



May 5, 2020

Jennifer Hanlen  
1401 E 3rd St  
Austin TX, 78702

Property Description: W 35.6FT OF N138FT OF W193.4 OLT 20 DIVISION O

**Re: C15-2020-0020**

Dear Jennifer,

Austin Energy (AE) has reviewed your application for the above referenced property, requesting that the Board of Adjustment consider a variance(s) from the following section of the Land Development Code; Section 25-2-492 (*Site Development Regulations*) setback requirements; to decrease the minimum interior side setback from 5 feet (required) to 2.77 feet (requested)

In order to complete a Single-Family residence in an "SF-3-NP", Single-Family Residence-Neighborhood Plan zoning district. (East Cesar Chavez Neighborhood Plan)

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

Please use this link to be advised of our clearance and safety requirements which are additional conditions of the above review action: <https://austinenergy.com/wcm/connect/8bb4699c-7691-4a74-98e7-56059e9be364/Design+Criteria+Manual+Oct+2015.pdf?MOD=AJPERES>

If you require further information or have any questions regarding the above comments, please contact our office.

Thank you for contacting Austin Energy.

**Eben Kellogg, Property Agent**

Austin Energy  
Public Involvement | Real Estate Services  
2500 Montopolis Drive  
Austin, TX 78741  
(512) 322-6050

# BOA GENERAL REVIEW COVERSHEET

**CASE:** C15-2020-0020

**BOA DATE:** April 13, 2020

**ADDRESS:** 1401 E. 3<sup>rd</sup> St

**COUNCIL DISTRICT:** 3

**OWNER:** Durham Trading Partners

**AGENT:** Jennifer Hanlen

**ZONING:** SF-3-NP

**LEGAL DESCRIPTION:** W 35.6FT OF N138FT OF W193.4 OLT 20 DIVISION O

**VARIANCE REQUEST:** reduce interior side setback from 5 ft. to 2.77 ft.

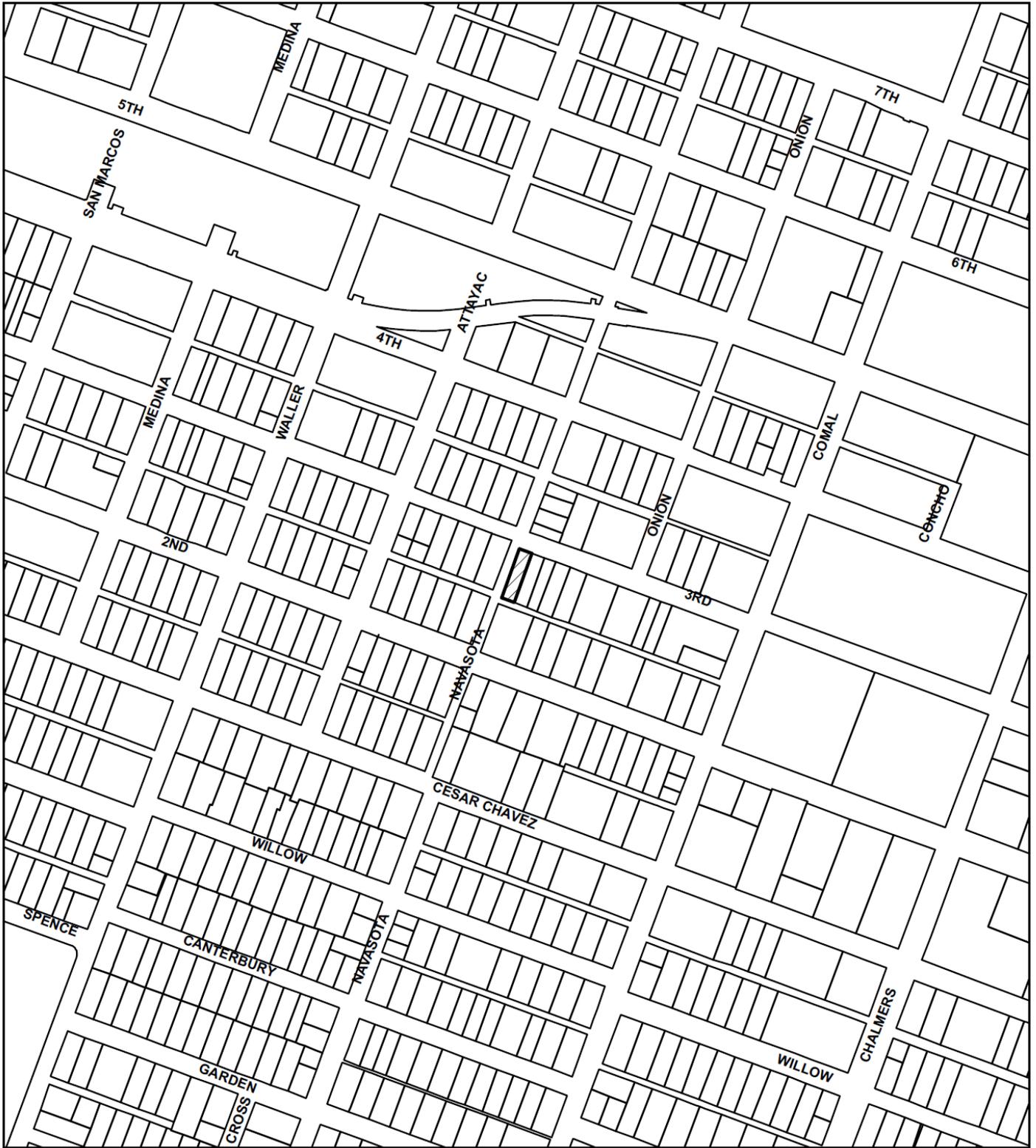
**SUMMARY:** complete construction of a Single-Family residence

