



ITEM FOR ENVIRONMENTAL BOARD AGENDA

BOARD MEETING

DATE REQUESTED: September 21, 2011

NAME & NUMBER OF PROJECT: VALLANDINGHAM RESIDENCE / SP-2011-0243DS

NAME OF APPLICANT OR ORGANIZATION: Carlson, Brigance & Doering, Inc.
(Charles Brigance, 512-280-5160)

LOCATION: 10101 Silver Mountain Dr.

PROJECT FILING DATE: August 24, 2011

WPDR/ENVIRONMENTAL STAFF: Brad Jackson, 974-3410
brad.jackson@austintexas.gov

WPDR/ CASE MANAGER: Lynda Courtney, 974-2810
lynda.courtney@austintexas.gov

WATERSHED: Slaughter Creek Watershed (Barton Springs Zone)
Drinking Water Protection Zone

ORDINANCE: Ordinance No. 810514-S, Chapter 41A, Article III- known as the "Aquifer related Ordinance for the watersheds of Slaughter, Bear, Little Bear, and Onion Creek of 1981."

REQUEST: Variance request is as follows:
1. To allow construction in a Critical Water Quality Zone (Ordinance No. 810514-S, Chapter 41A, Article III, Division 303, Section 303.3(c) - Critical Water Quality Zone) for a residential pool and pool house within the Critical Water Quality Zone.

STAFF RECOMMENDATION: Recommended.

REASONS FOR RECOMMENDATION: Findings-of-fact have been met.



MEMORANDUM

TO: Betty Baker, Chairperson
Members of the Zoning and Platting Commission

FROM: Brad Jackson, Senior Environmental Reviewer
Planning and Development Review Department

DATE: September 21, 2011

SUBJECT: Vallandingham Residence (SP-2011-0243DS)
10101 Silver Mountain Dr.

Variance Requests: Variance from Ordinance No. 810514-T, "1981 Aquifer related Ordinance for the watersheds of Slaughter, Bear, Little Bear, and Onion Creek," Section 203.3(c) to allow a residential pool and pool house within a Critical Water Quality Zone.

The applicant is proposing a variance to permit a previously constructed pool and pool house within the Critical Water Quality Zone(CWQZ). The entire pool, pool decking, and pool house is a little over 4,000 square feet in area. About 60% of this area, or 2,400 square feet, is within the CWQZ.

Description of Project Area

This 3.22 acre lot is situated in the COA 5-mile ETJ in the Drinking Water Protection Zone. The site is located within the Slaughter Creek Watershed, which is classified as the Barton Springs Zone. The home is within the Lewis Mountain Ranch, Phase 4 subdivision. The Lewis Mountain Ranch preliminary plan was approved in 1983 and the Lewis Mountain Ranch, Phase 4 final plat was approved in 1992. The home was built in 1998 and the pool and pool house were added in 2004. The pool and pool house were permitted under a Class B Development permit from Travis County on January 23, 2004. The Critical Water Quality Zone was not reviewed by Travis County at the time this permit was issued. The site is currently not under a red tag, the applicant has been required to obtain a variance for the development in the CWQZ as a condition of selling the property.

Topographically, the site slopes down from Silver Mountain Dr. to the southeast from an elevation of 922 feet to an elevation of 898 feet at the base of Slaughter Creek. The CWQZ occupies about 2.77 acres of this lot, or 120,661.2 square feet. The percent of impervious cover within the CWQZ from the pool, pool decking, and pool house is 2% of the total area of the CWQZ. The pool house has a kitchen and two bathrooms.

Vegetation

According to the Soil Survey of Travis County, the site contains Brackett soils, rolling (B1D) and Brackett soils and rock outcrop (BoF). Brackett soils are described as shallow and well drained soils that develop under a prairie of mid to tall grasses and some trees. Dominant vegetation consists of live oak, cedar elm and ashe juniper trees, concentrated mostly in the rear of the lot within the CWQZ. The site geology consists of the Glen Rose formation and is characterized as limestone and dolomite. The area within the CWQZ has relatively deep soils from flooding and sediment deposition. Limestone cracks and fissures may connect to the Edwards Aquifer and serve to recharge the aquifer in this area.

Critical Environmental Features

There are no Critical Environmental Features on or within 150 feet of this site.

Water/Wastewater

The project currently receives water service from the City of Austin. Wastewater is treated through an on-site septic tank system.

Variance Requests

The variances being requested by this project are as follows:

Variance from Ordinance No. 810514-T, Section 203.3(c) to allow a residential pool and pool house within a Critical Water Quality Zone.

On July 6, 2011, the applicant requested the above variance.

Recommendations

Staff recommends granting the variance request because the findings of fact have been met. Please see sheets 5 and 6 for staff's findings of fact.

Conditions of Recommendation

1) The applicant will revegetate the areas of the CWQZ not within the floodplain with 5 native Class 1 trees and 5 native bushes to restore some of the riparian habitat disturbed by the single-family development.

If you have any questions or need additional information, please feel free to contact me at 974-3410.

Brad Jackson, Senior Environmental Reviewer, Planning and Development Review

Environmental Program Coordinator:


Ingrid McDonald

Watershed Protection:


Jean Drew

Similar Cases

Herman Pool (SP-2005-0166DS) requested an administrative variance from LDC 25-8-261 to allow construction in the CWQZ for a residential pool and associated decking. Staff approved the administrative variance because the findings of fact had been met. The pool had already been built, the immediate neighbors all had pools too because they were grandfathered out of the CWQZ restrictions, and removal of the pool would have caused more environmental damage than permitting the pool.



Planning & Development Review Department
Staff Recommendations Concerning Required Findings
Of Fact

Application Name:	Vallandingham Residence
Application Case No:	SP-2011-0243DS
Code Reference:	Ordinance No. 810514-T, Section 203.3(c)
Variance Request:	To allow a residential pool and pool house within a Critical Water Quality Zone.

A. Land Use Commission variance determinations from Ordinance No. 810514-T of the City Code of the 1981 Aquifer-Related Ordinance:

1. The requirement will deprive the applicant of a privilege or the safety of property given to owners of other similarly situated property with approximately contemporaneous development.

YES. As evidenced by the letter from Steve Manilla, P.E., Travis County, (Exhibit E) this site was allowed to build in the CWQZ by a permit from Travis County. During the specific time period this permit was sought, Travis County was not yet enforcing the CWQZs on plats because they were investigating the legal ramifications of enforcing CWQZs on plats predating the adoption of Title 30 regulations. Although a variance to allow development of a residential pool and pool house was not found in the history of variances for this watershed classification of Barton Springs Zone, this pool was permitted at a time when CWQZs were not being enforced in the ETJ, therefore the applicant built the pool without knowledge that it was violating the CWQZ rules.

