



**NOTICE OF A REGULAR MEETING  
BRENHAM PLANNING AND ZONING COMMISSION  
MONDAY, JANUARY 28, 2019 AT 5:15 P.M.  
SECOND FLOOR CITY HALL  
COUNCIL CHAMBERS  
200 W. VULCAN  
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Public Comments**  
*[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law.]*
- 3. Reports and Announcements**

**CONSENT AGENDA**

**4. Statutory Consent Agenda**

The Statutory Consent Agenda includes non-controversial and routine items that the Commission may act on with one single vote. A Commissioner may pull any item from the Consent Agenda in order that the Commission discuss and act upon it individually as part of the Regular Agenda.

**4-a. Minutes from the December 17, 2018 Planning and Zoning Commission Meeting**

**REGULAR AGENDA**

- 5. Election of a Chairman, Vice-Chairman, Secretary and Deputy Secretary for the Planning and Zoning Commission for 2019.**
- 6. Development Services 2018 Annual Update.**
- 7. Discussion and Possible Action on Case No. P-18-034: Preliminary Plat of the Burnett Subdivision, being 11.177 acres of land out of the Elizabeth Gordon Survey, A-49 in Washington County, Texas.**
- 8. Discussion and Possible Action on Case No. P-18-035: Final Plat of the Burnett Subdivision, being 11.177 acres of land out of the Elizabeth Gordon Survey, A-49 in Washington County, Texas.**
- 9. Discussion and Possible Action on Case No. P-19-003: Preliminary Plat of the Blue Bell Subdivision, Section II, being 32.788 acres of land out of the James Walker Survey, Abstract 106 and the Arabella Harrington Survey, Abstract 55 in Brenham, Washington County, Texas.**

10. **Discussion and Possible Action on Case No. P-19-004: Final Plat of the Blue Bell Subdivision, Section II, being 32.788 acres of land out of the James Walker Survey, Abstract 106 and the Arabella Harrington Survey, Abstract 55 in Brenham, Washington County, Texas.**
11. **Public Hearing, Discussion and Possible Action on Case No. P-19-002: Replat of Lot 5, Block 2 of Ralston Creek Estates, Phase 1 to create Lot 5-R, consisting of 1 residential lot on approximately 0.204 acres currently addressed as 2305 Ralston Creek Court, in Brenham, Washington County, Texas.**
12. **Public Hearing, Discussion and Possible Action on Case No. P-19-005: A request by Brenham Market Square, LP for an Amendment to the City of Brenham's Official Zoning Map of the Code of Ordinances to change the zoning from Mixed Residential Use District (R-2) to Commercial Research and Technology Use District (B-2) on a 51.119-acre tract of land described as part of the John Long Survey, Abstract 156, R#20290 (WCAD) in Brenham, Washington County, Texas.**
13. **Public Hearing, Discussion and Possible Action on Case No. P-18-025: A City initiated request to amend the City of Brenham's Code of Ordinances, Appendix A: Zoning, Part 1, Sec. 5.02 Definitions, to redefine Accessory Building or Use, Garage Apartment and establish a new definition for Accessory Dwelling Units (ADU); to amend Part 2, Division 1, Section 10 – Accessory Structures and Uses to establish standards related to the development of such uses; to amend Part 2, Division 1, Section 17 – Height and Area Exceptions of General Applicability; and Part 2, Division 2 – Zoning District Regulations, to allow Accessory Dwelling Units by Specific Use Permit in the R-1, R-2, and R-3 zoning districts and by-right in the B-1 zoning district.**
14. **Public Hearing, Discussion and Possible Action on Case No. P-19-001: A City initiated request to amend the City of Brenham's Code of Ordinances to adopt, Appendix A: Zoning, Part II, Division 1, Section 18 – Exterior Construction Materials for Selected Districts, to prohibit metal façades on residential uses and accessory structures over 120 square feet in area, located in the R-1, R-2, R-3 and B-1 zoning.**
15. **Adjourn**

**CERTIFICATION**

I certify that a copy of the January 28, 2019, agenda of items to be considered by the Planning & Zoning Commission was posted to the City Hall bulletin board at 200 W. Vulcan, Brenham, Texas on January 24, 2019, at 3:20 pm.

*Kim Hodde*

Kim L. Hodde, Planning Technician

**Disability Access Statement:** This meeting is wheelchair accessible. The accessible entrance is located at the Vulcan Street entrance to the City Administration Building. Accessible parking spaces are located adjoining the entrance. Auxiliary aids and services are available upon request (interpreters for the deaf must be requested twenty-four (24) hours before the meeting) by calling (979) 337-7567 for assistance.

I certify that the attached notice and agenda of items to be considered by the Planning and Zoning Commission was removed by me from the City Hall bulletin board on the \_\_\_\_\_ day of \_\_\_\_\_, 2019 at \_\_\_\_\_ am/pm.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**CITY OF BRENHAM  
PLANNING AND ZONING COMMISSION MINUTES  
December 17, 2018**

*The meeting minutes herein are a summarization of meeting procedures, not a verbatim transcription.*

A regular meeting of the Brenham Planning and Zoning Commission was held on December 17, 2018 at 5:15 pm in the Brenham Municipal Building, City Council Chambers, at 200 West Vulcan Street, Brenham, Texas.

Commissioners present:

Nancy Low, Chairman  
Deanna Alfred, Vice Chairman  
Keith Behrens  
Calvin Kossie  
Lynnette Sheffield  
Marcus Wamble

Commissioners absent:

Leroy Jefferson

Staff present:

Lori Sanguedolce, City Engineer/Director of Development Services  
Stephanie Doland, Assistant Director of Development Services  
Lowell Ogle, Assistant City Manager – Public Utilities  
Kim Hodde, Planning Technician

Citizens present:

Jon Hodde	Brett Smith
Kevin & Tammy Burnett	Bob Smith
Donald Lampe	Jason Gaertner

**1. Call Meeting to Order**

Chairman Low called the meeting to order at 5:15 pm with a quorum of six (6) Commissioners present.

**2. Public Comments**

There were no public comments.

**3. Reports and Announcements**

Stephanie Doland thanked all of the Board members for attending the joint City Council/Board of Adjustment/Planning and Zoning Commission meeting on December 6, 2018. She informed the Board and invited them to attend the Town Hall meeting that will be held on January 10, 2019 at 5:15 pm at the Nancy Carol Roberts Memorial Library to gather information for preparation and planning of the new comprehensive plan for the City of Brenham.

Ms. Doland informed the Board that a draft sign ordinance will be presented in a workshop for discussion at the January Planning and Zoning meeting.

**CONSENT AGENDA**

**4. Statutory Consent Agenda**

The Statutory Agenda includes non-controversial and routine items that the Commission may act on with one single vote. A Commissioner may pull any item from the Consent Agenda in order that the Commission discuss and act upon it individually as part of the Regular Agenda.

**4-a. Minutes from the November 26, 2018 Planning and Zoning Commission Meeting**

Chairman Low asked for any corrections or additions to the minutes as presented. A motion was made by Commissioner Alfred and seconded by Commissioner Wamble to approve the minutes from the November 26, 2018 meeting, as presented. The motion carried unanimously.

**REGULAR MEETING**

**5. Discussion and Possible Action on Case No. P-18-029: A request for approval of a variance to Section 23-22(5)(a) of Article III of the Subdivision Ordinance to remove the requirement to have property frontage on public right-of-way for the property located on Selma Lane, specifically described as Tract 195 (2.412 acres) and Part of Tract 197 (4.257 acres) of the Elizabeth Gordon Survey, A-49, being a total of 6.669 acres, in Brenham, Washington County, Texas**

Stephanie Doland presented the staff report for Case No. P-18-029 (on file in the Development Services Department). Staff has reviewed the request and finds that the applicant could plat the property in accordance with applicable City subdivision standards with cooperation from an adjacent property owner via dedication of land for a public or private right-of-way; therefore, staff is unable to support the request and recommends denial.

Mr. Burnett stated that this property is over 60 acres and most of the rear property is agricultural. He presented letters from all of the neighbors stating that they were in support of this. He also stated that when he built his home, he had no idea where the individual property lines were; thus, he actually has a property line running through his residence. Platting this property would take care of this issue.

In response to various questions from Commissioners, Ms. Doland reported the following:

- If this variance is granted, other properties on Selma Lane may need to request variances in the future.
- Typically, only county roads are named; however, Selma Lane which is currently an access easement, could have been named for 9-1-1/emergency response reasons.
- Several other variances to access requirements have been granted in the past few years; however, Erik Smith (the previous Development Services Director/Planner) recommended denial.
- Selma Lane can be dedicated by plat and would make the property available for a future roadway.
- A private or public road or right-of-way requires 55'. The easement known as Selma Lane is currently 30'.
- To plat the property in accordance with City and County standards dedication of right-of-way is needed. At the time of dedication the City will work with the County to determine the requirements of build-out with the requirement likely being at a later date.
- Berlin Fire Department is the first responder with Brenham Fire as the secondary responder. Fire has mentioned that in its current state, it is an issue for the Fire Department to access all the properties via Selma Lane.
- Since the property is being platted, now would be the ideal time to "fix" this right-of-way issue, especially since there are eight (8) properties currently using Selma Lane for access.

Jon Hodde stated that this access has been in existence for about 35 years. He further stated that the Selma Lane access easement is a recorded easement for access.

Commissioner Behrens suggested that the City put together a step-by-step plan for owners/applicants to follow in situations like this.

A motion was made by Calvin Kossie and seconded by Marcus Wamble to deny the request as presented and to adopt the staff report findings. The motion failed for lack of (4) consenting votes.

The voting was as follows:

- Commissioner Alfred – no
- Commissioner Wamble – yes
- Commissioner Behrens – no
- Commissioner Low – abstained from voting
- Commissioner Kossie – yes
- Commissioner Sheffield – abstained from voting

A motion was made by Commissioner Behrens and seconded by Commissioner Alfred to deny the variance request and require access to public right-of-way with the request the City consider putting a plan in place to deal with family-land access issues in the future. The motion carried unanimously.

**6. Discussion and Possible Action on Case No. P-18-030: A request for approval of a Preliminary Plat to form the Westwood Division No. 1 Subdivision, being a subdivision of 26.469 acres of land located at the northwest corner of State Highway 36 N and US Highway 290 W containing seven proposed Lots, currently addressed as 2080 – 2160 US Highway 290 W and 100 Westwood Lane and 0.257 acres of right-of-way dedication for Westwood Lane and a subdivision of 2.389 acres of land located at the southwest corner of State Highway 36 N and US Highway 290 W containing two proposed Lots, currently addressed as 2135 – 2205 US Highway 290**

**W, said 28.858 acres being situated in the Phillip Coe Survey, A-31, in the City of Brenham, Washington County, Texas**

Stephanie Doland presented the staff report for Case No. P-18-030 (on file in the Development Services Department). Staff has reviewed the plat and finds that it meets all applicable City ordinances and recommends approval.

A motion was made by Commissioner Alfred and seconded by Commissioner Sheffield to approve the Preliminary Plat to form the Westwood Division No. 1 Subdivision, as presented. The motion carried unanimously.

- 7. Discussion and Possible Action on Case No. P-18-031: A request for approval of a Final Plat to form the Westwood Division No. 1 Subdivision, being a subdivision of 26.469 acres of land located at the northwest corner of State Highway 36 N and US Highway 290 W containing seven proposed Lots and 0.257 acres of right-of-way dedication for Westwood Lane currently addressed as 2080 – 2160 US Highway 290 W and 100 Westwood Lane and a subdivision of 2.389 acres of land located at the southwest corner of State Highway 36 N and US Highway 290 W containing two proposed Lots, currently addressed as 2135 – 2205 US Highway 290 W, said 28.858 being situated in the Phillip Coe Survey, A-31, in the City of Brenham, Washington County, Texas**

Stephanie Doland presented the staff report for Case No. P-18-031 (on file in the Development Services Department). Staff has reviewed the plat and finds that it meets all applicable City ordinances and recommends approval.

A motion was made by Commissioner Kossie and seconded by Commissioner Behrens to approve the Final Plat to form the Westwood Division No. 1 Subdivision, as presented. The motion carried unanimously.

- 8. Discussion and Possible Action on Case No. P-18-032: A request for approval of a Preliminary Plat to form the Blue Bell Subdivision, Section 1, being a subdivision of 29.340 acres of land located at 2004 Old Chappell Hill Road, containing one proposed Lot and Detention Reserve "A", and a 0.197 acre right-of-way dedication for Old Chappell Hill Road, being situated in the James Walker Survey, A-106 and the Sunny Heights Addition, in the City of Brenham, Washington County, Texas**

Stephanie Doland presented the staff report for Case No. P-18-032 (on file in the Development Services Department). Staff has reviewed the plat and finds that it meets all applicable City ordinances and recommends approval.

A motion was made by Commissioner Sheffield and seconded by Commissioner Alfred to approve the Preliminary Plat to form the Blue Bell Subdivision, Section 1, as presented. The motion carried unanimously.

- 9. Discussion and Possible Action on Case No. P-18-033: A request for approval of a Final Plat to form the Blue Bell Subdivision, Section 1, being a subdivision of 29.340 acres of land located at 2004 Old Chappell Hill Road, containing one proposed Lot and Detention Reserve "A", and a 0.197 acre right-of-way dedication for Old Chappell Hill Road, being situated in the James Walker Survey, A-106 and the Sunny Heights Addition, in the City of Brenham, Washington County, Texas**

Stephanie Doland presented the staff report for Case No. P-18-033 (on file in the Development Services Department). She stated that this is the Final Plat for the preliminary plat just approved. Staff has reviewed the plat and finds that it meets all applicable City ordinances and recommends approval.

A motion was made by Commissioner Wamble and seconded by Commissioner Kossie to approve the Final Plat to form the Blue Bell Subdivision, Section 1, as presented. The motion carried unanimously.

- 10. Discussion and possible approval of the 2019 Planning and Zoning Commission Calendar for meeting dates and submittal deadlines**

Stephanie Doland presented the 2019 Planning and Zoning Commission calendar for meeting dates and submittal deadlines. She stated that the calendar reflects a 28-day submittal deadline for residential replats, specific use permits, zone change requests, text amendments, and Planned Development Districts due to the legal notification process and a 14-day submittal deadline for all other plats and subdivision variance requests. There were a couple of submission deadline dates that are revised due to holidays. The May meeting has been moved to Tuesday instead of Monday due to the Memorial Day holiday and the December meeting is proposed for December 16, 2019 instead of December 23, 2109.

A motion was made by Commissioner Kossie and seconded by Commissioner Alfred to approve the 2019 Planning and Zoning Commission calendar as presented. The motion carried unanimously.

**11. Adjourn**

A motion was made by Commissioner Alfred and seconded by Commissioner Kossie to adjourn the meeting at 6:12 pm. The motion carried unanimously.

*The City of Brenham appreciates the participation of our citizens, and the role of the Planning and Zoning Commissioners in this decision-making process.*

Certification of Meeting Minutes:

\_\_\_\_\_  
Planning and Zoning Commission

Nancy Low  
Chairman

January 28, 2018  
Meeting Date

\_\_\_\_\_  
Attest

Kim Hodde  
Staff Secretary

January 28, 2018  
Meeting Date



**CASE P-18-034**  
**PRELIMINARY PLAT: BURNETT SUBDIVISION**

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**PLAT TITLE:** Burnett Subdivision **CITY/ETJ:** ETJ

**PLAT TYPE:** Preliminary Plat

**OWNER/APPLICANT:** Kevin E. & Tammy Lynn Burnett/Betty Goerlitz/Jon E. Hodde, Hodde & Hodde Land Surveying, Inc.

**ADDRESS/LOCATION:** northwest of the intersection of North Berlin Road and Creekside Drive

**LEGAL DESCRIPTION:** Part of the Elizabeth Gordon Survey, A-49, (Proposed Lots 1-5 and Reserve "A", Burnett Subdivision along with a 55' right-of-way dedication for Selma Lane) in Washington County, Texas

**LOT AREA:** 11.177 acres

**ZONING DISTRICT/  
USE:** Not Applicable / Undeveloped

**COMP PLAN  
FUTURE LAND USE:** Agriculture / Undeveloped

**REQUEST:**

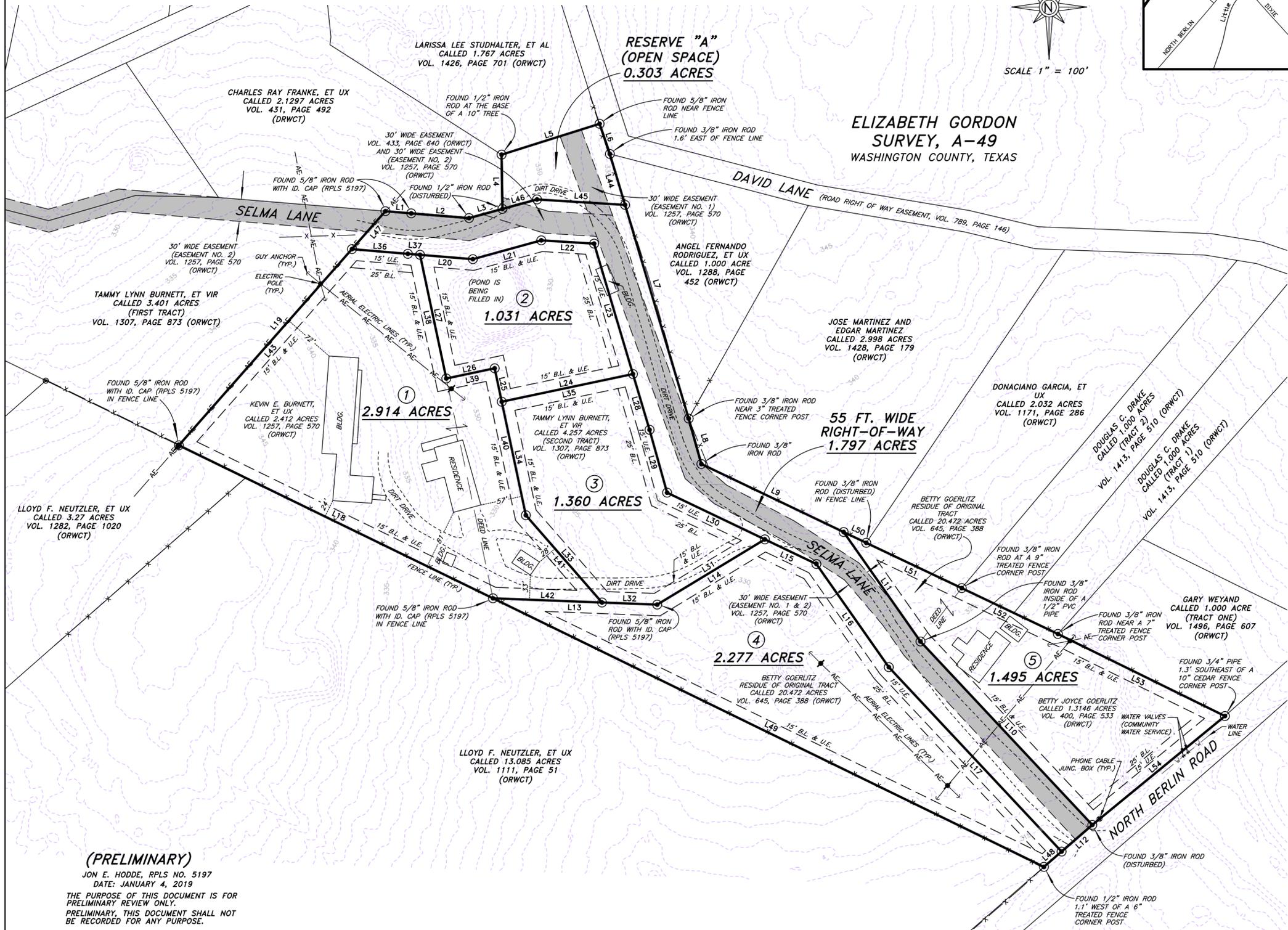
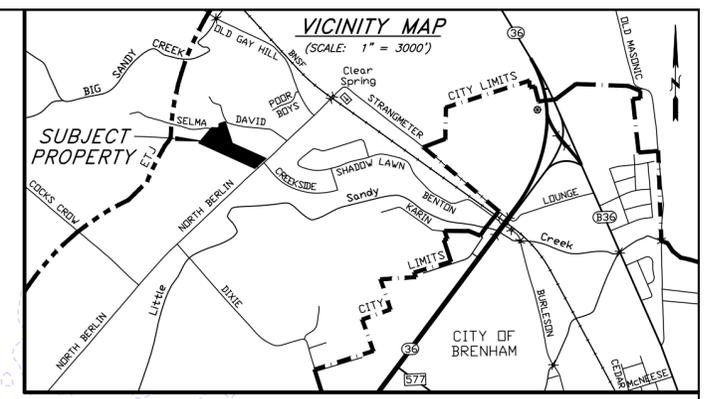
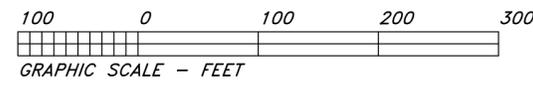
The Burnett and Goerlitz families are requesting approval of a preliminary plat to establish the Burnett Subdivision (11.177 acres) consisting of five (5) Lots (9.077 acres), Reserve "A" (0.303 acres), and a 55' right-of-way dedication for Selma Lane (1.797 acres), more specifically described as Tract 195, part of Tract 197, part of Tract 153, and Tract 131, Elizabeth Gordon Survey, A-49, in Washington County, Texas. The subject property is located in the City of Brenham's extraterritorial jurisdiction. The proposed preliminary plat includes the location of easements and building setback lines in relation to established property lines.

**STAFF RECOMMENDATION:**

Engineering and Development Services have reviewed this preliminary plat for compliance with the City of Brenham's regulations and ordinances and recommends approval of this plat as presented.

**EXHIBITS:**

- A. Proposed Preliminary Plat



**LINE TABLE**

NUM	BEARING	DISTANCE
L1	S 85°11'04" E	35.00'
L2	S 85°18'04" E	78.31'
L3	N 74°36'26" E	46.81'
L4	N 0°55'04" W	73.49'
L5	N 72°26'58" E	138.73'
L6	S 18°52'49" E	43.22'
L7	S 16°32'06" E	373.90'
L8	S 15°33'57" E	63.85'
L9	S 64°22'14" E	213.07'
L10	N 43°02'25" W	339.89'
L11	N 34°59'32" W	181.03'
L12	S 48°57'54" W	55.03'
L13	S 87°47'00" E	221.90'
L14	N 58°42'36" E	170.16'
L15	S 64°22'14" E	77.20'
L16	S 34°59'32" E	170.48'
L17	S 43°02'25" E	341.84'
L18	N 63°57'49" W	472.08'
L19	N 41°19'47" E	422.35'
L20	S 85°18'04" E	71.60'
L21	N 74°36'26" E	95.80'
L22	S 86°26'00" E	71.47'
L23	S 16°32'06" E	184.24'
L24	S 78°02'54" W	181.04'
L25	N 11°57'06" W	46.29'
L26	S 78°02'54" W	66.77'
L27	N 11°57'06" W	171.25'
L28	S 16°32'06" E	78.81'
L29	S 15°33'57" E	88.34'
L30	S 64°22'14" E	146.41'
L31	S 58°42'36" W	170.16'
L32	N 87°47'00" W	74.55'
L33	N 41°00'26" W	156.69'
L34	N 11°57'06" W	157.14'
L35	N 78°02'54" E	181.04'
L36	S 85°11'04" E	75.78'
L37	S 85°18'04" E	16.50'
L38	S 11°57'06" E	171.25'
L39	N 78°02'54" E	66.77'
L40	S 11°57'06" E	203.43'
L41	S 41°00'26" E	156.69'
L42	N 87°47'00" W	147.35'
L43	N 41°19'47" E	353.92'
L44	S 16°32'06" E	71.95'
L45	N 86°26'00" W	119.09'
L46	S 74°36'26" W	48.44'
L47	N 41°19'47" E	68.43'
L48	S 48°57'54" W	31.57'
L49	N 63°56'27" W	828.20'
L50	S 64°22'14" E	33.84'
L51	S 64°34'07" E	142.83'
L52	S 64°25'49" E	143.92'
L53	S 63°45'27" E	251.48'
L54	S 50°32'14" W	231.97'

**(PRELIMINARY)**  
 JON E. HODDE, RPLS NO. 5197  
 DATE: JANUARY 4, 2019  
 THE PURPOSE OF THIS DOCUMENT IS FOR  
 PRELIMINARY REVIEW ONLY.  
 PRELIMINARY, THIS DOCUMENT SHALL NOT  
 BE RECORDED FOR ANY PURPOSE.

W. O. NO. 7456 (BURNETT7456.DWG/MMEW) REF: BURNETT7456.SURVEY  
**Hodde & Hodde Land Surveying, Inc.**  
 Professional Land Surveying  
 613 E. Blue Bell Road . Brenham, Texas 77833  
 979-836-5681 . 979-836-5683 (Fax)  
 www.hoddesurveying.com

**PRELIMINARY PLAT OF BURNETT SUBDIVISION**  
**WASHINGTON COUNTY, TEXAS**  
 CONSISTING OF 5 LOTS, RESERVE "A" AND A 55 FEET WIDE RIGHT-OF-WAY, CONTAINING 11.177 ACRES  
 DATE: JANUARY 2019

**(PRELIMINARY PLAT)**  
**SHEET 1**  
**OF 2**

OWNERS' ACKNOWLEDGMENT

STATE OF TEXAS  
COUNTY OF WASHINGTON

WE, KEVIN E. BURNETT AND WIFE, TAMMY LYNN BURNETT, THE OWNERS OF THE PROPERTY SUBDIVIDED IN THE FOREGOING MAP OF BURNETT SUBDIVISION, DO HEREBY MAKE SUBDIVISION OF SAID PROPERTY ACCORDING TO THE LINES, STREETS, LOTS, ALLEYS, PARKS, BUILDING LINES AND EASEMENTS THEREON SHOWN AND DESIGNATE SAID SUBDIVISION AS BURNETT SUBDIVISION, LOCATED IN WASHINGTON COUNTY, TEXAS, AND WE DO HEREBY DESIGNATE TO PUBLIC USE, AS SUCH THE STREETS, ALLEYS, PARKS AND EASEMENTS SHOWN THEREON FOREVER, AND DO HEREBY WAIVE ANY CLAIMS FOR DAMAGES OCCASIONED BY THE ESTABLISHING OF GRADES AS APPROVED FOR THE STREETS AND ALLEYS DEDICATED OR OCCASIONED BY THE ALTERATION OF THE SURFACE OF ANY PORTION OF STREETS AND ALLEYS TO CONFORM TO SUCH GRADES, AND DO HEREBY BIND OURSELVES, OUR HEIRS, EXECUTORS, AND ADMINISTRATION TO WARRANT AND FOREVER DEFEND THE TITLE TO THE LAND SO DEDICATED. THERE IS ALSO DEDICATED FOR UTILITIES AN UNOBSTRUCTED AERIAL EASEMENT FIVE (5) FEET WIDE FROM A PLANE TWENTY (20) FEET ABOVE THE GROUND UPWARD, LOCATED ADJACENT TO ALL EASEMENTS SHOWN HEREON.

