

Item 17 Travis County Commissioners Court Agenda Request

Meeting Date: July 17, 2012

Prepared By: Stacey Scheffel/Paul Scoggnins Phone #: 854-9383

Division Director/Manager: Anna Bowlin, Division Director Development Svs

Department Head/Title: Steven M. Manilla, P.E., County Executive-TNR

Sponsoring Court Member: Commissioner Davis, Precinct One

AGENDA LANGUAGE:

Consider and take appropriate action on the following requests in Precinct One:

- A) A request for variance to State and County septic regulations to allow a septic drainfield to encroach on a ten foot setback to a drainage easement at 20712 Live Oak Lane; and
- B) A request to authorize the filing of an instrument to vacate the drainage easement portion of the five foot wide public utility and drainage easements located along the side and rear lot lines of Lot 8, Block D of Kingsberry Park Section 1.

BACKGROUND/SUMMARY OF REQUEST:

A) The owner of the property at 20712 Live Oak Lane has a failing septic system. Sewage from the system has surfaced several times, endangering the health and saftey of not only the properties occupants, but also the people living on neighboring properties and the public. There is not enough room on the property to replace the system with out removal of existing improvements or encroachment into the setback to drainage easements. State septic rules require a ten foot setback from a septic drainfeild to a drainage easement. The easements on the property itself are in the process of being vacated, but neighboring property owners do not wish to vacate the easements on their properties. During the May 22, 2012 public hearing on the easement vacation, neighbors raized concerns that the use of the property violates deed restrictions on commercial use. There is a hair salon and a house on the property. Court did not take action on the vaction, but it is expected that the Court will take action on July 17, 2012. Even with the vacation of the drainage easements at 20712 Live Oak Lane, the septic drainfield would need to encroach on the setback by four feet in order to have a properly sized system for the existing home on the property. The hair salon cannot be connected to the septic system because it produces industrial wastewater. The property owner has requested a variance in order to encroach on the setback. They have also agreed to indemnify and release the County from any liability relating to this variance. All other components of the new septic system will meet County and State regulations. While the potential violation of the deed restrictions is a serious concern for neighboring property

owners, surfacing sewage presents a risk to public health and saftey. Permitting a new system lessens the chance of sewage surfacing on this property.

B) On May 22, 2012 Travis County Commissioners Court held a public hearing regarding a request to vacate the drainge easement portion of the five foot wide public utility and drainage easements located along the side and rear lot lines of Lot 8, Block D of Kingsberry Park Section 1. During this hearing, neighboring property owners of the subject lot expressed their concerns about the failing septic system and the operation of a beauty salon that is also located on this particular lot. The concern with the beauty salon, per the neighboring lot owners, was that it violated deed restrictions on commercial use.

After hearing the concerns, the Court postponed the action and scheduled a neighborhood/site visit with staff and Commissioner Davis. The site visit occurred on June 13, 2012. The action item will now be scheduled for the July 17, 2012 agenda along with a variance request to septic setbacks as they pertain to drainage easements.

STAFF RECOMMENDATIONS:

TNR staff recommends granting this variance and finds the vacation requests meets all Travis County standards and therefore recommends the vacation.

ISSUES AND OPPORTUNITIES:

The issues and opportunities associated with the request are basically the same as the May 22, 2012 agenda backup stated, which is included in this packet. In addition to that backup, a variance request to State and County septic regulations to allow a septic drainfield to encroach on a ten foot setback to a drainage easement will be included on the July 17, 2012 agenda for this property.

There is an existing home and hair salon located in separate buildings on the property. At a public hearing on May 22, 2012 (Item 1) for the vacation of the drainage easements, concerns were raised by neighboring property owners that the commercial use of the property violates deed restrictions. TNR does not review permit applications for compliance with deed restrictions. Although TNR has not permitted the hair salon structure on this property, we have permitted commercial structures on other properties within the subdivision.

Hair salons produce industrial wastewater and cannot utilize septic for disposal. Currently the hair salon is not connected to water and as such does not produce wastewater. The owners may still be utilizing the building for "dry" cuts. If the easement vacation and variance are approved by Court, TNR would only be issuing the permit for the septic system for the house. In fact, it is possible for TNR to specifically exclude the hair salon from its permit.

The State is considering reducing the setback requirements to drainage easements to no separation. It is expected that there will be a draft rule sometime this fall. It is possible the property owners could wait until the rule is changed, but given the history of failure staff believes it is important to allow them to install a new system for the house.

