

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

DATE: Monday, March 10, 2014

CASE NUMBER: C15-2014-0011

____ Jeff Jack
____ Michael Von Ohlen
____ Ricardo De Camps
____ Bryan King
____ Fred McGhee
____ Melissa Hawthorne
____ Sallie Burchett

APPLICANT: Jim Bennett

OWNER: Carajeon & Branch Archer

ADDRESS: 5219 TORTUGA TRL

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 April 14, 2014, Board Member Melissa Hawthorne second on a 7-0 vote; POSTPONED TO APRIL 14, 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

Ramirez, Diana

From: Lynn Ann Carley <la.carley@chaustia.com>
Sent: Wednesday, March 05, 2014 11:18 AM
To: Ramirez, Diana
Subject: #C15-2014-0011 - Backup materials
Attachments: boa letter.PDF; revised exhibits.pdf

Importance: High

Hi Diana, Attached is a letter and exhibits that we would like to have included in the backup materials to the BOA for the March 10, 2014 hearing date. It is in reference to case #C15-2014-0011.

March 3, 2014

City of Austin Board of Adjustment

Jeff Jack, Chair
Melissa Hawthorne, Vice Chair
Sallie Burchett
Ricardo De Camps
Stuart Hampton

Bryan King
Dr. Fred McGhee
Will Schnier
Michael von Ohlen

Re: 5219 Tortuga Trail (C15-2014-0011)

Dear Chair and Board of Adjustment Members:

We are the owners of the property located next door to the above referenced application, which is owned by Mr. and Ms. Archer. We are concerned about the variance to fill in the existing boat slip and recapture additional land, since the owners are proposing to recapture land so that they may construct a new boat dock that extends 30 feet into the lake, as shown on attached Exhibit A. Based on the plans provided by the owner's engineer and architect, the new boat dock will be located 10 feet from our shared property line. If the variance to recapture additional land is granted, we ask that any future boat dock be required to offset at least 40 feet from the property line that is shared between our two properties, based on the following information.

Today there are two adjoining slips, neither of which protrude into the main body of Lake Austin. Significant winds are present throughout the year from either down lake (from Pennybacker Bridge towards Mansfield Dam) or up lake (from Mansfield Dam towards Pennybacker Bridge). When backing out of the slip with the prevailing wind coming from up lake (Pennybacker Bridge towards Mansfield Dam), safe navigation requires turning and allowing the bow of the boat to swing downwind about the propulsion outdrive axis. With parallel boat slips, sufficient navigating room is provided, as shown on Exhibit B. Our concern is that the proposed boat dock will create a potentially hazardous obstruction to the existing safe and recommended navigation into and out of the slips.

Prevailing winds run with the lake in either direction towards or away from the Pennybacker Bridge. They can be unpredictable and accompanied by strong gusts which create significant lake "chop". Standard navigational practice when entering the slip under such conditions is to approach the boat slip moving into the wind using the force of the wind to turn the boat while making the final maneuver to dock the boat into the slip off the main body of the lake. An approach into the wind provides the maximum amount of control of the boat for increased safety during the docking process, as shown in Exhibit C. Approaching the boat slip with the wind or "running with the wind" is not recommended, since the ability to turn the boat into the slip with the wind aft is extremely challenging. The increased momentum with the wind results in overshooting the slip and movement of the boat further down lake.

The Archer's proposed dock will protrude from the shoreline and run directly parallel to our existing slip line of travel. The new structure will act as an obstruction making a safe approach to our slip with the wind extremely difficult and dangerous. The risk of being blown directly into the new structure is highly probable and the existing safe approach into the slip will no longer be possible, as shown in Exhibits D and E. A new safety hazard will exist while backing out of our slip and this safety hazard will be magnified for single passenger water craft such as a jet ski. There will be no room to provide power to move away from the proposed new dock and into the wind resulting in the boat or watercraft striking and potentially running underneath the new structure.

For these reasons, we ask that if the variance to recapture the additional land is granted, that the variance be conditioned so that any future boat dock is required to offset at least 40 feet from the property line that is shared between our two properties.

Thank you for your time and consideration in this matter. If you have any questions, comments, or need additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jeff Swickard and Chris Hattasch". The signature is fluid and cursive, with the first name "Jeff" being the most prominent.

