

23

**AGENDA ITEM REQUEST FORM**

**Hays County Commissioners Court**

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

**AGENDA ITEM**

SUB-113 O-Bar Ranch (15 lots). Discussion and possible action to approve preliminary plan; consider granting a variance to Sections 715.3.05, 721.4.01, and 721.6.01 of the Hays County Development Regulations.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-SUBDIVISIONS	October 1, 2013	

**LINE ITEM NUMBER**

**AUDITOR USE ONLY**

**AUDITOR COMMENTS:**

PURCHASING GUIDELINES FOLLOWED: N/A

AUDITOR REVIEW: N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
ROXIE MCINNIS	WHISENANT	JONES

**SUMMARY**

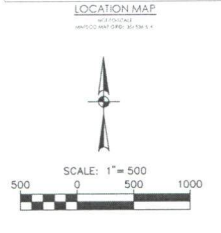
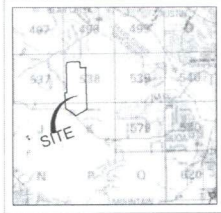
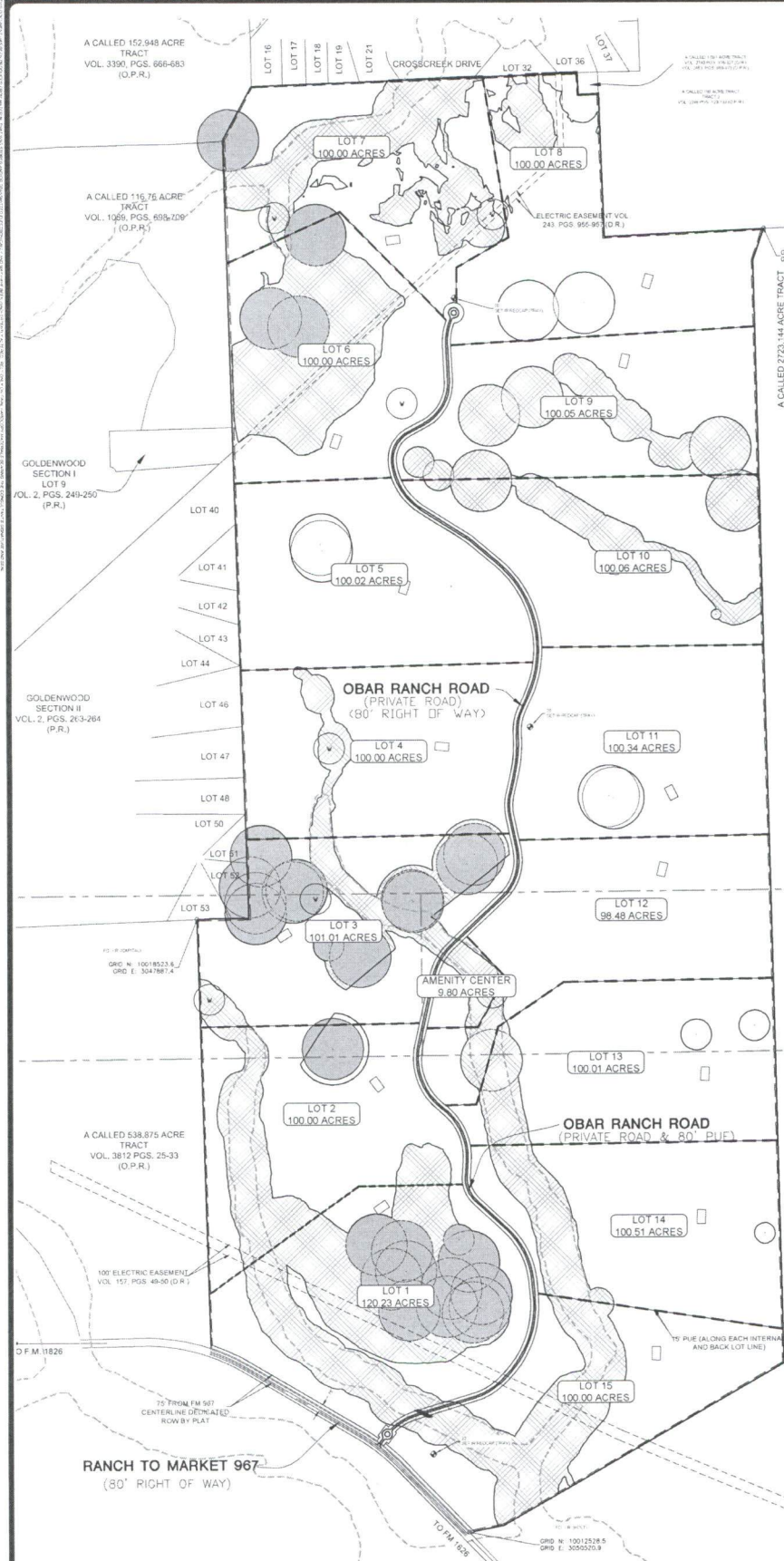
O-Bar Ranch is a proposed 15 lot subdivision encompassing 1,558 acres located off of FM 976 in Precincts 2 and 4. The property is encumbered by a Conservation Easement held by the City of Austin which is intended to protect natural recharge features and the local watersheds. The development will be served by private wells, individual advanced on-site sewage facilities, and a privately maintained roadway.

