

**CITY OF AUSTIN
Board of Adjustment
Decision Sheet**

DATE: Monday, September 18, 2017

CASE NUMBER: C15-2017-0040

☐ Y ☐ Brooke Bailey
☐ Y ☐ William Burkhardt
☐ Y ☐ Christopher Covo
☐ Y ☐ Eric Goff
☐ - ☐ Melissa Hawthorne OUT
☐ Y ☐ Bryan King
☐ Y ☐ Don Leighton-Burwell
☐ Y ☐ Rahm McDaniel
☐ Y ☐ Veronica Rivera
☐ Y ☐ James Valadez
☐ Y ☐ Michael Von Ohlen
☐ Y ☐ Kelly Blume (Alternate)
☐ - ☐ Martha Gonzalez (Alternate)
☐ - ☐ Pim Mayo (Alternate)

APPLICANT: Ron Thrower

OWNER: Aaron Levy

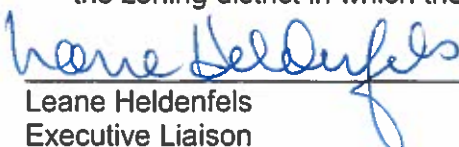
ADDRESS: 7513 COOPER LN

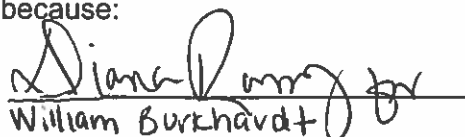
VARIANCE REQUESTED: The applicant has requested variance(s) from Article 10, Compatibility Standards Section 25-2-1063 (*Height Limitations and Setbacks for Large Sites*) (B) to decrease the required setback from a property in an urban family residence (SF-5) or more restrictive zoning district or on which a use permitted in SF-5 or more restrictive zoning district is located from 25 feet (required) to 2 feet (requested) in order to erect a private drive for 30 unit condominium use in a "SF-6-CO", Townhouse and Condominium Residence – Conditional Overlay zoning district.

BOARD'S DECISION: Aug 14, 2017 The public hearing was closed on Board Member Bryan King motion to postpone to September 18, 2017, Board Member Don Leighton Burwell second on an 11-0 vote; POSTPONED TO SEPTEMBER 18, 2017. Sept 18, 2017 The public hearing was closed on Board Member Bryan King motion to Postpone to October 9, 2017, Board Member James Valadez second on an 11-0 vote; POSTPONED TO OCTOBER 9, 2017.

FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:
(b) The hardship is not general to the area in which the property is located because:
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:


 Leane Heldenfels
 Executive Liaison


 William Burkhardt
 Chairman

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APPLICANT: Ron Thrower

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ADDRESS: 7513 COOPER LN

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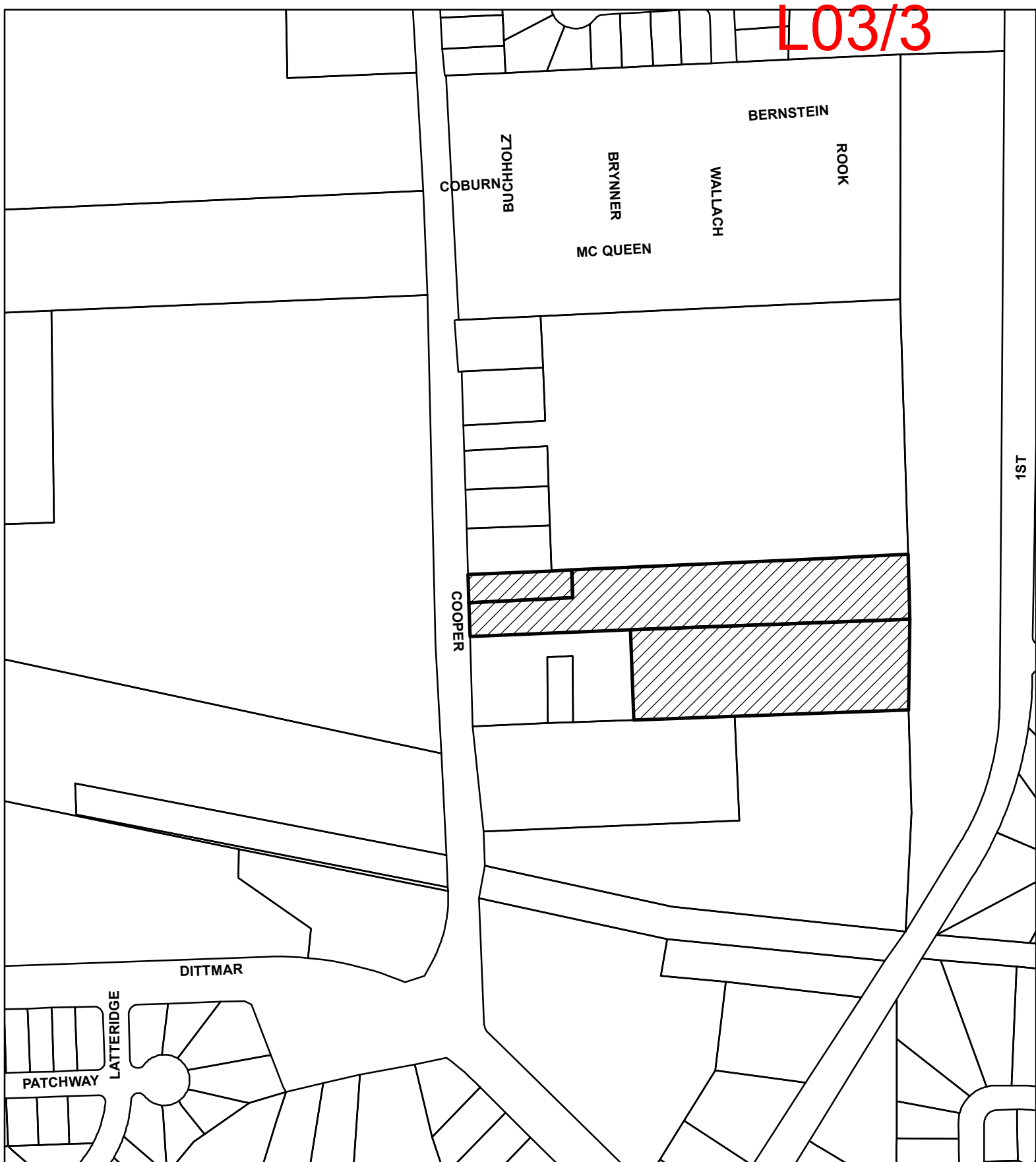
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FINDING:

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2. (a) The hardship for which the variance is requested is unique to the property in that:
 (b) The hardship is not general to the area in which the property is located because:
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:


 Leane Heldenfels
 Executive Liaison





 Jeff Jack
 Chairman



NOTIFICATIONS

CASE#: C15-2017-0040
LOCATION: 7513 & 7603 Cooper Lane



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

1" = 250'

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.





CITY OF AUSTIN

Development Services Department

One Texas Center | Phone: 512.978.4000
505 Barton Springs Road, Austin, Texas 78704

Board of Adjustment General/Parking Variance Application

WARNING: Filing of this appeal stops all affected construction activity.

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, [click here to Save](#) the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. ***If more space is required, please complete Section 6 as needed.*** All information is required (if applicable).

For Office Use Only

Case # C15-2017-0040 ROW # 11754162 Tax # 0423150415
TCAD ✓

Section 1: Applicant Statement

Street Address: 7513 . . . Cooper Lane

Subdivision Legal Description:

LOT 2 *RESUB OF TRT 1 GARCIA WILLIE C SUBD

Lot(s): _____ Block(s): _____

Outlot: _____ Division: _____

Zoning District: SF-6-CO

I/We A. Ron Thrower on behalf of myself/ourselves as
authorized agent for Townbridge Homes, LLC affirm that on
Month June, Day 14, Year 2017, hereby apply for a hearing before the
Board of Adjustment for consideration to (select appropriate option below):

☒ Erect ☐ Attach ☐ Complete ☐ Remodel ☐ Maintain ☐ Other: _____

Type of Structure: private driveway

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

25-2-1063 (Height Limitations and Setback Requirements for Large Sites) of Article 10, Compatibility Standards (B) to decrease the distance that a structure can be constructed from a property on which a use permitted in an SF-5 or more restrictive zoning district is located from 25 feet (required) to 2 feet (requested) to construct a driveway for access to property.

