

**ITEM FOR ENVIRONMENTAL COMMISSION AGENDA**

COMMISSION MEETING DATE: 9/7/2022

NAME & NUMBER OF PROJECT: BKO Parmer (SP-2021-0034D)

NAME OF APPLICANT OR ORGANIZATION: BKO Parmer (Steve Jamison)

LOCATION: 4801 East Yager, Austin, Texas 78754

COUNCIL DISTRICT: ETJ

ENVIRONMENTAL REVIEW STAFF: Tunde Daramola, Environmental Review Specialist Senior, DSD, 512-974-6316, Babatunde.Daramola@austintexas.gov

WATERSHED: Harris Branch Watershed, Suburban, Desired Development Zone

REQUEST: Variance request is as follows:
Request to vary from LDC 25-8-342 to allow fill over 4feet up to 12feet.

STAFF RECOMMENDATION: Staff recommends this variance, having determined the findings of fact to have been met.

STAFF CONDITIONS:

- Preserve trees/natural areas.
- Apply City of Austin Landscaping Ordinance on ETJ site.
- Provide structural containment of fill with a retaining wall.



Development Services Department
Staff Recommendations Concerning Required Findings

Project Name: BKO Parmer
 Ordinance Standard: Watershed Protection Ordinance
 Variance Request: **To allow for fill exceeding 4 feet up to 12 feet for building construction**

Include an explanation with each applicable finding of fact.

A. Land Use Commission variance determinations from Chapter 25-8-41 of the City Code:

1. The requirement will deprive the applicant of a privilege available to owners of similarly situated property with approximately contemporaneous development subject to similar code requirements.

Yes. The variance will not be providing a special privilege to the applicant. The proposed buildings are similar in size to similarly situated property. In order to facilitate this type of development levelling and additional fill is required for the buildings.

Prior projects in this area had a similar situation. A prime example is Crossroad Logistics Center Additions, SP-2021-0169D. A Land Use Commission variance was granted to LDC 25-8-342 to allow fill up to 17 feet.

2. The variance:
 - a) Is not necessitated by the scale, layout, construction method, or other design decision made by the applicant, unless the design decision provides greater overall environmental protection than is achievable without the variance;

Yes. Existing site conditions necessitate additional “fill” for fulfilling the requirements of two fire lane/emergency access routes as well as structural bridge for spanning the CWQZ.

- b) Is the minimum deviation from the code requirement necessary to allow a reasonable use of the property;

Yes. The site is being graded as efficiently as possible to provide the required access slopes and bridge heights to minimize the amount of variance required.

- c) Does not create a significant probability of harmful environmental consequences.

Yes. The variance does not create a significant probability of harmful consequences. The variance is a minimum deviation from code to allow for reasonable use of the property. Fill will be minimized and structurally contained with a retaining wall.

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

Yes. The project is served by four water quality/detention ponds. The development is compliant with current code.

- B. The Land Use Commission may grant a variance from a requirement of Section 25-8-422 (*Water Supply Suburban Water Quality Transition Zone*), Section 25-8-452 (*Water Supply Rural Water Quality Transition Zone*), Section 25-8-482 (*Barton Springs Zone Water Quality Transition Zone*), Section 25-8-368 (*Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long*), or Article 7, Division 1 (*Critical Water Quality Zone Restrictions*), after determining that::

1. 1. The criteria for granting a variance in Subsection (A) are met;

N/A All criteria in Subsection (A) are met

2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property;

N/A The proposed development is consistent with applicable zoning and surrounding properties.

3. The variance is the minimum deviation from the code requirement necessary to allow a reasonable, economic use of the entire property.

N/A The site is being graded as efficiently as possible to provide the required slopes and bridge heights.

Staff Determination: Staff determines that the findings of fact have been met. Staff recommends the following conditions per approved exhibit:

- Preserve trees/natural areas.
- Apply City of Austin Landscaping Ordinance on ETJ site.
- Provide structural containment of fill with a retaining wall.

