

AGENDA



Thursday, December 18, 2008

Item(s) to Set Public Hearing(s)
RECOMMENDATION FOR COUNCIL ACTION

Item No. 81

Subject: Set a public hearing to consider an appeal by Ruben Rodriguez of the Planning Commission's decision to deny an appeal of an administrative disapproval of a site plan (328 Heartwood, SP-2008-0091D) for construction of a retaining wall and fill over 4 feet within the Critical Water Quality Zone of Williamson Creek. (Suggested date and time: January 29, 2009, 6:00 p.m., at Austin City Hall, 301 West Second Street, Austin, TX.)

Fiscal Note: There is no unanticipated fiscal impact. A fiscal note is not required.

For More Information: Julie Lipton 974-2693; George Zapalac, 974-2725; Chris Yanez, 974-1810

Boards and Commission Action: August 13, 2007: Board of Adjustment denied variance to fence greater than 6 feet in height. Vote: 4-3

September 10, 2008: Environmental Board recommended approval of the environmental variances. Vote: 4-1-0-1.

September 23, 2008: Approved staff's recommendation to deny environmental variances. Vote: 7-0-1

October 28, 2008: Approved staff's recommendation to deny an appeal of administrative disapproval of a site plan. Vote: 6-2-1

The property is developed as a single-family residence. In 2005 the applicant began constructing a retaining wall up to 8.5 feet in height and added backfill inside the Critical Water Quality Zone and inside the 25-year and 100-year flood plain without permits. After a notice of violation was issued, the site plan was filed in 2008 to obtain approval for this construction and the associated environmental variances.

This site is located in the Williamson Creek Watershed and subject to comprehensive watershed regulations. Environmental variances for development in a critical water quality zone (Section 25-8-392) and fill over 4 feet (Sections 25-8-342) were denied by the Planning Commission on September 23, 2008. The Board of Adjustment had previously denied a variance to construct a fence more than 6 feet in height. Because these variances were denied, City staff administratively disapproved the site plan. A direct appeal of the denial of environmental variances is not allowed by the Land Development Code. However, appeal of an administrative disapproval of the site plan can be made to the Planning Commission. The Planning Commission denied this appeal on October 28, 2008, and the applicant then appealed to the City Council.

Development of the site would also require a variance for encroachment of a structure into the floodplain, which is not a part of this appeal. The floodplain variance would require approval by Council as well as a Conditional Letter of Map Revision approved by FEMA.

Staff recommends denial of the appeal.