



ITEM FOR ENVIRONMENTAL COMMISSION AGENDA

COMMISSION MEETING DATE: April 7th, 2021

NAME & NUMBER OF PROJECT: Omni Business Park, SP-2019-0300C

NAME OF APPLICANT OR ORGANIZATION: Chris Bradford, Jackson Walker, LLP

LOCATION: 7305 Burleson Road, 78744

COUNCIL DISTRICT: District 2

ENVIRONMENTAL REVIEW STAFF: Kristy Nguyen, Environmental Review Specialist Senior, Development Services Department, (512) 974-3035, Kristy.Nguyen@austintexas.gov

WATERSHED: Onion Creek, Suburban, Desired Development Zone

REQUEST: Variance request is as follows:
Request to vary from 1993 Comprehensive Watershed Ordinance, Section 13-7-16(b) – for a cut exceeding four feet

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

STAFF CONDITION:

- 1) Preserve top 12 inches of topsoil to be used onsite;
- 2) Increased landscaping for areas of fill to stabilize erosion; and
- 3) Provide enhanced erosion & sedimentation controls during construction.

Staff Findings of Fact and Exhibits



Development Services Department
Staff Recommendations Concerning Required Findings

Project Name: Omni Business Park
Ordinance Standard: 1993 Comprehensive Watershed Ordinance
Variance Request: Section 13-7-16(b) – for a cut exceeding four feet

Include an explanation with each applicable finding of fact.

A. Land Use Commission variance determinations from Chapter 13-2-505 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 Omni Business Park commercial subdivision was approved in C8-93-0091.0A. Development, including drainage improvements, office buildings, and driveways have been constructed within this subdivision. As such, this project has certain vested rights to the 1993 Land Development Code, as approved by the Development Services Department, per the findings: “development within this subdivision has occurred under the rules and regulations based on the 1993 project... It is determined that the 1993 project has met progress and is an ongoing project.” With this context, without the variance, the applicant would be deprived of a privilege available to owners of similarly situated property with approximately contemporaneous development subject to similar code requirements. Current code allows for administrative variance approval of cuts up to 8’, but the code in effect at the time of vesting did not allow for such administrative approvals. This project would qualify for an administrative variance under current code. Similar surrounding projects subject to current code have had variances to cut requirements approved administratively (e.g, Burleson Industrial Park – SP-2014-0400C; 7005 Burleson Industrial – SP-2015-0353C; Burleson Warehouse – SP-2017-0356C).

2. The variance:
 - a) Is the minimum departure from the terms and other requirements of the Land Development Code necessary to avoid such deprivation of privileges enjoyed by other property owners and to facilitate a reasonable use;

Yes Development has occurred on this site, specifically drainage improvements. Areas of cut exceeding four feet are to level the grading

associated from previous development, including multiple spoils piles. Additionally, this property is zoned limited industrial and the project proposes construction of warehouses with truck loading docks. Cut exceeding four feet for this type of development with its existing conditions is required, similar to the surrounding commercial and industrial development (e.g, Burleson Industrial Park – SP-2014-0400C; 7005 Burleson Industrial – SP-2015-0353C; Burleson Warehouse – SP-2017-0356C) where cut greater than four feet have been permitted. Moreover, the proposed cut will not exceed eight feet which, under current code, would have been administratively approved. Granting this variance would allow the property owner the privileges enjoyed by other property owners and facilitate a reasonable use of the property.

- b) Will not create significant probabilities of harmful environmental consequences.

Yes The cut limits of the site will not exceed eight feet. Previous construction activities have occurred onsite, including multiple spoils piles. As a result, cut exceeding four feet is necessary to level out these areas. Also, cut is required for the proposed multiple riparian corridors and in-channel wetland. Additionally, for the water quality ponds, cut of a maximum of eight feet is essential to adequately treat the pollutant load of the development. Further, an enhanced landscape planting schedule with native and diverse vegetation and seeding are proposed for the pond berms, riparian corridors, and in-channel wetland. For these reasons, the variance request to exceed the four feet cut limit will not create significant probabilities of harmful environmental consequences.

