

Allegra Feito  
Board President  
Western Hills Athletic Club  
4801 Rollingwood Drive  
Rollingwood, TX 78746

August 11, 2022

Chair, Board of Adjustment  
City of Rollingwood  
403 Nixon Drive  
Rollingwood, TX 78746

Dear Chairperson:

Please find attached an application form for a “special exception” (107-491) to accommodate the repair and expansion of the tennis courts at the Western Hills Athletic Club (Rollingwood Pool). The city’s third-party planning official (Brandon Melland) has advised us that the Special Exception route is the appropriate avenue for the consideration of projects such as ours, which involve a structure originally built in conformity with zoning codes, but which do not currently conform with subsequently enacted code.

For background, please note that this same project was considered for three variances in 2021. In a first hearing, the board voted to grant all three requested variances for the project. In a second hearing – re-heard due to incomplete noticing by the city – the board granted two of three variances. In the process of resubmitting our proposal for reconsideration, we were advised by Brandon Melland that the appropriate route for projects such as ours is through a Special Exception rather through a variance. However, note that the submitted project is identical to that submitted under the previous variance consideration, and has thus undergone an extra set of approvals associated with the variance process. We are now submitting the project according to the appropriate procedure.

According to our interpretation, and that of the city planner, we see our project as meeting the criteria for Special Exceptions (section 107-491) as follows:

**Appropriateness for a Special Exception**

Section (a) of the code identifies property that meets the criteria for a special exception. It refers not only to the reconstruction of a non-conforming structure (a.1), but also to an extension of a non-conforming structure. Specifically, criterion (a.2) permits the “enlargement or extension of a nonconforming use or nonconforming building upon the lot occupied by such use or building at the time of the passage of this division;”

## **Public Convenience and Welfare Considerations**

Section [c] of the code restricts consideration of requests to those for which “the public convenience and welfare will not be substantially or permanently injured in the granting of the special exception, and that the grant of the special exception will not adversely affect the public health, convenience, safety, or general welfare.”

We submit that the project fits these requirements well:

1. In repairing the courts, the project enhances the beauty, usability, and value of the property for the club, neighborhood, and city;
2. The benefits are intended not for a particular homeowner, but for the community. The WHAC is a significant resource for city residents and those who seek to become residents;
3. The extension of the courts increases the “public health, convenience,...and general welfare” of the community by fixing damaged property and providing recreational opportunities. The project therefore enhances the general health and culture of the community;
4. The extension of the courts represents an extension of a comparably modest structure, in that it does not involve the building of any vertical structures, except for court fencing;
5. The adjacent residential neighbors have all indicated their written approval of the plan, which was an unusual condition placed on the project at the first variance hearing;
6. According to the project’s engineer, the drainage infrastructure changes not only mitigate any increased water runoff, but also mark an improvement in drainage over the status quo;
7. The landscape plan commits the WHAC to the planting of a significant number of native trees in appropriate locations, which will be more in keeping with the use of the property and, in time, will offset the loss of existing trees and improve the ecology and beauty of the property.

Plans for this project have been posted on the WHAC website and distributed to club members and members of the public for approximately four years. WHAC board members – community residents themselves – remain open to hearing and deliberating any concerns of residents. We look forward to your consideration of the project. If we can provide further information, please do not hesitate to contact me.

Sincerely,

*Allegra Feito*

Allegra Feito  
WHAC Board President



VARIANCE & SPECIAL EXCEPTION REQUEST APPLICATION

Request Type (please check one) [ ] Variance [x] Special Exception

Property Address 4801 Rollingwood Drive Zoning

Legal Description: Lot X Block Subdivision

Owner of Structure

Address 4801 Rollingwood Drive City/State/Zip Rollingwood, TX 78746

Telephone Cell (214)394-9181 Email allegra.feito@gmail.com

Owner of Ground if different from above

Address N/A City/State/Zip

Telephone Cell Email

Authorized Agent if applicable

Address N/A City/State/Zip

Telephone Cell Email

Explain request:

We request permission to repair and expand the tennis courts at Western Hills Athletic Club (Rollingwood Pool). The court surface and fencing are badly damaged from years of weather and tree root expansion. We seek to expand the courts in order to accommodate demand for both tennis and pickleball activities. The objective of the project is to enhance the use and beauty of the property for the club, the neighborhood, and the city. A comprehensive landscape and drainage plan will also redesign the property in ways that will be more sustainable and ecological.



Cite ordinance applicable to request:

# 107-491 (Special Exceptions)

---

**\*\* A letter addressed to the Board of Adjustment Chair, signed by the property owner and explain the variance or special exception request and addressing all criteria contained in the City's ordinance (Sec.107-491 or Sec.107-492) is required (see Application Checklist)\*\***

## OWNER CERTIFICATION

Application is hereby made to the City of Rollingwood Board of Adjustment to request a variance or special exception as outlined above, and as contained in attachments to this application, and to request public hearing on this variance request at 403 Nixon Drive in Rollingwood, TX, on the date as set by the Board.

I agree to attend such hearing to represent this variance or special exception request and respond to the Board's questions or requests for additional information and documentation. If I am not able to attend the hearing, I will appoint an agent to represent me at the hearing and will submit to the City prior to the hearing written authorization for that agent.

I certify that this requested variance or special exception is in full conformity with and not contrary to any deed restrictions associated with my property listed herein. I DO SOLEMNLY SWEAR that to the best of my knowledge the above statements concerning this application are true and correct, and the undersigned has reviewed, understands and approves the request as stated.

