

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

DATE: Monday May 13, 2019

CASE NUMBER: C15-2019-0025

<input checked="" type="checkbox"/>	Y	Ada Corral
<input type="checkbox"/>	N	William Burkhardt
<input type="checkbox"/>	N	Darryl Pruett
<input checked="" type="checkbox"/>	Y	Eric Goff
<input checked="" type="checkbox"/>	Y	Melissa Hawthorne
<input checked="" type="checkbox"/>	Y	Yasmine Smith
<input type="checkbox"/>	N	Don Leighton-Burwell
<input type="checkbox"/>	N	Rahm McDaniel
<input type="checkbox"/>	-	Martha Gonzalez (Alternate)
<input checked="" type="checkbox"/>	Y	Veronica Rivera
<input checked="" type="checkbox"/>	Y	Jessica Cohen
<input type="checkbox"/>	N	Michael Von Ohlen
<input type="checkbox"/>	-	Kelly Blume (Alternate)
<input type="checkbox"/>	-	Alternate (Vacant)

APPLICANT: Jeffrey Howard

OWNER: Rebecca Davis

ADDRESS: 2404 SWEETBRUSH DR

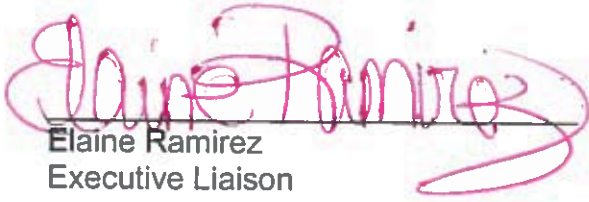
VARIANCE REQUESTED: The applicant has requested variance(s) to Section 25-2-515 (Rear Yard of Through Lot) to decrease the through lot rear yard from 25 feet (required) to 10 feet (requested) in order to erect a single family home in a "SF-3-NP", Family Residence zoning district. (West Austin Neighborhood Group)

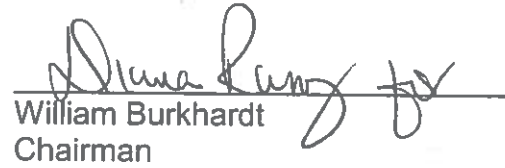
BOARD'S DECISION: MAY 13, 2019 BOA MEETING The public hearing was closed by Chair William Burkhardt, Board Member Veronica Rivera motion to Postpone to July 8, 2019, Board Member Melissa Hawthorne second on an 6-5 vote (Board members William Burkhardt, Darryl Pruett, Don Leighton-Burwell, Rahm McDaniel, Michael Von Ohlen nay); POSPTONED TO JULY 8, 2019.

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:


Elaine Ramirez
Executive Liaison


William Burkhardt
Chairman

June 21, 2019

William Burkhardt, Chair
Board of Adjustment
One Texas Center
505 Barton Springs Road
Austin, Texas 78704

via email

RE: Variance Request for 2404 Sweetbrush, Austin, Texas 78703 (the "Property");
City of Austin File No. C15-2015-0025 (the "Variance Request")

Dear Mr. Burkhardt:

As you may recall, the above Variance Request was initially presented before the Board of Adjustment ("BoA") on May 13, 2019. The Variance Request is for a variance from the alleged rear yard setback regulations contained in Section 25-2-515 of the Austin City Code (the "Code") applicable to a "through lot" to decrease the requirement from twenty-five (25) feet to ten (10) feet. At the initial BoA meeting, the board postponed the case to July 8, 2019. Several board members made specific comments and requests that warrant further information for the BoA's consideration when the case returns. As agent for Rebecca Nelson Davis, owner of the above-referenced Property (the "Applicant"), I am writing to provide additional information in response to those specific comments and requests.

1. Additional Exhibits

The following additional exhibits are provided for the BoA's consideration (in addition to the attachments provided in my April 26, 2019 correspondence):

- Sealed Site Plan Sheet (sealed by architect) as part of Residential Plan Set. ***Attachment No. 11***
- Sealed Setback Plane Diagrams (sealed by architect and showing finished floor elevation and site slope elevations) as part of the Residential Plan Set. ***Attachment No. 12***
- City of Austin Ordinance from September 27, 1951 (showing vacation of ROW for Matthews from 50 feet [local street size] to 25 feet based on Scenic Drive being front of Scenic lots). ***Attachment No. 13***

- Sweetbrush Subdivision Minutes from August 1955 (showing intent that Matthews was intended to the rear of ALL lots along both Sweetbrush and Scenic Drive). *Attachment No. 14*
- 2013 Survey obtained by the Applicant (obtained prior to Amended Plat and showing 10 foot rear setback). *Attachment No. 15*

2. Responses to Specific Comments and Questions

- Chairman Burkhart and Board Member Burwell: Sealed plans were not provided.
Response: Sealed plans were prepared and available. Enclosed with this letter are sealed sheets from the Residential Plan Set.
- Board Member Pruett: Question regarding any dispute as to the “through lot” designation?
Response: Originally, for the purposes of the Variance Request hearing we were not disputing that determination. However, we are now questioning the designation as a through lot on the grounds that Matthews is an unclassified roadway or an alley. It is not a “street”. Streets under the City regulations are local, collector or arterial streets. Matthews is none of those things. Physically, operationally and historically, it is not and never has been local street. It historically only provided rear access to all lots. Over time as some homes were remodeled that changed. However, it still provides rear access for half the lots. It was originally intended by the City to be rear access for all of the lots. (See both the 1951 City Ordinance and Sweetbrush Subdivision Minutes). The plan and intention for Matthews in this segment was not as a primary local street but as reduced ROW, very narrow pavement roadway for rear access. As such, we don’t think it is a “street” to trigger through lot rules. At the very least, it is very unique roadway situation supports a variance.
- Board Member Hawthorne: Noted that there appears to have been some original planning involved in this area that makes this as unique situation.
Response: Yes. In 1951 Matthews was disputed as a public road. It was behind a cattle guard and had been used for private access. The City based on a request from Scenic Drive lot owners, reduced the ROW of Matthews from 50 feet to 25 feet which was inconsistent with local street ROW requirements. This vacation was done because the lots along Scenic Drive would front Scenic Drive as primary access. In 1955, the City approved the Sweetbrush Subdivision. The subdivision committee at the time was concerned that Lots 1, 2 and 3 (which includes the Property) might take access off of Matthews and was concerned about that given that it did not meet local street standards and because the Scenic lots fronted on Scenic and not Matthews. As a result, the City required that Lots 1, 2 and 3 front Sweetbrush as a condition of approving the subdivision. At that time, the City’s Zoning Ordinance provided that principal buildings on through lots could be 5 feet from the rear lot line (accessory buildings only had to be 25 feet). The deed restrictions later in 1955 followed through on this planning by requiring Lots 1, 2 and 3 to front on Sweetbrush and giving those lots a 10-foot rear setback. The 1951 Ordinance vacating 25 feet of Matthews ROW, the 1955 Subdivision Approval, the orientation of lots to front on Scenic Drive and Sweetbrush, the City Zoning Ordinance, and the 1955 deed restrictions are all consistent with an original plan for the area for Matthews to be a reduced ROW rear access roadway with 10 feet setbacks.

- d. Board Member Hawthorne: Inquired about line of sight.

Response: The lot adjacent to the Property to the south is about 14 feet from the ROW. The house across Matthews is about 10 feet or less from the ROW. Matthews here is straight and goes downhill as you head north. There will be a masonry fence on the property line and there are existing trees and utility poles. Whether the location of the building is 10 feet, 25 feet or somewhere in between, should not affect this condition. In addition, we received an email from Eric Bollich with Austin Transportation Department dated June 4, 2019 stating that "ATD has no plans to acquire ROW along Matthews Drive to widen it and bring it to TCM Standard." Mr. Bollich also stated that "ATD and DSD are supportive of the variance to allow your client to move forward."

- e. Board Member Corral: Inquired whether some reduction on the front set back could be achieved based on averaging?

Response: No. First, Section 2.3.B.2 of the Subchapter F requires setback averaging be calculated from "the same side of the block". Second, even if we could consider lots on the other side of the block that appear to have 15-20 foot setbacks, any reductions from including those would be offset by lots other lots that are over 25 feet. Finally, even if Code would provide a reduction, the deed restrictions prohibit the home from being closer than 25 feet to Sweetbrush.

- f. Board Member Burwell and Chairman Burkhardt: Noted the need site slope elevations and suggested that the slab might be 15 to 20 feet in the air.

Response: See enclosed. The finished floor elevation will be 552.5 ft. The elevation at the property line will be 548 ft. This is 4.5 feet. In addition, the structure and slab will be screened by masonry fence on the property line.

- g. Board Member Rivera: Asked for more information regarding the "clean slate" issue.

Response: First, whether there is a "clean slate" or not is NOT determinative under applicable law of whether there are "special conditions" unique to the property that warrant granting a variance. The BoA has granted numerous variances to sites that were so-called "clean slates". For example, in *Ferris v. City of Austin*, 151 S.W. 3d 514 the "project site was vacant" and a variance was unanimously granted by the BoA and upheld on appeal. This BoA has also recently granted variances for s- called "clean slate sites". As how this project became vacant. Here is the history:

- Lots 2 and 3 were platted in 1955. At the time the drainage problems in this area were specifically noted and observed by the City (see the enclosed minutes)
- Lot 2 was burdened with a drainage and sewer line easement and a storm sewer was placed in the drainage easement
- The original Lot 2 has sat vacant for 64 years.
- At some point, a prior owner of Lot 2 relocated the storm sewer to the south, creating space on Lot 2 but increasing the southern setback by having a large drainage easement on the southern border
- The Davises moved into the home on Lot 3 in 2004. During their ownership, they experienced drainage problems and other issues. They

looked at remodeling the home. However, its condition and the limitations imposed by the heritage tree canopy led them to conclude (based on advice of builders) that remodeling the home was not viable.

- The Davises then acquired Lot 2 with the intention of building a new home on that lot and combining with their existing Lot 3.
- The Davises could have simply purchased Lot 2 sought a variance based on the expanded 20-foot southern drainage easement that caused the loss of a 15-foot wide buildable area, and then later have torn down their home on Lot 3 and combined the lots.
- However, they honestly and truly were not aware of the through lot 25-foot setback. They honestly thought they were subject to a 10-foot setback based on their 2013 survey (see enclosed) and the deed restrictions.
- Thinking the rear setback was 10 feet, which was standard for SF-3 and allowed by the deed restrictions and original subdivision rules, they proceeded with their plan to combine the two lots. However, the City would not allow two houses on one lot, so they were advised they had to destroy their home on Lot 3 in order for the amended plat to be approved. So, that is what they did – in complete and good faith reliance on their survey, deed restrictions, character of the area, and laws in effect when subdivision was laid out.

- i. Board Member Von Ohlen: Noted he did not see hardship because the Applicant was trying to do much on the lot.

Response In the *Ferris* case, (again an acknowledged “vacant site” or “clean slate”) the property owner who complained of the BoA variance alleged that the variance was self-imposed and financial in nature because the City was seeking to over burden the property. In *Ferris*, the City acknowledged that “If you don’t give us the variances we will build 5 units instead of 10...” *Id. At 521*. So, the City could have still built without variances. That fact did not defeat the hardship and variances granted by the BoA. The Court pointed to the irregular lot configuration, “a large tree present on the lot” and “topographical constraints” as special conditions unique the property that warranted the variances even though there was a design that could be achieved on this “vacant site”.

- This is exactly the case here. The lot is unique as the only “through lot” in the subdivision. The lot is unique in that Matthews is not physically, functionally or historically a local street. There is a large tree present that cannot be removed or mitigated because it is heritage tree. There are topographic constraints. There is clearly a sufficient basis for the BoA to find a hardship in this case that is supported by reported cases.
- Other cases that support a hardship determination in this case:
 - Wanting a carport in the setback (*Vogler v. City of Lamesa*), a swimming pool in a setback (*Piney Point v. Solar*) or a tennis court in a setback (*Currey v. Kimple*) are not self-imposed hardships. Neither is wanting a courtyard or how the Davises might choose to design their home. They have a right to a courtyard as recreational incident of their home just like those reported cases.

- Tree removal and topographic issues like those present in the current case have been consistently upheld as grounds to support a variance.
- An incorrect survey and neighborhood “surveying and platting problems” by itself with no other special conditions can support a BoA variance. (*Sumner v. Spring Valley*). Here in addition to the large tree, topographic and drainage issues, unique lot status and roadway situation, the Davises had a survey from 2013 (see enclosed) that showed a 10 foot setback and deed restrictions that showed a 10 foot setback.

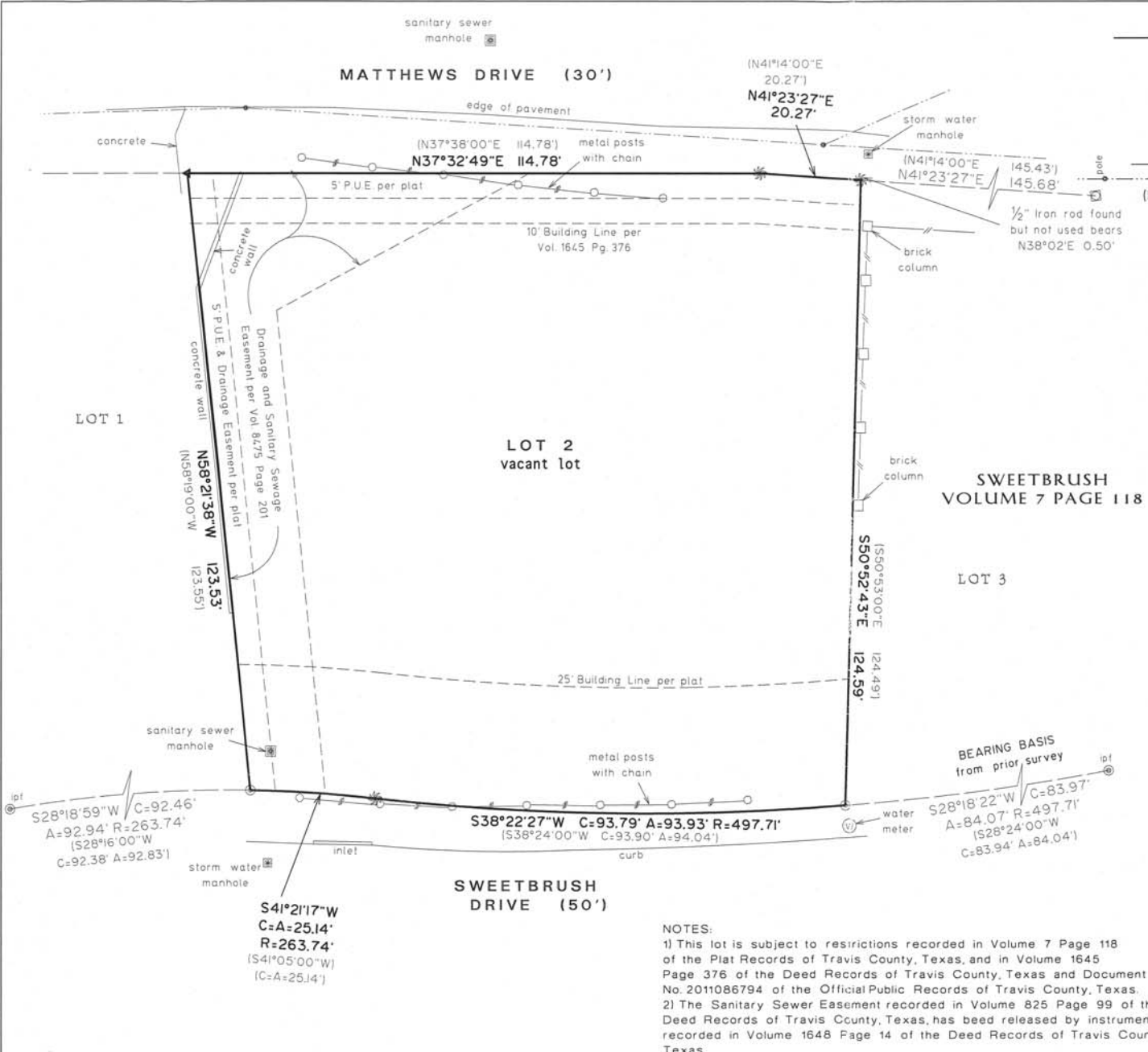
Thank you for your continued consideration of this case.

Sincerely,



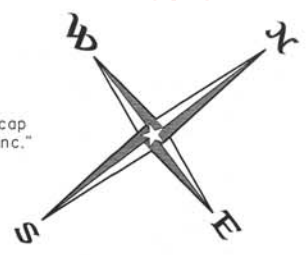
Jeffrey S. Howard
McLean & Howard, LLP

P-3/8



Legend

- ⊙ 1/2" Iron Rod Found
- ⊙ 1/2" Iron Pipe Found
- ⊙ Capped Iron Rod Found
- ⬤ 60D Nail Found
- ✱ 1/2" Iron Rod Set with plastic cap imprinted with "Holt Carson Inc."
- Wood Board Fence
- Overhead Utility Line (Record Bearing and Distance)



SURVEY MAP OF:

LOT 2, SWEETBRUSH, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 7 PAGE 118 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS.

