



# PLANNING COMMISSION

## CITY OF BAY CITY

Thursday, September 15, 2022 at 5:00 PM  
COUNCIL CHAMBERS | 1901 5th Street

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*Bay City is committed to developing and enhancing the long-term prosperity, sustainability, and health of the community.*

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## AGENDA

### CALL TO ORDER

### APPROVAL OF AGENDA

### APPROVAL OF MINUTES

1. Meeting Minutes of July 28, 2022

### REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL:

2. Variance ~ Discuss, consider, and/or approve a variance to the Municipal Code of Ordinances, Sec. 54-29 through 54-83, Sec. 54-110 through 54-201, Sec. 54-203, Sec. 54-240 through 54-259 at East Heights S/D, Block 8, Lot 7 & 8 (2600 Sycamore). Malanie Patterson/Herbert Hawkins Jr.
3. Review, discuss, and/or approve preliminary or final plat of Bay City 35, LLC Sec. 1 development being a subdivision of 31.01 acres out of the John Duncan Survey No. 3, A-150 in Bay City, Matagorda County, Texas which is located north of Hwy 35 (7<sup>th</sup> St), south of Old Van Vleck Rd, and east of McCrosky Rd.
4. Variance ~ Discuss, consider and/or approve a variance to the City of Bay City Code of Ordinance, Sec. 98-100 "Building Lines" at the Bay City Original Townsight, Block 82, Lots 1-3 and 10-12. UPRR (G-W Engr)

### ITEMS / COMMENTS FROM BOARD MEMBERS

### PUBLIC COMMENTS

State Law prohibits any deliberation of or decisions regarding items presented in public comments. City Council may only make a statement of specific factual information given in response to the inquiry; recite an existing policy; or request staff places the item on an agenda for a subsequent meeting.

**ADJOURNMENT****CERTIFICATION OF NOTICE**

This is to certify that the above notice of a Special Called Meeting was posted on the front window of the City Hall of the City of Bay City, Texas on **Monday, September 12, 2022 before 5:00 p.m.** Any questions concerning the above items, please contact Mayor Robert K. Nelson at (979) 245-2137.

**AGENDA NOTICES:**Bay City Planning Commission:

The Bay City Planning Commission serves as an advisory body to City Council and the Mayor. Therefore, although the Board does not fall under the purview of the Texas Open Meetings Act, its meetings shall be open to members of the public.

Attendance by Other Elected or Appointed Officials:

It is anticipated that members of other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.

The facility is wheelchair accessible and accessible parking spaces available. Request for accommodations or interpretive services must be made 48 hours prior to the meeting. Please contact the City Secretary's Office at 979-245-5311 or email, [jthompson@cityofbaycity.org](mailto:jthompson@cityofbaycity.org) for further information.

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Jeanna Thompson

*City Secretary*

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## CITY OF BAY CITY

### MINUTES • JULY 28, 2022

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COUNCIL  
CHAMBERS | 1901  
5th Street

Planning Commission Meeting

5:00 PM

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1901 5TH STREET  
BAY CITY TX, 77414



*Bay City is committed to developing and enhancing the long-term prosperity, sustainability, and health of the community.*

#### CALL TO ORDER

The meeting was called to order by Chairperson Jessica Russell at 5:02 pm.

#### PRESENT

Chairperson Jessica Russell  
Commissioner Zeinab Ghais  
Commissioner Marion Garcia  
Commissioner Carolyn Barclay

#### ABSENT

Commissioner Erik Frankson  
Commissioner Joshua Fortenberry  
Commissioner Raihan Khondker

#### APPROVAL OF AGENDA

Motion made by Commissioner Ghais to approve the agenda, Seconded by Commissioner Barclay. Voting Yea: Chairperson Russell, Commissioner Ghais, Commissioner Garcia, Commissioner Barclay. Motion carried.

#### APPROVAL OF MINUTES

1. Meeting Minutes of April 21, 2022

Motion made by Commissioner Ghais to approve the minutes of Planning Commission meeting of April 21, 2022, Seconded by Commissioner Garcia. Voting Yea: Chairperson Russell, Commissioner Ghais, Commissioner Garcia, Commissioner Barclay. Motion carried.

## REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL:

- 2. Discuss, consider, and/or approve a variance to City Code of Ordinance, Chapter 98 "Subdivisions", Section 98-100 "Building Lines" of a proposed re-plat of Lots 3-6 of Block 67 of Layton Moore's Subdivision of Moore Park (1913 and 1915 Park Ave) with variance to building lines.** Alyssa Dibbern, City Engineering Tech/Genard Campos

Alyssa Dibbern, City Engineering Tech, introduced the variance and explained the need to variance of the re-plat as they are building a duplex on the property line which separates the two homes. Chairperson Jessica Russell asked if there were any neighbor concerns and Ms. Dibbern replied there were not. Commissioner Garcia asked about inspections and reply was the property was vacant and had been in foreclosure.

Motion made by Chairperson Russell to approve the variance to the building lines, Seconded by Commissioner Ghais. Voting Yea: Chairperson Russell, Commissioner Ghais, Commissioner Garcia, Commissioner Barclay. Motion carried.

- 3. Discuss upcoming/preliminary developments: TIRZ #1, TIRZ #1a, TIRZ #2, TIRZ #4, and Grace Street 55 acres.** Alyssa Dibbern, City Engineering Tech

Alyssa Dibbern, City Engineering Tech, provided updates to developments. TIRZ #1 Downtown, there are no updates. TIRZ #1a, Valor Park, has submitted their preliminary plat. TIRZ #2, Bold Box has started corresponding with the Drainage District. TIRZ #3 Marguerite Meadows has 9 lots sold. TIRZ #4, a Maddox development, has received a participation agreement from County, waiting on Hospital and Port Authority. Another development by Maddox is going in near the former Legacy nursing home, between Grace and 12th street. Ms. Dibbern also added that we received a grant to do sidewalk pavers in downtown area and we received a GLO grant for the diversion channel.

## ITEMS / COMMENTS FROM BOARD MEMBERS

Chairperson Jessica Russell, thanked City staff in their assistance and time working with developers.

Tim Riggs, Building Official, stated that construction activities have Marguerite residents concerned about large trucks going in and out. Mr. Riggs also stated that he has been in contact with the Spruce Street developer to keep debris down.

Shawna Burkhart, City Manager, stated that the city is working with BCCDC, County, BCISD, and Wellness Matagorda on a proposed TIRZ #5 and waterpark.

### **PUBLIC COMMENTS**

There were no public comments.

### **ADJOURNMENT**

Motion made by Commissioner Barclay, Seconded by Commissioner Garcia. Voting Yea: Chairperson Russell, Commissioner Ghais, Commissioner Garcia, Commissioner Barclay. Motion carried and the meeting adjourned at 5:20 pm.

**PASSED AND APPROVED**, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
JESSICA RUSSELL

CHAIRMAN



CITY OF BAY CITY VARIANCE REQUEST

1901 5th Street Bay City, TX 77414 (979) 245-5311 (979) 323-1681 fax

AUG 17 2022 [Signature]

All requests for a variance shall be filed with the City Secretary. Each request shall be accompanied by a \$75.00 filing fee, a drawing/illustration depicting the property affected by the request, and any additional supplemental documentation that you want the Variance Committee to consider. Incomplete requests will not be accepted.

Date: 8/15/2022

Name of Requestor (please print): MELANIE PATTERSON

Address of Requestor: 1710 Misty Fawn Lane Phone Number: 1-346-800-6555

Fresno, Texas 77545 Email Address: melanie\_p1@outlook.com hawkinslawoffices@gmail.com

Address of subject property: 2600 Sycamore, Bay City, Matagorda County, Texas 77414

Legal description of subject property: EAST HEIGHTS S/D, BLOCK 8, LOT 7 & 8, Bay City, Matagorda County, Texas

Section(s) of the City's Code of Ordinances from which the variance is being sought:

- Sec. 54-29 thru 83 of the Code of Ordinances Chapter 54, Article II, Mobile Homes
Sec. 54-110 thru 201 of the Code of Ordinances Chapter 54, Article III, Mobile Homes Parks
Sec. 54-203, 54-240-259 of the Code of Ordinances Chapter 54, Article III, Mobile Homes Parks

In detail, please state the reason for the request: Applicant purchased a "NON-CONFORMING TRAILER HOME PARK"

Applicant intended to replace older trailers with 5 newer trailers and maintain the status of "Non-Conforming Trailer Home Park."

Within 180 days of demolishment, One Trailer was placed on the site and steps taken install five more trailers in compliance with City regulations and Ordinances. A Proposed PLAT designed to specify Code setback & spacing requirements was submitted. Applicant seeks authorization to proceed as a "Non-Conforming Trailer Home Park" because Trailer 1 was put on the site within 180

and continued diligent steps taken to comply with all other City regulations. This request is for VARIANCE Waiver and/or Extension of time.

Applicant will suffer undue financial hardship if this Variance is not granted. This VARIANCE is not contrary to the public interest and, due to special circumstances.

The Variance Committee will consider variance requests from the following:

- (a) Ch. 22 (Buildings and Building Regulations) (e) Ch. 94 (Streets, Sidewalks and Other Public Places)
(b) Ch. 46 (Flood Damage Prevention) (f) Ch. 98, Sec. 98-122 - Subdivision Streets
(c) Ch. 54 (Mobile Homes, etc.) (g) Ch. 110, Sec. 110-178 (Traffic and Vehicles (Angle Parking).
(d) Ch. 78 (Off Street Parking (Angle Parking)

Otherwise, the Planning Commission will consider the variance request.

Decisions of the Variance and Planning Committees shall be filed with the City Secretary's Office and promptly reported to the requestor. All decisions may be appealed to the City Council.

[Signature] Melanie Patterson, Owner Requestor Signature

[Signature] Herbert L. Hawkins, Jr., Esq. Attorney for Melanie Patterson Cell:1-281-701-6498 Fax: 1-855-895-0737



# CITY OF BAY CITY VARIANCE REQUEST

1901 5th Street  
Bay City, TX 77414  
(979) 245-5311  
(979) 323-1681 fax

RECEIVED  
AUG 17 2022  
BY: *[Signature]*

All requests for a variance shall be filed with the City Secretary. Each request shall be accompanied by a \$75.00 filing fee, a drawing/illustration depicting the property affected by the request, and any additional supplemental documentation that you want the Variance Committee to consider. **Incomplete requests will not be accepted.**

Date: August 15, 2022

Name of Requestor (please print): MELANIE PATTERSON

Address of Requestor: 1720 Misty Lane Phone Number: 1-346-800-6555  
Fresno, Texas 77545 Email Address: melanie\_p1@outlook.com  
hawkinslawoffices@gmail.com

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*Melanie Patterson*  
 \_\_\_\_\_  
 Melanie Patterson, Owner  
 Requestor Signature

*Herbert L. Hawkins, Jr.*  
 \_\_\_\_\_  
 Herbert L. Hawkins, Jr., Esq.  
 Attorney for Melanie Patterson

1901 5TH STREET  
BAY CITY, TX 77414  
(979) 245-2322

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DATE : 8/26/2022 11:38 AM  
OPER : KR  
TERM : 808  
REC# : R00853376  
=====

155.0000 MISC. GENERAL FUND           75.00  
HERBERT HAWKINS/MELANIE PATTERSON  
75.00  
11-3699 -75.00

Paid By:HERBERT HAWKINS/MELANIE  
PATTERSON  
PC 75.00 REF:CHK 3076

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APPLIED           75.00  
TENDERED        75.00  
-----  
CHANGE           0.00  
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*Herbert Hawkins*



