

**CITY OF AUSTIN  
Board of Adjustment  
Decision Sheet  
ITEM03**

**DATE: Monday May 8, 2023**

**CASE NUMBER: C15-2023-0024**

☐ Y ☐ Thomas Ates  
☐ Y ☐ Jessica Cohen  
☐ Y ☐ Melissa Hawthorne  
☐ Y ☐ Brian Poteet  
☐ - ☐ Agustina Rodriguez OUT  
☐ Y ☐ Margaret Shahrestani  
☐ Y ☐ Richard Smith  
☐ Y ☐ Janel Venzant  
☐ - ☐ Michael Von Ohlen OUT  
☐ Y ☐ Nicholl Wade  
☐ Y ☐ Kelly Blume (Alternate)  
☐ - ☐ Carrie Waller (Alternate)  
☐ Y ☐ Marcel Gutierrez-Garza (Alternate)

**APPLICANT: Micah King**

**OWNER: Thomas Neal Hull**

**ADDRESS: 1502 HILLMONT ST**

**VARIANCE REQUESTED:** The applicant is requesting a variance(s) from the Land Development Code, Subchapter F: Residential Design and Compatibility Standards, Article 2, Development Standards:

a) Section 2.2 (*Building Height*) (A) to increase the height from 32 feet (maximum allowed) to 37 feet (requested)

**and**

b) Section 2.6 (*Setback Planes*) (B. *Rear Setback Plane*) to extend outside the inwardly sloping 45-degree angle (required) by an additional 3 feet 10 inches (requested) in order to erect a Single-Family residence in an “SF-3”, Single-Family zoning district

**Note: 25-2 Subchapter F RESIDENTIAL DESIGN AND COMPATIBILITY STANDARDS, Article 2 Development Standards,**

**Section 2.2. – Building Height.**

*Except where these regulations superseded, the maximum building height for development subject to this Subchapter is:*

- (A) 32 feet for development located outside the 100-year floodplain; and
- (B) 35 feet for development located in the 100-year floodplain.

**Section 2.6. – Setback Planes.**

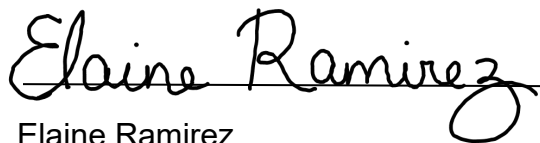
*This subsection prescribes side and rear setback planes in order to minimize the impact of a new development and rear development on adjacent properties. A structure may not extend beyond a setback plane except as authorized by subsection D. below. The height of a setback plane shall be measured under the requirements defined in [Section 3.4](#).*

**B. Rear Setback Plane.** *Except as provided in subsection D, an inwardly sloping 45-degree angle rear setback plane begins at a horizontal line directly above the rear property line at the same elevation as the horizontal line for the last portion of the side setback plane established in paragraph A.3.*

**BOARD'S DECISION: May 8, 2023 The public hearing was closed by Madam Chair Jessica Cohen, Board member Melissa Hawthorne motions to postpone to June 12, 2023; Madam Chair Jessica Cohen seconds on 10-0 votes; POSTPONED TO JUNE 12, 2023; June 12, 2023**

**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:



Elaine Ramirez  
Executive Liaison



Jessica Cohen  
Madam Chair

**Micah J. King**

**Partner**

111 Congress Avenue, Suite 1400

Austin, Texas 78701

Direct: 512.370.3468

May 26, 2023

The Board of Adjustment  
c/o Elaine Ramirez  
Planner Senior / Board of Adjustment Liaison  
The City of Austin

RE: Follow Up - Variance Request for Property Located at 1502 Hillmont Street

Dear Board Members:

Attached are additional exhibits to address comments from our hearing last time, including images of previous design iterations both from RIOS and previous firms. Our design team has done an incredible amount of work to try to make the variance request as minimal as possible while still coming up with a design that is reasonable and avoids the many trees and their Critical Root Zones, avoids building into the slope, and reduces impact to surrounding neighbors, who have written in support.

Based on your feedback we have:

1. Reduced proposed encroachment into rear setback plane by 1 foot.
2. Reduced proposed height variance by 6 inches.
3. Reduced impervious cover in the outdoor space.
4. Added rainwater gardens and rainwater collection.

To recap, our reduced variance request from Subchapter F is for a new single-family residential structure. The reduced request is to increase maximum height by 4.5 feet for the rear part of the residence and for a wedge of the top floor to go beyond the rear setback plane by 2 feet, 10 inches.

The design is in keeping with the area character because the front of the house would have a tiered design so that the front would have a lower height, with the massing and height pushed to the rear. The added height would facilitate the cantilevered design to avoid the slopes and trees.