**ISSUES:** layout error during construction

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	SF-3-NP	Single-Family
<i>North</i>	SF-3-NP	Single-Family
<i>South</i>	SF-3-H-NP	Single-Family
<i>East</i>	SF-3-NP	Single-Family
<i>West</i>	SF-3-NP	Single-Family

**NEIGHBORHOOD ORGANIZATIONS:**

- Austin Independent School District
- Austin Lost and Found Pets
- Austin Neighborhoods Council
- Barrio Unido Neighborhood Assn.
- Bike Austin
- Capital Metro
- Del Valle Community Coalition
- East Austin Conservancy
- East Cesar Chavez Neighborhood Association
- East Cesar Chavez Neighborhood Plan Contact Team
- El Concilio Mexican-American Neighborhoods
- Friends of Austin Neighborhoods
- Greater East Austin Neighborhood Association
- Guadalupe Neighborhood Development Corporation
- Homeless Neighborhood Association
- Neighborhood Empowerment Foundation
- Neighbors United for Progress
- Preservation Austin
- SELTexas
- Sierra Club, Austin Regional Group
- Tejano Town



**NOTIFICATIONS**

CASE#: C15-2020-0020

LOCATION: 1401 E 3RD STREET



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

1" = 333'

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

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





**CITY OF AUSTIN**  
Development Services Department  
One Texas Center | Phone: 512.978.4000  
505 Barton Springs Road, Austin, Texas 78704

## Board of Adjustment General/Parking Variance Application

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

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

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

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

### For Office Use Only

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

### Section 1: Applicant Statement

Street Address: 1401 E 3 ST, AUSTIN TEXAS 78702

Subdivision Legal Description:  
W 35.6FT OF N138FT OF W193.4 OLT 20 DIVISION O

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

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

Zoning District: SF3

I/We JENNIFER HANLEN on behalf of myself/ourselves as authorized agent for OWNER - DURHAM TRADING PARTNERS XII LLC affirm that on Month March, Day 10, Year 2020, hereby apply for a hearing before the Board of Adjustment for consideration to (select appropriate option below):

Erect  Attach  Complete  Remodel  Maintain  Other: See Page 5

Type of Structure: SF RESIDENTIAL HOUSE ENCROACHING IN 2.77 FEET OF 5 FT SIDE SET

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

VARIANCE FROM 25-2-492 TO ALLOW A 2.77 ENCROACHMENT INTO THE REQUIRED 5' SIDE SETBACK FOR EXISTING SINGLE FAMILY RESIDENCE

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### Section 2: Variance Findings

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

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

I contend that my entitlement to the requested variance is based on the following findings:

#### Reasonable Use

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

SF-3 ZONING PROMOTES SINGLE FAMILY USES. THIS LOT IS 4852 SF AND LOCATED AT THE SW CORNER OF NAVASOTA ST. AND EAST 3RD. THE STREET SIDE SETBACK ALONG NAVASOTA IS 15FT. THE CURRENT HOUSE IS PUSHED BETWEEN THE STREET SIDE SETBACK AND INTERIOR 5' SETBACK. A 1,985 SF HOUSE WAS PERMITTED BY COA CONSTRUCTION OF THE HOUSE RESULTED IN A 2.77 FOOT SETBACK. THE HOUSE CAN NOT EXIST AS PERMITTED WITHOUT A VARIANCE.

