



CITY OF KYLE

BOARD OF ADJUSTMENT MEETING

KYLE CITY HALL
100 W. Center Street

Notice is hereby given that the Board of Adjustment of the City of Kyle, Texas will meet at 6:30 PM on Monday, April 11, 2016, at Kyle City Hall 100 W Center Street for the purpose of discussing the following agenda.

NOTE: There may be a quorum of the Planning and Zoning Commission and City Council of Kyle, Texas present at the meeting who may participate in the discussion. No official action will be taken by the City Council members in attendance.

Posted this the 7th day of April prior to 6:30 PM.

1. Call Meeting to Order
2. Roll Call
3. Citizen Comments
4. Consider a request by Shaylon Eckols, Managing Partner of Eckols Properties, LLC. (23705 IH-35) for a variance to Chapter 53 (Zoning) Section 33 (Chart 1- Setbacks), of the City of Kyle Code of Ordinances.

- **Public Hearing**

5. Adjournment

*Per Texas Attorney General Opinion No. JC-0169; Open Meeting & Agenda Requirements, Dated January 24, 2000: The permissible responses to a general member communication at the meeting are limited by 551.042, as follows: "SEC.551.042. Inquiry Made at Meeting. (a) If, at a meeting of a government body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by the subchapter, the notice provisions of this subchapter, do not apply to: (1) a statement of specific factual information given in response to the inquiry; or (2) a recitation of existing policy in response to the inquiry. (b) Any deliberation or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

Certificate

I certify that the above notice of the Board of Adjustment meeting of the City of Kyle, Texas was posted on the bulletin board of the City of Kyle City Hall, 100 W. Center St, Kyle, Texas. This notice was posted on:


Howard J. Koontz, AICP

Director of Planning and Community Development

04/07/2016
(Date)



CITY OF KYLE

Planning Department



100 W. Center Street P.O. Box 40 Kyle, Texas 78640 (512) 262-1010

April 11, 2016

To: City of Kyle Board of Appeals
From: Howard J. Koontz, AICP
Director of Planning & Community Development
Re: Setback variance, for the purpose of platting a lot with a pre-existing non-conforming building (§53-33, Chart 1)
Applicant: Shaylon Eckols, Managing Partner of Eckols Properties, LLC

ANALYSIS

Mr. Eckols represents a ten-acre property located at 23705 IH-35, which is along the I-35 North frontage road, approximately 1/4-mile south of Weldon Johnson Way. The property has been developed with two driveway curb cuts along the western property line and no less than five buildings and sheds located throughout the parcel.

Currently, the property owner seeks to divide the parent tract into two parcels of five acres each. The new lots will both contain existing structures, many of which were permitted to be built, by right, when the property was located in unincorporated Hays County. There are structures, located on what's proposed to exist as 'Lot 2' that are recognized as legal, but non-conforming under the terms of today's city zoning ordinance. Platting the new lot would constitute creating a non-conforming condition, which precludes the ability to draw and record the lots.

The request before you is to grant Eckols Properties, LLC, a variance to the terms of §53-33, Chart 1 for these existing buildings only, which controls building setbacks in the C/M zoning district, to complete the subdivision action. This will have the effect of removing the non-conformity, making the new 'Lot 2' legal and conforming once platted. No new structures will be enabled as a function of this action. This request is being made solely to complete a subdivision of land, and rectify a pre-existing condition that at one point in time was lawful.

Mr. Eckols makes this request as the minimum relief required to move forward with the platting process for his property. The alternative to receiving the variance would be to either acquire additional, off-site property to extend the proposed boundary line in a conforming manner, shift the structures themselves away from the property line, or demolish the offending structures. All of these solutions constitute significant hardships to the continued use and utility of the property and improvements, especially in light of the fact that when the buildings were erected, establishing their location and use was permissible by right.

TERMS OF THE ZONING ORDINANCE

Sec. 53-1198 – Board of Adjustment

...

(h) *Variances.* The board of adjustment shall have the power to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done, including the following:

- (1) *Yard and setback.* Permit a variance in the yard requirements of any district where there are unusual and practical difficulties or unnecessary hardship in the carrying out of these provisions due to an irregular shape of the lot, topography or other conditions; provided that such variance will not significantly affect any adjoining property or the general welfare.

