

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

DATE: Monday April 08, 2019

CASE NUMBER: C15-2019-0020

<u> </u> Y <u> </u>	Ada Corral
<u> </u> Y <u> </u>	William Burkhardt
<u> </u> Y <u> </u>	Darryl Pruett
<u> </u> Y <u> </u>	Eric Goff
<u> </u> Y <u> </u>	Melissa Hawthorne
<u> </u> Y <u> </u>	Yasmine Smith
<u> </u> Y <u> </u>	Don Leighton-Burwell
<u> </u> - <u> </u>	Rahm McDaniel OUT
<u> </u> Y <u> </u>	Martha Gonzalez (Alternate) RM
<u> </u> Y <u> </u>	Veronica Rivera
<u> </u> Y <u> </u>	James Valdez
<u> </u> - <u> </u>	Michael Von Ohlen (left early)
<u> </u> - <u> </u>	Kelly Blume (Alternate) OUT
<u> </u> - <u> </u>	Alternate (Vacant)

OWNER/APPLICANT: Jarrod E. Cunningham

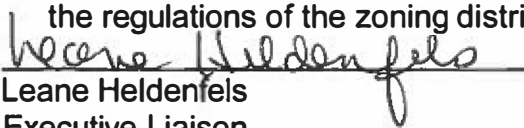
ADDRESS: 3804 COUNSELOR DR

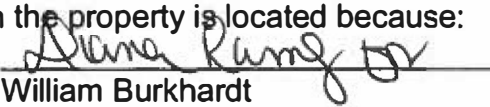
VARIANCE REQUESTED: The applicant has requested a variance(s) from Section 25-2-899 (D) (Fences as Accessory Uses) to increase the fence height permitted from an average of 6 feet, maximum of 7 feet (required/permitted) to 8 feet (requested) in order to replace an existing solid privacy fence in an "SF-2" Family Residence zoning district

BOARD'S DECISION: BOA APRIL 8, 2019 The public hearing was closed on Board Member Don Leighton-Burwell motion to postpone to May 13, 2019, Board Member Darryl Pruett second on a 10-0 vote; **POSTPONED TO MAY 13, 2019.**

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

From: Jarrod
Sent: Tuesday, April 09, 2019 9:49 AM
To: Heldenfels, Leane <Leane.Heldenfels@austintexas.gov>
Subject: RE: 4/8 Board of Adjustment hearing

Leane,

I do not wish to seek further interaction with the BOA regarding this case any further. Please withdraw any and all submissions for continuance.

I will deal with coding official moving forward, as my request for variance is far too detrimental to the City of Austin to be even remotely considered. Please accept my gratitude for your assistance through the process.