LOCATED AT 2402 SWEETBRUSH DRIVE.

File No. 01247-11914
 To: Rebecca Nelson Davis
 Gracy Title Company
 Stewart Title Guaranty Company

THE STATE OF TEXAS
 THE COUNTY OF TRAVIS

The undersigned does hereby certify that a survey was this day made on the ground of the property legally described hereon and is accurate to the best of my abilities and that there are no boundary line conflicts, encroachments, shortages in area, overlapping of improvements, visible utility lines, or roads in place, except as shown hereon, and said property abuts a dedicated roadway. This property is within Zone X (areas determined to be outside of the 100 Year Flood Plain) according to the Federal Emergency Management Agency Flood Insurance Rate Map Panel No. 48453C 0445 H, dated September 26, 2008.

THIS the 3rd day of SEPTEMBER, A.D., 2013.

BY: *Holt Carson*

Holt Carson
 Registered Professional Land Surveyor No. 5166
 HOLT CARSON, INC.
 1904 Fortview Road Austin, Texas 78704
 (512)-442-0990

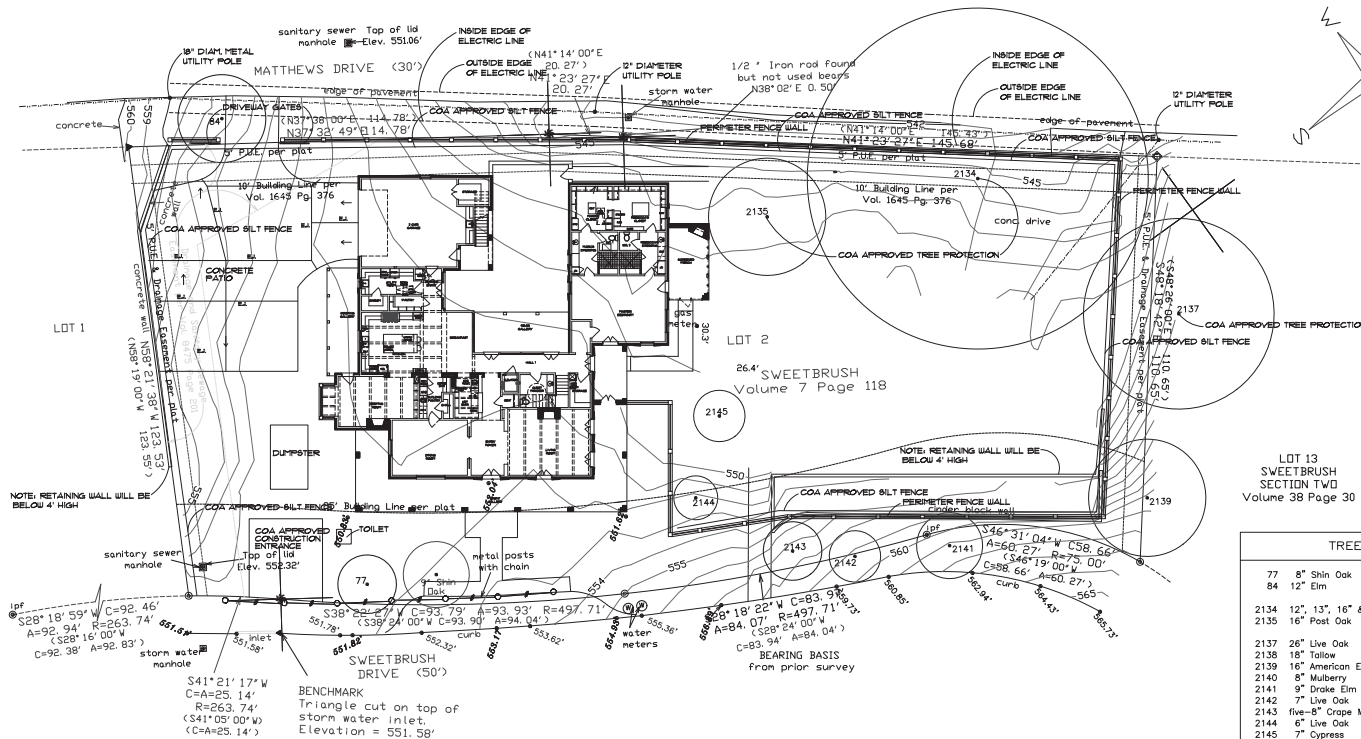
NOTES:

1) This lot is subject to restrictions recorded in Volume 7 Page 118 of the Plat Records of Travis County, Texas, and in Volume 1645 Page 376 of the Deed Records of Travis County, Texas and Document No. 2011086794 of the Official Public Records of Travis County, Texas.

2) The Sanitary Sewer Easement recorded in Volume 825 Page 99 of the Deed Records of Travis County, Texas, has been released by instrument recorded in Volume 1648 Page 14 of the Deed Records of Travis County, Texas.

A NEW RESIDENCE FOR:
MARK AND REBECCA DAVIS
AUSTIN, TEXAS

AL JONES, ARCHITECT AIA
BATON ROUGE, LOUISIANA



TOPOGRAPHIC NOTES:

1. NAVD83 Elevations shown hereon are based upon post processed static GPS observations.
2. Tree "crowns" shown hereon are drawn as a function of one inch of trunk diameter equals one foot of "crown" radius. Trees with multiple trunks are calculated by adding the diameter of the largest trunk plus half the diameter of the smaller trunks.

NOTES:

- 1) These lots are subject to restrictions recorded in Volume 7 Page 118 of the Plat Records of Travis County, Texas, and in Volume 1645 Page 376 of the Deed Records of Travis County, Texas and Document No. 2011086794 of the Official Public Records of Travis County, Texas.
- 2) The City of Austin Water and Wastewater Department Section Map No. 166 indicates a wastewater utility line crossing this lot and the alignment of said line appears to be centered on the existing easement as shown hereon.
- 3) The Sanitary Sewer Easement recorded in Volume 825 Page 99 of the Deed Records of Travis County, Texas, has been released by instrument recorded in Volume 1648 Page 14 of the Deed Records of Travis County, Texas.

TOPOGRAPHIC SURVEY MAP OF:

LOTS 2 AND 3, SWEETBRUSH, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME PAGE 118 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS.

LOCATED ON SWEETBRUSH DRIVE.

PREPARED: September 9th, 2013

Updated: June 1st, 2016

Revised to show additional elevations: September 26th, 2018

BY:

Holt Carson
Registered Professional Land Surveyor No. 5166
HOLT CARSON, INC.
1904 Fortview Road Austin, Texas 78704
(512)-442-0990
Texas Licensed Surveying Firm No. 10050700

1 SITE PLAN SCALE: 1/4" = 1'-0"

REVISED: JUNE 1, 2019

REVISED: OCTOBER 17, 2018

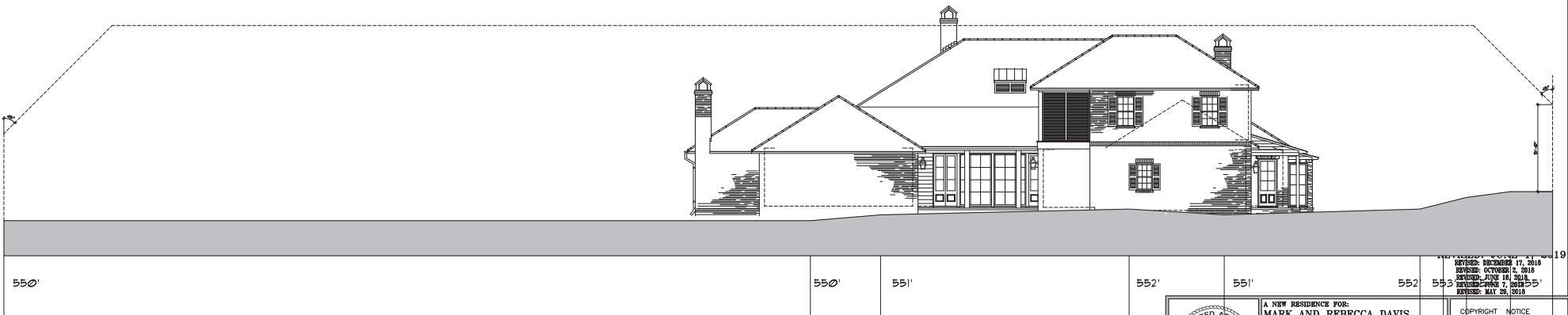
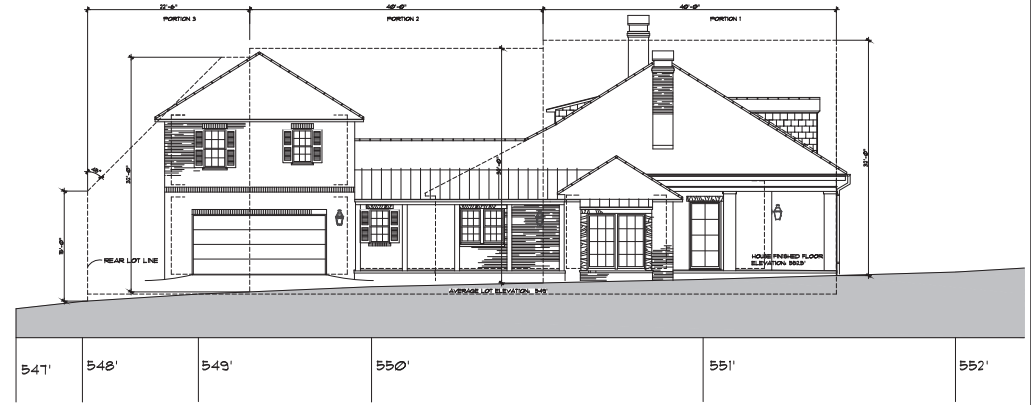
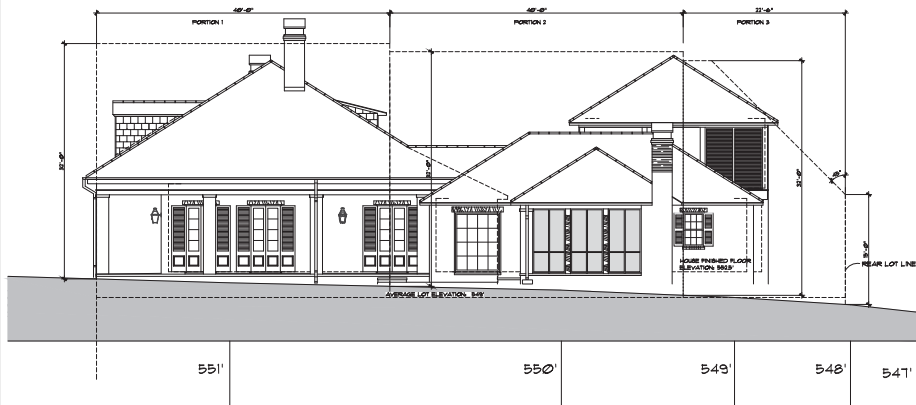
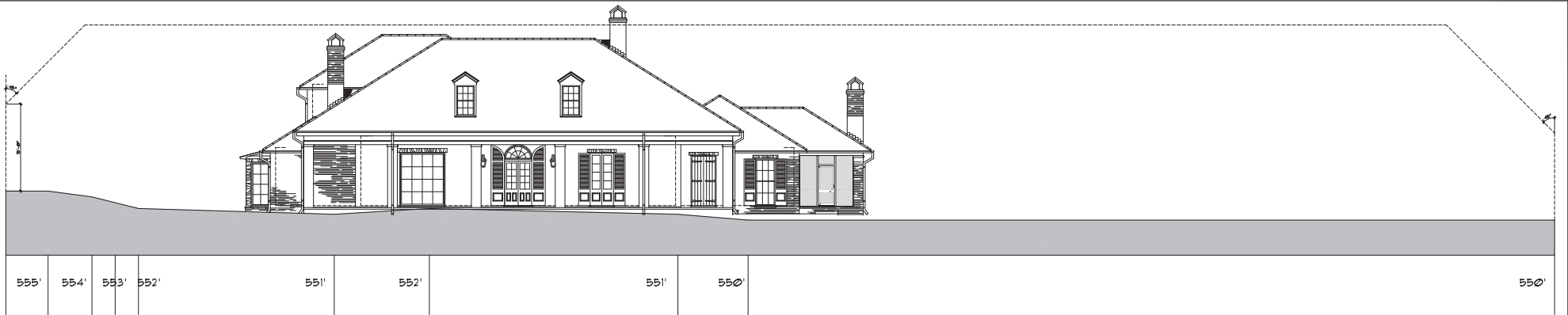
REVISED: OCTOBER 5, 2018

REVISED: JUNE 10, 2018

REVISED: JUNE 7, 2018

REVISED: MAY 29, 2018

	A NEW RESIDENCE FOR: MARK AND REBECCA DAVIS AUSTIN, TEXAS MARCH 12, 2016 DRAWN BY JAI		COPYRIGHT NOTICE ALL COPYRIGHTS RESERVED NO REPRODUCTIONS OR TRANSMISSIONS IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE OR RETRIEVAL SYSTEM, WITHOUT PERMISSION IN WRITING FROM THE ARCHITECT OR FROM THE ARCHITECTURAL FIRM.
	AL JONES ARCHITECT, AIA, L.L.C. 1000 WINTERBURY BLVD., SUITE A BATON ROUGE, LOUISIANA 70806 PHONE: (225) 925-0123 FAX: (225) 925-0808 EMAIL: jones@aljoness.com		
	1 OF 22		



A NEW RESIDENCE FOR:
MARK AND REBECCA DAVIS
LUTHER, TEXAS
MARCH 12, 2018
DRAWN BY JMJ

AL JONES ARCHITECT, AIA, L.L.C.
1700 WINTERBURY BLVD., SUITE A
DARTON, TEXAS 75840
PHONE: (214) 928-0123
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1.75 OF 22

hb
CITY OF AUSTIN

TO
THE PUBLIC

431

ORDINANCE

PASSED: SEPTEMBER 27, 1951
APPROVED: SEPTEMBER 27, 1951
RECORDED IN VOL. 1202 PAGES 172-175
RECORDS OF TRAVIS COUNTY, TEXAS

AN ORDINANCE

AN ORDINANCE PERPETUALLY ABANDONING, CLOSING
AND VACATING THE WEST TWENTY-FIVE (25) FEET
OF MATTHEWS DRIVE, BEING A CERTAIN FIFTY (50)
FOOT STRIP OF LAND AS HEREIN DESCRIBED: RE-
TAINING AND RESERVING A PERPETUAL EASEMENT
FOR UTILITIES THEREIN: AND SUSPENDING THE
ORDINANCE RULE REQUIRING THE READING OF
ORDINANCES ON THREE SEPARATE DAYS.

