



AGENDA
BOARD OF ADJUSTMENT REGULAR MEETING
COUNCIL CHAMBERS
5803 THUNDERBIRD
LAGO VISTA, TX
MAY 6, 2024 AT 6:30 PM

JOIN MEETING VIA VIDEO CONFERENCE

Please join my meeting from your computer, tablet, or smartphone.
<https://meet.goto.com/434212877>

You can also dial in using your phone.
United States: +1 (872) 240-3311

Access Code: 434-212-877

CALL TO ORDER, CALL OF ROLL

Gary Zaleski, Chairperson

DiAnn Tjon-Joe-Pin, Vice-Chairperson

Jim Cason

Anna Johndrow

Kathy Koza

James Peck

Shad Pellizzari

Stacy Smith

CITIZEN COMMENTS

In accordance with the Open Meetings Act, the Board is prohibited from acting or discussing (other than factual responses to specific questions) any items not on the agenda.

To participate in the citizen comments portion of the meeting, you must submit a completed form. If you are attending the meeting in the City Council Chambers you must complete the form available at that location and provide it to the Chair prior to the start of the meeting. If you will be participating using the online videoconferencing tool, you must complete the form and submit it by email in accordance with the instructions included within the form. It is found on the City's website at the link below.

[Citizen Participation Registration Form](#)

STAFF AND COUNCIL LIAISON REPORTS

1. Routine Reports from City Council Liaison.
2. Routine Reports from City staff.

PUBLIC HEARINGS

3. **23-2604-SP-E:** Consideration of a special exception request pursuant to Section 11.60(d) and Section 6.10 of Chapter 14 to allow an increase in height of 4.95 feet above the height of the existing principal residence and 1.91 feet above the height permitted in the zoning district for an accessory garage at 5017 Green Shore Circle (Dunham Acres, Lot 1A).

Note: This application was deferred, and the public hearing continued at the April 15, 2024, special call meeting of the Board of Adjustment.

- Staff Presentation
- Applicant Presentation
- Continue Public Hearing
- Close Public Hearing
- Discussion
- Decision

4. **23-2613-SP-E:** Consideration of a special exception application pursuant to Section 11.60 of Chapter 14 to allow an increase in the maximum height allowed by Table A of Chapter 14 from 18 feet to 21 feet for a single-family residence at 3603 High Mountain Drive (Country Club Estates, Section 8, Lot 1696).

Note: This application was deferred, and the public hearing continued at the April 15, 2024, special call meeting of the Board of Adjustment.

- Staff Presentation
- Applicant Presentation
- Continue Public Hearing
- Close Public Hearing
- Discussion
- Decision

5. **23-2632-VAR:** Consideration of a variance application to allow an encroachment in the minimum required rear yard setback otherwise required by Sections 2.10, 4.20(c), 5.40 and Table A of Chapter 14 of approximately 10 feet for a deck approximately 5 feet above adjacent grade and the required 4-foot minimum required barrier enclosure surrounding an above-ground swimming pool at 5402 Hitching Post (Country Club Estates, Section 4, Lot 586).

- Staff Presentation
- Applicant Presentation
- Open Public Hearing
- Close Public Hearing
- Discussion
- Decision

ADJOURNMENT

IT IS HEREBY CERTIFIED that the above Notice was posted on the Bulletin Board located at all times in City Hall in said City at 3:15 p.m. on the 18th day of April 2024.

Lucy Aldrich, City Secretary

THE CITY OF LAGO VISTA IS COMMITTED TO COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT. REASONABLE MODIFICATIONS AND EQUAL ACCESS TO COMMUNICATIONS WILL BE PROVIDED UPON REQUEST.

IN ADDITION TO ANY EXECUTIVE SESSION ALREADY LISTED ABOVE, THE BOARD OF ADJUSTMENT RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AT ANY TIME DURING THE COURSE OF THIS MEETING TO DISCUSS ANY OF THE MATTERS LISTED ABOVE, AS AUTHORIZED BY TEXAS GOVERNMENT CODE FOR THE FOLLOWING PURPOSES: §551.071: CONSULTATION WITH ATTORNEY; §551.072: DELIBERATIONS REGARDING REAL PROPERTY; §551.073: DELIBERATIONS REGARDING GIFTS AND DONATIONS; §551.074: PERSONNEL MATTERS; §551.076: DELIBERATIONS REGARDING SECURITY DEVICES; §551.087: DELIBERATIONS REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS.



Item Cover Page

BOARD OF ADJUSTMENT AGENDA ITEM REPORT

DATE: May 6, 2024

SUBMITTED BY: Roy Jambor, Development Services

SUBJECT: **23-2604-SP-E:** Consideration of a special exception request pursuant to Section 11.60(d) and Section 6.10 of Chapter 14 to allow an increase in height of 4.95 feet above the height of the existing principal residence and 1.91 feet above the height permitted in the zoning district for an accessory garage at 5017 Green Shore Circle (Dunham Acres, Lot 1A).

Note: This application was deferred, and the public hearing continued at the April 15, 2024, special call meeting of the Board of Adjustment.

- Staff Presentation
- Applicant Presentation
- Continue Public Hearing
- Close Public Hearing
- Discussion
- Decision

ATTACHMENTS:

[23-2604-SP-E.pdf](#)

LAGO VISTA BOARD OF ADJUSTMENT
STAFF LAND USE REPORT – MAY 6, 2024



BOA CASE NO: 23-2604-SP-E: 5017 Green Shore Circle
APPLICANT: Joe Berli
LANDOWNER: Same
LOCATION: North quadrant of cul-de-sac at end of Green Shore Circle
ZONING: R-1S (18C): 18-foot maximum height
PROPOSED USE: Additions 4.95 feet higher than existing residence

UPDATE:

- Consideration of this application was deferred by the Board of Adjustment at their special call meeting on April 15. The reason appeared to be the unwillingness of a sufficient number of members to approve a request without being able to view the ridgepole from either the applicant's property or the neighboring property.
- The staff has reached out to the members who obtained access to the neighboring property (5013 Green Shore Circle) for assistance in making similar arrangements for the balance of the Board. However, we have not received a reply prior to the publication deadline for this packet. The staff is unable to contact the applicant for this purpose as it was previously determined by the Lago Vista City Council that a staff member even forwarding such an offer of access is a violation of the current ethics policy.
- The written comment received during the meeting on April 15 has been added to the packet.

POTENTIAL ALTERNATIVE DECISIONS:

- A. Approve the request for additional height of 4.95 feet above the existing residence and 1.91 feet above the maximum of 18 feet permitted by the zoning ordinance.
- B. Approve a request for additional height as determined by the Board of Adjustment in their deliberations.
- C. Defer the request pending arrangements without contact or communication with the applicant to access the property and/or the neighboring property to evaluate the application following a more acceptable viewing of the required ridgepole.
- D. Deny any request for additional height.

LAGO VISTA BOARD OF ADJUSTMENT
STAFF LAND USE REPORT – APRIL 15, 2024



BOA CASE NO:	23-2604-SP-E: 5017 Green Shore Circle
APPLICANT:	Joe Berli
LANDOWNER:	Same
LOCATION:	North quadrant of cul-de-sac at end of Green Shore Circle
ZONING:	R-1S (18C): 18-foot maximum height
PROPOSED USE:	Additions 4.95 feet higher than existing residence

GENERAL INFORMATION / LOCATION:

- Green Shore Circle is a relatively short street that terminates in a cul-de-sac adjacent to Lake Travis. It is accessed at its intersection with Outpost Trace near the property that includes the clubhouse of the Lago Vista Golf Course. Near the termination, it includes a very small intersection cul-de-sac known as Green Shore Cove. However, there are no residences addressed on Green Shore Cove. However, one of the vacant lots on Green Shore Cove includes a private drive across other property that appears to connect to Country Club Drive.
- The subject property and the neighboring property to the southwest are the only lots addressed on Green Shore Circle with lake frontage. The applicant appears to have a collection of automobiles and motorcycles and one of the main purposes of the proposed additions appears to be additional storage for this automobile collection. However, as explained in the application narrative, the second floor level above one of the new garage additions is for storage of automobile parts and “old” (perhaps vintage) motorcycles. It is this second level that necessitates this application.

SITE PLAN / CONTEXT CONSIDERATIONS:

- The property is gated, which precluded the staff's prior attempt to access the location of the ridgepole. In fact, the photographs of the ridgepole that are required to confirm its compliance with the ordinance requirements were obtained from the applicant as we were unable to get close enough to complete the task. Similarly, the neighbor's property includes a fence that precludes access from the area that you would need to access to properly evaluate the application through visual observation. However, the applicant did mark on his site plan what he asserts to be the only area of his property that would impact the view of that same neighbor (notification ID 2). Hopefully, we will hear from that property owner before this application is considered to discover if they agree with that assertion.
- The staff was unable to locate any previous special exception applications for additional height in the immediate area. They were two that were reasonably close. The Planning and Zoning Commission approved a height increase from 18 feet to 20.71 feet at 4609 Rimrock Drive on April 8, 2021, following consideration of Case Number 21-1797-SP-E. The Planning and Zoning Commission also approved a height increase from 18 feet to 25 feet at 4600 Lakefront Circle on June 22, 2017 (shortly before the arrival of the current Development Services Director), following consideration of Case Number 17-1028-SP-E. However, a third application (Case Number 23-2465-SP-E) for an increase in height at 21542 Lakefront Drive was withdrawn by the property owner after being deferred by the Board of Adjustment on August 7, 2023.
- However, the adjacent property to the northeast within a development known as “Canyon Oaks” already allows residences with a maximum height of 32 feet above the highest point on the lot. The nearest existing residence within that development is located at 5104 Canyon Oaks Drive near the end of that private street. As can be seen from the aerial image included in the packet, that residence is located at or near the highest point in the general area. Although there is a large flat area between that residence and the subject property, the balance of the property in the immediate vicinity simultaneous slopes toward the lakefront and Green Shore Circle. As a result, this information tends to confirm the assertion by the applicant that only that 0.3596 acres identified on the submitted site plan will impact the view from the neighboring property (notification ID 2).

RELEVANT ORDINANCE PROVISIONS / COMPREHENSIVE PLAN CONSIDERATIONS:

- However, a small portion of both the existing residence and the proposed two-story section of one of the new garage additions is within that area. Section 11.60(b)(2)(C) reads as follows: “Board of Adjustment members shall adequately prepare to make the required determinations, including studying the application material and visiting the site, subject to compliance with the City’s ethics policy and in the absence of a disability. Board members who have not adequately prepared may not vote on the consideration of a special exception application.” However, the current ethics policy as amended by Ordinance Number 23-03-16-01 still includes the following language: “Board or commission members are prohibited from engaging in private discussions with any applicant or owner regarding issues to be considered by their board or commission or from seeking to influence the outcome of any decision outside of a public meeting.”
- That was previously determined by the City Council to include communication with an applicant, including emails, to provide access to an otherwise similarly inaccessible property. However, in this case the applicant can ask the neighboring property owner to make the necessary accommodations to view the ridgepole if the Board determines that it is necessary and warrants a deferral to confirm a finding that the proposed increased height will not have a “significant adverse impact on the view” as defined in Section 2.10 of the Zoning Ordinance. That language defines a view as follows: “a scenic vista of what can be seen from a property at ground level or from a first or second story beyond and above any existing tree line or the allowed maximum building height on an intervening property where a view is being evaluated. Examples of a view include but are not limited to parks, hillsides, open green spaces, golf courses, and a lake.”
- Regarding that finding, the Board should also remain mindful that the maximum height of a detached accessory building is also limited to the height of the existing residence, not just the maximum height listed in the zoning ordinance. Section 6.10(b)(5)(D) provides as follows: “The height of the accessory building shall not exceed the lesser of the height of the principal building or the maximum height specified in Table A, Table of Development Standards for any given zoning district, except in accordance with the provisions of Section 11.60 below” (the requirements for this application). Although attached by additions, Section 2.10 of Chapter 14 includes the following language: “A structure will be considered a detached accessory building rather than an addition or part of the principal building unless an intervening attachment consists of a fully enclosed, conditioned living space that is more than a mere corridor or hallway.” As such, the approval required by this application needs to reference the 4.95 feet of additional height above the existing residence, which equates to only 1.95 of additional height above the 18 feet permitted by Table A.
- To approve the request, the Board of Adjustment must also confirm a finding that there will be no significant adverse impact on the “architectural context of the surrounding neighborhood created by the proposed additional height.” In this case, the fact that the additions are consistent with the original residence would tend to preclude an adverse finding.

POTENTIAL ALTERNATIVE DECISIONS:

- A. Approve the request for additional height of 4.95 feet above the existing residence and 1.91 feet above the maximum of 18 feet permitted by the zoning ordinance.
- B. Approve a request for additional height as determined by the Board of Adjustment in their deliberations.
- C. Defer the request pending arrangements by the applicant to access the property and perhaps the neighbor’s property to evaluate the application considering the required ridgepole.
- D. Deny any request for additional height.

23-2604-SP-E

5017 Green Shore Circle

Attachment 1

Application



CITY OF LAGO VISTA • DEVELOPMENT SERVICES
5803 THUNDERBIRD STREET • P.O. BOX 4727 • LAGO VISTA, TX 78645

Tel. (512) 267-5259

Fax (512) 267-5265

NOTE: Applicants should seek legal advice concerning the applicability of any existing private covenants or deed restrictions and their ability to be enforced or waived by other specific property owners.

APPLICATION FOR SPECIAL EXCEPTION

Date submitted: _____ Fee: \$250.00

Applicant's name: Joe Berli

Applicant's mailing address: 5017 Green Shore Circle, Lago Vista TX 78645

Subject property address: Same as mailing

Applicant's email: joesberli@yahoo.com

Applicant's authorized representative (if any): _____

Applicant's phone numbers: 512-619-0369
Mobile _____ Day _____ Evening _____

Explain the nature or basis of the special exception request (attach additional pages if necessary)

Looking to build a four car garage approximately 25w x 48L/Deep
I'm wanting to have a second level storage loft for
car parts and old motorcycles. We would like to
get approximately 8 feet more above the 18 foot
currantly allowed. There should be no view
obstruction from any neighboring areas.

Highest existing grade elevation on the property: 732'
(above MSL, use 723' if property is in the 100-year flood plain)

Primary finish first floor elevation: 725.33'
(above MSL or relative to the highest existing grade elevation)

Elevation of highest ridge or peak: 751.91'
(above MSL or relative to the highest existing grade elevation)

NOTE: Applications must be complete including all applicable portions of this form, payment of fees and all required drawings or documentation. All applications are accepted provisionally pending inspection of the required ridgepole. See attached ordinance provisions.

