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**ZAP SITE PLAN REVIEW SHEET  
ENVIRONMENTAL VARIANCE REQUEST ONLY**

**CASE:** SP-2011-0243DS    **ZAP COMMISSION DATE:** October 18, 2011

**PROJECT NAME:** Vallandingham Residence

**APPLICANT:** Mike Vallandingham                      **AGENT:** Carlson, Brigance &  
Doering, Inc. (Charles Brigance)

**ADDRESS OF SITE:** 10101 Silver Mountain Dr.

**COUNTY:** Travis

**AREA:** 3.22 Acres

**WATERSHED:** Slaughter Creek (Barton Springs Zone)

**JURISDICTION:** 5-mile ETJ

**EXISTING ZONING:** No zoning in the ETJ

**PROPOSED DEVELOPMENT:**

The applicant is requesting a variance from a 1981 Environmental Ordinance 8105514-T, to allow a residential pool and pool house within a Critical Water Quality Zone (CWQZ). The home was built in 1998 and the pool and pool house were built in 2004. A Travis County Class B development permit was issued to construct the pool and pool house although the CWQZ was not reviewed by Travis County at that time. No red tag has been issued. The applicant is requesting the CWQZ variance as a condition of selling the property. The area of the pool, pool house and associated decking is about 4000 square feet, and about 60% of that area (2400 square feet) is located in the CWQZ.

**DESCRIPTION OF VARIANCES:**

The applicant requests the following: Approval of variance to allow construction in the CWQZ [Ordinance 810514-T, Section 203.3(c)]

**STAFF RECOMMENDATION:**

The findings of fact have been met and staff recommends approval with the following conditions:

1. The areas of the CWQZ not within the floodplain are to be re-vegetated with a native grass and wildflower seed mix to restore some of the riparian habitat disturbed by the single-family development and provide additional water quality protection through vegetative filtering.

The applicant has agreed to these conditions. The original condition approved by the EV Board to plant 5 native Class 1 trees and 5 native bushes is proposed to be changed to the above condition based on information discussed in the EV Board meeting regarding the current drought conditions and survival of the planted trees. The native grasses and wildflowers were suggested as a better vegetative filtering element for water quality purposes after the board meeting. The applicant has agreed to this change.

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**ENVIRONMENTAL BOARD ACTION:**

**September 21, 2011:** The Environmental Board recommended approval of the variance, with conditions, to allow a residential pool and pool house within the Critical Water Quality Zone (Ordinance No. 810514-T, Chapter 29A, Article II, Division 203, Section 203.3( c ) - Vote : 6-0-0-1

**ZONING AND PLATTING COMMISSION ACTION:**

A similar variance (administrative) was requested and approved for the Herman Pool project, SP-2005-0166DS to allow construction in the CWQZ for a residential pool and associated decking. . The variance was from LDC 25-8-261 (Construction in the CWQZ), approved by staff because the findings of fact had been met. The pool was already built, the immediate neighbors had existing pools that were grandfathered from CWQZ, and removal of the pool would have been more environmentally destructive than permitting it.

**ENVIRONMENTAL REVIEW STAFF:** Brad Jackson  
[Brad.Jackson@austintexas.gov](mailto:Brad.Jackson@austintexas.gov)

**PHONE:** 974-3410

**CASE MANAGER:** Lynda Courtney  
[Lynda.Courtney@austintexas.gov](mailto:Lynda.Courtney@austintexas.gov)

**PHONE:** 974-2810



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Vallandingham Residence

CASE#: SP-2011-0243DS  
ADDRESS: 10101 Silver Mountain Dr



-  Subject Tract
-  Base Map



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 the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

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**ENVIRONMENTAL BOARD MOTION 092111 5c**

Date: September 21, 2011

Subject: **Vallandingham Residence SP-2011-0243DS**

Motioned By: James Schissler

Seconded By: Jennifer Walker

**RECOMMENDATION** The Environmental Board recommends approval with conditions of variances:

To allow construction in a Critical Water Quality Zone (Ordinance No. 810514-T Chapter 29A, Article II, Division 203, Section 203.3(c) – Critical Water Quality Zone) for a residential pool and pool house within the Critical Water Quality Zone

**Staff Conditions:** The applicant will revegetate the areas of the critical water quality zone not within the flood plain with 5 two-inch native class 1 trees and 5 native bushes to restore some of the riparian habitat disturbed by the single-family development.