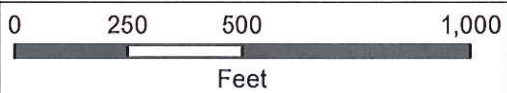
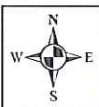
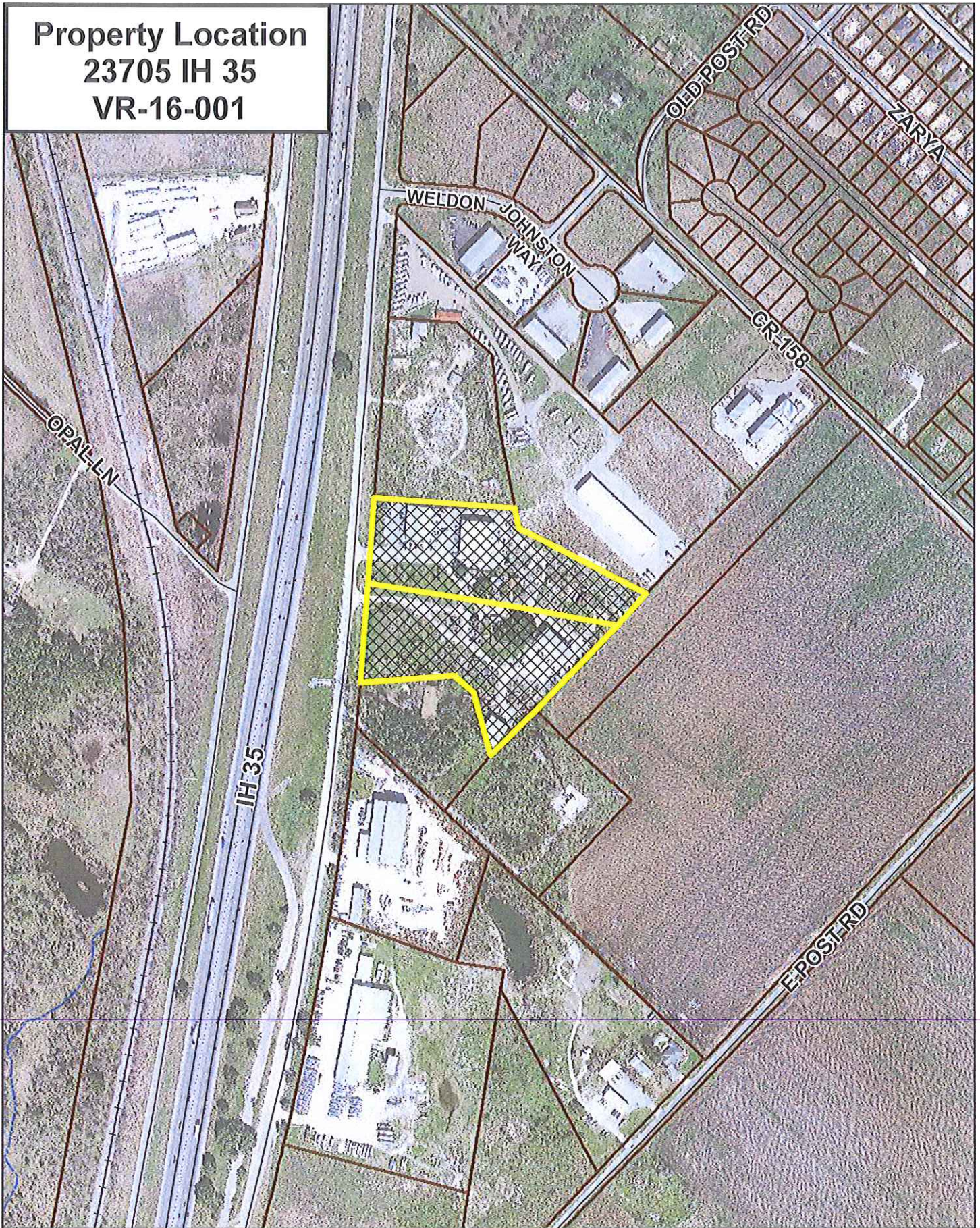
CONCLUSION

The applicant can demonstrate a genuine hardship, existent because of the implementation of city regulations not present at the time of initial development. Further development actions are stymied by the institution of city regulations. No harm can be expected to adjoining properties, as the existing structures in question have been present for decades and are not slated to change in use or dimension.

