CITY OF AUSTIN
Board of Adjustment
Decision Sheet

DATE: Monday August 13, 2018 **CASE NUMBER: C15-2017-0047**

_____Brooke Bailey
_____William Burkhardt
_____Christopher Covo
_____Eric Goff
_____Melissa Hawthorne
_____Bryan King
_____Don Leighton-Burwell
_____Rahm McDaniel
_____Veronica Rivera
_____James Valadez
_____Michael Von Ohlen
_____Kelly Blume (Alternate)
_____Martha Gonzalez (Alternate)
_____Pim Mayo (Alternate)

APPLICANT: Phil Moncada

OWNER: Ryan Dumont and Hank Coleman

ADDRESS: 3602 & 3604 RIVERCREST DR

VARIANCE REQUESTED: The applicant has requested variance(s) from Section 25-2-1176 (Site Development Regulations for Docks, Marinas, and Other Lakefront Uses) (A) (1) to increase the distance a dock may extend from the shoreline from ~~30 feet (required/permitted) to 60 feet (requested) in order to construct a new~~ dock in an "LA", Lake Austin zoning district.

BOARD'S DECISION: Sept 18, 2017 POSTPONED TO NOVEMBER 13, 2017 BY APPLICANT; November 13, 2017 POSTPONED TO DECEMBER 11, 2017 BY APPLICANT; Dec 11, 2017 The public hearing was closed on Board Member Bryan King motion to Postpone Indefinitely, Board Member second on a 10-1 vote (Board member William Burkhardt nay); POSTPONED INDEFINITELY (UNTIL ENVIRONMENTAL BOARD HAS MADE A RULING).

RENOTICE: JUNE 11, 2018 The applicant has requested variance(s) from Section 25-2-1176 (Site Development Regulations for Docks, Marinas, and Other Lakefront Uses) (A) (1) to increase the distance a dock may extend from the shoreline from 30 feet (required/permitted) to 60 feet (requested) in order to construct a new dock in an "LA", Lake Austin zoning district.

BOARD'S DECISION: June 11, 2018 POSTPONED TO AUGUST 13, 2018 BY APPLICANT

RENOTICE: Aug 13, 2018 The applicant has requested variance(s) from Section 25-2-1176 (Site Development Regulations for Docks, Marinas, and Other Lakefront Uses) (A) (1) to increase the distance a dock may extend from the shoreline from 30 feet (required/permitted) to 60 feet (requested) in order to construct a new dock in an "LA", Lake Austin zoning district.

BOARD'S DECISION: Aug 13, 2018 ACTION TABLED AT APPLCIANT REQUEST

EXPIRATION DATE:

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

William Burkhardt
Chairman

CITY OF AUSTIN
Development Services Department
One Texas Center | Phone: 512.978.4000
505 Barton Springs Road, Austin, Texas 78704

Board of Adjustment
General/Parking Variance Application

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

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, click here to Save the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. ***If more space is required, please complete Section 6 as needed.*** All information is required (if applicable).

For Office Use Only

Case # _____ ROW # _____ Tax # _____

Section 1: Applicant Statement

Street Address: 3602 Rivercrest Drive

Subdivision Legal Description:

Lot 61 Block A Rivercrest Addn Sec 2

Lot(s): _____ Block(s): _____

Outlot: _____ Division: _____

Zoning District: LA

I/We Janis J. Smith, P.E. on behalf of myself/ourselves as authorized agent for Ryan Dumont affirm that on Month April , Day 16 , Year 2019 , hereby apply for a hearing before the Board of Adjustment for consideration to (select appropriate option below):

(•) Erect ( ) Attach ( ) Complete ( ) Remodel ( ) Maintain ( ) Other: _____

Type of Structure: Boat Dock

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

LDC 25-5-1176(A)(1) -- to allow the construction of a dock 80 feet from the shoreline on Lake Austin because of very shallow water.

Section 2: Variance Findings

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 supporting documents.

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.

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

Reasonable Use

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

Existing regulations limit both dock extension into the lake and the quantity of allowed dredge. In order to abide by the dredge limit and have a navigable dock, the dock has to be pushed further into the lake and deeper water.

Hardship

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

The property has extremely shallow water near the shoreline.

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

The vast majority of dock sites on the lake can be accessed by following current code. This property cannot.

Area Character
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 variance will not alter the character of the area. The adjacent property owner's dock extends further into the lake than the proposed location for this dock.

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 in the City of Austin Land Development Code Chapter 25-6, Appendix A 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 reasonably 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:

Section 3: Applicant Certificate

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

Applicant Signature: Janis J. Smith Date: 4/16/19

Applicant Name (typed or printed): Janis J. Smith, P.E.

Applicant Mailing Address: 1505 Westover Road

City: Austin State: TX Zip: 78703

Phone (will be public information): 512-914-3729

Email (optional – will be public information):

Section 4: Owner Certificate

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

Owner Signature: Ryan DuMont Date: 4/16/19

Owner Name (typed or printed): Ryan Dumont

Owner Mailing Address: 3602 Rivercrest Drive

City: Austin State: TX Zip: 78746

Phone (will be public information): 512-431-4321

Email (optional – will be public information):

Section 5: Agent Information

Agent Name:

Agent Mailing Address:

City: State: Zip:

Phone (will be public information):

Email (optional – will be public information):

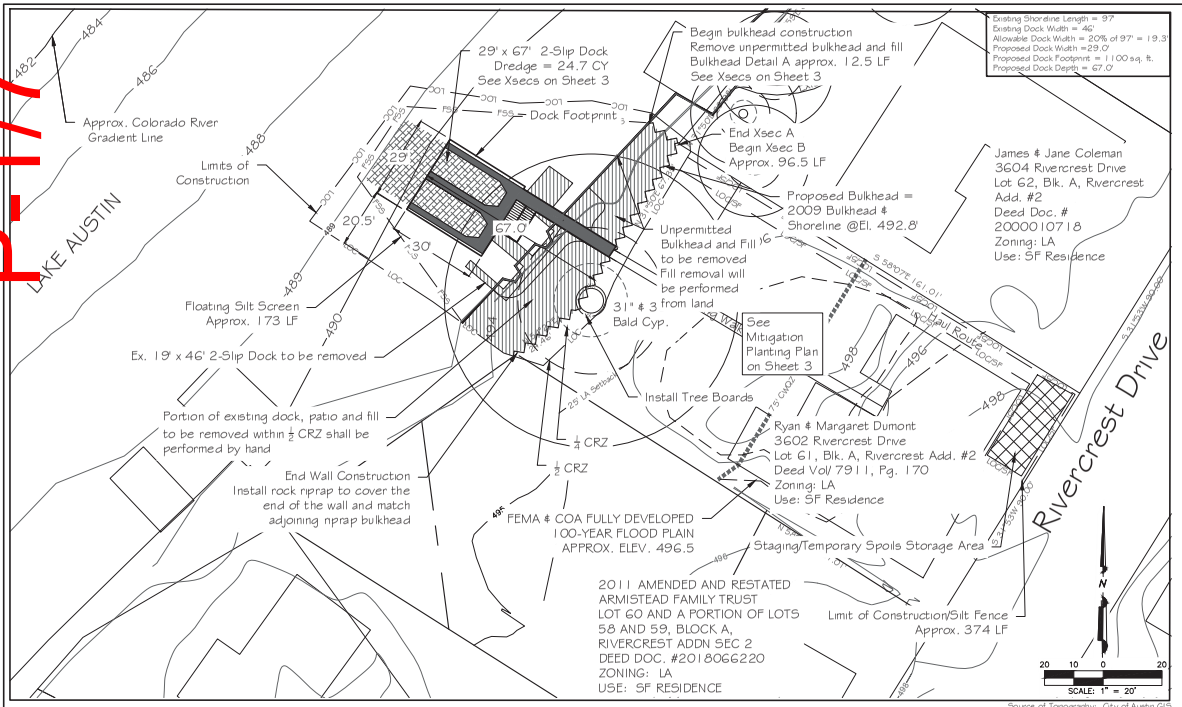
Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

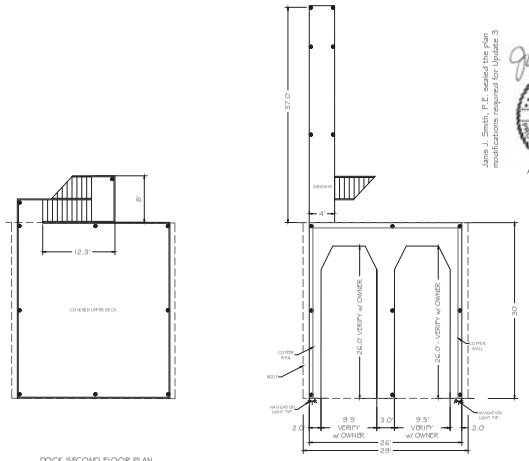
P-1/7

All responsibility for the adequacy of these plans remain with the engineer who prepared them. In approving these plans, the City of Austin must rely upon the adequacy of the work of the design engineer.

3602 Rivercrest Drive



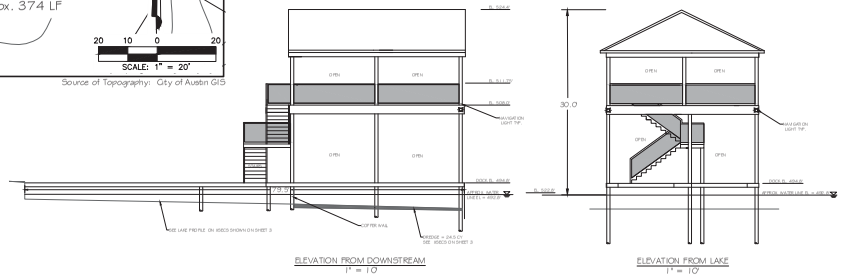
Source of Topography: City of Austin GIS

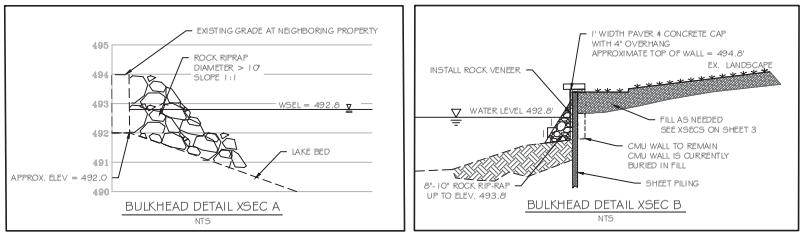


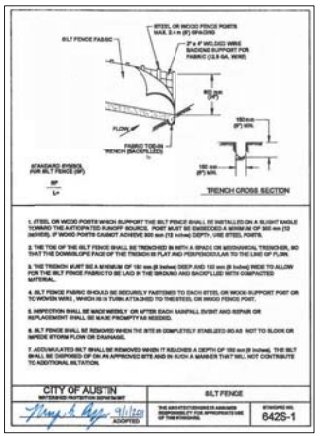
Janis J. Smith, P.E. sealed the plan modifications required for Update 3

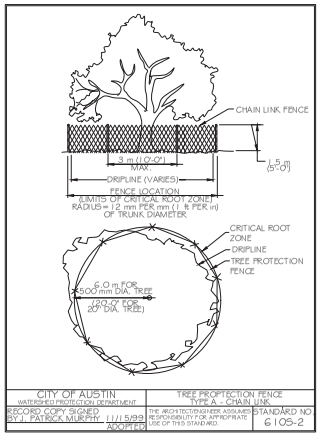
JANIS J. SMITH 110314 LICENSED PROFESSIONAL ENGINEER

April 22, 2019









NOTES:

1. A DOCK MUST BE CONTINUOUSLY LIGHTED WITH AMBER LIGHTS BETWEEN SUNSET AND SUNRISE EACH DAY.
2. A DOCK MUST HAVE AT LEAST TWO LIGHT STATIONS. THE LIGHT STATION MUST BE LOCATED ON THE END OF THE DOCK AND ON THE SIDE THAT IS FARTHEST FROM AND PARALLEL TO THE SHORELINE. THE LIGHT MUST BE VISIBLE TO A PROPERLY APPROACHING WATERCRAFT.
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5. NO TREES GREATER THAN 8" IN DIAMETER WILL BE IMPACTED BY THE PROPOSED DOCK CONSTRUCTION.
6. CONTAINERS OF HAZARDOUS MATERIALS, FUEL, OIL, HERBICIDES, INSECTICIDES, FERTILIZERS OR OTHER POLLUTANTS MAY NOT BE STORED ON DOCKS EXTENDING INTO OR ABOVE LAKE AUSTIN.
7. THE PROPOSED BOAT DOCK MUST COMPLY WITH ALL REQUIREMENTS OF LDC 25-2-1174 (STRUCTURAL REQUIREMENTS), AND MUST COMPLY WITH CHAPTER 25-12, ARTICLE 1 (UNIFORM BUILDING CODE) AND THE BUILDING CRITERIA MANUAL.
8. THE PROPOSED BOAT DOCK IS AN ACCESSORY USE TO THE PRINCIPAL SINGLE-FAMILY RESIDENCE AT 3602 RIVERCREST DRIVE, AUSTIN TX, 78746.
9. FOR LA ZONING PERMANENT IMPROVEMENTS ARE PROHIBITED WITHIN THE SHORELINE SETBACK AREA, EXCEPT FOR RETAINING WALLS, PIERS, WHARVES, BOATHOUSES, MARINAS OR A DRIVE TO ACCESS THE STRUCTURES (LDC 25-2-551(B)(2)).
10. DREDGING IS REQUIRED AND PART OF THIS DEVELOPMENT PERMIT.
11. BOAT DOCK WILL BE AT LEAST 66% OPEN (LDC25-2-1176(A)(3)(ii)).
12. DREDGE MATERIAL SHALL BE DISPOSED DRY IN A LEGALLY PERMITTED LANDFILL SITE. PRIOR TO OFFSITE DISPOSAL, THE PERMITTEE SHALL PROVIDE ENVIRONMENTAL INSPECTOR WITH THE ADDRESS AND CONTACT NUMBER FOR THE DISPOSAL SITE. DISPOSAL OF DREDGE SPOIL IN THE LAKE IS SPECIFICALLY PROHIBITED.
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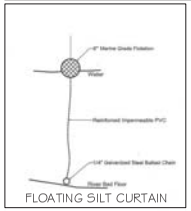
14. PILINGS SHALL BE 6" DIAMETER STEEL PIPE.

ATTENTION INSPECTOR NOTES:

1. COMPLIANCE WITH BUILDING CODE IS REQUIRED AND IS TO BE REVIEWED FOR COMPLIANCE DURING BUILDING CODE REVIEW.
2. FOR THE BUILDING PERMIT, A SIGNED AND SEALED LETTER SHALL BE SUBMITTED TO THE CITY OF AUSTIN, PER THE LAND DEVELOPMENT CODE, 25-1-2-3 1&12.4, CERTIFYING THAT THE STRUCTURE IS IN ACCORDANCE WITH ASCE 24, FLOOD RESISTANT DESIGN AND CONSTRUCTION.
3. ENVIRONMENTAL INSPECTOR HAS THE AUTHORITY TO ADD AND/OR MODIFY EROSION/SEDIMENTATION CONTROLS ON SITE TO KEEP PROJECT IN COMPLIANCE WITH THE CITY OF AUSTIN RULES AND REGULATIONS.



