



ITEM FOR ENVIRONMENTAL BOARD AGENDA

BOARD MEETING
DATE REQUESTED: ~~August 1, 2007~~ 9/5/07

NAME & NUMBER
OF PROJECT: EMBARCADERO
SP-06-0665D

NAME OF APPLICANT
OR ORGANIZATION: Embarcadero Partners, LP (Contact: Mac Pike- 478-8300)
(John M. Joseph - Phone (512) 472-8800)

LOCATION: River Hills Road

PROJECT FILING DATE: June 15, 2007

WPDR/ENVIRONMENTAL
STAFF: Craig Carson, 974-7690
craig.carson@ci.austin.tx.us

WPDR/
CASE MANAGER: Lynda Courtney, 974-2810
lynda.courtney@ci.austin.tx.us

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

ORDINANCE: Comprehensive Watershed Ordinance (current Code)

REQUEST: Variance requests are as follows:
1. To allow construction on slopes greater than 25% [LDC
Section 25-8-302(B)], and,
2. To reduce the wastewater treatment by land
application requirement of 7,000 square feet per Living
Unit Equivalent (LUE), to 5,000 square feet per LUE
[~~LDC Section 25-8-361(E)~~]. E.T.S.

STAFF RECOMMENDATION: Recommend approval.

REASONS FOR
RECOMMENDATION: Findings of fact have met.



MEMORANDUM

TO: Betty Baker, Chairperson
Members of the Zoning and Platting Commission

FROM: Craig Carson, Senior Environmental Reviewer
Watershed Protection and Development Review Department

DATE: August 1, 2007

SUBJECT: Embarcadero (SP-06-0665D)
River Hills Road

Variance Request:

Variance from LDC 25-8-302(B) – Construction on slopes > 25%
Variance from LDC 25-8-361(E) – Reduction from 7,000 square feet per Living Unit Equivalent (LUE) for on-site wastewater disposal to 5,000 square feet per LUE.

The applicant is proposing to construct a 54 unit residential condominium complex with associated private drives on a 56.11 acre tract of land. However due to topographical constraints of the property, the net site area is only 29.38 acres, and with slope category reductions, the total allowable impervious cover is 5.88 acres. Through transfer (6,000 square feet of impervious cover for each acre of land used for irrigation of treated effluent in the uplands), the applicant added another 1.13 acres of impervious cover to the uplands area for a total maximum allowable impervious cover of 7.01 acres (or 305,355 square feet, or 12.5% gross site area/ 23.8% net site area).

There are two phases planned for this development. Phase I consists of construction of the entire project with the exception of Condo Building No.'s 19 and 35, and their associated private driveways. Phase II only consists of the two condo buildings and their associated driveways, and cannot be built until the impervious cover associated with the road accessing the Pier project is either; assigned to the Pier property, or removed. The total impervious cover proposed in Phase I of this project is 6.93 acres (or 301,870 square feet, or 12.35% gross site area/ 23.58% net site area). Once the Pier access road is assigned to the Pier Project, or the road is removed, and Phase II of the project is constructed, the total impervious cover will be 6.97 acres (or 303,613 square feet, or 12.4% gross site area/ 23.7% net site area). The applicant is requesting two variances; 1. To construct buildings on slopes

greater than 25%, and 2. To reduce the number of square feet required per LUE for on-site wastewater disposal from 7,000 square feet to 5,000 square feet.

Description of Project Area

This is a 56.11 acre (gross area) tract of undeveloped land, and is located in the City of Austin's 2-mile ETJ, in Travis County. The site is along the east side of North River Hills Drive, between Sumner Court and Taylor Drive, approximately one mile north of Bee Caves Road. The site is in the Lake Austin Watershed, which is classified as "Water Supply Rural", and is also in the Drinking Water Protection Zone. The site is currently undeveloped (except for an old remnant piece of abandoned asphalt road that runs through the middle of the property) and consists of wooded areas with scattered open spaces.

The property is disproportionately long and narrow and other than the top of two hills located on the southern end of the property, drains in a southwest to northeast direction. The site ranges from approximately 532 to 780 feet above mean sea level. Drainage on this site occurs primarily by overland sheet flow along the southwest to northeast overall slope of the tract. None of this site is within the 100-year-flood plain, and could be best described as being located at the top of the drainage area. Approximately fifty percent of the gross site area has slopes greater than 15%. The majority of site consists of stair-step topography typical of the Hill Country, where bands of steeper slopes separate terraced areas.

Specifically, the majority of the site is comprised of the top of two hills in the southern portion of the property with four of these terraced areas stair-stepping downward in a northeasterly direction separated by smaller, steeper (greater than 25% slopes) topographical sections.

Vegetation

The site is located within the Live oak –Ashe juniper woodlands vegetation region of Texas. The vegetation is characterized as woodland with a low percentage of grassy openings. Tree species are dominated by Ashe juniper, Live oak, Texas oak, Cedar elm, and Hackberry. Shrub species include bumelia, Texas persimmon, Yaupon, Wafer ash, and American beautyberry. Woody vines include wild grapevine and greenbriar. Herbaceous species include Virginia creeper, twistleaf yucca, prairie verbena, wood sorrel, yellow columbine, and cedar sage. Grassy areas are dominated by silvery bluestem, little bluestem, threeawn, buffalograss, and various herbs and forbs. The upland tree species are dominated by Ashe juniper with occasional live oak, and shin oak. This site did have potential Black-Capped Vireo habitat and contributed money to the Balcones Canyonland Conservation Preserve.

Critical Environmental Features

Since this site is located in the upper portion of the watershed, there are five drainages that begin along the eastern property line that drain to Lake Austin. A Rimrock Critical Environmental Feature (CEF) is found along the top edge of each of these drainages. The southern most rimrock is the largest, while each subsequent rimrock feature gets progressively smaller heading in a northerly direction. City staff has worked closely with the applicant, and has granted an administrative variance to the setback distances associated with these CEFs to ensure the applicant can develop their property while ensuring each CEF is still protected.

Water/Wastewater

As stated above, the majority of the site consists of stair-step topography typical of the Hill Country, where bands of steeper slopes separate terraced areas. These terraced areas are flatter and have deeper soil profiles, and are typically the most desirable locations to develop. However, on this project since the applicant knows they are at the upper end of a sensitive watershed, they are proposing to use some of these flatter areas as irrigation fields for an on-site wastewater system. These flatter areas have a much deeper soil profile necessary for complete wastewater absorption, which in turn provides superior water quality protection than irrigating wastewater in areas with steeper slopes and little to no soils. The applicant has also proposed an on-site wastewater disposal system which treats the effluent twice before it is pumped to the irrigation fields. According to the attached COA Permit Application Review Committee's August 17, 2007 Memorandum, the State requires treatment to the following standards: 20 mg/L BOD5, 20 mg/L TSS for these type on-site wastewater systems, but by providing a "Secondary Treatment", the applicant proposes to exceed these standards [Proposed system will meet: 10 mg/L BOD5, 15 mg/L TSS, 3 mg/L NH3-N, and 4 mg/L DO]. Additionally, this wastewater system continuously monitors conditions in the wastewater irrigation fields and constantly makes adjustments to the system so the effluent is always discharged at the appropriate dosing rate. This will ensure 100 percent of the effluent can be assimilated into the soil matrix and plant tissue. The wastewater system will discharge the secondary effluent to six separate irrigation fields, totaling 3.56 acres (or 155,074 square feet, or 6.3% gross site area/12.12% net site area).

Water will be provided by an LCRA owned and maintained water system and will connect to a water main located on River Hills Road, near the southern portion of this project.

Variance Requests

The variances being requested by this project are as follows:

1. Variance from City Code Section 25-8-302(B)- Construction on slopes > than 25%.

This variance is required to allow construction of portions of the condominium units on slopes greater than 25%. The applicant's design minimizes construction on slopes greater than 25%, while also ensuring adequate protection of the site's CEFs, and ensuring the wastewater irrigation fields are located on flatter areas which have deeper soil profiles for better effluent absorption. In working with City staff, the applicant reduced the construction on slopes greater than 25%, from 0.64 acres (or 27,878 square feet, or 1.1% gross site area/2.17% net site area) to 0.47 acres (or 20,473 square feet, or 0.84% gross site area/1.6% net site area). This is a reduction of 0.17 acres (or 7,405 square feet, 0.30% gross site area/0.58% net site area) on slopes greater than 25%.

2. Variance from City Code Section 25-8-361(E) – Reduction from 7,000 S.F. to 5,000 S.F. per LUE for wastewater irrigation.

This variance is requested because of the applicants proposes an advanced wastewater disposal system. The applicant's on-site wastewater disposal system is a state of the art computer monitored system that maximizes the systems efficiency and environmental protection while requiring less square footage for effluent disposal per LUE.

Similar Cases

The following projects had similar construction issues and received recommendations from the Environmental Board that were subsequently approved by the Zoning and Platting Commission:

For a variance from LDC, Section 25-8-302(B):

AlSD's North East Middle School (SP-05-1609DX): requested a variance from LDC 25-8-301/302 to build a portion of the school building on slopes greater than 25%. The EV Board recommended approval 8-0-0-1 on March 1, 2006 with the following conditions:

- 1 3:1 slopes or greater where possible.
- 2 Terraced retaining wall construction for cut/fill exceeding 4 feet.
- 3 Revegetation of all disturbed slopes.
- 4 Plant shade trees on the periphery of the sports complex.
- 5 Specify use of native seeding for revegetation.
- 6 Specify use of Class I, Native Trees for shade trees.

For a variance from LDC, Section 25-8-361(E):

Greenshores On Lake Austin (C8-01-0251): requested a variance from LDC 25-8-361 to reduce the 7,000 square feet of irrigated land for each LUE to 5,000 square feet. The EV Board recommended approval 5-1-0-2 on January 23, 2002 with the following conditions:

- 1 Seeding of irrigation area with a mix of native grasses approved by COA.
- 2 The irrigation area will have at least 16 to 18 inches of topsoil. If necessary to import topsoil to meet this requirement, the soil will be a COA approved native topsoil.
- 3 A final contingency plan for effluent storage will be developed and approved by COA.
- 4 All undeveloped land in Section A is to be dedicated as a conservation easement.
- 5 A tree survey and mitigation plan for all of the developed portion of the subdivision will be completed and approved by the COA, and will comply with the COA Tree Ordinance and ECM as if the subdivision were located entirely within the COA.
- 6 The proposed Section 10(a) permit will be completed prior to final subdivision approval.
- 7 A COA approved IPM plan will be adopted for the subdivision.
- 8 All conditions are to be included as plat restrictions.

