

CASE # CL5-2013-0133
ROW # 11048250

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

TP-0133091401

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

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

STREET ADDRESS: 4811 Palisade Drive, 78731

LEGAL DESCRIPTION: Subdivision - Cliff Over Lake Austin - II

Lot(s) 60 Block B Outlot Division

I Darby A. Pearson on behalf of myself as authorized agent for

Robert Sanchez affirm that on October 30, 2013,

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

(check appropriate items below)

ERECT ATTACH COMPLETE REMODEL MAINTAIN

This application seeks to obtain a variance of the requirement to demonstrate which slope categories the existing impervious cover belongs to. The proposed design includes a new garage and accessory dwelling directly above said garage. Note: No additional impervious cover shall be created with the proposed design.

in a LA 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 house and improvements exist. Alterations and additions were made both prior to, and after, the adoption of the "McMansion Ordinance." City staff received and approved all previous requests for permits. The project does not increase the existing impervious cover and in fact is constructed directly over an existing slab over an existing wine cellar. Please refer to attached letter of staff support from Greg Guernsey.

HARDSHIP:

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

The owner inherited through purchase a property fully granted and permitted through the City of Austin for what it is currently. The owner purchased the property with every expectation to be able to improve upon the property within the parameters of the existing structure. The hardships, non self-imposed, are the several approved improvements to the property that the current buyer should not have to inherit as detrimental.

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

The hardship of previous staff oversight is unique to this property, for this owner. Every effort has been made to obtain the necessary and required permits in the past.

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:

The granting of this variance within the required setbacks and height restrictions does not, in any way, affect the property or surrounding properties, and the H.O.A. has reviewed and approved the design. The character of the area adjacent to the property will not be altered because all other houses in the area have garages and/or carports similar to that which is proposed. The proposed design is for residential use, which is compliant with the use of adjacent properties.

PARKING: (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

No changes.

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

No changes.

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

No changes.

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

No changes.

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.

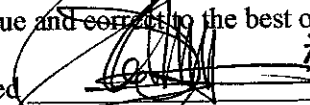
APPLICANT CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed  Mail Address 4415-A Garnett St.

City, State & Zip Austin, TX 78745

Printed Darby Pearson Phone 512-608-8092 Date 10-30-2013

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  FOR & ON BEHALF OF OWNER: ROBERT SANCHEZ
Mail Address _____

City, State & Zip 4401 COTTONWOOD DRIVE CUN TX. 78657

Printed MARVY BEGGE FOR Phone 512-736-4564 Date 10-30-13
ROBERT SANCHEZ

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:

