

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

**DATE:** Monday, May 12, 2014

**CASE NUMBER:** C15-2014-0011

<input checked="" type="checkbox"/> Y	Jeff Jack	
<input checked="" type="checkbox"/> Y	Michael Von Ohlen	Motion to PP to June 9, 2014
<input checked="" type="checkbox"/> Y	Ricardo De Camps	
<input type="checkbox"/> N	Bryan King	
<input checked="" type="checkbox"/> Y	Fred McGhee	
<input checked="" type="checkbox"/> Y	Melissa Hawthorne	2 <sup>nd</sup> the Motion
<input checked="" type="checkbox"/> Y	Sallie Burchett	

**APPLICANT:** Jim Bennett

**OWNER:** Carajeau & Branch Archer

**ADDRESS:** 5219 TORTUGA TRL

**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 Michael Von Ohlen motion to Postpone to April 14, 2014, Board Member Melissa Hawthorne second on a 7-0 vote; POSTPONED TO APRIL 14, 2014.

**VARIANCE REQUEST:** The applicant has requested a variance from Section 25-2-1174 (D) of the Structural Requirements for Docks, Bulkheads, and Shoreline Access in order to extend a bulkhead and fill in the area of a former boat dock in an "LA", Lake Austin zoning district. The Land Development Code states that 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 Grant, Board Member Stuart Hampton second on a 3-4 vote (Board Members Jeff Jack, Bryan King, Fred McGhee, Sallie Burchett nay); DENIED.

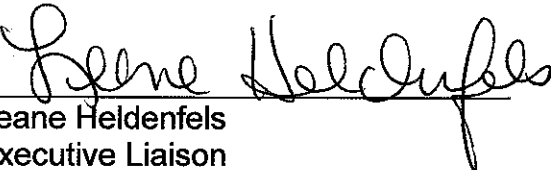
**RECONSIDERATION REQUEST:** The applicants have requested a variance from Section 25-2-1174 (D) which states a retaining wall, bulkhead, or other erosion protection device may not capture or recapture land on a lake, unless capturing or recapturing the land is required to restore the land to the lesser of: (1) the

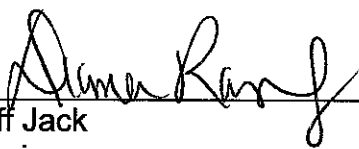
shoreline as it existed 10 years from the date of application, with documentation as prescribed by rule, or (2) the lakeside boundary of the subdivided lot line.

**BOARD'S DECISION:** Board Member Michael Von Ohlen motion to Reconsider request, Board Member Bryan King second on a 7-0 vote; **RECONSIDERED REQUEST.** The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to June 9, 2014, Board Member Melissa Hawthorne second on a 6-1 vote (Board member Bryan King nay); **POSTPONED TO JUNE 9, 2014.**

**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: other owners has been allowed same benefit of in filling a boat slip from side to side and able to obtain a variance and is in alignment with existing shoreline
2. (a) The hardship for which the variance is requested is unique to the property in that: without variance the owners will not be able to re-vegetate this small area  
  
(b) The hardship is not general to the area in which the property is located because: many boat slips have been done like this and not all properties have cut end boat slips
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: Lake Austin Ordinance restricts the improvements it will also be subject to site plan and staff approval as environmental approval for its reconfiguration

  
Leane Heldenfels  
Executive Liaison

  
Jeff Jack  
Chairman

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

**DATE: Monday, April 14, 2014**

**CASE NUMBER: C15-2014-0011**

<input type="checkbox"/> N	Jeff Jack
<input type="checkbox"/> Y	Stuart Hampton 2 <sup>nd</sup> the Motion
<input type="checkbox"/> Y	Ricardo De Camps
<input type="checkbox"/> N	Bryan King
<input type="checkbox"/> N	Fred McGhee
<input type="checkbox"/> Y	Melissa Hawthorne Motion to Grant
<input type="checkbox"/> N	Sallie Burchett

**APPLICANT: Jim Bennett**

**OWNER: Carajeau & Branch Archer**

**ADDRESS: 5219 TORTUGA TRL**

**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.

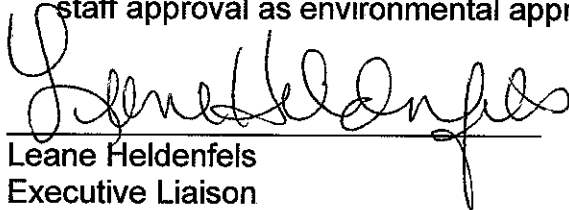
**BOARD'S DECISION:** The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to April 14, 2014, Board Member Melissa Hawthorne second on a 7-0 vote; **POSTPONED TO APRIL 14, 2014.**

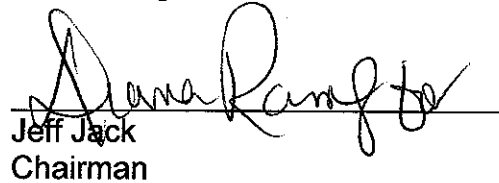
**VARIANCE REQUEST:** The applicant has requested a variance from Section 25-2-1174 (D) of the Structural Requirements for Docks, Bulkheads, and Shoreline Access in order to extend a bulkhead and fill in the area of a former boat dock in an "LA", Lake Austin zoning district. The Land Development Code states that 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.

The public hearing was closed on Board Member Melissa Hawthorne motion to Grant, Board Member Stuart Hampton second on a 3-4 vote (Board Members Jeff Jack, Bryan King, Fred McGhee, Sallie Burchett nay); **DENIED.**

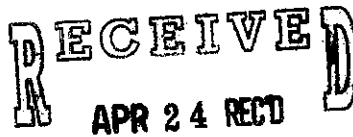
**FINDING:**

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: other owners has been allowed same benefit of in filling a boat slip from side to side and able to obtain a variance and is in alignment with existing shoreline
2. (a) The hardship for which the variance is requested is unique to the property in that: without variance the owners will not be able to re-vegetate this small area  
  
(b) The hardship is not general to the area in which the property is located because: many boat slips have been done like this and not all properties have cut end boat slips
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: Lake Austin Ordinance restricts the improvements it will also be subject to site plan and staff approval as environmental approval for its reconfiguration

  
\_\_\_\_\_  
Leane Heldenfels  
Executive Liaison

  
\_\_\_\_\_  
Jeff Jack  
Chairman

24 April 2014



City of Austin  
Board of Adjustment  
505 Barton Springs Road  
Austin TX 78704

RE: Reconsideration of case #C15-2014-0011

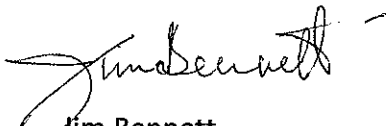
Dear Board Members:

Pursuant to your rules and regulations, I hereby request a reconsideration of case C15-2014-0011. This request is based on new evidence that wasn't addressed at the original hearing, as listed below:

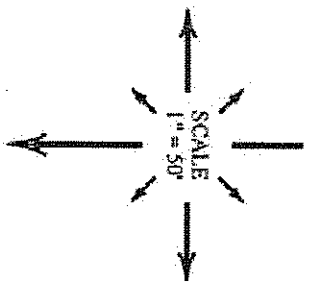
1. A question was brought up by a Board member concerning the removal of existing concrete shown on the site plan. At that time we were unable to address the removal of the concrete, but are revising our plan to reflect the removal of the concrete, with City approval, which would be a plan amendment or new evidence.
2. The neighbor's objection documentation was recently found to be in error – his concern about maneuvering a boat is based entirely upon the assumption that the wind blows from the north. In fact, the wind in Austin primarily comes from the south 10 months out of the year as shown on attachment "Austinweather.doc". This is new evidence.
3. The neighbor's objection documentation showed the assumed future boat dock on our clients' property to be much closer to the property line and much larger than is allowed by code. See attached letter from the Archers showing it accurately. This is new evidence.
4. A Board member stated that most of the other properties in this area have indented boat slips and if this one were filled in it would change the character of the area. Research shows that indented slips were filled in and new boat docks constructed on this same small street at 5227 Tortuga Trail (2009-015192 EP) and at 5205 Tortuga Trail (SP-2009-0358D). There is a precedence for infilling boat slips on this street. Also, a permit for a new boat dock was recently granted for the property on the other side of the Archers - see attachment "5221 Tortuga Trail boat dock permit.pdf". This is new evidence showing that boat docks that protrude into the lake are being built in this area.

It appears that the Board acted arbitrarily in making the decision to deny this request. Two very, very similar requests with the exact same findings as this request were approved by the same board – see attached cases C15-2014-<sup>00</sup>12 and C15-<sup>2014-0010</sup>~~XXXX~~. To my knowledge, this is the first time an indented boat slip infill has been denied. The Archers are being asked to adhere to a different standard from other property owners along the lake, as none of the others have been prevented from filling in their indented slips.

Thank you for your consideration.