Vote 6-0-0-1

For: Anderson, Maxwell Neely, Perales, Schissler and Walker

Against: None

Abstain: None

Absent: Gary

Approved By:

Mary Gay Maxwell, Environmental Board Chair



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## MEMORANDUM

**TO:** Betty Baker, Chairperson  
Members of the Zoning and Platting Commission

**FROM:** Brad Jackson, Senior Environmental Reviewer  
Planning and Development Review Department

**DATE:** September 21, 2011

**SUBJECT:** Vallandingham Residence (SP-2011-0243DS)  
10101 Silver Mountain Dr.

Variance Requests: Variance from Ordinance No. 810514-T, "1981 Aquifer related Ordinance for the watersheds of Slaughter, Bear, Little Bear, and Onion Creek," Section 203.3(c) to allow a residential pool and pool house within a Critical Water Quality Zone.

The applicant is proposing a variance to permit a previously constructed pool and pool house within the Critical Water Quality Zone(CWQZ). The entire pool, pool decking, and pool house is a little over 4,000 square feet in area. About 60% of this area, or 2,400 square feet, is within the CWQZ.

### Description of Project Area

This 3.22 acre lot is situated in the COA 5-mile ETJ in the Drinking Water Protection Zone. The site is located within the Slaughter Creek Watershed, which is classified as the Barton Springs Zone. The home is within the Lewis Mountain Ranch, Phase 4 subdivision. The Lewis Mountain Ranch preliminary plan was approved in 1983 and the Lewis Mountain Ranch, Phase 4 final plat was approved in 1992. The home was built in 1998 and the pool and pool house were added in 2004. The pool and pool house were permitted under a Class B Development permit from Travis County on January 23, 2004. The Critical Water Quality Zone was not reviewed by Travis County at the time this permit was issued. The site is currently not under a red tag, the applicant has been required to obtain a variance for the development in the CWQZ as a condition of selling the property.

Topographically, the site slopes down from Silver Mountain Dr. to the southeast from an elevation of 922 feet to an elevation of 898 feet at the base of Slaughter Creek. The CWQZ occupies about 2.77 acres of this lot, or 120,661.2 square feet. The percent of impervious cover within the CWQZ from the pool, pool decking, and pool house is 2% of the total area of the CWQZ. The pool house has a kitchen and two bathrooms.

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**Vegetation**

According to the Soil Survey of Travis County, the site contains Brackett soils, rolling (BID) and Brackett soils and rock outcrop (BoF). Brackett soils are described as shallow and well drained soils that develop under a prairie of mid to tall grasses and some trees. Dominant vegetation consists of live oak, cedar elm and ashe juniper trees, concentrated mostly in the rear of the lot within the CWQZ. The site geology consists of the Glen Rose formation and is characterized as limestone and dolomite. The area within the CWQZ has relatively deep soils from flooding and sediment deposition. Limestone cracks and fissures may connect to the Edwards Aquifer and serve to recharge the aquifer in this area.

**Critical Environmental Features**

There are no Critical Environmental Features on or within 150 feet of this site.

**Water/Wastewater**

The project currently receives water service from the City of Austin. Wastewater is treated through an on-site septic tank system.

**Variance Requests**

The variances being requested by this project are as follows:

**Variance from Ordinance No. 810514-T, Section 203.3(c) to allow a residential pool and pool house within a Critical Water Quality Zone.**

On July 6, 2011, the applicant requested the above variance.

**Recommendations**

Staff recommends granting the variance request because the findings of fact have been met. Please see sheets 5 and 6 for staff's findings of fact.

**Conditions of Recommendation**

1) The applicant will revegetate the areas of the CWQZ not within the floodplain with 5 native Class 1 trees and 5 native bushes to restore some of the riparian habitat disturbed by the single-family development.

If you have any questions or need additional information, please feel free to contact me at 974-3410.

Brad Jackson, Senior Environmental Reviewer, Planning and Development Review

Environmental Program Coordinator: \_\_\_\_\_  
Ingrid McDonald

Watershed Protection: \_\_\_\_\_  
Jean Drew

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**Similar Cases**

**Herman Pool (SP-2005-0166DS)** requested an administrative variance from LDC 25-8-261 to allow construction in the CWQZ for a residential pool and associated decking. Staff approved the administrative variance because the findings of fact had been met. The pool had already been built, the immediate neighbors all had pools too because they were grandfathered out of the CWQZ restrictions, and removal of the pool would have caused more environmental damage than permitting the pool.



