

AGENDA



Recommendation for Council Action

Austin City Council	Item ID	24320	Agenda Number	35.
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Meeting Date:	5/23/2013	Department:	Planning and Development Review
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Subject

Approve an ordinance granting variances to City Code Section 25-9-158 (public hearing deadline) and Section 25-9-159 (Council action deadline) relating to a petition submitted for consent to the creation of the Cascades Municipal Utility District No. 1 (approximately 135 acres of land located in southern Travis County immediately south of the current City limits in Austin’s extraterritorial jurisdiction, along the east side of IH 35 South, and along Onion Creek).

Amount and Source of Funding

Fiscal Note

Purchasing Language:	
Prior Council Action:	April 11, 2013 - Council approved Resolution No. 20130411-007, consenting to special legislation that would create the Cascades Municipal Utility District No. 1.
For More Information:	Virginia Collier, 974-2022.
Boards and Commission Action:	
MBE / WBE:	
Related Items:	

Additional Backup Information

On January 3, 2013, Onion Associates, Ltd. submitted a petition to the City for consent to create the Cascades Municipal Utility District No. 1 (“MUD”). In response to staff comments on the original petition, the applicant submitted a revised petition on February 22, 2013. The MUD includes approximately 136 acres located in southern Travis County immediately south of the current City limits in Austin’s extraterritorial jurisdiction (“ETJ”), along the east side of IH 35 South, and along Onion Creek. Proposed future development includes single-family residential, multi-family residential and commercial land uses typical in suburban development. The City would be the retail service provider for water and wastewater services and solid waste services.

Prior to creation of a MUD in the City’s extraterritorial jurisdiction, the property owners must submit a petition requesting the City’s consent. State law and the City Code provide a 90 day period for City review, including review by City boards and commissions. Typical issues reviewed include impacts on annexation, land use/transportation,

environmental impacts, parks, and water and wastewater service. If the City does not grant consent to the creation of MUDs within 90 days of the petition, the petitioners may request the City to provide water and wastewater service. If a satisfactory contract is not executed within 120 days after the request for service, State law provides the petitioners may proceed to Texas Commission on Environmental Quality (TCEQ) for creation of the MUD, and if the TCEQ determines that the City has not consented to the creation of the MUD, or entered into a contract for water or sewer service, as requested, the Texas Commission on Environmental Quality (TCEQ) shall allow creation of the MUD.

The City's practice regarding new MUDs is to require legislative creation in order to have certain protections for the City in the creation legislation such as a waiver of sovereign immunity, all contract provisions are deemed valid and enforceable, the MUD's ad valorem tax rate must be similar to the City's ad valorem tax rate, and allowance of the placement of a board director appointed by City Council. The applicant filed special legislation on March 26, 2013 that is intended to create the MUD, conditioned upon the City entering into a consent agreement with the MUD no later than September 1, 2014. The enabling legislation also allows continuation of the MUD as a "Limited District" after full purpose annexation by the City if the MUD and the City enter into a strategic partnership agreement ("SPA"). When negotiating for consent to create a MUD, the City's MUD policy provides for consideration of extraordinary public benefits, superior development, and enhancement of other City interests. As part of the agreement consenting to the creation of the MUD, the City would defer full purpose annexation of the MUD but would annex the MUD for limited purposes shortly after giving consent to MUD creation. In addition, the developer would apply for Planned Unit Development (PUD) zoning. The City is also requiring a SPA as a condition of its consent to this MUD.

In accordance with the proposed legislation, if the City does not consent to the creation of the district or enter into such agreements as are required by the terms of the City's consent ordinance at the conclusion of the process described above and prior to September 1, 2014, the MUD would be dissolved on September 1, 2014. The City could commence full purpose annexation, extending city regulations and services to the area, and execute a previous City Council-approved cost reimbursement agreement and the applicant would likely build a standard subdivision similar to the development described in the approved preliminary plan. If the consent agreement is approved, Council must conduct two additional public hearings regarding a strategic partnership agreement and adopt the SPA after the MUD has adopted the SPA.

In a letter to the City, the applicant has agreed to an extension of time beyond the 90 day review period provided by law. This variance action will allow City staff adequate time to work with the developer to prior to bringing forward a consent agreement to City Council for consideration.