  
Jim Bennett





# 5219 Tortuga Trail

JEFF SWICKARD  
1.76 ACRES  
(DOC #2010193756)

## Area To Be Filled Proposed New Bulkhead

0.96 ACRES  
WILLIAM SCOTT THOMPSON and  
FLORA THOMPSON  
(VOL. 2563, PG. 401 AND  
VOL. 1757, PG. 106)

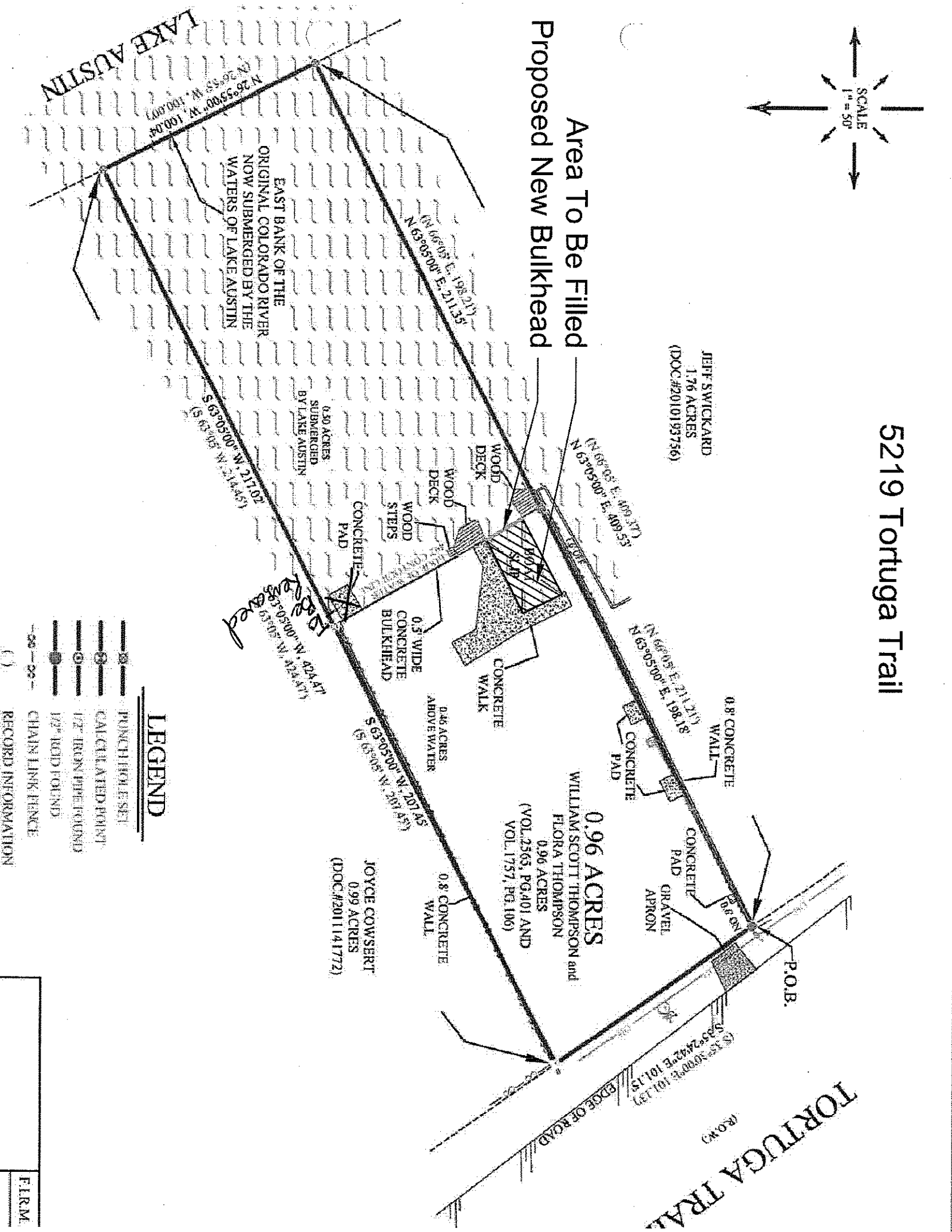
JOYCE COWSERT  
0.99 ACRES  
(DOC #2011141772)

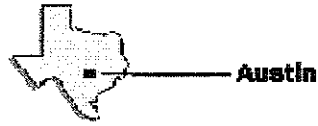
EAST BANK OF THE  
ORIGINAL COLORADO RIVER  
NOW SUBMERGED BY THE  
WATERS OF LAKE AUSTIN

### LEGEND

- PUNCH HOLE SET
- CALCULATED POINT
- 1/2" IRON PIPE PILING
- 1/2" WOOD PILING
- CHAIN LINK FENCE
- RECORD INFORMATION

FIRM





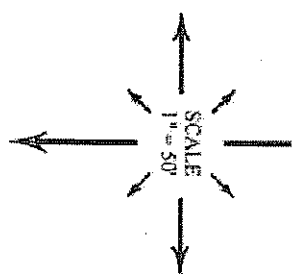
Austin

Austin (climate records)	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Annual
Avg High	58.9	63.4	71.9	79.4	84.7	91.1	95.0	95.5	90.5	82.1	71.8	62.0	78.9
Avg Low	38.6	42.1	51.1	59.8	66.5	71.5	73.9	73.9	69.8	60.0	49.9	41.2	58.2
Avg Rain	1.89	1.99	2.14	2.51	5.03	3.81	1.97	2.31	2.91	3.97	2.68	2.44	33.60
Avg Snowfall	0.5	0.3	-	-	-	-	-	-	-	-	0.1	-	0.9
Avg Wind	N/ 9.2	S/ 10.4	S/ 11.5	S/ 11.5	SE/ 11.5	SE/ 10.4	S/ 9.2	S/ 8.1	S/ 8.1	S/ 8.1	S/ 9.2	N/ 9.2	S/ 9.7
Max Wind speed	52	55	56	51	63	54	44	47	81	46	49	63	81
Avg T-storm Days	1	2	3	5	7	5	4	5	4	3	2	1	41
# Tornadoes in county 1950-2009	1	-	10	6	17	3	2	5	7	2	6	1	60
Incidents in county w/ hail => 1.75" 1950-2009	-	3	32	23	45	8	-	1	4	5	-	-	121
Avg relative humidity 3pm	53	51	47	50	53	49	43	42	47	47	47	49	48
Discomfort from heat/humidity	-	-	-	Mod	Med	High	High	High	High	Med	-	-	
Max UV Index	Mod	High	Very High	Very High	Extr	Extr	Extr	Extr	Very High	High	Mod	Mod	
% possible Sunshine	48	51	55	54	56	69	75	75	66	64	55	49	60



<b>Clear days</b>	9	8	9	8	7	8	12	12	11	13	11	10	<b>116</b>
<b>Partly cloudy days</b>	6	6	8	8	11	15	13	14	11	9	7	6	<b>114</b>
<b>Cloudy days</b>	16	14	14	14	13	7	6	5	8	9	12	15	<b>135</b>
<b>Days with fog</b>	3	3	3	1	1	0	1	0	1	2	3	3	<b>21</b>
<b>Highest Temperature</b>	90	98	98	98	104	108	108	112	112	100	91	90	<b>112</b>
<b>Record hottest month, mean temp</b>	<b>1952</b> 59.1	<b>1999</b> 62.3	<b>1967</b> 67.3	<b>1967</b> 75.9	<b>1996</b> 80.6	<b>2008</b> 87.4	<b>2011</b> 89.7	<b>2011</b> 91.6	<b>2005</b> 84.4	<b>1931</b> 77.2	<b>1973</b> 65.1	<b>1933</b> 58.9	<b>Aug 2011,</b> 91.6
<b>Lowest Temperature</b>	-2	-1	18	30	40	51	57	58	41	30	20	4	<b>-2</b>
<b>Record coldest month, mean temp</b>	<b>1940</b> 38.6	<b>1978</b> 45.0	<b>1965</b> 53.4	<b>1931</b> 62.8	<b>1979</b> 71.4	<b>1940</b> 76.6	<b>1976</b> 80.2	<b>1971</b> 81.2	<b>1974</b> 72.2	<b>1976</b> 61.3	<b>1976</b> 51.6	<b>1983</b> 41.9	<b>Jan 1940,</b> 38.6
<b>Avg Days above 90</b>	-	-	1	2	7	22	28	28	18	4	-	-	<b>111</b>
<b>Avg Days below 32</b>	8	4	1	-	-	-	-	-	-	-	1	5	<b>19</b>

