



**NOTICE OF A REGULAR MEETING
BOARD OF ADJUSTMENT
MONDAY, APRIL 10, 2023 AT 5:15 P.M.
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN
BRENHAM, TEXAS**

1. Call Meeting to Order

2. Public Comments and Receipt of Petitions

[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 March 13, 2023 Board of Adjustment Meeting

REGULAR AGENDA

5. Public hearing, Discussion and Possible Action on Case Number B-23-004: A request by Chris and DeeAnna Marek for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(1)(b)(iii) to allow the existing 102.72-foot lot depth, where a minimum average lot depth of 115-foot lot is required, for a single family residence located on the property addressed as 604 S. Baylor Street, and described as Lot 3A and Lot 4A (Proposed Lot 3B) of the Original Town Lot 91, in Brenham, Washington County, Texas.

6. Adjourn

CERTIFICATION

I certify that a copy of the April 10, 2023, agenda of items to be considered by the Board of Adjustment was posted to the City Hall bulletin board at 200 W. Vulcan, Brenham, Texas on April 6, 2023, at 10:30 a.m.

Kim Hodde

Kim 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) 337-7200 for assistance.

I certify that the attached notice and agenda of items to be considered by the Board of Adjustment was removed by me from the City Hall bulletin board on the _____ day of _____, 2023 at _____ am/pm.

Signature

Title

**CITY OF BRENHAM
BOARD OF ADJUSTMENT MINUTES**

March 13, 2023

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

A regular meeting of the Board of Adjustment was held on March 13, 2023, at 5:15 pm in the Brenham Municipal Building, City Council Chambers, at 200 West Vulcan Street, Brenham, Texas.

Commissioners present:

Danny Goss, Vice Chairman
Walt Edmunds
Dax Flisowski
Mary Lou Winkelmann

Commissioners absent:

Jon Hodde (conflict of interest)
Arlen Thielemann

Staff present:

Shauna Laauwe, City Planner
Kim Hodde, Planning Tech

Citizens / Media present:

Jon Hodde on behalf of Four Vee, LLC

1. Call Meeting to Order

Vice Chairman Goss called the meeting to order at 5:21 p.m. with a quorum of four (4) Commissioners present.

2. Public Comments and Receipt of Petitions

There were no public comments and/or receipt of petitions.

3. Reports and Announcements

There were no reports or announcements.

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 February 13, 2023 Board of Adjustment Meeting.

Vice Chairman Goss called for any corrections or additions to the minutes as presented. A motion was made by Commissioner Winkelmann and seconded by Commissioner Flisowski to approve the Consent Agenda (minutes from the February 13, 2023 meeting), as presented. The motion carried unanimously (4-0).

REGULAR AGENDA

- 5. Public hearing, Discussion and Possible Action on Case Number B-23-003: A request by Four Vee, LLC / Cody Vordenbaum for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(1)(b)(iii) to allow a 104.35-foot lot depth for proposed Lots 2-B and 2-C, where a minimum average lot depth of 115-foot lot is required, for the future development of single-family residences to be located on the property currently addressed as 803 Matchett Street, described as the east half of Lots 2 & 4, Block K, A.M. Lewis Addition, in Brenham, Washington County, Texas.**

Shauna Laauwe, City Planner, presented the staff report for Case No. B-23-003 (on file in the Development Services Department). Ms. Laauwe stated that this is a request by Four Vee LLC (Cody Vordenbaum) to allow a 104.35-foot lot depth for proposed Lots 2-B and 2-C, where a minimum average lot depth of 115-foot lot is required, for the future development of the property currently addressed as 803 Matchett Street. The subject property is zoned R-2, Mixed Residential District. The current use is single-family residential / vacant land and the Comprehensive Plan shows the future land designation of the property as single-family residential. The surrounding properties are single-family residential with Brenham Village Apartments located to the south. Ms. Laauwe stated that Brenham's zoning ordinance requires the depth of a residential lot to be not less than one hundred fifteen (115) feet. Ms. Laauwe stated that the existing lot is an elongated lot containing approximately 1-acre of land being 104.35-feet wide and 419.17-feet in depth. The existing single-family structure is 925-square feet and was constructed in 1990. The new owner/applicant desires to divide the southern portion of the property into three lots for future single-family development. The lots would be addressed off Watson Street, thus allowing only for 104.35-feet of lot depth. Proposed Lots 2-B and 2-C would have a lot width of 78.44-feet and a lot depth of 104.35-feet (8,189 square feet); therefore, creating the need for a lot depth variance. Proposed Lot 2-D is also 104.35-feet deep but since it is a corner lot with a width of 111.86+feet, it is allowed to have a smaller lot depth.