*Allegra Feito*  
\_\_\_\_\_  
(Signature)

Allegra Feito  
\_\_\_\_\_

(Printed Name)

Date August 10, 2022

Telephone (214)394-9181

Email allegra.feito@gmail.com



ADDRESS 4801 Rollingwood Drive DATE RECEIVED \_\_\_\_\_

### APPLICATION CHECKLIST

- Variances: A letter addressed to the Board of Adjustment Chair, signed by the property owner and requesting the desired variance in the City's Ordinances and addressing all criteria contained in the attached ordinance, specifically 107-492 Variances.
  
- Special Exceptions: A letter addressed to the Board of Adjustment Chair, signed by the property owner and requesting the desired special exception in the City's Ordinances and addressing all criteria contained in the attached ordinance, specifically 107-491 Special Exceptions.
  
- Completed and signed Variance & Special Exception Request Application
  
- Survey with Metes & Bounds Description if property is not platted
  
- Deed and deed restrictions
  
- Agent authorization letter if applicable
  
- 11" by 17" Site Plan drawn to scale showing existing and proposed improvements
  
- Digital copy in .pdf format of entire application submission (application, checklist, exhibits, etc.) via email

#### 107-491 Special Exceptions

(a) The board may, in a specific case, where the board makes the findings required under subsection (c) herein, grant the following special exceptions from the requirements of this division:

- (1) Permit the reconstruction of a nonconforming building or structure that has been damaged by fire or other cause;
  
- (2) Permit the enlargement or extension of a nonconforming use or nonconforming building upon the lot occupied by such use or building at the time of the passage of this division;
  
- (3) In undeveloped sections of the city, grant temporary and conditional permits for not more than two years, provided that the grant of a temporary or conditional permit shall not be reason or cause for extension of such permit;
  
- (4) Permit such modifications of yard, open space, lot area, or lot width regulations as may be necessary to improve a parcel of land, if the parcel is of such restricted size that it cannot be appropriately improved without such modification; or



(5) Permit a public utility or public service building of a ground area or height at variance with those provided for the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety or general welfare.

(b) The board may grant such other special exceptions as may be provided for elsewhere in this division, subject to the terms and conditions therein set out.

(c) Prior to granting a special exception, the board shall make a finding that it is empowered under this chapter to grant the special exception, that the public convenience and welfare will not be substantially or permanently injured in the granting of the special exception, and that the grant of the special exception will

not adversely affect the public health, convenience, safety or general welfare.

(d) In granting a special exception, the board may prescribe appropriate conditions and safeguards in conformity with this division.

(e) The board shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to comply with the time limits set by the board shall void the special exception.

(Ord. No. [2022-01-19-03](#), § 2(Exh. A), 1-19-2022)

## **107-492 Variances**

a) The board may authorize upon appeal, in specific cases, such variances from the terms of this chapter, where the board finds that the variance 1) will not be contrary to the public interest, 2) where, owing to special conditions, literal enforcement of the provisions of this chapter will result in unnecessary hardship, and 3) the spirit of this chapter will be observed and substantial justice done.

(b) Prior to granting a variance in a zoning district other than a residential district, the board must find, in concert with the findings required in subsection (a), that:

(1) The variance is the minimum variance necessary to alleviate the unnecessary hardship;

(2) Granting the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to adjoining properties or the neighborhood, or be otherwise detrimental to the public welfare;

(3) The special conditions with respect to which a variance is sought are not the result of an action of the applicant;

(4) If applicable, there is sufficient water and wastewater capacity and fire service available to serve the applicant's land as developed under the variance without detriment to the other property within the city; and

(5) Granting the variance will not merely serve as a convenience to the applicant but will alleviate some demonstrable and unnecessary hardship which is created by the literal enforcement of the provisions of this chapter.



(c) Prior to granting a variance in a residential district, in concert with the findings required in subsection (a), the board must find that:

- (1) A special individual reason makes the literal enforcement of this chapter result in an unnecessary hardship;
- (2) Granting the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to adjoining properties or the neighborhood, or be otherwise detrimental to the public welfare;
- (3) The granting of the variance will not be detrimental to the public health, safety, or welfare or injurious to the property in the area;
- (4) There are special circumstances or conditions such as topography, natural obstructions, aesthetic or environmental considerations affecting the land involved such that the strict application of the provisions of this chapter would impose an unnecessary hardship which is created by the literal enforcement of the provisions of this chapter;
- (5) The granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of this chapter;
- (6) If applicable, there is sufficient water and wastewater capacity and fire service available to serve the applicant's land as developed under the variance without detriment to the other property within the city; and
- (7) The circumstances or conditions from which relief is sought are not solely of an economic nature.

(d) In granting a variance, the board may prescribe appropriate conditions and safeguards in conformity with this chapter.

(e) In considering a variance as applied to a structure, the board may, in addition to other relevant considerations, consider the following as grounds to determine whether an unnecessary hardship would result from compliance with the ordinance:

- (1) The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under V.T.C.A., Tax Code, § 26.01;
- (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;
- (3) Compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (4) Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (5) The municipality considers the structure to be a nonconforming structure.

(Ord. No. [2022-01-19-03](#), § 2(Exh. A), 1-19-2022)



## APPLICATION FILING INSTRUCTIONS

Submit the application, supporting documents detailed in the checklist and filing fee. The City of Rollingwood will invoice the applicant upon receipt of the application. Filings are not considered administratively complete until payment has been received. The City shall accept checks or payments by credit card.

