



ITEM FOR ENVIRONMENTAL COMMISSION AGENDA

COMMISSION MEETING DATE: September 2, 2020

NAME & NUMBER OF PROJECT: 1010 Clermont; SP-2019-0328C

NAME OF APPLICANT OR ORGANIZATION: Jim Schissler; Civiltude LLC

LOCATION: 1010 Clermont Avenue, Austin TX, 78702

COUNCIL DISTRICT: District # 3

ENVIRONMENTAL REVIEW STAFF: Hank Marley, Environmental Review Specialist Senior, Development Services, 512-974-2067, hank.marley@austintexas.gov

WATERSHED: Lady Bird Lake Watershed, Urban, Desired Development Zone

REQUEST: Variance request is as follows:
Request to vary from LDC 25-2-735(D) to allow impervious cover greater than 40% in the Festival Beach Waterfront Overlay – outside of the Primary and secondary setback areas – without having met specified criteria for allowing 70% maximum allowable impervious cover.

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

STAFF CONDITION:

- Provide water quality treatment with the proposed project such that the proposed development pollutant load will be lower than the existing conditions pollutant load. A rain garden will be constructed to provide treatment for the runoff from the building and porous pavement will be constructed to provide treatment for the runoff from the parking lot and the onsite sidewalks.
- Provide specific window glazing on office building to reduce potential of bird strikes.
- All trees planted on site will be tree species native to central Texas.



Development Services Department
Staff Recommendations Concerning Required Findings

Project Name: 1010 Clermont; SP-2019-0328C

Ordinance Standard: Watershed Protection Ordinance

Variance Request: For exceeding 40% impervious cover in the Festival Beach Waterfront Overlay – outside of the primary and secondary setback areas – without having met specified criteria for allowing 70% maximum allowable impervious cover in accordance with LDC 25-2-735(D).

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 site is a former used car sales lot. This project proposes an administrative and office building use similar to many developments throughout the Urban watershed regulation area where watershed impervious cover limits are defined by zoning. This project site happens to also be located within the Festival Beach Waterfront Overlay – outside of the primary and secondary set back areas – requiring it to be limited to 40% impervious cover in accordance with LDC 25-2-735(D), unless it can meet specific criteria which would grant a maximum allowable impervious cover of 70%. However, this specific criteria appears to be solely written for the RBJ Center, which is a development that provides congregate care and is located just South East of the site. Since the proposed project cannot possibly meet the criteria outlined in LDC 25-2-735(D), with regards to congregate care usage, limiting impervious cover to 40% would deprive the applicant of a privilege available to owners of similarly situated property. For example, the project site has a zoning district designation of Community Commercial (GR) which would normally enable a development with up to 90% impervious cover. It is also worth mentioning that this site faces other unique obstacles that further constrain the developability of the property. The lot is only .26 acres

and has an unusual lot configuration (see exhibit 1) due to imminent domain by TxDOT for the purposes of the IH-35 Frontage Rd. There is a 25 foot wide electric transmission line / easement that runs the entire length of the west side of the project, therefore, limiting the kind of development beneath it. Furthermore, there are compatibility height restrictions due to the SF-3 zoned lots towards the North East, capping the height of the proposed office building to 40ft, whereas, other similarly situated lots would be able to build up to 60ft in height.

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 design decision provides greater overall environmental protection than is achievable without the variance. If the variance is not granted then the applicant will not be able to reasonably develop this lot and therefore, it will remain a vacant lot with 81% impervious cover without any onsite water quality treatment. With the variance the project will reduce the impervious cover to less than 70% and will also construct a water quality control device in the form of a bio-filtration rain garden basin. Furthermore, landscaping will be provided, along with innovative water management to further increase infiltration onsite in order to reduce the pollutant load running off site during a storm event. This will significantly increase greater overall environmental protection than what can be achieved without the variance.

