

If you need assistance completing this application (general inquires only) please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2nd Floor (One Texas Center).

CASE # CS-2012-0100
ROW # 10814987
TP# 0128 001314

CITY OF AUSTIN
APPLICATION TO BOARD OF ADJUSTMENT
GENERAL VARIANCE/PARKING VARIANCE

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

PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.

STREET ADDRESS: 4708 Bull Creek Rd

LEGAL DESCRIPTION: Subdivision - WIDEMAN SUBD

Lot(s) 3 Block _____ Outlot _____ Division _____

I/We Lisa Gray on behalf of myself/ourselves as authorized agent for _____ affirm that on _____, _____,

hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below)

ERECT ATTACH COMPLETE REMODEL MAINTAIN

Complete a subdivision with a 5.88 inch variance at the narrowest point of where the 50' requirement is measured on each lot (at 75 feet from the front lot line) so that we can have 2 side-by-side lots that fit better with the neighborhood rather than a flag lot that would meet all code with no variance.

in a SF-2 district.
(zoning district)

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

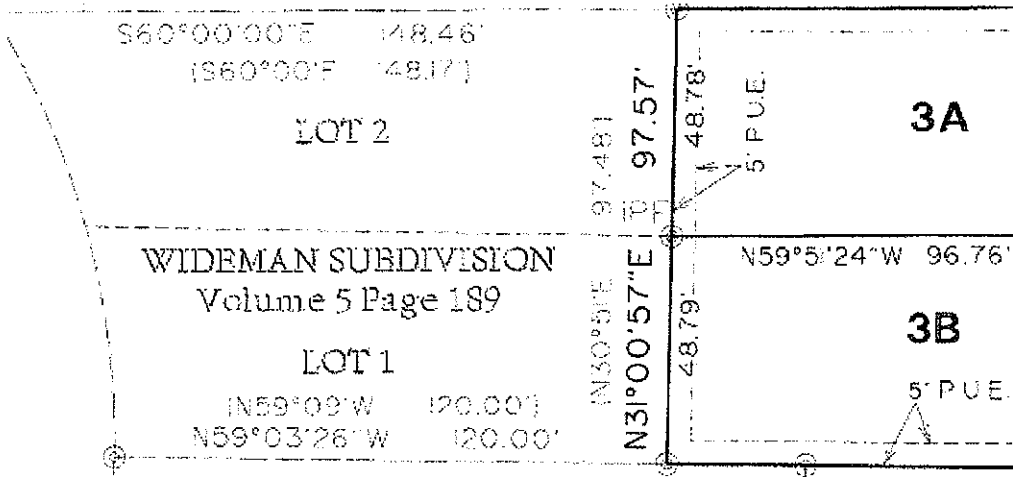
VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):

REASONABLE USE:

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

The definition of measurement in Section LDC 25-1-22(C) defines that "lot width is measured at the front setback line and at a distance of 50 feet to the rear of the front setback line." In this case, the 2 lots will be 50.07' at the front lot line, 49.89' at the 25 foot front setback, and 49.51' at the 75 foot setback. This means at the front 25 foot setback, each lot is only 2.76 inches from meeting the definition, and at the 75 foot setback, each lot is only 5.88 inches from meeting the definition. Both lots at the front will be 50.07' so will meet the measurement at the front. It is reasonable to create 2 lots from the original lot that will be slightly less than 50' at the 25 and 75 foot setbacks in order for them to be side-by-side rather than being forced to create a flag lot that will not fit with the neighborhood.

In fact, the 2 lots directly behind this lot are also not consistently a 50' width (to left is rear neighbors' lots):



HARDSHIP:

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

The lot is atypical in that it narrows slightly to the rear, which does not allow it to meet the 50' width measurement at the 25 and 75 foot setback lines.

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

This lot is atypical in that it narrows at the rear of the property by 11.76 inches. Most lots are a consistent width to the rear. Also, this lot is larger than most in the area; the vast majority of properties in the area are too small to subdivide based on net site area.

AREA CHARACTER:

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

These lots will maintain the SF-2 zoning so only houses can be built on them. This is one of the most restrictive residential zonings and will allow only one house on each lot, which comprises the majority of the neighborhood. Also, after subdivision, each of the lots will be over 8400 square feet; this is slightly larger than many of the lots in the area so is not creating out-of-character density.

Not approving the variance will leave only the option of creating a flag lot, which will not fit in with the character of the neighborhood. The reason for this variance request is so that these lots will look normal and fit in with neighborhood character. Being less than 6 inches off will be unnoticeable when you are at the properties in person.

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

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

Signed _____ Mail Address 1701 Alegria Rd

City, State & Zip Austin, TX 78757

Printed Lisa Gray Phone 512-767-5710 Date _____

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

Signed _____ Mail Address 1701 Alegria Rd

City, State & Zip Austin, TX 78757

Printed Lisa Gray Phone 512-767-5710 Date _____

GENERAL INFORMATION FOR SUBMITTAL OF A VARIANCE REQUEST TO THE BOARD OF ADJUSTMENT

(The following is intended to provide assistance in explaining the variance process. These suggestions are not intended to be a complete or exhaustive guide in assisting you through this process.)