Application Fee - \$300.00

Date: \_\_\_\_\_

Check #: \_\_\_\_\_

Digital Inv #: \_\_\_\_\_

Deliver application packet to:

**THE CITY OF ROLLINGWOOD**

**Development Services**

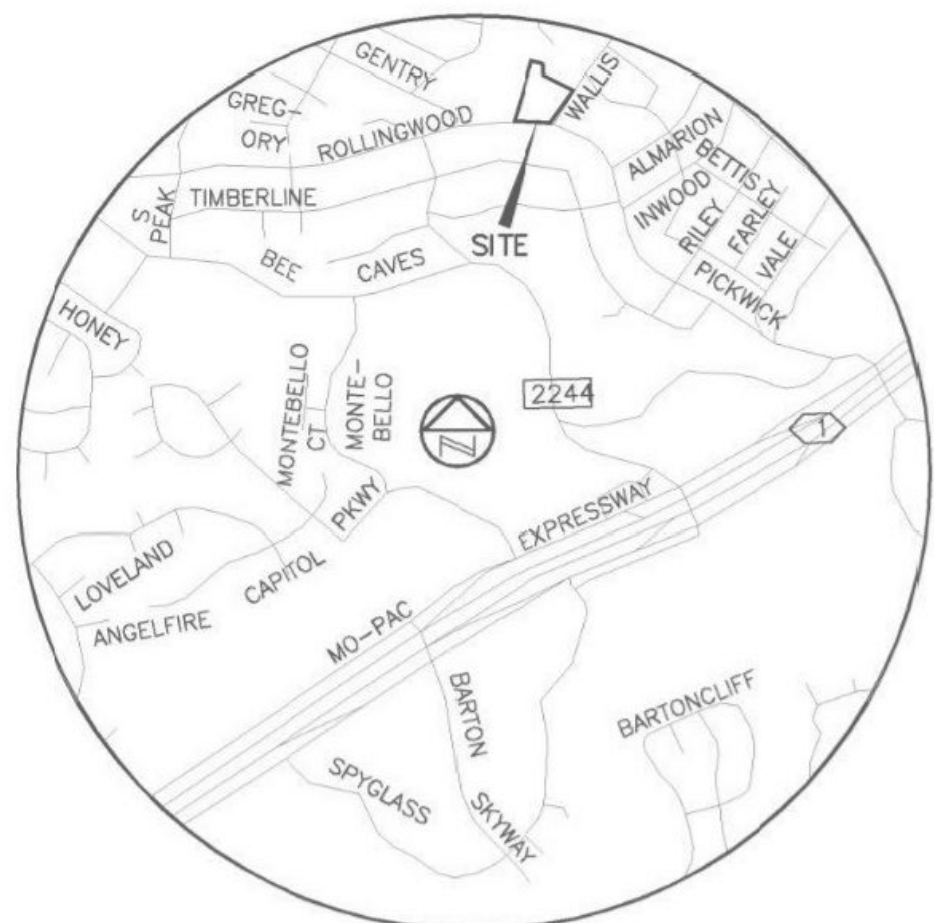
Phone +1 (512) 327-1838

403 Nixon Dr. Rollingwood, TX 78746-5512

[www.rollingwoodtx.gov](http://www.rollingwoodtx.gov)

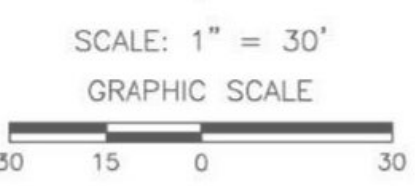
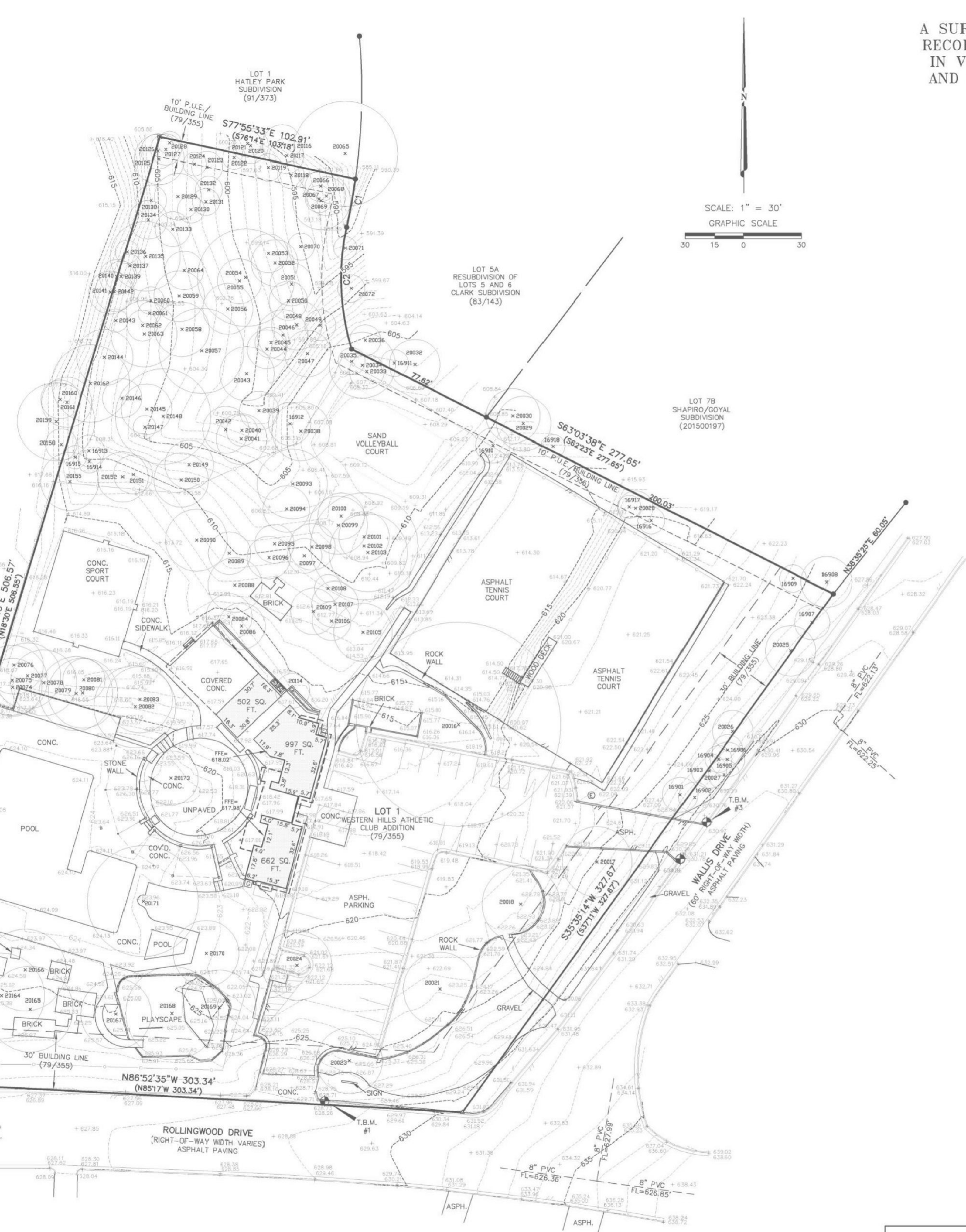
Email: [developmentservices@rollingwoodtx.gov](mailto:developmentservices@rollingwoodtx.gov)