FISCAL IMPACT AND SOURCE OF FUNDING:

None

EXHIBITS/ATTACHMENTS:

Original Agenda Packet and Backup Location Map Indemnification Letter

REQUIRED AUTHORIZATIONS:

Cynthia McDonald	Financial Manager	TNR	854-4239
Steve Manilla	County Executive	TNR	854-9429

CC:

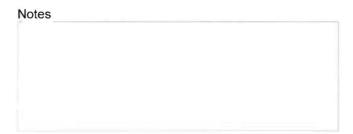
Rodney Sherrill			
Tom Nuckols	Assistant County Attorney	County Attorney's Office	
Stacey Scheffel			

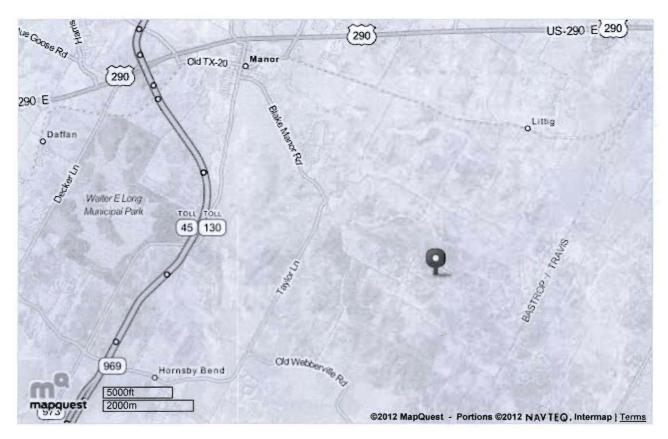
1101 - Development Svs- Kingsberry Park Section 1

1705 - Private Sewage Facilities



Map of: **20712 Liveoak Ln** Manor, TX 78653-4814





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March 5, 2012

To Whom It May Concern:

re:

Variance request

20712 Live Oak Lane

Manor, Texas

We are requesting a variance to 30 TAC Chapter 285.91.10 (Table X) related to the setbacks from drip fields to drainage easements on our property located at 20712 Live Oak Lane, Manor, Texas 78653. We agree to indemnify and release Travis County from any liability that may result from granting this variance.

Sincerely,

Mariam Leon Colmenero

Maxiam León Colinenero

ORDER OF VACATION

STATE OF TEXAS

§

COUNTY OF TRAVIS §

WHEREAS, the property owner requests the vacation of the drainage easement portion of the five foot wide public utility and drainage easements located along the side and rear lot lines of Lot 8, Block B of the Kingsberry Park Section 1 subdivision as recorded at Volume 37, Page 9 of the Real Property Records of Travis County, Texas;

WHEREAS, an independent Professional Engineer has submitted a letter recommending the vacation of the subject easements;

WHEREAS, the public utility portion of the public utility and drainage easements will remain;

WHEREAS, a Travis County Engineer has stated that there is no objection to the vacation of the drainage easements as described in the attached field notes and sketch;

WHEREAS, the Travis County Transportation and Natural Resources Department recommends the vacation of the subject drainage easements as described in the attached field notes and sketch;

WHEREAS, the required public notice was posted and the Travis County Commissioners Court held a public hearing on May 22, 2012 to consider the proposed action; and

NOW, THEREFORE, by unanimous vote, the Commissioners Court of Travis County, Texas, orders that drainage easement portion of the five foot wide public utility and drainage easements located along the side and rear lot lines of Lot 8, Block B of the Kingsberry Park Section 1 subdivision, as shown on the attached sketch and described in the attached field notes, are hereby vacated.

ORDERED THIS THE	DAY OF 2012.
SAMUEL T. E	SISCOE, COUNTY JUDGE
COMMISSIONER RON DAVIS PRECINCT ONE	COMMISSIONER SARAH ECKHARDT PRECINCT TWO
COMMISSIONER KAREN HUBER PRECINCT THREE	COMMISSIONER MARGARET GOMEZ PRECINCT FOUR



Travis County Commissioners Court Agenda Request

Meeting Date: May 22, 2012

Prepared By: Paul Scoggins Phone #: 854-7619

Division Director/Manager: Anna Boy lin, Division Director of Development

Services

Department Head: Steven M. Manilla, P.E., County Executive-TNR Sponsoring Court Member: Commissioner Davis, Precinct One

AGENDA LANGUAGE: Consider and take appropriate action on a request to authorize the filing of an instrument to vacate the drainage easement portion of the five foot wide public utility and drainage easements located along the side and rear lot lines of Lot 8, Block D of Kingsberry Park Section One – Precinct One.