The property was originally platted in the late 1800's. This lot was created by metes and bounds rather than through the replatting process. Floral Street is a dedicated 40-foot right of way that is currently not developed. Development of this property will require replatting to establish the new lot lines. A replat application has been submitted to divide the property as follows:

Lot 2-A: 0.360-acres. Consists of the existing single-family residence and 2-accessory structures.
Lot 2-B: 0.188-acres (8,185,21 SF). Lot width of 78.44-feet and depth of 104.35-feet.
Lot 2-C: 0.188-acres (8,185,21 SF). Lot width of 78.44-feet and depth of 104.35-feet.
Lot 2-D: 0.268-acres (11,672 SF). Lot width of 111.86-feet and depth of 104.35-feet.

Any future development will be required to meet all setbacks for the R-2 Zoning District: 25-foot front and rear setbacks and 10-foot side setbacks. The proposed density is less than what is allowed in the R-2 Zoning District. The Developer is currently working through the process to get utilities to the property. Watson Street will likely need to be improved in the future since it is currently approximately 20-foot wide although there is a 40-foot right-of-way dedicated for the roadway.

Notifications were mailed to property owners within 200-feet of the subject property on March 2, 2023. Staff received one citizen comment in support of the variance request.

Staff has reviewed the request and recommends approval of the requested variance to allow a lot depth of 104.35-feet for the proposed Lots 2-B and 2-C for future development.

In response to Commissioner comments, Ms. Laauwe stated that this development will not impede future improvement of Matchett Street since there is 40-feet of right-of-way dedicated and typically City streets are 32-foot wide.

Vice Chairman Goss opened the Public Hearing at 5:44 p.m. and asked for any comments. Jon Hodde spoke on behalf of the applicant, Four Vee, LLC. Mr. Hodde reiterated that the proposed lot size and lot widths are larger than required. He further stated that the proposed plat dedicates a 15-foot public utility easement in addition to the 40-foot road right-of-way that is already dedicated. This development should enhance the area and hopefully spur redevelopment and possibly development of Floral Street, which is currently undeveloped.

Vice Chairman Goss closed the Public Hearing at 5:47 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Winkelmann and seconded by Commissioner Edmunds to approve the request by Four Vee, LLC (Cody Vordenbaum) for a variance from the City of Brenham Code of Ordinances to allow a 104.35-foot lot depth for proposed Lots 2-B and 2-C, where a minimum average lot depth of 115-foot lot is required, for the future development of the property currently addressed as 803 Matchett Street, as presented. The motion carried unanimously (4-0).

6. Adjourn

A motion was made by Commissioner Flisowski and seconded by Commissioner Edmunds to adjourn the meeting at 5:48 p.m. The motion carried unanimously.

The City of Brenham appreciates the participation of our citizens, and the role of the Board of Adjustment in this decision-making process.

Certification of Meeting Minutes:

Jon E. Hodde, Chairman

April 10, 2023
Meeting Date

Attest, Staff Secretary

April 10, 2023
Meeting Date

CASE NUMBER: B-23-004

VARIANCE REQUEST: 604 S. BAYLOR STREET

STAFF CONTACT: Shauna Laauwe AICP, City Planner

OWNERS/APPLICANTS: Chris and DeeAnna Marek

ADDRESS/LOCATION: 604 S. Baylor Street (Exhibit “A”)