ATTACHMENTS

Applicant's submittal, including draft subdivision proposal.

Property Location
23705 IH 35
VR-16-001



 Property Boundary

 Parcel Lines

APPLICATION & CHECKLIST -- BOARD OF ADJUSTMENT

VR-16-001

Variance: Setback
(Variance Requested)

3/10/16
(Submittal Date)

INSTRUCTIONS: Eckob Property, LLC.

- Fill out the following application and checklist completely prior to submission.
- Use the most current application from the City's website (www.cityofkylo.com) or at city hall.
- Place a check mark on each line if you have complied with that item. Indicate with N/A if the item does not apply to your subdivision. *This checklist is only a guide.*

REQUIRED SUBMITTALS FOR SUBMITTING A VARIANCE

The following items are required to be submitted to the Planning Department in order for the variance application to be accepted.

1. Letter to Board of Adjustment signed by owner in which written appeal states all facts and circumstances making a variance or special exception necessary.
2. Name and address of property owners within 200 feet of property and from that a location map and key showing the notification boundaries and numbered key listing the names and mailing addresses of those to be notified.
3. Number of property owners to be notified: 6
4. Two prints of the plan.
Site plan or plot plan of property must include north arrow, scale, dimensions, setbacks, property lines, easements, right-of-way, adjacent streets, and any other information to assist in consideration of request.
5. Photographs and/or drawings to support request.
6. Application fee: \$428.06 * 3.62 per acre 10 = 464.26
7. Findings Statements (see attached)
8. Additional support information: _____

CITY OF KYLO

MAR 10 2016

PLANNING DEPARTMENT

A meeting will be scheduled for the Board of Adjustment after the application has been received and notification requirements have been met.

Variance Application

1. Ownership Information
Name of Property Owner: Eckok Properties, LLC
Sharon Eckok, Managing Partner
(If property ownership is in the name of a partnership, corporation, joint venture, trust or other entity, please list the official name of the entity and the name of the managing partner.)
Address: 23705 IH 35
Kyle, TX
Phone: (512) 626-5868
Fax: N/A
Signed: [Signature]
Date: 3/10/16

2. Nature of Request
The above named applicant hereby requests a variance from the following portion of the City of Kyle Ordinances:
Ordinance #: 501
Section: 3
Current Zoning of Property: C/M
Legal description: Attached
Brief explanation of request: We are seeking a variance from the setback requirements. We have a building built prior to annexation that is now located in the setback.

3. Agent Information

If an agent is representing the owner of the property, please complete the following information:

Agent's Name: _____
Agent's address: _____
Agent's Phone Number: _____
Agent's Fax Number: _____
Agent's Mobile Number: _____
Agent's Email Address: _____

N/A

I hereby authorize the person named above to act as my agent in processing this application before the Board of Adjustment of the City of Kyle:

Owner's Signature: _____
Date: _____

4. The Board of Adjustment must determine the existence of, sufficiency of and weight of evidence supporting the findings below. Therefore, you must complete each applicable Findings Statement as part of your application. Failure to do so may result in your application being rejected as incomplete:

(A) Reasonable Use:

The zoning regulations applicable to the property do not allow for a reasonable use because:

Setback requirement.

(B) Hardship:

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

without the variance the property cannot be platted.

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

after annexation we have adhered to the setback requirements.

(C) Area Character:

The variance will not alter the character of the area adjacent to the property, will not impair the use adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

The building was built prior to annexation.

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 hereby certify that the above information provided to the City of Kyle is true and accurate and that I am the owner of the above described property.

