



ITEM FOR ENVIRONMENTAL COMMISSION AGENDA

COMMISSION MEETING DATE: November 15, 2023

NAME & NUMBER OF PROJECT: Northwind Apartments
SP-2021-0384C.SH

NAME OF APPLICANT OR ORGANIZATION: Jeff Kittle, Kittle Property Group

LOCATION: 11216 Cameron Rd, Austin, TX 78754

COUNCIL DISTRICT: District 1

ENVIRONMENTAL REVIEW STAFF: Pamela Abee-Taulli, Environmental Program Coordinator
Development Services Department
512.974.1879
Pamela.abee-taulli@austintexas.gov

WATERSHED: Walnut Creek Watershed, Classification Suburban, Desired Development Zone

REQUEST: Variance requests are as follows:

1. Vary from LDC 25-8-341 to allow cut to 12 feet;
2. Vary from LDC 25-8-342 to allow fill to 17 feet;
3. Vary from LDC 25-8-261 to allow a driveway in a Critical Water Quality Zone.

**STAFF
RECOMMENDATION:**

Staff recommends all three variances, having determined the findings of fact to have been met.

STAFF CONDITION:

1. The applicant will provide enhanced permanent erosion control, via buried grade controls in the channel, to stabilize the channel and discourage further incising.
2. The Critical Water Quality Zone crossing will use open-bottom culverts.
3. Revegetation on slopes will be with native seeding and planting mix, per Standard Specification 609S.5. This mix includes a native grass mix, wildflowers, and trees and shrubs.



Development Services Department
Staff Recommendations Concerning Required Findings

Project Name: Northwind Apartments

Ordinance Standard: Watershed Protection Ordinance

Variance Request: 1. Vary from Land Development Code 25-8-341 to allow cut to 12 feet.
 2. Vary from Land Development Code 25-8-342 to allow fill to 17 feet.

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 or the safety of property given to owners of other similarly situated property with approximately contemporaneous development;

Yes Grading variances have been deemed appropriate under similar development circumstances for sites with similar constraints. Blue Bluff/Saddle Ridge at Wildhorse Ranch (C8-2020-0033) and Pinnacle at Wildhorse Ranch (C8-2021-0152) both received variances for grading. As with Northwind Apartments, the Wildhorse Ranch projects faced topographical challenges, including slopes exceeding a grade of fifteen percent. These constraints make it difficult to comply with Transportation Criteria Manual and Americans with Disabilities requirements for slopes, stopping sight distance, and block length maximums without variances to the Land Development Code grading regulations.

2. The variance:

- a. Is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;

Yes The grading variances are not necessitated by a design decision. Due to the slopes and waterway on the site, the variances are necessary to provide basic pedestrian and vehicular access into the site from the public right of way frontage on Cameron Road and through the site across the waterway critical water quality zone. The location for the access to Cameron Road was identified as it provides adequate spacing from other existing access points

and has the best visibility. The site layout is necessary to provide ADA accessibility into the project and to each building per TAS and FHA requirements.

- b. Is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property; and

Yes The variance is the minimum change necessary to develop the site. The existing topography and waterway limit the developable area on the 28-acre property. Eliminating the crossing, and therefore the cut and fill, would reduce 60 units (25%) of the proposed units within this project where density is a key element of making Affordable Housing a viable development. The project's main entrance connecting to Cameron Road requires fill over 4'. This access location was chosen based on spacing, sight distance, and ADA accessibility. Without this entrance, and therefore the cut and fill, the entire property would be unable to be developed.

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

Yes With appropriate erosion and sedimentation controls provided in accordance with Code and Criteria, the proposed cut and fill can be managed during construction, despite the slopes and proximity to a waterway. Neither will the completed project create a probability of harmful environmental consequences.

- 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 not have any foreseeable effects on water quality. All water being outlet to the floodplain will be treated by passing through stormwater quality measures (rain gardens, biofiltration and sedimentation pond, and vegetated level spreader).

The Land Use Commission may grant a variance from a requirement of Article 7, Division 1 (Critical *Water Quality Zone Restrictions*), after determining that:

- B. Additional Land Use Commission variance determinations for a requirement of Article 7, Division 1 (Critical Water Quality Zone Restrictions):

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

NA

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

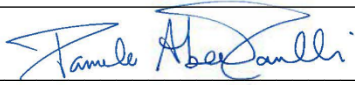


NA

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

NA

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

1. The applicant will provide enhanced permanent erosion control, via buried grade controls in the channel, to stabilize the channel and discourage further incising.
2. The Critical Water Quality Zone crossing will use open-bottom culverts.
3. Revegetation on slopes will be with native seeding and planting mix, per Standard Specification 609S.5. This mix includes a native grass mix, wildflowers, and trees and shrubs.

