

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

DATE: Monday, November 10, 2014

CASE NUMBER: C15-2014-0152

☐ Y ☐ Jeff Jack
☐ Y ☐ Michael Von Ohlen **Motion to PP to 1-12-15**
☐ Y ☐ Stuart Hampton - Ricardo De Camps(out)
☐ Y ☐ Bryan King
☐ - ☐ Vincent Harding (out)
☐ Y ☐ Melissa Hawthorne **2nd the Motion**
☐ Y ☐ Sallie Burchett
☐ A ☐ Cathy French (abstained)

APPLICANT: DAVID CANCIOLOSI

OWNER: Bryan Follett

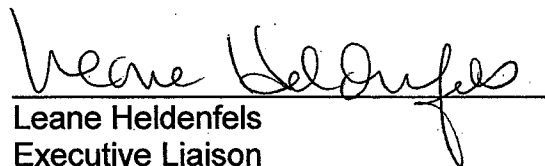
ADDRESS: 5600 and 5602 CRAGGY PT

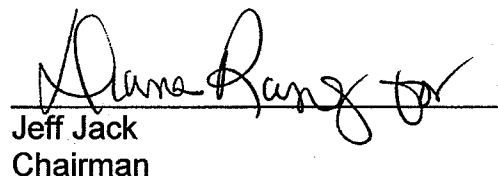
VARIANCE REQUESTED: The applicant has requested a variance(s) from Section 25-2-551 (2) (*Lake Austin District Regulations*) to increase the maximum impervious cover on a slope with a gradient of 15% to 25% from 10 % (required) to 23% (requested, existing) on a slope with a gradient of 25% to 35% from 5% (required) to 29% (requested, existing) in order to demolish two existing single family residences on two separate lots and construct one new single family residence on the two combined lots in a "LA", Lake Austin zoning district.

BOARD'S DECISION: Board Member Michael Von Ohlen motion to Postpone to January 12, 2015 as per request from applicant, Board Member Melissa Hawthorne second on a 6-0-1 vote (Board member Cathy French abstained); **POSTPONED TO January 12, 2015.**

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

PUBLIC HEARING INFORMATION

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Case Number: C15-2014-0152, 5600 and 5602 Craggy Point

Contact: Leane Heldenfels, 512-974-2202, leana.heldenfels@austintexas.gov

Public Hearing: Board of Adjustment, November 10th, 2014

Your Name (please print)

KENNETH A MORRIS

☐ I am in favor
☒ I object

Your address(es) affected by this application

4722 PALISADE DR, 78731

Signature

Date

Daytime Telephone:

512 959 0015

11/3/14

Comments:

WILL ESTABLISH A PRECEDENT

WHERE OTHER PARTIES CAN

PURCHASE 2-3 OR MORE LOTS

AND BUILD ESTATES, THIS OVERRIDES

A VIOLATES CURRENT NEIGHBORHOOD

COVENANTS AS WELL AS UNTERSHEO

DISTRICT REGULATIONS, A MIDDLE CLASS

NEIGHBORHOOD WILL CHANGE TO A WEALTHY

CLASS NEIGHBORHOOD

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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 leana.heldenfels@austintexas.gov

Seldon B. Graham, Jr., P.C.

Attorney at Law

(512) 452-4000
FAX (512) 535-3013

SelGraham@austin.rr.com

4713 Palisade Drive
Austin, Texas 78731-4516

November 5, 2014

Leane Heldenfels
Planning & Development Review Department
City of Austin
P.O. Box 1088
Austin, Texas 78767-1088

Re: Land Development Code Variance Case No. C15-2014-0152
for variance on Lake Austin Zoning District Regulations;
Applicant: David Canciolosi

Dear Ms. Heldenfels:

I strongly protest the granting of this application for variance. My objection is on the following grounds.

The short time between the date of the notice and the date of the hearing, eleven days minus time in the mail, is unreasonable and unfair. This is not an adequate period of time for a subdivision to consider such a complicated issue. It is particularly unreasonable to have the hearing only a few hours before a national holiday, Veterans Day, when interested parties may be out of town or occupied in other ways immediately prior to this holiday.

The application is for a variance to the Lake Austin Zoning District Regulations. This raises a critical question. Does such variance, if granted, override the Declaration of Covenants and Restrictions of The Cliff Over Lake Austin, II, as found in Volume 7122, Pages 705 to 726, in the Deed Records of Travis County, Texas? Such legal opinion is essential because the application itself violates Article IX, Section 2, Single Family Residential Use; Each Lot. Before proper consideration can be taken of the application, a legal opinion on this issue is needed from the City of Austin. Plans have not been submitted to the architectural control committee of the home owners association and do not comply with the Covenants and Restrictions.

This application has a chilling effect on the actions of the officers and the board of trustees of the home owners association. The possibility of litigation by

the owner in the application, who clearly is a multi-millionaire capable of filing a lawsuit against the home owners association if not satisfied with what the association does, will likely prevent any objection from the association. The association will not want to risk a lawsuit, so the City should not expect to receive an objection from the association.

The face of the application itself appears to be fatally defective. On the plat of the application, 5600 Craggy Point is shaded as the subject tract. It is the only property shaded as the subject of the application. This may lead an interested party into believing that a single residential lot is the only tract related to the application. Such an interested party may not protest, believing that a single lot owner should be able to do what he wants to do on his or her single one family residential lot.

Yet, elsewhere in the application it is disclosed that the application is also for 5602 Craggy Point which is not shaded on the plat. There is not a full disclosure as to exactly what is planned if this variance is granted.

