



MEMORANDUM

TO: Members of the Environmental Commission

FROM: Liz Johnston, Environmental Program Coordinator
Watershed Protection Department

DATE: April 27, 2016

SUBJECT: Proposed Code Amendment related to Development along Austin's Lakes

On the May 4, 2016 Environmental Commission agenda is a proposed code amendment intended to fix typos, clarify code language, and remove apparent conflicts within the Land Development Code (LDC) related to construction along Austin's lakes. The proposed amendment will affect Chapters 25-2 "Zoning" and 25-8 "Environment", as well as revise Title 30 to coincide with the proposed changes to Title 25.

Background

A comprehensive overhaul of the development code related to boat docks and other lake-related development went into effect on July 7, 2014. This code change was requested by City Council (Resolution No 20130829-078) following the Lake Austin Task Force's consensus recommendation that city staff update and modernize the code relating to boat docks. The resulting code amendment was the first substantive rewrite of existing code related to boat docks and shoreline development. Review times for basic boat docks that do not trigger environmental variances have decreased by approximately three weeks since the passage of the 2014 ordinance. However, there have been new issues within the LDC that need additional revision in order to streamline the review process further and remove barriers from the ability of a homeowner to seek environmental variances for certain activities.

In addition to the July 7, 2014 amendment, the Watershed Protection Ordinance was also passed in October of 2013, which resulted in changes to floodplain modification rules and provided a tool for staff to assess floodplain modifications using a Functional Assessment. These changes to floodplain modification regulations currently apply throughout the City of Austin's regulatory jurisdiction; however, they have particular impact to homeowners along the Lakes due to the number of residences that have shoreline frontage. However, due to the management of the reservoir, the location of the floodplain is not always relevant to the types of erosion that homeowners face along the lakes, particularly Lake Austin. Therefore staff proposes to modify the LDC in order to facilitate a holistic review of the banks along the lakes, regardless of whether or not the bank is located in the 100-year-floodplain or not.

Summary of Proposed Code Amendments

The following revisions to the Land Development Code are intended to provide clarity to existing rules, to remove apparent conflicts between different sections of the LDC, and to provide the ability for citizens

to request variances for certain activities not otherwise allowed by the LDC (e.g. placing fill in a lake, or dredging greater than 25 cubic yards). The numbers below reference current sections of the LDC. The two chapters of the LDC that will be affected by the proposed ordinance are LDC 25-2 Zoning and LDC 25-8 Environment.

25-2-551 Lake Austin District Zoning

- Clarify that fences are allowed in the LA setback. *Note: This does not negate floodplain and building permit rules related to fences in LDC 25-7-3 and 25-12-3.*
- Fix typo related to distinctions between slope categories for the purposes of determining the amount of allowable impervious cover.
- Fix typo within the subsection heading.

25-2-1172 Definitions

- Provide a definition for “Shoreline Frontage” in order to clarify how to measure the percentage of allowable development along the lake shoreline.

25-2-1175 Lighting and Electrical Requirements

- Fix ambiguities in language related to the distance along the shoreline versus length of extension into the lake.

25-2-1176 Site Development Regulations for Docks, Marinas, and Other Lakefront Uses

- Clarify how to measure “20% of a channel width” in order to determine how far a dock can extend into a channel.
- Clarify calculation of percent openness and allow for insect screening.
- Allow construction of public (municipal) boat ramps.

25-8-261 Critical Water Quality Zone Development

- Clarify how to determine “restored to a natural condition”.
- Clarify the size and species of woody vegetation required to remain within the LA setback.
- Clarify “necessary access” within a critical water quality zone.
- Allow the restoration of eroding banks located outside the 100-year-floodplain along the shoreline of a lake within a Critical Water Quality Zone using the existing Functional Assessment methods. [ECM Appendix X]
- Remove apparent conflicts between development allowed along lake shorelines and development allowed in a Critical Water Quality Zone.

25-8-364 Floodplain Modification

- Remove apparent conflicts between development allowed along a lake shoreline and development allowed through floodplain modification rules.

25-8-652 Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long

- Current code allows dredging **less than** 25 cubic yards. Revise to allow dredging **up to** 25 cubic yards.
- Provide a process for applicants to request variances to place fill in a lake or dredge greater than 25 cubic yards by moving from 25-8 Subchapter B to 25-8 Subchapter A.

