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**ITEM FOR ENVIRONMENTAL BOARD AGENDA**

**BOARD MEETING**  
**DATE REQUESTED:** NOVEMBER 20, 2013

**NAME & NUMBER OF PROJECT:** Lakeside Villas II  
SP-2013-0093D

**NAME OF APPLICANT OR ORGANIZATION:** Garrett-Ihnen Civil Engineering  
Jevon Poston, (512) 454-2400

**LOCATION:** 4301 Mansfield Dam Road

**PROJECT FILING DATE:** March 15, 2013

**WPD/ERM STAFF:** Sylvia Pope 974-3429  
sylvia.pope@austintexas.gov

**PDRD/ENVIRONMENTAL STAFF:** Liz Johnston, 974-1218  
liz.johnston@austintexas.gov

**PDRD/ CASE MANAGER:** Michael Simmons-Smith, 974-1225  
michael.simmons-smith@austintexas.gov

**WATERSHED:** Lake Austin (Water Supply Rural),  
Drinking Water Protection Zone

**ORDINANCE:** Watershed Protection Ordinance (current Code)

**REQUEST:** 1 - To allow cut to exceed 4 feet. [LDC 25-8-341(A)]  
2 - To allow fill to exceed 4 feet. [LDC 25-8-342(A)]  
3 - Reduce a Critical Environmental Feature buffer of a  
canyon rimrock to less than 150 feet. [LDC 25-8-  
281(C)(1)(a)]

**STAFF RECOMMENDATION:** Recommend

**REASONS FOR RECOMMENDATION:** The findings of fact have been met.



## MEMORANDUM

**TO:** Mary Gay Maxwell, Chairperson and Members of the Environmental Board

**FROM:** Liz Johnston, Environmental Review Specialist Senior  
Planning and Development Review Department

**DATE:** November 13, 2013

**SUBJECT:** Lakeside Villas II, SP-2013-0093D

On the November 20, 2013 agenda is a request for the consideration of variances to allow cut and fill in excess of four feet and to reduce the setback of a canyon rimrock Critical Environmental Feature to less than 150'. The variances are associated with a site plan for a single family attached townhome development project.

### Description of Property

The subject property is a 2.3-acre tract located in the Lake Austin Watershed, which is classified as a Water Supply Rural watershed and is located within the Drinking Water Protection Zone. The property is currently vacant, largely undisturbed, and is located partially within the 2-mile Extra Territorial Jurisdiction.

### Existing Topography/Soil Characteristics/Vegetation

The property slopes towards a drainage ditch located within the right of way N FM 620. The topography ranges between approximately 754 and 660 feet above mean sea level. Soils are reported to be Tarrant soils and rock outcrop (steep). This heavily wooded tract consists of vegetation primarily including Live Oak and Ashe Juniper trees with sparse groundcover.

### Critical Environmental Features/Endangered Species

One canyon rimrock CEF was identified on this property. The property lies within BCCP Golden-cheeked Warbler Zone 1 (confirmed habitat). The subject property does appear to contain suitable habitat for the endangered species. A portion of the site lies within a zone designated by the BCCP as black-capped vireo habitat, though the Environmental Assessment indicates that the habitat is not suitable for either endangered species.

### Description of Project

The project consists of 3 two-unit townhome buildings, a driveway and the associated detention and water quality ponds.

### Environmental Code Exception Request

The following exceptions to the land development code are requested:

- 1 – To allow cut to exceed 4 feet. [LDC 25-8-341(A)]
- 2 – To allow fill to exceed 4 feet. [LDC 25-8-342(A)]
- 3 – Reduce a Critical Environmental Feature buffer of a canyon rimrock to less than 150 feet. [LDC 25-8-281(C)(1)(a)]

**Conditions for Staff Approval**

- 1) None.

**Recommendation**

Staff recommends approval of the variances because the Findings of Fact (see attached) have been met.



**Staff Findings of Fact**  
**Planning and Development Review Department**

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**Project:** Lakeside Villas II, SP-2013-0093D  
**Ordinance Standard:** Land Development Code Section 25-8-281(C)(1)(a)  
**Variance Request:** To reduce the buffer of a rimrock Critical Environmental Feature (CEF) to less than 150'.