Section 2: Variance Findings

The Board must determine the existence of, sufficiency of, and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional supporting documents.

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

I contend that my entitlement to the requested variance is based on the following findings:

Reasonable Use

The zoning regulations applicable to the property do not allow for a reasonable use because:

A driveway cannot be constructed to access the property without the removal of a stand of mature trees, one of which is determined to be of Heritage size and species. See Tree No. 5628, 5629, 5627 on BOA Exhibit.

Hardship

a) The hardship for which the variance is requested is unique to the property in that:

There are several protected trees that span the width of the property at the street-front, western property line therefore lending to geometric design challenges with finding the best placement for driveway access to the balance of the property that will disturb the least amount of quality trees while maintaining the existing street scape character and preserving the heritage tree.

b) The hardship is not general to the area in which the property is located because:

The proposal is for in-fill development that seeks to work around existing constraints, including trees, lot width and adjacency to existing, less intense residential uses in a way that is context sensitive to the existing character of the street and neighborhood while balancing the City's need for additional dwelling units.

Area Character

The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

The variance will maintain the character of the area by allowing for development that is consistent with the existing residential lots that have a residential structure facing the street along side mature trees that have grown in place over decades. Maintenance of old growth trees provides a level of screening between the street and the increased unit density at the rear of the property.

Parking (additional criteria for parking variances only)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed in the City of Austin Land Development Code Chapter 25-6, Appendix A with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specific regulation because:

n/a

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

n/a

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

n/a

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

n/a

Section 3: Applicant Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Applicant Signature: A. Ron Thrower Date: 06/16/2017

Applicant Name (typed or printed): A. Ron Thrower

Applicant Mailing Address: P.O. Box 41957

City: Austin State: Texas Zip: 78704

Phone (will be public information): (512) 476-4456

Email (optional – will be public information): ront@throwerdesign.com

Section 4: Owner Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Owner Signature: [Signature] Date: 06/17/2017

Owner Name (typed or printed): Townbridge Homes (Aaron Levy)

Owner Mailing Address: P.O. Box 90638

City: AUSTIN State: TX Zip: 78709

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: A. Ron Thrower

Agent Mailing Address: P.O. Box 41957

City: Austin State: Texas Zip: 78704

Phone (will be public information): (512) 476-4456

Email (optional – will be public information): ront@throwerdesign.com

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).



SCALE: 1"=50'

RESUBDIVISION LOT 2,
COOPER LANE ADDITION
Volume 62 Page 83
LOT 4-A

EXISTING
HOUSE

EXISTING
HOUSE

LOT 1

RESUBDIVISION OF TRACT 1
WILLIE C. GARCIA SUBDIVISION
Volume 60 Page 11
LOT 2

COOPER LANE

25' COMPATIBILITY SETBACK

PROPOSED DRIVEWAY

EXISTING
HOUSE

Varranty Deed Vol. 12223 Pg. 947
Jose Esquivel (0.207 Acre)

TREE LIST

5623	14"	Hackberry
5624	11", 12" and 13"	Arizona Ash (24.5" total)
5625	5" and 12"	Live Oak
5626	11"	Live Oak
5627	4", 11", 13" and 14"	Live Oak (28" total)
5628	9", 15" and 18"	Arizona Ash (30" total)
5629	22"	Arizona Ash
5630	18"	Arizona Ash
5631	21"	Arizona Ash
5632	13"	Pecan
5633	16"	American Elm
5634	9"	American Elm
5635	16"	Chinaberry
5636	18"	American Elm
5637	4" and four-5"	Cedar Elm
5638	5", 7" and 8"	Catalpa
5639	20"	American Elm
5640	4", 7" and 10"	Hackberry

7513

COOPER LANE
BOA EXHIBIT

Thrower Design

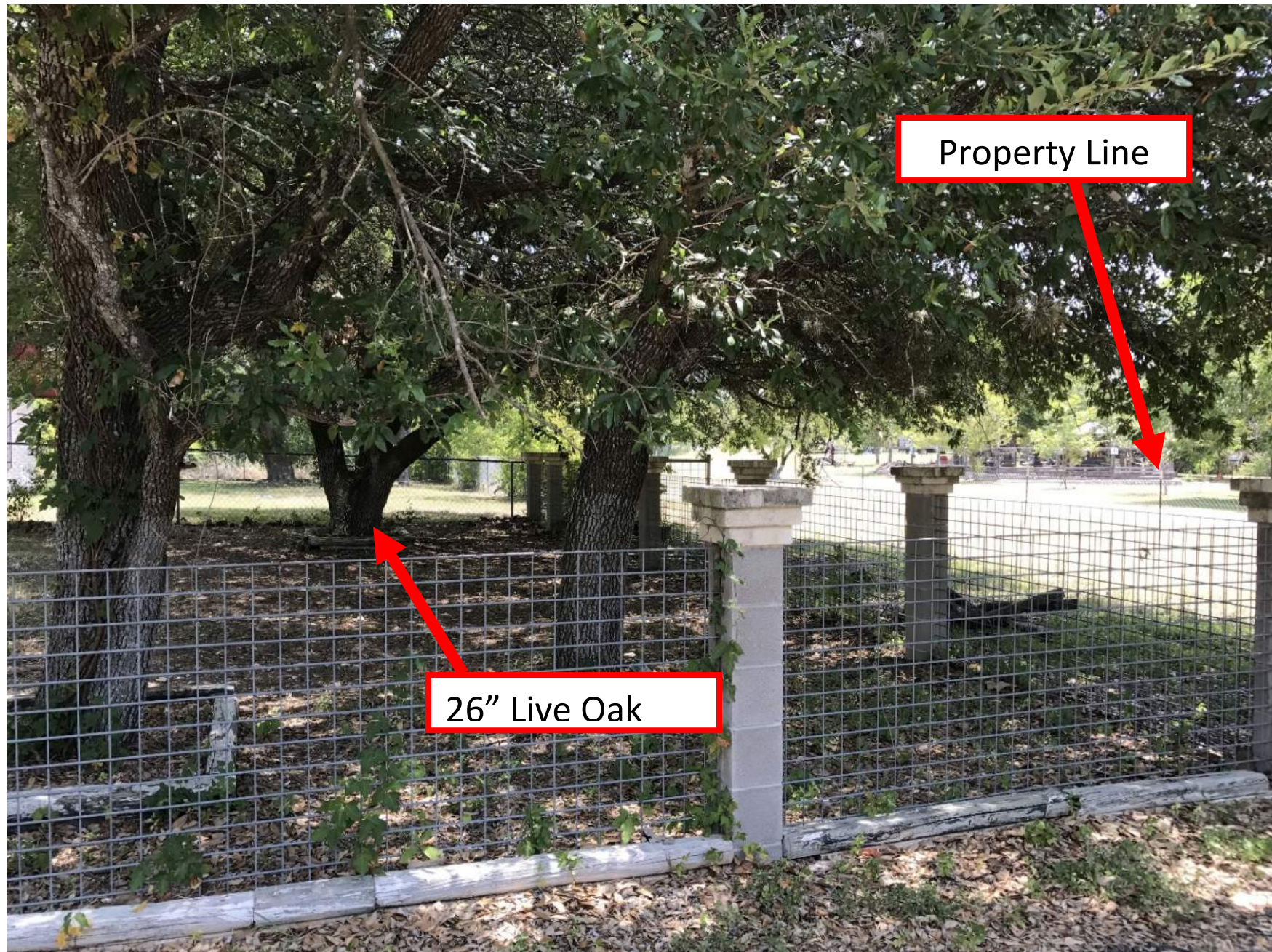
P.O. BOX 41957 • AUSTIN, TEXAS 78704 • (512) 476-4456