- c) Is not a special or unique condition created as a result of the method by which a person voluntarily subdivides or develops the land;

Yes The site is on Lot 1 of the Omni Business Park subdivision. The Omni Business Park subdivision comprises of approximately 38 acres, and is subdivided into 3 lots, with Lot 1 being the largest at 22.5 acres. The proposed project to develop warehouses with truck loading docks is a permitted use for the Limited Industrial zoning of the property, and cut over four feet is required to address manmade topographic changes from previous development that has occurred on site and to provide a consistent finished floor elevation. A variance to Section 13-7-16(b) for cut exceeding four feet is not necessitated due to the subdivision of the land nor the method to develop the land.

B. Additional Land Use Commission variance determinations for a requirement of Section 13-5-523 (Water Quality Transition Zone), Section 13-2-543 (Water Quality Transition Zone), Section 13-2-563 (Water Quality Transition Zone), or Section 13-7-23 (Critical Water Quality Zones):

1. The criteria for granting a variance in Subsection (A) are met;
N/A
2. The application of such provisions leaves the property owner without any reasonable, economic use of the entire property;
N/A

3. The variance is the minimum departure from the terms and other ordinance requirements necessary to establish a reasonable, economic use of the entire property.

N/A

- C. Within the Barton Creek Watershed or Barton Springs Zone, the development with the variance will result in water quality that is equal to or better than would be achieved under compliance with the Code without the variance requested. In the Barton Springs Zone, no variance shall be granted from the SOS Ordinance in Chapter 13-7, Article I, Division 5.

N/A

****Variance approval requires all above affirmative findings.**

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

- 1) Preserve top 12 inches of topsoil to be used onsite;
- 2) Increased landscaping for areas of fill to stabilize erosion; and
- 3) Provide enhanced erosion & sedimentation controls during construction.

Environmental Reviewer
(DSD)



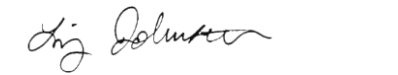
Date
02/12/2021

Environmental Review
Manager (DSD)


Mike McDougal

Date
2-19-2021

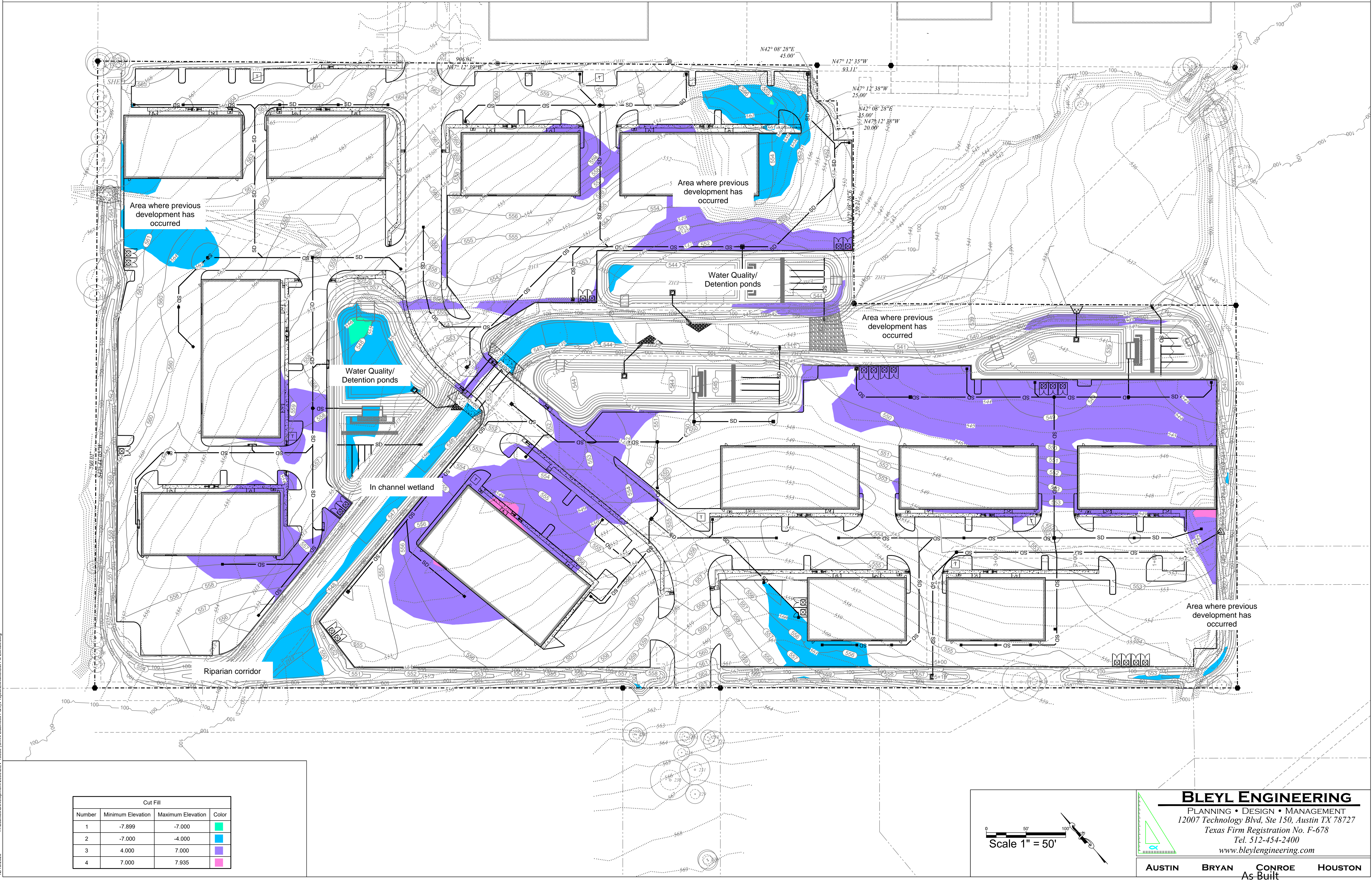
Deputy Environmental
Officer (WPD)