The owner's first name is misspelled on the application. The Travis Central Appraisal District states that the owner of 5600 Craggy Point is Brian [with an "i"] R. Follett. If an application has the incorrect spelling of the owner's name, it suggests that there may be other mistakes or omissions in the application.

The applicant is David Canciolosi. It seems unusual that the applicant is not the owner. There is no hint or clue in the application as to the relationship between the owner and the applicant. An interested party is entitled to know the relationship between applicant and owner.

On its face, this application is related only to impervious cover and the environment. Neither the City nor interested parties know the truth about the current impervious cover situation on the subject properties. Therefore, a thorough investigation of current impervious conditions by the City of Austin is absolutely necessary, and the comprehensive results of this investigation need to be reported to interested parties before a hearing is held on the application.

This owner has a history of taking months and months just to build a simple gate to 5600 Craggy Point. If granted, this variance would be an environmental nightmare for years, with air pollution, sound pollution, and sight pollution in the subdivision from the site to and from the entrance/exit of the subdivision and also from the site into Lake Austin. Interested parties will be subjected to large loud trucks hauling demolition debris out of the subdivision for months, followed by large loud trucks hauling building materials into the subdivision for months. Interested parties can expect tire hazards falling from these large loud trucks. Such pollution can be described as a nuisance pursuant to Article IX, Section 4, of the

Covenants and Restrictions. Rains would exacerbate the dirt, debris and particulate pollution into the waters of Lake Austin.

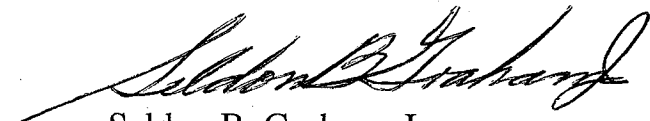
Waste is an issue. The demolition of two existing single family residences in order to build only one single family residence is a waste of Austin's existing living space. Clearly, a one family residence would be destroyed forever, changing the character, purpose and conditions in the subdivision. The City of Austin should not condone or approve of such waste of existing space for a family.

Economic waste is also an issue. Very expensive luxury homes are to be demolished. That does not make good sense. That is especially true when ample undeveloped acreage is available next to this subdivision upon which the owner can build a house. The City of Austin should not help a citizen waste his or her money.

The owner seems sure that the variance will be approved. It makes me wonder whether the fix is in.

For all of the above reasons, the application should be denied.

Yours very truly,



Seldon B. Graham, Jr.

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Case Number: C15-2014-0152, 5600 and 5602 Craggy Point

Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, November 10th, 2014

THOMAS FEZLD

Your Name (please print)

☒ I am in favor
☐ I object

4717 PALISADE DR.

Your address(es) affected by this application

Leane Fezld

11-5-14

Signature

Date

Daytime Telephone: **512-454-8751**

Comments: **OK LEAH VANDRACE**

Note: all comments 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 leane.heldenfels@austintexas.gov

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Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov

Public Hearing: Board of Adjustment, November 10th, 2014

Your Name (please print)

Margarita Medrano

☒ I am in-favor
☐ I object

Your address(es) affected by this application

5605 Palisade Ct

Signature *Margarita Medrano*

Date 11/4/2014

Daytime Telephone: (512) 451-8504

Comments: I object to this change because it

will change the character of our neighborhood. As a long time resident of this neighborhood I cannot conceive that this may open the door for this to continue to happen as the named owner has purchased several other properties throughout the neighborhood. These are areas in Austin where the proposed development is a corner and can be built. Thank you!

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Public Hearing: Board of Adjustment, November 10th, 2014

Your Name (please print)

KENNETH A MORRIS

☒ I am in favor
☐ I object

Your address(es) affected by this application

4722 BALISAO DR, 08231

Signature

Date

Daytime Telephone: 512 459 0015

Comments:

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Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov

Public Hearing: Board of Adjustment, November 10th, 2014

Robert T. Stewart

Your Name (please print)

4803 Precipice Cove

☐ I am in favor
☒ I object

Your address(es) affected by this application

Robert T. Stewart

Signature

Date

Daytime Telephone: 512.485.6426

Comments:

Applicant has violated inspectors cover restrictions on these lots by building a road. His disregard for city ordinances should not be condoned by granting this variance. He has also violated the recorded covenant of the subdivision by building beyond the bluff line. Granting this variance would change the character of the subdivision.

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Public Hearing: Board of Adjustment, November 10th, 2014

GAD ILAN

Your Name (please print)

☐ I am in favor
☒ I object

5609 Craggy Point

Your address(es) affected by this application

Leane Heldenfels

Signature

11/7/14

Date

Daytime Telephone:

(512) 308 3078

Comments:

Please find attached my comment

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Public Hearing: Board of Adjustment, November 10th, 2014

SARAH W. BROWNING
Your Name (please print)

☐ I am in favor
☒ I object

5603 Palisade Ct, Austin TX 75080
Your address(es) affected by this application

Laura W. Browning *11-18-14*
Signature Date

Daytime Telephone: _____

Comments: *Proposed house is too big for neighborhood and needs too much increase in parking cover.*

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Scanned & emailed to L. Heldenfels

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- 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.

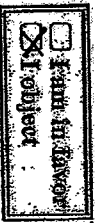
A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

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. All comments received will become part of the public record of this case.

Case Number: C15-2014-0152
Contact: Leanne Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, November 10th, 2014

Dawn D. Coronado
Your Name (please print)



5102 Palisade Ct. Austin, TX 78731
Your address(es) affected by this application

Dawn D. Coronado
Signature Date 11-10-14

Daytime Telephone: 512-535-8992

Comments: Demolishing a large, single-family homes to build one structure will negatively alter the character of the neighborhood.
There has not been sufficient time to review whether or not Applicant has indeed purchased additional homes in the neighborhood. If so, approval would set a negative precedent for neighborhood character.

