



ITEM FOR ENVIRONMENTAL BOARD AGENDA

BOARD MEETING

DATE REQUESTED: March 6, 2013

**NAME & NUMBER
OF PROJECT:** DESSAU RETAIL CENTER
SP-2012-0350C

**NAME OF APPLICANT
OR ORGANIZATION:** Moncada Consulting
[Contact: Phil Moncada-(512) 627-8815]

LOCATION: 11800 Dessau Rd

PROJECT FILING DATE: October 15, 2012

**PDR/ENVIRONMENTAL
STAFF:** Jim Dymkowski, 974-2707
james.dymkowski@austintexas.gov
Sylvia Pope, 974-3429
sylvia.pope@austintexas.gov

**PDR/
CASE MANAGER:** Lynda Courtney, 974-6307
Lynda.courtney@austintexas.gov

WATERSHED: Walnut Creek Watershed (Suburban)
Desired Development Zone

ORDINANCE: Comprehensive Watershed Ordinance (current Code)
REQUEST: Variance request is as follows:

1. To allow for the reduction of the buffer zone established around each critical environmental feature from the code required 150 feet to the following: CEF #1 (Canyon Rimrock/Seep) to 100 feet, CEF #3 (Canyon Rimrock) to 85 feet, and CEF #4 (Seep) to 11 feet. [LDC Section 25-8-281 (C) (1) (a).
2. To allow the construction of a parking area on a slope with a gradient of more than 15% LDC Section 25-8-302(A) (2).
3. To allow impervious cover on slopes with a gradient of more than 15 percent to exceed 10 percent of the total area of the 15% slopes. LDC 25-8-302(B) (1).

4. To allow fill greater than 4 feet, not to exceed 8 feet.
[LDC Section 25-8-342].

STAFF RECOMMENDATION: Variance one thru four are recommended with conditions.

REASONS FOR Findings of fact have been met.
RECOMMENDATION:



**Planning and Development Review Department
Staff Recommendations Concerning Required Findings
Water Quality Variances**

Project:	Dessau Retail Center - SP-2012-0350C
Ordinance Standard:	Land Development Code Section 25-8-281 (C) (1) (a)
Variance Request:	To allow for the reduction of the buffer zone established around each critical environmental feature from the code required 150 feet to the following: CEF #1 (Canyon Rimrock/Seep) to 100 feet, CEF #3 (Canyon Rimrock) to 85 feet, and CEF #4 (Seep) to 11 feet.

Findings:

A. Land Use Commission variance determinations from Chapter 25-8, Subchapter A – Water Quality of the City Code:

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. Strict adherence to the code would deprive the applicant of the ability to provide the necessary access to the property. This is due to the site's need for safe and adequate street access and access from the parking area to the buildings.

2. The variance:
 - a) 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;

Yes. The variance is based on the method chosen by the applicant to develop the property (building size and site configuration). This layout provides safe access to the buildings thereby creating the need for the variance. The applicant has agreed to the following conditions of the variance that will provide a greater overall environmental benefit than

what is required by code if they were not seeking the variance. The project will be providing:

- Tree Mitigation required 98.5 caliper inches, providing 164.5 caliper inches.
- Pedestrian amenity Common Space required 5,654sf., providing 6,905 sf.,
- Landscape street yard greenspace area required 7,405sf. (20%), providing 16,399sf. (44%),
- Innovative Water Management Undisturbed Area required 3,952sf, providing 94,213sf. (This is area on-site that will remain natural and not require additional potable water irrigation.)

- b) 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. This is the minimum change necessary to allow for reasonable use of and safe access to the site. The applicant and owner have worked with staff to propose this design.

- c) Does not create a significant probability of harmful environmental consequences; and

Yes. Normally, the reductions proposed to CEF's #1 and #3 are small enough that they could have been granted administratively, but since the reduction requested on CEF #4 could not be granted administratively, they are all being forwarded for Board and Commission review and approval. This variance will not increase harmful environmental consequences. The proposed layout provides CEF protection while maintaining flows from the two seeps.

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

Yes. Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance. They are proposing sedimentation/filtration water quality to meet current code in a Suburban watershed and flows from the constructed site are directed to the pond.

