

PLANNING COMMISSION
SITE PLAN VARIANCE REQUEST REVIEW SHEET

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CASE NUMBER: SP-2013-0133D

PC DATE: 02/25/2014

PROJECT NAME: Boat Dock for 5 Humboldt Lane

ADDRESS: 5 Humboldt Lane

WATERSHED: Lake Austin (Water Supply Rural)
Drinking Water Protection Zone

ORDINANCE: Comprehensive Watershed Ordinance

ZONING: LA

APPLICANT: Maureen Alexander
8801 Mendocino Drive
Austin, Texas 78735

AGENT: David Braun
Braun & Gresham
P.O. Box 1148
Dripping Springs, Texas 78701
Phone: (512) 894-5426

PROJECT DESCRIPTION: The applicant proposes to construct a two-slip residential boat dock on Lake Austin with a walkway/staircase to serve as access. The subject property is an undeveloped 32.6-acre tract in the Rob Roy subdivision (Lot 51, Rob Roy Phase Two).

VARIANCE REQUEST: The applicant requests to allow the construction of the proposed boat dock and access trail within a rimrock Critical Environmental Feature buffer [LDC Section 25-8-281(C)(1)(a)] on the subject property.

ENVIRONMENTAL BOARD ACTION: The Environmental Board heard this case on December 18, 2013, and voted 5-1-0-1 to recommend, with the condition that no trams will be constructed on the property.

STAFF RECOMMENDATION: Recommended with conditions. As a condition of staff recommendation, the applicant must agree that no trams or similar mechanized conveyances will be constructed to provide shoreline access to the boat dock.

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ADDITIONAL CASE INFORMATION: There is an existing private restrictive covenant dated August 14, 1979 that was recorded with the Rob Roy Phase Two subdivision. Among other restrictions, the document prohibits development, improvement or structures below the "Lake Austin Bluff Line", which is defined within the restrictive covenant as the 675-foot contour line. However, the Director of the Planning and Development Review Department has determined that, because the City is not a signatory party to the document, the private restrictive covenant will not be enforced by the City of Austin.

A copy of the restrictive covenant is included with these backup materials.

On January 22, 2014, an e-mail was received from John Joseph, an attorney representing several Interested Parties for this case. The correspondence reaffirmed their opposition to the environmental variance request, but indicated that the opposing parties would agree to support the variance if the applicant would agree to a private restrictive covenant with the following terms:

1. Neither the applicant nor any subsequent owners will seek City of Austin or other regulatory approval for the construction or installation of a tram or any other mechanized/motorized conveyance to provide access to the boat dock;
2. Neither the applicant nor any subsequent owners will seek City of Austin or other regulatory approval for additional boat docks or boat slips for the 32.6 acre tract, regardless of the future configuration or subdivision of the tract, or to expand the size of the boat dock currently proposed;
3. The applicant will agree to move the location of the boat dock to the western edge of the tract. (The western edge has more favorable site conditions for the boat dock and trail.)

David Braun, representing the applicant, responded to Mr. Joseph's e-mail on January 23, 2014, and a copy of his response is included.

CASE HISTORY: This public hearing at Planning Commission for this case has been postponed three times:

01/14/2014	-	postponed at the request of the neighborhood
01/28/2014	-	postponed by Planning Commission
02/11/2014	-	postponed at the request of the applicant

NEIGHBORHOOD ORGANIZATIONS:

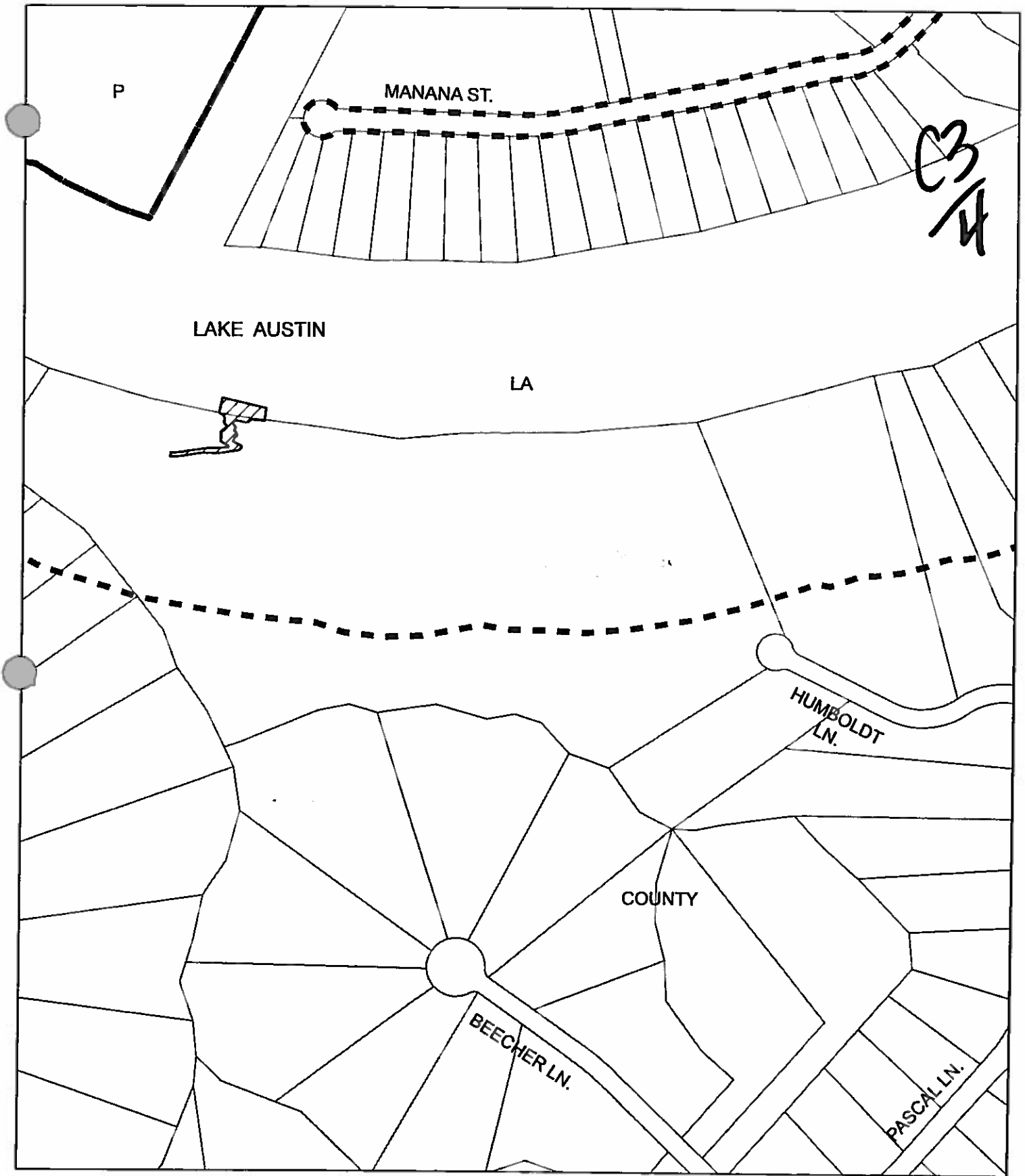
Austin Heritage Tree Foundation
Austin Monorail Project
Rob Roy Homeowners, Association, Inc.
Lake Austin Collective
Glenlake Neighborhood Association
League of Bicycling Voters

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City of Rollingwood
The Real Estate Council of Austin, Inc.
Austin Parks Foundation
Sierra Club, Austin Regional Group
Super Duper Neighborhood Objectors and Appealers Organization
Homeless Neighborhood Organization
Save Our Springs Alliance

PDRD CASE MANAGER: Michael Simmons-Smith
michael.simmons-smith@austintexas.gov

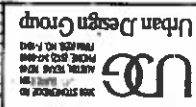
**PDRD ENVIRONMENTAL
STAFF:** Liz Johnston
liz.johnston@austintexas.gov



SITE PLAN VARIANCE REQUEST

CASE NO.: SP-2013-0133D
ADDRESS: 5 HUMBOLDT LANE
CASE MANAGER: MICHAEL SIMMONS-SMITH





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BOARD/COMMISSION RECOMMENDATION

ENVIRONMENTAL BOARD

Resolution Number: 20131207 005a

Boat Dock for 5 Humboldt Lane SP-2013-0133D

WHEREAS, the applicant has met the findings of fact

And whereas, the planning and Development Review Department has made a determination that the restrictive covenant is non-enforceable

THEREFORE, the Environmental Board recommends approval of the request for variance with the following staff conditions:

Applicant must agree that no Trams will be constructed to provide shoreline access.

Record of the Vote [4-1-1-1]

For: Deegan, Maxwell, Neely, and Schissler

Against: Perales

Abstained: Gary

Absent: Walker

Attested by:



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MEMORANDUM

TO: Mary Gay Maxwell, Chairperson and Members of the Environmental Board

FROM: Liz Johnston, Environmental Review Specialist Senior
Planning and Development Review Department

DATE: October 30, 2013

SUBJECT: Boat dock for 5 Humboldt Lane, SP-2013-0133D

On the November 20, 2013 agenda is a request for the consideration of a variance to allow construction of necessary shoreline access within a rimrock Critical Environmental Feature buffer at the subject property.

Description of Property

The subject property is a 32.6-acre tract (Lot 51, Rob Roy Phase 2) located in the Lake Austin Watershed, which is classified as a Water Supply Rural watershed and is located within the Drinking Water Protection Zone. The property is currently vacant and is located partially within the LA zoning district (Full Purpose and Limited Purpose zoning jurisdictions) and partially located within the 2-mile Extra Territorial Jurisdiction.

Existing Topography/Soil Characteristics/Vegetation

The main topographic feature of the subject property is the undeveloped bluff that rises nearly 500 feet from the shoreline of Lake Austin to the high point on the lot. The vegetation is primarily ashe juniper, live oak and native understory such as wafer ash and yaupon. Soils are Tarrant Soils and Rock Outcrop (TdF) and Bracket Soils and Rock Outcrop (BoF), which are generally stony clay or stony clay loam over limestone with interbedded limestone and marl.

Critical Environmental Features/Endangered Species

The entire shoreline consists of a rimrock CEF setback. Additionally, another rimrock CEF was identified by staff during a site visit adjacent to the proposed trail location. The property has been identified as habitat for the endangered golden cheek warbler.

Description of Project

The project consists of natural material pathway and series of stone steps to allow safe access to the shoreline associated with the boat dock site plan currently under review.

Environmental Code Exception Request

The following exception to the land development code is requested:

- 1) To allow construction of a boat dock and the associated access trail within a Critical Environmental Feature buffer, 25-8-281(C)(1)(a).

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Conditions for Staff Approval

- 1) Applicant must agree that no trams will be constructed to provide shoreline access.

Recommendation

Staff recommends approval of the variances because the Findings of Fact (see attached) have been met.

Exhibit A

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RESTRICTIVE COVENANT FOR
ROB ROY SUBDIVISION

900

THE STATE OF TEXAS 4829-7523- 6150 * 900

2-09-1964

COUNTY OF TRAVIS : KNOW ALL MEN BY THESE PRESENTS:

THIS DECLARATION, made this 14th day of August,
1979, by AUSTIN ROB ROY CORPORATION, a Texas corporation, herein-
after referred to as "Declarant".