FLOATING SILT CURTAIN

AUPPERLE COMPANY
Engineering, Planning & Development Services
10088 Circleview Drive , Austin, Texas 78733 512 329-8241
Texas Board Of Professional Engineers Registration Number F-1994

STATE OF TEXAS JANIS J. SMITH 110314 LICENSED PROFESSIONAL ENGINEER May 20, 2019

NO.	DATE	REVISION	APVD

3602 Rivercrest Drive
SITE PLAN, DOCK PLAN & ELEVATIONS

DESIGNED: BSA
APPROVED:
SCALE: NTS
3602 Rivercrest Dr.
DATE: November 16, 2016
SHEET 2 of 3

3602 Rivercrest Drive - SP-2016-0261D

SP-2016-0261D

Janis Smith Consulting, LLC

Civil Engineering Consulting for Lake Austin Shoreline Projects

April 25, 2019

Board of Adjustment
City of Austin
505 Barton Springs Road
Austin, Texas 78704

Re: Engineering Summary Letter for 3602 Rivercrest Drive SP-2016-0261D
Application for a variance to LDC 25-2-1176(A)(1) to allow construction of a boat dock further than 30ft. from the shoreline on Lake Austin

Dear Board Members:

This project comes back before you with a new site plan design and a new applicant. To review, 3602 Rivercrest Drive is located about one mile west of the intersection of Capital of Texas Highway and Cedar Street within the Full Purpose Jurisdiction of the City of Austin. It's on the shore of Lake Austin and is the site of a home constructed in the 80's along with a non-compliant boat dock and bulkhead. The site was red-tagged about 6 years ago for an unpermitted bulkhead that was constructed in 2009, and this site plan application was originally submitted 3 years ago.

Until last month, the site plan required Environmental Commission (EVC) variances for land capture and fill in the lake along with this BOA variance application for dock extension into the lake. It was last heard by the BOA in August of 2018 when it was postponed indefinitely. The applicant was counseled to come back to the BOA and report on the status of the EVC variances. The current site plan eliminates the need for any EVC variances. The owner has agreed to remove the bulkhead that's the subject of the red tag. This site plan now details the removal of that wall, the construction of a code-compliant bulkhead along with a new dock to replace the existing, aging, dock. Exhibit 1 contains the site plan sheet showing the proposed dock layout and dimensions, bulkhead construction, and mitigation planting plan. City staff agreed to conduct the update/comment process informally, and all outstanding comments were resolved in a few weeks. The site plan has cleared all environmental review comments.

The site has extremely shallow water. The Board's familiar with the balancing act required to permit a navigable dock in shallow water. Dredge is limited to 25 CY (or an EVC variance) and dock extension is limited to 30 ft. (or a BOA variance). In order to permit a navigable 2-slip boat dock here, either an EVC variance for 100 CY of dredge is required, or a BOA variance for dock extension into the lake is required. The site plan shows a dock that entails 24 CY of dredge and extends 67 ft. into the lake. The extension is the minimum required to avoid an EVC variance for dredge. As you can see from the attached Exhibit 2, the adjacent dock extends further into the lake than this application; so the flow of boat traffic on Lake Austin will not be affected.

The owners wish to put the red tag process behind them and move on. They have agreed to remove a bulkhead constructed 10 years ago to do that. It's been a long, expensive, and emotionally draining process for them. On behalf of the owners, Ryan and Margaret Dumont, I ask you to grant this application for a BOA variance so that they can replace the existing non-conforming bulkhead and dock on their shoreline while returning their shoreline to its location 10 years ago.

If you have any questions, please feel free to contact me.

Very truly yours,

Janis J. Smith, P.E
Janis Smith Consulting, LLC
[redacted]

EXHIBIT 1

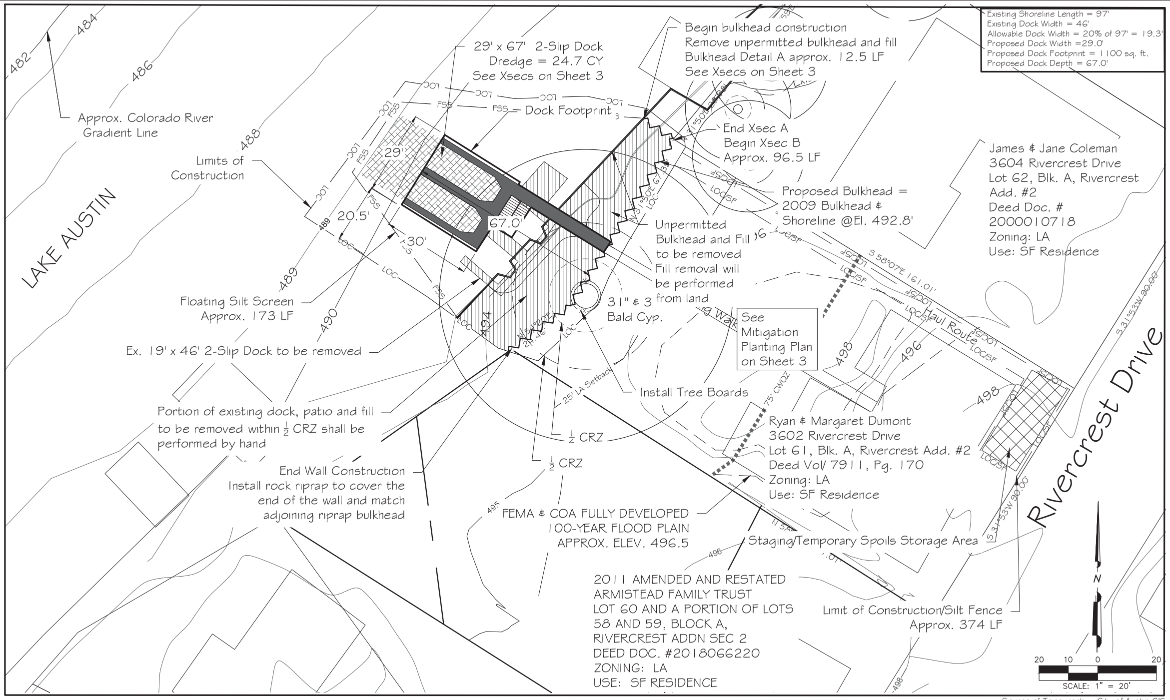
PROPOSED CONDITIONS DOCK PLAN SHEET

SP-2016-0261D

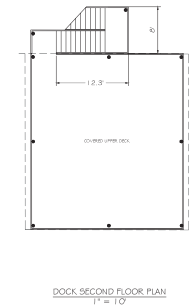
3602 Rivercrest Drive

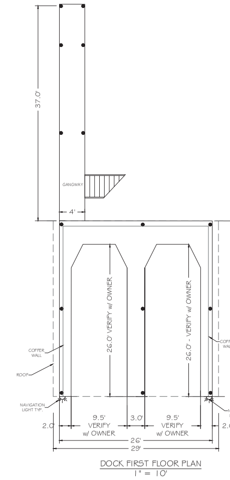
All responsibility for the adequacy of these plans remain with the engineer who prepared them. In approving these plans, the City of Austin must rely upon the adequacy of the work of the design engineer.

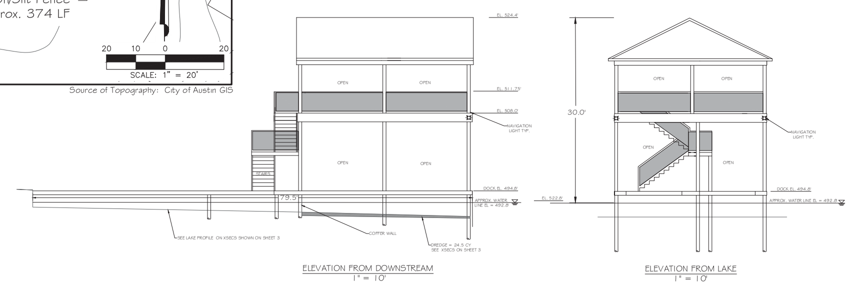
Existing Shoreline Length	= 97'
Existing Dock Width	= 46'
Allowable Dock Width	= 20% of 97' = 19.3'
Proposed Dock Width	= 29.0'
Proposed Dock Footprint	= 1100 sq. ft.
Proposed Dock Depth	= 67.0'

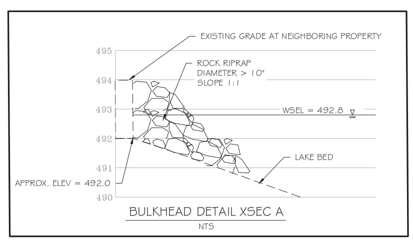


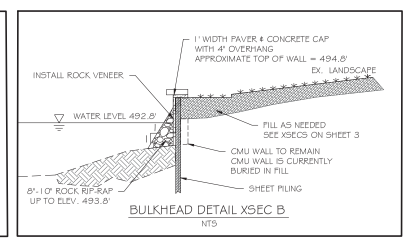
Source of Topography: City of Austin GIS

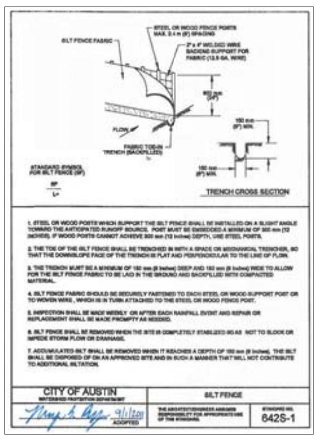


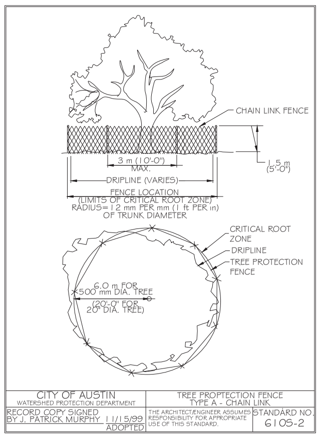


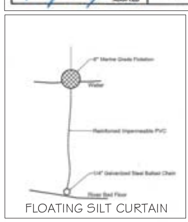












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Janis J. Smith, P.E. sealed the plan modifications required for Update 3

JANIS J. SMITH 110314 LICENSED PROFESSIONAL ENGINEER

April 22, 2019

NO.	DATE	REVISION	APP'D

May 20, 2017

AUPPERLE COMPANY

Engineering, Planning & Development Services

10088 Circleview Drive, Austin, Texas 78733 512 329-8241

Texas Board of Professional Engineers Registration Number F-1994

3602 Rivercrest Drive
SITE PLAN, DOCK PLAN & ELEVATIONS

P-1/11

DESIGNED: BSA
APPROVED:
SCALE: NTS
3602 Rivercrest Dr.
DATE: November 16, 2016
SHEET 2 of 3

SP-2016-0261D

EXHIBIT 2

PROPOSED DOCK AERIAL PHOTO


PROPOSED DOCK AT 3602 RIVERCREST
RECENTLY PERMITTED DOCK AT 3600 RIVERCREST
3700 RIVE
3604 RIVERCREST DR
3602 RIVERCREST DR
6704 PIXIE CV
3600 RIVERCREST DR
482
484
486
488
489
494
496
N
40 20 0 40
SCALE: 1" = 40'

P-1/13

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, **you are not required to attend**. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed application. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further will be sent.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern *(it may be delivered to the contact person listed on a notice)*; or
- appearing and speaking for the record at the public hearing;

and:

- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site:
www.austintexas.gov/department/development-services

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice. **All comments received will become part of the public record of this case.**

Case Number: C15-2017-0047, 3602 and 3604 Rivercrest Dr.
Contact: Elaine Ramirez, 512-974-2202, elaine.ramirez@austintexas.gov
Public Hearing: Board of Adjustment, May 13, 2019

BRNA Association Inc.

Your Name (please print) By Lyra Bemis, President

☐ I am in favor
☒ I object

Your address(es) affected by this application

Signature 4-30-19 *Date*

Daytime Telephone: 512 970 4504

Comments: See Attached.
BRNA did not receive any prior notice to the "Renotification" for this variance request.

Comments must be returned no later than 10am the day of the hearing to be seen by the Board at this hearing:

Mail: City of Austin-Development Services Department/ 1st Floor
Elaine Ramirez
P. O. Box 1088
Austin, TX 78767-1088
(Note: mailed comments must be postmarked by the Wed prior to the hearing to be received in time for this hearing)
Fax: (512) 974-6305
Email: elaine.ramirez@austintexas.gov

04/30/2019

Case No. C15-2017-0047, 3602 and 3604 Rivercrest Dr.

Thirty (30) ft. is more than a reasonable extension. Anything more would pose a navigational hazard for the following: 1. Navigation hazard to existing neighboring docks that only extend 30 ft. 2. Navigation hazard to all other boaters as the only non-conforming dock structure up and down the lake shoreline. Regardless of lighting, most boaters assume continuity and consistency in the shoreline. 3. The proposed dock would be opposite Ski Shores, a heavily patronized restaurant on the lake, which provides patrons docking. Boaters float in the middle of the lake and wait for available space to park. Narrowing the lake channel in the area of Ski Shores would be a huge hazard for both thru traffic and boats trying to access docking spaces at Ski Shores as it would force boaters into a significantly narrowed channel.

Offered by:
BRNA Association Inc.
Lyra Bemis
President

CITY OF AUSTIN
Board of Adjustment
Decision Sheet

DATE: Monday June 11, 2018 **CASE NUMBER: C15-2017-0047**

_____Brooke Bailey
_____William Burkhardt
_____Christopher Covo
_____Eric Goff
_____Melissa Hawthorne OUT
_____Bryan King
_____Don Leighton-Burwell
_____Rahm McDaniel OUT
_____Veronica Rivera
_____James Valadez
_____Michael Von Ohlen
_____Kelly Blume (Alternate)
_____Martha Gonzalez (Alternate) OUT
_____Pim Mayo (Alternate) OUT

APPLICANT: Phil Moncada

OWNER: Ryan Dumont and Hank Coleman

ADDRESS: 3602 & 3604 RIVERCREST DR

VARIANCE REQUESTED: The applicant has requested variance(s) from Section 25-2-1176 (Site Development Regulations for Docks, Marinas, and Other Lakefront Uses) (A) (1) to increase the distance a dock may extend from the shoreline from 30 feet (required/permitted) to 60 feet (requested) in order to construct a new dock in an "LA", Lake Austin zoning district.

BOARD'S DECISION: Sept 18, 2017 POSTPONED TO NOVEMBER 13, 2017 BY APPLICANT; November 13, 2017 POSTPONED TO DECEMBER 11, 2017 BY APPLICANT; Dec 11, 2017 The public hearing was closed on Board Member Bryan King motion to Postpone Indefinitely, Board Member second on a 10-1 vote (Board member William Burkhardt nay); POSTPONED INDEFINITELY (UNTIL ENVIRONMENTAL BOARD HAS MADE A RULING).

RENOTICE: JUNE 11, 2018 The applicant has requested variance(s) from Section 25-2-1176 (Site Development Regulations for Docks, Marinas, and Other Lakefront Uses) (A) (1) to increase the distance a dock may extend from the shoreline from 30 feet (required/permitted) to 60 feet (requested) in order to construct a new dock in an "LA", Lake Austin zoning district.