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**Planning & Development Review Department**  
**Staff Recommendations Concerning Required Findings**  
**Of Fact**

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**Application Name:** Vallandingham Residence  
**Application Case No:** SP-2011-0243DS

**Code Reference:** Ordinance No. 810514-T, Section 203.3(c)

**Variance Request:** To allow a residential pool and pool house within a Critical Water Quality Zone.

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A. Land Use Commission variance determinations from Ordinance No. 810514-T of the City Code of the 1981 Aquifer-Related Ordinance:

1. The requirement will deprive the applicant of a privilege or the safety of property given to owners of other similarly situated property with approximately contemporaneous development.

YES. As evidenced by the letter from Steve Manilla, P.E., Travis County, (Exhibit E) this site was allowed to build in the CWQZ by a permit from Travis County. During the specific time period this permit was sought, Travis County was not yet enforcing the CWQZs on plats because they were investigating the legal ramifications of enforcing CWQZs on plats predating the adoption of Title 30 regulations. Although a variance to allow development of a residential pool and pool house was not found in the history of variances for this watershed classification of Barton Springs Zone, this pool was permitted at a time when CWQZs were not being enforced in the ETJ, therefore the applicant built the pool without knowledge that it was violating the CWQZ rules.

2. The variance:

- a) Is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property;

YES. The pool/pool house takes up only 2% of the entire CWQZ, leaving over 117,000 square feet of CWQZ as pervious cover free from development. The applicant does not have any other room in their backyard to have shifted the pool to get it more out of the CWQZ.

This lot was platted from a 1983 preliminary plan, Lewis Mountain Ranch, that was subject to the 1981 aquifer related ordinance for the watersheds of Slaughter, Bear, Little Bear, and Onion Creek. This ordinance required a minimum setback of 200 feet from the centerline of Slaughter Creek at the platting stage, but the regulatory authority, Travis County, was not regulating this



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setback at this time. So other property owners would have also been allowed to develop in their CWQZs that were outside of the 100-yr floodplain.

b) Does not create a significant probability of harmful environmental consequences;

YES. The pool/pool house does not create a significant probability of harmful environmental consequences. The creek is over 180 feet away, separated by gently sloping, densely vegetated terrain. In addition, the applicant is proposing to reseed this area with wildflowers and native grasses that will further assist in providing water quality for the overland drainage.

B. Additional Land Use Commission variance determinations for a requirement of Critical Water Quality Zone (CWQZ) Restrictions:

1. The above criteria for granting a variance are met;

YES.

2. The proportion of the land restricted from development by the CWQZ creates an unreasonable or undue hardship to development of the land.

YES. The majority of this lot is CWQZ, with only half an acre of developable land out of the entire 3.22 acre lot. Without this variance, the applicant would not be able to have a pool in their backyard.

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Reviewer Name: Brad Jackson

Reviewer Signature:

Date: September 8, 2011

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Staff may recommend approval of a variance after answering all applicable determinations in the affirmative (YES).



EXHIBIT B  
p.1 of 2

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**NOTICE OF CLASS "B"  
TRAVIS COUNTY FLOOD HAZARD AREA  
DEVELOPMENT PERMIT**

This Permit No 03-3281 is issued on 1/23/2004 and is effective immediately.

This Permit is issued to: HUDDLESTON CUSTOM HOMES INC  
and is not transferrable.

This Permit authorizes the permittee to construct development in strict compliance with the requirements of Travis County Flood Plain Management Regulations on the following described property:

LOT 63 LEWIS MOUNTAIN SEC 4  
10101 SILVER MOUNTAIN DRIVE

Residential pool and cabana

Elevation certificate completion is required.

Mechanical and Electrical Inspection is not required.

Special Provisions are attached.

This permit shall be posted in a location where it is visible to the public, protected from weather, and secure from vandalism and will remain posted until work is complete.

The permittee shall have an Elevation Certificate completed in compliance with Regulations Sec. 5.E. and/or mechanical and electrical inspections, if required.

The lowest floor shall be at or above the elevation 910 ft. MSL

Notes:

Compliance with the Endangered Species Act is the responsibility of the applicant.