Sincerely,

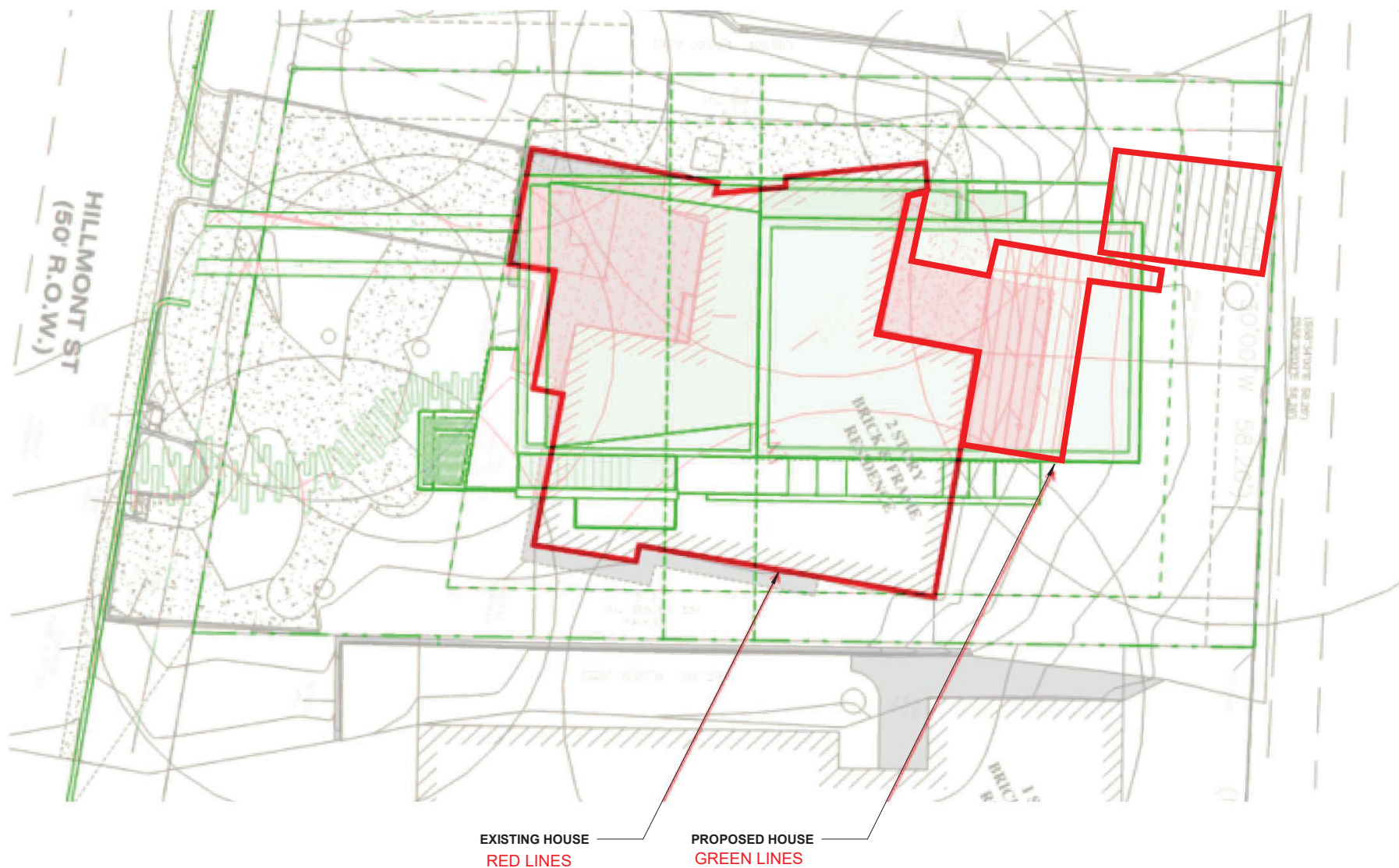


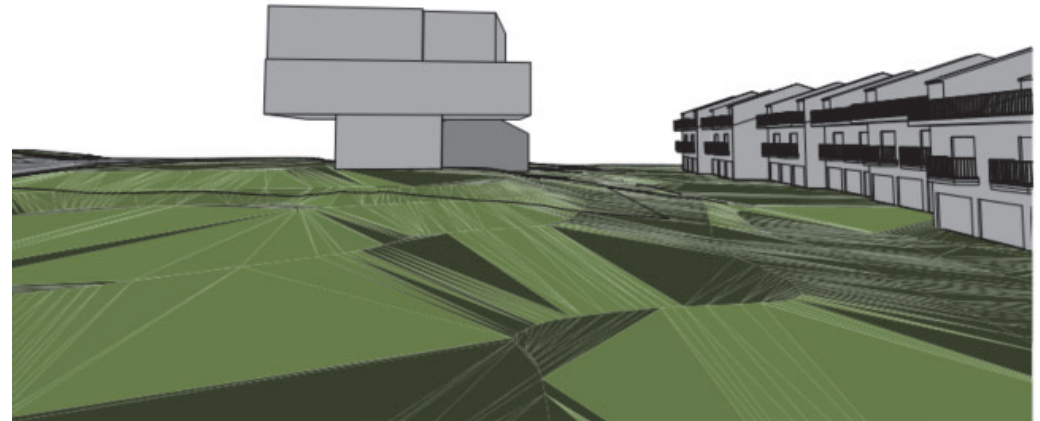
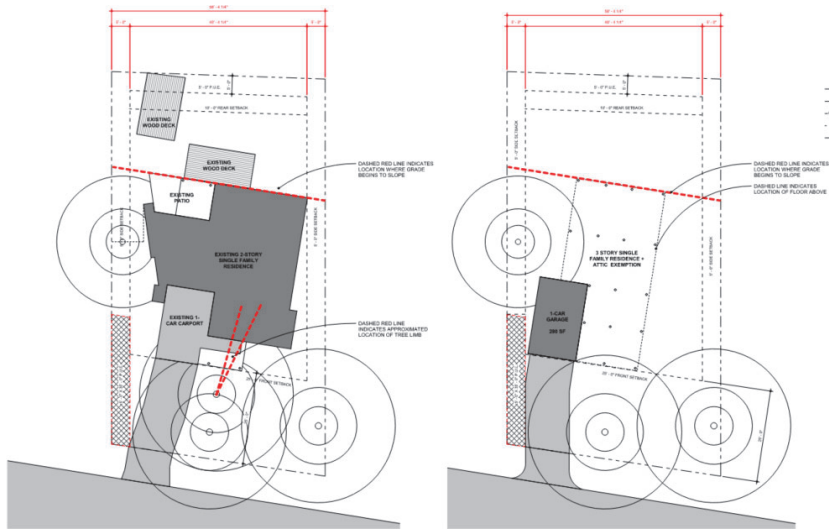
Micah King

# 1502 Hillmont Street

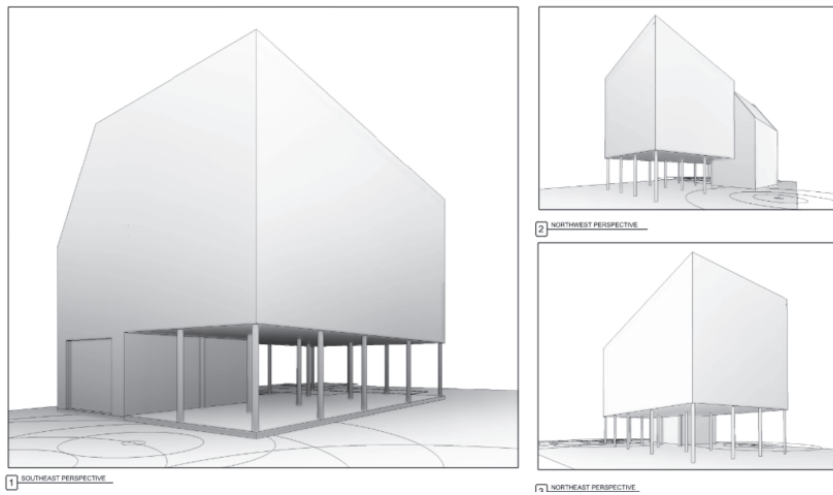








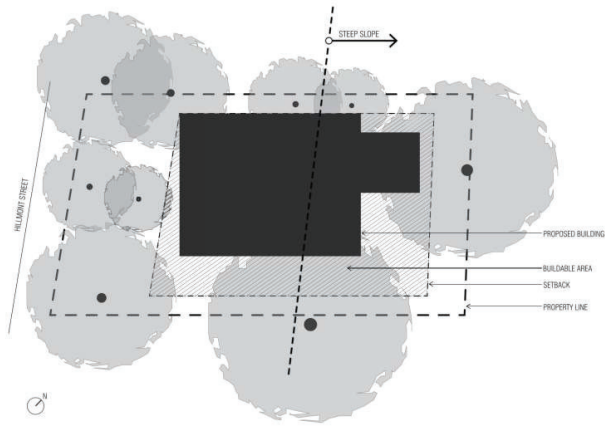
PREVIOUS ARCHITECTS STUDIES SHOW A BULKY MASS ALONG THE FRONT SETBACK WHICH IS A DIRECT CONCERN OF THE NEIGHBORHOOD. THESE STUDIES ALSO HAD VERY LOW CEILING HEIGHTS WHICH IMPACTS LIVEABILITY.



