

constitute a quorum of the body, board, commission and/or committee. The members of the boards, commissions and/or committees may be permitted to participate in discussion on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless item and action is specifically provided for on an agenda for that body, board, commission or committee subject to the Texas Open Meetings Act.

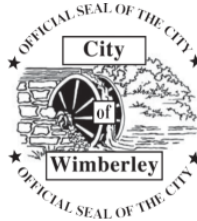
CERTIFICATION

I hereby certify the above Notice of Meeting was posted on the bulletin board at Wimberley City Hall, a place convenient and readily accessible to the general public at all times, and to the City's website, www.cityofwimberley.com, in compliance with Chapter 551, Texas Government Code, on Tuesday, September 19, 2023 by 6:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.



Nathan Glasier
Planning and Development Coordinator

The City of Wimberley is committed to compliance with the Americans with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. Please contact City Secretary Tammy Heller at (512) 847-0025 two business days in advance of the meeting for appropriate arrangements.





AGENDA ITEM:	1. Approval of minutes from the May 1st, 2023 meeting of the Board of Adjustment.
SUBMITTED BY:	
DATE SUBMITTED:	09/17/2023
MEETING DATE:	September 25, 2023

AGENDA FORM

ITEM DESCRIPTION/SUMMARY

REQUESTED ACTION

FINANCIAL

STAFF RECOMMENDATION

ATTACHMENT/S

- 05-01-2023 BOA DRAFT Minutes



City of Wimberley

221 Stillwater, Wimberley, Texas 78676

REGULAR BOARD OF ADJUSTMENT MEETING
WIMBERLEY CITY HALL – CITY COUNCIL CHAMBERS
221 STILLWATER, WIMBERLEY, TEXAS 78676
MONDAY, MAY 1, 2023 - 6:00 PM

MINUTES

1. **CALL TO ORDER** May 1, 2023, at 6:00 PM

Chair Michael Rambo called the Board of Adjustment meeting to order at 6:00 p.m.

2. **CALL OF ROLL**

Board Members Present:

JoKathryn Quinn
Thomas Gordon
Michael Rambo
Pam Tise
Brian Woodward

Staff Present:

Nathan Glasier, Director of Planning & Public Works
Tammy Cook, City Secretary
Daniel Santee, City Attorney

3. **CITIZENS COMMUNICATIONS**

This provides an opportunity for the citizens to comment on agenda and non-agenda items in advance of the regular business of the Board of Adjustment. Those wishing to speak must sign-in before the meeting begins and observe a three-minute time limit when addressing the Board. Speakers will have one opportunity to speak during the time period. Comments from speakers should not be directed towards any specific member of the Board or City staff. Comments should not be accusatory, derogatory or threatening in nature.

No Citizen Comments this evening.

4. **MINUTES**

- 4.1. Approval of minutes from the January 9, 2023, meeting of the Board of Adjustment.

A motion was made by Board Member Gordon, seconded by Board Member Woodward to approve the January 9, 2023 Board of Adjustment meeting minutes. The motion carried by a vote of 5-0.

5. **PUBLIC HEARING AND POSSIBLE ACTION**

- 5.1. Hold a public hearing and consider possible action regarding Case No. BA-23-001, a request for a variance from the City of Wimberley code requirements to allow for a deviance in the maximum building height for a proposed residential structure on a property located at 505 River Bend Rd, Wimberley, Texas. (*Applicant: Austin Vaughan*)

Nathan Glaiser, Director of Planning and Public Works, provided a presentation regarding a request for a variance from the City of Wimberley code requirements to allow for a deviance in the maximum building height for a proposed residential structure on a property located at 505 River Bend Road, Wimberley, Texas. Proper notification was given and one letter of opposition was received.

Austin Vaughan, applicant, spoke in favor of the request and is proposing a height variance to ensure safety from future floods.

Upon completion of discussion, Chair Rambo opened the public hearing at 6:14 p.m.

Those who spoke:

Scott George spoke in opposition to this variance request citing visual obtrusion.

There being no further comments, Chair Rambo closed the public hearing at 6:17 p.m.

The Board discussed and reviewed all six findings of fact and Mr. Glaiser explained they must be met in order to grant the variance.

(A) That there are special circumstances or conditions affecting the property involved such that the strict application of the provisions of this article would (i) deprive the applicant of the reasonable use of the property; and (ii) create an unnecessary hardship in the development of the property;

(B) That such circumstances are (i) not self-imposed; (ii) not based solely on economic gain or loss; and (iii) do not generally affect most properties in the vicinity of the property;

(C) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;

(D) The variance if granted will not:

(i) Adversely affect the public health, safety or welfare;

(ii) Be contrary to the public interest; and

(iii) Be injurious to or adversely affect the orderly use of other property within the area

(E) The property involved is otherwise in compliance with all applicable city ordinances, rules and regulations; and

(F) The granting of the variance will be in harmony with the spirit and purpose of this article.

The consensus from the board is that all the findings of fact are true. Upon completion of discussion, a motion was made by Board Member Woodward, seconded by Board Member Gordon, that all six findings of fact are met and that the applicant be granted to build 6'10 3/4" above the height maximum. The motion carried by a vote of 4-1, with Board Member Gordon in opposition.

6. **BOARD MEMBER REPORTS**

6.1. Announcements

There were no announcements this evening.

6.2. Future Agenda Items

Mr. Glaiser stated another request was received and an item will be brought forward at a future date. He will notify the board.

7. **ADJOURNMENT**

A motion was made by Board Member Quinn, seconded by Board Member Woodward to adjourn the Board

of Adjustment meeting at 6:41 p.m. The motion carried unanimously (5-0).

RECORDED BY:

Board of Adjustment Staff Liaison



APPROVED BY:

Board of Adjustment Chairperson



AGENDA ITEM:	BA-23-003
SUBMITTED BY:	Nathan Glaiser, Planning and Development Coordinator
DATE SUBMITTED:	August 14, 2023
MEETING DATE:	September 25, 2023

REPORT

ITEM

The applicant, Mavericks 14 LLC, has requested a variance from the Protected Waterway Overlay District (PW) Sec. 9.03.223(d)(3)a that restricts expansion of commercial uses to build a 196 square foot deck.

The PW, protected waterway district is intended primarily for the protection of the rivers and creeks, as well as private property in close proximity to those rivers and creeks, found within the city limits and extraterritorial jurisdiction. The goal of the overlay is to maintain or improve the condition of the city's rivers and creeks by limiting the amount of impervious cover allowed near those features, to provide viable habitat for fish and wildlife, to reduce the possibility of future property loss due to flood damage while accommodating new growth, to maintain the integrity of high quality surface and ground water, and to help restore impaired waters by protecting vegetation, trees, and other features that serve to protect watershed health (such as ground and surface water quality). [Sec. 9.03.223(1) & (2)]

The Protected Waterway Overlay is limited to the area 100ft from creeks, 150ft from rivers, and areas within the 100-year floodplain. Construction is prohibited in the PW overlay with the exception of existing commercial areas. The ordinance prohibits expansion of commercial areas to allow for construction.

The location of the property is in downtown Wimberley along Cypress Creek. A large portion of this property is within the PW overlay due to this property being within the 100-year floodplain. It is also within the City Center overlay and zoned Commercial High Impact 3. Multiple buildings on the property include In Style and Society. The property has historically been used for commercial purposes which may continue under the current zoning. Were this property to be developed today, the PW overlay would prohibit any commercial uses in the 100-year floodplain.

The applicants are requesting a variance to allow for the commercial expansion and construction of a 196 square foot deck to be attached to an existing stone building and extending out toward Cypress Creek. The applicants propose to use the stone building and deck for a small bar and retail space. Please consult the application for more information on the applicants justification and reasons for the requested variance.