Section 715.3.05 of the Hays County Development Regulations establishes criteria for water availability demonstrations for developments utilizing private water wells. This section requires that a professional engineer or geoscientist perform hydrological testing, geophysical well logging, and aquifer pump testing of monitor and testing wells located on the property. The developer has provided a limited scope water availability analysis which utilizes data obtained from local aquifer studies rather than a full scope water availability study utilizing data from the required test and monitor wells. The rationale for this and all other variances requested is provided in backup.

Section 721.4.01 of the Hays County Development Regulations requires that all private roadways be designed and constructed in accordance with the standards for public roadways set forth in Chapter 721. This chapter requires 18 feet of travelway for a road classified as a Country Lane. The developer is requesting a four foot reduction in width for the private Country Lane which will serve the development.

Section 721.6.01 of the Hays County Development Regulations requires the dedication of right of way in accordance with the Hays County Transportation Plan. The currently adopted transportation plan requires right of way for the proposed roadway, NF13, however this preliminary plan shows no such dedication. The limitations set forth in the Conservation Easement are the basis for the requested variance and are discussed in greater detail in backup.

FILED: 10 01 13  
HAYS COUNTY COMMISSIONERS' COURT  
Resolution # 28367 VOL V PG 253



- LEGEND**
- EXISTING WELL LOCATION WITH 150' SETBACK
  - NO DEVELOPMENT ZONE
  - 100 YEAR FLOOD PLAIN BOUNDARY
  - FOUND 1/2" IRON ROD (UNLESS NOTED OTHERWISE)
  - FOUND 1/2" IRON ROD WITH CAP
  - PROPERTY LINE ANGLE POINT OR POINT OF CURVATURE
  - FOUND 100' MONUMENTATION
  - OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS (OPR)
  - DEED RECORDS OF HAYS COUNTY, TEXAS (DR)
  - PLAT RECORDS OF HAYS COUNTY, TEXAS (PR)

**O BAR RANCH**

A 1794.48 ACRES OR 47,864.62 SQUARE FEET MORE OR LESS TRACT OF LAND BEING A CALLED THE OBAR RANCH TRACT (LAND LOT 1) OF COOPERATION EASEMENT AGREEMENT BY THE STATE OF TEXAS AND THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, ALSO OUT OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, ALSO OUT OF A CALLED 121.14 ACRES TRACT (SEE ALSO VOLUME 2017-28-05-0000 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS, PART OF THE THOMAS SURVEY, ABSTRACT NO. 19, THE J.A. MILLER SURVEY, ABSTRACT NO. 19 AND THE J. DWIGHT SURVEY, ABSTRACT NO. 18, THE HAYS COUNTY, TEXAS.