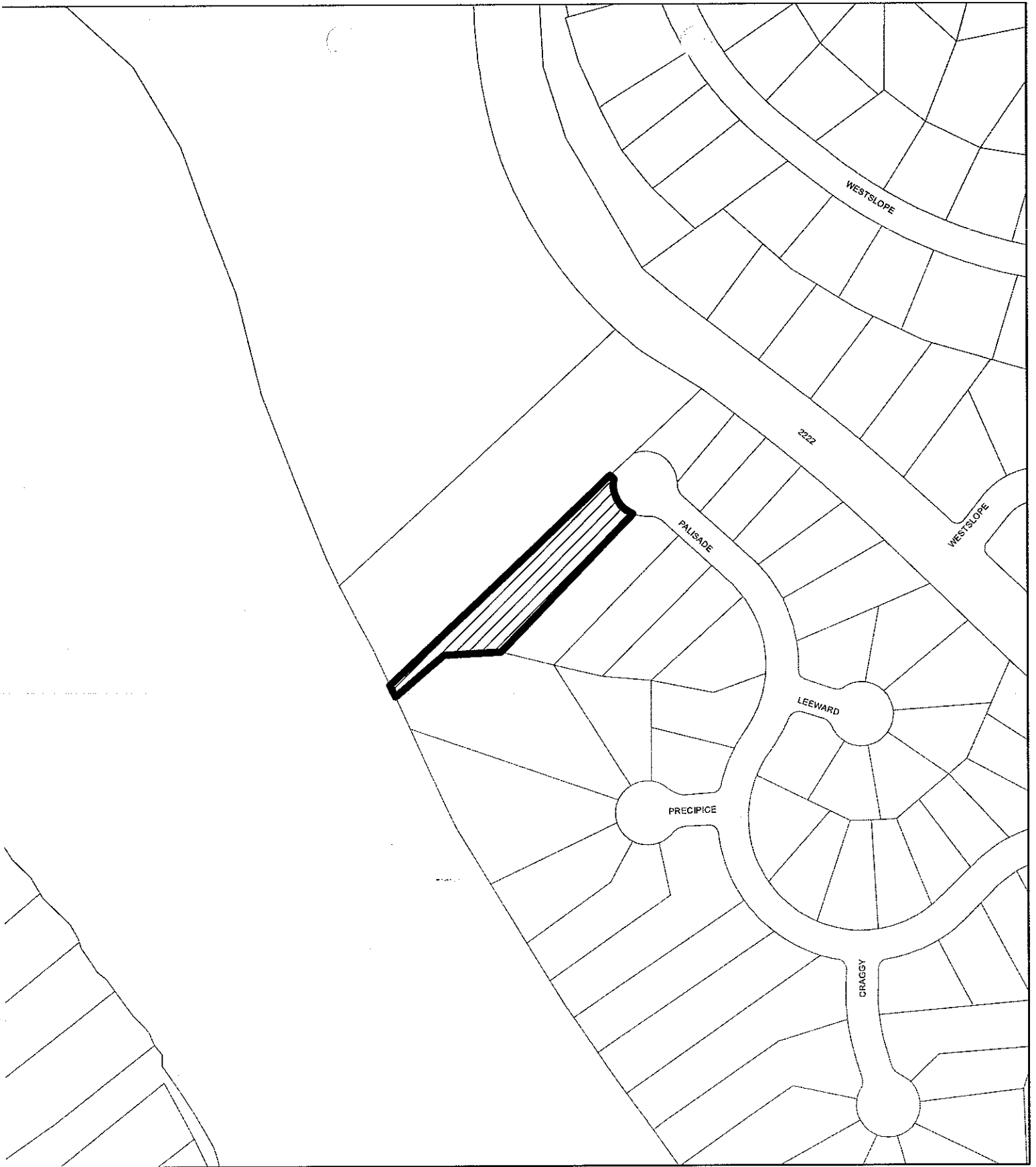
**Susan Walker, Planner
974-2202**

**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**

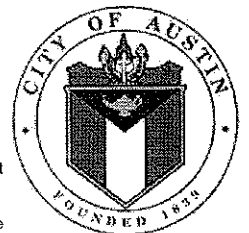


SUBJECT TRACT



ZONING BOUNDARY

CASE#: C15-2013-0133
 LOCATION: 4811 PALISADE DR



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.



City of Austin

Founded by Congress, Republic of Texas, 1839
Planning and Development Review Department
P.O. Box 1088, Austin, Texas 78767

Mr. Robert J. Sanchez
4811 Palisade Drive
Austin, Texas 787

October 23, 2013

RE: Board of Adjustment Variance request for
4811 Palisade Drive

Dear Mr. Sanchez,

I enjoyed meeting with you and your architect, Mr. Marley Porter last week to discuss your home on Palisade Drive. I apologize for the delay and confusion associated with your proposed project to construct a garage over your existing wine cellar/storage building.

In accordance with our conversation, I have attached a memorandum that I will be forwarding to the Austin Board of Adjustment that outlines the errors made by City staff and the permit history on your property. If you have any questions, please contact me at 512-974-2387 or by email at greg.guernsey@austintexas.gov.