PROPERTY INFORMATION

Property Description

Applicant(s): Mavericks 14, LLC
Property Address: 107 Old Kyle Rd
Property Owner: Mavericks 14, LLC
Legal Description: Amasa Turner Survey ABS 461
Property Size: .66 acres
Existing Use of Property: Commercial
Existing Zoning: Commercial High Impact 3
Proposed Use of Property: Commercial
Request: Commercial expansion into PW overlay ~200 sqft
Planning Area: V
Overlay District: Protected Waterway, City Center

Surrounding Property:

Frontage: Old Kyle Rd/RR12

		Current Zoning:	Existing Land Use:
Surrounding Zoning & Land Use	North of Property	L1	Lodging
	South of Property	C3	Commercial
	East of Property	PR1	Recreation
	West of Property	C3	Commercial

COMMENTS

Staff has not received any comments from neighboring property owners as of 9/19/2023.

LEGAL NOTICE

Surrounding Neighbor Notification Letters (200'): September 12, 2023
Published Legal Notice (Wimberley View): September 14, 2023

CRITERIA FOR CONSIDERATION

When considering granting a variance, the Board should consider the following criteria from the Wimberley Code of Ordinances Section 9.03.254 (f)(3):

(A) That there are special circumstances or conditions affecting the property involved such that the strict application of the provisions of this article would (i) deprive the applicant of the reasonable use of the property; and (ii) create an unnecessary hardship in the development of the property;

(B) That such circumstances or conditions are (i) not self-imposed; (ii) not based solely on economic gain or loss; and (iii) do not generally affect most properties in the vicinity of the property;

(C) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;

(D) The variance if granted will not:

(i) Adversely affect the public health, safety or welfare;

(ii) Be contrary to the public interest; and

(iii) Be injurious to or adversely affect the orderly use of other property within the area.

(E) The property involved is otherwise in compliance with all other applicable city ordinances, rules, and regulations; and

(F) The granting of the variance will be in harmony with the spirit and purpose of this article.

ATTACHMENT/S

- Application for Variance
- Application Attachments

FOR OFFICIAL USE ONLY

APPLICATION DATE: _____ FILE NO. _____

HEARING DATE: _____ PLANNING AREA: _____ ZONING: _____

VARIANCE FEES: \$ _____ DATE PAID: _____ RECEIVED BY: _____

City of Wimberley APPLICATION FOR VARIANCE

OWNER/AGENT INFORMATION

1. Owner's Name: Mavericks 14 LLC Home Phone: () _____
 Business Phone: () _____
 Cell Phone: [REDACTED] _____
 Fax: () _____

Current Mailing
 Address: 1604 Little Ranches Road City Wimberley State TX Zip 78676
 Email: [REDACTED]

2. Agent's Name: _____ Business Phone: () _____
 (Must be accompanied by letter of authorization from owner) Cell: () _____

Current Mailing
 Address: _____ City _____ State _____ Zip _____
 Email: _____

PROJECT DATA

1. Property ID#: R 18447 (Appears on your Tax Statement) Present Zoning: C-3
 Street Address of Project: 107 Old Kyle Road Wimberley, Texas 78676
 (Note: If you do not have an assigned street address, please call 512-393-2160 Directions to Project)
 Subdivision: _____ Lot: _____ Block: _____ Recorded in Vol. _____ Page _____

2. IS PROPERTY IN AN OVERLAY DISTRICT? YES NO _____ UNKNOWN _____
 TYPE OF OVERLAY ZONE(S) (if applicable) Downtown

Project Data (Continued)

3. FLOOD PLAIN (What, if any, flood zone does your property Occupy?): 100 year

4. WASTEWATER SYSTEM: Septic; Aqua Utility; GBRA
HAYS COUNTY SEPTIC PERMIT NUMBER (if applicable): _____

5. Directions to your Project: The project site is located at 103 Old Kyle Road
between Society and InStyle Retail Stores. It can be located
behind the Rock Art Pavilion, prior to the elevation change
to the greenspace next to the creek.

Please clearly mark your property so it is easily identifiable.

SPECIFIC SECTIONS OF ZONING ORDINANCE NO. 2001-010 FOR WHICH A VARIANCE IS REQUESTED:

Change of use and deck build in 100 year floodplain

REASON FOR NEED OF VARIANCE (Attach separate sheet if necessary)

We are proposing a new wood deck within the Protected Waterway Overlay in downtown Wimberley.

This deck faces Cypress Creek and will be connected to an existing Retail building that is currently underutilized.

By building in this location, we are able to provide an opportunity for the community to enjoy a natural greenspace while

providing handicap compliant access to a space that is otherwise unachievable without a major demolition of the site

reconstruction of buildings, and an unnecessary site development that would make creation

of this ADA space to serve the business nonviable due to cost and the disruptive nature to the site.

NOTE: No topography changes are proposed to the floodplain. Finish floor of the deck is above the floodplain.

**ACKNOWLEDGMENT OF EXISTING
Subdivision Plat Notes, Deed Restrictions Restrictive Covenants
and/or Zoning Conditional Use Permits**


I, the Applicant herein, have checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permits prohibiting certain uses and/or requiring certain development restrictions (for example, height, access, screening) on the property for which a variance is now being considered on my behalf.

If a conflict should result with the request I am submitting to the City of Wimberley due to subdivision plat notes, deed restrictions, restrictive covenants and/or which do not conform with the City ordinances, it will be my responsibility to resolve it. I also acknowledge that I understand the implications of use and/or development restrictions that are a result of subdivision plat notes, deed restrictions, restrictive covenants and/or zoning ordinances.

I understand that if requested, I must provide copies of any and all subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permit information, which may apply to this property.

Date: August 14, 2023

APPLICANT Russell Whisler

SIGNATURE 
C7E4393E082C448...

WHEN APPLICABLE:

Date: _____

AGENT _____

SIGNATURE _____

SITE INSPECTION AUTHORIZATION

Applicant/owner, or Applicant's authorized agent, hereby authorizes the City of Wimberley Board of Adjustment Members and City representatives to visit and inspect the property for which this application is being submitted.

Date: August 14, 2023

APPLICANT Russell Whisler

SIGNATURE 
C7E4393E082C448...

WHEN APPLICABLE:

Date: _____

AGENT _____

SIGNATURE _____

SUBMITTAL CHECKLIST

TO ENSURE THAT YOU HAVE COMPLIED WITH THE VARIANCE APPLICATION REQUIREMENTS, REVIEW THE FOLLOWING LIST. GRANTING OF A VARIANCE IS CONDITIONAL ON MEETING THE FOLLOWING REQUIREMENTS:

FAILURE TO COMPLY WITH THE REQUIREMENTS MAY CAUSE A DELAY IN PROCESSING YOUR APPLICATION.

- Complete "Application for Variance"
- Provide plat map of property to which variance applies.
- Provide names and addresses of property owners within 200 feet of any portion of Applicant's property. [See Attached](#)
- Provide a legal description of the property to which variance applies.
- Sign/date Submittal Verification form.
- Sign/date Site Inspection Authorization form.
- Sign/date Acknowledgement Form.
- Pay Variance Fee (this fee is based on the cost of services incurred by the City of Wimberley in reviewing, processing and recording this variance request).
- Applicant agrees to attend the Board of Adjustment Public Hearing.
- I have reviewed the Conditions Required and believe they are met:** (Wimberley Zoning Ordinance No. 2001-010, Section 10) No variance shall be granted without first giving public notice and conducting a public hearing on the variance request in accordance with Section 10.8, and unless the Board of Adjustment makes specific, written findings of fact as follows:
 1. That there are special circumstances or conditions affecting the property involved such that the strict application of the provisions of the Zoning Ordinance would (a) deprive the applicant of the reasonable use of the property; and (b) create and unnecessary hardship in the development o the property; and
 2. That such circumstances and conditions are (a) not self-imposed; (b) not based solely on economic gain or loss; and (c) do not generally affect most properties in the vicinity of the property.
 3. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
 4. The variance if granted will not: (a) adversely affect the public health, safety or welfare; (b) be contrary to the public interest and (c) be injurious to or adversely affect the orderly use of other property within the area;

Application for Variance

5. The property involved is otherwise in compliance with all other applicable City ordinances, rules and regulations; and

6. The granting of the variance will be in harmony with the spirit and purpose of this ordinance.

Special Circumstances: 1. This project aims to retain an existing historic building while enhancing it for continued commercial uses in which it is zoned.

