



## ENVIRONMENTAL COMMISSION VARIANCE APPLICATION FORM

### PROJECT DESCRIPTION

#### Applicant Contact Information

Name of Applicant	<i>G4 Interests LLC</i>
Street Address	<i>2503 Westlake Drive</i>
City State ZIP Code	<i>Austin, TX 78704</i>
Work Phone	<i>979-412-0324</i>
E-Mail Address	<i>mk@kristendistributing.com</i>

#### Variance Case Information

Case Name	<i>West Harbour Marina</i>
Case Number	<i>SP-2018-0221C</i>
Address or Location	<i>2503 Westlake Drive</i>
Environmental Reviewer Name	<i>Pamela Abee-Taulli</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

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)	<i>The proposed project site contains an existing 28-slip cluster dock constructed prior to 1962. It's a 2.5 ac legal parcel on the shoreline of a Lake Austin slough, and it's shown on Attachment 1, Project Site. The site is zoned SF-3. It's a flat site with a very gentle slope to the water and contains 12 heritage trees including 53", 52", 44", 42", and 29" Cypress trees along with a wetland fringe. The shoreline serves as the location of two dilapidated cluster docks and is suffering erosion with little protection to the trees. Currently, two separate boat barns house the 28 slips. The west barn contains 15 slips, and the east barn contains 13 slips (See Attachment 2, Existing Site Photos). The proposed 26-slip West Harbour Marina (See Attachment 3, Architect's Rendering of Proposed Site Layout) will reduce the number of boat slips and replace the existing structures with code-compliant docks within the existing footprint. The project also includes the installation of a bulkhead designed to protect and preserve the trees on-site while incorporating permanent wetlands in the wall design. The site layout entails minimal impervious cover and a massive mitigation planting plan (See Attachment 4, West Harbour Marina). This variance application for Dredge Over 25 CY is necessary to ensure that the docks are navigable for modern boats and can accommodate current lift systems. If the slips were permitted separately, each slip would be allowed 25 CY of dredge per code. This project permits all 26 slips on one permit with a dredge amount of 422 CY. That works out to about 16 CY/slip, far less than the 25 CY of dredge allowed per slip if each slip is permitted individually.</i>	

Clearly indicate in what way the proposed project does not comply with current Code (include maps and exhibits)	<i>This permit specifies 422 CY of dredge for the cluster docks, or about 16 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, 26 slips. For this boat dock, code actually would administratively approve 650 CY of dredge if the slips were permitted individually.</i>
---	---

## **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 5, 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 5, 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 5, Findings of Fact*

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

☒ **Yes** / No      *See Attachment 5, 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 5, 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 5, 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 5, 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 5, Findings of Fact*

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

*ATTACHMENT 1*

*PROJECT SITE*



# Property Profile



NAD\_1983\_StatePlane\_Texas\_Central\_FIPS\_4203\_Feet

8/28/18

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey. This product has been produced by the City of Austin for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

## Legend

- Street Labels
- Jurisdiction
- ✓ FULL PURPOSE
  - LIMITED PURPOSE
  - EXTRATERRITORIAL JURISDICTION
  - 2 MILE ETJ AGRICULTURAL AGR
  - OTHER CITY LIMITS
  - OTHER CITIES ETJ

## Notes

ATTACHMENT 1 PROJECT SITE

*ATTACHMENT 2*  
*EXISTING SITE PHOTOS*







*ATTACHMENT 3*

*ARCHITECT'S RENDERING OF PROPOSED SITE LAYOUT*



*ATTACHMENT 4*

*WEST HARBOUR MARINA*







*ATTACHMENT 5*  
*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-2018-0114DS, Slip for Lot 16 in Panorama Harbor. Panorama has cleared all COA comments and is pending permit issuance upon the payment of COA review fees. It will permit one slip in a 16-slip neighborhood association cluster dock at Panorama Harbor. Dredge of 24.5 CY is proposed (and has passed environmental review comments) for the one slip. Dredge for West Harbour Marina is 16.2 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 depth of about 3.5 ft., and dredge depths of 3.5 ft. are routinely shown on plans and approved by the COA environmental reviewers. 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 up to 650 CY administratively with fewer erosion controls. With the approved variance, the site will be dredged 422 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 26-slip boat dock. The proposed dredge for each slip is far lower (16.2 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 \$260,000 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, 650 CY (25 CY/slip) of dredge for the site could be approved administratively while this permit approves 422 CY (16.2 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 28 to 26 slips within the existing footprint. The bulkhead layout and massive planting plan raise the floodplain rating from fair to excellent and are designed to protect the trees on-site while providing permanently protected wetlands. The end result is a site with a far greater level of riparian function through better habitat, improved filtration of nutrients in the water, and erosion control.**

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 650 CY administratively with fewer erosion controls. With the approved variance, the site will be dredged 422 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 increasing the rainwater filtration accomplished through the extensive planting plan and the bulkhead design which incorporates protected wetlands in the wall design.**

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 26 slips and proposes dredge of 16.2 CY/slip or far less dredge than if the slips were permitted separately. Permitting each slip separately would entail permitting fees in excess of \$260,000**

***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.***