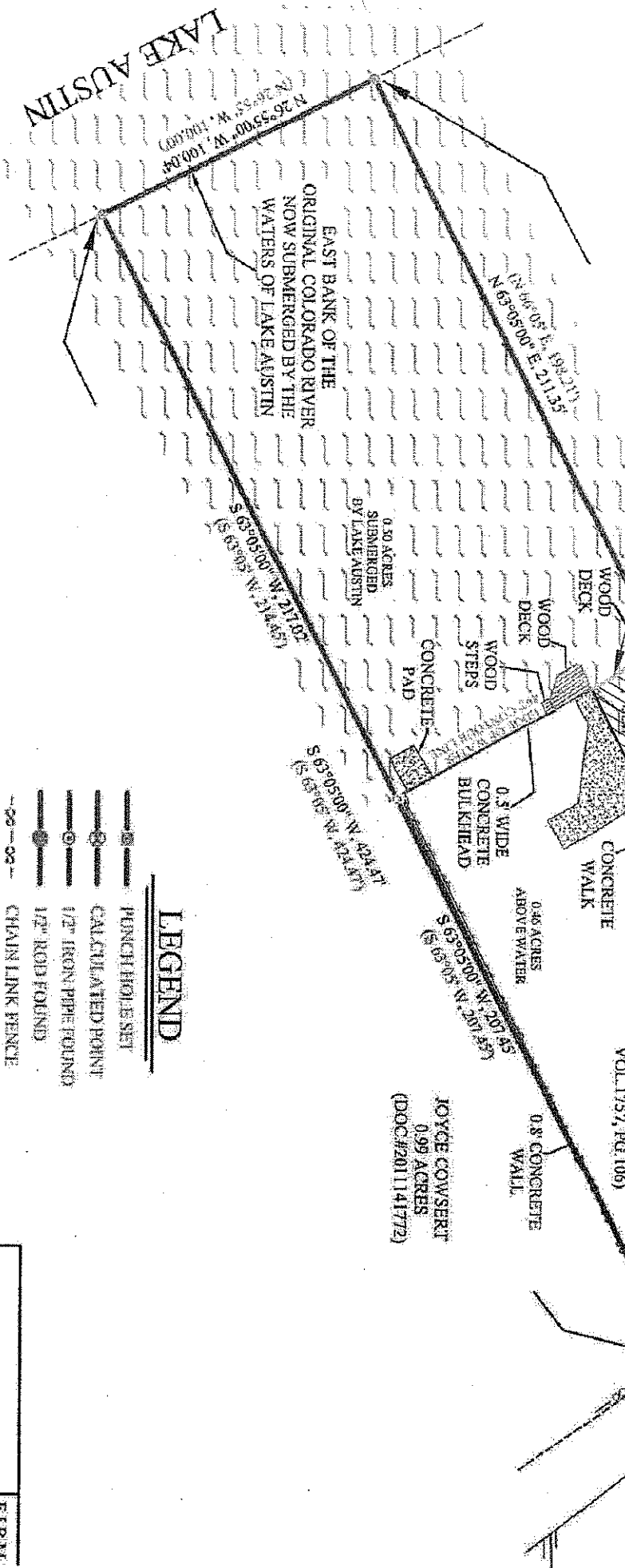
C15-2014-0011



5219 Tortuga Trail

JEFF SWICKARD  
1.76 ACRES  
(DOC.#2010193736)

Area To Be Filled  
Proposed New Bulkhead



EAST BANK OF THE  
ORIGINAL COLORADO RIVER  
NOW SUBMERGED BY THE  
WATERS OF LAKE AUSTIN

0.50 ACRES  
SUBMERGED  
BY LAKE AUSTIN

0.3' WIDE  
CONCRETE  
BULKHEAD

0.46 ACRES  
ABOVE WATER

0.96 ACRES  
WILLIAM SCOTT THOMPSON and  
FLORA THOMPSON  
0.96 ACRES  
(VOL. 2565, PG. 401 AND  
VOL. 1757, PG. 106)

JOYCE COWSERT  
0.99 ACRES  
(DOC.#2011141772)

**LEGEND**

- PUNCH HOLE SET
- CALCULATED POINT
- 1/2" IRON PIPE FOUND
- 1/2" ROD FOUND
- CHAIN LINK FENCE
- ( ) RECORD INFORMATION

TORTUGA TRAIL

P.O.B.

FIRM

# 5219 Tortuga Trail

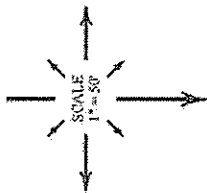
March 30, 2003



October 31, 2013



Powerpoint  
presented at  
4/14/14  
hearing



# 5219 Tortuga Trail

TORTUGA TRAIL  
(R.O.W.)

P.O.B.

0.8' CONCRETE WALL

JEFF SWICKARD  
1.76 ACRES  
(DOC#2010193756)

0.96 ACRES

WILLIAM SCOTT THOMPSON and  
FLORA THOMPSON  
0.96 ACRES  
(VOL. 2463, PG. 401, AND  
VOL. 1757, PG. 106)

Area To Be Filled  
Proposed New Bulkhead

CONCRETE WALK

WOOD DECK

WOOD DECK

WOOD STEPS

CONCRETE PAD

0.50 ACRES  
SUBMERGED BY LAKE AUSTIN  
(VOL. 1438, PG. 101)

0.8' CONCRETE WALL

JOYCE COWSERT  
0.99 ACRES  
(DOC#201141772)

0.56 ACRES ABOVE WATER

0.5' WIDE CONCRETE BULKHEAD

EAST BANK OF THE  
ORIGINAL COLORADO RIVER  
NOW SUBMERGED BY THE  
WATERS OF LAKE AUSTIN

LAKE AUSTIN

## LEGEND

- 12" IRON PIPE FOUND
- 12" IRON PIPE FOUND
- 12" IRON PIPE FOUND
- CHAIN LINK FENCE
- ( ) RECORD INFORMATION

F.I.R.M.

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

**DATE: Monday, March 10, 2014**

**CASE NUMBER: C15-2014-0011**

\_\_\_\_ Jeff Jack  
\_\_\_\_ Michael Von Ohlen  
\_\_\_\_ Ricardo De Camps  
\_\_\_\_ Bryan King  
\_\_\_\_ Fred McGhee  
\_\_\_\_ Melissa Hawthorne  
\_\_\_\_ Sallie Burchett

**APPLICANT: Jim Bennett**

**OWNER: Carajeon & Branch Archer**

**ADDRESS: 5219 TORTUGA TRL**

**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 Michael Von Ohlen motion to Postpone to April 14, 2014, Board Member Melissa Hawthorne second on a 7-0 vote; **POSTPONED TO APRIL 14, 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:

\_\_\_\_\_  
Leane Heldenfels  
Executive Liaison

\_\_\_\_\_  
  
Jeff Jack  
Chairman

**Ramirez, Diana**

---

**From:** Lynn Ann Carley <~~lcarley@chaustin.com~~>  
**Sent:** Wednesday, March 05, 2014 11:18 AM  
**To:** Ramirez, Diana  
**Subject:** #C15-2014-0011 - Backup materials  
**Attachments:** boa letter.PDF; revised exhibits.pdf

**Importance:** High

Hi Diana, Attached is a letter and exhibits that we would like to have included in the backup materials to the BOA for the March 10, 2014 hearing date. It is in reference to case #C15-2014-0011.

March 3, 2014

City of Austin Board of Adjustment

Jeff Jack, Chair  
Melissa Hawthorne, Vice Chair  
Sallie Burchett  
Ricardo De Camps  
Stuart Hampton

Bryan King  
Dr. Fred McGhee  
Will Schnier  
Michael von Ohlen

Re: 5219 Tortuga Trail (C15-2014-0011)

Dear Chair and Board of Adjustment Members:

We are the owners of the property located next door to the above referenced application, which is owned by Mr. and Ms. Archer. We are concerned about the variance to fill in the existing boat slip and recapture additional land, since the owners are proposing to recapture land so that they may construct a new boat dock that extends 30 feet into the lake, as shown on attached Exhibit A. Based on the plans provided by the owner's engineer and architect, the new boat dock will be located 10 feet from our shared property line. If the variance to recapture additional land is granted, we ask that any future boat dock be required to offset at least 40 feet from the property line that is shared between our two properties, based on the following information.

Today there are two adjoining slips, neither of which protrude into the main body of Lake Austin. Significant winds are present throughout the year from either down lake (from Pennybacker Bridge towards Mansfield Dam) or up lake (from Mansfield Dam towards Pennybacker Bridge). When backing out of the slip with the prevailing wind coming from up lake (Pennybacker Bridge towards Mansfield Dam), safe navigation requires turning and allowing the bow of the boat to swing downwind about the propulsion outdrive axis. With parallel boat slips, sufficient navigating room is provided, as shown on Exhibit B. Our concern is that the proposed boat dock will create a potentially hazardous obstruction to the existing safe and recommended navigation into and out of the slips.

Prevailing winds run with the lake in either direction towards or away from the Pennybacker Bridge. They can be unpredictable and accompanied by strong gusts which create significant lake "chop". Standard navigational practice when entering the slip under such conditions is to approach the boat slip moving into the wind using the force of the wind to turn the boat while making the final maneuver to dock the boat into the slip off the main body of the lake. An approach into the wind provides the maximum amount of control of the boat for increased safety during the docking process, as shown in Exhibit C. Approaching the boat slip with the wind or "running with the wind" is not recommended, since the ability to turn the boat into the slip with the wind aft is extremely challenging. The increased momentum with the wind results in overshooting the slip and movement of the boat further down lake.

The Archer's proposed dock will protrude from the shoreline and run directly parallel to our existing slip line of travel. The new structure will act as an obstruction making a safe approach to our slip with the wind extremely difficult and dangerous. The risk of being blown directly into the new structure is highly probable and the existing safe approach into the slip will no longer be possible, as shown in Exhibits D and E. A new safety hazard will exist while backing out of our slip and this safety hazard will be magnified for single passenger water craft such as a jet ski. There will be no room to provide power to move away from the proposed new dock and into the wind resulting in the boat or watercraft striking and potentially running underneath the new structure.

