the City of West Lake Hills Master Plan.

Links to Relevant Code:

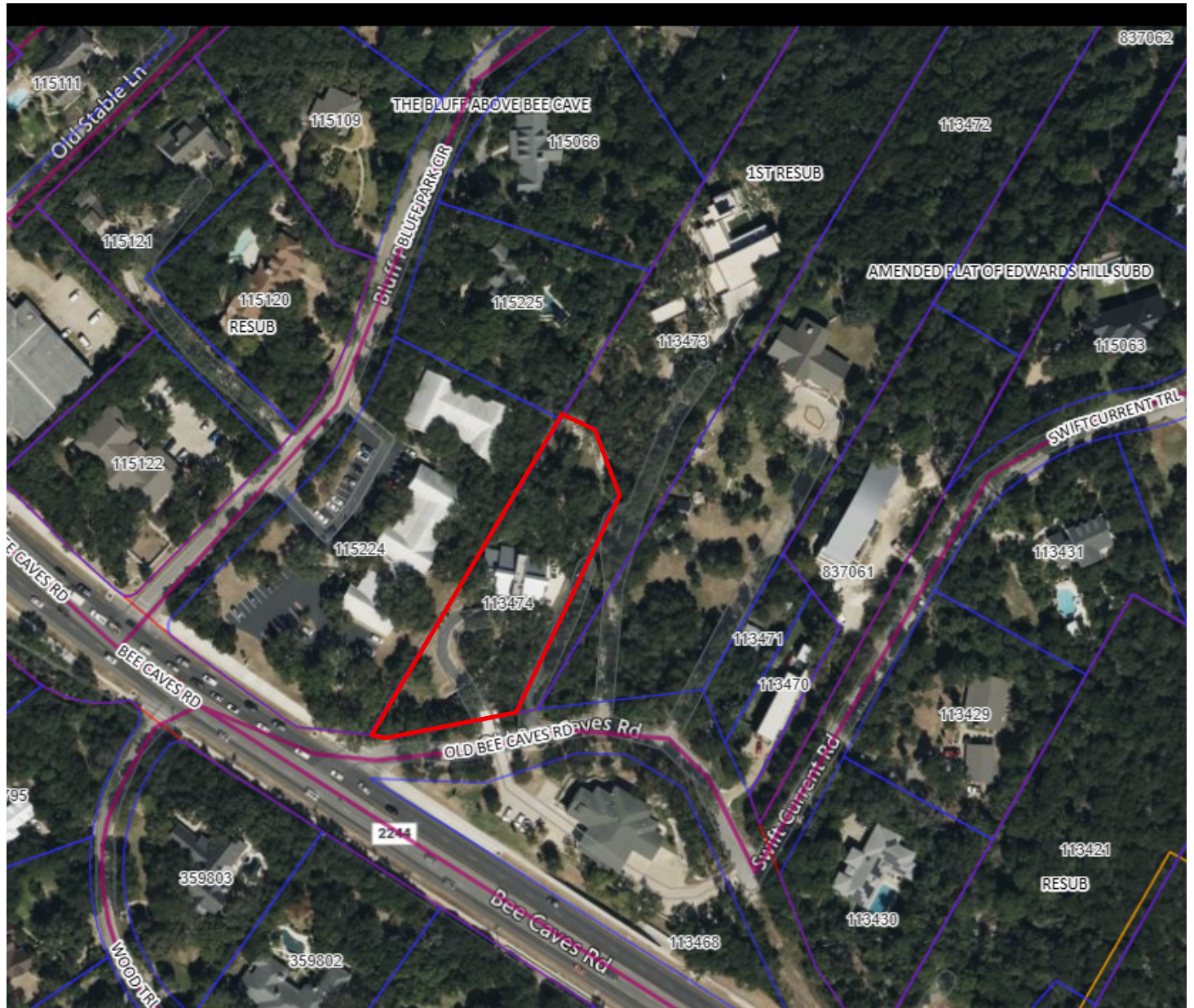
- [Section 22.03.173: Fences \(Residential\)](#)
- [Section 22.03.304. Tree and vegetation removal and replacement.](#)
- [Section 22.03.514: Criteria and process required for granting variance.](#)
- [Section 22.03.511: Procedure and notice.](#)

Zoning:

-  R-1 ONE FAMILY
-  R-2 MULTI-FAMILY
-  R-3 TRANSITIONAL
-  O OFFICE
-  B-1 BUSINESS 1
-  B-2 BUSINESS 2
-  B-3 BUSINESS 3
-  GUI GOVERNMENT, UTILITY, INSTITUTIONAL



Aerial:



DECEMBER 14, 2025

DEAR CHAIR MEISEL AND MEMBERS OF THE ZONING & PLANNING COMMISSION,

We respectfully submit this letter in support of our variance application regarding the fence project at our property located at 4904 Old Bee Cave Road.

Through research and our helpful discussions with City staff, it is our understanding that under the current West Lake Hills municipal code, residential fences are permitted up to 6 feet in height and must meet specific setback requirements from public or private streets and property lines. Front-yard fences on lots 0.75 acres and greater must be set back 30 feet from the nearest pavement edge and must be 80% transparent, and side/rear yard fences may be located on property lines that do not face a street. Fences exceeding these limits or encroaching into setback zones require approval by ZAPCO and City Council after variance review.

Due to our property's unique site conditions, including its positioning between two commercial properties, close proximity to the busyness of Bee Caves Road, and sloped topography, strict compliance with these requirements would create difficulties and significantly limit the effective use and enjoyment of the property. We also would like to keep the existing native landscaping at the front of the property, but it is our understanding that another variance will be required to do so. The requested variance will allow placement, height, and construction adjustments that are consistent with the intent of the city's zoning standards, while respecting neighboring property rights, maintaining safety, and preserving the native landscaping/flora, and preserving the character of the neighborhood.

We believe the approved variances will result in a reasonable and context-sensitive solution that balances the code objectives with the unique situation of our property. We appreciate your consideration and are available to provide any additional information the Board may require.

Thank you for your time.

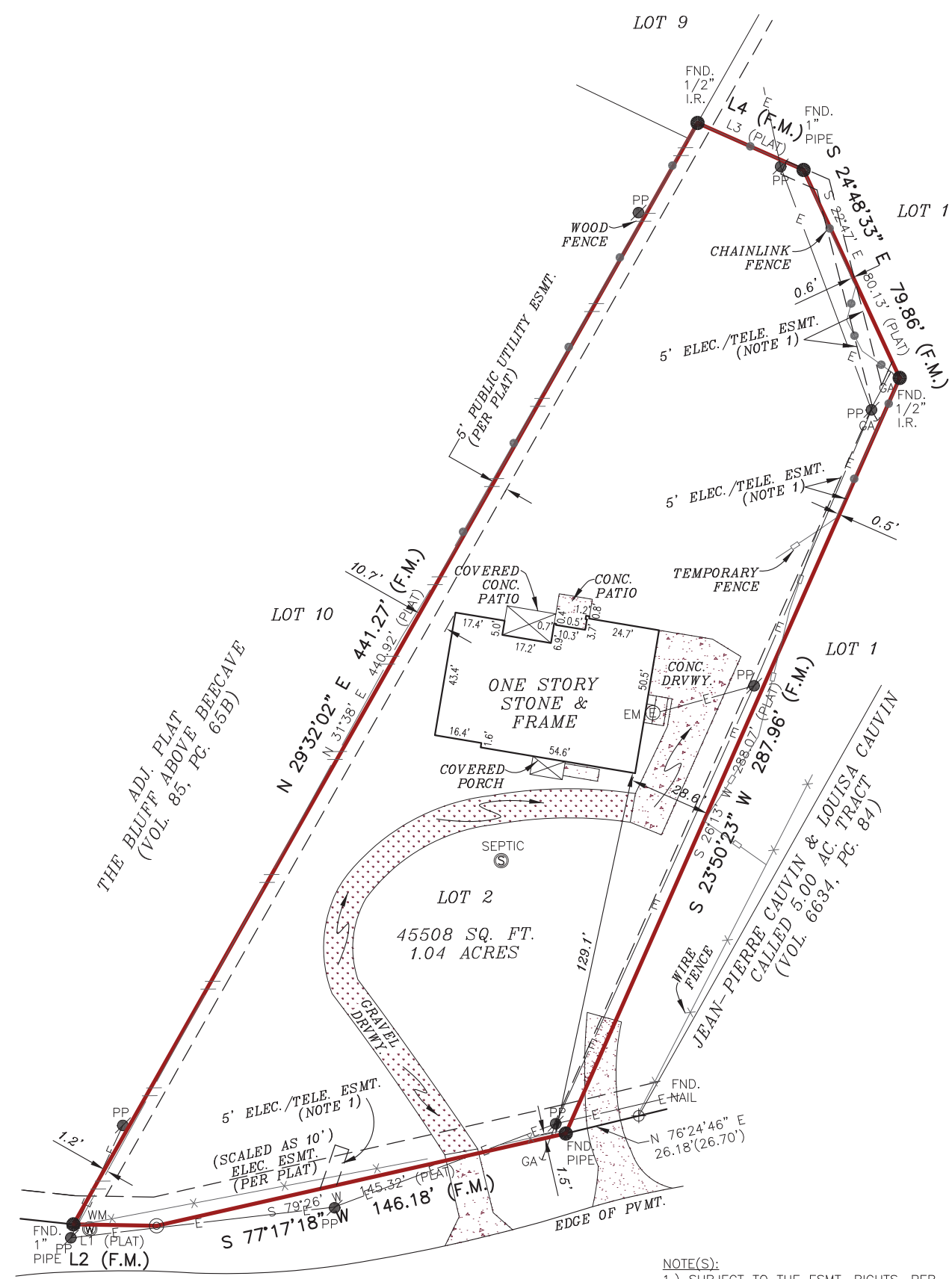
Sincerely,



DYLAN & KATI FREYTAG

FREYTAG@GMAIL.COM (512) 731-4560

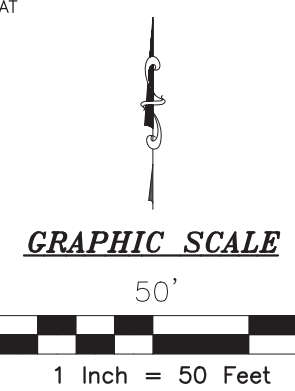
LINE	BEARING	DISTANCE
L1	N 86°56' W	28.99'
L2	N 89°01'58" W	28.99'
L3	S 64°05' E	40.84'
L4	S 66°05'42" E	40.41'



LEGEND

These standard symbols will be found in the drawing.

- BOUNDARY LINE
- EASEMENT LINE
- CHAINLINK FENCE
- WOOD FENCE
- WIRE FENCE
- TEMPORARY FENCE
- OVERHEAD ELECTRIC
- SET IRON ROD
- CALCULATED POINT
- FOUND IRON ROD
- FOUND NAIL
- WATER METER
- ELECTRIC METER
- POWER POLE
- SEPTIC TANK
- GUY ANCHOR
- (PLAT) RECORDED ON PLAT
- (F.M.) FIELD MEASURED



SURVEYOR'S NOTE(S):
BASIS OF BEARING, TEXAS CENTRAL NAD 83.

The survey is hereby accepted with the discrepancies, conflicts, or shortages in area or boundary lines, encroachments, protrusions, or overlapping of improvements shown.

At date of this survey, the property is in FEMA designated ZONE X as verified by FEMA map Panel No: 48453C 0440 H effective date of SEPTEMBER 26, 2008. Exact designations can only be determined by a Elevation Certificate. This information is subject to change as a result of future FEMA map revisions and/or amendments.

I, RACHEL LYNN HANSEN, a Registered Professional Land Surveyor in the State of Texas, do hereby certify to AUSTIN TITLE COMPANY, ALAMO TITLE COMPANY and SENTE MORTGAGE, INC.

that the above map is true and correct according to an actual field survey, made by me on the ground or under my supervision, of the property shown hereon or described by field notes accompanying this drawing. I further certify that all easements and rights-of-way of which I have been advised are shown hereon and that, except as shown, there are no visible encroachments, no visible overlapping of improvements and no apparent discrepancies or conflicts in the boundary lines, and no visible physical evidence of easements or rights-of-way as of the date of the field survey. I further certify that this survey meets or exceeds the minimum standards established by the Texas Board of Professional Land Surveying (Section 663.18).

Borrower/Owner: JOHN TORKELSON
Address: 4904 BEE CAVE ROAD, AUSTIN, TX 78746 GF No. AUT-60-664-AUT19008127N

Legal Description of the Land:
LOT 2, FIRST RESUBDIVISION OF MARTHA TOWNSLEY SUBDIVISION, AN ADDITION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT RECORDED IN VOLUME 82, PAGE 37, PLAT RECORDS OF TRAVIS COUNTY, TEXAS, AND AS RATIFIED IN VOLUME 8336, PAGE 36, DEED RECORDS OF TRAVIS COUNTY, TEXAS.

SUBJECT TO RESTRICTIVE COVENANTS AND/OR EASEMENTS RECORDED IN: VOLUME 54, PAGE 18, PLAT RECORDS, TRAVIS COUNTY, TEXAS VOLUME 82, PAGE 37, PLAT RECORDS, TRAVIS COUNTY, TEXAS VOLUME 8336, PAGE 36, DEED RECORDS, TRAVIS COUNTY, TEXAS

PROPERTY PHOTOGRAPH:



FINAL "AS-BUILT" SURVEY

JOB NO.:	NO.	REVISION	DATE
1909064922	01	UPDATED SURVEY	09/10/19
DRAWN BY: MN/AM		APPROVED BY: RLH (REFER JOB NO. 1707046433/1803052464)	



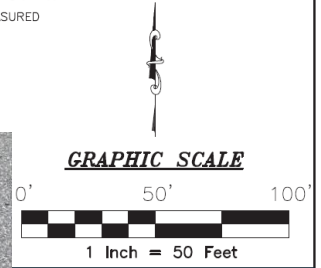
Rachel Lynn Hansen
RACHEL LYNN HANSEN, R.P.L.S.
Registered Professional Land Surveyor
Registration No. 6358

LINE	BEARING	DISTANCE
L1	N 86°56' W	28.99'
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- ELECTRIC METER
- POWER POLE
- SEPTIC TANK
- GUY ANCHOR
- (PLAT) RECORDED ON PLAT
- (F.M.) FIELD MEASURED



LOCATION OF NEW FENCE,
CONSTRUCTED WITHIN EXISTING
FENCES

EXISTING NATIVE LANDSCAPING
TO REMAIN BETWEEN FENCE
FRONT AND ROAD AS SCREENING
PER §22.03.173(d)(6)(A)(i); PHOTOS
INCLUDED IN ADDITIONAL
ATTACHMENT

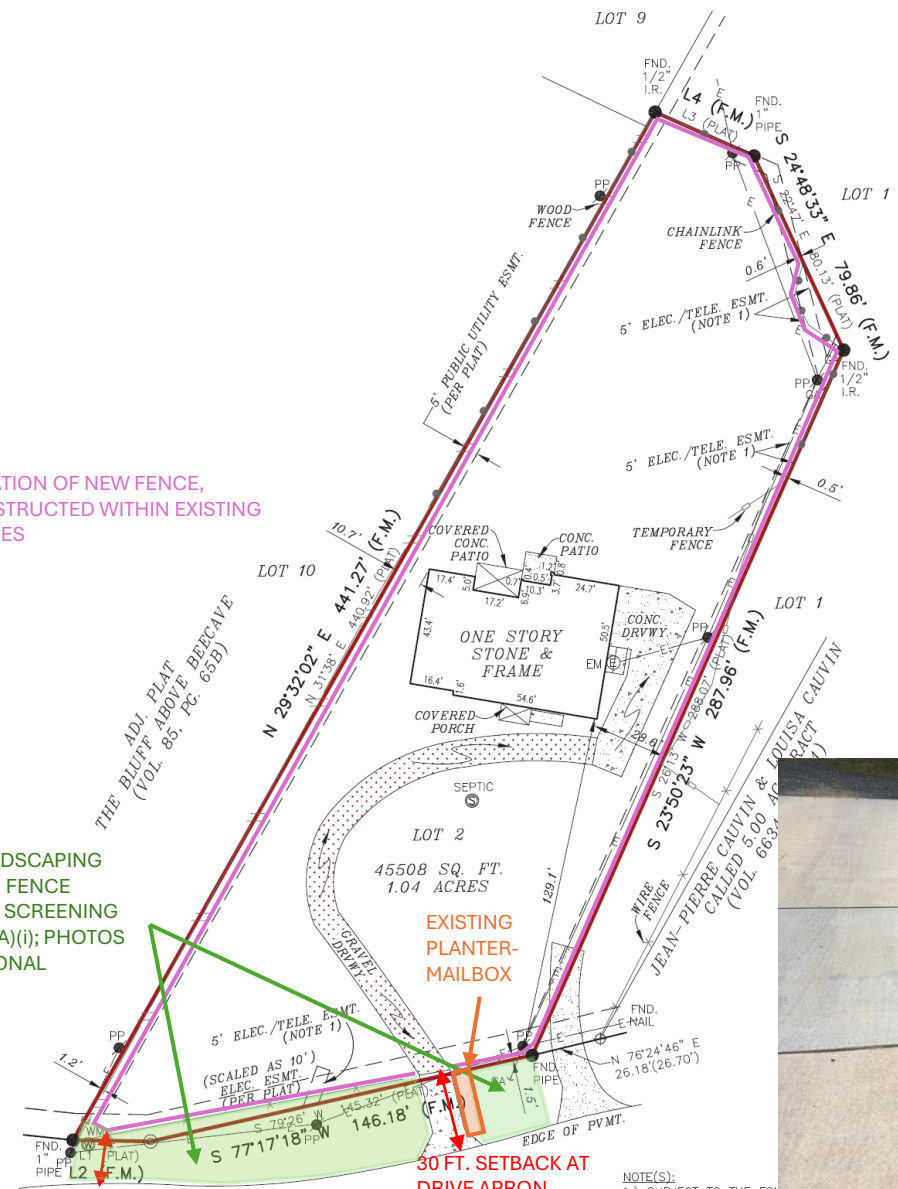
EXISTING
PLANTER-
MAILBOX

REDUCED SETBACK,
ESTIMATED 18.5 FT,
STEEP DROP IN TOPO

30 FT. SETBACK AT
DRIVE APRON,
SEE PHOTOS TO RIGHT

BEE CAVE RD.
(PER PLAT AUSTIN-MARBLE FALLS RD.-60' R.O.W.)
(PER PLAT OLD BEE CAVE RD.)

NOTE(S):
1.) SUBJECT TO THE ESM VOL.4088, PG.470, DEED COUNTY, TEXAS.
2.) SUBJECT TO THE TER DOC.NOS.2018038700 AND PUBLIC RECORDS, TRAVIS





Views from street of existing native landscaping with new fence shown beyond.

§22.03.173(d)(6)(A)(i): Front-yard fences shall: Be landscaped on the side(s) facing the street(s) with native vegetation from the city's recommended plan list so that a minimum of 80% of the total area of the front-yard fence exposed to the streetscape is effectively screened from view

To meet this requirement, we plan to keep existing native vegetation in place, as shown in its current state in these the photographs. To the extent the 80% coverage is deemed not achieved, we will supplement the vegetation with additional native landscaping.



From: [Smita Rao](#)
To: [Planner](#)
Cc: [Ramesh Jandhyala](#)
Subject: Public Hearing on 109 Swift Current Trail — Request for Consistent Enforcement of Fence Ordinances
Date: Tuesday, November 18, 2025 1:36:21 PM

You don't often get email from [REDACTED] [Learn why this is important](#)

Subject: Public Hearing on 109 Swift Current Trail — Request for Consistent Enforcement of Fence Ordinances

To: City of West Lake Hills / ZAPCO Members
From: Ramesh Jandhyala and Smita Rao
Address: 101 Swift Current Trail, West Lake Hills, TX

Dear ZAPCO Members and City Council,

We are the homeowners at 101 Swift Current Trail and have been proud residents of West Lake Hills for over seven years. During this time, we have built deep ties within this community—our neighbors are friends, our children have grown up together, and we truly value the character and integrity that make this neighborhood so special. From the day we moved in, when a neighbor's daughter arrived at our door with homemade cookies, we felt welcomed into a community that values kindness, respect, and responsibility.

We love living in West Lake Hills and deeply respect the ordinances that make it such a beautiful, safe, and well-preserved city. Those ordinances protect what residents cherish most: its natural beauty, privacy, and rural character.

Over the years, we have also learned how essential it is to uphold those ordinances consistently. Our neighborhood has faced several challenging proposals that, if approved, would have fundamentally changed its residential and environmental character. Along with other neighbors, we have had to oppose applications such as:

- The proposed school development directly behind our property at **4700 and 4704 Bee Cave Road**, which sought variances and rezoning from residential to commercial use and would have introduced heavy traffic and stormwater risks to our backyard.
- **A second attempted rezoning at 4700 and 4704 Bee Cave Road** to allow a commercial development incompatible with our residential surroundings.
- The application for a private school at **5000 Bee Cave Road**, which would have compounded traffic congestion and safety issues on an already overburdened corridor.

We are now facing two separate fence issues on our street—one at **4904 Old Bee Caves Road** and the other at **109 Swift Current Trail**—both involving requests or actions that do not align with city ordinances. These situations highlight a broader problem: when the City does not enforce its own standards, residents are forced into the uncomfortable role of confronting one another. We have met the owners at **109 Swift Current Trail**, Sara and David Charles, and we truly appreciate their warmth and neighborly spirit. We have not yet met the neighbors at 4904 Old Bee Caves Road. Regardless, the dynamic is the same—rather than beginning or continuing relationships with new neighbors in a positive, welcoming way, we find ourselves

preparing to speak publicly about noncompliance. This places an unnecessary social burden on residents and disrupts the harmony that makes West Lake Hills so special. Neighbors should not be responsible for upholding city ordinances or for opposing one another in public hearings. That responsibility must rest with the City, which has both the authority and the duty to ensure fairness, consistency, and predictability for everyone.

It is within this broader context that we view the current application at *109 Swift Current Trail*, which seeks the following variances:

1. To allow a fence encroachment into the 30-foot front-yard setback; and
2. To allow the placement of fence posts within the $\frac{1}{2}$ and $\frac{1}{4}$ critical root zones of protected trees.

Allowing repeated variances for fences, setbacks, or protected trees—and rezoning of properties for commercial use within residential areas of the city—erodes confidence in the process and creates a slippery slope where compliance begins to feel optional and based heavily on neighbor support. This dynamic disrupts neighborly relationships and undermines the spirit of community that West Lake Hills has worked so hard to build and preserve.

In summary, we bought our home in West Lake Hills because of the city’s clear ordinances that help preserve its unique natural beauty, privacy, and rural residential charm. We have spent considerable time and effort tracking, understanding, and opposing large variance requests—such as the attempted conversion of neighboring residential property to commercial use—that would have significant and lasting effects on our quality of life and property values. We hope the City and ZAPCO will continue to uphold these ordinances and not place the burden on neighbors to ensure that even the largest variance requests are reviewed and enforced in accordance with the city’s established code.

For these reasons, we respectfully ask ZAPCO and the City Council to uphold the intent of the city’s ordinances regarding setbacks, protected trees, and the conversion of residential properties to commercial use within residential neighborhoods. We trust that you will apply these standards consistently so that all residents can rely on clear, fair, and predictable enforcement. This approach protects both individual property rights and the long-standing character of our neighborhood.

Thank you for your time and for your continued service to our community.

Warm regards,
Ramesh Jandhyala and Smita Rao
101 Swift Current Trail
West Lake Hills, TX

City of West Lake Hills

MINUTES OF A ZONING & PLANNING COMMISSION (ZAPCO)

REGULAR MEETING

Wednesday, January 21, 2026 at 6:30 PM

1. **Call to Order: Chair Robert Meisel**

- a. Meeting begins at 6:30pm
- b. Roll Call
 1. Chair Robert Meisel: Present
 2. Vice-Chair Jim Pledger: Present
 3. Commissioner Julia Webber: Present
 4. Commissioner Karen Bartoletti: Present
 5. Commissioner Patrick Stewart: Present
 6. Commissioner Laurie Maccini: Present

2. **Citizen Communications:**

- a. No public comments

3. **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 November 14, 2025 Zoning and Planning Commission Workshop Minutes
- b. Approval of the November 19, 2025 Zoning and Planning Commission Meeting Minutes
- c. Approval of the January 7, 2026 Zoning and Planning Commission Workshop Minutes
- d. Report of previous ZAPCO cases acted on by the BOA/City Council

Action: Commissioner Stewart moves for approval of the Consent Agenda

- i. Commissioner Maccini Seconds
- ii. Motion carries unanimously (5–0)

4. **Public Hearing 109 Swiftcurrent Trl.:** Discuss and consider a recommendation to the City Council on variances for a fence:

1. To allow for a fence encroachment into the 30-foot front-yard fence setback (Section 22.03.173(d)(6)(B)(ii)).

2. To allow for the placement of fence posts within the ½ and ¼ critical root zones of protected trees (Section 22.03.3052 (b)).

Applicant: Sara Charles, Property Owner

The application was withdrawn by applicant shortly before the meeting.

5. Public Hearing 4904 Old Bee Cave Rd: Discuss and consider a recommendation to the City Council on the following variances for a fence:
 1. To allow for a fence encroachment into the 30-foot front-yard fence setback (Section 22.03.173(d)(6)(B)(ii)).
 2. To allow for the installation of a fence that does not allow 80% visibility through the fence (Section 2.03.173(d)(6)(A)(i)).
 3. To allow for a fence without the required minimum 80% landscaping screening (Section 22.03.173(d)(6)(A)(i)).
 4. To allow for the installation of a fence with a height of 7 feet above natural grade (Section 22.03.173(d)(9)(A)).

Applicant: Dylan Freytag, Property Owner

A. Staff Report:

- a. Director Bills describes fence that was installed without permits. The owner was misinformed by their contractor that they did not need permits for the fence. Director Bills describes the four areas of code where the fence, as installed, would require variances. Director Bills also explains that the location of the fence would require any screening to be located in the Right-of-Way.
- b. Commissioner Pledger points out that a written comment in opposition to the fence at 109 Swiftcurrent provided prior to the 4904 Old Bee Cave variance application also included this fence.
- c. Commissioner Bartoletti asks if there are two legal lots involved
 - i. Director Bills clarifies there are not two legal lots involved, just one
- d. Commissioner Webber asks Director Bills if there are any possible repercussions for contractors misinforming clients or violating code.
 - i. Director Bills explains that contractor registrations can be suspended for repeated violations and that citations can be issued to contractors.

- e. Commissioner Maccini asks about the right-of-way vegetation and who takes care of it.
 - i. Director Bills explains that homeowners are responsible for the vegetation from the property line to the street, but TXDOT and utility providers will sometimes maintain or clear the vegetation.

B. Public Comments:

- a. **Dylan Freytag, Applicant:** Shares prepared presentation and answers questions from commissioners
- b. **Lousia Cauvin, Neighbor:**
 - i. Spoke in opposition to variance

C. Discussion:

- a. Commissioner Stewart asks applicant about a gate and Knox box encroaching on the ROW.
- b. Commissioner Maccini indicates that the property has been between commercial property for decades but understands the increase in traffic along Bee Cave. Supportive of screening, but not in favor of proximity of fence to ROW.
- c. Chair Meisel points out that the deed is 3 months old, and that traffic has not increased substantially since the time at which the applicant chose to purchase the property, and also believes that the contractor is responsible, not the homeowner or the City.
- d. Commissioner Webber indicates they are not in favor of variance for location but may be willing to compromise on height or a certain percentage of transparency.

D. Action:

- a. Commissioner Pledger moves to forward the variances to City Council with a recommendation of **denial** based on a lack of hardship.
 - i. Commissioner Webber seconds
 - ii. Motion carries unanimously (5-0)

The variance request and recommendation will be forwarded to the February 11, 2026 City Council Meeting.

- 6. Public Hearing 116 Skyline Dr.: Discuss and make a recommendation to City Council on the following variances for a fence:

- 1. To allow for the installation of a fence without required landscaping visibly screening a minimum of 80% of the fence between the street and fence (Section 22.03.173(d)(6)(A)(i)).

2. To allow for the installation of a fence that does not allow 80% visibility through the fence (Section 22.03.173(d)(6)(A)(i)).

Applicant: Bryan Sharples, Property Owner

A. Staff Report:

- a. Director Bills describes the previous fence variance at the property approved in 2011 and describes the 80% transparency threshold with the new style of fence which is transparent from a specific angle, but becomes opaque when moving along the fence.
 - a. Director Bills also explains that while the variance request indicated that the fence met the height limits established in conditions for previous variance, that staff measured the fence at 6 feet prior to meeting, which would require an additional variance request.
- b. Commissioner Pledger asks about the screening of the fence with vines.
 - a. Commissioner Webber points out that there are no vines on the City's approved plant list.
- c. Commissioner Stewart asks about the 80% transparency rule at all angles
- d. Commissioner Webber asks if the previous variance addressed screening
 - a. Director Bills indicates the previous variance did not address screening directly, but that it specifically indicated all other ordinances related to fences should be followed.
- e. Commissioner Pledger indicates that he believes that the fence is compliant.

B. Public Comments:

- a. **Bryan Sharples, Applicant**
 - a. Shares presentation regarding fence
- b. **Jeffery Dochen, Neighbor**
 - a. Speaks in favor of variance

C. Discussion:

- a. Commissioner Maccini expresses sympathy due to lights, but that other solutions exist that do not require variances.
- b. Commissioners Stewart and Pledger express that they believe the fence is in compliance with the 80% rule.
- c. Commissioner Maccini states there are native vine plants that could be used to screen the fence.
- d. Commissioner Meisel recommends taking the 80% rule to council.

- e. Following discussion of whether or not the fence is in compliance with the 80% rule, Assistant City Attorney Thamm explains that the hearing is related to a variance to the code, not a review of staff determination.

D. Action:

- a. Commissioner Pledger moves to forward the variances to City Council with a recommendation of **approval**.
 - a. Commissioner Bartoletti seconds
 - b. Motion carries (3-2)
 - 1. Commissioners Webber and Maccini opposed

The variance request and recommendation will be forwarded to the February 11, 2026 City Council Meeting.

- 7. **1100 Block of Kennan Rd.** Discuss and consider a recommendation to City Council on a variance request to reduce the extent of the tree survey requirement for the entirety of a property for a new construction on an undeveloped lot.

Applicant: Paula Ables, Designer/Owner Representative

A. Staff Report:

- a. Director Bills describes that all new construction projects with no existing structure require a tree survey for the entire lot, but the applicant is requesting a reduction of the required survey.
- b. Commissioner Webber asks if the site plan has been submitted
 - 1. Director Bills explains that no site plans other than the exhibit in the packet have been made available for staff.

B. Public Comment:

- a. Paula Ables, Designer and Representative: Clarifies questions and concerns from commissioners

C. Discussion:

- a. Chair Meisel shares that the construction of the house is already expensive and that the expense of the tree survey should not be a hardship
- b. Commissioner Maccini believes the applicant is asking for full credit for impervious cover and drainage for the entirety of the lot without having to perform a full analysis of the lot.
- c. Chair Meisel states that the tree survey is required and needs to be part of the application as a historical document
 - 1. Commissioner Webber agrees and states that there must be context for the whole scope of the property for mitigation

D. Action:

- a. Commissioner Bartoletti moves to forward the variance request to City Council with a recommendation of **denial** based on lack of hardship.
 - 1. Commissioner Pledger seconds
 - 2. Motion carries (5-0)

The variance request and recommendation will be forwarded to the February 11, 2026 City Council Meeting.

- 8. **701 S Capital of Texas Highway (Sweetgreen):** Discuss and consider a recommendation to City Council for the following variances
 - 1. For the installation of a wall sign exceeding the maximum 10-foot length (Section 32.03.009(2) West Lake Hills Code)
 - 2. For the installation of a second sign for a restaurant with square footage of less than 5,000 square feet (Section II.B.1, Village at Westlake Uniform Signage Criteria)

Applicant: Jesus Sanchez, Santech Signs, LLC

A. Staff Report:

- a. Director Bills shares the history of the uniform sign agreement and describes the variances to the agreement and the City’s sign code.

B. Public Comment

- a. Jesus Sanchez, Applicant:
 - 1. Speaks in favor of the variance

C. Discussion:

- a. Bartoletti indicates approval for the request

D. Action:

- a. Commissioner Bartoletti moves that the variance request be forwarded to City Council with a recommendation of **approval**.
 - 1. Commissioner Maccini seconds
 - 2. Motion carries (5-0)

The variance request and recommendation will be forwarded to the February 11, 2026 City Council Meeting.

- 9. **603 Spurlock Valley Rd :** Discuss and make a recommendation to the Board of Adjustment on a variance to install a new septic tank encroaching on the 30-foot front building setback (Section 22.03.276 & Section 22.03.281)

Applicant: James Kuykendall, Sunset Construction & Excavation

A. Staff Report:

- a. Director Bills describes the variance for a septic tank location. The house had initially been permitted with the tank in a compliant location but requested a new location for the septic at a later date.
- b. Commissioner Bartoletti asks about flooding issues
 - 1. Director Bills explains that there is no drainage easement or FEMA floodplain at location
- c. Applicant did not attend meeting but provided comment via email that was read by commissioners on the dais (Exhibit B)

B. Public Comment: No public comment

C. Discussion:

- a. Meisel: ZAPCO shouldn't ratify decision to proceed without permit by approving after-the-fact variance
- b. Webber asks why house is designed the way it is when the original plans showed the septic in a compliant location.

D. Action:

- a. Commissioner Webber moves that the variance request be forwarded to the Board of Adjustment with a recommendation of **denial**.
 - 1. Commissioner Pledger Seconds
 - 2. Motion carries (5-0)

The variance request and recommendation will be forwarded to the February 11, 2026 Board of Adjustment Meeting.

10. 300 Block of Laurel Valley Rd: Discuss and make recommendations on proposed variances:

- 1. Allow for a driveway height greater than 6 feet above natural grade (Section 22.03.175(e)(1))
- 2. Allow building height greater than 32 feet above natural grade on a slope of 25% or greater (Section 22.03.279(b))
- 3. Encroach 20 feet into the platted 50-foot front building setback along Yaupon Valley Road (Section 22.03.281)
- 4. Encroach 15 feet into both 25-foot side setbacks (Section 22.03.281)
- 5. Allow fills up to 15 feet where the maximum allowed is 6 feet on slopes of less than 35% (Section 22.03.170(b)– Drainage and Erosion Control Design Manual Section 7.4.1)
- 6. Allow for grading in areas of slopes greater than 35% where none is allowed (Section 22.03.170(b)– Drainage and Erosion Control Design Manual Section 7.4.1)

7. Allow grading greater than 18 inches within setbacks (Section 22.03.170(f)).

Applicant: Matt Garcia

A. Staff Report:

- a. Director Bills describes the site and the requests for variances.
- b. Commissioner Stewart asks Director Bills how many variances are missing
 - 1. Director Bills states there are at least two missing for the currently proposed development
- c. Commissioner Webber asks if the rainwater collection tanks would also need an additional setback encroachment variance
- d. Commissioner Meisel calls for the item to be postponed for the other variances to be addressed, as the request is incomplete

B. Action:

- a. Commissioner Pledger moves to combine items 10 and 11 into a single item and postpone to the February 18 ZAPCO meeting
 - 1. Maccini seconds
 - 2. Motion carries (5-0)

The item was postponed to the February 18, ZAPCO Meeting.

11. **300 Block of Laurel Valley Rd:** Discuss and make recommendations on proposed variances

7. Allow replacement trees for unpermitted removals to be planted at the end of the project, more than 601 days since the final order (Section 22.03.304(c)(5)).

Applicant: Matt Garcia

This item was combined with item 10 and postponed to the February 18 Zoning and Planning Commission meeting.

12. **Adjournment** – Chair Robert Meisel

Chair Meisel adjourns the meeting at 8:38 pm

APPROVED:

Robert Meisel, Chair

ATTEST:

Joel Sherrouse, Development Coordinator

These minutes were approved on _____, 2026.

Exhibit A

4904 Old Bee Cave Road – Fence Variance

Applicant's Findings of Fact

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 property is adjacent to two commercial properties and an extremely busy street, presenting multiple hardships for the current (and any future) owner of the property. Variances are necessary to address these hardships:

- Reduced Safety
- Lack of Privacy
- Traffic noise and light pollution
- Litter nuisances

The two adjacent commercial properties permit unrestricted access for people to park in the commercial parking lots and study the property from multiple sides and angles. This access creates safety and privacy concerns, as security is reduced. Furthermore, the headlights from early morning and late evening arriving/leaving tenants and visitors disrupt the property owners' enjoyment of the property. Litter blows onto the property from these commercial parking lots, as well as from Bee Cave Road.

The property is located near a very busy street (Bee Cave Road), creating nuisances and hazards including visible vehicular traffic (which can be bumper-to-bumper during rush hour), high vehicular traffic noise, headlight glare, frequent vehicular coming/going from the adjacent commercial day-to-day operations, as well as safety concerns for any children or pets on the property. Unfortunately, only a solid fence along the front of the property can mitigate these hardships. Numerous residential properties along Bee Cave Road have solid fences, likely due to the same concerns.

Since there is a significant change in grade over the breadth of the property, a 6 foot-high fence is inadequate in many places around the fence perimeter. Even with a 7 foot-high fence, an average-height person standing inside the property can see over the fence in places due to the natural grade, reducing the effective height of the fence and associated privacy. The height variance is necessary to provide a minimum level of privacy without modifying the property's natural grade.

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

For this project, no trees are being removed, and no grading changes are needed, so the existing flora will remain unharmed and the existing terrain will remain. In fact, the height variance enables the fence to provide necessary privacy without changing the natural grade/terrain. A pre-existing wire fence has been in place for many years (based on its appearance), so a fence is not a new boundary condition for existing flora. The new fence is placed inside the existing fence, and no flora have been removed.

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

There is an existing wire mesh fence that is insufficient for both security and privacy. We have considered a 6-foot wrought iron fence and similar options with 80% transparent assemblies, but they will not provide the security and privacy benefits of a solid wood fence. A 6-foot tall 80% transparent fence will perform in the same way as the existing wire mesh fence, as it permits traffic views, louder traffic noise, headlight glare, and a lack of privacy from Bee Caves Road and the two adjacent commercial properties.

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

The variances requested provide the minimum fence characteristics needed to address the numerous hazards and nuisances listed previously. The solid wood 7 foot-high fence permits privacy without disturbing the natural grade, and greatly improves the overall security of the property by providing protection against theft, vandalism, traffic noise, traffic views, headlight glare, and windborne litter from the adjacent commercial properties and Bee Cave Road. These issues cannot be addressed by the standard compliant fence, as: 1) a 6 foot-high fence is insufficient for the natural grade, and 2) an 80% transparent fence cannot provide privacy from adjacent commercial properties nor mitigate the traffic noise, vehicle headlight glare, and traffic views from Bee Cave Road.

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

The city's Zoning Ordinance and goals of the Comprehensive Plan are laudable, and we respect their intent. In fact, we especially appreciate that provision 22.03.173(b) states: "This policy derives from the desire to preserve the rural nature and aesthetic attractiveness of the environs and to facilitate the safe movement of people, wildlife, and vehicles about the city." In this particular instance, the variances requested do not violate the intent of the zoning ordinance or goals of the City's plan...in fact, our aim with this fence project is to enjoy the "rural nature and aesthetic attractiveness of the environs", which are unfortunately disrupted by proximity to the high traffic volume of Bee Cave Road and 2 busy commercial properties. Coupled with the subject property's naturally sloped topography, these unique circumstances create a need for a variance to provide the same level of safety and privacy that the typical (non-variance) privacy fence would afford on a flat lot in a less busy location. Additionally, many existing residential properties that border

Bee Cave Road have solid fences mitigating the hardships created by Bee Cave Road, so the solid fence is not out of character.

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

The variance will not adversely affect the neighboring properties because of the topography (the subject property is at a lower elevation than the adjacent residential properties) and the fence should provide additional shared privacy, security, and noise reduction for other neighbors' enjoyment. We believe the fence has a simple, tasteful design that improves the appearance of the property, and the privacy, security, and noise reduction provided by the fence will be a benefit to neighboring owners.

Furthermore, many residential properties that border Bee Cave Road have solid wooden front-yard fences, so the solid fence is not out of character.

4904 Old Bee Cave Rd

5. Discuss and consider action on a recommendation from ZAPCO on the following variances for a fence:
 1. To allow for a fence encroachment into the 30-foot front-yard fence setback (Section 22.03.173(d)(6)(B)(ii)).
 2. To allow for the installation of a fence that does not allow 80% visibility through the fence (Section 2.03.173(d)(6)(A)(i)).
 3. To allow for a fence without the required minimum 80% landscaping screening (Section 22.03.173(d)(6)(A)(i)).
 4. To allow for the installation of a fence with a height of 7 feet above natural grade (Section 22.03.173(d)(9)(A)).

Applicant: Dylan Freytag, Property Owner



4904 Old Bee Cave Rd



4904 Old Bee Cave Rd

The applicant is requesting four variances related to a fence that was installed at the property line without permits.

The fence variances include allowances for encroachment into the front fence setback, exceeding landscaping and visibility measures for the front fence, and maximum height of the entire fence.

4904 Old Bee Cave Rd



Views from street of existing native landscaping with new fence shown beyond.

§22.03.173(d)(6)(A)(i): *Front-yard fences shall: Be landscaped on the side(s) facing the street(s) with native vegetation from the city's recommended plan list so that a minimum of 80% of the total area of the front-yard fence exposed to the streetscape is effectively screened from view*

To meet this requirement, we plan to keep existing native vegetation in place, as shown in its current state in these the photographs. To the extent the 80% coverage is deemed not achieved, we will supplement the vegetation with additional native landscaping.

4904 Old Bee Cave Rd

Front-yard Fence Setback

Code Reference:

Section 22.03.173(d)(6)(B)(ii) Front-yard fence requirement

(B) Except as may be required by subsection (5) above, the setback distance for a front-yard fence shall be determined as follows:

(i) For lots less than 0.75 acre, the minimum front setback distance for front-yard fences shall be 20 feet from the nearest pavement edge of the public or private street, provided that no fence shall be constructed in the right-of-way.

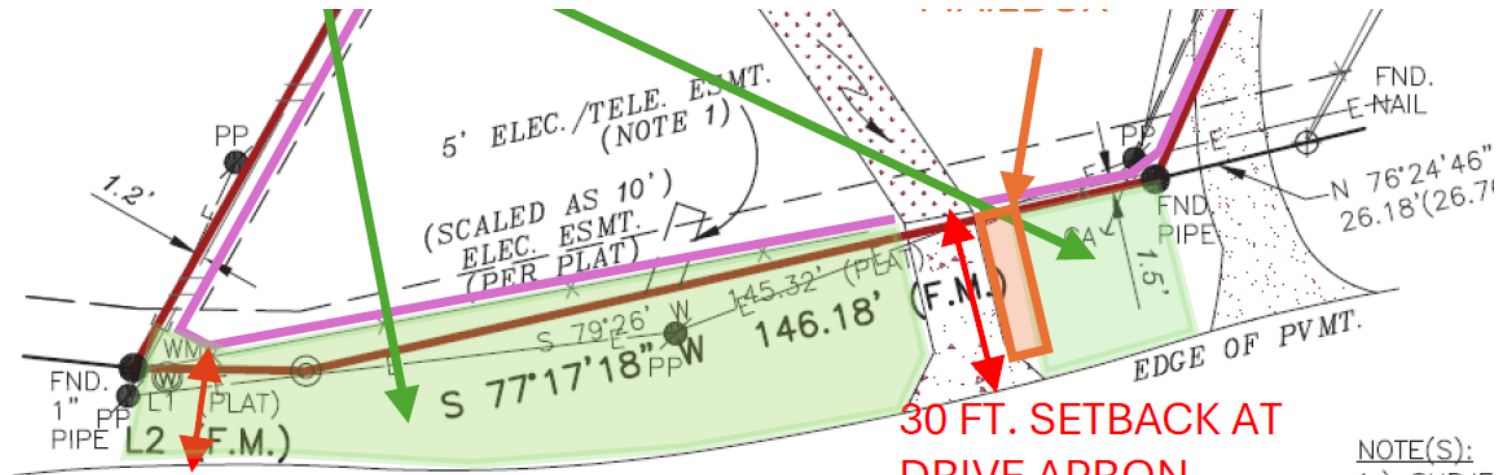
(ii) For lots 0.75 acre and larger, the minimum front setback distance for front-yard fences shall be 30 feet from the nearest pavement edge of the public or private street, provided, that no fence shall be constructed in the right-of-way.

(iii) Rear and side setbacks set forth in section 22.03.281 do not apply to front-yard fences

4904 Old Bee Cave Rd

Request:

Front yard fence and gate encroaching up 11.5 feet into the 30-foot front yard fence setback.



REDUCED SETBACK,
ESTIMATED 18.5 FT,
STEEP DROP IN TOPO

BEE CAVE RD.
(PER PLAT AUSTIN-MARBLE FALLS RD.-60' R.O.W.)
(PER PLAT OLD BEE CAVE RD.)

30 FT. SETBACK AT
DRIVE APRON,
SEE PHOTOS TO RIGHT

NOTE(S):
1.) SUBJE
VOL.4088,
COUNTY, 1
2.) SUBJE
DOC.NOS.2
PUBLIC RE

4904 Old Bee Cave Rd

Fence Height

Code Reference:

Section 22.03.173(d)(9)(A)

Fences shall not exceed 6 feet in height per side on or parallel to each property line measured from existing natural ground level.

(iii) Rear and side setbacks set forth in section 22.03.281 do not apply to front-yard fences

Request:

A 7-foot-tall fence along the front as interior lot lines.

4904 Old Bee Cave Rd

Front-yard transparency standards

Code Reference:

Section 22.03.173(d)(6)(B)(i) Front-yard fence requirement

Be constructed to allow a minimum of 80% visibility through the front-yard fence prior to the installation of the landscaping required in subsection (6) (A).

Request:

A 7-foot-tall fence along the front as interior lot lines.



4904 Old Bee Cave Rd

Front-yard Landscaping Requirement

Code Reference:

Section 22.03.173(d)(6)(B)(i) Front-yard fence requirement

Be landscaped on the side(s) facing the street(s) with native vegetation from the city's recommended plant list so that a minimum of 80% of the total area of the front-yard fence exposed to the streetscape is effectively screened from view.

Request:

The applicant is requesting to allow for the installation of a fence without any landscaping provided on the applicant's property, as the fence is at the property line. The existing vegetation is within the street right-of-way, which is subject to maintenance for fire, drainage and utility access by the city and other utilities.



4904 Old Bee Cave Rd

Public Comments:

As of the date of the report, one written comment was received in opposition.



4904 Old Bee Cave Rd

Hold a public hearing and determine the following findings of fact to approve or deny the requested variances.

1. The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.
2. There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.
3. There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.
4. The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.



4904 Old Bee Cave Rd

The City Council can recommend imposition of reasonable conditions upon granting a variance if the conditions are related to the subject of the variance.

The findings of fact as alleged by the applicant are attached in Exhibit A.

The Zoning and Planning Commission considered the item the January 21, 2026 meeting and recommended **denial** by a vote of 5-0 (Attachment 4).





AGENDA REPORT

Meeting Date:	<u>February 11, 2026</u>	Item Number:	<u>5</u>
Department:	<u>Building & Development</u>	Cost / Budget:	<u></u>
Prepared By:	<u>Jennifer C. Bills</u>	Source of Funds:	<u></u>
Exhibits:	<u>See Attached</u>		

Subject

116 Skyline Dr: Discuss and consider action on a recommendation from ZAPCO on the following variances for a fence:

1. To allow for the installation of a fence without required landscaping visibly screening a minimum of 80% of the fence between the street and fence (Section 22.03.173 (d)(6)(A)(i)).
2. To allow for the installation of a fence that does not allow 80% visibility through the fence (Section 22.03.173 (d)(6)(A)(i)).

Applicant: Brian Sharples, Property Owner

Recommendation

Hold a public hearing and determine the following findings of fact to approve or deny the requested variances.

1. The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.
2. There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.
3. There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.
4. The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.

The City Council can recommend imposition of reasonable conditions upon granting a variance if the conditions are related to the subject of the variance.

The findings of fact as alleged by the applicant are attached in Exhibit A.

