

**CITY OF AUSTIN  
Board of Adjustment  
Decision Sheet  
D-10**

**DATE: Monday July 12, 2021**

**CASE NUMBER: C15-2021-0074**

☐ Y ☐ Thomas Ates  
☐ Y ☐ Brooke Bailey  
☐ Y ☐ Jessica Cohen  
☐ Y ☐ Melissa Hawthorne  
☐ Y ☐ Barbara McArthur  
☐ - ☐ Rahm McDaniel (OUT)  
☐ Y ☐ Darryl Pruett  
☐ Y ☐ Agustina Rodriguez  
☐ - ☐ Richard Smith (OUT)  
☐ Y ☐ Michael Von Ohlen  
☐ Y ☐ Nicholl Wade  
☐ Y ☐ Kelly Blume (Alternate)  
☐ Y ☐ Carrie Waller (Alternate)  
☐ - ☐ Vacant (Alternate)

**OWNER/APPLICANT: Sean O'Brien**

**ADDRESS: 5607 HIGHLAND CREST DR**

**VARIANCE REQUESTED:** The applicant is requesting variance(s) from the Land Development Code, Section 25-2-773 (*Duplex Residential Use*) (B) (5) (b) from two stories (maximum allowed) to three stories (requested) in order to erect a Duplex Residential use in an "SF-3", Single-Family Residence zoning district.

**BOARD'S DECISION: BOA JULY 12, 2021** The public hearing was closed by Chair Jessica Cohen, Board Member Michael Von Ohlen motions to Postpone to August 9, 2021; Board Member Carrie Waller seconds on a 11-0 vote; POSTPONED TO AUGUST 9, 2021.

**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

Diana Ramirez for  
\_\_\_\_\_  
Jessica Cohen  
Chair



July 6, 2021

Sean OBrien  
5607 Highland Crest Dr  
Austin TX, 78731

Property Description: LOT 2 HIGHLAND CREST DRIVE SUBD

**Re: C15-2021-0074**

Dear Sean,

Austin Energy (AE) has reviewed your application for the above referenced property, requesting that the Board of Adjustment consider a variance from Land Development Code 25-2-773 (Duplex Residential Use) to increase the maximum building height of 30' or 2 stories, to 3 stories.

Austin Energy does not oppose the request, provided that any proposed and existing improvements follow Austin Energy's clearance criteria requirements, the National Electric Safety Code, and OSHA. Any removal or relocation of existing electric facilities will be at the owner's/applicant's expense.

Please use this link to be advised of our clearance and safety requirements which are additional conditions of the above review action:

[https://library.municode.com/tx/austin/codes/utilities\\_criteria\\_manual?nodeId=S1AUENDECR\\_1.10.0CLSARE](https://library.municode.com/tx/austin/codes/utilities_criteria_manual?nodeId=S1AUENDECR_1.10.0CLSARE)

If you require further information or have any questions regarding the above comments, please contact our office. Thank you for contacting Austin Energy.

**Joseph Beeler, Planner I**

Austin Energy  
Public Involvement | Real Estate Services  
2500 Montopolis Drive  
Austin, TX 78741  
(512) 322-6602

# BOA GENERAL REVIEW COVERSHEET

**CASE:** C15-2021-0074

**BOA DATE:** July 12<sup>th</sup>, 2021

**ADDRESS:** 5607 Highland Crest Dr

**COUNCIL DISTRICT:** 10

**OWNER:** Sean O'Brien

**AGENT:** N/A

**ZONING:** SF-3

**LEGAL DESCRIPTION:** LOT 2 HIGHLAND CREST DRIVE SUBD

**VARIANCE REQUEST:** from two stories (maximum allowed) to three stories (requested)

**SUMMARY:** erect a Duplex

**ISSUES:** sever grade change

	ZONING	LAND USES
<i>Site</i>	SF-3	Single-Family residential
<i>North</i>	SF-3	Single-Family residential
<i>South</i>	CS; LR	General Commercial Services; Neighborhood Commercial
<i>East</i>	GR	Community Commercial
<i>West</i>	SF-3	Single-Family residential

**NEIGHBORHOOD ORGANIZATIONS:**

Austin Independent School District

Austin Lost and Found Pets

Austin Neighborhoods Council

Friends of Austin Neighborhoods

Highland Park West Balcones Area Neighborhood Assn.

