

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

DATE: Thursday, November 14, 2013

CASE NUMBER: C15-2013-0119

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

APPLICANT: Jim Bennett

OWNER: Margaret and Ryan Dumont, James Coleman

ADDRESS: 3600, 3602, 3604 RIVERCREST DR

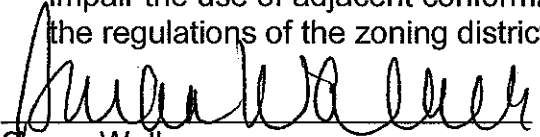
VARIANCE REQUESTED: The applicants have requested a variance from Section 25-2-1174 (D) which states a retaining wall, bulkhead, or other erosion protection device may not capture or recapture land on a lake, unless capturing or recapturing the land is required to restore the land to the lesser of: (1)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

BOARD'S DECISION: The public hearing was closed on Board Member Melissa Hawthorne motion to Postpone to January 13, 2014, Board Member Michael Von Ohlen second on a 7-0 vote; POSTPONED TO JANUARY 13, 2014.

FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:

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



Susan Walker
Executive Liaison



Jeff Jack
Chairman

HOLT CARSON, INC.

PROFESSIONAL LAND SURVEYORS

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

December 21, 2013

Mr. Ryan Dumont
3602 Rivercrest Drive
Austin, Texas 78746

CL5-2013-0119
RE: Lake Austin frontage

Mr. Dumont:

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

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

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

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

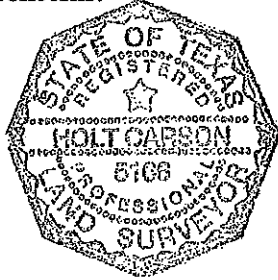
end of Page 1

Page 2 of 2

RIVERCREST ADDITION SECTION 2

It would be nonsensical for these specific lots to be detached from the lake frontage when it has been made clear throughout time that these parcels of land are indeed lake front lots.

Hopefully this information will be of some help. Please contact me at any time with your questions or concerns.



Sincerely,

A handwritten signature in black ink, appearing to read "Holt Carson".

