

CITY OF COLLEGE STATION
Home of Texas A&M University®

Zoning Board of Adjustment
May 3, 2011
Workshop & Regular Meeting
5:30 PM

City Hall
2nd Floor Conference Room # 1
1101 Texas Avenue,
College Station, Texas

Table of Contents

| | |
|---|----|
| Agenda | 2 |
| March 1, 2011 meeting minutes. | |
| March 1, 2011 meeting minutes. | 6 |
| Public hearing, presentation, possible action, and discussion on a variance request to Section 5.2 Residential Dimensional Standards of the Unified Development Ordinance, regarding the side street setback requirement for 4201 Cedar Creek Court, Lot 1, Block 2, of the Creek Meadows Subdivision, Section 4, Phase 1. Case# 11-00500057 (MKH) | |
| Staff Report | 9 |
| Applicaiton | 14 |
| Survey. | 16 |



AGENDA
ZONING BOARD OF ADJUSTMENT
Workshop Meeting
Tuesday, May 03, 2011 at 5:30 PM
City Hall 2nd Floor Conference Room # 1
1101 Texas Avenue
College Station, Texas 77840

1. Call to order
2. Discussion of Regular Agenda items.
3. Presentation, possible action, and discussion regarding the policy of using motion forms. (LS)
4. Consideration and possible action on future agenda items – A Zoning Board Member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.
5. Adjourn.

Consultation with Attorney {Gov't Code Section 551.071; possible action.

The Zoning Board of Adjustments may seek advice from its attorney regarding a pending and contemplated litigation subject or attorney-client privileged information. After executive session discussion, any final action or vote taken will be in public. If litigation or attorney-client privileged information issues arise as to the posted subject matter of this Zoning Board of Adjustments meeting, an executive session will be held.

Notice is hereby given that a Workshop Meeting of the Zoning Board of Adjustment of College Station, Texas will be held on Tuesday, May 03, 2011 at 5:30 PM at the City Hall 2nd Floor Conference Room # 1, 1101 Texas Avenue, College Station, Texas. The following subjects will be discussed, to wit: See Agenda

Posted this the _____ day of _____, 2011 at _____ p.m.

CITY OF COLLEGE STATION, TEXAS

By _____
Sherry Mashburn, City Secretary

By _____
David Neeley, City Manager

I, the undersigned, do hereby certify that the above Notice of Workshop Meeting of the Zoning Board of Adjustment of the City of College Station, Texas, is a true and correct copy of said Notice and that I posted a true and correct copy of said notice on the bulletin board at City Hall, 1101 Texas Avenue, in College Station, Texas, and the City's website, www.cstx.gov. The Agenda and Notice are readily accessible to the general public at all times. Said Notice and Agenda were posted on _____ p.m. and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

This public notice was removed from the official posting board at the College Station City Hall on the following date and time: _____ by _____.

Dated this _____ day of _____, 2011.

CITY OF COLLEGE STATION, TEXAS

By _____

Subscribed and sworn to before me on this the _____ day of _____, 2011.

Notary Public- Brazos County, Texas

My commission expires: _____

This building is wheelchair accessible. Handicap parking spaces are available. Any request for sign interpretive service must be made 48 hours before the meeting. To make arrangements call 979.764.3517 or (TDD) 800.735.2989. Agendas may be viewed on www.cstx.gov.



AGENDA
ZONING BOARD OF ADJUSTMENT
Regular Meeting
Tuesday, May 03, 2011 at 6:00 PM
City Hall 2nd Floor Conference Room # 1
1101 Texas Avenue
College Station, Texas 77840