Neighborhood Empowerment Foundation

Preservation Austin

SELTexas

Sierra Club, Austin Regional Group

TNR BCP – Travis County Natural Resources

E-7/5



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

## NOTIFICATIONS

CASE#: C15-2021-0074

LOCATION: 5607 HIGHLAND CREST 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" = 292'



## CITY OF AUSTIN

### Development Services Department

One Texas Center | Phone: 512.978.4000

505 Barton Springs Road, Austin, Texas 78704

## Board of Adjustment General/Parking Variance Application

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

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

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

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

### For Office Use Only

Case # \_\_\_\_\_ ROW # \_\_\_\_\_ Tax # \_\_\_\_\_

### Section 1: Applicant Statement

Street Address: 5607 Highland Crest Drive, 78731

Subdivision Legal Description:

LOT 2 HIGHLAND CREST DRIVE SUBD

Lot(s): 2 Block(s): \_\_\_\_\_

Outlot: \_\_\_\_\_ Division: \_\_\_\_\_

Zoning District: \_\_\_\_\_

I/We Sean O'Brien on behalf of myself/ourselves as  
authorized agent for Whats Up Texas LP affirm that on  
Month May, Day 17, Year 2021, 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: Duplex

Portion of the City of Austin Land Development Code applicant is seeking a variance from:  
Section 25-2-773 Item B 5 b states that a duplex cannot be more than 2 stories.

~~We are requesting that the duplex project be allowed to achieve three stories. Note that neither unit of the duplex will be more than two stories, simply that the grade of the lot and the existing slab from the previous duplex are stair stepped. Also, note that we are not asking to build outside of the tent, that code is followed.~~

## 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:

~~Due to the side slope grade change of this particular lot, the foundation is stair stepped. Therefore each unit of a duplex would start at dramatically different defined elevations, roughly 12 feet of difference. (See picture of existing slab from previous duplex that burned down in 2019) Because the city interprets section 25-2-773 to mean that the entire structure must be only two stories, the site slope means that two, two-story units cannot be built on this lot. We think it is reasonable to be able to build within the envelope of the lot regardless of if the use is duplex or single family. The need for more housing options like duplexes in the city is dire.~~

### Hardship

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

~~This property has a side slope grade change from one property line to another of 16 feet. When you put a duplex next to another duplex on this kind of a site, the total structure becomes 3 stories. This hardship is unique to this site grade. Additionally, a 3 story duplex was previously on this site before it burned down. It is worth noting that neither unit will be more than 2 stories individually.~~

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

~~A majority of sites in the city have gentle or no grade change, this site has severe grade change.~~

**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 previous structure was similar in size and was there for 40 plus years. The proposed structure fits under the tent requirement of the code.

**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:

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

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

### 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: May 17, 2021

Applicant Name (typed or printed): Sean O'Brien

Applicant Mailing Address: 804 Congress Ave, Suite 300

City: Austin State: TX Zip: 78731

Phone (will be public information): 512-565-4477

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: May 17, 2021

Owner Name (typed or printed): Sean O'Brien

Owner Mailing Address: same as above

City: same State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone (will be public information): same

Email (optional – will be public information): \_\_\_\_\_

### Section 5: Agent Information

Agent Name: \_\_\_\_\_

Agent Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone (will be public information): \_\_\_\_\_

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).