For these reasons, we ask that if the variance to recapture the additional land is granted, that the variance be conditioned so that any future boat dock is required to offset at least 40 feet from the property line that is shared between our two properties.

Thank you for your time and consideration in this matter. If you have any questions, comments, or need additional information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Swickard" followed by a flourish, and "C. Hattasch" below it.

Jeff Swickard and Chris Hattasch



Today's Parallel Neighboring Slip Arrangement  
Google Maps

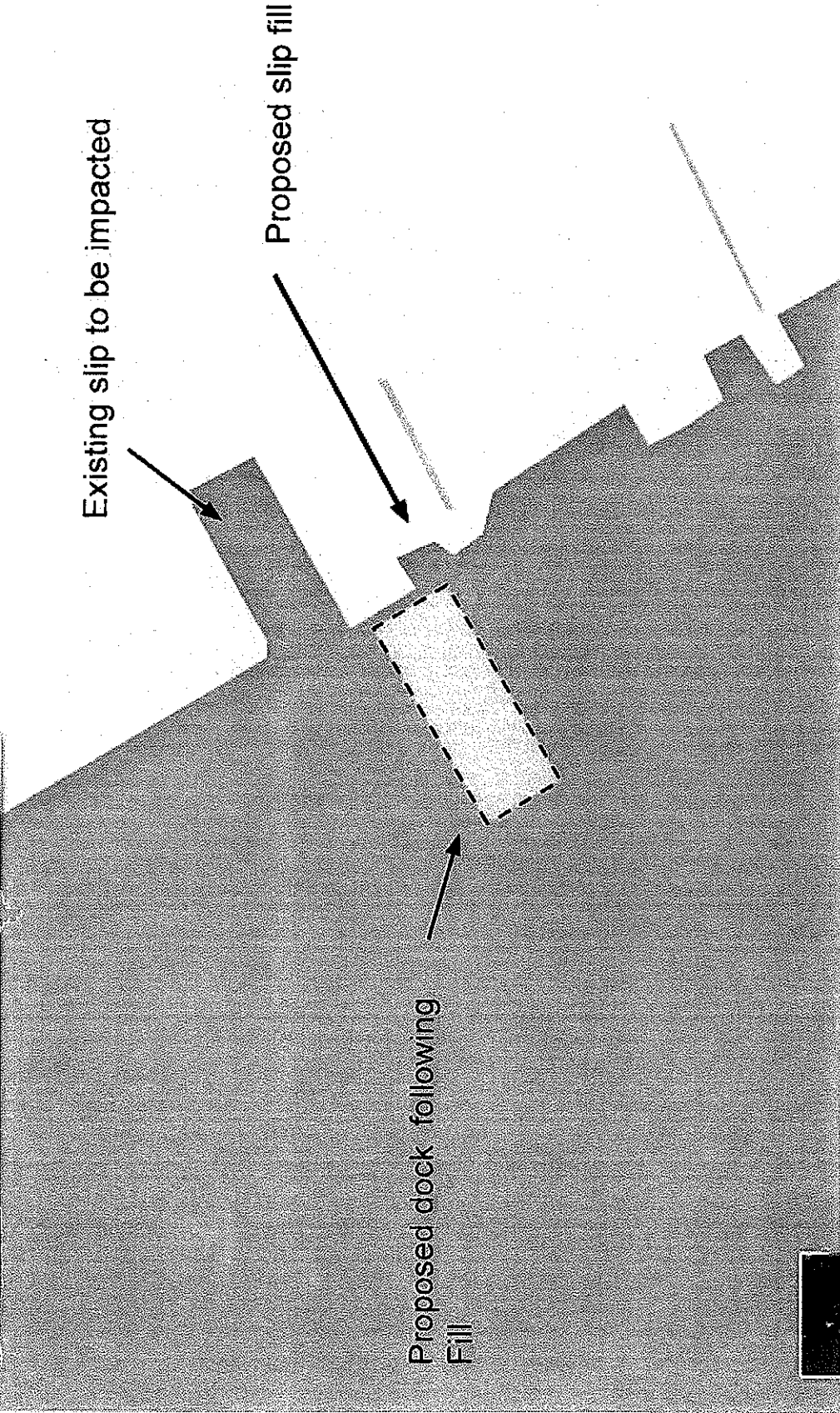
Tortuga Trail, Austin, TX

Tortuga Trail, Austin TX 78731

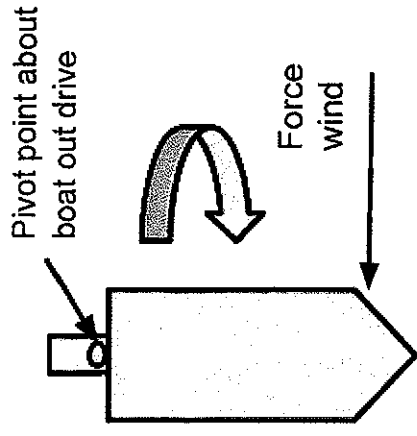
Explore this area · Traffic · Bicycling · Terrain

X

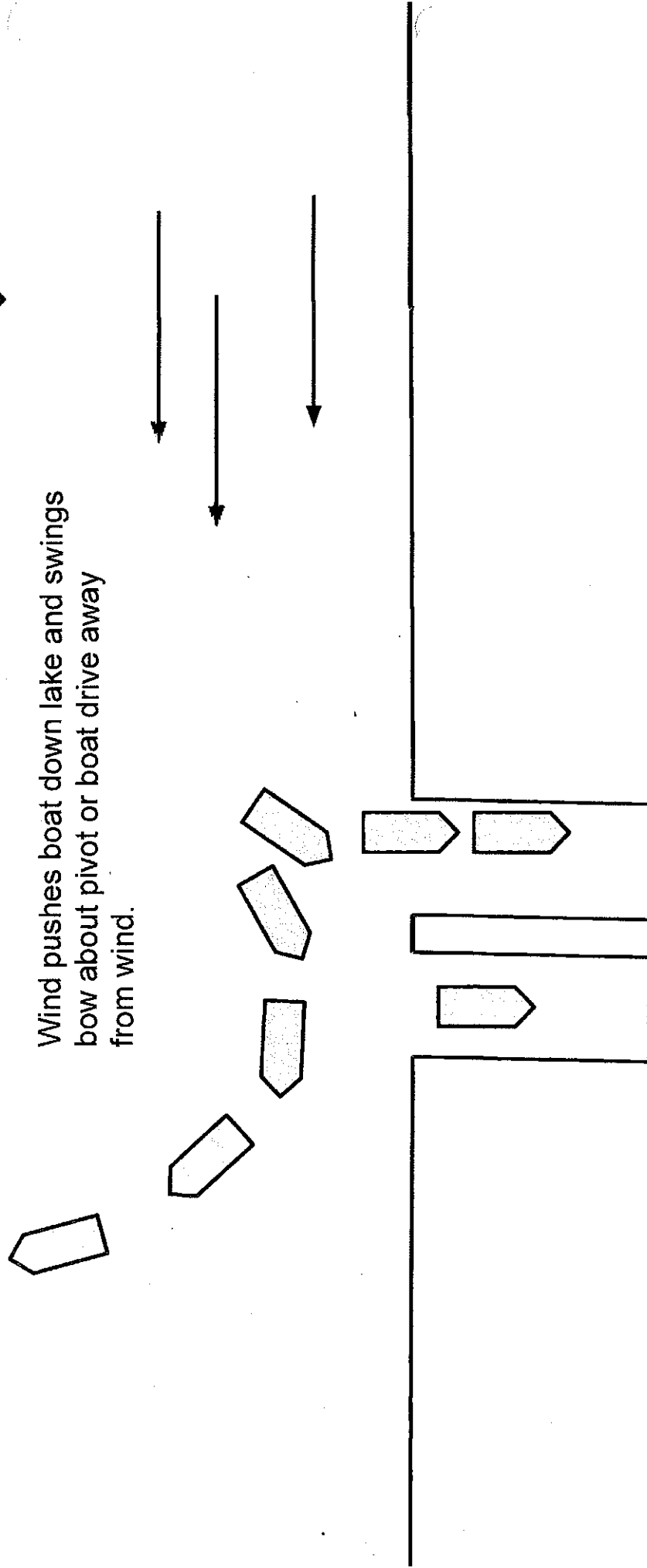
Q



Mansfield Dam      ←      Pennybacker Bridge



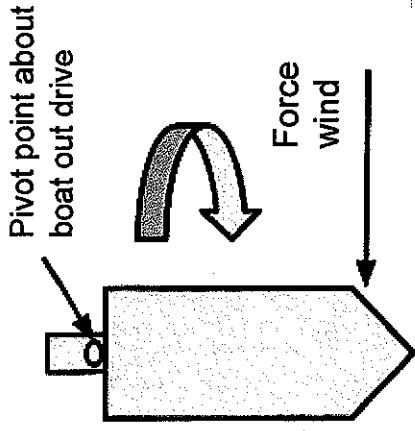
Wind pushes boat down lake and swings bow about pivot or boat drive away from wind.



