

**SITE PLAN REVIEW SHEET  
ENVIRONMENTAL VARIANCE REQUEST ONLY**

**CASE:** SP-2022-0167D (W/R SP-2020-0307D)

**ZAP COMMISSION DATE:** 08/01/2023

**PROJECT NAME:** 1703 N. River Hills Road Marina Reconstruction

**APPLICANT:** Janis Smith

**AGENT:** Janis Smith Consulting, LLC

**ADDRESS OF SITE:** 1703 River Hills Rd, Austin, TX 78733

**COUNTY:** Travis

**AREA:** 4.46 acres

**WATERSHED:** Lake Austin

**JURISDICTION:** Austin Limited Purpose and Austin Full Purpose

**EXISTING ZONING:** CS-1, CR, LA

**PROPOSED DEVELOPMENT:**

The project proposes to modify an existing marina, built prior to 1965, by replacing the existing 21 slips with 16 code-compliant slips, within the existing footprint. The project also includes the installation of a bulkhead designed to protect and preserve the trees on-site, while reinforcing a bulkhead that has partially collapsed. The project also proposes a fueling station.

**DESCRIPTION OF VARIANCE:**

The applicant requests the following:

1. Request to vary from LDC 25-8-261 CRITICAL WATER QUALITY ZONE DEVELOPMENT to allow, in the CWQZ of Lake Austin, development of a gasoline fuel line with a dispenser at the dock for re-fueling private boats.
2. Request to vary from LDC 25-8-368(E) to allow more than 25 cubic yards of dredging in Lake Austin

**STAFF RECOMMENDATION:**

Variance 1 (CWQZ variance): Staff does not recommend this variance, having determined that the findings of fact have not been met.

Variance 2 (dredge variance): Staff recommends this variance, having determined the findings of fact to have been met. Staff recommends this variance with the following conditions: 1) Install sediment boom to minimize sediment disturbance 2) Install temporary orange construction fencing around the entire boundaries of the wetland CEF not included in the LOC to prevent encroachment into the wetland CEF. 3) Provide additional mitigation, beyond requirements for wetlands (32 plantings of American water willow (*Justicia americana*), giant cutgrass (*Zizaniopsis miliacea*), or other herbivory resistant obligate wetland species emerged in the water along the shoreline).

**ENVIRONMENTAL BOARD ACTION:**

Variance 1 (CWQZ variance) **11/16/2022:** The Environmental Board voted in favor of staff's recommendation **not** to recommend this variance: (9) in favor of staff's recommendation, (1) against staff's recommendation, (1) absentia.

Variance 2 (dredge variance) **11/16/2022:** The Environmental Board voted in favor of staff's recommendation to recommend this variance with conditions: (7) in favor of staff's recommendation, (3) against staff's recommendation, (1) absentia.

**ZONING AND PLATTING COMMISSION ACTION:**

**ENVIRONMENTAL REVIEW STAFF:** Pamela Abee-Taulli; Miranda Reinhard

**PHONE:** 512-974-1879; 512-978-1537

**CASE MANAGER:** Clarissa Davis

**PHONE:** 512-974-1423

**ITEM FOR ENVIRONMENTAL COMMISSION AGENDA**

<b>COMMISSION MEETING DATE:</b>	November 16, 2022
<b>NAME &amp; NUMBER OF PROJECT:</b>	1703 N. River Hills Road Marina Reconstruction SP-2022-0167D (W/R SP-2020-0307D)
<b>NAME OF APPLICANT OR ORGANIZATION:</b>	Janis Smith Janis Smith Consulting, LLC
<b>LOCATION:</b>	1703 River Hills Rd, Austin, TX 78733
<b>COUNCIL DISTRICT:</b>	District 10
<b>ENVIRONMENTAL REVIEW STAFF:</b>	Miranda Reinhard, Environmental Scientist Senior Watershed Protection Department 512-978-1537, miranda.reinhard@austintexas.gov
<b>WATERSHED:</b>	Lake Austin Watershed Watershed Supply Rural Classification Drinking Water Protection Zone
<b>REQUEST:</b>	Variance request is as follows: Request to vary from LDC 25-8-368(E) to allow more than 25 cubic yards of dredging in Lake Austin.
<b>STAFF RECOMMENDATION:</b>	Staff recommends this variance, having determined the findings of fact to have been met.
<b>STAFF CONDITION:</b>	Staff recommends the following conditions: 1) Install sediment boom to minimize sediment disturbance 2) Install temporary orange construction fencing around the entire boundaries of the wetland CEF not included in the LOC to prevent encroachment into the wetland CEF. 3) Provide additional mitigation, beyond the requirements for wetlands (32 plantings of American water willow ( <i>Justicia americana</i> ), giant cutgrass ( <i>Zizaniopsis miliacea</i> ), or other herbivory resistant obligate wetland species emerged in the water along the shoreline)



Development Services Department  
Staff Recommendations Concerning Required Findings

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Project Name:	1703 N. River Hills Road Mariana Reconstruction SP-2022-0167D (W/R SP-2020-0307D)
Ordinance Standard:	Watershed Protection Ordinance (current code)
Variance Request:	Request to vary from LDC 25-8-368(E) to allow more than 25 cubic yards of dredging in Lake Austin.

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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 project proposes to modify an existing marina, built prior to 1965, by replacing the existing 21 slips with 16 code-compliant slips, within the existing footprint. A “similarly situated property with approximately contemporaneous development subject to similar code requirements” is SP-2018-0221C, West Harbour Marina. The project was granted a variance in 2019 to dredge 422 cubic yards (CY) or about 16 CY per boat slip. The current variance application is to dredge 97.4 CY, or about 6.1 CY per boat slip.

LDC 25-2-1176(B) allows construction of a marina. LDC 25-2-963 (D) allows modification and maintenance of non-complying docks. LDC 25-8-368(E) allows up to 25 CY of dredging in a lake for a single plan permit application. That is, a similar project could be built new or modified under current code; and dredging up to 25 CY would be permitted for construction of a single boat dock.

The variance is required to allow a quantity of dredging that is dictated by the number of boat slips, and is less per boat slip (6.1 CY) than the quantity of dredging allowed by code for a single boat slip (25 CY).

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 amount of dredge requested is the minimum amount needed to maintain an existing marina. The project's location is dictated by the location of the existing dock, and the existing dock depth isn't navigable for the bigger boats of today and the lift systems required for them. This site will be dredged to a water depth of about 3.5 ft. deep from the normal pool elevation allowing clearance for the bow of the boat and a boat lift cradle underneath the boat.

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

Yes The code allows up to 25 CY of dredging associated with construction of a single-slip dock. The project proposes 6.1 CY per slip. A variance for dredge greater than 25 CY is necessary to build a navigable 16-slip boat dock within the footprint of the existing boat dock. The proposed dredge for each slip is far lower (6.1 CY/slip) than dredge allowed (25 CY/slip) if the boat dock was permitted on a slip-by-slip basis.

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

Yes A sediment boom will be installed prior to construction and maintained for the duration of the project to minimize discharges to the lake. Denying dredge to a navigable depth potentially harms the water quality of the lake due to churning of the lakebed by boats leaving sediment-laden water in their wake.

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

Yes This variance is necessary to permit the slips on one site permit. Dredging the site is necessary to protect the water quality of the lake by eliminating the churning of the lakebed by boat traffic which leads to sediment-laden lake water. In addition, this project will improve the water quality of the lake by replacing a bulkhead that is currently allowing sediment to enter Lake Austin. The project proposes wetland mitigation and bulkhead mitigation, installing temporary orange construction fencing around the entire boundaries of the wetland Critical Environmental Feature (CEF) not included in the limits of construction (LOC) to prevent encroachment into the wetland, and is designed to protect the trees on-site. Additional wetland plantings and protecting of the wetland CEF and trees will positively impact water quality.

- 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 The criteria for granting the variance are met. The dredge request is the minimum amount needed to maintain an existing marina that has been silted in over the years. The variance request is not the result of design choice and does not create a significant probability of harmful environmental consequences.
2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property;
 

Yes The purpose of the proposed work is to rehabilitate an existing dock. The dredge limit for a site plan permit is 25 CY no matter the number of boat slips. This site plan permit application entails 16 slips and proposed dredge of 6.1 CY /slip or far less dredge than if the slips were permitted separately.
3. The variance is the minimum deviation from the code requirement necessary to allow a reasonable, economic use of the entire property.
 

Yes The amount of dredge requested is the minimum amount needed to maintain an existing marina. The dredge amount is the minimum dredge required to ensure a navigable boat dock for modern boats. The proposed dredge depth of 3.5 ft is routinely administratively approved by the environmental review staff.

