



Item 5a

ITEM FOR ENVIRONMENTAL BOARD AGENDA

BOARD MEETING
DATE REQUESTED: June 19, 2013

NAME & NUMBER IH-35 Frontage Drive Access to AISD SE Bus Maintenance
and Service Facility
OF PROJECT: SP-2013-0077D

NAME OF APPLICANT Chan Partners Consulting Engineers on Behalf of AISD
OR ORGANIZATION: Tom Curran, PE (512) 480-8155

LOCATION: 7309 N IH 35 Service Road NB

PROJECT FILING DATE: March 05, 2013

PDRD/ENVIRONMENTAL Liz Johnston, 974-1218
STAFF: liz.johnston@austintexas.gov

PDRD/ Nikki Hoelter, 974-2863
CASE MANAGER: nikki.hoelter@austintexas.gov

WATERSHED: South Boggy Creek (Suburban),
Desired Development Zone

ORDINANCE: Comprehensive Watershed Ordinance (current Code)

REQUEST: Variance request is as follows:
1) To allow cut in excess of 4' but less than 8', LDC 25-8-341(A)
2) To allow fill in excess of 4' but less than 8', LDC 25-8-342(A)
3) To allow construction of a driveway on slopes greater than 15%, LDC 25-8-301

STAFF RECOMMENDATION: Recommend

REASONS FOR RECOMMENDATION: The findings of fact have been met.



MEMORANDUM

TO: Mary Gay Maxwell, Chairperson and Members of the Environmental Board

FROM: Liz Johnston, Environmental Review Specialist Senior
Planning and Development Review Department

DATE: June 19, 2013

SUBJECT: IH-35 Frontage Drive Access to AISD SE Bus Maintenance and Service Facility,
SP-2013-0077D

On the June 19, 2013 agenda is a request for the consideration of three variances that have been requested for a proposed driveway that will allow bus access to IH 35 from the AISD bus terminal located on Bluff Springs Road. The subject property is not owned by AISD and the proposed driveway will be constructed within a proposed joint-use access easement.

Description of Property

The subject property is located in the South Boggy Creek Watershed, which is classified as a Suburban watershed and is located within the Desired Development Zone. The property is bisected by an unnamed tributary of South Boggy Creek, but does not contain 100-year Floodplain, Critical Water Quality Zone (CWQZ) or Water Quality Transition Zone (WQTZ). Additionally, a 50' pipeline easement runs east to west through the site, which the driveway is allowed to cross but is not allowed to run along its length. The location of the driveway from the TxDOT Right of Way of IH 35 was determined by TxDOT.

Existing Topography/Soil Characteristics/Vegetation

The main topographic feature of the subject property is the significant naturally-occurring drainage swale and the associated areas of slopes greater than 15%. Vegetation generally consists of dense woodland, including large old growth oak and elms as well as secondary growth ashe juniper. According to the Environmental Assessment, geology at this site is characterized by the Austin Chalk formation and soils consist of Austin Silty Clay, eroded Eddy Gravelly loam, Stephen Silty Clay loam and Urban Land and Austin Soils.

Critical Environmental Features/Endangered Species

Watershed Protection Department Environmental Resource Management (ERM) staff have identified one wetland Critical Environmental Feature located approximately 200' upstream of the proposed driveway within the pipeline easement. No impacts to the wetland will occur from the construction of the proposed driveway and (ERM) staff is working with the applicant to document the wetland on the site plan with the appropriate buffer.

Description of Project

The project consists of a driveway and associated water quality and detention facilities to allow bus access from the existing AISD bus terminal facility to IH 35. The driveway will provide a safer ingress/egress on to the AISD

site than exists in the current configuration and will address traffic concerns that have been expressed by neighborhood groups regarding the traffic stacking at the controlled intersection at William Cannon and Bluff Springs Road.