1. Call to order – Explanation of functions of the Board.
2. Discussion of requested Administrative Adjustments.
 - 2481 Horse Shoe Drive – 9.3% reduction (8.4 inches) to the 7.5-foot side setback. Approved Case # 11-00500016 (PAZ)
 - 2497 Horse Shoe Drive – 10% reduction (2 feet) to the 20-foot rear setback requirements. Approved Case # 11-00500059 (MKH)
3. Consideration, discussion and possible action to approve meeting minutes.
 - March 1, 2011 meeting minutes.
4. Public hearing, presentation, possible action, and discussion on a variance request to Section 5.2 Residential Dimensional Standards of the Unified Development Ordinance, regarding the side street setback requirement for 4201 Cedar Creek Court, Lot 1, Block 2, of the Creek Meadows Subdivision, Section 4, Phase 1. Case# 11-00500057 (MKH)
5. Consideration and possible action on future agenda items – A Zoning Board Member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.
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CITY OF COLLEGE STATION, TEXAS

By _____
Sherry Mashburn, City Secretary

By _____
David Neeley, City Manager

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CITY OF COLLEGE STATION
Home of Texas A&M University®

MINUTES
ZONING BOARD OF ADJUSTMENT
Regular Meeting
March 1, 2011
City Hall Council Chambers
1101 Texas Avenue
6:00 P.M.

MEMBERS PRESENT: Chairman Rodney Hill (arrived late), Josh Benn, Dick Dabney, Melissa Cunningham, Hunter Goodwin.

STAFF PRESENT: Staff Assistant Deborah Grace-Rosier, Staff Planner Matthew Hilgemeier, Assistant Director Lance Simms, Assistant City Attorney Adam Falco and Action Center Representative Carrie McHugh.

AGENDA ITEM NO. 1: **Call to order – Explanation of functions of the Board.**

Acting Chairman Benn called the meeting to order at 6:06 PM.

AGENDA ITEM NO. 2: **Consideration, discussion and possible action to approve meeting minutes.**

- **February 9, 2011 meeting minutes**

Mr. Goodwin motioned to approve the minutes. Ms. Cunningham seconded the motion, which passed unopposed (4-0).

AGENDA ITEM NO. 3: Public hearing, presentation, possible action, and discussion on a request for variances to the sidewalk and pedestrian walkway requirements of Section 7.9.E.4 "Pedestrian/Bike Circulation and Facilities" of the Unified Development Ordinance for a proposed freestanding restaurant to be located at 1520 Harvey Road in the Post Oak Mall parking lot. **Case# 11-00500020**

Staff Planner Matthew Hilgemeier presented the staff report and stated that the applicant is seeking a variance to the five-foot pedestrian walkway and a variance to the ten-foot sidewalk along the façade facing the public right-of-way. At the conclusion of the staff report, Mr. Hilgemeier told the Board that staff is recommending denial of both requests.

Chairman Hill arrived to the meeting at approximately 6:12 PM.

The Board had general questions for staff.

Acting Chairman Benn opened the public hearing.

Steve Demeter, 20675 Via Belarmino, Belinda, California, stepped before the Board to speak in favor of the request. He gave an overview of the proposed restaurant. He ended by saying that the five-foot pedestrian walkway would pose a traffic hazard and the ten-foot sidewalk is not needed, they would rather use both areas for landscaping.

Paul Loy, 4207 Conway Court, College Station, Texas, stepped before the Board to speak in favor of the request. He spoke about the five-foot sidewalk, stating that in order for the sidewalk to connect to the Sears walkway, there would need to be an agreement between Sears and BJ's Restaurant. He ended by saying that could take months to accomplish, and it could slow down this project.

Gary Hill, 4603 French Tree Woods, San Antonio, Texas, stepped before the Board to speak in favor of the request. He explained the design of the site, and ended by saying that both areas being considered could benefit by having additional landscaping.

All speaking before the Board were sworn in by Acting Chairman Benn.

Acting Chairman Benn closed the public hearing.

Mr. Hill motioned to deny the variance requests. Mr. Dabney seconded the motion.

There were discussions amongst the Board Members concerning the requests.

Mr. Goodwin asked if a condition could be placed on the five-foot pedestrian walkway, to allow the applicant to stop the walkway at the property line to Sears, to avoid having a delay due to agreement negotiations.

Mr. Hilgemeier stated that the City would not hold up the certificate of occupancy for some reason beyond the control of the applicant.

Acting Chairman called for the vote to deny both variance requests. The motion failed by a (1-4) vote. Chairman Hill voting for motion to deny.

