# CITY OF AUSTIN Board of Adjustment Decision Sheet

DATE: Monday September 18, 2017	CASE NUMBER: C15-2017-0047
Brooke Bailey	
William Burkhardt	
Christopher Covo	
Eric Goff	
Melissa Hawthorne	
Bryan King	
Don Leighton-Burwell	
Rahm McDaniel	
Veronica Rivera	
James Valadez	
Michael Von Ohlen	
Kelly Blume (Alternate)	
Martha Gonzalez (Alternate)	
Pim Mayo (Alternate)	

**APPLICANT: Phil Moncada** 

OWNER: Ryan Dumont and Hank Coleman

ADDRESS: 3602 & 3604 RIVERCREST DR

VARIANCE REQUESTED: The applicant has requested variance(s) from Section 25-2-1176 (Site Development Regulations for Docks, Marinas, and Other Lakefront Uses) (A) (1) to increase the distance a dock may extend from the shoreline from 30 feet (required/permitted) to 60 feet (requested) in order to construct a new dock in an "LA", Lake Austin zoning district.

**BOARD'S DECISION: Sept 18, 2017 POSTPONED TO NOVEMBER 13, 2017 BY APPLICANT** 

### **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

William Burkhardt

Chairman







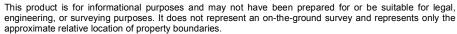
PENDING CASE

ZONING BOUNDARY

### **NOTIFICATIONS**

CASE#: C15-2017-0047

LOCATION: 3602 & 3604 Rivercrest Dr.







# **Board of Adjustment General/Parking Variance Application**

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

Case # C15-2017-0047 ROW # 11774453

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, click here to Save the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. If more space is required, please complete Section 6 as needed. All information is required (if applicable).

### For Office Use Only

Case # <u>CL5-2017 - 8047</u> ROW # <u>11774453</u>	Tax# 0131 90102
Section 1: Applicant Statement	
Street Address: 3602, 3604 Rivercrest Drive	
Subdivision Legal Description:  Rivercrest Addition Section 2	
Lot(s): 61 & 62 Block(s):	Α
Outlot: Division:	
Zoning District: LA	
I/We Phil Moncada W/ Moncada Enterprises LLC authorized agent for Ryan Dumont	on behalf of myself/ourselves as
Month August    ¬ , Day 8   ¬ , Year 2017   ¬ ,	100
Board of Adjustment for consideration to (select appropriate	
● Erect	Maintain Other:
Type of Structure: Boat Dock	

LDC 25-2-1176 (A)(1) Approval to extend beyond 30 feet allowable by Code. The distance would be from the original shoreline.  Section 2: Variance Findings  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 supporting documents.  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.  I contend that my entitlement to the requested variance is based on the following findings:  Reasonable Use The zoning regulations applicable to the property do not allow for a reasonable use because: The location of the existing dock is in a slough that is silted up and make navigating boats in
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The location of the existing dock is in a slough that is silted up and make navigating boats in
and out of the slips very difficult. In addition, the body of water is not on the main body of Lake Austin.
Austin.
Hardship
a) The hardship for which the variance is requested is unique to the property in that:
Owner tried for many years to secure assistance from Travis County Health Department and
COA to address a health issue associated with this site including stagnant water, trash,
associiated with development in this area.
b) The hardship is not general to the area in which the property is located because:
Most other docks are located on the main body of the Lake and do not accumulate this amount
of silt due to current and boating activity on the Lake. In addition, when the floodgates are open
this increases flow downstream significantly.

003/5

### **Area Character**

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:

Slough is not on main body of Lake and will not impose an unsightly structure on the Lake, In addition, there is a vegetation screen that hides the slough from the maoin body of the Lake. Safety should not be a problem as the area is a no wake zone and COA regulations require lighting on the dock structure. 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 in the City of Austin Land Development Code Chapter 25-6, Appendix A 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 reasonably 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: N/A

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

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

N/A

# **Section 3: Applicant Certificate**

I affirm that my statements contained in the complete application are true and corremy knowledge and belief.	ect to the best of
Oh O Mare 1	e: <u>07/11/2017</u>
Applicant Name (typed or printed): PHIL MONCADA FOR MONCADA ENTERPRI	***
Applicant Mailing Address: 1301 S IH 35 Ste 204	
City: AUSTIN State: TEXAS	Zip: 78741
Phone (will be public information): (512) 627-8815	
Email (optional – will be public information):	
Section 4: Owner Certificate	
I affirm that my statements contained in the complete application are true and corremy knowledge and belief.	ect to the best of
Owner Signature: Date	: 7/31/17
Owner Name (typed or printed): RYAN DUMONT	
Owner Mailing Address: 3602 RIVERCREST DR	
City: AUSTIN State: TX	Zip: 78746
Phone (will be public information):	
Email (optional – will be public information):	
Section 5: Agent Information	
Agent Name: Phil Mon OADA  Agent Mailing Address: BOI St. 1H 35- St.c. Zoy	
	707141
City: Austin State: 72	Zip:7874/
Phone (will be public information): 5/2-627-88/5	
Email (optional – will be public information):	
Section 6: Additional Space (if applicable)	
	CONTRACTOR ASSESSMENT OF THE SECOND ASSESSMENT
Please use the space below to provide additional information as needed. To ensure referenced to the proper item, include the Section and Field names as well (continued).	
(	ara en ment page,