WHEREAS, E. C. Fallwell and wife, by deed recorded September 8,
1924, in Volume 361, Page 621, of the Deed Records of Travis County,
Texas, conveyed to B. F. Rowe a certain tract of land fronting on
Scenic Drive in the City of Austin, and

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WHEREAS, in the deed from Fallwell and wife to Rowe the grantors
covenanted and agreed that the tract of land adjoining the property
conveyed, on the east, 50 feet in width and extending from the north-
west corner of "said Lot 1 in a northerly direction to Scenic Road;
said tract constituting a continuation of Laurel Avenue (Matthews
Drive) as shown by the plat therein referred to shall forever remain
open as a public highway for the benefits of the property hereby con-
veyed and for the benefit of the public as a highway" and

WHEREAS, E. C. Fallwell, by deed recorded in 1927, in Volume 407,
Page 607 of the Deed Records of Travis County, Texas, conveyed to Z.
T. Scott a tract of 25.57 acres and in such conveyance made allowance
for the 50-foot street referred to in the deed from Fallwell to Rowe;
and

WHEREAS, subsequent to the deeds to Rowe and Scott, E. C. Fallwell
conveyed to Cliff Realty Company all the land lying between the Scott
tract and Scenic Road (except the small tract sold to Rowe and a
small tract later acquired by A. N. McCallum, Jr.); and

WHEREAS, thereafter the Cliff Realty Company subdivided the land
into 20 lots and designated a road 50 feet wide running the full
length of the lots, bounded on the east by the Scott tract and on the
west by the 20 lots, the map or plat of which subdivision was never

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recorded in the plat records of Travis County; and

WHEREAS, E. C. Fallwell and wife, by deed dated November 28, 1928,
conveyed to E. H. Perry certain property out of the tract originally
acquired by E. C. Fallwell from Mary Eliza Brown October 25, 1920, by
deed recorded in Volume 326, Pages 137-138 of the Deed Records of
Travis County, Texas, the land thus conveyed to Perry being Fallwell's
interest remaining after conveyances to Rowe, the Cliff Realty Company,
and others; and

WHEREAS, E. H. Perry, by deed in 1936 recorded in Volume 539, Page
577, of the Deed Records of Travis County, Texas, conveyed several
tracts of land to Charles E. Marsh and excepted from the conveyance
the road Fallwell and wife attempted to dedicate in the conveyance to
Rowe in 1924; and

WHEREAS, E. H. Perry, by deed in 1938 recorded in Volume 601,
Page 424, Deed Records of Travis County, Texas, conveyed to J. S.
Price, without warranty, the 50-foot strip of land theretofore reserv-
ed by him in the conveyance to Charles E. Marsh; and

WHEREAS, the 50-foot strip of land which Fallwell and wife
originally attempted to dedicate as a highway in 1924 was then beyond
the corporate limits of the City of Austin, and did not become property

-4-1202/172 hb

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subject to being made a public street until such time as the land was annexed to the City of Austin; and

WHEREAS, said 50-foot strip of land has never been opened, constructed, or maintained by the City of Austin as a public street, but has been used exclusively by the owners of private property abutting thereon; and

WHEREAS, said 50-foot strip of land is separated from Scenic Drive, a public street, by a series of residence lots approximately 130 feet in depth, and runs approximately parallel to Scenic Drive for the greater distance of such strip, thereby obviating the necessity of a public street at the location of said 50-foot strip; and

WHEREAS, the owners of private property abutting said 50-foot strip have requested the City Council to vacate and abandon the west one-half of said 50-foot strip of land, reserving therein to the City of Austin the right to maintain and repair such utility lines as may be in place, and to leave for the passage of said private owners and of the public the remaining east 25 feet of said 50-foot strip; and

WHEREAS, it is apparent that there exists a doubt as to the legal status of the 50-foot strip as a public street in the City of

-5-1202/172 hb
Austin; and

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WHEREAS, the City Council deems it to the best interests of the public and of the owners of private property abutting said 50-foot strip to vacate and abandon the west 25 feet of said strip and assume control of the east 25 feet for the use and benefit of the public; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

SECTION 1. That the west 25 feet of Matthews Drive (or Laurel Avenue), extending from the northeast corner of Lot 1, Block 3, Laurel Heights, northerly to the south line of the Lyndon Johnson et ux. tract of land as described in Volume 602, page 293, of the Deed Records of Travis County, Texas, same being a portion of that certain 50-foot strip of land described by E. C. Fallwell and wife, in a deed to B. F. Rowe, recorded September 8, 1924, in Volume 361, page 621, of the Deed Records of Travis County, Texas, be and the same is hereby abandoned, closed, and vacated; but the City of Austin hereby reserves therein a perpetual easement and right to maintain and repair such utility lines as may now be in place in said vacated strip.

SECTION 2. That the rule requiring that ordinances shall be read on three separate days be hereby suspended, and this Ordinance shall become effective as provided in the Charter of the City of Austin.

-6-1202/172 hb

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PASSED: September 27 1951
APPROVED: September 27 1951
W. S. Drake, Jr.
Mayor

APPROVED :
R. W. T. Williams, Jr.
City Attorney

ATTEST:
Elsie Woosley
City Clerk

(Seal)

THE STATE OF TEXAS
COUNTY OF TRAVIS

I, Elsie Woosley, City Clerk of the City of Austin, Texas do hereby certify that the foregoing ordinance is a true and correct copy of an ordinance passed by the City Council of said City, at its regular meeting on September 27, 1951, a quorum being present and voting for the passage of said ordinance.

WITNESS MY HAND AND SEAL OF OFFICE at Austin, Texas, this 28

SUBDIVISION COMMITTEE
Regular Meeting -- April 27, 1955

PRELIMINARY PLANS

- 08-54-18 Sweetbrush

Walter E. Seaholm (engineer) explained that the streets were shown as a circle rather than extending on to the north because of the location of the present residence north of the center of the tract. He also stated that the north portion of this tract would probably be developed with entrance from the north rather than from the south because of the location of the house and the shape of the property which is narrower on the north. The staff reported that the departments had mentioned a drainage problem on the property. Mr. Seaholm explained that the location of the low part of the area would permit proper drainage without moving the present drainage structures. Mr. R. Max Brooks (owner) stated that if it is necessary the drainage structures will be moved in response to a suggestion by the department that a planting strip should be placed along the west lines of Lots 1, 2, and 3 adjacent to Mathews Drive.

Mr. Seaholm explained that the property across Mathews Drive is only approximately 135 feet deep and the development faces on Scenic Drive rather than on Mathews Drive. He stated that he did not think a planting strip would be necessary. He also stated that development on Lots 1, 2, and 3 would face Sweetbrush rather than on Mathews Drive. Mr. Brooks said that there is at present a very thick growth of trees along the area recommended for a planting strip which would be preserved.

The Committee discussed the possibilities of requiring restrictions which prohibit any houses built on Lots 1, 2, and 3 facing Mathews Drive. It was then

VOTED: To give PRELIMINARY APPROVAL to this plan of SWEETBRUSH subdivision subject to a restriction being placed on the final plat that no residence may be erected on Lots 1, 2, and 3 to face on Mathews Drive.

08-55-31 Bill's Addition Section 2

Mr. W. H. Bullard (owner) explained that Lot 1 Block F, is the low part of the property and that they plan to install a booster pump thereon. He also explained that a 50-foot strip would be reserved on the west portion of Lot 1, Block F, for the future extension of Martin Avenue and that this 50-foot street will be reserved as a utility easement for the city. He stated that he proposes to use Block F for business uses and has not included it in this subdivision for lot development but for block development only. The jogs in the lot lines was discussed and Mr. Bullard stated that they had agreed to give aerial easements to the City for utility construction. The Committee then

08-54-18

The Zoning Committee reported that it had reviewed the site plan and had found no extenuating circumstances which would require the affixing of special conditions to the permit; and that, therefore, the Committee had approved the site plan as filed.

The Commission reviewed the request and found that it complies with all sections of the Zoning Ordinance and is a matter of public necessity and convenience as reflected in the Capital Improvements Program for 1954-59. It was therefore

VOTED: To authorize the Chairman to sign the necessary resolution issuing the Special Permit.

DEFERRED MATTERS

CP14-55-9 Theo Burkland; Filling Station
5300 Avenue F
 (Original Consideration June 14, 1955)

The staff reported that the applicant has followed the required procedures for securing a permit from the City Council for construction of the filling station on this property. In reviewing former consideration, it was found that this application for a Special Permit complies with all sections of the Zoning Ordinance and the site plan has been approved by the Zoning Committee. It was therefore

VOTED: To ADOPT a resolution issuing the Special Permit subject to compliance with the Ordinance Governing Construction of Sidewalks, Curbs, Gutters, Curbs and Gutters, Driveways and Setbacks.

SUBDIVISIONS

The following plats were reported by the staff as having satisfied all the standards of the Subdivision Ordinance and were recommended for final approval. It was therefore

VOTED: To give FINAL APPROVAL to the following plats:

CS-55-50 Cannizzo Subdivision No. 2
Rundell Place and Paramount Ave.
CS-55-62 Avon Heights Section 1
Rabb Glenn and Bluebonnet Lane
 → CS-54-18 Sweetbrush
Windsor Road and Rockmoor Avenue

The staff reported that fiscal arrangements have not been completed and a letter from the Gas company has not been received. The Commission therefore

VOTED: To DISAPPROVE the final plat of SWEETBRUSH pending completion of fiscal arrangements and receipt of a letter from the Gas company.

CS-54-18

The final plat of Section 1 comprises two lots which would not affect access to the property on the south. The Commission therefore

VOTED: To give FINAL APPROVAL to the plat of J. W. CROSLIN SUBDIVISION SECTION 1.

PRELIMINARY SUBDIVISION PLANS

The following preliminary plans were considered and were given preliminary approval subject to conditions listed for each.

C8-53-68 Highland Park West, Section 3

S. R. Sheppard (Owner) and E. W. Curington were present to request approval of this subdivision. The staff reported that the subdividers had agreed to file a plan for the remaining area and that the present plat is in order for preliminary approval. The Commission therefore

VOTED: To give PRELIMINARY APPROVAL to the plat of HIGHLAND PARK WEST, SECTION 3.

C8-54-18 Sweetbrush

Claude F. Bush appeared and requested preliminary approval of this plan. A study of the plat showed Lots 15 and 16 to front on the remaining 35-foot portion of Mathews Drive. The engineer stated that the owner intended to retail these two lots as a part of his homestead which is designated as Lot 17, and

AGREED: To revise the plan to combine Lots 15, 16 and 17 into one lot.

The Commission therefore

VOTED: To give PRELIMINARY APPROVAL to the plat of SWEETBRUSH as revised to combine Lots 15, 16 and 17 into one lot.

C8-54-20 Ford Oaks Annex

Doak Rainey (Engineer) was present to request preliminary approval of this subdivision. The staff reported the plat to be in order and the Commission therefore

VOTED: To give PRELIMINARY APPROVAL to the plat of FORD OAKS ANNEX.

C8-54-23 Highland Park Court

S. R. Sheppard (Owner) and E. W. Curington appeared and requested approval of this subdivision. Mr. Sheppard stated that he has planned the subdivision and development to correspond to the adjoining development on the west, that he plans to build airconditioned houses himself and to incorporate deed restrictions with the plat in order to protect the adjoining property. He further stated that it is not economically feasible to have 100-foot wide lots because of the size of the tract of land.

C8-54-18

SUBDIVISION PLATS

The following subdivision plats were presented for layout approval only for the reasons listed for each.

C8-54-18 Sweetbrush

The staff advised that fiscal arrangements have not been completed and departmental reports and tax certificates have not been received. The Commission therefore

VOTED: To DISAPPROVE the proposed plat of SWEETBRUSH pending completion of fiscal arrangements and receipt of departmental reports and tax certificates.

C8-54-39 St. Joseph Park

It was reported that fiscal arrangements have not been completed and departmental reports and tax certificates have not been received. The Commission therefore

VOTED: To DISAPPROVE the proposed plat of ST. JOSEPH PARK pending completion of fiscal arrangements and receipt of departmental reports and tax certificates.

In connection with this plat the Commission also discussed the paving of Woodrow and Grover streets which bisect this subdivision and which were recently purchased by the City for access to Brentwood School. It was then

VOTED: To recommend to the City Council that the paving of Woodrow and Grover streets by the subdivider be required as part of the fiscal arrangements for this subdivision.

SUBDIVISION PLATS

The following plats were considered for preliminary and final approval and action was taken as shown.

C8-54-51 Riggs Addition

The staff reported that one lot has a width of 50 feet instead of 60 feet as required for septic tank installation but that sufficient area had been provided and that the Subdivision Committee recommends approval. It was also reported that the neighborhood is predominantly subdivided with 50-foot lots. The Commission therefore

VOTED: To give PRELIMINARY and FINAL APPROVAL to the plat of RIGGS ADDITION.

C8-54-18

Department of Planning -- Austin, Texas

April 20, 1955

NEW CASE SUMMARY

Title: SWEETBRUSH

File: C8-54-18

Initiated by application from M. T. Scott, owner, and Claude F. Bush, Jr., engineer,
requesting preliminary plat approval on April 27, 1955.

Location: North of Windsor Rd., N. W. of Rockmoor Ave.

Type of Subdivision: Residential

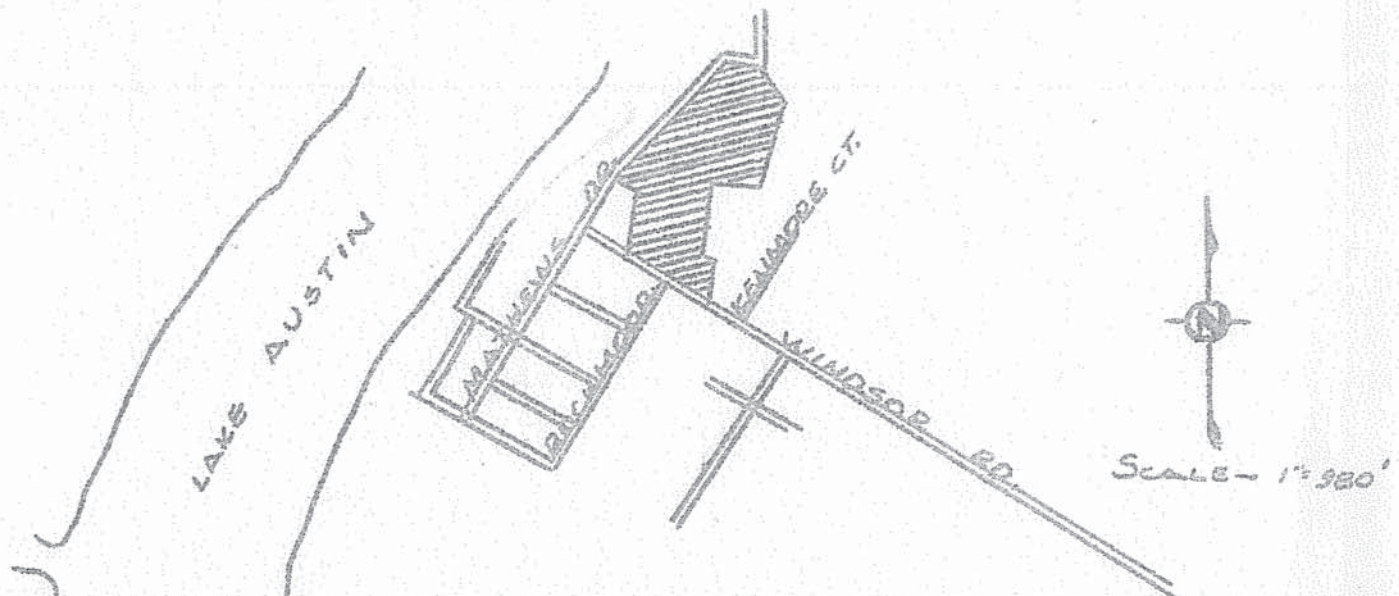
Size: 10 acres approximately

Number of lots: 20

Average lot size: 130' x 120'

Classification: Urban

Location Sketch:



This Subdivision will be reviewed by Subdivision Committee Apr. 27, 1955, at 3:00 p.m.

cc: Planning Commission: Chairman, Members
 Water Superintendent
 Electric Superintendent
 Sanitary Sewers Superintendent
 Storm Sewers Superintendent
 Assistant Director of Public Works
 Director of School Plant
 Owner
 Engineer
 Office Engineer
 Southern Union Gas Co.




C8-54-18

BOA CASE REVIEW SHEET**CASE:** C15-2019-0025**BOA DATE:** May 13, 2019**ADDRESS:** 2404 Sweetbrush**COUNCIL DISTRICT:** 10**OWNER:** Rebecca Nelson Davis**AGENT:** Jeffrey Howard**ZONING:** SF-3-NP (West Austin Neighborhood Group)**AREA:** Lot 2A Amended Plat of Lots 2 and 3, Sweetbrush**VARIANCE REQUEST:** Rear setback 10 feet instead of 25 foot through lot setback**SUMMARY:** New single family residence**ISSUES:** Trees, topography, drainage

	ZONING	LAND USES
<i>Site</i>	SF-3-NP (West Austin Neighborhood Group)	Single Family Residential
<i>North</i>	SF-3-NP (West Austin Neighborhood Group)	Single Family Residential
<i>South</i>	SF-3-NP (West Austin Neighborhood Group)	Single Family Residential
<i>East</i>	SF-3-NP (West Austin Neighborhood Group)	Single Family Residential
<i>West</i>	SF-3-NP (West Austin Neighborhood Group)	Single Family Residential

NEIGHBORHOOD ORGANIZATIONS: Austin Neighborhoods Council; Bike Austin; Central West Austin Neighborhood Plan Contact Team; Friends of Austin Neighborhoods; Neighborhood Empowerment Foundation; Preservation Austin; SEL Texas; Save Barton Creek Assn; Save Our Springs Alliance; Sierra Club, Austin Regional Group; TNR BCP – Travis County natural Resources; Tarrytown Alliance; Tarrytown Neighborhood Association; West Austin Neighborhood Group



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2019-0025

LOCATION: 2404 SWEETBRUSH DRIVE



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.