Ms. Cunningham motioned to grant the variance for the ten-foot sidewalk on the east side of the building and grant a variance for the portion of the five-foot walkway located beyond the common property line with Sears. Special condition listed for the ten-foot sidewalk: grading issue on site; hardship listed: does not fit the spirit of the ordinance; and a limitation that the five-foot walkway terminate at the property line of Sears. Mr. Goodwin seconded the motion, which passed (4-1). Chairman Hill voting for denial.

AGENDA ITEM NO. 4: Consideration and possible action on future agenda items – A Zoning Member may inquire about a subject for which notice has not been given. A statement of specific factual information or the recitation of existing policy may be given. Any deliberation shall be limited to a proposal to place the subject on an agenda for a subsequent meeting.

There were no items addressed.

AGENDA ITEM NO. 6 : Adjourn.

The meeting was adjourned at 7:11 PM.

ATTEST:

Deborah Grace-Rosier, Staff Assistant

APPROVED:

Rodney Hill, Chairman



**VARIANCE REQUEST
FOR
4201 Cedar Creek Court
11-00500057**

REQUEST: Side street setback variance

LOCATION: 4201 Cedar Creek Court, Lot 1, Block 2, of the Creek Meadows Subdivision, Section 4, Phase 1

APPLICANT: Dan Weir, Majestic Homes

PROPERTY OWNER: Dennis Johnson

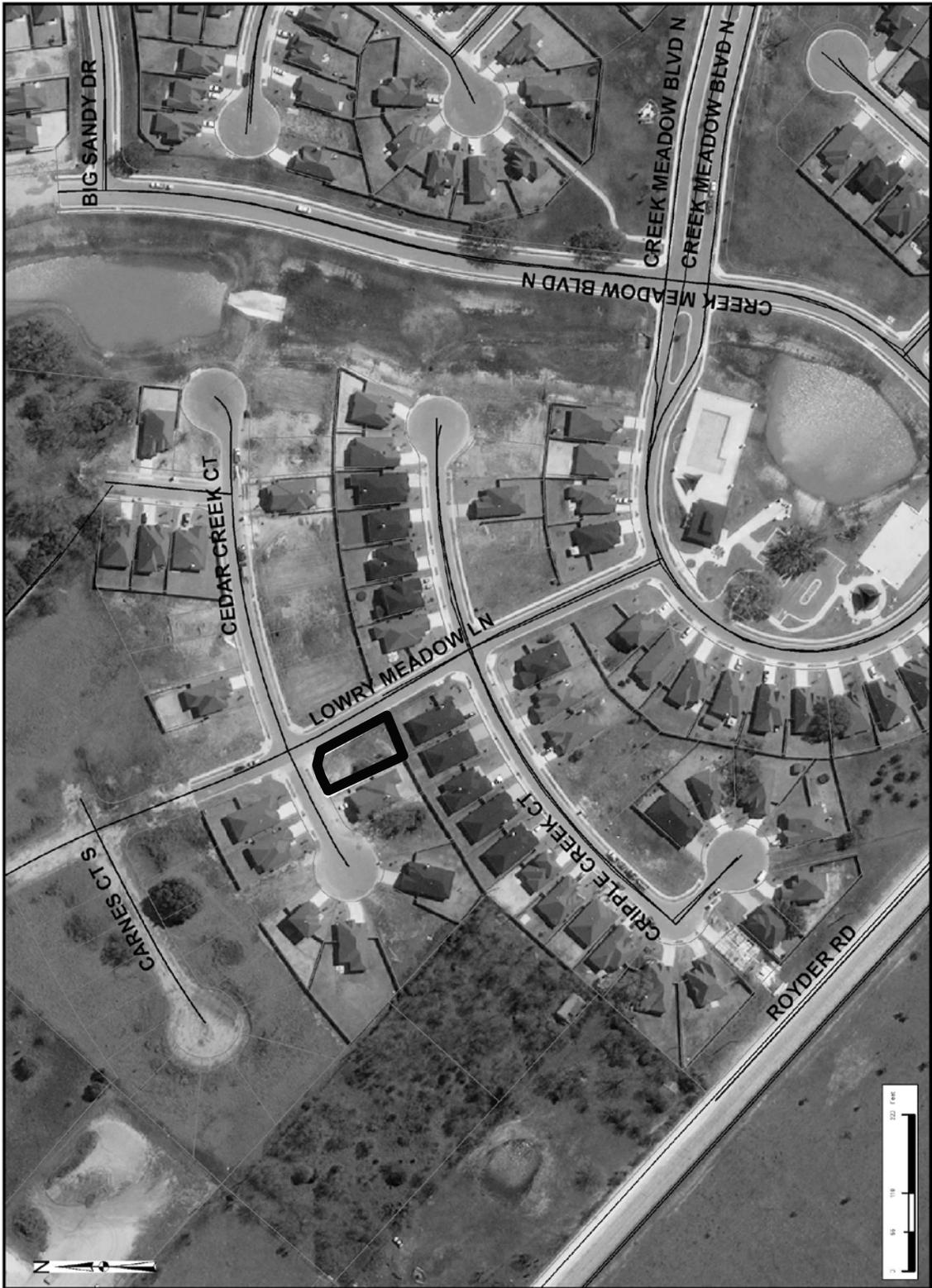
PROJECT MANAGER: Matthew Hilgemeier, Staff Planner
mhilgemeier@cstx.gov