**Melanie Patterson**

**Exhibits and Attachments**

**To Application for**

**VARIANCE**

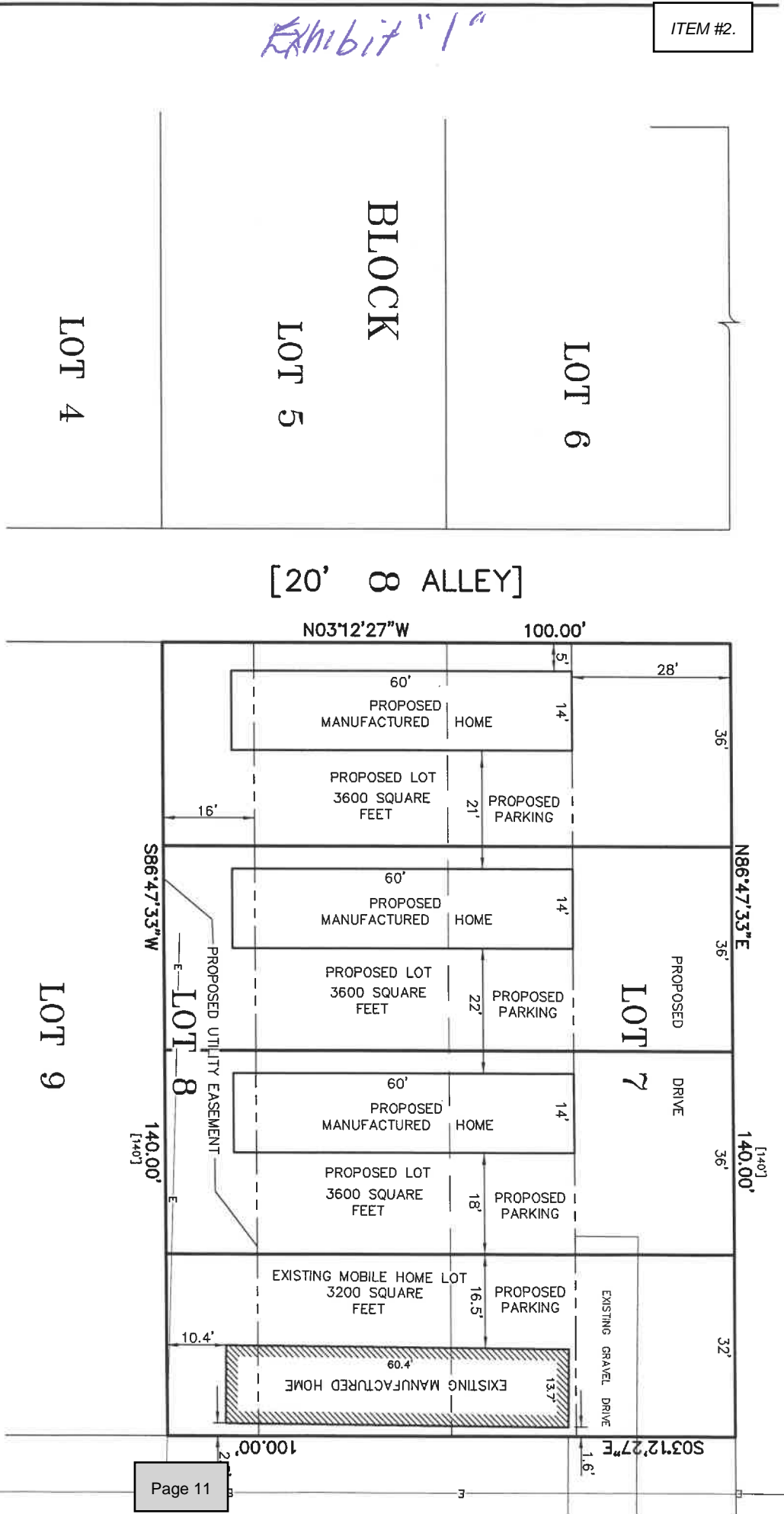
**With the**

**City of Bay City Variance Committee**

**Melanie Patterson**  
**Index to**  
**VARIANCE Request**

- |   |                    |
|---|--------------------|
| <b>1. Proposed Plat layout with Five Trailer Homes</b>          | <b>Exhibit "1"</b> |
| <b>2. Plat showing the One Existing Trailer Home</b>            | <b>Exhibit "2"</b> |
| <b>3. Matagorda County Appraisal District Plat Maps</b>         | <b>Exhibit "3"</b> |
| <b>4. Memorandum in Support of Application for Variance</b>     | <b>Exhibit "4"</b> |
| <b>5. TML August 2021 Legislative Update on Variances</b>       | <b>Exhibit "5"</b> |
| <b>6. Case Law regarding consideration Variance Application</b> | <b>Exhibit "6"</b> |

Exhibit "1"



PLAT SHOWING PROPOSED LAYOUT OF  
 MANUFACTURED HOMES AND ACCESS  
 LOTS 7 & 8 IN BLOCK 8 OF  
 THE EAST HEIGHTS ADDITION  
 TO THE CITY OF BAY CITY  
 VOLUME 43, PAGE 332 OF THE  
 MATAGORDA COUNTY DEED RECORDS  
 I. & G. N. R. R. CO. SURVEY  
 ABSTRACT NO. 269  
 MATAGORDA COUNTY, TEXAS

2600 SYCAMORE STREET





**RECORD DETAIL**

For general information, this is not a Statement of Ownership (SO)

**STATEMENT OF OWNERSHIP INFORMATION**

Certificate #: MH00825334      Issue Date: 06/24/2020      Election: PERSONAL PROPERTY  
 Status: Application Processed

**HOME INFORMATION**

Manufacturer: LIBERTY HOMES      Model: 2006 RV146425  
 Date Manf:  
 Square Ftg 840  
 Windzone:

License #:

	Label/Seal#	Serial #	Weight	Size
Section 1:	TXS0609630	01L36401F	30,000	14 x 60
Section 2:				
Section 3:				
Section 4:				

**PHYSICAL LOCATION INFORMATION**

Physical Location: 5613 FM 2004 LOT 21      HITCHCOCK      TX 77563      GALVESTON

**OWNERSHIP INFORMATION**

Seller/Transferor: BUENA VISTA MHP      Buyer/Transferee: HITCHADENA FINANCE  
 Mailing Address: 1602 FINFEATHER 209      Mailing Address: 338 FAWN LAKE DR  
 BRYAN, TX 77801      HOUSTON, TX 77079  
 Right of Survivorship: No      Transfer/Sale Date: 04/17/2020

**LIEN INFORMATION**

First Lien: N/A      Second Lien: N/A

**ACTIVE TAX LIEN INFORMATION**

**ATTACHED ACTIVE TAX LIEN(S)**

Year	Recorded	Tax Unit #	Tax Unit Name	Tax Roll Account #	Amount
No Active Tax Liens					

**UNATTACHED ACTIVE TAX LIEN(S)**

*Unattached tax liens are liens filed with the department which contain possible discrepancies in the home identification numbers referenced. Because the lien may apply to this home it is being listed so it can be considered. If the lien is from the same county where the home is and/or was installed it may apply to this home.*

Year	Recorded	Tax Unit #	Tax Unit Name	Tax Roll Account #	Amount
No Unattached Active Tax Liens					

**OWNERSHIP HISTORY**

Certificate	Issue Date	Seller/Transferor	Owner/Transferee	County	Purchase Date	Election
MH00797623	11/27/2019	SAM MANAGEMENT	BUENA VISTA MHP	GALVESTON	3/14/2017	PERSONAL
MH00642162	10/24/2016	LIGHT OF FAITH MINISTERIE	SAM MANAGEMENT	GALVESTON	12/30/2014	PERSONAL

Matagorda CAD Map Search

Search by Property ID



36286
36285
36284

36240
-------

36317
36316

36325
36326
36327

39060
-------



36303	36304	36305	36306	36307
-------	-------	-------	-------	-------

BOJING ST

36302	36301	36300	36299	36298
36298	36294	36295	36295	36297

36331
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36330
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36328	36329
-------	-------

36332
-------

36333
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36334
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36335
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36336
-------

19 BOJING ST

Exhibit "3"

Texas Parks & Wildlife, Esri, HERI



ITEM #2.

# Matagorda CAD

Property Search > 36332 PATTERSON MELANIE for Year 2022

Tax Year 2022

## Property

### Account

Property ID: 36332 Legal Description: EAST HEIGHTS S/D, BLOCK 8, LOT 7 & 8  
 Geographic ID: 2101-0080-000700 Zoning: 3  
 Type: Real Agent Code:

Property Use Code:  
 Property Use Description:

### Location

Address: 2600 SYCAMORE Mapsco:  
 BAY CITY, TX 77414  
 Neighborhood: BAY CITY SEC 1 MH ALL Map ID: 053  
 Neighborhood CD: B107M90H

### Owner

Name: PATTERSON MELANIE Owner ID: 225185  
 Mailing Address: 1710 MISTY FAWN % Ownership: 100.000000000000%  
 FRESNO, TX 77545

### Exemptions:

## Values

(+) Improvement Homesite Value: + \$0  
 (+) Improvement Non-Homesite Value: + \$16,490  
 (+) Land Homesite Value: + \$0  
 (+) Land Non-Homesite Value: + \$19,900 Ag / Timber Use Value

Exhibit 3A

ITEM #2.

# Memorandum in Support of Application for Variance

**To:** Variance Committee, City of Bay City

**From:** Herbert L. Hawkins, Jr, Attorney of Record for Melanie Patterson  
Melanie Patterson

**Re:** VARIANCE Request for Property at 2600 Sycamore, Bay City, Texas

**Date:** August 15, 2022

Members of the Variance Committee:

This Memorandum is submitted in support of the attached Variance Request submitted by and on behalf of Melanie Patterson.

Ms. Patterson has been diligently seeking to complete the development of a "Non-Conforming Trailer Park, within the City of Bay City, at 2600 Sycamore, Bay City, Texas.

Ms. Patterson was informed that the trailer park located at 2600 Sycamore was a "Non-conforming Trailer Park," and that if she demolished the old trailer homes and replaced them, the trailer park could continue as a "Non-Conforming Trailer Park.", provided that the new trailer homes met all City, State and Federal Requirements, setback, spacing and other code requirements.

After demolition, Ms. Patterson started the process of replacing three prior Trailer homes with Five Trailers. One trailer was placed on the property in May 2021 within six months of the demolition of the last of the old trailers. However, due to other city inspections requirements and other conditions beyond her control she was not able finish and to proceed with locating the other trailers on the property within six months of the original demolition.

Ms. Patterson is seeking this VARIANCE so that she can proceed and finish the development of the "Non-Conforming Trailer Park".

"Under state law this Variance Committee, may authorize this Variance "if the variance is not contrary to public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the codinance is observed and substantial justice is done. Tex. Local Gov't Code Ann. Sec 211.009(a)\*3) Vernon 1999.)

All of these conditions apply to Ms. Patterson's situations.



Finally, denial of this Variance would cause Ms. Patterson as substantial financial hardship.

The Texas Municipal League (TML) published new legislative updates in August of 2021(see attached) stating the following:

**Zoning Variances: Then and Now**

A BOA is authorized to grant a variance if, among other things, enforcing the ordinance as written would result in "unnecessary hardship." The term, "hardship" is not defined in State law, so over time courts have grappled with the sorts of facts that can constitute an "unnecessary hardship" and justify granting a variance. Until the passage of H.B. 1475, an unnecessary hardship would be one that was not self-imposed, personal in nature, related to the property for which the variance is sought, and not a solely financial hardship. The hardship needed to be a condition unique, oppressive, and not common to other property.

This changes the above analysis in a couple ways. It adds more objective criteria which a BOA can consider to determine whether compliance with a city's zoning ordinance as applied to a structure would result in an unnecessary hardship. For the first time, purely financial considerations can qualify an applicant for a variance. Additionally, if the proposed structure would be considered a nonconforming structure, that could be grounds to grant a variance. Those are two significant shifts in variance analysis, which allow an applicant to get over the "unnecessary hardship" hurdle a little more easily. Under the new law, there might be an unnecessary hardship if:

the cost of compliance with the zoning ordinance is greater than 50 percent Of the appraised value of the structure as shown on the most recent certified appraisal roll; or compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which dewelopment may physically occur; Or compliance would result in the structure not in compliance with a requirement of another city ordinance, building code, or other requirement; or compliance would result in the unreasonable encroachment on an adjacent properly or easement; or the city considers the structure to be a nonconforming structure. Keep in mind that to grant a variance, the variance must not be contrary to the public interest, and the spirit of the zoning ordinance must be observed, So even if a proposed structure tits an "unnecessary hardship" category above, granting the variance is not automatic. The facts surrounding each variance request still have to be analyzed by the BOA, but starting September I , 2021, H.B. 1475 changes part of the analysis. Cities and their BOAs should look at their zoning rules, policies, documentation, and electronic or printed materials to make sure they are updated to reflect this change in state law and be ready for new arguments from zoning applicants in the fall.

For all of the above reasons, Ms. Patterson respectfully request that her Variance Request be granted so that she can complete this project under the current provisions City, State and Federal law.

Respectfully submitted,  


**Herbert L. Hawkins, Jr., Attorney for Melanie Patterson**  
1720 Longorn Ave. Bay City, Texas 7741  
(281)701-6498 Fax (866)896-0737  
[hawkinslawoffices@gmail.com](mailto:hawkinslawoffices@gmail.com)

*Exhibit 5*



# Legislative UPDATE

August 20, 2021  
Number 32

Exhibit "5A"

## **Post-Session Update: Grounds for Zoning Variances Expanded**

In cities with zoning regulations, the Board of Adjustment (“BOA”) serves as the appellate body for certain zoning-related decisions. BOAs are authorized by state law to hear appeals of administrative decisions, decide whether or not to grant special exceptions to terms of the zoning ordinance, authorize variances from the zoning ordinance, and hear and decide “other matters” authorized under the city’s zoning ordinance. H.B. 1475 changes BOA authority related to variances and gives additional objective grounds for which a variance from a municipal zoning ordinance may be granted.