Recommendations

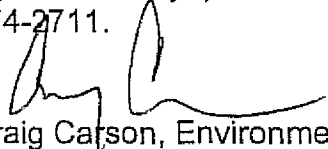
Staff recommends approval of the variance requests because the findings of fact have been met.

Conditions

Staff recommends granting the variances with the following conditions:

- 1 All disturbed areas within the CEF setbacks and designated 40% natural area will be revegetated with the COA 609-S specifications.
- 2 All other disturbed areas will be restored with the COA 604S.6 specifications except for the wastewater irrigation fields which will be revegetated with bermuda grass.
- 3 All irrigation areas will have at least 16-18 inches of topsoil. If it is necessary to import topsoil to meet this requirement, the soil will be a COA approved native soil.
- 4 A final contingency plan for effluent storage will be developed and approved by the COA.
- 5 All trees greater than 19 caliper inches that are removed require tree mitigation per the COA tree ordinance and associated Environmental Criteria Manual. All trees used for mitigation will be Class I native trees.
- 6 Implementation of an Integrated Pest Management Plan.
- 7 Restricted use of Common Areas defined in Restrictive Covenant.

If you have any questions or need additional information, please feel free to contact me at 974-2711.

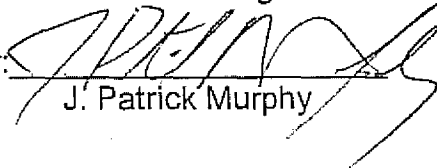


Craig Carson, Environmental Review Specialist
Watershed Protection and Development Review

Environmental Program Manager:


Ingrid McDonald

Environmental Officer:


J. Patrick Murphy



**Watershed Protection and Development Review Department
Staff Recommendations Concerning Required Findings
Water Quality Variances**

Application Name: Embarcadero Partners, LP
Application Case No: SP-06-0665D
Code Reference: Land Development Code Section 25-8-302(B) Construction of a Building or Parking Area
Variance Request: To allow construction on slopes greater than 25%.

A. Land Use Commission variance determinations from Chapter 25-8, Subchapter A – Water Quality of the City Code:

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 variance will not be providing a special privilege to the applicant. Due to the property's disproportionately long and narrow shape, overall "stair-step" topography, and CEF setbacks, there are limited areas within the slope category of 0 to 15%. Additionally, to maximize protection to groundwater from wastewater effluent, the applicant has designed the project so that the wastewater fields are placed on the flatter portions of the property. These flatter terraced areas have much deeper soil profiles, which provide a much more protective effluent disposal field. As a result of these considerations, portions of some of the condo buildings are placed on slopes greater than 25%.

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. This condition was caused by the site's topography, shape, CEF setbacks, and the applicant's desire to install all wastewater irrigation fields in areas that have a deep soil profile. These issues required that the condo buildings be positioned so that portions of some of them are on slopes greater than 25%.

- 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. Although the applicant is requesting a variance to construct on slopes greater than 25%, the majority of the condo buildings are constructed on slopes from 0 to 15%, but because of

the site conditions listed above, portions of some of the condo units have been placed slopes greater than 25%. The applicant worked closely with City staff to ensure a minimum amount of construction takes place on slopes greater than 25%. In the initial plan submittal, the applicant was proposing 0.64 acres (or 27,878 square feet, or 8.63%) of development on slopes greater than 25%. After working with staff, the applicant reduced their need for construction on slopes greater than 25% to 0.47 acres (or 20,473 square feet, or 6.36%). This is a reduction of 0.17 acres (or 7,405 square feet, 2.27%) on slopes greater than 25%.

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

Yes. The applicant's design has minimized the construction of the condo units on slopes greater than 25%. Although placing portions of certain condo units on slopes greater than 25% might initially increase the chances of soil erosion and sedimentation during construction, temporary and permanent erosion controls will be in place to ensure the environment is protected from erosion.

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 incorporated into their site plan a design to maximize sheet flow across most of the site. Storm water runoff from the buildings and roads will be collected and directed around all of the CEFs to ensure they are not impacted.

B. Additional Land Use Commission variance determinations for a requirement of Section 25-8-393 (Water Quality Transition Zone), Section 25-8-423 (Water Quality Transition Zone), Section 25-8-453 (Water Quality Transition Zone), or Article 7, Division 1 (Critical Water Quality Zone Restrictions):

1. The above criteria for granting a variance are met;

Not applicable.

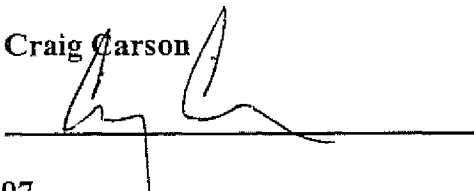
2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and

Not applicable.

3. The variance is the minimum change necessary to allow a reasonable, economic use of the entire property.

Not applicable.

Reviewer Name: Craig Carson

Reviewer Signature: 

Date: August 20, 2007

Staff may recommend approval of a variance after answering all applicable determinations in the affirmative (YES).



**Watershed Protection and Development Review Department
Staff Recommendations Concerning Required Findings
Water Quality Variances**

Application Name: Embarcadero Partners, LP
Application Case No: SP-06-0665D
Code Reference: Land Development Code Section 25-8-361(E)

Variance Request: To reduce the requirement of 7,000 square feet per unit for on-site wastewater disposal to 5,000 square feet per unit.

A. Land Use Commission variance determinations from Chapter 25-8, Subchapter A – Water Quality of the City Code:

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 variance will not be providing a special privilege to the applicant. Any development located at this or similarly situated sites which require wastewater disposal would require some type of on-site wastewater disposal system. In this case the applicant has chosen an advanced on-site wastewater disposal system that allows less square footage for wastewater disposal per living unit.

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. In this case, the variance request is based on the method chosen by the applicant to install a state of the art wastewater treatment and disposal system which provides greater overall environmental protection, while requiring less area for effluent disposal. The applicant has proposed a treatment system which has a primary and secondary treatment for the effluent prior to being pumped to the irrigation fields. Additionally, a computer continuously monitors the conditions in the wastewater disposal fields and adjusts the flow of effluent to ensure the disposal fields are properly dosed to prevent effluent from leaving the site.

The proposed wastewater system design has also incorporated larger holding capacities within the disposal system for long rain events, and has "haul and disposal" capabilities in the rare cases in which the system may have to be shut down. These redundant systems combine to

ensure that no leaching of effluent occurs. This system is designed to ensure maximum efficiency 24 hours a day.

- 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. According to the engineer's calculations the requested reduction in square footage of the disposal fields per living units still provides more than the minimum square footage for this type of system. State regulations typically require an effluent application rate of 0.1 gpd/sf corresponding to 3058 sf of drip irrigation area per LUE and the applicant proposes an effluent application rate corresponding to providing 5,000 sf of drip irrigation area per LUE. According to the City's permit Application Review Committee (PARC), this is a conservative rate given the on-site soil properties.

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

Yes. This reduction in the size of the disposal fields does not increase the potential for harmful environmental consequences because this system provides a primary treatment and secondary treatment of effluent prior to its delivery to the disposal fields. In addition, not only is the amount of effluent sent to the disposal fields monitored, but the conditions of the disposal fields themselves are also monitored. The wastewater system also has designed into it a three day holding capacity in case the system cannot discharge effluent to the irrigation fields due to wet weather conditions. Lastly, incorporated into its design, the wastewater system has the ability to have effluent pumped directly into disposal trucks for permitted disposal if the wastewater disposal fields can not be used for periods longer than three days.

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 proposed wastewater disposal system provides continuous monitoring of all site conditions which will ensure that wastewater effluent losses do not occur off-site. Additionally, the effluent is chlorine disinfected with re-chlorination prior to effluent delivery to the irrigation system. The TCEQ permit requirements include effluent limits of 20 mg/L BOD₅, 20 mg/L TSS for these types of systems, and the applicant proposed an enhanced secondary treatment with nitrification treatment meeting effluent limits of 10 mg/L BOD₅, 15 mg/L TSS, 3 mg/L NH₃-N and 4 mg/L DO. Lastly, the COA's PARC has determined that using the wastewater irrigation system as proposed, the levels of nutrients applied to the site can be maintained at rates which can easily be assimilated into the sites soil matrix and plant tissue.

- B. Additional Land Use Commission variance determinations for a requirement of Section 25-8-393 (Water Quality Transition Zone), Section 25-8-423 (Water Quality Transition Zone), Section 25-8-453 (Water Quality Transition Zone), or Article 7, Division 1 (Critical Water Quality Zone Restrictions):

1. The above criteria for granting a variance are met;

Not applicable.

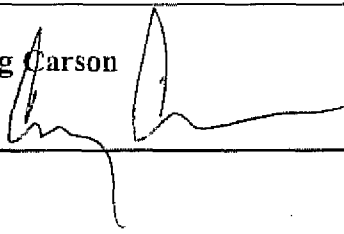
2. The requirement for which a variance is requested prevents a reasonable, economic use of the entire property; and

Not applicable.

3. The variance is the minimum change necessary to allow a reasonable, economic use of the entire property.

Not applicable.

Reviewer Name: Craig Carson

Reviewer Signature: 

Date: August 17, 2007

Staff may recommend approval of a variance after answering all applicable determinations in the affirmative (YES).

CLARK, THOMAS & WINTERS

A PROFESSIONAL CORPORATION

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February 28, 2007

John M. Joseph
(512) 495-8895
jmj@ctw.com

Ms. Lynda Courtney
Case Manager, Watershed Protection and Development Review Department
City of Austin
P.O. Box 1088
Austin, Texas 78767

RE: Embarcadero Condominiums Variance Requests

Dear Ms. Courtney,

I am writing to you on behalf of my client, Embarcadero Partners, L.P. ("Developer"), to formally request that the three variances addressed below be granted.

(1) Section 25-8-302: Construction of a Building or Parking Area

This Land Development Code ("LDC") provision prohibits the construction of a building or parking area on a slope with a gradient of more than 25%. Developer requests a variance from this provision that would allow for the construction of buildings and parking areas on slopes with a gradient of more than 25%.

