



## ENVIRONMENTAL COMMISSION VARIANCE APPLICATION FORM

### PROJECT DESCRIPTION

#### Applicant Contact Information

Name of Applicant	Permit Partners (David Cancialosi)
Street Address	105 W. Riverside Dr. Suite #225
City State ZIP Code	Austin, TX 78704
Work Phone	512-593-5361
E-Mail Address	david@permit-partners.com

#### Variance Case Information

Case Name	Island Cove Boat Dock
Case Number	SP-2017-0279D
Address or Location	4409 Island Cove, Austin TX 78731
Environmental Reviewer Name	Atha Phillips
Environmental Resource Management Reviewer Name	
Applicable Ordinance	Placement of fill in Lake Austin 25-8-367
Watershed Name	Lake Austin
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

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	
Water and Waste Water service to be provided by	
Request	<p>The variance request is as follows (Cite code references:</p> <p>LDC 35-8-367 to allow fill in Lake Austin in order to decommission existing cut-in slips and as well as to restore shoreline to a more natural condition and superior rated condition. Maximum of 6'6" fill to be placed in Lake at any point along shoreline. This fill variance allows significant restoration of the existing shoreline in a natural aesthetic and is necessary to accommodate the cut and fill variances as well as a net calculation of 0.0 being added due to the same amount of cut and fill being proposed, respectively (692 SF)</p>

Impervious cover	Existing	Proposed
square footage:	____0____	____0____
acreage:	____0____	____0____
percentage:	____0____	____0____
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	<p>The 23,754 (.99 ac) vacant, corner tract has never been built on. No infrastructure exists. 1" water and 2" WW lines were extended to the property by COA. The lot is relative flat and there exist 2 cut in slips along the rear of the property abutting the lake. This platted lot physically extends well into the channel.</p> <p>A Chapter 245 Ruling approved the site performance standards in accordance with SF-2 zoning in place at the time of original lot creation via Project Approval case #2015-1172866 on November 10, 2015 in accordance with plat approval for C8083-12 on January 28, 1983.</p> <p>A building permit (BP-2017-059058) approved continuation of the single family residential project for a new single family residence. That permit is on hold pending approval of the variance requests associated with this site. City arborist</p>	

outstanding characteristics of the property)	<p>is satisfied with the tree protection and preservation of an assortment of Tallows, Elms and other natives. No trees are being removed.</p> <p>There is no known CEF's on or near this lot.</p> <p>It is a relatively flat lot encumbered by the 2 cut in slips, backing up to a channel, and has a narrow bridge / overpass to one side of the property creating a 15' side street setback that the house and boatdock must abide by.</p> <p>The site has FEMA 100 year floodplain which mostly follows the contour of the existing shoreline and the two (2) cut in-slips. The current site plan proposes substantial restoration of the shoreline in consideration for the variances being proposed.</p>	
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Clearly indicate in what way the proposed project does not comply with current Code (include maps and exhibits)	Restoration of the shoreline and filling of two (2) cut in slips requires in fill in the Lake. The amount of fill varies across the edge of shoreline given shoreline's existing topography and shape but does not exceed 6'6" nor the 692 SF requested with the cut variances.
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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. There are numerous residential bump out docks in and along the various channels and main body residences in the Island Neighborhood.

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 proposed development of the site and restoration of the shoreline will provide greater overall EV protection. The cut-in slips are a safety hazard. They are deep and not protected against harm or injury to personnel. The slips capture unwanted trash and debris. The 184' of shoreline would be substantially improved as part of this fill (and separate cut variance), but the area within the 25' shoreline would remain in natural state with exception of removal of nuisance or invasive vegetation when necessary. Approximately 120' of new bulkhead would be installed compliant with current code as well as a mixture of

native tree species planted within the shoreline. The same amount of cut = the proposed fill, so the net is 0. The new bulkhead will install erosion control and shoreline protection measures above the lack of any shoreline bulkhead aside from the cut –in slips.

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

Yes. The application proposes the minimum deviation necessary while also achieving greater shoreline improvements.

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

No. The “fill in the lake” variance allows the restoration of the overall shoreline. Equally important, the variance will allow the two (2) cut-in slips to be removed. They are up to 8’ deep each and present a clear and present danger. The proposed planting plan and overall site redevelopment substantially reduces the probability of any harmful environmental consequences, if any.

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 water quality will improve as a result of the significant shoreline restoration and planting plan. The shoreline condition is being raised via the proposed site plan and related variances necessary to implement the design.

- 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. The applicant believes they are met if not 100% in keeping with the intent with the code.

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

Yes. The “fill in the lake” is required due to the topography of the shoreline area near the water and in order to reasonably use and improve the property to its highest and best use in lieu of any shoreline nor erosion controls.

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

Yes. The proposed fill in the lake is the minimum deviation required to produce a substantial improvement to the existing shoreline area.