LAND PLANNERS



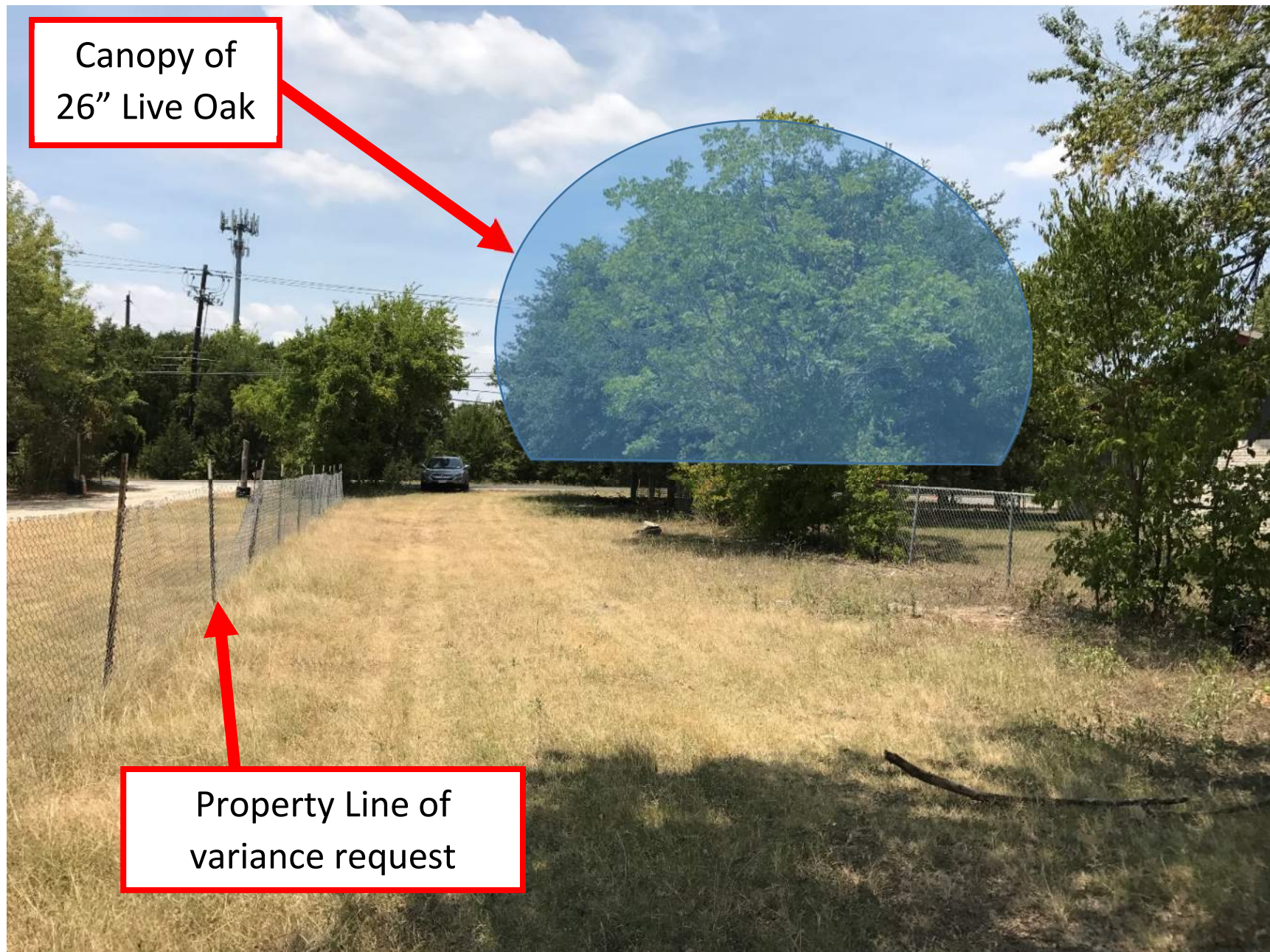
Existing House

26" Live Oak
(multi-trunk)