Title 30 Austin/Travis County Subdivision Regulations, Chapter 30-5 Environment

- Update Title 30-5 to include the same language as LDC Chapter 25-8.

Additional Considerations from Stakeholders

At a stakeholder meeting conducted on April 26, 2016, some stakeholders expressed concerns about the lack of regulations related to “touchless boat covers”, which are canvas boat curtains that entirely surround boats within a dock. Homeowners have expressed concerns about the decrease in visibility and enjoyment of the lake resulting from the opaque material and a potential resultant lowered property values. Watershed Protection Staff do not feel that this particular issue has been properly vetted within the Lake Austin homeowner community and do not have a recommendation about this issue at this time.

Some stakeholders have also expressed concerns about the floodplain modification requirements to restore the shoreline with trees due to the potential presence of existing septic fields adjacent to small lots along Rivercrest Dr and other similar areas. Their concern is that they will not be able to meet the requirements to provide sufficient trees to avoid environmental variances when functional assessments are required. Staff believes that functional assessment criteria are purposefully flexible and the likelihood of environmental variances will be low for the vast majority of the lake property owners using functional assessments. However, if a site has existing conditions that make it difficult to meet code requirements, the variance process would allow staff to take such conditions into consideration when drafting staff recommendations for variances.

Request

Staff requests that the Environmental Commission consider and make a recommendation for the proposed code amendment related to development along Austin’s lakes.



LAKE DEVELOPMENT CODE AMENDMENT

Request to initiate an ordinance to amend the Land Development Code to correct typos, improve clarity, and resolve unintended issues related to previous code amendments related to lake development.

Summary

- ▶ In response to recommendations of the Lake Austin Task Force, new rules for Lake development were applied on 7/7/2014
- ▶ Previous code revisions also affected variance/waiver approvals and changed floodplain modification rules
- ▶ This ordinance proposes a clean-up to:
 - correct 3 typos,
 - improve clarity for 7 existing rules
 - fix 4 unintended issues/conflicts in the code
- ▶ Title 30 will also be amended to include the latest code changes
- ▶ Other?

Typo (1 of 3)

Problem: Slope gradient percent in 25-2-551(C)(3)(b) is wrong

Solution:

25-2-551(C)(3) For a lot included in a subdivision plat recorded before April 22, 1982, or a tract that is not required to be platted, impervious cover may not exceed:

- (a) 35%, on a slope with a gradient of 15% or less;
- (b) 10%, on a slope with a gradient of more than 15% and not more than 35%;
- (c) 5%, on a slope with a gradient of more than 25% and not more than 35%; or
- (d) 40 percent, if impervious cover is transferred under Subsection (D)

correct to 25

Typo (2 of 3)

Problem: 25-2-55I has two section E's

Solution:

(E) This subsection specifies additional development standards based on slope gradient in a Lake Austin (LA) district.

(1) On a slope with a gradient of more than 15 percent:

(a) vegetation must be restored with native vegetation, as prescribed by the Environmental Criteria Manual, if it is disturbed or removed as a result of construction; and

(b) construction uphill or downhill from the slope must comply with the Environmental Criteria Manual.

(2) On a slope with a gradient of more than 35 percent, development is prohibited except for the construction of a fence, driveway, road or utility that cannot be reasonably placed elsewhere, or a non-mechanized pedestrian facility, such as a foot path, sidewalk, or stairs.

correct
to "F"

(E) In an LA district, a person may transfer impervious cover in accordance with this subsection.

(1) Impervious cover may be transferred only:

(a) between tracts within an LA district; and

(b) from land with a gradient of 35 percent or less, to land with a gradient of 15 percent or less.

(2) Land from which impervious cover is transferred may not be developed. The land must either remain undisturbed or be restored to a natural state.

(3) A transfer of impervious cover must be described in a restrictive covenant that runs with the land, is approved by the city attorney, and is recorded in the county deed records.

Typo (3 of 3)

Problem: 25-2-1176(8)(a) refers to the wrong paragraph

Solution:

25-2-1176(8)(a) except for storage closets permitted under Paragraph **(6)**, no more than one wall per floor may consist of solid structural supports or building materials;

correct
to "7"



Clarification (1 of 7)

Problem: Percent openness calculation is unclear and may not allow for sufficient insect screening. [LDC 25-2-1176(A)(8)]

Solution: Revise language to ensure that insect screening is allowed and clarify how to calculate the percent openness.