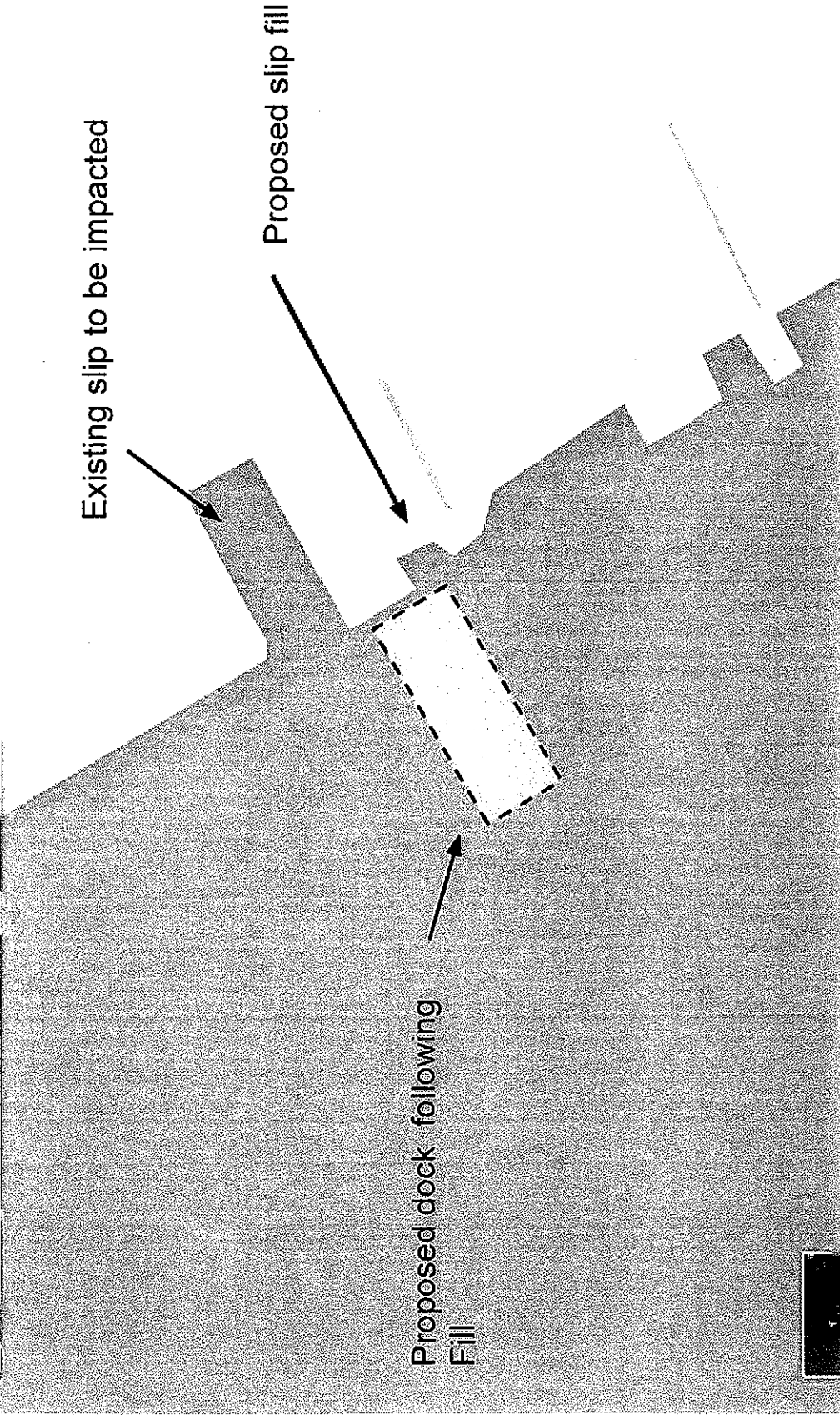
Jeff Swickard and Chris Hattasch

Today's Parallel Neighboring Slip Arrangement
Google Maps

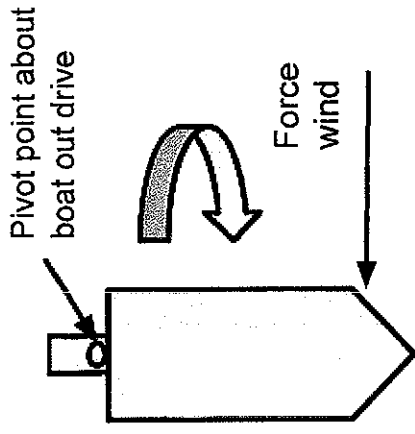
Tortuga Trail, Austin, TX

Tortuga Trail, Austin, TX 78731

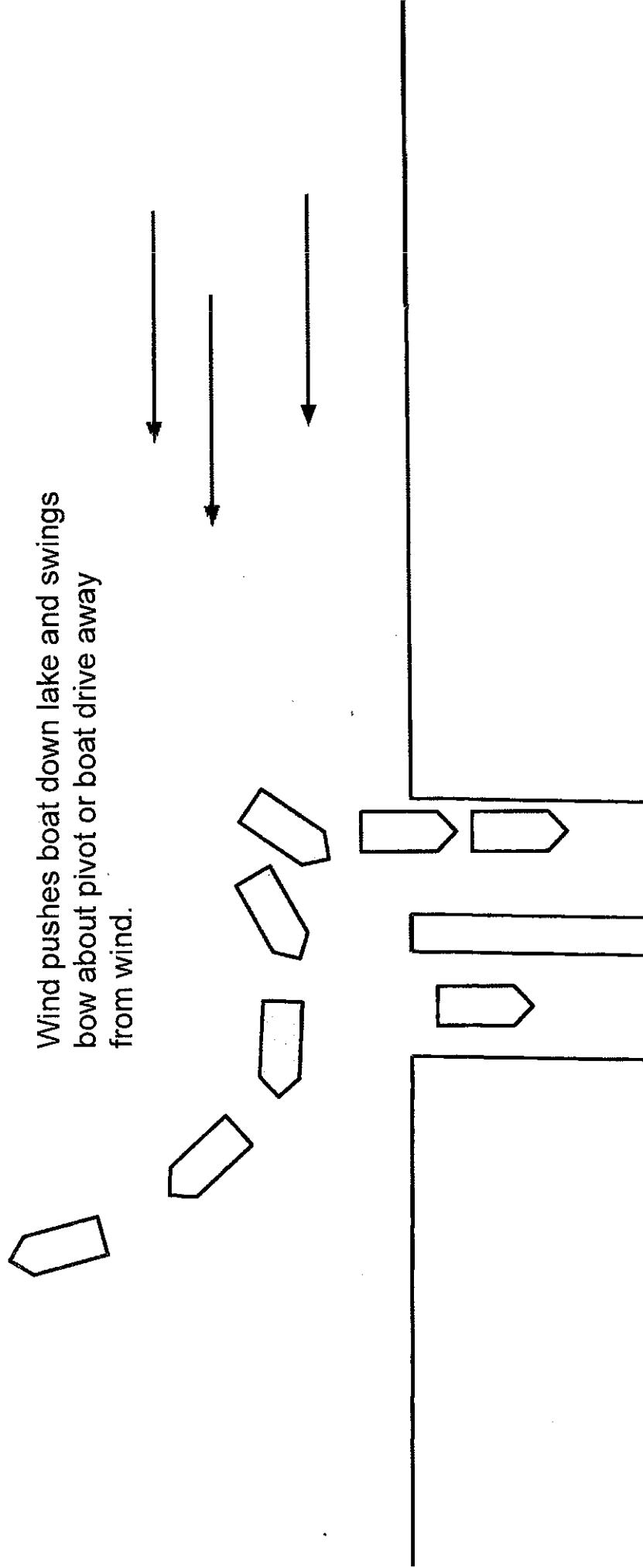
Explore this area · Traffic · Bicycling · Terrain