RECITALS

1. Declarant is the owner of all that certain real property
located in Travis County, Texas, described as follows:

Rob Roy Subdivision, Block A, Lots 1 through
18; Block B, Lots 1 through 8; Block C, Lots
1 through 18; Block D, Lots 2 through 52;
Block E, Lots 1 through 68; Block F, Lots 1
through 17; Block G, Lots 1 through 31; Block
H, Lots 1 through 2 and Block I, Lots 1 through
34, an addition in Travis County, Texas, accord-
ing to the map or plat thereof, recorded in
Book , Page of the Plat Records
of Travis County, Texas.

2. Declarant will convey the above described Property, sub-
ject to certain restrictions as hereinafter set forth.

NOW, THEREFORE, it is hereby declared that all of the Prop-
erty described above shall be held, sold and conveyed, subject to
the following restrictions for the purposes set forth above and
for protection of the value and desirability of the Property. The
following restrictions shall run with the Property and shall be
binding on all parties having any right, title or interest in or
to the above described Property or any part thereof, and their
heirs, successors and assigns; and which restrictions shall inure
to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

1.01 "Owner(s)" shall mean and refer to the recorded Owner,
whether one or more persons, associations or entities, of legal,
equitable or beneficial title of or to any lot. Owner shall in-
clude purchaser of a lot under an executory contract for sale of

DEED RECORDS
Travis County, Texas

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real property. The foregoing does not include persons or entities who hold interest in any lot merely for the security for the performance of an obligation.

1.02 "Property" shall mean and refer to that certain real property described in Recital 1 above. 2-09-6644

1.03 "Lot" shall mean each parcel of land shown as a lot on the recorded final plat map of the Property and designated on said map by a separate number, or any subsequent subdivision thereof.

1.04 "Improvements" shall mean the buildings, garages, carports, roads, easements, driveways, parking areas, walls, hedges, plantings, planted trees and shrubs, and all other structures or landscaping improvements of every kind and type affecting the natural condition of the land or the drainage of surface waters on, across or from the land.

1.05 "Single Family" shall mean a group of one or more persons related to each other by blood, marriage, or legal adoption, or a group of not more than three persons not all so related, together with their domestic servants to maintain a common household in a dwelling.

1.06 "Single Family Residential Use" shall mean the occupation or use of an improvement by a Single Family in conformity with this Declaration and the requirements imposed by applicable zoning laws or any other State, County or Municipal laws, rules, regulations, codes or ordinances.

1.07 "Building Site" shall mean and refer to that portion of any of the above defined lots within the front setback and other lot lines upon which a single family residence may be constructed.

1.08 "Take Austin Bluff" shall be the area designated on the Plat as the Take Austin Bluff, which shall be the 675 foot contour line.

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ARTICLE II
RESTRICTIONS

2.01 Building Foundations: All building foundations on slopes of 15t or greater or on fill placed upon such slopes shall utilise design and construction practices certified by a registered professional engineer qualified to practice in this field and such design shall be placed on file with the City of Austin Engineering Department.

2-09-6645

2.02 Fills and Cuts: No fill on any lot shall exceed a maximum of three feet of depth. Except for structural excavation, no cut on any lot shall be greater than six feet.

2.03 Driveway Grades: Every lot shall be reasonably accessible by vehicle from the roadway to the probable Building Site. For a minimum travel distance of twenty-five feet from the roadway edge, the driveway grade may exceed (14%) only with specific approval of surface and geometric design proposals by the Director of the Engineering Department or his designee.

2.04 Lake Austin Bluff Line: There shall be no development, improvement, or structure, temporary or permanent, below the line shown on the Plat as Designating the Lake Austin Bluff Line. Such areas are to be left totally and completely in their natural state. All activity and improvement, including, but not limited to, ladders, elevators, stairs, walkways, etc., are expressly prohibited.

ARTICLE III
MISCELLANEOUS

3.01 Modification: ~~the restrictions of this restrictive~~
~~covenant are derived from the City of Austin, Texas, Ordinance No.~~
~~780105-C.~~ In the event that said ordinance becomes less restrictive concerning building foundations, building sites and driveways, this covenant shall be amended to follow such less restrictive ordinance, but in the event that such possible ordinance changes become more restrictive, the restrictions of this covenant shall remain in effect. This covenant may be modified, amended or terminated only by a majority vote of a quorum of the members of the City Council of the City of Austin, or such other governing body as may succeed the City Council of the City of Austin, and joined by the undersigned Declarant.

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3.02 Enforcement: If any persons, purton, firm, corpora-
tion or entity of any other character shall violate or attempt to
violate the restrictions contained herein, the City of Austin, a
municipal corporation, its successors and assigns, shall have the
right to enforce these restrictions by proceedings at law or in
equity to prevent said violation or attempted violation thereof.

2-24-6646

EXECUTED this 14th day of August, 1979.

ATTEST:

AUSTIN ROB ROY CORPORATION

By Gary Bradley **IND SEAL**
Secretary, Gary Bradley

By John C. Woolley
John C. Woolley

THE STATE OF TEXAS :

COUNTY OF TRAVIS :

BEFORE ME, the undersigned authority, on this day personally
appeared JOHN C. WOOLEY & GARY BRADLEY, President & Secretary
of AUSTIN ROB ROY CORPORATION, a Texas corporation, 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, as the act and deed of
said corporation, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 14th day of
August, 1979.

NOTARY SEAL

Patricia Langford
Notary Public, Travis County, Texas
Patricia Langford

My Commission Expires:

5-10-81

FILED
AUG 29 3 00 PM '79
Notary Public
COUNTY CLERK
TRAVIS CO., TEXAS

STATE OF TEXAS
COUNTY OF TRAVIS
I hereby certify that this instrument was filed on the
date and at the place stated herein by me and was duly
recorded in the Public and State of the record of records
at San Antonio, Texas, as shown herein by me, on



AUG 29 1979

Patricia Langford
COUNTY CLERK
TRAVIS COUNTY, TEXAS

6673 1700

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Staff Findings of Fact
Planning and Development Review Department
Environmental Criteria Manual Appendix U

Project:	Boat Dock for 5 Humboldt Lane SP-2013-0133D
Ordinance Standard:	Land Development Code Section 25-8-281(C)(1)(a)
Variance Request:	To allow construction of a boat dock and the associated access trail within a Critical Environmental Feature (CEF) buffer.

Justification:

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development?

Yes – The residential lot contains a steep hill located along Lake Austin. The proposed trail that crosses the CEF buffer is necessary in order to provide safe access to the proposed boat dock. One neighboring property to the east of the subject tract was granted a site plan approval in (Ref. SP-00-2182DS). Another property west of, but in the same subdivision as, the subject property was granted a boat dock site plan, along with an administrative CEF variance (Ref. SP-06-0666DS).

2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences?

Yes – The applicant has proposed a natural-material trail that follows along the ridgeline of the hill and along an existing deer path until the topography is such that the construction of a series of steps will be necessary to access the dock safely. It is not possible to build a boat dock and necessary access while also avoiding the CEF buffer because the rimrocks run along the majority of the lot's entire shoreline. The dock itself will need to be located within the 150' of the rimrock, though it will be located downstream of the CEF. The applicant has provided sufficient details regarding the construction of the steps that significant environmental harm is unlikely to result from the construction of the steps.

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3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land.

Yes – The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development. Many residential lots along Lake Austin have significant topographic constraints and yet are allowed to construct shoreline access to reach boat docks.

4. Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance?


Yes – Water quality will be the same as would have resulted had development proceeded without the variance. No water quality treatment is required for this single family residential lot or the proposed boat dock.

5. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property?
Not applicable.

Environmental Reviewer:


Liz Johnston

Environmental Program Coordinator:


Sue Barnett

Environmental Officer:


Chuck Lesniak

Date: Nov 13, 2013

Staff may recommend approval of a variance after answering all applicable determinations in the affirmative (YES).

