

CITY OF AUSTIN
Board of Adjustment
Decision Sheet
F-5

DATE: Monday March 14, 2022

CASE NUMBER: C15-2022-0011

____ Thomas Ates
 ____ Brooke Bailey
 ____ Jessica Cohen
 ____ Melissa Hawthorne
 ____ Barbara McArthur
 ____ Rahm McDaniel
 ____ Darryl Pruett
 ____ Agustina Rodriguez
 ____ Richard Smith
 ____ Michael Von Ohlen
 ____ Nicholl Wade
 ____ Kelly Blume (Alternate)
 ____ Carrie Waller (Alternate)
 ____ Marcel Gutierrez-Garza (Alternate)

APPLICANT: Jonathan Kaplan

OWNER: David Scott Kosch

ADDRESS: 2715 LONG BOW TRL

VARIANCE REQUESTED: The applicant is requesting variance(s) from the Land Development Code, Section 25-2-551 (Lake Austin District Regulations) (C) (3)

- (a) increase the maximum impervious cover on a slope with a gradient of 15 percent or less from 35 percent (allowed) to 40 percent (requested)
- (b) increase the maximum impervious cover on a slope with a gradient of 15 percent and not more than 25 percent from 10 percent (allowed) to 40 percent (requested)
- (c) increase the maximum impervious cover on a slope with a gradient of more than 25 percent and not more than 35 percent from 5 percent (allowed) to 40 percent (requested)
- (d) increase the maximum impervious cover on a slope gradient greater than 35 percent to 40 percent (requested), in order to complete a Single-Family residence in a "LA", Lake Austin zoning district.

Note: This section of the Land Development Code applies to lots that are included in a subdivision plat recorded before April 22, 1982 or a tract that is not required to be platted. For the above address the Subdivision Plat was recorded on November 17, 1969

(E) This subsection specifies additional development standards based on slope gradient in a Lake Austin (LA) district. (2) On a slope with a gradient of more than 35 percent, development is prohibited except for the construction of a fence, driveway, road or utility that cannot be

reasonably placed elsewhere, or a non-mechanized pedestrian facility, such as a foot path, sidewalk, or stairs.

BOARD'S DECISION: The public hearing was closed by Madam Chair Jessica Cohen, Board Member Michael Von Ohlen motions to postpone to March 14, 2022; Board Member Melissa Hawthorne seconds on a 11-0 vote; POSTPONED TO MARCH 14, 2022; March 14, 2022 POSTPONED TO APRIL 11, 2022 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:


Elaine Ramirez
Executive Liaison

Diana Ramirez for

Jessica Cohen
Madam Chair



Thursday, March 24, 2022

To: Board of Adjustments
City of Austin
301 W 2nd St,
Austin, TX 78701

Reference: - Supplemental Letter - 2715 Long Bow Trail - Case # C15-2022-0011

I am writing to provide you the additional information as requested from the Board of Adjustments from our meeting on February 14, 2022. I have attached a copy of the supporting documents for the comments below and answers the questions and concerns you had during the hearing.

Zoning Regulations: The primary basis of our request is that the property has been illegally zoned for both LA (Lake Austin) zoning and the Lake Austin overlay as both regulations require a min. of 1 acre lot size per the City of Austin development regulations as shown below. The illegal application of the LA regulations on this lot makes it non-developable for reasonable use. The LA regulations are also shown as the strictest zoning regulations as specified in 25-2-33 (b).

1. Per 25-2-492 site development regulations the LA zoned lot must be a minimum of 43,560 SF in size (1 acre), and the lot in question is only 8,822.11 sf (.20 acres). In addition, all LA zones lots are governed by 25-2-551 (C)-3 Impervious coverage restrictions based on a slope analysis of the property.
2. Per 25-2-53 of the Land Development Code - Lake Austin residence (LA) district is the designation for a low density single-family residential use on a lot that is a minimum of one acre and that is located 1,000 feet or less, measured horizontally, from the 492.8-foot topographic contour line on either side of Lake Austin.
3. The City of Austin zoning guide published September of 2016 in chapter II states the following.
 - a. The City of Austin has established twelve Zoning Principles as a guide to preserve the compatibility of land uses. City Staff, stakeholders and property owners should use the following principles to evaluate all zoning requests.
 - i. Zoning should be consistent with the Future Land Use Map (FLUM) or adopted neighborhood plan.
 1. This item is not applicable to our case
 - ii. Zoning should satisfy a public need and not constitute a grant of special privilege to an individual owner; the request should not result in spot zoning.
 1. Within Apache Shores POA there is less than 5% of the overall community that has any form of zoning regulation. The current overlay unreasonably restricts the lots development capabilities.
 - iii. Granting a request for zoning should result in an equal treatment of similarly situated properties.
 1. Within Apache Shores POA there is less than 5% of the overall community that has any form of zoning regulation. The current overlay unreasonably restricts the lots development capabilities.
 2. Lots as close as 100' away have no zoning regulations
 - iv. Granting the zoning should not in any way set an undesirable precedent for other properties in the neighborhood or within other areas of the city.
 1. This is a lot specific request on a non-conforming lot and should not result in any negative precedent.
 - v. Zoning should allow for a reasonable use of the property.
 1. The current zoning does not allow for any reasonable use of the property.
 - vi. Zoning changes should promote compatibility with adjacent and nearby uses and should not result in detrimental impacts to the neighborhood character.
 1. The request that we are asking for does not put the development capabilities of these properties above or beyond the adjacent properties.
 - vii. Zoning should promote a transition between adjacent and nearby zoning districts, land uses, and development intensities.

- I. The request does not change the land use or density of the area.
 - viii. Zoning should promote the policy of locating retail and more intensive zoning near the intersections of arterial roadways or at the intersections of arterials and major collectors.
 - I. This section is not applicable to our request.
 - ix. The request should serve to protect and preserve places and areas of historical and cultural significance. • Zoning should promote clearly identified community goals such as creating employment opportunities or providing for affordable housing.
 - I. The request for Impervious Coverage is being done to be able to develop single family homes that are desperately needed in the greater Austin area.
 - x. A change in conditions has occurred within the area indicating that there is a basis for changing the originally established zoning and/or development restrictions for the property.
 - I. Prior to 2014 this property did not have any zoning regulations. This zoning overlay was added to the property making the lots non-developable.
 - xi. The rezoning should be consistent with the policies adopted by the City Council or Planning Commission/Zoning and Platting Commission.
 - I. The City of Austin has been diligent in allowing for additional development of living units as it is necessary for not only future growth but also the people that are currently here.
4. With the information provided above it is easy to see that the zoning regulations that are being placed on this property are being illegally applied. If the City of Austin development code is the regulation that all construction and development within the city is governed by the continued application of this zoning would be removed as it does not meet the minimum standard.