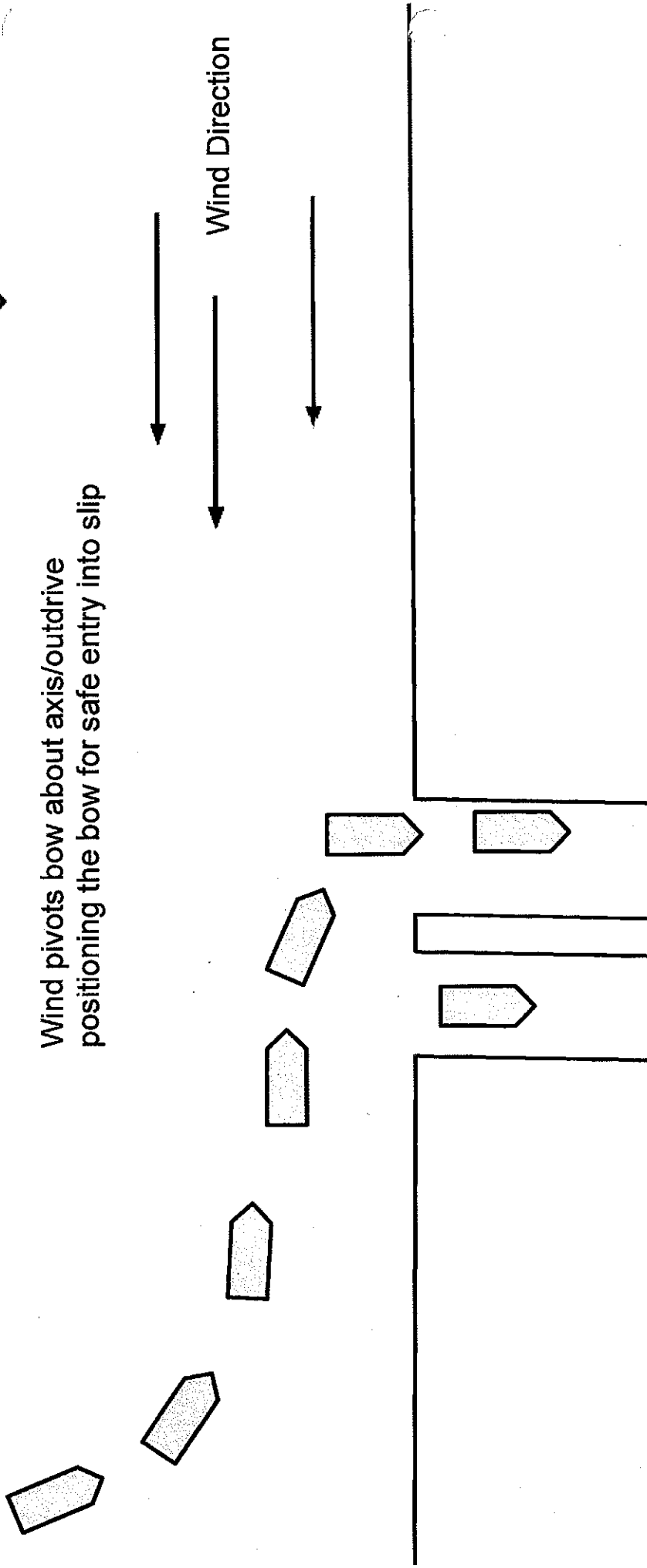
Boat Slips Today, Leaving Slip Wind  
Direction From Up Lake

**EXHIBIT B**

Mansfield Dam      ← Pennybacker Bridge



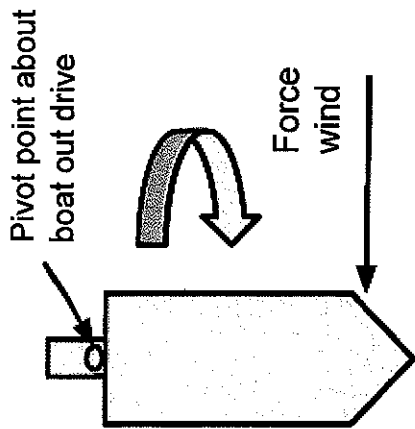
Wind pivots bow about axis/outdrive positioning the bow for safe entry into slip



Boat Slips Today, Entering Slip Safe and controlled entry Into  
Wind Direction From Up Lake

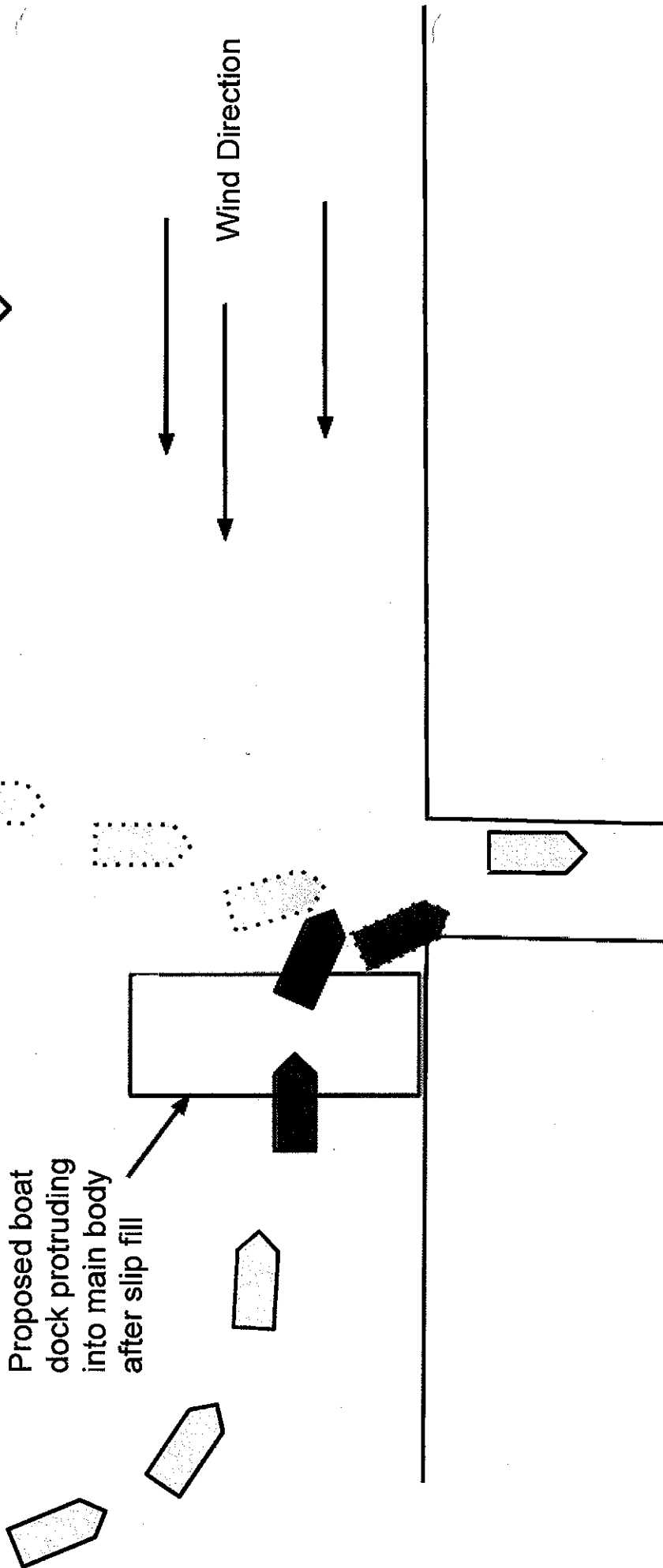
**EXHIBIT C**

Mansfield Dam ← Pennybacker Bridge



Safe approach into wind no longer possible.  
Other approach scenarios do not allow for  
safe entry into slip or ability to remaneuver.

