

**CITY OF AUSTIN
Board of Adjustment
Decision Sheet**

DATE: Monday June 11, 2018

CASE NUMBER: C15-2017-0047

☐ Brooke Bailey
☐ William Burkhardt
☐ Christopher Covo
☐ Eric Goff
☐ Melissa Hawthorne OUT
☐ Bryan King
☐ Don Leighton-Burwell
☐ Rahm McDaniel OUT
☐ Veronica Rivera
☐ James Valadez
☐ Michael Von Ohlen
☐ Kelly Blume (Alternate)
☐ Martha Gonzalez (Alternate) OUT
☐ Pim Mayo (Alternate) OUT

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; November 13, 2017 POSTPONED TO DECEMBER 11, 2017 BY APPLICANT; Dec 11, 2017 The public hearing was closed on Board Member Bryan King motion to Postpone Indefinitely, Board Member second on a 10-1 vote (Board member William Burkhardt nay); POSTPONED INDEFINITELY (UNTIL ENVIRONMENTAL BOARD HAS MADE A RULING).

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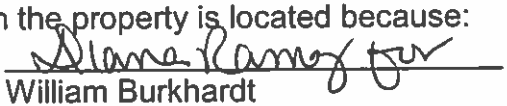
BOARD'S DECISION: June 11, 2018 POSTPONED TO AUGUST 13, 2018 BY APPLICANT

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

**CITY OF AUSTIN
Board of Adjustment
Decision Sheet**

DATE: Monday December 11, 2017

CASE NUMBER: C15-2017-0047

☐ Y ☐ Brooke Bailey
☐ N ☐ William Burkhardt
☐ Y ☐ Christopher Covo
☐ Y ☐ Eric Goff
☐ Y ☐ Melissa Hawthorne
☐ Y ☐ Bryan King
☐ Y ☐ Don Leighton-Burwell
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APPLICANT: Phil Moncada

OWNER: Ryan Dumont and Hank Coleman

ADDRESS: 3602 & 3604 RIVERCREST DR

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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:

From: Phil Moncada
Sent: Wednesday, July 25, 2018 7:48 AM
To: Heldenfels, Leane
Subject: Re: 3602 and 04 Rivercrest 8/13 BOA hearing notice

Good Morning Leane,

Unfortunately, after checking with the chair person of the Environmental Commission, COA records have determined that our Site Plan has expired. We are regrouping and following up with owner and engineer, in order to resubmit this Site Plan to COA. This has never happened before, so I don't know if we can request for an indefinite postponement since our Site Plan is no longer active. You may need to check with Legal with Board of Adjustment to provide their opinion.

Thank you,

Phil Moncada

Phil Moncada
Moncada Enterprises, LLC
1301 S IH 35 Ste. 204
Austin, TX 78741
512.627.8815 (c)
512.474.7377(o)

[REDACTED]
To: Heldenfels, Leane
[REDACTED]

Subject: Re: Draft re-notice language for 3602, 04 Rivercrest Dr BOA case on the 8/13 agenda

Good Morning Leane,

Please request an indefinite postponement for this item.

Thank you,

Karla Rodriguez

Karla Rodriguez
Office//Project Manager
Moncada Enterprises, LLC
1301 S. I-H 35 Suite #204
Austin, TX 78741
Office: [512.474.7377](tel:512.474.7377)

001/6

Patrick Wentworth
Consulting Arborist
P.O. Box 50061
Austin, Texas 78763

512-291-8844



Report prepared for
Ryan Dumont
3602 River Crest
Austin, Texas 78746
April 25, 2014

Summary

The proposed destruction of approximately 50% of the root system of a Heritage Bald Cypress (*Taxodium distictum*) will negatively impact the health and mechanical stability of the tree and would be in direct violation of the City of Austin's own Tree Protection Ordinance and Heritage Tree Ordinance

Background

Approximately a decade ago, Ryan Dumont at 3602 River Crest, Austin, Texas 78746 was having difficulties with the way water would eddy and collect floating debris and trash around his boat dock on Lake Austin. He first consulted with the Health Department and a professional hydrologist. On their recommendations, the cut into his back yard was straightened with a bulkhead to allow for the free flow of water down the lake.

Observations

The tree in question is a Bald Cypress with twin trunks. One-trunk measures 109-inches in circumference (34-inches in diameter) and the second trunk measures 100-inches in circumference (31.84-inches in diameter) measured at standard height, 4.5-feet above natural grade.



Twin-trunked Bald Cypress

Ryan Dumont
3602 River Crest
Austin, Texas 78746
April 25, 2014

Patrick Wentworth
Consulting Arborist
P.O. Box 50061
Austin, Texas 78763



Distance from edge of trunk to bulkhead 23-feet, 8-inches

The distance from the western edge of the trunk to the existing walkway next to the bulkhead is 16-feet. The walk way is made of paving stones set in sand up against the bulkhead at lake's edge. The walk way is 7-feet, 8-inches in width making the distance from the edge of the western most trunk to the bulkhead 23-feet, 8-inches.

The root flares of tree are equally spaced and quite prominent indicating the tree is going at its original, natural depth. The root flares extend outward from the trunk as much as 3 feet with the closest large root flare being 13-feet from the walkway or 20-feet, 8-inches from the bulkhead.

Ryan Dumont
3602 River Crest
Austin, Texas 78746
April 25, 2014

Patrick Wentworth
Consulting Arborist
P.O. Box 50061
Austin, Texas 78763



*Large root flares on western side of trunk
Red arrow indicates root flare 20-feet, 8-inches from bulkhead.*

The over all condition of the tree is excellent. New growth is evenly distributed throughout the canopy with very little deadwood present. The tree's approximate height is around 55-feet with an approximate spread of 45-feet.

Discussion

The City of Austin measures trees at 4.5-feet above natural grade to determine the diameter and/ or the circumference of a tree. When trees have more than one trunk, one half of the measurement of smaller diameter trunk is added to the larger trunk. In this instance, the larger trunk is 34-inches in diameter and to that one would add 15.92 or 16 inches ($\frac{1}{2}$ the smaller trunk's diameter) to come up with a trunk diameter for this tree of 50-inches.

Under City of Austin Ordinance No. 20100204-038, Part 2, section 25-8-602, a

Ryan Dumont
3602 River Crest
Austin, Texas 78746
April 25, 2014

Patrick Wentworth
Consulting Arborist
P.O. Box 50061
Austin, Texas 78763

“Heritage Tree means a tree that has a diameter of 24 inches or more, measured at four and one-half feet above natural grade and is one of the following species:”

The second tree on the list of Heritage Trees is the Bald Cypress. (See page 1 of the ordinance in the appendix.)

The ordinance continues in the same section of definitions to define:

“(3) PROTECTED TREE means any tree with a diameter of 19 inches or more, measured at four and one-half feet above natural grade.”

And defines:

“(4) REMOVAL means an act that causes or may be reasonably expected to cause a tree to die to include the following

- a) Uprooting
- b) Severing the main trunk
- c) Damaging the root system
- d) Excessive pruning.”

In the Planning and Development Review Department of the City, Tree and Natural Area Preservation is defined with respect to what is known as the Critical Root Zone.

(<http://austintexas.gov/page/tre-natural-area-preservation-codes>)

“The Critical Root Zone

City code requires that proposed developments demonstrate that trees are preserved to the maximum extent reasonable and feasible. Tree preservation is effectively defined as root system preservation; a Critical Root Zone Area (CRZ) is assigned to each tree, based on trunk diameter size. A minimum of 50% of the CRZ is required to be left undisturbed to achieve minimal conformance with the regulations.