Apache Shores HOA Regulations: The following regulations are required by the deed restrictions within the community. These regulations were adopted on November 19th 1969 and recorded with Travis County document # 23-2467

- I. Paragraph #3 states that no residence shall have less than 650 sf of living space on the ground or first floor exclusive of porch area.

Neighboring Properties: It has come into question about the size of the proposed homes in comparison to the adjacent homes. We have gone through the Travis County property records and have identified the following.

- 1. Based on the map attached to this report there are 9 houses within a 1,000-foot radius of this lot that are within the size range or the proposed projects. If you take the average size of all the houses shown on the map you will get an average size of 2,443 SF.
- 2. On this map you will also see that there are 11 vacant lots on the same road (Long Bow Trail) that will be developed and these lots are not within the COA LA zoning regulations so they will most likely be constructed the same size or larger of our proposed structure.

Opposition: When doing the research on the properties and the surrounding area we compared it to the information provided by Craig Lesley of 2710 Long Bow Trail and Karl Van Nostrand of 2706 Long Bow Trail we identified some false and misleading information that they provided as described below. I want to point out that I don't oppose legitimate opposition but when the opposing party's provide false and misleading information it is now fair as we are Heald under Oath and it appears that they are now.

- 3. When doing this map, I have identified that the house owned by Craig Lesley who opposed this project and stated in his testimony the following.
 - a. "The size of the houses planned in the variance we are seeking seem excessive to him and more modest footprint is better for the environment, better for the natural aesthetics and for the community as a whole"
 - b. "no other houses the size that we are talking about putting there around there" you can see by the map that I provided this is a false statement and even his own house is the size we are requesting.
 - i. **Response:** In fact, his own home that is directly across the street is 2,408 SF based on TCAD and 2,461 sf based on the building permit application he provided at the time of construction.
 - c. "My wife and I built years ago under the same requirements"
 - i. **Response:** Although his plans do show net site area calculations his permit was approved on 2-5-2014 but the COA LA ordinance was not approved until June 26, 2014 so I am not sure why

they designed in that manner.

d. “that’s why they had to build further up because there are a lot of nice oak trees”

- i. **Response:** The reason that the houses are being put up on the hill is to leave room in the best location for the septic field on the lower portion of the property.

Response to BOA members: During the hearing there were several very legitimate concerns raised by the board members and I have noted the questions and answers below.

1. **Creative Design:** The design of the structure is utilizing 3 story vertical design and that is the tallest that residential construction allows. The location of the house was determined by the location of the protected size tree’s on the property and the best operating location of the septic system.
2. **Septic System:** Since the last meeting we had the septic permit for the property has already been approved by Austin Water for the septic’s for both houses. The location of the septic systems is located at the front of the property to allow for the best percolation rate and long term functionality of the system.
3. **Use of Piers:** The use of piers for a foundation system does not change the impervious coverage calculations with the City of Austin. This is a method to reduce the impervious coverage calculations on projects in the past and the development department has rejected it every time.
4. **Cut in steep part of lot:** The question was raised as to why the houses were placed into the steepest part of the properties. This was done as that is the portion of the lot that has the lowest percolation rate so the added impervious coverage will have the smallest impact in those locations.
5. **Protected Tree’s:** There were several questions about the trees and the health of them in their current state. Due to this question, I had a certified Arborist do a Tree Risk Report for all the protected sized tree’s on the property. I have attached those reports to this report for your review. The main item is the heritage tree on the front of the right lot (2715) and that tree is unfortunately not in the greatest condition due to its age and according to the COA regulations for tree’s it is eligible for removal since more than 50% of the tree needs to be removed but we have no plans on removing it and are trying to save it. You can also see that we are not encroaching in the $\frac{1}{4}$ CRZ of any tree’s and will utilize a low impact foundation design commonly accepted when having to develop within the $\frac{1}{2}$ CRZ.
6. **Drinking Water Protection:** The protection of the drinking water was a concern among the BOA. I have spoken with two different Civil Engineers and they both agree that they can do a site design that will be able to capture any runoff and additional water flows created by the proposed development. This item can be a condition of approval for the development permit and the engineer can provide the calculation numbers to prove their design much like they do on any commercial project.
7. **House Design:** I provided an updated site plan for both properties showing the site layout and the actual impervious coverage needed to be able to build the house.

Conclusion: As you can see based on the information provided in this report and the prior documentation that was provided there should be no reason that these lots are not allowed to be developed allowing the construction of the proposed houses that conform to the community sizes while being able to provide proof that there is no adverse impact on Lake Austin due to engineered site design.

Regards,



Jonathan Kaplan
Managing Member

Urban Building Services of Texas LLC
512-768-2789 ext. 501



The drawings, specifications, ideas, designs, and arrangements presented herein are and shall remain the property of Urban Designs. No part thereof shall be copied, disclosed to others or used in connection with any work or project other than the specific project for which they were prepared and developed without the written consent of Urban Designs. Visual contact with these drawings shall constitute conclusive evidence of acceptance of these restrictions.