2. We are trying to create an ADA compliant space for visitors and residents alike to enjoy the view and area adjacent to the creek.

3. This improvement will not have any effect on adjacent properties.

4. This development provides a benefit to the town and visitors providing access to one of the most recognized and popular features in the downtown district (Cypress Creek).

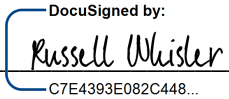
5. The variance aligns with the spirit and nature of allowing responsible development for the betterment of the town center.

SUBMITTAL VERIFICATION AND/OR WAIVER OF APPEARANCE

My signature attests to the fact that the attached application package is complete and accurate to the best of my knowledge. I understand that City review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided by me, my firm, or agent, may delay the review of the Application.

Date: August 14, 2023

APPLICANT Russell Whisler

SIGNATURE 

WHEN APPLICABLE:

Date: _____

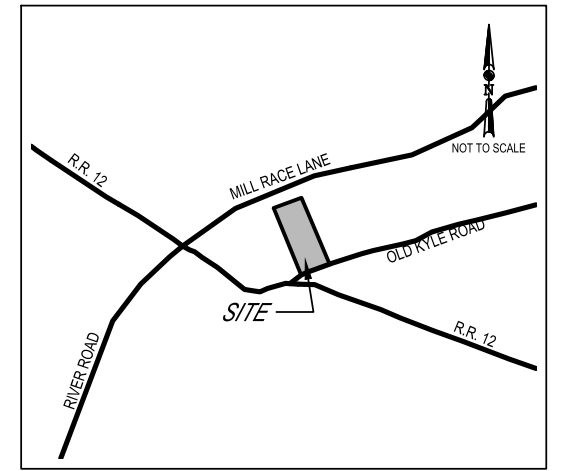
AGENT _____

SIGNATURE _____

AS BUILT SURVEY OF

A 0.685 ACRE (MEASURED) TRACT OF LAND CONVEYED TO MAVERICKS 14, LLC, BY DOUBLE LC PARTNERS TWO, LTD IN GENERAL WARRANTY DEED, DOCUMENT NO. 21051871, (O.P.R.H.C.), AMASA TURNER SURVEY NO. 1 (A-461), HAYS COUNTY, TEXAS

LOCATION MAP

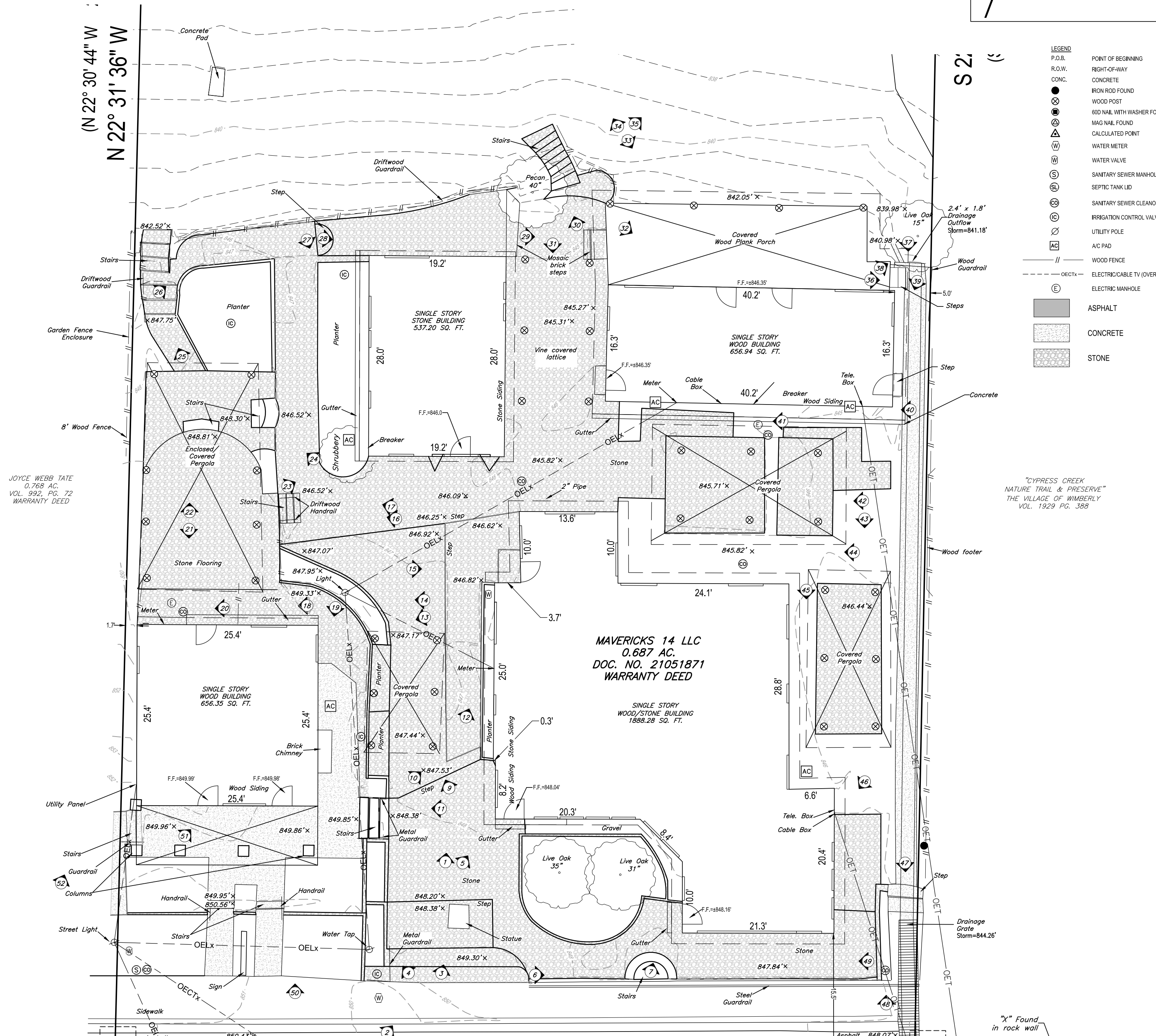


(N 22° 30' 44" W
N 22° 31' 36" W

LEGEND

P.O.B.	POINT OF BEGINNING
R.O.W.	RIGHT-OF-WAY
CONC.	CONCRETE
●	IRON ROD FOUND
⊗	WOOD POST
⊙	60D NAIL WITH WASHER FOUND
⊛	MAG NAIL FOUND
⊠	CALCULATED POINT
⊚	WATER METER
⊜	WATER VALVE
⊝	SANITARY SEWER MANHOLE
⊞	SEPTIC TANK LID
⊟	SANITARY SEWER CLEANOUT
⊠	IRRIGATION CONTROL VALVE
⊡	UTILITY POLE
⊢	AC PAD
⊣	WOOD FENCE
⊤	ELECTRIC/CABLE TV (OVERHEAD)
⊥	ELECTRIC MANHOLE
■	ASPHALT
▨	CONCRETE
▩	STONE

"CYPRESS CREEK NATURE TRAIL & PRESERVE" THE VILLAGE OF WIMBERLY VOL. 1929 PG. 388

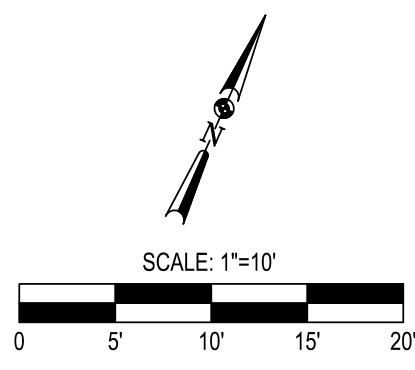
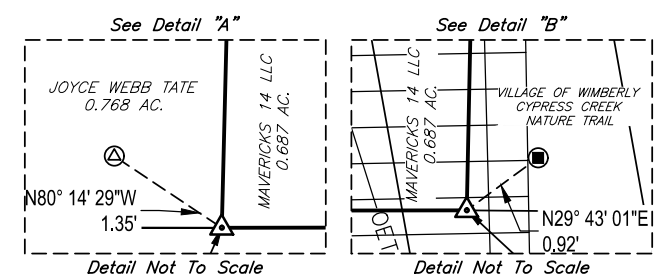


JOYCE WEBB TATE 0.768 AC. VOL. 992, PG. 72 WARRANTY DEED

MAVERICKS 14 LLC 0.687 AC. DOC. NO. 21051871 WARRANTY DEED

S 65° 57' 27" W 112.13'
(S 66° 04' 00" W 112.38')

Old Kyle Road Variable Width R.O.W.



I HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND, AND THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS PLAT CORRECTLY REPRESENTS THE FACTS FOUND AT THE TIME OF THIS SURVEY.

Joshua C. Naumann
JOSHUA C. NAUMANN DATE: JULY 28, 2022
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS REGISTRATION NO. 6883
JNAUMANN@MATKINHOOVER.COM
JOB NO. 22-5043
DATE OF SURVEY: 06/29/2022
DATE DRAWN: 07/28/2022 DRAWN BY: AM



NOTES:

- BEARINGS ARE BASED ON THE STATE PLANE COORDINATE SYSTEM ESTABLISHED FOR THE TEXAS SOUTH CENTRAL ZONE 4203, NORTH AMERICAN DATUM (NAD) OF 1983. ALL DISTANCES AND COORDINATES ARE SURFACE VALUES CSF: 10001069881 AT BASE POINT 1. BASIS OF ELEVATION IS THE TRIMBLE VRS NETWORK, NAD83(2011), EPOCH2010.00, GEOID12B.
- FIELD WORK COMPLETED ON: 06/29/2022
- PARCEL IS WITHIN THE CITY LIMITS OF WIMBERLY, TEXAS
- PARCEL APPEARS TO BE ZONED AS "C-3, COMMERCIAL HIGH IMPACT" AS PER CITY OF WIMBERLY PLANNING AREAS AND ZONING MAP, ONLINE AT [HTTPS://CITYOFWIMBERLY.MAPS.ARCGIS.COM](https://cityofwimberly.maps.arcgis.com). THIS INFORMATION IS PROVIDED AS-IS WITHOUT WARRANTY FOR THE CONVENIENCE OF THE CLIENT.

MATKINHOOVER
ENGINEERING & SURVEYING

8 SPENCER ROAD SUITE 100 BOERNE, TEXAS 78006 OFFICE: 512.291.9699 CONTACT@MATKINHOOVER.COM
3303 SHELL ROAD SUITE 3 GEORGETOWN, TEXAS 78628 OFFICE: 512.868.2244

TEXAS REGISTERED ENGINEERING FIRM F-004512
BOERNE, TEXAS REGISTERED SURVEYING FIRM F-10024000
GEORGETOWN, TEXAS REGISTERED SURVEYING FIRM F-10194347
CIVIL ENGINEERS/SURVEYORS/LAND PLANNERS/CONSTRUCTION MANAGERS/CONSULTANTS

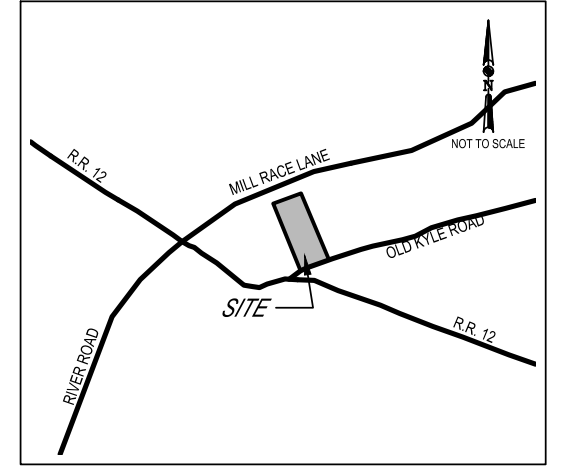
SURVEY DATE: JUNE 29, 2022
MHS JOB NO. - 22-5043

SHEET 1 OF 2

AS BUILT SURVEY OF

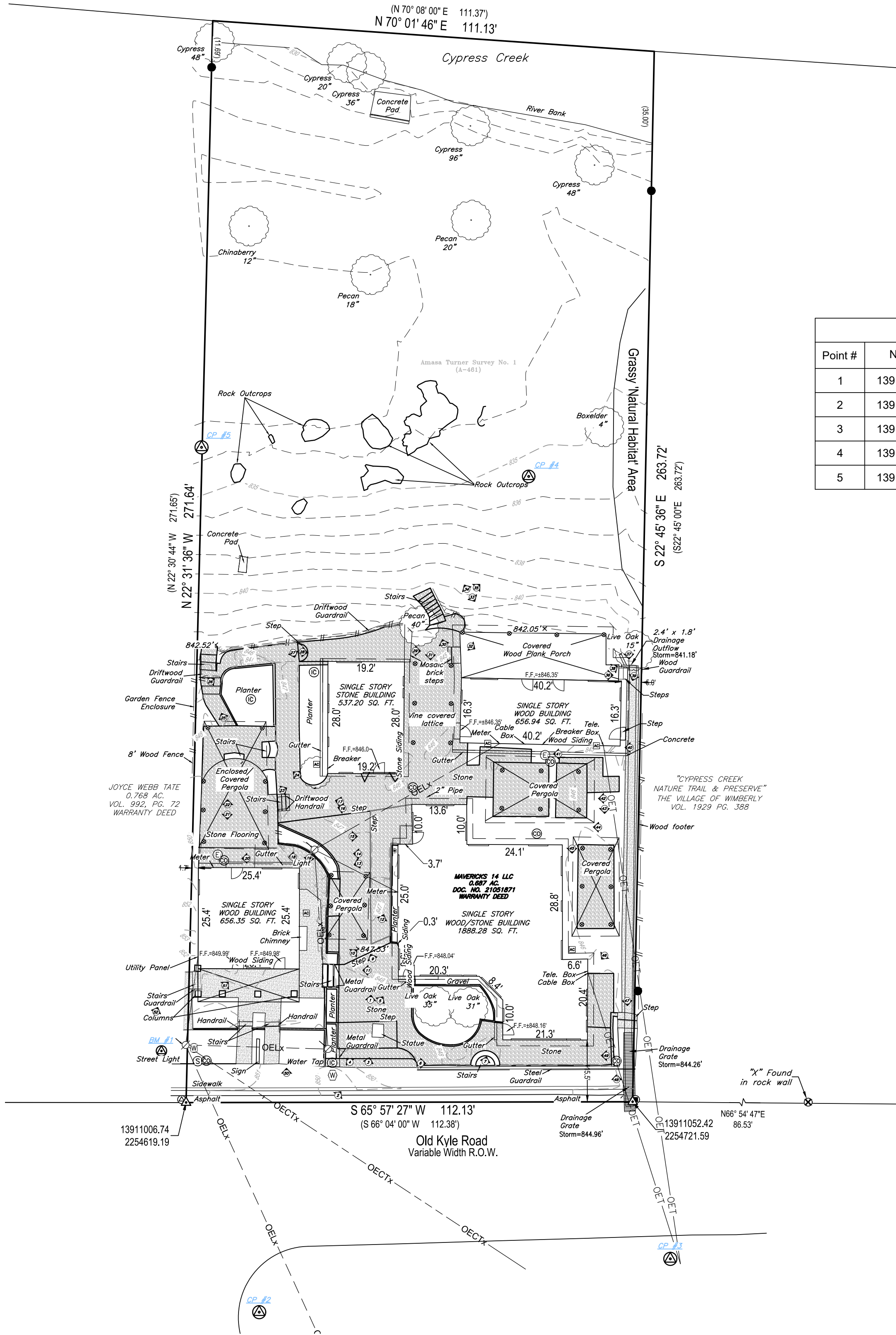
A 0.685 ACRE (MEASURED) TRACT OF LAND CONVEYED TO MAVERICKS 14, LLC, BY DOUBLE LC PARTNERS TWO, LTD IN GENERAL WARRANTY DEED, DOCUMENT NO. 21051871, OFFICIAL DEED RECORDS HAYS COUNTY, AMASA TURNER SURVEY NO. 1 (A-461), HAYS COUNTY, TEXAS