Sincerely,

Gregory L. Guernsey, Director, ACP
Planning and Development Review Department

cc: Marc Ott, City Manager
Sue Edwards, Assistant City Manager
Nancy Williams,
Don Birkner, Assistant Director, PDRD



MEMORANDUM

To: Mr. Jeff Jack, Chair and
Members of the Board of Adjustment

From: Gregory I. Guernsey, AICP, Director
Planning and Development Review Department

Date: October 23, 2013

Subject: 4811 Palisade Drive variance request

I want to make the Board of Adjustment aware of unusual circumstances involving the residential plan review approvals that were issued at 4811 Palisade Drive. On October 31 1990 a building permit was issued for the construction of a two-story residence with an attached garage. It is unclear whether a detailed plan review was performed prior to the permit issuance for the residence and the permit record noted the existing zoning district was Family Residence (SF-3) district, when in fact it is zoned Lake Austin (LA) district. On June 6, 1999 a permit for a swimming pool and spa was issued with the correct zoning district of LA noted in the permit record; however, there is no record of the specific plans that were approved or whether or not a slope category map was required as a matter of demonstrating compliance with the LA district regulations. On July 31, 2006 an application for the addition of a detached wine cellar and storage area was approved and the subsequent building permit was issued on August 8, 2006. This application shows an overall compliance with impervious cover at 21%, but no information was required to demonstrate what slope categories the impervious cover was placed upon.

At some point in time the building permit for the swimming pool/spa and detached wine cellar/storage area expired due to not completing the inspections process. The property owner submitted an application on July 19, 2012 to re-permit the swimming pool/spa and detached wine cellar/storage and it was approved July 31, 2012. No information was required to demonstrate what slope categories the existing impervious cover had been placed upon for this re-permit application.

On November 11, 2012 a new application was submitted for a new garage and accessory dwelling. The application was rejected and in the process a slope table and map was asked for during the review process. It was discovered after evaluating the slope information; the property exceeded the allowed impervious cover limitations in all slope categories (0-15%, 15-25%, 25-35% and over 35%).

According to the City Code this LA zoned lot (that was recorded before August 22, 1982) is allowed the following impervious cover: 35 percent on a slope with a gradient of 15 percent or less; 10 percent on a slope with a gradient of more than 15 percent and not more than 25 percent; 5 percent on a slope with a gradient of more than 25 percent and not more than 35 percent. No impervious cover is allowed on a slope with a gradient of more than 35 percent.


The following table represents the slope information and their respective impervious coverage percentages for the subject property currently:

Total s.f. per slope category	Slope	Allowable Impervious Cover (%)	Allowable Impervious Cover (s.f.)	Actual Impervious Cover (%)	Actual Impervious Cover (s.f.)
9511.54	0 – 15%	35	3329.04	56.3	5354.88
3135.17	15 – 25%	10	313.52	19.2	603.37
3356.33	25 – 35%	5	167.82	18.0	603.37
12063.03	> 35%	Not allowed	Not Allowed	8.1	980.47

Overall Impervious Cover Total = 26.9% (7,542.08) based on a lot size of 28,066.07

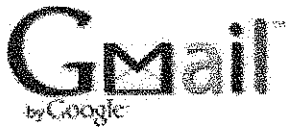
In light of the plan review errors that were made in the past by City staff and slope information that was never required during plan review for twenty two years, I would ask the Board to take this information into serious consideration when evaluating any variances necessitated by City staff at this address. If you have any questions or need additional information, please don't hesitate to contact me at 512-974-2387 or by email at greg.guernsey@austintexas.gov.

Sincerely,



Gregory I Guernsey, AICP, Director
 Planning and Development Review Department

Cc: Donald Birkner, Assistant Director, PDRD
 Kathy Haught, Division Manager, PDRD
 John M. McDonald, Development Services Manager, PDRD
 Daniel Word, Planner Principal, PDRD



Darby Pearson <darby@livingarchitecture.com>

Re: BOARD OF ADJUSTMENTS MEETING

1 message

Robert Sanchez <robryan2001@gmail.com>

Wed, Oct 30, 2013 at 11:33 AM

To: Marley Porter <marley@livingarchitecture.com>

Cc: Darby Pearson <darby@livingarchitecture.com>, Kerry Martin <kerry@enertechbuilders.com>

Marley please sign for me as I am getting on the airplane to leave for about a week and a return Monday and I just don't want to wait

On Oct 30, 2013, at 10:52 AM, Marley Porter <marley@livingarchitecture.com> wrote:

I'll have the check with me at Vincent's at 2:30. Contact Mr. Sanchez directly to get signature OR, if he agrees, the check as well.