Joe S Berli
Applicant's signature(s)

Date

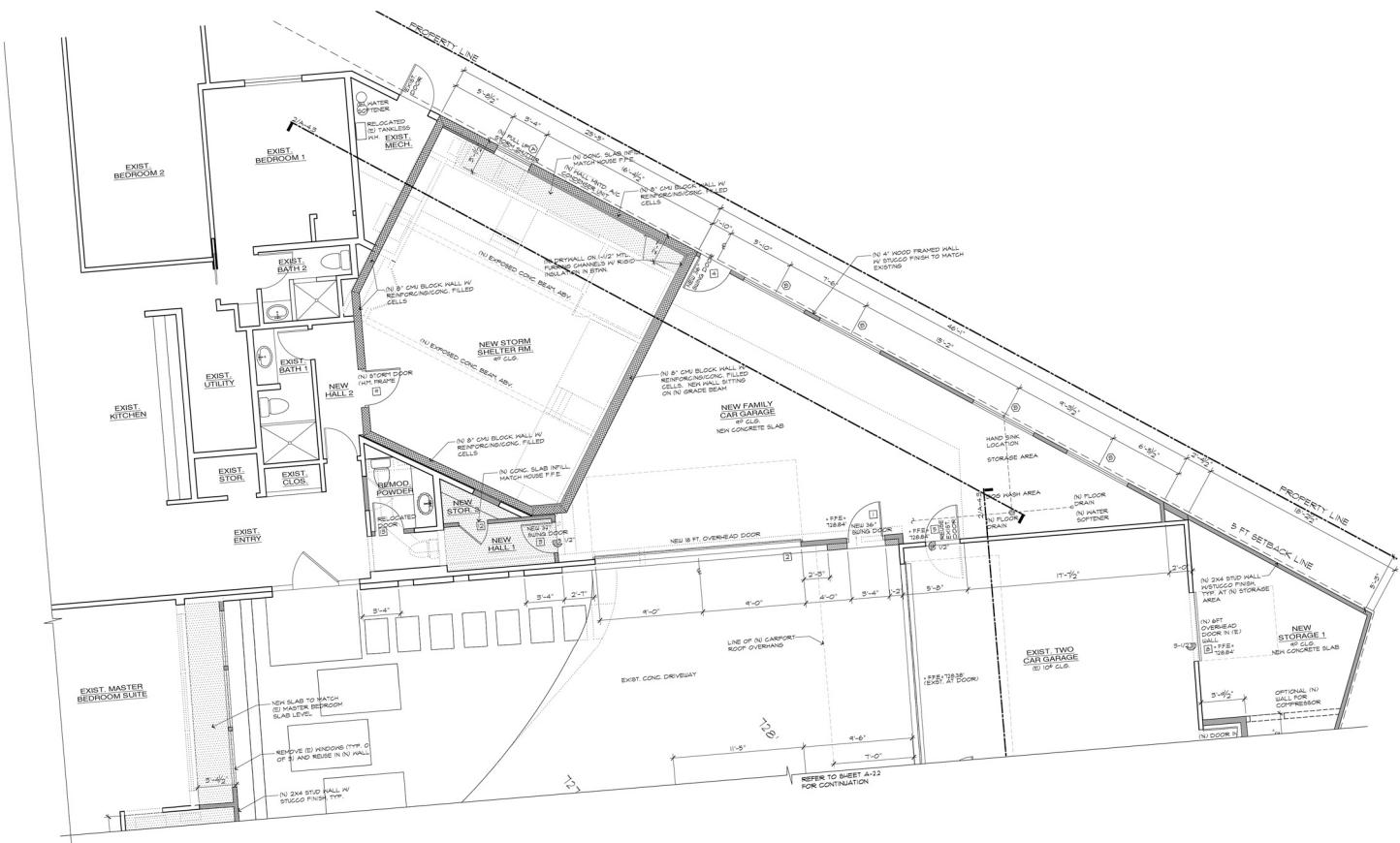




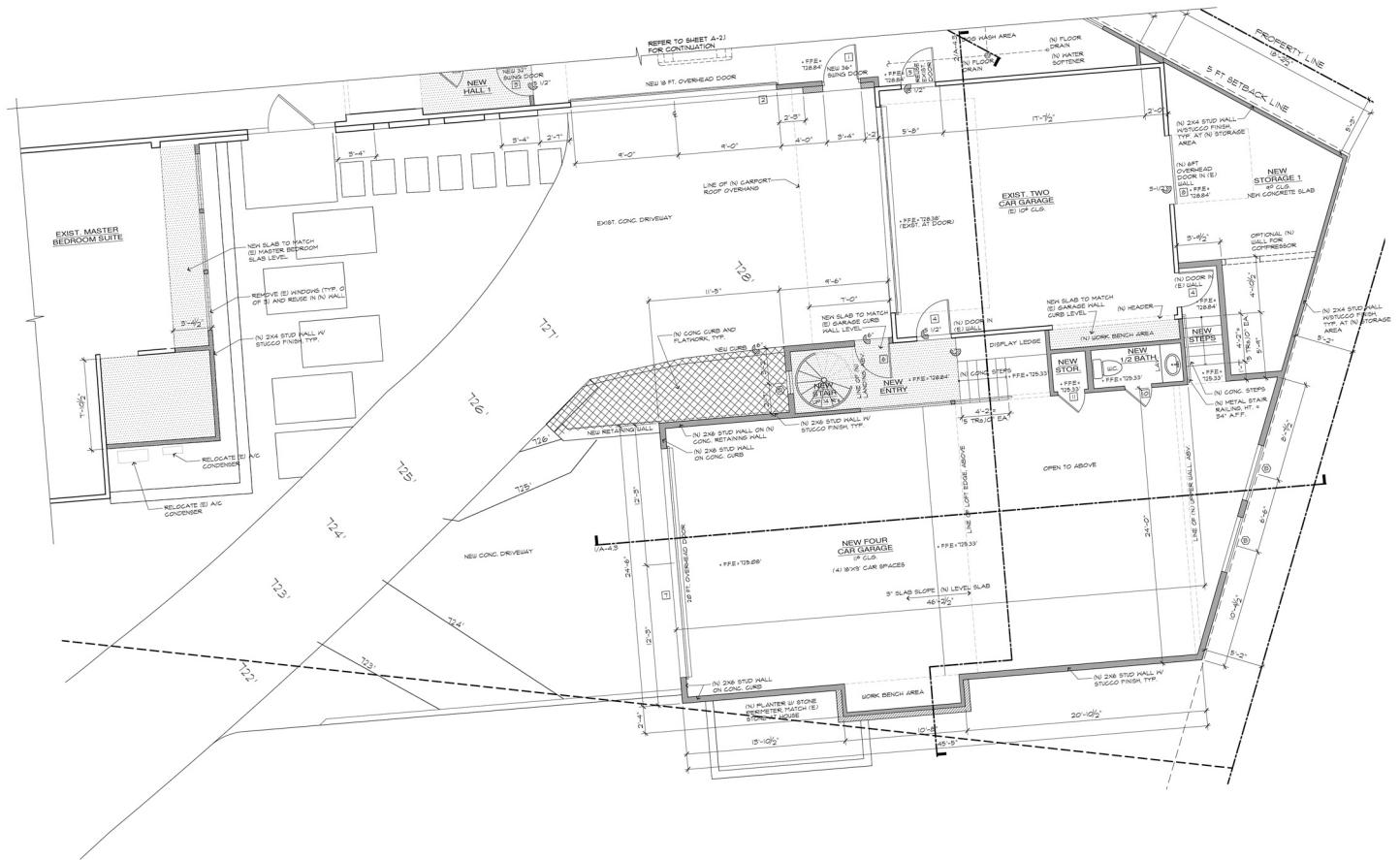


23-2604-SP-E
5017 Green Shore Circle

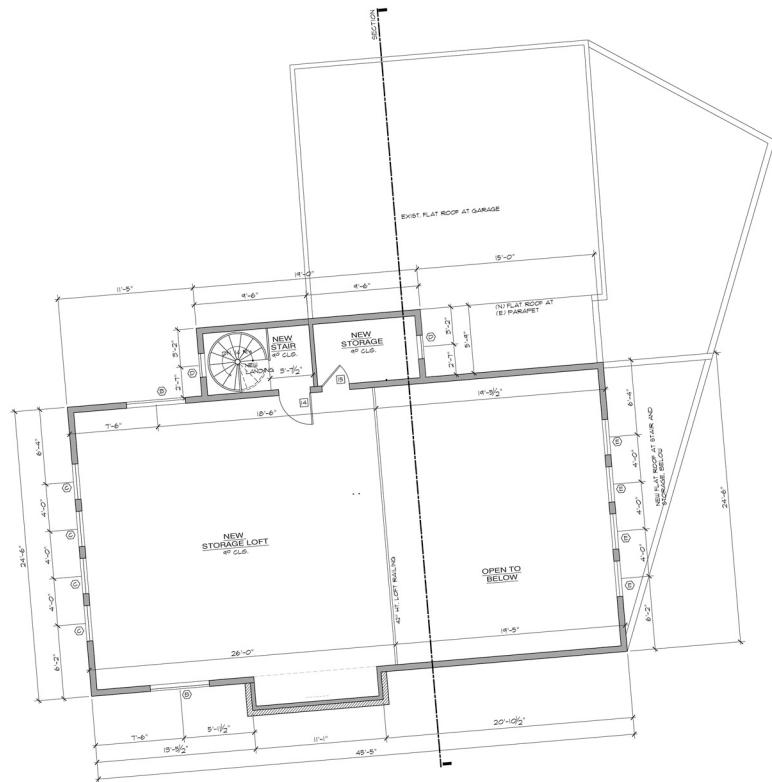
Attachment 2
Site, Floor and Roof Plans



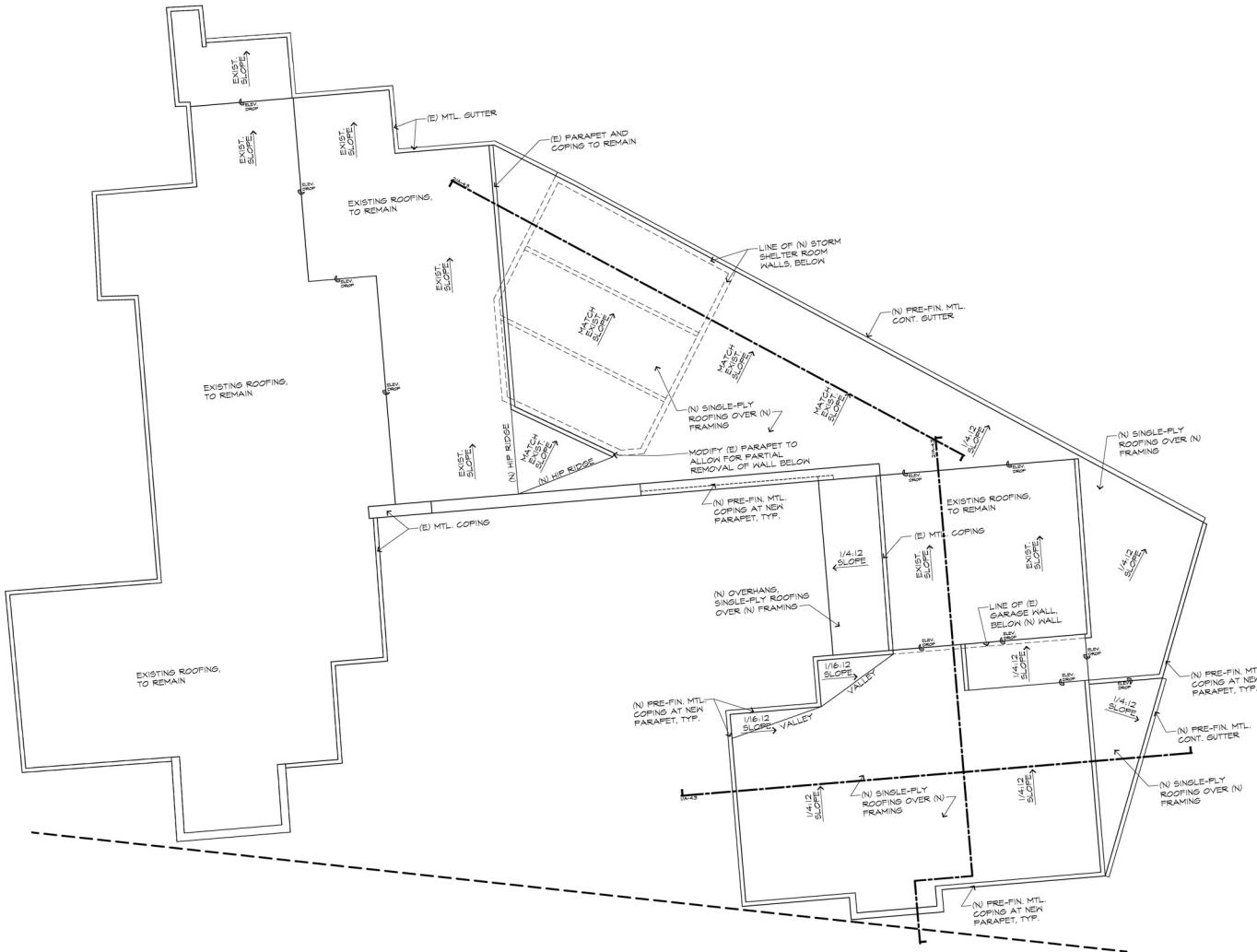
 1st FLOOR PLAN - NORTH PORTION
 1/4" = 1'-0" (1/8" = 1'-0" ON 11 X 17 SHEET)
 NORTH



 **2** 1st FLOOR PLAN - SOUTH PORTION
 NORTH 1/4" = 1'-0" (1/8" = 1'-0" ON 11 X 17 SHEET)



 1 2ND FLOOR PLAN
NORTH 1/4" = 1'-0" (1/8" = 1'-0" ON 11 X 17 SHEET)