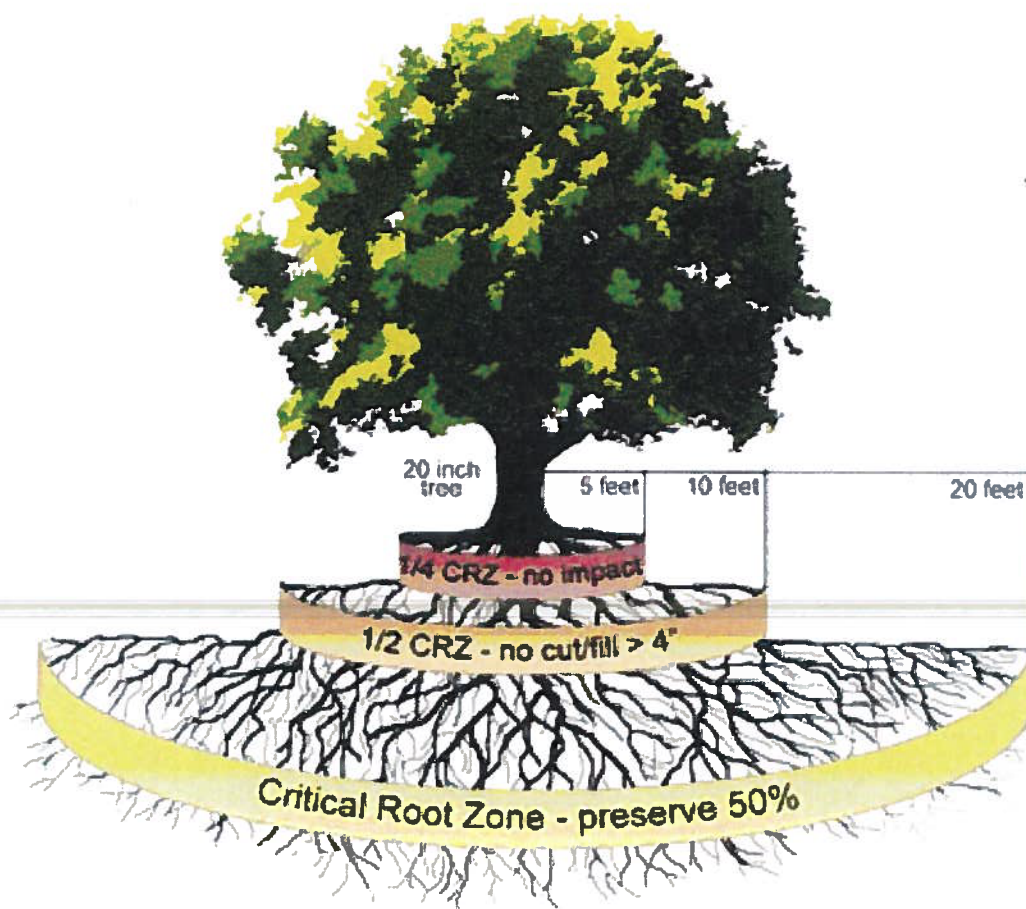
Trees are depicted on plans with a CRZ circle centered on the tree base location (i.e. a twenty inch diameter tree is represented by a 40 foot diameter circle). The formula is: Tree diameter in inches X 2, then convert to feet = CRZ diameter. The CRZ circles are superimposed on the proposed plan improvements so that review staff can discern the extent of disturbance proposed near existing

Ryan Dumont
3602 River Crest
Austin, Texas 78746
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trees. Tree types and sizes are also provided. Trees which are removed are generally required to be replaced at a sliding ratio determined in part by the overall extent of tree removal proposed."

The Critical Root Zone - Development Impact Zones



By City of Austin definition, the tree's trunk diameter in this instance is considered to be 50-inches. That would make the critical root zone diameter (CRZD) to be 100-feet. The CRZ of this tree by City of Austin definition is a 50-foot radius in all directions from the trunk.

Ryan Dumont
3602 River Crest
Austin, Texas 78746
April 25, 2014

Patrick Wentworth
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By City Code, there can be no cut or fill greater than 4-inches in the Half Critical Root Zone ($\frac{1}{2}$ CRZ) with **no impact** to be had within the One Quarter Critical Root Zone ($\frac{1}{4}$ CRZ).

With the tree located at 23-feet 8-inches from the bulkhead on the lake, the entire area between the tree's trunk and the bulkhead is within the $\frac{1}{2}$ CRZ (25-feet from the trunk.)

The current proposal before the homeowner is to remove the existing bulkhead and return the shoreline of Lake Austin back to it's original position which would be within 4 or 5 feet of the trunk of this Heritage Tree. This would also negatively impact negatively the $\frac{1}{4}$ CRZ by more than half ($\frac{1}{4}$ CRZ = 12.5 feet.)

If as much as 60 to 70 % of the $\frac{1}{2}$ CRZ were to be removed, the tree would be potentially mechanically unstable. On the east side of lake exposed to high wind events, the resulting root destruction could topple the tree back towards the house.



Heritage Bald Cypress as seen from Google Earth

Ryan Dumont
3602 River Crest
Austin, Texas 78746
April 25, 2014

Patrick Wentworth
Consulting Arborist
P.O. Box 50061
Austin, Texas 78763

Conclusion

The repair to the shoreline made by the Ryan Dumont corrected the natural flow of water down the lake and made the area along the lakefront healthier. It also allowed for the additional development of the root system of a Heritage Bald Cypress.

To restore the lake front to its original form would seriously jeopardize the health and mechanical stability of the Heritage Bald Cypress tree and would be, in the opinion of this arborist, a foolish proposition. The mechanical stability of the tree would be compromised with such a severe root cut and would make the tree a potential liability to the homeowner. It would also violate the City of Austin's own Tree Protection and Heritage Tree Ordinances.

Sincerely;



Patrick Wentworth
ISA Certified Arborist #TX-0119
American Society of Consulting Arborists
Texas Oak Wilt Certification #TOWC-0001
TDA License #0525651
ISA Texas Chapter's Texas Arborist of the Year 1999
ISA Texas Chapter's Texas Arborist of the Year 2002
Austin Arborist of the Year 2004, Austin Chronicle's Readers' Poll

APPENDIX

ORDINANCE NO. 20100204-038

AN ORDINANCE AMENDING CHAPTER 25-8, SUBCHAPTER B, ARTICLE 1 AND SECTION 6-3-48 OF THE CITY CODE RELATING TO TREE PROTECTION; AMENDING PROTECTED TREE PROVISIONS; AND ADDING A NEW DIVISION FOR HERITAGE TREES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. FINDINGS.

The City Council finds that:

- (1) The urban forest has social, ecological, cultural, economic, historical, and aesthetic benefits for the citizens of Austin.
- (2) A healthy urban forest enhances the health and welfare of the citizens of Austin.
- (3) The urban forest is an asset and important part of the City's infrastructure that city policy seeks to protect.
- (4) The health of the urban forest is entrusted to the City Council for the benefit of current and future citizens of Austin.
- (5) The potential for development to negatively impact the urban forest, including the largest and most significant trees, requires reasonable regulations.

PART 2. Section 25-8-602 (*Definitions*) of the City Code is amended to read as follows:

§ 25-8-602 DEFINITIONS.