- B. Additional Land Use Commission variance determinations for a requirement of Section 25-8-393 (Water Quality Transition Zone), Section 25-8-423 (Water Quality Transition Zone), Section 25-8-453 (Water Quality Transition Zone), or Article 7, Division 1 (Critical Water Quality Zone Restrictions):

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

N/A.

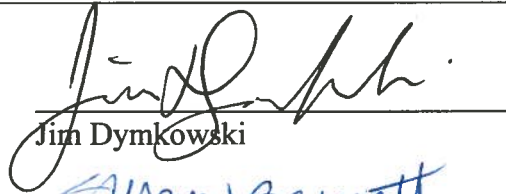
2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and

N/A.

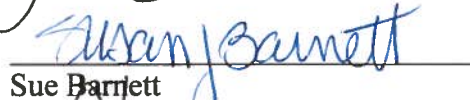
3. The variance is the minimum change necessary to allow a reasonable, economic use of the entire property.

N/A.

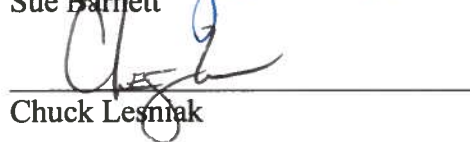
Environmental Reviewer:


Jim Dymkowski

Environmental Program Coordinator:


Sue Barrett

Environmental Officer:


Chuck Lesniak

Date: February 21, 2013

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



**Planning and Development Review Department
Staff Recommendations Concerning Required Findings
Water Quality Variances**

Project:	Dessau Retail Center - SP-2012-0350C
Ordinance Standard:	Land Development Code Section 25-8-302(A) (2). To allow the construction of a parking area on a slope with a gradient of more than 15%.

Findings:

**A. Land Use Commission variance determinations from Chapter 25-8, Subchapter A
– Water Quality of the City Code:**

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. Strict adherence to the code would deprive the applicant of the ability to provide the necessary access to the property. This is due to the site's need for safe and adequate access from the parking area to buildings one, two, and three.

2. The variance:

- a) 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;

Yes. The variance is based on the method chosen by the applicant to develop the property (building size and site configuration). This layout provides safe access to the buildings thereby creating the need for the variance. The applicant has agreed to the following conditions of the variance that will provide a greater overall environmental benefit than what is required by code if they were not seeking the variance. The project will be providing:

- **Tree Mitigation required 98.5 caliper inches, providing 164.5 caliper inches.**
- **Pedestrian amenity Common Space required 5,654sf. providing 6,905 sf.**
- **Landscape street yard greenspace area required 7,405sf. (20%), providing 16,399sf. (44%)**
- **Innovative Water Management Undisturbed Area required 3,952sf, providing 94,213sf. (This is area on-site that will remain natural and not require additional potable water irrigation.)**

b) 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. This is the minimum change necessary to allow for reasonable use of and safe access to the site. The applicant and owner have worked with staff to propose this design.

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

Yes. This variance will not increase harmful environmental consequences. The slopes in question are localized to a few areas on site. They appear to have been created from areas of concentrated storm water runoff over the years toward the creek adjacent to the proposed development. Development on these slopes will be contained beneath the new parking area so no erosion of the slopes will occur and the flows from the site to the creek will be maintained after they pass through the detention and water quality pond.

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

Yes. Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance. They are proposing sedimentation/filtration water quality to meet current code in the Suburban watershed and flows from the constructed site are directed to the pond.

B. Additional Land Use Commission variance determinations for a requirement of Section 25-8-393 (Water Quality Transition Zone), Section 25-8-423 (Water Quality Transition Zone), Section 25-8-453 (Water Quality Transition Zone), or Article 7, Division 1 (Critical Water Quality Zone Restrictions):

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

N/A.


2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and

N/A.

3. The variance is the minimum change necessary to allow a reasonable, economic use of the entire property.

N/A.