VARIANCE REQUIREMENTS:

General Requirements:

- A. A variance may be granted if, because of special circumstances of a property, the strict application of the Land Development Code regulations deprives the property owner of privileges that are enjoyed by another person who owns property in the area that has the same zoning designation as the property for which the variance is requested.
- B. A variance to a regulation may not grant special privileges that are inconsistent with the limitations on other properties in the area or in the district in which the property is located.

SUBMITTAL REQUIREMENTS: (Failure to complete the application or to submit all the required materials will result in non-acceptance of the application.)

- (1) A completed application indicating all variances being requested. An application must include proposed findings that will support requested variances. The required findings must address each variance being sought.
- (2) A site plan to scale indicating present and proposed construction and location and use of structures on adjacent lots.
- (3) Check made payable to the City of Austin for the Board of Adjustment application fee. (Residential zoning - \$360. All other zonings - \$660.)
- (4) Other Information – Although the following is not a requirement of submittal you may wish to include additional information that may assist the Board in making an informed decision regarding your request such as: photos of the site or visual aids to support the request, letters from the neighborhood association(s) etc. Any additional information you wish to submit must be in our office one week prior to the meeting. The Board will receive a packet with all information that has been submitted on the Thursday prior to the meeting.
- (5) Austin Energy approval

Variances approved by the Board are limited to and conditioned upon the plans and specifications presented by the applicants, except as modified by the Board.

REQUIRED FINDINGS: All variance findings must be met in order for the Board to grant a variance. An application must include proposed findings that will support the requested variance. Incomplete applications will not be accepted.

Reasonable Use:

Application must demonstrate to the Board how the zoning regulations applicable to the property do not allow for a reasonable use of the property. [Note: The Board cannot approve a variance for a use that is not allowed in the zoning district in which the property is located. This requires a change in zoning.]

Hardship:

- a. Application must demonstrate to the Board how the hardship for which the variance is requested is unique to the property. Hardship should be specific to the property for which the variance is being requested. (For example, topography, lot configuration, or any physical constraint that would limit the placement of the structure or prevent compliance with required site development regulations, etc.) A strictly financial or personal reason is not a valid hardship.

- b. Application must demonstrate to the Board why the hardship is not general to the area in which the property is located. Describe how the hardship relating to the site is different from other properties in the area.

Area Character:

Application must demonstrate to the Board how the variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the zoning regulations of the zoning district in which the property is located.

NOTE: Parking variances require additional findings to be made. The additional findings are listed on the application and must also be completed for submittal of the application.

Board of Adjustment Staff:

**Susan Walker, Planner
974-2202**

**Diana Ramirez, Administrative Specialist, Board Secretary
974-2241**

Fax #974-6536

**Planning and Development Review Department
One Texas Center
505 Barton Springs Road, 2nd Floor**

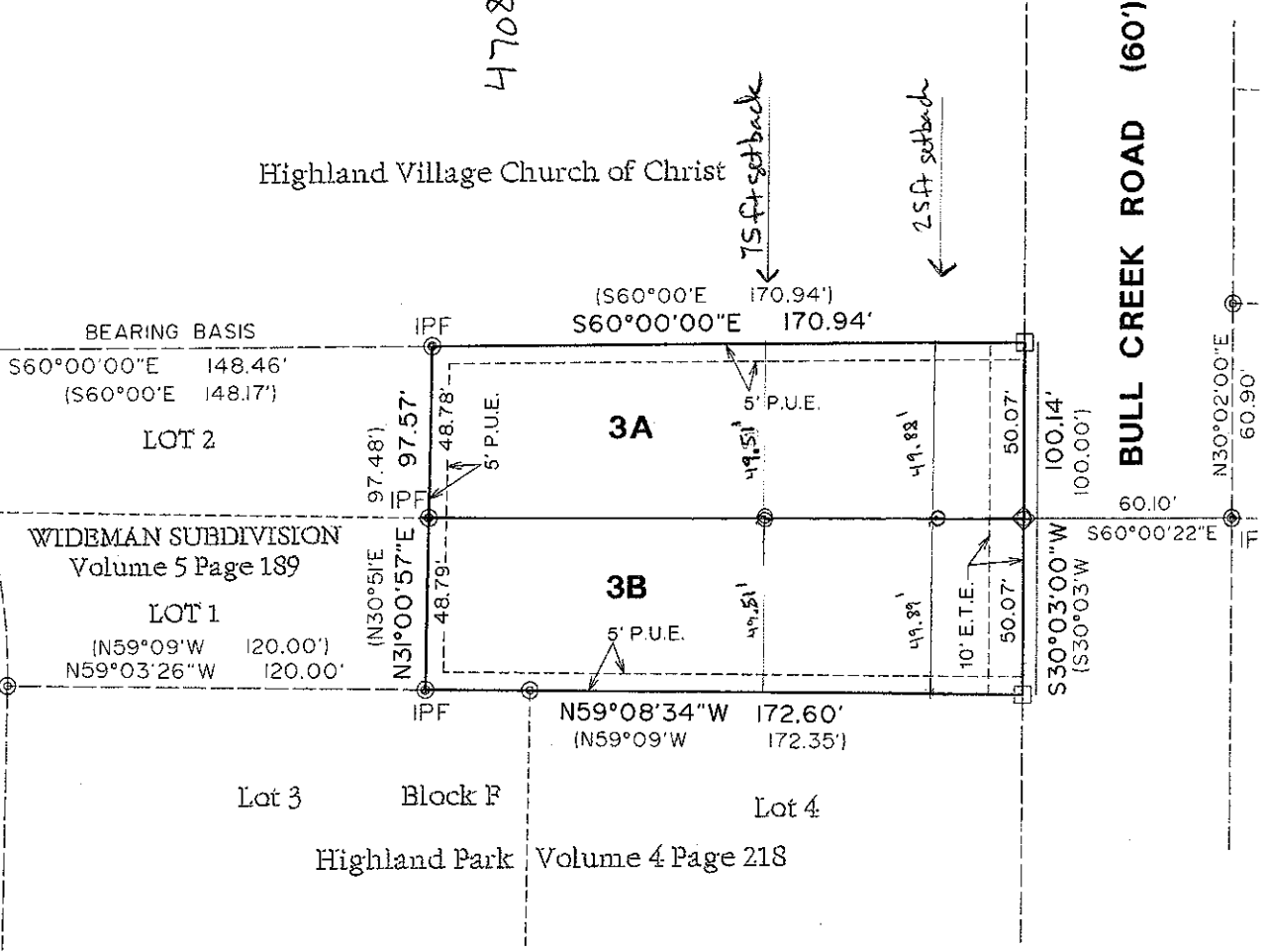
**Mailing Address:
P. O. Box 1088
Austin, TX 78767-1088**