Note: all comments 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

Leanne Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Or fax to (512) 974-2934

Or scan and email to leane.heldenfels@austintexas.gov

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.

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Case Number: C15-2014-0152, 5600 and 5602 Craggy Point
Contact: Leane Heidenfels, 512-974-2202, leaneh@cityofaustin.org
Public Hearing: Board of Adjustment, November 10th, 2014

Scott Elkin

Your Name (please print)

☐ I am in favor
☒ I object

5607 Craggy Point Austin TX 78713

Your address(es) affected by this application

Scott R. Elkin

Signature

Date

11/6/14

Daytime Telephone: 512 789 4808

I am a physician & have lived in the COLA

Comments: neighborhood since 1986. I am strongly

opposed to the rezoning request to increase the 3000

university cover in violation of existing codes

I am equally opposed as to the present

without reason or basis for exceeding

restricted height lines as every other home built

here has had to contribute to the growth

of the whole. There is no hardship.

The request is the first step in the

destruction of the neighborhood character

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

City of Austin-Planning & Development Review Department/ 1st Floor

Leane Heidenfels on single family homes on single

P. O. Box 1088 family lots. It is clear

Austin, TX 78767-1088 The purpose of 4 out of 5 homes

Or fax to (512) 974-2934 all property in Pharmacy is

Or scan and email to leaneh@cityofaustin.org

no want to be exposed & create an unsafe net for

PUBLIC HEARING INFORMATION

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- 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.

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Case Number: C15-2014-0152, 5600 and 5602 Craggy Point
Contact: Leane Heldenfels, 512-974-2202, leaneheldenfels@austintexas.gov
Public Hearing: Board of Adjustment, November 10th, 2014

Troy O'Hare
 Your Name (please print)

☐ I am in favor
☒ I object

5603 Craggy Pt Austin, TX 78731
 Your address(es) affected by this application

Troy O'Hare
 Signature

11/6/14
 Date

Daytime Telephone: 512-944-6405

Comments: We are concerned about noise, traffic, and
general disruption to the neighborhood. Specifically,
we are concerned that all garbage and road
debris from Craggy Point settles onto my driveway
and property. Other construction projects at
5600 and 5602 have caused clean up issues
on my property.

Note: all comments 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

10 November, 2014

RE: CASE NUMBER C15-2014-0152

5600,02 Craggy Point

Dear Planning and Development Review Department:

The affected property borders the north boundary of property owned by the Mount Bonnell Shores/Colorado Crossing Homeowners' Association ("HOA"). Specifically, it borders a part of the HOA's Common Area, including a natural, forested area that is part of our neighborhood park.

As recently as September, we have experienced several incidents of trespassing by the owner of the affected property and his contractors. These include the unauthorized removal of large trees and rocks from the HOA Common Area, and the illegal dumping of waste into the Common Area.

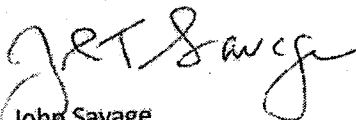
While we have not seen the site plan that is related to the variance request, we are very concerned about the potential impact that granting this request could have on our Common Area property.

The impervious cover proposal contained in the variance request significantly exceeds the current limit. No mitigating circumstances are provided, nor any justification or rationale for the request. According to the request, the 25%-35% slopes will have 29% impervious cover, almost 6 times what's normally allowed. Impervious cover concentrates run-off. If the limits are exceeded by the proposed amount, it's going to create even more/faster run-off, and after the water runs off the 35% slopes it's going to run down even steeper slopes.

Granting this request will likely cause large new ditches to be formed anywhere the water flows over the hillside. While this can happen for any house construction, it will be much worse than normal because the factors that limit runoff are being exceeded. We are concerned that this additional run-off will come down the hillside into our Common Area, both along the creek by the spring, and also the hillside facing the lake. These are steep and somewhat fragile areas that we are currently trying to restore and revegetate. Significant run-off could not only impair the conservation work we are undertaking, but could lead to more serious and permanent erosion issues and also damage the small, natural spring at the base of the hillside.

Please contact me with any questions you may have or if you would like to visit our Common Area and better understand the nature of our concerns.

Sincerely,



John Savage
President

Mount Bonnell Shores/Colorado Crossing HOA
(512) 695-2110

Mount Bonnell Shores/Colorado Crossing HOA
P.O. Box 27144
Austin, TX 78755

Comments for my objections to case number C15-2014-0152, 5600 and 5602
Craggy Point

First I wish to say that I believe the owner should have brought his plan to the neighborhood, through the neighborhood's ACC, for explanation and discussions prior to arriving at this meeting.

The owner may not be required to do so by law at this stage, but considering the scale of the development plan he is asking approval for and its impact on the neighborhood in so many ways, in my opinion he ought to have done so. Not doing so leaves some of us with no alternative rather than to object it.

There are two categories to my objections: "Environmental" and "legal":

By saying "Environmental" I refer to concerns that impact and affect the neighborhood as a whole and me as resident of the affected cul-de-sac in particular:

- Changing the nature and the character of the neighborhood by erecting a massive house, more than double the size of the current biggest house in the neighborhood.
- By doing so, creating a precedent of which future similar projects will be done and which will change the characteristic of the neighborhood forever, and not to what I bought into years ago and doesn't wish it to be changed.
- We live in a small cul-de-sac in a neighborhood that has only one single exit to the main road of 2222. Traffic in and out of the neighborhood is a daily complicated task as it is, considering the busy road of 2222. Unless clear guideline are agreed upon in regards to regulating traffic, working hours,

non-working days, parking within the cul de-sac etc., **and in which the owner will agree to and be responsible to enforce**, I can foresee a situation where our lives will be shattered while the owner may be living somewhere else entirely. Past experience with smaller projects carried on by the owner on those properties can only signal to us what is awaiting our lives if such a project will be allowed to take place without proper arrangements put in place in advance.