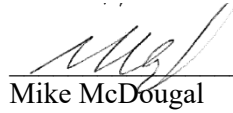
Environmental Reviewer
(DSD)



Tunde Daramola

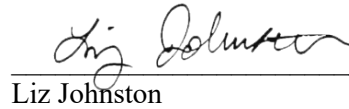
Date
8/19/2022

Environmental Review
Manager (DSD)


Mike McDougal

Date
8/21/ /2022

Deputy Environmental
Officer (WPD)


Liz Johnston

Date
08/25 /2022



ENVIRONMENTAL COMMISSION VARIANCE APPLICATION FORM

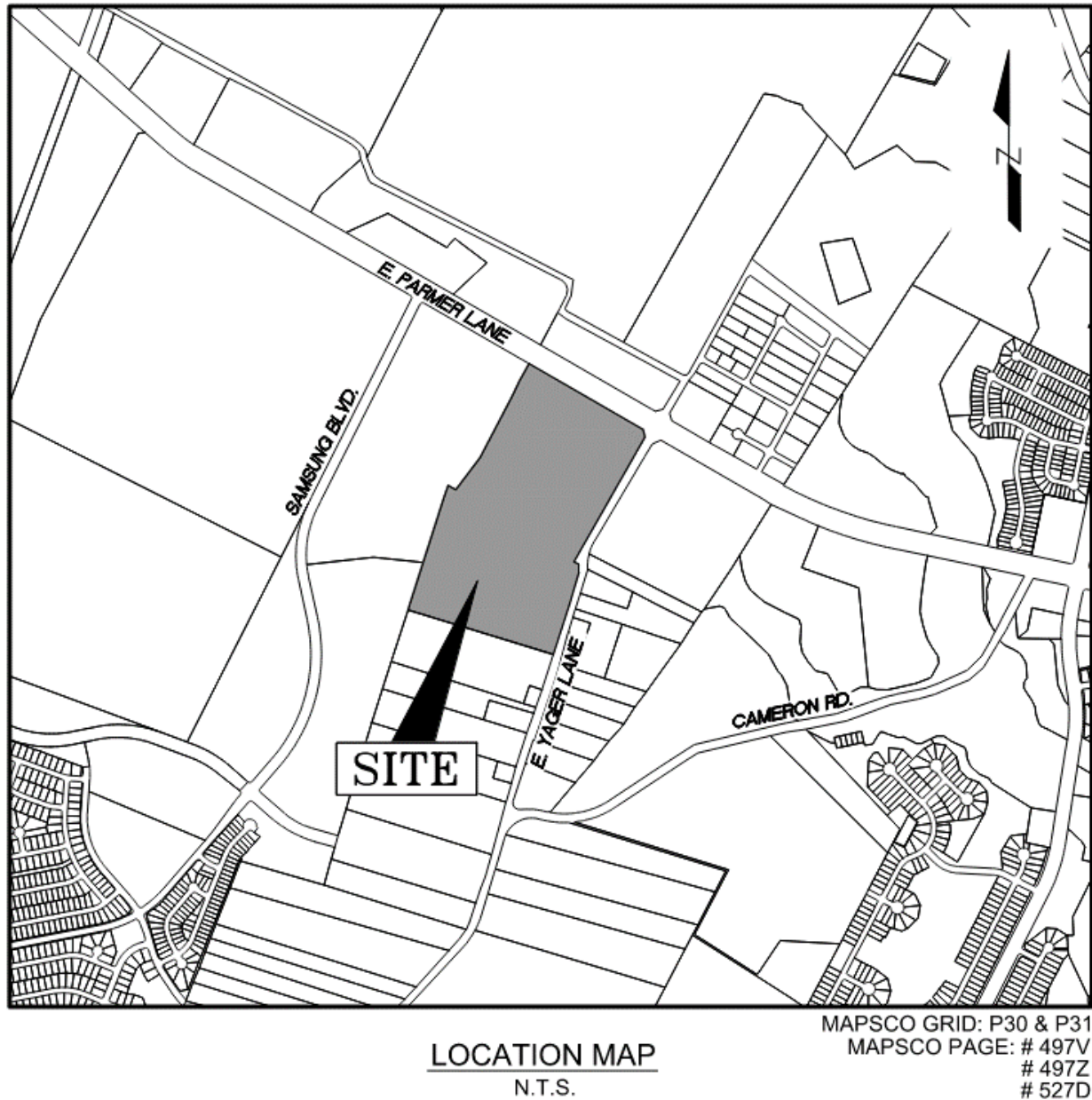
Denise Lucas, Director
Development Services Department
City of Austin
P.O. Box 1088
Austin, Texas 78767