Issuance of this permit does not imply compliance with deed and/or plat restrictions.

Contact Travis County Prior to Driveway Construction.

**Stacey Scheffel  
Floodplain Administrator  
Travis County  
Transportation and Natural  
Resources**

**Special Provisions:**

Elevation Certificate **MUST** be returned within thirty (30) days of completion of the lowest floor.

Elevation certificate is required for cabana only.

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**TRANSPORTATION AND NATURAL RESOURCES**

JOSEPH P. GIESELMAN, EXECUTIVE MANAGER

411 West 13th Street  
Executive Office Building, 11th Floor  
P.O. Box 1748  
Austin, Texas 78767  
(512) 854-9383  
FAX (512) 854-4697

4/12/2004

**RE** Travis County Flood Hazard Area Development Permit 03-3281  
10101 SILVER MOUNTAIN DRIV

Dear Permit Applicant: HUDDLESTON CUSTOM H

Please be advised that Section 64.023 of Travis County Regulations for Floodplain Management states that an Elevation Certificate is required to complete your Class "B" Flood Hazard Area Development Permit, 03-3281, issued 1/23/2004. According to County regulations and your permit, the lowest floor of the structure must be elevated to at least one foot above the Base Flood Elevation or 910 msl.

A Certificate of Occupancy, which indicates that the structure has been constructed in compliance with County floodplain regulations, can not be issued by Travis County until the Elevation Certificate is completed.

Please submit the completed Elevation Certificate, showing that your structure was constructed to the required elevation, within thirty (30) days of completion of the lowest floor of the structure.

If you have any questions, please call our permit office at 512-854-4215.

Sincerely,

Stacey Scheffel

Floodplain Administrator, TNRPES

CC: Dennis Case, Lead Inspector, TNR SA 2  
Gwen Mieghan, Enforcement Officer, TNR  
Property Owner

XC: 03-3281 1/23/2004 B  
LEWIS MOUNTAIN SEC 4

**LAW OFFICE OF TERRENCE L. IRION**

1250 S. Capital of Texas Highway  
3 Cielo Center, Suite 601  
Austin, Texas 78746

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**Terrence L. Irion**

Attorney at Law

(512) 347-9977

(512) 306-8903-FAX

[tirion@tirionlaw.com](mailto:tirion@tirionlaw.com)

August 16, 2011

VIA EMAIL

Mr. Brad Jackson  
Planning and Development  
Review Department  
City of Austin  
505 Barton Springs Road  
Austin, Texas 78704

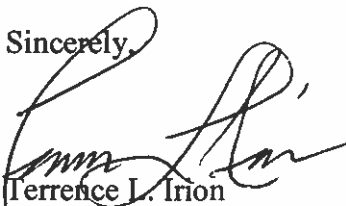
Re: 10101 Silver Mountain Drive, Austin, TX 78737, Lot 63, Lewis Mountain Ranch, Phase 4

Dear Mr. Jackson:

Attached please find the Small Project Site Plan Application which supports the variance request from the 1700 square foot encroachment of the Critical Water Quality Zone (CWQZ). Please put this on the agenda of the Environmental Board for the September meeting and the next available Zoning and Platting Commission meeting.

As a mitigation matter to compensate for the encroachment, Applicant would offer to supplement the vegetation in the 77000 square foot CWQZ area of the lot with a wildflower reseeding plan and to impose a Restrictive Covenant limiting fertilizers and pesticides consistent with the Environmental Criteria for use over the Edwards Aquifer.

