



ITEM FOR ENVIRONMENTAL COMMISSION AGENDA

COMMISSION MEETING DATE: September 6, 2023

NAME & NUMBER OF PROJECT: Estancia Phase 11 Condos
SP-2023-0032C

NAME OF APPLICANT OR ORGANIZATION: Kelechi Madubuko
Kimley Horn

LOCATION: 830 Estancia Parkway, Austin, TX, 78724

COUNCIL DISTRICT: District #5

ENVIRONMENTAL REVIEW STAFF: Mel Fuechec, Environmental Review Specialist, Sr, DSD, 512-974-3036,
mel.fuechec@austintexas.gov

WATERSHED: Onion Creek, Suburban Watershed, Desired Development Zone

REQUEST: Variance request is as follows:
Request to vary from LDC 25-8-341 to allow cut greater than 4 feet on slopes greater than 15% and from LDC 25-8-342 to allow fill greater than 4 feet on slopes greater than 15% in the desired development zone.

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

STAFF CONDITION:

- 1) Ponds onsite will be biofiltration ponds
- 2) Plant 50% more trees than required by landscape code
- 3) Retaining wall, 609S seeding/planting, and erosion matting in areas of grading on steep slopes behind lots



Development Services Department
Staff Recommendations Concerning Required Findings

Project Name:	Estancia Phase 11 Condos
Ordinance Standard:	Watershed Protection Ordinance
Variance Request:	Request to vary from LDC 25-8-341 to allow cut from 4 to 8 feet on slopes greater than 15% and from LDC 25-8-342 to allow fill from 4 to 8 feet on slopes greater than 15% in the desired development zone.

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 or the safety of property given to owners of other similarly situated property with approximately contemporaneous development;

Yes / No The adjacent properties, which are part of the same PUD agreement, are developed in a similar condo/residential style and at a similar unit density.

2. The variance:

- a. Is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;

Yes / No The method to develop the property is a typical method used on properties throughout the City and on the properties adjacent to this project. The current design proposal may provide greater overall environmental protection than is achievable without this variance by installing 2 biofiltration ponds, 50% more trees than required by landscape code, and a retaining wall, 609S native seeding/planting, and erosion matting in the area of steep slopes behind lots.

- b. Is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property; and

Yes / No The regulatory history of this property should be noted. The Estancia Hill Country PUD as well as Preliminary Plan C8J-2009-0142.01 both adjust code to allow for increased grading and increased development on steeper slopes. The preliminary plan allows for grading up to 14 feet for pond construction and grading up to 8 feet throughout. The PUD stipulates that parking, driveways, and ROWs may be constructed on slopes up to 25%. However, the code adjustments do not specifically address grading which occurs on steep slopes. These grading scenarios are as follows: 1) To construct the project with the pond locations agreed upon in the preliminary plan, some grading over 4 feet on slopes over 15% is required. 2) A portion of the scope of this variance request is to construct a driveway on slopes greater than 15% utilizing a small amount of grading over 4 feet. Efforts have been taken to realign the roadways in order to avoid this situation to the extent practicable. 3) The rest of the grading over 4 feet which is also on slopes greater than 15% is to allow for the construction of ~6 condo units.

The design history should also be noted. The applicant originally proposed 295 residential lots/units. The applicant redesigned the site to reduce the magnitude of the requested variances. The applicant now proposes 264 residential lots/units. In addition, the watershed

impervious cover limit on this property is 70%. The applicant has reduced the proposed impervious cover to 56.39% due in part to the effort to reduce the magnitude of the requested variances.

The only grading greater than 8 feet is to construct the pond in order to contain the necessary stormwater volume.

The current design represents the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property.

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

Yes / No The project does not create a significant probability of harmful environmental consequences. Stormwater from the project will drain to two biofiltration ponds, and retaining walls, native revegetation, and erosion matting is being installed in areas of grading on steep slopes to reduce potential erosion.

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

Yes / No Stormwater from the project will drain to two biofiltration ponds, and wetland mitigation has been approved by the COA wetland biologist. More than the minimum required tree plantings are proposed, and efforts will be taken to mitigate erosion and enhance native vegetation in steep areas.

The Land Use Commission may grant a variance from a requirement of Article 7, Division 1 (*Critical Water Quality Zone Restrictions*), after determining that:

- B. Additional Land Use Commission variance determinations for a requirement of Article 7, Division 1 (Critical Water Quality Zone Restrictions):

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

NA


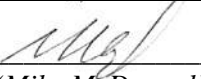
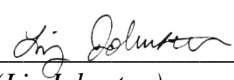
2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property;

NA

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

NA

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

Environmental Reviewer (DSD)	 (Mel Fuechec)	Date: 8/8/23
Environmental Review Manager (DSD)	 (Mike McDougal)	Date: 8/8/23
Deputy Environmental Officer (WPD)	 (Liz Johnston)	Date 8/22/23