Sincerely,

Jarrod Cunningham
3804 Counselor Dr.
Austin, Tx 78749

BOA CASE REVIEW SHEET

CASE: C15-2019-0020

BOA DATE: April 8, 2019

ADDRESS: 3804 Counselor Drive

COUNCIL DISTRICT: 8

OWNER: Jarrod Cunningham

AGENT: None

ZONING: SF-2

AREA: Lot 22, Block E, Maple Run, Section 2A

VARIANCE REQUEST: 8' fence

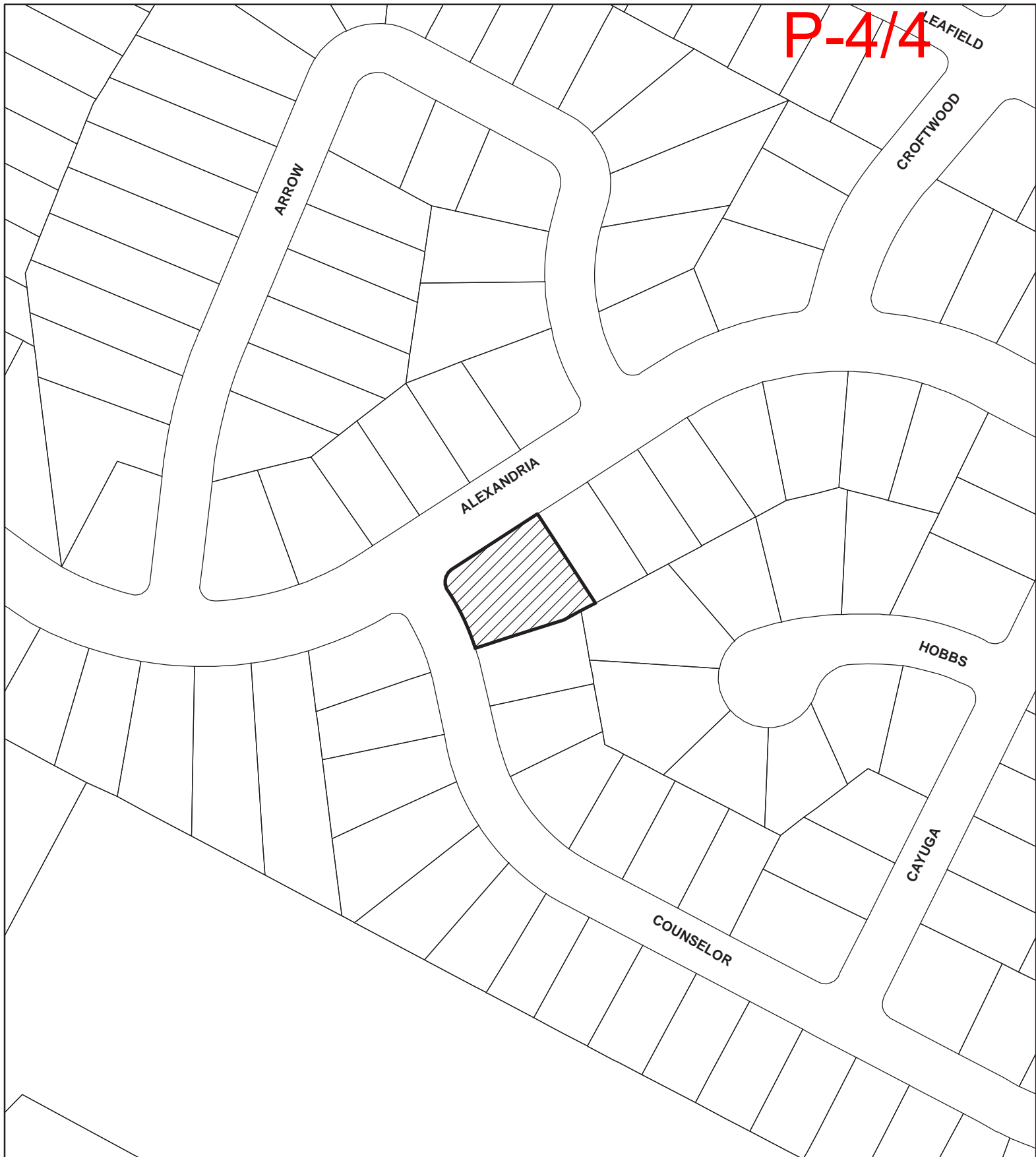
SUMMARY: replace existing

ISSUES: topography

	ZONING	LAND USES
<i>Site</i>	SF-2	Single Family Residential
<i>North</i>	SF-2	Single Family Residential
<i>South</i>	SF-2	Single Family Residential
<i>East</i>	SF-2	Single Family Residential
<i>West</i>	SF-2	Single Family Residential

NEIGHBORHOOD ORGANIZATIONS: Austin Independent School District; Bike Austin; Circle C Neighborhood Association; Deer Park Owners Association; Friends of Austin Neighborhoods; Homeless Neighborhood Association; Maple Run-Wheeler Creek-Woodstone Village; Neighborhood Empowerment Foundation; Oak Hill Association of Neighborhoods; Oak Hill Trails Association; Palomino Park HOA; Preservation Austin; SEL Texas; Save Our Springs Alliance; Sierra Club, Austin Regional Group; South Austin Neighborhood Alliance; TNR BCP – Travis County Natural Resources

P-4/4



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2019-0020
LOCATION: 3804 Counselor Drive



1" = 127'

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.



CITY OF AUSTIN

Development Services Department

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

P-4/5

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 # _____ ROW # _____ Tax # _____

Section 1: Applicant Statement

Street Address: 3804 Counselor Drive Austin, Tx 78749

Subdivision Legal Description:

LOT 22 BLK E MAPLE RUN SEC 2 A

Lot(s): LOT 22

Block(s): BLK E

Outlot: _____

Division: MAPLE RUN

Zoning District: SF-2

I/We Jarrod E Cunningham on behalf of myself/ourselves as
authorized agent for Jarrod E Cunningham affirm that on
Month February, Day 28, Year 2019, 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: Replace fencing (natural wood Cedar verticle picket type 80" height picket).

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

Austin City Code Section: Fencing as Accessory Uses (25-2-899)

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:

Current zone restrictions of fencing do not allow for acceptable security and privacy of the previously installed swimming pool. The existing code of 6ft fencing still allows unacceptable liability concerns of this pool.

Hardship

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

Due existing slope and proximity of previously constructed in ground swimming pool, the previous 6ft fencing was inadequate security for this area. This allowed access to this property by undesired parties quite readily. Erection of said replacement fencing was performed using 8ft fencing using the same existing fence line as previously occupied delapidated 6ft Cedar fencing.

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

Specific sloping within this lot adversely affects the elevation unevenly, thus preventing adequate coverage in both security and privacy of the back yard area.

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:

Full attention to this was maintained through the entire project, as this was a paramount concern from onset. The replacement was not intended to be "isolationist" in nature, but to fully secure what could become a liability to the property owner if not addressed. Natural complementary materials were used during this project as to not disturb the neighborhood visual "flow". This fencing was professionally installed by a liscensed contractor.

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:

No change/impact in parking was resultant of this project. Existing parking areas remain unchanged. No additional areas were created as well.

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:

No impact will be felt.

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

No safety concerns exist. The fencing was erected on pre-existing fence lines. No additional concerns exist that were not present with previous fencing. No utility access points are adversely affected.

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

This property is residential. It has no present commercial use, or any future plans to become one. No other use other than residential domicile is employed.

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: Jarrold Cunningham Date: 02/28/2019

Applicant Name (typed or printed): Jarrold E Cunningham

Applicant Mailing Address: 3804 Counselor Dr.

City: Austin State: Tx Zip: 78749

Phone (will be public information): (512) 433-9655

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: Jarrold Cunningham Date: 02/28/2019

Owner Name (typed or printed): Jarrold E Cunningham

Owner Mailing Address: 3804 Counselor Dr.