\_\_\_\_\_  
KEVIN E. BURNETT

\_\_\_\_\_  
TAMMY LYNN BURNETT

NOTARY PUBLIC ACKNOWLEDGMENT

THE STATE OF TEXAS

COUNTY OF \_\_\_\_\_

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE \_\_\_\_\_

DAY OF \_\_\_\_\_, 2019, BY \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

(SEAL)

LIENHOLDERS' ACKNOWLEDGMENT AND SUBORDINATION STATEMENT

WE, CITIZENS STATE BANK, THE OWNERS AND HOLDERS OF A LIEN AGAINST THE PROPERTY DESCRIBED AS 2.412 ACRES IN THE HOMESTEAD LIEN CONTRACT AND DEED OF TRUST, DATED MARCH 24, 2017, AS RECORDED IN VOLUME 1578, PAGE 788, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS, DO HEREBY IN ALL THING SUBORDINATE TO SAID PLAT OF WASHINGTON COUNTY, TEXAS. SAID LIEN AND WE HEREBY CONFIRM THAT WE ARE THE PRESENT OWNER OF SAID LIEN AND HAVE NOT ASSIGNED THE SAME NOR ANY PART THEREOF.

BY: \_\_\_\_\_

(SIGNATURE)

\_\_\_\_\_  
(PRINTED NAME & TITLE)

NOTARY PUBLIC ACKNOWLEDGMENT

THE STATE OF TEXAS

COUNTY OF \_\_\_\_\_

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE \_\_\_\_\_

DAY OF \_\_\_\_\_, 2019, BY \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

(SEAL)

OWNERS' ACKNOWLEDGMENT

STATE OF TEXAS  
COUNTY OF WASHINGTON

I, BETTY GOERLITZ, THE OWNER OF THE PROPERTY SUBDIVIDED IN THE FOREGOING MAP OF BURNETT SUBDIVISION, DO HEREBY MAKE SUBDIVISION OF SAID PROPERTY ACCORDING TO THE LINES, STREETS, LOTS, ALLEYS, PARKS, BUILDING LINES AND EASEMENTS THEREON SHOWN AND DESIGNATE SAID SUBDIVISION AS BURNETT SUBDIVISION, LOCATED IN WASHINGTON COUNTY, TEXAS, AND I DO HEREBY DESIGNATE TO PUBLIC USE, AS SUCH THE STREETS, ALLEYS, PARKS AND EASEMENTS SHOWN THEREON FOREVER, AND DO HEREBY WAIVE ANY CLAIMS FOR DAMAGES OCCASIONED BY THE ESTABLISHING OF GRADES AS APPROVED FOR THE STREETS AND ALLEYS DEDICATED OR OCCASIONED BY THE ALTERATION OF THE SURFACE OF ANY PORTION OF STREETS AND ALLEYS TO CONFORM TO SUCH GRADES, AND DO HEREBY BIND MYSELF, MY HEIRS, EXECUTORS, AND ADMINISTRATION TO WARRANT AND FOREVER DEFEND THE TITLE TO THE LAND SO DEDICATED. THERE IS ALSO DEDICATED FOR UTILITIES AN UNOBSTRUCTED AERIAL EASEMENT FIVE (5) FEET WIDE FROM A PLANE TWENTY (20) FEET ABOVE THE GROUND UPWARD, LOCATED ADJACENT TO ALL EASEMENTS SHOWN HEREON.

\_\_\_\_\_  
BETTY GOERLITZ

NOTARY PUBLIC ACKNOWLEDGMENT

THE STATE OF TEXAS

COUNTY OF \_\_\_\_\_

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE \_\_\_\_\_

DAY OF \_\_\_\_\_, 2019, BY \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

(SEAL)

NOTES:

- 1. THE BEARINGS SHOWN HEREON ARE RELATIVE TO TRUE NORTH AS OBTAINED BY GPS OBSERVATIONS, OBSERVED AT LATITUDE: 30°11'39.95" N - LONGITUDE: 96°25'54.16" W (WGS-84)
- 2. NO PART OF THE SUBJECT PROPERTY LIES WITHIN THE SPECIAL FLOOD HAZARD AREA ACCORDING TO THE FLOOD INSURANCE RATE MAP (FIRM) AS COMPILED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, NATIONAL FLOOD INSURANCE PROGRAM, MAP NUMBER 48477C0300C, EFFECTIVE DATE AUGUST 16, 2011, WASHINGTON COUNTY, TEXAS.
- 3. (S) - DENOTES A SET 5/8" IRON ROD WITH ID. CAP STAMPED "HODDE & HODDE LAND SURVEYING" UNLESS OTHERWISE NOTED ON THE PLAT.
- 4. THERE IS ALSO DEDICATED FOR UTILITIES AN UNOBSTRUCTED AERIAL EASEMENT FIVE (5) FEET WIDE FROM A PLANE TWENTY (20) FEET ABOVE THE GROUND UPWARD, LOCATED ADJACENT TO THE EASEMENTS SHOWN HEREON.
- 5. THIS SURVEY WAS PERFORMED IN CONJUNCTION WITH BOTTS TITLE COMPANY (COMMONWEALTH LAND TITLE INSURANCE COMPANY), TITLE COMMITMENT G.F. NO. WA-18-293, EFFECTIVE DATE OCTOBER 22, 2018, 8:00 AM, ISSUE DATE OCTOBER 31, 2018, AM. {APPLIES TO CALLED 4.257 ACRES}
- 6. THIS SURVEY WAS PERFORMED IN CONJUNCTION WITH BOTTS TITLE COMPANY, TITLE COMMITMENT G.F. NO. WA-18-347, EFFECTIVE DATE OCTOBER 29, 2018, 8:00 AM, ISSUE DATE NOVEMBER 7, 2018, AM. {APPLIES TO CALLED 2.412 ACRES}
- 7. SUBJECT TO RIGHT OF WAY EASEMENT DATED SEPTEMBER 7, 1989, EXECUTED BY SELMA FRANKE TO CENTRAL WASHINGTON COUNTY WATER SUPPLY CORP., RECORDED IN VOLUME 628, PAGE 519, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS. {APPLIES TO CALLED 4.257 ACRES & CALLED 2.412 ACRES}
- 8. PIPELINE EASEMENT DATED OCTOBER 28, 1997, EXECUTED BY BETTY GOERLITZ TO AQUILA SOUTHWEST PIPELINE CORPORATION, RECORDED IN VOLUME 877, PAGE 218, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS. {LIES OUTSIDE THE BOUNDARIES OF THE SUBJECT PROPERTY AND IS NOT APPLICABLE}
- 9. SUBJECT TO EASEMENT DATED SEPTEMBER 25, 2007, EXECUTED BY TAMMY BURNETT TO BLUEBONNET ELECTRIC COOPERATIVE, INC., RECORDED IN VOLUME 1261, PAGE 990, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS. {APPLIES TO CALLED 2.412 ACRES}
- 10. SUBJECT TO EASEMENT DATED MAY 4, 2012, EXECUTED BY TAMMY BURNETT TO BLUEBONNET ELECTRIC COOPERATIVE, INC., RECORDED IN VOLUME 1416, PAGE 465, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS. {APPLIES TO CALLED 2.412 ACRES}
- 11. THE SUBDIVISION SHOWN HEREON LIES OUTSIDE OF THE CITY LIMITS OF BRENHAM, TEXAS; HOWEVER, SAID SUBDIVISION IS LOCATED INSIDE THE CITY OF BRENHAM'S EXTRATERRITORIAL JURISDICTION (ETJ).
- 12. AS OF THE DATE OF PLATTING, THE CITY OF BRENHAM DOES NOT PROVIDE UTILITY SERVICES TO THE SUBDIVISION SHOWN HEREON. WATER WILL BE PROVIDED BY COMMUNITY WATER SERVICE OR PRIVATE INDIVIDUAL WATER WELLS AND SEWER WILL BE PROVIDED BY INDIVIDUAL ON-SITE SEWAGE FACILITIES. ELECTRIC UTILITIES ARE PROVIDED BY OTHERS.
- 13. NO ROAD, STREET OR PASSAGEWAY SET ASIDE IN THIS PLAT SHALL BE MAINTAINED BY WASHINGTON COUNTY, TEXAS IN THE ABSENCE OF AN EXPRESS ORDER OF THE COMMISSIONERS' COURT ENTERED OF RECORD IN THE MINUTES OF THE COMMISSIONERS' COURT OF WASHINGTON COUNTY, TEXAS SPECIFICALLY ACCEPTING SUCH ROAD, STREET OR PASSAGEWAY FOR COUNTY MAINTENANCE.
- 14. (DRWCT) DENOTES DEED RECORDS OF WASHINGTON COUNTY, TEXAS. (ORWCT) DENOTES OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS. B.L. DENOTES BUILDING LINE. U.E. DENOTES UTILITY EASEMENT
- 15. CONTOURS SHOWN HEREON WERE DERIVED FROM LIDAR DATA AND PROVIDED BY OTHERS.

PLANNING AND ZONING COMMISSION APPROVAL

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_,  
2019 BY THE PLANNING AND ZONING COMMISSION OF THE CITY  
OF BRENHAM, TEXAS.

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SECRETARY

COUNTY CLERK FILING ACKNOWLEDGMENT STATEMENT

THE STATE OF TEXAS  
COUNTY OF WASHINGTON

I, BETH ROTHERMEL, CLERK OF THE COUNTY COURT OF WASHINGTON COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE WRITTEN INSTRUMENT WITH ITS CERTIFICATE OF AUTHENTICATION

WAS FILED FOR REGISTRATION IN MY OFFICE ON \_\_\_\_\_, 2019,

AT \_\_\_\_\_ O'CLOCK, \_\_\_\_\_ M., AND DULY RECORDED ON \_\_\_\_\_, 2019,

AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. IN CABINET \_\_\_\_\_ SHEET \_\_\_\_\_, OF RECORD

OF \_\_\_\_\_ FOR SAID COUNTY. WITNESS MY HAND AND SEAL OF OFFICE, AT BRENHAM, WASHINGTON COUNTY, TEXAS, THE DAY AND DATE LAST ABOVE WRITTEN.

\_\_\_\_\_  
CLERK, COUNTY COURT  
WASHINGTON COUNTY, TEXAS

SURVEY MAP

SHOWING A SURVEY OF LOT 1 (2.914 ACRES), LOT 2 (1.031 ACRES), LOT 3 (1.360 ACRES), LOT 4 (2.277 ACRES), LOT 5 (1.495 ACRES), RESERVE "A" (0.303 ACRES) AND A 50 FEET WIDE RIGHT-OF-WAY (1.797 ACRES) LYING AND BEING SITUATED IN WASHINGTON COUNTY, TEXAS, PART OF THE ELIZABETH GORDON SURVEY, A-49, SAID LOT 1 (2.914 ACRES) BEING PART OF THE LAND DESCRIBED AS 2.412 ACRES IN THE DEED FROM BETTY GOERLITZ AND HUSBAND, DANIEL GOERLITZ TO KEVIN E. BURNETT AND WIFE, TAMMY LYNN BURNETT, DATED AUGUST 31, 2007, AS RECORDED IN VOLUME 1257, PAGE 570, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS AND PART OF THE LAND DESCRIBED AS 4.257 ACRES (SECOND TRACT) IN THE DEED FROM BETTY GOERLITZ AND HUSBAND, DANIEL GOERLITZ TO TAMMY LYNN BURNETT AND HUSBAND, KEVIN E. BURNETT, DATED APRIL 28, 2009, AS RECORDED IN VOLUME 1307, PAGE 873, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS; SAID LOT 2 (1.031 ACRES), LOT 3 (1.360 ACRES) AND RESERVE "A" (0.303 ACRES) BEING PART OF THE LAND DESCRIBED AS 4.257 ACRES (SECOND TRACT) IN THE DEED FROM BETTY GOERLITZ AND HUSBAND, DANIEL GOERLITZ TO TAMMY LYNN BURNETT AND HUSBAND, KEVIN E. BURNETT, DATED APRIL 28, 2009, AS RECORDED IN VOLUME 1307, PAGE 873, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS; SAID LOT 4 (2.277 ACRES) BEING PART OF THE LAND DESCRIBED AS 20.472 ACRES IN THE DEED FROM SELMA FRANKE TO BETTY GOERLITZ, DATED APRIL 17, 1991, AS RECORDED IN VOLUME 645, PAGE 388, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS; SAID LOT 5 (1.495 ACRES) BEING THE LAND DESCRIBED AS 1.3146 ACRES IN THE DEED FROM HERMANN FRANKE, AND WIFE, SELMA FRANKE TO BETTY JOYCE GEORLITZ, DATED SEPTEMBER 12, 1980, AS RECORDED IN VOLUME 400, PAGE 533, IN THE DEED RECORDS OF WASHINGTON COUNTY, TEXAS AND PART OF THE LAND DESCRIBED AS 20.472 ACRES IN THE DEED FROM SELMA FRANKE TO BETTY GOERLITZ, DATED APRIL 17, 1991, AS RECORDED IN VOLUME 645, PAGE 388, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS; SAID 50 FEET WIDE RIGHT-OF-WAY (1.797 ACRES) BEING PART OF THE LAND DESCRIBED AS 2.412 ACRES IN THE DEED FROM BETTY GOERLITZ AND HUSBAND, DANIEL GOERLITZ TO KEVIN E. BURNETT AND WIFE, TAMMY LYNN BURNETT, DATED AUGUST 31, 2007, AS RECORDED IN VOLUME 1257, PAGE 570, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS; PART OF THE LAND DESCRIBED AS 4.257 ACRES (SECOND TRACT) IN THE DEED FROM BETTY GOERLITZ AND HUSBAND, DANIEL GOERLITZ TO TAMMY LYNN BURNETT AND HUSBAND, KEVIN E. BURNETT, DATED APRIL 28, 2009, AS RECORDED IN VOLUME 1307, PAGE 873, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS AND PART OF THE LAND DESCRIBED AS 20.472 ACRES IN THE DEED FROM SELMA FRANKE TO BETTY GOERLITZ, DATED APRIL 17, 1991, AS RECORDED IN VOLUME 645, PAGE 388, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS.

CERTIFICATION

THE STATE OF TEXAS  
COUNTY OF WASHINGTON

I, JON E. HODDE, REGISTERED PROFESSIONAL LAND SURVEYOR, NO. 5197 OF THE STATE OF TEXAS, DO HEREBY CERTIFY THAT THIS MAP SHOWING A SURVEY AND SUBDIVISION OF 11.177 ACRES OF LAND IS TRUE AND CORRECT IN ACCORDANCE WITH AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY PERSONAL DIRECTION AND SUPERVISION. THE FIELD WORK WAS COMPLETED ON DECEMBER 19, 2018.

DATED THIS THE 4TH DAY OF JANUARY, 2019, A.D.

(PRELIMINARY)

JON E. HODDE, RPLS NO. 5197  
DATE: JANUARY 4, 2019

THE PURPOSE OF THIS DOCUMENT IS FOR  
PRELIMINARY REVIEW ONLY.  
PRELIMINARY. THIS DOCUMENT SHALL NOT  
BE RECORDED FOR ANY PURPOSE.

(PRELIMINARY)

JON E. HODDE  
REGISTERED PROFESSIONAL  
LAND SURVEYOR NO. 5197  
HODDE & HODDE LAND SURVEYING, INC.  
613 EAST BLUE BELL ROAD  
BREHMAN, TEXAS 77833  
(979)-836-5681  
TEXAS FIRM REGISTRATION NO. 10018800

W. O. NO. 7456 (BURNETT7456.DWG/MMEW) REF: BURNETT7456.SURVEY

Hodde & Hodde Land Surveying, Inc.  
Professional Land Surveying  
613 E. Blue Bell Road . Brenham, Texas 77833  
979-836-5681 . 979-836-5683 (Fax)  
www.hoddesurveying.com

**PRELIMINARY PLAT OF BURNETT SUBDIVISION**  
**WASHINGTON COUNTY, TEXAS**  
CONSISTING OF 5 LOTS, RESERVE "A" AND A 55 FEET WIDE RIGHT-OF-WAY, CONTAINING 11.177 ACRES  
DATE: JANUARY 2019

**(PRELIMINARY PLAT)**  
**SHEET 2**  
**OF 2**



**CASE P-18-035**  
**FINAL PLAT: BURNETT SUBDIVISION**

---

**PLAT TITLE:** Burnett Subdivision **CITY/ETJ:** ETJ

**PLAT TYPE:** Final Plat

**OWNER/APPLICANT:** Kevin E. & Tammy Lynn Burnett/Betty Goerlitz/Jon E. Hodde, Hodde & Hodde Land Surveying, Inc.

**ADDRESS/LOCATION:** northwest of the intersection of North Berlin Road and Creekside Drive

**LEGAL DESCRIPTION:** Part of the Elizabeth Gordon Survey, A-49, (Proposed Lots 1-5 and Reserve "A", Burnett Subdivision along with a 55' right-of-way dedication for Selma Lane) in Washington County, Texas

**LOT AREA:** 11.177 acres

**ZONING DISTRICT/  
USE:** Not Applicable / Undeveloped

**COMP PLAN  
FUTURE LAND USE:** Agriculture / Undeveloped

**REQUEST:**

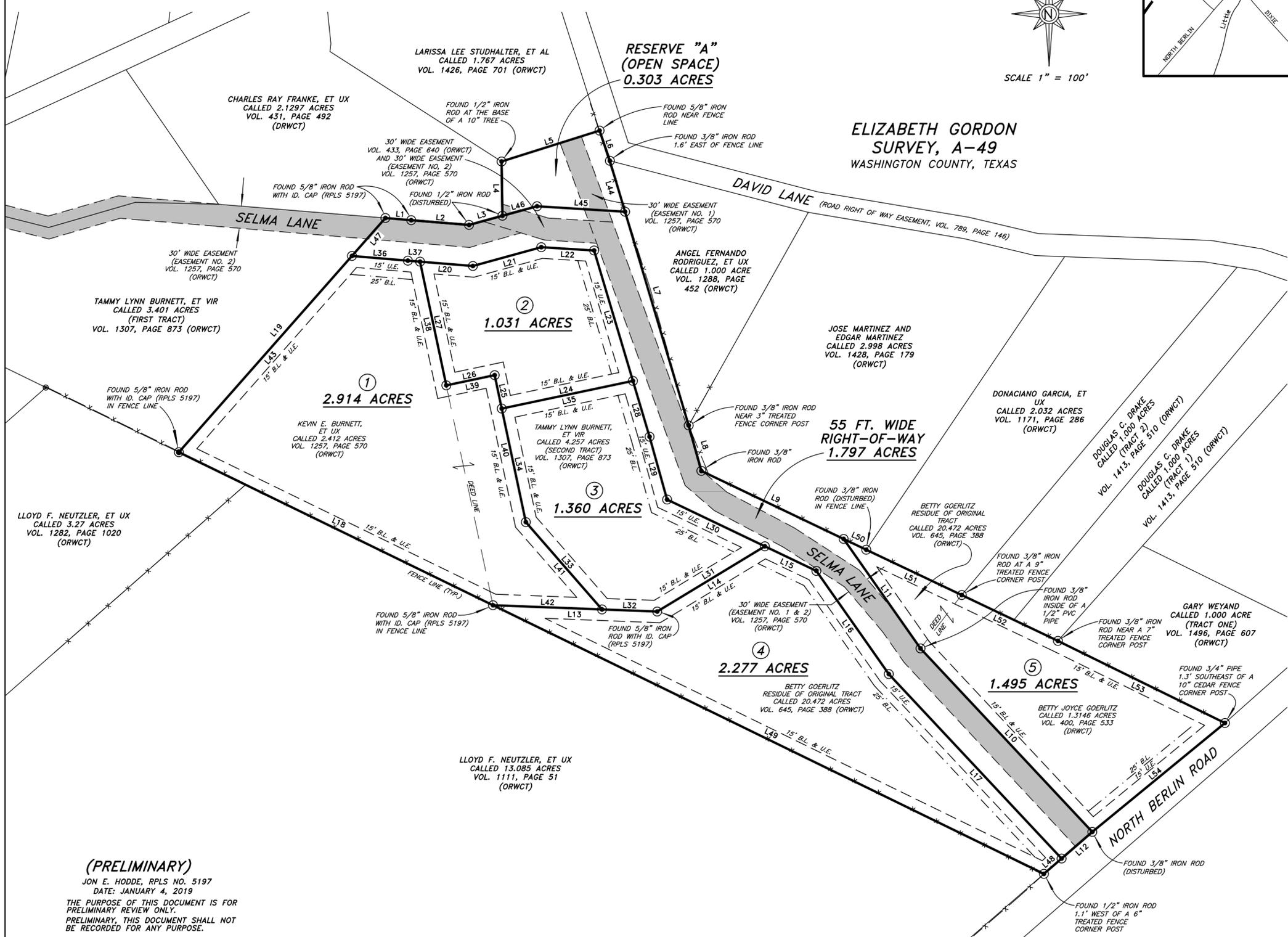
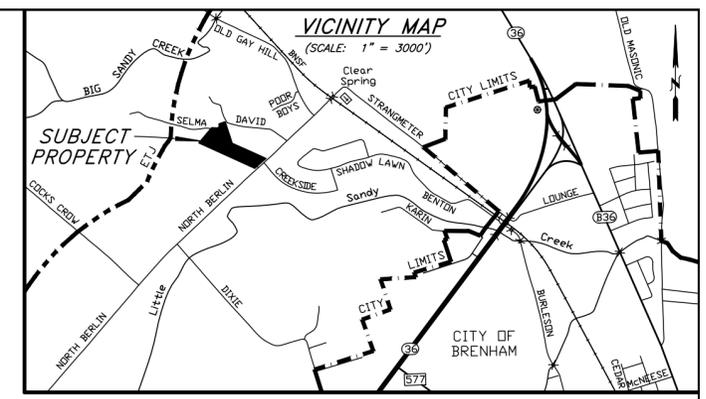
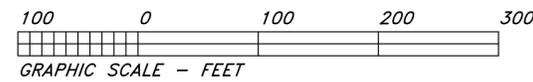
The Burnett and Goerlitz families are requesting approval of a final plat to establish the Burnett Subdivision (11.177 acres) consisting of five (5) lots (9.077 acres), Reserve "A" (0.303 acres), and a 55' right-of-way dedication for Selma Lane (1.797 acres), more specifically described as Tract 195, part of Tract 197, part of Tract 153, and Tract 131, Elizabeth Gordon Survey, A-49, in Washington County, Texas. The subject property is located in the City of Brenham's extraterritorial jurisdiction. The proposed preliminary plat includes the location of easements and building setback lines in relation to established property lines.

**STAFF RECOMMENDATION:**

Engineering and Development Services have reviewed this final plat for compliance with the City of Brenham's regulations and ordinances and recommends approval of this plat as presented.

**EXHIBITS:**

- A. Proposed Final Plat



**LINE TABLE**

NUM	BEARING	DISTANCE
L1	S 85°11'04" E	35.00'
L2	S 85°18'04" E	78.31'
L3	N 74°36'26" E	46.81'
L4	N 0°55'04" W	73.49'
L5	N 72°26'58" E	138.73'
L6	S 18°52'49" E	43.22'
L7	S 16°32'06" E	373.90'
L8	S 15°33'57" E	63.85'
L9	S 64°22'14" E	213.07'
L10	N 43°02'25" W	339.89'
L11	N 34°59'52" W	181.03'
L12	S 48°57'54" W	55.03'
L13	S 87°47'00" E	221.90'
L14	N 58°42'36" E	170.16'
L15	S 64°22'14" E	77.20'
L16	S 34°59'52" E	170.48'
L17	S 43°02'25" E	341.84'
L18	N 63°57'49" W	472.08'
L19	N 41°19'47" E	422.35'
L20	S 85°18'04" E	71.60'
L21	N 74°36'26" E	95.80'
L22	S 86°26'00" E	71.47'
L23	S 16°32'06" E	184.24'
L24	S 78°02'54" W	181.04'
L25	N 11°57'06" W	46.29'
L26	S 78°02'54" W	66.77'
L27	N 11°57'06" W	171.25'
L28	S 16°32'06" E	78.81'
L29	S 15°33'57" E	88.34'
L30	S 64°22'14" E	146.41'
L31	S 58°42'36" W	170.16'
L32	N 87°47'00" W	74.55'
L33	N 41°00'26" W	156.69'
L34	N 11°57'06" W	157.14'
L35	N 78°02'54" E	181.04'
L36	S 85°11'04" E	75.78'
L37	S 85°18'04" E	16.50'
L38	S 11°57'06" E	171.25'
L39	N 78°02'54" E	66.77'
L40	S 11°57'06" E	203.43'
L41	S 41°00'26" E	156.69'
L42	N 87°47'00" W	147.35'
L43	N 41°19'47" E	353.92'
L44	S 16°32'06" E	71.95'
L45	N 86°26'00" W	119.09'
L46	S 74°36'26" W	48.44'
L47	N 41°19'47" E	68.43'
L48	S 48°57'54" W	31.57'
L49	N 63°56'27" W	828.20'
L50	S 64°22'14" E	33.84'
L51	S 64°34'07" E	142.83'
L52	S 64°25'49" E	143.92'
L53	S 63°45'27" E	251.48'
L54	S 50°32'14" W	231.97'

**(PRELIMINARY)**  
JON E. HODDE, RPLS NO. 5197  
DATE: JANUARY 4, 2019  
THE PURPOSE OF THIS DOCUMENT IS FOR  
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W. O. NO. 7456 (BURNETT7456.DWG/MMEW) REF: BURNETT7456.SURVEY  
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**FINAL PLAT OF BURNETT SUBDIVISION**  
**WASHINGTON COUNTY, TEXAS**  
CONSISTING OF 5 LOTS, RESERVE "A" AND A 55 FEET WIDE RIGHT-OF-WAY, CONTAINING 11.177 ACRES  
DATE: JANUARY 2019

**(FINAL PLAT)**  
**SHEET 1**  
**OF 2**

OWNERS' ACKNOWLEDGMENT

STATE OF TEXAS  
COUNTY OF WASHINGTON

WE, KEVIN E. BURNETT AND WIFE, TAMMY LYNN BURNETT, THE OWNERS OF THE PROPERTY SUBDIVIDED IN THE FOREGOING MAP OF BURNETT SUBDIVISION, DO HEREBY MAKE SUBDIVISION OF SAID PROPERTY ACCORDING TO THE LINES, STREETS, LOTS, ALLEYS, PARKS, BUILDING LINES AND EASEMENTS THEREON SHOWN AND DESIGNATE SAID SUBDIVISION AS BURNETT SUBDIVISION, LOCATED IN WASHINGTON COUNTY, TEXAS, AND WE DO HEREBY DESIGNATE TO PUBLIC USE, AS SUCH THE STREETS, ALLEYS, PARKS AND EASEMENTS SHOWN THEREON FOREVER, AND DO HEREBY WAIVE ANY CLAIMS FOR DAMAGES OCCASIONED BY THE ESTABLISHING OF GRADES AS APPROVED FOR THE STREETS AND ALLEYS DEDICATED OR OCCASIONED BY THE ALTERATION OF THE SURFACE OF ANY PORTION OF STREETS AND ALLEYS TO CONFORM TO SUCH GRADES, AND DO HEREBY BIND OURSELVES, OUR HEIRS, EXECUTORS, AND ADMINISTRATION TO WARRANT AND FOREVER DEFEND THE TITLE TO THE LAND SO DEDICATED. THERE IS ALSO DEDICATED FOR UTILITIES AN UNOBSTRUCTED AERIAL EASEMENT FIVE (5) FEET WIDE FROM A PLANE TWENTY (20) FEET ABOVE THE GROUND UPWARD, LOCATED ADJACENT TO ALL EASEMENTS SHOWN HEREON.