The Zoning and Planning Commission considered the item the January 21, 2026 meeting and recommended **approval** by a vote of 3-2, Webber and Maccini opposed (Attachment 6).

Discussion

Property Information, Zoning & Site Characteristics:

Owner: Brian Sharples
Legal Description: ABS 21 SUR 1 SPARKS W
Lot Size: 0.850 acres
Zoning: R-1, One-Family
Wastewater: On-site Sewer Facility (Septic)

The properties surrounding the subject property are zoned R-1, One-Family.

Background & Analysis:

The applicant is requesting a variance related to a front yard fence that was installed to replace an existing fence. The fence replacement began without a permit and a stop work order was issued on April 30, 2025. In addition to replacing the existing fence, the applicant was adding stones and increasing the height of the retaining wall in the right-of-way. That work has since been removed. The variance request includes the allowance to construct a fence under the 80% minimum visibility standard and to plant landscaping screening that is not on the adopted plant list.

The property received a variance on June 8, 2011 for the existing fence location. The fence was to be limited to 54" in height and comply with the front yard fence ordinance (Attachment 4). The fence as currently installed is 6 feet (72 inches) in height from the existing grade. The applicant has not requested a variance for the height as required in the previous variance.

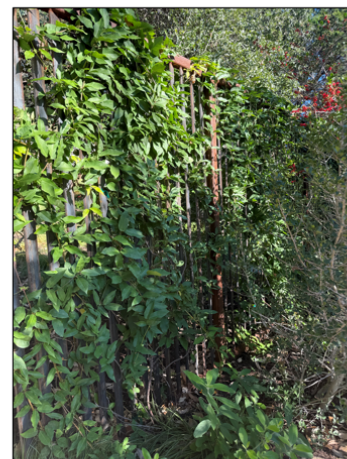
Fence Photographs – 116 Skyline



Existing/old 54" fence being replaced



New 54" fence sections installed before shutdown



Side fence (installed) with landscaping

Photo provided by the applicant on 12/3/2025

Measurement of new fence height provided by applicant

transparency, but as you move east, the fence becomes opaque.

Front-yard landscaping requirement

- Allow Landscaping plantings for visibility screening that are not on city's native vegetation list.

Code Reference

Section 22.03.173(d)(6)(A)(ii) Front-yard fence requirement

- (i) Be landscaped on the side(s) facing the street(s) with native vegetation from the city's recommended plant list so that a minimum of 80% of the total area of the front-yard fence exposed to the streetscape is effectively screened from view.

Section 22.03.305 Tree care and maintenance

Exhibit A Eligible Species

Small Trees/Large Shrubs, Deciduous

American Smoketree (*Cotinus obovatus*)
 Anacacho Orchid-tree (*Bauhinia congesta*)
 Carolina Buckthorn (*Rhamnus caroliniana*)
 Common Hoptree (*Ptelea trifoliata*)
 Desert-Willow (*Chilopsis linearis*)
 Goldenball Leadtree (*Leucaena retusa*)
 Honey Mesquite (*Prosopis glandulosa*)
 Huisache (*Acacia famesiana*)
 Mexican Buckeye (*Ungnadia speciosa*)
 Mexican Plum (*Prunus mexicana*)
 Mexican Redbud (*Cercis canadensis* var. *mexicana*)
 Paloverde (*Parkinsonia aculeata*)
 Possum-Haw Holly (*Ilex decidua*)
 Prairie Flameleaf Sumac (*Rhus lanceolata*)
 Prickly Ash (*Zanthoxylum hirsutum*)
 Red Buckeye (*Aesculus pavia*)
 Rusty Blackhaw (*Viburnum rufidulum*)
 Rough-Leaf Dogwood (*Comus drummondii*)
 Texas Buckeye (*Aesculus glabra* var. *arguta*)
 Texas Redbud (*Cercis canadensis* var. *texensis*)
 Woolly Bumelia (*Bumelia lanuginosa*)

Small Trees/Large Shrubs, Evergreen

Eve's Necklace (*Sophora affinis*)
 Yaupon Holly (*Ilex vomitoria*)

Texas Mountain-Laurel (*Sophora secundiflora*)
 Texas Persimmon (*Diospyros texana*) (semi-evergreen)
 Texas Pistache (*Pistacia texana*)
 Cherry Laurel (*Prunus caroliniana*)
 Spanish Bayonet (*Yucca treculeana*)
 Torrey Yucca (*Yucca torreyi*)

Medium-Large Trees, Deciduous

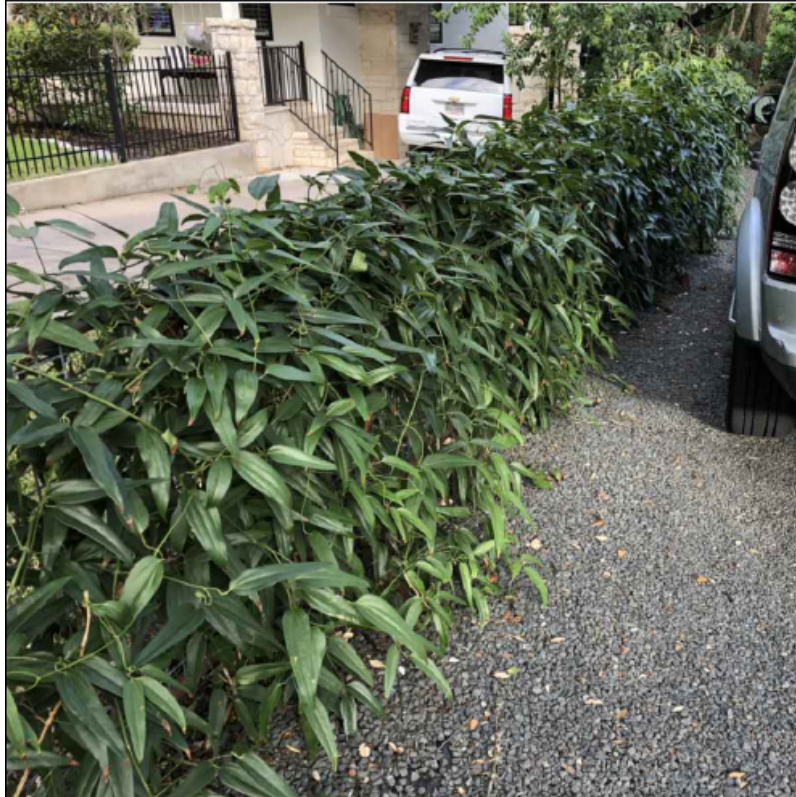
Escarpment Black Cherry (*Prunus serotina* var. *eximia*)
 Bald Cypress (*Taxodium distichum*)
 American Elm (*Ulmus americana*)
 Cedar Elm (*Ulmus crassifolia*)
 Texas Madrone (*Arbutus texana*)
 Bur Oak (*Quercus macrocarpa*)
 Chinquapin Oak (*Quercus muehlenbergii*)
 Durand Oak (*Quercus sinuata* var. *sinuata*)
 Lacey Oak (*Quercus laceyi*)
 Post Oak (*Quercus stellata*)
 Monterrey Oak/Mexican White Oak (*Quercus polymorpha*)
 Shin Oak (*Quercus sinuata* var. *breviloba*)
 Shumard Red Oak (*Quercus shumardii*)
 Texas Red Oak (*Quercus texana*)
 Pecan (*Carya illinoensis*)
 Texas Ash (*Fraxinus texensis*)
 Sycamore (*Platanus occidentalis*)
 Texas Walnut (*Juglans microcarpa*)
 Western Soapberry (*Sapindus drummondii*)

Medium-Large Trees, Evergreen

Live Oak (*Quercus virginiana*)
 Plateau Live Oak (*Quercus fusiformis*)

Request

The applicant is requesting to allow for the installation of a fence at the property line and use evergreen clematis directly on the fence to serve as the 80% screening requirement.



Public Comments:

As of the date of the report, no comments were received. One neighbor spoke in favor of the variance at ZAPCO.

Variance Criteria Review:

Fences follow the procedure and notice found in Section 22.03.511 Procedure and notice:

- (a) The city council, when petitioned for a variance, after 16 days' written notice to all property owners within 300 feet of the subject property, shall hold a hearing, and the city council may vary the application of any provision of this article to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of this article or public interest, or when, in its opinion, the interpretation and recommendation of the zoning and planning commission should be modified or reversed.
- (b) A decision of the city council to vary the application of any provision of this article shall specify in what manner such variance is made, the conditions upon which it is made and the reasons thereof.

The criteria and process for granting a variance found in Section 22.03.514:

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

- (i) 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.
- (ii) 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.
- (iii) 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.

Outdoor Lighting

Outdoor lighting is not proposed with this variance request. Any outdoor lighting will need to comply with the City’s Code.

Compliance with Adopted International Building Code

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

Subdivision

There is no change to the subdivision proposed with this application.

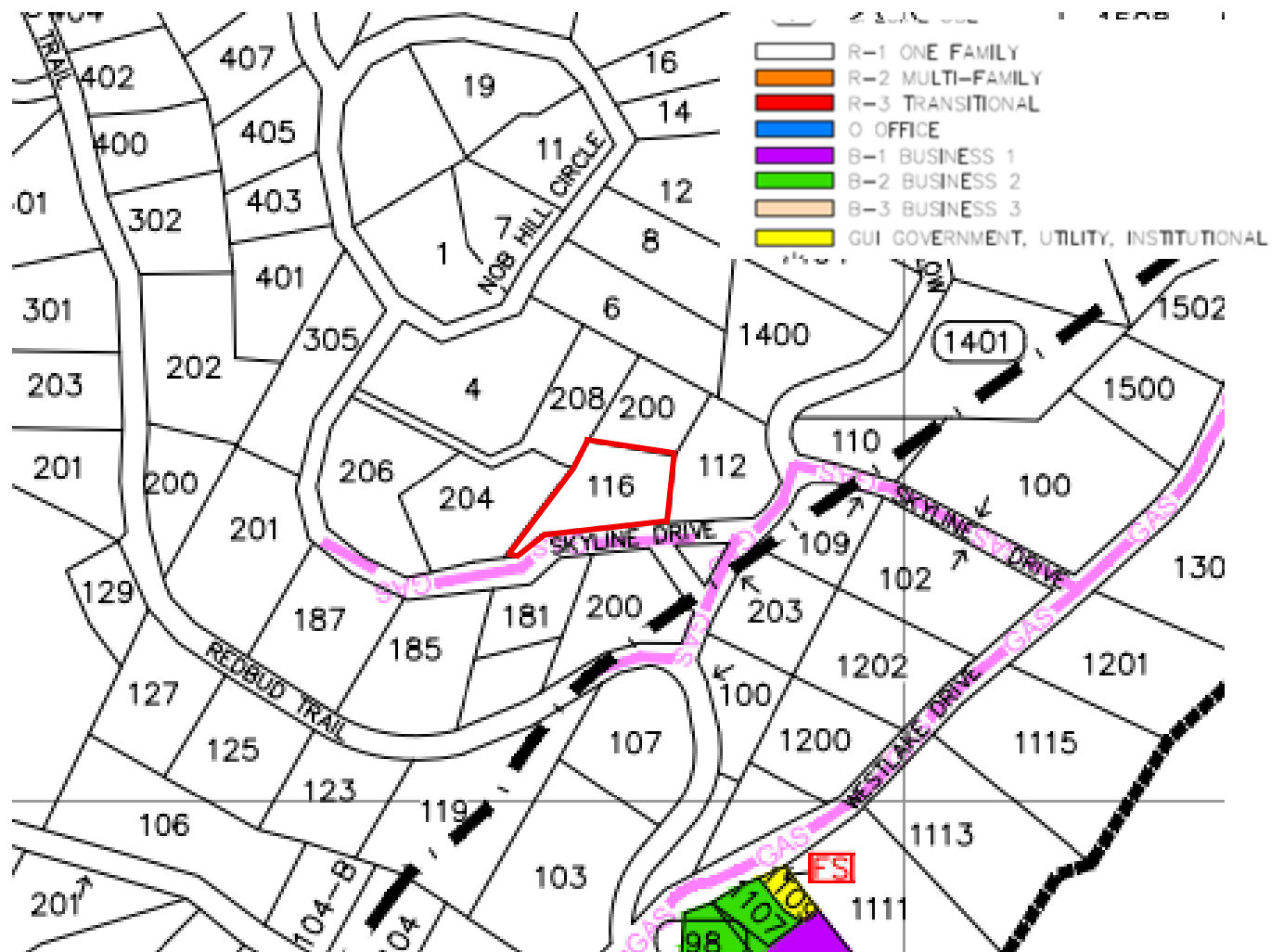
Comprehensive Planning Analysis

The existing and future land use is in conformance with the City of West Lake Hills Master Plan.

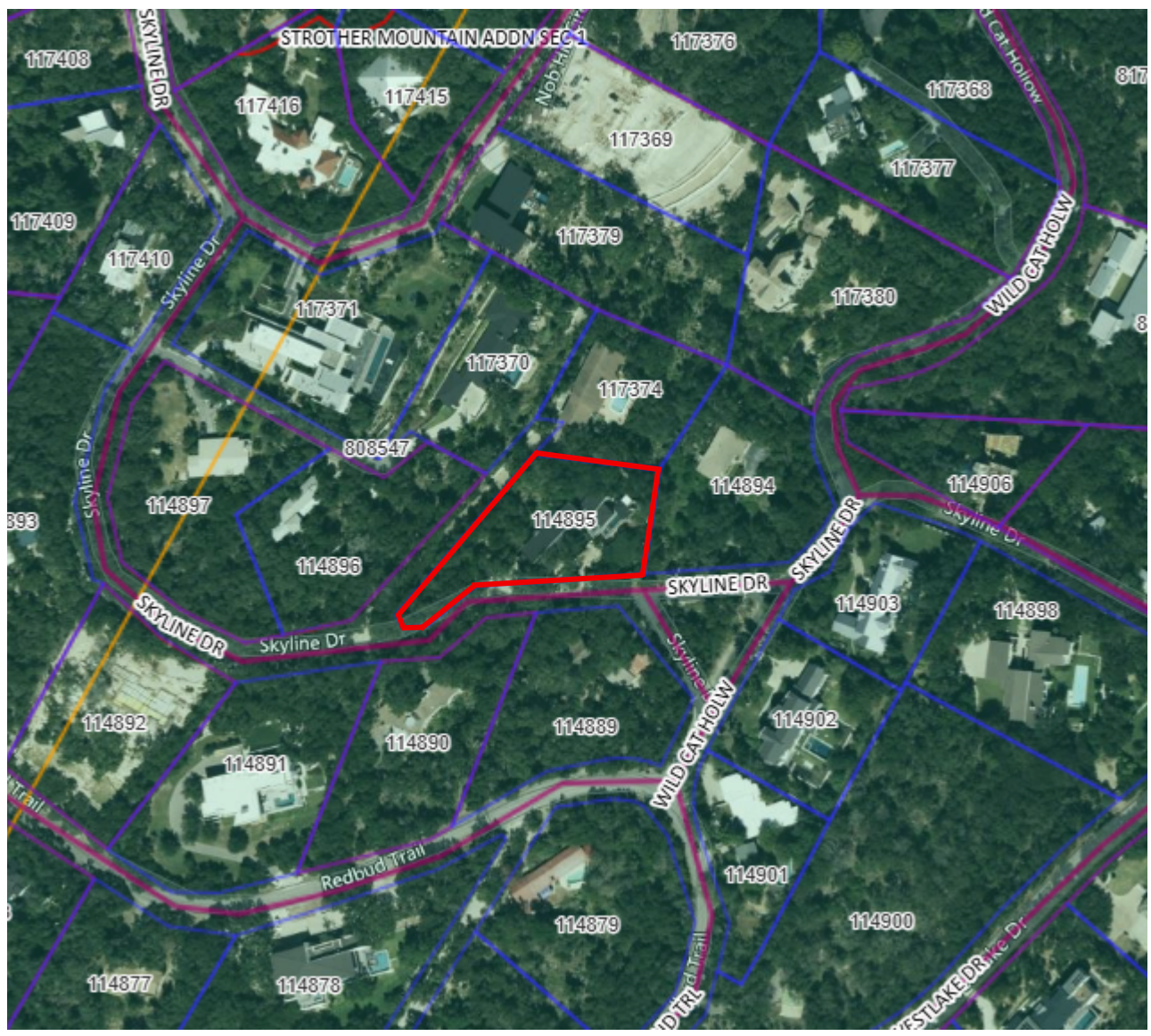
Links to Relevant Code:

- [Section 22.03.173: Fences \(Residential\)](#)
- [Section 22.03.514: Criteria and process required for granting variance.](#)
- [Section 22.03.511: Procedure and notice.](#)

Zoning:



Aerial:



BRIAN SHARPLES

116 Skyline Drive | 512-750-8531 | Sharplesbrian@gmail.com

12/03/2025

ZAPCO Chair
City of West Lake Hills

Dear Zapco Chair:

This letter is regarding a request for a variance to Ordinance 22.03.172 (Fences). The PDF Variance request only allowed for a few lines per question, so am using this to describe the issue in full.

In 2011, our property was granted a variance to put a fence along Skyline Drive within the required 50" setback. A letter from the City to the previous owner, Jon Luce, is attached. The reason this variance was needed was because of the unique characteristics of the lot – the front yard is also the "back yard" and includes a pool, but also contains a septic field that goes well beyond a 50' distance from the street.

Based on that variance, and verbal approval from the City, we installed a 54" high fence in 2014 (just outside of the septic field – the only place it could go), and also installed a stone wall to hold the septic in place as it was eroding from rain into the street below.

That fence (and wall) has been in place for over 10 years but got severely damaged when we put a permitted addition onto our house between 2020-2022. (It was damaged and partially removed to allow heavy equipment in for the construction).

Since 2022, we have been trying to install a new fence in the same location as the previous one. One of our objectives for the new fence was to block automobile lights from continuously shining into our house at night. If you look on a map, you'll see there is a connecting road between Wildcat Hollow and Skyline Drive. If someone is headed up the hill on Skyline, they must first stop on this connecting road before turning up Skyline. That road is

angled up, and headlights point directly into our property, creating flashes of light into our “backyard” and house.

We know we can only build 54" high, so designed a new fence at this height with a louvered design, such that the fence was 83% permeable and visible at a certain angle (45 degrees) but would provide some protection from the headlights that shined straight ahead when cars stopped at the intersection facing our house.

We have a recent communication from the city (verbally and in email) that indicated that if we replaced the fence in the same location, kept it at 54 inches, and met the 80% visibility in the ordinance for front yard fences, we were fine to proceed. Our landscapers had also added some new stone blocks to further retain soil, and the city asked that we remove these, and we complied with that request. On that basis, our landscaper designed and produced the louvered fence, telling us that it was 83% visible, and in their opinion compliant.

However, when we began installing the fence, the City shut down the project (after a handful of sections were installed) arguing that the fence was not compliant, because the 80% rule needed to apply at various angles, even though this is not specified directly in the code.

In conclusion, there are a few hardships here. The first and most important is the auto light issue we are trying to solve. The second is that we have bought and paid for a fence that was fairly expensive, and at the time we believed it met code, which remains open to interpretation. The third is that the only way hide most of this fence with landscaping is to grow vines on it, and this new design is far better at retaining this type of screening.

Either way the design of fence should not make much of a difference, as most of it will be screened with landscaping where possible. As such we are requesting a variance, based on the City's interpretation of the 80% rule, to complete construction of the new fence and proceed with additional landscaping to finish the project.

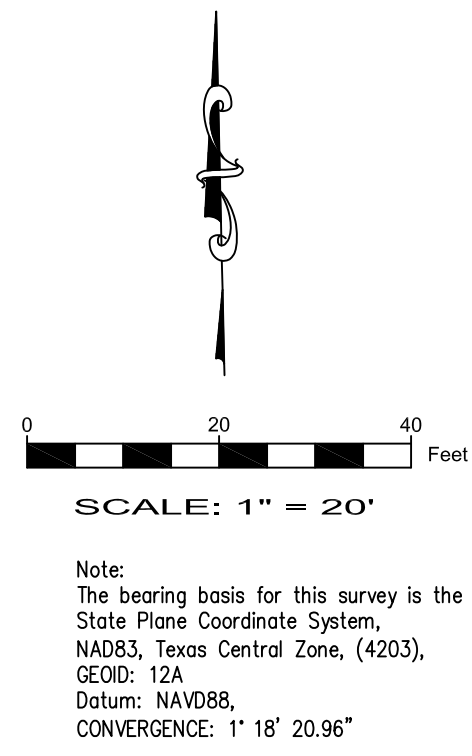
Thanks for your consideration on this.

Sincerely,

Brian & Danielle

2

PARTIAL TOPOGRAPHIC SURVEY FOR
 BRIAN AND TRACEY SHARPLES
 0.85 ACRES
 KLK CONSTRUCTION CO., INC. HERITAGE TITLE COMPANY OF AUSTIN, INC.
 CALLED 0.854 AC. OF THE WILKENSON SPARKS SUR #4 A-21
 DOC. 2011084202, a.k.a. LOT 6 OF THE L.L. BRADSHAW SUBDIVISION,
 CITY OF WESTLAKE HILLS, IN TRAVIS COUNTY, TEXAS



TREE LIST

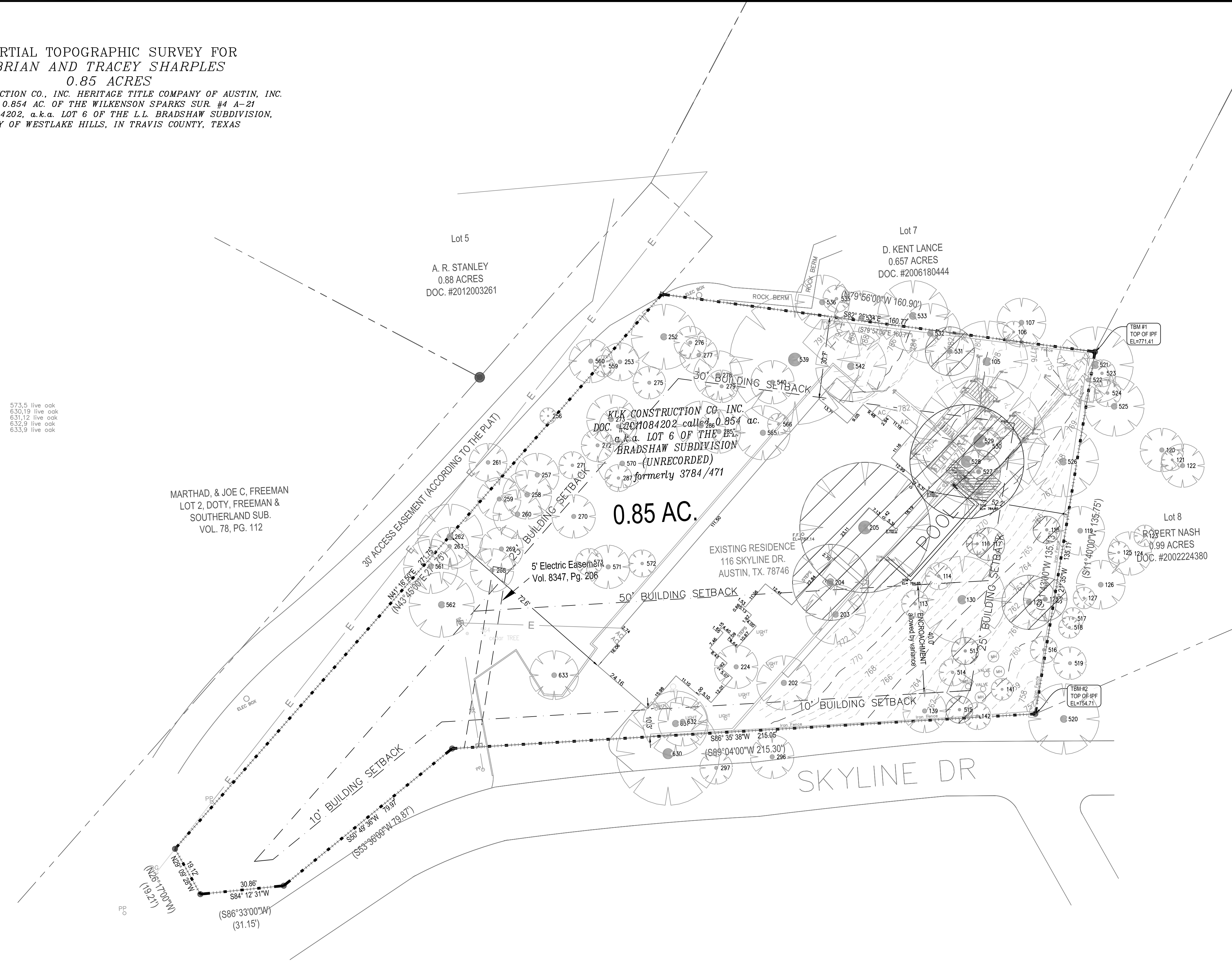
105.15" live oak	141.4" cedar	269.8" cedar	514.5" cedar	534.10" cedar	573.5 live oak
106.4" elm	142.5" cedar	270.8" cedar	516.5" cedar	535.5" cedar	630.19 live oak
107.9" live oak	202.10" live oak	271.5" cedar	517.4" cedar	536.10" cedar	631.12 live oak
113.5" oak	203.11" live oak	272.6" cedar	518.4" cedar	539.24" live oak	632.9 live oak
114.5" oak	224.0" live oak	273.9" cedar	519.6" cedar	540.8" elm	633.9 live oak
118.9" cedar	252.12" live oak	274.7" cedar	520.13" cedar	542.13" live oak	
120.8" cedar	253.7" spanish oak	275.6" cedar	521.14" live oak	559.4" cedar	
121.4" hackberry	256.5" spanish oak	276.5" cedar	522.8" cedar	560.8" cedar	
122.8" cedar	257.0" live oak	277.7" cedar	523.5" cedar	561.01" live oak	
123.4" cedar	258.9" live oak	278.9" live oak	524.5" cedar	562.12" cedar	
124.8" cedar	259.8" cedar	279.8" live oak	525.11" live oak	564.6" cedar	
125.4" cedar	260.9" cedar	285.8" live oak	526.13" live oak	565.10" cedar	
126.9" cedar	261.7" cedar	286.9" cedar		566.4" live oak	
127.4" cedar	262.12" cedar	287.5" live oak	529.24" live oak	570.9" cedar	
130.16" live oak	263.7" cedar	296.8" cedar elm	532.11" cedar	571.8 live oak	
139.6" cedar	268.8" cedar	297.6" cedar el	533.13" cedar	572.5 live oak	

TREE REMOVED

116.4" sycamore
117.0" sycamore
118.5" cedar oak
128.8" hick
129.10" live oak
204.14" live oak
205.24" live oak
513.5" cedar
515.5" cedar
527.8" hackberry
528.21" live oak
530.5" hackberry
531.9" red oak

LEGEND

- ELEVATION BENCHMARK
- AXLE FOUND
- STEEL COTTON SPINDLE
- IRON PIN FOUND
- CORNER NOT FOUND, REPLACED WITH 1/2" IRON PIN
- IRON PIN SET
- IRON PIPE FOUND
- FENCE POST
- NAIL FOUND
- NAIL SET
- MAG SPIKE SET
- CONCRETE MONUMENT FOUND
- EXISTING WIRE FENCE
- CHAINLINK FENCE
- BOARD FENCE
- DRAINAGE MANHOLE
- GAS LINE VALVE
- WELL
- FIRE HYDRANT
- POWER POLE
- WATER VALVE
- TELEPHONE CABLE
- WATERLINE EXISTING
- OVERHEAD POWER LINE
- CENTER LINE OF CHANNEL
- RECORD CALLS (BEARING / DISTANCE)
- RECORD FILE LOCATION VOLUME / PAGE
- DATA THIS SURVEY BEARING/ DISTANCE
- SPECIAL FLOOD HAZARD AREA PER F.E.M.A. (APPROXIMATE LIMIT WILL VARY WITH CONDITIONS)
- TRACT LINES
- BOUNDARY LINES
- LAND GRANT LINES
- All document references are in Travis Co.
- Official Public Records of Travis Co., Tx. OPRTCT
- TREES REMOVED BY PRIOR CONSTRUCTION



THIS SURVEY HAS BEEN COMPLETED WITHOUT THE BENEFIT OF AN ABSTRACTED TITLE. RECORD EASEMENTS HAVE BEEN LISTED HEREON AS IDENTIFIED FOR THIS SURVEY BY COMMITMENT GF 201300346, EFF. DATE JAN. 31, 2013 PROVIDED BY HERITAGE TITLE COMPANY OF AUSTIN, INC. AS FOLLOWS (MAY APPLY IF EXTENDING TO SITE):

A) LIENS, LEASES, MINERAL RIGHTS AND OTHER MATTERS THAT HAVE NOT BEEN REQUESTED HAVE NOT BEEN REVIEWED AS A PART OF THIS SURVEY

B) RESTRICTIVE COVENANTS HAVE NOT BEEN REVIEWED.

SCHEDULE B EASEMENT ITEMS AS FOLLOWS:

B. 10. B. TELEPHONE AND TELEGRAPH EASEMENT TO HERMAN BROWN OF RECORD IN VOL. 954, Pg. 635; VOL. 661, Pg. 568; VOL. 614, Pg. 269; VOL. 650, Pg. 570; AND VOL. 676, Pg. 298 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS CONVEYS A BLANKET EASEMENT TO CONSTRUCT TELEPHONE AND TELEGRAPH LINES (SUBJECT TO RESTRICTIONS) ON THE 4.5 ACRE L.L. BRADSHAW (PARENT TRACT). NO EVIDENCE WAS FOUND TO INDICATE ANY CONSTRUCTION UNDER THIS EASEMENT ON THIS PARCEL. THIS EASEMENT MAY APPLY TO THE POWER LINE CONSTRUCTED WITHIN THE 30' ACCESS STRIP ALONG THE WEST BOUNDARY OF THIS PARCEL.

B. 10. C. A 5' WIDE ELECTRIC AND TELEPHONE LINE EASEMENT GRANTED TO THE CITY OF AUSTIN, BY INSTRUMENT OF RECORD IN VOL. 8347, Pg. 206 OF THE DEED RECORDS OF TRAVIS COUNTY TEXAS IN SHOWN HERON. IT IS NOTED THAT THE EXISTING POWER LINE IS ONLY PARTIALLY WITHIN THE DESCRIBED EASEMENT.

STANDARD SURVEY NOTE:
 THIS SURVEY HAS BEEN COMPLETED WITHOUT THE BENEFIT OF AN ABSTRACTED TITLE. A CURRENT TITLE COMMITMENT HAS NOT BEEN PROVIDED TO IDENTIFY ADDITIONAL RECORD EASEMENTS WHICH MAY BE APPLICABLE. RESTRICTIVE COVENANTS AND OTHER MATTERS HAVE NOT BEEN RESEARCHED AS A PART OF THIS SURVEY. SEE APPLICABLE RESTRICTIVE COVENANTS AND LOCAL CODES FOR APPLICABLE DEVELOPMENT LIMITATIONS. NOTHING IN THIS SURVEY IS INTENDED TO EXPRESS AN OPINION REGARDING OWNERSHIP OR TITLE.

I, THE UNDERSIGNED HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND OF THE PROPERTY LEGALLY DESCRIBED HEREON, UNDER MY SUPERVISION. THIS PLAT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Survey Date September 22, 2020

William F. Forest, Jr.
 William F. Forest, Jr., R.P.L.S. 1847



NOTE: THE CITY OF WESTLAKE HILLS GRANTED A VARIANCE ON AUGUST 11, 2011 TO ALLOW THE CONSTRUCTION A BUILDING ON THIS TRACT TO ENCRACH 4.0' INTO THE 50' FRONT BUILDING SETBACK (SECTION 22.03.281 OF THE WESTLAKE HILLS CODE). SEE OTHER TERMS FOR RETAINING WALLS.

NOTICE: THIS MAP COPYRIGHT 2020 BY FOREST SURVEYING & MAPPING CO. THIS MAP IS BEING PROVIDED SOLELY FOR THE USE OF THE CURRENT PARTIES. NO LICENSE HAS BEEN CREATED (EXPRESS OR IMPLIED) TO COPY THIS MAP EXCEPT IN CONNECTION WITH THE ORIGINAL TRANSACTION FOR WHICH THIS MAP WAS CREATED. (MAY BE COPIED IN THAT CONTEXT IF CONDITIONS REMAIN UNCHANGED)

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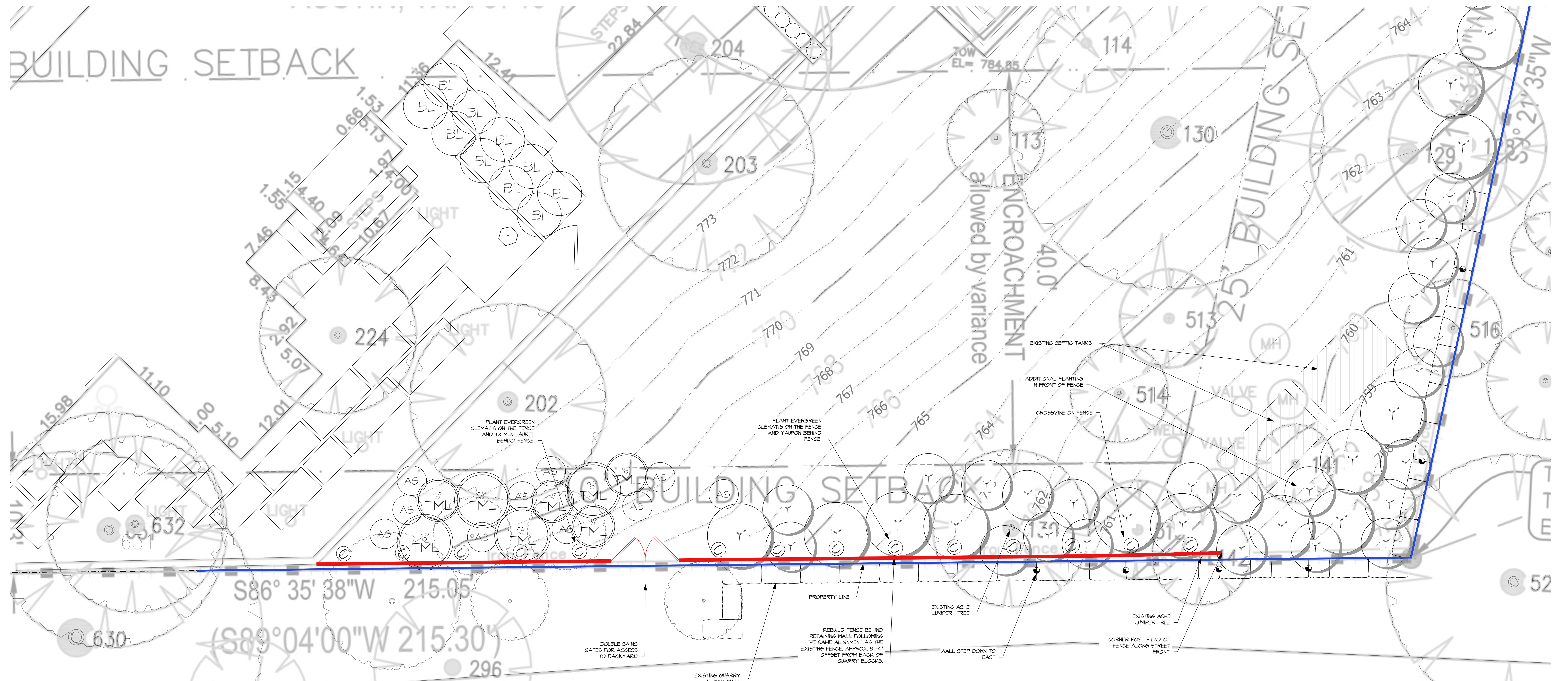
116 SKYLINE

Forest Surveying & Mapping Company
 1002 Ash St. Georgetown, Texas
 phone: 512-930-5927
 www.forestsurveying.com
 TBPLS FIRM NO. 10002000

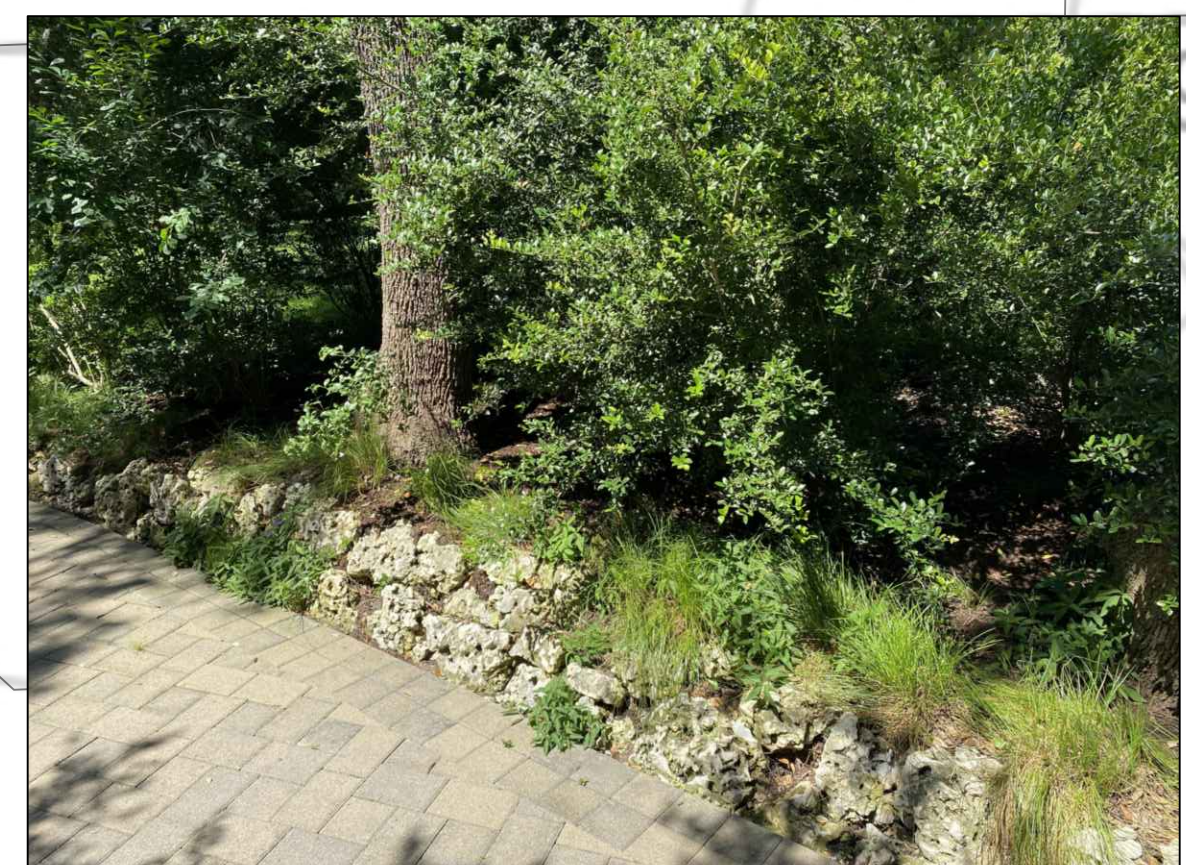
Surveying Services are regulated by the Texas Board of Professional Engineers and Land Surveyors 1917 S Interstate 35 Austin, TX 78741, US (512) 440-7723

DATE: October 12, 2020
PROJECT: 116 Skyline
DRAWING: 116 Skyline Boundary
Sheet One of Two

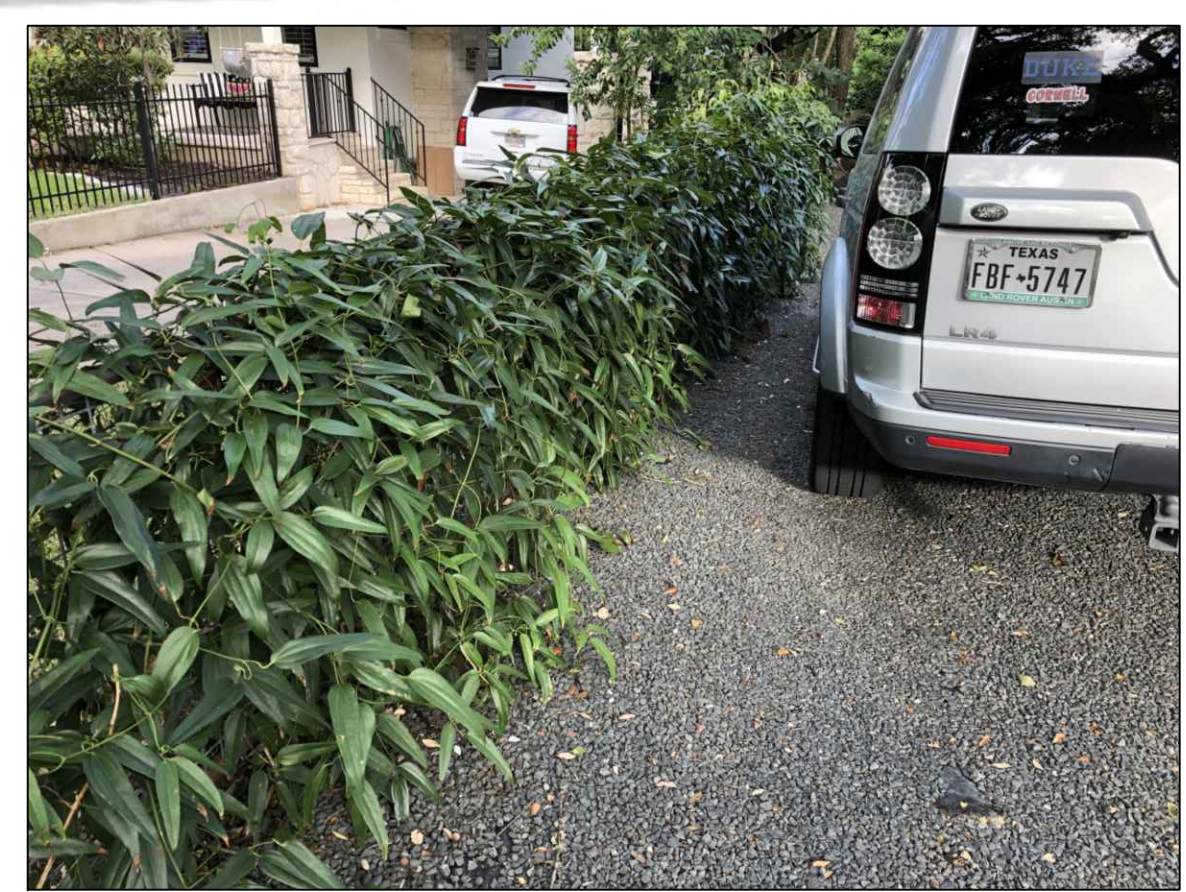
BUILDING SETBACK



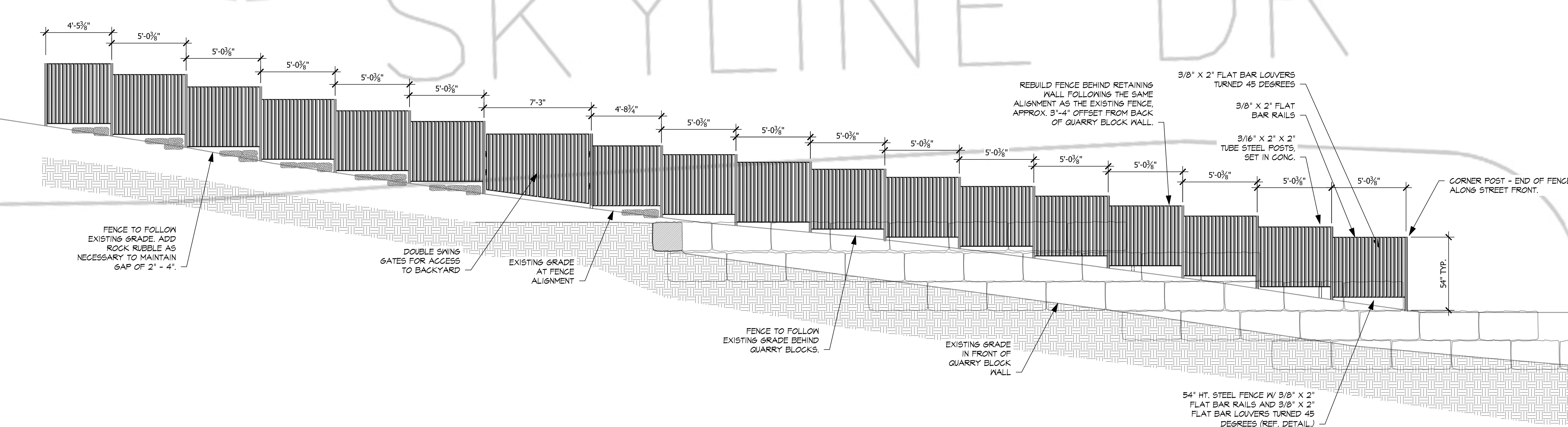
S86° 35' 38" W 215.05'
 (S89° 04' 00" W 215.30')



Yaupon screen behind fence



Evergreen Clematis on fence



SHRUB & VINE PLANTING SCHEDULE

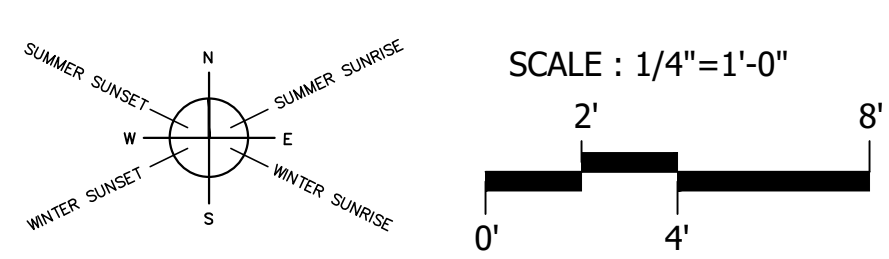
Symbol	Qty	Common Name	Scientific Name	Size & Condition	Spacing
AS	15	Amistad Sage	Salvia x 'Amistad'	1 gal.	As Shown
⊙	15	Evergreen Clematis	Clematis armandii	1 gal.	As Shown
Y	27	Yaupon	Ilex vomitoria	10 gal - 24" box	As Shown
TML	4	Texas Mtn. Laurel	Sophora secundiflora	10 gal - 24" box	As Shown

Madrone LDC
 P.O. Box 28884
 Austin, TX 78755
 madrone@madroneidc.com
 512.786.4767

Sharples Residence
 116 Skyline Drive
 West Lake Hills, TX 78746

Scale: 1/4" = 1'-0"
 12-01-25

Fence Plan



Fence Photographs – 116 Skyline



Existing/old 54”
fence being
replaced



New 54” fence
sections
installed before
shutdown



Side fence
(installed) with
landscaping



Intersection
where cars
stop before
making left
turn up Skyline
Drive

MINUTES OF BOARD OF ADJUSTMENT (BOA)
PUBLIC HEARING AND REGULAR MEETING
CITY OF WEST LAKE HILLS, TEXAS
Wednesday, June 8, 2011
7:00 p.m.

PRESENT: Chairman Dave Claunch, BOA Members Davin Fillpot, Jean Goehring, Stan Graham, Andrew Schwartz, and Spencer Stevens

ABSENT: None

1. Call to Order. Chairman Dave Claunch.

Chairman Claunch called the meeting to order at 7:05 p.m. A quorum was present. BOA Member Schwartz had not arrived yet.

For the record, the items in these minutes are listed in order addressed and may not be in numerical order.

2. 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 BOA Meetings, it is intended that these items will be acted upon by the BOA with a single motion because no public hearing or determination is necessary. However, a BOA 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 BOA 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 BOA may add additional items that are listed elsewhere on the same agenda.

a. May 11, 2011 Regular Meeting Minutes.

b. Land Use: Request to postpone to June 15, 2011 (ZAPCO) and July 13, 2011 (BOA): Two variances for master bedroom addition at 105 Westspring Drive: 1) Variance to encroach 15' into the 20' side setback; and 2) Variance to exceed the maximum 25% impervious cover from existing 37.3% to 40.8%. Applicant Linda Webb. (Section 22.03.281 of the West Lake Hills Code.)

1) Staff Briefing.

2) Presentation by Applicant.

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

4) Recommendation to BOA.

c. Land Use: Request to postpone to June 15, 2011 (ZAPCO) and July 13, 2011 (BOA): Variance to exceed the maximum 30' height requirement to allow for third level living space at 1429 Redbud Trail. Applicant Kay Flowers. (Section 22.03.279 and 22.03.281 of the West Lake Hills Code.)