4708 Bull Creek

Highland Village Church of Christ

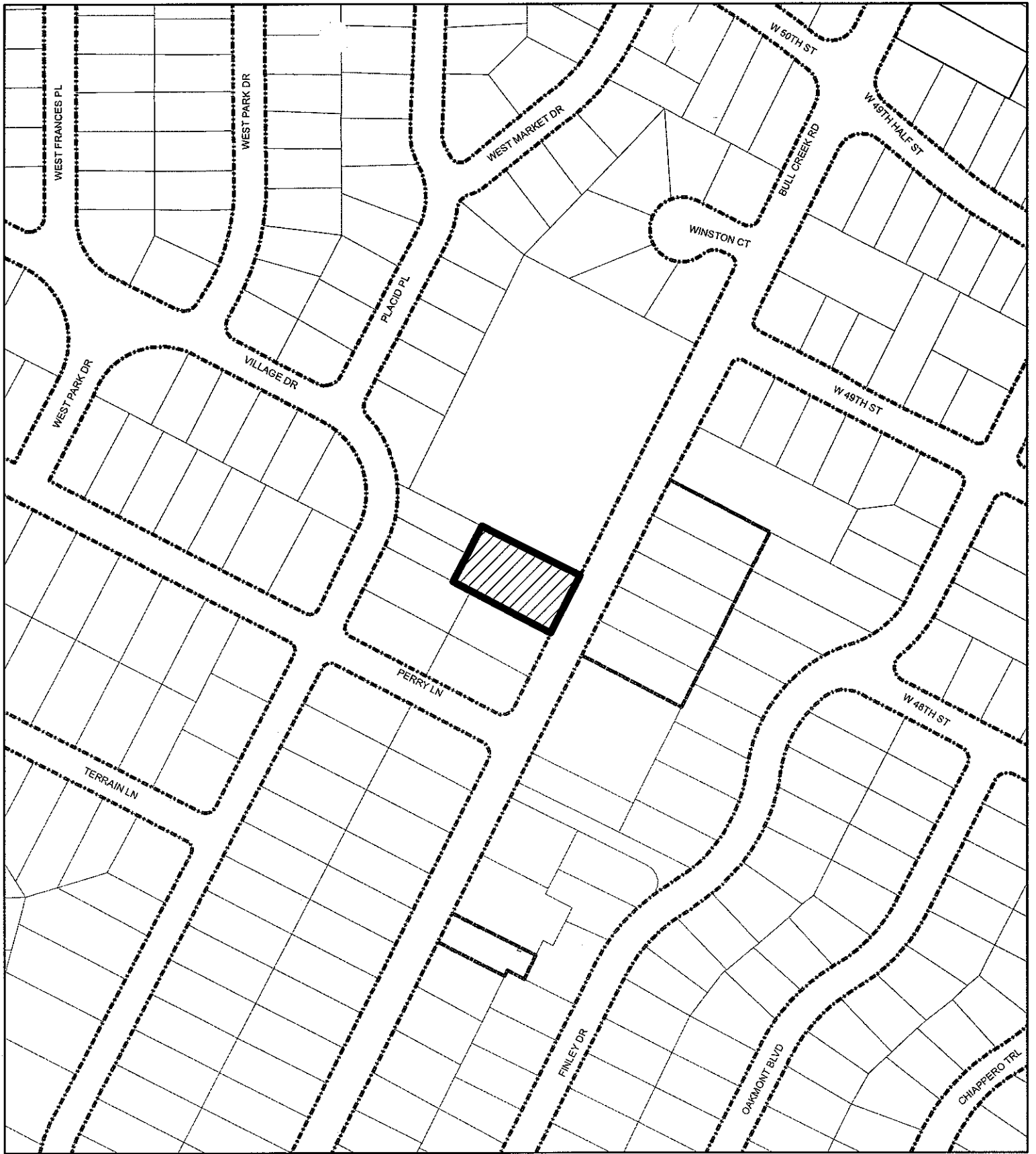
Lot 1 Block A
Highland Village
Section Four
Volume 18 Page 26