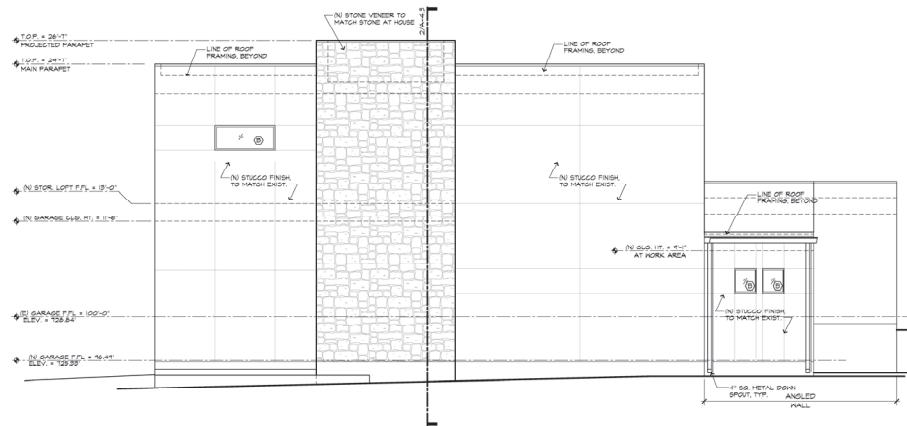
1 ROOF PLAN

八九

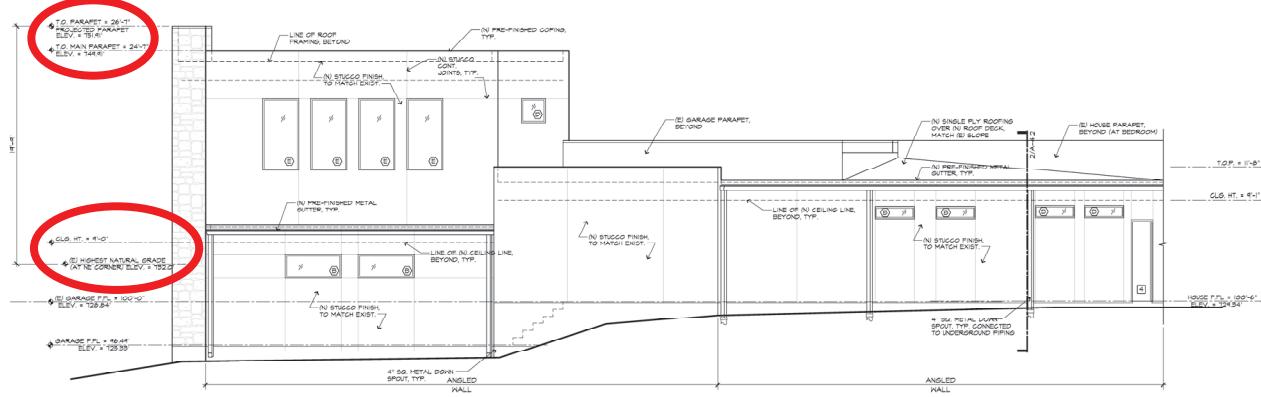
1) ROOF PLAN

23-2604-SP-E
5017 Green Shore Circle

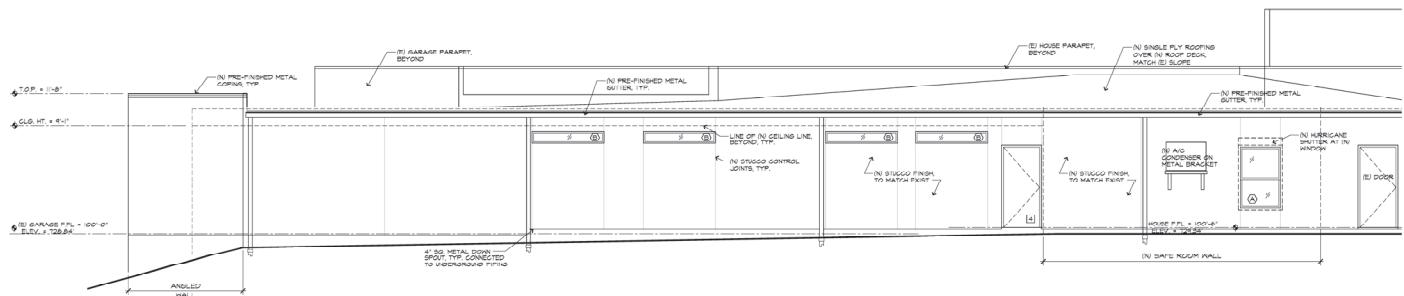
Attachment 3
Building Elevations and Sections



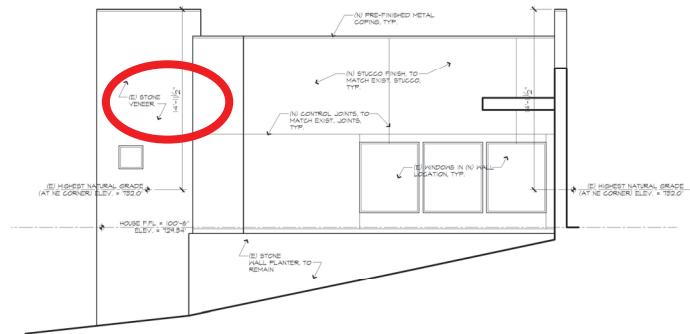
South Elevation at New Garage



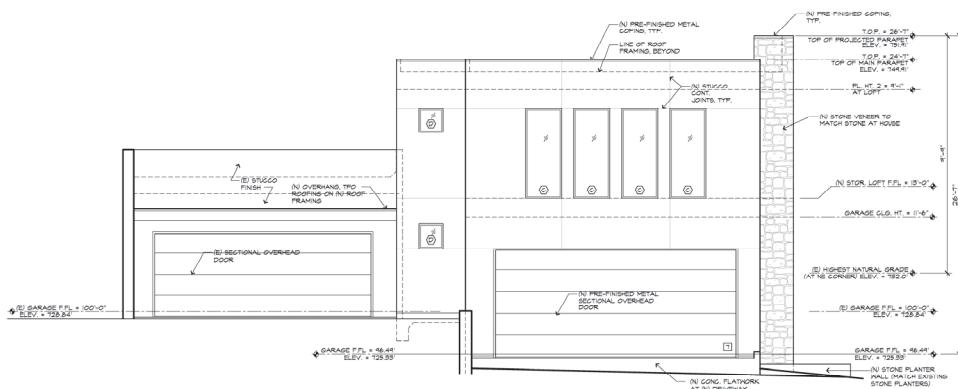
East Elevation at New Garage and Storage



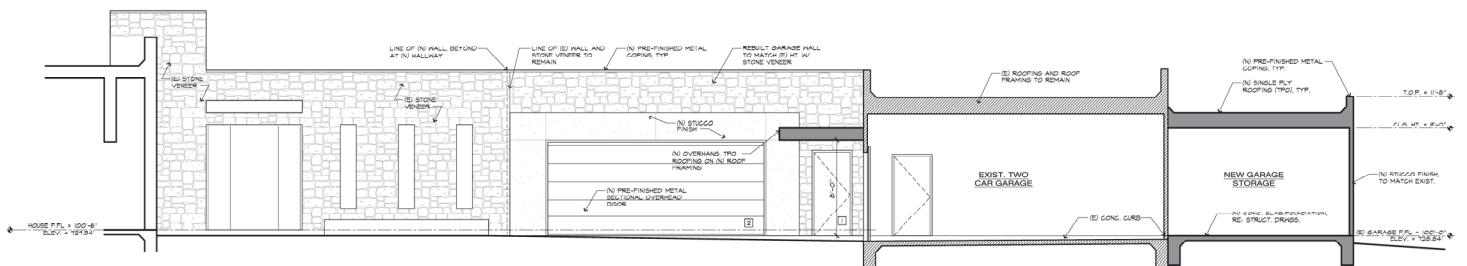
North Elevation at New Infill Garage and Storage



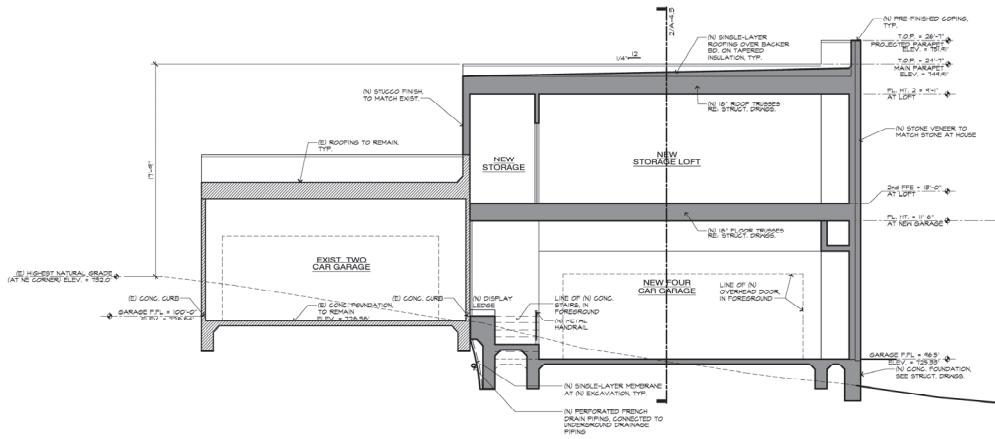
East Elevation at Existing Residence



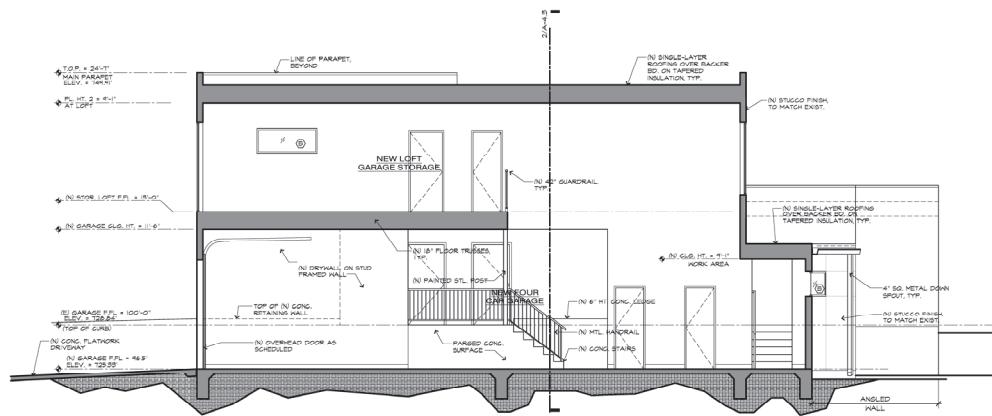
West Elevation at New Garage



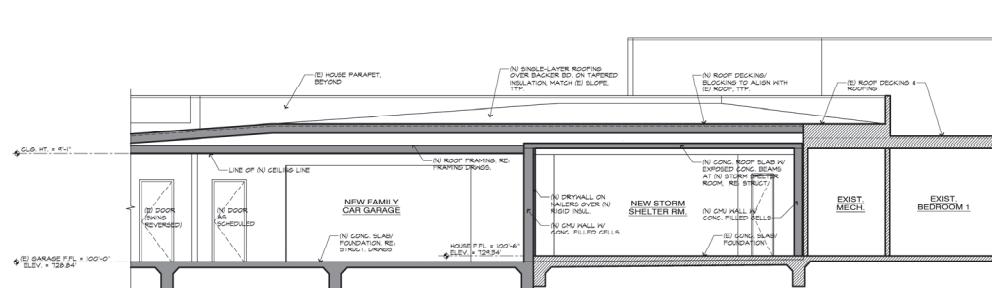
East Elevation at Infill Garage and Storage



Building Section North to South



Building Section West to East



Building Section East to West at Storm Shelter

23-2604-SP-E
5017 Green Shore Circle

Attachment 4

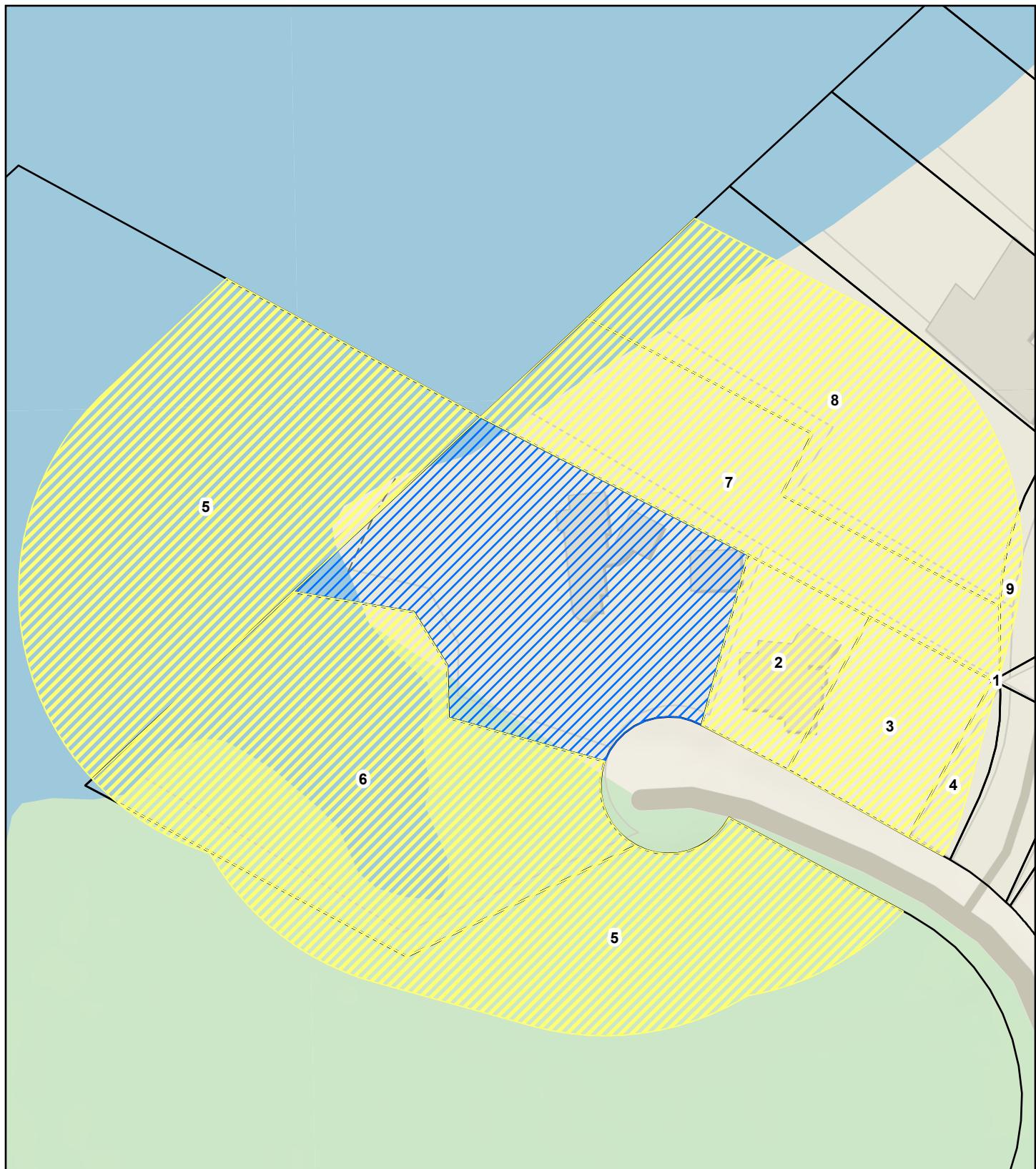
Maps



Requetor	5017 Green Shore Circle			N
TenFootContour	Request Type	Special Exception	Project	
10 ft			23-2604-SP-E	
50 ft	Change Requested	Height Increase	Date	3/20/2024
	Map Purpose	Aerial / Topography	Drawn By	D Avetian
Coordinate System: NAD 1983 CORS96 StatePlane Texas Central FIPS 4203 Ft US				
0 45 90 US Feet		0 15 30 Meters		

23-2604-SP-E
5017 Green Shore Circle

Attachment 5
Notice Comments



Notification Boundary
 Requestor
 TCAD Parcels

5017 Green Shore Circle

Request Type	Special Exception	Project	23-2604-SP-E
Change Requested	Height Increase	Date	3/20/2024
Map Purpose	Notification Boundary	Drawn By	D Avetian

Coordinate System: NAD 1983 StatePlane Texas Central FIPS 4203 Feet



0 45 90 US Feet
 0 15 30 Meters



Notice of Public Hearing

CITY OF
LAGO VISTA
TEXAS

Project #: 23-2604-SP-E

Hearing Date and Time: Monday April 15, 2024, at 6:30 PM in the Council Chambers at City Hall, 5803 Thunderbird St., Lago Vista, Texas

Project Property Location: 5017 Green Shore Circle (Dunham Acres, Lot 1A).

200' Notification Mailing ID: 3

March 28, 2024

LIVE OAK INVESTMENTS LLC
2906 QUAIL RUN
ROUND ROCK, TX 78681

The Lago Vista Board of Adjustment will hold a Public Hearing for Consideration of a special exception request pursuant to Section 1160(d) of Chapter 14 to allow an increase in height of 4.95 feet above the height of the existing principal residence and 1.91 feet above the height permitted in the zoning district for an accessory garage as well as an increase in the maximum number of accessory structures otherwise permitted by Section 6.10 of Chapter 14 at 5017 Green Shore Circle (Dunham Acres, Lot 1A).