003/7

## **Section 3: Applicant Certificate**

I affirm that my statements contained in the complet my knowledge and belief.	e application are true a	nd correct to the best of
Applicant Signature: J. Hamilton Coleman Dig Dat	itally signed by J. Hamilton Colema e: 2017,09,07 11:40:42 -05'00'	<sup>an</sup> Date: <u>09/07/2017</u>
Applicant Name (typed or printed): James Hamilton	Coleman	
Applicant Mailing Address: 3604 Rivercrest Drive		
City: Austin	State: TX	Zip: 78746
Phone (will be public information): (512) 596-5321		
Email (optional – will be public information):		
Section 4: Owner Certificate		
I affirm that my statements contained in the complet my knowledge and belief.	e application are true a	nd correct to the best of
Owner Signature: J. Hamilton Coleman Digital Date:	ally signed by J. Hamilton Colema 2017.09.07 11:41:55 -05'00'	<sup>an</sup> Date: <u>09/07/2017</u>
Owner Name (typed or printed):		
Owner Mailing Address:		
City:		Zip:
Phone (will be public information):		
Email (optional – will be public information):		*
Section 5: Agent Information		
Agent Name:		
Agent Mailing Address:		
City:		Zip:
Phone (will be public information):		
Email (optional – will be public information):		
Section 6: Additional Space (if applications)	able)	
Please use the space below to provide additional intreferenced to the proper item, include the Section ar	formation as needed. To	ensure the information is (continued on next page).

# 003/8

# CHANGES TO PLANS: PLANTING LOCATIONS, DREDGE BLOW-UP, BULKHEAD DETAIL, WALK REDUCED

Wetlands Biologist Review - Liz Johnston - 512-974-2619

This project was reviewed previously with little revision during SP-2013-0022DS and again with SP-2015-0259DS, which had no updates submitted for an entire year. At that time it was discovered that 3600, 3602 and 3604 Rivercrest constructed an unauthorized bulkhead (100ft long and up to 15ft wide) into the lake and backfilled for land capture. It is this reviewer's understanding that this unauthorized activity has not yet been legitimized or resolved. Project is still under enforcement. Several comments are the same from 2013. Heritage tree review may be required due to unpermitted bulkhead and resolution thereof. Additionally, since the existing bulkhead was not permitted, then it is this reviewer's understanding that the proposed dock would extend over 70ft from the pre-existing shoreline.

- WB 1 Update 0 The ERI does not include all of the required information and/or includes inaccurate information and is therefore incomplete. Please complete the following sections and provide a revised and complete ERI pursuant to ECM 1.3.0
- Provide a Functional Assessment due to the unpermitted floodplain modification. EXISTING AND PROPOSED FAFH ATTACHED
- There is one wetland CEF located adjacent to the property at the upstream property boundary which was identified during the 2013 review which exclusively included Colocasia esculenta and Salix nigra wetland species, please revise Part 8 accordingly
- Please revise Part 9 to include wetland on map (as described above)
- Please complete Grass table in part 11
- Please check box YES for hydrophytic vegetation and include Bald Cypress (Taxodium distichum) in hydrophytic species table
  - **Update 1:** Partially complete. ERI still lacks all ERI reports required on Part 9, page 2. There were check marks on the list, but no exhibits were included in this submittal). No functional assessment was provided. ATTACHED
  - WB 2 Update 0 Site plan does not show where the dredged material will be located. Show destination of dredged material in a compliant location/method, and/or specify an enforceable method of removal.
  - **Update 1:** The note provided is insufficient. If the dredged material will be stored on site, show this location on the plan set with appropriate construction access and erosion/sedimentation controls. YOU OK'D THESE IN OUR MEETING
- WB 3 Update 0 Provide accurate bathymetric profile information demonstrating how the 20 cubic yard dredging estimate was calculated.
  - **Update 1:** Show the dredging profile on the architectural elevation. **SEE SHEET 2**
- WB 4 Update 0 Please demonstrate documentation that the "Existing Walk To Remain" is a legal, permitted and compliant structure in the CWQZ. This existing walk and paver area appears to be unauthorized and partially located in area that was unauthorized land capture. This reviewer cannot validate this action, and recommends either removal of the unauthorized work or applicant to proceed through the variance process.
  - Update 1: Comment not addressed. WALK IS REDUCED. YOU OK'D IN MTG
- WB 5 Update 0 Please demonstrate documentation that the existing bulkhead is a legal, permitted and compliant structure in the CWQZ. This reviewer cannot support the location or compliance of the structure and recommends either removal of the unauthorized work or applicant to proceed through the variance process. Please note that currently, a variance to place fill in Lake Austin is not allowed per current code. The code is proposed to be updated to allow a variance for fill in the lake, but please be advised that staff will not be able to recommend support of the variance because it does not meet the findings of fact. Staff recommends that the applicant remove the

unpermitted fill and installation of a code-compliant bulkhead at the location of the previous shoreline.

**Update 1:** Comment not addressed.

WB 6 Update 0 It appears that existing fill between the unauthorized bulkhead and the previous shoreline resulted in approximately 2,888 square feet of land capture between 3602 and 2604 Rivercrest. This reviewer cannot validate this action, and recommends either removal of the unauthorized work or the variance process.