2. The variance:

- a) Is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property;

YES. The pool/pool house takes up only 2% of the entire CWQZ, leaving over 117,000 square feet of CWQZ as pervious cover free from development. The applicant does not have any other room in their backyard to have shifted the pool to get it more out of the CWQZ.

This lot was platted from a 1983 preliminary plan, Lewis Mountain Ranch, that was subject to the 1981 aquifer related ordinance for the watersheds of Slaughter, Bear, Little Bear, and Onion Creek. This ordinance required a minimum setback of 200 feet from the centerline of Slaughter Creek at the platting stage, but the regulatory authority, Travis County, was not regulating this

setback at this time. So other property owners would have also been allowed to develop in their CWQZs that were outside of the 100-yr floodplain.

b) Does not create a significant probability of harmful environmental consequences;

YES. The pool/pool house does not create a significant probability of harmful environmental consequences. The creek is over 180 feet away, separated by gently sloping, densely vegetated terrain. In addition, the applicant is proposing to reseed this area with wildflowers and native grasses that will further assist in providing water quality for the overland drainage.

B. Additional Land Use Commission variance determinations for a requirement of Critical Water Quality Zone (CWQZ) Restrictions:

1. The above criteria for granting a variance are met;

YES.

2. The proportion of the land restricted from development by the CWQZ creates an unreasonable or undue hardship to development of the land.

YES. The majority of this lot is CWQZ, with only half an acre of developable land out of the entire 3.22 acre lot. Without this variance, the applicant would not be able to have a pool in their backyard.

Reviewer Name: Brad Jackson

Reviewer Signature:



Date: September 8, 2011

Staff may recommend approval of a variance after answering all applicable determinations in the affirmative (YES).



Planning & Development Review Department
Applicant's Required Findings Of Fact

Application Name: Vallandingham Residence
Application Case No: SP-2011-07813

Code Reference: Land Development Code Section 13-3-508

Variance Request: To allow a minor development encroachment
into the Critical Water Quality Zone

A. Land Use Commission variance determinations from Chapter 25-8, Subchapter A - Water Quality of the City Code:

1. The requirement will deprive the applicant of a privilege or the safety of property given to owners of other similarly situated property with approximately contemporaneous development.

Yes. The pool and cabana improvements which encroach a total of 2% into the 77,987 square foot of CWQZ of land on the subject Property which was added after all reasonable steps were taken by the property owner to learn what the applicable rules were which would control development of the Property. The owners sought and obtained a Class B Development Permit from Travis County and a Flood Plain Elevation Certificate. No permits were required from the City of Austin as the Property is in the ETJ; is not in Austin Energy service area; and is residential development not requiring a site plan. Denial of the variance would require the demolition of the cabana and pool for a 2% encroachment into the CWQZ, which will have a diminimus impact on water quality.

2. The variance:

- a) Is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;

This is an after-the-fact variance to request relief from an unreasonable hardship where the Property Owner could not reasonably have determined the requirements for plan approval by making proper inquiry to the only regulatory agency from whom the improvements required permits, which was Travis County. Please see letter from Stephen Manilla, P.E., Travis County Executive, to Betty Baker dated June 30, 2011.

- b) Is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property;

Yes. The Property Owner has maintained a healthy vegetative cover over the remaining 77,987 square feet of CWQZ on the Property. Applicant does not use this CWQZ for residential recreational purposes or gardening purposes as do other neighbors.

c) Does not create a significant probability of harmful environmental consequences; and

Yes. It does not create a probability of harmful environmental consequences with the 2% encroachment into the CWQZ. Applicant has been diligent about maintaining the CWQZ in a natural state.

3. Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.

Yes. The Applicant has agreed to a pest management plan by deed restriction and has agreed to revegetate the CWQZ with native plant species to restore the area impacted by the areas drought, which it would not otherwise be required to do and which is not being done on adjacent properties and therefore will result in water quality that is at least equal to that achievable without the variance and without the special enhancements offered by the Applicant.

B. Additional Land Use Commission variance determinations for a requirement of Section 25-8-393 (Water Quality Transition Zone), Section 25-8-423 (Water Quality Transition Zone), Section 25-8-453 (Water Quality Transition Zone), or Article 7, Division 1 (Critical Water Quality Zone Restrictions):

1. The above criteria for granting a variance are met;
Yes or No...

2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and
Yes or No...

3. The variance is the minimum change necessary to allow a reasonable, economic use of the entire property.
Yes or No...

Applicant Name: Michael and Juliette Vallandingham

Applicant Signature: 

By: Terrence L. Irion, Attorney

Date: 9/7/10

Staff may recommend approval of a variance after concurring with applicant's findings for all applicable determinations in the affirmative (YES).

LAW OFFICE OF TERRENCE L. IRION

1250 S. Capital of Texas Highway
3 Cielo Center, Suite 601
Austin, Texas 78746

Terrence L. Irion

Attorney at Law

(512) 347-9977

(512) 306-8903-FAX

tirion@tirionlaw.com

July 6, 2011

VIA EMAIL: greg.guernsey@ci.austin.tx.us

Mr. Greg Guernsey

Director

Planning and Development

Review Department

City of Austin

505 Barton Springs Road

Austin, Texas 78704

Re: Critical Water Quality Zone "CWQZ" Variance Request of Mr. Michael L. Vallandingham at 10101 Silver Mountain Drive, Austin, Texas 78737; legally described as Lot 63, Lewis Mountain Ranch, Phase 4, Plat of record in Volume 91, Page 222-225, Plat Records of Travis County, Texas (the "Property")

Dear Mr. Guernsey:

This request is for a variance to allow an encroachment into the CWQZ of the Applicant's above described single family residential lot.

The total site area of the concrete swimming pool decks, the swimming pool and the cabana is a little over 4,000 square feet. Approximately 60 % of this site area or about 2500 square feet is in the CWQZ. Under ECM Rules for calculating impervious cover the approximate amount of the total impervious cover encroachment into the CWQZ is slightly under 2,000 square feet.

This subdivision was platted out of a 1983 approved preliminary plan for Lewis Mountain Ranch, City File No. C8-83-074. The final plat for Phase 4 was approved by the Austin Planning Commission on November 24, 1992 and recorded on March 8, 1993. The subdivision was platted in accordance with the Slaughter Creek Watershed Ordinance. Section 13-3-508 of that Ordinance required a minimum CWQZ setback of 200-feet from the centerline of the creek or the limits of the 100-year flood plain, whichever was a greater distance. In the case of this particular lot in Lewis Mountain Ranch, the greater setback distance is the 200-feet setback from the centerline of the creek for the CWQZ established on this lot.