LOCATION MAP



JAMES MALCOLM HARRIS,
TRUSTEE OF THE MIDDLE RANCH TRUST
7.67 AC.
DOC. NO. 20049928
SPECIALTY WARRANTY DEED

- LEGEND
- P.O.B. POINT OF BEGINNING
 - R.O.W. RIGHT-OF-WAY
 - CONC. CONCRETE
 - IRON ROD FOUND
 - ⊙ WOOD POST
 - ⊙ 60D NAIL WITH WASHER FOUND
 - ⊙ MAG NAIL FOUND
 - ⊙ CALCULATED POINT
 - ⊙ WATER METER
 - ⊙ WATER VALVE
 - ⊙ SANITARY SEWER MANHOLE
 - ⊙ SEPTIC TANK LID
 - ⊙ SANITARY SEWER CLEANOUT
 - ⊙ IRRIGATION CONTROL VALVE
 - ⊙ UTILITY POLE
 - ⊙ A/C PAD
 - || WOOD FENCE
 - OECTX --- ELECTRIC/CABLE TV (OVERHEAD)
 - ⊙ ELECTRIC MANHOLE
 - ASPHALT
 - CONCRETE
 - STONE

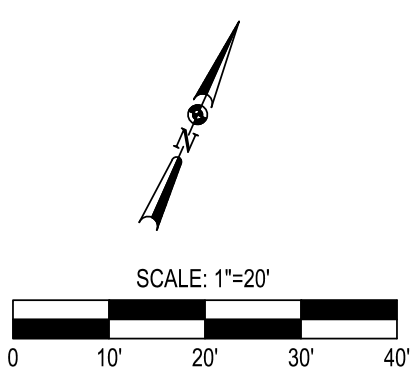


Point #	Northing	Easting	Elevation	Raw Description
1	13911016.06'	2254608.29'	852.10'	IR w/ blue plastic cap marked "Control"
2	13910966.10'	2254657.33'	853.56'	Set Mag nail w/ washer
3	13911020.22'	2254746.24'	850.47'	Set Mag nail w/ washer
4	13911185.29'	2254634.04'	835.60'	IR w/ blue plastic cap marked "Control"
5	13911158.62'	2254556.01'	833.66'	IR w/ blue plastic cap marked "Control"

JOYCE WEBB TATE
0.768 AC.
VOL. 992, PG. 72
WARRANTY DEED

"CYPRESS CREEK
NATURE TRAIL & PRESERVE"
THE VILLAGE OF WIMBERLY
VOL. 1929 PG. 388

MAVERICKS 14 LLC
0.687 AC.
DOC. NO. 21051871
WARRANTY DEED



I HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND, AND THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS PLAT CORRECTLY REPRESENTS THE FACTS FOUND AT THE TIME OF THIS SURVEY.

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MATKINHOOVER
ENGINEERING & SURVEYING

8 SPENCER ROAD SUITE 100
BOERNE, TEXAS 78006
OFFICE: 512.291.6600
CONTACT@MATKINHOOVER.COM

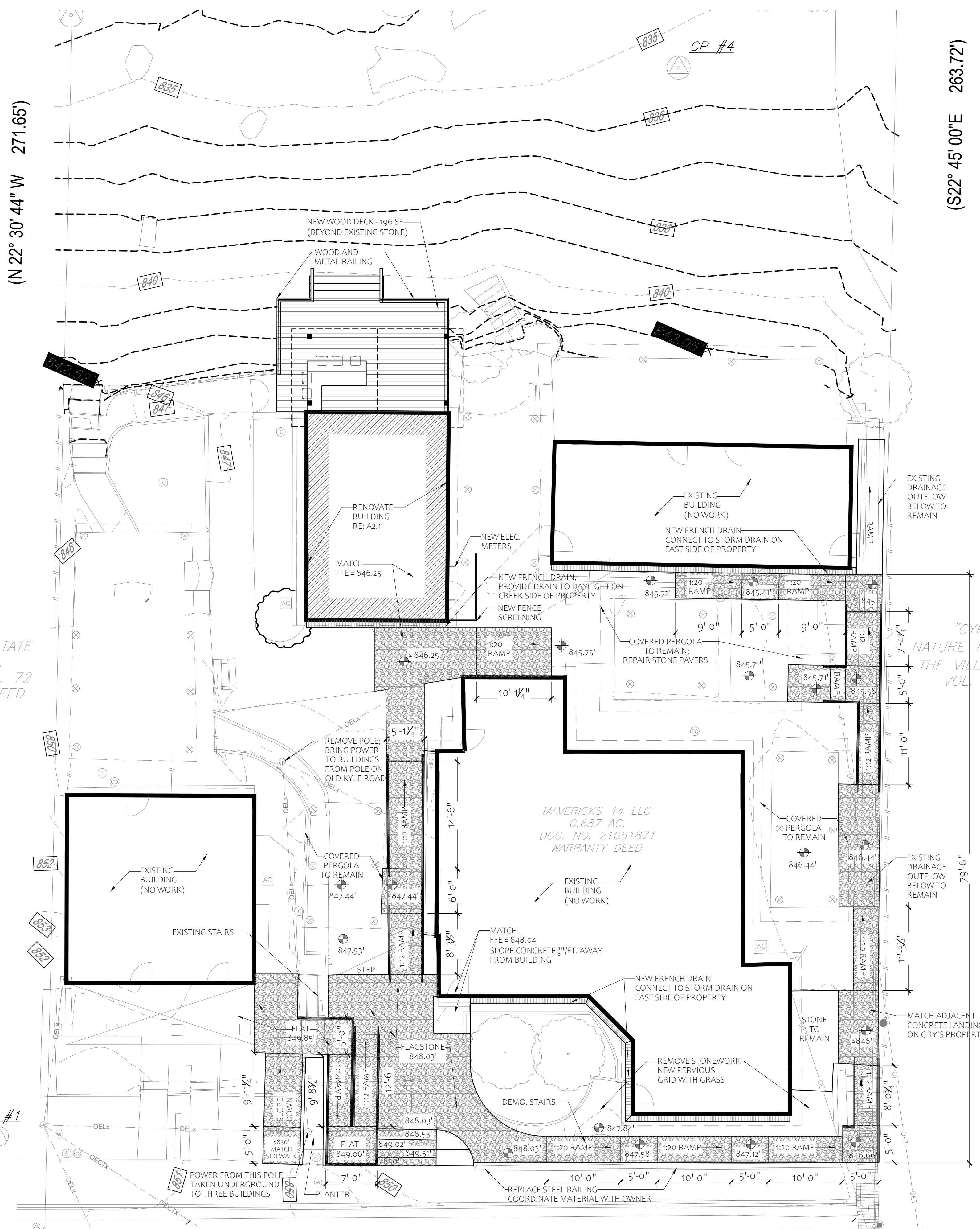
3303 SHELL ROAD SUITE 3
GEORGETOWN, TEXAS 78628
OFFICE: 512.868.2244

TEXAS REGISTERED ENGINEERING FIRM E-004512
BOERNE, TEXAS REGISTERED SURVEYING FIRM F-1002600
GEORGETOWN, TEXAS REGISTERED SURVEYING FIRM F-10194347
CIVIL ENGINEERS | SURVEYORS | LAND PLANNERS | CONSTRUCTION MANAGERS | CONSULTANTS

SURVEY DATE: JUNE 29, 2022
MHS JOB NO. - 22-5043

SHEET 2 OF 2

Date: Jul 28, 2022, 4:52pm User ID: amartinez



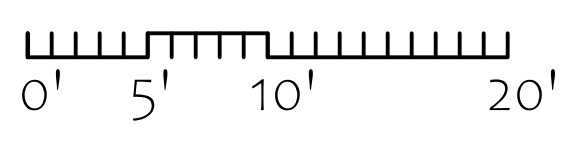
JOYCE WEBB TATE
0.768 AC.
VOL. 992, PG. 72
WARRANTY DEED

MAVERICKS 14 LLC
0.687 AC.
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WARRANTY DEED

"CYPRESS CREEK
NATURE TRAIL & PRESERVE"
THE VILLAGE OF WIMBERLEY
VOL. 1929 PG. 388

13911006.74
2254619.19

FIELD VERIFY ELEVATIONS TO ENSURE COMPLIANCE WITH RAMP GRADES IS ACHIEVED.
(S 66° 04' 00" W 112.38')



13911052.42
2254721.59



AGENDA ITEM:	BA-23-003
SUBMITTED BY:	Nathan Glaiser, Planning and Development Coordinator
DATE SUBMITTED:	August 14, 2023
MEETING DATE:	September 25, 2023

REPORT

ITEM

The applicants, Eric & Bonnie Lang, have requested a variance from the Dominant Street Setback requirement (Sec. 9.03.072(d)3a) that restricts building within 50ft of the front property line for a property located at 2625 River Road. This property is along the Blanco River and completely within the 100-year floodplain. The applicants are seeking to build closer to the road where the land is higher in elevation allowing them to elevate the home as little as possible to be above the base flood elevation. The applicants are seeking 40ft encroachment to maintain a building setback line of 10ft from the roadway.