Zoning Variances: Then and Now

A BOA is authorized to grant a variance if, among other things, enforcing the ordinance as written would result in “unnecessary hardship.” The term, “unnecessary hardship” is not defined in state law, so over time courts have grappled with the sorts of facts that can constitute an “unnecessary hardship” and justify granting a variance. Until the passage of H.B. 1475, an unnecessary hardship would be one that was not self-imposed, personal in nature, related to the property for which the variance is sought, and not a solely financial hardship. The hardship needed to be a condition unique, oppressive, and not common to other property.

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1. the cost of compliance with the zoning ordinance is greater than 50 percent of the appraised value of the structure as shown on the most recent certified appraisal roll; or
2. compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur; or
3. compliance would result in the structure not in compliance with a requirement of another city ordinance, building code, or other requirement; or
4. compliance would result in the unreasonable encroachment on an adjacent property or easement; or
5. the city considers the structure to be a nonconforming structure.

Keep in mind that to grant a variance, the variance must not be contrary to the public interest, and the spirit of the zoning ordinance must be observed. So even if a proposed structure fits an “unnecessary hardship” category above, granting the variance is not automatic. The facts surrounding each variance request still have to be analyzed by the BOA, but starting September 1, 2021, H.B. 1475 changes part of the analysis. Cities and their BOAs should look at their zoning rules, policies, documentation, and electronic or printed materials to make sure they are updated to reflect this change in state law and be ready for new arguments from zoning applicants in the fall.

Exhibit "6"

**127 S.W.3d 220**  
**CITY OF DALLAS, Texas, Board of Adjustment of the City of Dallas, Texas and Raj Sharma, in his capacity as the Building Official of the City of Dallas, Appellants,**  
**v.**  
**Doug VANESKO and Grace Vanesko, Appellees.**  
**No. 05-03-00022-CV.**  
**Court of Appeals of Texas, Dallas.**  
**November 19, 2003.**  
**Rehearing Overruled February 9, 2004.**

[127 S.W.3d 222]

Christopher D. Bowers, Assistant City Attorney, Dallas, for Appellants.

Roger Albright, Law Offices of Roger Albright, Dallas, for Appellees.

Before Justices MOSELEY, MARTIN RICHTER and FRANCIS.

**OPINION**

Opinion by Justice MARTIN RICHTER.

This is a zoning case. The Vaneskos sought a variance from a local zoning ordinance, but the Board of Adjustment refused to grant a variance. The Vaneskos filed an application for writ of certiorari in the trial court in order to seek review of the Board of Adjustment decision. The cause was tried to the court below without a jury. The only evidence considered was the record of the Board of Adjustment proceedings submitted upon the return and supplemental return of the writ of certiorari. The trial court reversed the Board of Adjustment on the basis that its decision was an abuse of discretion and remanded for further proceedings consistent with the holdings of *Town of S. Padre*

[127 S.W.3d 223]

*Island v. Cantu*, 52 S.W.3d 287 (Tex.App.-Corpus Christi, 2001, no pet.) and *Board of Adjustment v. McBride*, 676 S.W.2d 705, 709 (Tex.App.-Corpus Christi, 1984, no writ). The City of Dallas, the Board of Adjustment for the City of Dallas, and Raj Sharma, in his capacity as the Building Official for the City of Dallas<sup>1</sup>, bring three issues, claiming the trial court erred by abusing its discretion when it 1) remanded the case for the Board to consider *Cantu* and *McBride*, 2) concluded a city inspector's mistake in approving a building permit was a unique oppressive condition resulting in unnecessary hardship to the Vaneskos, and 3) made findings of fact and conclusions of law that ignored substantial evidence that supported the Board's decision. We affirm the decision of the trial court.

**I. Factual Background**

The Vaneskos purchased their property in Dallas in 1991 and lived in an existing single family residence until 1996, when they moved into an apartment located above their garage. The Vaneskos then had the existing home demolished in order to build a newer and larger home. The record indicates that this section of North Dallas was, at the time, a "hotbed" of redevelopment.

Doug Vanesko designed his own home and acted as his own general contractor. Realizing he was a novice contractor, Doug Vanesko paid the city building inspector an additional sum of money to approve his construction plans. The city not only approved those plans, but also made periodic inspections to monitor the construction.

As the home was nearing completion, and after the structure's steel truss roof was completely framed in, the building inspector stated that he thought that the roof appeared two feet too high. The Vaneskos were not advised or ordered to stop construction, but were told to seek a variance from the Board.



With the support of the building inspector's office, the Vaneskos filed for a variance.

After the building inspector first advised that the structure appeared to be too high, and the procedure for seeking a variance commenced, the parties discovered that the permit and the plans approved by the building inspector were in error. The Vaneskos' property is in an R-10 zoning area, which provides for a maximum structure height of thirty feet. Apparently, the plan reviewer in the city inspector's office believed the lot to be in an R-1 or R-2 zoning area, which would allow a maximum height of thirty-six feet.

The approved plans provided for a 38.25 foot height<sup>2</sup>. The house is actually 38.11 feet high. Although the house is 8.11 feet too high as per the zoning ordinance in issue, it was substantially built in accordance with the plans approved by the city.

The evidence indicates that it would cost the Vaneskos between \$50,000—\$100,000 to remove and replace the roof. Further, 80% of the neighbors surrounding the property supported the granting of the variance, while the remaining 20% expressed no opinion other than to indicate that they were unhappy with the City that the situation had gotten to that point.

During the hearings before the Board on the request for a variance, the Board

[127 S.W.3d 224]

was specifically instructed by an assistant city attorney to not consider the fact that the permit had been issued in error or that the home was already completely built. Accordingly, the Board denied the request for a variance.

## II. Standard of Review

A board of adjustment is a quasi-judicial body. *Bd. of Adjustment v. Flores*, 860 S.W.2d 622, 625 (Tex.App.-Corpus Christi 1993, writ denied). Section 211.011 of the local government code provides a means for challenging an action taken by a city's zoning board of adjustment. *See* Tex. Local Gov't Code Ann. § 211.011 (Vernon Supp.2003). This statute provides that a person aggrieved by a zoning board's action may petition the court for a writ of certiorari within ten days after the board's decision is filed. *See id.* at 211.011(a), (b). The district court sits only as a court of review, and the only question that may be raised by a petition for writ of certiorari is the legality of the board's order. *See* Tex. Local Gov't Code Ann. § 211.011(a) (Vernon Supp. 2003); *City of San Angelo v. Boehme Bakery*, 144 Tex. 281, 286-87, 190 S.W.2d 67, 70 (1945); *Southwest Paper Stock, Inc. v. Zoning Bd. of Adjustment of Fort Worth*, 980 S.W.2d 802, 805 (Tex.App.-Fort Worth 1998, pet. denied). The board's order is presumed to be legal, and the party attacking it has the burden of establishing its illegality. *See Board of Adjustment of Dallas v. Patel*, 882 S.W.2d 87, 88 (Tex. App.-Amarillo 1994, writ denied).

If the court determines that testimony is necessary for the proper disposition of the matter, it may take evidence. *See* Tex. Local Gov't Code Ann. § 211.011(e) (Vernon Supp.2003). However, review of the board's decision is not by trial de novo. *See Boehme Bakery*, 144 Tex. at 286-87, 190 S.W.2d at 70. The trial court must only answer a question of law, i.e., whether the board abused its discretion. *See Nu-Way Emulsions, Inc. v. City of Dalworthington Gardens*, 617 S.W.2d 188, 189 (Tex.1981) (per curiam); *Dengler v. City of Groves*, 997 S.W.2d 418, 420 (Tex.App.-Beaumont 1999, pet. denied).

It is an abuse of discretion for a zoning board to act arbitrarily and unreasonably without reference to any guiding rules or principles. *See Downer v. Aquamarine Operators, Inc.*, 701 S.W.2d 238, 241-42

(Tex.1985). A board of adjustment abuses its discretion if it clearly fails to analyze or apply the law correctly. *See Walker v. Packer*, 827 S.W.2d 833, 840 (Tex.1992) (original proceeding). The Board does not abuse its discretion as long as some evidence of substantive and probative character exists to support the board's decision. *See Southwest Paper Stock, Inc.*, 980 S.W.2d at 805-06.

The district court may reverse or affirm, in whole or in part, or modify the decision that is appealed. *See Tex. Local Gov't Code Ann. § 211.011(f)* (Vernon Supp.2003). However, the district court cannot put itself in the adjustment board's position or substitute its discretion for that of the board. *See Board of Adjustment of Corpus Christi v. Flores*, 860 S.W.2d 622, 625 (Tex.App.-Corpus Christi 1993, writ denied); *see also Downer*, 701 S.W.2d at 241-42.

### III. Applicable Law

Under state law, a board of adjustment "may authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and

[127 S.W.3d 225]

substantial justice is done." Tex. Local Gov't Code Ann. § 211.009(a)(3) (Vernon 1999).

In Dallas, which is a home rule city,<sup>3</sup> the Board's decision-making authority in variance cases is further limited by city ordinance. The guiding principles which govern the Board's decision are found in the Dallas Development Code, which authorizes the Board to grant variances from zoning regulations if the variance is "necessary to permit development of the specific parcel of land which differs from other parcels of land by being of such a restrictive area, shape, or slope that it cannot

be developed in a manner commensurate with the development upon other parcels of land in districts with the same zoning classification." Dallas, Tex., Dallas City Code § 51A-3.102(d)(10) (2000). "A variance may not be granted to relieve a self-created or personal hardship, nor for financial reasons only, nor may a variance be granted to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification." *See id.*

The Corpus Christi court of appeals has encountered a case remarkably similar to the one before us. *See Town of S. Padre Island v. Cantu*, 52 S.W.3d 287 (Tex.App.-Corpus Christi 2001, no pet.). The Cantus prepared plans for the construction of their home and submitted them to the building department for approval. *Id.* at 288. The town issued a building permit for construction in accordance with the plans submitted. *Id.* When the home was nearly 80% complete, a building inspector informed the Cantus that a portion of their house protruded two feet over a setback line mandated by the zoning ordinance. *Id.* at 288-89.

The Cantus subsequently requested a variance from the board of adjustment. *Id.* at 289. Evidence was presented that the protrusion did not pose a health or safety risk, and at least some of the neighbors supported the granting of a variance. *Id.* The board denied the variance, and the Cantus appealed to the trial court by writ of certiorari. *Id.* The trial court and, ultimately, the *Cantu* court, determined that the board abused its discretion in failing to grant the variance. *Id.* at 289, 291.

In so holding, the *Cantu* court noted that enforcement of the ordinance would substantially change the house's appearance and would make the house and the area less aesthetically pleasing. *Id.* at 290. The *Cantu* court considered the rule that in order to justify a variance, a hardship must not be self-



STATE OF TEXAS §
COUNTY OF MATAGORDA §
CITY OF BAY CITY §

We, Alex Kamkar, managing member of a company being an officer of Bay City 35, LLC, owner of the 31.01 acre tract described in the above and foregoing map of Bay City 35, LLC, Sec. 1, do hereby make and establish said subdivision and development plat of said property according to all lines, dedications, restrictions and notations on said maps or plat and hereby dedicate to the use of the public forever, all streets (except those streets designated as private streets), alleys, parks, water courses, drains, easements and public places shown thereon for the purposes and considerations therein expressed; and do hereby bind ourselves, our heirs and assigns to warrant and forever defend the title on the land so dedicated.

IN TESTIMONY WHEREOF, the Bay City 35, LLC, has caused these presents to be signed by Alex Kamkar, its managing member of Bay City 35, LLC, this \_\_\_ day of \_\_\_, 2022.

BY: Alex Kamkar, managing member

BEFORE ME, the undersigned authority, on this day personally appeared Alex Kamkar, managing member of Bay City 35, LLC, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and considerations therein expressed and in the capacity therein and herein stated, and as the act and deed of said limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this \_\_\_ day of \_\_\_, 2022.

Notary Public in and for the State of TEXAS
My Notary Commission Expires

On behalf of the City of Bay City, Texas, I hereby certify that this plat and subdivision of Bay City 35, LLC, Sec. 1 was approved in conformance with the laws of the State of Texas and the ordinances of the City of Bay City as shown hereon; and that the dedications on this plat are hereby accepted by the City of Bay City; and authorize the recording of this plat this \_\_\_ day of \_\_\_, 20\_\_\_, provided however, this approval shall be invalid, null and void unless this plat is filed with the County Clerk of Matagorda County within six (6) months.

BY: Robert K Nelson Mayor ATTEST: Jeanna Thompson City Secretary

STATE OF TEXAS §
COUNTY OF MATAGORDA §

I, Stephanie Wurtz, Clerk of the County of Matagorda County, Texas, do hereby certify that the foregoing Plat was filed for record in my office on the \_\_\_ day of \_\_\_, 20\_\_\_, at \_\_\_ o'clock, \_\_\_m., in Plat File Number \_\_\_ of the Plat Records of Matagorda County, Texas.

BY: Stephanie Wurtz, County Clerk

This is to certify that the Bay City Planning Commission of the City of Bay City, Texas has approved this plat and subdivision of Bay City 35, LLC, Sec. 1, in conformance with the laws of the State of Texas and the ordinances of the City of Bay City as shown hereon and authorizes the recording of this plat this \_\_\_ day of \_\_\_, 20\_\_\_.