LOCATION MAP NOT TO SCALE

A SURVEY OF ALL OF LOT 1, WESTERN HILLS ATHLETIC CLUB ADDITION, A SUBDIVISION OF RECORD IN TRAVIS COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 79, PAGE 355 OF THE THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, SAVE AND EXCEPT A 2,411 SQUARE FEET TRACT DESCRIBED IN VOLUME 11901, PAGE 1260 OF THE REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS.



TREE LIST

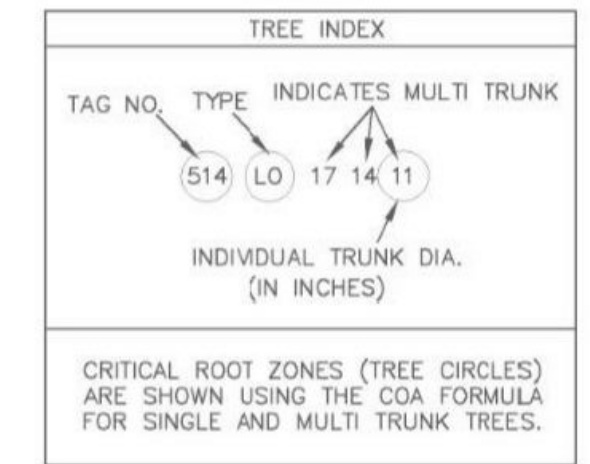
16901 HB 7 4	20027 CE 8	20055 LO 8 7	20082 LO 21	20118 CDR 7	20144 LO 10 9
16902 CE 6 4	20028 CE 9	20056 CDR 13	20083 LO 17	20119 CDR 9	20145 LO 13
16903 LO 9	20029 CB 14	20057 LO 16 12	20084 LO 12	20120 CDR 7	20146 CDR 10
16904 LO 7	20030 CB 14	20058 CDR 14	20086 LO 12	20121 LO 7	20147 LO 6
16905 LO 9	20032 HB 13	20059 LO 13	20088 LO 14	20122 CDR 6	20148 LO 18 13
16906 LO 8	20033 CB 9	20060 CDR 7	20089 LO 11	20123 CDR 8	20149 CE 10 5
16907 CE 7 4	20034 CB 11 7 5	20061 CE 6	20090 LO 16	20124 CDR 6	20150 CE 14
16908 LO 13	20035 CB 7	20062 CDR 8	20093 LO 18	20125 LO 13	20151 CB 10
16909 LO 7	20036 CB 8	20063 LO 17	20094 LO 12	20126 LO 9	20152 CB 13
16910 CB 9	20038 CB 15	20064 CDR 10	20095 LO 10	20127 LO 8	20155 LIG 9 6 6
16911 CB 7	20039 CDR 10	20065 PO 19 16	20096 LO 11	20128 CDR 6	20158 CB 8
16912 LIG 8 6	20040 CE 8	20066 CDR 6 9	20097 LO 10	20129 CDR 12	20159 CB 20
16913 BE 8	20041 CE 13	20067 LO 7	20098 LO 12	20130 CDR 7	20160 CE 10
16914 BE 6	20042 CE 12	20068 LO 10	20099 LO 15	20131 CDR 7	20161 CE 9 8
16915 BE 6	20043 CE 10 8	20069 LO 11 8	20100 LO 12	20132 CDR 7	20162 LO 20
16916 WLNT 7	20044 LO 10	20070 CDR 7	20101 LO 13	20133 CE 9	20163 CE 11
16917 WLNT 6	20045 LO 8	20071 CE 6	20102 LO 19 17	20134 CE 10	20164 LO 22
16918 WLNT 6	20046 LO 13	20072 CB 7	20103 LO 20	20135 LO 13 10	20165 LO 22
20021 LO 19	20047 LO 12	20073 LO 15	20105 CE 15	20136 HB 6	20166 LO 21
20017 CE 18	20048 LO 13	20074 LO 15	20106 LO 10	20137 CDR 6	20167 LO 18
20018 LO 20	20049 HB 8	20076 LO 15	20107 LO 12	20138 CE 8	20168 LO 24
20023 PEC 17	20051 LO 11	20077 LO 17	20108 LO 7	20139 CDR 8	20169 LO 19
20024 LO 18	20052 LO 12	20078 LO 17	20109 LO 12	20140 HB 9	20170 CE 17
20025 LO 13	20053 LO 10	20079 LO 19	20114 CE 9	20141 PEC 11	20171 LO 19 19
20026 LO 8 5	20054 LO 17 16	20080 LO 18	20115 CDR 10	20142 PEC 10	20173 CE 14
		20081 LO 11	20117 LO 9	20143 CDR 6	