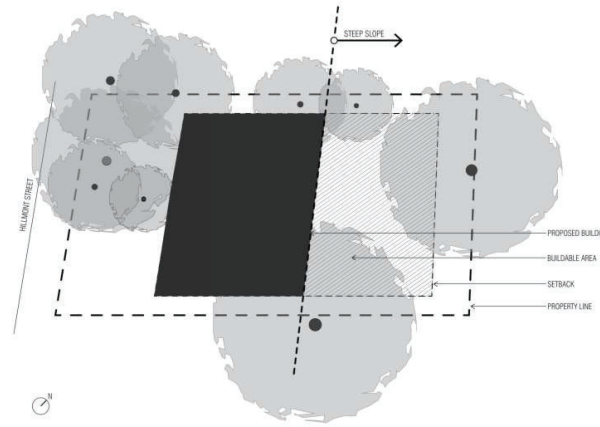
PREVIOUS DESIGN ITERATIONS (PREVIOUS DESIGN FIRMS)

1502 Hillmont Street | BOA SUBMISSION |

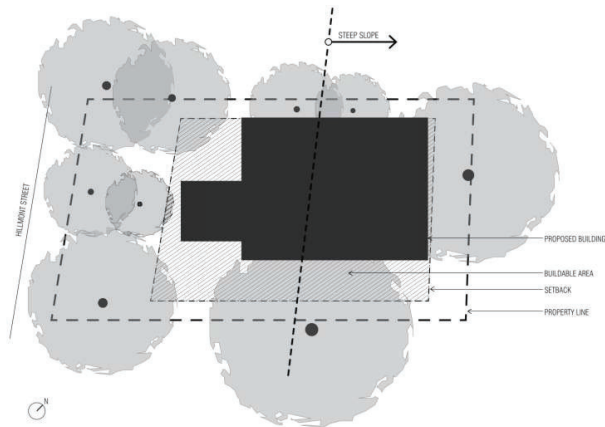
**RIOS**



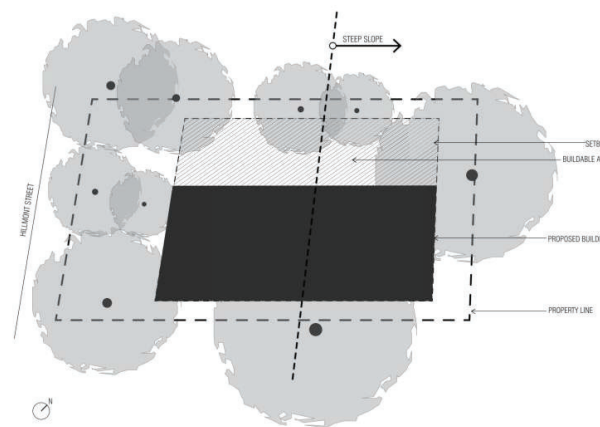
PREVIOUS ITERATION A



PREVIOUS ITERATION B



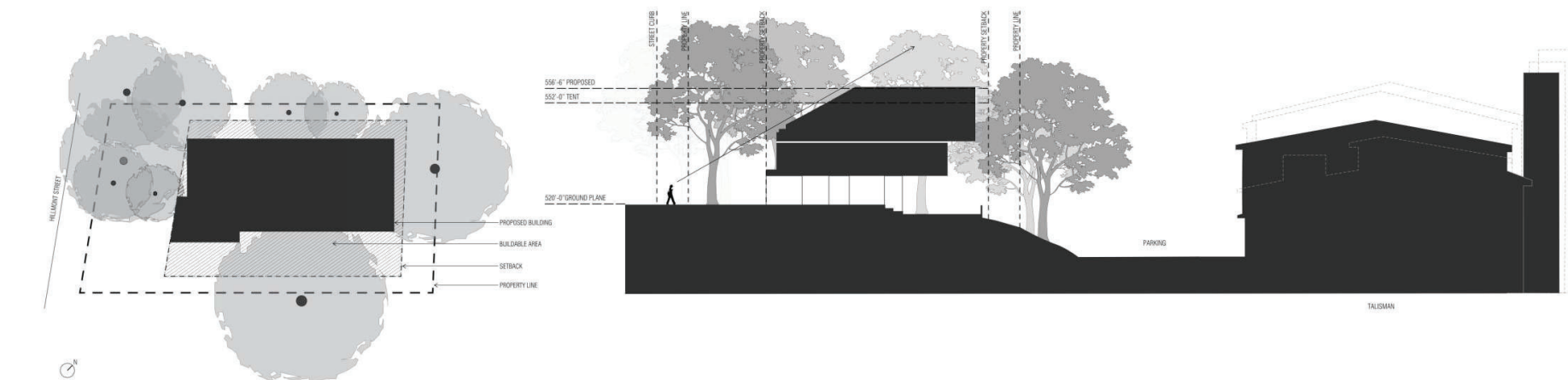
PREVIOUS ITERATION C



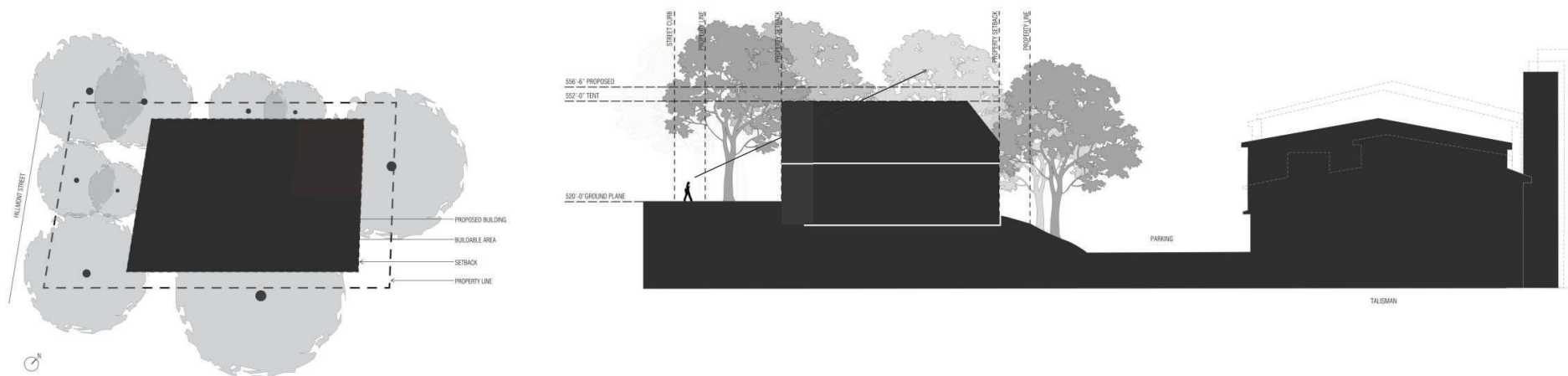
PREVIOUS ITERATION D

## SITE AND NEIGHBORHOOD IMPACTS:

1. WOULD HAVE REQUIRED REMOVAL OF MULTIPLE TREES AND TO BUILD TO 50% CRZ ON (2) HERITAGE TREES
2. WOULD HAVE REQUIRED SIGNIFICANT CANOPY REMOVAL
3. IMPACTS NATURAL GRADE AND DIRECTS RUN-OFF TO NEIGHBORING PROPERTIES
4. IMPACTS NEIGHBOR'S DAYLIGHT BY LOCATING MASSING ON PROPERTY LINES
5. IMPACTS CLIENT'S ACCESS TO DAYLIGHT
6. WOULD HAVE REQUIRED EXTENSIVE EXCAVATION TO CREATE SUFFICIENT PROGRAM AREA (NEIGHBOR AGREEMENT CONTINGENT UPON NOT BUILDING A BASEMENT, DUE TO POTENTIAL IMPACT ON EXISTING RETAINING WALLS)
7. DOES NOT LEAVE ANY OUTDOOR AREA FOR A YARD FOR OWNERS OR PETS
8. DID NOT ACHIEVE CLIENT'S PROGRAM GOALS, LEFT WITH VERY LOW CEILING HEIGHTS