Original construction of a home on this lot was completed in 1998. In 2004, the owners Michael and Juliette Vallandingham built the swimming pool, decking and cabana structure addition to their home. Prior to commencing construction, they submitted a complete site plan application to the Lewis Mountain Ranch Property Owners Association and received approval of their plans on January 20, 2004. A copy of their approval letter is attached as **Exhibit A** and incorporated herein by reference.

They then went to Travis County and requested a Class B Development Permit since a portion of their 5.0 acre lot is in the 100-year flood plain. On January 23, 2004, they received their Class B Development Permit from Travis County with the special provision that they return an elevation certificate to the County within 30-days of completion of the project certifying a finished floor elevation of at least 910 feet msl or great for the lowest floor elevation of the improvements. A copy of this Development Permit is attached hereto and incorporated herein by reference as **Exhibit B**.

The Elevation Certificate was submitted to the County on May 6, 2004 and certified to a lowest floor area elevation of 912 feet msl. A copy of the Elevation Certificate is attached hereto and incorporated herein as **Exhibit C**.

It should be noted that the applicant was advised on the County development permit that no mechanical or electrical permits or inspections were required. This was because the Property is not in the Austin city limits, but rather in the ETJ and is not in the City's electrical service area, but rather in the service area of Pedernales Electric Coop.

Because the proposed addition was to a single family residential property and no site plan review was required by the City; because it was in the ETJ of the City which required no building permit from the City; because it was in an electric service area of PEC and not Austin Energy and no mechanical or electrical permits were required by the City; and because in January 2004 the Title 30 has just been adopted the previous month and no determination had yet been made that the County could enforce Austin ETJ subdivision regulations adopted prior to the effective date of Title 30; there was no opportunity for the applicant to be made aware through any regulatory approval process that there was a requirement to set back 200-feet from the centerline of the creek in order to satisfy the requirements for the CWQZ provision of Section 13-3-508.

In this particular case, given the time of plat approval and the Applicant's request for the pool permit, the Austin subdivision ordinance Section 13-3-508 imposed a requirement that could only be monitored, reviewed and enforced by the City of Austin. Nevertheless, the minimal regulatory contacts this Property had with the City of Austin and the fact that no City Permits were required to build the pool and cabana, resulted in the improvements being built without any review for compliance with the setback requirement, which was not discovered until Applicant sought to sell the residence this spring.

In summary, Applicant requests a variance to maintain an approximate 2000 square feet of impervious cover inclusive of swimming pool decking and cabana and up to approximately 2500 square feet of improvements in the CWQZ of this single family lot because of the *de minimis* nature of the encroachment. The hardship that would result to the owner if the improvements were required to be removed far outweigh any negative impact these 7-year old improvements pose to the environment. The owner had no reasonable opportunity to be forewarned of the setback requirement prior to constructing the encroaching improvements. Total site area improvements of this 3.4718 acre lot, inclusive of driveway, residence, pool and cabana is approximately 11900 square feet or approximately 7.8% of the site area. The owner has maintained a thick grass

Mr. Guernsey
July 6, 2011
Page 3

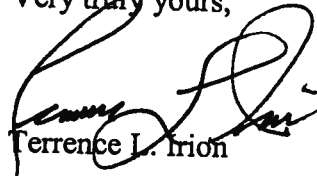
vegetative cover on the land between the centerline of the creek and the edge of his improvements, and encroachment of the approximate 2000 square feet of impervious cover into the CWQZ has had a minimum impact on the vegetative filter functioning of this setback requirement.

Applicant has provided its proposed findings of fact in **Exhibit D** attached hereto and incorporated for reference and would respectfully request approval for this variance. A copy of Steve Manila's letter indicating the Travis County TNR's office determination that granting the variance would have little effect on setting a precedent with respect to enforcement of this provision and indicating the County's lack of objection to the issue of the variance is attached hereto and incorporated herein as **Exhibit E**.

I am also enclosing a survey of the CWQZ line done by Carlson, Brigrance & Doering, Inc. on May 26, 2011 as **Exhibit F** and a copy of the recorded plat as **Exhibit G**.

Thank you for your prompt attention to this matter.

Very truly yours,



Terrence L. Irion

TLI:lm

Cc: Judge Sam Biscoe
Steve Manilla
Tom Nuckols
Stacy Sheffel
Mr. and Mrs. Vallandingham
Bruce Todd



EXHIBIT A

LEWIS
MOUNTAIN
RANCH

January 20, 2004

Michael & Juliette Vallandingham
10101 Silver Mountain Drive
Austin, Tx 78737

Dear Michael & Juliette

The Architectural Control Committee of Lewis Mountain Ranch is pleased to inform you of the approval of your plans for improvement on the above mentioned address. Your plans have been approved as submitted.

Please feel free to contact Tommy Coats at 301.3771 or Randy Miller at 288.1831 with questions or comments.

Thank you and good luck

Tommy Coats
For LMRPOA ACC



EXHIBIT B
p.1 of 2

**NOTICE OF CLASS "B"
TRAVIS COUNTY FLOOD HAZARD AREA
DEVELOPMENT PERMIT**

This Permit No 03-3281 is issued on 1/23/2004 and is effective immediately.

This Permit is issued to: HUDDLESTON CUSTOM HOMES INC
and is not transferrable.

This Permit authorizes the permittee to construct development in strict compliance with the requirements of Travis County Flood Plain Management Regulations on the following described property:

LOT 63 LEWIS MOUNTAIN SEC 4
10101 SILVER MOUNTAIN DRIVE

Residential pool and cabana

Elevation certificate completion is required.

Mechanical and Electrical Inspection is not required.

Special Provisions are attached.

This permit shall be posted in a location where it is visible to the public, protected from weather, and secure from vandalism and will remain posted until work is complete.

The permittee shall have an Elevation Certificate completed in compliance with Regulations Sec. 5.E. and/or mechanical and electrical inspections, if required.


The lowest floor shall be at or above the elevation 910 ft. MSL

Notes:

Compliance with the Endangered Species Act is the responsibility of the applicant.

Issuance of this permit does not imply compliance with deed and/or plat restrictions.

Contact Travis County Prior to Driveway Construction.


Stacey Scheffel
Floodplain Administrator
Travis County
Transportation and Natural
Resources

Special Provisions:

Elevation Certificate MUST be returned within thirty (30) days of completion of the lowest floor.

Elevation certificate is required for cabana only.

EXHIBIT

2
P. 2 of 2



TRANSPORTATION AND NATURAL RESOURCES

JOSEPH P. GIESELMAN, EXECUTIVE MANAGER

411 West 13th Street
Executive Office Building, 11th Floor
P.O. Box 1748
Austin, Texas 78767
(512) 854-9383
FAX (512) 854-4697

4/12/2004

RE Travis County Flood Hazard Area Development Permit 03-3281
10101 SILVER MOUNTAIN DRIV

Dear Permit Applicant: HUDDLESTON CUSTOM H

Please be advised that Section 64.023 of Travis County Regulations for Floodplain Management states that an Elevation Certificate is required to complete your Class "B" Flood Hazard Area Development Permit, 03-3281, issued 1/23/2004. According to County regulations and your permit, the lowest floor of the structure must be elevated to at least one foot above the Base Flood Elevation or 910 msl.