For additional information, please contact us and include the above highlighted project number with all inquiries:

E-mail: development@lagovistatexas.gov
Phone Number: 512-267-5259

Please return your comments as soon as possible. Individuals who do not own property within the notification boundary or those unable to deliver written comments must attend the public hearing to provide input. **Please note that unexplained support or opposition is less useful to the voting members than comments with context and a specific basis.**

In Favor

Opposed

Comments:

This could negatively impact our property value and those around us. Will likely block neighbor and my view ultimately, reducing our value.

Signed:

Todd Massey

This **whole page** may be returned as follows:

E-mail: development@lagovistatexas.gov
Postal Address: City of Lago Vista, Development Services,
P.O. Box 4727, Lago Vista, TX, (U.S.A.) 78645
In Person at Front Counter: Development Services, Lago Vista City Hall,
Located at 5803 Thunderbird St.



Item Cover Page

BOARD OF ADJUSTMENT AGENDA ITEM REPORT

DATE: May 6, 2024

SUBMITTED BY: Roy Jambor, Development Services

SUBJECT: **23-2613-SP-E:** Consideration of a special exception application pursuant to Section 11.60 of Chapter 14 to allow an increase in the maximum height allowed by Table A of Chapter 14 from 18 feet to 21 feet for a single-family residence at 3603 High Mountain Drive (Country Club Estates, Section 8, Lot 1696).

Note: This application was deferred, and the public hearing continued at the April 15, 2024, special call meeting of the Board of Adjustment.

- Staff Presentation
- Applicant Presentation
- Continue Public Hearing
- Close Public Hearing
- Discussion
- Decision

ATTACHMENTS:

[23-2613-SP-E.pdf](#)

LAGO VISTA BOARD OF ADJUSTMENT
STAFF LAND USE REPORT – MAY 6, 2024



BOA CASE NO:	23-2613-SP-E: 3603 High Mountain Drive
APPLICANT:	Two B Design Store LLC (Susan Beltran)
LANDOWNER:	Wendell C. and Lucinda Trout Gill
LOCATION:	NW side of High Mountain Dr. ± 250' SE of Mount Laurel Rd.
ZONING:	R-1S (18C): 18-foot maximum height
PROPOSED USE:	Single-family residence 3 feet above height limit

UPDATE:

- Consideration of this application was deferred by the Board of Adjustment at their special call meeting on April 15. The purpose of the deferral was to give the applicant's representative the opportunity to submit the far more complete application materials that were on his phone and shared with the members during the meeting.
- In preparing that material for inclusion in this packet, it became apparent to our staff that the floor plans and building elevations were inconsistent with the site plan originally submitted. We therefore requested an updated site plan that accurately shows the amendments. It was received in a timely manner and is included in the updated materials immediately following this staff report update.
- The written comment received during the meeting on April 15 has also been added to the packet.

POTENTIAL ALTERNATIVE DECISIONS:

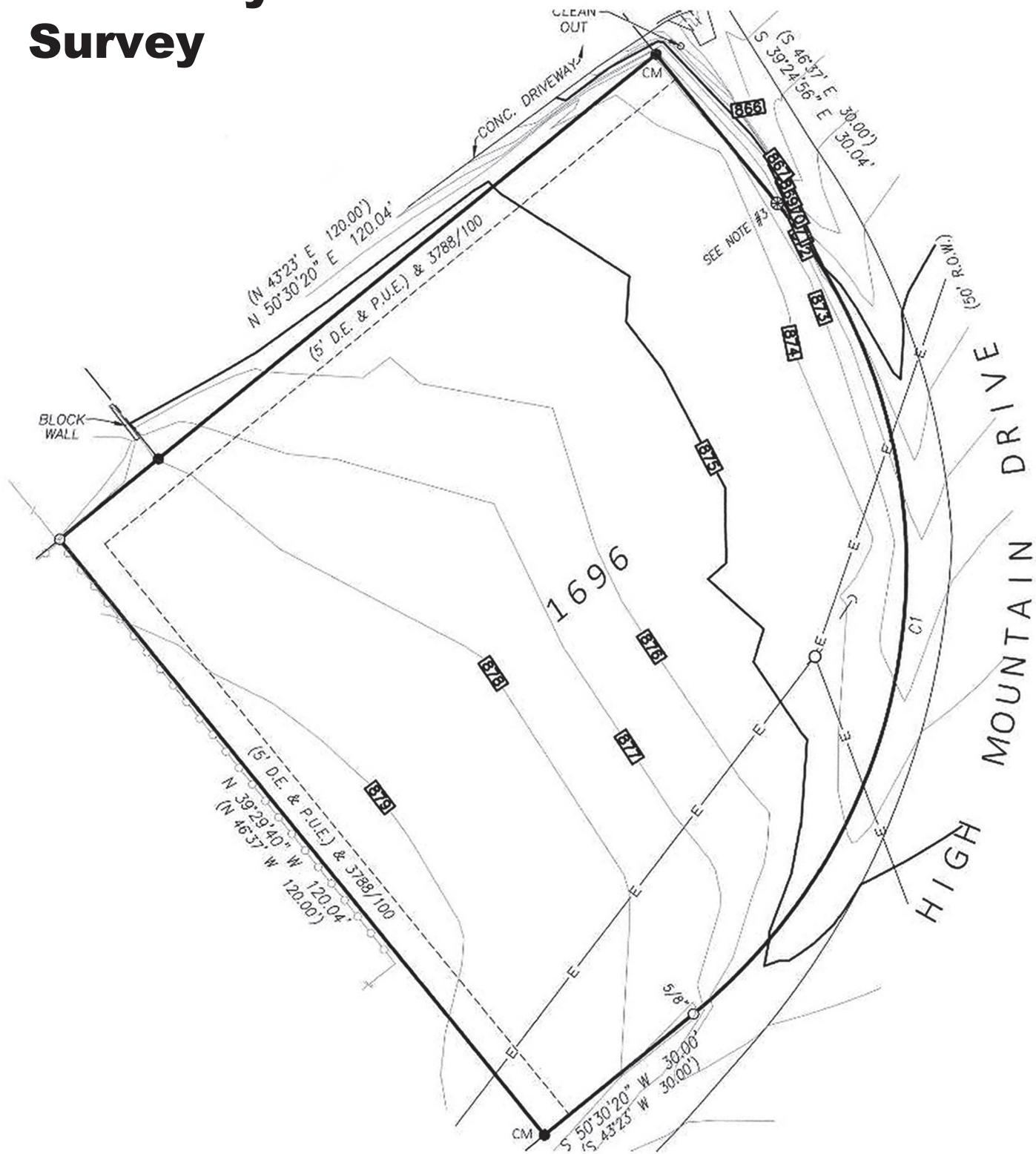
- A. Approve the request for 3 feet of additional height.
- B. Approve a request for a less amount of additional height as determined by the Board of Adjustment in their deliberations.
- C. Deny any request for additional height as being inconsistent with the "architectural context of the surrounding neighborhood created by the proposed additional height."

23-2613-SP-E
3603 High Mountain Drive

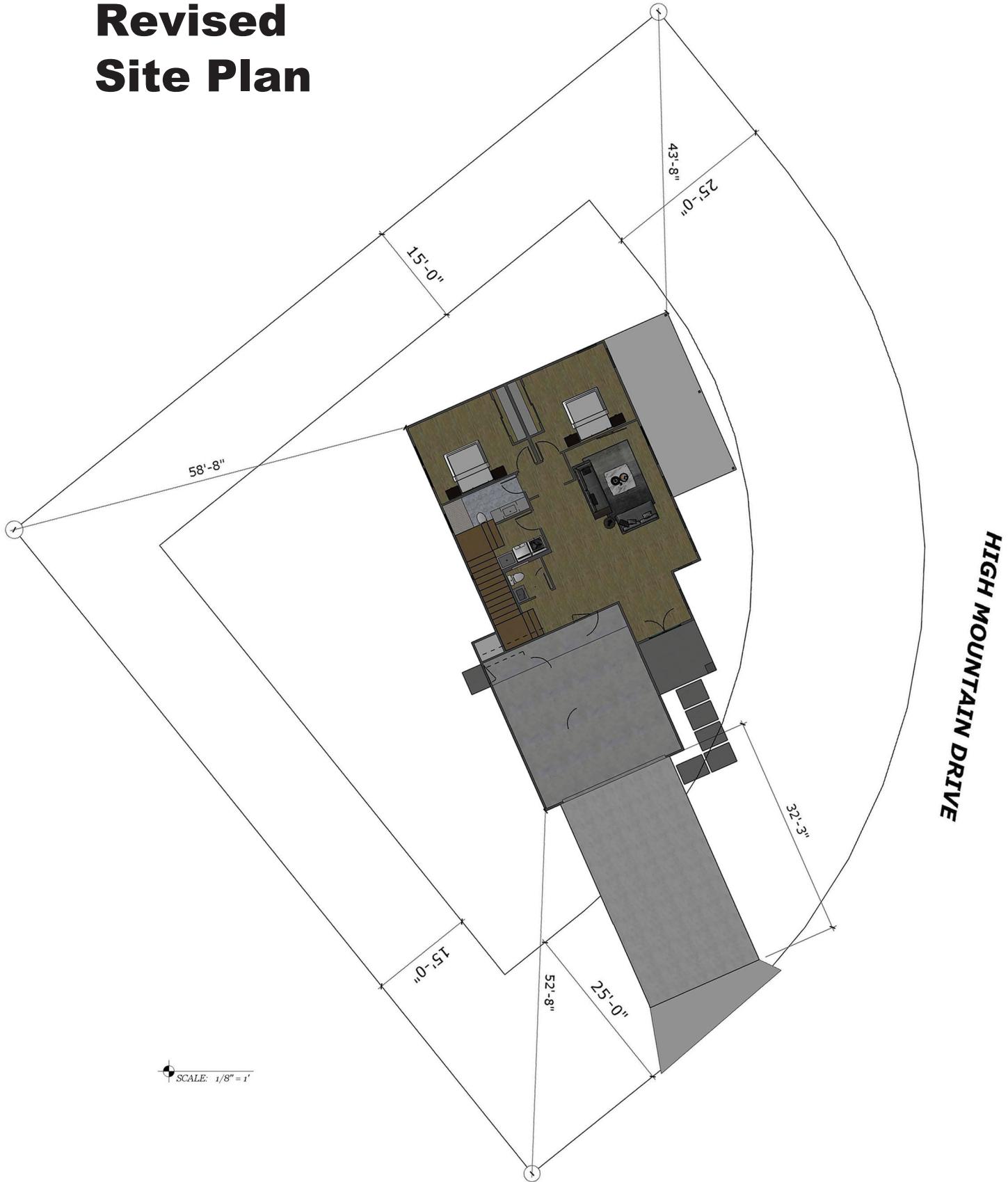
Updated Application Materials

Site Plan, Floor Plans, Building Elevations & Renderings

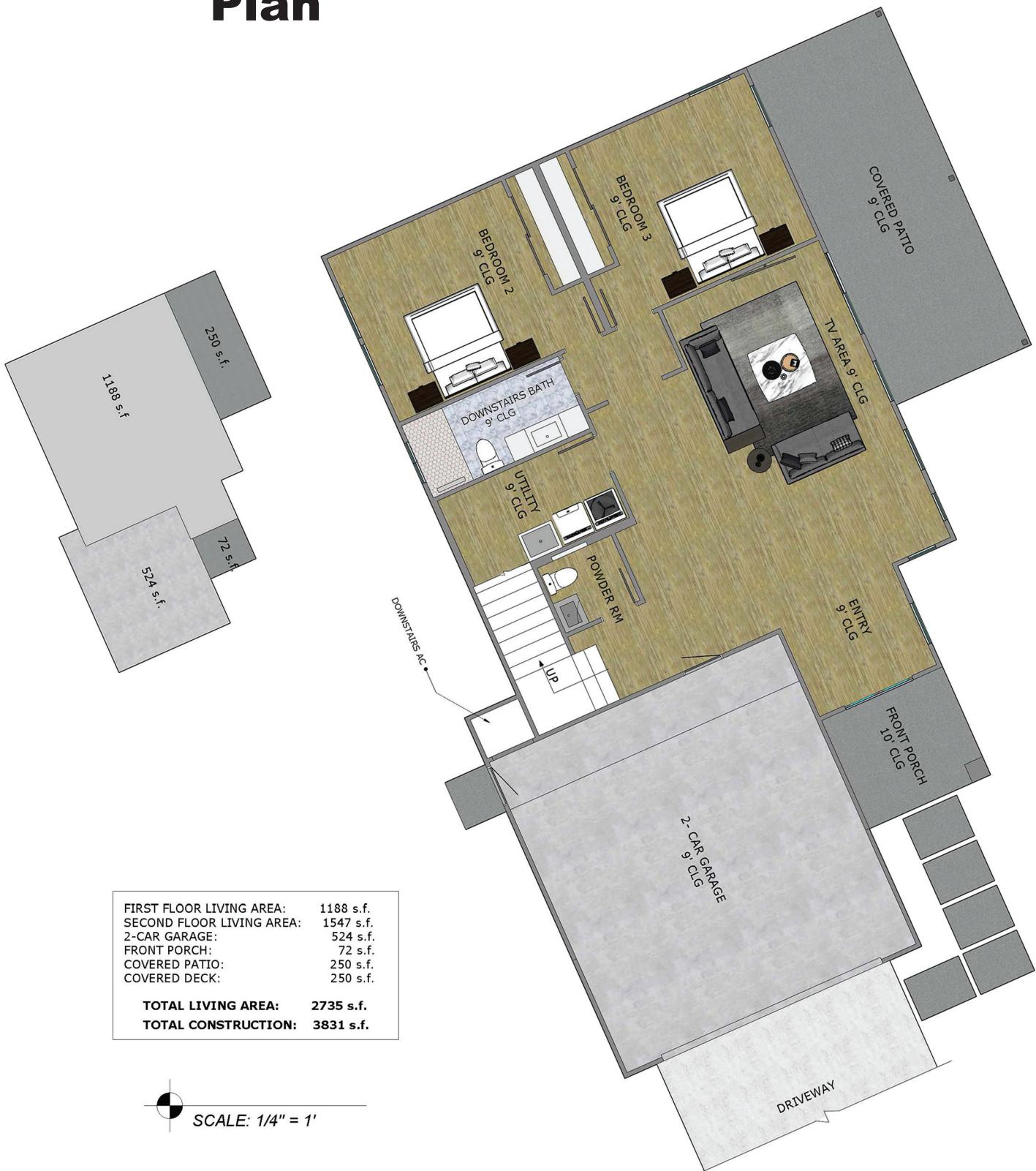
Topographic / Boundary Survey



Revised Site Plan



First Floor Plan



Second Floor Plan



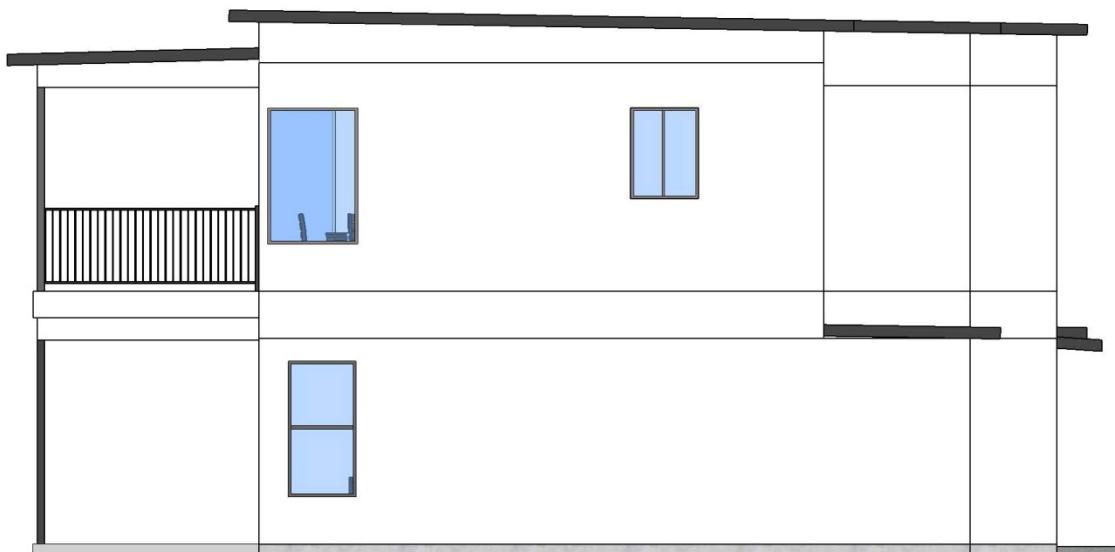
FIRST FLOOR LIVING AREA:	1188 s.f.
SECOND FLOOR LIVING AREA:	1547 s.f.
2-CAR GARAGE:	524 s.f.
FRONT PORCH:	72 s.f.
COVERED PATIO:	250 s.f.
COVERED DECK:	250 s.f.