Mansfield Dam ← Pennybacker Bridge



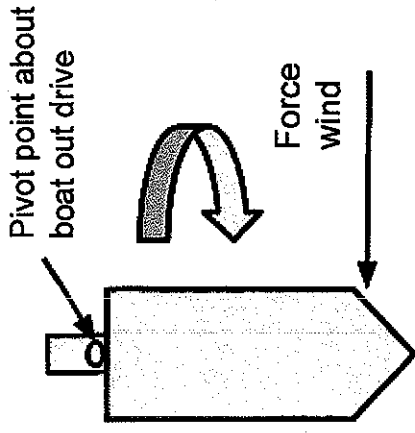
Wind pushes boat down lake and swings bow about pivot or boat drive away from wind.



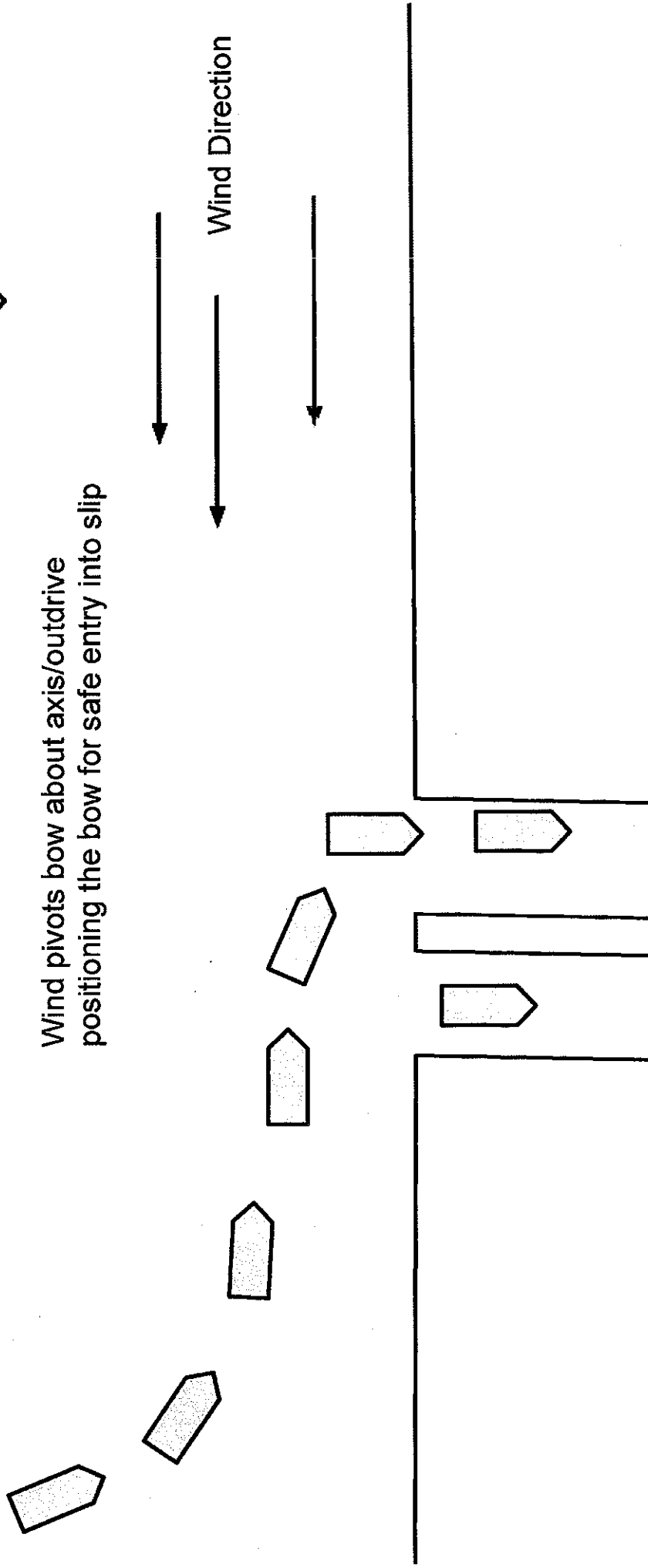
Boat Slips Today, Leaving Slip Wind
Direction From Up Lake

