



ITEM FOR ENVIRONMENTAL BOARD AGENDA

BOARD MEETING

DATE REQUESTED: January 10, 2007

NAME AND NUMBER OF PROJECT: The Domain
C14-06-0121

NAME OF APPLICANT OR ORGANIZATION: Drenner & Golden Stuart Wolff LLP
Steve Drenner (Attorney); 404-2201

LOCATION: Burnet Rd. and Braker Lane

PROJECT FILING DATE: May 26, 2006

WPDR/ENVIRONMENTAL STAFF: Betty Lambright, 974-2696
betty.lambright@ci.austin.tx.us

NPZD/ CASE MANAGER Jorge Rousselin, 974-2975
jorge.rousselin@ci.austin.tx.us

WATERSHED: Walnut Creek (Suburban)
Desired Development Zone

ORDINANCE: Planned Development Area (PDA)

REQUEST: To amend the PDA to provide the following additional exceptions to three Code provisions:
(1) Allow maximum cut and fill of 12' (§25-8-341 and 342);
(2) Amend the definition of "site" to allow Impervious Cover to be calculated based on the overall 174.693 acre development (§25-1-21(98)); and
(3) Increase Multifamily Impervious Cover limit from 60% to 80% (§25-8-394(C)(3)(a)).

WPDR STAFF RECOMMENDATION: Recommended with conditions.



MEMORANDUM

TO: David Sullivan, Chair
Members of the Planning Commission

FROM: Betty Lambright, Environmental Review Specialist Sr.
Watershed Protection and Development Review Department

DATE: January 10, 2007

SUBJECT: The Domain/C14-06-0121
Burnet Rd. and Braker Lane

Description of Property

The subject rezoning area consists of a 174.639 acre site along Mopac Expressway and Burnet Road, north of Braker Lane. The Applicant is proposing a mixed-use project including retail, restaurants, office and multifamily development; it currently houses industrial development, general offices, and warehousing.

The applicant seeks to modify the existing PDA to allow for the development of a mixed-use project including offices, a shopping center, apartments, a hotel, high turn over restaurant, a supermarket, and utilities. In addition, the applicant has requested to amend the PDA to provide exceptions to three Land Development Code provisions (to be summarized below).

Description of Project

The project area consists of the developed industrial site originally created in the 1970s as the IBM campus. It is located in the Walnut Creek Watershed, which is classified as a Suburban Watershed. This area is also classified as being in the Desired Development Zone. The project is not located over the Edwards Aquifer Recharge Zone, and there is no 100 year floodplain associated with the site. The area around the site is primarily commercial development. A portion of the adjoining Simon development lies in the Shoal Creek watershed, which is considered an Urban Watershed.

Existing Topography/Soil Characteristics/Vegetation

The site is developed and contains several single and multi-story office buildings and associated paved parking areas. The site topography gently slopes toward the north and east, with surface elevation ranging from 800 feet above mean sea level (msl) to 730 feet msl.

The site is located within the Blackland Prairie region. However, the majority of the site is paved or developed with buildings.

The soils are classified as Urban land, Austin and Bracket soils (UtD) and Urban land and Austin soils, 0 to 5% slopes (UsC). The soils are moderately slowly permeable.

Critical Environmental Features/Endangered Species

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

Water/ Wastewater

Water and wastewater are provided by the City of Austin.

Requested Exceptions to Current Code

The applicant is requesting to amend the PDA to provide the following additional exceptions to three Land Development Code (LDC) provisions:

1. Exception from LDC 25-8-341 and 342-Cut/Fill Maximum Limits

"Cut/fill on a tract of land may not exceed 4' of depth."

The applicant is requesting maximum cut/fill allowances up to 12'.

2. Exception from LDC 25-1-21(98)

"SITE means a contiguous area intended for development, or the area on which a building has been proposed to be built or has been built. A site may not cross a public street or right of way."

The applicant proposes to calculate impervious cover based on the overall 174.693 acre development, instead of on a site plan application by site plan application basis.