1) Staff Briefing.

2) Presentation by Applicant.

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

4) Recommendation to BOA.

- d. Land Use: Request to postpone to July 13, 2011 (BOA): Four after-the-fact variances at 715 Windsong Trail: 1) Variance to encroach 20' into the 50' front setback for rock wall (around propane tank); 2) Variance to encroach 25' into the 25' side setback for patio; 3) Variance to encroach 50' into the 50' front setback for wall structure; and 4) Variance to exceed the maximum 20' entrance/exit width allowed to 40'. Representatives David Wilkes and Kasi Painter. (Section 22.03.281 and Section 22.03.175 of the West Lake Hills Code).
- 1) Staff Briefing.
 - 2) Presentation by Applicant.
 - 3) Public Hearing: All persons wishing to speak for or against shall be heard.
 - 4) Recommendation to BOA.
- e. Land Use: Request to postpone to August 10, 2011: Three variances for storage area add-on to carport at 429 Brady Lane: 1) Variance to encroach up to 9' into the 30' front setback; 2) variance to encroach up to 17' into the 20' side setback; and 3) variance to exceed the maximum 25% allowed impervious cover from existing 41.7% to 40.5%. Representative David Webber. (Section 22.03.275 and 22.03.281 of the West Lake Hills Code.) (Postponed on May 11, 2011.)
- 1) Staff Briefing.
 - 2) Presentation by Applicant.
 - 3) Public Hearing: All persons wishing to speak for or against shall be heard.
 - 4) Deliberation and Action.

Council Member Stevens requested the correction of two typos in the minutes.

BOA MEMBER STEVENS MADE A MOTION, SECONDED BY BOA MEMBER GOEHRING, TO APPROVE THE CONSENT AGENDA ITEMS AS AMENDED. MOTION PASSED BY UNANIMOUS (5-0) VOTE.

3. Land Use: Appeal of administrative decision regarding the rebuilding of a stone walkway in the right-of-way at 895 Live Oak Circle. Applicants Jim and Ellen Balthazar. (Section 22.03.485, Section 22.03.512 and Section 38.02.008 of the West Lake Hills Code.) (Postponed on May 11, 2011.)
- a. Staff Briefing.
 - b. Presentation by Applicant.
 - c. Public Hearing: All persons wishing to speak for or against shall be heard.
 - d. Deliberation and Action.

City Administrator Wood said BOA discussed this item last month and then wanted more information regarding the right-of-way. The applicant found a survey that was done in 1987 and copies of it are at the dais and were also sent to you by email. He stated that there were questions about permits regarding what had been applied for and what had been issued.

Ms. Balthazar was present to answer questions. She said she did not have much additional information to add. They were able to determine where their property line is even though they were not sure exactly where the right-of-way was. She said that regarding the comment that City Inspector Rogers came by twice, she said he came by after the walkway had been completed. Then he came back again and said talked to them. She said their perception is that the contractor did what he was asked to do both times. Other issues raised at the last meeting was should this request be considered differently in regard to the old construction and the new construction.

BOA MEETING MINUTES
JUNE 8, 2011
PAGE THREE

She said she has certified mail receipt that the neighbor was notified and chose not to come tonight. She said she hopes that the City engineer can weigh in on this since that part of the ridge is doing what it is suppose to do.

Chairman Claunch opened the Public Hearing. There was no one present to speak.

When Chairman Claunch asked if the size of the walkway installed was in the same footprint as the previous walkway, Ms. Balthazar said yes.

BOA Member Stevens said he was confused because he thought he read somewhere that the City Inspector had told the contractor to split this job up.

Ms. Balthazar said apparently when he submitted the exterior remodel permit; it was split into two requests, one for work to be done in the right-of-way and the other for work that was not in the right-of-way. What was returned was the general exterior, so he thought that everything was okay, not realizing that there were two building permits.

BOA Member Graham said he likes the work that was done but the permits were clearly broken up. Since the contractor broke them up, why did he not know that there were two permits? He should have known not to start work. When the old rock walkway and stairs were removed, then that took away the grandfathering.

Chairman Claunch said if this is in City right-of-way and they are not allowed to have this there, then it will be the City's responsibility to put something there if this is pulled up.

BOA Member Graham said there is no curb, so water is going to drain more.

Ms. Baltzar said the slope is greater when you get to the driveway. That is what she is concerned about, stabilizing the corner of driveway, but said she is not an engineer. She wouldn't mind moving the mailbox.

BOA Member Goehring said what rubs him wrong is that they are appealing City Inspector Rogers' decision.

BOA MEMBER STEVENS MADE A MOTION, SECONDED BY BOA MEMBER GOEHRING, TO OVERTURN THE ADMINISTRATIVE DECISION TO DENY AND ALLOW THE WALKWAY TO STAY. MOTION PASSED BY UNANIMOUS (5-0) VOTE.

BOA Member Stevens said the contractor should be cited on this.

4. Land Use: Variance to encroach 50' into the 50' front setback for residence and pool at 116 Skyline Drive. Representative Jon Luce. (Section 22.03.281 of the West Lake Hills Code.)
 - a. Staff Briefing.
 - b. Presentation by Applicant.
 - c. Public Hearing: All persons wishing to speak for or against shall be heard.
 - d. Deliberation and Action.

Representative Applicant Jon Luce was present to speak.

BOA MEETING MINUTES
JUNE 8, 2011
PAGEFOUR

City Administrator Wood said the property was previously owned by Liz Carpenter. This is a unique situation because the house is close to the road. The applicant wants to take down the existing house and wants permission to encroach into the front setback. ZAPCO recommended two different encroachment amounts: 40' for the house and 50' into the front setback for the retaining walls. The proposal is to put the new house in almost the exact footprint. With ZAPCO's recommendation, they would have to change the layout of the retaining walls.

Mr. Luce said the property is a real long narrow lot. In 1960 when the original house was built, the architect decided that the right way to build was not perpendicular but parallel. They agreed this was also the best way to build. He said they saved all of the oak trees which predate the house. They want to take down the old house and put in a new house.

Chairman Claunch opened the Public Hearing. There being no one present to speak, Chairman Claunch closed the Public Hearing.

BOA Member Graham said he was very much in favor of this project and appreciates what you have done with this lot in not disturbing the lot. The issue he had was with the retaining wall. That wall already existed and if you had not removed it, it would have been grandfathered. BOA Member Fillpot agreed. One thing that concerned him was how in the front area of the lot as you are turning on Skyline, there is a lot of brush canopy that shields the house and softens the fact that the house is close to the road. That being said, if there is any way to help bolster the understory and vegetation screening on Skyline, he would feel really good about this request. Though it may not be the look you are going for.

When BOA Member Stevens asked what ZAPCO recommended, City Administrator Wood said they recommended a 40' encroachment into the front setback for the house and a 50' encroachment for the retaining walls. He said what is shown in the drawing is the retaining walls into the right-of-way. Actually the encroachment of the retaining walls in the rear setback and ZAPCO did not include a recommendation on that issue. Mr. Luce referenced BOA Member Stevens to the drawing (colored version), saying that the double ink line is existing retaining wall. If you look at where the garage is, the double line shows what would be a new wall, a proposed wall and also a gate. He said that when they discussed this at ZAPCO, they were agreeable to removing all the retaining wall that extends into the right-of-way.

When Chairman Claunch asked how the applicant would transition the wall over by the garage, the architect said they would follow city guidelines, with maybe just a gate and a fence for pool security.

Chairman Claunch said that would require a variance too and BOA would want to see the plans before we grant a variance. He said some of us are confused regarding where the walls are going to really be and location of the fence for the pool. We want to see how you are going to treat this before we move forward on the variance.

Mr. Luce said our option to buy expires tonight.

When Mr. Luce said we could put a do not exceed height limit, BOA Member Stevens said it is not just the height issue. Your economic situation cannot be a factor in our decision.

BOA MEETING MINUTES
JUNE 8, 2011
PAGE FIVE

Chairman Claunch said let's give him some guidance and are you okay with having him go off tonight to work on this and come back tonight? BOA Stevens said he wanted to see official plans, saying this is too mismatched for him to approve. He said if we are going to be here a long time tonight, they can go to their office and come back, but they needed to also address the fence material.

When Mr. Luce said what we are asking for is variance for the house and a portion of the pool to extend into the front setback, Chairman Claunch said we approve specific encroachments only.

When Mr. Luce said we will just take it off and not put up a fence, Chairman Claunch said the fence issue needs to be answered tonight as well as the rear setback issue. Are you leaving the retaining wall on the north side of the property undisturbed? Mr. Luce said that on the north side, they probably won't do anything. City Administrator Wood said it should be included to make it clear.

BOA Member Stevens said we don't have notice for the encroachment into the rear setback and asked are you changing the material of the walls?

It was stated that ZAPCO recommended that nothing be in the right-of-way and that the applicant did not turn in new drawings for BOA.

Chairman Claunch stated that this item would be postponed for awhile this evening.

(BOA addressed item 6 and then came back to this item.)

Revised drawings were handed out and explained. The new wall would be poured concrete.

BOA Member Stevens said there was not proper notice on the agenda for granting a variance for the rear encroachment (north side).

The City Attorney agreed saying that the neighbors on the other side might have shown up if they had received notice.

The applicant said then they would take out that part of the retaining wall. They were basically doing it to make it nicer for the neighbor.

BOA Member Stevens said now we need a front yard fence variance for putting in a 54" wall.

Someone said if you decide it is a front yard fence then there is a problem because it is a solid fence.

BOA Member Stevens said it is a front yard wall.

The architect said then they would change the 54" wall to a metal fence. BOA Member Stevens said it would have to be 80% visible and screened.

BOA MEMBER STEVENS MADE A MOTION, SECONDED BY BOA MEMBER FILLPOT, TO APPROVE VARIANCE RECOMMENDED BY ZAPCO TO ENCROACH 40' INTO THE 50' SETBACK FOR THE BUILDING AND 50' INTO THE SETBACK FOR RETAINING WALL NOT TO EXCEED EXISTING RETAINING WALL HEIGHT, CONTINGENT UPON ENROACHMENT OF REAR PROPERTY BEING REMOVED AND FENCE FOR POOL IS LIMITED TO 54" IN HEIGHT AND COMPLYING WITH THE FRONT YARD FENCE ORDINANCE. THERE WERE FOUR YES VOTES AND BOA MEMBER STEVENS HAD NOT VOTED.

Chairman Claunch then recessed the BOA Meeting in order to convene the Council Meeting agenda at 9:10 p.m.

The BOA Meeting was then reconvened at 9:28 p.m.

5. Land Use: Variance to encroach 5' into the 10' driveway setback for driveway extension turn around at 300 Las Lomas Drive. Applicant Mary Katherine Bowles. (Section 22.03.175 of the West Lake Hills Code.)
- a. Staff Briefing.
 - b. Presentation by Applicant.
 - c. Public Hearing: All persons wishing to speak for or against shall be heard.
 - d. Deliberation and Action.

Mary Katherine Bowles was present to speak. She said they are requesting a 5' extension of their driveway, so that guests can turn around and go out the driveway front ways. She said they have had to replace their sprinkler heads because of guests driving over them and that between the ZAPCO meeting and this meeting, they had someone go off the curb.

Chairman Claunch opened the Public Hearing.

Neighbor Don Taylor spoke. He said his wife sent an email to ZAPCO. They are trying to sell their house. He said he understands why the applicant wants the variance, but he has the same situation regarding his driveway. He said he remodeled ten years ago and thought about a variance, but decided not to request one. He said he has had four kids driving and they all dealt with it. He thinks her extension looks like a parking spot and it is after the fact.

Chairman Claunch closed the Public Hearing.

Ms. Bowles said she read through their email and the only thing she could get that was straightforward and true and doesn't see how this messes with their view at all. She said she understands they are trying to sell their house. She said she could back out her driveway, but the problem is when her guests try to. She said City Inspector Rogers encouraged her to apply for a variance.

When Chairman Claunch asked if her contractor was forming up this extension, Ms. Bowles said her contractor did screw up and he should have paid a fine for it.

BOA MEETING MINUTES
JUNE 8, 2011
PAGE SEVEN

Chairman Claunch asked if she had another turnaround down closer to the driveway, if we approved it at the top, would she remove the turnaround at the bottom. Ms. Bowles said the turnaround at the bottom is poorly designed and she could remove it, but it would be an extra expense for her.

When BOA asked the neighbor if he would be okay with the variance if she removed the turnaround closer to driveway, he said no.

When BOA Member Graham told the applicant that she could get another 10 plus feet if she went to the 10' setback, and then she would not need a variance, Ms. Bowles said there was a really tall retaining wall.

Chairman Claunch said legally we have to come up with a hardship and that there was no alternative to the variance.

Chairman Claunch told the applicant that BOA can vote now, or the applicant could come back to us showing us a tree survey or just add some additional space that does not require tree removal. He said we need to see that you have no alternative. BOA Member Graham said he would not grant a 5' extension variance even if she did come back.

BOA Member Goehring told the applicant you haven't showed us a hardship, your plans aren't detailed, and you have a neighbor who objects.

Chairman Claunch told the applicant she could only have one negative vote.

BOA Member Fillpot said he would want to see an enlarged drawing of the turnaround area.

BOA Member Stevens agreed with BOA Member Graham and said he would not vote for a variance.

BOA then said they would postpone this item to a future meeting and the applicant said she would be gone for a few months.

6. Land Use: Amendment to approved site plan/building permit with after-the-fact variance to encroach 8' into the 25' side setback for construction of a wooden deck for Saucer Sound at 3823 Bee Cave Road, Building C. Representative Brian Hernandez. (Section 22.03.281 of the West Lake Hills Code.)

a. Staff Briefing.

b. Presentation by Applicant.

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

d. Deliberation and Action.

(Note: This item requires dual action. BOA action on variance and Council action on amendment to approved site plan/building permit.)

Representative Brian Hernandez was present to speak.

EXCERPT FROM THE JUNE 8, 2011 CITY COUNCIL MEETING MINUTES:

4. Land Use: Amendment to approved site plan/building permit with after-the-fact variance to encroach 8' into the 25' side setback for construction of a wooden deck for Saucer Sound at 3823 Bee Cave Road, Building C. Representative Brian Hernandez. (Section 22.03.281 of the West Lake Hills Code.)

a. Staff Briefing.

b. Presentation by Applicant.

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

d. Deliberation and Action.

(Note: This item requires dual action. BOA action on variance and Council action on amendment to approved site plan/building permit.)

Mayor Claunch opened the Public Hearing. There being no one present to speak, Mayor Claunch closed the Public Hearing.

MAYOR PRO TEM SCHWARTZ MADE A MOTION, SECONDED BY COUNCIL MEMBER GRAHAM, TO APPROVE THE AMENDMENT TO THE SITE PLAN/BUILDING PERMIT. MOTION PASSED WITH A (4-1) VOTE WITH COUNCIL MEMBER STEVENS VOTING AGAINST.

BOA MEETING MINUTES
JUNE 8, 2011
PAGE EIGHT

Chairman Claunch opened the Public Hearing. There being no one present to speak, Chairman Claunch closed the Public Hearing.

BOA Member Graham commented on the unique hardship.

BOA MEMBER GRAHAM MADE A MOTION, SECONDED BY BOA MEMBER FILLPOT, TO APPROVE THE VARIANCE WITH THE HARDSHIP BEING SENSORY DEPRIVATION AND SECURITY REASONS, AND THEIR BEING NO IMPACT ON THE NEIGHBORING PROPERTY. A VOTE OF (4-1) WAS TAKEN WITH BOA MEMBER STEVENS OPPOSED. BOA THEN POSTPONED THIS ITEM SAYING THEY WOULD COME BACK TO IT LATER IN THE EVENING.

For the record, BOA Member Schwartz arrived at 9:16 p.m.

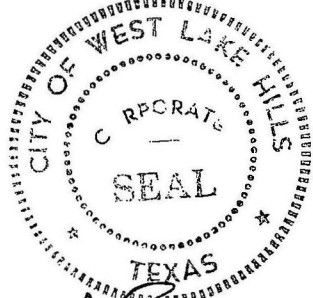
A FINAL VOTE OF (5-1) WAS TAKEN (BOA MEMBER SCHWARTZ WAS PRESENT TO VOTE FOR AND BOA MEMBER STEVENS VOTED AGAINST). MOTION PASSED WITH A (5-1) VOTE.


ATTACHED IS AN EXCERPT FROM THE JUNE 8, 2011 COUNCIL MEETING MINUTES REGARDING THEIR ACTION ON THE AMENDMENT TO THE APPROVED SITE PLAN/BUILDING PERMIT.

7. Adjournment. Chairman Dave Claunch.

Chairman Claunch adjourned the meeting at 9:32 p.m.

ATTEST:





JANET ROGERS, CITY SECRETARY



DAVE CLAUNCH, CHAIRMAN

City of West Lake Hills

MINUTES OF A ZONING & PLANNING COMMISSION (ZAPCO)

REGULAR MEETING

Wednesday, January 21, 2026 at 6:30 PM

1. **Call to Order: Chair Robert Meisel**

- a. Meeting begins at 6:30pm
- b. Roll Call
 1. Chair Robert Meisel: Present
 2. Vice-Chair Jim Pledger: Present
 3. Commissioner Julia Webber: Present
 4. Commissioner Karen Bartoletti: Present
 5. Commissioner Patrick Stewart: Present
 6. Commissioner Laurie Maccini: Present

2. **Citizen Communications:**

- a. No public comments

3. **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 November 14, 2025 Zoning and Planning Commission Workshop Minutes
- b. Approval of the November 19, 2025 Zoning and Planning Commission Meeting Minutes
- c. Approval of the January 7, 2026 Zoning and Planning Commission Workshop Minutes
- d. Report of previous ZAPCO cases acted on by the BOA/City Council

Action: Commissioner Stewart moves for approval of the Consent Agenda

- i. Commissioner Maccini Seconds
- ii. Motion carries unanimously (5–0)

4. **Public Hearing 109 Swiftcurrent Trl.:** Discuss and consider a recommendation to the City Council on variances for a fence:

1. To allow for a fence encroachment into the 30-foot front-yard fence setback (Section 22.03.173(d)(6)(B)(ii)).

2. To allow for the placement of fence posts within the ½ and ¼ critical root zones of protected trees (Section 22.03.3052 (b)).

Applicant: Sara Charles, Property Owner

The application was withdrawn by applicant shortly before the meeting.

5. Public Hearing 4904 Old Bee Cave Rd: Discuss and consider a recommendation to the City Council on the following variances for a fence:
 1. To allow for a fence encroachment into the 30-foot front-yard fence setback (Section 22.03.173(d)(6)(B)(ii)).
 2. To allow for the installation of a fence that does not allow 80% visibility through the fence (Section 2.03.173(d)(6)(A)(i)).
 3. To allow for a fence without the required minimum 80% landscaping screening (Section 22.03.173(d)(6)(A)(i)).
 4. To allow for the installation of a fence with a height of 7 feet above natural grade (Section 22.03.173(d)(9)(A)).

Applicant: Dylan Freytag, Property Owner

A. Staff Report:

- a. Director Bills describes fence that was installed without permits. The owner was misinformed by their contractor that they did not need permits for the fence. Director Bills describes the four areas of code where the fence, as installed, would require variances. Director Bills also explains that the location of the fence would require any screening to be located in the Right-of-Way.
- b. Commissioner Pledger points out that a written comment in opposition to the fence at 109 Swiftcurrent provided prior to the 4904 Old Bee Cave variance application also included this fence.
- c. Commissioner Bartoletti asks if there are two legal lots involved
 - i. Director Bills clarifies there are not two legal lots involved, just one
- d. Commissioner Webber asks Director Bills if there are any possible repercussions for contractors misinforming clients or violating code.
 - i. Director Bills explains that contractor registrations can be suspended for repeated violations and that citations can be issued to contractors.

- e. Commissioner Maccini asks about the right-of-way vegetation and who takes care of it.
 - i. Director Bills explains that homeowners are responsible for the vegetation from the property line to the street, but TXDOT and utility providers will sometimes maintain or clear the vegetation.

B. Public Comments:

- a. **Dylan Freytag, Applicant:** Shares prepared presentation and answers questions from commissioners
- b. **Lousia Cauvin, Neighbor:**
 - i. Spoke in opposition to variance

C. Discussion:

- a. Commissioner Stewart asks applicant about a gate and Knox box encroaching on the ROW.
- b. Commissioner Maccini indicates that the property has been between commercial property for decades but understands the increase in traffic along Bee Cave. Supportive of screening, but not in favor of proximity of fence to ROW.
- c. Chair Meisel points out that the deed is 3 months old, and that traffic has not increased substantially since the time at which the applicant chose to purchase the property, and also believes that the contractor is responsible, not the homeowner or the City.
- d. Commissioner Webber indicates they are not in favor of variance for location but may be willing to compromise on height or a certain percentage of transparency.

D. Action:

- a. Commissioner Pledger moves to forward the variances to City Council with a recommendation of **denial** based on a lack of hardship.
 - i. Commissioner Webber seconds
 - ii. Motion carries unanimously (5-0)

The variance request and recommendation will be forwarded to the February 11, 2026 City Council Meeting.

6. Public Hearing 116 Skyline Dr.: Discuss and make a recommendation to City Council on the following variances for a fence:

- 1. To allow for the installation of a fence without required landscaping visibly screening a minimum of 80% of the fence between the street and fence (Section 22.03.173(d)(6)(A)(i)).

2. To allow for the installation of a fence that does not allow 80% visibility through the fence (Section 22.03.173(d)(6)(A)(i)).

Applicant: Bryan Sharples, Property Owner

A. Staff Report:

- a. Director Bills describes the previous fence variance at the property approved in 2011 and describes the 80% transparency threshold with the new style of fence which is transparent from a specific angle, but becomes opaque when moving along the fence.
 - a. Director Bills also explains that while the variance request indicated that the fence met the height limits established in conditions for previous variance, that staff measured the fence at 6 feet prior to meeting, which would require an additional variance request.
- b. Commissioner Pledger asks about the screening of the fence with vines.
 - a. Commissioner Webber points out that there are no vines on the City's approved plant list.
- c. Commissioner Stewart asks about the 80% transparency rule at all angles
- d. Commissioner Webber asks if the previous variance addressed screening
 - a. Director Bills indicates the previous variance did not address screening directly, but that it specifically indicated all other ordinances related to fences should be followed.
- e. Commissioner Pledger indicates that he believes that the fence is compliant.

B. Public Comments:

- a. **Bryan Sharples, Applicant**
 - a. Shares presentation regarding fence
- b. **Jeffery Dochen, Neighbor**
 - a. Speaks in favor of variance

C. Discussion:

- a. Commissioner Maccini expresses sympathy due to lights, but that other solutions exist that do not require variances.
- b. Commissioners Stewart and Pledger express that they believe the fence is in compliance with the 80% rule.
- c. Commissioner Maccini states there are native vine plants that could be used to screen the fence.
- d. Commissioner Meisel recommends taking the 80% rule to council.

- e. Following discussion of whether or not the fence is in compliance with the 80% rule, Assistant City Attorney Thamm explains that the hearing is related to a variance to the code, not a review of staff determination.

D. Action:

- a. Commissioner Pledger moves to forward the variances to City Council with a recommendation of **approval**.
 - a. Commissioner Bartoletti seconds
 - b. Motion carries (3-2)
 - 1. Commissioners Webber and Maccini opposed

The variance request and recommendation will be forwarded to the February 11, 2026 City Council Meeting.

- 7. **1100 Block of Kennan Rd.** Discuss and consider a recommendation to City Council on a variance request to reduce the extent of the tree survey requirement for the entirety of a property for a new construction on an undeveloped lot.

Applicant: Paula Ables, Designer/Owner Representative

A. Staff Report:

- a. Director Bills describes that all new construction projects with no existing structure require a tree survey for the entire lot, but the applicant is requesting a reduction of the required survey.
- b. Commissioner Webber asks if the site plan has been submitted
 - 1. Director Bills explains that no site plans other than the exhibit in the packet have been made available for staff.

B. Public Comment:

- a. Paula Ables, Designer and Representative: Clarifies questions and concerns from commissioners

C. Discussion:

- a. Chair Meisel shares that the construction of the house is already expensive and that the expense of the tree survey should not be a hardship
- b. Commissioner Maccini believes the applicant is asking for full credit for impervious cover and drainage for the entirety of the lot without having to perform a full analysis of the lot.
- c. Chair Meisel states that the tree survey is required and needs to be part of the application as a historical document
 - 1. Commissioner Webber agrees and states that there must be context for the whole scope of the property for mitigation

D. Action:

- a. Commissioner Bartoletti moves to forward the variance request to City Council with a recommendation of **denial** based on lack of hardship.
 - 1. Commissioner Pledger seconds
 - 2. Motion carries (5-0)

The variance request and recommendation will be forwarded to the February 11, 2026 City Council Meeting.

- 8. **701 S Capital of Texas Highway (Sweetgreen):** Discuss and consider a recommendation to City Council for the following variances
 - 1. For the installation of a wall sign exceeding the maximum 10-foot length (Section 32.03.009(2) West Lake Hills Code)
 - 2. For the installation of a second sign for a restaurant with square footage of less than 5,000 square feet (Section II.B.1, Village at Westlake Uniform Signage Criteria)

Applicant: Jesus Sanchez, Santech Signs, LLC

A. Staff Report:

- a. Director Bills shares the history of the uniform sign agreement and describes the variances to the agreement and the City's sign code.

B. Public Comment

- a. Jesus Sanchez, Applicant:
 - 1. Speaks in favor of the variance

C. Discussion:

- a. Bartoletti indicates approval for the request

D. Action:

- a. Commissioner Bartoletti moves that the variance request be forwarded to City Council with a recommendation of **approval**.
 - 1. Commissioner Maccini seconds
 - 2. Motion carries (5-0)

The variance request and recommendation will be forwarded to the February 11, 2026 City Council Meeting.

- 9. **603 Spurlock Valley Rd :** Discuss and make a recommendation to the Board of Adjustment on a variance to install a new septic tank encroaching on the 30-foot front building setback (Section 22.03.276 & Section 22.03.281)

Applicant: James Kuykendall, Sunset Construction & Excavation

A. Staff Report:

- a. Director Bills describes the variance for a septic tank location. The house had initially been permitted with the tank in a compliant location but requested a new location for the septic at a later date.
- b. Commissioner Bartoletti asks about flooding issues
 - 1. Director Bills explains that there is no drainage easement or FEMA floodplain at location
- c. Applicant did not attend meeting but provided comment via email that was read by commissioners on the dais (Exhibit B)

B. Public Comment: No public comment

C. Discussion:

- a. Meisel: ZAPCO shouldn't ratify decision to proceed without permit by approving after-the-fact variance
- b. Webber asks why house is designed the way it is when the original plans showed the septic in a compliant location.

D. Action:

- a. Commissioner Webber moves that the variance request be forwarded to the Board of Adjustment with a recommendation of **denial**.
 - 1. Commissioner Pledger Seconds
 - 2. Motion carries (5-0)

The variance request and recommendation will be forwarded to the February 11, 2026 Board of Adjustment Meeting.

10. 300 Block of Laurel Valley Rd: Discuss and make recommendations on proposed variances:

- 1. Allow for a driveway height greater than 6 feet above natural grade (Section 22.03.175(e)(1))
- 2. Allow building height greater than 32 feet above natural grade on a slope of 25% or greater (Section 22.03.279(b))
- 3. Encroach 20 feet into the platted 50-foot front building setback along Yaupon Valley Road (Section 22.03.281)
- 4. Encroach 15 feet into both 25-foot side setbacks (Section 22.03.281)
- 5. Allow fills up to 15 feet where the maximum allowed is 6 feet on slopes of less than 35% (Section 22.03.170(b)– Drainage and Erosion Control Design Manual Section 7.4.1)
- 6. Allow for grading in areas of slopes greater than 35% where none is allowed (Section 22.03.170(b)– Drainage and Erosion Control Design Manual Section 7.4.1)

7. Allow grading greater than 18 inches within setbacks (Section 22.03.170(f)).

Applicant: Matt Garcia

A. Staff Report:

- a. Director Bills describes the site and the requests for variances.
- b. Commissioner Stewart asks Director Bills how many variances are missing
 - 1. Director Bills states there are at least two missing for the currently proposed development
- c. Commissioner Webber asks if the rainwater collection tanks would also need an additional setback encroachment variance
- d. Commissioner Meisel calls for the item to be postponed for the other variances to be addressed, as the request is incomplete

B. Action:

- a. Commissioner Pledger moves to combine items 10 and 11 into a single item and postpone to the February 18 ZAPCO meeting
 - 1. Maccini seconds
 - 2. Motion carries (5-0)

The item was postponed to the February 18, ZAPCO Meeting.

11. **300 Block of Laurel Valley Rd:** Discuss and make recommendations on proposed variances

7. Allow replacement trees for unpermitted removals to be planted at the end of the project, more than 601 days since the final order (Section 22.03.304(c)(5)).

Applicant: Matt Garcia

This item was combined with item 10 and postponed to the February 18 Zoning and Planning Commission meeting.

12. **Adjournment** – Chair Robert Meisel

Chair Meisel adjourns the meeting at 8:38 pm

APPROVED:

Robert Meisel, Chair

ATTEST:

Joel Sherrouse, Development Coordinator

These minutes were approved on _____, 2026.

Exhibit A

116 Skyline Drive – Fence Variance

Applicant's Findings of Fact

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

1. There is a small connector road between Wildcat Hollow and Skyline drive where cars need to stop before turning left on Skyline. The cars stop in a location where the cars are pointed uphill facing our house. This results in flashing lights during the evenings in our living room and outdoor areas. By building louvers into the fence design, it helps to block some of this light, while still providing a degree of transparency.

2. We have invested a lot of money in production of this steel fence, believing it met the 80% rule. The ordinance does not specify whether or not this 80% should be met at all viewing angles. If we do not get the variance we will lose the money we've invested in the fence and have to buy a new one.

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

It is being put in exactly the same place as the fence that has been there for 10 years. Consistent with the ordinance, we will seek to screen the fence with vegetation. For the section of fence that sits just behind an existing stone wall, we plan to grow vines to help make the fence disappear into the landscape.

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

The alternative is to remove the sections of new fence that have been installed and put up a fence similar to the one we had. It will have the same problems with headlights, although we could perhaps mitigate with dense landscaping. However the section of fence where the headlights shine is behind and above a stone wall (see attached pictures) that was installed in 2014 to keep the septic system from eroding into the street. The only way to screen this is either to grow vines on the fence, or to plant new trees in front of the stone wall. We believe the new design will be more effective at growing vines, and have already done this with our side fence (picture attached) successfully. As for the trees in front of wall, the city has told me they would prefer for fire safety reasons to not plant new trees in front of wall.

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

It really comes down to a decision about fence design to help mitigate a unique issue relative to our lot and cars stopping directly in front of the house.

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

A variance was already issued in 2011 for fence location and height. This all comes down to an interpretation of the 80% visibility rule that is somewhat unclear in the ordinance.

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

There is no neighboring property across the street from this fence. If someone wants to look through the louvered fence and see our backyard they can do this. Small animals like mice and squirrels still have an 83% visible path to move in and out of the fence. All of the neighbors we have spoken with like the new fence design better with the old one.

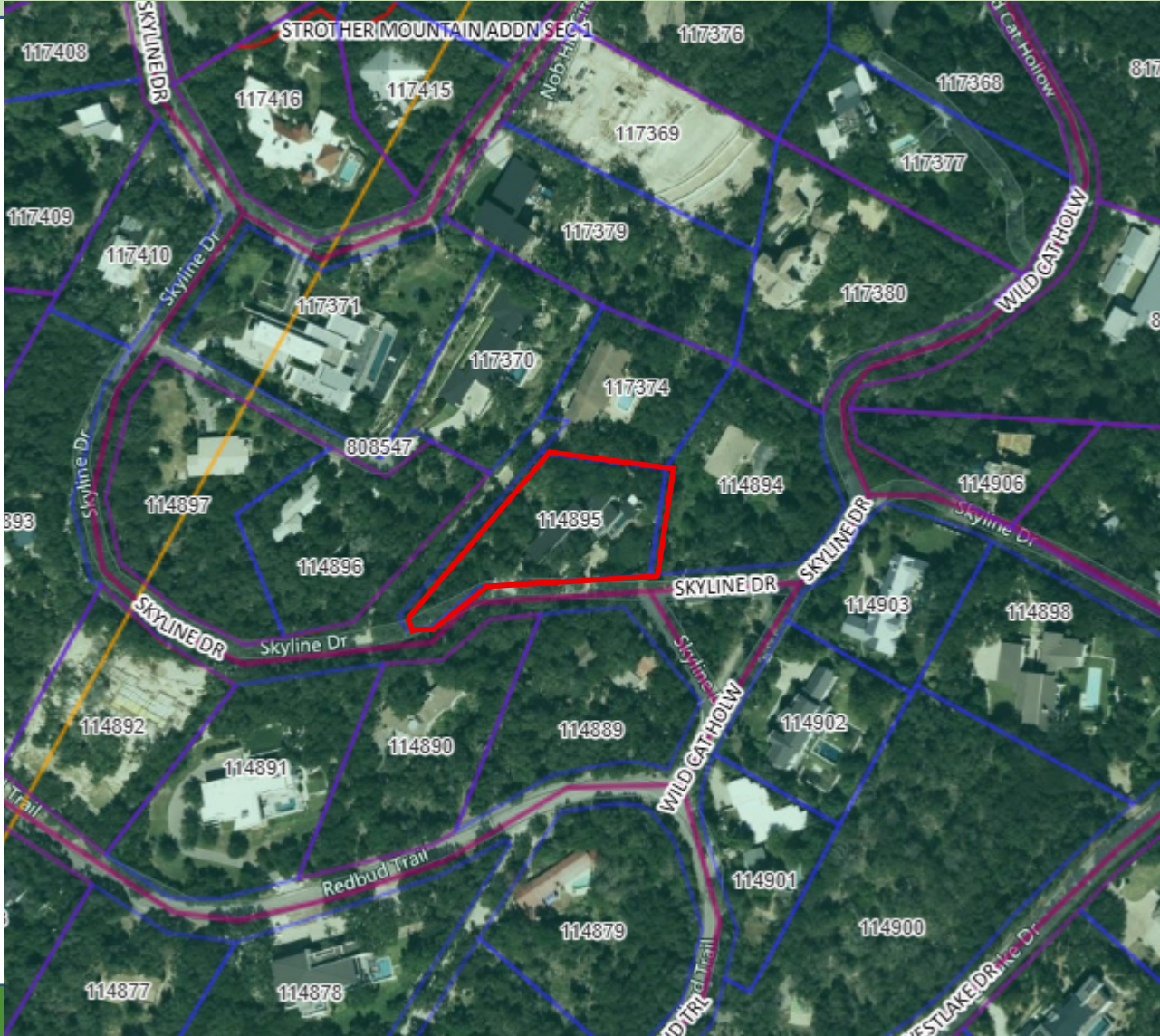
116 Skyline Dr

6. Discuss and make a recommendation to City Council on the following variances for a fence:
1. To allow for the installation of a fence without required landscaping visibility screening a minimum of 80% of the fence between the street and fence (Section 22.03.173(d)(6)(A)(i)).
 2. To allow for the installation of a fence that does not allow 80% visibility through the fence (Section 22.03.173(d)(6)(A)(ii)).

Applicant: Brian Sharples, Property Owner



116 Skyline Dr



116 Skyline Dr

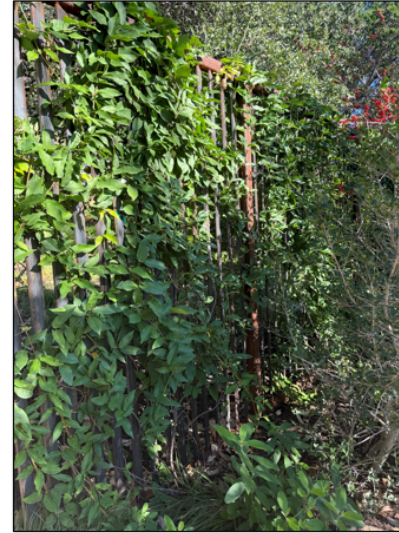
Fence Photographs – 116 Skyline



Existing/old 54”
fence being
replaced



New 54” fence
sections
installed before
shutdown



Side fence
(installed) with
landscaping

Measurement
of new fence
height provided
by applicant.
Measurement
onsite is 72”
from grade.

116 Skyline Dr

Front Yard Transparency Standards

Code Reference:

Section 22.03.173(d)(6)(A)(i) Front-yard fence requirement

Be constructed to allow a minimum of 80% visibility through the front-yard fence prior to the installation of the landscaping required in subsection (6) (A).



116 Skyline Dr

Request:

A variance from the minimum 80% transparency standard at all right-of-way vantage points. The louvered fence panels are set at a 45 degree angle, so when viewed from the west, it meets the 80% transparency, but as you move east, the fence becomes opaque



116 Skyline Dr

Front Yard Landscaping Requirement

Code Reference:

Section 22.03.173(d)(6)(A)(ii) Front-yard fence requirement

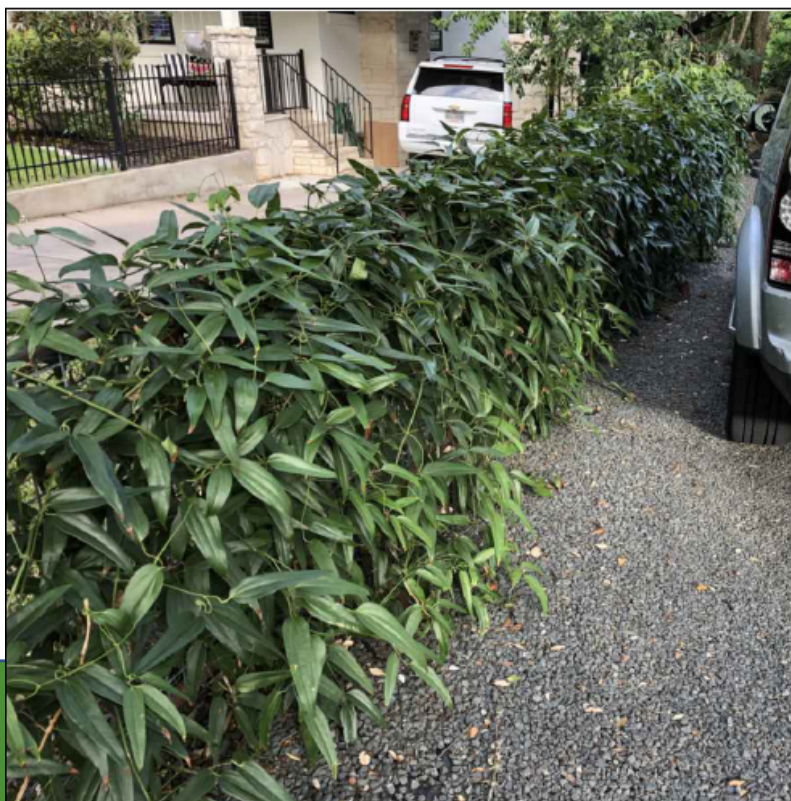
Be landscaped on the side(s) facing the street(s) with native vegetation from the city's recommended plant list so that a minimum of 80% of the total area of the front-yard fence exposed to the streetscape is effectively screened from view.



116 Skyline Dr

Request:

The applicant is requesting to allow for the installation of a fence at the property line and use evergreen clematis directly on the fence to serve as the 80% screening requirement.



116 Skyline Dr

Public Comments:

As of the date of the report, no written public comments were received.



116 Skyline Dr

Discuss and provide a recommendation including the analysis of the following criteria:

1. The variance may violate the intent of this chapter or the goals of the city's comprehensive plan; and
2. The variance may have an adverse effect on neighborhood properties or interfere with the respective owners' enjoyment thereof.

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.

This item will be forwarded to the February 11, 2026 City Council meeting for consideration.



116 SKYLINE FENCE

VARIANCE TO REPAIR/CONSTRUCT NEW FENCE



Replacing existing fence that was destroyed/damaged during construction of detached office in 2022, original fence constructed in 2012. In only location possible due to septic



New louvered fence design to help block headlights from traffic that stops at intersection in front of house



Louvered fence is 80% visible from 45 angle, but not all angles – requiring a variance



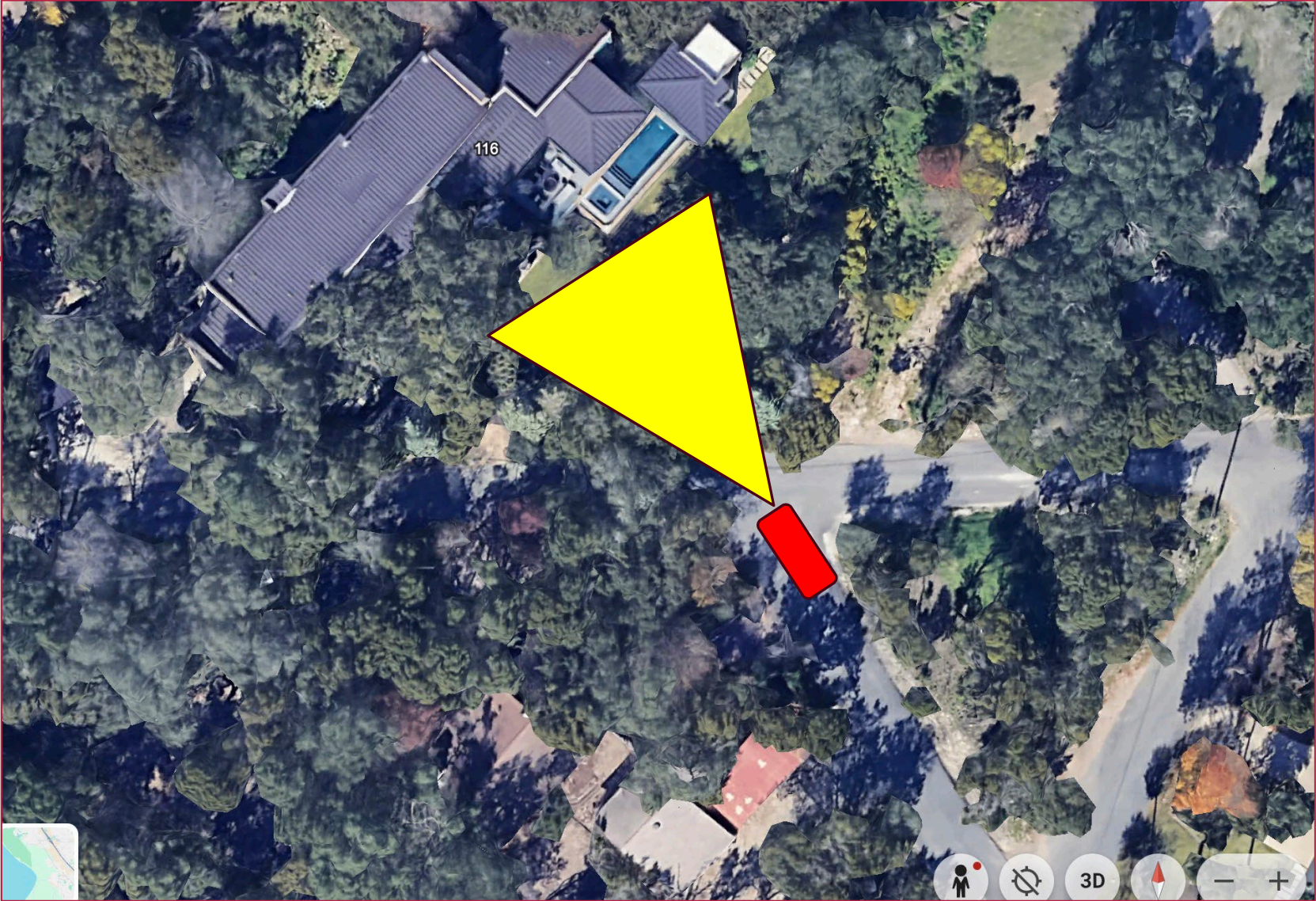
Although fence in same location as previous, city recommended not planting in front of fence for fire safety, requiring additional variance for vines to cover fence instead

1

2

PROBLEM/HARDSHIP

HEADLIGHT ISSUE



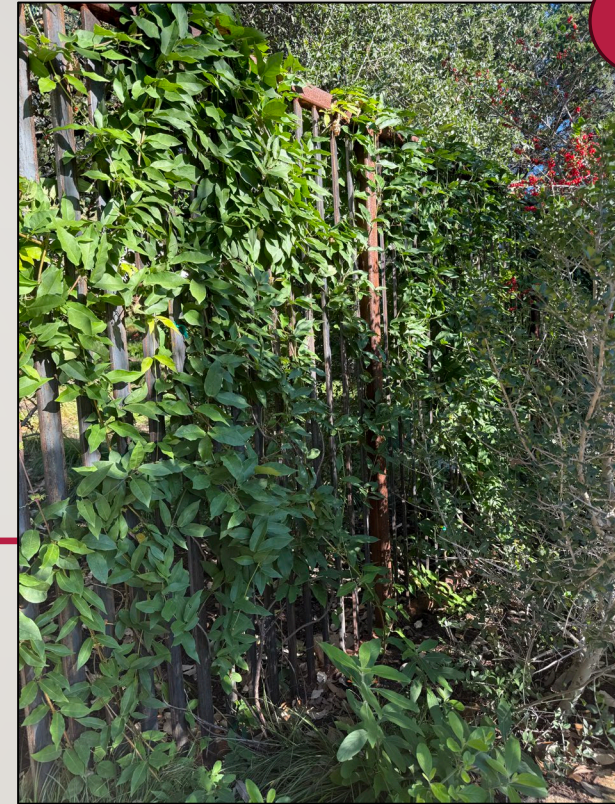
FENCE PHOTOGRAPHS – 116 SKYLINE



Old fence sections damaged



New fence sections installed before shutdown



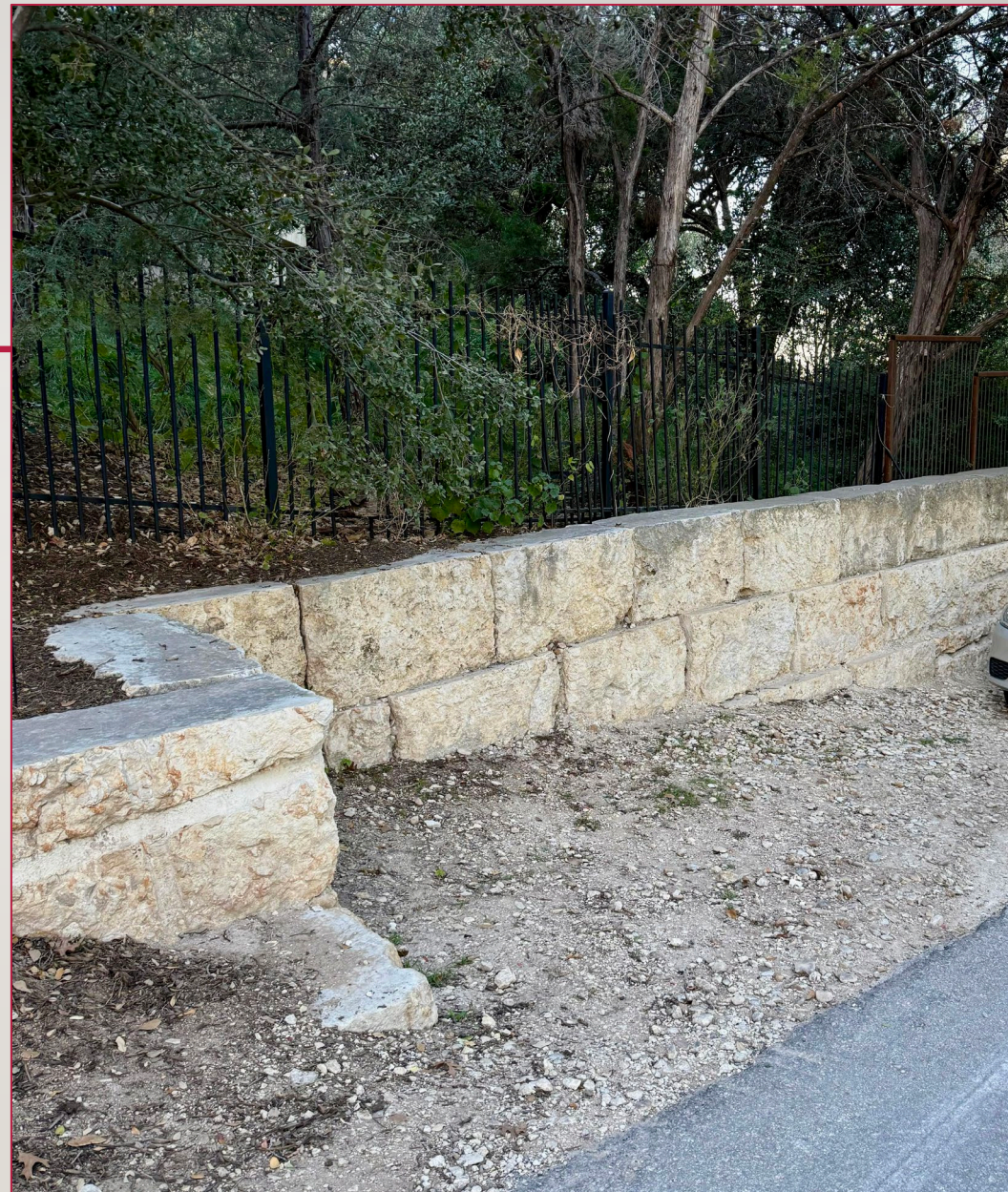
Side fence (installed) with landscaping

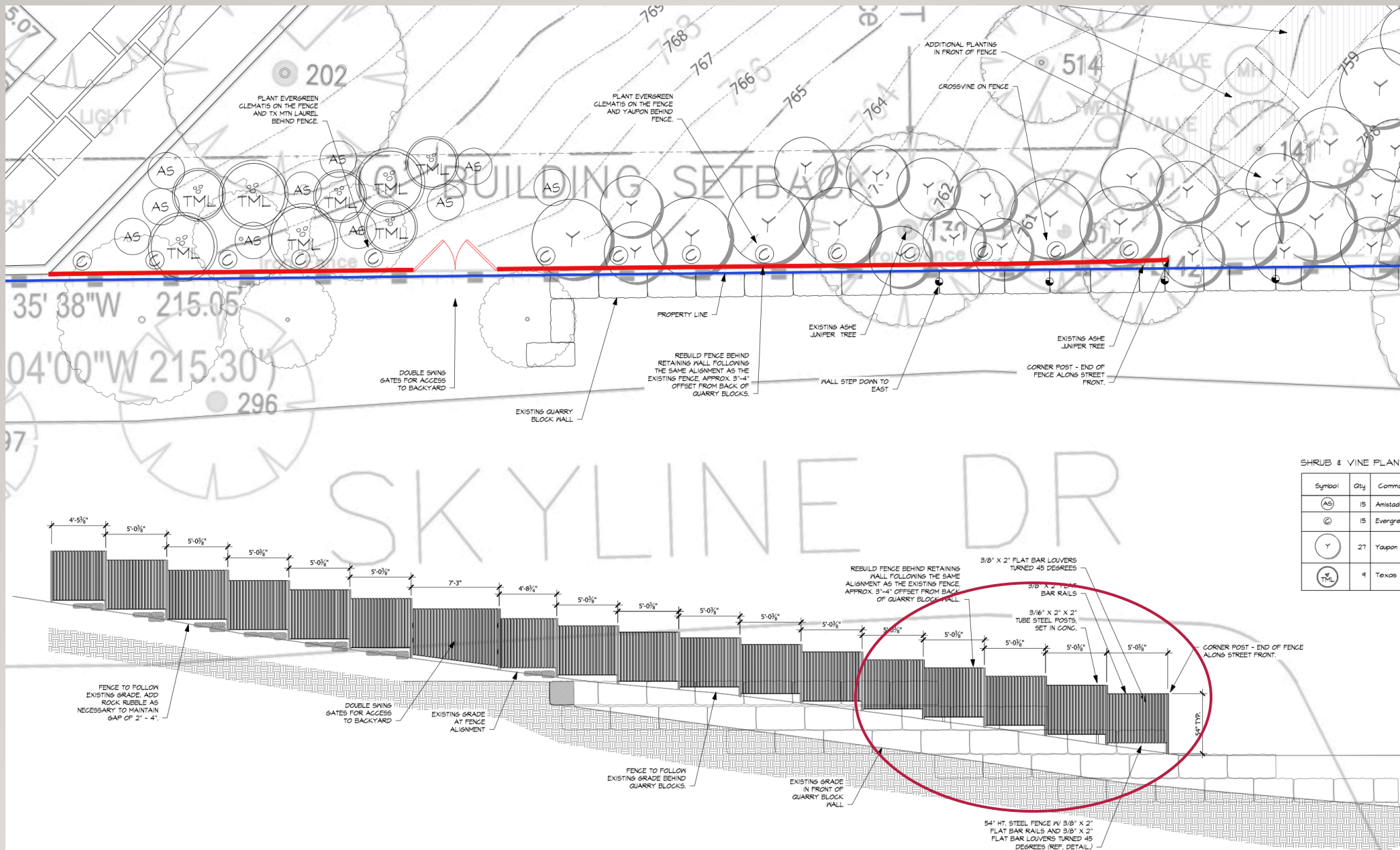
EXISTING RETAINING WALL

COULD PLANT TREES IN FRONT OF WALL

CITY ASKED THAT FOR FIRE PROTECTION
THEY WOULD PREFER WE DO NOT PLANT
HERE

HENCE REQUEST TO SCREEN WITH VINES
IN THIS SECTION (VARIANCE)





SHRUB & VINE PLANT

Symbol	Qty	Common Name
(AS)	15	Amistad
(E)	15	Evergreen
(Y)	27	Yaupon
(T)	9	Texas



AGENDA REPORT

Meeting Date:	<u>February 11, 2026</u>	Item Number:	<u>6</u>
Department:	<u>Building & Development</u>	Cost / Budget:	<u>None</u>
Prepared By:	<u>Jennifer C. Bills</u>	Source of Funds:	<u>N/A</u>
Exhibits:	<u>See Attached</u>		

Subject

1100 Block of Kennan Rd.: Discuss and consider action on a recommendation from ZAPCO on a variance request to reduce the extent of the tree survey requirement for the entirety of a property for a new construction on an undeveloped lot (Section 22.03.304(b)(1)).