BENCHMARK NOTE:  
 B.M. #1 - SQUARE CUT ON B.O.C., NORTH SIDE OF ROLLINGWOOD DR. +/-105 FEET WEST OF WALLIS DR. ELEV.=628.77'  
 B.M. #3 - SQUARE CUT ON B.O.C. ON THE WEST SIDE OF WALLIS DR. +/-190 FEET NORTH OF ROLLINGWOOD DR. ELEV.=631.07'

MANHOLE AND INLET NOTE:  
 THIS SURVEY SHOWS FIELD MEASURED SIZES AND DEPTHS AS OBSERVED FROM GROUND LEVEL OPENINGS. EXACT MEASUREMENTS AND DEPTHS PARTICULARLY IN CRITICAL AREAS, SHOULD BE VERIFIED WITH UTILITY RECORD MAPS AND/OR FIELD VERIFICATION PRIOR TO FINAL PLANNING OR CONSTRUCTION.

TREE LEGEND

BE	-	BOX ELDER	LIG	-	LIGUSTRUM
CB	-	CHINA BERRY	LO	-	LIVE OAK
CDR	-	CEDAR	PEC	-	PECAN
CE	-	CEDAR ELM	WLNT	-	WALNUT
HB	-	HACKBERRY			



LEGEND

- 1/2" REBAR FOUND
- ▲ CALCULATED POINT
- ⊙ 3/4" IRON PIPE FOUND
- ▲ NAIL FOUND
- \* COTTON SPINDLE FOUND
- ⊙ BENCHMARK LOCATION
- ⊠ WATER METER
- ⊗ WATER VALVE
- ⊕ FIRE HYDRANT
- ⊙ SPRINKLER CONTROL VALVE
- ⊗ UTILITY POLE
- GUY WIRE
- OVERHEAD UTILITIES
- ⊗ LIGHT POLE
- ⊙ WASTEWATER CLEANOUT
- ⊙ WASTEWATER MANHOLE
- ⊙ STORMSEWER MANHOLE
- ⊙ HANDICAP PARKING SPACE
- ⊙ AC PAD
- ⊙ GAS UTILITY
- ⊙ ELECTRIC UTILITY
- SIGN
- EDGE OF PAVEMENT
- WROUGHT IRON FENCE
- CHAIN LINK FENCE
- ⊙ PUMP BOX
- ⊙ PUMP

FLOOD-PLAIN NOTE:  
 The tract shown hereon lies within Zone "X" (areas determined to be outside 500-year flood-plain), as identified by the Federal Emergency Management Agency, Federal Insurance Administration, as shown on map no. 484500045A, dated January 08, 2016, for Travis County, Texas and incorporated areas. If this site is not within an identified special flood hazard area, this flood statement does not imply that the property and/or the structures thereon will be free from flooding or flood damage. This flood statement shall not create liability on the part of the surveyor.

TITLE COMMITMENT NOTE:  
 This Survey was prepared without the benefit of a Commitment for Title, and may be subject to additional easements or restrictions not shown hereon. No additional easement research was done for the purpose of this survey.

NOTE FROM PREVIOUS SURVEY (9/26/07):  
 The Travis CAD map 01\_0909 (01/04/2006) shows what appears to be additional R.O.W. for Rollingwood Drive and Wallis Drive. There was no monumented evidence in the field of a R.O.W. dedication along the north line of Rollingwood Drive. After researching Travis CAD and the Travis County Clerk records, we were not able to locate any documents reflecting additional street frontage conveyed to the City of Rollingwood. Since no title research was provided by the client, there was not enough data to accurately determine the position of the intersection of the north R.O.W. of Rollingwood Drive and the west R.O.W. of Wallis Drive, so the position is represented on the map by a calculated point for the purposes of this survey.

SURVEYOR'S CERTIFICATE:  
 CERTIFIED TO:  
 Julie Martinez  
 Western Hills Athletic Club  
 PROPERTY ADDRESS: Rollingwood Drive @ Wallis Drive  
 DATE OF SURVEY: 09/26/07; Topographic and Tree Survey Updated 09/20/17, Updated 4/27/18  
 BEARING BASIS: Grid azimuth for Texas Central Zone state plane coordinates, based on GPS solutions from The National Geodetic Survey (NGS) On-line Positioning User Service (OPUS).  
 ATTACHMENTS: none  
 I hereby certify that a survey of the property shown hereon was actually made upon the ground under my direction and supervision on the date shown, and that to the best of my professional knowledge and belief, there are no apparent encroachments, overlapping of improvements, discrepancies, deed line conflicts, visible utility lines or roads in place, except as shown hereon, and that this property abuts or adjoins a dedicated road right-of-way or access easement, unless noted hereon.