PROPERTY INFORMATION

Property Description

Applicant(s):	Eric & Bonnie Lang
Property Address:	107 Old Kyle Rd
Property Owner:	Eric & Bonnie Lang
Legal Description:	River Meadows Lot 8A
Property Size:	3.15 acres
Existing Use of Property:	Vacant lot
Existing Zoning:	Rural Residential 1
Proposed Use of Property:	Residential
Request:	40 ft encroachment into the dominant street setback
Planning Area:	I
Overlay District:	Protected Waterway

Surrounding Property:

Frontage: River Road

Surrounding Zoning & Land Use	North of Property	Current Zoning: R1	Existing Land Use: Residential
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South of Property	ETJ	Unknown
East of Property	R1	Residential
West of Property	R1	Residential

COMMENTS

Staff has not received any comments from neighboring property owners as of 9/19/2023.

LEGAL NOTICE

Surrounding Neighbor Notification Letters (200’): September 12, 2023
Published Legal Notice (Wimberley View): September 14, 2023

CRITERIA FOR CONSIDERATION

When considering granting a variance, the Board should consider the following criteria from the Wimberley Code of Ordinances Section 9.03.254 (f)(3):

- (A) That there are special circumstances or conditions affecting the property involved such that the strict application of the provisions of this article would (i) deprive the applicant of the reasonable use of the property; and (ii) create an unnecessary hardship in the development of the property;
- (B) That such circumstances or conditions are (i) not self-imposed; (ii) not based solely on economic gain or loss; and (iii) do not generally affect most properties in the vicinity of the property;
- (C) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
- (D) The variance if granted will not:
 - (i) Adversely affect the public health, safety or welfare;
 - (ii) Be contrary to the public interest; and
 - (iii) Be injurious to or adversely affect the orderly use of other property within the area.
- (E) The property involved is otherwise in compliance with all other applicable city ordinances, rules, and regulations; and
- (F) The granting of the variance will be in harmony with the spirit and purpose of this article.

ATTACHMENT/S

- Application for Variance
- Application Attachments

Project Data (Continued)

3. FLOOD PLAIN (What, if any, flood zone does your property Occupy?): AE - 100 year

4. WASTEWATER SYSTEM: Septic; Aqua Utility; GBRA
HAYS COUNTY SEPTIC PERMIT NUMBER (if applicable): _____

5. Directions to your Project: The project is located at 2625 River Road.

Please clearly mark your property so it is easily identifiable.

SPECIFIC SECTIONS OF ZONING ORDINANCE NO. 2001-010 FOR WHICH A VARIANCE IS REQUESTED:

Sec. 9.03.072 (d) 3 (a). Building setback requirements.

REASON FOR NEED OF VARIANCE (Attach separate sheet if necessary)

We need to reduce the setback due the floodplain on the property. The whole property

is in the floodplain. The house is being built to the preliminary FEMA flood map.

The house will elevated at the between ~10 feet to ~20 feet.

Setting the house back will increase the elevation and could

cause the house to to exceed the height restrictions.

**ACKNOWLEDGMENT OF EXISTING
Subdivision Plat Notes, Deed Restrictions Restrictive Covenants
and/or Zoning Conditional Use Permits**

I, the Applicant herein, have checked the subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permits prohibiting certain uses and/or requiring certain development restrictions (for example, height, access, screening) on the property for which a variance is now being considered on my behalf.

If a conflict should result with the request I am submitting to the City of Wimberley due to subdivision plat notes, deed restrictions, restrictive covenants and/or which do not conform with the City ordinances, it will be my responsibility to resolve it. I also acknowledge that I understand the implications of use and/or development restrictions that are a result of subdivision plat notes, deed restrictions, restrictive covenants and/or zoning ordinances.

I understand that if requested, I must provide copies of any and all subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional use permit information, which may apply to this property.

Date: 09/06/2023

APPLICANT Eric Lang

SIGNATURE 

WHEN APPLICABLE:

Date: _____

AGENT _____

SIGNATURE _____

SITE INSPECTION AUTHORIZATION

Applicant/owner, or Applicant’s authorized agent, hereby authorizes the City of Wimberley Board of Adjustment Members and City representatives to visit and inspect the property for which this application is being submitted.

Date: 09/06/2023

APPLICANT Eric Lang

SIGNATURE 

WHEN APPLICABLE:

Date: _____

AGENT _____

SIGNATURE _____

SUBMITTAL CHECKLIST

TO ENSURE THAT YOU HAVE COMPLIED WITH THE VARIANCE APPLICATION REQUIREMENTS, REVIEW THE FOLLOWING LIST. GRANTING OF A VARIANCE IS CONDITIONAL ON MEETING THE FOLLOWING REQUIREMENTS:

FAILURE TO COMPLY WITH THE REQUIREMENTS MAY CAUSE A DELAY IN PROCESSING YOUR APPLICATION.

- Complete "Application for Variance"
- Provide plat map of property to which variance applies.
- Provide names and addresses of property owners within 200 feet of any portion of Applicant's property.
- Provide a legal description of the property to which variance applies.
- Sign/date Submittal Verification form.
- Sign/date Site Inspection Authorization form.
- Sign/date Acknowledgement Form.
- Pay Variance Fee (this fee is based on the cost of services incurred by the City of Wimberley in reviewing, processing and recording this variance request).
- Applicant agrees to attend the Board of Adjustment Public Hearing.
- I have reviewed the Conditions Required and believe they are met:** (Wimberley Zoning Ordinance No. 2001-010, Section 10) No variance shall be granted without first giving public notice and conducting a public hearing on the variance request in accordance with Section 10.8, and unless the Board of Adjustment makes specific, written findings of fact as follows:

1. That there are special circumstances or conditions affecting the property involved such that the strict application of the provisions of the Zoning Ordinance would (a) deprive the applicant of the reasonable use of the property; and (b) create and unnecessary hardship in the development o the property; and
2. That such circumstances and conditions are (a) not self-imposed; (b) not based solely on economic gain or loss; and (c) do not generally affect most properties in the vicinity of the property.
3. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
4. The variance if granted will not: (a) adversely affect the public health, safety or welfare; (b) be contrary to the public interest and (c) be injurious to or adversely affect the orderly use of other property within the area;

5. The property involved is otherwise in compliance with all other applicable City ordinances, rules and regulations; and

6. The granting of the variance will be in harmony with the spirit and purpose of this ordinance.

Special Circumstances:

This request will allow safe development of a single family residence on the lot.


The lot is below the proposed preliminary floodplain heights.

SUBMITTAL VERIFICATION AND/OR WAIVER OF APPEARANCE

My signature attests to the fact that the attached application package is complete and accurate to the best of my knowledge. I understand that City review of this Application is dependent upon the accuracy of the information provided and that any inaccurate or inadequate information provided by me, my firm, or agent, may delay the review of the Application.