Environmental Code Exception Request

The following exceptions to the land development code are being requested:

- 1) To allow cut in excess of 4' but less than 8', LDC 25-8-341(A)
- 2) To allow fill in excess of 4' but less than 8', LDC 25-8-342(A)
- 3) To allow construction of a driveway on slopes greater than 15%, LDC 25-8-301

The Land Development Code (LDC) allows City of Austin staff to administratively approve cuts up to 8' in the Desired Development Zone, but this variance is being included here consistent with department policy when other Land Use Commission (LUC) variances are required for a project. A LUC variance for more than 4' of fill is required because the proposed fill is located on slopes greater than 15%, and the LDC only allows driveways to cross slopes greater than 15% if the driveway provides primary access to two acres of contiguous property with slopes less than 15%. While the applicant suggests that this driveway will be a second primary access in the future, the AISD site already contains a primary access and therefore staff did not believe that the proposed driveway met the intent of the code and therefore an LUC variance was needed.

Conditions for Staff Approval

- 1) Only clean fill of soil, rock, sand or other natural materials are to be used as fill
- 2) All fill over 4' will be structurally contained,
- 3) All trees over 8" in diameter will be mitigated with Appendix F shade trees.

Recommendation

Staff recommends approval of the variances because the Findings of Fact (see attached) have been met.



Staff Findings of Fact
Planning and Development Review Department
Environmental Criteria Manual Appendix U

Project:	IH-35 Frontage Drive Access to AISD SE Bus Maintenance and Service Facility SP-2013-0077D
Ordinance Standard:	Land Development Code Section 25-8-301(A)
Variance Request:	To allow construction of a driveway on slopes in excess of 15%

Justification:

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development?

Yes – In order to exit out of the existing AISD bus terminal site located on Bluff Springs Road, most of the buses are required to turn left (north) on to Bluff Springs Road, which results in a dangerous traffic situation and causes significant vehicle stacking at the nearest controlled intersection at Bluff Springs and William Cannon Drive. At the request of neighborhood representatives, AISD now proposes an alternative access point to IH 35. Unfortunately, the adjoining lot where the driveway is proposed itself has environmental constraints that necessitate the construction of a driveway on slopes greater than 15%.

2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences?

Yes – The applicant has situated the driveway to minimize the amount of slopes that are affected, but they are limited by certain site constraints, such as the TxDOT's required driveway location along IH 35, an existing pipeline easement that runs east to west through the property, and the location of heritage trees scattered throughout the site. The applicant has chosen the most direct route from the driveway point to the AISD bus terminal site that minimizes the amount of disturbance without impacting trees. In order to achieve access to IH 35 to the existing bus terminal, there is no way to avoid slopes greater than 15%.

3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land.

Yes – The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development. The transportation issues on Bluff Springs Road existed prior to the development of the AISD bus terminal and are not the result of the facility's layout or other development methods. The proposed driveway is the best solution to allow for the safe transport of the buses and to minimize the impact on the surrounding neighborhood.

4. Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance?

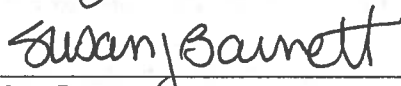
Yes – Water quality will be the same as would have resulted had development proceeded without the variance. The development does not impact the wetland Critical Environmental Feature identified approximately 200 feet upstream of the proposed driveway. The creek does not have enough drainage area to trigger Critical Water Quality Zone and Water Quality Transition Zone setbacks and is not located within a 100-year floodplain.

5. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property?
Not applicable.


Environmental Reviewer:


Liz Johnston

Environmental Program Coordinator:


Sue Barnett

Environmental Officer:


Chuck Lesniak

Date: June 11, 2013

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



Staff Findings of Fact
Planning and Development Review Department
Environmental Criteria Manual Appendix U

Project:	IH-35 Frontage Drive Access to AISD SE Bus Maintenance and Service Facility SP-2013-0077D
Ordinance Standard:	Land Development Code Section 25-8-341(A)
Variance Request:	To allow cut in excess of 4' but less than 7'

Justification:

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development?

