

## AGENDA



Thursday, February 12, 2009

**Public Hearings and Possible Actions  
RECOMMENDATION FOR COUNCIL ACTION****Item No. 72**

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**Subject:** Conduct a public hearing and 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 fill over 4 feet and construction of a retaining wall within the Critical Water Quality Zone of Williamson Creek.

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

**For More Information:** George Zapalac, 974-2725; Julia Lee, 974-3357

**Boards and Commission Action:** August 13, 2007: Board of Adjustment denied variance for a retaining wall and fence greater than 6 feet in height.

September 10, 2008: Environmental Board recommended approval of the environmental variances.

September 23, 2008: Planning Commission approved staff's recommendation to deny environmental variances.

October 28, 2008: Planning Commission approved staff's recommendation to deny an appeal of administrative disapproval of a site plan. Related to Item #33 & 73.

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The property is developed with a single-family residence. In 2005 the applicant began constructing a retaining wall and fence up to 13.5 feet in height and added backfill inside the Critical Water Quality Zone and inside the 25-year and 100-year floodplain 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 is 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 the retaining wall and fence more than 6 feet in height. Because these variances were denied, City staff administratively disapproved the site plan. A direct appeal to City Council 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 and City Council. The Planning Commission denied this appeal on October 28, 2008, and the applicant then appealed to the City Council.

In addition to consideration of the site plan appeal, action by the City Council on the applicant's request for a floodplain variance is required. A variance from the Board of Adjustment is also needed because the retaining wall and fence exceeds 6 feet in height.

Staff recommends denial of the appeal.