A Certificate of Occupancy, which indicates that the structure has been constructed in compliance with County floodplain regulations, can not be issued by Travis County until the Elevation Certificate is completed.

Please submit the completed Elevation Certificate, showing that your structure was constructed to the required elevation, within thirty (30) days of completion of the lowest floor of the structure.

If you have any questions, please call our permit office at 512-854-4215.

Sincerely,

A handwritten signature in black ink, appearing to read "Stacey Scheffel", is written over a horizontal line.

Stacey Scheffel

Floodplain Administrator, TNRPS

CC: Dennis Case, Lead Inspector, TNR SA 2

Gwen Mieghan, Enforcement Officer, TNR

Property Owner

XC: 03-3281 1/23/2004 B
LEWIS MOUNTAIN SEC 4

Modified by: SS 6/27/02



FEDERAL EMERGENCY MANAGEMENT AGENCY
NATIONAL FLOOD INSURANCE PROGRAM
ELEVATION CERTIFICATE

KHIBIT

O.M.B. No. 3067-0077
Expires December 31, 2005

Important: Read the instructions on pages 1 - 7.

SECTION A - PROPERTY OWNER INFORMATION		For Insurance Company Use:
BUILDING OWNER'S NAME MICHAEL T VALLANDINGHAM & VANALYN O. VALLANDINGHAM		Policy Number
BUILDING STREET ADDRESS (Including Apt., Unit, Suite, and/or Bldg. No.) OR P.O. ROUTE AND BOX NO. 10101 SILVER MOUNTAIN DRIVE		Company NAIC Number
CITY AUSTIN	STATE TX	ZIP CODE 78737
PROPERTY DESCRIPTION (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.) LOT 03, LEWIS MOUNTAIN RANCH, PHASE 4 TRAVIS CO., TX.		
BUILDING USE (e.g., Residential, Non-residential, Addition, Accessory, etc. Use a Comments area, if necessary.) RESIDENTIAL		
LATITUDE/LONGITUDE (OPTIONAL) (##-##-##.## or ##.####)		
HORIZONTAL DATUM: <input type="checkbox"/> NAD 1927 <input type="checkbox"/> NAD 1983		
SOURCE: <input type="checkbox"/> GPS (Type): <input type="checkbox"/> USGS Quad Map <input type="checkbox"/> Other		

SECTION B - FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

B1. NFIP COMMUNITY NAME & COMMUNITY NUMBER 481026		B2. COUNTY NAME TRAVIS COUNTY		B3. STATE TX	
B4. MAP AND PANEL NUMBER 48453C0300	B5. SUFFIX E	B6. FIRM INDEX DATE 4/15/02	B7. FIRM PANEL EFFECTIVE/REVISED DATE 06/16/1993	B8. FLOOD ZONE(S) A	B9. BASE FLOOD ELEVATION(S) (Zone AO, use depth of flooding) NA
B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in B9. <input type="checkbox"/> FIS Profile <input checked="" type="checkbox"/> FIRM <input type="checkbox"/> Community Determined <input type="checkbox"/> Other (Describe):					
B11. Indicate the elevation datum used for the BFE in B9: <input checked="" type="checkbox"/> NGVD 1929 <input type="checkbox"/> NAVD 1988 <input type="checkbox"/> Other (Describe):					
B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Designation Date:					

SECTION C - BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

C1. Building elevations are based on: ☐ Construction Drawings ☒ Building Under Construction ☐ Finished Construction
*A new Elevation Certificate will be required when construction of the building is complete.

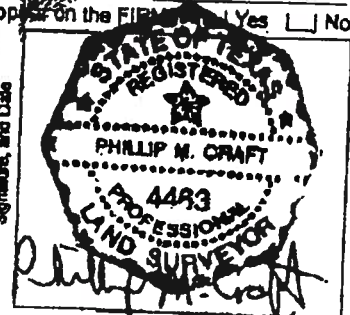
C2. Building Diagram Number 1 (Select the building diagram most similar to the building for which this certificate is being completed - see pages 6 and 7. If no diagram accurately represents the building, provide a sketch or photograph.)

C3. Elevations - Zones A1-A30, AE, AH, A (with BFE), VE, V1-V30, V (with BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO
Complete items C3.a-i below according to the building diagram specified in item C2. State the datum used. If the datum is different from the datum used for the BFE in Section B, convert the datum to that used for the BFE. Show field measurements and datum conversion calculation. Use the space provided or the Comments area of Section D or Section G, as appropriate, to document the datum conversion.

Datum _____ Conversion/Comments _____

Elevation reference mark used _____ Does the elevation reference mark used appear on the FIRM? ☐ Yes ☒ No

<input type="checkbox"/> a) Top of bottom floor (including basement or enclosure)	<u>912.2</u> ft.(m)
<input type="checkbox"/> b) Top of next higher floor	<u>NA</u> ft.(m)
<input type="checkbox"/> c) Bottom of lowest horizontal structural member (V zones only)	<u>NA</u> ft.(m)
<input type="checkbox"/> d) Attached garage (top of slab)	<u>NA</u> ft.(m)
<input type="checkbox"/> e) Lowest elevation of machinery and/or equipment servicing the building (Describe in a Comments area.)	<u>910.5</u> ft.(m)
<input type="checkbox"/> f) Lowest adjacent (finished) grade (LAG)	<u>910.5</u> ft.(m)
<input type="checkbox"/> g) Highest adjacent (finished) grade (HAG)	<u>911.7</u> ft.(m)
<input type="checkbox"/> h) No. of permanent openings (flood vents) within 1 ft. above adjacent grade	<u>NA</u>
<input type="checkbox"/> i) Total area of all permanent openings (flood vents) in C3 h	<u>NA</u> sq. in. (sq. cm)



SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information.
I certify that the information in Sections A, B, and C on this certificate represents my best efforts to interpret the data available.
I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

CERTIFIER'S NAME PHILLIP M. CRAFT	LICENSE NUMBER 4463
TITLE REGISTERED PROFESSIONAL LAND SURVEYOR	COMPANY NAME CRAFT SURVEYING
ADDRESS 9394 STALLION DR.	CITY AUSTIN
SIGNATURE <i>Phillip M. Craft</i>	STATE TX
DATE 05-06-04	ZIP CODE 78733
	TELEPHONE (512) 263-1075

FEMA Form 81-31, January 2003

See reverse side for continuation.