PROJECT INFORMATION

Site Analysis

Art Village Development

2715 + 2717 Long Bow Trail, Austin

CONSTRUCTION DOCUMENTS

DRAWING TITLE:
Unnamed

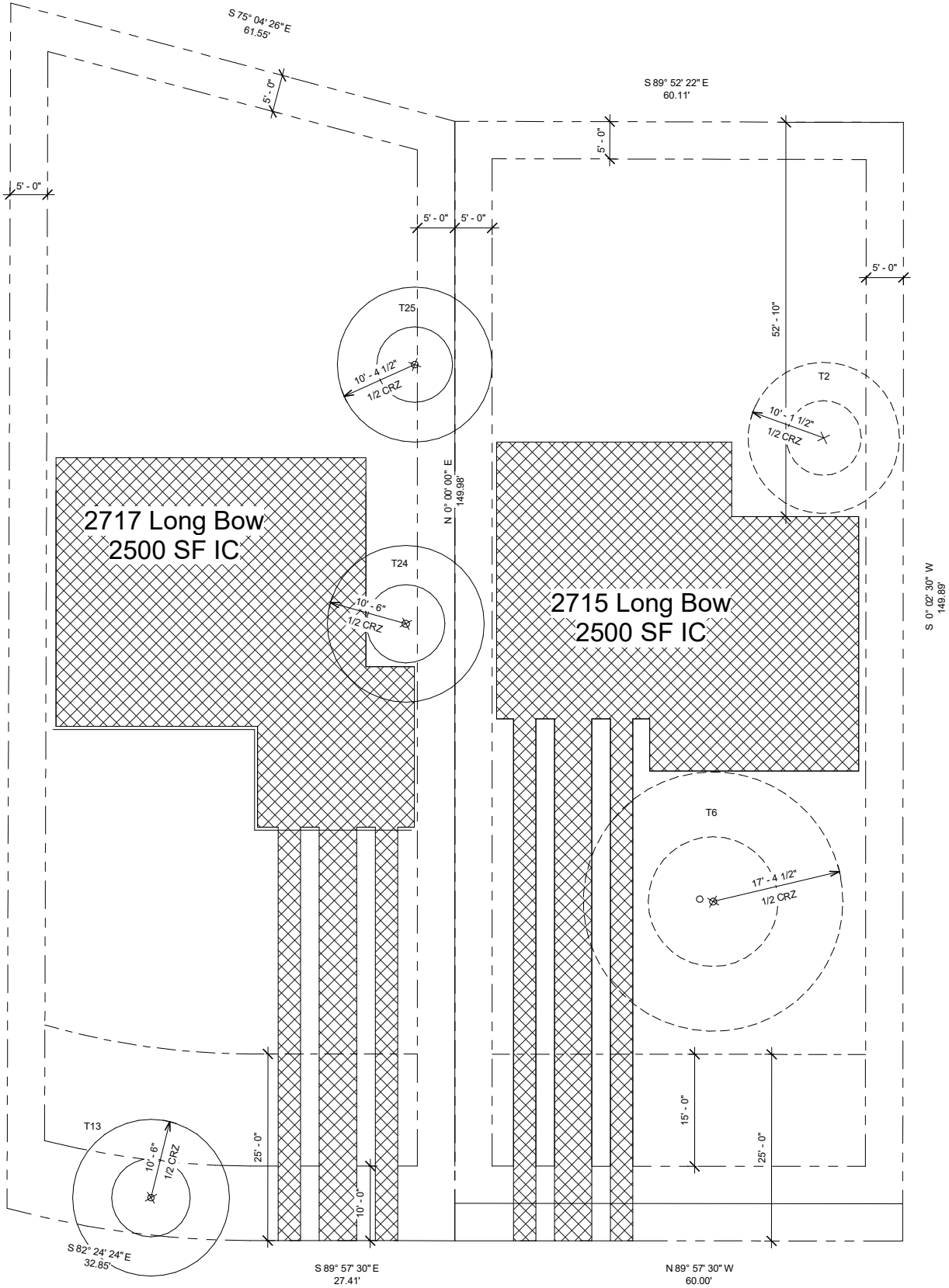
22' X 34' SCALE:
1" = 10'-0"

11' X 17' SCALE:
HALF SCALE

ISSUES DATE:
3/24/2022 6:34:42 PM

DRAWN BY:
Author

SHEET NUMBER:



1 Site

1" = 10'-0"

| 2717 - Slope Analysis - Net Site Area | |
|---------------------------------------|----------------|
| Material: Range | Material: Area |
| 0.00% to 15.00% | 748 SF |
| 15.00% to 25.00% | 2,333 SF |
| 25.00% to 35.00% | 1,705 SF |
| 35.00% to 4,459.59% | 5,255 SF |

x 35% = 261.8

x 10% = 233.3

x 05% = 85.25

0

Allowed IC = 580.35 SF

x 40% = 299.2

x 40% = 933.2

x 40% = 682

x 12% = 630.6

Proposed IC = 2,545 SF

| 2715 - Slope Analysis - Net Site Area | |
|---------------------------------------|----------------|
| Material: Range | Material: Area |
| 0.00% to 15.00% | 2,545 SF |
| 15.00% to 25.00% | 1,567 SF |
| 25.00% to 35.00% | 1,002 SF |
| 35.00% to 4459.59% | 4,958 SF |