Environmental Reviewer (DSD)	 (Pamela Abee-Taulli)	Date 10/26/2023
Environmental Review Manager (DSD)	 (Mike McDougal)	Date 10/26/2023
Deputy Environmental Officer (WPD)	 (Liz Johnston)	Date 10/27/2023



Development Services Department
Staff Recommendations Concerning Required Findings

Project Name: Northwind Apartments
Ordinance Standard: Watershed Protection Ordinance
Variance Request: Vary from Land Development Code 25-8-261 to allow a driveway in a Critical Water Quality Zone.

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 or the safety of property given to owners of other similarly situated property with approximately contemporaneous development;

Yes Similarly situated properties with contemporaneous development have been granted variances for driveways in the Critical Water Quality zone. 2001 S. 1st Street (SP-2018-0017C), Iglesia Pentecostal Immanuel Inc. (SP-2020-0324C), and Mercedes Benz of South Austin (SP-2021-0127C) are examples of projects with driveways crossing or partly within a Critical Water Quality Zone.

2. The variance:

- a. Is not based on a condition caused by the method chosen by the applicant to develop the property, unless the development method provides greater overall environmental protection than is achievable without the variance;

Yes The variance is not necessitated by a design decision. The location for the crossing was chosen for multiple reasons. Primarily because the location is the narrowest point of the creek within the property. This reduces the fill needed and thereby the disturbance area. Also, placing the crossing and culvert here allows the opportunity to provide additional erosion control measures within the channel to reduce or prevent scour and erosion which has historically been traveling upstream. To further mitigate risk, the development proposes to provide both armoring (as required by drainage review) and long rooted vegetation to protect the banks of the channel.

- b. Is the minimum change necessary to avoid the deprivation of a privilege given to other property owners and to allow a reasonable use of the property; and

Yes The variance is the minimum change necessary to develop the site. The existing topography and waterway limit the developable area. Eliminating the crossing would reduce 60 units (25%) of the proposed units within this project where density is a key element of making Affordable Housing a viable development.

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

Yes The location for the crossing was chosen specifically to reduce the probability of environmental consequences. This crossing is placed at the narrowest point of the creek within the property. This reduces the fill needed and thereby the disturbance area. Also, placing the crossing and culvert here allows the opportunity to provide additional erosion control measures within the channel to reduce or prevent scour and erosion which has historically been traveling upstream. To further mitigate risk, the development proposes to provide both armoring (as required by drainage review) and appropriate vegetation to protect the banks of the channel.

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 not have any foreseeable effects on water quality. All water being outlet to the floodplain will be treated by passing through stormwater quality measures (rain gardens, biofiltration and sedimentation pond, and vegetated level spreader).

The Land Use Commission may grant a variance from a requirement of Article 7, Division 1 (Critical *Water Quality Zone Restrictions*), after determining that:

- B. Additional Land Use Commission variance determinations for a requirement of Article 7, Division 1 (Critical Water Quality Zone Restrictions):

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

Yes As stated above, the development meets all criteria for granting a variance as listed in subsection A. Without the variance, it would not be possible to develop as neighboring properties have. The variance is not due to a design decision, is required to allow a reasonable use of the property, and will not cause environmental harm or affect water quality.

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

Yes In order to provide reasonable, economic use as a SMART housing qualified Affordable Housing project, a creek crossing, and Cameron Road entrance will be required. Eliminating the crossing would reduce 60 units (25%) of the proposed

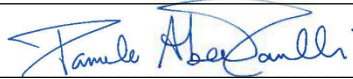

units within this project where density is a key element of making Affordable Housing a viable development. These difficulties make the cut required for the project to be viable.

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

Yes The existing topography and waterway limit the developable area on the 28-acre property. Eliminating the cut and fill, would reduce 60 units (25%) of the proposed units within this project where density is a key element of making Affordable Housing a viable development. The project’s main entrance connecting to Cameron Road requires fill over 4’. This access location was chosen based on spacing, sight distance, and ADA accessibility. Without this entrance, and therefore the cut and fill, the entire property would be unable to be developed.

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

1. The applicant will provide enhanced permanent erosion control, via buried grade controls in the channel, to stabilize the channel and discourage further incising.
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