EXHIBIT B

Mansfield Dam ← Pennybacker Bridge



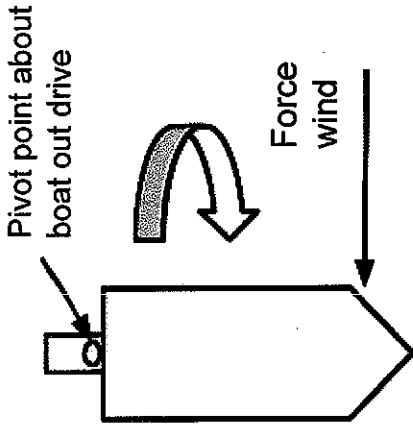
Wind pivots bow about axis/outdrive positioning the bow for safe entry into slip



Boat Slips Today, Entering Slip Safe and controlled entry Into
Wind Direction From Up Lake

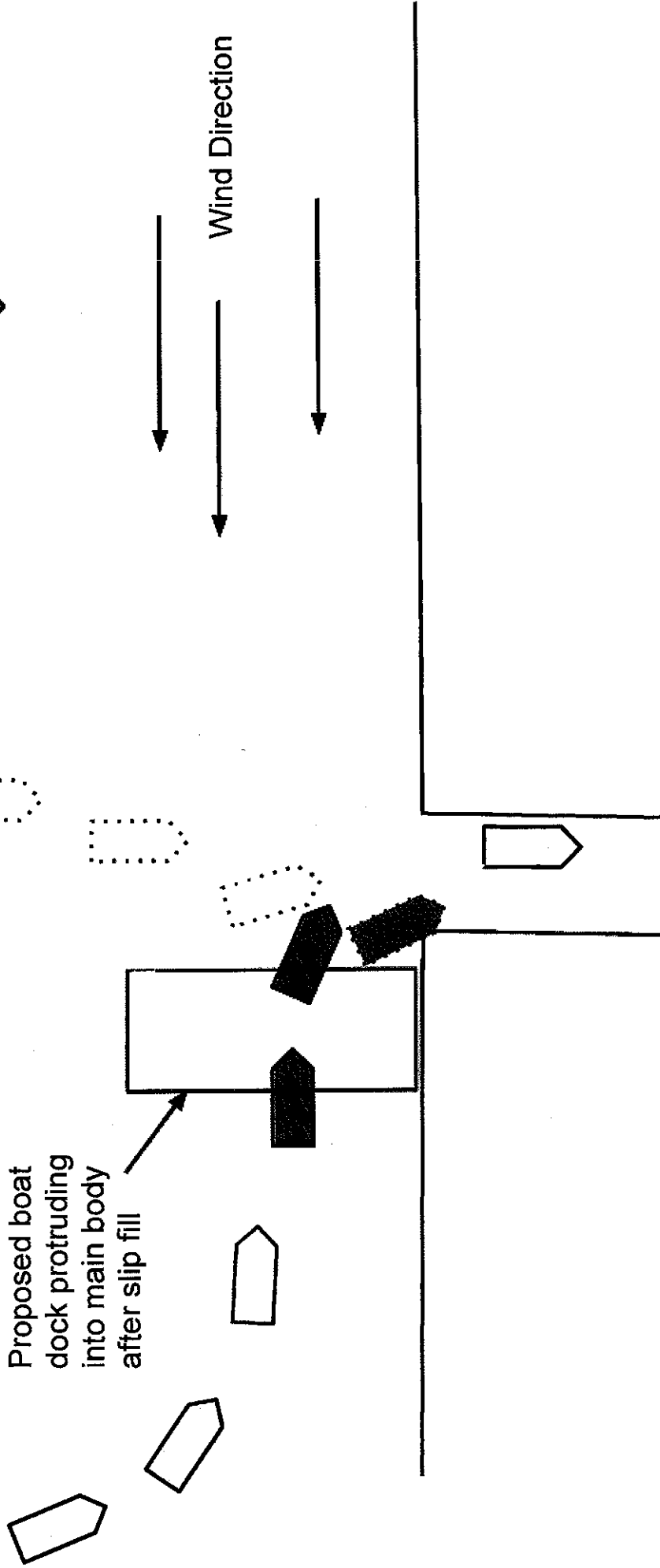
EXHIBIT C

Mansfield Dam ← Pennybacker Bridge



Safe approach into wind no longer possible.
Other approach scenarios do not allow for
safe entry into slip or ability to remaneuver.

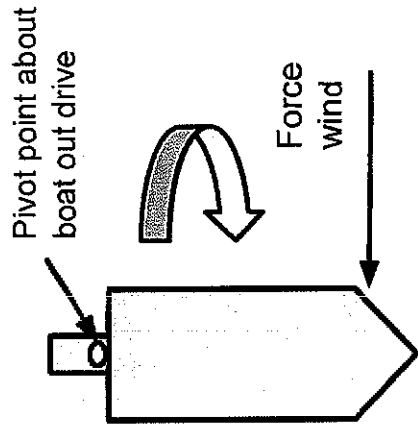
Proposed boat
dock protruding
into main body
after slip fill



Proposed Arrangement, Entering Slip with safe and controlled
entry Into Wind Not Possible Direction From Up Lake

