

**CITY OF AUSTIN**  
**Board of Adjustment/Sign Review Board**  
**Decision Sheet**

**DATE:** Monday, January 13, 2014

**CASE NUMBER:** C15-2014-0010

\_\_\_\_ Jeff Jack  
\_\_\_\_ Michael Von Ohlen **Motion to PP to 2-10-14**  
\_\_\_\_ Nora Salinas  
\_\_\_\_ Bryan King  
\_\_\_\_ Fred McGhee **2<sup>nd</sup> the Motion**  
\_\_\_\_ Melissa Hawthorne  
\_\_\_\_ Sallie Burchett  
\_\_\_\_ Cathy French (SRB only)

**APPLICANT:** Jim Bennett

**OWNER:** Valla Diafari

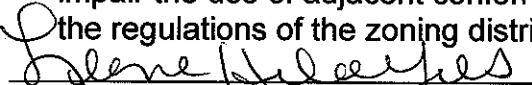
**ADDRESS:** 2009 LAKESHORE DR

**VARIANCE REQUESTED:** The applicants have requested a variance from Section 25-2-1174 (D) which states a retaining wall, bulkhead, or other erosion protection device may not capture or recapture land on a lake, unless capturing or recapturing the land is required to restore the land to the lesser of: (1) the shoreline as it existed 10 years from the date of application, with documentation as prescribed by rule, or (2) the lakeside boundary of the subdivided lot line.

**BOARD'S DECISION:** The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to February 10, 2014, Board Member Fred McGhee second on a 7-0 vote; **POSTPONED TO February 10, 2014.**

**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:  
  
(b) The hardship is not general to the area in which the property is located because:
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

  
\_\_\_\_\_  
Leane Heldenfels  
Executive Liaison

  
\_\_\_\_\_  
Jeff Jack  
Chairman

January 7, 2013

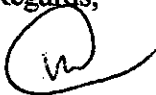
City of Austin  
Planning and Development Review Department  
PO Box 1088  
Austin, TX 78716

C15-2014-0010

To Whom It May Concern:

I, Valla Djafari, own the property at 2009 Lake Shore Drive. I wish to construct a new dock at the property. Bruce S. Aupperle, P.E. and Aupperle Company are our authorized agents for the City of Austin applications needed for the subject work at the property. Please contact me if you have any questions.

Regards,



Valla Djafari  
2009 Lakeshore Drive  
Austin, TX 78746

C15-2014-0010

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings

**REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:
2. **the owner of the property will be deprived from the use of his property in a similar manner as other property owners along the lake have been authorized, and obtained permit to do, Without a variance the owner cannot enjoy the use of his property.**

**HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that: A recent amendment to the process has occurred which makes the variance necessary in order to construct a bulkhead, back fill, and landscape this small area

**. Without a variance a continued health and safety condition will continue to exist, and the owners will not be able to re-vegetate this small area.**

The hardship is not general to the area in which the property is located because:

**Many boatslips along the lake have been redeveloped under the previous ordinance.**

**AREA CHARACTER:**

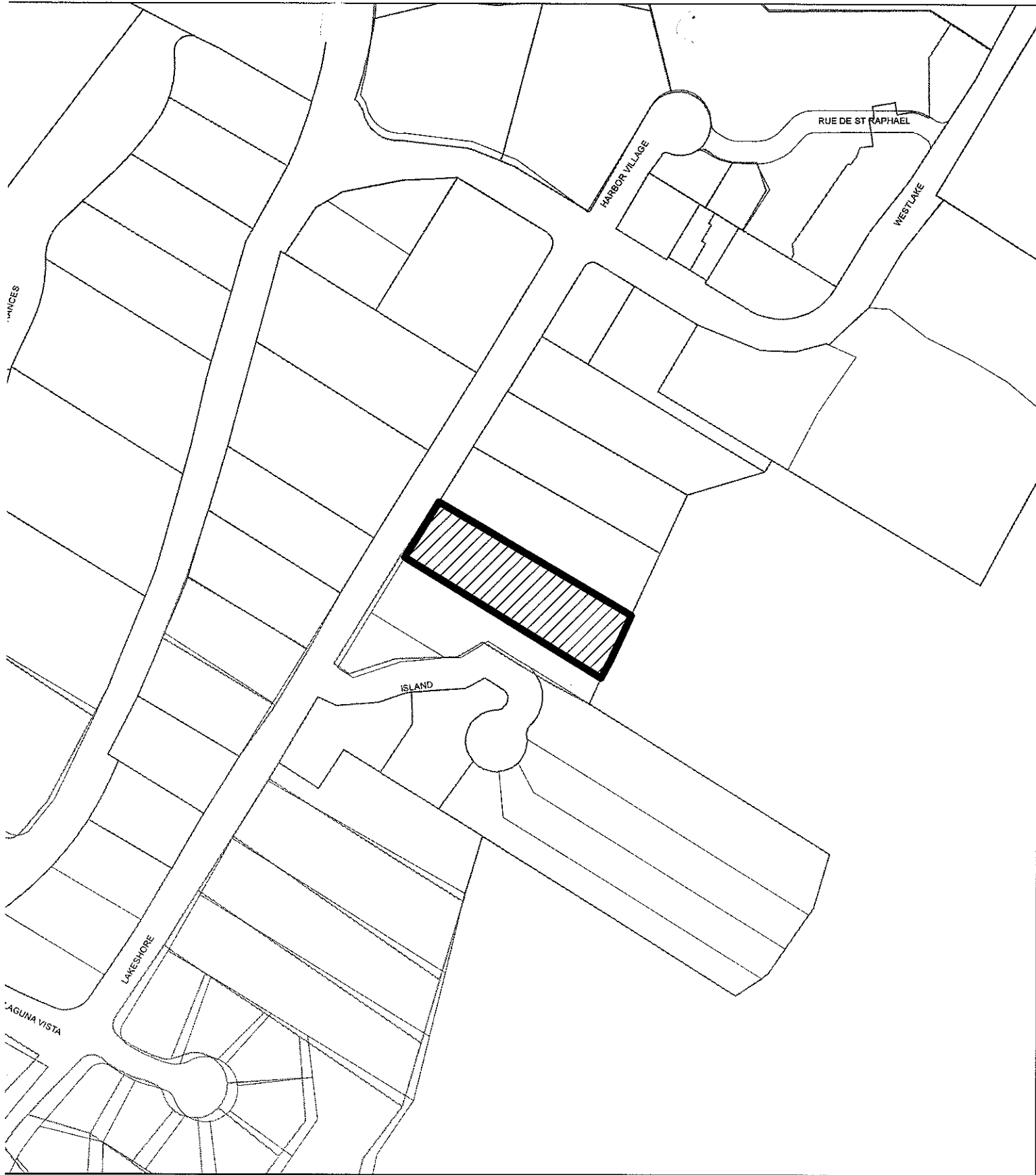
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

**The proposed redevelopment is to the rear of the property and the Lake Austin Ordinance severely restricts the improvements that maybe made in the shoreline setback,**

**PARKING:** (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

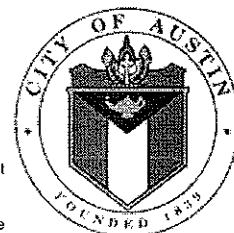


SUBJECT TRACT



ZONING BOUNDARY

CASE#: C15-2014-0010  
LOCATION: 2009 LAKESHORE DRIVE



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

**John C. Horton III**  
**903 Nueces Street**  
**Austin, Texas 78701**  
**512-477-9966**  
~~XXXXXXXXXXXX~~

January 6, 2014

City of Austin  
Planning and Development Review Dept.  
Board of Adjustment  
c/o Susan Walker  
P. O. Box 1088  
Austin, TX 78767-1088

Re : Case Number : **C15-2014-0010 – 2009 Lake Shore Drive**

Board of Adjustment :

My family and I are the owners of Lot 16 Lake Shore Addition which shares our south property line with 2009 Lake Shore Drive. We are fully in favor of the variance requested by the applicant.

Granting this request will address several issues. Importantly it will resolve a property line encroachment issue that occurred many years ago by previous owners. This variance will allow the owner to remove a dysfunctional lagoon and properly landscape the area as green space.

I hope that the board will approve this variance request and I plan on being at the public hearing to answer any questions or you are welcome to contact me.

Thank you for your consideration.