For the "legal" aspect of it, I sought the advice of an attorney who specialized in those issues, to learn and better understand the case, the terms, the requirements and to what extent this request is based on solid merit. To my understanding and as per the attorney's opinion, there is very little, if at all, any merit to his request. From the opinion letter I received from him, I hereby quote, with his permission, just few of the points:

- If there is a hardship, it is the result of no Certificate of Occupancy for the existing house at 5600. If his intention is to tear the house down, then any new house should be built to current code. The problem is the lot, with its slopes, does not allow for a 9000sq. ft. house. This is not a hardship. His lot is just not suitable for a 9000 sq. ft. house. The ordinance was not intended to allow for 9000 sq. ft. house on such a steep lot.
- It is not a legitimate hardship that the owner or prior owner did not get a building permit from the City in 1995 when the house at 5600 was built. If owner needs a variance to maintain existing impervious cover on the existing house that was never properly permitted, he should ask for that so that the property can become a legal non-conforming use. The request to lock in the excessive impervious cover, not to maintain a use on the existing house, but so he can build a massive new house that exceeds allowed impervious cover is objectionable. This is not a legitimate hardship.
- Applicant suggests his intention is to reduce impervious cover. This is not true. Applicant's intent is to fabricate a bogus argument that the existing

houses are non-conforming to the current code, so he should be allowed to tear them down and rebuild, not to current code, but with a variance that exceeds code requirements by over 6000 sq.ft.

- Applicant has not made a case for the code imposing an unreasonable requirement that prevents a reasonable use of his property and deprives applicant of privileges enjoyed by other similarly situated lot owners within the subdivision. Applicant has two houses which are occupied or capable of being occupied and for which a reasonable use is being allowed under the Code. What applicant wants is to tear these houses down, start over with two lots capable of supporting a reasonable use on each which conforms to current code, but with a variance for almost double the allowed impervious cover, and just because he wants it... This is not a hardship for which a variance is justified.
- Applicant's proposed massive new house violates the Restrictive Covenants of the neighborhood by encroaching into the restricted bluff line. Furthermore, applicant has repeatedly done site work, shoreline access walkways and other improvements requiring ACC or HOA approval, without such approval. Applicant should not be rewarded for his repeated violation of neighborhood deed restrictions.

Gad Ilan

C15-2014-0152

Heldenfels, Leane

From: david cancelosi [REDACTED]
Sent: Monday, November 10, 2014 9:20 AM
To: Heldenfels, Leane
Subject: Re: 11/10 Board of Adjustment Meeting

I am requesting postponement of 5600 and 5602 Craggy point to December BOA. Thanks!

Kind Regards,
David C. Cancialosi
Permit Partners LLC
105 W. Riverside Dr. #225
Austin, Texas 78704
512.593.5361 O
512.593.5368 D
512.494.4561 F

This email is intended for the recipient only. If this message is not received by the intended recipient please destroy and immediately notify sender. Thank you.

From: <Heldenfels>, Leane <Leane.Heldenfels@austintexas.gov>
Date: Friday, November 7, 2014 at 1:19 PM
To: Wesleann Mendell <wes@ionart.com>, Maggie Star <maggies@customsigncreations.com>, Holly Kincannon <holly@kincannonstudios.com>, Miranda Wylie <mcwylie@gmail.com>, Brandon Testa <brandon@craftsmanbar.com>, John Forsythe <jcforsythe1@yahoo.com>, "mike.benitez1@gmail.com" <mike.benitez1@gmail.com>, Agustin Zavaleta <aguszavaleta@yahoo.com>, Kasi Painter <kasipainto@gmail.com>, Carolyn Aupperle <carolyn.aupperle@att.net>, Bruce Aupperle <bruceaupperle@me.com>, Bruce Aupperle <bruce.aupperle@att.net>, Drew Tate <drewltate@gmail.com>, Robert Buford <rob.buford@gmail.com>, "vicki@taxtrailer.com" <vicki@taxtrailer.com>, DC <david@permit-partners.com>, Jim Herbert <jim@aci-contractors.com>, "maribel.arce74@yahoo.com" <maribel.arce74@yahoo.com>, Pat Roeder <pat.roeder@gmail.com>
Subject: 11/10 Board of Adjustment Meeting

You can print out a copy of Monday's agenda at the Board and Commission website so you can see where your case falls within the meeting order:

Austintexas.gov/click on government/click on Boards and Commissions/click on Board of Adjustment, view website/click on Agendas/see the one posted for Monday, click and print it out – also take a look at the back up we've posted there. If you would like to present any information not shown, provide 10 sets of it at the hearing on Monday. Note that the meeting will be taking place at the City Hall Council Chambers at 301 W. 2nd starting at 5:30, we can validate parking for the garage below the building.

You might also take a look at the case file materials on the Development portion of the City website on Monday after 4pm as we will hopefully have downloaded all of the responses received up until noon of the meeting there by then: Austintexas.gov/click on development/click on Case/Permit info just below heading to the right of the page/click on Search Info/input your address of the case number of your item, submit/open the BA case/scroll down to bottom and view attachments/ Diana sometimes labels the latest info as Late Backup or additional back up.