**Update 1:** Comment not addressed.

WB 7 Update 0 FYI a variance to allow the extent of the dock into the lake will be required. Extent appears to be 60ft from the current shoreline and at least 70ft from the pre-existing shoreline. Coordinate with Leanne Heldenfels to secure the necessary Board of Adjustment variance. Please note that unless the fill is permitted, staff will not accept a variance from the current shoreline, but rather the dock extension variance should be shown from the previous shoreline as existed prior to the unpermitted land capture.

**Update 1:** Comment not addressed.

WB 8 Update 0 Please provide confirmation that applicant has contacted the US Army Corps of Engineers for appropriate permitting. It is this reviewer's understanding that no Nationwide permit exists for the amount of unpermitted fill placed into the waters of the United States.

Update 1: Comment cleared. Letter addressed to USCoE was submitted.

Additional comments may be generated based on update response, changes to site plan and/or new information.

Planner 1 Review - Elsa Garza - 512-974-2308

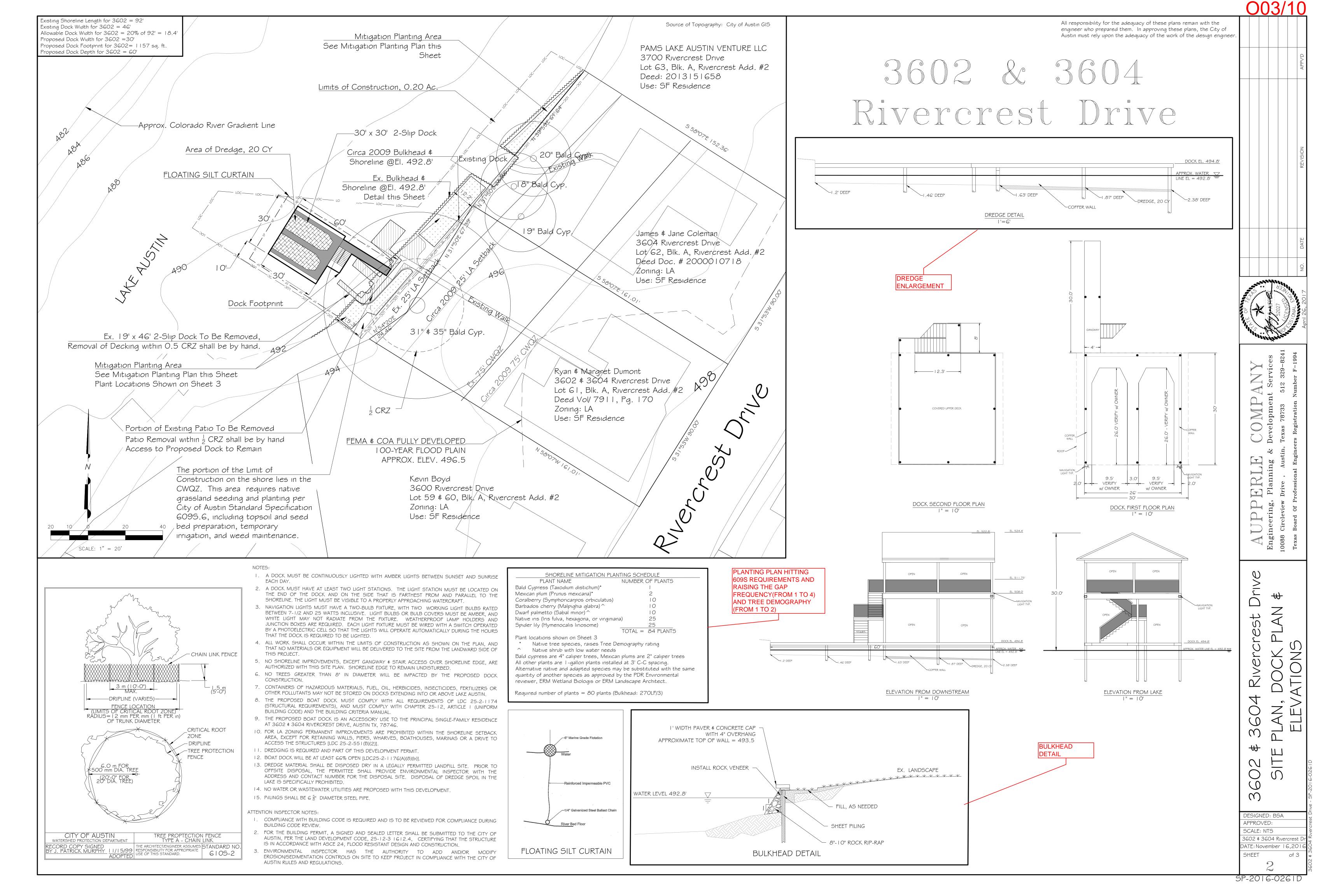
# THE FOLLOWING COMMENTS APPLY PRIOR TO THE RELEASE OF THE SITE DEVELOPMENT PERMIT.