City: Austin State: Tx Zip: 78749

Phone (will be public information): (512) 433-9655

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

Section 5: Agent Information

Agent Name: Jarrold Cunningham

Agent Mailing Address: 3804 Counselor Dr

City: Austin State: Tx Zip: 78749

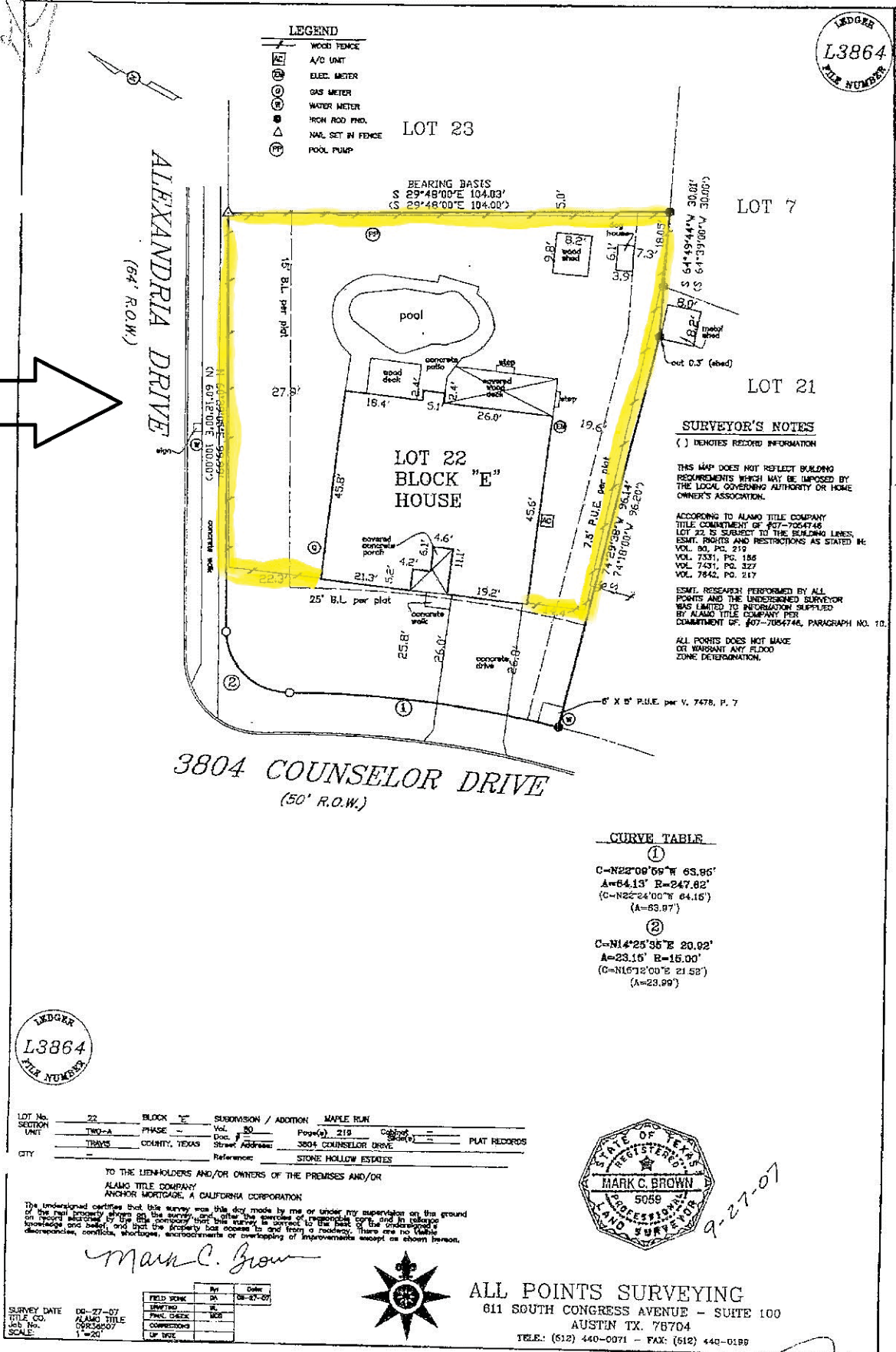
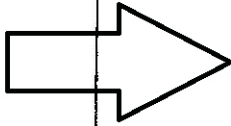
Phone (will be public information): (512) 433-9655

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).