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#### Hardship

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

THE 4,852 SF LOT IS A CORNER LOT. THE 15' STREET SIDE SETBACK REQUIRES 2,000 OF THE 4,852 SF LOT, ROUGHLY 40% OF THE LOT. THE REMAINING PORTION OF THE LOT HAS AN EXISTING SF RESIDENCE PERMITTED IN 2017. THE OWNER IS SEEKING A VARIANCE TO ALLOW THE 2.77 SETBACK ALONG THE 5' SIDE SETBACK.

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

THERE ARE NO KNOWN SITES WITH THIS ISSUE IN THE AREA.

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**Area Character**

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

ALLOWING THE SF RESIDENCE TO REMAIN AS PERMITTED WILL NOT ALTER THE CHARACTER OF THE AREA, WILL NOT IMPAIR USE OF THE ADJACENT PROPERTY, NOR IMPAIR PUPOSE OF THE REGULATIONS. THERE ARE A VARIETY OF ZONING ISSUES FOUND THROUGHOUT EAST AUSTIN.

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**Parking (additional criteria for parking variances only)**

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed in the City of Austin Land Development Code Chapter 25-6, Appendix A with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

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

N/A

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- 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:

N/A

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

N/A

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

N/A

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**Section 3: Applicant Certificate**

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

Applicant Signature: [Signature] Date: 3/12/2020

Applicant Name (typed or printed): JENNIFER HANLEN

Applicant Mailing Address: 105 W RIVERSIDE, SUITE 225

City: AUSTIN State: TX Zip: 78704

Phone (will be public information): 512 212 7632

Email (optional – will be public information): [Redacted]

**Section 4: Owner Certificate**

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

Owner Signature: [Signature] Date: 3/10/20

Owner Name (typed or printed): DURHAM TRADING PARTNERS XII, LLC

Owner Mailing Address: 920 E. DEAN KEETON ST

City: AUSTIN State: TX Zip: 78705

Phone (will be public information): 512 554 3647

Email (optional – will be public information): [Redacted]

**Section 5: Agent Information**

Agent Name: JENNIFER HANLEN

Agent Mailing Address: 105 W RIVERSIDE

City: AUSTIN State: TX Zip: 78704

Phone (will be public information): 512 212 7632

Email (optional – will be public information): [Redacted]

**Section 6: Additional Space (if applicable)**

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PERMIT PARTNERS, LLC  
105 W. Riverside Dr. Suite 225  
Austin, Texas 78704  
David C. Cancialosi  
512.593.5368 c.  
512.494.4561 f.

March 19, 2020

City of Austin c/o Elaine Ramirez  
City of Austin Board of Adjustments  
One Texas Center  
505 Barton Springs  
Austin, Texas 78704

**BOA request for 1401 E 3rd St. to allow a 2.77' setback in the required 5' side setback**

- Legal tract located at 1401 E. 3rd St. is 4,852 SF; has had on-site utility service since 1926.
- Original residence was demolished in 2017 and a new residential permit application was submitted to city of Austin.
- Application was approved by city of Austin; new single-family residence constructed in accordance with plans.
- The plot plan was accurate and was based on the accurate survey; however, an incorrect version of the survey was used to set the construction forms.
- A survey error based on confusing ROW widths in the adjacent alley created a 2.7' side yard setback during construction of the SFR & accessory apartment.
- This was not known until contractor called for final inspection and certificate of occupancy and preparation of the owner occupying the residence.
- Surveyor then surveyed entire block alley in order to understand where error was created.
- The intersection of the rear public alley and intersecting Navasota Street have varying widths. These intersecting ROWs allowed multiple opportunities for error.
- The new single-family residence has a varying encroachment into the 5' side yard setback, creating a side yard setback ranging from 2.77' to 4.0'.
- There are no known examples like this in the immediate area, but is probable in the larger east Austin geography.
- This small setback encroachment does not impair the intent of the zoning regulations, nor does it have any adverse impact on adjacent or surrounding properties.
- All inspections have passed except the building permit's final inspection. The Certificate of Occupancy can be granted if the variance is approved.