PLACID PLACE



BULL CREEK ROAD (60')

N30°02'00"E
60.90'



SUBJECT TRACT



ZONING BOUNDARY

CASE#: C15-2012-0100
 LOCATION: 4708 Bull Creek



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

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

Walker, Susan

From: [REDACTED]
Sent: Friday, August 31, 2012 12:18 PM
To: Walker, Susan
Subject: boa for 4708 Bull Creek

Here is the wording:

Although our lots will be wider than 50' at the front, the original lot narrows from 100.14' at the front to 97.57' at the rear. At the narrowest point measured at 75' per LDC 25-1-22(C), the lot width of each lot will be 49.51' rather than 50'

We will bring the new BOA form on Tuesday. Who did you say I need to give it to?

Thanks, Lisa
512-767-5710

SF-2

4706

PERRY LN

2802

4703

4705

4707

SF-2

4702

4708

4712

BULL CREEK RD

SF-2

SF-3

4705



BOA – 4708 Bull Creek

1. The current land development code Section 25-1-22(C) says:

“Except as otherwise provided in this title, lot width is measured at the front setback line and at a distance of 50 feet to the rear of the front setback line.”

As the code as written it clearly states the lot width is measured at the front setback line and at a distance of 50 feet to the rear of the front setback line. Our subdivision meets this requirement.

Our plan was rejected by the city with the note:

"Per LDC 25-1-22(C) the lot width is measured at the front setback line and must be maintained for a distance of 50-feet to the rear of the front setback line."

And this interpretation was confirmed in the attached email.

The word ‘maintained’ is not mentioned in the code. In fact the code specifically says the width should be measured at the front setback and 50 feet to the rear of the front setback.

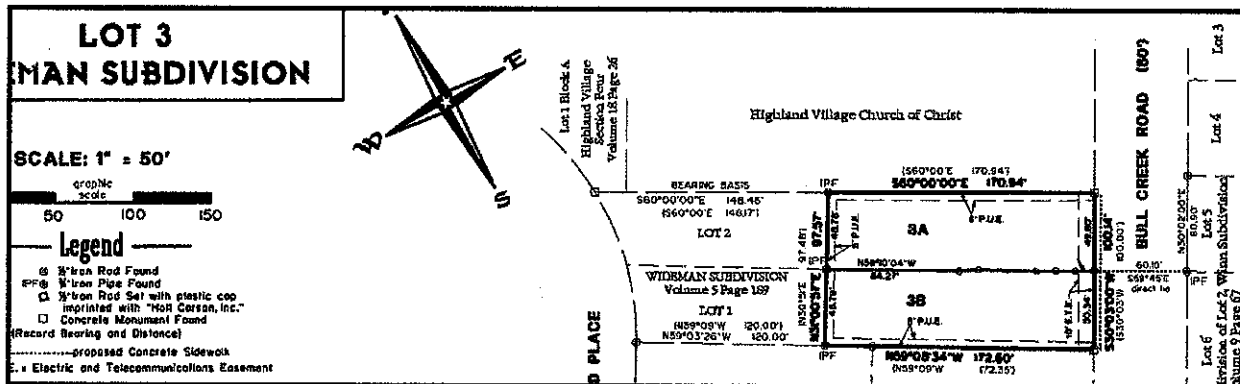
Additionally, we do not believe that this was an oversight. In fact the code in place in 1962 (see attached) specifically said that the lot should maintain a width of 50 feet. Here is that code:

"the shortest distance between side lot lines shall be not less than fifty feet at the front building line and at all points for a distance of fifty feet to the rear of the building line"