**DESIGNER'S REVIEW**

READY TO DRAW  
100 BROWNWOOD DRIVE  
AUSTIN, TX 78704  
(512) 454-8711

**PLANNERS**

PAPE-DAWSON ENGINEERS, INC.  
3900 BRUNNEN DRIVE, SUITE 200 WEST  
AUSTIN, TEXAS 78757  
(512) 454-8711

**SURVEYOR**

PAPE-DAWSON ENGINEERS, INC.  
3900 BRUNNEN DRIVE, SUITE 200 WEST  
AUSTIN, TEXAS 78757  
(512) 454-8711

**LOT INFORMATION**

SIZE CATEGORY	NUMBER OF LOTS	SIZE CATEGORY	NUMBER OF LOTS
>40 ACRES	15	1-ACRES-2	0
5-ACRES-10	1	<1-ACRE	0
2-ACRES-5	0		

**RESUBDIVISION SUMMARY**

TOTAL SUBDIVISION AREA:	1794.48 ACRES
TOTAL RESUBDIVISION LOT AREA:	894.71 ACRES
TOTAL STREET AREA (EASEMENTS):	24.96 ACRES

- NOTES**
- ALL LOTS SUBJECT TO THE COOPERATION EASEMENT AGREEMENT RECORDED IN VOLUME 2017-28-05-0000 OF THE OFFICIAL PUBLIC RECORDS OF HAYS COUNTY, TEXAS. THIS DOCUMENT PRESENTS THE RESUBDIVISION.
  - THIS RESUBDIVISION IS WITHIN THE BOUNDARIES OF THE HAYS CONSOLIDATED INDEPENDENT MUNICIPAL DISTRICT.
  - UTILITY SERVICE WILL BE PROVIDED BY PRIVATE UTILITIES.
  - ELECTRIC UTILITY SERVICE WILL BE PROVIDED BY PENNSYLVANIA ELECTRIC COOPERATIVE.
  - TELEPHONE SERVICE WILL BE PROVIDED BY LAND OWNERS.
  - COOPERATION EASEMENT**  
RESUBDIVISION LOTS ARE LIMITED TO ONE SINGLE FAMILY RESIDENCE PER LOT AND TEXAS CONSTRUCTION OF MINIMUM FINANCIAL QUALITY RESUBDIVISION DEVELOPMENT IS PROHIBITED.
  - ADVANCED WATERWAYS SYSTEMS**  
LOTS ARE LIMITED TO THE USE OF ADVANCED ON-SITE WASTEWATER FACILITIES.
  - REQUIREMENTS FOR WATERWAY FACILITIES**  
WHERE THE WATERWAY FACILITIES ARE INTENDED TO PREVENT AND PROTECT THE WATER RESOURCES OF HAYS COUNTY, THE COMMISSIONER OF HAYS COUNTY DOES NOT MAKE ANY WARRANTY, EXPRESS OR IMPLIED, OR OTHERWISE, THAT ANY PERSON THAT COMES INTO CONTACT WITH THESE LOTS WILL BE ABLE TO MEET THE WATER NEEDS OF THESE PURCHASING LOTS WITHIN THE WATERWAY FACILITIES.
  - SANITARY CONTROL EASEMENT STATEMENT**  
SANITARY CONTROL EASEMENTS MUST BE OBTAINED ON RESUBDIVISION LOTS AND WHEN NECESSARY, PROVIDED COMPENSATION TO THE SANITARY CONTROL EASEMENT BARRING TO BE OBTAINED.
  - LEGAL NOTES**  
THIS RESUBDIVISION IS WITHIN THE CITY OF COOPERATION, TEXAS.  
THE BOUNDARIES ARE BASED ON THE NORTH AMERICAN DATUM OF 1983 (NAD 83) (NAD 83) BY 2000 FROM THE TEXAS COORDINATE SYSTEM ESTABLISHED FOR THE CENTRAL ZONE.  
COMBINED SCALE FACTOR: 0.99999900

DATE	BY	REVISION

**O BAR RANCH  
PRELIMINARY PLAN  
SHEET 1 OF 1**



3900 BRUNNEN DRIVE, SUITE 200 WEST | AUSTIN, TEXAS 78757 | PHONE: 512.454.8711 | FAX: 512.454.8867

THIS DOCUMENT IS RELEASED FOR INTERIM REVIEW PURPOSES ONLY UNDER THE AUTHORITY OF JAMES A. HUFFSTADT, JR., P.E. 55233 DATE: August 20th, 2017. IT IS NOT TO BE USED FOR BIDDING, CONSTRUCTION, OR PERMITTING PURPOSES. PER T.E.P.A. 137.386.