Date: 09/06/2023

APPLICANT Eric Lang

SIGNATURE 

WHEN APPLICABLE:

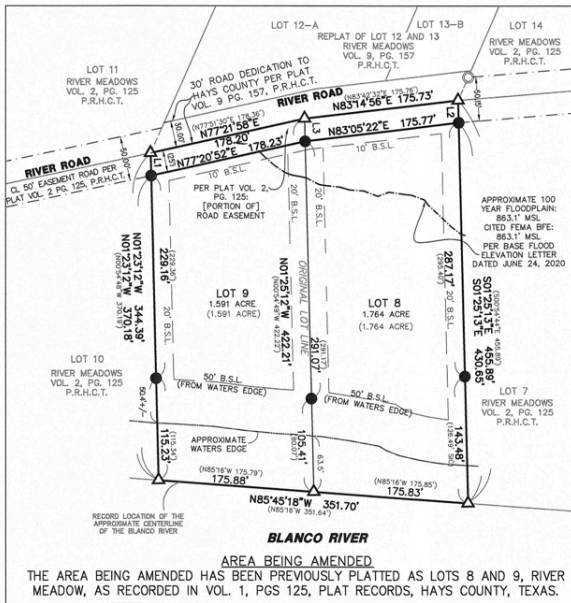
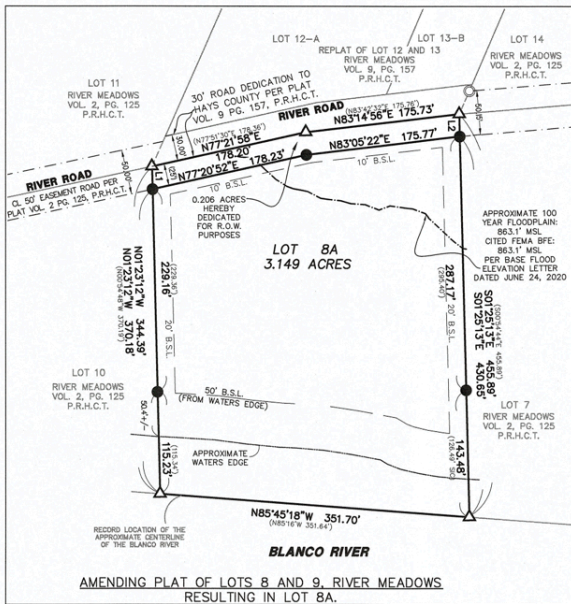
Date: _____

AGENT _____

SIGNATURE _____

AMENDING PLAT OF LOTS 8 AND 9, RIVER MEADOWS

CITY OF WIMBERLEY,
HAYS COUNTY, TEXAS



STATE OF TEXAS
COUNTY OF HAYS
KNOW ALL MEN BY THESE PRESENTS:

THAT ERIC LANG AND WIFE, BONNIE LANG, BEING THE OWNERS OF LOTS 8 AND 9, RIVER MEADOWS, A SUBDIVISION OF RECORD IN VOL. 2, PG. 125, PLAT RECORDS, HAYS COUNTY, TEXAS, AS CONVEYED TO US BY DEED RECORDED IN DOC. NO. 20031098, OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, DO HEREBY AMEND SAID LOTS 8 AND 9 IN ACCORDANCE WITH THE PLAT SHOWN HEREON, AND DO HEREBY DEDICATE TO THE CITY OF WIMBERLEY THE EASEMENTS AND PUBLIC PLACES SHOWN HEREON FOR SUCH PUBLIC PURPOSES AS THE CITY OF WIMBERLEY MAY DEEM APPROPRIATE. THIS SUBDIVISION IS KNOWN AS AMENDING PLAT OF LOTS 8 AND 9, RIVER MEADOWS.

WITNESS MY HAND THIS ___ DAY OF _____, 20__

ERIC LANG
7809 W. RIM DR.
AUSTIN, TX 78731-1200

BONNIE LANG
7809 W. RIM DR.
AUSTIN, TX 78731-1200

STATE OF TEXAS
COUNTY OF HAYS

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED ERIC LANG AND BONNIE LANG, KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT. IT HAS BEEN ACKNOWLEDGED TO ME THAT THEY EXECUTED THE FOREGOING INSTRUMENT AS OWNER OF THE PROPERTY DESCRIBED HEREON.

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS
PRINTED NAME: _____

DATE NOTARY COMMISSION EXPIRES: _____

WITNESS MY HAND THIS ___ DAY OF _____, 20__

FLOOD PLAN NOTE:
PORTIONS OF THIS TRACT LIES WITHIN THE BOUNDARIES OF A DESIGNATED SPECIAL FLOOD HAZARD AREA OR THE 100 YEAR FLOODPLAIN AS DETERMINED BY/SHOWN ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM) NO. 48209C0335F FOR HAYS COUNTY, TEXAS, DATED 09-02-2005 FOR HAYS COUNTY, TEXAS. THIS TRACT FALLS WITHIN ZONE "AE" (SPECIAL FLOOD HAZARD AREA WITH BFE-BASE FLOOD ELEVATION, AND REGULATORY FLOODWAY AREAS) CALCULATED BASE FLOOD ELEVATION AT THE UPSTREAM SETBACK LINE IS 863.1 FEET. THE MINIMUM FINISHED FLOOR ELEVATION SHOULD BE AT LEAST ONE FOOT ABOVE THE BASE FLOOD ELEVATION AT 864.1'.

SURVEYOR'S CERTIFICATION

I, PAUL UTTERBACK, AM AUTHORIZED UNDER THE LAWS OF THE STATE OF TEXAS TO PRACTICE THE PROFESSION OF SURVEYING AND HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECTLY MADE AND IS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND AND THE CORNER MONUMENTS WERE FOUND OR PROPERLY PLACED UNDER MY SUPERVISION.

Paul Utterback
DATE: 2/3/2021

PAUL UTTERBACK
R.P.L.S. NO. 5738
ATS ENGINEERS, INSPECTORS & SURVEYORS
TBPLS FIRM REG. #10126000
4910 WEST HWY. 290
AUSTIN, TX 78735
(512) 328-6995

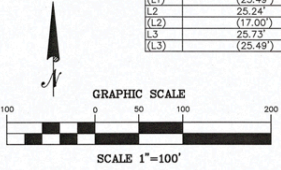


LEGEND

- 2" (RIF) IRON ROD FOUND (unless noted)
- CALCULATED POINT
- RECORD INFORMATION
- B.S.L. BUILDING SETBACK LINE
- P.R.H.C.T. PLAT RECORDS HAYS COUNTY TEXAS
- CL CENTERLINE

LINE DATA TABLE

LINE	DISTANCE
L1	25.79'
(L1)	(25.49')
L2	17.24'
(L2)	(17.00')
L3	25.73'
(L3)	(25.49')



Surveyor's Note:
Bearings shown hereon are based on Texas State Plane Coordinate System, South Central Zone (FIPS Code 4204), NAD 83, Grid Coordinates & Grid North.

NOTES:

1. THIS PLAT AMENDMENT CONTAINS A TOTAL OF 3.355 ACRES, WITH ONE LOT. LOT 8A CONTAINS 3.149 ACRES, AND A RIGHT-OF-WAY DEDICATION CONTAINING 0.206 ACRES.
2. THE PURPOSE OF THIS AMENDED PLAT IS TO COMBINE TWO LOTS INTO ONE. A RIGHT-OF-WAY DEDICATION WAS REQUESTED BY CITY OF WIMBERLEY FOR THE FORMER ROAD EASEMENT AREA.
3. THIS SUBDIVISION LIES WITHIN THE WIMBERLEY INDEPENDENT SCHOOL DISTRICT.
4. WATER SERVICE FOR THIS SUBDIVISION/LOT IS PROVIDED BY A PRIVATE WELL OR RAINWATER SYSTEM.
5. WASTEWATER TREATMENT FOR EACH LOT IS TO BE PRIVATE INDIVIDUAL ON-SITE SEWERAGE FACILITIES AS APPROVED BY THE CITY OF WIMBERLEY. NO STRUCTURE IN THIS SUBDIVISION SHALL BE OCCUPIED UNTIL CONNECTED TO AN ON-SITE SYSTEM WHICH HAS BEEN APPROVED AND PERMITTED BY THE CITY WIMBERLEY.
6. ELECTRICITY FOR THIS SUBDIVISION IS PROVIDED BY PEDERNALES ELECTRIC COOPERATIVE, INC.
7. TELEPHONE SERVICE FOR THIS SUBDIVISION IS PROVIDED BY VERIZON.
8. THIS SUBDIVISION LIES WITHIN THE CITY LIMITS OF THE CITY OF WIMBERLEY.
9. NO OBJECT, INCLUDING BUILDINGS, FENCES, OR LANDSCAPING WHICH WOULD INTERFERE WITH CONVEYANCE OF STORM WATER, SHALL BE PLACED OR ERRECTED WITHIN A DRAINAGE EASEMENT.
10. ALL LOTS IN THIS SUBDIVISION ARE RESTRICTED TO RESIDENTIAL DEVELOPMENT.
11. THIS SUBDIVISION IS SUBJECT TO ALL GENERAL NOTES AND RESTRICTIONS APPEARING ON THE PLAT OF RIVER MEADOWS, RECORDED IN VOL. 2 PG. 125, PLAT RECORDS, HAYS COUNTY, TEXAS.
12. THE PROVISIONS OF THE COMPREHENSIVE PLAN SHALL ALSO GOVERN THIS SUBDIVISION.

GENERAL NOTES (FROM PLAT VOL. 2 PG. 125, PLAT RECORDS, HAYS COUNTY, TEXAS):

1. THIS TRACT MAY BE SUBJECT TO THE FOLLOWING:
 - a) SUBJECT TO THE RIGHT, PRIVILEGE AND EASEMENT OF RAISING THE LEVEL OF THE BLANCO RIVER SO AS TO POSSIBLY COVER A PORTION OF SAID PROPERTY, AS GRANTED BY HARVEY J. COHEN, ET AL. TO P. CEDRIC WENGER AND WIFE BY INSTRUMENT DATED AUGUST 27, 1957, RECORDED IN VOL. 172, PG. 209, DEED RECORDS, HAYS COUNTY, TEXAS.
 - b) SUBJECT TO ANY PORTION OF SAID PROPERTY WHICH MAY BE CROSSED BY A COUNTY ROAD.
 - c) EASEMENT TO PEDERNALES ELECTRIC COOPERATIVE, INC. AS RECORDED IN VOL. 259, PG. 175, DEED RECORDS, HAYS COUNTY, TEXAS.
2. ANY LOT THAT FRONTS ON THE BLANCO RIVER, NO BUILDING SHALL BE ERRECTED, BUILT, OR KEPT CLOSER TO THE BLANCO RIVER THAN FIFTY (50') FEET FROM THE EDGE OF THE WATER, NOR CLOSER THAN TEN (10) FEET FROM ANY ROADWAY, NOR CLOSER THAN TWENTY (20) FEET FROM ANY AND ALL OTHER PROPERTY LINES. ON ALL (OTHER) LOTS NO BUILDING SHALL BE ERRECTED, BUILT OR KEPT CLOSER THAN FIFTY (50) FEET FROM ANY ROADWAY, NOR CLOSER THAN TWENTY (20) FEET FROM ANY AND ALL OTHER PROPERTY LINES.
3. NO SEPTIC TANK SHALL BE CONSTRUCTED AND MAINTAINED CLOSER THAN TWENTY-FIVE (25) FEET FROM ANY PROPERTY LINE AND FIFTY (50) FROM ANY ROADWAY.
4. BLANCO BEND DEVELOPMENT COMPANY SHALL HAVE THE RIGHT TO NEGOTIATE NECESSARY UTILITY EASEMENTS FOR THE BENEFIT OF THE PROPERTY AND SAID UTILITY EASEMENTS MAY BE PLACED WHERE POSSIBLE SO AS NOT TO DETRACT FROM THE PREMISES.
5. NO PROPERTY OWNER MAY BUILD OR PLACE ANY TYPE OF STRUCTURE IN THE BLANCO RIVER EXCEPT A RETAINING WALL OR BOAT DOCK.
6. SEE RECORDED DEED RESTRICTIONS (VOL. 347 PG. 529, DEED RECORDS, HAYS COUNTY, TEXAS) FOR FURTHER RESTRICTIONS OF THIS TRACT.

STATE OF TEXAS:
COUNTY OF HAYS:

I, ELAINE H. CARDENAS, CLERK OF HAYS COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT OF WRITING, WITH ITS CERTIFICATE OF AUTHENTICATION WAS FILED FOR RECORD IN MY OFFICE ON THE ___ DAY OF _____, 20__ A.D., AT _____ O'CLOCK _____ M., DULY RECORDED ON THE ___ DAY OF _____, 20__ A.D., AT _____ O'CLOCK _____ M., PLAT RECORDS OF SAID COUNTY AND STATE IN DOCUMENT NUMBER _____ OFFICIAL PUBLIC RECORDS OF HAYS COUNTY. WITNESS MY HAND AND SEAL OF THE COUNTY CLERK, THE ___ DAY OF _____, 20__ A.D.

ELAINE H. CARDENAS, COUNTY CLERK
HAYS COUNTY, TEXAS

DEPUTY

I, PAUL PARKER, CITY ADMINISTRATOR OF THE CITY OF WIMBERLEY, TEXAS HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION REGULATIONS AS TO WHICH APPROVAL IS REQUIRED.

PAUL PARKER, CITY ADMINISTRATOR
CITY OF WIMBERLEY, TEXAS

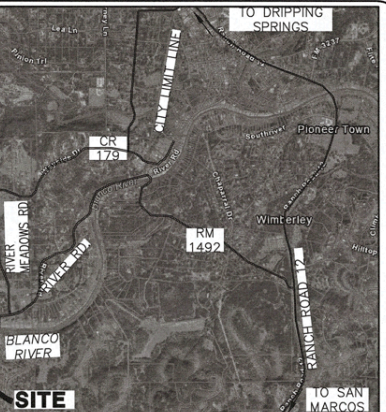
RECOMMENDED FOR APPROVAL:

CHAD GILPIN, P.E., CITY ENGINEER DATE

STATE OF TEXAS:
COUNTY OF HAYS:

BASED UPON THE ABOVE REPRESENTATIONS OF THE ENGINEER OR SURVEYOR WHOSE SEAL IS AFFIXED HERETO, AND AFTER A REVIEW OF THE PLAT AS REPRESENTED BY THE SAID ENGINEER OR SURVEYOR, I FIND THAT THIS PLAT COMPLIES WITH THE REQUIREMENTS OF THE CITY OF WIMBERLEY. THIS CERTIFICATION IS MADE SOLELY UPON SUCH REPRESENTATIONS AND SHOULD NOT BE RELIED UPON FOR VERIFICATIONS OF THE FACTS ALLEGED. THE CITY OF WIMBERLEY DISCLAIMS ANY RESPONSIBILITY TO ANY MEMBER OF THE PUBLIC FOR INDEPENDENT VERIFICATIONS OF THE REPRESENTATIONS, FACTUAL OR OTHERWISE, CONTAINED IN THIS PLAT AND THE DOCUMENTS ASSOCIATED WITH IT.

PAUL PARKER, CITY ADMINISTRATOR
CITY OF WIMBERLEY, TEXAS



VICINITY MAP
SCALE: 1"=2000'

ETJ NOTE:
THIS PROPERTY LIES WITHIN THE CITY LIMITS OF THE CITY OF WIMBERLEY, TEXAS.

EDWARDS AQUIFER NOTE:
SUBDIVISION LIES WITHIN EDWARDS AQUIFER CONTRIBUTING ZONE.

PLAT PREPARATION DATE	PLAT SUBMITTAL DATE
1/5/2021 REV. 1/21/2021	



www.ats-engineers.com
TBPLS FIRM REG. #10126000
4910 West Hwy 290
AUSTIN, TEXAS 78735
(512) 328-6995
FAX: (512) 328-6996
Projects\BULK\M-R\RiverRd2625-2655\Production\Drawings\amdP088-9RiverMeadows_201106.dwg
ATS Job #_20110213a