

6/26/2014

Initiated by Planning and Development Review Dept.

ORDINANCE NO.

AN ORDINANCE ADOPTING A PROJECT CONSENT AGREEMENT UNDER CITY CODE SECTION 25-1-544 FOR RESIDENTIAL DEVELOPMENT LOCATED AT 5816 HARPER PARK DRIVE IN THE EAST OAK HILL NEIGHBORHOOD PLAN AREA; GRANTING WAIVERS FROM WAIVING CERTAIN RESTRICTIONS IN CITY CODE CHAPTER 25-8 AND SECTION 25-1-132; AND ADOPTING A SITE-SPECIFIC AMENDMENT TO THE SAVE OUR SPRINGS INITIATIVE.

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

PART 1. FINDINGS.

The City Council makes the following findings:

A. On December 12, 2013, the City Council approved Ordinance No. 2013112-094 rezoning property located at 5816 Harper Park Drive in order to allow a detached residential condominium development known as "Harper Park 2." During public hearings before the Land Use Commission and the City Council, the applicant represented that the purpose of the rezone was to permit construction of a maximum of 76 detached residential units on a 17.75 acre wooded lot between two existing residential subdivisions. The property is located in the Barton Springs Zone.

B. The Harper Park 2 project, which is supported by the surrounding neighborhood, was ~~could not occur at this site under~~ designed to comply with current regulations codified in City Code Chapter 25-8, Subchapter A (Water Quality), including Article 13 (Save Our Springs Initiative), but was instead designed to comply ~~could be constructed in a manner consistent with the 1982 Barton Creek Watershed regulations codified in Ordinance No. 82-1118-N ("Barton Creek Ordinance").~~

C. In a case involving adjacent property within the same subdivision, the Austin Court of Appeals ~~previously~~ held that a development which falls within the definition of "commercial" under the Barton Creek Ordinance was entitled to complete development under the Barton Creek Ordinance rather than current code ~~vested rights.~~

D. Following approval of the Harper Park 2 rezone, ~~however~~, the Director of the Planning & Development Review Department ("Director") determined that detached single-family structures fall within the definition of "residential" under the Barton Creek Ordinance and are therefore not consistent with the commercial project for which the Court of Appeals recognized vested rights to the 1982 Barton Creek Ordinance.

E. Notwithstanding its disagreement with the Director's decision, Harper Park 2 submitted an application for a Project Consent Agreement ("PCA") on or about June 16, 2014. A PCA, as authorized under City Code Section 25-1-544 (*Project Consent Agreements*), provides a voluntary mechanism for incentivizing projects with vested rights to a particular land use to develop a different use that is more compatible with surrounding land uses and provides greater environmental benefits than a project with vested rights to earlier regulations.

F. In its PCA application, Harper Park 2 proposes forgoing development of a commercial project with vested rights to the 1982 Barton Creek Ordinance in favor of a residential project that is compatible with the adjacent residential subdivisions ~~and, on balance, environmentally superior to construction of an office or hotel with vested rights to the 1982 Barton Creek Ordinance.~~

G. The Director has recommended approval of the a PCA for Harper Park 2, ~~consistent with the terms and conditions as specified in Part 2 of this ordinance.~~ The Director finds that the residential project proposed by the applicant is more compatible with surrounding development and, on balance, environmentally superior to construction of a commercial ~~an office building or hotel~~ project with vested rights to the 1982 Barton Creek Ordinance.

PART 2. PROJECT CONSENT AGREEMENT.

Pursuant to City Code Section 25-1-544 (*Project Consent Agreements*), and after consideration of ~~on~~ the recommendation of the Director, the City Council adopts the Harper Park 2 PCA as follows: ~~Project Consent Agreement consistent with the following terms:~~

1. Construction of single-family detached residential units is permitted at 5816 Harper Park Drive and shall be reviewed for ~~subject to~~ compliance with all current site development regulations, except as specifically waived, or modified, or amended by this ordinance, and the applicable zoning restrictions adopted by Ordinance No. 2013112-094, including but not limited to the 76-unit cap on total units.