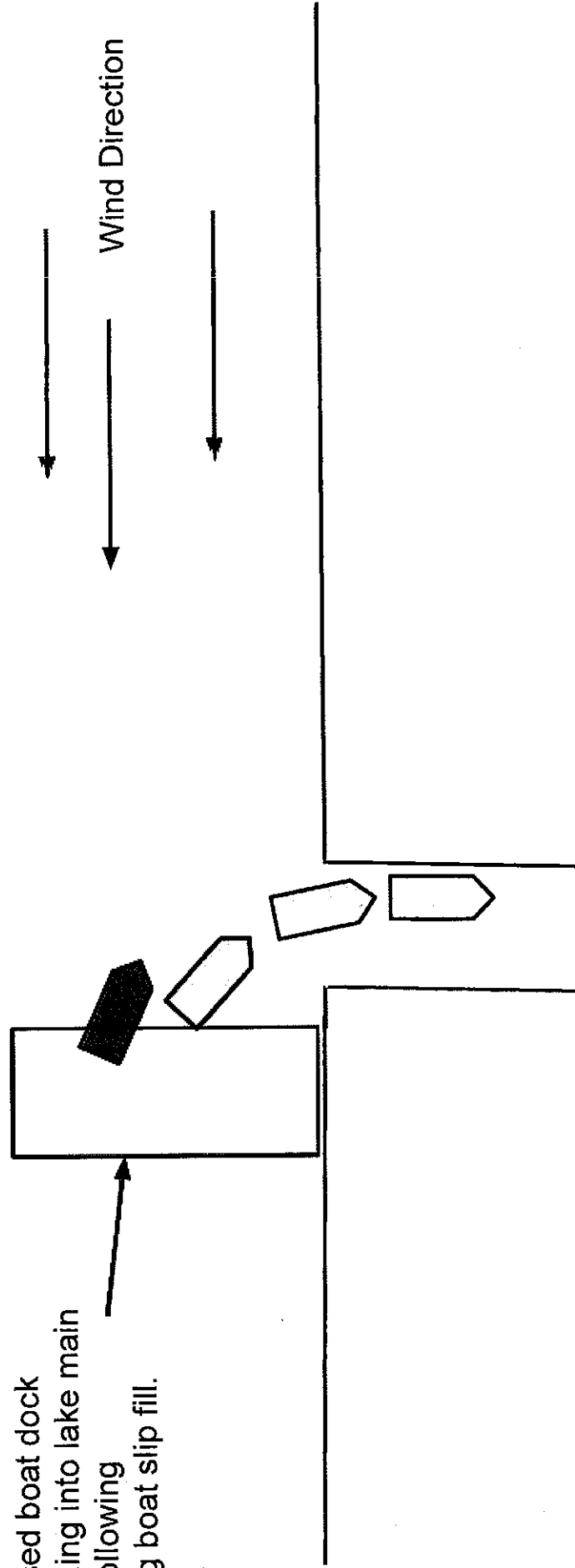
EXHIBIT D

Mansfield Dam ← Pennybacker Bridge



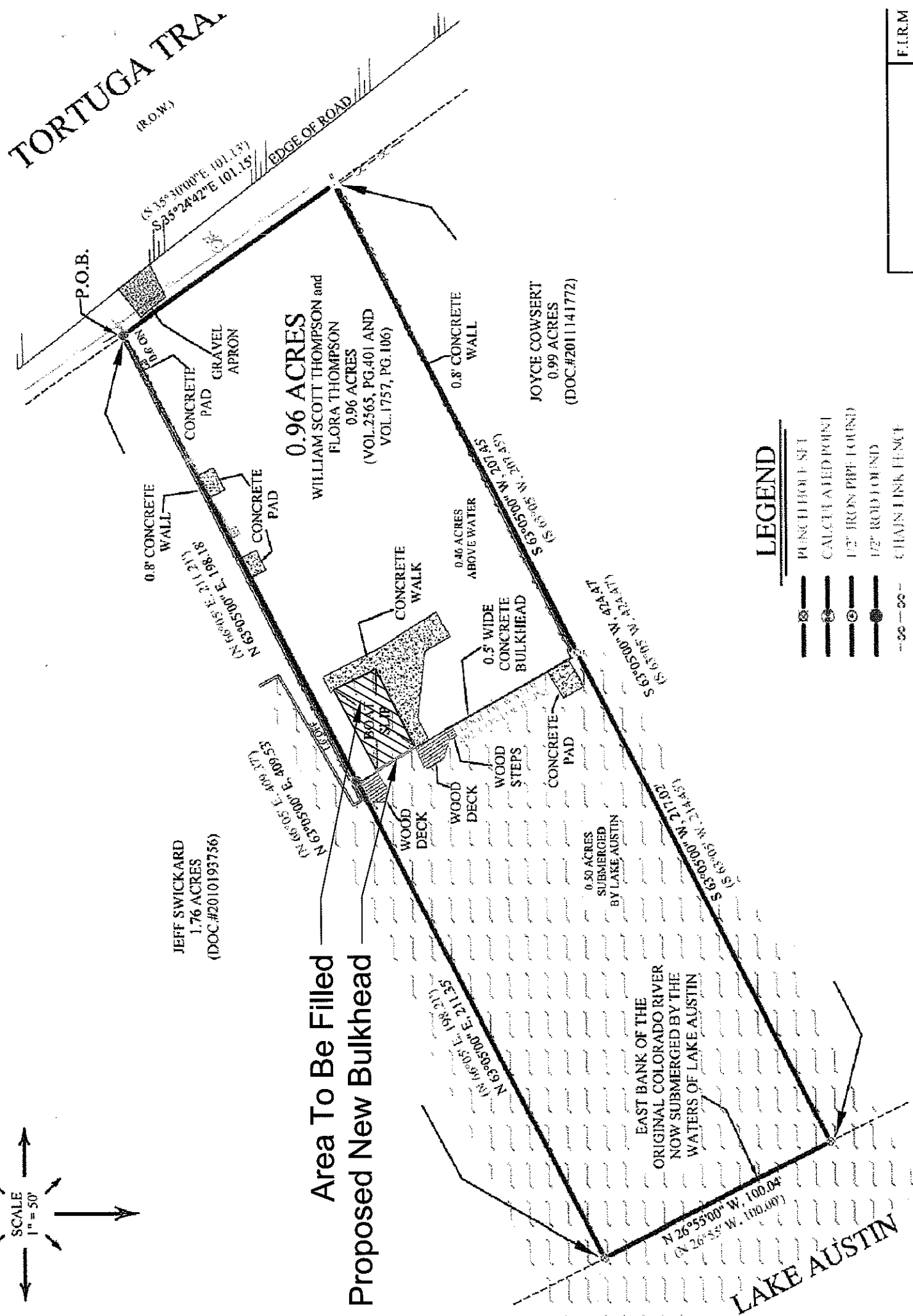
Leaving the slip would require turning the bow into the wind which would swing the stern into the proposed dock potentially resulting in property damage and/or injury.