3. Exception from LDC 25-8-394(C)(3)(a)

"Impervious cover for a multifamily residential use may not exceed 60%".

The applicant is requesting that multifamily building site plans be calculated at 80% impervious cover, to match the adjacent commercial/retail IC limits.

Recommendations

Staff supports the amendment request because the Applicant has sufficiently addressed the environmental issues surrounding the proposed project.

Conditions

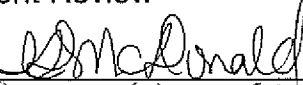
1. All cut/fill will be structurally contained.
2. Implement an IPM plan.
3. Attain at least 1 Star Level Minimum under the Green Building Program.
4. Implement the following studies:
 - a. Bioswale study: A study analyzing the environmental benefits, risks and methodology of direct infiltration of stormwater runoff into the subsurface;
 - b. Rainwater Harvesting study: A study analyzing the environmental benefits, methodology and economic impact of the capture and re-use of rainwater;
 - c. Adaptive Re-use of Building Materials study: A study analyzing the environmental benefits, risks, methodology and economic impact of the re-use of building materials from Building 60 (i.e., an approximately 460,000 square foot building on the site that is to be razed); and
 - d. "Blowdown" study: A study analyzing the environmental benefits, risks methodology and economic impact of the capture and re-use of the "blowdown" water from the Austin Energy central utility chiller plant located on the site (versus disposal of that water via the sanitary sewer system).
The applicant will meet with the appropriate City staff to share the findings. In addition, the applicant will incorporate the recommendations of the study that both City staff and the applicant agree are practical.
5. Provide a mix of uses in all residential buildings.

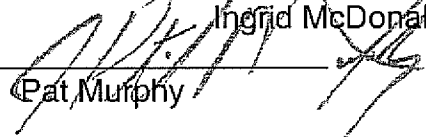
Staff recognizes the difficulty that the Applicant faces in trying to determine an overall impervious cover figure if different impervious cover limits exist throughout the development. However, staff cannot ignore that wholly residential buildings (coming in as individual site plans) would represent an unsupportable impervious cover variance. As such, staff can only support that exception if the residential buildings were to include a significant mixed use component. We could then consider them as commercial buildings.

If you have any questions or need additional information, please feel free to contact me at 974-2696.



Betty Lambright, Environmental Review Specialist Sr.
Watershed Protection and Development Review

Environmental Program Coordinator: 

Environmental Officer: 

January 4, 2007

Mr. Greg Guernsey
Neighborhood Planning and Zoning Department
City of Austin
505 Barton Springs Road
Austin, TX 78704

VIA HAND DELIVERY

RE: The Domain Zoning Application – C14-06-0121
174.693 Acres Located at the Northwest Corner of Burnet Road and Braker Lane
(the “Property”); Proposed Rezoning from MI-PDA, Major Industry-Planned
Development Area Combining District zoning to MI-PDA, Major Industry-
Planned Development Area Combining District zoning.

Dear Mr. Guernsey:

As representatives of the owners of the above stated Property, we respectfully submit this letter to amend the zoning application. The amendment includes requesting two variances the environmental staff indicated are required as part of the impervious cover proposal, which are the following:

- 1) Amend the definition of “site” in regard to Impervious Cover calculations (§25-1-21(98)), and
- 2) Increase Multifamily Impervious Cover limit from 60% to 80% (§25-8-394(C)(3)(a)).