[Handwritten Signature]
Owner's Signature

3/10/16
Date

Do Not Write Below This Line -- Staff Will Complete

Hearing Date Before Board of Adjustment: _____

Action: _____

Eckols Properties, LLC
23705 IH 35 Kyle, TX 78640
(512) 268-6688

CITY OF KYLE

MAR 10 2016

March 7, 2016

PLANNING DEPARTMENT

Board of Adjustment
City of Kyle

We are requesting a variance from ordinance 501, pertaining to the setback. Our property was purchased in December 1999. Shortly afterwards two buildings were constructed. The building in question, 7, was constructed in 2000. At the time of construction the property was in the county; building setbacks were not required. The City of Kyle annexed our property in 2005. After annexation, we requested and received, C/M zoning for the property.

We are now in the process of platting the property and find ourselves in the situation of having a building in the required 50' setback. We are requesting a variance for this building so that we may present the plat to the Planning and Zoning Commission.

Thank you,



Shaylon Eckols
Managing Partner

DESCRIPTION OF 5.01 ACRES, MORE OR LESS, OF LAND AREA IN THE JAMES W. WILLIAMS SURVEY, ABSTRACT NO. 473, HAYS COUNTY, TEXAS, BEING A PORTION OF THAT 63.97 ACRE TRACT DESCRIBED IN A DEED FROM ED LUNDAY ET UX TO G.A. SCHULLE DATED JANUARY 11, 1944 AND RECORDED IN VOLUME 129, PAGE 2 OF THE HAYS COUNTY DEED RECORDS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ½" iron rod found with a plastic cap stamped "Byrn Survey" for the southwest corner of that 5.01 acre tract (out of the Schulle 63.97 acre tract) as described in a deed from G.A. Schulle et al to James Winn dated June 10, 1998 and recorded in Volume 1422, Page 288 of the Hays County Official Public Records, being in the east line of that 5.03 acre tract described in a deed from Ed Lunday et ux to the State of Texas dated June 28, 1934 and recorded in Volume 109, Page 162 of the Hays County Deed Records, and presently being the east right-of-way line of Interstate Highway No. 35;

THENCE leaving the PLACE OF BEGINNING and entering the remaining portion the Schulle tract with the south line of the Winn tract, as shown on that plat numbered 24258-99-02-c dated August 11, 1999 and revised October 22, 1999 as prepared for G.A. Schulle by Byrn & Associates, Inc. of San Marcos, Texas, S 85° 13' 00" E 455.74 feet to a ½" iron rod found with a plastic cap stamped "Byrn Survey" for the southeast corner of the Winn tract;

THENCE leaving the Winn tract and crossing the remaining portion of the Schulle tract, the following two courses:

1. S 11° 15' 34" E 67.88 feet to a ½" iron rod set for an angle point, and
2. S 62° 47' 19" E 462.23 feet to a ½" iron rod set in fence for the northeast corner of the herein described tract, being in the southeast line of the Schulle 63.97 acre tract and the northwest line of that tract described as 4 acres in a deed from Leroy P. Hill et ux to Suz Ann Hill dated August 4, 1986 and recorded in Volume 616, Page 215 of the Hays County Real Property Records;

THENCE with the common southeast line of the Schulle 63.97 acre tract and northwest line of the Hill 4 acre tract, as fenced and used upon the ground, S 44° 06' 12" W 142.50 feet to a ½" iron rod set for the southeast corner of this tract;

THENCE leaving the Hill 4 acre tract and re-crossing the Schulle 63.97 acre tract, the following two courses:

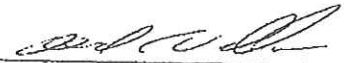
1. N 81° 07' 03" W 320.39 feet to a ½" iron rod set for an angle point, and

Tract 2

2. N 79° 05' 55" W 494.71 feet to a ¼" iron rod set in the east line of the aforementioned State of Texas tract and Interstate Highway No. 35 for the southwest corner of this tract;

THENCE with said line, N 04° 47' 00" E (this being the Bearing Basis for this description) 276.20 feet to the PLACE OF BEGINNING.

There are contained within these metes and bounds 5.01 acres, more or less, of land area as prepared from public records and a survey made on the ground on August 11, 1999 by Byrn & Associates, Inc. of San Marcos, Texas. All ¼" iron rods set are capped with a plastic cap stamped "Byrn Survey".