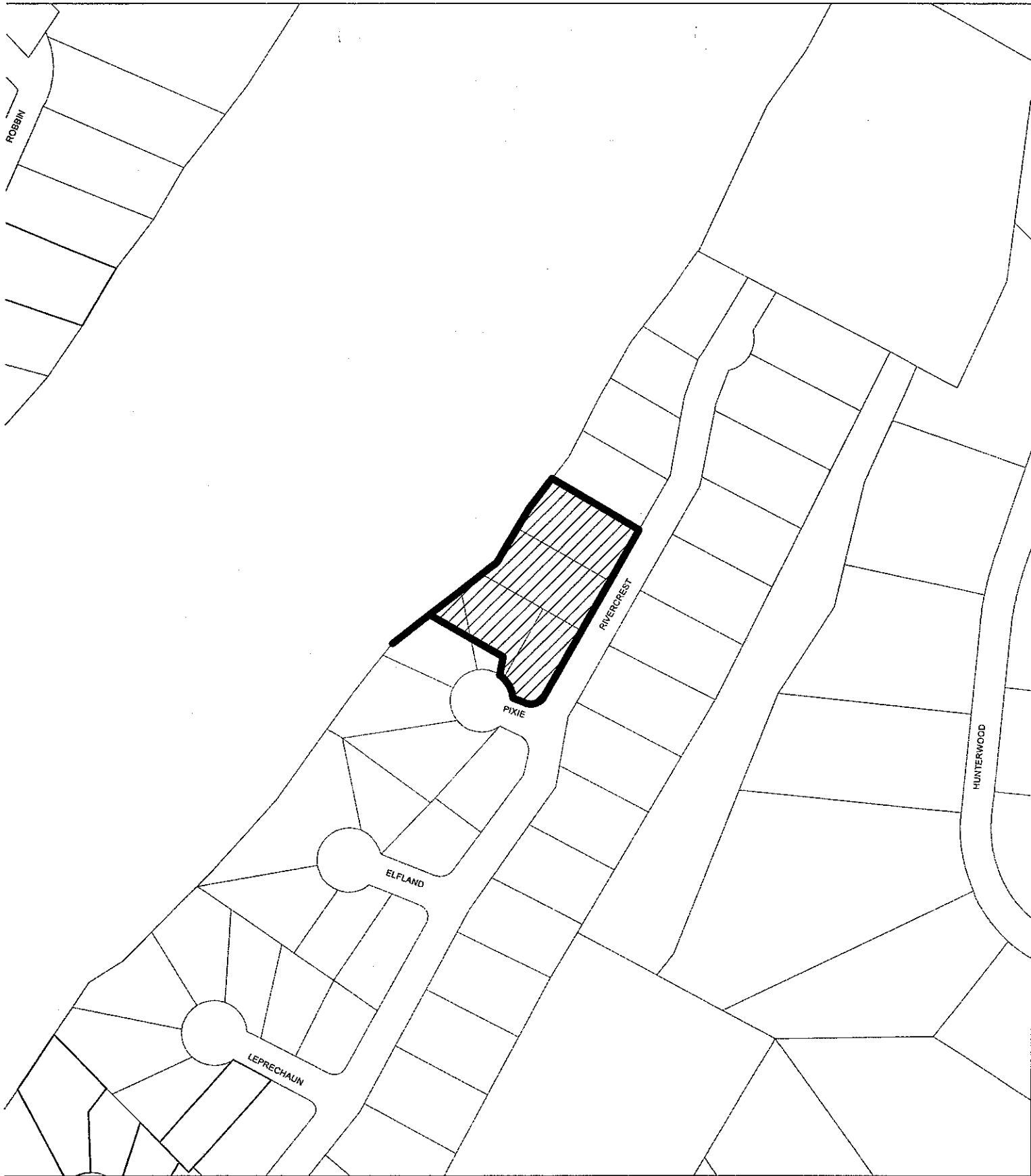
Holt Carson

Registered Professional Land Surveyor No. 5166

rivercrestadditionsection2

attachments:

- a) two page pdf image of Barrow's Subdivision
- b) pdf image of Claude F. Bush 1960 survey
- c) pdf image of approximate location of Lot 61 Block A



SUBJECT TRACT



ZONING BOUNDARY

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



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

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

11/17/12



Google earth

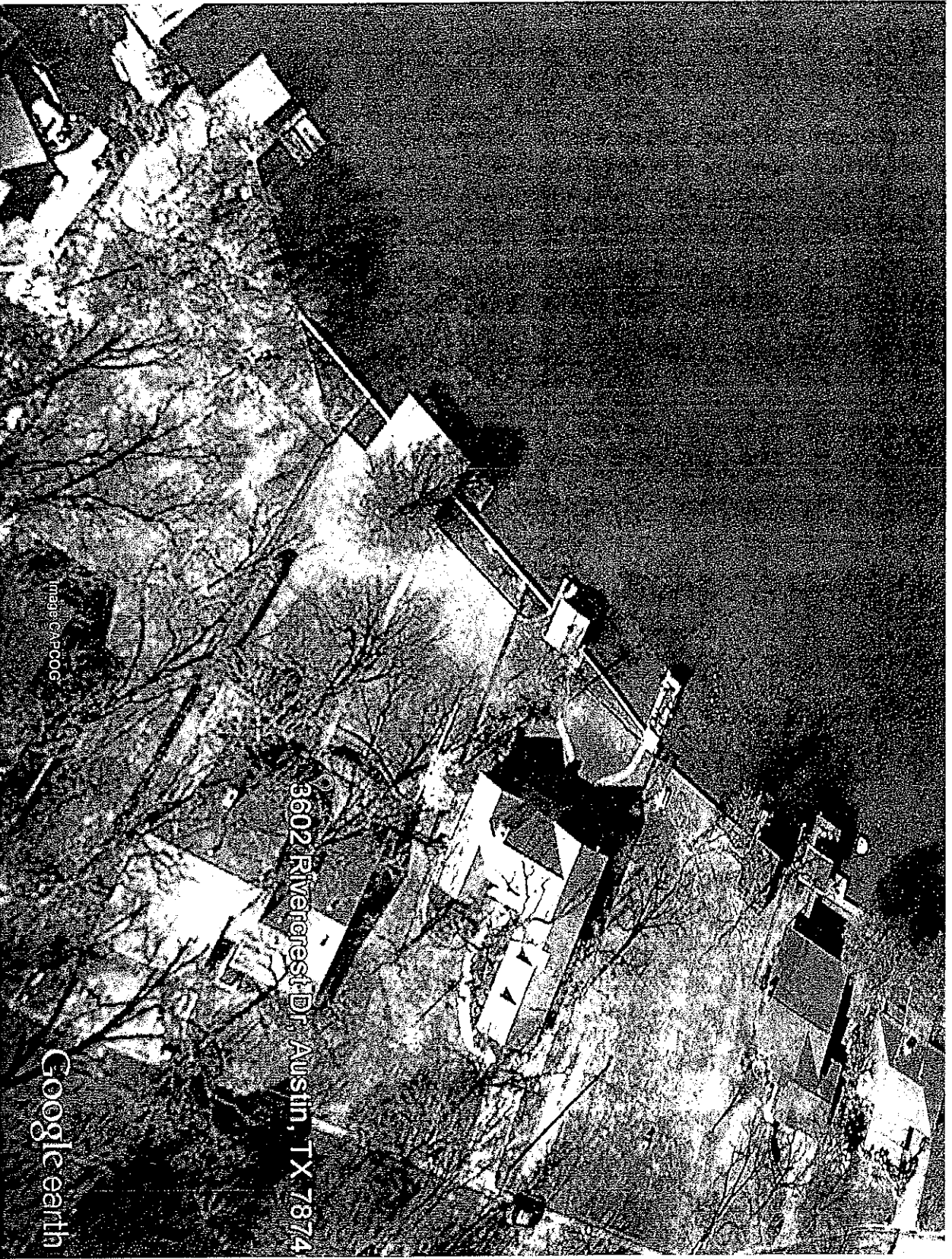
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2/27/09