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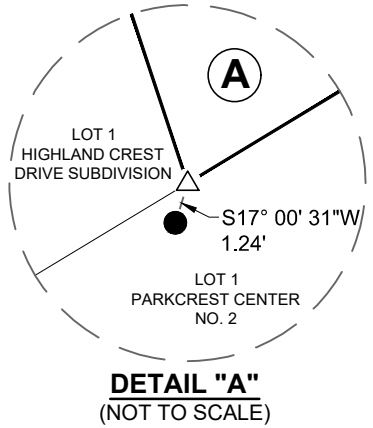
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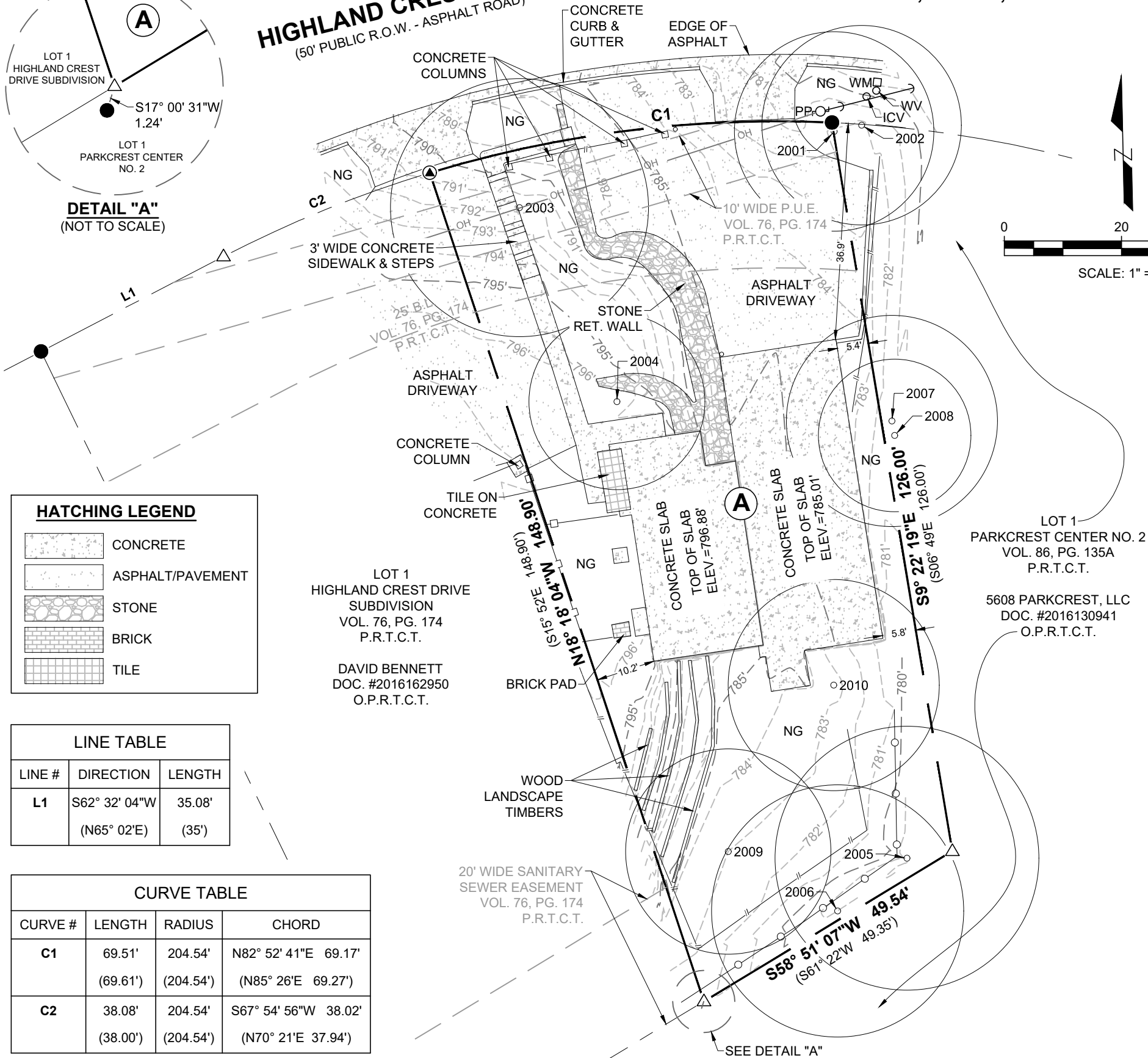
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TRAVIS COUNTY, TEXAS  
T. J. CHAMBERS SURVEY, A-7

**PARTIAL BOUNDARY, TOPOGRAPHIC & TREE SURVEY**  
**LOT 2, HIGHLAND CREST DRIVE SUBDIVISION, RECORDED IN**  
**VOL. 76, PG. 174, P.R.T.C.T.**



**HIGHLAND CREST DRIVE**  
(50' PUBLIC R.O.W. - ASPHALT ROAD)



**A**  
LOT 2  
HIGHLAND CREST DRIVE  
SUBDIVISION  
VOL. 76, PG. 174  
P.R.T.C.T.  
  
LAURIS ZELUFF FAMILY TRUST  
DOC. #2007165450  
O.P.R.T.C.T.