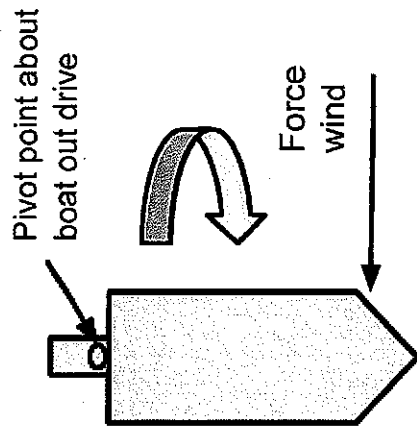
Proposed boat  
dock protruding  
into main body  
after slip fill



Proposed Arrangement, Entering Slip with safe and controlled  
entry Into Wind Not Possible Direction From Up Lake

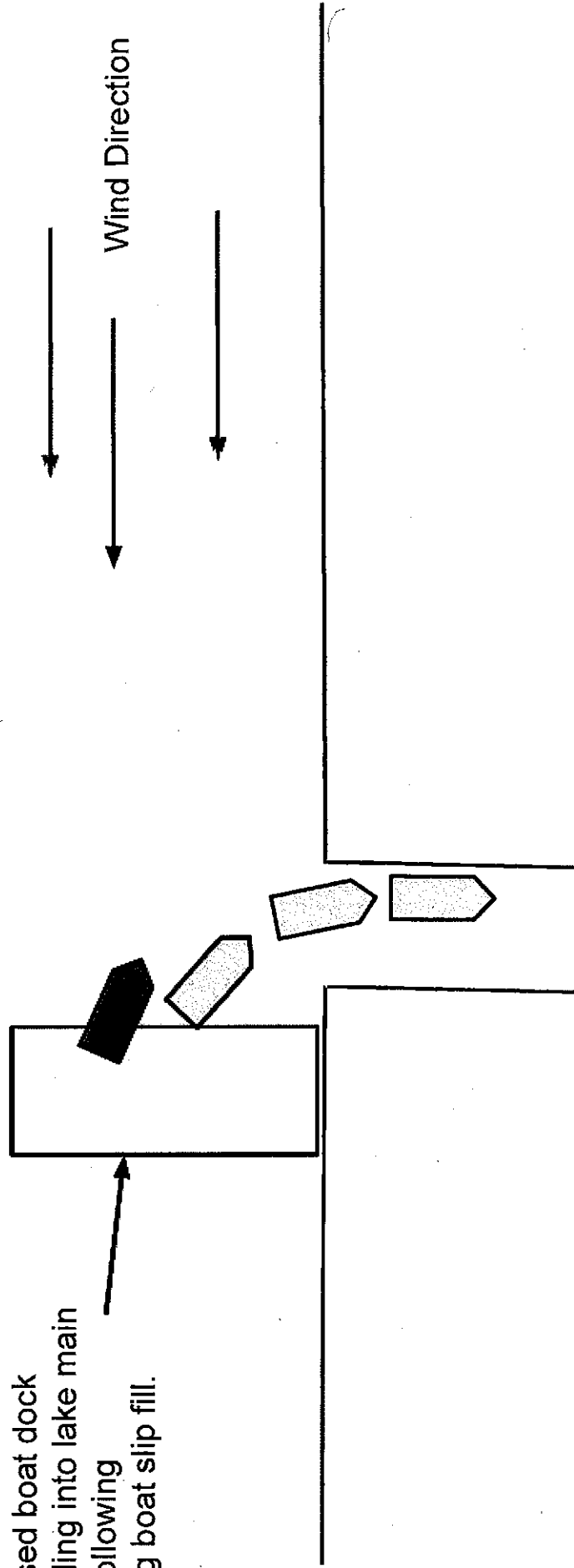
**EXHIBIT D**

Mansfield Dam      ←      Pennybacker Bridge



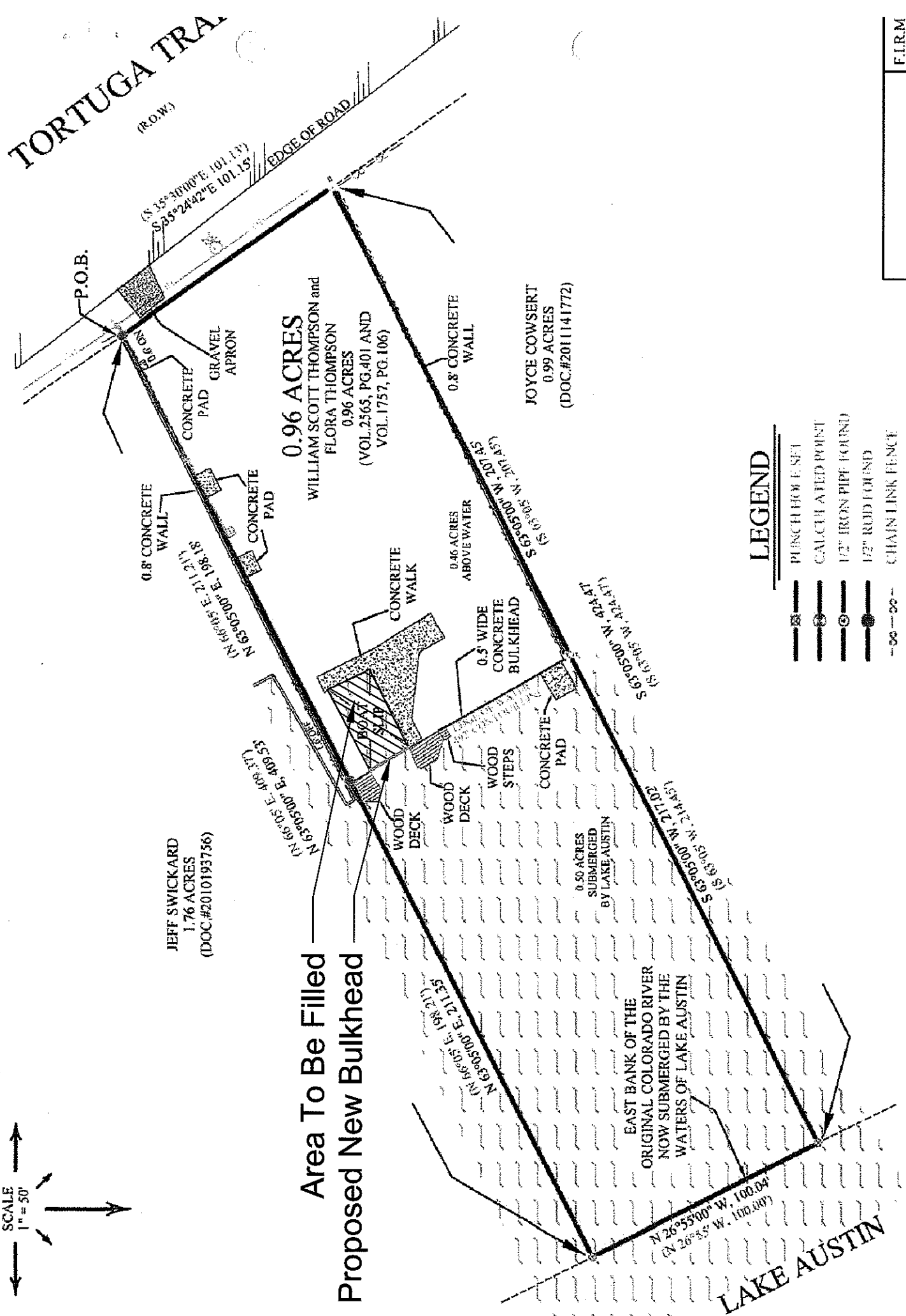
Leaving the slip would require turning the bow into the wind which would swing the stern into the proposed dock potentially resulting in property damage and/or injury.

Proposed boat dock protruding into lake main body following existing boat slip fill.



Proposed Arrangement, Existing slip filled and proposed boat dock protruding into main body. Leaving slip requires unsafe maneuver turning the bow into the wind.

**EXHIBIT E**



# CITY OF AUSTIN

## Board of Adjustment/Sign Review Board

## Decision Sheet

**DATE: Monday, January 13, 2014**

**CASE NUMBER: C15-2014-0011**

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

**APPLICANT:** Jim Bennett

**OWNER: Carajean & Branch Archer**

**ADDRESS: 5219 TORTUGA TRL**

**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: POSTPONED TO MARCH 10, 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:

*Leane Heldenfels*  
Leane Heldenfels  
Executive Liaison

Jeff Jack  
Chairman

# ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300  
AUSTIN, TEXAS 78701-2744  
512-435-2300

FACSIMILE 512-435-2360

LYNN ANN CARLEY, P.E.  
(512) 435-2378  
lcarley@abastin.com

January 13, 2014

Susan Walker  
City of Austin  
Planning and Development Review Department  
505 Barton Springs Road, 1st Floor  
Austin, Texas 78704

Re: 5219 Tortuga Trail (the "Application")

Dear Ms. Walker:

This firm represents and this letter is submitted on behalf of Jeff Swickard, the owner of the property located adjacent to the above referenced Application.

Mr. Swickard only found out about the variance request yesterday, after being contacted by one of his neighbors that the BOA notification signs were initially placed on his property. The signs were later moved to the correct lot.

Since Mr. Swickard will be out of town until March 2014, we respectfully request an eight week postponement to March 10, 2014 in order to allow him time to discuss the project with the Applicant.

Thank you for your time and consideration in this matter. If you have any questions, comments, or need additional information, please do not hesitate to contact me.