BOARD'S DECISION: June 11, 2018 POSTPONED TO AUGUST 13, 2018 BY APPLICANT

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

William Burkhardt
Chairman

CITY OF AUSTIN
Board of Adjustment
Decision Sheet

DATE: Monday December 11, 2017 **CASE NUMBER: C15-2017-0047**

___Y___Brooke Bailey
___N___William Burkhardt
___Y___Christopher Covo
___Y___Eric Goff
___Y___Melissa Hawthorne
___Y___Bryan King
___Y___Don Leighton-Burwell
___Y___Rahm McDaniel
___Y___Veronica Rivera
___Y___James Valadez
___Y___Michael Von Ohlen
___-___Kelly Blume (Alternate)
___-___Martha Gonzalez (Alternate)
___-___Pim Mayo (Alternate)

APPLICANT: Phil Moncada

OWNER: Ryan Dumont and Hank Coleman

ADDRESS: 3602 & 3604 RIVERCREST DR

VARIANCE REQUESTED: The applicant has requested variance(s) from Section 25-2-1176 (Site Development Regulations for Docks, Marinas, and Other Lakefront Uses) (A) (1) to increase the distance a dock may extend from the shoreline from 30 feet (required/permitted) to 60 feet (requested) in order to construct a new dock in an "LA", Lake Austin zoning district.

BOARD'S DECISION: Sept 18, 2017 POSTPONED TO NOVEMBER 13, 2017 BY APPLICANT; November 13, 2017 POSTPONED TO DECEMBER 11, 2017 BY APPLICANT; Dec 11, 2017 The public hearing was closed on Board Member Bryan King motion to Postpone Indefinitely, Board Member second on a 10-1 vote (Board member William Burkhardt nay); POSTPONED INDEFINITELY (UNTIL ENVIRONMENTAL BOARD HAS MADE A RULING).

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:

Good Morning Leane,

Yes, we would like this email to be included as part of our request for indefinite postponement.

Thank you,

Karla

Rodriguez

From: Phil Moncada
Sent: Wednesday, July 25, 2018 7:48 AM
To: Heldenfels, Leane
Subject: Re: 3602 and 04 Rivercrest 8/13 BOA hearing notice

Good Morning Leane,

Unfortunately, after checking with the chair person of the Environmental Commission, COA records have determined that our Site Plan has expired. We are regrouping and following up with owner and engineer, in order to resubmit this Site Plan to COA. This has never happened before, so I don't know if we can request for an indefinite postponement since our Site Plan is no longer active. You may need to check with Legal with Board of Adjustment to provide their opinion.

Thank you,

Phil Moncada

Phil Moncada
Moncada Enterprises, LLC
1301 S IH 35 Ste. 204
Austin, TX 78741
512.627.8815 (c)
512.474.7377(o)

[redacted]

To: Heldenfels, Leane
[redacted]
Subject: Re: Draft re-notice language for 3602, 04 Rivercrest Dr BOA case on the 8/13 agenda

Good Morning Leane,

Please request an indefinite postponement for this item.

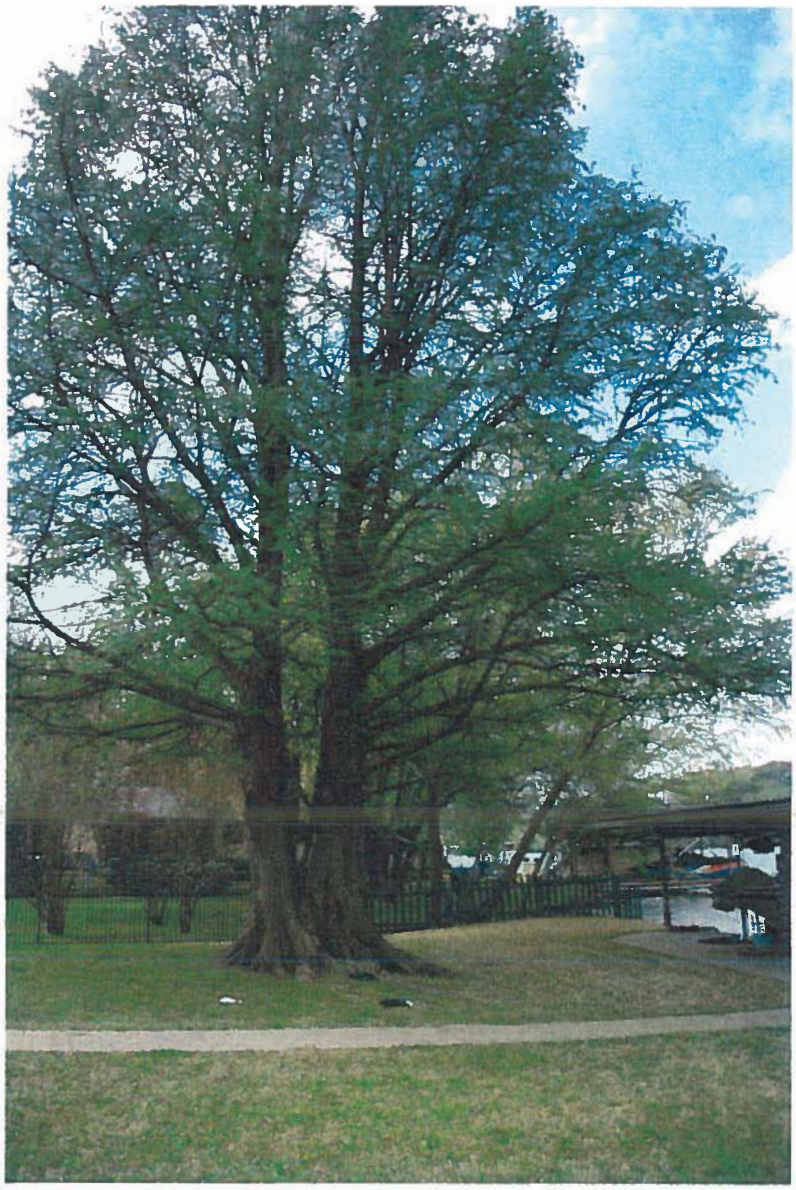
Thank you,

Karla Rodriguez

Karla Rodriguez
Office//Project Manager
Moncada Enterprises, LLC
1301 S. I-H 35 Suite #204
Austin, TX 78741
Office: 512.474.7377

Patrick Wentworth
Consulting Arborist
P.O. Box 50061
Austin, Texas 78763

512-291-8844



Report prepared for
Ryan Dumont
3602 River Crest
Austin, Texas78746
April 25, 2014

Summary

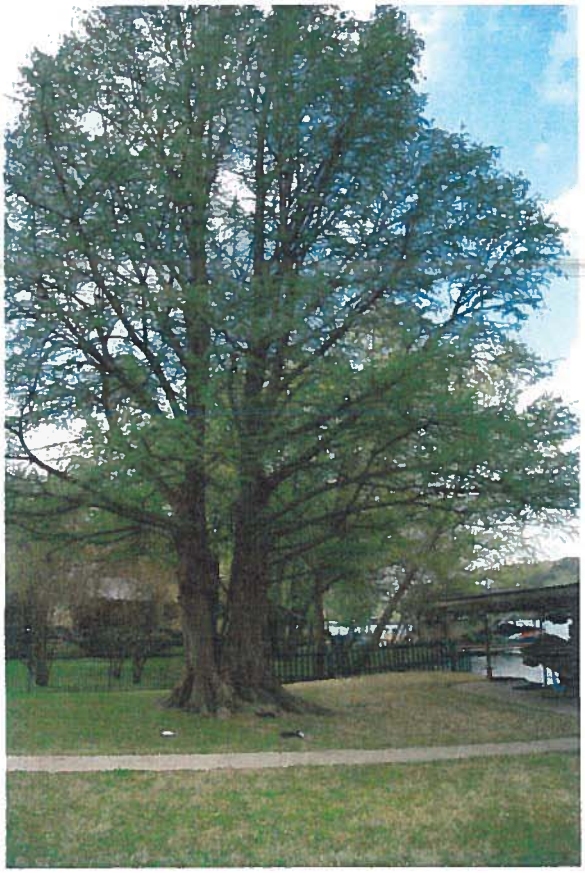
The proposed destruction of approximately 50% of the root system of a Heritage Bald Cypress (*Taxodium distictum*) will negatively impact the health and mechanical stability of the tree and would be in direct violation of the City of Austin's own Tree Protection Ordinance and Heritage Tree Ordinance

Background

Approximately a decade ago, Ryan Dumont at 3602 River Crest, Austin, Texas 78746 was having difficulties with the way water would eddy and collect floating debris and trash around his boat dock on Lake Austin. He first consulted with the Health Department and a professional hydrologist. On their recommendations, the cut into his back yard was straightened with a bulkhead to allow for the free flow of water down the lake.

Observations

The tree in question is a Bald Cypress with twin trunks. One-trunk measures 109-inches in circumference (34-inches in diameter) and the second trunk measures 100-inches in circumference (31.84-inches in diameter) measured at standard height, 4.5-feet above natural grade.



Twin-trunked Bald Cypress

Ryan Dumont
3602 River Crest
Austin, Texas 78746
April 25, 2014

Patrick Wentworth
Consulting Arborist
P.O. Box 50061
Austin, Texas 78763

Distance from edge of trunk to bulkhead 23-feet, 8-inches

The distance from the western edge of the trunk to the existing walkway next to the bulkhead is 16-feet. The walk way is made of paving stones set in sand up against the bulkhead at lake's edge. The walk way is 7-feet, 8-inches in width making the distance from the edge of the western most trunk to the bulkhead 23-feet, 8-inches.

The root flares of tree are equally spaced and quite prominent indicating the tree is going at its original, natural depth. The root flares extend outward from the trunk as much as 3 feet with the closest large root flare being 13-feet from the walkway or 20-feet, 8-inches from the bulkhead.

Ryan Dumont
3602 River Crest
Austin, Texas 78746
April 25, 2014

Patrick Wentworth
Consulting Arborist
P.O. Box 50061
Austin, Texas 78763

Large root flares on western side of trunk
Red arrow indicates root flare 20-feet, 8-inches from bulkhead.

The over all condition of the tree is excellent. New growth is evenly distributed through out the canopy with very little deadwood present. The tree's approximate height is around 55-feet with an approximate spread of 45-feet.

Discussion

The City of Austin measures trees at 4.5-feet above natural grade to determine the diameter and/ or the circumference of a tree. When trees have more than one trunk, one half of the measurement of smaller diameter trunk is added to the larger trunk. In this instance, the larger trunk is 34-inches in diameter and to that one would add 15.92 or 16 inches (½ the smaller trunk's diameter) to come up with a trunk diameter for this tree of 50-inches.

Under City of Austin Ordinance No. 20100204-038, Part 2, section 25-8-602, a ….

Ryan Dumont
3602 River Crest
Austin, Texas 78746
April 25, 2014

Patrick Wentworth
Consulting Arborist
P.O. Box 50061
Austin, Texas 78763
[redacted]

"Heritage Tree means a tree that has a diameter of 24 inches or more, measured at four and one-half feet above natural grade and is one of the following species:"

The second tree on the list of Heritage Trees is the Bald Cypress. (See page 1 of the ordinance in the appendix.)

The ordinance continues in the same section of definitions to define:

"(3) PROTECTED TREE means any tree with a diameter of 19 inches or more, measured at four and one-half feet above natural grade."

And defines:

"(4) REMOVAL means an act that causes of may be reasonably expected to cause a tree to die to include the following

a) Uprooting
b) Severing the main trunk
c) Damaging the root system
d) Excessive pruning."

In the Planning and Development Review Department of the City, Tree and Natural Area Preservation is defined with respect to what is known as the Critical Root Zone.

(http://austintexas.gov/page/tre-natural-area-preservation-codes)

"The Critical Root Zone

City code requires that proposed developments demonstrate that trees are preserved to the maximum extent reasonable and feasible. Tree preservation is effectively defined as root system preservation; a Critical Root Zone Area (CRZ) is assigned to each tree, based on trunk diameter size. A minimum of 50% of the CRZ is required to be left undisturbed to achieve minimal conformance with the regulations.

Trees are depicted on plans with a CRZ circle centered on the tree base location (i.e. a twenty inch diameter tree is represented by a 40 foot diameter circle). The formula is: Tree diameter in inches X 2, then convert to feet = CRZ diameter. The CRZ circles are superimposed on the proposed plan improvements so that review staff can discern the extent of disturbance proposed near existing

Ryan Dumont
3602 River Crest
Austin, Texas 78746
April 25, 2014

Patrick Wentworth
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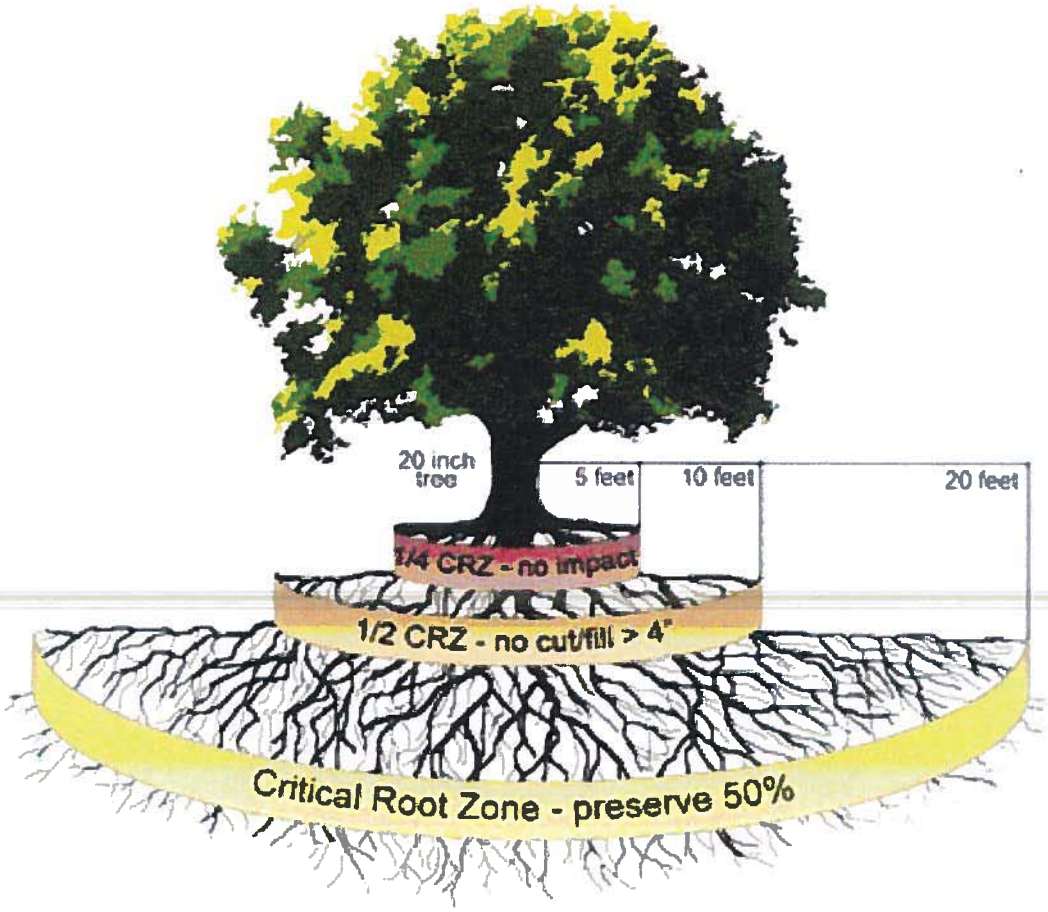
[redacted]

trees. Tree types and sizes are also provided. Trees which are removed are generally required to be replaced at a sliding ratio determined in part by the overall extent of tree removal proposed."

The Critical Root Zone - Development Impact Zones



By City of Austin definition, the tree's trunk diameter in this instance is considered to be 50-inches. That would make the critical root zone diameter (CRZD) to be 100-feet. The CRZ of this tree by City of Austin definition is a 50-foot radius in all directions from the trunk.