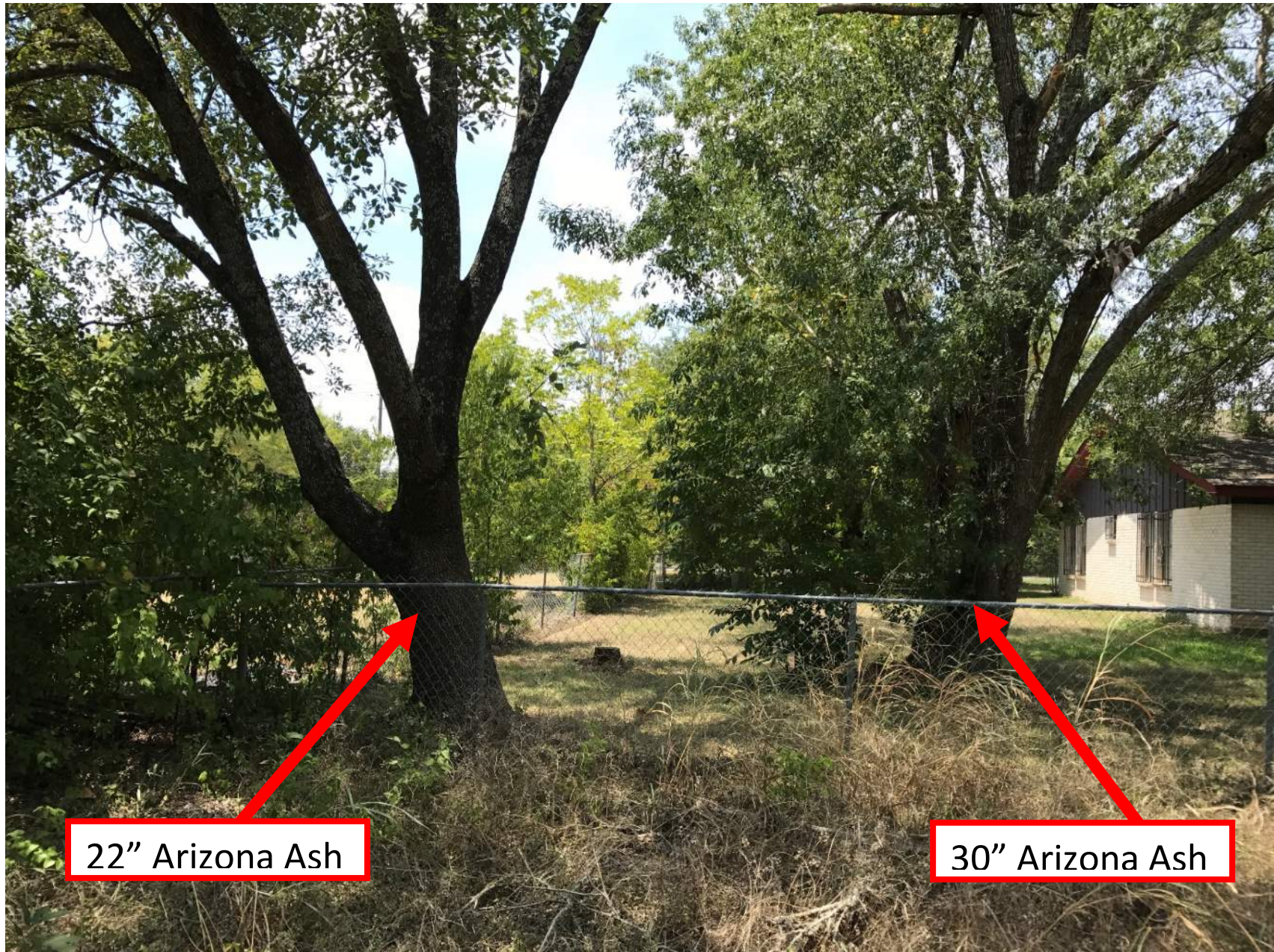


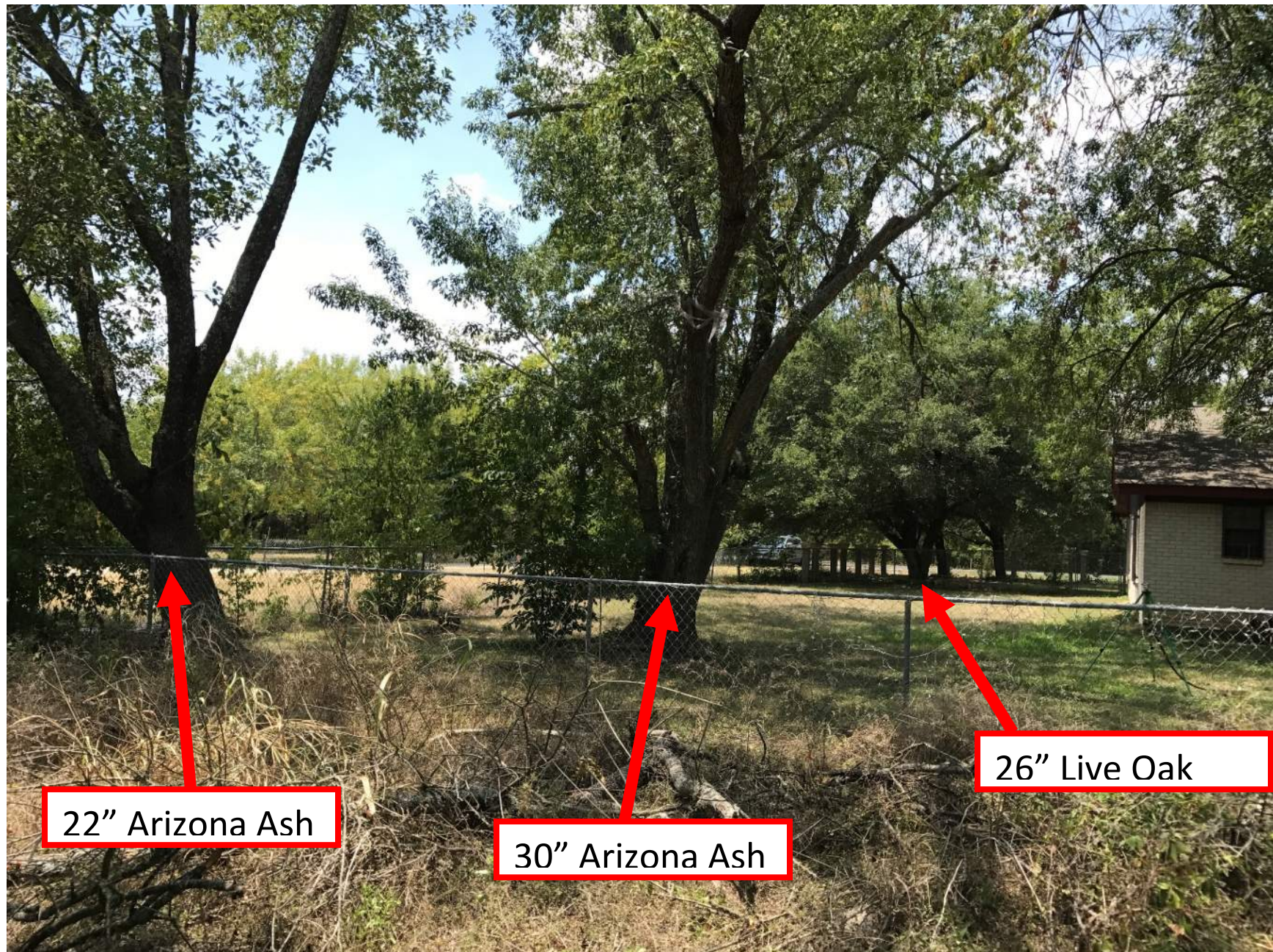
Property Line of
variance request





Canopy of 22" &
30" Arizona Ash





22" Arizona Ash

30" Arizona Ash

26" Live Oak

L03/16

Perez Family Against Variance Case C-15-2017-0040
Board of Adjustments Hearing 8-14-17

- The Perez Estate owns land contiguous to this tract. There will potentially be some type of development of this property in the future and protecting the value of that development is an important consideration for the estate. Michael Perez and his family live next door in this (point to picture) home and have immediate concerns in this same regard. In addition, his mother owns a tract located behind the Michael Perez home.
- With 30 condo units being built, and assuming 2 cars per unit, there will potentially be sixty or more cars two or more times a day driving right on the property line past, and contiguous to, the Perez Family Estate property and homes. Whatever number of trips per day, it will be substantial.
- We feel that this request for a variance would be easier to understand if we had the opportunity to review the applicants' site plan. No one but the applicants know where they will be building their 30 condominiums, whether the existing house will be removed nor what trees will be removed and what trees they intend to replace, and just where. We applaud their concern of wanting to protect the trees and allow the trees to screen future condo units from being seen. The Perez family deserves to have that same sense of privacy as well. Putting the driveway right along the property line will certainly affect the Perez family's privacy, however. Applicants may potentially plan on keeping the existing home currently located on their tract. It seems they are claiming that because of the existing home and trees there is no other place to locate the driveway they are asking for in their claim. No-one to our knowledge has seen their preliminary development plan proving that claim. If their plans include removing the house this certainly would seem to free up much of their access.
- The Perez Family would like to know:
 - A. What trees they plan to remove when they start construction of their 30 condominiums. In their application it is claimed that there is no other path for their access without disturbing existing trees.
 - B. Where will they be planting new trees to offset trees that they remove?
 - C. One can only assume that they will be removing the existing older home as it will not be compatible with a new high end condominium project similar to what has been built in the neighborhood. Will this home be removed?
- When Townbridge starts construction of their condos we feel that there are 2 alternative sites where they can put their driveway as shown on my drawing. Option A as shown in the picture would allow the driveway to be built centered on the line shown just to the south of the home as there is a clear path located within the normal 25 foot setback and just to the north side of heritage trees 5627 and surrounding group of trees noted as 5628, 5629, and 5632.
- Alternative Option B shown in my drawing and pictures also allows the driveway to be located within the normal side setbacks of 25'. We can assume that the existing home will be removed considering the price point of this new condominium project. With the house removed there is a clear path for a driveway that will easily allow passage past the existing trees. Only one tree it appears would potentially need removal with this option. Tree #5636 an 18" American Elm. These are not typically considered a heritage tree. Please note that many of these trees on this property are Arizona Ash. These trees were used by the building company Nash Phillips Copus for years throughout the 60's, 70's and 80's as they are a fast growing shade tree. They have, however, very soft wood and with mature trees such as these limbs break off easily in storms and wind. Many owners and builders typically remove them when they have reached maturity levels such as these have as they can pose a safety issue when their limbs constantly break off. These may end up being removed by TownBridge.

L03/17

- The Perez Family is requesting that a postponement of this decision tonight would allow the applicant an opportunity to come up with some new options to present to the family. It would also allow the Family and neighbors to see the site plan we are requesting so we can all understand whether this variance is needed or not. The family is willing to sit down and find some common ground. Currently having this high traffic driveway immediately on top of their property seems to be out of line with the intent of City Code. Setbacks are designed to protect neighboring properties from the very concerns the Perez Family has regarding this request for a variance.
- **All this said we are requesting that this Board consider postponing a decision until the neighborhood and Board have had an opportunity to review a site plan that shows where the condominium units will be built, whether there are plans to remove the house and what trees will be removed and where (if) new ones will be planted.**
- In addition, if the Board chooses to grant this variance tonight, we are requesting the Board make it a condition of the variance that in fact no existing trees will be allowed to be removed by the applicant, and that the home will have to remain in their final plan as this would ensure that the hardship claimed by applicant does actually exist that would not allow the Option B we proposed to be a viable option. In fact, Option A placement of their driveway would allow the trees and the home to remain undisturbed and has no need for a variance to be granted at all.

We thank the Board and TownBridge Homes in advance for their willingness to allow new solutions to be found as we feel this variance places unwanted noise, traffic and financial impact on the shoulders of the Perez Family as to how this variance will impact their properties.

Abbe Waldman-Consultant for the Estate Of Ignacio and Rosa Perez
Michael Perez-Administrator

512-736-5802
[REDACTED]

From:



Subject:

Picture #2 & #3 BOA Case C-15-2017-0040 TownBridge Perez Family

Date:

Sunday, August 13, 2017 10:54:59 PM

Picture #2 & #3

Thanks Leane! See as follows....

Abbe Waldman







L03/21



From: [REDACTED]
[REDACTED]
[REDACTED]
Date: Friday, August 11, 2017 4:15:23 PM Monday, August 14th

August 11, 2107

Concerning the Zoning Variance requested by Townbridge Homes, we'd like to be sure that the Board of Adjustment is aware of and will recognize a previous set-back agreement.