**BOAT DOCK FOR
5 HUMBOLDT LANE

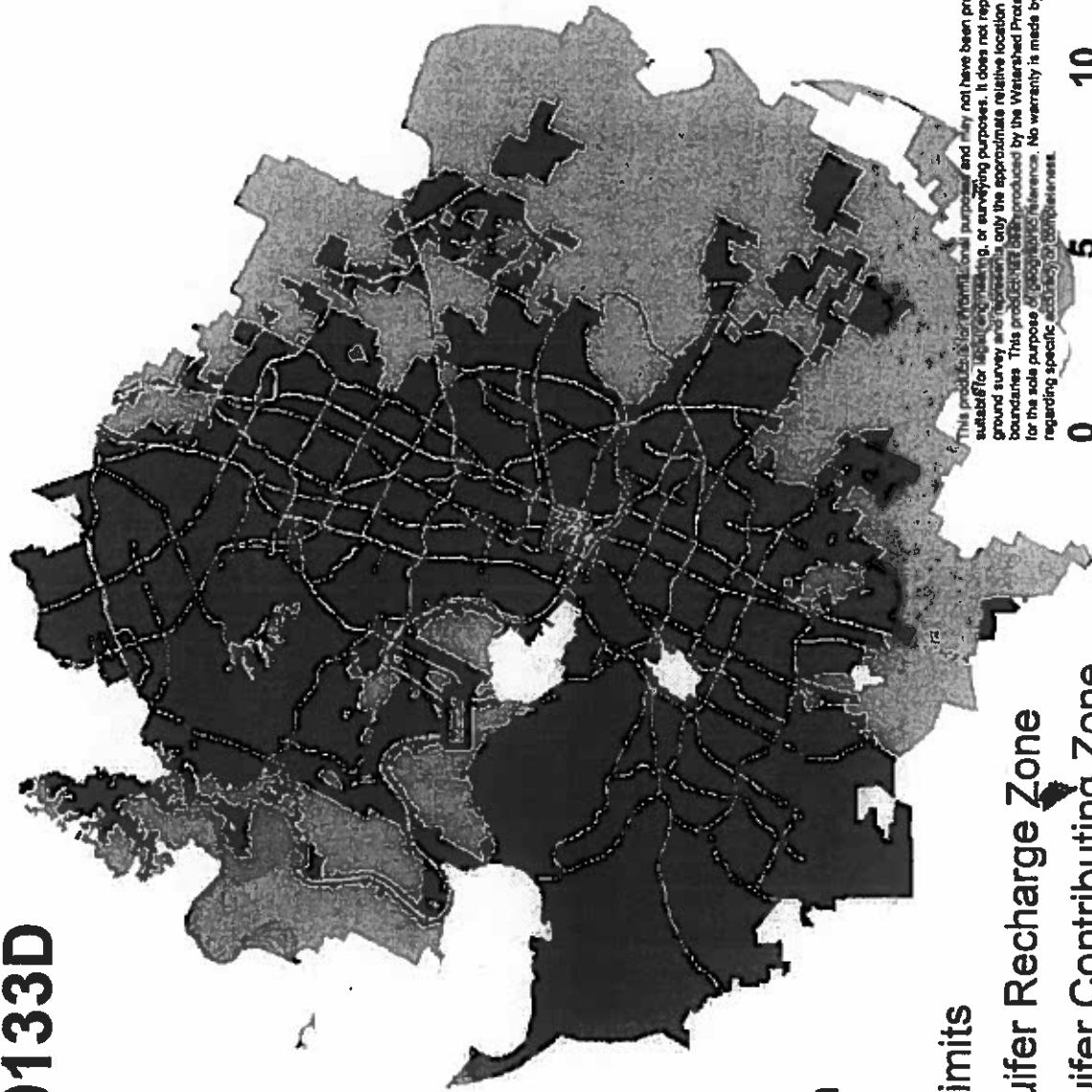
5 HUMBOLDT LANE
SP-2013-0133D**

***Sylvia Pope, P.G., Hydrogeologist
Environmental Resource Management, WPD***

***Liz Johnston. Environmental Review Specialist Senior
Land Use Review, PDRD***

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SP-2013-0133D

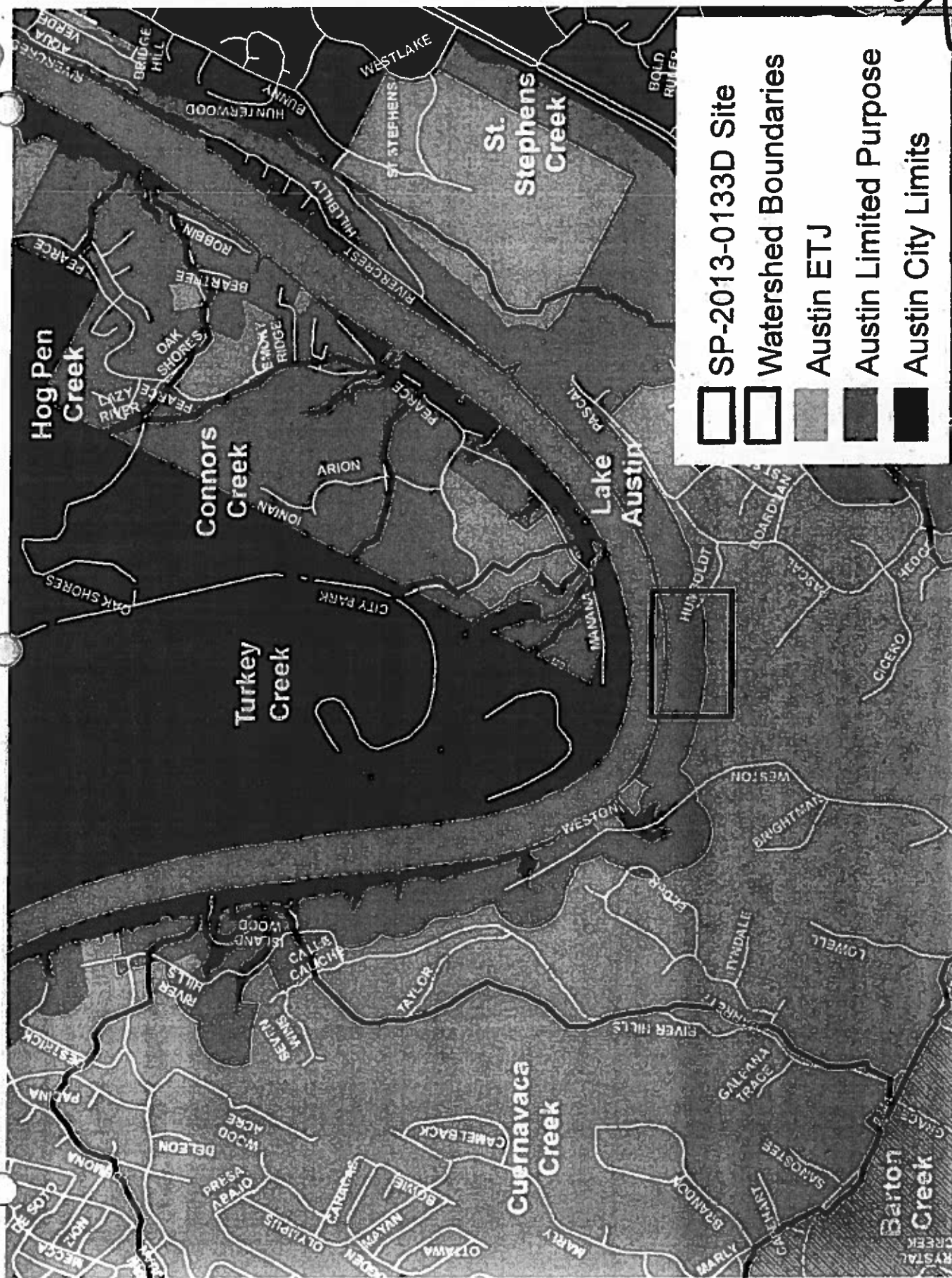


- Site Location
- Austin ETJ
- Austin City Limits
- Edwards Aquifer Recharge Zone
- Edwards Aquifer Contributing Zone

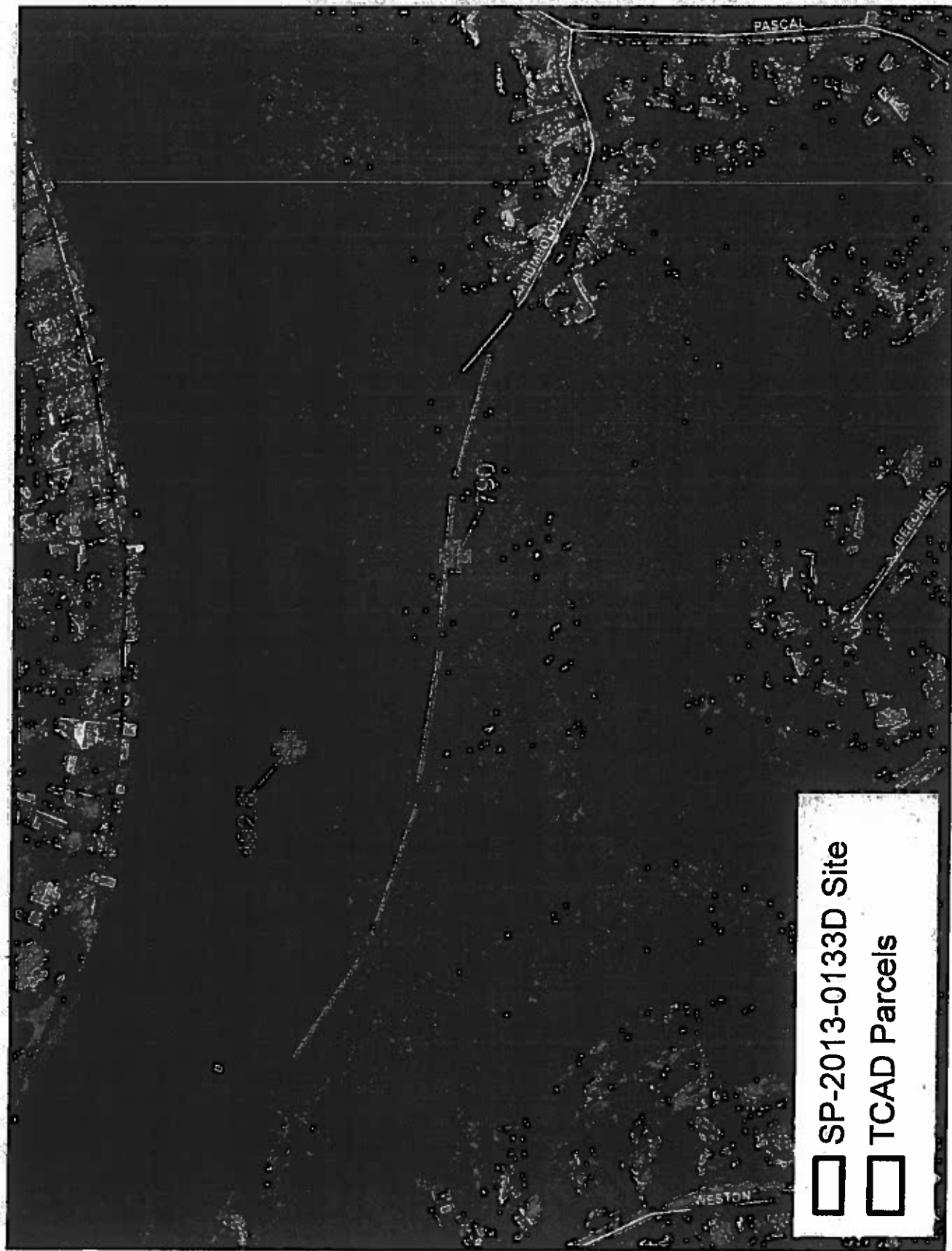
This product is for informational purposes only and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. This product is not produced by the Watershed Protection Department for the sole purpose of providing a reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



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- ☐ SP-2013-0133D Site
- ☐ TCAD Parcels



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PROPERTY DATA

- Lake Austin Watershed
- Water Supply Rural
- Drinking Water Protection Zone
- Full Purpose, Limited Purpose Jurisdiction and 2-Mile ETJ
- Not located over Edwards Aquifer Recharge Zone
- Rimrock Critical Environmental Features

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BACKGROUND

Boat dock site plan application.

Required to show necessary access on the site plan.

Rimrock CEFs traverse the site – access to proposed boat dock not possible without crossing a CEF.

Original subdivision (C8F-79-067), Rob Roy Phase 2.

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LDC 25-8-281(C)

Prohibits development within a CEF buffer:

- (C) This subsection prescribes the requirements for critical environmental feature buffer zones.
 - (1) A buffer zone is established around each critical environmental feature described in this subchapter.
 - (a) Except as provided in Subsection (C)(1)(b), the width of the buffer zone is 150 feet from the edge of the critical environmental feature....
 - (2) Within a buffer zone described in this subsection:
 - (a) the natural vegetative cover must be retained to the maximum extent practicable;
 - (b) construction is prohibited; and
 - (c) wastewater disposal or irrigation is prohibited.
 - (3) If located at least 50 feet from the edge of the critical environmental feature, the prohibition of Subsection (C)(2)(b) does not apply to:
 - (a) a yard or hiking trail; ...

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VARIANCE REQUEST

Variance Request

- To allow construction of a boat dock and the associated access trail within a Critical Environmental Feature buffer, 25-8-281(C)(1)(a).

Similar Cases

- SP-06-0666DS (Knapp-Pascal Boat Dock, 62 Pascal Ln.)

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VARIANCE RECOMMENDATION

**Approval of variance with following staff
condition:**

- *No tram construction will be allowed on the
property.*

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Urban Design Group

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TRANSMITTAL LETTER

DATE: October 2, 2013

TO: Liz Johnston
Environmental Specialist
City of Austin
Planning and Development Review Department

CC: Michael Simmons-Smith, COA
David Braun
Terry Irion
Maureen Alexander

FROM: Don Sansom, P.E. *DS*

SUBJECT: Boat Dock for 5 Humboldt Lane
COA Case No. SP-2013-0133D
Variance Request
UDG Project No. 10574.008

Message:

We have enclosed for your use the applicant's variance request package for the subject pending site plan. Per your instructions, we have updated the request utilizing the template adopted by the Environmental Board. Please call me at 347-0040, ext. 111 if you have any questions.

Liz Johnston, 10-2-13

Urban Design Group (F-1843)
3660 Stoneridge Road, Suite E101 • Austin, Texas 78746 • Tel: 512 347-0040

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ENVIRONMENTAL BOARD VARIANCE APPLICATION TEMPLATE

Boat Dock Application for 5 Humboldt Lane
COA Case No. SP-2013-0133D

Description of Requested Variance (See also attached variance request letter):

The applicant requests a variance from Section 25-8-281(C) of the City's Land Development Code to construct a boat dock and its necessary access trail/path within the buffer zone of a canyon rimrock Critical Environmental Feature (CEF). The request accompanies the owner's application for construction of a boat dock on Lake Austin for the applicant's property at 5 Humboldt Lane.