Ryan Dumont
3602 River Crest
Austin, Texas 78746
April 25, 2014

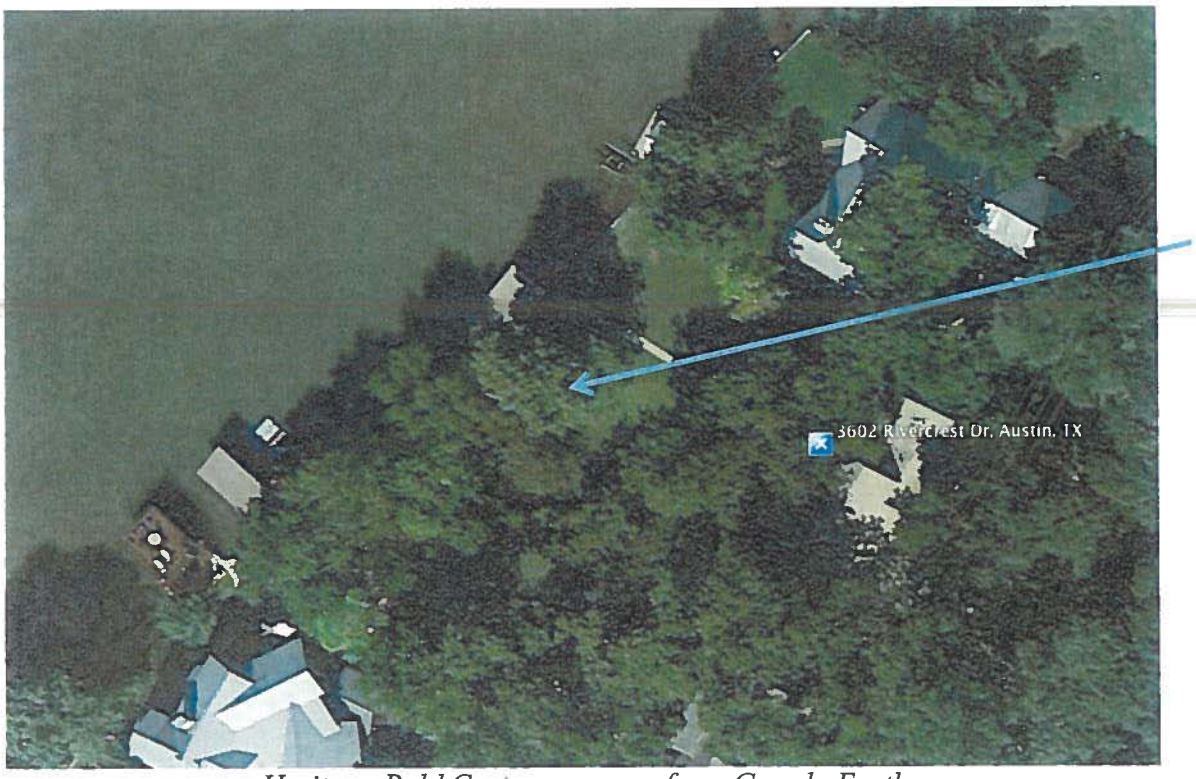
Patrick Wentworth
Consulting Arborist
P.O. Box 50061
Austin, Texas 78763
[redacted]

By City Code, there can be no cut or fill greater than 4-inches in the Half Critical Root Zone (½ CRZ) with **no impact** to be had within the One Quarter Critical Root Zone (¼ CRZ).

With the tree located at 23-feet 8-inches from the bulkhead on the lake, the entire area between the tree's trunk and the bulkhead is within the ½ CRZ (25-feet from the trunk.)

The current proposal before the homeowner is to remove the existing bulkhead and return the shoreline of Lake Austin back to it's original position which would be within 4 or 5 feet of the trunk of this Heritage Tree. This would also negatively impact negatively the ¼ CRZ by more than half (¼ CRZ = 12.5 feet.)

If as much as 60 to 70 % of the ½ CRZ were to be removed, the tree would be potentially mechanically unstable. On the east side of lake exposed to high wind events, the resulting root destruction could topple the tree back towards the house.



Heritage Bald Cypress as seen from Google Earth

Ryan Dumont
3602 River Crest
Austin, Texas 78746
April 25, 2014

Patrick Wentworth
Consulting Arborist
P.O. Box 50061
Austin, Texas 78763
[redacted]

Conclusion

The repair to the shoreline made by the Ryan Dumont corrected the natural flow of water down the lake and made the area along the lakefront healthier. It also allowed for the additional development of the root system of a Heritage Bald Cypress.

To restore the lake front to its original form would seriously jeopardize the health and mechanical stability of the Heritage Bald Cypress tree and would be, in the opinion of this arborist, a foolish proposition. The mechanical stability of the tree would be compromised with such a severe root cut and would make the tree a potential liability to the homeowner. It would also violate the City of Austin's own Tree Protection and Heritage Tree Ordinances.

Sincerely;

Patrick Wentworth
ISA Certified Arborist #TX-0119
American Society of Consulting Arborists
Texas Oak Wilt Certification #TOWC-0001
TDA License #0525651
ISA Texas Chapter's Texas Arborist of the Year 1999
ISA Texas Chapter's Texas Arborist of the Year 2002
Austin Arborist of the Year 2004, Austin Chronicle's Readers' Poll

APPENDIX

ORDINANCE NO. 20100204-038

AN ORDINANCE AMENDING CHAPTER 25-8, SUBCHAPTER B, ARTICLE 1 AND SECTION 6-3-48 OF THE CITY CODE RELATING TO TREE PROTECTION; AMENDING PROTECTED TREE PROVISIONS; AND ADDING A NEW DIVISION FOR HERITAGE TREES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. FINDINGS.

The City Council finds that:

(1) The urban forest has social, ecological, cultural, economic, historical, and aesthetic benefits for the citizens of Austin.

(2) A healthy urban forest enhances the health and welfare of the citizens of Austin.

(3) The urban forest is an asset and important part of the City's infrastructure that city policy seeks to protect.

(4) The health of the urban forest is entrusted to the City Council for the benefit of current and future citizens of Austin.

(5) The potential for development to negatively impact the urban forest, including the largest and most significant trees, requires reasonable regulations.

PART 2. Section 25-8-602 *(Definitions)* of the City Code is amended to read as follows:

§ 25-8-602 DEFINITIONS.

In this article:

(1) HERITAGE TREE means a tree that has a diameter of 24 inches or more, measured four and one-half feet above natural grade, and is one of the following species:

(a) Ash, Texas
(b) Cypress, Bald
(c) Elm, American
(d) Elm, Cedar

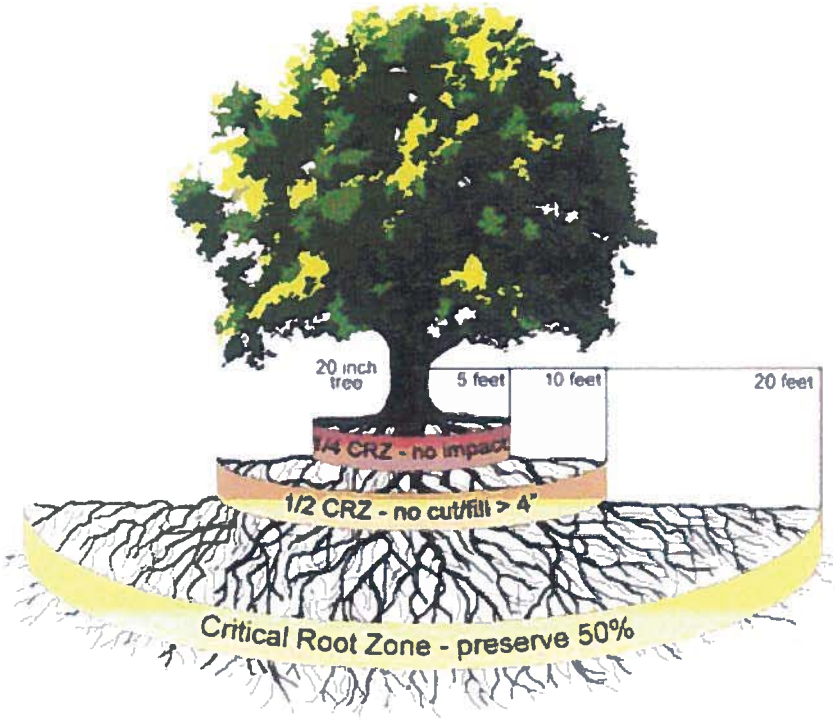
TREE AND NATURAL AREA PRESERVATION

The Critical Root Zone

City code requires that proposed developments demonstrate that trees are preserved to the maximum extent reasonable and feasible. Tree preservation is effectively defined as root system preservation; a Critical Root Zone Area (CRZ) is assigned to each tree, based on trunk diameter size. A minimum of 50% of the CRZ is required to be left undisturbed to achieve minimal conformance with the regulations.

Trees are depicted on plans with a CRZ circle centered on the tree base location (i.e. a twenty inch diameter tree is represented by a 40 foot diameter circle). The formula is: Tree diameter in inches X 2, then convert to feet = CRZ diameter. The CRZ circles are superimposed on the proposed plan improvements so that review staff can discern the extent of disturbance proposed near existing trees. Tree types and sizes are also provided. Trees which are removed are generally required to be replaced at a sliding ratio determined in part by the overall extent of tree removal proposed.

The Critical Root Zone - Development Impact Zones



back to City Arborist page

Share

(e) Madrone, Texas
(f) Maple, Bigtooth
(g) All Oaks
(h) Pecan
(i) Walnut, Arizona
(j) Walnut, Eastern Black

This list of eligible heritage tree species may be supplemented, but not reduced, as prescribed by rule.

(2)[~~(1)~~] OWNER includes a lessee.

(3)[~~(2)~~] PROTECTED TREE means a tree with a diameter [~~circumference~~]of 19 [~~60~~]inches or more, measured four and one-half feet above natural grade.

(4)[~~(3)~~] REMOVAL means an act that causes or may be reasonably expected to cause a tree to die, including:

(a) uprooting;

(b) severing the main trunk;

(c) damaging the root system; and

(d) excessive pruning.

PART 3. Section 25-8-603 *(Administration)* of the City Code is amended to read:

§ 25-8-603 ADMINISTRATION.

(A) A city arborist, appointed by the director of the Planning and Development Review Department, shall implement this article.

(B) The [~~Watershed Protection~~] Planning and Development Review Department shall adopt administrative rules for the implementation of this subchapter [~~to:~~].

(C) The rules shall:

(1) describe methods to protect trees against damage during development;

(2) identify actions that will constitute removal; [~~and~~]

(3) identify the root areas that require protection against soil compaction or the effects of impervious paving; and

(4) identify mitigation measures and methods of calculation for fiscal security to ensure performance of mitigation measures that may be required under article 1 of this subchapter.

PART 4. Section 25-8-604 *(Development Application Requirements)* of the City Code is amended by amending Subsection (C) and adding a new Subsection (D) to read:

(C) For an application for preliminary plan, final plat, building permit, or site plan approval that proposes the removal of a protected tree, the city arborist must review the application and make a recommendation before the application may be administratively approved or presented to the Land Use Commission or city council.

(D) For an application for preliminary plan, final plat, building permit, or site plan approval that proposes the removal of a heritage tree, the applicant must file a request for a variance to remove the heritage tree under Division 3 of this Article before the application may be administratively approved or presented to the Land Use Commission or City Council.

PART 5. Section 25-8-605 *(Waiver and Modification of City Requirements)* of the City Code is amended to read:

§ 25-8-605 WAIVER AND MODIFICATION OF CITY REQUIREMENTS.

(A) If enforcement of a City department policy, rule, or design standard will result in removal of a protected or heritage tree, the [~~Watershed Protection~~] Planning and Development and Review Department may request that the responsible City department waive or modify the policy, rule, or design standard to the extent necessary to save the tree.

(B) The responsible City department may waive or modify the policy, rule, or design standard after determining that a waiver or modification will not result in a serious or imminent adverse effect.

(C) The city manager shall resolve differences of opinion between the [~~Watershed Protection~~] Planning and Development Review Department and another City department under this section.

PART 6. Chapter 25-8, Subchapter B, Article 1 (*Tree and Natural Area Protection*) of the City Code is amended to add a new Section 25-8-606 to read:

§ 25-8-606 REPORTS.

The city arborist shall annually report to the Environmental Board and monthly report to the Urban Forestry Board. The report shall include, but is not limited to, impacts to protected or heritage trees, tree promotional programs, and urban forestry planning efforts.

PART 7. Chapter 25-8, Subchapter B, Article 1 (*Tree and Natural Area Protection*) of the City Code is amended to add a new Section 25-8-607 to read:

§ 25-8-607 APPLICABILITY TO CITY

The requirements of this subchapter apply to land development and other actions by the City.

PART 8. Section 25-8-621 (*Permit Required for Removal of Protected Trees; Exceptions*) of the City Code is amended to read:

§ 25-8-621 PERMIT REQUIRED FOR REMOVAL OF PROTECTED TREES; EXCEPTIONS.

(A) Except as otherwise provided in this section, a person may not remove a protected tree unless the ~~[Watershed Protection~~] Planning and Development Review Department has issued a permit for the removal under this division.

(B) A person may, without a permit, remove a damaged protected tree that is ~~[a]~~ an imminent hazard to life or property if the tree is removed within seven days of being damaged. The ~~[Watershed Protection~~] Planning and Development Review Department may extend this deadline for widespread and extensive storm damage.

(C) A person may, without a permit, remove a protected tree if the tree is identified for removal on an approved preliminary plan, final plat or site plan.

~~[(D) A person may, without a permit, remove a protected tree if the tree is identified for removal in a capital improvement project when the project is approved by council.]~~

PART 9. Subsection(C) of Section 25-8-622 (*Application for Removal*) of the City Code is amended to read:

(C) An application for removal of a protected tree must:

(1) be filed with the director of the Planning and Development Review Department; and

(2) include the information prescribed by the Administrative Manual.

PART 10. Section 25-8-624 *(Approval Criteria)* of the City Code is amended to read:

§ 25-8-624 APPROVAL CRITERIA.

(A) The [~~Watershed Protection~~] Planning and Development Review Department may [~~shall~~] approve an application to remove a protected tree only after determining that the tree:

(1) prevents reasonable access to the property;

(2) prevents a reasonable use of the property;

(3) is [~~a~~] an imminent hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree;

(4) is [~~dying or~~] dead;

(5) is diseased, and:

(a) restoration to sound condition is not practicable; or

(b) the disease may be transmitted to other trees and endanger their health; or

(6) for a tree located on public property or a public street or easement:

(a) prevents the opening of necessary vehicular traffic lanes in a street or alley; or

(b) prevents the construction of utility or drainage facilities that may not feasibly be rerouted.

(B) If an application filed by a political subdivision of the state is approved under Subsection (A) (2), the Land Use Commission may, in its discretion, review the approval.

(C) For an application to remove a protected tree located on private property, an applicant must request a variance, waiver, exemption, modification, or alternative compliance ~~from the Board of Adjustment if the variance~~ that would eliminate the reason for removal of the tree.

(1) The application to remove the protected tree may not be approved unless the request [~~variance~~] is denied.

(2) An application fee is not required for a variance, waiver, exemption, modification, or alternative compliance request required by this subsection.

(3) This subsection does not apply to an application that may be approved under Subsection (A)(3), (4), or (5).