The agreement was made between Townbridge Homes and my husband Jon Ogden and me in October 2015. Our property borders the Townbridge Homes property on the northeast side (our lot is marked as Horticulture on City maps although it is a personal residence.) What was agreed upon for that shared property line was a 10' vegetative buffer with privacy fencing along with 25' building set-back (by code). This agreement was supposed to be included in the Zoning and Platting Commission's minutes approving SF-6 zoning for the project. We do not wish to have any modifications made to this set-back agreement for driveways or other changes.

Thank you and I've included an email below from Ron Thrower which references my notes above (although he incorrectly mentioned us as being on the "southern property line".

Regards, Molly McDonald-Ogden

Molly McDonald-Ogden
7611 Cooper Ln
Austin, TX 78745

[REDACTED]
[REDACTED]
[REDACTED]

Subject: RE: Proposed Condition of Zoning Change for Townbridge Homes, 7603 Cooper Lane, Austin, TX

Molly,

Yes, it was good to talk with you too. Thank you for contacting us so we can talk through the issues.

My client is in agreement to preserve the trees in the fenceline. We can find a way to make that happen with a 10' natural vegetation buffer provided and maintained along the southern property line. As to fencing – yes we can coordinate with you on the fencing placement. The City Code requires a screening element between the two uses and this screening can be accomplished with vegetation and / or fencing. Obviously vegetation would not keep the coyotes out so fencing would be necessary and tree preservation to the greatest extent feasible would be important so that both elements can coexist to provide for greater screening. Please let me know if this is agreeable to you.

I'm sure this can get put into the ordinance as a condition.

The code already requires a 25' building setback from our common property line. So there will be 25' of actual greenspace in that area. There is not any reason to state a 25' setback because that is what the Compatibility Code requires and we will not seek to modify that provision to allow for a lessor setback. Wendy is copied herein and can confirm the 25' setback. FYI - Under a rezoning of the type we are seeking, that Compatibility Code cannot be modified through that process. It would be a separate process, which we would not pursue.

If you have any questions, please feel free to contact me at any time.

Ron Thrower

Thrower Design

510 South Congress Avenue, Suite 207

Mail: P.O. Box 41957

Austin, Texas 78704

512-476-4456 office

Perez Estate - Submission

C-15-2017-0140

L03/24

Alternate Driveway Options



SCALE: 1"=50'

RESUBDIVISION LOT 2,
COOPER LANE ADDITION
Volume 62 Page 83
LOT 4-A

EXISTING
HOUSE

EXISTING
HOUSE

LOT 1

RESUBDIVISION TRACT 2
WILLIE C. GARCIA SUBDIVISION
Volume 60 Page 11
LOT 2

25' COMPATIBILITY SETBACK

PROPOSED DRIVEWAY

COOPER LANE

EXISTING
HOUSE

Warranty Deed Vol. 12223 Pg. 947
Jose Esquivel (0.297 Acre)

TREE LIST

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5624	11" 12" and 13" Arizona Ash (24.5" total)
5625	5" and 12" Live Oak
5626	11" Live Oak
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5636	18" American Elm
5637	4" and four 5" Cedar Elm
5638	8", 7" and 8" Catalpa
5639	20" American Elm
5640	4", 7" and 10" Hackberry

APPROVED BY
AUSTIN ENERGY
FOR BOA

DATE:

REVIEWED:

By: Ellen Kell...

7513 & 7603 COOPER LANE
BOA EXHIBIT

Thruover Design
P.O. BOX 41857 • AUSTIN, TEXAS 78704 • (512) 478-4456
LAND PLANNERS