This variance is necessary due to the topography of the property. Approximately 25.95% of the property contains slopes with a gradient of more than 25%. Developer proposes to construct pavement for private drives and parking and residential condominiums on only 3.98% of property containing slopes with a gradient of more than 25%. The attached Exhibit A, "Building on Slopes > 25%," illustrates that Developer has sought to minimize the portions of the development that deviate from the requirements of § 25-8-302; however, this variance remains necessary for the remaining portions that inevitably must be located on slopes with a gradient of more than 25%.

A variance from § 25-8-302 should be granted, pursuant to § 25-8-41, because the topography of the subject property is such that a variance would be necessary for any type of residential development. While the method of development chosen by Developer, a condominium regime, does not create the need for a variance, it does provide greater overall environmental protection because development is clustered, leaving larger areas of open space than would be possible with other types of development, such as single-family residences. Furthermore, a condominium regime allows for the construction of environmentally friendly alternative standard internal roadways because they will be private roadways. This variance is necessary to allow for the

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reasonable development of the property and, if granted, it would not create a significant probability of harmful environmental consequences. Lastly, the water quality that will result from the granting of this variance will be equal to the water quality achievable without the variance because Developer will: construct surface drainage wherever possible to minimize concentrated runoff flows; provide for a large downstream buffer for sheet flow; and implement an erosion control plan that has been carefully designed to prevent erosion.

(2) Section 25-8-281(C): Critical Environmental Features

This LDC provision requires that buffer zones with a width of 150 feet be established around each critical environmental feature on the property. Developer requests a variance from this provision that would allow for the width of the buffer zones on the property to be reduced to a width of 50 feet.

This variance is necessary due to the topography of the property; access is very narrow. The property contains five "critical environmental features," as defined by § 25-8-1(5), all of which are rimrock. The five rimrocks are 165, 96, 53, 68 and 40 feet in length, all are four feet high. Developer proposes to construct pavement for private drives, residential condominium buildings, storm drains, water and wastewater utility lines and appurtenances, temporary erosion and sedimentation controls and permanent erosion controls within 150 feet, but over 50 feet, from each of the five critical environmental features.

An administrative variance from § 25-8-281(C) may be granted, pursuant to § 25-8-281(D), if Developer can demonstrate that the proposed measures preserve all characteristics of each critical environmental feature. To that end, Developer proposes to divert runoff flows from each feature and to implement standard erosion controls in the buffer zones surrounding each feature. Environmental geologist, Kristen Miller White, performed a geologic assessment of the property and determined there is no recharge to or discharge from these features. Therefore, it is her opinion that these proposed measures will preserve all characteristics of each critical environmental feature. Ms. White believes that the locations of these rimrocks—at the top of drainage basins—renders them much less sensitive than rimrocks located within a drainage-head or creek. Therefore, I assert that a variance from § 25-8-281(C) should be granted.

(3) Section 25-8-361(E): Wastewater Restrictions

This LDC provision requires that a development using wastewater treatment by land application have at least 7,000 square feet of irrigated land for each LUE, if the irrigated land has six inches or more of topsoil. Developer requests a variance from this provision that would allow for the provision of 5,000 square feet of irrigated land for each LUE.

This variance is necessary due to the topography of the property. Within the property, there is at least 7,000 square feet of irrigated land available for each LUE. However, a portion of the

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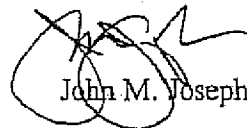
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available land is sloped in excess of 15%, as shown in Exhibit B; therefore, it is not included in the square footage calculation. The proposed irrigated areas on the property, some of them on slopes with a gradient between 15% and 25%, as shown in Exhibit C, possess a minimum of 18 inches of topsoil, three times that required for the 7,000 square foot per LUE standard. Furthermore, Developer proposes to use computer-operated sub-surface effluent drip irrigation on the property. Project engineer, Ed Moore, contends that the computer-operated sub-surface effluent drip irrigation system on vegetated land with 5,000 square feet of irrigation area per LUE provides better water quality than the use of conventional on-site sewage disposal systems that were anticipated by the city's requirement for 7,000 square foot of sewage disposal area per LUE. Mr. Moore implemented this same type of irrigation system with the Greenshores on Lake Austin development, the effectiveness of which warranted the granting of a variance from § 25-8-316(E).

A variance from § 25-8-361(E) should be granted, pursuant to § 25-8-41, because the topography of the subject property is such that a variance would be necessary for any type of residential development. While the method of development chosen by Developer, a condominium regime, does not create the need for a variance, it does provide greater overall environmental protection because development is clustered, leaving larger areas of open space for irrigation than would be possible with other types of development, such as single-family residences. This variance is necessary to allow for the reasonable development of the property and, if granted, it would not create a significant probability of harmful environmental consequences, as explained above. Lastly, the water quality that will result from the granting of this variance will exceed the water quality achievable without the variance, if a less sophisticated irrigation system were implemented.

Thank you for your assistance with the above variance requests. If you have any questions or concerns, please do not hesitate to contact me by phone at (512) 495-8895 or by email at jmj@ctw.com.

Very truly yours,



John M. Joseph

cc: Glen T. Nickerson, Embarcadero Partners, L.P.
Mac Pike, Embarcadero Partners, L.P.
Wally Scott III, Embarcadero Partners, L.P.
Ed Moore, The Moore Group, Inc.
Kevin Flahive, Clark Thomas & Winters, P.C.

4. Vector control.
5. Contamination of surface water prohibited; no losses of effluent permitted off-site via runoff
 - Flow detection sensors throughout irrigation system; automatic zone shut-off if flow irregularities detected
 - Corrective measures implemented immediately.
6. Contamination of groundwater prohibited; no losses of effluent permitted off-site via percolation or leaching below the root zone
 - Soil moisture sensors installed in each irrigation zone; automatic zone shut-off if saturated soils detected
 - Corrective measures implemented immediately
7. Development of subsurface drip irrigation management plan
 - Maintenance schedule
 - Vegetation management for year around vegetative ground cover
 - Soil management for maintenance of soil depth
 - Weekly field checks for development of springs/seeps
 - Weekly field checks for stressed vegetation, surficial erosion, and surface runoff; corrective measures implemented immediately
 - Facility operator available 7 days/week; facility operator inspects treatment plant daily and subsurface drip irrigation zones weekly.
8. Development of subsurface drip irrigation monitoring plan to include:
 - Effluent
 - Soils
 - Shallow groundwater and /or springs and seeps:

In conclusion, the use of a subsurface drip irrigation system for management of wastewater effluent offers an excellent option for the proposed Embarcadero wastewater system. The liquid loading can be maintained at a conservative rate and with pretreatment proposed; the levels of nutrients applied to the site can be maintained at rates which can be assimilated into soil matrix and plant tissue.

If you have questions regarding the PARC review of this permit, please contact Joan Balogh at 974-2746, Seyed Miri at 972-0202, or me at 974-2224.

Sincerely,

Edward D. Peacock, P.E.
Supervising Engineer, Water Resource Evaluation
Environmental Resources Management Division
Watershed Protection and Development Review Department

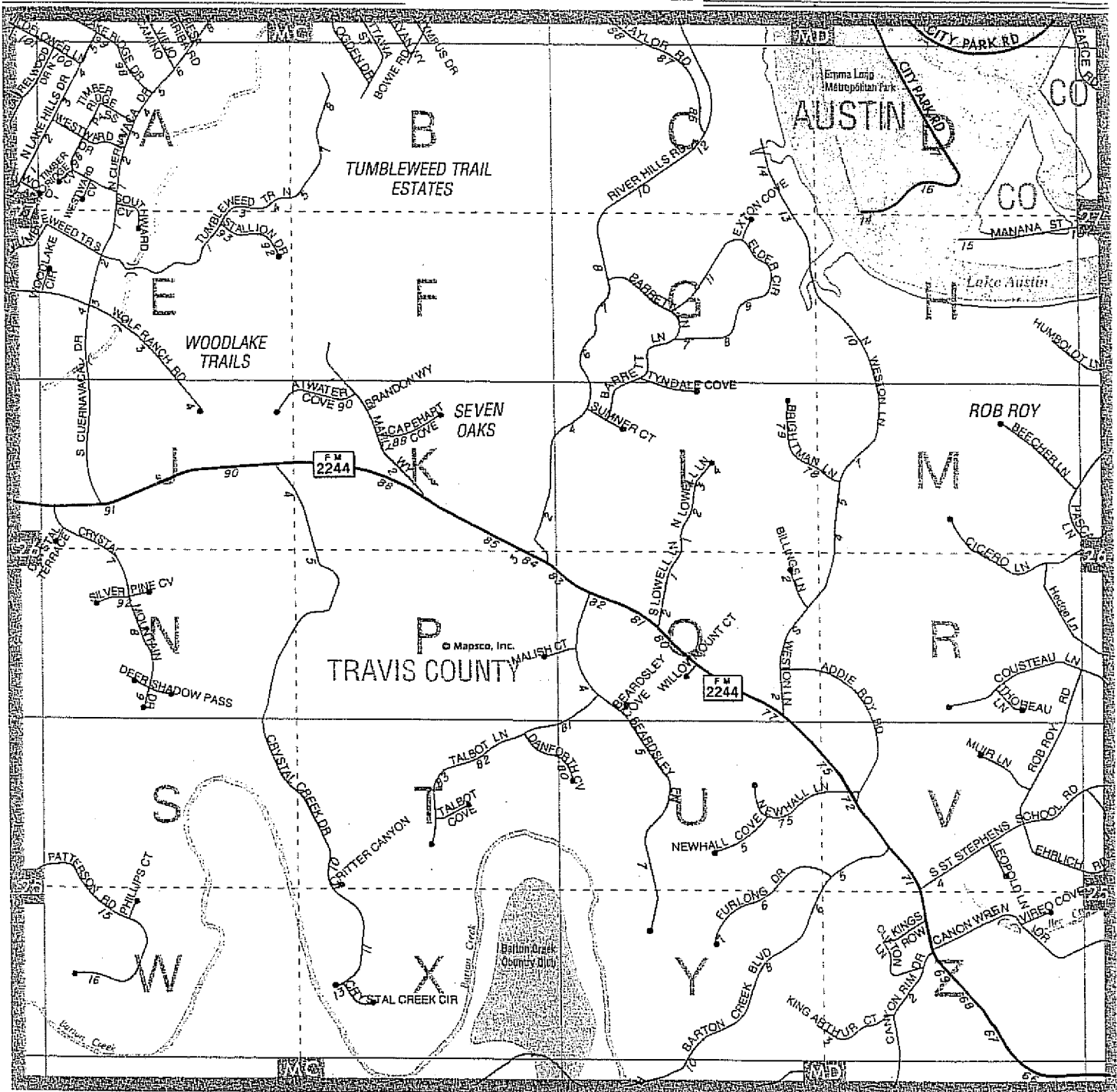
Cc: Thomas E. Ennis, P.E., LEED, AP Manager, Environmental Resources Management Division WPDRD
Seyed M. Miri, P.E., Manager, Utility Development and Environmental Protection Division, AWU
J. Patrick Murphy Jr., Program Manager, Environmental Policy, Office of Director, WPDRD
Joan I. Balogh, Sr. Environmental Scientist, Environmental Resources Management Division, WPDRD

Directions To Site:

Take Bee Caves Road (RM 2244) past 360, until you take a right on North River Hills Road.