Proposed boat dock protruding into lake main body following existing boat slip fill.



Proposed Arrangement, Existing slip filled and proposed boat dock protruding into main body. Leaving slip requires unsafe maneuver turning the bow into the wind.

EXHIBIT E



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

DATE: Monday, January 13, 2014

CASE NUMBER: C15-2014-0011

____ Jeff Jack
____ Michael Von Ohlen
____ Will Schnier
____ Bryan King
____ Fred McGhee
____ Melissa Hawthorne
____ Sallie Burchett
____ Cathy French (SRB only)

APPLICANT: Jim Bennett

OWNER: Carajean & Branch Archer

ADDRESS: 5219 TORTUGA TRL

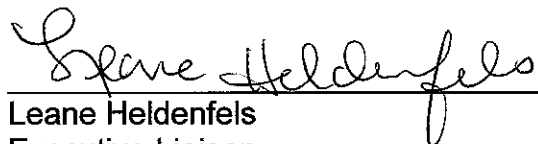
VARIANCE REQUESTED: The applicants have requested a variance from Section 25-2-1174 (D) which states a retaining wall, bulkhead, or other erosion protection device may not capture or recapture land on a lake, unless capturing or recapturing the land is required to restore the land to the lesser of: (1) 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: POSTPONED TO MARCH 10, 2014

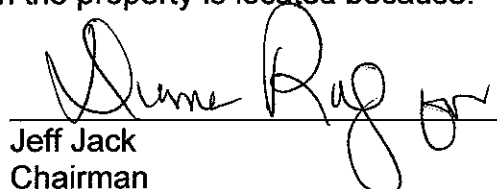
FINDING:

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

ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TEXAS 78701-2744
512-435-2300

FACSIMILE 512-435-2360

LYNN ANN CARLEY, P.E.
(512) 435-2378
lcarley@abaustin.com

January 13, 2014

Susan Walker
City of Austin
Planning and Development Review Department
505 Barton Springs Road, 1st Floor
Austin, Texas 78704

Re: 5219 Tortuga Trail (the "Application")

Dear Ms. Walker:


This firm represents and this letter is submitted on behalf of Jeff Swickard, the owner of the property located adjacent to the above referenced Application.

Mr. Swickard only found out about the variance request yesterday, after being contacted by one of his neighbors that the BOA notification signs were initially placed on his property. The signs were later moved to the correct lot.

Since Mr. Swickard will be out of town until March 2014, we respectfully request an eight week postponement to March 10, 2014 in order to allow him time to discuss the project with the Applicant.