Staff Determination: Staff determines that the findings of fact have been met. Staff recommends the following condition: 1) Install sediment boom to minimize sediment disturbance 2) Install temporary orange construction fencing around the entire boundaries of the wetland CEF not included in the LOC to prevent encroachment into the wetland CEF. 3) Provide additional mitigation, beyond the requirements for wetlands (32 plantings of American water willow (*Justicia americana*), giant cutgrass (*Zizaniopsis miliacea*), or other herbivory resistant obligate wetland species emerged in the water along the shoreline)

Wetland Biologist Reviewer (WPD)	<u>Miranda Reinhard</u> (Miranda Reinhard)	Date: 11/4/2022
Environmental Review Program Manager (WPD)	<u>John A. Clement</u> (John Clement)	Date: 11/4/22
Deputy Environmental Officer (WPD)	<u>Liz Johnston</u> (Liz Johnston)	Date: 11/04/2022

April 15, 2021



## ENVIRONMENTAL COMMISSION VARIANCE APPLICATION FORM

### PROJECT DESCRIPTION

#### Applicant Contact Information

Name of Applicant	<i>Nikelle Meade and Janis J. Smith, P.E. for YYYYY INC</i>
Street Address	<i>401 Congress Avenue # 2650</i>
City State ZIP Code	<i>Austin, TX 78701</i>
Work Phone	<i>512-472-5456</i>
E-Mail Address	<a href="mailto:Nikelle.meade@huschblackwell.com">Nikelle.meade@huschblackwell.com</a> , <a href="mailto:jsmith@janissmithconsulting.com">jsmith@janissmithconsulting.com</a>

#### Variance Case Information

Case Name	<i>1703 N. River Hills Road Marina Reconstruction</i>
Case Number	<i>SP-2022-0167D</i>
Address or Location	<i>1703 N. River Hills Road</i>
Environmental Reviewer Name	<i>Miranda Reinhard</i>
Environmental Resource Management Reviewer Name	
Applicable Ordinance	<i>LDC 25-8-368(E) Dredge over 25 CY</i>
Watershed Name	<i>Lake Austin</i>
Watershed Classification	<input type="checkbox"/> Urban <input type="checkbox"/> Suburban <input type="checkbox"/> Water Supply Suburban <input checked="" type="checkbox"/> Water Supply Rural <input type="checkbox"/> Barton Springs Zone

April 15, 2021

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	<i>The dredging will take place in Lake Austin</i>
Water and Waste Water service to be provided by	<i>Austin Water</i>
Request	The variance request is as follows (Cite code references:  <i>LDC 25-8-368(E) Dredge over 25 CY</i>

Impervious cover	Existing	Proposed
square footage:	_____	_____
acreage:	_____	_____
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><i>The proposed project site contains an abandoned restaurant, parking lot, bulkhead, existing 18-slip marina (the north dock) and a non-operational fueling station with 3 slips (the south dock) constructed prior to 1965. It was the site of The Pier Restaurant which had been open, in one form or another, from the 1920s to 2005. The 4.46 ac legal parcel on the shoreline of a Lake Austin is shown on Attachment 1, Project Site. The site is zoned CS-1. Except for an access road traversing the property, all of the property elements are on the Lake Austin shoreline. There are a number of trees on the site, but the shoreline is dominated by the restaurant building and flat work that served as a dance floor and restaurant service area. There's a group of trees, some of which are heritage trees, on the shoreline by the south dock. All fueling infrastructure was removed. Attachment 2 contains pictures of the site. The condition of both boat docks is perilous. The docks were red-tagged in October 2019, and a site plan is required to reconstruct the docks. The proposed project will reconstruct the docks, bulkhead, and a fueling station. It won't reconstruct the restaurant or other facilities. The north dock will have 16 slips, and the south dock will have the capacity to moor 3 boats. By today's permitting requirements, the old structures were a 21-slip marina. The replacement dock will be a 16-slip marina and will replace the existing structures with code-compliant docks within the existing footprints. The project also includes the installation of a bulkhead designed to protect and preserve the trees on-site while reinforcing a bulkhead that has partially collapsed. This variance application for Dredge Over 25 CY is necessary to ensure that the docks are navigable for modern boats and can accommodate current lifts. Attachment 3 contains the existing and proposed dock plan and elevation views. Attachment 4 contains the basis of the Findings of Fact.</i></p> <p><i>Maranda Reinhard</i></p>	

April 15, 2021

Clearly indicate in what way the proposed project does not comply with current Code (include maps and exhibits)	<i>This permit specifies 97.4 CY of dredge for the docks, or about 6 CY per boat slip. Current code allows 25 CY of dredge for a site plan permit whether the permit is regulating one slip or, in this case, 16 slips. For this boat dock, code actually would administratively approve 400 CY of dredge if the slips were permitted individually.</i>
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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:

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.

☒ No      *See Attachment 4, Findings of Fact*

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      *See Attachment 4, Findings of Fact*

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

☒ No      *See Attachment 4, Findings of Fact*

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

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☒ Yes ☐ No      *See Attachment 4, Findings of Fact*

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 Attachment 4, Findings of Fact*

- 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 25-8-652 (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      *See Attachment 4, Findings of Fact*

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

☒ Yes ☐ No      *See Attachment 4, Findings of Fact*

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

☒ Yes ☐ No      *See Attachment 4, Findings of Fact*

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

April 15, 2021



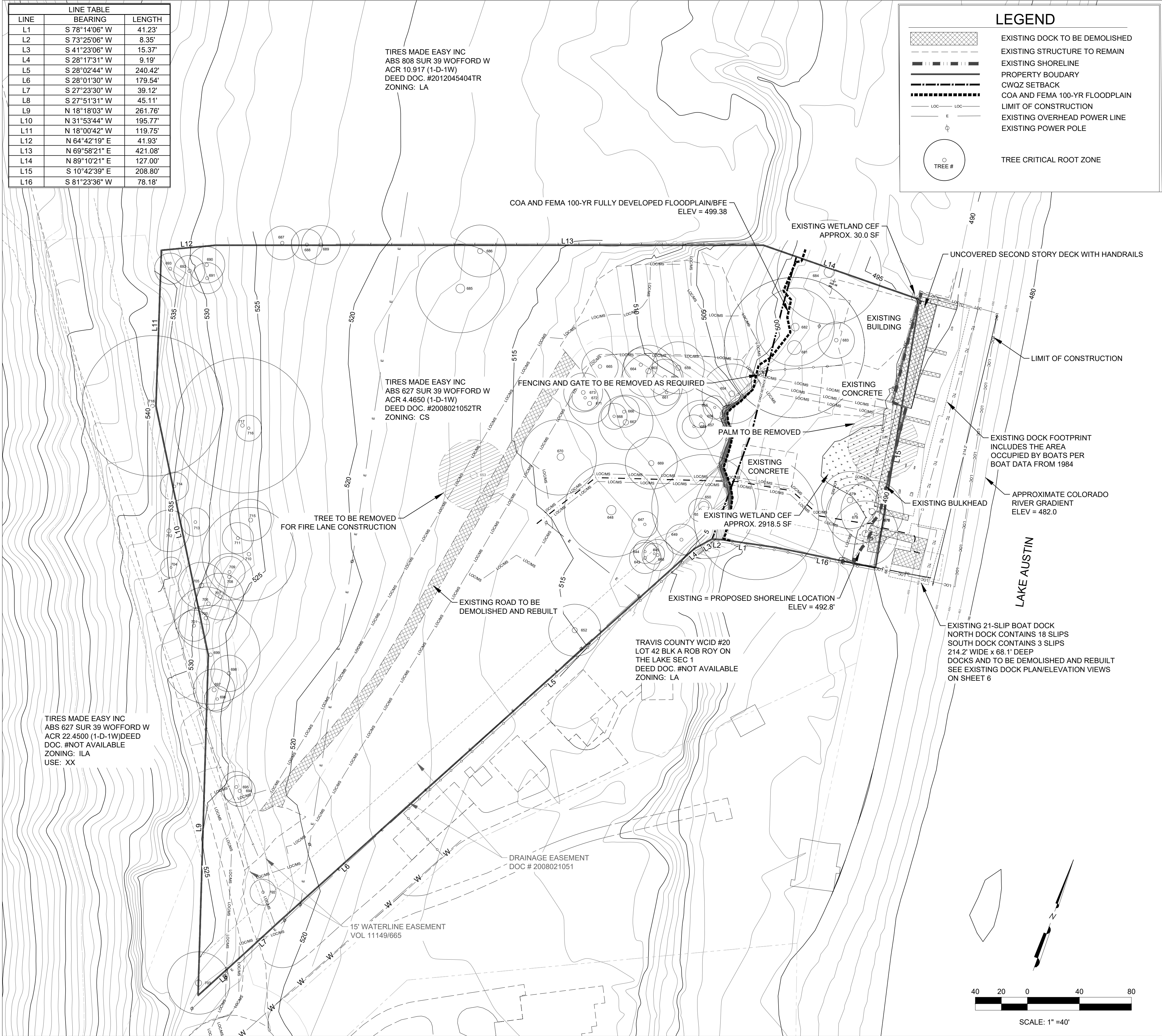
## Exhibits for Commission Variance

- 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
- 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 (*if required by 25-8-121*)
- Applicant's variance request letter

