

BRADY & HAMILTON · WOMACK McCLISH
Attorneys and Counselors

February 2, 2021

Via Email (gford@nbtexas.org)

Mr. Garry Ford, Jr., P.E.
City Public Works Director
City Engineer
City of New Braunfels
550 Landa Street
New Braunfels, TX 78130

Re: Kramm Family – proposed 1845 Subdivision

Dear Mr. Ford:

This is a petition to the City Council alleging that the exactions proposed by the City on the proposed 1845 Subdivision owned by the Kramm Family are not roughly proportional to the burdens imposed on City infrastructure by the development proposed. I file it with you in compliance with the applicable City Ordinance. I trust that you will make it available to the City Council as appropriate.

I attach for your consideration another copy of the site plan proposed by the Kramms as burdened by the proposed minor arterial.

I first want to make an observation about the proposed City process. The Ordinance states that the burden of proof is on the landowner to demonstrate that the City's exactions are not roughly proportional. State Statute and the decisions of the United States Supreme Court make it clear that the burden of proof is actually on the City to demonstrate that its demands are roughly proportional to an increased burden on City infrastructure.

In an effort to meet this burden, the City has provided a rough proportionality analysis sealed by Jefferey A. Whitaker, P.E. with Kimley-Horn & Associates, Inc. I make the following observations about his analysis.

Under current regulations, the landowner would be required to dedicate 5.819-acres or almost 23% of his land. The analysis concedes that the Kramm Family could be liable to build two lanes of the proposed roadway but ignores the cost of this construction. In addition to these costs, the routing of the roadway through the property severs it into two triangles and an extremely irregular 15-acre remainder that would not be allowed any access to FM 1044 under current TxDOT spacing regulations. As a practical matter, if they wanted to make any profitable use of the land, the Kramms would have to build a portion of the roadway to get legal access, whether the City required it or not. If you consider the full extent of the value taken from the

Kramms, it will be several times the engineer's estimate of the right-of-way value alone.

I also take issue with Mr. Whitaker's proportionality numbers. As I understand it, by his estimate an exaction of \$988,203.09 would be justified, utilizing the City's 2019 Roadway Impact Fee Study. I should point out that the property was appraised as of January 18, 2018 at \$870,000 by Byron K. Setser, MAI. I will also remind you that all this erupted because the property was under contract to a developer for \$1,000,000 who killed the deal when he learned about the City's roadway requirements. Mr. Whitaker's conclusion that the City could demand the entire value of the tract and pass rough proportionality muster is simply not credible. It appears that the City's estimate of \$1,371 / vehicle-mile might need to be reworked.

In any event, consider this an appeal of the City's attempt to justify its actions. We will submit additional evidence within the 90-days allowed.

Very truly yours,



John McClish
Brady & Hamilton • Womack McClish
john@bhlawgroup.com

JM/br

Enclosure

cc: Kramm Family
Mr. Greg Haley

K.C. ENGINEERING, INC.
CONSULTING ENGINEERS
705 HWY. 281 NORTH, PLAZA L, SUITE 103
MARBLE FALLS, TEXAS 75754
OFFICE: 817-423-0335 FAX: 817-423-0041
Email: info@kceengineering.com
REGISTRATION # P-000077