Sincerely,



John C. Horton III

CASE # C15-2014-0010

ROW-11061441

TP-011909-03-03

**CITY OF AUSTIN  
APPLICATION TO BOARD OF ADJUSTMENT  
GENERAL VARIANCE/PARKING VARIANCE**

**WARNING: Filing of this appeal stops all affected construction activity.**

**PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.**

STREET ADDRESS: 2009 Lake Shore

LEGAL DESCRIPTION: Subdivision – Lake Shore Addition

Lot(s) Part of 14 & 15 (C8i-02-0071) Block      Outlot      Division     

I Jim Bennett as authorized agent for Valla Diafari

     affirm that on 12/4/13, hereby apply for a hearing before the Board of

Adjustment for consideration to:

ERECT – ATTACH – COMPLETE – REMODEL – MAINTAIN

To erect a bulkhead on an existing cut in boat slip, back fill and re-vegetate.

     in a LA district.  
(zoning district)

The Austin Electric Utility Department (Austin Energy) enforces electric easements and the setback requirements set forth in the Austin Utility Code, Electric Criteria Manual and National Electric Safety Code. The Board of Adjustment considers variance to the Land Development Code, and a variance granted by the Board of Adjustment does not waive the requirements enforced by Austin Energy. Please contact Christine Esparza with Austin Energy at 322-6112 before filing your application with the Board of Adjustment if your request is for a reduction in setbacks or height limits.

**NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.**

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings

**REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because: \_\_\_\_\_

**HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that: \_\_\_\_\_

The hardship is not general to the area in which the property is located because:

**AREA CHARACTER:**

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because: \_\_\_\_\_

**PARKING:** (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because: \_\_\_\_\_

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because: \_\_\_\_\_

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

\_\_\_\_\_

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

\_\_\_\_\_

**NOTE:** The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

**APPLICANT CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed \_\_\_\_\_ Mail Address 11505 Ridge Dr.

City Austin, State Texas, & Zip 78748

Printed : Jim R. Bennett Phone: (512) 282-3079 \_\_\_\_\_ Date:

**OWNERS CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed \_\_\_\_\_ Mail Address

City, State & Zip

Printed Phone Date



Project Name: 2009 Lake Shore

Project Owner: VALLA DJAFARI

Project Address: 2009 Lake Shore DR, AUSTIN, 78746

Principle Residence: 2009 Lake Shore DR, AUSTIN, 78746

Grid: G25

MapsCo: 544W

Zoning: LA

Project Description: New one-slip dock 1-story gangway and appurtenances.

Related Cases: C8I-02-0071

Project Legal Description: LOST 15 LESS S 50FT OF E 140' LOT 14 W 8000SF (100' FRT) LAKE SHORE  
ADDN., 2012201150, 0119110506

Flood Plain Map 445H

Flood Plain Elev. 492.8'