RE: Fill Variance Request Letter
BKO Parmer
4801 East Yager Lane
SP-2021-0034D
LDC 25-8-342 Fill Requirements

Dear Ms. Lucas:

On behalf of the owner, we are requesting a variance for fill in excess of four (4) feet for the proposed development of the BKO Parmer site development permit (SP-2021-0034D) located at 4801 East Yager Lane.

The subject project is located in the 2-mile Extraterritorial Jurisdiction (ETJ). The property is currently undeveloped and is located at the southwest corner of the intersection of East Parmer Lane and East Yager Lane.



This project proposes the construction of apartments, a hotel and a convenience store, with four (4) water quality / detention ponds, six driveways and all associated grading, paving, water, wastewater, and drainage improvements. The applicant proposes to place new improvements on the property in a manner to minimize adverse impacts to the natural character of the property.

The site is in the Harris Branch Watershed, which is a Suburban Watershed. The subject tract is not located over the Edwards Aquifer Recharge Zone.

With regard to the proposed variance, we respectfully suggest the following conditions be considered:

1. Preservation of trees and/or natural areas not already required to be preserved in the ETJ:
 - o Trees Saved 787 trees = 10,693 inches
2. Apply City of Austin Landscaping Ordinance on this ETJ site:
 - o Added 118 Street Yard Trees (118 Trees Required) = (177 inches added)
 - o Added 174 Landscape Islands/Medians/Peninsulas Trees = (261 inches added)
 - o Total Trees Added = 292 Trees = (438 inches added)
3. Added retaining walls (1,375 lf) to contain the major fill areas.

The project requires leniency from the following code section:

Division 5. - Cut, Fill, and Spoil. **§ 25-8-342 - FILL REQUIREMENTS.**

(A) *Fill on a tract of land may not exceed four feet of depth, except:*

- (1) *in an urban watershed;*
- (2) *in a roadway right-of-way;*
- (3) *under a foundation with sides perpendicular to the ground, or with pier and beam construction;*
- (4) *for construction of a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms, if:*
 - (a) *the design and location of the facility within the site minimize the amount of fill over four feet;*
 - (b) *the fill is the minimum necessary for the appropriate functioning of the facility; and*
 - (c) *the fill is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;*
- (5) *for utility construction or a wastewater drain field; or*
- (6) *in a state-permitted sanitary landfill located in the extraterritorial jurisdiction, if:*
 - (a) *the fill is derived from the landfill operation;*
 - (b) *the fill is not placed in a critical water quality zone or a 100-year floodplain;*
 - (c) *the landfill operation has an erosion and restoration plan approved by the single office; and*
 - (d) *all other applicable City Code and County Code provisions are met.*

(B) *A fill area must be restored and stabilized.*

(C) *Fill for a roadway must be contained within the roadway clearing width described in Section 25-8-322 (Clearing For A Roadway).*

The Land Development Code allows Land Use Commission Variances per the following:

Division 3. - Variances.