ENVIRONMENTAL COMMISSION VARIANCE APPLICATION FORM

PROJECT DESCRIPTION

Applicant Contact Information

Name of Applicant	Kelechi Madubuko
Street Address	10814 Jollyville Rd, Avallon IV, Suite 200
City State ZIP Code	Austin, TX 78759
Work Phone	5126462250
E-Mail Address	kelechi.madubuko@kimley-horn.com

Variance Case Information

Case Name	SP-2021-0637C
Case Number	
Address or Location	830 Estancia Parkway
Environmental Reviewer Name	Mel Fuechec
Environmental Resource Management Reviewer Name	
Applicable Ordinance	
Watershed Name	Onion 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	
Water and Waste Water service to be provided by	AWU
Request	The variance request is as follows (Cite code references:

Impervious cover	Existing	Proposed
square footage:	<u>0</u>	<u>1,512,515</u>
acreage:	<u>0</u>	<u>34.72</u>
percentage:	<u>0</u>	<u>36.10%</u>
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>We are developing a 264 unit condo project off of I-35 and Estancia Parkway. The property is in the Estancia Hill Country PUD. The total site area is about 96.17 acres and elevations go from 580 to 714. The site has a large tree count, 3 CEF buffers, and some floodplain running along the western boundary.</p>	

Clearly indicate in what way the proposed project does not comply with current Code (include maps and exhibits)	This project is proposing cut over 4 feet on 15% slopes and fill over 4 feet on 15% slopes.
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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:

Include an explanation with each applicable finding of fact.

Project:

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 / No With the amount of elevation change on site, we believe we are not able to develop the same way the comparable adjacent properties were able to. For example SP-2018-0326C was able to achieve a gross density of 5.41 lots per acre. Estancia Phase 11 is zoned exactly the same as the comparable site and has the exact same impervious cover limitations as well. Estancia Phase 11 was initially proposed to achieve a 4.27 lot per acre density. In order to reduce the scope and scale of the project to achieve minimum deviation from code, the project now produces a gross density of 2.74 lots per acre. The initial site plan had 411 lots, and site plan as submitted to the City of Austin had 295 lots. The updated iteration further reduces the lot count and now contains 264 lots.

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 / No The Engineer/Developer/City of Austin have been through multiple iterations of the site with consideration given to tree preservation, cut/fill limitations, and now construction on slopes. Considering the difficult topography of this site, we question whether any other layout, scale or use would be feasible without this variance. The Western portion of the property has been completely reimagined and redesigned to achieve a plan that does not require an LUC variance. Limiting the scope of the Land Use Commission variance to the center portion of the site represents the minimum deviation from code to provide reasonable use of the property. Additionally, the proposed Land Use Commission variance land plan allows the development to save 5 additional Heritage Trees that were previously proposed to be removed.

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

Yes / No The minimum deviation from code is required to construct Water Quality Pond B1. Otherwise, it could not be constructed in the location approved in the Preliminary Plan (C8J-2009-0142.01). The eastern area included in the LUC variance also represents the minimum variation from the code to provide reasonable use of the property. There are two fire access points required to access the North portion of the property. Without the LUC variance, 7 lots fronting the fire access road would need to be removed. Given the substantial decrease in scope and scale on the Western portion of the property, additional lots lost in the area where we are requesting the LUC variance is excessive.

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

Yes / No No additional harmful impacts of the proposed variance are anticipated. The reduction in Heritage Tree removal and preservation of additional open space will help to further stabilize the site and limit and adverse impacts.

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

Yes / No We don't anticipate any major changes in water quality treatment with the variance. The water quality facility will still be proposed and there won't be any adverse effects to the plan.

