

# CITY OF AUSTIN

## Board of Adjustment/Sign Review Board

## Decision Sheet

**DATE: Thursday, January 13, 2014**

**CASE NUMBER: C15-2013-0119**

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

**APPLICANT: Jim Bennett**

**OWNER: Margaret and Ryan Dumont, James Coleman**

**ADDRESS: 3600, 3602, 3604 RIVERCREST 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 Melissa Hawthorne motion to Postpone to January 13, 2014, Board Member Michael Von Ohlen second on a 7-0 vote; **POSTPONED TO JANUARY 13, 2014.**

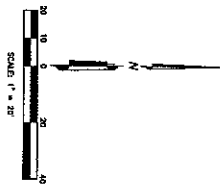
**Jan 13, 2014 POSTPONED TO MAY 12, 2014 (NOTIFICATION REQUIRED)**

**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

[illegible]

LAKE AUSTIN

After Bulkhead  
Before Bulkhead

~~James & Jane Coleman  
3504 Rivercrest Drive  
Lot 62, Blk. A, Rivercrest~~

Deed Doc: # 2000070718  
Zoning: LA  
Use: 5F Residence

31. + 35. Bald Cyp

Ryan & Margaret Duntont  
3602 Rivercrest Drive  
Lot 61, Blk. A, Rivercrest Add. #2  
Deed Vol 7911, Pg. 170  
Zoning: LA  
Use: SF Residence

3600 Rivercrest Drive  
Lot 59 + 60, Blk. A, Rivercrest Acd. #2  
Zoning: LA  
Use: SF Residence

Rivercrest Drive

3602 Rivercrest Drive  
SHORELINES

**AUPPERLE COMPANY**  
Engineering, Planning & Development Services  
10088 Circleview Drive, Austin, Texas 78733 512 329-8248

[illegible]

11/17/12



Google earth

feet  
meters

200  
60



2/27/09



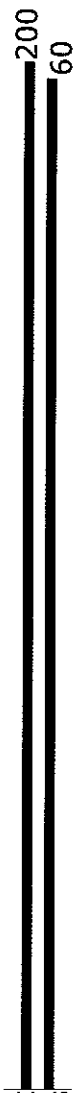
3602 Rivercrest Dr, Austin, TX 7874

Google earth

Image CAPCOG

Google earth

feet  
meters



3/9/11



Google earth

feet 200  
meters 60

Google earth

3602 Rivercrest Dr, Austin, TX 7874

4/29/06



Google earth

feet  
meters

200  
60





BARROW'S SUBDIVISION  
LAKE AUSTIN FRONTAGE.



LAKE AUSTIN

C15-20B-0119

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

**DATE:** Thursday, November 14, 2013

**CASE NUMBER:** C15-2013-0119

\_\_\_\_ Jeff Jack  
\_\_\_\_ Michael Von Ohlen 2<sup>nd</sup> the Motion  
\_\_\_\_ Nora Salinas  
\_\_\_\_ Bryan King  
\_\_\_\_ Fred McGhee  
\_\_\_\_ Melissa Hawthorne Motion to PP Jan 13, 2014  
\_\_\_\_ Sallie Burchett  
\_\_\_\_ Cathy French (SRB only)

**APPLICANT:** Jim Bennett

**OWNER:** Margaret and Ryan Dumont, James Coleman

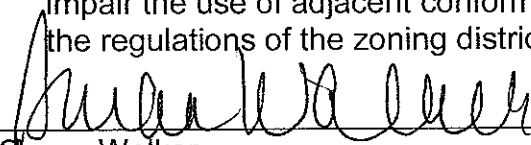
**ADDRESS:** 3600, 3602, 3604 RIVERCREST DR

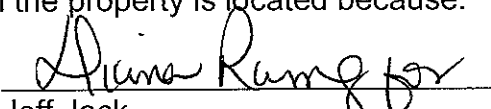
**VARIANCE REQUESTED:** The applicants have requested a variance from Section 25-2-1174 (D) which states a retaining wall, bulkhead, or other erosion protection device may not capture or recapture land on a lake, unless capturing or recapturing the land is required to restore the land to the lesser of: (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 Melissa Hawthorne motion to Postpone to January 13, 2014, Board Member Michael Von Ohlen second on a 7-0 vote; **POSTPONED TO JANUARY 13, 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:

  
Susan Walker  
Executive Liaison

  
Jeff Jack  
Chairman



**HOLT CARSON, INC.**  
**PROFESSIONAL LAND SURVEYORS**

1904 FORTVIEW ROAD  
AUSTIN, TEXAS 78704  
TELEPHONE: (512) 442-0990  
FACSIMILE: (512) 442-1084  
www.hciaustin.com

December 21, 2013

Mr. Ryan Dumont  
3602 Rivercrest Drive  
Austin, Texas 78746

C15-2013-0119  
RE: Lake Austin frontage

Mr. Dumont:

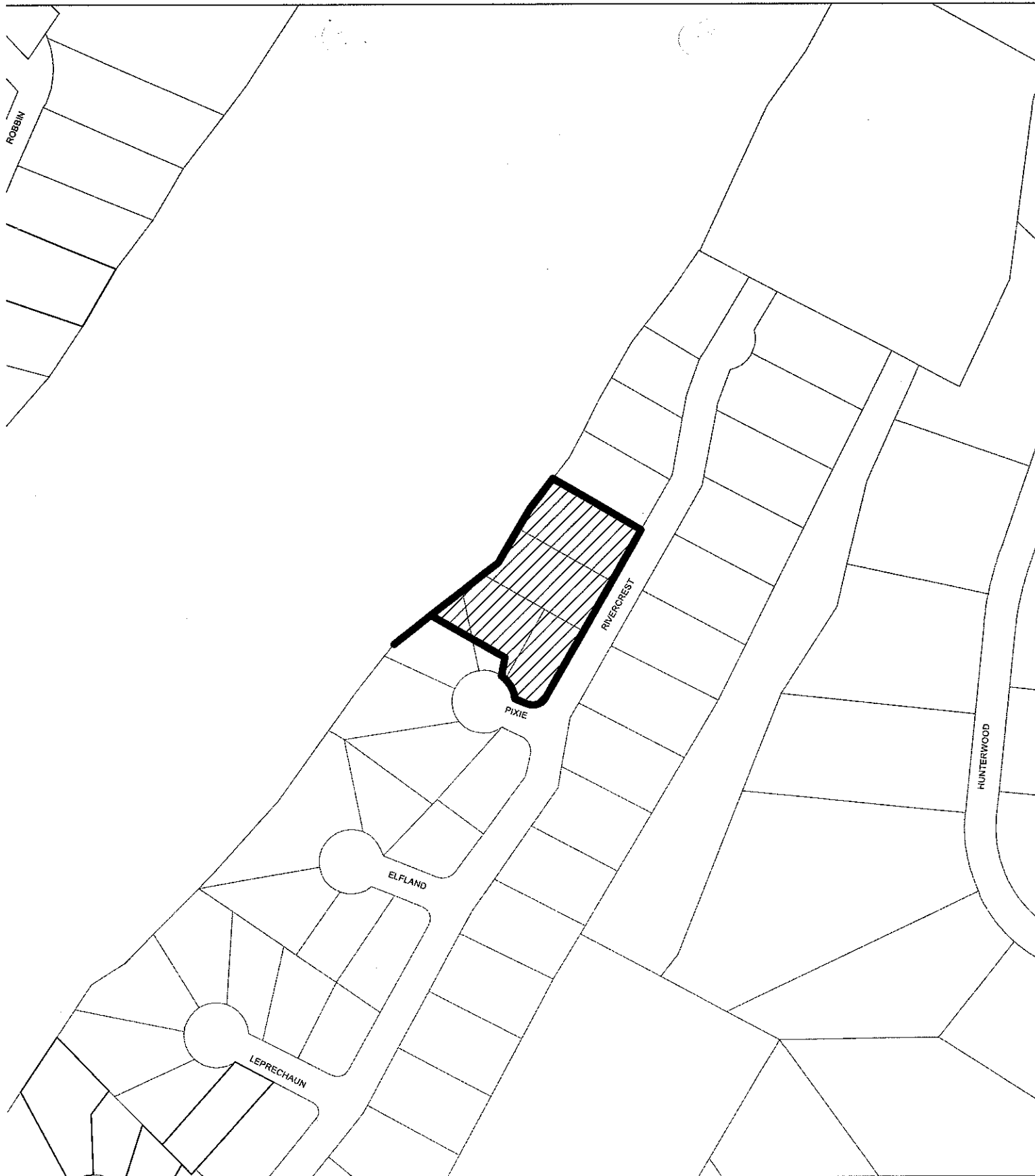
This brief letter is written to accompany some historical information concerning the Lake Austin frontage of the lots contained in the Rivercrest Subdivision Section 2, as recorded in Volume 22 Page 37 of the Plat Records of Travis County, Texas.

First, I have attached a pdf image of the recorded plat of Barrow's Subdivision. This subdivision was platted in 1915 and clearly indicates that the lots, as they existed at that time, were to have frontage on the waters of Lake Austin. There exists a note on this plat which indicates the understanding of the possible change in the water line upon completion of a new dam.

Secondly, I have attached a pdf image of the boundary survey completed in 1960 by Claude F. Bush, Jr. of the "Walter Bohn tract". This particular tract of land is that which eventually became the subdivisions which we now know as Rivercrest Addition Section 1 and Rivercrest Addition Section 2. I have also included an image which closely approximates the location of your lot (Lot 61 Block A). As you can see, the conveyance between T.H. Barrow to Walter Bohn as recorded in Volume 516 Page 410 of the Travis County Deed records included Lots 1 through 15, inclusive, of Barrow's Subdivision, together with the lands included in the projection of those lot lines to water's edge. Mr. Bush clearly indicates on his boundary survey that the "rear" tract line was water's edge as it existed at that time. This fact is also indicated on the recorded plats of Rivercrest Addition Section 1, which was recorded in 1961, and Rivercrest Addition Section 2, which was recorded in 1964.