Sincerely,



David C. Cancialosi, Agent for Owner

# Waterloo Surveyors Inc. SURVEY PLAT

**OWNER:**  
DURHAM TRADING PARTNERS XII, LLC

**ADDRESS:**  
1401 E 3rd STREET  
AUSTIN, TEXAS 78702

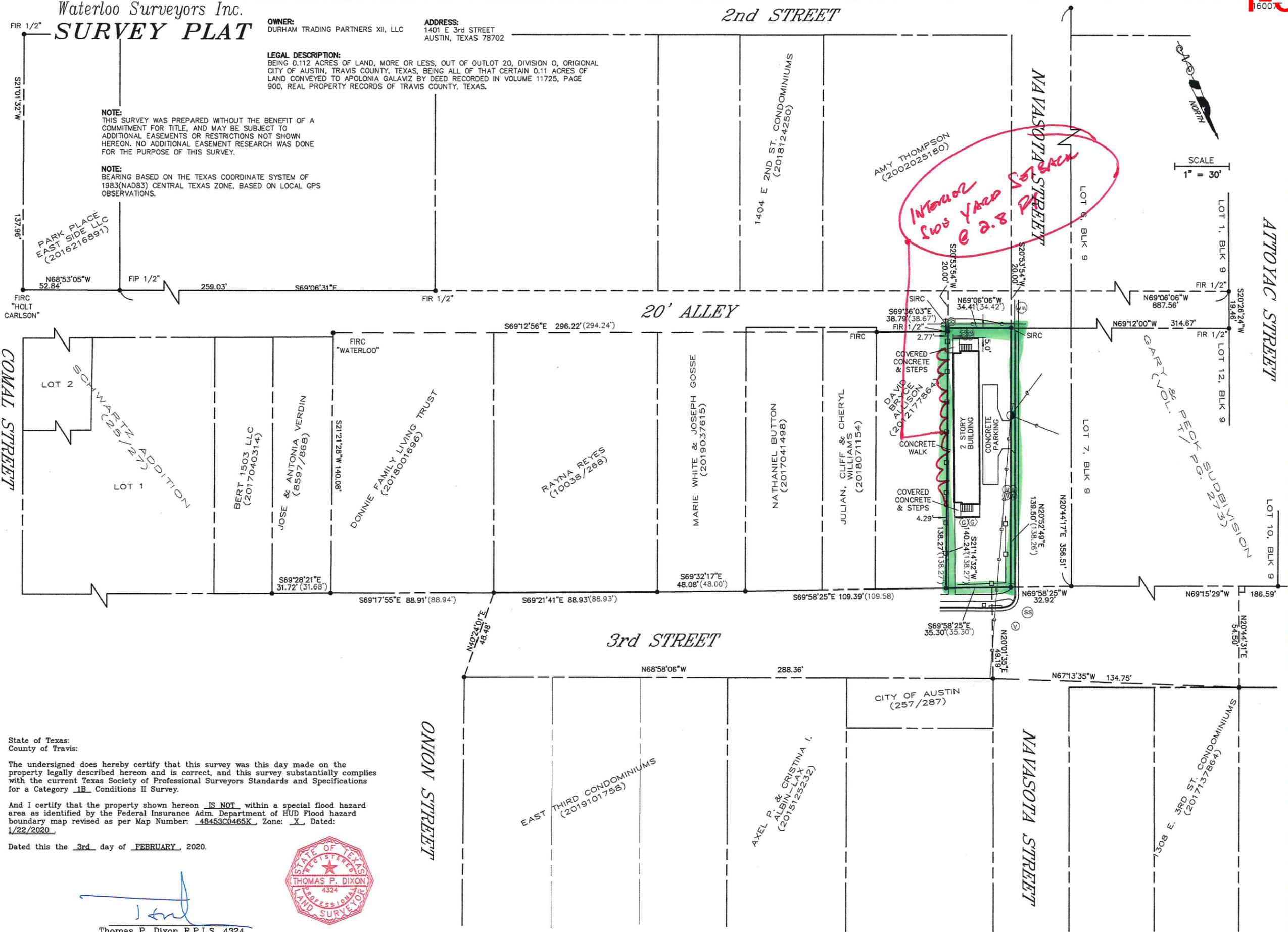
**LEGAL DESCRIPTION:**  
BEING 0.112 ACRES OF LAND, MORE OR LESS, OUT OF OUTLOT 20, DIVISION O, ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN 0.11 ACRES OF LAND CONVEYED TO APOLONIA GALAVIZ BY DEED RECORDED IN VOLUME 11725, PAGE 900, REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS.