x 35% = 890.75

x 10% = 156.7

x 05% = 50.1

0

Allowed IC = 1,097.55 SF

x 40% = 1,018

x 40% = 626.8

x 40% = 400.8

x 10% = 495.8

Proposed IC = 2,541.4 SF

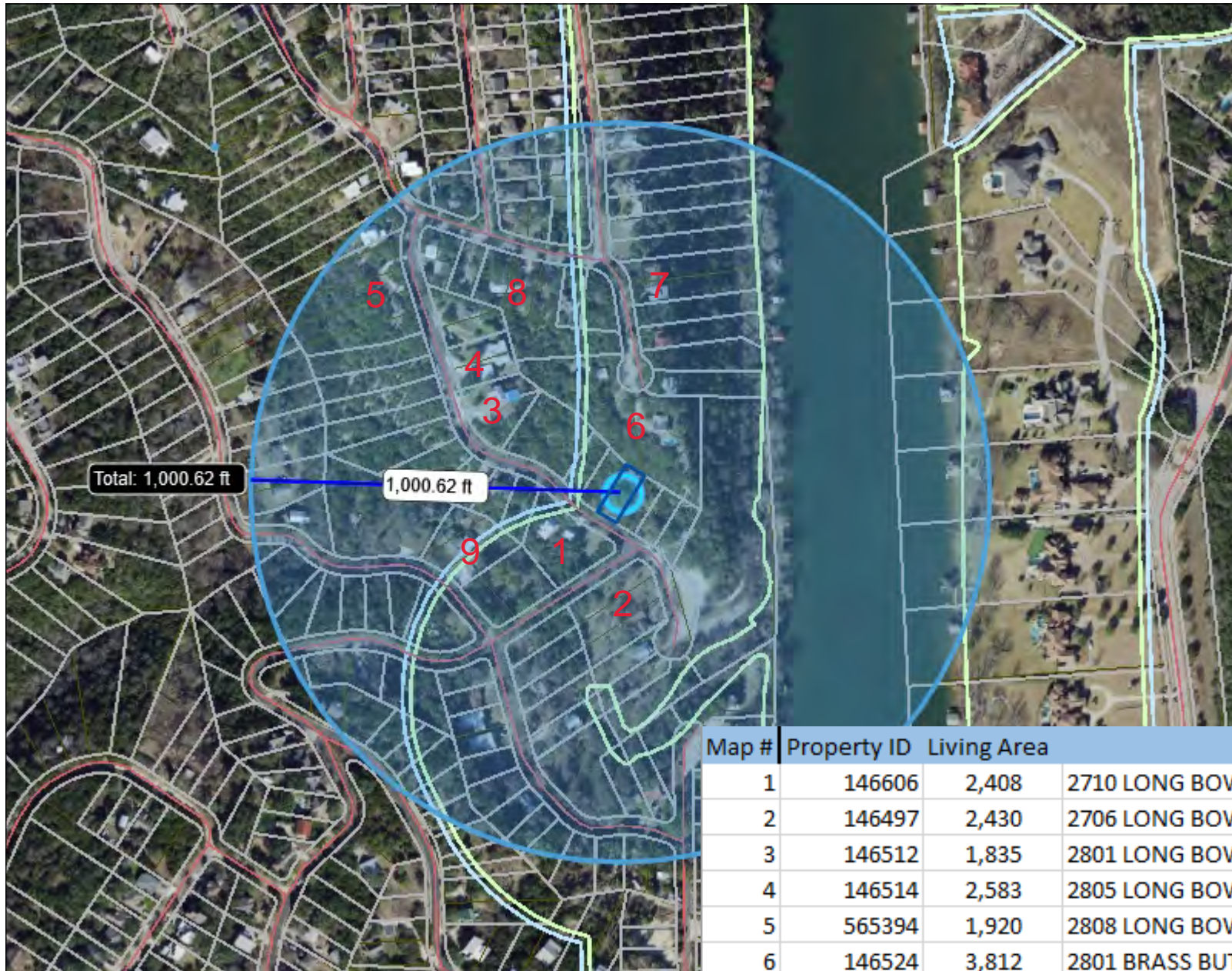


Property Profile

E-277

Legend

- Streets
- Jurisdiction
 - FULL PURPOSE
 - LIMITED PURPOSE
 - EXTRATERRITORIAL JURISDICTION
 - 2 MILE ETJ AGRICULTURAL AGR
 - OTHER CITY LIMITS
 - OTHER CITIES ETJ
- TCAD Parcels
- Lot Line



| Map # | Property ID | Living Area | Address |
|-------|-------------|-------------|--|
| 1 | 146606 | 2,408 | 2710 LONG BOW TRL AUSTIN TX 78734 |
| 2 | 146497 | 2,430 | 2706 LONG BOW TRL AUSTIN TX 78734 |
| 3 | 146512 | 1,835 | 2801 LONG BOW TRL AUSTIN TX 78734 |
| 4 | 146514 | 2,583 | 2805 LONG BOW TRL AUSTIN TX 78734 |
| 5 | 565394 | 1,920 | 2808 LONG BOW TRL TX 78734 |
| 6 | 146524 | 3,812 | 2801 BRASS BUTTONS TRL TX |
| 7 | 146529 | 2,687 | 2907 BRASS BUTTONS TRL AUSTIN TX 78734 |
| 8 | 146516 | 2,316 | 14107 RED FEATHER TRL AUSTIN TX 78734 |
| 9 | 146610 | 1,994 | 2613 GERONIMO TRL TX 78734 |

0.2 0 0.08 0.2 Miles

NAD_1983_StatePlane_Texas_Central_FIPS_4203_Feet

Date Printed:

This is a legal, professional, and accurate representation of the property.



February 24, 2022

Mr. Jon Kaplan
C.P.B.D. - 44-752
ICC Combination Inspector - 9061592
Urban Building Services of Texas LLC
214 Sailors Run
Lakeway, TX 78734

Re: Lot 876
2715 Longbow Trail
Austin, TX 78734

Dear Mr. Kaplan,

This letter is in response to your request for a Tree Protection Plan for Lot 876 on Longbow Trail, TX 78734. I visited the site on February 22, 2022. I met with you to review the design plans and develop a tree condition report.

My report is attached. Please feel free to contact me regarding specification details or with any other questions.

Respectfully,

A handwritten signature in black ink that reads "Scott E. George". The signature is written in a cursive, flowing style.

Scott E. George
Austin Beautiful Trees - President
American Society of Consulting Arborists – Registered Consulting Arborist # 752
International Society of Arboriculture Certified Arborist TX #3996-A
Risk Assessment Qualified Arborist
Oak Wilt Risk Assessment Qualified Arborist
Wildfire Risk Assessment Qualified Arborist



Tree Condition Report - Lot 876 February 24, 2022

Prepared for: Jon Kaplan
Property Address: 2715 Long Bow Trail
Austin, Texas 78734

Tree: Live oak (*Quercus fusiformis*)
Location: northeast side of lot
Tree Tag Number: T2
DBH: 20.25"

I measured the tree at four feet six inches from the high side of the grade.
I did not observe obvious defects in the tree and consider the tree in good condition.

Tree: Live oak (*Quercus fusiformis*)
Location: Southeast side of lot
Tree Tag Number: T6
DBH: 23.5"/22.5" twin trunked and combined measurement of 34.75"

The tree is designated as a "Heritage" tree by the City of Austin (see Appendix A, Photo 1). Heritage trees are a group of protected trees measuring 24" and larger. I observed multiple obvious defects in the tree and determined that the subject tree was in "Fair" condition. The eastern (or right side) leader of the tree has a significant column of dead wood protruding from the living leader (see Appendix A, Photo 2). This old column of dead wood was "Imminent" for failure. I observed another large column of dead wood that emerged from the upper canopy of the left trunk. This upper leader with the dead column of wood was also "imminent" for failure (see Appendix A, Photo 3).

I also observed numerous large scaffold branches with significant decay pockets in both trunks (see Appendix A, Photos 4 and 5). Most of the defects I observed were "Probable" for failure within an eighteen-month time frame.

The mitigation option with the lowest residual risk is removal of the large columns of dead wood. It is my opinion that the scaffold branches with the most significant decay pockets also need to be partially removed back to healthier sections of wood. I estimated that this could require pruning approximately fifty percent of the existing tree canopy and perhaps more. This would require a permit from the City of Austin and would exceed industry and municipal standards for pruning in a single year. Tree health



could be compromised by the scope of pruning required to reduce the likelihood of large branch failures.

I observed that the remaining surveyed trees on Lot 876 were not of protected size. Please feel to contact me with questions regarding this report.

Respectfully,

A handwritten signature in black ink that reads "Scott E. George". The signature is written in a cursive, flowing style.

Scott E. George
Austin Beautiful Trees - President
American Society of Consulting Arborists – Registered Consulting Arborist # 752
International Society of Arboriculture Certified Arborist TX #3996-A
Risk Assessment Qualified Arborist
Oak Wilt Risk Assessment Qualified Arborist
Wildfire Risk Assessment Qualified ArboristMember



Appendix A - Photos

Photo 1 - Live oak (*Quercus fusiformis*)

Location: Southeast side of lot

Tree Tag Number: T6

DBH: 23.5"/22.5" twin trunked and combined measurement of 34.75"

Note: General overview picture





Appendix A - Photos

Photo 2 - Live oak (*Quercus fusiformis*)

Location: Southeast side of lot

Tree Tag Number: T6

DBH: 23.5"/22.5" twin trunked and combined measurement of 34.75"

Note: The eastern (or right side) leader of the tree has a significant column of dead wood protruding from the living leader. This old column of dead wood was "Imminent" for failure.