Replaces all previous editions

C
p. 2 of 2

IMPORTANT: In these spaces, copy the corresponding information from Section A.		For Insurance Company Use:
BUILDING STREET ADDRESS (including Apt., Unit, Suite, and/or Bldg. No.) OR P.O. ROUTE AND BOX NO.		Policy Number
CITY	STATE	ZIP CODE
		Company NAIC Number

SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION (CONTINUED)

Copy both sides of this Elevation Certificate for (1) community official, (2) insurance agent/company, and (3) building owner.

COMMENTS

C3e - POOL EQUIPMENT

SECTION E - BUILDING ELEVATION INFORMATION (SURVEY NOT REQUIRED) FOR ZONE AO AND ZONE A (WITHOUT BFE)

| Check here if attachments

For Zone AO and Zone A (without BFE), complete items E1. through E5. If the Elevation Certificate is intended for use as supporting information for a LOMA or LOMR-F, Section C must be complete.

- E1. Building Diagram Number ____ (Select the building diagram most similar to the building for which this certificate is being completed - see pages 6 and 7. If no diagram accurately represents the building, provide a sketch or photograph.)
- E2. The top of the bottom floor (including basement or enclosure) of the building is ____ ft. (m) ____ in. (cm) ____ above or ____ below (check one) the highest adjacent grade. (Use natural grade, if available.)
- E3. For Building Diagrams 6-8 with openings (see page 7), the next higher floor or elevated floor (elevation b) of the building is ____ ft. (m) ____ in. (cm) above the highest adjacent grade. Complete items C3.h and C3.i on front of form.
- E4. The top of the platform of machinery and/or equipment servicing the building is ____ ft. (m) ____ in. (cm) ____ above or ____ below (check one) the highest adjacent grade. (Use natural grade, if available.)
- E5. For Zone AO only: If no flood depth number is available, is the top of the bottom floor elevated in accordance with the community's floodplain management ordinance? | Yes | No | Unknown. The local official must certify this information in Section G.

SECTION F - PROPERTY OWNER (OR OWNER'S REPRESENTATIVE) CERTIFICATION

The property owner or owner's authorized representative who completes Sections A, B, C (items C3.h and C3.i only), and E for Zone A (without a FEMA-issued or community-issued BFE) or Zone AO must sign here. The statements in Sections A, B, C, and E are correct to the best of my knowledge.

PROPERTY OWNER'S OR OWNER'S AUTHORIZED REPRESENTATIVE'S NAME

ADDRESS

CITY

STATE

ZIP CODE

SIGNATURE

DATE

TELEPHONE

COMMENTS

SECTION G - COMMUNITY INFORMATION (OPTIONAL)

| Check here if attachments

The local official who is authorized by law or ordinance to administer the community's floodplain management ordinance can complete Sections A, B, C (or E), and G of this Elevation Certificate. Complete the applicable item(s) and sign below.

- G1. ☐ The information in Section C was taken from other documentation that has been signed and embossed by a licensed surveyor, engineer, or architect who is authorized by state or local law to certify elevation information. (Indicate the source and date of the elevation data in the Comments area below.)
- G2. ☐ A community official completed Section E for a building located in Zone A (without a FEMA-issued or community-issued BFE) or Zone AO.
- G3. ☐ The following information (items G4-G9) is provided for community floodplain management purposes.

G4. PERMIT NUMBER	G5. DATE PERMIT ISSUED	G6. DATE CERTIFICATE OF COMPLIANCE/OCCUPANCY ISSUED
-------------------	------------------------	---

G7. This permit has been issued for: ☐ New Construction ☐ Substantial Improvement

G8. Elevation of as-built lowest floor (including basement) of the building is:

G9. BFE or (in Zone AO) depth of flooding at the building site is:

____ ft. (m) Datum: _____
____ ft. (m) Datum: _____

LOCAL OFFICIAL'S NAME

TITLE

COMMUNITY NAME

TELEPHONE

SIGNATURE

DATE

COMMENTS

FINDINGS OF FACT

1. The special circumstance in this case is that the pool and cabana improvements which encroach into the Critical Water Quality Zone ("CWQZ") were added after all reasonable steps were taken by the property owner to learn what the applicable rules were which would control the development of the property. The owner sought and obtained a Class B Development Permit because he knew there was 100-year flood plain on the property. He inquired of the County as to the need for an electrical permit and a mechanical permit and was told that because he lived in the ETJ and did not have Austin Energy Service, no such permits were required.

Denial of this variance would require the demolition of the cabana and pool for an approximate 2500 square foot encroachment into the CWQZ that is in excess of 92000 square feet of the lot area, and which constitutes a *de minimis* impact on water quality.

2. The minimal encroachment of 2500 square feet into a CWQZ which exceeds 92000 square feet of area is a minimum departure from the terms of the Ordinance. The total lot area impervious cover (including residence, driveway, patios, pool decking and cabana) is only 7.8% of the 151,197 square feet of site area of the lot. This minimal encroachment will not have any significant harmful effect on the environment. The owner maintains a thick vegetative cover on the existing 92000 square foot CWQZ area of his lot.
3. Request is not for special privileges. The Property was subdivided with the CWQZ designation on the plat. Most lot owners never see or understand the various notes on a final plat. Residential property owners rely on the governmental regulators to tell them of the permit requirements. For a single family residential addition in the area of the Austin ETJ, no permits of any sort were required by the City of Austin. So, the only regulators advising the owner of the applicable requirements were Travis County. Travis County advised the owner of all requirements within its regulatory scope of authority at the time and the owner complied with all such requirements. The owner had no reason to believe there were any other requirements to be met before construction of the pool and cabana.
4. Water quality will not be affected by this variance. Owner's scope of encroachment is just over 2% of the total area of the CWQZ. Owner does not use the CWQZ area of his lot for gardening or children's recreational activities as do many of his neighbors and consequently the quality of vegetative cover on Applicant's Property is superior to that of most of the neighbors who are similarly situated.
5. Without this variance, no use of the pool or cabana may be made and the very significant dollar value improvements which partially encroach into the CWQZ boundary would need to be demolished and removed, which will deprive the owner of a reasonable economic use of the whole property.

TRANSPORTATION AND NATURAL RESOURCES

STEVEN M. MANILLA, P.E., COUNTY EXECUTIVE

EXHIBIT

E



411 West 13th Street
Executive Office Building
PO Box 1748
Austin, Texas 78767
Phone: (512) 854-9383
Fax: (512) 854-4697

June 30, 2011

Ms. Betty Baker
Chair, Zoning and Platting Commission
City of Austin
P.O. Box 1088
Austin, Texas 78767

RE: CWQZ variance request of Mr. Mike Vallandigham, 10101 Silver Mountain Dr.
Lewis Mtn. Ranch Subdivision Ph. 4

Dear Ms. Baker,

I'm writing to provide some contextual information regarding a request for a variance being filed by the Vallandighams for an existing structure in a CWQZ. This subdivision was platted in 1993. Travis County issued the Vallandighams a permit for the structure in question in 2004.