In this article:

- (1) HERITAGE TREE means a tree that has a diameter of 24 inches or more, measured four and one-half feet above natural grade, and is one of the following species:
 - (a) Ash, Texas
 - (b) Cypress, Bald
 - (c) Elm, American
 - (d) Elm, Cedar



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SEARCH

austintexas★gov
the official website of the City of Austin

Department » Planning » Programs » City Arborist » Tree and Natural Area Preservation



Planning and Development Review Department

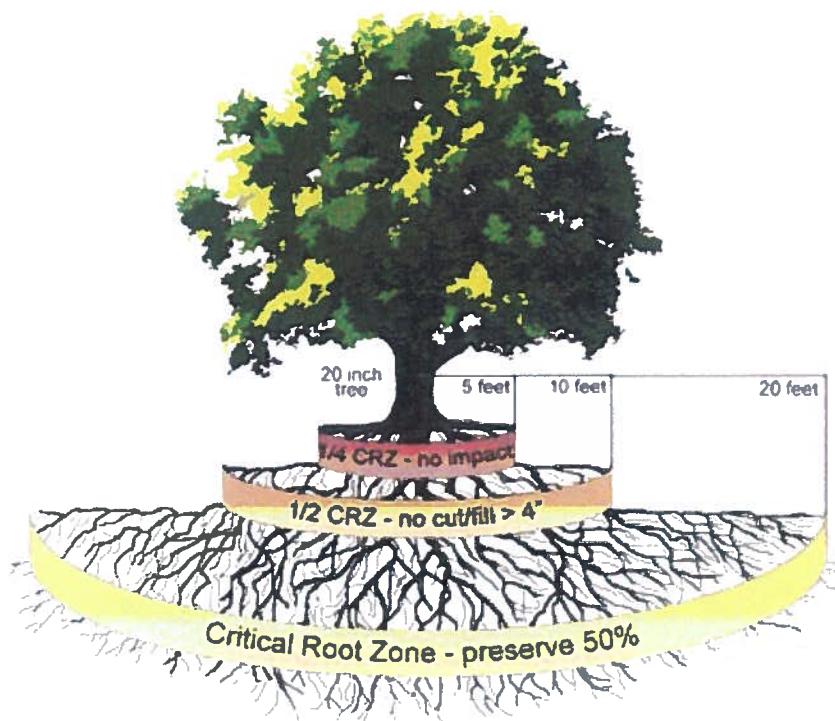
TREE AND NATURAL AREA PRESERVATION

The Critical Root Zone

City code requires that proposed developments demonstrate that trees are preserved to the maximum extent reasonable and feasible. Tree preservation is effectively defined as root system preservation; a Critical Root Zone Area (CRZ) is assigned to each tree, based on trunk diameter size. A minimum of 50% of the CRZ is required to be left undisturbed to achieve minimal conformance with the regulations.

Trees are depicted on plans with a CRZ circle centered on the tree base location (i.e. a twenty inch diameter tree is represented by a 40 foot diameter circle). The formula is: Tree diameter in inches X 2, then convert to feet = CRZ diameter. The CRZ circles are superimposed on the proposed plan improvements so that review staff can discern the extent of disturbance proposed near existing trees. Tree types and sizes are also provided. Trees which are removed are generally required to be replaced at a sliding ratio determined in part by the overall extent of tree removal proposed.

The Critical Root Zone - Development Impact Zones



[back to City Arborist page](#)

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- (e) Madrone, Texas
- (f) Maple, Bigtooth
- (g) All Oaks
- (h) Pecan
- (i) Walnut, Arizona
- (j) Walnut, Eastern Black

This list of eligible heritage tree species may be supplemented, but not reduced, as prescribed by rule.

- (2)[(4)] OWNER includes a lessee.
- (3)[(2)] PROTECTED TREE means a tree with a diameter ~~[circumference]~~ of 19 ~~[60]~~ inches or more, measured four and one-half feet above natural grade.
- (4)[(3)] REMOVAL means an act that causes or may be reasonably expected to cause a tree to die, including:
 - (a) uprooting;
 - (b) severing the main trunk;
 - (c) damaging the root system; and
 - (d) excessive pruning.

PART 3. Section 25-8-603 (*Administration*) of the City Code is amended to read:

§ 25-8-603 ADMINISTRATION.

- (A) A city arborist, appointed by the director of the Planning and Development Review Department, shall implement this article.
- (B) The ~~[Watershed Protection]~~ Planning and Development Review Department shall adopt administrative rules for the implementation of this subchapter ~~[to:]~~.
- (C) The rules shall:
 - (1) describe methods to protect trees against damage during development;
 - (2) identify actions that will constitute removal; ~~[and]~~
 - (3) identify the root areas that require protection against soil compaction or the effects of impervious paving; and

- (4) identify mitigation measures and methods of calculation for fiscal security to ensure performance of mitigation measures that may be required under article 1 of this subchapter.

PART 4. Section 25-8-604 (*Development Application Requirements*) of the City Code is amended by amending Subsection (C) and adding a new Subsection (D) to read:

- (C) For an application for preliminary plan, final plat, building permit, or site plan approval that proposes the removal of a protected tree, the city arborist must review the application and make a recommendation before the application may be administratively approved or presented to the Land Use Commission or city council.
- (D) For an application for preliminary plan, final plat, building permit, or site plan approval that proposes the removal of a heritage tree, the applicant must file a request for a variance to remove the heritage tree under Division 3 of this Article before the application may be administratively approved or presented to the Land Use Commission or City Council.

PART 5. Section 25-8-605 (*Waiver and Modification of City Requirements*) of the City Code is amended to read:

§ 25-8-605 WAIVER AND MODIFICATION OF CITY REQUIREMENTS.

- (A) If enforcement of a City department policy, rule, or design standard will result in removal of a protected or heritage tree, the [~~Watershed Protection~~] Planning and Development and Review Department may request that the responsible City department waive or modify the policy, rule, or design standard to the extent necessary to save the tree.
- (B) The responsible City department may waive or modify the policy, rule, or design standard after determining that a waiver or modification will not result in a serious or imminent adverse effect.
- (C) The city manager shall resolve differences of opinion between the [~~Watershed Protection~~] Planning and Development Review Department and another City department under this section.

PART 6. Chapter 25-8, Subchapter B, Article 1 (*Tree and Natural Area Protection*) of the City Code is amended to add a new Section 25-8-606 to read:

§ 25-8-606 REPORTS.

The city arborist shall annually report to the Environmental Board and monthly report to the Urban Forestry Board. The report shall include, but is not limited to, impacts to protected or heritage trees, tree promotional programs, and urban forestry planning efforts.

PART 7. Chapter 25-8, Subchapter B, Article 1 (*Tree and Natural Area Protection*) of the City Code is amended to add a new Section 25-8-607 to read:

§ 25-8-607 APPLICABILITY TO CITY

The requirements of this subchapter apply to land development and other actions by the City.

PART 8. Section 25-8-621 (*Permit Required for Removal of Protected Trees; Exceptions*) of the City Code is amended to read:

§ 25-8-621 PERMIT REQUIRED FOR REMOVAL OF PROTECTED TREES; EXCEPTIONS.

- (A) Except as otherwise provided in this section, a person may not remove a protected tree unless the ~~[Watershed Protection]~~ Planning and Development Review Department has issued a permit for the removal under this division.
- (B) A person may, without a permit, remove a damaged protected tree that is [a] an imminent hazard to life or property if the tree is removed within seven days of being damaged. The ~~[Watershed Protection]~~ Planning and Development Review Department may extend this deadline for widespread and extensive storm damage.
- (C) A person may, without a permit, remove a protected tree if the tree is identified for removal on an approved preliminary plan, final plat or site plan.
- ~~[(D) A person may, without a permit, remove a protected tree if the tree is identified for removal in a capital improvement project when the project is approved by council.]~~

PART 9. Subsection(C) of Section 25-8-622 (*Application for Removal*) of the City Code is amended to read:

- (C) An application for removal of a protected tree must:

- (1) be filed with the director of the Planning and Development Review Department; and
- (2) include the information prescribed by the Administrative Manual.

PART 10. Section 25-8-624 (*Approval Criteria*) of the City Code is amended to read:

§ 25-8-624 APPROVAL CRITERIA.