David C. Williamson, R.P.L.S. #4190

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

Lee Carlisle

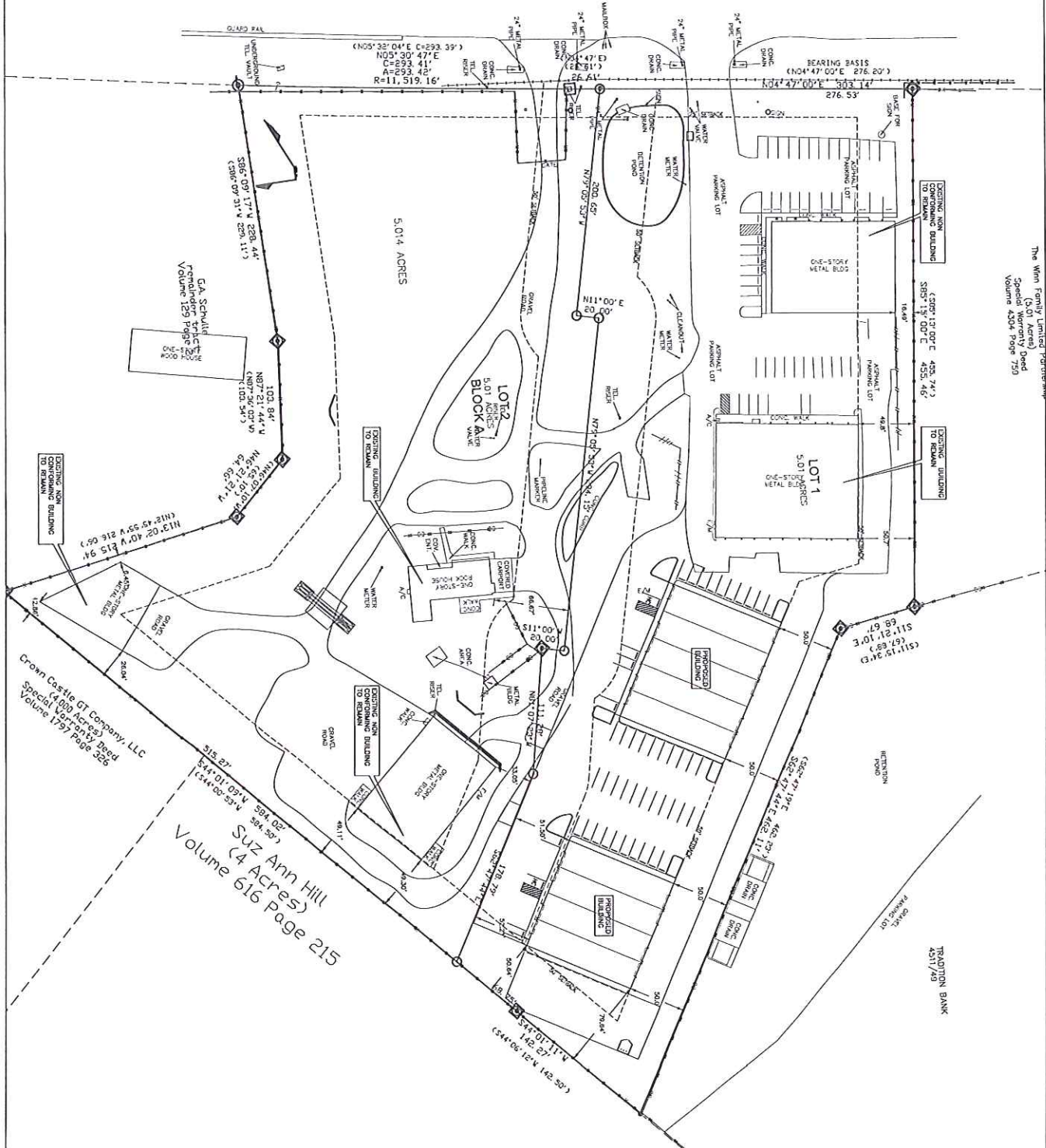
12-9-99 03:55 PM 9928837
ROSE \$21.00
LEE CARLISLE, County Clerk
HAYS COUNTY

