

Case No. 24-000021 BA

Motion to Reconsider
C15-2024-0025

Property Address:
6708 Bridge Hill Cove

Appealed Permits:
BP-2023-129658 and BP-2023-129659

Presented By:
Nicholl Wade, on behalf of Appellant

Pending Questions from September Hearing



Plat Date



Were the Administrative Rules for Vested Rights posted on the City's website?



Application of LDC § 25-2-963(C)



Reactivation of 2023-129658 BP prior to a vested rights determination

6708 Bridge Hill Cove Plate Date

- Plate Date = June 29, 1982
- Different LA Zoning regulations apply if a property was platted after April 22, 1982
 - Here, the stricter provisions apply
 - The application was executed April 30, 1982

Vol. 82 Page 200 Jun-29-82 RCCHA 7359 ★ 20.00
PLAT RECORD, TRAVIS COUNTY, TEXAS

BRIDGE HILL SUBDIVISION

STATE OF TEXAS:
 COUNTY OF TRAVIS:

KNOW ALL MEN THAT BY THESE PRESENTS: that Lynx Development Corporation, a corporation organized and existing under the laws of the State of Texas, acting hereby and through its President, Nancy Becker, and being the Owner of the hereon designated 9.321 acres of land out of and a part of the A. Rodriguez Survey No. 4 in Travis County, Texas, and being that certain tract of land conveyed to Lynx Development Corporation by deed recorded in Volume 7625, Pages 361, 364 and 396 of the Deed Records of Travis County, Texas, a part of the said 9.321 acre tract being a resubdivision of Lots 1, 2, 3 and 4, Bluff Vista Subdivision, as recorded in Book 78, Page 66 of the Plat Map Records of Travis County, Texas, ~~being that same tract of land as described by the total valuation of the Bluff Vista Subdivision as recorded in Volume 7705, Page 655~~ of the Deed Records of Travis County, Texas, a part of said tract being the right-of-way of Charles Avenue that was vacated by Travis County by order of the Commissioners Court as recorded in the minutes of said court in Book 34, Page 649, and a part of the said 9.321 acre tract being a resubdivision of Lot 35, Lakeside Addition as recorded in Book 3, Page 66 of the Plat Map Records of Travis County, Texas, does hereby submit this plat as a subdivision of said 9.321 acres of land to be known as BRIDGE HILL SUBDIVISION, and does hereby dedicate to the public the streets and easements as shown hereon.

Witness the seal of the said corporation and the hand of its President, this the 30 day of APRIL, 1982, A. D.

Attest: Ana Teresa Pineda
 Ana Teresa Pineda
 Secretary

Nancy Becker
 Nancy Becker, President
 Lynx Development Corporation
 4701 Crestway Drive
 Austin, Texas

DSD Did Not Post the Administrative Rules on the City's Website

§ 25-1-545 - ADMINISTRATIVE GUIDELINES

(A) The director may adopt guidelines to assist in reviewing applications under Section 25-1-533 (Vested Rights Petition Required), Section 25-1-544 (Project Consent Agreements), and Section 25-1-553 (Managed Growth Agreements).

(C) Guidelines adopted under this section shall be posted on the department's website and made available to the public, but need not be adopted by administrative rule under Section 1-2 (Adoption of Rules).

Land Development Code
§ 25-2-963(C)

- Noncomplying structure limitations on development
- 2023 permits based on a plan review that had incorrect information on IC
- No penalties associated with unpermitted construction in 2021, which added IC
- No penalties associated with submitting a false plan review application
- The Approved Plan adds a foundation for the Pool House and IC

Land Development Code § 25-2-963(C)



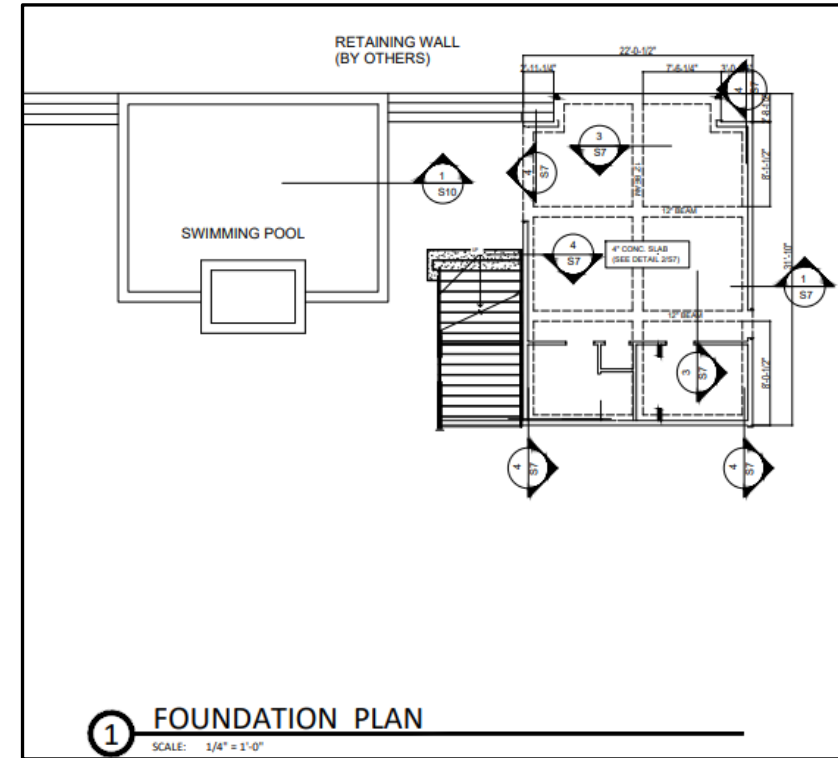
“(A)(2) Replacement or alteration of an original foundation may not change the finished floor elevation by more than one foot vertically, in either direction.”