I will have a numbered packet at the sign in table at the meeting that you can take your case from so you can see the page numbers that the Board often refers to during the hearing/when they ask you questions. I will also have a copy of the "yellow" late back up for you to also take your case number items from – this is the back up that the Board receives

CASE# C15-2014-0152
ROW# 11531ae-38
TAX# 0132091420

**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: 5600 and 5602 Craggy Point

LEGAL DESCRIPTION: Subdivision – Cliff Over Lake Austin

Lot(s) 41-42 Block B Outlot Division

I/We David C. Cancialosi on behalf of myself/ourselves as authorized agent for

Mr Bryan Follet affirm that on Oct 1, 2014,

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

(check appropriate items below and state what portion of the Land Development
Code you are seeking a variance from)

☒ ERECT ☐ ATTACH ☐ COMPLETE ☐ REMODEL ☐ MAINTAIN

Demolish two non-complying single family residences. Erect one single family residence
to establish 23% IC in the 15-25% slope and 29% IC in the 25-35% slope.

Please see attached cover letter.

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:
The majority of the combined lot size is over the 35% slope. The applicable regulations do not
reasonable use of the property because the regulations allow ~7,300 SF IC on a 100K SF lot.
Please see attached cover letter.

HARDSHIP:

2. (a) The hardship for which the variance is requested is unique to the property in that:
~50% of the 100k SF combined lot size is >35% slope. The individual homes are non-complying
w/ respect to IC and could not be built today. One home has no COA C.O. and cannot be
remodeled. The other is in need of repair. Please see attached cover letter.
(b) The hardship is not general to the area in which the property is located because:
There are no known homes in this area that do not have a COA C.O. and are non-compliant
w/LA zoning standards. Please see attached cover letter.

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 requested variance proposes a net reduction in IC, the home will be in keeping
with surrounding homes, and implement drainage BMPs. Please see attached cover letter.

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:

N/A

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 David C Cacialosi Mail Address 105 W Riverside Dr #225

City, State & Zip Austin Texas 78704

Printed David Cacialosi Phone 512-593-5368 Date Oct 1, 2014

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 Bryan Follett Mail Address 5600 Craggy Point

City, State & Zip Austin Texas

Printed Bryan Follett Phone n/a Date Oct 1, 2014

From the office of
PERMIT PARTNERS, LLC
105 W. Riverside Dr. Suite 225
Austin, Texas 78704
David C. Cancialosi
512.799.2401 c.
512.494.4561 f.
david@permit-partners.com

October 10, 2014

City of Austin Board of Adjustment Commissioners
City of Austin
301 W. 2nd St.
Austin, Texas 78701

RE: 5600 Craggy Point request for Impervious Cover allowance in LA zoning

Dear Commissioners,

Please find this cover letter as an addendum to the city BOA packet filed for the aforementioned address. The owner is proposing to amend the existing impervious coverage in order to erect a new single family residence over two legally platted lots. This cover letter is intended to provide further detail than provided on the City BOA application.

The plat associated with the property is the Cliff Over Lake Austin II, block B lot 41 and 42. It was recorded in Travis county records September 1980. The LA zoning performance standards were not in place at the time of legal lot approval.

The existing home at 5600 was built in 1995 with approximately 3,800 SF HVAC; however, no COA building permits are on file with the city. It is not known how this house was built without any permits. It is not feasible to seek an amnesty Certificate of Occupancy for this site as there's evidence a permit was required in 1995 due to full purpose jurisdictional limits applying as of March 1980. The current house could not be built in today's regulatory environment.

The existing home at 5602 was permitted via BP 1986-023435 with approximately 3,480 SF HVAC. The city has further recognized the 5600 property as single family residential by issuing a boat dock permit in 1994, a driveway permit in 2004, a trade permit in 2009, and currently a shoreline modification application is in review as of 2013. It, too, could not be built in today's regulatory environment despite receiving a permit and final inspection in 1987. All property taxes have been paid for all improvements since the date of construction.

Neither of the single-family residences were not built in compliance with the LA base performance standards in terms of impervious cover allowances. It is presumed this is evident due to the slope of the lot, which severely limits the amount of allowable impervious coverage. In order to substantially remodel the improvements the owner is unable to employ the regulations allowing modification of non-compliant structures because neither site complies with the LA impervious cover standards. Moreover, the 5600 residence is deemed totally illegal and cannot utilize code sections allowing modification of non-complying structures. Thus the owner is proposing to demolish the existing residences and erect one residence across the two legal lots which result in a net reduction of impervious coverage from current improvements.

Specific to hardship, approximately 50% of the combined lot area is over the 35% slope category. Approximately 29,600 SF is lost to the required 75' shoreline setback. This reduces the net buildable land area to 52,614. When applying the LA performance standards, the net allowance is approximately 7,300 SF IC on a gross area of 104,000 SF or a net area of 52,000 SF.

In terms of total IC allowances, the combined total lot area of 5600 and 5602 Craggy Point is 104,501 SF. The existing IC for both lots is 13,418 SF. This is only 12.8% IC for the total combined lot area. The total proposed is 12,500 SF IC for the combined lots. This would equal a reduction to 11.9% IC for the combined lot area.