Liz Johnston

Date
03-22-2021

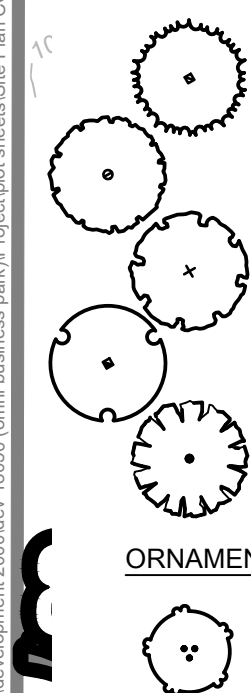
Staff Exhibits

Cut Fill Exhibit





Surrounding businesses with similar zoning and development.



609S - UPLAND SPECIES S

RA1G	Fragrant Sumac	Rhus aromatica
BD2	Butterfly Bush	Buddleja davidii
DG1G	Globe Mallow	Sphaeralcea ambigua
TS1G	Texas Sage	Leucophyllum frutescens
<u>CODE</u>	<u>COMMON NAME</u>	<u>BOTANICAL NAME</u>
BTB	Buttonbush	Cephalanthus occidentalis
PH1G	Possumhaw Holly	Ilex decidua
<u>CODE</u>	<u>COMMON NAME</u>	<u>BOTANICAL NAME</u>
BBS	Bushy Bluestem	Andropogon glomeratus
EG	Eastern Gamagrass	Tripsacum dactyloides

Final plat must be recorded by the Project Expiration Date.

[illegible]

Applicant Form and Findings of Fact

January 25, 2021



ENVIRONMENTAL COMMISSION VARIANCE APPLICATION FORM

January 25, 2021

Denise Lucas, Director
Planning and Zoning Department
City of Austin
P.O. Box 1088
Austin, TX 78767

RE: Variance Request Letter
Omni Business Park
7305 Burleson Road
SP-2019-0300C
§13-7-16(b) Cut Requirements

Dear Ms. Lucas:

On behalf of the owners, CHALL LTD, we are requesting a variance for cut in excess of four (4) feet for the proposed development of the Omni Business Park site development permit (SP-2019-0300C) located at 7305 Burleson Road.

The subject project is a 22.529 acre tract of land located inside the City of Austin's Full Purpose Jurisdiction in Onion Creek Watershed, which is considered a Suburban Class watershed and is a legal tract of land per the Amended Plat of Omni/Burleson Amended Plat of Lots 1 and 3, Omni Business Park, Travis County Records 202000033, signed for recordation on February 18th, 2020.

This project is a continuation of the project vested to the subdivision plan case C8-93-0091.0A dated June 9th of 1993. The rules and regulations in effect on that date apply to this project.