Applicant: Paula Ables, Designer/Owner Representative

Recommendation

Hold a public hearing and determine the following findings of fact to approve or deny the requested variances.

1. The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.
2. There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.
3. There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.
4. The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.

The City Council can recommend imposition of reasonable conditions upon granting a variance if the conditions are related to the subject of the variance.

The findings of fact as alleged by the applicant are attached in Exhibit A.

The Zoning and Planning Commission considered the item the January 21, 2026 meeting and recommended **denial** by a vote of 5-0 (Attachment 4).

Discussion

Property Information, Zoning & Site Characteristics:

Owner: William & Annette Paape

Legal Description: Lot 1A El Ojo de Agua Subd Amended Plat of Lot 1 & Lots 1 & 2 Wild Basin Wilderness Sec 2

Lot Size: 2.14 acre

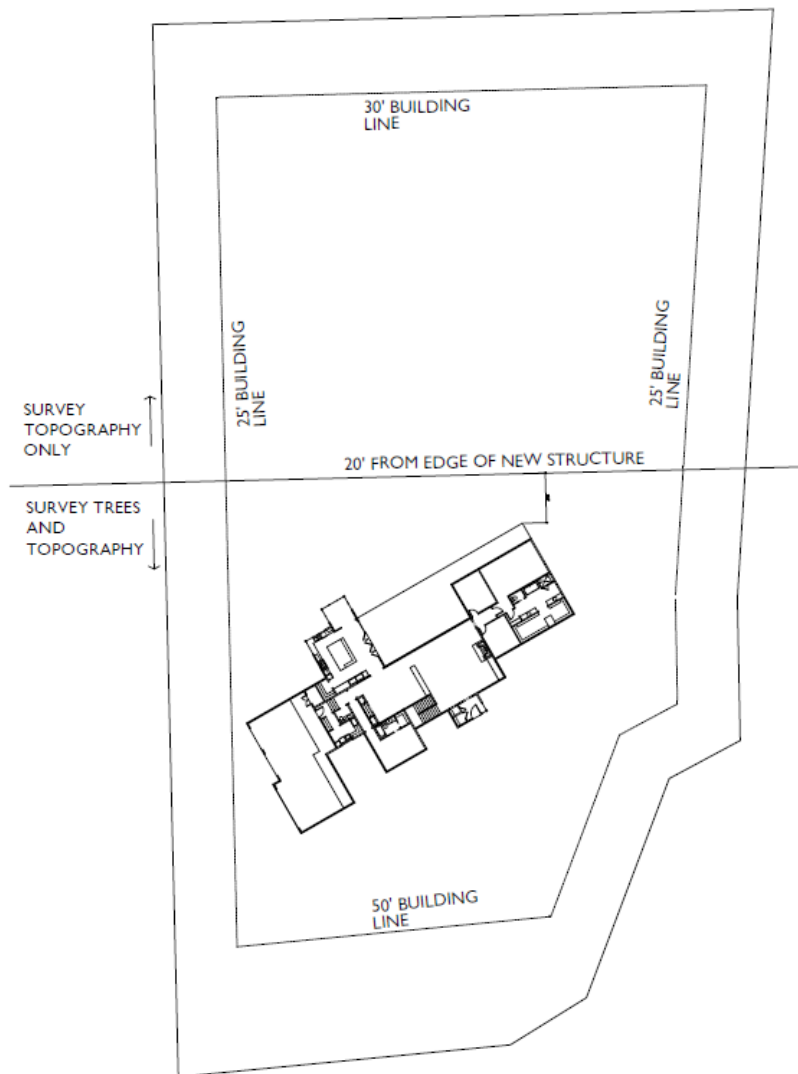
Zoning: R-1, One-Family

Wastewater: On-Site Sewer Facility (Septic)

The properties surrounding the subject property are zoned R-1, One-Family, and GUI, Government, Utility, Institutional

Background & Analysis:

The applicant is requesting a variance to reduce the tree survey requirement for an undeveloped lot. The applicant is requesting to survey only the portion of the lot (Attachment 3) rather than the entire site, as required by Section 22.203.304 (b)(1).



Required Tree Survey

- Tree survey for only a portion of the property.

Code Reference

Section 22.203.304 (b)(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.

Request

The applicant is requesting to survey only the trees 20 feet north of the proposed new structure to the southernmost portion of the property (Attachment 3).

Public Comments:

As of the date of the report, no written comments were received.

Variance Criteria Review:

Variances follow the procedure and notice found in Section 22.03.511 Procedure and notice:

- (a) The city council, when petitioned for a variance, after 16 days' written notice to all property owners within 300 feet of the subject property, shall hold a hearing, and the city council may vary the application of any provision of this article to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of this article or public interest, or when, in its opinion, the interpretation and recommendation of the zoning and planning commission should be modified or reversed.
- (b) A decision of the city council to vary the application of any provision of this article shall specify in what manner such variance is made, the conditions upon which it is made and the reasons thereof.

The criteria and process for granting a variance found in Section 22.03.514:

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

- 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.

• **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.

• **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.

Outdoor Lighting

Outdoor lighting is not proposed with this variance request. Any outdoor lighting will need to comply with the City's Code.

Compliance with Adopted International Building Code

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

Subdivision

There is no change to the subdivision proposed with this application.

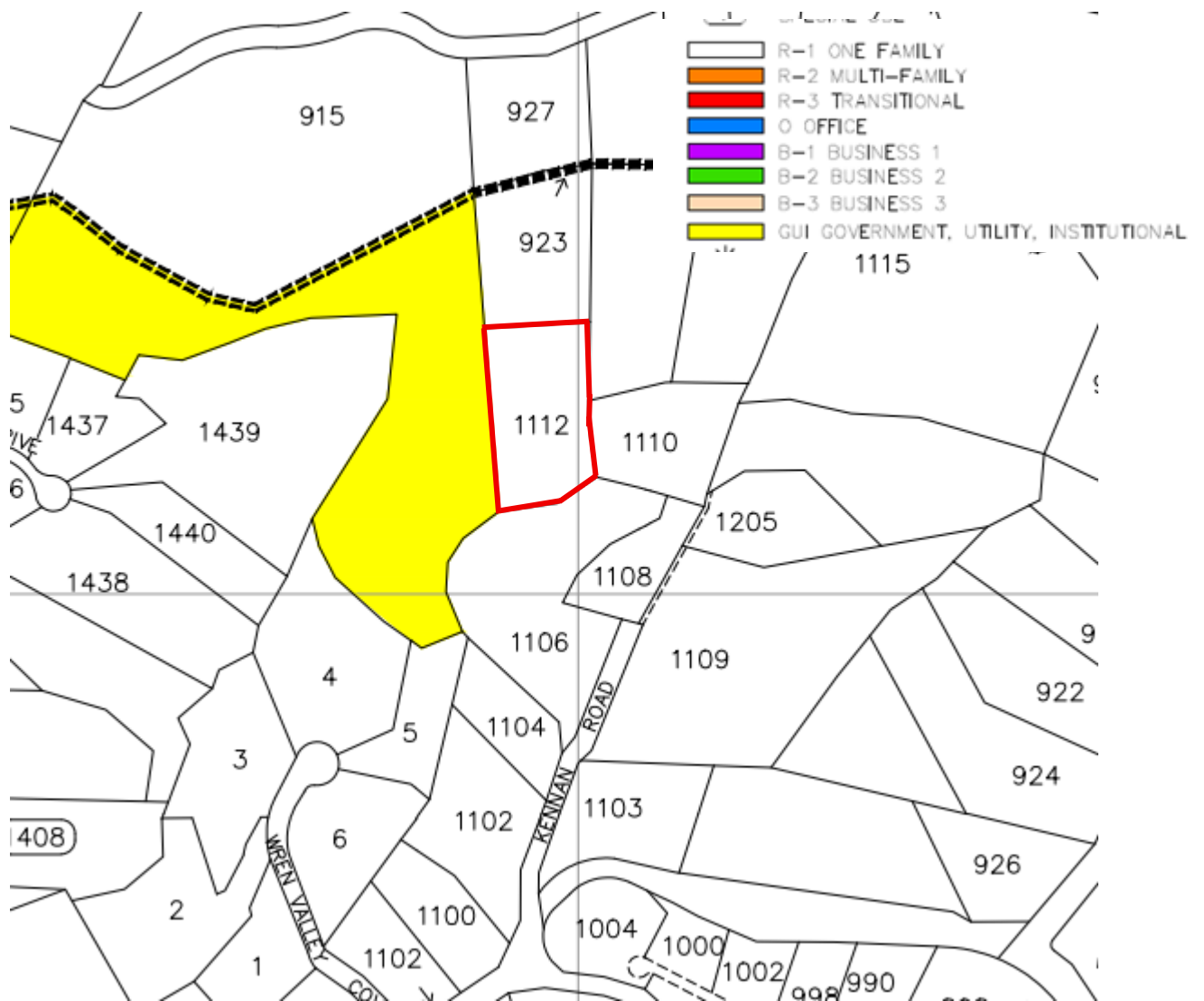
Comprehensive Planning Analysis

The existing and future land use is in conformance with the City of West Lake Hills Master Plan.

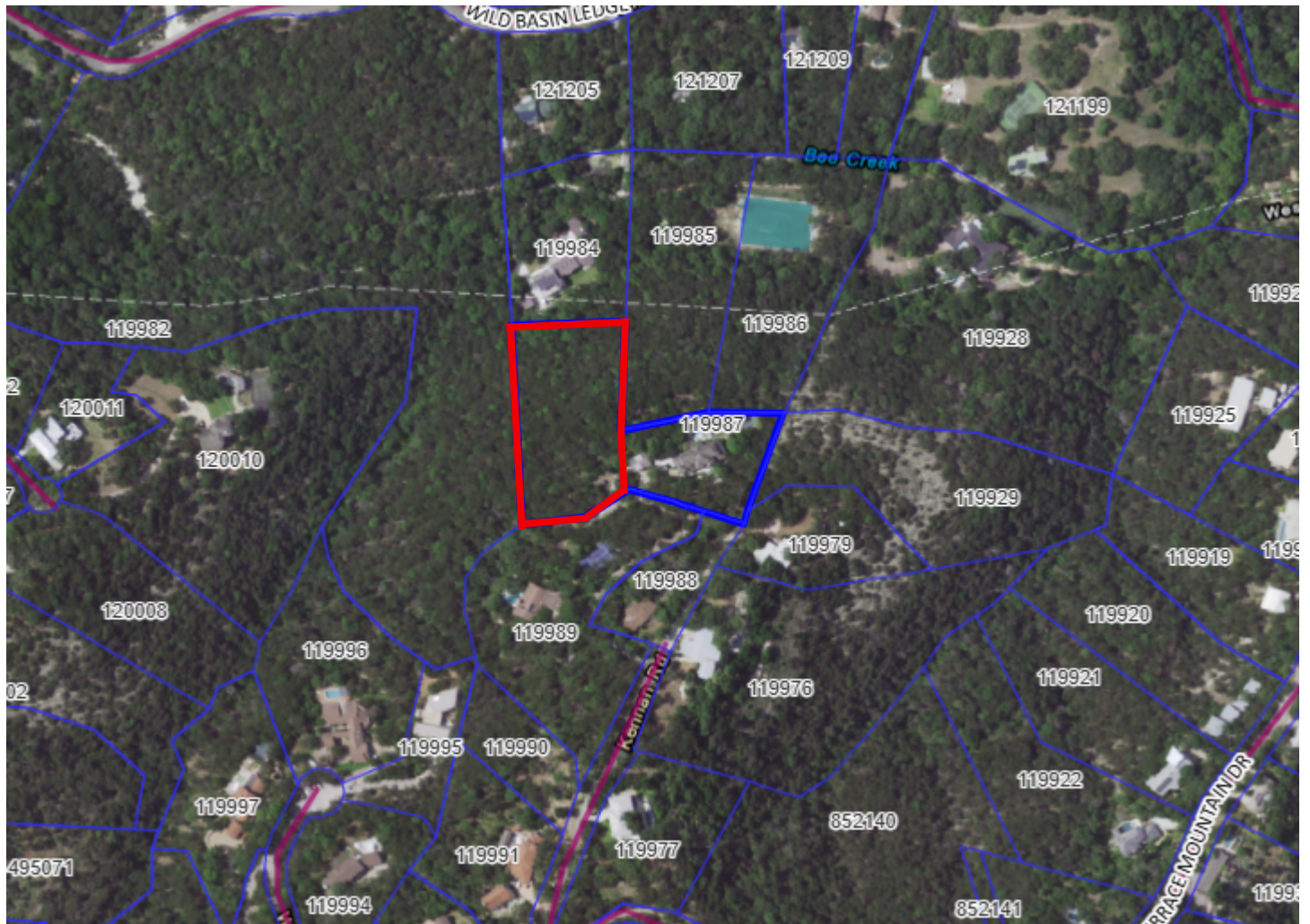
Links to Relevant Code:

- [Section 22.03.304. Tree and vegetation removal and replacement.](#)
- [Section 22.03.514: Criteria and process required for granting variance.](#)
- [Section 22.03.511: Procedure and notice.](#)

Zoning:



Aerial:





December 15, 2025

Dear ZAPCO Chairperson,

I am writing to request a variance from the requirements of City of West Lake Hills Code **§22.03.304(b)(1) 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** for the property located at 1112 Kennan Rd (2.14 acre lot). The code requires that all trees meeting the minimum size threshold be surveyed across the entire property. I am requesting approval to survey only a portion of the lot rather than 100 percent of the site.

The proposed construction is limited to the upper portion of the property, and a significant portion of the lot will remain undisturbed. The property contains more than 100 trees that meet the survey threshold, and the cost associated with surveying every qualifying tree across the entire site is cost prohibitive (\$15 per tree on least expensive bid). Limiting the tree and topographic survey to the area associated with the proposed development would allow the project to move forward while still meeting the intent of the ordinance.

Thank you for your time and consideration of this request. Please let me know if additional information is needed.

Sincerely,

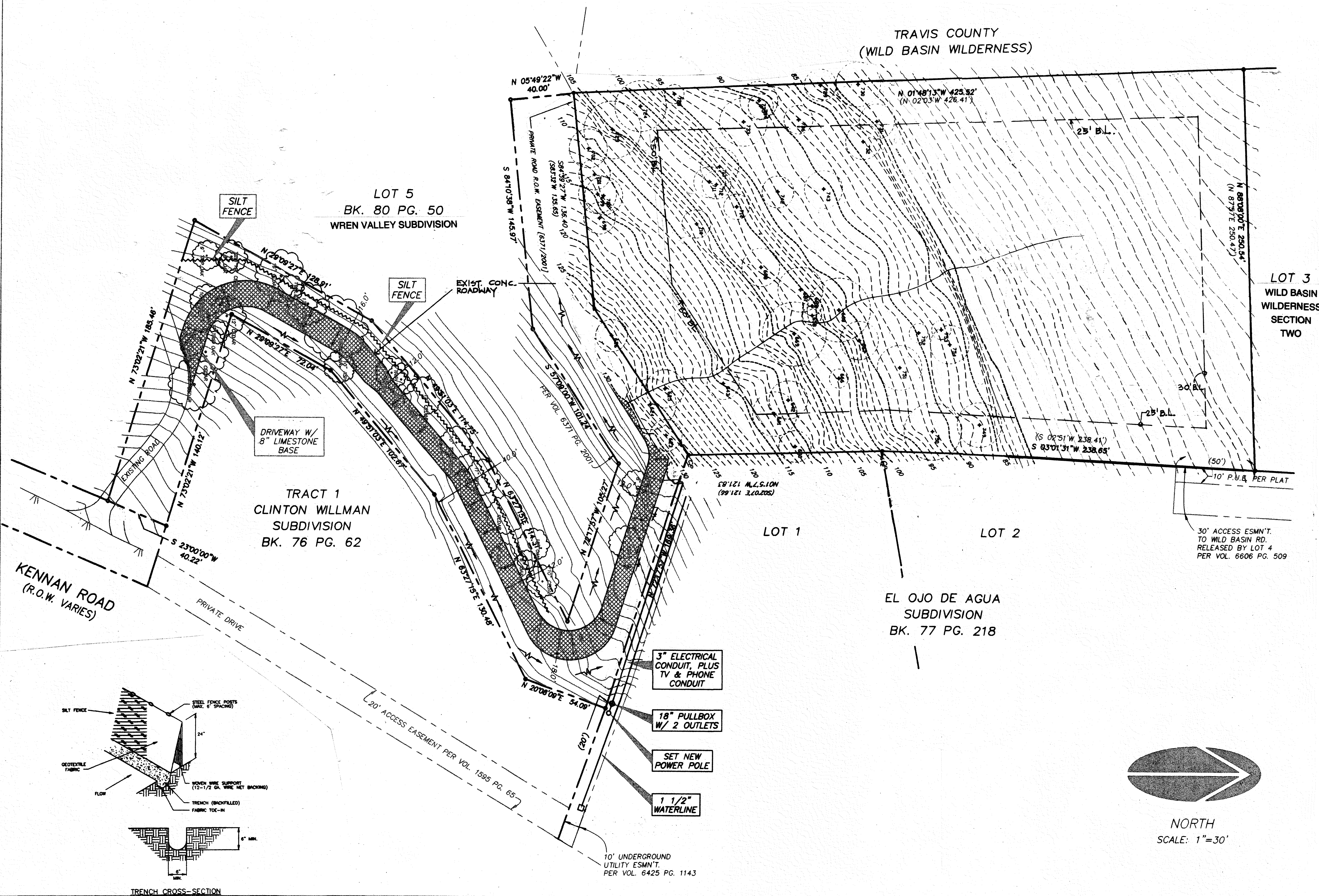
Paula Ables

Designer/Owner Representative

Paula Ables Interiors

Austin, TX 78746 • phone: 512-658-4534 • www.paulaablesinteriors.com

TRAVIS COUNTY
(WILD BASIN WILDERNESS)



LEGEND

●	1/2" IRON PIN FOUND
○	1/2" IRON PIN SET
⊙	1/2" IRON PIPE FOUND
B.L.	BUILDING LINE
P.U.E.	PUBLIC UTILITY EASEMENT
D.E.	DRAINAGE EASEMENT
()	RECORD INFORMATION
—	WOOD FENCE
—	CHAIN LINK FENCE
x	WIRE FENCE
—	OVERHEAD ELECTRIC
—	GUY WIRE

TREE DESCRIPTION

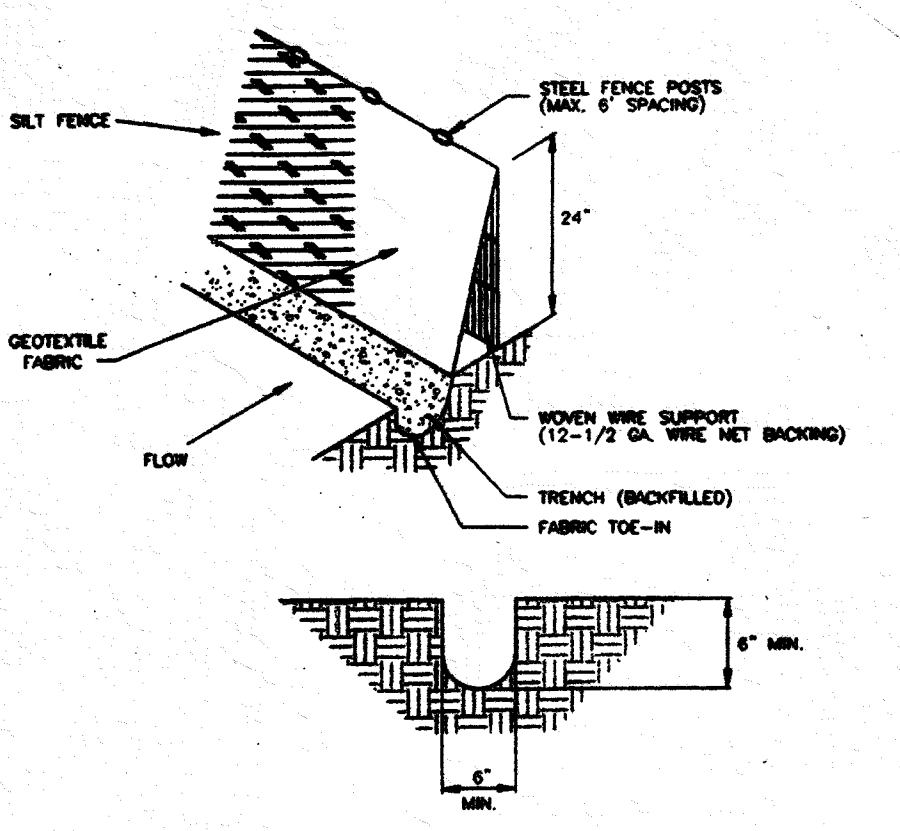
623	10" LIVE OAK
624	16" CEDAR
625	12" CEDAR
626	10" CEDAR
640	10" SPANISH OAK
641	14" CEDAR
642	12" CEDAR
643	10" CEDAR
666	8" SPANISH OAK
667	12" CEDAR
668	TRIPLE 10" CEDAR
669	TRIPLE 10" CEDAR
687	14" CEDAR
688	12" CEDAR
689	8" SPANISH OAK
698	10" CEDAR
699	12" CEDAR
700	12" CEDAR
701	10" CEDAR
702	12" CEDAR
710	DOUBLE 8" SPANISH OAK
711	10" LIVE OAK
712	DOUBLE 8" LIVE OAK
713	TRIPLE 8" SPANISH OAK
714	8" LIVE OAK
723	8" LIVE OAK
724	16" CEDAR
725	18" CEDAR
729	10" CEDAR
730	14" CEDAR
731	TRIPLE 8 & 6" SPANISH OAK
732	TRIPLE 8 & 6" SPANISH OAK
733	CLUSTER OF 6" SPANISH OAKS
734	8" SPANISH OAK
735	TRIPLE 8" SPANISH OAK
736	DOUBLE 8" SPANISH OAK
742	10" LIVE OAK
743	12" CEDAR
749	14" CEDAR
750	18" CEDAR
751	14" CEDAR
752	8" SPANISH OAK
753	8" SPANISH OAK
754	DOUBLE 8" SPANISH OAK

LEGAL DESCRIPTION: LOT 4, WILD BASIN WILDERNESS SECTION TWO, AN ADDITION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF RECORD IN BOOK 75, PAGE 274, PLAT RECORDS OF TRAVIS COUNTY, TEXAS, TOGETHER WITH A 40' NON-EXCLUSIVE PRIVATE ROAD RIGHT-OF-WAY EASEMENT DESCRIBED IN INSTRUMENT RECORDED IN VOLUME 8371, PAGE 2001, DEED RECORDS OF TRAVIS COUNTY, TEXAS.

STARNES RESIDENCE—1112 KENNAN RD.

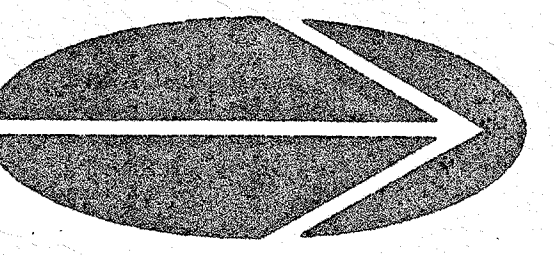
REV. DATE	REVISIONS DESCRIPTION	APPROVED BY

PROJECT: KENNAN ROAD
SCALE: 1" = 30'

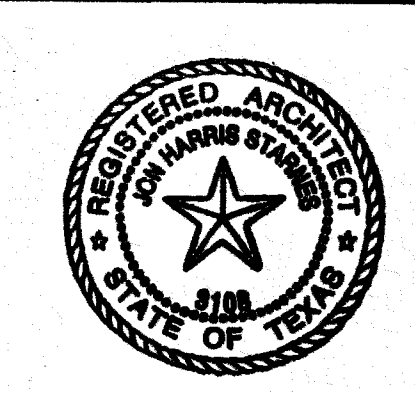


- GENERAL NOTES:**
- STEEL POSTS WHICH SUPPORT THE SILT FENCE SHALL BE INSTALLED ON A SLIGHT ANGLE TOWARD THE ANTICIPATED RUNOFF SOURCE. POST MUST BE EMBEDDED A MINIMUM OF ONE FOOT.
 - THE TOE OF THE SILT FENCE SHALL BE TRENCHED IN WITH A SPADE OR MECHANICAL TRENCHER, SO THAT THE DOWNFLOW FACE OF THE TRENCH IS FLAT AND PERPENDICULAR TO THE LINE OF FLOW. WHERE FENCE CAN NOT BE TRENCHED IN (E.G. PAVEMENT) WEIGHT FABRIC FLAP WITH WASHED GRAVEL ON UPHILL SIDE TO PREVENT FLOW UNDER FENCE.
 - THE TRENCH MUST BE A MINIMUM OF 6 INCHES DEEP AND 6 INCHES WIDE TO ALLOW FOR THE SILT FENCE FABRIC TO BE LAID IN THE GROUND AND BACKFILLED WITH COMPACTED MATERIAL.
 - SILT FENCE SHOULD BE SECURELY FASTENED TO EACH STEEL SUPPORT POSTS OR TO WOVEN WIRE, WHICH IS IN TURN ATTACHED TO THE STEEL FENCE POST.
 - INSPECTION SHOULD BE MADE WEEKLY OR AFTER EACH RAINFALL EVENT AND REPAIR OR REPLACEMENT SHALL BE MADE PROMPTLY AS NEEDED.
 - SILT FENCE SHALL BE REMOVED WHEN THE SITE IS COMPLETELY STABILIZED SO AS NOT TO BLOCK OR RAPEDE STORM FLOW OR DRAINAGE.
 - ACCUMULATED SILT SHALL BE REMOVED WHEN IT REACHES A DEPTH OF 6 INCHES. THE SILT SHALL BE DISPOSED OF IN AN APPROVED SITE AND IN SUCH A MANNER AS TO NOT CONTRIBUTE TO ADDITIONAL SITUATION.

STANDARD SYMBOL $\frac{SF}{L=}$
SILT FENCE
N.T.S.



NORTH
SCALE: 1" = 30'



Mr. & Mrs. Jon H. Starnes Residence
Address
1112 Kennan Road
West Lake Hills, Texas 78746

Legal Description
Lot 4, Wild Basin Wilderness, Section Two
Travis County, Book 75, Page 274

Architect
Allied Interests Inc.
816 Terrace Mountain Dr.
West Lake Hills, Texas 78746
(512) 327-6318

Builder
Christopher Homes
PMB 266, 134-92 Research Blvd., Ste. 120
Austin, Texas 78750
(512) 249-5932

DATE

SHEET NO.

30' BUILDING LINE

25' BUILDING LINE

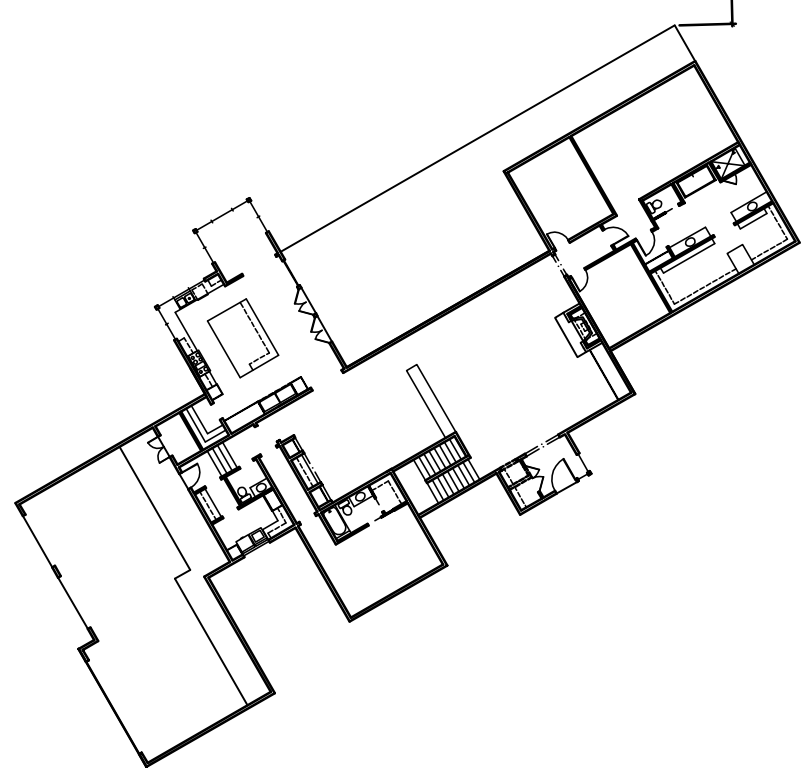
25' BUILDING LINE

20' FROM EDGE OF NEW STRUCTURE

50' BUILDING LINE

SURVEY TOPOGRAPHY ONLY

SURVEY TREES AND TOPOGRAPHY



City of West Lake Hills

MINUTES OF A ZONING & PLANNING COMMISSION (ZAPCO) REGULAR MEETING

Wednesday, January 21, 2026 at 6:30 PM

1. **Call to Order: Chair Robert Meisel**

- a. Meeting begins at 6:30pm
- b. Roll Call
 1. Chair Robert Meisel: Present
 2. Vice-Chair Jim Pledger: Present
 3. Commissioner Julia Webber: Present
 4. Commissioner Karen Bartoletti: Present
 5. Commissioner Patrick Stewart: Present
 6. Commissioner Laurie Maccini: Present

2. **Citizen Communications:**

- a. No public comments

3. **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 November 14, 2025 Zoning and Planning Commission Workshop Minutes
- b. Approval of the November 19, 2025 Zoning and Planning Commission Meeting Minutes
- c. Approval of the January 7, 2026 Zoning and Planning Commission Workshop Minutes
- d. Report of previous ZAPCO cases acted on by the BOA/City Council

Action: Commissioner Stewart moves for approval of the Consent Agenda

- i. Commissioner Maccini Seconds
- ii. Motion carries unanimously (5–0)

4. **Public Hearing 109 Swiftcurrent Trl.:** Discuss and consider a recommendation to the City Council on variances for a fence:

1. To allow for a fence encroachment into the 30-foot front-yard fence setback (Section 22.03.173(d)(6)(B)(ii)).

2. To allow for the placement of fence posts within the ½ and ¼ critical root zones of protected trees (Section 22.03.3052 (b)).

Applicant: Sara Charles, Property Owner

The application was withdrawn by applicant shortly before the meeting.

5. Public Hearing 4904 Old Bee Cave Rd: Discuss and consider a recommendation to the City Council on the following variances for a fence:
 1. To allow for a fence encroachment into the 30-foot front-yard fence setback (Section 22.03.173(d)(6)(B)(ii)).
 2. To allow for the installation of a fence that does not allow 80% visibility through the fence (Section 2.03.173(d)(6)(A)(i)).
 3. To allow for a fence without the required minimum 80% landscaping screening (Section 22.03.173(d)(6)(A)(i)).
 4. To allow for the installation of a fence with a height of 7 feet above natural grade (Section 22.03.173(d)(9)(A)).

Applicant: Dylan Freytag, Property Owner

A. Staff Report:

- a. Director Bills describes fence that was installed without permits. The owner was misinformed by their contractor that they did not need permits for the fence. Director Bills describes the four areas of code where the fence, as installed, would require variances. Director Bills also explains that the location of the fence would require any screening to be located in the Right-of-Way.
- b. Commissioner Pledger points out that a written comment in opposition to the fence at 109 Swiftcurrent provided prior to the 4904 Old Bee Cave variance application also included this fence.
- c. Commissioner Bartoletti asks if there are two legal lots involved
 - i. Director Bills clarifies there are not two legal lots involved, just one
- d. Commissioner Webber asks Director Bills if there are any possible repercussions for contractors misinforming clients or violating code.
 - i. Director Bills explains that contractor registrations can be suspended for repeated violations and that citations can be issued to contractors.

- e. Commissioner Maccini asks about the right-of-way vegetation and who takes care of it.
 - i. Director Bills explains that homeowners are responsible for the vegetation from the property line to the street, but TXDOT and utility providers will sometimes maintain or clear the vegetation.

B. Public Comments:

- a. **Dylan Freytag, Applicant:** Shares prepared presentation and answers questions from commissioners
- b. **Lousia Cauvin, Neighbor:**
 - i. Spoke in opposition to variance

C. Discussion:

- a. Commissioner Stewart asks applicant about a gate and Knox box encroaching on the ROW.
- b. Commissioner Maccini indicates that the property has been between commercial property for decades but understands the increase in traffic along Bee Cave. Supportive of screening, but not in favor of proximity of fence to ROW.
- c. Chair Meisel points out that the deed is 3 months old, and that traffic has not increased substantially since the time at which the applicant chose to purchase the property, and also believes that the contractor is responsible, not the homeowner or the City.
- d. Commissioner Webber indicates they are not in favor of variance for location but may be willing to compromise on height or a certain percentage of transparency.

D. Action:

- a. Commissioner Pledger moves to forward the variances to City Council with a recommendation of **denial** based on a lack of hardship.
 - i. Commissioner Webber seconds
 - ii. Motion carries unanimously (5-0)

The variance request and recommendation will be forwarded to the February 11, 2026 City Council Meeting.

- 6. Public Hearing 116 Skyline Dr.: Discuss and make a recommendation to City Council on the following variances for a fence:

- 1. To allow for the installation of a fence without required landscaping visibly screening a minimum of 80% of the fence between the street and fence (Section 22.03.173(d)(6)(A)(i)).

2. To allow for the installation of a fence that does not allow 80% visibility through the fence (Section 22.03.173(d)(6)(A)(i)).

Applicant: Bryan Sharples, Property Owner

A. Staff Report:

- a. Director Bills describes the previous fence variance at the property approved in 2011 and describes the 80% transparency threshold with the new style of fence which is transparent from a specific angle, but becomes opaque when moving along the fence.
 - a. Director Bills also explains that while the variance request indicated that the fence met the height limits established in conditions for previous variance, that staff measured the fence at 6 feet prior to meeting, which would require an additional variance request.
- b. Commissioner Pledger asks about the screening of the fence with vines.
 - a. Commissioner Webber points out that there are no vines on the City's approved plant list.
- c. Commissioner Stewart asks about the 80% transparency rule at all angles
- d. Commissioner Webber asks if the previous variance addressed screening
 - a. Director Bills indicates the previous variance did not address screening directly, but that it specifically indicated all other ordinances related to fences should be followed.
- e. Commissioner Pledger indicates that he believes that the fence is compliant.

B. Public Comments:

- a. **Bryan Sharples, Applicant**
 - a. Shares presentation regarding fence
- b. **Jeffery Dochen, Neighbor**
 - a. Speaks in favor of variance

C. Discussion:

- a. Commissioner Maccini expresses sympathy due to lights, but that other solutions exist that do not require variances.
- b. Commissioners Stewart and Pledger express that they believe the fence is in compliance with the 80% rule.
- c. Commissioner Maccini states there are native vine plants that could be used to screen the fence.
- d. Commissioner Meisel recommends taking the 80% rule to council.

- e. Following discussion of whether or not the fence is in compliance with the 80% rule, Assistant City Attorney Thamm explains that the hearing is related to a variance to the code, not a review of staff determination.

D. Action:

- a. Commissioner Pledger moves to forward the variances to City Council with a recommendation of **approval**.
 - a. Commissioner Bartoletti seconds
 - b. Motion carries (3-2)
 - 1. Commissioners Webber and Maccini opposed

The variance request and recommendation will be forwarded to the February 11, 2026 City Council Meeting.

- 7. **1100 Block of Kennan Rd.** Discuss and consider a recommendation to City Council on a variance request to reduce the extent of the tree survey requirement for the entirety of a property for a new construction on an undeveloped lot.

Applicant: Paula Ables, Designer/Owner Representative

A. Staff Report:

- a. Director Bills describes that all new construction projects with no existing structure require a tree survey for the entire lot, but the applicant is requesting a reduction of the required survey.
- b. Commissioner Webber asks if the site plan has been submitted
 - 1. Director Bills explains that no site plans other than the exhibit in the packet have been made available for staff.

B. Public Comment:

- a. Paula Ables, Designer and Representative: Clarifies questions and concerns from commissioners

C. Discussion:

- a. Chair Meisel shares that the construction of the house is already expensive and that the expense of the tree survey should not be a hardship
- b. Commissioner Maccini believes the applicant is asking for full credit for impervious cover and drainage for the entirety of the lot without having to perform a full analysis of the lot.
- c. Chair Meisel states that the tree survey is required and needs to be part of the application as a historical document
 - 1. Commissioner Webber agrees and states that there must be context for the whole scope of the property for mitigation

D. Action:

- a. Commissioner Bartoletti moves to forward the variance request to City Council with a recommendation of **denial** based on lack of hardship.
 - 1. Commissioner Pledger seconds
 - 2. Motion carries (5-0)

The variance request and recommendation will be forwarded to the February 11, 2026 City Council Meeting.

- 8. **701 S Capital of Texas Highway (Sweetgreen):** Discuss and consider a recommendation to City Council for the following variances

- 1. For the installation of a wall sign exceeding the maximum 10-foot length (Section 32.03.009(2) West Lake Hills Code)
- 2. For the installation of a second sign for a restaurant with square footage of less than 5,000 square feet (Section II.B.1, Village at Westlake Uniform Signage Criteria)

Applicant: Jesus Sanchez, Santech Signs, LLC

A. Staff Report:

- a. Director Bills shares the history of the uniform sign agreement and describes the variances to the agreement and the City’s sign code.

B. Public Comment

- a. Jesus Sanchez, Applicant:
 - 1. Speaks in favor of the variance

C. Discussion:

- a. Bartoletti indicates approval for the request

D. Action:

- a. Commissioner Bartoletti moves that the variance request be forwarded to City Council with a recommendation of **approval**.
 - 1. Commissioner Maccini seconds
 - 2. Motion carries (5-0)

The variance request and recommendation will be forwarded to the February 11, 2026 City Council Meeting.

- 9. **603 Spurlock Valley Rd :** Discuss and make a recommendation to the Board of Adjustment on a variance to install a new septic tank encroaching on the 30-foot front building setback (Section 22.03.276 & Section 22.03.281)

Applicant: James Kuykendall, Sunset Construction & Excavation

A. Staff Report:

- a. Director Bills describes the variance for a septic tank location. The house had initially been permitted with the tank in a compliant location but requested a new location for the septic at a later date.
- b. Commissioner Bartoletti asks about flooding issues
 - 1. Director Bills explains that there is no drainage easement or FEMA floodplain at location
- c. Applicant did not attend meeting but provided comment via email that was read by commissioners on the dais (Exhibit B)

B. Public Comment: No public comment

C. Discussion:

- a. Meisel: ZAPCO shouldn't ratify decision to proceed without permit by approving after-the-fact variance
- b. Webber asks why house is designed the way it is when the original plans showed the septic in a compliant location.

D. Action:

- a. Commissioner Webber moves that the variance request be forwarded to the Board of Adjustment with a recommendation of **denial**.
 - 1. Commissioner Pledger Seconds
 - 2. Motion carries (5-0)

The variance request and recommendation will be forwarded to the February 11, 2026 Board of Adjustment Meeting.

10. 300 Block of Laurel Valley Rd: Discuss and make recommendations on proposed variances:

- 1. Allow for a driveway height greater than 6 feet above natural grade (Section 22.03.175(e)(1))
- 2. Allow building height greater than 32 feet above natural grade on a slope of 25% or greater (Section 22.03.279(b))
- 3. Encroach 20 feet into the platted 50-foot front building setback along Yaupon Valley Road (Section 22.03.281)
- 4. Encroach 15 feet into both 25-foot side setbacks (Section 22.03.281)
- 5. Allow fills up to 15 feet where the maximum allowed is 6 feet on slopes of less than 35% (Section 22.03.170(b)– Drainage and Erosion Control Design Manual Section 7.4.1)
- 6. Allow for grading in areas of slopes greater than 35% where none is allowed (Section 22.03.170(b)– Drainage and Erosion Control Design Manual Section 7.4.1)

7. Allow grading greater than 18 inches within setbacks (Section 22.03.170(f)).

Applicant: Matt Garcia

A. Staff Report:

- a. Director Bills describes the site and the requests for variances.
- b. Commissioner Stewart asks Director Bills how many variances are missing
 - 1. Director Bills states there are at least two missing for the currently proposed development
- c. Commissioner Webber asks if the rainwater collection tanks would also need an additional setback encroachment variance
- d. Commissioner Meisel calls for the item to be postponed for the other variances to be addressed, as the request is incomplete

B. Action:

- a. Commissioner Pledger moves to combine items 10 and 11 into a single item and postpone to the February 18 ZAPCO meeting
 - 1. Maccini seconds
 - 2. Motion carries (5-0)

The item was postponed to the February 18, ZAPCO Meeting.

11. **300 Block of Laurel Valley Rd:** Discuss and make recommendations on proposed variances

7. Allow replacement trees for unpermitted removals to be planted at the end of the project, more than 601 days since the final order (Section 22.03.304(c)(5)).

Applicant: Matt Garcia

This item was combined with item 10 and postponed to the February 18 Zoning and Planning Commission meeting.

12. **Adjournment** – Chair Robert Meisel

Chair Meisel adjourns the meeting at 8:38 pm

APPROVED:

Robert Meisel, Chair

ATTEST:

Joel Sherrouse, Development Coordinator

These minutes were approved on _____, 2026.

Exhibit A

1100 Block Kennan Rd – Tree Survey Variance

Applicant's Findings of Fact

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 property is 2.14 acres and contains over 100 trees that meet the 3" tagging requirement. The lowest survey quote received is \$15 per tree, making full compliance cost prohibitive, particularly since much of the property will remain undisturbed by the proposed construction. Additionally, the driveway from the street is a shared easement with numerous trees that will not be impacted, and we request that these trees not be required to be surveyed.

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

We intend to only touch the top 1/2 of the property to build a new home. The bottom 1/2 of the property will remain untouched.

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

We would like to have the top 1/2 of the property surveyed for trees per the code requirement. We are happy to have all trees within 20' (\pm) of the proposed new home on the survey as well if that extends past the 1/2 mark of the property

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

We believe only tagging trees 20' from the lowest edge of the proposed new home gives all of the information that the city would need to approve or deny the construction of the new home once the plans have been completed. Beyond that area, we do not plan to touch. It will stay wild and natural.

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

This does not violate the goals of the city because we do not intend to touch the lower part of the property at all. We would like it to stay natural and wild.