Robert, please weigh in here!

Marley

On Wed, Oct 30, 2013 at 10:49 AM, Darby Pearson <darby@livingarchitecture.com> wrote:

[REDACTED]

+++

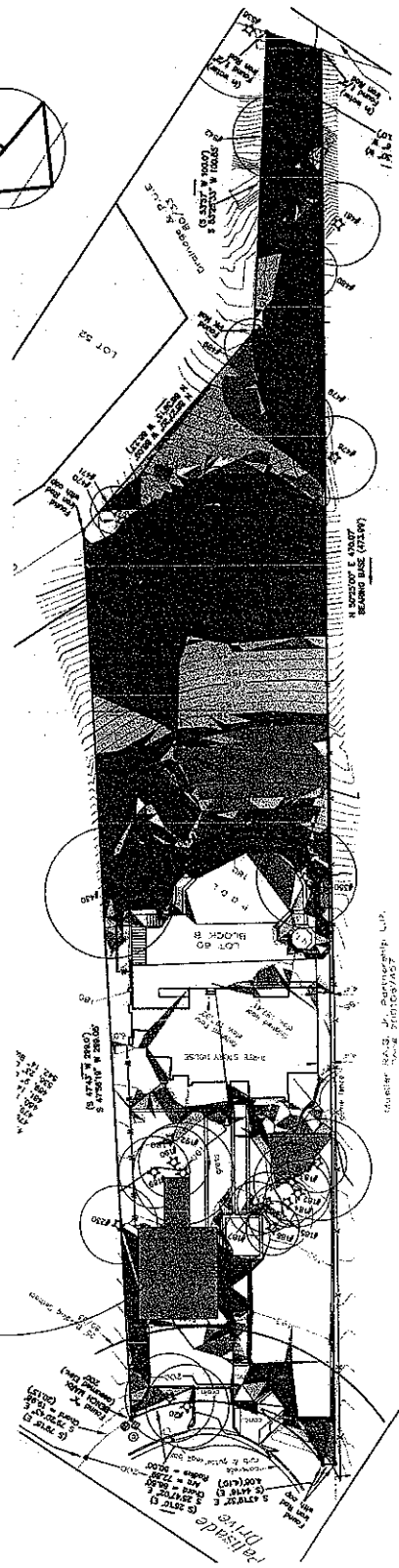
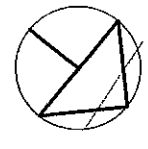
Darby Pearson

Living Architecture & Construction Management
4401 Cottonwood Drive | Cottonwood Shores, TX 78657
P 512.608.8092 | F 830.798.9304
darby@livingarchitecture.com

[REDACTED]

PALISADE GARAGE & ACCESSORY DWELLING #

NEW GARAGE & ACCESSORY DWELLING - NO ADDITIONAL IMPERVIOUS COVER



NOTE: PROJECT ELEVATION C.O.F. = 192'-0" SURVEY ELEVATION

Slopes Table					
Number	Minimum Slope	Maximum Slope	Area (sf)	Area (Ac)	Color
1	0.00%	15.00%	9511.54	0.22	
2	15.00%	25.00%	3135.17	0.07	■
3	25.00%	35.00%	3356.33	0.08	■
4	35.00%	37627.49%	12063.03	0.28	■

Total Square Footages per Slope Designation	Slope	Allowed Impervious Cover (%)	Allowed Impervious Cover (s.f.)	Impervious Cover (%)	Impervious Cover (s.f.)
9,511.54	0% - 15%	35	3,329.04	56.3%	5,354.88
3,135.17	15% - 25%	10	313.52	19.2%	603.37
3,356.33	25% - 35%	5	167.82	18.0%	603.37
12,063.03	> 35%	NA	NA	8.1%	980.47