- (A) The [~~Watershed Protection~~] Planning and Development Review Department may [~~shall~~] approve an application to remove a protected tree only after determining that the tree:
 - (1) prevents reasonable access to the property;
 - (2) prevents a reasonable use of the property;
 - (3) is [~~a~~] an imminent hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree;
 - (4) is [~~dying or~~] dead;
 - (5) is diseased, and:
 - (a) restoration to sound condition is not practicable; or
 - (b) the disease may be transmitted to other trees and endanger their health; or
 - (6) for a tree located on public property or a public street or easement:
 - (a) prevents the opening of necessary vehicular traffic lanes in a street or alley; or
 - (b) prevents the construction of utility or drainage facilities that may not feasibly be rerouted.
- (B) If an application filed by a political subdivision of the state is approved under Subsection (A) (2), the Land Use Commission may, in its discretion, review the approval.
- (C) For an application to remove a protected tree located on private property, an applicant must request a variance, waiver, exemption, modification, or alternative compliance ~~from the Board of Adjustment if the variance that~~ would eliminate the reason for removal of the tree.

- (1) The application to remove the protected tree may not be approved unless the request [~~variance~~] is denied.
 - (2) An application fee is not required for a variance, waiver, exemption, modification, or alternative compliance request required by this subsection.
 - (3) This subsection does not apply to an application that may be approved under Subsection (A)(3), (4), or (5).
 - (4) The body considering the variance, waiver, exemption, modification or alternative compliance will consider the benefit of preserving the protected tree in determining whether to grant or deny the request for a variance, waiver, exemption, modification or alternative compliance from another City Code provision.
 - (5) This subsection does not require an applicant to request a variance, waiver, exemption, modification, or alternative compliance if the director determines that to do so would endanger the public health and safety.
- (D) The [~~Watershed Protection~~] Planning and Development Review Department shall [~~may~~] require mitigation [~~, including the planting of replacement trees,~~] as a condition of application approval. A removal permit may not be issued until the applicant satisfies the condition or posts fiscal security to ensure performance of the condition within one year.

PART 11. Section 25-8-625 (*Action on Application*) of the City Code is amended to read:

§ 25-8-625 ACTION ON APPLICATION.

- (A) The [~~Watershed Protection~~] Planning and Development Review Department shall take action on [~~approve or deny~~] an application to remove a protected tree:
- (1) not later than the 10th working day after the complete application is filed; or
 - (2) if a variance, waiver, exemption, modification, or alternative compliance request is required by Subsection 25-8-624 (C) (*Approval Criteria*), not later than the [~~55th day after the application is filed~~] 10th working day after the request is denied.

- (B) ~~[If a variance request is required by Subsection 25-8-624 (C) (Approval Criteria), the Watershed Protection and Development Review Department shall notify the applicant of the 55-day review period.]~~
- (C) An application to remove a tree that is not associated with a pending subdivision, site plan, or building permit application submitted to the City is automatically granted if the ~~[Watershed Protection]~~ Planning and Development Review Department does not take action on ~~[deny]~~ the application before the expiration of the applicable deadline in Subsection (A).

PART 12. Section 25-8-626 (*Effective Date and Expiration of Approval*) of the City Code is amended to read:

§ 25-8-626 EFFECTIVE DATE AND EXPIRATION OF APPROVAL.

- (A) Approval of an application to remove a protected tree is effective immediately.~~;~~
- (1) ~~on the third day after it is granted; or~~
- (2) ~~immediately, if the application was approved under Subsection 25-8-624(A)(3),(4), or (5) (Approval Criteria).]~~
- (B) An approval to remove a protected tree expires:
- (1) one year after its effective date, provided that the mitigation conditions in the permit remain in effect until the conditions are met;
or
- (2) for a development described in Subsection 25-8-621(C) ~~[or (D)]~~ (*Permit Required For Removal Of Protected Trees; Exceptions*), when the development plan expires.

PART 13. Chapter 25-8 Subchapter B, Article 1 (*Tree and Natural Area Protection*) of the City Code is amended to renumber Division 3 (*Shoreline Relocation; Lake Fill*) as Division 4 and add a new Division 3 to read:

Division 3. Heritage Trees.

§ 25-8-641 REMOVAL PROHIBITED.

- (A) Removal of a heritage tree is prohibited unless the Planning and Development Review Department has issued a permit for the removal under this division.

- (B) A permit to remove a heritage tree may be issued only if a variance is approved under Section 25-8-642 (*Administrative Variance*) or 25-8-643 (*Land Use Commission Variance*).
- (C) The requirements in this division apply to trees on private and public property. To the extent of conflict with another section of the Code, this division applies.
- (D) A person may, without a variance, remove a damaged heritage tree that is an imminent hazard to life or property if the tree is removed within seven days of being damaged. The director may extend this deadline for widespread and extensive storm damage.

§ 25-8-642 ADMINISTRATIVE VARIANCE.

- (A) The director of the Planning and Development Review Department may grant a variance from Section 25-8-641 (*Removal Prohibited*) to allow removal of a heritage tree only after determining, based on the city arborist's recommendation, that the heritage tree:
 - (1) is dead;
 - (2) is an imminent hazard to life or property, and the hazard cannot reasonably be mitigated without removing the tree; or
 - (3) is diseased and:
 - (a) restoration to sound condition is not practicable; or
 - (b) the disease may be transmitted to other trees and endanger their health.
- (B) No application fee and no mitigation are required for a variance request under subsection (A).
- (C) The director of the Planning and Development Review Department may grant a variance from Section 25-8-641 (*Removal Prohibited*) to allow removal of a heritage tree that does not have at least one stem that is 30 inches in diameter or larger measured four and one-half feet above natural grade only after determining, based on the city arborist's recommendation, that the heritage tree meets the criteria in Section 25-8-624 (A) (*Approval Criteria*) and that:
 - (1) the applicant has applied for and been denied a variance, waiver, exemption, modification, or alternative compliance from another City

Code provision which would eliminate the need to remove the heritage tree, as required in Section 25-8-646 (*Variance Prerequisite*); and

- (2) removal of the heritage tree is not based on a condition caused by the method chosen by the applicant to develop the property, unless removal of the heritage tree will result in a design that will allow for the maximum provision of ecological service, historic, and cultural value of the trees on the site.

(D) A variance granted under this section:

- (1) shall be the minimum change necessary;
- (2) shall require mitigation as a condition of variance approval for variances requested under Subsection (C) of this section; and
- (3) may not be issued until the applicant has satisfied the mitigation conditions required under this Subsection (D) (2) or posted fiscal security adequate to ensure performance of the mitigation conditions not later than one year after issuance of the variance.

(E) The director of the Planning and Development Review Department shall prepare written findings to support the grant or denial of a variance request under Subsection (C) of this Section.

§ 25-8-643 LAND USE COMMISSION VARIANCE.

(A) The Land Use Commission may grant a variance from Section 25-8-641 (*Removal Prohibited*) to allow removal of a heritage tree that has at least one stem that is 30 inches or larger in diameter measured four and one-half feet above natural grade only after determining, based on the city arborist's recommendation, that the heritage tree meets the criteria in Section 25-8-624 (A) (*Approval Criteria*), and that:

- (1) the applicant has applied for and been denied a variance, waiver, exemption, modification, or alternative compliance from another City Code provision which would eliminate the need to remove the heritage tree, as required in Section 25-8-646 (*Variance Prerequisites*); and
- (2) removal of the heritage tree is not based on a condition caused by the method chosen by the applicant to develop the property, unless removal of the heritage tree will result in a design that will allow for

the maximum provision of ecological service, historic, and cultural value of the trees on the site.