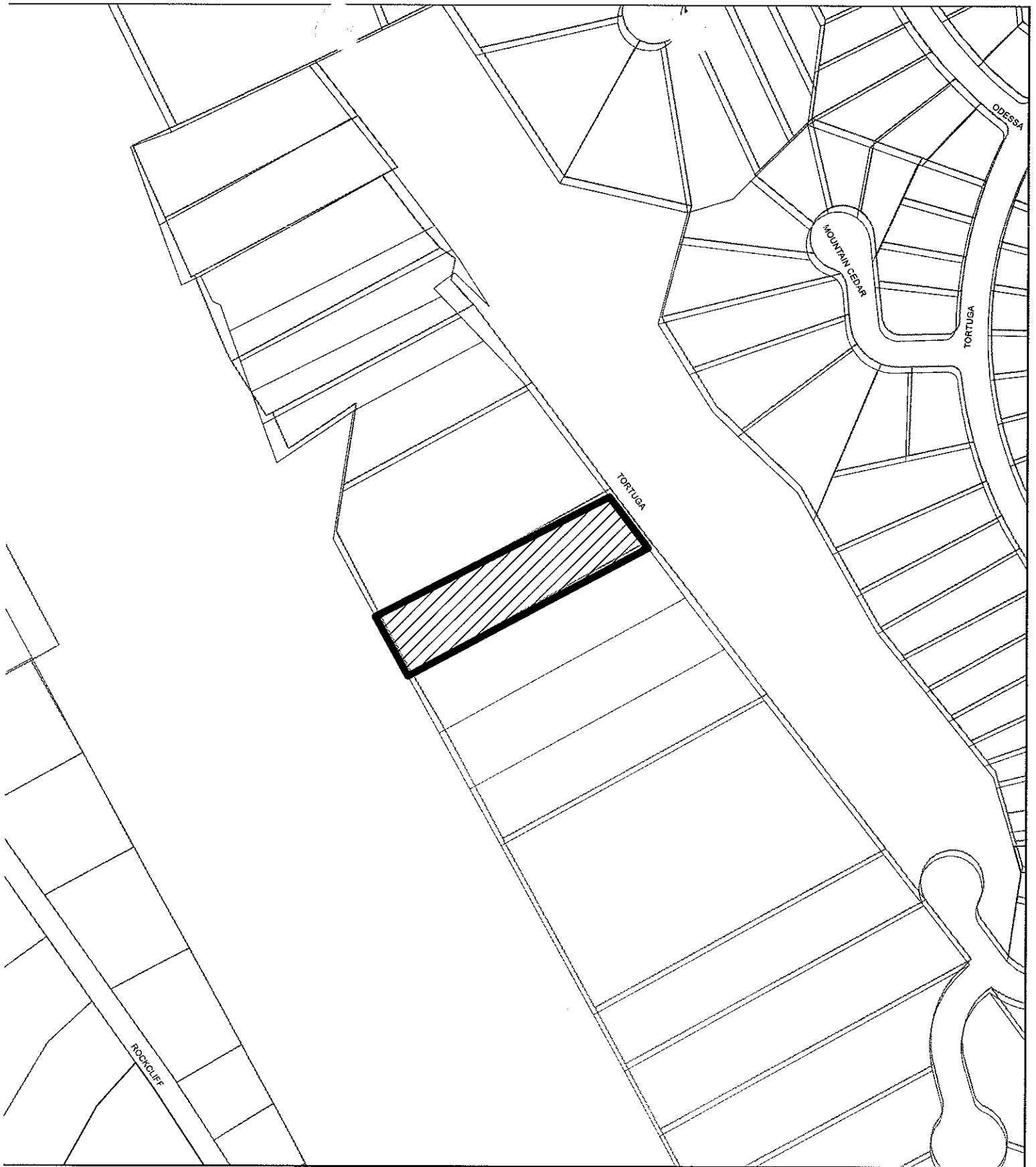
Thank you for your time and consideration in this matter. If you have any questions, comments, or need additional information, please do not hesitate to contact me.

Sincerely,



Lynn Ann Carley, P.E.
Senior Land Development Consultant

cc: Diana Ramirez, COA
Jeff Swickard
David Armbrust

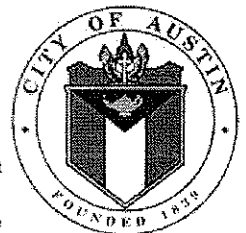


SUBJECT TRACT



ZONING BOUNDARY

CASE#: C15-2014-0011
LOCATION: 5219 Tortuga Trail



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.

C15-2014-0011

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:

June 28, 2013

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

C15-2014-0011

To Whom It May Concern:

We, Branch and Carajeon Archer, own the property at 5219 Tortuga Trail. We wish to demolish the existing boat dock and replace it with a new dock and to construct a new bulkhead lakeside of my existing bulkhead 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.

Owner's Signature

Branch Archer
Branch Archer

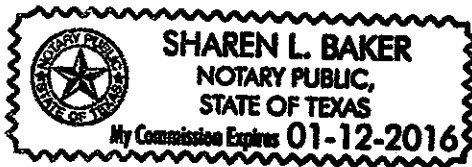
Owner's Signature

Carajeon Archer
Carajeon Archer

Sworn and subscribed before me this 1st day of July, 2013

Notary Public in and for the State of Texas

My Commission expires: 1/12/2016



CASE # C15-2014-0011

ROW- 11 061444

TP- 013109-02-08

**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: 5219 Tortuga Trail

LEGAL DESCRIPTION: Subdivision – T. J. Chambers .96 acre (C8i-2012-145)

Lot(s) . 96 of 1 acre Block Outlot Division

I Jim Bennett as authorized agent for Carajean & Branch Archer

 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: 5219 Tortuga Trail

Project Owner: Carajean & Branch Archer

Project Address: 5219 Tortuga Trail, Austin TX 78731

Principle Residence: 5219 Tortuga Trail

Project Scope: Boat Dock, Fill In Existing Boat Slip, New Bulkhead Lake Side

Project EA: Required for Boat Dock, Fill In Slip and Bulkhead

Gate Code: NA

Grid: G28

MapsCo: 524X

Zoning: LA

Project Description: New two-slip dock 2-story 20' x 30' dock, fill in existing slip, new bulkhead and appurtenances.

Related Cases: C8I-2012-0145

Project Legal Description: ABS 7 CHAMBERS T J ACR .96, C8I-2012-0145

Flood Plain Map: 430H

Flood Plain Elev.: 496.5'



**City of Austin
Planning and Development Review
Land Status Determination
1987 Rule Platting Exception**

June 15, 2012

File Number: C8I-2012-0145

Address: 5219 TORTUGA TRL

Tax Parcel I.D. # 0131090208

Tax Map Date: 04/27/2009

The Planning & Development Review Department has determined that this parcel, as described in the attached description and map, **IS EXCEPTED FROM THE REQUIREMENT TO PLAT** in accordance with the Land Development Code, Section 25-4-2(C), and is eligible to receive utility service.

The parcel of land consists of five acres or less, and is described as being .96 of one acre of land, being a portion of the T.J. Chambers 8 League Grant in the current deed, recorded on Jan 07, 1963, in Volume 2565, Page 401, Travis County Deed Records. This parcel existed in its current configuration on August 31, 1987, as evidenced by a deed recorded on Jan 07, 1963, in Volume 2565, Page 401, Travis County Deed Records. The parcel was lawfully receiving utility service, as defined in Section 212.012 of the Texas Local Government Code, on August 31, 1987, as evidenced by electric service on Jun 02, 1978. The parcel meets the requirements of the Land Development Code for roadway frontage and is located on an existing street.