BY: Jessica Russell, Chairman

This is to certify that the Director of Public Works of the City of Bay City, Texas has approved this subdivision of Bay City 35, LLC, Sec. 1 in conformance with the laws of the State of Texas and the ordinances of the City of Bay City as shown hereon and authorizes the recording of this plat this \_\_\_ day of \_\_\_, 2022.

BY: Barry Calhoun, Director of Public Works

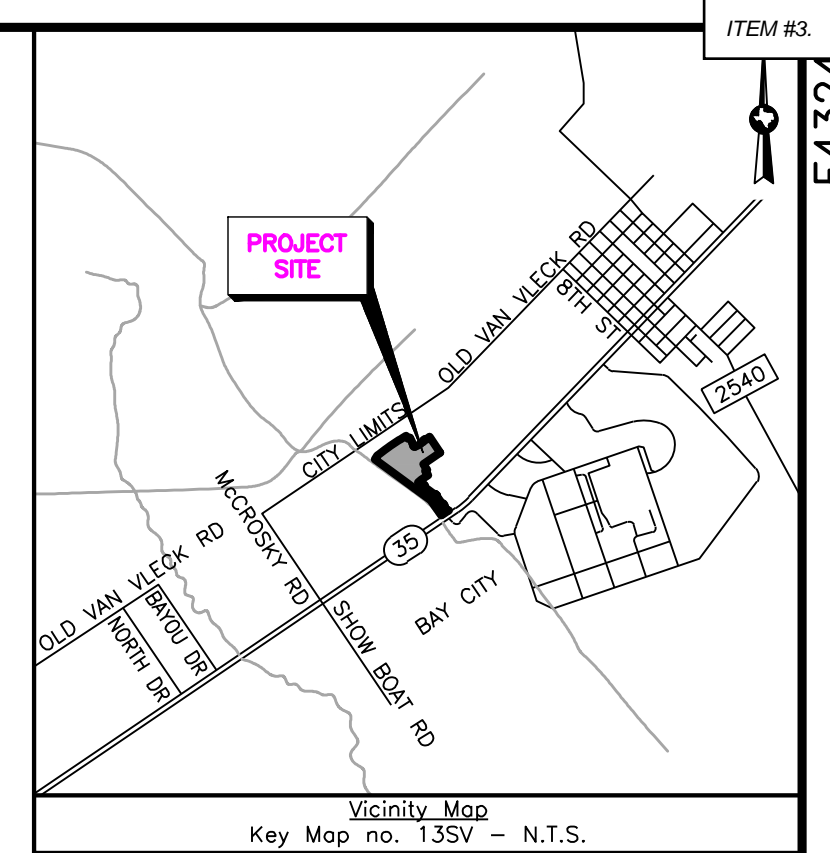
The undersigned, Chairman of the Matagorda County Drainage District No. 1, does hereby certify that at its regular meeting held on the \_\_\_ day of \_\_\_, 20\_\_\_, the Board of Directors of said District approved this subdivision plat for easement location and dedications only. It shall be understood that the City of Bay City shall not issue a building permit for any construction in this subdivision without the construction plans for the drainage improvements being first reviewed and approved by Matagorda County Drainage District No. 1.

BY: Barrett Franz, Chairman

JOB NO. 201-007-01

Table with 6 columns: CURVE, RADIUS, DELTA ANGLE, ARC LENGTH, CHORD BEARING, CHORD LENGTH. Contains 83 rows of curve data.

Table with 3 columns: LINE, BEARING, DISTANCE. Contains 46 rows of line data.



- NOTES:
1. One-foot reserve dedicated to the public in fee as a buffer separation between the side or end of streets where such streets abut adjacent property...
2. This plat lies within the City of Bay City full purpose jurisdiction.
3. No improvements including but not limited to buildings, fences, or landscaping shall be allowed in a drainage easement.
4. The property owner shall provide access to drainage and utility easements as may be necessary and shall not prohibit access for inspection, operation, and maintenance.
5. All drainage easements on private property shall be maintained by the property owner or his/her assigns.
6. Bearings shown hereon refer to the Texas State Plane Coordinate System of 1983, South Central Zone, as determined by GPS measurements.

- LEGEND
B.L. indicates Building Line
ESMT indicates Easement
FND indicates Found
IP indicates Iron Pipe
IR indicates Iron Rod
M.C.D.R. indicates Matagorda County Deed Records
N.T.S. indicates Not to Scale
PG indicates Page
R.O.W. indicates Right-Of-Way
U.E. indicates Utility Easement
VOL indicates Volume

BAY CITY 35, LLC
SEC. 1
BEING A SUBDIVISION OF 31.01 ACRES OUT OF THE JOHN DUNCAN SURVEY NO. 3, A-150 IN BAY CITY, MATAGORDA COUNTY, TEXAS.

103 LOTS 7 BLOCKS 4 RESERVES

OWNER
BAY CITY 35, LLC

JULY, 2022

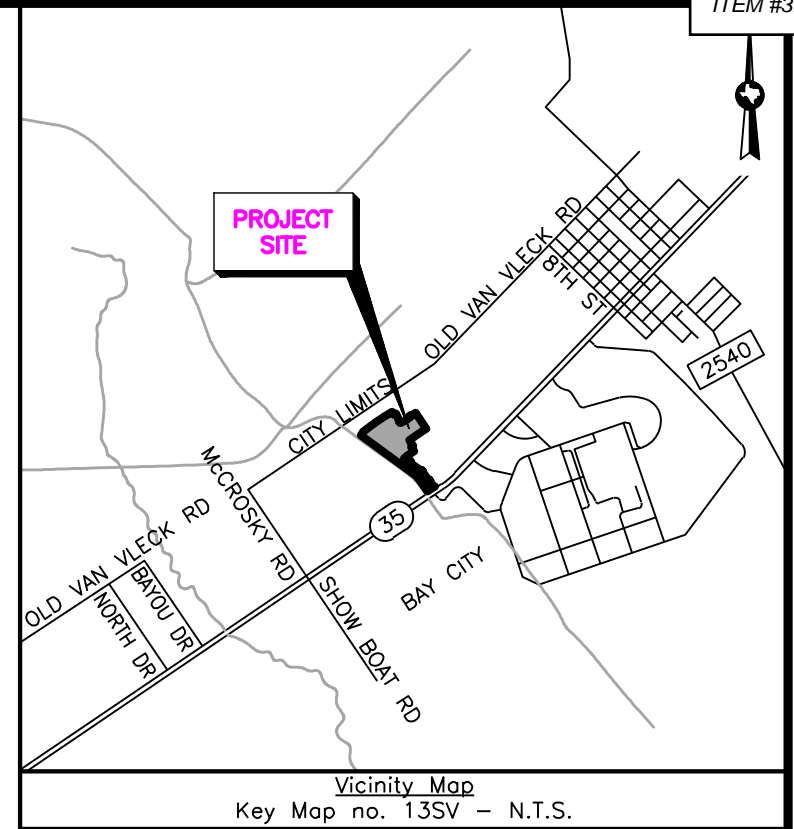
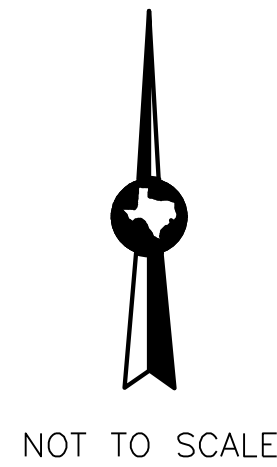
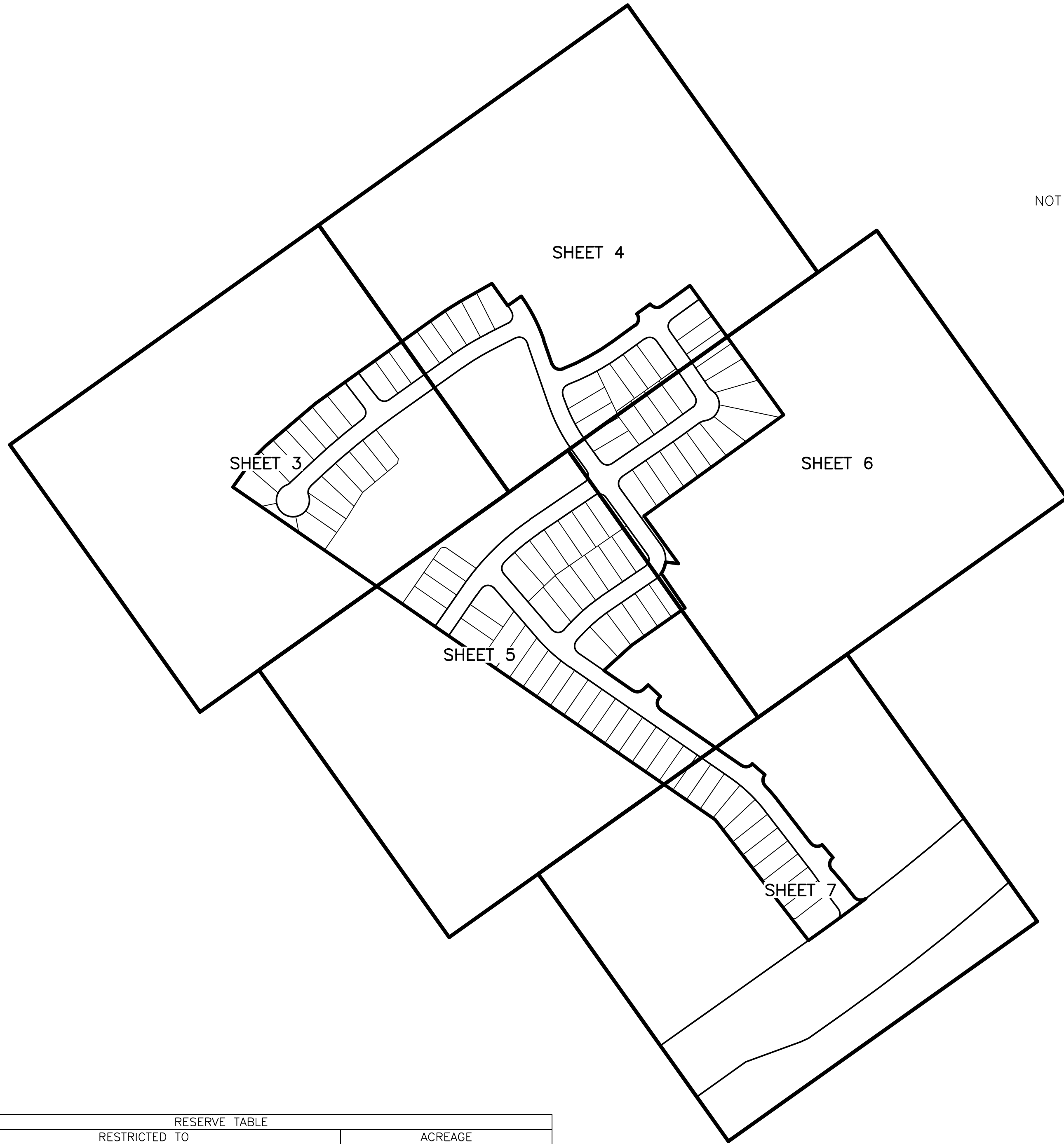


10011 MEADOWGLEN LN
HOUSTON, TEXAS 77042
713-784-4500
WWW.EHRAINCO.COM
TBPE No. F-726
TBPLS No. 10092300

I, Kevin M. Reidy, am authorized under the laws of the State of Texas to practice the profession of surveying and hereby certify that the above subdivision is true and correct; was prepared from an actual survey of the property made under my supervision on the ground, \_\_\_, 2022.

Kevin M. Reidy
Registered Professional Land Surveyor
Texas Registration No. 6450





# BAY CITY 35, LLC SEC. 1

BEING A SUBDIVISION OF 31.01 ACRES OUT OF  
THE JOHN DUNCAN SURVEY NO. 3, A-150  
IN BAY CITY, MATAGORDA COUNTY, TEXAS.

103 LOTS 7 BLOCKS 4 RESERVES

OWNER  
BOLD FOX DEVELOPMENT

JULY, 2022



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HOUSTON, TEXAS 77042  
713-784-4500  
WWW.EHRAINCO.COM  
TBPE No. F-726  
TBPLS No. 10092300

RESERVE TABLE		
RESERVE	RESTRICTED TO	ACREAGE
A	LANDSCAPE, OPEN SPACE, AND UTILITIES	0.0509 ACRE/2,218 SQ. FT.
B	DETENTION, LANDSCAPE, OPEN SPACE, AND UTILITIES	0.2331 ACRE/10,155 SQ. FT.
C	LANDSCAPE, OPEN SPACE, AND UTILITIES	7.4070 ACRES/322,649 SQ. FT.
D	LANDSCAPE, OPEN SPACE, AND UTILITIES	0.0666 ACRE/2,902 SQ. FT.
TOTAL AREA =		7.7576 ACRES

CALLED 5.207 ACRES  
THE DOW CHEMICAL COMPANY  
VOL. 225, PG. 612 M.C.D.R.