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

Yes While this project cannot meet the criteria found in LDC 25-2-735(D)(2) that is specific to requirements for developments with congregate care use, we were successful in reaching an agreement with the applicant to meet the other sections of that code provision, such as, reducing the impervious cover to below 70% and also providing an enhanced water quality feature rather than just paying a fee in lieu of water quality, which is typical of developments in areas near downtown. Moreover, staff agrees that this proposed project and variance is consistent with the goals and policies of the Town Lake Corridor Study, such as, treating urban run-off and reducing polluting land uses, like the used car sales lot. Assessing consistency with the Town Lake Corridor Study is a requirement of a variance to a code provision within the Waterfront Overlay District and Subdistrict Development Regulations in accordance with LDC 25-2-713(B). Therefore,

staff agrees that this is the minimum deviation from the code requirement necessary to allow a reasonable use of the property.

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

Yes The variance will not create a significant probability of harmful environmental consequences. In fact, it is an environmental improvement from what it has been for over 23 years as a used car lot with zero water quality treatment. First, the impervious cover is being reduced from 81% to just below 70%. Second, it proposes to construct a water quality treatment control in the form of a bio-filtration rain garden. The reduction in impervious cover and the construction of an on-site water quality control will significantly reduce the pollutant load running off the site during a rain event. Furthermore, the project also proposes to implement innovative water management techniques that require onsite landscaping to be irrigated with stormwater runoff from impervious surfaces that are not already being treated by the onsite rain garden. Moreover, the project will be planting more trees than what has existed prior and all of them will be made up of native species.

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

Yes Development with the variance will result in water quality that is greater than what is achievable without the variance. For 23 years this site has existed as a used car lot with heavily used impervious surfaces of up to 81%. During this time there were no water quality control devices to treat stormwater runoff. Pollutants on the car lot flowed unimpeded directly into Ladybird Lake. This project proposes to construct a water quality treatment control in the form of a bio-filtration rain garden. This will dramatically reduce the amount of pollutants flowing off site into Ladybird Lake. Furthermore, the project also proposes to reduce impervious cover to over 10% from what it is today, thus, increasing overall infiltration within the newly constructed pervious landscaped areas, therefore, further reducing the amount of pollutants flowing off site.

Staff Determination: Staff determines that the findings of fact have been met. Staff recommends the following conditions:

- Provide water quality treatment with the proposed project such that the proposed development pollutant load will be lower than the existing conditions pollutant load. A rain garden will be constructed to provide treatment for the runoff from the building and porous pavement will be constructed to provide treatment for the runoff from the parking lot and the onsite sidewalks.
- Provide specific window glazing on office building to reduce potential of bird strikes.
- All trees planted on site will be tree species native to central Texas.