PROPOSED MASSING

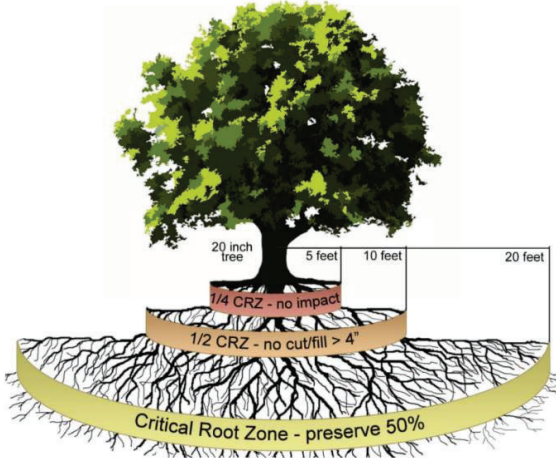


ALLOWABLE MASSING

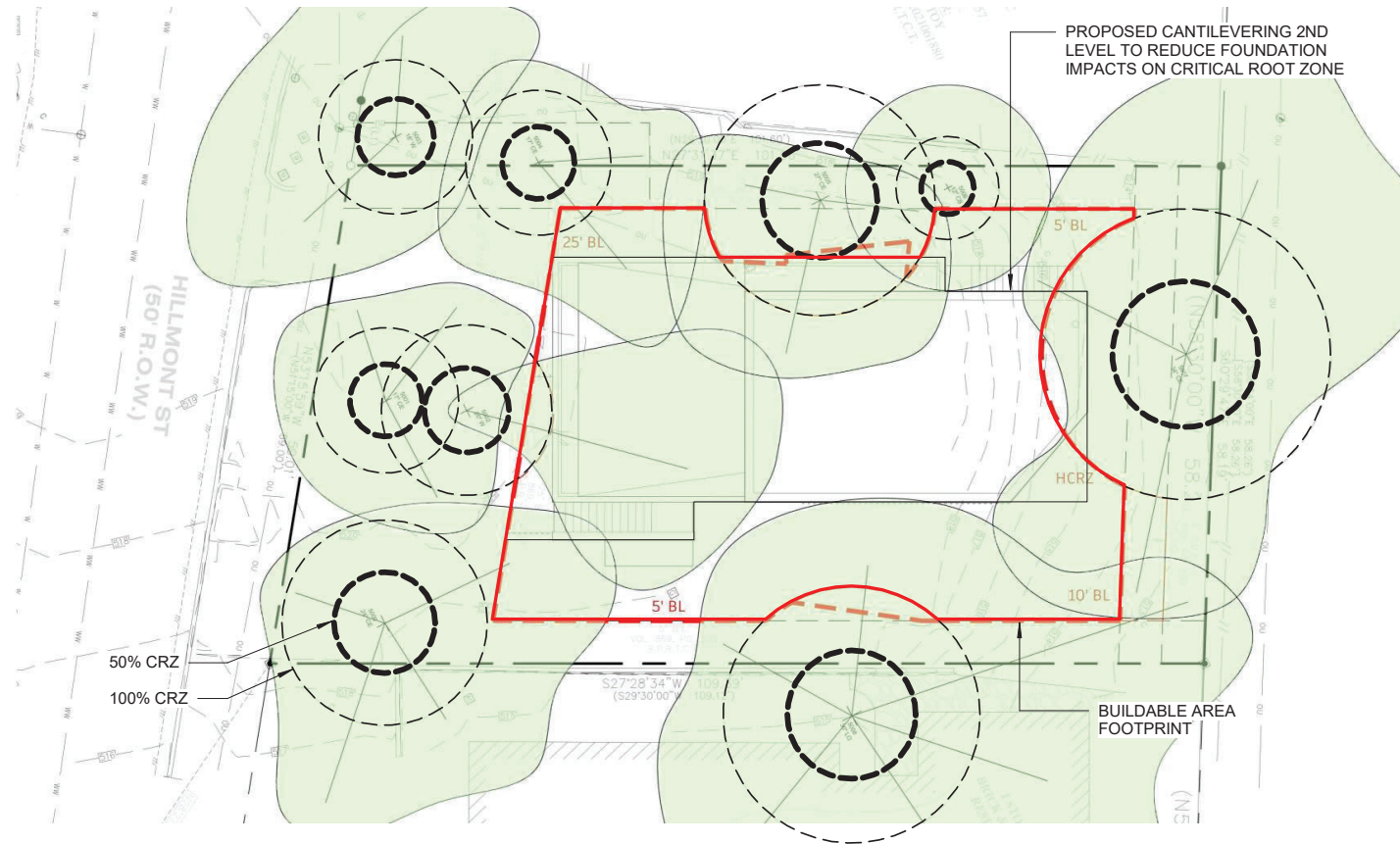




SATELLITE VIEW SHOWING DENSE TREE CANOPY ON OUR SITE



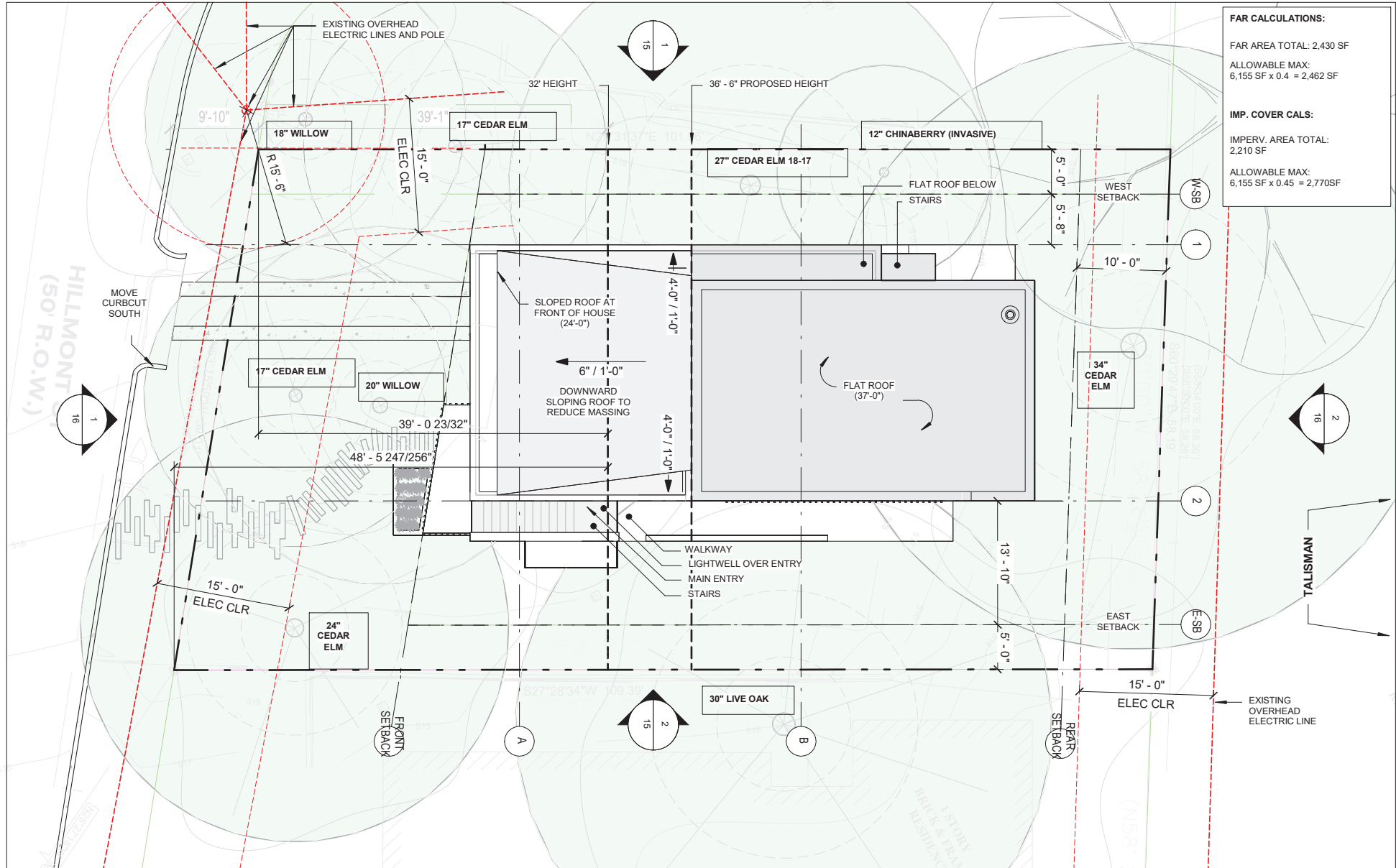
CITY OF AUSTIN CRITICAL ROOT ZONE PRESERVATION GUIDELINES



SITE CONSTRAINTS & BUILDABLE AREA DIAGRAM WITH TREE CANOPY

"While the full root system of the tree may extend three to four times the diameter of the dripline, the Critical Root Zone (CRZ) is an area surrounding the tree where root protection is important to tree survival. The CRZ is a circle centered on the tree where the radius of the circle is a number of feet equal to the diameter in inches of the tree. All ground within that circle is the CRZ. The Half Critical Root Zone and Quarter Critical Root Zone are also used by staff to evaluate the likelihood of tree survival. The Half CRZ is a smaller circle within the CRZ with a radius half that of the CRZ. The Quarter CRZ is a circle within the Half CRZ with a radius one-quarter that of the CRZ. The figure below depicts the CRZ, Half CRZ, and Quarter CRZ."