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LAND DEVELOPMENT ENVIRONMENTAL TRANSPORTATION WATER RESOURCES SURVEYING

August 30, 2013

Roxie McInnis, Division Manager  
Hays County Development Services  
2171 Yarrington Road  
San Marcos, Texas 78666

RE: **Waiver Request from Field Work Required for Water Availability Study**  
Hays County Subdivision and Development Regulations §715.3.05 and §715.3.06, Water Availability Demonstrations Using Individual Private Water Wells Producing Local Groundwater and Additional Requirements for Subdivisions Served by Individual Water Wells Producing Local Groundwater in Priority Groundwater Management Areas  
O-Bar Ranch Private Drive

Dear Director:

A Water Availability Study, as required by Chapter 715 of the Subdivision and Development Regulations of Hays County, is provided for this project. See attached Study. On behalf of our client, Ranch 967, LLC, we are requesting a formal waiver of the water availability demonstration field work as required for a water availability study for the O-Bar Ranch Subdivision. Section 715.3.05 and §715.3.06 describe significant field work typically required to support a water availability study (WAS). With this letter, we request that previously gathered local data be used for the WAS instead of the more intense pumping required by code.

#### **Project Description**

The O-Bar Ranch Subdivision is proposes 15 single family residential lots on approximately 1,558 acres of land within the Dripping Springs extraterritorial jurisdiction. Water will be provided by on-site wells, and wastewater by on-site septic systems. This protected property is located in Hays County, on the north side of FM 967 approximately 3.7 miles east of the intersection of 967 and 1826. The project is within the Little Bear Creek watershed, and within the Edwards Aquifer Recharge and Contributing Zones. The current site is undeveloped land, save for a 1 acre Farm/Ranch Single Family segment. This development is encumbered by a Conservation Easement held by the City of Austin, intended to protect natural recharge features and the local watershed.

Adjacent developed properties include residential developments on the western and northern faces of the site, and undeveloped property to the east. Approximately half of the south side is bordered by undeveloped property, while the other half fronts FM 967.

Ms. Roxie McInnis, Division Manager  
O-Bar Ranch –Dripping Springs, Texas  
Water availability study field work waiver request  
August 30, 2013  
Page 2 of 2

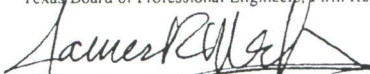
### Rationale for Variance Request

- Hays County Ordinances require a minimum lot size six acres for lots served by on site wastewater and private water wells. This lot size was increased from previous ordinances based upon groundwater availability. It is assumed that the minimum lot size of six acres was arrived at based upon scientific data and local aquifer properties. Therefore, lot sizes of over 100 acres on average should be able to operate up to two domestic wells and one irrigation or livestock well without causing further degradation of the local aquifer than that proposed in the current Hays County Development Ordinances.
- Local aquifer parameters and well tests indicate that there is adequate groundwater available on the property to accommodate the proposed subdivision, based upon fifteen lots averaging over 100 acres, and up to three wells per lot.
- Hydrogeological properties of the Trinity Aquifer, (including transmissivity and storativity (T and S)) in the vicinity of the site were obtained from previous aquifer tests and literature obtained from the Hays Trinity Groundwater Conservation District (HTGCD) and the Texas Water Development Board (TWDB). This data was used to simulate the proposed pumping conditions at the site. The results indicated that there is sufficient groundwater available at the site to accommodate the proposed development.
- We do not believe that it would be wise use of our delicate resource, groundwater, to pump it out of the ground, for 24 hours, at a rate of five to ten gallons per minute (gpm), during a stage 3 drought. This would yield 7,200 to 14,400 gallons in one day being dumped onto the ground and wasted.

For these reasons we are requesting a waiver from the test pumping requirement under Sec. 715. Thank you for your consideration of this matter.