“(C) Except as provided in Subsections (E) and (F), a person may not modify or maintain a noncomplying structure in a manner that increases the degree to which the structure violates a requirement that caused the structure to be noncomplying.”



The Approved Plan is ***adding*** foundation and increasing IC.



Land Development Code § 25-2-963(C)

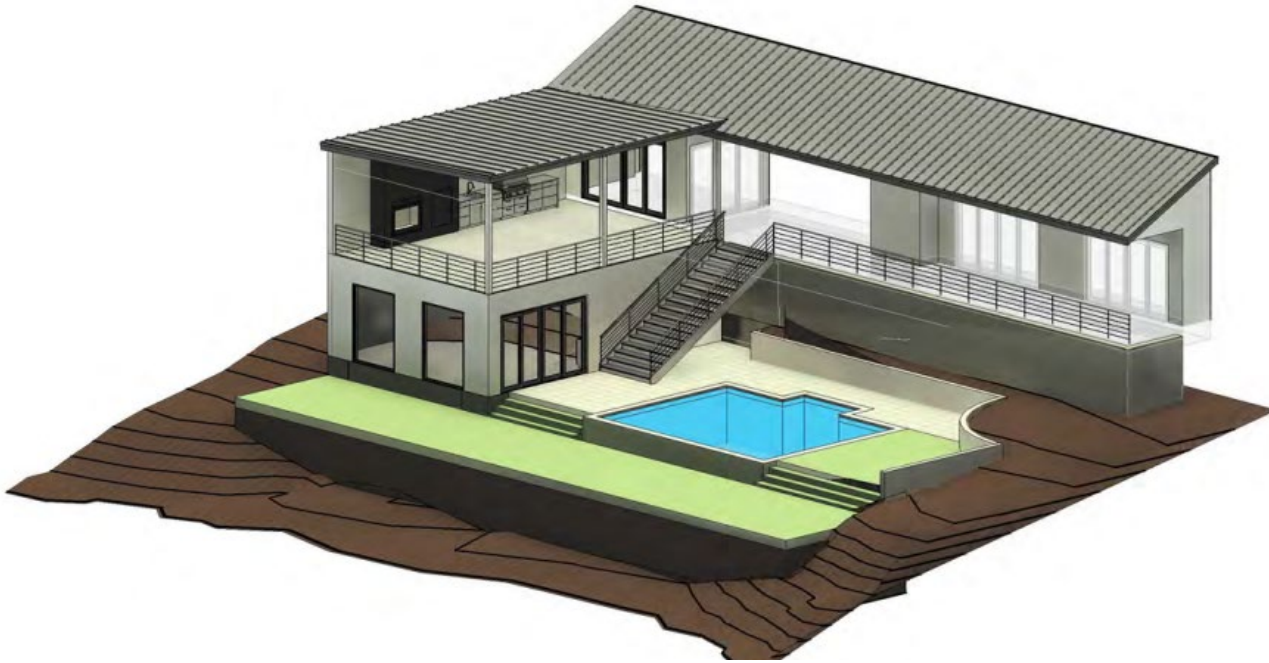
- “The Building Official has determined will necessitate removal of existing unpermitted impervious cover prior to final inspection.” DSD Findings on Reconsideration for Vested Rights at 6708 Bridge Hill Cove.
- No checks and balances in place to ensure compliance, i.e., where is the IC decreasing and what are the compliance mechanisms?
- BOA Findings:
 - “An appeal of use provisions could clearly permit a use which is in character with the uses enumerated for the various zones and with the objectives of the zone in question because”:
 - “The interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated in that:”
 - *What is the rationale?*