Before the County and the City of Austin adopted Title 30 in 2003, Travis County had no CWQZ requirements in our regulations, so County permits were used only to enforce floodplain and road regulations. After adoption of Title 30, the County began using its permits to enforce CWQZ's on plats approved under Title 30.

However, for some time after adoption of Title 30, there was a question whether the County could enforce CWQZs on plats predating Title 30, such as the Vallandigham's. This is why the County issued the Vallandighams a permit for a structure in the CWQZ.

The County now uses its permits to enforce CWQZs on both pre-Title 30 and post-Title 30 plats. Therefore, the County would not issue a permit under these circumstances today. Consequently, if ZAP grants a variance in the Vallandigham's case, I believe it would have little effect in terms of setting a precedent and would not object.

Please let me know if you have question or need more information.

Regards,

A handwritten signature in black ink, appearing to read "Steven Manilla", is written over the word "Regards,".

Steven Manilla, P.E.
County Executive – TNR

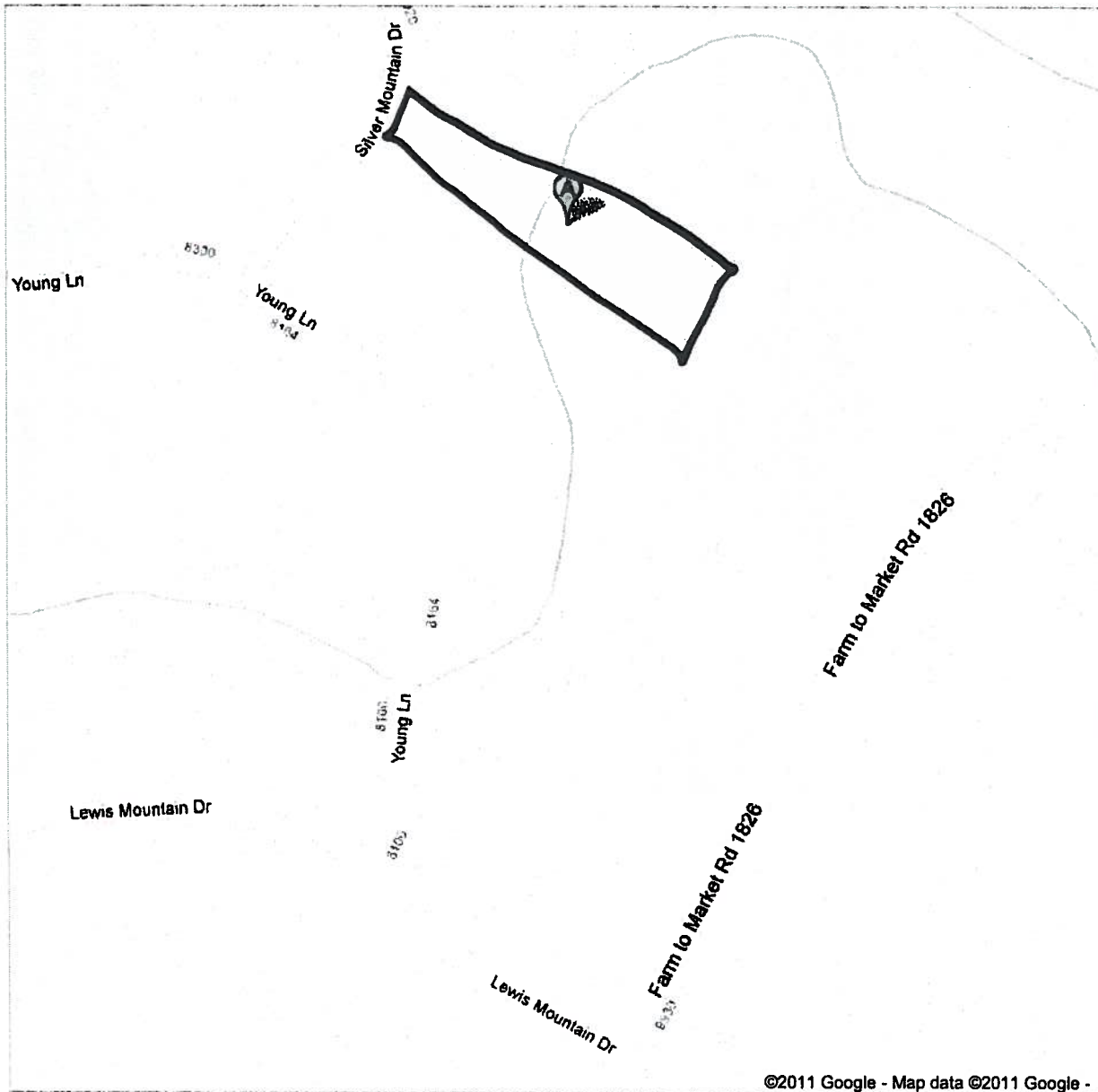
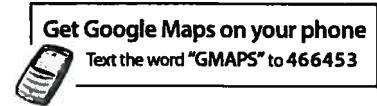
CC: Terry Irions
Anna Bowklin and Stacey Scheffel, TNR Development Services
George Zapalac and Greg Gurnsey, COA
Assistant County Attorney Tom Nuckols

Driving Directions to Vallandingham Residence

From One Texas Center, take Barton Springs Road west towards Mopac (Loop One). Take Mopac South to the 290 exit. Take 290 West until 1826. Turn left on 1826 heading south for about 2 miles until you reach Lewis Mountain Dr. Turn right on Lewis Mountain Dr. and then right onto Young Lane, then right on Silver Mountain Dr. 10101 Silver Mountain Drive is the 4th house down on your right.