RECOMMENDATION: Denial

BACKGROUND: The subject property was platted in 2009, as part of the Creek Meadows Subdivision and is zoned as a Planned Development District, which allows for single-family residential uses. The applicant received a residential building permit on May 5, 2010 to construct a 2,100 square foot structure on this lot. As a result of an error made by the builder when establishing the setbacks for this property, there is currently a single-story home occupying the lot with a portion of the structure encroaching into the 15-foot side street setback, as well as a 15-foot Public Utility Easement which runs along Lowery Meadow Lane. **Therefore, the applicant is requesting a 1-foot, 8-inch variance to Section 5.2 “Residential Dimensional Standards” of the Unified Development Ordinance to allow for 13-foot, 4-inch side street setback.**

APPLICABLE ORDINANCE SECTION: Section 5.2 “Residential Dimensional Standards”

ORDINANCE INTENT: Building setback requirements usually allow for some degree of control over population density, access to light and air, and fire protection. These standards are typically justified on the basis of the protection of property values.



Case: 11-057

4201 CEDER CREEK CT

DEVELOPMENT REVIEW

ZBA



NOTIFICATIONS

Advertised Board Hearing Date: May 3, 2011

The following neighborhood organizations that are registered with the City of College Station's Neighborhood Services have received a courtesy letter of notification of this public hearing:

None

Property owner notices mailed: 28
Contacts in support: None at time of writing this staff report.
Contacts in opposition: None at time of writing this staff report.
Inquiry contacts: Two general inquiries regarding the purpose of the variance request.

ZONING AND LAND USES

| Direction | Zoning | Land Use |
|------------------|----------------------------------|-------------|
| Subject Property | PDD Planned Development District | Residential |
| North | PDD Planned Development District | Residential |
| South | PDD Planned Development District | Residential |
| East | PDD Planned Development District | Residential |
| West | PDD Planned Development District | Residential |

PHYSICAL CHARACTERISTICS

1. **Frontage:** Approximately 113 feet of frontage along Lowry Meadow Lane and approximately 50 feet of frontage along Cedar Creek Court.
2. **Access:** The subject property has one residential driveway taking access to Cedar Creek Court.
3. **Topography and vegetation:** This site is moderately vegetated with a 2-foot slope running southeast across the property.
4. **Floodplain:** N/A

REVIEW CRITERIA

1. **Extraordinary conditions:** The applicant did not provide evidence that a special condition exists on the property such that the strict application of the provisions of the Unified Development Ordinance (UDO) would deprive the applicant of the reasonable use of their property. The encroachment into the side street setback is due to an error made by the home builder and not a special condition of the property.
2. **Enjoyment of a substantial property right:** This variance is necessary for the preservation and enjoyment of a substantial property right of the applicant because the current use of the property as a single-family residence meets the purpose Planned Development District that

was approved for this property. If the proposed variance request is not granted, the City cannot issue a Certificate of Occupancy for this structure because it does not comply with the standards of the UDO.