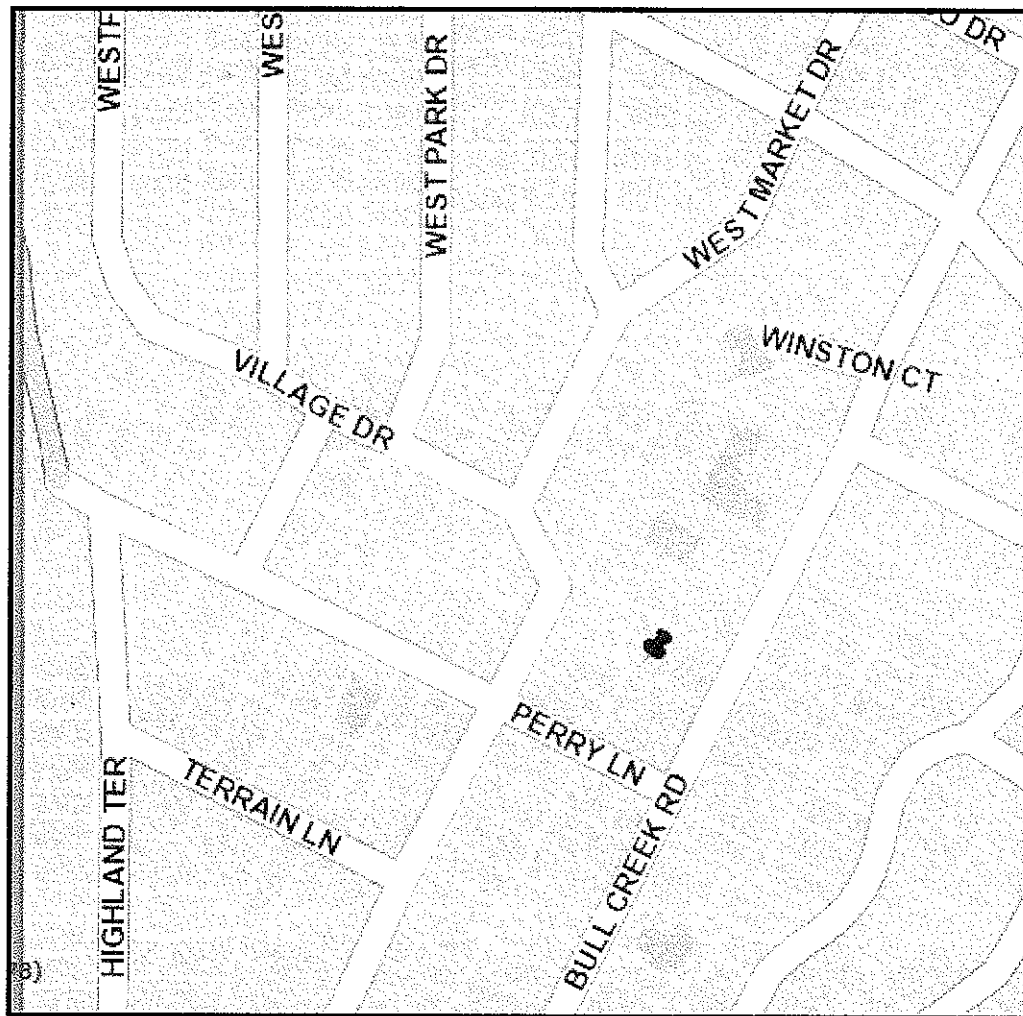
This language was specifically excised from the code when it was rewritten. If the goal was to have it maintain 50 feet, it does not make sense to specifically remove that language.

Furthermore, resubs have been approved that do not fit the ‘maintains’ interpretation as we will present.

2. Our lot is in character with the neighborhood. After subdivision each of the lots will be over 8400 square feet; this is more typical of lots in the area than the current configuration. Our lots are 50 feet wide at the front setback line and 50 feet to the rear of the front setback line. It is not smaller than 49 feet between these two points so they are not much thinner than other lots in the area. In fact, the 2 lots directly behind our lot continue our lot lines to the next street over (Placid Place), getting smaller to their front; basically they are even narrower than our proposed lots. As you can see below:



The current single lot is more out of character with the neighborhood because it is unusually large. Once divided it would be more in line with the size of lots currently in the neighborhood. Our lot is the large one with the red pin in it seen below:



3. It will not grant a special exception to this property. We are not asking for a special privilege. We are simply asking for the code to be enforced as it is written and not to enforce an additional requirement (that a lot maintains 50 feet) as this is not in the current code, was actually removed from the code, and other resubs like ours have been approved.

August 9, 2012

We, Lisa & Kimbrough Gray, are interested parties in the interpretation of LDC 25-1-22(C) with reference to our proposed re-subdivision C8-2012-0077.0A of our property at 4708 Bull Creek as per the attached plot plan.

Therefore we are submitting this BOA Interpretation application.

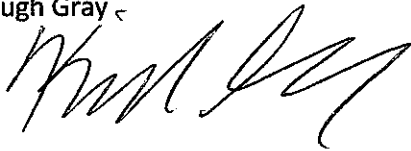
Attached is the email of the administrative decision / clarification dated August 8, 2012.

Sincerely,

Lisa Gray

A handwritten signature in black ink, appearing to be 'Lisa Gray', written in a cursive style.

Kimbrough Gray

A handwritten signature in black ink, appearing to be 'Kimbrough Gray', written in a cursive style.

Subject: Lot Width Code Clarification
From: Wahlgren, David (David.Wahlgren@austintexas.gov)
To: [REDACTED]
Cc: Sylvia.Limon@austintexas.gov; Susan.Walker@austintexas.gov;
Date: Wednesday, August 8, 2012 1:33 PM

Lisa,

Section 25-1-22(C) "Except as otherwise provided in this title, lot width is measured at the front setback line and at a distance of 50 feet to the rear of the front setback line." Is read, and has been interpreted through practice and policy for at least the last 19 years I have been here, as requiring a lot to meet the minimum lot width (which is measured at the front setback line and based on the zoning) and maintaining that width for a distance of 50'.

