

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

DATE: Monday, June 9, 2014

CASE NUMBER: C15-2014-0059

Y _____ Jeff Jack
 Y _____ Michael Von Ohlen
 Y _____ Ricardo De Camps
 Y _____ Bryan King
 Y _____ Fred McGhee
 Y _____ Melissa Hawthorne **Motion to Reconsider and PP to July 14, 2014**
 Y _____ Will Schnier **2nd the motion - Sallie Burchett(absent)**

APPLICANT: Bruce Aupperle

OWNER: Lebarre Family LLC

ADDRESS: 3821 WESTLAKE DR

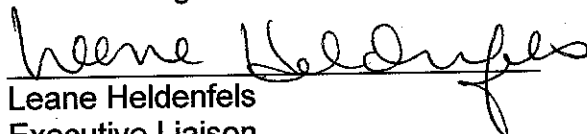
VARIANCE REQUESTED: The applicant has requested a variance to Section 25-2-1173 (D) of the Permit Required for Construction Regulations in Article 13, Docks, Bulkheads and Shoreline Access in order to construct more than 2 boat docks in an "LA", Lake Austin zoning district.


The Land Development Code states that the director of the Planning and Development Review Department may not approve an application for a permit for the construction of more than two residential docks or other similar structures on a single lot zoned MF-1 or more restrictive, unless: 1) the lot was platted and recorded before August 26, 1976, and perpetual rights to use the water frontage of the lot were granted or conveyed to one or more owners of other lots in the subdivision before June 23, 1979; or 2) the Planning Commission has approved a site plan that clusters the residential docks on one or more lots in the subdivision.

BOARD'S DECISION: The public hearing was closed on Board Member Bryan King motion to Deny, Board Member Sallie Burchett second on a 7-0 vote; **DENIED. RECONSIDERATION REQUEST:** June 9, 2014 Board Member Melissa Hawthorne motion to Reconsider, Board Member Will Schnier second on a 7-0 vote; **RECONSIDERED;** the public hearing was closed on Board Member Melissa Hawthorne motion to Postpone to July 14, 2014, Board Member Will Schnier second on a 7-0 vote; **POSTPONED TO JULY 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

Heldenfels, Leane

From: stephen settle <~~westlake.settle@austintexas.gov~~>
Sent: Friday, June 06, 2014 2:03 PM
To: Heldenfels, Leane
Subject: RE: Variance lot 99a & 100a lakeshore addition

Leane, If you could attach the following for the committee to consider I would appreciate it. I will send a second email with the attachments to follow.

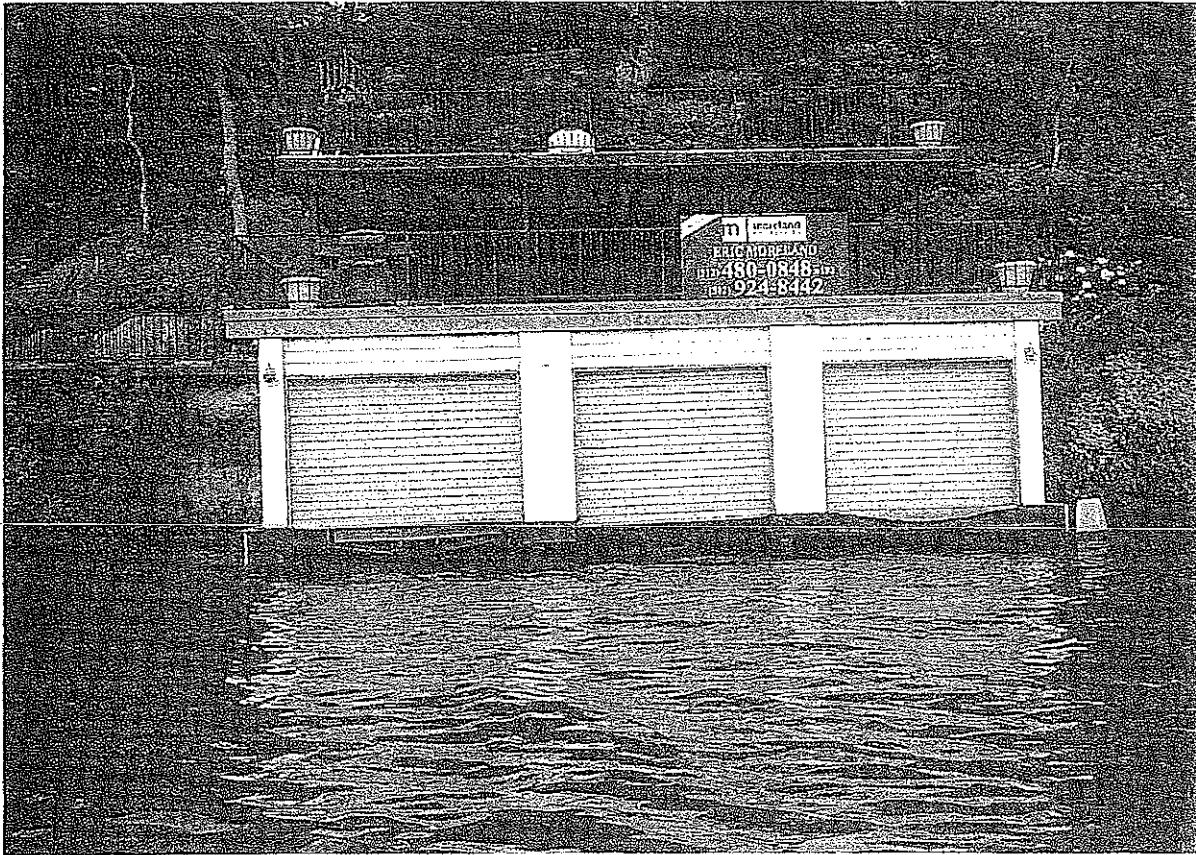
In regards to Mr. Aupperles comments

- 1) the address seeking the boat dock is only 5 feet wide. Inadequate for a boat dock. As noted in the previous variance attempt by Mr. Aupperle 2008-027943sp which was rejected and expired in april17,2008 for the same piece of property was reject by the case manage review,enviromental review, parks review and site plan review.
- 2) the property at 3821 has a 39 foot wide boat dock on 195 feet of waterfront which is the allotted 20% as allowed by current code.
- 3)the arguement the it would replace the current free standing docks is invalid since these docks were placed after the current dock permit was obtained in jan 1994 as temporary docks until the current dock was completed and were never removed They have no permit and not old enough to be grandfathered in.
- 4) the statement that th dock at 3821 is not a 3 story dock is countered by the permit attached 1994-000343bp description add 3rd level deck to existing boat dock which was approved.
- 5) any comments on surrounding docks to the docks in question is irrelevant thank you for your consideration of the above comments Stephen Settle On Thu, 6/5/14, Heldenfels, Leane <Leane.Heldenfels@austintexas.gov> wrote:

Subject: RE: Variance lot 99a & 100a lakeshore addition
To: "stephen settle" <~~westlake.settle@austintexas.gov~~>
Date: Thursday, June 5, 2014, 1:40 PM

Anything you'd like for the Board to see in writing get to me by 12 on Monday and we'll print it for you in lieu of your attendance. Regarding current site plan, you should be able to see anything he's submitted that's under review (I think they do need a site plan to be reviewed by the Planning Commission for construction of a new dock, and applicants either file that site plan before, with or after the BOA - their option). I looked in the system and don't see an official application yet -sometimes the consultants know ahead of filling what the issues are going to be and go about "taking care" of the potential issues before they even get the written comment back from Site Plan review. So that may be the case here. Or they may have done a non-paid site plan consultation in which there wouldn't be anything submitted and no written review comments, but they can get verbal feedback on their proposal prior to submitting. You can monitor the property to see if anything gets turned in by going to: Austintexas.gov/click on development/clock on online tools/click on search permit, case info/click on information search/input address and look back in one year increments - you can also put the case number here - the only case number for 2014 was the Board of adjustment case that you already have (c15-2014-0059). There's been nothing else turned in for either address since 2008.

I do love summer! Hope yours is a good one, too. We keep a wakeboard boat at Westlake Beach and this is first summer for my incoming senior daughter, Avery, to drive sans parents (limited times/days of week) - so watch out for her on the water, really I think she's going to be fine - she has a 1st mate that also passed our instructional time and has her boater safety, so between the two of them being observant/in charge I hope they're safe for themselves and for others. Take care,



3821 WESTLAKE DRIVE

PUBLIC HEARING INFORMATION

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

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

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

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

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (*It may be delivered to the contact person listed on a notice*); or
- appearing and speaking for the record at the public hearing; and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

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

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

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

Case Number: C15-2014-0059, 3821 and 38 23 Westlake Drive
Contact: Leane Heldenfels 512-974-2202, leaneheldenfels@austintexas.gov
Public Hearing: Board of Adjustment, June 9th, 2014

THOMAS P. BISHOP

Your Name (please print)

4403 Elomi Drive

Your address(es) affected by this application

Thomas P. Bishop

Signature

31 May 2014

Date

Daytime Telephone: 512-422-2601

Comments: I do not support the reconsideration of the decision made previously on this application

I am in favor
 I object

Note: Any responses received will become part of the public record of this case.