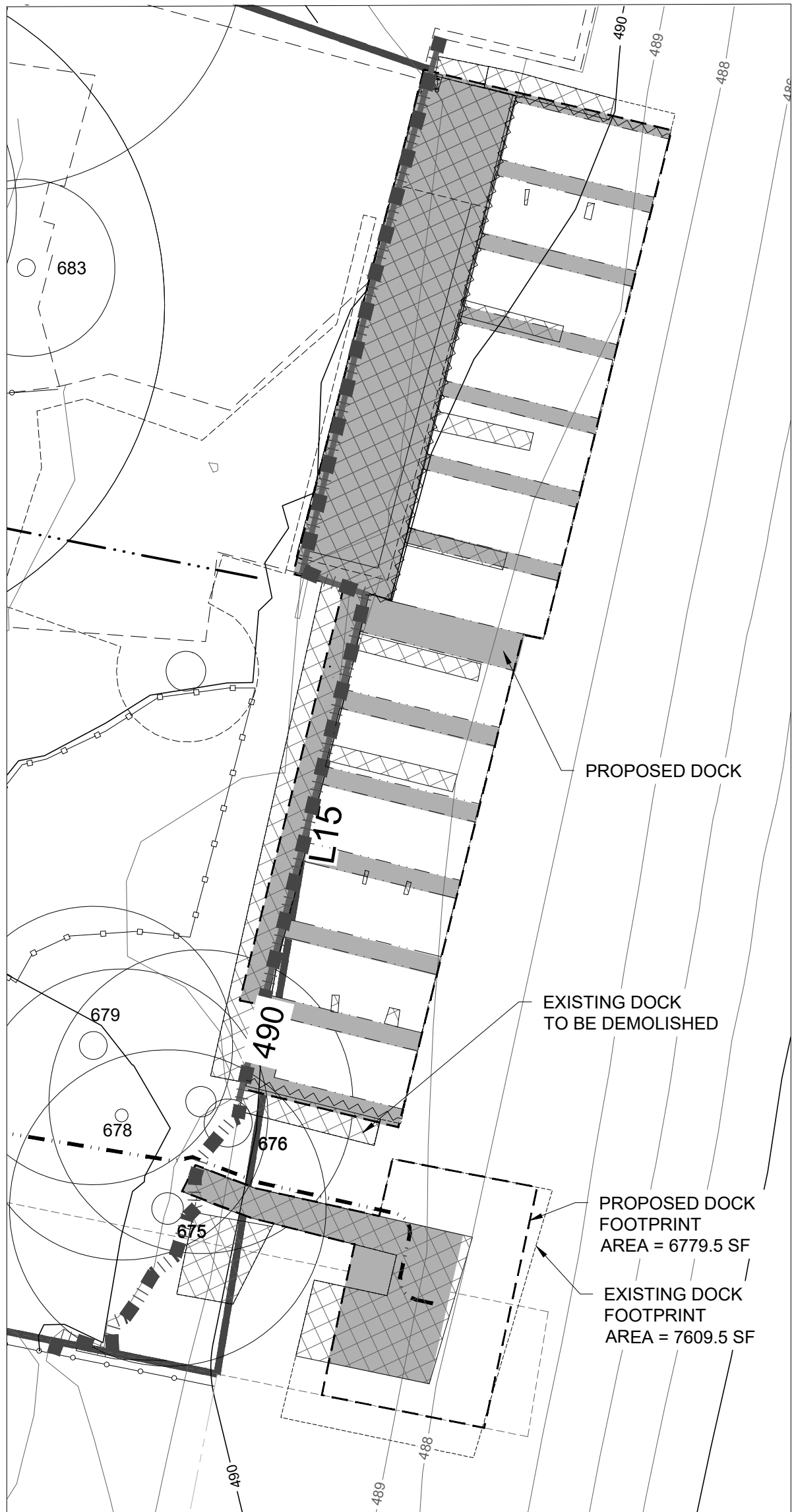
ATTACHMENT 1  
PROJECT SITE



# 1703 N. RIVER HILLS ROAD MARINA RECONSTRUCTION



TREES TO REMAIN		TREES TO REMAIN		TREES TO REMAIN	
TREE TAG #	SPECIES AND DIAMETER	TREE TAG #	SPECIES AND DIAMETER	TREE TAG #	SPECIES AND DIAMETER
643	ELM 12	673	PECAN 15	704	HACKBERRY 8
644	ELM 9	674	COTTONWOOD 48	705	ELM 18
645	HACKBERRY 8	675	CYPRESS 25	706	LIVE OAK 16 15 DEAD
646	ELM 12	676	CYPRESS 38	707	LIVE OAK 18 DEAD
647	ELM 10	677	CYPRESS 24	708	LIVE OAK 18 DEAD
648	ELM 36	678	CYPRESS 23	709	ELM 12
649	ELM 12	679	COTTONWOOD 22	710	LIVE OAK 36 DEAD
650	ELM 40	681	COTTONWOOD 54	711	HACKBERRY 12
651	HACKBERRY 9	682	COTTONWOOD 30	712	ELM 16
652	PECAN 20	683	COTTONWOOD 14 12	713	HACKBERRY 11
654	PECAN 23	684	COTTONWOOD 40	714	HACKBERRY 11
655	HACKBERRY 9	685	ELM 34	715	CHINA BERRY 16
656	HACKBERRY 9	686	ELM 20	716	CHINA BERRY 10 9
657	HACKBERRY 19	687	CEDAR 13	717	LIVE OAK 52 DEAD
658	HACKBERRY 9	688	CEDAR 12	718	LIVE OAK 54 DEAD
659	PECAN 20	689	CEDAR15		
660	PECAN 14	690	HACKBERRY 14	TREES TO BE REMOVED	
661	HACKBERRY 10	691	HACKBERRY 12	TREE TAG #	SPECIES AND DIAMETER
662	HACKBERRY 24	692	CEDAR 12	653	HACKBERRY 27
663	HACKBERRY 20	693	ELM 12		
664	PECAN 13	694	HACKBERRY 12 10		
665	PECAN 14	695	HACKBERRY 12		
666	PECAN 12	696	ELM 10		
667	HACKBERRY 21	697	ELM 16		
668	HACKBERRY 10	698	CHINA BERRY 14		
669	PECAN 20	699	LIVE OAK 38 DEAD		
670	PECAN 29	700	LIVE OAK 24 18 DEAD		
671	HACKBERRY 16	701	HACKBERRY 12		
672	HACKBERRY 10	702	HACKBERRY 10		
		703	HACKBERRY 24		



DESIGNED: JJS  
APPROVED: JJS  
SCALE: AS SHOWN  
1703 N. RIVER HILLS RD  
DATE: 8-03-2020  
SHEET 2 of 18

1703 N. RIVER HILLS ROAD  
MARINA RECONSTRUCTION  
EXISTING CONDITIONS SITE PLAN

Janis Smith Consulting, LLC  
1505 Westover Road • Austin, Texas 78703 • 512-914-3729  
Texas Board of Professional Engineers Registration Number F-16978

