

CITY OF AUSTIN
Board of Adjustment
Decision Sheet
D-10

DATE: Monday May 10, 2021

CASE NUMBER: C15-2021-0051

☐ - ☐ Thomas Ates
☐ Y ☐ Brooke Bailey
☐ Y ☐ Jessica Cohen
☐ Y ☐ Melissa Hawthorne
☐ Y ☐ Don Leighton-Burwell
☐ Y ☐ Rahm McDaniel
☐ Y ☐ Darryl Pruett
☐ - ☐ Agustina Rodriguez
☐ Y ☐ Michael Von Ohlen
☐ Y ☐ Nicholl Wade
☐ - ☐ Vacant
☐ - ☐ Kelly Blume (Alternate)
☐ - ☐ Carrie Waller (Alternate)
☐ - ☐ Vacant (Alternate)

OWNER/APPLICANT: Peter Pevoto

ADDRESS: 106 AND 108 COMAL ST

VARIANCE REQUESTED: The applicant is requesting a variance(s) from the Land Development Code Section 25-2-492 (Site Development Regulations) from setback requirements to:

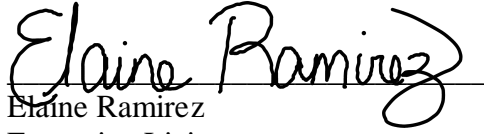
- a) decrease the minimum Front Yard Setback from 25 feet (required) to 15 feet (requested) and
- b) decrease the minimum Rear Yard Setback from 10 feet (required) to 5 feet (requested) in order to erect a Single Family Residence in a "SF-3-NP", Single-Family-Neighborhood Plan zoning district (East Cesar Chavez Neighborhood Plan).

BOARD'S DECISION: BOA MEETING -May 10, 2021 POSTPONED TO JUNE 14, 2021 DUE TO LACK OF BOARD MEMBERS/VOTES

FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:
 - (b) The hardship is not general to the area in which the property is located because:

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:


Elaine Ramirez
Executive Liaison

Diana Ramirez for
Don Leighton-Burwell
Chairman

BOA GENERAL REVIEW COVERSHEET

CASE: C15-2021-0051

BOA DATE: May 10th, 2021

ADDRESS: 106 & 108 Comal St

COUNCIL DISTRICT: 3

OWNER: Peter Peveto

AGENT: N/A

ZONING: SF-3-NP (East Cesar Chavez)

LEGAL DESCRIPTION: TRT C OLT 20 DIVISION O & TRT B OLT 20 DIVISION O

VARIANCE REQUEST: decrease front yard setback from 25 ft. to 15 ft. and decrease rear yard setback from 10 ft. to 5 ft.

SUMMARY: erect a Single-Family residence

ISSUES: two small lots

	ZONING	LAND USES
<i>Site</i>	SF-3-NP	Single-Family
<i>North</i>	SF-3-NP	Single-Family
<i>South</i>	CS-MU-CO-NP	General Commercial Services-Mixed Use
<i>East</i>	CS-MU-CO-NP	General Commercial Services-Mixed Use
<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



May 3, 2021

Peter Pevoto
106 & 108 Comal St
Austin TX, 78702

Property Description: TRT C OLT 20 DIVISION O

Re: C15-2021-0051

Dear Peter,

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 sections of the Land Development Code;

25-2-492 (Site Development Regulations) from setback requirements to:

- decrease the minimum Front Yard Setback from 25 feet (required) to 15 feet (requested) and
- decrease the minimum Rear Yard Setback from 10 feet (required) to 5 feet (requested)

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

Austin Energy **does not oppose** the above setback variance request, for your proposed structures to be constructed at the above addresses, provided any proposed and existing improvements comply with 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>

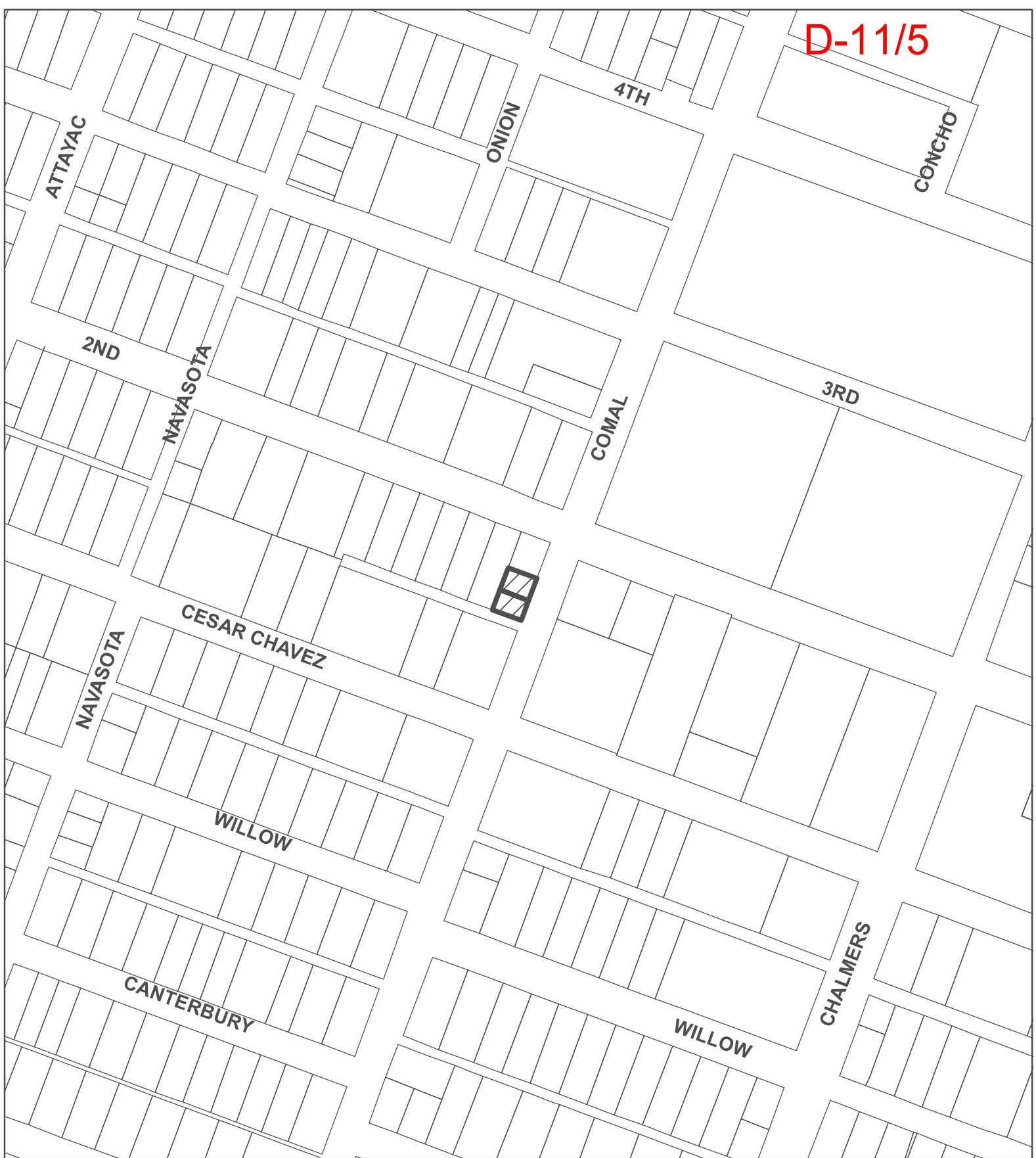
If you have any questions about the following comments, please contact my office.

Thank you,

Eben Kellogg, Property Agent

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

D-11/5



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2021-0051

LOCATION: 106 & 108 COMAL STREET



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.

1" = 208'



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: 106 & 108 Comal St, Austin, TX 78702

Subdivision Legal Description:

TRT C & B OLT 20 DIVISION O

Lot(s): C & B Block(s): _____

Outlot: _____ Division: _____

Zoning District: SF-3

I/We Peter Pevoto on behalf of myself/ourselves as
authorized agent for Peter Pevoto affirm that on
Month April, Day 8, Year 2021, hereby apply for a hearing before the
Board of Adjustment for consideration to (select appropriate option below):

☐ Erect ☐ Attach ☐ Complete ☐ Remodel ☐ Maintain ☐ Other: _____

Type of Structure: Single-family residence

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

I am requesting a variance from the "Land Development Code Section 25-2-492 Site Development Regulations" for a SF-3-NP residential property for a Front Yard setback of 25 ft. (required) to 15 ft. (requested) and for a Rear Yard setback of 10 ft. (required) to 5 ft. (requested).

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:

The combined dimensions of the lot would equate to a 75ft wide by 50ft deep lot, which, using standard setbacks of 25ft on the front lot line and 10ft on the back lot line, would only allow for a 15ft maximum depth of the home, which is not functional. The maximum footprint (considering also a 10ft setback from the alley and a 5ft setback on the side yard) would only be 900sf, which is only 23% of the lot size. This would also not allow for adequate parking, as code requires 2 spaces for a single-family.

Hardship

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

These are two tiny, empty, legally-platted lots that do not qualify for Small Lot Amnesty by themselves (2,500sf required lot area minimum) so I will be combining them both via a UDA in order to build one single-family residence for myself on the roughly 3,800sf combined lot. No other lots or homes face Comal St within 8 blocks of this site, so front-yard setback averaging is impossible. Almost all homes/lots face East/West Streets in the entire neighborhood. The only existing homes I've found facing Comal have front yard setbacks less than 10ft.

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

No other lots near this site are as small as mine and no lots or homes face Comal St within 8 blocks of this site, so front-yard setback averaging is impossible. Almost all homes/lots face East/West Streets in the entire neighborhood north of Cesar Chavez. The only existing homes I've found facing Comal are south of Cesar Chavez and have front yard setbacks less than 10ft.