3. **Substantial detriment:** The granting of this variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area or to the City administering the UDO.
4. **Subdivision:** The granting of this variance would not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of the UDO.
5. **Flood hazard protection:** The granting of this variance will not have the effect of preventing flood hazard protection in accordance with Article 8, Subdivision Design and Improvements because no portion of this property is located within the floodplain.
6. **Other property:** Fifteen-foot side street setbacks are required for all properties zoned for residential uses in this Planned Development District and are not unique to this property.
7. **Hardships:** A hardship does not exist in this case. The encroachment of the building into the side street setback is the result of the applicant's own actions and is not the result of special condition of the property. The builder failed to locate the correct boundaries of the side street setback before constructing the building's foundation.
8. **Comprehensive Plan:** The granting of this variance does not substantially conflict with the Comprehensive Plan or the purposes of this UDO.
9. **Utilization:** The application of the UDO standards to this particular piece of property does not prohibit or unreasonably restrict the applicant in the utilization of their property. If the structure was demolished or structurally altered, it could be built within the required building setbacks.

ALTERNATIVES

The applicant did not provide any alternative to granting the requested variance.

STAFF RECOMMENDATION

Staff recommends denial of the applicant's request for a reduction of 1-foot, 8-inches to the 15-foot side street setback requirement. The error is the result of the applicant's own actions and is not the result of the existence of a special condition with the property that deprives the applicant of the reasonable use of the property.

SUPPORTING MATERIALS

1. Application
2. Survey



| | |
|---------------------|-----------------|
| FOR OFFICE USE ONLY | |
| CASE NO.: | 11.57 <i>mm</i> |
| DATE SUBMITTED: | 3.22.11 |
| TIME: | 5:00 |
| STAFF: | AC |

ZONING BOARD OF ADJUSTMENT APPLICATION

MINIMUM SUBMITTAL REQUIREMENTS:

- \$350 Zoning Board of Adjustment Application Fee. PD - 3/23/2011-AC
- Application completed in full. This application form provided by the City of College Station must be used and may not be adjusted or altered. Please attach pages if additional information is provided.
- Additional materials may be required of the applicant such as site plans, elevation drawings, sign details, and floor plans. The applicant shall be informed of any extra materials required.

Date of Optional Preapplication Conference _____

ADDRESS 4201 Cedar Creek Court, College Station TX

LEGAL DESCRIPTION (Lot, Block, Subdivision) Lot 1, Block 2 Creek Meadows, Sec. 4, P-1

APPLICANT/PROJECT MANAGER'S INFORMATION (Primary contact for the project):

Name Dan Weir E-mail dan@majestichomestx.com

Street Address 213 N. Central

City Troy State TX Zip Code 76579

Phone Number 254-721-1606 Fax Number 254-742-1199

PROPERTY OWNER'S INFORMATION (Please attach an additional sheet for multiple owners):

Name Dennis Johnson E-mail dennis@majestichomestx.com

Street Address 213 N. Central

City Troy State TX Zip Code 76579

Phone Number 254-742-7700 Fax Number 254-742-1199

Current zoning of subject property single residential

Action requested (check all that apply):

- | | |
|--|---|
| <input checked="" type="checkbox"/> Setback variance | <input type="checkbox"/> Appeal of Written Interpretation |
| <input type="checkbox"/> Parking variance | <input type="checkbox"/> Special Exception |
| <input type="checkbox"/> Sign variance | <input type="checkbox"/> Drainage Variance |
| <input type="checkbox"/> Lot dimension variance | <input type="checkbox"/> Other _____ |

Applicable ordinance section to vary from:

GENERAL VARIANCE REQUEST

1. The following specific variation from the ordinance is requested:

TO THE 15-FT SIDE STREET SETBACK, OFF OF LASSY MEADOW DRIVE, REQUESTED IN UDO SECTION 5.2 RESIDENTIAL DIMENSIONAL STANDARDS

2. This variance is necessary due to the following special conditions:

Special Condition Definition: To justify a variance, the difficulty must be due to unique circumstances involving the particular property. The unique circumstances must be related to a physical characteristic of the property itself, not to the owner's personal situation. This is because regardless of ownership, the variance will run with the land.