BACKGROUND/SUMMARY OF REQUEST:

TNR staff has received a request to vacate the drainge easement portion of the five foot wide public utility and drainage easements located along the side and rear lot lines of Lot 8, Block D of Kingsberry Park Section One. The easements are dedicated per plat note as a public utility and drainage easement and are not schematically shown on the face of the plat. The subject lot fronts on Live Oak Lane, a street maintained by Travis County.

Professional Engineer Stan Burrier has stated that:

"I have performed an on the ground study of this property. It is obvious that the drainage easements are "paper easements" that blanket the perimeter of all the lots in the subdivision. The easement around this lot is not functional and no negative impact will occur if the easement is vacated."

After review of the submitted request and recommendation, Travis County Engineer John Ellis has stated he has no objections to this vacation request. Staff foresees no opposition to this request.

STAFF RECOMMENDATIONS:

As of this memo staff has received two inquiries in regards to this vacation request. The request has been reviewed by TNR staff and staff finds the vacation requests meets all Travis County standards. As such, TNR staff recommends the vacation.

ISSUES AND OPPORTUNITIES:

According to the request letter there is a failed septic system on the subject lot. Vacating the subject easements will allow additional room for the upgraded septic system in regards to setbacks requirements for drainage easements. The property owner currently has the upgraded septic design under review and its permit is pending this easement vacation.

Per the county's enforcement department, Travis County has been involved since 3/10/2010. There have been numerous calls from surrounding property owners, in particular the last six-eight months or so, which consisted of complaints of the failing system at this property. This issue was submitted to Travis County Attorney's office to seek compliance.

There have been illegal discharges on several occasions. The last incident was a charge of standing sewage running into and adjacent property, which the county tested on 3/27/2012. However, in this particular instance the test results came back negative for fecal coliform. This area is a runoff/groundwater problem area and this was during a wet period. The owners of 20712 Live Oak have maintained a portable toilet and are living on the property.

Setback requirements of Travis County and State of Texas (the distance between OSSF components and the drainage easement) would render placement of a legal OSSF system impossible without vacation of the drainage easements. As it currently stands, a variance may be necessary in view of the neighbor's refusal to abandon drainage easements in their adjoining lots.

FISCAL IMPACT AND SOURCE OF FUNDING:

N/A.

ATTACHMENTS/EXHIBITS:

Order of Vacation
Field Notes and Sketch
Request/Engineer's Letter
Sign Affidavit and Pictures
Maps

REQUIRED AUTHORIZATIONS:

Cynthia McDonald	Financial Manager	TNR	854-4239
Steve Manilla	County Executive	TNR	854-9429
Anna Bowlin	Division Director	Development Services	854-7561
John Ellis	Engineer	Development Services	854-9805

CC:

Stacey Scheffel	Program Manager	TNR Permits	854-7565
Rodney Sherrill	Septic Review	TNR Permits	854-7581

SM:AB:ps 1101 - Development Services - Kingsberry Park, Section 1

22

ORDER OF VACATION

STATE OF TEXAS

§

COUNTY OF TRAVIS §

WHEREAS, the property owner requests the vacation of the drainage easement portion of the five foot wide public utility and drainage easements located along the side and rear lot lines of Lot 8, Block B of the Kingsberry Park Section 1 subdivision as recorded at Volume 37, Page 9 of the Real Property Records of Travis County, Texas;

WHEREAS, an independent Professional Engineer has submitted a letter recommending the vacation of the subject easements;

WHEREAS, the public utility portion of the public utility and drainage easements will remain;

WHEREAS, a Travis County Engineer has stated that there is no objection to the vacation of the drainage easements as described in the attached field notes and sketch;

WHEREAS, the Travis County Transportation and Natural Resources Department recommends the vacation of the subject drainage easements as described in the attached field notes and sketch;

WHEREAS, the required public notice was posted and the Travis County Commissioners Court held a public hearing on May 22, 2012 to consider the proposed action; and

NOW, THEREFORE, by unanimous vote, the Commissioners Court of Travis County, Texas, orders that drainage easement portion of the five foot wide public utility and drainage easements located along the side and rear lot lines of Lot 8, Block B of the Kingsberry Park Section 1 subdivision, as shown on the attached sketch and described in the attached field notes, are hereby vacated.

ORDERED THIS THE 23 DAY OF May 2012.