1" = 333'



CITY OF AUSTIN

Development Services Department

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

P-3/20

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 # _____ ROW # _____ Tax # _____

Section 1: Applicant Statement

Street Address: 2404 Sweetbrush, Austin, TX 78703

Subdivision Legal Description:

Lot 2A, Amended Plat of Lots 2 and 3, Sweetbrush, a subdivision according to the map or plat thereof recorded in Instrument No. 201900018 of the Plat Records of Travis County, Texas

Lot(s): 2A Block(s): _____

Outlot: _____ Division: _____

Zoning District: SF-3-NP

I/We Jeffrey S. Howard, McLean & Howard, LLP on behalf of myself/ourselves as authorized agent for Rebecca Nelson Davis (aka Rebecca Barton Nelson) affirm that on Month April, Day 8, Year 2019, 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: Single family residence

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

Section 25-2-515 (Rear Yard Through Lot)

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:

See Section 6 (Additional Space)

Hardship

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

The easement, heritage trees, topography and drainage lines of this property that create a bowl effect on the north portion of the property, require that the new residence be constructed on the high portion to the south. The drainage also prevents the footprint from shifting toward Sweetbrush, hindering the possibility of constructing a development to compliment the surrounding established structures consistent with the Sweetbrush subdivision.

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

The Property is the only remaining vacant lot in the subdivision yet to be developed, the only through lot in the Sweetbrush Subdivision, and the only lot that does not have a 10 foot allowable rear yard.

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 requested variance is consistent with existing established residences in the area which were constructed close to the substandard Matthews Drive. Grant of this variance request would allow for construction of a new single family home harmonious with the size and character of the neighborhood.

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:  Date: 4/9/2019

Applicant Name (typed or printed): Jeffrey S. Howard, McLean & Howard, LLP

Applicant Mailing Address: 901 South MoPac Expy, Ste 225

City: Austin State: TX Zip: 78746

Phone (will be public information): (512) 328-2008

Email (optional – will be public information): _____

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:  Date: 4/8/19

Owner Name (typed or printed): Rebecca Nelson Davis

Owner Mailing Address: 3404 Glenview Avenue

City: Austin State: TX Zip: 78703

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: Jeffrey S. Howard, McLean & Howard, LLP

Agent Mailing Address: 901 South MoPac Expy, Ste 225

City: Austin State: TX Zip: 78746

Phone (will be public information): (512) 328-2008

Email (optional – will be public information): _____

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).

Additional Space (continued)

The north portion of the property experiences drainage issues as a result of the topography of the lot and surrounding areas, and has large heritage trees. As a result, the south portion of the tract is the appropriate location for the new structure, but has a large drainage easement on the interior side yard which pushes the home to the rear. However, the staff interpreted setback requirement under Code constrains the footprint to a design which is not harmonious with the neighborhood. A rear setback of 10 feet is normal for the configuration of a backyard for properties not considered a through lot, and a restrictive covenant (Vol. 1645, Pg. 376 of Official Public Records of Travis County, Texas)(copy provided) for the neighborhood recognized that fact by explicitly stating that rear setback is 10 feet. The project has relied on the validity of the restrictive covenant.

SAVE

April 26, 2019

William Burkhardt, Chair
Board of Adjustment
One Texas Center
505 Barton Springs Road
Austin, Texas 78704

RE: Variance Request for 2404 Sweetbrush, Austin, Texas 78703 (the "Property")

Dear Mr. Burkhardt:

As agent for Rebecca Nelson Davis, owner of the above-referenced Property (the "Applicant"), we submitted the provided application to request a variance from the rear yard setback regulations contained in Section 25-2-515 of the Austin City Code (the "Code") applicable to a "through lot" to decrease the requirement from twenty-five (25) feet to ten (10) feet. The purpose of the variance is to allow the placement of the new single family residence on the Property in a manner which accommodates the existing drainage easement, accounts for the natural drainage patterns of the Property, protects the large heritage trees, and aligns the rear setback with normal configurations of a backyard while conforming with the intent of the recorded restrictive covenant associated with the Property.

The Sweetbrush Subdivision was established in 1955 according to the plat recorded in Volume 7, page 118 of the Official Public Records of Travis County, Texas ("Original Plat"). *See Attachment #1.* To clarify the setbacks applicable to Sweetbrush Subdivision, the original owners of tracts within the Sweetbrush Subdivision executed a restrictive covenant recorded in Volume 1645, Page 376 of the Official Public Records of Travis County, Texas ("Restrictive Covenant") which permitted a structure on a through lot to be no nearer than ten (10) feet of the property line. *See Attachment #2.* After Applicant purchased Lot 2 of the Sweetbrush Subdivision, an amended plat of Lots 2 and 3 was duly approved and recorded to combine the tracts (the current configuration of the Property) and recorded as Document No. 201900018 of the Official Public Records of Travis County, Texas. *See Attachment #3.*

This request for a variance from the setback regulation in Section 25-2-515 of the Code should respectfully be approved for the following reasons:

Reasonable Use

The Applicant previously resided in a single family residence on Lot 3 of the Original Plat. The Applicant purchased Lot 3 in 2004 and quickly realized the property experiences severe

William Burkhardt, Chair
Board of Adjustment
April 26, 2019
Page 2

drainage issues due to of the topography of the lot and surrounding areas. The previously existing house required extensive remodeling to remedy water damage resulting from years of rainwater collecting around the perimeter of the residence. *See Attachment #4*. After purchasing the adjacent Lot 2 of the Original Plat, and in reliance of the Restrictive Covenant, the Applicant determined that the south portion of the Property with higher elevation and fewer heritage trees was the appropriate location for a new residential structure. *See Attachment #5 and #6*.

The Property is further constrained by a large drainage easement along the south boundary of the Property that encroaches on the interior side yard of the proposed footprint for the new residence. *See Attachment #3*. The location of the drainage easement and the change in elevation in the center of the Property confines the footprint to a finite location on the Property. With the staff interpreting the setback requirement under Section 25-2-515 of the Code applicable to the Property instead of the setback provided in the Restrictive Covenant, the resulting design is no longer harmonious with the neighborhood.

Hardship – Unique to the Property

The easement, heritage trees, topography and drainage lines of the Property create a bowl effect on the north portion. *See Attachment #5*. The north portion of the Property has the lowest elevation in the Sweetbrush Subdivision, resulting in rainwater from the neighborhood, especially after a significant rain event, following the natural drainage patterns to ultimately collect in this portion of the Property. *See Attachment #7*. The drainage and existing drainage easement also prevent the footprint from shifting toward the south boundary of the Property. *See Attachment #5 and #8*.

The road to the north of the Property, Matthews Drive, is a substandard road with extremely low daily traffic. It effectively functions similarly to an alley for the lots in this area. Properties along the north side of Matthews Drive benefited from vacated right of way years ago, allowing more buildable square footage on their properties. *See Attachment #3*. Portions of Matthews Drive have also been debated as being private according to the City ordinances. With the abandoned right of way and uncertainty of the roadway status, residences along Matthews Drive were constructed with varying setbacks. *See Attachment #9*. Many setbacks are less than 25 feet along Matthews Drive. Arguably, Matthews Drive should not be considered a “street” to satisfy the definition of a through lot and requiring compliance with Section 25-2-515.

Hardship – Not General to the Area

The Property is the only remaining vacant lot in the Sweetbrush Subdivision yet to be developed. Furthermore, the Property is the only through lot in the Sweetbrush Subdivision, meaning that it is the only lot that is forced to comply with Section 25-2-515 of the Code. Compliance with the Section 25-2-515, instead of the Restrictive Covenant on which the proposed residential plans relied, denies only this Property the opportunity to take advantage of the ten (10) foot allowable rear yard setback.

William Burkhardt, Chair
Board of Adjustment
April 26, 2019
Page 3

Area Character

The Sweetbrush Subdivision and neighboring area consists of architecturally unique residences surrounded by lush foliage from old established heritage trees. By constructing the new residence on the south portion of the Property, the Applicant will successfully protect and preserve large heritage trees. The proposed design for the new residence, created in reliance of the setback provided by the Restrictive Covenant, continues the tradition of exceptional architectural standards. The requested variance would allow for construction of a new single family home with an attached garage living space harmonious with the size and character of the neighborhood, and is consistent with existing established residences in the area which were constructed close to the substandard Matthews Drive. *See Attachment #8.*

A rear setback of ten (10) feet is a normal configuration of a backyard for properties not considered a through lot and the Restrictive Covenant for the Sweetbrush Subdivision recognized that fact by explicitly stating that the rear setback is ten (10) feet. The proposed residential project has relied on the validity of the Restrictive Covenant. Moreover, the footprint of the proposed residence is limited in the options for placement due to drainage patterns, existing easements, and heritage trees, and the setback required by Section 25-2-515 further hinders the possibility of constructing a development complimentary to the surrounding established structures.

Therefore, an application for approval of variance to the rear yard was respectfully submitted. As evidence by the signatures collected, the neighbors are overwhelming supportive of this request. *See Attachment #10.* Should you have any questions regarding this information, please contact me at 512-328-2008.

Sincerely,



Jeffrey S. Howard
McLean & Howard, LLP

Attachments:

- | | |
|----------------------------------|------------------------------------------|
| #1 – Original Plat | #6 – Photos of Topography |
| #2 – Restrictive Covenant | #7 – Photos of Rainwater Drainage |
| #3 – Amended Plat | #8 – Proposed Single Family Construction |
| #4 – Photos of Water Damage | #9 – Substandard Roadway |
| #5 – Topographic and Tree Survey | #10 – Neighborhood Support |

R. MAX BROOKS, ET AL

TO

THE PUBLIC

RESTRICTIONS

DATED NOVEMBER 28, 1955

FILED DECEMBER 13, 1955

RECORDED IN VOL. 1645 PAGES 376-380

RECORDS OF TRAVIS COUNTY, TEXAS

THE STATE OF TEXAS
COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS, That we, R. Max Brooks and wife, Marietta Moody Brooks, and Edgar H. Perry, III, and wife, Kathleen Miller Perry, and George Anne Perry Little and husband, Lewis N. Little, all of Travis County, Texas, being the owners of Sweetbrush, a subdivision out of the Daniel J. Gilbert Survey No. 8, in the City of Austin, Travis County, Texas, as shown by a map or plat thereof recorded at Book 7, Page 118, Plat Records of Travis County, Texas, do hereby impress upon the property contained in said subdivision the following restrictions, conditions and covenants:

1. All lots shall be used for residential purposes only. No house shall be erected, altered, placed or permitted to remain on any lot or building plot other than a single family dwelling.
2. Only one residence shall be placed upon any lot or building plot.

-2-1645/376 hb

GRACY-TRAVIS COUNTY ABSTRACT CO., AUSTIN, TEXAS

9

"Building plot" shall mean any lot, lots or parts of lots having a contiguous street frontage and an average width of not less than 100 feet. No re-subdivision of existing lots may be made to create an additional plot, except as part of a building plot as hereinabove defined.

3. No detached garage or detached living quarters may be built on any lot or building plot. Any garage and any living quarters shall be part of the main residence or attached thereto by a common wall or by a covered passageway.

4. All residences shall be so constructed as to front upon either Rockmoor Avenue or Sweetbrush Drive, but this provision shall not be constructed as preventing the location of a house at an angle to the front street line.

5. No building shall be located nearer than 25 feet to Rockmoor Avenue or to Sweetbrush Drive except that this provision shall not be applied to the north lines of Lots 4 and 9.

6. No residence shall be erected on any lot or building plot unless the reasonable market value of the improvements upon completion is at least \$30,000.00.

7. Each residence shall be so constructed that its height above the highest elevation of the lot or building plot on which it is located shall not exceed one story.

8. No house or part thereof shall be located nearer than 10 feet to the west line of Lots 1, 2 and 3.

-3-1645/376 hb

GRACY-TRAVIS COUNTY ABSTRACT CO., AUSTIN, TEXAS

10

9. The set back requirement appearing on the plat of Sweetbrush, as recorded at Book 7, Page 118, Plat Records of Travis County, Texas, is amended insofar as it is inconsistent with these restrictions, conditions and covenants.

10. These covenants are to run with the land and shall be binding on all lot owners and all persons claiming under them until January 1, 1976, at which time said covenants shall be automatically extended for successive periods of ten years unless changed of record by persons representing a majority of the lots or building plots at that time. Such changes may relate to all or any part of the said covenants.

11. If any person or persons shall violate or attempt to violate any of the restrictions, conditions or covenants hereinabove set forth, it shall be lawful for any other person or persons owning any real property or interest therein situated in said Sweetbrush subdivision to institute proper proceedings against the person violating or attempting to violate the same and either to prevent such person or persons from so doing or to correct such violation or to recover damages or to obtain such other relief or redress as may be applicable under the circumstances.

12. Invalidity of any of these restrictions, conditions or covenants or

parts thereof by judgment or court order shall in no wise affect such other provisions or parts thereof as may be severable and such other provisions or parts thereof shall remain in full force and effect.

WITNESS OUR HANDS this 28th day of November, 1955.

R. Max Brooks
Marietta Moody Brooks
Edgar H. Perry, III
Kathleen Miller Perry
George Anne Perry Little
Lewis N. Little

THE STATE OF TEXAS
COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared R. Max Brooks and Marietta Moody Brooks, his wife, known to me to be the persons whose names are subscribed to the foregoing instrument, and the said R. Max Brooks acknowledged to me that he executed the same for the purposes and consideration therein expressed. And the said Marietta Moody Brooks, wife of the said R. Max Brooks, having been examined by me privily and apart from her husband, and having the same fully explained to her, she the said Marietta Moody Brooks, acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes

and consideration therein expressed, and that she did not wish to retract it.

GIVEN Under my hand and seal of office this the 12th day of December, 1955.

Ruby Lee Ransom

(Notary Seal)

Notary Public in and for Travis County, Texas.

THE STATE OF TEXAS
COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared Edgar H. Perry, III and Kathleen Miller Perry, his wife, known to me to be the persons whose names are subscribed to the foregoing instrument, and the said Edgar H. Perry, III acknowledged to me that he executed the same for the purposes and consideration therein expressed. And the said Kathleen Miller Perry, wife of the said Edgar H. Perry, III, having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said Kathleen Miller Perry, acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

GIVEN under my hand and seal of office this the 12th day of December, 1955.

Ruth Lee Ransom

(Notary Seal)

Notary Public in and for Travis County, Texas.

THE STATE OF TEXAS
COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared Lewis N. Little and George Anne Perry Little his wife, known to me to be the persons whose names are subscribed to the foregoing instrument, and the said Lewis N. Little acknowledged to me that he executed the same for the purposes and consideration therein expressed. And the said George Anne Perry Little, wife of the said Lewis N. Little, having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said George Anne Perry Little, acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

GIVEN under my hand and seal of office this the 12th day of December, 1955.

Ruby Lee Ransom

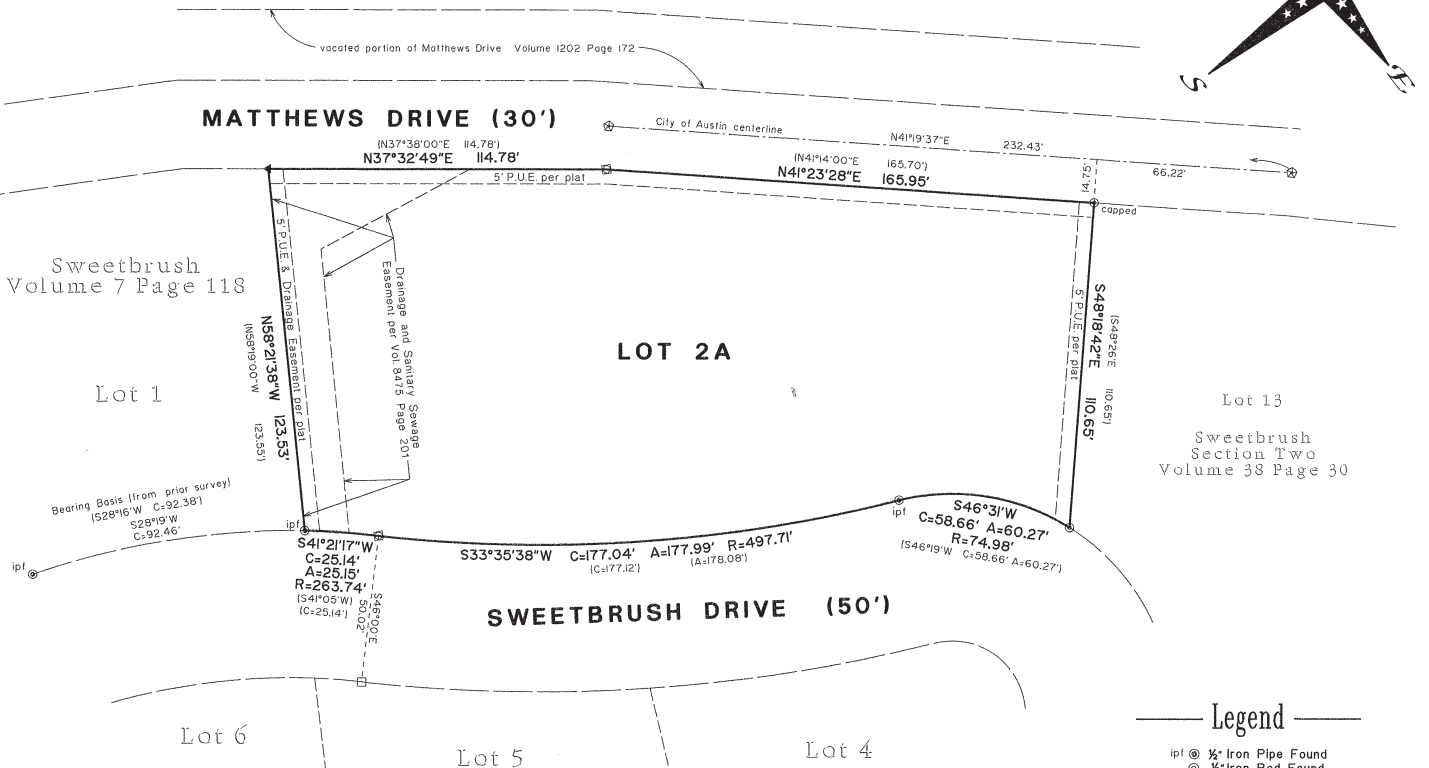
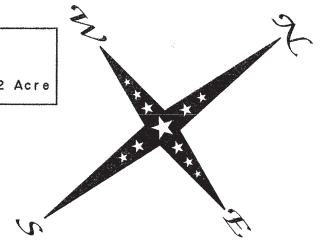
(Notary Seal)

Notary Public, in and for Travis County, Texas.