- (a) except for storage closets permitted under Paragraph (7), ~~no more than one wall per floor may consist of solid structural supports or building materials~~ all solid structural supports and other materials used for enclosure, including but not limited to lattice, wire panels, seat walls, and screening, must be at least 66 percent open, except that mesh for insect screening that is at least 66% open will not count toward the total enclosure percentage;
- ~~(b) except for solid structural components allowed under Paragraph 8(a), solid and mesh materials used for enclosure, including lattice, wire panels, and screening, must be at least 66 percent open; and~~
- (b) no framing materials that are capable of being converted to support walls or windows may be used; and
- (c) percent openness is calculated per side, with the assumed height of 8' per floor when no roof is proposed.

Clarification (2 of 7)

Problem: Fences for yards are not expressly allowed in the LA setback

Solution: Clarify that fences are allowed in the LA setback
25-2-551(B)(3)(a). Does not change floodplain rules.



Clarification (3 of 7)

Problem: Existing Zoning code prohibits construction for all boat ramps [25-2-1176(D)]

Solution: Clarify that the prohibition does not apply to construction for public (i.e. municipal) use. (Zoning code only)



Walsh Boat Landing

Clarification (4 of 7)

Problem: “Length” and “width” can be unclear as applied to docks

Solution: Add a definition for “Shoreline Frontage” to replace “width” and clarify that the length of a dock is measured perpendicular to shoreline



Clarification (5 of 7)

Problem: Although it is easy to determine the 20% of the channel width to determine limit of dock length* when a channel is uniform, it is unclear when channels are irregular

**Example:
Uniform
(easy)**



**Example:
Irregular
(not easy)**

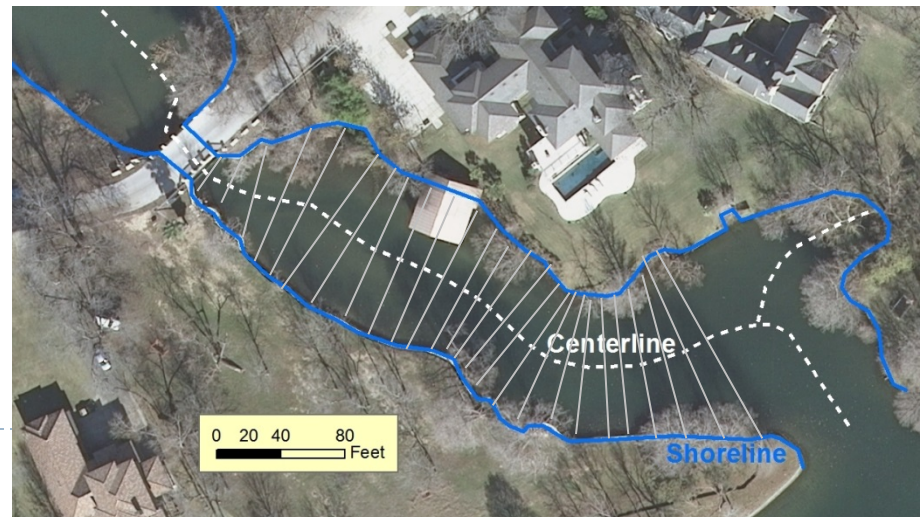
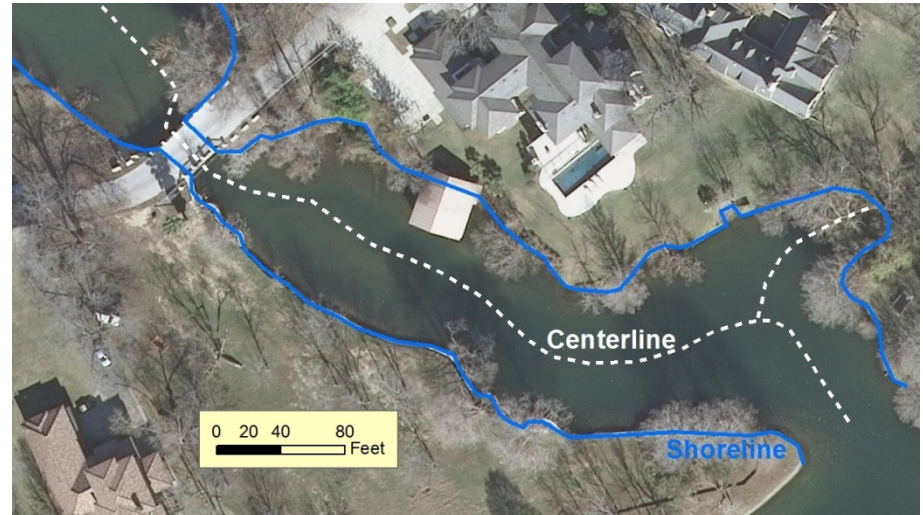