7513 Cooper Lane

Board of Adjustment
Variance Request

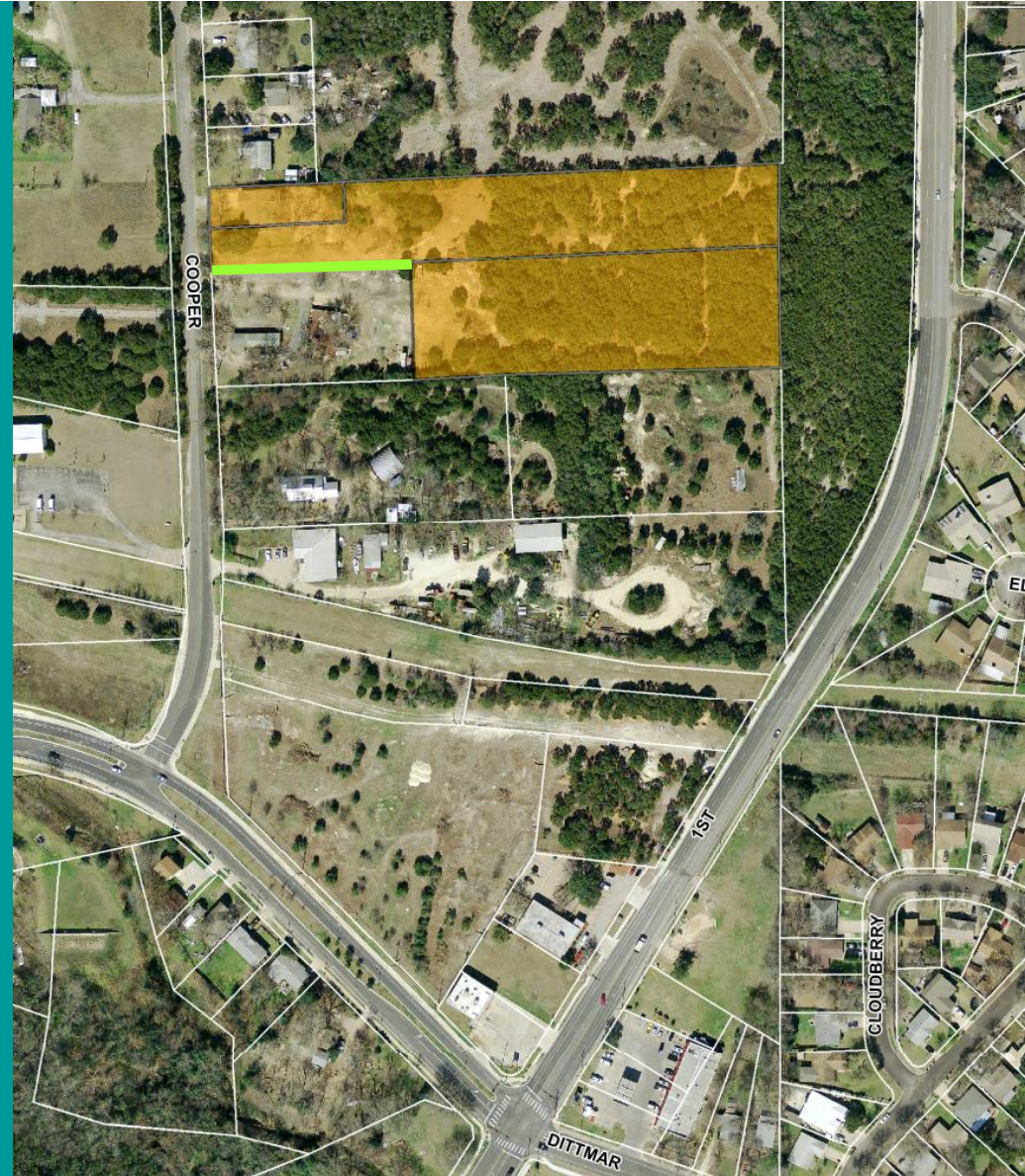
C15-2017-0040
August 14, 2017

Requested Variance -

To decrease the no build
setback

From 25 feet

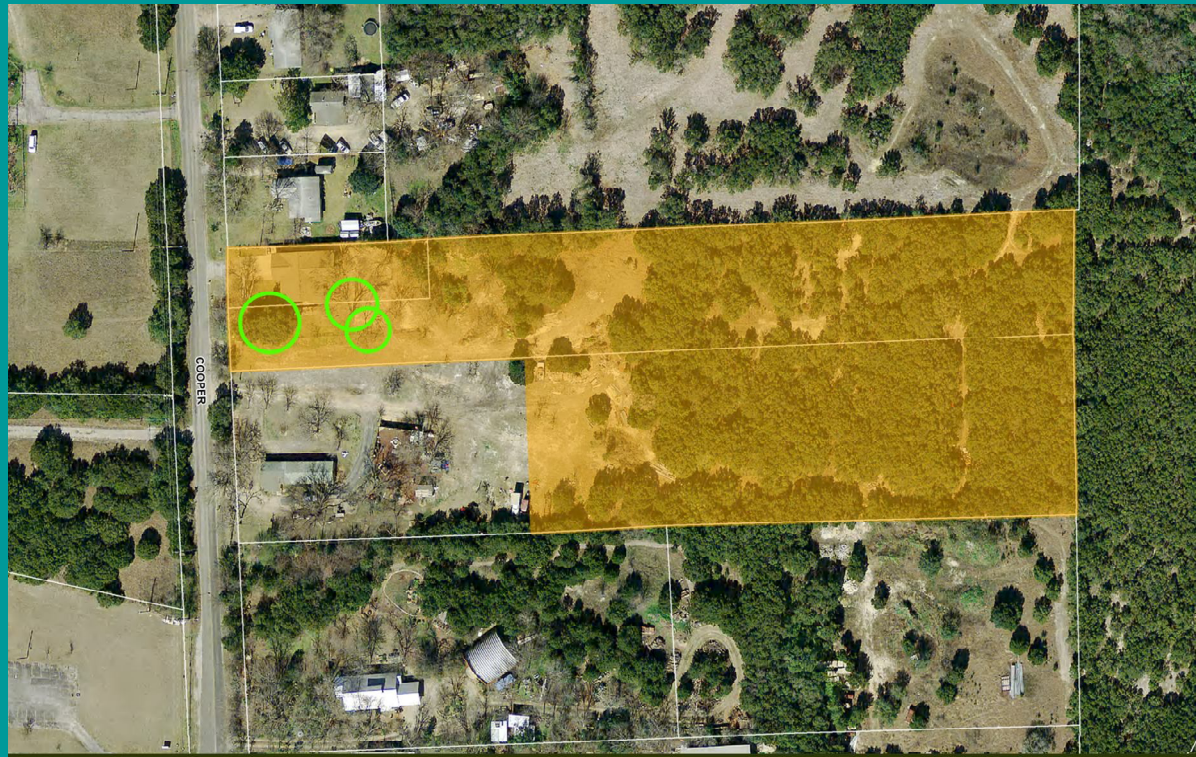
To 2 feet



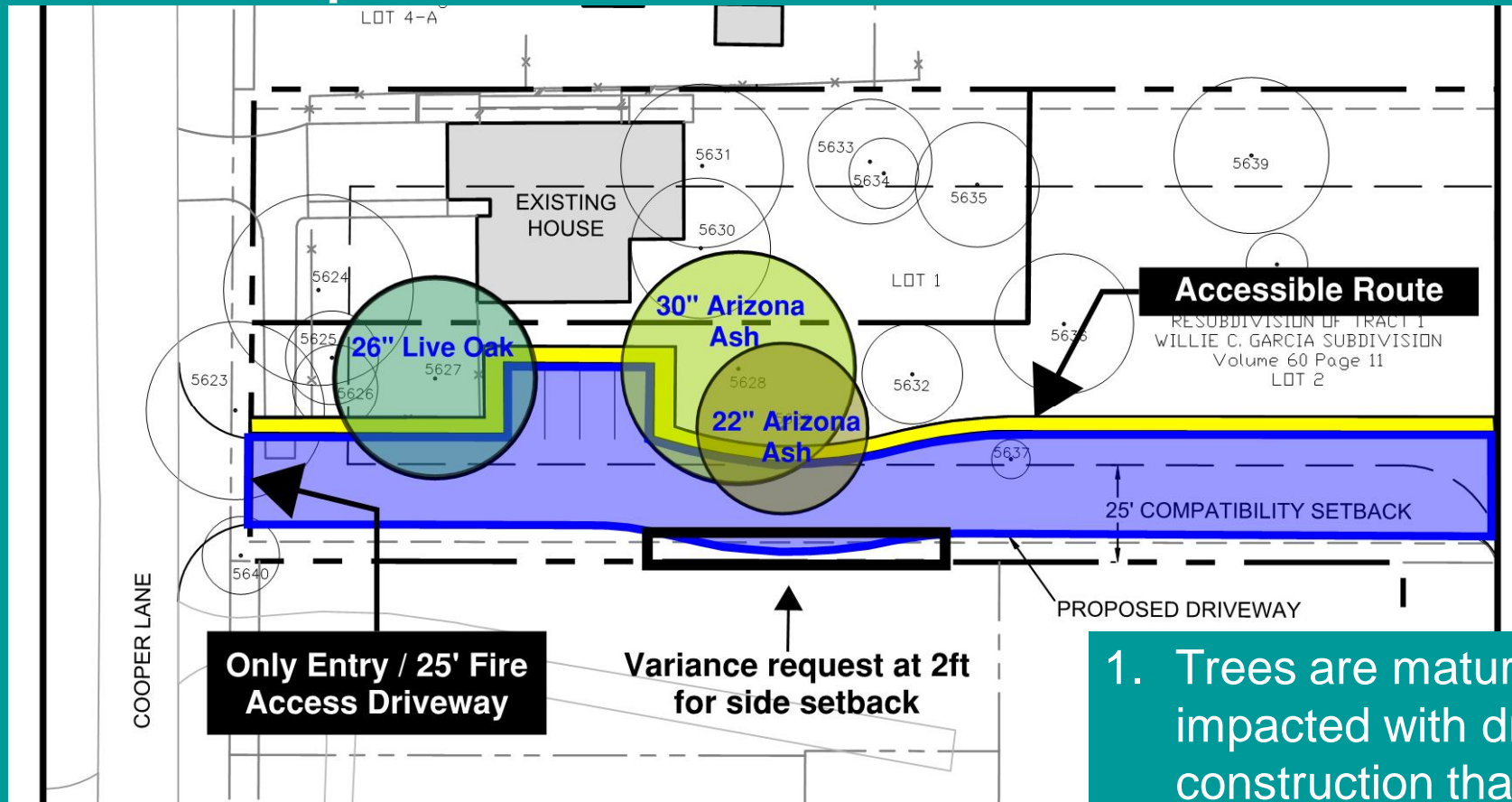
Why is a variance needed?

To allow construction of driveway access and preserve quality trees:

- 1 Heritage Tree –
26" Live Oak
- 2 Protected Trees –
30" Arizona Ash
22" Arizona Ash

