



ITEM FOR ENVIRONMENTAL COMMISSION AGENDA

COMMISSION MEETING DATE: November 20, 2019

NAME & NUMBER OF PROJECT: SP-2018-0567C Zully's B&B

NAME OF APPLICANT OR ORGANIZATION: Phil Moncada – Moncada Enterprises
Kerri Pena, PE– Green Civil Design (Civil Engineer)

LOCATION: 8104 Posten Lane

COUNCIL DISTRICT: 3

ENVIRONMENTAL REVIEW STAFF: Jonathan Garner
Environmental Review Program Coordinator,
DSD 512-974-1665
Jonathan.Garner@austintexas.gov

WATERSHED: Carson Creek, Suburban, Desired Development Zone

REQUEST: Variance request is as follows:
Request to vary from LDC 25-8-261 to allow development within a
Critical Water Quality Zone

STAFF RECOMMENDATION: Staff does not recommend this variance, having determined that the findings of fact have not been met.

Staff Findings of Fact and Exhibits



Development Services Department
Staff Recommendations Concerning Required Findings

Project Name: SP-2018-0567C Zully's B&B
Ordinance Standard: Watershed Protection Ordinance
Variance Request: To allow development in a Critical Water Quality Zone

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.

No The site has a large portion of developable uplands that will allow for the proposed development. Additionally, the applicant was encouraged to follow guidance for the Redevelopment Exception in a Suburban Watershed (LDC 25-8-25), but elected to not propose development under those regulations.

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;

No The site has a large portion of developable uplands that will allow for the proposed development without adverse impacts to the critical water quality zone, however, the design decision made by the applicant proposes development that is not allowed in a critical water quality zone.

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

No The proposed development within the critical water quality zone is not allowed, and as proposed, increases the developed area footprint within the critical water quality zone where there is no existing development.

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

No The proposed development within the critical water quality zone will increase the developed area footprint within the critical water quality zone where there is no existing development, thereby removing pervious area and existing vegetation of natural character associated with a critical water quality zone.

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 proposed development will achieve water quality at least equal to that achievable without the variance by utilizing existing, functioning on-site water quality facilities.

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;

No The proposed development within the critical water quality zone is not allowed, and as proposed, increases the developed area footprint within the critical water quality zone where there is no existing development.

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

No The site has a large portion of developable uplands that will allow for the proposed development without adverse impacts to the critical water quality zone.

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

No The proposed development within the critical water quality zone is not allowed, and as proposed, increases the developed area footprint within the critical water quality zone where there is no existing development.

Staff Determination: Staff determines that the findings of fact have not been met.

Environmental Reviewer
(DSD)



Jonathan Garner

Date: 10-01-2019

Environmental Review
Manager (DSD)



Mike McDougal

Date: 10-02-2019

Environmental Officer
(WPD)



(print name)

Date: 10/03/2019

Applicant Form and Findings of Fact



ENVIRONMENTAL COMMISSION VARIANCE APPLICATION FORM



PROJECT DESCRIPTION

Applicant Contact Information

Name of Applicant	Phil Moncada
Street Address	1301 S IH 35 Ste 204
City State ZIP Code	Austin, TX 78741
Work Phone	512-627-8815
E-Mail Address	moncadataz@gmail.com

Variance Case Information

Case Name	Zully's Bed & Bath
Case Number	SP-2018-0567C
Address or Location	8104 Posten Lane
Environmental Reviewer Name	Jonathan Garner
Environmental Resource Management Reviewer Name	Staryn J. Wagner
Applicable Ordinance	25-8-261
Watershed Name	Carson Creek
Watershed Classification	<input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban <input type="checkbox"/> Water Supply Suburban <input type="checkbox"/> Water Supply Rural <input type="checkbox"/> Barton Springs Zone

September 3, 2019

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	300
Water and Waste Water service to be provided by	COA
Request	The variance request is as follows (Cite code references:

Impervious cover	Existing	Proposed
square footage:	___ 60 ___	___ 60 ___
acreage:	___ .63 ___	___ .63 ___
percentage:	_____	_____
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>This site has been previously developed and has an existing parking lot with a warehouse and existing buildings on the site. The previous development has already installed the required water quality pond for this site. The subject tract is fairly flat with an MSL of 101 to 107 elevations that gently slope towards the northern portion of the property. The slopes on this site are 0-15%. The site has minimal tree coverage with no heritage trees on or near the subject tract and we are more than 300 linear feet from the classified waterway known as Carson Creek. There are no CEFs on the site but a wetland was located in the waterway downstream of the culvert that provides access to the site. The roadway is in poor condition and has not been maintained by the COA other than the drainage crossing that also includes a flood gauge. The re-development will slightly decrease the impervious cover and the new building will be elevated and moved approximately 8ft from the northern property line. The existing buildings on site are 1.86 ft from the northern property line.</p>	

Clearly indicate in what way the proposed project does not comply with current Code (include maps and exhibits)	
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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: Zully' s Bed & Breakfast

Ordinance:

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 / No [with the new building being located 8' from northern property line vs. existing 1.86' from northern property line]

- 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 / No [W.P.D is already in place and we will maintain some footprint for building . Foundation to utilize distance.] See Response #1

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

Yes / No [See Response #1 and our buffer setback is being met. We are over 300 LF from waterway]

September 3, 2019

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

Yes / No [setbacks are being met. Minimal disturbance since footprint of bldg is being moved further away]

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 [See Response #2]

- 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 25-8-368 (Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long):

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

Yes / No [Project is removing old structures from site and elevation. New structure to meet code requirements as it relates to floodplain regulations that are currently being updated by COA]

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

Yes / No [without construction of these new buildings, we cannot develop project. moving further away from CWQZ with new building.]

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

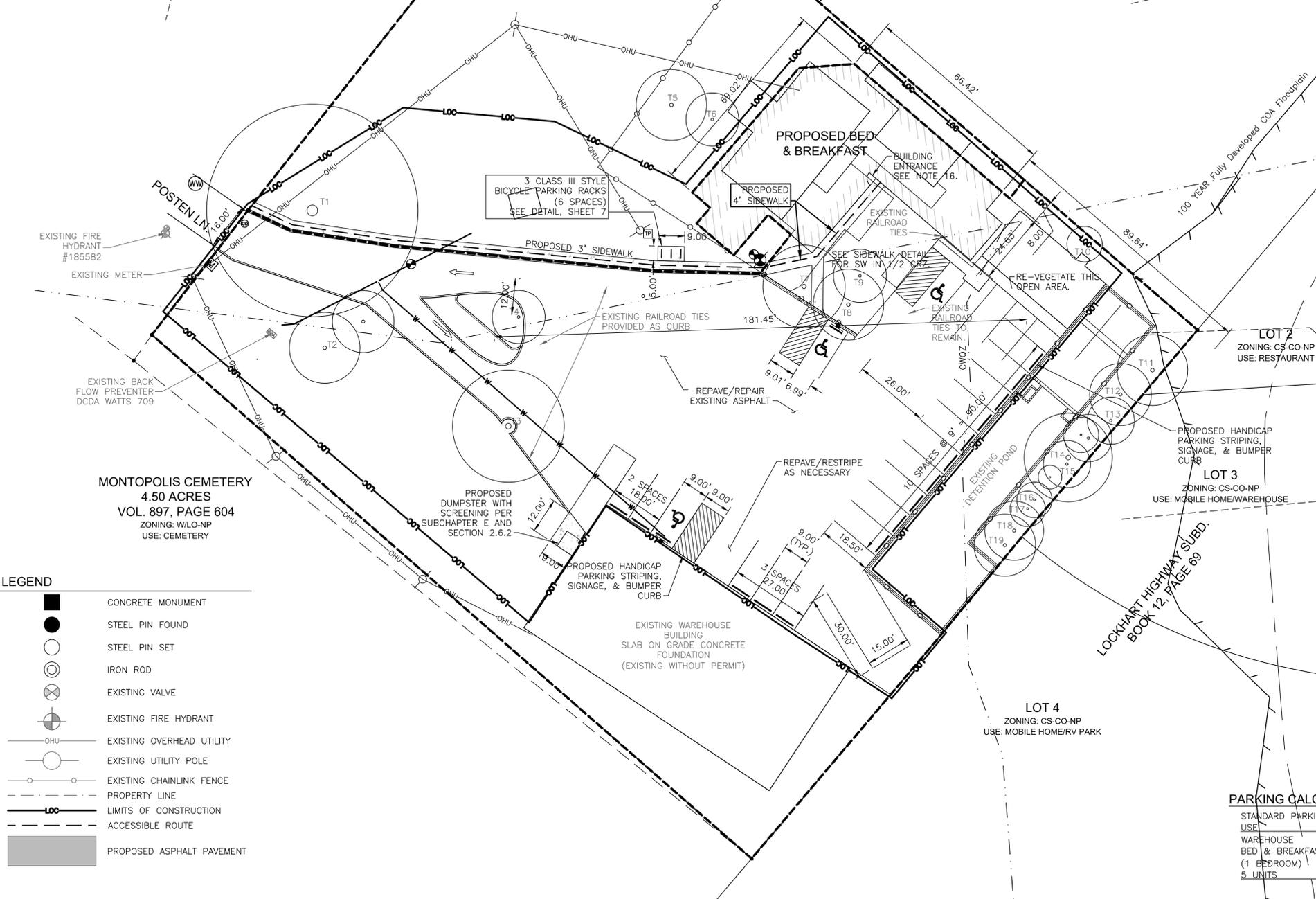
Yes / No [Redeveloping an existing site that has allowed these previous encroachments]