Travel approximately 1 mile and the site is on the right side of the road.

CONTINUED ON MAP 522

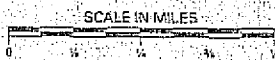


CONTINUED ON MAP 582

CONTINUED ON MAP 551

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CONTINUED ON MAP 553



For information on streets not listed in this directory,
please call our Research Department at (800) 950-5308.
**** 8:00 AM - 5:00 PM: Monday thru Friday ****







ENVIRONMENTAL BOARD MOTION EB09052007-C1

Date: September 5, 2007

Subject: WPDR FY 2008 Proposed Budget

Motioned By: David Anderson, P.E., CFM

Seconded By: Mary Ann Neely

Recommendation

1. The Environmental Board recommends **approval** of the WPDR FY08 Proposed Budget as presented to the Environmental Board FY07 Subcommittee. This budget enhances the staff and performance metrics necessary to promote the three core missions of the WPDR department – water quality protection and enhancement, flood mitigation, and erosion protection.
2. The Board recommends staffing be commensurate with the increased activity within the Department due to implementation of Bond projects. This includes funding for the following positions:
 - a. Project Coordinator in the Flood Hazard Mitigation group
 - b. Supervisor in the Storm Drain Rehabilitation group
 - c. Commercial pond inspector to further increase the number of pond inspections
3. The Board notes that there is not Drainage Utility Fee increase in FY 2008, and there is a decline in the utility transfer to the CIP over time. The Board also notes that a cost of service study for the Drainage Utility Fee has not occurred recently, and that Phase 2 of the Watershed Protection Master Plan is off to a very slow start, and many updates to Phase 1 watershed are still needed to accurately catalog the condition of our stormwater utilities. Therefore, the Board recommends that the Council and City Manager should begin to think seriously about a raise in the Drainage Utility Fee to fund these important programs.
4. The Board recommends percent failure/success metrics be included in all inspection categories in the future. It is not only important for Watershed Protection and Development Review to track how many inspections are completed, and whether those inspections are completed in a timely fashion, but also how successful the development community is being completing projects according to Code and in an environmentally responsible manner. **This recommendation was made last year and must be reiterated this year.**

5. The Board recommends that Watershed Protection & Development Review Department develop additional metrics to quantify the value of open space in protection of creek/stream water quality, and with these revised metrics investigate the opportunity to use CIP funds for fee-simple land, or conservation easement, purchase as a percentage of the total "water quality" projects annually.
6. The Board recommends that a metric be instituted that measures elevated review of stormwater controls in the recharge zone during rain events.
7. The Board notes that although the new Erosion Control Crew added by the Department within the last 6 months will likely double the percentage of eroded sites repaired next year, only 2% of eroded sites will be fixed annually, which is woefully inadequate. The Board recommends that additional Erosion Control crews be added, or that consultant/contractor help be solicited, for these repairs.
8. The Board recommends that the Department leverage, to the greatest extent possible relationships with local community organizations (i.e., American Youth Works) to maximize both the environmental learning potential for those who need those type of services, and the tangible environmental benefits organization like these bring to the Austin environment (i.e., re-vegetation of stream banks, invasive species removal, tree planting, etc.).

Rationale

The Environmental Board formed an ad hoc subcommittee whose members asked detailed questions of staff concerning the proposed budget and received a comprehensive presentation from staff to address those questions. The budget accurately identified funds needed to protect water quality, stabilize eroding creek banks, and mitigate channel and localized flooding, along with implementing improvements in development review, enhancing inspections, performing infrastructure and waterway maintenance, rehabilitating dry wet ponds, continuing to restore and enhance habitat, and restoring populations of local endangered species.

The Board also wishes to draw attention to several items of note in the FY08 budget, namely:

1. The Board notes that the Watershed Protection and Development Review Department continues to work effectively with other City Departments in accomplishing related watershed-oriented goals. As an example of this type of interdepartmental cooperation is the Austin Clean Water Program, where over \$5.8 million of cost-savings has been realized to date on creek rehabilitation projects undertaken under the Austin Clean Water Program. (ACWP).

Vote: 6-0-0-1

For: Dave Anderson, John Dupnik, Dr. Mary G. Maxwell, Rodney Ahart, Mary Ann Neely and Jon Beall.

Against: None.

Abstain: None.

Absent: Phil Moncada

Approved By:

A handwritten signature in black ink, appearing to read 'D. Anderson', with a stylized flourish at the end. To the right of the signature, the letters 'P.E.' are written in a small, handwritten font.

David J. Anderson, P.E., CFM, Chair



ENVIRONMENTAL BOARD MOTION -EB090507-C2

Date: September 05, 2007

Subject: Water Quality Policy Task Force Resolution

Motioned By: Mary Ann Neely

Seconded By: Rodney Ahart

Recommendation

The Environmental Board offers the attached resolution in response to the briefing received by City Staff invited speakers, and the public on horizon water quality issues facing the City of Austin in the future.

Staff Conditions

Not Applicable.

Rationale

Not Applicable.

Vote 6-0-0-1


For: Anderson, Maxwell, Dupnik, Ahart, Beall and Neely

Against:

Abstain:

Absent: Moncada

Approved By:

 P.E.
Dave Anderson P.E., CFM, Chair

RESOLUTION NO. EB09052007-001

**A RESOLUTION OF THE CITY OF AUSTIN'S ENVIRONMENTAL BOARD,
REGARDING THE ESTABLISHMENT OF
A WATER QUALITY POLICY TASK FORCE**

WHEREAS, the City of Austin Environmental Board held a meeting on April 18, 2007 requesting City Staff, invited speakers, and the general public to present the status of water quality issues in the City of Austin and identify critical energy issues that may impact water quality in the City of Austin in the years to come; and

WHEREAS, City Staff should be commended on the development and operation of water quality monitoring activities throughout the City, including the use of the Environmental Integrity Index (EII) at 122 sites throughout 45 watersheds in the City of Austin; and

WHEREAS, City Staff has identified 18 watersheds with decreased water quality as measured by the EII, with 4 watersheds decreasing more than 12 points, which can be considered significant degradation; and

WHEREAS, there were declines in some water quality parameters in ALL watersheds; and

WHEREAS, the water quality of Barton springs mirrors groundwater water quality changes city-wide, and both are degrading; and

WHEREAS, recent Capital Improvement Program bonds have been identified to help remedy this degradation, but will not address the degradation in all of the watersheds and groundwater resources identified; and

WHEREAS, tremendous population growth, urban sprawl, redevelopment and infill, transportation infrastructure, wastewater discharges into the Barton Springs Recharge and Contributing zones, and eutrophication of Town Lake have been identified by City Staff as critical emerging water quality issues; and

WHEREAS, water quality throughout the City of Austin is greatly impacted by construction activities and the enforcement of the Land Development Code is a key component of effective water quality controls;

WHEREAS, much of the Austin metropolitan area's population growth is forecasted to be outside of Austin's control yet in watersheds that will ultimately impact the water quality in creeks, streams, rivers, lakes, and springs within the City of Austin; and

WHEREAS, City Staff has requested Environmental Board assistance in promoting code and criteria amendments and regional advocacy among other Requests) to assist in improving water quality throughout the City of Austin;

NOW, THEREFORE BE IT RESOLVED BY THE CITY OF AUSTIN ENVIRONMENTAL BOARD that the Board recommends that city Council form a Water Quality Task force to address the following water quality issues within the next 12 months:

1. Improving water quality in areas within the City of Austin forecasted for significant population growth and targeted for increased density.
2. Evaluating the possibility of modifying existing codes and ordinances to protect water quality while promoting appropriate development, including the ideas of redefining the water quality protection zones associated with Colorado River, instituting headwaters protection in our urban creeks, etc.
3. Coordinating the City's water supply and annexation strategies, and working with Lower Colorado River Authority (LCRA) and local and regional water suppliers to promote water supply strategies that limit urban sprawl.
4. Developing a comprehensive water quality strategy to deal with wastewater discharges in the Barton Springs Recharge and Contributing Zones.
5. Developing a strategy to reduce the eutrophication of Town Lake.
6. Developing a strategy to evaluate potential water quality impacts associated with global and regional climate change.

7. Investing enhanced water quality regulation enforcement strategies to achieve water quality improvement, including possibilities of restoring the Environmental officer's job description to encompass activities outside the Watershed Protection and Development Review Department.
8. Developing a strategy to deal with regional water quality issues, potentially reviving the Regional Water Quality Plan.
9. Developing a strategy to increase creek protection in suburban watersheds, especially over the northern Edwards Aquifer.
10. Developing funding strategies for the above issues, including investigating the use of funds currently used for the Austin Clean Water Program, which is scheduled to be completed in the next few years.

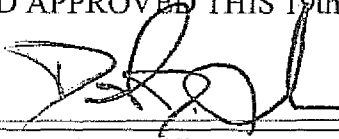
BE IT RESOLVED BY THE CITY OF AUSTIN ENVIRONMENTAL BOARD:

In Favor 6

Opposed 0

PASSED AND APPROVED THIS 19th DAY OF SEPTEMBER, 2007.