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:

The lot lines used for "front" and "rear" setbacks on my lot are used by every other lot on this street as "street side yard" (15ft) and "side yard" (5ft) setbacks. If I can use those same setbacks, the house will arguably fit in more with the rest of the surrounding neighborhood. My neighbor that shares our side lot line (1513 E 2nd St) was recently permitted to use setback averaging to achieve a 12ft front yard setback because they face 2nd St. If I was able to use general setback averaging on this street to achieve my front yard setback, it would come out to 15ft. The ADU at 1510 E 2nd St faces Comal and only has a 15ft front yard setback and 5ft rear.

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:

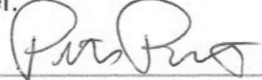
2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

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

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

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:  Date: 4/8/21

Applicant Name (typed or printed): Peter Pevoto

Applicant Mailing Address: 7805 Palacios Dr

City: Austin State: TX Zip: 78749

Phone (will be public information): 512-771-2415

Email (optional – will be public information): 

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:  Date: 4/8/21

Owner Name (typed or printed): Peter Pevoto

Owner Mailing Address: 7805 Palacios Dr

City: Austin State: TX Zip: 78749

Phone (will be public information): 512-771-2415

Email (optional – will be public information): 

Section 5: Agent Information

Agent Name: _____

Agent Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

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).

I have attached multiple approved Board of Adjustment Variances for setbacks in the surrounding area, including one that was originally approved for a 7ft front yard setback by the previous owner of this lot and has since expired. If I was allowed to alter my rear yard setback to 5ft, I would not need to reduce the front yard setback to less than 15ft, which was previously approved. I have also attached the approved permitted plans for 1513 E 2nd Street showing the 12ft average setback

Additional Space (continued)

that was allowed for my nextdoor neighbor facing E 2nd Street. Many of these referenced homes achieved variances so that they could build additional units on their properties, however I am simply asking for a variance in order to build a single functional home for myself and my soon to be wife. I appreciate your consideration in this matter and I hope you can appreciate that I'm not asking for anything above and beyond what are the existing setbacks on those same lot lines for all of my neighbors considering this is a very unique property.

SAVE

Waterloo Surveyors Inc.
SURVEY PLAT
TITLE SURVEY

OWNER:
PETER JOHN PEVOTO

ADDRESS:
106 & 108 COMAL STREET

D-11/11¹⁶⁴³²

LEGEND

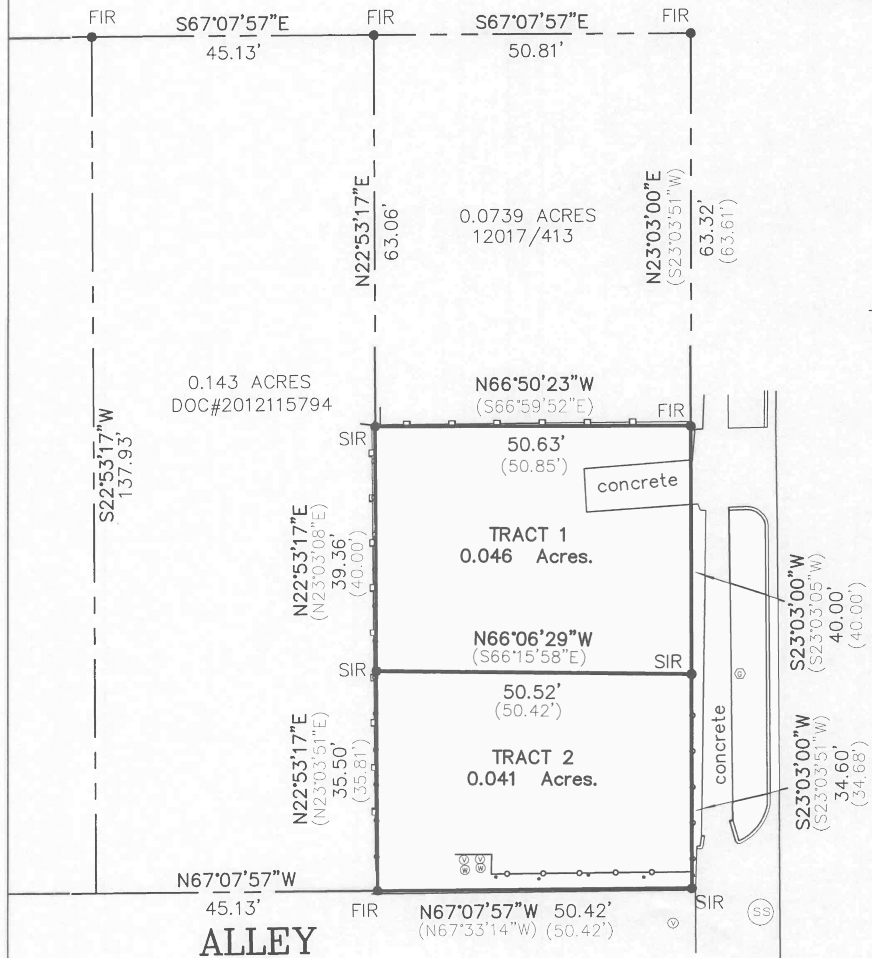
RECORD CALL ()
FOUND IRON ROD FIR
SET IRON ROD WITH CAP SIR
WATER VALVE (V)
WATER METER (W)
GAS METER (G)
STORM SEWER MANHOLE (SS)
WOOD FENCE ————
CHAIN LINK FENCE ————

LEGAL DESCRIPTION:

TRACT 1:
0.046 ACRES, MORE OR LESS, BEING A PORTION OF
OUTLOT #20, DIVISION "O" OF THE CITY OF AUSTIN,
ALSO BEING THE 0.041 ACRES DESCRIBED IN
DOCUMENT NO. 2014194319, OFFICIAL PUBLIC
RECORDS, TRAVIS COUNTY, TEXAS, BEING MORE
PARTICULARLY DESCRIBED BY MEETS AND BOUNDS
IN EXHIBIT A ATTACHED HERETO;
TRACT 2:
0.041 ACRES, MORE OR LESS, BEING A PORTION OF
OUTLOT #20, DIVISION "O" OF THE CITY OF AUSTIN,
ALSO BEING DESCRIBED IN VOLUME 466, PAGE 572,
DEED RECORDS, TRAVIS COUNTY, TEXAS, BEING
MORE PARTICULARLY DESCRIBED BY MEETS AND
BOUNDS IN EXHIBIT B ATTACHED HERETO;

EAST 2ND STREET

SUBJECT PROPERTY IS SUBJECT TO:
EASEMENT RIGHTS AND RECORDS OF RECORD.



COMAL STREET

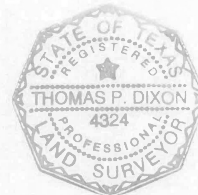
THIS SURVEY WAS PERFORMED FOR AND CERTIFIED TO THE LIEN HOLDERS
AND OWNERS AND TO FIRST AMERICAN TITLE COMPANY AS PER GF NO.
032114745.

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 1A Condition 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: 01/22/20

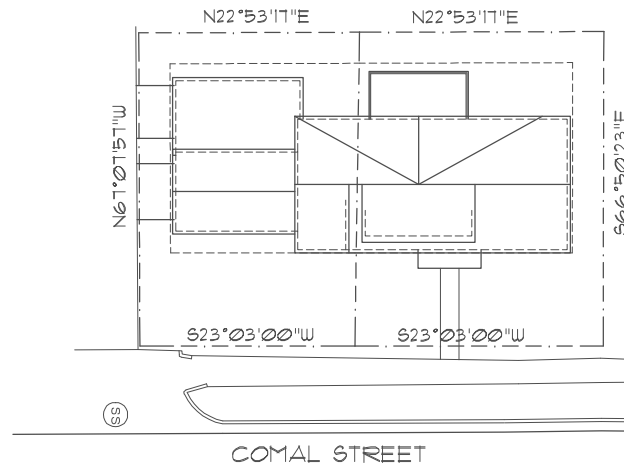
Dated this the 29TH day of MARCH, 2021



Thomas P. Dixon
Thomas P. Dixon R.P.L.S. 4324







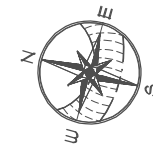
LEGAL DESCRIPTION:
 106 & 108 COMAL STREET
 TRT B & TRT C OLT 20
 DIVISION C
 AUSTIN, TEXAS

GENERAL SITE NOTES:
 1.0 BUILDER TO RESCULPTURE
 TOPO TO PROVIDE PROPER
 DRAINAGE AS REQ'D.

IMPERVIOUS COVER CALC'S.

