

COMMISSIONERS' COURT ORDER NO. 96-0550

In order to ensure that septic systems and wells (including sanitary easements) can be located, and in order to comply with Federal Emergency Management Act and Texas Water Code requirements governing flood plains, and further to assure that a division of real estate does not come under the requirements of Chapter 232 of the Local Government Code, by order of the Kendall County Commissioners' Court dated the 13th day of May, 1996, it is hereafter ORDERED that:

1) From this date forward, all divisions of real estate in Kendall County, outside the limits of an incorporated municipality, will require that an Affidavit of Land Location be filed with the County Clerk, to be recorded in the Official Records of Kendall County, Texas.

2) The required affidavit will be sufficient if it locates and identifies accurately the division/divisions of land contemplated, including fee simple frontage on an existing county, public, or public easement road for each such division of land. The affidavit must be approved in accordance with requirements attached hereto as Exhibit "A", and which are incorporated into this order by reference for all purposes.

3) This requirement is based upon the authority granted counties as set forth in the following statutes:

a) TEX. WATER CODE ANN. § 16.315 - authority granted to counties to take necessary actions to comply with the requirements of National Flood Insurance Program, Title 42, Section 4022, U.S. Code Ann.;

b) TEX. REV. CIV. STAT. ANN., art. 4477-7e and TEX. HEALTH & SAFETY CODE ANN. § 368.011 - may adopt standards for on-site sewage disposal (septic tanks);

c) TEX. WATER CODE ANN. § 26.032 - authority granted to counties to control private sewage facilities;

d) TEX. WATER QUALITY BOARD, Resolution No. 73-R-4, amended 02/26/76, approving Kendall County Commissioners' Court order pertaining to the regulation of private sewage facilities;

e) Kendall County Commissioner's Court Order dated December 27, 1974, regarding regulation and permitting of water wells in Kendall County and amendments thereto;

f) TEX. REV. CIV. STAT. ANN. art 2351 - general control over all roads, highways, and bridges;

g) TEX. REV. CIV. STAT. ANN., art. 6702-1, § 3002 - adopt a system for laying out, draining, and repairing public roads

h) TEX. REV. CIV. STAT. ANN., art. 6702-1, § 2.002 - order that public roads be laid out, opened, discontinued, or altered when necessary;

i) TEX. REV. CIV. STAT. ANN., art. 6702-1, § 4.302 - may direct condemnation proceedings within municipalities for land necessary to county road system or link to state highway;

j) TEX. REV. CIV. STATE. ANN., art. 6702-1, § 3.105 - may authorize any person to make drain along public road for drainage of land;

k) TEX. REV. CIV. STAT. ANN., art. 6702-1, § 2.101, et seq. - may provide for construction and maintenance of adequate drainage for public roads;

l) TEX. LOC. GOV'T CODE ANN. § 232.001, et seq., - may adopt and enforce platting and road construction regulations;

m) TEX. REV. CIV. STAT. ANN., arts. 1433, 1433a - may designate where water corporation should place line along right-of-way on county roads;

n) TEX. REV. CIV. STAT. ANN., art. 1436b - may designate where lines should be placed in right-of-way on county roads;

o) TEX. REV. CIV. STAT. ANN., art. 1436b - may designate where lines should be placed in right-of-way on county roads for gas distribution;

p) TEX. REV. CIV. STAT. ANN., art. 4477-9a, § 3.04 - may prohibit refuse or junk accumulating near public highways.

As of the effective date of this order, the Office of Development Management must approve or disapprove an Affidavit of Land Location required to be filed pursuant to this order within three (3) working days of its receipt. An approved affidavit must be filed with the County Clerk's Office within three (3) working days of its approval and prior to the issuance of septic and well permits by the Office of Development Management. Tracts previously divided will not be required to file said affidavit under this Court Order.

Tracts of land divided by will or descent or by courts of competent jurisdiction will not be required to comply with this order (optional).


It is further intended that fence line or boundary adjustments between neighbors will be excluded from this requirement.

The above court order is passed this 13 day of May, 1996.