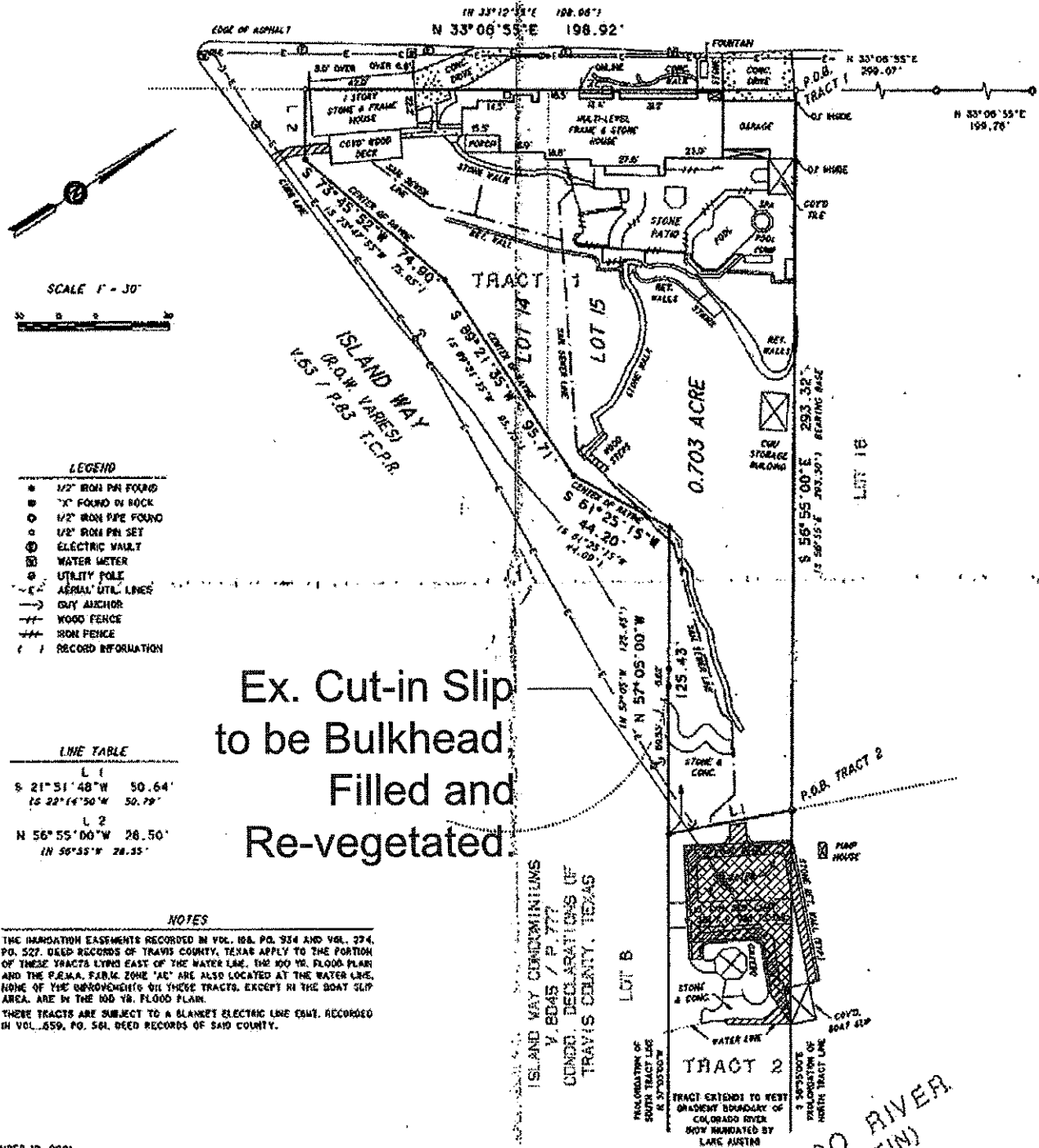
Upstream Property: LOT 16 LAKE SHORE ADDN, HORTON, JOHN COLEMAN III ETALS, LAKE SHORE  
DRIVE, 2011168282

Downstream Property: LOT A ISLAND WAY, LOFLIN, PHYLLIS, 3801 ISLAND WAY, 2007210124

# SURVEY PLAT

LEGAL DESCRIPTION: TRACT 1, 0.703 ACRE, A PORTION OF LOTS 14 AND 15, LAKESHORE ADDITION, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT RECORDED IN VOL. 3, PAGE 50 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS. THE SAME TRACT CONVEYED TO EDWARD AND SUSAN PARKER BY DEED RECORDED IN VOL. 1404, PG. 1448, REAL PROPERTY RECORDS, TRAVIS COUNTY, TEXAS. TRACT 2, ALL THE LAND LYING BETWEEN THE EAST LINE OF TRACT 1 AND THE WEST GRADIENT BOUNDARY OF THE COLORADO RIVER, NOW IRRIGATED BY LAKE AUSTIN, AS RECORDED IN VOL. 521, PG. 351, DEED RECORDS OF SAID COUNTY, BOTH TRACTS BEING ADDITIONALLY DESCRIBED IN ACCOMPANYING FIELD NOTES MARKED "EXHIBIT A" FOR TRACT 1 AND "EXHIBIT B" FOR TRACT 2. ALSO LOCALLY KNOWN AS 201 LAKESHORE DRIVE, AUSTIN, TEXAS.