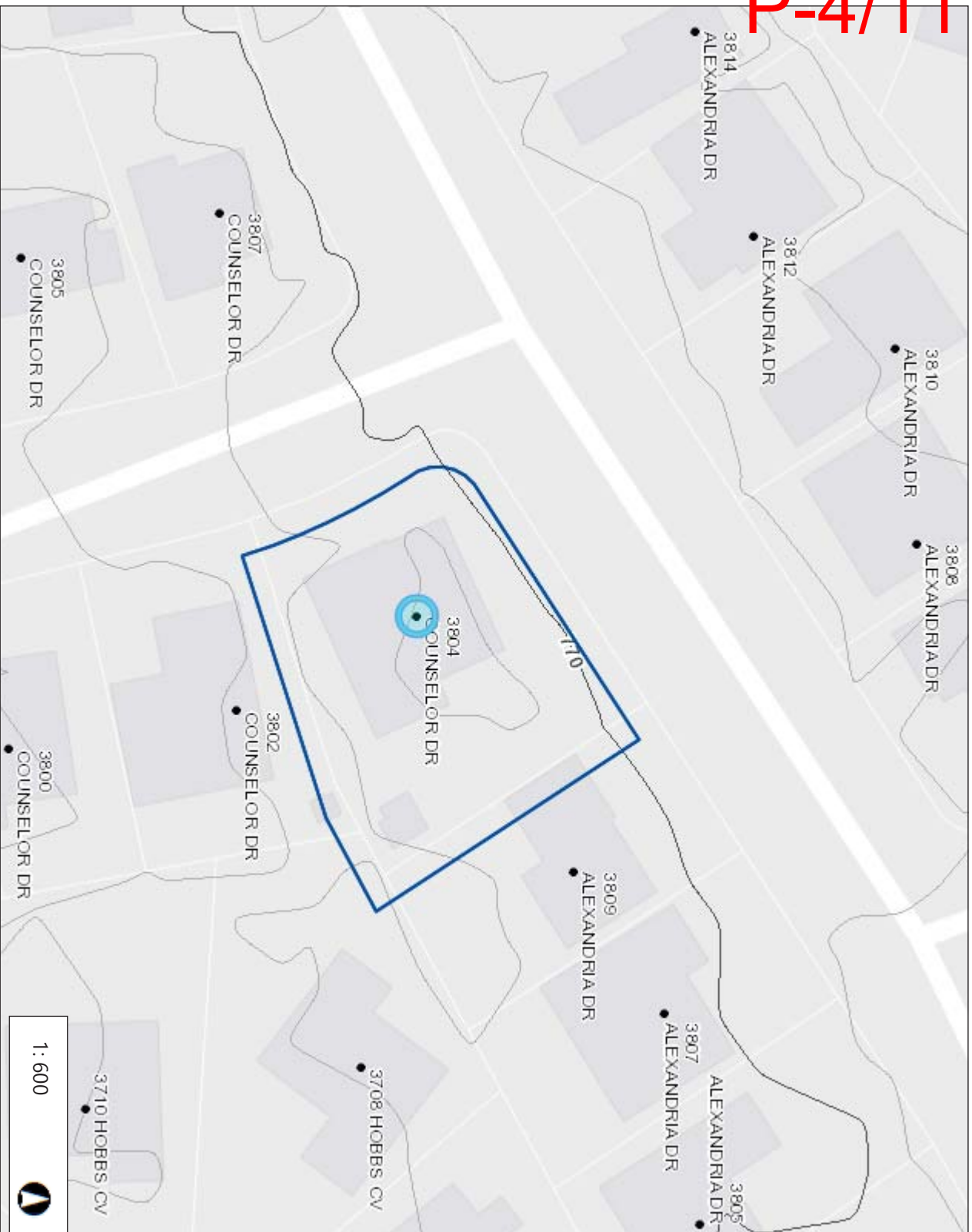
Replacment
fencing runs
same fence
line as previous
fencing line
(Highlighted area)





Property Profile

P-4/11



1: 600



Legend

- Addresses
- Jurisdiction
 - FULL PURPOSE
 - LIMITED PURPOSE
 - EXTRATERRITORIAL JURISDICTION
 - 2 MILE ETJ AGRICULTURAL AGR
 - OTHER CITY LIMITS
 - OTHER CITIES ETJ
- Contours Year 2012
 - 2 Ft Contours
 - 10 Ft Contours