JANIS J. SMITH  
110314  
PROFESSIONAL ENGINEER  
ELECTRICAL  
JULY 28, 2022

NO. DATE REVISION APPVD



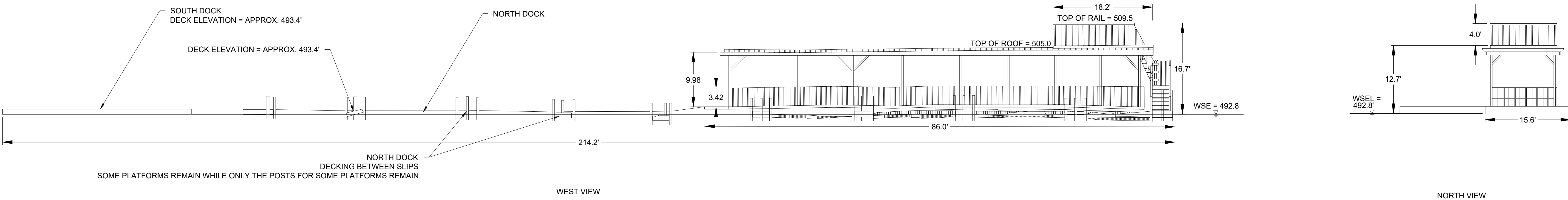
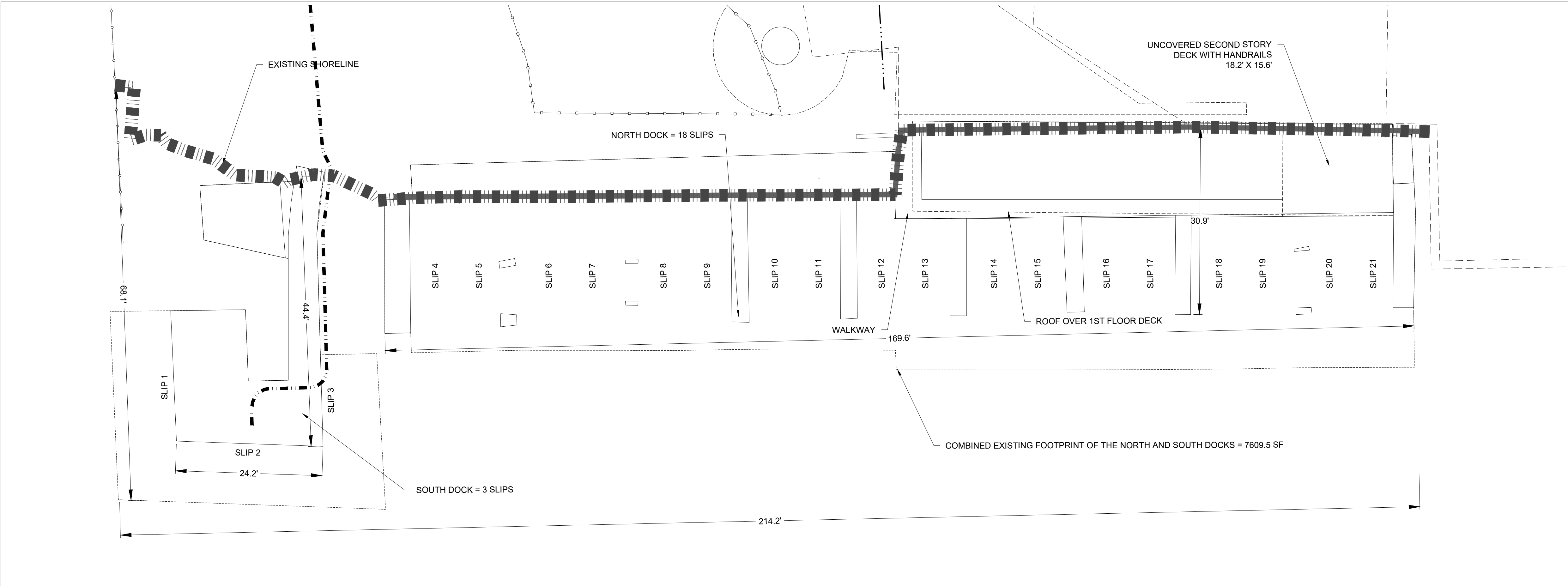
ATTACHMENT 2  
SITE PICTURES



ATTACHMENT 3  
EXISTING AND PROPOSED DOCK PLAN  
AND ELEVATION VIEWS



# 1703 N. RIVER HILLS ROAD MARINA RECONSTRUCTION



Janis J. Smith

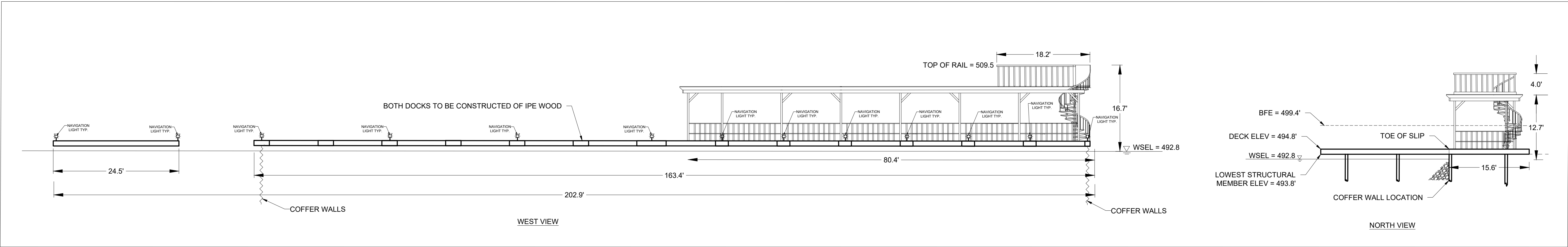
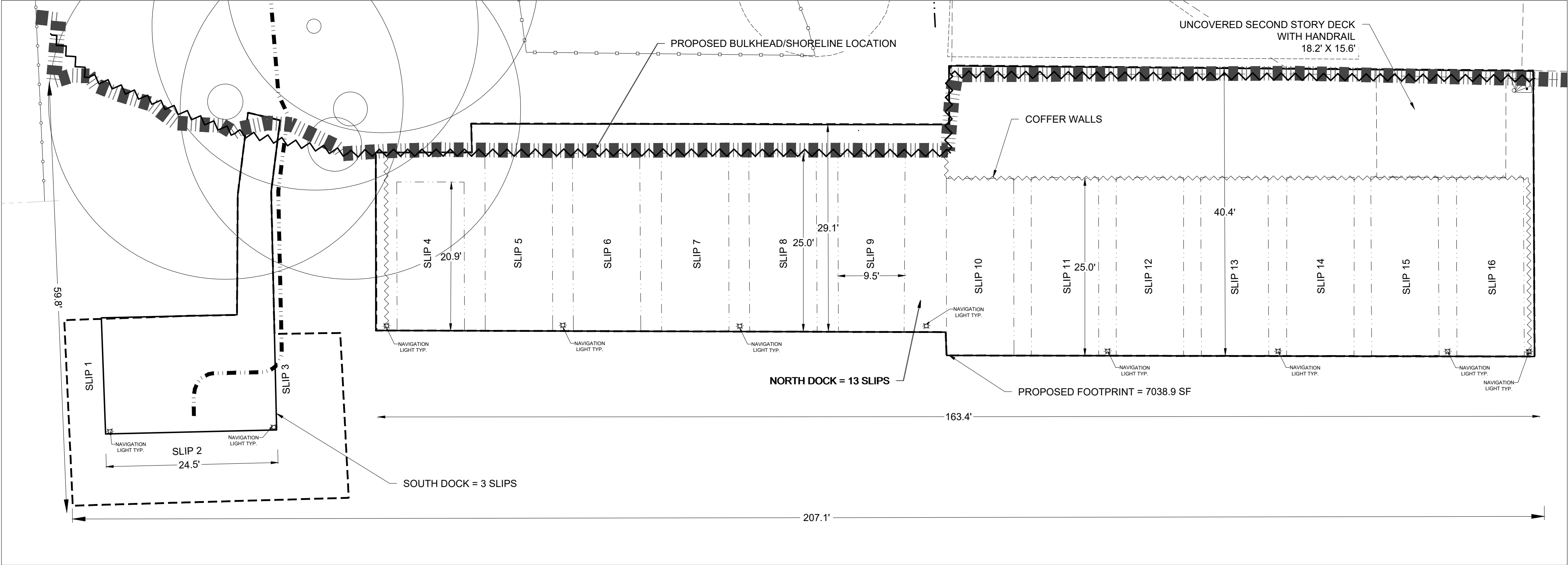


Janis Smith Consulting, LLC  
1505 Westover Road • Austin, Texas 78703 • 512-914-3729  
Texas Board of Professional Engineers Registration Number F-16078

1703 N. RIVER HILLS ROAD  
MARINA RECONSTRUCTION  
EXISTING DOCK PLAN  
AND ELEVATIONS

DESIGNED: JJS  
APPROVED: JJS  
SCALE: AS SHOWN  
1703 N. RIVER HILLS RD  
DATE: 8-03-2020  
SHEET 6 of 18

# 1703 N. RIVER HILLS ROAD MARINA RECONSTRUCTION



Janis Smith Consulting, LLC

1505 Westover Road • Austin, Texas 78703 • 512-914-3729  
Texas Board of Professional Engineers Registration Number F-16978

1703 N. RIVER HILLS ROAD  
MARINA RECONSTRUCTION  
PROPOSED DOCK PLAN  
AND ELEVATIONS

DESIGNED: JJS  
APPROVED: JJS  
SCALE: AS SHOWN  
1703 N. RIVER HILLS RD  
DATE: 8-03-2020  
SHEET 7 of 18

ATTACHMENT 4  
BASIS OF THE FINDINGS OF FACT

- A. 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. A “similarly situated property with approximately contemporaneous development subject to similar code requirements” is SP-2018-0221C, West Harbour Marina. The project was granted a variance in 2019 to dredge 422 CY or about 16 CY/slip. This variance application is to dredge about 6.1 CY/slip.**