From these particular documents, it is apparent that the lots which now comprise Rivercrest Addition Section 1 and Rivercrest Addition Section 2 were intended to have frontage on the water's edge of Lake Austin. It is also understood that over time the location of the water's edge of Lake Austin has been shifted either through natural processes or through man-made alterations. It would be my opinion that the original intent of the developers of this particular tract of land would be for the lot lines to be extended or shortened so that the rear lot lines maintain actual attachment to the waters of Lake Austin during it's normal state. In addition, the small areas of land which lie between the platted rear lines of Rivercrest Addition Section 2 and the water's edge of Lake Austin would not be under the ownership of others.

end of Page 1



SUBJECT TRACT

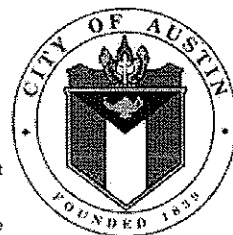


ZONING BOUNDARY

CASE#: C15-2013-0119  
LOCATION: 3600, 3602, 3604 Rivercrest 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.

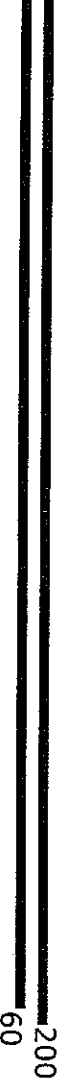


11/17/12



Google earth

feet  
meters



Google earth



2/27/09



Google earth

feet  
meters



Google earth



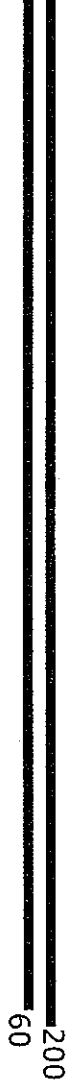


3/9/11



Google earth

feet  
meters



Google earth





4/29/06

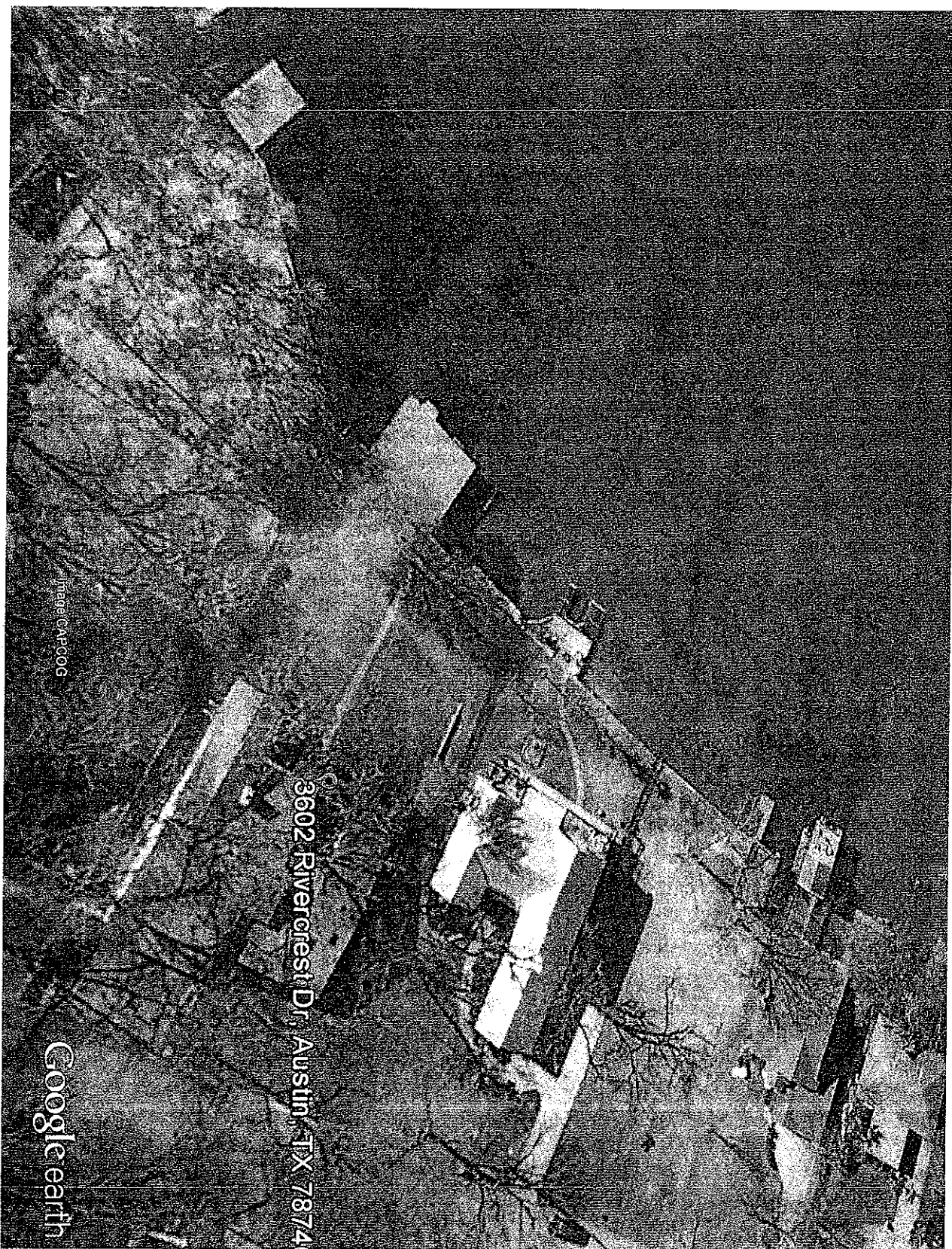


Image CAPCOCG

3602 Rivercrest Dr, Austin, TX 7874

Google earth

Google earth

feet  
meters  
200  
60



CASE # C15-2013-0119

ROW-11026192

TP-013119-01-02

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: 3600,3602, &3604 Rivercrest Drive

LEGAL DESCRIPTION: Subdivision --Rivercrest Addition #2

Lot(s) 59,60,61,&62 Block        Outlot        Division       

I Jim Bennett as authorized agent for Ryan Dumont, James Coleman

affirm that on 9/27/2013, hereby apply for a hearing before the Board of

Adjustment for consideration to:

ERECT – ATTACH – COMPLETE – REMODEL – MAINTAIN  
A shoreline bulkhead with backfield

       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 (see page 5 of application for explanation of findings):