1ST FLOOR FOOTPRINT (W/ GARAGE & PORCHES)	1535 SF
TOTAL BLDG. COVERAGE	1505 SF 40.0%
DRIVEWAY	103 SF
WALKWAYS	64 SF
AC PAD	9 SF
TOTAL SITE COVERAGE	1685 SF 44.6%
TOTAL LOT SF	3776 SF 100%

SITE PLAN
 SCALE 1" = 10'-0"



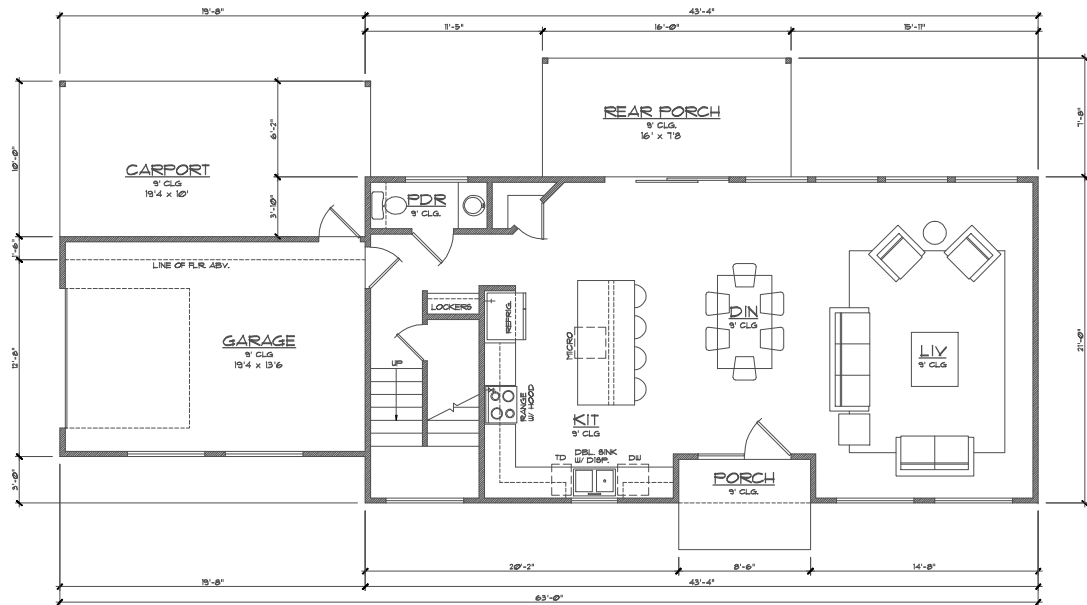
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PEVOTO RESIDENCE
 106 COMAL STREET AUSTIN, TX

FIVE STAR
 CIVIL ENGINEERING
 10000 N. MOPAC EXPRESSWAY, SUITE 1000, AUSTIN, TX 78758

APR. 2021
 106 COMAL
 REV.

A1.1



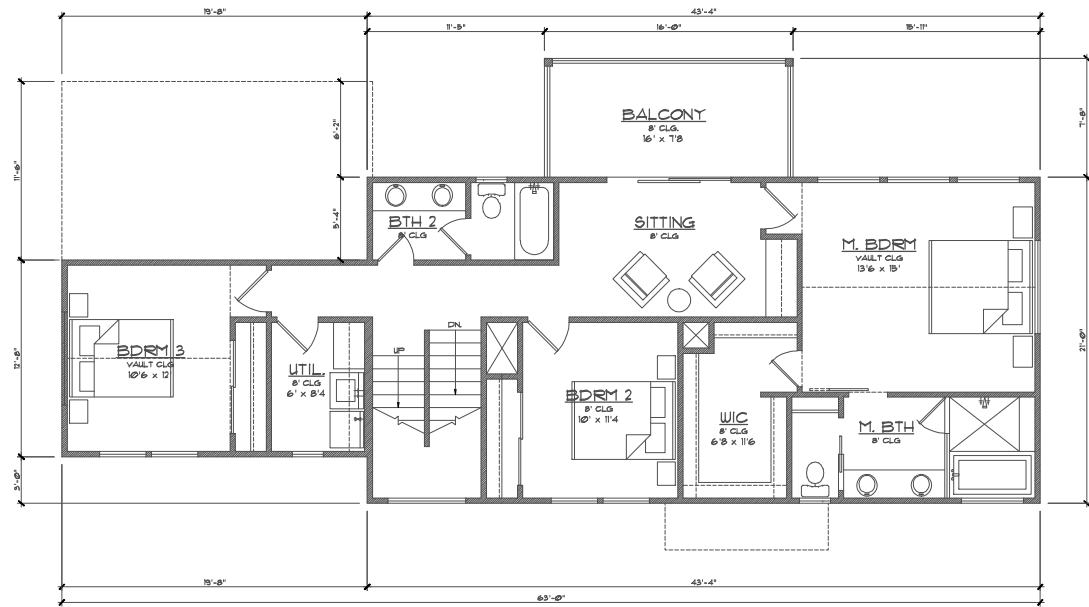
FIRST FLOOR PLAN
SCALE 1/8" = 1'-0"

SQUARE FOOTAGE

1ST FLR COND.	886 SF
2ND FLR COND.	119 SF
TOTAL CONDITIONED	1005 SF
CARPORT	138 SF
GARAGE	278 SF
FRONT PORCH	24 SF
REAR PORCH	123 SF
BALCONY	123 SF
DECK	123 SF
ATTIC 3'-1"	107 SF
ATTIC 1' 4" UP	211 SF
TOTAL ATTIC SQ FT	318 SF

GROSS SQ FT

1ST FLR COND.	886 SF
2ND FLR COND.	119 SF
GARAGE	278 SF
GARAGE EXEMPT	-200 SF
ATTIC 1' 4" UP	211 SF
ATTIC 3'-1"	-107 SF
GROSS SQ FT	727 SF



SECOND FLOOR PLAN
SCALE 1/8" = 1'-0"

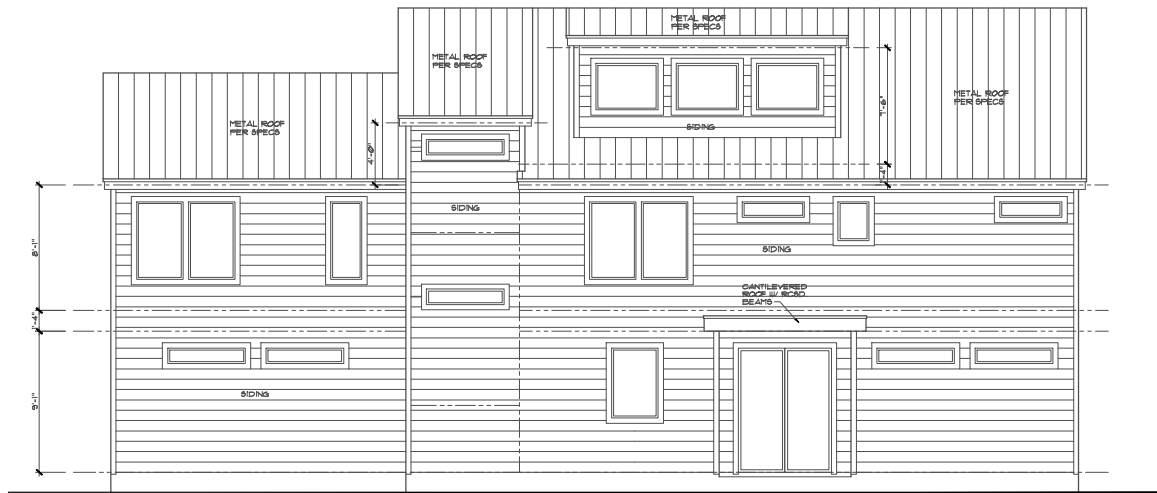
PEVOTO RESIDENCE
106 COMAL STREET AUSTIN, TX

FIVE STAR
ARCHITECTS
11000 DUTCHMAN AVENUE SUITE 100
DALLAS, TEXAS 75244-1100
(214) 343-4400

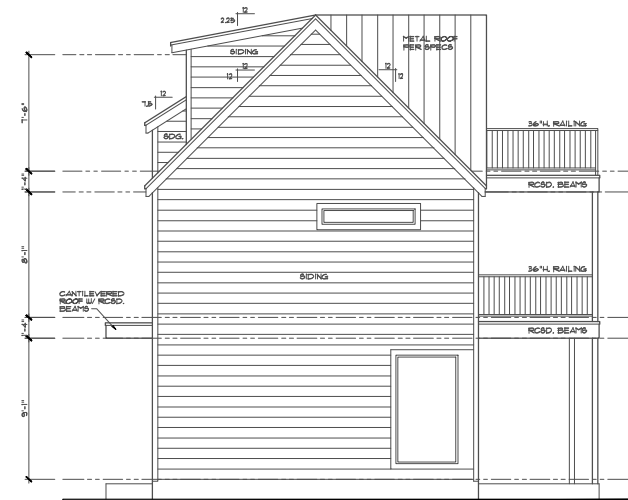
APR. 2021
106 COMAL
REV.

A2.2

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FRONT ELEVATION
SCALE 1/8" = 1'-0"



RIGHT ELEVATION
SCALE 1/8" = 1'-0"

PEVOTO RESIDENCE
106 COMAL STREET AUSTIN, TX

FIVE STAR
ARCHITECTS
11000 DUTCHMAN AVENUE, SUITE 100
DALLAS, TEXAS 75244-1100
(214) 343-0000

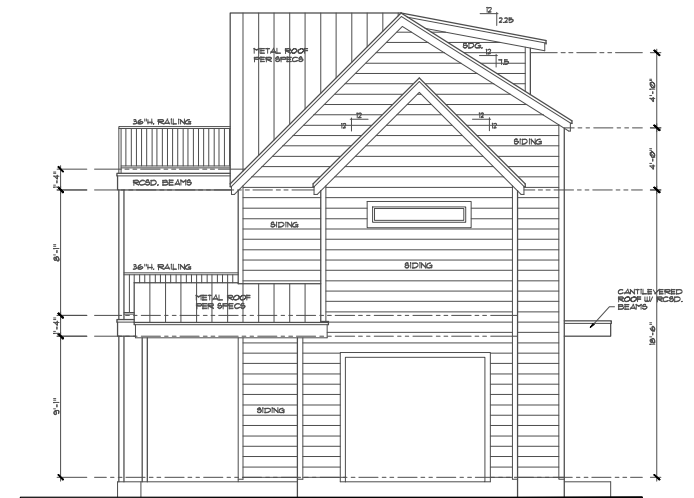
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A2.4