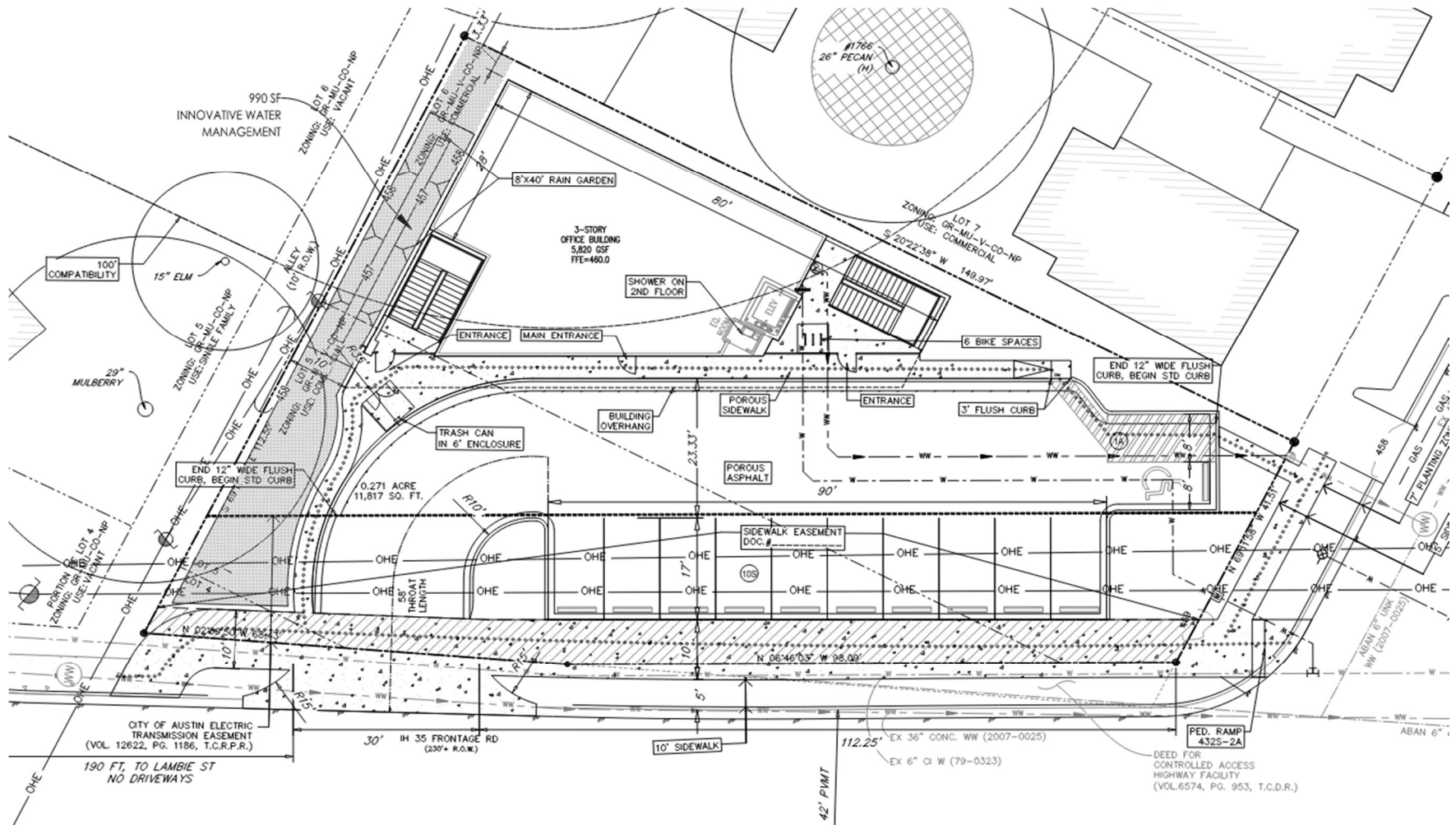
Environmental Reviewer (DSD)	 _____ Hank Marley	8/14/2020
Environmental Review Manager (DSD)	 _____ Mike McDougal	8/14/2020
Environmental Officer (WPD)	 _____ Chris Herrington	8/18/2020

Exhibit 1 – Proposed Site Plan





CIVILITUDE
ENGINEERS & PLANNERS

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Austin, Texas 78723
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August 11, 2020

Environmental Commissioners
c/o Development Services Department
505 Barton Springs Rd, 4th Floor
Austin, TX 78704

Re: Festival Beach Waterfront Overlay Sub-District
SP-2019-0328C
43 N IH 35 SVRD NB
Austin, TX 78702

Dear Commissioners:

On behalf of our client, 1010 Clermont Series of Cooee Yakka, LLC, we are submitting the Site Development Permit for 1010 Clermont for your recommendation to the Planning Commission. The property is on the northeast corner of the intersection of Clermont Street and IH 35 northbound frontage road and is triangular shaped due to prior dedication of property to TxDOT for IH 35 construction. This portion of the Festival Beach Sub-District is shown to be rezoned from residential to commercial in the Town Lake Corridor Study.