**REASONABLE USE:**

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

The ordinance requires a variance in order to improve erosion, and unhealthy condition to the shore line.

**HARDSHIP:**

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

Due to angle of the shore line the current created a swirl which created a trash trap from upstream.

- (b) The hardship is not general to the area in which the property is located because:

The prior angle of the shore is unique to this property, and with the improved bulkhead the swirl and debris problem has been eliminated.

**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 bulkhead has been in place for approximately for approximately five years and has not created a problem for user of the lake.

**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

City, State & Zip

Printed      Phone      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

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:

---

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

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---

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 Jim Bennett Mail Address 11505 Ridge DR  
City, State & Zip Austin, TX 78748

Printed Jim Bennett Phone 512-282-3019 Date 9/26/13

**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 Ryan Dumont Mail Address 3602 RIVERCREST  
City, State & Zip AUSTIN TX 78746

Printed RYAN DUMONT Phone 512-328-0328 Date 9/26/13



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:

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

---

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---

---

**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 Jim Bennett Mail Address \_\_\_\_\_

City, State & Zip 11505 Ridge Dr Austin, TX 78748

Printed Jim Bennett Phone 512.282.3079 Date 9/27/13

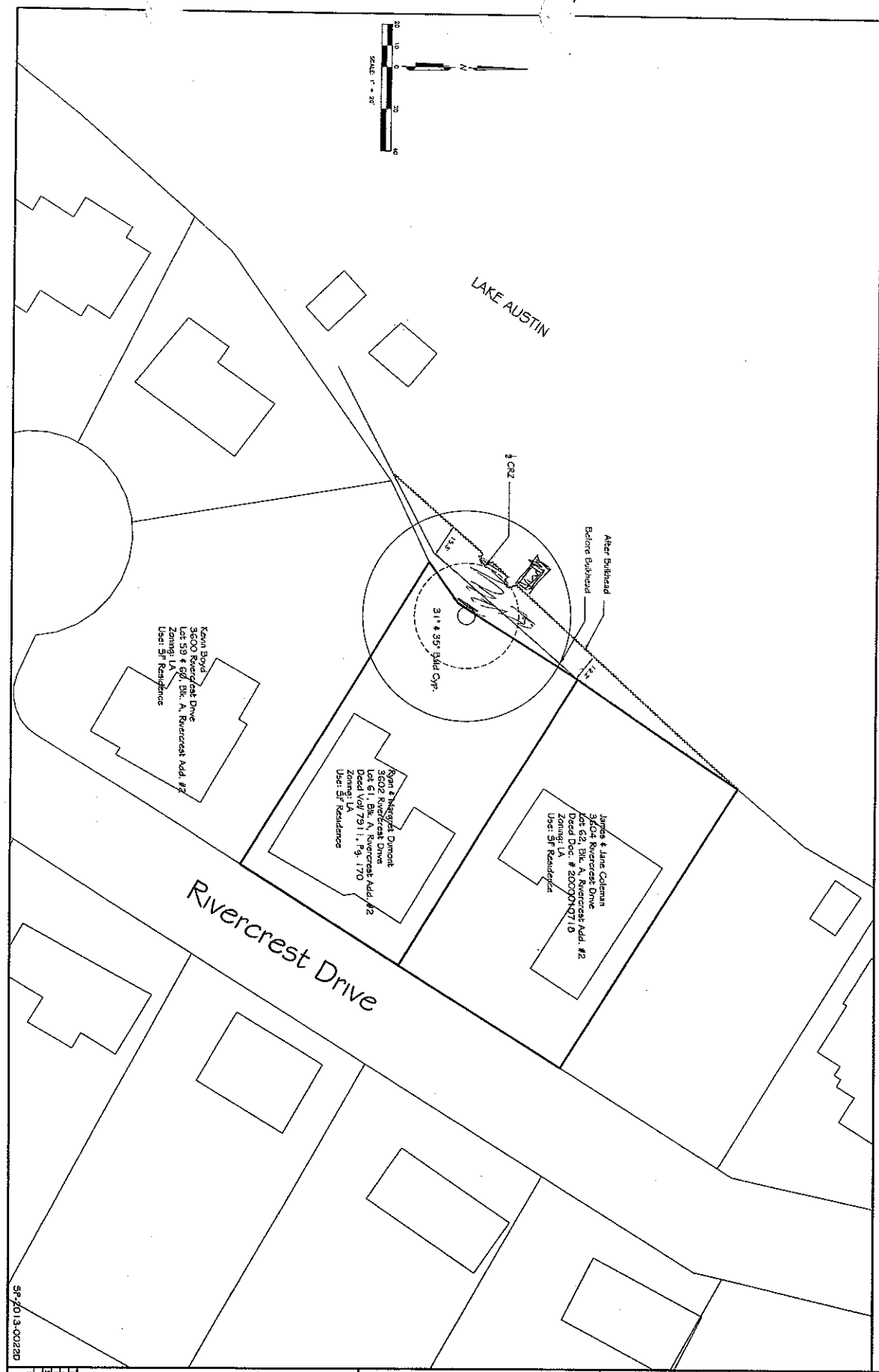
**OWNERS CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed [Signature] Mail Address 3604 Rivercrest Dr.