Clarification (5 of 7 continued)

Solution: Clarify that channel width is measured from a line drawn perpendicular to the centerline of the channel

Applicant:

- 1.) identifies the centerline
(i.e. mid-point between shorelines)
- 2.) draws a channel width line
that is perpendicular to centerline
- 3.) identifies dock length not to
exceed 20% of channel width



Clarification (6 of 7)

Problem: Code needs additional clarification for “necessary access” within a Critical Water Quality Zone consistent with current policy

Solution: Necessary access is the minimum area of land disturbance required to construct a single means of access from the shoreline to a dock. Only one means of access allowed.



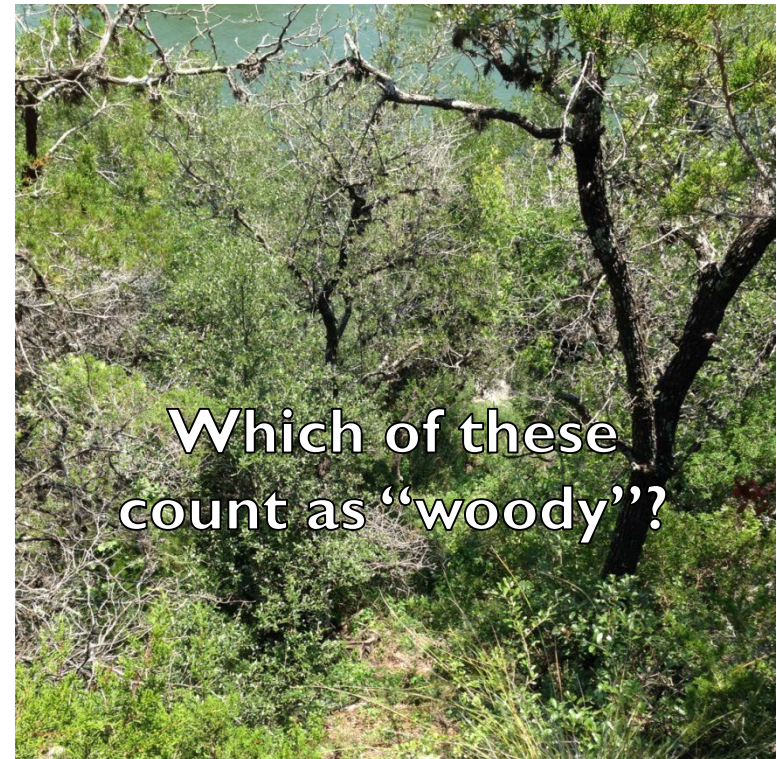
Clarification (7 of 7)

Problem: How to quantify “woody vegetation” in 25-8-261(C) which states that “No more than 30% of the woody vegetation can be removed” in the shoreline setback

Solution:

Delete “woody vegetation” and replace with:

No more than 30% of the total number of ECM Appendix F trees with diameters of 8” or more may be removed in the shoreline setback



Unintended Issue (1 of 4)

Problem: Application of the existing rule that requires preservation/restoration of a portion of the shoreline area is unclear and ineffective

- (2) At least 50% of the area within 25 feet of the shoreline must be:
- (a) preserved in a natural condition; or
 - (b) restored to a natural condition as prescribed by the Environmental Criteria Manual, if the vegetation is disturbed or removed for construction or other development activity, within the area of disturbance.

“Natural condition” is unclear

Would apply behind a boat dock

May not improve ecological functioning

Unintended Issue (1 of 4 continued)

Solution: Criteria that allow flexibility for owner while still providing ecological benefit
Promote consistency with development in the floodplain/CWQZ,
Allow administrative approval, and
Limit the requirement to shoreline modification (i.e. bulkheads, but not docks)

(2) At least 50% of the area within 25 feet of a bulkhead must demonstrate preservation of or restoration to a score of good or excellent as defined by a Functional Assessment of Floodplain Health

50% of the shoreline must meet “Good” Criteria

“Good”