The applicable ordinance for this project is the 1986 ordinance #860508-V, the Comprehensive Watersheds Ordinance. This ordinance limited the cut to 4' for all of the City's jurisdiction.

City Council passed amendments to this Comprehensive Watersheds Ordinance to allow for the cut to exceed 4' in the desired development zone through a staff reviewed administrative process. These ordinances were the 1996 ordinance #19960613-M, Part 5(a)[13-7-16 (for water quality and detention

facilities only)); and #19990225-070B, Ordinance Part 5 of 8 (for desired development zone). The cut variance for this project meets the requirements of these ordinances for an administratively approved cut and fill variance.

The property is zoned LI-CO and the project is proposing light industrial single-story buildings. The rectangle shaped tract of 22.529 acre is situated at a 45-degree angle from north. Northwest and northeast of the project there exists a similar development of manufacturing use zoning LI. Southwest of the project is the City of Austin City limits and the land is undeveloped; however, a light industrial use site plan is under review and the permit is close to being issued. To the southeast is the city limits and the land is undeveloped.

The property is currently undeveloped, and generally slopes to a channel within the site that flows from the southwest to the northeast of the property. Site vegetation consists of native shrub type trees and grasses. Critical environmental features onsite are being mitigated by use of restorative indigenous plantings. This project proposes ~166,000 sf of office/warehouse buildings (12) with associated paving, utilities and drainage improvements equating to 69% impervious cover.

Storm water runoff from this site is conveyed to Onion Creek through a series of downstream waterways. Offsite flows are being conveyed through the main onsite channel. Storm water runoff from the proposed development within the site will be conveyed to the onsite water quality and detention ponds in a proposed storm sewer system.

The proposed detention ponds are designed to detain storm water flows onsite to decrease the runoff for the 2, 10, 25, and 100-year storm events to less than the existing conditions and separate water quality ponds are provided that will be partial sedimentation-filtration ponds.

The project requires leniency from the following code sections:

Division 5. - Cut, Fill, and Spoil.

§ 13-7-16(b) - CUT REQUIREMENTS.

Except for structural excavation, no cut on any lot or other land within the subdivision, other than within roadway right-of-way, shall be greater than four (4) feet. For the purposes of this Subsection, structural excavation means excavation required for construction of building foundations consistent with Section 13-2-580, but shall not include cuts for private or public roads or driveways where structural side-slope stabilization (containment) is proposed. Cuts for utility installation or wastewater drainfield excavation are exempt from this provision, subject to restoration of such areas to natural grade.

The Land Development Code allows Land Use Commission Variances per the following:

Division 3. - Variances.

§ 13-2-505 – PLANNING COMMISSION VARIANCES.

January 25, 2021

The Planning Commission may grant a variance from one or more requirements of this Article if an applicant requests the variance in writing and the Commission finds that, because of special circumstances applicable to the property involved, a strict application of the provisions prevents the owner of the property from enjoying the privileges or safety associated with other similarly situated property with similarly timed development. Where such conditions are found, the variance permitted shall be the minimum departure from the terms of this Article and other ordinance requirements necessary to avoid such deprivation of privileges enjoyed by other property owners and to facilitate a reasonable use, which will not create significant probabilities of harmful environmental consequences. The Planning Commission may not grant a variance if it provides the applicant with any special privileges not enjoyed by other similarly situated property with similarly timed development, or if based on a special or unique condition which was created as a result of the method by which a person voluntarily subdivides or develops land.

Below you will find the findings of fact concerning the need for the variance.

Your favorable consideration and support of our request would be appreciated. If you have any questions, please feel free to call.