CALLED 230.7 ACRES  
FRANCIS WAYNE MILBERGER  
AND CAROL M. MILBERGER  
VOL. 490, PG. 463 M.C.D.R.  
(CORRECTION DEED 104739)

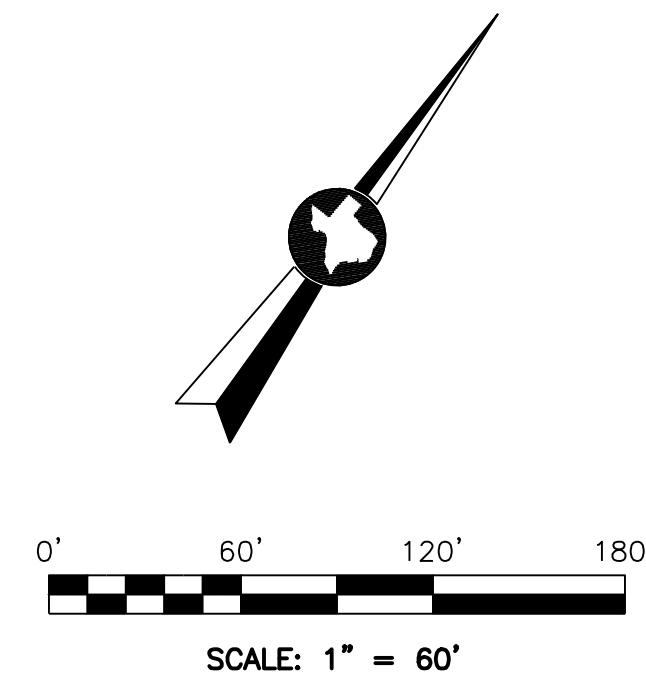
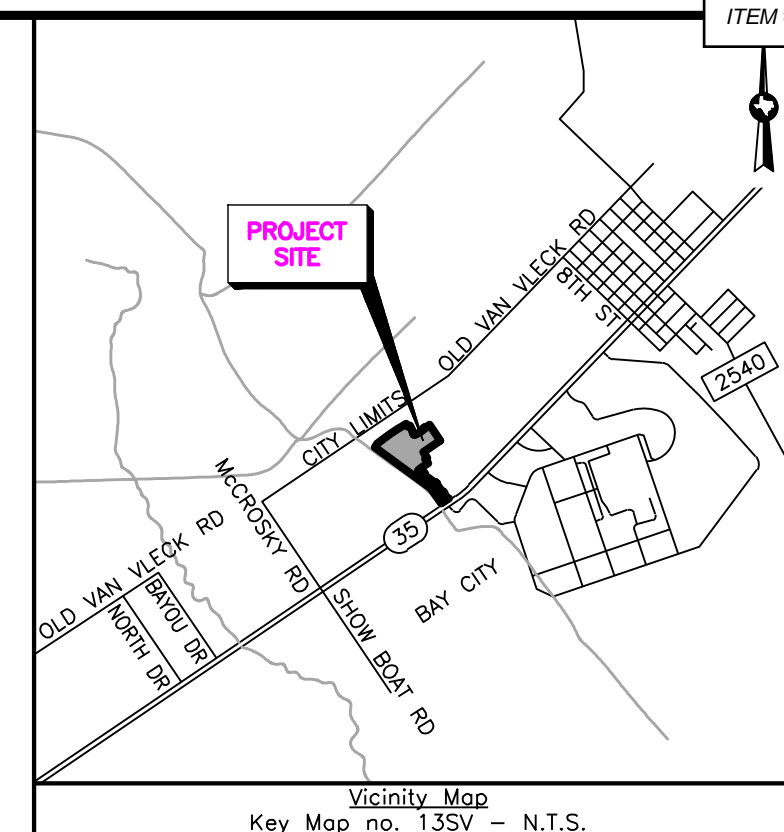
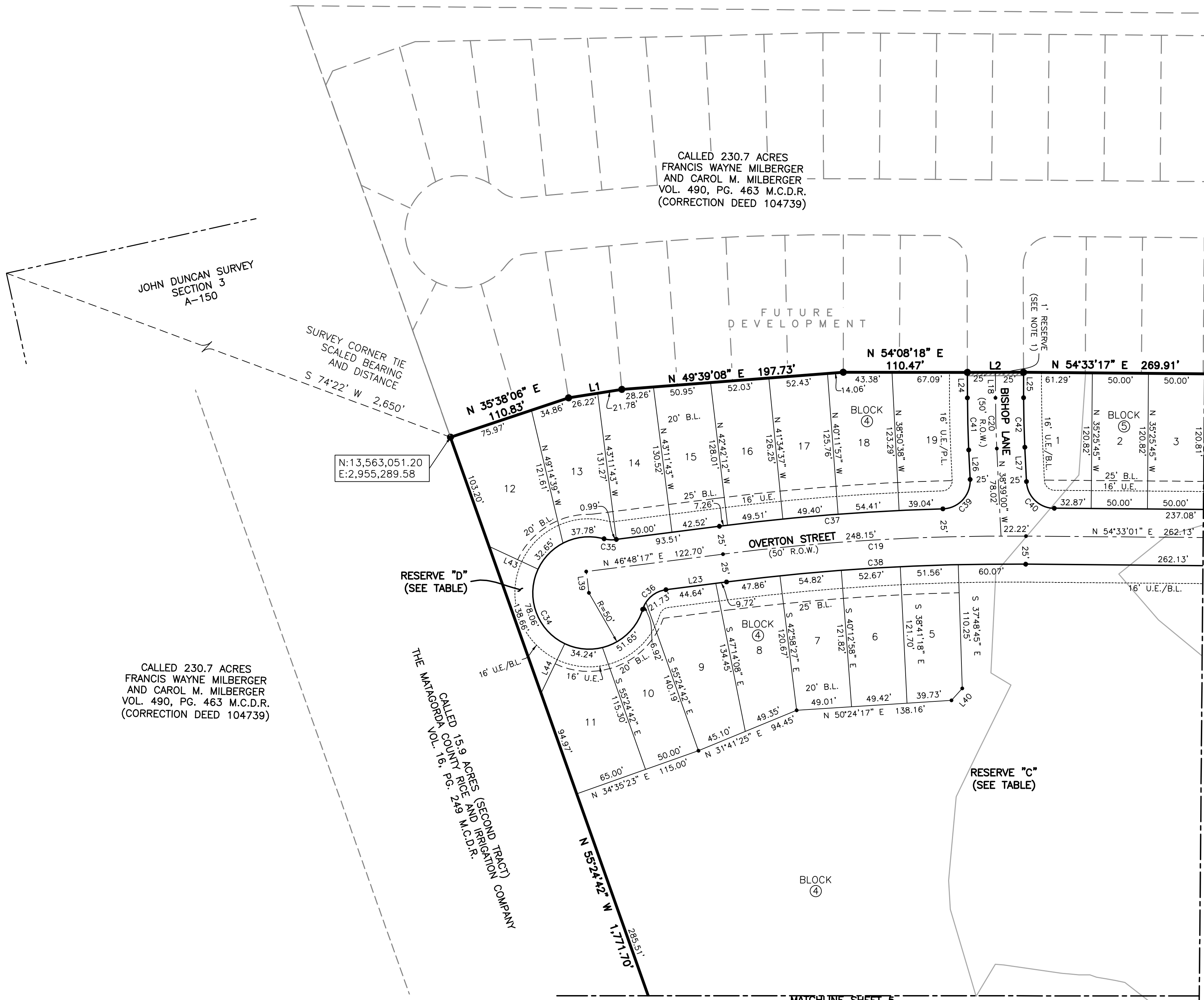
JOHN DUNCAN SURVEY  
SECTION 3  
A-150

SURVEY CORNER TIE  
SCALED BEARING  
AND DISTANCE  
S 74°22' W 2,650'

N:13,563,051.20  
E:2,955,289.58

CALLLED 230.7 ACRES  
FRANCIS WAYNE MILBERGER  
AND CAROL M. MILBERGER  
VOL. 490, PG. 463 M.C.D.R.  
(CORRECTION DEED 104739)

THE MATAGORDA COUNTY RICE AND IRRIGATION COMPANY  
CALLED 15.9 ACRES (SECOND TRACT)  
VOL. 19, PG. 249 M.C.D.R.



# BAY CITY 35, LLC SEC. 1

BEING A SUBDIVISION OF 31.01 ACRES OUT OF  
THE JOHN DUNCAN SURVEY NO. 3, A-150  
IN BAY CITY, MATAGORDA COUNTY, TEXAS.

103 LOTS 7 BLOCKS 4 RESERVES

OWNER  
BOLD FOX DEVELOPMENT

JULY, 2022



10011 MEADOWGLEN LN  
HOUSTON, TEXAS 77042  
713-784-4500  
WWW.EHRAINCO.COM  
TBPE No. F-726  
TBPLS No. 10092300

MATCHLINE SHEET 5

MATCHLINE SHEET 4

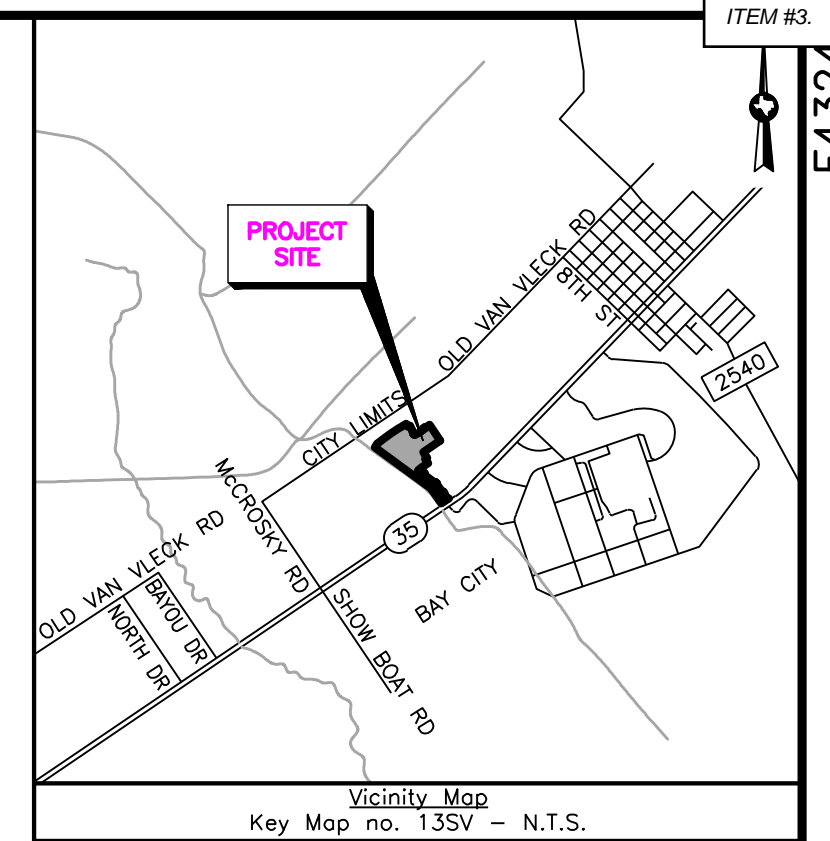
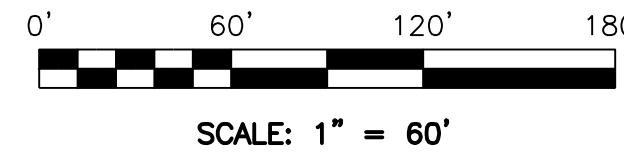
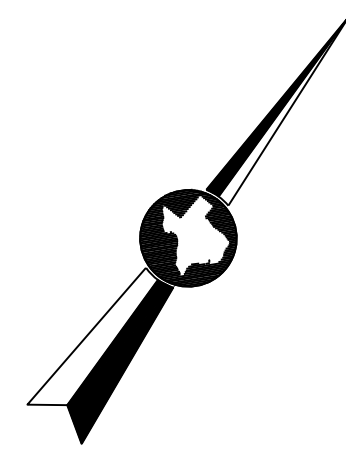
MATCHLINE SHEET 4

CALLED 7.83 ACRES  
BRIAN KEITH SCOGGINS  
FILE NO. 2018-5533, O.P.R.M.C.

CALLLED 230.7 ACRES  
FRANCIS WAYNE MILBERGER  
AND CAROL M. MILBERGER  
VOL. 490, PG. 463 M.C.D.R.  
(CORRECTION DEED 104739)

CALLLED 230.7 ACRES  
FRANCIS WAYNE MILBERGER  
AND CAROL M. MILBERGER  
VOL. 490, PG. 463 M.C.D.R.  
(CORRECTION DEED 104739)

CALLLED 2.0 ACRES  
DOYLE B. VOLKMER  
VOL. 708, PG. 674 M.C.D.R.