2. Stormwater treatment, ~~Pollution controls are required consistent with Section 25-8-514 (*Pollution Prevention Required*), except that impervious cover, of up to 35%~~

~~gross site area is allowed on an area not to exceed 6.2 acres. Impervious cover tree protection, and stormwater diversion treatment must comply with the technical specifications set forth in the attached and incorporated EXHIBIT A. Exhibit A to this ordinance, which is incorporated herein by reference.~~

3. City Code Chapter 25-8, Subchapter A, Article 7, Division 1 (*Critical Water Quality Zone Restrictions*) and City Code Section 25-8-482 (*Water Quality Transition Zone*) are not applicable to Gaines Creek as depicted in the attached and incorporated EXHIBIT B and are waived to the extent necessary to allow the single access road, sidewalks, and utilities within the Critical Water Quality Zone and Water Quality Transition Zone of Tributary 1, as depicted in EXHIBIT B.

4. A site-specific amendment to City Code Chapter 25-8, Subchapter A, Article 13 (*Save Our Springs Initiative*) is adopted to the minimum extent necessary to allow development permitted under this Project Consent Agreement that would otherwise not meet the impervious cover, water quality control, and critical water quality zone restrictions under Section 25-8-514 (*Pollution Prevention Required*).

5. City Code Section 25-8-63 (*Impervious Cover Calculations*) is waived to the extent necessary to exclude from impervious cover calculations sidewalks constructed using pervious pavement.

6. City Code Section 25-8-213 (*Water Quality Control Standards*) is waived to the extent necessary to require water quality control treatment volume of 37,000 cubic feet through biofiltration and modified retention/irrigation of stormwater on-site with a minimum irrigation area of 0.5 acres.

7. ~~3. Subject to conditions specified in this ordinance, the The following provisions of City Code Chapter 25-8, Subchapter A (*Water Quality*) are waived to the minimum extent necessary to permit development authorized under this ordinance: Article 2 (*Waterways Classified; Zones Established*); Section 25-8-281 (Sections 25-8-261 (*Critical Water Quality Zone Development*), 281 (*Critical Environmental Features*), 25-8-341 (*Cut Requirements*), and 25-8-342 (*Fill Requirements*), and 482 (*Water Quality Transition Zone*).~~

4. ~~A site specific amendment to City Code Chapter 25-8, Subchapter A, Article 13 (*Save Our Springs Initiative*) is adopted to the minimum extent necessary to allow development permitted under this ordinance that would otherwise not meet the impervious cover, critical water quality zone, and water quality restrictions under Section 25-8-514 (*Pollution Prevention Required*).~~

5. ~~City Code Section 25-1-132(B) is waived for purposes of the public hearing before City Council on this ordinance.~~

8. 6. The Harper Park 2 Project Consent Agreement, as set forth in Part 2 of this ordinance, is subject to the expiration requirements of Section 25-1-544(H) (*Project Consent Agreements*).

PART 3. City Code Section 25-1-132(B) is waived for purposes of the public hearing before City Council on this ordinance.

PART 4. This ordinance takes effect on _____, 2014.

PASSED AND APPROVED

_____, 2014 §
 §
 § _____
 Lee Leffingwell
 Mayor

APPROVED: _____
 Karen M. Kennard
 City Attorney

ATTEST: _____
 Jannette S. Goodall
 City Clerk

EXHIBIT A

Technical Requirements

Stormwater Treatment

Biofiltration and modified retention/irrigation per City of Austin design criteria for 37,000 cu. ft. of stormwater with irrigation of 0.5 acres of land with an appropriate volume of that capture volume based on a 0.1 infiltration rate.

Impervious Cover Limit

5.7 acres

Tree Protection

Compliance with current code

Preserve minimum 25% of 8"-18" tree inches, 75% of 19"-23" tree inches, and 90% of 24+" tree inches

Other Requirements

Modify the western stormwater diversion channel to disperse flow evenly across the Water Quality Transition Zone of Tributary #1 as depicted in EXHIBIT B, to the greatest extent possible.

EXHIBIT B

Map of Water Quality Transition Zone And Critical Water Quality Zone for Gaines Creek and Tributary 1

EXHIBIT B