Sincerely,

Pape-Dawson Engineers, Inc.  
Texas Board of Professional Engineers, Firm Registration # 470



James R. McCann P.E.  
Senior Project Manager

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LAND DEVELOPMENT ENVIRONMENTAL TRANSPORTATION WATER RESOURCES SURVEYING

August 30, 2013

Roxie McInnis, Division Manager  
Hays County Development Services  
2171 Yarrington Road  
San Marcos, Texas 78666

RE: Request for road width variance to Article VII Section 8, Privately Maintained Paved Streets  
Hays County Subdivision and Development Regulations  
O-Bar Ranch Private Drive

Dear Director:

On behalf of our client, Ranch 967, LLC, we are requesting a formal road width variance to §721.4.01 of the Subdivision and Development Regulations of Hays County for the O-Bar Ranch Subdivision. This code section states that "all private roadways qualifying as Regulated Roadways (Regulated Private Roadways) shall be designed and constructed in accordance with the standards in Chapter 721, Subchapter 5 for Public Roadways." O Bar Ranch qualifies for construction of a county lane type road without calculation of average daily traffic based on §721.5.04(D). Table 721.02, Design Requirements Based on Roadway Classification, specifies a minimum Width of Traveled Way equal to 18 feet. With this letter, we request a variance to the minimum width, allowing a 14 foot wide roadway due to the low daily traffic along the controlled-access road as well as environmental concerns.

#### **Project Description**

The O-Bar Ranch Subdivision is proposed to consist of 15 single family residential lots on approximately 1,558 acres of land within Dripping Springs extraterritorial jurisdiction. Water will be provided by on-site wells, and waste-water by on-site septic systems. This protected property is located in Hays County, on the north side of FM 967 approximately 3.7 miles east from the intersection of 967 and 1826. The project is within the Little Bear Creek watershed, and within the Edwards Aquifer Recharge and Contributing Zones. The current site is undeveloped land, save for a 1 acre Farm/Ranch Single Family segment. This development is encumbered by a Conservation Easement held by the City of Austin, intended to protect natural recharge features and the local watershed.

Adjacent developed properties include residential developments on the western and northern faces of the site, and undeveloped property to the east. Approximately half of the south side is bordered by undeveloped property, while the other half fronts FM 967.



Ms. Roxie McInnis, Division Manager  
O-Bar Ranch –Dripping Springs, Texas  
Roadway Width Variance Request  
August 30, 2013  
Page 2 of 2

### Rationale for Variance Request

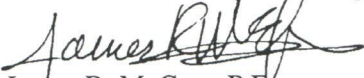
- The conservation easement applicable to the property strictly limits development to a maximum impervious cover of 1.7%. O-Bar Ranch Road is proposed to be constructed as a private, gated access, country lane which only serves 15 single family residences on 15 separate lots of 100 acres or more. Significant portions of the property, as described in the conservation easement, are undevelopable due to setbacks protecting aquifer recharge and spring features, habitat for the golden cheeked warbler, and the 100 year floodplain. The proposed street is the minimum length required to serve the intended design, while avoiding sensitive features, minimizing waterway crossings, and reasonably avoiding trees. By allowing the requested 4 foot reduction in road width, roughly 54,000 more square feet of land on this protected property will remain undisturbed. Although 18 feet is the design width for a country lane, 14 feet will provide enough width for normal traffic by residents and maneuverability for emergency vehicles.
- The proposed roadway is a Private Roadway, as defined in Chapter 721 Sec. 4.02 of the Hays County Development Regulations. The County will not be responsible for the maintenance of this roadway.

Due to the protected status of this property and the very limited intended road use, we ask for a variance to the traveled road width as described in Table 721.02.

Sincerely,

Pape-Dawson Engineers, Inc.

Texas Board of Professional Engineers, Firm Registration # 470



James R. McCann P.E.