§ 25-8-41 - LAND USE COMMISSION VARIANCES

(A) It is the applicant's burden to establish that the findings described in this Section have been met. Except as provided in Subsections (B) and (C), the land use commission may grant a variance from a requirement of this subchapter after determining that:

- (1) the requirement will deprive the applicant of a privilege available to owners of other similarly situated property with approximately contemporaneous development subject to similar code requirements;*
- (2) the variance:*
 - (a) is not necessitated by the scale, layout, construction method, or other design decision made by the applicant, unless the design decision provides greater overall environmental protection than is achievable without the variance;*
 - (b) is the minimum deviation from the code requirement necessary to allow a reasonable use of the property; and*
 - (c) does not create a significant probability of harmful environmental consequences; and*
- (3) development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.*

The findings of fact concerning the need for the variance are outlined below.

We respectfully seek your consideration and support of this variance request. If you have any questions, please feel free to call our office at (737) 484-0880.



08/05/2022

Stephen R. Jamison, P.E.
Jamison Civil Engineering LLC (TBPE Firm #F-17756)



PROJECT DESCRIPTION**Applicant Contact Information**

Name of Applicant	Stephen R. Jamison P.E., Jamison Civil Engineering, LLC
Street Address	13812 Research Blvd. #B-2
City State ZIP Code	Austin, Texas 78750
Work Phone	737-484-0880
E-Mail Address	steve@jamisoneng.com

Variance Case Information

Case Name	BKO Parmer
Case Number	SP-2021-0034D
Address or Location	4801 East Yager Lane
Environmental Reviewer Name	Tunde Daramola
Environmental Resource Management Reviewer Name	
Applicable Ordinance	Current Code
Watershed Name	Harris Branch Creek
Watershed Classification	<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban <input type="checkbox"/> Water Supply Suburban <input type="checkbox"/> Water Supply Rural <input type="checkbox"/> Barton Springs Zone
Edwards Aquifer Recharge Zone	<input type="checkbox"/> Barton Springs Segment <input type="checkbox"/> Northern Edwards Segment <input checked="" type="checkbox"/> Not in Edwards Aquifer Zones
Edwards Aquifer Contributing Zone	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Distance to Nearest Classified Waterway	+/- 0 feet to Harris Branch Creek (Intermediate) – on site +/- 0 feet to Harris Branch Creek (Minor) – on site
Water and Waste Water service to be provided by	Austin Water Utility

Request	<p>The variance request is as follows (Cite code references):</p> <p>LDC 25-8-342 Fill Requirements (12.0 feet max.)</p>
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Impervious cover	Existing	Proposed
Square Footage:	5,060 sf	1,237,287 sf
Acreage:	0.12 ac.	28.40 ac.
Percentage:	0.1%	33.9%
Provide general description of the property (slope range, elevation range, summary of vegetation / trees, summary of the geology, CWQZ, WQTZ, CEFs, floodplain, heritage trees, any other notable or outstanding characteristics of the property)	<p>The property has slopes that vary from 0% to 15%. The slope breakdown is as follows:</p> <p>0-15% Slopes ---> 81.34 acres 15-25% Slopes ---> 1.81 acres 25-35% Slopes ---> 0.34 acres Over 35% Slopes ---> 0.26 acres</p> <p>The elevation ranges from a low point of 584.0' to a high point of 635.0'.</p> <p>The majority of the ground vegetation is typical hill country grasses/prairie/woods in good condition.</p> <p>The majority of the existing soils consists of soils ranging from Ferris-Heiden Complex, Heiden Clay and Houston Black Clay, (all Class D Hydrologic Group)</p> <p>A portion of the property contains CWQZ and Wetland CEFs.</p> <p>A portion of this site is located within the fully developed 4% & 1% Annual Chance Flood Plain (25-Year & 100-Year).</p>	

Clearly indicate in what way the proposed project does not comply with current Code (include maps and exhibits)	The plan complies with all current codes.
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FINDINGS OF FACT

As required in LDC Section 25-8-41, in order to grant a variance, the Land Use Commission must make the following findings of fact. Included below is an explanation alongside each applicable finding of fact.