\_\_\_\_\_  
KEVIN E. BURNETT

\_\_\_\_\_  
TAMMY LYNN BURNETT

NOTARY PUBLIC ACKNOWLEDGMENT

THE STATE OF TEXAS

COUNTY OF \_\_\_\_\_

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE \_\_\_\_\_

DAY OF \_\_\_\_\_, 2019, BY \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

(SEAL)

LIENHOLDERS' ACKNOWLEDGMENT AND SUBORDINATION STATEMENT

WE, CITIZENS STATE BANK, THE OWNERS AND HOLDERS OF A LIEN AGAINST THE PROPERTY DESCRIBED AS 2.412 ACRES IN THE HOMESTEAD LIEN CONTRACT AND DEED OF TRUST, DATED MARCH 24, 2017, AS RECORDED IN VOLUME 1578, PAGE 788, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS, DO HEREBY IN ALL THING SUBORDINATE TO SAID PLAT OF WASHINGTON COUNTY, TEXAS. SAID LIEN AND WE HEREBY CONFIRM THAT WE ARE THE PRESENT OWNER OF SAID LIEN AND HAVE NOT ASSIGNED THE SAME NOR ANY PART THEREOF.

BY: \_\_\_\_\_

(SIGNATURE)

\_\_\_\_\_  
(PRINTED NAME & TITLE)

NOTARY PUBLIC ACKNOWLEDGMENT

THE STATE OF TEXAS

COUNTY OF \_\_\_\_\_

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE \_\_\_\_\_

DAY OF \_\_\_\_\_, 2019, BY \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

(SEAL)

OWNERS' ACKNOWLEDGMENT

STATE OF TEXAS  
COUNTY OF WASHINGTON

I, BETTY GOERLITZ, THE OWNER OF THE PROPERTY SUBDIVIDED IN THE FOREGOING MAP OF BURNETT SUBDIVISION, DO HEREBY MAKE SUBDIVISION OF SAID PROPERTY ACCORDING TO THE LINES, STREETS, LOTS, ALLEYS, PARKS, BUILDING LINES AND EASEMENTS THEREON SHOWN AND DESIGNATE SAID SUBDIVISION AS BURNETT SUBDIVISION, LOCATED IN WASHINGTON COUNTY, TEXAS, AND I DO HEREBY DESIGNATE TO PUBLIC USE, AS SUCH THE STREETS, ALLEYS, PARKS AND EASEMENTS SHOWN THEREON FOREVER, AND DO HEREBY WAIVE ANY CLAIMS FOR DAMAGES OCCASIONED BY THE ESTABLISHING OF GRADES AS APPROVED FOR THE STREETS AND ALLEYS DEDICATED OR OCCASIONED BY THE ALTERATION OF THE SURFACE OF ANY PORTION OF STREETS AND ALLEYS TO CONFORM TO SUCH GRADES, AND DO HEREBY BIND MYSELF, MY HEIRS, EXECUTORS, AND ADMINISTRATION TO WARRANT AND FOREVER DEFEND THE TITLE TO THE LAND SO DEDICATED. THERE IS ALSO DEDICATED FOR UTILITIES AN UNOBSTRUCTED AERIAL EASEMENT FIVE (5) FEET WIDE FROM A PLANE TWENTY (20) FEET ABOVE THE GROUND UPWARD, LOCATED ADJACENT TO ALL EASEMENTS SHOWN HEREON.

\_\_\_\_\_  
BETTY GOERLITZ

NOTARY PUBLIC ACKNOWLEDGMENT

THE STATE OF TEXAS

COUNTY OF \_\_\_\_\_

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE \_\_\_\_\_

DAY OF \_\_\_\_\_, 2019, BY \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

(SEAL)

NOTES:

- 1. THE BEARINGS SHOWN HEREON ARE RELATIVE TO TRUE NORTH AS OBTAINED BY GPS OBSERVATIONS, OBSERVED AT LATITUDE: 30°11'39.95" N - LONGITUDE: 96°25'54.16" W (WGS-84)
- 2. NO PART OF THE SUBJECT PROPERTY LIES WITHIN THE SPECIAL FLOOD HAZARD AREA ACCORDING TO THE FLOOD INSURANCE RATE MAP (FIRM) AS COMPILED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, NATIONAL FLOOD INSURANCE PROGRAM, MAP NUMBER 48477C0300C, EFFECTIVE DATE AUGUST 16, 2011, WASHINGTON COUNTY, TEXAS.
- 3. (S) - DENOTES A SET 5/8" IRON ROD WITH ID. CAP STAMPED "HODDE & HODDE LAND SURVEYING" UNLESS OTHERWISE NOTED ON THE PLAT.
- 4. THERE IS ALSO DEDICATED FOR UTILITIES AN UNOBSTRUCTED AERIAL EASEMENT FIVE (5) FEET WIDE FROM A PLANE TWENTY (20) FEET ABOVE THE GROUND UPWARD, LOCATED ADJACENT TO THE EASEMENTS SHOWN HEREON.
- 5. THIS SURVEY WAS PERFORMED IN CONJUNCTION WITH BOTTS TITLE COMPANY (COMMONWEALTH LAND TITLE INSURANCE COMPANY), TITLE COMMITMENT G.F. NO. WA-18-293, EFFECTIVE DATE OCTOBER 22, 2018, 8:00 AM, ISSUE DATE OCTOBER 31, 2018, AM. {APPLIES TO CALLED 4.257 ACRES}
- 6. THIS SURVEY WAS PERFORMED IN CONJUNCTION WITH BOTTS TITLE COMPANY, TITLE COMMITMENT G.F. NO. WA-18-347, EFFECTIVE DATE OCTOBER 29, 2018, 8:00 AM, ISSUE DATE NOVEMBER 7, 2018, AM. {APPLIES TO CALLED 2.412 ACRES}
- 7. SUBJECT TO RIGHT OF WAY EASEMENT DATED SEPTEMBER 7, 1989, EXECUTED BY SELMA FRANKE TO CENTRAL WASHINGTON COUNTY WATER SUPPLY CORP., RECORDED IN VOLUME 628, PAGE 519, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS. {APPLIES TO CALLED 4.257 ACRES & CALLED 2.412 ACRES}
- 8. PIPELINE EASEMENT DATED OCTOBER 28, 1997, EXECUTED BY BETTY GOERLITZ TO AQUILA SOUTHWEST PIPELINE CORPORATION, RECORDED IN VOLUME 877, PAGE 218, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS. {LIES OUTSIDE THE BOUNDARIES OF THE SUBJECT PROPERTY AND IS NOT APPLICABLE}
- 9. SUBJECT TO EASEMENT DATED SEPTEMBER 25, 2007, EXECUTED BY TAMMY BURNETT TO BLUEBONNET ELECTRIC COOPERATIVE, INC., RECORDED IN VOLUME 1261, PAGE 990, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS. {APPLIES TO CALLED 2.412 ACRES}
- 10. SUBJECT TO EASEMENT DATED MAY 4, 2012, EXECUTED BY TAMMY BURNETT TO BLUEBONNET ELECTRIC COOPERATIVE, INC., RECORDED IN VOLUME 1416, PAGE 465, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS. {APPLIES TO CALLED 2.412 ACRES}
- 11. THE SUBDIVISION SHOWN HEREON LIES OUTSIDE OF THE CITY LIMITS OF BRENNHAM, TEXAS; HOWEVER, SAID SUBDIVISION IS LOCATED INSIDE THE CITY OF BRENNHAM'S EXTRATERRITORIAL JURISDICTION (ETJ).
- 12. AS OF THE DATE OF PLATTING, THE CITY OF BRENNHAM DOES NOT PROVIDE UTILITY SERVICES TO THE SUBDIVISION SHOWN HEREON. WATER WILL BE PROVIDED BY COMMUNITY WATER SERVICE OR PRIVATE INDIVIDUAL WATER WELLS AND SEWER WILL BE PROVIDED BY INDIVIDUAL ON-SITE SEWAGE FACILITIES. ELECTRIC UTILITIES ARE PROVIDED BY OTHERS.
- 13. NO ROAD, STREET OR PASSAGEWAY SET ASIDE IN THIS PLAT SHALL BE MAINTAINED BY WASHINGTON COUNTY, TEXAS IN THE ABSENCE OF AN EXPRESS ORDER OF THE COMMISSIONERS' COURT ENTERED OF RECORD IN THE MINUTES OF THE COMMISSIONERS' COURT OF WASHINGTON COUNTY, TEXAS SPECIFICALLY ACCEPTING SUCH ROAD, STREET OR PASSAGEWAY FOR COUNTY MAINTENANCE.
- 14. (DRWCT) DENOTES DEED RECORDS OF WASHINGTON COUNTY, TEXAS. (ORWCT) DENOTES OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS. B.L. DENOTES BUILDING LINE. U.E. DENOTES UTILITY EASEMENT

PLANNING AND ZONING COMMISSION APPROVAL

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_,  
2019 BY THE PLANNING AND ZONING COMMISSION OF THE CITY  
OF BRENNHAM, TEXAS.

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SECRETARY

COUNTY CLERK FILING ACKNOWLEDGMENT STATEMENT

THE STATE OF TEXAS  
COUNTY OF WASHINGTON

I, BETH ROTHERMEL, CLERK OF THE COUNTY COURT OF WASHINGTON COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE WRITTEN INSTRUMENT WITH ITS CERTIFICATE OF AUTHENTICATION

WAS FILED FOR REGISTRATION IN MY OFFICE ON \_\_\_\_\_, 2019,

AT \_\_\_\_\_ O'CLOCK, \_\_\_\_\_ M., AND DULY RECORDED ON \_\_\_\_\_, 2019,

AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. IN CABINET \_\_\_\_\_ SHEET \_\_\_\_\_, OF RECORD

OF \_\_\_\_\_ FOR SAID COUNTY. WITNESS MY HAND AND SEAL OF OFFICE, AT BRENNHAM, WASHINGTON COUNTY, TEXAS, THE DAY AND DATE LAST ABOVE WRITTEN.

\_\_\_\_\_  
CLERK, COUNTY COURT  
WASHINGTON COUNTY, TEXAS

SURVEY MAP

SHOWING A SURVEY OF LOT 1 (2.914 ACRES), LOT 2 (1.031 ACRES), LOT 3 (1.360 ACRES), LOT 4 (2.277 ACRES), LOT 5 (1.495 ACRES), RESERVE "A" (0.303 ACRES) AND A 50 FEET WIDE RIGHT-OF-WAY (1.797 ACRES) LYING AND BEING SITUATED IN WASHINGTON COUNTY, TEXAS, PART OF THE ELIZABETH GORDON SURVEY, A-49, SAID LOT 1 (2.914 ACRES) BEING PART OF THE LAND DESCRIBED AS 2.412 ACRES IN THE DEED FROM BETTY GOERLITZ AND HUSBAND, DANIEL GOERLITZ TO KEVIN E. BURNETT AND WIFE, TAMMY LYNN BURNETT, DATED AUGUST 31, 2007, AS RECORDED IN VOLUME 1257, PAGE 570, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS AND PART OF THE LAND DESCRIBED AS 4.257 ACRES (SECOND TRACT) IN THE DEED FROM BETTY GOERLITZ AND HUSBAND, DANIEL GOERLITZ TO TAMMY LYNN BURNETT AND HUSBAND, KEVIN E. BURNETT, DATED APRIL 28, 2009, AS RECORDED IN VOLUME 1307, PAGE 873, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS; SAID LOT 2 (1.031 ACRES), LOT 3 (1.360 ACRES) AND RESERVE "A" (0.303 ACRES) BEING PART OF THE LAND DESCRIBED AS 4.257 ACRES (SECOND TRACT) IN THE DEED FROM BETTY GOERLITZ AND HUSBAND, DANIEL GOERLITZ TO TAMMY LYNN BURNETT AND HUSBAND, KEVIN E. BURNETT, DATED APRIL 28, 2009, AS RECORDED IN VOLUME 1307, PAGE 873, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS; SAID LOT 4 (2.277 ACRES) BEING PART OF THE LAND DESCRIBED AS 20.472 ACRES IN THE DEED FROM SELMA FRANKE TO BETTY GOERLITZ, DATED APRIL 17, 1991, AS RECORDED IN VOLUME 645, PAGE 388, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS; SAID LOT 5 (1.495 ACRES) BEING THE LAND DESCRIBED AS 1.3146 ACRES IN THE DEED FROM HERMANN FRANKE, AND WIFE, SELMA FRANKE TO BETTY JOYCE GEORLITZ, DATED SEPTEMBER 12, 1980, AS RECORDED IN VOLUME 400, PAGE 533, IN THE DEED RECORDS OF WASHINGTON COUNTY, TEXAS AND PART OF THE LAND DESCRIBED AS 20.472 ACRES IN THE DEED FROM SELMA FRANKE TO BETTY GOERLITZ, DATED APRIL 17, 1991, AS RECORDED IN VOLUME 645, PAGE 388, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS; SAID 50 FEET WIDE RIGHT-OF-WAY (1.797 ACRES) BEING PART OF THE LAND DESCRIBED AS 2.412 ACRES IN THE DEED FROM BETTY GOERLITZ AND HUSBAND, DANIEL GOERLITZ TO KEVIN E. BURNETT AND WIFE, TAMMY LYNN BURNETT, DATED AUGUST 31, 2007, AS RECORDED IN VOLUME 1257, PAGE 570, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS; PART OF THE LAND DESCRIBED AS 4.257 ACRES (SECOND TRACT) IN THE DEED FROM BETTY GOERLITZ AND HUSBAND, DANIEL GOERLITZ TO TAMMY LYNN BURNETT AND HUSBAND, KEVIN E. BURNETT, DATED APRIL 28, 2009, AS RECORDED IN VOLUME 1307, PAGE 873, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS AND PART OF THE LAND DESCRIBED AS 20.472 ACRES IN THE DEED FROM SELMA FRANKE TO BETTY GOERLITZ, DATED APRIL 17, 1991, AS RECORDED IN VOLUME 645, PAGE 388, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS.

CERTIFICATION

THE STATE OF TEXAS

COUNTY OF WASHINGTON

I, JON E. HODDE, REGISTERED PROFESSIONAL LAND SURVEYOR, NO. 5197 OF THE STATE OF TEXAS, DO HEREBY CERTIFY THAT THIS MAP SHOWING A SURVEY AND SUBDIVISION OF 11.177 ACRES OF LAND IS TRUE AND CORRECT IN ACCORDANCE WITH AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY PERSONAL DIRECTION AND SUPERVISION. THE FIELD WORK WAS COMPLETED ON DECEMBER 19, 2018.

DATED THIS THE 4TH DAY OF JANUARY, 2019, A.D.

(PRELIMINARY)

JON E. HODDE, RPLS NO. 5197  
DATE: JANUARY 4, 2019

THE PURPOSE OF THIS DOCUMENT IS FOR  
PRELIMINARY REVIEW ONLY.  
PRELIMINARY. THIS DOCUMENT SHALL NOT  
BE RECORDED FOR ANY PURPOSE.

(PRELIMINARY)

JON E. HODDE  
REGISTERED PROFESSIONAL  
LAND SURVEYOR NO. 5197  
HODDE & HODDE LAND SURVEYING, INC.  
613 EAST BLUE BELL ROAD  
BRENNHAM, TEXAS 77833  
(979)-836-5681  
TEXAS FIRM REGISTRATION NO. 10018800

W. O. NO. 7456 (BURNETT7456.DWG/MMEW) REF: BURNETT7456.SURVEY

Hodde & Hodde Land Surveying, Inc.  
Professional Land Surveying  
613 E. Blue Bell Road . Brenham, Texas 77833  
979-836-5681 . 979-836-5683 (Fax)  
www.hoddesurveying.com

**FINAL PLAT OF BURNETT SUBDIVISION**  
**WASHINGTON COUNTY, TEXAS**  
CONSISTING OF 5 LOTS, RESERVE "A" AND A 55 FEET WIDE RIGHT-OF-WAY, CONTAINING 11.177 ACRES  
DATE: JANUARY 2019

**(FINAL PLAT)**  
**SHEET 2**  
**OF 2**



**CASE P-19-003**

**PRELIMINARY PLAT: BLUE BELL SUBDIVISION, SECTION 2**

---

**PLAT TITLE:** Blue Bell Subdivision, Section 2      **CITY/ETJ:** CITY LIMITS

**PLAT TYPE:** Preliminary Plat

**OWNER/APPLICANT:** Blue Bell Creameries, LP/Robert C. Schmidt, Strand Associates, Inc.

**ADDRESS/LOCATION:** Located generally east of the intersection of South Blue Bell Road and Buchanan Street, and currently addressed as 1101 S. Blue Bell Road, 1301 S. Blue Bell Road, and 1807 Buchanan Street

**LEGAL DESCRIPTION:** Proposed Lot 1 in the Blue Bell Subdivision, Section 2 in Brenham, Washington County, Texas

**LOT AREA:** 32.788 acres

**ZONING DISTRICT/  
USE:** I - Industrial / Ice cream manufacturing facility

**COMP PLAN  
FUTURE LAND USE:** Warehouse/ Industrial

**REQUEST:**

The subject 32.788 acres of land is owned by Blue Bell Creameries, LP. The property owner and applicant desire to further develop part of this tract. The proposed preliminary plat of the Blue Bell Subdivision, Section 2 includes the creation of one (1) Lot. In addition, the proposed preliminary plat includes the location of easements and building setback lines in relation to established property lines.

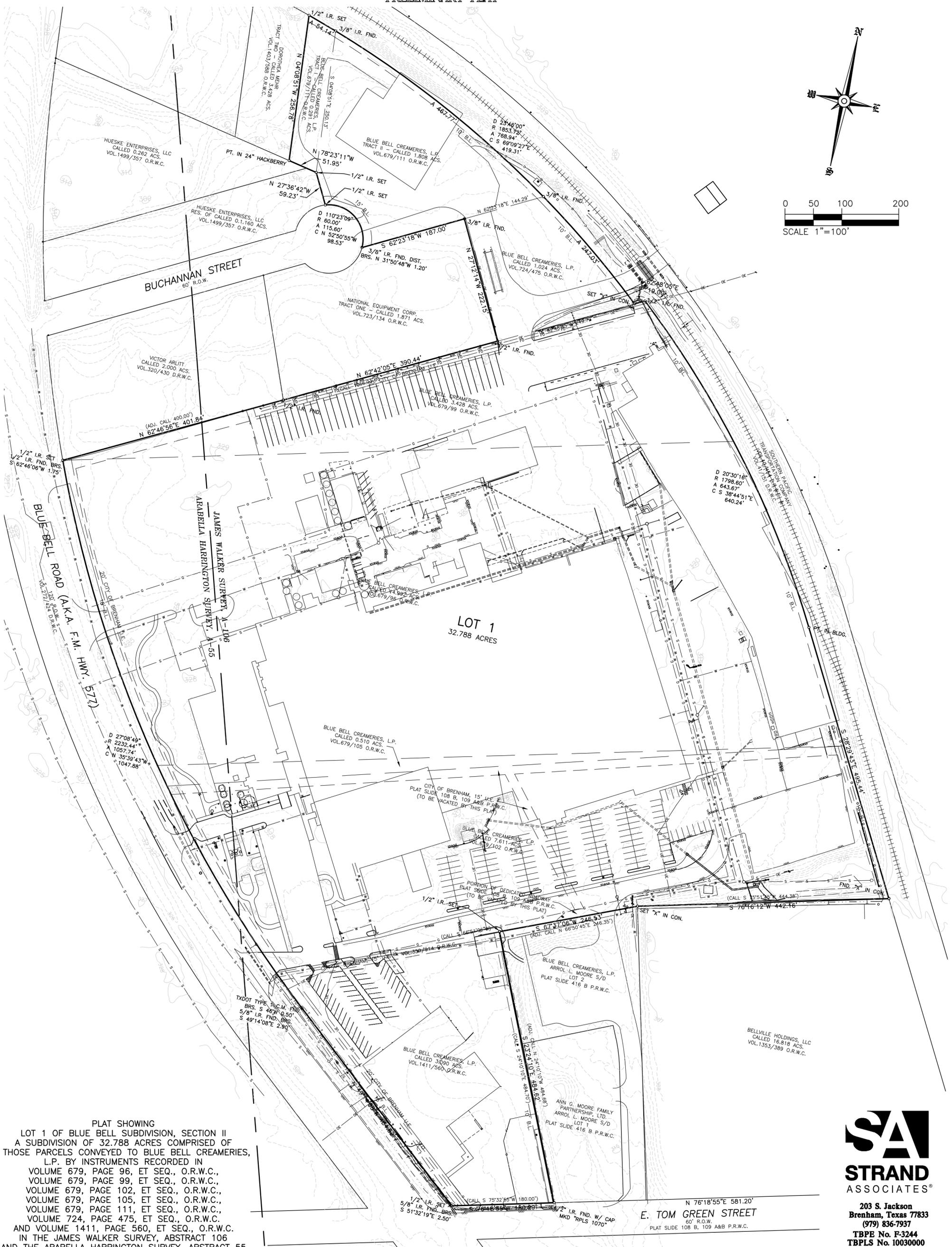
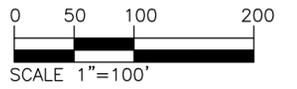
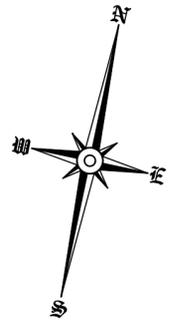
**STAFF RECOMMENDATION:**

Development Services have reviewed this preliminary plat for compliance with applicable City of Brenham regulations and ordinances of the City of Brenham, Texas and recommends approval of this plat as presented.

**EXHIBITS:**

A. Proposed Preliminary Plat

# BLUE BELL SUBDIVISION, SECTION II PRELIMINARY PLAT



**LOT 1**  
32.788 ACRES

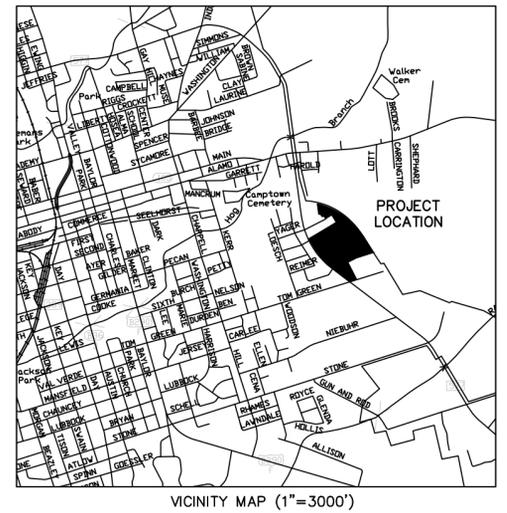
PLAT SHOWING  
 LOT 1 OF BLUE BELL SUBDIVISION, SECTION II  
 A SUBDIVISION OF 32.788 ACRES COMPRISED OF  
 THOSE PARCELS CONVEYED TO BLUE BELL CREAMERIES,  
 L.P. BY INSTRUMENTS RECORDED IN  
 VOLUME 679, PAGE 96, ET SEQ., O.R.W.C.,  
 VOLUME 679, PAGE 99, ET SEQ., O.R.W.C.,  
 VOLUME 679, PAGE 102, ET SEQ., O.R.W.C.,  
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 VOLUME 724, PAGE 475, ET SEQ., O.R.W.C.  
 AND VOLUME 1411, PAGE 560, ET SEQ., O.R.W.C.  
 IN THE JAMES WALKER SURVEY, ABSTRACT 106  
 AND THE ARABELLA HARRINGTON SURVEY, ABSTRACT 55  
 CITY OF BRENHAM  
 WASHINGTON COUNTY, TEXAS

**SA STRAND ASSOCIATES**  
 203 S. Jackson  
 Brenham, Texas 77833  
 (979) 836-7937  
 TBPE No. P-3244  
 TBPLS No. 10030000

# BLUE BELL SUBDIVISION, SECTION II

## PRELIMINARY PLAT

PLAT SHOWING  
 LOT 1 OF BLUE BELL SUBDIVISION, SECTION II  
 A SUBDIVISION OF 32.788 ACRES COMPRISED OF  
 THOSE PARCELS CONVEYED TO BLUE BELL CREAMERIES,  
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 IN THE JAMES WALKER SURVEY, ABSTRACT 106  
 AND THE ARABELLA HARRINGTON SURVEY, ABSTRACT 55  
 CITY OF BRENHAM  
 WASHINGTON COUNTY, TEXAS



**NOTES:**

1. Bearings are based on the Texas State Plane Coordinate System, Central Zone (4203), NAD83 as determined from GPS observations. All distances are surface value.
2. The survey of the subject property shown hereon was prepared in conjunction with title reports issued by Brenham Abstract and Title Company, GF No. 20181007, issued December 6, 2018, GF No. 20181008, issued December 6, 2018 and GF No. 20181009, issued December 6, 2018.
3. The subject property as shown on the above plat lies within the "Zone X" area determined to be outside the 0.2% annual chance floodplain, according to the Flood Insurance Rate Maps of Washington County, Texas Map No. 48477C0295C, effective August 16, 2011.
4. o - 1/2" iron rod set with a cap stamped "RPLS 4705" unless otherwise shown.
5. This survey is valid only if it bears the seal and original signature of the surveyor.

STATE OF TEXAS  
 COUNTY OF WASHINGTON

I, Robert C. Schmidt, a Registered Professional Land Surveyor of the State of Texas, do hereby certify that it is my professional opinion that this map showing a survey of the proposed Blue Bell Subdivision, Section II is true and correct in accordance with an actual survey made on the ground under my personal direction and supervision and completed on December 21, 2018 and the property legally described hereon has no apparent discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or rights of way, except as shown or stated hereon, and except as same may exist on or under the ground that was not visible or locatable under normal surveying procedures, and the property shown hereon is subject to any existing or recorded easements that we may not be aware of, or that may be of record that may not be shown on this map. Also said property abuts a public roadway, except as shown or stated hereon. This survey substantially complies with the current Texas Society of Professional Surveyors Standards and Specifications for a Category IA, Condition II Survey.

Robert C. Schmidt  
 Texas RPLS No. 4705



Preliminary, this document shall not be recorded for any purpose. This document is released for the purpose of review under the authority of Robert C. Schmidt, R.P.L.S. No. 4705 on January 24, 2019.

Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the City Planning Commission of the City of Brenham, Texas.

Chairman

Secretary

I, \_\_\_\_\_, County Clerk in and for Washington County, hereby certify that the foregoing instrument with its certificate of authentication was filed in my office the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_ o'clock \_\_\_\_m., in the Plat Records in Slide No. \_\_\_\_\_. Witnessed my hand and seal of the County Court of the said County, at office in Brenham, Texas.

By: \_\_\_\_\_, County Clerk  
 Deputy Washington County, Texas

STATE OF TEXAS  
 COUNTY OF WASHINGTON

I, Wayne Hugo, Vice President of Operations of Blue Bell Creameries, L.P., owner of the property subdivided in the foregoing map of Blue Bell Subdivision, Section I, do hereby make subdivision of the tract shown hereon according to the lines, streets, lots, alleys, parks, building lines, and easements thereon shown and we do hereby dedicate to public use, as such the streets, alleys, parks, and easements shown thereon forever, and do hereby waive any claims for damages occasioned by the establishing of grades as approved for the streets and alleys dedicated or occasioned by the alteration of the surface of any portion of streets and alleys to conform to such grades, and do hereby bind ourselves, our heirs, executors, and administrators to warrant and forever defend the title to the land so dedicated.

Witness my hand at Brenham, Washington County, Texas on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Wayne Hugo, Vice President of Operations of Blue Bell Creameries, L.P.