Samuel T. Biscoe, COUNTY JUDGE

COMMISSIONER RON DAVIS PRECINCT ONE	COMMISSIONER SARAH ECKHARDT PRECINCT TWO		
COMMISSIONER KAREN HUBER PRECINCT THREE	COMMISSIONER MARGARET GOMEZ PRECINCT FOUR		

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EXHIBIT "___"
F#

LEGAL DESCRIPTION

BEING 1748 SQUARE FEET, OR 0.040 OF AN ACRE OF LAND, MORE OR LESS, OUT OF LOT 8, BLOCK D, KINGSBERRY PARK, SECTION ONE, A SUBDIVISION OF RECORD IN VOLUME 37, PAGE 9, PLAT RECORDS, TRAVIS COUNTY, TEXAS, BEING THAT SAME TRACT OF LAND CONVEYED TO MARIAM COLMENERO LEON, JONATHAN REYES LEON, AND CHRISTOPHER REYES LEON IN DOCUMENT NUMBER 2008147616, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS AND BEING ALL OF A 5 FOOT PUBLIC UTILITY EASEMENT AND DRAINAGE EASEMENT (P.U.E. & D.E.) RECORDED IN VOLUME 37, PAGE 9, PLAT RECORDS, TRAVIS COUNTY TEXAS; SAID 1748 SQUARE FEET OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" rebar found in the northerly right of way line of Liveoak Lane, said point being the southeasterly corner of Lot 9, said Kingsberry Park, Section One and being the southwesterly corner of said Lot 8 and of said 5 foot P.U.E. & D.E. and the PLACE OF BEGINNING hereof;

THENCE N 30°38'00" E (Bearing Basis), with the common boundary line of said Lot 9, Lot 8, 5 foot easement, and the tract hereof, a distance of 150.14' feet to an iron pipe found in the southerly line of Lot 23, Kingsberry Park, Section 2, a subdivision of record in Volume 63, Page 75, Plat Records of said County, said point being the northeasterly corner of said Lot 9 and being the northwesterly corner of said Lot 8 and the tract hereof;

THENCE S 59°18'39" E, with the southerly line of said Lot 23, in part, and Lot 22 of said Kingsberry Park, Section 2, in part, being the northerly line of said Lot 8, said 5 foot easement and the northerly line hereof, a distance of 59.91 feet to an iron pipe found at the northwesterly corner of Lot 7, said Kingsberry Park, Section One, said point being the northeasterly corner of said Lot 8, said 5 foot easement, for the northeasterly corner hereof:

THENCE S 30°39'07" W, with the common boundary line of said Lot 7 and Lot 8, being the easterly line of said 5 foot easement and the tract hereof, a distance of 149.67 feet to a an iron pipe found in the aforementioned right of way of Liveoak Lane, said point being the southwesterly corner of said Lot 7, the southeasterly corner of said Lot 8, and said 5 foot easement for the southeasterly corner hereof;

THENCE N 59°45'37" W, with said right of way, being the southerly line of said Lot 8, said 5 foot easement and the tract hereof, a distance of 5.00 feet to a point for the eastern most southern point hereof;

THENCE running through said Lot 8 and with the said 5 foot easement, the following 3 calls:

- 1. N 30°39'07" E, a distance of 144.71 feet to a point for an interior ell corner of said 5 foot easement and the tract hereof;
- 2. N 59°18'39" W, a distance of 49.91 feet to a point for an interior ell corner of said 5 foot easement and the tract hereof;
- 3. S 30°38'00" W, a distance of 145.10 feet to a point in the aforementioned right of way line of said Liveoak Lane, being the southerly line of said Lot 8 for an exterior angle point hereof;

THENCE N 59°45'37" W, running with said right of way, said southerly line of Lot 8, said southerly line of the 5 foot easement and the southerly line hereof, a distance of 5.00 feet to the **PLACE OF BEGINNING** hereof and containing 1748 square feet, or 0.040 of an acre of land, more or less.

THIS DESCRIPTION TO BE USED WITH THE ATTACHED SKETCH ONLY.

MICHAEL LANCASTER, R.P.L.S. 5529

B & G SURVEYING, INC. 1404 W. NORTH LOOP BLVD.

