



ITEM FOR ENVIRONMENTAL COMMISSION AGENDA

COMMISSION MEETING DATE REQUESTED: March 6, 2019

NAME & NUMBER OF PROJECT: Forest Bluff Section 7 Preliminary Plan C8J-2019-0011

NAME OF APPLICANT OR ORGANIZATION: Israel Ramirez, P.E., 512-836-4793 John S. Lloyd

LOCATION: F.M. 969, Austin, 78725

COUNCIL DISTRICT: Council District does not apply in Extraterritorial Jurisdiction

ENVIRONMENTAL STAFF: Pamela Abee-Taulli, Environmental Review Specialist Senior 512.974.1879, pamelaaabee-taulli@austintexas.gov

WATERSHED: Decker Creek Watershed, Suburban classification, Desired Development Zone

ORDINANCE: Watershed Protection Ordinance (current code)

REQUEST: Variance requests are as follows:
1. Request to vary from LDC 30-5-341 to allow cut exceeding four feet.
2. Request to vary from LDC 30-5-342 to allow fill exceeding four feet.

STAFF RECOMMENDATION: Staff recommends these variances, having determined the findings of fact to have been met.

Development Services Department
Staff Recommendations Concerning Required Findings

Project Name: Forest Bluff Section 7 Preliminary Plan
Ordinance Standard: Watershed Protection Ordinance (current code)
Variance Request: To vary from LDC 30-5-341 to allow cut exceeding four feet.

Include an explanation with each applicable finding of fact.

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

The original Forest Bluff preliminary plan (C8J-00-2251.01, Exhibit A) has expired, causing the need for this new preliminary plan to be submitted. Per the Vested Rights Determination findings (11/30/2016), “the 2000 preliminary plan has expired as of 8/8/2006. This preliminary plan was submitted and approved prior to Title 30, therefore extensions of the preliminary plan are not allowed by code.”

Variances for cut and fill to twelve feet were granted with the original preliminary plan. The current preliminary plan covers the seventh and final section of a seven-phase, 81-acre subdivision for which phases one through six have already been completed. The previously approved variances applicable to phase seven expired when the preliminary plan expired. The applicant is required to submit a new preliminary plan for phase seven. The current preliminary plan needs cut and fill between eight and twelve feet in order to tie- in to existing roadway and waste-water infrastructure constructed with the original plan.

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 a greater overall environmental protection than is achievable without the variance.

Yes The variance is not necessitated by decisions made by the applicant. The variance is necessary because the project is the final section of a subdivision that was originally permitted under a preliminary plan. The cut and fill are necessary to tie into the neighboring subdivisions that were previously granted cut and fill variances.

- b) Is the minimum deviation from the code requirement necessary to allow

a reasonable use of the property;

Yes The proposed grading over four feet is the minimum necessary to allow this section of the subdivision to connect with the already-constructed sections of the subdivision.

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

Yes The proposed design does not create a significant probability of harmful environmental consequences. Erosion and sedimentation controls will be appropriately scaled and water quality ponds will capture run-off during construction.

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

Yes Water quality will be compliant with current code.

B. The Land Use Commission may grant a variance from a requirement of Section 25-8- 422 (*Water Supply Suburban Water Quality Transition Zone*), Section 25-8-452 (*Water Supply Rural Water Quality Transition Zone*), Section 25-8-482 (*Barton Springs Zone Water Quality Transition Zone*), Section 25-8-368 (*Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long*), or Article 7, Division 1 (*Critical Water Quality Zone Restrictions*), after determining that::

- 1. The criteria for granting a variance in Subsection (A) are met; Yes / No NA
- 2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; Yes / No NA
- 3. The variance is the minimum deviation from the code requirement necessary to allow a reasonable, economic use of the entire property. Yes / No NA

Staff Recommendation: Staff recommends the variance, having determined that the findings of fact have been met.

Environmental Reviewer (DSD)	 _____ (Pamela Abee-Taulli)	Date <u>2-26-19</u>
Environmental Review Manager (DSD)	 _____ (Mike McDougal)	Date <u>2-26-19</u>
Environmental Officer (WPD)	 _____ (Chris Herringron)	Date <u>2/26/2019</u>

Development Services Department
Staff Recommendations Concerning Required Findings

Project Name: Forest Bluff Section 7 Preliminary Plan
Ordinance Standard: Watershed Protection Ordinance (current code)
Variance Request: To vary from LDC 30-5-342 to allow fill exceeding four feet.

Include an explanation with each applicable finding of fact.

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

The original Forest Bluff preliminary plan (C8J-00-2251.01, Exhibit A) has expired, causing the need for this new preliminary plan to be submitted. Per the Vested Rights Determination findings (11/30/2016), “the 2000 preliminary plan has expired as of 8/8/2006. This preliminary plan was submitted and approved prior to Title 30, therefore extensions of the preliminary plan are not allowed by code.”

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Exhibit A
Original Forest Bluff preliminary plan
C8J-00-2251.01