Ordinance:

A. Land Use Commission variance determinations from Chapter 25-8-41 of the City Code:

1. The requirement will deprive the applicant of a privilege available to owners of similarly situated property with approximately contemporaneous development subject to similar code requirements.

Yes **Nearby projects have been granted similar variances: Applied Materials Logistics Service Center (SP-2020-0321C), Samsung (LI-PDA Ordinance 20201210-071), Crossroads Logistics Center (SP-2021-0015D), and Crossroads Logistics Center Additions (SP-2021-0169D).**

2. The variance:

- a) Is not necessitated by the scale, layout, construction method, or other design decision made by the applicant, unless the design decision provides greater overall environmental protection than is achievable without the variance;

Yes **The site conditions necessitate additional fill for providing:**

- a. **The requirement to provide two (2) fire lane / emergency access routes throughout the project.**
- b. **The structural bridge required for spanning the CWQZ / 100-year flood plain.**
- c. **The required structural bridge elevation/clearance to maintain the minimum height above the fully developed 100-year flood plain water surface elevation.**

- b) Is the minimum deviation from the code requirement necessary to allow a reasonable use of the property;

Yes **The site is being graded as efficiently as possible to provide the required access slopes and bridge heights – to minimize amount of variance needed as possible.**

- c) Does not create a significant probability of harmful environmental consequences.

Yes **No harmful environmental consequences result from the variance. Additionally, conditions are proposed to further protect the environment including preserving natural areas, planting additional trees/landscaping, and revegetation of site.**

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

Yes The development is compliant with current code and will meet all water quality regulations.

****Variance approval requires all above affirmative findings.**

Exhibits for Commission Variance

- Aerial photos of the site
- Site photos
- Aerial photos of the vicinity
- Context Map—A map illustrating the subject property in relation to developments in the vicinity to include nearby major streets and waterways
- Topographic Map - A topographic map is recommended if a significant grade change on the subject site exists or if there is a significant difference in grade in relation to adjacent properties.
- For cut/fill variances, a plan sheet showing areas and depth of cut/fill with topographic elevations.
- Site plan showing existing conditions if development exists currently on the property
- Proposed Site Plan- full size electronic or at least legible 11x17 showing proposed development, include tree survey if required as part of site or subdivision plan
- Environmental Map – A map that shows pertinent features including Floodplain, CWQZ, WQTZ, CEFs, Setbacks, Recharge Zone, etc.
- An Environmental Resource Inventory pursuant to ECM 1.3.0 ([if required by 25-8-121](#))
- Applicant's variance request letter

BKO FARMER

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Google Earth



TOPO SOURCE: DESIGN SURVEY
DATE OF SURVEY: AUGUST 2020

CUT / FILL TABLE						
NUMBER	MIN. ELEVATION	MAX. ELEVATION	AREA (SF)	AREA (Ac.)	%	COLOR
1	-8	-4	102,973	2.36	2.81	
2	-4	0	3,103,975	71.26	85.09	
3	0	4				
4	4	8	396,861	9.11	10.88	
5	8	12	5,686	0.13	0.16	