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REAR ELEVATION
SCALE 1/8" = 1'-0"



LEFT ELEVATION
SCALE 1/8" = 1'-0"

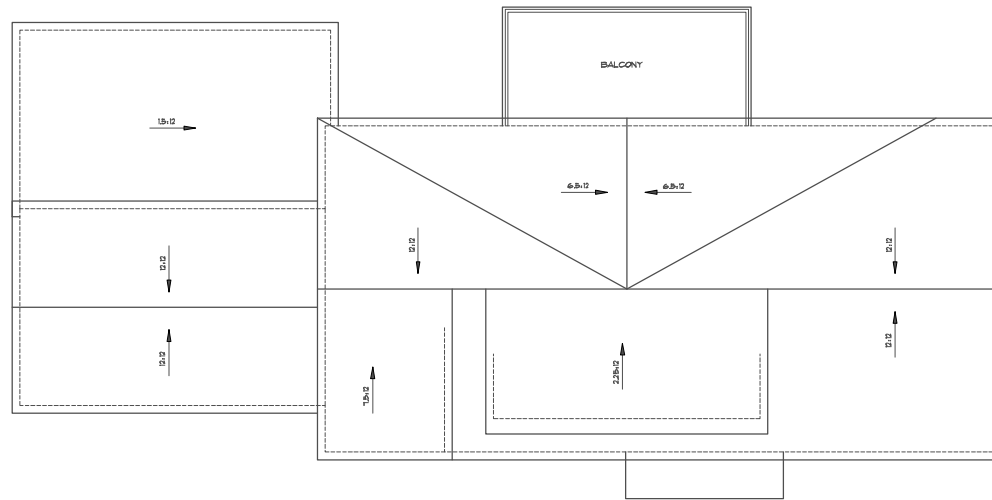
PEVOTO RESIDENCE
106 COMAL STREET AUSTIN, TX

FIVE STAR
ARCHITECTS
11000 DUTCHMAN ROAD, SUITE 100, AUSTIN, TX 78736 (512) 450-0000

APR. 2021
106 COMAL
REV.

A2.5

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ROOF PLAN
SCALE 1/8" = 1'-0"

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OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM.

**CITY OF AUSTIN
Board of Adjustment
Decision Sheet**

DATE: Monday, December 14, 2015

CASE NUMBER: C15-2015-0052

____Y_Y__ Brooke Bailey 2nd the Motion Grant only Item C
 ____Y_Y__ Michael Benaglio
 ____Y_Y__ William Burkhardt
 ____N_Y__ Eric Goff **Motion to Deny Items A, B, D, E**
 ____Y_N__ Melissa Hawthorne **Motion to Grant only Item C**
 ____Y_Y__ Don Leighton-Burwell 2nd the Motion to Deny Items A,B,D,E
 ____-_-__ Melissa Neslund
 ____Y_Y__ James Valadez
 ____-_-__ Michael Von Ohlen
 ____-_-__ Kelly Blume (Alternate)
 ____Y_Y__ Rahm McDaniel (Alternate)

APPLICANT: Letty Mcgarrahan

OWNER: Marcelo Vera

ADDRESS: 106 AND 108 COMAL ST

VARIANCE REQUESTED: The applicant has requested variance(s) from Section 25-2-492 (D) (Site Development Regulations) to:

- A. decrease the front setback from 25 feet (required) to 15 feet (requested); and to
 - B. decrease the rear setback from 10 feet (required) to 5 feet (requested); and to
 - C. decrease the side setback from 5 feet (required) to 3.5 feet (requested); and to
 - D. increase the building cover from 40% (required) to 55% (requested); and from
 - E. Subchapter F: Residential Design and Compatibility Standards, Article 2: Development Standards, Section 2.1 (Maximum Development Permitted) to increase square footage from 2,300 square feet (required) to 2,500 square feet (requested)
- in order to construct a new single family home in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (East Cesar Chavez)

NOTE: The East Cesar Chavez Neighborhood Plan allows for Small Lot Amnesty lots of 2,500 square feet or greater to be developed with a Single Family use, the area of these combined lots is 3,820 square feet. In addition, the plan allows for Small Lot Amnesty lots to have up to 65% impervious cover which the proposed use of this lot will meet.

BOARD'S DECISION: POSTPONED TO May 11, 2015 AT THE APPLICANT'S REQUEST; May 11, 2015 The public hearing was closed on Board Member Melissa Hawthorne motion to Postpone to June 8, 2015, Board Member Bryan King second on a 6-0 vote; POSTPONED TO JUNE 8, 2015.

RENOTIFICATION REQUEST: The applicant has requested variance(s) from Section 25-2-492 (D) (Site Development Regulations) to:

- A. decrease the rear setback from 10 feet (required) to 5 feet (requested); and to
- B. increase the building cover from 40% (required) to 55% (requested); and to
- C. Subchapter F: Residential Design and Compatibility Standards, Article 2: Development Standards, Section 2.1 (Maximum Development Permitted) to increase square footage from 2,300 square feet (required) to 2,500 square feet (requested)

in order to join and expand two existing single family homes together into one, remodeled single family home in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (East Cesar Chavez)

NOTE: The East Cesar Chavez Neighborhood Plan allows for Small Lot Amnesty lots of 2,500 square feet or greater to be developed with a Single Family use, the area of these combined lots is 3,820 square feet. In addition, the plan allows for Small Lot Amnesty lots to have up to 65% impervious cover which the proposed use of this lot will meet.

BOARD'S DECISION: June 8, 2015 - POSTPONED TO July 13, 2015 AT THE APPLICANT'S REQUEST ; July 13, 2015 POSTPONED TO August 10, 2015 AT THE APPLICANT'S REQUEST; Aug 10, 2015 POSTPONED TO SEPTEMBER 14, 2015 AT THE APPLICANT'S REQUEST

RENOTIFICATION REQUEST: The applicant has requested variance(s) from Section 25-2-492 (D) (Site Development Regulations) to:

- A. increase the maximum building cover from 40% (required/permitted) to 55% (requested, 42% existing); and to
 - B. increase the maximum impervious cover from 45% (required/permitted) to 65% (requested, 61% existing); and to
 - C. decrease the front setback from 25 feet (required) to 7 feet (requested, existing); and to
 - D. decrease the rear setback from 10 feet (required) to 5 feet (requested); and to
 - E. Subchapter F: Residential Design and Compatibility Standards, Article 2: Development Standards, Section 2.1 (Maximum Development Permitted) to increase square footage from 2,300 square feet (required/permitted) to 2,500 square feet (requested, 1,580 square feet existing); and to
- in order to join together and expand two existing one-story, single family homes on two lots and create one, 2-story single family home and carport on one combined tract per a unified development agreement in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (East Cesar Chavez)
- FINDING:**

BOARD'S DECISION: September 14, 2015 POSTPONED TO December 14, 2015 AT THE APPLICANT'S REQUEST

RENOTIFICATION:

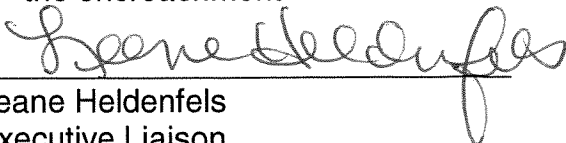
The applicant has requested variance(s) from Section 25-2-492 (D) (Site Development Regulations) to:

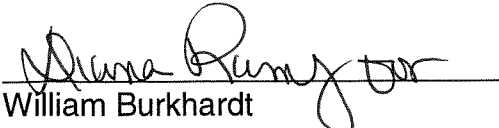
- A. increase the maximum building cover from 40% (required/permitted) to 55% (requested, 42% existing); and to
- B. increase the maximum impervious cover from 45% (required/permitted) to 65% (requested, 61% existing); and to
- C. decrease the front setback from 25 feet (required) to 7 feet (requested, existing); and to
- D. decrease the rear setback from 10 feet (required) to 5 feet (requested); and to
- E. Subchapter F: Residential Design and Compatibility Standards, Article 2: Development Standards, Section 2.1 (Maximum Development Permitted) to increase square footage from 2,300 square feet (required/permitted) to 2,500 square feet (requested, 1,580 square feet existing) in order to join together and expand two existing one-story, single family homes on two lots and create one, 2-story single family home and carport on a combined tract per a unified development agreement in an "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (East Cesar Chavez)

BOARD'S DECISION: Dec 14, 2015 The public hearing was closed on Board Member Melissa Hawthorne motion to Grant Item C only, Board Member Brooke Bailey second on a 7-1 vote (Board Member Eric Goff nay); **GRANTED ITEM C ONLY**; Board Member Eric Goff motion to Deny Items A, B, D, and E, Board Member Don Leighton-Burwell second on a 7-1 vote (Board Member Melissa Hawthorne nay); **DENIED ITEMS A, B, D AND E.**

FINDINGS:

- 1. The Zoning regulations applicable to the property do not allow for a reasonable use because: two existing structures existing 7 foot setback in order to salvage those structures variance is required
- 2. (a) The hardship for which the variance is requested is unique to the property in that: two smaller homes existing, in scale with neighborhood and size of lot
(b) The hardship is not general to the area in which the property is located because: two small structures on lots don't meet the substandard lot size for neighborhood plan
- 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: structures are there, encroaching in setback and remodeling structures will not alter the encroachment


Leane Heldenfels
Executive Liaison


William Burkhardt
Chairman

CASE# C15-2015-0052
 ROW# 11309205/362060
 TAX# 0204061129/0204061129

CITY OF AUSTIN TcAD ✓
 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: 106 and 108 Comal Street

LEGAL DESCRIPTION: Subdivision – Tract C & Tract B (of Government Tracts adjoining City of Austin)

Lot(s) _____ Block _____ Outlot 20 Division O

I/We Letty/Ed McGarrahan on behalf of myself/ourselves as authorized agent for

Marcelo Vera affirm that on Feb.26, 2015,

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

(check appropriate items below and state what portion of the Land Development Code you are seeking a variance from)

X ERECT ___ ATTACH ___ COMPLETE ___ REMODEL ___ MAINTAIN

Combine 106 Comal Street (1,785.96sf) and 108 Comal Street (2,034.sf) into one lot to

to create a small lot (3,820.sf) to build a single-family residence. And other design requirements of a small lot, or SF.4

in a SF-3-NP district. (East Cesar Chavez)
 (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:
As two separate lots 106 Comal (1,785.96sf) and 108 Comal (2,034sf) do not meet the

Small Lot Amnesty Minimum Size Requirement per East Cesar Chavez NP. (The existing residences are Non-Complying and need too much work).