Example: A creek bisecting a lot, a smaller buildable area than is seen on surrounding lots, specimen trees.

Note: A cul-de-sac is a standard street layout in College Station. The shape of standard cul-de-sac lots are generally not special conditions.

HOUSE BUILT OVER SIDE SETBACK 1 FOOT 8 INCH ON ONE CORNER

3. The unnecessary hardship(s) involved by meeting the provisions of the ordinance other than financial hardship is/are:

Hardship Definition: The inability to make reasonable use of the property in accord with the literal requirements of the law. The hardship must be a direct result of the special condition.

Example: A hardship of a creek bisecting a lot could be the reduction of the buildable area on the lot, when compared to neighboring properties.

HARDSHIP WOULD INVOLVE COMPLETE TEAR DOWN OF HOME.

4. The following alternatives to the requested variance are possible:

NONE KNOWN

5. This variance will not be contrary to the public interest by virtue of the following facts:

NO NEIGHBORS INVOLVED AND NO LIMITED VISUAL

The applicant has prepared this application and certifies that the facts stated herein and exhibits attached hereto are true, correct, and complete. IF THIS APPLICATION IS FILED BY ANYONE OTHER THAN THE OWNER OF THE PROPERTY, this application must be accompanied by a power of attorney statement from the owner. If there is more than one owner, all owners must sign the application or the power of attorney. If the owner is a company, the application must be accompanied by proof of authority for the company's representative to sign the application on its behalf.

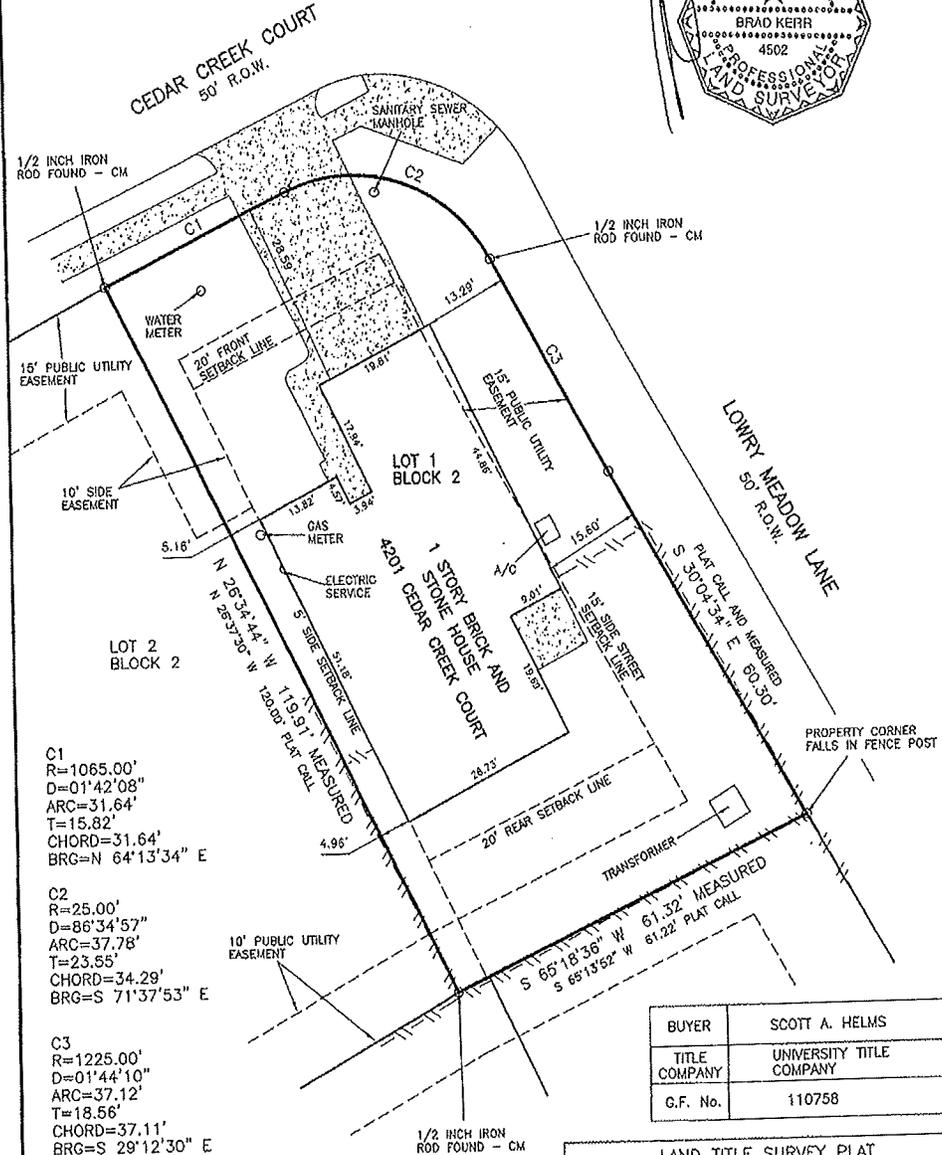
Signature and title: Dennis Johnson, OWNER