≤40% of the areas is visually open

≤50% canopy

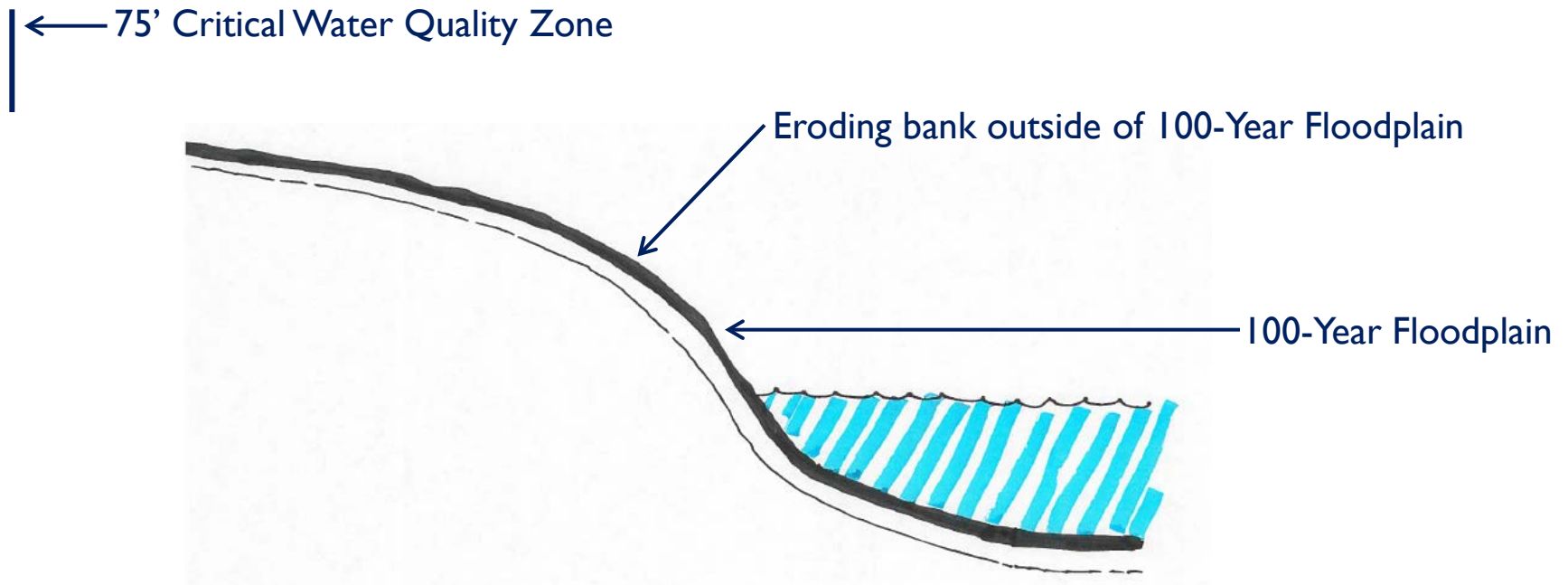
3 age classes of canopy tree



Unintended Issue (2 of 4)

Problem: Existing code allows stabilization of eroding banks can be approved administratively, but only within floodplain

Solution: Allow stabilization of eroding banks in Critical Water Quality Zone using the existing Functional Assessment tool (ECM Appendix X) to enable administrative approval



Unintended Issue (3 of 4)

Problem: Fill in the lake is allowed to restore eroding shorelines in 25-8-652, but fill is not allowed in CWQZ under 25-8-261

Solution: Add language to clarify that fill may be allowed in the CWQZ if it is consistent with the existing floodplain modification rules

Shoreline shows minimal erosion in 2003.



Shoreline has eroded behind existing bulkhead in 2012.



Unintended Issue (4 of 4)

Problem: Previous code changes inadvertently removed variance process for all fill and dredge requests

Solution: Move code language for Shoreline Relocation and Lake Fill
from: Chapter 25-8 Subchapter B (*Tree and Natural Area Protection; Endangered Species*)
to: 25-8 Subchapter A (*Water Quality*)

This will enable a variance process that is the same as other water quality variances

Cut-in slip – can't ask for variance to fill.



Title 30

All applicable past and proposed changes to Title 25 will be added to Title 30 to promote consistency

New Issue from stakeholders

Problem: Touchless boat covers block views, not prohibited under current code.



QUESTIONS or COMMENTS?

- ▶ Send comments or concerns to:
liz.johnston@austintexas.gov
- ▶ Or call: 512.974.2619