MATCHLINE SHEET 3

MATCHLINE SHEET 3

MATCHLINE SHEET 5

MATCHLINE SHEET 6

# BAY CITY 35, LLC SEC. 1

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THE JOHN DUNCAN SURVEY NO. 3, A-150  
IN BAY CITY, MATAGORDA COUNTY, TEXAS.

103 LOTS 7 BLOCKS 4 RESERVES

OWNER  
**BOLD FOX DEVELOPMENT**

JULY, 2022

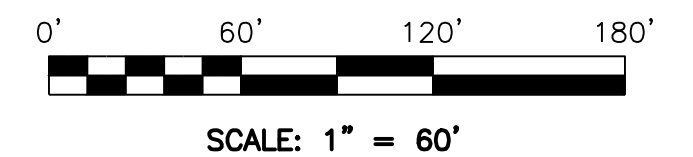
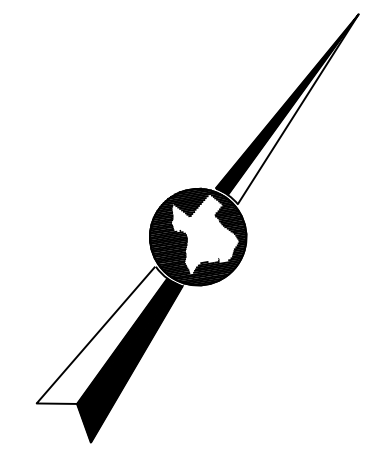
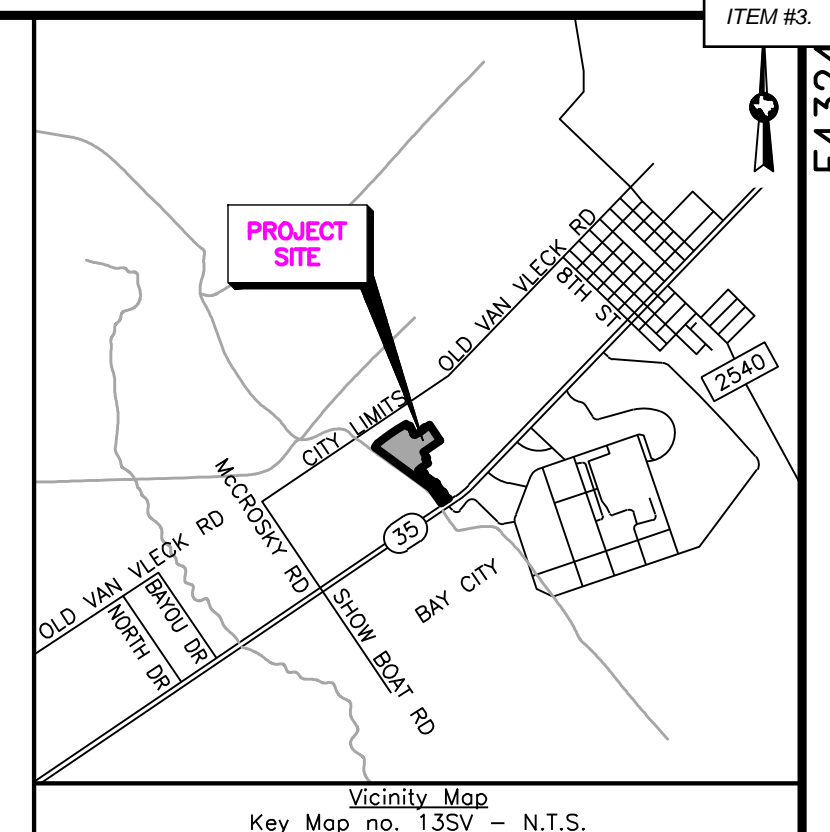
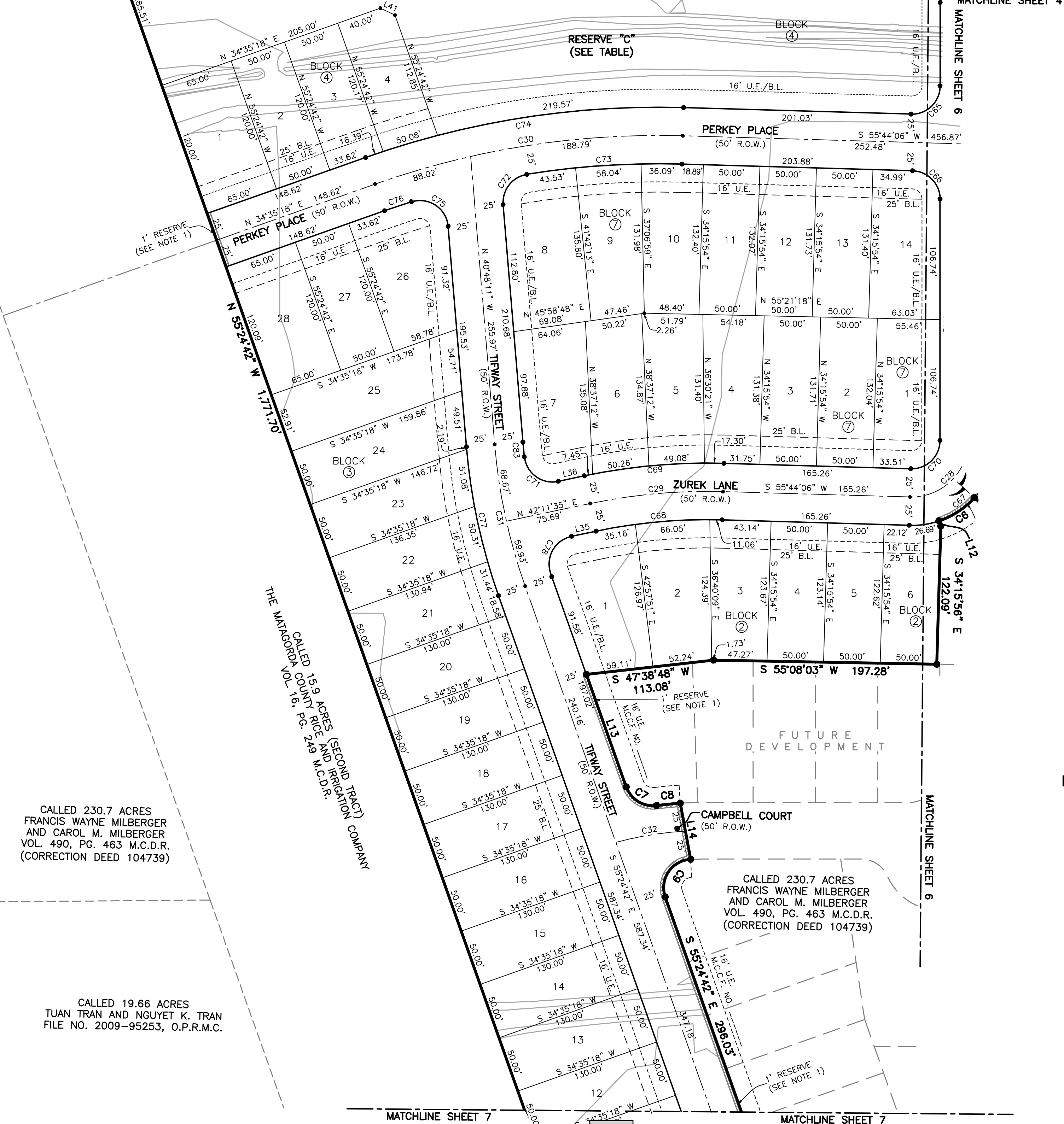


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TBPE No. F-726  
TBPLS No. 10092300

CALLLED 11.41 ACRES  
(TRACT II)  
O'DAY MANAGEMENT, LLC  
FILE NO. 2017-1226, O.P.R.M.C.

MATCHLINE SHEET 3

MATCHLINE SHEET 4



# BAY CITY 35, LLC SEC. 1

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THE JOHN DUNCAN SURVEY NO. 3, A-150  
IN BAY CITY, MATAGORDA COUNTY, TEXAS.

103 LOTS 7 BLOCKS 4 RESERVES

OWNER  
**BOLD FOX DEVELOPMENT**

JULY, 2022

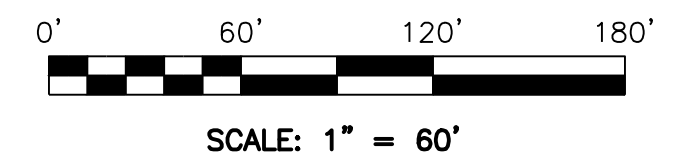
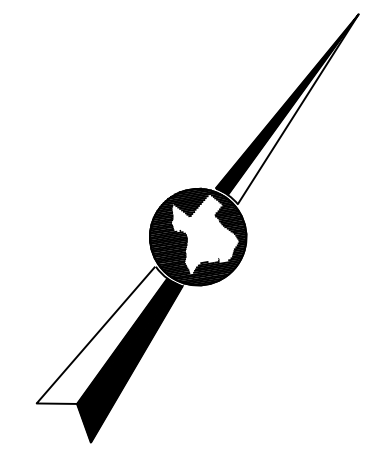
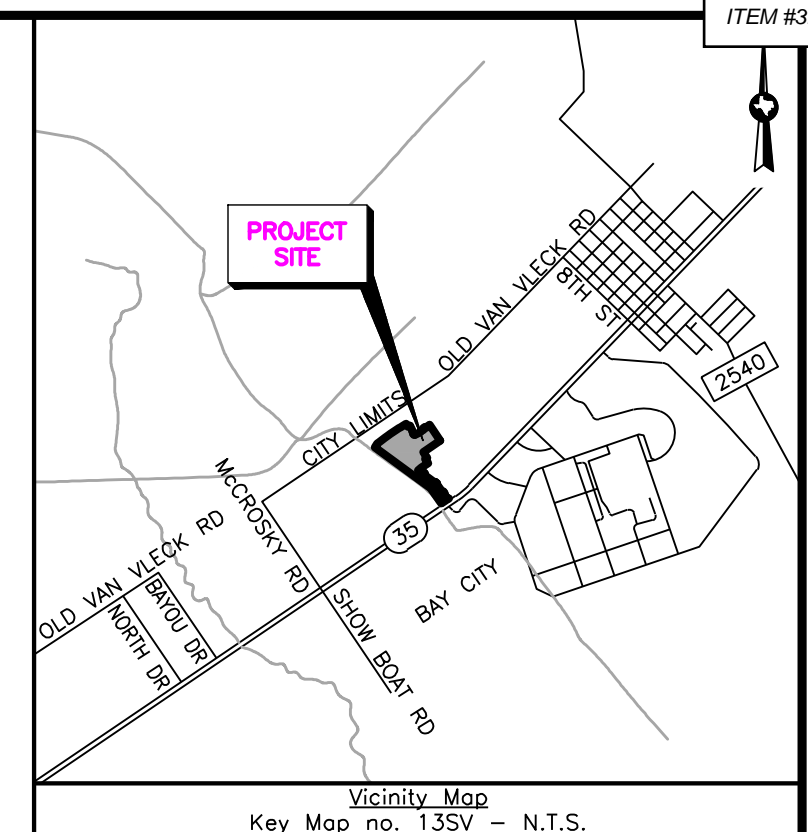
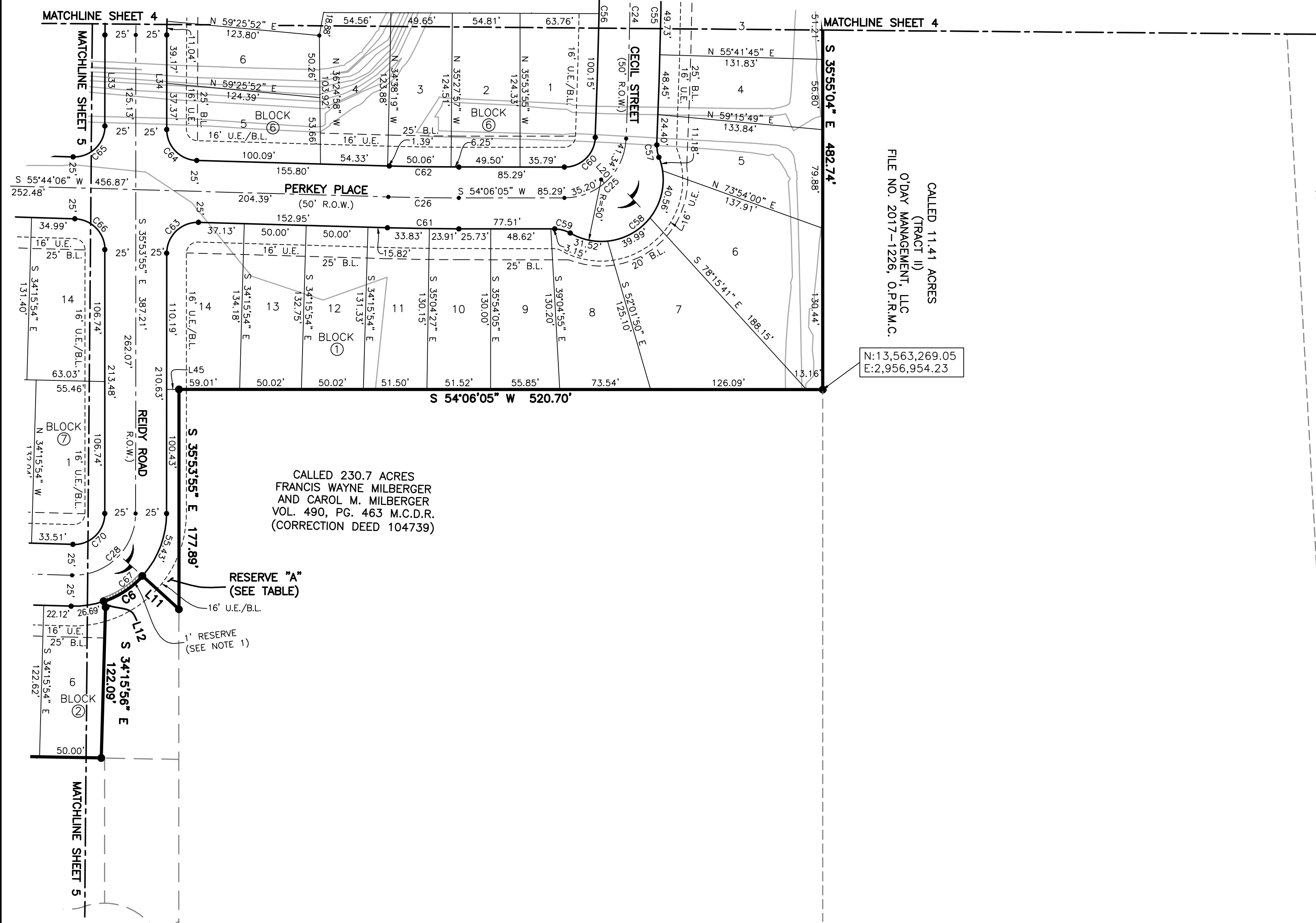