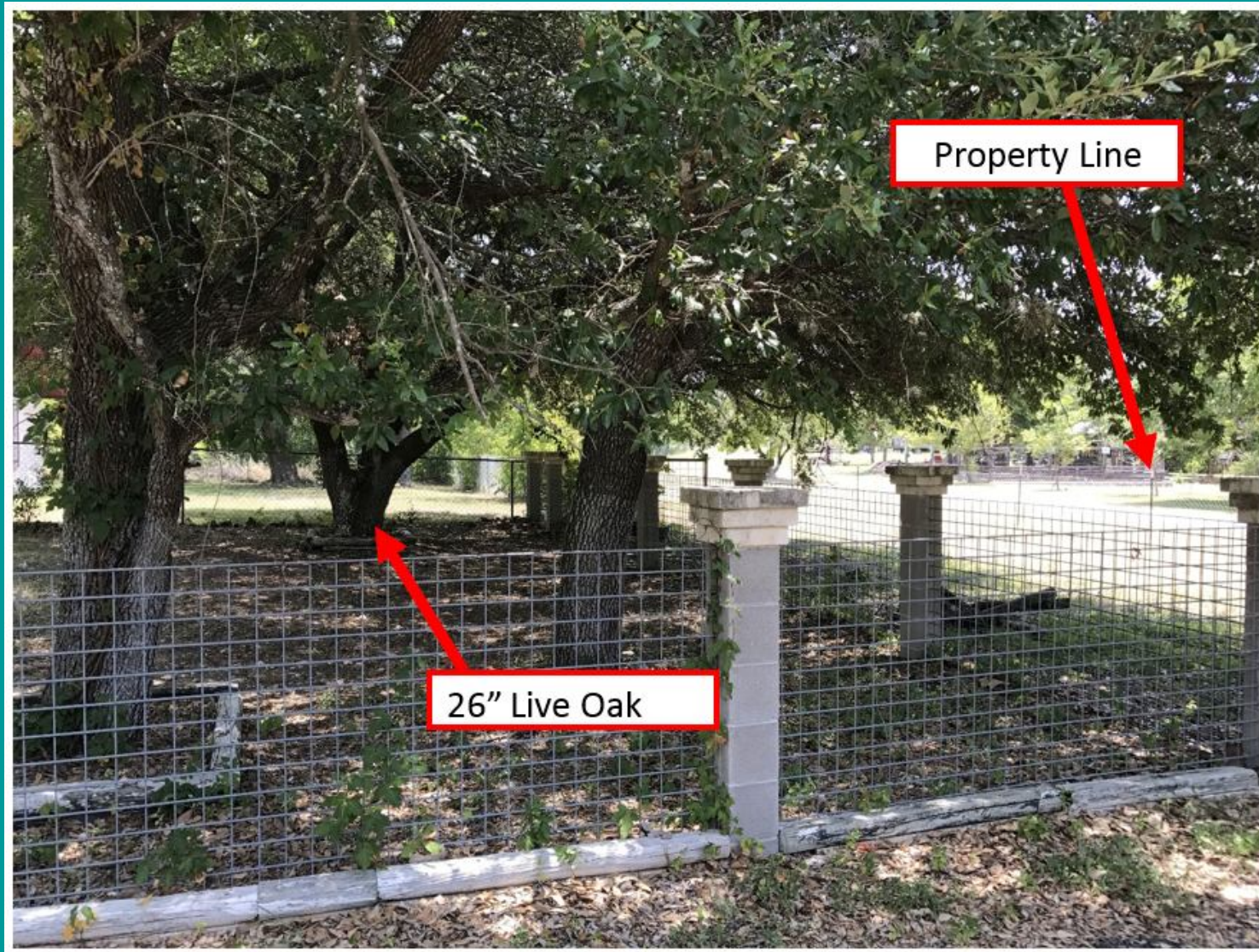


Hardship



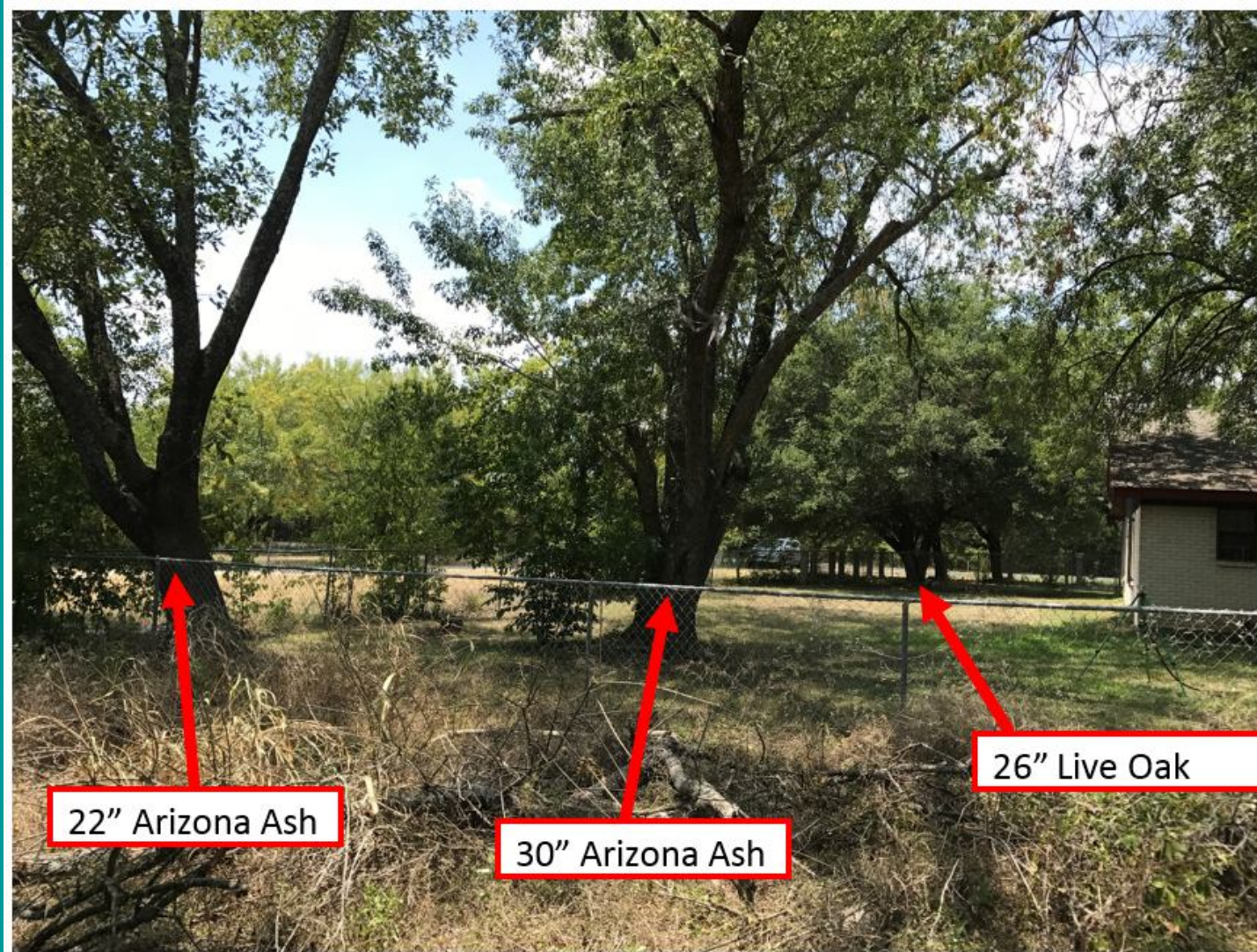
1. Trees are mature and will be impacted with driveway construction that abides by setback requirements
2. Only option for access