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 project’s location is dictated by the location of the existing dock, and the existing dock depth isn’t navigable for the bigger boats of today and the lift systems required for them. This site will be dredged to a water depth of about 3.5 ft. depth from the normal pool elevation allowing clearance for the bow of the boat and a boat lift cradle underneath the boat. In addition, permitting the slips in unison will require the oversight of the Corps of Engineers and the additional erosion controls required by the Corps. Those erosion controls are above and beyond what is required by the City of Austin, and those additional erosion controls would not be required if each slip was permitted individually with a limit of 25 CY/slip. So, without the variance, it would be possible to dredge this site with fewer erosion controls. With the approved variance, the site will be dredged 97.4 CY with enhanced erosion controls.**

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

**YES. A variance for Dredge greater than 25 CY is necessary to build a navigable 16-slip boat dock. The proposed dredge for each slip is far lower (6.1 CY/slip) than dredge allowed (25 CY/slip) if the boat dock was permitted on a slip by slip basis. The COA permitting costs to permit the dock on a slip by slip basis would exceed \$288,000 in city fees alone; those fees would render the project infeasible; and would not “allow reasonable use of the property”.**

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

**YES. There are no harmful environmental impacts of the dredge. To the contrary, permitting the site with an approved variance for dredge over 25 CY will render a project with far greater erosion controls and more government oversight with the addition of the Corps of Engineers to the permitting authorities. If permitted separately, 400 CY (25 CY/slip) of dredge for the site could be approved administratively while this permit approves 97.4 CY (5.1 CY/slip) with enhanced**



***erosion controls. Denying dredge to a navigable depth harms the water quality of the lake and yields constant churning of the lakebed by boats leaving sediment-laden water in their wake.***

***Overall, the lakefront site is greatly improved environmentally by the proposed project. The slips will be reduced from 21 to 16 slips within the existing footprint. The bulkhead is designed to protect the trees on-site while reducing the flow of sediment into the lake.***

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

***YES. This variance is necessary to permit the slips on one site plan permit. Permitting the slips in unison will require the oversight of the Corps of Engineers and the additional erosion controls required by the Corps. Those erosion controls are above and beyond what is required by the City of Austin, and those additional erosion controls would not be required if each slip was permitted individually with a limit of 25 CY/slip. So, without the variance, it would be possible to dredge this site up to 400 CY administratively with fewer erosion controls. With the approved variance, the site will be dredged 97.4 CY with enhanced erosion controls.***

***Dredging the site is necessary to protect the water quality of the lake by eliminating the churning of the lakebed by boat traffic which leads to sediment-laden lake water. In addition, this project will improve the water quality of the lake by replacing a bulkhead that is currently allowing sediment to enter Lake Austin.***

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

***YES. Please see answers to A (1), (2), and (3).***

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

***YES. The dredge limit for a site plan permit is 25 CY no matter the number of boat slips. This site plan permit application entails 16 slips and proposes dredge of 5.1 CY/slip or far less dredge than if the slips were permitted separately. Permitting each slip separately would entail permitting fees in excess of \$288,000 in City fees alone. Those fees make the project infeasible and would prevent “a reasonable, economic use of the entirety of the property”.***

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

***YES. The dredge amount is the minimum dredge required to ensure a navigable boat dock for modern boats. The proposed dredge depth of 3.5 ft. is routinely administratively approved by the environmental review staff.***

ATTACHMENT 4  
ENGINEERING SUMMARY LETTER WITH NO-RISE CERTIFICATE

# Janis Smith Consulting, LLC

Civil Engineering Consulting for Lake Austin Shoreline Projects



August 1, 2020

City of Austin Director of Planning and Development Review  
P.O. Box 1088  
Austin, Texas 78767

Re: Engineering Summary Letter and Report for 1703 N. River Hills Road Marina Reconstruction

Dear Director:

This project proposes to reconstruct a marina and reinforce an existing bulkhead under LDC 25-2-963. The existing structure has been red-tagged, and the case no. is CV-2019-209020. The site is located about 1.7 miles northwest of the intersection of River Hills Road and Bee Cave Road. It's within the Austin Limited Purpose Jurisdiction and the Lake Austin watershed. Access for construction activities will be by water, and the project will be built this coming spring/summer.

The existing marina was used for decades as an accessory use to The Pier restaurant. It's visible in the 1965 aerial, and the site is thought to have been originally developed in the 1920s. Currently, the marina is a dilapidated, 21-slip, 2-story dock. This site plan only regulates the reconstruction of the marina and is separate from any other redevelopment on the site. Nikelle Meade, the owner's representative, and I met and communicated both electronically and in person with City staff to identify a permitting path forward to rebuild the docks.

An Environmental Resource Inventory describing the environmental, hydrogeologic, vegetative, and wastewater elements of this project is included with the application documents.

## Engineer's Certification - Floodway Encroachment - LDC 25 -12 G103.5

The proposed improvements will not increase the rate of storm runoff within the Colorado River watershed and will not adversely obstruct flood flows. The shoreline improvements will not increase the level of the design flood of the adjacent Colorado River.

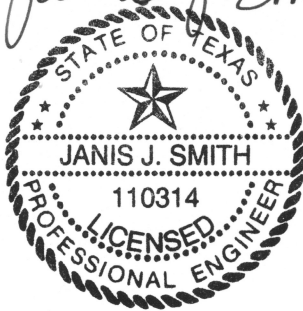
## Variances, Waivers & Conclusions

The dock is within the critical water quality zone, but a variance to construct in the CWQZ is not required. A Planning Commission variance for dredge exceeding 25CY will be required. There will be no adverse impact on the natural and traditional character of the land or waterways.

If you have any questions, please feel free to call.

Very truly yours,

*Janis J. Smith*



Janis J. Smith, P.E  
Janis Smith Consulting, LLC  
512-914-3729  
jsmith@janissmithconsulting.com

**ENVIRONMENTAL COMMISSION MOTION 20221116-004**

**Date:** November 16, 2022

**Subject:** 1703 N. River Hills Road Marina Reconstruction (W/R SP-2020-0307D) SP-2022-0167D

**Motion by:** Jennifer L. Bristol

**Seconded by:** Kevin Ramberg

**RATIONALE:**

**WHEREAS**, the Environmental Commission recognizes the applicant is requesting Variance request is as follows: Request to vary from LDC 25-8-368(E) to allow more than 25 cubic yards of dredging in Lake Austin.; and

**WHEREAS**, the Environmental Commission recognizes the site is located in the Lake Austin Watershed, Water Supply Rural Classification, Drinking Water Protection Zone; and

**WHEREAS**, the Environmental Commission recognizes that Staff recommends this variance, having determined the findings of fact to have been met.

**THEREFORE**, the Environmental Commission recommends this variance with the following conditions:

Staff conditions:

- 1) Install sediment boom to minimize sediment disturbance
- 2) Install temporary orange construction fencing around the entire boundaries of the wetland CEF not included in the LOC to prevent encroachment into the wetland CEF.
- 3) Provide additional mitigation, beyond the requirements for wetlands (32 plantings of American water willow (*Justicia americana*), giant cutgrass (*Zizaniopsis miliacea*), or other herbivory resistant obligate wetland species emerged in the water along the shoreline).

**VOTE 7-3**

For: Ana Aguirre, Perry Bedford, Jennifer Bristol, Colin Nickells, Haris Qureshi, Kevin Ramberg, and Melinda Schiera

Against: Rick Brimer, Pam Thompson, Rachel Scott

Abstain: None

Recuse: None

Absent: Audrey Barrett Bixler

Approved By:

A handwritten signature in black ink that reads "KEVIN RAMBERG". The letters are slightly slanted and connected in a cursive-like fashion.

Kevin Ramberg, Environmental Commission Chair



Development Services Department  
Staff Recommendations Concerning Required Findings

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Project Name: 1703 N. River Hills Road Marina Reconstruction (W/R SP-2020-0307D)  
Ordinance Standard: Watershed Protection Ordinance  
Variance Request: Vary LDC 25-8-261CRITICAL WATER QUALITY ZONE DEVELOPMENT to allow, in the CWQZ of Lake Austin, development of a gasoline fuel line with a dispenser at the dock for re-fueling private boats.

---

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 next most recently approved fueling operations in Lake Austin were approved in 1985. In the context of environmental regulation and in the context of the Land Development Code, this does not represent contemporaneous development.

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 variance is necessitated by the applicant’s decision to propose development of a fuel line and dispenser in the CWQZ of Lake Austin.

Land-based refueling subject to current Code is required to provide water quality ponds and HMIs (hazardous material interceptors) designed to prevent petroleum products and other contaminants from leaving the site and entering waterways. In contrast, any petroleum spills resulting from the proposed



development would proceed directly into a public drinking water source.

The applicant's decision will not provide greater overall environmental protection than is achievable without the variance. On the contrary, it is staff's view that fuel dispensing operations will decrease environmental protection through spills at the pump and discharges of fuel and oil into the water from the queuing boats.