The two variances are required to develop an urban style, high density, master planned, unique, unified development that will result in the creation of a lively urban neighborhood with a mix of uses where people can live, work, shop and play within walking distance of one another, and with a good connection to public transit. The following summarizes support for these variances:

Amend the definition of “site” in regard to Impervious Cover calculations (§25-1-21(98)):

- 1) The modification of the definition of “site” results in the ability to calculate the impervious cover on a 175 acre site, rather than on a site plan application by site plan application basis. This variance is not a request to “increase” the amount of impervious cover permitted by Code. The typical City process requires the calculation of impervious cover based on the limits of construction of “site plan application”. This variance will allow the calculation of impervious cover to be based on a 175 acre master plan that will

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be encumbered with in a restrictive covenant to ensure the overall impervious cover is under the maximum permitted in the Code, which is 80%;

- 2) The project is an urban style high-density project that requires unique regulations that will result in the type of development the City is promoting around transit corridors in the Desired Development Zone. The project will create a neighborhood where people can work, live, shop and play within walking distance of one another, and with a good connection to public transit. This style of development requires the project to be permitted as a 175 acre unified development instead of on a site plan application by site plan application basis. It is difficult to master plan a development with the restriction to calculate impervious cover on a site plan application basis;
- 3) The project is a redevelopment of an existing industrial project near the Central City, which is an extremely unique project, if not one of a kind, and
- 4) The Code states that the Land Use Commission may grant a variance from a requirement of this subchapter after determining that:

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.

The adjacent Simon Properties development known as The Domain was approved as a unified development with 80% impervious cover. The similarity is the fact that the project was approved as a mixed use unified development where the impervious cover was calculated as "one site". The proposed urban style high-density project on the Property is a continuation of The Domain development project. The requirement would deprive the applicant of a privilege given to the adjacent Simon Properties project known as The Domain, which is a similarly situated property that is being contemporaneously developed.

The variance is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection then is achievable without the variance:

The project is one large contiguous tract that will be developed as an urban master plan. It is unique that a developer has the opportunity to master plan a 175 acre tract that is bound by three major roadways, near transit corridors, is in the Desired Development Zone and in close proximity to the Central City. The development will be thought out and planned from a comprehensive environmental standpoint rather on a piecemeal basis. This allows the opportunity to study the use of bioswales, rainwater harvesting, adaptive re-use of building materials and "blowdown" options. The development method provides

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greater overall environmental protection by preparing the studies, sharing the findings of the studies with City staff and incorporating the recommendations of the studies that both the City staff and the applicant agree are practical.

The variance is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow reasonable use of the property:

The adjacent Simon Properties development known as The Domain was approved as a unified development with 80% impervious cover. The similarity is the fact that the project was approved as a mixed use unified development where the impervious cover was calculated as "one site". The proposed urban style high-density project on the Property is a continuation of The Domain development project. The variance is the minimum change necessary to avoid the deprivation of a privilege given to the adjacent Simon Properties project known as The Domain and allows a reasonable use of the property.

The variance does not create a significant probability of harmful environmental consequences:

The development will be thought out and planned from an environmental standpoint rather on a piecemeal basis. This allows the opportunity to study the use of bioswales, rainwater harvesting, adaptive re-use of building materials and "blowdown" options. Furthermore, the increase in the size of the pond has resulted in a decrease in the rate of flow from the site into Walnut Creek.

Regarding drainage, the rate of flow from the site at full build-out will be reduced by 12% compared to an undeveloped state ($100 \text{ CFS} / 813 \text{ CFS} = 12\%$). Therefore, the rate of the stormwater leaving the site will be reduced by 12%, which reduces the impact of the flooding in Walnut Creek.

Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.

The water quality will be equal to the water quality achievable without the variance.

Increase Multifamily Impervious Cover limit from 60% to 80% (§25-8-394(C)(3)(a)):

- 1) The project is an urban style high-density project that requires unique regulations that will result in the type of development the City is promoting around transit corridors. The project will create a neighborhood where people can work, live, shop and play within walking distance of one another, and with a good connection to public transit. This style of development requires the project to be permitted as a unified development with the