Appendix A - Photos

Photo 3 - Live oak (*Quercus fusiformis*)

Location: Southeast side of lot

Tree Tag Number: T6

DBH: 23.5"/22.5" twin trunked and combined measurement of 34.75"

Note: Another large column of dead wood that emerged from the upper canopy of the left trunk. This upper leader with the dead column of wood was also "imminent" for failure.





Appendix A - Photos

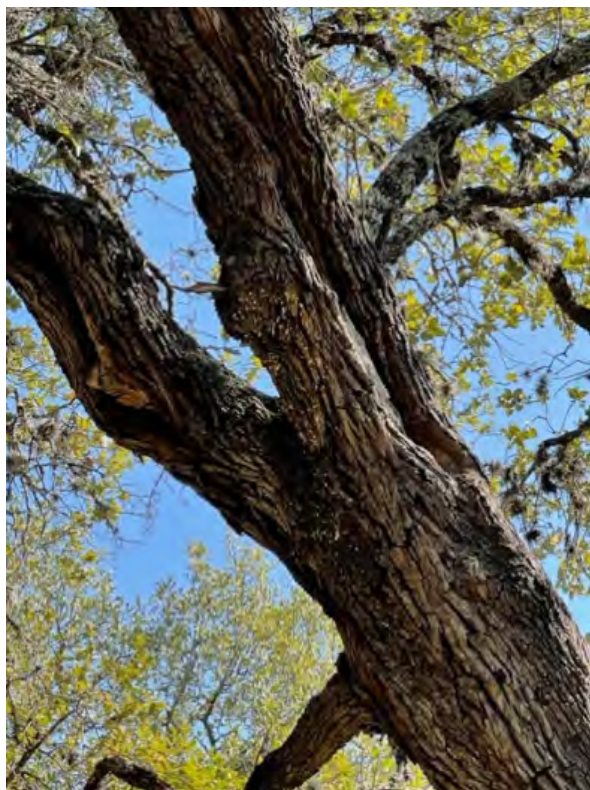
Photo 4 and 5 - Live oak (*Quercus fusiformis*)

Location: Southeast side of lot

Tree Tag Number: T6

DBH: 23.5"/22.5" twin trunked and combined measurement of 34.75"

Note: Numerous large scaffold branches with significant decay pockets in both trunks. Most of the defects I observed were "Probable" for failure within an eighteen-month time frame.





Appendix B - Assumptions and Limiting Conditions

1. Loss or alteration of any part of this report invalidates the entire report.
2. The report and the opinions expressed herein represent the professional opinion of the author. The fee generated from this report is not contingent upon any prior or future outcome or subsequent event. Any future work done by this author related to this tree or other trees of the client shall be billed separately from this work.
3. Possession of this report or a copy, therefore, does not imply the right of publication or use for any purpose by any other than the person to whom it is addressed, without the prior, expressed written or verbal consent of the author.
4. The author does not have any financial or business associations with any commercial arborist. Any future work done by a commercial arborist shall be performed via a separate contract between the client and the arborist.
5. Care has been taken to obtain information from reliable sources. The author cannot guarantee accuracy nor be responsible for the information provided by others.
6. Unless otherwise specified, the information contained in this report covers only those items that were examined and reflects the condition of those items at the time of inspection. The inspection is limited as stated in the text of this report. There is no warranty or guarantee that problems or deficiencies of the tree in question will not arise in the future.
7. The author and Austin Beautiful Trees cannot guarantee the health or safety of any tree, regardless of any examination given or care treatments recommended and/or employed. Even with the best of care, trees sometimes die and/or branches fail. Therefore, the author and Austin Beautiful Trees make no such guarantees and are at no fault if such occurs.
8. The author shall not be required to give testimony or attend court by reason of this report unless subsequent contractual arrangements are made, including payment of an additional fee for such services as described in a subsequent contract for services.



Appendix C - Certificate of Performance

- I, Scott George, certify that:
- I have personally inspected the subject trees of this report and I have stated my findings accurately;
- That the analysis, opinions, and conclusion stated herein are my own;
- That my analysis, opinions, and conclusions were developed and this report has been prepared according to commonly accepted arboricultural practices and standards;
- That no one provided significant professional assistance to the author, unless specified herein;
- That my compensation is not dependent upon the reporting of a predetermined conclusion or opinion that favors my cause, my client, or any other party;
- I have no current or prospective interest in the tree or the property that is the subject of this report and have no personal interest or bias with respect to the party(ies) involved.

I further certify that I am a member in good standing of the American Society of Consulting Arborists (ASCA) and the International Society of Arboriculture (ISA).

A handwritten signature in black ink that reads "Scott E. George". The signature is written in a cursive, flowing style.

Scott E. George
February 24, 2022



February 24, 2022

Mr. Jon Kaplan
C.P.B.D. - 44-752
ICC Combination Inspector - 9061592
Urban Building Services of Texas LLC
214 Sailors Run
Lakeway, TX 78734

Re: Lot 877
2717 Long Bow Trail
Austin, TX 78734

Dear Mr. Kaplan,

This letter is in response to your request for a Tree Protection Plan for Lot 877 on Longbow Trail, TX 78734. I visited the site on February 22, 2022. I met with you to review the design plans and develop a tree condition report.

My report is attached. Please feel free to contact me regarding specification details or with any other questions.

Respectfully,

A handwritten signature in black ink that reads "Scott E. George". The signature is written in a cursive, flowing style.

Scott E. George
Austin Beautiful Trees - President
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International Society of Arboriculture Certified Arborist TX #3996-A
Risk Assessment Qualified Arborist
Oak Wilt Risk Assessment Qualified Arborist
Wildfire Risk Assessment Qualified Arborist



Tree Condition Report - Lot 877 February 24, 2022

Prepared for: Jon Kaplan
Property Address: 2717 Long Bow Trail
Austin, Texas 78734

Tree: Live oak (*Quercus fusiformis*)
Location: southwest side of lot closest to Long Bow Trail
Tree Tag Number: T13
DBH: 21"

I did not observe obvious defects in the tree and consider the tree in good condition.

Tree: Live oak (*Quercus fusiformis*)
Location: east side of lot
Tree Tag Number: T23
DBH: 14"

Live oak number T23 is indicated as a single twin trunked tree, and the survey shows that each trunk measured 15." When I reviewed live oak number T23, I did not observe that the trees shared any common tissue, included bark, or juncture above grade. I performed minor excavation to the area between the trees, and still did not observe any common tissue (see Appendix A, Photos 1, 2, and 3). I measured each of these individual trees as 14" dbh and as such, they are not of protected size.

Tree: Live oak (*Quercus fusiformis*)
Location: east side of lot
Tree Tag Number: T24
DBH: 21"

I observed a decay column in the trunk and basal area of the tree and a fungal fruiting body ordinarily associated with heartwood decay (see Appendix A, Photo 4). The tree has numerous long branches and poor form. The overall condition of this tree is fair to poor.