ATTEST:


David J. Anderson, P. E., CFM
Environmental Board Chair

CC:

Pat Murphy copy

(COPY)

JLE

would appreciate any comments

Environmental Board Policy Statement Regarding Waterfront Overlay Ordinance

You may have

Environmental Board Functions as they Relate to Waterfront Overlay Ordinance

The functions of the Environmental Board (the "Board") codified at Article 27, Chapter 2-1 of the Austin City Code, include responsibilities relating to the Waterfront Overlay Ordinance (WOO). For example, WOO section §25-2-722 specifically directs the Environmental Board to review certain public works projects in the Waterfront Overlay District if the "project offers an opportunity for a major water quality retrofit." More generally, the Board's responsibilities in connection with the WOO relate to the Article 27 mandate to provide guidance concerning all "policies, projects and programs affecting quality of life, and impacting or possibly impacting the existing environment", including:

- urban runoff;
- improvement and protection of the Colorado River;
- ordinance effectiveness;
- growth management and land use planning;
- city environmental policy effectiveness;
- watershed protection as it relates to flood control, erosion control and water quality;
- beautification;
- recreational resources;
- revegetation and landscaping.

In addition, Article 27 charges the Board with:

- reviewing all variances to requirements for water quality-related environmentally sensitive areas;
- developing reports and recommendations for standards and criteria concerning any of the above-listed areas;
- serving as an advisory board to the city council, city manager, and Watershed Protection and Development Review Department in their efforts to oversee the protection and integrity of the natural environment, promote growth management and land use planning, minimize downstream areas, and promote recreational opportunities and environmental awareness.

Waterfront Overlay Ordinance, Relevant Background Information

The WOO was promulgated in response to the concern that uncontrolled development of waterfronts of Town Lake and certain tributary creeks, as well as the section of the Colorado River between Longhorn Dam and US 183 would result in undesirable aesthetic, recreational and environmental conditions along the waterfront. In addition, the WOO was intended to provide an incentive for responsible redevelopment of pre-existing commercial, institutional and residential improvements which did not conform to the code requirements of the WOO.

Much of the language pertaining to technical standards and the incentive strategies for responsible redevelopment were taken from the Town Lake Corridor Study (TLCS), which was

conducted by a city council-appointed citizen task force in 1985. The task force studied past and ongoing patterns of land use and building construction, and in response to undesirable practices that were identified, a set of 13 general goals and associated specific policies was developed. The goals and policies focused on:

1. protection of water quality;
2. promotion of land uses that are sympathetic to the water's edge of Town Lake and the urban creeks;
3. requiring city-owned land uses, programs, and operations to be compatible with Town Lake;
4. fostering a cooperative atmosphere for the city, neighborhoods and private landowners to work jointly to realize the potential of the waterfront;
5. improvement of zoning to achieve maximum pedestrian scale, highest degree of land use compatibility and extraordinary urban design;
6. providing maximum visual and physical access to the waterfront; encourage pedestrian access to and use of the corridor;
7. establishing Town Lake as a Great Central Park, serving as the centerpiece for the Austin Park System;
8. demonstrating a commitment to excellence in waterfront design and development;
9. establishing a spiritual as well as physical relationship between community and waterfront; enable citizens to develop a stronger waterfront ethic;
10. creating a rich and varied cultural environment in the corridor;
11. acquiring additional parkland and open space along Town Lake and the urban creeks;
12. recognizing the full potential of the Town Lake creeks;
13. protecting, enhancing and interpreting the landforms and natural and cultural values of the Town Lake Corridor.

These goals and policies served as the guiding principles of the resultant WOO. Also, conformance with the TLCS goals and policies was established as one of the specific criteria for allowing a variance to the WOO. Specifically, the requirements for a variance to the WOO set forth in subsection §25-2-713 must meet the following criteria:

- 1) the proposed project and variance are consistent with the goals and policies of the Town Lake Corridor Study, including environmental protection, aesthetic enhancement, and traffic; and
- 2) the variance is the minimum required by the peculiarities of the tract.

The most potent restriction of the WOO is the set back requirement, whereby no building construction is allowed within a prescribed distance from the Town Lake shoreline, the Colorado River shoreline, or the creek centerline. Because of the "redevelopment exception" of the Land Development Code (§25-8-26), the protection of the Critical Water Quality Zone can be ignored during redevelopment. Within the Waterfront Overlay District, this leaves only the WOO setback restriction to protect and restore these riparian resources.

Environmental Board Policy

- The Board supports the development and redevelopment requirements of the WOO as a means of recovering and maintaining the Town Lake waterfront as a "place of quiet beauty, dignity and pleasure." (Town Lake Comprehensive Plan, 1968)
- The Board supports the setback requirements of the WOO in redevelopment projects as a means of extending the sense of greenery and open space that exists in other reaches of the Town Lake Corridor. Accordingly, variances to setback requirements should be allowed only when a project meets a strict interpretation of the variance criteria set forth in Section §25-2-713. Regarding Criterion #2 – "the variance is the minimum required by the peculiarities of the tract" - is subjective; however, conformance with this criteria should not be based on the developer's confidential economic model, which is not available for staff and public evaluation.
- In no case should a variance be allowed for parking areas or structures (except for underground parking structures) within the primary setback area – except for park facilities including picnic tables, observation decks, trails, gazebos on public land.
- No variances should be allowed for greenfield sites (ie, sites that have not been previously developed)
- The emphasis on pedestrian-oriented development including outdoor restaurants and bars should be implemented harmoniously with the waterfront environment, with its high quality aquatic life use designation (TCEQ, 2006) and corridor for migratory water fowl, shore birds and raptors including peregrine falcons and bald eagles (Town Lake Study, 1992). Incompatible features may include, but are not limited to neon lights which can be seen from the opposite shore and other unnecessary fugitive light urban glare impacting the waterfront, and garish use of loudspeakers for example, as used in connection with seating restaurant customers.
- Preference for underground parking is inconsistent with the assessment of an impervious cover penalty corresponding to the area of the structure's footprint. The work-around – a skinny, deep parking garage – does not further the intents of environmental protection, open space and density control. Further, including the footprint area of an underground garage into the sizing of the WQ ponds may be inexact science as currently required by code. The Neighborhood Planning and Zoning Department is working on an improved analysis which accurately accounts for the impact of an underground garage, and it is the Board's policy that this initiative should be finalized and instituted as a standard practice.
- The use of direct supply natural gas is recommended in lieu of diesel fuel for emergency generators in underground parking garages within flood hazard areas of the Waterfront Overlay District.
- The Board supports the protection of Capitol View Corridors as an additional overlay onto the base zoning within the Waterfront Overlay District.

- other possibilities = eliminate I.C. penalty for trail head
for ex: Stan Riverside Harpers Branch concrete sidewalk
- also = upon occasion when variance is referred to E. Board, evaluation
will be restricted to enviro-issues assigned to EB per Article 27



ENVIRONMENTAL BOARD MOTION -EB090507-C3

Date: September 05, 2007

Subject: Resolution adopting a Lady Bird Lake Overlay Environmental Board Policy Statement and Recommendation regarding Council Review of the current Waterfront Overlay Ordinance

Motioned By: Dave Anderson, P. E., CFM, Chair

Seconded By: Jon Beall

Recommendation

The Environmental Board offers the attached resolution: Policy Statement regarding the Waterfront Overlay Ordinance and Recommendation regarding Council review of the existing Waterfront Overlay Ordinance.

Staff Conditions

Not Applicable.

Rationale

See attached.

Vote 6-0-0-1

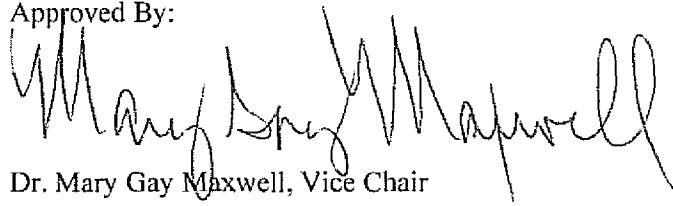
For: Anderson, Maxwell, Dupnik, Ahart, Beall and Neely

Against: 0

Abstain: 0

Absent: Moncada

Approved By:

A handwritten signature in black ink, appearing to read "Mary Gay Maxwell". The signature is fluid and cursive, with the first name "Mary" and last name "Maxwell" being the most prominent parts.

Dr. Mary Gay Maxwell, Vice Chair

RESOLUTION NO. 09052007-001

A RESOLUTION OF THE CITY OF AUSTIN'S ENVIRONMENTAL BOARD, ADOPTING A LADY BIRD LAKE WATERFRONT OVERLAY POLICY STATEMENT

Environmental Board Policy Statement Regarding Waterfront Overlay Ordinance

1) Environmental Board Functions as they Relate to Waterfront Overlay Ordinance

The functions of the Environmental Board (the "Board") codified at Article 27, Chapter 2-1 of the Austin City Code, include responsibilities relating to the Waterfront Overlay Ordinance (WOO). For example, WOO section §25-2-722 specifically directs the Environmental Board to review certain public works projects in the Waterfront Overlay District if the "project offers an opportunity for a major water quality retrofit." More generally, the Board's responsibilities in connection with the WOO relate to the Article 27 mandate to provide guidance concerning all "policies, projects and programs affecting quality of life, and impacting or possibly impacting the existing environment", including:

- urban runoff;
- improvement and protection of the Colorado River;
- ordinance effectiveness;
- growth management and land use planning;
- city environmental policy effectiveness;
- watershed protection as it relates to flood control, erosion control and water quality;
- beautification;
- recreational resources;
- re-vegetation and landscaping.

In addition, Article 27 charges the Board with:

- reviewing all variances to requirements for water quality-related environmentally sensitive areas;
- developing reports and recommendations for standards and criteria concerning any of the above-listed areas;
- serving as an advisory board to the city council, city manager, and Watershed Protection and Development Review Department in their efforts to oversee the protection and integrity of the natural environment, promote growth management and land use planning, minimize downstream areas, and promote recreational opportunities and environmental awareness.

In keeping with the functions outlined above, the Environmental Board has established a policy for the Board to use in going forward with any issues related to the Waterfront Overlay for Lady Bird Lake.