Put into context of the LA zoning performance standards, the allowable IC per slope category is as follows:

The net buildable area on a 52,614 SF area is only 7,323 SF. The LA IC performance standards pose a substantial hardship in that only 14% of the total area can be developed.

| Area per slope category 52,614 SF | Land SF | Allowable % | IC SF |
|--|----------------|--------------------|--------------|
| 0-15% | 9,973 | 35% | 3,491 |
| 15-25% | 33,991 | 10% | 3,399 |
| 25-35% | 8,650 | 5% | 433 |
| Allowable impervious per LA zoning | 52,614 | | 7,323 |
| Existing impervious = 13,418 SF for combined lots | Land SF | Proposed IC | IC SF |
| 0-15% | 9,973 | 25.3% | 2,528 |
| 15-25% | 33,391 | 23.8% | 8,089 |
| 25-35% | 8,650 | 32.4% | 2,801 |
| Allowable impervious per LA zoning | | | 13,418 |
| Proposed impervious = 12,500 SF for combined lots | Land SF | Proposed IC | IC SF |
| 0-15% | 9,973 | 20% | 2,000 |
| 15-25% | 33,391 | 23% | 8,000 |
| 25-35% | 8,650 | 29% | 2,500 |
| Allowable impervious per LA zoning | | | 12,500 |

As the above table demonstrates, the applicant is proposing a net decrease in each of the slope categories as well as a net decrease in overall coverage. Given the circumstances leading to the existing non-compliant impervious coverage amounts on each lot, the owner is proposing to tie the lots together under a Unified Development Agreement and erect one single family residence. This new residence will have better erosion control methods, be constructed to current IRC standards, will have a single curb cut entry, and will resolve the issue of one house not having a certificate of occupancy which ensures minimum life safety standards have been mitigated via the permit and inspection process.

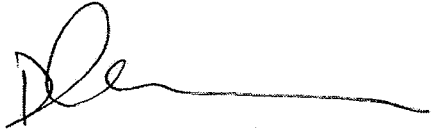
There are no known adverse impacts associated with the proposed development and the proposed ~8,200 SF residence is in keeping with the size of the existing houses which are ~7,500 SF combined. The house

will be in keeping with the surrounding neighborhood and there is no known objection to the request at this time.

The applicant respectfully request the Commission consider the site constraints imposed on the property owner as hardship beyond his control.

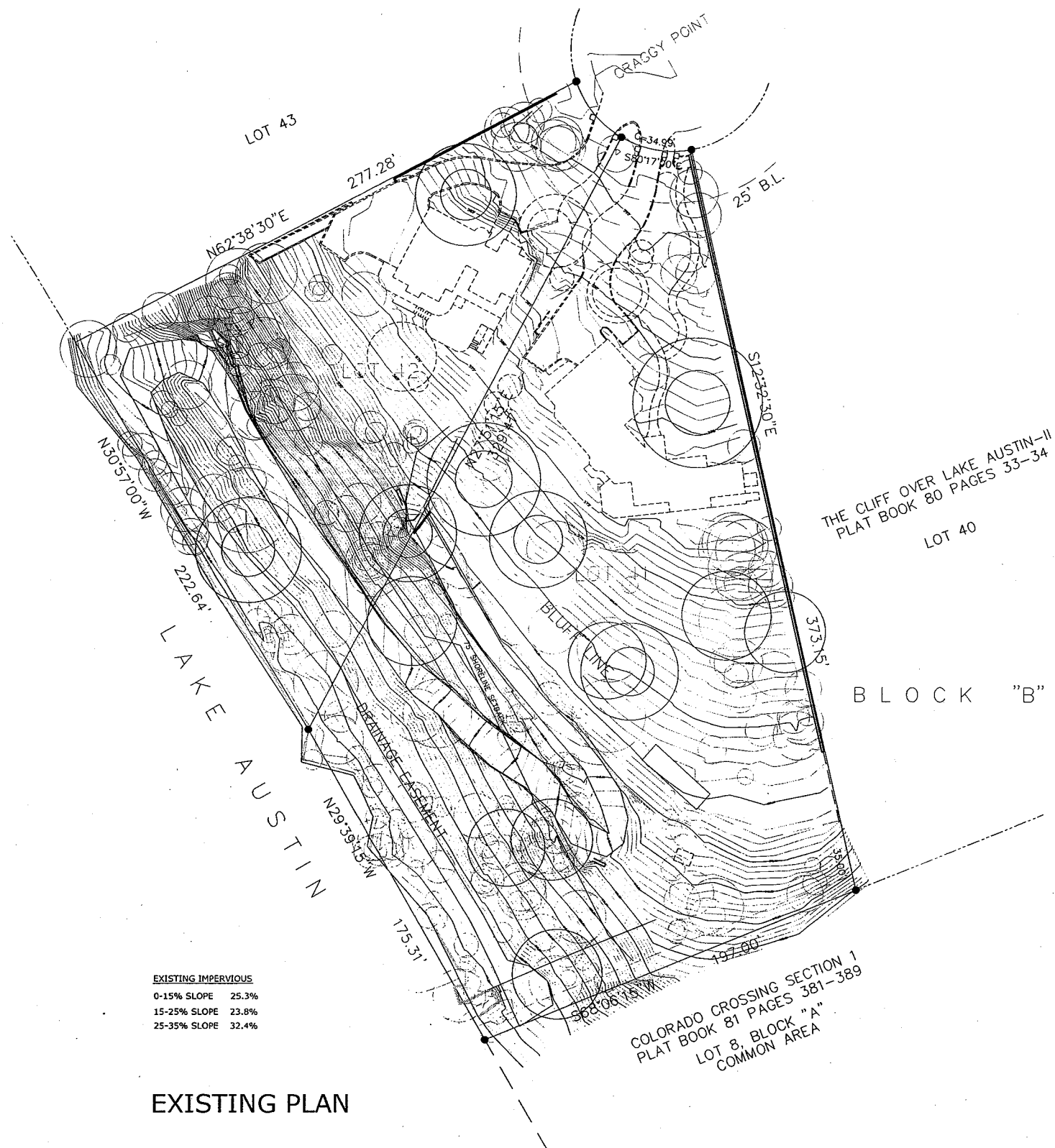
Thank you very much in advance for your consideration and time.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. C. Cancialosi', with a long horizontal flourish extending to the right.