David Wahlgren

Development Services Process Coordinator

City of Austin

Planning & Development Review Dept.

P.O. Box 1088 (mail)

505 Barton Springs Rd. OTC, 4th Floor (visit)

Austin, TX 78704

(512) 974-6455 (ring)

(512) 974-3010 (fax)

david.wahlgren@ci.austin.tx.us (email)

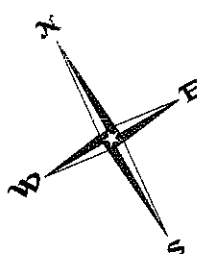
<http://www.ci.austin.tx.us/development/> (web)

8/9/2012

Improvements on properties

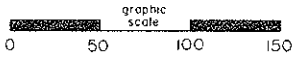


RESUBDIVISION OF LOT 3 WIDEMAN SUBDIVISION



4708 Bull Creek Proposed Plan

SCALE: 1" = 50'



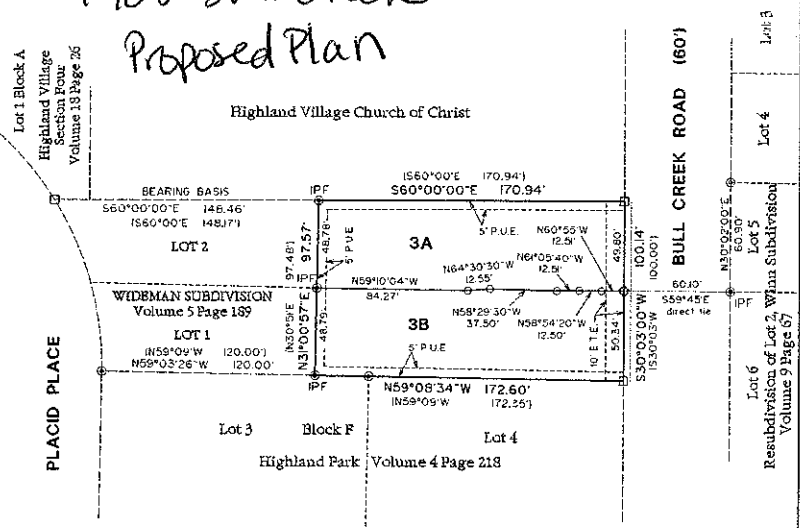
Legend

- ⊙ 1/2" Iron Rod Found
- IPF 1/2" Iron Pipe Found
- 1/2" Iron Rod Set with plastic cap imprinted with "Holt Carson, Inc."
- Concrete Monument Found (Record Bearing and Distance)

..... proposed Concrete Sidewalk
 E.T.E. = Electric and Telecommunications Easement

LOT SUMMARY

Total Number of Lots : 2
 Lot 3A : 8,487 Square Feet
 Lot 3B : 8,492 Square Feet
 Total Area : 16,979 Square Feet = 0.390 Acre
 Lot 3A Residential Use
 Lot 3B Residential Use



THE STATE OF TEXAS
 THE COUNTY OF TRAVIS
 KNOW ALL MEN BY THESE PRESENTS:

That grayland, L.L.C. acting by and through its Managing Member, Lisa Gray, owner of all of Lot 3, Wideman Subdivision, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 5 Page 189 of the Plat Records of Travis County, Texas, as conveyed to it by Warranty Deed recorded in Document Number 2012057231 of the Official Public Records of Travis County, Texas,

said subdivision having been approved for resubdivision pursuant to the public notification and hearing provision of Chapter 212.014, of the Local Government Code, do hereby resubdivide said Lot 3 in accordance with the attached map or plat shown hereon pursuant to Chapter 212 of the Texas Local Government Code, to be known as:

RESUBDIVISION OF LOT 3 WIDEMAN SUBDIVISION

subject to any easements and/or restrictions heretofore granted, and not released

WITNESS OUR HANDS this the _____ day of _____, A.D. 2012.

Lisa Gray -- Managing Member
 grayland, LLC
 1701 Alegria
 Austin, Texas 78757

THE STATE OF TEXAS
 THE COUNTY OF TRAVIS

I, the undersigned authority, on this the _____ day of _____, A.D., 2012, did personally appear Lisa Gray, known to me to be the person whose name is subscribed to the foregoing instrument of writing, and she acknowledged before me that she executed the same for the purposes and considerations therein expressed.

NOTARY PUBLIC _____

Printed Name _____

Commission Expires _____

This subdivision is located in the Full Purpose Jurisdiction of the City of Austin
 this the _____ day of _____, 2012.

THE STATE OF TEXAS
 THE COUNTY OF TRAVIS

I, Dana Debeauvoir, Clerk of Travis County, Texas, do hereby certify that the foregoing Instrument of Writing and its Certificate of Authentication was filed for record in my office on the _____ day of _____, 2012, A.D., at _____ o'clock _____ M. and duly recorded on the _____ day of _____, A.D., at _____ o'clock _____ M. in the Official Public Records of said County and State in Document No. _____

WITNESS MY HAND AND SEAL OF OFFICE OF THE COUNTY CLERK OF SAID COUNTY this the _____ day of _____ 2012, A.D.