**Variance approval requires all above affirmative findings.

Applicant Exhibits



AIRPORT OVERLAY MAP



- NOTES:
- ALL EXTERIOR LIGHTING WILL BE FULL CUT-OFF AND FULLY SHIELDED IN COMPLIANCE WITH SUBCHAPTER 2.5 AND WILL BE REVIEWED DURING BUILDING PLAN REVIEW. ANY CHANGE OR SUBSTITUTION OF LAMP/LIGHT FIXTURES SHALL BE SUBMITTED TO THE DIRECTOR FOR APPROVAL IN ACCORDANCE WITH SECTION 2.5.2.E.
 - NEW BUILDINGS WILL UTILIZE EXISTING WATER AND WASTEWATER UTILITIES WITH IN THE EXISTING BUILDINGS.
 - DETENTION/ WATER QUALITY: THERE IS NO ADDITIONAL IMPERVIOUS COVER, BASED ON THE AERIAL PHOTOGRAPH FROM 1987.
 - "APPROVAL OF THESE PLANS BY THE CITY OF AUSTIN INDICATES COMPLIANCE WITH APPLICABLE CITY REGULATIONS ONLY. COMPLIANCE WITH ACCESSIBILITY STANDARDS SUCH AS THE 2010 STANDARDS FOR ACCESSIBLE DESIGN OR THE 2012 TEXAS ACCESSIBILITY STANDARDS WAS NOT VERIFIED. THE APPLICANT IS RESPONSIBLE FOR COMPLIANCE WITH ALL APPLICABLE ACCESSIBILITY STANDARDS."
 - ALL IMPROVEMENTS SHALL BE MADE IN ACCORDANCE WITH THE RELEASED SITE PLAN. ANY ADDITIONAL IMPROVEMENTS WILL REQUIRE SITE PLAN AMENDMENT AND APPROVAL OF THE DEVELOPMENT SERVICES DEPARTMENT.
 - APPROVAL OF THIS SITE PLAN DOES NOT INCLUDE BUILDING AND FIRE CODE APPROVAL NOR BUILDING PERMIT APPROVAL.
 - ALL SIGNS MUST COMPLY WITH REQUIREMENTS OF THE LAND DEVELOPMENT CODE (CHAPTER 25-10).
 - ADDITIONAL ELECTRIC EASEMENTS MAY BE REQUIRED AT A LATER DATE.
 - WATER AND WASTEWATER SERVICE WILL BE PROVIDED BY THE CITY OF AUSTIN
 - ALL EXISTING STRUCTURES SHOWN TO BE REMOVED WILL REQUIRE A DEMOLITION PERMIT FROM THE CITY OF AUSTIN DEVELOPMENT SERVICES DEPARTMENT.
 - A DEVELOPMENT PERMIT MUST BE ISSUED PRIOR TO AN APPLICATION FOR BUILDING PERMIT FOR NON-CONSOLIDATED OR PLANNING COMMISSION APPROVED SITE PLANS.
 - FOR DRIVEWAY CONSTRUCTION: THE OWNER IS RESPONSIBLE FOR ALL COSTS FOR RELOCATION OF, OR DAMAGE TO UTILITIES.
 - FOR CONSTRUCTION WITHIN THE RIGHT-OF-WAY, A ROW EXCAVATION PERMIT IS REQUIRED.
 - EXTERIOR LIGHTING ABOVE THE SECOND FLOOR IS PROHIBITED IN THE GO, LR, GR, CS, OR CS-1 ZONING DISTRICTS, WHEN ADJACENT TO AN SF-5 OR MORE RESTRICTIVE ZONING DISTRICT.
 - TYPE III DRIVEWAYS MUST BE RECONSTRUCTED AS CONCRETE APPROACHES BY THE OWNER WITHIN 60 DAYS AFTER CONSTRUCTION OF THE ADJUTING STREET TO PERMANENT GRADE WITH CURB AND GUTTERS.
 - AWNING OR PORTICO TO BE PROVIDED AT BUILDING ENTRANCE.

