



ITEM FOR ENVIRONMENTAL COMMISSION AGENDA

Board Meeting
Date Requested: October 17, 2018

Name & Number of Project: 3919 Westlake Drive
SP-2018-0320DS

Name of Applicant or Organization: Kathryn O’Conner Counts
Rick Rasberry, (512) 970-0371

Location: 3919 Westlake Drive

Project Filing Date: August 14, 2018

WPD/ERM Staff: Scott Hiers, (512) 974-1916
scott.hiers@austintexas.gov

DSD/Environmental Staff: Pamela Abee-Taulli, 512-974-1879, pamela.abee-taulli@austintexas.gov
Mike McDougal, (512) 974-6303, mike.mcdougal@austintexas.gov

Council District: District 10

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

Ordinance: Watershed Protection Ordinance

Request: 1) To allow the construction of a boat dock within a 150 foot Critical Environmental Feature buffer (Canyon Rimrock/Seep Complex). 25-8-281(C)(2)(b).

Staff Recommendation: Approve.

Reasons for Recommendation: The findings of fact have been met.



MEMORANDUM

TO: TBD, Chair and Members of the Environmental Commission

FROM: Pamela Abee-Taulli, Environmental Review Specialist
Senior, DSD; Mike McDougal, Environmental Review
Coordinator, DSD

DATE: October 17, 2018

SUBJECT: 3919 Westlake Drive – SP-2018-0320DS

On your September 19, 2018 agenda is a request for consideration and possible recommendation for one variance to allow the construction of a boat dock within a 150 foot Critical Environmental Feature (Canyon Rimrock/Seep Complex) buffer 25-8-281(C)(2)(b).

Description of Property

The subject property is a 1.4 ac. lot with a Land Status Determination, located in the Lake Austin Watershed, classified as Water Supply Rural, and 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 property is located within the Limited Purpose Planning Jurisdiction and the lot is zoned LA. According to Travis County Appraisal District records, the existing residence was constructed in 1971. The site has an existing dock that is dilapidated and falling into the lake; it is proposed to be demolished and replaced.

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 576 feet msl at middle, south perimeter of the lot, an elevation change of 83.2 feet. The Environmental Resource Inventory indicates that Tarrant Soil Series is present on site, which consists of very shallow, stony soil, overlying limestone. The vegetation within the 25-foot Lake Austin Setback contains many existing native trees, (Live Oak, Cedar Elm, Spanish Oak, Pecan, Post Oak) and the understory consist of Poison Ivy, Lantana, Mullein, Muscadine grape, Yucca, and Agarita. The site does contain a canyon rimrock/ seep complex CEF located between contours 520 and 545 that run north to south through the property.

Critical Environmental Features/CWOZ

There is a canyon rimrock/seep complex Critical Environmental Feature (CEF) located approximately between contours 520 and 545. The project is located within the critical water quality zone (CWQZ) of Lake Austin, which is a 75 foot buffer from the 492.8 feet shoreline elevation. The proposed dock is allowed by code within the Critical Water Quality Zone.

Project Background

The site plan under review was submitted on July 13, 2018 and proposes the demolition of existing boat dock and construction of a new boat dock.

Environmental Code Variance Request

According to 25-8-281(C)(2)(b), construction is prohibited within the 150 feet Critical Environmental Feature buffer. The requested variance is to allow the construction of a boat dock within a 150 foot Critical Environmental Feature buffer (Canyon Rimrock/Seep Complex).

Recommendation

Staff recommends approval of the environmental variance because the Findings of Fact (enclosed herein) have been met.



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

Project: 3919 Westlake Drive – SP-2018-0320DS

Ordinance Standard: Watershed Protection Ordinance

Variance Request: To allow construction of a boat dock within a canyon rimrock/seep complex Critical Environmental Feature (CEF) buffer.