DANA DEBEAUVOIR, COUNTY CLERK TRAVIS COUNTY, TEXAS

BY: _____
 Deputy

ACCEPTED AND AUTHORIZED for record by the Planning Commission of the City of Austin, Texas, this the _____ day of _____, 2012, A.D.

Chairperson _____ Secretary _____

APPROVED, ACCEPTED AND AUTHORIZED for record by the Director, Planning and Development Review Department, City of Austin, County of Travis, this the _____ day of _____, 2012, A.D.

Greg Guernsey, Director, Planning and Development Review Department

NOTE

THE WATER AND/OR WASTEWATER EASEMENTS INDICATED ON THIS PLAT ARE FOR THE PURPOSE OF CONSTRUCTION, OPERATION, MAINTENANCE, REPAIR, REPLACEMENT, UPGRADE, DECOMMISSIONING AND REMOVAL OF WATER AND/OR WASTEWATER FACILITIES AND APPURTENANCES NO OBJECTS, INCLUDING BUT NOT LIMITED TO, BUILDINGS, FENCES, RETAINING WALLS, TREES OR OTHER STRUCTURES ARE PERMITTED IN WATER AND/OR WASTEWATER EASEMENTS EXCEPT AS APPROVED BY THE CITY OF AUSTIN

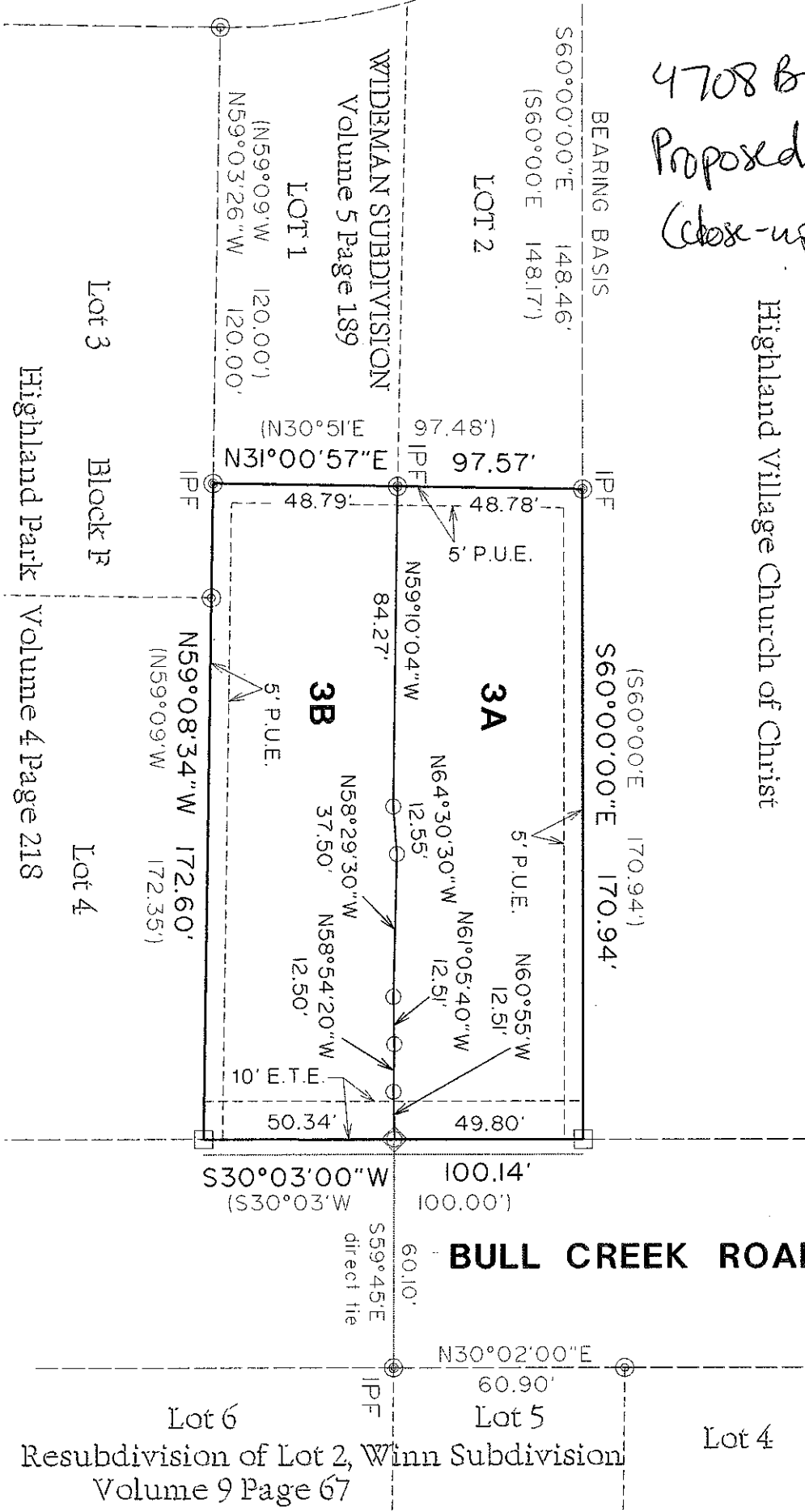
895042.dgn

PLACID PLACE

Highland V
Section 1
Volume 181

4708 Bull Creek
Proposed Plan
(close-up)

Highland Village Church of Christ



ORDINANCE NO. 621213-F

1962 LDC (see Part 4)

AN ORDINANCE AMENDING SECTIONS 23.11, 23.13, 23.32, AND 23.35 OF CHAPTER 23 OF THE AUSTIN CITY CODE OF 1954 CONCERNING PRELIMINARY PLANNING, PLATTING, BLOCK LENGTHS, AND LOT SIZES FOR PLATS AND SUBDIVISIONS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