Notes

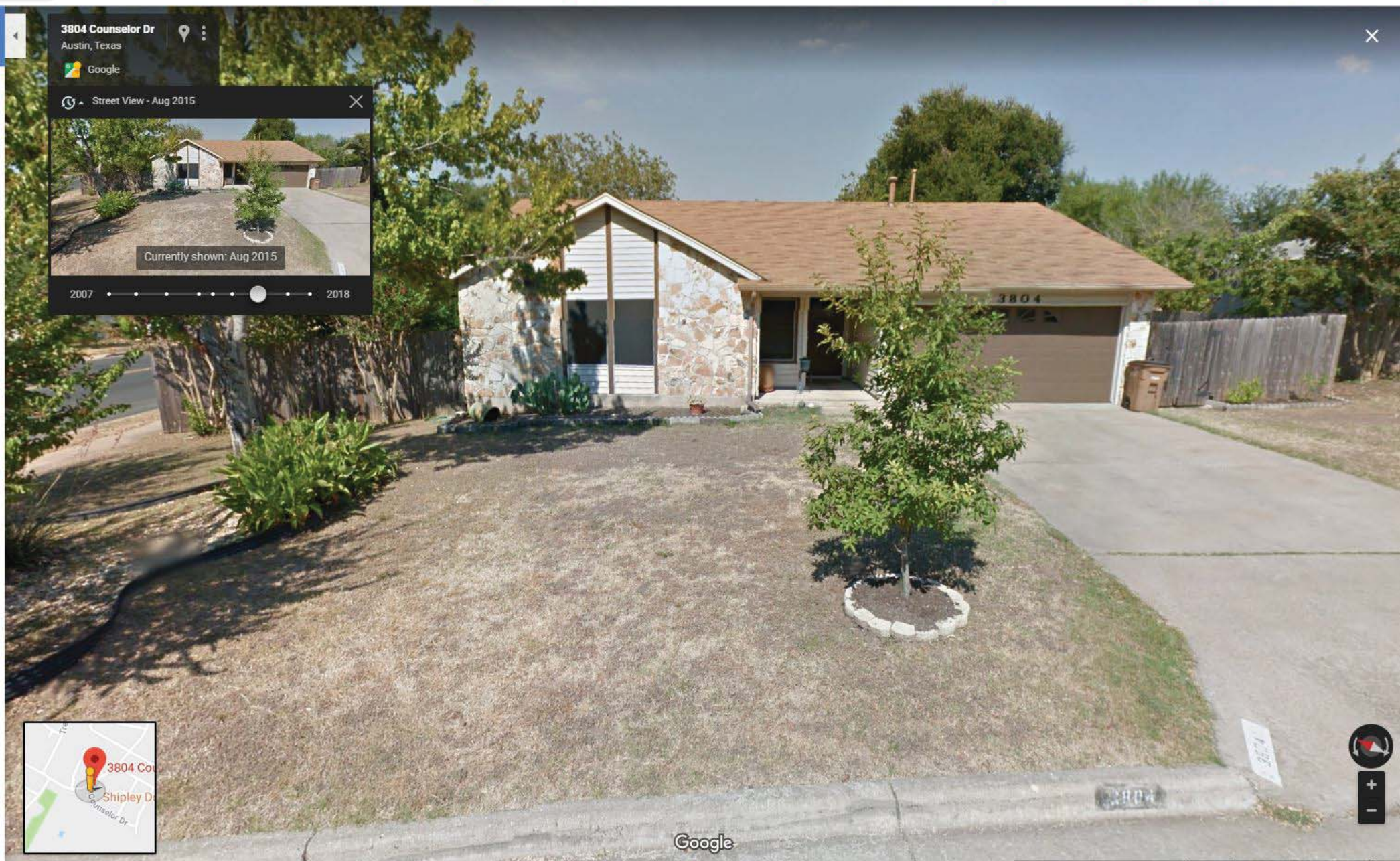
3804 Counselor Topography map

0.0 0 0.01 0.0 Miles
NAD_1983_StatePlane_Texas_Central_FIPS_4203_Feet
3/5/19

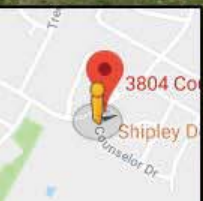
This product is for informational purposes and may not have been prepared for or be suitable for legal engineering or surveying purposes. It does not represent an on-the-ground survey. This product has been produced by the City of Austin for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

80"
Picket
Height





3804 Counselor Dr
Austin, Texas
Google





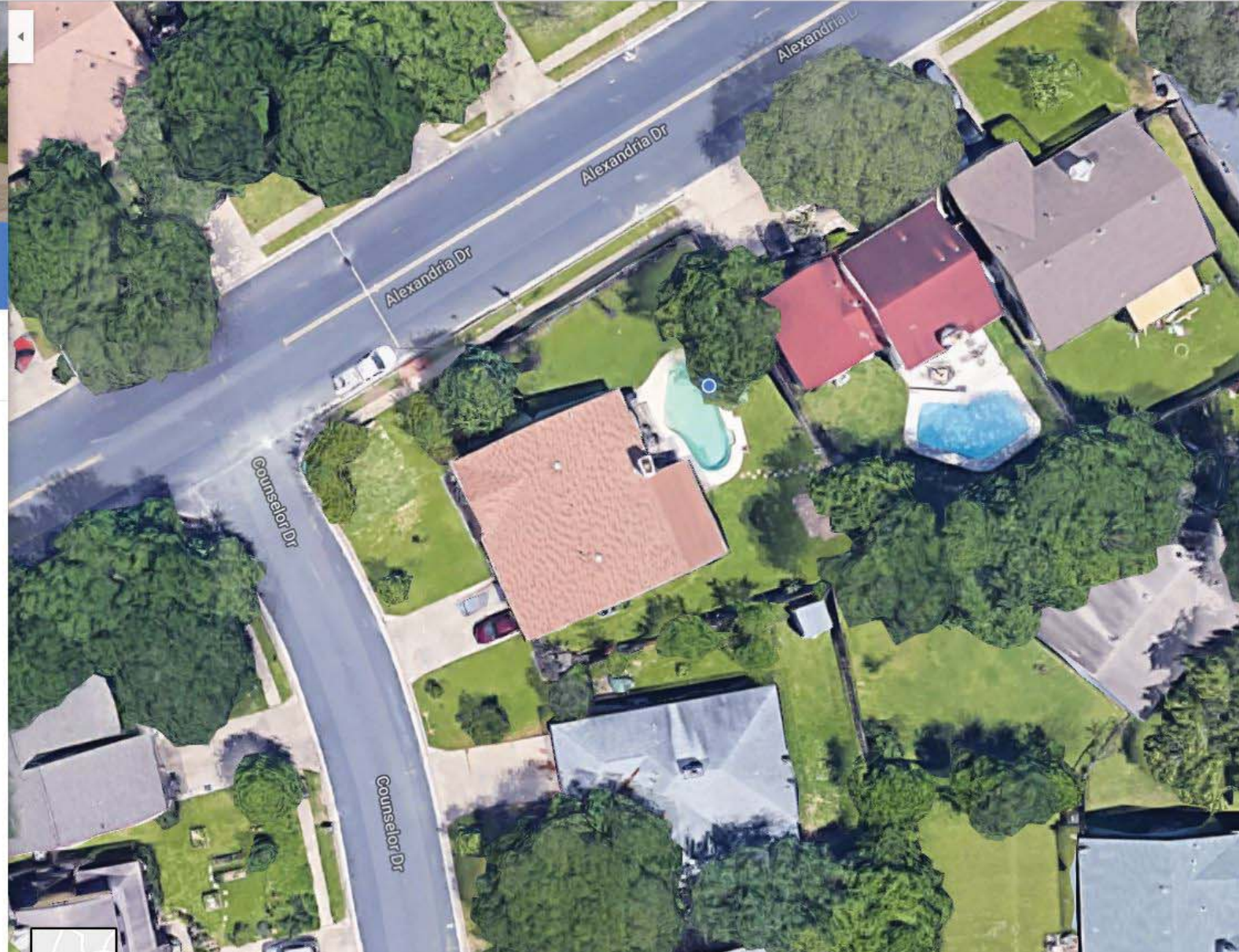
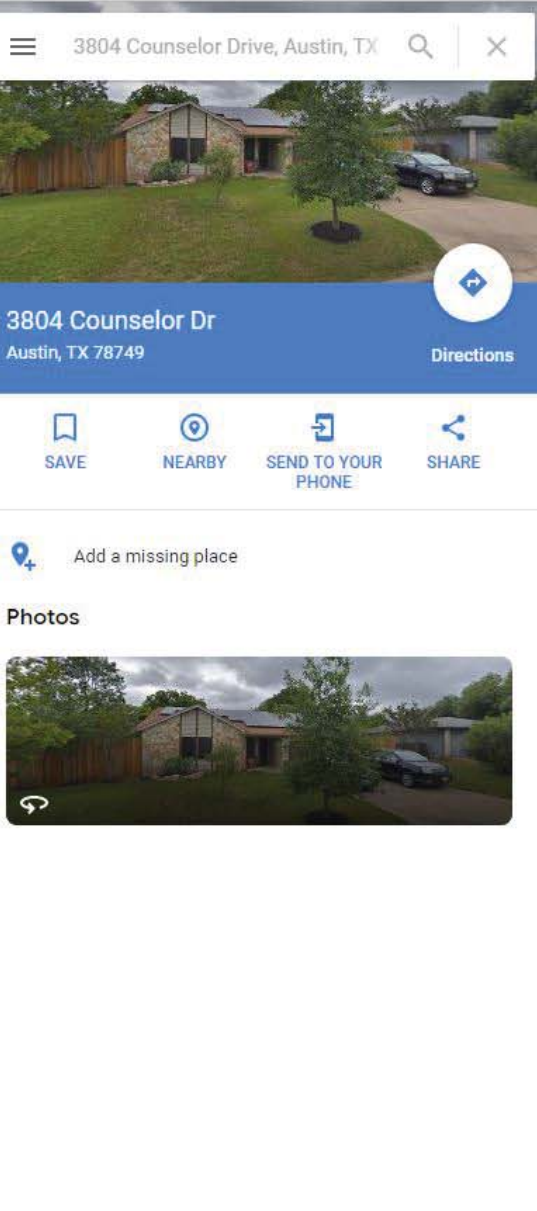
Asthetically, neighboring property has a 6ft fence on a 3 ft grade. When viewed in comparison, the overall height is virtually the same. This fencing now blends with exsisting neighboring visual impact.