Tree: Live oak (*Quercus fusiformis*)
Location: northeast side of lot
Tree Tag Number: T25
DBH: 20.75" measured from the high side of grade surrounding the tree



I observed several co-dominant branch junctures in this tree, and in general, the tree had fair form (see Appendix A, Photos 5 and 6). While I observed several leaning and over-extended branches, the canopy appeared to be evenly distributed (see Appendix A, Photo 7). The overall condition of the tree was good. Proper pruning can begin to correct form issues and should be within the protection limits of no more than 25% removed in a calendar year.

I observed that the remaining surveyed trees on Lot 877 were not of protected size.

Please feel to contact me with questions regarding this report.

Respectfully,

A handwritten signature in dark ink that reads "Scott E. George".

Scott E. George
 Austin Beautiful Trees - President
 American Society of Consulting Arborists – Registered Consulting Arborist # 752
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 Risk Assessment Qualified Arborist
 Oak Wilt Risk Assessment Qualified Arborist
 Wildfire Risk Assessment Qualified ArboristMember



Appendix A - Photos

Photos 1-3 - Live oak (*Quercus fusiformis*)

Location: east side of lot

Tree Tag Number: T23

DBH: 14"

Note: Live oak number T23 is indicated as a single twin trunked tree, and the survey shows that each trunk measured 15." When I reviewed live oak number T23, I did not observe that the trees shared any common tissue, included bark, or juncture above grade. I performed minor excavation to the area between the trees, and still did not observe any common tissue. I measured each of these individual trees as 14" dbh and as such, they are not of protected size.





Appendix A - Photos

Photo 4 - Live oak (*Quercus fusiformis*)

Location: east side of lot

Tree Tag Number: T24

DBH: 21"

Note: Decay column in the trunk and basal area of the tree and a fungal fruiting body ordinarily associated with heartwood decay. The tree has numerous long branches and poor form. The overall condition of this tree is fair to poor.





Appendix A - Photos

Photos 5-6 - Live oak (*Quercus fusiformis*)

Location: northeast side of lot

Tree Tag Number: T25

DBH: 20.75" measured from the high side of grade surrounding the tree

Note: I observed several co-dominant branch junctures in this tree, and in general, the tree had fair form.





Appendix A - Photos

Photo 7 - Live oak (*Quercus fusiformis*)

Location: northeast side of lot

Tree Tag Number: T25

DBH: 20.75" measured from the high side of grade surrounding the tree

Note: While I observed several leaning and over-extended branches, the canopy appeared to be evenly distributed. The overall condition of the tree was good. Proper pruning can begin to correct form issues and should be within the protection limits of no more than 25% removed in a calendar year.





Appendix B - Assumptions and Limiting Conditions

1. Loss or alteration of any part of this report invalidates the entire report.
2. The report and the opinions expressed herein represent the professional opinion of the author. The fee generated from this report is not contingent upon any prior or future outcome or subsequent event. Any future work done by this author related to this tree or other trees of the client shall be billed separately from this work.
3. Possession of this report or a copy, therefore, does not imply the right of publication or use for any purpose by any other than the person to whom it is addressed, without the prior, expressed written or verbal consent of the author.
4. The author does not have any financial or business associations with any commercial arborist. Any future work done by a commercial arborist shall be performed via a separate contract between the client and the arborist.
5. Care has been taken to obtain information from reliable sources. The author cannot guarantee accuracy nor be responsible for the information provided by others.
6. Unless otherwise specified, the information contained in this report covers only those items that were examined and reflects the condition of those items at the time of inspection. The inspection is limited as stated in the text of this report. There is no warranty or guarantee that problems or deficiencies of the tree in question will not arise in the future.
7. The author and Austin Beautiful Trees cannot guarantee the health or safety of any tree, regardless of any examination given or care treatments recommended and/or employed. Even with the best of care, trees sometimes die and/or branches fail. Therefore, the author and Austin Beautiful Trees make no such guarantees and are at no fault if such occurs.
8. The author shall not be required to give testimony or attend court by reason of this report unless subsequent contractual arrangements are made, including payment of an additional fee for such services as described in a subsequent contract for services.



Appendix C - Certificate of Performance

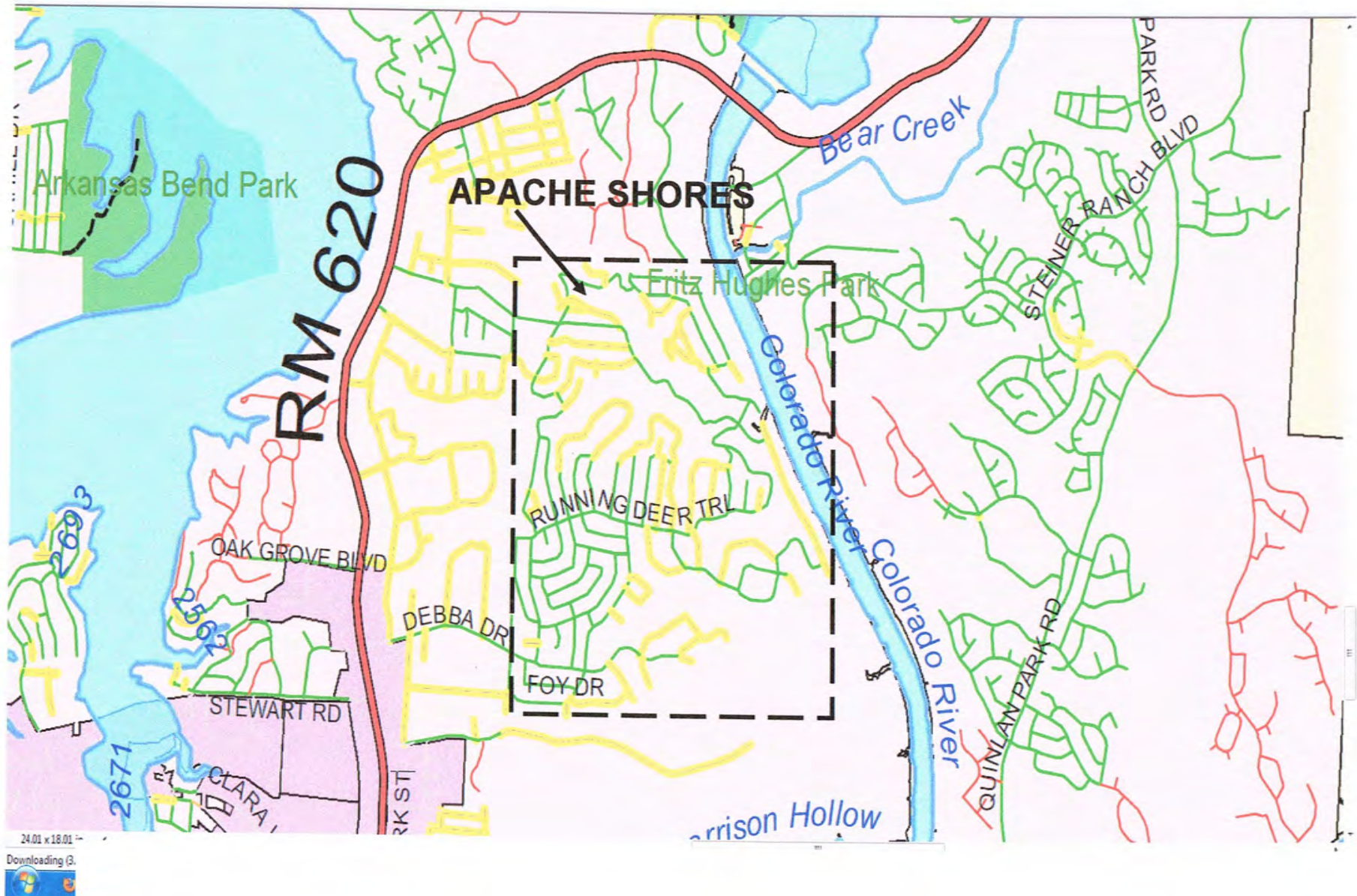
- I, Scott George, certify that:
- I have personally inspected the subject trees of this report and I have stated my findings accurately;
- That the analysis, opinions, and conclusion stated herein are my own;
- That my analysis, opinions, and conclusions were developed and this report has been prepared according to commonly accepted arboricultural practices and standards;
- That no one provided significant professional assistance to the author, unless specified herein;
- That my compensation is not dependent upon the reporting of a predetermined conclusion or opinion that favors my cause, my client, or any other party;
- I have no current or prospective interest in the tree or the property that is the subject of this report and have no personal interest or bias with respect to the party(ies) involved.