Environmental Reviewer:


Jim Dymkowski

Environmental Program Coordinator:


Sue Barnett

Environmental Officer:


Chuck Lesniak

Date: February 21, 2013

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



**Planning and Development Review Department
Staff Recommendations Concerning Required Findings
Water Quality Variances**

Project:	Dessau Retail Center - SP-2012-0350C
Ordinance Standard:	Land Development Code Section 25-8-302(B) (1).
Variance Request:	To allow impervious cover on slopes with a gradients of more than 15 percent to exceed 10 percent of the total area of the 15% slopes.

Findings:

- A. Land Use Commission variance determinations from Chapter 25-8, Subchapter A – Water Quality of the City Code:
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. Strict adherence to the code would deprive the applicant of the ability to provide the necessary access and use of the property for construction of the building and parking areas. The allowable impervious cover for this slope category is .105 acres while the project proposes .282 acres. Although the project proposes this increase, they are proposing less overall impervious cover for the site than what is allowed. The overall allowable impervious cover for the site is 3.288 acres while the project proposes 2.73 acres.

2. The variance:
 - a) 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;

Yes. The variance is based on the method chosen by the applicant to develop the property (building size and site configuration). This layout provides safe access to the buildings thereby creating the need for the variance. The applicant has agreed to the following conditions of the variance that will

provide a greater overall environmental benefit than what is required by code if they were not seeking the variance. The project will be providing:

- **Tree Mitigation required 98.5 caliper inches, providing 164.5 caliper inches.**
- **Pedestrian amenity Common Space required 5,654sf. providing 6,905 sf.**
- **Landscape street yard greenspace area required 7,405sf. (20%), providing 16,399sf. (44%)**
- **Innovative Water Management Undisturbed Area required 3,952sf, providing 94,213sf. (This is area on-site that will remain natural and not require additional potable water irrigation.)**

- b) **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. This is the minimum change necessary to allow for reasonable use of the site. The applicant and owner have worked with staff to propose this design.

- c) **Does not create a significant probability of harmful environmental consequences; and**

Yes. This variance will not increase harmful environmental consequences. Although this variance does propose and increase in the impervious cover allowed in this slope category, development on these slopes will be contained beneath the new parking area so no erosion of the slopes will occur. Also, the proposed impervious cover for the overall site is less than what is allowed by code. Overall allowable impervious cover for the site is 3.288 acres while the project proposes 2.73 acres.

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

Yes. Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance. They are proposing sedimentation/filtration water quality to meet current code in the Suburban watershed and flows from the constructed site are directed to the pond.

- B. **Additional Land Use Commission variance determinations for a requirement of Section 25-8-393 (Water Quality Transition Zone), Section 25-8-423 (Water Quality Transition Zone), Section 25-8-453 (Water Quality Transition Zone), or Article 7, Division 1 (Critical Water Quality Zone Restrictions):**

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

N/A.

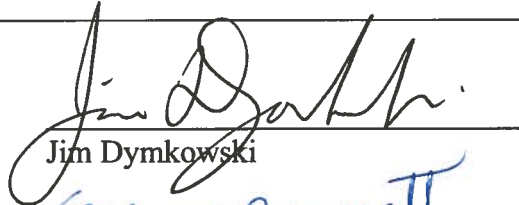
2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and

N/A.

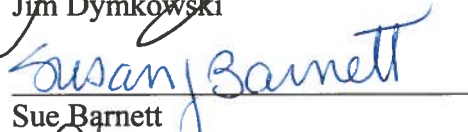
3. The variance is the minimum change necessary to allow a reasonable, economic use of the entire property.

N/A.

Environmental Reviewer:


Jim Dymkowski

Environmental Program Coordinator:


Sue Barnett

Environmental Officer:


Chuck Lesniak

Date: February 21, 2013

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



**Planning and Development Review Department
Staff Recommendations Concerning Required Findings
Water Quality Variances**

Project:	Dessau Retail Center - SP-2012-0350C
Ordinance Standard:	Land Development Code Section 25-8-342
Variance Request:	To allow fill greater than 4 feet, not to exceed 8 feet.

Findings:

- A. Land Use Commission variance determinations from Chapter 25-8, Subchapter A – Water Quality of the City Code:

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. Strict adherence to the code would deprive the applicant of the ability to provide the necessary access to the property. This is due to the site's need for safe and adequate street access and from the parking area to the buildings one and two.