HARDSHIP:

2. (a) The hardship for which the variance is requested is unique to the property in that:
Under the East Cesar Chavez NP as Small Lot must have a minimum area of 2,500 sf. As
two separate lots 106 and 108 Comal do not meet the minimum area requirement.

(b) The hardship is not general to the area in which the property is located because:
The East Cesar Chavez NP provided Small Lot Amnesty to existing lots with a minimum
Of 2,500 square feet. (106 and 108 are smaller)

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 existing Zoning of SF-3-NP will remain in place. A single family residence is what
Will be constructed as per the SF-3-NP zoning.

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:

N/A

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

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

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

N/A

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 Letty McGarran Mail Address 1105 E. 8th St.

City, State & Zip Austin, Texas 78702

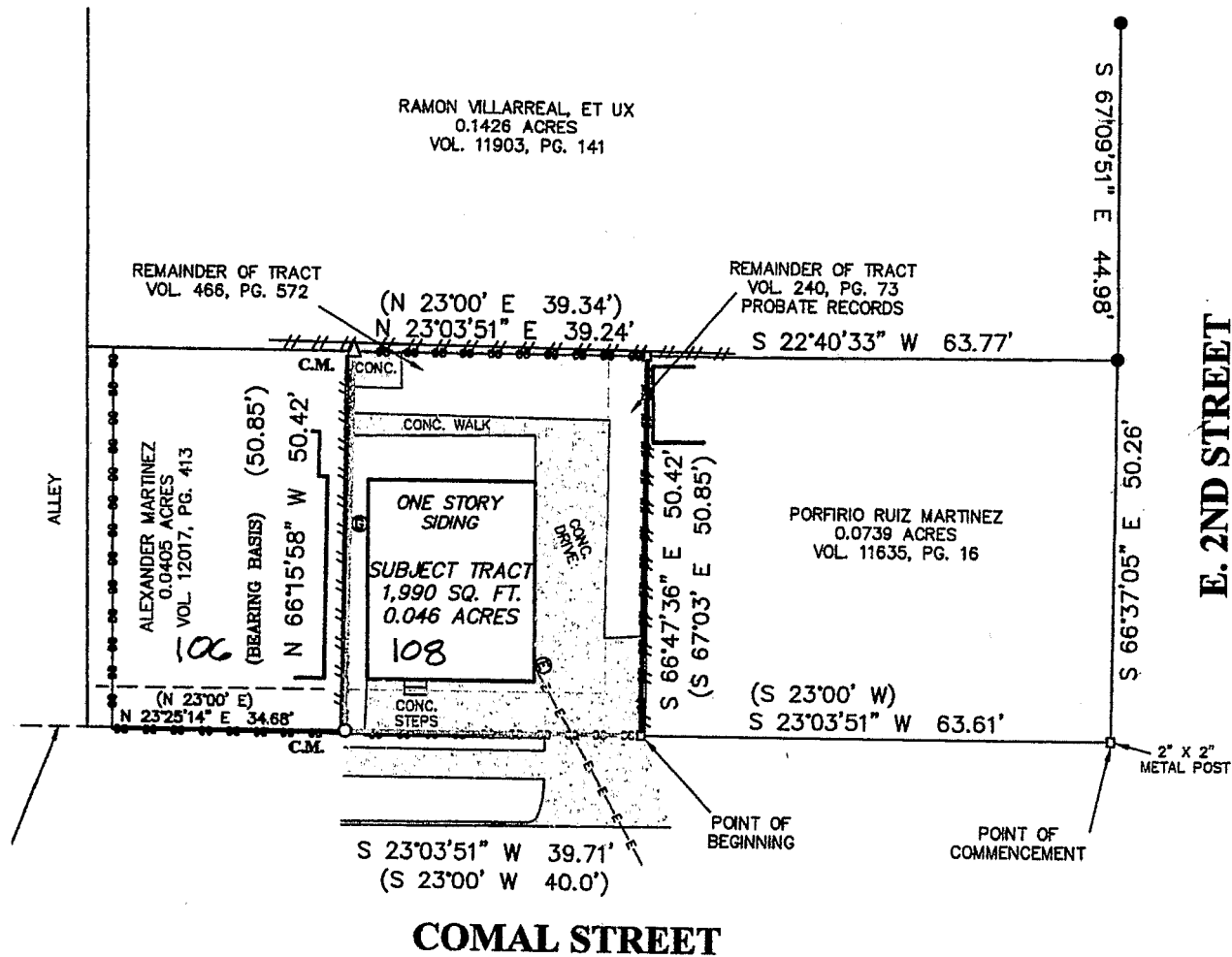
Printed Letty McGarran Phone 512-657-4247 Date 2/26/15

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

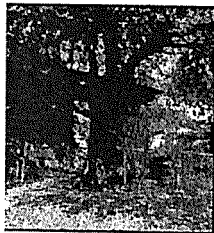
Signed Marcelo Vera Mail Address 607 Oakwood Dr.

City, State & Zip Buda, Texas 78610-9340

Printed MARCELO VERA Phone 512-657-8994 Date 2/26/15



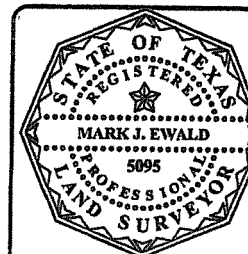
ACCEPTED BY: _____



NOTE:
BEARINGS SHOWN HEREON ARE BASED ON RECORD PLAT INDICATED BELOW.

NOTE:
THE SIGNING SURVEYOR WAS NOT PROVIDED A CURRENT TITLE COMMITMENT AND THERE MAY BE EASEMENTS, RIGHTS OF WAY OR OTHER INSTRUMENTS OF RECORD WHICH MAY AFFECT THIS PROPERTY WHICH ARE NOT SHOWN ON THE FACE OF THIS SURVEY.

THIS PROPERTY IS SUBJECT TO RESTRICTIVE COVENANTS, EASEMENTS, AGREEMENTS, AND/OR SETBACK LINES (IF ANY) AS FOLLOWS: PLAT CABINET A, SLIDE 164, PLAT RECORDS, AND VOLUME 538, PAGE 733, DEED RECORDS OF KARNES COUNTY, TEXAS.



DATE: 10/27/2014

I, MARK J. EWALD, Registered Professional Land Surveyor, State of Texas, do hereby certify that the above plat represents an actual survey made on the ground under my supervision, and there are no discrepancies, conflicts, shortages in area or boundary lines, or any encroachment or overlapping of improvements, to the best of my knowledge and belief, except as shown herein.

Mark J. Ewald

MARK J. EWALD
Registered Professional Land Surveyor
Texas Registration No. 5095

D-11/28

FLOOD ZONE INTERPRETATION: IT IS THE RESPONSIBILITY OF ANY INTERESTED PERSON TO VERIFY THE ACCURACY OF FEMA FLOOD ZONE DESIGNATION OF THIS PROPERTY WITH FEMA AND STATE AND LOCAL OFFICIALS, AND TO DETERMINE THE EFFECT THAT SUCH DESIGNATION MAY HAVE REGARDING THE INTENDED USE OF THE PROPERTY. The property made the subject of this survey appears to be included in a FEMA Flood Insurance Rate Map (FIRM), identified as Community No. 484535, Panel No. D485.11, which is dated 08/21/2008. By noting that the FIRM, it appears that all or a portion of the property may be in Flood Zone(s) X. Because this is a boundary survey, the survey did not take any action to determine the Flood Zone status of the surveyed property other than to interpret the information set out on FEMA's FIRM, as described above. THE SURVEYOR DOES NOT CERTIFY THE ACCURACY OF THIS INTERPRETATION OF THE FLOOD ZONES, which may not agree with the interpretation of FEMA or state or local officials, and which may not agree with the tract's actual conditions. More information concerning FEMA's Special Flood Hazard Areas and Zones may be found at <http://www.fema.gov/floodplain>.

RAMON VILLARREAL, ET UX
0.1428 ACRES
VOL. 11903, PG. 141

SCALE: 1"=10'

(BEARING BASIS)
S 67°09'51" E
44.98'

ALEXANDERMARTINEZ
0.0405 ACRES
VOL. 12017, PG. 413

ALLEY

(N 67°03'00" W 50.85')
(N 67°33'14" W 50.42')

(N 23°00'00" E 34.68')
(N 23°03'51" E 35.81')

3.3'
9.6'
3.3'
3.3'
9.1'
3.3'

ONE STORY
STUCCO

SUBJECT TRACT
1,777 SQ. FT.
0.041 ACRES

106

SABINO MARTINEZ
TRACT
VOL. 8370, PG. 218

108

PORFIRIO RUZ MARTINEZ
0.0739 ACRES
VOL. 11635, PG. 16

C.M.

C.M.