Amended Plat of Lots 2 and 3 Sweetbrush

SCALE: 1" = 30'
0 30 60 90

LOT SUMMARY
Number of Lots = 1
LOT 2A = 31,884 Square Feet = 0.732 Acre



Legend
ipf 1/2" Iron Pipe Found
1/2" Iron Rod Found
1/2" Iron Rod Set with plastic cap
Imprinted with "Holt Carson, Inc."
Concrete Monument Found
60D Nail Found
Metal Bolt Found
ETE = Electric and Telecommunications Easement
(Record Dimension)

THE STATE OF TEXAS
THE COUNTY OF TRAVIS
KNOW ALL MEN BY THESE PRESENTS:
That I, Rebecca Nelson Davis (f/k/a Rebecca Barton Nelson), owner of all of Lots 2 and 3, Sweetbrush, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 7 Page 118 of the Plat Records of Travis County, Texas, as conveyed to me by virtue of Warranty Deeds recorded in Document No. 2013190729 and Document No. 2004036108 of the Official Public Records of Travis County, Texas, and said subdivision having been approved for amendment pursuant to Chapter 212.016 of the Local Government Code,
do hereby amend said lots in accordance with the attached map or plat to be known as

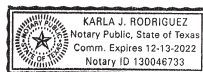
Amended Plat of Lots 2 and 3 Sweetbrush
subject to any easements and/or restrictions heretofore granted, and not released.

WITNESS MY HAND this the 14th day of January, A.D. 2019.

Rebecca Nelson Davis
Rebecca Nelson Davis
2404 Sweetbrush Drive
Austin, Texas 78703

THE STATE OF TEXAS
THE COUNTY OF TRAVIS
I, the undersigned authority, on this the 14th day of January, A.D. 2019, did personally appear Rebecca Nelson Davis, known to me to be the person whose name is subscribed to the foregoing instrument of writing, and she acknowledged before me that she executed the same for the purposes and considerations therein expressed.

NOTARY PUBLIC
Printed Name KARLA J. RODRIGUEZ
Commission Expires 12/13/2022



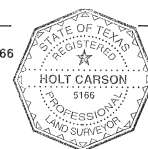
THE STATE OF TEXAS
THE COUNTY OF TRAVIS
I, Dana DeBeauvoir, Clerk of Travis County, Texas, do hereby certify that the foregoing Instrument of Writing and its Certificate of Authentication was filed for record in my office on the 28th day of January, 2019, A.D., at 12:00 o'clock P.M. and duly recorded on the 28th day of January, 2019, A.D., at 12:00 o'clock P.M. in the Official Public Records of said County and State in Document No. 201900018.
WITNESS MY HAND AND SEAL OF OFFICE OF THE COUNTY CLERK OF SAID COUNTY this the 28th day of January, 2019, A.D.

DANA DEBEAUVOR, COUNTY CLERK TRAVIS COUNTY, TEXAS
BY: D. Bartholomew
Deputy
D. BARTHOLOMEW



THE STATE OF TEXAS
THE COUNTY OF TRAVIS
I, Holt Carson, am authorized under the laws of the State of Texas to practice the profession of surveying and hereby certify that this plat complies with Title 25 of the Austin City Code, and is true and correct and was prepared from an actual survey of the property made by me or under my supervision on the ground.

Holt Carson
Holt Carson
Registered Professional Land Surveyor No. 5166
HOLT CARSON, INC.
1904 Fortview Road Austin, Texas 78704
(512)-442-0990



1-09-2019
Date

This subdivision is located in the Full Purpose Jurisdiction of the City of Austin this the 15th day of January, 2019.

APPROVED, ACCEPTED AND AUTHORIZED for record by the Director, Development Services Department, City of Austin, County of Travis, this the 15th day of January, 2019, A.D.

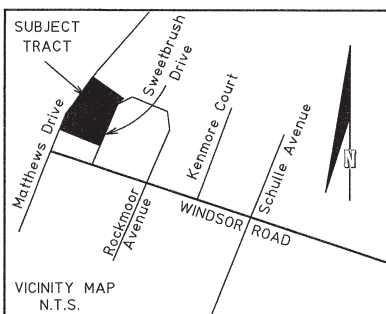
J. Rodney Gonzales
J. Rodney Gonzales, Director, Development Services Department

PLAT PREPARATION DATE: April 4, 2018
APPLICATION SUBMITTAL DATE: September 18, 2018

Amended Plat of Lots 2 and 3 Sweetbrush

NOTES:

1. No portion of this subdivision is within the boundaries of any special flood zone area according to the Federal Flood Administration FIRM Panel No. 48453C 0445 J, dated January 6, 2016.
2. All restrictions and notes from the previous subdivision, Sweetbrush, recorded in Volume 7 Page 118, Travis County Plat Records, shall apply to this amended plat.
3. The owner of this subdivision and his or her successors and assigns, assumes responsibilities for plans for construction of subdivision improvements which comply with applicable codes and requirements of the City of Austin. The owner understands and acknowledges that plat vacation or replatting may be required, at the owner's sole expense, if plans to construct this subdivision do not comply with such codes and requirements.
4. Building setback lines shall be in conformance with City of Austin zoning ordinance requirements.
5. By approving this plat, the City of Austin assumes no obligation to construct any infrastructure in connection with this subdivision. Any subdivision infrastructure required for the development of the lots in this subdivision is the responsibility of the developer and/or the owners of the lots. Failure to construct any required infrastructure to City standards may be just cause for the City to deny applications for certain development permits including building permits, site plan approvals, and/or certificates of occupancy.
6. All electric easements must be shown on all plan sheets, left clear for electric use and maintenance on a 24/7 basis in perpetuity and maintain necessary clearances from any proposed structures, vegetation, etc. at all times. Necessary clearance information (AE, OSHA, NESC, and NEC) may be found in Austin Energy's Design Criteria Manual -- Section 15.3.9. The manual is available on Austin Energy's website under contractors/electric service design and planning.
7. Austin Energy has the right to prune and/or remove trees and shrubbery and other obstructions to the extent necessary to keep the easements clear of obstructions. Austin Energy will perform all tree work in compliance with Chapter 25-8, Subchapter B of the City of Austin Land Development Code.
8. The owner/developer of this subdivision/lot shall provide Austin Energy with any easement and/or access required for the installation and ongoing maintenance of overhead and underground electric facilities within or along the perimeter of this subdivision/lot. These easements/access are required to provide electric service to the buildings and will not be located as to cause the site to be out of compliance with the City of Austin Land Development Code.
9. The owner shall be responsible for installation of temporary erosion control, revegetation and tree protection. In addition, the owner shall be responsible for any initial pruning and tree removal that is within ten feet of the center line of the proposed overhead electrical facilities designed to provide electric service to this project. The owner shall include Austin Energy's work within the limits of construction for this project.
10. The owner of the property is responsible for maintaining clearances required by the National Electric Safety Code, Occupational Safety and Health Administration (OSHA) regulations, City of Austin rules and Texas state laws pertaining to clearances when working in close proximity to overhead power lines and equipment. Austin Energy will not render electric service unless required clearances are maintained. All costs incurred because of failure to comply with the required clearances will be charged to the owner.
11. Any relocation of electric facilities shall be at landowner's/developer's expense.
12. No lot shall be occupied until the structure is connected to the City of Austin water and wastewater utility system.
13. The landowner is responsible for providing separate water and wastewater and services to each lot in compliance with City criteria.
14. The water and wastewater utility system serving this subdivision must be in accordance with the City of Austin utility design criteria. The water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction.
15. This project is subject to the Void and Water Flow Mitigation Rule (City of Austin Environmental Criteria Manual and City of Austin Standard Specifications Manual).



SCALE 1" = 20'



Legend

- 1/2" Iron Rod Found
- ⊗ 1/2" Iron Pipe Found
- Capped Iron Rod Found
- ▲ 600 Nail Found
- ★ 1/2" Iron Rod Set with plastic cap
- Walled and Piped
- Overhead Utility Line
- (Record Bearing and Distance)

Lot 13

Sweetbrush
Section Two
Volume 38 Page 30

LOT 2A

Lot 1

sanitary sewer manhole

MATTHEWS DRIVE (30')

(N4°4'00"E 20.27')
N4°23'27"E 20.27'

1/2" Iron rod found but not used bears N39°02'E 0.50'

storm water manhole

(N4°4'00"E 145.43')
N4°23'27"E 145.68'

edge of pavement

5' P.U.E. per plat
10' Building Line per Vol. 1643 Pg. 376

(N37°38'00"E 114.78')
N37°32'49"E 114.78'

metal posts with chain

5' P.U.E. per plat

10' Building Line per Vol. 1645 Pg. 376

concrete wall

Drainage and Sanitary Sewage Easement per Vol. 8475 Page 201

5' P.U.E. & Drainage Easement per plat

(N58°19'00"W 123.55')
N58°21'38"W 123.53'

sanitary sewer manhole

storm water manhole

(S4°21'17"W C-92.46')
S4°21'17"W C-92.46'
A-263.74'
R-263.74'
(S4°03'00"W) (C-A-25.04')

(S38°22'27"W C-83.97')
S38°22'27"W C-83.97'
A-84.97' R-497.71'
(S38°24'00"W) (C-83.94' A-84.94')

(S48°26'E 110.65')
S48°18'42"E 110.65'

5' P.U.E. & Drainage Easement per plat

(S48°30'04"W C-58.66')
S48°30'04"W C-58.66'
A-60.27' R-75.00'
C-58.66' A-60.27'

25' Building Line per plat

25' Building Line per plat

metal posts with chain

water meters

from prior survey

SWEETBRUSH DRIVE (50')

PERIMETER SURVEY MAP OF:

LOT 2A, AMENDED PLAT OF LOTS 2 AND 3, SWEETBRUSH, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN DOCUMENT NO. 201900018 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS.

LOCATED ON SWEETBRUSH DRIVE.

- NOTES:**
- 1) These lots are subject to restrictions recorded in Volume 7 Page 118 of the Public Records of Travis County, Texas, and in Volume 1645 Page 376 of the Dead Records of Travis County, Texas, and Document No. 201008794 of the Official Public Records of Travis County, Texas.
 - 2) The City of Austin Water and Wastewater Department Section Map No. 166 indicates a wastewater utility line crossing this lot and the alignment of said line appears to be centered on the existing easement as shown hereon.
 - 3) The Sanitary Sewer Easement recorded in Volume 825 Page 99 of the Dead Records of Travis County, Texas, has been released by instrument recorded in Volume 1648 Page 14 of the Dead Records of Travis County, Texas.



PREPARED: September 9th, 2013
BY: *Holt Carson*
Revised to show additional elevations: September 26th, 2018

Holt Carson
Registered Professional Land Surveyor No. 5166
1904 Fort Worth Avenue, Suite 200
Ft. Worth, Texas 76104
(817) 442-0990
Texas Licensed Surveying Firm No. 10050700



Property Profile

Legend

Notes



1: 2,400

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

0.1 Miles
0 0.04 0.1
0 40 80 Feet

NAD_1983_StatePlane_Texas_Central_FIPS_4203_Feet

Date Printed:





SCALE 1" = 20'



Legend

- 1/2" Iron Rod Found
- 1/2" Iron Pipe Found
- 600 Nail Found
- ▲ 1/2" Iron Rod Set with plastic cap
- ★ Imprinted with "Holt Carson Inc."
- Wood Board Fence
- Overhead Utility Line
- (Record Bearing and Distance)

Lot 13

Sweetbrush
Section Two
Volume 38 Page 30

LOT 2A

LOT 1

MAP OF TOPOGRAPHIC SURVEY OF

LOT 2A, AMENDED PLAT OF LOTS 2 AND 3, SWEETBRUSH,
A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO
THE MAP OR PLAT THEREOF RECORDED IN DOCUMENT NO.
201900018 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS
COUNTY, TEXAS.

LOCATED ON SWEETBRUSH DRIVE.

TREE LIST

77	8" Shin Oak
84	12" Elm
2134	12", 13", 16" 8-20" Live Oak
2135	16" Post Oak
2137	26" Live Oak
2138	18" Tallow
2139	16" American Elm
2140	8" Mulberry
2141	7" Drake Elm
2143	11-18" Cedar Myrtle
2144	6" Live Oak
2145	7" Cypress

NOTES:
1) These lots are subject to restrictions recorded in Volume 7 Page 118
of the Plat Records of Travis County, Texas, and in Volume 1645
Page 376 of the Deed Records of Travis County, Texas and Document
No. 201008794 of the Official Public Records of Travis County, Texas.
2) The City of Austin Water and Wastewater Department Section Map No. 166
indicates a wastewater utility line crossing this lot and the alignment of said
line appears to be centered on the existing easement as shown herein.
3) The Sanitary Sewer Easement recorded in Volume 825 Page 99 of the
Deed Records of Travis County, Texas, has been released by instrument
recorded in Volume 1648 Page 14 of the Deed Records of Travis County,
Texas.

PREPARED September 8th, 2013

Revised to show additional elevations: September 26th, 2018

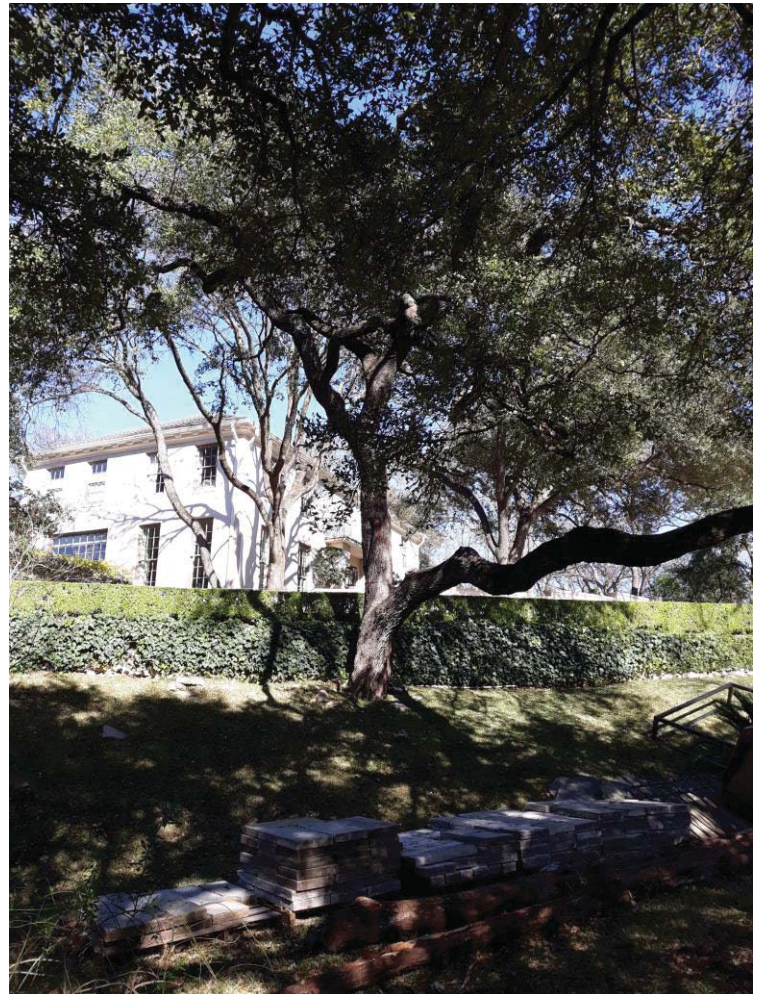
BY:

Holt Carson
Registered Professional Land Surveyor No. 5166
HOLT CARSON, INC.
1904 Fortview Road Austin, Texas 78704
(512) 442-0990
Texas Licensed Surveying Firm No. 10060700





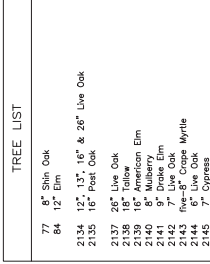






A NEW RESIDENCE FOR:

AL JONES, ARCHITECT AIA
BATON ROUGE, LOUISIANA



NOTES: 1) These lots are subject to restrictions recorded in Volume 7 Page 118 of the Plat Records of Travis County, Texas, and in Volume 1645 Page 376 of the Bead Records of Travis County, Texas and Document No. 100868794 of the Official Public Records of Travis County, Texas. No other restrictions are noted on these lots. 2) The plat of this lot indicates a wastewater utility line crossing this lot and the alignment of the line appears to be centered on the existing easement as shown hereon. 3) The Sanitary Sewer Easement recorded in Volume 825 Page 99 of the Bead Records of Travis County, Texas, has been released by instrument recorded in Volume 1048 Page 14 of the Bead Records of Travis County, Texas.