I further certify that I am a member in good standing of the American Society of Consulting Arborists (ASCA) and the International Society of Arboriculture (ISA).

A handwritten signature in black ink that reads "Scott E. George". The signature is written in a cursive, flowing style.

Scott E. George
February 24, 2022

Roads in GREEN are maintained by Travis County



DECLARATION OF RESTRICTIONS FOR
APACHE SHORES, SECTION 2
TRAVIS COUNTY, TEXAS

23-2467 5⁰⁰

THE STATE OF TEXAS Y
 Y KNOW ALL MEN BY THESE PRESENTS:
 COUNTY OF TRAVIS Y

THAT APACHE SHORES, INC., as owner of all of the lots in APACHE SHORES, Section 2, a subdivision in Travis County, Texas, according to the map or plat thereof filed for record in Plat Book 48, Page 58, of the Plat Records of Travis County, Texas, does hereby declare that the above Section or Installment in the above subdivision shall from and after the date of this instrument be subject to the covenants, conditions, easements, restrictions and reservations hereinafter set out, as follows, to-wit:

1. Lots 852 and 899 shall not be subject to any of the hereinafter covenants, conditions, easements, restrictions or reservations. All of the rest of the lots are subject to the following, to-wit:

2. Not more than one single family dwelling may be erected or constructed on any one lot, nor more than one other building for garage or storage purposes and provided further that no building shall be erected prior to the erection of a dwelling house. No accessory or temporary building shall be used or occupied as living quarters. No building shall be constructed or erected on any lot unless built of solid or permanent material. Wood exteriors shall be stained or painted with at least two coats of stain or paint. No structure shall have tar paper, roll brick siding or similar material on the outside walls. No house trailers, tents, shacks or other similar structures shall be erected, moved to, or placed upon any lot. All buildings must be completed within six (6) months from the date construction commences.

3. No residence shall have less than 650 square feet of living space on the ground or first floor, exclusive of porch area. All building plans are subject to approval of APACHE SHORES, INC., or its assigns. No porch or other projection of any building shall extend nearer than 10 feet from any road right-of-way, nor nearer than 5 feet from the property line of any abutting property owner, nor within 30 feet from the normal high water line of Lake Austin, without the written permission of APACHE SHORES, INC., its successors or assigns.

4. No noxious or offensive trade or activity shall be permitted on any lot, nor shall anything be done thereon which shall be or become an annoyance or nuisance to the neighborhood. No animals or fowl shall be kept or maintained on said lots except customary household pets. No signs of any kind shall be displayed on any lot without the written permission of APACHE SHORES, INC., or its successors or assigns. No septic tanks shall be installed on any lot without prior approval of all appropriate governmental authorities. Further, all lots abutting Lake Austin shall be subject to the terms and restrictions set out on the recorded plat with regard to septic and sewer systems.

5. No boat docks, floats, or other structures shall be constructed or placed into or on Lake Austin without having first complied with all the rules and regulations of the City of Austin, Texas, and/or the Lower Colorado River Authority, but in no event shall such structures extend into the Lake from the property line more than 20 feet.

6. APACHE SHORES, INC., for itself, its successors, assigns and licensees reserves a 10 foot wide easement along the road rights-of-way, a 6 foot wide easement along the rear line, and a 5 foot wide easement along the side line of each and every lot for the purpose of installing, operating and maintaining the utility lines and mains thereon, together with a right to trim and/or cut or remove any trees and/or brush and the right to locate guy wires, braces and anchors wherever for said installation,

operation or maintenance; together with the right to install, operate and maintain gas and water mains and appurtenances thereto; sewer lines, culverts and drainage ditches, reserving also the right of ingress and egress to such areas for any other purposes mentioned above; excepting, however, where an owner of two or more adjoining lots constructs a building which will cross over or through a common lot line, said common lot line shall not be subjected to the aforementioned side lot line easements. APACHE SHORES, INC., for itself, its successors, assigns and licensees also reserves the right to cause or permit drainage of surface waters over and /or through said lots. The owners of said lots shall have no cause of action against APACHE SHORES, INC., its successors, assigns or licensees either at law or in equity excepting in the case of willful negligence, by reason of any damage caused to said lots or improvements thereon in installing, operation or maintaining the above mentioned installations.

7. No dwelling shall be placed or erected on any tract of land or re-subdivided lots smaller than the lots as subdivided and shown on the recorded plat.

8. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any lot.

9. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

10. No individual water supply system shall be permitted on any lot. All water must be furnished by APACHE SHORES UTILITY CORP., its successors or assigns.