Sincerely,



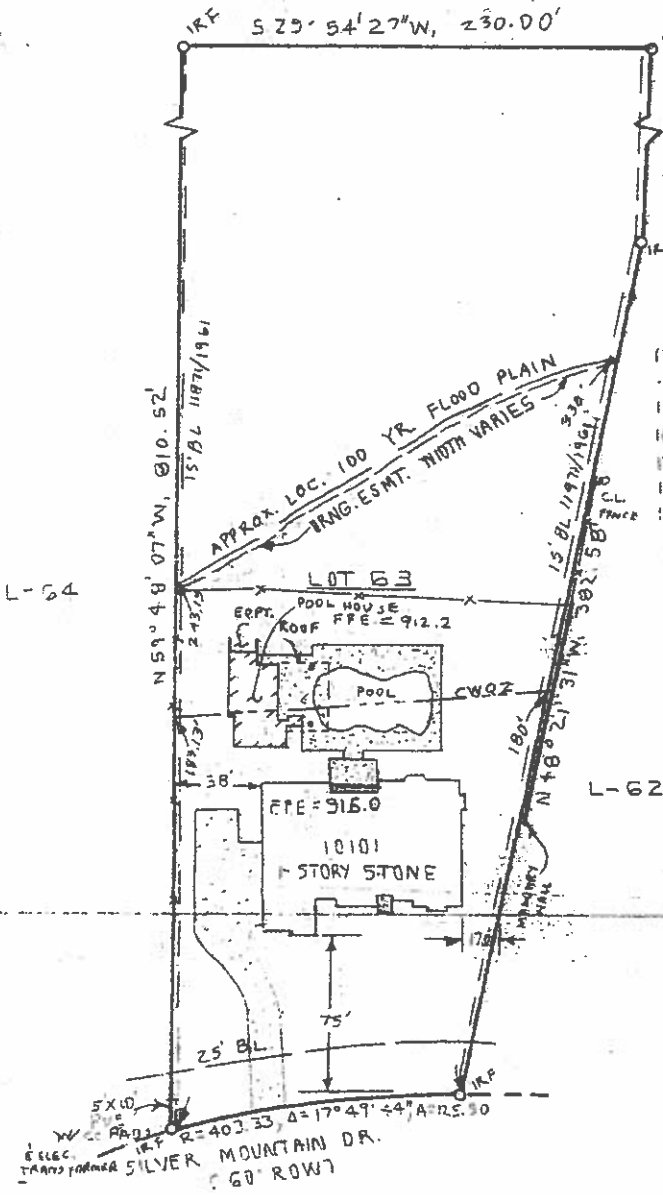
Terrence L. Irion

TLI:lm

Enclosure

Cc: George Adams  
George Zapalac  
Scott Hiers  
Bruce Todd  
Michael Vallandingham

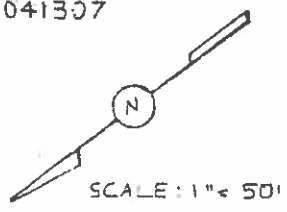
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**LEGEND:**

**O - IRON PIN FOUND EASEMENTS:**

- 11065/795 - DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
- 11259/1003 - INCORPORATION OF HOMEOWNERS GROUP
- 11686/185 - ADDS F-4 TO COV. & REST.
- 11971/1961 - ADDS F-4 TO COV. & REST.
- 11971/1965 - REASSIGNS COV. & REST.
- 12036/1635 - INCREASES ELEC. ESMT.
- 394/511 - DOES NOT APPLY
- 12162/1957 - DOES NOT APPLY



*Phillip M. Craft*  
06/11/04

**LEGAL DESCRIPTION:** LOT G3, LEWIS MOUNTAIN RANCH, PHASE FOUR, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN VOLUME 91, PAGE(S) 222 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS.

THE STATE OF TEXAS: TO THE LIENHOLDERS AND/OR THE OWNERS OF THE COUNTY OF TRAVIS PREMISES SURVEYED AND TO THE TEXAS AMERICAN TITLE COMPANY AND TO PRESIDENTIAL MORTGAGE COMPANY AND TO MICHAEL TODD VALL AND ING HAM, THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS SURVEY WAS THIS DAY MADE ON THE GROUND OF THE PROPERTY LEGALLY DESCRIBED HEREON AND IS CORRECT AND THAT THERE ARE NO DES CREPANCIES, CONFLICTS, SHORTAGES IN AREA, BOUNDARY LINE CONFLICTS, ENCROACHMENTS, OVERLAPPING OF IMPROVEMENTS, VISIBLE UTILITY LINES, OR ROADS IN PLACE EXCEPT AS SHOWN HEREON AND THAT SAID PROPERTY HAS ACCESS TO AND FROM A DEDICATED ROADWAY, EXCEPT AS SHOWN.

USE OF THIS SURVEY FOR ANY OTHER PURPOSE OR BY OTHER PARTIES SHALL BE AT THEIR RISK AND THE UNDERSIGNED IS NOT RESPONSIBLE TO OTHERS FOR ANY LOSS RESULTING THEREFROM.  
FEMA MAP NO. 481026-0300E, DATED JUNE 16, 1993

3204 STALLION DR  
ROST N TX 75785