PROJECT DESCRIPTION

Applicant Contact Information

Name of Applicant	David Braun, agent for Maureen Alexander, owner
Street Address	P.O. Box 1148
City State ZIP Code	Dripping Springs, TX 78620
Work Phone	(512) 894-5426
E-Mail Address	dbraun@braungresham.com

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Variance Case Information

Case Name	Boat Dock for 5 Humboldt Lane
Case Number	SP-2013-0133D
Address or Location	5 Humboldt Lane
Environmental Reviewer Name	Liz Johnston
Applicable Ordinance	Current Code (CWO)
Watershed Name	Lake Austin
Watershed Classification	<input type="checkbox"/> Urban <input type="checkbox"/> Suburban <input type="checkbox"/> Water Supply Suburban <input checked="" type="checkbox"/> Water Supply Rural <input type="checkbox"/> Barton Springs Zone
Edwards Aquifer Recharge Zone	<input type="checkbox"/> Barton Springs Segment <input type="checkbox"/> Northern Edwards Segment <input checked="" type="checkbox"/> Not in Edwards Aquifer Zones
Edwards Aquifer Contributing Zone	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Distance to Nearest Classified Waterway	The property has frontage on Lake Austin
Water and Waste Water service to be provided by	Water: WCID #10 WW: On-site
Request	Variance from Section 25-8-281(C) of the City's Land Development Code to construct a boat dock and its necessary access trail/path within the buffer zone of a Critical Environmental Feature

Impervious cover	Existing	Proposed
square footage:	0	NA
acreage:	0	NA
percentage:	0	NA

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Provide general description of the property (slope range, elevation range, summary of vegetation / trees, summary of the geology, CWQZ, WQTZ, CEFs, floodplain, heritage trees, any other notable or outstanding characteristics of the property)

The environmental characteristics of the property are consistent with the Edwards Plateau region (Balcones Canyonlands) of west-central Texas. The topography of the majority of the property is steep and the surface is rough, rocky, and well drained. Elevations on the property range from 832 to 491 feet above mean sea level (MSL). A ridge (topographic divide) follows a northwest path across the lot. Vegetation on the property consists of dense woodlands and both native and invasive plants. The locations of trees in the area of the proposed improvements are depicted on the site plan drawings.

A portion of the property is within the 100-year floodplain of Lake Austin. The locations of the lake's shoreline, floodplain, and Critical Water Quality Zone are shown on the site plan drawings.

The property's steep slopes along Lake Austin contain rock outcroppings that meet the definition of a canyon rimrock Critical Environmental Feature. The locations of the rimrocks and their buffer zones are depicted on the site plan drawings.

Clearly indicate in what way the proposed project does not comply with current Code (include maps and exhibits)

The proposed dock and its access path/stairs are located within the 150-foot buffer zone of rimrock CEF's (See site plan drawings).

FINDINGS OF FACT

As required in LDC Section 25-8-41, in order to grant a variance the Land Use Commission must make the following findings of fact:

Include an explanation with each applicable finding of fact.

Project: Boat Dock Application for 5 Humboldt Lane
 SP-2013-0133D
 Ordinance: Current (CWO)

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A. Land Use Commission variance determinations from Chapter 25-8-41 of the City Code:

1. The requirement will deprive the applicant of a privilege or the safety of property given to owners of other similarly situated property with approximately contemporaneous development.

Yes. Strict application of the CEF buffer requirement will deprive the owner of privileges given to the owners of similarly situated lakefront properties with approximately contemporaneous development. The City has granted approvals for the construction of docks and means of access to them within the setbacks of similar rimrock CEF's to the owners of lots located upstream and downstream of the subject lot (See Attachment 1, Site Context - Aerial Photo, and Attachment 2, Tabulation of Approved Boat Docks).

2. The variance:

- a) Is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;

Yes. The condition is not caused by the applicant's method to develop the property. The configuration of the 32.6-acre lot was established in 1979 by the Rob Roy Phase 2 subdivision plat. The rimrock CEF generally follows the property's frontage on Lake Austin.

- b) Is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property;

Yes. The variance is the minimum necessary to provide the privilege given to other property owners on Lake Austin to construct a dock and its access and to allow a reasonable use of the property. The applicant has chosen the location for the dock and its access trail/path to minimize the departure from the buffer zone requirements. The selected location of the dock and its access trail/path maximizes the distance from and thereby minimizes the potential to harm the CEF. The dock is 55 feet from the CEF.

- c) Does not create a significant probability of harmful environmental consequences; and

Yes. The variance does not create a significant probability of harmful environmental consequences. The applicant has chosen the location, design, and construction methods for the dock and its access trail/path to minimize the potential for harmful environmental impacts. The applicant will construct the dock from a floating barge and will not place heavy equipment on the land between the rimrock and the shore.

Along the steep portions of the access trail, the applicant will construct a mortared rock stair over and along the exposed edge of the rimrock. The construction details for the stair included on the site plan drawings stipulate that no disturbance of the rimrock or its vegetation shall occur except in those areas in contact with the stair. The applicant will utilize

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on-site weathered limestone to construct the stair in a comparable manner to the stairs built over a similar rimrock formation to access the dock located immediately upstream of the subject property. (See Attachment 3, Site Plan and Construction Details, Attachment 4, Photographs of rimrock CEF at the proposed dock, and Attachment 5, Photographs of stone stairs crossing rimrock to access dock on adjacent upstream lot)

3. Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.

Yes. By utilizing the design and methods described above, construction of the dock and its access trail/path will result in water quality that is at least equal to the water quality achievable without the variance. The quality of the runoff from the mortared rock stair will be equivalent to the runoff from the native on-site stones to be utilized for its construction. Construction of the dock from a floating barge will prevent disturbance of the hydrogeology of the rimrock and will minimize disturbance of the shore and natural vegetation between the dock and the rimrock.

- B. Additional Land Use Commission variance determinations for a requirement of Section 25-8-393 (Water Quality Transition Zone), Section 25-8-423 (Water Quality Transition Zone), Section 25-8-453 (Water Quality Transition Zone), or Article 7, Division 1 (Critical Water Quality Zone Restrictions):

1. The criteria for granting a variance in Section A are met;

Not applicable.

2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and

Not applicable.

3. The variance is the minimum change necessary to allow a reasonable, economic use of the entire property.

Not applicable.

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Exhibits for Board Backup and/or Presentation

A. Variance Request Letter with the Following Attachments:

1. Site Context - Aerial Photo
2. Tabulation and Photographs of Approved Boat Docks (with similarly situated property and contemporaneous development)
3. Site Plan and Construction Details
4. Photographs of rimrock CEF at the proposed dock
5. Photographs of stone stairs crossing rimrock to access dock on adjacent upstream lot



Urban Design Group

October 2, 2013

Greg Guemsey, Director
Planning and Development Review Department
City of Austin
505 Barton Springs Road, Suite 400
Austin, TX 78704

Re: Boat Dock Application for 5 Humboldt Lane
COA Case No. SP-2013-0133D
Variance Request
UDG 10547.008

Dear Greg,

On behalf of the owner, we have prepared this letter to request a variance from Section 25-8-281(C) of the City's Land Development Code that prescribes the requirements for Critical Environmental Feature buffer zones. The request accompanies the owner's application for the construction of a boat dock on Lake Austin for the subject property located at 5 Humboldt Lane.

Description of the Requested Variance

The owner requests a variance to construct a boat dock and its necessary access trail/path within the buffer zone of a canyon rimrock Critical Environmental Feature (CEF). The rimrock CEF extends along the majority of the property's frontage on Lake Austin. The locations of the proposed dock and its access trail/path with respect to the CEF buffer zone are depicted on the site plan. (See Attachment 3)

Explanation and Justification for the Requested Variance

As further described below, this request is based on unique circumstances where strict application of the buffer zone requirement would deprive the owner of privileges enjoyed by other similarly situated property with similarly timed development. The owner has chosen the location of the dock and its access trail/path and their design and construction methods to minimize the departure from the buffer requirements and potential for harmful environmental impacts. The following information is provided in support of the variance in accordance with Appendix Q, Watershed Variances – Findings of Fact contained in the City's Environmental Criteria Manual.

- 1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development?*

Yes. Strict application of the 150-foot buffer requirement deprives the owner of privileges enjoyed by other lakefront properties. The City has granted approvals to the owners of lakefront lots located upstream and downstream of the subject lot for the construction of docks and means of access to them within the buffer zones of similar rimrock CEF's.

(See Attachment 1, Site Context - Aerial Photo of Lake Austin, and Attachment 2, Tabulation of Approved Boat Docks - with similarly situated property and contemporaneous development).

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2. *Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences?*

Yes. The proposed location, design, and construction methods for the dock and its access trail/path minimize the departure from the buffer zone requirements and potential harmful environmental impacts. The proposed location of the dock is approximately 55 feet from the rimrock. Construction of the dock will be performed from a floating barge and no heavy equipment will be placed on the land between the rimrock and the shore.

The proposed alignment of the access trail/path follows a narrow ridgeline to minimize disturbance of areas with steep slopes. Along the lower portion of the path that traverses steep slopes, the applicant has modified the path's alignment to follow an existing animal path as requested by the city staff during a site visit on May 1, 2013. The applicant proposes to construct a mortared rock stair over and along the exposed edge of the canyon rimrock. The construction details for the stair stipulate that no disturbance of the rimrock or its vegetation shall occur except in those areas in contact with the stair. The applicant will utilize on-site weathered limestone to construct the stair in a comparable manner to the stairs built over a similar rimrock formation to access a dock located immediately upstream of the subject lot.

(See Attachment 3 - Site Plan and Construction Details, Attachment 4 - Photographs of rimrock CEF at the proposed dock, and Attachment 5 - Photographs of stone stairs crossing rimrock formation to access dock on adjacent upstream lot)

3. *The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition that was created as a result of the method by which a person voluntarily subdivided land.*

Yes. Approval of the requested variance will allow construction of the proposed dock and its access trail/path in a form and location enjoyed by other similarly situated and timed development. Moreover, the variance does not provide a special privilege, and is not based on a unique condition created as a result of the method utilized to subdivide the land. Of note, due to the configuration of the subject platted lot consisting of 32.6 acres, one dock will be constructed along 1800 linear feet of frontage on Lake Austin.

4. *Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance?*

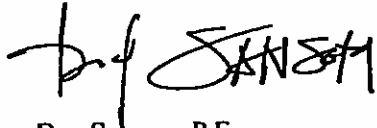
Yes. Utilizing the design and construction methods described above, construction of the dock and its access trail/path within the canyon rimrock buffer zones will result in water quality equal to or better than without the variance. Runoff from the mortared rock stair will be equivalent to the runoff from the native on-site stones utilized for its construction. The application further stipulates that construction of the dock shall be performed from a floating barge to prevent disturbance of the hydrogeology of the rimrock and to minimize disturbance of the natural vegetation between the dock and the rimrock.

Greg Guernsey
October 2, 2013
Page 3 of 3

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Please call me at 347-0040 ext. 111 should you have any questions.

URBAN DESIGN GROUP



Don Sanson, P.E.