Senior Project Manager

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LAND DEVELOPMENT ENVIRONMENTAL TRANSPORTATION WATER RESOURCES SURVEYING

September 25, 2013

Roxie McInnis, Division Manager  
Hays County Development Services  
2171 Yarrington Road  
San Marcos, Texas 78666

RE: Request for Variance from Chapter 721§6.01. Right-of-Way Dedication  
Hays County Development Regulations, Revised June 4, 2013  
O-Bar Ranch Subdivision

Mrs. McInnis:

On behalf of our client, N-Hays Investors I LP (the "Applicant"), we request a variance from §721.6.01 of the Hays County Development Regulations for the O-Bar Ranch Subdivision. This code section states that "An application for a Development Authorization under these regulations, including subdivision plats and manufactured home rental communities, shall be required to dedicate right of way in accordance with the currently adopted Hays County and Capital Area Metropolitan Planning Organization Transportation Plans." Based on the Hays County Transportation Plan, it appears NF 13 passes through a portion of this project. A variance from this requirement is being requested for the reasons discussed below.

The property is subject to a Conservation Easement Agreement (the "Conservation Easement") with the City of Austin, attached as Exhibit "A," which forbids the dedication of public roads through the property. Section 2.15 of the Conservation Easement states:

No Dedications. Internal roads, lanes and driveways on the Property shall at no time be dedicated to or made available for use by the general public, and no public road or public access easements or rights of way shall be granted, either expressly or by implication, or permitted by prescription.

NF 13 would be an internal, public road and thus is expressly prohibited by the Conservation Easement.

The proposed dedication is inconsistent with other provisions of the Conservation Easement. To identify just two: First, Exhibit B-2 to the Conservation Easement expressly identifies certain areas within the property as "No Development Zones." The Applicant could not feasibly or economically dedicate right of way along the length of the property without traversing these no-development zones. Second, the Development Plan, Exhibit "B" to the Conservation Easement, limits the total impervious cover on the property to just 1.7% of the total area, or 1,153,900.5 sf. See Development Plan, § 6. Depending on the actual alignment, the roadway for the proposed NF 13

Ms. Roxie McInnis, Division Manager  
O-Bar Ranch –Dripping Springs, Texas  
Right-of-Way Dedication Variance Request  
September 25, 2013  
Page 2 of 2

would devour most, if not all, of the impervious cover allowed to the Applicant under the Conservation Easement.

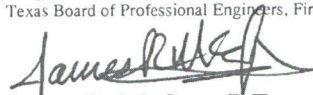
The Applicant is powerless to modify the Conservation Easement unilaterally. Any dedication of NF 13 through the property will require negotiation with and consent of the City of Austin. Officials with the City of Austin have informed the Applicant, unequivocally, that the City of Austin will not consent to the waiver or amendment of the Conservation Easement to allow NF 13 through the property. The City of Austin informed the City of Dripping Springs back in August that the City of Austin would not amend the conservation easement even for the more limited purpose of allowing an emergency access road through a portion of the tract. See also the attached email from the City of Austin to our client dated September 25, 2013.

Because the Applicant does not have the legal authority to grant the dedication requested by the Hays County Code, the Applicant requests a variance from the requirement to dedicate right of way for NF 13.

Please note that, even if the Applicant did have the power to dedicate the right of way, the property immediately to the east of the O Bar Ranch, through which NF 13 would continue, is conservation land owned by the City of Austin. Again, it is our understanding that the City of Austin is firmly opposed to the extension of NF 13 through conservation land. The extension of NF 13 through O Bar Ranch would serve no purpose without its extension through the adjacent parcel owned by the City of Austin.

Thank you for your consideration of this matter. Please call with any questions.

Sincerely,  
Pape-Dawson Engineers, Inc.  
Texas Board of Professional Engineers, Firm Registration # 470



James R. McCann P.E.  
Senior Project Manager

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**Pamela Madere**

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**Subject:** Northern Hays County

**From:** Conrad, William

**Sent:** Wednesday, September 25, 2013 9:36 AM

**To:** Pamela Madere

**Subject:** Re: Northern Hays County

Ms. Madere

The North Hays Conservation Easement does not provide for the dedication of any public road on the protected property. It does not allow for dedicated public roads to be created as part of the development, nor does it allow dedicated public roads to be extended onto or across the protected property.

William A. Conrad  
Environmental Policy Program Manager  
Wildland Conservation Division  
Austin Water Utility  
City of Austin  
(512) 972-1661

Sent from my iPhone