Revised: October 22, 1999
CLIENT: Schulle/Burgum
DATE: August 11, 1999
SURVEY: Williams, J.
COUNTY: Hays, Texas
JOB NO.: 24258-99-2
ENDS.01

Tract 2

Page 2 of 2

7



The Wan Family Limited Partnership
 Special Warranty Deed
 Volume 4304 Page 759

Crown Castle GT Company, LLC
 Special Warranty Deed
 Volume 1757 Page 316

Suz Ann Hill
 (4 Acres)
 Volume 616 Page 215

CITY OF KYLE
 JAN 03 2016
 SCALE 1"=40' PLANNING DEPARTMENT
 1/27/15

- LEGEND**
- PROPERTY LINE
 - CHAINLINK FENCE
 - WOOD FRAME FENCE
 - EXISTING WASTEWATER
 - EXISTING WATER
 - LIMITS OF CONSTRUCTION
 - OVERHEAD ELECTRIC/TELEPHONE LINE
 - CONCRETE DRIVE
 - WATER METER
 - CLEAN OUT
 - DC METER
 - WALDOX
 - STREET SIGN
 - TREE CIRCUMFERENCE ZONE
 - RIGHT-OF-WAY
 - APPROXIMATE SURVEY POINT
 - SPOT ELEVATION
 - 1/2" IRON ROD FOUND

EXISTING & PROPOSED BUILDINGS
KYLE INDUSTRIAL CENTER
 23703 IH 35
 KYLE, TEXAS

SERVANT ENGINEERING & CONSULTING, PLLC
 F-16504
 11312 ROBERT WOODING DR.
 AUSTIN, TEXAS 78745
 (512) 659-4358 TEL
 (512) 291-8714 FAX

NO.	REVISION/CORRECTION	BY	DATE

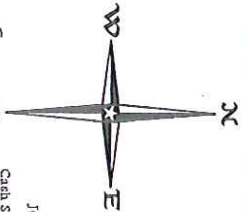
DATE: 12-17-15
 DRAWN: JMB
 SHEET

SCALE: 1" = 100'