NOTES:

1) The lots are subject to restrictions recorded in Volume 7, Page 181 of the Deed Records of Travis County, Texas, and in Volume 1645 Page 376 of the Deed Records of Travis County, Texas, and Volume No. 371086794 of the Official Public Records of Travis County, Texas.

2) The City of Austin Water and Wastewater Department Section Map No. 1 indicates a wastewater utility line crossing this lot and the alignment line appears to be centered on the existing easement as shown hereon.

3) The Sanitary Sewer Easement recorded in Volume 825 Page 99 of the Deed Records of Travis County, Texas, is hereby acknowledged by this survey.

4) The Sanitary Sewer Easement recorded in Volume 1048 Page 14 of the Deed Records of Travis County, Texas, is hereby acknowledged by this survey.

BY:

BY: **Holt Carson**
Registered Professional Land Surveyor No. 5166
HOLT CARSON, INC.
1904 Fortview Road Austin, Texas 78704
(512)-442-0990
Texas Licensed Surveying Firm No. 10050700

**A NEW RESIDENCE FOR:
MARK AND REBECCA DAVIS**

AUSTIN, TEXAS	
MARCH 12, 2018	
DRAWN BY JMJ	

<p>AL JONES ARCHITECT, A.I.A., L.L.C.</p> <p>7800 TRENTWOOD BLVD., SUITE A BAYLOR BOULE, LOUISIANA 70009</p> <p>PHONE (225) 925- FAX (225) 925-</p>	<p>PERMIT #1 1000</p>
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REVISID: MARCH 16, 2011
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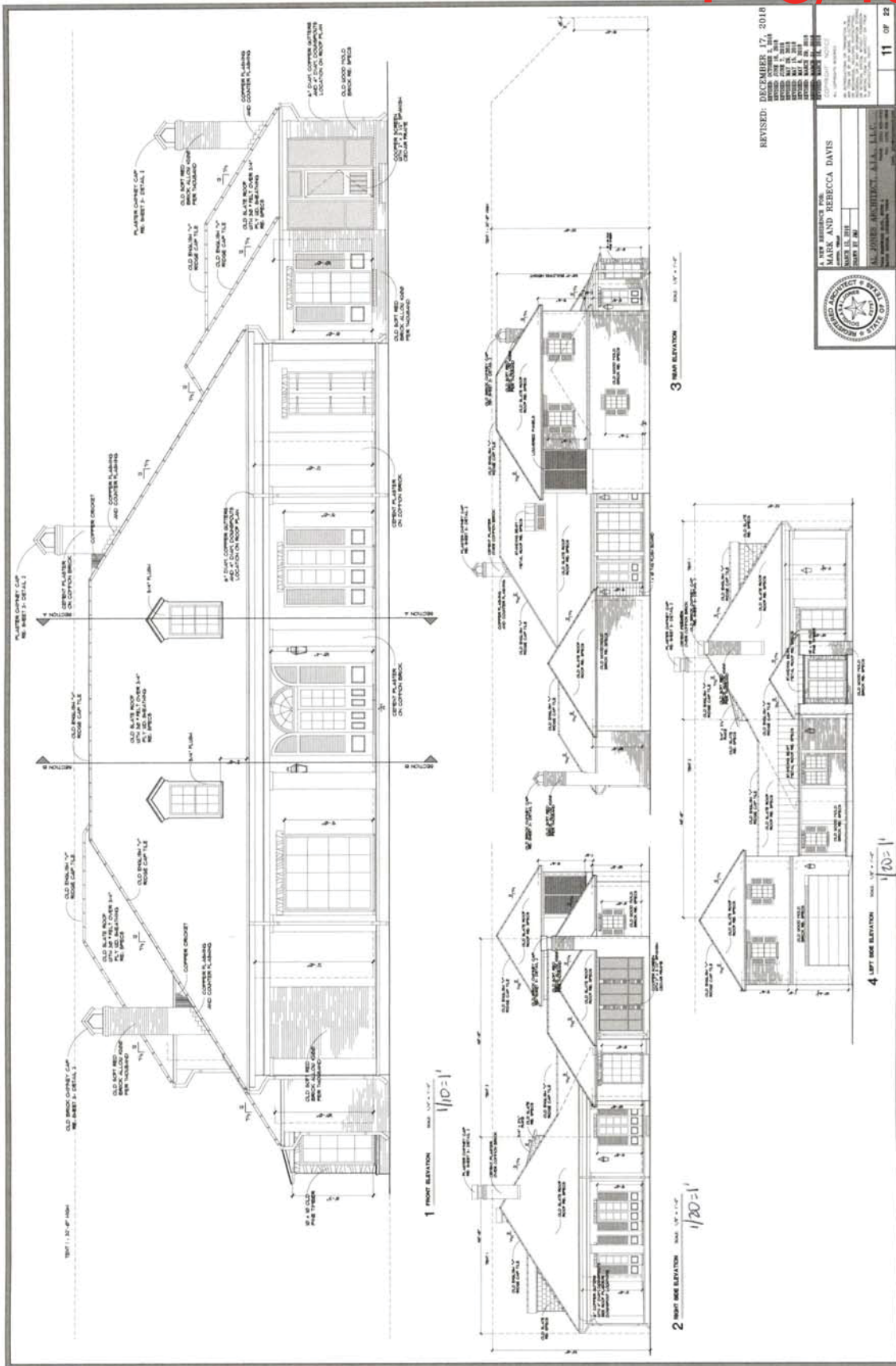
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ON RETRIEVAL SYSTEMS, WITHOUT
IN WRITING FROM THE ARCHITECT
THE ARCHITECTURAL ENTITY.

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1 OF 22

1 OF 22



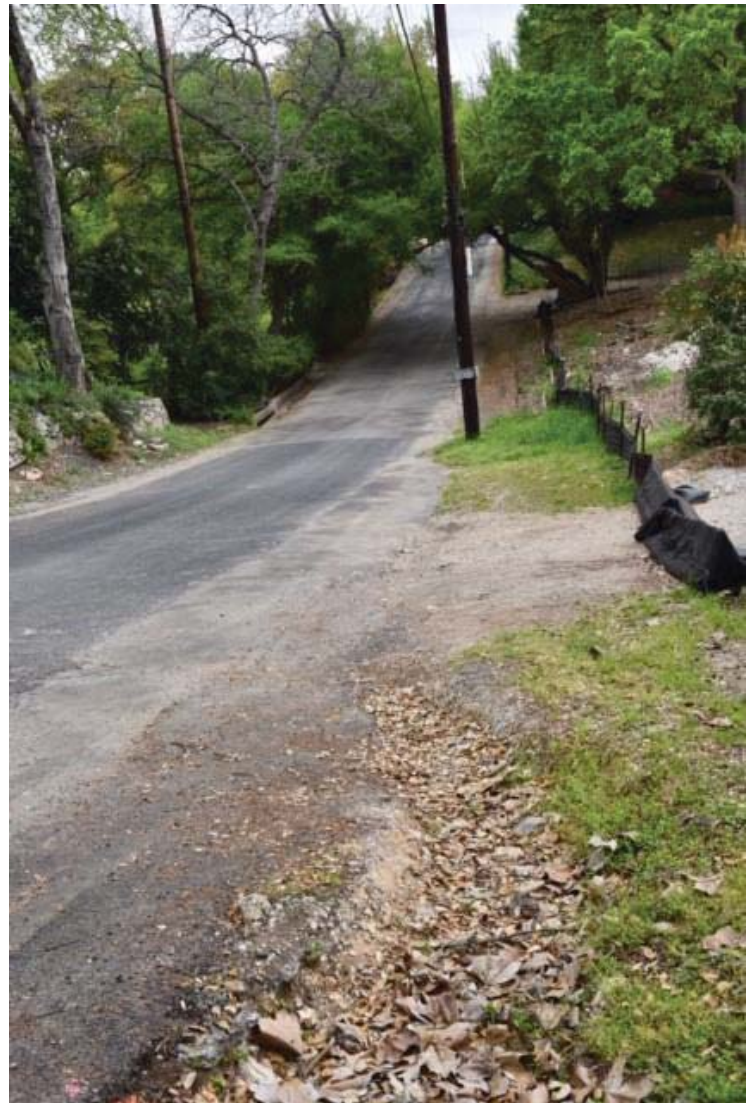
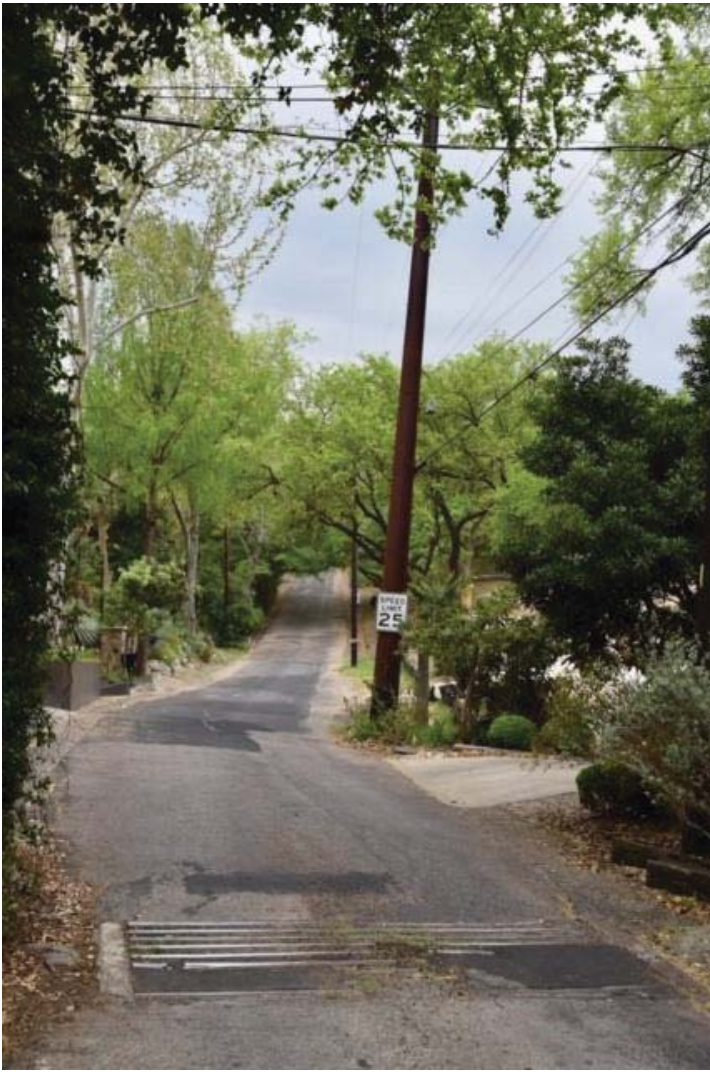
REVISED: DECEMBER 17, 2018

FOR RECORDS FOR
MARK AND REBECCA DAVIS



11 OF 22





P-3/46



P-3/47













We, Mark and Rebecca Davis, are applying for a variance from the Board of Adjustment regarding Section 25-2-515 (*Rear Yard of Through Lot*) of the Land Development Code. The variance would allow us the ability to construct our new home at 2404 Sweetbrush Drive in a similar fashion to lots not considered a "through lot." A through lot is a lot, other than a corner lot, which abuts more than one street. With this variance, we are able to construct our home with a 10 foot setback from the Matthews Drive right-of-way which is common for rear yards in the area.

By signing this form, I understand that I am declaring my support for the variance being requested.

Property Owner Name (Printed)	Address	Signature
Link, Thomas E & Jennie M	2400 Sweetbrush Drive	<i>Thomas E Link</i>
Howry, Randy & Julia Baker	2401 Sweetbrush Drive	<i>Julia Baker</i>
Paughan, Barbara Lee	2403 Sweetbrush Drive	<i>Barbara Lee Paughan</i>
Donovan, Peter Lee & Abigail Bird	2405 Sweetbrush Drive	<i>Peter Lee Donovan</i>
Matthews, Jamie & Mary Clare	2406 Sweetbrush Drive	<i>Mary Clare Matthews</i>
Winkel, Carol Carpenter	2408 Sweetbrush Drive	<i>Carol Carpenter Winkel</i>

By signing this form, I understand that I am declaring my support for the variance being requested.

Property Owner Name (Printed)	Address	Signature
Netherton, Frances Smith	2409 Sweetbrush Drive	
Hadlock, Francis P	2400 Rockmoor Avenue	
McLean, William & Carlotta	2402 Rockmoor Avenue	
Cooksey, Frank C	2208 Matthews Drive	
Hill, Evelyn Oglesby	2216 Matthews Drive	
Keliehor, John D & Stacie Lynn	2400 Matthews Drive	
Borders, Thomas & Mary	2500 Matthews Drive	



We, Mark and Rebecca Davis, are applying for a variance from the Board of Adjustment regarding Section 25-2-515 (*Rear Yard of Through Lot*) of the Land Development Code. The variance would allow us the ability to construct our new home at 2404 Sweetbrush Drive in a similar fashion to lots not considered a "through lot." A through lot is a lot, other than a corner lot, which abuts more than one street. With this variance, we are able to construct our home with a 10 foot setback from the Matthews Drive right-of-way which is common for rear yards in the area.

By signing this form, I understand that I am declaring my support for the variance being requested.

Property Owner Name (Printed)	Address	Signature
JAMES L. BAYLESS, JR. ELIZABETH L. BAYLESS, JR.	2405 ROCKMARE AVE. AUSTIN, TX 78703	James L. Bayless, Jr. Elizabeth L. Bayless
Elaine R. Benton Britt H. Benton	2403 Rockmoor Ave Austin, TX 78703	Elaine Benton Britt Benton
RICHARD A. HINSON KATHLEEN A. HINSON	3711 Windsor Rd. Austin, TX 78703	Dick & Kathy Hinson
J. Scott Burns, Esq. Candace K Burns	3713 Windsor Rd Austin, TX 78703	James L. Bayless, Jr. Candace K Burns
Connie Jeff Jobe	3705 Windsor 78703	Connie Jeff Jobe

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, **you are not required to attend**. However, if you do attend, you have the opportunity to speak **FOR** or **AGAINST** the proposed application. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice will be sent.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*it may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing; and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our website:

www.austintexas.gov/department/development-services

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice. **All comments received will become part of the public record of this case.**

Case Number: C15-2019-0025, 2404 Sweetbrush

Contact: Elaine Ramirez, 512-974-2202, elaine.ramirez@austintexas.gov

Public Hearing: Board of Adjustment, May 13, 2019

James L. & Elizabeth L. Bayless

Your Name (please print)

2405 Rockmoor Ave. Austin 78703

Your address(es) affected by this application

James L. Bayless, Jr. &
Elizabeth L. Bayless

Signature

Date

4-27-2019

Daytime Telephone: 512-516-3407, 512-673-2534

Comments: I am in favor of the applicant's

request for variance. I have seen the plans for the property and am familiar with the site. The proposed property is in keeping with its neighbors and will be a welcome addition to the street and the area.

Comments must be returned no later than 10am the day of the hearing to be seen by the Board at this hearing, they may be sent by

Mail: City of Austin-Development Services Department/ 1st Floor

Elaine Ramirez

P. O. Box 1088

Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wednesday to the hearing to be seen by the Board at this hearing)

Fax: (512) 974-6305

Email: elaine.ramirez@austintexas.gov

P-3/52

Begin forwarded message:

From: Blake <b[REDACTED]>
Subject: C15-2019-0025; 2404 Sweetbrush Drive
Date: May 8, 2019 at 4:26:17 PM CDT
To: Leane Heldenfels <Leane.Heldenfels@austintexas.gov>
Cc: WANG ExCom <[REDACTED]>

08 May 2019

Leane Heldfels, Liaison
Board of Adjustment
City of Austin

RE: C15-2019-0025; 2402 Sweetbrush Drive

Chair and Members of the Board:

On Tuesday 7 May 2019 the Board of Directors (BoD) of West Austin Neighborhood Group (WANG) met with the owners of the property referenced above to discuss their request for variance. After discussion, with an understanding of their stated hardship, and noting close by neighbor support of the request, the WANG BoD voted unanimously to not oppose the request.