STATE OF TEXAS  
 COUNTY OF WASHINGTON

Before me the undersigned authority, on this day personally appeared Wayne Hugo, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purpose and consideration therein expressed. Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public in and for the State of Texas





**CASE P-19-004**  
**FINAL PLAT: BLUE BELL SUBDIVISION, SECTION 2**

---

**PLAT TITLE:** Blue Bell Subdivision, Section 2      **CITY/ETJ:** CITY LIMITS

**PLAT TYPE:** Final Plat

**OWNER/APPLICANT:** Blue Bell Creameries, LP/Robert C. Schmidt, Strand Associates, Inc.

**ADDRESS/LOCATION:** Located generally east of the intersection of South Blue Bell Road and Buchanan Street, and currently addressed as 1101 S. Blue Bell Road, 1301 S. Blue Bell Road, and 1807 Buchanan Street

**LEGAL DESCRIPTION:** Proposed Lot 1 in the Blue Bell Subdivision, Section 2 in Brenham, Washington County, Texas

**LOT AREA:** 32.788 acres

**ZONING DISTRICT/  
USE:** I - Industrial / Ice cream manufacturing facility

**COMP PLAN  
FUTURE LAND USE:** Warehouse/ Industrial

**REQUEST:**

The subject 32.788 acres of land is owned by Blue Bell Creameries, LP. The property owner and applicant desire to further develop part of this tract. The proposed final plat of the Blue Bell Subdivision, Section 2 includes the creation of one (1) lot. In addition, the proposed preliminary plat includes the location of easements and building setback lines in relation to established property lines.

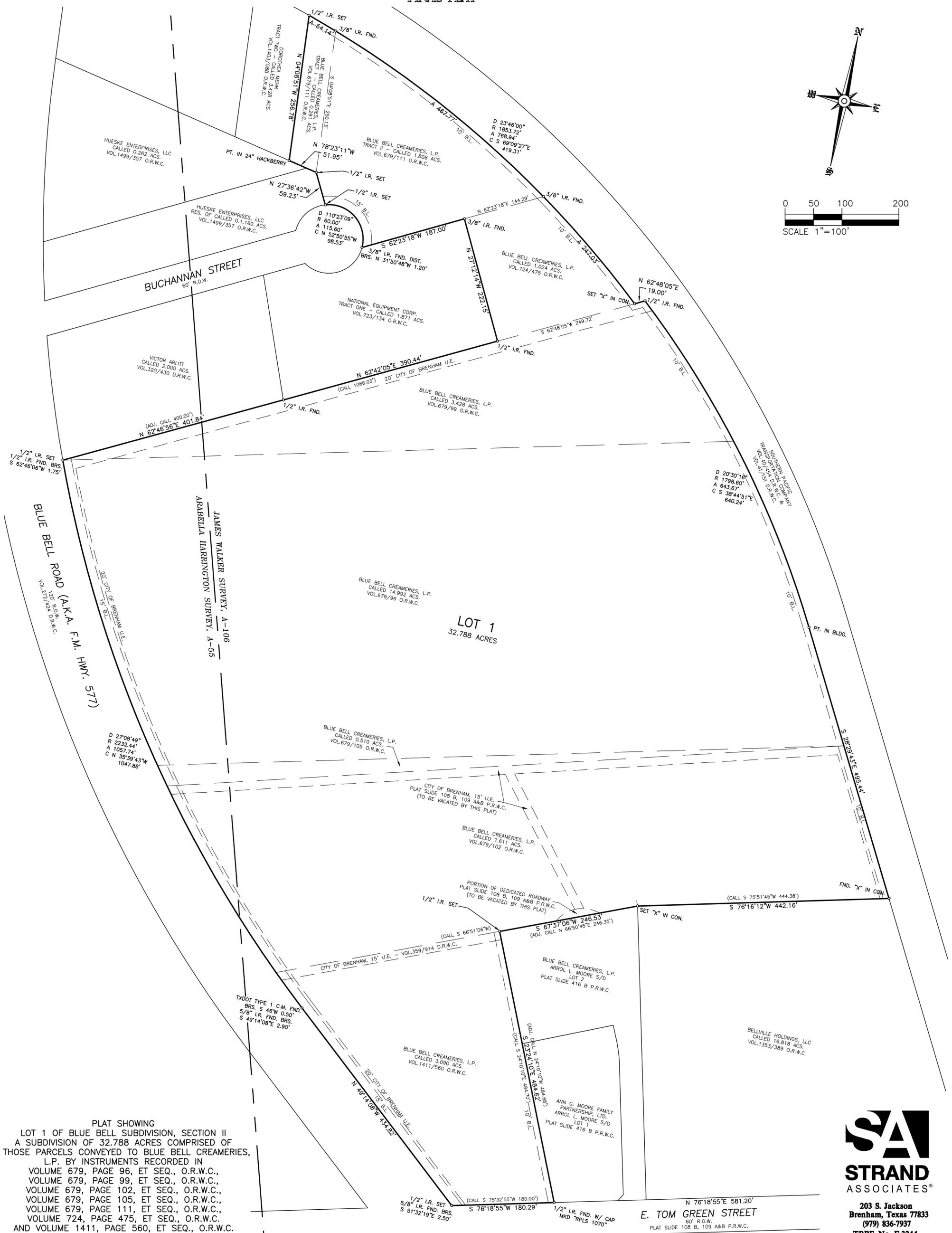
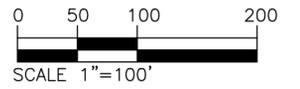
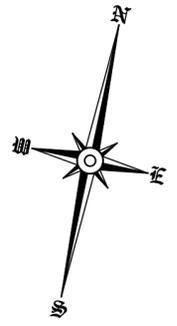
**STAFF RECOMMENDATION:**

Development Services have reviewed this final plat for compliance with applicable City of Brenham regulations and ordinances of the City of Brenham, Texas and recommends approval of this plat as presented.

**EXHIBITS:**

- A. Proposed Final Plat

# BLUE BELL SUBDIVISION, SECTION II FINAL PLAT



PLAT SHOWING  
 LOT 1 OF BLUE BELL SUBDIVISION, SECTION II  
 A SUBDIVISION OF 32.788 ACRES COMPRISED OF  
 THOSE PARCELS CONVEYED TO BLUE BELL CREAMERIES,  
 L.P. BY INSTRUMENTS RECORDED IN  
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 IN THE JAMES WALKER SURVEY, ABSTRACT 106  
 AND THE ARABELLA HARRINGTON SURVEY, ABSTRACT 55  
 CITY OF BRENHAM  
 WASHINGTON COUNTY, TEXAS

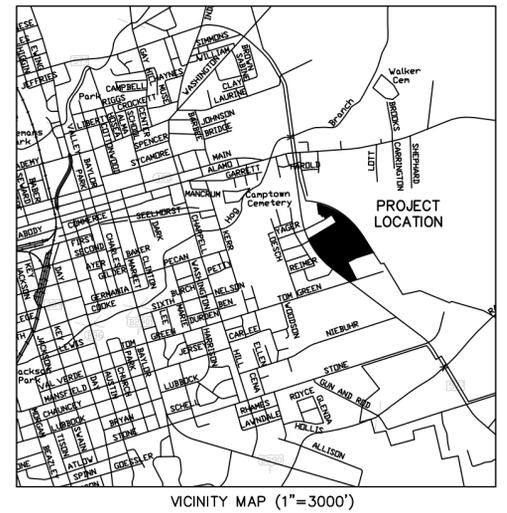


**STRAND ASSOCIATES**  
 203 S. Jackson  
 Brenham, Texas 77833  
 (979) 836-7937  
 TBPE No. F-3244  
 TBPLS No. 10030000

# BLUE BELL SUBDIVISION, SECTION II

## FINAL PLAT

PLAT SHOWING  
 LOT 1 OF BLUE BELL SUBDIVISION, SECTION II  
 A SUBDIVISION OF 32.788 ACRES COMPRISED OF  
 THOSE PARCELS CONVEYED TO BLUE BELL CREAMERIES,  
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 AND THE ARABELLA HARRINGTON SURVEY, ABSTRACT 55  
 CITY OF BRENHAM  
 WASHINGTON COUNTY, TEXAS



**NOTES:**

1. Bearings are based on the Texas State Plane Coordinate System, Central Zone (4203), NAD83 as determined from GPS observations. All distances are surface value.
2. The survey of the subject property shown hereon was prepared in conjunction with title reports issued by Brenham Abstract and Title Company, GF No. 20181007, issued December 6, 2018, GF No. 20181008, issued December 6, 2018 and GF No. 20181009, issued December 6, 2018.
3. The subject property as shown on the above plat lies within the "Zone X" area determined to be outside the 0.2% annual chance floodplain, according to the Flood Insurance Rate Maps of Washington County, Texas Map No. 48477C0295C, effective August 16, 2011.
4. o - 1/2" iron rod set with a cap stamped "RPLS 4705" unless otherwise shown.
5. This survey is valid only if it bears the seal and original signature of the surveyor.

STATE OF TEXAS  
 COUNTY OF WASHINGTON

I, Robert C. Schmidt, a Registered Professional Land Surveyor of the State of Texas, do hereby certify that it is my professional opinion that this map showing a survey of the proposed Blue Bell Subdivision, Section II is true and correct in accordance with an actual survey made on the ground under my personal direction and supervision and completed on December 21, 2018 and the property legally described hereon has no apparent discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or rights of way, except as shown or stated hereon, and except as same may exist on or under the ground that was not visible or locatable under normal surveying procedures, and the property shown hereon is subject to any existing or recorded easements that we may not be aware of, or that may be of record that may not be shown on this map. Also said property abuts a public roadway, except as shown or stated hereon. This survey substantially complies with the current Texas Society of Professional Surveyors Standards and Specifications for a Category IA, Condition II Survey.

Robert C. Schmidt  
 Texas RPLS No. 4705



Preliminary, this document shall not be recorded for any purpose. This document is released for the purpose of review under the authority of Robert C. Schmidt, R.P.L.S. No. 4705 on January 24, 2019.

Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the City Planning Commission of the City of Brenham, Texas.

Chairman

Secretary

I, \_\_\_\_\_, County Clerk in and for Washington County, hereby certify that the foregoing instrument with its certificate of authentication was filed in my office the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_ o'clock \_\_\_\_m., in the Plat Records in Slide No. \_\_\_\_\_. Witnessed my hand and seal of the County Court of the said County, at office in Brenham, Texas.

By: \_\_\_\_\_, County Clerk  
 Deputy Washington County, Texas

STATE OF TEXAS  
 COUNTY OF WASHINGTON

I, Wayne Hugo, Vice President of Operations of Blue Bell Creameries, L.P., owner of the property subdivided in the foregoing map of Blue Bell Subdivision, Section I, do hereby make subdivision of the tract shown hereon according to the lines, streets, lots, alleys, parks, building lines, and easements thereon shown and we do hereby dedicate to public use, as such the streets, alleys, parks, and easements shown thereon forever, and do hereby waive any claims for damages occasioned by the establishing of grades as approved for the streets and alleys dedicated or occasioned by the alteration of the surface of any portion of streets and alleys to conform to such grades, and do hereby bind ourselves, our heirs, executors, and administrators to warrant and forever defend the title to the land so dedicated.

Witness my hand at Brenham, Washington County, Texas on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Wayne Hugo, Vice President of Operations of Blue Bell Creameries, L.P.

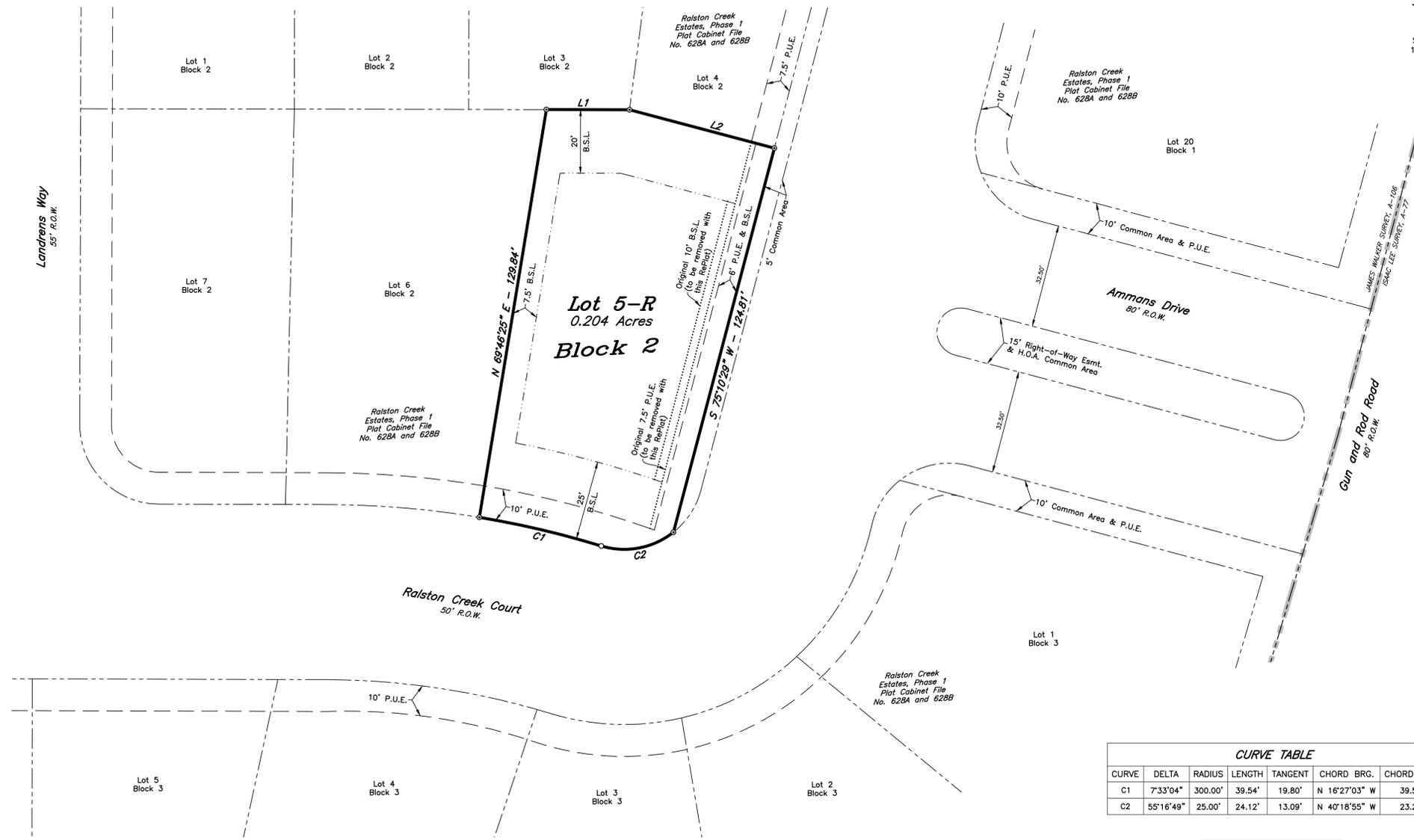
STATE OF TEXAS  
 COUNTY OF WASHINGTON

Before me the undersigned authority, on this day personally appeared Wayne Hugo, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purpose and consideration therein expressed. Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

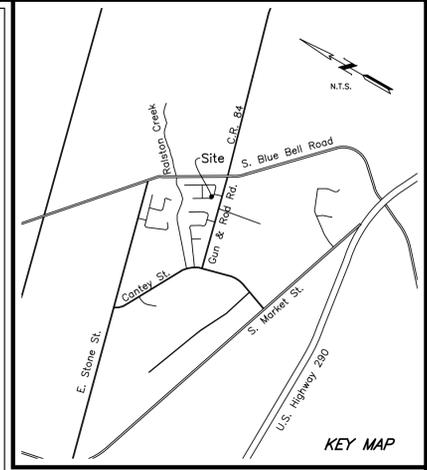
Notary Public in and for the State of Texas







Scale: 1"=20'



- LEGEND**
- ⊙ - 1/2" Iron Rod Found
  - - 3/4" Iron Pipe Found
  - B.S.L. - Building Setback Line
  - H.O.A. - Homeowners Association
  - P.U.E. - Public Utility Easement

**CURVE TABLE**

CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD BRG.	CHORD DIST.
C1	7°33'04"	300.00'	39.54'	19.80'	N 16°27'03" W	39.51'
C2	55°16'49"	25.00'	24.12'	13.09'	N 40°18'55" W	23.20'

**LINE TABLE**

LINE	BEARING	DISTANCE
L1	N 29°30'24" W	26.21'
L2	N 14°49'49" W	47.30'

1. ORIGIN OF BEARING SYSTEM: The bearing system and actual measured distance to the monuments are consistent with the recorded plat of RALSTON CREEK ESTATES, PHASE 1 recorded in the Plat Cabinet File No. 628A and 628B of the Plat Records of Washington County, Texas.
2. According to the Flood Insurance Rate Maps for Washington County, Texas and the City of Brenham, Community Panel No. 484770315C effective date of August 16, 2011, no portion of this subject property lies within the 100 year Flood Hazard Area.
3. Street right-of-ways dedicated for Drainage and Utilities.
4. The maintenance of all Drainage R.O.W. and Easements of any nature within RALSTON CREEK, PHASE 1 shall be the responsibility of the Homeowners Association or their successors and not the responsibility of the City of Brenham. Maintenance shall include: mowing as required by the Brenham Code of Ordinances, prevention and removal of debris within the easement and measures necessary for erosion prevention, no fences or structures are to be placed in the drainage and detention easements.
5. Direct access from lots or common areas will not be permitted to collector or arterial streets.
6. 6' B.S.L. on the right side approved by the Board of Adjustments on March 13, 2017.
7. The purpose of this RePlat is to replace the existing 7.5' P.U.E. and 10' B.S.L. on the right side of the lot with a 6' P.U.E. and B.S.L.

**OWNER ACKNOWLEDGEMENT**

STATE OF TEXAS  
COUNTY OF WASHINGTON

We, **LAURENCE L. PITCAITHLY AND JANET A. PITCAITHLY**, owners of the property subdivided in the foregoing map of Ralston Creek, Phase 1 to the City of Brenham, Texas, do hereby make subdivision of said property according to the lines, streets, lots, alleys, parks, building lines, and easements thereon shown and designate said subdivision as Ralston Creek, Phase 1 to the City of Brenham, Texas, located in Brenham, Washington County, Texas, and we do hereby dedicate to public use, as such the streets, alleys, parks, and easements shown thereon forever, and do hereby waive any claims for damages occasioned by the establishing of grades as approved for the streets and alleys dedicated or occasioned by the alteration of the surface of any portion of streets and alleys to conform to such grades, and do hereby bind ourselves, our heirs, executors, and administration to warrant and forever defend the title to the land so dedicated. There is also dedicated for utilities an unobstructed aerial easement five (5) feet wide from a plane twenty (20) feet above the ground upward, located adjacent to all easements shown hereon. We hereby covenant and agree that all lots within the boundaries of this subdivision are for residential purposes unless otherwise noted.

Witness my hand and at \_\_\_\_\_ County, Texas on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

LAURENCE L. PITCAITHLY \_\_\_\_\_ JANET A. PITCAITHLY \_\_\_\_\_

**NOTARY PUBLIC ACKNOWLEDGMENT**

THE STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_

NOTARY PUBLIC, STATE OF TEXAS  
NOTARYS NAME (PRINTED): \_\_\_\_\_

NOTARYS COMMISSION EXPIRES: \_\_\_\_\_

**COUNTY CLERK FILING ACKNOWLEDGMENT STATEMENT**

THE STATE OF TEXAS  
COUNTY OF WASHINGTON

I, \_\_\_\_\_, Clerk of the County Court of Washington County, Texas, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_, m., and duly recorded on \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_, m. in cabinet \_\_\_\_\_ sheet \_\_\_\_\_, of record of \_\_\_\_\_ for said county.

Witness my hand and seal of office, at Brenham, Washington County, Texas, the day and date last above written.

CLERK, COUNTY COURT  
WASHINGTON COUNTY, TEXAS

**PLANNING AND ZONING COMMISSION APPROVAL**

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_ by the Planning and Zoning Commission of the City of Brenham, Texas.

CHAIRMAN \_\_\_\_\_

SECRETARY \_\_\_\_\_

**CERTIFICATE OF SURVEYOR**

STATE OF TEXAS  
COUNTY OF BRAZOS

I, Kevin R. McClure, Registered Professional Land Surveyor No. 5650, in the State of Texas, hereby certify that this plat is true and correct and was prepared from an actual survey of the property and that property markers and monuments were placed under my supervision on the ground.

Kevin R. McClure, R.P.L.S. No. 5650

**FINAL PLAT**

**BEING A REPLAT OF  
LOT 5-R, BLOCK 2  
RALSTON CREEK  
ESTATES, PHASE 1**

**0.204 ACRES**  
JAMES WALKER SURVEY, A-106  
BRENNHAM, WASHINGTON COUNTY, TEXAS  
DECEMBER, 2018  
SCALE: 1" = 20'

**Owner:**  
Laurence L. Pitcaithly and  
Janet A. Pitcaithly  
2305 Ralston Creek Court  
Brenham, TX 77833  
(713) 898-0782

**Surveyor:**  
McClure & Browne Engineering/Surveying, Inc.  
1008 Woodcreek Dr., Suite 103  
College Station, Texas 77845  
(979) 693-3838

Texas Firm Registration No. 10103300



**CASE NUMBER P-19-005**  
**ZONE CHANGE REQUEST – 2604/2610 S. Market Street**

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<b>STAFF CONTACT:</b>	Stephanie Doland, Assistant Director of Development Services
<b>OWNERS/APPLICANTS:</b>	Brenham Market Square, LP
<b>ADDRESS/LOCATION:</b>	2604 and 2610 S. Market Street. Located west of the intersections of South Market Street, Cantey Street and US Highway 290 E (Exhibit A).
<b>LEGAL DESCRIPTION:</b>	38.799 acres of land being Lot 1, Section 4 of the T&L Business Park and the remaining 12.32 acres being part of the John Long Survey, A -156
<b>LOT AREA:</b>	Approximately 51.119 acres
<b>ZONING DISTRICT/USE:</b>	Mixed Residential Use District (R-2) and B-2 Commercial Research and Technology District / Vacant (Exhibit B)
<b>FUTURE LAND USE:</b>	Multiple-Family
<b>REQUEST:</b>	A request to change the zoning classification from a combination of Mixed Residential Use District (R-2) and Commercial Research and Technology Use District (B-2) to Commercial Research and Technology Use District (B-2) (Exhibit C).

**BACKGROUND:**

The subject property is currently zoned as a combination of R-2, Mixed Residential Use District and B-2, Commercial Research and Technology District. The property owners/applicants, Brenham Market Square, LP, would like to develop the property with a mixture of land uses including multiple-family housing, retail, and office uses. The applicants have requested that the portion of the property currently zoned R-2 be rezoned such that the entire property be zoned B-2.

**ANALYSIS OF CITY OF BRENHAM ZONING POLICIES:**

The purpose of zoning policies is to provide guidelines for considering future amendments to the zoning ordinance (Part 1, Section 4 of Appendix A – “Zoning” of the Brenham Code of Ordinances). They are as follows:

- (1) The city's zoning should recognize and seek to preserve the small town attributes that make Brenham a special place for its citizens to live, work and play.

**The subject property is currently under-developed, primarily vacant land. The subject property is adjacent to S. Market Street to the north, Cantey Street to the east, US Highway 290 E to south. To**

**the west of the subject property is land zoned a combination of R-1 and R-2 and developed with single-family housing. Also located to the west of the subject property is land zoned B-2 and developed with Dairy Bar restaurant and City Electric Supply. The applicant proposes to construct a mixed-use development including, multiple-family, office, retail, and commercial uses. Allowing the proposed rezoning request would allow the approximately 51 acres to develop as a mixed use development and would be in keeping with the development pattern in the general vicinity.**

- (2) The city's zoning should be guided by the future land use plan and other applicable guidelines found in the Comprehensive Plan.

**The future land use map portion of the Envision 2020 Comprehensive Plan suggests the subject property may be appropriate for multiple-family uses. However, the Comprehensive Plan also includes land use policies to help guide land use decisions. Specifically the Plan recommends that the City consider permitting commercial and retail uses along highly traveled roadways such as State Highway 290. Additionally, the land use policies include the recommendation that multiple-family housing shall be located near major arterials “towards the periphery of the community.” If the requested zone change were approved, the subject property would allow for the development of both multiple-family housing developments two acres or greater in size in addition to office, retail and commercial uses. Staff believes that the proposed request is aligned with the goals and land use polices established in the Comprehensive Plan.**

- (3) The city's zoning should be designed to facilitate the more efficient use of existing and future city services and utility systems in accordance with the Comprehensive Plan.

**The subject property is vacant, however existing utility services are located along the right-of-ways for S. Market Street, Cantey Street and the access road of US 290 East and can be extended to serve the proposed development on the property.**

- (4) The city's zoning should be organized and as straight forward as possible to minimize use problems and enforcement problems.

**The proposed zone change, if approved, will be reflected on the City of Brenham zoning map available for citizen viewing on the City of Brenham homepage.**

- (5) The city's zoning process should be fair and equitable, giving all citizens adequate information and opportunity to be heard prior to adoption of zoning amendments.

**Property owners within 200 feet of the project site were mailed notifications of this request on January 17, 2019. The Notice of Public Hearing was published in the Brenham Banner on January 17, 2019. Any public comments submitted to staff will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.**

- (6) The city's zoning should insure that adequate open space is preserved as residential and commercial development and redevelopment occur.

**If approved, the property will be required to adhere to minimum building setbacks and maximum impervious coverage requirements for property zoned B-2, Commercial Research and Technology. Staff finds that the aforementioned requirements will ensure that adequate open spaces is preserved on the subject property.**

- (7) The city's zoning should insure Brenham's attractiveness for the future location of business and housing by preserving an attractive and safe community environment in order to enhance the quality of life for all of its residents.

**Staff believes that the requested zoning and associated land uses are appropriate in this location given adjacent zoning designations, existing development in the vicinity, and conformance with the cities adopted future land use map.**

- (8) The city's zoning ordinance should preserve neighborhood culture by retaining and promoting land uses consistent with the community's plan for the development and/or redevelopment of its neighborhoods.

**Rezoning the subject property to B-2 will allow the subject property to develop in accordance with property in the general vicinity. The subject 51+ acres of land is located between a freeway and arterial roadway which are both capable of handling traffic associated with uses allowed in the B-2 district. Adjacent property to the west is zoned a combination of R-1 and R-2 and developed with single-family dwellings. The applicant, Brenham Market Square, LP will be required to adhere to minimum buffer yard requirements. Buffer yard requirements are established to preserve existing neighborhoods and ensure adjacent property develops in a manner compatible to nearby land uses.**

- (9) The city's zoning should protect existing and future residential neighborhoods from encroachment by incompatible uses.

**Staff finds that rezoning the property will protect adjacent existing and future residential neighborhoods due to the City adopted development standards including requirements related to buffer yards, screening, setbacks, drainage and landscaping.**

- (10) The city's zoning should assist in stabilizing property values by limiting or prohibiting the development of incompatible land uses or uses of land or structures which negatively impact adjoining properties.

**Staff is unable to determine any destabilizing effects on the neighboring properties should this rezoning request be approved.**

- (11) The city's zoning should make adequate provisions for a range of commercial uses in existing and future locations that are best suited to serve neighborhood, community and regional markets.

**If approved, the proposed rezoning will allow construction of a mixture of land uses, including multiple-family, retail, office, and commercial uses. Vacant commercial property surrounds the subject tract to the north, east and south of US Highway 290E. Staff believes that the proposed zoning change, if approved, will not negatively affect vacant land classified for commercial uses.**

- (12) The city's zoning should give reasonable accommodation to legally existing incompatible uses, but it should be fashioned in such a way that over time, problem areas will experience orderly change through redevelopment that gradually replaces the nonconforming uses.

**The property is vacant, and staff is not aware of any hindrances on the property created by legally existing incompatible uses. The applicants request will allow the subject property to develop with a mixture of land uses and if approved, will allow for compatible, legally conforming development.**

(13) The city's zoning should provide for orderly growth and development throughout the city.