S 66°37'05" E 50.26'

E. 2ND STREET

COMAL STREET

POINT OF
BEGINNING

POINT OF
COMMENCEMENT

NOTE: NO RESTRICTIVE COVENANTS OF RECORD WERE
FOUND.

NOTE:
BEARINGS SHOWN HEREON ARE BASED ON RECORD DEED INDICATED BELOW.

ACCEPTED BY: _____

FIRM REGISTRATION NO.
1011700

Westar
Alamo

LAND SURVEYORS, L.L.C.

P.O. BOX 1038 HELOTEN, TEXAS 78023-1038
PHONE (210) 372-8500 FAX (210) 372-8988

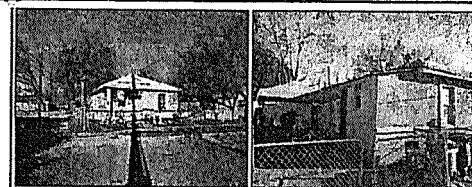
- LEGEND**
- - 1/2" IRON ROD TO BE SET
 - () - FIND 1/2" IRON ROD
 - RECORD INFORMATION
 - BUILDING SETBACK
 - C.M. - CONTROLLING MONUMENT
 - △ - FENCE POST AT CORNER
 - △ - CALCULATED POINT
 - ▲ - SET ROD NAIL
 - - POWER POLE
 - OVERHEAD ELECTRIC
 - WOOD FENCE
 - CHAIN LINK FENCE
- DRAWN BY: JW

Property Address:
106 COMAL STREET

Property Description:

Being 0.041 acres of land, more or less, being a portion of Ordinance 430, Division "O" of the Government tract adjoining the City of Alamo, as shown on a map or plat, which is on file in the General Land Office of the State of Texas, same also being that same property conveyed in a Warranty Deed recorded in Volume 12017, Page 413, Official Public Records, Tarrant County, Texas, said 0.041 acre being more particularly described by metes and bounds attached hereto.

OWNER:
MARCELO VERA



I, MARK J. EWALD, Registered Professional Land Surveyor, State of Texas, do hereby certify that the above plat represents an actual survey made on the ground under my supervision, and there are no discrepancies, conflicts, shortages in area or boundary lines, or any encroachment or overlapping of improvements, to the best of my knowledge and belief, except as shown herein.

Mark J. Ewald

MARK J. EWALD
Registered Professional Land Surveyor
Texas Registration No. 5095

DATE: 12/24/2014

G.F. NO. 1431016-BOK JOB NO. 62754 TITLE COMPANY: INDEPENDENCE TITLE



**City of Austin
Planning and Development Review
Land Status Determination
1995 Rule Platting Exception**

January 23, 2015

File Number: **C8I-2015-0020**

Address: **106 COMAL ST**

Tax Parcel I.D. #**0204061125**

Tax Map Date: **08/25/2014**

The Planning & Development Review Department has determined that this parcel, as described in the attached description and map, **IS EXCEPTED FROM THE REQUIREMENT TO PLAT** in accordance with the Land Development Code, Section 25-4-2(C), and is eligible to receive utility service.

The parcel of land consists of five acres or less, and is described as being a **portion of Outlot #20, Division "O" of the Government tracts adjoining the City of Austin** in the current deed, recorded on **Sep 09, 1993**, in **Volume 12017, Page 413, Travis County Deed Records**. This parcel existed in its current configuration on January 1, 1995, as evidenced by a deed recorded on **Sep 09, 1993**, in **Volume 12017, Page 413, Travis County Deed Records**. The parcel was lawfully receiving utility service, as defined in Section 212.012 of the Texas Local Government Code, on January 1, 1995, as evidenced by **water** service on **Aug 06, 1931**. The parcel meets the requirements of the Land Development Code for roadway frontage and is located on an existing street.

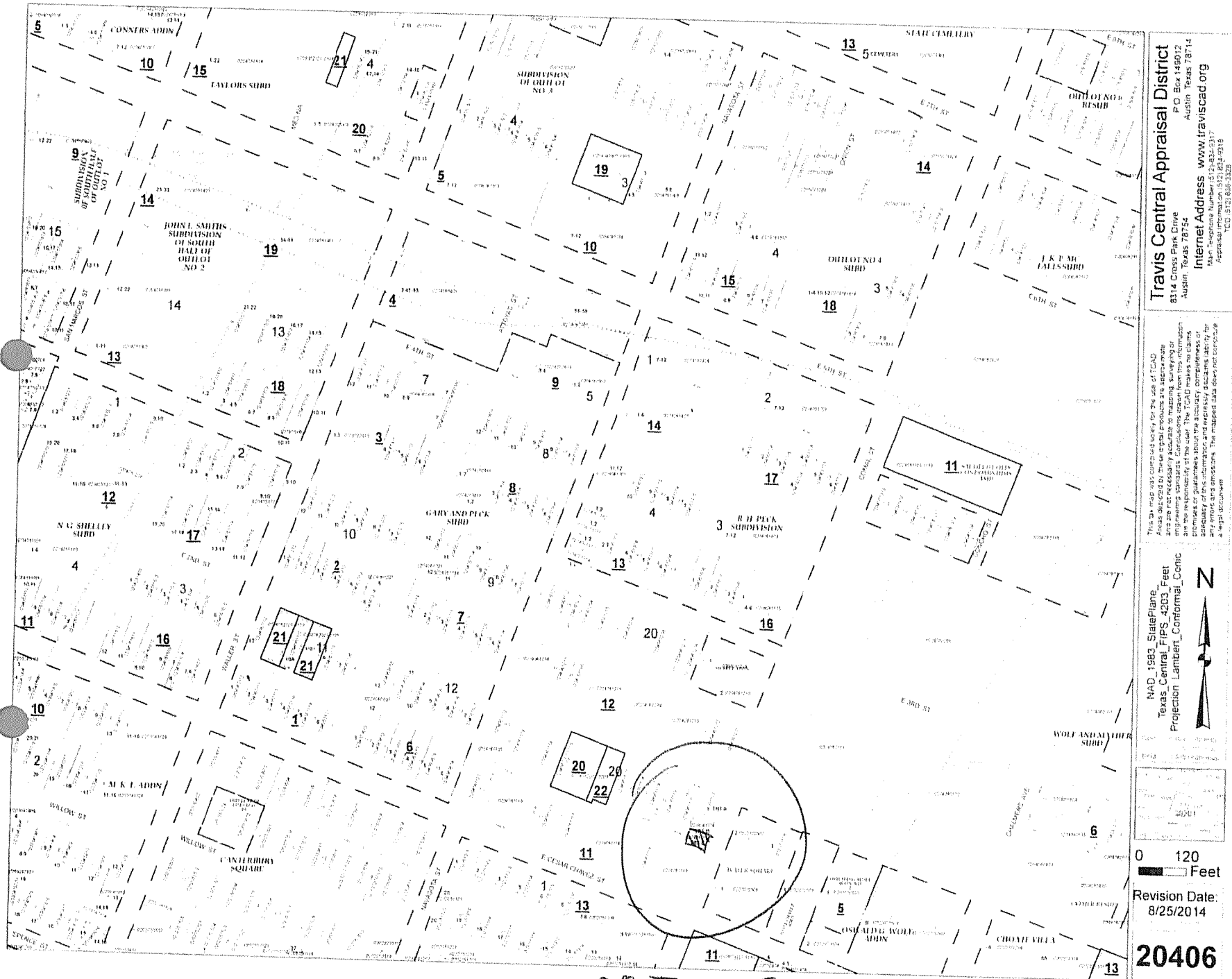
Additional Notes/Conditions:

NONE

This determination of the status of the property is based on the application of Chapter 212, Municipal Regulation of Subdivisions and Property Development, Texas Local Government Code; and the City of Austin Land Development Code, Chapter 25-4, Subdivision. Recognition hereby does not imply approval of any other portion of the City Code or any other regulation.

By: *Michelle Casillas*

**Michelle Casillas, Representative of the Director
Planning and Development Review Department**



COI-2015-0020



City of Austin
Planning and Development Review
Land Status Determination
1995 Rule Platting Exception

January 23, 2015

File Number: **C8I-2015-0019**

Address: **108 COMAL ST**

Tax Parcel I.D. **#0204061124**


Tax Map Date: **08/25/2014**

The Planning & Development Review Department has determined that this parcel, as described in the attached description and map, **IS EXCEPTED FROM THE REQUIREMENT TO PLAT** in accordance with the Land Development Code, Section 25-4-2(C), and is eligible to receive utility service.

The parcel of land consists of five acres or less, and is described as being **that certain 2,034.00 square feet of land** in the current deed, recorded on **Jun 15, 1984**, in **Volume 8649, Page 819, Travis County Deed Records**. This parcel existed in its current configuration on January 1, 1995, as evidenced by a deed recorded on **Jun 15, 1984**, in **Volume 8649, Page 819, Travis County Deed Records**. The parcel was lawfully receiving utility service, as defined in Section 212.012 of the Texas Local Government Code, on January 1, 1995, as evidenced by **water** service on **Aug 06, 1931**. The parcel meets the requirements of the Land Development Code for roadway frontage and is located on an existing street.

Additional Notes/Conditions:
NONE

This determination of the status of the property is based on the application of Chapter 212, Municipal Regulation of Subdivisions and Property Development, Texas Local Government Code; and the City of Austin Land Development Code, Chapter 25-4, Subdivision. Recognition hereby does not imply approval of any other portion of the City Code or any other regulation.