Date: 3/22/11, Revised 4/4/11

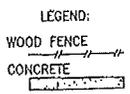
SURVEYOR'S CERTIFICATE:
 I, BRAD KERR, R.P.L.S. NO. 4502, DO HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE THIS PLAT IS A TRUE REPRESENTATION OF A SURVEY MADE ON THE GROUND UNDER MY SUPERVISION AND THAT THERE ARE NO VISIBLE ENCROACHMENTS ON THIS TRACT EXCEPT AS SHOWN HEREON. THIS TRACT DOES NOT LIE WITHIN A DESIGNATED 100 YEAR FLOOD PLAIN ACCORDING TO THE F.I.R.M. MAPS, COMMUNITY PANEL NO. 48041C0200 C, EFFECTIVE DATE: 07-02-1992.

BRAD KERR
 REGISTERED PROFESSIONAL
 LAND SURVEYOR NO. 4502

SCALE: 1" = 20'



CURVE DATA SHOWN HEREON IS PLAT CALL AND MEASURED.
 TEMPORARY BLANKET EASEMENT TO CITY OF COLLEGE STATION, 7863/72, DOES APPLY TO THIS TRACT.
 BUILDING SETBACK LINES PER PLAT, 8950/98, AND DEED, RESTRICTIONS, 9721/201.
 CM - CONTROLLING MONUMENT FOUND AND USED TO ESTABLISH PROPERTY LINES.
 BEARING SYSTEM SHOWN HEREON IS HONORING THE PLAT CALLED BEARINGS AS SHOWN ON THE PLAT RECORDED IN VOL. 8950, PG. 98, AND AS MONUMENTED ON THE GROUND.



| | |
|---------------|--------------------------|
| BUYER | SCOTT A. HELMS |
| TITLE COMPANY | UNIVERSITY TITLE COMPANY |
| G.F. No. | 110758 |

LAND TITLE SURVEY PLAT
 OF
 LOT 1, BLOCK 2
 CREEK MEADOWS, SECTION 4, PHASE 1
 VOLUME 8950, PAGE 98
 COLLEGE STATION, BRAZOS COUNTY, TEXAS

SCALE: 1 INCH = 20 FEET
 SURVEY DATE: 03-11-11
 PLAT DATE: 03-11-11
 JOB NUMBER: 11-107
 CAD NAME: 11-107

CRS FILE: CREEKMHW (cont): 11-107 (job)
 PREPARED BY: KERR SURVEYING, LLC
 605 CHURCH AVENUE, P.O. BOX 269
 COLLEGE STATION, TEXAS 77840
 PHONE (979) 268-3195