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

City of Austin-Planning & Development Review Department/ 1st Floor
 Leane Heldenfels
 P. O. Box 1088

Austin, TX 78767-1088
 Or fax to (512)974-2934

Or scan and email to leaneheldenfels@austintexas.gov

PUBLIC HEARING INFORMATION

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Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, June 9th, 2014

Leane Heldenfels
 Your Name (please print)

I am in favor
 I object

3817 Westlake Drive
 Your address(es) affected by this application

Leane _____ *6-2-14*
 Signature Date

Daytime Telephone: *512-328-0992*

Comments: *no the amount of property taxes paid by Lake Austin property owners they should get a good sleep permit.*
The traffic problem at the lake is due to unimproved boat ramp and access allowed by the city. Leane already has 2 boat slips for her.

Note: Any responses received will become part of the public record of this case. *My name will be removed.*
 If you use this form to comment, it may be returned to:

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 Leane Heldenfels
 P. O. Box 1088
 Austin, TX 78767-1088
 Or fax to (512)974-2934
 Or scan and email to leane.heldenfels@austintexas.gov

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

DATE: Monday, May 12, 2014

CASE NUMBER: C15-2014-0059

Y Jeff Jack
 Y Michael Von Ohlen
 Y Ricardo De Camps
 Y Bryan King **Motion to Deny**
 Y Fred McGhee
 Y Melissa Hawthorne
 Y Sallie Burchett **2nd the Motion**

APPLICANT: Bruce Aupperle

OWNER: Lebarre Family LLC

ADDRESS: 3821 WESTLAKE DR

VARIANCE REQUESTED: The applicant has requested a variance to Section 25-2-1173 (D) of the Permit Required for Construction Regulations in Article 13, Docks, Bulkheads and Shoreline Access in order to construct more than 2 boat docks in an "LA", Lake Austin zoning district.

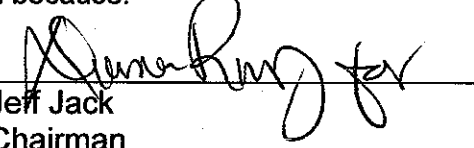
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BOARD'S DECISION: The public hearing was closed on Board Member Bryan King motion to Deny, Board Member Sallie Burchett second on a 7-0 vote; **DENIED.**

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



Aupperle Company

10088 Circleview Drive, Austin, Texas 78733

Phone & Fax (512) 329-8241

Email: Aupperle@att.net

Texas Board of Professional Engineers Registration Number F-1994

RECEIVED

MAY 22 2014

CITY OF AUSTIN

May 22, 2014

Director of Planning and Development Review
Members of the Board of Adjustment
Attn: Leane Heldenfels
City of Austin
P.O. Box 1088
Austin, Texas 78767

Re: Reconsideration of BOA Case No. C15-2014-0059

Dear Director and Members of the Board of Adjustment:

We are requesting reconsideration of the referenced BOA application. On May 12th after our presentation, it became known to us that two nearby property owners were opposed to the variance requested. One nearby owner, presented his arguments at the hearing. Both nearby owners had correspondences that were presented to the Board, but not to the applicant until several days after the hearing.

The correspondence from Dr. Patty Stephens represented several facts that were not true. The correspondence from Stephen Settle also misrepresented facts.

Below Dr. Stephens' and Stephen Settle's facts in error are shown in italics: Our response to each is shown in bold type.

Applicant want to construct two additional boat docks: **The site plan submitted as part of the BOA packet shows only one slip.**

Applicant wants to significantly enlarge the existing dock: **The site plan submitted as part of the BOA packet shows approximately a 40-foot separation between the proposed 1-slip dock and the existing dock at 3821 Westlake Dr.**

Applicant's variance if approved would result in an intrusive expansion in height, depth or intrusive presence of the additional two boat docks: **The site plan submitted as part of the BOA packet shows a proposed 30' x 14' one-story dock with a roof deck, which is typical for Lake Austin.**

Application if approved would undercut the long-awaited LA district zoning overlay: **The site is already zoned LA, there would be no change if the overlay is adopted.**

Plat was redrawn to accommodate existing dock and was done by Dr. Dunham: **The plat by Thomas Leach was approved in 1965. The existing dock's site plan by Dr. Denham was approved in 1992. At 27-years gap between approvals and different applicants makes it very unlikely the plat was prepared in anticipation of the dock application.**

The existing dock at 3821 Westlake is 3-slips and 3-stories tall: **The dock at 3821 Westlake is 2-slips and 2-stories tall with a roof deck.**

The combined existing dock and proposed dock would permanently alter the characters of the adjacent properties: **If the variance was approved the two free-standing boat lifts that service**

May 22, 2014
Director of Planning and Development Review
Members of the Board of Adjustment

Page 2 of 2

3823 Westlake would be removed. They are about 20' wide. The new dock would be a 14' fixed dock. The net dock width for 3821 & 3823 Westlake would be reduced from 59' over 200' shoreline feet or 29.5% to 53' over 200' of shoreline or 26.5%. The resulting total dock width is characteristic of docks on Lake Austin. Please note that docks within two to three lots away from the subject application exceed 20% of the shoreline width. They appear to range between 22% and 30%.

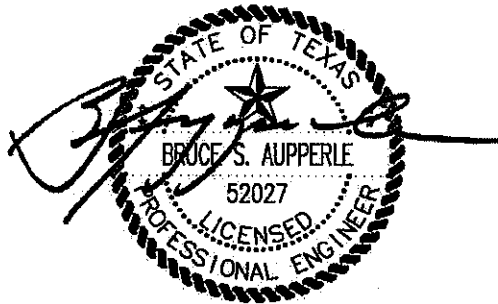
Construction of the proposed dock degrades Lake Austin: The site plan permitting process assures quality development and non-degradation of Lake Austin.

Neither Dr. Stephens nor Mr. Settle have dock site plans on file with the City, which probably produced Dr. Stephens' frustrations with the whole Lake Austin issue when she apparently illegally improved her dock in 2004.

The reconsideration will allow us to fairly rebut the claims made about our application, to have copies of all correspondences to or about our application and to represent the facts clearly and logically, not formatted to a two-minute last-second rebuttal.

Very truly yours,

Bruce S. Aupperle, P.E.



31Oct2013

3823 Westlake Dr, Austin, TX 78746, USA

Google earth

Google earth

feet
meters





28 Feb 2003

3023 Westlake Dr Austin TX 78746 USA

Google earth

Google earth

feet
meters



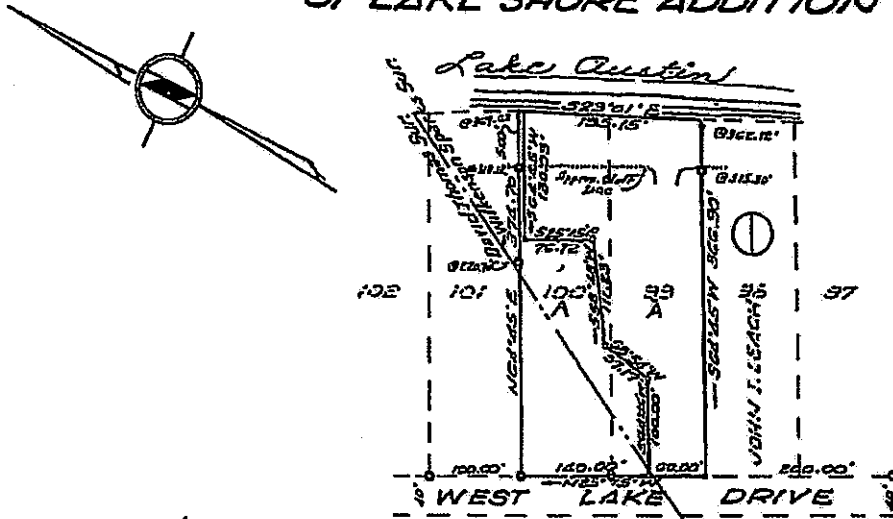
200

800



Nov 15-65 R.E.C.A. 9785 1/50

RESUBDIVISION OF LOTS 99 & 100 OF LAKE SHORE ADDITION



"In approving this Plat by the Commissioners Court of Travis County, Texas, it is understood that the building of all streets, roads and other public thoroughfares, and bridges and other public structures, and all bridges and structures necessary to be placed in such streets, roads and other public thoroughfares, or in connection therewith, shall be the responsibility of the owner and/or the developer of the tract of land covered by this plat, in accordance with plans and specifications prescribed by the Commissioners Court of Travis County, Texas, and the Commissioners Court of Travis County, Texas, has no obligation to build streets, roads and other public thoroughfares shown on this Plat, or of constructing any bridges or culverts in connection with same."