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

No The marina and business allow reasonable use of the site. And as the fueling station is not necessary for use of the marina or business, it is not necessary for reasonable use of the site.

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

No Due to the toxicity of gasoline fuel, any amount of leakage is a harmful environmental consequence. It is not possible to provide adequate safety measures, such as HMIs, when fueling over the water. Moreover, boats queuing at the fueling station will add to the fuel and oil discharged at the site.

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

No Even following best practices and taking maximum precautions, fuel leaks will happen at the pumping location. The resulting water quality will not be equal to what it would be without the variance.

- 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::

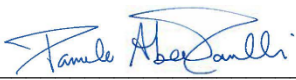
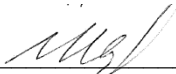
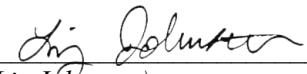
1. The criteria for granting a variance in Subsection (A) are met;

No The above findings have not been met. The proposed fueling operation is the applicant's choice, not necessary for reasonable use of the property, and will have a negative impact on the environment, including water quality.

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

- No      The requirement does not prevent the applicant from a reasonable use of the marina and of the business on the property.
3.      The variance is the minimum deviation from the code requirement necessary to allow a reasonable, economic use of the entire property.
- No      No deviation from the code requirement is necessary to allow a reasonable, economic use of the entire property.

Staff Determination: Staff determines that the findings of fact have / have not been met. Staff recommends the following condition:

Environmental Reviewer (DSD)	 <hr/> (Pamela Abee-Taulli)	Date <u>9/16/2022</u>
Environmental Review Manager (DSD)	 <hr/> (Mike McDougal)	Date <u>9/16/2022</u>
Deputy Environmental Officer (WPD)	 <hr/> (Liz Johnston)	Date <u>10/21/2022</u>

September 18, 2022



## ENVIRONMENTAL COMMISSION VARIANCE APPLICATION FORM

### PROJECT DESCRIPTION

#### Applicant Contact Information

Name of Applicant	<i>Nikelle Meade and Janis J. Smith, P.E. for YYYYY INC</i>
Street Address	<i>401 Congress Avenue # 2650</i>
City State ZIP Code	<i>Austin, TX 78701</i>
Work Phone	<i>512-472-5456</i>
E-Mail Address	<a href="mailto:Nikelle.meade@huschblackwell.com">Nikelle.meade@huschblackwell.com</a> , <a href="mailto:jsmith@janissmithconsulting.com">jsmith@janissmithconsulting.com</a>

#### Variance Case Information

Case Name	<i>1703 N. River Hills Road Marina Reconstruction</i>
Case Number	<i>SP-2022-0167D</i>
Address or Location	<i>1703 N. River Hills Road</i>
Environmental Reviewer Name	<i>Pamela Abee-Taulli</i>
Environmental Resource Management Reviewer Name	<i>Pamela Abee-Taulli</i>
Applicable Ordinance	<i>LDC 25-8-261 Critical Water Quality Zone Development</i>
Watershed Name	<i>Lake Austin</i>
Watershed Classification	<input type="checkbox"/> Urban <input type="checkbox"/> Suburban <input type="checkbox"/> Water Supply Suburban <input checked="" type="checkbox"/> Water Supply Rural <input type="checkbox"/> Barton Springs Zone

September 18, 2022

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	<i>The fuel line and gas pump will be in the CWQZ and over Lake Austin</i>
Water and Waste Water service to be provided by	<i>Austin Water</i>
Request	The variance request is as follows (Cite code references: <i>LDC 25-8-261 Critical Water Quality Zone Development</i>

Impervious cover	Existing	Proposed
square footage:	_____	_____
acreage:	_____	_____
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><i>The proposed project site contains an abandoned restaurant, parking lot, bulkhead, existing 18-slip marina (the north dock) and a non-operational fueling station with 3 slips (the south dock) constructed prior to 1965. It was the site of The Pier Restaurant which had been open, in one form or another, from the 1920s to 2005. The 4.46 ac legal parcel on the shoreline of a Lake Austin is shown on Attachment 1, Project Site. The site is zoned CS-1. Except for an access road traversing the property, all of the property elements are on the Lake Austin shoreline. There are a number of trees on the site, but the shoreline is dominated by the restaurant building and flat work that served as a dance floor and restaurant service area. There's a group of trees, some of which are Heritage trees, on the shoreline by the south dock. All fueling infrastructure was removed. Attachment 2 contains pictures of the site. The condition of both boat docks is perilous. The docks were red-tagged in October 2019, and a site plan is required to reconstruct the docks. The proposed project will reconstruct the docks, bulkhead, and a fueling station. It won't reconstruct the restaurant or other facilities. The north dock will have 13 slips, and the south dock will have the capacity to moor 3 boats. By today's permitting requirements, the old structures were a 21-slip marina. The replacement dock will be a 16-slip marina and will replace the existing structures with code-compliant docks within the existing footprints. This variance application for the installation of a gas line and gas pump in the CWQZ is necessary to deliver gasoline from the above-ground storage tank storing gasoline (required to be outside of the CWQZ) to the gas pump on the south dock (over the lake). Attachment 3 contains the Fuel System Layout Sheet (Sheet 9 of the Site Plan set), and Attachment 4 contains the basis of the Findings of Fact.</i></p>	

Clearly indicate in what way the proposed project does not comply with current Code (include maps and exhibits)	<i>Per LDC 25-8-261, a "dock, public boat ramp, bulkhead or marina, and necessary access and appurtenances, are permitted in a critical water quality zone". Per COA reviewers, the gas line and gas pump don't qualify as "necessary" appurtenances to the marina thus don't comply with code.</i>
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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:

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 See Attachment 4, Findings of Fact
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 See Attachment 4, Findings of Fact

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

Yes

No See Attachment 4, Findings of Fact

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

Yes

No See Attachment 4, Findings of Fact

September 18, 2022

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 Attachment 4, Findings of Fact*

- 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 25-8-652 (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