ACCESSIBLE PARKING NOTE:
 EVERY ACCESSIBLE PARKING SPACE MUST BE IDENTIFIED BY A SIGN, CENTERED AT THE HEAD OF THE PARKING SPACE. THE SIGN MUST INCLUDE THE INTERNATIONAL SYMBOL OF ACCESSIBILITY AND STATE RESERVED, OR EQUIVALENT LANGUAGE. CHARACTERS AND SYMBOLS ON SUCH SIGNS MUST BE LOCATED 60" MINIMUM ABOVE GROUND SO THAT THEY CANNOT BE OBTURED BY A VEHICLE PARKED IN THE SPACE. (UBC, 1107.3; CABO / ANSI A117.1-1992-4.6.2)

ACCESSIBLE SITE PLAN NOTES:

- SLOPES ON ACCESSIBLE ROUTS MAY NOT EXCEED 1:20 UNLESS DESIGNED AS A RAMP. (TAS 4.3.7)
- ACCESSIBLE ROUTES MUST HAVE A CROSS-SLOPE NO GREATER THAN 1:50 (TAS 4.3.7)
- THE MAXIMUM SLOPE OF A RAMP IN NEW CONSTRUCTION IS 1:12. THE MAXIMUM RISE FOR ANY RAMP RUN 30". THE MAXIMUM HORIZONTAL PROJECTION IS 30 FT. FOR A RAMP WITH A SLOPE BETWEEN 1:12 AND 1:15, AND 40 FT. FOR A RAMP WITH A SLOPE BETWEEN 1:16 AND 1:20 (TAS 4.8.2)
- ACCESSIBLE PARKING SPACES MUST BE LOCATED ON A SURFACE WITH SLOPE NOT EXCEEDING 1:50 (TAS 4.6.3)

AIRPORT HAZARD ZONING:
 THIS PROPERTY IS WITHIN THE AIRPORT OVERLAY ZONE AO-3. DEVELOPMENT ON THIS PROPERTY IS LIMITED BY CHAPTER 25-13 OF THE AUSTIN CITY CODE. AIRPORT HAZARDS AS DEFINED IN FEDERAL AVIATION REGULATIONS PART 77, AS ADOPTED BY THE CITY IN SECTION 25-13-23, ARE PROHIBITED. NOISE LEVEL REDUCTION MEASURES MAY BE REQUIRED FOR CERTAIN NEW STRUCTURES.

SCREENING NOTE:
 SCREENING FOR SOLID WASTE COLLECTION AND LOADING AREAS SHALL BE THE SAME AS, OR OF EQUAL QUALITY TO, PRINCIPAL BUILDING MATERIALS.

SITE INFORMATION

SITE AREA: 64,469 SF/1.48 A.C.
 ZONING: W/LO-NP

EXISTING IMPERVIOUS COVER: 27,746 SF/0.637 A.C. (43.03%)
 REDEVELOPED IMPERVIOUS COVER: 12,348 SF/0.283 A.C. (19.15%)
 TOTAL SITE IMPERVIOUS COVER: 26,950 SF/0.619 A.C. (41.80%)

LIMITS OF CONSTRUCTION: 0.90 A.C.
 MAXIMUM ALLOWABLE IMPERVIOUS COVER (70%) 45,128 SF/1.036 A.C.