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

This variance request does not affect the neighbor in any way. We would like to not survey a part of the trees on the lot. There will be no cutting or clearing planned for these areas.

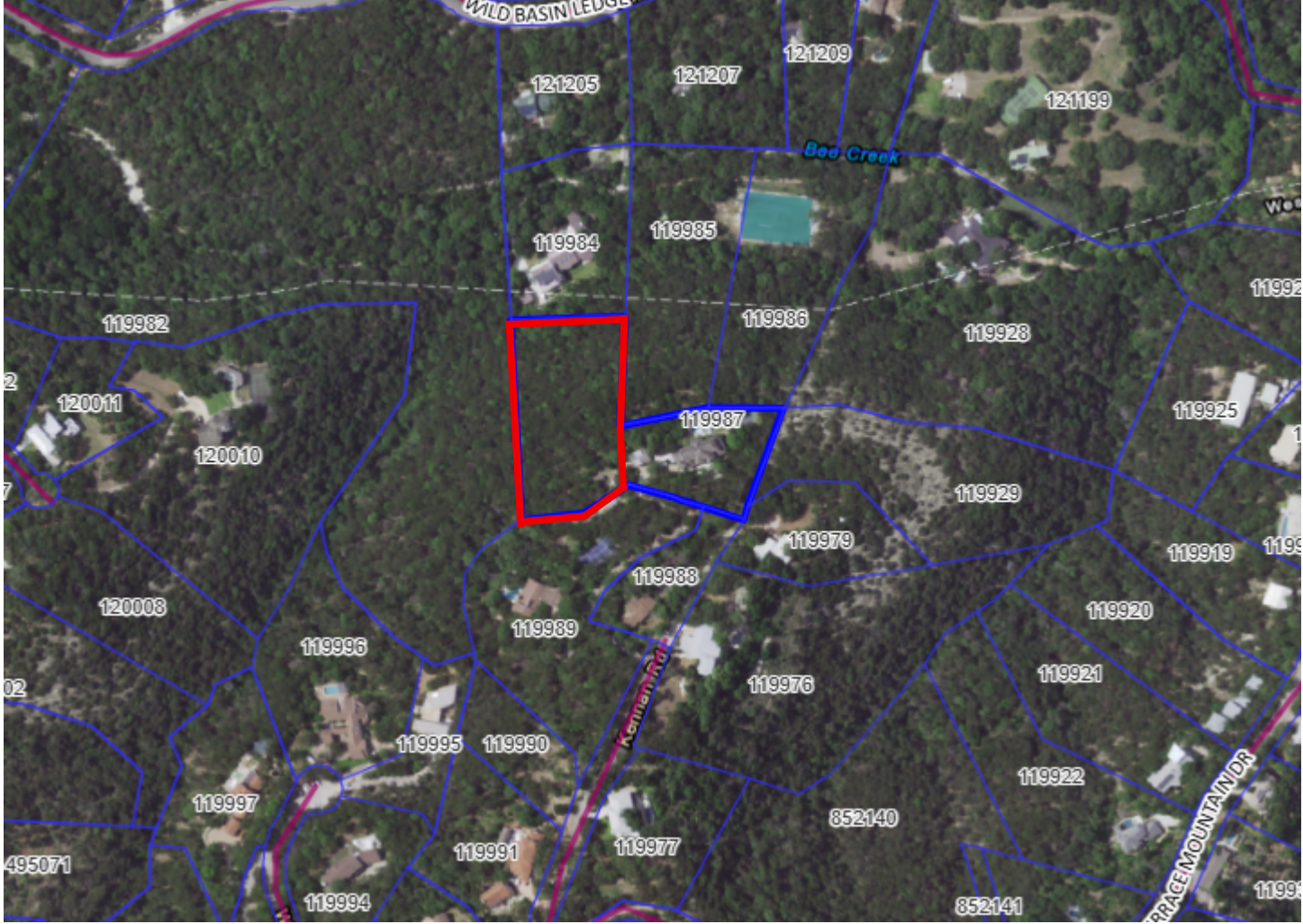
1100 Block of Kennan Rd

7. Discuss and consider action on a recommendation from ZAPCO on a variance request to reduce the extent of the tree survey requirement for the entirety of a property for a new construction on an undeveloped lot (Section 22.03.304(b)(1)).

Applicant: Paula Ables, Designer/Owner Representative



1100 Block of Kennan Rd



1100 Block of Kennan Rd

The applicant is requesting a variance to reduce the tree survey requirement for an undeveloped lot. The applicant is requesting to survey only the portion of the lot rather than the entire site, as required by Section 22.203.304 (b)(1).



1100 Block of Kennan Rd

Required Tree Survey

Code Requirements

Section 22.203.304 (b)(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.

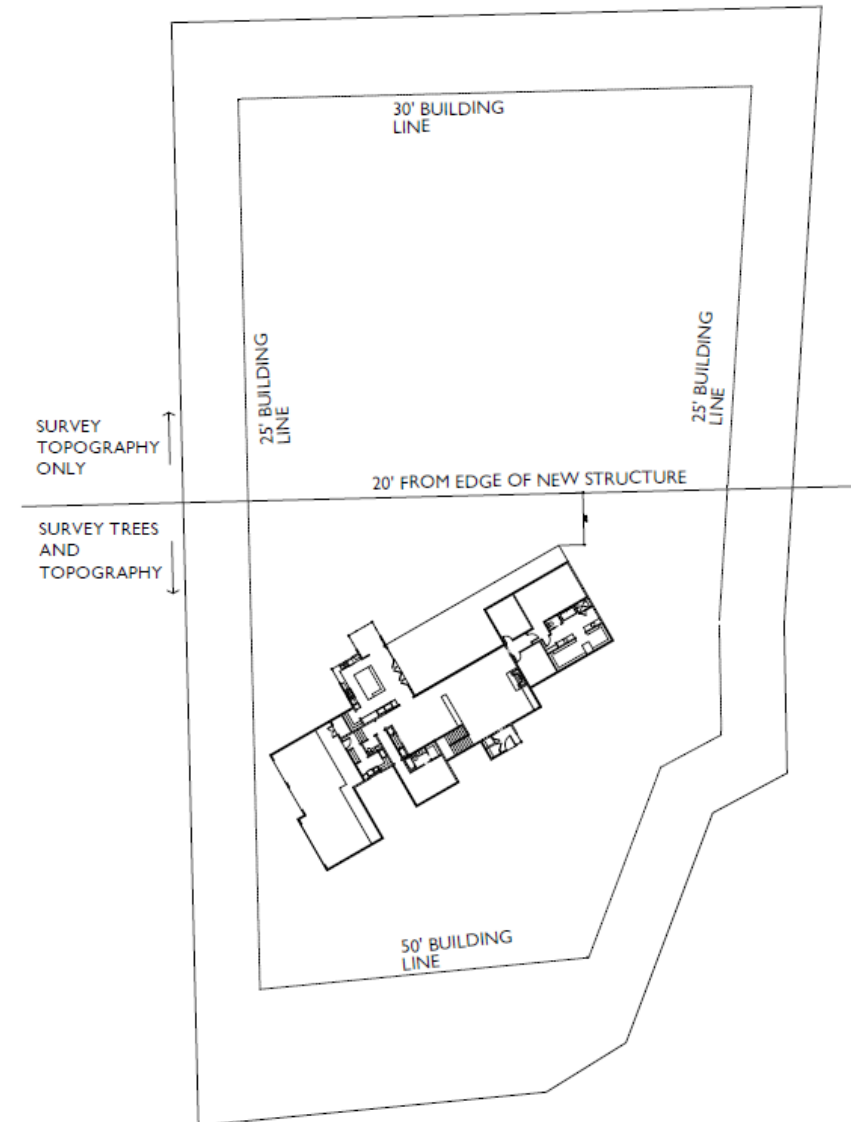
(D) All trees to be removed must be highlighted or marked on the survey.



1100 Block of Kennan Rd

Request:

- The applicant is requesting to survey only the trees 20 feet north of the proposed new structure to the southernmost portion of the property.



1100 Block of Kennan Rd

Public Comments:

As of the date of the report, no written public comments were received.



1100 Block of Kennan Rd

Hold a public hearing and determine the following findings of fact to approve or deny the requested variances.

1. The strict or literal enforcement of the terms of this chapter, because of special conditions, will result in unnecessary hardship to the applicant.
2. There will not be unreasonable disruption of the natural terrain or unreasonable destruction of existing flora.
3. There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of.
4. The variance will not be greater than the minimum required to alleviate the difficulty or hardship complained of.



1100 Block of Kennan Rd

The City Council can recommend imposition of reasonable conditions upon granting a variance if the conditions are related to the subject of the variance.

The findings of fact as alleged by the applicant are attached in Exhibit A.

The Zoning and Planning Commission considered the item the January 21, 2026 meeting and recommended **denial** by a vote of 5-0.





AGENDA REPORT

Meeting Date:	<u>February 11, 2026</u>	Item Number:	<u>7</u>
	<u>Building & Development</u>		
Department:	<u>Services</u>		
Prepared By:	<u>Jennifer C. Bills</u>	Cost / Budget:	<u>None</u>
Exhibits:	<u>See Attached</u>	Source of Funds:	<u>N/A</u>

Subject

701 S Capital of Texas Highway Suite A050 (Sweetgreen): Discuss and consider action on a recommendation from ZAPCO on the following variances:

1. For the installation of a wall sign exceeding the maximum 10-foot length (Section 32.03.009 (2) West Lake Hills Code).
2. For the installation of a second sign for a restaurant with square footage of less than 5,000 square feet (Section II.B.1, Village at Westlake Uniform Signage Criteria)

Applicant: Jesus Sanchez, Santech Signs, LLC

Recommendation

The city council shall hold a hearing to review the recommendation of the commission, and shall either approve the application as submitted, approve the application subject to such modifications or conditions as it deems necessary to accomplish the purpose of this chapter, or deny the application.

A variance may be granted with respect to any regulation contained in Chapter 32 Signs.

The zoning and planning commission may be authorized to recommend changes retaining appropriate scale and proportions of lettering to open space for readability and aesthetic consideration and with consideration of the hardship criteria described below:

- Lessen practical difficulties and prevent unnecessary physical hardships caused by:
- Size, shape, dimensions of a structure
- Location of the structure, from topographic or physical conditions on the site or in the immediate vicinity, or
- Other physical limitations, street locations or traffic conditions in the immediate vicinity.

Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance.

The ZAPCO reviewed the request at their regular meeting on January 21, 2026. The Commission recommended **approval** by a vote of 5-0 (Attachment 6).

Discussion

Property Information, Zoning & Site Characteristics:

Owner: Westlake Retail LP

Legal Description: 48.0955 A OF LOT 1 LOOP 360/RM 2244 CENTER

Lot Size: 48.0955 acres

Zoning: B-3, Business 3

The properties surrounding the subject property are zoned B-1, Business 1, B-2, Business 2, O, Office, and GUI, Government, Utility, Institutional.

Background & Analysis:

The applicant is proposing to install a second wall sign for the residing tenant, Sweetgreen. The applicant is proposing a second wall sign for adequate visibility beyond the surrounding landscaping. The Village at Westlake Uniform Sign Agreement was approved in 2010 by the City of West Lake Hills which only allowed one wall sign for businesses under 5000 square feet, with an additional sign allowed for tenants exceeding 5000 square feet. The applicant proposed the wall sign to be 11 feet and 8 inches in length, exceeding the West Lake Hills City Code which permits a maximum of 10 feet in length for wall signs (Attachment 3).

The view from the drive aisle off Bee Cave Road shows the landscaping obstructing the view of the existing wall sign. The proposed second wall sign would be placed on the façade facing the interior of the shopping center, not the entrance drive aisle (Attachment 5).



RIGHT ELEVATION - PROPOSED SIGNAGE
SCALE: 3/16"=1'-0"



Code Requirement

- Section 32.03.009 Projecting, wall and hanging commercial signs.

(2) Size.

Four square feet for each five front linear feet of the individual business for an organization having its own exterior public entrance in a multitenant building, with a maximum length of ten feet and area of 12 square feet. A minimum area of six square feet will be allowed if a business has insufficient frontage. The size of a multipaneled sign shall be determined by dividing the maximum size allowed by the number of panels. Combined maximum area for more than one sign shall not exceed 12 square feet.

Request:

- To exceed the city code length maximum of 10 feet by 1 foot 8 inches.

Code Requirement

Village at Westlake Uniform Signage Criteria Section II.B.1

B. Special Provisions. The special provisions are subject to landlord's approval on a case-by-case basis and in no event shall the total square feet of any one sign exceed 95 square feet.

- 1. Building A.** If a tenant leases over 5,000 sq. ft. and leases the tower element, tenant may have
 - a) up to 18" high letters for up to two signs (if two sides of the leased storefront face the interior of the site) with not more than 32 letters for the two signs combined; or
 - b) up to 24" high letters but not more than 48 sq. ft. of sign area for the two signs combined for alternative "b".

Request:

- To have a second sign when the tenant is leasing less than 5,000 square feet and the tower element.



Public Comment:

At the time of the report, staff received no comments in support of or opposition to the request.

Conditions for Granting a Sign Variance (justification provided by applicant):

Practical difficulty or unnecessary physical hardship may result from:*

1. The size, shape, or dimensions of a structure, or the location of the structure;
The sign is located on an existing building. The dimensions of the sign are 11' 8" x 15 ¾"
2. From topographic or physical conditions on the site or in the immediate vicinity; or

The site location is landscaped, obstructing the view of the tenant space.

3. From other physical limitations, street locations or traffic conditions in the immediate vicinity
The additional width will not compromise safety and may enhance visibility of the facility and its location.

*Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance.

Variance Interpretative Criteria (justification provided by applicant):

1. There is no reasonable alternative to the requisite variance that will alleviate the difficulty or hardship complained of. Is the hardship unique to this property? Have alternatives been considered have you considered?

The business has complied with the Uniformed Sign Agreement by installing only one wall sign; however, it has not provided sufficient visibility because of the building's setback and surrounding landscaping obscuring the tenant space from the main roadway.

2. Was the hardship self-created?

The purpose of the sign is to denote the location of the city hall, municipal court and the police department in a clear and legible manner.

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

The physical sign dimensions, lettering and characteristics are not excessive.

4. The variance may violate the intent of this chapter or the goals of the city's comprehensive plan. Why do you believe your variance does not violate the intent of the Zoning Ordinance or the goals of the City's Comprehensive Plan?

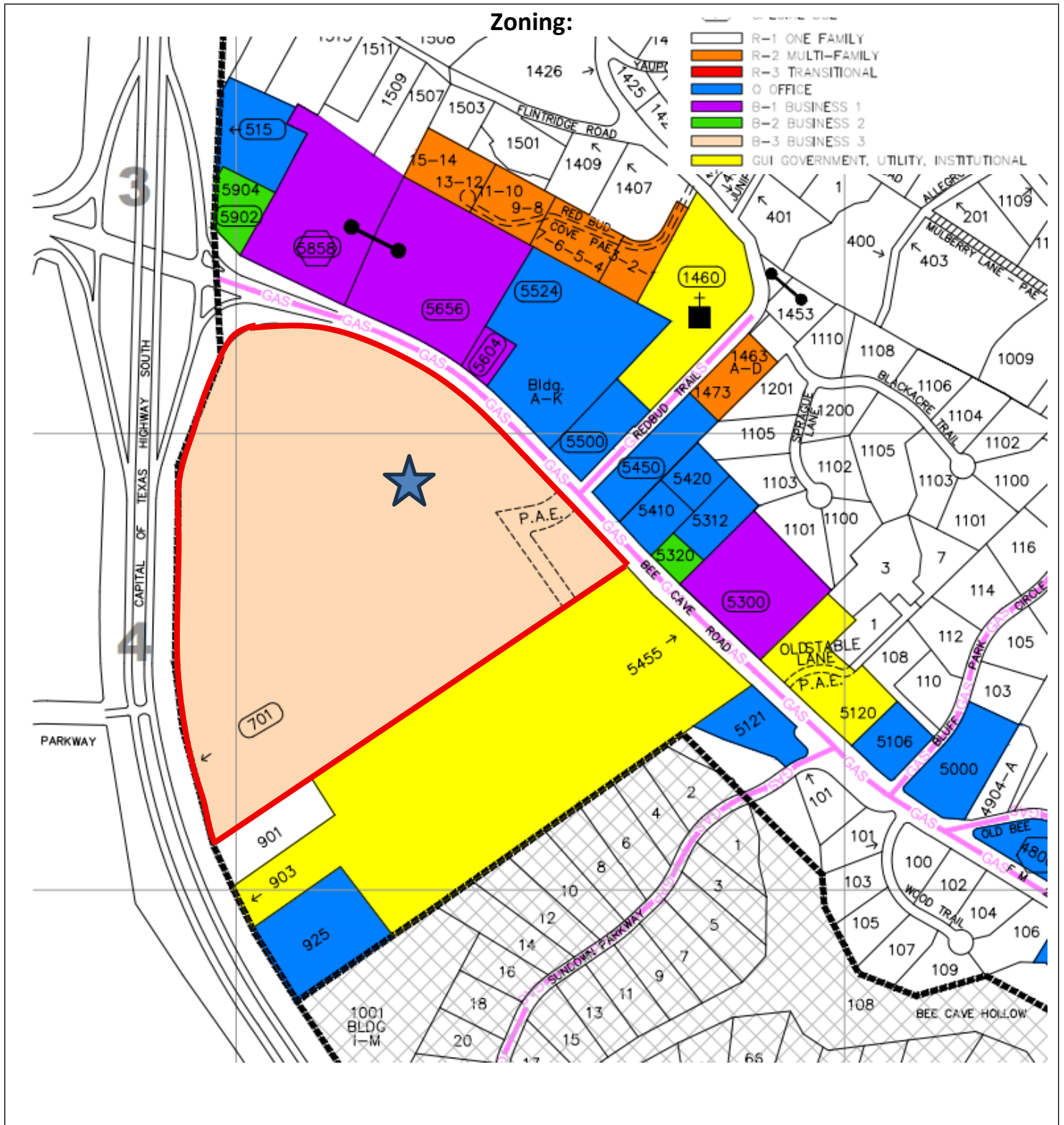
The requested sign variance does not violate the intent of the Zoning Ordinance or the goals of the City's Comprehensive Plan. Its purpose is to provide adequate identification for a tenant within an existing commercial development, which supports economic sustainability and community accessibility.

5. The variance may have an adverse effect on neighborhood properties or interfere with the respective owners' enjoyment thereof. Why do you believe your variance will not adversely affect or interfere with the enjoyment of neighboring properties?

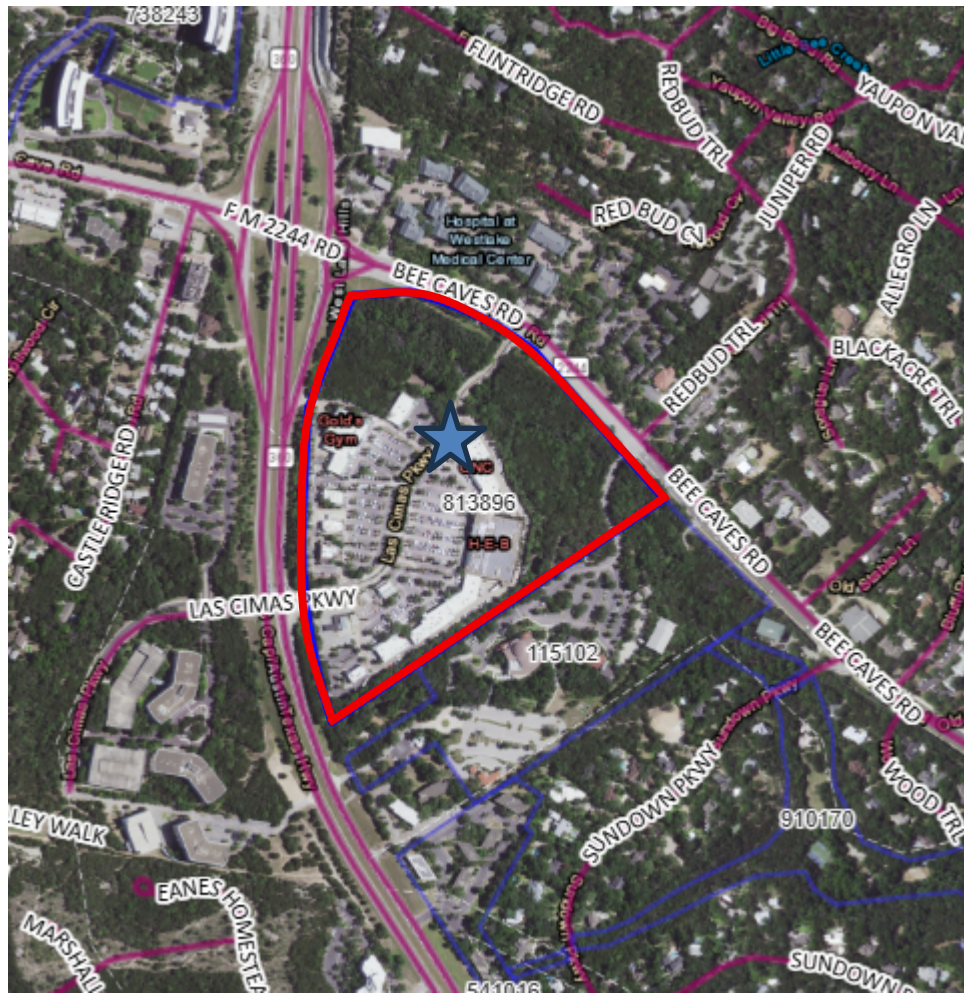
The sign will not adversely affect neighboring properties. The sign will be installed on an existing building façade.

Links to Relevant Code:

- [Section 32.04.001: Sign Variance Purpose; limitations.](#)
- [Section 32.03.009: Projecting, wall, and hanging, commercial signs](#)



Aerial:



11/25/2025

City of West Lake Hills
4010 Bee Cave Road
West Lake Hills, TX 78746

Dear Board Members,

We respectfully request a variance to allow the installation of a secondary wall sign for our tenant located at 701 S. Capitol of Texas Hwy, Suite A050, within The Village at Westlake. This request is based on the following considerations:

- 1. Previous Tenant Signage**
The location previously had a wall sign in the same area for the prior tenant. Maintaining signage in this location is consistent with the established appearance of the property and does not introduce any new visual impact.
- 2. Hardship Due to Visibility Constraints**
The tenant space is significantly set back from the main roadway and partially obscured by landscaping and building orientation. The single wall sign permitted under the ordinance does not provide adequate visibility for customers, creating an unnecessary hardship that affects the tenant's ability to operate successfully.
- 3. Alignment with City Goals and Ordinance Intent**
The requested variance supports the intent of the Zoning Ordinance and the City's Comprehensive Plan by promoting economic vitality and accessibility for local businesses while preserving the community's character. The sign will be proportionate to the building, comply with aesthetic standards, and will not require grading or removal of vegetation, ensuring that natural terrain and existing flora remain undisturbed. This approach aligns with the city's goals of maintaining visual harmony and supporting sustainable commercial activity.
- 4. Property Manager Support**
The property manager fully supports this variance request, recognizing that additional signage is essential for wayfinding and tenant identification within the center.

The proposed sign is the minimum necessary to alleviate the hardship and ensure the tenant can be properly identified by customers. It will not adversely affect neighboring properties or interfere with their owners' enjoyment.

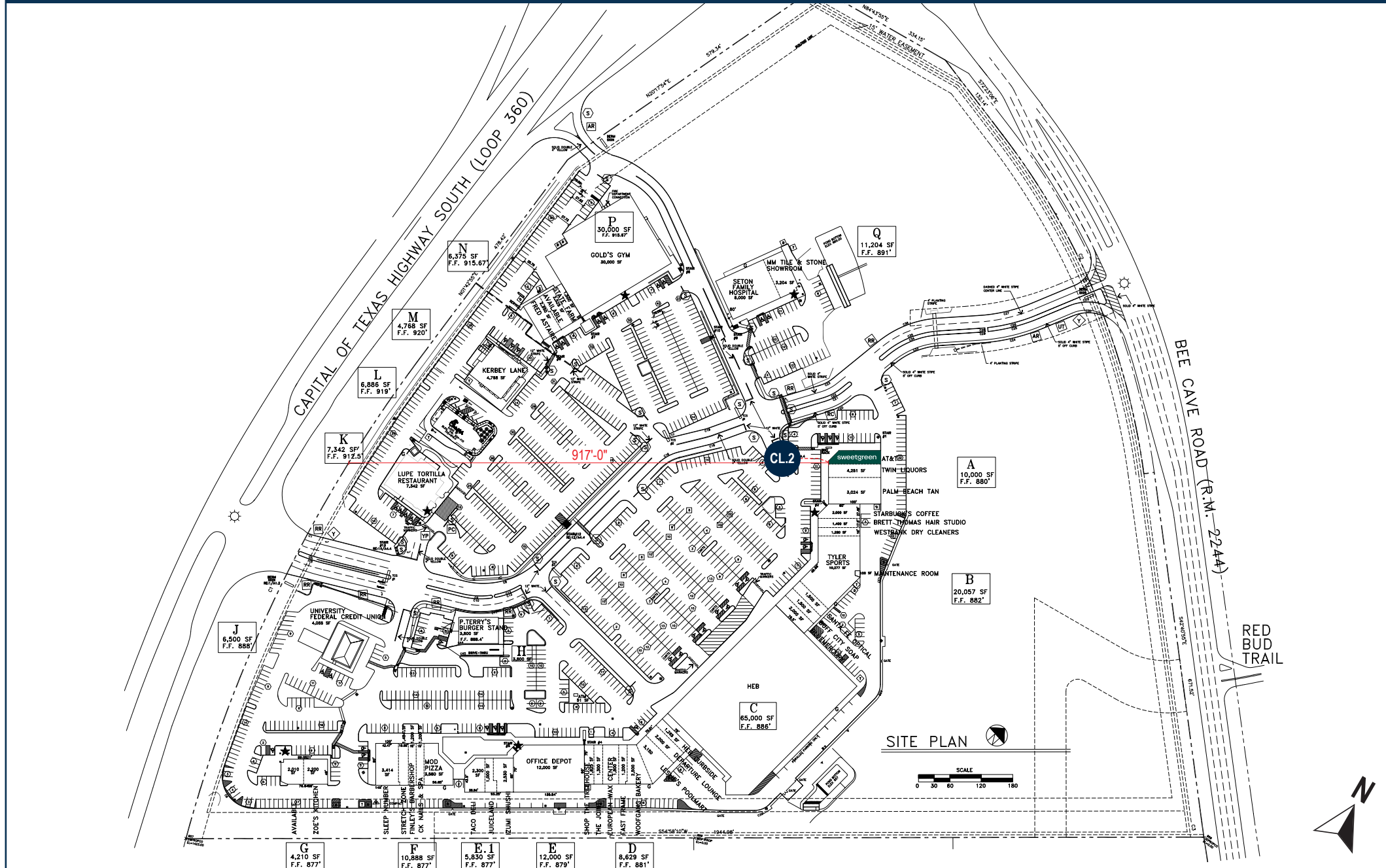
Thank you for your consideration. Please feel free to contact us with any questions or for additional information.

Thank you,

Stacy Bryan
Permit Coordinator
920-241-8432

sweetgreen

VICINITY MAP



SIGN CODE REVIEW

City Code summary:

Site is subject to the Village at Westlake Uniform Sign Agreement- there are specific criteria for each building.

Building A sign requirements:

Allowed 1 wall sign per tenant, unless tenant leases over 5,000 SF of space and the clock tower space- then a 2nd sign can be added.

Wall sign max allowed letter height is 18", which is based on the # of letters in the tenant name. Allowed 24 SF max per sign.

Halo-lit letters only, 6500K LED color temp. Letter faces can be 1 of 6 colors (see below), must be constructed of .090 aluminum, and be 3" deep with 2" spacers.

Maximum sign length shall not exceed 75% of the storefront width (or in the case of an architectural tower 90% tower width).

Blade signs not allowed in shopping center.
All wall signs require an engineer's stamp for permits.

Approved colors:

- PMS 153U (burnt orange)
- PMS 4625U (dark brown)
- PMS 3305U (dark green)
- PMS 484U (dark red)
- PMS 7506U (cream/white)
- Hexachrome Black

****Note:** a variance will be required in order to use the Sweetgreen trademark color for signage.

SCALE: NTS

	JOB #: 310734_R1 DATE: 11.12.2025 DESIGNER: J. Sotka SALES REP: M. Bjorklund PROJ MGR: S. Kostka	REQUIRED: <input type="checkbox"/> FIELD SURVEY <input type="checkbox"/> PAINT COLOR <input type="checkbox"/> FONTS <input type="checkbox"/> VECTOR ARTWORK <input type="checkbox"/> CLIENT PMS COLOR <input type="checkbox"/> ENGINEERING OTHER:	LANDLORD APPROVAL _____ DATE _____		SWEET GREEN 701 S. CAPITOL OF TEXAS HWY SUITE A050 WEST LAKE HILLS, TX 78746	SHEET NUMBER <h1>2.0</h1>
			CLIENT APPROVAL _____ DATE _____			

DESIGNS PREPARED FOR:

sweetgreen

SITE ADDRESS:

701 S. CAPITOL OF TEXAS HWY
SUITE A050
WEST LAKE HILLS, TX 78746

JOB NUMBER:

310734

ZONE:

SALES REPRESENTATIVE:

P. BALLAS

PROJECT MANAGER:

L. HAWKINS

DESIGN REVISIONS:

REV. #	DATE	DESIGNER	REVISION COMPLETED	INTERNAL	PERMIT	CLIENT	REV. #	DATE	DESIGNER	REVISION COMPLETED	INTERNAL	PERMIT	CLIENT
1	11.18.24	JS	REDUCED WIDTH, MAX 90" OF FACADE		●		13						
2							14						
3							15						
4							16						
5							17						
6							18						
7							19						
8							20						
9							21						
10							22						
11							23						
12							24						

DESIGNER NOTES

DATE	DESIGNER	NOTE

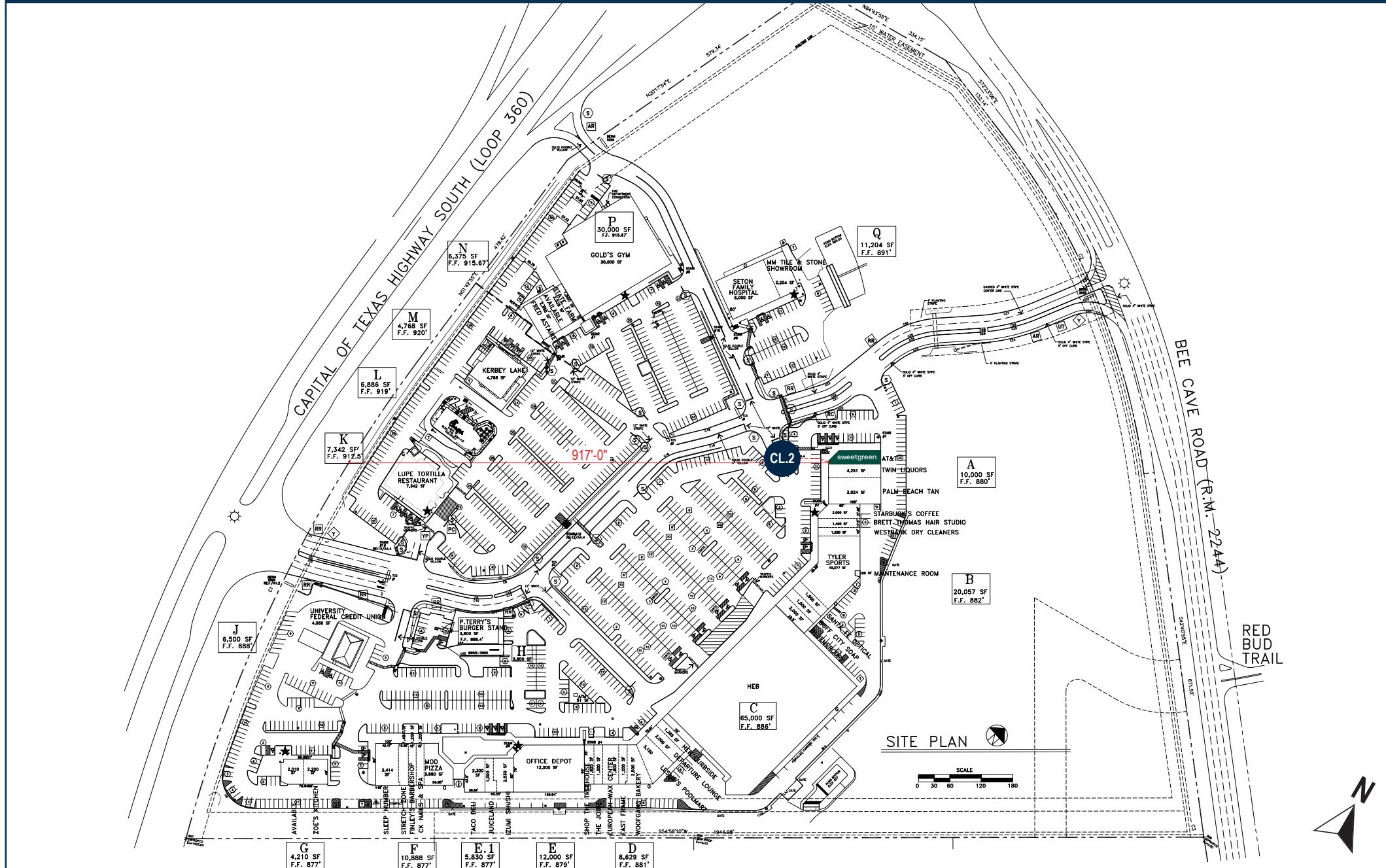
PRE-FLIGHT PRINT LIST

GOOD TO GO	PRIMARY CHECKS	GOOD TO GO	ADDITIONAL CHECKS
	NO MISSING / UNPACKAGED / UNLINKED IMAGES		REMOVE ANY NON-PRINTING DATA
	ENSURE IMAGE RESOLUTION 100 PPI AT FULL SCALE - REFER TO JONES ART REQUIREMENTS REGARDING POSSIBLE EXCEPTIONS		FLATTEN TRANSPARENCIES (FLATTEN RASTER IMAGES AND EFFECTS, LEAVE VECTOR COPY, LOGOS ETC. INTACT AS VECTORS)
	COLORS - MUST BE CMYK OR PANTONE		CONVERT FONTS TO PATHS (OR CURVES)
	ENSURE IMAGE SIZE & PROPORTIONS ARE CORRECT FOR FINAL PRODUCT, AND ANY INCLUDED BLEED & TRIM MARKS MATCH CLIENT SPECS		EMBED IMAGES OR ENSURE UNEMBEDDED IMAGES ARE PROPERLY LOCATED FOR SYSTEM USE

 <p>JONES SIGN Your Vision. Accomplished. <small>A MORTENSEN COMPANY</small></p>	<p>JOB #: 310734_R1 DATE: 11.12.2025 DESIGNER: J. Sotka SALES REP: M. Bjorklund PROJ MGR: S. Kostka</p>	<p>REQUIRED:</p> <p> <input type="checkbox"/> FIELD SURVEY <input type="checkbox"/> PAINT COLOR <input type="checkbox"/> FONTS <input type="checkbox"/> VECTOR ARTWORK <input type="checkbox"/> CLIENT PMS COLOR <input type="checkbox"/> ENGINEERING </p> <p>OTHER:</p>	<p>LANDLORD APPROVAL _____ DATE _____</p>		<p>SWEET GREEN 701 S. CAPITOL OF TEXAS HWY SUITE A050 WEST LAKE HILLS, TX 78746</p>	<p>SHEET NUMBER 1.0</p>
			<p>CLIENT APPROVAL _____ DATE _____</p>			

sweetgreen

VICINITY MAP



SCALE: NTS

SIGN CODE REVIEW

City Code summary:

Site is subject to the Village at Westlake Uniform Sign Agreement- there are specific criteria for each building.

Building A sign requirements:

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Halo-lit letters only, 6500K LED color temp. Letter faces can be 1 of 6 colors (see below), must be constructed of .090 aluminum, and be 3" deep with 2" spacers.

Maximum sign length shall not exceed 75% of the storefront width (or in the case of an architectural tower 90% tower width).

Blade signs not allowed in shopping center.
All wall signs require an engineer's stamp for permits.

Approved colors:

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- PMS 484U (dark red)
- PMS 7506U (cream/white)
- Hexachrome Black

****Note:** a variance will be required in order to use the Sweetgreen trademark color for signage.

JONES SIGN
Your Vision. Accomplished.
A MORTENSEN COMPANY

JOB #: 310734_R1
DATE: 11.12.2025
DESIGNER: J. Sotka
SALES REP: M. Bjorklund
PROJ MGR: S. Kostka

REQUIRED:

- FIELD SURVEY
- PAINT COLOR
- FONTS
- VECTOR ARTWORK
- CLIENT PMS COLOR
- ENGINEERING

OTHER:

LANDLORD APPROVAL

DATE

CLIENT APPROVAL

DATE



SWEET GREEN
701 S. CAPITOL OF TEXAS HWY
SUITE A050
WEST LAKE HILLS, TX 78746

SHEET NUMBER

2.0

RIGHT SIDE ELEVATION



RIGHT ELEVATION - PROPOSED SIGNAGE
SCALE: 3/16"=1'-0"

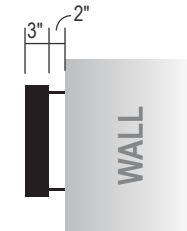
	JOB #: 310734_R1 DATE: 11.12.2025 DESIGNER: J. Sotka SALES REP: M. Bjorklund PROJ MGR: S. Kostka	REQUIRED: <input type="checkbox"/> FIELD SURVEY <input type="checkbox"/> PAINT COLOR <input type="checkbox"/> FONTS <input type="checkbox"/> VECTOR ARTWORK <input type="checkbox"/> CLIENT PMS COLOR <input type="checkbox"/> ENGINEERING OTHER:	LANDLORD APPROVAL _____ DATE _____		SWEET GREEN 701 S. CAPITOL OF TEXAS HWY SUITE A050 WEST LAKE HILLS, TX 78746	SHEET NUMBER <h1>4.0</h1>
			CLIENT APPROVAL _____ DATE _____			

CL.2 HALO LIT CHANNEL LETTERS - EXTERIOR (QTY 1)

OVERALL SQUARE FOOTAGE: 19.81



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



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



NIGHT VIEW
SCALE: NTS

SPECIFICATIONS:

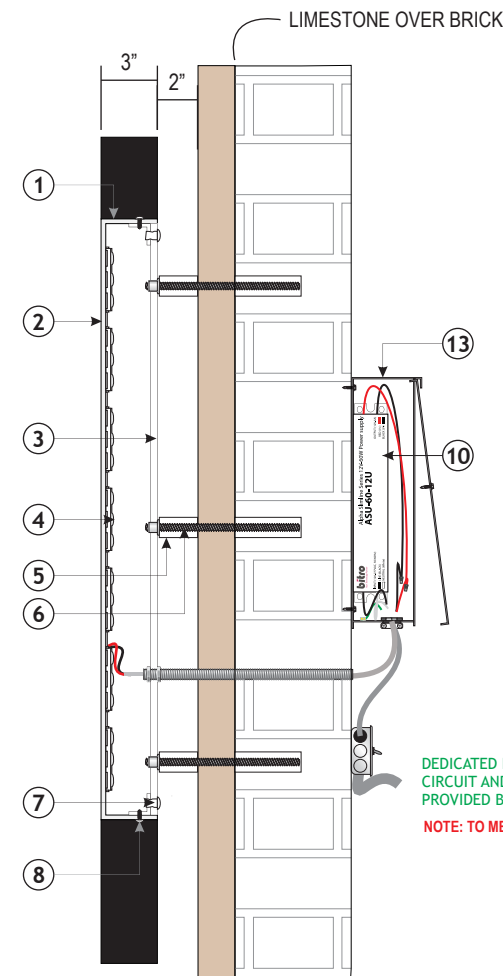
- .090" X 3" ALUMINUM RETURNS STITCH WELDED TO ALUMINUM FACE PAINTED P-1 (INTERIOR PAINTED WHITE)
- .125" ALUMINUM FACES P-2
- 3/16" THK WHITE POLYCARBONATE BACK TEK SCREWED TO ALUMINUM TABS (NO MORE THAN 24" APART)
- BITRO LITE 6500K WHITE LED'S / LUMENS: 4,180 / 76 LED MODULES PER SIGN / 55 LUMENS PER MODULE
- 3/8" I.D. X 2" L COMPRESSION SLEEVE PAINTED TO MATCH MOUNTING SURFACE P-1
- 1/4" DIA. S.S. ANCHOR ROD x 3 1/8" MIN. EMBED. HILTI HIT-HY 270 +HAS-R 316 ADHESIVE ANCHORW/ HIT-SC SCREEN. ICC-ESR#4143, TYP.
- 1/4" DIA. WEEP HOLES IN BACK, AT BOTTOM .063 DRAIN HOLE COVERS (EXTERIOR APPLICATIONS ONLY)
- 1/8" ALUMINUM TABS FASTENED TO RETURNS W/ COUNTERSUNK SCREWS
- 7/8" ELECTRICAL HOLE / 1/2" COUPLER WITH FLEXIBLE CONDUIT TO POWER SUPPLY BOX (IN MIDDLE OF LETTER UNLESS NOTED OTHERWISE). INSTALLER TO FOLLOW LOCAL CODE.
- LED POWER SUPPLY INSIDE POWER SUPPLY BOX
- DEDICATED PRIMARY SIGN CIRCUIT AND DISCONNECT PROVIDED BY ELECTRICIAN
- 15 FT. MIN. WHIP LENGTH. IF PRIMARY ELECTRIC IS LOCATED WITHIN 6 FT. OF THE POWER SUPPLY BOX, ELECTRIC TO BE CONNECTED BY INSTALLERS, INSTALLER TO FOLLOW LOCAL CODE.
- POWER SUPPLY BOX - PAIGE 980054C SNAP 2 ENCLOSURE
- RIGID CONDUIT THROUGH WALL WITH 1/2" - 1" STUB BEYOND INSIDE WALL. 15 FT. MINIMUM WHIP LENGTH FOR LOW VOLTAGE WIRE.

NOTES:

- ETL STICKER TO BE PLACED ON BOTTOM OF SIGN, VISIBLE FROM GROUND
- LEAVE SLACK IN LINE OF CONDUIT FOR FUTURE SURFACE
- ACCESS BEHIND WALL FOR WIRING REQUIRED / PERMANENT ACCESS FOR REMOTE POWER SUPPLY

COLORS / FINISHES:

- P-1 MP HEXACHROME BLACK
- P-2 MP TO MATCH PMS 3305U GREEN



CROSS SECTION VIEW
SCALE: NTS

	JOB #: 310734_R1 DATE: 11.12.2025 DESIGNER: J. Sotka SALES REP: M. Bjorklund PROJ MGR: S. Kostka	REQUIRED: <input type="checkbox"/> FIELD SURVEY <input type="checkbox"/> PAINT COLOR <input type="checkbox"/> FONTS <input type="checkbox"/> VECTOR ARTWORK <input type="checkbox"/> CLIENT PMS COLOR <input type="checkbox"/> ENGINEERING OTHER:	LANDLORD APPROVAL _____ DATE _____ CLIENT APPROVAL _____ DATE _____		SWEET GREEN 701 S. CAPITOL OF TEXAS HWY SUITE A050 WEST LAKE HILLS, TX 78746	SHEET NUMBER <h1>5.0</h1>



VILLAGE AT WESTLAKE UNIFORM SIGNAGE CRITERIA

I. GENERAL TENANT SIGNAGE CRITERIA

- A. Signs shall be individual channel letters, open to the back wall, internally illuminated with white LED's to match the color of 6500 white neon.
- B. Each tenant may use an individual style of lettering, subject to landlord's approval.
- C. Sign letters shall be constructed of .090 aluminum and painted.
- D. Sign colors to be compatible with building architectural design and approved by landlord.
- E. Sign letter depth shall be 3 inches. Signs shall be mounted with two inches of clearance between the back of the letters and the masonry face.
- F. The advertising and informative content of all exterior tenant signage except as expressly provided herein shall be limited to letters designating the store name and as long as it does not conflict with the architectural character of the shopping center (determined by landlord) a crest, shield or logo which shall be subject to the constraints of one letter.
- G. The maximum overall length of signs, except as provided herein, shall not exceed 75% of the storefront width (or in the case of architectural tower signage, 90% of the tower width.) In no case shall any sign or portion of any sign extend beyond 75% of the storefront (or building wall length) of the tenant's lease premises without landlord's approval. Where allotted, fascia length is less than the storefront width (as at corners), the sign shall be no longer than 90% of the applicable fascia length, without landlord's approval.
- H. Formula to calculate square footage of the sign:
 - 1. Calculate area of each letter as follows:
Height of letter (in inches) squared X .75.
 - 2. Sum the areas of the individual letters from (a).
 - 3. Divide the sum from (b) by 144.
- I. Maximum area of any sign is 95 square feet.
- J. Color samples are attached to be used for verification purposes.

K. APPROVED (UNIVERSAL) COLORS:

PMS 153U (burnt orange)
PMS 4625U (dark brown)
PMS 3305U (dark green)
PMS 484U (dark red)
PMS 7506U (cream/white)
Hexachrome Black

L. All tenants shall submit design drawings of their signage to landlord for landlord's approval and shall be subject to compliance to The Village at Westlake sign criteria approved by the City of West Lake Hills.

11. TENANT IDENTIFICATION SIGNAGE CRITERIA BY BUILDING

A. General Provisions. Except as otherwise provided herein, each tenant shall be limited to one sign containing the name of the business and is subject to the following conditions: **Any exceptions will need to be approved by Landlord.**

1. If the total number of letters in tenant's sign is ≤ 14 letters, the tenant may utilize up to 18" high letters.
2. If the total number of letters in tenant's sign is 15-20 letters, the tenant may utilize up to 15" high letters.
3. If the total number of letters in tenant's sign is 21-32 letters, the tenant may utilize up to 12" letters.
4. The greater of 1 letter for each word in tenant's sign, or 2 letters, may be up to 9" higher than otherwise allowed for total number of letters.
5. The sign area (surface area) of a sign shall not exceed 24 square feet.

B. Special Provisions. The special provisions are subject to landlord's approval on a case-by-case basis and in no event shall the total square feet of any one sign exceed 95 square feet.

1. **Building A.** If a tenant leases over 5,000 sq. ft. and leases the tower element, tenant may have a) up to 18" high letters for up to two signs (if two sides of the leased storefront face the interior of the site) with not more than 32 letters for the two signs combined; or b) up to 24" high letters but not more than 48 sq. ft. of sign area for the two signs combined for alternative "b".
2. **Building C.** If a tenant leases 35,000 sq. ft. or more, the tenant may have up to 24" high letters for one sign and the sign may also contain the nature of tenant's business (≤ 12 letters), tenant's logo and tenant's name.

3. **Building D.** If a tenant leases 2,000 sq. ft. or more, the tenant may customize color and logo-to-letter sizing ratio provided the overall sq.ft. of the sign does not exceed 25 sq.ft.

4. **Building E.**

If a Tenant leases 4,000 sq. ft or more, the tenant may have up to 30" max letter height for one sign and the sign may also contain the nature of the tenant's business (< 12 letters), Tenant's logo and Tenant's name, but not more than 50sq ft of sign area. If a tenant leases 4,000sq ft or more

and leases the tower element, the tenant may have one sign on the exterior of each of two sides of the leased premises that are visible from the interior of the site. If a tenant leases 6,500sq. ft. or more and leases the tower element, the tenant may have a) up to two signs with up to 30" high letters but not more than 75sq ft of sign area for the two signs combined.