(4) The body considering the variance, waiver, exemption, modification or alternative compliance will consider the benefit of preserving the protected tree in determining whether to grant or deny the request for a variance, waiver, exemption, modification or alternative compliance from another City Code provision.

(5) This subsection does not require an applicant to request a variance, waiver, exemption, modification, or alternative compliance if the director determines that to do so would endanger the public health and safety.

(D) The [~~Watershed Protection~~] Planning and Development Review Department shall [~~may~~] require mitigation [~~, including the planting of replacement trees,~~] as a condition of application approval. A removal permit may not be issued until the applicant satisfies the condition or posts fiscal security to ensure performance of the condition within one year.

PART 11. Section 25-8-625 *(Action on Application)* of the City Code is amended to read:

§ 25-8-625 ACTION ON APPLICATION.

(A) The [~~Watershed Protection~~] Planning and Development Review Department shall take action on [~~approve or deny~~] an application to remove a protected tree:

(1) not later than the 10th working day after the complete application is filed; or

(2) if a variance, waiver, exemption, modification, or alternative compliance request is required by Subsection 25-8-624 (C) (*Approval Criteria*), not later than the [~~55th day after the application is filed~~] 10th working day after the request is denied.

(B) [~~If a variance request is required by Subsection 25-8-624 (C) (*Approval Criteria*), the Watershed Protection and Development Review Department shall notify the applicant of the 55-day review period.~~

~~(C)~~] An application to remove a tree that is not associated with a pending subdivision, site plan, or building permit application submitted to the City is automatically granted if the [~~Watershed Protection~~] Planning and Development Review Department does not take action on [~~deny~~] the application before the expiration of the applicable deadline in Subsection (A).

PART 12. Section 25-8-626 (*Effective Date and Expiration of Approval)* of the City Code is amended to read:

§ 25-8-626 EFFECTIVE DATE AND EXPIRATION OF APPROVAL.

(A) Approval of an application to remove a protected tree is effective immediately.[~~:~~

~~(1) on the third day after it is granted; or~~

~~(2) immediately, if the application was approved under Subsection 25-8-624(A) (3),(4),or (5) (Approval Criteria).~~]

(B) An approval to remove a protected tree expires:

(1) one year after its effective date, provided that the mitigation conditions in the permit remain in effect until the conditions are met; or

(2) for a development described in Subsection 25-8-621(C) [~~or (D)~~] (*Permit Required For Removal Of Protected Trees; Exceptions)*, when the development plan expires.

PART 13. Chapter 25-8 Subchapter B, Article 1 (*Tree and Natural Area Protection*) of the City Code is amended to renumber Division 3 (*Shoreline Relocation; Lake Fill*) as Division 4 and add a new Division 3 to read:

Division 3. Heritage Trees.

§ 25-8-641 REMOVAL PROHIBITED.

(A) Removal of a heritage tree is prohibited unless the Planning and Development Review Department has issued a permit for the removal under this division.

(B) A permit to remove a heritage tree may be issued only if a variance is approved under Section 25-8-642 (*Administrative Variance*) or 25-8-643 (*Land Use Commission Variance*).

(C) The requirements in this division apply to trees on private and public property. To the extent of conflict with another section of the Code, this division applies.

(D) A person may, without a variance, remove a damaged heritage tree that is an imminent hazard to life or property if the tree is removed within seven days of being damaged. The director may extend this deadline for widespread and extensive storm damage.

§ 25-8-642 ADMINISTRATIVE VARIANCE.

(A) The director of the Planning and Development Review Department may grant a variance from Section 25-8-641 *(Removal Prohibited)* to allow removal of a heritage tree only after determining, based on the city arborist's recommendation, that the heritage tree:

(1) is dead;

(2) is an imminent hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree; or

(3) is diseased and:

(a) restoration to sound condition is not practicable; or

(b) the disease may be transmitted to other trees and endanger their health.

(B) No application fee and no mitigation are required for a variance request under subsection (A).

(C) The director of the Planning and Development Review Department may grant a variance from Section 25-8-641 *(Removal Prohibited)* to allow removal of a heritage tree that does not have at least one stem that is 30 inches in diameter or larger measured four and one-half feet above natural grade only after determining, based on the city arborist's recommendation, that the heritage tree meets the criteria in Section 25-8-624 (A) (*Approval Criteria*) and that:

(1) the applicant has applied for and been denied a variance, waiver, exemption, modification, or alternative compliance from another City

Code provision which would eliminate the need to remove the heritage tree, as required in Section 25-8-646 (*Variance Prerequisite*);and

(2) removal of the heritage tree is not based on a condition caused by the method chosen by the applicant to develop the property, unless removal of the heritage tree will result in a design that will allow for the maximum provision of ecological service, historic, and cultural value of the trees on the site.

(D) A variance granted under this section:

(1) shall be the minimum change necessary;

(2) shall require mitigation as a condition of variance approval for variances requested under Subsection (C) of this section; and

(3) may not be issued until the applicant has satisfied the mitigation conditions required under this Subsection (D) (2) or posted fiscal security adequate to ensure performance of the mitigation conditions not later than one year after issuance of the variance.

(E) The director of the Planning and Development Review Department shall prepare written findings to support the grant or denial of a variance request under Subsection (C) of this Section.

§ 25-8-643 LAND USE COMMISSION VARIANCE.

(A) The Land Use Commission may grant a variance from Section 25-8-641 *(Removal Prohibited)* to allow removal of a heritage tree that has at least one stem that is 30 inches or larger in diameter measured four and one-half feet above natural grade only after determining, based on the city arborist's recommendation, that the heritage tree meets the criteria in Section 25-8-624 (A) (*Approval Criteria*), and that:

(1) the applicant has applied for and been denied a variance, waiver, exemption, modification, or alternative compliance from another City Code provision which would eliminate the need to remove the heritage tree, as required in Section 25-8-646 (*Variance Prerequisites*); and

(2) removal of the heritage tree is not based on a condition caused by the method chosen by the applicant to develop the property, unless removal of the heritage tree will result in a design that will allow for

the maximum provision of ecological service, historic, and cultural value of the trees on the site.

(B) A variance granted under this section:

(1) shall be the minimum change necessary;

(2) shall require mitigation as a condition of variance approval; and

(3) may not be issued until the applicant has satisfied the mitigation conditions required under this Subsection (B) (2) or posted fiscal security adequate to ensure performance of the mitigation conditions not later than one year after issuance of the variance.

(C) Consideration of a variance under this section requires:

(1) review by the Environmental Board; and

(2) review by the Urban Forestry Board if the heritage tree is located on public property or a public street or easement.

§ 25-8-644 APPEAL.

(A) An applicant may appeal denial of an administrative variance under Section 25-8-642 to the Land Use Commission.

(B) An appeal under this section requires:

(1) review by the Environmental Board; and

(2) review by the Urban Forestry Board if the heritage tree is located on public property or a public street or easement.

§ 25-8-645 APPLICATION FOR VARIANCE.

(A) For a heritage tree located on public property or a public street or easement, an application requesting a variance to allow removal of the heritage tree may be filed by:

(1) a City department, public utility, or political subdivision with the authority to install utility lines or other public facilities in or above the property, street, or easement; or

(2) the owner of property adjoining the site of the tree.

(B) For a heritage tree located on private property, an application requesting a variance to allow removal of the heritage tree may be filed by:

(1) the owner of the property on which the tree is located; or

(2) the city arborist, if the tree is seriously diseased or is a safety hazard.

(C) An application requesting a variance to allow removal of a heritage tree must:

(1) be filed with the director of the Planning and Development Review Department; and

(2) include the fee prescribed by ordinance; and

(3) include the information prescribed by the Administrative Criteria Manual.

(D) The application fee is not required if the application is based solely on the criteria in Subsections 25-8-624 (A) (3), (4) or (5).

§ 25-8-646 VARIANCE PREREQUISITE.

(A) If a variance, waiver, exemption, modification, or alternative compliance from another City Code provision would eliminate the need for a variance from Section 25-8-641 *(Removal Prohibited)*, before requesting a variance to allow removal of a heritage tree on private property the applicant must:

(1) request a variance, waiver, exemption, modification or alternative compliance from the Code provisions that would eliminate the need to remove the heritage tree; and

(2) obtain a grant or denial of the variance, waiver, exemption, modification or alternative compliance that would eliminate the need to remove the heritage tree.

(B) The request for a variance to allow removal of a heritage tree may not be considered unless the variance, waiver, exemption, modification or alternative compliance from other City Code provisions is denied.

(C) The application fee for a variance from another City Code provision required under this section is waived.

(D) This section does not apply to an application for a variance to remove a heritage tree based on the criteria in Subsections 25-8-624 (A) (3), (4) or (5).

(E) The body considering the variance, waiver, exemption, modification, or alternative compliance will consider the benefit of preserving the heritage tree in determining whether to grant or deny the request for a variance, waiver, exemption, modification or alternative compliance from another City Code provision.

(F) This subsection does not require an applicant to request a variance, waiver, exemption, modification, or alternative compliance if the director determines that to do so would endanger the public health and safety.

§ 25-8-647 ACTION ON APPLICATION.

(A) The director of the Planning and Development Review Department shall take action on a variance request to allow removal of a heritage tree:

(1) not later than the 10th working day after the complete application is filed; or

(2) if a variance, waiver, exemption, modification, or alternative compliance from another City Code provision is required under Subsection 25-8-646 (*Variance Prerequisite*), not later than the 10th working day after the request is denied.

(B) If the application is based on a damaged heritage tree constituting an immediate hazard to life or property, the application shall be approved or denied within 24 hours and no application fee is required.

(C) An application to remove a tree that is not associated with a pending subdivision, site plan, or building permit application submitted to the City is automatically granted if the director does not act on the application before the expiration of the applicable deadline.

§ 25-8-648 VARIANCE EFFECTIVE DATE AND EXPIRATION.

(A) Approval of a variance request to allow removal of a heritage tree is effective immediately.

(B) A variance to allow removal of a heritage tree expires:

(1) one year after its effective date, provided that the mitigation conditions in the variance remain in effect until the conditions are met; or

(2) for an application that is associated with a pending subdivision, site plan, or building permit submitted to the City, when the development permit expires.

PART 14. Section 6-3-48 (*Review of Recommendation to Remove Protected Tree*) is amended to read:

§ 6-3-48 REVIEW OF RECOMMENDATION TO REMOVE PROTECTED OR HERITAGE TREE.

(A) Not later than the 10th business day before delivery of owner notification under Section 6-3-46 (*Notice of Abatement*), the urban forester shall submit to the city arborist a written request for review of removal of a protected or heritage tree under the jurisdiction of Subchapter B, Article 1 (*Tree and Natural Area Protection*) of Chapter 25-8 (*Environment*) of the Code.

(B) The city arborist shall respond to the urban forester with written comments not later than the 10th day after the date the request for review was submitted.

PART 15. This ordinance takes effect on February 15, 2010.

PASSED AND APPROVED

February 4, 2010 §

§

§ Lee Leffingwell

Lee Leffingwell
Mayor

APPROVED:

David Allan Smith
City Attorney

ATTEST:

Shirley A. Gentry
City Clerk

CITY OF AUSTIN
Board of Adjustment
Decision Sheet

DATE: Monday November 13, 2017 **CASE NUMBER: C15-2017-0047**

_____Brooke Bailey
_____William Burkhardt
_____Christopher Covo
_____Eric Goff
_____Melissa Hawthorne
_____Bryan King
_____Don Leighton-Burwell
_____Rahm McDaniel
_____Veronica Rivera
_____James Valadez
_____Michael Von Ohlen
_____Kelly Blume (Alternate)
_____Martha Gonzalez (Alternate)
_____Pim Mayo (Alternate)

APPLICANT: Phil Moncada

OWNER: Ryan Dumont and Hank Coleman

ADDRESS: 3602 & 3604 RIVERCREST DR

VARIANCE REQUESTED: The applicant has requested variance(s) from Section 25-2-1176 (Site Development Regulations for Docks, Marinas, and Other Lakefront Uses) (A) (1) to increase the distance a dock may extend from the shoreline from 30 feet (required/permitted) to 60 feet (requested) in order to construct a new dock in an "LA", Lake Austin zoning district.

BOARD'S DECISION: Sept 18, 2017 POSTPONED TO NOVEMBER 13, 2017 BY APPLICANT; November 13, 2017 POSTPONED TO DECEMBER 11, 2017 BY APPLICANT

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

William Burkhardt
Chairman

CITY OF AUSTIN
Board of Adjustment
Decision Sheet

DATE: Monday September 18, 2017 **CASE NUMBER: C15-2017-0047**

_____Brooke Bailey
_____William Burkhardt
_____Christopher Covo
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_____Veronica Rivera
_____James Valadez
_____Michael Von Ohlen
_____Kelly Blume (Alternate)
_____Martha Gonzalez (Alternate)
_____Pim Mayo (Alternate)

APPLICANT: Phil Moncada

OWNER: Ryan Dumont and Hank Coleman

ADDRESS: 3602 & 3604 RIVERCREST DR

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BOARD'S DECISION: Sept 18, 2017 POSTPONED TO NOVEMBER 13, 2017 BY APPLICANT

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

William Burkhardt
Chairman

N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2017-0047

LOCATION: 3602 & 3604 Rivercrest Dr.

1 " = 333 '

CITY OF AUSTIN
Development Services Department
One Texas Center | Phone: 512.978.4000
505 Barton Springs Road, Austin, Texas 78704

Board of Adjustment
General/Parking Variance Application

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

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, click here to Save the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. ***If more space is required, please complete Section 6 as needed.*** All information is required (if applicable).

For Office Use Only

Case # C15-2017-0047 ROW # 11774453 Tax # 0131901002
TCAD ✓

Section 1: Applicant Statement

Street Address: 3602, 3604 Rivercrest Drive

Subdivision Legal Description:
Rivercrest Addition Section 2

Lot(s): 61 & 62 Block(s): A

Outlot: Division:

Zoning District: LA

I/We Phil Moncada W/ Moncada Enterprises LLC on behalf of myself/ourselves as authorized agent for Ryan Dumont affirm that on Month August, Day 8, Year 2017, hereby apply for a hearing before the Board of Adjustment for consideration to (select appropriate option below):

(•) Erect ( ) Attach ( ) Complete ( ) Remodel ( ) Maintain ( ) Other:

Type of Structure: Boat Dock

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

LDC 25-2-1176 (A)(1) Approval to extend beyond 30 feet allowable by Code. The distance would be from the original shoreline.

Section 2: Variance Findings

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 supporting documents.

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.

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

Reasonable Use

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

The location of the existing dock is in a slough that is silted up and make navigating boats in and out of the slips very difficult. In addition, the body of water is not on the main body of Lake Austin.

Hardship

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

Owner tried for many years to secure assistance from Travis County Health Department and COA to address a health issue associated with this site including stagnant water, trash, associiated with development in this area.

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

Most other docks are located on the main body of the Lake and do not accumulate this amount of silt due to current and boating activity on the Lake. In addition, when the floodgates are open this increases flow downstream significantly.

Area Character
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:

Slough is not on main body of Lake and will not impose an unsightly structure on the Lake, In addition, there is a vegetation screen that hides the slough from the maoin body of the Lake. Safety should not be a problem as the area is a no wake zone and COA regulations require lighting on the dock structure.