(B) A variance granted under this section:

- (1) shall be the minimum change necessary;
- (2) shall require mitigation as a condition of variance approval; and
- (3) may not be issued until the applicant has satisfied the mitigation conditions required under this Subsection (B) (2) or posted fiscal security adequate to ensure performance of the mitigation conditions not later than one year after issuance of the variance.

(C) Consideration of a variance under this section requires:

- (1) review by the Environmental Board; and
- (2) review by the Urban Forestry Board if the heritage tree is located on public property or a public street or easement.

§ 25-8-644 APPEAL.

(A) An applicant may appeal denial of an administrative variance under Section 25-8-642 to the Land Use Commission.

(B) An appeal under this section requires:

- (1) review by the Environmental Board; and
- (2) review by the Urban Forestry Board if the heritage tree is located on public property or a public street or easement.

§ 25-8-645 APPLICATION FOR VARIANCE.

(A) For a heritage tree located on public property or a public street or easement, an application requesting a variance to allow removal of the heritage tree may be filed by:

- (1) a City department, public utility, or political subdivision with the authority to install utility lines or other public facilities in or above the property, street, or easement; or
- (2) the owner of property adjoining the site of the tree.

- (B) For a heritage tree located on private property, an application requesting a variance to allow removal of the heritage tree may be filed by:
 - (1) the owner of the property on which the tree is located; or
 - (2) the city arborist, if the tree is seriously diseased or is a safety hazard.
- (C) An application requesting a variance to allow removal of a heritage tree must:
 - (1) be filed with the director of the Planning and Development Review Department; and
 - (2) include the fee prescribed by ordinance; and
 - (3) include the information prescribed by the Administrative Criteria Manual.
- (D) The application fee is not required if the application is based solely on the criteria in Subsections 25-8-624 (A) (3), (4) or (5).

§ 25-8-646 VARIANCE PREREQUISITE.

- (A) If a variance, waiver, exemption, modification, or alternative compliance from another City Code provision would eliminate the need for a variance from Section 25-8-641 (*Removal Prohibited*), before requesting a variance to allow removal of a heritage tree on private property the applicant must:
 - (1) request a variance, waiver, exemption, modification or alternative compliance from the Code provisions that would eliminate the need to remove the heritage tree; and
 - (2) obtain a grant or denial of the variance, waiver, exemption, modification or alternative compliance that would eliminate the need to remove the heritage tree.
- (B) The request for a variance to allow removal of a heritage tree may not be considered unless the variance, waiver, exemption, modification or alternative compliance from other City Code provisions is denied.
- (C) The application fee for a variance from another City Code provision required under this section is waived.
- (D) This section does not apply to an application for a variance to remove a heritage tree based on the criteria in Subsections 25-8-624 (A) (3), (4) or (5).

- (E) The body considering the variance, waiver, exemption, modification, or alternative compliance will consider the benefit of preserving the heritage tree in determining whether to grant or deny the request for a variance, waiver, exemption, modification or alternative compliance from another City Code provision.
- (F) This subsection does not require an applicant to request a variance, waiver, exemption, modification, or alternative compliance if the director determines that to do so would endanger the public health and safety.

§ 25-8-647 ACTION ON APPLICATION.

- (A) The director of the Planning and Development Review Department shall take action on a variance request to allow removal of a heritage tree:
 - (1) not later than the 10th working day after the complete application is filed; or
 - (2) if a variance, waiver, exemption, modification, or alternative compliance from another City Code provision is required under Subsection 25-8-646 (*Variance Prerequisite*), not later than the 10th working day after the request is denied.
- (B) If the application is based on a damaged heritage tree constituting an immediate hazard to life or property, the application shall be approved or denied within 24 hours and no application fee is required.
- (C) An application to remove a tree that is not associated with a pending subdivision, site plan, or building permit application submitted to the City is automatically granted if the director does not act on the application before the expiration of the applicable deadline.

§ 25-8-648 VARIANCE EFFECTIVE DATE AND EXPIRATION.

- (A) Approval of a variance request to allow removal of a heritage tree is effective immediately.
- (B) A variance to allow removal of a heritage tree expires:
 - (1) one year after its effective date, provided that the mitigation conditions in the variance remain in effect until the conditions are met; or

- (2) for an application that is associated with a pending subdivision, site plan, or building permit submitted to the City, when the development permit expires.

PART 14. Section 6-3-48 (*Review of Recommendation to Remove Protected Tree*) is amended to read:

§ 6-3-48 REVIEW OF RECOMMENDATION TO REMOVE PROTECTED OR HERITAGE TREE.

- (A) Not later than the 10th business day before delivery of owner notification under Section 6-3-46 (*Notice of Abatement*), the urban forester shall submit to the city arborist a written request for review of removal of a protected or heritage tree under the jurisdiction of Subchapter B, Article 1 (*Tree and Natural Area Protection*) of Chapter 25-8 (*Environment*) of the Code.
- (B) The city arborist shall respond to the urban forester with written comments not later than the 10th day after the date the request for review was submitted.

PART 15. This ordinance takes effect on February 15, 2010.

PASSED AND APPROVED

February 4, 2010 §
§
§ Lee Jeffingwell
Lee Jeffingwell
Mayor

APPROVED: David Allan Smith
David Allan Smith
City Attorney

ATTEST: Shirley A. Gentry
Shirley A. Gentry
City Clerk

**CITY OF AUSTIN
Board of Adjustment
Decision Sheet**

DATE: Monday November 13, 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

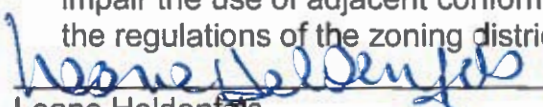
ADDRESS: 3602 & 3604 RIVERCREST DR

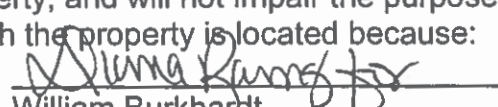
VARIANCE REQUESTED: The applicant has requested variance(s) from Section 25-2-1176 (Site Development Regulations for Docks, Marinas, and Other Lakefront Uses) (A) (1) to increase the distance a dock may extend from the shoreline from 30 feet (required/permitted) to 60 feet (requested) in order to construct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

BOARD'S DECISION: Sept 18, 2017 POSTPONED TO NOVEMBER 13, 2017 BY APPLICANT; November 13, 2017 POSTPONED TO DECEMBER 11, 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

**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

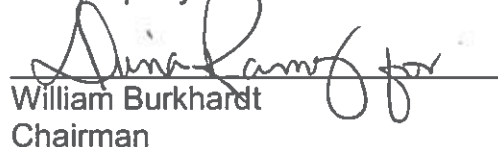
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BOARD'S DECISION: Sept 18, 2017 POSTPONED TO NOVEMBER 13, 2017 BY APPLICANT

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

001/32



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2017-0047

LOCATION: 3602 & 3604 Rivercrest Dr.



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" = 333'



CITY OF AUSTIN

Development Services Department

One Texas Center | Phone: 512.978.4000
505 Barton Springs Road, Austin, Texas 78704

001/33

Board of Adjustment General/Parking Variance Application

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

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 # C15-2017-2047 ROW # 11774453 Tax # 013190102
TCAD ✓

Section 1: Applicant Statement

Street Address: 3602, 3604 Rivercrest Drive

Subdivision Legal Description:

Rivercrest Addition Section 2

Lot(s): 61 & 62

Block(s): A

Outlot: _____

Division: _____

Zoning District: LA

I/We Phil Moncada W/ Moncada Enterprises LLC on behalf of myself/ourselves as
authorized agent for Ryan Dumont affirm that on
Month August ☐, Day 8 ☐, Year 2017 ☐, hereby apply for a hearing before the
Board of Adjustment for consideration to (select appropriate option below):

☒ Erect ☐ Attach ☐ Complete ☐ Remodel ☐ Maintain ☐ Other: _____

Type of Structure: Boat Dock

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

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 and out of the slips very difficult. In addition, the body of water is not on the main body of Lake 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, associated 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.