**Staff finds that the proposed rezoning change will allow for the orderly growth and development in the general vicinity and throughout the city. Furthermore, the proposed rezoning is in accordance with the City's adopted Future Land Use Map and Comprehensive Plan.**

**STAFF RECOMMENDATION:**

Staff recommends **approving** the proposed rezoning to the B-2, Commercial Research and Technology zoning use district for the subject 51.119 acre tract.

**EXHIBITS:**

- A. Aerial Map
- B. Zoning Map
- C. Zone Change Application
- D. Site photos

EXHIBIT "A"  
AERIAL MAP



EXHIBIT "B"  
ZONING MAP

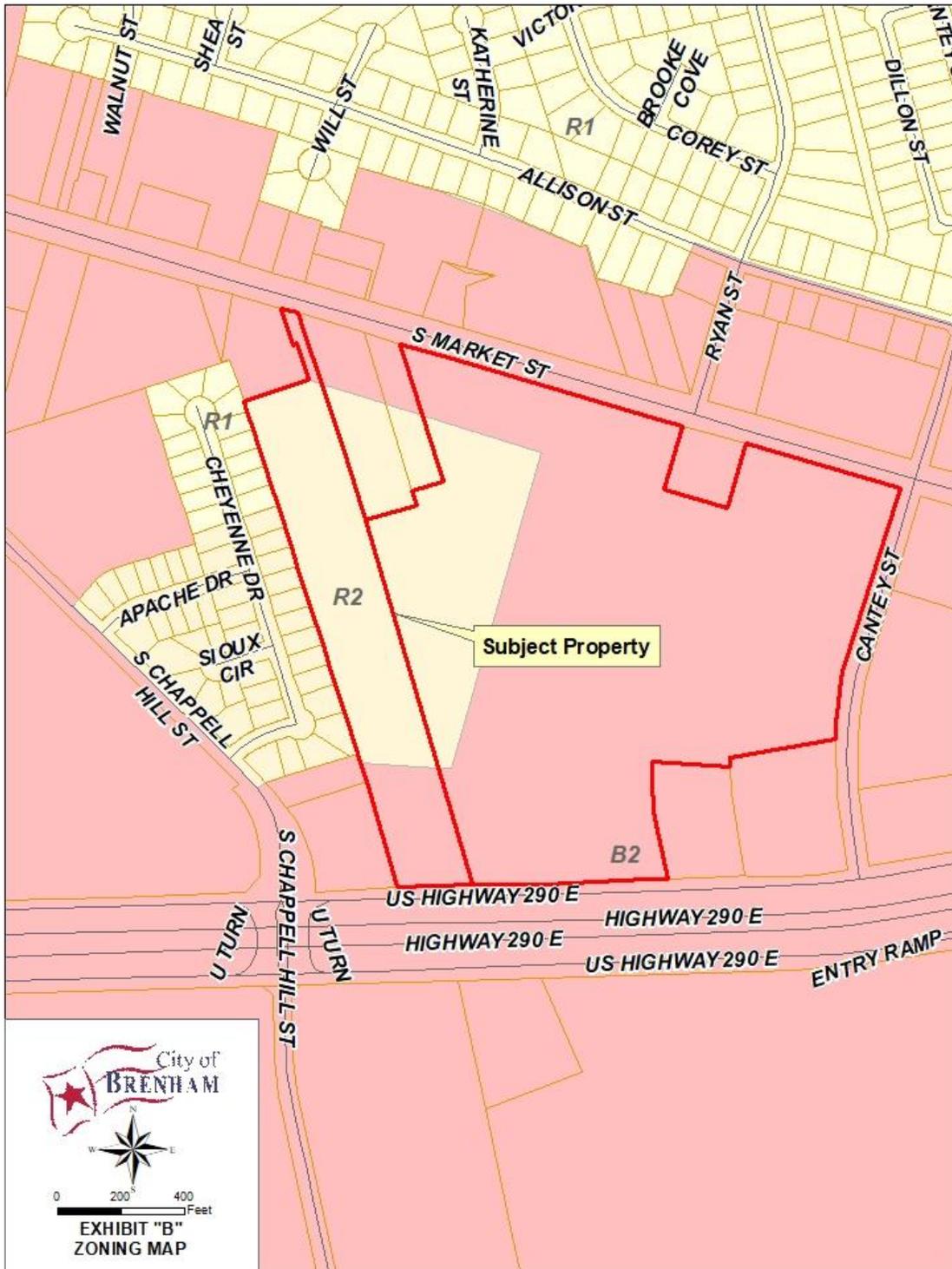
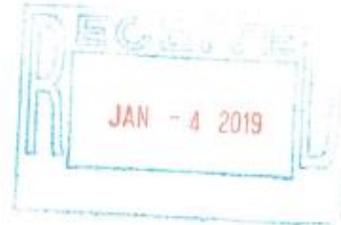


EXHIBIT "C"  
ZONE CHANGE APPLICATION



For office use only  
APPLICATION NO. \_\_\_\_\_  
MEETING DATE: 2-25-19  
DATE SUBMITTED: 1-4-19

CITY OF BRENHAM  
GENERAL APPLICATION



Type of Application

- |   |  |
|---|--|
| <input type="checkbox"/> Variance from Appendix A: Zoning | <input checked="" type="checkbox"/> Zone Change          |
| <input type="checkbox"/> Specific Use Permit              | <input type="checkbox"/> Plan Review                     |
| <input type="checkbox"/> Preliminary Plat                 | <input type="checkbox"/> Final Plat/Replat/Amending Plat |
| <input type="checkbox"/> Variance from Chapter 21: Signs  | <input type="checkbox"/> Other: _____                    |

Property Owners Information

Name Brenham Market Square, LP  
Principal Officers (If Corporation) President Paul Leventis, John Bleyl, Gregory Ricks  
Secretary n/a  
Address 1722 Broadmoor Drive, Suite 212, Bryan, TX 77802  
Telephone Number (979) 774-2900 E-mail Address paul@brazostrace.com

Applicant Information

Name Paul Leventis  
Address 1722 Broadmoor Drive, Suite 212, Bryan, TX 77802  
Telephone Number (979) 774-2900 E-mail Address paul@brazostrace.com

Agent or Engineer Information

Name Austin Love  
Address 100 Nugent Street, Conroe, TX 77301  
Telephone Number 936-445-0136 E-mail Address ALOVE@bleylengineering.com

**Location of Property**

Street Address: 2604 S. Market Street, Brenham, TX 77834

Legal Description (attach metes and bounds description if not subdivided):  
51.119 Acres, John Long Survey, A-156, Washington County, Texas

**Zoning Information**

Existing Zoning: R2 - Mixed Residential District

Proposed Zoning: B2 - Commercial, Research and Technology District

Reasons for requesting zone change:\* The majority of the property is currently zoned B2. We are seeking to change the zoning of the remainder of the property to match and have it entirely zoned as B2. This would provide flexibility for commercial and multifamily development.

**Variance Information**

Section of Code from which variance is described:\* n/a

Describe variance requested:\* \_\_\_\_\_

Reasons for requesting variance:\* \_\_\_\_\_

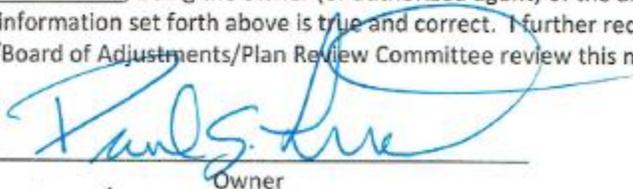
**Proposed Property Use**

Describe in detail the proposed operation at this location:\*\nA mixed use development is planned with possible uses being multifamily, commercial, retail, office space, restaurants, etc.

**Construction Value** \$ TBD

*Site plans are required for variance, special use, and plan review requests; please see Ordinance No. 0-05-007 for minimum site plan requirements.*

I, Austin Love, being the owner (or authorized agent) of the above described property, do hereby certify the information set forth above is true and correct. I further request that the Planning & Zoning Commission/Board of Adjustments/Plan Review Committee review this matter and take appropriate action.

  
\_\_\_\_\_

Owner

  
\_\_\_\_\_

Agent

**EXHIBIT "D"**  
**SITE PHOTOS**



View from Cantey Street



View from US Highway 290 E



**CASE NUMBER P-18-025**  
**TEXT AMENDMENT – Accessory Dwelling Units (ADU's)**

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**REQUEST:**

The applicant, Mary Thornhill, is requesting the City of Brenham consider an amendment to Brenham's Code of Ordinances, Appendix A: Zoning, Part II, Division 2, Section 1.02 Permitted Uses – to allow accessory dwelling units (ADU) as a permitted use in the R-1, R-2, and B-1 Zoning Districts and to define accessory dwelling unit (ADU) in Appendix A, Part I, Section 5.02.

**BACKGROUND:**

In August of 2018, staff met with Ms. Thornhill to discuss the construction of an accessory dwelling unit on her property at 311 E Main Street currently zoned B-1, Local Business Mixed Use District. At that time it was identified that the current zoning ordinance allows garage apartments by-right but does not allow accessory dwelling units to be constructed that are not attached a garage.

Staff provided Ms. Thornhill with the option of applying for a zoning text amendment which would allow the applicant to request the ordinance be amended to include the use of accessory dwelling units. On October 30<sup>th</sup>, 2018 Ms. Thornhill submitted a zoning text amendment application asking staff to bring forward an amendment to allow accessory dwelling units within different zoning districts. The request was originally scheduled for consideration during the November 26<sup>th</sup>, 2018 Planning and Zoning Commission meeting and with the applicants' approval was rescheduled for consideration during the January 28<sup>th</sup>, 2019 meeting.

**APPLICANT REQUESTED AMENDMENTS:**

Part I, (Sec. 5.02) - Definitions

- (2)\* *Accessory Dwelling Unit (ADU):* An ADU is a room or suite of rooms that is an accessory building for a single-family dwelling that is designed, built, rented, or let for occupancy as a home or a place of residence by a family or individual occupying the single-family dwelling unit to which it is an accessory building.

Part II, Division 2, (Sec. 1.02) – Permitted uses

- (d.) Accessory dwelling unit (ADU).

\*Addition of a definition would require renumbering of subsequent definitions in Appendix A of the zoning ordinance.

## ANALYSIS:

The City of Brenham currently allows accessory structures and garage apartments by-right in the R-2, R-3, and B-1 zoning districts. A garage with living space or servants' quarters is allowed by-right in R-1, R-2, R-3, and B-1 zoning districts. Such uses are currently subject to certain restrictions based on if the accessory structure is attached or detached to the main dwelling. Attached accessory structures, such as a carport structure, are subject to the same setback standards as the main dwelling unit. Detached accessory structures are subject to the following:

- Be located in the rear of the lot
- Be 3-feet from any side interior property line, alley or easement
- Be 5-feet from any rear interior property line
- Be 10-feet from the main building if larger than 100 square feet
- Adhere to the required side yard requirements for the principal building and rear yards of not less than ten feet that have living space
- Adhere to impervious coverage requirements (55% maximum)

The aforementioned development standards concerning garage apartments and accessory dwelling uses are referenced and cross referenced in four locations throughout the zoning ordinance. While considering the requested text amendment, staff identified a need to amend the ordinance such that all standards relating to the same land use type be referenced in a more concise manner for clarity and enforcement purposes. A more detailed analysis of the proposed housekeeping amendments are detailed below.

As stated by the applicant in the application, the current language is uncommon, limiting, and outdated. While garage apartments are currently permitted by-right with development requirements, accessory dwelling units that are not attached to a garage are not currently permitted by-right or by specific use permit in the City of Brenham. In simpler terms, in order to obtain a building permit for an accessory dwelling unit in Brenham, the unit is required to be attached to a garage.

Staff finds that an amendment to the zoning ordinance to allow ADU's could be favorable to the community. Accessory dwelling units are commonly viewed as beneficial to communities and neighborhoods for many reasons, including:

- Provide a wider variety of housing options
- Allow a more efficient use of existing infrastructure
- Offer additional housing units at a lower cost of development
- Offer young adults and aging populations ability to live near family with added privacy
- Provide homeowners extra income

Accessory dwelling units can be beneficial to the community, tenants, and landlords alike, however factors such as size, location, parking, appearance, and compatibility should be considered. Some best practices adopted by other jurisdictions include adopting specific use standards related to:

- Architectural design
- Additional parking requirements
- Size restrictions (by square feet or bedroom)
- Owner occupancy
- Maximum unit occupancy
- Number of units per lot and/or impervious coverage restrictions
- Location of unit in relation to main dwelling unit and/or lot lines (setbacks)
- Water and sewer connections

## PROPOSED AMENDMENTS (as supported by staff):

Staff recommends **approval** of an amendment to the zoning ordinance to define and conditionally allow the use of ADU's (based on zoning district) with the establishment of additional use-specific standards.

Approval of a Specific Use Permit is an existing procedure which identifies uses which may be appropriate within a given zoning district, but due to their location, function or operation, could have a potentially harmful impact on adjacent properties. Staff suggests allowing ADUs in residential zoning districts (R-1, R-2, and R-3) with prior approval of a Specific Use Permit. Specific Use Permits are considered by the Planning and Zoning Commission and City Council. Additionally, staff recommends allowing ADUs by-right in the B-1 Local Business/Residential Mixed Use District.

The following amendments are proposed to the definitions portion of the Zoning ordinance:

- Revise accessory building to:
  - *Accessory Structure or Use:* A subordinate structure located on the same lot as the main structure or a portion of the main structure, where the use of such structure is incidental and subordinate to the principal use.
- Establish accessory dwelling unit (ADU):
  - *Accessory Dwelling Unit:* A room or suite of rooms or secondary dwelling unit within an accessory structure that is clearly incidental to a principal use, excluding two-family and multifamily dwellings and is permitted only in conjunction with the main structure. A guest house, mother-in-law quarters or garage apartment are examples of accessory dwelling units.
- Revise garage apartment to:
  - *Garage Apartment:* See "accessory dwelling unit (ADU)".
- Remove Servants' Quarters:
  - ~~*Servants' Quarters: A servants' quarters is an accessory building or portion of a main building located on the same lot as the principal building, occupied by such persons and their families as are employed full time in the home by the occupants of the principle residence.*~~

The following amendments are proposed to adopt use-specific standards for accessory dwelling units and structures:

- (1) All detached accessory structures shall be located in the rear yard (which is to the rear of a lot line connecting the midpoints of the two (2) opposite side lot lines).
- (2) No accessory structure or use shall exceed the height of the principal structure to which it is an accessory. Notwithstanding the provisions of this section an amateur radio tower designed in conformance with FCC regulations shall be permitted as an accessory use to a maximum height of sixty (60) feet.
- (3) All accessory structures or uses shall be subordinate to and supportive of the primary use and structure.
- (4) Additional standards pertaining to Accessory Dwelling Units (ADUs):
  - a) Should the primary use be a single-family dwelling, the property owner's primary residence shall be the single-family dwelling or accessory dwelling unit.
  - b) An ADU must be designed and constructed keeping with the general architecture and building material of the principal structure.
  - c) An attached ADU shall be subject to the regulations affecting the principal structure. A detached ADU shall have side yards of not less than the required side yard for the principal structure and rear yards of not less than ten feet.

- d) One on-site parking space shall be provided for each ADU in addition to the required parking for the primary structure.
- e) The maximum habitable area of an ADU is limited to either one half (1/2) of the habitable area of the principal structure, or one thousand (1,000) square feet, whichever is smaller.
- f) ADUs shall not be a HUD-Code manufactured home or mobile home.

**PUBLIC COMMENTS:**

The Notice of Public Hearing was originally published in the paper on November 15, 2018 for the November 26<sup>th</sup> Planning and Zoning Commission meeting. Due to the item being postponed for later consideration, an additional Notice of Public Hearing was republished on January 17<sup>th</sup>, 2019 for the January 28<sup>th</sup>, 2019 Planning and Zoning Commission meeting. Since the public notices were published, staff has received a citizen request for more information about the proposed amendments. Upon providing additional information the citizens stated that they were also interested in building an ADU and expressed support to adopt standards to allow ADUs. Any public comments will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

**STAFF RECOMMENDATION:**

Staff recommends approval of an amendment to:

- Revise the existing definition and development standards concerning garage apartments;
- Adopt a definition for accessory dwelling unit (ADU);
- Delete the definition of servants' quarters;
- Establish use-specific standards for the construction of an accessory dwelling unit (ADU); and
- Allow ADU's by-specific use permit in the R-1, R-2, and R-3 districts, and by-right in the B-1 district.

**EXHIBITS:**

- A. Draft Ordinance – with redline markup
- B. Application
- C. Application Attachment – R Street Policy Study No. 89
- D. Application Attachment – Accessory Dwelling Units: Case Study, U.S. Department of Housing and Urban Development Office of Policy and Research
- E. Application Attachment – Understanding Accessory Dwelling Units and Their Importance, UC Berkeley

**Exhibit "A"**  
**Draft Ordinance**

Part 1, (Sec. 5.02) – Definitions

~~(1) Accessory building–Structure or Use: A subordinate structure located on the same lot as the main structure or a portion of the main structure, where the use of such structure is incidental and subordinate to the principal use. An accessory building or use is one which:~~

- ~~(a) Is subordinate to and serves a principal building or principal use; and~~
- ~~(b) Is subordinate in area, extent, or purpose to the principal building or principal use served; and~~
- ~~(c) Contributes to the comfort, convenience and necessity of occupants of the principal building or principal use served; and~~
- ~~(d) Is located on the same building lot as the principal building or principal use served.~~

~~"Accessory," when used in the text, shall have the same meaning as accessory use. An accessory building may be a part of the principal building. Servants' quarters, as defined, are an accessory building or use.~~

~~(2) Accessory Dwelling Unit (ADU): A room or suite of rooms or secondary dwelling unit within an accessory structure that is clearly incidental to a principal use, excluding two-family and multifamily dwellings and is permitted only in conjunction with the main structure. A guest house, mother-in-law quarters or garage apartment are examples of accessory dwelling units.~~

~~(65) Garage, apartment: See "Accessory dwelling unit (ADU)". A garage apartment is a room or suite of rooms that occupy a portion of a private garage that is accessory to a single family dwelling unit and is designed, built, rented, leased or let for occupancy as a home or place of residence by a family or individual living independently from the family or individual occupying the single-family dwelling unit to which said garage is an accessory building.~~

~~\*(116) Servants' quarters: A servants' quarters is an accessory building or portion of a main building located on the same lot as the principal building, occupied only by such persons and their families as are employed full time in the home by the occupants of the principal residence.~~

Appendix A, Part 2, Division 1, Section 10 – Accessory Uses and Structures:

(Sec. 10.01) Authorization. Accessory structures and uses are permitted in any zoning district in connection with any principal use lawfully existing within such district, provided that all accessory structures or uses shall meet the development regulations for the zoning district in which the structure or use is located.

(Sec. 10.02) Accessory structures, location and regulation:

- (1) All detached accessory structures ~~and uses in any residential district~~ shall be located in the rear yard (which is to the rear of a lot line connecting the midpoints of the two (2) opposite side lot lines).
- (2) No accessory structure or use shall exceed the height of the principal structure to which it is ~~an accessory, or the height of an existing accessory structure or use on property immediately adjacent thereto. Whichever of the two is the greater height shall control the maximum allowable height of the subject accessory structure.~~ Notwithstanding the provisions of this section an amateur radio tower designed in conformance with FCC regulations shall be permitted as an accessory use to a maximum height of sixty (60) feet.
- (3) All accessory structures or uses shall be subordinate to and supportive of the ~~primary~~ principal use and structure.

(4) Additional standards pertaining to Accessory Dwelling Units (ADUs):

- a) Should the primary use be a single-family dwelling, the property owner's primary residence shall be the single-family dwelling or accessory dwelling unit.
- b) An ADU must be designed and constructed keeping with the general architecture and building material of the principal structure.
- c) An attached ADU shall be subject to the regulations affecting the principal structure. A detached ADU shall have side yards of not less than the required side yard for the principal structure and rear yards of not less than ten feet.
- d) One on-site parking space shall be provided for each ADU in addition to the required parking for the principal structure.
- b)e)The maximum habitable area of an ADU is limited to either one half (1/2) of the habitable area of the principal structure, or one thousand (1000) square feet, whichever is smaller.
- f) ADUs shall not be a HUD-code manufactured home or mobile home.

Appendix A, Part 2, Division 1, Section 17.03 – Side yards.

~~\*(2) No accessory building shall project beyond a required yard line along any street.~~

Appendix A, Part 2, Division 1, Section 17.04 – Rear yards.

~~In residential districts, an accessory building not exceeding twenty (20) feet in height may occupy a maximum of twenty-five (25) percent of the rear yard, and unenclosed parking spaces may occupy a maximum of eighty (80) percent of the area of a required rear yard provided that the total lot coverage shall not exceed the maximum allowable for the district in which the subject property is located. No accessory building shall be closer to any rear or side lot line than applicable zoning district regulations allow and no accessory building that contains more than one hundred (100) square feet of gross floor area shall be closer than ten (10) feet to the main building.~~

Appendix A, Part 2, Division 2, Section 1.02 – Permitted uses (R-1 Residential District)

~~(c.) A detached private garage with or without storeroom and/or utility room shall be permitted as an accessory building, provided that such garage shall be located in the rear of the lot (which is to the rear of a line connecting the midpoints of the two opposite side lot lines). Side yards of not less than three (3) feet from any interior lot line shall be maintained, and rear yards shall be maintained of not less than three (3) feet from any alley or easement and not less than five feet where there is not alley or easement. A garage or servants' quarters constructed as an integral part of the main building shall be subject to the regulations affecting the main building. Detached garages that are in a portion of a building that also contain servants quarters, recreation rooms or any other accessory living space shall be located in the rear one half of the lot and shall have side yards of not less than the required side yard for the principal building and rear yards of not less than ten feet.~~

Appendix A, Part 2, Division 2, Section 1.03 – Specific uses (R-1 Residential District)

~~\*(1) Accessory Dwelling Unit~~

Appendix A, Part 2, Division 2, Section 2.02 – Permitted uses (R-2 Mixed Residential District)

~~(4) Garage apartments~~

Appendix A, Part 2, Division 2, Section 2.03 – Specific uses in the (R-2 Mixed Residential District)

\*(1) [Accessory Dwelling Unit](#)

Appendix A, Part 2, Division 2, Section 2.1.03 – Specific uses (R-3 Manufactured Home Residential)

\*(1) [Accessory Dwelling Unit](#)

Appendix A, Part 2, Division 2, Section 3.02 – Permitted uses (B-1 Local Business/Residential Mixed Use District)

\*(1) [Accessory Dwelling Unit](#)

\*Change would require renumbering of subsequent definitions or removal of unused numbers from Appendix A of the zoning ordinance.

**Exhibit "B"**  
**Application**

Thornhill Application

Page 1 of 2

**Statement of Purpose** – Identify the existing section(s) of the Zoning Ordinance for which the Text Amendment is proposed, the proposed revised language and the reason(s) for the requested Text Amendment :

Proposed text amendments and revised language:

Sec 5.02

Add Accessory Dwelling Unit – an accessory dwelling unit is a room or suite of rooms that is an accessory building for a single family dwelling that designed, built, rented, or let for occupancy as a home or a place of residence by a family or individual occupying the single-family dwelling unit to which it is an accessory building.

Sec. 1.02

Add (d) Accessory dwelling unit

Reason for requested Text Amendment

Currently, the zoning ordinance allows for Garage Apartments in R-2, but not accessory dwelling units that are not attached to a garage. This is limiting for homeowners who do not already have a garage or who don't have enough space or funds to accommodate both a garage and an apartment. In R-1, servants quarters are allowed, a rather uncommon arrangement at this time.

We are asking the City to amend the Zoning Ordinance to allow Accessory Dwelling units at R-1, R-2, and B-1 areas. Many properties in Brenham and in the B-1 area already include accessory structures that have been converted to or were built as dwelling units.

**General Description of Property Affected by Amendment :**

The proposed amendment will affect single family dwelling units in the City of Brenham. This includes single family homes in R-1, R-2, and B-1 zones.

**Statement of Facts which the Applicant believes Justify the Amendment:**

We have looked at municipalities similar to Brenham for precedent. These are towns with growing populations, near larger cities, with vibrant downtowns, places people want to visit and live. Each allow accessory dwelling units in some fashion, each with their own local twist. Georgetown has a very liberal policy that allows for units as permanent residences as well as short term rentals. This is logical with their large retiree population. Fredericksburg focuses on accessory dwelling units as short term rental units for visitors. This a logical step, especially for their very vibrant downtown. It allows full time residences as well as short term, supplementing the income of the homeowners.

Accessory dwelling units, attached to or on the lots of larger homes, allow for homeowners to rent space for supplemental income, accommodate changing family needs, provide more diverse housing options for local residents, and ensure the enforcement of the local codes. ADUs increase the housing supply and tax base. They provide affordable housing for lower income residents, ensuring that they are not priced out of the housing market.

General arguments opposed to ADUs include increases in parking and density. Neither holds up over the long term as communities evaluate the addition of ADUs. Rather, the benefits far outweigh these concerns as homeowners regulate those living in close proximity rather well and property value increases benefit the community at large.

Thorndill Application

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Copies of ordinances from other jurisdictions, with similar rural populations and historic town centers are attached.

Research attached includes:

*Accessory Dwelling Units: A Flexible Free Market Housing Solution*, R Street, a public policy research organization on the political right.

*Accessory Dwelling Units: Case Study*, US Department of Housing and Urban Development.

*Understanding Accessory Dwelling Units and Their Importance*, University of California Berkley

Links to Additional Research:

<https://accessorydwellings.org/2014/09/17/summing-up-adu-research-are-accessory-dwelling-units-as-great-or-as-horrible-as-people-say/>

<https://www.planning.org/knowledgebase/accessorydwellings/>



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R STREET POLICY STUDY NO. 89  
March 2017

## ACCESSORY DWELLING UNITS: A FLEXIBLE FREE-MARKET HOUSING SOLUTION

Jonathan Coppage

### INTRODUCTION

**M**uch of the American built environment was constructed in the post-World War II era, when government policy and planning fashion favored a highly dispersed development model centered on the primacy of the single-family detached home. Subsequent developments in zoning law tended to further privilege and protect the single-family detached home from any neighboring diversity of land use or building form.

As a pattern popularized at the peak of American nuclear family formation, such models initially met consumer preferences and served the needs of many. As the 20<sup>th</sup> century progressed, however, American demographic patterns and housing needs dramatically changed. The built environment was, by this point, too calcified by accumulated land-use regulations to adapt to these changes, producing significant distortion in high-demand housing markets and unresponsive legal environments across the country.

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As housing supply constraints choke productivity in hot economic regions, and household structure and demographics continue to shift nationally, significant public-policy debates have been opened about the appropriate responses to these developments. These range from debates over national entitlement programs like Social Security and Medicare to battles over gentrification in urban centers. The political disputes often are characterized by high tempers and little perceptible progress.

While these important, high-intensity debates continue, there is opportunity simultaneously to pursue lower-profile solutions that could alleviate pressure on the market, even if they cannot provide complete resolution to all of its problems. One supplemental policy priority would be to ease significantly existing obstacles to the construction and permitting of accessory dwelling units in single-family residential zones.

### ACCESSORY DWELLING UNITS

An accessory dwelling unit (ADU) is defined as “a secondary dwelling unit with complete independent living facilities for one or more persons” on a single-family lot, whether attached to the primary structure, detached from it or contained within it.<sup>1</sup> ADUs commonly are referred to by a wide variety of less formal names, including “granny flat,” “mother-in-law suite,” “carriage house,” “secondary unit” and “backyard cottage.”