This was main reason for added security of existing in ground pool. Previous 6 ft. fencing still allowed access to this area.











P-4/22



P-4/23



P-4/24

This is the ONLY public utility impact. It is located on neighboring property 3809 Alexandria Dr. It is still fully accessible.



P-4/25



P-4/26



4 1730

Revision Date
04/14/2008

0 120 Feet

4180	41628	41427	41026
41830	41828	41629	41727
42337	41730	42327	41827
42000	42028	41928	41927
42200	42228	42225	42222

Italic	= 100 scale map
Thin	= 100 scale map
Bold	= 400 scale map

NAD_1983_StatePlane_
Texas_Central_FIPS_4203_Feet
projection: Lambert_Conformal_Conic

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

Travis Central Appraisal District
8314 Cross Park Drive
Austin, Texas 78754
P.O. Box 149012
Austin, Texas 78714
Internet Address: www.traviscad.org
Main Telephone Number (512)-834-9317
Appraisal Information (512) 834-9318
TDD (512) 836-3328



**300 ft radius of
affected property**

Counselor
Drive Vineyard

Walter's Folly
WashD


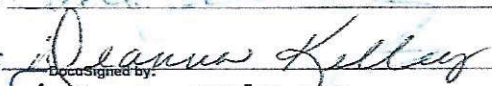
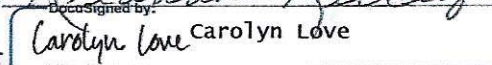
100 ft





P-4/30

I, customer of Viking Fence Co. affirm that I have been provided a copy of the City of Austin Code: City Code 25-2-899 - Fences as Accessory Uses, as well as the direction of the building official. I understand and accept that the compliance with the code is my sole responsibility and not the responsibility of the Viking Fence Co. Viking Fence Co. is relieved of any and all responsibility and/or liability to do with fence height, city code, permitting, variances, neighbor agreements, fines, or costs..... to include costs to tear down and/or cut down a fence that does not meet the code if instructed by the city.

PRINTED NAME: JARROD CUNNINGHAM3804 COUNSELOR DR
AUSTIN, TX 78749SIGNATURE: Neighbor 3708 HOBBS LOVE DR
AUSTIN, TX 78749Neighbor 3809 ALEXANDRIA DR.
AUSTIN, TX 78749Neighbor 