City, State & Zip Austin Tx 78746

Printed JAMES H. Coleman Phone 512.328.8874 Date 9/26/13

LAKE AUSTIN



Rivercrest Drive

Kevin Boyd  
3600 Rivercrest Drive  
Lot 59 & 60, Blk. A, Rivercrest Add. #2  
Zoning: LA  
Use: 5F Residence

Ryan & Margaret Dumont  
3602 Rivercrest Drive  
lot 61, Blk. A, Rivercrest Add. #22  
Deed Vol 7911, Pg. 170  
Zoning: LA  
Use: 5F Residence

James & Jane Coleman  
3604 Rivercrest Drive  
Lot 62, Blk. A, Rivercrest Add. #2  
Deed Doc. # 2000010718  
Zoning: LA  
Use: SF Residence

SP-2013-00220

**AUPPERLE COMPANY**  
Engineering, Planning & Development Services  
10088 Circleview Drive, Austin, Texas 78733 512 329-8241

[illegible]

Re: 3602 Rivercrest variance proposal.

### **Remedy for an Environmental and Health Hazard**

1. In the 1960s a cinderblock wall was built by various Rivercrest property owners along an arbitrary path close to the edge of the lake. This wall “cut in” to the lots abruptly at our upstream neighbor’s property rather than following a straight line. This was not the property line but simply an easy line to follow with the wall. The construction of this wall pre-dated our ownership of the land.
2. There was little or no water at the base of this wall on our property since it did not follow the lake’s edge.
3. Due to the “cut in” configuration of the wall an eddy was created in the lake that brought debris back up along the shore. An abundance of trash (cans, cups, cut weeds, sewage, etc.) was carried up close to the wall and deposited by larger waves on the land and remained indefinitely. The eddy was also a mass of stagnant garbage.
4. The rotting mess stank and created a breeding ground for mosquitos, snakes and bacteria. This posed an environmental and health hazard for our family with small children and the neighbors on both sides of our property, as they experienced the same noxious deposits. This situation became worse year after year as lakefront development increased upstream, and all attempts to manually clear the area proved ineffective.
5. My neighbors contacted the City of Austin for assistance.
6. A City of Austin employee inspected the site, agreed that this was a serious problem and declared “That’s not a city problem. That’s your problem and you can fix it.”
7. The neighbors contacted a professional hydrologist who recommended a wall across the “cut in” to stop the eddy and allow for the lake to flow naturally.
8. A temporary wall was put in place to test the solution. When it was successful, the solution was completed with a rippled front that was being recommended by the City of Austin at the time.
9. This project was never intended to add any amount of land to the property or to change any “setbacks” since the structures on the lots had been completed years before under current codes. This was entirely a matter of safety and health for our families and the neighborhood.

Re: 3602 Rivercrest variance proposal.