Google earth

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3/9/11

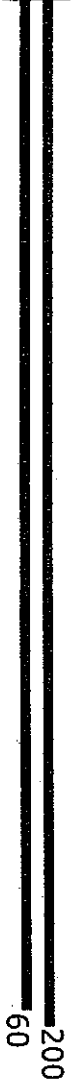


3602 Rivercrest Dr, Austin, TX 78741

Google earth

Google earth

feet
meters



4/27/06

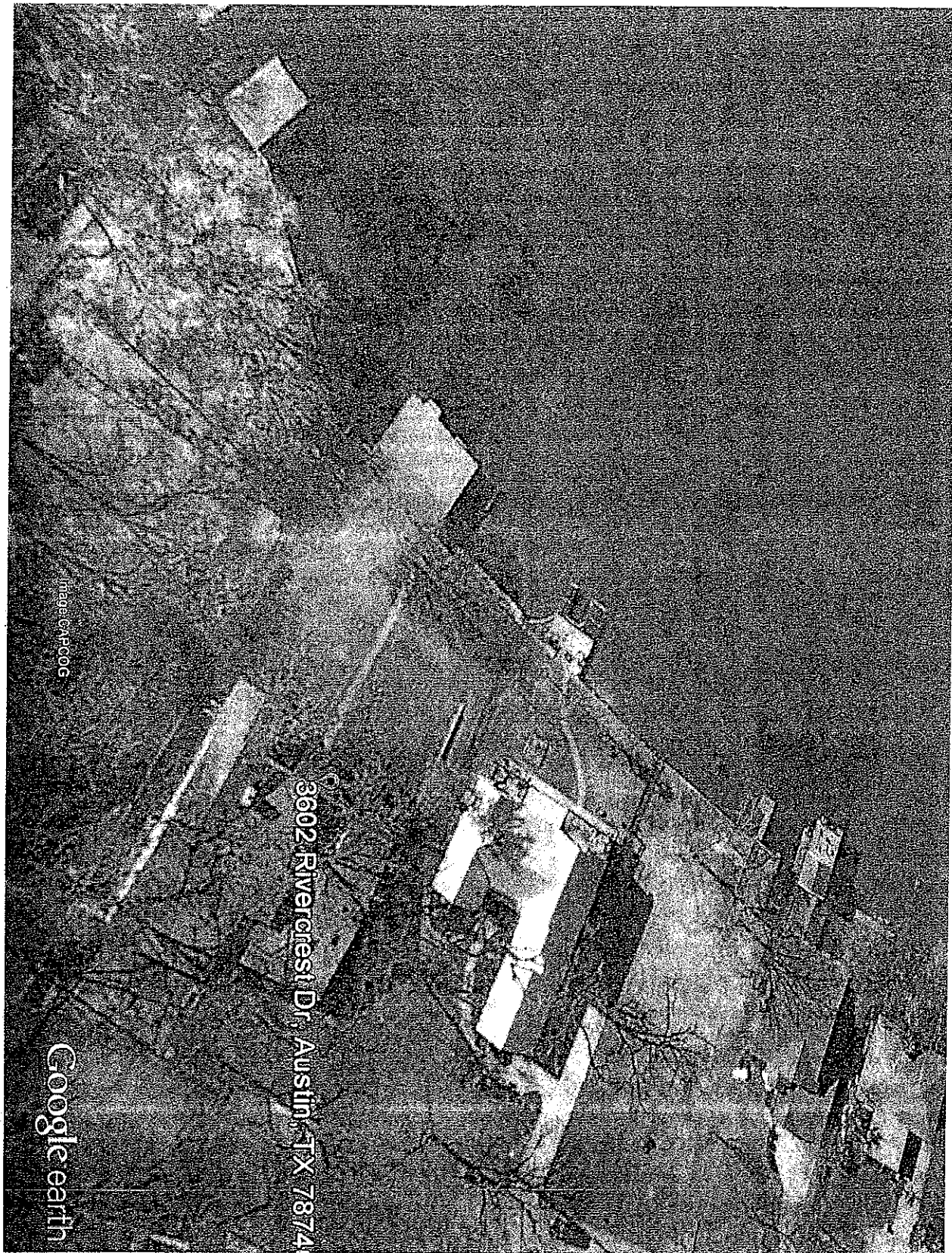
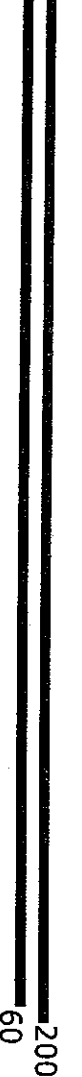