Attachments:

1. Site Context - Aerial Photo
2. Tabulation and Photographs of Approved Boat Docks (with similarly situated property and contemporaneous development)
3. Site Plan and Construction Details
4. Photographs of rimrock CEF at the proposed dock
5. Photographs of stone stairs crossing rimrock to access dock on adjacent upstream lot

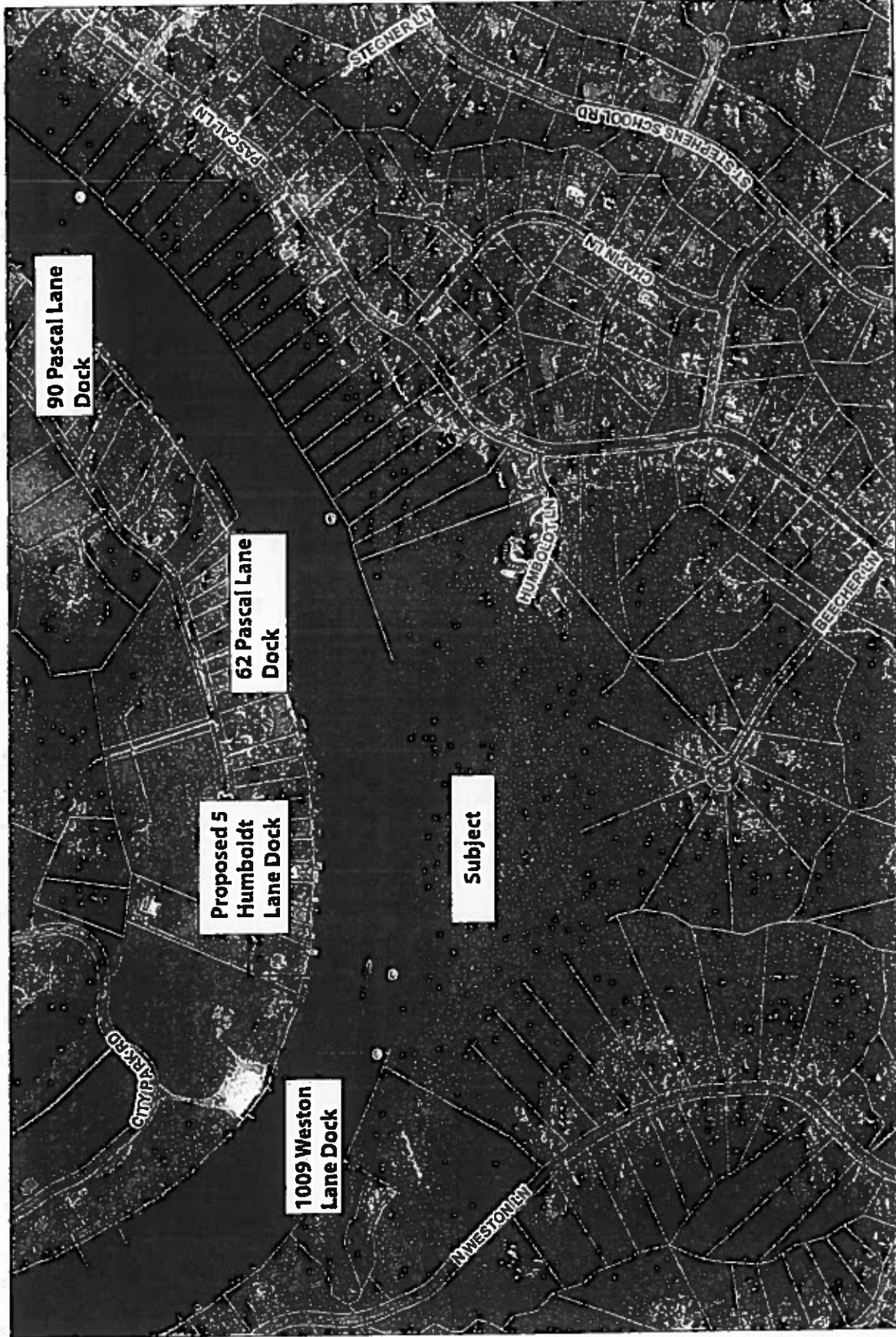
CC: Maureen Alexander
David Braun
Terry Irion
John Noell, Urban Design Group

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ATTACHMENT I

**SITE CONTEXT
AERIAL PHOTO**

C3/36



3400 STORMBOLT ROAD
SUITE 100
AUSTIN, TX 78746
PHONE: 817.347.1048
FAX: 817.347.1311
E-MAIL: GENERAL@UDG.COM
www.udg.com



Boat Dock Application for 5 Humboldt Lane
Attachment 1 - Site Context, Aerial Photo
COA Case No. SP-2013-0133D



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ATTACHMENT 2

**TABULATION AND PHOTOGRAPHS
OF APPROVED BOAT DOCKS**

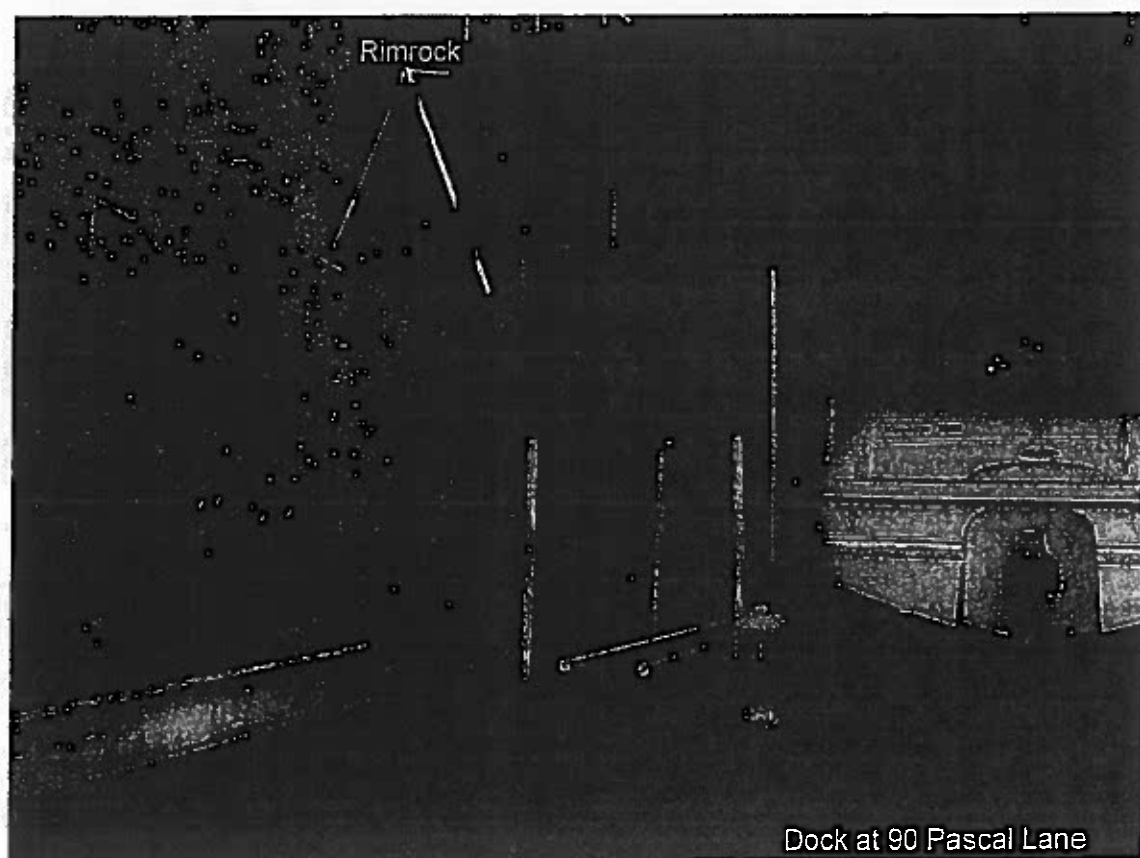
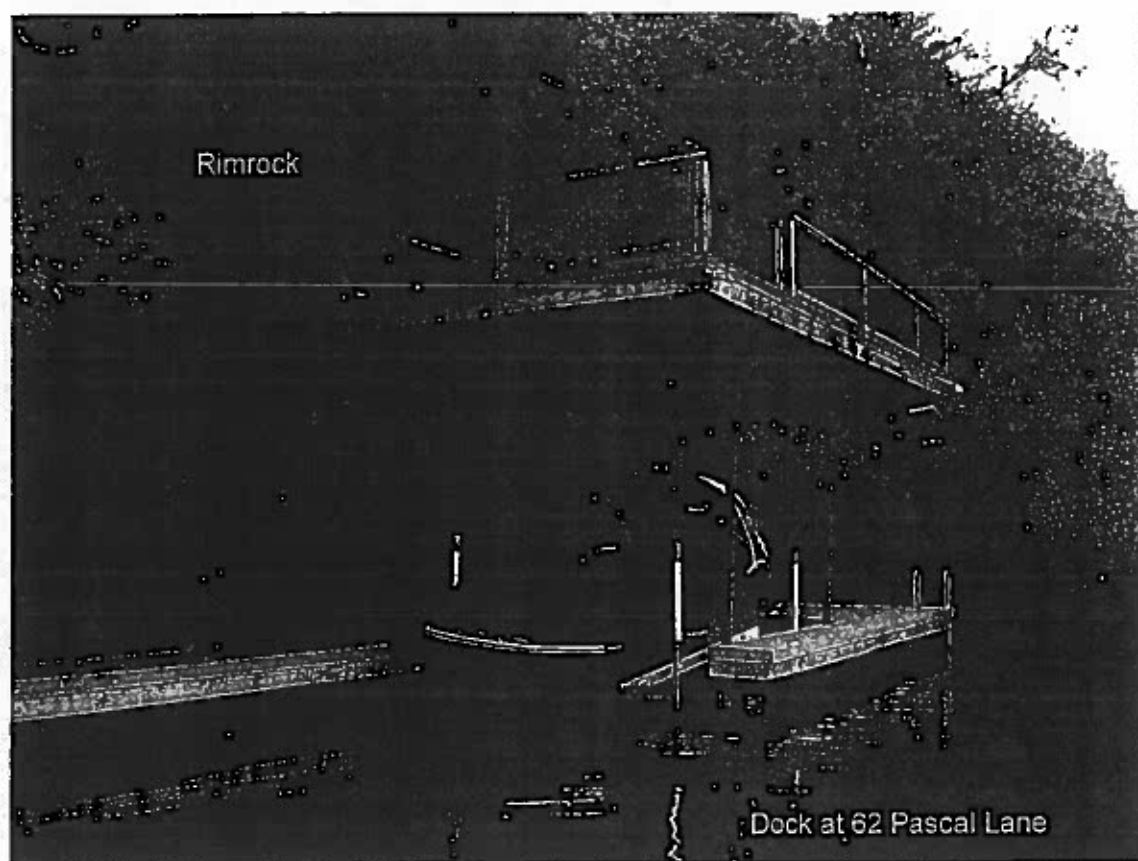
**(WITH SIMILARLY SITUATED PROPERTY
AND CONTEMPORANEOUS DEVELOPMENT)**