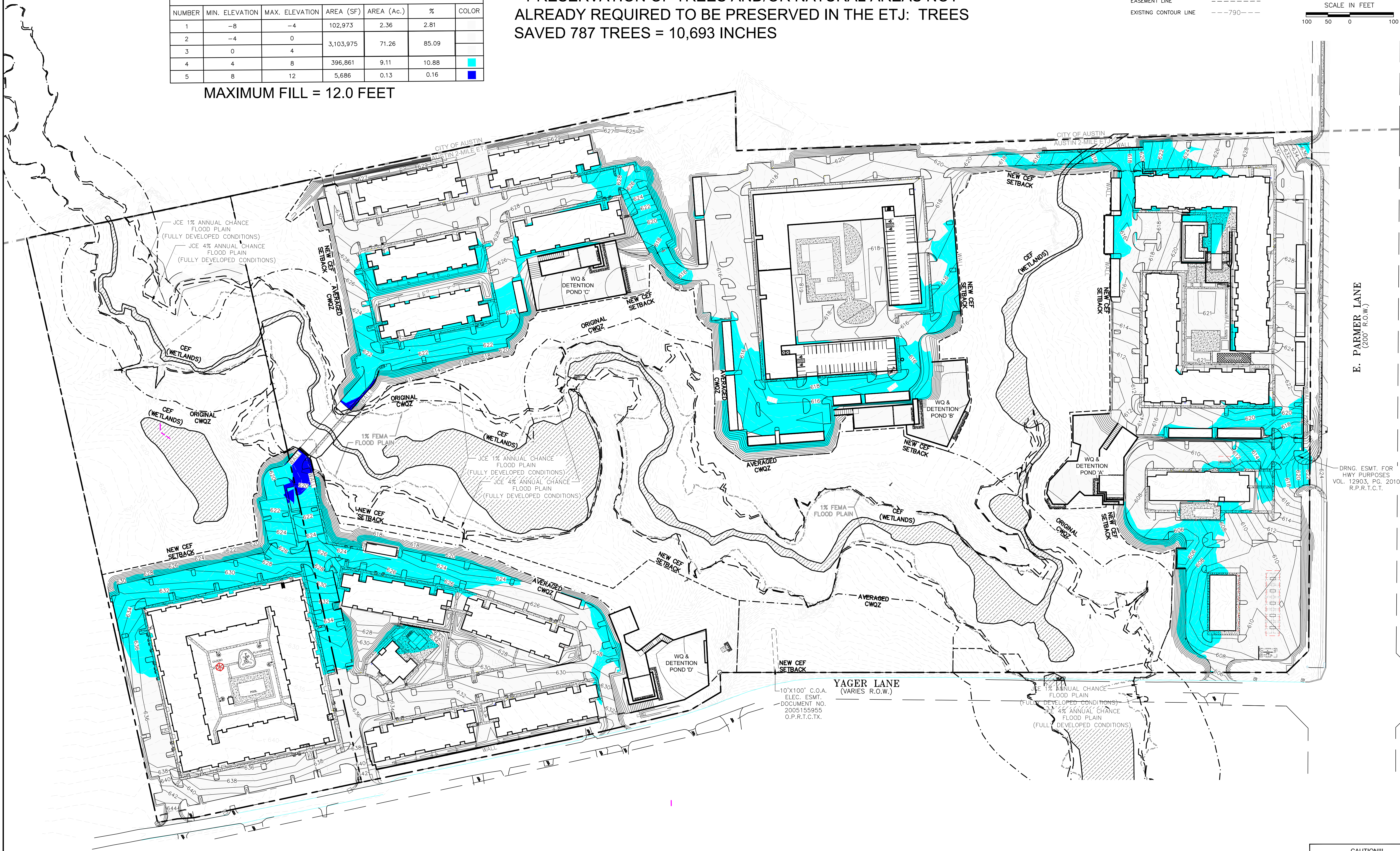
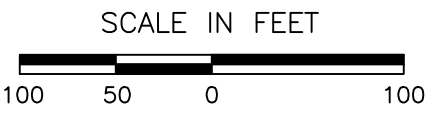
MAXIMUM FILL = 12.0 FEET

*THIS SHEET IS FOR CUT AND FILL EXHIBIT PURPOSES ONLY.
SEE OTHER SHEETS FOR ALL EXISTING AND PROPOSED
UTILITY LINE LOCATIONS.