COMMISSIONERS' COURT of KENDALL COUNTY, TEXAS


James W. Gooden, County Judge


Charles Goodman, Commissioner Prct. 1


Sue Whitworth, Commissioner Prct. 3


L. M. Holman, Commissioner Prct. 2

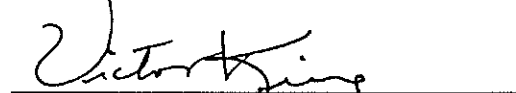

Vic King, Commissioner Prct. 4

Exhibit A – Affidavit of Land Location Requirements

Preliminary Determination

An individual wishing to divide a tract of land to lay out streets, alleys, squares, or parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks or other parts must have a plat of the division prepared that will be subject to the Kendall County Subdivision Rules and Regulations, pursuant to Chapter 232 of the Local Government Code.

Requirements for Division of Land not covered by Chapter 232 of the Local Government Code.

The documents to be approved by the Office of Development Management and subsequently filed within three (3) working days in the Official Records of Kendall County, Texas, must meet the following criteria and will contain the following information:

- 1) The documents must be titled "Affidavit of Land Location" and indicate the property owner as shown on the deed records:
- 2) The affidavit and attendant plat must be documents prepared on 8 ½ x 14 paper;
- 3) The plat must show property boundaries drawn to scale (with bearings and distances shown for tracts under 100 acres) and be prepared to the largest scale possible to show the entire property. Areas of tracts should be established to the nearest 1/10 acre or less if under 25 acres, or to the nearest acre, or less, for larger tracts. It is not necessary that the parent tract be shown.
- 4) The plat must show the location of existing roads and road name, if named, abutting or within the property to be divided. The type of road needs to be designated (country, public, or public easement road) with statement of maintenance responsibility.
- 5) The plat must show the anticipated or existing location of water well, septic systems, and sanitary easements, if known.
- 6) A second sheet must show a location map which will identify the location of the subject property related to the nearest known points, such as road intersections, high power lines, creeks, etc.
- 7) The second sheet must contain the following statement with originals signatures:

"I (name of owner or agent of record), hereby affirm that this plat is a true and correct copy of the plat prepared by a registered public surveyor or licensed professional engineer, and that it depicts the _____ acre tract to be divided as illustrated, such tract being out of the _____ Survey, Kendall County, Texas.