**ATTACHMENT 2 - TABULATION OF APPROVED BOAT DOCKS
(WITH SIMILARLY SITUATED PROPERTY AND CONTEMPORANEOUS DEVELOPMENT)**

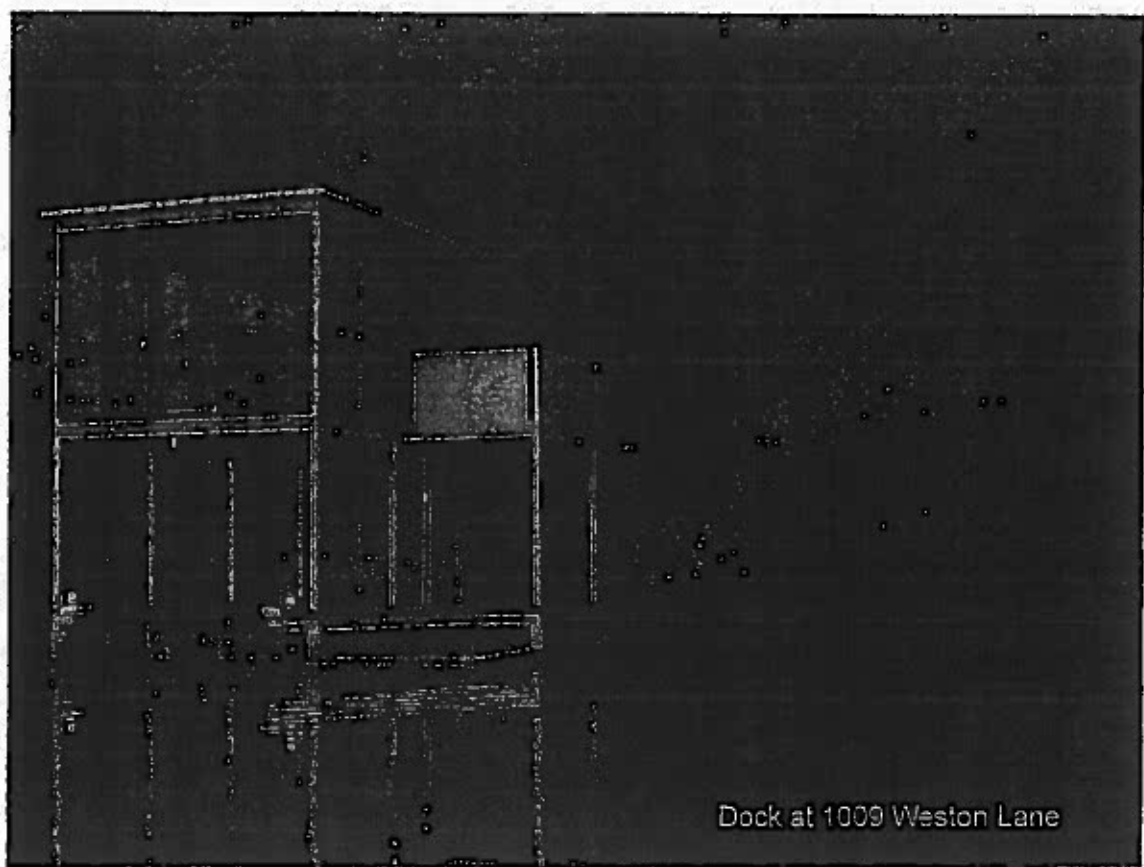
Applicant	Property/Address	Legal Description			COA Site Plan Case #	Site Plan Approval Date	Notes
		Lot #	Subdivision	Date Recorded			
Martin	1009 Weston Lane	27	Rob Roy on the Lake Sec 1	4/25/1983	SP-00-2182 DS	8/14/2000	Access path/stair constructed within rimrock CEF buffer
Knepp	62 Pascal Ln	55	Rob Roy Phase 2	8/29/1979	SP-08-0666 DS	6/8/2007	Administratively approved environmental variance to construct dock within 25 feet of rimrock CEF
Jones	80 Pascal Ln	1	Davenport West PUD Tract C-3, Sec 2, The Point at Rob Roy	5/15/1991	SP-00-2517 DS	5/30/2001	Access and dock constructed within rimrock CEF buffer. Dock application included tram

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Dock at 1009 Weston Lane

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/H1

ATTACHMENT 3

SITE PLAN AND
CONSTRUCTION DETAILS

02-2013-01300

Architectural drawings of a building, including floor plans, elevations, and sections. The drawings are labeled with circled numbers 1 through 10.

- 1. Floor Plan (Main Level)
- 2. Floor Plan (Second Level)
- 3. Section (Longitudinal)
- 4. Section (Transverse)
- 5. Elevation (Front)
- 6. Elevation (Side)
- 7. Elevation (Rear)
- 8. Elevation (Roof)
- 9. Section (Detail)
- 10. Section (Detail)

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ATTACHMENT 4

PHOTOGRAPHS OF RIMROCK CEF
AT PROPOSED DOCK LOCATION

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5 Humboldt Lane
Site Conditions at Proposed Dock Dock
2013-02-23 17-36-44 - IMG_4186



5 Humboldt Lane
Site Conditions at Proposed Dock Dock
2013-02-23 17-56-48 - IMG_4187



5 Humboldt Lane
Site Conditions at Proposed Dock Dock
2013-02-23 18-28-32 - IMG_4188

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ATTACHMENT 5

**PHOTOGRAPHS OF STONE STAIRS
CROSSING RIMROCK TO ACCESS DOCK
ON ADJACENT UPSTREAM DOCK**

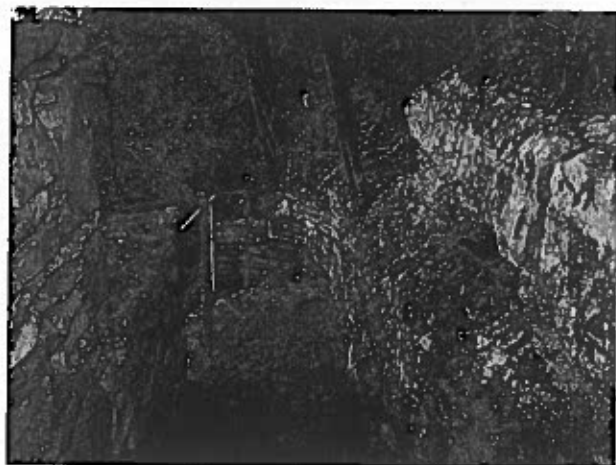
C3
4X



5 Humboldt Lane
Adjacent Dock
2013-02-02 17-11-15 - IMG_0003



5 Humboldt Lane
Adjacent Dock
2013-02-02 17-12-28 - IMG_0004



5 Humboldt Lane
Adjacent Dock
2013-02-02 17-14-23 - IMG_0005



5 Humboldt Lane
Adjacent Dock
2013-02-02 17-16-06 - IMG_0008

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5 Humboldt Lane
Adjacent Dock
2013-02-02 17-18-49 - IMG_0011



5 Humboldt Lane
Adjacent Dock
2013-02-02 17-27-51 - IMG_0012

Simmons-Smith, Michael

C3/49

From: John M. Joseph <jm.joseph@coatsrose.com>
Sent: Wednesday, January 22, 2014 10:26 AM
To: dbraun@braungresham.com
Cc: Anderson, Dave - BC; Hernandez, Alfonso - BC; Stevens, Jean - BC; Chimenti, Danette - BC; Nortey, James - BC; Oliver, Stephen - BC; Roark, Brian - BC; Smith, Myron - BC; Simmons-Smith, Michael; 'Don Sansom'; Terry Irion; Kimberly Buck; Pamela Madere
Subject: Variance Request to Construct in the CEF - Interested Parties Request - 5 Humboldt Lane - SP-2013-0133D

David,

We represent numerous families including the McWhorter family, two different Davis families, and the Johnson family – who have registered as Interested Parties to Case Number SP-2013-0133D.

We understand that the applicant owns a 32.6 acre tract in the Rob Roy subdivision and is seeking to build a two-slip, 65-foot boat dock on Lake Austin and a switchback trail to traverse the steep cliff (80% slopes that lead downward from the 675-ft contour line) to get to the shoreline. Applicant requires a variance to allow construction of the boat dock and access trail within a rim rock CEF buffer on the property. On December 18, 2013, the EV Board voted to recommend the variance with the condition that no trams or similar mechanized conveyances be constructed to provide shoreline access to the boat dock.

The Interested Parties strongly oppose the variance request for numerous reasons including the violation of the existing public restrictive covenant (notwithstanding the City's current refusal to enforce), environmental concerns in this confirmed endangered Golden Cheek Warbler habitat, and future development concerns. After lengthy discussion among my clients and in the spirit of compromise, however, the Interested Parties will agree not to oppose the application at the Planning Commission hearing next week if the applicant will agree to a private Restrictive Covenant with the following terms:

1. Neither the applicant nor any subsequent owners will seek City of Austin or other regulatory approval for the construction or installation of a tram or any other mechanized/motorized conveyance to provide access to the boat dock;
2. Neither the applicant nor any subsequent owners will seek City of Austin or other regulatory approval for additional boat docks or boat slips for the 32.6 acre tract, regardless of the future configuration or subdivision of the tract, or to expand the size of the boat dock currently proposed;
3. The applicant will agree to move the location of the boat dock to the western edge of the tract. (The western edge has more favorable site conditions for the boat dock and trail.)

Please respond by Thursday of this week, so that the parties have time to draft the Restrictive Covenant prior to the Planning Commission hearing on Tuesday, January 28, 2014.

COATS | ROSE

A Professional Corporation

John M. Joseph
Attorney

Barton Oaks Plaza
901 South MoPac Exp.

Bldg. 1, Suite 500

Austin, TX 78746

Direct: 1-512-541-3593 Fax: 1-512-469-9408

imjoseph@coatsrose.com

HOUSTON | CLEAR LAKE | AUSTIN | DALLAS | SAN ANTONIO | NEW ORLEANS

www.coatsrose.com

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January 23, 2014

Mr. John M. Joseph
Coats Rose
Barton Oaks Plaza
901 South MoPac Exp.
Bldg. 1, Suite 500
Austin, TX 78746

RE: Your e-mail of January 22, 2014

Dear John:

Thank you for your e-mail of January 22nd in regards to the variance request made by our client, Dr. Maureen Alexander, for access to a boat dock at 5 Humboldt Lane. We appreciate you and your clients making the effort to communicate with us directly. We hope to reassure you and your clients on some of the points you raise and also to help you understand the reasons for our position on other points.

First, we can assure everyone that Dr. Alexander's lot at 5 Humboldt Lane is a single-family, residential lot platted as part of Rob Roy subdivision. The configuration and size of the lot cannot be changed under the deed restrictions governing Rob Roy which are vigorously enforced by the Rob Roy Home Owner's Association (HOA). As a single family residential lot, much like your clients' properties, City code does not allow more than one boat dock. So, we can also reassure your clients that only one boat dock can be built on this 1800-foot stretch of shoreline. As you know, current City code allows a landowner to build a dock with a width up to 20% of the length of their shoreline. Your clients may be among the many residents on Mañana Street who have chosen to use their maximum allowable width. Dr. Alexander has chosen to use less than 20% of the width that the code allows for her lot and has no plans at this point to apply for more.

We appreciate and understand the sentiment behind your suggestion that we locate the dock at the western end of the lot. That location was extensively considered by both our engineers and the City staff. In the final analysis, the City staff recommended the current location as the preferred location for a variety of environmental and safety reasons. I'm sure you understand that for Dr. Alexander to make that change now would require her to start the entire site plan and variance approval process over again. We have advised Dr. Alexander that the additional delay and added cost would not be justified, since we already know that the City staff prefers the current location and believes that it has the least impact on the environment and safety.

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We cannot say that we totally understand your request that Dr. Alexander agree to never build a tram or mechanized/motorized conveyance to access the boat dock. We do not understand why an elderly or disabled person should be denied access to the boat dock if it were tastefully designed and built with minimal impact on the environment. Be that as it may, Dr. Alexander has never requested a tram at any point in this process and the current site plan application is only for a foot path and stairway built of natural stone that blends into the natural environment of the shoreline. Your clients may have noticed a similar foot path and stairway that provides access to the boat dock that is immediately upstream from Dr. Alexander's lot. That access is essentially invisible from offshore and we intend to build with the same design and construction criteria. Finally, we can reassure your clients that the current City staff shares their opposition to trams and has conditioned their support of our variance request on a prohibition of a tram.