Yes – In order to exit out of the existing AISD bus terminal site located on Bluff Springs Road, most of the buses are required to turn left (north) on to Bluff Springs Road, which results in a dangerous traffic situation and causes significant vehicle stacking at the nearest controlled intersection at Bluff Springs and William Cannon Drive. At the request of neighborhood representatives, AISD now proposes an alternative access point to IH 35, which itself has environmental constraints necessitating cut in excess of 4' in order to minimize the amount of fill proposed within the existing creek.

2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences?

Yes – The applicant has worked with review staff to redesign their original submittal to minimize the amount fill that is currently proposed. In order to provide a slope that buses can negotiate, the amount of cut required will be greater than 4', but less than 8'.

3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land.


Yes – The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development. The transportation issues on Bluff Springs Road existed prior to the development of the AISD bus terminal and are not the result of the facility's layout of other development methods. The proposed driveway is the best solution to allow for the safe transport of the buses and to minimize the impact on the surrounding neighborhood.

4. Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance?


Yes – Water quality will be the same as would have resulted had development proceeded without the variance. The development does not impact the Wetland Critical Environmental Feature identified approximately 200 feet upstream of the proposed driveway. The creek does not have enough drainage area to trigger Critical Water Quality Zone setbacks and is not located within a 100-year floodplain.

5. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property?
Not applicable.

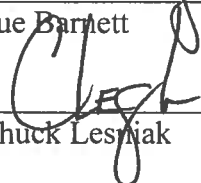
Environmental Reviewer:


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Date: June 11, 2013

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



Staff Findings of Fact
Planning and Development Review Department
Environmental Criteria Manual Appendix U

Project:	IH-35 Frontage Drive Access to AISD SE Bus Maintenance and Service Facility SP-2013-0077D
Ordinance Standard:	Land Development Code Section 25-8-342(A)
Variance Request:	To allow fill in excess of 4' but less than 8'

Justification:

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner of privileges or safety enjoyed by other similarly situated property with similarly timed development?

Yes – The proposed driveway is located on a lot that is bisected down the middle by an intermittent creek. There is no way for one side of the property to access the other side without crossing the creek and the fill is proposed at the creek crossing in order to achieve a safe profile for the driveway. While the current driveway is proposed to provide access for the existing AISD bus terminal parking, any future development will use the proposed driveway for access from IH35.

2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences?

Yes – The applicant has worked with review staff to redesign their original driveway profile to minimize the amount fill that is proposed. Originally the applicant proposed approximately 15' of fill, but after the redesign they are now proposing less than 8', which is necessary to provide a slope that the buses can negotiate. Because the fill is located on a slope greater than 15%, environmental review staff are unable to administratively approve the variance.

3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivided land.

Yes – The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development. The transportation issues on Bluff Springs Road existed prior to the development of the AISD bus terminal and are not a result of the facility's layout or other development methods. The proposed driveway is the best solution to allow for the safe transport of the buses and to minimize the impact on the surrounding neighborhood.

4. Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance?

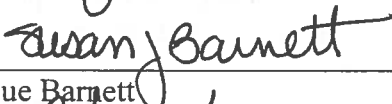
Yes – Water quality will be the same as would have resulted had development proceeded without the variance. The development does not impact the Wetland Critical Environmental Feature identified approximately 200 feet upstream of the proposed driveway. The creek does not have enough drainage area to trigger Critical Water Quality Zone setbacks and is not located within a 100-year floodplain.

5. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the entire property?
Not applicable.

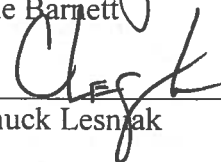
Environmental Reviewer:


Liz Johnston

Environmental Program Coordinator:


Sue Barnett

Environmental Officer:


Chuck Lesnak

Date: June 11, 2013

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



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TBPE Firm Registration No. F-13013

www.chanpartners.com

June 12, 2013

Nikki Hoelter, Case Manager
City of Austin Planning and Development Review Department
P.O. Box 1088
Austin, Texas 78767

Re: SP-2013-0077D
IH-35 Frontage Drive Access to AISD S.E. Bus Maintenance & Service Facility
7309 South IH-35 Service Road Northbound
Findings of Fact for Construction on Slopes Variance - Land Development Code Section 25-8-301