**NOTE:**  
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A COMMITMENT FOR TITLE, AND MAY BE SUBJECT TO ADDITIONAL EASEMENTS OR RESTRICTIONS NOT SHOWN HEREON. NO ADDITIONAL EASEMENT RESEARCH WAS DONE FOR THE PURPOSE OF THIS SURVEY.

**NOTE:**  
BEARING BASED ON THE TEXAS COORDINATE SYSTEM OF 1983(NAD83) CENTRAL TEXAS ZONE, BASED ON LOCAL GPS OBSERVATIONS.



SCALE  
1" = 30'



State of Texas:  
County of Travis:

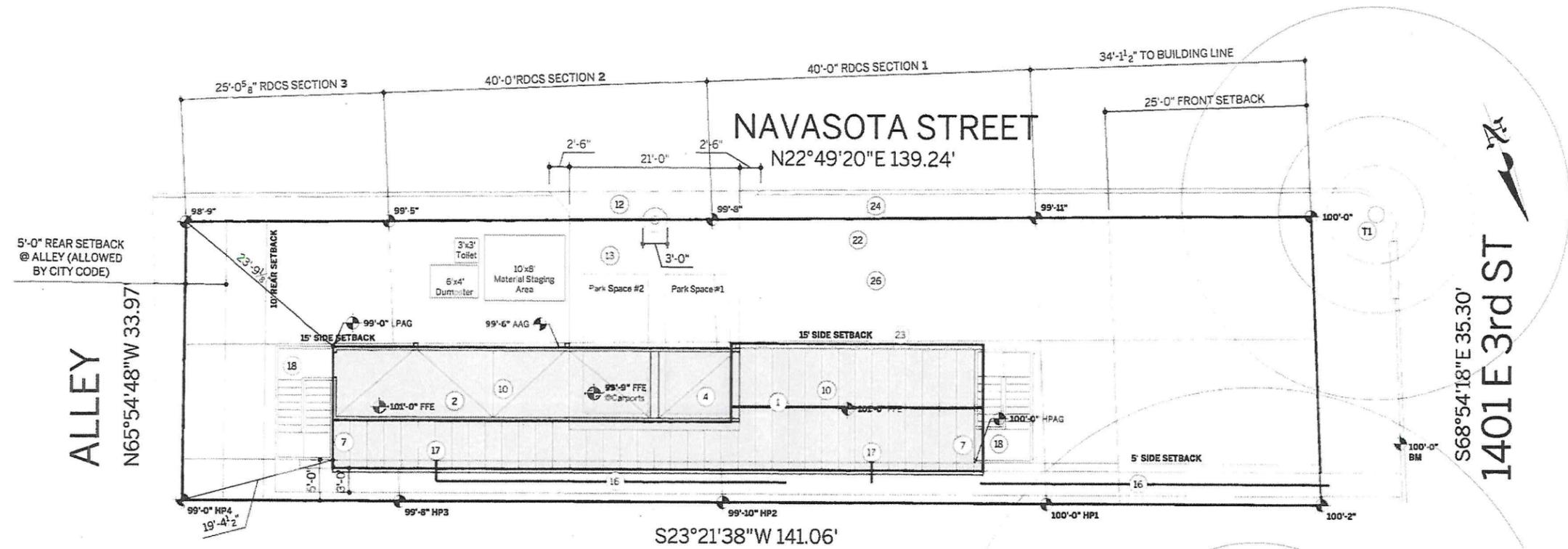
The undersigned does hereby certify that this survey was this day made on the property legally described hereon and is correct, and this survey substantially complies with the current Texas Society of Professional Surveyors Standards and Specifications for a Category IB Conditions II Survey.

And I certify that the property shown hereon IS NOT within a special flood hazard area as identified by the Federal Insurance Adm. Department of HUD Flood hazard boundary map revised as per Map Number: 48453C0465K Zone: X, Dated: 1/22/2020.

Dated this the 3rd day of FEBRUARY, 2020.