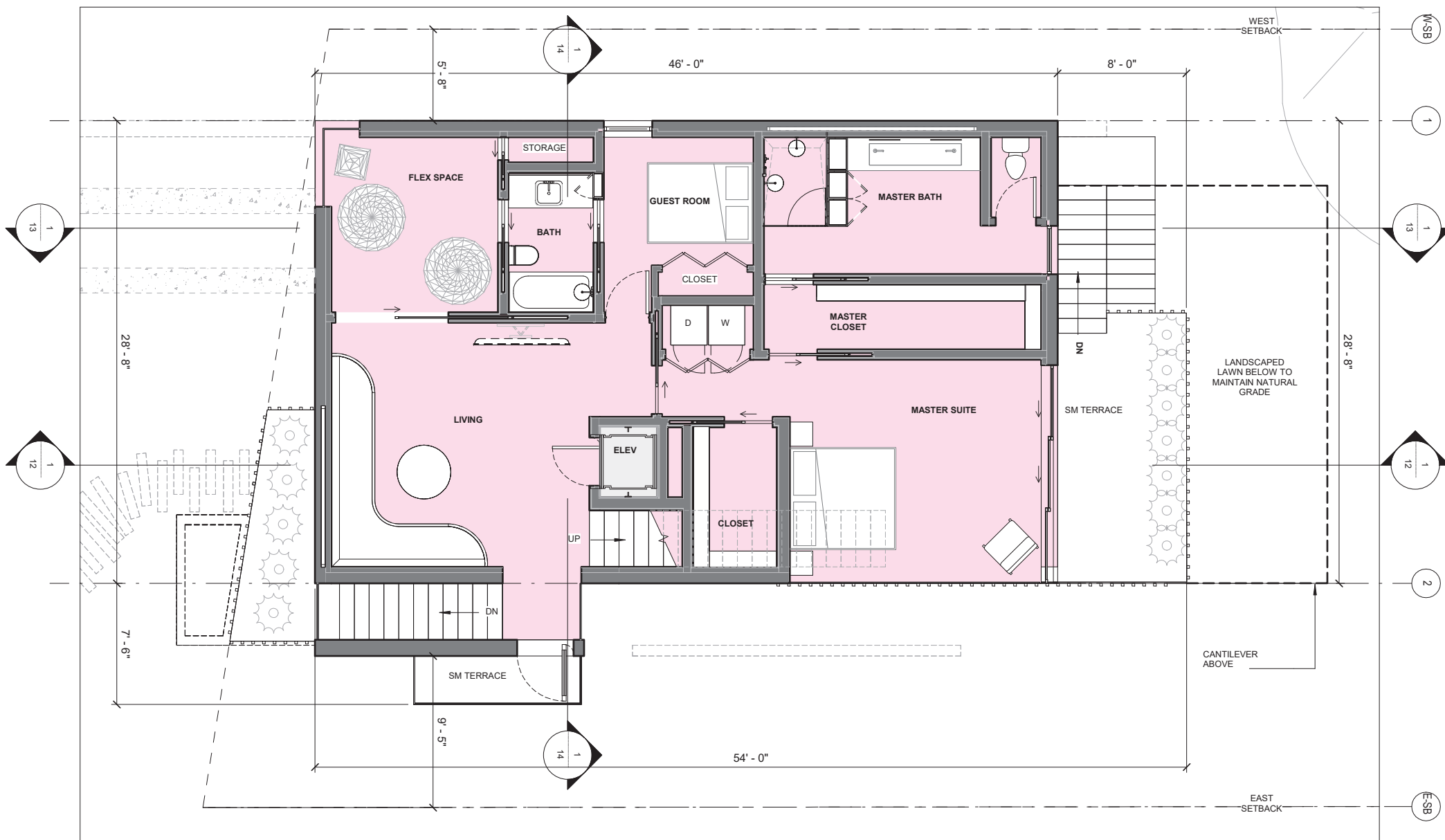
SITE PLAN

1502 Hillmont Street | BOA SUBMISSION |

1" = 10'-0"

**RIOS**





FLOOR PLAN - LEVEL 1

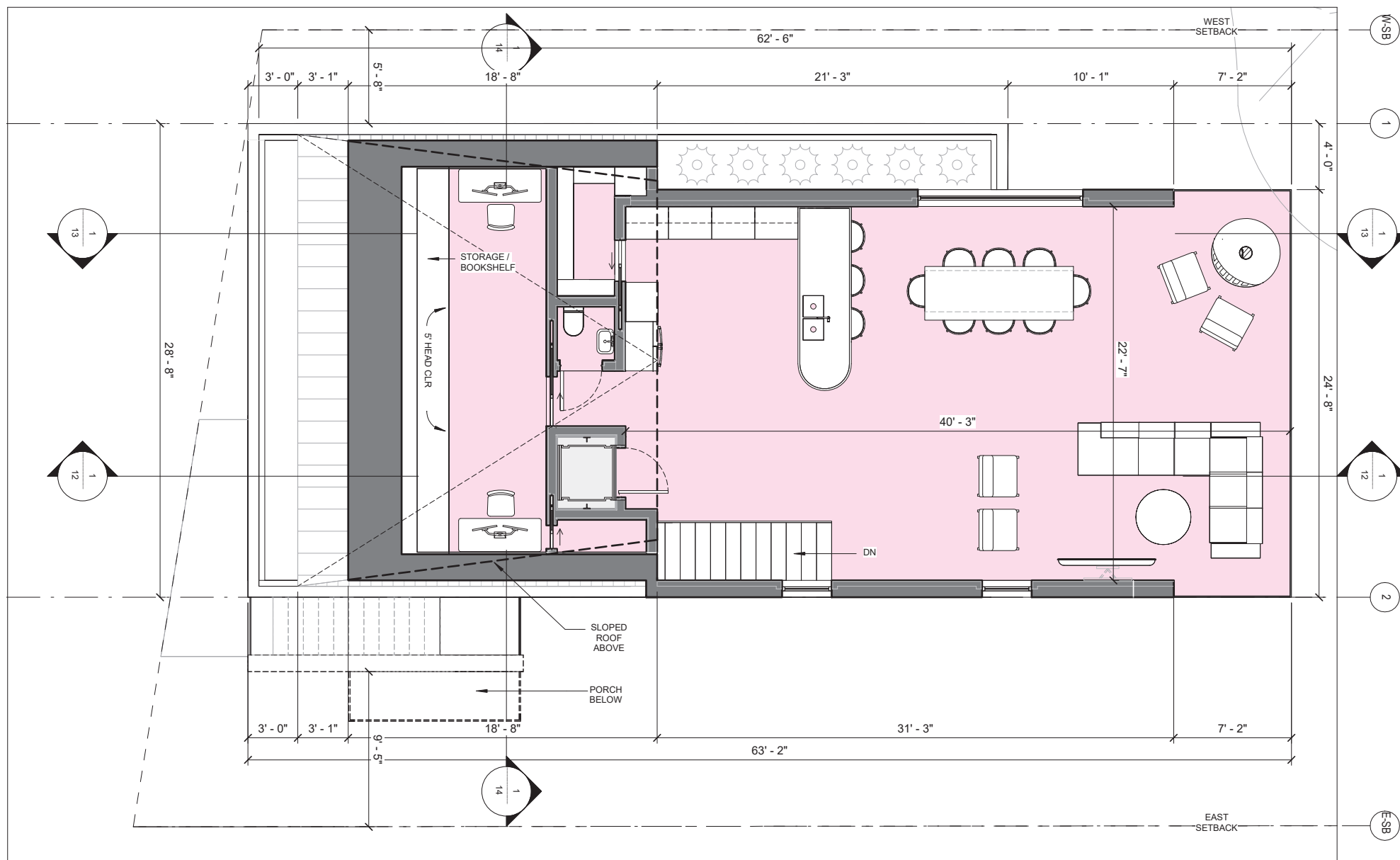
1502 Hillmont Street | BOA SUBMISSION |



3/16" = 1'-0"