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TBPE No. F-726  
TBPLS No. 10092300

CALLLED 230.7 ACRES  
FRANCIS WAYNE MILBERGER  
AND CAROL M. MILBERGER  
VOL. 490, PG. 463 M.C.D.R.  
(CORRECTION DEED 104739)

CALLLED 19.66 ACRES  
TUAN TRAN AND NGUYET K. TRAN  
FILE NO. 2009-95253, O.P.R.M.C.

CALLLED 230.7 ACRES  
FRANCIS WAYNE MILBERGER  
AND CAROL M. MILBERGER  
VOL. 490, PG. 463 M.C.D.R.  
(CORRECTION DEED 104739)



# BAY CITY 35, LLC SEC. 1

BEING A SUBDIVISION OF 31.01 ACRES OUT OF THE JOHN DUNCAN SURVEY NO. 3, A-150 IN BAY CITY, MATAGORDA COUNTY, TEXAS.

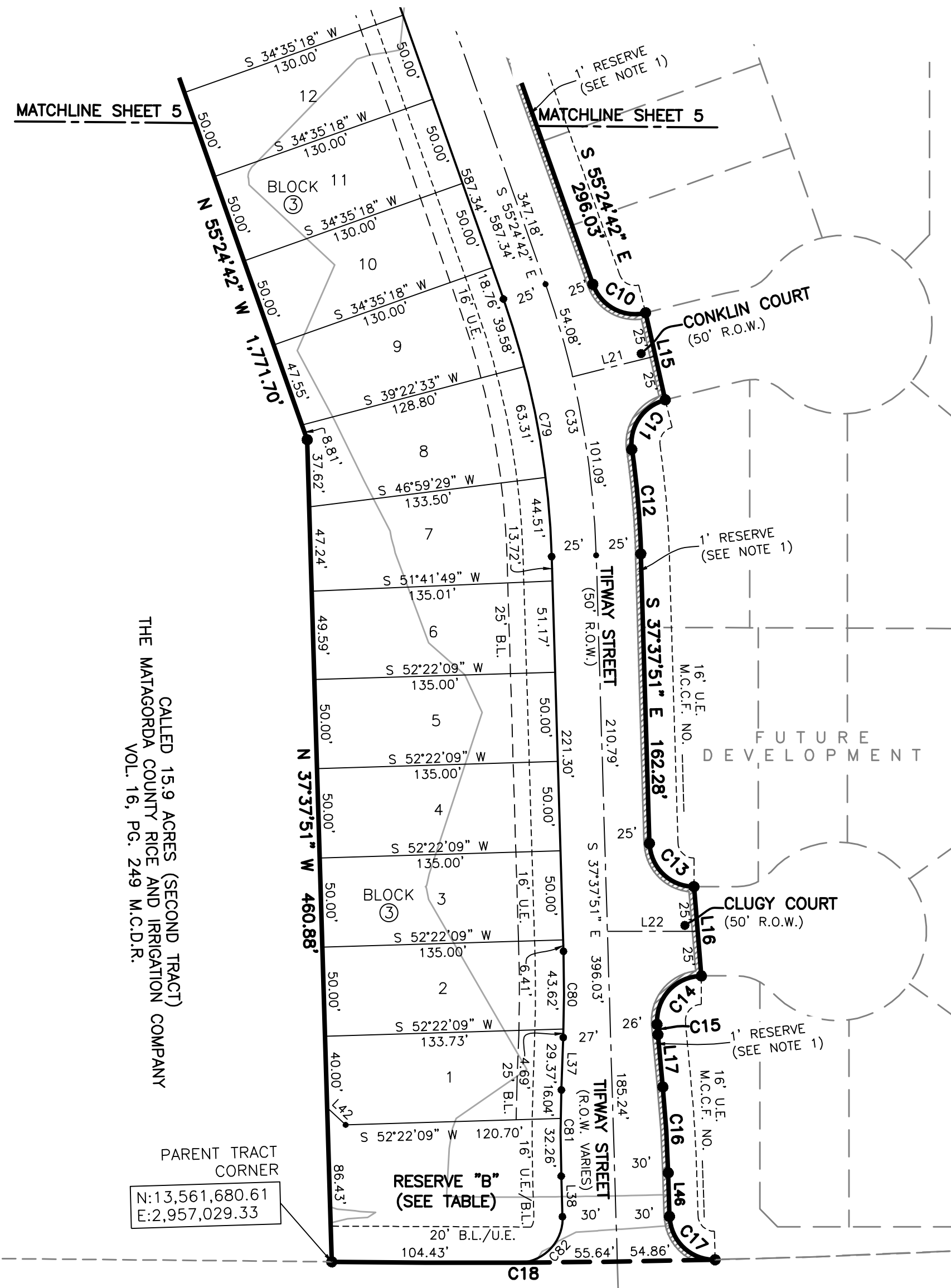
103 LOTS 7 BLOCKS 4 RESERVES

**OWNER**  
**BOLD FOX DEVELOPMENT**

JULY, 2022



10011 MEADOWGLEN LN  
HOUSTON, TEXAS 77042  
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TBPLS No. 10092300



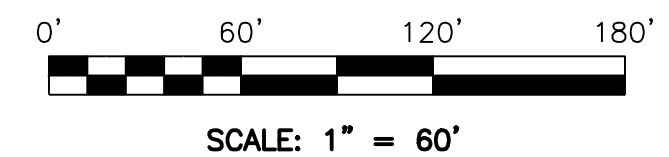
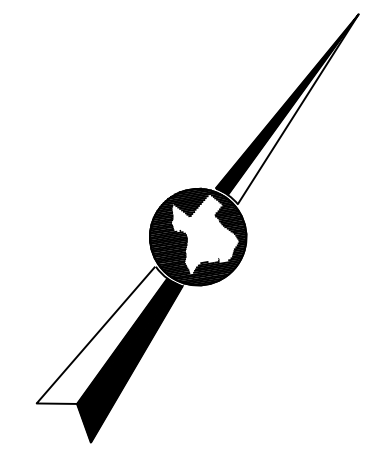
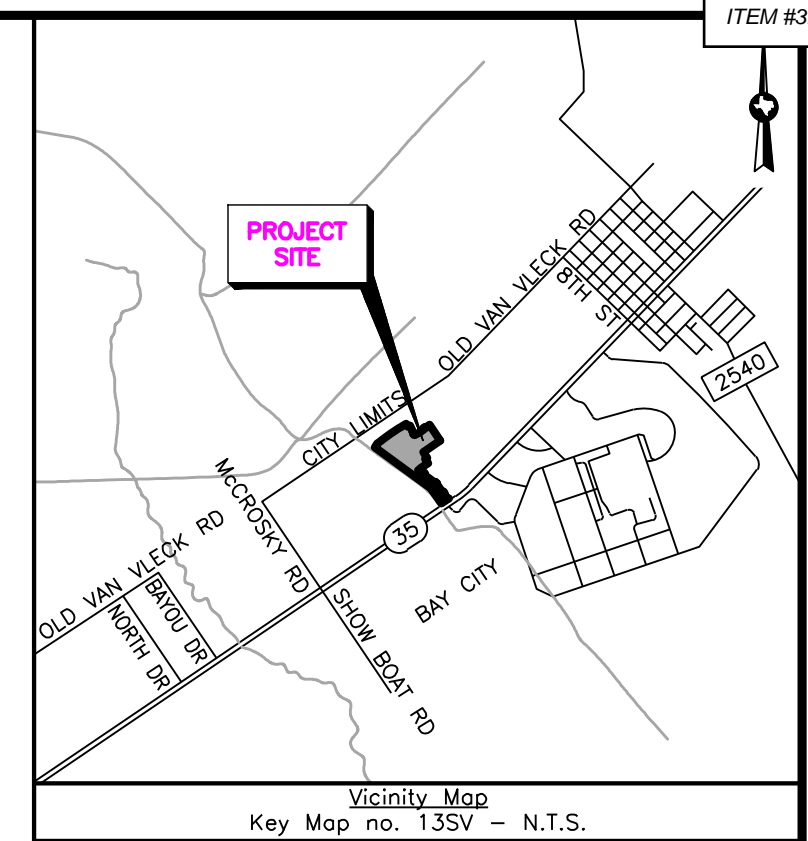
CALLLED 19.66 ACRES  
 TUAN TRAN AND NGUYET K. TRAN  
 FILE NO. 2009-95253, O.P.R.M.C.

CALLLED 15.9 ACRES (SECOND TRACT)  
 THE MATAGORDA COUNTY RICE AND IRRIGATION COMPANY  
 VOL. 16, PG. 249 M.C.D.R.

PARENT TRACT  
 CORNER  
 N:13,561,680.61  
 E:2,957,029.33

CALLLED 3.185 ACRES  
 J.G. LONG ESTATE  
 VOL. 399, PG. 332 M.C.D.R.

CALLLED 230.7 ACRES  
 FRANCIS WAYNE MILBERGER  
 AND CAROL M. MILBERGER  
 VOL. 490, PG. 463 M.C.D.R.  
 (CORRECTION DEED 104739)



# BAY CITY 35, LLC SEC. 1

BEING A SUBDIVISION OF 31.01 ACRES OUT OF  
 THE JOHN DUNCAN SURVEY NO. 3, A-150  
 IN BAY CITY, MATAGORDA COUNTY, TEXAS.

103 LOTS 7 BLOCKS 4 RESERVES

OWNER  
**BOLD FOX DEVELOPMENT**

JULY, 2022



10011 MEADOWGLEN LN  
 HOUSTON, TEXAS 77042  
 713-784-4500  
 WWW.EHRAINCO.COM  
 TBPE No. F-726  
 TBPLS No. 10092300



# CITY OF BAY CITY VARIANCE REQUEST

1901 5th Street  
Bay City, TX 77414  
(979) 245-5311  
(979) 323-1681 fax

All requests for a variance shall be filed with the City Secretary. Each request shall be accompanied by a \$75.00 filing fee, a drawing/illustration depicting the property affected by the request, and any additional supplemental documentation that you want the Variance Committee to consider. **Incomplete requests will not be accepted.**

Date: 9/6/22

Name of Requestor (please print): UPRR (G+W ENG. AS AGENT)

Address of Requestor: \_\_\_\_\_ Phone Number: 979-323-7100

\_\_\_\_\_ Email Address: BaycitySurvey@hotmail.com

Address of subject property: 2612 + 2614 Ave F

Legal description of subject property: LOTS 10'12 BLK B3 Bay City Townsite

Section(s) of the City's Code of Ordinances from which the variance is being sought:

Sec. 98-100 of the Code of Ordinances

Sec. \_\_\_\_\_ of the Code of Ordinances

Sec. \_\_\_\_\_ of the Code of Ordinances

In detail, please state the reason for the request: Re-PLAT OF Lots to Accommodate  
Sell of Lots with Building Built 40-50 yrs Ago Across  
Lot Lines. Buildings do not meet Current Building  
Set Back Requirements.