**PRESERVATION OF TREES AND/OR NATURAL AREAS NOT
ALREADY REQUIRED TO BE PRESERVED IN THE ETJ: TREES
SAVED 787 TREES = 10,693 INCHES

LEGEND

PROPERTY LINE	---
LOT LINE	---
EASEMENT LINE	---
EXISTING CONTOUR LINE	---790---



E. PARMER LANE
(200' R.O.W.)

YAGER LANE
(VARIES R.O.W.)

10'X100' C.O.A.
ELEC. ESMT.
DOCUMENT NO.
2005155955
O.P.R.T.C.TX.

DRNG. ESMT. FOR
HWY PURPOSES
VOL. 12903, PG. 2010
R.P.R.T.C.T.

BKO PARMER

CUT FILL EXHIBIT

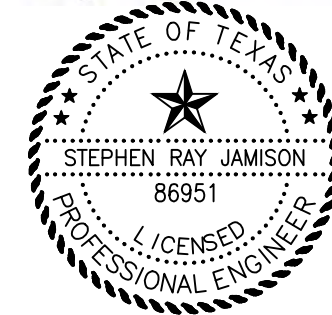
4801 EAST YAGER LANE
AUSTIN, TEXAS

JAMISON CIVIL ENGINEERING LLC

(TX. PE FIRM REG. #F-17756)
13812 RESEARCH BLVD. #B-2
AUSTIN, TEXAS 78750
OFFICE: (737) 484-0880
INFO@JAMISONENG.COM

JCE

The seal appearing on
this document was
authorized by
Stephen Ray Jamison
on 08/05/2022



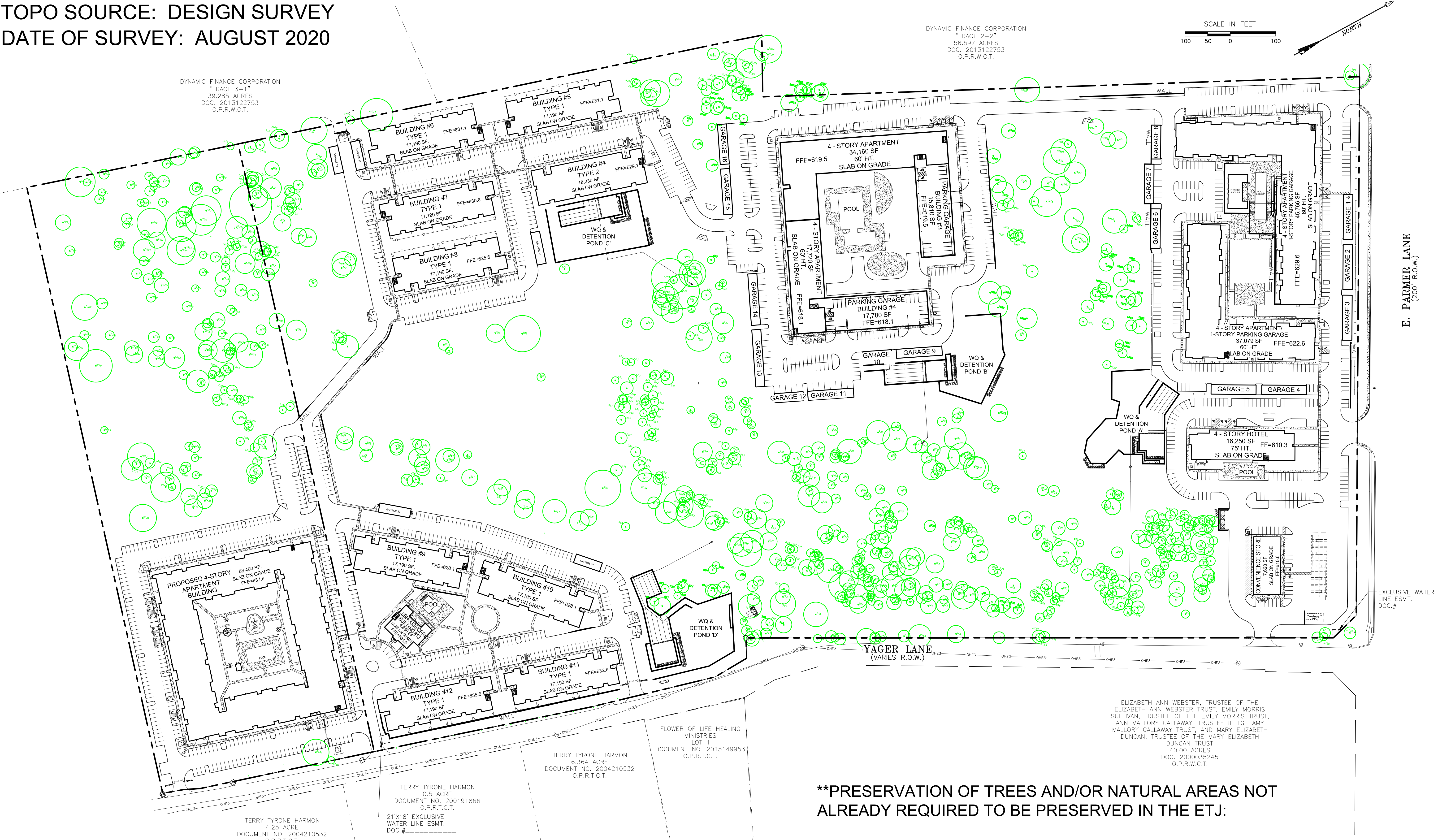
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Scale (Hor.): 1"=100'	Scale (Vert.):	Scale (Vert.):
Date: 02/05/21	Checked By: SRJ	Drawn By: SRJ
Revision 1:		
Revision 2:		
Revision 3:		
Revision 4:		