**RIOS**





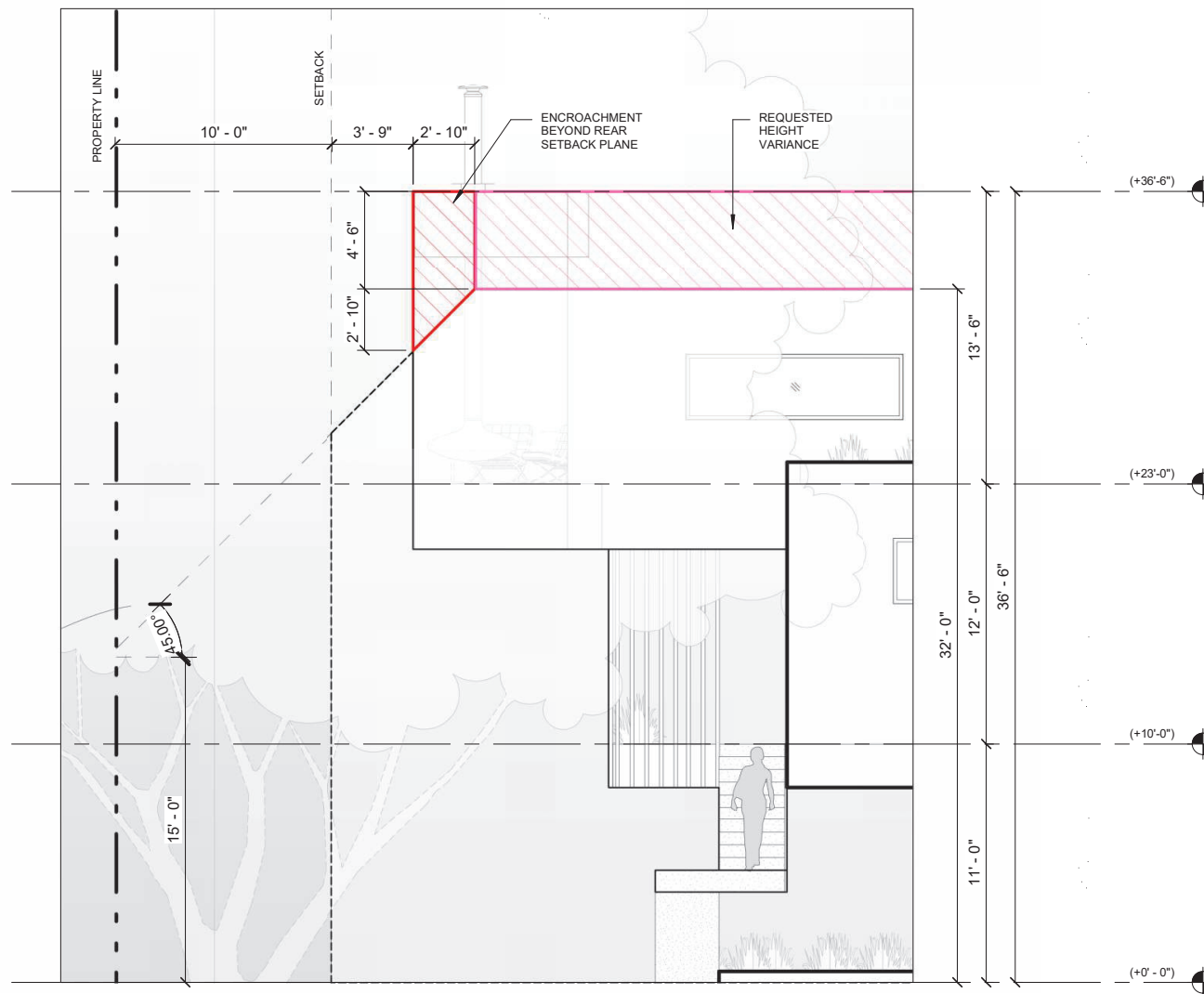
FLOOR PLAN - LEVEL 2

1502 Hillmont Street | BOA SUBMISSION |



3/16" = 1'-0"

**RIOS**





EXTERIOR VIEW

1502 Hillmont Street | BOA SUBMISSION |

**RIOS**

# BOA GENERAL REVIEW COVERSHEET

**CASE:** C15-2023-0024

**BOA DATE:** May 8<sup>th</sup>, 2023

**ADDRESS:** 1502 Hillmont St

**COUNCIL DISTRICT:** 9

**OWNER:** Thomas Neal Hull

**AGENT:** Micah King

**ZONING:** SF-3

**LEGAL DESCRIPTION:** LOT 16 BLK C BLUFF VIEW

**VARIANCE REQUEST:** a) increase the height from 32 feet to 37 feet and b) extend outside the inwardly sloping 45-degree angle (required) by an additional 3 feet 10 inches (requested)

**SUMMARY:** erect a Single-Family residence

**ISSUES:** small buildable area, protected and heritage trees

	ZONING	LAND USES
<i>Site</i>	SF-3	Single-Family
<i>North</i>	MF-5	Multi-Family
<i>South</i>	SF-3	Single-Family
<i>East</i>	SF-3	Single-Family
<i>West</i>	SF-3	Single-Family

## **NEIGHBORHOOD ORGANIZATIONS:**

Austin Independent School District  
 Austin Lost and Found Pets  
 Austin Neighborhoods Council  
 Friends of Austin Neighborhoods  
 Friends of Zilker  
 Homeless Neighborhood Association  
 Neighborhood Empowerment Foundation  
 Perry Grid 614  
 Preservation Austin  
 SELTexas  
 Save Our Springs Alliance  
 Sierra Club, Austin Regional Group  
 South Central Coalition  
 TNR BCP – Travis County Natural Resources  
 Zilker Neighborhood Association



April 28, 2023

Micah King  
Husch Blackwell LLP  
111 Congress Ave, Ste. 400  
Austin, TX 78701

Property Description: LOT 16 BLK C BLUFF VIEW

**Re: C15-2023-0024**

Dear Micah,

Austin Energy (AE) has reviewed your application for the above referenced property, requesting that the Board of Adjustment consider a variance request from LDC Subchapter F, Sections 2.2 and 2.6 at 1502 Hillmont Street.

**Austin Energy does not oppose the request**, provided that any proposed or existing improvements follow Austin Energy's Clearance & Safety Criteria, the National Electric Safety Code, and OSHA requirements. Any removal or relocation of existing facilities will be at the owner's/applicant's expense.

Please use this link to be advised of our clearance and safety requirements which are additional conditions of the above review action:

[https://library.municode.com/tx/austin/codes/utilities\\_criteria\\_manual?nodeId=S1AUENDECR\\_1.10.0CLSARE](https://library.municode.com/tx/austin/codes/utilities_criteria_manual?nodeId=S1AUENDECR_1.10.0CLSARE)

If you require further information or have any questions regarding the above comments, please contact our office. Thank you for contacting Austin Energy.