**TREE TABLE:**

2001	17" LIVE OAK
2002	17" LIVE OAK
2003	22" LIVE OAK
2004	15" LIVE OAK
2005	14", 8", 6", 3" CEDAR
2006	9", 8", 6", 6", 5" LIGUSTRUM
2007	18" LIVE OAK
2008	13" LIVE OAK
2009	12", 11" LIVE OAK
2010	18" LIVE OAK

**LEGEND**

●	1/2" IRON ROD FOUND
⊙	60D NAIL FOUND
△	CALCULATED POINT
PP-O	POWER POLE
—OH—	OVERHEAD UTILITY LINE
←	GUY WIRE
WVO	WATER VALVE
ICV	IRRIGATION CONTROL VALVE
WM	WATER METER
—	WOOD FENCE
—□—	WROUGHT IRON FENCE
—○—	CHAIN LINK FENCE
B.L.	BUILDING LINE
P.U.E.	PUBLIC UTILITY EASEMENT
NG	NATURAL GROUND
R.O.W.	RIGHT-OF-WAY
P.R.T.C.T.	PLAT RECORDS, TRAVIS COUNTY, TEXAS
O.P.R.T.C.T.	OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS

**UTILITY AND IMPROVEMENT NOTE:**

ONLY SURFACE EVIDENCE OF UTILITIES AND IMPROVEMENTS ARE SHOWN ON THIS SURVEY.

**BEARING BASIS & HORIZONTAL DATUM:**

TEXAS STATE PLANE COORDINATES, GRID  
NAD '83 (CENTRAL ZONE 4203)

**VERTICAL DATUM:**

NAVD '88 ELEVATION DATUM

**HATCHING LEGEND**

	CONCRETE
	ASPHALT/PAVEMENT
	STONE
	BRICK
	TILE

**LINE TABLE**

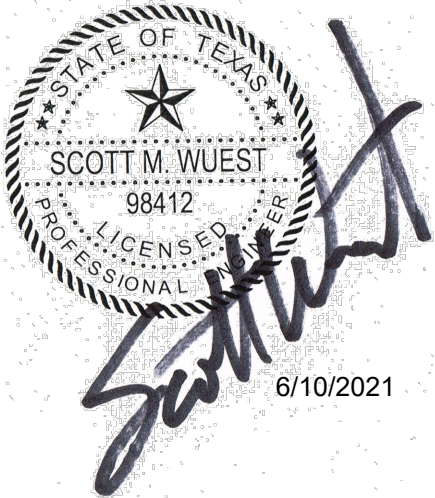
LINE #	DIRECTION	LENGTH
L1	S62° 32' 04"W (N65° 02'E)	35.08' (35')

**CURVE TABLE**

CURVE #	LENGTH	RADIUS	CHORD
C1	69.51' (69.61')	204.54' (204.54')	N82° 52' 41"E 69.17' (N85° 26'E 69.27')
C2	38.08' (38.00')	204.54' (204.54')	S67° 54' 56"W 38.02' (N70° 21'E 37.94')