Sincerely,

Steven L. Ihnen, P.E.
TBPE Firm #F-630



PROJECT DESCRIPTION

Applicant Contact Information

Name of Applicant	Bleyl Engineering
Street Address	12007 Technology Blvd, Ste.150
City State ZIP Code	Austin, Texas 78727
Work Phone	512.454.2400
E-Mail Address	austinpermitting@bleylengineering.com

Variance Case Information

Case Name	Omni Business Park
Case Number	SP-2019-0300C
Address or Location	7305 Burleson Road
Environmental Reviewer Name	Kristy Nguyen
Environmental Resource Management Reviewer Name	
Applicable Ordinance	Cut exceeding 4' of depth 13-7-16(b)
Watershed Name	Onion Creek
Watershed Classification	<input type="checkbox"/> Urban x 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 x Not in Edwards Aquifer Zones
Edwards Aquifer Contributing Zone	<input type="checkbox"/> Yes x No
Distance to Nearest Classified Waterway	0.40 miles (classification per applicable ordinance)
Water and Waste Water service to be provided by	<u>Water:</u> Austin Water <u>Wastewater:</u> Austin Wastewater
Request	§ 13-7-16(b) - CUT REQUIREMENTS

Impervious cover	Existing	Proposed
square footage:	0	681,410
acreage:	0	15.643
percentage:	0	69%
Provide general description of the property (slope range, elevation range, summary of	The property has no natural slopes that exceed 15%. The site slopes vary from 0% to not more than 15%. The slope breakdown is as follows: 0-15% Slopes 22.591 acres 15-25% Slopes 0.0 acres 25-35% Slopes 0.0 acres Over 35% Slopes 0.0 acres	

vegetation / trees, summary of the geology, CWQZ, WQTZ, CEFs, floodplain, heritage trees, any other notable or outstanding characteristics of the property)	<p>Elevation ranges from a low point of 569 to a high point of 538.</p> <p>The ground vegetation is typical east Austin prairie range grasslands with fair condition grass cover.</p> <p>The geology is clay top soils mixed with gravel and sandy loam.</p> <p>The site has no CWQZ, WQTZ, floodplain, heritage trees, or any other notable or outstanding characteristics of the property. CEFs onsite will be mitigated through the planting of native indigenous plants.</p>	
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Clearly indicate in what way the proposed project does not comply with current Code (include maps and exhibits)	The plan complies with all applicable codes in place as of the original final plat application date of June 9, 1993, except the 4' cut and fill limitation depicted on the cut map provided.
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FINDINGS OF FACT

As required in LDC Section 13-2-505, 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:

Ordinance:

- A. Land Use Commission variance determinations from Chapter 13-2-505 of the City Code:
1. The requirement will prevent the owner of the property from enjoying the privileges or safety associated with other similarly situated property with similarly timed development.

Yes / No

ANSWER: City Council passed an amendment to the Comprehensive Watersheds Ordinance to allow for the cut to exceed 4' in the desired development zone through a staff reviewed administrative process. The cut variance for this project meets the requirements of these ordinances for an administratively approved cut variance. It accordingly is similar to hundreds of projects that are also located in the same watershed and or desired development zone that have all received similar variances through the ordinances administratively approved variance process.

In addition, the slopes present on the property preclude the privilege of its use for a light-industrial development. The site requires significant leveling (although not to exceed 8') to provide level surfaces for trucks to operate.

2. The variance:

- a) Is the minimum departure from the terms of and other requirements of the Land Development Code necessary to avoid such deprivation of privileges enjoyed by other property owners and to facilitate a reasonable use;

Yes / No

ANSWER: The project is zoned LI and the proposed use is appropriate for this zoning classification. The project buildings are of size and shape and are oriented to minimize departure from the code cut limitations. It is not possible to design a project on this site with a 4' truck docks and not exceed 4' cut or fill.

- b) Will not create significant probabilities of harmful environmental consequences.

Yes / No

ANSWER: The proposed departure from the 4' cut limitation will not exceed 8 feet. Furthermore, it will not create a significant probability of harmful environmental consequences. Development of this site began in the mid-1980s. As a result of this development, significant spoils sites were created and left in place. The property is not in its natural condition, but was modified by this prior development. In many cases, the proposed cut and fill will only affect previous spoil sites.

Furthermore, the cut and fill will facilitate the creation of areas—including areas for vegetation with indigenous plants—to mitigate the critical environmental features that are affected by the proposed development.

- c) Is not a special or unique condition created as a result of the method by which a person voluntarily subdivides or develops the land;

Yes / No

ANSWER: The LI users on for the project require level parking and truck docks. Without the cut and fill variance, the use of the property would be not reasonably provided to comply with the LI use and zoning.