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- same amount of impervious cover for multifamily and commercial development at 80%;
- 2) The tract is located in close proximity to the Shoal Creek urban watershed where the zoning impervious cover percentage regulates the amount of permitted impervious cover on a tract. MI zoning permits 80% impervious cover;
 - 3) The property is bound by three major roadways, near commuter rail lines and is near major transit stops;
 - 4) The project is one large contiguous tract that will be developed as an urban master plan;
 - 5) A 175 acre tract located in the Desired Development Zone in close proximity to transit corridors, major roadways and the Central City. Furthermore, the project is a redevelopment of an existing industrial project near the central City, which is an extremely unique, if not one of a kind;
 - 6) The project consists of a higher percentage of commercial development than multifamily development. Therefore, 80% impervious cover is appropriate;
 - 7) The Land Development Code, approved in 1988, is written in a manner to regulate and promote "suburban" style development. Although the property is located in a suburban watershed, the project is an urban style project located near public transit corridors.
 - a. A perfect example of suburban style regulations is the difference in impervious cover regulations for commercial development (80%) and multifamily development (60%). An urban, walkable, transit oriented development must be constructed as a unified development with the same percentage of impervious cover and operate as one "development" with common water features, wet ponds, detention ponds, shared access, tree lined boulevards, open space and parks.
 - 8) The Code states that the Land Use Commission may grant a variance from a requirement of this subchapter after determining that:

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.

The adjacent Simon Properties development known as The Domain was approved as a unified development with 80% impervious cover. The development included two multifamily buildings with no retail tenants. The proposed urban style high-density project is a continuation of The Domain development project. The requirement would deprive the applicant of a privilege given to the adjacent Simon Properties project known

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as The Domain, which is a similarly situated property that is being contemporaneously developed.

The variance is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance:

The project is one large contiguous tract that will be developed as an urban master plan. It is unique that a developer has the opportunity to master plan a 175 acre tract that is bound by three major roadways, near transit corridors, is in the Desired Development Zone and in close proximity to the Central City. The development will be thought out and planned from a comprehensive environmental standpoint rather on a piecemeal basis. This allows the opportunity to study the use of bioswales, rainwater harvesting, adaptive re-use of building materials and “blowdown” options. The development method provides greater overall environmental protection by preparing, sharing the findings of and incorporate the recommendations of the above stated studies that both the City staff and the applicant agree are practical.

The variance is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow reasonable use of the property:

The adjacent Simon Properties development known as The Domain was approved as a unified development with 80% impervious cover. The similarity is the fact that the project was approved as a mixed use unified development where the impervious cover was calculated as “one site”. The proposed urban style high-density project is a continuation of The Domain development project. The variance is the minimum change necessary to avoid the deprivation of a privilege given to the adjacent Simon Properties project known as The Domain and allows a reasonable use of the property.

The variance does not create a significant probability of harmful environmental consequences:

The development will be thought out and planned from an environmental standpoint rather on a piecemeal basis. This allows the opportunity to study the use of bioswales, rainwater harvesting, adaptive re-use of building materials and “blowdown” options. Furthermore, the increase in the size of the pond has resulted in a decrease in the rate of flow from the site into Walnut Creek.

Regarding drainage, the rate of flow from the site at full build-out will be reduced by 12% compared to an undeveloped state (100 CFS / 813 CFS = 12%). Therefore, the rate of the stormwater leaving the site will be reduced by 12%, which reduces the impact of the

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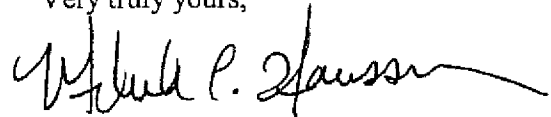
flooding in Walnut Creek.

Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.

The water quality will be equal to the water quality achievable without the variance.

Please let me know if you or your team members require additional information or have any questions. Thank you for your time and attention to this project.