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, there are other properties with frontage along Lake Austin that have canyon rimrocks. The existing home, boat dock and stairs were built prior to regulations which would require protection of critical environmental features (CEFs). There have been similar variances granted to allow docks within a canyon rimrock CEF buffer.
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 property owner is replacing the boat dock. No disturbance of the canyon rimrock CEF is proposed, providing greater overall protection for the rimrock with all proposed construction activities is occurring downgradient of rimrock from the lakeside by barge. There will be disturbance downslope of the canyon rimrock at a distance of 34 feet or greater.
 - 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, there is an existing boat dock and this application is for the replacement of it.
 - c) Does not create a significant probability of harmful environmental consequences; and

Yes, the boat dock construction will not disturb the canyon rimrock CEF.

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

Yes, the construction activities will not reduce or disturb the terrestrial vegetated that is providing stabilization and preventing soil erosion, thereby, providing water quality that is at least equal to the water quality achievable without the variance.

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.

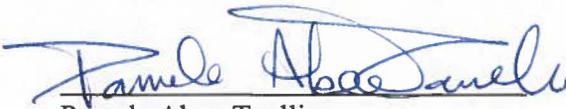
2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and

N/A.

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

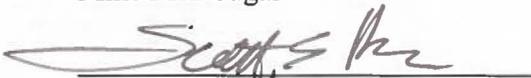
N/A.

Environmental Reviewers:


Pamela Abee-Taulli

Mike McDougal

Hydrogeologist Reviewer:


Scott E. Hiers

Environmental Officer:

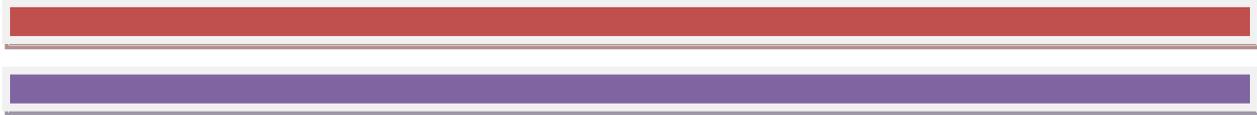

Chris Herrington

Date: September 27, 2018

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



ENVIRONMENTAL COMMISSION VARIANCE APPLICATION FORM



PROJECT DESCRIPTION

Applicant Contact Information

Name of Applicant	Rick Rasberry (Agent for Kathryn O'Conner Counts)
Street Address	2510 Cynthia Ct
City State ZIP Code	Leander, TX 78641
Work Phone	512-970-0371
E-Mail Address	rick@rickrasberry.com

Variance Case Information

Case Name	Counts Boat Dock
Case Number	SP-2018-0320DS
Address or Location	3919 Westlake Drive
Environmental Reviewer Name	Pamela Abee-Taulli
Environmental Resource Management Reviewer Name	Scott Hiers
Applicable Ordinance	Watershed Protection Ordinance
Watershed Name	Lake Austin
Watershed Classification	<input type="checkbox"/> Urban <input type="checkbox"/> Suburban <input type="checkbox"/> Water Supply Suburban <input checked="" 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 checked="" type="checkbox"/> Not in Edwards Aquifer Zones
Edwards Aquifer Contributing Zone	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Distance to Nearest Classified Waterway	The proposed dock/access is on a classified waterway
Water and Waste Water service to be provided by	No water or wastewater service provided to boat dock
Request	To allow construction of a boat dock within a canyon rimrock/seep complex Critical Environmental Feature (CEF) buffer – Land Development Code Section 25-8-281(C)(2)(b)

Impervious cover	Existing	Proposed
square footage:	900 SF	900 SF
acreage:	0.0206612 acre	0.0206612 acre
percentage:	N/A	N/A
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>The residential lot up gradient (above 492.8 msl) of the proposed dock includes slope ranging from 5% to greater than 35%, with topography ranging from 492.8 to 565.0 msl. An existing dock with pedestrian access stairs have been developed on the property for several decades. The proposed site plans delineate one (1) CEF on the residential property purported by COA. One rimrock/seep complex at about elevation 520-545ft (msl) demarcated on the proposed plans is up gradient of the proposed dock remodel.</p>	

Clearly indicate in what way the proposed project does not comply with current Code (include maps and exhibits)	COA staff contend that the proposed residential boat dock replacement is prohibited from development in the CEF Buffer Zone.
---	--

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: Counts Boat Dock

Ordinance: Watershed Protection

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 available to owners of similarly situated property with approximately contemporaneous development subject to similar code requirements.