Additional Notes/Conditions:

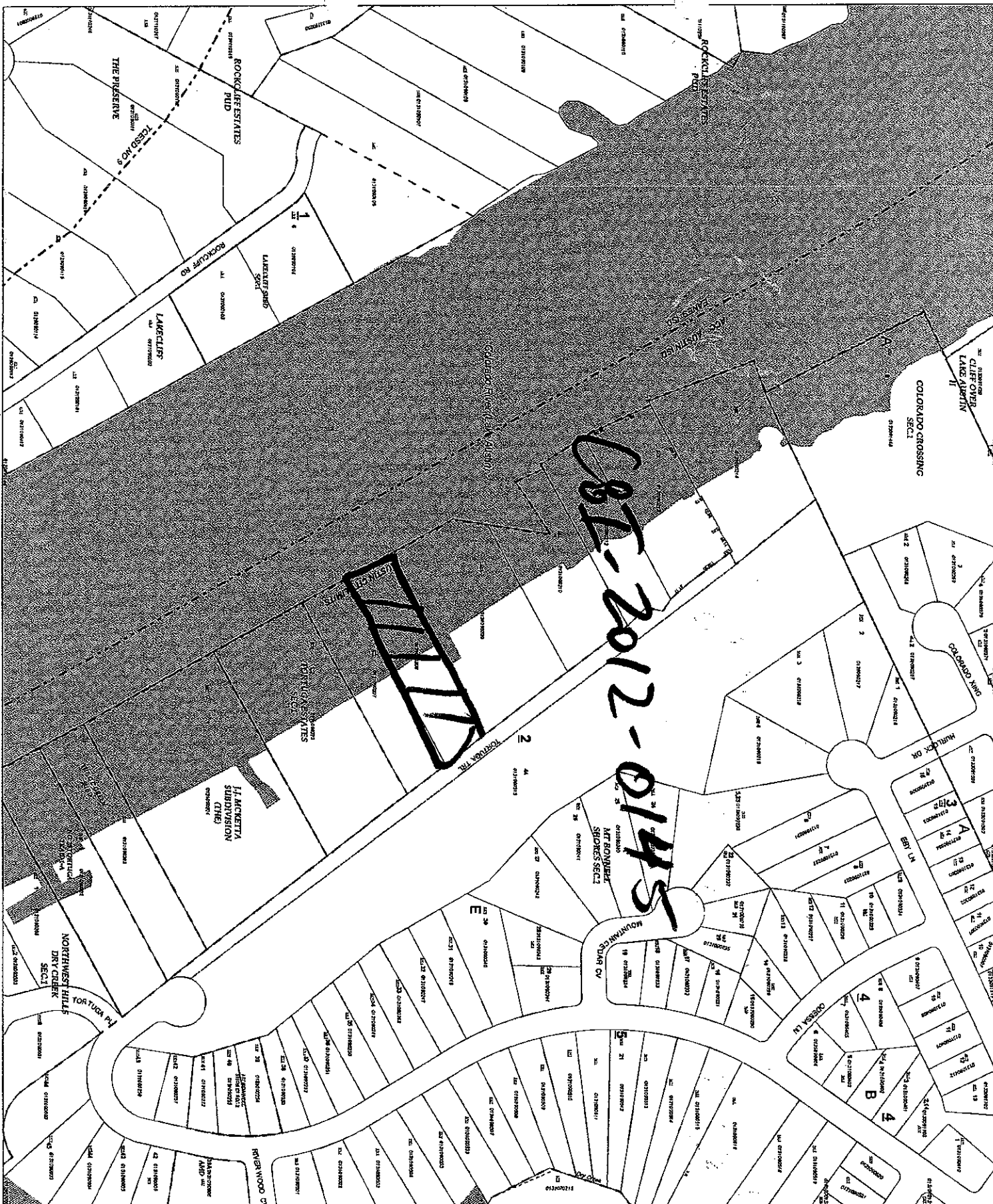
See C8s-85-142 and C8-97-0098.0A for information regarding roadway status for Tortuga Trail. Approval of this request for a land status determination should not be construed to be an acceptance of Tortuga Trail for improvements or maintenance.

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: _____

A handwritten signature in dark ink, appearing to read "Daniel Word", written over a horizontal line.

**Daniel Word, Representative of the Director
Planning and Development Review**



1 3109

Revision Date
4/27/2009

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NAD_1983_StatePlane
Texas_Central_FIPS_4203_Feet
Projection: Lambert_Conformal_Conic

This tax map was compiled solely for the use of TCAD. Areas depicted by these digital products are approximate, and are not necessarily accurate to mapping, surveying or engineering standards. Conclusions drawn from this information are the responsibility of the user. The TCAD makes no claims, promises or guarantees about the accuracy, completeness or adequacy of this information and expressly disclaims liability for any errors and omissions. The mapped data does not constitute a legal document.

Travis Central Appraisal District
8314 Cross Park Drive
Austin, Texas 78754
Internet Address: www.traviscad.org
Main Telephone Number (512) 834-9317
Appraisal Information (512) 834-9318
TDD (512) 836-3328
P.O. Box 149012
Austin, Texas 78714

5219 TORTUGA TRAIL

Source of Topography: City of Austin GIS