Total Lot Size = 28,066.07
NA = Not Allowed

Impervious Cover Total (%) = 26.9%
Impervious Cover Total (s.f.) = 7,542.08

SLOPE MAP AND IMPERVIOUS CALCULATIONS
1" = 40'-0"

REVISIONS	DATE

CONSTRUCTION GUIDE DOCUMENTS
The contractor shall be responsible for providing all necessary permits and approvals for the construction process. Contractors are encouraged to provide shop drawings, requests for proposals, submittals, drawings or specifications, for review by the architect and final details to carry out the intention of the design herein portrayed.

DESIGN COPYRIGHT
All design contained herein, plans, elevations, details, etc. are property of the architect and may not be reproduced or transmitted in any form or by any means, electronic or mechanical, without the prior written permission of the architect.



LIVING ARCHITECTURE
1 CONSTRUCTION MANAGER
MARLEY PORTER
ARCHITECT

461 COTTONWOOD DR.
COTTONWOOD, TX 76657
Phone 817-796-1810
Fax 817-796-1801
www.livingarchitecture.com

DESIGNED BY: MARLEY PORTER
CHECKED BY: MARLEY PORTER
ISSUE DATE: 04/19/2013
DRAWN BY: DARBY ROOMAN
A2

The undersigned does hereby certify that this survey was this day made on the property hereinafter described herein and is correct and this survey substantially complies with the current Texas Society of Professional Surveyors Standards and Specifications for a Category I & II Condition II Survey.

And I certify that the property shown hereon is PARTIALLY within a special flood hazard zone as identified by the Federal Insurance Administration within a special Flood Zone No. 17646.

Date: 03/28/08
 Surveyed by: T.P.D. on the 11th day of MARCH, 2013.

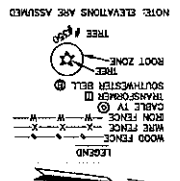
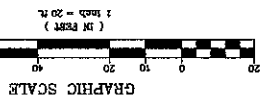
OWNER: ROBERT SANCHEZ
 ADDRESS: 4811 PALISADE DRIVE, AUSTIN, TEXAS 78751

LEGAL DESCRIPTION:
 TOPOGRAPHIC AND TREE SURVEY OF LOT 80, BLOCK B, UNIT 2, PHASE 2, PAGES 35 AND 34, PLAT RECORDS, TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP AND PLAT RECORDS RECORDED IN VOLUME 80, PAGES 35 AND 34, PLAT RECORDS, TRAVIS COUNTY, TEXAS AS REFERRED TO ROBERT SANCHEZ IN DOCUMENT NUMBER 201215053, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS.

LOT 80, BLOCK B IS SUBJECT TO:
 RESTRICTIONS AND EASEMENT RIGHTS OF RECORD.