BUILDING	TOTAL AREA	HEIGHT	FINISHED FLOOR	
WAREHOUSE	5015 SF	21'	510.21'	EXISTING
BED & BREAKFAST	7738 SF	27'-1"	505.2'	PROPOSED

TOTAL BUILDING AREA: 12,753 SF
 MAXIMUM ALLOWABLE BUILDING COVERAGE: N/A
 FLOOR TO AREA RATIO: 0.20:1
 MAXIMUM ALLOWABLE FLOOR TO AREA RATIO: 0.25:1
 SLAB ON GRADE

PARKING CALCULATIONS

STANDARD PARKING USE	CODE	REQUIRED SPACES
WAREHOUSE	1/1000	5
BED & BREAKFAST (1 BEDROOM)	1 PER UNIT	5
5 UNITS		
TOTAL		11

TOTAL REQUIRED: 11
 PROVIDED STD. SPACES: 15
 HANDICAP SPACES: 2
 TOTAL PROVIDED: 17

SITE APPROVAL PLAN	SHEET 7 OF 20
FILE NUMBER SP-2018-0567C	APPLICATION DATE 12/26/2018
APPROVED BY COMMISSION ON: ##	UNDER SECTION: 112 OF
CHAPTER 25-2 OF THE CITY OF AUSTIN CODE	
EXPIRATION DATE (25-5-81, LDC) ##	CASE MANAGER Clarissa E. Davis
PROJECT EXPIRATION DATE (ORD #970905-A)	DWPZ DDZ

DIRECTOR: DEVELOPMENT SERVICES DEPARTMENT
 RELEASED FOR GENERAL COMPLIANCE: _____ ZONING: _____

REV. 1 _____ CORRECTION 1 _____
 REV. 2 _____ CORRECTION 2 _____
 REV. 3 _____ CORRECTION 3 _____

FINAL PLAT MUST BE RECORDED BY THE PROJECT EXPIRATION DATE, IF APPLICABLE. SUBSEQUENT SITE PLANS WHICH DO NOT COMPLY WITH THE CODE CURRENT AT THE TIME OF FILING, AND ALL REQUIRED BUILDING PERMITS AND/ OR A NOTICE OF CONSTRUCTION (IF A BUILDING PERMIT IS NOT REQUIRED), MUST ALSO BE APPROVED PRIOR TO THE PROJECT EXPIRATION DATE.

- LEGEND**
- CONCRETE MONUMENT
 - STEEL PIN FOUND
 - STEEL PIN SET
 - IRON ROD
 - EXISTING VALVE
 - EXISTING FIRE HYDRANT
 - EXISTING OVERHEAD UTILITY
 - EXISTING UTILITY POLE
 - EXISTING CHAINLINK FENCE
 - PROPERTY LINE
 - LIMITS OF CONSTRUCTION
 - ACCESSIBLE ROUTE
 - PROPOSED ASPHALT PAVEMENT

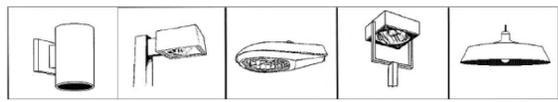


Figure 34: Examples of fully-shielded light fixtures.

NO.	DESCRIPTION	REVISIONS	APP.	DATE

11/4/2019

11130 Jollyville Rd., Ste. 101
 Austin, Texas 78759
 (512) 640-6590

Green Civil Design
 Engineering & Consulting
 Texas Registered Engineering Firm F-17563

ZULLY'S BED & BATH
 8104 POSTEN LN.

PROPOSED SITE PLAN

SHEET 7 OF 20

CASE NUMBER: SP-2018-0567C

FILE: P:\Projects\1800 - Phil Mancada\102 - 8104 Posten\CAD\Sheets\1800-102 PROPOSED PLAN.dwg PLOTTED: 11/4/2019 12:35 PM BY: KERRI PEÑA

Case No.:

(City use only)

Environmental Resource Inventory

For the City of Austin

Related to LDC 25-8-121, City Code 30-5-121, ECM 1.3.0 & 1.10.0

The ERI is required for projects that meet one or more of the criteria listed in LDC 25-8-121(A), City Code 30-5-121(A).

1. SITE/PROJECT NAME: ZAVALETA WAREHOUSE & BED & BREAKFAST
2. COUNTY APPRAISAL DISTRICT PROPERTY ID (#s): 29145
3. ADDRESS/LOCATION OF PROJECT: 8104 Posten Ln, Austin, TX 78744
4. WATERSHED: CARSON
5. THIS SITE IS WITHIN THE (Check all that apply)
Edwards Aquifer Recharge Zone* (See note below) YES No
Edwards Aquifer Contributing Zone* YES No
Edwards Aquifer 1500 ft Verification Zone* YES No
Barton Spring Zone* YES No
**(as defined by the City of Austin—LDC 25-8-2 or City Code 30-5-2)*

Note: If the property is over the Edwards Aquifer Recharge zone, the Hydrogeologic Report and karst surveys must be completed and signed by a Professional Geoscientist Licensed in the State of Texas.