2) Environmental Board Policy Statement

- The Board supports the development and redevelopment requirements of the Waterfront Overlay Ordinance (WOO) as a means of recovering and maintaining the Town Lake waterfront as a “place of quiet beauty, dignity and pleasure.” (Town Lake Comprehensive Plan, 1968).
- The Board supports the intent of the Waterfront Overlay Zone, which is to ensure that development along the lake and urban creek system preserves the natural and riparian qualities, extends the sense of greenery and open space, establishes a continuous system of public access, and results in a pedestrian-friendly and public-spirited environment.
- The emphasis on pedestrian-oriented development including outdoor restaurants and bars should be implemented harmoniously with the waterfront environment, with its high quality aquatic life use designation (TCEQ, 2006) and corridor for migratory waterfowl, shore birds and raptors including peregrine falcons and bald eagles (Town Lake Study, 1992). Incompatible features may include, but are not limited to neon lights which can be seen from the opposite shore and other unnecessary fugitive light urban glare impacting the waterfront, and garish use of loudspeakers for example, as used in connection with the seating of customers at waterfront restaurants.
- The Board supports the setback requirements of the WOO in redevelopment projects as a means of extending the sense of greenery and open space that exists in other reaches of the Lady Bird Lake Corridor. Accordingly, variances to setback requirements should be allowed only when a project meets a strict interpretation of the variance criteria set forth in Section §25-2-713, “the variance is the minimum required by the peculiarities of the tract.”
- In no case should a variance be allowed for parking areas or structures (except for underground parking structures) within the primary setback area – except for park facilities including picnic tables, observation decks, trails, gazebos on public land.
- No variances should be allowed for green field (previously undeveloped) sites.
- Preference for underground parking as established in the WOO and the Town Lake Corridor Study is inconsistent with the assessment of an impervious cover penalty corresponding to the area of the structure’s footprint in those cases where its surface is re-vegetated and serves as a viable vegetative filter strip. The Watershed Protection and Development Review Department is working on an improved analysis which accurately accounts for the impact of an underground garage, and it is the Board’s policy that this initiative should be finalized and instituted as a standard practice.
- Redevelopment projects that propose to provide access trails serving solely to provide access between the city street system and the Town Lake Trail should not be penalized in the impervious cover calculations for the site.

- The use of direct supply natural gas is recommended in lieu of diesel fuel for emergency generators staged below grade in underground parking garages within flood hazard areas of the Waterfront Overlay District.
- The Board supports the protection of Capitol View Corridors as an additional overlay onto the base zoning within the Waterfront Overlay District.
- In those occasions when a variance request is referred to the Environmental Board by another board or council, the Board shall restrict its scope to an evaluation of its environmental merits in keeping with the Article 27 responsibilities assigned to the Board.

Environmental Board Recommendation Regarding the Waterfront Overlay Ordinance

In addition to the above stated policy, the Environmental Board recommends that the Austin City Council review the current procedure for approval of variances to the Waterfront Overlay Ordinances in order to determine a clear and direct path for approval or denial of requested variances to the Waterfront Overlay. It is suggested that variance requests be reviewed by the Environmental Board, the Parks Board, and the Planning Commission before being presented to the Council for final approval. Since the Austin City Council is the officially elected body that represents the citizens of Austin, it is the one body that should have final authority to approve or deny such variances, given the vital nature of the waterfront area of Lady Bird Lake to the life and character of the city of Austin.

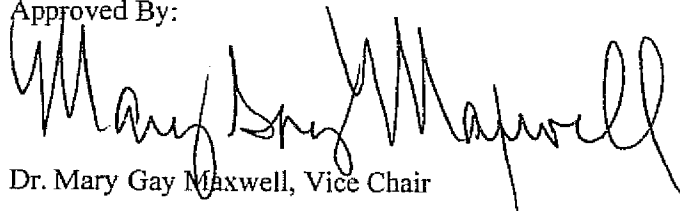
For: Anderson, Maxwell, Dupnik, Ahart, Beall and Neely

Against: 0

Abstain: 0

Absent: Moncada

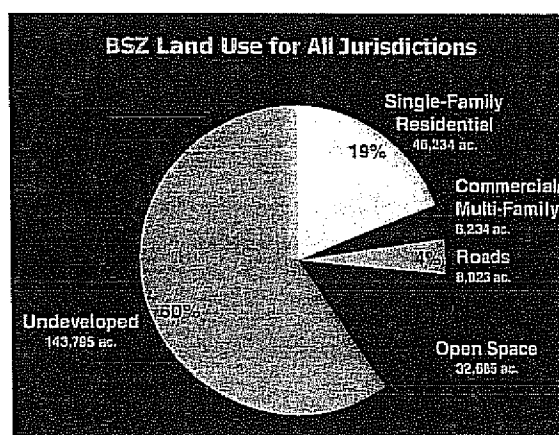
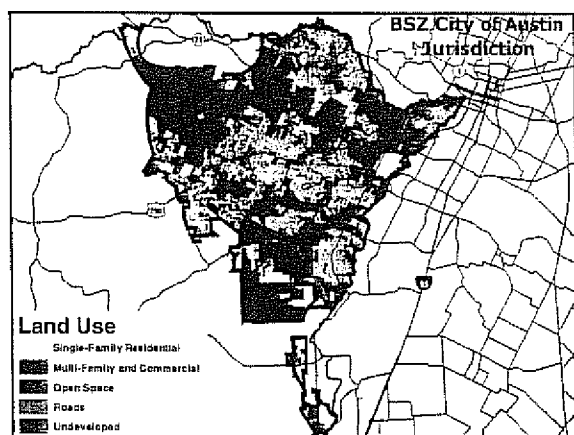
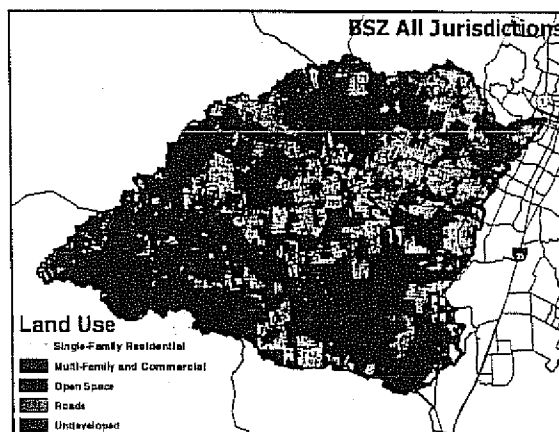
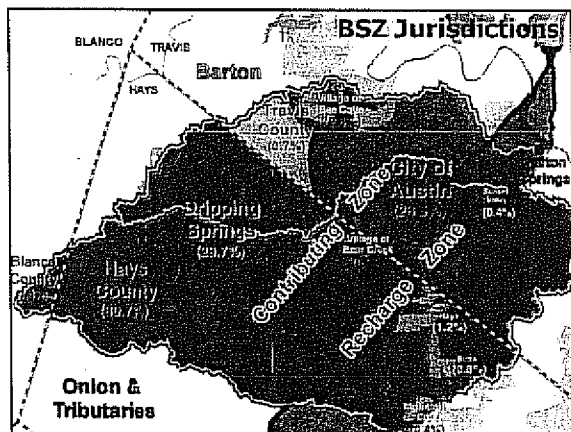
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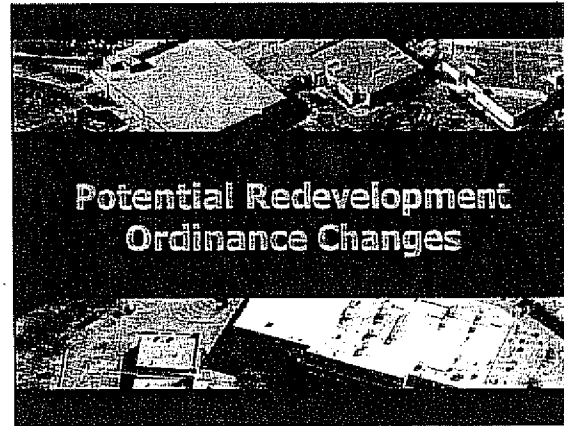
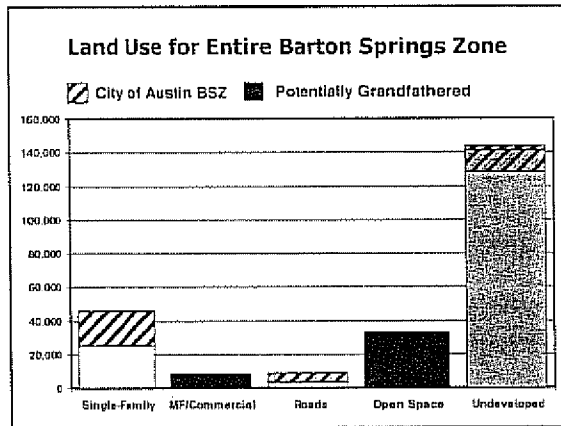


Dr. Mary Gay Maxwell, Vice Chair

Land Use Analysis

- Originally presented to BSZ Advisory Group on June 16, 2006.
- Information on Barton Springs Zone land use & development patterns
 - Grandfathered Properties & Other Undeveloped Land
 - Open Space
 - Existing Developed Area





Current Redevelopment Requirements

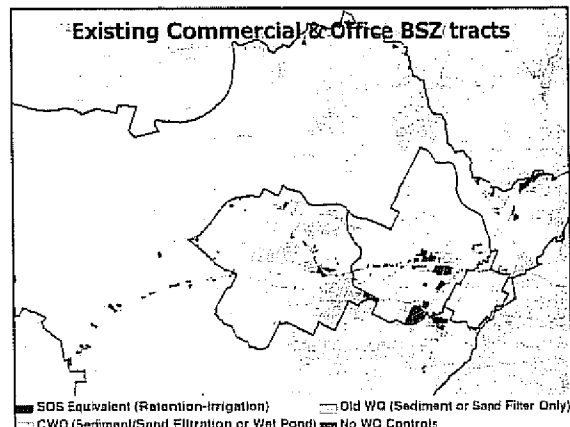
- a) Redevelop only 25% of existing IC; on-site SOS controls required for redeveloped portion; or
- b) Site reduced to SOS-level impervious cover.

Goal

Achieve better environmental controls and enhanced water quality by providing an opportunity for high-quality redevelopment.

Strategies

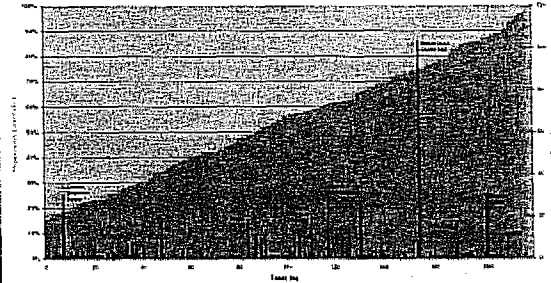
- a) Retrofit water quality structural controls where no or poor controls existed before.
- b) Offset highly impervious sites with off-site land mitigation.