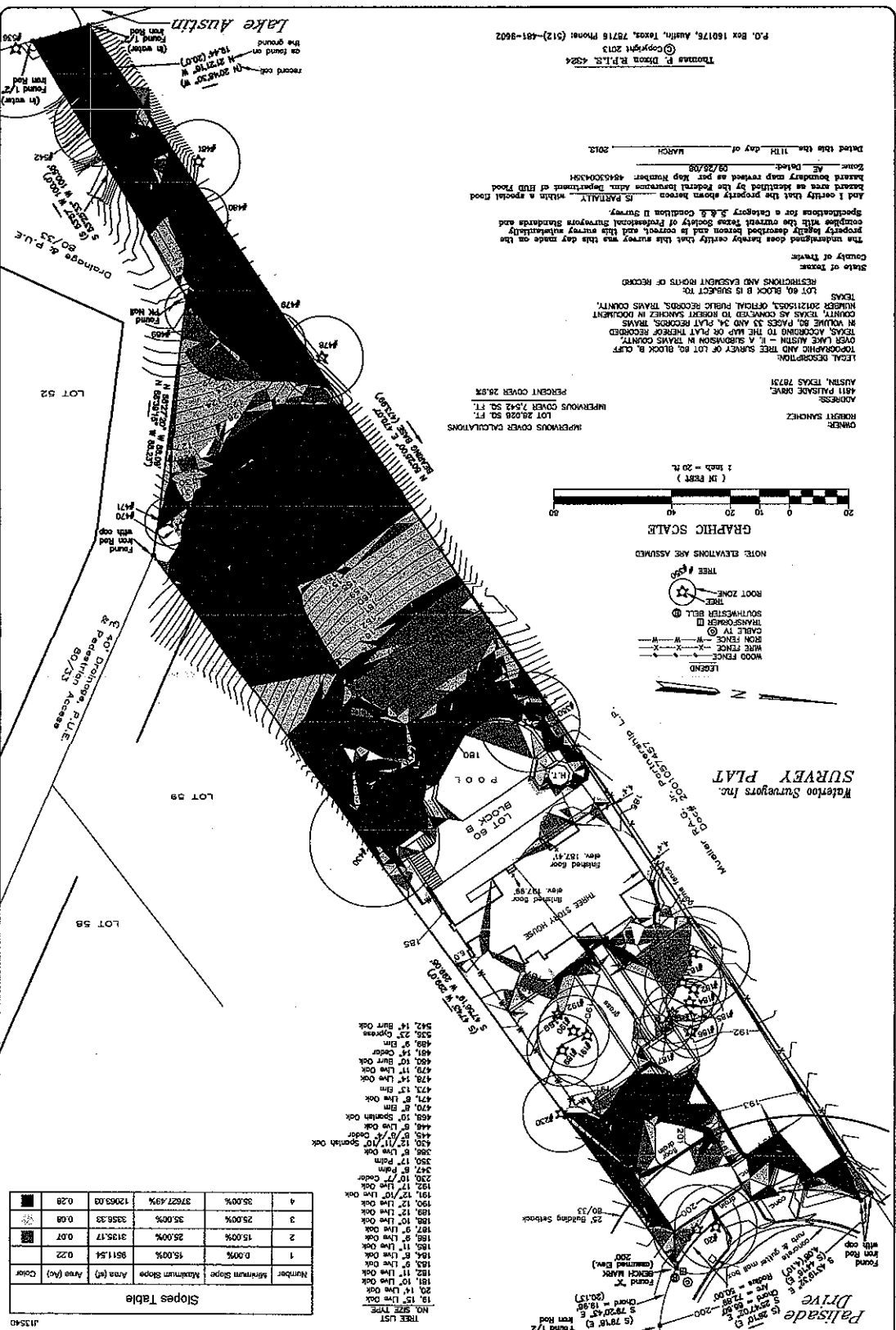
State of Texas
 County of Travis

APPROXIMATE COVER CALCULATIONS:
 LOT 28.00 SQ. FT.
 PERCENT COVER 28.8%



NOTE: ELEVATIONS ARE ASSUMED

SURVEY PLAT
 Waterloo Surveyors Inc.



Color	Ave (%)	Area (Ac)	Maximum Slope	Number	Average Slope
■	0.22	9511.54	15.00%	1	15.00%
■	0.07	3185.17	25.00%	2	25.00%
■	0.08	3358.33	35.00%	3	35.00%
■	0.28	12065.03	35.00%	4	35.00%

- TREE LIST
- 181' 10" Live Oak
 - 182' 11" Live Oak
 - 183' 12" Live Oak
 - 184' 1" Live Oak
 - 185' 12" Live Oak
 - 186' 1" Live Oak
 - 187' 9" Live Oak
 - 188' 9" Live Oak
 - 189' 12" Live Oak
 - 190' 1" Live Oak
 - 191' 10" Live Oak
 - 192' 1" Live Oak
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 - 477' 17' Live Oak
 - 478' 17' Live Oak
 - 479' 17' Live Oak
 - 480' 17' Burr Oak
 - 481' 17' Cedar
 - 482' 17' Burr Oak
 - 483' 17' Elm
 - 484' 17' Burr Oak
 - 485' 17' Elm
 - 486' 17' Burr Oak
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 - 520' 17' Burr Oak