5. **Building F, (G).** If a tenant leases the space facing loop 360, the tenant may have one sign with up to 24" high letters on the side facing loop 360, and one other sign on the side of Building F, (G) facing building H, (J) so long as the sign sq. ft. of the two signs combined does not exceed 48 sq. ft. per tenant.
6. **Building H.** One tenant leasing the entire building may have signs as pennitted in II.A, but a sign on three sides of the building shall be allowed.
7. **Buildings J, K.** A tenant may have signs on two sides of the building as long as the total sq. ft. of the two signs combined does not exceed 60 sq. ft. with a maximum individual letter height of 38". The signs may also contain the nature of tenant's business and tenant's logo.
8. **Buildings L, M.** A tenant may have signs on two sides of the building as long as the total sq. ft. of the two signs combined does not exceed 48 sq. ft. with a maximum individual letter size of 36". The signs may also contain the nature of tenant's business and tenant's logo. One wood sign may also be included on the building entry side as part of one of the two signs allowed (with total signage sq. ft. still limited to 48 sq. ft.)
9. **Building N, (Q).** If a tenant leases the front corner closest to to building M, (P), the tenant may have 2 signs per tenant, one facing building M, (P), the other at the front of building N, (Q).
10. **Building P.** If a tenant leases 20,000 sq. ft. or more, the tenant may have two signs with letters up to 30" high for one sign, and up to 30" for a second sign on a different side of the building visible from the interior of the site. The sign may also include the nature of tenant's business (<=12 letters) and tenant's logo.

III. TENANT ADDRESS SIGNAGE CRITERIA

Standard vinyl applied address numerals/letters for identification of tenant's space and hours of operation shall be allowed on tenant's storefront. Numeral/letter height shall be 4". Color to be silver, gold leaf or white.

IV. TENANT SERVICE ENTRY SIGN CRITERIA

Tenant identification on rear or side service doors shall be 5" in height and the color shall be black.

Approved:

City of West Lake Hills, TX

Linda Anthony
Mayor Linda Anthony



Westlake Retail Limited Partnership
dba WLR Limited Partnership

By: *CB* **Date:** 2/2/24

Name: Colin Bearden

Title: Senior Vice President

City of West Lake Hills

MINUTES OF A ZONING & PLANNING COMMISSION (ZAPCO)

REGULAR MEETING

Wednesday, January 21, 2026 at 6:30 PM

1. **Call to Order: Chair Robert Meisel**

- a. Meeting begins at 6:30pm
- b. Roll Call
 1. Chair Robert Meisel: Present
 2. Vice-Chair Jim Pledger: Present
 3. Commissioner Julia Webber: Present
 4. Commissioner Karen Bartoletti: Present
 5. Commissioner Patrick Stewart: Present
 6. Commissioner Laurie Maccini: Present

2. **Citizen Communications:**

- a. No public comments

3. **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 November 14, 2025 Zoning and Planning Commission Workshop Minutes
- b. Approval of the November 19, 2025 Zoning and Planning Commission Meeting Minutes
- c. Approval of the January 7, 2026 Zoning and Planning Commission Workshop Minutes
- d. Report of previous ZAPCO cases acted on by the BOA/City Council

Action: Commissioner Stewart moves for approval of the Consent Agenda

- i. Commissioner Maccini Seconds
- ii. Motion carries unanimously (5–0)

4. **Public Hearing 109 Swiftcurrent Trl.:** Discuss and consider a recommendation to the City Council on variances for a fence:

1. To allow for a fence encroachment into the 30-foot front-yard fence setback (Section 22.03.173(d)(6)(B)(ii)).

2. To allow for the placement of fence posts within the ½ and ¼ critical root zones of protected trees (Section 22.03.3052 (b)).

Applicant: Sara Charles, Property Owner

The application was withdrawn by applicant shortly before the meeting.

5. Public Hearing 4904 Old Bee Cave Rd: Discuss and consider a recommendation to the City Council on the following variances for a fence:
 1. To allow for a fence encroachment into the 30-foot front-yard fence setback (Section 22.03.173(d)(6)(B)(ii)).
 2. To allow for the installation of a fence that does not allow 80% visibility through the fence (Section 2.03.173(d)(6)(A)(i)).
 3. To allow for a fence without the required minimum 80% landscaping screening (Section 22.03.173(d)(6)(A)(i)).
 4. To allow for the installation of a fence with a height of 7 feet above natural grade (Section 22.03.173(d)(9)(A)).

Applicant: Dylan Freytag, Property Owner

A. Staff Report:

- a. Director Bills describes fence that was installed without permits. The owner was misinformed by their contractor that they did not need permits for the fence. Director Bills describes the four areas of code where the fence, as installed, would require variances. Director Bills also explains that the location of the fence would require any screening to be located in the Right-of-Way.
- b. Commissioner Pledger points out that a written comment in opposition to the fence at 109 Swiftcurrent provided prior to the 4904 Old Bee Cave variance application also included this fence.
- c. Commissioner Bartoletti asks if there are two legal lots involved
 - i. Director Bills clarifies there are not two legal lots involved, just one
- d. Commissioner Webber asks Director Bills if there are any possible repercussions for contractors misinforming clients or violating code.
 - i. Director Bills explains that contractor registrations can be suspended for repeated violations and that citations can be issued to contractors.

- e. Commissioner Maccini asks about the right-of-way vegetation and who takes care of it.
 - i. Director Bills explains that homeowners are responsible for the vegetation from the property line to the street, but TXDOT and utility providers will sometimes maintain or clear the vegetation.

B. Public Comments:

- a. **Dylan Freytag, Applicant:** Shares prepared presentation and answers questions from commissioners
- b. **Lousia Cauvin, Neighbor:**
 - i. Spoke in opposition to variance

C. Discussion:

- a. Commissioner Stewart asks applicant about a gate and Knox box encroaching on the ROW.
- b. Commissioner Maccini indicates that the property has been between commercial property for decades but understands the increase in traffic along Bee Cave. Supportive of screening, but not in favor of proximity of fence to ROW.
- c. Chair Meisel points out that the deed is 3 months old, and that traffic has not increased substantially since the time at which the applicant chose to purchase the property, and also believes that the contractor is responsible, not the homeowner or the City.
- d. Commissioner Webber indicates they are not in favor of variance for location but may be willing to compromise on height or a certain percentage of transparency.

D. Action:

- a. Commissioner Pledger moves to forward the variances to City Council with a recommendation of **denial** based on a lack of hardship.
 - i. Commissioner Webber seconds
 - ii. Motion carries unanimously (5-0)

The variance request and recommendation will be forwarded to the February 11, 2026 City Council Meeting.

- 6. Public Hearing 116 Skyline Dr.: Discuss and make a recommendation to City Council on the following variances for a fence:

- 1. To allow for the installation of a fence without required landscaping visibly screening a minimum of 80% of the fence between the street and fence (Section 22.03.173(d)(6)(A)(i)).

2. To allow for the installation of a fence that does not allow 80% visibility through the fence (Section 22.03.173(d)(6)(A)(i)).

Applicant: Bryan Sharples, Property Owner

A. Staff Report:

- a. Director Bills describes the previous fence variance at the property approved in 2011 and describes the 80% transparency threshold with the new style of fence which is transparent from a specific angle, but becomes opaque when moving along the fence.
 - a. Director Bills also explains that while the variance request indicated that the fence met the height limits established in conditions for previous variance, that staff measured the fence at 6 feet prior to meeting, which would require an additional variance request.
- b. Commissioner Pledger asks about the screening of the fence with vines.
 - a. Commissioner Webber points out that there are no vines on the City's approved plant list.
- c. Commissioner Stewart asks about the 80% transparency rule at all angles
- d. Commissioner Webber asks if the previous variance addressed screening
 - a. Director Bills indicates the previous variance did not address screening directly, but that it specifically indicated all other ordinances related to fences should be followed.
- e. Commissioner Pledger indicates that he believes that the fence is compliant.

B. Public Comments:

- a. **Bryan Sharples, Applicant**
 - a. Shares presentation regarding fence
- b. **Jeffery Dochen, Neighbor**
 - a. Speaks in favor of variance

C. Discussion:

- a. Commissioner Maccini expresses sympathy due to lights, but that other solutions exist that do not require variances.
- b. Commissioners Stewart and Pledger express that they believe the fence is in compliance with the 80% rule.
- c. Commissioner Maccini states there are native vine plants that could be used to screen the fence.
- d. Commissioner Meisel recommends taking the 80% rule to council.

- e. Following discussion of whether or not the fence is in compliance with the 80% rule, Assistant City Attorney Thamm explains that the hearing is related to a variance to the code, not a review of staff determination.

D. Action:

- a. Commissioner Pledger moves to forward the variances to City Council with a recommendation of **approval**.
 - a. Commissioner Bartoletti seconds
 - b. Motion carries (3-2)
 - 1. Commissioners Webber and Maccini opposed

The variance request and recommendation will be forwarded to the February 11, 2026 City Council Meeting.

- 7. **1100 Block of Kennan Rd.** Discuss and consider a recommendation to City Council on a variance request to reduce the extent of the tree survey requirement for the entirety of a property for a new construction on an undeveloped lot.

Applicant: Paula Ables, Designer/Owner Representative

A. Staff Report:

- a. Director Bills describes that all new construction projects with no existing structure require a tree survey for the entire lot, but the applicant is requesting a reduction of the required survey.
- b. Commissioner Webber asks if the site plan has been submitted
 - 1. Director Bills explains that no site plans other than the exhibit in the packet have been made available for staff.

B. Public Comment:

- a. Paula Ables, Designer and Representative: Clarifies questions and concerns from commissioners

C. Discussion:

- a. Chair Meisel shares that the construction of the house is already expensive and that the expense of the tree survey should not be a hardship
- b. Commissioner Maccini believes the applicant is asking for full credit for impervious cover and drainage for the entirety of the lot without having to perform a full analysis of the lot.
- c. Chair Meisel states that the tree survey is required and needs to be part of the application as a historical document
 - 1. Commissioner Webber agrees and states that there must be context for the whole scope of the property for mitigation

D. Action:

- a. Commissioner Bartoletti moves to forward the variance request to City Council with a recommendation of **denial** based on lack of hardship.
 - 1. Commissioner Pledger seconds
 - 2. Motion carries (5-0)

The variance request and recommendation will be forwarded to the February 11, 2026 City Council Meeting.

- 8. **701 S Capital of Texas Highway (Sweetgreen):** Discuss and consider a recommendation to City Council for the following variances

- 1. For the installation of a wall sign exceeding the maximum 10-foot length (Section 32.03.009(2) West Lake Hills Code)
- 2. For the installation of a second sign for a restaurant with square footage of less than 5,000 square feet (Section II.B.1, Village at Westlake Uniform Signage Criteria)

Applicant: Jesus Sanchez, Santech Signs, LLC

A. Staff Report:

- a. Director Bills shares the history of the uniform sign agreement and describes the variances to the agreement and the City's sign code.

B. Public Comment

- a. Jesus Sanchez, Applicant:
 - 1. Speaks in favor of the variance

C. Discussion:

- a. Bartoletti indicates approval for the request

D. Action:

- a. Commissioner Bartoletti moves that the variance request be forwarded to City Council with a recommendation of **approval**.
 - 1. Commissioner Maccini seconds
 - 2. Motion carries (5-0)

The variance request and recommendation will be forwarded to the February 11, 2026 City Council Meeting.

- 9. **603 Spurlock Valley Rd :** Discuss and make a recommendation to the Board of Adjustment on a variance to install a new septic tank encroaching on the 30-foot front building setback (Section 22.03.276 & Section 22.03.281)

Applicant: James Kuykendall, Sunset Construction & Excavation

A. Staff Report:

- a. Director Bills describes the variance for a septic tank location. The house had initially been permitted with the tank in a compliant location but requested a new location for the septic at a later date.
- b. Commissioner Bartoletti asks about flooding issues
 - 1. Director Bills explains that there is no drainage easement or FEMA floodplain at location
- c. Applicant did not attend meeting but provided comment via email that was read by commissioners on the dais (Exhibit B)

B. Public Comment: No public comment

C. Discussion:

- a. Meisel: ZAPCO shouldn't ratify decision to proceed without permit by approving after-the-fact variance
- b. Webber asks why house is designed the way it is when the original plans showed the septic in a compliant location.

D. Action:

- a. Commissioner Webber moves that the variance request be forwarded to the Board of Adjustment with a recommendation of **denial**.
 - 1. Commissioner Pledger Seconds
 - 2. Motion carries (5-0)

The variance request and recommendation will be forwarded to the February 11, 2026 Board of Adjustment Meeting.

10. 300 Block of Laurel Valley Rd: Discuss and make recommendations on proposed variances:

- 1. Allow for a driveway height greater than 6 feet above natural grade (Section 22.03.175(e)(1))
- 2. Allow building height greater than 32 feet above natural grade on a slope of 25% or greater (Section 22.03.279(b))
- 3. Encroach 20 feet into the platted 50-foot front building setback along Yaupon Valley Road (Section 22.03.281)
- 4. Encroach 15 feet into both 25-foot side setbacks (Section 22.03.281)
- 5. Allow fills up to 15 feet where the maximum allowed is 6 feet on slopes of less than 35% (Section 22.03.170(b)– Drainage and Erosion Control Design Manual Section 7.4.1)
- 6. Allow for grading in areas of slopes greater than 35% where none is allowed (Section 22.03.170(b)– Drainage and Erosion Control Design Manual Section 7.4.1)

7. Allow grading greater than 18 inches within setbacks (Section 22.03.170(f)).

Applicant: Matt Garcia

A. Staff Report:

- a. Director Bills describes the site and the requests for variances.
- b. Commissioner Stewart asks Director Bills how many variances are missing
 - 1. Director Bills states there are at least two missing for the currently proposed development
- c. Commissioner Webber asks if the rainwater collection tanks would also need an additional setback encroachment variance
- d. Commissioner Meisel calls for the item to be postponed for the other variances to be addressed, as the request is incomplete

B. Action:

- a. Commissioner Pledger moves to combine items 10 and 11 into a single item and postpone to the February 18 ZAPCO meeting
 - 1. Maccini seconds
 - 2. Motion carries (5-0)

The item was postponed to the February 18, ZAPCO Meeting.

11. **300 Block of Laurel Valley Rd:** Discuss and make recommendations on proposed variances

7. Allow replacement trees for unpermitted removals to be planted at the end of the project, more than 601 days since the final order (Section 22.03.304(c)(5)).

Applicant: Matt Garcia

This item was combined with item 10 and postponed to the February 18 Zoning and Planning Commission meeting.

12. **Adjournment** – Chair Robert Meisel

Chair Meisel adjourns the meeting at 8:38 pm

APPROVED:

Robert Meisel, Chair

ATTEST:

Joel Sherrouse, Development Coordinator

These minutes were approved on _____, 2026.

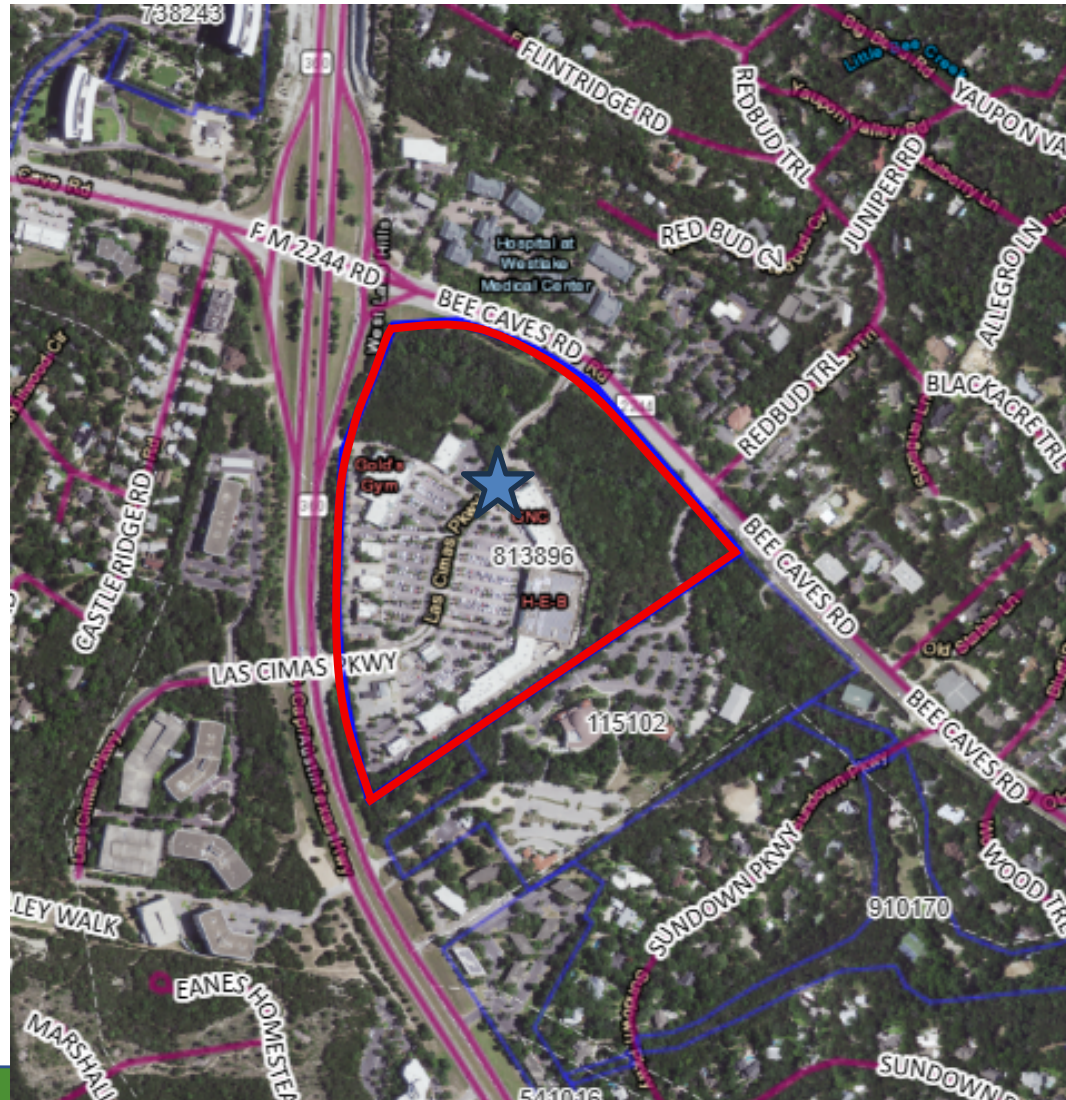
701 S Capital of Texas Hwy (Sweetgreen)

7. Discuss and consider action on a recommendation from ZAPCO on the following variances:
1. For the installation of a wall sign exceeding the maximum 10-foot length (Section 32.03.009(2) West Lake Hills Code)
 2. For the installation of a second sign for a restaurant with square footage of less than 5,000 square feet (Section II.B.1, Village at Westlake Uniform Signage Criteria)

Applicant: Jesus Sanchez, Santech Signs, LLC



701 S Capital of Texas Hwy (Sweetgreen)



701 S Capital of Texas Hwy (Sweetgreen)

The applicant is proposing to install a second wall sign for the residing tenant, Sweetgreen. The applicant is proposing a second wall sign for adequate visibility beyond the surrounding landscaping.

The Village at Westlake Uniform Sign Agreement was approved in 2010 by the City of West Lake Hills which only allowed one wall sign for businesses under 5000 square feet, with an additional sign allowed for tenants exceeding 5000 square feet.

The applicant proposed the wall sign to be 11 feet and 8 inches in length, exceeding the West Lake Hills City Code which permits a maximum of 10 feet in length for wall signs

701 S Capital of Texas Hwy (Sweetgreen)

Commercial Wall Sign Length

Code Requirements:

West Lake Hills Code, Section 32.03.009 (2) *Size*.

Four square feet for each five front linear feet of the individual business for an organization having its own exterior public entrance in a multitenant building, with a maximum length of ten feet and area of 12 square feet. A minimum area of six square feet will be allowed if a business has insufficient frontage. The size of a multipaneled sign shall be determined by dividing the maximum size allowed by the number of panels. Combined maximum area for more than one sign shall not exceed 12 square feet.



701 S Capital of Texas Hwy (Sweetgreen)

Request:

A wall sign with a length of 11 feet and 8 inches



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

701 S Capital of Texas Hwy (Sweetgreen)

Number of Signs Allowed

Uniform Sign Agreement Requirements:

Village at Westlake Uniform Signage Criteria, Section II.B.1

Building A. If a tenant leases over 5000 sq. ft and leases the tower element, tenant may have

- a) Up to 18" high letters for up to two signs (if two sides of the leased storefront face the interior of the site) with not more than 32 letters for the two signs combined;
- b) Up to 24" high letters but not more than 48 sq. ft of sign area for the two signs combined for alternative "b"

701 S Capital of Texas Hwy (Sweetgreen)

Request:

A second wall sign on their façade



RIGHT ELEVATION - PROPOSED SIGNAGE
SCALE: 3/16"=1'-0"

701 S Capital of Texas Hwy (Sweetgreen)

Public Comments:

As of the date of the report, no written public comments were received.



701 S Capital of Texas Hwy (Sweetgreen)

A variance may be granted with respect to any regulation contained in Chapter 32 Signs.

The City Council may be authorized to recommend changes retaining appropriate scale and proportions of lettering to open space for readability and aesthetic consideration and with consideration of the hardship criteria described below:

- Lessen practical difficulties and prevent unnecessary physical hardships caused by:
- Size, shape, dimensions of a structure
- Location of the structure, from topographic or physical conditions on the site or in the immediate vicinity, or
- Other physical limitations, street locations or traffic conditions in the immediate vicinity.
- Cost or inconvenience to the applicant of strict or literal compliance with a regulation shall not be a reason for granting a variance.



701 S Capital of Texas Hwy (Sweetgreen)

The ZAPCO reviewed the request at their regular meeting on January 21, 2026. The Commission recommended **approval** by a vote of 5-0.





City of West Lake Hills
City Council

AGENDA REPORT

Meeting Date:	<u>February 11, 2026</u>	Item Number:	<u>8</u>
Department:	<u>Building & Development Services</u>		
Prepared By:	<u>Trey Fletcher, City Administrator</u>	Cost / Budget:	<u>\$75,000.00</u>
	<u>Proposed ASR #1</u>		
	<u>Master Services Agreement</u>		
	<u>Task 1.0 – Plan Review</u>		
Exhibits:	<u>Services</u>	Source of Funds:	<u>General Fund/Revenue</u>

Subject

Discuss and consider approval of additional service request (ASR) #1 associated with development review services.

Recommendation

Staff recommend approval.

Discussion

Colliers Engineering & Design functions as the City Engineer for the City of West Lake Hills subject to a Master Services Agreement that was effective June 27, 2025. Among the services rendered is development review services which is generally reimbursed in the form of application fees.

Task 1.0 Plan Review Services is for \$150,000. was approved on June 27, 2025. The proposed additional services request related to this task is in the amount of \$75,000. and is expected to carry through the remainder of the fiscal year.



TBPLS Reg. 10194550 • TBPE Reg. F-14909 • TBPG 50617

Client Authorization Form

Date: November 18, 2025
Client: City of West Lake Hills
Project Name: 1212-01-01 Development Review Services
Task Name: Additional Service Request #1
Project No.: 25006063A

We request your review and authorization of services as outlined below in order to proceed:

Services requested by: City of West Lake Hills

Description of service contract scope:

Colliers Engineering & Design, Inc. presents a supplementary budget request to consistently deliver professional services for the plat/plan review for the City of West Lake Hills, Texas, which was approved on June 27, 2025. Please refer to the scope of work on the following page:

The Business Terms and Conditions of the original contract shall still apply.

Services outlined above shall be invoiced:

- Per diem/hourly
- Lump sum

Payment terms are NET30 of receipt of invoice.

Estimated Budget = \$

Fee = \$ 75,000.00

I (we) hereby authorize the services to proceed as outlined above:

Signer's Name (Print)

Client Authorization Form prepared by:

Bobby J. Torres, P.E.

Project Manager's Name (Print)

Signature

Date



Project Manager's Signature

11/18/2025

Please sign the form where indicated & email or mail to Colliers Engineering & Design for our records.

Plat/Plan Review Services

- The City Engineer shall provide technical review of, and answer inquiries relating to, site plans, subdivision plans, improvement plans, land disturbance plans, construction plans and escrows relating to projects proposed by applicants to be developed in the City to ensure that such conform to codes adopted by the City.
- Review basic utility requirements and wastewater connections associated with new or renovated projects.
- The City Engineer shall, upon request, attend meetings of affected property owners, and meetings with city staff and developers.
- Conduct periodic site visits for consultation, construction observation and project close outs, as needed.
- CED will review and provide professional recommendations for a variety of functions including right-of-way requirements and administration (acquisitions, dedications, vacations/abandonments and easements), site development and subdivision plans, drainage and flood control, utility considerations, variances, subdivisions and planned unit development agreements.
- CED will provide services consisting of engineering, design, consultation, project management, plan review, plat review, and other services, acting as the City's Designated City Engineer, on a task order basis as required to perform and complete the Scope of Work Services specifically identified below:
 - Land Study
 - Plat reviews
 - Drainage Study/Report Review
 - Geotech Report Review
 - Traffic Impact Analysis Review
 - Construction Plans – Public Infrastructure
 - Preliminary/Final Acceptance Process

This task will be performed typically by the following titles with approximate percentages: Senior Principal/Principal 10%, Senior Project Specialist 20%, Specialist 70%.



City of West Lake Hills
911 Westlake Drive
West Lake Hills, Texas 78746

**STANDARD FORM OF AGREEMENT
MASTER PROFESSIONAL SERVICES**

**CITY ENGINEERING SERVICES
AND
ON-CALL CIVIL ENGINEERING SERVICES**

MASTER PROFESSIONAL SERVICES AGREEMENT
CONTRACT NO. _____
RFQ Issued February 14, 2025

This MASTER PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is between the **City of West Lake Hills**, a Texas Type A general law municipal corporation, (the “City”) and **Colliers Engineering & Design, Inc.**, a New Jersey corporation _____ (the “Consultant”). City and Consultant are sometimes referred to herein collectively as the “Parties” or individually as a “Party.”

WITNESSETH

WHEREAS, City desires Consultant to provide on-call professional engineer services for various civil projects in the City (“Services”) as described in the RFQ issued February 14, 2025; and

WHEREAS, City desires to engage Consultant to perform the Services; and

WHEREAS, Consultant represents that it is qualified and desires to perform such Services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

ARTICLE 1. SCOPE OF SERVICES

1.1 Consultant agrees to perform Services related to _____ as are requested from time to time by City, which Services shall be set forth more particularly in Work Orders, the form of which is attached hereto as **Attachment B**, issued from time to time by City and accepted by Consultant. Each Work Order shall constitute a separate and independent agreement between Consultant and City.

1.2 Work Orders shall contain the schedule, price, and payment terms applicable to the Services within the scope of such orders. Time is of the essence to this Agreement and all Work Orders. Work Orders shall become effective when an acknowledged copy thereof is signed by a duly authorized officer of Consultant, returned to City and countersigned by City. The specific terms of a Work Order may not be modified unless such modifications are agreed to in writing by City and Consultant. The Consultant shall review the Work Order, prepare a cost estimate to complete the Scope of Work, agree to an estimated schedule for performance, and return the Work Order for City’s authorization. City Administrator may also issue oral Work Orders to which Consultant will respond with a written proposal. Upon receipt of City’s written acceptance. The Consultant shall commence the Work as detailed on the Work Order.

1.3 All Work Orders incorporate and shall be governed by and subject to the terms, conditions, and other provisions of this Agreement; provided, however, that a Work Order may specifically state a term, condition, or other provision of this Agreement that is being modified

thereby. Unless so stated, the terms, conditions, or other provisions contained in any Work Order or any proposal attached to or incorporated into a Work Order that conflict with any terms, conditions, or other provisions of this Agreement shall have no effect and shall be deemed stricken and severed from such Work Orders, and the balance of the terms, conditions, and other provisions contained in such Work Orders shall remain in full force and effect. Modifications of the terms, conditions, or other provisions of this Agreement with respect to a particular Work Order shall not modify the terms, conditions or other provisions of this Agreement with respect to any other Work Order.

1.4 Nothing herein shall obligate City to issue, or Consultant to accept, any Work Orders. Further, the Parties agree that nothing in this Agreement shall prohibit the Parties, or either of them, from entering into agreements other than this Agreement for professional services or other work.

1.5 Consultant agrees to execute any and all certificates and/or documents as may reasonably be required by City, provided same is not in conflict with this Contract, unless excepted by Consultant in writing.

1.6 The Consultant shall designate a principal of the firm reasonably satisfactory to the City who shall, for so long as acceptable to the City, oversee Consultant's Services to be performed hereunder through to completion, and who shall be available for general consultation throughout the Agreement. Any replacement of that principal shall be approved in writing (which shall not be unreasonably withheld) by the City, prior to replacement. Consultant shall designate a full-time employee contact for each Work Order to act as the project Administrator (the "Consultant Project Administrator") issued by and under this Agreement for consultation throughout the Work Order. Any replacement of that Consultant Project Administrator shall be approved in writing (which shall not be unreasonably withheld) by the City, prior to replacement.

1.7 Consultant shall be responsible for the coordination of its Services with those of its Subconsultant, the City, and the City's Consultants. Consultant shall be responsible for the completeness and accuracy of all Work Product submitted by or through Consultant and for its compliance with all applicable local, state and federal rules, regulations, ordinances and codes, life safety codes, building codes, zoning codes, and accessibility requirements and codes, including, but not limited to the provisions of the Americans with Disabilities Act, the *Texas Accessibility Standards of the Architectural Barriers Act* located at Chapter 469 of the Texas Government Code, the Federal Fair Housing Amendment Act, and all other regulatory requirements, laws, standards, codes and statutes related to the Services. Upon receipt from the City, the Consultant shall review any services or information furnished by the City and the City's Consultants for accuracy and completeness. The Consultant shall provide prompt written notice to the City if the Consultant becomes aware of any error, omission or inconsistency in such services or information. Once notice has been provided to the City, the Consultant shall not proceed without written instruction from the City to do so.

ARTICLE 2. TERM OF AGREEMENT

2.1 This Agreement shall be effective from the date first set forth above and shall continue without action by either Party for a term of three (3) years from the date first set forth above or through completion of the Work for all approved Work Order(s) unless terminated earlier in writing in accordance with Article 12.

2.2 Notwithstanding the foregoing Paragraph 2.1, this Agreement shall apply to and remain in effect for Work Orders issued and accepted during the term of this Agreement until such time as Consultant's obligations in connection with the Services under such Work Orders have been completed and fulfilled; provided however, that, pursuant to Article 12, either Party shall have the right to terminate any Work Order for cause and City shall have the right to terminate any Work Order for convenience.

2.3 Without limiting the generality of the foregoing Paragraph 2.2, Consultant's obligations under Articles 5, 6, 8, 9, 10, 11, 18, 19 and 20 shall survive the expiration of termination of this Agreement or any Work Order.

ARTICLE 3. COMPENSATION AND PAYMENT

3.1 City agrees to pay Consultant, and Consultant agrees to accept, as full and complete compensation for Services properly performed by Consultant in accordance with this Agreement and applicable Work Order, the rates and charges agreed upon for a specific Work Order. Paragraphs A.1 or A.2 of **Attachment A**, which is attached hereto and incorporated herein by reference, shall be used to negotiate the compensation payable for each Work Order issued hereunder.

3.2 On or before the tenth day of each calendar month, Consultant shall submit an invoice to City, together with backup documentation required by City and releases and waivers in forms acceptable to City, covering all Services performed under any Work Order by Consultant and its subconsultants, subcontractors and suppliers during the preceding calendar month. Consultant shall separately itemize on each invoice: (i) each Work Order for which payment is sought, (ii) the amount budgeted for each such Work Order, (iii) the amount of payment requested pursuant to each such Work Order, (iv) the amount previously paid pursuant to each such Work Order, (v) descriptions of Services performed during the prior month pursuant to each such Work Order, and (vi) the total payment requested by such invoice. Pursuant to The Texas Prompt Pay Act (Texas Government Code 2251.021) payments terms are NET thirty (30) days from date of invoice. If City objects to all or any portion of an invoice, it will notify Consultant of the same within twenty-one (21) days from the date of receipt of the invoice and will pay that portion of the invoice not in dispute, and the Parties shall make every effort to settle the disputed portion of the invoice. Interests and Consultant's right to suspend performance will be governed by Texas Prompt Pay Act.

3.3 City shall have the right but not the obligation to withhold all or any part of payment requested in any invoice to protect City from loss or expected loss because of:

- (a) services that are not in compliance with this Agreement or the applicable Work Order or any failure of Consultant to perform Services in accordance with the provisions of this Agreement or the applicable Work Order;
- (b) third party suits, stop notices, claims or liens arising out of Services performed for which Consultant is responsible pursuant to this Agreement and asserted or filed against City or any of its property or portion thereof or improvements thereon provided that Consultant fails to provide City with sufficient evidence that Consultant's insurance is adequate or shall cover the claim(s);
- (c) uninsured damage to any Indemnitee (hereinafter defined) which results from Consultant's failure to obtain or maintain the insurance required by this Agreement or from any action or inaction by Consultant or any of its subcontractors, subconsultants, or suppliers which excuses any insurer from liability for any loss or claim which would, but for such action or inaction, be covered by insurance; or
- (d) any failure of Consultant to pay any subcontractor, subconsultant, or supplier of Consultant the correct, undisputed, and contractually obligated amount for acceptable services received and for acceptable supplies received. Consultant will not include in its billings to City any amount in a subcontractor or supplier invoice which it has not paid or does not intend to pay within the terms and conditions of the applicable subcontract agreement or supplier purchase order.

Any failure by City to exercise its right to withhold all or any part of payment requested in any invoice as provided in this Paragraph 3.3 shall not be and shall not be construed as (i) a waiver of City's right to do so in the future, or (ii) evidence that any of the circumstances identified in Subparagraphs 3.3(a) through (d) above have not occurred.

3.4 Consultant agrees to pay in full (less any applicable retainage) as soon as reasonably practicable, but in no event later than thirty (30) days following payment from City, all subcontractors, subconsultants, and any other persons or entities supplying labor, supplies, materials, or equipment in connection with Services that are owed payment by Consultant out of such payment made to Consultant by City. Provided that City is not in breach of its payment obligations hereunder, Consultant shall ensure that the Project site remains free from all liens and claims by its consultants. If City receives notice of a lien claim, or a claim for non-payment, from any of Subconsultants, City may, in its sole discretion, directly pay any such Subconsultant. If City pays the Subconsultant, the amount paid for the claim and any expenses, including reasonable attorneys' fees, incurred by City shall be deducted from Consultant's next payment. Further, provided that City has paid Consultant in accordance with the terms of this Agreement and any particular Work Order, CONSULTANT SHALL DEFEND AND INDEMNIFY CITY FROM AND AGAINST ANY CLAIMS FOR PAYMENT ASSERTED OR FILED BY ANY SUCH PERSON OR ENTITY AGAINST CITY, ITS PROJECT OR PROPERTY OR CONSULTANT.

**ARTICLE 4. STANDARD OF CARE; COORDINATION OF SERVICES;
SAFETY; COST ESTIMATES; LEGAL COMPLIANCE; THIRD PARTY REVIEW**

4.1 Pursuant to Texas Local Government Code § 271.904(d), Consultant shall perform, supervise and direct the Services, and otherwise discharge its obligations under this Agreement and any Work Order: (a) with the professional skill and care ordinarily provided by competent engineers practicing under the same or similar circumstances and professional license; and (b) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineers (collectively, the Consultant's "Standard of Care").

4.2 Consistent with its Standard of Care, Consultant shall (a) perform its Services in accordance with all applicable laws, codes, ordinances and regulations; (b) perform its Services in an efficient manner; and (c) keep City apprised of the status of Services, coordinate its activities with City, and accommodate other activities of City at sites that Services impact. Consultant shall designate an authorized representative to be available for consultation, assistance, and coordination of activities.

4.3 Consultant shall be responsible for its own activities at sites including the safety of its employees, and that of its subconsultants, subcontractors and suppliers but shall not assume control of or responsibility for the site. The Consultant must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, subcontractors, licensees, and other persons, as well as its personal property, while performing Services. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the Consultant, its officers, employees, agents, subcontractors, invitees, licensees, and other persons. Provided however, that to the extent such Work Order or Services are to be performed for or on an active construction project, construction contractors of City shall have sole responsibility for providing materials, means, and methods of construction, for controlling their individual work areas and safety of said areas for all persons, and for taking all appropriate steps to ensure the quality of their work and the safety of their employees and of the public in connection with their performance of work or services provided under contracts with City. Without assuming any control over, responsibility for or liability whatsoever with respect to the construction contractor obligations of the foregoing sentence, Consultant shall notify City if it observes violations of safety regulations or ordinances or quality of work deficiencies by City's construction contractors to the extent Consultant becomes actually aware of same or Consultant should have known if practicing Consultant's Standard of Care. Consultant shall comply with the site safety program and rules established by the construction contractors.

4.4 To the extent that Consultant provides to City any estimate of costs associated with construction, any such estimate shall be developed in accordance with Consultant's Standard of Care, but it is recognized by the Parties that neither Consultant nor City has control over the cost of the labor, materials, or equipment, over a construction contractor's methods of determining bid prices, or over competitive bidding, market, or negotiating conditions. Accordingly, Consultant cannot and does not warrant or represent that bids or negotiated prices will not vary

from City's budget for the project or from any estimate of the cost of work or evaluation prepared or agreed to by Consultant.

4.5 Consultant hereby agrees that the following terms, conditions, verifications, certifications, and representations apply to and are incorporated into this Agreement for all purposes:

- (a) With respect to providing Services hereunder, Consultant shall comply with any applicable Equal Employment Opportunity and/or Affirmative Action ordinances, rules, or regulations during the term of this Agreement.
- (b) Pursuant to Texas Local Government Code Chapter 176, Consultant shall submit a signed Texas Ethics Commission ("TEC") Conflict of Interest Questionnaire ("CIQ") at the time Consultant submits this signed Agreement to City. TEC Form CIQ and information related to same may be obtained from TEC website by visiting <https://www.ethics.state.tx.us/forms/conflict/>. If Consultant certifies that there are no Conflicts of Interest, Consultant shall indicate so by writing name of Consultant's firm and "No Conflicts" on the TEC Form CIQ.
- (c) If Consultant is a privately held entity, then pursuant to Texas Government Code Section 2252.908 and the rules promulgated thereunder by the TEC, Consultant shall submit a completed and signed TEC Form 1295 with a certificate number assigned by the TEC to City at the time Consultant submits this signed Agreement to City. TEC Form 1295 and information related to same may be obtained from TEC website by visiting <https://www.ethics.state.tx.us/filinginfo/1295/>. Consultant agrees and acknowledges that this Agreement shall be of no force and effect unless and until Consultant has submitted said form to City, if and to the extent such form is required under Government Code § 2252.908 and the rules promulgated thereunder by the TEC.
- (d) As required by Chapter 2271, Texas Government Code, Consultant hereby verifies that Consultant, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, does not boycott Israel and will not boycott Israel through the term of this Agreement. The term "boycott Israel" in this paragraph has the meaning assigned to such term in Section 808.001 of the Texas Government Code, as amended.
- (e) Pursuant to Chapter 2252, Texas Government Code, Consultant represents and certifies that, at the time of execution of this Agreement, neither Consultant, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, is engaged in business with Iran, Sudan, or any terrorist organization, and is a company listed by the Texas Comptroller of Public Accounts under Sections 2270.0201 or 2252.153 of the Texas Government Code.
- (f) As required by Section 2274.002, Texas Government Code (as added by Senate Bill 13, 87th Texas Legislature, Regular Session), as amended, Consultant hereby verifies that Consultant, including any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, does not boycott energy companies, and will not boycott energy companies during the term of this

Agreement. The term "boycott energy companies" in this paragraph shall have the meaning assigned to the term "boycott energy company" in Section 809.001, Texas Government Code, as amended.

- (g) As required by Section 2274.002, Texas Government Code (as added by Senate Bill 19, 87th Texas Legislature, Regular Session, "SB 19"), as amended, Consultant hereby verifies that Consultant, including any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same, (i) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and (ii) will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. The term "discriminate against a firearm entity or trade association" in this paragraph shall have the meaning assigned to such term in Section 2274.001(3), Texas Government Code (as added by SB 19), as amended.
- (h) Pursuant to Chapter 2274 of the Texas Government Code (as added by Senate Bill 2116, 87th Legislature, Regular Session), as amended, and to the extent this Agreement grants to Consultant direct or remote access to the control of critical infrastructure, excluding access specifically allowed for product warranty and support, Consultant verifies that neither Consultant, including any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of the same, nor any of its sub-contractors are: (i) owned or controlled by (a) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; or (ii) headquartered in China, Iran, North Korea, Russia or a designated country. The term "designated country" in this paragraph means a country designated by the Governor as a threat to critical infrastructure under Section 2274.0103, Texas Government Code. The term "critical infrastructure" in this paragraph shall have the meaning assigned to such term in Section 2274.0101, Texas Government Code.

4.6 Consultant acknowledges and agrees that projects of City may be subject to review and approval by other third parties. Accordingly, as and when requested by City, Consultant shall submit such information and cooperate with the other third parties to the extent necessary to undergo any such review or obtain any such approval.

4.7 Consultant does not represent Work Product to be suitable for reuse on any other project or for any other purpose(s). If City reuses any Work Product without Consultant's specific written verification or adaptation, such reuse will be at the risk of City, without liability to Consultant.

4.8 Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the Consultant, its employees, agents, or associates for the exercise of skill and diligence to promote the accuracy and competency of their Work Product or any other document, nor shall the City's approval be deemed to be the assumption of responsibility by the

City for any defect or error in the aforesaid documents prepared by the Consultant, its employees, associates, agents, or subcontractors.

4.9 Conflicts of Interest Prohibited. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement or any Work Order. If Consultant maintains or acquires a conflicting interest, any contract or Work Order with the City (including this Agreement) involving Consultant's conflicting interest may be terminated by the City. The Consultant shall take appropriate steps to ensure that neither the Consultant nor any Staff is placed in a position where, in the reasonable opinion of the City, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Consultant and the duties owed to the City under the provisions of the Agreement. The Consultant will disclose to the Authority full particulars of any such conflict of interest which may arise. By means of example only, and not limitation, it shall be a potential conflict of interest if Consultant provides plan review services on any land development, where Consultant has been involved in the preparation of the current or prior plan proposed to be developed in the City to ensure that such conform to codes adopted by the City; or has been involved in the preparation of a plan adjacent or abutting a development for which the City has requested Plan Review Services.

- (a) Notice of Potential Conflict. Consultant shall notify City in writing prior to accepting any Work Order, or beginning Services on any assignment or task under a Work Order for which Consultant believes there is or may be an actual or potential conflict of interest due to Engineer's professional services to third parties. If any such actual or potential conflict of interest arises under this Agreement, Consultant shall immediately inform the City in writing of such conflict. The Consultant shall not receive any compensation, and Consultant waives the same, in connection with any work, Services or other activities of the Consultant for Service provided where a conflict of interest exists, unless notice is provided as required herein. As used herein a conflict of interest.
- (b) Termination for Material Conflict. If, in the reasonable judgment of the City after receiving notice required in 4.9.1 or otherwise, such conflict poses a material conflict to and with the performance of Consultant's obligations under this Agreement, then the City may terminate the Agreement for convenience immediately upon written notice to Consultant; such termination of the Agreement or any Worker shall be effective upon the receipt of such notice by Consultant.

4.10 Minimize Interruption. It should be understood that City's wastewater collection and Water Control Improvement District 10's (the "District") water distribution systems must function during the Agreement period with a minimum of inconvenience to City or the District and its customers. Requirements of the Texas Commission on Environmental Quality (TCEQ) and the State and federal regulatory agencies having jurisdiction over the Project site, must be met by Consultant. It is therefore incumbent on Consultant to plan ahead in design and Services on the basis of integrating any demolition, installation, construction and implementation program as far as possible into the normal operating sequence of the various utility systems to avoid or

minimalize disruption of services. No departure from the normal operating sequence of the utility systems will be allowed, except with the specific advanced written agreement of City, District, and Consultant's design specifications and drawings should include provisions requiring the same.

ARTICLE 5. COST RECORDS

5.1 Consultant shall maintain records and books in accordance with generally accepted accounting principles and practices. For Services provided by Consultant under cost reimbursable, time and material or unit price Work Orders, during the period of this Agreement and for five (5) years thereafter, Consultant shall maintain records of direct costs for which City is charged. City shall at all reasonable times have access to such records for the purpose of inspecting, auditing, verifying, or copying the same, or making extracts therefrom. City's audit rights for fixed unit rate or time and materials Work Orders shall extend to review of records for the purpose of substantiating man-hours worked, units employed, and third-party charges only. Except to the extent audit rights are granted to City by applicable law, City shall have no audit rights with respect to the portion of Work Orders or Services compensated on a lump sum basis.

ARTICLE 6. OWNERSHIP OF WORK PRODUCT AND TECHNOLOGY

6.1 All studies, plans, deliverables, reports, drawings, specifications, cost estimates, software, computations, and other information and documents prepared by Consultant, its subconsultants, subcontractors, and/or suppliers, in connection with Services or any project of City are and shall remain City's property upon creation (collectively, "Work Product"); provided, however, that Work Product shall not include pre-existing proprietary information of Consultant, its subconsultants, subcontractors, and/or suppliers ("Consultant Proprietary Information"). To this end, Consultant agrees to and does hereby assign, grant, transfer, and convey to City, its successors and assigns, Consultant's entire right, title, interest and ownership in and to such Work Product, including, without limitation, the right to secure copyright registration. Consultant confirms that City and its successors and assigns shall own Consultant's right, title and interest in and to, including without limitation the right to use, reproduce, distribute (whether by sale, rental, lease or lending, or by other transfer of ownership), to perform publicly, and to display, all such Work Product, whether or not such Work Product constitutes a "work made for hire" as defined in 17 U.S.C. Section 201(b). In addition, Consultant hereby grants City a fully paid-up, royalty free, perpetual, assignable, non-exclusive license to use, copy, modify, create derivative works from and distribute to third parties Consultant Proprietary Information in connection with City's exercise of its rights in the Work Product, operation, maintenance, repair, renovation, expansion, replacement, and modification of projects of City or otherwise in connection with property or projects in which City has an interest (whether by City or a third party). Consultant shall obtain other assignments, confirmations, and licenses substantially similar to the provisions of this paragraph from all of its subconsultants, subcontractors, and suppliers. Work Product is to be used by Consultant only with respect to the Project in connection with which such Work Product was created and is not to be used on any other project. Consultant and its subconsultants, subcontractors, and suppliers are granted a limited, nonexclusive, non-

transferable, revocable license during the term of their respective agreements under which each is obligated to perform Services to use and reproduce applicable portions of the Work Product appropriate to and for use in the execution of Services. Submission or distribution to comply with official regulatory requirements for other purposes in connection with Services is not to be construed as publication in derogation of City's copyright or other reserved rights. Consultant agrees that all Work Product will be maintained according to the provisions of the Public Information Act, Chapter 552, Texas Government Code, and the Local Government Records Act, Chapters 201 through 205, Texas Local Government Code, each as amended. Consultant shall deliver all copies of the Work Product to City upon the earliest to occur of City's request, completion of Services in connection with which Work Product was created, or termination of this Agreement. Consultant is entitled to retain copies of Work Product for its permanent Project records.

6.2 Consultant agrees that all information provided by City in connection with Services shall be considered and kept confidential ("Confidential Information"), and shall not be reproduced, transmitted, used, or disclosed by Consultant without the prior written consent of City, except as may be necessary for Consultant to fulfill its obligations hereunder; provided, however, that such obligation to keep confidential such Confidential Information shall not apply to any information, or portion thereof, that:

- (a) was at the time of receipt by Consultant otherwise known by Consultant by proper means;
- (b) has been published or is otherwise within the public domain, or is generally known to the public at the time of its disclosure to Consultant;
- (c) subsequently is developed independently by Consultant, by a person having nothing to do with the performance of this Agreement and who did not learn about any such information as a result of Consultant's being a Party to this Agreement;
- (d) becomes known or available to Consultant from a source other than City and without breach of this Agreement by Consultant or any other impropriety of Consultant;
- (e) enters the public domain without breach of the Agreement by or other impropriety of Consultant;
- (f) becomes available to Consultant by inspection or analysis of products available in the market;
- (g) is disclosed with the prior written approval of City;
- (h) with the exception of trade secrets, was exchanged between City and Consultant and ten (10) years have subsequently elapsed since such exchange; or
- (i) is disclosed to comply with the Texas Public Information Act ("TPIA") or in response to a court order to comply with the requirement of a government agency.

6.3 Consultant shall not be liable for the inadvertent or accidental disclosure of Confidential Information, if such disclosure occurs despite the exercise of at least the same degree of care as Consultant normally takes to preserve and safeguard its own proprietary or confidential information.