LEGAL DESCRIPTION: Lot 3A and 4A (proposed Lot 3B) of the Original Town Lot 91

LOT AREA: 16,798 square feet, approximately 0.386-acres

**ZONING DISTRICT/
USE:** R-2 Mixed Residential Use District / Single-family residence.
(Exhibit “B”)

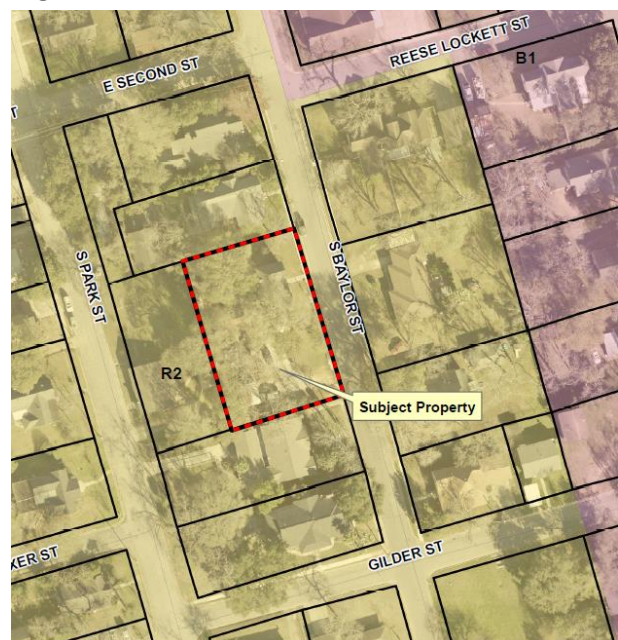
**COMP PLAN
FUTURE LAND USE:** Single-family residential

REQUEST: A request for a Variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(1)(b)(iii) to allow the existing 102.725-foot lot depth where a minimum 115-foot lot depth is required for single-family residences (Exhibit “C”).

BACKGROUND:

The subject property is a 16,798 square foot (0.386-acre) lot addressed as 604 S. Baylor Street, and generally located on the west side of S. Baylor Street, south of E. Second Street and north of Gilder Street. As shown in Figure 1, the subject property, as well as surrounding properties are currently zoned as R-2 Mixed Residential Use District. Further to the east, properties along Reese Lockett Street and S. Market Street are zoned B-1, Local Business Residential Mixed Use District. While the subject and surrounding properties are zoned R-2, the area is mostly developed as single-family residential homes, many of which date to the late 1800s and early 1900s. The subject property currently is comprised and recorded as two lots, Lot 3A and 4A of the Original Town Lot 91. The Original Town subdivision is one of the earliest plats in Brenham and predates the current zoning and subdivision regulations that were adopted in 1968. The subject property is developed with a 1,743 square foot single-family home that was constructed in 1882 and situated on

Figure 1



the northern half of the property (Lot 3A), nearest E. Second Street. The property owner and applicant is Chris and DeeAnna Marek. The applicants propose to demolish an existing metal storage shed located near the south property line and construct a new 24'x24', (576 square feet), single-story detached accessory dwelling unit (ADU). The ADU received approval by the City Council on January 19, 2023 (O-23-003). As shown in Figure 2, the existing home is located on Lot 3A (north of the dashed line), while the ADU would be placed on Lot 4A (south of the dashed line). Due to an accessory structure not being allowed to be a principle structure on a lot, the Applicant is required to replat the two lots into one lot. The replatting into one lot is required to ensure that the ADU isn't sold separately on its own lot, as ADUs have reduced setbacks and typically do not meet the minimum house size of 700 square feet. Figure 3 below and Exhibit C, details the proposed Replat of Lots 3A and 4A to create Lot 3B, has been submitted for Planning and Zoning Commission approval on April 24, 2023. The plat shows that the property is approximately 0.386 acres with a width of 163-feet along S. Baylor Street and a depth of approximately 103 feet.