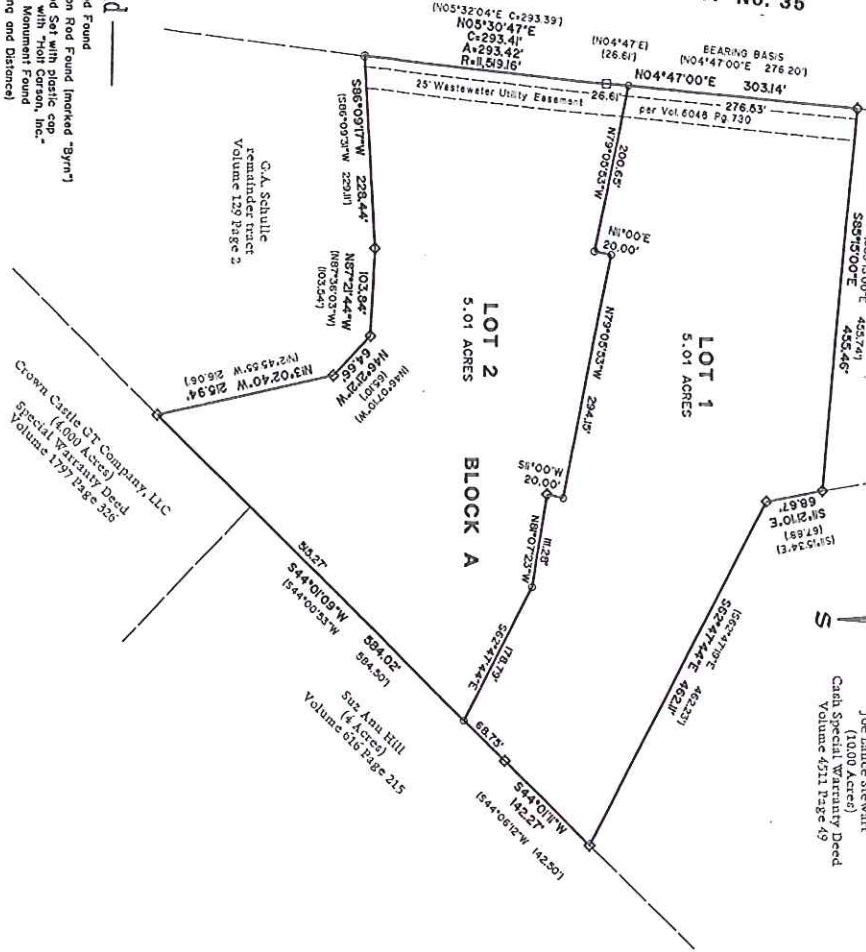
KYLE INDUSTRIAL CENTER

JAMES W. WILLIAMS SURVEY
ABSTRACT No. 473
The Wm Family Limited Partnership
(5.01 Acres)
Special Warranty Deed
Volume 4304 Page 759

Joe Lance Stewart
Cash Special Warranty Deed
(10.00 Acres)
Volume 4511 Page 49



INTERSTATE HIGHWAY No. 35



- Legend**
- ⊙ X-Iron Rod Found
 - ◇ Capped Iron Rod Found (marked "Syn")
 - X-Iron Rod Set with plastic cap
 - Imprinted with "Hot Carson, Inc."
 - Concrete Monument Found
 - (Record Bearing and Distance)

OWNER:
Eckols Properties, LLC
980 Old San Antonio Road
Buda, Texas 78610

ENGINEER:
Servant Engineering and Consulting, PLLC
1212 Robert Wooding Drive
Austin, Texas 78748

SURVEYOR:
Hot Carson, Inc.
1904 Fortview Road
Austin, Texas 78704

LOT SUMMARY

Number of Lots = 2
Lot 1 = 5.01 Acres
Lot 2 = 5.01 Acres
Total Area = 10.02 Acres

Crown Castle GT Company, LLC
Special Warranty Deed
Volume 1777 Page 35

Suz Ann Hill
(4.00 Acres)
Volume 616 Page 215

KYLE INDUSTRIAL CENTER

THE STATE OF TEXAS
THE COUNTY OF HAYS
KNOW ALL MEN BY THESE PRESENTS,
That, Eckols Properties, LLC, acting by and through Sherman Eckols, the designated agent for Shoyon Eckols, its Managing Partner, owner of all of those two certain (5.01 acre) tracts of land out of the James W. Williams Survey Abstract No. 473 in Hays County, Texas, as conveyed to it by Warranty Deeds recorded in Document Nos. 9928023 and 9928026 of the Official Public Records of Hays County, Texas,
do hereby subdivide said (5.01 acre) tracts, (10.02 acres total) in accordance with the attached map or plat shown hereon pursuant to Chapter 212 of the Texas Local Government Code, to be known as

subject to any easements and/or restrictions heretofore granted, and not released.

WITNESS MY HAND this the ____ day of _____, A.D. 20__.

Sherman Eckols designated agent for
Shoyon Eckols Managing Partner of
Eckols Properties, LLC
980 Old San Antonio Road
Buda, Texas 78610

THE STATE OF TEXAS
THE COUNTY OF _____

I, the undersigned authority, on this the ____ day of _____, A.D. 20__ do hereby personally appear Sherman Eckols, known to me to be the person whose name is subscribed to the foregoing instrument of writing, and he acknowledged before me that he executed the same for the purpose and considerations therein expressed.

NOTARY PUBLIC
Printed Name _____
Commission Expires _____

REVIEWED BY:

LEON BARBA, CITY ENGINEER

HANBER WILDEN, DIRECTOR OF PUBLIC WORKS

HEREBY CERTIFY THAT THE ABOVE AND FOREGOING PLAT OF KYLE INDUSTRIAL CENTER, ADDITION TO THE CITY OF KYLE WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF KYLE ON THE ____ DAY OF _____, 20__ SAID ADDITION SHALL BE SUBJECT TO ALL THE REQUIREMENTS OF THE SUBDIVISION ORDINANCE OF THE CITY OF KYLE, TEXAS. _____

WITNESS MY HAND THIS THE ____ DAY OF _____, 20__