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

PART 1. Subparagraph (4) of Section 23.11 of Chapter 23 of the Austin City Code of 1954 is hereby amended by adding to said subparagraph (4) a new sentence which shall read as follows:

"Such topographical information, locations and dimensions shall be of sufficient accuracy as to permit the planning of water lines, sanitary sewer lines, storm drainage facilities, streets and other proposed improvements."

PART 2. That part of the fourth narrative sentence of Section 23.13 of Chapter 23 of the Austin City Code of 1954 is hereby amended by inserting the expression "Approved by the Director of Planning" immediately after the word "material" which appears as the eleventh word in said sentence.

PART 3. Section 23.32 of Chapter 23 of the Austin City Code of 1954 is hereby amended so that the same shall hereafter read as follows:

"Residential blocks shall not exceed twelve hundred feet in length unless such blocks are parallel to and adjacent to a thoroughfare, in which case such blocks shall not exceed fifteen hundred feet in length. Commercial and industrial block lengths may be up to two thousand feet in length provided the requirements of traffic circulation and utility service are met. Block lengths may be varied according to the requirements of circulation, utility service, topography and provisions of the master plan."

PART 4. Section 23.35 of Chapter 23 of the Austin City Code of 1954 is hereby amended so that the same shall hereafter read as follows:

Sec. 23.35 Lot Sizes.

"Where all lots of the subdivision are to be served immediately by a sewage-collecting system connected to a public sanitary sewer or a central disposal unit, the shortest distance between side lot lines shall be not less than fifty feet at the front building line and

at all points for a distance of fifty feet to the rear of the building line for interior residential lots. The minimum depth shall be one hundred fifteen feet; provided, that a decrease in depth may be made if the lot width is increased so as to provide a minimum lot area of five thousand seven hundred and fifty square feet. On cul-de-sac or curved streets, the minimum lot width at the front street property line shall be thirty-three feet measured along the chord of the arc. For residential corner lots, the shortest distance between side lot lines shall be not less than sixty feet at the front building line and at all points for a distance of fifty feet to the rear of the building line and the minimum area of corner lots shall be six thousand nine hundred square feet. For residential lots not served by a public sewerage system and located in a subdivision which will not be served immediately by a central disposal unit, the shortest distance between side lot lines shall be not less than sixty feet at the front building line and at all points for a distance of seventy five feet to the rear of the building line and the minimum lot area shall be nine thousand square feet."

PART 5. The rule requiring ordinances to be read on three separate days is hereby suspended. The fact that the present ordinance does not adequately regulate the above named subjects creates an emergency which, for the preservation of the safety, health and general welfare of the public requires that this Ordinance go into effect immediately; and it is therefore ordained that it shall be effective from the date of its passage as provided by the Charter of the City of Austin.

PASSED AND APPROVED |

December 13, 1962 |

Len E. Palmer
 Mayor

APPROVED: *Doren B. Green*
 City Attorney

ATTEST: *Elis Hoosley*
 City Clerk

AFFIDAVIT OF PUBLICATION

THE STATE OF TEXAS

COUNTY OF TRAVIS

Before me, the undersigned authority, a Notary Public in and for the County of Travis, State of Texas, on this day personally appeared Eleanor Walker, Advertising Agent of The American-Statesman, a daily newspaper published in said County and State, who, being duly sworn by me, states that the attached advertisement was published in said newspaper on the following dates, to wit: December 21, 1962 and that the attached is a true copy of said advertisement:

Ordinance No. 621213-F

An ordinance amending sections 23.11, 23.13, 23.32, and 23.35 of Chapter 23 of the Austin City Code of 1954 concerning preliminary planning, platting, block lengths, and lot sizes for plats and subdivisions; suspending the rule requiring the reading of ordinances on three separate days; and declaring an emergency.

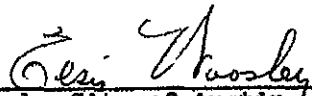
(Sgd) Eleanor Walker

SWORN AND SUBSCRIBED TO Before me, this the 21st day of December, A.D. 1962.

(Sgd) Lula Mae Waggoner
Notary Public in and
for Travis County, Texas

(Seal)

I, Elsie Woosley, City Clerk of the City of Austin, hereby certify that the above and foregoing ordinance was published as required by the City Charter, in the American-Statesman, a daily newspaper published in said City on December 21, 1962.



City Clerk, City of Austin, Texas