Likely Redevelopment Candidates

BSZ Commercial & Office with no or outdated water quality controls	
Approx. Number of Tracts	199
Total Area (acres)	681
Average Existing IC	58%
Maximum Site Size (acres)	119.3
Average Site Size (acres)	3.4

Acreage and IC of Potential Redevelopment Tracts



Large vs. Small Tracts

Tract Acreage	Number of Properties	Percent of Total Area	Cumulative Percent of Total Area
> 20 Acres	6	38%	38%
10 - 20 Acres	7	14%	52%
5 - 10 Acres	14	15%	67%
< 5 Acres	172	33%	100%

Advisory Group Proposal

- May maintain but not exceed existing IC.

Sites with <40% IC (NSA)	Sites with > 40% IC (NSA)
Must use non-degradation controls.	Minimum of sedimentation/filtration required on-site.
No mitigation land required.	Must be mitigated by the purchase of off-site land to reach an overall impervious cover (IC) target of 20%.

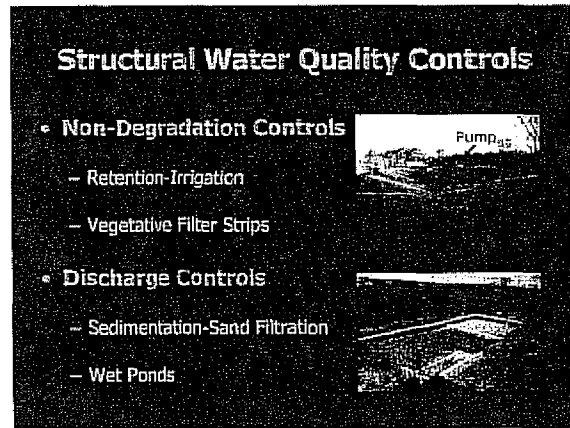
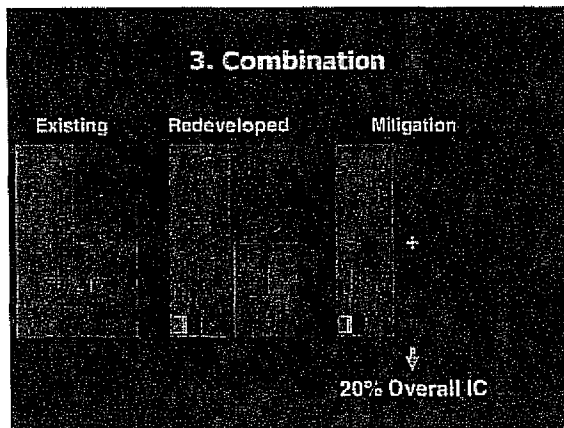
- Sites must meet all other current requirements (e.g., Zoning, Landscape Ordinance) and may not increase existing non-compliance (e.g., CWQZ).

1. Tracts with <40 % IC: Non-Degradation Controls

Existing	Redeveloped	Mitigation

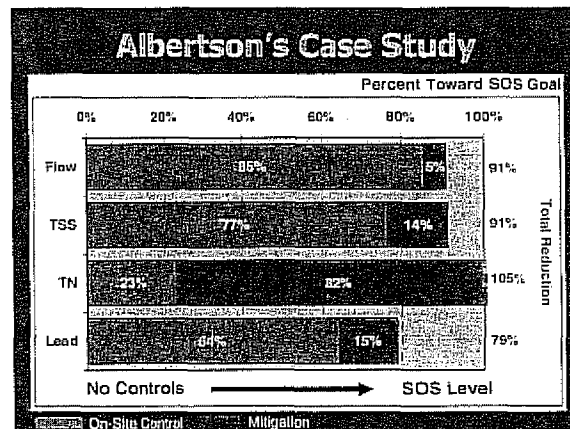
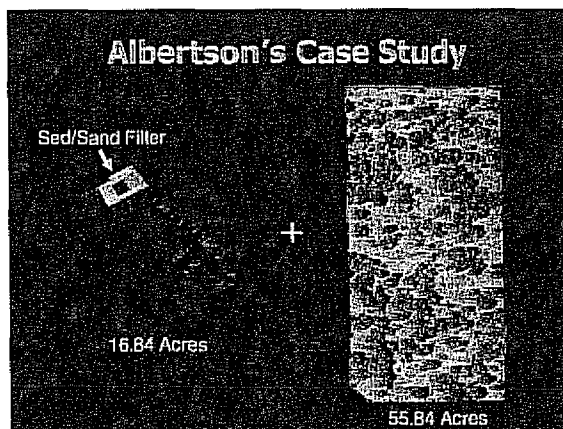
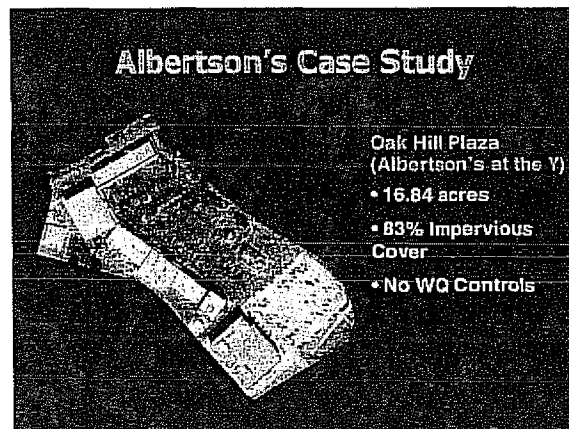
2. Tracts with >40 % IC: Sed/Filter Controls

Existing	Redeveloped	Mitigation
<p>+</p> <p>↓</p> <p>20% Overall IC</p>		



Possible Outcomes of Policy

BSZ Commercial & Office with no or outdated water quality controls	Sed-Sand Only (over 40% IC)	Max. On-Site Irrigation
Final Overall IC (started at 50%)	21%	29%
Mitigation Land Obtained (acres)	1,327	816
Mitigation Money Accrued (at \$15,000/acre)	\$19.9 M	\$12.2 M
TN Reduction/Avoidance	50%	61%



Primary Stakeholder Concerns

- Economic viability
 - Incentive vs. Opportunity
- Cumulative impacts
 - Density, traffic, growth acceleration, reliance on structural controls, construction impacts
- Land bank details
 - Cost per acre, administrator, etc.

Proposed Thresholds for Council Consideration

- Generates more than 2,000 additional vehicle trips per day.
- Greater than 25% increase in units for multifamily residential.
- Inconsistent with an approved neighborhood plan.

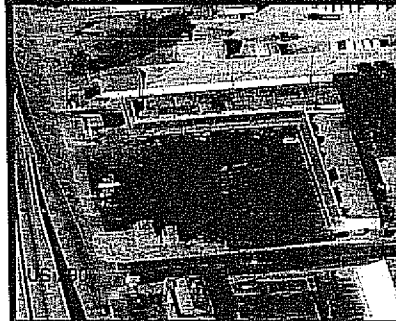
Determinations

Findings of Fact

City Council shall consider the following factors in determining whether to approve a proposed redevelopment:

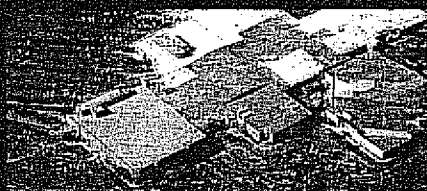
1. Benefits of the redevelopment to the community;
2. Whether the proposed mitigation or manner of development offsets the potential environmental impact of the redevelopment;
3. The effects of offsite infrastructure requirements of the redevelopment; and
4. Compatibility with the city's long-range planning goals.

Oak City Strip Mall



Site Information:
 6154 W US Hwy 280
 1.76 acres
 81.4% IC
 Built in 1970
 No WQ Controls
 Mitigation Land:
 Modified 20% IC
 SF Only
 5.9 acres (\$69,000)
 Max Irrigation
 5.1 acres (\$76,000)

Barton Creek Square Mall



Site Information:
 2801 S Capital of Texas Hwy
 119.29 acres
 72.4% IC
 Built in 1980
 Sand Filler Only
 Mitigation Land:
 Modified 20% IC
 SF Only
 328.99 acres (\$4,834,850)
 Max Irrigation
 225.02 acres (\$3,375,300)

Next Steps

Draft ordinance	July 24
CMO briefing	August 1
Department Director review	August 15
Advisory Group review	August 17
EB preliminary briefing	September 5
PC Codes and Ordinances	September 18
Zoning And Platting Commission (ZAP)	September 18
EB hearing	September 19
Planning Commission	September 25
Set Council hearing	September 27
Council hearing	October 11

ORDINANCE NO.

AN ORDINANCE AMENDING THE CITY CODE TO ADD A NEW SECTION 25-8-27 RELATING TO REDEVELOPMENT IN THE BARTON SPRINGS ZONE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Chapter 25-8 (*Environment*) of the City Code is amended to add a new Section 25-8-27 to read:

§ 25-8-27 REDEVELOPMENT EXCEPTION IN THE BARTON SPRINGS ZONE.

- (A) This section applies to property that has existing development and is located in the Barton Springs Zone.
- (B) This section supersedes Article 12 (*Save Our Springs Initiative*), to the extent of conflict.
- (C) In this section:
 - (1) SEDIMENTATION/FILTRATION POND means water quality controls that comply with Section 25-8-213 (*Water Quality Control Standards*), except for Subsection (D); and
 - (2) SOS POND means water quality controls that comply with all requirements of Section 25-8-213 (*Water Quality Control Standards*) and the pollutant removal requirements of Section 25-8-514(A) (*Pollution Prevention Required*).
- (D) The requirements of this subchapter do not apply to the redevelopment of property if the redevelopment meets all of the following conditions:
 - (1) The redevelopment may not increase the existing amount of impervious cover on the site.