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 in the City of Austin Land Development Code Chapter 25-6, Appendix A 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 reasonably require strict or literal interpretation and enforcement of the specific regulation because:

N/A

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:

N/A

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

N/A

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

N/A

Section 3: Applicant Certificate

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

Applicant Signature: Phil Moncada Date: 07/11/2017

Applicant Name (typed or printed): PHIL MONCADA FOR MONCADA ENTERPRISES LLC

Applicant Mailing Address: 1301 S IH 35 Ste 204

City: AUSTIN State: TEXAS Zip: 78741

Phone (will be public information): (512) 627-8815

Email (optional – will be public information): [redacted]

Section 4: Owner Certificate

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

Owner Signature: Ryan DuMont Date: 7/31/17

Owner Name (typed or printed): RYAN DUMONT

Owner Mailing Address: 3602 RIVERCREST DR

City: AUSTIN State: TX Zip: 78746

Phone (will be public information):

Email (optional – will be public information):

Section 5: Agent Information

Agent Name: Phil MONCADA

Agent Mailing Address: 1301 S. IH 35 Ste. 204

City: Austin State: TX Zip: 78741

Phone (will be public information): 512-627-8815

Email (optional – will be public information): [redacted]

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

Section 3: Applicant Certificate

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

Applicant Signature: J. Hamilton Coleman Digitally signed by J. Hamilton Coleman Date: 2017.09.07 11:40:42 -05'00' Date: 09/07/2017

Applicant Name (typed or printed): James Hamilton Coleman

Applicant Mailing Address: 3604 Rivercrest Drive

City: Austin State: TX Zip: 78746

Phone (will be public information): (512) 596-5321

Email (optional – will be public information): _____

Section 4: Owner Certificate

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

Owner Signature: J. Hamilton Coleman Digitally signed by J. Hamilton Coleman Date: 2017.09.07 11:41:55 -05'00' Date: 09/07/2017

Owner Name (typed or printed): _____

Owner Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: _____

Agent Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

CHANGES TO PLANS: PLANTING LOCATIONS, DREDGE BLOW-UP, BULKHEAD DETAIL, WALK REDUCED

Wetlands Biologist Review - Liz Johnston - 512-974-2619

This project was reviewed previously with little revision during SP-2013-0022DS and again with SP-2015-0259DS, which had no updates submitted for an entire year. At that time it was discovered that 3600, 3602 and 3604 Rivercrest constructed an unauthorized bulkhead (100ft long and up to 15ft wide) into the lake and backfilled for land capture. It is this reviewer's understanding that this unauthorized activity has not yet been legitimized or resolved. Project is still under enforcement. Several comments are the same from 2013. Heritage tree review may be required due to unpermitted bulkhead and resolution thereof. Additionally, since the existing bulkhead was not permitted, then it is this reviewer's understanding that the proposed dock would extend over 70ft from the pre-existing shoreline.

WB 1 Update 0 The ERI does not include all of the required information and/or includes inaccurate information and is therefore incomplete. Please complete the following sections and provide a revised and complete ERI pursuant to ECM 1.3.0

- Provide a Functional Assessment due to the unpermitted floodplain modification. EXISTING AND PROPOSED FAFH ATTACHED
- There is one wetland CEF located adjacent to the property at the upstream property boundary which was identified during the 2013 review which exclusively included Colocasia esculenta and Salix nigra wetland species, please revise Part 8 accordingly
- Please revise Part 9 to include wetland on map (as described above)
- Please complete Grass table in part 11
- Please check box YES for hydrophytic vegetation and include Bald Cypress (Taxodium distichum) in hydrophytic species table

Update 1: Partially complete. ERI still lacks all ERI reports required on Part 9, page 2. There were check marks on the list, but no exhibits were included in this submittal). No functional assessment was provided. ATTACHED

WB 2 Update 0 Site plan does not show where the dredged material will be located. Show destination of dredged material in a compliant location/method, and/or specify an enforceable method of removal.

Update 1: The note provided is insufficient. If the dredged material will be stored on site, show this location on the plan set with appropriate construction access and erosion/sedimentation controls. YOU OK'D THESE IN OUR MEETING

WB 3 Update 0 Provide accurate bathymetric profile information demonstrating how the 20 cubic yard dredging estimate was calculated.

Update 1: Show the dredging profile on the architectural elevation. SEE SHEET 2

WB 4 Update 0 Please demonstrate documentation that the "Existing Walk To Remain" is a legal, permitted and compliant structure in the CWQZ. This existing walk and paver area appears to be unauthorized and partially located in area that was unauthorized land capture. This reviewer cannot validate this action, and recommends either removal of the unauthorized work or applicant to proceed through the variance process.

Update 1: Comment not addressed. WALK IS REDUCED. YOU OK'D IN MTG

WB 5 Update 0 Please demonstrate documentation that the existing bulkhead is a legal, permitted and compliant structure in the CWQZ. This reviewer cannot support the location or compliance of the structure and recommends either removal of the unauthorized work or applicant to proceed through the variance process. Please note that currently, a variance to place fill in Lake Austin is not allowed per current code. The code is proposed to be updated to allow a variance for fill in the lake, but please be advised that staff will not be able to recommend support of the variance because it does not meet the findings of fact. Staff recommends that the applicant remove the

unpermitted fill and installation of a code-compliant bulkhead at the location of the previous shoreline.
Update 1: Comment not addressed.

WB 6 Update 0 It appears that existing fill between the unauthorized bulkhead and the previous shoreline resulted in approximately 2,888 square feet of land capture between 3602 and 2604 Rivercrest. This reviewer cannot validate this action, and recommends either removal of the unauthorized work or the variance process.
Update 1: Comment not addressed.

WB 7 Update 0 FYI a variance to allow the extent of the dock into the lake will be required. Extent appears to be 60ft from the current shoreline and at least 70ft from the pre-existing shoreline. Coordinate with Leanne Heldenfels to secure the necessary Board of Adjustment variance. Please note that unless the fill is permitted, staff will not accept a variance from the current shoreline, but rather the dock extension variance should be shown from the previous shoreline as existed prior to the unpermitted land capture.
Update 1: Comment not addressed.

WB 8 Update 0 Please provide confirmation that applicant has contacted the US Army Corps of Engineers for appropriate permitting. It is this reviewer's understanding that no Nationwide permit exists for the amount of unpermitted fill placed into the waters of the United States.
Update 1: Comment cleared. Letter addressed to USCoE was submitted.

Additional comments may be generated based on update response, changes to site plan and/or new information.

Planner 1 Review - Elsa Garza - 512-974-2308

THE FOLLOWING COMMENTS APPLY PRIOR TO THE RELEASE OF THE SITE DEVELOPMENT PERMIT.

P1. FYI – An appointment is required in order to receive the site development permit. The permit will be released *after* the flash drive has been submitted with the Intake Staff. Contact the Planner I listed above to set up an appointment to receive the site plan permit.

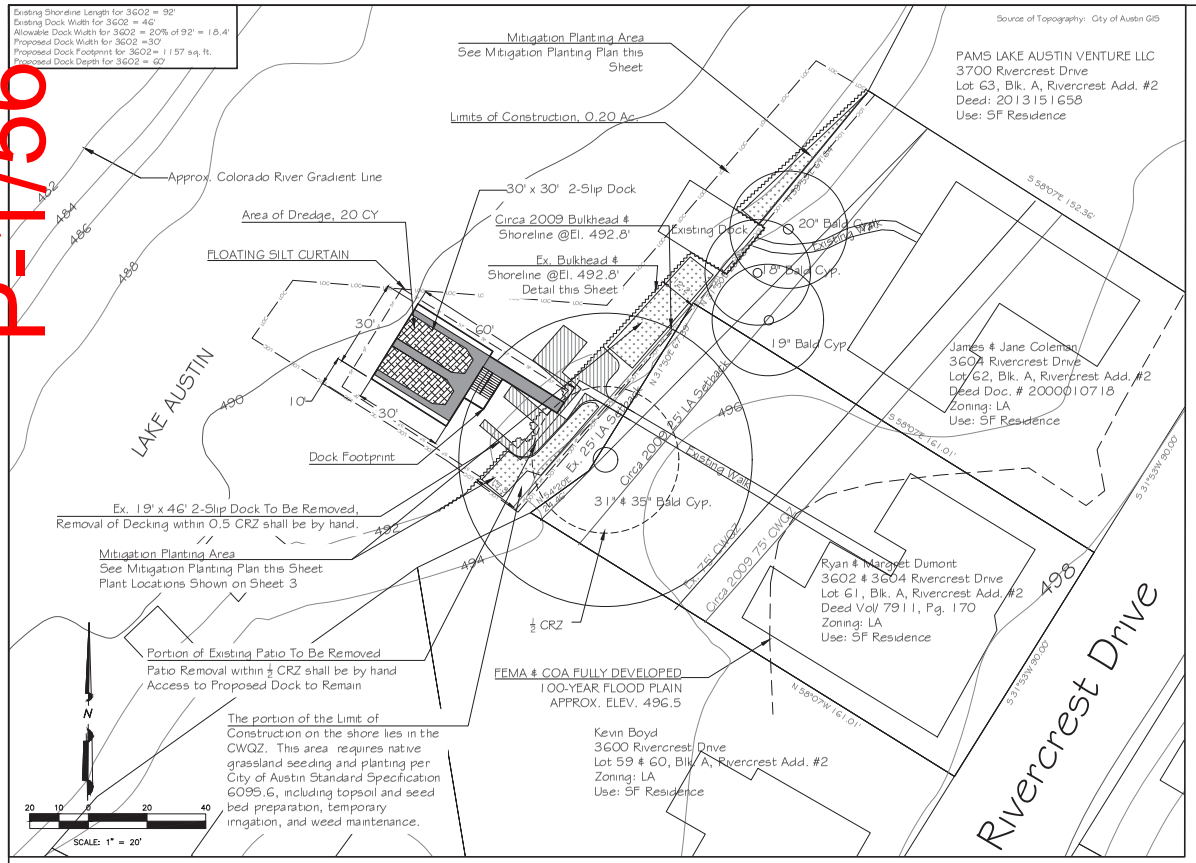
P2. FYI – FLASH DRIVE REQUIREMENT
All applications submitted for completeness check after 5/10/10 for Administrative Site Plan Revision, Consolidated Site Plan, Non-Consolidated Site Plan, CIP Streets and Drainage, Major Drainage/Regional Detention, and Subdivision Construction Plans will require the additional items listed in Exhibit VII of the application packet on a USB flash drive prior to release of permit. The flash drive must be taken directly to the Intake Department by the applicant after site plan approval. For more information, contact the Intake Staff.

End of Report

P-1/56

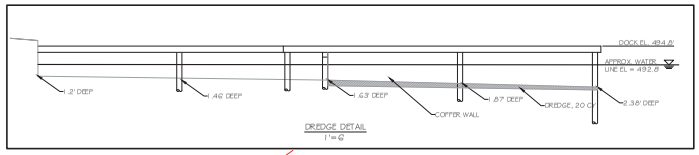
Existing Shoreline Length for 3602 = 92'
Existing Dock Width for 3602 = 46'
Allowable Dock Width for 3602 = 20% of 92' = 18.4'
Proposed Dock Width for 3602 =30'
Proposed Dock Footprint for 3602 = 1157 sq. ft.
Proposed Dock Depth for 3602 = 40'

Source of Topography: City of Austin GIS



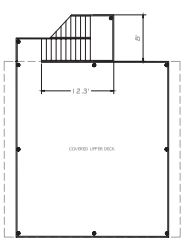
All responsibility for the adequacy of these plans remain with the engineer who prepared them. In approving these plans, the City of Austin must rely upon the adequacy of the work of the design engineer.

3602 & 3604 Rivercrest Drive

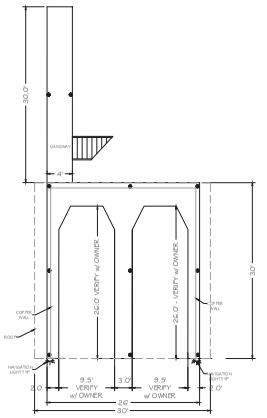


DREDGE DETAIL
1" = 5'

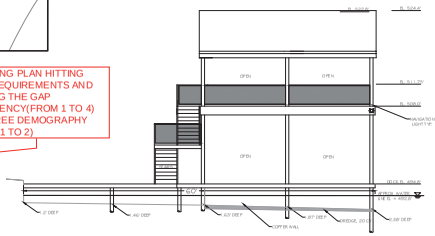
DREDGE ENLARGEMENT



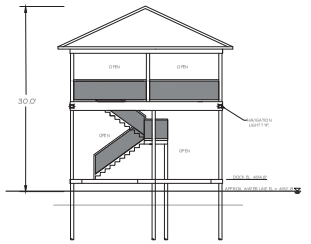
DOCK SECOND FLOOR PLAN
1" = 10'



DOCK FIRST FLOOR PLAN
1" = 10'

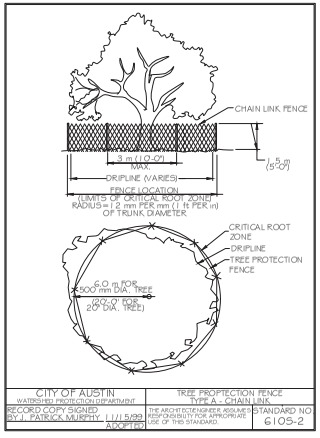


ELEVATION FROM DOWNSTREAM
1" = 10'



ELEVATION FROM LAKE
1" = 10'

PLANTING PLAN HITTING 6095 REQUIREMENTS AND RAISING THE GAP FREQUENCY(FROM 1 TO 4) AND TREE DEMOGRAPHY (FROM 1 TO 2)



CITY OF AUSTIN WATERSHED PROTECTION DEPARTMENT	TREE PROTECTION FENCE TYPE A - CHAIN LINK	
RECORD COPY SIGNED BY: J. PATRICK MURPHY 11/15/99 ADOPTED	THE ARCHITECT/ENGINEER ASSUMES RESPONSIBILITY FOR APPROPRIATE USE OF THIS STANDARD	STANDARD NO. 6105-2

NOTES:

1. A DOCK MUST BE CONTINUOUSLY LIGHTED WITH AMBER LIGHTS BETWEEN SUNSET AND SUNRISE EACH DAY.
2. A DOCK MUST HAVE AT LEAST TWO LIGHT STATIONS. THE LIGHT STATION MUST BE LOCATED ON THE END OF THE DOCK AND ON THE SIDE THAT IS FARTHEST FROM AND PARALLEL TO THE SHORELINE. THE LIGHT MUST BE VISIBLE TO A PROPERLY APPROACHING WATERCRAFT.
3. NAVIGATION LIGHTS MUST HAVE A TWO-BULB FIXTURE, WITH TWO WORKING LIGHT BULBS RATED BETWEEN 7-1/2 AND 25 WATTS INCLUSIVE. LIGHT BULBS OR BULB COVERS MUST BE AMBER, AND WHITE LIGHT MAY NOT RADIATE FROM THE FIXTURE. WEATHERPROOF LAMP HOLDERS AND JUNCTION BOXES ARE REQUIRED. EACH LIGHT FIXTURE MUST BE WIRED WITH A SWITCH OPERATED BY A PHOTOELECTRIC CELL SO THAT THE LIGHTS WILL OPERATE AUTOMATICALLY DURING THE HOURS THAT THE DOCK IS REQUIRED TO BE LIGHTED.
4. ALL WORK SHALL OCCUR WITHIN THE LIMITS OF CONSTRUCTION AS SHOWN ON THE PLAN, AND THAT NO MATERIALS OR EQUIPMENT WILL BE DELIVERED TO THE SITE FROM THE LANDWARD SIDE OF THIS PROJECT.
5. NO SHORELINE IMPROVEMENTS, EXCEPT GANGWAY & STAIR ACCESS OVER SHORELINE EDGE, ARE AUTHORIZED WITH THIS SITE PLAN. SHORELINE EDGE TO REMAIN UNDISTURBED.
6. NO TREES GREATER THAN 8" IN DIAMETER WILL BE IMPACTED BY THE PROPOSED DOCK CONSTRUCTION.
7. CONTAINERS OF HAZARDOUS MATERIALS, FUEL, OIL, HERBICIDES, INSECTICIDES, FERTILIZERS OR OTHER POLLUTANTS MAY NOT BE STORED ON DOCKS EXTENDING INTO OR ABOVE LAKE AUSTIN.
8. THE PROPOSED BOAT DOCK MUST COMPLY WITH ALL REQUIREMENTS OF LDC 25-2-1174 (STRUCTURAL REQUIREMENTS), AND MUST COMPLY WITH CHAPTER 25-12, ARTICLE 1 (UNIFORM BUILDING CODE) AND THE BUILDING CRITERIA MANUAL.
9. THE PROPOSED BOAT DOCK IS AN ACCESSORY USE TO THE PRINCIPAL SINGLE-FAMILY RESIDENCE AT 3602 & 3604 RIVERCREST DRIVE, AUSTIN TX, 78746.
10. FOR LA ZONING PERMANENT IMPROVEMENTS ARE PROHIBITED WITHIN THE SHORELINE SETBACK AREA, EXCEPT FOR RETAINING WALLS, PIERS, WHARVES, BOATHOUSES, MARINAS OR A DRIVE TO ACCESS THE STRUCTURES (LDC 25-2-551 (B)(2)).
11. DREDGING IS REQUIRED AND PART OF THIS DEVELOPMENT PERMIT.
12. BOAT DOCK WILL BE AT LEAST 66% OPEN (LDC 25-2-1176(A)(b)).
13. DREDGE MATERIAL SHALL BE DISPOSED DRY IN A LEGALLY PERMITTED LANDFILL SITE. PRIOR TO OFFSITE DISPOSAL, THE PERMITTEE SHALL PROVIDE ENVIRONMENTAL INSPECTOR WITH THE ADDRESS AND CONTACT NUMBER FOR THE DISPOSAL SITE. DISPOSAL OF DREDGE SPOIL IN THE LAKE IS SPECIFICALLY PROHIBITED.
14. NO WATER OR WASTEWATER UTILITIES ARE PROPOSED WITH THIS DEVELOPMENT.
15. PILINGS SHALL BE 6⅝" DIAMETER STEEL PIPE.

ATTENTION INSPECTOR NOTES:

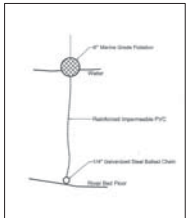
1. COMPLIANCE WITH BUILDING CODE IS REQUIRED AND IS TO BE REVIEWED FOR COMPLIANCE DURING BUILDING CODE REVIEW.
2. FOR THE BUILDING PERMIT, A SIGNED AND SEALED LETTER SHALL BE SUBMITTED TO THE CITY OF AUSTIN, PER THE LAND DEVELOPMENT CODE, 25-12-3 1612.4, CERTIFYING THAT THE STRUCTURE IS IN ACCORDANCE WITH ASCE 24, FLOOD RESISTANT DESIGN AND CONSTRUCTION.
3. ENVIRONMENTAL INSPECTOR HAS THE AUTHORITY TO ADD AND/OR MODIFY EROSION/SEDIMENTATION CONTROLS ON SITE TO KEEP PROJECT IN COMPLIANCE WITH THE CITY OF AUSTIN RULES AND REGULATIONS.

SHORELINE MITIGATION PLANTING SCHEDULE

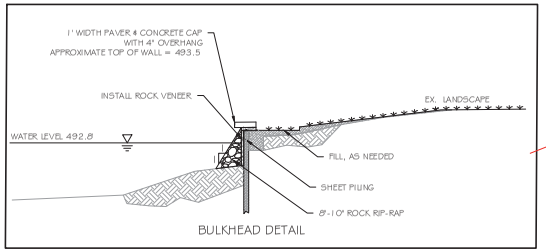
PLANT NAME	NUMBER OF PLANTS
Bald Cypress (Taxodium distichum)*	1
Mexican plum (Prunus mexicana)*	2
Coralberry (Symphoricarpos orbiculatus)	10
Barbados cherry (Malpighia glabra) ^	10
Dwarf palmetto (Sabal minor) ^	10
Native iris (Iris fulva, hexagona, or virginiana)	25
Spider lily (Hymenocallis liriosome)	25
	TOTAL = 84 PLANTS

Plant locations shown on Sheet 3
* Native tree species, raises Tree Demography rating
^ Native shrub with low water needs
Bald cypress are 4" caliper trees, Mexican plums are 2" caliper trees
All other plants are 1-gallon plants installed at 3' C-C spacing.
Alternative native and adapted species may be substituted with the same quantity of another species as approved by the PDR Environmental reviewer, ERM Wetland Biologs or ERM Landscape Architect.

Required number of plants = 80 plants (Bulkhead: 270LF/3)



FLOATING SILT CURTAIN



BULKHEAD DETAIL

BULKHEAD DETAIL

REVISION	NO.	DATE	APP'D

AUPPERLE COMPANY
Engineering, Planning & Development Services
10088 Circleview Drive , Austin, Texas 78733 512 329-8241
Texas Board Of Professional Engineers Registration Number F-1994

April 25, 2017

3602 & 3604 Rivercrest Drive
SITE PLAN, DOCK PLAN & ELEVATIONS

DESIGNED: BSA
APPROVED:
SCALE: NTS
3602 & 3604 Rivercrest Dr
DATE: November 16, 2016
SHEET 2 of 3

3602 & 3604 Rivercrest Drive - SP-2016-0261D

SP-2016-0261D

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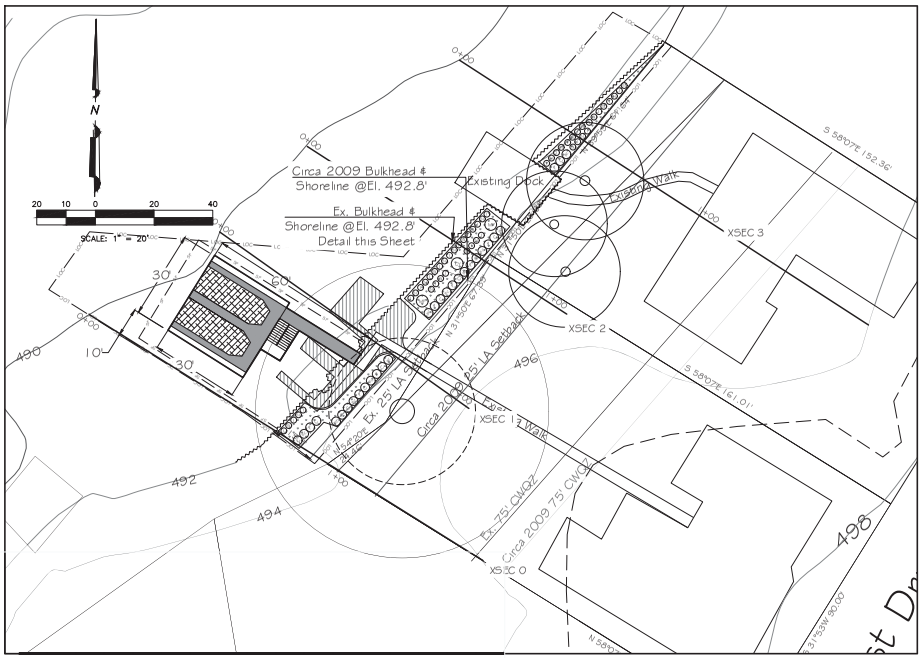
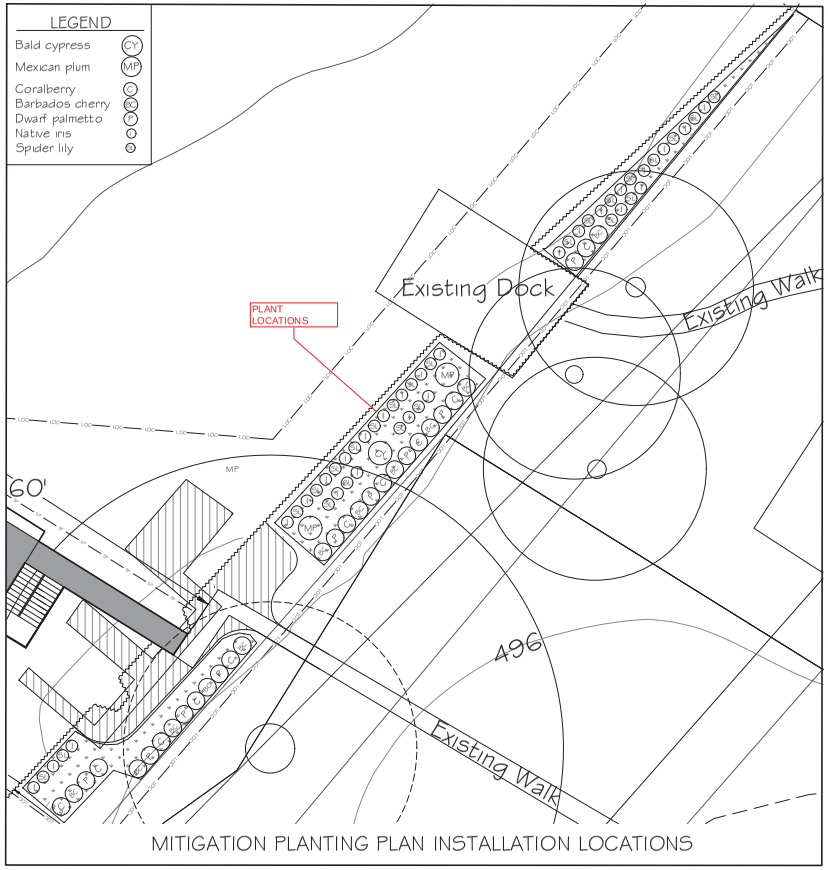
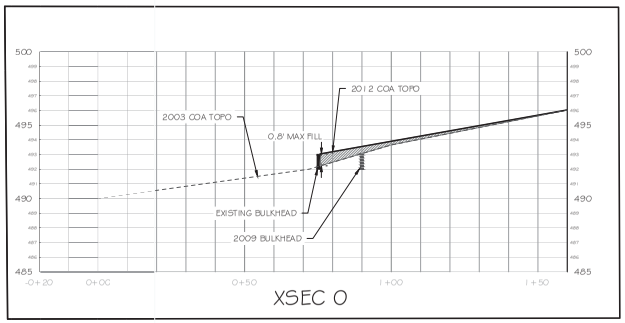
3602 & 3604 Rivercrest Drive

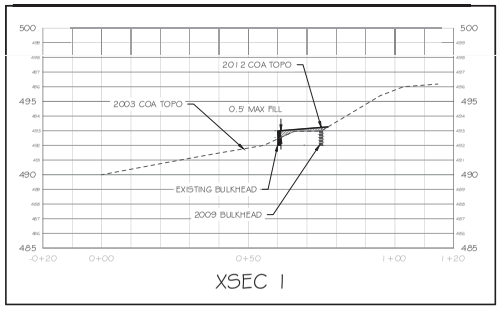


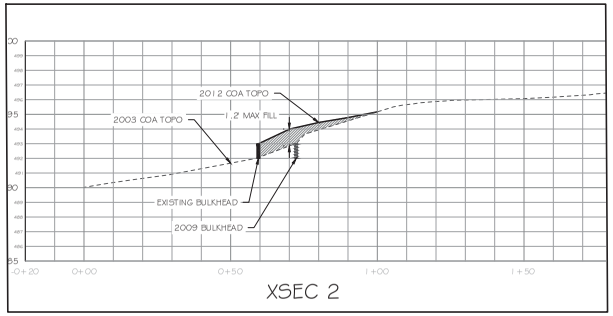


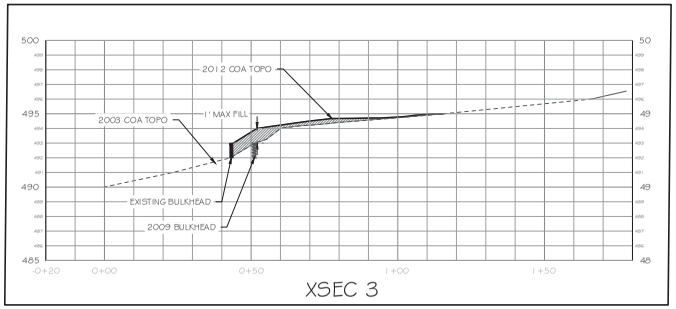
3602 & 3604 Rivercrest Drive
FILL CALCULATIONS

XSEC NO.	XSEC STA	FILL (SF)	AVG FILL (SF)	DISTANCE (FT)	VOLUME FILL (CY)
0	0	29.2			
			11.9	44.0	19.3
1	44	3.5			
			13.4	44.0	21.8
2	88	23.2			
			22.6	52.0	43.5
3	140	22.0			
			11.0	44.0	17.9
END BH	184	0.0			
				184.0	102.5









AUPPERLE COMPANY
Engineering, Planning & Development Services
10088 Circleview Drive , Austin, Texas 78733 512 329-8241
Texas Board Of Professional Engineers Registration Number F-1994

3602 & 3604 Rivercrest Drive
CUT/FILL XSECS
& CALCULATIONS

DESIGNED: BSA
APPROVED:
SCALE: NTS
3602 & 3604 Rivercrest Dr
DATE: November 16, 2016
SHEET 3 of 2

3

SP-2016-0261D

P-1/58

EXISTING CONDITIONS

FUNCTIONAL ASSESSMENT OF FLOODPLAIN HEALTH

Scoring: Zone 4 – Lake Shoreline

Site/Project Name: 3602 Rivercrest Date: 11-15-16 Time: _____

Total Length of Shoreline Frontage (in feet): 240 ft. Staff (if applicable): _____

Parameter	Excellent (4)	Good (3)	Fair (2)	Poor (1)	Score
Gap Frequency *A visual assessment of the number of gaps in vegetation.*	0 - 20% of area has visual gaps in vegetation	20% - 40% of area has visual gaps in vegetation	40 - 60% of area has visual gaps in vegetation	> 60% of area has visual gaps in vegetation	1
Structural Diversity *An evaluation of the canopy and understory vegetation.*	> 65% canopy; or > 50% canopy and > 50% understory	51 - 65% canopy; or 0 - 50% canopy and > 40% understory	31 - 50% canopy; or 0 - 30% canopy and > 30% understory	0 - 30% canopy; or 0 - 15% canopy and 0 - 30% understory	4
Tree Demography *An assessment of the age class distribution of all canopy tree species.*	Canopy tree species are present in all 4 age classes	Canopy tree species are present in 3 of 4 age classes	Canopy tree species are present in 2 of 4 age classes	Canopy tree species are present in only 1 age class or no trees	1

Zone 4 Score: 6

Assessed Condition (Circle One) **Excellent: 11 - 12** **Good: 8 - 10** **Fair: 5 - 7** **Poor: 3 - 4**