### **Remedy for an Environmental and Health Hazard**

1. In the 1960s a cinderblock wall was built by various Rivercrest property owners along an arbitrary path close to the edge of the lake. This wall "cut in" to the lots abruptly at our upstream neighbor's property rather than following a straight line. This was not the property line but simply an easy line to follow with the wall. The construction of this wall pre-dated our ownership of the land.
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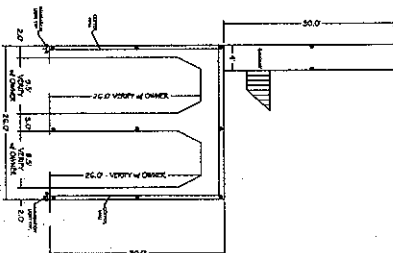
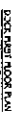
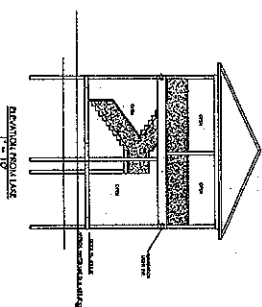
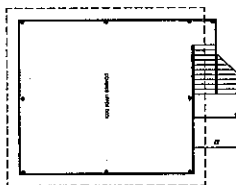
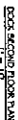
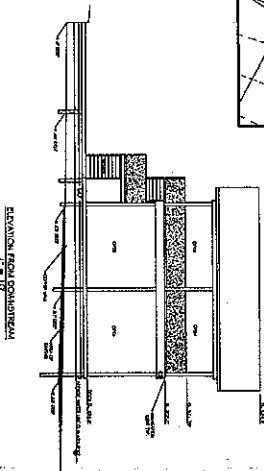
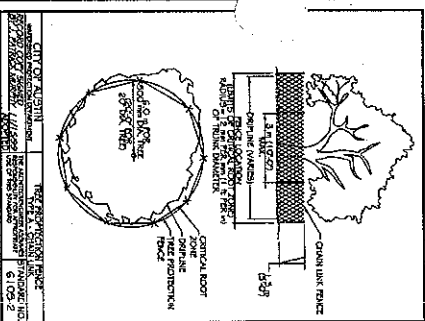




**Map Details:**

- Lake Austin**: Located at the top of the map.
- Rivercrest Drive**: Runs along the bottom edge.
- Lot 3600**: Owner: Jean Boyd; Address: 3600 Rivercrest Drive; Zoning: LA; Use: SF Residence.
- Lot 3602**: Owner: Ryan & Margaret Dimont; Address: 3602 Rivercrest Drive; Zoning: LA; Use: SF Residence.
- Proposed Construction**: Includes a 26 x 30' dock and a 19 x 46' dock, both labeled "To Be Removed".
- Other Features**: A scale bar (1" = 20'), a north arrow, and various elevation points (e.g., 482, 484, 486).

- At responsibility for the adequacy of these plans remains with the engineer who prepared them. It improves their skills. The City of Austin must only open the resources of the work of the design engineer:
- Existing Street Length = 52'
  - Existing Road Width = 46'
  - Assumed Road Width = 50% of 52' = 10.4'
  - Proposed Road Width = 52'
  - Existing Road Length = 30'
  - Proposed Road Length = 65'