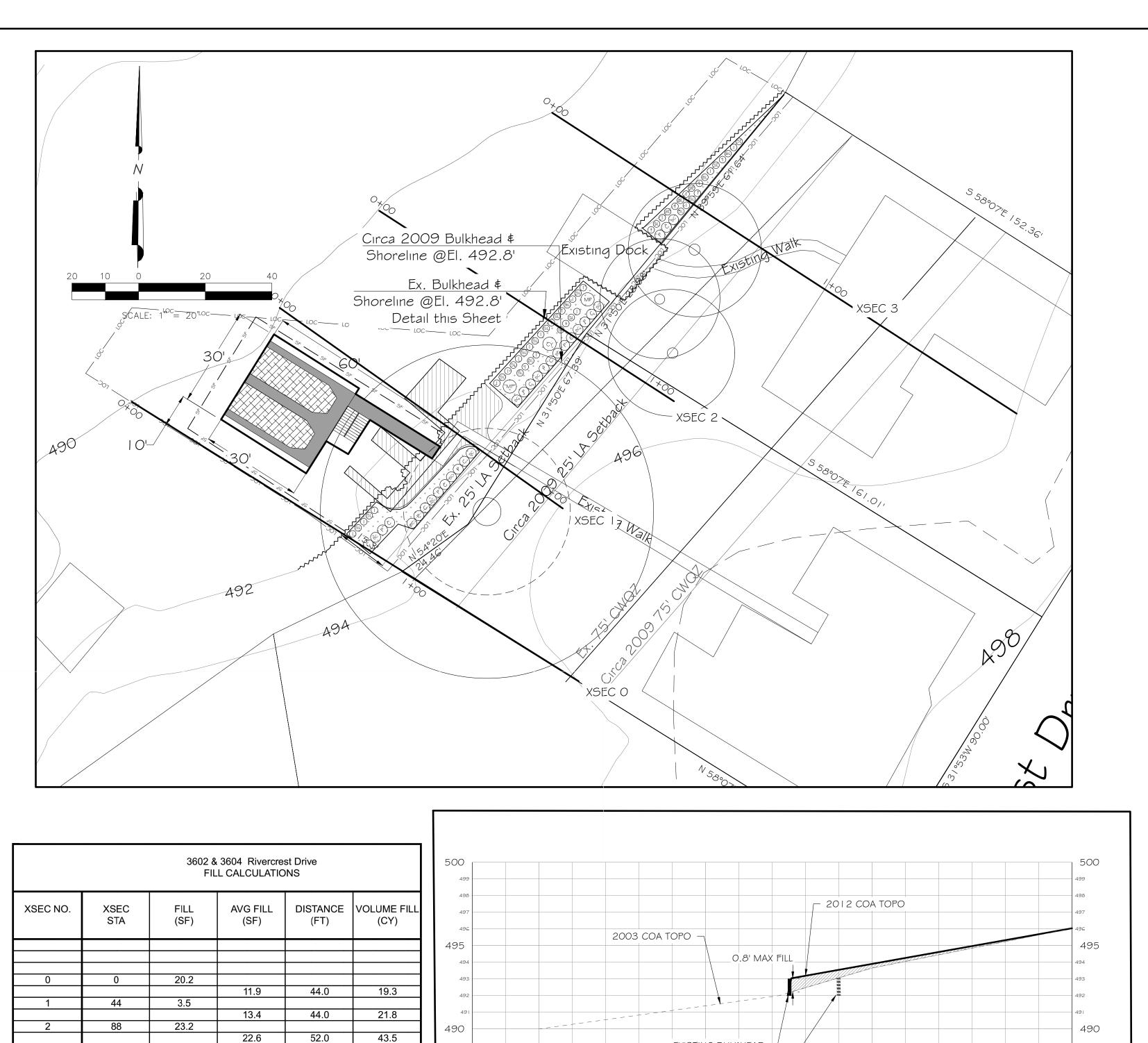
P1. FYI – An appointment is required in order to receive the site development permit. The permit will be released <u>after</u> the flash drive has been submitted with the Intake Staff. Contact the Planner I listed above to set up an appointment to receive the site plan permit.

### P2. FYI – FLASH DRIVE REQUIREMENT

All applications submitted for completeness check after 5/10/10 for Administrative Site Plan Revision, Consolidated Site Plan, Non-Consolidated Site Plan, CIP Streets and Drainage, Major Drainage/Regional Detention, and Subdivision Construction Plans will require the additional items listed in Exhibit VII of the application packet on a USB flash drive prior to release of permit. The flash drive must be taken directly to the Intake Department by the applicant after site plan approval. For more information, contact the Intake Staff.