AUSTIN, TEXAS 78756

(512) 458-6969, FAX: (512) 458-1129

B0310812_ESMT_REL TCAD Parcel ID: 0213850108

http://www.bandgsurvey.com



SKETCH TO ACCOMPANY FIELD NOTES FOR EASEMENT RELEASE BEING 1748 SQUARE FEET, OR 0.040 OF AN ACRE OF LAND, OF LAND, MORE OR LESS, OUT OF LOT 8, BLOCK D, KINGSBERRY PARK, SECTION ONE, A SUBDIVISION OF RECORD IN VOLUME 37, PAGE 9, PLAT RECORDS, TRAVIS COUNTY, TEXAS AND CONVEYED TO MARIAM COLMENERO LEON, JONATHAN REYES LEON, AND CHRISTOPHER REYES LEON IN DOCUMENT NO. 2008147616, OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS; SAID 1748 SQUARE FEET OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS ATTACHED HERETO AND MADE A PART HEREOF. KINGSBERRY, PARK SECTION 2, V. 63, PG. 75 LOT 22 LOT 21 LOT 23 (\$ 59*29'00" E 60.00') \$ 59*18'39" E 59.91' CM (5' P.U.E./D.E.) 59"18'39" W 49.9 FRAME SHED ON GROUND 1748 SQ.FT. **EASEMENT RELEASE EASEMENT** RELEASE AREA KINGSBERRY PARK SECTION 37, 1748 SQ.FT. PROPANE MARIAM COLMENERO LEON LOT 9 JONATHAN REYES LEON LOT CHRISTOPHER REYES LEON 150.14' (150.00" DOC. 2008147616 TCAD PARCEL ID: 0213850108 3 **LEGEND** 10.2 30'38'00" 30,39,07" 12.2 1/2" REBAR FOUND 1/2" IRON PIPE FOUND 30.38,00 CHAIN LINK FENCE WOOD FENCE 30.38,00" 30.39,07" 26.4 TIN FENCE 19.9 B.L. P.U.E. D.E. BUILDING LINE PUBLIC UTILITY EASEMENT DRAINAGE EASEMENT 14.0 PER PLAT CONTROL MONUMENT RIGHT OF WAY PLACE OF BEGINNING R.O.W. P.O.B. TWO STORY OVERHEAD ELECTRIC FRAME & BRICK 0.2" POWER POLE RESIDENCE TO BE REMOVED 18.8 8.7 30.6 COVEREDI 32.9 BUILDING MICHAEL LANCASTER, R.P.L.S. 5.00 P.O.B 49.87 N 59°45'37" W 59.87' (N 59°29'00" W 60.00') # B0310812_ESMT_REL B&G Surveying, Inc. **VEOAK LANE** Dewey H. Burris & Associates B&G Surveying, Inc. (50' R.O.W.) Dewey H. Burris & Associates 1404 West North Loop Blvd., Austin, Texas 78756 Office 512*458-6969 - Fax 512*458-9845 20' DATE: 04/03/12 SCALE: 1"=20"

Burrier Engineering

Reg. No F-5694

P.O. Box 1406

Kyle, TX 78640

Phone:

512-268-1573

Fax:

512-268-1572

Email:

gburrier@austin.rr.com

November 15, 2011

To Whom It May Concern:

re:

Mariam Leon Colmenero 20712 Live Oak Lane Manor, Texas 78653 Travis County



Please find attached a copy of the requirements for vacating a drainage easement.

This letter is requesting that the drainage easement on the above referenced lot be vacated. Currently there is a failed septic system on this lot. Because of the size of the lot is not large enough to accommodate a new septic system that meets current standards because of the setback requirements from the drainage easement. Even with the vacating of the easement, the lot may not be large enough for a septic system; however, it will provide additional room to maximize the area needed for a septic system.

Please find attached a metes and bounds survey as required. This survey depicts the five foot drainage easement on three sides of the lot that we are requesting to be vacated.

I have preformed an on the ground study of this property. It is obvious that the drainage easements are "paper easements" that blanket the perimeter of all the lots in the subdivision. The easement around this lot does not functional an no negative impact will occur it the easement is vacated.

If additional information is required, you may contact me at 512-632-3855. Thank you for your consideration in this matter.

Sincerely,

Stan Burrier

STANLEY WAYNE BURRIER



TRANSPORTATION AND NATURAL RESOURCES

JOSEPH P. GIESELMAN, EXECUTIVE MANAGER 411 West 13th Street Executive Office Building P.O. Box 1748 Austin, Texas 78767 tel 512-854-9383 fax 512-854-4649

TO: County Judge

County Commissioners

and was also posted at the Travis County Courthouse.

RECEIVED MAY 04 2012

TNR

AFFIDAVIT OF POSTING

Travis County, Texas A Public Notice of Vacation of a Drainage Easement sign was posted on April 30, 2012, on the north side of Live Oak Lane in front of Lot 8, Block D of Kingsberry Park, Section 1 at a point as near as practical to the area being vacated,

CERTIFIED THIS THE 2 DAY OF May , 2012. SIGNATURE: <u>Jaime Garcia</u>

NAME (PRINT): <u>Jaime Garcia</u>

TITLE: TNR/R & Supervisor

cc: Garcia (sign shop)

M:\PERMITS\Vacate\12DE\05-LiveOak\SignRequest.doc