TOTAL LIVING AREA: 2735 s.f.
TOTAL CONSTRUCTION: 3831 s.f.

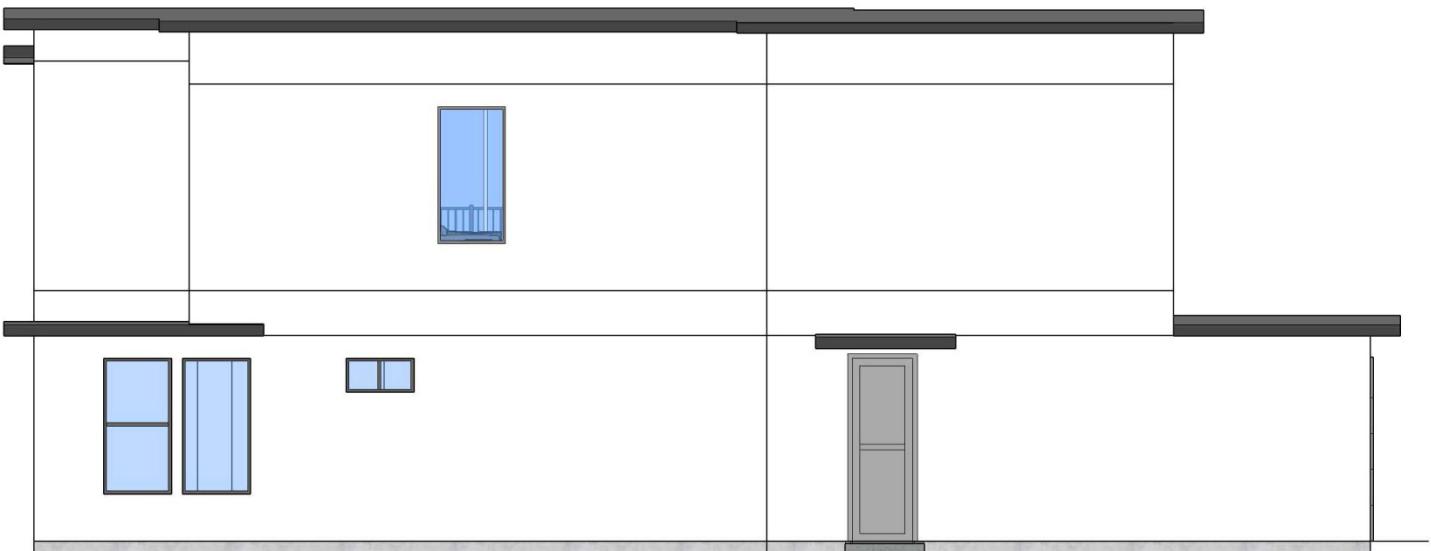
SCALE: 1/4" = 1'



Front (South) Elevation



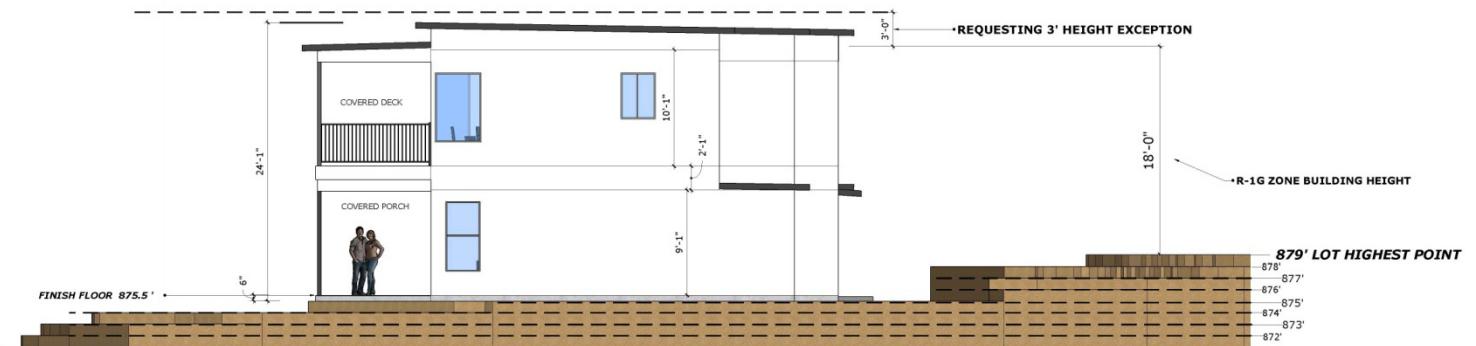
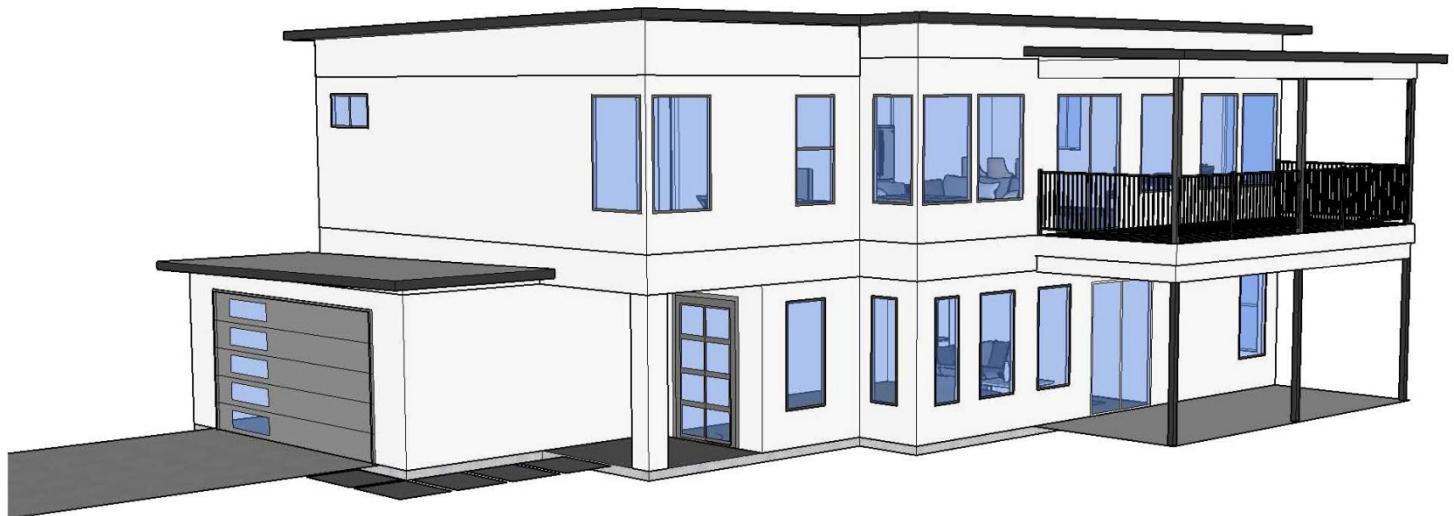
Rear (North) Elevation



Left (West) Elevation



Right (East) Elevation



Site Section / Rear (North) Elevation

SCALE : 1/4" = 1"



LAGO VISTA BOARD OF ADJUSTMENT
STAFF LAND USE REPORT – APRIL 15, 2024



BOA CASE NO:	23-2613-SP-E: 3603 High Mountain Drive
APPLICANT:	Two B Design Store LLC (Susan Beltran)
LANDOWNER:	Wendell C. and Lucinda Trout Gill
LOCATION:	NW side of High Mountain Dr. ± 250' SE of Mount Laurel Rd.
ZONING:	R-1S (18C): 18-foot maximum height
PROPOSED USE:	Single-family residence 3 feet above height limit

GENERAL INFORMATION / LOCATION:

- High Mountain Drive is located east of Lake Travis and south of Arrowhead Park. It is also southwest of the second green of the Lago Vista Golf Course. It consists of a loop that begins and ends on each side of three lots that front on the south side of Mount Laurel Road. The municipal addresses of those three lots are 3609 Mount Laurel Road, 3611 Mount Laurel Road, and 3600 High Mountain Drive.
- The subject property is on the outside of this loop and shares a rear property line with an existing residence located at 3603 Mount Laurel Road. Although there are some vacant lots in the area, it is generally more developed than most of what is commonly referred to as “old Lago.” If a residence is constructed at this location, the only remaining vacant lot that could be seen from this property is directly across the street at 3606 High Mountain Drive.
- The narrative on the application form requests approval for 3 feet of additional height in order to raise the finish first floor level 18 inches. I am not sure I understand why raising the slab a certain distance will result in an increased height of exactly twice that distance. Moreover, the alleged purpose is “better drainage,” an outcome that is perhaps only desirable rather than essential.

SITE PLAN / CONTEXT CONSIDERATIONS:

- Furthermore, that reference to 18 inches on the application form might be a simple error as it is not reflected in any obvious way in the balance of the submittal. The required “depiction” of the proposed additional height is simply a line on the building elevations that is 3 feet above the height shown in the “conceptual” building elevation. What it presumably indicates is a desire to place “borrowed fill material” on the site in order to maintain the bottom of the slab (absent the depth of the beams that are not depicted) at a level equivalent to highest existing grade on the lot. The property is already higher than the adjacent street, a problem that many residential lots in “old Lago” are required to negotiate. It is the task of the Board to determine whether the “desire” is warranted in light of the findings required for approval.
- In addition, the topographic map provided by the staff (no such information was supplied by the applicant) would tend to suggest that the depiction of the additional height has an orientation that is consistent only with the rear property line. As the property naturally slopes in at least one, if not both directions, it would seem practical to simply ensure that the existing natural drainage pattern is diverted around the residence through the rear yard setback and parallel to the proposed driveway. While perhaps less than optimal in comparison to a residence that is placed on a three-foot mound of fill material, it would only be difficult if that type of effort would require milling of subsurface stone rather than mere grading of some of the property. Unfortunately, a visit to the project location confirms that the inability to grade the site in a meaningful way is a very real possibility as subsurface stone is visible on portions of the lot.
- There have been two previous special exception applications in the vicinity of the subject property. A request for an increase in height to from 18 feet to 21.26 feet at 3613 High Mountain Drive was approved by the Planning and Zoning Commission on October 13, 2022 during consideration of Case Number 22-2218-SP-E. Although an increase from 18 feet to 18.75 feet was approved at

21657 High Drive by the Planning and Zoning Commission on May 23, 2019 during consideration of Case Number 19-1423-SP-E, the residence that was later constructed at that location did not avail itself of that approval. Instead it was constructed to a height that was almost a foot less than permitted by Table 'A' of Chapter 14.

RELEVANT ORDINANCE PROVISIONS / COMPREHENSIVE PLAN CONSIDERATIONS:

- Nonetheless, the only property that would seemingly have its view as defined in Section 2.10 of Chapter 14 is notification ID 9. That provision defines "view" as follows: "a scenic vista of what can be seen from a property at ground level or from a first or second story beyond and above any existing tree line or the allowed maximum building height on an intervening property where a view is being evaluated. Examples of a view include but are not limited to parks, hillsides, open green spaces, golf courses, and a lake." It is also questionable whether the relatively minor amount of additional height would have a significant impact on the view of the lake from that property as the side of that existing residence will typically not provide a view over the top of an 18-foot structure, as it is only approximately five feet higher than the subject property.
- Unfortunately, the current procedures preclude the ability to include a response from that property in the published version of the packet. The staff will of course ensure that the Board is provided copies of any comments we receive up until the time of the public hearing. However, approval is still permissible with a finding that the impact is not "significantly adverse." Even the lack of opposition will also need to be carefully evaluated as it does not relieve the Board from the responsibility of the required finding of no "significant adverse impact" to those properties.
- In addition to a finding that the proposed increased height will not have a "significant adverse impact on the view," an approval by the Board of Adjustment also requires a finding that there will be no significant adverse impact on the "architectural context of the surrounding neighborhood created by the proposed additional height." There are almost new residences in the area that do not include a pitched roof. There are also very few multilevel residences in the area other than those that include a garage below the main level because of the slope of the lot.
- The exception is a "full" two-story residence located at 3608 High Mountain Drive which is adjacent to the vacant lot that is directly opposite the subject property. It will be up to the Board to determine whether the proposal is consistent with the surrounding "architectural context" while remaining mindful of the fact that it is referring to the impact of the additional height rather than what might be viewed as the "architectural style." Unfortunately, the lack of more complete drawings such as all four building elevations or even floor plans that show which portions of the building footprint includes a second floor level make that determination more difficult.

POTENTIAL ALTERNATIVE DECISIONS:

- A. Defer consideration of the application pending receipt about more information to support the required conclusion that there is no significant adverse impact on the "architectural context of the surrounding neighborhood created by the proposed additional height."
- B. Approve the request for 3 feet of additional height.
- C. Approve a request for additional height as determined by the Board of Adjustment in their deliberations.
- D. Deny any request for additional height.

23-2613-SP-E
3603 High Mountain Drive

Attachment 1

Application



CITY OF LAGO VISTA • DEVELOPMENT SERVICES
5803 THUNDERBIRD STREET • P.O. BOX 4727 • LAGO VISTA, TX 78645

Tel. (512) 267-5259

Fax (512) 267-5265

NOTE: Applicants should seek legal advice concerning the applicability of any existing private covenants or deed restrictions and their ability to be enforced or waived by other specific property owners.

APPLICATION FOR SPECIAL EXCEPTION

Date submitted: 3/8/2024

Fee: \$250.00

Applicant's name: Two B Design store LLC

Applicant's mailing address: 20303 Bear Rd, Lago Vista TX 78645

Subject property address: 3603 High Mountain Dr

Applicant's email: Sandra Beltrán

Applicant's authorized representative (if any): Roberto Ruiz A. - Custom Homes 360 LLC

Applicant's phone numbers: 713.458.0137 N/A N/A
Mobile Day Evening

Explain the nature or basis of the special exception request (attach additional pages if necessary)

Due to the topography of the lot it will be recommended to raise the finished floor 18 inches from ground for better drainage purposes.