End of Report



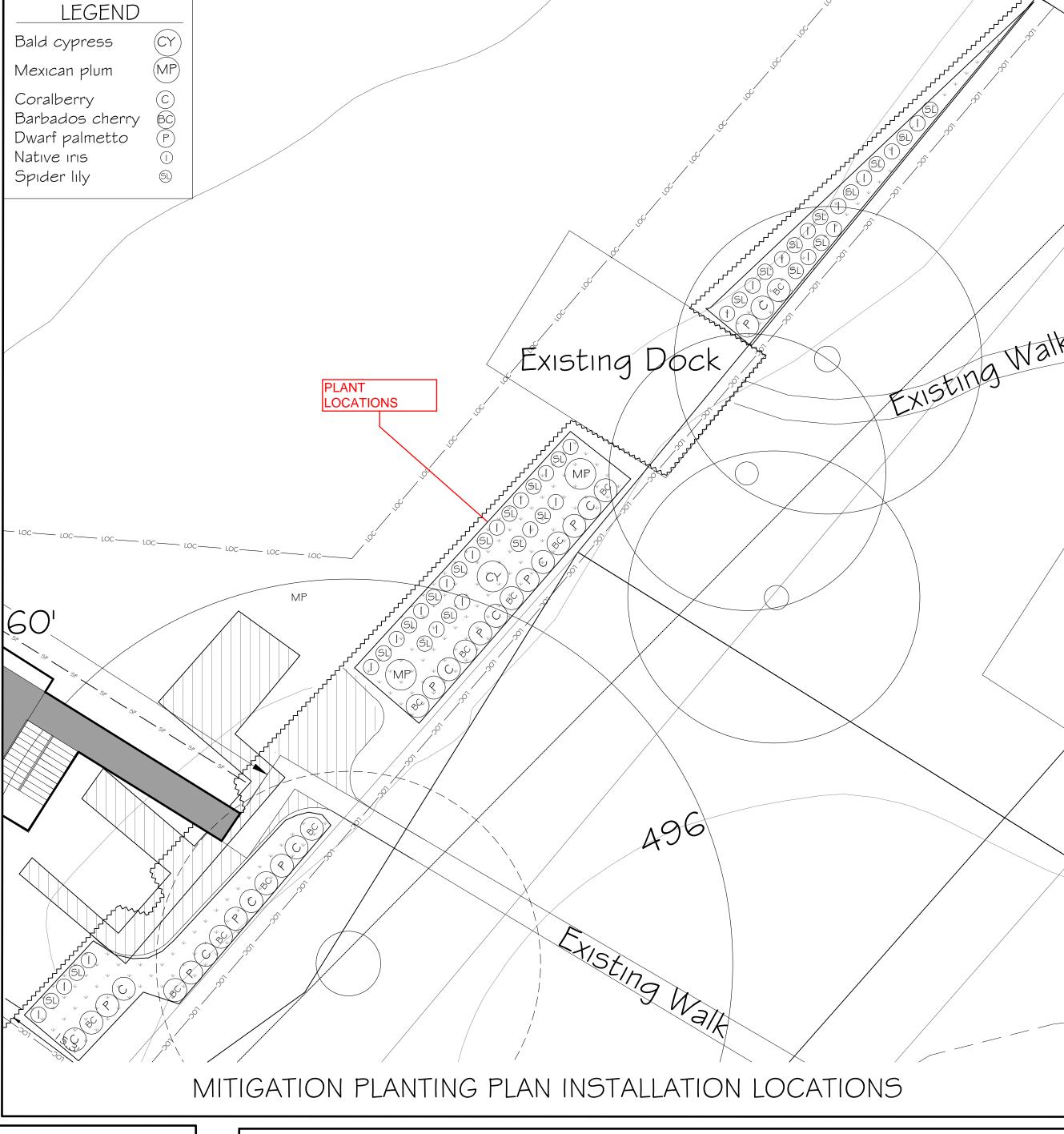


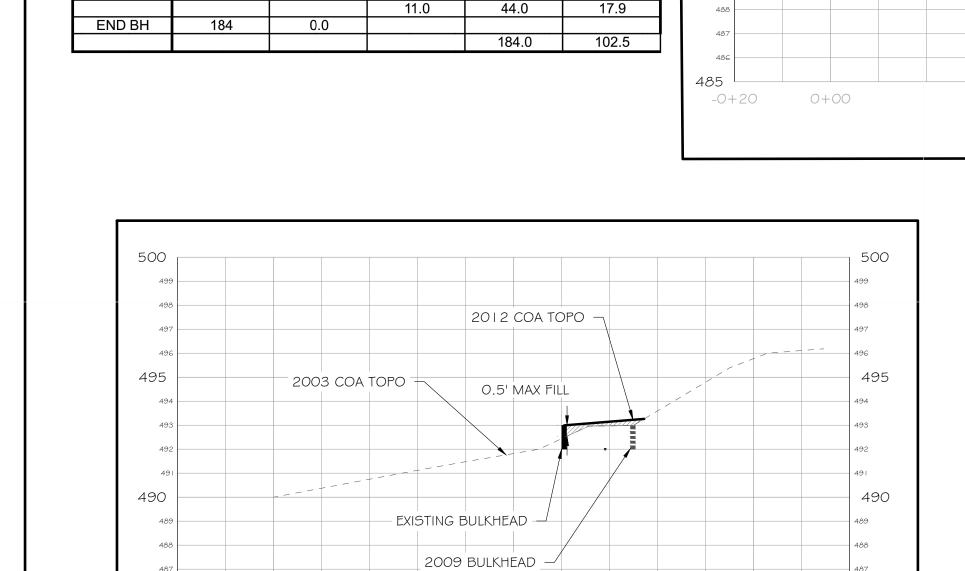
EXISTING BULKHEAD -

2009 BULKHEAD

XSEC O

# 3602 & 3604 Rivercrest Drive



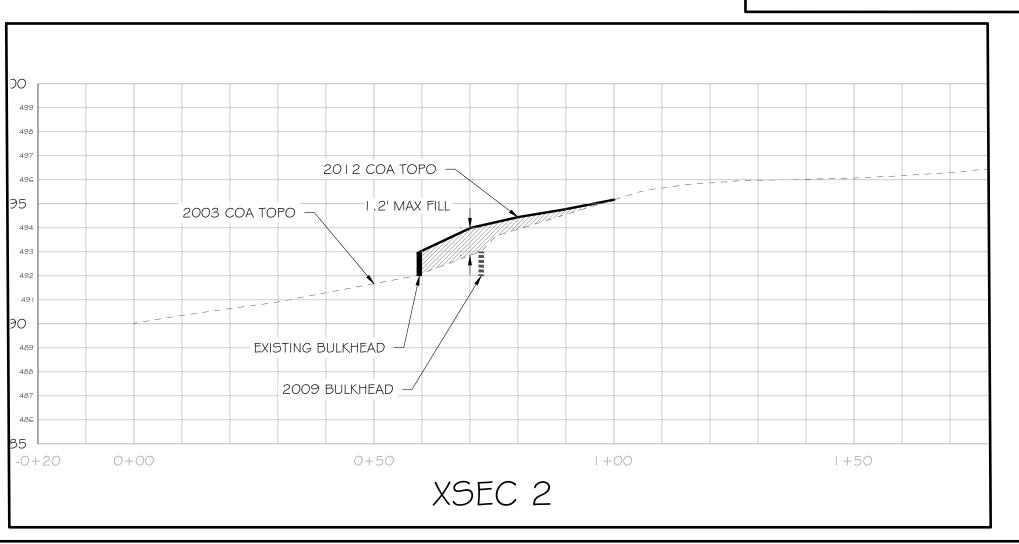


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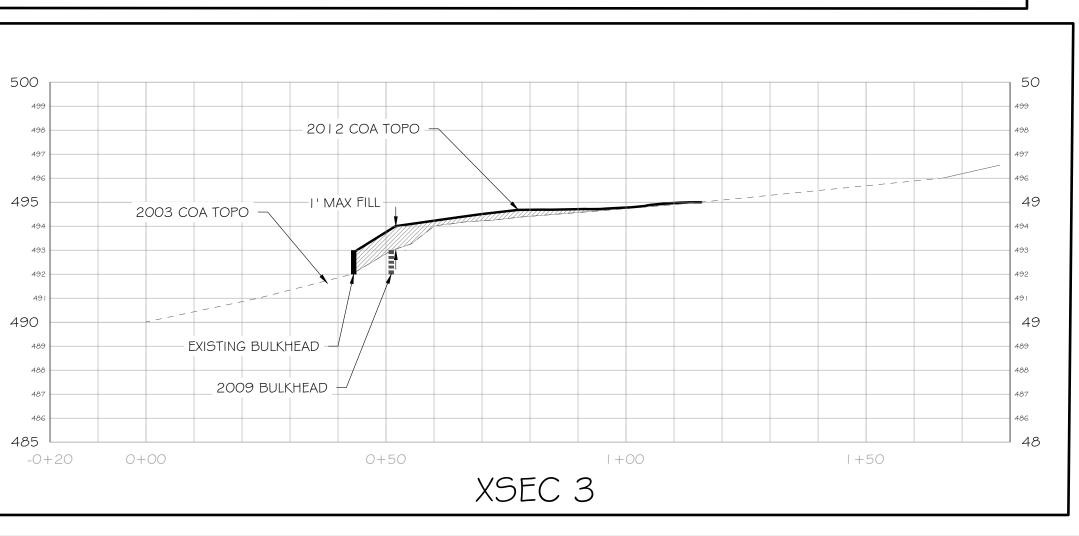
XSEC I

1+00

0+00



1+50



302 \$ 3604 Rivercrest Drive CUT/FILL XSECS

Engineering, Plannin

DESIGNED: BSA

APPROVED:

SCALE: NTS

3602 \$ 3604 Rivercrest E

DATE: November | 6,20 |

SHEET 3 of 2

SP-2016-0261D

# EXISTING CONDITIONS FUNCTIONAL ASSESSMENT OF FLOODPLAIN HEALTH

**Scoring: Zone 4 - Lake Shoreline** 

Site/Project Name: 3602 Rivercrest Date: 11-15-16 Time:

Total Length of Shoreline Frontage (in feet): 240 ft. Staff (if applicable):

Parameter	Excellent (4)	Good (3)	Fair (2)	Poor (1)	Score
<b>Gap Frequency</b> A visual assessment of the number of gaps in vegetation.	0 - 20% of area has visual gaps in vegetation	20% - 40% of area has visual gaps in vegetation	40 - 60% of area has visual gaps in vegetation	> 60% of area has visual gaps in vegetation	1
Structural Diversity An evaluation of the canopy and understory vegetation.	> 65% canopy; or > 50% canopy and > 50% understory	51 - 65% canopy; or 0 - 50% canopy and > 40% understory	31 - 50% canopy; or 0 - 30% canopy and > 30% understory	0 - 30% canopy; or 0 - 15% canopy and 0 - 30% understory	4
Tree Demography An assessment of the age class distribution of all canopy tree species.	Canopy tree species are present in all 4 age classes	Canopy tree species are present in 3 of 4 age classes	Canopy tree species are present in 2 of 4 age classes	Canopy tree species are present in only 1 age class or no trees	1

**Zone 4 Score**: \_\_\_\_\_6\_

Assessed Condition (Circle One) Excellent: 11 - 12 Good: 8 - 10 Fair: 5 - 7 Poor: 3 - 4