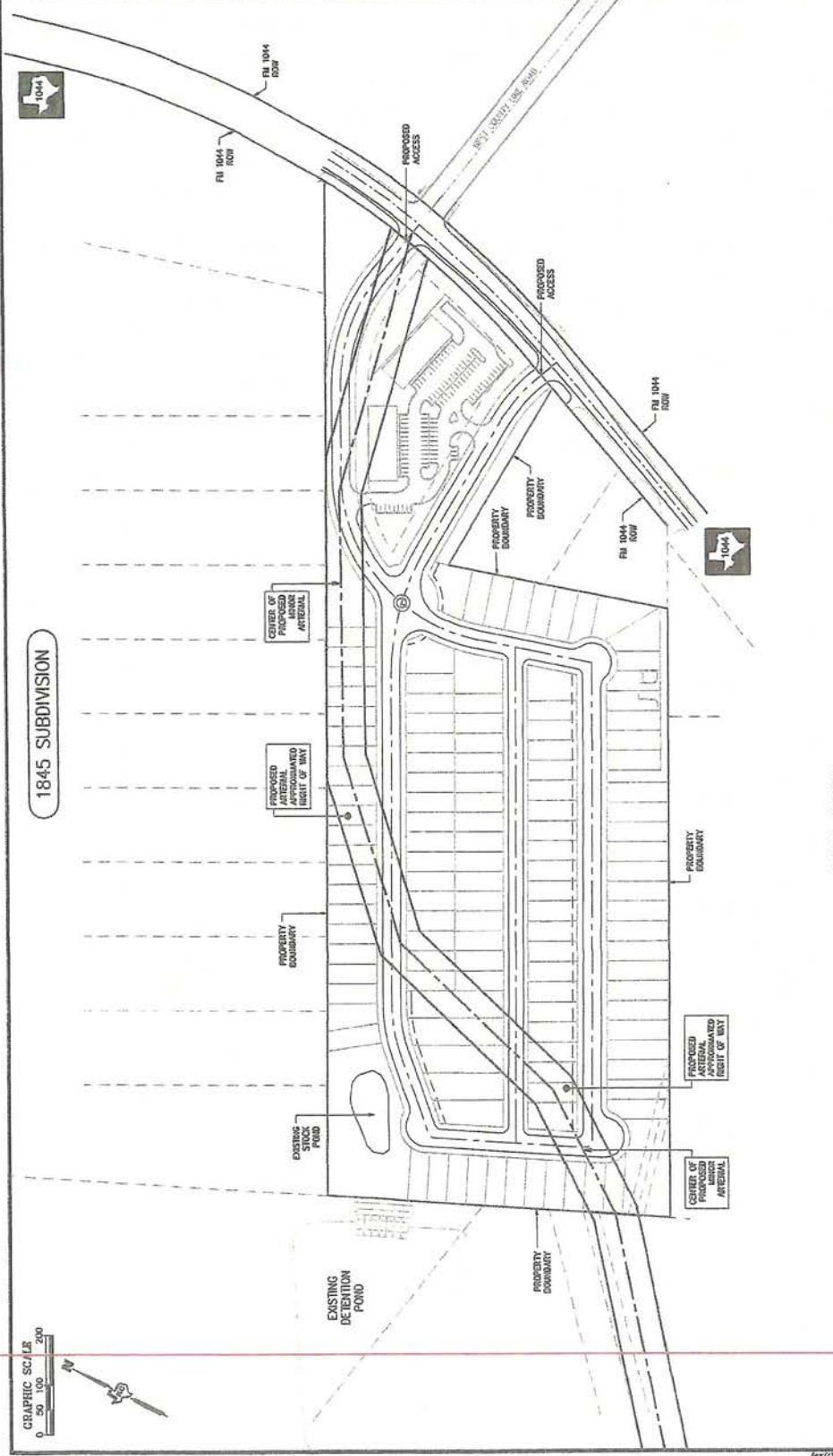


**WEST COUNTY LINE RD.
1845 SUBDIVISION,
NEW BRAUNFELS, TX**

This document is prepared for the project of **WEST COUNTY LINE RD. 1845 SUBDIVISION** and the authority of **A.S. SHAMIN** is hereby certified.
Date: **SEPT 27, 2020**
City: **NEW BRAUNFELS, TX**
It is not to be used for any other project.

Rev. No.	Date	Description
1		Initial
2		Revised
3		Revised
4		Revised
5		Revised
6		Revised
7		Revised
8		Revised
9		Revised
10		Revised

EXHIBIT A



WEST COUNTY LINE ROAD ALIGNMENT OBTAINED FROM THE CITY OF NEW BRAUNFELS WEBSITE
PROPOSED WEST COUNTY LINE ARTERIAL RIGHT OF WAY WIDTH ESTIMATED AT 90' (EXTRAPOLATED FROM THE PUBLICATION "CITY OF NEW BRAUNFELS REGIONAL TRANSPORTATION PLAN RIGHT-OF-WAY DETERMINATION")
TOTAL APPROXIMATED LENGTH OF ARTERIAL CENTERLINE: ±2,160'
1845 SUBDIVISION AREA = ±25.59 ACRES
PROPOSED WEST COUNTY LINE ARTERIAL RIGHT OF WAY AREA THROUGH THE PROPOSED 1845 SUBDIVISION: ±4.2 ACRES (±16% OF TOTAL AREA)

COMAL COUNTY
GUADALUPE COUNTY

Small text at the bottom of the page, likely a reference or disclaimer.