THE STATE OF TEXAS COUNTY OF TRAVIS KNOW ALL MEN BY THESE PRESENTS: That I Harvey Monroe Leach, being the owner of Lots 99 and 100 in LAKE SHORE ADDITION, a subdivision out of the Wilkerson Survey # 2 in Travis County, Texas, as shown on a Map or Plat of said Subdivision as recorded in Volume Page 20, in the Plat Records of Travis County, Texas, said Lots 99 and 100 in LAKE SHORE ADDITION being conveyed in a deed from Mary Larken Treadaway, et vir, to Thoson Monroe Leach, as recorded in Volume 3017 Page 260, Travis County - Plat Records, do hereby agree that said Plat or subdivision of said Lots 99 and 100, to be known and designated as Lots 99-A and 100-A,

THE STATE OF TEXAS COUNTY OF TRAVIS I, Miss Follie Livberg, County Clerk of Travis County, Texas, do hereby certify that on the 15th day of Nov. A. D. 1965, the Commissioners Court of Travis County, Texas, passed an order authorizing the filing for record of this Plat and that said order has been duly entered in the minutes of said Court in Book 2, Page 357, and WITNESSED BY MY HAND AND SEAL OF OFFICE this 15th day of Nov. A. D. 1965.

RESUBDIVISION OF LOTS 99 AND 100 OF LAKE SHORE ADDITION and I do hereby dedicate to the public all streets and easements shown hereon. WITNESS MY HAND this 1 day of Nov. A. D. 1965

Thomas Monroe Leach
Harvey Monroe Leach

THE STATE OF TEXAS COUNTY OF TRAVIS BEFORE ME, the undersigned authority on this day personally appeared Thoson Monroe Leach, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed. GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 1st DAY OF November, A. D. 1965

Wilma E. Williams (SEAL)
Notary Public in and for Travis County, Texas.

By *John May Wellborn*
(SEAL) FILED FOR RECORD in the 15th day of Nov. A. D. 1965. Clerk, County Court, Travis County, Texas

SEPTIC TANK NOTE: Each house constructed in this Subdivision shall be connected to a septic tank of a design approved by the State of Texas Health Department.

By *Bertha Fugh*
THE STATE OF TEXAS COUNTY OF TRAVIS I, Miss Follie Livberg, Clerk of County Court, within and for the County and State aforesaid, do hereby certify that the within and foregoing instrument of writing with its certificate of authentication was filed for record in my office on the 25th day of Nov. A. D. 1965 at 1:25 o'clock P. M. and is recorded in the 15th day of Nov. A. D. 1965 at 1:30 o'clock P. M. in the Plat Records of said County in Book 26 Page 44. WITNESS MY HAND AND SEAL OF OFFICE of the County Court of said State, the date last as above written. MISS FOLLIE LIVBERG Clerk, County Court, Travis County, Texas

In approving this Plat by the City Council of the City of Westlake Hills, it is understood and expressly stated that such approval of this Plat shall be without prejudice to the private rights of any person or persons relating to the use of this property, as reflected by the Records of Travis County, Texas.

ACCEPTED AND AUTHORIZED FOR RECORD BY THE CITY OF WESTLAKE HILLS, TEXAS, THIS 2nd DAY OF November, A.D. 1965.

Hewitt Jacobson Secretary *Robert Allen*

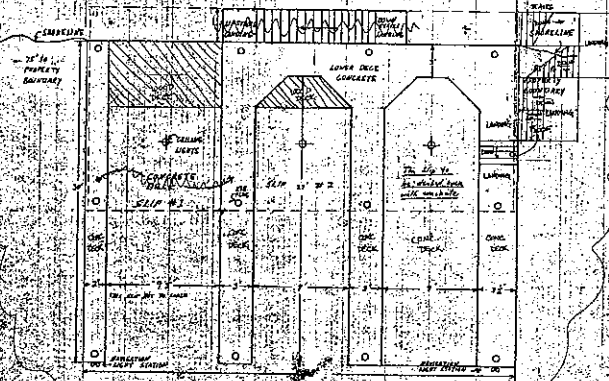
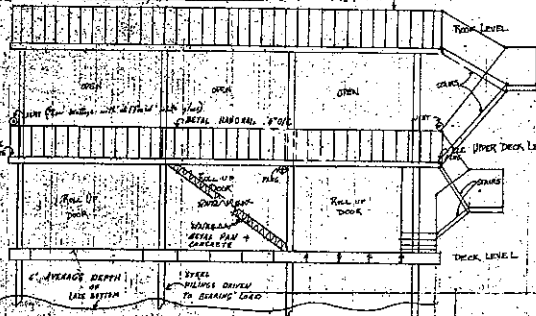
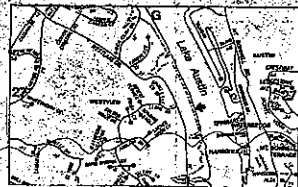
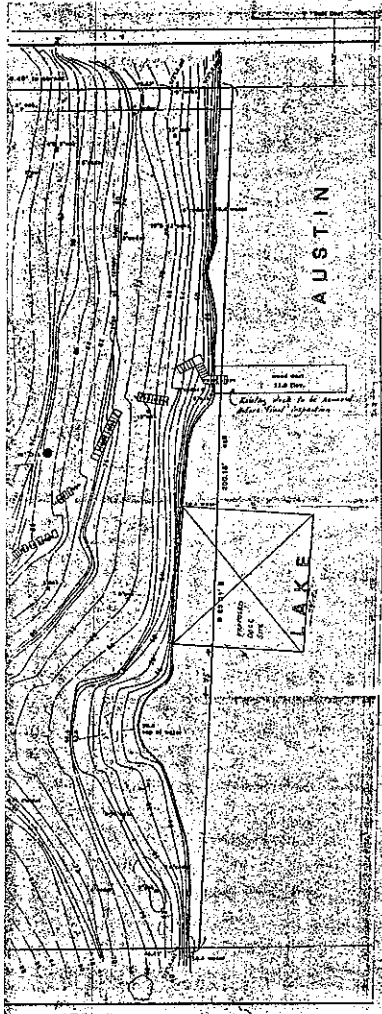
(SEAL) By *Bertha Fugh*

LEGEND
• Iron Stake Set
• Iron Stake Found
• Travis County Deed Record
Scale 1" = 100 Feet



Surveyed Aug. 11, 1965
BROOKS & SCOTT
Land Surveyors
James H. Scott
Barrett B. Scott
Reg. Public Surveyor

F.D. 3 Pg. 13
PLAN 1006



SP-92-0007DS
 CHUCK BERNAN, BURT DECK
 3821 WESTLAKE DRIVE

NO.	DATE	REVISION



NOTE: NO MODIFICATION OF THE BUILDING OR OTHER COVERED STRUCTURES WOULD INCREASE THE POTENTIAL FOR FLOODING/INUNDATION IS LOCATED IN THIS ZONE. THE CITY OF AUSTIN GENERAL CONSTRUCTION CODE HAS PROVIDED IN THIS ZONE A PART OF THIS PROJECTS USE APPLICABILITY IN THE EVENT THIS OUTSTANDING DISTURBANCE OF THE LAKE AREA OF THE SITE IS NECESSARY TO COMPLETE THE APPROVED CONSTRUCTION. A DISTURBANCE SHALL BE IN THE BEST INTERESTS OF THE CITY AND THE STATE OF TEXAS.

NOTE: THIS PROJECT/SITE IS LOCATED IN THE LAKE AUSTIN WATERSHED, IS CLASSIFIED AS WATER SOURCE RISK AND IS SUBJECT MATTER OF THE LAKE DEVELOPMENT ZONE ACT (SDA 12-2-2012) AND TO OBTAIN A FINAL PLAN APPROVED PRIOR TO MAY 15, 1992. PURSUANT TO SECTION 12-2-2012(C), THE CITY IS SUBJECT TO CITY ORDINANCE 680023-14 'LAKE AUSTIN WATERFLOOD ORDINANCE' AND TO CITY ORDINANCE 680023-14 'LAKE AUSTIN WATERFLOOD ORDINANCE'.