Image copyright

3602 Rivercrest Dr, Austin, TX 7874

Google earth

feet
meters



Google earth



CASE # C15-2013-0119
ROW-11026192
TP-013119-01-02

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

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

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

STREET ADDRESS: 3600,3602, &3604 Rivercrest Drive

LEGAL DESCRIPTION: Subdivision -Rivercrest Addition #2

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

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

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

Adjustment for consideration to:

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

_____ in a LA district.
(zoning district)

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

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

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):

REASONABLE USE:

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

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

HARDSHIP:

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

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

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

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

AREA CHARACTER:

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

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

PARKING: (Additional criteria for parking variances only.)

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

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

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

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

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

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

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

Signed _____ Mail Address

City, State & Zip

Printed Phone Date

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

Signed _____ Mail Address

City, State & Zip

Printed Phone Date

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

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

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

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

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

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

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

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

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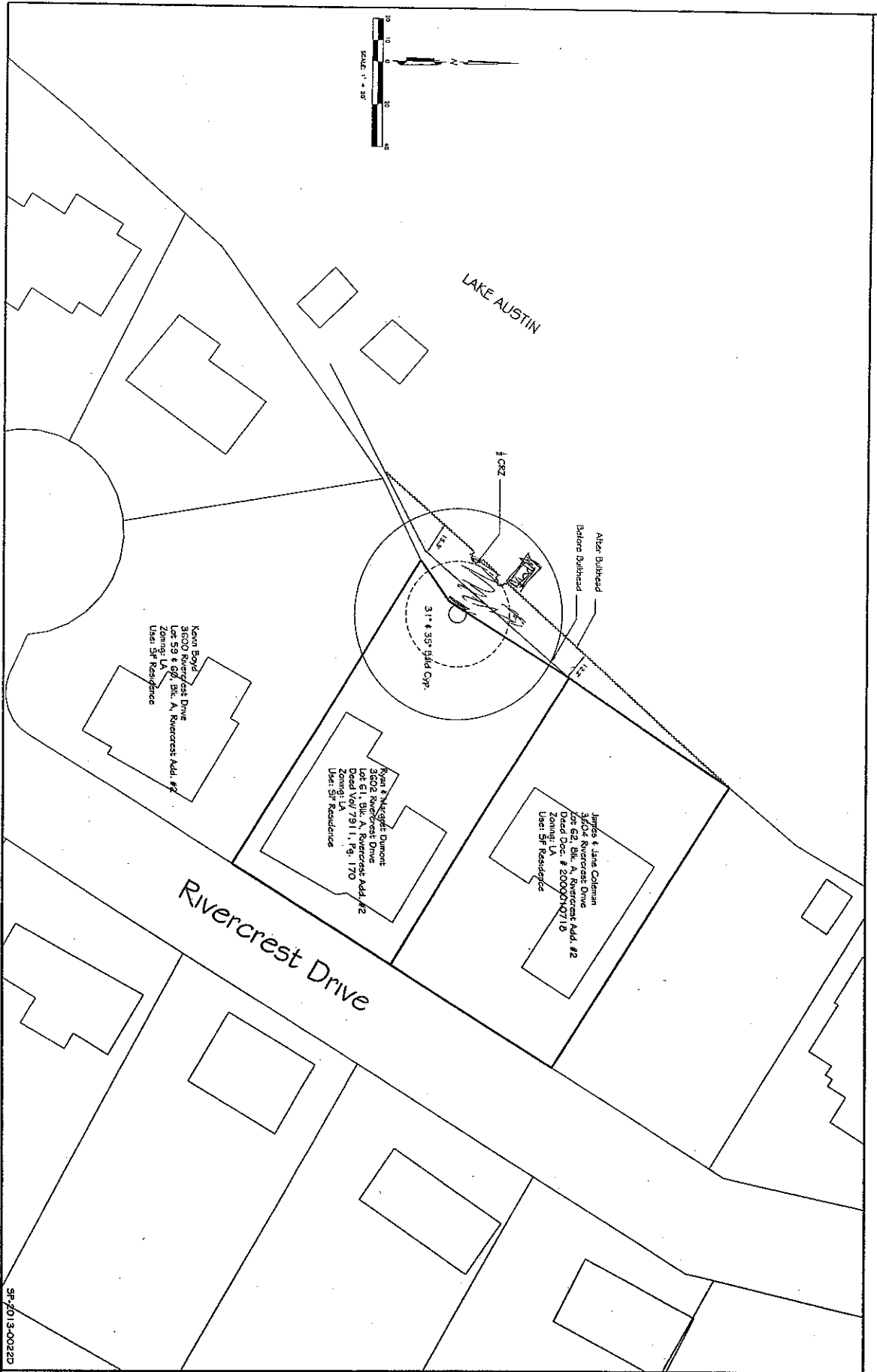
APPLICANT CERTIFICATE – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed Jim Bennett Mail Address _____
City, State & Zip 11505 Ridge Dr Austin, TX 78748
Printed Jim Bennett Phone 512-282-3079 Date 9/27/13