*See Attachment 4, Findings of Fact*

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

☒ Yes

No

*See Attachment 4, Findings of Fact*

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

☒ Yes

No

*See Attachment 4, Findings of Fact*

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

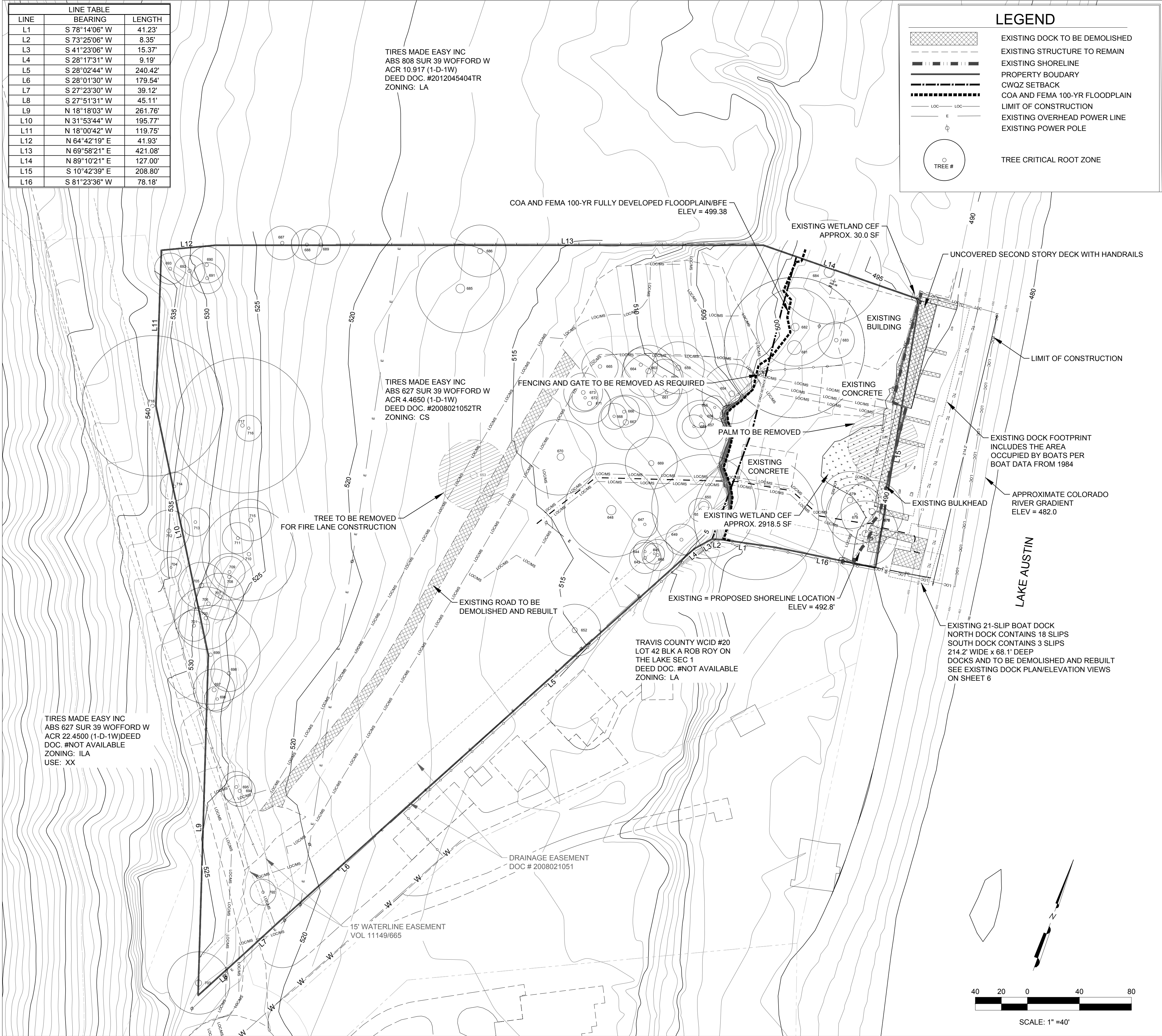
## Exhibits for Commission Variance

- 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
- 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 (**if required by 25-8-121**)
- Applicant's variance request letter

ATTACHMENT 1  
PROJECT SITE

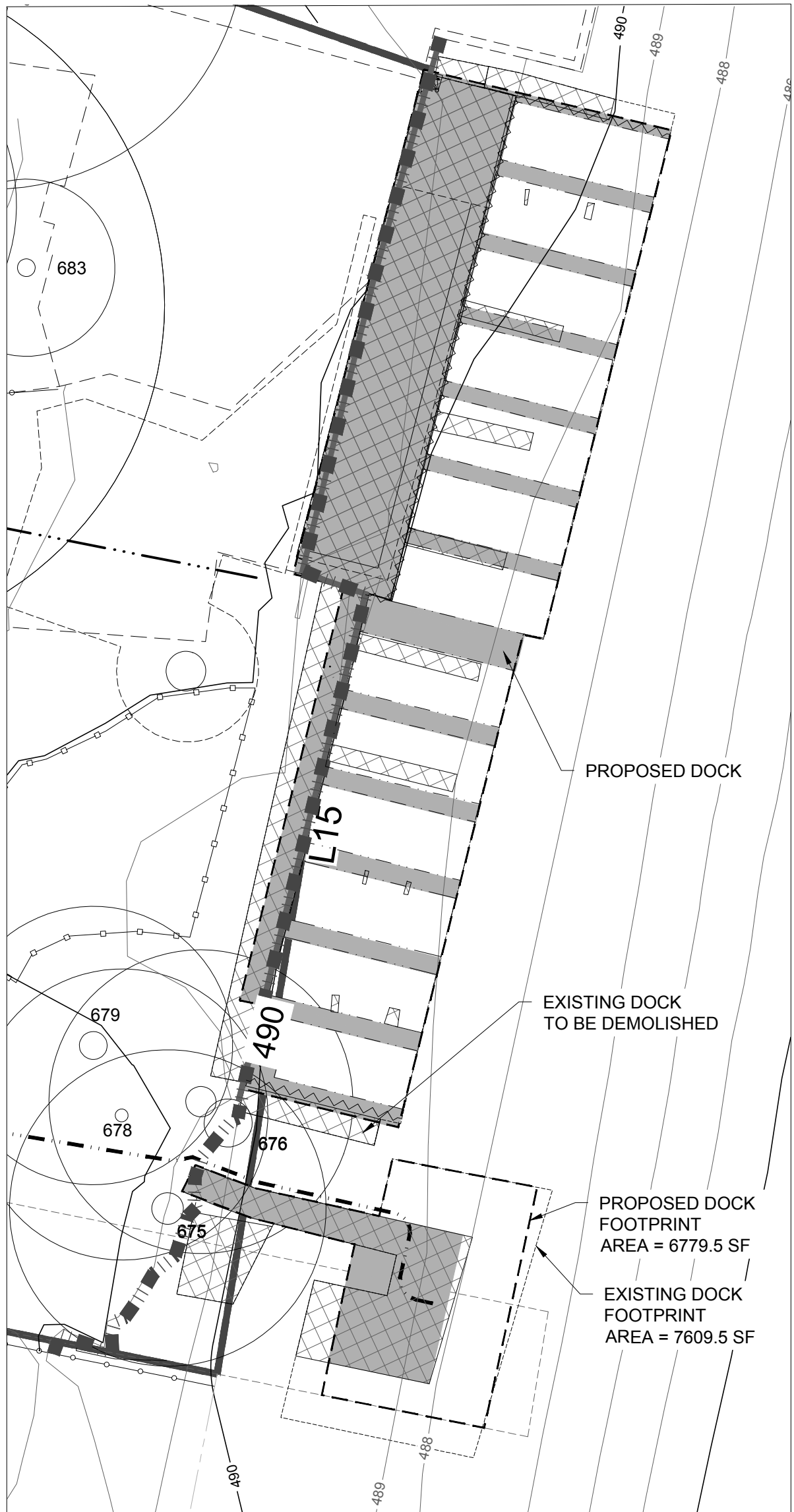


# 1703 N. RIVER HILLS ROAD MARINA RECONSTRUCTION



EXISTING SITE PLAN

TREES TO REMAIN		TREES TO REMAIN		TREES TO REMAIN	
TREE TAG #	SPECIES AND DIAMETER	TREE TAG #	SPECIES AND DIAMETER	TREE TAG #	SPECIES AND DIAMETER
643	ELM 12	673	PECAN 15	704	HACKBERRY 8
644	ELM 9	674	COTTONWOOD 48	705	ELM 18
645	HACKBERRY 8	675	CYPRESS 25	706	LIVE OAK 16 15 DEAD
646	ELM 12	676	CYPRESS 38	707	LIVE OAK 18 DEAD
647	ELM 10	677	CYPRESS 24	708	LIVE OAK 18 DEAD
648	ELM 36	678	CYPRESS 23	709	ELM 12
649	ELM 12	679	COTTONWOOD 22	710	LIVE OAK 36 DEAD
650	ELM 40	681	COTTONWOOD 54	711	HACKBERRY 12
651	HACKBERRY 9	682	COTTONWOOD 30	712	ELM 16
652	PECAN 20	683	COTTONWOOD 14 12	713	HACKBERRY 11
654	PECAN 23	684	COTTONWOOD 40	714	HACKBERRY 11
655	HACKBERRY 9	685	ELM 34	715	CHINA BERRY 16
656	HACKBERRY 9	686	ELM 20	716	CHINA BERRY 10 9
657	HACKBERRY 19	687	CEDAR 13	717	LIVE OAK 52 DEAD
658	HACKBERRY 9	688	CEDAR 12	718	LIVE OAK 54 DEAD
659	PECAN 20	689	CEDAR15	TREES TO BE REMOVED	
660	PECAN 14	690	HACKBERRY 14	TREE TAG #	SPECIES AND DIAMETER
661	HACKBERRY 10	691	HACKBERRY 12	653	HACKBERRY 27
662	HACKBERRY 24	692	CEDAR 12		
663	HACKBERRY 20	693	ELM 12		
664	PECAN 13	694	HACKBERRY 12 10		
665	PECAN 14	695	HACKBERRY 12		
666	PECAN 12	696	ELM 10		
667	HACKBERRY 21	697	ELM 16		
668	HACKBERRY 10	698	CHINA BERRY 14		
669	PECAN 20	699	LIVE OAK 38 DEAD		
670	PECAN 29	700	LIVE OAK 24 18 DEAD		
671	HACKBERRY 16	701	HACKBERRY 12		
672	HACKBERRY 10	702	HACKBERRY 10		
		703	HACKBERRY 24		



EXISTING VS PROPOSED DOCK FOOTPRINTS

Janis J. Smith  
Professional Engineer  
No. 110314  
Exp. 09/01/2025  
JULY 28, 2022

Janis Smith Consulting, LLC  
1505 Westover Road • Austin, Texas 78703 • 512-914-3729  
Texas Board of Professional Engineers Registration Number F-16978