David C. Cancialosi, agent for owner

Cc: Bryan Jobe, Chas Architects
Bryan Follett, property owner 5600-5602 Craggy Point

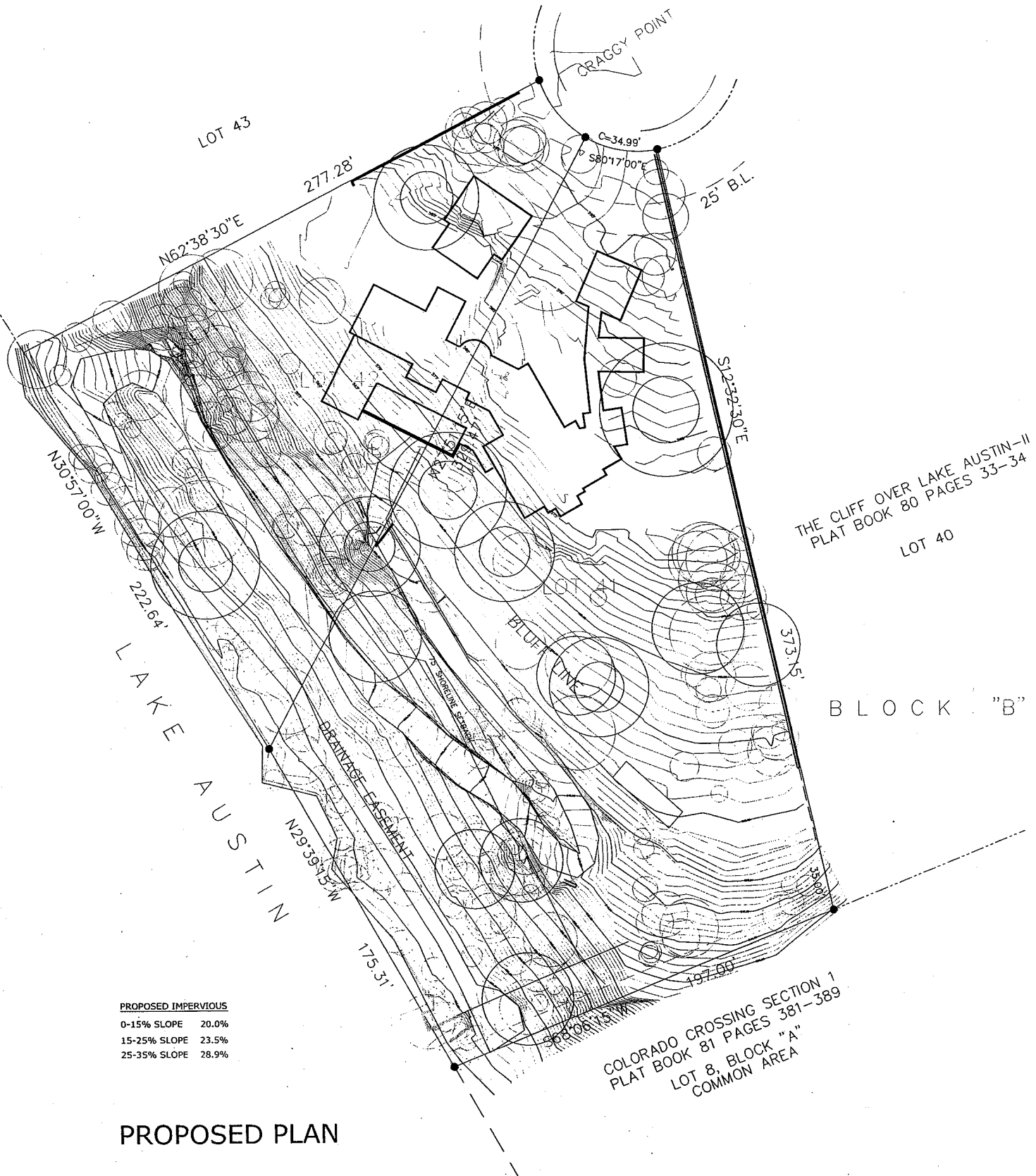


EXISTING PLAN

PROPOSED IMPERVIOUS

| | |
|--------------|-------|
| 0-15% SLOPE | 20.0% |
| 15-25% SLOPE | 23.5% |
| 25-35% SLOPE | 28.9% |

PROPOSED PLAN

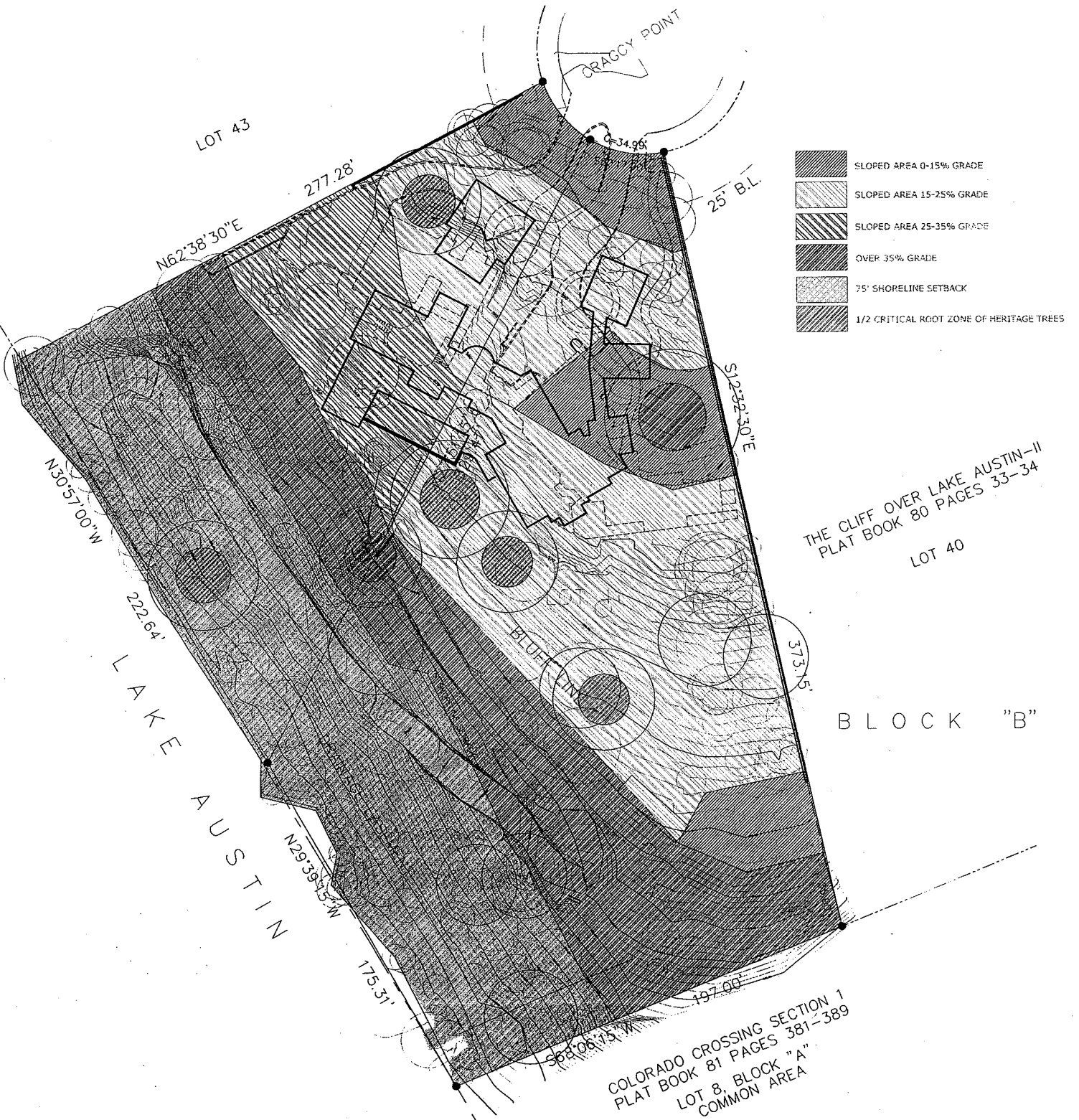


COLORADO CROSSING SECTION 1
 PLAT BOOK 81 PAGES 381-389
 LOT 8, BLOCK "A"
 COMMON AREA

THE CLIFF OVER LAKE AUSTIN-II
 PLAT BOOK 80 PAGES 33-34
 LOT 40

BLOCK "B"

SLOPE MAP



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. All comments received will become part of the public record of this case.

Case Number: C15-2014-0152, 5600 and 5602 Craggy Point

Contact: Leane Heldenfels, 512-974-2202, leaneheldenfels@austintexas.gov

Public Hearing: Board of Adjustment, November 10th, 2014

Mary Rose

Your Name (please print)

☐ I am in favor
☒ I object

5601 Palisade Court, Austin TX 78731

Your address(es) affected by this application

Mary R Rose

Signature

11/7/14

Date

Daytime Telephone: 512 232 6336 (w)

Comments: The owner claims a hardship, requiring increases
over (1c) exemption, where there is no hardship. The logs B;
his homes exceed current 1c standards, and ^{he} cannot
remodel one due to the absence of permits. Therefore,
you should let him destroy 2 homes and build a
single one that exceeds current LA zoning standards.
This makes no sense. Further, 1c limits in LA zone,
which help preserve sensitive, sloped areas, are not a