B. Additional Land Use Commission variance determinations for a requirement of Section 13-5-523 (Water Quality Transition Zone), Section 13-2-543 (Water Quality Transition Zone), Section 13-2-563 (Water Quality Transition Zone), or Section 13-7-23 (Critical Water Quality Zones):

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

N/A

2. The application of such provisions leaves the property owner without any reasonable, economic use of the entire property;

N/A

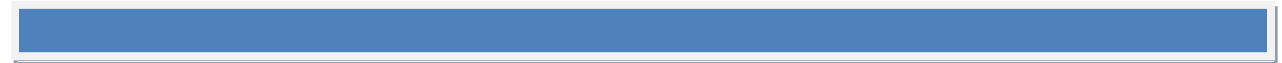
3. The variance is the minimum departure from the terms and other ordinance requirements necessary to establish a reasonable, economic use of the entire property.

N/A

- C. Within the Barton Creek Watershed or Barton Springs Zone, the development with the variance will result in water quality that is equal to or better than would be achieved under compliance with the Code without the variance requested.

Yes/No _____

**Variance approval requires all above affirmative findings.



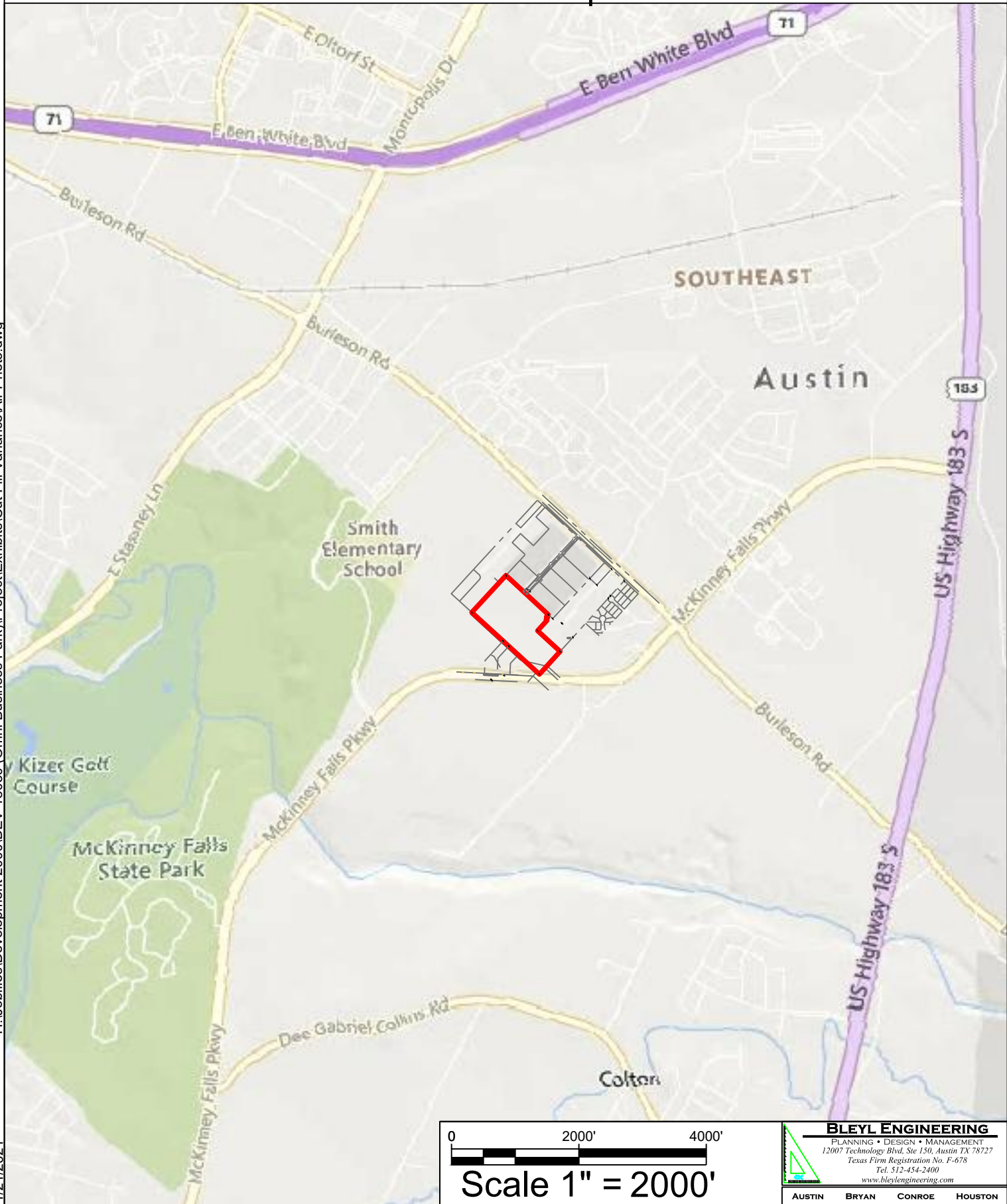
Exhibits for Commission Variance

- Aerial photos of the site
- Site photos
- Aerial photos of the vicinity
- Context Map—A map illustrating the subject property in relation to developments in the vicinity to include nearby major streets and waterways
- 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.
- For cut/fill variances, a plan sheet showing areas and depth of cut/fill with topographic elevations.
- Site plan showing existing conditions if development exists currently on the property
- 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

January 25, 2021

- Environmental Map – A map that shows pertinent features including Floodplain, CWQZ, WQTZ, CEFs, Setbacks, Recharge Zone, etc.
- An Environmental Resource Inventory pursuant to ECM 1.3.0
- Applicant’s variance request letter

Expo Business Park Context Map

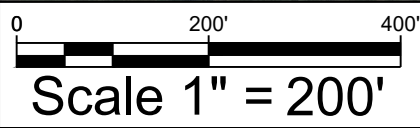


Expo Business Park Air Photo



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1/21/2021



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AUSTIN	BRYAN	CONROE	HOUSTON
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Parking Table

Landuse	Building Area	Parking Ratio		Parking Required	Parking Provided	Bicycle Parking Required	Bicycle Parking Provided