CAUTION!!!
CONTRACTOR SHALL LOCATE ANY/ALL EXISTING
UTILITIES PRIOR TO ANY SITE WORK.
(BOTH HORIZONTALLY AND VERTICALLY).
THE DESIGN ENGINEER WILL NOT BE RESPONSIBLE
FOR DAMAGES TO ANY EXISTING UTILITIES
OR FOR ANY CONFLICTS THAT MAY ARISE DUE TO
ANY UTILITIES NOT PROPERLY LOCATED.

SP-2021-0034D

SHEET
36 of 165

TOPO SOURCE: DESIGN SURVEY
DATE OF SURVEY: AUGUST 2020



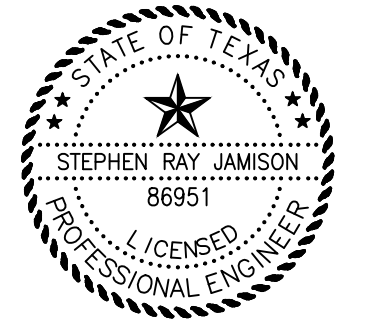
****PRESERVATION OF TREES AND/OR NATURAL AREAS NOT
ALREADY REQUIRED TO BE PRESERVED IN THE ETJ:**

TREES SAVED 787 TREES = 10,693 INCHES

JAMISON CIVIL ENGINEERING LLC
(TX. PE FIRM REG. #F-17756)
13812 RESEARCH BLVD. #B-2
AUSTIN, TEXAS 78750
OFFICE: (737) 484-0880
INFO@JAMISONENG.COM

BKO PARMER
SAVED TREE EXHIBIT
4801 EAST YAGER LANE
AUSTIN, TEXAS

The seal appearing on this document was authorized by Stephen Ray Jamison on 08/05/2022.



File:	Snapshot: OVERALL
Job No.	Scale (Hor.): 1"=100'
Date: 02/05/21	Scale (Vert.):
Checked By: SRJ	Drawn By: DSP
Revision 1:	
Revision 2:	
Revision 3:	
Revision 4:	

CAUTION!!!
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■ MATCH LINE THIS SHEET ■

SP-2021-0034D

SP-2021-0034D

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