Highest existing grade elevation on the property: N/A 879

(above MSL, use 723' if property is in the 100-year flood plain)

Primary finish first floor elevation: 875
(above MSL or relative to the highest existing grade elevation)

Elevation of highest ridge or peak: 900
(above MSL or relative to the highest existing grade elevation)

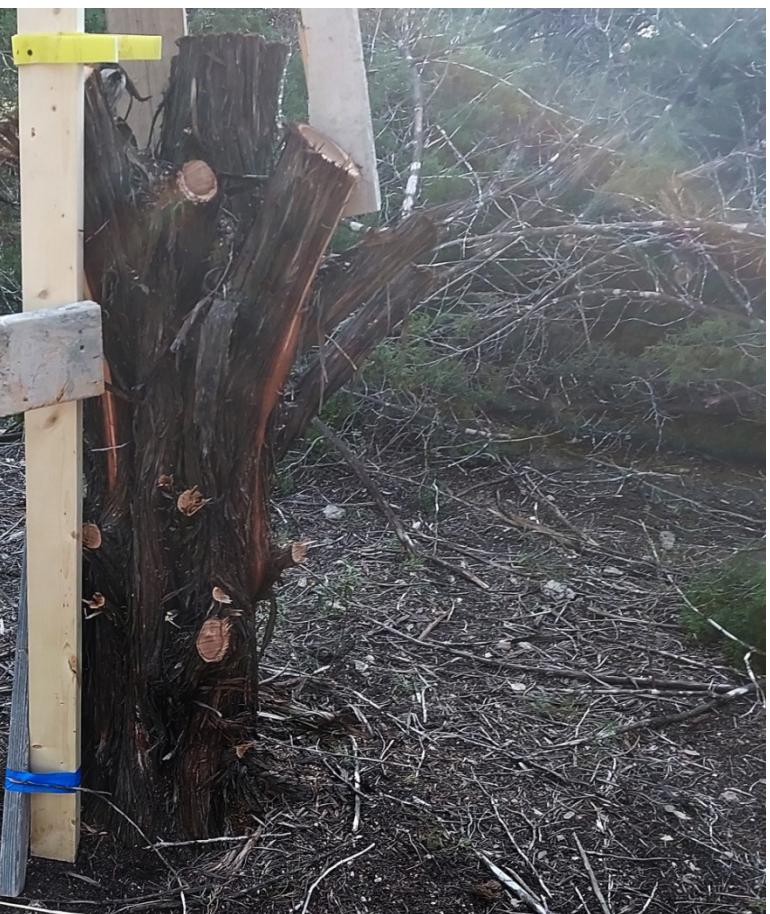
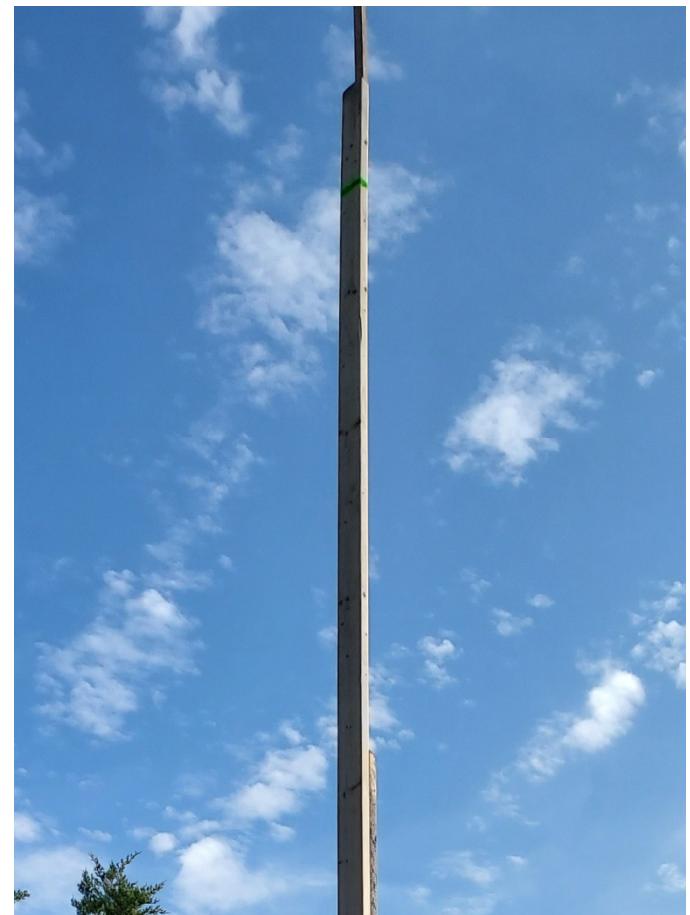
NOTE: Applications must be complete including all applicable portions of this form, payment of fees and all required drawings or documentation. All applications are accepted provisionally pending inspection of the required ridgepole. See attached ordinance provisions.

Sandra Beltran

3/7/2024

Applicant's signature(s)

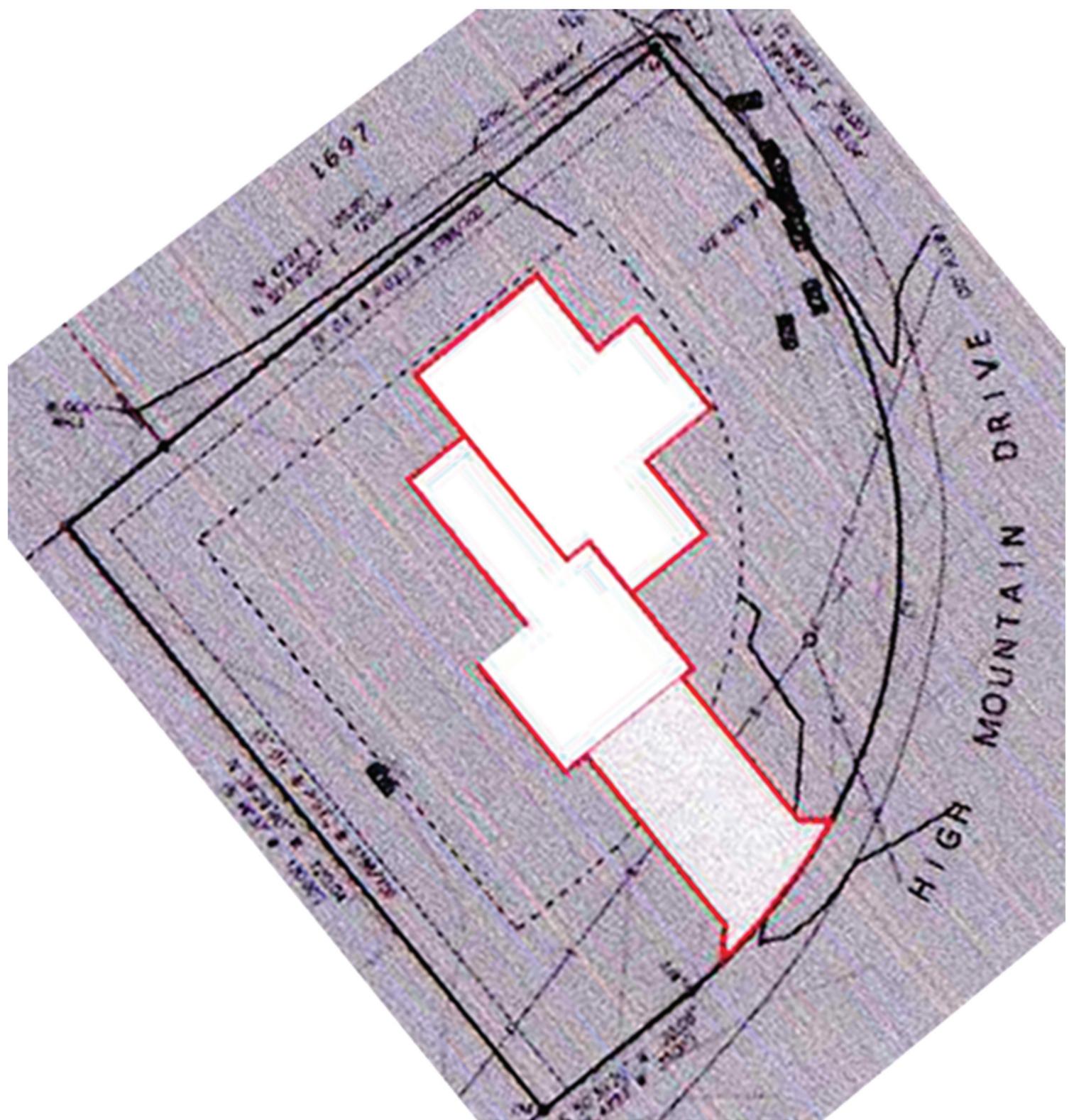
Date



23-2613-SP-E
3603 High Mountain Drive

Attachment 2

Site Plan

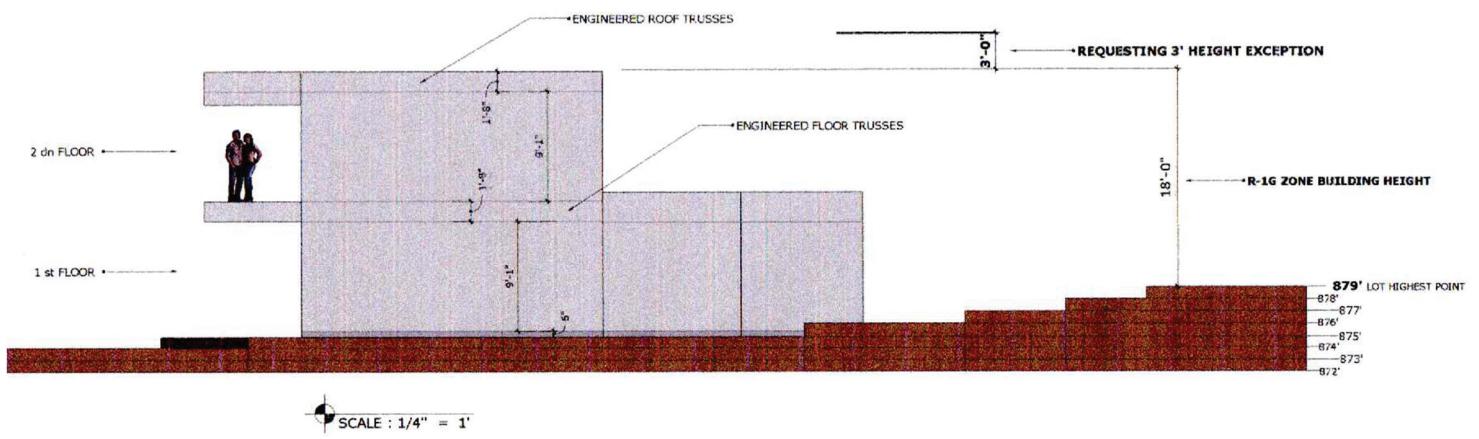


Site Plan

23-2613-SP-E
3603 High Mountain Drive

Attachment 3
Conceptual Building Elevation

Conceptual Building Elevation



23-2613-SP-E
3603 High Mountain Drive

Attachment 4

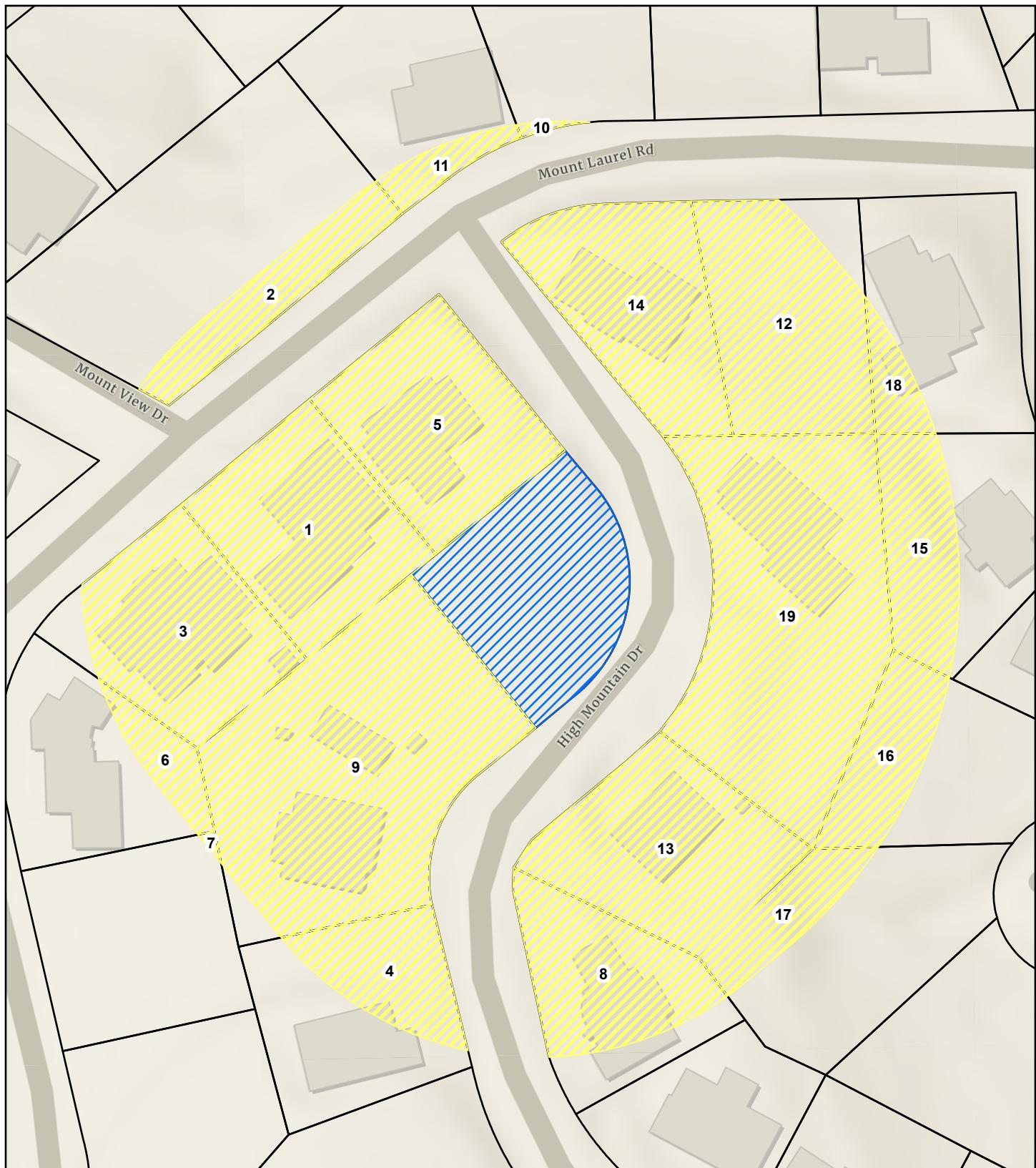
Maps



TenFootContour — 10 ft — 50 ft ■ Requestor	3603 High Mountain Drive				N  0 40 80 US Feet 0 15 30 Meters
	Request Type	Special Exception	Project	23-2613-SP-E	
	Change Requested	Height Increase	Date	3/20/2024	
	Map Purpose	Aerial / Topography	Drawn By	D Avetian	
	Coordinate System: NAD 1983 StatePlane Texas Central FIPS 4203 Feet				

23-2613-SP-E
3603 High Mountain Drive

Attachment 5
Notice Comments



[Yellow Hatched Box] Notification_Boundary

[Blue Hatched Box] Requestor

[White Box] TCAD Parcels

3603 High Mountain Drive

Request Type	Special Exception	Project
Change Requested	Height Increase	23-2613-SP-E
Map Purpose	Notification Boundary	Drawn By
Coordinate System: NAD 1983 StatePlane Texas Central FIPS 4203 Feet		

Request Type	Special Exception	Project
Change Requested	Height Increase	23-2613-SP-E
Map Purpose	Notification Boundary	Drawn By
Coordinate System: NAD 1983 StatePlane Texas Central FIPS 4203 Feet		

Request Type	Special Exception	Project
Change Requested	Height Increase	23-2613-SP-E
Map Purpose	Notification Boundary	Drawn By
Coordinate System: NAD 1983 StatePlane Texas Central FIPS 4203 Feet		

Request Type	Special Exception	Project
Change Requested	Height Increase	23-2613-SP-E
Map Purpose	Notification Boundary	Drawn By
Coordinate System: NAD 1983 StatePlane Texas Central FIPS 4203 Feet		



0 40 80
US Feet
0 15 30
Meters



Notice of Public Hearing

CITY OF
LAGO VISTA
TEXAS

Project #: 23-2613-SP-E

Hearing Date and Time: Monday April 15, 2024, at 6:30 PM in the Council Chambers at City Hall, 5803 Thunderbird St., Lago Vista, Texas

Project Property Location: 3603 High Mountain Drive (Country Club Estates, Section 8, Lot 1696).