Thomas P. Dixon R.P.L.S. 4324  
FIRM #10124400





**REVIEWED**

NOV 13 2017

AUSTIN WATER UTILITY  
CONSUMER SERVICE DIVISION - TAPS

All structures must maintain 7'6" clearance from AE energized distribution power lines. Enforced by AE and NESC codes-this review DOES NOT include transmission power lines.

**AE APPROVED**  
NOV 12 2017  
314-230  
JGM

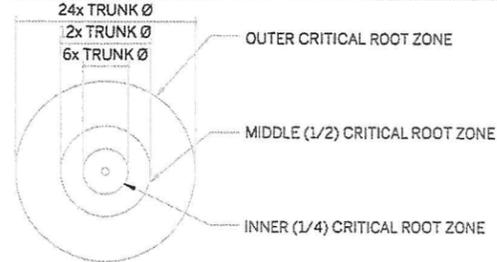
**CITY OF AUSTIN**  
**APPROVED FOR PERMIT**  
J. Rodney Gonzales  
Development Services Department  
By: *[Signature]* Date: 12.7.17  
The granting of a permit for, or approval of, these plans and specifications shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of the current adopted building code or any other ordinance of the City of Austin.

**REFER TO SHEET A001 FOR PROJECT INFORMATION AND AREA CALCULATIONS**

**KEYED NOTES (NOT ALL NOTES MAY PERTAIN TO THIS SPECIFIC PROJECT):**

- |   |   |   |
|---|---|---|
| 01 New primary residence.                               | 11 New spiral stair to roof deck.                                       | 17 New step-free entry into residence. Maximum vertical rise 1/2"   |
| 02 New accessory residence.                             | 12 New Type I driveway approach per City of Austin standards.           | 23 New electrical meter(s) for primary residence and secondary residence or additional unit, as applicable. |
| 03 New attached garage.                                 | 13 New concrete driveway.   | 24 Location of existing water meter.  |
| 04 New attached carport.                                | 14 New conc. driveway ribbon  | 25 Location(s) of new water meter(s), as applicable.  |
| 05 New detached garage.                                 | 15 New sidewalk in right-of-way per City of Austin standards            | 26 Location of new water supply and waste water line to primary residence.                                  |
| 06 New detached carport.                                | 16 New visitable route from public way to residence Minimum width 3'-0" | 27 Location of new water supply to secondary residence or additional unit, as applicable.                   |
| 07 New covered porch w/ deck or habitable space above.  | 17 New visitable route from public way to residence Minimum width 3'-0" |   |
| 08 New covered porch w/o deck or habitable space above. | 18 New concrete patio, uncovered  |   |
| 09 New uncovered deck.                                  | 19 New wood deck, uncovered   |   |
| 10 New uncovered roof deck.                             | 20 New decomposed granite patio, uncovered.                             |   |
|   | 21 Existing overhead electric service.                                  |   |

**CRITICAL ROOT ZONES AT PROTECTED TREES.**



**LIST OF PROTECTED TREES.**

#	TRUNK Ø	SPECIES
T1	24"	CEDAR ELM
T2	38"	PECAN

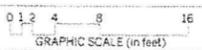
**DISCLAIMERS.**

This document is issued under the seal of WILLIAM LAWRENCE HODGE, Texas architect #19074. This document is not for regulatory approval, pricing or construction unless the seal and signature of the Architect are visible. This document is not approved for construction unless a seal of municipal approval is visible. No set of construction documents can contain all information required to construct a project. Interpretation by a contractor is required. All sheets are complementary. That which is shown in one sheet, applies to all sheets in this set by reference. The information in G001 through G007 (inclusive) apply to every sheet in this set and to every contractor and/or subcontractor that may perform work on this project. Unless this set contains the cover sheet and all sheets listed thereon, this set is incomplete and INVALID FOR CONSTRUCTION.

**SEAL OF ARCHITECT.**



ISSUE DATE 02 Nov 2017.



**SEAL OF MUNICIPAL APPROVAL.**

REVIEWED FOR CODE COMPLIANCE

City of Austin

**1 Site Plan**  
Scale 1/16" = 1'-0" @ 11x17  
Scale 1/8" = 1'-0" @ 24x36

**OCHONA**  
Development & Architecture

SINGLE-FAMILY RESIDENCE W/  
ACCESSORY APT AT  
1401 E 3RD ST  
AUSTIN, TEXAS 78702

ISSUE DATE 02 Nov 2017  
SHEET TYPE Site Plan.

**A000**