DOCK CONTRACTOR: SIDOR SUPPLY, INC.
 3821 W. 12TH ST.
 AUSTIN, TX. 78741

OWNER: DR. CHUCK BERNAN
 3821 W. 12TH ST., BLOCK "A", LAKEVIEW SUBDIVISION
 STREET ADDRESS: 3821 WESTLAKE DRIVE

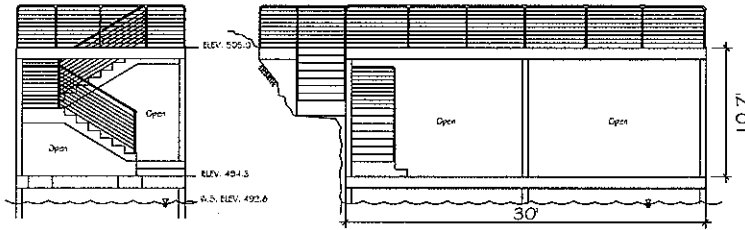
Construction proposed for February 1992.
 Scale: 1/4" = 1'-0". Vertical scale: 1/8" = 1'-0".
 Section, land elevation, and mechanical are not affected.
 Show site on map in the immediate area.
 Allowing shall be filed.

All responsibility for the accuracy of these plans remains with the architect/engineer and preparer thereof. In the event of any error, the City of Austin shall not be liable for the accuracy of the plans/drawings.

Approved by: *Shelley* 3-4-92
 Department of Planning & Development Date
 Dev. Permit # SP-92-0007DS
 REVIEWED BY: *Shelley*
 DATE: 3-4-92

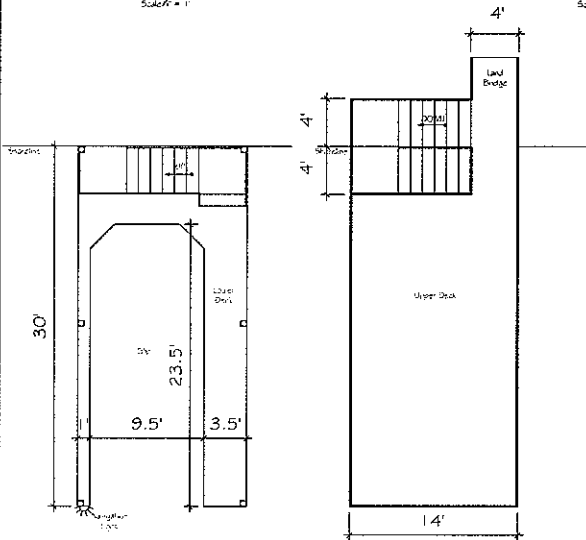
APPROVED
 3-11-92
 SHELLEY
 DEPARTMENT OF PLANNING & DEVELOPMENT

Current Site Plan Proposal



LAKESIDE ELEVATION
Scale 1/8" = 1'-0"

SIDE ELEVATION
Scale 1/8" = 1'-0"



FLOOR PLAN LOWER DECK
Scale 1/8" = 1'-0"

FLOOR PLAN UPPER DECK
Scale 1/8" = 1'-0"

NOTES:

1. Navigation lights must have a two-bulb fixture, with two working light bulbs rated between 7-1/2 and 25 watts inclusive. Light bulbs or bulb covers must be amber, and white light may not radiate from the fixture. Weatherproof lamp holders and junction boxes are required. Each light fixture must be wired with a switch operated by a photoelectric cell so that the lights will operate automatically during the hours that the dock is required to be lighted by this section.
2. All access for construction activities will be by water.
3. All piles will be 5-1/4" driven steel piles. All piles will be driven to 0.5" refusal per blow.
4. There are no trees equal to or greater than 8-inch in diameter within the limits of construction.

3823 Westlake Drive

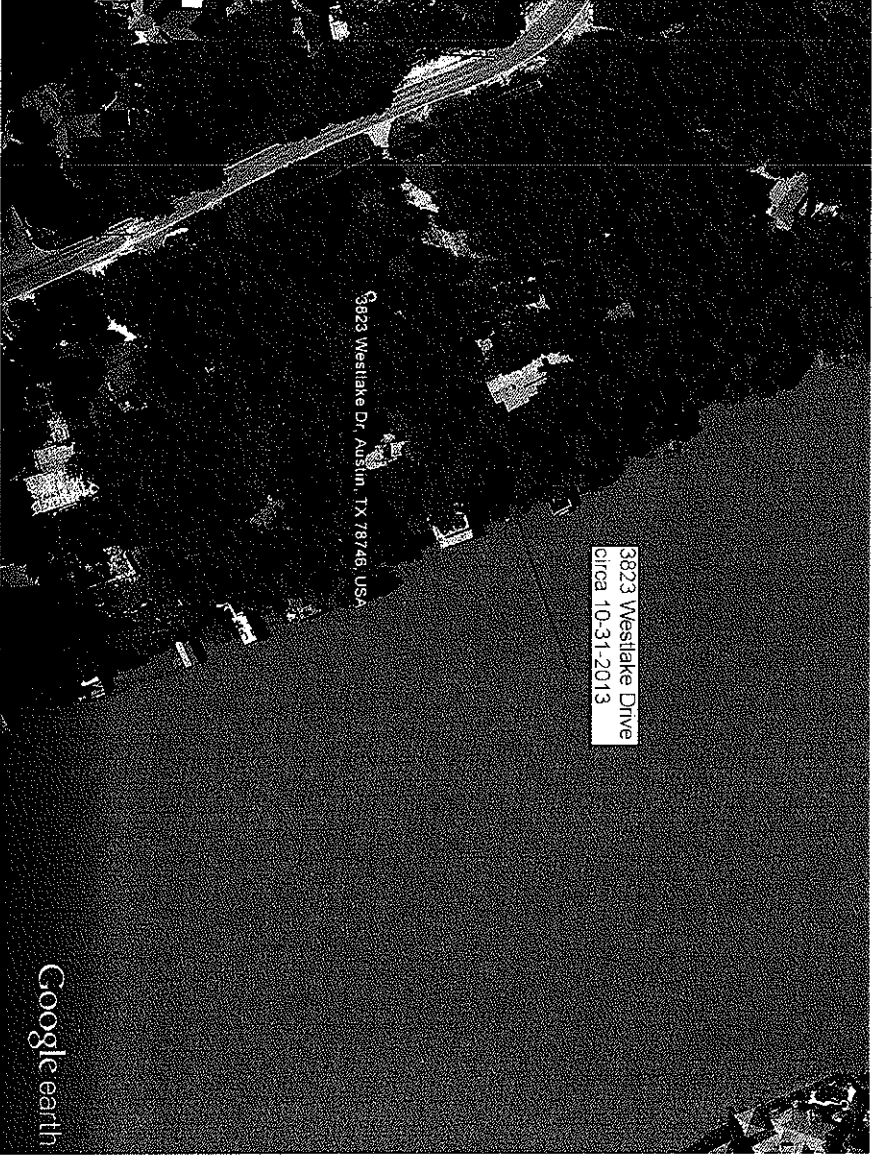
- Variance to Section 25-2-117(D) – to have more than two docks on one lot zoned MF-1 or less restrictive.

3823 Westlake Drive



Google earth
feet
meters
200
800





3823 Westlake Drive
circa 10-31-2013

3823 Westlake Dr. Austin, TX 78746, USA

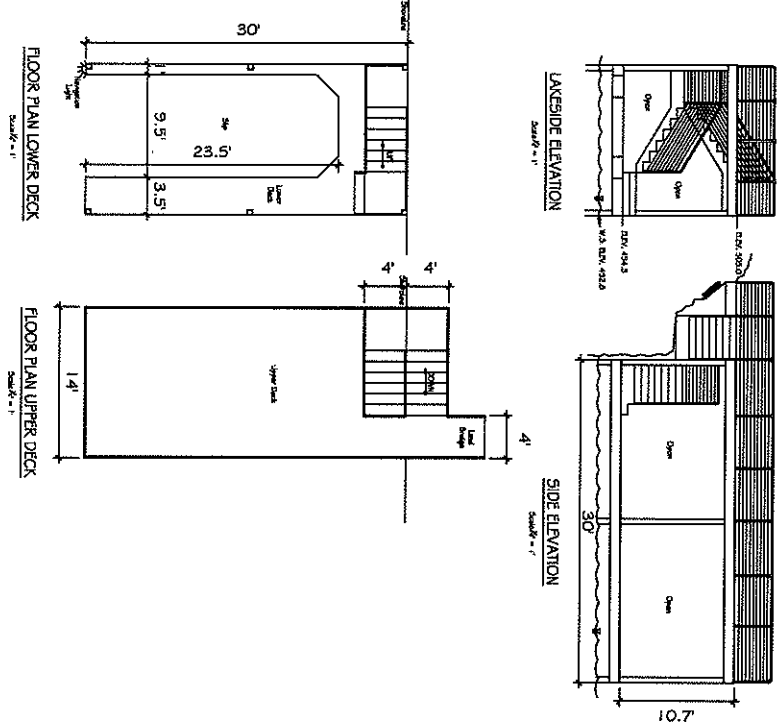
Google earth

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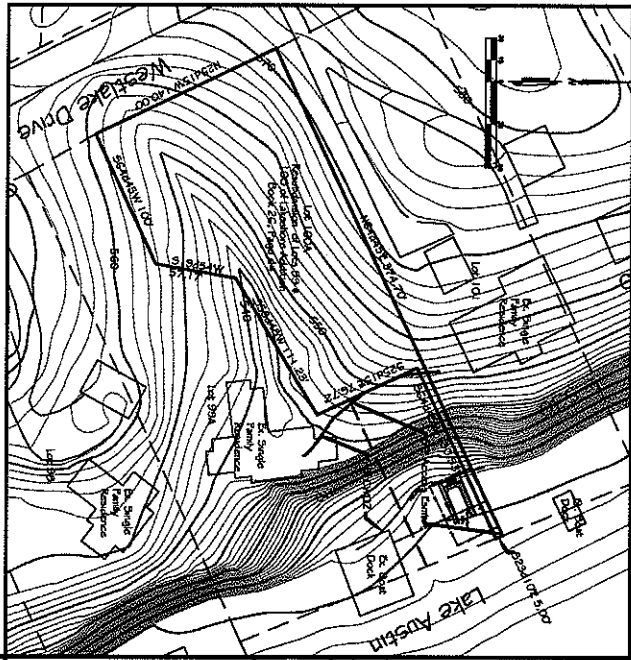
feet
meters



THESE PLANS AND SPECIFICATIONS ARE PREPARED FOR THE CLIENT'S USE AND ARE NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF AUPPERLE COMPANY.