Figure 2

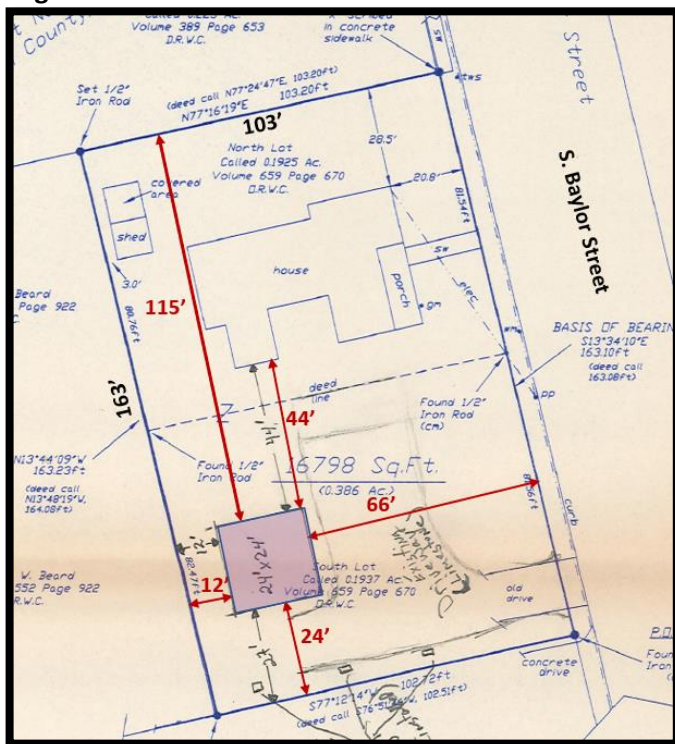
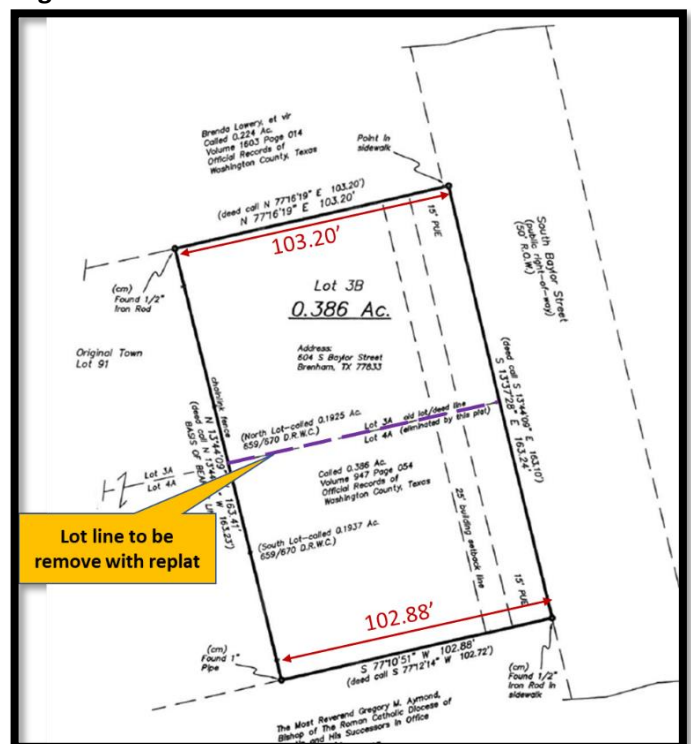


Figure 3



For approval, proposed platted lots are required to meet all subdivision and zoning regulations. While the lot width exceeds the minimum lot width of 60 feet and the lot area exceeds the minimum requirement of 7,000 square feet, the existing average lot depth of 103 feet is legally nonconforming to the minimum required average lot depth of 115-feet. Due to the proposed lot not meeting the minimum lot depth for the R-2 District, the proposed plat for the new combined lot may not be approved without a Variance to the average lot depth by the Board of Zoning Adjustment.

Therefore, the applicant, is requesting a variance for a 12-foot reduction to the minimum required average lot depth of 115 feet for proposed Lots 3B, in order for the property to be replatted into one lot to allow for the development of an approved accessory dwelling unit.

APPLICABLE SECTION OF ORDINANCE AND ANALYSIS:

(Sec.5.02)(132)Variance: A type of relief that may be granted by the Board of Adjustment in order to accommodate appropriate development of a particular parcel of land that cannot otherwise be appropriately developed. The granting of such relief is subject to the standards and procedures as established in part IV, Variances, Special Exceptions, Nonconforming Uses and Appeals, Division 1. The Board may not grant variances to use requirements or procedural requirements related to the granting of a variance.

(DIVISION 2. VARIANCES Sec. 1. Limitations.) The Board of Adjustment shall have the authority to grant variances in accordance with the standards and procedures provided herein, from any and all technical requirements of the zoning ordinance, but may not grant variances to use requirements or procedural requirements or for procedural requirements for hearing or notice, provided that:

(1) Such modifications are necessary to accommodate appropriate development of a particular parcel of land that is restricted by attributes inherent in the land such as area, shape or slope to the extent that it cannot otherwise be appropriately developed.