\*\*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



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#### Applicant Contact Information

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Work Phone	512-593-5361
E-Mail Address	david@permit-partners.com

#### Variance Case Information

Case Name	Island Cove Boat Dock
Case Number	SP-2017-0279D
Address or Location	4409 Island Cove, Austin, TX 78731
Environmental Reviewer Name	Atha Phillips
Environmental Resource Management Reviewer Name	
Applicable Ordinance	Cut above 4' 25-8-341
Watershed Name	Lake Austin
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

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	
Water and Waste Water service to be provided by	
Request	<p>The variance request is as follows (Cite code references:</p> <p>LDC 35-8-341 to allow cut above 4' in order to extend existing cut-in slip and utilize slip as part of a new 2 slip bump out boat dock which will cover the existing cut-in slip as well as cut to restore shoreline to a more natural condition. 692 SF of cut is proposed. The subsequent EV variance for fill in the lake also proposes 692 SF for a net = 0.0 SF.</p>

Impervious cover	Existing	Proposed
square footage:	____0____	____0____
acreage:	____0____	____0____
percentage:	____0____	____0____
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	<p>The 23,754 (.99 ac) vacant, corner tract has never been built on. No infrastructure exists. 1" water and 2" WW lines were extended to the property by COA. The lot is relative flat and there exist 2 cut in slips along the rear of the property abutting the lake. This platted lot physically extends well into the channel.</p> <p>A Chapter 245 Ruling approved the site performance standards in accordance with SF-2 zoning in place at the time of original lot creation via Project Approval case #2015-1172866 on November 10, 2015 in accordance with plat approval for C8083-12 on January 28, 1983.</p> <p>A building permit (BP-2017-059058) approved continuation of the single family residential project for a new single family residence. That permit is on hold pending approval of the variance requests associated with this site. City arborist is satisfied with the tree protection and preservation of an assortment of Tallows, Elms and other natives. No trees are being removed.</p>	

property)	<p>There is no known CEF's on or near this lot.</p> <p>It is a relatively flat lot encumbered by the 2 cut in slips, backing up to a channel, and has a narrow bridge / overpass to one side of the property creating a 15' side street setback that the house and boatdock must abide by.</p> <p>The site has FEMA 100 year floodplain which mostly follows the contour of the existing shoreline and the two (2) cut in-slips. The current site plan proposes substantial restoration of the shoreline in consideration for the variances being proposed.</p>	
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Clearly indicate in what way the proposed project does not comply with current Code (include maps and exhibits)	Restoration of the shoreline and filling of two (2) cut in slips requires in excess of 4' of cut. No cut will exceed 8', but the height of cut varies across the edge of shoreline given shoreline's existing topography and shape.
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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. There are numerous residential bump out docks in and along the various channels and main body residences in the Island Neighborhood.

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 proposed development of the site and restoration of the shoreline will provide greater overall EV protection. The cut-in slips are a safety hazard. They are deep and not protected against harm or injury to personnel. The slips capture unwanted trash and debris. The 184' of shoreline would be substantially improved as part of this cut (and separate fill variance), but the area within the 25' shoreline would remain in natural state with exception of removal of nuisance or invasive vegetation when necessary. Approximately 120' of new bulkhead would be installed compliant with current code as well as a mixture of

native tree species planted within the shoreline. The same amount of cut = the proposed fill, so the net is 0. The new bulkhead will install erosion control and shoreline protection measures above the lack of any shoreline bulkhead aside from the cut –in slips.

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

Yes. The application proposes the minimum deviation necessary while also achieving greater shoreline improvements.

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

No. The Cut variance allows the restoration of the overall shoreline. Equally important, the variance will allow the two (2) cut-in slips to be removed. They are up to 8' deep each and present a clear and present danger. The proposed planting plan and overall site redevelopment substantially reduces the probability of any harmful environmental consequences, if any.

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 water quality will improve as a result of the significant shoreline restoration and planting plan. The shoreline condition is being raised via the proposed site plan and related variances necessary to implement the design.

- 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. The applicant believes they are met if not 100% in keeping with the intent with the code.

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

Yes. The cut above 4' is required due to the topography of the shoreline area near the water and in order to reasonably use and improve the property to its highest and best use in lieu of any shoreline nor erosion controls.

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

Yes. The proposed cut is the minimum deviation required to produce a substantial improvement to the existing shoreline area.

\*\*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*)
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Distance to Nearest Classified Waterway	
Water and Waste Water service to be provided by	
Request	<p>The variance request is as follows (Cite code references:</p> <p>LDC 35-8-342 to allow fill above 4' in order to decommission existing cut-in slips and as well as to restore shoreline to a more natural condition and superior rated condition. 692 SF of fill is proposed. The subsequent EV variance for cut in the lake also proposes 692 SF for a net = 0.0 SF.</p>

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property)	<p>There is no known CEF's on or near this lot.</p> <p>It is a relatively flat lot encumbered by the 2 cut in slips, backing up to a channel, and has a narrow bridge / overpass to one side of the property creating a 15' side street setback that the house and boatdock must abide by.</p> <p>The site has FEMA 100 year floodplain which mostly follows the contour of the existing shoreline and the two (2) cut in-slips. The current site plan proposes substantial restoration of the shoreline in consideration for the variances being proposed.</p>	
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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;

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native tree species planted within the shoreline. The same amount of cut = the proposed fill, so the net is 0. The new bulkhead will install erosion control and shoreline protection measures above the lack of any shoreline bulkhead aside from the cut –in slips.

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

Yes. The application proposes the minimum deviation necessary while also achieving greater shoreline improvements.

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

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Yes. The water quality will improve as a result of the significant shoreline restoration and planting plan. The shoreline condition is being raised via the proposed site plan and related variances necessary to implement the design.

- 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. The applicant believes they are met if not 100% in keeping with the intent with the code.

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

Yes. The Fill above 4' is required due to the topography of the shoreline area near the water and in order to reasonably use and improve the property to its highest and best use in lieu of any shoreline nor erosion controls.

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

Yes. The proposed cut is the minimum deviation required to produce a substantial improvement to the existing shoreline area.

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

## Exhibits for Commission Variance

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