- NOTES:
1. Navigation lights must have a two-bulb fixture, with two working light bulbs rated between 7-11/2 and 2.5 watts inclusive. Light bulbs or bulb covers must be amber, and white lights may not radiate from the fixture. Weatherproof lamp holders and junction boxes are required. Each light fixture must be wired with a switch operated by a photoelectric cell so that the lights will operate automatically during the hours that the dock is required to be lighted by this section.
 2. All access for construction activities will be by water.
 3. All piles will be 5'-1/4" driven steel piles. All piles will be driven to 0.5' residual per blow.
 4. There are no trees equal to or greater than 6-inch in diameter within the limits of construction.



3823 Westlake Drive
Boat Dock Plan & Elevations
3/8/76

3823 Westlake Drive
Boat Dock Plan & Elevations

AUPPERLE COMPANY
Engineering, Planning & Development Services
2219 Westlake Drive #110, Austin, Texas 78716 512-339-8200



NO.	DATE	REVISION



JOINT USE PEDESTRIAN ACCESS, USE AND MAINTENANCE EASEMENT AGREEMENT

Date: _____, 2014

Owner 1: Lary T Royalty Management, Ltd.

Owner 1's 3300 S. 14th Street, Abilene, TX 79605-5016

Mailing Address: Labarre Family LLC

Owner 2's

Mailing Address: 3300 S. 14th Street, Abilene, TX 79605-5016

Property: (All of the following tracts)

Tract 1: Lot 99A Resubdivision of Lot 99 and Lot 100, Lake Shore Addition, according to the map or plat thereof recorded in Volume 26, Page 44, Plat Records of Travis County, Texas and known locally as 3823 Washlake Drive, Austin, Travis County, Texas 78746

Tract 2: Lot 100A Resubdivision of Lot 99 and Lot 100, Lake Shore Addition, according to the map or plat thereof recorded in Volume 26, Page 44, Plat Records of Travis County, Texas and known locally as 3823 Washlake Drive, Austin, Travis County, Texas 78746

Each owner declares that the Property must be held, sold, and conveyed subject to the following easements and restrictions to assure access to and from the Property for pedestrian and vehicular traffic:

DEFINITIONS

1.01 "Owner" or "Owners" means the record owner, whether one or more persons or entities, his, her or its heirs, successors, and assigns, of any right, title, or interest in or to the Property or any part thereof.

1.02 "Tract" or "Tracts" means the real property, or a part of the real property, defined above as "Property."

RECIPIENTS

2.01 WHEREAS, the current Owners of Tract 1 and Tract 2 described above desire to build a clubse boat dock facility as authorized by Section 25-2-173D2 of the Code of the City of Austin such that three (3) boat dock slips will be located on Tract 1 in two separate boat dock structures for the joint benefit of both lots; and

STATE OF TEXAS
COUNTY OF TRAVIS

Before me

Notary Public, on this day personally appeared of Lary T Royalty Management, Ltd., in and

CONFORMITY WITH ALL APPLICABLE LAWS

3.01 Notwithstanding to this Joint Use Pedestrian Access, Use and Maintenance Easement Agreement will be performed in any way or manner that is prohibited or restricted by any applicable law, ordinance, regulation, or statute, the parties agree to comply with all applicable laws, ordinances, regulations, and statutes.

2.02 WHEREAS, the Planning Commission approved the cluster boat dock facility as an accessory use to the residential use described in Tract 1 and Tract 2 above in accordance with the requirements of Section 25-2-173D2 on _____, 2014, and

2.03 NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged and witnessed, the Owner of Tract 1 and Tract 2 agree as follows:

GRANT OF EASEMENTS

3.01 The Owner of Tract 1 and the Owner of Tract 2 hereby grant a limited, appurtenant easement over and across said Tract 1 for pedestrian access to the boat dock facility (the "Boat Dock") for the benefit of the Owners of both Tract 1 and Tract 2.

3.02 The Owner of Tract 1 and the Owner of Tract 2 hereby grant a blanket appurtenant easement over and across said Tract 1 to the boat dock facilities on Tract 1 and for use and maintenance easement for the benefit of the Owners of both tracts.

3.03 The two tracts, those (3) slip boat dock facility is described by the dimensions and location in Tract 1 as graphically depicted in Exhibit A attached hereto and incorporated herein by reference.

3.04 Each Owner agrees to pay one half (1/2) of all costs to repair and maintain the boat dock facility on Tract 1. If cost to repair any part of the improvements exceeds normal wear and tear costs and each Owner agrees to pay one half (1/2) of the cost to repair and maintain any part of the improvements, (2) the cost of maintenance that is needed for any part of the improvements, or (3) the person who caused the extraordinary damage to any part of the improvements.

Each Owner will agree on a mutually acceptable mediator and will share the costs of mediation and arbitration. Each Owner agrees to indemnify and hold the other Owner and his respective heirs, successors, and assigns, including future owners of any part of the Property,

3.04 Any Owner may enforce, by any proceeding at law or in equity, including specific performance, the covenants and restrictions imposed by this Joint Use Pedestrian Access, Use and Maintenance Easement Agreement. Failure to enforce any covenant or restriction stated in this Declaration does not waive the future right to do so.

MODIFICATION OR TERMINATION

4.01 This Joint Use Pedestrian Access, Use and Maintenance Easement Agreement may be modified, amended, or terminated only by the joint action of all the Owners of the Property at the time of such modification, amendment, or termination, and any judgment, holding, final court order, or any portion of the Property. Such joint action only becomes effective after it is reduced to writing and signed by all the Owners of the Property and their respective assigns, if any, and filed in the Real Property Records of Travis County.

3823 Westlake Drive:

- **REASONABLE USE:** Zoning does not allow for a very narrow lake front lot use of a dock within the required setbacks.
- **HARDSHIP:** There are 200 linear feet of shoreline for the cluster of 2 lots. A variance to cluster the shoreline improvements, i.e. 3 docks on one lot, is required. The variance is not general to the area since most lake front lots are generally 100 linear feet.
- **AREA CHARACTER:** The dock density will remain within code limits, i.e. no more than 4 docks on two lots. The width of the dock, i.e. 14 feet will need to be approved by the Planning Commission during site plan review and permitting.

C15-2014-0059

Heldenfels, Leane

From: Stephen Settle <[REDACTED]>
Sent: Monday, May 12, 2014 1:57 PM
To: Heldenfels, Leane
Subject: Variance lot 99a & 100a lakeshore addition

I'm am writing in opposition of the above mentioned variance based on the following grounds

- 1) the lots were replatted by Dr. Charles Denham for the sole purpose of building a large boat which is 39 feet wide which is the maximum allowed for a 195 foot waterfront lot. So to now allow a second dock on this property sets a new method to build any size of boat dock by Changing the lot size to build then change it back
- 2) The current dock has 3 bays and is 3 stories tall more than adequate for this 200 foot lot which covers the 2 lots
- 3) this area of natural shoreline and vegetation is some of the last natural areas left in the Area from the bridge to the damn Sincerely Stephen Settle
3825 Westlake drive next door to the variance lot Sent from my iPhone

Heldenfels, Leane

F3

From: Murray Robert <[REDACTED]@gmail.com>
Sent: Monday, May 12, 2014 8:41 AM
To: Heldenfels, Leane
Cc: PATTY STEPHENS
Subject: Facts, Data, and Opposing Logic For Board of Adjustments Agenda May 12, 2014 (Case # C15-2014-0059)
Attachments: Backup of Facts, Data, and Opposing Logic For Board of Adjustments Agenda May 12, 2014 (Case # C15-2014-0059).docx

Hello Leane,

I'm submitting this to you for inclusion in the record for tonight's (May 12, 2014) Board of Adjustments hearing.