6.4 Consultant will advise City of any patents or proprietary rights and any royalties, licenses, or other charges which Consultant knows or should know in the exercise of its Standard of Care impacts any design provided by Consultant in connection with any Services and obtain City's prior written approval before proceeding with such Services. Consultant shall not perform patent searches or evaluation of claims, but will assist City in this regard if requested, pursuant to a written change order in accordance with Paragraph 12.1, below. There will be no charge for Consultant's existing patents.

6.5 Public Records. Notwithstanding any provisions of the Agreement to the contrary, Consultant understands that the City will comply with the Texas Public Information Act, Tex. Gov't. Code Ann. § 552.001 et seq., as amended. If contacted by the City, Consultant will cooperate with the City in the production of records responsive to the request. Consultant agrees to provide the records responsive to the request in the format and within the time frame specified by the City. Consultant may request that City seek an opinion from the Office of the Attorney General of Texas. However, the final decision whether to seek a ruling from the Office of the Attorney General of Texas will be made by the City in its sole discretion to comply with the legal requirements of the TPIA. Additionally, Consultant will notify the City's general counsel within twenty-four (24) hours of receipt of any third-party requests for information written, produced, collected, assembled, or maintained in connection with the Agreement and/or any amendment to the Agreement. The Agreement and/or any amendment to the Agreement and all data and other information generated or otherwise obtained in its performance is subject to the TPIA. Consultant agrees to maintain the confidentiality of information received from the City during the performance of the Agreement, including information that contains personal identifying information and/or sensitive personal information as defined by the Texas Identity Theft Protection Act, Chapter 521, Texas Business and Commerce Code. Furthermore, Consultant is required to make any information created or exchanged with the State pursuant to the Agreement, and not otherwise excepted from disclosure under the TPIA, available in a format that is accessible by the public, as specified by the City, at no additional charge to the City. Notwithstanding the foregoing, City acknowledges that one or more of Consultant's affiliates is a registered investment adviser and that Consultant may be subject to routine examinations, investigations, regulatory sweeps or other regulatory inquiries by applicable regulatory and self-regulatory authorities. City agrees that Consultant may make such disclosures as may be requested by any such authority (or examiner thereof) and will not be required to comply with the process described in this paragraph; provided that if the request by such authority (or examiner thereof) is specifically targeted at City, Consultant will notify City (to the extent not prohibited by such authority or examiner or by applicable rule, regulation or law) as promptly as practicable following such request. City acknowledges that Consultant's review of the Confidential Information will inevitably enhance Consultant's knowledge and understanding of City's business in a way that cannot be separated from Consultant's other knowledge, and City agrees that this Agreement shall not restrict Consultant in connection with the purchase, sale, consideration of, and decisions related to other investments.

ARTICLE 7. INDEPENDENT CONTRACTOR RELATIONSHIP

7.1 In the performance of Services hereunder, Consultant shall be an independent contractor with the authority to control and direct the performance of the details of Services and its own means and methods. Consultant shall not be considered a partner, affiliate, agent, or employee of City and shall in no way have any authority to bind City to any obligation.

ARTICLE 8. WARRANTY PERIOD; GUARANTEES

8.1 If within a period of one (1) year following completion of Services under a Work Order, it is discovered that such Services were not performed in accordance with Consultant's Standard of Care, City, in its sole discretion, may: (1) direct Consultant to re-perform and Consultant shall re-perform such Services at its own expense, and as expediently or in the manner required for City's needs; or (2) retain such other consultant or consultants as necessary to perform such corrective services, and Consultant agrees to pay City's costs associated with having such other consultant or consultants perform such corrective services, and any other damages incurred by City as a result of such default. The obligations of Consultant under this Paragraph 8.1 are in addition to other rights and remedies of City available to it pursuant to this Agreement or applicable law.

8.2 Consultant agrees to assign City the warranty or guarantee of any subconsultant, subcontractor, supplier or manufacturer of items of services, supplies, machinery, equipment, materials, or products provided by Consultant hereunder and cooperate and assist City in City's enforcement thereof. Consultant's responsibility with respect thereto is limited to such assignment, cooperation, and assistance. The representations and warranties of Consultant under this Agreement and Work Orders are made in lieu of any other warranties or guarantees and Consultant makes no other warranties whether expressed or implied, including any warranty of merchantability or fitness for a particular purpose, and Consultant shall have no liability to City based upon any theory of liability that any such other warranty was made or breached.

ARTICLE 9. INDEMNIFICATION

9.1 TO THE FULLEST EXTENT PERMITTED BY LAW, CONSULTANT SHALL INDEMNIFY AND HOLD HARMLESS CITY AND EACH OF ITS COUNCIL MEMBERS, OFFICIALS, OFFICERS, AGENTS, EMPLOYEES, AND VOLUNTEERS (HEREINAFTER REFERRED TO INDIVIDUALLY AS AN "CITY INDEMNITEE" AND COLLECTIVELY AS THE "INDEMNITEES") FROM AND AGAINST ALL THIRD PARTY CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS, AND EXPENSES, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES AND COSTS INCURRED BY INDEMNITEES THAT ARISE FROM OR RELATE TO PERFORMANCE OF THE SERVICES OR THIS AGREEMENT TO THE EXTENT:

- (a) DUE TO THE VIOLATION OF ANY ORDINANCE, REGULATION, STATUTE, OR OTHER LEGAL REQUIREMENT IN THE PERFORMANCE OF THIS AGREEMENT, BY CONSULTANT, ITS AGENT, ANY CONSULTANT UNDER AGREEMENT WITH**

- CONSULTANT OR ANY OTHER ENTITY OVER WHICH CONSULTANT EXERCISES CONTROL;
- (b) CAUSED BY OR RESULTING FROM ANY NEGLIGENT OR INTENTIONAL ACT OR OMISSION IN VIOLATION OF CONSULTANT'S STANDARD OF CARE, BY CONSULTANT, ITS AGENT, ANY CONSULTANT UNDER AGREEMENT WITH CONSULTANT, OR ANY OTHER ENTITY OVER WHICH CONSULTANT EXERCISES CONTROL;
 - (c) CAUSED BY OR RESULTING FROM ANY CLAIM ASSERTING ACTUAL OR ALLEGED INFRINGEMENT OF A PATENT, TRADEMARK, COPYRIGHT OR OTHER INTELLECTUAL PROPERTY RIGHT IN CONNECTION WITH THE INFORMATION FURNISHED BY OR THROUGH CONSULTANT, ITS AGENT, ANY CONSULTANT UNDER AGREEMENT, OR ANY OTHER ENTITY OVER WHICH CONSULTANT EXERCISES CONTROL;
 - (d) DUE TO THE FAILURE OF CONSULTANT, ITS AGENT, ANY CONSULTANT UNDER AGREEMENT WITH CONSULTANT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL TO PAY ITS CONSULTANTS OR SUBCONSULTANTS AMOUNTS DUE FOR SERVICES PROVIDED IN CONNECTION WITH THE PROJECT; OR
 - (e) OTHERWISE ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OF THE SERVICES UNDER THIS AGREEMENT, INCLUDING SUCH CLAIMS, DAMAGES, LIABILITIES, LOSSES, COSTS, OR EXPENSES ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF THIRD-PARTY TANGIBLE PROPERTY, INCLUDING LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT SUCH CLAIMS, DAMAGES, LOSSES, COSTS AND EXPENSES ARE CAUSED BY OR RESULT FROM ANY NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS OF CONSULTANT, ITS AGENT, ANY CONSULTANT UNDER AGREEMENT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL.

NOTHING CONTAINED IN THIS SECTION 9.1 SHOULD BE CONSTRUED TO REQUIRE CONSULTANT TO INDEMNIFY OR HOLD HARMLESS CITY OR ANY INDEMNITEES FROM ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF CITY OR INDEMNITEES SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE § 271.904 AND TEXAS CIVIL PRACTICE AND REMEDIES CODE § 130.002(B)). NOTHING IN THIS ARTICLE 9 IS INTENDED TO WAIVE ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW OR WAIVE ANY DEFENSES OF CONSULTANT OR CITY UNDER TEXAS LAW.

9.2 TO THE FULLEST EXTENT PERMITTED BY LAW, AND TO THE EXTENT A DEFENSE IS NOT PROVIDED FOR THE INDEMNITEES UNDER AN INSURANCE POLICY AS REQUIRED UNDER ARTICLE 11 HEREOF OR THE INDEMNITEES' ATTORNEYS' FEES ARE NOT OTHERWISE RECOVERED UNDER THE INDEMNITY PROVISION SET FORTH IN SECTION 9.1 HEREOF, CONSULTANT SHALL, UPON FINAL ADJUDICATION OF THE LOSSES AS DEFINED IN SECTION 9.1 HEREOF AND WITHIN THIRTY (30) DAYS FOLLOWING THE DATE OF A WRITTEN DEMAND, REIMBURSE THE INDEMNITEES FOR ALL REASONABLE ATTORNEYS' FEES INCURRED TO DEFEND

AGAINST THE LOSSES IN PROPORTION TO CONSULTANT'S LIABILITY TO ANY THIRD PARTY FOR SUCH LOSSES.

9.3 Consultant shall procure liability insurance covering its obligations under this section.

9.4 It is mutually understood and agreed that the indemnification provided for in this section 9 shall indefinitely survive any expiration, completion or termination of this Agreement. There shall be no additional indemnification other than as set forth in this section. All other provisions regarding the same subject matter shall be declared void and of no effect.

9.5 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification, release or other obligations under Section 9.1, and any Additional Insured requirements under Article 11, such legal limitations are made a part of the obligations and shall operate to amend same to the minimum extent necessary to bring the provision(s) into conformity with the requirements of such limitations, and as so modified, the obligations set forth therein shall continue in full force and effect.

ARTICLE 10. LIMITATION OF LIABILITY

10.1 SUBJECT TO 10.2, BELOW, NEITHER PARTY HERETO SHALL BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES FOR ANY LOSS OF PROFIT, LOSS OF REVENUE, LOSS OF USE OR ANY OTHER INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES, EVEN IF CAUSED BY THE SOLE OR CONCURRENT NEGLIGENCE OF A PARTY, WHETHER ACTIVE OR PASSIVE, AND EVEN IF ADVISED OF THE POSSIBILITY THEREOF.

10.2 EXCLUSIONS FROM WAIVER. NOTWITHSTANDING ANYTHING CONTAINED IN SECTION 10.1 ABOVE, CITY AND CONSULTANT MUTUALLY AGREE THAT THE FOLLOWING LIABILITIES, OBLIGATIONS AND DAMAGES ARE SPECIFICALLY EXCLUDED FROM ANY WAIVER OF CONSEQUENTIAL DAMAGES SET FORTH IN SECTION 10.1:

- (a) CONSULTANT'S OBLIGATION TO INDEMNIFY OWNER OR OTHER INDEMNITEES UNDER SECTION 9.1 FOR CONSEQUENTIAL DAMAGES ARISING OUT OF CLAIMS (A) ASSERTED UNDER SECTION 9.1 AND 9.2 AND (B) SUFFERED BY THIRD PARTIES WITH RESPECT TO CLAIMS COVERED BY CONSULTANT'S INDEMNIFICATION OBLIGATIONS;**
- (b) A PARTY'S WAIVER IN SECTION 10.1 WILL NOT APPLY TO THE EXTENT ITS EFFECT WOULD BE TO LIMIT THE OBLIGATION OF AN INSURER TO PAY INSURANCE PROCEEDS THAT WOULD, BUT FOR THE OPERATION OF SUCH WAIVER, BE PAYABLE BY THAT INSURER;**
- (c) ANY DIRECT OR "NON-CONSEQUENTIAL" DAMAGE(S) INCURRED BY OWNER OR CONSULTANT;**
- (d) COSTS OF CORRECTIVE OR COMPLETION WORK CAUSED BY OR RESULTING FROM THE CONSULTANT'S FAILURE TO COMPLY WITH THE REQUIREMENTS IMPOSED ON**

THE CONSULTANT BY THIS AGREEMENT OR ANY WORK ORDERS ISSUED THEREUNDER;

- (e) FINES AND PENALTIES LEVIED BY A REGULATORY AGENCY;**
- (f) GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT OF CONSULTANT OR ITS SUBCONSULTANTS, THEIR EMPLOYEES OR ANY FOR WHOM THEY ARE RESPONSIBLE.**

10.3 THE PARTIES AGREE THAT NEITHER PARTY'S INDIVIDUAL EMPLOYEES, OFFICERS, ELECTED OFFICIALS, DIRECTORS OR PRINCIPALS SHALL BE SUBJECT TO ANY PERSONAL LIABILITY AS A RESULT OF OR IN CONNECTION WITH THE AGREEMENT OR ANY WORK ORDER FOR SERVICES HEREUNDER, EXCEPT AS REQUIRED UNDER THE TEXAS OCCUPATIONS CODE § 1051. IN CASES INVOLVING THE GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT OF CITY'S, OR CONSULTANT'S EMPLOYEES, OFFICERS, DIRECTORS OR PRINCIPALS, THE FOREGOING LIMITATION SHALL NOT APPLY AND THE OTHER PARTY SHALL BE ENTITLED TO ALL AVAILABLE REMEDIES AT LAW OR IN EQUITY.

ARTICLE 11. INSURANCE

11.1 General. The Consultant shall procure and maintain at its sole cost and expense for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, volunteers, employees or subconsultants. The policies, limits and endorsements required are as set forth below.

Each Subconsultant must provide Worker's Compensation/Employer's liability, Professional Liability, CGL, and Automobile Liability coverage with equal limits as Consultant; provided, however, the limits of such insurance may be adjusted in accordance with the nature of each Subconsultant's operations but, if such adjustment is requested, it must be submitted to City for approval before the Consultant enters into an agreement or any work commences under the agreement in question.

During the term of the Agreement Consultant's insurance policies shall meet the minimum requirements of this section.

11.2 Types. Consultant shall have the following types of insurance:

- (a) Commercial General Liability.**
- (b) Business Automobile Liability.**
- (c) Workers Compensation/Employer's Liability**
- (d) Professional Liability.**

11.3 Certificates of Insurance. For each of these policies, the Consultant's insurance coverage shall be primary insurance with respect to the City, its officials, agents, employees and volunteers. Any self-insurance or insurance policies maintained by the City, its officials, agents,

employees and volunteers, shall be considered in excess of the Consultant's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Consultant to the City pursuant to this Agreement shall be construed or interpreted as limiting or otherwise affecting the terms of the insurance coverage. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Agreement (attached hereto as "Attachment C" and incorporated by reference), and approved by the City before any letter of authorization to commence planning will issue or any work on the Project commences.

11.4 General Requirements Applicable to All Policies. The following General Requirements to all policies shall apply:

- (a) Only licensed insurance carriers authorized to do business in the State of Texas will be accepted.
- (b) Deductibles shall be listed on the Certificate of Insurance.
- (c) "Claims made" policies will not be accepted, except for Professional Liability insurance.
- (d) Coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits of liability except after thirty (30) calendar days prior written notice has been given to the City of West Lake Hills.
- (e) The Certificates of Insurance shall be prepared and executed by the insurance carrier or its authorized agent on the most current State of Texas Department of Insurance-approved forms.
- (f) Additional Insured Status. To the fullest extent permitted under Texas law City, and Indemnitees, shall be included as additional insureds on each CGL policy procured by Consultants and Subconsultants using ISO Additional Insured Endorsements CG 20 10 10 01 (ongoing operations) and CG 20 37 10 01 (completed operations) or endorsements providing equivalent coverage. Such parties shall also be included as additional insureds on all other policies procured by Consultant and Subconsultants except Worker's Compensation/Employer's Liability and Professional Liability with endorsements approved by City. Notwithstanding anything to the contrary, such additional insured coverage shall not exceed that allowed under Texas law.

11.5 Commercial General Liability Requirements. The following Commercial General Liability requirements shall apply:

- (a) Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A. M. Best Key Rating Guide.
- (b) Minimum Limit of \$1,000,000 per occurrence for bodily injury and property damage with a \$2,000,000 annual aggregate.
- (c) No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.
- (d) The coverage shall not exclude premises/operations; independent contracts, products/completed operations, contractual liability (insuring the indemnity provided herein), and where exposures exist, Explosion Collapse and Underground

coverage.

- (e) The City shall be included as an additional insured and the policy shall be endorsed to waive subrogation and to be primary and non-contributory.

11.6 Business Automobile Liability Requirements. The following Business Automobile Liability requirements shall apply:

- (a) Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current. A. M. Best Key Rating Guide.
- (b) Minimum Combined Single Limit of \$1,000,000 per occurrence for bodily injury and property damage.
- (c) The Business Auto Policy must show Symbol 1 in the Covered Autos portion of the liability section in Item 2 of the declarations page.
- (d) The coverage shall include owned autos, leased or rented autos, non-owned autos, any autos and hired autos.
- (e) The City shall be included as an additional insured and the policy shall be endorsed to waive subrogation and to be primary and non-contributory.

11.7 Workers' Compensation/Employers Liability Insurance Requirements. The following Workers' Compensation Insurance requirements shall apply; and the term "contractor" shall be construed to mean "Consultant" as identified in this Agreement:

- (a) Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, all employees of the Consultant, the Consultant, all employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers' compensation insurance policy; either directly through their employer's policy (the Consultant's, or subcontractor's policy) or through an executed coverage agreement on an approved Texas Department of Insurance Division of Workers Compensation (DWC) form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Consultants and subcontractors must use that portion of the form whereby the hiring contractor agrees to provide coverage to the employees of the subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent contractor may not be used.
- (b) The workers' compensation/employer's liability insurance shall include the following terms:
 - (1) Employer's Liability limits of \$1,000,000 for each accident is required.
 - (2) "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.Texas must appear in Item 3A of the Worker's Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.
- (c) Pursuant to the explicit terms of Title 28, Section 110.110(c)(7) of the Texas

Administrative Code, this Agreement, the bid specifications, this Agreement, and all subcontracts on this Project must include the terms and conditions set forth below, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation:

(1) Definitions:

- (i) Certificate of coverage (“certificate”) - A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Division of Workers Compensation, or a coverage agreement (DWC-81, DWC-83, or DWC-84), showing statutory workers’ compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the Project.
 - (ii) Duration of the Project - includes the time from the beginning of the work on the Project until the Consultant’s/person's work on the project has been completed and accepted by the governmental entity.
 - (iii) Persons providing services on the project (“subcontractors” Tex. Lab. Code Ann. § 406.096) - includes all persons or entities performing all or part of the services the Agreement or has undertaken to perform on the project, regardless of whether that person contracted directly with the Consultant and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, subconsultants, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. “Services” include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. “Services” does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- (2) The Consultant shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Tex. Lab. Code Ann. § 401.011(44) for all employees of the Consultant providing services on the project, for the duration of the project.
 - (3) The Consultant must provide a certificate of coverage to the governmental entity prior to being awarded the contract.
 - (4) If the coverage period shown on the Consultant’s current certificate of coverage ends during the duration of the Project, the Consultant must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
 - (5) The Consultant shall obtain from each person providing services on a project, and provide to the governmental entity:
 - (i) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of

coverage showing coverage for all persons providing services on the project; and

- (ii) no later than seven calendar days after receipt by the Consultant, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- (6) The Consultant shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
 - (7) The Consultant shall notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the Consultant knew or should have known, or any change that materially affects the provision of coverage of any person providing services on the project.
 - (8) The Consultant shall post on each project site a notice, in the text, form and manner prescribed by the Division of Workers Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
 - (9) The Consultant shall contractually require each person with whom it contracts to provide services on a project, to:
 - (i) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, that meets the statutory requirements of Tex. Lab. Code Ann. § 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - (ii) provide to the Consultant, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - (iii) provide the Consultant, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (iv) obtain from each other person with whom it contracts, and provide to the Consultant:
 - (A) a certificate of coverage, prior to the other person beginning work on the project; and
 - (B) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (C) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - (D) notify the governmental entity in writing by certified mail or personal delivery, within 10 calendar days after the person knew

or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

- (E) Contractually require each person with whom it contracts, to perform as required by paragraphs (a) - (g), with the certificates of coverage to be provided to the person for whom they are providing services.
- (F) By signing this Agreement, or providing, or causing to be provided a certificate of coverage, the Consultant is representing to the governmental entity that all employees of the Consultant who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- (G) The Consultant's failure to comply with any of these provisions is a breach of Contract by the Consultant that entitles the governmental entity to declare the Contract void if the Consultant does not remedy the breach within ten calendar days after receipt of notice of breach from the governmental entity.

11.8 Professional Liability Requirements. The following Professional Liability requirements shall apply:

- (a) Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A.M. Best Key Rating Guide.
- (b) Minimum of \$2,000,000 per claim and \$5,000,000 aggregate, with a maximum deductible of \$100,000.00. Financial statements shall be furnished to the City of West Lake Hills when requested.
- (c) Professional liability coverage will be obtained and maintained by Consultant and Subconsultant with policy limits set forth above to insure from and against all negligent acts, errors, and omissions in the professional services performed by them, and their agents, representatives, employees, subcontractors, and subconsultants. Coverage shall provide full prior acts coverage or a retroactive date not later than the date the services are first performed in connection with the Project. Policies shall not include any type of exclusion or limitation of coverage applicable to claims arising from: (i) bodily injury or property damage where coverage is provided on behalf of design professionals or Subconsultants; (ii) habitational or residential operations; (iii) pollution, mold and/or microbial matter and/or fungus and/or biological substance; (iv) punitive, exemplary or

multiplied damages; or (vi) design services. All policies shall be maintained until all claims arising out of the services provided by each entity are barred by the statute of repose under Texas law. Coverage under any renewal policy form shall include a retroactive date that precedes the earlier of the effective date of this Contract or the first performance of services for the Project. The purchase of an extended discovery period or an extended reporting period on this policy will not be sufficient to comply with the obligations hereunder.

- (d) Retroactive date must be shown on certificate.

ARTICLE 12. CHANGES; TERMINATION FOR CONVENIENCE; TERMINATION FOR CAUSE

12.1 City may, at any time and from time to time, make written changes to Work Orders in the form of modifications, additions, or omissions. In the event that any such change, through no fault of Consultant, shall impact Consultant's compensation or schedule, then (a) such changes shall be authorized by written change order issued by City and accepted by Consultant, and (b) an equitable adjustment shall be made to the Work Order in writing duly executed by both Parties, to reflect the change in compensation and schedule.

12.2 City may for convenience terminate this Agreement, any Work Order issued under this Agreement, or Consultant's right to perform Services under this Agreement or any Work Order by at any time giving seven (7) days written notice of such termination. In such event, City shall have the right but not the obligation to assume all obligations and commitments that Consultant may have in good faith undertaken or incurred in connection with the Services terminated, and City shall pay Consultant, as its sole and exclusive remedy, for Services properly performed to date of termination and for reasonable costs of closing out such Services provided City has pre-approved such costs. Consultant shall not be entitled to lost profit on unperformed Services or any consequential damages of any kind. Upon termination, Consultant shall invoice City for all services performed by Consultant prior to the time of termination which have not previously been compensated. Payment of undisputed amounts in the final invoice shall be due and payable within thirty (30) days after receipt by City and City's receipt of all Work Product. Consultant shall include a similar provision allowing for termination for convenience on similar terms in all its lower-tier subcontracts.

12.3 This Agreement or any Work Order may be terminated by either Party in the event that the other Party fails to perform in accordance with its requirements and such Party does not cure such failure within ten (10) days after receipt of written notice describing such failure. In the event that City terminates this Agreement or any Work Order for cause, Consultant shall not be entitled to any compensation until final completion of the then ongoing Services and any such entitlement shall be subject to City's right to offset and/or recoup all damages and costs associated with finally completing such Services. If for any reason, Consultant is declared in default and/or terminated by City under any Work Order with City, City shall have the right to offset and apply any amounts which might be owed to City by Consultant against any earned but unpaid amounts owed to Consultant by City under any Work Order. In the event any Work Order

is terminated by City, Consultant shall promptly deliver to City all Work Product with respect to such terminated Work Order.

12.4 The City may, without cause, order the Consultant in writing to suspend, delay, or interrupt this Agreement or any Work Order in whole or in part for such period of time as the City may determine. Upon receipt of such notice, the Consultant shall, unless the notice requires otherwise, immediately discontinue Services on the date and to the extent specified in the notice. The Consultant shall be compensated for Services performed prior to notice of such suspension. When the services under this Contract are resumed, the Consultant shall be compensated for expenses directly and necessarily incurred in the interruption and resumption of the Consultant's services, without markup.

12.5 Notices shall be mailed to the addresses designated herein or as may be designated in writing by the Parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

City:

**City of West Lake Hills
Attn: City Administrator
911 Westlake Dr.
West Lake Hills, Texas 78746**

Consultant:

**Colliers Engineering & Design, Inc.
Attn: Legal
101 Crawford's Corner Rd. Suite 3400 Holmdel,
NJ 07733**

ARTICLE 13 FORCE MAJEURE

13.1 Any delay in performance or non-performance of any obligation other than an obligation to make a payment as required under this Agreement or any Work Order, of Consultant contained herein shall be excused to the extent such delay in performance or non-performance is caused by Force Majeure. "Force Majeure" shall mean fire, flood, act of God, earthquakes, extreme weather conditions, epidemic, pandemic, war, riot, civil disturbance or unrest, imposition of martial law, restrictions imposed by civil authority, loss of control of civil authority, illegal activity, extreme unreliability or failure of the utility infrastructure, failure of the US banking system, loss of access to communication systems, sabotage, terrorism, or judicial restraint, but only to the extent that such event (i) is beyond the reasonable control of and cannot be reasonably anticipated by or the effects cannot be reasonably alleviated by Consultant and (ii) prevents the performance of Services.

13.2 If Consultant is affected by Force Majeure, Consultant shall promptly provide notice to City, explaining in detail the full particulars and the expected duration thereof. Notice will be considered prompt if delivered within five (5) days after Consultant first becomes aware that the event of Force Majeure will affect the performance of Services and the end of the restrictions, if any, on Consultant's ability to communicate with City. Consultant shall use its commercially

reasonable efforts to mitigate the interruption or delay if it is reasonably capable of being mitigated.

ARTICLE 14. SUCCESSORS, ASSIGNMENT AND SUBCONTRACTING

14.1 City and Consultant bind themselves and their successors, executors, administrators and permitted assigns to the other Party of this Agreement and to the successors, executors, administrators and permitted assigns of such other party, in respect to all covenants of this Agreement.

14.2 No right or interest in this Agreement or any Work Order shall be assigned by Consultant or City without the prior written consent of the other Party.

14.3 Prior to commencement of any part of the Services to be provided under any Work Order with respect to which Consultant has elected to subcontract, Consultant will notify City in writing of the identity of the particular subcontractor, subconsultant or supplier Consultant intends to employ for the performance of such part of the Services and the scope of Services it will perform. City shall have the right within twenty-one (21) calendar days of such written notice to disallow Consultant's employment of any particular subcontractor, subconsultant or supplier, provided that any reasonable additional costs incurred by Consultant as a result of such disallowance shall be borne by City.

ARTICLE 15. SEVERABILITY; NON-WAIVER

15.1 If any provision or portion thereof of this Agreement or any Work Order is deemed unenforceable or void, then such provision or portion thereof shall be deemed severed from the Agreement or such Work Order and the balance of the Agreement or Work Order shall remain in full force and effect. The Parties shall use their best efforts to replace the respective provision or provisions of this Contract with legal terms and conditions approximating the original intent of the Parties.

15.2 Failure by City in any instance to insist upon observance or performance by Consultant of any term, condition or obligation of this Agreement shall not be deemed a waiver by City of any such observance or performance. No waiver by City of any term, condition, obligation or breach of this Agreement will be binding upon City unless in writing, and then will be for the particular instance specified in such writing only. Payment of any sum by City to Consultant with knowledge of any breach will not be deemed a waiver of such breach or any other breach.

ARTICLE 16. LICENSE REQUIREMENTS

16.1 The Consultant and any subconsultant shall have and maintain any licenses, registrations and certifications required by the State of Texas or recognized professional organizations governing the Services performed under this Agreement and any Work Order.

ARTICLE 17. ENTIRE AGREEMENT

17.1 This Agreement and all Work Orders issued under it contain the full and complete understanding of the Parties pertaining to their subject matter and supersede any and all prior and contemporaneous representations, negotiations, agreements or understandings between the Parties, whether written or oral. The Agreement and Work Orders may be modified only in writing, signed by both Parties.

ARTICLE 18. GOVERNING LAW; VENUE

18.1 This Agreement and Work Orders, and its and their construction and any disputes arising out of, connected with, or relating to this Agreement or Work Orders shall be governed by the laws of the State of Texas, without regard to its conflicts of law principles. Venue of all dispute resolution proceedings arising out of, connected with or relating to this Agreement, shall be in Travis County, Texas.

ARTICLE 19. DISPUTE RESOLUTION;

19.1 Each party to this Agreement is required to continue to perform its obligations under this Agreement, pending a final resolution of any dispute arising out of or relating to this Agreement, unless it would be impossible or impracticable to perform under the circumstances.

19.2 Before invoking mediation or any other alternative dispute process set forth herein, the parties to this Agreement agree they first shall try to resolve any dispute arising out of or related to this Agreement through discussions directly between those senior management representatives within their respective organizations who have overall managerial responsibility for similar projects. This step shall be a condition precedent to use of any other alternative dispute resolution process. If the parties' senior management representatives cannot resolve the dispute within thirty (30) days after a party delivers a written notice of such dispute to the other, then the parties shall proceed with mediation alternative dispute resolution process contained herein. All negotiations pursuant to this Section are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

19.3 In the event that City or Consultant shall contend that the other has committed a material breach of this Agreement, the party alleging such breach shall, as a condition precedent to filing any lawsuit, request mediation of the dispute.

- (a) Request for mediation shall be in writing and shall request that the mediation commence not less than thirty (30) or more than ninety (90) days following the date of the request, except upon the written agreement of both parties.
- (b) In the event City and Consultant are unable to agree to a date for the mediation or to the identity of the mediator or mediators within thirty (30) days following

the date of the request for mediation, all conditions precedent in this Article 19 shall be deemed to have occurred.

- (c) The parties shall share the mediator's fee and any filing fees equally. Venue for any mediation or lawsuit arising under this Agreement shall be in Travis County, Texas. Any agreement reached in mediation shall be enforceable as a settlement agreement in any court having jurisdiction thereof. No provision of this Agreement shall waive any immunity or defense. No provision of this Agreement is a consent to suit.
- (d) Consultant and City expressly agree that, in the event of litigation, both parties waive rights to payment of attorneys' fees that might otherwise be recoverable pursuant to the Texas Civil Practice and Remedies Code Chapter 38, Texas Local Government Code Section 271.153, the Prompt Payment Act, common law or any other provision for payment of Attorneys' fees.
- (e) Notwithstanding the foregoing, in the event City and any other consultant and/or any contractor are involved in a dispute in connection with a project for which Consultant has provided Services, and City, in its sole discretion, determines that Consultant's participation in any dispute resolution meeting or mediation proceeding between City and any such consultant and/or contractor is necessary to the resolution of such dispute, Consultant agrees to attend and participate at its own cost in any such dispute resolution meeting or mediation proceeding.

19.4 Notwithstanding the foregoing, before bringing an action asserting a claim for a construction defect as provided by Tex. Gov't Code §§ 2272.001 et seq., as amended, City shall provide Consultant a written report by certified mail, return receipt requested, that clearly: identifies the specific construction defect on which the claim is based; describes the present physical condition of the affected structure; and describes any modification, maintenance, or repairs to the affected structure made by City or others since the affected structure was initially occupied or used. Not later than the five (5) days after the date Consultant receives a report under this section, Consultant must provide a copy of the report to each subcontractor/subconsultant retained on the construction of the affected structure whose work is subject to the claim.

19.5 Before bringing an action asserting a claim to which this chapter applies, City shall allow each party with under this Agreement with City is subject to the claim and any known subcontractor/subconsultant or supplier who is subject to the claim:

- (a) a reasonable opportunity to inspect any construction defect or related condition identified in the report for a period of 30 days after sending the report required by section 19.4; and
- (b) at least 120 days after the inspection to:
 - (1) correct any construction defect or related condition identified in the report; or
 - (2) enter into a separate agreement with City to correct any construction defect or related condition identified in the report.

- (c) City is not required to allow a party to make a correction or repair under this section 19.5 if:
- (1) the party:
 - (i) is a contractor and cannot provide payment and performance bonds to cover the corrective work;
 - (ii) cannot provide liability insurance or workers' compensation insurance;
 - (iii) has been previously terminated for cause by the City; or
 - (iv) has been convicted of a felony; or
 - (2) the City previously complied with the process required by Subsection (a) regarding a construction defect or related condition identified in the report and:
 - (i) the defect or condition was not corrected as required by Subsection (a)(2)(A) or an agreement under Subsection 19.5(b)(2) or
 - (ii) the attempt to correct the construction defect or related condition identified in the report resulted in a new construction defect or related condition.

19.6 If a report provided by City under Section 19.4 identifies a construction defect that is corrected under Section 19.5 or for which the City recovers damages, the party responsible for that construction defect shall pay the reasonable amounts incurred by the City to obtain the report with respect to identification of that construction defect.

19.7 This Section 19.5 does not prohibit or limit the City from making emergency repairs to the property as necessary to protect the health, safety, and welfare of the public.

ARTICLE 20. ELECTRONIC SIGNATURES; COUNTERPARTS

20.1 This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement. Duplicate copies of duly executed and delivered counterparts of this Agreement shall be deemed to have the same full force and effect as originals and may be relied upon as such. Notwithstanding the foregoing, the Parties agree that this Agreement and any Work Order may be executed using electronic signatures at the option and in the discretion of City, and, in such event, the provisions of the Uniform Electronic Transaction Act, Chapter 332, Texas Business and Commerce Code, as amended, and any applicable policies and procedures of City regarding electronic signatures shall apply.

ARTICLE 21. PUBLICITY

21.1 Neither Consultant nor any of its subconsultants shall publish or release any publicity or public relations materials of any kind concerning or relating to this Agreement, the Services or the activities of City, unless such materials have first been reviewed and approved in writing by City. This provision shall not apply to mandatory reports which Consultant or its subconsultants are required by law to file with governmental authorities.

ARTICLE 22. GENERAL TERMS

22.1 Cumulative Mutual Remedies. In the event of default by a Party herein, the other Party shall have all rights and remedies afforded to it at law or in equity to recover damages and interpret, or enforce, the terms of the Contract. The exercise of any one right or remedy shall be without prejudice to the enforcement of any other right or remedy allowed at law or in equity.


22.2 State or Federal Laws. This Contract is subject to all applicable federal and State laws, statutes, codes, and any applicable permits, ordinances, rules, orders and regulations of any local, State or federal government authority having or asserting jurisdiction, but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule or regulation in any forum having jurisdiction. The Consultant must obtain all necessary permits and licenses required in completing the services required by this Contract.

22.3 No Third-Party Beneficiary. The Parties are entering into this Contract solely for the benefit of themselves and agree that nothing herein shall be construed to confer any right, privilege or benefit on any person or entity other than the Parties hereto.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the day and year herein above first written.

CONSULTANT:
Colliers Engineering & Design, Inc.

CITY:
City of West Lake Hills

By: 
Name: Christopher Otto, P.E, CFM
Title: Regional Discipline Leader


By: 
Trey Fletcher
City Administrator

Date: 6/9/25

Date: 6-27-2025

ATTEST:

ATTEST:





ATTACHMENT A

Compensation terms for cost reimbursable and lump sum Services:

A.1. COMPENSATION BASED ON COST WITH MULTIPLIER

For professional and non-professional staff, City will compensate Consultant on the basis of a multiplier added to the Raw Salary Cost as shown in the table below for the Scope of Work specified in the Work Order. Professional is defined as Administrator, supervisor, engineer, scientist or other recognized profession. Typically, professional employees are salaried exempt employees. Typically, non-professional employees are hourly non-exempt employees. The Raw Salary Cost for salaried employees is defined as the annual base salary excluding bonuses, burdens, and benefits divided by 2080. For hourly personnel, the Raw Salary Cost is defined as the hourly wage paid to the employee exclusive of burdens and benefits. Any shift premiums or premiums paid for hours worked in excess of 40 per week will be added to the base hourly wage and will be considered a part of the Raw Salary Cost.

(a) RAW SALARY MULTIPLIERS

X.XX for professional and non-professional staff working at Consultant or its subcontractor, subconsultant, or vendor offices.

X.XX for professional and non-professional staff working in the field during construction or at City offices for a minimum period of six (6) consecutive months.

X.XX for construction inspectors working in the field.

(b) EXPENSES

“Billable Expenses” include all costs and expenses directly attributable to performance of the services, which are in good accounting practice direct costs of the Services and not covered by the allowance for payroll burden and general office overhead and profit. Costs of outside services will be charged at actual invoice cost plus ten percent (10%). “Billable Expenses” include: subconsultants; travel expenses to and from locations outside Guadalupe and Bexar County; and copies of all deliverables submitted to City. All local vehicle use outside Guadalupe and Bexar Counties will be reimbursed at the current IRS allowable rate with no markup. All other expenses are considered to be covered by the allowance for payroll burden and general office overhead and profit and are non-billable expenses.

A.2. LUMP SUM COMPENSATION

City will compensate Consultant on the basis of a mutually agreed upon lump sum price for the scope of work specified in the Work Order. City may ask Consultant for a cost estimate for the scope of work prior to issuing the Work Order. The cost estimate will include a summary

breakdown showing the labor hours and cost, subconsultant costs, and other direct costs included in the estimate. Labor rates to be used in preparing the estimate will be the actual salary or wage of the employee times the appropriate multiplier specified in A.1 (a) above. Consultant will submit and City will pay monthly invoices based on the mutually agreed upon percentage of the Project completed.

ATTACHMENT B FORM

This Work Order is issued subject to, is governed by and incorporates by reference that certain Master Professional Services Agreement, between the City and Consultant effective _____, 20__.

Work Order Date: _____

CONSULTANT: _____

Consultant Project Manager: _____

City Point of Contact: _____

Type of Compensation: _____

Compensation: _____

Description of Services: _____

Deliverables: See Attached.

Schedule Requirements:

Commence Services: _____

Completion of Services: _____

Submittal Dates for Each Deliverable: See Attached.

Agreed to by:

CITY:

CONSULTANT:

CITY OF WEST LAKE HILLS

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

**ATTACHMENT C
CERTIFICATE OF INSURANCE**

3421 Paesanos Parkway Suite 103
San Antonio, Texas 78231
Main: 877 627 3772



Engineering
& Design

TBPLS Reg. 10194550 • TBPE Reg. F-14909 • TBPG 50617

June 16, 2025

City of West Lake Hills
Attn.: Mr. Trey Fletcher, AICP, ICMA-CM
City Administrator
911 Westlake Drive, West Lake Hills
Texas, 78746

Work Order for Professional Services
Development Review Services
Proposal No.: 25006063P

Dear Mr. Fletcher,

Colliers Engineering & Design, Inc. is pleased to submit this work order to provide professional services for the Development Services Department for the City of West Lake Hills, Texas.

This proposal is divided into three sections as follows:

Section I – Scope of Services

Section II – Technical Staff Hourly Rate Schedule and Reimbursable Expenses

Section III – Client Contract Authorization

The order in which the following scope of services are presented generally follows the sequence in which the project will be accomplished; however, depending on the project, the various authorized services contained in this proposal may be performed in a sequence as deemed appropriate by Colliers Engineering & Design to meet project schedules.

Section I – Scope of Services

Based on our conversations and information noted above, we propose to complete the following:

Plat/Plan Review Services

- The City Engineer shall provide technical review of, and answer inquiries relating to, site plans, subdivision plans, improvement plans, land disturbance plans, construction plans and escrows relating to projects proposed by applicants to be developed in the City to ensure that such conform to codes adopted by the City.
- Review basic utility requirements and wastewater connections associated with new or renovated projects.
- The City Engineer shall, upon request, attend meetings of affected property owners, and meetings with city staff and developers.
- Conduct periodic site visits for consultation, construction observation and project close outs, as needed.

KFW Engineers + Surveying is now Colliers Engineering & Design

Accelerating success. —

- CED will review and provide professional recommendations for a variety of functions including right-of-way requirements and administration (acquisitions, dedications, vacations/abandonments and easements), site development and subdivision plans, drainage and flood control, utility considerations, variances, subdivisions and planned unit development agreements.
- CED will provide services consisting of engineering, design, consultation, project management, plan review, plat review, and other services, acting as the City's Designated City Engineer, on a task order basis as required to perform and complete the Scope of Work Services specifically identified below:
 - Land Study
 - Plat reviews
 - Drainage Study/Report Review
 - Geotech Report Review
 - Traffic Impact Analysis Review
 - Construction Plans – Public Infrastructure
 - Preliminary/Final Acceptance Process

This task will be performed typically by the following titles with approximate percentages: Senior Principal/Principal 10%, Senior Project Specialist 20%, Specialist 70%.

Schedule of Fees

For your convenience, we have broken down the total estimated cost of the project into the categories identified within the scope of services. Monthly invoices will be billed on an hourly basis.

Task Name	Fee
Task 1.0 Plan Review Services	\$150,000.00
Total (Hourly)	\$150,000.00

The review fees will be Cost Plus to Max type of fee per plan reviews. Delivery, mileage, printing and reproduction, overnight mail service and postage costs are not included in the lump sum fees and will be added to each monthly invoice. **Payment terms are NET30 of receipt of invoice.**

Exclusions and Understandings

Services relating to the following items are not anticipated for the project or cannot be quantified at this time. Therefore, any service associated with the following items is specifically excluded from the scope of professional services within this agreement.

- Any items and/or scope not specifically listed in the proposal.

If an item listed herein, or otherwise not specifically mentioned within this agreement, is deemed necessary, Colliers Engineering & Design may prepare an addendum to this agreement for your review, outlining the scope of additional services and associated professional fees regarding the extra services.



Section II – Rate Schedule

Technical Staff Rates 2025

Billing Titles	Hourly Rates
Executive Principal	360.00
Senior Principal	345.00
Principal	320.00
Senior Technical Director	295.00
Senior Project Manager	270.00
Technical Director	230.00
Project Manager	220.00
Senior Project Specialist	200.00
Project Specialist	190.00
Technical Professional	180.00
Technical Specialist	170.00
Specialist	160.00
Senior Data Technician	150.00
Senior Technical Assistant	140.00
Technical Assistant	125.00
Field Technician	115.00
Data Technician	115.00
Survey Crew – 1 Person w/Robotic Equipment	195.00
Additional Survey Crew Member	85.00
SUE Crew (designating) – 1 Person	160.00
Additional (designating) Member	85.00
SUE Crew (locating) – 2 Person	220.00
Additional (locating) Member	85.00
Expert Witness	425.00
Sr. LSRP	330.00
LSRP	290.00

Reimbursable Expenses

General Expenses	Cost + 15%
Travel (Hotel, Airfare, Meals)	Cost + 15%
Sub-Consultants/Sub-Contractors	Cost + 20%
Plotting	4.50 / Each
Computer Mylars / Color Plots	100.00 / Each
Photocopies	0.19 / Each
Color Photocopies	2.05 / Each
Document Binding	4.05 / Each
Portable Media	100.00 / Each
Exhibit Lamination (24" x 36" or larger)	90.00 / Each
Initial Digital Signature	300.00
Additional Digital Signatures	75.00 / Each
Mileage Reimbursement*	0.655 / Per Mile
	Field Vehicle 0.75 / Per Mile

*Mileage reimbursement subject to change based upon IRS standard mileage rate.

Section III – Client Contract Authorization

I hereby declare that I am duly authorized to sign binding contractual documents. I also declare that I have read, understand, and accept this contract.



Signature

6-27-2025

Date

Trey Fletcher

Printed Name

City Administrator

Title

If you find this proposal acceptable, please sign where indicated above in Section III, and return one signed copy to this office **Payment terms are NET30 of receipt of invoice**. This proposal is valid until (60 days per business terms).

We very much appreciate the opportunity of submitting this proposal and look forward to performing these services for you.

Sincerely,

Colliers Engineering & Design, Inc.



Bobby J. Torres, P.E.
Department Manager - Municipal

AS

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City of West Lake Hills
City Council

AGENDA REPORT

Meeting Date:	<u>February 11, 2026</u>	Item Number:	<u>9</u>
Department:	<u>Administration</u> <u>Trey Fletcher, City</u>		
Prepared By:	<u>Administrator</u>	Cost / Budget:	<u>\$400,000.00</u>
Exhibits:	<u></u>	Source of Funds:	<u></u>

Subject

Discuss and consider AI Traffic Detection in the RM 2244 / Bee Cave Road corridor.

Recommendation

Staff recommend approval, subject to the availability of funding.

Discussion

The City's Strategic Plan adopted in February 2025 included an initiative to explore opportunities for joint ventures on mobility and infrastructure projects. Since that time, Mayor Vaughan and staff have been in communication with TxDOT and others regarding traffic congestion in the Bee Cave Road corridor.

While the traffic signals along the corridor are the responsibility of TxDOT Austin District, the City has expressed interest in supporting innovative approaches to improving the efficiency of traffic movement along the corridor and for the benefit of the intersecting streets.

NoTraffic Intersection Vehicle Detention and Sensing package is available Texas Highway Products.via BuyBoard.

Exhibit B

Attachment to Agreement for Furnishing and Installing of Traffic Signal Equipment by a Municipality

Cost Estimate

Intersection	Detection	Optimization	Intersection Subtotal
RM 2244 at Rollingwood Dr.	\$25,000.00	\$15,000.00	\$40,000
RM 2244 at Walsh Tarlton Ln.	\$25,000.00	\$15,000.00	\$40,000
RM 2244 at Beaver Trl./Westwood Terrace	\$25,000.00	\$15,000.00	\$40,000
RM 2244 at Westbank Dr.	\$25,000.00	\$15,000.00	\$40,000
RM 2244 at Westlake Dr.	\$25,000.00	\$15,000.00	\$40,000
RM 2244 at Camp Craft Rd.	\$25,000.00	\$15,000.00	\$40,000
RM 2244 at The Hills	\$25,000.00	\$15,000.00	\$40,000
RM 2244 at Redbud Trl.	\$25,000.00	\$15,000.00	\$40,000
RM 2244 at Village at West Lake	\$25,000.00	\$15,000.00	\$40,000
RM 2244 at SL 360 NBFR & SBFR	\$25,000.00	\$15,000.00	\$40,000
		Total Equipment Cost for 10 Signals	\$400,000

BUYBOARD PROPOSAL NO. 703-23, HIGHWAY SAFETY AND TRAFFIC CONTROL PRODUCTS



NoTraffic Mobility OS Software & Services Overview

Service Term

- All software and services are provided for a five (5) year term with the purchase of the system.
- Software and services are extendable beyond five (5) years.

Hardware: Traffic Detection System

Included Hardware Components:

- Four (4) Sensor Units
- One (1) Nexus Unit
- One (1) Sensor Power Unit
- One (1) 9-in-1 Antenna

Warranty & Replacement:

- Five (5) year warranty on all NoTraffic-provided hardware.
- Defective hardware will be repaired or replaced through NoTraffic's standard RMA process.

Software & Platform: Mobility OS

- Five (5) year access to MobilityOS, NoTraffic's cloud-based traffic management platform.

MobilityOS Includes:

- AI Detection
- Traffic Counts
- Data Analytics
- Includes platform enhancements, security updates, and over-the-air (OTA) updates to NoTraffic edge devices.
- New user access request:
 - <https://notraffic.tech/Mobilityos-new-user-request/>



MobilityOS Applications

AI Detection (Included)

- Detector configuration and management user interface
- Stop-bar and advanced detection
- Vehicle and bicycle detection
- Vehicle phase and pedestrian phase status
- Unlimited two (2)-minute real-time video streams

Traffic Counts (Included)

- Total volume
- Approach volume
- Turning movement counts by classification: Passenger vehicle, Heavy truck, Bus, Motorcycle, Bicycle, and Pedestrian
- Data filtering by date and time
- Data export to CSV in 15-minute, 1-hour, 24-hour bins

Data Analytics (Included)

- Traffic counts
- Arrivals on red vs. arrivals on green
- Maximum approach delay
- Average approach delay
- Level of Service (LOS)



MobilityOS Applications

Optimization Mode (Optional Add-On)

Optimization Mode is a real-time adaptive signal control application within NoTraffic's AI Mobility Platform designed to improve intersection performance. By continuously analyzing data from NoTraffic's hybrid video and radar sensor units, the Nexus unit dynamically communicates with the signal controller to adjust signal timings in real time, in accordance with agency-defined performance metrics and operational policies.