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Justification:

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, the subject project is similar in scope to the adjacent Commander's Point project, which is a similar townhome project. Due to site constraints, it would be difficult to construct a similar project without the need to alter the CEF setback requirement.**

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, any development proposed on this property will encounter similar site constraints. The proposed development consists of a driveway and three two-unit townhomes on either side of the driveway. The layout follows the existing topography and is the only reasonable location for a development given site constraints, such as the electric transmission easement to the north and the steep slopes to the south of the site.**

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;

**Yes, given the similar surrounding uses in the area, the proposed townhouse project is a reasonable use. The project will provide an 85' setback directly upstream of the rimrock, a 50' setback directly downstream of the setback and a 15' buffer from the side of the rimrock, which will sufficiently preserve the condition of the rimrock.**

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

**Yes, the proposed project is relatively small, consisting of only three townhome units and a single driveway off of Mansfield Dam Road. The project takes advantage of the flattest portion of the site, while preserving the required 40% natural area as a buffer. The project is not located directly upstream of the rimrock CEF and therefore is not likely to negatively impact the rimrock.**

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 applicant has chosen to follow the latest Watershed Protection Ordinance and is thus providing water quality as well as the required 40% natural buffer. Therefore the water quality on the site is the same as would otherwise be required.**


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

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Environmental Reviewer:

  
Liz Johnston

Environmental Program Coordinator:

  
Sue Barnett

Environmental Officer:

Chuck Lesniak

Date: November 13, 2013

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**Staff Findings of Fact**  
**Planning and Development Review Department**

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**Project:** Lakeside Villas II, SP-2013-0093D  
**Ordinance Standard:** Land Development Code Section 25-8-341(A) and 25-8-342(A)  
**Variance Request:** To allow cut and fill to exceed the allowable 4', not to exceed 8'.

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Justification:

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, the subject project is similar in scope to the adjacent Commander's Point project. Due to site constraints, it would be difficult to construct a similar project without exceeding the four foot cut and fill limit.**

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, any development proposed on this property will encounter similar site constraints. The proposed development consists of a driveway and three two-unit townhomes on either side of the driveway. The layout follows the existing topography and is the only reasonable location for a development given site constraints, such as the electric transmission easement to the north and the rimrock Critical Environmental Feature setback on the southeast portion of the site.**

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;

**Yes, given the similar surrounding uses in the area, the proposed townhouse project is a reasonable use. The areas with cut and fill in excess of 4' are minimal and will be stabilized with 3:1 slopes. The amount of proposed cut is between 5 and 6 feet and the amount of proposed fill is slightly under 8 feet, which is not considered to be excessive by environmental review staff.**

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

**Yes, the proposed project is relatively small, consisting of only three townhome units and a single driveway off of Mansfield Dam Road. The proposed cut and fill will be stabilized by 3:1 slopes. The project takes advantage of the flattest portion of the site, while preserving the required 40% natural area as a buffer.**

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 applicant has chosen to follow the latest Watershed Protection Ordinance and is thus providing water quality as well as the required 40% natural buffer. Therefore the water quality on the site is the same as would otherwise be required.**

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

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Environmental Reviewer:

  
Liz Johnston

Environmental Program Coordinator:

  
Sue Barnett

Environmental Officer:

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Chuck Lesniak

Date: November 13, 2013

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## ENVIRONMENTAL BOARD VARIANCE APPLICATION TEMPLATE

Insert Applicant Variance Request Letter here.