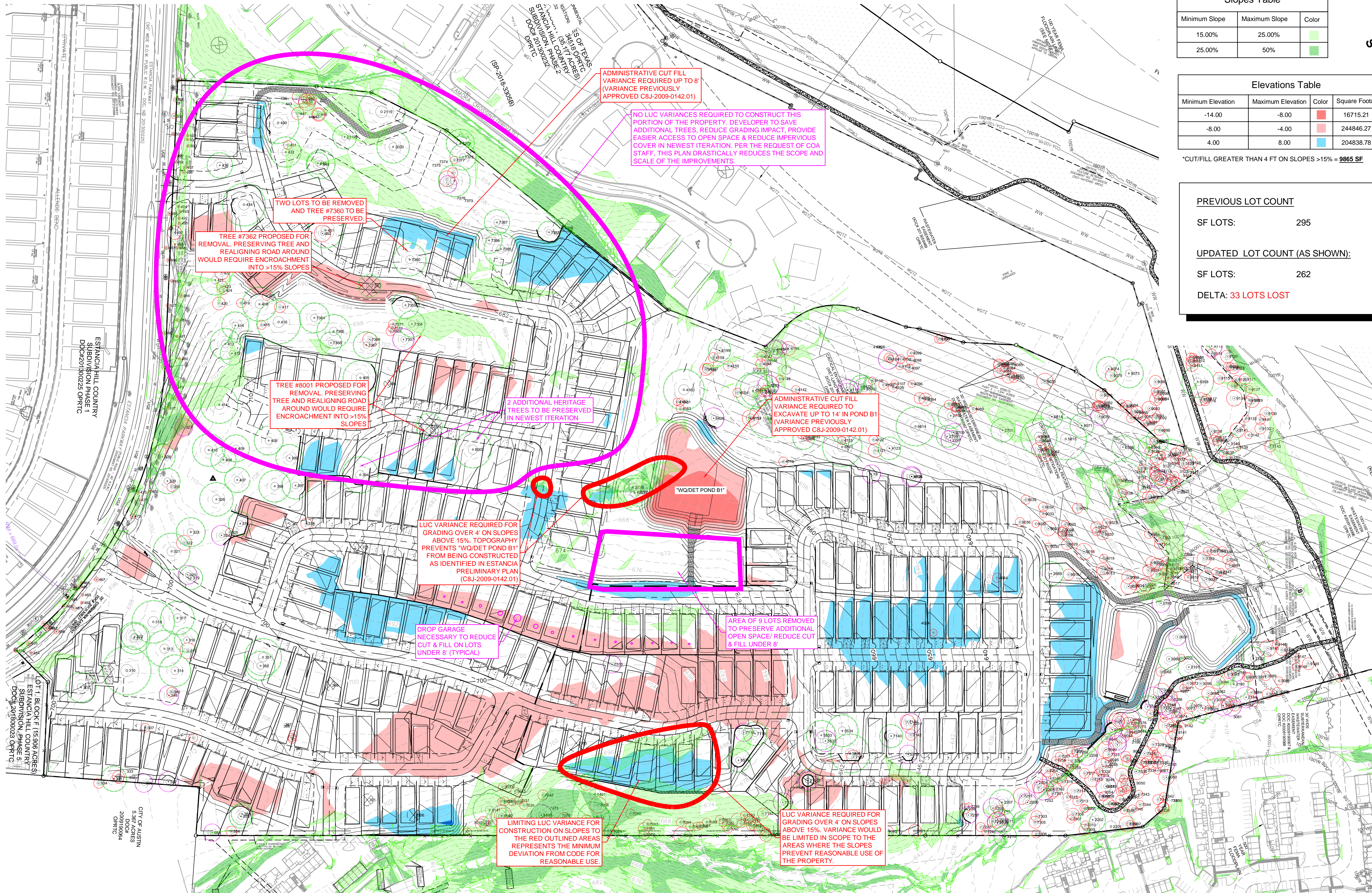
- B. Additional Land Use Commission variance determinations for a requirement of Section 25-8-422 (Water Quality Transition Zone), Section 25-8-452 (Water Quality Transition Zone), Article 7, Division 1 (Critical Water Quality Zone Restrictions), or Section 25-8-368 (Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long):

1. The criteria for granting a variance in Subsection (A) are met;
Yes / No [provide summary of justification for determination]
2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property;
Yes / No [provide summary of justification for determination]
3. The variance is the minimum deviation from the code requirement necessary to allow a reasonable, economic use of the entire property.
Yes / No [provide summary of justification for determination]

**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



Slopes Table		
Minimum Slope	Maximum Slope	Color
15.00%	25.00%	
25.00%	50%	

Elevations Table			
Minimum Elevation	Maximum Elevation	Color	Square Footage
-14.00	-8.00		16715.21
-8.00	-4.00		244846.27
4.00	8.00		204838.78

*CUT/FILL GREATER THAN 4 FT ON SLOPES >15% = 9865 SF

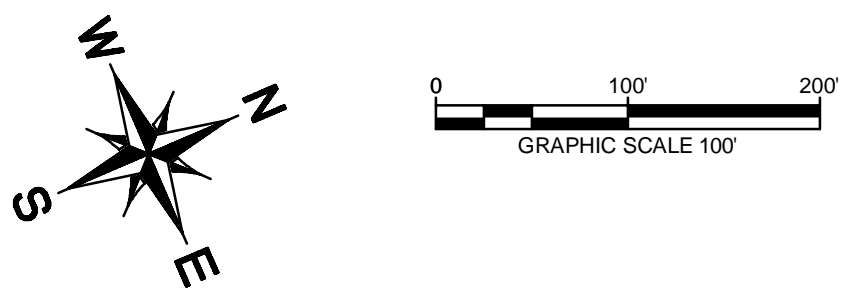
PREVIOUS LOT COUNT

SF LOTS: 295

UPDATED LOT COUNT (AS SHOWN):

SF LOTS: 262

DELTA: 33 LOTS LOST



LEGEND

- PROPERTY LINE (PL)
- ADJACENT PL
- BENCHMARK
- EASEMENT LINE
- EXISTING DEAD/SICK TREE
- EXISTING PROTECTED TREE
- EXISTING HERITAGE TREE
- EXISTING TREE TO BE REMOVED

Estancia Phase 11 Condos

Cut/Fill & Slopes Exhibit

Austin, Texas
October 2022



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State of Texas Registration No. F-928