**5607 HIGHLAND  
CREST DRIVE  
AUSTIN, TX 78731**

FEBRUARY, 2021  
PROJECT NO. 0080-017



6/10/2021



ENGINEERING & SURVEYING

TBPLS FIRM # 10194507  
TBPE FIRM # F-15324  
5207 AIRPORT BOULEVARD  
AUSTIN, TEXAS 78751  
(512)394-1900

SHEET  
1 OF 1

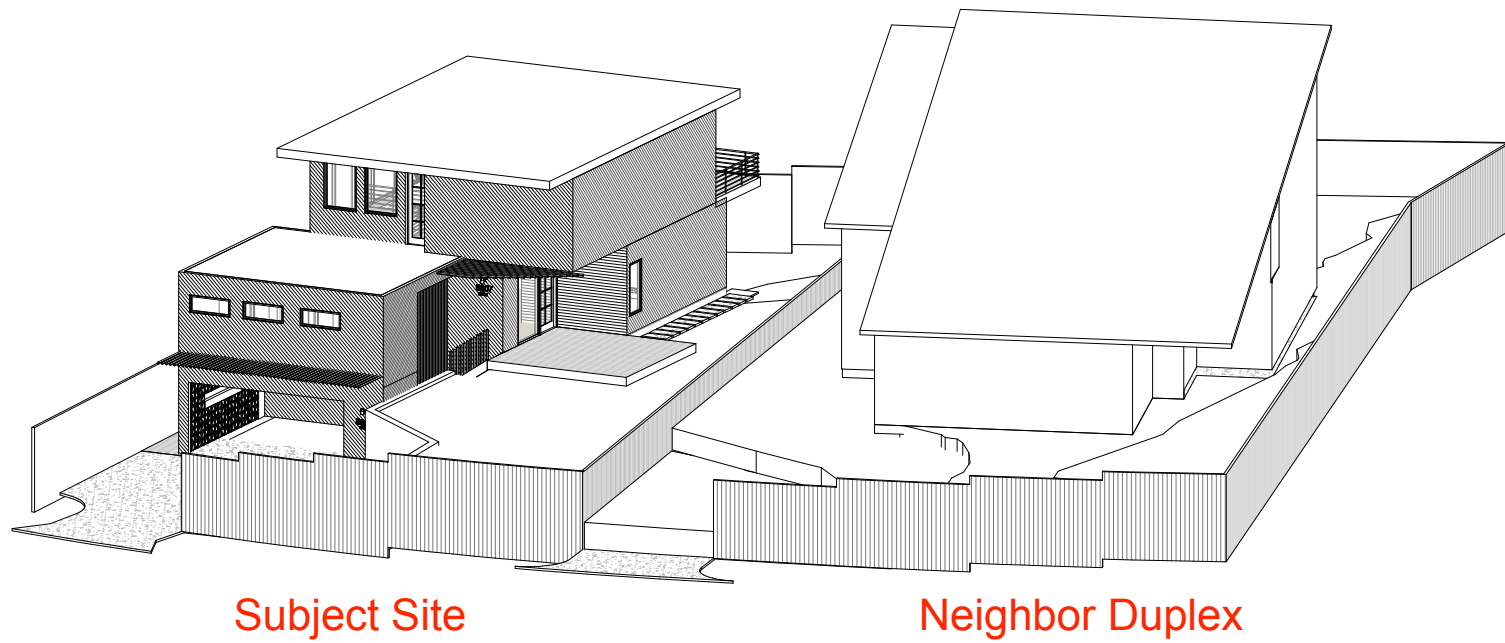
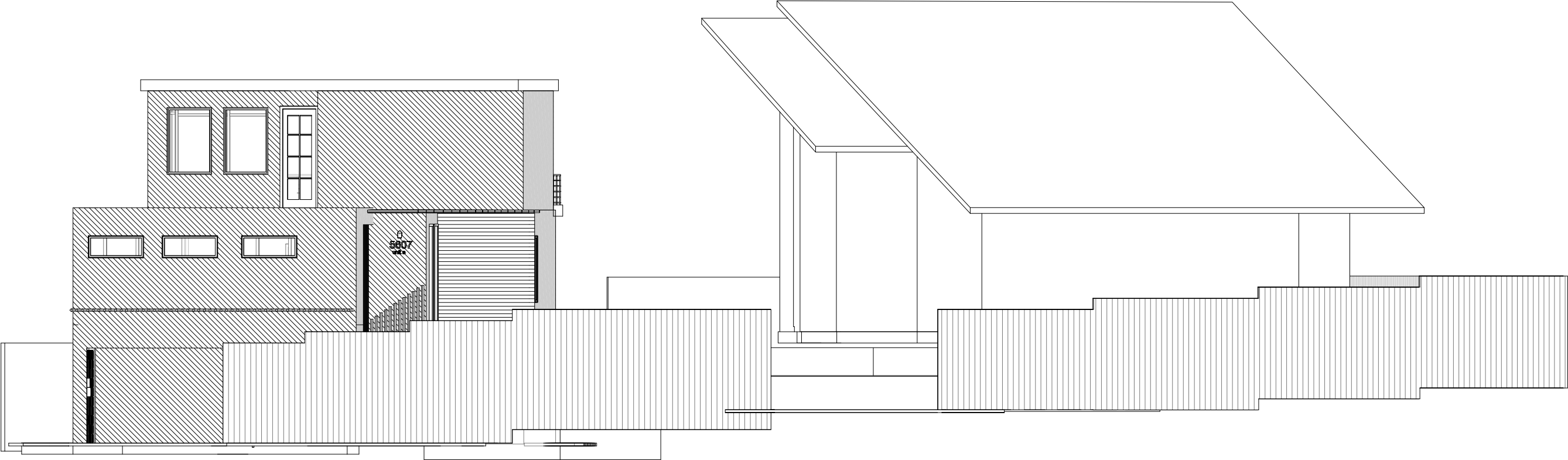