A member of the neighborhood association will be in attendance at the meeting in which their request will be heard to comment and be available to answer questions as needed.

Thank you for your service to the City;

Blake Tollett, Zoning
WANG

PUBLIC HEARING INFORMATION

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- appearing and speaking for the record at the public hearing; and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

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www.austintexas.gov/department/development-services

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice. **All comments received will become part of the public record of this case.**

Case Number: C15-2019-0025, 2404 Sweetbush

Contact: Elaine Ramirez, 512-974-2202, elaine.ramirez@austintexas.gov
Public Hearing: Board of Adjustment, May 13, 2019

DAVID HENNING AND SANDRA FIEDOREK
 Your Name (please print)

☐ I am in favor
☒ I object

2206 MATTHEWS, AUSTIN, TX 78703

Your address(es) affected by this application

David Henning
 Signature

5/12/2019
 Date

Daytime Telephone: 512-480-8533

Comments: THERE IS NO MYSTERY IN THE ZONING SETBACKS. BIRM STRUTS THAT BOUND THIS SITE ARE LINED WITH THE FRONTS OF HOUSES, FROM WHICH PROPERTY VALUES RISE. BECAUSE THE LOT IN QUESTION IS LONG, IT SHOULD EASILY ALLOW THE LAYOUT OF A LARGE HOUSE WITHIN THE VARIANCE. THAT FOUNDATION WORK BEGAN PRIOR TO THE VARIANCE REQUEST IS A TYPICAL STIFF-ARM TACTIC BY WHICH BUILDERS SIDE STEP THE ZONING CODE.

Comments must be returned no later than 10am the day of the hearing to be seen by the Board at this hearing, they may be sent by:

Mail: City of Austin-Development Services Department/ 1st Floor
 Elaine Ramirez
 P. O. Box 1088
 Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wed prior to the hearing to be seen by the Board at this hearing)

Fax: (512) 974-6305

Email: elaine.ramirez@austintexas.gov

PUBLIC HEARING INFORMATION

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- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
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Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice. **All comments received will become part of the public record of this case.**

Case Number: C15-2019-0025, 2404 Sweetbrush

Contact: Elaine Ramirez, 512-974-2202, elaine.ramirez@austintexas.gov

Public Hearing: Board of Adjustment, May 13, 2019

WALT ZENN

Your Name (please print)

2200 Matthews Dr.

Your address(es) affected by this application



Signature

4.24.19

Date

Daytime Telephone: 512. 477-3110

Comments:

My wife & I favor this case and hope that you will support them by granting this variance so they can build the home they desire.

Comments must be returned no later than 10am the day of the hearing to be seen by the Board at this hearing, they may be sent by:

Mail: City of Austin-Development Services Department/ 1st Floor

Elaine Ramirez
P. O. Box 1088

Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wed prior to the hearing to be seen by the Board at this hearing)

Fax: (512) 974-6305

Email: elaine.ramirez@austintexas.gov

PUBLIC HEARING INFORMATION

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- appearing and speaking for the record at the public hearing; and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
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For additional information on the City of Austin's land development process, visit our website:
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Case Number: C15-2019-0025, 2404 Sweetbrush
Contact: Elaine Ramirez, 512-974-2202, elaine.ramirez@austintexas.gov
Public Hearing: Board of Adjustment, May 13, 2019

2404 Sweetbrush Dr.
Your Name (please print) Brett Vaughan
☒ I am in favor
☐ I object

Your address(es) affected by this application

2404 Sweetbrush Dr.
Signature Brett Vaughan Date 4/25/19

Daytime Telephone: _____

Comments: _____

Comments must be returned no later than 10am the day of the hearing to be seen by the Board at this hearing, they may be sent by:

Mail: City of Austin-Development Services Department/ 1st Floor
Elaine Ramirez
P. O. Box 1088
Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wed prior to the hearing to be seen by the Board at this hearing)

Fax: (512) 974-6305
Email: elaine.ramirez@austintexas.gov

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Case Number: C15-2019-0025, 2404 Sweetbrush

Contact: Elaine Ramirez, 512-974-2202, elaine.ramirez@austintexas.gov

Public Hearing: Board of Adjustment, May 13, 2019

Angel Carpenter Winkler
Your Name (please print)

☒ I am in favor
☐ I object

2408 Sweetbrush Drive, 78703

Your address(es) affected by this application

Elaine Ramirez Winkler
Signature

5/1/19
Date

Daytime Telephone: 512-422-7088

Comments: _____

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Elaine Ramirez

P. O. Box 1088

Austin, TX 78767-1088

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2902 Webster Ln
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Case Number: C15-2019-0025, 2404 Sweetbush

Contact: Elaine Ramirez, 512-974-2202, elaine.ramirez@austintexas.gov

Public Hearing: Board of Adjustment, May 13, 2019

Jandra Buens

Your Name (please print)

3213 Windsor Rd

Your address(es) affected by this application

4-30-19

Signature

Date

Daytime Telephone: 602 625 6083

Comments: I have reviewed the plans and they fit perfectly on the lot as shown.

Matthews is a very irregular street and the lot back is quite wide keeping with other new homes facing Matthews.

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Mail: City of Austin-Development Services Department/ 1st Floor

Elaine Ramirez

P. O. Box 1088

Austin, TX 78767-1088

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Case Number: C15-2019-0025, 2404 Sweetbrush

Contact: Elaine Ramirez, 512-974-2202, elaine.ramirez@austintexas.gov

Public Hearing: Board of Adjustment, May 13, 2019

Robert PELTIER
Your Name (please print)

☒ I am in favor
☐ I object

2512 Matthews Dr APT 78205
Your address(es) affected by this application

[Signature] **4-27-19**
Signature Date

903-360-7300
Daytime Telephone:

Comments: _____

Comments must be returned no later than 10am the day of the hearing to be seen by the Board at this hearing, they may be sent by:

Mail: City of Austin-Development Services Department/ 1st Floor

Elaine Ramirez

P. O. Box 1088

Austin, TX 78767-1088

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(512) 974-6305

elaine.ramirez@austintexas.gov

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Contact: Elaine Ramirez, 512-974-2202, elaine.ramirez@austintexas.gov
Public Hearing: Board of Adjustment, May 13, 2019

☒ I am in favor
☐ I object

Your Name (please print) Scott Burns, Esq.
3713 Windsor Rd

Your address(es) affected by this application
Sweetbriars 4-30-19
Signature Date

Daytime Telephone: 602 524 4537

Comments: I approve the
residential plans for
2404 Sweetbrush Dr.

As neighbors, we have
no issues with the
Davis plans for their
lot.

Comments must be returned no later than 10am the day of the hearing to be seen by the Board at this hearing, they may be sent by:

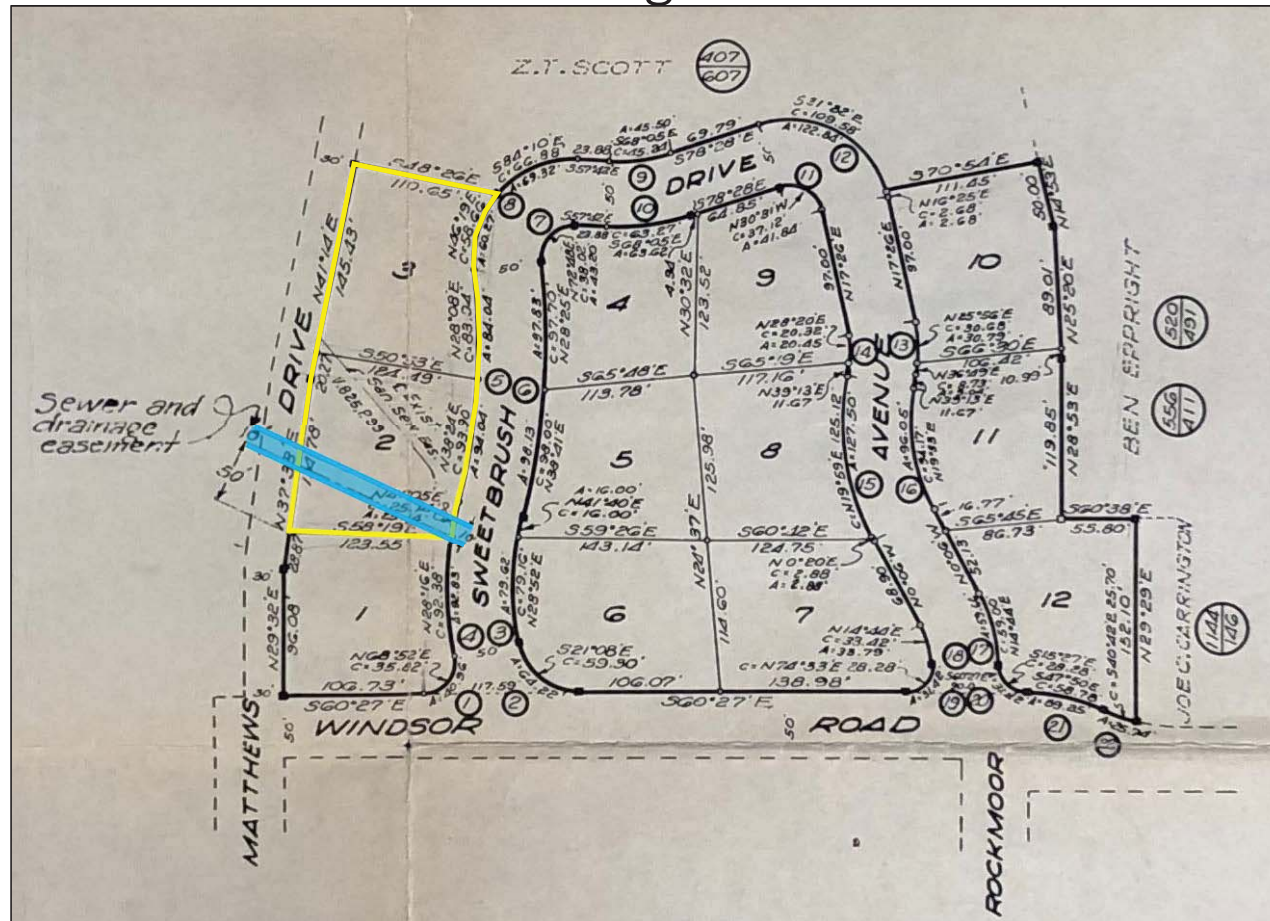
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2404 Sweetbrush
C15-2019-0025
Item I-2

Variance Request from Section 25-2-515 (*Rear Yard Through Lot*) to allow a 10 foot rear setback

2404 Sweetbrush

1955 Original Plat



2404 Sweetbrush

GRACY-TRAVIS COUNTY ABSTRACT CO., AUSTIN, TEXAS	
R. MAX BROOKS, ET AL	RESTRICTIONS
TO	DATED NOVEMBER 28, 1955
	FILED DECEMBER 13, 1955
THE PUBLIC	RECORDED IN VOL. 1645 PAGES 376-380
	RECORDS OF TRAVIS COUNTY, TEXAS
THE STATE OF TEXAS	8
COUNTY OF TRAVIS	
KNOW ALL MEN BY THESE PRESENTS, That we, R. Max Brooks and wife, Marietta Moody Brooks, and Edgar H. Perry, III, and wife, Kathleen Miller Perry, and George Anne Perry Little and husband, Lewis N. Little, all of Travis County, Texas, being the owners of Sweetbrush, a subdivision out of the Daniel J. Gilbert Survey No. 8, in the City of Austin, Travis County, Texas, as shown by a map or plat thereof recorded at Book 7, Page 118, Plat Records of Travis County, Texas, do hereby impress upon the property contained in said subdivision the following restrictions, conditions and covenants:	

8. No house or part thereof shall be located nearer than 10 feet to the west line of Lots 1, 2 and 3.

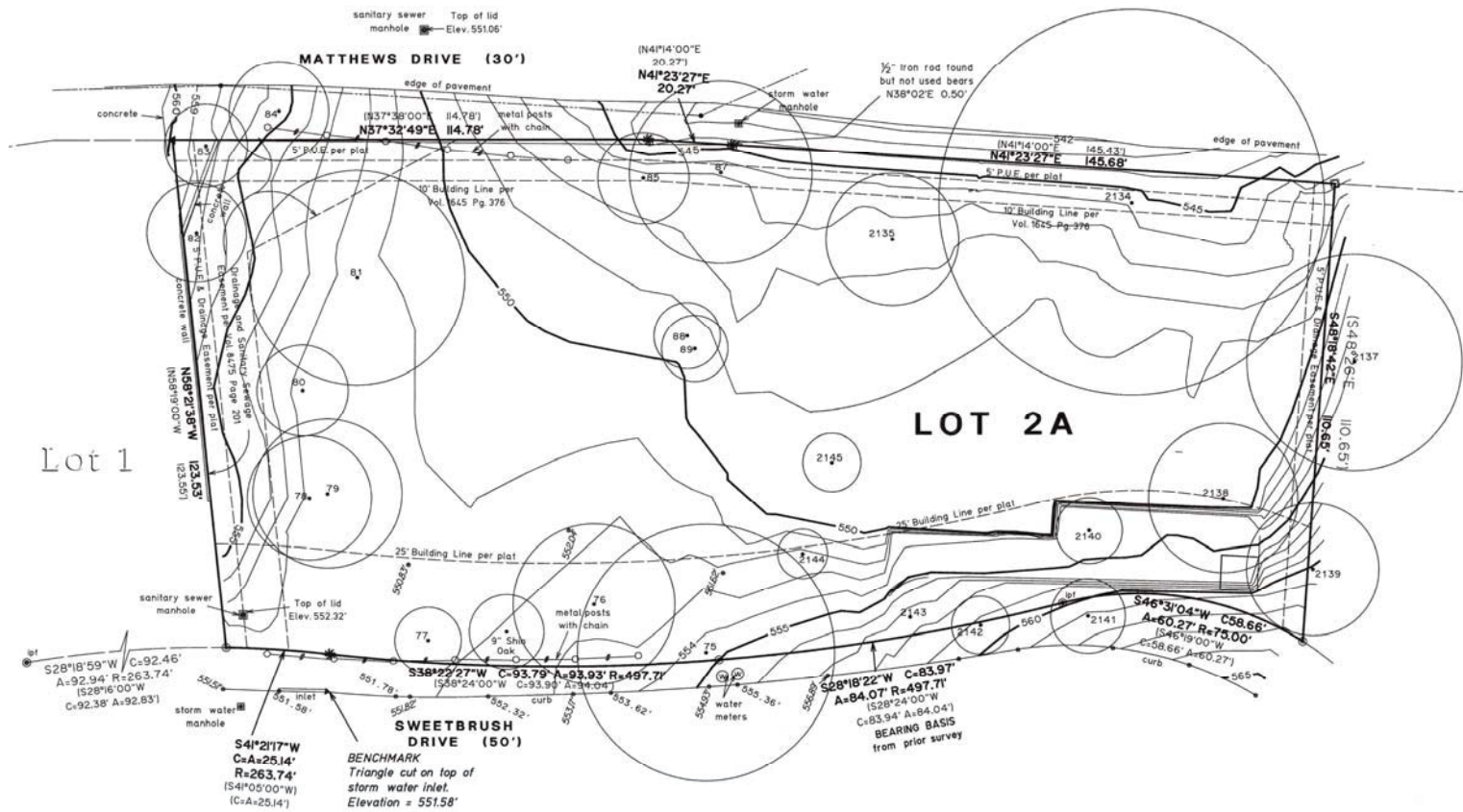
-3-1645/376 bb

GRACY-TRAVIS COUNTY ABSTRACT CO., AUSTIN, TEXAS	
9. The set back requirement appearing on the plat of Sweetbrush, as recorded at Book 7, Page 118, Plat Records of Travis County, Texas, is amended insofar as it is inconsistent with these restrictions, conditions and covenants.	10
10. These covenants are to run with the land and shall be binding on all lot owners and all persons claiming under them until January 1, 1976, at which time said covenants shall be automatically extended for successive periods of ten years unless changed of record by persons representing a majority of the lots or building plots at that time. Such changes may relate to all or any part of the said covenants.	