hardship.

Note: all comments 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



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

CASE#: C15-2014-0152
Address: 5600 / 5602 CRAGGY POINT



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.

1" = 200'

C15-2014-0152

Heldenfels, Leane

From: david cancelosi <david@permit-partners.com>
Sent: Monday, December 08, 2014 12:10 PM
To: Heldenfels, Leane
Cc: bryan; Diana Richwine
Subject: 5600 Craggy Point Variance

Importance: High

Leane, I am writing to formally request a postponement for the 5600 Craggy Point variance from January to February in order to achieve 2 things:

1. We are working on site calculations and it may be possible to avoid a variance altogether. Due to the holidays and loss of man hours etc we need some more time to accurately prepare the numbers, and if needed, present an amended request to BOA Commissioners.
2. We are looking to meet with the neighbors once the holidays have passed. As you can imagine, the holiday schedules are different for everyone and we'd like to get this in front of the neighbors once the new year has passed.

Please confirm receipt of this request. Thanks!

Kind Regards,
David C. Cancialosi
Permit Partners LLC
105 W. Riverside Dr. #225
Austin, Texas 78704
512.593.5361 O
512.593.5368 D
512.494.4561 F

This email is intended for the recipient only. If this message is not received by the intended recipient please destroy and immediately notify sender. Thank you.