Exhibit 1  
C15-2021-0074 - 5607 Highland Crest Dr - Sean O'Brien



**Subject Site**

**Neighbor Duplex**



Exhibit 3

C15-2021-0074 - 5607 Highland Crest Dr - Sean O'Brien

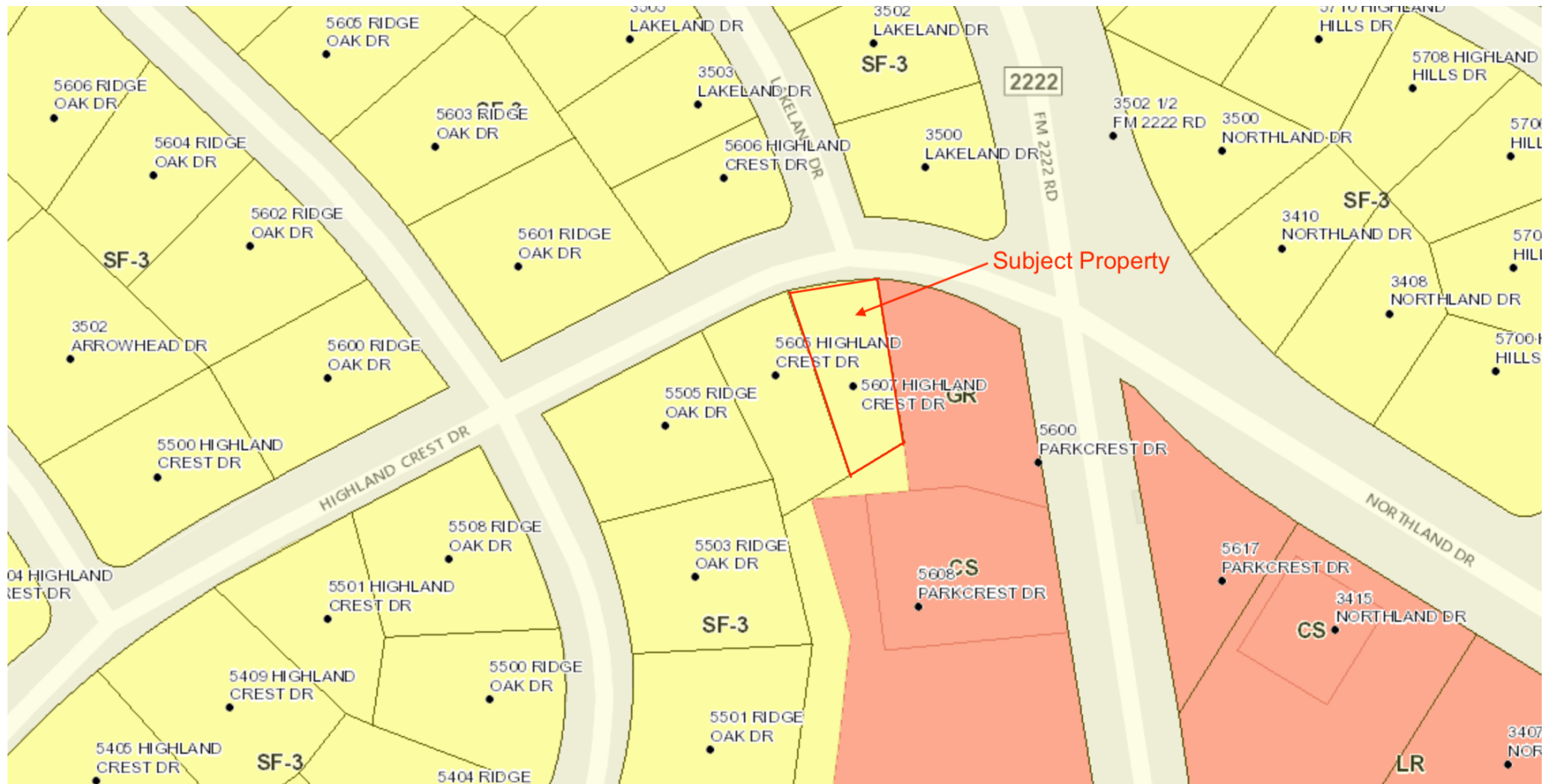


Exhibit 4  
C15-2021-0074 - 5607 Highland Crest - Sean O'Brien