Limited Warehouse (80%)	132,800	1	1000	133			
Office (20%)	33,200	1	275	121			
Outdoor Storage	125,293	1	2000	63			
Total				317	319	16	24

0 50' 100'

Scale 1" = 50'

Benchmarks

B.M. #1900191-102 - Elevation = 566.14'

B.M. #1900198-101 - Elevation = 566.20'

B.M. #1900198-103 - Elevation = 545.15'

B.M. #1900198-104 - Elevation = 572.89

B.M. #1900198-105 - Elevation = 574.58'

See Sheet 3 - General Notes for Descriptions

Legal Description

Lot 1, Amended Plat of Omni/Burleson Amended Plat of Lots 1 and 3, Omni Business Park, 22.529 acres
Doc. #202000033

Call Before You Dig!!

<p>TREE LIST</p> <p>See Tree List prepared by Landscape, Sheet 53 - Tree Table & Calculations</p>	<p>The location of all existing utilities shown on these plans has been based upon <u>record information only</u> and may not match locations as constructed. The contractor shall contact Texas 811 for assistance in determining existing utility locations prior to beginning construction. Contractor shall field verify locations of utility crossings prior to beginning construction.</p> <p>Release of this application does not constitute a verification of all data, information and calculations supplied by the applicant. The engineer of record is solely responsible for the completeness, accuracy and adequacy of his/her <u>submission</u>, whether or not the application is reviewed for Code compliance by City engineers.</p>
<p>SITE PLAN APPROVAL</p> <p>FILE NUMBER <u>SP-2019-0300C</u></p> <p>APPROVED ON _____</p> <p>EXPIRATION DATE (25-5-81.LDC) _____</p>	<p style="text-align: right;">SHEET <u>7</u> of <u>62</u></p> <p>APPLICATION DATE <u>July 16, 2019</u></p> <p>UNDER SECTION <u>112</u> OF CHAPTER <u>25-5</u> OF THE CITY OF AUSTIN CODE.</p> <p>CASE MANAGER <u>Jeremy Sitala</u></p>
<p>Director, Development Services Department</p> <p>RELEASED FOR GENERAL COMPLIANCE _____</p> <p>Rev. 1 _____</p> <p>Rev. 2 _____</p> <p>Rev. 3 _____</p>	<p style="text-align: right;">ZONING <u>LI-CO</u></p> <p style="text-align: right;">Correction 1 _____</p> <p style="text-align: right;">Correction 2 _____</p> <p style="text-align: right;">Correction 3 _____</p>
<p><i>Final plan 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.</i></p>	