Regarding the restrictive covenant that you reference, we hope you will be able to explain to your clients that state law in Section 245.002(d) of the Local Government Code gives Dr. Alexander the right to have her application reviewed under current City code. The City staff's position is not "a refusal to enforce" the restrictive covenant. Rather, the City has changed the applicable rules since the time when they required the restrictive covenant. Because of the change in City rules, state law requires that the City allow Dr. Alexander to be regulated under the same rules that are now applicable to all other citizens. I believe it was one of your clients who pointed out in an earlier hearing that Greg Guernsey wrote a letter in February of 2012 in which he stated that he had to enforce the restrictive covenant. Since that time, with the guidance of the City legal staff, Mr. Guernsey has taken the position that the restrictive covenant does not apply if Dr. Alexander chooses to be approved under current City code. I think you will agree that our site plan and variance request are being reviewed and considered under the currently applicable rules and regulations of the City.

Finally, you mention a concern for the protection of habitat for the endangered Golden-cheeked Warbler. I can assure your clients that Dr. Alexander shares that concern. She has owned the property at 5 Humboldt Lane for more than 25 years and, for all of that time, she has been an outstanding steward of the property and the wildlife habitats represented there. In recent years, she has had the wildlife populations on the property carefully documented and has implemented comprehensive management plans to ensure that they thrive and propagate. Anyone who has spent time on this part of Lake Austin knows that she is responsible for continued existence of the beautiful views and natural scenery on more than a third of a mile of lake shore. She fully intends to continue that commitment to the land and the natural environment as she now exercises her property rights to build a home and accessory uses on her 32.57 acres. Dr. Alexander is fully aware that the property is mapped as Zone 1 and Zone 2 for habitat of the Golden-cheeked Warbler. She will participate in the Balcones Canyonlands Conservation Plan before she takes any action that requires mitigation for incidental taking of the habitat of the Golden-cheeked Warbler.

John M. Joseph
January 23, 2014
Page 3

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We sincerely hope that this discussion of your clients' concerns will help reassure them. Dr. Alexander seeks only the peaceable enjoyment of her private property while fully complying with all applicable federal, state and local laws. We welcome any further communication your clients wish to have concerning the variance request. We believe that our engineers have met and exceeded all requirements for demonstrating that the variance is justified. We hope that after reviewing all the issues your clients will add their support to that of the City staff and the Rob Roy HOA for the granting of the variance. Of course, we recognize and respect their right to raise any relevant objections they have to the specific request for a variance that Dr. Alexander has made to the Planning Commission next Tuesday night.

Warm regards,



David Braun

DBr:CBu

cc:

Dave Anderson
Alfonso Hernandez
Jean Stevens
Danette Chimenti
Richard Hatfield
Jeff Jack
James Nortey
Stephen Oliver
Brian Roark
Myron Smith

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Simmons-Smith, Michael

From: Maurice & Peggy Davis [REDACTED]
Sent: Thursday, November 01, 2012 4:53 PM
To: Simmons-Smith, Michael
Subject: Case Number: SP-2011-0177DS Opposition Comments and Bluff Photos
Attachments: 2005Lake DownR.jpeg; ATT4400965.txt; IMG_0946.jpeg; ATT4400966.txt; 200511b.jpeg; ATT4400967.txt

Case Number: SP-2011-0177DS
Boat Dock for 5 Humboldt Lane
Owner: Maureen Alexander
Public Hearing: Tuesday, Nov. 6, 2012
City of Austin Case Manager: Michael Simmons Smith (512-974-1225)

We were under the impression that the steep bluff across Lake Austin from our home on Manana was a protected environment.

We are very opposed to another dock being constructed on this steep bluff.

If a dock is allowed, will a house, a road, a trolley or marina soon follow?

This area is one of the few remaining steep bluffs along Lake Austin that does not have multiple docks on the water, trolleys on the bluff, and houses and roads on the crest.

We have no idea what kinds of trees, plants, and grasses thrive on this steep bluff that "man never leaves a footprint."

But we do know it is an extremely safe haven for many species of wildlife including birds, ducks, and fish.

When the lake is drawn down 12 feet every few years, the bluff's rocky base with overhangs and crevices is clearly visible.

This rocky base is a protective cover for a lot of fish, and bass fishermen slowly fish along this bluff all year long.

The Colorado River is 25-30 feet deep along the bluff providing a deep water winter home for fish.

It is an extremely popular area for visitors at nearby Emma Long City Park who are seen in small boats, rubber rafts, and canoes slowly edging along the shoreline of the bluff.

These visitors frequently include young families who are seen enjoying the sight of many ducks and birds who nest along the shoreline.

Many other species of birds, hawks and vultures safely nest high on the bluff.

This bluff is a beautiful and peaceful view not only the Manana neighbors, but also for the many boaters who frequent Lake Austin.

It is a common site for us to see wake board boats, pleasure boats, and jet skis frequently stopping and enjoying the incredible view of the bluff and wildlife.

Please do not allow another dock to mar this rapidly disappearing bit of beauty and wildlife haven == not only for Manana homeowners, but also for the public so they can continue to enjoy this pristine environment.

Maurice and Peggy Davis

Simmons-Smith, Michael

From: Melissa Houtz [mailto:melissa.houtz@cityofaustin.org]
Sent: Thursday, November 01, 2012 4:47 PM
To: Simmons-Smith, Michael
Subject: Case Number: SP-2011-0177DS

C3
/65

Re:

Case Number: SP-2011-0177DS
> Boat Dock for 5 Humboldt Lane
> Owner: Maureen Alexander
> Public Hearing: Tuesday, Nov. 6, 2012
> City of Austin Case Manager: Michael Simmons Smith (512-974-1225)

We are adamantly apposed to the proposed work to be done across from our houses on Lake Austin. We were insured that construction across the lake from Manana Street, Austin Texas would not be permitted by the City of Austin and we intend to keep them at their word. It was because of these assurances that we purchased this land and paid accordingly, knowing our views would be protected and remain untouched. We appreciate your assistance in prohibiting such construction. If we let one person do it, soon that side of the lake will be lined with similar structures thus devaluing our properties.

Thank you,

Mary Ann Houtz
Melissa Houtz
Ken Houtz

1515 Manana Street
Austin, Texas 78730

512-785-6977

Simmons-Smith, Michael

From: Jim Warmack <jwarmack@att.net>
Sent: Monday, November 05, 2012 11:55 AM
To: Simmons-Smith, Michael
Subject: Case Number SP-2011-0177DS

C3/gle

Dear Mr. Simmons-Smith

As a Lake Austin resident for more than 20 years I would like to add my support to the letters you have received from the Lamberts and McWhorters. I am a resident living between their two locations and believe they have clearly stated why the Zoning and Platting Commission should deny this appeal for a variance. Thank you.

James R Warmack
1609 Manana St
Austin TX 78730

November 3, 2012

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TO: Michael Simmons-Smith, City of Austin Case Manager: (512-974-1225)

REF: Case Number: SP-2011-0177DS
Boat Dock for 5 Humboldt Lane
Owner: Maureen Alexander
Public Hearing: Tuesday, Nov. 6, 2012

Dear Mr. Simmons-Smith,

We have just been notified of the above-cited hearing. We have also received a copy of an email written by the Lamberts, who are our neighbors on Manana Street, across Lake Austin from the proposed site of a new dock (and inevitably a tram). My wife and I have skied on Lake Austin since the 1960s, and our two sons, who both live in Austin with their families, have skied on the lake since 1990, when we built our vacation home here at 1509 Manana Street (we also own the adjacent lot at 1511 Manana). My wife and I live in Houston, where I have been a full-time tenured faculty member at the University of Houston since 1980.

One of the many beauties of the lake here is the gorgeous - and pristine - bluff that sits across the lake from our house. Every guest who visits us here comments on the beautiful scene we are so fortunate to have across the lake from our house, and every boater who passes it enjoys the wonder of that bluff. For us, it would be tragic to spoil this striking natural beauty with a dock and a tram, and this tragedy would be magnified if the approval of such a request would ultimately lead to similar scarring of that beauty all along the bluff.

I mentioned the Lamberts' message to you above. I believe they have described quite well many of our own concerns and thoughts, and our own understanding of the legal sanctity of that bluff. I'll therefore focus on additional concerns that my wife and I have that are shared by our two sons, who, as I mentioned, are Austin residents and use our lake house for entertaining their families and friends.

Additional Concerns:

1. We have owned this house for 22+ years, yet to our knowledge we never received direct notice of the upcoming hearing, either by regular mail, email, or telephone. We are indebted to one of our neighbors, Peggy Davis, for notifying us.
2. In all our years on the lake we have skied, at one time or another, all parts of the lake, from Mansfield Dam down to Tom Miller Dam. The stretch of lake that our house is on is one of the narrowest in the entire length of Lake Austin; I would guess that only the uppermost mile or two - the stretch immediately below Mansfield Dam - is narrower. This area in front of our house already gets substantial boat traffic because it tends to

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calm down more quickly than wider stretches of the lake. We are concerned, and our sons are as well, that docks across from us could significantly increase the risk of a very bad accident.

3. Also related to the narrow width of the lake along this stretch, docks below and trams along the bluff are more intrusive on one's view of the bluff the closer they are to the person trying to enjoy the view. I believe the impact would be negative to anyone who cherishes the view, of course, but the closer the intrusive blemish, the more distracting and off-putting it will be. Thus, I believe the negative impact on those of us who live on Manana would be even more acute because of the relatively short intervening distance between our houses and the bluff..
4. I have no way of estimating the effect, but clearly the presence of a dock and tram, or worse yet a string of them, across the lake from us would reduce the desirability and hence the value of our lake house. Our primary concern is to preserve the natural beauty of the bluff, but the likely significant adverse economic impact of one or more docks and trams cannot be ignored.

In summary, we feel strongly that permitting docks and trams would destroy one of the prettiest natural bluffs on the entire lake. We emphatically oppose the variance sought by Ms. Alexander and urge the Zoning and Platting Commission to deny this appeal and affirm its original decision to deny the original application for a variance. Thank you for taking the time to give careful consideration to our concerns.

Archer and Dava McWhorter
1509 Manana Street
Austin, TX 78730

Permanent address: 13803 Pinerock Lane
Houston, TX 77079

- P.S. I have class Tuesday at UH and my wife is serving jury duty in federal court for all of next week. We regret that these conflicts prevent us from attending the hearing.. We visit Austin often because our sons and grandchildren are here and because we love to entertain here, so we do not consider driving to Austin and back a burden. We simply cannot attend due to schedule conflicts beyond our control.