Robert C. Watts, Jr. Date  
 Registered Professional Land Surveyor State of Texas No. 4995

CURVE TABLE

NO.	DELTA	RADIUS	TAN	ARC	CHORD	BEARING	(RECORD CHORD)
C1	4°35'35"	315.81'	12.67'	25.32'	25.31'	S10°15'58"W	(S11°47'W 25.26')
C2	29°33'56"	122.57'	32.34'	63.25'	62.55'	S02°21'10"E	(S00°43'E 62.57')

PROJECT NO.: 585-001  
 DRAWING NO.: 585-001-BASE  
 PLOT DATE: 05/10/18  
 PLOT SCALE: 1"=30'  
 DRAWN BY: RGH/MAW/EBD  
 SHEET 01 OF 01

Professional Land Surveying, Inc.  
 Surveying and Mapping  
 3500 McCall Lane  
 Austin, Texas 78744  
 512-443-1724  
 Firm No. 10124500







11

DOC. NO.  
33058032

FILM CODE  
00004973065

27.00  
69.

WARRANTY DEED

THE STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS           §

KNOW ALL MEN BY THESE PRESENTS: That The Optimist Club of Western Hills, Austin, Texas a/k/a Optimist Club of Western Hills, Inc., a Texas corporation ("Grantor"), for a good and valuable consideration in hand paid by the City of Rollingwood, Texas, a municipal corporation situated in Travis County, Texas ("Grantee"), the receipt and sufficiency of which are hereby acknowledged, has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY unto Grantee the following described real property in Travis County, Texas, together with all improvements thereon, to wit:

8.934 acres of land, locally known as Hatley Park, as more fully described on Exhibit "A", attached hereto and incorporated herein by reference ("Property").

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in any way belonging, unto Grantee and Grantee's successors and assigns, forever; and Grantor does hereby bind Grantor and Grantor's successors and assigns to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee, and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof; except, however, that this conveyance is made subject to the perpetual roadway easement reserved by deed recorded in Volume 2986, Page 1078, Deed Records of Travis County, Texas, to the extent that the same remains in existence and is applicable to the Property.

This conveyance is additionally made subject to the following restrictive covenants which shall run with the land comprising the Property and which shall be binding upon Grantee, and all future owners of all or any portion of the Property and all persons claiming under them:

1. It is the intention of Grantor and Grantee to provide for preservation of existing athletic fields located on the Property. Accordingly, the use and development of the Property shall be restricted to park and recreational purposes consistent with the use of a portion of the Property for four baseball/softball fields which may be converted to a football/soccer field, which athletic fields may be combination or multi-use fields and which may be improved, reconstructed, relocated or reconfigured as determined by Grantee in its sole discretion. The use of the fields for baseball, football, soccer and girls softball by Westbank areas associations which are primarily for youth within the Eanes Independent School District shall be given priority. The foregoing restrictions shall not be deemed or construed to limit the park and recreational purposes to which the balance of the Property which is not being utilized for athletic fields may be used, it being specifically understood that the remainder of the Property may be used for other park and recreational purposes which are determined by Grantee, in its sole discretion. Further, it is understood and agreed that organizations or associations which utilize the athletic fields may be required by Grantee, as a condition of such use, to participate in the maintenance or upkeep of the fields, as determined by Grantee.

2. No portion of that .9 acre tract out of the Property described on Exhibit "B", attached hereto and incorporated herein by reference, shall be used by Grantee for any on-site wastewater system, and such .9 acre tract may be utilized for purposes of effecting the compliance by the two lots to be subdivided by Grantor out of the 1.1 acre tract being retained by Grantee located on Pleasant Cove Drive with Texas Water Commission Rule 31 TAC

285.18(g)(2), which requires that a total area of one (1) acre per lot be provided if an on-site wastewater system is to be used for a residence on each of those lots; however, no portion of the on-site wastewater system for such lots may actually be located on the .9 acre tract without the prior written consent of Grantee, which may be withheld or denied at Grantee's sole discretion. In the event 31 TAC 285.18(g)(2) is hereafter amended or terminated, or alternative wastewater disposal systems become available, which cause such one-acre minimum requirement to be no longer applicable, then this restriction shall terminate and be of no further effect. This restriction shall not be deemed or construed to limit Grantee's ability to develop the surface of the .9 acre tract for park and recreational purposes.

3. In the event any of the foregoing covenants, conditions or restrictions is held invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity and enforceability of the other covenants, conditions, or restrictions. If one of the foregoing is subject to more than one interpretation, the interpretation which more clearly reflects the intent of the parties shall be enforced.

Grantee's address: 403 Nixon  
Austin, Texas 78746

Executed this the 28th day of MAY, 1993.

THE OPTIMIST CLUB OF WESTERN  
HILLS, AUSTIN, TEXAS A/K/A  
OPTIMIST CLUB OF WESTERN HILLS,  
INC.

By: Doyle H. Moore  
Printed Name: Doyle H. Moore  
Title: President

ATTEST:

[Signature]  
Printed Name: [Signature]  
Title: DIRECTOR

THE STATE OF TEXAS §  
COUNTY OF TRAVIS §

This instrument was acknowledged before me on the 28th day of MAY, 1993, by DOYLE H. MOORE, PRESIDENT of The Optimist Club of Western Hills, Austin, Texas a/k/a Optimist Club of Western Hills, Inc., a Texas corporation, on behalf of said corporation.