**Cody Shook, Planner II**

Austin Energy  
Public Involvement | Real Estate Services  
2500 Montopolis Drive  
Austin, TX 78741  
(512) 322-6881  
[Cody.Shook@austinenergy.com](mailto:Cody.Shook@austinenergy.com)



**Micah J. King**

**Partner**

111 Congress Avenue, Suite 1400

Austin, Texas 78701

Direct: 512.370.3468

April 7, 2023

The Board of Adjustment  
c/o Elaine Ramirez  
Planner Senior / Board of Adjustment Liaison  
The City of Austin

RE: Variance Request for Property Located at 1502 Hillmont Street

Dear Board Members:

Attached for your consideration is our variance request from Subchapter F for a new single-family residential structure. The request is to increase maximum height by 5 feet for the rear part of the replacement homestead residence and for a wedge of the top floor to go beyond the rear setback plane by no more than 3 feet, 10 inches. Approval is reasonable because it would allow the new owners, who are longtime neighborhood residents and community leaders, to have access to natural light and views on at least the top floor, and the hardship is created in part by the exceptional amount of protected and heritage trees and their very large canopies that make the property feel dark and boxed in.

The design is in keeping with the area character because the front of the house would have a tiered design so that the front would have a lower height, with the massing and height pushed to the rear. The rear does not back up to any single-family residential structures; instead, it backs up to a fire lane and parking area for condominium buildings that are 3 stories tall and have approximately 450 feet of combined width.

Thanks to the tiered design and privacy afforded by the trees, approval would honor the purpose of the Subchapter F standards from which we are seeking variances since, "This Subchapter is intended to minimize the impact of new construction, remodeling, and additions to existing buildings on surrounding properties in a residential neighborhood," and, "The standards are designed to protect the character of Austin's older neighborhoods by ensuring that new construction and additions are compatible in scale and bulk with existing neighborhoods," and they would be compatible for the reasons stated above. Thank you for your consideration.

Sincerely,



Micah King



## CITY OF AUSTIN

### Development Services Department

Permitting & Development Center

Phone: 512.978.4000

6310 Wilhelmina Delco Dr, Austin, Texas 78752

ITEM07/19

## 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 # **C15-2023-0024** ROW # **13121589** Tax # **0103030147**

### Section 1: Applicant Statement

Street Address: 1502 Hillmont Street, Austin, TX 78704

Subdivision Legal Description:

Lot 16, Block C, Bluff View, Volume 4, Page 257, Plat Records of Travis County, Texas

Lot(s): 16 Block(s): C

Outlot:  Division: Bluff View

Zoning District: SF-3 (Zilker) Council District: 9

I/We Micah King (Husch Blackwell LLP) on behalf of myself/ourselves as  
authorized agent for Thomas Neal Hull affirm that on  
Month April, Day 6, Year 2023, 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: A detached single-family residential structure.

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

LDC Ch. 25-2, Subchapter F, Art. 2, § 2.2(A), to increase maximum building height for a single-family residential structure from 32' (required) to 37' (requested); and  
LDC Ch. 25-2, Subchapter F, Art. 2, § 2.6(B), for a single-family residential structure to go outside the inwardly sloping 45-degree angle rear setback plane by no more than 3'-10".

## 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 zoning regulations do not allow for a reasonable use because the existing home is in a declining state and the replacement homestead residence would be boxed in and have very limited light and views due to the surrounding protected and heritage trees and large canopies, relatively limited buildable area, and the rear of 3-story condominium buildings to the rear, with a combined width of 450 feet. The request for a 5' height increase is only for the rear part of the house, which would enable the top floor to serve as the daytime living space and have a reasonable amount of natural light and outdoor views while maintaining a lower height in front.

### Hardship

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

The hardship for which the variance is requested is unique to the property in that most other properties do not have the same combination of a lot with a limited buildable area surrounded by so many protected and heritage trees (including a 34-inch Cedar Elm to the rear and 30-inch Live Oak to the east) and very large tree canopies, and views and access to light blocked by condominium buildings to the rear with a combined width of approximately 450-feet in width.

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

The hardship is not general to the area because most other properties do not have the same combination of a lot with a relatively small buildable area that is entirely surrounded by protected and heritage trees with very large canopies, and with views and access to light blocked by the trees and canopies and two very wide condominium buildings to the rear.



**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:

The variance will not alter the area's character since the height increase would only be for the rear part of the structure, and the front of the house will be stepped back from the front by using a tiered layer design. As such, the scale and massing will be swapped from the front of the property to its upper rear. In addition, the small portion of the top floor that would go beyond the rear setback plane backs up to the paved part of a large condominium property that serves as the fire lane and parking area and so would not impose upon any neighbors.

**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: Micah A. King Date: 04/06/2023

Applicant Name (typed or printed): Micah King (Husch Blackwell LLP)

Applicant Mailing Address: 111 Congress Ave., Ste. 1400

City: Austin State: TX Zip: 78701

Phone (will be public information): (512) 370-3468

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: Thomas Neal Hull Date: 04/06/2023

Owner Name (typed or printed): Thomas Neal Hull

Owner Mailing Address: 1502 Hillmont Street

City: Austin State: TX Zip: 78704

Phone (will be public information): 512-740-6950

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

**Section 5: Agent Information**

Agent Name: Micah King (Husch Blackwell LLP)

Agent Mailing Address: 111 Congress Ave., Ste. 1400

City: Austin State: TX Zip: 78701

Phone (will be public information): (512) 370-3468

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).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Jason O. Toy, MD  
1504 Hillmont Street  
Austin, TX 78704

The Board of Adjustment  
c/o Elaine Ramirez, Planner Senior / Board of Adjustment Liaison

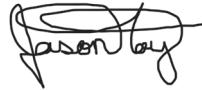
Re: Letter of Support for Variance Request for Property Located at 1502 Hillmont Street

Dear Board Members,

I am writing to express my support for the variance request for the above-referenced property. I own and reside at the property immediately adjacent and to the west of the property. A person's living space matters greatly to their health and well-being, and approval would benefit the new owners by allowing for more natural light and by facilitating a design that would reduce the sense of claustrophobia that would most likely exist without the added height.

The variance for the increase of maximum height of just 5 feet and for the home to go outside the rear setback plane is also reasonable based on the topography, the narrow lot width, and the fact that the property backs up to the fire lane and garages for the Talisman condos. The proposed design is also fitting with the character of the neighborhood since the front part of the house would be at a lower height as viewed from the street. Thank you for your consideration and support.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Toy", with a stylized flourish at the end.

Jason O. Toy, MD







[illegible]

TREE LIST	
NUMBER	DESCRIPTION
5000	24" CEDAR ELM
5001	17" CEDAR ELM
5002	20" WILLOW
5003	18" WILLOW
5004	17" CEDAR ELM
5005	22" CEDAR ELM 18-17
5006	12" CHINABERRY
5007	34" CEDAR ELM
5008	30" LIVE OAK

**LAND TITLE, TREE &  
TOPOGRAPHIC SURVEY  
OF LOT 16, BLOCK C,  
BLUFF VIEW  
City Of Austin,  
Travis County, Texas**