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PROPOSED CONDITIONS

FUNCTIONAL ASSESSMENT OF FLOODPLAIN HEALTH

Scoring: Zone 4 – Lake Shoreline

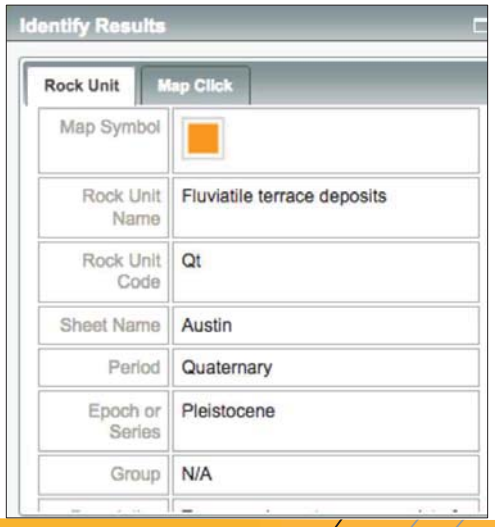
Site/Project Name: 3602 Rivercrest Date: 11-15-16 Time: _____

Total Length of Shoreline Frontage (in feet): 240 ft. Staff (if applicable): _____

Parameter	Excellent (4)	Good (3)	Fair (2)	Poor (1)	Score
Gap Frequency *A visual assessment of the number of gaps in vegetation.*	0 - 20% of area has visual gaps in vegetation	20% - 40% of area has visual gaps in vegetation	40 - 60% of area has visual gaps in vegetation	> 60% of area has visual gaps in vegetation	4
Structural Diversity *An evaluation of the canopy and understory vegetation.*	> 65% canopy; or > 50% canopy and > 50% understory	51 - 65% canopy; or 0 - 50% canopy and > 40% understory	31 - 50% canopy; or 0 - 30% canopy and > 30% understory	0 - 30% canopy; or 0 - 15% canopy and 0 - 30% understory	4
Tree Demography *An assessment of the age class distribution of all canopy tree species.*	Canopy tree species are present in all 4 age classes	Canopy tree species are present in 3 of 4 age classes	Canopy tree species are present in 2 of 4 age classes	Canopy tree species are present in only 1 age class or no trees	2

Zone 4 Score: 10

Assessed Condition (Circle One) **Excellent: 11 - 12** **Good: 8 - 10** **Fair: 5 - 7** **Poor: 3 - 4**



3602 Rivercrest Drive
ATTACHMENT 1

AUPPERLE COMPANY
Engineering, Planning & Development Services
10088 Circleview Drive , Austin, Texas 78733 512 329-8241
Texas Board Of Professional Engineers Registration Number F-1994

N

NTS

Source:
https://txpub.usgs.gov/DSS/texasgeology/

Wetland composed of Colocasia esculenta and Salix nigra on adjacent property

PAMS LAKE AUSTIN VENTURE LLC
3700 Rivercrest Drive
Lot 63, Blk. A, Rivercrest Add. #2
Deed: 2013151658
Use: SF Residence

James & Jane Coleman
3604 Rivercrest Drive
Lot 62, Blk. A, Rivercrest Add. #2
Deed Doc. # 20000107 18
Zoning: LA
Use: SF Residence

496

494

75' CWQZ

Ryan & Margret Dumont
3602 & 3604 Rivercrest Drive
Lot 61, Blk. A, Rivercrest Add. #2
Deed Vol/ 7911, Pg. 170
Zoning: LA
Use: SF Residence

498

FEMA & COA FULLY DEVELOPED
100-YEAR FLOOD PLAIN
APPROX. ELEV. 496.5

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

Rivercrest Drive

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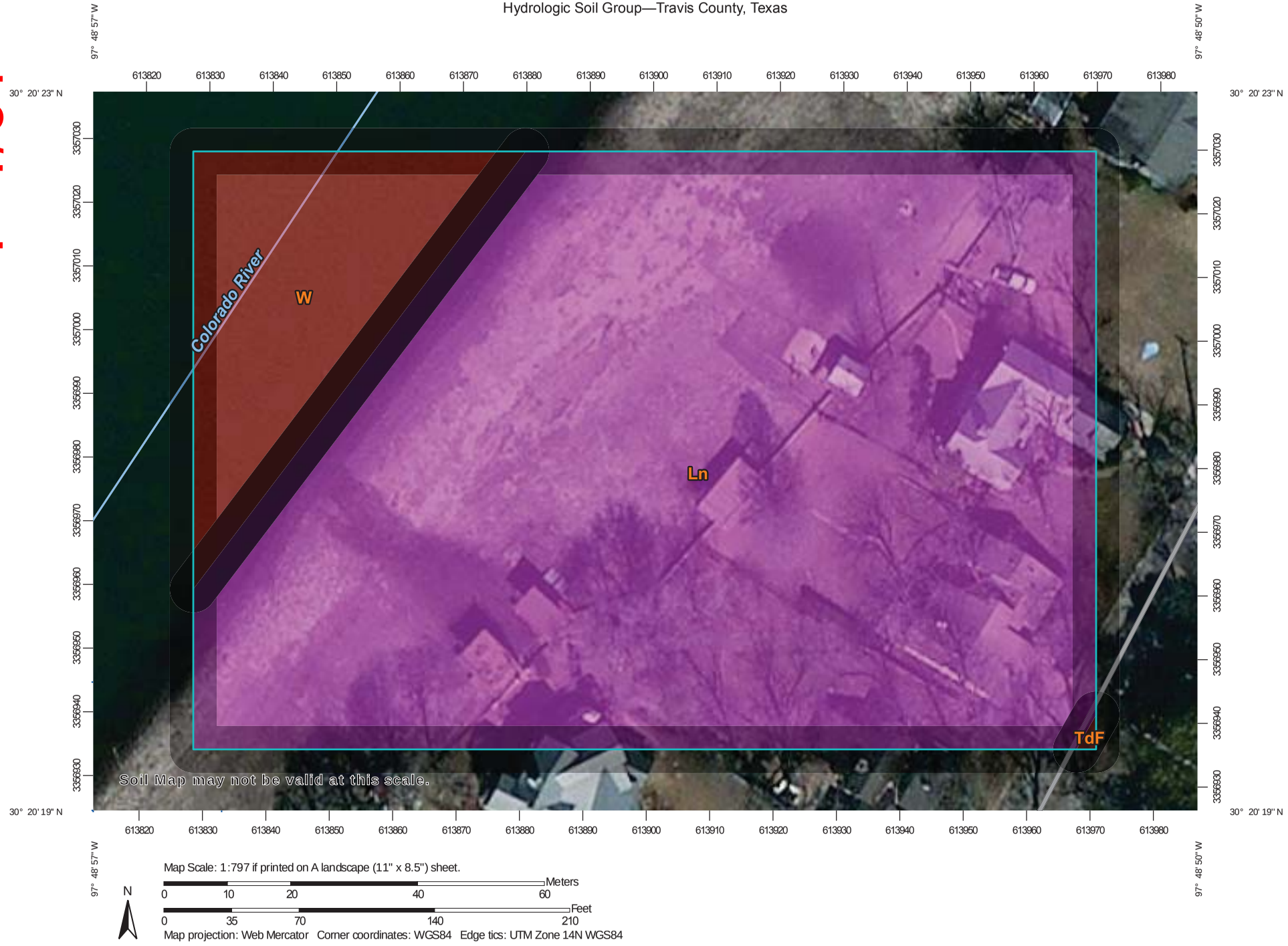
Hydrologic Soil Group—Travis County, Texas



Map Scale: 1:797 if printed on A landscape (11" x 8.5") sheet.

N

Meters
0 10 20 40 60

Feet
0 35 70 140 210

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 14N WGS84

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Hydrologic Soil Group

Hydrologic Soil Group— Summary by Map Unit — Travis County, Texas (TX453)				
Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
Ln	Gaddy loamy fine sand, 0 to 1 percent slopes, frequently flooded	A	2.9	86.5%
TdF	Tarrant-Rock outcrop complex, 18 to 50 percent slopes	D	0.0	0.1%
W	Water	D	0.4	13.5%
Totals for Area of Interest			**3.3**	**100.0%**

Description

Hydrologic soil groups are based on estimates of runoff potential. Soils are assigned to one of four groups according to the rate of water infiltration when the soils are not protected by vegetation, are thoroughly wet, and receive precipitation from long-duration storms.

The soils in the United States are assigned to four groups (A, B, C, and D) and three dual classes (A/D, B/D, and C/D). The groups are defined as follows:

Group A. Soils having a high infiltration rate (low runoff potential) when thoroughly wet. These consist mainly of deep, well drained to excessively drained sands or gravelly sands. These soils have a high rate of water transmission.

Group B. Soils having a moderate infiltration rate when thoroughly wet. These consist chiefly of moderately deep or deep, moderately well drained or well drained soils that have moderately fine texture to moderately coarse texture. These soils have a moderate rate of water transmission.

Group C. Soils having a slow infiltration rate when thoroughly wet. These consist chiefly of soils having a layer that impedes the downward movement of water or soils of moderately fine texture or fine texture. These soils have a slow rate of water transmission.

Group D. Soils having a very slow infiltration rate (high runoff potential) when thoroughly wet. These consist chiefly of clays that have a high shrink-swell potential, soils that have a high water table, soils that have a claypan or clay layer at or near the surface, and soils that are shallow over nearly impervious material. These soils have a very slow rate of water transmission.

If a soil is assigned to a dual hydrologic group (A/D, B/D, or C/D), the first letter is for drained areas and the second is for undrained areas. Only the soils that in their natural condition are in group D are assigned to dual classes.

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Aerial Photo from 2006

Aerial Photo from 2011

Aerial Photo from 2017

M E M O R A N D U M

TO: Chair William Burkhardt and Members of the Board of Adjustment

FROM: Liz Johnston, Environmental Program Coordinator
Watershed Protection Department

DATE: 09/05/2017

SUBJECT: **Case C15-2017-0047; 3602 and 3604 Rivercrest Dr.**

This memo is intended to provide relevant information related to a case before the Board requesting a variance to extend a dock greater than 30' into Lake Austin. Three adjoining properties along Rivercrest Dr, including 3602 and 3604 Rivercrest, are under an environmental code violation related to unpermitted land capture that occurred in 2009 when a new bulkhead was constructed up to approximately 15' from the previous shoreline. Previously inundated waters were backfilled and converted to yard area. When the work occurred, a site plan for a new bulkhead would have been required with approval of the Parks Board for the shoreline modification and environmental variances for construction not allowed within a Critical Water Quality Zone. However, no permits were secured for the work. See enclosed aerial imagery for reference.

The applicants have submitted a site plan application to construct a new dock at 3602 Rivercrest to replace their old dock and to permit the illegal fill area on both 3602 and 3604 Rivercrest. The applicant has requested that the Board allow them to extend the new dock 60' from the current shoreline, or approximately 74' from the previous shoreline's location, due to shallow water. Considering the environmental impacts associated with the land capture and the potential navigation hazard that would be associated with a dock extending so far into the lake, WPD is not in support of the request.

Environmental review staff from Development Services Department, as well as staff from the Watershed Protection Department, including the Environmental Officer, will similarly not support the environmental variance required to allow the unpermitted fill in the lake to remain in place because the Findings of Fact have not been met. Instead, environmental staff from both departments recommend that the applicants remove the illegal bulkhead and fill, construct a new code-compliant bulkhead at the previous shoreline's location, and restore the lake back to its previous condition. The land that was captured is not within the subdivided lot and the rights to enjoy Lake Austin waters belong to the public, not private individuals.

Environmental concerns related to the removal of the fill and bulkhead can be mitigated by construction phasing that leaves the unpermitted bulkhead in place during the excavation and removal of the unpermitted fill and the construction of the a bulkhead, so that the upland area is stable while the unpermitted bulkhead is removed.

Attachments

CC: **Chuck Lesniak, Environmental Officer, Watershed Protection Department**
Beth Robinson, P.E., Managing Engineer, Land Use Review, Development Services Department
Donna Galati, Program Manager III, Land Use Review, Development Services Department

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2003 aerial (image taken during lake drawdown)

P-1/68

2009 aerial

P-1/69

2015 aerial

October 24, 2017
Hank Coleman
3604 Rivercrest Drive
Austin, TX 78746

Phil Moncada
President
Moncada Enterprises LLC
1301 S. I-H 35 Suite # 204
Austin, Texas 78741

Dear Phil:

I am writing to confirm that I am attempting to find the letters I wrote to both the City of Austin Health Department and to the Building Department about the issues with the City's maintenance of its property at my home.

I am sure that some of the AASCI files recovered from my HDD will provide me a copy of the letters, complete with dates and to whom I addressed them, but at this point, I'm digging through files which were recaptured from a HDD which is over 14 years old.

That said, I'm writing to give you the series of events and provide photos of the material which was dredged from in front of my property (which can be confirmed by the dredging permit issued to Signor Enterprises for work commencing in January 2001 – which I assume can be found in the City's files). This material was built up through years of a circular motion of the water flow and mechanics was over 3 feet in depth. Before we reached the actual "river" materials, and since I owned the lot next door, we proceeded to extract over 100 eighteen yard truckloads of this material. In fact the new construction of the house next door is actually out of the flood plain due to the amount of organic materials removed from the lakefront.

Unfortunately, this was a relatively short term solution. Due to what we now know was an illegal peninsula created by a previous owner 3 properties down the street, the aqua mechanics (as provided in prior correspondence) create an eddy which remained in place despite the dredging and the remediation of the lakefront.

As per the same correspondence, I began to understand that no matter what we did on the removal front, the materials brought in through the wave action of the deep hull boats had no way to exit down the lake and move as one would expect with the normal west to east flow which occurs naturally as the river moves from Mansfield Dam to Tom Miller dam.

So, with the knowledge that these rancid and foul smelling materials would build up, we waited.

As discussed the materials grew so large that they grew out of the lake and began to collect debris and trash as one would expect.

My wife finally decided to call the City and ask them to come out to take care of the issue and since it appeared to be a health issue, she called the Health Department.

The outcome of that visit is what prompted the solution.

Upon visiting the lakefront, the city inspector noticed the foul smell and the collection of debris gathering in the lake. His first comment was “that’s the lake.” To which my wife replied, “Yes and that belongs to you so we want you to remedy it.” Looking baffled he said that the Health Department was not prepared to do anything about it and that “you should take care of the problem.”

So, I sent the Hydrologist the response and asked what could be done to remedy the issue. Once getting what appeared to be a reasonable solution, I wrote letters to both the Health Department and the Building Department and reported that we would “take care of the problem” and was informing them.

His solution, which we have in place, in some fashion, for over 11 years was to build a wall which angled from the property 2 doors down, ended at the point of our current house and flattened out on our adjoining property. This solution is still in place.

As I pointed out, if this was a “land grab” then the person who paid for this (other than $1500 Mr. Dumont contributed), I paid for the entire wall and construction of it and, by rights, should have received the most property, correct? Would that not be logical?

In fact, it’s quite the opposite and the largest incursion into the lake (which I now understand was required given the illegal peninsula found down the lake) is not on my property at all but the property two doors down. This was required since there needed to be an “angle” of exit created to move the organic materials. In fact the eastern border of my property sits slightly “inside” of the property line at the water’s edge.

The first iteration of this solution was nothing but a plywood wall construct to make sure we were accomplishing what the hydrologist told us would be the desired effect. Only after the continuous observation of this and the massive flooding of 2007, did we see that this solution was, in fact, an effective one. At that point, we began to face the wall with seawall materials to mitigate the wave action created by the deep hull boats, but the original wall has remained to this date.

This mitigation technique has caused no harm to anyone and remediated a problem created far before our ownership of this property which, in January, will be eighteen years.

Again, thanks for all your help with this.

Sincerely,

October 24, 2017
Hank Coleman
Title