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April 22, 2022

Denise Lucas, Director
City of Austin Development Services Department
P.O. Box 1088
Austin, Texas 78767

Re: Environmental Variance Request Letter
Sky Mountain Site Development Plans (SP-2021-0079C)
LDC 25-8-31, Ordinance No. 20211202-056, Cut Requirements

Dear Ms. Lucas,

On behalf of the owner of the subject property, Lennar Sky Mountain Holdings, LLC, we are requesting a Land Use Commission Variance for cut in excess of four (4) feet for the proposed Sky Mountain development within the indicated subject area of the property. The subject area, or defined area of man-made slopes, within the overall project that dictates this required variance is approximately 6.72 acres in size and is located within the existing Mountain Shadows Subdivision portion of the project.

The subject project is located within the full purpose jurisdiction of the City of Austin. The 23-acre subject property is currently undeveloped and is located on the north side of State Highway 71, approximately 0.2 miles west of Covered Bridge Dr. and 0.6 miles east of Midwood Parkway in Austin, Travis County, Texas. The property spans from State Highway 71 to Mountain Crest Dr. The specific area of the site that is prompting the need for a variance is located just south of the existing Sky Mountain Drive R.O.W. (in the process of being vacated) and to the east of existing Mountain Shadows Drive. The specific described area is shown in the applicable attached exhibits.

The owner proposes to develop 289 multifamily units in 7 buildings, a small maintenance building, site paving and parking, outdoor pool and amenity area, private and public utilities, grading, private and public drainage improvements, two water quality ponds, water quality irrigation area, and two detention ponds with the project. The access to the property will be from State Highway 71 with emergency access from Sky Mountain Drive. The owner is also dedicating R.O.W. for the future extension of Mountain Shadows Drive.

The site is located in the Williamson Creek Watershed, Barton Springs Zone, and is in the Edwards Aquifer Contributing Zone. There is not an existing or required City of Austin 100-Year Floodplain delineation or waterway on the property dictating a required CWQZ and WQTZ. There is not an applicable FEMA 100-Year Floodplain per FEMA FIRM No. 48453C0420J, dated 01/22/2020 on the property. As indicated in the attached ERI, there are no applicable CEF's.

The overall project is comprised of two main tracts, the south and the north.

The south tract is comprised of existing Lots 1 and 2 of the Cedar Oaks Subdivision (C8S-72-171, Vol. 60, Page 17, OPRTCT) and a 2.92-Acre un-platted piece of property. The south portion of the property is subject to the recorded Restrictive Covenant (Vol. 10433, Page 1075, OPRTCT) and Amended Restrictive Covenant recorded in Doc. No. 2020164458, OPRTCT, as part of Zoning Case number C14-85-288.56.

The north tract is comprised of existing Lots H, K, L, M, P, and Q of the existing Mountain Shadows Subdivision and a portion of the Sky Mountain R.O.W. that is currently in the process of being vacated. A proposed resubdivision plat will be submitted to the City for the northern part of the property. The proposed resubdivision will encompass existing Lots L, M, P, and Q, and the portion of the Sky Mountain R.O.W. that is being vacated. The development of the northern portion of the site is subject to current code and the subject area requiring the variance is in the north portion of the property. The impervious cover information provided in the table on the attached application is specifically for the north tract.

The proposed project requires leniency from the following code section in the identified subject area:

Division 5, Cut, Fill, and Spoil.

§ 25-8-341 CUT REQUIREMENTS.

- (A) Cuts on a tract of land may not exceed four feet of depth, except:
- (1) in an urban watershed;
 - (2) in a roadway right-of-way;
 - (3) for construction of a building foundation or swimming pool;
 - (4) for construction of a water quality control or detention facility and appurtenances for conveyance such as swales, drainage ditches, and diversion berms, if:
 - (a) the design and location of the facility within the site minimize the amount of cut over four feet;
 - (b) the cut is the minimum necessary for the appropriate functioning of the facility; and
 - (c) the cut is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;
 - (5) for utility construction or a wastewater drain field, if the area is restored to natural grade;
 - (6) in a state-permitted sanitary landfill or a sand or gravel excavation located in the extraterritorial jurisdiction, if:
 - (a) the cut is not in a critical water quality zone;
 - (b) the cut does not alter a 100-year floodplain;
 - (c) the landfill or excavation has an erosion and restoration plan approved by the City; and
 - (d) all other applicable City Code provisions are met.
 - (7) for any cut associated with construction of a multi-use trail, if:
 - (a) the cut is not located on a slope with a gradient of more than 15 percent or within 100 feet of a classified waterway;
 - (b) the cut is limited to no more than eight feet in depth;

- (c) the cut is located in a public right-of-way or public easement; and
- (d) the trail is designed in accordance with the Environmental Criteria Manual.

Source: Subsections 13-7-16(b), (c), and (e); Ord. 990225-70; Ord. 031211-11; Ord. No. 20170615-102 , Pt. 20, 6-15-17; Ord. No. 20211202-056 , Pt. 2, 12-13-21

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

Division 3. - Variances

§ 25-8-41 LAND USE COMMISSION VARIANCES.

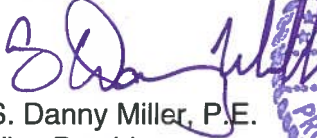
- (A) It is the applicant's burden to establish that the findings described in this Section have been met. Except as provided in Subsections (B) and (C), the Land Use Commission may grant a variance from a requirement of this subchapter after determining that:
 - (1) the requirement will deprive the applicant of a privilege available to owners of other similarly situated property with approximately contemporaneous development subject to similar code requirements;
 - (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;
 - (b) is the minimum deviation from the code requirement necessary to allow a reasonable use of the property; and
 - (c) does not create a significant probability of harmful environmental consequences; and
 - (3) development with the variance will result in water quality that is at least equal to the water quality achievable without the variance.
- (B) The Land Use Commission may grant a variance from a requirement of Section 25-8-422 (*Water Quality Transition Zone*), Section 25-8-452 (*Water Quality Transition Zone*), Section 25-8-482 (*Water Quality Transition Zone*), Section 25-8-652 (*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;
 - (2) the requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and
 - (3) the variance is the minimum deviation from the code requirement necessary to allow a reasonable, economic use of the entire property.
- (C) The Land Use Commission may not grant a variance from a requirement of Article 13 (*Save Our Springs Initiative*).
- (D) The Land Use Commission shall prepare written findings of fact to support the grant or denial of a variance request under this section.

Source: Section 13-2-505; Ord. 990225-70; Ord. 010607-8; Ord. 030508-60; Ord. 031211-11; Ord. 20131017-046; Ord. No. 20140626-113, Pt. 19, 7-7-14 ; Ord. No. 20170615-102 , Pt. 10, 6-15-17.

The findings of fact concerning the need for the requested variance are outlined below. We respectfully seek your consideration and support of this variance request.

We appreciate the City's review of this request. If you should have any questions, please feel free to contact me directly.

Sincerely,



S. Danny Miller, P.E.
Vice President
LJA Engineering, Inc