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

Signed James H. Coleman Mail Address 3604 Rivercrest Dr.
City, State & Zip Austin, TX 78746
Printed JAMES H. Coleman Phone 512-328-8874 Date 9/26/13

3602 Rivercrest Drive



3602 Rivercrest Drive SHORELINES		AUPPERLE COMPANY Engineering, Planning & Development Services 10085 Circleview Drive, Austin, Texas 78739 512 528-6241 <small>Texas Board Of Professional Engineers Registration Number 0-4916</small>		<table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>REVISION</th> <th>APPROVED</th> </tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </table>		NO.	DATE	REVISION	APPROVED																																				
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Re: 3602 Rivercrest variance proposal.

Remedy for an Environmental and Health Hazard

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

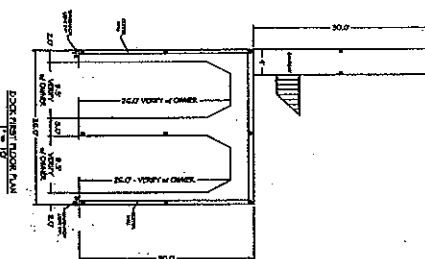
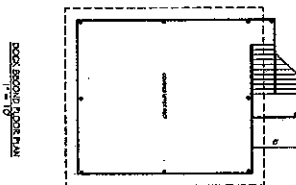
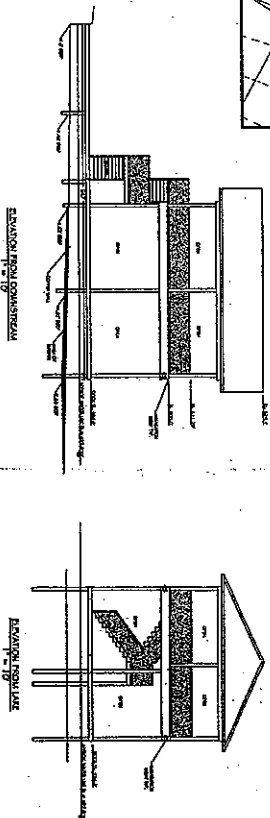
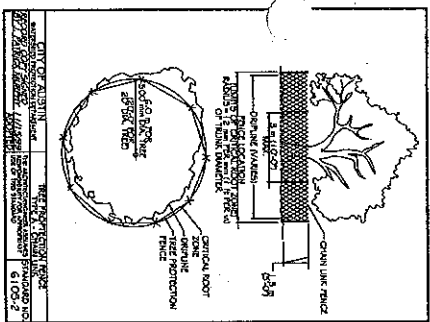
Re: 3602 Rivercrest variance proposal.