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 main 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

3. 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 correct to the best of my knowledge and belief.

Applicant Signature: Phil Moncada Date: 07/11/2017

Applicant Name (typed or printed): PHIL MONCADA FOR MONCADA ENTERPRISES LLC

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): [REDACTED]

Section 4: Owner Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Owner Signature: Ryan Dumont 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 Moncada

Agent Mailing Address: 1301 S IH 35 Ste. 204

City: Austin State: TX Zip: 78741

Phone (will be public information): 512-627-8815

Email (optional – will be public information): [REDACTED]

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

Section 3: Applicant Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Applicant Signature: J. Hamilton Coleman Digitally signed by J. Hamilton Coleman
Date: 2017.09.07 11:40:42 -05'00' Date: 09/07/2017

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 complete application are true and correct to the best of my knowledge and belief.

Owner Signature: J. Hamilton Coleman Digitally signed by J. Hamilton Coleman
Date: 2017.09.07 11:41:55 -05'00' Date: 09/07/2017

Owner Name (typed or printed): _____

Owner Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: _____

Agent Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

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.

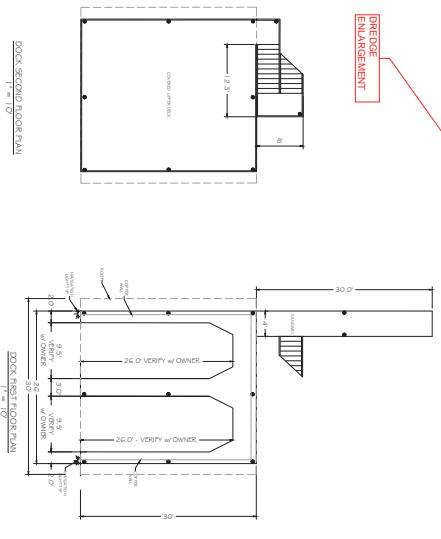
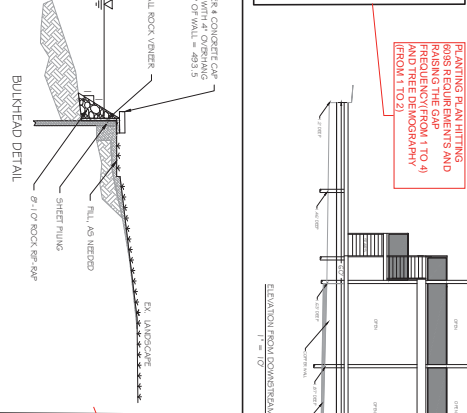
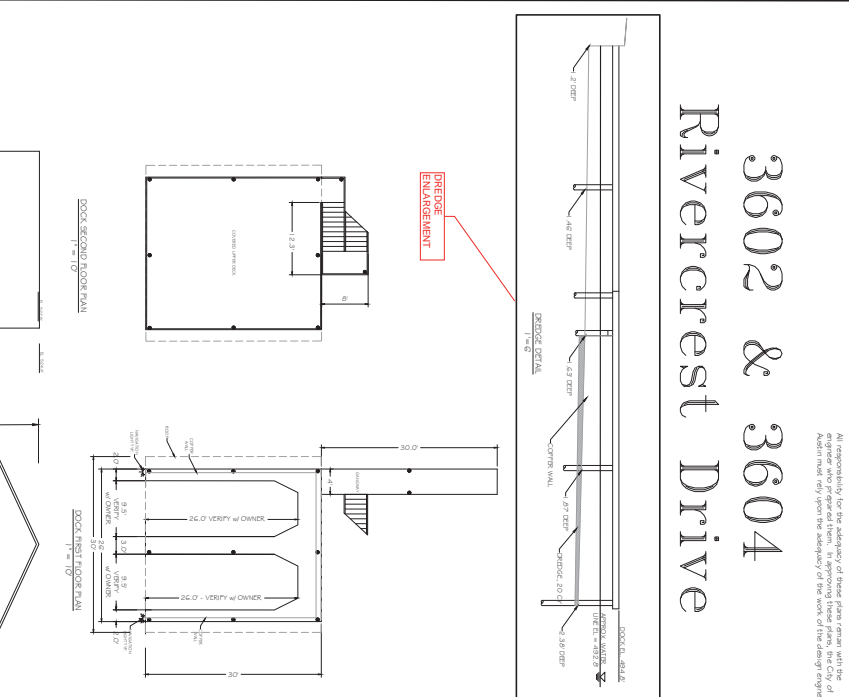
Additional comments may be generated based on update response, changes to site plan and/or new information.

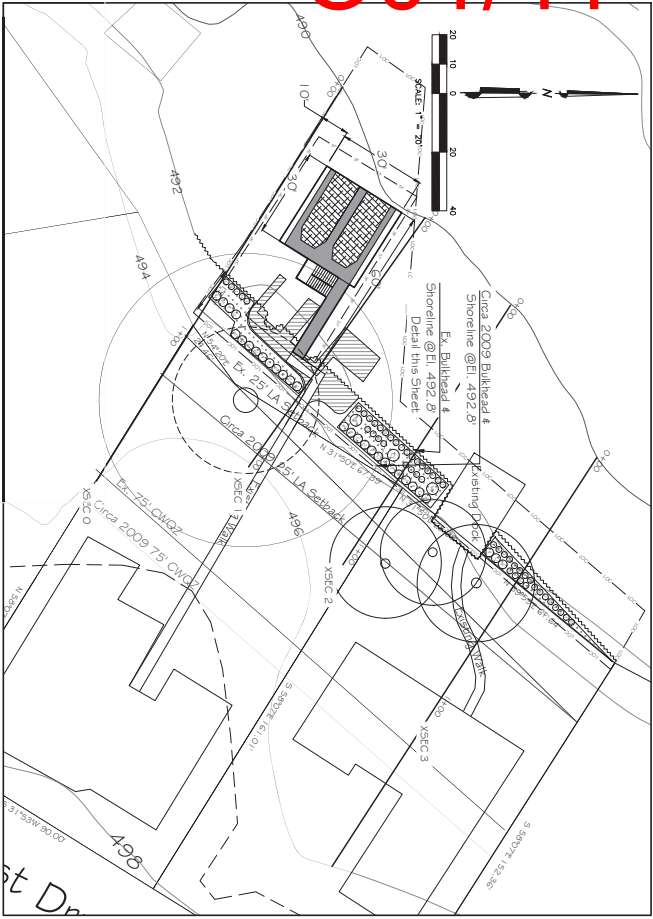
Planner 1 Review - Elsa Garza - 512-974-2308
--