Dear Ms. Hoelter:

Please allow this letter to serve as our findings of fact for Land Use Commission variance consideration (per LDC 25-8-41) for the proposed construction of a driveway on land slopes exceeding 15%. The proposed project will require approximately 140-linear feet of drive on land exceeding a 15% slope. Driveways providing primary access are allowed by code to cross land slopes exceeding 15%. As the adjacent land plans have not yet been filed, it cannot be confirmed at this time that this drive will provide primary access to the adjacent developments, and therefore a variance is considered a necessity.

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.
Response: Yes. Access from the IH-35 frontage road to the 38-acre tract of land referenced above and the 22-acre AISD bus terminal site is required to provide reasonable access to the properties. This is necessary for improved traffic circulation, emergency vehicle access, and to reduce congestion along Bluff Springs Road. This access is in accordance with the approved Traffic Impact Analysis and covenant restriction placed on the property for roadway improvements. The point of driveway access onto the I-35 northbound frontage road is restricted given TxDOT standards for safety on sight distance, driveway separation, lane transitions, and exit ramp clearance areas. The proposed driveway connection point is the only location along the approximate 1,400 linear feet of property frontage that is approvable by TxDOT at this time. With the moderately steep slopes that exist on the property, a small portion of the drive must cross land with a slope exceeding 15%.
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 that is achievable without the variance.
Response: Yes. The variance is solely based on gaining reasonable access to the property while designing a roadway and drainage facilities to meet minimum safety standards. Essential for this access is the need to traverse relatively steep property and a small tributary of South Boggy Creek. The location of the drive is predicated on an approvable driveway location by TxDOT and avoiding heritage trees on the property.

CHAN & PARTNERS ENGINEERING, LLC

Consulting Civil Engineers

- 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.

Response: Yes. The driveway has been designed to minimize environmental impacts while meeting minimum roadway standards. The alignment avoids several heritage trees in the vicinity. The driveway provides reasonable access to the property to allow a reasonable use.

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

Response: Yes. The variance does not create a significant probability of harmful environmental consequence and has been designed to reduce the footprint of the roadway crossing, avoid significant trees, and meet Corps of Engineer Nationwide Permit standards under the Clean Water Act.

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

Response: Yes. The proposed project will result in water quality that is at least equal to the water quality achievable without the variance. The project provides water quality treatment meeting city standards, avoids critical environmental features and significant trees, and has been designed to meet or exceed the city's water quality standards.

Part B of the Findings of Fact is only applicable for variances within water quality zones and is therefore not applicable here.

We respectfully request variance approval from the referenced section of the land development code. In addition to meeting the conditions above, the variance is needed to provide reasonable economic use of the entire property; and the variance is the minimum change necessary to allow such reasonable use. Please let us know if we can provide additional information. We appreciate your time and consideration.

Sincerely,

CHAN & PARTNERS ENGINEERING, LLC



Tom Curran, PE
Vice President



ENVIRONMENTAL BOARD VARIANCE APPLICATION TEMPLATE

Insert Applicant Variance Request Letter here.

PROJECT DESCRIPTION

Applicant Contact Information

Name of Applicant	South Austin I-35 Associates and Austin Independent School District
Street Address	1717 West 6 th Street, Suite 310
City State ZIP Code	Austin, Texas 78703
Work Phone	512-414-8952 attn: Deborah James
E-Mail Address	djames@austinisd.org

Variance Case Information

Case Name	South Austin I-35 Associates
	I-35 Frontage Drive Access to AISD S.E. Bus Maintenance Facility
Case Number	SP-2013-0077D
Address or Location	7309 N IH 35 SVRD NB
Environmental Reviewer Name	Liz Johnston
Applicable Ordinance	25-8-341 & 342 (Cut/fill exceeding four feet)
	25-8-301 (Construction on Slopes)
Watershed Name	South Boggy
Watershed Classification	<input type="checkbox"/> Urban <input type="checkbox"/> <u>Suburban</u> <input type="checkbox"/> Water Supply Suburban <input type="checkbox"/> Water Supply Rural <input type="checkbox"/> Barton Springs Zone