2. The variance:

- a) 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;

Yes. The variance is based on the method chosen by the applicant to develop the property (building size and site configuration). This layout provides safe access to the buildings thereby creating the need for the variance. The applicant has agreed to the following conditions of the variance that will provide a greater overall environmental benefit than what is required by code if they were not seeking the variance. The project will be providing:

- **Tree Mitigation required 98.5 caliper inches, providing 164.5 caliper inches.**

- **Pedestrian amenity Common Space required 5,654sf. providing 6,905 sf.**
- **Landscape street yard greenspace area required 7,405sf. (20%), providing 16,399sf. (44%)**
- **Innovative Water Management Undisturbed Area required 3,952sf, providing 94,213sf. (This is area on-site that will remain natural and not require additional potable water irrigation.)**

- b) 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 applicant has worked with staff in an attempt to balance the overall earthwork as much as possible while assuring that positive drainage flows are maintained to the water quality/detention pond.

- c) Does not create a significant probability of harmful environmental consequences; and

Yes. Normally, in a Suburban watershed, fill between 4-8 feet could be granted administratively. But since some of the proposed fill is on a slope of greater than 15%, staff is unable to administratively grant this request and it is brought forward for Board and Commission review and approval. This variance will not increase harmful environmental consequences. The proposed fill will be contained beneath the proposed parking and behind proposed retaining walls.

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

Yes. Development with the variance will result in water quality that is at least equal to the water quality achievable without the variance. They are proposing sedimentation/filtration water quality to meet current code in the Suburban watershed and flows from the constructed site are directed to the pond. The fill area will allow for site drainage to flow to water quality/detention pond.

- B. Additional Land Use Commission variance determinations for a requirement of Section 25-8-393 (Water Quality Transition Zone), Section 25-8-423 (Water Quality Transition Zone), Section 25-8-453 (Water Quality Transition Zone), or Article 7, Division 1 (Critical Water Quality Zone Restrictions):

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

N/A.

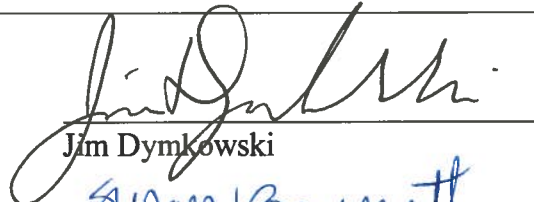
2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and

N/A.

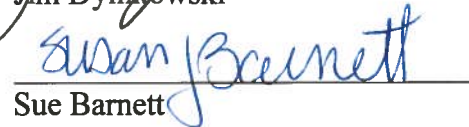
3. The variance is the minimum change necessary to allow a reasonable, economic use of the entire property.

N/A.

Environmental Reviewer:


Jim Dymkowski

Environmental Program Coordinator:


Sue Barnett

Environmental Officer:

Chuck Lesniak

Date: February 21, 2013

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

Recommendations

The findings of fact for variances #1 thru #4 have been met. Staff recommends approval of these variances with the following conditions:

- **Tree Mitigation required 98.5 caliper inches, providing 164.5 caliper inches.**
- **Pedestrian amenity Common Space required 5,654sf. providing 6,905 sf.**
- **Landscape street yard greenspace area required 7,405sf. (20%), providing 16,399sf. (44%)**
- **Innovative Water Management Undisturbed Area required 3,952sf, providing 94,213sf. (This is area on-site that will remain natural and not require additional potable water irrigation.)**

If you have any questions or need additional information, please feel free to contact me at 974-2707.

DESSAU RETAIL CENTER
SP-2012-0350C
Driving Directions

Beginning at Austin City Hall 301 W 2nd Street:

Go east on Cesar Chavez approximately 0.5 miles.

Go north on IH-35 approximately 7.5 miles to Exit 243 Braker Ln.

Turn right and go east on Braker Ln approximately .7 miles to the intersection of Dessau Rd.

Turn left and go north on Dessau Rd. for approximately .7 miles to the intersection of Dessau Rd. and Shropshire Blvd.

11800 Dessau Rd will be on the northwest corner of the intersection of Dessau Rd. and Shropshire Blvd.