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

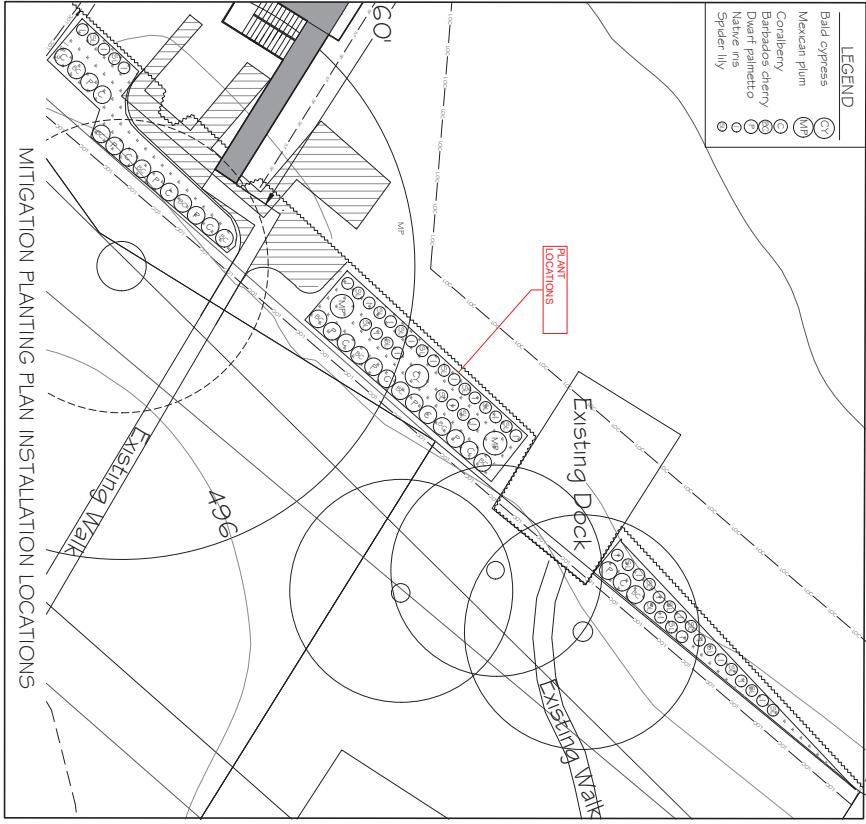
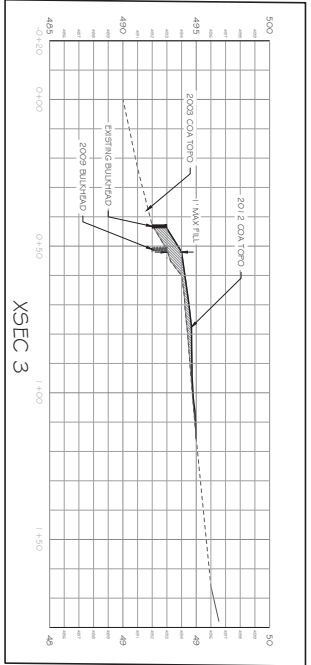
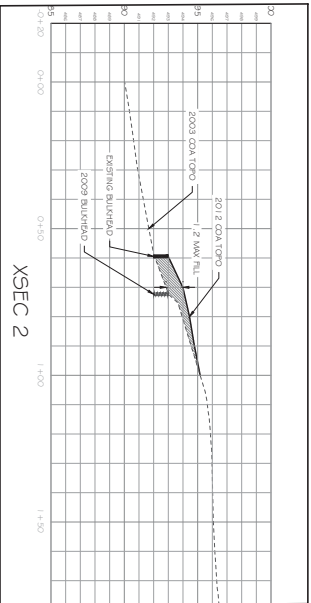
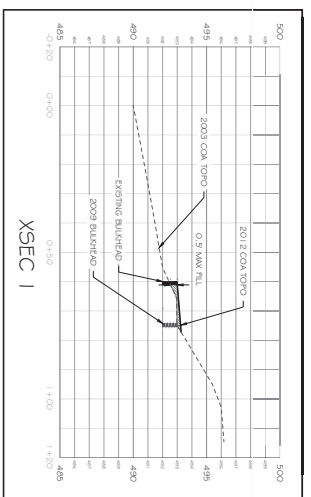
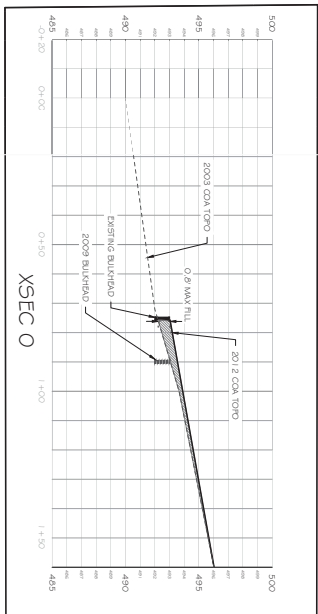
- P1. FYI – An appointment is required in order to receive the site development permit. The permit will be released after the flash drive has been submitted with the Intake Staff. Contact the Planner I listed above to set up an appointment to receive the site plan permit.
- P2. FYI – FLASH DRIVE REQUIREMENT
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





2002 & 2004 Rivercrest Drive FILL CALCULATIONS				
XSEC NO.	XSEC STA.	FILL (sf)	ASST FILL (sf)	DISTANCE (ft)
0	1	20.2	13.9	41.0
1	41	3.9	13.4	41.0
2	88	21.2	22.8	42.3
3	140	22.0	11.0	17.9
EXHIBIT	144	63.0		164.0



3602 & 3604 Rivercrest Drive

3602 & 3604 Rivercrest Drive
CUT/FILL XSECS
& CALCULATIONS

AUPPERLE COMPANY
Engineering, Planning & Development Services
10088 Circleview Drive, Austin, Texas 78733 512 329-8241
Texas Board of Professional Engineers Registration Number P-1994



NO.	DATE	REVISION	APPROV'D

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
Gap Frequency <i>A visual assessment of the number of gaps in vegetation.</i>	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 <i>An evaluation of the canopy and understory vegetation.</i>	> 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 <i>An assessment of the age class distribution of all canopy tree species.</i>	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

Assessed Condition (Circle One)

Excellent: 11 - 12

Good: 8 - 10

Fair: 5 - 7

Poor: 3 - 4

Zone 4 Score: 6

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):

Parameter	Excellent (4)	Good (3)	Fair (2)	Poor (1)	Score
Gap Frequency <i>A visual assessment of the number of gaps in vegetation.</i>	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 <i>An evaluation of the canopy and understory vegetation.</i>	> 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 <i>An assessment of the age class distribution of all canopy tree species.</i>	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

Assessed Condition (Circle One)


Excellent: 11 - 12

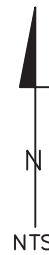
Good: 8 - 10

Fair: 5 - 7

Poor: 3 - 4

Zone 4 Score: 10

Identify Results	
Rock Unit	Map Click
Map Symbol	
Rock Unit Name	Fluvial terrace deposits
Rock Unit Code	Qt
Sheet Name	Austin
Period	Quaternary
Epoch or Series	Pleistocene
Group	N/A



3602 Rivercrest Drive
ATTACHMENT I

AUPPERLE COMPANY
Engineering, Planning & Development Services
10088 Circleview Drive, Austin, Texas 78733 512 329-8241
Texas Board Of Professional Engineers Registration Number F-1994

Source:
<https://txpub.usgs.gov/DSS/texasgeology/>

Wetland composed
of *Colocasia*
esculenta and *Salix*
nigra on adjacent
property

PAMS LAKE AUSTIN VENTURE LLC
3700 Rivercrest Drive
Lot 63, Blk. A, Rivercrest Add. #2
Deed: 2013151658
Use: SF Residence

James & Jane Coleman
3604 Rivercrest Drive
Lot 62, Blk. A, Rivercrest Add. #2
Deed Doc. # 2000010718
Zoning: LA
Use: SF Residence

Ryan & Margret Dumont
3602 & 3604 Rivercrest Drive
Lot 61, Blk. A, Rivercrest Add. #2
Deed Vol/ 7911, Pg. 170
Zoning: LA
Use: SF Residence

Kevin Boyd
3600 Rivercrest Drive
Lot 59 & 60, Blk. A, Rivercrest Add. #2
Zoning: LA
Use: SF Residence