ADUs, then, are dependent apartments built onto otherwise typical single-family homes. They are often created by means of garage conversion, basement finishing, wing addition or even as free-standing construction behind a house. A fully independent ADU will contain its own entrance and full kitchen and bathroom facilities; it may even have separate

1. California Department Housing and Community Development, “Accessory Dwelling Unit Memorandum,” December 2016. <http://www.hcd.ca.gov/policy-research/docs/2016-12-12-ADU-TA-Memo.docx.pdf>

and independent utility metering. While there was significant scholarly interest in ADUs in the 1980s, it waned until recent years, leaving a relative shortage of studies of and data on the current state of secondary units. Filling the informational gap could prove especially difficult, given the large proportion of secondary units that exist as illegal conversions, without permits or official recognition in government databases. One 2001 study estimated that fully one in five San Francisco residential buildings included an illegal secondary unit<sup>2</sup> and that supply-constrained coastal cities could expect 2 to 10 percent of their housing stock to be illegal secondary units.

The ADU is starting to recover attention, as demographic shifts also lead many groups to revisit accessory dwelling units as an option for the increasing number of multigenerational households. There are any number of causes of this trend, including the aging of the baby boomer generation, a persistent “boomerang” young adult cohort, and growth in the Hispanic and Asian populations. Moreover, housing shortages in hot urban markets have raised interest in creative means to expand supply.

Before accessory dwelling units can be brought to bear on those challenges, however, there is a need to popularize and pass significant reforms to accommodate this flexible, free-market solution.

## BRIEF HISTORY OF ZONING

The basic tenets of American zoning were set by the mid-1930s, which is also when the federal government began to provide assistance to the detached single-family house as an ideal base for American life.<sup>3</sup> In the postwar period, the relatively simple and compact single-family zoning pattern—originally designed to protect residential neighborhoods from noxious industrial activity—was expanded and complicated, with explicit federal housing policies that reinforced single-family housing on ever larger lots with rapidly diminishing tolerance of diversity. Zoning shifted from prohibiting industrial and commercial development in residential zones to prescribing the shape and structure that residential housing could take within those already protected neighborhoods.

As University of Chicago’s Emily Talen wrote in her book *City Rules*: “The zoning changes of one small town in central Illinois, Urbana, home of the University of Illinois, illustrate

the traditional progression.”<sup>4</sup> As she recounts, Urbana’s first zoning ordinance was passed in 1936, but there were no minimum lot widths and no lot areas were required per unit until 1950. In 1950, six zones were introduced, two each for residential, commercial and industrial uses. By 1979, however, 16 districts and two overlay zones had been introduced, apartments in single-family areas were banned, and minimum lot sizes and floor-area ratio rules were brought into effect.

The introduction of a few zoning regulations metastasized into a narrowly prescriptive regime that, as Sonia Hirt described in *Zoned in the USA*, “has exceeded historic and international precedent to build what may well be the lowest-density settlements in the history of the world [emphasis original].”<sup>5</sup>

America’s hyperdispersed, land-use-segregated settlement pattern is functional for adults who drive cars but the carless are significantly inhibited from accessing any activities or areas other than the ones in their immediate neighborhood. Functionally, this prevents nondriving children from contributing to the household by running errands to a corner store, for instance, in addition to placing severe limits on the independence of elderly adults who no longer drive.<sup>6</sup>

The recently observed recovery of multigenerational households and parallel decline of intact nuclear families takes place, then, in a regulatory environment rigidly designed for a very different population. As Reihan Salam has written:

Since the initial rise of the suburbs, families have changed. Married couples with children have fallen from 42.9 percent of all households in 1940 to 20.2 percent of all households in 2010, while married couples without children have fallen from 33.4 to 28.2 percent of all households. Single-parent families have also increased, of course, from 4.3 percent to 9.6 percent. The most dramatic change has been the steep increase in one-person households, from 7.8 to 26.7 percent of the total. Families have also been transformed by rising female labor force participation, with women now serving as the sole or primary wage earner in four in 10 U.S. households with children. ...

Viewed through this lens, the problem we face is clear: Much of our built environment still bears the imprint of the postwar era, despite the fact that the families that were characteristic of that era are no longer dominant.<sup>7</sup>

4. Emily Talen, *City Rules*, Island Press, pp. 120-2, 2012.

5. Hirt, p. 28.

6. Andres Duany, Elizabeth Plater-Zyberk, and Jeff Speck, *Suburban Nation: The Rise of sprawl and the Decline of the American Dream*, North Point Press, p. 115, 2000.

7. Reihan Salam, “How the Suburbs Got Poor,” *Slate*, Sept. 4, 2014, [http://www.slate.com/articles/news\\_and\\_politics/politics/2014/09/poverty\\_in\\_the\\_suburbs\\_places\\_that\\_thrived\\_in\\_the\\_era\\_of\\_two\\_parent\\_families.html](http://www.slate.com/articles/news_and_politics/politics/2014/09/poverty_in_the_suburbs_places_that_thrived_in_the_era_of_two_parent_families.html)

2. George Williams, “Secondary Units: A Painless Way to Increase the Supply of Housing,” San Francisco Planning and Urban Research Association, August 2001. <https://sfaa.org/0110williams.html>

3. Sonia Hirt, *Zoned in the USA: The Origins and Implications of American Land-Use Regulation*, Cornell University Press, p. 32, 2014.

## BENEFITS OF ADUS

### Rental income

According to a recent Oregon study of Portland ADUs, the largest primary motivation among ADU developers was additional income.<sup>8</sup> By converting part of a house, building an addition or constructing a free-standing unit, homeowners were able to create a supplementary stream of income for themselves, while adding housing to the constrained market.

The great majority of this additional income comes via long-term rentals: Atlanta architect Eric Kronberg estimates that, when he constructs ADUs for his market under current regulatory conditions, they can reasonably command rents of \$950 to \$1400 a month. By contrast, “you have an all-in cost of \$550-\$715 a month. The two bedroom unit would range \$700-\$900 all-in,” both of which are estimated very conservatively assuming entirely home equity financed, no cash projects. This means Atlanta ADUs could pay for their own financing while providing a homeowner with hundreds of dollars in additional income per month. Most impressively, Kronberg’s projections are for detached ADU prototypes, which are much more expensive to produce than attached ADUs that come from conversions or additions on an existing building.<sup>9</sup>

In the Portland study, 80 percent of ADUs rented for market rates comparable to those in multifamily development. However, between 13 and 18 percent of Portland ADUs go for zero or very low rents. In a separate study, University of California researchers Jake Wegmann and Karen Chapple likewise found 17 percent of San Francisco Bay Area ADUs were occupied for zero rent.<sup>10</sup> As Martin J. Brown and Jordan Palmeri note in the Portland study, this pattern “suggests some unique phenomenon is occurring in ADU developments.” Indeed, in that same survey, “owners reported that 26 percent of ADU tenants were family or friends when they moved in.” This would indicate that a small but significant fraction of ADU development is, indeed, intended for personal relationships, as planners and advocates have traditionally assumed.

The Portland study also marked an interesting departure from earlier studies when it came to its findings on affordability. According to Brown and Palmeri, Portland ADU rents were market competitive with comparable rental apartments

only if zero-rent units were included; they actually rented for a premium if those outliers were excluded. Previous studies had indicated that ADUs were cheaper than comparable rentals. Brown and Palmieri tried to adjust market comparables by unit size via the number of bedrooms. In their report on the Bay Area, Wegman and Chapman did not attempt to adjust for unit sizes, but noted that the ADUs were smaller than their market comparables, as well as often being unpermitted.

Taken at face value, the Portland results could undermine the perception of ADUs as an inherently affordable housing solution. Although the results certainly indicate a need for further study, such reasoning should be tempered by a robust understanding of the ADU context. ADUs are more expensive to build per-square-foot, which could partially explain why owners would demand higher rents per-square-foot.

In general, due to their smaller unit sizes, ADUs should occupy the lower end of the rental spectrum. As an NYU Furman Center working paper noted: “Micro-units [ADUs and compact apartments] in many cities frequently rent at rather high rates per square foot, but at lower total monthly rent levels, than larger apartments.”<sup>11</sup> In this sense, ADUs remain a source of affordable housing. In supply-constrained housing markets, any production of additional dwelling space will help ease rental market pressure, and production of low total rent units is all the more welcome.

Further, as Brown and Palmieri note, the zero and below-market rents that are presumably charged to family members or friends should not be dismissed. Voluntarily discounting rent to those with whom the property owner has pre-existing relationships is still a provision of affordable housing. Where the housing is provided to elderly relations who might otherwise require costly personal care, it also represents a potentially large government savings. Rejoining multiple generations in close living arrangements allows for child care or eldercare to be provided by the family, instead of relying on expensive market services. Such arrangements can benefit the whole family by strengthening their relationships and shared experiences. Anecdotally, children can benefit from the experience of elders in quilting, crafting or carpentry. Elders, meanwhile, sometimes can benefit from younger generations’ greater familiarity with maintaining and navigating each new wave of domestic technology.

Further study of ADU rents would bring welcome clarity. For the great majority of homeowners who plan to rent their ADU at market-competitive rents, ADUs can provide a

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8. Martin J. Brown and Jordan Palmeri, “Accessory Dwelling Units in Portland, Oregon: Evaluation and Interpretation of a Survey of ADU Owners,” Oregon Department of Environmental Quality, June 1, 2014. <https://accessorydwellings.files.wordpress.com/2014/06/adusurveyinterpret.pdf>

9. Eric Kronberg, “ADU Math,” Kronberg Wall, Feb. 24, 2017. <http://kronbergwall.com/adu-math/>

10. Jake Wegmann and Karen Chapple, “Understanding the Market for Secondary Units in the East Bay,” IURD Working Paper Series, October 2012. <http://escholarship.org/uc/item/9932417c>

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11. Vicki Been, Benjamin Gross, and John Infranca, “Responding to Changing Households: Regulatory Challenges for Micro-Units and Accessory Dwelling Units,” NYU Furman Center, January 2014. [http://furmancenter.org/files/NYUFurmanCenter\\_RespondingtoChangingHouseholds\\_2014\\_1.pdf](http://furmancenter.org/files/NYUFurmanCenter_RespondingtoChangingHouseholds_2014_1.pdf)

reliable stream of additional income which should, in most circumstances, pay for itself.

## Multigenerational housing

Almost one-in-five Americans now live in a multigenerational household, according to a recent Pew analysis of U.S. Census Bureau data.<sup>12</sup> That is a record absolute number and the highest proportion of the American population since 1950. Once a near-universal feature of the American lifecycle in the mid-19<sup>th</sup> century, the proportion of households living with multiple adult generations had been declining since 1860, with more than half the collapse in multigenerational living occurring between 1940 and 1980.<sup>13</sup>

ADUs are often preferred for multigenerational living arrangements because they allow family members to share a residence, assist each other in day-to-day tasks and share a life without erasing all boundaries between the primary household and the additional generation. When equipped with independent entrances and kitchen units, residents of ADUs are able to maintain a modicum of independence, coming and going as they please and entertaining their own guests, while still remaining tightly bound to their family.

The AARP has advocated for relaxation of rules around accessory dwelling units in order to accommodate a desire among its members (current and prospective) to “age in place” whenever possible. Expanded ADU capability allows older Americans either to move into their children’s homes or to construct a more modest apartment that suits their needs. Toward that end, the AARP in 2000 commissioned the American Planning Association to draft an ADU “model state act and local ordinance.”<sup>14</sup>

Older Americans are not, however, the largest consumer of multigenerational housing today. In 2014, more 18-to-34-year-olds lived with their parents than in other arrangements for the first time in 130 years,<sup>15</sup> and 31 percent of 25-to-29-year-olds lived in multigenerational households. The persistence of the millennial generation living at home, even as the economy emerged from the Great Recession, has been a topic of great concern and headlines. For the pur-

poses of this paper, it is enough to note simply that the trend exists and seems likely to continue, thus further adding to the number of multigenerational homes and potential demand for ADUs.

Finally, ethnic demographic patterns also suggest that multigenerational housing will continue to grow in the United States. As Pew found, Asian and Hispanic households both are significantly more likely to be multigenerational than non-Hispanic white households. Both of those subgroups are experiencing significant population growth.

## Flexibility

In Brown and Palmeri’s study, only about 80 percent of Portland ADUs were occupied as independent housing. The rest served as some combination of extra space, home offices or other nonresidential use: 11 percent of units were used as a work or living space, while 5 percent were used for short-term rentals.<sup>16</sup>

Short-term rentals are one of the most interesting alternative uses for ADUs going forward, as the recent explosion of room and homesharing services like Airbnb and VRBO make it easier for homeowners to find short-term tenants for their properties, and the independence of ADUs make them particularly well-suited for such service. The Portland study was conducted in 2013, relatively early in the growth of such services. It would be interesting to update the survey to see how short-term-rental use has grown.

## OBSTACLES TO ADU DEVELOPMENT

The single biggest obstacle to ADU development is their widespread illegality. Burdensome regulatory requirements often will depress ADU production, even where zoning codes theoretically allow them. In order to allow ADUs to serve as a flexible, free-market solution to ease pressures in supply-constrained housing markets, such regulatory burdens need to be lifted. Such regulations fall into two broad categories: structural and occupancy.

### Structural regulations

Structural regulations regulate the size, shape and facilities of an ADU, as well as its connection to the broader city utility networks.

As with many other forms of housing production, minimum parking requirements can be a significant obstacle to ADU production. While competition for on-street parking is one of the most frequently cited concerns and complaints about

12. D’Vera Cohn and Jeffrey S. Passel, “A Record 60.6 Americans Live in Multigenerational Households,” Pew Research Center, Aug. 11, 2016. <http://www.pewresearch.org/fact-tank/2016/08/11/a-record-60-6-million-americans-live-in-multigenerational-households/>

13. Steven Ruggles, “Multigenerational Families in Nineteenth Century America,” *Continuity and Change*, 18: 139-165, 2003. <http://users.hist.umn.edu/~ruggles/multigenerational.pdf>

14. Rodney L. Cobb and Scott Dvorak, “Accessory Dwelling Units: Model State Act and Local Ordinance,” AARP, April 2000. [http://www.aarp.org/home-garden/housing/info-2000/accessory\\_dwelling\\_units\\_model\\_state\\_act\\_and\\_local\\_ordinance.html](http://www.aarp.org/home-garden/housing/info-2000/accessory_dwelling_units_model_state_act_and_local_ordinance.html)

15. Richard Fry, “For First Time in Modern Era, Living With Parents Edges out Other Living Arrangements for 18- to 34-Year-Olds,” Pew Research Center, May 24, 2016. <http://www.pewsocialtrends.org/2016/05/24/for-first-time-in-modern-era-living-with-parents-edges-out-other-living-arrangements-for-18-to-34-year-olds/>

16. Brown and Palmeri, 2014.

ADUs, imposed off-street requirements are often excessive and counterproductive.

Until 2015, for instance, Austin, Texas combined onerous parking requirements (two spots each for both the main dwelling and the accessory unit) and an impervious surface cap. If the main dwelling was built before off-street parking requirements, the construction of an ADU would cost the property its grandfathered status, meaning four parking spots would have to be built for one accessory unit to be constructed. As the Furman Center noted, “built structures may not cover more than 40 percent of a lot, and the combination of structures and any other impervious surfaces may not exceed 45 percent of the lot.” Since any parking space is counted as impervious surface regardless of its construction material, Austin homeowners could easily have a hard time fitting everything onto their lots even if they were willing to comply.<sup>17</sup> Encouragingly, the Austin City Council adopted a much liberalized ADU system in November 2015, with very light parking requirements, a standard minimum lot size and nearly citywide applicability.<sup>18</sup>

Portland does not require any off-street parking for ADUs, so it should be most vulnerable to street parking overcrowding. Yet the city’s 2013 survey found that one in five ADUs had no cars associated with it whatsoever, and 63 percent had no cars parked on the street. The mean number of cars parked on the street associated with ADUs was a mere 0.46. These findings are similar to results of the Bay Area study in 2012. While these are necessarily limited results, they should encourage cities to loosen or relieve their own parking requirements in the service of ADU production.

ADUs are also subject to a variety of size regulations: minimum and maximum unit sizes; minimum and maximum ratio of unit-to-main-dwellings; minimum and maximum ratio of unit-to-lot-size. All of these can vary by whether the ADU is attached or detached. Attempts to build ADUs can be subject to regulations that bar the construction of kitchen facilities in secondary units, as well as restrictions on independent entrances. Some governments restrict where ADUs can be placed on a lot, whether it or its entrance can be visible from the street and whether the unit’s architectural design is required to match the main dwelling. While reasonable regulations can be inoffensive, cities should take care to set their minimum or maximum levels within the bounds of normal ADU production, and to give homeowners as much flexibility as possible.<sup>19</sup>

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17. Been, Gross and Infranca, 2014.

18. Jennifer Curington, “Austin City Council lessens restrictions on accessory dwelling units,” *Community Impact*, Nov. 19, 2015. <https://communityimpact.com/austin/city-county/2015/11/19/city-council-lessens-restrictions-on-accessory-dwelling-units/>

19. California Department of Housing and Community Development, 2016.

Finally, city services fees and regulations can pose an overwhelming and unreasonable burden to the development of accessory units where they are not tailored appropriately. Portland chose to give financial relief to ADU construction by waiving the systems development charges (SDCs) usually imposed to pay for utility and other public-service impacts. Such charges average around \$8,000 for ADUs, which explains why the city’s reprieve began a significant ADU boom. Ultimately, the waiver was extended. Even without opting for a full waiver, cities can adjust their SDCs for the true impact of accessory units, which will be dramatically less than other new construction.

Under normal conditions, extending utility services like water, sewer, electricity and gas should be relatively painless for accessory unit construction, as most of the fixed costs have already been built for the main dwelling. Cities that require separate utility metering can quickly undermine this advantage and even make ADUs outright uneconomical. *Architects Newspaper* reports that, in Austin, separate water metering alone can cost a builder \$20,000.<sup>20</sup>

Local governments often discourage ADU production by prohibiting qualities that would make them attractive and usable as an independent dwelling unit. This can include restrictions on independent entrances and the visibility of those entrances from the street. Often, they will include prohibitions on kitchen facilities. In Atlanta, for instance, ADUs are permitted but they cannot possess a stove, oven or similar cooking appliance. The most cooking capability occupants can hope for under code is a hot plate they can plug in. These barriers are best removed whenever possible, as they give homeowners more flexibility in how they can use their ADU over its life span, and so will make their production more attractive.

### Occupancy restrictions

Occupancy regulations regulate who may stay in ADUs and what their relationship to the property’s owner may be.

A frequent and significant ADU regulation requires owner occupancy of the property. ADU construction is, in fact, usually undertaken by homeowners occupying the property, so this requirement often is presented as bearing limited negative consequences. According to the NYU Furman Center report, owner occupancy is seen by advocates as a shortcut to prevent more detailed and onerous restrictions and inspections from being imposed on ADU development. In this reasoning, an owner-occupant’s presence assures against ADU tenants inflicting nuisances on the surrounding neighborhood. Because the owner-occupant is a neighbor, he or she

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20. Jack Murphy, “As housing costs and economic segregation increase, Austin’s granny flats proliferate,” *The Architects Newspaper*, Sept. 12, 2016. <https://archpaper.com/2016/09/austin-granny-flats-affordability/#gallery-0-slide-0>

would be more likely to supervise and head off any nuisances than an absentee landlord would. Those building ADUs in order to accommodate family or friends would seem to have even less reason to object to such laws.

But owner-occupancy restrictions have the potential to impede ADU financing and homeowner flexibility significantly. As the NYU Furman Center report notes: “Lenders may fear that, if they foreclose on the property, they will be unable to rent both the primary residence and the ADU,” resulting in less favorable financing or outright opposition. Homeowners may also face difficulty selling their own home, as the house and ADU bear restrictions lacked by competitive properties, such as duplexes. They would thus be unable to recoup the full value of their property should a nonresidential buyer be interested. This comes on top of what Brown and Watkins identify as an already significant gap in appraisal practices that often prevents ADUs from being measured appropriately in home valuation.<sup>21</sup>

Furthermore, while ADUs are usually constructed by owner-occupants with owner occupancy in mind, they are most attractive when they can accommodate a variety of contingencies. Young retirees who build an ADU intending to live with family or move into the smaller unit and rent out the bigger house may find themselves in need of more professionalized care than is available in most home settings. The family they were planning to live with may need to move. In any of these conditions, the house would shift from an asset to a liability, as the property owner would be precluded by the owner-occupancy restrictions from renting out both the main house and the accessory unit. They would be forced to either leave the house vacant and unattended, or to sell it.

Furthermore, as the NYU Furman Center roundtable participants noted, ADU owner-occupancy would, in many cases, introduce a unique restriction to properties. There generally are no such restrictions banning owners of a single-family home from renting it to others, and duplex units rarely come so bound either.<sup>22</sup> Portland, Oregon, has one of the strongest ADU development markets in the country, and notably lacks an owner-occupancy requirement. Such liberalization is fairly rare, however, as owner-occupant requirements are widespread.

In some cases, governments considering ADU legalization want to go even further, and restrict to whom the property can be rented, or whether it can be rented at all. Most often, these restrictions come in the form of requiring ADU occupants to be related to the homeowner for the unit to be used

21. Martin John Brown and Taylor Watkins, “Understanding and Appraising Properties with Accessory Dwelling Units,” *The Appraisal Journal*, Fall 2012. <https://accessorydwellings.files.wordpress.com/2012/12/appraisingpropertieswithadusbrownwatkins-nov2012.pdf>

22. Been, Gross and Infranca, 2014.

as a residence. Total or near-total rental bans are likely to chill the construction of ADUs significantly and foreclose any of the benefits they provide.

## SHORT-TERM RENTALS

ADUs are interesting platforms to evaluate with regard to short-term rentals, both because of their natural suitability to the use and because even ADU advocates sometimes are made uncomfortable by the use. Because ADUs are independent dwelling units, they have the potential to be more appealing to some renters and homeowners who prefer not to live quite as intimately with visiting strangers. Because ADUs are dependent, they share any neighborhood attractiveness equally with their primary dwellings. ADUs equipped with kitchens allow renters to cook for themselves, which may be a particular advantage in the eyes of short-term renters, who are more likely than hotel guests to stay for multiple days.<sup>23</sup>

For advocates who see ADU growth as a provision of affordable housing and a relief valve on constrained regional supply, the seeming diversion of ADU stock into short-term rentals is feared to be a distraction, or even counterproductive. In tourism-heavy cities, some voice concerns about residential neighborhoods hollowing out in community and character as owner-occupied residences convert into short-term rental pads with a constantly rotating cast of characters.<sup>24</sup> Santa Cruz, California, which has been one of the most aggressive cities in liberalizing its ADU regulations and promoting ADU production recently revised its laws specifically to outlaw ADU short-term rentals going forward.<sup>25</sup> Austin’s new, more liberal ADU law restricts short-term rental of ADUs to 30 nights a year, and prohibits it on properties that aren’t occupied by the owners.<sup>26</sup>

Survey respondents have said that one of the central appeals of ADU construction is their flexibility.<sup>27</sup> Though the upfront costs are considerable for a homeowner, they can justify that investment by the ADU’s potential to bring in additional income; to use as a home office or extra living space for a growing family; or to be used by adult family members as needed. Short-term rental services can expand that flexibility further by not requiring homeowners to lock their ADU

23. Andrew Moylan, “Roomscore 2016: Short-term-rental regulation in U.S. cities,” R Street Institute, March 16, 2016. <http://www.rstreet.org/policy-study/roomscore-2016-short-term-rental-regulation-in-u-s-cities/>

24. Martin John Brown provides one of the best detailed considerations of these claims: <https://accessorydwellings.org/2016/04/04/adustr/>

25. City of Santa Cruz, Ordinance No. 2015-15, Nov. 10, 2015. <http://www.cityofsanta-cruz.com/home/showdocument?id=46552>

26. Jennifer Curington, 2015.

27. Brown and Palmeri, 2014.

into a long-term lease, but rather to use it for income purposes on an as-needed basis.

## SPECIAL CHALLENGES

In contrast to almost all other housing production and construction, ADUs are primarily built by homeowners, not professional developers. While professionals generally regard regulatory compliance costs to be expected, if often frustrating, homeowners trying to build accessory units are unlikely to have much familiarity with the permitting and compliance process. Cities looking to take advantage of accessory dwelling unit production will need to make their process as transparent and easily navigable as possible.

Toward this end, Santa Cruz, California produced an “ADU Manual” that offers step-by-step instructions to complete the ADU permitting and construction process successfully. Santa Cruz also maintains a set of draft architectural plans to get interested homeowners started, and even goes so far as to offer financing assistance for those willing to commit to renting the unit at affordable rates for 15 to 20 years.

Portland, Oregon, meanwhile, has maintained a relatively libertarian regulatory environment, relieving homeowners from having to forecast for and navigate parking requirements, owner occupancy rules, or many other often-imposed constraints. It allows widespread building of ADUs by right, so homeowners are not required to convene public hearings on the subject of planned construction on their property.

Local governments that desire to take advantage of accessory dwelling units should take care to write their codes and policies into as easily accessible a format as possible, and make that information widely available.

## CONCLUSION

At a time when many housing markets are experiencing severe supply constraints and housing affordability is under stress nationwide, accessory dwelling unit legalization represents a low-profile free-market solution that requires little from government actors beyond getting out of the way. Production is undertaken by private actors on their own property, and diversifies a local housing stock without introducing large potentially contentious or character-transforming multifamily buildings to a single family neighborhood. This incremental infill further empowers homeowners by allowing them to increase the value of their property and receive an additional income stream. It offers renters more neighborhood options and cheaper rents.

While there are federal-level financing reforms that could further ease ADU development, local governments usually have all the tools they need to take advantage of ADU con-

struction without asking permission or seeking assistance from any higher bureaucracy. Reforming outdated zoning systems to accommodate the changing needs of American households, including the return of multigenerational living arrangements, should be an urgent priority. Such reforms should take care not to introduce new and unnecessary regulations, such as owner-occupancy requirements and short-term rental bans. These could chill the market’s response to ADU legalization.

Accessory dwelling units will not solve housing affordability crises by themselves, nor will they be suited to widespread adoption in every market. But there is little reason for towns and cities to persist in outlawing a flexible housing form that was widespread in the first half of the 20<sup>th</sup> century, just because it fell afoul of trendy regulations in the second half. The American built environment was notably adaptable throughout the growing country’s many changes up until the postwar land use codes were imposed and accumulated. Given the significant national changes still unfolding, land-use and building regulations need to provide as much adaptability and flexibility as cities can provide. Legalizing accessory dwelling units should be a simple way to engage that process.

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## Accessory Dwelling Units: Case Study



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# **Accessory Dwelling Units: Case Study**

Prepared for:  
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# Accessory Dwelling Units: Case Study

## Introduction

Accessory dwelling units (ADUs) — also referred to as accessory apartments, second units, or granny flats — are additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities, and can be either attached or detached from the main residence.<sup>1</sup> This case study explores how the adoption of ordinances, with reduced regulatory restrictions to encourage ADUs, can be advantageous for communities. Following an explanation of the various types of ADUs and their benefits, this case study provides examples of municipalities with successful ADU legislation and programs.