6. DOES THIS PROJECT PROPOSE FLOODPLAIN MODIFICATION?..... YES** NO
If yes, then check all that apply:
 (1) The floodplain modifications proposed are necessary to protect the public health and safety;
 (2) The floodplain modifications proposed would provide a significant, demonstrable environmental benefit, as determined by a functional assessment of floodplain health as prescribed by the Environmental Criteria Manual (ECM), or
 (3) The floodplain modifications proposed are necessary for development allowed in the critical water quality zone under LDC 25-8-261 or 25-8-262, City Code 30-5-261 or 30-5-262.
 (4) The floodplain modifications proposed are outside of the Critical Water Quality Zone in an area determined to be in poor or fair condition by a functional assessment of floodplain health.

** If yes, then a functional assessment must be completed and attached to the ERI (see ECM 1.7 and Appendix X for forms and guidance) unless conditions 1 or 3 above apply.
7. IF THE SITE IS WITHIN AN URBAN OR SUBURBAN WATERSHED, DOES THIS PROJECT PROPOSE A UTILITY LINE PARALLEL TO AND WITHIN THE CRITICAL WATER QUALITY ZONE? YES*** NO

***If yes, then riparian restoration is required by LDC 25-8-261(E) or City Code 30-5-261(E) and a functional assessment must be completed and attached to the ERI (see ECM1.5 and Appendix X for forms and guidance).
8. There is a total of 0 (#s) Critical Environmental Feature(s)(CEFs) on or within 150 feet of the project site. If CEF(s) are present, attach a detailed **DESCRIPTION** of the CEF(s), color **PHOTOGRAPHS**, the **CEF WORKSHEET** and provide **DESCRIPTIONS** of the proposed CEF buffer(s) and/or wetland mitigation. Provide the number of each type of CEFs on or within 150 feet of the site (Please provide the number of CEFs):

Description of Site Topography and Drainage *(Attach additional sheets if needed):*

Site was developed under SP-04-0022C.
 Site elevations range from 100 MSL to 107 MSL. Existing water Quality Pond. Drainage sheet flows from parking areas to pond.

List surface geologic units below:

Geologic Units Exposed at Surface		
Group	Formation	Member
midway	Navarro Taylor	Kgac

Brief description of site geology *(Attach additional sheets if needed):*

Terrace deposits are of pleistocene age. These consist of gravel, sand, silt, and clay. Sometimes cemented with calcium carbonate with the coarser materials concentrated at the base.

Wells – Identify all recorded and unrecorded wells on site (test holes, monitoring, water, oil, unplugged, capped and/or abandoned wells, etc.):

There are 0 (#) wells present on the project site and the locations are shown and labeled
0 (#s) The wells are not in use and have been properly abandoned.
0 (#s) The wells are not in use and will be properly abandoned.
0 (#s) The wells are in use and comply with 16 TAC Chapter 76.
 There are 0 (#s) wells that are off-site and within 150 feet of this site.

Hydrophytic plant species		
Common Name	Scientific Name	Wetland Indicator Status

A tree survey of all trees with a diameter of at least eight inches measured four and one-half feet above natural grade level has been completed on the site.

YES NO (Check one).

12. WASTEWATER REPORT – Provide the information requested below.

Wastewater for the site will be treated by (Check of that Apply):

- On-site system(s)
- City of Austin Centralized sewage collection system
- Other Centralized collection system

Note: All sites that receive water or wastewater service from the Austin Water Utility must comply with City Code Chapter 15-12 and wells must be registered with the City of Austin

The site sewage collection system is designed and will be constructed to in accordance to all State, County and City standard specifications.

YES NO (Check one).

Calculations of the size of the drainfield or wastewater irrigation area(s) are attached at the end of this report or shown on the site plan.

YES NO Not Applicable (Check one).

Wastewater lines are proposed within the Critical Water Quality Zone?

YES NO (Check one). If yes, then provide justification below:





