Edwards Aquifer Recharge Zone	<input type="checkbox"/> Barton Springs Segment <input type="checkbox"/> Northern Edwards Segment <input type="checkbox"/> <u>Not in Edwards Aquifer Zones</u>
Edwards Aquifer Contributing Zone	<input type="checkbox"/> Yes <input type="checkbox"/> <u>No</u>
Distance to Nearest Classified Waterway	Driveway crosses an unnamed tributary of South Boggy Creek. The contributing drainage area is not large enough to establish adjacent water quality zones
Water and Waste Water service to be provided by Request	City of Austin The variance request is as follows (Cite code references:

Impervious cover	Existing	Proposed
square footage:	<u>0</u>	<u>42,253</u>
acreage:	<u>0</u>	<u>0.97</u>
percentage:	<u>0</u>	<u>2.5%</u>
Provide general description of the property (slope range, elevation range, summary of vegetation / trees, summary of the geology, CWQZ, WQTZ, CEFs, floodplain, heritage trees, any other notable or outstanding characteristics of the property)	<p>Property is moderately sloped (generally in the 10-15% range). Vegetation is a mix of dense juniper-elm-oak. Geologic formation is Austin Chalk. There are no CWQZ or WQTZ on the site. There is a small tributary of South Boggy Creek that has a bed and bank and is therefore considered waters of the US. A Nationwide Permit is available for the proposed crossing as disturbance will be less than 0.1 acres. There are several heritage trees on the site and the drive has been aligned to avoid the heritage trees.</p>	

Clearly indicate in what way the proposed project does not comply with current Code (include maps and exhibits)

Construction of the driveway requires cut and fill between four and eight feet (Sections 25-8-341 & 342) in areas where the existing ground slopes exceed 15%. As such, this cannot be an administrative variance. In addition, a driveway may not be constructed on land slope greater than 15% unless it provides primary access (Section 25-8-301). As the adjacent land use site plan has not been processed, it cannot be confirmed at this time that this drive will provide primary access.

FINDINGS OF FACT

As required in LDC Section 25-8-41, in order to grant a variance the Land Use Commission must make the following findings of fact:

Include an explanation with each applicable finding of fact.

Project: I-35 Frontage Drive Access to AISD S.E. Bus Maintenance Facility

Ordinance: (See attached Findings of Fact letters)

A. Land Use Commission variance determinations from Chapter 25-8-41 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/No

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/No

- 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;

June 12, 2013

Yes/No

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

Yes/No

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

Yes/No

- 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 criteria for granting a variance in Section A are met;

Yes/No

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

Yes/No

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

Yes/No

****Variance approval requires all above affirmative findings.**

Exhibits for Board Backup and/or Presentation

Please attach and paginate.

- Aerial photos of the site (backup and presentation)
- Site photos (backup and presentation)
- Aerial photos of the vicinity (backup and presentation)
- Context Map—A map illustrating the subject property in relation to developments in the vicinity to include nearby major streets and waterways (backup and presentation)
- Topographic Map - A topographic map is recommended if a significant grade change on the subject site exists or if there is a significant difference in grade in relation to adjacent properties. (backup and presentation)
- For cut/fill variances, a plan sheet showing areas and depth of cut/fill with topographic elevations. (backup and presentation)
- Site plan showing existing conditions if development exists currently on the property (presentation only)
- Proposed Site Plan- full size electronic or at least legible 11x17 showing proposed development, include tree survey if required as part of site or subdivision plan (backup and presentation)
- Environmental Map – A map that shows pertinent features including Floodplain, CWQZ, WQTZ, CEFs, Setbacks, Recharge Zone, etc. (backup and presentation)
- An Environmental Assessment pursuant to ECM 1.3.0 (if required by 25-8-121) (backup only)
- Applicant's variance request letter (backup only)

