Thursday, December 9, 2010

Public Hearings and Possible Actions   Item No. 75
RECOMMENDATION FOR COUNCIL ACTION

Subject: Conduct a public hearing and consider an ordinance amending sections in City Code Title 25 (Land Development) relating to docks, bulkheads and shoreline access.

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

For More Information: Andrew Clamann, 974-2694; Pat Murphy, 974-2821; Nancy McClintock, 974-2652

Prior Council Action: October 28, 2010 - Council kept the public hearing open and postponed action to November 18, 2010.
November 18, 2010- Council postponed action until December 9, 2010.

These amendments clarify regulatory requirements for shoreline stabilization, modification and access (i.e. stairs, trams, incline elevators) and amend the Environmental Criteria Manual to include criteria and guidance on shoreline protection. Staff has developed of these amendments in response to the Parks Board, Environmental Board and Planning Commission directing staff to propose changes as necessary to clarity requirements to "include the prevention of vertical bulkheads and promotion of stable shorelines with materials and designs that will provide the environmental function of native riparian vegetation and shoreline geomorphology while providing the necessary erosion control desired by property owners".

On October 28, 2010, Council held a public hearing regarding this issue. They directed staff to make the following changes to the draft ordinance and return to Council on November 18, 2010. The draft ordinance will be revised to include the following provisions:

1) a provision that new regulations will not apply to pre-existing non-complying bulkheads and docks, including modifying and maintaining existing docks and bulkheads under the non-complying rules currently in effect;

2) a provision that site plan exemptions still apply for repair, alteration, and maintenance; and,

3) recapture regulations that allow property owners to repair property that extends into the water.

Council also asked that staff: 1) Notice impacted property owners, to the extent possible, prior to the November 18th hearing;

2) Provide an analysis estimating the percentage of damage to the shoreline caused by wake activity vs. vertical bulkheads; and

3) If feasible, host an informational meeting for impacted property owners prior to November 18th.

In response to Council's first request, notification was mailed on November 3, 2010, to 2,593 property owners, including 10 neighborhood organizations informing them of the upcoming City Council public hearing. This letter also provided a web link to additional information about the proposed amendment and

draft rules, and notified interested parties of an informational meeting that was held on November 10, 2010. A staff contact was present at that meeting to review the proposal and respond to questions.

Regarding the second request, although staff will continue to explore the literature on this topic, staff is not aware at this time of a commonly accepted methodology or analysis that could estimate the percentage of damage to the shoreline caused by wake activity versus vertical bulkheads. Although shoreline degradation commonly results from the combined effects, staff has observed areas of erosion and habitat loss in coves where vertical bulkheads have been constructed but increased wave action is not a factor. The ordinance requirements were developed using both local and nationwide information about what shoreline stabilization will provide both property protection and aquatic habitat protection regardless of increased wake activity.

As to the third request, an informal meeting was held on November 10, 2010, from 4:30-6:00 p.m. at One Texas Center, Room 325, 505 Barton Springs Road, Austin, TX, 78704. Information about this meeting was included in the notification to property owners, and was also sent via email to all registered stakeholders, and to all interested parties who have been in touch with staff or have requested to be included.