Google maps

Address 10101 Silver Mountain Dr
Austin, TX 78737



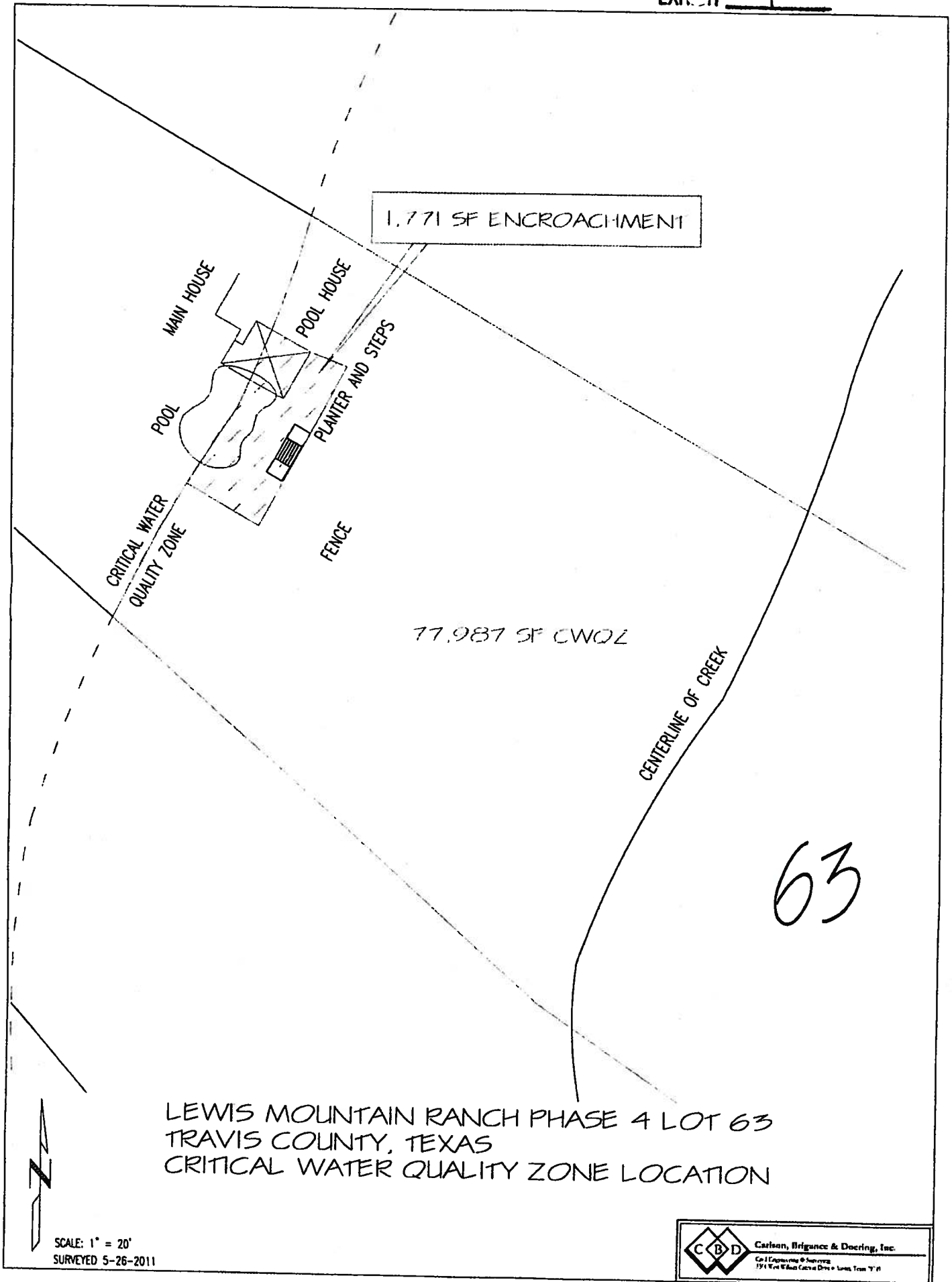
©2011 Google - Map data ©2011 Google -

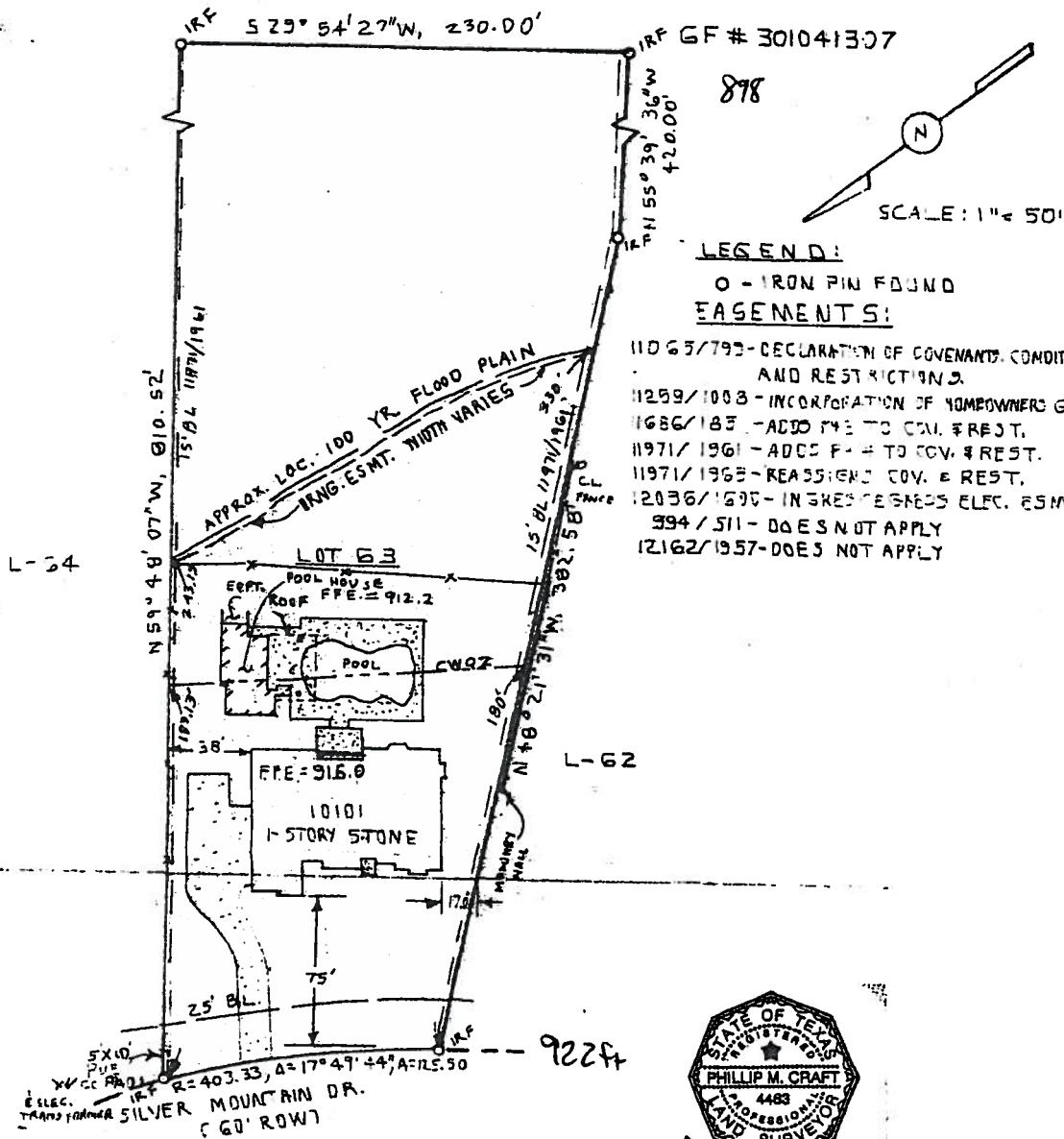


Slaughter

Silver Mountain

guno





Phillip M. Craft
06/11/04

LEGAL DESCRIPTION: LOT G3, LEWIS MOUNTAIN RANCH, PHASE FOUR, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN VOLUME 91, PAGE(S) 222 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS.