Plan Review 2023-069215

Approved Plans = 9/1/2023

No Updated Plans for IC Compliance

2023 PR Application has Incorrect IC



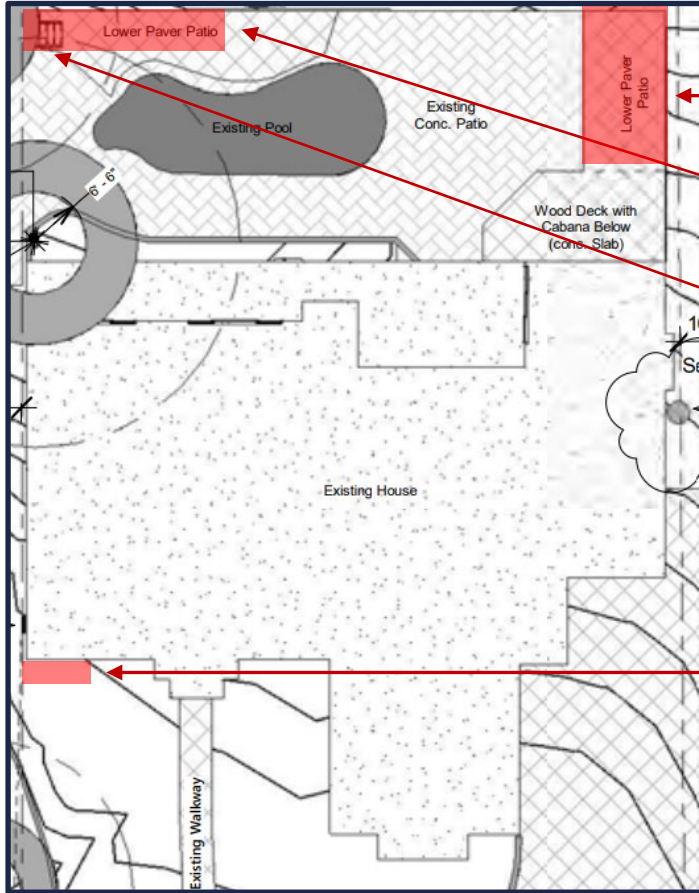
Variations in Property Owner's Reported IC

2021 PR APPLICATION
(CLOSET EXPANSION)

Impervious Cover Information	
<small>Note: Impervious cover is the total horizontal area of covered spaces including all building coverage, paved areas, walkways, and driveways. The term excludes pools, ponds, fountains, and areas with gravel placed over pervious surfaces that are used only for landscaping or by pedestrians. (LDC 25-1-23)</small>	
Existing Impervious Coverage (see above C , sq. ft.):	14,860.55
Existing coverage % of lot (C ÷ Lot Area) x 100 :	34.12 %
Final Impervious Coverage (see above D , sq. ft.):	15,105.74
Final coverage % of lot (D ÷ Lot Area) x 100 :	34.68 %

2023 PR APPLICATION
(POOL HOUSE + POOL)

IC Schedule		
Area Name	Existing IC	Proposed IC
Driveway	7,002	7,002
Rock Wall	393	403.5
House Slab	4,615.5	4,615.5
Conc. Patio	2,079	533
Pool Coping	86	73
Cabana Slab	244	741
Walkway	259	259
Total IC	14,678.5	13,647



Lower paver patio is a firepit area with gravel

Lower paver patio is dirt and greenery

There is no stairway

Master closet expansion not shown



How Much IC is Actually on the Property?

- 427 sqft difference of reported IC between 2021 and 2023
 - Even though square footage/IC added, somehow the lower number was accepted
- No dispute that the 2021 closet expansion occurred without a permit
- The driveway was clearly modified and adds IC
- Development is approved/moving forward as though the Property's existing IC is only 14,678.5

Was DSD's decision to reactivate 2023-129658 BP prior to a vested rights determination erroneous?

April/May 2024

Permits Placed
on Hold

June 12, 2024

Vested Rights
Denied

June 21, 2024

Pool House Permit
Re-Activated

July 11, 2024

Appeal re: Pool
House Re-activation

July 19, 2024

Vested Rights
Granted

August 1, 2024

Appeal re: Pool
Permit

No permitted plans showing how the Property owner will bring IC into compliance

- The BOA has jurisdiction to enforce § 25-2-963(C) related to modifications to non-complying structures.
- The BOA also has jurisdiction to determine whether the Property owner violated the LDC.
 - *“The record owner of property is presumed to be responsible for a violation of this chapter that occurs at a facility on the property.”* LDC § 6-7-41.
 - *“A person commits a criminal offense if the person performs an act prohibited by this chapter or fails to perform an act required by this chapter. Each instance of a violation of this chapter is a separate offense.”* LDC § 6-7-42(A).

Conclusion

Underlying goals for
the LDC, LA Zoning,
and LA Overlay

LDC requirements and
enforcement should
apply equally

Is the decisions to
apply and enforce LDC
provisions differently
erroneous?

Conclusion Continued

Appellant recognizes the BOA does not have jurisdiction to modify the Vested Rights

The BOA does have jurisdiction to decide:

- 1) Whether the “plan” to bring the Property within allowable IC limits is sufficient to comply with LDC § 25-2-963(C)
- 2) Whether the Property owner violated LDC § 25-2-963(C)
 - a) Adding Foundation for the 2021 Closet Expansion
- 3) Whether DSD’s decisions to re-activate the Pool House permit, without vested rights, was erroneous
- 4) Whether the Property owner violated the LDC
 - a) 2021 Unpermitted Expansion
 - b) 2023 Inaccurate/False Plan Review Application