NOC Monitoring & Support

The NoTraffic Operations Center (NOC) provides 24/7/365 system monitoring and support, including:

- Continuous health monitoring of all NoTraffic edge devices
- Review and management of detected incidents and system alerts
- Remote troubleshooting and diagnostics
- Remote installation and configuration support
- Over-the-air software and service updates

Connectivity

- Five (5) years of cellular connectivity included for all supported NoTraffic edge devices.

NoTraffic Operations Center (24/7)

- Phone: (202) 800-1890
- Email: support@notraffic.tech

NOTRAFFIC LIMITED WARRANTY

Hardware Warranty – NoTraffic Sensors and Control Units shall be warranted to be free of defects in material and workmanship for a period of five (5) years beginning automatically on the date of installation. This hardware warranty provides free repair or replacement of properly installed equipment that fails. The customer will be responsible for returning the product per the warranty guidelines. NoTraffic will provide an evaluation of the failed product and any repairs covered by the warranty at no cost to the customer.

Software – NoTraffic will provide software updates during the warranty period. NoTraffic will also provide telephone and email support for the operation of the NoTraffic Sensors Units, Control Units and associated software.

NoTraffic will make commercially reasonable efforts to resolve known software issues based the severity of the of the issue such as: “Critical” - severely impacts functionality. NoTraffic will immediately work to resolve. “General” -minor impact or a “work around” exists or a fix will be provided in a future release, or “Minor” such as cosmetic defect that may or may not be resolved in a future release.

What is Not Covered by the Warranty – The warranty does not cover any travel expenses associated with a required site visit, nor expenses to retrieve or ship the NoTraffic product from its installed location. The warranty does not include unauthorized service or parts, loss of data, or equipment damaged by the customer or due to a Force Majeure event such as acts of God, acts of a public enemy, fires, floods, hurricanes, wars, civil disturbances, acts of terrorism, etc. The warranty does not cover parts that have been improperly installed, according to published NoTraffic instructions, nor does it cover parts damaged as the result of other improperly installed parts.

Reasons for Warranty Becoming Void – Any one of the following actions taken by the customer or on behalf of the customer may result, based solely on NoTraffic’s discretion, in the warranty being canceled and legally null and void:

1. Use of any accessory, other than those sold or approved by NoTraffic, that are used to power any of the NoTraffic hardware units and/or interface NoTraffic units to the traffic signal cabinet.
2. Any unauthorized modifications or alterations to any NoTraffic product.
3. Any intentional or unintentional Installation of any software or drivers not provided by NoTraffic onto any NoTraffic product.
4. Use of the products for any purpose(s) other than their intended use.
5. Installing the NoTraffic system outside of recommended and prescribed specifications.

How to Obtain Service or Replacement Under Warranty

Contact NoTraffic by, Inc. by phone at +1 (202) 800- 1890 or email to support@notraffic.tech A NoTraffic Support Representative will resolve the problem or issue a return merchandise authorization number (RMA). This RMA must be included and be visible when returning a product. Use original packaging or pack unit in similar packaging to avoid damage during shipping. RMAs will be repaired or replaced within (10) calendar days of notification during the warranty and service contract at no cost to the agency. Return to:

NoTraffic U.S. Inc.
RMA#
10801 Mastin Boulevard, Suite 620
Overland Park, Kansas 66210

EXCEPT FOR THE LIMITED WARRANTY SET FORTH ABOVE, NOTRAFFIC MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; OR (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

THE REMEDIES DESCRIBED ABOVE ARE YOUR SOLE AND EXCLUSIVE REMEDIES AND NOTRAFFIC'S ENTIRE LIABILITY FOR ANY BREACH OF THIS LIMITED WARRANTY. OUR LIABILITY SHALL UNDER NO CIRCUMSTANCES EXCEED THE ACTUAL AMOUNT PAID BY YOU FOR THE DEFECTIVE PRODUCT, NOR SHALL NOTRAFFIC UNDER ANY CIRCUMSTANCES BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES OR LOSSES, WHETHER DIRECT OR INDIRECT.

NOTRAFFIC™ TERMS AND CONDITIONS

Version 1.1

Last Updated: March 7, 2021

THESE NOTRAFFIC TERMS AND CONDITIONS ("**Agreement**") CONSTITUTE A BINDING AGREEMENT BETWEEN **NOTRAFFIC U.S., INC.** ("**NoTraffic**") AND THE FOLLOWING CUSTOMER ("**Customer**"):

- (A) *If this Agreement is entered into pursuant to an Order Form (as defined below):* the Customer is the entity executing the Order Form (a "**Direct Customer**"); or
- (B) *If this Agreement is not being entered into pursuant to an Order Form (for example, if Customer is purchasing the Service subscription and/or Systems from a third party contractor or integrator):* the Customer is the entity accessing or using Service (an "**Indirect Customer**").

If the Customer is an Indirect Customer, the following provisions of this Agreement shall not apply: (i) those provisions that relate solely to the Systems (such as Section 3 (*Systems Delivery*)); (ii) those provisions that relate to Order Forms; and (iii) Section 5 (*Payment*), except for Section 5.4 (*Purchasing via Third Parties*).

BY ENTERING INTO THE ORDER FORM, OR BY OTHERWISE ACCESSING OR USING THE SERVICE, AS THE CASE MAY BE, CUSTOMER ACKNOWLEDGES THAT IT HAS READ, UNDERSTOOD, AND AGREES TO BE BOUND BY ALL THE PROVISIONS OF THIS AGREEMENT (THE DATE OF SUCH AGREEMENT BEING THE "**Effective Date**"):

Customer, through its designated representative entering into this Agreement, represents and warrants that: (i) it has the full corporate right, power and authority to enter into this Agreement and to perform the acts required of it hereunder; (ii) when executed and delivered by Customer undersigned representative, this Agreement shall be binding and enforceable against Customer; and (iii) it shall comply with all Applicable Laws (defined below) in connection with the Agreement.

1. DEFINITIONS

"**Affiliate**" means, with respect to either party, any person, organization or entity controlling, controlled by, or under common control with, such party, where "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person, organization or entity, whether through the ownership of voting securities or by contract or otherwise.

"**Authorized Installations**" means those installations of Systems at Intersections, as purchased under an Order Form.

"**Authorized User**" means an employee of Customer (or any other entity, as may be specified in an Order Form) that the Customer authorizes to access and use the Service.

"**Content**" means any text, data, information, files, images, graphics, sounds, music, videos, code, audio clips, links, and/or other similar materials.

"**Customer Content**" means any Content inputted or uploaded to the Service by Customer (including Authorized Users).

"**Documentation**" means whatever Service- or System-related user guides and similar documentation NoTraffic provides or makes available to Customer.

"**Feature**" means any module, tool, functionality, or feature of the Service.

"**Intellectual Property Rights**" means any and all rights, titles, and interests (under any jurisdiction or treaty, whether protectable or not, and whether registered or unregistered) in and to inventions, discoveries, works of authorship, software, know-how, technical data, databases, designs, mask works, technology, trademarks, and other intellectual property, in any form or media, and includes, but is not limited to, patents, copyrights and similar authorship rights, personal rights (such as moral rights, rights

of privacy, and publicity rights), architectural, building and location (and similar geography-based) rights, mask work rights, data and database rights, trade secret rights and similar rights in confidential information and other non-public information, design rights, industrial property rights, trademark, service mark, trade name, trade dress and similar branding rights, as well as: (i) all applications, registrations, renewals, reexaminations, extensions, continuations, continuations-in-part, provisionals, substitutions, divisions or reissues of or for the foregoing; and (ii) all goodwill associated with the foregoing.

"Intersections" means the road intersections for which the Service has been licensed, and at which the Systems are installed.

"Applicable Law" means any applicable federal, state, foreign, regional or local statute, regulation, ordinance, court order, or rule of any relevant jurisdiction.

"NoTraffic Content" means any Content (excluding Customer Content): (a) appearing or made available on or in the Service (such as reports); and/or (b) otherwise generated by the Service or Systems (such as raw road video footage).

"Order Form" means the order form signed by the parties, which incorporates this Agreement or to which this Agreement is attached as an annex.

"Service" means NoTraffic's proprietary software-as-a-service traffic management platform, as provided by NoTraffic.

"NoTraffic Materials" means, as the case may be, the Service, the Systems, the NoTraffic Content, and/or the Documentation.

"Support Services" means the Service and System technical support and maintenance services provided under this Agreement, as specified in **Schedule A** attached below.

"Systems" means NoTraffic-supplied hardware units (and embedded software) for use in connection with the Service and for installation at Intersections.

2. SUBSCRIPTION RIGHTS AND RESTRICTIONS.

- 2.1. **Account.** In order to access or use the Service, Customer is required to register for an account by submitting the information requested in the applicable web interface ("**Account**"). A user account may need to be set up for each Authorized User (each, a "**User Account**", and references herein to the "Account" shall be deemed to include all such User Accounts if applicable). Customer shall be responsible and liable for its Authorized Users' access to and use of the Service and their compliance with this Agreement. Customer may be required to set up any necessary access credentials, and the Service may also allow Customer to configure different permission levels among various Authorized Users. Customer represents and warrants that all information submitted during the registration process is, and will thereafter remain, complete, accurate and up-to-date. As between NoTraffic and Customer, Customer shall be responsible and liable for maintaining the confidentiality and security of its Account credentials, as well as for all activities that occur under or in such Account. Customer shall immediately notify NoTraffic in writing of any unauthorized access to, or use of, an Account, or any other breach of security.
- 2.2. **Order Form.** The Order Form is hereby incorporated into this Agreement by reference. If the Order Form specifies a different NoTraffic entity as the signatory party, then this Agreement shall be deemed to be entered into with such other NoTraffic entity.
- 2.3. **Subscription.** Subject to the terms and conditions of this Agreement, and in connection with any corresponding Order Form (if any), NoTraffic grants Customer a limited, non-exclusive, non-assignable, non-transferable, non-sublicensable license and right, during the Term (defined below), to access and use the Service, as well as access and view the NoTraffic Content, solely for Customer's internal end-use and in connection with Authorized Installations (collectively, the "**Subscription**").

The Subscription shall be subject to whatever other volume, location, timing, Feature, or similar scope limitations may be specified in the Order Form (or in the case of an Indirect Customer, in its order with the third party contractor or integrator).

- 2.4. Restrictions. As a condition to the Subscription, Customer shall not (and shall not permit or encourage others to), in whole or in part: (a) copy, "frame" or "mirror" the NoTraffic Materials; (b) sell, assign, transfer, lease, rent, sublicense, or otherwise distribute or make available the NoTraffic Materials to any third party (such as offering it as part of a time-sharing, outsourcing or service bureau environment); (c) publicly perform, display or communicate the NoTraffic Materials; (d) modify, alter, adapt, arrange, or translate the NoTraffic Materials; (e) decompile, disassemble, decrypt, reverse engineer, extract, or otherwise attempt to discover the source code or non-literal aspects (such as the underlying structure, sequence, organization, file formats, non-public APIs, ideas, or algorithms) of, the NoTraffic Materials; (f) remove, alter, or conceal any copyright, trademark, or other proprietary rights notices displayed on or in the NoTraffic Materials; (g) circumvent, disable or otherwise interfere with security-related or technical features or protocols of the NoTraffic Materials; (h) make a derivative work of the NoTraffic Materials, or use them to develop any service or product that is the same as (or substantially similar to) it; (i) store or transmit any robot, malware, Trojan horse, spyware, or similar malicious item intended (or that has the potential) to damage or disrupt the NoTraffic Materials; (j) employ any hardware, software, device, or technique to pool connections, devices or users that directly access or use the NoTraffic Materials (sometimes referred to as 'virtualisation', 'multiplexing' or 'pooling') in order to circumvent any limitations or conditions on the scope of the Subscription; (k) forge or manipulate identifiers in order to disguise the origin of any data or content inputted or uploaded to, or transmitted through, the NoTraffic Materials by Customer; or (l) take any action that imposes or may impose (as determined in NoTraffic's reasonable discretion) an unreasonable or disproportionately large load on the servers, network, bandwidth, or other cloud infrastructure which operate or support the NoTraffic Materials, or otherwise systematically abuse or disrupt the integrity of such servers, network, bandwidth, or infrastructure.
- 2.5. Reservation of Rights. Any rights not expressly granted herein are hereby reserved by NoTraffic and its licensors and suppliers, and, except for the Subscription, Customer is granted no other right or license to the NoTraffic Materials, whether by implied license, estoppel, exhaustion, operation of law, or otherwise. NoTraffic shall be entitled, from time to time and without notice, to modify and replace the Features (but not material functionalities, unless it improves the material functionality) and user interface of the Service. NoTraffic remains the sole and exclusive owner of all right, title and interest, including but not limited to Intellectual Property Rights, in all jurisdictions worldwide, in and to the NoTraffic Materials.
- 2.6. Hosting and Availability. The Service (as well as all Customer Content) will be hosted by a third party hosting services provider selected by NoTraffic ("**Hosting Provider**"), and accordingly the availability of the Service shall be in accordance with the Hosting Provider's then-current uptime commitments. NoTraffic shall endeavor to promptly notify Customer in writing if NoTraffic engages a new Hosting Provider under this Agreement. In the event NoTraffic decides to host the Service internally on NoTraffic's own servers under this Agreement, then, at the written request of Customer, the parties agree to negotiate in good faith an addendum to this Agreement to address Service uptime availability.

3. SYSTEMS DELIVERY

NoTraffic shall make commercially reasonable efforts to meet any delivery date(s) stated in the Order Form; *however*, Customer acknowledges that delivery is dependent on third parties outside NoTraffic's control. Furthermore, and unless expressly stated otherwise in the Order Form, delivery time is not of the essence. Unless specified otherwise in the Order Form, delivery of the Systems shall be prepaid, and will be made Ex Works (Incoterms 2010) at NoTraffic's designated facility (at which time risk of loss of, or damage to, the Systems shall pass to Customer). NoTraffic shall cooperate with Customer (or its designated freight carrier) to facilitate shipping.

4. SUPPORT AND PROFESSIONAL SERVICES

- 4.1. Support Services. Subject to Customer remaining current on all payments under the Order Form, NoTraffic (and/or its Affiliates) shall provide Customer the Support Services. NoTraffic may subcontract Support Services (in whole or in part) to a third party service provider, and NoTraffic shall remain primarily responsible for such contractor's performance of the Support Services.
- 4.2. Professional Services. Subject to any payment applicable therefor specified in the Order Form, NoTraffic (and/or its Affiliates) shall provide Customer with any Professional Services specified in the Order Form ("**Initial Professional Services**"). Any additional Professional Services ("**Additional Professional Services**") shall be subject to mutual agreement of the parties and shall be set out in sequential *Statements of Work* that reference this Agreement and are executed by both parties (each, an "**SOW**"). Additional Professional Services shall be charged in accordance with the corresponding SOWs. Each SOW is hereby deemed incorporated into this Agreement by reference. To the extent of any conflict between the main body of this Agreement and an SOW, the former shall prevail, unless and to the extent that the SOW expressly states otherwise. As part of any Professional Services, Customer shall cooperate with, and provide and obtain all access, approvals, consents and licenses needed by, NoTraffic to perform the Professional Services. In respect of any Professional Services provided at any non-NoTraffic location, then unless otherwise specified in the SOW, Customer will reimburse NoTraffic for its reasonable travel, lodging and meal expenses incurred in connection therewith. Subject to Customer's prior approval (not to be unreasonably withheld, conditioned or delayed), NoTraffic may subcontract Professional Services (in whole or in part) to a third party contractor, and NoTraffic shall remain primarily responsible for such contractor's performance of the Professional Services.

5. PAYMENT.

- 5.1. Fees. Customer agrees to pay all fees and other charges stated in the Order Form ("**Fees**"), and in accordance with such Order Form's payment terms. Customer authorizes NoTraffic (either directly or through third parties) to request and collect payment (or otherwise charge, refund or take any other billing actions) from NoTraffic's payment provider or Customer's designated banking account, and to make any inquiries NoTraffic deems necessary to validate Customer's designated payment account or financial information, in order to ensure prompt payment (including for the purpose of receiving updated payment details from Customer's payment, credit card or banking account provider – such as, updated expiry date or card number as may be provided to NoTraffic by Customer's credit card company).
- 5.2. General. Unless expressly stated otherwise in an Order Form: (a) all Fees are stated, and are to be paid, in US Dollars; (b) all Fees are payable in advance; (c) all payments under this Agreement are non-refundable, and are without any right of set-off or cancellation; and (d) any amount not paid when due will accrue interest on a daily basis until paid in full, at the lesser of the rate of one and a half percent (1.5%) per month and the highest amount permitted by Applicable Law. Amounts payable under this Agreement are exclusive of all applicable sales, use, consumption, VAT, GST, and other taxes, duties or governmental charges, except for taxes based upon NoTraffic's net income. In the event that Customer is required by any Applicable Law to withhold or deduct taxes for any payment under this Agreement, then the amounts due to NoTraffic shall be increased by the amount necessary so that NoTraffic receives and retains, free from liability for any deduction or withholding, an amount equal to the amount it would have received had Customer not made any such withholding or deduction.
- 5.3. Customer PO. If a purchase order (or purchase order number) is required by Customer in order for an invoice to be paid, then Customer must promptly provide such purchase order (or number) to NoTraffic. Any terms or conditions (whether printed, hyperlinked, or otherwise) in a purchase order or related correspondence, which purport to modify or supplement this Agreement (or the corresponding Order Form), shall be void and of no effect.
- 5.4. Purchasing via Third Party. If Customer is purchasing the Subscription and/or the System through a third party contractor or integrator, then: (a) instead of paying NoTraffic, Customer will pay the applicable amounts to the third party, as agreed between Customer and the third party, and NoTraffic may suspend or terminate Customer's Subscription if NoTraffic does not receive the corresponding payment from the third party; (b) Customer's Subscription and related order details

will be as stated in the Order Form placed with NoTraffic by the third party on Customer's behalf, and the third party is responsible for the accuracy of any such Order Form as communicated to NoTraffic; (c) if Customer is entitled to a refund under the terms and conditions of this Agreement, then, unless NoTraffic specifies otherwise, NoTraffic will refund any applicable fees to the third party, and the third party alone will be responsible for refunding the appropriate amounts to Customer; and (d) the third party is not authorized to modify any of these terms and conditions, or make any promises or commitments on NoTraffic's behalf, and NoTraffic is not bound by any obligations to Customer other than as set forth in this Agreement.

6. **CUSTOMER CONTENT**. As between Customer and NoTraffic, Customer is solely responsible and liable for all Customer Content. Customer hereby represents and warrants that: (a) its Customer Content, as well as any Customer use of other NoTraffic Content (such as raw road video footage), does not, and will not, violate any third party rights or any Applicable Law (including privacy and data protection laws); (b) it has obtained, and will maintain, any and all licenses, permissions, consents, approvals, and authorizations required in connection with Customer Content.

7. **IP OWNERSHIP**. As between Customer and NoTraffic, NoTraffic is, and shall be, the sole and exclusive owner of all right, title and interest (including without limitation all Intellectual Property Rights) in and to: (a) all NoTraffic Materials; (b) any non-Customer-identifying information, data, reporting, analyses, and/or intelligence relating to the operation or support of, and/or Customer's use of or interaction with, any NoTraffic Materials (such as metadata, aggregated data, analytics, security findings or discoveries, etc.); and (c) any and all improvements, derivative works, modifications or customizations of or to any NoTraffic Materials, regardless of inventorship or authorship. Except as otherwise agreed in writing by the Parties, Customer grants NoTraffic a non-exclusive, fully paid and royalty-free, transferable, sub-licensable, worldwide license without any restrictions to use, reproduce, modify, perform, display, distribute, and otherwise disclose any and all suggestions, feedback, modifications, solutions or anonymized data that Customer provides to NoTraffic in regard to the NoTraffic Materials, and Customer waives any rights in the NoTraffic Materials in response thereto.

Customer acknowledges that the raw road video footage will be stored on the System for three (3) days, following which it will be automatically erased from the System. Any additional memory storage will be subject to payment by Customer of additional charges.

8. **CONFIDENTIALITY**. Each party and/or its Affiliates (the "**Recipient**") may have access to certain non-public or proprietary information and materials of the other party and/or its Affiliates (the "**Discloser**"), whether in tangible or intangible form ("**Confidential Information**"). Confidential Information shall not include information and material which: (a) at the time of disclosure by Discloser to Recipient hereunder, was in the public domain; (b) after disclosure by Discloser to Recipient hereunder, becomes part of the public domain through no fault of the Recipient; (c) was rightfully in the Recipient's possession at the time of disclosure by the Discloser hereunder, and which is not subject to prior continuing obligations of confidentiality; (d) is rightfully disclosed to the Recipient by a third party having the lawful right to do so; or (e) independently developed by the Recipient without use of, or reliance upon, Confidential Information received from the Discloser. The Recipient shall not disclose the Discloser's Confidential Information to any third party, except to its employees, advisers, agents and investors, subject to substantially similar written confidentiality undertakings. Recipient shall take commercially reasonable measures, at a level at least as protective as those taken to protect its own Confidential Information of like nature, to protect the Discloser's Confidential Information within its possession or control, from disclosure to a third party. The Recipient shall use the Discloser's Confidential Information solely for the purposes of performing under this Agreement. In the event that Recipient is required to disclose Confidential Information of the Discloser pursuant to any Applicable Law (e.g., subpoena), the Recipient will, if lawfully permitted to do so, notify the Discloser within a reasonable time prior to disclosure and to allow the Discloser a reasonable opportunity to seek appropriate protective measures or other remedies prior to disclosure. If Discloser does not seek or obtain such protective measures or other remedies, the Recipient may disclose only the portion of Discloser's Confidential Information required by Applicable Law and exercise reasonable efforts to obtain confidential treatment of that information. Upon termination of this Agreement, or otherwise upon reasonable written request by the Discloser, the Recipient shall promptly return to Discloser its

Confidential Information (or if embodied electronically, permanently erase it, and if requested, certify such erasure in a signed writing).

Notwithstanding anything in this Agreement to the contrary, Customer shall not disclose any of the Order Form's pricing or payment terms to any third party, without NoTraffic's prior express written consent.

9. **AUDIT.** Customer shall maintain in the ordinary course of business appropriate records in connection with this Agreement throughout the Term of this Agreement and for at least two (2) years thereafter. Customer agrees that NoTraffic may audit (both on-premise and remotely) such records to determine Customer's compliance with this Agreement and its payment obligations. Any such audit shall be at NoTraffic's expense, require reasonable written notice, and be performed during Customer's normal business hours. If an audit reveals underpayments of fees due pursuant to this Agreement, then Customer shall immediately pay NoTraffic such underpayments, as well as reimburse NoTraffic for the expense incurred by NoTraffic in performing the audit.

10. **DISCLAIMERS**

THE NOTRAFFIC MATERIALS AND ALL OTHER ITEMS PROVIDED BY NOTRAFFIC ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS, AND WITHOUT ANY REPRESENTATION, WARRANTY, GUARANTEE OR CONDITION OF ANY KIND WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET POSSESSION, NON-INFRINGEMENT, TITLE, OR THAT OTHERWISE ARISE FROM A COURSE OF PERFORMANCE OR DEALING, OR USAGE OF TRADE, ALL OF WHICH ARE HEREBY DISCLAIMED BY NOTRAFFIC AND ITS SUPPLIERS AND LICENSORS.

NOTRAFFIC DOES NOT MAKE ANY REPRESENTATION, WARRANTY, GUARANTEE OR CONDITION, AND SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR ANY DAMAGE, LOSS, COST OR EXPENSE WHATSOEVER (INCLUDING WITHOUT LIMITATION DEATH, PERSONAL INJURY, OR PROPERTY DAMAGE) REGARDING:

- (A) THE EFFECTIVENESS, USEFULNESS, RELIABILITY, COMPLETENESS, ACCURACY, OR QUALITY OF ANY NOTRAFFIC MATERIALS OR OTHER CONTENT, OR THAT THE USE THEREOF WILL BE UNINTERRUPTED, SECURE, OR ERROR-FREE;
- (B) THE OPERATION OF ANY CELLULAR NETWORKS, THE PASSING OR TRANSMISSION OF CONTENT VIA ANY NETWORKS OR THE CLOUD, OR ANY OTHER CELLULAR OR DATA CONNECTIVITY PROBLEMS;
- (C) CONTENT RECEIVED FROM OR SHARED WITH ANY THIRD PARTY SOFTWARE APPLICATIONS OR APIs, OR TRANSMISSION OF CONTENT VIA OTHER COMMUNICATION METHODS (SUCH AS V2X); AND/OR
- (D) THE SATISFACTION OF, OR COMPLIANCE WITH, ANY GOVERNMENT REGULATIONS OR STANDARDS.

11. **LIMITATION OF LIABILITY**

- 11.1. EXCEPT FOR BREACHES OF CONFIDENTIALITY UNDER SECTION 8 (*CONFIDENTIALITY*), A BREACH OF THE SUBSCRIPTION (SUCH AS A BREACH OF THE RESTRICTIONS IN SECTION 2.4), AND/OR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT SHALL EITHER PARTY, ITS AFFILIATES, OR ITS SUPPLIERS OR LICENSORS BE LIABLE UNDER, OR OTHERWISE IN CONNECTION WITH, THIS AGREEMENT, FOR:

- (A) ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES;
- (B) ANY LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF REVENUE, OR LOSS OF ANTICIPATED SAVINGS;
- (C) ANY LOSS OF, OR DAMAGE OR INTERRUPTION TO, DATA, NETWORKS, HARDWARE, REPUTATION, OR GOODWILL; AND/OR

- (D) THE COST OF PROCURING ANY SUBSTITUTE GOODS OR SERVICES.
- 11.2. THE COMBINED AGGREGATE LIABILITY OF NOTRAFFIC AND ALL NOTRAFFIC AFFILIATES UNDER, OR OTHERWISE IN CONNECTION WITH, THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE GIVING RISE TO LIABILITY.
- 11.3. THE FOREGOING EXCLUSIONS AND LIMITATIONS SHALL APPLY: (A) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW; (B) EVEN IF A PARTY HAS BEEN ADVISED, OR SHOULD HAVE BEEN AWARE, OF THE POSSIBILITY OF LOSSES, DAMAGES, OR COSTS; (C) EVEN IF ANY REMEDY IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE; AND (D) REGARDLESS OF THE THEORY OR BASIS OF LIABILITY, INCLUDING WITHOUT LIMITATION BREACH OF WARRANTY, NEGLIGENCE, MISREPRESENTATION, STRICT LIABILITY, OR OTHER CONTRACT, TORT OR STATUTORY LIABILITY.

12. **INDEMNIFICATION.** In the event a third party makes or institutes any claim, action, or proceeding against Customer alleging that Customer's use of the Service in accordance with this Agreement infringes such third party's copyright or patent (an "**Infringement Claim**"), NoTraffic shall:
- (a) defend Customer against the Infringement Claim; and
 - (b) indemnify and hold harmless Customer for any amount finally awarded against or imposed upon Customer (or otherwise agreed in settlement) under the Infringement Claim.

As a condition to such defense and indemnification, Customer agrees: (A) to provide NoTraffic with prompt written notice of the Infringement Claim; (B) to cede to NoTraffic full control of the defense and settlement of the Infringement Claim (except that any non-monetary obligation imposed on Customer under a settlement shall require Customer's prior written consent, not to be unreasonably withheld, conditioned or delayed); (C) to provide NoTraffic with all information and assistance reasonably requested by NoTraffic; and (D) not to admit any liability under (or otherwise compromise) the Infringement Claim. Any participation by Customer in the defense of the Infringement Claim shall be at Customer's own cost and expense.

NoTraffic will have no liability under this Section (*Indemnification*) to the extent that the Infringement Claim is based on or results from: (i) a modification to the Service not made by NoTraffic; (ii) the combination of the Service with any third party product or service; and/or (iii) any Customer instructions or specifications.

Should the Service (in whole or in part) become, or in NoTraffic's opinion be likely to become, the subject of an Infringement Claim, then Customer permits NoTraffic, at NoTraffic's option and expense, to either: (x) obtain for Customer the right to continue using the Service (or part thereof); or (y) replace or modify the Service (or part thereof) so that its use hereunder becomes non-infringing; *provided, however*, that if (x) and (y) are not, in NoTraffic's opinion, commercially feasible, NoTraffic may terminate this Agreement upon written notice to Customer, and Customer shall be entitled to receive a pro-rated refund of any pre-paid and unutilized Fees (that are attributable to the Subscription) hereunder based on the remaining period of the Term.

This Section (*Indemnification*) represents NoTraffic's sole and exclusive obligation and liability, and Customer's sole and exclusive remedy, for Infringement Claims.

13. **TERM AND TERMINATION**

- 13.1. **Term.** This Agreement commences on the Effective Date and, unless terminated in accordance herewith, shall continue in full force and effect for the following term (the "**Term**"):
- (a) *If Customer is a Direct Customer:* for the Subscription term stated in the applicable Order Form; or
 - (b) *If Customer is an Indirect Customer:* for the Subscription term stated in the Customer's applicable order with the third party contractor or integrator from whom Customer purchased the Subscription.

The initial Subscription term ("**Initial Term**") shall automatically renew for successive periods of equal length (each, a "**Renewal Term**"), unless either party notifies the other party of its intent not to renew the Subscription not less than thirty (30) days prior to the expiration of the then-current term (in which case this Agreement will terminate upon such expiration). The Fees for each Renewal Term will automatically increase by the same percentage amount as the applicable consumer price index. Moreover, NoTraffic may, with written notice at least sixty (60) days prior to the expiration of the then-current term, increase the Fees payable for the upcoming Renewal Term. For Indirect Customers, payments for a Renewal Term will be made either to NoTraffic or the applicable third party contractor or integrator, as decided in writing between the parties.

- 13.2. Termination for Breach. Each party may terminate this Agreement immediately upon written notice to the other party if the other party commits a material breach under this Agreement and, if curable, fails to cure that breach within sixty (60) days after receipt of written notice specifying the material breach (except that for payment defaults, such cure period will be seven days).
- 13.3. Termination for Bankruptcy. Each party may terminate this Agreement upon written notice to the other party upon the occurrence of any of the following events in respect of such other Party: (a) a receiver is appointed for the other party or its property, which appointment is not dismissed within sixty (60) days; (b) the other party makes a general assignment for the benefit of its creditors; (c) the other party commences, or has commenced against it, proceedings under any bankruptcy, insolvency or debtor's relief law, which proceedings are not dismissed within sixty (60) days; or (d) the other party is liquidating, dissolving or ceasing normal business operations.

14. CONSEQUENCES OF TERMINATION; SURVIVAL

Upon termination of this Agreement: (a) the Subscription will automatically terminate and be deemed revoked, and Customer must immediately cease all access to and use of the Service, and permanently uninstall all copies of the Service; and (b) Customer shall promptly pay any unpaid amounts that are outstanding as of termination. Sections 7 (*IP Ownership*) through 16161616 (*Miscellaneous*) shall survive termination of this Agreement, as shall any right, obligation or provision that is expressly stated to so survive or that ought by its nature to survive. Termination shall not affect any rights and obligations accrued as of the effective date of termination.

15. GOVERNING LAW AND DISPUTE RESOLUTION

This Agreement (including its validity) shall be governed by, and construed in accordance with, the laws of the State of Delaware, USA without regard to any conflicts of laws rules or principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement and is hereby disclaimed.

Any claim, dispute or controversy under, or otherwise in connection with, this Agreement (a "**Dispute**") shall be subject to the exclusive jurisdiction and venue of the courts located in New Castle County, Delaware, USA. Customer hereby irrevocably and unconditionally submits to the personal jurisdiction of such courts and waives any jurisdictional, improper venue, inconvenient forum, or other objections to such jurisdiction and venue. Notwithstanding the foregoing, NoTraffic reserves the right to seek equitable relief in any court worldwide of competent jurisdiction. **Furthermore, the parties hereby irrevocably and unconditionally waive the right to litigate such Disputes in court before a jury. EXCEPT TO SEEK EQUITABLE RELIEF, PAYMENT OF FEES, OR TO OTHERWISE PROTECT OR ENFORCE A PARTY'S INTELLECTUAL PROPERTY RIGHTS OR CONFIDENTIALITY OBLIGATIONS, NO ACTION, REGARDLESS OF FORM, UNDER THIS AGREEMENT MAY BE BROUGHT BY EITHER PARTY MORE THAN ONE (1) YEAR AFTER THE DATE ON WHICH THE CORRESPONDING LIABILITY AROSE.** Any claims or damages that Customer may have against NoTraffic shall only be enforceable against NoTraffic, and not any other entity or NoTraffic's officers, directors, representatives, or agents. Customer acknowledges and agrees that it may bring claims against NoTraffic only in its individual capacity and not as a plaintiff or class member in any purported class or representative action.

16. MISCELLANEOUS

- 16.1. Entire Agreement. This Agreement represents the entire agreement between NoTraffic and Customer with respect to the subject matter hereof, and supersedes and replaces any and all prior and contemporaneous oral and/or written agreements, understandings and statements between Customer and NoTraffic with respect to such subject matter. Customer acknowledges and agrees that in entering into this Agreement it has not relied on any statement or representation (whether negligently or innocently made) not expressly set out in this Agreement, such as statements and explanations in any FAQs, summaries or explanatory guides regarding this Agreement, or other marketing material on the NoTraffic website. To the extent of any conflict or inconsistency between these terms and conditions on the one hand, and the Order Form (if any) on the other hand, the former shall prevail (unless the Order Form expressly overrides a provision herein). The language of this Agreement is expressly agreed to be the English language. By entering into the Agreement Customer hereby irrevocably waives, to the maximum extent legally permitted, any Applicable Law requiring that the Agreement be localized to meet Customer's language (as well as any other localization requirements), or requiring an original (non-electronic) signature or delivery or retention of non-electronic records. The Section headings in this Agreement are for convenience of reading only, and shall not to be used or relied upon for interpretive purposes.
- 16.2. Modifications to Agreement. NoTraffic may, from time to time and in its sole discretion, modify the terms and conditions of this Agreement, with notice to Customer in accordance with Section 16.1016.10 (*Notices*). Except as otherwise indicated below, modifications to this Agreement will take effect at the next renewal of Customer's Subscription and will automatically apply as of the next Renewal Term (if any). Notwithstanding the foregoing, in some cases (for example, to address compliance with Applicable Laws, or as necessary for new Features) NoTraffic may specify that such modifications become effective during Customer's then-current Term. If the effective date of a modification is specified to be during Customer's then-current Term (and there is more than 3 months remaining on the then-current Term), and the modification is material and adverse (that is, it expands Customer's obligations and liabilities in a material way), and Customer objects to the modification, then, as Customer's sole and exclusive remedy, and NoTraffic's sole and exclusive obligation and liability, Customer may terminate this Agreement and the affected Order Form (if any) upon written notice to NoTraffic, and (if applicable) receive a pro-rated refund of any unutilized Fees (that are attributable to the Subscription) paid under such Order Form based on the remaining period of the then-current Term; *provided, however*, that in order to exercise this right, Customer must provide NoTraffic with written notice of its objection and termination within thirty (30) days of NoTraffic's notice of the modification.
- 16.3. NoTraffic Affiliates. At NoTraffic's sole discretion, any NoTraffic obligation hereunder may be performed (in whole or in part), and any NoTraffic right or remedy may be exercised (in whole or in part), by a NoTraffic Affiliate. Without limiting the generality of the foregoing, NoTraffic may assign its right to invoice and receive payments under this Agreement to an NoTraffic Affiliate.
- 16.4. Assignment. NoTraffic may assign this Agreement (or any of its rights and/or obligations hereunder) without Customer's consent, and without notice or obligation to Customer. This Agreement is personal to Customer, and Customer shall not assign (or in any other way transfer) this Agreement (or any of its obligations or rights hereunder) without NoTraffic's express prior written consent. Any prohibited assignment shall be null and void.
- 16.5. Third Party Software. The Service may include third party software components that are subject to open source and/or pass-through commercial licenses and/or notices ("**Third Party Software**" and "**Third Party Software Terms and Notices**", respectively). NoTraffic will comply with any valid written request submitted by Customer to NoTraffic for exercising any rights Customer may have under such Third Party Software Terms and Notices. Any undertakings, representations, warranties, guarantees, conditions, indemnities or other commitments made by NoTraffic in this Agreement concerning the Service (if any), are made by NoTraffic and not by any authors, licensors, or suppliers of, or contributors to, such Third Party Software.
- 16.6. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, then: (a) the remaining provisions of this Agreement shall remain in full force and effect; and (b) the Parties hereto agree that the court making such determination

shall have the power to limit the provision, to delete specific words or phrases, or to replace the provision with a provision that is legal, valid and enforceable and that most closely approximates the original legal intent and economic impact of such provision, and this Agreement shall be enforceable as so modified in respect of such jurisdiction. In the event such court does not exercise the power granted to it as aforesaid, then such provision will be ineffective solely as to such jurisdiction (and only to the extent and for the duration of such illegality, invalidity or unenforceability), and will be substituted (in respect of such jurisdiction) with a valid, legal and enforceable provision that most closely approximates the original legal intent and economic impact of such provision.

- 16.7. Remedies. Except as may be expressly stated otherwise in this Agreement, no right or remedy conferred upon or reserved by any party under this Agreement is intended to be, or shall be deemed, exclusive of any other right or remedy under this Agreement, at law or in equity, but shall be cumulative of such other rights and remedies.
- 16.8. Waiver. No failure or delay on the part of any party in exercising any right or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. Any waiver granted hereunder must be in writing (for waivers by Customer, emails will be acceptable; for waivers by NoTraffic, the writing must be duly signed by an authorized representative of NoTraffic), and shall be valid only in the specific instance in which given.
- 16.9. Relationship. The relationship of the parties is solely that of independent contractors. Nothing in this Agreement shall be deemed to create any employment, fiduciary, joint venture, agency or other relationship between the parties. Neither party has any authority to enter into agreements of any kind on behalf of the other party, and neither party will create or attempt to create any obligation, express or implied, on behalf of the other party.
- 16.10. Notices. Customer agree that NoTraffic may send Customer notices by email, via Customer's Account, by regular mail, and/or via postings on or through the functionality of the Service. Except as stated otherwise in this Agreement or required by Applicable Law, Customer agrees to send all notices to NoTraffic, to [EMAIL].
- 16.11. No Third Party Beneficiaries. Except as otherwise expressly provided in this Agreement (such as NoTraffic Affiliates), there shall be no third-party beneficiaries of or under this Agreement.
- 16.12. U.S. Government Rights. If Customer is a U.S. government entity, or this Agreement otherwise becomes subject to the Federal Acquisition Regulations (FAR), Customer acknowledges that the Service constitutes "commercial computer software" and "commercial computer software documentation" as such terms are used in FAR 12.212, DFARS 252.227-7014 and DFARS 227.7202. In accordance with FAR 12.211-12.212 and DFARS 227.7102-4 and 227.7202-4, as applicable, the rights of the U.S. Government to use, modify, reproduce, release, perform, display, or disclose commercial computer software, commercial computer software documentation, and technical data furnished in connection with the Service shall be as provided in this Agreement. If a government agency needs additional rights, it must negotiate a mutually acceptable signed written addendum to this Agreement specifically granting those rights.
- 16.13. Export Compliance. Customer represents and warrants (on behalf of itself and its Authorized Users, if applicable) that: (a) it is not a resident of (or will use the Service in) a country that the U.S. government has embargoed for use of the Service, nor is Customer named on the U.S. Treasury Department's list of Specially Designated Nationals or any other applicable trade sanctioning regulations of any jurisdiction; and (b) its country of residence and/or incorporation (as applicable) is the same as the country specified in the contact and/or billing address provided to us. In the event Customer breaches this Section (in whole or in part), or otherwise violates any Export Control Laws (defined below) in connection with the Service, Customer agrees to indemnify and hold harmless NoTraffic and all NoTraffic Affiliates (including ours and their respective directors, officers, and employees) for any fines and/or penalties imposed upon NoTraffic or an NoTraffic Affiliate (or such persons) as a result of such breach or violation. "**Export Control Laws**" means all export and re-export control laws applicable to Customer and/or NoTraffic, as well as the United States' Export Administration Regulations (EAR) maintained by

the US Department of Commerce, trade and economic sanctions maintained by the US Treasury Department's Office of Foreign Assets Control, and the International Traffic in Arms Regulations (ITAR) maintained by the US Department of State.

- 16.14. Force Majeure. Neither party shall have any liability, or otherwise be deemed in breach, for any performance (excluding payment obligations) under this Agreement that is prevented, hindered, or delayed by reason of an event of Force Majeure (defined below). The party so affected shall be excused from such performance to the extent that, and for so long as, performance is prevented, interrupted, or delayed by the Force Majeure. If and when performance is resumed, all dates specified under this Agreement shall be automatically adjusted to reflect the period of such prevention, interruption, or delay by reason of such Force Majeure. For purposes of this Agreement, an event of "**Force Majeure**" shall be defined as: (a) fire, flood, earthquake, explosion, pandemic or epidemic (or similar regional health crisis), or act of God; (b) strikes, lockouts, picketing, concerted labor action, work stoppages, other labor or industrial disturbances, or shortages of materials or equipment, or failure of (or delay in) delivery by NoTraffic's suppliers or carriers; (c) invasion, war (declared or undeclared), terrorism, riot, insurrection, or civil commotion; (d) an act of governmental or quasi-governmental authorities (including without limitation lockdowns); (e) failure of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, shortage of adequate power or transportation facilities; and/or (f) any matter beyond the reasonable control of the affected party.
- 16.15. Third Party Charges. Customer's use of the Service may require and utilize an internet connection or data access. To the extent that third party service provider or carrier charges for internet or data usage are applicable, Customer shall be solely responsible and liable for those charges.
- 16.16. Expense. Except as may be expressly stated otherwise in this Agreement, each party shall pay its own costs and expenses incurred in connection with the negotiation, preparation, and performance of this Agreement.
- 16.17. Anti-Corruption. Customer acknowledges and agrees that it has not received or been offered any illegal or improper bribe, kickback, payment, gift or thing of value from any of NoTraffic's or its Affiliates' employees, partners, representatives, or agents, in connection with this Agreement.
- 16.18. Technical Advice. NoTraffic shall have no obligation or liability for any technical advice furnished to Customer, including without limitation technical advice with respect to the use of the Service or System, all such technical advice being given and accepted at Customer's risk.

SCHEDULE A

Support Services

1. Updates and New Versions

NoTraffic may, from time to time during the Term, make available Updates and New Versions. For the avoidance of doubt, Updates and New Versions expressly excludes new Features (which may be subject to additional charge). NoTraffic will make such Updates and New Versions available to Customer to the extent generally made available by NoTraffic to its other supported customers.

"**New Versions**" means new releases and new versions of the Service, as typically represented by the number to the left of the decimal point (e.g. Version **X.0**).

"**Updates**" means modifications, revisions, or enhancements (such as a bug fix or patch) to the Service (excluding New Versions), as typically represented by the number to the right of the decimal point (e.g. Version 1.**X**).

2. Support Requests

Support Requests (defined below) to NoTraffic for the Service and/or the Systems may be submitted via:

- (i) Phone: 202-800-1890
- (ii) Email: support@notraffic.tech
- (iii) Web: www.notraffic.tech/support

As used herein, "business hours" means: 9AM to 5PM Central Time

3. Technical Support (Service)

NoTraffic will use commercially reasonable efforts to respond to and address failures of the Service to function in the manner intended by NoTraffic ("**Problems**") which are reported by Customer (each, a "**Support Request**"), in accordance with the service levels and terms set forth below in this Schedule.

In order to be addressed by NoTraffic, Problems must be verifiable and reproducible. Furthermore, in order for NoTraffic to address a Support Request, Customer must provide NoTraffic with all information, documentation, assistance and access as NoTraffic might reasonably require, including, without limitation:

- setup information,
- application knowledge,
- listing of any output,
- detailed steps required to enable NoTraffic to replicate the Problem,
- exact wording of Problem messages, and
- any other data that NoTraffic may reasonably request in order to reproduce operating conditions similar to those present when the Problem occurred.

Each Problem for which a Support Request is received by NoTraffic, shall be classified by NoTraffic and assigned a level of severity ("**Severity Level**"), in accordance with the following criteria:

Severity Level	Criteria	Response Time (measured after NoTraffic receipt of Support Request)	Status Update (measured after NoTraffic receipt of Support Request)
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Severity 1 Critical	A complete failure or inability to access or use the Service for an extended period of time (more than 30 consecutive minutes) during business hours	1 hour	4 hours
Severity 2 Major	A complete failure or inability to access or use the Service for a brief period of time (fewer than 30 consecutive minutes) during business hours, or the failure of one or more key Features of the Service for an extended period of time (more than 30 consecutive minutes) during business hours	4 hours	8 hours
Severity 3 Minor	A partial, temporary or intermittent failure of one or more Features of the Service lasting for fewer than 30 consecutive minutes during business hours	8 hours	24 hours
Severity 4 Low	A Problem that is cosmetic in nature (e.g., UI) or that can be readily circumvented through use of alternate functionality in the Service.	24 hours	3 Business Days

Upon classification of each Problem for which NoTraffic received a Support Request, a customer support representative of NoTraffic shall use commercially reasonable efforts to: (a) contact Customer within the "Response Time" period set forth in the table above, and (b) follow up and provide an update on the status of the measures being taken (such as workarounds, bug fixes, Updates, etc.) to address the Problem within the "Status Update" time frame set forth in the table above.

The technical support described above will only be provided with respect to the then-current version/release of the Service, and shall exclude Problems resulting from:

- (a) any modifications of the Service by Customer that have not been approved by NoTraffic in advance and in writing;
- (b) Customer's failure to implement in a reasonably timely manner any Update or New Version made available by NoTraffic;
- (c) Customer's written instructions to NoTraffic, or installation or set up adjustments made solely

- by Customer;
- (d) Customer's use of the Service in violation of the Agreement or of any Applicable Laws;
- (e) any fault in any Customer (or third party) equipment or programs used in conjunction with the Service; and/or
- (f) Customer's negligence or willful misconduct.

4. Technical Support (Systems)

In the event of any System defects attributable to NoTraffic (each, a "**Defective System**"), Customer shall issue a Support Request to NoTraffic. NoTraffic shall (at its sole option, and at no additional charge) repair the Defective System (or part thereof) or replace the Defective System (or part thereof) with new or refurbished Systems (or parts), and NoTraffic shall use commercially reasonable efforts to do so within five (5) business days. The foregoing represents Customer's sole and exclusive remedy, and NoTraffic's sole and exclusive obligation and liability, for any Defective System.

The technical support described above excludes, and NoTraffic shall have no responsibility or liability hereunder to support, service or respond to, any and all of the following: (a) Systems that have been altered, reconfigured or modified by Customer or any third party other than NoTraffic's authorized customer support personnel; (b) Systems not installed by NoTraffic's authorized customer support personnel; (c) failure by Customer to promptly implement a firmware update required by NoTraffic; or (d) defects or other damage caused by negligence, abuse, neglect, or use other than as specified in the Documentation, or by natural disasters or other factors beyond the reasonable control of NoTraffic. Any services provided by NoTraffic in connection with the foregoing shall be charged at NoTraffic's then-current rates. For the avoidance of doubt, and notwithstanding anything to the contrary in this Agreement, under no circumstances shall NoTraffic be liable for any loss or theft of any System following delivery to Customer.

5. General Customer Responsibilities

Furthermore:

- (a) Customer agrees to receive from NoTraffic communications via e-mail, telephone, and other reasonable formats;
- (b) Customer's technical support contact shall cooperate with NoTraffic at all times during the provision of Support Services under this Schedule; and
- (c) Customer shall report to NoTraffic all material problems with the Service and Systems, and shall implement any reasonable corrective procedures provided by NoTraffic reasonably promptly after receipt.



City of West Lake Hills
City Council

AGENDA REPORT

Meeting Date:	<u>February 11, 2026</u>	Item Number:	<u>10</u>
Department:	<u>Administration</u>		
	<u>Trey Fletcher, City</u>		
Prepared By:	<u>Administrator</u>	Cost / Budget:	<u></u>
Exhibits:	<u>None</u>	Source of Funds:	<u></u>

Subject

Discuss and consider public works facilities and staffing.

Recommendation

Discuss and take appropriate action.

Discussion

This item is to facilitate a discussion and consideration of alternatives regarding the staffing and facilities related to the city's public works functions.