A variance to the average minimum lot depth will allow the subject property to be replatted from two legally nonconforming 103-foot average lot depth lots into one combined single-family lot. The proposed Lot 3B will exceed the minimum lot area by over 9,000 square feet and the minimum lot width by 103-feet. The proposed combined lot will allow for the construction of an approved Accessory Dwelling Unit to be located on the south end of the property without being on a separate recorded lot. Staff finds that the proposed variance will accommodate development on the subject property that is in conformance with the City’s Comprehensive Plan and zoning map. (Exhibit “B”).

(2) The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, nor substantially increase the congestion in the public streets, nor increase the danger of fire, or in any way endanger the public health, safety and well-being of the neighborhood in which the subject property is located.

Granting the variance to the minimum lot depth will not be materially detrimental or injurious to other properties and improvements in the general vicinity of the subject property. Removing the existing lot line in order to combine the two lots into one will not be visually seen or affect the adjacent property owners or general public. The subject property is zoned R-2 Mixed Residential District and as such, minimum lot standards include 60-foot width, 115-foot depth, and a minimum size of 7,000 square feet. The proposed lot exceeds the minimum lot area and lot width, only requiring a reduction in the 115-foot lot depth requirement. The Original Town Lot 91 plat is from the late 1800s/early 1900s and predates the zoning and subdivision ordinances. The existing two lots have been utilized as one single family lot for more than 50 years and the requested variance and replatting will bring the lot into conformance and allow for a public utility easement to be placed. When the ADU is developed, it will be subject to the approved site plan and specific use permit (O-23-003) and development standards to preserve the well-being of the neighborhood and adjacent properties. The applicant has submitted a replat application for consideration by the Planning and Zoning Commission.

(3) The literal enforcement of the ordinance would work on unnecessary hardship.

Literal enforcement of this ordinance would prohibit the property owner from replatting the subject property into one (1) combined lot that has been utilized as one single-family homestead lot for more than

50 years. Without a replat, the property owners would not be able to construct the ADU that was approved by a Specific Use Permit in January 2023 to be situated on the existing south lot. The proposed lot has adequate dimensions to meet the zoning regulations for building setbacks and parking for both the existing single-family residence and proposed ADU, in addition to meeting the residential building and fire codes.

(4) The piece of property is unique and contains properties or attributes not common to other similarly situated properties.

The subject property is unique in that the property was platted as two of the original lots in the City of Brenham and predates the subdivision and zoning regulations established in 1968. The existing home was built in 1882 and the present abutting lots may have been utilized as a single-family homestead since that time. The subject property exceeds the minimum required 7,000 square foot lot size and the minimum required lot width and without a variance to the lot depth, the applicant would not be able to replat the two lots into one to permit the construction of an ADU on the 0.386-acre property.

(5) The need for the variance was not created by the applicant.

The need for the variance was not created by the applicant alone but rather when the original subdivision was created which resulted in the creation of lots that do not meet the current minimum lot depth along an existing roadway. The requested variance will allow the property owners to formally replat the subject property in accordance with City standards and to construct an accessory dwelling unit on site.

(6) The hardship to be suffered through the literal enforcement of the ordinance would not be financial alone.

The hardship suffered through the literal enforcement of the ordinance would not be financial alone.

(7) The granting of the variance would not be injurious to the public health, safety and welfare or defeat the intent of the philosophy contained in the Zoning Ordinance.

Granting a variance to the lot depth requirement would not be injurious to the public health, safety, and welfare, nor would it defeat the intent of the philosophy contained in the zoning ordinance.

STAFF RECOMMENDATION:

Staff has reviewed the request and **recommends approving the requested** variance to allow a lot depth of 102.72-feet for Lot 3A and Lot 4A (proposed Lot 3B), as presented.

PUBLIC COMMENTS:

Property owners within 200-feet of the subject property were mailed notifications of this proposal on March 30, 2023. Any public comments will be provided in the Board of Adjustment Packet or during the public hearing.