### PROJECT DESCRIPTION

#### Applicant Contact Information

Name of Applicant	Jevon Poston
Street Address	12007 Technology Boulevard, Ste. 150
City State ZIP Code	Austin, TX 78727
Work Phone	512-454-2400 x131
E-Mail Address	poston@gice.us

#### Variance Case Information

Case Name	Lakeside Villas I & II
Case Number	SP-2013-0092D & SP-2013-0093D
Address or Location	4300 & 4301 Mansfield Dam road; Austin, Texas 78734
Environmental Reviewer Name	Liz Johnston
Applicable Ordinances	LDC 25-8-341(A), 25-8-342(A) & 25-8-281(C)(1)(a)
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	1500'
Water and Waste Water service to be provided by	WCID # 17
Request	The variance request is as follows (Cite code references):  LDC 25-8-341(A), 25-8-342(A) & 25-8-281(C)(1)(a)

Impervious cover	Existing	Proposed
square footage:	0	94,950
acreage:	0	2.18
percentage:	0	20

<p>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>	<p>The 10.9 acre property is currently undeveloped, and generally slopes to the south, where storm water runoff is collected by a roadside ditch (within the Ranch Road 620 N right-of-way) and conveyed to Lake Austin 1500' east of the property. There are no significant offsite storm water flows being conveyed through the project site. Steep slopes do exist on the site. Spoils from the project associated with the adjacent property were previously disposed of on this site and do account for some of the slopes that exceed 15%. Site vegetation consists of native grasses and trees.</p>
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Clearly indicate in what way the proposed project does not comply with current Code

Cut/fill exceeds 4' and the CEF setback has been reduced.

November 4, 2013

Mr. Greg Guernsey, Director  
Planning and Development Review Department  
City of Austin  
505 Barton Springs Road  
Austin, Texas 78704

**RE: Lakeside Villas (SP-2013-0092D)**  
**Variance Request**  
**Ordinance: LDC Sections: 25-8-342(A) & 25-8-341(A)**  
**(Cut & Fill Requirements)**

Dear Mr. Guernsey,

Garrett Ihnen Civil Engineers, on behalf of the owner for the site plan of Lakeside Villas, respectfully request an variance from Sections 25-8-341(A) & 25-8-342(A) of the current Land Development Code, which limits cut & fill to 4' maximum.

Due to steep slopes across the site existing topography does not allow for development without exceeding four feet of cut/fill. The areas of cut/fill in excess of 4' are not located within 100' of a classified waterway. The proposed cut/fill will not have any negative impact on adjacent properties or roadways.

Please see attached Findings of Fact and feel free to give me a call should you have any questions.

Sincerely,



Jevon Poston  
Project Engineer

## Findings of Fact

### Watershed Variances – Findings of Fact

Project: Lakeside Villas

Ordinance Standard: LDC 25-8-341(A) & 25-8-342(A)

### **Justification:**

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner privileges or safety enjoyed by other similarly situated property with similarly timed development?

Yes. Due to steep slopes across the site existing topography does not allow for development without exceeding four feet of cut/fill. The areas of fill in excess of 4' are not located within 100' of a classified waterway. This waiver will not affect adjacent properties in a negative way.

2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences?

Yes. No other neighboring properties are affected due to the circumstances requiring the waiver. The areas of large cut and fill will be stabilized and revegetated, therefore no adverse affect on the environment is expected.

3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the methods by which a person voluntarily subdivided into land?

This waiver does not constitute a special privilege and is not a result of voluntarily subdivided parcels. This process was not created for this project, nor was any special consideration approached during the course of the review of this project.

4. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the property?

Not Applicable

5. For variances in the Barton Springs Zone, in addition to the above findings, the following additional finding must be included: Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance?

Not Applicable

November 4, 2013

Mr. Greg Guernsey, Director  
Planning and Development Review Department  
City of Austin  
505 Barton Springs Road  
Austin, Texas 78704

**RE: Lakeside Villas II (SP-2013-0093D)**  
**Variance Request**  
**Ordinance: LDC Sections: 25-8-342(A) & 25-8-341(A)**  
**(Cut & Fill Requirements)**

Dear Mr. Guernsey,

Garrett Ihnen Civil Engineers, on behalf of the owner for the site plan of Lakeside Villas, respectfully request an variance from Sections 25-8-341(A) & 25-8-342(A) of the current Land Development Code, which limits cut & fill to 4' maximum.