[Signature]  
Notary Public, State of Texas

Printed Name of Notary

My commission expires: \_\_\_\_\_



## EXHIBIT A

FIELD NOTES  
FOR

### 8.934 ACRE TRACT

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF THE HENRY P. HILL LEAGUE IN THE CITY OF ROLLINGWOOD, TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN TRACT OF LAND CONVEYED TO HAROLD SCHERZ, TRUSTEE, BY DEED RECORDED IN VOLUME 6041, PAGE 461 OF THE DEED OF TRUST RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING A PORTION OF THAT CERTAIN 1.01 ACRE TRACT OF LAND AS CONVEYED TO OPTIMIST CLUB OF WESTERN HILLS, INC. BY DEED RECORDED IN VOLUME 3647, PAGE 1079 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, BEING A PORTION OF LOT 1, WESTERN HILLS ATHLETIC CLUB ADDITION, A SUBDIVISION IN THE CITY OF ROLLINGWOOD, TRAVIS COUNTY, TEXAS, AS RECORDED IN PLAT BOOK 79, PAGES 355 AND 356 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, THE HEREIN DESCRIBED TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a concrete monument set at the Southeast corner of the said Scherz Tract, being at the Southwest corner of the said Lot 1, Western Hills Athletic Club Addition, being in the North r.o.w. line of Rollingwood Drive, for the Southeast corner and PLACE OF BEGINNING hereof;

THENCE along the South line of the said Scherz Tract, being the North r.o.w. line of Rollingwood Drive, for the following courses:

N 86° 17' W for a distance of 45.57 feet to a 1/2 inch iron pin set

N 89° 53' W for a distance of 239.18 feet to a 1/2 inch iron pin set at a point of curve

Along a curve to the left whose radius is 797.78 feet whose arc is 161.07 feet and whose chord bears S 84° 20' W for a distance of 160.80 feet to a 1/2 inch iron pin set at the intersection of the North r.o.w. line of Rollingwood Drive and the North r.o.w. line of Gentry Drive for the Southwest corner hereof;

THENCE along the Southwest line of the said Scherz Tract, being the North r.o.w. line of Gentry Drive, for the following courses:

N 14° 53' W for a distance of 125.16 feet to a 1/2 inch iron pin set at a point of curve

Along a curve to the right whose radius is 398.55 feet whose arc is 100.34 feet and whose chord bears N 69° 01' W for a distance of 100.08 feet to a 1/2 inch iron pin found

N 61° 19' 05" W for a distance of 202.57 feet to a concrete monument set at a point of curve, being at the intersection of the North r.o.w. line of Gentry Drive and the East r.o.w. line of Nixon Drive;

4E.  
11946 1986

FIELD NOTES  
FOR

8.934 ACRE TRACT - Page Two

THENCE along the Northwest line of the said Scherz Tract, being the East r.o.w. line of Nixon Drive, for the following courses:

Along a curve to the right whose radius is 15.00 feet whose arc is 29.32 feet and whose chord bears N 05° 11' 30" W for a distance of 24.87 feet to a 1/2 inch iron pin found

N 50° 46' 25" E for a distance of 130.75 feet to a 1/2 inch iron pin set at the most Westerly corner of Lot A, Community Plaza, a subdivision in the City of Rollingwood, Travis County, Texas, as recorded in Plat Book 68, Page 17 of the Plat Records of Travis County, Texas, for a Westerly corner hereof;

THENCE along the Southwest line of the said Lot A, Community Plaza, S 62° 33' 15" E for a distance of 142.44 feet to a 60-d nail found at the most Southerly corner of the said Lot A;

THENCE along the Southeast line of the said Lot A, Community Plaza, for the following courses:

N 52° 49' 05" E for a distance of 113.52 feet to a 1/2 inch iron pin found

N 48° 47' 30" E for a distance of 96.41 feet to a 1/2 inch iron pin set

N 60° 47' 30" E for a distance of 130.99 feet to a 1/2 inch iron pin set at the most Easterly corner of the said Lot A;

THENCE along the Northeast line of the said Lot A, Community Plaza, N 31° 41' 30" W for a distance of 85.09 feet to a 1/2 inch iron pin found at the most Northerly corner of the said Lot A, being in the East r.o.w. line of Nixon Drive;

THENCE along the East r.o.w. line of Nixon Drive, along a curve to the left whose radius is 261.39 feet whose arc is 15.86 feet and whose chord bears N 56° 05' 19" E for a distance of 15.85 feet to a 1/2 inch iron pin set at the most Southerly corner of Lot 6, Block D, Hatley Park Estates, a subdivision in the City of Rollingwood, Travis County, Texas, as recorded in Plat Book 75, Page 257 of the Plat Records of Travis County, Texas;

THENCE along the Southeast line of Block D of the said Hatley Park Estates, for the following courses:

Along a curve to the left whose radius is 261.39 feet whose arc is 102.88 feet and whose chord bears N 43° 04' 30" E for a distance of 102.22 feet to a 1/2 inch iron pin set

N 31° 51' E for a distance of 27.57 feet to a 1/2 inch iron pin found at a point of curve

Along a curve to the right whose radius is 198.83 feet whose arc is 116.37 feet and whose chord bears N 48° 37' 15" E for a distance of 114.72 feet to a 1/2 inch iron pin found

11946 1987

FIELD NOTES  
FOR

8.934 ACRE TRACT - Page Three

N 65° 26' 30" E for a distance of 86.83 feet to a 1/2 inch iron pin found at a point of curve

Along a curve to the left whose radius is 741.52 feet whose arc is 240.62 feet and whose chord bears N 56° 01' 30" E for a distance of 239.57 feet to a 1/2 inch iron pin set

N 46° 46' 15" E for a distance of 5.25 feet to a 1/2 inch iron pin found at the most Easterly corner of Lot 4, Block D of the said Hatley Park Estates, being in the West r.o.w. line of Pleasant Cove, being at the Northwest corner of that certain 0.140 acre tract of land as described in Volume 7558, Page 115 of the Deed Records of Travis County, Texas, for the most Northerly corner hereof;

THENCE along the West r.o.w. line of Pleasant Cove, S 34° 16' 45" E for a distance of 24.19 feet to a concrete monument set;