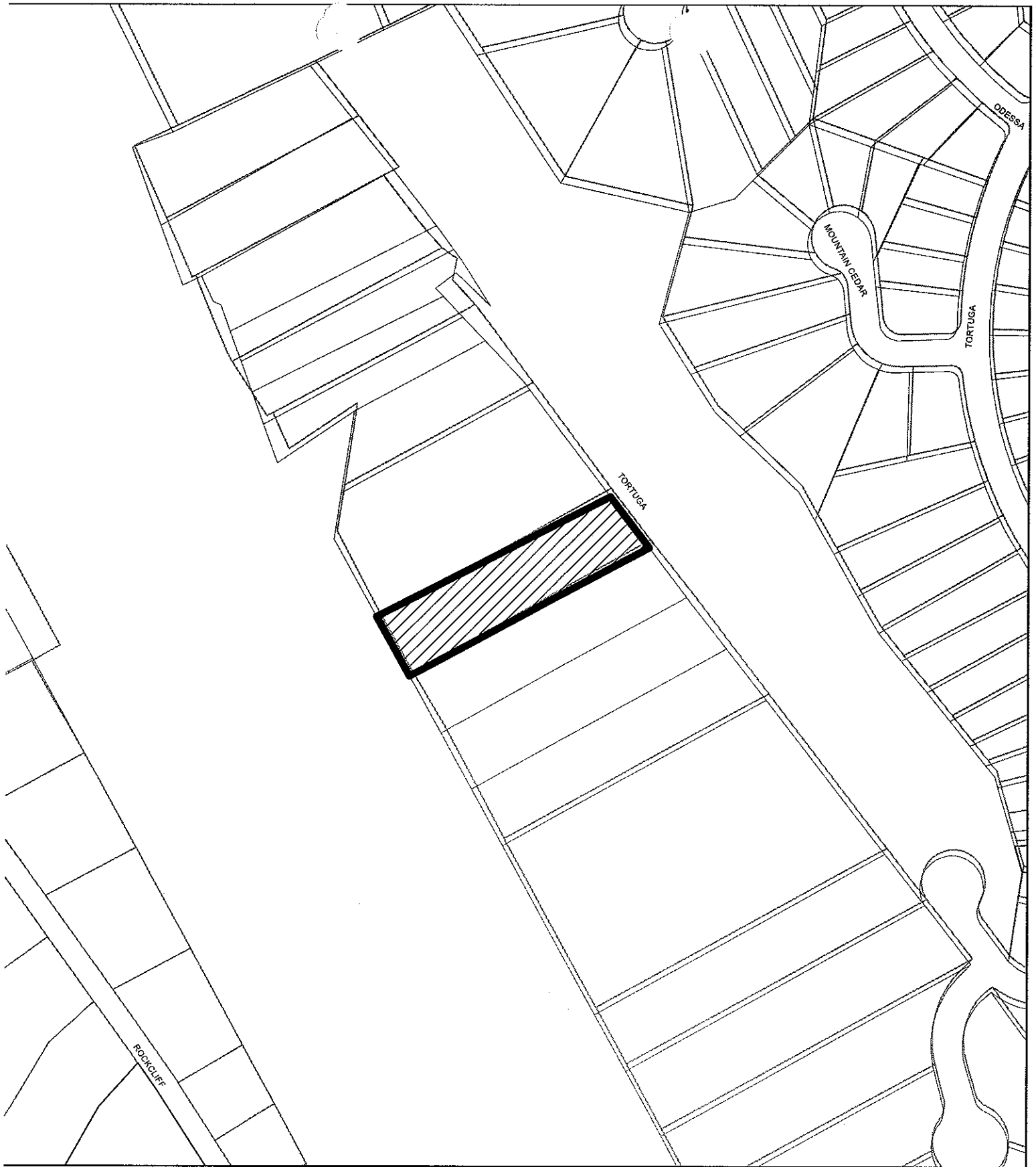
Sincerely,



Lynn Ann Carley, P.E.  
Senior Land Development Consultant

cc: Diana Ramirez, COA  
Jeff Swickard  
David Armbrust



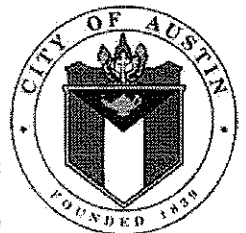


SUBJECT TRACT



ZONING BOUNDARY

CASE#: C15-2014-0011  
LOCATION: 5219 Tortuga Trail



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.

C15-2014-0011

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

**REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:
2. **the owner of the property will be deprived from the use of his property in a similar manner as other property owners along the lake have been authorized, and obtained permit to do, Without a variance the owner cannot enjoy the use of his property.**

**HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that: A recent amendment to the process has occurred which makes the variance necessary in order to construct a bulkhead, back fill, and landscape this small area

**. Without a variance a continued health and safety condition will continue to exist, and the owners will not be able to re-vegetate this small area.**

---

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

**Many boatslips along the lake have been redeveloped under the previous ordinance.**

**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 proposed redevelopment is to the rear of the property and the Lake Austin Ordinance severely restricts the improvements that maybe made in the shoreline setback,**

---

**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:

June 28, 2013

City of Austin  
Planning and Development Review Department  
PO Box 1088  
Austin, TX 78716

C15-2016-0011

To Whom It May Concern:

We, Branch and Carajeon Archer, own the property at 5219 Tortuga Trail. We wish to demolish the existing boat dock and replace it with a new dock and to construct a new bulkhead lakeside of my existing bulkhead at the property. Bruce S. Aupperle, P.E. and Aupperle Company are our authorized agents for the City of Austin applications needed for the subject work at the property. Please contact me if you have any questions.

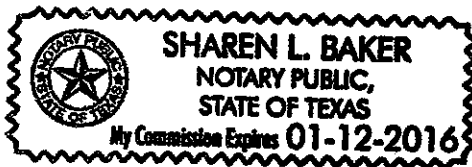
Owner's Signature Branch Archer  
Branch Archer

Owner's Signature Carajeon Archer  
Carajeon Archer

Sworn and subscribed before me this 1st day of July, 2013

Notary Public in and for the State of Texas

My Commission expires: 1/12/2016



CASE # C15-2014-0011

ROW-11061444

TP-013109-02-08

**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: 5219 Tortuga Trail

LEGAL DESCRIPTION: Subdivision – T. J. Chambers .96 acre (C8i-2012-145)

Lot(s) .96 of 1 acre Block      Outlot      Division     

I Jim Bennett as authorized agent for Carajean & Branch Archer

     affirm that on 12/4/13 hereby apply for a hearing before the Board of

Adjustment for consideration to:

ERECT – ATTACH – COMPLETE – REMODEL – MAINTAIN

To erect a bulkhead on an existing cut-in boat slip, back fill and re-vegetate

     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

**REASONABLE USE:**

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

**HARDSHIP:**

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

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

\_\_\_\_\_

**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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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 11505 Ridge Dr.

City Austin, State Texas, & Zip 78748

Printed : Jim R. Bennett Phone: (512) 282-3079 \_\_\_\_\_ 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

Project Name: 5219 Tortuga Trail

Project Owner: Carajeon & Branch Archer

Project Address: 5219 Tortuga Trail, Austin TX 78731

Principle Residence: 5219 Tortuga Trail

Project Scope: Boat Dock, Fill In Existing Boat Slip, New Bulkhead Lake Side

Project EA: Required for Boat Dock, Fill In Slip and Bulkhead

Gate Code: NA

Grid: G28

MapsCo: 524X

Zoning: LA

Project Description: New two-slip dock 2-story 20' x 30' dock, fill in existing slip, new bulkhead and appurtenances.

Related Cases: C8I-2012-0145

Project Legal Description: ABS 7 CHAMBERS T J ACR .96, C8I-2012-0145

Flood Plain Map: 430H

Flood Plain Elev.: 496.5'



**City of Austin  
Planning and Development Review  
Land Status Determination  
1987 Rule Platting Exception**

**June 15, 2012**

**File Number: C8I-2012-0145**

**Address: 5219 TORTUGA TRL**

**Tax Parcel I.D. # 0131090208**

**Tax Map Date: 04/27/2009**

The Planning & Development Review Department has determined that this parcel, as described in the attached description and map, **IS EXCEPTED FROM THE REQUIREMENT TO PLAT** in accordance with the Land Development Code, Section 25-4-2(C), and is eligible to receive utility service.

The parcel of land consists of five acres or less, and is described as being .96 of one acre of land, being a portion of the T.J. Chambers 8 League Grant in the current deed, recorded on Jan 07, 1963, in Volume 2565, Page 401, Travis County Deed Records. This parcel existed in its current configuration on August 31, 1987, as evidenced by a deed recorded on Jan 07, 1963, in Volume 2565, Page 401, Travis County Deed Records. The parcel was lawfully receiving utility service, as defined in Section 212.012 of the Texas Local Government Code, on August 31, 1987, as evidenced by electric service on Jun 02, 1978. The parcel meets the requirements of the Land Development Code for roadway frontage and is located on an existing street.