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- (2) The redevelopment may not increase non-compliance, if any, with Section 25-8-261 (*Critical Water Quality Zone Development*), Section 25-8-281 (*Critical Environmental Features*), Section 25-8-282 (*Wetland Protection*), Section 25-8-482 (*Critical Water Quality Zone*), or Section 25-8-483 (*Water Quality Transition Zone*).
 - (3) The redevelopment must comply with Section 25-8-184 (*Additional Erosion and Sedimentation Control Requirements in the Barton Springs Zone*).
 - (4) The water quality controls on the redevelopment site must provide a level of water quality treatment that is equal to or greater than that which was previously provided.
 - (5) For a commercial or multifamily redevelopment, the owner or operator must obtain a permit under Section 25-8-233 (*Barton Springs Zone Operating Permit*) for both sedimentation/filtration ponds and SOS ponds.
 - (6) For a site with more than 40 percent net site area impervious cover, the redevelopment must have:
 - (a) sedimentation/filtration ponds for the entire site; or
 - (b) if approved by the director of the Watershed Protection and Development Review Department, SOS ponds for a portion of the site, and sedimentation/filtration ponds for the remainder of the site.
 - (7) For a site with 40 percent or less net site area impervious cover, the redevelopment must have SOS ponds for the entire site.
 - (8) The property owner must mitigate the effects of the redevelopment, if required by and in accordance with Subsection (G).
- (E) City Council approval of a redevelopment in accordance with Subsection (F) is required if the redevelopment:

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2
3 (1) will increase the number of dwelling units in a multi-family
4 development by more than 25 percent;

5
6 (2) is inconsistent with a neighborhood plan; or

7
8 (3) will generate more than 2,000 vehicle trips a day above the estimated
9 traffic level based on the most recent authorized use on the property.

10
11 (F) City Council shall consider the following factors in determining whether to
12 approve a proposed redevelopment:

13
14 (1) benefits of the redevelopment to the community;

15
16 (2) whether the proposed mitigation or manner of development offsets the
17 potential environmental impact of the redevelopment;

18
19 (3) the effects of offsite infrastructure requirements of the redevelopment;
20 and

21
22 (4) compatibility with the city's long-range planning goals.

23
24 (G) Redevelopment of property under this section requires the purchase or
25 restriction of mitigation land if the site has a sedimentation/filtration pond.

26
27 (1) The combined gross site area impervious cover of the mitigation land
28 and the portion of the redevelopment site treated by
29 sedimentation/filtration ponds may not exceed 20 percent.

30
31 (2) The mitigation requirement may be satisfied by:

32
33 (a) paying into the Barton Springs Zone Mitigation Fund an
34 amount established by ordinance;

35
36 (b) transferring to the City in accordance with Paragraph (3)
37 mitigation land approved by the director of the Watershed
38 Protection and Development Review Department within a
39 watershed that contributes recharge to Barton Springs, either
40 inside or outside the City's jurisdiction;

1 (c) placing restrictions in accordance with Paragraph (3) on
2 mitigation land approved by the director of the Watershed
3 Protection and Development Review Department within a
4 watershed that contributes recharge to Barton Springs, either
5 inside or outside the City's jurisdiction; or
6

7 (d) a combination of the mitigation methods described in
8 Subparagraphs (a) – (c), if approved by the director of the
9 Watershed Protection and Development Review Department.
10

11 (3) A person redeveloping land under this section shall pay all costs of
12 restricting the land or transferring the land to the City, including the
13 costs of:
14

15 (a) an environmental site assessment without any further
16 recommendations for clean-up, certified to the City not earlier
17 than the 120th day before the closing date transferring land to
18 the City;

19 (b) a category 1(a) land title survey, certified to the City and the
20 title company not earlier than the 120th day before the closing
21 date transferring land to the City;

22 (c) a title commitment with copies of all Schedule B and C
23 documents, and an owner's title policy;

24 (d) a fee simple deed, or, for a restriction, a restrictive covenant
25 approved as to form by the city attorney;

26 (e) taxes prorated to the closing date;

27 (f) recording fees; and

28 (g) charges or fees collected by the title company.

29 (H) The Watershed Protection and Development Review Department shall
30 adopt rules to identify criteria for director approval under this section` to
31 ensure that the proposed mitigation, manner of development, and water
32 quality controls offset the potential environmental impact of the
33 redevelopment.
34

35 **PART 2.** The Barton Springs Zone Mitigation Fund is established. The director of the
36 Watershed Protection and Development Review Department may allocate money from

1 the Barton Springs Zone Mitigation Fund for the purchase of fee title or restrictions on
2 property within a watershed that contributes recharge to Barton Springs, either inside or
3 outside the City of Austin's jurisdiction, or for maintenance of the land.
4

5 **PART 3.** The fee for mitigation under Section 25-8-27 (*Redevelopment Exception in the*
6 *Barton Springs Zone*) is equal to the number of mitigation acres multiplied by
7 \$15,000.00. The fee shall be adjusted annually and increased by 3 percent each year
8 beginning January 1, 2009.

9 **PART 4.** This ordinance takes effect on _____, 2007.

10
11 **PASSED AND APPROVED**
12
13

14
15 _____, 2007

16 Will Wynn
17 Mayor
18

19
20 **APPROVED:**

21 David Allan Smith
22 City Attorney
23

ATTEST:

Shirley A. Gentry
City Clerk



MEMORANDUM

TO: Pervez Moheet, Acting Director
Austin Water Utility

FROM: Patrick Murphy, Environmental Officer
Watershed Protection and Development Review Department

DATE: August 31, 2007

SUBJECT: Overlook Estates Phase II SER #2644

We have completed our review and are recommending the proposed Overlook Estates Phase II SER to increase the capacity of an existing water line in order to meet current fire flow requirements. We have determined that the SER should not result in increased development intensity over current code requirements and should not create any additional water quality impacts.

You will find attached, a staff analysis of Overlook Estates' request for service. We will present our analysis of the request to the environmental board at their next meeting on September 5, 2007. Please do not hesitate to contact me at 974-2821 or Robbie Botto at 974-2187 with your questions or comments.

Sincerely,

Patrick Murphy, Environmental Officer
Watershed Protection and Development Review Department

PM:rbb

cc: Victoria L. Li, P.E., Director WPDR
Nancy McClintock, Assistant Director, WPDR
Tom Ennis, P.E., Division Manager, ERM, WPDR

attachments

Service Extension Request (Water) Overlook Estates Phase II (SER #2644)

1) Will future development be required to comply with current code?

No, Overlook Estates Phase II will comply with the Barton Creek Watershed Ordinance in conformance with the approved preliminary plan.

2) Does the requested service result in more intense development than would be possible absent the service?

No, the development will utilize individual, onsite wastewater systems that limit the residential density to a minimum, one acre lots. This is consistent with the amount of development that could occur under current regulations with on-site wastewater systems. The existing water service does not provide adequate capacity for fire flow.

3) If so, is the development in an area in which we are encouraging development?

N/A

4) Would centralized service solve known or potential environmental problems?

Yes, centralized water service could reduce groundwater demand in an area of limited groundwater availability.

5) Is serving the area consistent with long term service area and annexation goals?

Yes, Overlook Estates Phase II is located within the city's CCN service area, but not in an area subject to near term annexation. City planners have indicated that it could be the subject of future, long-term annexation.

DRAFT

**WATER AND WASTEWATER
SERVICE EXTENSION
REQUEST FOR
CONSIDERATION**

#310434

Name: OVERLOOK ESTATES PHASE 2

Service Requested: Water

S.E.R. No.: 2644

Date Received: 04/24/2007

Location: RAWHIDE TRL AUSTIN TX 78736- OVERLOOK ESTATES PHASE 2 (TCAD TAX PARCEL 0402580216)

Acres: 40.9

Land Use: SINGLE FAMILY

Alt. Utility Service or S.E.R. Number: Onsite Sewage Facilities

Quad(s): WZ20 WZ21

DDZ: NO

Drainage Basin: BARTON

Pressure Zone: SWC1

DWPZ: YES

Flow: (Estimated Peak Hour Flow, Gallons per Minute) 88 GPM

% Within City Limits: 0

Cost Participation: \$0.00

% Within Limited Purpose: 0

Description of Improvements:

Applicant will construct approximately 3,700 feet of 8-inch water line to replace the existing 6-inch water line in CIRCLE DR and RAWHIDE TRL from the proposed 30-inch water line (Project 2005-0010) in CIRCLE DR southeast of the subject tract, west along CIRCLE DR and then north along RAWHIDE TRL to the northern property line of the subject tract. Applicant will also reconnect all existing water services from the existing 6-inch water line along this path to the proposed 8-inch water line.

Completion and acceptance of the improvements described above and the conditions set forth below:

- 1) Construction of all Service Extensions is subject to all environmental and planning ordinances.
- 2) Service Extensions are subject to the guidelines established in the Land Development Code, Section 25-9, Water and Wastewater Utility Service.
- 3) The level of service approved by this document does not imply commitment for land use.
- 4) Approval of a site plan that meets the Fire Department requirements for fire control.
- 5) The proposed offsite water improvements will be dedicated to The City of Austin for ownership, operation, and maintenance.
- 6) The proposed offsite water improvements must be placed in the public right-of-way or Approved Utility Easements. Utility Easements must be in place prior to Construction Plan approval.
- 7) The approved Service Extension will automatically expire 120 days after date of approval unless a development application has been accepted by the Watershed Protection and Development Review Department. The Service Extension expires on the date the development expires, or if approved, on the date the development application approval expires.
- 8) Approval by the City Council will be required based on City of Austin Ordinance § 25-9-34.

Prepared By _____ Date _____

Division Manager, Utility Development Services _____ Date _____

Division Manager, System Planning _____ Date _____

Asst. Director Engineering Program, AWU _____ Date _____

Division Manager, Facility Engineering _____ Date _____

Director, Austin Water Utility _____ Date _____

Watershed Protection _____ Date _____



ENVIRONMENTAL BOARD MOTION 090507-D2

Date: September 05, 2007

Subject: Overlook Estates Phase II Service Extension Request # 2644

Motioned By: Dave Anderson, P. E.

Seconded by: Rodney Ahart

Recommendation

The Environmental Board recommends **approval** of the service extension request #2644 for the Overlook Estates Phase II

Staff Conditions

None.

Board Conditions

None.

Rationale

The SER does not promote additional development or sprawl. The SER does provide a needed upgrade for the fire service to existing development.

Vote **6-0-0-1**

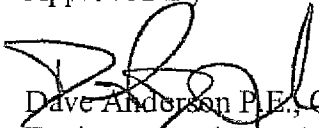
For: Anderson, Maxwell, Neely, Dupnik, Ahart and Beall

Against:

Abstain:

Absent: Moncada

Approved By:


Dave Anderson P.E., CFM
Environmental Board Chair