The Variance Committee will consider variance requests from the following:

- (a) Ch. 22 (Buildings and Building Regulations)
- (b) Ch. 46 (Flood Damage Prevention)
- (c) Ch. 54 (Mobile Homes, etc.)
- (d) Ch. 78 (Off Street Parking (Angle Parking))

- (e) Ch. 94 (Streets, Sidewalks and Other Public Places)
- (f) Ch. 98, Sec. 98-122 – Subdivision Streets
- (g) Ch. 110, Sec. 110-178 (Traffic and Vehicles (Angle Parking)).

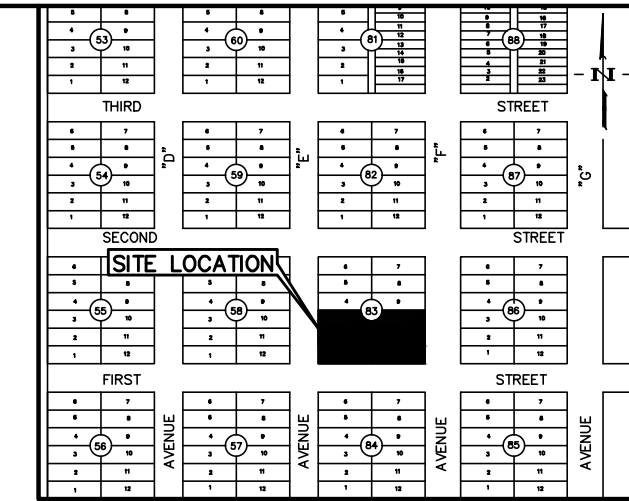
Otherwise, the Planning Commission will consider the variance request.

Decisions of the Variance and Planning Committees shall be filed with the City Secretary's Office and promptly reported to the requestor. All decisions may be appealed to the City Council.

[Signature]  
Requestor Signature

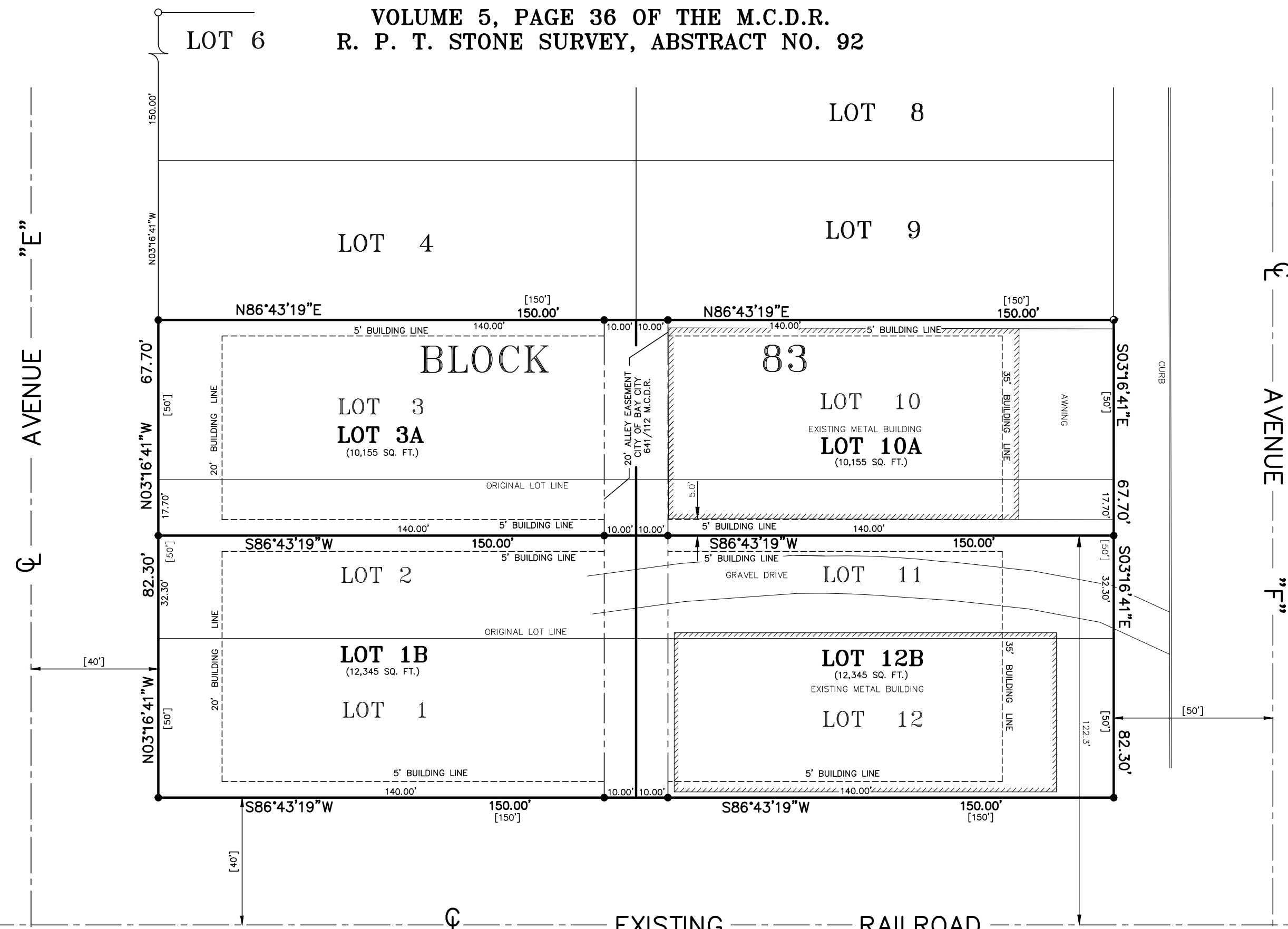
# RE-PLAT OF LOTS 1-3 & 10-12 OF BLOCK 83 OF THE ORIGINAL TOWNSITE OF BAY CITY

VOLUME 5, PAGE 36 OF THE M.C.D.R.  
R. P. T. STONE SURVEY, ABSTRACT NO. 92



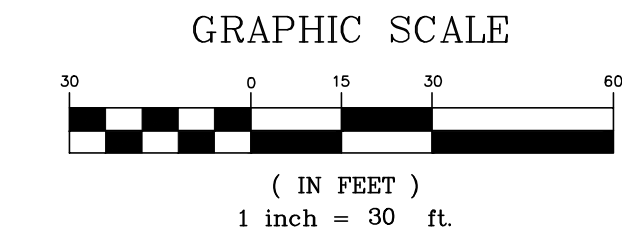
DRAWN BY:  
M.M.A.  
CHECKED BY:  
W.E.G.  
DATE:  
JULY 25, 2022  
SCALE:  
1" = 30'

BEARINGS AND COORDINATES SHOWN  
HEREON ARE TEXAS STATE PLANE  
SOUTH CENTRAL ZONE NAD'83 GRID.



ADDRESS:  
LOT 10A - 2612 AVENUE F  
LOT 12B - 2614 AVENUE F

**LEGEND**  
○ EXISTING 3" IRON PIPE UNLESS NOTED  
● EXISTING 3/4" IRON PIPE  
● SET 5/8" IRON ROD WITH PLASTIC CAP UNLESS NOTED  
[ ] PLAT OR DEED CALL



- NOTES:**
- ALL LOTS WILL HAVE WATER AND SANITARY SEWER SUPPLIED BY THE CITY OF BAY CITY. OWNER IS RESPONSIBLE FOR THE COST OF ANY EXTENSION OF UTILITY LINES REQUIRED.
  - THE PURPOSE OF THE PLAT IS TO DIVIDE THE LOTS TO ACCOMMODATE FOR EXISTING BUILDINGS LOCATED ACROSS ORIGINAL LOT LINES.
  - BEARINGS SHOWN HEREON ARE TEXAS STATE PLANE SOUTH CENTRAL ZONE NAD'83 GRID BASED ON STATION HAPB-0219 ON THE RTK NETWORK.
  - LOTS 1, 2 & 3 WILL NO LONGER EXIST, THEY WILL BECOME LOT 1A & 3A. LOTS 10, 11 & 12 WILL NO LONGER EXIST, THEY WILL BECOME LOTS 10A & 12A.

**FLOOD DATA**  
ACCORDING TO THE APPROXIMATE SCALE OF THE NATIONAL FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 48321C0255 F, REVISED JANUARY 15, 2021, THIS PROPERTY IS LOCATED IN ZONE X (0.2%).

**CERTIFICATE OF OWNERSHIP**

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_  
I, \_\_\_\_\_, DO HEREBY MAKE AND ESTABLISH SAID RE-PLAT OF SAID PROPERTY ACCORDING TO ALL LINES, DEDICATIONS, RESTRICTIONS AND NOTATIONS ON SAID MAPS OR PLAT AND HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER, ALL STREETS (EXCEPT THOSE STREETS DESIGNATED AS PRIVATE STREETS), ALLEYS, PARKS, WATER COURSES, DRAINS, EASEMENTS AND PUBLIC PLACES SHOWN THEREON FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED; AND DO HEREBY BIND MYSELF, MY HEIRS AND ASSIGNS TO WARRANT AND FOREVER DEFEND THE TITLE TO THE LAND SO DEDICATED.  
  
REPRESENTATIVE FOR UNION PACIFIC RAILROAD DATE \_\_\_\_\_  
  
STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_  
BEFORE ME, \_\_\_\_\_, ON THIS DAY PERSONALLY APPEARED THE REPRESENTATIVE FOR UNION PACIFIC RAILROAD, KNOWN TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED.  
  
GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2022.  
  
NOTARY PUBLIC, STATE OF \_\_\_\_\_

**CITY ADMINISTRATION APPROVAL**

STATE OF TEXAS  
COUNTY OF MATAGORDA  
  
ON BEHALF OF THE CITY OF BAY CITY, TEXAS, I HEREBY CERTIFY THAT THIS RE-PLAT OF OF LOTS 1-3 & 10-12 OF BLOCK 83 OF THE ORIGINAL TOWNSITE OF BAY CITY WAS APPROVED IN CONFORMANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE ORDINANCES OF THE CITY OF BAY CITY AS SHOWN HEREON; AND THAT THE DEDICATIONS ON THIS PLAT ARE HEREBY ACCEPTED BY THE CITY OF BAY CITY; AND AUTHORIZE THE RECORDING OF THIS PLAT THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, PROVIDED HOWEVER, THIS APPROVAL SHALL BE INVALID, NULL AND VOID UNLESS THIS PLAT IS FILED WITH THE COUNTY CLERK OF MATAGORDA COUNTY WITHIN SIX MONTHS.  
  
ROBERT NELSON, MAYOR CITY OF BAY CITY STATE OF TEXAS  
JEANNA THOMPSON, CITY SECRETARY CITY OF BAY CITY STATE OF TEXAS

**COUNTY CLERK'S CERTIFICATION**

STATE OF TEXAS  
COUNTY OF MATAGORDA  
  
I, STEPHANIE WURTZ, CLERK OF COUNTY COURT AND COUNTY CLERK OF MATAGORDA COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE FOREGOING PLAT WAS FILED FOR RECORD IN MY OFFICE ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M., IN PLAT FILE NUMBER \_\_\_\_\_ OF THE PLAT RECORDS OF MATAGORDA COUNTY, TEXAS.  
  
COUNTY CLERK  
COUNTY OF MATAGORDA  
STATE OF TEXAS

**DIRECTOR OF PUBLIC WORKS CERTIFICATE OF APPROVAL**

THIS IS TO CERTIFY THAT THE DIRECTOR OF PUBLIC WORKS OF THE CITY OF BAY CITY, TEXAS HAS APPROVED THIS REPLAT OF LOTS 1-3 & 10-12 OF BLOCK 83 OF THE ORIGINAL TOWNSITE OF BAY CITY WAS APPROVED IN CONFORMANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE ORDINANCES OF THE CITY OF BAY CITY AS SHOWN HEREON AND AUTHORIZES THE RECORDING OF THIS PLAT THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.  
  
BARRY CALHOUN, DIRECTOR OF PUBLIC WORKS

I, WESLEY E. GAERTNER, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PLAT SHOWN HEREON REPRESENTS THE RESULT OF A SURVEY MADE ON THE GROUND UNDER MY DIRECTION ON JULY 6, 2022.

G & W ENGINEERS, INC.  
WESLEY E. GAERTNER  
REGISTERED PROFESSIONAL  
LAND SURVEYOR NO. 6483

**G & W ENGINEERS, INC.**  
ENGINEERING SURVEYING PLANNING  
205 W. LIVE OAK STREET, PORT LAVACA, TEXAS 77979  
TELEPHONE NO.: 10022100  
(361) 552-4509; PORT LAVACA (979) 323-7100; BAY CITY  
  
FILE NO.: 10464-001  
JOB NO.: 10464-001  
SHEET NO.: 1 OF 1

**PRELIMINARY PLAT**