## History of ADUs

Development of accessory dwelling units can be traced back to the early twentieth century, when they were a common feature in single-family housing.<sup>2</sup> After World War II, an increased demand for housing led to a booming suburban population. Characterized by large lots and an emphasis on the nuclear family, suburban development conformed to Euclidean-type zoning codes, a system of land-use regulations that segregate districts according to use.<sup>3</sup>

Suburbs continued to be a prevalent form of housing development throughout the 1950s and 1960s. The rapid growth of suburbs reinforced the high demand for lower-density development, and ultimately led most local jurisdictions to prohibit ADU construction. In spite of zoning restrictions, illegal construction of ADUs continued in communities where the existing housing stock was not meeting demand; San Francisco was one such community. During World War II, the Bay Area experienced a defense boom that created a high demand for workforce housing, resulting in a large number of illegally constructed second units. By 1960, San Francisco

housed between 20,000 to 30,000 secondary units, 90 percent of which were built illegally.<sup>4</sup>

In response to suburban sprawl, increased traffic congestion, restrictive zoning, and the affordable housing shortage, community leaders began advocating a change from the sprawling development pattern of suburban design to a more traditional style of planning. Urban design movements, such as Smart Growth and New Urbanism, emerged in the 1990s to limit automobile dependency and improve the quality of life by creating inclusive communities that provide a wide range of housing choices. Both design theories focus on reforming planning practices to create housing development that is high density, transit-oriented, mixed-use, and mixed-income through redevelopment and infill efforts.<sup>5</sup>

In the late 1970s to the 1990s, some municipalities adopted ADU programs to permit the use and construction of accessory units. Many of these programs were not very successful, as they lacked flexibility and scope. Although a number of communities still restrict development of accessory dwelling units, there is a growing awareness and acceptance of ADUs as an inexpensive way to increase the affordable housing supply and address illegal units already in existence.



Interior ADU – located in attic space  
Photo credit: Town of Barnstable, Massachusetts

<sup>1</sup> Municipal Research and Services Center of Washington, *Accessory Dwelling Units*, October 1995, <http://www.mrsc.org/Publications/textadu.aspx#tenant>.

<sup>2</sup> Transportation and Land Use Coalition, *Accessory Dwelling Units*, <http://www.transcoalition.org/ia/acssdwel/01.html#body>.

<sup>3</sup> Transportation Research Board, *The Costs of Sprawl Revisited*, 1998, [http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp\\_rpt\\_39-a.pdf](http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_rpt_39-a.pdf).

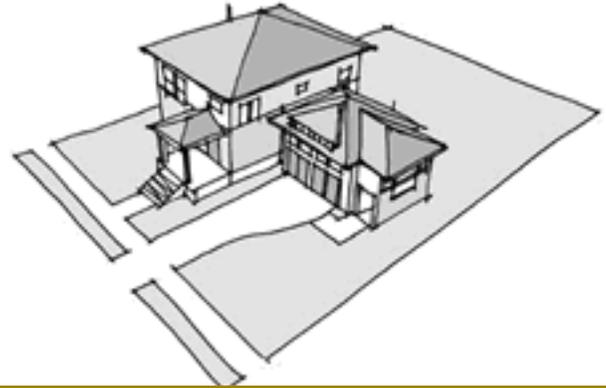
<sup>4</sup> San Francisco Planning and Urban Research Association, *Secondary Units: A Painless Way to Increase the Supply of Housing*, August 2001, <http://www.spur.org/newsletters/0801.pdf>.

<sup>5</sup> New Urban News, *The New Urbanism – An Alternative to modern, automobile-oriented planning and development*, July 2004, <http://www.newurbannews.com/AboutNewUrbanism.html>.

## Types of Accessory Dwelling Units

Depending on their location relative to the primary dwelling unit, ADUs can be classified into three categories: interior, attached, and detached.<sup>6</sup> Interior ADUs are located within the primary dwelling, and are typically built through conversion of existing space, such as an attic or basement.

Attached ADUs are living spaces that are added on to the primary dwelling. The additional unit can be located to the side or rear of the primary structure, but can also be constructed on top of an attached garage. Detached ADUs are structurally separate from the primary dwelling. They can be constructed over existing accessory structures, such as a detached garage, or they can be built as units that are separate from accessory and residential structures.



ADU attached to the side of a garage addition  
Illustration: RACESTUDIO and city of Santa Cruz

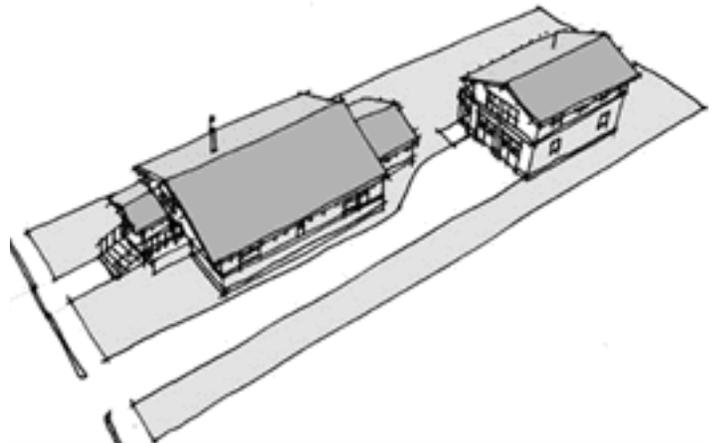
## Benefits of Accessory Dwelling Units

Accessory dwelling units offer a variety of benefits to communities. They help increase a community's housing supply, and since they cost less than a new single-family home on a separate lot, they are an affordable housing option for many low- and moderate-income residents.<sup>7</sup> Elderly and/or disabled persons who may want to live close to family members or caregivers, empty nesters, and young adults just entering the workforce find ADUs convenient and affordable.<sup>8</sup> In addition to increasing the supply of affordable housing, ADUs benefit homeowners by providing extra income that can assist in mitigating increases in the cost of living.



Attached ADU  
Photo credit: <http://mass.gov>

Accessory dwelling units have other advantages as well. They can be designed to blend in with the surrounding architecture, maintaining compatibility with established neighborhoods and preserving community character. Furthermore, there is no need to develop new infrastructure, since ADUs can be connected to the existing utilities of a primary dwelling. Allowing ADUs facilitates efficient use of existing housing stock, helps meet the demand for housing, and offers an alternative to major zoning changes that can significantly alter neighborhoods.<sup>9</sup>



Detached two-story ADU over garage  
Illustration: RACESTUDIO and city of Santa Cruz

<sup>6</sup> Transportation and Land Use Coalition.

<sup>7</sup> Atlanta Regional Commission, *Accessory Dwelling Units*, August 2007, [http://www.atlantaregional.com/documents/Accessory\\_Dwelling\\_Units\\_.pdf](http://www.atlantaregional.com/documents/Accessory_Dwelling_Units_.pdf).

<sup>8</sup> Ibid.

<sup>9</sup> Municipal Research and Services Center of Washington.

## Examples of ADU Ordinances and Programs

The following section of the case study provides an overview of ADU ordinances that have been adopted by five communities from across the nation. To gain a wider understanding of ADU programs in practice, the five communities have been chosen to represent a diverse range of geographic, demographic, and socioeconomic characteristics with different land use and growth control policies.

### Lexington, Massachusetts

Lexington, Massachusetts is an affluent historic town, located 11 miles northwest of Boston, with a population of 30,355.<sup>10</sup> According to the town's 2002 Comprehensive Plan, Lexington has largely exhausted its vacant unprotected land supply and is a highly built-out suburb with less than 1,000 acres of land available for new development.<sup>11</sup> Approximately 18 percent of the households in Lexington are eligible for affordable housing of some sort, and with a median home sales price of over \$600,000, many residents are being priced out of the housing market.<sup>12</sup> This limited growth potential and strong demand for affordable housing has led to the adoption of accessory apartment programs. The town implemented its first accessory unit bylaw in 1983, resulting in the construction of 60 units. In February of 2005, Lexington amended its bylaws to improve the clarity and flexibility of its ADU program.<sup>13</sup> The town affirmed that the purpose of promoting ADUs is to increase the range of housing choices, encourage population diversity, and promote efficient use of the housing supply while maintaining the town's character.

The amended bylaws reduce or eliminate minimum lot size requirements, allow ADUs 'by-right' in homes built as recently as five years ago, and allow second units by special permit in new construction, or as apartments in accessory structures. The Lexington Zoning Code allows two ADUs per lot, provided the primary dwelling is connected to public water and sewer systems.<sup>14</sup> Provisions allow absentee ownership for two years under special circumstances. In addition, a minimum of one off-street parking space

must be provided for every accessory unit. The by-right accessory apartments must be located within the primary dwelling and are allowed on lots that are at least 10,000 square feet. The maximum gross floor area of a by-right accessory apartment is 1,000 square feet and the unit cannot have more than two bedrooms.<sup>15</sup>

Increased flexibility in the program has proven beneficial to Lexington in the development of ADUs. According to Aaron Henry, Senior Planner for Lexington, the town's Housing Partnership Board is launching an education and outreach campaign for their ADU program to raise public interest.

### Santa Cruz, California

Santa Cruz, California is a seaside city with a population of 54,600; it is one of the most expensive cities in the country in which to live. In 2006, the median price for a single-family home in Santa Cruz was \$746,000, which only 6.9 percent of the city residents could easily afford.<sup>16</sup> In spite of the high cost of living, the city continues to be a desirable destination on account of its scenic location and proximity to San Francisco and the Silicon Valley. The location of a campus of the University of California — the area's largest employer — also adds to the demand for housing in Santa Cruz.<sup>17</sup> Another contributing factor is the limited amount of land allowed for development within the city's



Detached ADU over garage – design by Boone/Low Architects and Planners

Illustration: RACESTUDIO and city of Santa Cruz

<sup>10</sup> U.S. Census 2000, [www.census.gov](http://www.census.gov).

<sup>11</sup> Town of Lexington, *Comprehensive Plan*, 2002, <http://ci.lexington.ma.us/Planning/CompPlan.htm>.

<sup>12</sup> Town of Lexington, *Lexington Housing Strategy*, October 2007, [http://ci.lexington.ma.us/Planning/Documents/Housing%20Strategy%20\(Oct%202007\).pdf](http://ci.lexington.ma.us/Planning/Documents/Housing%20Strategy%20(Oct%202007).pdf).

<sup>13</sup> The Massachusetts Smart Growth/Smart Energy Toolkit, *Accessory Dwelling Units (ADU) Suburban Case Study*, [http://www.mass.gov/envir/smart\\_growth\\_toolkit/pages/CS-adu-lexington.html](http://www.mass.gov/envir/smart_growth_toolkit/pages/CS-adu-lexington.html).

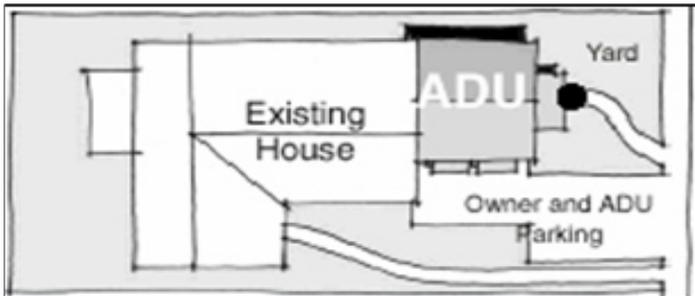
<sup>14</sup> See Appendix A.

<sup>15</sup> Town of Lexington, <http://ci.lexington.ma.us>.

<sup>16</sup> City of Santa Cruz, <http://www.ci.santa-cruz.ca.us>.

<sup>17</sup> Fred Bernstein, *Granny Flats for Cool Grannies*, February 2005, <http://www.fredbernstein.com/articles/display.asp?id=91>.

greenbelt. In order to preserve the greenbelt while accommodating new growth, promoting public transportation, and increasing the supply of affordable housing, the city adopted a new ADU ordinance in 2003.



Prototype site layout for attached ADU – ADU Manual  
Illustration: RACESTUDIO and city of Santa Cruz

This ordinance sets forth regulations for the location, permit process, deed restrictions, zoning incentives, and design and development standards for ADUs. Accessory dwelling units are permitted in designated residential zones on lots that are at least 5,000 square feet in area. No more than one ADU per lot is allowed and the property owner must occupy the primary or accessory dwelling unit. ADUs that do not meet the permitting requirements stipulated in the ordinance must undergo a public hearing process. Development fees are waived for ADUs made available for low- and very-low-income households.<sup>18</sup>

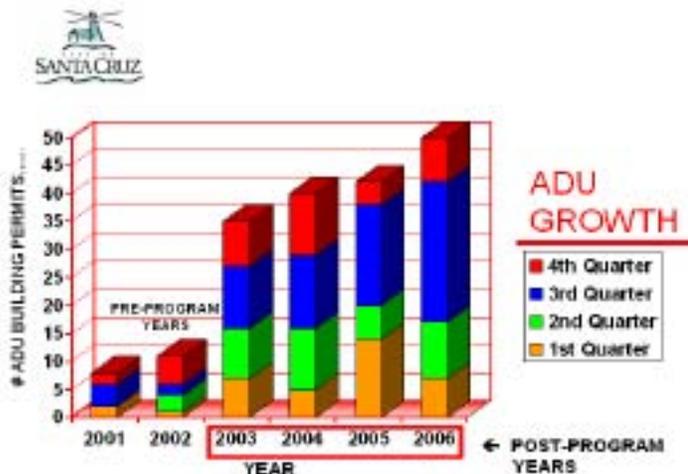
In addition to the ordinance that regulates the development of ADUs, Santa Cruz has established an ADU development program with three major components: technical assistance, a wage subsidy and apprentice program, and an ADU loan program.<sup>19</sup> As part of the technical assistance program, the city published an ADU Plan Sets Book that contains design concepts developed by local and regional architects. Homeowners can select one of these designs and receive permits in an expedited manner. In addition, the city offers an ADU Manual, which provides homeowners with information on making their ADU architecturally compatible with their neighborhood, zoning regulations relevant to ADUs, and the permitting process.

Santa Cruz’s ADU Development Program has won numerous awards and has been used as a model by other communities. According to Carol Berg, who is the housing and community development manager for the city, an average of 40 to 50 ADU permits have been approved every year since the start of the program. She attributes the program’s success primarily to zoning changes that were adopted to facilitate development of ADUs, such as the elimination of covered parking requirements.

## Portland, Oregon

With a population of approximately 530,000, Portland is the most populous city in the state of Oregon, and is noted for its strong land use control and growth management policies. Although Portland has had an ADU program in place for several years, ADU development was not effectively promoted until 1998, when the city amended its laws to relax the regulations governing ADUs.<sup>20</sup> The amendments eliminated the minimum square footage and owner-occupancy requirements. ADUs are now allowed in all residential zones with relaxed development standards.

Portland’s regulations permit the construction of ADUs on lots with a single-family home, as long as they are smaller, supplementary to the primary residence, and no more than 800 square feet.<sup>21</sup> They can be created by conversion of an existing structure or by construction of a new building. An early assistance process is available to help with project development for ADUs created through the conversion of an existing structure. ADUs that meet all the standards are permitted by right and do not require a land use review. No additional parking is required for accessory



ADU Permits approved for the city of Santa Cruz  
Source: City of Santa Cruz

<sup>18</sup> See Appendix B.

<sup>19</sup> City of Santa Cruz, *Accessory Dwelling Unit Development Program*, <http://www.ci.santa-cruz.ca.us>.

<sup>20</sup> Barbara Sack, city of Portland.

<sup>21</sup> See Appendix C.

units. Portland's ADU program guide outlines ways to bring existing nonconforming units into compliance.

The city considers ADUs to be more affordable than other housing types because of the efficiency of the units in using fewer resources and reducing housing costs. City planner Mark Bello notes that allowing more ADUs did increase the housing supply, and that city residents viewed ADUs positively and were satisfied with the changes made. He also added, "There were no significant negative issues that arose from liberalizing Portland's code."

## Barnstable, Massachusetts

With seven villages within its boundaries and a total population of 47,821, the town of Barnstable is the largest community in both land area and population on Cape Cod.<sup>22</sup> Approved in November 2000, Barnstable's Accessory Affordable Apartment or Amnesty Program is a component of its Affordable Housing Plan.<sup>23</sup> The program guides creation of affordable units within existing detached structures or new affordable units within attached structures. Eligibility for the program is limited to single-family properties that are owner-occupied and multifamily properties that are legally permitted.

Barnstable's amnesty program is seen as a way to bring the high number of existing illegal ADUs into compliance with current requirements. In order to bring a unit into compliance, the property owner must agree to rent to low-income tenants — those earning 80 percent or less



ADU over detached garage  
Photo credit: Town of Barnstable



ADU on lower level of primary dwelling  
Photo credit: Town of Barnstable

of the area median income — with a minimum lease term of one year. The amnesty program offers fee waivers for inspection and monitoring of units and designates town staff to assist homeowners through the program's administrative process. The town can access Community Development Block Grant funds to reimburse homeowners for eligible costs associated with the rehabilitation or upgrade of an affordable ADU. Homeowners are also offered tax relief to offset the negative effects of deed restrictions that preserve the affordability of the units.<sup>24</sup>

Through its Amnesty Program, the town of Barnstable has successfully brought many of its illegal accessory units into compliance, with the added benefit of increasing the supply of affordable housing. Since the start of the program, Barnstable has approved 160 affordable ADUs. Beth Dillen, Special Projects Coordinator for the town's Growth Management Department, noted that "the ADU program has been very well received and there has been no neighborhood opposition." The program has been successful in converting existing illegal accessory apartments into code-compliant ADUs. According to Building Commissioner Tom Perry, "The benefit to this program is twofold. It is increasing the affordable housing supply and it also makes units, that before were unsafe and illegal, safe and legal."

## Wellfleet, Massachusetts — Home of Oysters...and ADUs

Wellfleet is located in Barnstable County, Massachusetts. Located on Cape Cod, Wellfleet is a tourist town with a

<sup>22</sup> U.S. Census 2000, [www.census.gov](http://www.census.gov).

<sup>23</sup> See Appendix D.

<sup>24</sup> Town of Barnstable, *Accessory Affordable Apartment Program*, [http://www.town.barnstable.ma.us/GrowthManagement/CommunityDevelopment/AssessoryHousing/AAAP-BROCHURE\\_rev041206.pdf](http://www.town.barnstable.ma.us/GrowthManagement/CommunityDevelopment/AssessoryHousing/AAAP-BROCHURE_rev041206.pdf).

year-round population of 3,500, which increases to 17,000 in the summer months. Sixty-one percent of the land area in Wellfleet is part of the Cape Cod National Seashore and about 70 percent of the entire land area is protected from development.<sup>25</sup> Wellfleet also has a growing concentration of elderly residents 65 years and older. A housing needs assessment study conducted by the town in 2006 recommended the adoption of an affordable ADU program to meet elderly housing needs and to increase the supply of affordable multifamily rental units.<sup>26</sup>

primary structure, and may not be larger than 1,200 square feet. Homeowners with pre-existing attached and nonconforming accessory apartments may only make changes that increase the conformity of the structures.<sup>27</sup>

Unless the provisions are specifically waived, the construction of new ADUs must conform to all zoning bylaw provisions and the owner of the property must occupy either the ADU or the primary dwelling. Detached units must comply with all setback requirements. Owners are required to rent to low- or moderate-income households. Maximum rents follow the Fair Market Rental Guidelines published by HUD and the property owners must submit annual information on rents to be charged.

To encourage participation in the ADU program, Wellfleet has instituted a new affordable accessory dwelling unit loan program.<sup>28</sup> The program offers interest-free loans for homeowners to develop affordable accessory units. The funds can also be used by homeowners to bring their ADU up to code. Wellfleet offers tax exemptions to homeowners on the portion of the property that is rented as an affordable unit. According to Nancy Vail, Assessor for the Town of Wellfleet, the combined tax savings for all ADU property owners totaled \$7,971.17 for fiscal year 2008. Sixteen units have been approved since the start of the program in November 2006.



Interior ADU – Town of Wellfleet  
Photo credit: Town of Wellfleet

The affordable ADU bylaw for Wellfleet allows up to three ADUs per lot in any district, but requires approval of a special permit from the Zoning Board of Appeals. Secondary units may be within, attached to, or detached from a

## Fauquier County, Virginia

Fauquier County is a largely rural county located about 50 miles outside of Washington, D. C. Beginning in 1967, Fauquier County adopted strict zoning regulations to limit growth to nine defined areas as a means of preserving farmland and open space; in effect, establishing growth boundaries.<sup>29</sup> However, the county population is rapidly increasing. The 2006 U.S. Census population estimate for Fauquier County was 66,170, a 20 percent increase from 2000. A needs assessment study by the Fauquier County Affordable Housing Task Force found that between 2000 and 2006, the median housing price in Fauquier County increased 127 percent, while the median household income increased 21 percent. To accommodate its growing population, especially the need for workforce housing, the county encourages infill development within the nine defined areas, and is active in reducing barriers to affordable housing.



Detached ADU – Town of Wellfleet  
Photo credit: Town of Wellfleet

<sup>25</sup> Town of Wellfleet, <http://www.wellfleetma.org>

<sup>26</sup> Town of Wellfleet, *Housing Needs Assessment, 2006*, [http://www.wellfleetma.org/Public\\_Documents/WellfleetMA\\_LocalCompPlan/Appendix8.pdf](http://www.wellfleetma.org/Public_Documents/WellfleetMA_LocalCompPlan/Appendix8.pdf).

<sup>27</sup> See Appendix E.

<sup>28</sup> Town of Wellfleet, *Affordable Accessory Dwelling Unit Program*, [http://www.wellfleetma.org/Public\\_Documents/WellfleetMA\\_WebDocs/AADU.pdf](http://www.wellfleetma.org/Public_Documents/WellfleetMA_WebDocs/AADU.pdf).

<sup>29</sup> Keith Schneider, *New Approaches to Shaping Community Futures*, March 1997, Michigan Land Use Institute, <http://www.mlui.org/growthmanagement/fullarticle.asp?fileid=3862>.

Fauquier County recognizes three different types of accessory units: family dwellings, efficiency apartments, and tenant houses.<sup>30</sup> Family dwelling units are detached accessory units constructed for use by the homeowner's family member(s); they must be occupied by no more than five people, at least one of them related to the owner. Family dwelling units may be as large as 1,400 square feet in size and are permitted in both rural and many residentially zoned areas. Efficiency apartments are alternatives to family dwelling units and are attached to either the primary residence or to an accessory structure, such as a garage. The size is limited to 600 square feet or 25 percent of the gross floor area of the main dwelling, whichever is greater. Efficiencies may not be occupied by more than two unrelated people and are allowed in rural and residential-zoned areas. Tenant houses are detached dwellings built on the property for the purpose of supporting agricultural land uses. At least one person occupying the tenant house must work on the property. Tenant houses have no size limits. They are allowed only on rurally zoned areas or properties of at least 50 acres, with one tenant house for every 50 acres of a property.

Development of ADUs in Fauquier County depends on the zoning, the size of the property, and availability of septic/sewer and water services. Each of the unit types is approved by the Fauquier Office of Zoning Permitting and Inspections, with a building permit, provided that the units meet zoning requirements. According to the county's zoning office, 155 accessory dwelling units and 37 efficiency apartments were permitted from 1997 to 2007.

## Conclusion

At the height of the suburbanization of the United States in the 1950s and 1960s, high-density development became undesirable. Instead, communities favored low-density development defined by large-lot single-family homes. Accessory apartments that were once a common feature in many homes were excluded from zoning ordinances. However, growing demand for affordable housing (coupled with the limited amount of land available for development in many communities) has led to changing attitudes about the use and development of accessory apartments. An

increasing number of communities across the nation are adopting flexible zoning codes within low-density areas in order to increase their affordable housing supply.

Communities find that allowing accessory dwelling units is advantageous in many ways. In addition to providing practical housing options for the elderly, disabled, empty nesters, and young workers, ADUs can provide additional rental income for homeowners. ADUs are smaller in size, do not require the extra expense of purchasing land, can be developed by converting existing structures, and do not require additional infrastructure. They are an inexpensive way for municipalities to increase their housing supply, while also increasing their property tax base. By providing affordable housing options for low- and moderate-income residents, communities can retain population groups that might otherwise be priced out of the housing market.

The examples provided in the previous section involve communities that have to rely on existing housing stock to meet rising demand, either due to lack of developable land or strict growth management regulations. Portland and Fauquier County have adopted ADU ordinances to increase housing supply within their growth boundaries. Communities that are built out or have limited available land benefit from allowing the development of accessory units, as in Lexington and Wellfleet. Barnstable's amnesty program shows how to successfully bring a large number of existing illegal accessory units into compliance. In addition to allowing ADUs in all residential zones, Santa Cruz has attracted interest in ADU development by publishing an ADU Manual and Plan Sets Book with seven prototype designs for accessory units.

A community can tailor ADU ordinances to suit its demographic, geographic, and socioeconomic characteristics. The communities discussed in this case study provide loan programs, tax incentives, streamlined permitting, and reduced development fees as part of their ADU programs. In order for an ADU program to succeed, it has to be flexible, uncomplicated, include fiscal incentives, and be supported by a public education campaign that increases awareness and generates community support.

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<sup>30</sup> See Appendix F.

## Appendix A — Town of Lexington, Massachusetts, Article V, 135-19, Accessory Apartments

### § 135-19. Accessory apartments. [Amended 5-2-1988 ATM by Art. 41; 4-10-1989 ATM by Art. 41; 4-4-1990 ATM by Art. 36; 4-4-2005 ATM by Art. 10]

An accessory apartment is a second dwelling subordinate in size to the principal dwelling unit on an owner-occupied lot, located in either the principal dwelling or an existing accessory structure. The apartment is constructed so as to maintain the appearance and essential character of a one-family dwelling and any existing accessory structures. Three categories of accessory apartments are permitted: by-right accessory apartments, which are permitted as of right, and special permit accessory apartments and accessory structure apartments, which may be allowed by a special permit.

A. General objectives. The provision of accessory dwelling units in owner-occupied dwellings is intended to:

- (1) Increase the number of small dwelling units available for rent in the Town;
- (2) Increase the range of choice of housing accommodations;
- (3) Encourage greater diversity of population with particular attention to young adults and senior citizens; and
- (4) Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the Town's single-family neighborhoods.

B. Conditions and requirements applicable to all accessory apartments.

(1) General.

- (a) There shall be no more than two dwelling units in a structure, and no more than two dwelling units on a lot.
- (b) There shall be no boarders or lodgers within either dwelling unit.
- (c) No structure that is not connected to the public water and sanitary sewer systems shall have an accessory apartment.
- (d) The owner of the property on which the accessory apartment is to be created shall occupy one or the other of the dwelling units, except for temporary absences as provided in Subsection B (1) (e). For the purposes of this section, the "owner" shall be one or more individuals who constitute a family, who hold title directly or indirectly to the dwelling, and for whom the dwelling is the primary residence...

(2) Exterior appearance of a dwelling with an accessory apartment. The accessory apartment shall be designed so that the appearance of the structure maintains that of a one-family dwelling....

(3) Off-street parking. There shall be provided at least two off-street parking spaces for the principal dwelling unit and at least one off-street parking space for the accessory apartment....

C. By-right accessory apartments shall be permitted so long as the requirements set forth in the §135-19B are satisfied and the following criteria in this section are met:

- (1) The lot area shall be at least 10,000 square feet.
- (2) The apartment shall be located in the principal structure.
- (3) The maximum gross floor area of the by-right accessory apartment shall not exceed 1,000 square feet.
- (4) There shall not be more than two bedrooms in a by-right accessory apartment.
- (5) There shall be no enlargements or extensions of the dwelling in connection with any by-right accessory apartment except for minimal additions necessary to comply with building, safety or health codes, or for enclosure of an entryway, or for enclosure of a stairway to a second or third story.
- (6) The entire structure containing the by-right accessory apartment must have been in legal existence for a minimum of five years at the time of application for a by-right accessory apartment.

D. Special permit accessory apartments. If a property owner cannot satisfy the criteria for by-right accessory apartments that are set forth in § 135-19C above, the property owner may apply for a special permit from the Board of Appeals....