By: 
Michelle Casillas, Representative of the Director
Planning and Development Review Department

Travis Central Appraisal District
 3314 Cross Park Drive
 Austin, Texas 78754
 PC Box 115012
 Austin, Texas 78714
Internet Address: www.traviscd.org
 Main Telephone Number (512) 334-9317
 Appraisal Information (512) 337-5348
 TDD (512) 855-5329

This law was compiled solely for the use of TCAD. It was designed by these TCAD products and is appropriate and is not necessarily accurate in tracing, surveying or engineering standards. Conclusions drawn from this information are the responsibility of the user. The TCAD makes no claims or warranties about the accuracy, completeness or timeliness of the information provided. The user assumes all responsibility for the use of the information. The user agrees to hold the TCAD harmless for any and all damages, including consequential damages, arising from the use of the information.

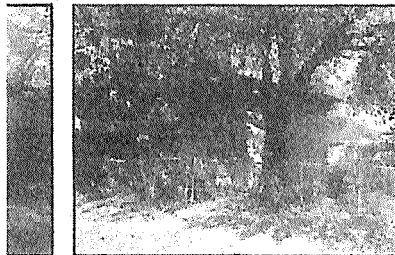
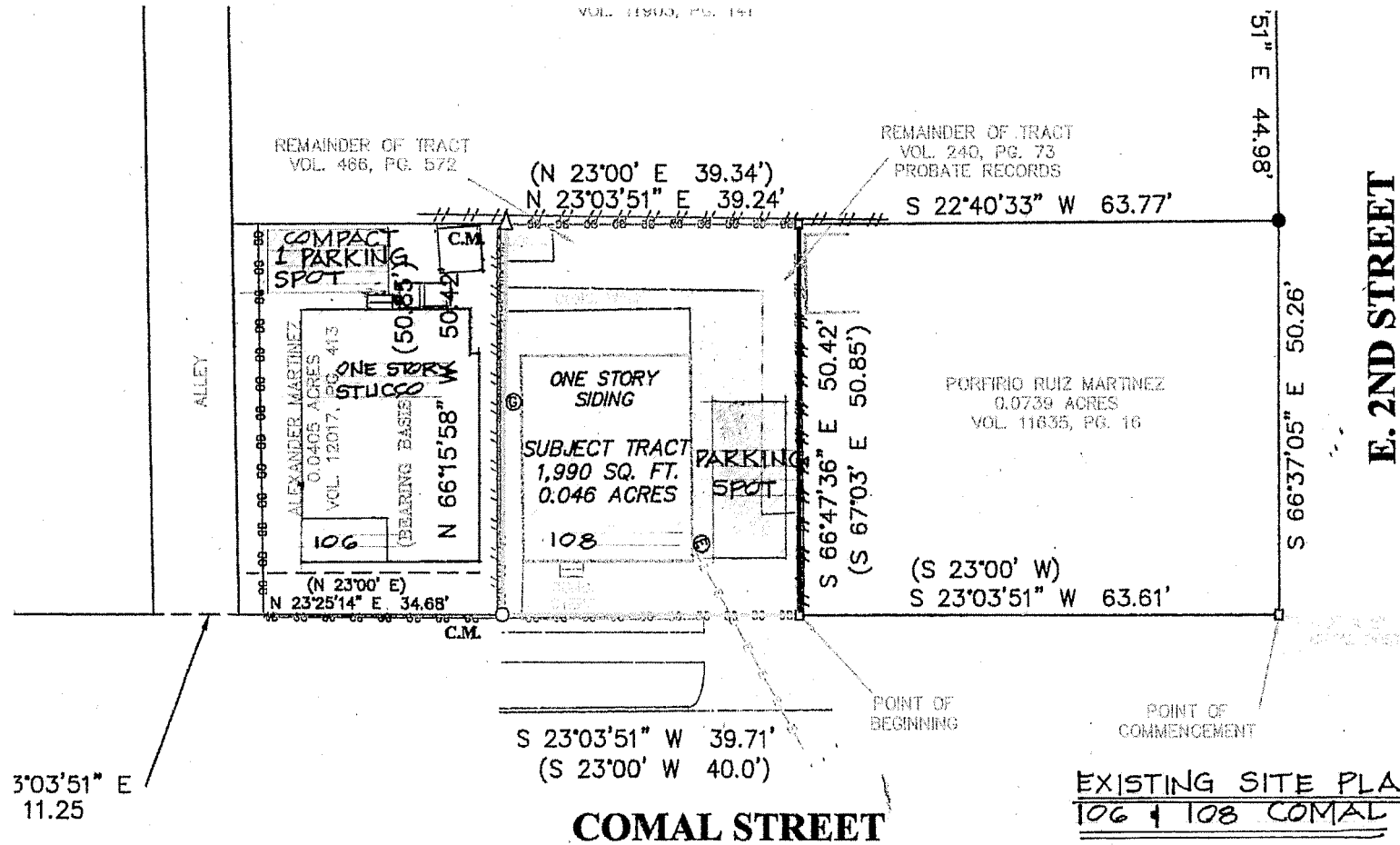
NAD_1983_StatePlane_Texas_Central_FIPS_4203_Feet
Projection: Lambert_Conformal_Conic

0 120 Feet

Revision Date:
8/25/2014

20406

CGI-2615-0019



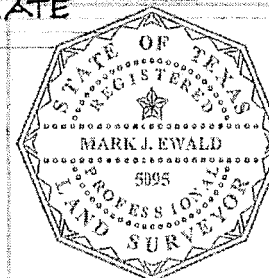
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ACCEPTED BY: _____

☒ ONLY 1 PARKING SPOT FITS AS SEPARATE LOTS

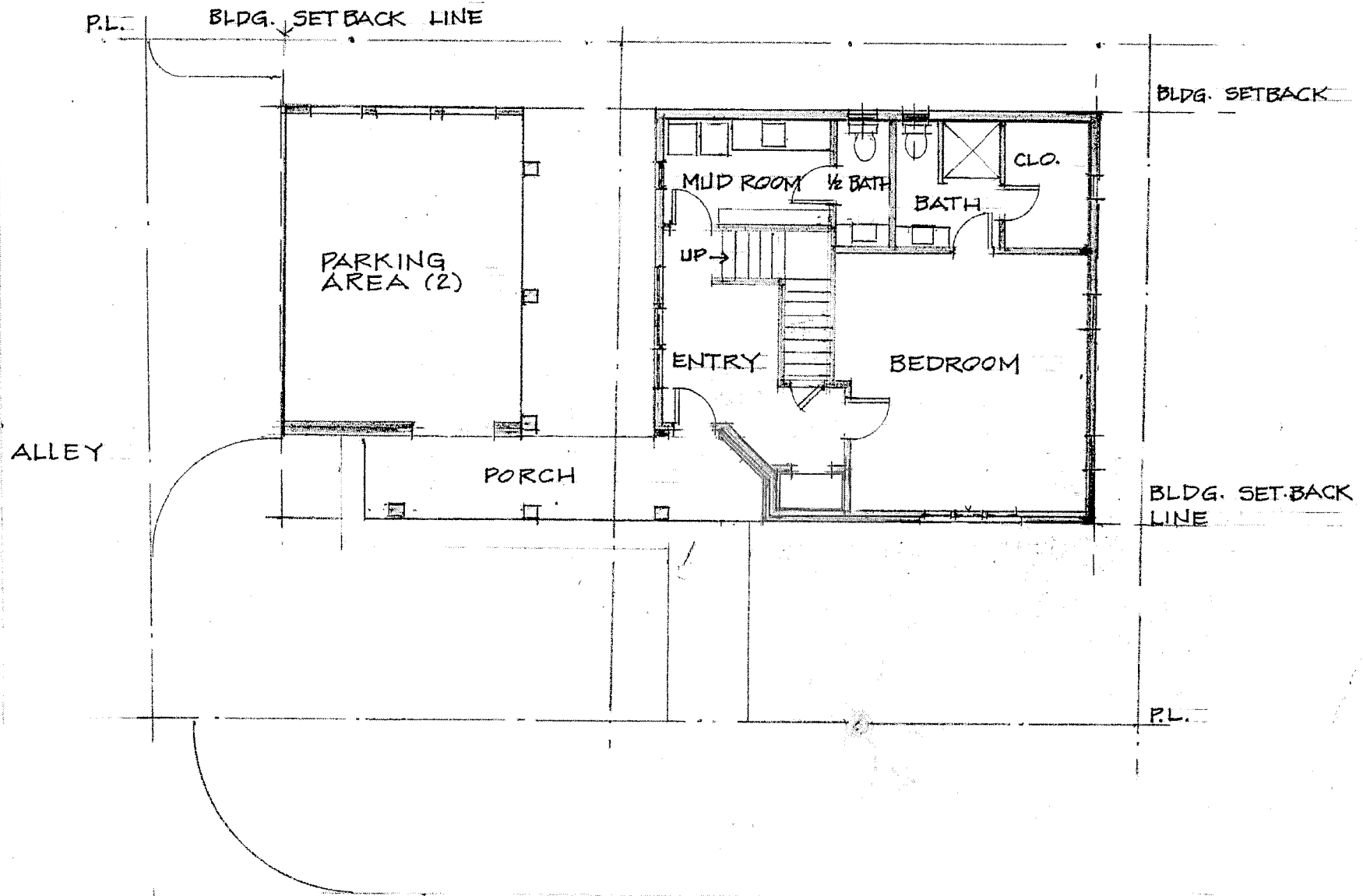


I, MARK J. EWALD, Registered Professional Land Surveyor, State of Texas, do hereby certify that the above plat represents an actual survey made on the ground under supervision, and there are no discrepancies, conflicts, shortages in area or boundary lines, or any encroachment or easement improvements, to the best of my knowledge and belief, except as shown herein.