# PROPOSED CONDITIONS FUNCTIONAL ASSESSMENT OF FLOODPLAIN HEALTH

Scoring: Zone 4 - Lake Shoreline

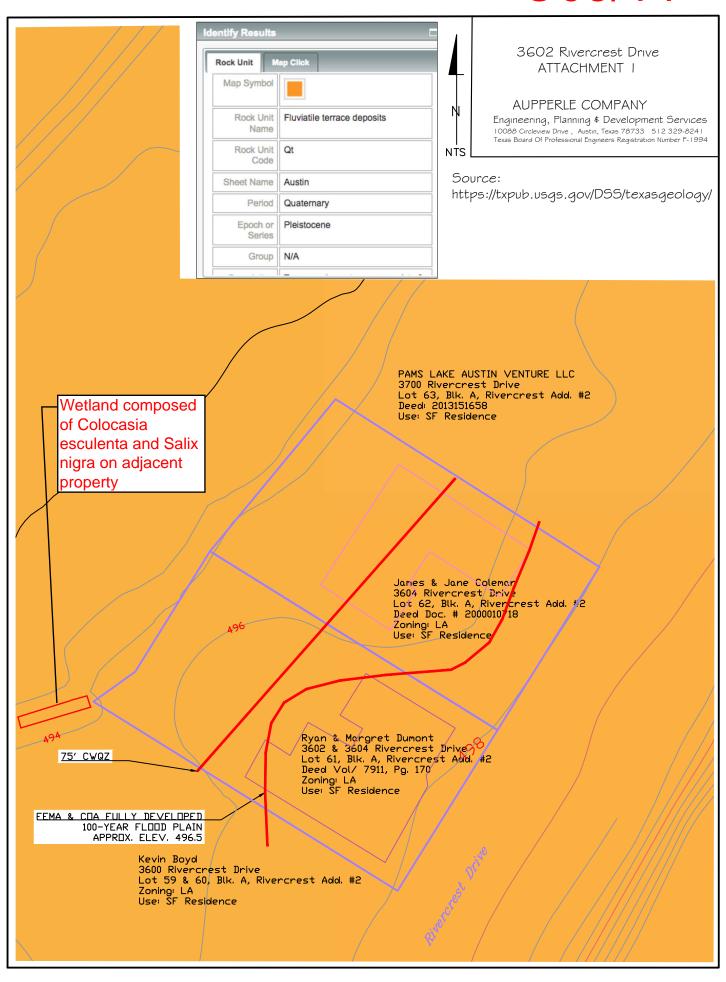
Site/Project Name: 3602 Rivercrest Date: 11-15-16 Time:

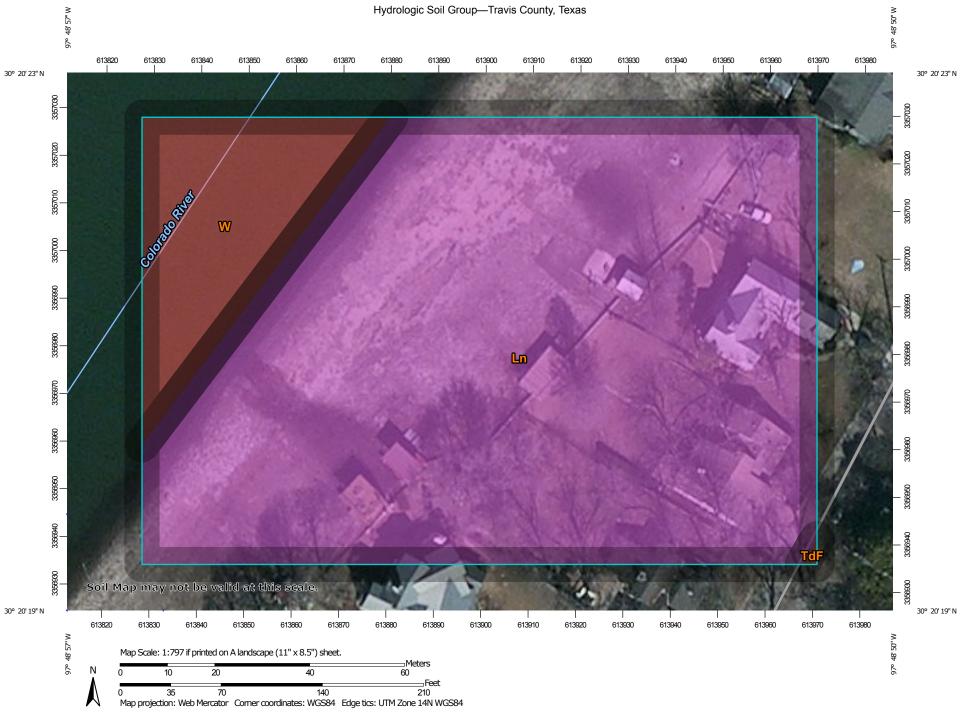
Total Length of Shoreline Frontage (in feet): 240 ft. Staff (if applicable):