Very truly yours,



Michele C. Haussmann

cc: Jorge Rousselin, NPZD (via hand delivery and electronic mail)
Pat Murphy, WPDR (via hand delivery and electronic mail)
Betty Lambrite, WPDR (via hand delivery and electronic mail)
Chad Marsh, Endeavor Real Estate Group (via electronic mail)
Ken Aicklen, Baker Aicklen (via electronic mail)
Tammi Migl, Baker Aicklen (via electronic mail)
Steve Drenner, Firm



ENVIRONMENTAL BOARD MOTION 011007-B1

Date: January 10, 2007

Subject: The Domain

Motioned By: Phil Moncada

Seconded by: Rodney Ahart

Recommendation

The Environmental Board recommends approval with conditions to amend the Planned Development Agreement (PDA) for The Domain as follows: 1) Land Development Code 25-8-341 and 342 to allow maximum cut and fill of 12'. 2) Land Development Code 25-1-21 Amend the definition of "site" to allow Impervious Cover to be calculated based on the overall 174-693 acre development; and 3) Land Development Code 25-8-394(C)(3)(a) to increase Multifamily Impervious Cover limit from 60% to 80%.

Staff Conditions

- 1) All cut/fill will be structurally contained.
- 2) Implement an IPM plan.
- 3) Attain at least 1 Star Level minimum under the Green Building Program site wide.
- 4) Implement the following studies:
 - a. Biowale study: A study analyzing the environmental benefits, risks and methodology of direct infiltration of stormwater runoff into the subsurface;
 - b. Rainwater Harvesting Study: A study analyzing the environmental benefits, methodology and economic impact of the capture and re-use of rainwater;
 - c. Adaptive Re-use of Building Materials study: A study analyzing the environmental benefit, risks, methodology and economic impact of the re-use of building materials from Building 60 (i.e., and approximately 460,000 square foot building on site that is to be razed);
 - d. "Blowdown" study: A study analyzing the environmental benefits, risks methodology and economic impact of the capture and re-use of the "blowdown" water from the Austin Energy Central utility chiller plant located on the site (versus disposal of that water via the sanitary sewer system).

The applicant will meet with the appropriate City staff to share the findings. In addition, the applicant will incorporate the recommendations of the studies that both City staff and the applicant agree are practical.

Board Conditions

- 1) Upon redevelopment of a minimum of 80 acres, the applicant shall either (a) provide a cistern/cisterns or other structures capable of capturing a minimum of 75,000 gallons of rainwater or (b) provide bioswales capable of causing an equivalent amount of rainwater to be retained on-site, or a combination of both which achieves the same effect.
- 2) The on-site detention ponds will be sized so that the release of stormwater from the site will be at a rate less than the rate which existed when the site was in an undeveloped condition.

Rationale

1. The new project will be developed as an urban Master Plan bounded by three major roadways, near transit corridors, and in the Desired Development Zone. Reduction of mixed use amenities.
2. The reduction of stormwater flow by 12% will reduce the impact on the Walnut Creek Watershed. In addition, no portion of this site is within the Edwards Aquifer Recharge Zone.
3. This is a vertically intergrated mixed-use development and the master plan will create an opportunity to track impervious cover for this project.
4. Because the site as a whole can be considered mixed use, the Board does not feel it is setting a precedent by allowing 80% impervious cover for stand-alone multi-family residential structures. The Board does not feel that level of impervious cover is acceptable outside of a true mixed use environment in environmentally sensitive areas, but given the location of this mixed usage site, and the environmental protections agree to by the applicant, the Board is willing to recommend the proposed variances be granted.

Vote 6-0-0-3


For: Anderson, Moncada, Maxwell, Ahart, Curra, and Ascot

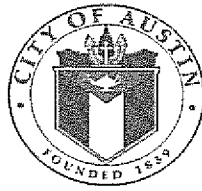
Against:

Abstain:

Absent: Beall, Dupnik and Jenkins

Approved By:


Dave Anderson P.E., CFM
Environmental Board Chair



TO: Environmental Board members
FROM: Marilla Carter, Environmental Board Liaison
DATE: January 5, 2007
RE: Content for the Environmental Board packet 1/10/2007

This is to advise you that the packet for the January 10, 2007 meeting will not include any maps. Please refer the packet sent to you for the December 20, 2006 meeting, which contains the maps for agenda item B-1.

If you have any questions about the content in the packet, please call me at 512-974-3443.

Sincerely,

Marilla Carter

Marilla Carter