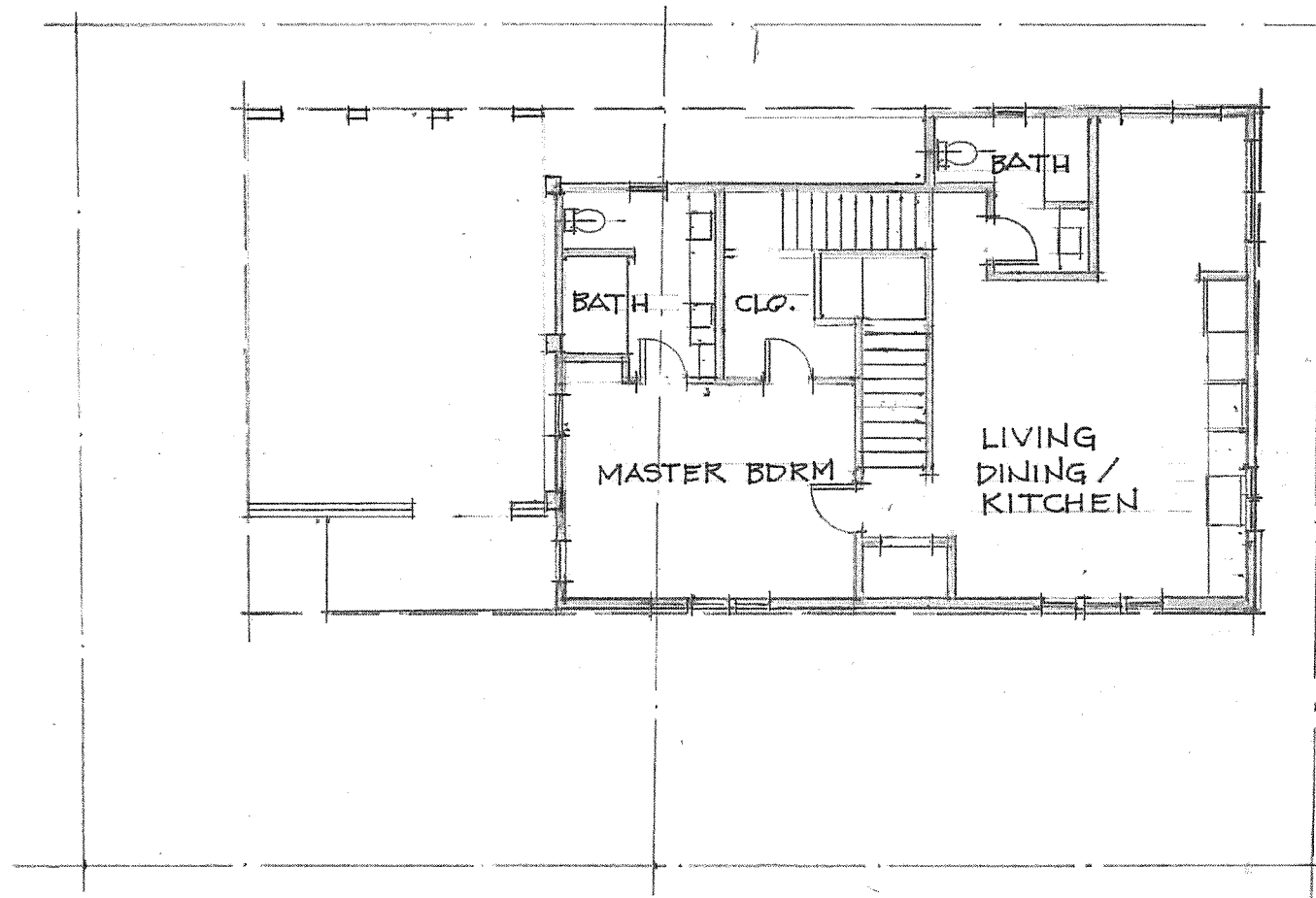
Mark J. Ewald

MARK J. EWALD
Registered Professional Land Surveyor
Texas Registration # _____

DATE: 10/27/2014



PROPOSED FLOOR PLAN: 106 & 108 COMAL STREET



PROPOSED 2ND FLOOR PLAN: 106 & 108 COMAL STREET

Cantu-McGarrahan, Architects
Letty Cantu- McGarrahan
1105 East 8th Street
Austin, Texas 78792

March 29, 2015

Re:
City of Austin Land Development Code Variance
Case Number: C15-2015-0052
106 and 108 Comal Street; Austin, Texas 78702

To Whom It May Concern:

In late January of this year, I contacted the City about the development process for combining lots 106 and 108 Comal.

The owners, Marcelo and Josephine (Nuncio) Vera had just received **Land Status Determination** for 106 and 108 Comal indicating that both parcels met the requirements of the Land Development Code.

Mr. and Mrs. Vera would like to combine 106 Comal Street (1,785.96sf) and 108 Comal Street (2,034sf) into one small lot (3,820sf) to be able to build a single-family home in a SF-3-NP zoning district. As two separate lots, 106 Comal (1,785.96sf) and 108 Comal (2,034sf) do not meet the **Small Lot Amnesty Minimum Size Requirement of 2,500sf** as per the East Cesar Chavez NP.

Combining lots 106 and 108 Comal, would give us a 74.39ft wide by 50.85ft deep lot. With SF-3 Setback Requirements, the buildable lot area would only be 59.35ft wide by 15ft deep. Hence, we are requesting the decrease in setbacks as per **Small Lot Design Requirements**.

Meeting the LDC off-street parking requirement for 2 vehicles, dictates the need to build a 2 story home. Since the owners are at retirement age, and take turns taking care of parents in their 80's and 90's, they need at least 3 bedrooms with visitable bathrooms. (This takes more square footage). It requires the need for an elevator to get to the living area on 2nd floor (more square footage). And, we need space for mechanical chases between floors.

All of the above requirements and needs is our reason in asking for an increase in square footage from 2,300.sf to 2,500.sf (Subchapter F: Residential Design and Compatibility Standards, Article 2: Development Standards, Section 2.1 (Maximum Development Permitted)).

Thank you,

Letty McGarrahan

Heldenfels, Leane

From: Letty McGarrahan [REDACTED]
Sent: Monday, March 30, 2015 3:51 PM
To: Heldenfels, Leane
Subject: Re: Scanned document from HP ePrint user (106 and 108 Comal, Photo of Owners in early 60's)

Leane,

The photo is of Mr. Luther Nuncio (Josephine Nuncio Vera's Deceased Dad). He is the East Austin purveyor Josephine mentions in her letter. Pretty well known, here in East Austin, died young of cancer.

The new residence will be occupied by Marcelo and Josephine (Nuncio) Vera. They also take in their mom's Mrs. Nuncio and Mrs. Vera (in late 80's and 90's) to live with them. Hence the need for elevator, and more than one accessible bathroom and 3 bedrooms. Also, the stairs cannot be as steep as usual and more landings (in case electricity or elevator is out).

On Monday, March 30, 2015 1:35 PM, "Heldenfels, Leane" <Leane.Heldenfels@austintexas.gov> wrote:

Great – will he be occupying residence that you're building? I will print it out for the Board packet –
Leane

From: Letty McGarrahan [REDACTED]
Sent: Monday, March 30, 2015 11:40 AM
To: Heldenfels, Leane
Subject: Fw: Scanned document from HP ePrint user (106 and 108 Comal, Photo of Owners in early 60's)

Leane,

Josephine (Bennie, as she is referred to in East Austin) Nuncio Vera, sent me this historical photograph of her dad as a Meat Purveyor in the East Cesar Chavez Neighborhood Area.
Letty

On Monday, March 30, 2015 11:31 AM, "[REDACTED]" wrote:

This email and attachment are sent on behalf of [REDACTED]

If you do not want to receive this email in future, you may contact [REDACTED] directly or you may consult your email application for spam or junk email filtering options.

Regards,
HP Team



March 29, 2015

My name is Josefina Nuncio Vera, I was born and raised in East Austin Texas. The house that I was raised in is still owned by my mother. I went to Metz School all my elementary years and followed junior high at St. Mary's Cathedral and graduated from Holy Cross High School.

My father and mother, Luther and Josie Nuncio, owned and operated many businesses in East Austin, as a young man, my father learned and mastered the skill of meat purveyors, which supplied hotel and restaurants all through the Austin area. He opened his own wholesale meat purveyor business in 1964 and thrived for many years, he also opened Luther's BBQ in 1962, it was located at 5201 East 5th street in Austin, the BBQ stand was managed by Josie Nuncio until it closed in 1971, reopening in a different location on East 6th.

The Nuncio family is well established in East Austin

March 29 2015

My name is Marcelo Vera, my parents resided at 504 Navasota St in East Austin, TX. where I was born also, I attended Metz Elementary as a child, we moved to Montopolis where our father built our home at 1105 Valdez St. and went to Delores Catholic School. Moved to East 2nd street, where I attended Palm School. My grandparents Cayetano and Paulina resided at 106 Comal St., my other grandparents resided at 108 Comal St.. I have acquired properties at 106 & 108 Comal St. in East Austin.

The Vera and Martinez families have history and still reside in East Austin, Texas.





1513 E 2nd St – Units A & B
(Next door to 106/108 Comal)
New construction 1,143sf
primary house w/ attached
1,156sf Secondary Apartment.
Front yard setback averaging
used for 12ft setback facing E 2nd
St. There is a 15ft setback from
Comal St and 5ft setback from
the side yard neighbor.





1510 E 2nd St – Unit 1

New construction 1,790sf main house set back 15ft from Comal and 5ft from the side yard neighbor.



1510 E 2nd St – Unit 2

New construction 1,080sf Accessory Dwelling Unit with front door facing Comal St. The front of the unit is set back 15ft from Comal and the back of the unit is set back 5ft from the side yard neighbor.



City of Austin
REVIEWED FOR CODE COMPLIANCE