This is the correct version: Sorry about the confusion caused by sending you an earlier (crude) draft late last night.

If the format (MS WORD for Mac) isn't compatible with your software, please let me know at once, and I'll figure out another way to send it.

Either way, please send a simple reply, so Patty and I will be able to exhale again.

Thanks

-Robert Murray (spouse), for Dr. Patty Stephens
512-663-6299 (Robert)
512-627-2206 (Patty)

F3

**Facts, Data, and Opposing Logic For Board of Adjustments
Agenda May 12, 2014 (Case # C15-2014-0059)**

Case Number: C15-2014-0059

Applicant: Bruce Aupperle (512) 422-7838

Agenda Item I-3

An application for a variance in order to construct two additional boat docks on the original lots in a "LA", Lake Austin zoning district.

(Apparently entered by Carolyn Aupperle), for Le Barre Family LLC and Lazy T Royalty Management Ltd.

Property in question: 3821 & 3823 Westlake Drive, Lot 99A and 100A.

This opposition to the requested variance is submitted by Dr. Patty Stephens, 3901 Westlake Drive, Austin, TX 78746.

I have lived in the same location, 3901 Westlake Drive, since building the house in 1968 (lot 102 of Lake Shore Addition platted April 8th, 1954).

I oppose further degradation of Lake Austin this variance would cause. I speak both as a long-term nearby property owner (two lots away) and as a long term Austinite concerned about the quality of our community and its unique resource, Lake Austin.

I have serious concerns about results of the variance-requested dock expansion from two to four (undefined) boat docks, including:

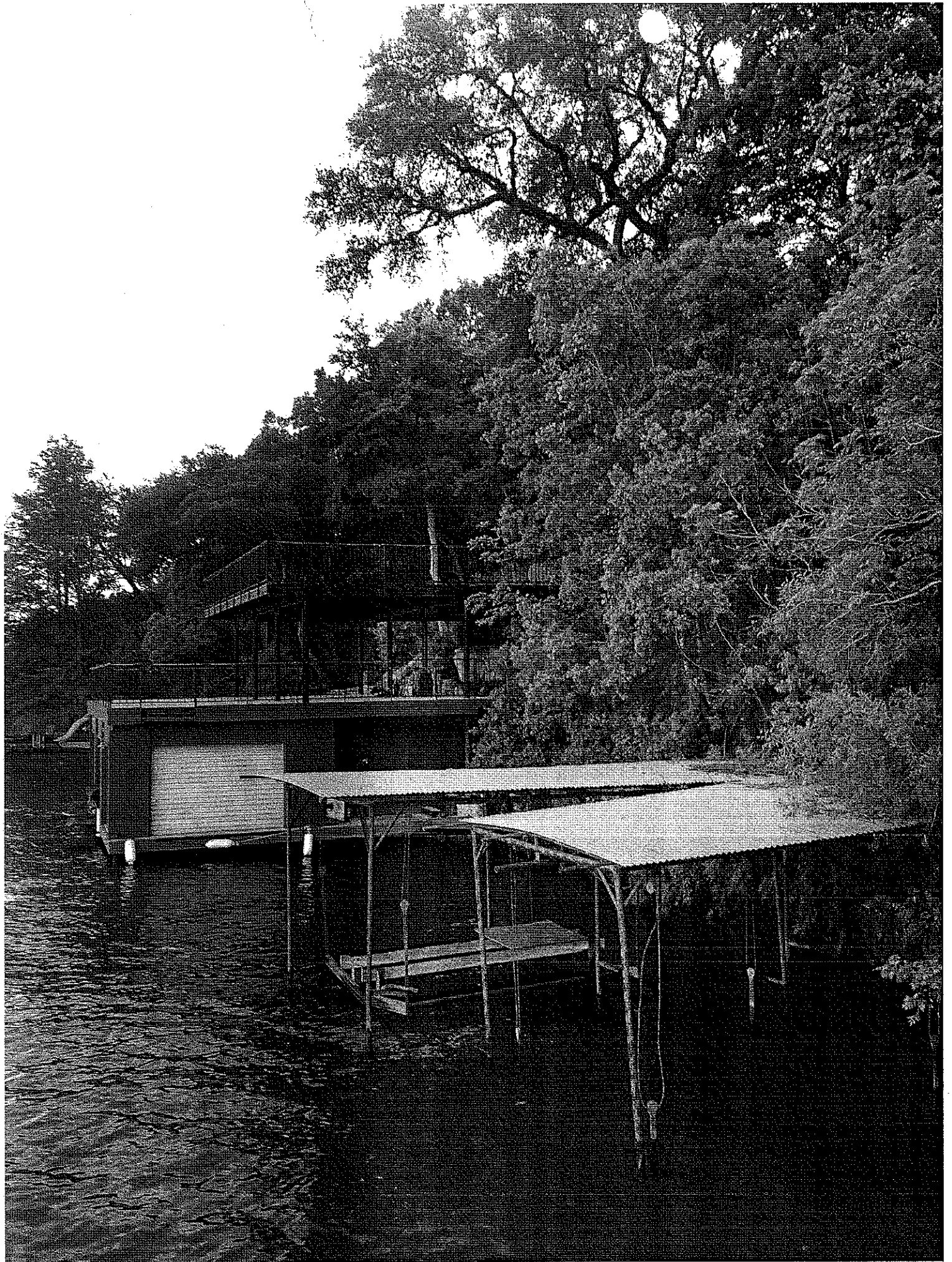
1. Conflicts with recent precedence, including requirements imposed on me for my dock construction in 2004: When I went 2 feet beyond the existing dock footprint, the permit was denied and I had to remove 2 feet of an already small dock (with NO boat dock).
2. Significantly enlarge (and possibly create intrusive new structures), where not previously permitted.
3. Reduces the amount of natural vegetation protection along the Lake Austin shoreline, thus further reducing water quality of our drinking water, both inside and outside the City of Austin.
4. Vulnerable to unavoidable construction phase destruction of imperious cover, septic tank compacting, etc.
5. Impairs the purpose and spirit of the Lake Austin water quality protection regulations, unique to the LA District zone.
6. Permanently alters the character of adjacent properties (including my home, adjacent to the adjacent lot).
7. It would grossly violate the spirit and regulatory practice of the (very reasonable) 20% limit for boat docks (the percentage of

- the property's total lake front devoted to boat docks – a recreational, not essential use), and
8. The Applicant's Variance Request provides no protection against the possibility that the variance – if granted – would result in an intrusive expansion in height, depth, or intrusive presence of the additional two boat docks, which together with the original two which still occupy 200 feet of lake front, and
 9. It would undercut the long-awaited LA district zoning overlay that is scheduled for final City Council consideration (with unanimous pass recommendations in support) on May 15, 2014, three days after the May 12 Board of Adjustment meeting.

Context: Originally this property width was 200 feet, which translated into about 200 feet of lakefront (the original lots were platted so that the dividing property lines were almost perpendicular to the lake shore). Later, the boundary between these two lots was redrawn to provide a lakefront adequate to acquire a permit to build the two existing boat docks (of 39 foot combined width), and stay within the 20% limit. This resulted in the existing situation today: The larger lot, with about 190 feet of lakefront, plus a much smaller lot, having barely enough room for walkway to the shore (less than 10 feet, presumably allowing a claim of "lakefront property"). Therefore: Any "unfairness" to the current or eventual owner of the smaller lot occurred strictly as a result of this redrawing of the boundary between the two lots!

Thank you for your consideration.

Dr. Patty Stephens



Heldenfels, Leane

From: Dr. Patricia Stephens <dr.patricia.stephens@...>
Sent: Sunday, May 11, 2014 9:09 PM
To: Heldenfels, Leane
Subject: (Case # C15-2014-0059)

F3

Filing for opposition to boat docks encroachments into Lake Austin. (bob add case numbers)

Having lived in the same location: 3901 Westlake Drive since 1968 (lot 102 of Lake Shore Addition platted April 8th, 1954), I oppose further degradation of Lake Austin. I speak both as a nearby property owner (100 feet away) and as a long term Austinite concerned about the quality of our community.

I have serious concerns about the proposed dock expansion, including:

- Conflicts with recent precedence, including requirements imposed on me for my dock construction in 2004: When I went 2 feet beyond the existing dock footprint, the permit was denied and I had to remove 2 feet of an already small dock, with NO boat dock.
- Significantly enlarge or even create imposing new structures where not permitted.
- Reduces the amount of natural vegetation protection along the Lake Austin shoreline, thus further reducing water quality of our drinking water, both inside and outside the City of Austin.
- Provides a pathway for { how about “vulnerable to construction destruction of imperious cover, septic tank compacting” }
- Impairs the purpose { how about “and spirit of the Lake Austin water quality protection regulations” }
- Permanently alters the character of adjacent properties { how about “including our home, two docks from subject property” }
- Sets a precedent for further erosion of Lake Austin quality.
- Nullifies the work of the LA Overlay { covered by my draft, item #5 }

Thank you for your consideration,

A variance from the Building Code Board of Appeals may be required for variances from the Zoning Board of Adjustment (no Sign Review Board cases need to call). Please consult a code specialist in the Plan Review Division at 974-2580.