**Subscribed and sworn to before me this ____ day of _____, 20__.*

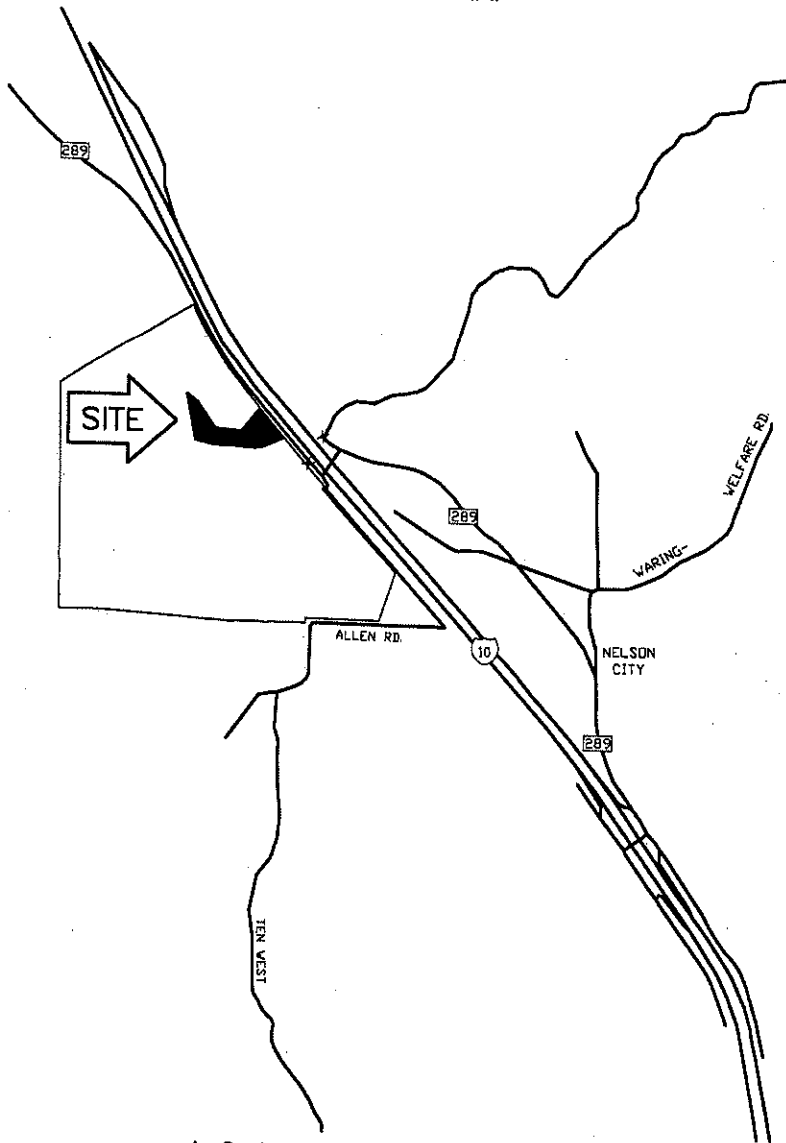
Notary Public, State of Texas

- 8) The second sheet must bear an original signature of approval of the duly appointed representative of the Office of Development Management and the affected property's respective precinct Commissioner, as authorized by Commissioners' Court.

CAVEAT:

If the property in question falls within the extra-territorial jurisdiction of any incorporated municipality, approval in addition to this Affidavit of Land Location requirement may be necessary, and should be sought through that entity.

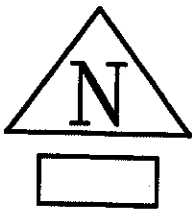
AFFIDAVIT OF LAND LOCATION
LOCATION MAP



AFFIDAVIT OF LAND LOCATION SHOULD BE ON LEGAL SIZE PAPER.

I, Gaylan Schroeder, Kendall County Judge, hereby affirm that this plat is a true and correct copy of the plat prepared by a Registered Professional Land Surveyor and that it depicts the 11.85 acre tract as shown, such tract being out of the Isham Thompson Survey No. 14, Abstract No. 495, Kendall County, Texas.

I acknowledge that Kendall County approval of this division does not grant access to this tract or the remaining tract from F.M. 289. Access permits for state right-of-way must be obtained from Texas Department of Transportation.

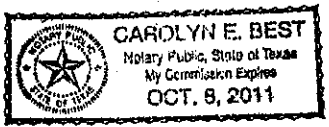


Not To Scale

[Signature]
Gaylan Schroeder
County Judge

Subscribed and sworn to before me this 28th day of January, 2010.