**Additional Notes/Conditions:**

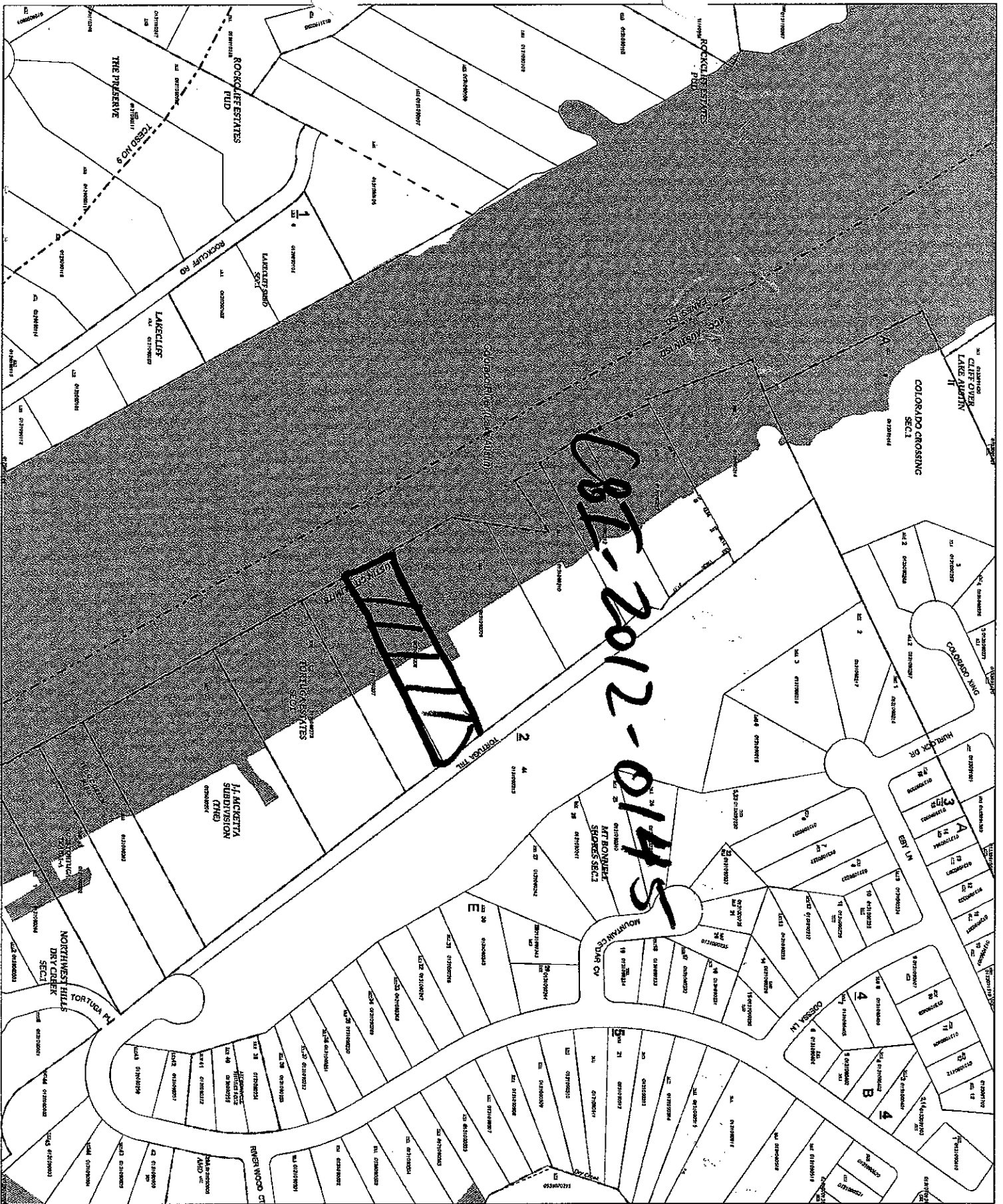
See C8s-85-142 and C8-97-0098.0A for information regarding roadway status for Tortuga Trail. Approval of this request for a land status determination should not be construed to be an acceptance of Tortuga Trail for improvements or maintenance.

This determination of the status of the property is based on the application of Chapter 212, Municipal Regulation of Subdivisions and Property Development, Texas Local Government Code; and the City of Austin Land Development Code, Chapter 25-4, Subdivision. Recognition hereby does not imply approval of any other portion of the City Code or any other regulation.

By: \_\_\_\_\_

**Daniel Word, Representative of the Director  
Planning and Development Review**





1 3109

Revision Date  
4/27/2009

0 100 Feet

1301	1306	1307
1311	1316	1317
1321	1326	1327
1331	1336	1337

NAD 1983 StatePlane  
Texas\_Central\_FIPS\_4203\_Feet  
Projection: Lambert\_Conformal\_Conic

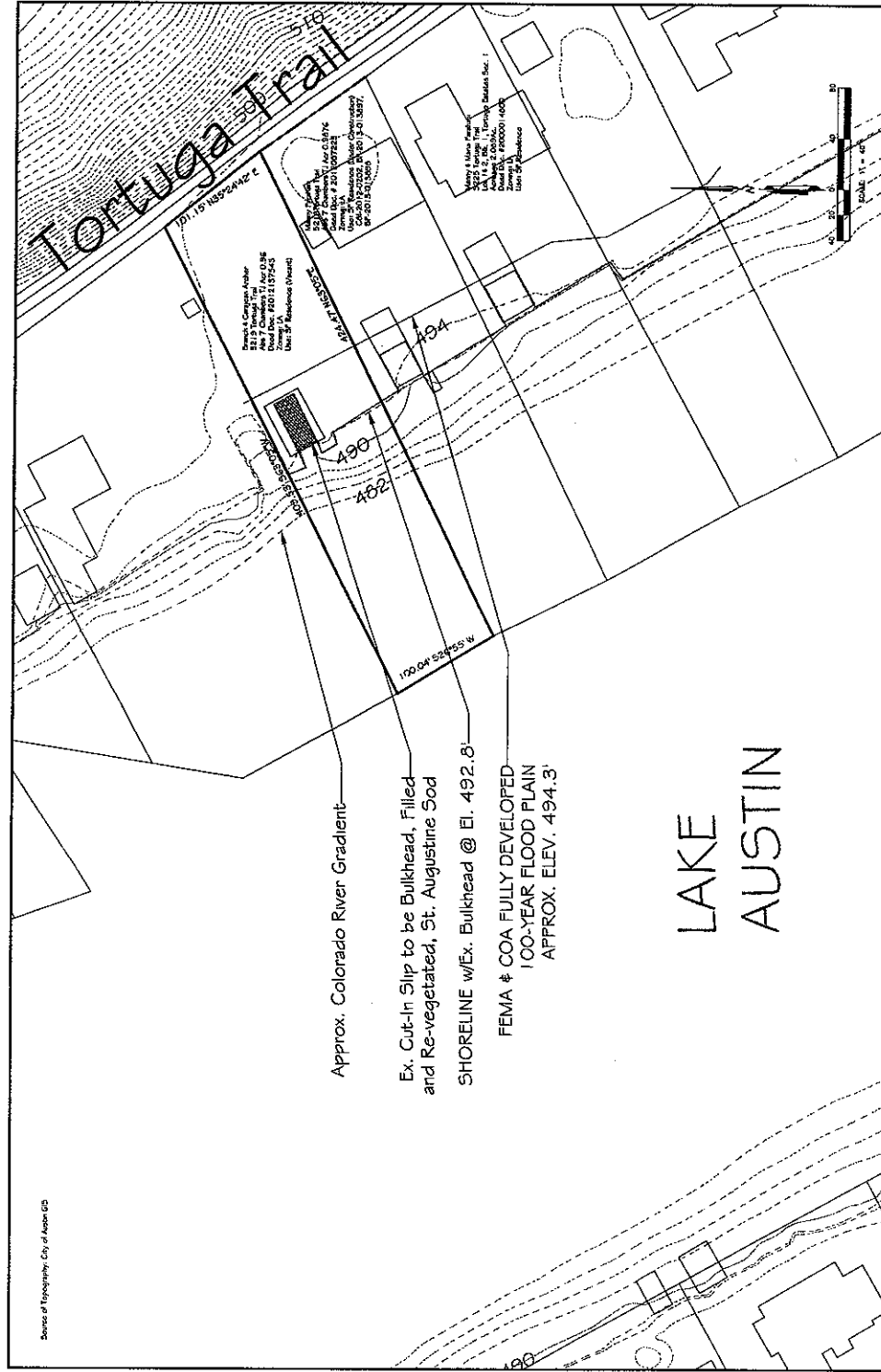
Scale  
1 inch = 100 feet  
1 inch = 100 feet  
1 inch = 100 feet

This tax map was compiled solely for the use of TCAD. Areas depicted by these digital products are approximate, and are not necessarily accurate to mapping, surveying or engineering standards. Conclusions drawn from this information are the responsibility of the user. The TCAD makes no claims, promises or guarantees about the accuracy, completeness or adequacy of this information and expressly disclaims liability for any errors and omissions. The mapped data does not constitute a legal document.

**Travis Central Appraisal District**  
8314 Cross Park Drive  
Austin, Texas 78754  
P.O. Box 149012  
Austin, Texas 78714  
Internet Address: [www.traviscad.org](http://www.traviscad.org)  
Main Telephone Number (512) 834-0317  
Appraisal Information (512) 834-0318  
TDD (512) 836-3328

# 5219 TORTUGA TRAIL

Source of Topography: City of Austin GIS



LAKE  
AUSTIN

NO.	DATE	REVISION	APP'D
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			



**AUPPERLE COMPANY**  
Engineering, Planning & Development Services  
10088 Carlisle Drive, Austin, Texas 78738 512.329.2411  
Texas Seal 10088-Engine-Aupperle/08/15/2013

5219 TORTUGA TRAIL  
SITE PLAN

DESIGNED BY	DATE
CHECKED BY	DATE
SCALE	DATE
PROJECT NO.	DATE
SHEET	DATE