If you need assistance completing this application (general inquires only) please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2nd Floor (One Texas Center).

CASE # C15-2014-0059
ROW # 14122902

CITY OF AUSTIN TK0127090117
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: 3821 and 3823 Westlake Drive

LEGAL DESCRIPTION: Subdivision -
LOT 99A and 100A RESUB OF 99&100 LAKE SHORE ADDN

Lot(s) 99 and 100 Block Outlot Division

I/We Aupperle Company on behalf of myself/ourselves as authorized agent for

Lebarre Family LLC and Lazy T Royalty Management LTD,
affirm that on March 18, 2014

hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below)

ERECT ATTACH COMPLETE REMODEL MAINTAIN

more then 2 docks per lot due to limited land on lake front

in a LA district.
(zoning district)

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

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

REASONABLE USE:

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

This two lots were replatted to allow for each to have a reasonable size home on the lot without too many complications or variances being needed. In doing this one lot lost almost all frontage on the lake and there is no way to build a dock on 5' of land. 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 a permit to do. Without a variance the owner can not enjoy the use of his property.

HARDSHIP:

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

There is no other property that is designed like this property or has such a small amount of lake frontage. Even without the redesign we still need a variance due to how small the lots are.

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

The land code now does not allow for this design to happen.

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 lots near by will not be affected due to the location of the lake where this is and how big the other lot frontages are.

PARKING: (Additional criteria for parking variances only.) N/A

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:

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:

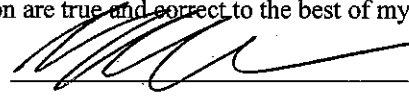
2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

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 10088 Circleview
Drive _____

City, State & Zip Austin, TX
78733

Printed Carolyn Aupperle, agent Phone 512-912-
6399 Date 3/18/14

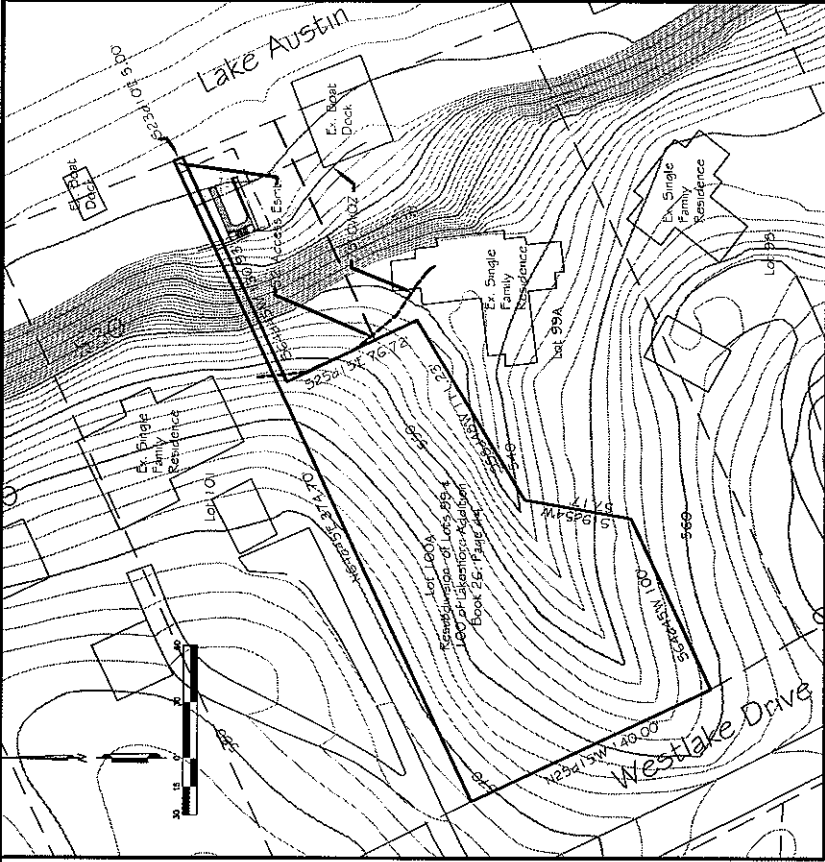


UPPERLE COMPANY
 Engineering, Planning & Development Services
 2219 Westlake Drive #110, Austin, Texas 78756 512 292-4241

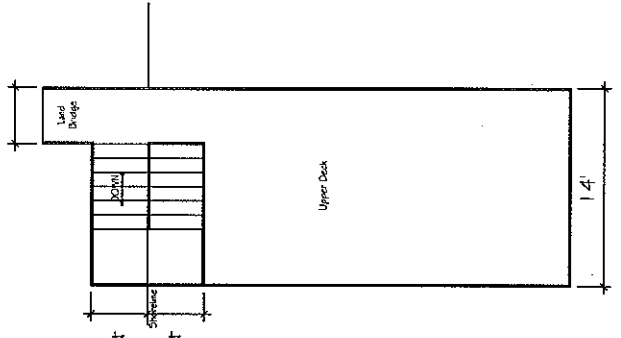
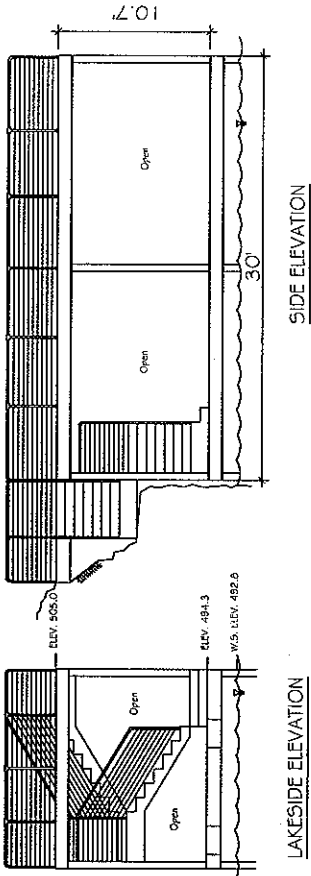
3023 Westlake Drive
 Boat Dock Plan & Elevations

DATE	DESCRIPTION
10/21/22	ISSUE FOR PERMIT
10/21/22	ISSUE FOR PERMIT
10/21/22	ISSUE FOR PERMIT
10/21/22	ISSUE FOR PERMIT

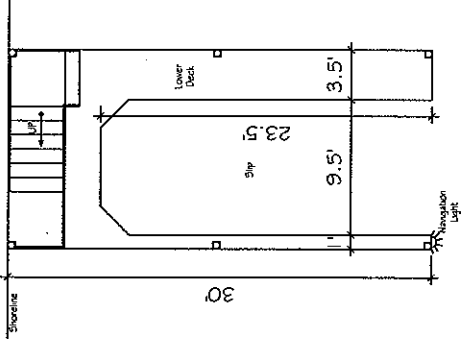
C2



- NOTES:
1. Navigation lights must have a two-bulb fixture, with two working light bulbs rated between 7-1/2 and 25 watts inclusive. Light bulbs or bulb covers must be amber, and white light may not radiate from the fixture. Weatherproof lamp holders and junction boxes are required. Each light fixture must be wired with a switch operated by a photoelectric cell so that the lights will operate automatically during the hours that the dock is required to be lighted by this section.
 2. All access for construction activities will be by water.
 3. All piles will be 5-1/4" driven steel piles. All piles will be driven to 0.5" refusal per blow.
 4. There are no trees equal to or greater than 8-inch in diameter within the limits of construction.






FLOOR PLAN UPPER DECK
 Scale 1/4" = 1'



FLOOR PLAN LOWER DECK
 Scale 1/8" = 1'

All responsibility for the accuracy of these plans rests with the Engineer who prepares them. In preparing these plans, the City of Austin hereby certifies that they conform to the City Code.



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

CASE#: C15-2014-0059
Address: 3821 & 3823 WESTLAKE DRIVE

1" = 200'

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 CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



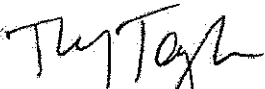
August 1, 2013

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

To Whom It May Concern:

I, Tom Taylor, manage the property at 3823 Westlake Drive. We wish to construct a new dock 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.

Regards,

A handwritten signature in black ink, appearing to read "Tom Taylor". The signature is written in a cursive, slightly slanted style.

LeBarre Family LLC and Lazy T Royalty Management, Ltd.