THE STATE OF TEXAS: TO THE LIENHOLDERS AND/OR THE OWNERS OF THE COUNTY OF TRAVIS PREMISES SURVEYED AND TO THE TEXAS AMERICAN TITLE COMPANY AND TO PRESIDENTIAL MORTGAGE COMPANY AND TO MICHAEL TO DD VALL AND ING HAM, THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS SURVEY WAS THIS DAY MADE ON THE GROUND OF THE PROPERTY LEGALLY DESCRIBED HEREON AND IS CORRECT AND THAT THERE ARE NO DISCREPANCIES, CONFLICTS, SHORTAGES IN AREA, BOUNDARY LINE CONFLICTS, ENCROACHMENTS, OVERLAPPING OF IMPROVEMENTS, VISIBLE UTILITY LINES, OR ROADS IN PLACE EXCEPT AS SHOWN HEREON AND THAT SAID PROPERTY HAS ACCESS TO AND FROM A DEDICATED ROADWAY, EXCEPT AS SHOWN.

USE OF THIS SURVEY FOR ANY OTHER PURPOSE OR BY OTHER PARTIES SHALL BE AT THEIR RISK AND THE UNDERSIGNED IS NOT RESPONSIBLE TO OTHERS FOR ANY LOSS RESULTING THEREFROM.

FEMA MAP NO. 48026-0300E, DATED JUNE 16, 1993

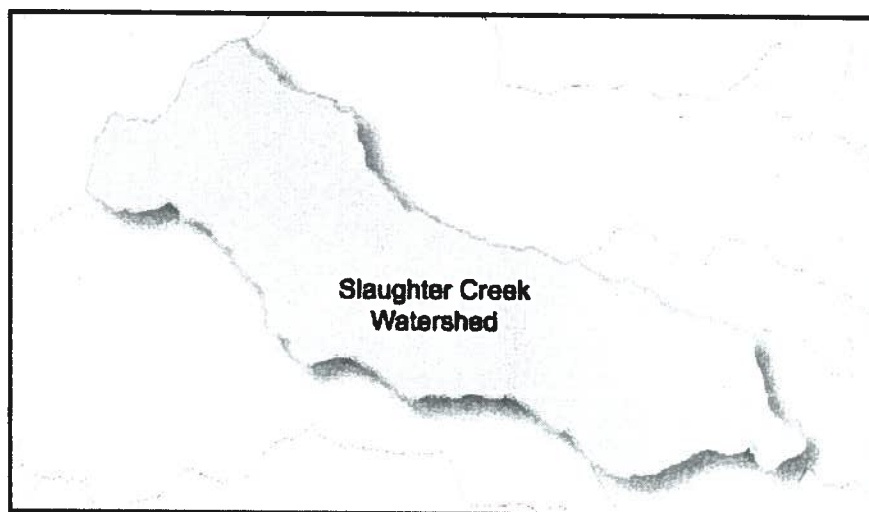
3304 STALL ON 12
AUSTIN TX 78733



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PROTECTION****Education****Flood****Erosion****Master Plan****Water Quality****Austin's Watersheds**[Fast Facts](#)[Photo Gallery](#)[Environmental Creek Assessments](#)**Fast Facts****Population**

2000: 33,471

2030: 76,579

Creek Length

18 miles

Drainage Area

31 square miles

Drains To

Onion Creek just east of I-35

Well Known Sites

LBJ Wildflower Center, Slaughter Creek Metro Park, Mary Moore Searight Park, Veloway, Bowie H.S., Akins HS, Kiker and Casey Elementary Schools, Bending Oaks Conservation Easement, Paschall Conservation Easement, Baker Water Quality Protection Land, Hafif Water Quality Protection Land, Hielscher Water Quality Protection Land

Land Use	Residential	26%
	Business	1%
	Civic	1%
	Parks	5%
	Roadways	8%
	Undeveloped	59%

Watershed Facts

- The creek is named for Augustine B. Slaughter, a Texas Ranger from the 1840s. It is said that he is buried on the banks of the creek.
- The Slaughter Creek watershed passes through the environmentally sensitive Edwards Aquifer Recharge Zone where water travels through caves and sinkholes to "recharge" the aquifer.
- The creek is typically dry in the recharge zone.
- In response to citizen calls, investigators find an average of 28 spills each year; the most common spill type is petroleum, followed by sewage then trash.

[Return to Top](#)

Creek Assessments

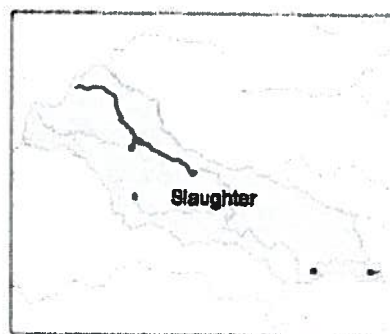
Environmental

Index	Score	Category	Notes
Overall Score	72	Good	Slaughter ranks 8 out of 46 watersheds in overall quality
Water Chemistry	63	Good	Water quality is average, ammonia is high
Sediment Quality	86	Very Good	PAHs are very low, herbicides/pesticides are very low, metals are very low
Recreation	80	Very Good	During dry weather conditions, bacteria is not a threat
Aesthetics	83	Very Good	Litter is not a problem, no odor, algae covers 10-20% of creek
Habitat	57	Fair	Some sediment deposition
Aquatic Life	60	Fair	Benthic macroinvertebrate community is good, diatom community is good

- Although Slaughter Creek is listed on the State 303(d) List of Impaired Waterbodies for an impaired macrobenthos community, the State is conducting more sampling to better characterize the aquatic life.
- Residential developments downstream of the recharge zone impact water quality

and may contribute to elevated nutrient concentrations.

[Learn More](#)



Environmental scores are based on a full range of chemical, biological, and physical assessments.

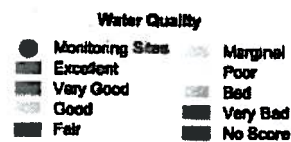


Photo Gallery



Slaughter Creek Branch at Hwy 45 West

[Home](#) :: [Flood](#) :: [Erosion](#) :: [Master Plan](#) :: [Water Quality](#)



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