[Signature]
Notary Public, State of Texas

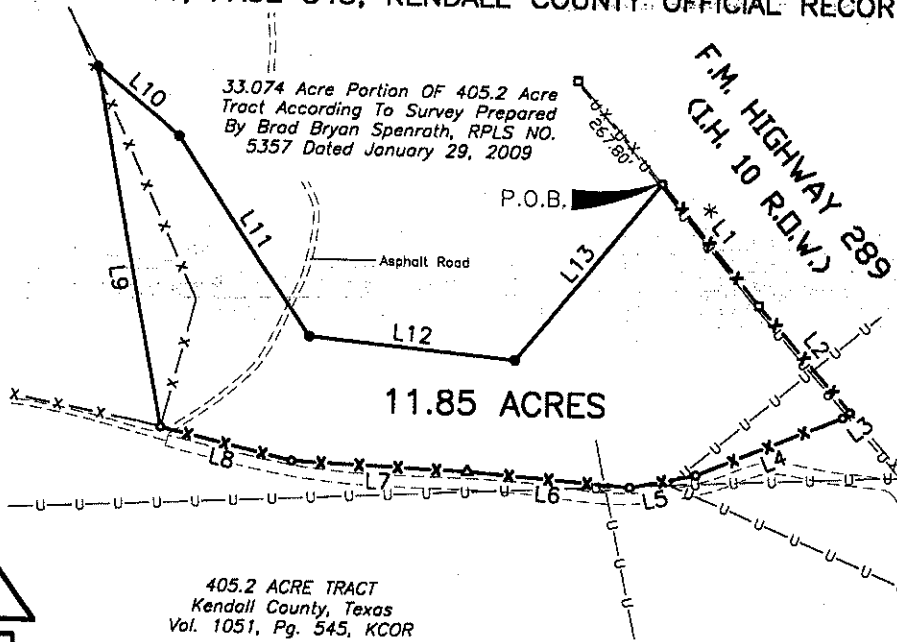


Reviewed: *[Signature]*
Kendall County Development Manager
Date: 1/28/2010

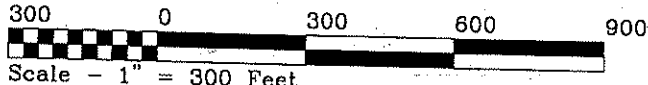
AFFIDAVIT OF LAND LOCATION

PURSUANT TO KENDALL COUNTY DEVELOPMENT RULES AND
REGULATIONS SECTIONS NO. 102.1000.3 AND 102.1100
(DIVISION LARGER THAN 10 ACRES AND
AFFIDAVIT OF LAND LOCATION REQUIRED)

11.85 ACRE TRACT OF LAND OUT OF THE ISHAM THOMPSON
SURVEY NO. 14, ABSTRACT NO. 495, KENDALL COUNTY, TEXAS
LOCATED ABOUT EIGHT MILES N35°W OF THE COUNTY SEAT IN
BOERNE, TEXAS, BEING A PORTION OF THAT 405.2 ACRE TRACT
DESCRIBED IN DEED TO KENDALL COUNTY, TEXAS RECORDED IN
VOLUME 1051, PAGE 545, KENDALL COUNTY OFFICIAL RECORDS.

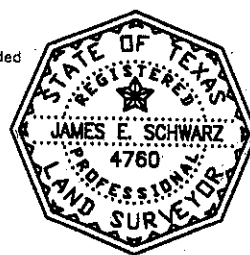


LINE TABLE		
COURSE	BEARING	DISTANCE
L1	S 39°57'27" E	309.23'
L2	S 41°26'30" E	281.35'
L3	S 52°45'21" W	18.33'
L4	S 67°12'30" W	321.58'
L5	S 78°18'57" W	136.43'
L6	N 85°36'58" W	323.96'
L7	N 87°40'40" W	355.49'
L8	N 76°47'19" W	274.31'
L9	N 10°35'07" W	733.55'
L10	S 50°28'10" E	215.69'
L11	S 34°17'07" E	475.95'
L12	S 84°30'38" E	414.93'
L13	N 39°11'42" E	462.61'



- Notes:
1. ● indicates 1/2" steel rod set with a red plastic cap stamped "Schwarz 4760", unless otherwise noted.
 2. ● indicates 1/2" iron rod found.
 3. □ indicates concrete monument.
 4. ▲ indicates Mag Nail set with washer stamped "JESchwarz RPLS 4760".
 5. KCPR = Kendall County Plat Records.
 6. KCDR = Kendall County Deed Records.
 7. KCOR = Kendall County Official Records.
 8. * This bearing, used as the bearing basis for this survey, was derived utilizing G.P.S.
 9. POB indicates point of beginning of the Metes and Bound description prepared for this tract.
 10. —X—X— wire fence on or near this line.
 11. —U—U— overhead telephone and electric line.
 12. F.M. Hwy. 289 (I.H. 10 R.O.W.) established by deed recorded in Volume 92, Page 604, Kendall County Deed Records. Research provided by Kendall County Abstract.
 13. This tract subject to utility easement and covenant of access to Bandera Electric Coop., Inc. for electric transmission lines recorded in Volume 307, Page 893 and 899, KCOR.

I certify that this plat is of a survey made on the ground under my supervision between October 8 and December 4, 2009 and that there are no visible easements or encroachments except as shown.



[Signature]
James E. Schwarz
Registered Professional
Land Surveyor No. 4760

Job No. 09-149

SCHWARZ LAND SURVEYING & DEVELOPMENT, INC.
(830)249-8907 723 N. MAIN, BOERNE, TEXAS 78006 Fax: (830)249-3921