2404 Sweetbrush

Water Damage to Previous Residence on Lot 3





2404 Sweetbrush

Topography and Trees

Standing on north portion
looking south



Standing on Matthews Drive
looking south



Standing on south portion
looking at Matthews Drive



2404 Sweetbrush Topography and Trees

Standing on north portion
looking south



Standing on Matthews Drive
looking north across Property



Standing on north portion
looking at adjacent residence



2404 Sweetbrush

Drainage after April Rain Event



2404 Sweetbrush

STIN
ORDINANCE
PASSED: SEPTEMBER 27, 1951
APPROVED: SEPTEMBER 27, 1951
RECORDED IN VOL. 1202 PAGES 172-175
RECORDS OF TRAVIS COUNTY, TEXAS

AN ORDINANCE
AN ORDINANCE PERPETUALLY ABANDONING, CLOSING
AND VACATING THE WEST TWENTY-FIVE (25) FEET
OF MATTHEWS DRIVE, BEING A CERTAIN FIFTY (50)
FOOT STRIP OF LAND AS HEREIN DESCRIBED: RE-
TAINING AND RESERVING A PERPETUAL EASEMENT
FOR UTILITIES THEREIN: AND SUSPENDING THE
ORDINANCE RULE REQUIRING THE READING OF
ORDINANCES ON THREE SEPARATE DAYS.

4-1202/172 hb
subject to being made a public street until such time as the land was
annexed to the City of Austin; and

WHEREAS, said 50-foot strip of land has never been opened, con-
structed, or maintained by the City of Austin as a public street, but
has been used exclusively by the owners of private property abutting
thereon; and

WHEREAS, said 50-foot strip of land is separated from Scenic
Drive, a public street, by a series of residence lots approximately
130 feet in depth, and runs approximately parallel to Scenic Drive
for the greater distance of such strip, thereby obviating the necessity
of a public street at the location of said 50-foot strip; and

WHEREAS, the owners of private property abutting said 50-foot strip
have requested the City Council to vacate and abandon the west one-
half of said 50-foot strip of land, reserving therein to the City of
Austin the right to maintain and repair such utility lines as may be
in place, and to leave for the passage of said private owners and of
the public the remaining east 25 feet of said 50-foot strip; and

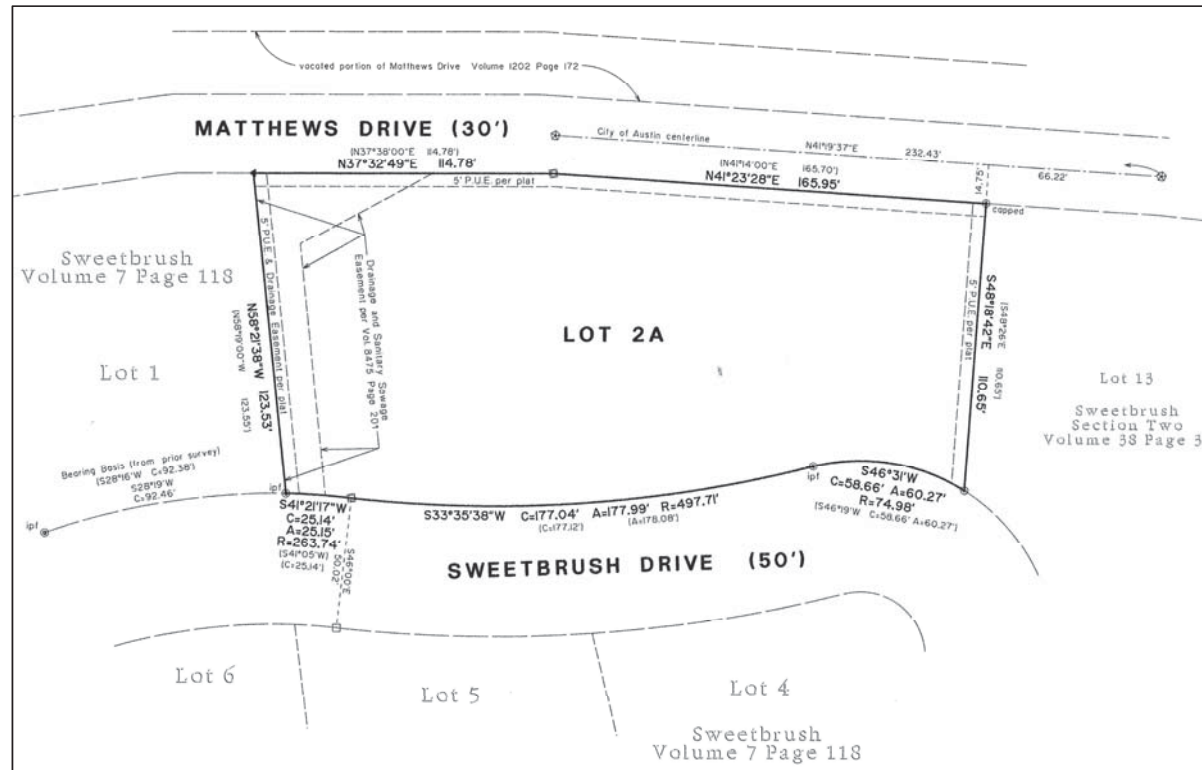
WHEREAS, it is apparent that there exists a doubt as to the
legal status of the 50-foot strip as a public street in the City of

Austin, and
WHEREAS, the City Council deems it to the best interests of the
public and of the owners of private property abutting said 50-foot
strip to vacate and abandon the west 25 feet of said strip and assume
control of the east 25 feet for the use and benefit of the public;
Now, Therefore,

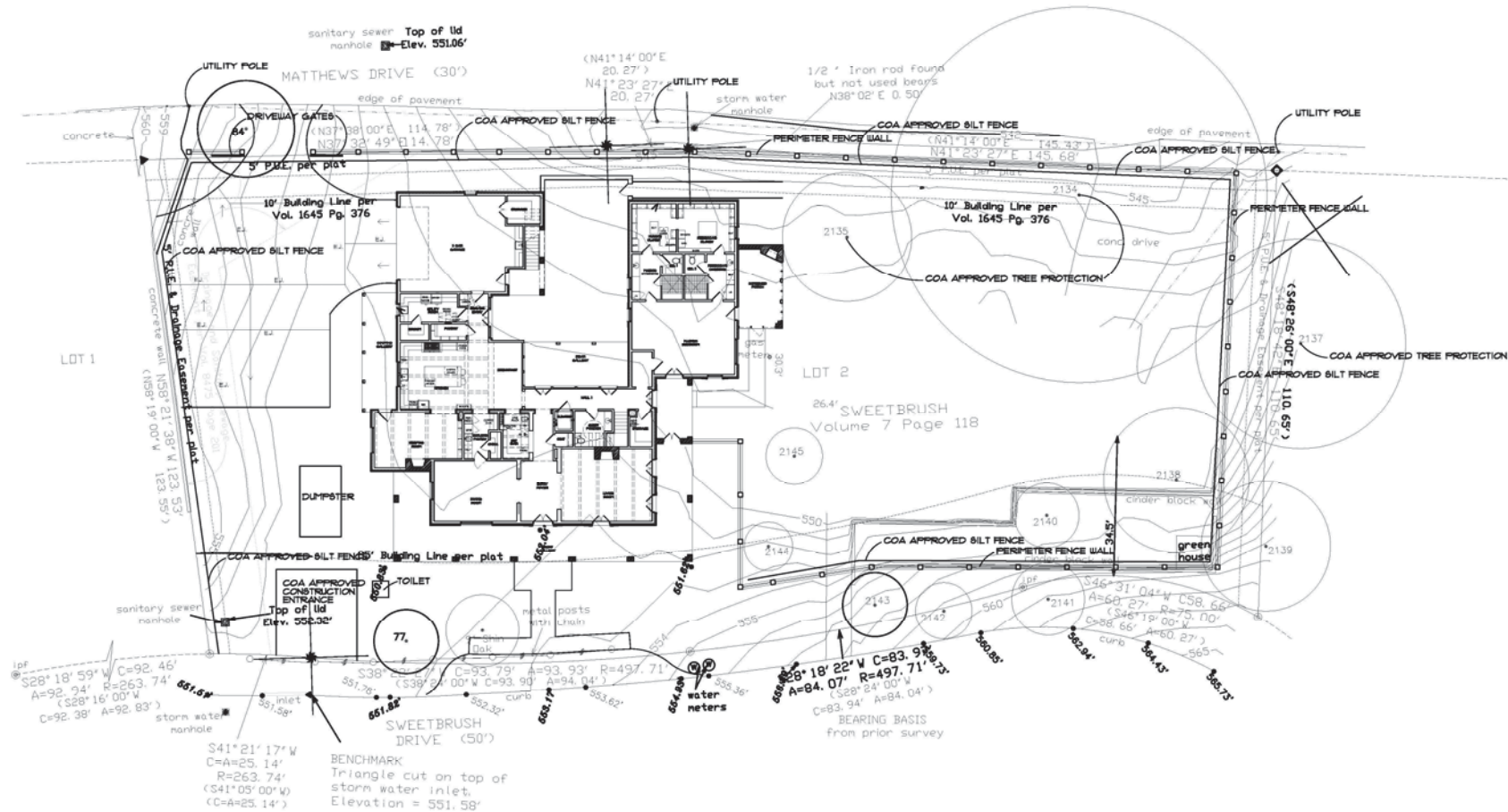
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:
SECTION 1. That the west 25 feet of Matthews Drive (or Laurel
Avenue), extending from the northeast corner of Lot 1, Block 3, Laurel
Heights, northerly to the south line of the Lyndon Johnson et ux.
tract of land as described in Volume 602, page 293, of the Deed
Records of Travis County, Texas, same being a portion of that certain
50-foot strip of land described by E. C. Fallwell and wife, in a deed
to B. F. Rowe, recorded September 8, 1924, in Volume 361, page 621,
of the Deed Records of Travis County, Texas, be and the same is hereby
abandoned, closed, and vacated; but the City of Austin hereby re-
serves therein a perpetual easement and right to maintain and repair
such utility lines as may now be in place in said vacated strip.
SECTION 2. That the rule requiring that ordinances shall be read
on three separate days be hereby suspended, and this Ordinance shall
become effective as provided in the Charter of the City of Austin.

2404 Sweetbrush Matthews Drive

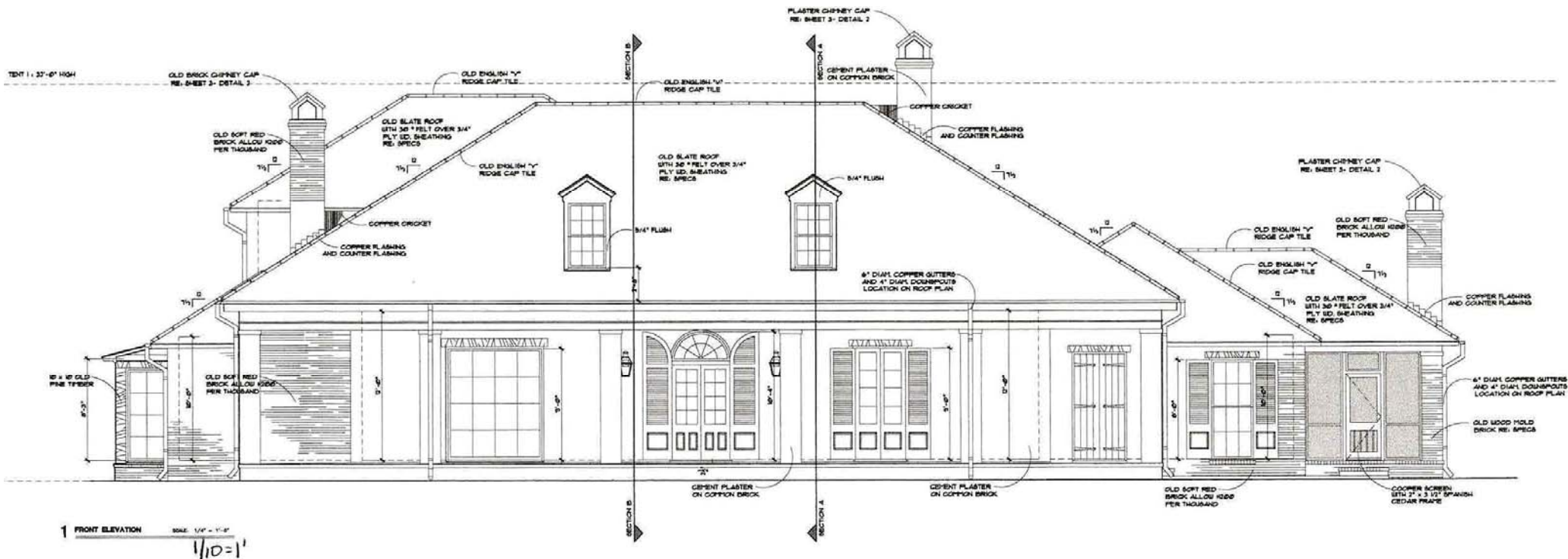




2404 Sweetbrush Proposed Development

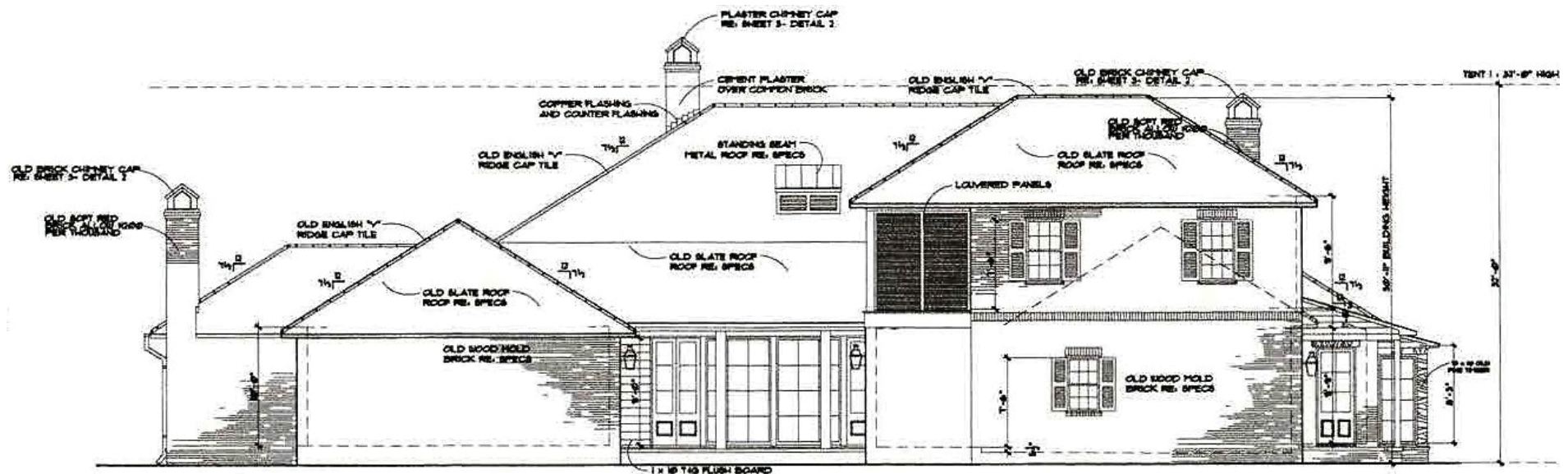


2404 Sweetbrush Proposed Development



2404 Sweetbrush

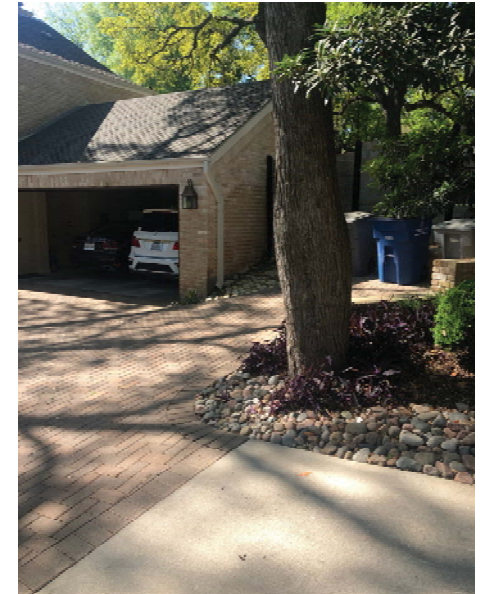
Proposed Development



3 REAR ELEVATION

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

2404 Sweetbrush Matthews Drive



2404 Sweetbrush

Proposed Development

	Allowed	Proposed
Impervious Cover	45%	36.12%
Floor to Area Ratio (FAR)	40%	26.3%
Building Coverage	40%	21.7%

*FAR is gross floor area to gross site area. Gross floor area is the total enclosed area of all floors measured to the outside surface of the exterior walls. Up to 200 square feet of garage, ground floor porch, and attic are exempt from the calculation.

*Building coverage is the area of a lot covered by buildings or roofed area, but excludes paving, eaves, balconies, and similar features.