THENCE along a Northeast line of the herein described tract, for the following courses:

S 44° 37' 30" W for a distance of 224.17 feet to a 1/2 inch iron pin found

S 16° 30' E for a distance of 130.04 feet to a 1/2 inch iron pin found

S 87° 05' 37" E for a distance of 27.88 feet to a 1/2 inch iron pin found

S 74° 51' 27" E for a distance of 61.67 feet to a 1/2 inch iron pin found

S 62° 25' 47" E for a distance of 123.21 feet to a 1/2 inch iron pin found in the West line of Lot 5A, Resubdivision of Lots 5 & 6, Clark Subdivision, a subdivision recorded in Plat Book 83, Page 143C of the Plat Records of Travis County, Texas;

THENCE along the West line of the said Lot 5A for the following course:

Along a curve to the right whose radius is 315.81 feet whose arc is 73.63 feet and whose chord bears S 03° 15' 05" W for a distance of 73.46 feet to a 1/2 inch iron pin found at a Northeast corner of the said Lot 1, Western Hills Athletic Club Addition;

THENCE along the North line of the said Lot 1, N 76° 18' 45" W for a distance of 103.04 feet to a 1/2 inch iron pin found at the Northwest corner of the said Lot 1;

FIELD NOTES  
FOR

8.934 ACRE TRACT - Page Four

THENCE along an East line of the herein described tract,  
S 18° 30' W for a distance of 506.55 feet to the PLACE OF  
BEGINNING and containing 8.934 acres of land, more or less.

I hereby certify that this metes and bounds description is based  
upon the Land Title Survey and Plat made by Roy D. Smith,  
Registered Professional Surveyor No. 4094 on May 12, 1993.

AS SURVEYED BY:  
ROY D. SMITH SURVEYORS, P.C.

*Roy D. Smith*  
ROY D. SMITH  
REGISTERED PROFESSIONAL SURVEYOR NO. 4094  
May 12, 1993

Job No. 12-67



11946 1989



EXHIBIT B

FIELD NOTES  
FOR

0.90 ACRE RESTRICTED ZONE

ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF THE HENRY P. HILL LEAGUE IN THE CITY OF ROLLINGWOOD, TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN TRACT OF LAND CONVEYED TO HAROLD SCHERZ, TRUSTEE, BY DEED RECORDED IN VOLUME 6041, PAGE 461 OF THE DEED OF TRUST RECORDS OF TRAVIS COUNTY, TEXAS, THE HEREIN DESCRIBED TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 1/2 inch iron pin found in the West r.o.w. line of Pleasant Cove, being at the most Easterly corner of Lot 4, Block D, Hatley Park Estates, a subdivision recorded in Plat Book 75, Page 257 of the Plat Records of Travis County, Texas, for the most Northerly corner hereof;

THENCE along the West r.o.w. line of Pleasant Cove, S 34° 16' 45" E for a distance of 24.19 feet to a concrete monument set for an Easterly corner hereof;

THENCE along the Easterly line of the herein described tract, S 44° 37' 30" W for a distance of 224.17 feet to a 1/2 inch iron pin found and S 16° 30' E for a distance of 130.04 feet to a 1/2 inch iron pin found for the Southeast corner hereof;

THENCE along the South line of the herein described tract, for the following courses:

N 87° 05' 37" W for a distance of 57.00 feet to an angle point

S 67° 55' 53" W for a distance of 69.59 feet to an angle point

N 58° 59' 37" W for a distance of 155.93 feet to a 1/2 inch iron pin found in the Southeast line of Block D of the said Hatley Park Estates, for the Southwest corner hereof;

THENCE along the Southeast line of the said Block D for the following courses:

RECORDED

11946 1990

FIELD NOTES  
FOR

0.90 ACRE TRACT - Page Two

Along a curve to the right whose radius is 198.83 feet,  
whose arc is 116.37 feet and whose chord bears  
N 48° 37' 15" E for a distance of 114.72 feet to a 1/2 inch  
iron pin found

N 65° 26' 30" E for a distance of 86.83 feet to a 1/2 inch  
iron pin found at a point of curve

Along a curve to the left whose radius is 741.52 feet, whose  
arc is 240.62 feet and whose chord bears N 56° 01' 30" E for  
a distance of 239.57 feet to a 1/2 inch iron pin found

N 46° 46' 15" E for a distance of 5.25 feet to the PLACE OF  
BEGINNING and containing 0.90 acre of land, more or less.

I hereby certify that this metes and bounds description is based  
upon the Land Title Survey and Plat made by Roy D. Smith,  
Registered Professional Surveyor No. 4094 on May 12, 1993.

AS SURVEYED BY:  
ROY D. SMITH SURVEYORS, P.C.

*Roy D. Smith*  
ROY D. SMITH  
REGISTERED PROFESSIONAL SURVEYOR  
May 12, 1993



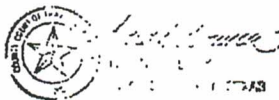
NO. 4094

Job No. 12-67

FILED  
93 MAY 28 PM 4:46  
COUNTY CLERK  
TARRANT COUNTY TEXAS

SMITH OF TEXAS COUNTY OF TARRANT  
I hereby certify that this instrument was FILED on  
the date and at the time stamped hereon by me, and  
was duly RECORDED in the volume and page of the  
record KILLORRN's Abstracts, 11946, on

MAY 28 1993



James L. Dwyer  
Dwyer Law Company  
901 Congress Suite 450  
Austin Texas 78701

11946-212936

REPL -  
TARRANT COUNTY TEXAS

11946 1991