Remedy for an Environmental and Health Hazard

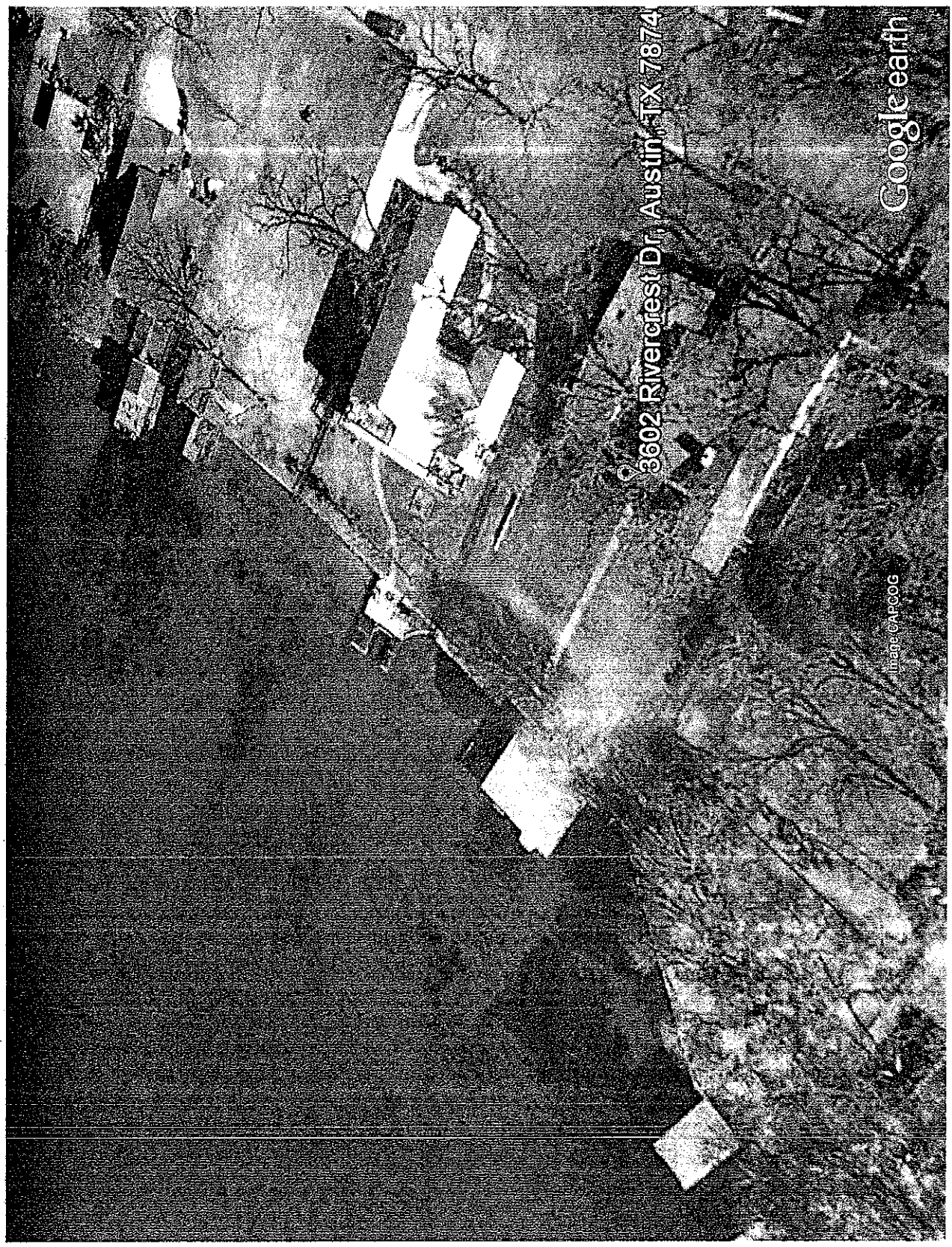
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[illegible]

- As responsibility for the adequacy of these plans remains with the engineer who prepared them, it is important these plans, the City of Wichita must rely upon the adequacy of the work of the design engineer.

[illegible]

4/29/06



Google earth

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feet
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2/27/09



3602 Rivercrest Dr, Austin, TX 7874

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