1703 N. RIVER HILLS ROAD  
MARINA RECONSTRUCTION  
EXISTING CONDITIONS SITE PLAN

DESIGNED: JJS  
APPROVED: JJS  
SCALE: AS SHOWN  
1703 N. RIVER HILLS RD  
DATE: 8-03-2020  
SHEET 2 of 18

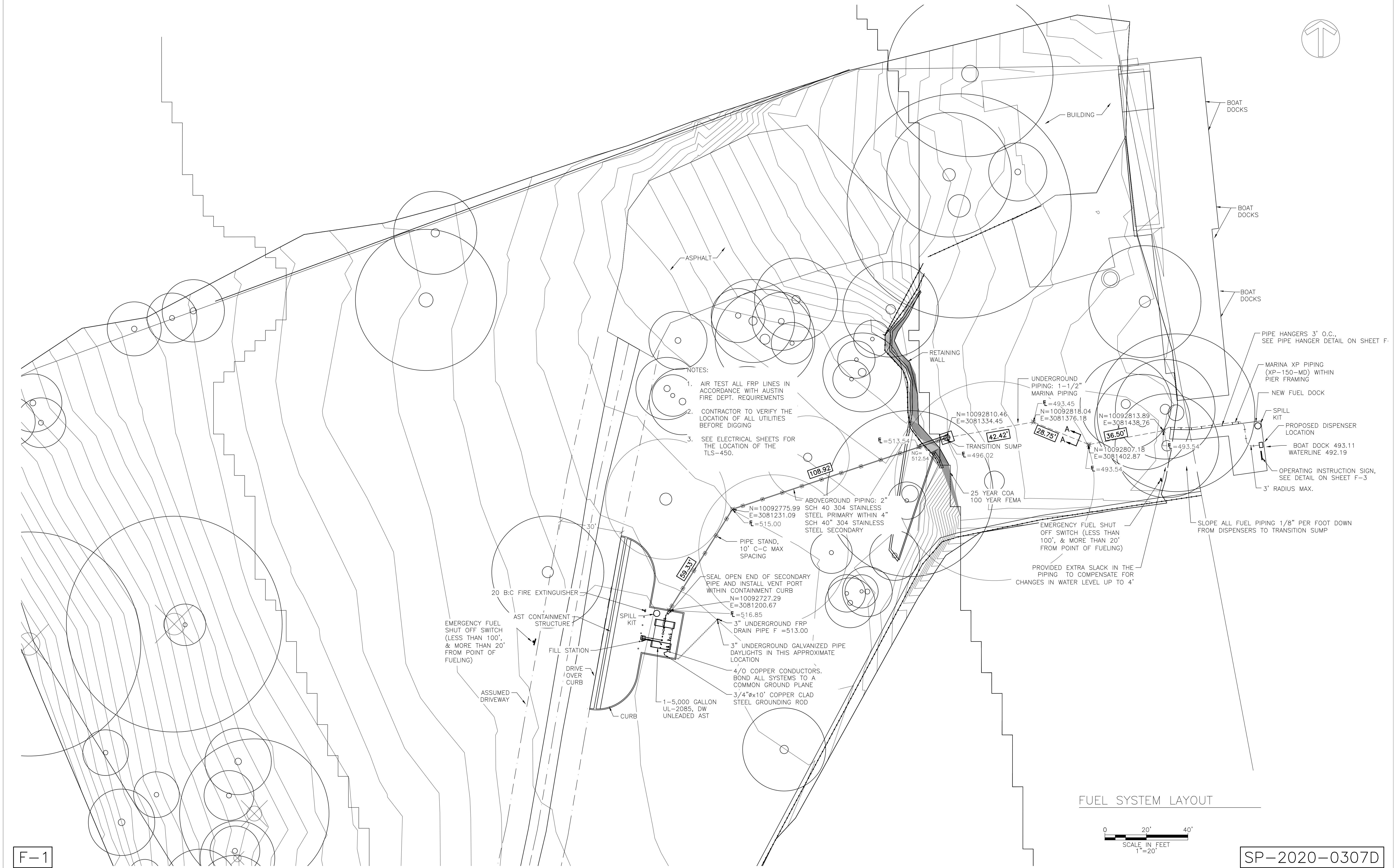


ATTACHMENT 2  
SITE PICTURES



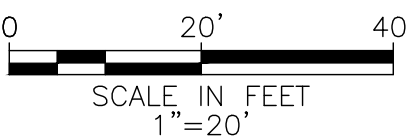
ATTACHMENT 3  
FUEL SYSTEM LAYOUT SHEET





F-1

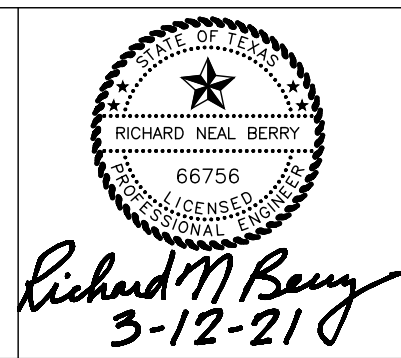
FUEL SYSTEM LAYOUT



SP-2020-0307D

NO	DATE	REVISION

SCAL	DESIGNED BY	
	DRAWN BY	
	CHECKED BY	
	REVIEWED BY	
BY	DATE	





**CDS muery**  
ENGINEERS | SURVEYORS  
100 NE LOOP 410, STE. 300 | SAN ANTONIO, TEXAS 78216  
(210) 581-1111 | TBPE NO. F-1733 | TBPLS NO. 100495-00

FUEL SYSTEM LAYOUT		SHEET NO. 9
1703 N. RIVER HILLS ROAD MARINA RECONSTRUCTION RIVER HILLS ROAD, AUSTIN, TX 78733		OF 15 SHEETS
		FILE NO. 120187

ATTACHMENT 4  
BASIS OF THE FINDINGS OF FACT



- A. 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. There's only one fueling station on Lake Austin, and it's at Lake Austin Marina. The aerial photo below of the Lake Austin Marina shows the location of the gasoline AST and the gas pumps at the end of the dock. The lines from the AST to the pumps are in the CWQZ. The tanks were permitted in a 1987 COA permit. The CWQZ development rules applicable for Lake Austin were the same in 1987 as they are today.**



2. The variance:
- 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 gas pump and gasoline transmission lines have to in the CWQZ to fuel boats in the lake.**

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

**YES. City of Austin staff's instructions were to minimize disturbance to the CWQZ in order to assure that the fuel line installation is "the minimum deviation from the code...". The proposed alignment, and shoreline design in general, is the least possible disturbance to the CWQZ.**

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

**YES. Per the report issued by the Lake Austin Task Force (LATF), a fueling station is needed in the upstream section of the lake. The only gas station on the lake right now is at the downstream end. So people individually gas up their boats using small portable gas containers requiring multiple fill-ups for a day of boating. Each fill-up can and often does result in a spill in the lake. The proposed fueling station at The Pier is designed to contain any spill occurring at the tank site or in the fuel line; the pump will be manned by a trained attendant servicing boats that can be fully fueled at one time; and the facility will execute a Spill Response Plan if a spill occurs.**

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 ability to install gas service at the marina should improve the water quality of the lake. Instead of untrained owners gassing up a boat multiple times for a day of boating, a trained employee can fill-up each boat only once for the same day of boating. It should result in fewer gas spills into the lake. Additionally, the gas tank and line are designed to contain spills occurring at the pump or in the fuel line to the marina, and the facility will execute a Spill Response Plan if a spill occurs.**

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

**YES. Please see answers to A (1), (2), and (3).**

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

**YES. This site was a fueling station on the lake for decades. This variance will be required to install any fueling facilities on the lake, including this site.**

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

**YES. City of Austin staff's instructions were to minimize disturbance to the CWQZ in order to assure that the fuel line installation is "the minimum deviation from the code...". The proposed alignment, and shoreline design in general, is the least possible disturbance to the CWQZ.**





**ENVIRONMENTAL COMMISSION MOTION 20221116-004**

**Date:** November 16, 2022

**Subject:** 1703 N. River Hills Road Marina Reconstruction, SP-2022-0167D

**Motion by:** Jennifer Bristol

**Seconded by:** Perry Bedford

**RATIONALE:**

**WHEREAS**, the Environmental Commission recognizes the applicant is requesting to vary from LDC 25-8-261 Critical Water Quality Zone (CWQZ) Development to allow, in the CWQZ of Lake Austin, development of a gasoline fuel line with a dispenser at the dock for re-fueling private boats; and

**WHEREAS**, the Environmental Commission recognizes the site is located in the Lake Austin Watershed, Water Supply Rural Classification, Drinking Water Protection Zone; and

**WHEREAS**, the Environmental Commission recognizes that Staff does not recommend this variance, having determined that the findings of fact have not been met.

**THEREFORE**, the Environmental Commission does not recommend this variance.

**VOTE: 9-1**

For: Ana Aguirre, Perry Bedford, Rick Brimer, Jennifer Bristol, Haris Qureshi, Kevin Ramberg, Melinda Schiera, Rachel Scott, and Pam Thompson

Against: Colin Nickells

Abstain: None

Recuse: None

Absent: Audrey Barrett Bixler

Approved By:

A handwritten signature in black ink that reads "KEVIN RAMBERG". The signature is written in a cursive, slightly slanted style.

Kevin Ramberg, Environmental Commission Chair