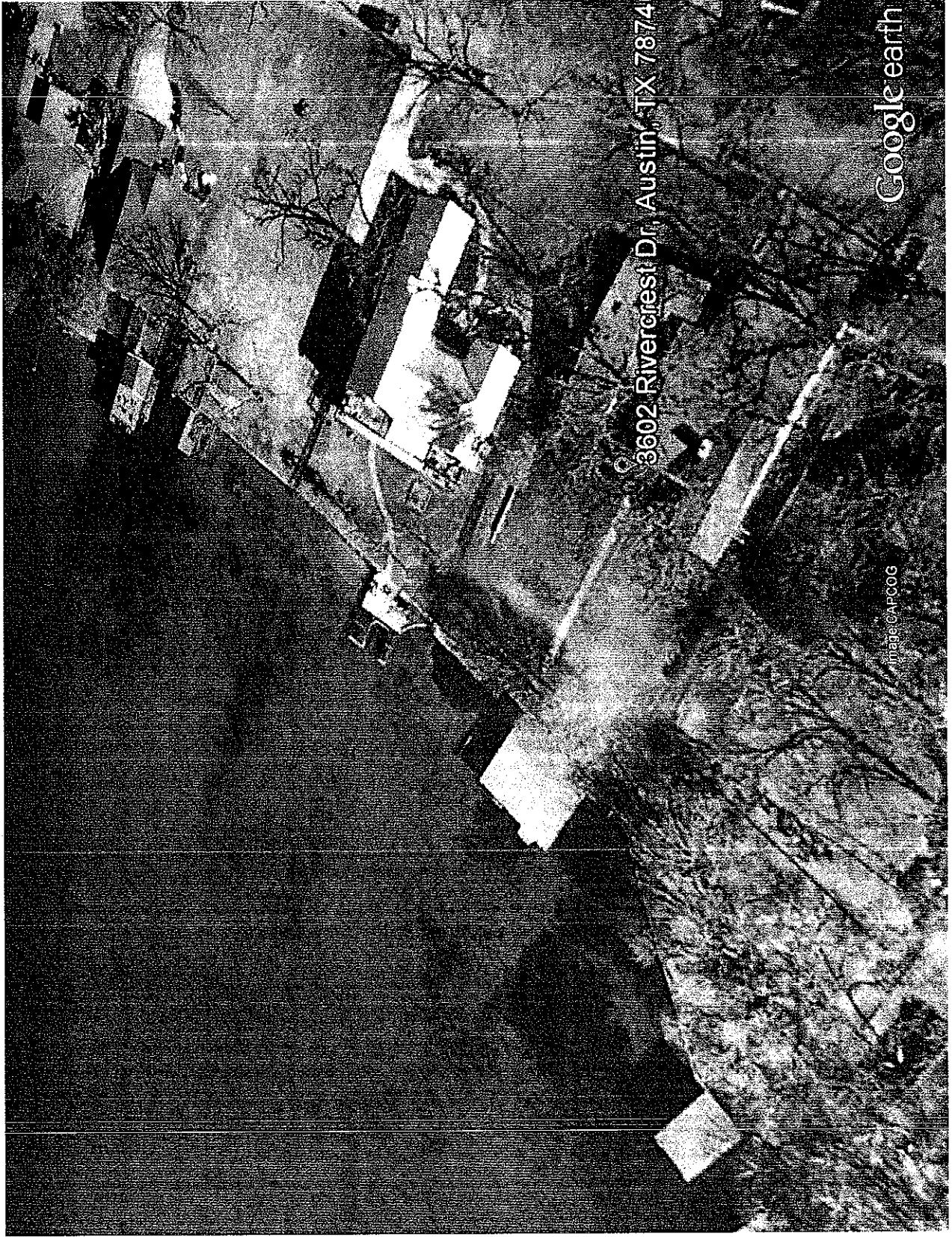


CL52073-0119  
34001 34024 3604  
Rivercrest Dr



5	DATE	REVISION	ATTN

4/29/06



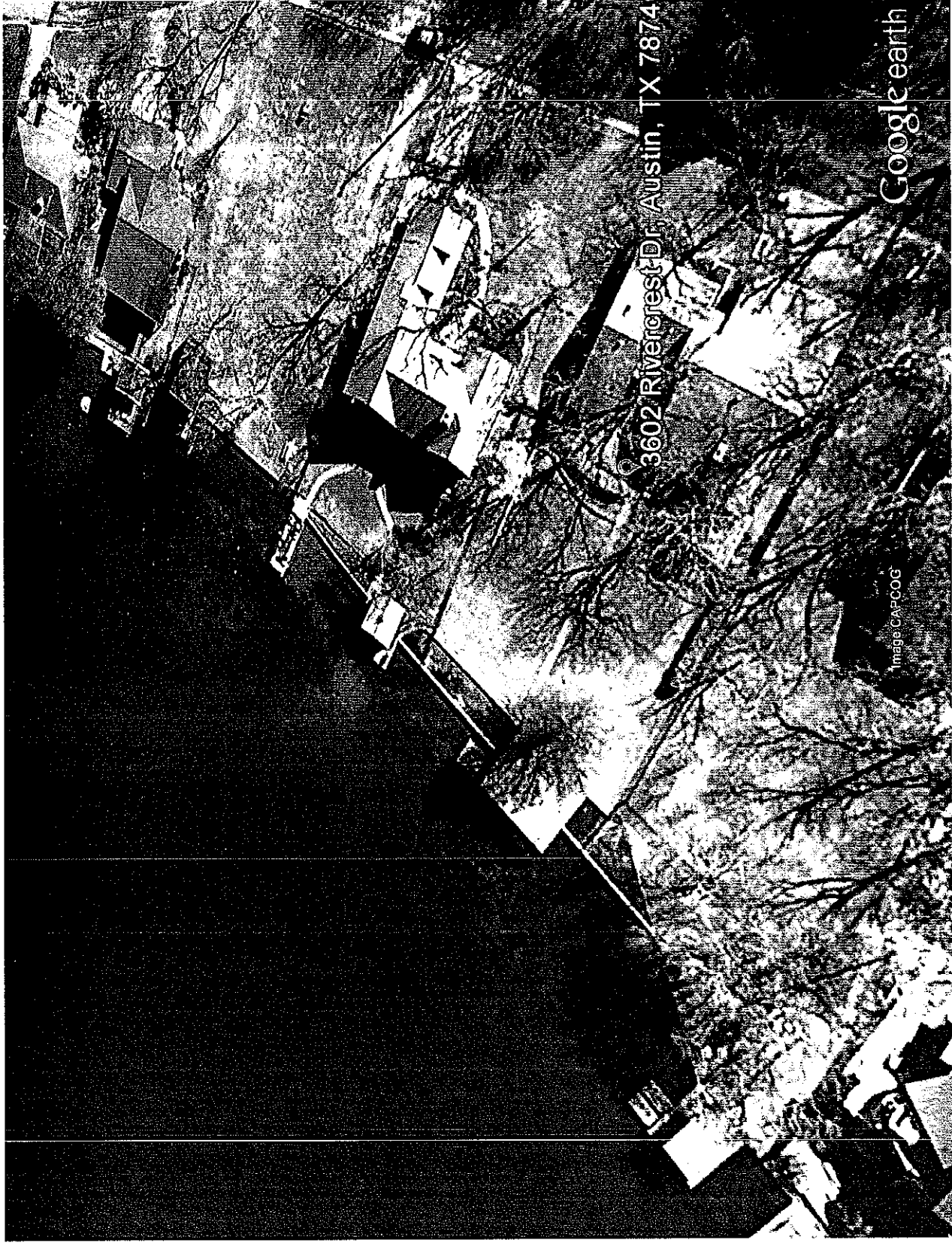
Google earth

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meters

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2/27/09