EXHIBITS:

- A. Aerial Map
- B. Zoning Map
- C. Proposed replat
- D. Photos

EXHIBIT "A"
AERIAL MAP

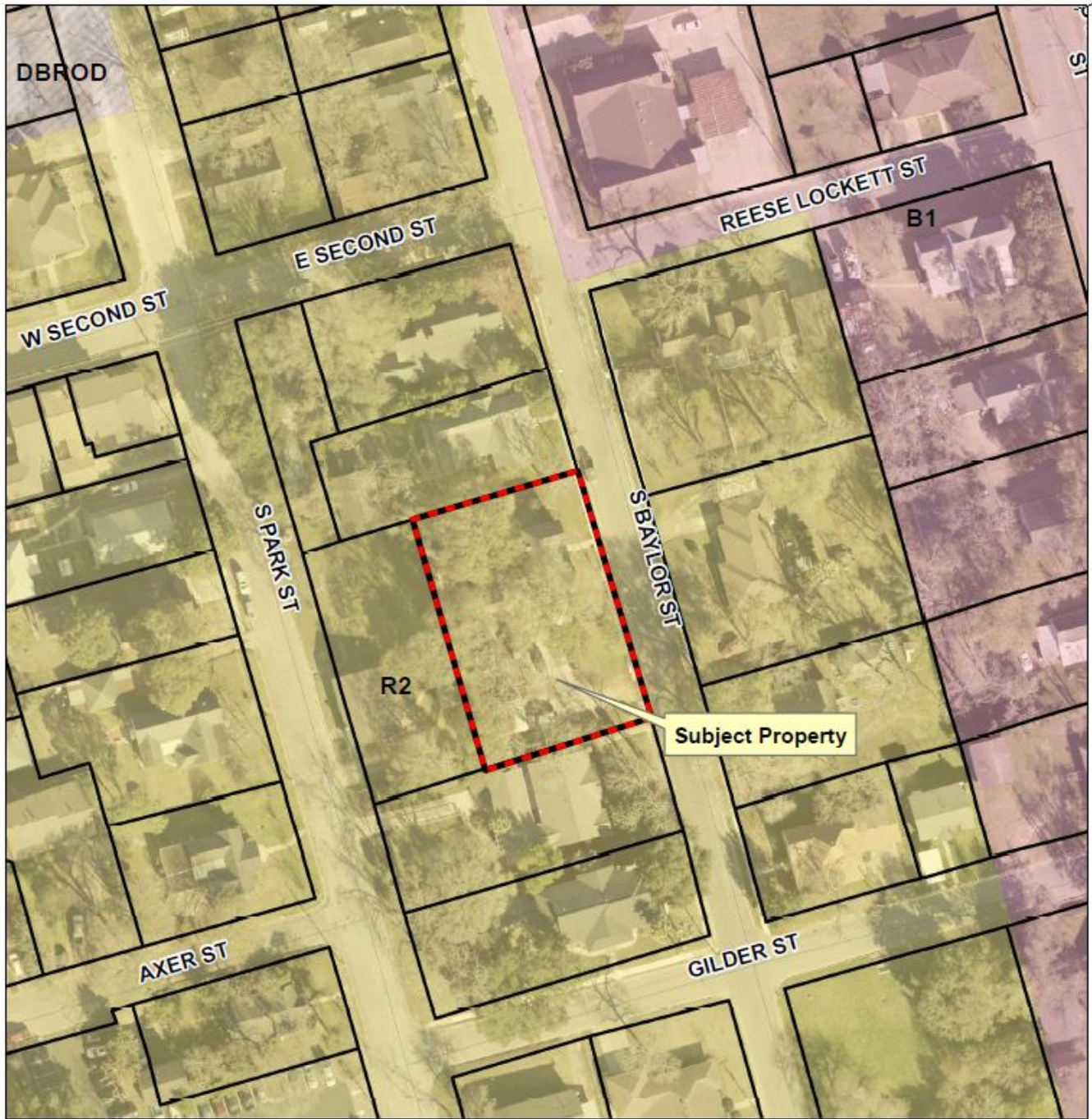


**Aerial Location Map
604 S Baylor Street Specific
Lot Depth Variance Request**



1 inch = 83 feet

EXHIBIT "B"
ZONING MAP



Zoning Map 604 S Baylor Street Specific Lot Depth Variance Request



-  B1 Local Business Mixed
-  Downtown Business/Residential Overlay District
-  R2 Mixed Residential

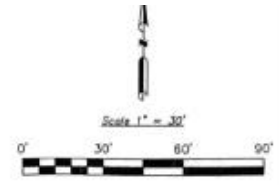


1 inch = 83 feet

EXHIBIT "C" PROPOSED PLAT



Replat of a Portion of
Lot 3A and Lot 4A of
Original Town Lot 91
To Create Lot 3B
Consisting of One Lot: Lot 3B (0.386 Ac.)
Containing 0.386 Acres Total