## LAKESHORE DRIVE (40' R.O.W.)



SCALE 1" = 30'



### LEGEND

- 1/2" IRON PIN FOUND
- "X" FOUND IN ROCK
- 1/2" IRON PIPE FOUND
- 1/2" IRON PIN SET
- ⊙ ELECTRIC MOUNT
- ⊙ WATER METER
- ⊙ UTILITY POLE
- AERIAL UTILITY LINES
- CHAIN ANCHOR
- WOOD FENCE
- IRON FENCE
- ( ) RECORD INFORMATION

### LINE TABLE

L 1	
S 21° 51' 48" W	50.64'
S 22° 14' 50" W	50.79'
L 2	
N 56° 55' 00" W	28.50'
IN 56° 55' W	28.35'

### NOTES

THE IRON MOUNTAIN EASEMENTS RECORDED IN VOL. 104, PG. 334 AND VOL. 274, PG. 527, DEED RECORDS OF TRAVIS COUNTY, TEXAS APPLY TO THE PORTION OF THESE TRACTS LYING EAST OF THE WATER LINE, THE 100 YR. FLOOD PLAIN AND THE F.A.M.A. F.A.M.A. ZONE "AC" ARE ALSO LOCATED AT THE WATER LINE. NONE OF THE IMPROVEMENTS ON THESE TRACTS, EXCEPT IN THE BOAT SLIP AREA, ARE IN THE 100 YR. FLOOD PLAIN.

THESE TRACTS ARE SUBJECT TO A BLANKET ELECTRIC LINE COVY, RECORDED IN VOL. 559, PG. 504, DEED RECORDS OF SAID COUNTY.

DECEMBER 19, 2001

EXCLUSIVELY TO EDWARD M. PARKER AND WIFE, SUSAN PARKER, THE OWNERS OF TRACT 1 ACCORDING TO THE DEED RECORDED IN VOLUME 1404, PAGE 1448, REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS.

THE UNDERSIGNED HEREBY STATES THAT THIS PLAT REPRESENTS A SURVEY MADE ON THE GRASS OF THE PROPERTY LEGALLY DESCRIBED HEREON THAT THERE ARE NO APPARENT ENCROACHMENTS, ENCROACHMENTS, OR OVERLAPPING OF IMPROVEMENTS, NOR PUBLIC UTILITIES OR ROADS IN PLACE EXCEPT AS SHOWN HEREON, AND THAT SAID PROPERTY ADJACENT A DEDICATED ROADWAY, A PORTION OF THE ABOVE DESCRIBED PROPERTY IS IN ZONE AC AND IS WITHIN A SPECIAL FLOOD HAZARD AREA AS DESIGNATED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP NO. 48435C0200 & DATED JUNE 10, 1993. VALID ONLY FOR ORIGINAL BLUELINE PRINT WITH BLACK INK SIGNATURE AND SEAL.



ROBERT M. GARCOMB, R.P.L.S. NO. 4772

COLORADO RIVER  
(LAKE AUSTIN)

ARPENTEURS  
PROFESSIONAL SURVEYING

5006 WALL STREET, SUITE 302  
AUSTIN, TEXAS 78754

15121 832-1232



City of Austin  
Development Review and Inspection Department

LAND STATUS DETERMINATION  
LEGAL TRACT PLATTING EXCEPTION

03/18/2002

File Number: C8I-02-0071

Address: 2009 LAKESHORE DR

Tax Parcel I.D.: 0119110506

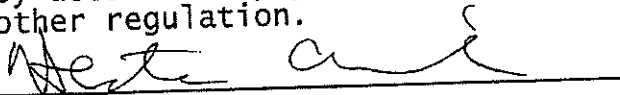
Map Date: 05/08/2001

The Development Review and Inspection Department has determined that this property as described in the attached description and map:

Is a **LEGAL TRACT** consisting of being a portion of Lots 14 and 15, Lakeshore Addition Subdivision, created prior to 07/19/1951 (Grandfather Date) as evidenced by deed recorded in Volume 821, Page 351 of the Travis County Deed Records on 09/26/1946 being the same property as currently described in deed recorded in Volume 13104, Page 1448 of the Travis County Deed Records on 01/22/1998, and is eligible to receive utility service.

Additional Notes/Conditions:  
NONE

This determination of the status of the property is based on the application of Chapter 212, Municipal Regulation of Subdivisions and Property Development, Texas Local Government Code; and the City of Austin Land Development Code, Chapter 25-4, Subdivision. Recognition hereby does not imply approval of any other portion of the City Code or any other regulation.

By:   
HECTOR AVILA  
Director (or representative)  
Development Review and Inspection Department