Yes, there are at least fourteen (14) similarly situated properties on Lake Austin that have received approval from the City to develop a boat dock within a CEF Buffer, examples as follows:

1. 3307 Far View Drive (SP-2011-0279D)
2. 3311 Far View Drive (SP-2011-0242D)
3. 3319 Far View Drive (SP-2010-0015DS)
4. 3337 Far View Drive (SP-2014-0135D)
5. 3825 Westlake Drive (SP-2017-0032DS)
6. 3811 Westlake Drive (SP-2016-0185DS)
7. 3909 Westlake Drive (SP-2015-0232DS)

8. 3715 Westlake Drive (SP-2014-0182D)
9. 2806 Scenic Drive (SP-2015-0202DS)
10. 70 Pascal Lane (SP-2014-0144D)
11. 2415 Big Horn Drive (SP-2014-0212DS)
12. 2908 Scenic Drive (SP-2013-0295DS)
13. 3213 Smoky Ridge (SP-2012-0366DS)
14. 5 Humboldt Lane (SP-2013-0133D)

2. The variance:

- a) Is not necessitated by the scale, layout, construction method, or other design decision made by the applicant, unless the design decision provides greater overall environmental protection than is achievable without the variance;

Yes, the property owner is requesting to replace the dilapidated boat dock. No disturbance of the canyon rimrock CEF is proposed, providing greater overall protection for the rimrock with all proposed construction activities occurring downgradient of the rimrock CEF, and from the lakeside by barge. The proposed construction to be performed from a barge provides greater overall environmental protection since there would be no construction on the slopes.

- b) Is the minimum deviation from the code requirement necessary to allow a reasonable use of the property;

Yes, there is an existing boat dock and this application for the replacement of it.

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

Yes, all work would be performed by barge and would have no significant probability of harmful environmental consequences.

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

Yes, the construction activities will not reduce or disturb the terrestrial vegetation that is providing stabilization of the native soils and preventing soil erosion, thereby, providing water quality that is at least equal to the water quality achievable without the variance.

B. Additional Land Use Commission variance determinations for a requirement of Section 25-8-422 (Water Quality Transition Zone), Section 25-8-452 (Water Quality Transition Zone), Article 7, Division 1 (Critical Water Quality Zone Restrictions), or Section 25-8-652 (Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long):

1. The criteria for granting a variance in Subsection (A) are met;

N/A

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

N/A

3. The variance is the minimum deviation from the code requirement necessary to allow a reasonable, economic use of the entire property.

N/A

**Variance approval requires all above affirmative findings.



Exhibits for Commission Variance

- Aerial photos of the site **(PROVIDED WITH ATTACHED ERI)**
- Site photos **(PROVIDED WITH ATTACHED ERI)**
- Aerial photos of the vicinity **(PROVIDED WITH ATTACHED ERI)**
- Context Map—A map illustrating the subject property in relation to developments in the vicinity to include nearby major streets and waterways. **(PROVIDED WITH ATTACHED ERI/SITE PLAN)**
- 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. **(PROVIDED WITH ATTACHED ERI/SITE PLAN)**
- For cut/fill variances, a plan sheet showing areas and depth of cut/fill with topographic elevations. **(NO CUT/FILL PROPOSED)**
- Site plan showing existing conditions if development exists currently on the property **(PROVIDED WITH ATTACHED ERI/SITE PLAN)**
- 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 **(ATTACHED)**
- Environmental Map – A map that shows pertinent features including Floodplain, CWQZ, WQTZ, CEFs, Setbacks, Recharge Zone, etc. **(PROVIDED WITH ATTACHED ERI/SITE PLAN)**
- An Environmental Resource Inventory pursuant to ECM 1.3.0 **(if required by 25-8-121)**
(ATTACHED)
- Applicant’s variance request letter **(ATTACHED)**