



ITEM FOR ENVIRONMENTAL COMMISSION AGENDA

Commission Meeting
Date Requested: September 21, 2016

Name & Number
of Project: 609 River Road
SP-2015-0454DS

Name of Applicant
or Organization: Janis J. Smith (512) 914-3729

Location: 609 River Road

Project Filing Date: October 7, 2015

City Council District: 6

DSD/Environmental
Staff: Atha Phillips, 974-6303
atha.phillips@austintexas.gov

Watershed: Lake Austin (Water Supply Rural),
Drinking Water Protection Zone

Ordinance: Watershed Protection Ordinance

Request: 1) To allow fill greater than four feet. [LDC 25-8-342(A)]

Staff Recommendation: Recommended for approval

Reasons for
Recommendation: Age of unpermitted development and agreed to mitigation



MEMORANDUM

TO: Marisa Perales, Chair and Members of the Environmental Commission

FROM: Chuck Lesniak, Environmental Officer
Watershed Protection Department
Atha Phillips, Environmental Review Specialist Senior
Development Services Department

DATE: September 13, 2016

SUBJECT: 609 River Road SP-2015-0454DS

On your September 21, 2016 agenda is a request for consideration of one variance to allow the permitting of existing fill greater than four feet within the critical water quality zone (CWQZ).

Description of Property

The subject property is a .955 acre platted lot located in the Lake Austin watershed, which is classified as Water Supply Rural, and is located in the Drinking Water Protection Zone. According to City of Austin GIS, the site is not located over the Edwards Aquifer Recharge Zone. The lot is located within the Limited Purpose Planning Jurisdiction and is zoned LA. According to Travis County Appraisal District records, there is an existing house and boat dock.

Existing Topography/Soil Characteristics/Vegetation

According to City of Austin GIS, the lot elevation ranges from the Lake Austin shoreline at 492.8 feet mean sea level (msl) to approximately 560 feet msl, an elevation change of 67.2 feet. The soils on this site were identified in the Environmental Resource Inventory as Altoga Silty Clay series which have a moderate infiltration rate when thoroughly wetted. The vegetation consists of Italian cypress, live oaks, St. Augustine turf grass, and box wood and rose shrubs. There is a 36" caliper Cypress on the southwest corner of the adjacent lot.

Critical Environmental Features

There are no Critical Environmental Features (CEFs) located on the property and no endangered species were identified within the Environmental Resource Inventory.

Project Background

The site plan under review was submitted on October 7, 2015 and proposes the construction of a boat dock. When conducting a site visit the reviewers noticed large retaining walls had been built within the CWQZ. From historical aerials, it appears there were walls in existence previous to 1997 and these retaining walls and fill were expanded in 2009. The applicant or staff were unable to find any evidence that the work was done under an approved City of Austin permit. Walls within a CWQZ are allowed when stabilizing a hillside but fill above 4' is not allowed within the Water Supply Rural/Drinking Water Protection Zone watershed classification. As a result, staff requested the applicant to include the unpermitted development in the boat dock site plan.

Environmental Code Variance Request

To allow fill greater than 4 feet and up to 9.6 feet associated with retaining walls. [25-8-342(A)]

Recommendation

Because the variance does not meet the Findings of Fact Environmental Review staff is not making a recommendation for this project. However, the Environmental Officer recommends approval of the variances because:

- It is clear that a previous owner did the original grading without a permit and that work likely occurred thirty years ago or more.
- The current owner was not responsible for the expansion of the fill without a permit that occurred approximately 10 years ago.
- The current owner is willing to restore the shoreline riparian area, remove structures within the lake, and improve the existing bulkhead to provide a more natural character to the shoreline to mitigate the impacts of the unpermitted development.
- Incorporation into the current site plan provides a record of the development and clarity for future reviewers and applicants.

Conditions

1. Add wave abatement along the entire bulkhead in accordance with ECM 1.13.
2. Remove the steps from the lake.
3. Restore the floodplain on the entire lower terrace of the site.



**Development Services Department
Staff Recommendations Concerning Required Findings
Water Quality Variances**

Project: 609 River Road SP-2015-0454DS
Ordinance Standard: Land Development Code Section 25-8-342(A)
Variance Request: To allow fill greater than four 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.
No. Although other properties along this stretch of the lake have added retaining walls, other owners have dealt with the grades on the property by constructing stairs or a gangway from the second story of the boat dock. Similar retaining walls that were constructed in 2007 at 613 River Road resulted in an environmental code violation that has not been resolved to date.
 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;
No. Retaining walls existed on site prior to the 2009 wall construction. However, the later construction brought additional fill over the allowed four feet further into the floodplain and brought the lower retaining walls much closer to the shoreline.
 - 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;
No. While several neighbors appear to have constructed retaining walls, not all of them were properly permitted. Had the owner requested a fill variance prior to construction, staff would have been able to work with the applicant to reduce the amount of fill to below four feet.
 - c) Does not create a significant probability of harmful environmental consequences; and
No. The original wall construction would have triggered a floodplain modification.

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

Yes, keeping what is in place could be the best solution. The ground is stable and no erosion is occurring. A condition of the variance is to restore floodplain in the lower terrace which will increase the rating of the floodplain from poor to good.

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:



Atha Phillips

Environmental Program Coordinator:

Sue Barnett

Environmental Officer:

Chuck Lesniak

Date: September 13, 2016

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

Signature: 
Susan Barnett (Sep 15, 2016)

Email: sue.barnett@austintexas.gov



609 River Road Memo

Adobe Sign Document History

09/15/2016

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Signature: Chuck Lesniak
Chuck Lesniak (Sep 15, 2016)

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