11. These restrictions shall be considered as covenants running with the land, and shall bind the purchasers, their heirs, executors, administrators, and assigns, and if said owners, their heirs, executors, successors or assigns shall violate or attempt to violate any of the covenants or restrictions herein contained, it shall be lawful for any person or persons owning any such lots in the Subdivision to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions and either to prevent him or them from doing so by appropriate injunctive relief, or to recover damages for such occurrence. Further, APACHE SHORES Property Owner's Association, Inc., may in its name enforce these restrictions by any proceeding at law or in equity. These restrictions shall be in force and effect for a period of twenty-five (25) years from the date of the execution hereof, after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants and restrictions in whole or in part.

12. Invalidation of any one or more of these covenants and restrictions by judgment or court order shall in no wise affect any of the other provisions or restrictions which on the other hand shall remain in full force and effect.

13. Each lot owner in APACHE SHORES, SECTION 2 shall be subject to an annual maintenance fee charge of \$35.00, which each lot owner agrees to pay to APACHE SHORES Property Owner's Association, Inc., its successors and assigns, annually on the first day of March commencing in the year following the date of the purchase of a lot by an owner. To secure the payment of said maintenance fee APACHE SHORES Property Owners's Association, Inc., is hereby granted a lien upon each lot to secure the payment thereof. APACHE SHORES, INC., its successors and assigns, does hereby reserve a lien against each lot in APACHE SHORES, Section 2, to secure the

prompt payment of the water assessments imposed upon each lot at the time water is made available to each lot, which assessment is in the amount of \$3.00 per running foot, with a minimum assessment of \$180.00.

EXECUTED this 19th day of November, 1969.

(CORPORATE SEAL)

ATTEST:

APACHE SHORES, INC.

Linda Lively
Assistant Secretary

BY: John M. Pennington
Vice President

THE STATE OF TEXAS X

COUNTY OF HARRIS X

BEFORE ME, the undersigned, on this day personally appeared JOHN M. PENNINGTON, Vice President of APACHE SHORES, INC., known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 19th day of November, A.D., 1969.

Joe B. [Signature]
Notary Public in and for
Harris County, Texas

(NOTARY SEAL)

STATE OF TEXAS COUNTY OF TRAVIS
I hereby certify that this instrument was FILED on the
date and at the time stamped hereon by me; and was duly
RECORDED, in the Volume and Page of the named RECORDS
of Travis County, Texas, as stamped hereon by me, on

NOV 25 1969



Emilie Loringburg
COUNTY CLERK
TRAVIS COUNTY, TEXAS

FILED
NOV 24 8 00 AM '69
TRAVIS COUNTY, TEXAS

3778 1307

V-A-24

**CITY OF AUSTIN
Board of Adjustment
Decision Sheet
E-4**

DATE: Monday February 14, 2022

CASE NUMBER: C15-2022-0011

☐ Y ☐ Thomas Ates
☐ Y ☐ Brooke Bailey
☐ Y ☐ Jessica Cohen
☐ Y ☐ Melissa Hawthorne
☐ Y ☐ Barbara Mcarthur
☐ - ☐ Rahm McDaniel **OUT**
☐ Y ☐ Darryl Pruett
☐ Y ☐ Agustina Rodriguez
☐ Y ☐ Richard Smith
☐ Y ☐ Michael Von Ohlen
☐ - ☐ Nicholl Wade **OUT**
☐ Y ☐ Kelly Blume (Alternate)
☐ Y ☐ Carrie Waller (Alternate)
☐ - ☐ Marcel Gutierrez-Garza (Alternate)

APPLICANT: Jonathan Kaplan

OWNER: David Scott Kosch

ADDRESS: 2715 LONG BOW TRL

VARIANCE REQUESTED: The applicant is requesting variance(s) from the Land Development Code, Section 25-2-551 (Lake Austin District Regulations) (C) (3)

(a) increase the maximum impervious cover on a slope with a gradient of 15 percent or less from 35 percent (allowed) to 40 percent (requested)

(b) increase the maximum impervious cover on a slope with a gradient of 15 percent and not more than 25 percent from 10 percent (allowed) to 40 percent (requested)

(c) increase the maximum impervious cover on a slope with a gradient of more than 25 percent and not more than 35 percent from 5 percent (allowed) to 40 percent (requested)

(d) increase the maximum impervious cover on a slope gradient greater than 35 percent to 40 percent (requested), in order to complete a Single-Family residence in a "LA", Lake Austin zoning district.

Note: This section of the Land Development Code applies to lots that are included in a subdivision plat recorded before April 22, 1982 or a tract that is not required to be platted.

For the above address the Subdivision Plat was recorded on November 17, 1969

(E) This subsection specifies additional development standards based on slope gradient in a Lake Austin (LA) district. (2) On a slope with a gradient of more than 35 percent, development is prohibited except for the construction of a fence, driveway, road or utility that cannot be reasonably placed elsewhere, or a non-mechanized pedestrian facility, such as a foot path, sidewalk, or stairs.

BOARD'S DECISION: The public hearing was closed by Madam Chair Jessica Cohen, Board Member Michael Von Ohlen motions to postpone to March 14, 2022; Board Member Melissa Hawthorne seconds on a 11-0 vote; POSTPONED TO MARCH 14, 2022.

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:


Elaine Ramirez
Executive Liaison

 for _____
Jessica Cohen
Chair

From: Jon Kaplan
To: [Ramirez, Elaine](#)
Cc: [Ramirez, Diana](#); [REDACTED]
Subject: Re: REMINDER: Mar. 14, 2022 Advanced Packet deadline
Date: Thursday, February 24, 2022 7:04:54 PM
Attachments: [1.png](#)
[2.png](#)
Importance: High

*** External Email - Exercise Caution ***

Good Evening Elaine,

We are doing our best to get all the necessary information for our case but due to all of the pushback and questions that we got from the BOA and the two people contesting it. We request that we can push our hearing the the April hearing date to be able to provide the additional information that the board has requested.

Regards

Jon Kaplan
C.P.B.D. - 44-752
ICC Combination Inspector - 9061592
Urban Building Services of Texas LLC
www.ubstx.com
[REDACTED]

P: (512) 768-2789 EXT: 501

CONFIDENTIALITY NOTICE: The contents of this email message and any attachments are intended solely for the addressee(s) and may contain confidential and/or privileged information and may be legally protected from disclosure. If you are not the intended recipient of this message or their agent, or if this message has been addressed to you in error, please immediately alert the sender by reply email and then delete this message and any attachments. If you are not the intended recipient, you are hereby notified that any use, dissemination, copying, or storage of this message or its attachments is strictly prohibited.

----- On Fri, 18 Feb 2022 12:00:08 -0600 **Ramirez, Elaine**
<Elaine.Ramirez@austintexas.gov> wrote -----

Good afternoon Applicants on the Mon. March 14th, 2022 BOA mtg. Agenda,

Please read this entire e-mail