TAX CERTIFICATE
Bruce Elfant
Trav. County Tax Assessor-Collector
P.O. Box 1748
Austin, Texas 78767
(512) 854-9473

ACCOUNT NUMBER: 01-2709-0117-0000

PROPERTY OWNER:

LEBARRE FAMILY LLC &
LAZY T ROYALTY MANAGEMENT LTD
3300 S 14TH ST
ABILENE, TX 79605-5016

PROPERTY DESCRIPTION:

LOT 100A RESUB OF 99&100 LAKE SHOR
E ADDN

ACRES .7663 MIN% .000000000000 TYPE

SITUS INFORMATION: 3823 WESTLAKE DR

This is to certify that after a careful check of tax records of this office, the following taxes, delinquent taxes, penalties and interests are due on the described property of the following tax unit(s):

YEAR	ENTITY	TOTAL
2013	TRAVIS COUNTY	*ALL PAID*
	EANES ISD	*ALL PAID*
	TRAVIS CENTRAL HEALTH	*ALL PAID*
	TRAVIS COUNTY ESD #9	*ALL PAID*

TOTAL SEQUENCE 0

TOTAL TAX:	*ALL PAID*
UNPAID FEES:	* NONE *
INTEREST ON FEES:	* NONE *
COMMISSION:	* NONE *
TOTAL DUE ==>	*ALL PAID*

TAXES PAID FOR YEAR 2013 \$13,082.19

ALL TAXES PAID IN FULL PRIOR TO AND INCLUDING THE YEAR 2013 EXCEPT FOR UNPAID YEARS LISTED ABOVE.
The above described property may be subject to special valuation based on its use, and additional rollback taxes may become due. (Section 23.55, State Property Tax Code).
Pursuant to Section 31.08 of the State Property Tax Code, there is a fee of \$10.00 for all Tax Certificates.

GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS DATE OF 02/19/2014

Bruce Elfant
Tax Assessor-Collector

Fee Paid: \$10.00

By: 

TAX CERTIFICATE
Bruce Elfant
Travis County Tax Assessor-Collector
P.O. Box 1748
Austin, Texas 78767
(512) 854-9473

NO 2240623

ACCOUNT NUMBER: 01-2709-0128-0000

PROPERTY OWNER:

LAZY T ROYALTY MANAGEMENT LTD
3300 S 14TH ST
ABILENE, TX 79605-5016

PROPERTY DESCRIPTION:

LOT 99A RESUB OF 99&100 LAKE SHORE
ADDN

ACRES 1.0833 MIN% .000000000000 TYPE

SITUS INFORMATION: 3821 WESTLAKE DR

This is to certify that after a careful check of tax records of this office, the following taxes, delinquent taxes, penalties and interests are due on the described property of the following tax unit(s):

YEAR	ENTITY	TOTAL
2013	TRAVIS COUNTY	*ALL PAID*
	EANES ISD	*ALL PAID*
	TRAVIS CENTRAL HEALTH	*ALL PAID*
	TRAVIS COUNTY ESD #9	*ALL PAID*
TOTAL SEQUENCE 0		*ALL PAID*
TOTAL TAX:		*ALL PAID*
UNPAID FEES:		* NONE *
INTEREST ON FEES:		* NONE *
COMMISSION:		* NONE *
TOTAL DUE ==>		*ALL PAID*

TAXES PAID FOR YEAR 2013 \$31,813.18

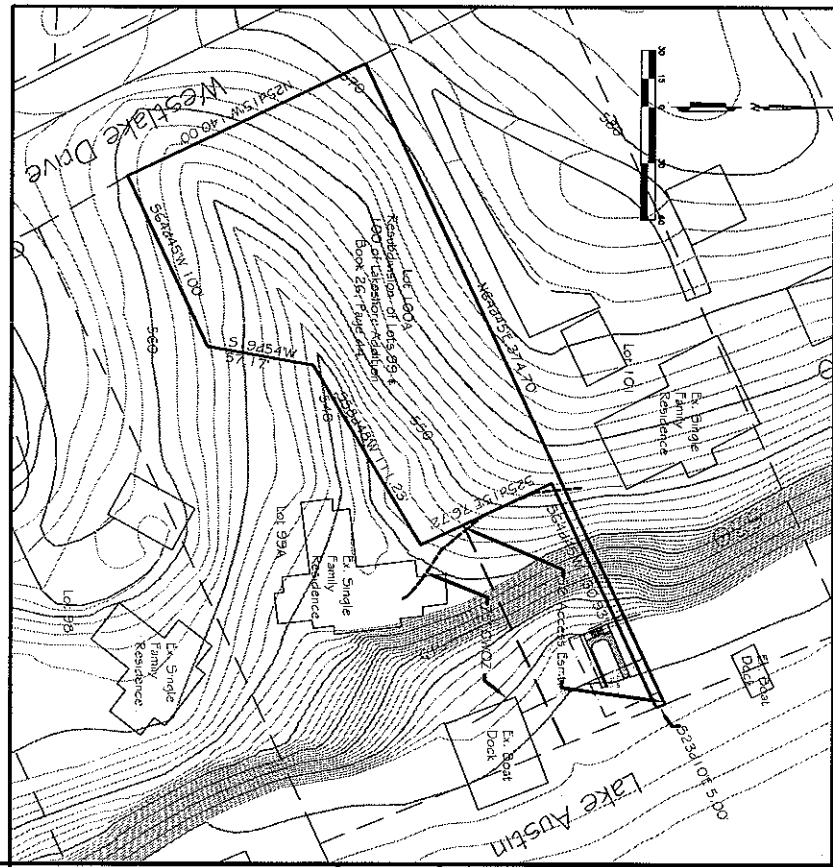
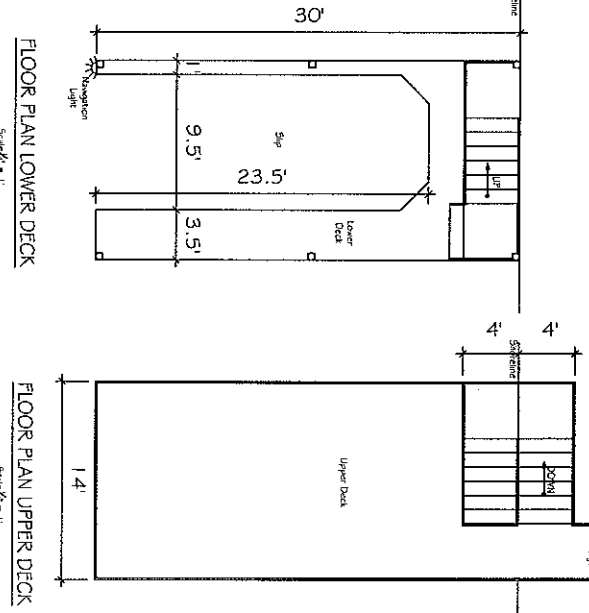
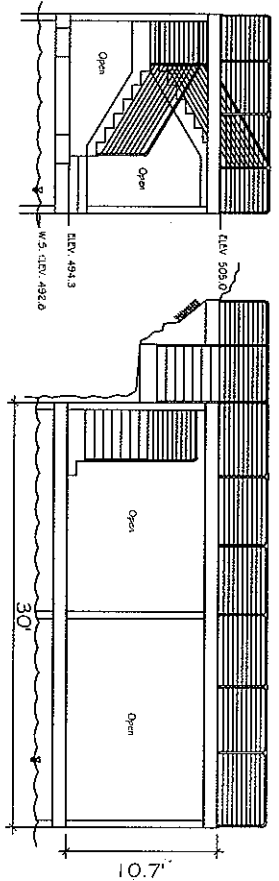
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GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS DATE OF 02/19/2014

Fee Paid: \$10.00

Bruce Elfant
Tax Assessor-Collector

By: 



- NOTES:**
1. Navigation lights must have a two-bulb fixture, with two working light bulbs rated between 7-1/2 and 25 watts inclusive. Light bulbs or bulb covers must be amber, and white light may not radiate from the fixture. Weatherproof lamp holders and junction boxes are required. Each light fixture must be wired with a switch operated by a photoelectric cell so that the lights will operate automatically during the hours that the dock is required to be lighted by this section.
 2. All access for construction activities will be by water.
 3. All piles will be 5-1/4" driven steel piles. All piles will be driven to 0.5' refusal per blow.
 4. There are no trees equal to or greater than 8-inch in diameter within the limits of construction.

Notwithstanding to whom these drawings are made, the engineer and his firm shall remain responsible for the accuracy of the drawings and the design of the project. The engineer and his firm shall not be held responsible for any errors or omissions in the drawings or design of the project.

3823 Westlake Drive
Boat Dock Plan & Elevations

AUPPERLE COMPANY
Engineering, Planning & Development Services
2219 Westlake Drive #110, Austin, Texas 78746 512 329-8241



DATE	2017	BY	BSA
DATE	2017	BY	BSA
DATE	2017	BY	BSA
DATE	2017	BY	BSA