PALISADE GARAGE & ACCESSORY DWELLING

REVISIONS	DATE

CONSTRUCTION GUIDE COMMENTS:
 These documents are intended as a guide to the construction process. Contractors are encouraged to provide drawings, requests for pricing, clarifications, change orders, and submittals for review by the architect and final details to carry out the intention of the design's intent. *(Signature)*

DESIGN COPYRIGHT:
 All design contained herein, plans, elevations, details, etc. are property of the Architect and may not be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopying, recording, or by any information storage and retrieval system, without the prior written permission from the Architect.

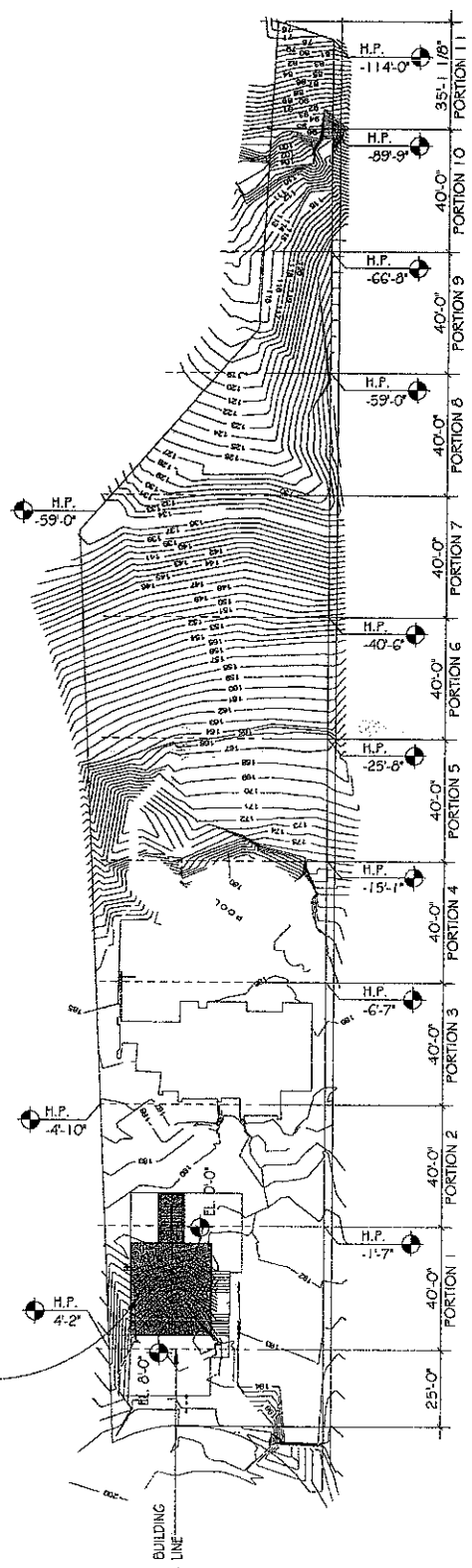
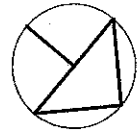


LIVING ARCHITECTURE & CONSTRUCTION MANAGEMENT
MARLEY PORTER ARCHITECT

481 COTTONWOOD DR.
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 Fax 925-736-4444
 Cell 925-736-4588
 marley@livingarchitecture.com
 www.livingarchitecture.com

DESIGNED BY: MARLEY PORTER
CHECKED BY: MARLEY PORTER
ISSUE DATE: 04/19/2013
DRAWN BY: DARBY ROUMAN
A1

**NEW GARAGE & ACCESSORY DWELLING -
 NO ADDITIONAL IMPERVIOUS COVER**



NOTE: PROJECT ELEVATION 0.0' = 192.0' SURVEY ELEVATION

SITE PLAN
 1" = 40'-0"