3602 Rivercrest Dr, Austin, TX 7874

Google earth

Image CAPCOG

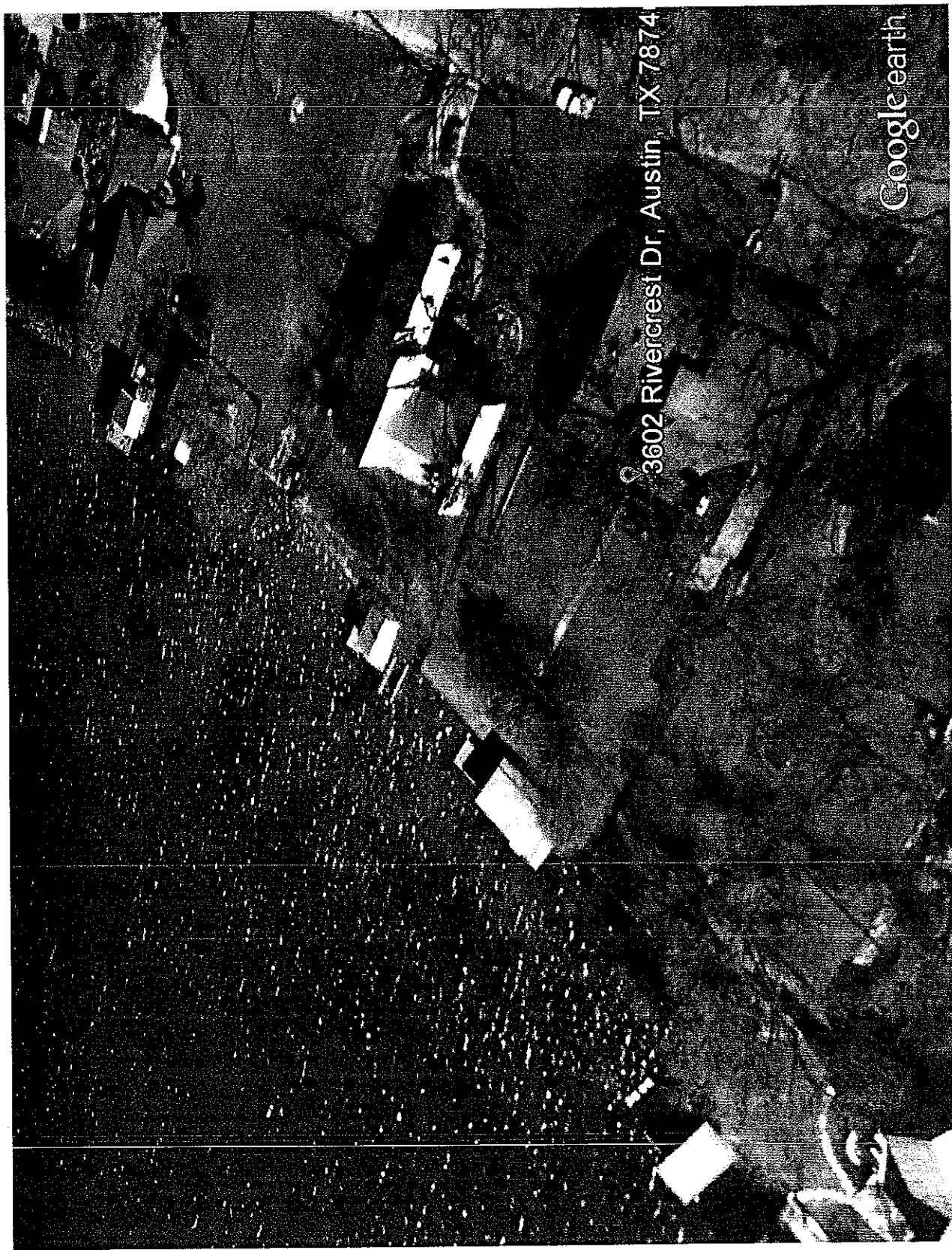
Google earth

feet  
meters

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3/9/11



Google earth

feet  
meters

Google earth

200  
60





11/17/12



Google earth

feet  
meters

200  
60