Carolyn Love

10/24/2017

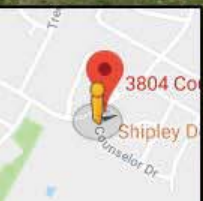
3802 COUNSELOR DR
AUSTIN, TX 78749

Neighbor _____

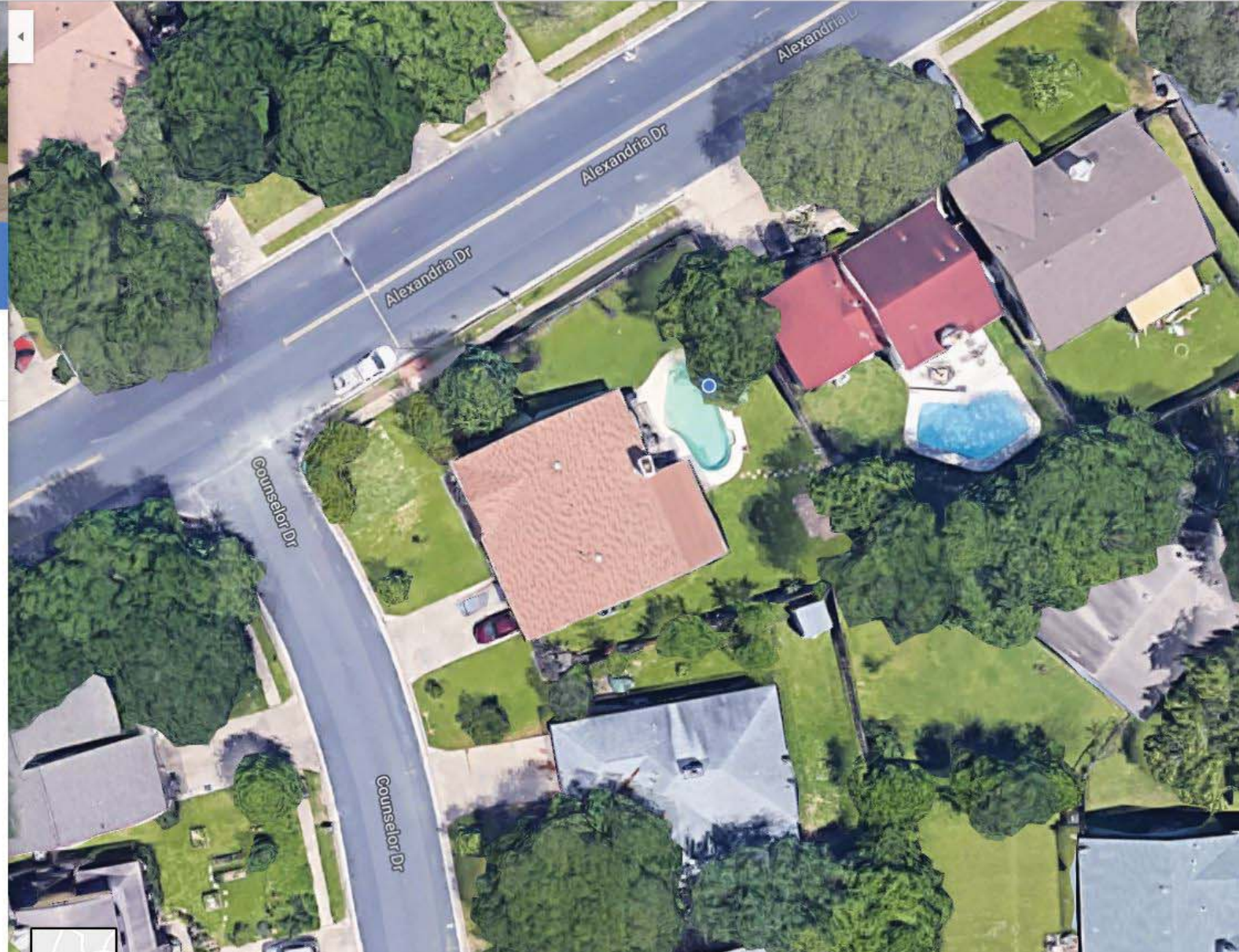
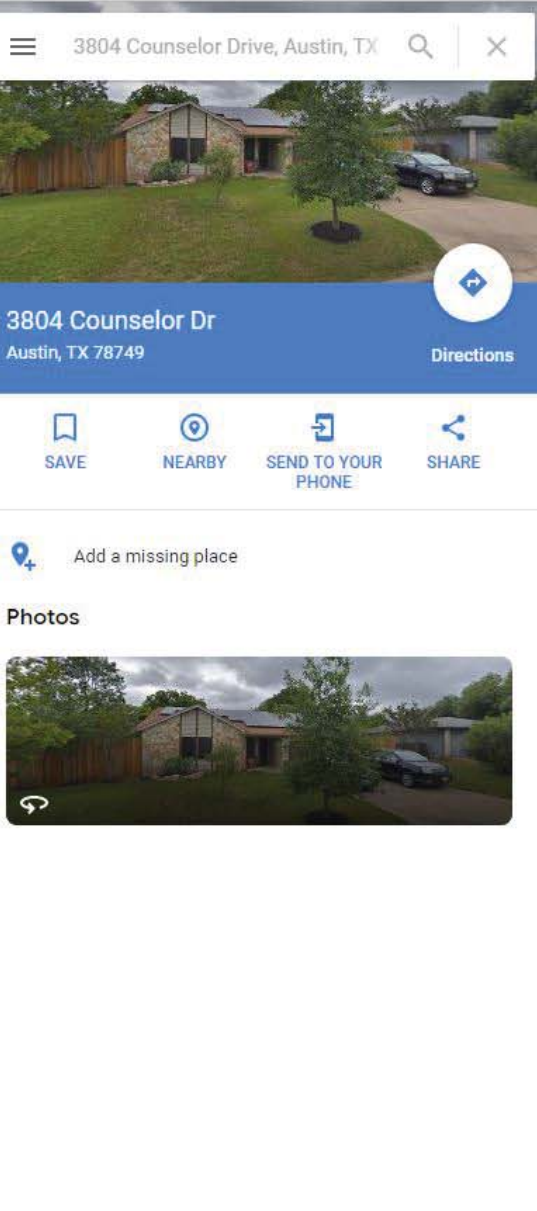
Neighbor _____

DATE: _____

3804 Counselor Dr
Austin, Texas
Google









I, Jarrod Cunningham (residing at 3804 Counselor Dr. , LOT22 BLK E MAPLE RUN SEC 2-A), am applying for a variance from the Board of Adjustment regarding Section 25-2-899 of the Land Development Code. The variance would allow me the ability to: Keep existing (built in Nov 2017) 8 foot (84" privacy fencing of natural cedar construction) as built, with no modifications in height, or location thereof.