Simmons-Smith, Michael

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From: Michael Lambert [REDACTED]
Sent: Friday, November 02, 2012 5:28 PM
To: Simmons-Smith, Michael
Cc: Maurice & Peggy Davis; Breedlove Shawn and Deanne; Fischer Jerry; Lambert Michael and Jennifer; Warmack Jim and Leigh McAlister; Shawn Breedlove; Griggs Patrick and Stephanie; Patrick Griggs; Davis Meredith; Davis Clay; Hausmann Kenneth and Debbie; Hausmann Kenneth; Houtz Mary Ann; Shapiro Michael and Casimiera; McWhorter Trey and Sarah; Wombwell John and Robin; Johnson Michael and Candace; Norsworthy Judy
Subject: Re: Case Number: SP-2011-0177DS Tuesday, Nov. 6 Update

Ref: Case Number: SP-2011-0177DS
Boat Dock for 5 Humboldt Lane
Owner: Maureen Alexander
Public Hearing: Tuesday, Nov. 6, 2012
City of Austin Case Manager: Michael Simmons Smith (512-974-1225)

Mr. Simmons-Smith,

My wife Jenny and I live at 1611 Manana St., Austin, TX 78730 and purchased this, our retirement home, in 2005. We are finally retiring from my Vitreoretinal Surgery practice in Houston to full time in Austin at the end of the year. We learned earlier this week of the above appeal and have sent you a form provided to us by one of our neighbors concerning this. We did not receive a letter or form ourselves despite being one of the homes directly across from the property in question.

We purchased our home for many reasons including the great neighborhood, park-like atmosphere, great neighbors (the previous owner was very informative on the area) and the fact that we are basically in a wildlife preserve with nothing but a bluff across the lake from us and that no docks, buildings, etc. could ever be built there as the bluff was not included in the platting of the properties several hundred feet above the water and that the bluff was a preserve to the nature of the area. Our home has large cottonwood trees in the backyard and is home to many blue herons. We have people come to our house and ask if they can photograph these beautiful birds frequently. They live in our trees, but spend much time flying across the lake in the trees directly across from us. Undisturbed nature at its finest. The blue herons are amazing, but this area is also the habitat of many other animals and people in boats will anchor there just to watch the hawks, eagles, deer, ducks, swans (four new babies this year!), geese, owls, etc.

As we understand it, this application has already been correctly disapproved by the city. To build a dock on such a sheer and tall bluff would require some type of tram from the top to the lake, further disturbing the beauty and nature of the area, not to mention being a hazard from this height. The owners must have known they did not purchase the bluff when they purchased the property and certainly have the right to purchase property on the lake away from this area or on our side. I believe there is a lot right down the street for sale.

In summary, we strongly urge you to disapprove this appeal and save the natural beauty of this area of Lake Austin. Two votes against this appeal. I'm sorry we cannot be at the meeting but I am still very busy seeing and operating on patients in Houston through the end of the year.

Thanks for your time in reading our email and letter and for protecting Austin's beauty and wildlife.

Michael Lambert, MD FACS
Colonel USAF (Ret)
Clinical Professor of Ophthalmology

Jennifer Lambert
Administrator
Retina and Vitreous of Texas

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 development or change. 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 notice is required.

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.

A zoning ordinance amendment may include a conditional overlay which would include conditions approved by the Land Use Commission or the City Council. If final approval is by a City Council's action, there is no appeal of the Land Use Commission's action.

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 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 14 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/development.

Written comments must be submitted to the board or commission (or 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.

Case Number: SP-2011-0177DS

Contact: Michael Simmons-Smith, 512-974-1225

Elsa Garza, 512-974-2308

Public Hearing: Zoning and Planning Commission, Nov 6, 2012

MICHAEL AND JENNIFER LAMBERT

Your Name (please print)

1611 MANANA ST, AUSTIN 78730

Your address(es) affected by this application

Signature: Michael and Jennifer Lambert Date: 10/31/12

Daytime Telephone: 512-382-7313

Comments: We purchased our property because we would have a clear view of the bluff across from a forever by city lands did most people on Manana St. This seemed would notify that and be in contradiction of the deed restrictions for that property and most importantly, significantly impact the wildlife preserve that is currently there. This request should be denied.

If you use this form to comment, it may be returned to:

City of Austin

Planning and Development Review - 4th floor

Michael Simmons-Smith

P. O. Box 1088

Austin, TX 78767-1088

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INTERESTED PARTY INFORMATION

Interested parties are specifically defined in section 25-1-131 of the City Code. To view the Code on-line, go to this link:
http://www.amlegal.com/austin_tx/.

Besides the applicant or owner listed in an application, a person can become an interested party if they communicate an interest to the City through the Case Manager and if they satisfy at least one of the following criteria: 1) they occupy a primary residence that is within 500 feet of the site of the proposed development; 2) they are the record owner of property within 500 feet of the site of the proposed development; or 3) they are an officer of an environmental or neighborhood organization that has an interest in the site of the proposed development or whose declared boundaries are within 500 feet of the site of the proposed development.

If a person satisfies the criteria to become an interested party, they must communicate an interest by delivering a written statement to the Case Manager. The communication must: 1) generally identify the issues of concern; 2) include the person's name, telephone phone number, and mailing address; 3) be delivered before the earliest date on which action on the application may occur; and 4) if the communication is by telephone, be confirmed in writing not later than seven days after the earliest date on which action on the application may occur.

Written comments concerning the site plan application may be submitted to the case manager on this form. Comments on a separate form should include the case number and the contact person listed on the notice.

Case Number: SP-2013-0133D

Contact: Michael Simmons-Smith, 512-974-1225 or
Elsa Garza, 512-974-2308

☒ I meet the requirements for and request to be an interested party

Note: All contact information is mandatory.

Name (please print) Marcelle Contreras Johnson 512-413-5552
Telephone number

1501 Marlene
Address(es) affected by this application (Street, City, ZIP Code)

104 Weston Lane, Austin, TX 78733
Mailing address (Street, City, ZIP Code)

[Signature] 5-12-13
Signature Date

Comments: _____

Mail comment forms to:

City of Austin

Planning and Development Review Department

Attn: Michael Simmons-Smith

P. O. Box 1088

Austin, TX 78767-1088

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and:

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- is the record owner of property within 500 feet of the subject property or proposed development; or
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Case Number: SP-2013-0133D

Contact: Michael Simmons-Smith, (512) 974-1225, or

Elsa Garza, (512) 974-2308

Public Hearing: Planning Commission, January 14, 2014

John Wombwell

Your Name (please print)

1507 Mangana 78703

Your address(es) affected by this application

JL Wombwell

Signature

1/9/14

Date

Daytime Telephone: 713-579-6123

Comments:

☐ I am in favor
☒ I object

If you use this form to comment, it may be returned to:

City of Austin

Planning and Development Review - 4th Floor

Michael Simmons-Smith

P. O. Box 1088

Austin, TX 78767-8810

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INTERESTED PARTY INFORMATION

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Case Number: SP-2013-0133D

Contact: Michael Simmons-Smith, 512-974-1225 or
Elsa Garza, 512-974-2308

☐ I meet the requirements for and request to be an interested party

Note: All contact information is mandatory.

Name (please print) SHAWN BREEDLOVE Telephone number 512-368-4000

Address(es) affected by this application (Street, City, ZIP Code)
1709 MANANA ST. AUSTIN TX. 78730

Mailing address (Street, City, ZIP Code)

Signature

Date

Comments:

Mail comment forms to:

City of Austin

Planning and Development Review Department

Attn: Michael Simmons-Smith

P. O. Box 1088

Austin, TX 78767-1088

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H. Michael Lambert MD FACS
Jennifer R. Lambert
1611 Manana St.
Austin, TX 78730

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Austin Planning Commission

Re: Austin Case Number SP-2013-0133D

Dave Anderson
Alfonso Hernandez
Jean Stevens
Danette Chimenti
Richard Hatfield
Jeff Jack
James Nortey
Stephen Oliver
Brian Roark
Myron Smith

We are unable to be at the 11 February meeting and will be in California undergoing medical therapy, but would like to be able to add our comments in this case.

As you probably are well aware, the basics of this case have been addressed in numerous previous cases, all finding for the Restrictive Covenant currently in place which many of us in the area relied upon when buying our homes, environmentalists have commented on the adverse affect of the request by the owner and the safety of people boating on Lake Austin if this RC is overturned by your committee.

So, why is this attempt to remove the Restrictive Covenants currently in place for Rob Roy II emplaced in 1979 being done? In fact, there have been multiple tries to have a dock built down the sheer cliff to Lake Austin that is over the riverbed of the Colorado River, all which have been heretofore thoughtfully denied. The facts:

The Rob Roy II Subdivision was approved in 1979 by the City of Austin and includes a restrictive covenant that states: "There shall be no development, Improvement or structure, temporary or permanent, below the line shown on the Plat designating the Lake Austin Bluff Line (defined as: the areas designated on the Plat as the Lake Austin Bluff Line, which shall be the 675 foot contour line). Such areas are to be left totally and completely in their natural state. All activity and Improvement, including, but not limited to, ladders, elevators, stairs, walkways, etc., are expressly prohibited".

Further the PARD Addendum to the 1979 ruling states (taken from the RC):

Requirements adopted by the City (cite reference): (as stated in our
prelim review) P.A.R.D. views the development of lots
51 through 68 as less than sensitive and innovative
planning and that the visual corridor of Lake Austin
and recreational benefits of Lake Austin will be
Information Items: irreparably damaged. Therefore the
proposal is in direct conflict with Ordinance
No. 781102-C. The restrictive covenants for lots
51 through 68 have not been included.

C3
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This area from 1979 to the present has provided a habitat for numerous animals, some endangered and certainly rare in the Austin area, and has been designated as a Wildlife Exemption area. The owner clearly understands this since she has paid only \$44 per year for the entire 32+ acres via a wildlife exemption. Neighbors to this area across the river (lake) have all been advised of this restrictive covenant and have purchased their properties with the assurance by the City of Austin that this RC is permanent, not only for the advantage of the landowners, but for the people using Lake Austin, Emma Long Park and the City of Austin as a whole. This has become a unique area of wildlife and many anchor their boats just to watch the birds and other wildlife in this area. This area is home to many animals, all which allow Austonians to enjoy the remaining small area of wildlife habitat left in the city. We daily see hawks, virtually every type of bird in this area of Texas, owls, ducks, deer, blue herons, fox, coyotes, etc. To put a dock on this complicated property would require trails, bridges, an access down a sheer cliff, etc. And, the dock itself is a problem.

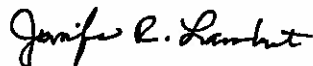
This property is across from Emma Long Park. Boats are launching and traveling throughout this area literally all the time. The City has placed a "No Wake" zone around the park access and extended it that has greatly reduced the already narrow area of lake available, making it a very congested area. Now, the owner wants to add a dock to this congested area which has expressly been forbidden and understood by Rob Roy II owners and, as you can see above, by PARD. Accidents waiting to happen, but don't believe me, please ask the Austin Lake Police before making a decision.

So, the applicant has a "lot" that is owned and was purchased with a wildlife exemption understood and taxed as such and despite that still being the case and well understood by the City when the RC was placed in 1979, is continually being contested to try to allow a dock to be built. The applicant has used numerous different law firms as they have failed in their attempts to circumvent the Restrictive Covenant. So we are again requesting that you uphold the RC prudently put into place by Austin in 1979 and that you vote to protect the environment, the animals, and the safety of the people who enjoy Lake Austin.

One would have to ask why this keeps being revisited. I can only think of one reason. Money. My guess is the owner now wants to cash in by selling this important property on a steep cliff with no dock. Is the City of Austin ready to sacrifice one of the last wildlife areas on Lake Austin, lose the indigenous wildlife, anger many land owners expecting the City to respect the restrictive covenant in place, and create an unsafe area on the lake for money for the owner? Really?



H. Michael Lambert MD FACS
Colonel USAF (Ret)
Clinical Professor of Ophthalmology



Jennifer Lambert
Austin Citizen