200' Notification Mailing ID: 8

March 28, 2024

ADASHEFSKI DOUGLAS A & MARIA ZORINA ADASHEFSKI
3610 HIGH MOUNTAIN DR
LAGO VISTA, TX 78645

The Lago Vista Board of Adjustment will hold a Public Hearing for Consideration of a special exception application pursuant to Section 11.60 of Chapter 14 to allow an increase in the maximum height allowed by Table A of Chapter 14 from 18 feet to 21 feet for a single-family residence at 3603 High Mountain Drive (Country Club Estates, Section 8, Lot 1696).

For additional information, please contact us and include the above highlighted project number with all inquiries:

E-mail: development@lagovistatexas.gov
Phone Number: 512-267-5259

Please return your comments as soon as possible. Individuals who do not own property within the notification boundary or those unable to deliver written comments must attend the public hearing to provide input. Please note that unexplained support or opposition is less useful to the voting members than comments with context and a specific basis.

In Favor Opposed

Comments:

We are fully opposed to homes that are taller than currently allowed because it takes away from the natural landscape, Lago Vista has
Signed: Douglas Adashefski and maria Zorina Adashefski

This whole page may be returned as follows:

E-mail: development@lagovistatexas.gov
Postal Address: City of Lago Vista, Development Services,
P.O. Box 4727, Lago Vista, TX, (U.S.A.) 78645
In Person at Front Counter: Development Services, Lago Vista City Hall,
Located at 5803 Thunderbird St.

Let's protect Lago Vista views!



Item Cover Page

BOARD OF ADJUSTMENT AGENDA ITEM REPORT

DATE: May 6, 2024

SUBMITTED BY: Roy Jambor, Development Services

SUBJECT: **23-2632-VAR:** Consideration of a variance application to allow an encroachment in the minimum required rear yard setback otherwise required by Sections 2.10, 4.20(c), 5.40 and Table A of Chapter 14 of approximately 10 feet for a deck approximately 5 feet above adjacent grade and the required 4-foot minimum required barrier enclosure surrounding an above-ground swimming pool at 5402 Hitching Post (Country Club Estates, Section 4, Lot 586).

- Staff Presentation
- Applicant Presentation
- Open Public Hearing
- Close Public Hearing
- Discussion
- Decision

ATTACHMENTS:

[23-2632-VAR.pdf](#)

LAGO VISTA BOARD OF ADJUSTMENT
STAFF LAND USE REPORT – MAY 6, 2024



BOA CASE NO:	23-2632-VAR:	5402 Hitching Post
APPLICANT:	Kathy O'Connor and Cristina Reid	
LANDOWNER:	Same	
LOCATION:	Near the midpoint of the northwest side of Hitching Post	
ZONING:	R-1S (18B) single-family residential zoning district	
VARIANCE:	Rear yard setback encroachment	

GENERAL INFORMATION / LOCATION:

- Hitching Post is a relatively short block that forms a loop off Camel Back Street. Camel Back Street in turn is a loop that originates at Thunderbird Street approximately 825 feet south of Bonanza Street, reasonably close to the Lago Vista City Hall. However, Camel Back Street is precluded from a complete loop back to Thunderbird Street and instead terminates at Oak Ridge, one block west of and parallel to Thunderbird Street.
- The existing residence was issued a certificate of occupancy on July 30, 2019. Although the rear yard of the property is relatively flat, the original permit documents indicate that there is approximately seven feet of slope between the extreme high point and extreme low point of the lot. That change in elevation from the front to the rear of the property is apparently what the applicant is referring to in the narrative when she notes that the home is approximately five feet above grade in the rear. It seems likely that the desire to have a deck at or near the finish floor level of the house is also at least partially responsible for the desire to pursue an “above ground” pool rather than an “in ground” pool.
- While some “above ground” pools would themselves qualify as a “structure” subject to the required setbacks, this pool would not. It is ostensibly portable and supported by its own frame as can be seen in the applicant’s photographs. Nonetheless, it is the proposed five-foot deck surrounding the pool, described by the applicant as a safety feature that mandates this variance request. Because of its height above the adjacent grade, the applicable building code (the International Residential Code or IRC) also requires a guardrail surrounding the deck.

SITE PLAN / CONTEXT CONSIDERATIONS:

- The application describes a 4-foot privacy fence to be included at the perimeter of the proposed deck. In addition to the guardrail mentioned above that is required at any change in grade that exceeds 30 inches, various local ordinances, building codes and state statutes require a swimming pool or spa to be secured as an attractive nuisance by a minimum 4-foot high barrier. The applicant suggests that placing this required barrier at the perimeter of the deck rather than to create the required enclosure by extending the existing privacy fences at neighboring properties affords desired additional privacy. More curious is why the existing covered patio does not include that required guardrail as the applicant’s photographs make it clear that the change in grade at this location is well over 30 inches.
- The dimensions shown on the various plans submitted with the application are slightly inconsistent with relatively minor apparent errors. The document that describes the deck framing shows a total width of exactly 36 feet and a depth of exactly 24 feet. At the same time, the form survey from the original permit shows the clear width of the existing covered patio to only be 35.6 feet. In addition, a deck with a total depth of 24 feet would extend exactly 10.9 feet beyond the edge of the southern corner of the existing covered patio, not 10 feet as shown on the applicant’s sketch. Nonetheless, minor adjustments can easily be made during construction and there is no reason to suspect that maximum estimated encroachment into the setback of 10 feet is inaccurate.
- As mentioned regarding various previous applications involving relief from a required rear yard setback, one of the primary purposes of that requirement is to maintain a certain minimum level of privacy between neighboring properties. The subject property shares a rear property line with a

residence located at 20711 Camel Back Street, designated as notification ID 2 on the boundary map. As can be more clearly seen on the aerial image included in the packet, the rear yard of 20711 Camel Back Street is triangular. The distance between that existing residence and the rear property line shared with the subject property increases significantly toward the north as the location of the proposed setback encroachment is approached.

RELEVANT ORDINANCE PROVISIONS / CONSIDERATIONS:

- Nonetheless, that failure to raise privacy concerns does not directly address the requirements of Section 11.20 of Chapter 14. That section requires all the following findings: that approval is not contrary to the public interest; that due to special conditions, literal enforcement of the ordinance would result in unnecessary hardship; that the request is no greater than the minimum required to alleviate the difficulty or hardship; and that the spirit of the ordinance is observed, and substantial justice is done. In addition, the unnecessary hardship shall: not be self-imposed or personal in nature; not be purely financial or pecuniary; and must relate to a unique aspect of the property, such as irregularity of shape or topography, and not common or generally characteristic of the area.
- It is the requirement for a unique physical attribute on the property that is uncommon within the area that presents a difficulty related to this request. While the applicant's narrative suggests that the requested encroachment is the result of the slope of the property that results in an existing patio that is five feet above the adjacent grade, that is not exactly a rarity within the area. In many cases, the slope is even more severe. While the need to descend a set of stairs to climb a separate ladder to access the pool would be clearly cumbersome and otherwise unnecessary, the requirement to find the amount of slope found on this lot uncommon is far more difficult, particularly when the balance of the rear yard is relatively flat.
- The current zoning ordinance does not explicitly or adequately define a structure that is subject to the setback requirements or include either a descriptive or exhaustive list of the structures that are exempt. While those recommendations have been formulated by both the Building and Standards Commission and a joint subcommittee that includes representation by Planning and Zoning Commission members, those amendments have not yet been adopted. In the absence of that effort, there is no basis in the zoning ordinance for treating any deck as something other than a structure, and the pending recommendation would not exempt a deck of this height (one that requires a guardrail for compliance with the building code). However, pending adoption of that anticipated amendment, a deck that is only 29 inches above grade would be exempt. That knowledge may or may not impact the Board's required finding of an "unnecessary hardship."
- Although this type of "portable" pool arguably does not require a permit, we welcome the inclusion of a deck as it gives us the opportunity to ensure that the required barrier has been included. However, the absence of any effective erosion control in the applicant's photographs caused enough concern for the staff to investigate further. In 2020, we amended the landscaping and tree preservation regulations and created a set of very explicit erosion control requirements in Chapter 3. Prior to that amendment, builders often placed the responsibility for both landscaping and erosion control requirements on the homeowner, even in the case of a residence speculatively built without an identified buyer. Prior to that amendment, we had no basis for withholding a certificate of occupancy as the earlier provisions specifically allowed it. We have such a letter dated July 29, 2019, from the applicant on the letterhead of the builder who the original permit was issued to. It promises to complete the required landscaping no later than September 5, 2019.
- However, the retired former Code Enforcement Official created a violation record (CE-11568) on September 18, 2019, because that work had not been completed. Immediately prior to his retirement, he added the following note to the violation record: "resident working on landscaping, one brick at a time." Although there are more than enough shrubs in the front of the residence to meet the requirements of Section 20 of Chapter 14, the staff was unable to locate any of the four

trees required for a lot this size. Those trees are required to be a minimum caliper of 2 inches and a height of 6 feet at planting. There are several acceptable erosion control solutions, but the bare soil in the rear yard that is visible in the applicant's photographs for this request is a clear violation of Section 3.1402 of Chapter 3. If the Board of Adjustment is inclined to condition any approval on an elimination of this violation, the staff will enforce that condition prior to issuing a certificate of occupancy for any further work. Otherwise, we would have to rely on a citation from the Code Enforcement staff for possible compliance.

POTENTIAL ALTERNATIVE DECISIONS:

- A. Approve an encroachment of up to 10 feet into the otherwise required rear yard setback subject to the planting of the minimum number and species of trees required by Section 20 of Chapter 14 and completion of the erosion control requirements of Section 3.1402 of Chapter 3.
- B. Approve an encroachment of up to 10 feet into the otherwise required rear yard setback (i.e. no conditions).
- C. Deny the variance request.

23-2632-VAR

5402 Hitching Post

Attachment 1

Application



NOTE: Applicants should seek legal advice concerning the applicability of any existing private covenants or deed restrictions and their ability to be enforced or waived by other specific property owners.

APPLICATION FOR ZONING VARIANCE

Date submitted: 3-20-2024 Fee: \$250.00 (non-refundable)

Applicant's name: Kathy O'Connor & Cristina Reid

Applicant's mailing address: 5402 Hitching Post

Subject property address: Same

Applicant's email: Kathy 72816@yahoo.com

Applicant's phone numbers: 214-707-7340 _____

Applicant's authorized representative (if any): NA

Representative's email and phone numbers: N/A.

Explain the nature or basis of the variance request (attach additional pages if necessary)

Please see letter attached.

List or describe ordinance provisions from which relief is sought: Extends Deck into
Setback by 10 ft.

NOTE: Applications must be complete including all applicable portions of this form, payment of fees and all required drawings or documentation. All applications are accepted provisionally pending a completion review. PLEASE TAKE SPECIFIC NOTICE OF MANDATED STANDARDS REGARDING HARDSHIPS AND ALL RELATED REQUIREMENTS FOR APPROVAL INCLUDED IN THE ATTACHED ORDINANCE PROVISIONS AND ADDRESS THEM IN YOUR NARRATIVE.

Kathy O'Connor *Cristina Reid* *3-20-24*
Applicant's signature(s) Date

March 20, 2024

Reference: Subdivision Variance Application
5402 Hitching Post
Lago Vista, TX 78645

To Whom It May Concern:

I would like to build a deck from my patio to an above-ground pool with a 48" privacy fence on top of the deck that has no access from the ground level of my backyard. The builder of my home built the home approximately 5' above ground level. (see picture 1) I can see into four backyards with no privacy from my patio (picture 2). The shape of my house is a 'U' shape and allows the deck to be attached to the house on three sides (plot map). The deck would be approximately 52" above the ground and once the fence was attached to the deck, I would have complete privacy and a noise barrier to my neighbors (picture 3).

The Intex pool is 12' x 24' x 52" and fits perfectly into the space in my house allowing the required 48" around on the pool on three sides. However, in order to provide 5' around the pool with the deck, the deck *would extend about 7-10' into the setback line on one side* (picture 4). The pool will expand once water is put in the pool that is why I am using an approximate range. My concern is if I don't place a deck around the whole pool if someone needs to get out, they wouldn't be able to.

Please approve a variance into the setback. There is plenty of space between that area and the neighbor's fence.