By signing this form, I understand that I am declaring my support for the variance being requested.

Property Owner Name (Printed)	Address	Signature
Chris Reynolds	3807 Counselor Dr Austin, TX 78749	<i>Chris Reynolds</i>
JOE TITUS	3816 ALEXANDRIA DR. AUSTIN 78749	<i>Joe Titus</i>
Dave Seeterlin	3514 Alexandria Dr Austin 78749	<i>Dave Seeterlin</i>
Monica Lewis	3829 Arrow Drive Austin 78749	<i>Monica Lewis</i>
Carlos De La Cruz	3827 Arrow Dr Austin, TX 78749	<i>Carlos De La Cruz</i>
MICHAEL MOSES	3802 Arrow Dr	<i>Michael Moses</i>

Matt Reedy	3803 Alexandria Dr Austin TX 787219	W. King
------------	----------------------------------------	---------

By signing this form, I understand that I am declaring my support for the variance being requested.

Property Owner Name (Printed)	Address	Signature
AJ Valles	3807 Alexandria	AJ Valles
Ed Moran	3806 ALEXANDRIA	Ed Moran
John Presler	3808 ALEXANDRIA	John Presler
Shannon Murphy	3810 Alexandria Dr.	Shannon Murphy
Rob + Amy Cartwright	3805 Counselor Dr.	Rob + Amy Cartwright
Doug McLeod	3803 COUNSELOR DR.	Doug McLeod
Elizabeth McGreery	3713 Counselor Dr.	Elizabeth McGreery
Joseph Triola	3800 Counselor Dr.	Joseph Triola
Lily Omay	3706 Hobbs Cove Dr.	Lily Omay
Heather Sanchez	3708 Hobbs Cove Dr.	Heather Sanchez
Nicole Gilbert	3700 Hobbs Cove Dr.	Nicole Gilbert
Suzie Higley	3803 Arrow Dr.	Suzie Higley
Linda Pruett	3812 Alexandria Dr.	Linda Pruett



I, Jarrod Cunningham (residing at 3804 Counselor Dr. , LOT22 BLK E MAPLE RUN SEC 2-A), am applying for a variance from the Board of Adjustment regarding Section 25-2-899 of the Land Development Code. The variance would allow me the ability to: Keep existing (built in Nov 2017) 8 foot (84" privacy fencing of natural cedar construction) as built, with no modifications in height, or location thereof.

By signing this form, I understand that I am declaring my support for the variance being requested.

Property Owner Name (Printed)	Address	Signature
DEANNA KELLEY	3809 ALEXANDRIA DR	Deanna Kelley
Catherine Cook	3817 Alexandria Dr.	Catherine Cook
Larisa Melnick	3835 Arrow Dr.	Kelley
Ashleigh Pavell	3708 Counselor Dr.	Ashleigh Pavell
James Degnan	3800 Arrow Dr	James Degnan
Debra Kell	3805 Arrow Dr	Debra Kell



I, Jarrod Cunningham (residing at 3804 Counselor Dr. , LOT22 BLK E MAPLE RUN SEC 2-A), am applying for a variance from the Board of Adjustment regarding Section 25-2-899 of the Land Development Code. The variance would allow me the ability to: Keep existing (built in Nov 2017) 8 foot (84" privacy fencing of natural cedar construction) as built, with no modifications in height, or location thereof.

By signing this form, I understand that I am declaring my support for the variance being requested.

Property Owner Name (Printed)	Address	Signature
Jarrod Cunningham	3802 Counselor Austin	[Signature]

From: Elizabeth McGreevy
Sent: Saturday, March 30, 2019 7:26 PM
To: Heldenfels, Leane <Leane.Heldenfels@austintexas.gov>
Subject: case # C15-2019-0020 3804 Counselor Dr

Elizabeth McGreevy Seiler
3713 Counselor Dr, Austin, TX 78749

I am in favor of an 8' fence

The property owner's backyard is upslope from the very busy Alexandria Dr. From their backyard, people walking and driving by can see into their backyard with the standard 6' fence since this is a corner lot and upslope.

Sincerely,
Elizabeth McGreevy Seiler

restoration ecologist and landscape designer
landsteward.net
512.657.9675

PUBLIC HEARING INFORMATION

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

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

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

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

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

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

For additional information on the City of Austin's land development process, visit our website:

www.austintexas.gov/department/development-services.

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

Case Number: C15-2019-0020, 3804 Counselor Dr.

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

Public Hearing: Board of Adjustment, April 8, 2019

LINDA S. PARKER

Your Name (please print)

3804 ARROW DR

Your address(es) affected by this application

Linda Parker

Signature

Daytime Telephone: 512 6940883

Date

4/5/19

Comments:

If we can't do it, we'll be willing to put up a nice fence. There are some really bad looking fences in the neighborhood. So we're reasonable to be fixing them.

Comments must be returned by 10am the day of the hearing to be seen by the Board at this hearing. They may be seen via:

Mail: City of Austin-Development Services Department/ 1st Floor
Leane Heldenfels
P. O. Box 1088
Austin, TX 78767-1088

(Note: mailed comments must be postmarked by the Wednesday prior to the hearing to be seen by the Board at this hearing)

Fax: (512) 974-6305

Email: leaneheldenfels@austintexas.gov

P-4/40

PP 513