A. Harrington Survey, Abstract No. 55
City of Brenham, Washington County, Texas

Showing a survey of 0.386 acres of land, situated in Washington County, Texas, being out of the A. Harrington Survey, Abstract No. 55, in the City of Brenham, and being the same property described in that deed from Kenneth Lee Hogg and wife, Elizabeth Jane Hogg to Christopher E. Marek and Deanna O. Marek, effective date December 16, 1998, recorded in Volume 947, Page 054 of the Official Records of Washington County, Texas.

an = control instrument
O.R.W.C. = Official Records of Washington County, Texas
O.R.W.C. = Official Records of Washington County, Texas
PUE = public utility easement

NOTE:
Bearings shown herein are based on the record bearing for the West line of the original subdivided 0.386 acre tract, recorded in Volume 947, Page 054, O.R.W.C.

PLANNING AND ZONING COMMISSION APPROVAL

Approved this _____ day of _____, 2023, by the Planning and Zoning Commission of the City of Brenham, Texas.

Chairman _____
Secretary _____



OWNER'S ACKNOWLEDGEMENT

I, Christopher E. Marek, owner of the land described herein and whose name is subscribed hereto, do hereby acknowledge the changes to said property in accordance with the plat shown herein. The platted property remains subject to existing dedications, covenants, restrictions and assessments except as shown or stated herein.

Christopher E. Marek

NOTARY PUBLIC ACKNOWLEDGEMENT

THE STATE OF TEXAS
COUNTY OF WASHINGTON
This instrument was acknowledged before me on this _____ day of _____, 2023.

Notary Public _____
State of Texas _____
Notary's Name (Printed) _____
Notary's Commission Expires _____

OWNER'S ACKNOWLEDGEMENT

I, Deanna O. Marek, owner of the land described herein and whose name is subscribed hereto, do hereby acknowledge the changes to said property in accordance with the plat shown herein. The platted property remains subject to existing dedications, covenants, restrictions and assessments except as shown or stated herein.

Deanna O. Marek

NOTARY PUBLIC ACKNOWLEDGEMENT

THE STATE OF TEXAS
COUNTY OF WASHINGTON
This instrument was acknowledged before me on this _____ day of _____, 2023.

Notary Public _____
State of Texas _____
Notary's Name (Printed) _____
Notary's Commission Expires _____

COUNTY CLERK FILING ACKNOWLEDGEMENT STATEMENT

I, Beth Rathbarr, Clerk of the County Court of Washington County, Texas, do hereby certify that the within instrument was filed with my office on the _____ day of _____, 2023, at _____ o'clock _____ m., and duly recorded on the _____ day of _____, _____ o'clock _____ m., in exhibit _____ records of said county.

Beth Rathbarr
Clerk of the County Court of Washington County, Texas.
By _____

KNOW ALL MEN BY THESE PRESENTS: That I, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown herein were properly placed under my personal supervision, in accordance with the Subdivision Requirements of the City of Brenham, Texas.



- NOTE:
- 1) This plat does not attempt to amend or remove any valid covenants or restrictions.
 - 2) Subject to building setback lines and yard requirements according to zone and use as set forth by the City of Brenham Zoning Ordinance.
 - 3) The subject tract/lot shown herein does not lie within the Special Flood Hazard Area according to the FEMA Flood Insurance Rate Map for Washington County, Texas, Map Number 484702295C, effective date August 16, 2011.
 - 4) All oil/gas pipelines or pipeline easements with ownership through subdivision have been shown.
 - 5) All oil/gas wells with ownership (plugged, abandoned, and/or active) through the subdivision have been shown.
 - 6) No building or structure shall be constructed across any pipelines, building lines, and/or easements. Building setback lines will be required adjacent to oil/gas pipelines. The setbacks of a minimum should be 15 (fifteen) feet off centerline of low pressure gas lines, and 30 (thirty) feet off centerline of high pressure gas lines.

Blakey Surveying, LLC

RPLS 4852 RPLS 5935

TEXAS FIRM REGISTRATION NO. 16080000

EXHIBIT "D"
SITE PHOTOS



Existing Single-family residence



Showing width of the property- South to North



North side of the subject property- Can see back dividing chain link fence.



South side of the property. Proposed ADU would be located approximately where metal shed is placed.