Thank you,

Kathy O'Connor
Cristina Reid
Kathy O'Connor (mother)- Co-owner's
Cristina Reid (daughter)

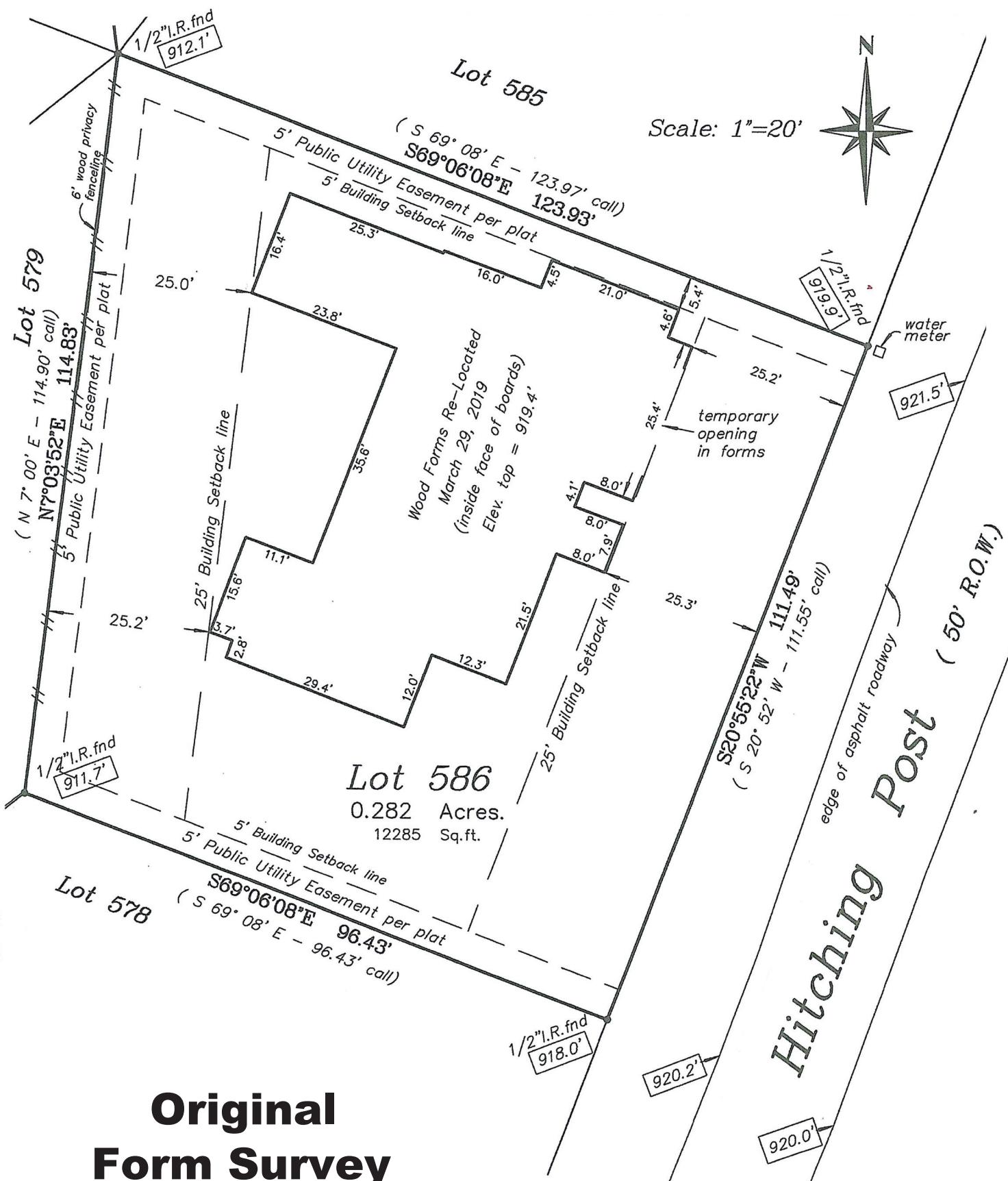
5402 Hitching Post
Lago Vista, TX 78645

23-2632-VAR

5402 Hitching Post

Attachment 2

Site / Deck Plan



Original Form Survey

- Deck would be approx. 52" from ground
- Fence on top of deck - no entry from below

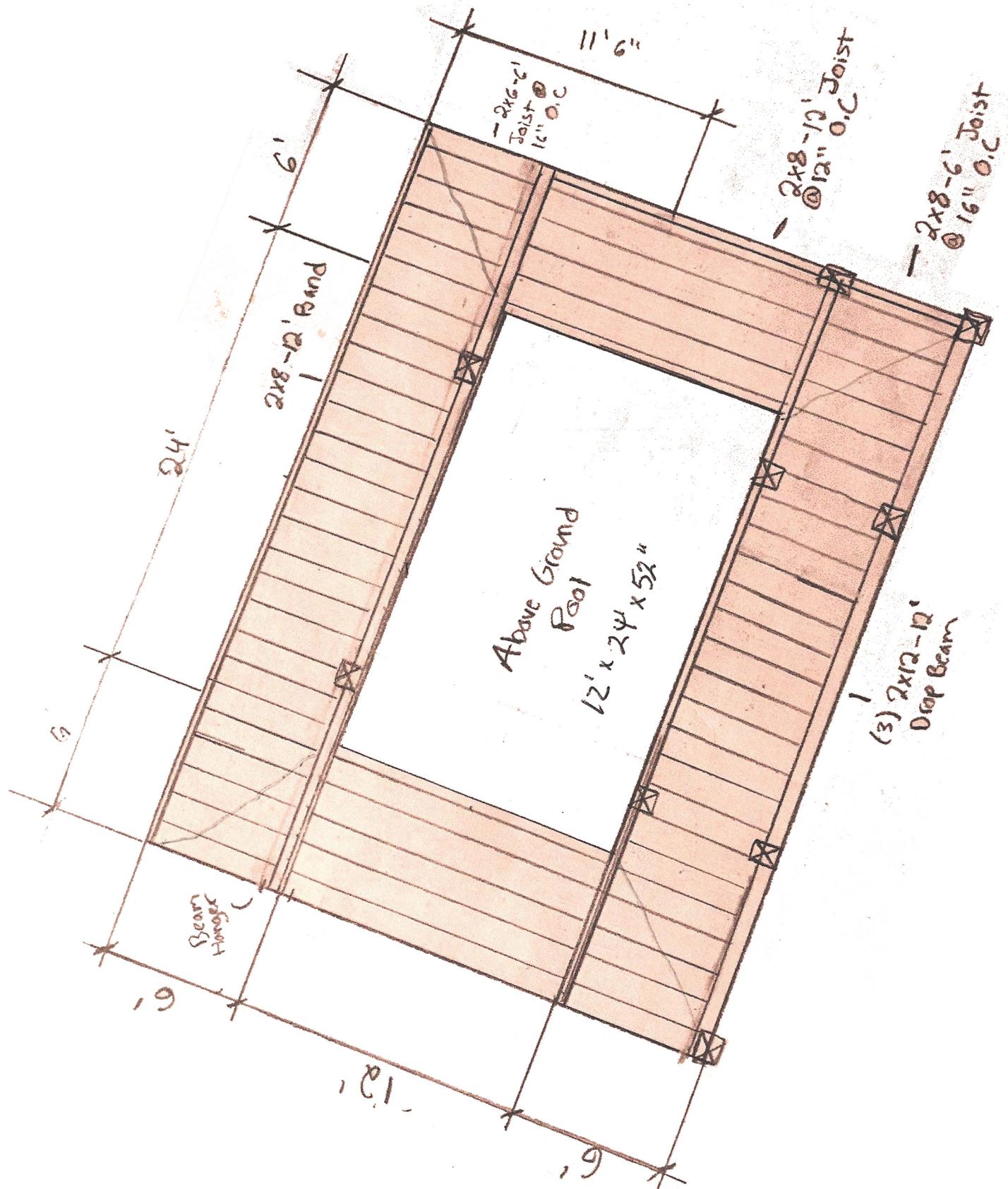


BACK

Lot 586
2,282

5402

Hitching Post



*Privacy Fence on back side (36 LNFT) - 48" tall
 *Privacy Fence on Right side (10.5 LNFT) 48" tall

23-2632-VAR

5402 Hitching Post

Attachment 3

Applicant Photographs



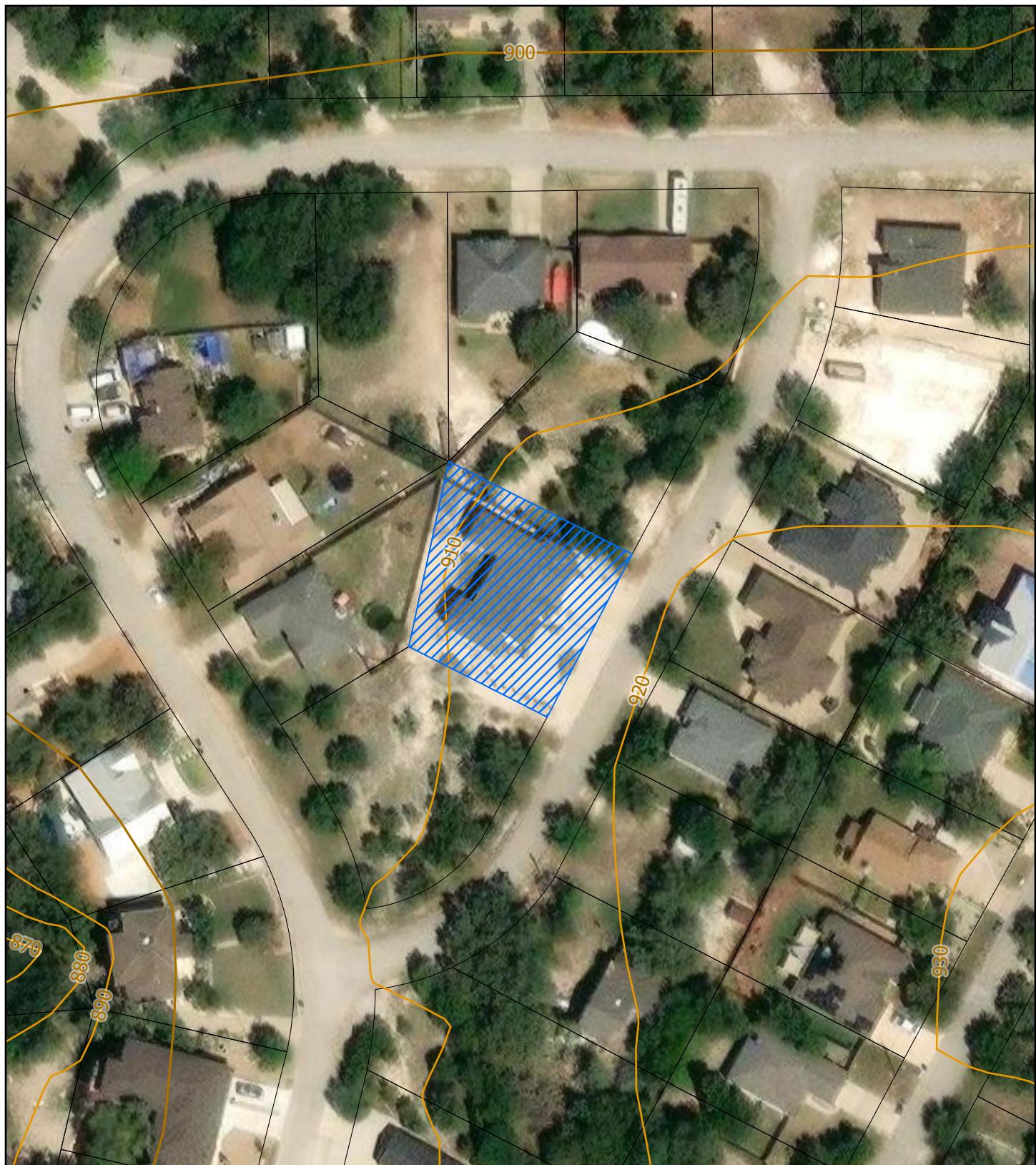


23-2632-VAR

5402 Hitching Post

Attachment 4

Aerial / Topography Map



TenFootContour Requestor TCAD Parcels 10 ft 50 ft	5402 Hitching Post			
	Request Type	Variance	Project	23-2632-VAR
	Change Requested	Rear Setback Relief	Date	4/16/2024
	Map Purpose	Aerial / Topography	Drawn By	D Avetian
	Coordinate System: NAD 1983 StatePlane Texas Central FIPS 4203 Feet			



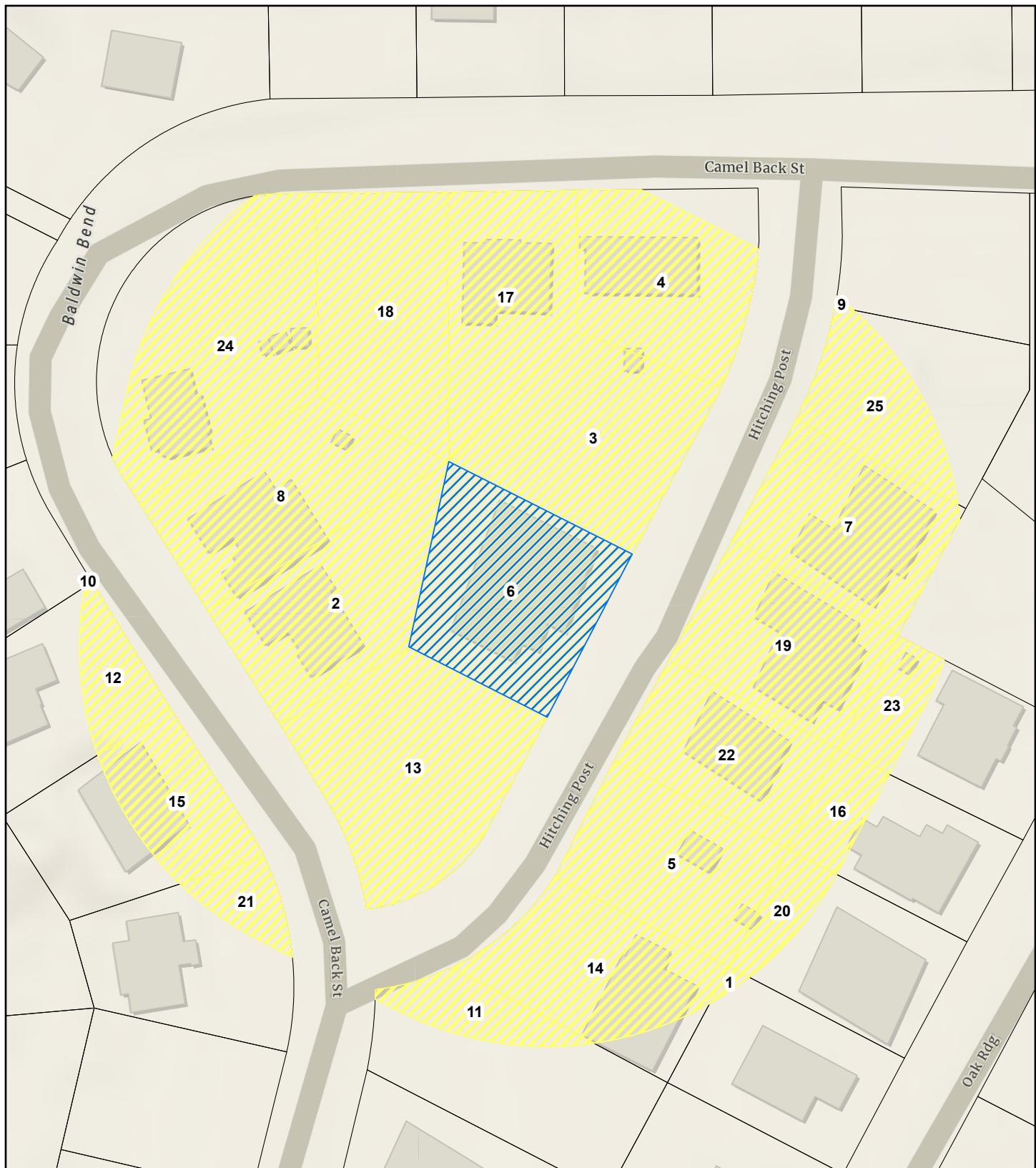
0 40 80 US Feet
 0 15 30 Meters

23-2632-VAR

5402 Hitching Post

Attachment 5

Notice Comments



Requestor
 Notification Boundary
 TCAD Parcels

5402 Hitching Post

Request Type	Variance	Project	23-2632-VAR
Change Requested	Rear Setback Relief	Date	4/16/2024
Map Purpose	Notification Boundary	Drawn By	D Avetian

Coordinate System: NAD 1983 StatePlane Texas Central FIPS 4203 Feet



0 40 80 US Feet
 0 15 30 Meters