22" Arizona Ash

30" Arizona Ash

26" Live Oak

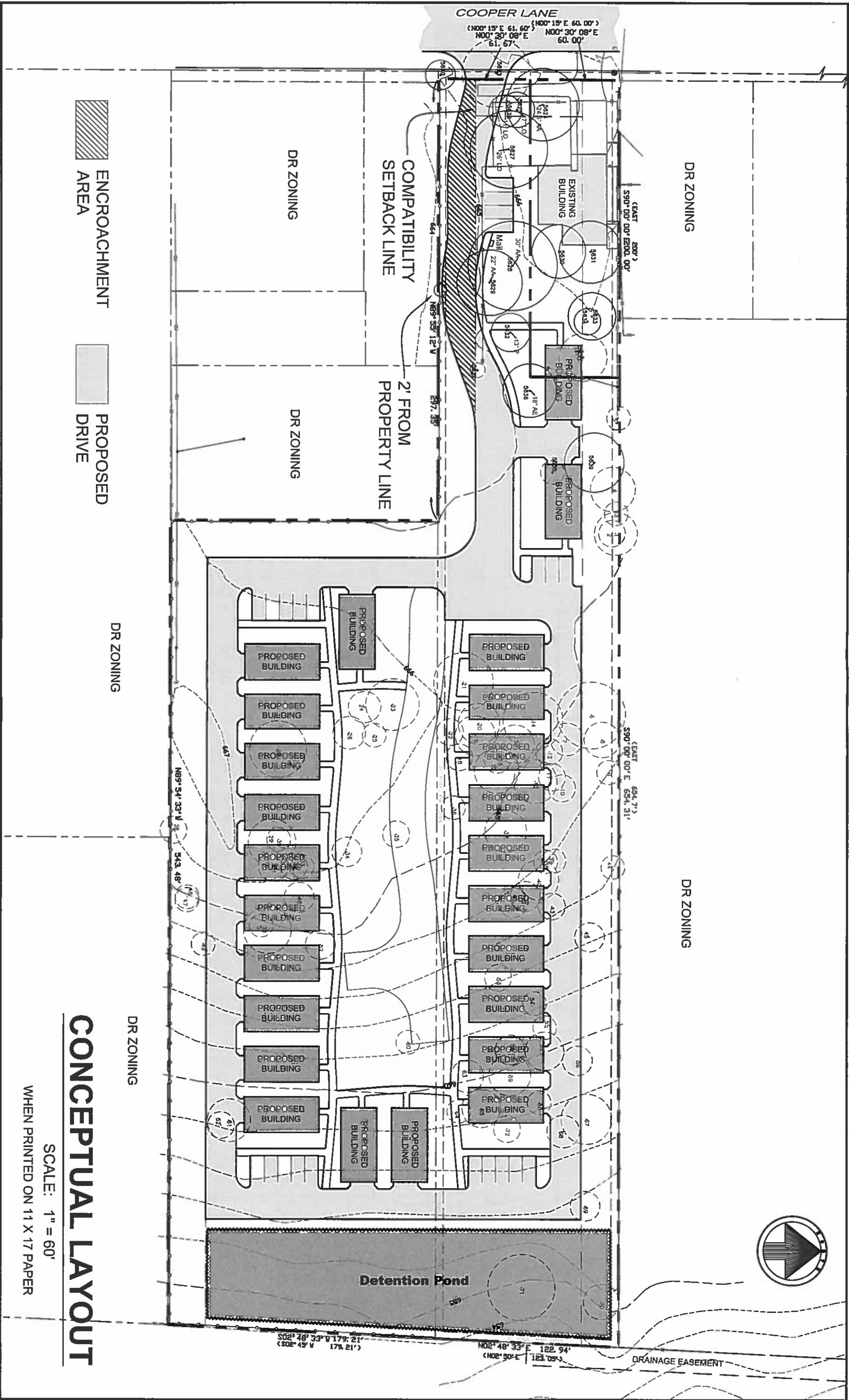




Canopy of 22" &
30" Arizona Ash

Reasons to support -

- Retain trees that contribute to original neighborhood & street character
- Allow for infill development of much needed dwelling units and housing stock variety



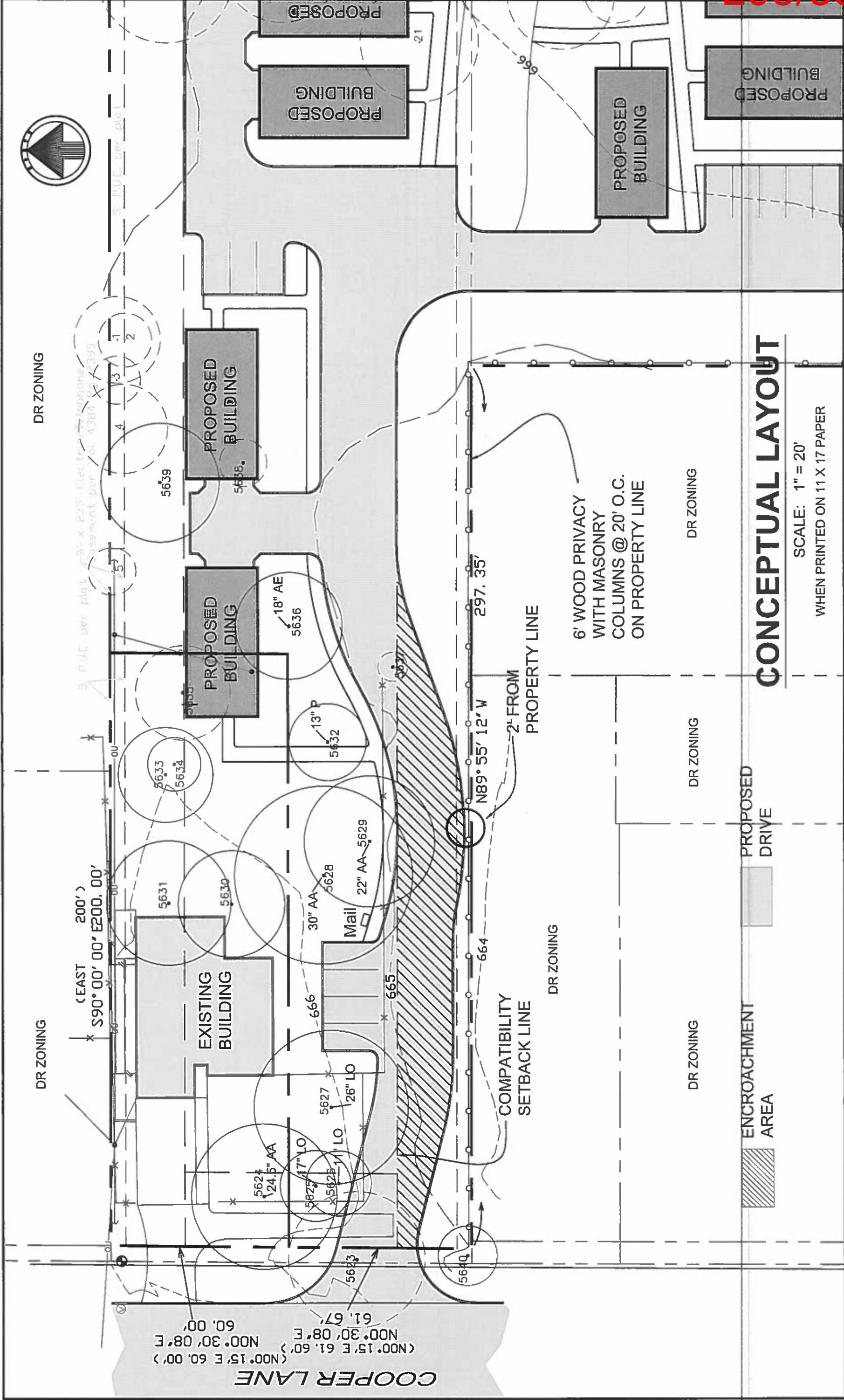
COOPER LANE

BOARD OF ADJUSTMENT EXHIBIT

05-2017-0410

CONCEPTUAL LAYOUT

SCALE: 1" = 60'
WHEN PRINTED ON 11 X 17 PAPER



CONCEPTUAL LAYOUT

SCALE: 1" = 20'
WHEN PRINTED ON 11 X 17 PAPER

COOPER LANE

BOARD OF ADJUSTMENT EXHIBIT

9/17/2017

To: Board of Adjustments-Leanne Heldenfeld
R.E. 7513 Cooper Lane
C15-2017-0040

From: Abbe Waldman-Representing the Estates of Ygnacio and Rosa Perez

The Perez Family is asking for a 1 month postponement of any decision being considered regarding the request for a variance on a driveway setback from TownBridge Homes LLC. The Perez Family feels a postponement is warranted because:

1. The family has been waiting for 1 month to view a site plan as to what is being proposed to be built by TownBridge LLC. The family was shown a drawing that was represented as being a site drawing **3 days ago** on Friday 9/15/17. However, I, as the Perez family representative, nor Michael Perez, as estate administrator, did not have any communication from Mr. Thrower until I took the initiative to contact him 9/08/17 requesting a meeting to review site plans.
2. This alleged preliminary site drawing from TownBridge LLC that we were shown three days ago was not prepared and certified by a licensed surveyor as the Board of Adjustments recommended in the last hearing in August. The family has concerns that this drawing/site development plan might need serious amendment and change once it is submitted and reviewed by City of Austin staff. Hence a variance may not be warranted.
3. It appears that with the removal of 2 Arizona ash trees (soft-wooded trees that frequently lose limbs in high winds) on the south side of the existing home on the TownBridge tract the hardship may not exist for the access driveway.
4. On September 18th the Travis County Probate Court will presumably order the Perez Estate tract to be allowed to be sold. Prior to this date the Estate had no legal ability to sell the property. TownBridge Homes LLC, through their attorney, has expressed an interest in buying this property. Earnest negotiations can now legally begin. Should TownBridge Homes LLC end up purchasing the tract, the site plan being shown today could dramatically change. There may be no need for a variance to be granted if that is the case. That said, the Perez Estate cannot say whether or not they oppose or condone this variance. The Perez Estate, based on these circumstances, are asking for a postponement of this decision today.

Thank you so much for your consideration of these matters.

Abbe Waldman
512-736-5802
[REDACTED]