Due to steep slopes across the site existing topography does not allow for development without exceeding four feet of cut/fill. The areas of cut/fill in excess of 4' are not located within 100' of a classified waterway. The proposed cut/fill will not have any negative impact on adjacent properties or roadways and will not exceed 8'.

Please see attached Findings of Fact and feel free to give me a call should you have any questions.

Sincerely,



Jevon Poston  
Project Engineer

## Findings of Fact

### Watershed Variances – Findings of Fact

Project: Lakeside Villas II

Ordinance Standard: LDC 25-8-341(A) & 25-8-342 (A)

### **Justification:**

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner privileges or safety enjoyed by other similarly situated property with similarly timed development?

Yes. Due to steep slopes across the site existing topography does not allow for development without exceeding four feet of cut/fill. The areas of fill in excess of 4' are not located within 100' of a classified waterway. This waiver will not affect adjacent properties in a negative way.

2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences?

Yes. No other neighboring properties are affected due to the circumstances requiring the waiver. The areas of large cut and fill will be stabilized and revegetated, therefore no adverse affect on the environment is expected.

3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the methods by which a person voluntarily subdivided into land?

This waiver does not constitute a special privilege and is not a result of voluntarily subdivided parcels. This process was not created for this project, nor was any special consideration approached during the course of the review of this project.

4. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the property?

Not Applicable

5. For variances in the Barton Springs Zone, in addition to the above findings, the following additional finding must be included: Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance?

Not Applicable

November 4, 2013

Mr. Greg Guernsey, Director  
Planning and Development Review Department  
City of Austin  
505 Barton Springs Road  
Austin, Texas 78704

**RE: *Lakeside Villas II (SP-2013-0093D)***  
***Variance Request***  
***Ordinance: LDC Sections: 25-8-281(C)(1)(a)***  
***Critical Environmental Feature (CEF) Setback***

Dear Mr. Guernsey,

Garrett Ihnen Civil Engineers, on behalf of the owner for the site plan of Lakeside Villas, respectfully request an variance from Sections 25-8-281(C)(1)(a) of the current Land Development Code, which specifies the minimum setback from a CEF.

Due to existing topography and site layout, drainage from the proposed development will not flow across the CEF. Moreover, the required 150' setback would render the site undevelopable. The requested reduction of the CEF setback will not have a negative impact on the CEF.

Please see attached Findings of Fact and feel free to give me a call should you have any questions.

Sincerely,



Jevon Poston  
Project Engineer

## Findings of Fact

### Watershed Variances – Findings of Fact

Project: Lakeside Villas II

Ordinance Standard: LDC 25-8-281(C)(1)(a)

### **Justification:**

1. Are there special circumstances applicable to the property involved where strict application deprives such property owner privileges or safety enjoyed by other similarly situated property with similarly timed development?

Yes. Due to existing topography and site layout, drainage from the proposed development will not flow across the CEF. Moreover, the required 150' setback would render the site undevelopable. The requested reduction of the CEF setback will not have a negative impact on the CEF.

2. Does the project demonstrate minimum departures from the terms of the ordinance necessary to avoid such deprivation of privileges enjoyed by such other property and to facilitate a reasonable use, and which will not create significant probabilities of harmful environmental consequences?

Yes. No other neighboring properties are affected due to the circumstances requiring the waiver. The areas of rimrock are not located downstream of the proposed development; therefore, no adverse affect on the environment is expected.

3. The proposal does not provide special privileges not enjoyed by other similarly situated properties with similarly timed development, and is not based on a special or unique condition which was created as a result of the methods by which a person voluntarily subdivided into land?

This waiver does not constitute a special privilege and is not a result of voluntarily subdivided parcels. This process was not created for this project, nor was any special consideration approached during the course of the review of this project.

4. For a variance from the requirements for development within the Critical Water Quality Zone and/or Water Quality Transition Zone: Does the application of restrictions leave the property owner without any reasonable, economic use of the property?

Not Applicable

5. For variances in the Barton Springs Zone, in addition to the above findings, the following additional finding must be included: Does the proposal demonstrate water quality equal to or better than would have resulted had development proceeded without the variance?

Not Applicable