Background information

The property has been a used car lot for at least 23 year based on City aerials provided in the presentation. There were a billboard and several large signs on the property, almost all the signs have been removed and the billboard will be removed this fall. Due to the prior taking of right-of-way for IH 35 by TxDOT, the shape of the site is a triangular with the shortest property line along Clermont Avenue at 41.51-feet; there is also a 25-foot electric transmission line easement along the IH 35 frontage. The latest regulations adopted by Austin Energy do not allow trees of any type within the electric transmission easement.

Site Plan Application

The owner is seeking a site development permit to construct a 5,820 sf administrative office building on the northeast corner of the property outside the electric transmission easement. The building height is limited by a SF-3 zoned lot east of the property which prevents parking under the building on the ground floor. Based on the limited size of the building and number of parking spaces, the owner is providing a shower for commuter that walk or bicycle. LDC Code Section 25-2-735(D) requires that property that seeks 70% impervious cover instead of 40% must provide innovative water quality measures, and the site will provide a rain garden for roof runoff and porous pavement and sidewalks to treat the required first-flush of runoff. Aesthetic enhancements include landscaping and a rain garden, and the modern office building will replace the used cars, billboard and signs that previously occupied the site.

Your consideration of this request is appreciated. If you have any questions, please call me at 512-569-9830.

Sincerely,

James M Schissler

James M. Schissler, P.E.



ENVIRONMENTAL COMMISSION VARIANCE APPLICATION FORM

PROJECT DESCRIPTION

Applicant Contact Information

Name of Applicant	James M. Schissler, P.E.
Street Address	5110 Lancaster Court
City State ZIP Code	Austin, TX 78723
Work Phone	512-761-6161
E-Mail Address	jim@civiltitude.com

Variance Case Information

Case Name	1010 Clermont
Case Number	SP-2019-0328C
Address or Location	43 n IH 35 SVRD NB
Environmental Reviewer Name	Hank Marley
Environmental Resource Management Reviewer Name	
Applicable Ordinance	25-2-
Watershed Name	Lady Bird Lake
Watershed Classification	<input checked="" type="checkbox"/> Urban <input type="checkbox"/> Suburban <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 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	880'
Water and Waste Water service to be provided by	Austin Water
Request	The variance request is as follows (Cite code references:

Impervious cover	Existing	Proposed
square footage:	9609	8165
acreage:	0.2206	0.1874
percentage:	81.32	69.10
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 property is currently a parking lot that had been used as a used car lot since at least 1997, based on City of Austin Aerial Photos. There are no trees on the site. The site slopes at about 1 percent toward IH 35. There is an existing billboard in center of site that is to be removed this fall.</p>	

Clearly indicate in what way the proposed project does not comply with current Code (include maps and exhibits)	25-2-735(D)(2) Waterfront Overlay – Festival Beach Sub-District: the impervious cover limit is 70 percent if certain site conditions are met, but the site is too small to comply with the conditions listed.
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FINDINGS OF FACT

The proposed project and variance are consistent with the goals and policies of the Town Lake Corridor Study because the site is being redeveloped from a used car lot with no water quality controls to an office building and parking lot that will provide innovative water quality controls. This specific part of the Festival Beach Sub-district was shown to be rezoned from residential use to commercial use in the Study.

The project will reduce impervious cover from 81.3 to 69.1 percent, will include landscaping and a rain garden for aesthetic enhancement, and will remove the billboard from the site.

The variance is the minimum required due to the peculiarities of the site since there are several factors that drive the impervious cover; the compatibility requirements restrict the height of the building to three stories or 40 feet, even though the GR zoning allows 60 feet, so this prevents raising the building to allow parking under the first level of the building; the electric transmission easement prevents the building from being any larger to allow parking underneath; and the ASMP and TxDOT plans show a 10 foot shared use path across the IH 35 frontage, with a 5 foot buffer from the back of curb.

1997 Conditions



2018 Conditions



Current Conditions