E. Accessory structure apartments. Notwithstanding any provisions of this Zoning By-Law that state an accessory apartment shall be located in a structure constructed as a detached one-family dwelling and the prohibition in § 135-35D against having more than one dwelling on a lot, the Board of Appeals may grant a special permit as provided in § 135-16, Table I, line 1.22C, to allow the construction of an accessory apartment in an existing accessory structure which is on the same lot in the RS, RT, KO, RM or CN District as an existing one-family dwelling provided:

- (1) Lot area is at least 18,000 square feet if in the RS, RT, or CN District, at least 33,000 square feet if in the RO District, and at least 125,000 square feet if in the RM District;
- (2) The structure containing the accessory structure apartment was in legal existence for a minimum of five years and had a minimum of 500 square feet of gross floor area as of five years prior to the time of application;
- (3) The maximum gross floor area of the accessory structure apartment does not exceed 1,000 square feet. An addition to an accessory structure may be permitted, but no addition shall be allowed which increases the gross floor area of the structure to more than 1,000 square feet. The gross floor area for the accessory apartment shall not include floor area used for any other permitted accessory use. The accessory apartment cannot contain floor area that has been designed, intended or used for required off-street parking to serve the principal dwelling;...

## **Appendix B — City of Santa Cruz, California, Title 24, Zoning Ordinance, Chapter 24.16, Part 2: ADU Zoning Regulations**

### **24.16.100 Purpose.**

The ordinance codified in this part provides for accessory dwelling units in certain areas and on lots developed or proposed to be developed with single-family dwellings. Such accessory dwellings are allowed because they can contribute needed housing to the community's housing stock. Thus, it is found that accessory units are a residential use which is consistent with the General Plan objectives and zoning regulations and which enhances housing opportunities that are compatible with single-family development...

### **24.16.120 Locations Permitted.**

Accessory dwelling units are permitted in the following zones on lots of 5000 square feet or more...

### **24.16.130 Permit Procedures.**

The following accessory dwelling units shall be principally permitted uses within the zoning districts specified in Section 24.16.120 and subject to the development standards in Section 24.16.160.

1. Any accessory dwelling unit meeting the same development standards as permitted for the main building in the zoning district, whether attached or detached from the main dwelling.
2. Any single story accessory dwelling unit.

Any accessory dwelling unit not meeting the requirements above shall be conditionally permitted uses within the zoning districts specified in Section 24.16.120 and shall be permitted by administrative use permit at a public hearing before the zoning administrator, subject to the findings per Section 24.16.150 and the development standards in Section 24.16.160...

### **24.16.160 Design and Development Standards.**

All accessory dwelling units must conform to the following standards:

1. **Parking.** One parking space shall be provided on-site for each studio and one bedroom accessory unit. Two parking spaces shall be provided on site for each two bedroom accessory unit. Parking for the accessory unit is in addition to the required parking for the primary residence. (See Section 24.16.180 for parking incentives.)
2. **Unit Size.** The floor area for accessory units shall not exceed five hundred square feet for lots between 5000 and 7500 square feet. If a lot exceeds 7500 square feet, an accessory unit may be up to 640 square feet and, for lots in excess of 10,000 square feet, a unit may be up to 800 square feet. In no case may any combination of buildings occupy more than thirty percent of the required rear yard for the district in which it is located, except for units which face an alley, as noted below. Accessory units that utilize alternative green construction methods that cause the exterior wall thickness to be greater than normal shall have the unit square footage size measured similar to the interior square footage of a traditional frame house.
3. **Existing Development on Lot.** A single-family dwelling exists on the lot or will be constructed in conjunction with the accessory unit.
4. **Number of Accessory Units Per Parcel.** Only one accessory dwelling unit shall be allowed for each parcel...

#### **24.16.170 Deed Restrictions.**

Before obtaining a building permit for an accessory dwelling unit the property owner shall file with the county recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:

1. The accessory unit shall not be sold separately.
2. The unit is restricted to the approved size.
3. The use permit for the accessory unit shall be in effect only so long as either the main residence, or the accessory unit, is occupied by the owner of record as the principal residence...

#### **26.16.180 Zoning Incentives.**

The following incentives are to encourage construction of accessory dwelling units.

1. **Affordability Requirements for Fee Waivers.** Accessory units proposed to be rented at affordable rents as established by the city, may have development fees waived per Part 4 of Chapter 24.16 of the Zoning Ordinance...
2. **Covered Parking.** The covered parking requirement for the primary residence shall not apply if an accessory dwelling unit is provided...

#### **24.16.300 Units Eligible for Fee Waivers.**

Developments involving residential units affordable to low or very-low income households may apply for a waiver of the following development fees:

1. Sewer and water connection fees for units affordable to low and very low income households.
2. Planning application and planning plan check fees for projects that are one hundred percent affordable to low and very-low income households.
3. Building permit and plan check fees for units affordable to very-low income households.
4. Park land and open space dedication in-lieu fee for units affordable to very low income households.
5. Parking deficiency fee for units affordable to very-low income households.
6. Fire fees for those units affordable to very-low income households.  
(Ord. 93-51 § 6, 1993).

#### **24.16.310 Procedure for Waiver of Fees.**

A fee waiver supplemental application shall be submitted at the time an application for a project with affordable units is submitted to the city.  
(Ord. 93-51 § 6, 1993)

## Appendix C — City of Portland, Oregon, Title 33, Chapter 33.205: Accessory Dwelling Units

### 33.205.010 Purpose

Accessory dwelling units are allowed in certain situations to:

- Create new housing units while respecting the look and scale of single-dwelling development;
- Increase the housing stock of existing neighborhoods in a manner that is less intense than alternatives;
- Allow more efficient use of existing housing stock and infrastructure;
- Provide a mix of housing that responds to changing family needs and smaller households;
- Provide a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship and services; and
- Provide a broader range of accessible and more affordable housing.

### 33.205.020 Where These Regulations Apply

An accessory dwelling unit may be added to a house, attached house, or manufactured home in an R zone, except for attached houses in the R20 through R5 zones that were built using the regulations of 33.110.240.E, Duplexes and Attached Houses on Corners.

### 33.205.030 Design Standards...

**C. Requirements for all accessory dwelling units.** All accessory dwelling units must meet the following:

1. Creation. An accessory dwelling unit may only be created through the following methods:
  - a. Converting existing living area, attic, basement or garage;
  - b. Adding floor area;
  - c. Constructing a detached accessory dwelling unit on a site with an existing house, attached house, or manufactured home; or
  - d. Constructing a new house, attached house, or manufactured home with an internal or detached accessory dwelling unit.
2. Number of residents. The total number of individuals that reside in both units may not exceed the number that is allowed for a household...
5. Parking. No additional parking is required for the accessory dwelling unit. Existing required parking for the house, attached house, or manufactured home must be maintained or replaced on-site.
6. Maximum size. The size of the accessory dwelling unit may be no more than 33% of the living area of the house, attached house, or manufactured home or 800 square feet, whichever is less...

**D. Additional requirements for detached accessory dwelling units.** Detached accessory dwelling units must meet the following.

1. Setbacks. The accessory dwelling unit must be at least:

- a. 60 feet from the front lot line; or
  - b. 6 feet behind the house, attached house, or manufactured home.
2. Height. The maximum height allowed for a detached accessory dwelling unit is 18 feet.
  3. Bulk limitation. The building coverage for the detached accessory dwelling unit may not be larger than the building coverage of the house, attached house, or manufactured home. The combined building coverage of all detached accessory structures may not exceed 15 percent of the total area of the site...

### **33.205.040 Density**

In the single-dwelling zones, accessory dwelling units are not included in the minimum or maximum density calculations for a site. In all other zones, accessory dwelling units are included in the minimum density calculations, but are not included in the maximum density calculations.

## **Appendix D — Town of Barnstable, Massachusetts, Chapter 9, Article II - Accessory Apartments and Apartment Units**

### **§ 9-12. Intent and purpose.**

- A. The intent of this article is to provide an opportunity to bring into compliance many of the currently unpermitted accessory apartments and apartment units in the Town of Barnstable, as well as to allow the construction of new dwelling units accessory to existing single-family homes to create additional affordable housing.
- B. This article recognizes that although unpermitted and unlawfully occupied, these dwelling units are filling a market demand for housing at rental costs typically below that of units which are and have been lawfully constructed and occupied.
- C. It is in the public interest and in concert with its obligations under state law, for the Town of Barnstable to offer a means by which so-called unpermitted and illegal dwelling units can achieve lawful status, but only in the manner described below.
- D. It is the position of the Town of Barnstable that the most appropriate mechanism for allowing for the conversion of unlawful dwelling units to lawful units is found in MGL c. 40B, §§ 20 to 23, the so-called “Comprehensive Permit” program. This provision of state law encourages the development of low- and moderate-income rental and owner-occupied housing and provides a means for the Board of Appeals to remove local barriers to the creation of affordable housing units. These barriers include any local regulation such as zoning and general ordinances that may be an impediment to affordable housing development.
- E. The Local Comprehensive Plan states that the Town should commit appropriate resources to support affordable housing initiatives. Under this article, the Town commits the following resources to support this affordable housing initiative:
  - (1) Waiver of fees for the inspection and monitoring of the properties identified under this article;
  - (2) Designation of Town staff to assist the property owner in navigating through the process established under this article;
  - (3) To the extent allowable by law, the negative effect entailed by the deed restriction involved will be reflected in the property tax assessment; and
  - (4) To assist property owners in locating available municipal, state and federal funds for rehabilitating and upgrading the properties identified under this article.
- F. The Local Comprehensive Plan supports, in conjunction with a variety of other strategies, the conversion of existing structures for use as affordable housing...

### **§ 9-14. Amnesty program.**

Recognizing that the success of this article depends, in part, on the admission by real property owners that their property may be in violation of the Zoning Ordinances of the Town, Editor’s Note: See Ch. 240, Zoning. the Town hereby establishes the following amnesty program:

- A. The threshold criteria for units being considered as units potentially eligible for the amnesty program are:
  - (1) Real property containing a dwelling unit or dwelling units for which there does not exist a validly issued variance, special permit or building permit, does not qualify as a lawful, nonconforming use or structure, for any or all the units, and that was in existence on a lot of record within the Town as of January 1, 2000; or

(2) Real property containing a dwelling unit or dwelling units which were in existence as of January 1, 2000, and which have been cited by the Building Department as being in violation of the Zoning Ordinance; and...

B. The procedure for qualifying units that meet the threshold criteria for the amnesty program is as follows:

(1) The unit or units must either be a single unit accessory to an owner occupied single-family dwelling or one or more units in a multifamily dwelling where there exists a legal multifamily use but one or more units are currently unpermitted;

(2) The unit(s) must receive a site approval letter under the Town's local Chapter 40B program;

(3) The property owner must agree that if s/he receives a comprehensive permit, the unit or units for which amnesty is sought will be rented to a person or family whose income is 80% or less of the area median income (AMI) of Barnstable-Yarmouth Metropolitan Statistical Area (MSA) and shall further agree that rent (including utilities) shall not exceed the rents established by the Department of Housing and Urban Development (HUD) for a household whose income is 80% or less of the median income of Barnstable-Yarmouth Metropolitan Statistical Area. In the event that utilities are separately metered, the utility allowance established by the Barnstable Housing Authority shall be deducted from HUD's rent level.

(4) The property owner must agree, that if s/he receives a comprehensive permit, that s/he will execute a deed restriction for the unit or units for which amnesty is sought, prepared by the Town of Barnstable, which runs with the property so as to be binding on and enforceable against any person claiming an interest in the property and which restricts the use of one or more units as rental units to a person or family whose income is 80% or less of the median income of Barnstable-Yarmouth Metropolitan Statistical Area (MSA)...

**§ 9-15. New units accessory to single-family owner-occupied dwellings.**

For a proposed new unit to be eligible for consideration under the local chapter 40B program, it must be a single unit, accessory to an owner-occupied single-family dwelling, to be located within or attached to an existing residential structure or within an existing building located on the same lot as said residential structure and comply with the following:

A. The unit(s) must receive a site approval letter under the Town's local Chapter 40B program;

B. The property owner must agree that if s/he receives a comprehensive permit, the accessory dwelling unit will be rented to a person or family whose income is 80% or less of the area median income (AMI) of Barnstable-Yarmouth Metropolitan Statistical Area (MSA) and shall further agrees that rent (including utilities) shall not exceed the rents established by the Department of Housing and Urban Development (HUD) for a household whose income is 80% or less of the median income of Barnstable-Yarmouth Metropolitan Statistical Area. In the event that utilities are separately metered, the utility allowance established by the Barnstable Housing Authority shall be deducted from HUD's rent level.

C. The property owner must agree, that if s/he receives a comprehensive permit, that s/he will execute a deed restriction for the unit, prepared by the Town of Barnstable, which runs with the property so as to be binding on and enforceable against any person claiming an interest in the property and which restricts the use of the one unit as a rental unit to a person or family whose income is 80% or less of the median income of Barnstable-Yarmouth Metropolitan Statistical Area (MSA)...

## Appendix E — Town of Wellfleet, Massachusetts, 6.21 Affordable Accessory Dwelling Units

**Purpose:** For the purpose of promoting the development of affordable rental housing in Wellfleet for year-round residents, a maximum of three affordable accessory dwelling units per lot may be allowed subject to the requirements, standards and conditions listed below:

**6.21.1** Up to three affordable accessory dwelling units per lot may be allowed in any district by Special Permit from the Zoning Board of Appeals.

**6.21.2** Affordable accessory dwelling units created under this by-law shall be occupied exclusively by income-eligible households, as defined by the guidelines in numbers 6.21.4 and 6.21.5 below. The affordability requirements of this by-law shall be imposed through conditions attached to the Special Permit issued by the Zoning Board of Appeals. No accessory apartment shall be constructed or occupied until proof of recording is provided to the Inspector of Buildings.

### **6.21.3** Requirements and Standards

- A. Affordable accessory dwelling units may be located within or attached to a principal dwelling, principal structure, a garage or constructed as a detached unit.
- B. Affordable accessory dwelling units shall not be larger than one thousand two hundred (1,200) square feet of Livable Floor Area as that term is defined in Section II of this Zoning By-law.
- C. Affordable accessory dwelling units within or attached to a principal dwelling, principal structure or garage that is pre-existing nonconforming shall not increase the nonconforming nature of that structure, except that any pre-existing accessory building may be eligible for conversion to an affordable accessory dwelling unit.
- D. Newly constructed detached accessory units shall comply with all applicable provisions of the Zoning By-law unless they are specifically waived by this by-law. Newly constructed detached accessory units shall comply with all setback requirements listed in Sections 5.4.2 of this Zoning By-law.
- E. Owners of residential property may occupy as a primary residence either the principal or accessory dwelling. For the purposes of this section, the “owner” shall mean one who holds legal or beneficial title.
- F. Septic systems are required to meet current Title 5 standards and shall be reviewed and approved by the Health Agent.
- G. The Inspector of Buildings and Health Agent shall inspect the premises for compliance with public safety and public health codes.
- H. No affordable accessory dwelling unit shall be separated by ownership from the principal dwelling unit or principal structure. Any lot containing an affordable accessory dwelling unit shall be subject to a recorded restriction that shall restrict the lot owner’s ability to convey interest in the affordable accessory dwelling unit, except leasehold estates, for the term of the restriction.

**6.21.4** All occupants of the affordable accessory dwelling unit shall upon initial application and annually thereafter on the first of September, submit to the Town or its agent necessary documentation to confirm their eligibility for the dwelling unit. Specifically, all dwelling units must be rented to those meeting the guidelines for a low or moderate-income

family. For the purpose of this section, low income families shall have an income less than eighty (80) percent of the Town of Wellfleet median family income, and moderate income families shall have an income between eighty (80) and one hundred twenty (120) percent of the Town of Wellfleet median family income, as determined by the United States Department of Housing and Urban Development (HUD) Published Income Guidelines, and as may from time to time be amended.

**6.21.5** Maximum rents shall be established in accordance with HUD published Fair Market Rental Guidelines. Property owners are required to submit to the Town or its agent information on the rents to be charged. Each year thereafter on the first of September, they shall submit information on annual rents charged to the Town or its agent. Forms for this purpose shall be provided. Rents may be adjusted annually in accordance with amendments to the Fair Market Rental Guidelines.

**6.21.6 Procedure**

- A. The property owner shall complete and submit an application for a Special Permit to the Zoning Board of Appeals in accordance with the Wellfleet Zoning Board of Appeals Rules and Procedures.
- B. The Zoning Board of Appeals shall hold a public hearing in accordance with the procedures and requirements set forth in Section 9 of Massachusetts General Law, Chapter 40A and the Wellfleet Zoning By-law, Section 8.4.2 .
- C. Appeal under this section shall be taken in accordance with Section 17 of Massachusetts General Law, Chapter 40A.
- D. The property owner shall complete and submit to the Inspector of Buildings an application for a Building Permit to allow a change in use.
- E. The property owner shall obtain a Certificate of Occupancy from the Inspector of Buildings prior to the affordable accessory dwelling unit being occupied.

Penalty – Failure to comply with any provision of this section may result in fines established in Section 8.3 of the Wellfleet Zoning By-laws.

## **Appendix F — Fauquier County, Virginia Zoning Ordinance**

### **ARTICLE 5 — ADMINISTRATIVE PERMITS, SPECIAL PERMITS AND SPECIAL EXCEPTIONS**

#### **5-104 Standards for an administrative permit for an Efficiency Apartment**

1. Such a unit shall not be occupied by more than two persons.
2. Not more than one such unit shall be located on a lot.
3. Such a unit shall contain no more than 600 square feet of gross floor area or 25% of the total gross floor of the dwelling, whichever is greater.
4. Such a unit shall be located only on the same lot as the residence of the owner of the lot.
5. Architectural features of such a unit shall conform with the single family character of the neighborhood (e.g., no additional front doors).

#### **5-105 Standards for an administrative permit for a Family Dwelling Unit**

1. Such a unit shall not be occupied by more than five (5) persons, at least one of whom must be the natural or adopted parent, grandparent, child, grandchild, brother or sister of the owner and occupant of the single family residence on the same lot. Or, the lot owner may live in the family dwelling unit and allow such family members to reside in the main house. In either case, the lot owner must reside on the property.
2. Such a unit may be 1,400 square feet of gross floor area.
3. No dwelling units other than the principal structure (a single family dwelling) and one such family dwelling unit shall be located on one lot...

### **ARTICLE 6 - ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS**

#### **6-102 Permitted Accessory Uses**

Accessory uses and structures shall include, but are not limited to, the following uses and structures, provided that such uses or structure shall be in accordance with the definition of Accessory Use contained in Article 15...

9. Guest house or rooms for guests in an accessory structure, but only on lots of at least two (2) acres and provided such house is without kitchen facilities, is used for the occasional housing of guests of the occupants of the principal structure and not as rental units or for permanent occupancy as housekeeping units...
14. Quarters of a caretaker, watchman or tenant farmer, and his family, but only in the Rural Districts at a density not to exceed one (1) unit per fifty (50) acres...
31. The letting for hire of not more than two rooms to not more than two persons for periods no shorter than one month...

# Understanding Accessory Dwelling Units and Their Importance



Courtesy of Karen Chapple, UC Berkeley

California's housing production is not keeping pace with demand. In the last decade less than half of the needed housing was built. This lack of housing is impacting affordability with average housing costs in California exceeding the rest of the nation. As affordability becomes more problematic, people drive longer distances between a home that is affordable and where they work, or double up to share space, both of which reduces quality of life and produces negative environmental impacts.

Beyond traditional market-rate construction and government subsidized production and preservation there are alternative housing models and emerging trends that can contribute to addressing home supply and affordability in California.

One such example gaining popularity are Accessory Dwelling Units (ADUs) (also referred to as second units, in-law units, or granny flats).

## What is an ADU

An ADU is a secondary dwelling unit with complete independent living facilities for one or more persons and generally takes three forms:

- *Detached*: The unit is separated from the primary structure
- *Attached*: The unit is attached to the primary structure
- *Repurposed Existing Space*: Space (e.g., master bedroom) within the primary residence is converted into an independent living unit
- *Junior Accessory Dwelling Units*: Similar to repurposed space with various streamlining measures

ADUs offer benefits that address common development barriers such as affordability and environmental quality. ADUs are an affordable type of home to construct in California because they do not require paying for land, major new infrastructure, structured parking, or elevators. ADUs are built with cost-effective one- or two-story wood frame construction, which is significantly less costly than homes in new multifamily infill buildings. ADUs can provide as much living space as the new apartments and condominiums being built in new infill buildings and serve very well for couples, small families, friends, young people, and seniors.

ADUs are a different form of housing that can help California meet its diverse housing needs. Young professionals and students desire to live in areas close to jobs, amenities, and schools. The problem with high-opportunity areas is that space is limited. There is a shortage of affordable units and the units that are available can be out of reach for many people. To address the needs of individuals or small families seeking living quarters in high opportunity areas, homeowners can construct an ADU on their lot or convert an underutilized part of their home like a garage

into a junior ADU. This flexibility benefits not just people renting the space, but the homeowner as well, who can receive an extra monthly rent income.

ADUs give homeowners the flexibility to share independent living areas with family members and others, allowing seniors to age in place as they require more care and helping extended families to be near one another while maintaining privacy.

Relaxed regulations and the cost to build an ADU make it a very feasible affordable housing option. A UC Berkeley study noted that one unit of affordable housing in the Bay Area costs about \$500,000 to develop whereas an ADU can range anywhere up to \$200,000 on the expensive end in high housing cost areas.

ADUs are a critical form of infill-development that can be affordable and offer important housing choices within existing neighborhoods. ADUs are a powerful type of housing unit because they allow for different uses, and serve different populations ranging from students and young professionals to young families, people with disabilities and senior citizens. By design, ADUs are more affordable and can provide additional income to homeowners. Local governments can encourage the development of ADUs and improve access to jobs, education and services for many Californians.



**CASE NUMBER P-19-001**  
**TEXT AMENDMENT – Metal Exterior (Facades) for Residential Uses**

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**REQUEST:**

The City of Brenham is initiating a request to amend the City of Brenham’s Code of Ordinances, Appendix A – Zoning, Part III, Division 1, Section 18 to prohibit metal exteriors (façades) for residential uses.

**BACKGROUND:**

The City of Brenham’s zoning ordinance does not regulate exterior construction materials (façade) for properties developed within the City Limits. Therefore, no minimum masonry requirements or exterior façade limitations are applied to either residential, retail, or commercial property in Brenham. Recently, 100% metal façade single-family detached dwellings were constructed on properties along Old Mill Creek Road, east of US Highway 290 West.

The City of Brenham has adopted zoning to foster orderly and healthful development and to protect the health, safety, morals and general welfare of its residents and citizens. Preserving character and ensuring land use compatibility are objectives of the zoning ordinance and adopted Comprehensive Plan.

Staff finds that metal façade dwellings, specifically those built with a 100% metal façade, are not compatible adjacent to or within established neighborhoods built primarily of brick, stone, or other non-metallic façades. It is recommended to amend the zoning ordinance establishing a requirement that residential uses built in Brenham be built with a non-metallic exterior.

**PROPOSED AMENDMENT:**

Appendix A, Part II, Division 1, Section 18 – Exterior Construction Materials for Selected Districts

(Sec. 18.01) The requirements of this section shall apply to construction of residential uses and accessory structures over 120 square feet in area, and built in the following zoning districts:

1. R-1: Residential Single Family
2. R-2: Mixed Residential
3. R-3: Manufactured Home Residential
4. B-1: Local Business/Residential Mixed Use District

(Sec. 18.02) To protect the public health, safety, character, and general welfare and to reduce or eliminate potential fire hazards in areas containing a higher density of buildings, a dwelling in any of the zoning categories to which this section applies shall not be constructed with a metal façade.

**ANALYSIS:**

Chapter three – Housing, of the Brenham Comprehensive Plan recommends that the City establish guidelines to protect established neighborhoods. Within the City of Brenham there are many existing established neighborhoods that could be considered an aging housing stock and should be preserved. Many times areas where older neighborhoods exist begin to see infill or re-development. Design

guidelines help to ensure that new homes in existing neighborhoods are appropriate in terms of context, such as building materials, height similarities, window spacing and size of the home. Protecting existing established neighborhoods through design guidelines will ensure the long-term stability and long-term vitality of an area, and thus the quality of life for the community.

The Comprehensive Plan suggests that developing guidelines to protect the character of neighborhoods from inappropriate building or renovations should include identifying complimentary elements of existing housing that can reasonably incorporated into new development. The new housing type with 100% metal exterior do not have complimentary elements to existing housing stock (Exhibit A). Existing housing within the Dixie Subdivision have no metal façades, are developed with multiple roof pitches and contain façade articulation around openings or entrances (windows and doors).

In an effort to preserve the Dixie Subdivision, and all other residential development in Brenham, staff finds that preventing the use of metal exteriors on residential uses is a necessary amendment to the zoning ordinance. As mentioned in the Comprehensive Plan, establishing guidelines to preserve neighborhood integrity will help maintain property values and protect community character.

**PUBLIC COMMENTS:**

The Notice of Public Hearing was published in the newspaper on January 17, 2019. Any public comments will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

**STAFF RECOMMENDATION:**

Staff recommends **approval** of an ordinance to prohibit metal exteriors on residential uses.

**EXHIBITS:**

1. Letter and Photos from Citizen, Susanna Leonard

**EXHIBIT "A"**  
**Letter and Photos from Citizen, Susanna Leonard**

Hello Ms. Doland,

I would like to bring to your attention an issue that is happening in a residential neighborhood in Brenham. There are metal buildings being built at a rapid pace. These buildings are changing the aesthetic landscape of the neighborhood, lowering property values and upsetting the community togetherness.

I know you are a very busy as the Assistant Director of Development services for the City of Brenham, however your attention to this matter is greatly appreciated. Brenham will benefit immensely by adopting an ordinance which prohibits metal buildings larger than 120 sq ft in R1 Zoning. I have included links for other cities in Texas that have adopted similar ordinances-

City of Gainesville, TX Zoning Code Amendments - page 9

<http://www.gainesville.tx.us/DocumentCenter/View/981/Zoning-Code-Amendments-2nd-reading-061813?bidId=>

City of Corinth, TX Ordinance No 11-06-16-12 Sec 301.3.1

<https://www.cityofcorinth.com/DocumentCenter/View/777/ORDINANCE-NO-11-06-16-12?bidId=>

City of Fulshear, TX Sec. 1-167[a]. - Exterior Construction Materials

[https://library.municode.com/tx/fulshear/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_APXAZO\\_ARTIIDIRE\\_DIVIGE\\_S1-167AEXCOMA](https://library.municode.com/tx/fulshear/codes/code_of_ordinances?nodeId=PTIICOOR_APXAZO_ARTIIDIRE_DIVIGE_S1-167AEXCOMA)

City of League City, TX Sec 125-140.Q. Exterior Construction Requirements

<http://www.leaguecity.com/DocumentCenter/View/734/Zoning-Ordinance?bidId=>

City of Bedford, TX 5.8.A STANDARD MASONRY CONSTRUCTION

<https://bedfordtx.gov/DocumentCenter/View/186/Zoning-Ordinance-PDF>

I have also attached pictures of these metal buildings that have been erected in the past few months in my neighborhood. In addition, I included photos of other homes in my neighborhood. As you will see, the metal buildings greatly reduce the quality aesthetic of the neighborhood.

Your prompt attention to this manner is greatly appreciated. I would like to include this as a proposal for the next city council meeting. There is a 5 acre lot that is pending sale in our neighborhood, I fear the same builder of these metal units is planning to develop on this 5 acre lot. I am confident I can garner support from my neighbors if beneficial. I have also sent this letter to Mayor Tate. Please let me know if I can provide any further information and what I need to do in order to submit this on the city council agenda. Samantha Ullrich and her grandfather are building these metal rental units.

Sincerely,

Susanna Leonard

979-213-8714

[seleonard13@gmail.com](mailto:seleonard13@gmail.com)

201 Meadowbrook Ln

Brenham, TX 77833