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Parameter	Excellent (4)	Good (3)	Fair (2)	Poor (1)	Score
<b>Gap Frequency</b> A visual assessment of the number of gaps in vegetation.	0 - 20% of area has visual gaps in vegetation	20% - 40% of area has visual gaps in vegetation	40 - 60% of area has visual gaps in vegetation	> 60% of area has visual gaps in vegetation	4
Structural Diversity An evaluation of the canopy and understory vegetation.	> 65% canopy; or > 50% canopy and > 50% understory	51 - 65% canopy; or 0 - 50% canopy and > 40% understory	31 - 50% canopy; or 0 - 30% canopy and > 30% understory	0 - 30% canopy; or 0 - 15% canopy and 0 - 30% understory	4
Tree Demography An assessment of the age class distribution of all canopy tree species.	Canopy tree species are present in all 4 age classes	Canopy tree species are present in 3 of 4 age classes	Canopy tree species are present in 2 of 4 age classes	Canopy tree species are present in only 1 age class or no trees	2

**Zone 4 Score:** \_\_\_\_\_10

Assessed Condition (Circle One) Excellent: 11 - 12 Good: 8 - 10 Fair: 5 - 7 Poor: 3 - 4





### **Hydrologic Soil Group**

Hydrologic Soil Group— Summary by Map Unit — Travis County, Texas (TX453)					
Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI	
Ln	Gaddy loamy fine sand, 0 to 1 percent slopes, frequently flooded	A	2.9	86.5%	
TdF	Tarrant-Rock outcrop complex, 18 to 50 percent slopes	D	0.0	0.1%	
W	Water	D	0.4	13.5%	
Totals for Area of Inter	est		3.3	100.0%	

### **Description**

Hydrologic soil groups are based on estimates of runoff potential. Soils are assigned to one of four groups according to the rate of water infiltration when the soils are not protected by vegetation, are thoroughly wet, and receive precipitation from long-duration storms.

The soils in the United States are assigned to four groups (A, B, C, and D) and three dual classes (A/D, B/D, and C/D). The groups are defined as follows:

Group A. Soils having a high infiltration rate (low runoff potential) when thoroughly wet. These consist mainly of deep, well drained to excessively drained sands or gravelly sands. These soils have a high rate of water transmission.

Group B. Soils having a moderate infiltration rate when thoroughly wet. These consist chiefly of moderately deep or deep, moderately well drained or well drained soils that have moderately fine texture to moderately coarse texture. These soils have a moderate rate of water transmission.

Group C. Soils having a slow infiltration rate when thoroughly wet. These consist chiefly of soils having a layer that impedes the downward movement of water or soils of moderately fine texture or fine texture. These soils have a slow rate of water transmission.

Group D. Soils having a very slow infiltration rate (high runoff potential) when thoroughly wet. These consist chiefly of clays that have a high shrink-swell potential, soils that have a high water table, soils that have a claypan or clay layer at or near the surface, and soils that are shallow over nearly impervious material. These soils have a very slow rate of water transmission.

If a soil is assigned to a dual hydrologic group (A/D, B/D, or C/D), the first letter is for drained areas and the second is for undrained areas. Only the soils that in their natural condition are in group D are assigned to dual classes.

Aerial Photo from 2006







Aerial Photo from 2017









### MEMORANDUM

**TO:** Chair William Burkhardt and Members of the Board of Adjustment

**FROM:** Liz Johnston, Environmental Program Coordinator

Watershed Protection Department

**DATE:** 09/05/2017

SUBJECT: Case C15-2017-0047; 3602 and 3604 Rivercrest Dr.

This memo is intended to provide relevant information related to a case before the Board requesting a variance to extend a dock greater than 30' into Lake Austin. Three adjoining properties along Rivercrest Dr, including 3602 and 3604 Rivercrest, are under an environmental code violation related to unpermitted land capture that occurred in 2009 when a new bulkhead was constructed up to approximately 15' from the previous shoreline. Previously inundated waters were backfilled and converted to yard area. When the work occurred, a site plan for a new bulkhead would have been required with approval of the Parks Board for the shoreline modification and environmental variances for construction not allowed within a Critical Water Quality Zone. However, no permits were secured for the work. See enclosed aerial imagery for reference.

The applicants have submitted a site plan application to construct a new dock at 3602 Rivercrest to replace their old dock and to permit the illegal fill area on both 3602 and 3604 Rivercrest. The applicant has requested that the Board allow them to extend the new dock 60' from the current shoreline, or approximately 74' from the previous shoreline's location, due to shallow water. Considering the environmental impacts associated with the land capture and the potential navigation hazard that would be associated with a dock extending so far into the lake, WPD is not in support of the request.

Environmental review staff from Development Services Department, as well as staff from the Watershed Protection Department, including the Environmental Officer, will similarly not support the environmental variance required to allow the unpermitted fill in the lake to remain in place because the Findings of Fact have not been met. Instead, environmental staff from both departments recommend that the applicants remove the illegal bulkhead and fill, construct a new code-compliant bulkhead at the previous shoreline's location, and restore the lake back to its previous condition. The land that was captured is not within the subdivided lot and the rights to enjoy Lake Austin waters belong to the public, not private individuals.

Environmental concerns related to the removal of the fill and bulkhead can be mitigated by construction phasing that leaves the unpermitted bulkhead in place during the excavation and removal of the unpermitted fill and the construction of the a bulkhead, so that the upland area is stable while the unpermitted bulkhead is removed.

### Attachments

CC: Chuck Lesniak, Environmental Officer, Watershed Protection Department
Beth Robinson, P.E., Managing Engineer, Land Use Review, Development Services Department
Donna Galati, Program Manager III, Land Use Review, Development Services Department

2003 aerial (image taken during lake drawdown)



# 2009 aerial



# 2015 aerial