FEMA & CNA FULLY DEVELOPED
100-YEAR FLOOD PLAIN
APPROX. ELEV. 496.5

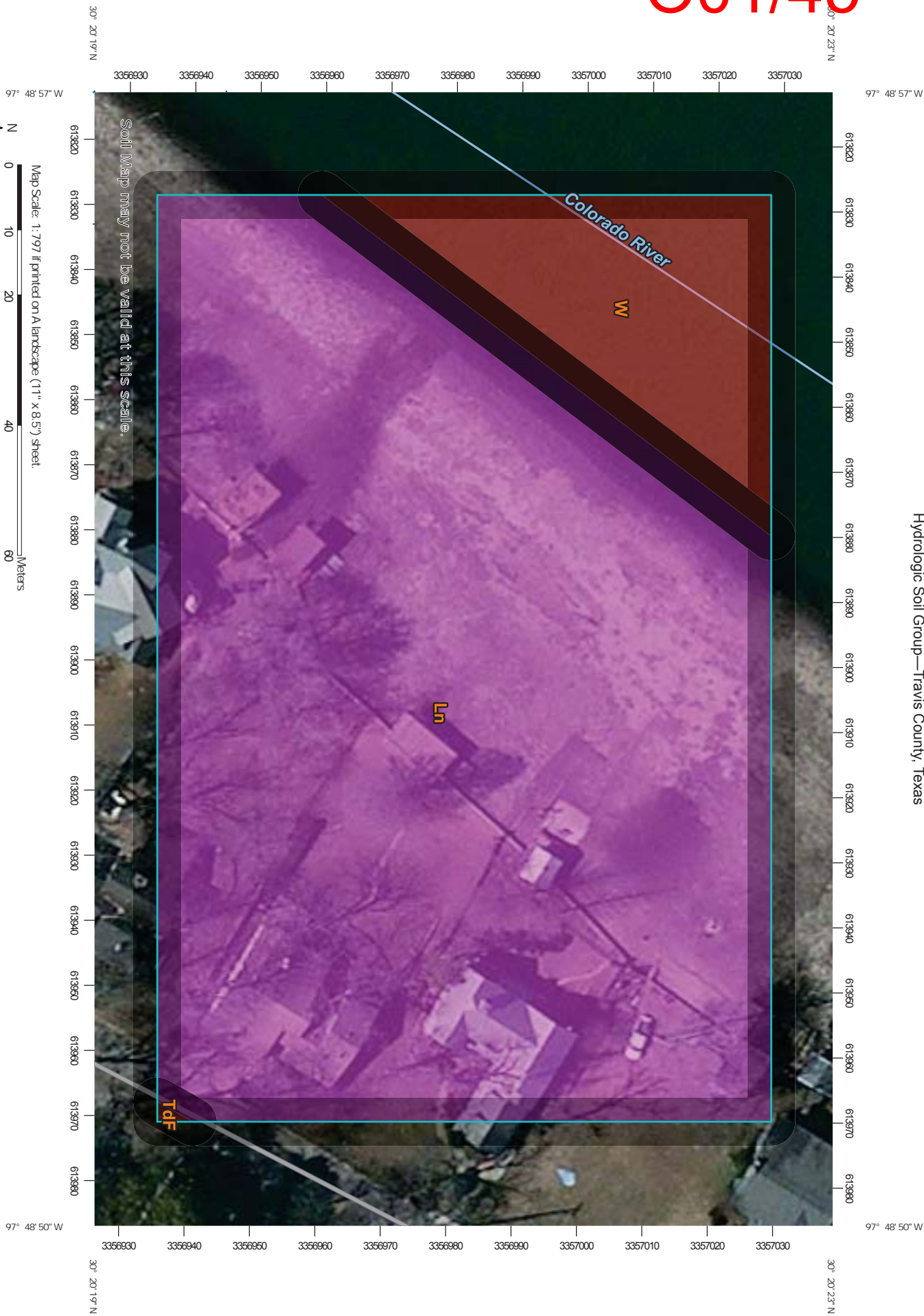
75' CWQZ

496

494

Rivercrest Drive

Hydrologic Soil Group—Travis County, Texas



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 Interest			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 2011



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

2009 aerial



2015 aerial



October 24, 2017
Hank Coleman
3604 Rivercrest Drive
Austin, TX 78746

Phil Moncada
President
Moncada Enterprises LLC
1301 S. I-H 35 Suite # 204
Austin, Texas 78741

Dear Phil:

I am writing to confirm that I am attempting to find the letters I wrote to both the City of Austin Health Department and to the Building Department about the issues with the City's maintenance of its property at my home.

I am sure that some of the AASCI files recovered from my HDD will provide me a copy of the letters, complete with dates and to whom I addressed them, but at this point, I'm digging through files which were recaptured from a HDD which is over 14 years old.

That said, I'm writing to give you the series of events and provide photos of the material which was dredged from in front of my property (which can be confirmed by the dredging permit issued to Signor Enterprises for work commencing in January 2001 – which I assume can be found in the City's files). This material was built up through years of a circular motion of the water flow and mechanics was over 3 feet in depth. Before we reached the actual "river" materials, and since I owned the lot next door, we proceeded to extract over 100 eighteen yard truckloads of this material. In fact the new construction of the house next door is actually out of the flood plain due to the amount of organic materials removed from the lakefront.

Unfortunately, this was a relatively short term solution. Due to what we now know was an illegal peninsula created by a previous owner 3 properties down the street, the aqua mechanics (as provided in prior correspondence) create an eddy which remained in place despite the dredging and the remediation of the lakefront.

As per the same correspondence, I began to understand that no matter what we did on the removal front, the materials brought in through the wave action of the deep hull boats had no way to exit down the lake and move as one would expect with the normal west to east flow which occurs naturally as the river moves from Mansfield Dam to Tom Miller dam.

So, with the knowledge that these rancid and foul smelling materials would build up, we waited.

As discussed the materials grew so large that they grew out of the lake and began to collect debris and trash as one would expect.

My wife finally decided to call the City and ask them to come out to take care of the issue and since it appeared to be a health issue, she called the Health Department.

The outcome of that visit is what prompted the solution.

Upon visiting the lakefront, the city inspector noticed the foul smell and the collection of debris gathering in the lake. His first comment was “that’s the lake.” To which my wife replied, “Yes and that belongs to you so we want you to remedy it.” Looking baffled he said that the Health Department was not prepared to do anything about it and that “you should take care of the problem.”

So, I sent the Hydrologist the response and asked what could be done to remedy the issue. Once getting what appeared to be a reasonable solution, I wrote letters to both the Health Department and the Building Department and reported that we would “take care of the problem” and was informing them.

His solution, which we have in place, in some fashion, for over 11 years was to build a wall which angled from the property 2 doors down, ended at the point of our current house and flattened out on our adjoining property. This solution is still in place.

As I pointed out, if this was a “land grab” then the person who paid for this (other than \$1500 Mr. Dumont contributed), I paid for the entire wall and construction of it and, by rights, should have received the most property, correct? Would that not be logical?

In fact, it’s quite the opposite and the largest incursion into the lake (which I now understand was required given the illegal peninsula found down the lake) is not on my property at all but the property two doors down. This was required since there needed to be an “angle” of exit created to move the organic materials. In fact the eastern border of my property sits slightly “inside” of the property line at the water’s edge.

The first iteration of this solution was nothing but a plywood wall construct to make sure we were accomplishing what the hydrologist told us would be the desired effect. Only after the continuous observation of this and the massive flooding of 2007, did we see that this solution was, in fact, an effective one. At that point, we began to face the wall with seawall materials to mitigate the wave action created by the deep hull boats, but the original wall has remained to this date.

This mitigation technique has caused no harm to anyone and remediated a problem created far before our ownership of this property which, in January, will be eighteen years.

Again, thanks for all your help with this.

Sincerely,

A handwritten signature in blue ink, appearing to read "Hank Coleman", with a stylized, flowing script.

October 24, 2017

Hank Coleman

Title













